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SENATE—*Wednesday, December 17, 1975*

(Legislative day of Monday, December 15, 1975)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. STONE).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

The law of the Lord is perfect, converting the soul: the testimony of the Lord is sure, making wise the simple.

The statutes of the Lord are right, rejoicing the heart; the commandment of the Lord is pure, enlightening the eyes.

The fear of the Lord is clean, enduring forever: the judgments of the Lord are true and righteous altogether.—Psalms 19: 7–9.

God of our Fathers and our God, in these tense and troubled times, when the day is long and the hours crowded with crucial concerns, may we find our wisdom in Thy word, be guided by Thy spirit and conclude with the psalmist, David:

Let the words of my mouth and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength, and my redeemer.—Psalms 19:14. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, December 16, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NO COMMITTEE MEETINGS DURING SENATE SESSION TODAY COMMENCING AT 9:30 A.M.

Mr. MANSFIELD. Mr. President, for the information of the Senate and on behalf of the joint leadership, no committees will be allowed to meet during the session of the Senate this morning beginning at the hour of 9:30 a.m.

I suggest that the attachés notify all members accordingly.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 531 and 536.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FARM CREDIT SYSTEM LOANS TO RURAL UTILITY COOPERATIVES

The bill (H.R. 7862) to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts, was considered, ordered to a third reading, read the third time, and passed.

SURVIVOR ANNUITIES

The Senate proceeded to consider the bill (S. 2090) to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953, which had been reported from the Committee on Armed Services, without amendment.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code, and under prior corresponding provisions of law, the provisions of section 1331(e) of such title 10, relating to the date of entitlement to retired pay under chapter 67 of such title 10, shall be effective as of November 1, 1953.

SEC. 2. No benefits shall be paid to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield, not to exceed 2 minutes, to the distinguished Senator from Vermont (Mr. LEAHY) on my time.

Mr. LEAHY. I thank the distinguished majority leader.

THE SELECTIVE SERVICE BUDGET

Mr. LEAHY. Mr. President, although the draft ended in 1973 more than $220 million of taxpayers' money has been spent since that time to support a virtually defunct organization. For fiscal year 1976 alone we have appropriated $37.5 million for the Selective Service budget, and even that sum was $11 million less than the amount requested by the administration. Enough is enough.

Therefore, it was good news to learn that the Office of Management and Budget has recommended to the President that the Selective Service budget for fiscal year 1977 be pared from the projected $28 million to $6 million. I am hopeful that even that figure can be reduced when the Congress next considers appropriations for that purpose.

I cannot imagine what the 2,500 employees of the Selective Service System in the 686 regional, State, and local offices, which consume the bulk of its budget, have been doing to warrant the expenditure of these huge sums since 1973.

These offices, which were once responsible for the continual registration and classification of millions of young Americans, no longer bear those responsibilities. As of last April registrations have ceased. Since June 30, 1973, the Selective Service has not possessed the legal authority to induct young men into the Armed Forces, and it appears that is the way it will stay: the all-volunteer military has been officially pronounced a success by the President and the Pentagon.

We no longer have use for a vast network of regional, State, and local offices to communicate with registrants on a regular basis. A skeletal bureaucratic structure can administer those remaining Selective Service functions which may contribute to our national readiness at a fraction of the amount spent in past years.

As I have stated several times in this Chamber, since 1960 the Federal Government has given birth to 236 new agencies, bureaus, and departments, and during the same period only 21 were abolished. It is because of situations like this—maintaining a full-blown Selective Service System long after its primary functions have ceased—that we cannot seem to stem this bureaucratic tide. It is one of the reasons that the cost of running the Federal Government has burgeoned from $93 billion in 1960 to $370 billion in 1976. The Selective Service System is a vivid example of an agency refusing to face the reality that it has outlived the essential purposes for which it was created.

I agree that the Selective Service should maintain a staff sufficient to prepare a military draft in the case of national emergency. However, draft registration now takes place only once a year, and 2,500 employees to do a day's work strikes me as excessive, to put it mildly.

I urge President Ford to accept the OMB recommendations, and save overburdened taxpayers $22 million a year that would better be left unspent.

I thank the majority leader.

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. No.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

THE OKLAHOMA SENATORIAL CONTEST

Mr. BARTLETT. Mr. President, on November 5, 1974, a general statewide election was conducted in Oklahoma. Three candidates were on the ballot: First, Ed Edmondson, Democratic nominee; second, Senator HENRY BELLMON, Republican nominee, and third, Paul Edward Trent, an independent. The results were as follows:

Senator BELLMON, 390,997 votes, Mr. Edmondson, 387,162 votes, and Mr. Trent, 13,650 votes.

No recount was requested by either Mr. Edmondson or Mr. Trent, and no allegation of fraud in the election was made by either Mr. Edmondson or Mr. Trent. However, Mr. Edmondson filed an action in the district court of Tulsa County questioning the legality of the election. The case was heard by a specially appointed judge, and Senator BELLMON was found to have won.

This decision was appealed to the Oklahoma Supreme Court, and the court affirmed the district court's decision for Senator BELLMON, and from there Mr. Edmondson brought the case to the U.S. Senate, apparently feeling the law and the courts of his own State were inadequate.

This election was conducted under Oklahoma law, and therefore, Oklahoma law must prevail. Provision has been made by the Oklahoma legislature for situations such as this. It is quite specific, and the State supreme court has found no difficulty in applying this statute. Title 260. § 395.3 provides as follows:

> When a petition alleging irregularities other than fraud is filed, said petition must allege a sufficient number of irregularities and of such a nature as to (1.) prove that the contestant is lawfully entitled to be issued a certificate of party nomination or certificate of election, or to have his name appear on the runoff primary ballot, or (2.) prove that it is impossible to determine with mathematical certainty which candidates are entitled to be issued certificates of party nomination or certificates of election, or to have their names appear on the runoff primary ballot.

The question posed by this election is whether a number of voters sufficient to alter the outcome of the election have been denied their right to vote by irregularities in Tulsa County. The Oklahoma Supreme Court has found that:

> The right of a qualified elector to vote and to have his vote counted is basic and fundamental. When an election has been conducted in good faith and no elector misled, and a true and fair return of the election has been canvassed and made, the will of the people, as indicated by their votes at such election, cannot be defeated by irregularities (particularly those resulting from some act or acts on the part of the election official) which are not sufficient to change the results of the election. (Potter v. Oklahoma City, 446, page 384)

The case filed by Mr. Edmondson was initiated in the district court of Tulsa County, the site of the alleged violations. The judge was appointed by the supreme court and made certain findings of fact prior to his determination. The findings of fact summarized are as follows:

First. Voting machines were not programed to allow single-lever, straight-party voting for either candidate.

Second. That no evidence showed that any voter was denied the right to vote a mixed-, split-, or straight-party vote by reason of the voting machine configuration or format.

Third. The evidence offered by Mr. Edmondson was insufficient to establish that "it is impossible to determine with mathematical certainty" who was the successful candidate for the U.S. Senate.

Fourth. That there was no evidence of malfunction on voting machines that materially affected the results.

Fifth. That there was no evidence of any irregularities that warrant calling a new election or awarding the election to Mr. Edmondson.

The trial court held that Mr. Edmondson was not entitled to a certificate of election, that the Tulsa machines were in substantial compliance with Oklahoma law, that Senator BELLMON received the greatest number of votes with mathematical certainty, and that there were no irregularities of such a nature as to invalidate or render illegal the votes cast in the election.

From this decision, Mr. Edmondson filed a motion for new trial in the trial court, which was denied. Then an appeal was taken to the Oklahoma Supreme Court for final determination. The supreme court sustained the trial court with specific holdings on each of the issues raised. These holdings are as important as the final sustaining of the trial court action.

First. As to the absence of straight-party levers:

> We hold that while the use of the voting machines, which did not permit straight-party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election.

Second. As to the erroneous instructions:

> We hold the erroneous instructions did not void the election or make it impossible to determine with mathematical certainty which candidate received more state-wide votes and entitled to a certificate of election.

Third. As to the position of the Senate race on the ballot:

> Assuming that the failure to place the United States Senate race in the upper left panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidates received the greater number of state-wide votes and is entitled to a certificate of election.

Fourth. And ultimately:

> The candidate receiving the most state-wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a certificate of election. Bellmon is that candidate.

Mr. Edmondson filed a motion for rehearing before the Oklahoma Supreme Court, which was denied. Therefore, the final determination under Oklahoma law stands. In fact, there was no division among the justices, the decision was 9–0. Of the nine judges, eight are Democrats and one is a Republican.

Now the Senate is asked to review a decision made by two Oklahoma courts on Oklahoma law, a decision which was fully concurred in by all justices.

There are precedents that have been established by this body, which buttress the decision by the Oklahoma courts, and will aid us in determining that Senator BELLMON won the election.

The precedents of the Senate indicate that where irregularities, election errors or even election fraud have been found to occur, not attributable to the respondent, the Senate would not declare the seat vacant.

The leading case in this area is *Patrick J. Hurley* v. *Dennis Chavez,* Senate Election, Expulsion and Censure Cases (Document No. 92–7), Case No. 159.

There were findings of "irregularities" such as "criminal conduct against the rights of voters" and "violations by election officials," but despite all of this, the Senate refused to deny Senator Chavez his seat.

Needless to say, there have been no such findings in the case before this body, but a statement from Senator Hennings, Jr., in the Chavez case does succinctly state the rule in the case at hand, "The Senate should not 'disenfranchise voters because of failure of the election officials to fully comply' with 'technical election statutes'."

Let us briefly consider the contentions upon which the election challenge is based, for even a cursory examination will reveal these contentions to be wholly without merit.

Mr. Edmondson claims that ballot placement may have caused him to receive fewer votes than he might have, had the Senate race been placed in the upper left-hand corner of the elective office panel, where the Governor's race appeared. The Governor's race did, in fact, attract more total votes. However, there is no evidence that different positioning of the Senate race would have affected the outcome of the election. First, the difference between votes cast in the Governor's race and the Senate race was only 1,436. If we assume illogically, but for the sake of debate, that the placement of the Senate race in the upper left-hand corner of the panel would have attracted an additional 1,436 votes, and every one of them voted for Mr. Edmondson, the challenger would still have lost the race by 2,399 votes.

Second, historical analysis of voting patterns in Tulsa County indicates that in elections where both a Governor's race and Senate race appear, the Governor's race attracts more votes regardless of ballot placement. Only three times in recent history have both races been voted on in the same election, in 1962, 1966, and 1974. In each of these the Governor's race attracted more votes than the Senate races. In fact, in 1966, the Senate race was placed in the upper left-hand corner of the elective office panel and still attracted some 9,000 fewer votes than the Governor's race. The fact is that this senatorial election drew the highest percentage of voters of any of the last six elections.

It is obvious that Mr. Edmondson was not disadvantaged by ballot placement. There is no reason to believe that the placement of the Senate race in the upper left-hand corner of the elective office panel would have resulted in a greater total vote case in the Senate race. Furthermore, there is absolutely no evidence that Mr. Edmondson would have benefited by a greater total vote, had that been the case.

Mr. Edmondson's challenge is also based on the contention that voting machines contained instructions on how to vote a straight party ticket using levers at the bottom of each column of the elective office panel, when in fact no such levers existed. The challenger would have us believe that those who wished to vote a straight Democratic ticket on column 6 were misled by the instructions, and failed to do so.

He suggests that these voters erroneously believed the selector tab in the U.S. House of Representatives race would accomplish the function of the lever described in the instructions on voting a straight party ticket. Thus, according to Mr. Edmondson, a significant number of voters who intended to cast a straight party vote, voted for the democratic candidate for the U.S. House of Representatives, believing this action also registered a vote for Mr. Edmondson.

In considering this contention, we have found no evidence that such mass confusion occured as a result of erroneous instructions on voting a straight party ticket.

First. A single lever to permit straight party voting in Tulsa County has not been used in a statewide race since 1968. In other words, the voters were accustomed to voting in this manner.

Second. At least for 4 days before the election, Mr. Edmondson's Tulsa County campaign manager contacted the county election board and requested the secretary of the board to advise all voters on how to vote a straight party ticket, since "we no longer use a single party lever." The board secretary, Danny McDonald, notified voters through news media that voting machines would not be programed to permit straight party voting by use of a single lever. Mr. Edmondson knew before the election that there would be no single party lever and chose not to complain until he lost the election.

Third. McDonald, full-time secretary of the three-member board—two Democrats, one Republican, repeatedly asserted that he is an active Democrat and campaigned after hours for Edmondson in both his 1972 and 1974 Senate races. McDonald testified that the voting machines were programed in what he thought to be a legal and proper manner.

Fourth. Although there was not a single lever on the congressional ballot—Senate and House race—party symbols were placed by each candidate's name. A straight party ticket could be voted by moving two selectors instead of one lever. In order to vote for HENRY BELLMON, the senatorial selector on the voting machine had to be moved past Mr. Edmondson's name.

Given these facts and circumstances, we must conclude that the presence of erroneous information regarding straight party voting did not create any confusion among voters which worked to the disadvantage of the challenger. Even if a remote possibility existed that this was the case, and one accepts Mr. Edmondson's contention of confused voters moving the selector tab to the Democratic candidate in the U.S. House race believing this also registered a Democratic vote in the Senate race, this would not have affected the outcome of the election. The maximum number of Tulsa County voters who could have made this error is 3,440 or the number of persons who signed poll books but did not cast a vote in the Senate race. Under this absurd scenario of mass confusion in the voting booth, Mr. Edmondson would have been denied a total of 3,440 votes, not enough to overcome his losing statewide margin of 3,835.

The challenger in this case, Ed Edmondson, has charged that HENRY BELLMON won in Tulsa County in 1974 because in some way he managed to manipulate the voting machinery. In a news conference September 24 in Washington, Edmondson said—

> Every passing week is providing new evidence that the Tulsa voting irregularities were a glaring case of executive suite, white collar election manipulation.

This statement was made in spite of the fact that the Tulsa County election machinery, like the entire election machinery of the State of Oklahoma, is controlled by the majority party. In this case, the Tulsa County election board secretary and his principal assistant, by their own testimony, were supporters of Mr. Edmondson in his Senate race.

The truth of the matter is that HENRY BELLMON won because he had a good campaign organization and he was the overwhelming preference of the Tulsa County voters.

In fact, in his three statewide races, he has always run well in Tulsa County. In the 1962 Governor's race, he carried Tulsa County by almost 30,000 votes. In the 1968 Senate race, he won by almost 22,000 votes, and in 1974 by the same margin.

The actual figures are as follows:

1962	
Bellmon	62,387
Atkinson	32,826
	29,561
1968	
Bellmon	82,113
Monroney	60.225
	21,858
1974	
Bellmon	72,145
Edmondson	49,775
	22,370

In fact, a study of Tulsa County election statistics shows that the vote in 1974 was consistent with the history of voting in that county. Tulsa County voters vote for the man, and not for the party. With a predominantly Democratic voter registration, Tulsa County has gone Republican in every Presidential election since 1940. The Republican candidate for Governor has carried Tulsa County in every election since the 1940's except for one year—1958.

A similar pattern may be found in U.S. Senate races. Former Senator Mike Monroney lost four times in Tulsa County. Former Senator Fred Harris lost Tulsa County to Republican candidates in 1964 and 1966. And Ed Edmondson, when he ran in 1972, got only about 40 percent of the vote. Interestingly enough this is about the same percentage Mr. Edmondson got in Tulsa County in 1974.

The irony of Mr. Edmondson's challenge is that members of his own party have consistently attempted to pass State legislation which would remove the straight party lever from Tulsa County voting machines. As Governor of Oklahoma, I vetoed a measure which would have required the removal of levers from machines in Tulsa County and in Oklahoma County. My action was based on the judgment that such legislation should be applied indiscriminately to all 77 counties, rather than applying only to two counties where Democrats envisioned some political advantage by the absence of the straight party lever.

It is significant to note that as a result of the persistence of Democrats in Oklahoma including many from Tulsa County, a statute was enacted in 1974 which allows the absence of straight party levers in cases where voting machines could not be altered without substantial modification, title 26, O.S. § 9–107. This status became effective January 1, 1975, for Statewide elections. In essence, therefore, an election held in Tulsa County would repeat the circumstances of the November 5, 1974 election.

The evidence in this case has clearly establish that HENRY BELLMON was not reelected to the U.S. Senate because of ballot placement or mass confusion over erroneous straight party voting instructions and the absence of a "straight party lever," or any other irregularities pleaded by the challenger. Mr. Bellmon was reelected because a majority of voters in Tulsa County and State-wide, familiar with the voting procedures and familiar with the candidates, consciously selected him as their representative in the U.S. Senate.

The Oklahoma District Court and the Oklahoma Supreme Court found that irregularities existed because of election board actions, but that these irregularities did not prejudice the rights of any Oklahoma voter. The Oklahoma voters have spoken on this matter and to alter or tamper with their decision would disinfranchise the majority. This is not the intention of the Oklahoma statutes, and it is not the intention of the Oklahoma courts.

We enter a new era with the jurisdiction of a new Federal election law. During campaigns, where workers are not under the direct personal supervision of candidates and are likely to make unintentional errors and violations, this body needs to reaffirm the precedent of Chavez, so that the true voice of the electorate will continue to be heard.

The other important point of Chavez, that is not stated in any findings of fact or opinions, is that Senator Robert Taft, the head of the then majority party took the lead in seating a minority party member, Senator Chavez, by a vote of 36 to 53. The choice is between raw ugly power and State laws reinforced by the legal precedents of this body.

So as we choose our weapons, I say to my colleagues, it is again time for the majority party to take the lead and to insure that people of a State—Oklahoma, in this case—are not disenfranchised. I call on you to read the facts of this case, the determinations made under Oklahoma law, and to affirm the precedents set forth by this body in the Chavez case.

Mr. President, I ask unanimous consent to have printed in the Record in connection with this matter the following material: Opinions of the Supreme Court, a statement by Senator Bellmon addressed to the Vice President, a report of investigation of the Oklahoma senatorial election content submitted by Judge James F. Schaener, a motion to dismiss submitted by Senator Bellmon to the Vice President, a memorandum entitled "Four Reasons for Dismissal of the Petition of Contest of Ed Edmondson," and a summation submitted on behalf of Senator Bellmon to the Committee on Rules and Administration.

There being no objection, the material was ordered to be printed in the Record, as follows:

Opinions of Supreme Court

(Prepared for Publication by Office of the Chief Justice of Supreme Court)

Edmondson, Petitioner, v. State, ex rel. PHELPS, Chairman et al., Respondents. And Bellmon, Intervenor. No. 47982. December 19, 1974.

Petitioner (Ed Edmondson, the Democratic party's nominee for United States Senator in the November 5, 1974, General Election) filed a contest with the State Election Board challenging the announced results of that election. Edmondson placed in issue the legality of the election as conducted in Tulsa County by the use of voting machines.

A hearing was conducted and the Honorable J. Knox Byrum, Trial Judge, in effect, upheld the legality of the election and ordered the State Election Board to certify Intervenor (Henry Bellmon, the Republican party's nominee for United States Senator) as being duly elected and to issue a Certificate of Election to Henry Bellmon.

On application of Petitioner, the trial judge's order was stayed until further order of this court.

In this original proceeding, Petitioner requests this Court to assume original jurisdiction; declare void all the votes cast in Tulsa County by use of voting machines; prohibit the State Election Board from certifying Henry Bellmon as duly elected and issuing to him a Certificate of Election; adjudicate petitioner as being duly elected and order the State Election Board to certify him as being duly elected and issue to him a Certificate of Election for United States Senator; or in the alternative, grant Petitioner the relief to which he is entitled.

Original jurisdiction assumed; stay order vacated; application for writ of prohibition denied; and application for writ of mandamus denied.

James E. Edmondson, Cox, Barr, Edmondson, Ripley & Edmondson, Thomas J. Kenan, George, Kenan, Robertson & Lindsey, John A. Claro, Barefoot, Moler & Claro, William P. Bleakley, Buck, Crabtree, Groves & Ransdell, Oklahoma City, for petitioner.

Bert McElroy, Sanders, McElroy & Carpenter, Thomas F. Golden, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Walter B. Hall, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Tulsa, Raymond E. Tompkins, Hanson, Peterson & Tompkins, Oklahoma City, Denzil D. Garrison, Garrison, Brown & Tice, Bartlesville, J. Kevin Hayes, L. I. Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Deryl L. Gotcher, Jones, Givens, Brett, Gotcher & Doyle, Inc., Fred Nelson, Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, Tulsa, for intervenor.

Pearson, Caldwell & Green, By: Bruce Green, Muskogee, amicus curiae.

IRWIN, J. On November 5, 1974, a general state-wide election was conducted in Oklahoma. Three candidates were on the ballot for the office of United States Senator: (1) Ed Edmondson (petitioner), the Democratic Party's nominee; (2) Henry Bellmon (intervenor), the Republican Party's nominee, and (3) Paul Edward Trent, an Independent.

The announced, but not yet certified, results of that election are:

Henry Bellmon, 390,997 votes.

Ed Edmondson, 387,162 votes.

Paul Edward Trent, 13,650 votes.

Pursuant to 26 O.S. 1974 Supp,, § 395.2 and § 395.3, Edmondson timely filed a contest challenging the announced results of the election. Edmondson placed in issue the legality of the election as conducted in Tulsa County by use of voting machines.

Edmondson alleged, inter alia, that the voting machines used in Tulsa County were not programmed to permit straight party voting as required by 26 O.S. 1971, § 274; that the candidates for the office of United States Senator were not programmed in their proper Column on the voting machine ballot as required by 26 O.S. 1971, § 277(c); that erroneous and misleading instructions on voting were on the voting machines; and that by reason of these alleged irregularities the election was illegally conducted and void.

Edmondson sought an adjudication that all the votes cast in Tulsa County by use of voting machines were void. He asked that the State Election Board be prohibited from certifying Bellmon as being duly elected and issuing him a certificate of election; and that the State Election Board be ordered to certify him (Edmondson) as being duly elected and to issue him a certificate of election. In the alternative, Edmondson sought an adjudication that it was impossible to determine with mathematical certainty which candidate was duly elected, and asked that another election be conducted as provided by law.

Honorable J. Knox Byrum, Assigned District Judge, conducted a hearing in Tulsa County and rendered a judgment which, in effect, upheld the legality of the election in Tulsa County and ordered the certification of Henry Bellmon as duly elected United States Senator and the issuance of a Certificate of Election to him.

Upon Edmondson's application to this Court, the order of the trial judge was stayed pending further order. Bellmon was authorized to intervene in these proceedings and to file briefs in support of the trial judge's judgment.

Intervenor (Bellmon) will be referred to individually as Bellmon; and he and respondent (State Election Board) will be referred to collectively as Bellmon.

In this original proceeding, Edmondson seeks to have declared void the Tulsa County election; and further seeks a Writ of Prohibition prohibiting the State Election Board (respondent) from certifying Bellmon as being duly elected to the office of United States Senator and from issuing its Certificate of Election to Bellmon. Edmondson also seeks a Writ of Mandamus directing the Board to certify him as being duly elected to the office of United States Senator and to issue to him a Certificate of Election. In the alternative, Edmondson seeks a determination by this Court that it is impossible to determine with mathematical certainty which candidate was duly elected, and asks that another election be ordered and conducted as provided by law.

The crux of Edmondson's challenge as presented to the trial court and in these proceedings is to have declared illegal and void all the votes cast by use of voting machines in Tulsa County for the office of United States Senator. The significance of the Tulsa County vote is reflected by the announced results of all votes cast in that county for each candidate.

Henry Bellmon, 72,145 votes.

Ed Edmondson, 49,775 votes.

Paul Edward Trent, 1,798 votes.

The above results include the absentee ballots cast in Tulsa County which were 571 for Edmondson, 1,410 for Bellmon and 39 for Trent. The parties do not seem to make any distinction between the votes cast by voting machines and votes cast by absentee ballots.

A simple mathematical computation of the announced results discloses that Bellmon received 3,835 more votes state-wide than Edmondson (390,997 minus 387,162). However, Bellmon received 22,370 more votes in Tulsa County than Edmondson (72,145 minus 49,775). If the Tulsa County votes are declared void, Bellmon would lose his 22,370 vote margin in Tulsa County and Edmondson would have a state-wide edge of 18,535 votes (22,370 minus 3,835). If such votes are declared void, it will be necessary to consider the applicable election laws under the factual circumstances then presented.

First, Edmondson contends that the voting machines did not permit straight party voting as required by law.

26 O.S. 1971, § 274, as amended in 1971, prescribes the specifications for a voting machine. The specific language relied upon by Edmondson is italicized.

"* * * *It must be so constructed as to permit straight party voting as well as mixed or split tickets*, except that voting machines with a vertical columnar presentation of the individual candidates for office, if there are more than two (2) political parties on the ballot at a general election, shall not be programmed so as to permit straight party voting by the use of a single lever, button or other device.* * *."

The language in the above provision which is not italicized was added by the 1971 amendment. The apparent reason for the amendment is discussed later.

The following is a reasonable facsimile depicting how a part of all the voting machines were programmed. Column 3 lists part of the candidates for State offices and Column 4, not shown, contains the remaining candidates for State office. Column 6 lists the candidates for Congressional offices. Columns 7, 8, 9, 10, and 11, showing other candidates for other offices are not shown. The entire ballot is not shown because of reproduction difficulties.

It is to be noticed that a single selector tab or device is placed in each of the rectangulars identifying an office. Part of the State offices are shown in Column three (3), and the Congressional offices are shown in Column (6). The parties agree that such offices should have been on separate ballots or different Columns, but disagree as to which Column the Congressional race should have been placed.

The voting machines were not programmed so as to permit a voter to select more than one candidate by merely moving into position one lever or device under a particular party's emblem.

In order for a voter to have voted a straight Democratic Party ticket on each ballot, the voter would have to move an individual selector tab next to the name of each democratic candidate, and press the "vote" button on the bottom of the panel. Unless a selector tab was moved next to a candidate's name, that candidate would not receive a vote.

If a voter wanted to vote for Edmondson and the democratic nominee for the U.S. House of Representatives (Jones) in Column 6, the voter would have to move individual selector tabs next to each candidate's name and press the "vote" button.

The parties have divergent views on whether the programming of the voting machines requiring, in effect, a separate selector tab for each office meets the requirements of § 274, prescribing that voting machines "must be so constructed as to permit straight party voting as well as mixed or split tickets."

Edmondson contends that in order to permit straight party voting it is necessary to permit a voter, in selecting his particular party and its slate of candidates on a particular ballot (such as the State or Congressional ballot) to move into position only one lever or device on each ballot under a particular party's emblem, rather than being required to move separate selector tabs or devices for each individual candidate.

Bellmon contends that § 274 does not specify in what manner a voting machine is to be "so constructed as to permit straight party voting", only that it is to be "so constructed". Bellmon argues that had the Legislature intended that straight party voting would be accomplished by using only one lever for a particular party or a slate of candidates on a particular ballot, it would have specifically set such requirement out in the statute. Bellmon cites different statutes from other jurisdictions (Alabama, Arizona, Arkansas, Connecticut, Georgia, Louisiana, Maryland and Pennsylvania) which indicate those jurisdictions specifically provide for straight party voting by the use of a single lever, device or knob.

Bellmon contends the voting machines permitted straight party voting because in order for a voter to have voted a straight Democratic ticket for the Congressional offices he would merely have to: (1) move the selector tab to a position adjacent to the symbol and name of the Democratic party and Edmondson's name for United States Senator; and (2) move the second selector tab to a position adjacent the symbol and name of the Democratic party and Jones' name for the United States House of Representatives.

Bellmon argues that the voter would have at that time made his selection for whom he wanted to vote, but his actual vote would not occur until the voter pressed the "vote" button on the bottom of the panel.

The trial judge found that while the voting machines did not provide for straight party voting by use of a single lever or device for each ballot (Congressional, State, etc.) may have been an irregularity, but since they did permit mixed, split or straight party voting by the use of individual selector tabs for each candidate for each office, it did not constitute such an irregularity that would vitiate or invalidate the election in Tulsa County.

Two types of voting machines were used. They were known locally as the "Amarillo" machine and the "Tulsa" machine.

The "Tulsa" machines were constructed so they could be programmed to permit straight party voting (if no more than two political parties were on a particular ballot) by moving a single lever or device on each column of a ballot under a particular party's emblem and pressing the "vote" button. This single lever would move individual selector tabs in that column for each office next to the selected party's nominee for that office.

Thus, the "Tulsa" voting machines were constructed so that they could have been programmed so as to permit straight party voting for the two Congressional offices by moving only one lever on the Congressional ballot. Thus, then, would be similar to the paper ballot system. The mechanical difperence between voting a straight party United States Congressional ballot in this election on the Tulsa machines as programmed and as they allegedly should have been programmed was the moving of two (2) selector tabs instead of one (1) party lever.

The "Amarillo" machines were not constructed so they could have been programmed to permit straight party voting on separate ballots, i.e., State and Congressional ballots, by moving a single lever for each ballot. These machines were constructed so they could be programmed to permit a voter, by moving one lever, to vote a straight party ticket for the entire election slate of a particular party.

Both machines could be programmed to permit mixed or split ticket voting. The Secretary of the Tulsa County Election Board, in explaining why the machines were programmed as they were, said:

"* * * our problem would have been obviously that it would have been discriminatory from one type of machine to another. One machine you would have been able to use one button to vote an entire ticket, the other machine you would have had to use each column for individual levers. That's why all the machines were programmed the same.

The 1974 General Election conducted in Tulsa County, is not the first time that Tulsa County has had problems concerning how it should conduct an election involving the use of voting machines.

The 1971 amendment to § 274, supra, which relates to the specifications of a voting machine, added the exception clause as heretofore set out and not italicized. Prior thereto, this provision read, "* * * It must be so constructed as to permit straight party voting as well as mixed or split tickets." See 1959 Session Laws, Title 26, Ch. 9, pgs. 121–124; and 26 O.S. 1961, § 274.

It seems the 1971 amendment was prompted by the following facts: In 1970, the State Election Board advised the Attorney General that Tulsa County would have a programming problem with voting machines in the November 3, 1970, General Election because the ballots would have candidates from the Democratic party, the Republican party, the American party, and in one instance, an Independent candidate; and that Tulsa County voting machines did not have the capabilities of straight party voting when more than two parties were involved.

The Attorney General was of the opinion that the Tulsa County voting machines did not meet the specifications of § 274 (1959 enactment) and that paper ballots should be used in the general election. See Opinions of the Attorney General No. 70–301. The 1971 Legislature then amended § 274, and added the exception clause referred to above.

The additional language contained in the 1971, amendment is not material in the case at bar. That amendment is applicable only if there are more than two (2) political parties on the ballot at a general election. Trent's candidacy for United States Senator as an Independent candidate did not bring into operation the exception contained in § 274, because an Independent candidate is not a member of a political party and there were only two political parties on the ballot at the general election, the Democratic and the Republican party. Bellmon challenged the constitutionality of straight party voting by a single lever when an Independent candidate is on the ballot but resolution of this issue is not necessary here.

Edmondson argues that there were a sufficient number of "Tulsa" machines to conduct the election and it was unnecessary to use the "Amarillo" machines. His theory is that only "Tulsa" machines should have been used and they all could have been programmed for straight party voting as required by law; and if the Tulsa County Election Board believed they did not have a sufficient number of "Tulsa" machines, they should have used paper ballots as they did in the 1970 General Election.

The issue here is not how the election in Tulsa County should have been conducted, but the legality of the election as conducted.

We will now consider whether the manner in which the voting machines were programmed meets the requirements of § 274, which provides that the machines shall be so constructed as to permit straight party voting.

Prior to the enactment authorizing the use of voting machines, all votes were cast on paper ballots. 26 O.S. 1971, § 227.1, provides for separate ballots for candidates for State offices, county offices, seats in the House of Representatives and the Senate of the United States, etc. A voter could vote a straight party ticket for all candidates of the same political party on a paper ballot by merely stamping the emblem below the political party of his choice. If no other markings were on the ballot, or the ballot was not mutilated, the voter would have voted, by the single stamp and placing the ballot in the ballot box, for all the candidates of that political party on the ballot.

In our opinion, when the Legislature prescribed that voting machines "must be so constructed as to permit straight party voting", it did not intend to make a distinction between "straight party voting" by paper ballots, and straight party voting by voting machines.

The second sentence of § 274 provides that: "It (a voting machine) must permit a voter to vote for any person whose name is entitled to appear on the ballot, for any office whether or not nominated as a candidate by any party or organization."

This proviso includes not only independent candidates but the nominees of political parties, and a voter could vote a straight ticket by simply voting separately for each candidate of the same political party. The voting machines were programmed in conformity with the above proviso. If by enacting the next sentence "to permit straight party voting" the Legislature intended that "straight party voting" could be accomplished by requiring a voter to vote separately for each candidate of a political party, rather than a single lever for each ballot of candidates, such as the Congressional ballot in the case at bar, the language "to permit straight party voting" is mere surplusage.

We agree with the trail court. In order to comply with the language "to permit a straight party vote" a voting machine must be so constructed so that a voter may vote a straight party ticket by moving a single lever or device to the party of his choice on a ballot (such as the Congressional ballot) and by pressing the "vote" button. In this connection, we notice that there were two separate colums (Columns 3 & 4) for State offices. Whether or not it would have been necessary to have the voting machine programmed so that a voter could have voted a straight party ticket for all the candidates in the two columns, by the use of a single lever, as distinguished from two levers (one for each column) to meet the requirements of § 274, is not here presented.

We hold that the voting machines in Tulsa County were not programmed so as to permit straight party voting as required by § 274, supra.

Second, Edmondson contends that the ballot for State offices and the ballot for United States Senator and House of Representatives were not programmed according to the provisions of 26 O.S. 1971, § 277 (c), which he contends is mandatory and vitates the election in Tulsa County. Edmondson argues that the office for United States Senator should have been placed on the top line of the panel in the upper left-hand corner, in Column 3, as a candidate for a National office. Sec. 277 (c) provides:

"Separate portions of the elective office panel in each voting machine shall be allocated as separate ballots in such manners as to classify separately National, State, County and local offices respectively in the order named."

26 O.S. 1971, § 227.1, provides that candidates for State offices, Congressional offices, etc., shall be placed on separate ballots whenever paper ballots are used. A determination as to whether a United States Senator is a national or state officer within the provisions of our election laws would not be dispositive of these proceedings. Therefore, we will assume, arguendo, that a candidate for U.S. Senate is a candidate for a national office, and that the placement of the U.S. Congressional candidates in Column 6, instead of Column 3, where the candidates for state office were placed, conflicts with the mandatory provisions of § 277 (c).

Third, Edmondson contends that 545 of 640 machines used for Tulsa County voting contained erroneous instructions and that this was a voting irregularity which voids the votes in Tulsa County.

The contested instructions were on the "Tulsa" machines and had been there "since they (the machines) were manufactured". These contested instructions were affixed conspicuously on the machines and told the voter how to vote a straight party ticket by using a single lever for each Column of a ballot rather than individual selector tabs.

However, since the machines were not programmed to permit straight party voting by using a single lever per column of the ballot and, in fact, no such lever was on the machines, the contested instructions were clearly erroneous.

We have held that the voting machines did not permit straight party voting as required by § 274 and that erroneous instructions on voting procedure were on the voting machines. We have also assumed, arguendo, that the candidates for the office of U.S. Senator were not programmed in their proper column on the voting machine ballot as required by § 277 (c).

What is the effect of the above irregularities on the votes cast in Tulsa County? Edmondson argues that the irregularities individually or collectively void all votes cast in Tulsa County by voters using the voting machines.

Pursuant to the Constitution, the Legislature has prescribed the laws for conducting elections. Although election officials should not permit election irregularities, whether an irregularity or several irregularities void an election depend upon the circumstances in each particular case. An election irregularity in one election might be sufficient to void an election for one particular office but not sufficient to void the election for another office.

In Semke v. Wiles, 101 Okl. 105, 224 P. 312, we held:

"The statutory provision as to the place of holding the election and the manner of changing the voting place are mandatory upon the officers charged with that duty, and will be strictly enforced in a direct action instituted before an election, but after the election such statutory requirements are directory, unless it appears that the failure to hold the election at the regular place resulted in fraud and prevented the voters from a full and free expression of their will at the election."

In the Town of Grove v. Haskell (1909), 24 Okl. 207, 104 P. 56 at 61, the court cites with approval an Indiana case:

"* * * the Supreme Court of Indiana, in the case of Jones v. State ex rel. Wilson, 153 Ind. 440, 55 N.E. 229, said in the syllabus: 'All provisions of the election law are mandatory if enforcement is sought before the election in a direct proceeding for that purpose; but after election they should be held to be directory only, unless of a character to effect an obstruction to the free and intelligent casting of the vote, or to the ascertainment of the result, or unless the provisions affect an essential element of the election, or unless it is expressly declared in the statute that the particular act is essential to the validity of an election, or that its omission shall render it void.' "

In Baggett v. State Election Board, Okl., 501 P. 2d 817, we said:

"The fact that a contestant proves that illegal ballots have been cast and the number of illegal ballots cast is sufficient to change the results of the election does not necessarily mean that the election should be declared void. If competent evidence can be introduced establishing that in spite of the illegal ballots cast, it may be determined with mathematical certainty which candidate received the majority of the legal votes cast, the State Election Board should issue its certificate of election."

In Porter v. Oklahoma City, Okl., 446 P.2d 384, we held:

"The right of a qualified elector to vote and to have his vote counted is basic and fundamental. When an election has been conducted in good faith and no elector has been misled, and a true and fair return of the entire election has been canvassed and made, the will of the people, as indicated by their votes at such election, cannot be defeated by irregularities (particularly those resulting from some act or acts on the part of the election officials) which are not sufficient to change the results of the election."

In Williamson v. State Election Board, Okl., 431 P.2d 352, we held that if the State Election Board cannot determine with mathematical certainty which candidate received the majority of legal votes cast in an election, such Board is not required to issue a certificate of election.

Edmondson cites Rampendahl v. Crump (1909), 24 Okl. 873, 105 P. 201, as a case supporting his position. Rampendahl was a challenge by a losing candidate to the trial court's excluding the votes in one of 30 precincts. The appellant lost the election by 40 votes in 29 precincts, but won the excluded precinct, 195 to 5.

The election in the excluded precinct, as described in three pages of the opinion, was quite rowdy involving numerous irregularities, most, if not all, occasioned by unruly electors NOT election officials.

The opinion distinguished between irregularities by electors and those by election officials. The former, if sufficiently irregular, should result in voiding said vote. The Court quoted with approval, from the brief of the plaintiff in error in Rampendahl, supra, at 206.

" '* * * it may be said that there are three elements in a popular election: First, those acts which have reference to the ballot and to the voter himself performing the act of voting; second, acts of officials and others in operating the election machinery; third, (acts of others) * * *. The provisions of the law with reference to the acts embraced within the first element are, of course, mandatory because they affect directly the ballot itself and the act of voting, the very essence of the law. The voter alone is involved, and he must act, as the law prescribed or suffer the consequences.* * *.' "

The court, in affirming, relied primarily on the voters' refusal to follow the requirement that they were to "deliver the ballots (after marking and folding) to the inspector or judge temporarily acting as inspector and such inspector shall forthwith in the presence of the voter and members of the election board and of the watchers, deposit the same in the respective ballot boxes."

Two-thirds of the voters willfully refused to give their marked ballots to the judge or inspector, giving them instead to the pollbook clerk and the voters as a whole "willfully and flagrantly violated" every provision of the election law except time and place. In upholding the trial court's exclusion of 200 votes, the court held:

"When it appears that practically not only every mandatory provision of the laws governing the holding of the election, except that relating to time and place, have been flagrantly and willfully violated in a precinct, and the integrity of the result of such election is left in grave doubt, and the trial court thereby rejects the ballots cast at such precinct, his action will not be disturbed on review in this court."

In Sparks v. State Election Board (1964), Okl., 392 P.2d 711, the election officials in a certain precinct ran out of official ballots. The election officials permitted six voters to cast their votes on ballots identified as "sample" ballots. In upholding the validity of that election, even though "sample" ballots had been used, we said:

"No fraud or improper motive is charged, and none has resulted. No evil was intended and none has resulted. Under the circumstances presented in this case the constitutional right to vote outweighs the form of the ballot, and the sample ballots as used in this case were in fact and in law converted into acceptable and legal ballots. They reflect the will of the electors to whom they were furnished, and accurately record their votes. We must conclude they should be counted by the State Election Board and given weight."

In Wadsworth v. Neher, 138 Okl. 4, 280 P. 263, we held that in the absence of fraud, an election will not be held invalid on the ground that mandatory provisions of the state election laws have been disobeyed, unless it is expressly declared in the statute that the particular act is essential to the validity of an election or that its omission shall render it void. There are no statutory provisions which declare that failure to permit straight party voting, failure to properly program a voting machine, or failure to have proper voting instructions on a voting machine are essential to the validity of an election.

26 O.S. Supp. 1974, § 395.3 is directed to election irregularities and, inter alia, provides:

"When a petition alleging irregularities other than fraud is filed, said election must allege a sufficient number of irregularities and of such a nature as to (1) prove that the contestant is lawfully entitled to be issued a certificate of party nomination or certificate of election, or to have his name appear on the runoff primary ballot, or (2) prove that it is impossible to determine with mathematical certainty which candidates are entitled to be issued certificates of party nomination or certificates of election, or to have their names appear on the runoff primary ballot. If such allegations are not made, the petition shall be deemed frivolous by the presiding judge and shall be dismissed. * * *"

Under 26 O.S. Supp. 1974, § 395.3, where fraud in an election is proved on the part of a candidate, he shall be declared ineligible for the office for which he was a candidate. There are no allegations, evidence, or contentions that any candidate was guilty of fraud or was guilty of any misconduct in the Tulsa County election. Neither are there any contentions, allegations, or evidence that any election official in programing the machines or conducting the election was guilty of any fraud, intentional wrong doing or improper motives.

Neither our statutory law nor our decisional law supports the proposition that the irregularities herein described, by themselves, or collectively, render ipso facto, illegal and void all or any of the votes cast on the voting machines.

We hold the Tulsa County votes cast by use of the voting machines are not illegal or void.

The next issue presented concerns our statutory and decisional law governing election contests when it is clearly established that irregularities occurred in the election.

If it can be determined with mathematical certainty which candidate received the majority of the legal votes cast in an election, the candidate receiving such majority is entitled to be issued a certificate of election. See § 395.3, supra, and Williamson, supra.

The burden is upon Edmondson to prove that it is impossible to determine with mathematical certainty which candidate is entitled to be issued a certificate of election. Sec. 395.3, supra, and Gammill v. Shackelford (1970), Okl., 480 P. 2d 920.

There are two classes of voters which must be considered: (1) All of the voters who voted in the Tulsa County election (127,588); and (2) only those voters who voted in the race for U. S. Senator (123,718). These figures include absentee ballots.[1] This leaves a difference of 3,870 votes (127,588 minus 123,718) which were cast in Tulsa County election but which were not cast for United States Senator.

Although the evidence indicates that some of the 123,718 voters who voted in the United States Senate race wanted to vote a straight party ticket, Edmondson failed to establish and there is no competent evidence to support a finding that any of those voters were deprived of their right to vote or failed to vote for Edmondson because the voting machines were not programmed to permit straight party voting, or because of the erroneous instructions, or because the candidates for United States Senator were not placed in the upper left-hand Column on the machine ballot panel. Also, Edmondson failed to establish and there is no competent evidence to support a finding that of those 123,718 votes cast, Bellmon would not have received the 72,145 votes cast for him if the voting machines had been properly programmed with proper instructions, or that he received any votes because of the irregularities.

The above irregularities will be considered later, but must be considered in connection with this basic fact, i.e., Bellmon is entitled to the 72,145 votes cast for him in Tulsa County and this gives him 3,835 more statewide votes than Edmondson, as the irregularities do not affect the votes actually cast in the race for United States Senator. Therefore, in considering the impact of the irregularities on the election, consideration must be given only to those votes cast in Tulsa County which were not cast in the race for United States Senator (3,870 votes.)

Since we have determined that Bellmon is entitled to the 72,145 votes cast for him in Tulsa County and that he received 3,835 more state-wide votes than Edmondson, the burden is upon Edmondson to prove that at least 3,835 of the 3,870 voters who did not vote in the United States Senate race would have voted in that race had there been no irregularities, or failed to vote because of the irregularities. See Williamson, supra. Edmondson does not have to prove that at least 3,835 voters would have voted for him. See Baggett, supra.

Edmondson asserts that the 3,870 vote difference between the votes cast in the U.S. Senate race and all the votes cast in Tulsa County makes it impossible to determine with mathematical certainty which candidate received more state-wide votes. Edmondson cites Willamson, supra, to sustain his position.

The facts in Williamson and the facts herein are entirely different. In Williamson, 94 votes were "unaccounted for" and the 94 votes were sufficient to change the results of the election. There, because of a malfunctioning voting machine, some undetermined number of votes cast were not recorded. Ninety-four (94) electors either did not vote in the contested race, or their votes were not recorded, or there was a combination of both non-voting and non-recording. It was impossible to determine from the undisputed factual circumstances presented whether the 94 "unaccounted for" votes were cast but were not recorded because of the malfunction in the voting machines, or whether there was a combination of non-voting and non-recording. This Court did not rely on any presumptions in disposing of the issues in Williamson.

All the votes cast in Tulsa County were properly recorded and the exact number of votes cast can be determined with mathematical certainty. Edmondson, in effect, argues that from the expert testimony presented and other evidence, he has established that at least 3,835 fewer votes were cast in the race for United States Senator than would have been cast if there had been no irregularities.

In considering whether Edmondson established this fact, this Court may not presume or speculate that either Edmondson or Bellmon would have received more or less votes had no irregularities existed, or received more or less votes because of the irregularities. By the same token, when a voting machine properly records all the votes cast in an election, and all the voters participating in that election do not vote in a particular race, and no competent evidence establishes why all the voters did not vote in all the races, this Court may not speculate on the voters' reasons for voting as they did.

Therefore, Edmondson is entitled to no presumption concerning why 3,870 voters participating in the Tulsa County election did not vote in the race for United States Senator. In this connection, we notice that 2,399 (127,588 minus 125,189—votes cast in the Governor's race) voters participating in the Tulsa County election did not vote in the Governor's race and 6,322 (127,588 minus 121,266—votes cast in the U.S. House of Representatives race) did not vote in the race for U.S. House of Representatives.

Further, the state-wide figures are indicative that, the fact that all participating voters do not vote in a particular race is not, by itself, unusual, or necessarily connected to any irregularities. The total number of voters who participated in the election, excluding Tulsa County was 694,438 (822,026 minus 127,588). The total number of voters who voted in the Senate race, excluding Tulsa County, was 668,091 (791,809 minus 123,718).

Thus, 96 per cent (668,091 divided by 694,438) of the state-wide voters excluding Tulsa County, voted in the Senate race, and 97 per cent (123,718 divided by 127,588) of the Tulsa County voters voted in the Senate race. A larger, not smaller, percentage of Tulsa voters in the other 76 counties combined.

Did Edmondson establish by competent evident that because of the irregularities, at least 3,835 voters who voted in Tulsa County did not vote in the race for United States Senator?

We will consider together the irregularities concerning the failure to permit straight party voting and the failure to remove erroneous instructions on the voting machines.

The erroneous instructions previously alluded to were located to the left of the "vote" button on the machines and read:

"Party-voting instructions"

"To vote a straight ticket:

"1. Raise lever at bottom of column until arrow or lever points to desired party.

"2. Return lever to original position.

"3. If you wish, you may split your ticket by moving any key or keys to a different party candidate.

"4. After all selections have been made, press vote button."

It is to be noted that the above includes an instruction on split ticket voting. Also, there were other instructions on the machines. To the right of the "VOTE" button the following further information was provided:

"Voting instructions"

"Check the ballot.

"See that columns indicated by red light contain proper candidates and issues. Only selections in lighted columns will be recorded.

"Make selections.

"Move selector key (X) down to candidate or answer preferred. You may change your selection at any time prior to pressing the vote button. Leave keys in selected position.

"After all selections have been made

"Press vote button

"You have not voted until you have pressed the vote button."

Tulsa County has continuously used these voting machines for their elections from 1959 through 1974, with the exception of 1970 when paper ballots were used. During this period of time, the straight party levels were frequently on the machines depending on the number of candidates and parties, and on the type of election (General, Primary, etc.)

The straight party lever is a device distinctly different in size and shape from the selector tabs. The levers are alloted a grey-colored space running horizontally across the bottom of the white voting columns. To vote using the lever, the voter would have to raise the lever from its original position as explained in the contested instructions. All of these levers had been removed from the voting machines. To vote using the selector tabs, the voter would initially have to move them down to the candidate of his choice (as explained in the instructions to the right of the "vote" button) from the original position occupied by the tabs when the voter entered the voting booth. From their original position, the selector tabs could not be raised. Proper instructions were placed at the polling places and the erroneous instructions were on the voting machines only. The voter saw the erroneous instructions only after he entered the voting booth.

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[1] Neither party attached much significance to the absentee ballots, so neither have we for this opinion. However, all parties agree that the absentee ballots were unaffected by the alleged irregularities so absentee votes should probably not be included as they are above. The figure for the total number of voters participating in the Tulsa County election (127,588) contains 2,055 absentee votes (the highest total of absentee ballots case in any particular race (the Governor's race)). Therefore, 125,533 voters participating in the Tulsa County election did so by using the voting machines and of those, 121,698 voted in the Senate race (123,718 minus 2,020, the absentee votes cast in the Senate race). Thus, 3,835 (125,533 minus 121,698) not 3,870 of the voters using the voting machines in Tulsa County did not vote in the Senate race. This figure (3,835) and the incredible coincidence that it is exactly equal to Bellmon's statewide edge do not change this opinion in any way for the reasons hereinafter discussed.

The statement that 2,055 absentee ballots are included in the 127,588 figure is according to the records in the State Election Board.

The trial judge found: "There was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight party vote by reason of the machine used or the format or presentation thereon of the elective office panel. There is no evidence that any voter was disenfranchised, or misled, or deprived of his right to vote for the party or candidate of his choice."

The record will not support a finding that any voter was deprived of his right to vote in the United States Senate race or failed to vote in the race because he could not vote a straight party ticket, or because of the erroneous instructions because they could not find the lever to vote a straight party ticket (the lever having been removed) the fact remains that 123,718 votes were cast and Bellmon received 72,145 of those votes.

Edmondson hypothesizes that confused voters would try to vote a straight party ticket by moving the selector tab opposite the party designation in the race for United States House of Representatives. None of the witnesses called by Edmondson testified that they were so confused or that they failed to vote, could not vote, or did not vote as they desired; 2,252 more votes were cast in Tulsa County in the United States Senate race than in the United States House of Representatives' race. We may not presume that the voters who voted for the democratic nominee for the United States House of Representatives thought they were voting a straight party ticket in both Congressional races and failed to vote in the race for United States Senator.

It is clear the Tulsa County voters split their tickets. In the Governor's race, Boren (the democratic nominee), received 60,697 votes, and Inofe (the Republican nominee), received 64,492. A total of 125,189 votes were cast in that race. In the United States Senate race, Bellmon received 72,145 votes; Edmondson 49,775 votes, and Trent, the Independent candidate, 1,798 votes. A total of 123,718 votes were cast for the office of United States Senator. In the race for the United States House of Representatives in Tulsa County, Jones (the democratic nominee) received 82,243 votes, and Mizer (the Republican party's nominee) received 38,923 votes. A total of 121,266 votes were cast in that race.

Since Edmondson failed to establish that any voter was deprived of his right to vote, or failed to vote, or did not vote in the race for United States Senator because he was not permitted to vote a straight party ticket or because of the erroneous instructions, we may not presume that because of these irregularities that any voter failed to vote in the United States Senate race. If such presumption were made in the case at bar, in order to benefit Edmondson, we would have to presume that at least 3,835 voters out of 3,870 voters failed to vote because of the irregularities.

We hold that while the use of the voting machines, which did not permit straight party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election.

We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainty which candidate received more state-wide votes and entitled to a certificate of election.

Next, we will consider the irregularity concerning the failure to place candidates for United States Senator in the first position on the voting machines (upper left-hand corner).

The office of Governor was programmed on the panel where Edmondson contends the office of United States Senator should have been. In Tulsa County, 125,189 votes were cast for Governor; 123,718 votes for United States Senator; 121,266 votes for the House of Representatives; and 120,843 votes for Lt. Governor. It appears more people were interested in voting for Governor and United States Senator than the other two offices. However, there is only a 1,471 vote spread, or drop off, between the votes cast for Governor and the votes cast for United States Senator, or a 1.18 per cent drop off in Tulsa County. This drop off is less than in the other 76 counties where 679,659 votes were cast for Governor and 668,091 votes were cast for United States Senator, a 11,568 vote spread or a 1.70 per cent drop off.

Although some evidence tends to establish that more voters vote for the office in the upper left-hand panel on a voting machine, we may not presume that a certain number of voters who did not vote in the United States Senate race would have voted in that race if the Senate race had been placed in the first position on the ballot panel. In this connection, if we assumed for purpose of argument only, that had the office for United States Senator been programmed in the first column (left-hand corner of Column 3) of the voting machines, and all of the 1,471 voters who voted for Governor but did not vote for United States Senator would have voted for Edmondson, Bellmon would still have 2,364 (3,835 minus 1,471) more state-wide votes than Edmondson.

Assuming that the failure to place the United States Senate race in the upper left-hand panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election.

Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters who participated in the Tulsa County election to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the Court may not indulge in presumptions, the candidate receiving the most state-wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election. Bellmon is that candidate.

26 O.S. 1974 Supp. § 395.3, which pertains to challenges based on fraud and other irregularities, provides that the decision of the trial judge shall be final. Bellmon contends this Court does not have jurisdiction and this proceeding should be dismissed. Bellmon cites cases involving appeals as distinguished from original proceedings wherein Writs of Prohibition or Writs of Mandamus, or of similar nature, are presented.

In Sparks v. State Election Board, Okl., 392 P. 2d 711, we said:

"In Art. 7, Sec. 2, Okla. Const. (presently Art. 7, § 4), it is provided in part:

"' * * * The original jurisdiction of the Supreme Court shall extend to a general superintending control over all inferior courts and all commissions and boards created by law. The Supreme Court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, and such other remedial writs, as may be provided by law, and to hear and determine the same; * * *.'"

In Looney v. County Election Board, 146 Okl. 207, 210, 293 P. 1056, 1059, we held:

"'The Legislature cannot deprive this court of its right of superintending control over inferior courts, commissions, and boards which are exercising judicial or quasi judicial authority as granted by section 2, article 7, of the Constitution of this state; but this superintending control is exercised, not by appeal, nor proceedings in the nature thereof, but by the issuance of remedial writs, named in the Constitution, and such others as may be provided by law.'"

"Mandamus is one of the writs authorized by Art. 7, Sec. 2, supra, as a 'remedial' writ, and the final interpretation of a statute, as applied to stipulated facts, authorizes the exercise of judicial authority."

We hold that this Court does have jurisdiction to determine the issues presented in this original proceeding and we assume original jurisdiction.

Application to assume original jurisdiction granted; Stay order vacated; Application for Writ of Prohibition Denied; and Application for Writ of Mandamus denied.

Davison, C.J., Williams, V.C.J., Berry and Barnes, JJ., and Bacon, Romang, Hert and Brock, Special Justices, concur.

Justice Ralph B. Hodges, Justice Robert E. Lavender, Justice Robert D. Simms and Justice John B. Doolin, having certified their disqualifications in the above cause, the Honorable Kenneth D. Bacon, Judge of the Court of Appeals; Honorable Richard E. Romang, Judge of the Court of Appeals; Honorable Robert L. Hert, District Judge; and Honorable Jack L. Brock, District Judge, were appointed Special Justices to serve in their stead.

To the Honorable Nelson A. Rockefeller,
Vice President of the United States and
President of the Senate

ANSWER OF HENRY BELLMON

Henry Bellmon, United States Senator from the State of Oklahoma, appearing by his attorneys for the purpose of answering the Petition and Complaint of Ed Edmondson concerning the conduct of the election of November 5, 1974, for the Office of United States Senator from the State of Oklahoma, states as follows:

1. Your Respondent denies both generally and specifically each and every material allegation as contained in said Petition and Complaint except as may be specifically admitted hereinafter.

2. Your Respondent specifically admits the allegations stated in the numbered paragraphs 1, 2, 3, 4, 5, 6 and 10 of said Petition and Complaint, and further admits that portion of paragraph number 15 wherein Petitioner alleges that the United States Senate is empowered by Article 1, Section 5 of the United States Constitution to review and investigate the elections and qualifications of its own members.

3. For further answer your Respondent states that Petitioner has four times previously been given the opportunity to present allegations identical to those presented in said Petition and Complaint and that in each instance the Courts of the State of Oklahoma, acting pursuant to the powers vested in them by Oklahoma law, have determined these allegations to be without merit.

4. That in each instance, Petitioner has alleged that he is entitled to be seated as

United States Senator from the State of Oklahoma or that, in the alternative, he is entitled to a new election. Further, that as the basis for these claims, Petitioner has consistently relied upon certain irregularities concerning the physical characteristics of the voting machines utilized in Tulsa County during the subject election, more specifically:

(a) that said voting machines were not equipped with a single device or lever for use in voting a straight party ticket;

(b) that the ballot containing the names of the candidates for United States Senate was placed in the wrong position on the face of said voting machines; and,

(c) that erroneous instructions pertaining to the manner of voting a straight party ticket were affixed to many of the said voting machines.

5. That commencing on November 12, 1974, a hearing was conducted pursuant to the Oklahoma Election Laws wherein Petitioner was given the opportunity to present all his evidence in support of his allegations; that upon the conclusion of said hearing, after having heard all the evidence presented, and after having considered all the pleadings and arguments of counsel, the Honorable J. Knox Byrum, the Judge specifically appointed by the Oklahoma Supreme Court to hear the matter, concluded that there had been no showing that the irregularities complained of were of a sufficient nature to cast a doubt on the certainty of the election results. More specifically, Judge Byrum held:

"There was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight party vote by reason of the machines used or the format or presentation thereon of the elective office panel. There is no evidence that any voter was disenfranchised, or misled, or deprived of their right to vote for the party or candidate of their choice. . . .

The Court further concludes that it is possible to determine with mathematical certainty that Respondent, Henry Bellmon, received the greatest number of votes for the Office of United States Senator. . . .

The Court further concludes that there were no irregularities of such nature as to invalidate or render illegal the votes cast in the General Election in Tulsa County, Oklahoma . . ." *In Re Challenge of Ed Edmondson*, No. C–74–2630, decided November 14, 1974. A copy of Judge Byrum's decision is attached hereto as Exhibit A.

6. That thereafter, on November 22, 1974, Petitioner filed with Judge Byrum a Motion for New Trial together with attached affidavits of numerous Tulsa County voters; that upon careful consideration of said Motion and Affidavits, and after hearing arguments thereon from counsel, said Motion was overruled.

7. That thereafter, Petitioner filed an Application to Assume Original Jurisdiction in the Supreme Court of Oklahoma, petitioning said Court for Writs of Prohibition and Mandamus, prohibiting the State of Oklahoma Election Board from certifying Henry Bellmon as the winner of the subject election and directing said Board to issue the Certificate of Election to Petitioner.

8. That after a thorough and exhaustive review of the evidence submitted by Petitioner in support of his Petition, the Supreme Court of Oklahoma, though initially finding the election machines used in Tulsa County were not constructed and programmed in total compliance with the Oklahoma law regarding voting machine specifications, ultimately held:

(a) that these irregularities were not sufficient as a matter of law to render the votes cast on the Tulsa County machines void or illegal;

(b) that Petitioner failed to show that these irregularities did in fact affect the outcome of the election; and,

(c) that Ed Edmondson was therefore not entitled to be issued the Certificate of Election, nor entitled to a new election.

9. That more specifically, as to Petitioner's allegation that the irregular construction and programming of the voting machines rendered all of the votes cast thereon illegal and void, therefore entitling Petitioner to be issued the Certificate of Election, the Supreme Court found:

"Neither our statutory law nor our decisional law supports the proposition that the irregularities herein described, by themselves, or collectively, render, ipso facto, illegal and void all or any of the votes cast on the voting machines.

We hold the Tulsa County votes cast by use of the voting machines are not illegal or void." *Edmondson* v. *State*, 45 O.B.J. 2974, 2983 (1974) (A copy of this decision is attached to Petitioner's Petition and Complaint.)

10. Further, that as to Petitioner's allegation that because of the irregularities, voters were deprived of their right to vote for Petitioner in the subject election, thereby making the final results mathematically uncertain and entitling Petitioner to a new election under Oklahoma law, the Court further found:

"Although the evidence indicates that some of the 123,178 voters who voted in the United States Senate race wanted to vote a straight party ticket, Edmondson failed to establish and there is no competent evidence to support a finding that any of those voters were deprived of their right to vote or failed to vote for Edmondson because the voting machines were not programed to permit straight party voting, or because of the erroneous instructions, or because the candidates for United States Senator were not placed in the upper left-hand Column on the machine ballot panel. Also, Edmondson failed to establish and there is not competent evidence to support a finding that of these 123,718 votes cast, Bellmon would not have received 72,145 votes cast for him if the voting machines had been properly programed with proper instructions, or that he received any votes because of the irregularities." (*Id.* at p. 2984)

11. That whereas the Supreme Court of Oklahoma has concluded *as a matter of law* that the said violations of the voting laws were not sufficient to void the votes cast in the Senate election in Tulsa County, and whereas Petitioner has specifically admitted (paragraph 11 of his Petition and Complaint) that "conclusions of law by the Supreme Court of Oklahoma interpreting statutes of the State of Oklahoma, are final and binding", Petitioner should now be estopped from asserting that conclusions of law by the Supreme Court of Oklahoma, interpreting the case law of the State of Oklahoma, are not final and binding, which assertion, Petitioner impliedly makes when in Paragraph B(iii) of his Petition and Complaint, he asks the Senate to again determine whether the votes should be voided.

12. That although given four opportunities previously, Petitioner has wholly failed in each instance to produce even one voter who could testify, either on the witness stand or by affidavit, that because of the irregularities, he was deprived of his right to vote for the candidate of his choice in the Senate election in Tulsa County.

13. That the sole basis upon which Petitioner relies in making his alternative request that the Senate declare the election void and order a new election, is the testimony and affidavits of expert witnesses who merely offered their professional speculations, based on various assumptions, that because of the irregularities, numerous voters failed to vote in the Senate election. Your Respondent respectfully submits that the Senate be guided by the wisdom of the Supreme Court of Oklahoma, when in its discussion of the merits of Petitioner's expert testimony, it stated:

"Edmondson, in effect, argues that from the expert testimony presented and other evidence, he has established that at least 3,835 fewer votes were cast in the race for United States Senator than would have been cast if there had been no irregularities . . .

"Since Edmondson failed to establish that any voter was deprived of his right to vote, or failed to vote, or did not vote in the race for United States Senator because he was not permitted to vote a straight party ticket or because of the erroneous instructions, *we may not presume* that because of these irregularities that any voter failed to vote in the United States Senate race." (Emphasis Supplied) (*Id.* at pp. 2985, 2987)

14. That the actual physical characteristics concerning the construction, programming and operation of the voting machines in question is as follows. The voting machines used in the subject election were of the vertical columnar presentation type and were programmed as shown in Exhibit B attached hereto. On these particular machines, the selection of candidates is accomplished by the movement of the selector tabs initially positioned to the left of each of the darkened rectangulars identifying an office. As an example, in order for a voter to have selected Ed Edmondson as his choice for United States Senator, he would merely have had to slide the top selector tab, located in the grooved column to the left of Column 6, as seen in Exhibit B, down one notch to a position next to the name of Ed Edmondson on the right and the name and symbol of the Democratic Party on the left.

Similarly, in order for a voter to have selected Henry Bellmon, he would have had to slide the selector tab down two notches, past the name of Ed Edmondson, to a position next to the name of Henry Bellmon on the right and the name and symbol of the Republican Party on the left. Once all selections are made in this manner in those races in which a voter wishes to vote, the voter must then push a large rectangular vote button located at the base of the ballot panel in order to register his votes on the voting machine's automatic counters.

15. That the evidence upon which the Supreme Court of Oklahoma based its findings of fact as to the effect of the irregularities is as follows:

(a) Straight Party Lever—Petitioner bases his allegation that the absence of straight party levers on the voting machines in question affected the rights of the voters of Tulsa County to vote for the candidates of their choice, on the fact that while 127,588 Tulsa County voters voted in the Tulsa County election, only 123,718 Tulsa County voters voted in the United States Senate race. Petitioner claims this difference, 3,870 votes, is the direct result of the machine's not having straight party levers. To support this theory, Petitioner relies on the opinions of expert witnesses.

In determining this contention, the Oklahoma Supreme Court held that Petitioner had failed to sustain his burden to prove that the discrepency in figures was the direct result of the irregularity and further that Petitioner was not entitled to a presumption as to why the 3,870 voters participating in the Tulsa County election did not vote in the race for United States Senator. In support of its latter conclusion, the Court cited the fact that in the 76 Oklahoma counties where straight party voting was permitted by the use of a single mark or lever, only 96 percent of the voters voted in the Senate race, while in Tulsa County, where a straight party lever was not provided, 97 percent of the voters voted in the Senate race. This fact, the Court reasoned, was indicative that, ". . . the fact that all participating voters do not vote in a particular race is not by itself, unusual, or necessarily connected to any irregularities."

Your Respondent respectfully submits that this ruling was therefore clearly not capricious or arbitrary as alleged by Petitioner.

(b) Placement on the Ballot—Petitioner further claims that because the Senate race was allegedly placed in the wrong position on the face of the voting machines, voters were deprived of their right to vote in such race. Referring to Exhibit B, Petitioner specifically claims that the Senate race should have been placed in the left hand corner of the elective office panel at the top of Column 3, where the Exhibit shows the race for Governor was instead placed. While not deciding the issue of whether the said placement was in fact a violation of State law, the Supreme Court assumed, arguendo, that the placement was such a violation, but then went on to hold:

"Although some evidence tends to establish that more voters vote for the office in the upper left-hand panel on a voting machine, we may not presume that a certain number of voters who did not vote in the United States Senate race would have voted in that race if the Senate race had been placed in the first position on the ballot panel. In this connection, *if we assumed for purpose of argument only, that had the office for United States Senator been programmed in the first column* (left-hand corner of Column 3) of the voting machines, and all of the 1,471 voters who voted for Governor but did not vote for United States Senator would have voted for Edmondson, *Bellmon would still have 2,364 (3,835 minus 1,471) more statewide votes than Edmondson.*" (Emphasis Supplied) (*Id.* at p. 2987)

Respondent therefore respectfully submits, that this evidence relied upon by the Supreme Court did in fact tend to show that even if Petitioner had been placed in the first column, he would still have not received enough votes to affect the certified outcome of the election, and that the Court's ultimate decision in this regard was therefore clearly not capricious or abritrary as alleged by Petitioner.

(c) Erroneous Instructions—Petitioner's final allegation as to the effect of the irregularities is that because of erroneous party vote instructions, which were permanently affixed to many of the voting machines used, voters following these instructions were confused and misled into thinking they were voting for Edmondson when in fact they were not. The erroneous instructions provided:

Party-voting instructions

To Vote a Straight Ticket

"1. Raise lever at bottom of column until arrow or lever points to desired party."

"2. Return lever to original position."

"3. If you wish, you may split your ticket by moving any key or keys to a different party candidate."

"4. After all selections have been made, press vote button."

Petitioner theorizes that voters, following instructions number 1, erroneously mistook the bottom selector tab, located next to the Congressional Race title in Column 6, for the "lever at bottom of column" described in the instructions, and moved this selector tab down to a position next to the name of James R. Jones on the right and the name and symbol of the Democratic Party on the left, thinking they had voted a straight Democratic ticket in both races in Column 6.

The Oklahoma Supreme Court disregarded this theory for three reasons:

(i) There was no evidence that this alleged phenomenon did in fact occur;

(ii) The selector tabs could not in fact be "raised" from their initial positions, so that a voter attempting to follow the instructions would immediately become aware that the selector tab was not the "lever" referred to in the instructions; and

(iii) 2,252 more votes were cast in Tulsa County in the United States Senate race than in the United States House of Representatives.

Respondent therefore respectfully submits that the findings of fact by the Oklahoma Supreme Court regarding the erroneous party vote instructions were clearly not capricious or arbitrary as alleged by Petitioner.

16. That for the reason that Petitioner has not alleged any facts which had not previously been alleged in the proceedings before the Courts of Oklahoma, and further, for the reason that Petitioner has not alleged any facts which tend to show that the findings of fact by the Supreme Court of Oklahoma were in any manner arbitrary or capricious, Your Respondent respectfully submits that Petitioner is not entitled to have a new investigation conducted by the Senate, and that the said findings of fact by the Oklahoma Supreme Court, as stated below, should therefore be upheld:

"Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters who participated in the Tulsa County election to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the Court may not indulge in presumptions, the candidate receiving the most state wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election, Bellmon is that candidate." (*Id.* at p. 2987)

Wherefore, your Respondent respectfully requests that the United States Senate uphold the decision of the Supreme Court of Oklahoma and dismiss the Petition and Complaint of Ed Edmondson as not stating sufficient grounds to justify further investigation, and thereby allowing your Respondent, the rightful holder of the Certificate of Election from the State of Oklahoma to be seated as a member of the United States Senate.

In the event the Senate determines to order hearings and investigation into this matter, and should it be impossible for the Senate to complete such hearings and investigation prior to January 14, 1975, your Respondent respectfully requests that as holder of the Certificate of Election from the State of Oklahoma, and based upon the Oklahoma Supreme Court's conclusion of law as to the validity of the votes cast in Tulsa County, he be seated as United States Senator from Oklahoma, without prejudice as to the final results of such hearings and investigation.

Respectfully submitted,

John M. Coffey,
Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, P.C.

Bert McElroy, Esq. of the firm of Sanders, McElroy & Carpenter, Denver Building, Tulsa, Oklahoma.

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J. Kevin Hayes, L.I. of the firm of Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, PC, National Bank of Tulsa Bldg., Tulsa, Oklahoma.

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Fred Nelson, Esq. of the firm of Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, P.C., National Bank of Tulsa Building, Tulsa, Oklahoma.

VERIFICATION

Henry Bellmon, being first duly sworn, avers that he has read the foregoing Answer, that he is familiar with all matters set forth therein, and that it is, to the best of his information and belief, true and correct.

Henry Bellmon.

District of Columbia: SS.

Sworn to before me this 13th day of January, 1975.

Robert A. Malstrom,
Notary Public.

My commission expires November 30, 1978.

Exhibit A

[In the District Court in and for Tulsa County, State of Oklahoma, No. C–74–2630]

In Re: The challenge of Ed Edmondson to the correctness of the announced results of the general election held November 5, 1974, to fill the office of the United States Senator for the State of Oklahoma.

To be filed with State election board of the State of Oklahoma in cause No. 14–74.

JUDGMENT

This matter came on before the Honorable J. Knox Byrum, District Judge, on the 12th day of November, 1974, pursuant to assignment by the Chief Justice of the State of Oklahoma, and by stipulation between counsel for the Petitioner, Ed Edmondson, and the Contestee, Senator Henry Bellmon. The proceedings herein were conducted in accordance with the provisions of 26 Okl. St. Ann., Section 395.3.

The Court, having heard all the evidence presented during the hearings which commenced on November 12, 1974, and concluded on November 13, 1974, and having considered all pleadings filed herein and arguments of counsel, finds:

FINDINGS OF FACT

1. On November 5, 1974, a general election was conducted in the State of Oklahoma. Pursuant to 26 Okl. St. Ann., Section 271, the Tulsa County Election Board utilized voting machines in every precinct in Tulsa County for the November 5, 1974 general election. There were three individuals whose names were entitled by law to be submitted to the Oklahoma voters for the office of United States Senator: a) Ed Edmondson, the holder of the Certificate of Nomination of the Democratic party; b) Henry Bellmon, the holder of the Certificate of Nomination of the Republican party; c) Paul Edward Trent, an Independent.

2. That in Tulsa County all votes, other than absentee ballots, were cast, registered, recorded and counted by means of voting machine as permitted by 26 Okl. St. Ann., 1971, Section 271, et seq.

3. That the number of votes cast for the candidate for the office of United States Senator in Tulsa County, Oklahoma, on November 5, 1974, is determined with mathematical certainty to be:

Ed Edmondson	49,775
Henry Bellmon	72,145
Paul Edward Trent	1,798

4. That the official, but yet uncertified results of the entire State of Oklahoma determined by the State Election Board are:

Ed Edmondson	387,162
Henry Bellmon	390,997
Paul Edward Trent	13,650

5. That the machines used were so constructed as to permit straight party voting by use of a single selector lever or device, but were not so programmed for the November 5, 1974 election, but at said election were so programmed that the Democratic emblem

appeared opposite the name of the Democratic candidate, the Republican emblem appeared opposite the name of the Republican candidate, and the word Independent appeared opposite the name of the Independent candidate, and were so constructed and programmed as to permit straight party voting, or mixed, split voting by the use of an individual selector tab for each office or candidate on the particular ballot.

6. There was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight party vote by reason of the machine used or the format or presentation thereon of the elective office panel. There is no evidence that any voter was disenfranchised, or misled, or deprived of their right to vote for the party or candidate of their choice.

7. There was no evidence of any irregularity in the casting of absentee ballots.

8. The Court further finds that the evidence offered by the Petitioner in support of Count II of his petition is insufficient to establish that it is impossible to determine with mathematical certainty whether the Petitioner or Respondent is entitled to a Certificate of Election to the United States Senate, and the special demurrer to said Count II by the Respondent should be sustained.

9. The Court further finds that the evidence offered by the Petitioner relative to the allegation in the Petition contending that the ballot on which the candidates for the office of United States Senator was improperly placed on the panel of the voting machines and that such constituted an irregularity is insufficient and without merit, and that the special demurrer of the Respondent to such evidence should be, and the same is sustained.

10. The Court further finds that while the use of machines which did not provide for straight party voting by use of a single selector lever or device but which did permit mixed, split or straight party voting by the use of selector tabs for the office or candidate designated by a party emblem, may have been an irregularity it did not constitute such an irregularity which would lawfully entitle the contestant to be issued a Certificate of Election nor to make it impossible to determine with mathematical certainty which candidate is entitled to the Certificate of Election, nor to warrant the calling of a new election.

11. That there was no evidence of malfunction of voting machines which would materially affect the results of the election.

12. The Court further finds there was no evidence of any irregularity which would warrant the calling of a new election or in awarding a Certificate of Election to the Petitioner.

13. The Court further finds that in the general election in Tulsa County, Oklahoma, on November 5, 1974, full and fair ballots were cast and a true return of the election results was canvassed and made.

CONCLUSION OF LAW

The Court concludes as a matter of law that Petitioner is not lawfully entitled to be issued a Certificate of Elections as United States Senator for the State of Oklahoma as a result of the General Election for such office conducted on November 5, 1974.

The Court further concludes as a matter of law that while the election laws of the State of Oklahoma require that voting machines shall provide for mixed, split or straight party voting, the law does not provide for nor does not require the use of a single selector lever or device for straight party voting, and that where the voter can look at the party emblem and thereby tell for what candidate and what party he was voting, the same is a substantial compliance with the election law, and is not such an irregularity as would void an election.

The Court further concludes that it is possible to determine with mathematical certainty that Respondent, Henry Bellmon, received the greatest number of votes for the office of United States Senator.

The Court further concludes that there were no irregularities of such nature as to invalidate or render illegal the votes cast in the General Election in Tulsa County, Oklahoma.

It is, therefore, the judgment and order of this Court that the Petition and challenge of Edmondson to the correctness of the results of the General Election held November 5, 1974, to fill the office of the United States Senator for the State of Oklahoma be denied; that the total votes cast for each candidate in Tulsa County, Oklahoma, in said General Election should not be changed; that judgment be and hereby is rendered for the Respondent Contestee, Henry Bellmon, and, it is ordered that a Certificate of Election be issued by the State Election Board certifying Henry Bellmon as United States Senator for the State of Oklahoma.

It is the further judgment and order of this Court that the Certificate of Election of Henry Bellmon as United States Senator for the State of Oklahoma be issued immediately without delay by the State Election Board upon the expiration of 48 hours from the receipt of this signed judgment and order by the Office of the State Election Board. In computing the 48 hour period, the Election Board shall not consider Saturday and Sunday as part of the period.

Dated this 22nd day of November, 1974.

J. KNOX BYRUM,
Judge of the District Court assigned.

EXHIBIT B

Shows positions of "selector tabs" when voter enters voting booth.

[Chart not printed in RECORD]

REPORT OF INVESTIGATION OF OKLAHOMA SENATORIAL ELECTION CONTEST SUBMITTED BY JUDGE JAMES F. SCHOENER, MINORITY COUNSEL

SUMMARY

1. Senator Bellmon was the winner of the November 5, 1974 General Election contest for U.S. Senator in Oklahoma.

2. Although the loser, Ed Edmondson, did not demand a recount or allege fraud, he did contest the election results in one county (Tulsa) out of 77 counties in Oklahoma.

3. The Supreme Court designated a trial judge mutually acceptable to both parties, to hear the contest who found that there was no evidence upon which to grant the requested relief.

4. On appeal to the Supreme Court the trial Court was upheld by unanimous decision.

5. Edmondson appealed to the U.S. Senate making the same complaints concerning (1) ballot placement, (2) lack of straight party levers, and (3) instructions for straight party voting on some machines where these machines did not have straight party levers.

6. None of the investigation and interviews by the Senate investigators has been productive of any relevant new evidence concerning Mr. Edmondson's contention.

7. Under usual judicial procedures the motion to dismiss before the Committee would have been granted without the waste and futility of the investigation.

8. A fair appraisal of the actions of the Tulsa County Election Board shows an absence of any wrong-doing and on the contrary a good faith effort to conduct the election. In fact, it appears that this election, when compared with other elections across the country, was as well if not better administered than the average.

BACKGROUND

November 5, 1974—The results of the race for U.S. Senator in the State of Oklahoma were:

Bellmon (Republican)	390, 997
Edmondson (Democrat)	387, 162
Trent (Independent)	13, 650

November 7—Edmondson filed a lawsuit in Tulsa County District Court alleging election law violations in Tulsa County, which he lost by a margin of 22,370 votes.

The official canvas of Tulsa County showed:

Bellmon	72, 145
Edmondson	49, 775
Trent	1, 789

Mr. Edmondson did not request a recount which was his opportunity and right within the time allowed by Oklahoma law, nor did he allege fraud on the part of any person.

His complaint centered on (i) the lack of straight-party voting levers, (ii) the placement of candidates' names on the machine, and (iii) the presence of straight-party voting instructions on some machines even though there were no straight-party levers provided for in the Congressional column (Senate-House of Representatives).

Edmondson asked that either a new election be ordered or the Tulsa County results be thrown out, which would have made him the winner.

November 13—After a two-day hearing, J. Knox Byrum, a retired Democratic judge appointed by the Oklahoma Supreme Court to hear the case, ruled in favor of Bellmon on the grounds "there was no testimony or evidence that any voter was denied the right to vote a mixed, split or straight-party vote by reasons of the machines used or the format or presentation thereon . . ."

A motion for a new trial was filed by Edmondson. It was overruled by Judge Byrum. Edmondson then appealed to the Oklahoma Supreme Court.

December 19—After a thorough and exhaustive review Petition, the Supreme Court of Oklahoma, though initially finding the election machines used in Tulsa County were not programed in total compliance with the Oklahoma law regarding voting machine specifications, ultimately held:

(a) that these irregularities were not sufficient *as a matter of law* to render the votes cast on the Tulsa County machines void or illegal;

(b) that Edmondson failed to show that these irregularities did in fact affect the outcome of the election; and

(c) that Ed Edmondson was therefore not entitled to be issued the Certificate of Election, nor entitled to a new election.

Edmondson filed a petition for rehearing before the Oklahoma Supreme Court. The petition was denied by the Court on January 2, 1975.

January 3—Bellmon was issued the certificate of election by the State Election Board.

January 9—Edmondson filed a petition with the U.S. Senate, making the same allegations concerning the Tulsa County voting procedures as he had made in his state petitions. Bellmon filed a motion to dismiss and an answer to the petition.

January 14—The Senate, on recommendation of the Senate Rules Committee, seated Senator Bellmond without prejudice.

Relevant Oklahoma law

The specification section of the voting machine act with the 1971 amendment underlined is as follows:

"Sec. 274 (Title 26 O.S.) Specifications. A voting machine to be used must be so constructed as to provide facilities for voting for candidates at both primary and general election and also a combination of a non-partisan and partisan primary or general election. It must permit a voter to vote for any person whose name is entitled to appear on the ballot, for any office whether or not nominated as a candidate by any party or organization. It must be constructed as to permit straight party voting as well as mixed or split tickets, *except that voting machines with a vertical columnar presentation of the individual candidates for office, if there are more than two (2) political parties on the ballot at a general election, shall not be programed so as to permit straight party voting by the use of a single lever, button or other device.* It must insure voting in absolute secrecy. It must permit a voter to vote for any candidate or on any special measure for whom or on which he is lawfully entitled to vote, but none other. It must permit a voter to vote for the proper number of candidates for an office but no more. It must prevent the voter from voting for the same person twice. It must be provided with a lock or locks by which immediately after the polls are closed any movement of the voting or registering mechanism, if any, or the removal of the contents of the ballot receptacle therein, can be absolutely prevented. It may be provided with a device for printing or photographing the candidate counters before the polls open and after the polls close, making the opening of the counter compartment by the election officials unnecessary".

The Oklahoma Legislature further amended this statute prior to the 1974 election but to be effective in 1975 and thereafter. This amendment was a part of the codification of the Oklahoma Election laws but the change in language may be indicative of the legislative intent of the 1971 amendment.

"All candidates' names and ballot labels shall appear on the voting machine in black ink on clear, white material of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party name of each political party represented on the machine shall be prefixed to the list of candidates for each party. The order of the list of candidates of the several parties shall be arranged in horizontal rows or vertical columns. Said voting machines must be programmed so as to permit straight party voting as well as split or mixed tickets, *unless existing machines are so constructed as to make straight party voting impossible without substantial modification of the machines.*" 26 O.S. 9–104 (Emphasis supplied)

26 O.S. Supp. 1974, § 395.3 is directed to election irregularities and, *inter alia*, provides:

"When a petition alleging irregularities other than fraud is filed, said petition must allege a sufficient number of irregularities and of such a nature as to (1) prove that the contestant is lawfully entitled to be issued a certificate of party nomination or certificate of election, or to have his name appear on the runoff primary ballot, or (2) prove that it is impossible to determine with mathematical certainty which candidates are entitled to be issued certificates of party nomination or certificates of election, or to have their names appear on the runoff primary ballot."

Oklahoma case law

"The right of a qualified elector to vote and to have his vote counted is basic and fundamental. When an election has been conducted in good faith and no elector misled, and a true and fair return of the entire election has been canvassed and made, the will of the people, as indicated by their votes at such election, cannot be defeated by irregularities (particularly those resulting from some act or acts on the part of the election officials) which are not sufficient to change the results of the election." *Porter* v. *Oklahoma City*, 446 P.2d 384.

In *Sparks* v. *State Election Board* (392 P.2d 711), the election officials ran out of paper ballots and substituted "Sample" ballots for six voters. In *Sparks* the Oklahoma Supreme Court said:

"No fraud or improper motive is charged, and none has resulted. No evil was intended and none has resulted. Under the circumstances presented in this case the constitutional right to vote outweighs the form of the ballot, and the sample ballots as used in this case were in fact and in law converted into acceptable and legal ballots. They reflect the will of the electors to whom they were furnished, and accurately record their votes. We must conclude they should be counted by the State Election Board and given weight."

The facts and circumstances involved in *Sparks* are strikingly similar to those involved in an election contest case decided by the U.S. Senate, *Hurley* v. *Chavez* (No. 159 Senate Election Cases), wherein the U.S. Senate used the same reasoning and reached the same result as did the Oklahoma Supreme Court in the *Sparks* decision.

In *Wadsworth* v. *Neher*, 318 Okl. 4, 280 P. 263, the Oklahoma Supreme Court held that in the absence of fraud, an election will not be held invalid on the ground that mandatory provisions of the state election laws have been disobeyed, unless it is expressly declared in the statute that the particular act is essential to the validity of an election or that its omission shall render it void.

In the case of *Gammill v. Shackelford*; (1970) 480 P. 2920, the Court said the burden of proof is upon the contestant in an election contest to show that it is impossible to determine with mathematical certainty which candidate is entitled to be issued a certificate of election.

In addition to the Oklahoma case law on this subject, in the most recent Federal Court case dealing with the right of franchised voters to have their votes counted despite minor irregularities in the conduct of the election, the United States Court of Appeals for the Seventh Circuit, in *Hennings* v. *Grafton*, (Case No. 75–1178), said:

Except for the overall supervision of the county clerk, or his counterpart, and appointed subordinates, the work of conducting elections in our society is typically carried on by volunteers and recruits for whom it is at most an avocation and whose experience and intelligence vary widely. Given these conditions, errors and irregularities, including the kind of conduct proved here, are inevitable, and no constitutional guarantee exists to remedy them.

Edmondson v. Bellmon litigation

An analysis of the litigation filed by Ed Edmondson before the District Court as appealed to the Supreme Court of Oklahoma indicated that the same issues he presented to the Senate have been thoroughly examined by the Courts of Oklahoma.

The trial judge conducted a hearing in which Edmondson, the Election Board and Bellmon were all represented. The trial judge was a retired judge called back to serve by the Supreme Court to conduct this trial. He was a Democratic Party member. He made findings of fact that included the following:

1. Voting machines were not programed to allow single lever straight party voting for either candidate.

2. That no evidence showed that any voter was denied the right to vote a mixed, split or straight party vote by reason of the voting machine configuration or format.

3. The evidence offered by Edmondson was *insufficient* to establish that "it is impossible to determine with mathematical certainty" who was the successful candidate for the United States Senate.

4. That there was no evidence of malfunction on voting machines that materially affected the results.

5. That there was no evidence of any irregularity that would warrant calling a new election, or awarding the election to Edmondson.

The trial Court made conclusions of law that Edmondson was not entitled to a certificate of election; that the programming of the Tulsa machines was in substantial compliance with Oklahoma law; that Bellmon received the greatest number of votes with mathematical certainty; and that there were no irregularities of such a nature as to invalidate or render illegal the votes cast in the November general election in Tulsa County.

Edmondson requested a new trial which was denied. Edmondson then appealed to the Supreme Court of Oklahoma and the trial court result was sustained by unanimous opinion. The Supreme Court framed the issue as follows:

"The issue here is not how the election in Tulsa County should have been conducted, but the legality of the election as conducted." (45 Okla. L.J. 2980)

After finding that there were irregularities the Court quoting from *Town of Grove* v. *Haskell*, 24 Okla. 207, stated:

"All provisions of the election law are mandatory if enforcement is sought before the election in a direct proceeding for that purpose; but after election they should be directory only, unless of a character to effect an obstruction to the free and intelligent casting of the vote . . ."

and again; quoting *Semke* v. *Wiles*, 100 Okla. 105:

". . . but after the election such statutory requirements are directory, unless it appears that the failure to hold the election at the regular place results in fraud and prevented the voters from a full and free expression of their will at the election."

Finally, the Court disposed of Edmondson's contention that the Tulsa County votes should be declared void, saying:

"Neither our statutory law nor our decisional law supports the proposition that the irregularities herein described, by themselves, or collectively, render, **ipso facto,** illegal and void all or any of the votes cast on the voting machines. We hold the Tulsa County votes cast by use of the voting machines are not illegal or void." (45 Okla. L.J. 2983)

In its final analysis of this case, the Oklahoma Supreme Court held, as a matter of Oklahoma law (45 Okla. L.J. 2987):

(a) as to the absence of straight party levers:

"We hold that while the use of the voting machines, which did not permit straight party voting as required by statute, constitutes an irregularity, it did not constitute such an irregularity to void the election or make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election."

(b) as to the erroneous instructions:

"We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainty which candidate received more state-wide votes and entitled to a certificate of election."

(c) as to position of the Senate race on the ballot:

"Assuming that the failure to place the United States Senate race in the upper left-hand panel does constitute an irregularity, it is not such an irregularity as would vitiate or invalidate the Tulsa County election. This irregularity does not make it impossible to determine with mathematical certainty which candidate received the greater number of state-wide votes and is entitled to a certificate of election."

(d) and ultimately:

". . . the candidate receiving the most state-wide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election. Bellmon is that candidate."

A rehearing by Edmondson was considered and denied.

Voting machines used in Tulsa County

Straight Party Levers

The voting machines used in Tulsa County are a comparatively rare type of machine manufactured by the Seiscor company (formerly of Tulsa, Oklahoma). The Seiscor machine has a vertical presentation of candidates similar to the Shoup machine. As it was originally constructed, the Seiscor machine provided a mechanism for voting a straight party ticket on *every partisan office* placed on the face of the machine, by the pushing of a single button. When originally considering the purchase of the Seiscor machines, the Tulsa County Board of County Commissioners questioned whether the Seiscor machine, as originally constructed would comply with state law requiring that national, state, county, and local offices be placed on "separate ballots". In Oklahoma's paper ballot counties, each of these four categories is placed on a separate paper ballot. In addition, each of these separate paper ballots contain straight party circles making it possible to cast a "straight party vote" for all candidates of one party appearing on such *separate ballot* by marking an "X" in the appropriate party circle at the top of such ballot.

Thus, it was determined at the outset that since the original Seiscor machine would allow a voter to vote a "straight party ticket" for *every* office across the board, it would be in violation of the Oklahoma "separate ballot" law to allow the use of these machines in Tulsa.

To overcome this problem, Seiscor agreed to modify their machines. This modification consisted of first removing the mechanism which provided for the across the board type "straight party vote." Seiscor then modified the machine so that a "straight party lever" could be placed on the bottom of each column of the machine face. Thus, when one of these straight party levers was in position and operational at the bottom of a particular column, that column and that column alone, could be voted "straight party" by the movement of the lever. This one column was then considered equal to a "separate ballot". Additionally, when the number of candidates on any one particular ballot was too numerous to position in only one column, two adjacent columns would be utilized and the levers positioned at the bottom of these two such columns would be bridged together so that a single movement could accomplish a "straight party vote" for all the offices on that particular "ballot."

When the American Independent Party qualified for ballot placement in Oklahoma in 1968, Tulsa County found their modified Seiscor machines could not be programmed for third party "straight ticket levers" and still maintain the separate ballot concept. Accordingly, the Tulsa County Election Board solicited and received an opinion from the Attorney General of Oklahoma indicating that the straight party levers should be left off the machines.

In 1970 the same Attorney General gave a contrasting opinion suggesting that the Tulsa type voting machine could not be used. The Tulsa County Board of Commissioners filed a petition for declaratory judgment before Robert D. Simms (later appointed to the Oklahoma Supreme Court by a Democratic Governor and who excused himself from the Edmondson v. Bellmon litigation). Judge Simms declined jurisdiction but in his opinion discussed the problem presented. He first noted there was no definition of "straight party voting" under Oklahoma law. He further indicated that he felt that the Tulsa Election Board could have used the machines without the straight party levers and still be in "substantial compliance" with state law. However, paper ballots were used in 1970 causing a great deal of confusion and expense.

Because of the problems caused by the use of paper ballots in 1970, the Tulsa County Election Board and County Commissioners were concerned that their investment of over $1,000,000 in Seiscor machines might be totally lost and so formed a "Blue Ribbon Panel" to study this problem. Earlier, the County Commissioners and the Election Board had considered purchasing ninety-six Seiscor machines of original configuration from the State of Hawaii (which configuration is identical to the subsequently purchased "Amarillo machines" and identical to the machines being used in Tulsa County except for the modification which provided straight party voting on a separate ballot basis). The Board declined the purchase from Hawaii because of the expense of modification. Simultaneously, the Tulsa County Election Board was seeking legislative change in the Oklahoma Statutes. In 1971 the Oklahoma Legislature amended Section 274 of Title 26 of the Oklahoma statutes to provide for the following exception to the use of straight party levers:

"... (The machine) must be so constructed as to permit straight party voting as well as mixed or split tickets, *except* that voting machines with a vertical columnar presentation of the individual candidates for office, if there are more than two (2) political parties on the ballot at a general election, shall not be programmed so as to permit straight party voting by the use of a single lever, button or other device . . ."

Personnel of the Tulsa County Election Board testified at both the trial court and the investigative hearings that they assumed this amendment obviated the necessity of straight party levers on the Seiscor machines. They then learned that Amarillo, Texas, was changing to computer voting and wanted to sell (at an excellent price) their supply of unmodified Seiscor machines. Since Seiscor had gone out of the voting machine business and Tulsa had purchased all of the spare parts and since two Seiscor machine experts, Mr. Sexton and Mr. Gallagher, reported that the Amarillo machines were compatible to Tulsa elections, the Tulsa Election Board bought Amarillo's machines.

Both the Tulsa and Amarillo machines were programmed identically, and without straight party levers on the assumption that the 1971 amendment made such levers unnecessary. Such thinking appears reasonable since there had not been any straight party levers in state-wide elections on the machines since 1968 and in that election the straight party levers were only on the county office races where there were no more than two political parties. Further, in 1972, no party levers were on Tulsa's voting machines, even in the two party county ballot.

The Chief Elections Clerk, Mr. Harmon Moore, was responsible for the programming of the machines with the approval of the Election Board. He testified that there was no discussion about the use of straight party levers for the November 1974 general election (Senate Testimony p. 145). Both parties were given sample ballots. According to Mr. Moore, in the discussions with Mr. Gallagher, the contract programmer, the question of the use of straight party levers "never came up" (Senate Testimony p. 163). The Secretary of the Tulsa County Election Board, Danny McDonald, similarly testified in the trial court and at the investigative hearings. It should also be noted that Edmondson's Tulsa County Campaign Coordinator, Mandell Matheson, also testified at the investigative hearings that it was his impression that straight party levers were no longer necessary on the Tulsa County machines (Senate Testimony, P. 302). Parenthetically, both Mr. McDonald and Mr. Moore were active Democratic party workers and both were strong Edmondson for Senate workers in the 1974 election after their employment hours.

Ballot Placement

Edmondson also claims that the Senate race should have been placed in Column 2 on the face of the machines instead of in column 6. Harmon Moore, Chief Clerk of the Tulsa County Election Board testified that he was responsible for the arrangement of the various races on the face of the machine. He further testified that from conversations with Mr. Vic Thompson, Assistant Secretary of the State Election Board, and from an examination of the 1972 sample ballot, it was his impression that the arrangement of the various offices on the machine face was proper.

An examination of the 1972 sample ballot, evidencing the relative position of the various races, shows that in 1972 the Senate race was in the exact position, column 6, as it was in 1974. Further, the 1974 primary and primary runoff sample ballots show that the Senate race occupied the same relative position in those elections as it did in the general election. However, no objection to this position was raised until after the general election.

Party Vote Instructions

Edmondson's last contention is that because the 545 Tulsa machines contained instructions on how to vote a straight party ticket using "levers" at the bottom of each column on the face of the machine, when in fact such levers were not on these machines, many voters intending to vote a straight Democratic ticket in Column 6, were misled and failed to do so. Edmondson theorizes that a voter, reading these party vote instructions might have moved the selector tab in the U.S. Representative race (located below the Senate Race in column 6) to the Democratic candidate James R. Jones, thinking that by doing so, a vote was also being cast for Edmondson.

In addition to the fact that there has been no evidence whatsoever that this alleged phenomenon did in fact occur, the testimony of every witness addressing this issue reveals that these "erroneous instructions" were permanently affixed to the Tulsa machines at the time of their purchase and have been on the machines in every prior election, primary and general, in which machines were used. (Levers are never on machines in primaries and have not been used in Tulsa County for a U.S. Senate race since 1966). Further, these same "erroneous instructions" were on the machines and there were no levers when Mr. Edmondson ran for the U.S. Senate in 1972.

It should further be noted that in addition to these "erroneous instructions" every one of the Tulsa machines contained a larger and more conspicuous set of "Voting Instructions" which correctly set forth the procedure for casting votes on the machine.

STATISTICAL ABSTRACT

There are two sets of basic election statistics pertaining to Tulsa County voting in the past and in the 1974 election which may be pertinent to a proper understanding of the Edmondson-Bellmon contest.

Voter registration

Contrary to the trends in most of the United States, Republican registration of voters increased from 1972 to 1974 in both Oklahoma and Tulsa Counties, while Democratic registration decreased. In fact, Democratic registration in Tulsa County has continuously dropped from 68.8% in 1962 to 57.9% in 1974.

Voter participation in Senate race

Mr. Edmondson's basic contention is that because of various irregularities, many Tulsa County voters were so confused that they were prevented from voting in the Senate race. This contention loses all credibility when viewed in light of the fact that 97.0% of the voters who signed the poll books in Tulsa County did in fact vote in the Senate race, when only 95.2% of the voters who signed the poll books in *Oklahoma* County voted in the Senate Race (Oklahoma County's A.V.M. machines were programmed to Mr. Edmondson's satisfaction), and only 96.5% of the voters who signed the poll books in the seventy-five paper ballot counties voted in the Senate race. Further, this percent of voter participation in the Senate race in Tulsa County in 1974 is higher than in any U.S. Senate race voted on in Tulsa County since Tulsa first obtained voting machines in 1962.

CONCLUSION

The witnesses presented to the Committee investigators did not add one scintilla of relevant evidence that was not already before the Committee in the form of the certified transcript of the trial court of Tulsa, Oklahoma. The attempt to show voter confusion by the introduction of so-called "affidavit testimony" during the testimony of Rodney Ray was most improper. At the trial of the cause in Tulsa where voter witnesses called by Mr. Edmondson were subject to cross examination, it was shown that there was not in fact such confusion as would deprive any voter of their free and intelligent franchise. It is also significant that the trial judge and the Supreme Court of Oklahoma were both furnished these same affidavits and considered them in Mr. Edmondson's contentions. It should also be noted that at least one of these affidavits was taken under such circumstances as to cast doubt on the rest in that the person who signed it was subsequently shown to have neither signed the poll book on election day nor to have been a registered voter.

Additionally, the Committee's examination of the actual voting machines and the records of the Tulsa County Election Board failed to disclose any relevant facts which would in any manner tend to substantiate the claims propounded by Mr. Edmondson.

In summary, the Committee uncovered no evidence of fraud or evil intent on the part of any election official. Further, it uncovered no evidence that the mistakes made by election officials deprived even one voter of his or her constitutional right to cast a vote and have that vote counted.

The fact that 97% of the voters who chose to go to the polls on November, 1974 in Tulsa County were able to find the Senate race on the machine, pull the selector tab to the party symbol or individual candidate desired and push the vote button, clearly demonstrates that no Tulsa County voter was denied this right. Further, the fact that 58.3% of these voters had to pull their selector tabs past the name and party symbol of Ed Edmondson clearly evidences that the collective will of the voters of Tulsa County has been ascertained. There is simply no way to get around the fact that 72,145 Tulsa County voters exercised their franchise and cast their votes for the Republican candidate, Henry Bellmon.

Finally, it should be pointed out that the Constitution of the United States provides in Section I at Section 4:

> "The Time, Places and Manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; . . . ."

The Supreme Court of the State of Oklahoma has the duty under the Oklahoma Constitution to construe the laws of its State. It has examined the facts and law—even held a rehearing at Mr. Edmondson's request—but has found, as a matter of law, that the same contentions made by Mr. Edmondson before this Senate were not grounds for the relief requested.

Lastly, absent a showing of fraud, the Senate has refused election contests where the State authorities have considered and ruled on the matter in contest, *Willis v. Van Nuys*, Case No. 148, Senate Document 92–7, *"Senate Election, Expulsion and Censure Cases"*. The Senate has also refused to entertain cases in which there is no showing that there were facts that could overcome the presumption of validity that surrounds the presentation of the credentials under the Seal of the State—and as in this case as ordered by the Supreme Court of Oklahoma. *Henry B. Payne of Ohio*, Case No. 88, *"Senate Election, Expulsion and Censure Cases"*, supra., Case No. 145, *Sweeney v. Kilgore*, and Case No. 155, *Hook v. Ferguson*, The Senate has further refused to accept petitions where the contest is based on indefinite and general charges. *Hoidale v. Scholl*, Case No. 139, *Pritchard v. Bailey*, Case No. 140, *Senate Election, Expulsion and Censure Cases*. The complaint in this cause and the evidence already taken indicates that there are no facts upon which the Senate could find in Mr. Edmondson's favor since all claimed irregularities could not cumulatively alter the vote sufficiently to reverse the certification of the State of Oklahoma. *Willis v. Van Nuys*, Case No. 148, *Heflin v. Bankhead*, Case No. 138, *Senate Election, Expulsion and Censure Cases*.

Accordingly, it is the recommendation of Minority Counsel that the petition of Mr. Edmondson be dismissed on the motion heretofore filed by Senator Bellmon.

Respectfully submitted,

JAMES F. SCHOENER.

TO THE HONORABLE NELSON ROCKEFELLER,
VICE PRESIDENT OF THE UNITED STATES AND
PRESIDENT OF THE SENATE

MOTION TO DISMISS OF HENRY BELLMON

Respondent, Henry Bellmon, United States Senator from the State of Oklahoma, by his attorneys, respectfully moves the United States Senate to dismiss the "Complaint and Petition" of Ed Edmondson on the following grounds:

1. That the "Complaint and Petition" does not set forth any facts which constitute that Henry Bellmon, United States Senator from Oklahoma, is not qualified to be seated as a member of the United States Senate for the full term of six (6) years commencing January 14, 1975, (94th Congress) pursuant to Article 1, Section 3, and Amendment XVII of the Constitution of the United States;

2. That the "Complaint and Petition" admits that the Supreme Court of Oklahoma has heard the challenge of Petitioner and held, based on the said Court's review of the Oklahoma Election Laws which prescribe the time, place and manner of its elections under authority of Article 1, Section 4, Clause 1 of the United State Constitution, that the State Election Board of Oklahoma was required to issue the Certificate of Election to Henry Bellmon as earlier ordered by the Trial Court, since Henry Bellmon was duly elected as United States Senator; furthermore, that said "Complaint and Petition" and Petitioner's exhibits do not state any facts which give rise to the character of new evidence in requesting the Senate to reverse the Supreme Court of Oklahoma on this matter; *Raymond E. Willis v. Frederick Van Nuys* of Indiana, Case #148, Senate Document 92–7, 92nd Congress, 1st Session.

3. That the "Complaint and Petition" is merely a compilation of conclusions and presumptions based on implication and does not state facts sufficient for the United States Senate to vitiate, hold for naught or otherwise amend the opinion of the Supreme Court of Oklahoma which has determined that the manner of the election was such that it could be determined with mathematical certainty pursuant to the election laws of Oklahoma that Henry Bellmon was duly elected to the Office of United States Senator; Henry B. Payne of Ohio, Case No. 88, *id;*

4. That the "Complaint and Petition" does not state facts which assert any wrongdoing on the part of Henry Bellmon or his agents which constitute grounds for the United States Senate to refuse to accept Henry Bellmon's credentials as the duly elected and qualified Senator as certified by the State Election Board and for the United States Senate to refuse to seat Henry Bellmon as a member of the United States Senate for his duly elected term of office; Henry B. Payne of Ohio, Case No. 88, *id; Tom Sweeney v. Harley M. Kilgore* of West Virginia, Case No. 154, *id; Frank E. Hook v. Homer Ferguson* of Michigan, Case No. 155, *id;*

5. That the "Complaint and Petition" is merely a compilation of conclusionary statements based totally upon conjecture which is too general and indefinite to justify an investigation by the United States Senate; *Elinar Avidale v. Thomas B. Schall* of Minnesota, Case No. 139, *id; George M. Pritchard* v. *Josiah W. Bailey* of North Carolina, Case No. 140, *id.*

6. That the "Complaint and Petition" does not state sufficient facts to establish that the irregularities in the manner the election was conducted in Tulsa County, Oklahoma, if corrected would have altered the outcome of the election and thereby requiring the United States Senate to reverse a valid decision of the Supreme Court of Oklahoma; *Raymond E. Willis v. Frederick Van Nuys* of Indiana, Case No. 148, *id; J. Thomas Heflin v. John H. Bankhead* of Alabama, Case No. 138, *id;*

7. That the "Complaint and Petition" in requesting the United States Senate to assume jurisdiction pursuant to Article 1, Section 5, Clause 1 of the United States Constitution does not state facts sufficient to establish that the Supreme Court of Oklahoma was in error in its judicial determination of the election laws of Oklahoma prescribing the manner of elections when the Court required the State Election Board of Oklahoma to issue the Certificate of Election to Henry Bellmon as duly elected to the full term of Office of United States Senator; *Raymond E. Willis v. Frederick Van Nuys* Case No. 148, *id;*

8. That Petitioner has requested that the United States Senate assume jurisdiction pursuant to Article 1, Section 5, Clause 1 of the United States Constitution, to conduct an investigation and to hold that Henry Bellmon, who has been duly certified as the elected Senator from Oklahoma for a full term commencing January 14, 1975, and who is qualified pursuant to Article 1, Section 3 and Amendment XVII of the United States Constitution, without Petitioner having asserted sufficient facts to warrant the Senate's reversal of the highest court of Oklahoma. Further, Petitioner has requested that the judgment of the United States Senate be, in effect, substituted for the judgment of the duly qualified electors of Tulsa County, Oklahoma. That to do so, Respondent respectfully submits, would be to deny to the voters of Tulsa County their Constitutional right to vote and to have their votes counted; Article 1, Section 4, Clause 1; Amendment IX of the Constitution of the United States; Amendment X of the Constitution of the United States; Amendment XVII of the Constitution of the United States;

Wherefore, Respondent, Henry Bellmon, United States Senator from Oklahoma, by his attorneys prays that Petitioner's "Complaint and Petition" be dismissed and that Henry Bellmon who is duly qualified pursuant to Article 1, Section 3, and Amendment XVII of the United States Constitution be seated for his full term on January 14, 1975, upon presentation of his credentials.

Respectfully submitted,

JOHN M. COFFEY.

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FOUR REASONS FOR DISMISSAL OF THE PETITION OF CONTEST OF ED EDMONDSON

(Oklahoma senatorial contest)

1. The precedents of the U.S. Senate in the Chavez case and others indicate that irregularities by election officials not attributed to the certified winner are not grounds for denying such Senator his seat.
2. The contestant has failed to meet his burden of proof required to show that there is a mathematical uncertainty in this election to any extent and certainly insufficient to overcome the 3,835 vote margin of Senator Bellmon.
3. The irregularities charged in Tulsa County were de minimis and did not deprive any voter of an equal and fair chance to vote his choice for U.S. Senator.
4. The Courts of Oklahoma have unanimously decided that there was no legal reason to certify Mr. Edmondson and that Senator Bellmon was entitled to the Certificate of Election as U.S. Senator.

Detailed Reasons for Above Assertion Attached.

Respectfully submitted,

JAMES F. SCHOENER,
Minority Counsel, Committee on Rules and Administration.

DETAILED REASONS FOR DISMISSAL

POINT NUMBER 1

The precedents of the U.S. Senate as shown in the *Senate Election, Expulsion and Censure Cases* (Document No. 92-7) indicate that where irregularities, election errors or even election fraud has occurred, *not attributable to the respondent,* the Senate will not declare the seat vacant. Thus in the case of *Patrick J. Hurley* v. *Dennis Chavez* (Case No. 159) Senator Thomas C. Hennings, Jr. (D.-Mo.), stated,

". . . the Senate should not 'disfranchise voters because of failure of election officials to fully comply' with 'technical election statutes.' " page 151.

The report on the *Chavez* case indicates the Subcommittee on Privileges and Elections found "irregularities" such as "criminal conduct against the rights of voters" and "violations by election officials." Despite such allegations and the findings of the Subcommittee, the Senate refused to deny Senator Chavez his seat. Senator Robert Taft of Ohio pointed out,

"At no time was any charge or suggestion of election fraud or irregularity made against the Senator (Chavez)." p. 151.

In the case of *Frank E. Hook* v. *Homer Ferguson,* Case No. 155, the Senate decided against the contestant in spite of the subcommittee finding of: ". . . the election procedure was faulty and inadequately administered",

but was not

"coupled with a fraudulent intent . . ."

and although election laws of the State of Michigan were frequently violated, but ". . . there was no indication that Ferguson himself was responsible for such illegalities . . ." p. 146.

In many other cases the Senate has shown clearly that where there are irregularities in the carrying out of an election not attributable to the contestee they will not deny the certified winner his seat, *Heflin* v. *Bankhead,* Case No. 138, *Hoidale* v. *Schall,* Case No. 139, *Chavez* v. *Cutting,* Case No. 143, *Willis* v. *Van Nuys,* Case No. 148, and *Sweeny* v. *Kilgore,* Case No. 154. For the Senate to depart from these precedents would be to invite 30 plus election contests every two years.

Nowhere in the various Court actions nor in the multiple pleadings and responses before the Senate has Edmondson *ever* suggested (or hinted) that Senator Bellmon was responsible for such irregularities.

POINT NUMBER 2

The Oklahoma Supreme Court also addressed this issue very succinctly:

"Although the evidence indicates that some of the 123,718 voters who voted in the United States Senate race wanted to vote a straight party ticket, Edmondson failed to establish and there is no competent evidence to support a finding that any of those voters were deprived of their right to vote or failed to vote for Edmondson because the voting machines were not programmed to permit straight party voting, or because of the erroneous instructions, or because the candidates for United States Senator were not placed in the upper left-hand Column on the machine ballot panel. Also, Edmondson failed to establish and there is no competent evidence to support a finding that of those 123,718 votes cast, Bellmon would not have received the 72,145 votes cast for him if the voting machines had been properly programmed with proper instructions, or that he received any votes because of the irregularities.

"Considering the irregularities together and their cumulative effect, Edmondson simply failed to establish by competent evidence that these irregularities singularly or together caused at least 3,835 voters who participated in the Tulsa County election to forego or fail to record a vote in the United States Senate race. Since Edmondson did not present sufficient evidence to establish this essential fact, and since the Court may not indulge in presumptions, the candidate receiving the most statewide votes for the office of United States Senator can be determined with mathematical certainty and that candidate is entitled to be issued a Certificate of Election. Bellmon is that candidate."

When one considers Mr. Edmondson's "new evidence" it is found that for the most part it is not even new, and for that which is new, it can hardly be classified as "evidence." This is responded to in the Summation of Senator Bellmon, pages 2–5. In an attempt to establish by theories and speculations, based on assumptions, that the irregularities did affect the outcome of the election, a fact which Mr. Edmondson could not establish by testimony of actual voters, Mr. Edmondson called his two experts, the same two people he relied on in the trial court and quoted extensively before the Supreme Court. Clearly these two experts continue to only offer speculation without any real evidence to back up their theories. The Senate, as the Supreme Court of Oklahoma, shouldn't indulge in speculations or presumptions.

POINT NUMBER 3

The irregularities complained of by Mr. Edmondson obviously affected both candidates Bellmon and Edmondson. The statistics indicate a record number of voters who voted in the election were able to express their choice for Senator. The lack of the party lever meant that the voter had to move a separate selector for Senator *and* Representative rather than a single lever for the two offices. For the voter to have voted for Senator Bellmon he or she had to pull the tab past Ed Edmondson's name and the Democratic party symbol. Thus the existence of the "straight lever" as specified under Oklahoma law (in the section on machine specifications) would have saved the Tulsa voter from one extra movement of his hand. Clearly this is *de minimus.*

The courts of this country have decided many cases similar to the Edmondson contentions. They have uniformly held that ministerial errors in elections cannot void elections. In the case of *Powell* v. *Power,* 436 F2d 84 (2nd Circuit 1970), the Court said, ". . . we cannot believe that the framers of our Constitution were so hypersensitive to ordinary human frailties as to lay down an unrealistic requirement that elections be free of any error." at 88.

In the case of *Nelson* v. *Robinson,* Fla. District Court Appl., 43 L.W. 2192, it was held,

"Regarding defects in ballots, courts have generally declined to void an election unless such defects clearly operate to prevent a free, fair and open choice by the electorate.

"No finding was made that even a single voter was prevented from exercising his free choice when he voted, although it was found that several voters were 'confused.' But mere confusion does not amount to an impediment to the voters' free choice if reasonable time and study will sort it out." at 2192

Finally, the United States Court of Appeals in *Hennings* v. *Grafton* (7th Cir., Case No. 75-1178) on October 2, 1975, said:

". . . the record here shows it most irregularities caused by mechanical or human error and lacking in invidious or fraudulent intent; it does not show conduct which is discriminatory by reason of its affect or inherent nature.

"Given these conditions, errors and irregularities . . . are inevitable, and no constitutional guarantee exists to remedy them." at 1178.

POINT NUMBER 4

Petitioner Edmondson invoked the jurisdiction of the Oklahoma trial court pursuant to the Oklahoma Election statutes. The Honorable J. Knox Byrum found that Edmondson had not sustained his burden of proof and as a matter of law the court could not restrain the election board from issuing the certificate of election to Senator Bellmon.

Edmondson then petitioned the Supreme Court of Oklahoma urging the court to assume original jurisdiction and prohibit the election board from issuing the certificate of election to Senator Bellmon, and to order the election board to issue the certificate to Ed Edmonson or in the alternative to declare that a new election must be held. Interpreting Oklahoma law, the Court held, by affirming the trial judge, that Petitioner Edmondson had not sustained his burden of proof that the election was mathematically uncertain, and specifically that Edmondson's Writ of Prohibition and Writ of Mandamus be denied.

"The issue here is not how the election in Tulsa County should have been conducted, but the legality of the election as conducted."

"We hold the Tulsa County votes cast by use of the voting machines are not illegal or void."

"We also hold the erroneous instructions did not void the election, or make it impossible to determine with mathematical certainly which candidate received more state-wide votes and entitled to a certificate of election."

Clearly, the Supreme Court of Oklahoma was concerned whether the irregularities which occurred in Tulsa County by the failure of the election officials to provide straight party levers, prevented the voters from a full and free expression of their will at the election.

SUMMATION ON BEHALF OF SENATOR HENRY BELLMON

In the matter of Ed Edmondson, petitioner versus Henry Bellmon, U.S. Senator, respondent—Committee on Rules and Administration, U.S. Senate.

PRELIMINARY STATEMENT

It has been nearly a year now since Mr. Edmonson first instituted this proceeding, disputing the outcome of the 1974 race for United States Senator in the State of Oklahoma. The matter has been investigated by the Committee's investigative staff, and the Committee has heard the testimony of expert witnesses called by both sides. In spite of all this, it appears that Mr. Edmondson is still confused as to the actual facts in this case. Hopefully, the following will put to rest any confusion which may still exist.

THE DECISION OF THE OKLAHOMA SUPREME COURT

There is no doubt that irregularities did exist in the conduct of the election in Tulsa County. This was long ago decided by the Oklahoma Supreme Court, and is no longer an issue. But that there were irregularities was not the only finding of the Court. The Supreme Court (as did the trial court) went on to find that these irregularities had not affected the outcome of the election. Mr. Edmondson, who invoked the jurisdiction of the Court and who requested the same relief herein requested, now asks this Committee to disregard that part of the Court's decision. Mr. Edmondson urges this Committee not to be persuaded by the decision of the highest Court of the State of Oklahoma, claiming that "major findings which represent new evidence not presented to any Oklahoma Court considering this matter" were made by the Committee's investigative staff. Let's look for a moment at Mr. Edmondson's claimed "new evidence."

MR. EDMONDSON'S "NEW EVIDENCE"

1. *The Testimony of Gene Howard:* Mr. Howard testified concerning an election contest in which he had been involved in 1966. The Oklahoma Supreme Court decided Mr. Howard's case as it did Mr. Edmondson's. In fact, the same Justice wrote both opinions. In Howard's case, because of an admitted malfunction of a machine, only 37 votes or 29% of the 131 possible votes were recorded. In Mr. Edmondson's case, there is no evidence that any machine failed to record votes. Further, since 97% of the possible votes were recorded, there is no reason to presume that any votes went unrecorded. Additionally, Gene Howard testified that he was opposed to straight party levers. Based on his many years of experience, it was his opinion that straight party levers caused more problems on voting machines than any other function of the voting process.

2. *The Testimony of Roger Randle:* That several newspaper ads had urged voters to "vote Democratic," is hardly worthy of being classified as a "major finding." This so called "new evidence" was presented to the trial court and argued before both courts.

3. *The Testimony of Gene Gallagher:* Mr. Edmondson also claims the investigation's discovery that Gene Gallagher, the programmer of the Tulsa County machines, was a registered Republican, was a "major finding." This so called "new evidence" does not tend to show that the irregularities affected the outcome of the election, and Mr. Edmondson's counsel expressly denied any attempt to cast aspersions upon Mr. Gallagher.

4. *The Testimony of Irene Perkins:* Mrs. Perkins, a precinct worker, testified that there were "no problems" in her precinct, that not one voter asked any questions about the party vote instructions and that only a few persons asked if they could vote a straight party ticket, whereupon she instructed them on the proper manner: she told them to move each of the "little digits" in each race to the party desired. Mrs. Perkins also testified that she had no difficulty in voting on the machines, that she did not see the party vote instructions, and that the only complaint she received was that the "board was so loaded" that some people did not want to take the time to read the state referendum questions. Her testimony in no manner indicated the "massive voter confusion" claimed by Mr. Edmondson.

5. *The Affidavits presented by Rodney Ray:* Rodney Ray's affidavits of confused voters were all before the Supreme Court and simply reiterated the testimony of the voter witnesses called at the trial court by Mr. Edmondson. In each instance, these trial court witnesses indicated some initial confusion but all testified that they were able to "figure out" how to vote a straight party ticket on the machines and did in fact so vote. It should also be pointed out that while Mr. Edmondson had every opportunity to present his "confused" voters for questioning by the Committee's investigative staff while they were in Tulsa on two separate occasions, he wholly failed to do so.

6. *The "High Bottom Candidate Vote Totals":* Mr. Edmondson claims that the "newly discovered evidence" that the unopposed Democratic candidates at the bottom of the first two columns on the "Tulsa" machines received more votes than any other Democratic candidate in their respective columns, conclusively proves his "erroneous instructions-bottom lever" theory. The fact that the same "phenomenon" occurred on the "Amarillo" machines, where there were no "erroneous instructions" and on absentee ballots, where a straight party vote was possible and where one of the "bottom" candidates was not on the "bottom," should put this argument to rest. (See page 3 of Mr. Bellmon's Reply Brief for a more detailed analysis of this aspect.)

7. *The Affidavit of Dr. William Fewell:* This is the only new matter before this Committee but could hardly be termed "evidence." In this regard, it seems a bit incredulous that after a year of Mr. Edmondson's expounding on his "bottom lever" theory in the Courts, in the newspapers, and television and in every public interview given by Mr. Edmondson, that Dr. Fewell would "only recently discover" that he had actually performed the amazing feat which Mr. Edmondson had been theorizing. Dr. Fewell was never subjected to cross-examination by anyone. He was not called, nor did he volunteer this testimony before the Committee's investigative staff, although their presence in Tulsa was widely publicized. However, even if Dr. Fewell's statement is taken at face value, it suggests that only one voter failed to vote because of the irregularities—one voter out of over 125,000 who voted on machines—hardly enough to change the outcome of the election.

8. *The "Discrepancies in the Official Certificates of Votes":* Although the Committee's investigative staff was given copies of the "official Certificate of Votes" for each precinct upon its first trip to Tulsa, not one question was ever asked of an election board official or precinct worker concerning what Mr. Edmondson refers to as "discrepancies." Mr. Edmondson had every opportunity to challenge the reported results of the election and to ask for a recount. Had he done so, as Mr. Harmon Moore indicated in his statement, the machines could have been reread and any discrepancies readily explained. Once again, however, Mr. Edmondson waited to see if he could win his case under the "irregularities" statute, (after his time had expired to seek a recount) before raising the issue of the vote tally, just as he had waited to see how the election turned out before raising the issue of straight party levers. A detailed explanation for the reasons behind these "discrepancies" can be found in the statement of Harmon Moore, which was presented to the Committee.

Thus, as seen above, Mr. Edmondson's claimed "new evidence" is for the most part not even new, and as for that which is new, it can hardly be classified as "evidence" much less as "major findings."

MR. EDMONDSON'S EXPERT WITNESSES

In an attempt to establish by theories and speculations, based on assumptions, that the irregularities did in fact affect the outcome of the election, a fact which Mr. Edmondson could not establish by the testimony of the actual voters alleged to have been so affected, Mr. Edmondson called his two expert witnesses, the same two witnesses relied upon in the trial court and quoted extensively before the Supreme Court.

It would be wholly unproductive to attempt herein to point out all of the inconsistencies and illogical assertions made by both Drs. Miller and Kirkpatrick. A more logical and expedient approach to responding to their testimony would be to first look at how the irregularities are alleged to have affected the outcome of the election, and then to look at the experts' testimony.

Theoretically, the irregularities could have affected the outcome of the election in only two ways:

(1) They could have caused voters not to vote in the Senate race, or

(2) They could have caused voters to vote differently than they actually did vote.

(1) Were Voters Prevented from Voting?

(a) The Position of the Senate Race: The only theory advanced by Mr. Edmondson's experts with respect to the position of the Senate Race on the ballot causing voters not to vote is the theory of "voter fatigue," i.e. voters became tired as they moved across the ballot and failed to vote in the Senate race because they tired out before reaching it. Mr. Edmondson claims that had his race been placed at the top of Column 3, where the Gubernatorial race was located, more voters would have voted for him, and cites the fact that in 1962 and 1966, when the Senate race did so precede the Gubernatorial race on the machine, more Democratic votes were cast for Senator than Governor.

This statistic is clearly irrelevant with respect to voter fatigue, unless Mr. Edmondson means voters get tired of voting for Democrats as they move across the board. The theory of "voter fatigue" is that it causes voters not to vote at all. Thus, all the votes cast in each race, not just the Democratic votes, must be looked at when analyzing "voter fatigue." When this is done, it is seen that in both 1962 and 1966, more total votes were cast in the Gubernatorial race than the Senate race. Further, as Dr. Penniman pointed out, in 1962, when the Senate race did occupy the "top" position, only 92.9% of the voters voting for governor voted for Senator, in 1966 only 91.1 did so, while in 1974, 98.6% so voted. Thus, there is simply no evidence of "voter fatigue" causing people not to vote in the Senate race in 1974.

(b) *The "erroneous party vote instructions"*. The theory is that the "erroneous party vote instructions" affixed to the "Tulsa" machines caused voters to pull the bottom "selector tabs" or "keys" located next to the bottom race in each column, mistaking them for the "straight party levers" described in the instructions, and thereby caused them not to vote in the Senate race. The "evidence" presented by Mr. Edmondson's experts to prove this theory was the fact that the unopposed Democratic candidates in the races at the bottom of the columns received more votes than the unopposed Democratic candidates further up in the columns. Again, as pointed out by Dr. Penniman, this "evidence" proved nothing since the same phenomenon occurred on both the "Amarillo" machines and the absentee ballots, i.e. the unopposed candidates received votes in the same order on the "Amarillo" machines, which had no erroneous instructions—thus, no reason to pull only the "bottom lever," and on the absentee ballots where the ballot form was entirely different. (See page 3 and Appendices 2–6 in the Reply Brief filed herein.)

(c) *The absence of straight party levers:* Neither Mr. Edmondson nor his experts even claimed that the absence of straight party levers caused voters not to vote in the Senate race. Thus, Mr. Edmondson's expert witnesses wholly failed to present any competent evidence that the irregularities complained of, either separately or cumulatively, caused voters not to vote in the Senate race. Mr. Edmondson's experts never did explain the fact that while only 3% of the Tulsa County voters failed to vote the Senate contest—a much higher number failed to vote in Oklahoma County (4.8%) and the paper ballot counties (3.5%). When these "nonvoting" figures are compared it is difficult to see how Tulsa County's irregularities could even conceivably be said to have caused voters not to vote.

2. *Did Voters Vote Differently than they would have?*

(a) *The position of the Senate race:* Mr. Edmondson makes the wholly illogical argument that voters who voted for Senator Bellmon with the Senate Race in Column 6 would have instead voted for him if the Senate race had been in Column 3. Presumably, this argument is based on the fact that in 1962 and 1966, when the Senate race was in Column 3 and the Gubernatorial race was in Column 6, the reverse of the 1974 situation, the Democratic candidates for Senator received more votes than the Democratic candidate for Governor. To say the least, this argument is wholly illogical. It completely ignores an important political concept, i.e. that some candidates are simply more popular than others and thus receive more votes. Mr. Edmondson also chooses to ignore the fact that the reason the Democratic Gubernatorial candidate in 1962 received fewer votes was because the Republican Gubernatorial candidate was Henry Bellmon, just as in 1966 the Republican Gubernatorial candidate was Dewey Bartlett, both of whom have been big vote getters in Tulsa County and both of whom have defeated Mr. Edmondson.

Mr. Edmondson also relies on the testimony of Dr. Miller, who claims there would have been less ticket splitting had the Senatorial race been on top in Column 3 presumably to Mr. Edmondson's advantage because of the higher Democratic registration in Tulsa County. In Tulsa County, with 58% of the people registered as Democrats, the Democratic Gubernatorial candidate received 60,697 votes while Mr. Edmondson reecived 49,775. Thus, only 18% of the voters who voted Democratic for Governor either did not vote or split their tickets and voted Republican for Senator. Dr. Miller's hypothesis is demonstrably erroneous when the above is compared to Oklahoma County, where the Senate race did in fact precede the Gubernatorial race (Democratic registration was 69%), and the Democratic candidate for Governor received 85,625 votes while Mr. Edmondson received only 59,125, or 30.9% of the voters splitting their tickets.

Clearly, there is no evidence that the position on the ballot caused voters to vote differently than they in fact did vote.

(b) *The Erroneous Party Vote Instructions":* Neither Mr. Edmondson nor his experts claim that the "erroneous party vote instructions" caused voters who otherwise would have voted for Mr. Edmondson to instead vote for Senator Bellmon.

(c) *The Absence of Straight Party Levers:* Mr. Edmondson's last contention is that had the straight party levers been on the machines, some of the voters who voted for Mr. Bellmon would not have been forced to see that Mr. Edmondson was running against Senator Bellmon, and would have instead voted by blind party allegiance. Mr. Edmondson's only "evidence" that the absence of party levers had this effect is the testimony of Dr. Miller. As you will recall, Dr. Miller testified that based on national survey data, he had reached the conclusion that when "a party lever" is on a voting machine, 14% more Democrats will vote a straight party ticket than they will when there is no lever, but that the presence or absence of such a straight party lever does not affect Republicans at all.

The first point which should be made is that, from Dr. Miller's own testimony, it is clear that any conclusion that Dr. Miller draws from his purported 1974 survey is simply not valid because, in arriving at his figures for "single choice" type ballot arrangements, he lumped three entirely different party vote devices together to come up with one figure. To illustrate, Dr. Miller explained these three types as follows:

Type A: Dr. Miller stated that 53 "electoral jurisdictions" in his survey provided for "a single lever," i.e. the type of voting machine where a voter could by the movement of one lever, vote a straight party ticket for all offices on the ballot (national, state, county or local). Once this lever was pulled, however, the voter could not go back and split his ticket for individual candidates.

Type B: Dr. Miller also testified that his "single choice" classification included 73 electoral jurisdictions which used a modified single lever, i.e. again, one lever would vote for all candidates of one party across the board. But with the modified single lever, the voter could then go back and split his ticket in the individual races.

Type C: Dr. Miller's "single choice" classification also include data from 6 electoral jurisdictions using what should probably be classified as 'multiple modified single levers," i.e. the Oklahoma situation—one lever per ballot and the ability to go back and split in any individual race (so actually, a voter would have to make three or four choices, one per ballot, not the "single choice," as Dr. Miller classifies it.)

Dr. Miller then took the data compiled from these electoral jurisdictions containing these three different types of election ballots and somehow arrived at the conclusion that in these "single choice" electoral jurisdictions, a certain number of all Democrats vote straight Democratic. He then compared this aggregate figure to the 1953 electoral jurisdictions which had no straight party levers, where he claims a lesser number of the Democrats voted straight Democratic, to arrive at the conclusion that the "single lever" makes a 14% difference.

Even if Dr. Miller's hypothesis is accepted, i.e. that the more physical manipulations of a voting machine a Democrat has to make, the greater the possibility of ticket splitting, simple logic and reason would dictate that less ticket splitting would occur on machines identified as Type A above, where a voter could not split his ticket after pulling the lever, than on Types B or C where such voter could pull the lever(s) and then go back and split. Further, it would also be logical to assume that less ticket splitting would occur on the Type B machines than on the Type C machines (i.e. Type C necessitates more physical manipulation). Yet Dr. Miller failed to differentiate between the three types. He simply lumped them all together to come up with his magic figures. Clearly he has averaged apples and oranges.

Even if he had broken his figures down by the various machine types, and compared his findings in the Type C situation to the no lever-individual choice situation, such statistics would still only be averages from many electoral jurisdictions and thus could not be used to accurately project what would have happened if the levers had been on the machines in Tulsa County.

Lastly, as both Dr. Penniman and Dr. DeVries pointed out, for today's voter, there is simply no evidence that straight party levers make any difference at all in a voter's selection of candidates in the top three "prestige races," i.e. Presidential Gubernatorial and Senatorial.

The voting statistics of Oklahoma County and the 75 paper ballot counties seem to bear this out and, further, effectively refute Dr. Miller's theories. As noted previously, in Oklahoma County, where voters could vote a straight party ticket by single lever per ballot, the Democratic candidate for Governor received 85,625 votes while Mr. Edmondson received only 59,125 votes. Thus 30.9% of the voters who voted Democratic for governor either did not vote or split their tickets and voted Republican for Senator. Similarly, in the 75 paper ballot counties, 368,267 voted for the Democratic Gubernatorial candidate while only 278,262 voted for Mr. Edmondson, for a 24.4% ticket splitting figure. If Dr. Miller's theory is true, then with 30% of the voters splitting their tickets between Governor and Senator in Oklahoma County, and 24% so splitting their tickets in the 75 paper ballot counties, (both of which Dr. Miller would classify as "single choice" electoral jurisdictions), then Tulsa County, with its "multiple choice" set up should have evidenced a much greater degree of ticket splitting. However, we find just the contrary: 60,697 Democratic votes for Governor and 49,775 votes for Mr. Edmondson—only 18% ticket splitting. Clearly, Dr. Miller's hypothesis did not hold true in Oklahoma.

CONCLUSION

From the foregoing, it is seen that Mr. Edmondson has presented no competent evidence that the irregularities in Tulsa County affected the outcome of the United States Senate race. Senator Henry Bellmon was elected by the people of Oklahoma to serve as their United States Senator and should now once and for all be seated unconditionally to serve in his duly elected capacity.

Respectfully submitted.

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ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Mississippi (Mr. STENNIS) is recognized for not to exceed 15 minutes.

RELOCATION OF NAVAL OCEANOGRAPHIC OFFICE

Mr. STENNIS. Mr. President, my remarks will not be extensive. I doubt that I shall use that much time, so if anyone else wants to use some time, he might take notice. My remarks will relate, on a factual basis, concerning the relocation of the Naval Oceanographic Office and Laboratories.

Mr. President, the proposed transfer of the Naval Oceanographic Office from the Washington area to the National Space Technology Laboratories (NSTL) in Hancock County, Miss., has once again been very much in the news. Since this proposed relocation has long been the subject of widespread misunderstanding and misinterpretation, particularly in the Washington area, I am making these remarks to set the record straight in the hope that my colleagues and others who are interested will understand how and why the decision to move this facility was made and why it is thoroughly justified.

Although the Oceanographic Office is now scattered throughout the National Capital region, the main office is located at Suitland, Md., and the State of Maryland will be most affected by the move. It is understandable, therefore, that members of the Maryland delegation have fought this proposal vigorously and persistently. I have nothing but admiration for them with reference to their activities in this matter. I certainly do not criticize them for this or any other action with respect to it. They have been honest, open and above board in all respects and certainly cannot be faulted for fighting for the desires of some of their constituency.

It should be noted at the outset, Mr. President, that the Department of the Navy has recognized the need to consolidate its oceanographic program at a single site since 1963. In 1974, a concerted effort was undertaken to locate the best site and NSTD was found to be most suitable from the standpoint of existing technical facilities. The Navy, after thorough consideration, proposed to consolidate the program at NSTL. The Deputy Secretary of Defense approved the proposal after it had the approval of the Secretary of the Navy and the Chief of Naval Operations.

I point out, Mr. President, that this is in keeping with congressional policy for these matters to be considered. Three or four of our subcommittees and committees in the last 3 years, including the Committee on Appropriations and authorizing committees, have referred to the congestion here, in Washington and the surrounding area, of the military, and further emphasized that existing facilities were available at other places that could, perhaps, be used and should be considered for use by the services if they met the qualifications otherwise. So these steps by the Navy, all the way through, are in keeping with the congressional guidelines laid down by these committees that I will quote later in my remarks, if there is time.

When this year's defense appropriation bill was being considered, amendments were offered both in the Senate and the House which, if adopted, in effect would have blocked the proposed move by prohibiting the expenditure of funds for that purpose. The amendment was defeated in the House by a rollcall vote and in the Senate by a voice vote.

Thus we see, Mr. President, that the proposed relocation has now been explicitly approved by two branches of Government—the executive and the legislative. This is a very significant fact. I have little doubt, knowing the true facts as I do, that when all the facts are developed and become known to the Court, it will also have been approved by the third branch—the judicial.

Let me go now to the merits and factual aspects of the matter. First, I will briefly review what the Oceanography Office does. Its scientific personnel, which constitutes about one-half of its civilian employees, are, among other activities, engaged in determining, through research, the effect the ocean environment has upon naval operations and naval weapon systems. The office is responsible for information and predictions on the entire environment of the ocean, the ocean currents, its bottoms, the salinity of water, and many other elements.

The area could well extend globewide, and it does extend into many areas of the world. This has to do with submarines. It has a greatly magnified importance in the last few years because of antisubmarine preparations by us, perhaps the most important field, after all, of our strategic weapons.

Adequate research and accurate predictions and information on this environment have a direct and critical bearing on the determination of the operational effectiveness of weapons systems and weapons tactics in many specified areas and many places on the globe. This is directly related to the effectiveness of underwater mines, torpedoes, submarines, and all of the equipment relating to antisubmarine warfare, an area of crucial and growing importance. The office has many other important functions which I shall not go into here.

However, I submit that it is clear from what I have said that the need of the Oceanographic Office for highly qualified people and the most efficient scientific and technical facilities and equipment is not subject to question. The fact is that the oceanographic program is a vital element in our national security requirements and becomes more important with each new development in undersea warfare. This includes, of course, modern antisubmarine warfare which grows more important and crucial every day.

At the present time, the Oceanographic Office employs about 1,200 civilian personnel. They are located in 19 buildings at four separate locations over a 50-mile radius in the Washington metropolitan area. To go from one office to all the others and to return to the starting point requires a trip, I understand, of about 180 miles. The inefficiencies which inevitably result from this dispersal are obvious and detrimental to the program. Something must be done to relieve this situation.

There is also a severe need for upgrading the technical and scientific facilities. For example, the repairing of instruments used by the Oceanographic Office is now done in three separate buildings in the old Washington Navy Yard here in the city. Another example is the fact that, in order to calibrate some of the sensors to make sure their recordings are valid, the sensing devices must be taken to Carderock, Md., for calibration in a large tow tank which is also in constant use by people engaged in designing new ships. Due to the time constraints, these devices are not calibrated as often as they should be. Many similar examples could be cited.

As I have mentioned, Mr. President, the Navy has recognized the need to consolidate its oceanographic program since 1963 and, in mid-1974, it undertook a concerted effort to find the best site. This is in accord with the congressional policy about moving naval activities from the Washington area which has been expressed on several occasions.

For example, the House Appropriations Committee said, in its report on the Military Construction Appropriation bill for fiscal year 1975, that—

> The severe limitation of funding for Navy projects in the Washington area is not taken lightly by the Committee. Rather, it is a deliberate move by the Committee to call the Navy's attention to earlier Committee comments regarding the moving of naval activities from the Washington, D.C. area.

In the same report, the committee went on to say that—

> The fact remains there currently are an estimated 46,700 personnel or civilians in this area—and that is too many. This Committee intends to exercise its power of the purse to see to it that those missions which can be moved are moved. It expects the Navy to present a relocation plan during next year's hearing on the military appropriation request, and it expects such plan to be significant in scope.

In its report on the military construction appropriation bill for fiscal year 1975, the Senate Appropriations Committee said it "supports the concept, long advocated, that military functions not essential to the Washington scene, be moved elsewhere if feasible and practical to do so." It went to say—

> Further consideration should be given, if such moves are contemplated, to those areas where there are existing facilities and new construction can be held to a minimum.

In the report on the military construction appropriation bill for fiscal year 1976 the Senate Appropriations Committee commented:

> When moves are contemplated, the Committee expects the Navy to move to areas where there are existing Federal facilities and hold new construction to a minimum.

The Navy followed the mandate of the Appropriation Committees. Its aim was to relocate the program on federally owned facilities, with other important considerations being the existence of necessary technical facilities, the cost of relocation, the efficiency which the relocation would bring about, and the potential envrionmental impact of the move. These are firm, definite, meaningful congressional policies and guidelines.

After careful evaluation, the Navy selected five sites at which consolidation was feasible. The construction/modification cost at NSTL is $7.5 million, which is the lowest of the five by far. The next lowest was $12.6 million and the highest was $23.1 million.

It is clear beyond question, Mr. President, that the selection of NSTL offers both a consolidation which will vastly improve program management and efficiency, and the best deal for the taxpayer from the standpoint of cost.

Let me tell you something about NSTL. This modern space technology facility was built by NASA in the mid-1960's at a cost of over $400 million. Its purpose was to test the booster rockets for the Apollo moon programs which is now over. In addition to its modern buildings, equipment and other facilities, it consists of about 13,200 acres in fee and

125,400 acres covered by easements as a buffer zone. The estimated replacement cost of the facilities to be made available to the oceanographic program is about $30 million, including the one-of-a-kind oceanographic test and calibration facility. This does not include the land in question which is federally owned.

With the phasedown of the space program, a great deal of effort has been made by NASA to find suitable tenants for the unique, but underutilized, facilities at NSTL. In 1971, the Congress made $10 million available to NASA to assist in this effort. While there has been some success in attracting other suitable Federal tenants to the facility, it is still greatly underutilized. This facility belongs to the taxpayers, and it should be utilized in such a manner that it will be of the greatest value to the Government in a manner which will get maximum use out of every tax dollar.

The Oceanographic Office will occupy about 25 percent of the space at NSTL. The Oceanographic personnel, which, as I have said, are now scattered in 19 different buildings, will occupy 9 buildings, all within 1 mile of each other. These will be served by a small shuttle bus.

The facilities at NSTL are virtually tailormade for a functional and efficient oceanographic program. In terms of technical and scientific facilities and equipment, there is available for the Oceanographic Office a capacity that does not exist at any other facility—either in the quantity or quality that exist at NSTL. This results from the fact that this huge and sophisticated complex was constructed expressly for the Apollo moon program at a site, Mr. President, where we invested over $350 million and have several thousand acres of land that the Government owns in fee, and then, something like close to 20,000—17,000, I believe it is—acres upon which there is an easement.

Located there are these laboratories, auditoriums, shops and computers the replacement value of which is from $40 to $50 million, all existing, current and modern, and largely unused. They will be available for the use and will be used by this facility.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. STENNIS. Another important consideration is the fact that 14 other Federal research activities are already located at NSTL. Several of these have activities in the oceanographic and hydroscience fields. These include the National Oceanographic Instrumentation Center, the National Data Buoy Development Center, the Gulf Fisheries Engineering Laboratory, the Gulf Coast Hydroscience Center of the U.S. Geological Survey, and a major NASA Earth resources laboratory. The benefits available from being colocated with these related research activities is clear and obvious.

The technical facilities at NSTL are substantially new and are all now in place. One example is an underwater instrumentation calibration facility in a computer-controlled system of pressure tanks connected to several other large tanks with stored seawater, which will be used to test and calibrate instruments unique to oceanography. This particular facility exists nowhere else in the country. Another example is a large tow tank now seldom in use which will be available to the Oceanographic Office.

The chemistry, biology and geology laboratories are all in one building at NSTL, designed as a laboratory and having the required amount of space needed by the Navy. A UNIVAC 1108 computer will be available along with general office space, an auditorium, a cafeteria and warehousing.

There has been a great deal of speculation in the Washington news media as to the availability of adequate housing in the area. Let me call to your attention a General Accounting Office report dated November 20, 1975, which was prepared at the request of the Honorable MARJORIE S. HOLT, Congresswoman from the State of Maryland.

On page 13 of this report, there is the following:

> Sufficient housing units are currently available in the NSTL area to accommodate the anticipated influx. At the time of our field work, approximately 800 single family houses were available for sale within 30 miles of NSTL. Most of the homes had three or four bedrooms and were in the $20,000 to $50,000 price range. In the same area were approximately 900 vacant apartment units. Most units had one or two bedrooms, with monthly rental payments from $100 to $200.

Mr. President, we all know from personal experience what type of house one can buy in the Washington metropolitan area in these price ranges and what apartment rentals average. I can say from personal knowledge, that Oceanographic Office employees will be pleasantly surprised to discover the type of housing their dollars will provide in this area of Mississippi.

The adequacy of schools has also been questioned. In this area the General Accounting Office found:

> Public school capacities in the area surrounding NSTL, with the exception of some public schools in Slidell, Louisiana have the capacity to accommodate the additional students that could come from the NAVOCEANO move to NSTL.

Summarizing the GAO findings as to the five Mississippi communities and one Louisiana community within the 30-mile radius, the elementary schools can accommodate additional enrollment of 2,208 students; junior high, 997, and senior high, 1,223; or a total of 4,428 students.

Based on information in the final environmental impact statement prepared by the Department of the Navy in June 1975, the total number of students estimated to be affected by the move is 1,141. This figure includes 243 preschool children.

There are a few other factors I would like to mention in connection with the matter. First, in its report of November 20, the General Accounting Office does not find itself in conflict with the Navy with the exception of a minor difference in the one-time cost of the move. Second, the General Services Administration has already notified the Navy that the facilities being vacated at Suitland will be occupied by other Federal personnel. Third, there are already over 100 families that have moved from Suitland to the Bay St. Louis area.

It is a recognized fact that whenever there is a relocation of a Government installation or an industrial facility, some of the employees are not happy. The fact that they are required to move has a serious and disturbing impact on their private and personal lives. Under the circumstances some opposition and objection to the relocation invariably surfaces. In this case, I submit, there is no more opposition or resistance to the move than is normally found in such cases. The reason the opposition is so clamorous and appears to be so great, is that the facility to be moved is located right under our noses here in the Washington area.

Let me add, Mr. President, that those employees who do move will find a very different and far more attractive way of life. Mississippi is justly proud of its Gulf Coast and its pleasant living. It offers sunshine, clean air and a temperate climate. It provides a wide variety of land-based and water-based recreational activities the year round. It affords a wholesome atmosphere in which to raise children. In short, it is a good place to live. Already some of the employees who have already been moved have sent word back that they are glad they made the move and enjoy their new surroundings thoroughly.

It is a little known fact, Mr. President, that Woodrow Wilson, while President, spent some of his winter vacations at Pass Christian, Miss., which is right in the heart of this section of the coast. This in itself speaks very highly for the area.

Mr. President, I can certainly understand the emotion which this relocation has engendered. It is unfortunate, however, that this emotion has been allowed to obscure the basic facts. I have made this statement for the record in an effort to clear up the confusion and deal with the misinformation. What I have said is factual and it is accurate. I hope that I have made some contribution toward setting the record straight.

APPOINTMENT OF MARINE CORPS OFFICERS TO BE ASSISTANT COMMANDANTS OF THE MARINE CORPS IN THE GRADE OF GENERAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar No. 537, S. 2117.

The Senate proceeded to consider the bill (S. 2117) to amend sections 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of the Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert the following:

> That (a) subsection (d) of section 5202 of title 10, United States Code, is amended by striking out the colon after the word "Senate" and all that follows down through the word "appointment".
>
> (b) Subsection (e) of section 5202 of such title is repealed.

Mr. THURMOND. Mr. President, I rise in support of S. 2117, a bill relating to the authority governing the rank of the Assistant Commandant of the Marine Corps.

This bill, as originally submitted by the Department of Defense, related to the authority for appointment to the grades of general and lieutenant general in the Marine Corps.

BILL AMENDED

However, the committee decided to address this broader question during the consideration of the legislation affecting the Defense Officer Personnel Management System now before the appropriate subcommittee.

Nevertheless, the committee saw the need to act now in providing authority for the Assistant Commandant of the Marine Corps to maintain his present grade of full general.

Under current law this grade is authorized for the Assistant Commandant provided the strength of the Marine Corps totals 200,000 or more individuals.

SECOND GENERAL APPROVED

In recent months the Marine Corps strength has been hovering near the 200,000 mark. However, the committee feels that the Nation has a high quality Marine Corps and even if total strength should slip slightly below 200,000 it would still be desirable to have a full general as Assistant Commandant as well as Commandant.

Thus, this legislation authorizes the Assistant Commandant to retain the grade of general, at the discretion of the President, and with the advice and consent of the Senate, without regard to the overall strength of the Marine Corps.

This decision by the committee was based on the belief that the duties of the Assistant Commandant were more important in justifying the grade than the actual size of the force.

Therefore, Mr. President, I urge the Senate to give prompt and favorable approval to this bill.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

> An Act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps.

PRIVILEGE OF THE FLOOR DURING CLOSED SESSION TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that in addition to the list of those who had been agreed on to be in the Senate today during the closed session that the names of Mr. Richard Moose of the Committee on Foreign Relations and T. Edward Braswell of the Committee on Armed Services be added.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLOSED SESSION

The ACTING PRESIDENT pro tempore (Mr. STONE). Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now go into closed session that will extend until the hour of 11:30 a.m., the time thereon to be equally divided between the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from California (Mr. TUNNEY).

The Chair, pursuant to rule XXXV, now directs the Sergeant-at-Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

(At 9:34 a.m. the doors of the Chamber were closed.)

LEGISLATIVE SESSION

(At 12:33 p.m. the doors of the Chamber were opened.)

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senate will be in order.

COMMITTEE MEETINGS DURING THE SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order for all committees to meet for the remainder of the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, may we hold the committee meetings when we are in closed session?

Mr. MANSFIELD. No, when we are in closed session there will be no committee meetings.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 9861, making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, the Senate is not in order.

The ACTING PRESIDENT pro tempore. The clerk will suspend. The Senate will be in order.

The clerk will resume.

Mr. NELSON. Mr. President, there are still Members in the well, in the aisles, and around here discussing various things. I insist that the Senate be in order before we proceed.

The ACTING PRESIDENT pro tempore. The Senator's point is well taken. The clerk will suspend.

Will Senators who wish to converse and to confer kindly withdraw? Will Senators kindly take their seats?

Will Senators who wish to confer kindly withdraw to the cloakrooms so that this rollcall can proceed?

Mr. NELSON. Mr. President, I think the Members on the Chair's right have not been able to hear the Chair.

The ACTING PRESIDENT pro tempore. That is correct, and the Chair thanks the Senator in assisting the Chair in obtaining order.

Mr. FORD. Mr. President, will the Senator from Wisconsin call the names?

The ACTING PRESIDENT pro temport. The clerk will resume.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

The result was announced—yeas 87, nays 9, as follows:

[Rollcall Vote No. 602 Leg.]

YEAS—87

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—9

Abourezk
Biden
Clark
Hart, Philip A.
Hatfield
Mansfield
McGovern
Nelson
Weicker

NOT VOTING—4

Allen
Bayh
Gravel
McGee

So the conference report was agreed to.

Mr. McCLELLAN. Mr. President, I move reconsideration of the vote by which the conference report was adopted.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, under the order entered during the closed session, the Senate will now go into executive session, with a vote to occur on the nomination of Mr. Stevens at 1 p.m. The time is to be equally divided between Mr. EASTLAND and Mr. HRUSKA.

Upon the disposition of that vote on the Stevens nomination, the Senate will proceed to the consideration of the Public Works conference report, and the 30 minutes' time limit has been cut to 5 minutes, to be equally divided between Mr. BAKER and Mr. RANDOLPH. Upon the disposition of the conference report on the Public Works bill, the Senate, by unanimous consent, will take up the extension of the tax cut conference report.

Mr. McCLELLAN. Mr. President, I wish to announce, out of deference to the leadership's programs, that at the proper time, I shall move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 49, 53, 75, 83, 98, and 101. I shall withhold that motion for the present.

Mr. TUNNEY. Will the Senator yield to me?

Mr. McCLELLAN. I yield.

Mr. TUNNEY. I wish to ask my distinguished colleague from Arkansas if he proposes to offer that motion at any time between now and the consideration of the Public Works appropriation bill.

Mr. McCLELLAN. I say to the Senator that I shall not offer it without giving him prior notice of it. I am trying to work it the best way I can with the leadership.

Mr. TUNNEY. Yes.

Mr. McCLELLAN. As I advised the Senator a few moments ago in the presence of the leadership, I would want to offer such a motion.

Mr. TUNNEY. I want to be present when the Senator makes that motion, because I should like to object to concurrence in amendment No. 75 to H.R. 9861. I should like to have a separate vote on that, because I intend to offer an amendment.

Mr. McCLELLAN. As I tried to advise the Senator a while ago, I assure him I am not going to try to take advantage, but I shall want to bring it up.

ORDER TO PROCEED TO CONSIDERATION OF TAX CONFERENCE REPORT UPON DISPOSITION OF PUBLIC WORKS CONFERENCE REPORT

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of the conference report on public works, the Senate then turn to consideration of the tax conference report.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

NOMINATION OF JOHN PAUL STEVENS TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The assistant legislative clerk read the nomination of John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. EASTLAND. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, until he was nominated to the Supreme Court by President Ford, I must say, frankly, that I had never heard of Judge John Paul Stevens.

During the past month, however, I have read a great deal about him, and I like the way he handled himself during his testimony before the Committee on the Judiciary.

Judging only from my reading and from his testimony, I am not able to determine just where Judge Stevens is on the philosophical spectrum. Perhaps this is just as well. He appears to be a jurist dedicated to equality under the law, and one dedicated to the belief that ours is a government of laws and not of men.

During the hearings on his nomination before the Senate Judiciary Committee, he proved he is not a man to be pushed around, even to advance his own confirmation.

One member of the committee raised the issue of "reverse discrimination," saying that courts have recognized that simply striking down discriminatory laws is not enough. The Senator said the courts have frequently gone beyond that to require affirmative action, like school busing, to remedy the effects of long patterns of discrimination.

The questioning Senator wanted to know if Mr. Stevens, now a judge on the Seventh Circuit Court of Appeals in Chicago, was "sufficiently concerned" to feel that judicial action of that kind was necessary.

Judge Stevens told him that in many cases affirmative action by the courts is necessary, but he added that, "these things really depend on the facts in a particular situation."

Judge Stevens then emphasized that he did not want to give the impression that, "I would place certain litigants in a favored class. I would not."

The questioning Senator, dissatisfied with Judge Stevens' position, said, "If you want the record to read simply that you are going to apply the law equally to all citizens, then that's the way it will have to stand." To which Judge Stevens replied, "I would be proud to have the record stand that way."

Most Americans, I feel, would agree with Judge Stevens that the law should be applied equally to all citizens. Certainly, that would be the view of the Senator from Virginia.

Mr. President, in a thoughtful editorial, the Richmond Times-Dispatch has reviewed Judge Stevens' testimony before the Judiciary Committee and has found it "especially impressive."

The Times-Dispatch applauds Judge Stevens' repudiation of the imposition of preferential treatment by force of law—the heart of such discredited social programs as forced busing and mandatory employment quotas.

And the Times-Dispatch finds "reassuring" Judge Stevens' commitment to the concept of judicial restraint, based on his insistence that "Federal judges have no right to substitute their own views for constitutional principles—and the Supreme Court has no authority to legislate, establish policy or alter the Constitution."

The publisher of the Richmond Times-Dispatch is Mr. David Tennant Bryan. Mr. Edward Grimsley is editor of the the editorial page.

I ask unanimous consent that the Richmond Times-Dispatch editorial, "Stevens' Views . . .", be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, Dec. 11, 1975]

STEVENS' VIEWS . . .

Judge John Paul Stevens, President Ford's nominee for the United States Supreme Court, has been widely and effusively praised as a jurist of exceptional professional ability, admirable judicial temperament and unwavering integrity. From his testimony before the Senate Judiciary Committee, it appears that Stevens truly deserves the high compliments that have come from his enthusiastic admirers.

Stevens was especially impressive in his exchange Tuesday with Massachusetts Sen. Edward Kennedy, who attempted to lead the nominee into an endorsement of the despicable doctrine of "reverse discrimination." Kennedy noted that in civil rights areas many federal courts have considered it inadequate simply to invalidate discriminatory laws and have gone on to require affirmative action, such as the compulsory busing of school children, to offset the effects of discrimination. Was Judge Stevens "sufficiently concerned" about minority groups, asked Kennedy, to consider affirmative action necessary?

Stevens replied that some affirmative action decisions may be justified but that "these things really depend on the facts in a particular situation." He emphasized that he did not wish to convey the impression that he "would place certain litigants in a favored class. I would not."

Obviously perturbed by Stevens' answer, Kennedy huffed:

"If you want the record to read simply that you are going to apply the law equally to all citizens, then that's the way it will have to stand."

"I would be proud," replied Stevens, "to have the record stand that way."

It was an encouraging and highly commendable answer. Indeed, it was so *right*, so consonant with the elementary principles of justice, that it really should not be considered unusual enough to note. Unfortunately, however, it is a fact, as Kennedy said, that many federal judges, including some who have served—and who do serve—on the Supreme Court often scoff at the principle of equality before the law and embrace the argument that members of groups discriminated against in the past are now entitled to preferential rights of others. They insist, in other words, that two wrongs *do* make a right. Busing, designed to achieve racial integration in public schools through *force*, and employment quota systems, which deny some workers equal employment opportunities, are two manifestations of this philosophy. And the deplorable situation in Boston, discussed below, is a specific example of its effects.

Stevens expressed other reassuring views in his appearance before the Senate committee. It is the function of the Supreme Court, he said, to decide specific cases, not to "search for issues or regard itself as a commission to reform the law." Federal judges have no right to substitute their own views for constitutional principles, he insisted, and the Supreme Court has no authority to legislate, establish policy or alter the Constitution.

To liberal activists who believe that the Constitution should be bent to fit whatever sociological concepts might be popular at a given moment, Stevens' views on the role of the Supreme Court must be distressing. He does not talk like a man who would follow the flag of every seemingly noble cause that marched onto the scene. But to those people who believe the integrity of the Constitution must be preserved, who favor the rule of law over the rule of men, who consider the principle of separation of powers to be one of the great strengths of the American system of government, Judge Stevens' statements to the Senate committee have been heartening. The nation should benefit from the addition of such a man to the Supreme Court.

Mr. EASTLAND. Mr. President, the Committee on the Judiciary has gone fully into Judge Stevens' background and his qualifications. The vote in the committee was unanimous that he be confirmed. I think he would be a worthy addition to our Supreme Court. In fact, I think he would make a great Justice. I hope that he will be unanimously confirmed.

Mr. McCLELLAN. Mr. President, will the Senator yield to me?

Mr. EASTLAND. I yield.

Mr. McCLELLAN. Mr. President, at the opening of the hearings of the Committee on the Judiciary on the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court, I expressed my belief that there are three basic questions pertaining to the qualifications of a nominee to that high office that must be answered in the affirmative in order to justify confirmation.

First, does the nominee have personal integrity?

Second, does he have professional competence?

And third, does he have an abiding fidelity to the Constitution?

At that time, I also stated that I entertained no expectations whatsoever that there would be any discoveries or developments during the course of the Judiciary Committee hearings that would demonstrate that Judge Stevens lacked any one of these fundamental qualifications. I am pleased to now state that the opinion I expressed was fully warranted.

A careful examination by the Judiciary Committee of Judge Stevens' private, as well as his public, records has revealed that Judge Stevens is indeed a man of honor and integrity.

His distinguished legal career prior to his elevation to the bench and the decisions he has rendered since beginning his judicial career show him to be a truly capable and competent lawyer and judge. Rarely does a Senate Committee hear such praise of a nominee as that bestowed on him by Attorney General Levi. In referring to Judge Stevens' judicial career, the Attorney General stated:

> His opinions, in my view, are gems of perfection. He is a craftsman of the highest order. He has a built-in direction system about how a judge should approach a problem—fairly, squarely, succinctly. His opinions are a joy to read.

Finally, those same opinions, together with his responses to the questions posed by the members of the Judiciary Committee, reveal that Judge Stevens does indeed have a deep understanding and appreciation of the Constitution, its place in our system of Government, and, perhaps even more importantly, the proper role of the Supreme Court in interpreting the Constitution.

During his confirmation hearings, I asked Judge Stevens to respond to several questions concerning these matters. His answers to those questions are—to me—extremely significant. For they are clearly indicative of a man who possesses a strong and abiding fidelity to the Constitution. I think that they will indicate the same to anyone else who will read them. For that reason, I ask unanimous consent to insert in the RECORD immediately following these remarks the full text of those questions and Judge Stevens' responses thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See Exhibit 1).

Mr. McCLELLAN. Mr. President, Judge Stevens has shown himself to possess those three basic qualities that I regard as indispensable for a member of the U.S. Supreme Court. I am pleased to vote for his confirmation.

QUESTIONS POSED TO JUDGE STEVENS BY SENATOR McCLELLAN

Senator McCLELLAN. As a member of the Court, would you feel free to take the text of the Constitution and particularly such broad phrases as "due process" and "unreasonable search and seizure"—just as illustrations—and read into it your personal philosophy, be your philosophy either liberal or conservative?

Judge STEVENS. Neither as a Member of the Court of Appeals nor as a Member of the Supreme Court, would I feel free to construe the broad phrases of the Constitution on the basis of my own personal philosophy. To the best of my ability, I will continue in every case to subordinate my personal predilections to my understanding of the law applicable to the case before me.

Senator McCLELLAN. Do you believe that a member of the Court should disregard the intent of the framers of the Constitution in giving interpretation to its meaning and in its application in order to achieve a result that he thinks might be desirable in, or for, our modern-day society?

Judge STEVENS. It is never appropriate for a judge interpreting the Constitution, or indeed interpreting a statute, to disregard the intent of its authors to the extent that such intent can be fairly ascertained.

Senator McCLELLAN. To phrase it another way, if you believe that a particular interpretation or construction in keeping with the intent of the framers of the Constitution would not get the results that you felt were more desirable and advantageous for our modern-day society, which factor would be most persuasive with you in arriving at your decision—the intent of the framers of the Constitution or that which would be most desirable or advantageous in our modern-day society?

Judge STEVENS. There have been occasions during my work on the Court of Appeals when I have decided cases contrary to my own views as to what would be most advantageous or desirable in our modern day society. A judge must do so if he is to be faithful to his office. I will continue to follow the law even if it does not accord with my own ideas about sound policy.

Senator McCLELLAN. One former Associate Justice of the Supreme Court has said:

"In interpreting the Bill of Rights, I willingly go as far as a liberal construction of the language takes me, but I simply cannot in good conscience give a meaning to words which they have never been thought to have, and which they certainly do not have in common with ordinary usage.

"I will not distort the words of the [Fourth] amendment in order to 'keep the Constitution up to date' or to bring it into harmony with the times: it was never meant that this Court have such power, which in effect would make us a continuously functioning constitutional convention." (Mr. Justice Black in *Katz* v. *United States* 389 U.S. 347, 373 (1967)).

May I most respectfully ask, do you share this philosophy? Would you be willing to give a new interpretation, not previously thought of, to change the impact of the Constitution simply to try to "keep the Constitution up to date" or to bring it into "harmony with the times"?

Judge STEVENS: In the process of construing the Constitution or an act of Congress, a judge should not give the words used in such a document a meaning other than the meaning fairly intended by its authors. It is not a proper judicial functions to amend either the Constitution or the statutes enacted pursuant thereto.

Senator McCLELLAN: In *Mapp* v. *Ohio*, 367 U.S. 643, 686 (1961), Mr. Justice Harlan stated:

"I am bound to say that what has been done is not likely to promote respect either for the Court's adjudicatory process or for the stability of its decisions."

He further said:

"I regret that I find so unwise in principle and so inexpedient in policy a decision motivated by the high purpose of increasing respect for constitutional rights. But in the last analysis I think this Court can increase respect for the Constitution only if it rigidly respects the limitation which the Constitution places upon it, and respects as well the principles inherent in its own processes. In the present case I think we exceed both, and that our voice becomes only a voice of power, not of reason."

There is one school of thought today that holds that the Supreme Court, whenever it feels that the Constitution as written or as it has been interpreted is not adequate to deal with today's social conditions, ought to give it a different interpretation to "get it into the mainstream" of modern society. Do you believe that the Court or a member thereof, under the Constitution, has the power or duty to do that?

Judge STEVENS: The fact that a Justice of the Supreme Court feels that a particular constitutional provision is not adequate to deal with today's social conditions is not a sufficient basis for placing a construction on that document which is not warranted by its language or by the course of decisions interpreting it.

Mr. EASTLAND. Does anybody else have a statement?

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. EASTLAND. Yes, I yield.

Mr. STEVENSON. Mr. President, I do not recall a nomination to high office in recent years so widely acclaimed as that of John Paul Stevens to be Associate Justice of the Supreme Court.

The response to this nomination is remarkable in these days of public cynicism—and the more so because it is fully deserved.

From his undergraduate days as a member of Phi Beta Kappa, to his law school days as a Law Review editor, through his professional career as a law clerk to Justice Rutledge, as practitioner, scholar, teacher and jurist, Judge Stevens has earned the respect and good will of all who know him—so much so that his nomination to the Supreme Court seems not so much a stroke of good fortune as a logical next step in his career.

That career reflects an intellectual discipline and capacity of a high order. It is unblemished by so much as one doubt about his character.

In his exercise of judicial authority, Justice Stevens is not doctrinaire or adventurous. He is a Judge. His record on the bench indicates that he sees it as his duty to apply the law, and not to make it.

This nomination would be widely acclaimed at any time. It is a most propitious nomination today.

A large, empty space exists in the Court. John Paul Stevens can fill it.

I urge the Senate to confirm the nomination of John Paul Stevens to serve as an Associate Justice of the Supreme Court.

Mr. EASTLAND. Mr. President, I yield to the distinguished senior Senator from Illinois.

Mr. PERCY. Mr. President, I wish first to express deep appreciation to the members of the Committee on the Judiciary, to its distinguished chairman (Mr. EASTLAND), and to the ranking minority member (Mr. HRUSKA). In an expeditious manner consistent with thoroughness they have conducted hearings and processed the nomination of John Paul Stevens and are now placing it before this body for our decision. The committee has performed, once again, a great service to the Nation.

I also express my appreciation to my distinguished colleague from Illinois (Mr. STEVENSON) for once again, in a nonpartisan sense, working closely with me to see that we from the State of Illinois do everything we conceivably can to present to the distinguished members of the Committee on the Judiciary men and women of the bar of the highest caliber, who shall be judged, not by their partisan relationships but for their integrity, their decency, their judicial temperament, their intelligence, and their scholarship.

I am privileged and honored to address the Senate today on John Paul Stevens, whose name is before this body today for consideration to be an Associate Justice of the Supreme Court of the United States.

It was just over 5 years ago that John Paul Stevens' name was before us when he was a nominee for the Seventh Circuit Court of Appeals, and I am as confident now as I was then that John Paul Stevens is eminently well qualified for the position for which he has now been nominated. He has clearly demonstrated that he possesses the integrity, the intellect and the temperament so necessary for a Justice of the Supreme Court. He has written over 200 opinions since 1970, all of which are available for review by Members of the Senate. When I suggested John Paul Stevens to the President 5 years ago, he was considered a "lawyer's lawyer." Today he is considered a "judge's judge." If confirmed, he will prove himself worthy of the President's confidence and, I believe, will distinguish himself in the tradition of his two immediate predecessors, William Douglas and Louis Brandeis.

The selection of John Paul Stevens to fill this vacancy on the Supreme Court was made with one criterion in mind—competence. He was not selected because he reflects a particular political or judicial point of view. I believe Attorney General Edward Levi aptly described the nomination of Judge Stevens when he referred to it as a "commitment to excellence."

For the record, I wish to note the highlights of Judge Stevens long and distinguished legal career. He is a 1941 Phi Beta Kappa graduate of the University of Chicago. After 4 years in the U.S. Navy, he entered Northwestern University School of Law in 1945. He graduated first in his class 2 years later, in 1947, with the highest record of academic achievement in the university's history. After graduation he served for 2 years as law clerk to Mr. Justice Wiley Rutledge of the U.S. Supreme Court. In 1948 he returned to Chicago to join the firm of Poppenhusen, Johnston, Thompson & Raymond, where he remained until 1951, when he came back to Washington to serve as Associate Counsel of the Judiciary Subcommittee on the Study of Monopoly Power in the House of Representatives. A year later he returned to private practice in Chicago and was a founding partner in the firm of Rothschild, Stevens, Barry & Myers, where he stayed until 1970, when he was appointed to the Seventh Circuit Court of Appeals. During the years he was engaged in private practice, he also authored numerous articles on antitrust law for legal and other journals, and lectured at both Northwestern and the University of Chicago law schools.

As President Ford has said, the nomination of a Supreme Court Justice is "one of the most important decisions a President has to make." Equally important is the Senate's responsibility to advise and consent on such a nomination. The individual we confirm for this vacancy will participate in deliberations and will render decisions on some of the most complex and crucial issues in the history of the Court. And, those decisions will affect the lives of generations of Americans. There is no question that the action we take will affect profoundly the course of this Nation's highest court. After carefully and critically examining Judge Stevens' record and judicial philosophy to determine his fitness to serve the Judiciary Committee, by a vote of 15 to 0 recommending his approval. I wish once again to express today my deep affection and respect for John Paul Stevens. I have known him for 38 years and I have no doubt that he is magnificently prepared to render distinguished service on the Supreme Court of the United States.

I hope and fully expect our vote today will be a unanimous one.

The ACTING PRESIDENT pro tempore. The time of the Senator from Mississippi has expired.

The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I rise to indicate my fullest support for the nomination of Judge John Paul Stevens to be an Associate Justice of the U.S. Supreme Court.

President Ford is to be congratulated for this excellent selection to the High Court. Judge Stevens' record as a scholar, practicing lawyer, and U.S. circuit court judge indicate that he is eminently qualified for this position.

Judge Stevens was born in Chicago, Ill., on April 20, 1920. He graduated from the University of Chicago—A.B. 1941—and the Northwestern University School Law—J.D. 1947—where he was co-editor of the Law Review. His academic record was outstanding, both at Chicago where he was Phi Beta Kappa and at Northwestern where he was graduated magna cum laude and first in his class. From 1942 to 1945, Judge Stevens served in the U.S. Navy and was decorated with the Bronze Star Medal.

Following his graduation from law school, Judge Stevens was law clerk to Supreme Court Justice Wiley Rutledge. He then entered private practice, specializing primarily in litigation, antitrust law and commercial law matters, first with the firm of Poppenhusen, Johnston, Thompson & Raymond in Chicago from 1948 until 1951, and again from January 1952 to June 1952, and later as a partner in the firm of Rothschild, Stevens, Barry & Myers in Chicago from 1952 until his appointment to the Seventh Circuit Court of Appeals.

In 1951, Judge Stevens served as associate counsel to the Subcommittee on the Study of Monopoly Power of the Committee on the Judiciary of the U.S. House of Representatives. From 1953 to 1955 he was a member of the Attorney General's National Committee to Study the Antitrust Laws.

From 1952 to 1956, Judge Stevens taught part time, first at Northwestern University Law School and then at the University of Chicago Law School, teaching antitrust law and related courses. He was admitted to the Illinois bar in 1949 and to the U.S. Supreme Court in 1954. While in private practice, Judge Stevens authored numerous articles on antitrust matters.

In 1970, Judge Stevens was appointed to The Seventh Circuit Court of Appeals. During his 5-years service on that bench, Judge Stevens authored over 200 opinions, an unusually high number of them in analytically difficult areas of the law. This body of judicial work has been characterized as consistently excellent and often brilliant.

Mr. President, I have examined a goodly number of those decisions and of articles which Judge Stevens has published. I am extremely impressed with his grasp of the law and his clarity of expression. I should note that Attorney General Levi, who has long been familiar with the nominee's work, testifying before the Judiciary Committee, characterized Judge Stevens' legal decisions as "gems of perfection" and a "joy to read."

During the 3-day hearings on this nomination last week before the Judiciary Committee, Mr. Warren Christopher, representing the American Bar Association, summed up that organization's evaluation of Judge Stevens as follows:

> Based upon our investigation, a restudy of our Committee's evaluation in 1970, an examination of his judicial opinions, and a personal interview with him, our committee is unanimously of the opinion that Judge Stevens meets high standards of professional competence, judicial temperament and integrity, and that is our committee's highest evaluation. To our committee this means that from the standpoint of professional qualification Judge Stevens is one of the best persons available for appointment to the Supreme Court of the United States.

Mr. President, I ask unanimous consent that the full text of the letter submitted by the ABA be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Senators STEVENSON and PERCY were equally lavish in their praise for the nominee. Characterizing his judicial philosophy Senator STEVENSON noted:

> Judge Stevens is not doctrinaire or judicially adventurous. He is a judge. His record on the bench indicated that he sees it as his duty to apply the law and not to make it.

During the course of the hearings Judge Stevens proved to be totally forthright and frank in presenting his personal history and his judicial philosophy.

In his testimony it became readily apparent that the nominee's superb knowledge of the complicated facets of the law was balanced by his obvious concern for the rights of all people. In response to a question from the committee regarding the rights of individuals who had suffered discrimination, Judge Stevens, evidencing wise judicial philosophy, stated that he would be "proud" to have the record reflect that he intended to apply the law equally to every citizen.

Included in the massive bulk of material which the committee examined in the course of processing this nomination were the nominee's Federal and State tax returns for the past 10 years, a list of all the clients of his former law firm for 3 years before he went on the bench, all of his published judicial opinions and writings, all places of residence and employment since graduation from law school, all instances in which he recused himself while on the bench, all income received and assets acquired by the nominee and members of his family since he became a judge, all relevant medical reports and doctors' statements regarding his health, and, finally, a "full field" FBI investigation. In short, the committee thoroughly examined every relevant facet of the nominee's personal, financial, medical, and professional life.

After careful consideration of the aforementioned material and testimony received at the hearings, the Judiciary Committee met in executive session last week and unamiously approved this nomination.

Mr. President, it was hoped that, given the outstanding record which this nominee has amassed during his career and the favorable action which has been taken by the Judiciary Committee, the Senate would act speedily to confirm this nomination. It is gratifying that this has come about. I do not believe that I need to belabor the point that the Supreme Court is greatly in need of the services of a ninth member. A number of important cases were put over last term for reargument this year.

Among those cases now pending are those involving the issue of the death penalty, the rights of aliens to obtain medical benefits and Federal employment, the applicability of the Fair Labor Standards Act to certain State employees and the question of whether the courts of this country have jurisdiction to examine the actions of foreign governments. These important questions which have long been unanswered by the high court have potential and profound impact on the entire nation and should be quickly resolved.

Mr. President, for me personally this nomination represents a milestone. During my tenure on the Judiciary Committee three of its present members have been involved in the confirmation hearings of all of the present members of the Supreme Court. This milestone is shared by the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) and the distinguished senior Senator from Mississippi (Mr. EASTLAND) who has been chairman of that committee during all of this period and myself.

Mr. President, it is with pleasure that I recommend this nominee to the Senate. My pleasure in making this recommendation, however, is greatly heightened by the fact that Judge Stevens so abundantly possesses and has consistently demonstrated the qualities and attributes required by a member of the Supreme Court. I am confident that he will prove himself to be an outstanding member of that Court.

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
Chicago, Ill., December 8, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is submitted in response to your invitation to the Standing Committee on Federal Judiciary of the American Bar Association to submit its opinion regarding Honorable John Paul Stevens of Illinois who has been nominated to be an Associate Justice of the Supreme Court of the United States.

Our Committee is of the opinion, based upon the investigation described below, that Judge Stevens meets high standards of professional competence, judicial temperament and integrity—the Committee's highest evaluation for potential nominees for the Supreme Court. To the Committee, this means that from the viewpoint of professional qualifications, Judge Stevens is one of the best persons available for appointment to the Supreme Court. It should be noted that the Committee does not attempt to comment on political or ideological matters.

Our Committee investigated Judge Stevens' qualifications in 1970 when he was appointed to the United States Court of Appeals for the Seventh Circuit and we then reported that Judge Stevens was Well Qualified for appointment to that judicial position. Our Committee's current inquiry regarding Judge Stevens included the following:

(I) Surveys of Judge Stevens' opinions were made for our Committee by practicing attorneys and by professors of law.

(II) All of the members of the Seventh Circuit Court of Appeals were interviewed. In addition, the Chief Judge of each of the District Courts within the Seventh Circuit was interviewed as were a number of other federal and state court judges within the Seventh Circuit.

(III) More than fifty lawyers within the Seventh Circuit who are in active practice and who would be most likely to be familiar with Judge Stevens' reputation and work were interviewed.

(IV) A number of judges and lawyers outside the Seventh Circuit were interviewed.

(V) The dean or members of the faculties of law schools in the Seventh Circuit who were most likely to know or be familiar with Judge Stevens' work were interviewed. In addition, deans and workers of law in law schools outside the Seventh Circuit were interviewed.

(VI) A member of our Committee interviewed Judge Stevens.

PROFESSIONAL BACKGROUND

Judge Stevens has a distinguished record as a student, a practicing lawyer, and as a judge He received his B.A. from the University of Chicago in 1941, graduating Phi Beta Kappa. Following service in the Navy, he attended Northwestern School of Law, where he received a J.D. in 1947. He was first in his law school class, co-editor of the Law Review, and a member of the Order of the Coif. After graduating, he served as a law clerk for one year to Mr. Justice Rutledge on the United States Supreme Court.

From September 1948 to March 1951, Judge Stevens was associated with the law firm of Poppenhusen, Johnston, Thompson and Raymond (now Jenner & Block) in Chicago. Then, from March 1951 to January 1952, he was Associate Counsel to the Subcommittee on the Study of Monopoly Power of the Committee on the Judiciary of the United States House of Representatives in Washington, D.C. Thereafter, he organized and became a member of the firm of Rothschild, Stevens and Barry when it was formed on July 1, 1952, and remained with that firm until appointed to be a judge for the United States Court of Appeals for the Seventh Circuit in 1970.

While a practicing attorney, Judge Stevens engaged in general civil practice and gained extensive experience in litigation and antitrust law. During his years of practice, Judge Stevens was a part-time member of the faculty of Northwestern University Law School (1952–1954) and the University of Chicago Law School (1955–1956), teaching courses in Trade Regulation. Prior to going on the bench, Judge Stevens authored a number of published articles concerning the antitrust laws and was a member of the Attorney General's Committee to Study Antitrust Laws in 1952.

In his practicing years, Judge Stevens was active in the bar associations, serving as chairman of several committees of the Chicago Bar Association and as a member of the Association's Board of Managers; he also served on a committee of the American Bar Association. Had Judge Stevens remained in practice, he would have become, in 1972, the President of the Chicago Bar Association.

The year before Judge Stevens was appointed to the federal bench, he served as general counsel to the Special Commission appointed by the Supreme Court of Illinois to investigate the integrity of the judgment of the Court in People v. Isaacs. He acted as the Commission's counsel during the hearings that thereafter ensued in connection with that inquiry, as a result of which two Justices of the Illinois Supreme Court resigned.

I. Survey of Judge Stevens' opinions

Judge Stevens has authored approximately 215 opinions since he went on the federal bench in 1970. All of these opinions were examined for our Committee by a group of practicing attorneys. In addition, six professors at the Harvard Law School each read 30-35 of Judge Stevens' opinions. Both the practicing lawyers and the academicians expressed admiration for the outstanding quality of Judge Stevens' opinions.

Judge Stevens' opinions cover almost every field of federal law, including civil rights, criminal law, securities law, tax law, antitrust law, labor law, patent law, administrative law and federal procedure and jurisdiction.

The opinions are of consistently high quality in each of the substantive areas of law involved. Several of the law school professors who evaluated Judge Stevens' opinions noted the excellence of particular opinions dealing with legal subjects in which they are expert. One professor characterized an opinion on federal jurisdiction as a "model of analysis"; one observed that Judge Stevens' opinions in complicated statutory interpretation cases are "excellent", and sometimes "brilliant"; an antitrust teacher pointed to "very thoughtful, sound and creative" antitrust opinions by Judge Stevens; and another professor called attention to "very good" tax opinions. This consistent excellence in opinions ranging over a broad spectrum of substantive areas indicates that Judge Stevens would be highly qualified to deal with the many complex issues which reach the Supreme Court.

Overall, Judge Stevens' opinions are well written, highly analytical, closely researched, and meticulously prepared. They reflect very high degrees of scholarship, discipline, open mindedness, and a studied effort to do justice to all parties within the framework of the law.

II. Judges in the Seventh Circuit

Judge Stevens has been unanimously endorsed by all of his colleagues on the Seventh Circuit to sit on the United States Supreme Court; several of his colleagues described him as one of the best Circuit Judges in the United States. The judges of the Seventh Circuit, in evaluating him, have used such terms as "spectacular", "outstanding", "excellent", and "tops."

Our Committee also interviewed other federal district judges in the Seventh Circuit and state court judges in the Circuit. All of the judges interviewed expressed professional praise and admiration for Judge Stevens, his ability, and his integrity. It is noteworthy that the federal district judges in the Seventh Circuit know him not only by reading his opinions but as the judge of the Seventh Circuit often designated to make presentations to all the judges of the Seventh Circuit at their conferences concerning recent landmark decisions.

III. Lawyers

Most of the lawyers interviewed practice in and around Chicago where Judge Stevens is best known. Those interviewed included a wide spectrum of lawyers, among them lawyers who represent minority groups, labor unions, large corporations, plaintiffs and defendants in personal injury work, and persons charged with crimes. Some were United States Attorneys and others were engaged in civil rights cases. Without exception, the lawyers describe Judge Stevens as being fair-minded and compassionate, as having perception of legal and factual issues, and as having judicial temperament. All praise his legal ability. Our Committee received no adverse opinion about Judge Stevens in connection with any of its inquiries from practicing lawyers although some of them have had cases decided against them by the Judge.

IV. Deans and professors of law

Our Committee spoke to either the deans or members of the faculty of the major law schools in the Chicago area and to deans and professors on faculties throughout the country who might know Judge Stevens or his work. Many of those we spoke to knew Judge Stevens personally because of his past service as a law school lecturer on the antitrust laws. All those interviewed spoke in high terms concerning Judge Stevens' accomplishments, ability, and integrity, and all indicate that he has excellent qualifications for appointment to the Supreme Court.

V. Judges and lawyers outside the Seventh Circuit

While Judge Stevens is not so well known outside the Seventh Circuit, a number of judges and lawyers contacted by the Committee either know him or are familiar with his work. The uniform reaction of those who have a basis for opinion is highly favorable. It is undoubted that Judge Stevens has made an affirmative impression on those who have become acquainted with him or his work.

VI. Interview with Judge Stevens

Judge Stevens was interviewed by a member of our Committee. Judge Stevens is a modest, friendly and even-tempered man, devoted to his family, the law, and to judicial excellence. He is thorough and fair-minded, and looks to his new position, if confirmed, with dedication, humility and enthusiasm.

During the course of inquiries concerning Judge Stevens, the Committee learned that in 1974 he underwent open heart surgery. During our interview with Judge Stevens, he was asked about his physical condition. He reported that he had made a complete recovery from his heart surgery and that he is in excellent health. His Seventh Circuit colleagues confirm that he has enjoyed a full recovery, that his health appears excellent, and that he carries a normal workload. Judge Stevens gives every appearance of being alert, vigorous, and without physical impediment. (We also understand that Judge Stevens has cooperated fully with Administration officials in enabling them to obtain a medical evaluation of his physical condition.) Based upon the information supplied to us by Judge Stevens and his colleagues, we believe that he has the health and stamina necessary to discharge the duties of a Justice of the Supreme Court.

In the personal interview with Judge Stevens, our Committee inquired about his financial holdings and off-bench activities. While he was a practicing lawyer, Judge Stevens served as a director or officer of several companies but he resigned all such positions when he was appointed to the bench in 1970. He has held no such position since he has been a member of the United States Court of Appeals for the Seventh Circuit.

Judge Stevens has filed statements of interest required of him as a federal judge and he advises us that his answers to questions concerning possible conflict of interest were all negative. He also states that he has sold most of his securities during the time he has served as a circuit judge.

Four speeches given by Judge Stevens subsequent to the time he became a sitting judge have been examined and none of them expresses an opinion on matters that were either before Judge Stevens or might come before him as a sitting judge.

CONCLUSION

During the course of our investigation (which was necessarily compressed into a relatively short period of time), our Committee attempted to inquire into all facets of Judge Stevens' career which would be relevant from a professional standpoint. Based upon this inquiry, a restudy of our Committee's 1970 report concerning Judge Stevens, the examination of his judicial opinions, and a personal interview with him, our Committee is unanimously of the view that Judge Stevens meets high standards of professional competence, judicial temperament and integrity—the Committee's highest evaluation. To repeat, this means to the Committee that from the viewpoint of professional qualifications, Judge Stevens is one of the best persons available for appointment to the Supreme Court.

This report is being filed at the commencement of the Committee's hearings. We will, as a matter of routine, review our report at the conclusion of the hearings and notify the Committee if any circumstance has developed to require a modification of our views.

Respectfully submitted,
WARREN CHRISTOPHER,
Chairman.

Mr. TUNNEY. Mr. President, the Judiciary Committee has favorably reported the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court of the United States. I voted for the nominee in committee, and I shall do so again now that the nomination is before the entire Senate.

The Constitution imposes a heavy responsibility on the U.S. Senate to advise and consent to any nominee to the Supreme Court. I view this duty with the utmost gravity; consequently, I have undertaken a most careful examination of the qualifications of Judge Stevens. The testimony presented at the hearings of the Judiciary Committee, in which I participated, as well as the opinions, FBI reports, financial statements, income tax returns, medical records, and former client list of Judge Stevens were made available to the committee before it took action. I believe that the cooperation of Judge Stevens with the committee in providing this data has been extremely beneficial to the evaluation process, and I hope that this complete disclosure of relevant information will establish a pattern to be followed during future confirmation proceedings.

As a result of extensive review of the available materials, I have concluded that John Paul Stevens is undeniably qualified to serve on the Supreme Court. He comes before the Senate with the highest recommendation from the American Bar Association. Both his opinions and his responses to questioning by members of the Judiciary Committee show impressive recall and understanding of Supreme Court decisions and the role of the judiciary.

During his 5 years as a member of the Court of Appeals for the Seventh Circuit, he has demonstrated his judicial fitness and temperament. His professional qualifications are unquestioned by those who have had contact with Judge Stevens or have studied his remarkable record of accomplishment. His personal integrity, as reflected in his financial statements and income tax returns, is of the highest order.

The intellectual capability of Judge Stevens is unchallenged. He has written more than 200 opinions as a member of the court of appeals. Those opinions, according to legal scholars who studied them in depth, illustrate the soundness of his reasoning, and his legal essays reveal a clarity and precision which highlights his competence. Beyond this, his writings indicate a depth of comprehension of antitrust matters which will prove of tremendous value in the future as the legal system is required to cope with our extremely complicated economic structure.

As chairman of the Subcommittee on Constitutional Rights of the Judiciary Committee, I have been dedicated to the task of assuring that the fundamental rights guaranteed to all citizens by the Constitution shall be preserved. Necessary to this endeavor is the full extension of such rights to groups in our society who traditionally have not enjoyed their benefits. In this regard, Judge Stevens, in his opinions in *Sprogis* v. *United Airlines, Inc.* (444 F. 2d 1194, 7th Cir. 1971) and *Doe* v. *Bellin Memorial Hospital* (479 F. 2d 756, 7th Cir. 1974) developed what can be construed as insensitivity to the struggle by women for full equality. In addition, his statements in the hearings on the equal rights amendment concern me because he seemed unfamiliar with both recent case law on equal protection of women under the 14th amendment, and the considerable public discussion justifying the need for a constitutional amendment.

When Justice Douglas resigned, I called on the President to nominate someone of his distinction and stature. In my view, several women were well qualified for the nomination, and it is certainly true that women are underrepresented on Federal and State courts at all levels. The President did not choose a woman, and after careful review of this nominee's record on women's issues, I must conclude that he is fair although not conspicuously compassionate about the needs of a majority of our population.

I fervently hope that he will retain, during his tenure on the Court, the memory of the two great Justices who have preceded him in this seat, Mr. Justice Brandeis and Mr. Justice Douglas, and that he will strive, with sensitivity and compassion, as they so gallantly did, to preserve and protect inviolate the fundamental rights of all Americans.

The ACTING PRESIDENT pro tempore. All time has expired.

Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to vote on the nomination of Mr. John P. Stevens to be an Associate Justice of the U.S. Supreme Court.

The question is, Will the Senate advise and consent to the nomination of John P. Stevens to be an Associate Justice of the U.S. Supreme Court? The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 603 Ex.]

YEAS—98

Abourezk
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—2

Allen
Bayh

The ACTING PRESIDENT pro tempore. On this vote the yeas are 98, the nays are 0. The nomination is confirmed.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will return to legislative session.

The Senate resumed the consideration of legislative business.

SENATE JOINT RESOLUTION 153—EXTENDING THE FILING DATE OF THE 1976 JOINT ECONOMIC COMMITTEE REPORT

Mr. MANSFIELD. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration. I do so on behalf of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. President, I offer this resolution at the request of the White House. It would permit the President to delay for 6 days his submission of his 1976 Economic Report as required under the Employment Act of 1946. The resolution would also authorize a corresponding delay in the report of the Joint Economic Committee on the President's report. The resolution has been agreed to by the chairman of the Joint Economic Committee and is agreeable to the minority.

The ACTING PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The joint resolution (S.J. Res. 153) was read the first time by title, and the second time at length, as follows:

SENATE JOINT RESOLUTION 153

EXTENDING THE FILING DATE OF THE 1976 JOINT ECONOMIC COMMITTEE REPORT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022(a)), the President shall transmit the 1976 Economic Report to the Congress not later than January 26, 1976, and (b) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1976 Economic Report with the Senate and the House of Representatives not later than March 19, 1976.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 153) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1975—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 5247, which will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. The time on this conference report is limited to 5 minutes, to be equally divided and controlled by the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Tennessee (Mr. BAKER).

The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, the able Senator from New Mexico (Mr. MONTOYA) serves as chairman of the Subcommittee on Economic Development of the Senate Public Works Committee. It is my desire that in the handling of the conference report, the time be turned to the disposition of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BAKER. Will the Senator yield for a brief moment?

Mr. RANDOLPH. Mr. President, I yield to my distinguished colleague from Tennessee (Mr. Baker), the ranking Republican member of the Senate Public Works Committee.

Mr. BAKER. Mr. President, the House and Senate conferees have completed action on H.R. 5247, the Public Works Employment Act of 1975.

The conference report covers several programs, principally local public works, the wastewater treatment construction amendment, the jobs opportunities program, and countercyclical assistance. I would like briefly to discuss each of these and to conclude by mentioning a new urban economic development amendment added by the House.

The first title of the conference report is the local public works construction program originally sponsored by the House. Essentially the program provides 100 percent grants for the construction of public works with priority to projects in areas with an unemployment rate equal to or above the national rate.

The House provision agreed to by the conferees is similar in purpose to that in the Senate bill, S. 1587, passed in July. The primary difference between the two bills was the size of the program. The House originally authorized $5 billion, the Senate bill authorized $1 billion. The conferees agreed to an authorization of $2.5 billion through September 1977.

A major change made by the conferees relates to the wastewater treatment construction amendment in the Senate bill. During consideration of the public works employment bill in July, the Senate adopted a floor amendment reallocating grant funds available under the wastewater treatment construction program. The amendment is popularly known as the Talmadge-Nunn amendment after its two principal Senate sponsors.

The House conferees opposed the reallocation amendment and offered an alternative to the Senate provision. The House proposal was adopted by the conferees. Under the conference agreement, allocation of the $9 billion made by the President in February would remain. Each state will receive its allocation as provided under existing law. In lieu of the reallocation, the conference report authorizes an appropriation of $1.4 billion to be allocated to the 37 States which would have received increased allotments under the Talmadge-Nunn formula. The $1.4 billion figure is the difference between what the States would receive under the existing formula, used to allocate the $9 billion, and the increases States would have received under the Talmadge-Nunn amendment. For a further explanation and tables listing each State's share, I refer each Member to the committee print entitled "Allotment of Grant Funds for the Construction of Publicly Owned Wastewater Treatment Works" which has been placed on each desk.

The authorization in the report will not be effective until fiscal year 1977 but will remain available until expended. This authority to appropriate additional funds provides a means to supplement the funds already allotted to the States under the Federal Water Pollution Control Act. The allocation agreed to by the conferees relates only to this additional authorization. The Public Works Committee intends to address the question of future authorizations and an allocation formula next year.

I am glad that the conference agreement continues the job opportunities program, as contained in the Senate bill, through September 30, 1976, with an authorization level of $500 million. The Senate bill made several changes in the program to strengthen the original intent of the program.

I cosponsored the job opportunities program last year with Senator Randolph, Senator McClure and Senator Domenici. The idea is to create meaningful jobs quickly and efficiently. I believe this approach complements the accelerated public works program contained in title I of the bill.

The conferees also adopted the Senate amendment authorizing antirecessionary grants to State and local governments. The program will begin April 1, 1976, and run for five quarters.

It is estimated that payments in the first quarter will be about $375 million. Outlays in future quarters will depend on the levels of national unemployment.

During consideration of this section, Senator Buckley cited residency requirement problems created by Department of Labor regulations under the comprehensive employment and training program—CETA. In order to avoid similar inequities and problems arising from the administration of emergency support grants under the countercyclical program, the conferees emphasize that the Federal policy on residency as a condition of employment is one of neutrality. Residency requirements for employees are to be strictly a matter of respective State or local determination, as the case may be.

Before concluding I would like to mention the urban amendment added by the House managers during the conference.

The House provision amends the Public Works and Economic Development Act to make all urban areas with a population of 50,000 or more eligible for EDA's regular long-term assistance program. The bill also authorizes for these new areas broad, special program authorities not now included in the act.

The House proposal was not included in either version of the bill in conference. The amendment which is a major departure from the existing EDA program, had not been considered by either the House Public Works Committee or the Senate. I believe legislation of this scope, authorizing new eligible areas and broad new program authority, should be carefully considered and discussed.

There may be need to change or streamline the criteria used to designate EDA areas. But this amendment goes far beyond an easing of the criteria to help distressed urban areas. In fact, it alters the entire process by which areas become eligible for aid and the way assistance is granted and used.

EDA was fashioned by Congress to promote economic development in distressed areas and criteria were established in the act for eligibility. The "need" criteria focused the limited assistance available under the program. The House amendment could make a healthy, prospering community as eligible as a distress area. There is no guide to the Secretary in administering the program. I fear our effort will become so diluted, so scattered, that the good record established by EDA over the years will be jeopardized.

The public works bills in conference were antirecessionary measures—temporary programs to create quick jobs to help ease the high level of national unemployment. The House proposal is an addition to EDA's regular long range program to promote development in distressed areas.

We may all agree that there is need to look at the urban aspects of EDA's program. This would be done, however, when the committees consider EDA extension legislation now pending before the Economic Development Subcommittees. I do not understand why this program had to be added in conference when the regular legislation will be considered early next year. I do not believe the purposes of the ongoing program are served by this method of legislating.

Mr. President, I want to acknowledge the diligence and untiring effort of the chairman, Senator Randolph, in securing an agreement on this legislation. I would also like to commend my fellow conferees Senator Montoya and Senator McClure for their attention and continued effort through this long conference.

I relinquish my time, Mr. President, to the distinguished Senator from Idaho (Mr. McClure).

Mr. MONTOYA. Mr. President, we are at last completing action on H.R. 5247, the Public Works Employment Act of 1975. I am happy to report that conferees have agreed upon a bill that will provide for tens of thousands of new jobs for those who desperately need jobs.

The bill agreed to by the conferees provides authorization for a total of $6.125 billion over a 2-year period, distributed among six different program categories. Authority is provided for some of these programs until June 30, 1976, some through the transition quarter to September 30, 1976, and others until the end of fiscal year 1977. However, the authority for fiscal year 1976 is estimated at slightly more than $2 billion.

The outlay estimates in the bill are in conformity with the congressional budget ceiling recently enacted.

After a series of meetings during late November and early December the conferees finally reached agreement. They agreed to accept:

First, $2.5 billion for fiscal years 1976 and 1977 for the House version of a construction grant program for State and local public works projects;

Second, five quarters of the Senate version of the countercyclical assistance for States and local governments—estimated cost: $1.5 billion,

Third, $125 million increase of the Senate version for fiscal year 1976 for EDA business loan program for antirecessionary assistance;

Fourth, $100 million in authority to September 30, 1976, for a new urban economic development program for cities of 50,000 population or above;

Fifth, $500 million—Senate version authorized $1 billion—for extension of title X—job opportunities program to September 30, 1976;

Sixth, $1.4 billion based on Senate's amendment for grants for the construction of publicly owned wastewater treatment facilities. The allotment of these funds will go to those States which would have received a greater allotment under the Senate-passed amendment. But no State's allotment shall be reduced below the February 1975 allotment. Funds are to be appropriated for the fiscal year ending September 30, 1977.

BACKGROUND

Mr. President, this bill is a result of a congressional initiative earlier this year to supplement existing programs such as public service jobs, and the liberalization of unemployment insurance benefits. It was to be a public works job-creating bill with the twofold purpose of providing construction-type jobs and stimulating one of America's most important industries from its near-depression doldrums.

The House first passed a $5 billion "local public works capital development and investment act." It provided 100-percent grants to State and local public works projects that were "ready to go," but had to be put on the shelf because of the recession.

The Senate Public Works Committee responded with a more modest bill—S. 1587—that authorized for fiscal year 1976 $2.125 billion for a construction grant program, an extension of both the title X job opportunities program and EDA's business loan program.

Two important amendments were added on the Senate floor to the bill: the countercyclical assistance program and the so-called Talmadge-Nunn amendment that changed the February 1975 allotment formula for grants for the construction of publicly owned wastewater treatment facilities. More than $1.4 billion would be reallocated under the terms of the latter amendment.

These amendments of course were not contemplated by the Public Works Committee in its deliberations. However, they carried the Senate by substantial margins and were added to the Public Works Employment Act of 1975, which then passed 65 to 28 on July 29.

What is the administration's view of this bill? I do not know. The President has not said flatly that he would veto it, as far as I know. I hope he will reflect on these facts before he decides:

First. Unemployment is today at an alarming 8.3 percent, with the prospect in sight that it will remain above 7 percent for more than 2 years;

Second. Unemployment in the construction industry is at a seasonally adjusted third quarter rate of 20 percent with the October rate at 17.9 percent.

Third. The construction industry is the major contributor to the national economy accounting for more than 10 percent of the GNP;

Fourth. Construction is labor intensive—physical construction activities alone employ some 5 to 6 percent of the Nation's labor force.

Fifth. The average ratio of the value of new construction put in place to national income was 12.5 percent during 1968–73, was 11.8 percent in 1974 and has declined this year to 10.5 percent;

Sixth. And, that State and local governments are cutting back on their capital programs involving massive construction outlays because of current and impending revenue shortages—a condition countercyclical assistance will help remedy.

Mr. President, this is basically an antirecession bill. Its principal goal is to provide new jobs. With unemployment at current high levels and with the expectation that they will remain high for the next couple of years, it is a timely bill.

Let me provide a summary of each program's feature in detail.

TITLE I. LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT

This is the main job-producing program in the bill. It authorizes $2.5 billion for fiscal years 1976 and 1977. It is to be administered by the Economic Development Administration in the Department of Commerce. Eligible applicants are State and local governments. Seventy percent of the projects are to be selected from areas whose unemployment rates exceed the national average, while 30 percent go to areas whose rates are between the national average and 6.5 percent. The Federal contributions to projects is 100 percent. Priority will be given to projects of which architectural and engineering work has been largely completed and are "ready to go." Eligible projects include the construction, renovation, repair or other improvement of public facilities such as municipal buildings, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets, curbs, roads, sidewalks, and lighting.

Projects are to be processed quickly—within 60 days. Onsite labor must begin within 90 days after project approval.

TITLE II. COUNTERCYCLICAL ASSISTANCE

This special assistance to cities and States hard hit by the recession recognizes that these governments are presently either reducing their work force, raising taxes, or delaying necessary capital improvement projects. Funds would be distributed on a quarterly basis to those governments which had unemployment of 6 percent or more. The amount will be determined on the basis of a two-factor formula: unemployment and adjusted taxes as a measure of services provided.

Five succeeding calendar quarters—beginning April 1, 1976—are authorized at an estimated $1.5 billion. For each quarter unemployment exceeds 6 percent, $125 million is authorized plus an additional $62.5 million for each one-half percentage point over 6 percent. Annually that would mean $500 million for exceeding the 6 percent level and an additional $250 million for each percentage point over 6 percent.

This program will be administered by the Secretary of the Treasury. One-third of the funds will be distributed to States, two-thirds to local governments.

The assistance provided would go quickly into the economy. By means of the formula, it would be selectively targeted. And it would phase itself out as the economy improves.

EDA BUSINESS DEVELOPMENT PROGRAM AMENDMENTS

The Senate bill passed earlier this year contained authority to increase EDA's business loan and guarantee program from its present 1976 authorization of $75 million to $200 million, or a $125 million increase. The conferees have accepted this provision. The bill also provides an interest supplement of up to 4 percentage points on loan guarantees to assist businesses which either need to borrow working capital during a period of exceedingly high interest rates or drastically curtail operations or close down. Either alternative increases unemployment.

JOB OPPORTUNITIES PROGRAM—TITLE X

The Senate bill authorized a $1 billion extension of this job-creating program. The conferees agreed on $500 million for the current fiscal year including the transition quarter to September 30, 1976.

Senators will recall this program originated in the Senate at the end of the last session. A half billion dollars have been appropriated for the program. Authority expires at the end of 1975. This public works jobs-creating program emphasizes projects for State and local governments that are generally improvements to existing community facilities.

The conferees believe the program merits extension, that it has demonstrated its potential for creating jobs quickly on worthwhile community projects. Amendments have been included in the bill that would tighten requirements in order to emphasize job effectiveness in the grant selection.

THE TALMADGE-NUNN AMENDMENT

Mr. President, with respect to the water pollution control funds authorized by title III of this measure, I believe the conferees have arrived at the best resolution of the issue.

The conferees agreed to the authorization of $1.4 billion to assure that no State could receive less than it would have received under the Talmadge-Nunn formula. At the same time, the compromise will not disturb the amounts allocated to the other States out of the original $9 billion authorization.

Mr. President, this is principally a public works jobs bill. It is of course more than that. But the foundation of the bill is public works. There have been criticisms that antirecession public works programs are too slow, have long leadtimes, are often capital rather than labor intensive. And that they are often too late to impact during times of economic downturn.

I think this bill answers those objections. It will only select projects "ready to go". Processing must be done quickly. Onsite employment must take place soon after project approval. And we know that unemployment is going to remain high for a period of 2 years or more.

It is one of the programs—together with countercyclical assistance, tax cuts, extended unemployment benefits, and public service jobs—this Congress is attempting to get the economy moving again and putting people back to work.

Mr. President, I wish to thank Chairman RANDOLPH for his inspiration and support during the evolution of this legislation. Thanks are due also to Senator MCCLURE for his interest and assistance to me as chairman of the Subcommittee on Economic Development. Thanks are appropriate as well to the diligent and productive staff of the Committee on Public Works.

Mr. President, I ask unanimous consent that document No. 94-25, which deals with the allotment of grant funds for the construction of publicly owned wastewater treatment works, be printed at this point in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

INTRODUCTION

The conference report on H.R. 5247 authorizes $1,417,968,050 for grants for the construction of publicly owned wastewater treatment works. This authorization supplements funds authorized by and allotted to the States under the Federal Water Pollution Control Act. The information and data in this committee print provide the basis for allotment of these funds.

Section I of this print contains data from the May 6, 1975 revision of the 1974 "Needs" survey as reported in the Report to Congress, "Cost Estimates for Construction of Publicly Owned Wastewater Treatment Facilities." Included are tables setting forth the "Needs" data for the States and estimates of 1990 population which can be utilized as a basis for allotments of construction grant funds.

Section II of this print contains a table setting forth the actual allotments to the States of the $9 billion allotted by the President in February 1975; the allotments which would have been made if the formula in H.R. 5247 as passed by the Senate, generally known as the Talmadge-Nunn formula, had been utilized to allot the $9 billion; and the differences and percentages of the differences between the two methods for those 37 States which would have received increased allotments under the Talmadge-Nunn formula.

SECTION I

Table I sets forth the "needs" for each State and the percentage of national totals as determined by the most recent EPA assessment of the "needs" for construction of treatment works and interceptor sewers. The percentages of the "needs" for each State are based only on the costs to:

(a) Provide treatment works to achieve secondary treatment,

(b) Active treatment "more stringent" than secondary treatment as required by water quality standards, and

(c) Construct interceptor sewers, force mains and pumping stations.

The data in Table I are from Table EPA-3 in the revised report, "Cost Estimates for Construction of Publicly Owned Wastewater Treatment Facilities" which was transmitted to the Congress by the Environmental Protection Agency on May 6, 1975. Detailed explanations of the development of the reported needs for construction are given in the Environmental Agency Report.

Table II sets forth data reported in Table EPA-4 of the May 6, 1975 EPA report on the Department of Commerce estimate of population of the individual States in 1990, as amended by EPA based upon data from the States, and data on the percentage for each State of the total estimated 1990 population of all the States.

TABLE I.—STATE NEEDS AND PERCENTAGE OF NATIONAL COSTS REPORTED FOR CONSTRUCTION OF TREATMENT WORKS AND INTERCEPTORS (CATEGORIES I, II, AND IVB)

[Dollar amounts in millions of 1973 dollars]

State	Needs	Percentage of national totals
Region I:		
Connecticut	$478	1.0317
Maine	273	.5892
Massachusetts	1,325	2.8600
New Hampshire	384	.8288
Rhode Island	187	.4036
Vermont	125	.2698
Region II:		
New Jersey	2,602	5.6164
New York	4,603	9.9356
Puerto Rico	368	.7943
Virgin Islands	31	.0669
Region III:		
Delaware	199	.4295
Maryland	2,324	5.0163
Virginia	1,129	2.4369
West Virginia	1,320	2.8492
Pennsylvania	1,629	3.5162
District of Columbia	69	.1489
Region IV:		
Alabama	472	1.0188
Florida	1,874	4.0450
Georgia	1,020	2.2016
Kentucky	649	1.4008
Mississippi	359	.7749
North Carolina	1,044	2.2534
South Carolina	728	1.5713
Tennessee	677	1.4613
Region V:		
Illinois	2,343	5.0573
Indiana	837	1.8066
Michigan	1,673	3.6111
Minnesota	707	1.5260
Ohio	2,367	5.1092
Wisconsin	939	2.0268
Region VI:		
Arkansas	582	1.2562
Louisiana	499	1.0770
New Mexico	97	.2093
Texas	2,025	4.3709
Oklahoma	662	1.4289
Region VII:		
Iowa	532	1.1483
Kansas	524	1.1310
Missouri	843	1.8196
Nebraska	227	.4899
Region VIII:		
Colorado	373	.8051
Montana	90	.1942
North Dakota	74	.1597
South Dakota	72	.1554
Utah	218	.4705
Wyoming	55	.1187
Region IX:		
Arizona	266	.5741
California	4,104	8.8585
Hawaii	439	.9475
Nevada	177	.3820
American Samoa	23	.0500
Guam	60	.1295
Trust territories	133	.2870
Region X:		
Alaska	319	.6885
Idaho	216	.4662
Oregon	308	.6648
Washington	675	1.4569
Total	46,328	100,000

TABLE II.—ESTIMATED 1990 POPULATION OF THE STATES AND PERCENTAGE OF NATIONAL TOTALS

[Population in thousands]

	1990 population	Percentage of total
Region I:		
Connecticut	3,946	1.54
Maine	1,142	.45
Massachusetts	7,052	2.75
New Hampshire	907	.35
Rhode Island	1,134	.44
Vermont	536	.21
Region II:		
New Jersey	8,822	3.44
New York	21,799	8.50
Puerto Rico	3,786	1.48
Virgin Islands	116	.05
Region III:		
Delaware	793	.31
Maryland	5,318	2.08
Virginia	5,958	2.33
West Virginia	1,845	.72
Pennsylvania	13,332	5.20
District of Columbia	764	.30
Region IV:		
Alabama	3,850	1.50
Florida	11,728	4.58
Georgia	5,667	2.21
Kentucky	3,741	1.46
Mississippi	2,359	.92
North Carolina	5,880	2.29
South Carolina	3,023	1.18
Tennessee	4,800	1.87
Region V:		
Illinois	13,177	5.13
Indiana	6,433	2.51
Michigan	10,961	4.27
Minnesota	4,577	1.79
Ohio	13,202	5.15
Wisconsin	5,218	2.04
Region VI:		
Arkansas	2,068	.81
Louisiana	4,159	1.62
New Mexico	1,232	.48
Texas	13,666	5.33
Oklahoma	2,942	1.15
Region VII:		
Iowa	3,053	1.23
Kansas	2,509	.98
Missouri	5,488	2.14
Nebraska	1,562	.61
Region VIII:		
Colorado	2,848	1.11
Montana	714	.28
North Dakota	606	.24
South Dakota	643	.25
Utah	1,509	.59
Wyoming	600	.23
Region IX:		
Arizona	3,384	1.32
California	26,601	10.37
Hawaii	1,010	.39
Nevada	933	.36
American Samoa	40	.02
Guam	275	.11
Trust Territories	205	.08
Region X:		
Alaska	408	.16
Idaho	758	.30
Oregon	2,943	1.15
Washington	4,194	1.64
Total	256,216	100.00

Note: The Talmadge-Nunn allotment formula was based ½ on needs (table I) and ½ on population (table II). The percentage allotments to all the States which would have been made under Talmadge-Nunn, using ½ needs and ½ population, are set forth in table III.

Table III—Percentage allotments to all the States based on 1974 "needs" study—one-half on category I, II, and IVB needs and one-half on 1990 population (Talmadge-Nunn)

	Percent
Region I:	
Connecticut	1.29
Maine	0.53
Massachusetts	2.86
New Hampshire	0.59
Rhode Island	0.42
Vermont	0.24
Region II:	
New Jersey	4.65
New York	9.31
Puerto Rico	1.15
Virgin Islands	0.06
Region III:	
Delaware	0.37
Maryland	3.39
Pennsylvania	4.44
Virginia	2.39
West Virginia	1.64
District of Columbia	0.22
Region IV:	
Alabama	1.26
Florida	4.31
Georgia	2.20
Kentucky	1.38
Mississippi	0.83
North Carolina	2.26
South Carolina	1.40
Tennessee	1.65

Table III—Percentage allotments to all the States based on 1974 "needs" study—one-half on category I, II, and IVB needs and one-half on 1990 population (Talmadge-Nunn)—Continued

Region V:	
Illinois	5.08
Indiana	2.16
Michigan	3.81
Minnesota	1.63
Ohio	5.03
Wisconsin	2.00
Region VI:	
Arkansas	0.99
Louisiana	1.39
New Mexico	0.35
Oklahoma	1.24
Texas	4.76
Region VII:	
Iowa	1.16
Kansas	1.06
Missouri	2.02
Nebraska	0.57
Region VIII:	
Colorado	0.95
Montana	0.24
North Dakota	0.21
South Dakota	0.21
Utah	0.57
Wyoming	0.18
Region IX:	
Arizona	0.97
California	9.83
Hawaii	0.69
Nevada	0.37
American Samoa	0.03
Tr. Terr. of Pac. Islds	0.20
Guam	0.12
Region X:	
Alaska	0.48
Idaho	0.38
Oregon	0.92
Washington	1.56
Total	100

SECTION II

In February 1975, the President allotted a total of $9 billion to the States in accordance with formulas prescribed in the Federal Water Pollution Control Act. Column 2 of Table IV sets forth the actual allotment to the States of this $9 billion. The data in Column 2 were reported in the Federal Register, Vol. 40, No. 40, February 27, 1975.

If the formula based one-half upon population of each State and one-half upon the Categories I, II and IVB needs reported by EPA for that State (the Talmadge-Nunn formula—Table III) had been utilized to allot the $9 billion the allotments would have been made as set forth in Column 3 of Table IV.

Column 4 of Table IV sets forth the difference in allotments between that which was allotted to each State in February 1975 from the $9 billion (Column 2) and that which would have been allotted if the Talmadge-Nunn formula had been used (Column 3). The differences are given only for the 37 States which would have received a larger allotment under the Talmadge-Nunn formula.

Column 5 of Table IV sets forth the percentages for each State of the differences given in Column 4.

TABLE IV.—FEBRUARY 1975 ALLOTMENT OF $9,000,000,000, PROPOSED ALLOTMENT OF $9,000,000,000 BASED ON TALMADGE-NUNN AND THE DIFFERENCE BETWEEN THE 2 FORMULAS

Column (1)	Allotment (February 1975) of fiscal year 1973-75 funds held in reserve (2)	Proposed allotment based ½ on 1974 needs and ½ on 1990 population (3)	Difference (4)	Percentage of difference in col. 4 (5)
Total	$9,000,000,000	$9,000,000,000	$1,417,968,050	100.000
Region I	674,701,650	527,724,000		
Connecticut	155,091,800	115,740,000		
Maine	78,495,200	46,566,000		
Massachusetts	295,809,100	252,558,000		
New Hampshire	77,199,350	53,226,000		
Rhode Island	45,599,600	38,079,000		
Vermont	22,506,600	21,555,000		
Region II	1,799,639,300	1,344,942,000		
New Jersey	660,830,500	407,682,000		
New York	1,046,103,500	829,971,000		
Puerto Rico	84,910,500	102,240,000	17,329,500	1.22
Virgin Islands	7,794,800	5,049,000		
Region III	1,236,806,000	1,139,832,000		
Delaware	56,394,900	33,264,000		
Maryland	297,705,300	319,140,000	21,434,700	1.51
Pennsylvania	498,984,900	392,382,000		
Virginia	251,809,000	214,308,000		
West Virginia	59,419,900	160,614,000	101,194,100	7.14
District of Columbia	72,492,000	20,124,000		
Region IV	936,823,150	1,383,687,000		
Alabama	43,975,950	113,463,000	69,487,050	4.90
Florida	345,870,100	388,098,000	42,137,900	2.97
Georgia	117,772,800	198,603,000	80,830,200	5.70
Kentucky	90,430,800	128,745,000	38,314,200	2.70
Mississippi	38,735,200	76,311,000	37,575,800	2.65
North Carolina	110,345,000	204,678,000	94,333,000	6.65
South Carolina	82,341,900	123,804,000	41,462,100	2.92
Tennessee	107,351,400	150,075,000	42,723,600	3.01
Region V	2,263,901,400	1,801,998,000		
Illinois	571,698,400	459,009,000		
Indiana	251,631,800	194,283,000		
Michigan	625,991,900	355,014,000		
Minnesota	172,024,500	149,058,000		
Ohio	$497,227,400	$461,781,000		
Wisconsin	145,327,400	182,853,000	$37,525,600	2.65
Region VI	365,858,400	798,111,000		
Arkansas	39,822,700	92,853,000	53,030,300	3.74
Louisiana	71,712,250	121,509,000	49,796,750	3.51
New Mexico	15,054,900	31,059,000	16,004,100	1.13
Oklahoma	64,298,700	115,974,000	51,675,300	3.64
Texas	174,969,850	436,716,000	261,746,150	18.46
Region VII	349,849,800	428,013,000		
Iowa	100,044,900	105,300,000	5,255,100	.37
Kansas	53,794,200	94,968,000	41,173,800	2.90
Missouri	157,471,200	178,263,000	20,791,800	1.47
Nebraska	38,539,500	49,482,000	10,942,500	.77
Region VIII	88,288,650	207,225,000		
Colorado	43,113,300	86,256,000	43,142,700	3.04
Montana	12,378,200	21,276,000	8,897,800	.63
North Dakota	2,802,000	17,838,000	15,036,000	1.06
South Dakota	5,688,000	18,288,000	12,600,000	.89
Utah	21,376,500	47,682,000	26,305,500	1.86
Wyoming	2,930,650	15,885,000	12,954,350	.91
Region IX	1,058,163,550	1,075,203,000		
Arizona	18,833,450	85,275,000	66,441,550	4.69
California	945,776,800	865,845,000		
Hawaii	51,903,300	60,381,000	8,477,700	.60
Nevada	31,839,800	33,579,000	1,739,200	.13
American Samoa	738,200	2,952,000	2,213,800	.16
Trust Territory of the Pacific Islands	2,672,800	16,515,000	13,842,200	.98
Guam	6,399,200	10,656,000	4,256,800	.30
Region X	225,968,100	293,265,000		
Alaska	25,250,500	38,151,000	12,900,500	.91
Idaho	19,219,100	34,290,000	15,070,900	1.06
Oregon	77,582,900	81,603,000	4,020,100	.28
Washington	103,915,600	139,221,000	35,305,400	2.49

Mr. MONTOYA. Mr. President, this conference report is the result of many months of work on the part of the Senate and House Public Works Committees. We have had quite a lengthy conference on the divergent bills passed by the respective Houses. I believe we are presenting in this conference report a good consensus of practical programs to put people to work or to keep their present jobs during the next fiscal year and beyond that.

I do not want to burden the Senate with too much discussion on this matter. I merely want to say that the Republicans on the committee as well as the Democrats have labored hard and there was no real political division. It was an effort to arrive at something that would contribute significantly to putting men and women who are unemployed back to work.

The Senate added a countercyclical assistance amendment, and we preserved the essence of that program. We were able to retain authority for five quarters, beginning April 1, 1976.

Also in the conference we developed a new concept for urban economic development, authorizing $50 million for fiscal year 1976 and $50 million for the transition quarter ending September 30, 1976.

The public works programs in the bill total $3.225 billion. In addition to this, countercyclical assistance is estimated at $1,500,000,000, for 5 quarters, and the Talmadge-Nunn amendment, which was initially adopted as an amendment on the Senate floor, provides $1,400,000,000 Federal water pollution control grants.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. MONTOYA. Mr. President, I urge the adoption of the conference report.

Mr. RANDOLPH. Mr. President, the conference report before the Senate is the culmination of a legislative process that began early this year. It was undertaken as a response to the recession that had slowed economic growth and brought heavy unemployment in our country. Those conditions continue to exist and the programs contained in this measure are urgently needed now as they were in the early months of 1975.

This measure was carefully developed both in the Senate and in the House of Representatives. Initially, there were some differences of approach as we attempted to solve difficult problems. I believe, though, that this conference report contains the best features of both the Senate and House bills. It is a balanced, well-reasoned and totally workable attack on the recession. I commend the able Senator from New Mexico (Mr. MONTOYA) for his leadership as chairman of our Subcommittee on Economic Development and as an active participant in the conference. This legislation also reflects the concern and involvement of the other Senate conferees, Senators MUSKIE, BURDICK, RIBICOFF, GLENN, BAKER, BUCKLEY, MCCLURE, ROTH, and JAVITS and myself.

Mr. President, this measure recognizes the great value of public works activities as an economic stimulator. A particular asset of public works programs is their ability to stimulate employment far beyond individual projects. Public works benefits entire communities and results in increased business in many diverse areas. Throughout our history, we have turned to public works in times of economic distress. The results have been good and I am confident that the implementation of activities authorized by this legislation will be of great value in restoring health to our national economy. I do not accept—and I do not believe Members of the Senate accept—the belief that the recession will cure itself if left alone. The truth is that our economy is still sluggish. In fact, the Federal Reserve Board has reported that industrial production grew by only 0.2 percent last month, half of the rate in the preceding month and a mere fraction of the 1.8-percent increase in September. Unemployment is 8.3 percent and would be even higher if many people had not become discouraged and removed themselves from the labor force. The overall industrial index is higher than it was early this year, but the erratic performance of most economic indicators seems to reflect our inability to effect a strong and sustained recovery. Unemployment in the construction industry is 17.3 percent, more than twice the national average. This means that 771,000 people are now without jobs in an industry with a normal work force of 4.5 million. The provisions of this legislation would attack one of the most serious aspects of unemployment.

Mr. President, this measure provides great flexibility in placing the authorized funds to work in building public facilities and creating jobs. Such freedom of choice is important if we are to obtain the maximum benefit from this effort. One of the well-documented attractions of public works programs in time of economic distress are the residual benefits that remain after the projects are completed. Throughout this country, citizens are utilizing public facilities that were constructed during the great depression of the 1930's. The permanence and continuing benefit of these projects is to me one of most realistic features of the approach we have adopted to combat the recession.

Mr. President, this legislation is needed. I believe that the implementation of its provisions would be felt quickly in a stronger economy. I urge its adoption.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will vote for the conference report on H.R. 5247, the Public Works Employment Act of 1975, but I have reservations about the new urban program added by the House conferees which I will outline shortly.

Other Members have discussed the separate programs included in the conference report, but I want to briefly mention several sections of the legislation.

The conferees agreed to continue the jobs opportunities program through September 30, 1977, with an authorization of $500 million. The report includes the amendments made by the Senate to the existing program. These amendments were included in S. 1587 and were more fully discussed at that time. Primarily the amendments are intended to clarify and strengthen the original intent of the program.

On November 5, the Economic Development Subcommittee held hearings on the jobs opportunities program—how it is being implemented, what types of activities are being selected, the process and criteria used for selection, and the overall impact of the program.

I am concerned—and I am sure other members of the committee share my concern—about the large number of public service jobs projects selected under the most recent appropriation. The purpose of the program is to maintain or create jobs in the private sector, to provide communities an alternative to public service jobs. During the subcommittee hearings I questioned witnesses from the Department of Commerce and Assistant Secretary Mizell about the large number of public service activities. From information gained in the hearings, I believe the priority given "labor intensive" criteria in selecting projects resulted in the large number of straight public service jobs. The Senate amendments to existing law strike this language and emphasize the intent of the legislation, which is to select the most "job effective" activities.

I believe this change will remove the bias in the act toward public service jobs and will result in the selection of activities reflecting the original idea of the program. I am pleased the conferees have agreed to a second round of the program, allowing an opportunity to determine the effectiveness and efficiency of this approach in stimulating jobs.

Concern has also been expressed that funds under the jobs opportunities program are being used to substitute for, rather than supplement, an agency's ongoing activities. I consider this a misuse of the funds. and where this has occurred I would urge the Administrator to have the job opportunity funds returned and reused properly. A new section was added to the act by the conference to make clear that funds authorized for this program are to be in addition to funds already budgeted by another agency, and in addition to any future appropriations available to an agency.

The conferees agreed to include a version of the interest subsidy program authorized in the Senate bill. As agreed to, the Secretary of Commerce is authorized to make interest subsidy payments on loans guaranteed by EDA. The conferees removed the limitation to working capital loans contained in the Senate bill but limited the section to calendar year 1976, as this is a temporary, antirecessionary program to be tried during this period when high interest rates put borrowing beyond the capacity of many businesses. The committee will have an opportunity to review the value of this approach as an antirecessionary measure during hearings next year.

The $2.5 billion local public works program adopted by the conferees is basically the language of the House bill. The conferees made changes in the architectual and engineering grant section to clarify the intent that these grants are to be used for projects which will result very quickly in work on the job site. The provision is not to be used for stretching the time frame on projects. The stated purpose of the local public works bill is to move projects that are ready to go—to create jobs quickly. The change in the architectual, engineering, and related planning section is to bring these grants into conformity with the intent of the legislation.

I would like to mention my reservation about the urban development amendment offered by the House conferees. The amendment was not included in either the House or Senate versions of the bill and, as new matter contained in neither bill, was outside the scope of the conference and, in my opinion, may be subject to a point of order.

The provision creates a new, special class of eligible areas under the regular long-term development programs of the Public Works and Economic Development Act. Under the new section, any urban area with a population of 50,000 or more is considered eligible to receive aid under the regular programs of the Economic Development Administration. These areas will not be required to meet any of the criteria in the act used to measure distress—such as severe unemployment, low incomes, or abrupt disruptions in the local economy. These criteria, however, must continue to be applied to all other areas before they can be considered eligible for EDA assistance.

The amendment also authorizes expanded, special authorities for these new urban areas, which are not included in the present law, and which have not been thoroughly considered.

A change of this magnitude in the purpose and policies of an ongoing program deserves more consideration and discussion than can be given by a conference committee. Substantive changes which have the potential of redirecting programs should be thoroughly scrutinized in the committees and by the Congress.

The effect of the House manager's amendment is more than to simply make it easier to designate urban areas in need of assistance. In fact, over 180 communities included by the new section are already eligible, in whole or in part, under the criteria presently in the law. The

House language makes healthy, prosperous communities as eligible as areas of poverty and chronic unemployment. There is no criteria for eligibility other than population. There is no criteria or directive given the Secretary in selecting areas for assistance. All a community must do is file a plan to be approved by the Secretary. The planning requirement does not establish any criteria. The House conferees strongly opposed, and would not permit, any changes to bring the provision into conformity with existing law.

The amendment had not been considered by the Economic Development Subcommittee or the full House Committee on Public Works and Transportation before it was offered during the conference. Neither has this amendment, or any similar language, been the subject of hearings or consideration by the Senate Public Works Committee.

Legislation extending the regular Public Works and Economic Development Act is pending before the Economic Development Subcommittee, on which I serve as ranking Republican member. The subcommittee could have considered this amendment when it takes up the extension legislation early next year. I do not believe there was such urgency as to require the approach taken by the House.

In conference, we were able to limit the program to fiscal year 1976 and the transition quarter so the two authorizing committees will have an opportunity to review and rewrite this section next year.

Mr. President, I shall briefly refer to two points: One is that yesterday there was some discussion about the possibility that a point of order might be raised against the conference report for including a matter which was not in either the Senate- or House-passed measure and, therefore, improperly included, in my judgment, in this conference report.

I am not going to make that point of order. I make that announcement only so that any other Member of the Senate who may have been relying upon the conversation yesterday, who desired to do so in their own right, might have that notification.

Second, for the record I want to state very clearly how much is involved in this conference report. There is $2.5 billion in it for the local public works projects. There is $125 million for the EDA loan programs; $500 million under the job opportunities program, title X of the Public Works and Economic Development Act; $100 million in the new and somewhat questionable urban economic development section that was added in the conference.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may proceed for 2 minutes. He said he would not make a point of order. I think it would save the Senate's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Idaho is further recognized.

Mr. McCLURE. I thank the Senator for that courtesy.

There is, in addition, $1.4 billion involved in the application of the Talmadge-Nunn amendment to the waste water treatment construction grant program and $375 million in first quarter obligations under countercyclical revenue sharing.

In addition to that, it was decided that this countercyclical revenue sharing this countercyclical revenue sharing program should be extended for five quarters. So there will be four additional quarters, and the projections for these quarters would indicate a total of $1,125,000,000 This amount could vary, depending on the national unemployment rate.

When we add up all of these items, this is a bill in agreement in conference totaling $6,125,000,000. I state that only so that everyone can recognize that it is not the $3 billion-plus or the $4¾ billion that some people are talking about. It actually totals $6,125,000,000.

Mr. President, I thank the Senator from West Virginia for his courtesy. I thank the chairman of the full committee, Mr. RANDOLPH, and the ranking Republican member, Mr. BAKER, for the courtesies and help extended to us.

We have a very difficult conference report. I think the Senate has not yet seen the last of the questions that may be raised as a result of the injection of the new materials that were not properly before the conference.

Mr. President, I urge my colleagues to vote in favor of the conference report.

Mr. MUSKIE. Mr. President, I would like to express my strong support for the conference report on H.R. 5247.

This legislation is a major congressional response to our No. 1 national problem—unemployment. It is aimed at putting people back to work, both in the public and private sectors.

Most importantly, it will do this at a cost within the limits set by this Congress, under the new budget process. The second concurrent resolution provided for $3.9 billion in budget authority and $1 billion in outlays for fiscal year 1976 for this legislative package. The legislation itself is well within those limits, providing for $3.5 billion in authorization and about $650 million in outlays for fiscal year 1976.

Although I support this entire package, I am, of course, particularly interested in title II, the countercyclical assistance program, which I first proposed with Senators HUMPHREY and BROCK last winter, and which passed the Senate on July 29 as an amendment to the Senate public works bill.

As reported by the conference, the title II program is virtually identical to the original version of the bill, except that the authorization period was reduced by the conferees from 12 calendar quarters to 5.

I am extremely pleased that the conferees were able to agree on retaining the countercyclical program, because I believe the need for it becomes clearer all the time.

We are now in our 12th month of national unemployment in excess of 8 percent. If the impact of recession on State and local governments was not as clearly felt last spring, it is definitely beginning to be felt now.

Over the last several weeks, our attention has been focused on the fiscal crisis in New York City. But, as a recent editorial in the Portland Press Herald notes, the disease has spread far beyond New York. Even the State of Maine, traditionally a fiscally conservative place, is now facing a possible budget deficit caused by sluggish tax revenues.

A recent article in the New York Times, December 2, 1975, pointed to the dramatic slowdown in State and local spending, a factor which could very well retard recovery from the recession.

All across our country State and local governments are taking budget-related actions that exacerbate the recession and reduce the impact of Federal Government efforts to stimulate economic recovery.

They are laying off their employees when our objective is to put people back to work.

They are raising their taxes when we are cutting Federal taxes to stimulate recovery in the private sector.

And they are delaying or canceling capital projects when the construction industry remains among the most depressed in our economy.

Just last night, for example, Mayor Ken Gibson, of Newark, announced the layoff of 582 workers in his city, including 129 policemen and firemen.

The State of Connecticut, to cite another example, has increased taxes nearly $200 million this year to balance its budget—and it still sent out layoff notices to employees earlier this month.

And in Massachusetts, New Jersey, Georgia, and Florida, to name just a few, capital projects have either been delayed or terminated.

Mr. President, this legislation, and the countercyclical assistance provision, in particular, is aimed at preventing counterproductive State and local budget actions like those I have described.

So I hope that we can move quickly today to approve this measure, and that the House will follow suit shortly. Countercyclical assistance to State and local governments is an idea which meets virtually every criterion of a sound antirecession policy. It will get money out into the economy quickly, help most those places which have been hardest hit by the recession, and turn itself off when the recession has subsided.

Most importantly, I emphasize that countercyclical assistance will strengthen the hand of the Federal Government in dealing with the recession.

The combination of public works and countercyclical aid to State and local governments is a unique one. But I think the two approaches are logical complements to one another. Complete recovery from the recession promises to be slow, with high unemployment lingering well into the second half of the decade. A solid antirecession program, therefore, should be one with both immediate and long-range impact, aimed at both the private and public sectors of the economy. H.R. 5247 is just such a proposal.

Mr. President, I should like to point out that we did not come easily to this point in our consideration of this anti-recession legislation. It is now nearly 5 months since we passed this legislation in the Senate. It was difficult to preserve the comprehensive public works—countercyclical assistance thrust of the Senate-passed bill and to work out a reasonable compromise on the Talmadge-Nunn amendment to the Water Pollution Control Act.

But we have overcome those hurdles, and the conference report before us deserves the overwhelming support of the Senate.

I ask unanimous consent that the article from the December 2, 1975, New York Times, and the editorial from the December 8, 1975, Portland Press Herald be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 2, 1975]

CITIES AND STATES SLOWING SPENDING—HARM SEEN TO RECOVERY—NEW YORK'S CRISIS CITED AS INTENSIFYING LAG

(By Soma Golden)

Spending by state and local governments has been a steady and powerful generator of jobs and incomes in the United States for most of the period since World War II.

But for a variety of political, financial and demographic reasons, this spending has begun to slow—with potentially adverse effects on the expected economic recovery. This slowdown, which experts say could last several years, has apparently been intensified by New York City's financial crisis.

With state and local spending accounting for 15 percent of gross national product, slower growth in this $230 billion sector could lead to slower growth in the economy as a whole. Instead of the 5 to 6 percent yearly increase in such spending, analysts expect real growth for 1976, and probably for the rest of the decade, to be closer to 2 or 3 percent a year.

"The state and local sector is just too big to ignore," said Otto Eckstein of Data Resources Ins., an economics research company. "Any major change in the expenditure trends of this enormous sector will have an economy-wide impact." He noted that, in contrast, Federal spending accounts for only 9 percent of G.N.P.

"The question now is whether the growth of the state and local sector will stop altogether under the impact of New York City's problems," he added.

FEW PROJECTS PLANNED

Indeed, a check of two dozen state and local governments around the country found virtually none contemplating a major initiative in budgetary outlays for the years immediately ahead. Instead, officials seem hard-pressed even to follow through on existing spending plans as the recession's aftermath continues to sap their revenues and inflation continues to raise their costs.

Although most local and state officials publicly deny that New York City's problems have changed their budgetary practices, various outside economists think otherwise. A key Administration economist points to what he calls "a consciousness-raising" effect from New York City's disastrous reliance on heavy deficit financing.

In Illinois, for example, Gov. Daniel Walker has slashed his record $10.8 billion state budget by 6 percent through vetoes. If he is overridden by his legislature, the Governor has promised to raise taxes—rather than borrow—to cover the deficit.

CITY'S PATH CITED

Borrowing, says Governor Walker, "is the road that New York City went, and I will not take Illinois down the New York City road."

New York City, of course, is also trying to reduce spending. Markets slammed shut to the city last spring and New York has gone through a series of desperate financial gymnastics to pay its bills and trim its sails.

Despite the Administration's decision last week to offer the city seasonal loans for the next three years, New York has cut $300 million from its budget this year, which puts the budget at about $12 billion. Some $200 million of cuts must still be found to meet stringencies imposed on Mayor Beame by the Emergency Financial Control Board.

Another $800 million of potential city spending has been eliminated by a drastic slash in the capital budget, used primarily to finance construction programs and financed by long-term borrowing.

The state legislature, meanwhile, is locked in a partisan debate about how big the state's deficit is and what taxes are necessary to close the gap. A modest $70 million or so has been cut from the state budget this year. The deficit however, is probably in the vicinity of $700 million.

IMPACT IS UNCERTAIN

How state and local cutbacks will affect the national economy is something about which economists disagree.

Arthur M. Okun, a former Democratic chairman of the President's Council of Economic Advisers, says the new restraint in lower-level governments "does not mark the difference between recovery and recession." But "it's a relatively negative factor in the outlook now compared with two months ago," he said.

Mr. Okun, who is now with the Brookings Institution, a nonprofit research center, has cut a half a percentage point off his earlier forecast of 6 to 7 percent real output growth for next year to compensate for the new fiscal scrutiny under way in state capitals and city halls.

But one top Administration analyst, Rudolph G. Penner, senior economist at the Office of Management and Budget, disagrees, calling the Okun estimate "an exaggeration." he concedes, however, that in the short run the new restraint by lower-level governments could moderate the recovery.

Payrolls at state capitals and city halls now account for about 14 percent of the nation's total employment. The sector's jobs have grown faster in recent years than total United States employment and five times faster than Federal employment.

But the experience of past years—with spending propelled by the growth of Federal grants programs, the rise in welfare rolls, the Federal highway program, the increase in salaries of public employees. Federal revenue sharing may not be repeated.

Changes are already under way. According to a recent survey of 48 states and 140 local governments by the Joint Economic Committee of Congress, at least $8 billion has been drained out of the sector's spending stream during 1975 by emergency budget actions at the state and local level.

One result of these moves, the study says, is the elimination of about 140,000 government jobs—the equivalent of a little over a tenth of a percentage point in the unemployment rate.

The $8 billion of changes turned up by the survey came in three forms of governmental action: $3.6 billion of tax increases, $3.3 billion of cuts in current outlays and a $1 billion in postponed capital construction projects.

It is considered ironic by any observers that at a time when the Federal Government has cut taxes once and contemplates cutting them again to stimulate the economy, state and local governments are heading in the opposite direction, taking stimulus out of the system in an effort to achieve fiscal respectability.

STATUTES CURB DEFICITS

The reason, in part, is that states, cities and counties—unlike the Federal Government—are generally bound by statutes to run their affairs without running deficits. Borrowing money is allowed, but, in general, only to finance capital expenditures or to tide the government over a cash-flow problem until revenues from another source come in.

Although borrowing money is one way to bridge a budget gap, New York City's difficulties this year in repaying its creditors has soured the municipal market for many government borrowers. Although total borrowing this year is expected to be near record highs of $251 billion, raising interest rates have frightened voters into rejecting new bond issues for additional capital spending.

This has forced many governments to pursue the tough political course of raising taxes or cutting outlays to make ends meet.

As a result, states and localities are spending money at roughly a record-breaking $10 billion annual rate of deficit. Without the $8 billion of spending cuts and tax increases reported to the Joint Economic Committee, the deficit would amount to $18 billion.

This marks a dramatic turnaround from the $4 billion surpluses that the sector ran in the prerecession year of 1972. The result was an $8 billion deficit during 1974, a year of deep recession and rampant inflation.

These official deficit figures, from the Federal Government's National Income Accounts, omit an additional $24 billion of long-term debt issued this year, a near record amount.

STRINGENT BUDGET POLICIES

The states and cities reporting the most stringent budgetary actions are those with the weakest local economic conditions and the highest unemployment rates.

The Joint Committee found a "significant mismatch" between resources and needs when it analyzed the fiscal conditions of three groups of states—those that produce energy, the farm states, and those with high unemployment.

The 13 energy producers, according to the report, are in "a very strong financial position" on average. These are Alabama, Arkansas, Oklahoma, Texas, Louisiana, West Virginia, Ohio, Utah, Indiana, New Mexico, Montana, Wyoming and Tennessee. Overall, these states pursued very moderate spending cuts or tax increases this year.

The 18 states with relatively high unemployment were Oregon, Washington, Delaware, Pennsylvania, Florida, Georgia, North and South Carolina, Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Michigan, California, and Nevada.

Another relatively prosperous group of states discovered by the Congressional study are eight heavily agricultural states, namely Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, Kansas, Nebraska and Idaho. They also were able to avoid major moves toward budgetary restraint during 1975.

"In 1973 and 1974 we had a net transfer of wealth in the United States to the energy or farm producer-states," said Ralph Schlosstein, an economist with the Joint Economic Committee, who directed the group's study.

However, a recent drop in farm prices and farm income. Mr. Schlosstein said, could put the farm states into the same difficult predicament as the 18 states in the study with jobless rates at or above the national average.

As a group, these states have "severe financial problems." They have been hit by the recession on both sides of their budgets—expenditures up for unemployment compensation and welfare, while revenues have been reduced. And they have little surplus left to live off this year, the study said.

The result has been a necessity on the part of officials in these areas to cut spending or raise taxes of citizens who can ill afford it.

"Restraints are being put on hardest in just those regions and states with the worst economies," Mr. Schlosstein said.

Officials in these areas hardest hit by unemployment seem to agree. In Detroit and Newark, they endorsed the effort in Congress to adopt counter-cyclical revenue sharing on top of the existing non-cyclical program that pumps out about $6 billion a year for state and local governments.

Although the immediate economic strain in the United States has obviously taken its toll on state and local spending, analysts insist that more than the business cycle is at work to cut back growth of the sector.

A major dampening force, they say, began in the late 1960's when the nation's school-age population dropped, lifting the pressure on lower-level governments to spend money on education outlays.

An even more powerful potential force in dampening the growth of state and local spending may be what a Congressional budget expert called "the fundamental fedupness of this country with public spending." He, like many others, attributed popularity of Edmund G. Brown Jr., Governor of California to this anti-government spirit.

Governor Brown is struggling now to hold California spending increases to as most, the inflation rate by forcing what he calls "very tough choices" on the legislature choices between salary increases and education at outlays, between colleges and child care, between health and conservation.

TAX DEMAND SEEN

"I know there will be a strong demand for new beer and liquor taxes and an increase in the gasoline tax," Governor Brown says. "But I certainly will work to avoid them as I did in the last year. I have a rather jaundiced view of any new taxes."

A similar sentiment was expressed by the Governor of Texas, Dolph Briscoe. Though he is feeling little financial pressure these days because of his state's energy tax revenues, he is already worrying about balancing the budget in fiscal 1978—two years away. To avoid a tax increase then, he has pledged to trim the budget.

A similar attitude prevails in the state house in Massachusetts, where Gov. Michael S. Dukakis has just acceded reluctantly to a $364 million tax package to support his minimal budget of $3 billion.

[From the Portland Press Herald, Dec. 8, 1975]

Budget Crises

The nation has become so preoccupied with New York City's desperate financial situation that it tends to overlook painful symptoms of the same illness elsewhere in the country.

Budget crises may not be of epidemic proportions but they are so common as to indicate a widespread fiscal problem.

Right here in Maine it's almost impossible to know what the financial situation is. Governor Longley's office talks of costs reduced, money saved and the prospect of a legislative session without a tax increase.

But members of the Appropriations and Financial Affairs Committee warn that only swift action can avoid a financial crisis in the state's affairs. They say they have found no substantial savings, that a school deficit could go as high as $9 million and that the state income will fall short $2–$3 million. There are mutterings of a strike by state employes unless wages are adjusted and the University of Maine is taking drastic action to meet its money problem.

In the preoccupation with New York City, it was hardly noticed that one of that city's smaller municipal neighbors, Yonkers, was rescued from default. Governor Carey and the state legislature provided $25 million in emergency aid in return for which Yonkers surrendered its fiscal responsibility to an Emergency Financial Control Board.

The Commonwealth of Massachusetts is in shaky financial condition. Bay State officials have overestimated revenues, including federal aid that never materialized, while underestimating expenses, particularly welfare. At the same time, costly new social programs were introduced.

The nation's Capital is in trouble too. The District of Columbia faces a $45.5 million budget deficit this year and it has $1 billion in unfunded pension obligations. As in New York City, the ratio of municipal workers to city residents is unusually high.

New York City's condition is acute. But it is an illness to which a great many cities and states are susceptible and Maine is not without its symptoms.

Mr. HUMPHREY. I support the Local Government Public Works, Capital Development and Investment Act of 1975, H.R. 5247. I support this bill because it is an integral component of any realistic economic recovery program. It will create jobs both in the public and private sectors, it will reinvigorate the construction industry, and it will assure the continual provision of essential public services.

While every section of this bill will make a meaningful contribution to the strength of economic recovery, I would like to speak specifically about the title of this bill which provides emergency antirecession grants to State and local governments. This idea, I am proud to say, was first offered to Congress by the Joint Economic Committee, which I chair. In its 1971 "Mid-Year Review of the Economy" the Joint Economic Committee recommended:

> The Federal Government should adopt a system of grant payments to compensate state and local governments for the shortfall in their own tax revenues caused by high unemployment.

A similar recommendation was reiterated in the committee's December report "Achieving Price Stability Through Economic Growth" and later in the "1975 Joint Economic Committee Report." The countercyclical aid proposal that I sponsored with my distinguished colleagues from Maine (Mr. Muskie) and Tennessee (Mr. Brock) in April, and which is now incorporated in this legislation, contains many of the same provisions that the Joint Economic Committee has consistently recommended since 1971.

As Members of the Senate are aware, State and local governments have been victimized by an unprecedented budget squeeze. Last year, runaway inflation and soaring energy prices played havoc with the costs of providing essential State and local government services. This year, recession has administered the second blow of the economic double whammy—seriously reducing the revenues received by State and local governments and causing expeditures for unemployment-related services to soar.

Back in May the joint economic committee surveyed 48 States and 140 local governments and found that they were undertaking unprecedented tax increases, expenditure cutbacks and employee layoffs in order to keep their budgets in balance. States, counties and cities were raising taxes by $3.6 billion, cutting current service expenditures by $3.3 billion and canceling $1 billion worth of capital construction. A total of 140,000 employees were going to be laid off or not replaced due to the recession. These facts and figures were a compelling argument for this bill back in April.

But this situation has deteriorated even further since the joint economic committee did its survey in May. Many States and localities have discovered that the draconian measures that they have already undertaken have not been enough. In May, New York State anticipated a $560 million deficit; today, it is $700 million. In May, Michigan felt that $95 million of expenditure cuts were necessary; today, they are struggling to cut $300 million out of the budget. Georgia was not going to make any cuts; now that State is eliminating $22 million in expenditures. Even the lower-unemployment-rate States have suffered. California's anticipated balance at the end of the year has fallen from $350 million to $160 million; Illinois from $308 million to zero.

Many cities and counties have also suffered from a further deterioration in their budgets. Oklahoma City expected a $70 million surplus at the end of the year; now they will have nothing. Westchester County, N.Y., expected to maintain expenditures at current levels; they since have cut $25 million. Montgomery, Ala., expected no cuts would be necessary, but they have cut expenditures $8 million and they still have an $8 million deficit. Portland, Oreg., thought they could make it through the fiscal year without increasing taxes; taxes just went up $2 million.

These are not isolated incidents, they are part of a pervasive trend. The recession has devastated all budgets; States and localities; large cities and small cities; counties and townships; even a few wealthier States. No one can deny that the need is there.

But this bill will do more than allow States and local governments to maintain essential services without raising taxes during the recession. It will prevent States and localities from taking budget actions that directly contradict our national economic policies. As it is now, the Federal Government cuts taxes and States and localities raise taxes. The Federal Government hires public service employees and State and local governments lay them off just as fast. Government is giving with one hand and taking away with the other. Our economic recovery is just too fragile to survive this absurdity and inconsistency. Any economic policy in which the Government giveth and the Government taketh away is doomed to failure.

Moreover, this bill has the additional advantage of not being the least bit inflationary. The program turns off completely when the national unemployment rate declines to 6 percent, long before we reach full utilization of resources and the concomitant upward pressure on prices. In addition, the program does not waste scarce resources, because the assistance is targeted to only those communities with unemployment rates in excess of 6 percent. Not one dime will be spent after the need for the program has been eliminated and not one dime will be spent in a State, county, or city that has no need.

Mr. President, the need for this program is enormous. Every day more and more States and localities are confronting massive budget problems—all a result of Federal mismanagement of the economy. It is time that the Federal Government take responsibility for the problems that it has created. I urge all of my colleagues to join Senator MUSKIE, Senator BROCK, and myself in supporting this landmark piece of legislation.

Mr. McCLURE. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RANDOLPH. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME LIMITATION AGREEMENT—CONFERENCE REPORT H.R. 5559

Mr. ROBERT C. BYRD. Mr. President, I ask that the time on the next conference report be limited to not to exceed 20 minutes, to be equally divided between Mr. LONG and Mr. CURTIS.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 5559

Mr. CURTIS. Mr. President, I ask unanimous consent that Mr. Don Morehead be granted the privilege of the floor during the consideration of the next conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE INTERNAL REVENUE CODE—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 5559, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 16, 1975, at page 40848.)

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, the press of this Nation has accurately and well reported to the people the nature of the compromise reported in the conference report on H.R. 5559. From the point of view of the Senate, it was a very successful conference. We regret that we were unable to persuade the House of Representatives to agree to the amendment on the housing credit, but the practical realities of the situation made it such that that amendment could not be agreed to.

With that exception, with a small modification, the House accepted the Senate amendment.

So we bring H.R. 5559 back from conference in much the same form as agreed to by the Senate.

It is a 6-month extension of the tax reduction and involves a revenue reduction in the fiscal year 1976 of $6.1 billion, which means that it is within the limits set by the second budget resolution.

It also provides an earned income credit or work bonus of the type included in the Senate bill for those with incomes of $4,000 or less, with a phaseout of the earned income credit for those with incomes between $4,000 and $8,000. This provision is the same as that agreed to by the Senate except that we agreed to a House request for a "disregard" provision. This means that for those already on welfare or some other Federal aid program the month before the earned income credit is paid, the earned income credit refund will be disregarded in determining whether their welfare or other payment should be reduced. For someone newly applying for welfare, however, receipts representing a refund of taxes obtained through the earned-income credit would be taken into account in determining eligibility. This gets rid of the administrative problem that I have heard complaints about and also gives assurance that if somebody is on welfare and takes a job, the receipt of the earned income credit will not decrease their welfare payments. At the same time, by doing it this way we provide an incentive to work for those receiving welfare payments.

In the area of the per capita tax credit and the standard deduction, the House and the Senate conferees compromised out their differences. In the case of the standard deduction, we took a minimum and also a maximum deduction, which was as nearly as possible halfway in between the standard deduction allowances of the House and of the Senate. In the case of the tax credit also, we took a tax credit of $35 rather than the $30 of the House bill or $45 of the Senate bill but also provided that the tax credit can be higher than this in some situations. The tax credit provided for in the conference is to be 2 percent of the first $9,000 of taxable income but never less than $35 for the taxpayer, his spouse, plus any dependents that he may have.

The housing credit, which was added to the bill on the Senate floor, was not agreed to by the House conferees. While I personally favor extension of the housing credit, there was a general desire on the part of the conferees not to include in the bill any controversial provisions. As a result, this was omitted from this bill but undoubtedly will be considered subsequently on the floor of the Senate.

The revenue loss from the corporate tax reductions is estimated at $1.9 billion for a full year. The half-year extension will reduce revenues by $1.0 billion, with a reduction in fiscal year 1976 receipts of $585 million.

The total income tax reductions will reduce revenues at an annual rate of $16.8 billion. Because the extension is for 6 months, the reduction in revenues will be $8.4 billion. For fiscal year 1976, the revenue loss is $6.13 billion. The difference between the half-year and fiscal year revenue losses is due to the lag in collections of 6 to 8 weeks. The fiscal year revenue loss is slightly less than the amount allowed for in the second concurrent budget resolution, buit it is approximately the same amount.

The individual income tax reduction is distributed primarily among the lower range of income taxpayers, and 63.9 percent of the reduction is received by taxpayers with adjusted gross incomes below $15,000. As a result, the reductions will go to those people who are most in need of tax relief and are most likely to spend it and stimulate the economic recovery.

I urge the Senators to enact this 6-month tax reduction as soon as possible. It is important to prevent an increase in taxes on New Year's day. The 6-month extension also is consistent with the President's desire to reduce both taxes and Government spending in fiscal year 1977. This brief extension of the tax reductions will make it possible for Congress to review the budget for fiscal year 1977 before June 30, 1976, and decide how it wants to adjust both spending and taxes.

Mr. President, I am ready to respond to any questions Senators may wish to ask about it.

Mr. CURTIS. Mr. President, we now have before us the conference report on H.R. 5559. This legislation provides for a reciprocal tax exemption for the rental of railroad rolling stock, but its principal purpose is to extend certain of the expiring provisions of the Tax Reduction Act of 1975.

The House and Senate bills dealing with this subject contain different provisions both with respect to the duration of the tax cut extension and the types of substantive provisions that would be utilized to effectuate this extension.

With respect to the duration of the extension, the Senate bill provided for a 6-month extension through June 30, 1976, while the House bill generally provided for a full calendar year extension. In addition, the changes in the standard deduction in the House bill were permanent in nature. Under the conference report, the extension, including changes in the standard deduction, are limited to 6 months, thus reflecting the Senate approach.

As my colleagues are aware, Mr. President, there were some significant differences between the substantive provisions in the House and Senate bills. The conferees agreed with the decision of the Senate that these substantive provisions should be structured so that the withholding tables now utilized for individuals could remain in effect for the first 6 months of calendar year 1976. With respect to the substantive provisions themselves, the conferees agreed to set the low-income allowance or minimum standard deduction at $1,700 for single persons and $2,100 for married persons filing joint returns. The percentage standard deduction was maintained at 16 percent and the maximum standard deduction was set at $2,400 for single returns and $2,800 for joint returns.

The conferees reduced the credit for taxpayers and dependents to $35 and added an alternative credit of 2 percent of taxable income up to $9,000. The effect of this provision, when combined with the conference action on the standard deduction, is to target the tax cut extension slightly more toward persons in the middle-income ranges. In effect, this represents a compromise between the House provisions and the Senate provisions.

The conferees also accepted the earned income credit which was included in the Senate bill. In addition, the conferees considered the extent to which the earned income credit should be disregarded in determining eligibility for AFDC benefits. The conferees agreed that the earned income credit would be disregarded if an individual was already receiving AFDC benefits but that there would be no "disregard" for purposes of determining initial eligibility for AFDC benefits.

With respect to the corporate tax reductions, both the House and Senate bills contained the same substantive provisions, which are targeted principally toward small business. The conferees agreed with the Senate that, like the individual tax cut extension, this extension should be limited to 6 months. Thus, for the first 6 months of calendar year 1976, the corporate surtax exemption would be $50,000, and the first $25,000 of corporate income would be taxed at a 20-percent rate. The next $25,000 of corporate income would be taxed at a 22-percent rate, and all corporate income over $50,000 would be taxed at a 48-percent rate.

The conference report does not contain any limitation on Federal spending or any similar provision. This is because neither the House nor the Senate bill contained any provision dealing with the question of Federal spending. Hence, the conferees had no option with respect to this issue.

On balance, Mr. President, the conference report deserves favorable consideration by those who voted for the original Senate bill. Given the necessity of reaching some compromise with the House, the conference report maintains much of the basic philosophy of the original Senate bill. For this, I commend our distinguished chairman for his efforts in the conference to preserve the Senate position.

Personally, I will vote against the conference report, not because of what was agreed to or rejected in conference, but because I believe that tax reductions must be accompanied by comparable reductions in Federal spending. I took that position with respect to the original Senate bill and I continue to hold it.

Mr. President, the debate on this tax bill showed something that is quite encouraging, and that is that so many Senators were discussing the budget in its entirety.

As I said the other night, I have the greatest commendation for the members of the Committee on the Budget for their dedication and hard work. I do believe that, by the very nature of the law, they are operating under certain disadvantages. Their authority is statutory. Congress can change it at any time, and may, as the Senate can change the rules here. The power may be of considerable value, since to hold an amendment subject to a point of order would be overcome by a majority vote. Therefore, I believe that ultimately we have to come to a discipline in spending based upon the Constitution.

That is the reason why I have introduced, worked for, and we have had hearings on a constitutional amendment to compel a balanced budget.

Mr. President, one further thing. I believe it will be easier for the Congress of the United States to maintain a balanced budget than a controlled deficit. Suppose we are committed by the Constitution to balance the budget. Individuals or corporations come to us and say, "We want some money." We can say, "We cannot do it unless we increase taxes."

Maybe we should increase taxes. Maybe we should eliminate something else. But at least there will be discipline then.

If we try to operate under a controlled deficit, how are we going to say to any individual or group, or any Senator or Representative, for that matter, "We want a $60 billion deficit, and we do not want to go to $62 billion."

That is almost tweedledee or tweedledum as far as the trend of the country is going, so far as the inflationary impact and the headlong plunge toward ruinous inflation are concerned.

So, Mr. President, I commend all of my colleagues who have shown such interest in budgetary matters. I submit we will never have a satisfactory authority to maintain a budget until we put it in the Constitution also, that it must command a balanced budget with a self-enforcing provision; and I believe that can be done.

Here is one problem under the existing budget law: Next spring we will face a budget for a year beginning October 1. Nine months of that year is within the jurisdiction of another Congress. In that situation, it is just absolutely impossible to have any real discipline in spending with only statutory authority.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, I favor extending the present tax cuts in order to give the individual more control over his earnings. However, I find it necessary to vote against the conference report on the tax reduction extension bill. My reasons for opposing this bill at this point are the same as those stated in the "additional views" submitted by Senator HANSEN and myself in the Finance Committee report.

This bill fails to give any consideration to the necessity of considering tax reductions and spending reductions simultaneously. The Congress must take affirmative action immediately if it is to gain control of our runaway budget increases. As I have stated many times before, the Federal Government has achieved a balanced budget only 1 year during my 11 years in the Senate. Clear signs are rising all around us that the Nation is heading toward financial collapse.

Mr. President, I realize that the President's dollar-for-dollar budget cut for tax cut proposal created significant problems for the new congressional budget procedures. It had been my hope that some accommodation could have been reached with the White House on this issue. I am disappointed that our negotiation failed on this point.

Despite the procedural difficulty in the President's proposal, I believe it would be a great disservice to the American taxpayers to allow the budget curtailment issue to be hidden behind procedural questions. We must all recognize that the existence of the new congressional budget process does not mean that we have gained control over the budget. Unless the Congress acts immediately, the Federal budget will increase from $370 billion in fiscal year 1976 to $423 billion in fiscal year 1977, an increase of $53 billion or 14 percent. These figures frighten me. I admonish my colleagues to view these increases with rightful alarm and to take responsible action to alter this course of self-destruction.

Mr. DOLE. Mr. President, I shall vote for the conference report on H.R. 5559, extending the present reduced rate of taxation on personal and corporate income for the last 6 months of 1976. But I do so with some hesitation, because I believe that Congress should make a commitment today to couple future tax reductions with similar reductions in Federal expenditures.

I am able to vote for the conference report only because the tax reductions called for by this legislation do not affect revenues for fiscal year 1977, which begins on October 1, 1976. If the tax reductions in this bill led to revenue losses in fiscal year 1977, I could not lend them my support. For an extension of tax cuts beyond June 30, 1976, without concomitant reductions in Federal spending would only serve to encourage continuation of Federal budget deficits in the $70 to $80 billion range. Clearly, this would not be acceptable to the President, the American people, or me.

The 6-month continuation of the present tax rates will offer Congress an opportunity to address the concept of conditioning future tax reductions on comparable spending reductions. As a member of both the Finance and Budget Committees, I plan to closely scrutinize all types of Federal spending—from the Defense budget to HEW, from farm programs to Government travel allowances, and from Federal business subsidies to food stamps.

No area of Federal spending should be immune from careful examination by authorizing committees, Appropriations Committees, and the Budget Committees. The spending cuts imposed as a result of this examination may enable Congress to extend—and perhaps even expand—these tax reductions in fiscal year 1977. If Congress fails to make meaningful and realistic spending reductions, preferring instead to follow the "business as usual" approach with respect to Federal outlays, then further tax reductions may not be warranted.

PRESIDENT'S FOCUS IS CORRECT

The President's tax and spending cut proposals have focused national attention on the need for a fundamental reexamination of the proper role and size of the Federal Government. The American people are disillusioned with the trend toward bigger Government and the higher taxes and persistent inflation which inevitably accompany it.

I am convinced that the vast majority of our constituents recognize that the Federal Government cannot and should not attempt to solve every problem or meet every perceived national need. The minority which has favored a predominant Federal role is being forced to reconsider the wisdom of massive Federal involvement. Almost universally, there is a recognition that the wisest course of action does not always require a barrage of inflationary Federal dollars.

NEED FOR OVERSIGHT

To facilitate a thorough review of Federal spending in future years, I have introduced legislation, along with a bipartisan coalition of 17 cosponsors, calling on the General Accounting Office, the Congressional Budget Office, and the Senate Government Operations Committee to develop a standard oversight methodology to be utilized by each standing committee in reviewing the effectiveness of the programs it has authorized.

This legislation is necessary in light of the poor record of oversight undertaken by Congress in the past. We need to identify the ineffective Federal programs as well as costly duplication which exists today, because several committees, without consultation, have legislative programs to meet a single unidentified national concern. While the structured oversight process envisioned by this bill could not be implemented until late next year, the time to start an invigorated oversight process is now. American taxpayers expect and, justifiably, are beginning to demand that the Federal Government be just as thrifty with their tax dollars as taxpayers are with the ever-dwindling take-home portion of their paychecks.

SUPPORT FOR CONFERENCE REPORT

So while I will vote for the conference report on this short-term extension of tax reductions, I agree wholeheartedly with President Ford that future tax reductions will be possible only in conjunction with spending cuts. In this respect, I commend to my colleagues the lead editorial in today's Wall Street Journal. I have had my differences with the editorial board of this newspaper on previous spending bills, while I believe the central thrust of today's editorial is right on target. Those who would doubt that the editorial writer has accurately gaged public opinion on the need for reductions in Federal spending should talk to their constituents over the upcoming recess.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 17, 1975]

THE PRESIDENT'S TAX BOX

The 94th Congress is about to send President Ford a bill that asks us to believe taxes and spending should not and cannot be considered together. In all innocence, congressional Democrats who believe this ridiculous position somehow calculate that the President can't deal with it and come out a political winner. They think Mr. Ford has put himself in a box from which there is no exit.

Their reasoning: If the President vetoes the tax bill, and the veto is sustained, every paycheck will be smaller in January because of the increased tax withholding. Should the tenuous economic recovery then falter, Mr. Ford will be blamed. On the other hand, if he signs the tax bill after having sworn up and down the country that he would never agree to a tax cut without a congressional commitment to hold down spending by an equal amount, he'll be confirmed as a weak and swerving President instead of a firm and unswerving one.

This conventional analysis, though, ignores the possibility that the President is in that box because he sees an opportunity there, and that he can win politically by persuading the public to join him therein. We not only think the President should be right where he is and that he should veto the bill. We also believe his only real problem lies in selling his very saleable position, persuading the public that he is being stubborn with Congress for good reason.

We think he has the best reason there is, which is that he is right and Congress is not only wrong but frivolously wrong. Congress insists on merely extending $16 billion in 1975 tax reductions for six months, at which time it pledges to only "consider" reducing spending by that amount in the fiscal 1977 budget. The President has proposed a tax cut amounting to $28 billion that is precisely matched by reductions in projected spending in fiscal 1977, and he only asks that Congress commit itself to spend no more than $395 billion in that year.

The only argument the Democratic leadership has offered on why it won't buy the $395 billion ceiling is that Congress has a new budget process, and the calendar for that process doesn't call for setting a ceiling until next June. It is simply not possible, Congress solemnly asks us to believe, for Congress to violate the official calendar of the new budget process in order to compromise with the President.

This is so much nonsense, and the President should say so when he vetoes the bill. The real reason the Democrats don't want to accept the ceiling is that they do not want to have the idea of tax reductions and spending limitations joined in the public's mind. And this is the real reason why Mr. Ford is so stubborn in insisting that the two be joined. Anything less perpetuates the Keynesian idea that there is a free lunch. The nation has now learned in New York that while you can defer taxes through borrowing for awhile, you eventually have to pay with interest for all spending. But Congress is resisting applying this lesson to the federal level.

It seems to us the public is not only waiting to hear this simple message from Washington, but that it knows in advance that it has to be true. President Ford doesn't have a dilemma at all, but a golden opportunity to unveil the free lunchers on Capitol Hill. He has the right position, the right philosophy, the right tax package. All he needs is the right words to explain that when spending goes up, taxes have to follow, and for taxes to go down, spending must come down too. If Congress wants to argue with him about this, we will find out who is in a box.

Mr. HANSEN. Mr. President, during the consideration of this bill, both in the Finance Committee and on the floor of this Chamber, I have stated my opposition to a simple 6-month extension of the prior tax reductions. My opposition is based on the fact that this bill does not give the necessary recognition to the importance of considering tax reductions and spending reductions simultaneously.

In October the President proposed a $28 billion tax cut, conditioned on the establishment of a $395 billion spending ceiling for fiscal year 1977. The $395 billion spending ceiling represents a $28 billion reduction in the level of spending increase for fiscal year 1977. In short, the President's plan represents a $28 billion tax reduction coupled with a $28 billion reduction in Federal spending.

The issue raised by the President of conditioning tax reductions on comparable spending reductions is one of paramount importance. I believe the Congress must not enact tax reducton extension legislation unless there is some assurance that there will be a comparable reduction in Federal spending.

Tax reductions without spending reductions result in larger Federal deficits and higher inflation. Certainly, the Congress should not move the Nation in this direction. Yet, that is exactly what this bill will accomplish.

Mr. President, we must be cognizant of the fact that, absent a comparable reduction in Federal spending, there is a direct relation between tax reductions and inflation. If this Government continues to spend money it does not have, the result will be higher and higher prices in the marketplace. The American people have too long felt the effect of inflation. We in the Congress must take the necessary steps to bring inflation under control. A vote for tax reduction without provision for a spending reduction is a vote for yet another round of inflation.

Mr. President, the American people want more purchasing power and less government, rather than less purchasing power and more government. This laudable goal can be accomplished through enactment of a substantial tax cut coupled with a spending reduction. If the Congress would reduce the spending of the Federal Government, the size of the Federal Government would be reduced. The amount reflected in reduced Federal spending could be returned to the taxpayers in the form of tax reductions. Pursuit of this policy would not only reduce the size of the Federal Government and place more money in the hands of the American people, it would also lead to the generation of the capital and employment opportunities essential to the Nation's future prosperity and security.

The evidence is clear, in recent years Federal deficit spending has preempted the ability of the private sector to generate the capital necessary to remain strong. Unless the private sector of our economy is provided with sufficient capital, millions of American jobs will continue to remain in jeopardy.

Reduction of Federal spending will in part remove the Federal Government from the capital market and assure more capital for the private sector. Additionally, a substantial tax reduction will reinforce the capital market, thus providing more capital for the private sector.

Mr. President, none of these goals can be achieved unless the Congress is willing to couple spending reductions with tax reductions.

Mr. President, I readily recognize the procedures established by the Congressional Budget Act, and appreciate that a proposal which requires a certain spending ceiling may cause problems with the congressional budget process. However, I want to strongly indicate that I believe there is room in the congressional budget process for coupling spending reductions with tax reductions. If the Congress does not find a method to consider these two items simultaneously, I believe the Nation will suffer.

I was very disappointed that, during the consideration of this bill, a workable arrangement to consider tax reductions coupled with spending reductions was not found. I believe there was room for compromise, and if the Congress were truly dedicated to this approach, a workable arrangement could have been found.

I stated in the "Additional View," filed by Senator FANNIN and myself to the Finance Committee report on this bill, that I was hopeful that the Senate would be able to "develop an approach which would both provide for a limited extension of tax reductions as the committee bill does, and commit the Congress to a comparable reduction in the Federal budget with respect to the next fiscal year." I stated that if we are unable to develop such an approach, then I would be unable to support the bill.

Mr. President, despite what I believe is the necessity of such a proposal, an acceptable approach to couple tax reductions to spending reductions was not developed. I certainly regret that this was the outcome of our sincere efforts.

However, as I previously indicated, absent the coupling of a spending reduction to this tax cut extension, I cannot support this bill.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is on agreeing to the conference report.

The report was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2 p.m. today.

The motion was agreed to; and at 1:37 p.m., the Senate recessed until 2 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GRIFFIN).

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the amendments in disagreement of the conference report on H.R. 9861.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert:

"*Provided,* That none of the funds provided in this Act may be obligated for construction or modernization of Government-owned contractor-operated Army Ammunition Plants for the production of 105mm artillery projectile metal parts until a new study is made of such requirements by the Department of the Army; the Secretary of the Army certifies to Congress that such obligations are essential to national defense; and until approval is received from the Appropriations and Armed Services Committees of the House and the Senate, $637,200,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "of which no more than $15,000,000 shall be available for the Condor missile program until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$205,600,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$604,400,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 751. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors, except when these services are certified as not being available on the military base to which the member is assigned. or when the recipient resides within 40 miles of a military medical facility which certifies that these services are not available; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes; or (f) any other service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 753. Unless otherwise specified and during the current fiscal year, and the period July 1, 1976, through September 30, 1976, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided,* That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that William Jackson and Emily Thuber of my staff may have privileges of the floor during consideration of the Angola matter.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. CRANSTON. In open session only.

Mr. ROBERT C. BYRD. I have no objection.

Mr. McCLELLAN. Reserving the right to object, what is the request?

The PRESIDING OFFICER. The request of the Senator from California is that two of his staff members be allowed the privileges of the floor during consideration of the Angola matter while the Senate is in open session.

Mr. McCLELLAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION REQUEST—S. 622

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request, I think, with interested Senators and those who are principals in the debate. I ask unanimous consent that at such time as the Senate resumes consideration of the motion to concur in the House amendments to the Senate amendments to the House amendments to S. 622, there be a time limitation of 2 hours thereon, to be equally divided between Mr. FANNIN and Mr. JACKSON; that the debate begin at 4 p.m. today; and that upon the expiration of the time, a vote occur upon the motion.

The PRESIDING OFFICER (Mr. ROTH). Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request for the time being.

Mr. TUNNEY. Reserving the right to object.

Mr. ROBERT C. BYRD. I have withdrawn the request.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate Nos. 49, 53, 75, 83, 98, and 101 to H.R. 9861 in the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Mr. President, I object to en bloc consideration of all the amendments. I have no objection to consideration of five of the amendments en bloc, but I want amendment No. 75 to be considered separately.

Mr. McCLELLAN. Mr. President, I modify my motion.

I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 49, 53, 83, 98, and 101.

The motion was agreed to.

AMENDMENT NO. 1303

Mr. McCLELLAN. Mr. President, I again move that the Senate concur in the House amendment to the Senate amendment No. 75. That will be the pending motion.

Mr. TUNNEY. Mr. President, I move to amend the House amendment to Senate amendment numbered 75 as follows:

Strike "$205,600,000," and insert in lieu thereof: "$172,600,000, none of which, nor any other funds appropriated in this Act may be used for any activities involving Angola other than intelligence gathering, which funds are".

This language is contained in amendment No. 1303 which is at the desk.

Mr. McCLELLAN. Mr. President, will the Senator yield? What is the objection to the money? Why cannot the Senator just move that no funds be used for this purpose?

The PRESIDING OFFICER. Will the Senator from Arkansas yield? The question is on agreeing to the motion to concur in the House amendment to Senate amendment numbered 75 with an amendment, which the clerk will report.

The legislative clerk read as follows:

That the House recedes and concurs with an amendment to Senate amendment numbered 75, with an amendment.

Mr. CLARK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT REQUEST—S. 622

Mr. ROBERT C. BYRD. Mr. President, I renew my request with respect to the energy bill.

The PRESIDING OFFICER. Is there objection?

Mr. TUNNEY. Reserving the right to object, I do not know how much time Senators are going to want to take on this amendment and the debate thereon, but it would seem to me that if we could just continue the debate until we get a vote and then bring up the other conference report, it might make for a little bit more orderly procedure because there are a number of Senators who have indicated they wanted to participate in the debate, they wanted to listen to it and, do you not think, it would be better just to continue the debate until we reached a conclusion and then have a vote up or down and then move to the next business?

Mr. ROBERT C. BYRD. No, not under the present circumstances. The adoption of this unanimous-consent request would not have any impact upon the debate on this amendment in disagreement except that at 4 o'clock today the Senate, if it had not disposed of that amendment by 4 o'clock, would go to the House message on the energy bill, would stay thereon for 2 hours, vote on the motion pertaining to S. 622, and then go back to the pending motion before the Senate.

I think in the long run—with the Senate hoping to complete its business by the close of business on Friday, and many Senators having reservations on airlines and being forced to get out of here tomorrow at some point—it would be better if we could get this request agreed to and dispose of the energy bill, at a set time. Then the Senate would go back, if it had not previously disposed of it, to the pending question now before the Senate.

Mr. TUNNEY. I would like to propound, Mr. President, the following question to my distinguished leader: What about a vote on the pending amendment at 4 o'clock and, following the disposition of that amendment, we could then move on to the energy conference report?

Mr. ROBERT C. BYRD. That would be fine.

Let me get a time limitation on S. 622 first.

Mr. McCLELLAN. Which conference report are we asking about?

Mr. ROBERT C. BYRD. It is not a conference report. It is the motion to concur in the House amendment to the Senate amendment to the House amendments to the bill S. 622.

Mr. TOWER. I hope we could get this coupled with a time to take up.

Mr. TUNNEY. I am prepared to offer a unanimous-consent request that we have a vote on the Tunney amendment at 4 o'clock and, following the disposition of that amendment, we then move on to the energy conference report for 2 hours with a vote to be taken thereon at 6:15.

Mr. TOWER. Very well.

Mr. MORGAN. Mr. President, reserving the right to object, I think the amendment offered by the Senator from California is a very important amendment and will have far-reaching effects. I do not believe we should place any time limitation on it and, for that reason, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President

in view of the fact that objection has been made to the request of the Senator from California, I would like to renew my request that the Senate at 4 o'clock today proceed to the consideration of the motion on the energy bill with a 2-hour limitation thereon to be between Mr. FANNIN and Mr. JACKSON; then, upon the disposition of that bill, with a vote to occur immediately upon the expiration of that time, the Senate resume consideration of the amendment in disagreement on the defense appropriation act.

Mr. TUNNEY. I want to be cooperative, but the Senator from North Carolina has made the point that this pending amendment is very important, and that is the reason he has objected to a time limitation being placed on the amendment.

I would be perfectly prepared to have a 2½-hour or 3-hour time limit placed on it, but I think because it is important we ought to be discussing it in a fashion in which there is a degree of continuity developed in the debate rather than having 2 hours on the amendment and then shifting off for 2 hours onto the energy conference report and then coming back to it late in the afternoon or early in the evening and, perhaps, not winding the thing up until 11 o'clock at night.

I think it is only fair if this amendment is so important that we dispose of it this afternoon when we have Senators present. We all know in the evening many Senators—not many, some Senators—feel they have to leave the body and meet other commitments. I think we ought to dispose of this amendment right now, and if the Senators want to be over here and participate in the debate I think we can dispose of the amendment in 2 hours.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed at this time to the consideration of the motion on the energy bill, with a 2-hour limitation thereon, to be equally divided between Mr. FANNIN and Mr. JACKSON; that upon the expiration of that time, or earlier, if the time is yielded back, the Senate vote on the adoption of the motion, and upon the disposition of that vote the Senate then resume consideration of the pending amendment in disagreement to the defense appropriation conference report.

Mr. TUNNEY. Reserving the right to object, I would like to ask my distinguished leader if he anticipates any other business being inserted on the Senate floor prior to the disposition of this amendment when it comes up after the energy report is disposed of.

Mr. ROBERT C. BYRD. As far as the leadership is concerned, that would only be done by unanimous consent, and the Senator from California could prevent its being done simply by objecting.

Mr. TUNNEY. With that understanding I do not object to the immediate consideration of the energy report, but I think that once we start off with the amendment that we continue on it until it is disposed of.

Mr. McCLELLAN. Mr. President, reserving the right to object, what is the request? I could not hear the Senator.

Mr. ROBERT C. BYRD. The request is that the Senate proceed at this time to the consideration of the motion on the energy bill with a time limitation thereon of 2 hours; upon the expiration of that time—or upon its being yielded back before the expiration of 2 hours—the Senate vote on the motion on the energy bill and then resume consideration of the defense appropriations conference report, the amendment in disagreement.

Mr. McCLELLAN. Mr. President, I have no objection to the first part of the request. As to the second part, with respect to the time limitation, I found this morning that we had no control of time limitations and I, for the moment, have to object as to the time limitation on debate.

Mr. ROBERT C. BYRD. There is no time limitation on debate.

Mr. McCLELLAN. The Senator said 2 hours.

Mr. ROBERT C. BYRD. On the energy conference report, not on the Senator's bill.

Mr. McCLELLAN. As long as there is no time limitation on the pending amendment to the conference report I have no objection. But I had a bad experience this morning.

Mr. TOWER. Reserving the right to object, and I shall not object, actually this is consideration of S. 622 rather than a conference report.

Mr. ROBERT C. BYRD. Yes, the able Senator is right—it is the motion to concur in the House amendment to the Senate amendment to the House amendments to S. 622. I am so accustomed to referring to conference reports at this stage, the inadvertence comes natural. I thank the Senator for calling the correction to my attention.

Mr. GOLDWATER. Reserving the right to object, Mr. President, and I will not object, there is no time limitation on debate on the Tunney amendment.

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. GOLDWATER. No time limitation on debate on the Tunney amendment.

Mr. ROBERT C. BYRD. No.

Mr. GOLDWATER. It could be debated at great length?

Mr. ROBERT C. BYRD. There is no time limitation.

Mr. GOLDWATER. And it probably will be.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, I wonder if I might suggest the absence of a quorum so that I might discuss a matter with the acting majority leader.

The PRESIDING OFFICER (Mr. HATFIELD). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that on an ensuing quorum, the time consumed be charged to neither side, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Reserving the right to object——

Mr. McCLELLAN. Will the Senator state his request? I do not know what has been going on here and I want to know, before I agree to something, what it is.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I do not intend to object, but may I ask a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Would an amendment in the nature of a substitute to the Tunney amendment be in order?

The PRESIDING OFFICER. It would be.

Mr. GRIFFIN. Before the unanimous-consent request is agreed to, I send to the desk a substitute for the Tunney amendment and ask that it be stated.

Mr. JAVITS. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 1, line 1 of amendment Number 1303, strike the language after "$205,600,000," and insert: in lieu thereof "none of which, nor any other funds appropriated in this Act may be obligated or expended to finance the involvement of United States military or civilian forces in hostilities in or over from off the shores of Angola, which funds are".

Mr. JAVITS. Mr. President, reserving the right to object, I make a further parlimentary inquiry.

The PRESIDING OFFICER. The amendment is not drafted as a substitute. It could be offered as a perfecting amendment.

Mr. GRIFFIN. Is it in order as a perfecting amendment?

The PRESIDING OFFICER. It is in order as a perfecting amendment.

Mr. GRIFFIN. Then I offer it as such.

Mr. MANSFIELD. Would the Senator allow us to get the consent agreements reached?

Mr. JAVITS. I would like to ask a question.

On the energy, of course, I yield for that purpose.

The PRESIDING OFFICER. The Senator from Montana.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President——

Mr. TOWER. May we have order, Mr. President, so everybody will understand fully what this is all about?

The PRESIDING OFFICER. The Senator's point is well taken.

Will the Senate please be in order? The Chair would request all Senators to clear the well and go to their desks.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Arkansas (Mr. McCLELLAN) I renew the request.

I ask unanimous consent that the Senate now go to the consideration of the House message on S. 622, that there be a time limitation thereon of not to exceed 2 hours to be equally divided between Mr. FANNIN and Mr. JACKSON, that upon the expiration of that time or upon its being yielded back, the Senate vote immediately on the adoption of the motion to concur in the House message on S. 622, that upon the disposition of that motion, the Senate then resume consideration of the pending matter.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. For the moment, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the amendment of the Senator from Michigan.

Mr. JAVITS. Mr. President, I thought I had the floor for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JAVITS. With reference to the perfecting amendment just submitted by Senator GRIFFIN——

The PRESIDING OFFICER. The Senator will suspend.

Will there be order in the Senate, please? Attaches and others will please take their seats.

The Senator from New York.

Mr. JAVITS. Is a substitute in order notwithstanding the existence of a perfecting amendment unacted on?

The PRESIDING OFFICER. A perfecting amendment unacted upon would preclude the offering of a substitute amendment.

Mr. JAVITS. But a perfecting amendment on a substitute may be offered upon the disposition of the perfecting amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. And the perfecting amendment is not subject to further amendment?

The PRESIDING OFFICER. The Senator is correct, it is in the second degree.

Mr. JAVITS. I thank the Chair.

Mr. TUNNEY. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. TUNNEY. In reading the language of this amendment——

Mr. MANSFIELD. Will the Senator yield briefly?

Mr. TUNNEY. Yes, I yield to the Senator.

Mr. ROBERT C. BYRD. Mr. President, I renew my request. Let me state it again.

I ask unanimous consent that the Senate at this time—and I do not want to cut off any Senator who is about to offer——

Mr. TUNNEY. It was a point of order I was going to raise.

Mr. ROBERT C. BYRD. Very well.

I ask unanimous consent that the Senate at this time proceed to the consideration of the motion to concur in the House amendment to the Senate amendment to the House amendment to the Senate bill S. 622; that there be a time limitation thereon of 2 hours to be equally divided between Mr. FANNIN and Mr. JACKSON; that upon the expiration of that time or upon its being yielded back a vote occur on the motion; and that upon the disposition of that matter the Senate then resume consideration of the pending matter.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH addressed the Chair.

Mr. McCLELLAN. Reserving the right to object—and I do not want to object and I will not if I can have this understanding with the leadership—that at any time after 6 o'clock tonight—I do not mind staying until then if this matter has not been disposed of, and I am not going to agree to a limitation of time—if this matter has not been disposed of, a motion will be in order to recess until tomorrow. I do not propose to stay here all night on account of 2 hours out for something on this pending business.

Mr. ROBERT C. BYRD. Yes; the Senator has that understanding.

Mr. McCLELLAN. Do I have that understanding?

Mr. ROBERT C. BYRD. Yes.

Mr. CLARK. I object to that.

Mr. ROBERT C. BYRD. Now, wait——

Mr. YOUNG. I object.

Mr. MANSFIELD. No.

Mr. YOUNG. I want to find out if there will be one of these foolish closed sessions or not.

Mr. GRIFFIN. The Senator from North Dakota objected.

The PRESIDING OFFICER. Objection is heard.

Mr. YOUNG. I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

The Senator from West Virginia.

Mr. RANDOLPH. I am going to reserve the right to object.

Mr. ROBERT C. BYRD. Senators do not know what they are objecting to. There has been no request that there be a 6 o'clock recess.

The Senator from Arkansas merely wanted it understood that a motion to recess would be in order at 6 o'clock. This rulebook permits that. We do not need unanimous consent for that. That motion to recess is in order right now or at any time a Senator wants to make it today.

Mr. McCLELLAN. I want it understood that I could make it. I do not intend to stay here all night.

Mr. ROBERT C. BYRD. I hope Senators will not object on that flimsy basis.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

ENERGY POLICY AND CONSERVATION ACT

The PRESIDING OFFICER. The Chair lays before the Senate the message from the House which the clerk will state.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the amendments of the House to the bill (S. 622) entitled "An Act to provide standby authority to assure that the essential energy needs of the United States are met," and so forth, and concur therein with an amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1975—CONFERENCE REPORT

Mr. TUNNEY. I had a parliamentary inquiry, Mr. President. I wanted to ask the Chair whether or not the amendment that was offered by the Senator from Michigan (Mr. GRIFFIN) constituted legislation on an appropriation bill.

The PRESIDING OFFICER. The Chair will take the inquiry.

Mr. GRIFFIN. I might ask, Mr. President, whether the same objection will then apply to Mr. TUNNEY's amendment.

The PRESIDING OFFICER. Neither the amendment by the distinguished Senator from California (Mr. TUNNEY) nor the perfecting amendment of the distinguished Senator from Michigan (Mr. GRIFFIN) constitute legislation on an appropriation bill—they are both limitations.

The Senator from Ohio.

ENERGY POLICY AND CONSERVATION ACT

Mr. GLENN. Mr. President, I yield myself such time as I may need for an opening statement.

The PRESIDING OFFICER. Will the Senator suspend?

Mr. HANSEN. I ask unanimous consent that Nolan McKean of my staff be granted the privilege of the floor during debate on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will suspend until the Senate is in order.

Will the Senators please take their conferences and discussion to the cloakroom?

The Senator from Ohio may proceed.

Mr. GLENN. Mr. President, I am the designee of Mr. JACKSON. He will be here shortly. I would like to make an opening statement.

Mr. President, although it has taken most of 1975 to get to this point with regard to energy legislation, I believe the act that we have before us today represents a good compromise position, and in the very best sense of the word "compromise."

Although the act involves many policy areas, pricing has obviously received the most attention. Congress started the year with some very hard-line concepts regarding lower price ceilings and averages, concepts in marked contrast to administration positions. This hard-line has gradually changed, moving upward to the act's provisions for a composite which existed in January of 1975, just prior to the tariff. With OPEC on the scene, prices in January can be looked at as "free-market including OPEC influence," hence the $11.28 figure for new oil which then existed and which the act reflects in the $7.66 composite. An $11.28 price, of course, is only one of the options available to the President under the average price formula, but it is the one most likely to be used in a two-tier system. This final position represents the acceptance of a substantial move upward in pricing for many Members of Congress, and there was a general feeling that "enough is enough," no more give on this or other points.

However, after lengthy discussions, it was apparent there were still serious administration reservations regarding this pricing level.

That, plus the fact that no one at either end of Pennsylvania Avenue can know with absolute certainty what our general economic condition will be in the years ahead, led to another provision in the act. This compromise gives the President far more flexibility to mold and shape the program as time shows the adequacy or inadequacy of the starting position.

Once again, there was reticence at the congressional end to see the program become this flexible. However, with the idea that the President can agree with the "lower than he would like" pricing if he has real flexibility to adjust pricing at stated intervals as needs arise and conditions change, that concept was finally accepted. The above, subject to either House or Senate disapproval, is in itself a compromise, since some Members started out talking "both Houses" specific approval.

Another area of flexibility debated at great length was using the GNP deflator plus 3 percent incentive—10 percent approximately—as an automatic Presidential prerogative, and that was included.

Compromises obviously please no one completely, in the branches of Government or in the industry affected. The industry is naturally pushing for higher prices, but I must say I have been somewhat surprised at the excessive statements made to the press by some oil spokesmen.

It has also been unfortunate that the news reports have concentrated on price rollbacks and the political implications of an election year postponement of increases. To me, using the January 1975 pretariff price was a natural place to start, and it made sense to delay an increase through the first year or so of economic recovery, which we hope continues.

It has been interesting to note the economic writers changing estimates of the impact of this act. First, it was to be 5 cents per gallon rollback at the pumps, then 3 to 3½ cents, then 2 cents, and the last figure—Wall Street Journal, I believe—was 1 to 1½ cents.

I think the estimates may well be down to no rollback at the pumps before long. This does not indicate that I have any dispute with the committee nor with the figures that were put into the RECORD by our distinguished chairman (Mr. JACKSON) last evening during debate on this bill.

The only reflection on this is that some of the economic writers of the country have overly indicated in their assessments of the price impacts of this bill I think perhaps too much has been made of the rollback aspect of the bill.

Overlooked by most people have been the many other far-reaching provisions of this act.

Just in part, some of the major ones are:

Conversion of certain facilities to coal;

FEA guaranteed loans to increase coal production;

Steps promoting the use of recycled oil;

Authorizing maximum efficient rate production from certain fields;

Energy efficiency labeling for home appliances;

Programs to encourage increased industrial energy efficiency;

Grants to States to help develop and implement conservation programs suited to local conditions;

Fuel economy performance standards for automobiles and other light vehicles; and many other provisions which I shall not go into.

I know what has transpired this year on the congressional side and realize how far we have come in a spirit of compromise. I believe this act reflects the best that can be achieved now, and sincerely hope it will be signed.

As we know, the energy problem is extremely complex and plays a pivotal role in our economy, society, and indeed the welfare of the whole world. I do not like to compromise the disruption that might be attendant to a veto of this legislation, arrived at after very lengthy good-faith negotiation between the Houses of Congress and the administration.

I believe this bill can provide the starting point—a basis for solving our vexing energy problems.

I urge my colleagues to join me in making every effort to pass this legislation.

Mr. FANNIN. Mr. President, first of all I commend the distinguished Senator from Ohio for his determination that we have a good bill. We have worked together on many phases of energy legislation, not only this particular energy bill, but the ERDA bill and other bills that have come before us, and he has certainly done yeoman service in getting the best out of the members of the conference committee that could be obtained. I know that we did come out with a better bill—although I am not satisfied with it—because of his hard work, and, as I say, his determination that we do something about our energy shortage.

Mr. President, it is regrettable to me that we do not have a bill that I can support. It is not my intention today to delay action on this bill. We shall be voting on it soon, but before we vote, I would like to analyse this measure, because I believe that is in order.

I shall comment briefly on four areas of great concern to me. They are:

First, national energy policy and the impact of this legislation upon it; second, the legislative history and procedural peculiarities associated with this bill; third, an examination of some of the bill's more onerous provisions; and fourth, the future implications if this bill becomes law.

The later, of course, is the factor that is most important.

As to national energy policy, there is not a member of this body who would disagree that our three primary national goals regarding the petroleum sector of our energy economy are to: first, step up domestic production; second, reduce consumer demand; and third, reduce the level of our oil imports.

These are our goals, and I feel that there is not a member of this body who would dispute that prices for domestically produced oil have a very influential bearing on the extent to which each of these three goals will be achieved. The relationship between supply and price was eloquently articulated in this classical quotation from the writings of Milton Friedman. He said:

> Economists may not know much, but we do know one thing very well—how to produce shortages and surpluses. Do you want to produce a shortage of any product? Simply have Government fix and enforce a legal maximum price on the product which is less than the price that would otherwise prevail. Do you want to produce a surplus of any product? Simply have Government fix and enforce a legal minimum price above the price that would otherwise prevail.

It is clear that a $7.66 composite price for domestic oil even with a 10 percent annual escalator is much less than a "price that would otherwise prevail." The result: guaranteed shortages.

The bill also contains another provision prohibiting a "legal minimum price." The result: guaranteed shortages.

With a guaranteed shortage of domestically produced oil, the inevitable result—disputed by no one in this body—is that dependence on increasingly larger amounts of foreign oil will occur.

With an artificial ceiling on oil prices demand will increase, another fact not in dispute.

Accordingly, the relationship of this bill to achieving our national energy goals is as follows:

First. It will decrease domestic production.

Second. It will increase consumer demand.

Third. It will increase oil imports.

There is nothing esoteric about these relationships between price and supply. American voters understand this relationship.

Less than a month ago Louis Harris conducted a nationwide poll in which 1,519 Americans of all walks of life were asked about their views on energy policy.

Here is how they answered Mr. Harris and I am quoting from his report:

> By 61 to 17 per cent, a majority believes that decontrol would "give oil companies an

> incentive to develop new oil and natural gas production in the U.S."
>
> By 53 to 25 percent, the public rejects the charges of opponents of decontrol that "if the price of oil and natural gas produced in the United States were deregulated, no more new oil and natural gas would likely be discovered here at home."
>
> Perhaps the most significant attitude held by Americans on the deregulation of oil and natural gas is the view of a 47 to 24 percent plurality that "the price of gasoline would likely go up to the short run, while additional discoveries would keep the price from going up more in the long run.

This shows that the American public understands the energy problem and it shows that the American public will not be fooled by this bill. So let us not try to fool ourselves.

So much for energy goals. Now to this particular bill, and the legislative history and procedural peculiarities of this legislation. The genesis of this bill bore the number of S. 2589 in the 93d Congress which also contained price rollbacks and was vetoed.

A second version was introduced as S. 3267. Its development involved negotiations with the administration which were terminated because of no hope of reaching agreement on many of its major provisions. S. 3267 died on the vine.

Substantially the same bill was reintroduced in the 94th Congress as S. 622, the bill now before us. In February of this year, negotiations on S. 622 with administration officials took place. These negotiations also failed. Yet, the bill was reported anyway and the Senate passed S. 622 on April 10.

Here is what the Washington Post had to say about the bill after the Senate's action on April 10 of this year:

> That bill is a hodgepodge. Part of it gives the President certain emergency powers, which he might use in case of another oil embargo, unless blocked by Congress. But to this marginally useful grant of authority, the Senate Democrats attached a complex provision, full of high-sounding aspirations and short of policy directions. It commands the Federal Government and all 50 States to devise energy conservation programs (again subject to congressional veto) that will supposedly cut energy use the equivalent of 800,000 barrels of oil a day without hurting anyone.
>
> It is as near-perfect an example of buck passing as Washington has ever seen.
>
> By the most charitable interpretation, the Senators abdicated their own responsibility for hard decisions and left the country with what can only be called a false-front facade of an energy policy.

Five long months later the House substituted the text of its H.R. 7014 and sent it back as an amendment to S. 622 asking for a conference. After some confusion, a conference was finally held and the Senate appointed 25 conferees. Seldom was a quorum present. Seldom was any legislative language voted upon in person or by proxy by the conferees. Instead, conferees were asked to vote upon abstract concepts, some of which were never even reduced to written outline form. Not only were 25 conferees involved in the conference, as if that were not enough, two more Senators not appointed to the conference also participated, made motions and voted.

Only a bare majority of 13 Senators signed the conference report; 12 did not.

The conferees were never given a copy of their conference report until hours before it was filed. Not only did the conferees not participate in any review of their conference report before it was filed, they did not even draft one word of its language. The conference report was drafted by persons who were never elected to Congress.

If this was not bad enough, the House, on Monday, defeated the conference report, removed two major provisions from the language of the defeated conference report and sent it back to the Senate in a form that could not be amended. With such a strange and dubious history, it is difficult to imagine how this bill could be seriously touted as a monumental hallmark of the legislative process.

So much for its legislative history. Now to its contents:

The removal by the House of 102(c)(4) punishs the independent coal miners who are operating coal mines or have closed them down by denying them access to loan guarantees. The Senate should not tolerate this deletion.

The leasing prohibitions related to the Outer Continental Shelf in section 105 cannot help but retard OCS development.

Section 106, as we have argued throughout the history of this legislation, could result in a "taking without compensation." The only consolation is that persons adversely affected by the operation of this section can sue. But they can only recover if they can prove that there was a "taking."

The automotive fuel economy provisions, part A of title III, require 1985 mileage standards that it is highly doubtful the auto manufacturers can meet. If they are able to meet them, it will be only through the flooding of the market with tiny cars whose performance and safety features will in all likelihood constitute a setback for consumers.

Part B of title III pertaining to appliance manufacture will create a regulatory morass and will also set standards that appliance manufacturers may not be able to meet.

The other conservation provisions of the bill are also highly questionable, particularly in light of the fact that the pricing provisions will result in increasing rather than reducing energy demand. Conservation by Government fiat will not work.

The pricing provisions, as I earlier indicated, are counterproductive to achieving energy self-sufficiency and will escalate our level of oil imports. They also could contribute to driving up the price of foreign oil and virtually guarantee OPEC countries $17 billion more by 1980 and $31 billion more by 1985 in revenues than would be the case if decontrol occurred immediately. This impact on our balance of payments promises to be grave.

The section 403 entitlements modification in the words of the Federal Energy Administration, "has a severe impact on the equalization of crude costs between competing refiners. It also has an adverse impact on consumers."

Section 456 authorizes the President to become the sole purchaser of all imported oil, a provision which, if implemented, will cause pandemonium and is clearly unworkable.

Section 457 allows the Federal Government in essence to take over management of all U.S. refineries.

Sections 501–506 launch the General Accounting Office into wholesale raids of the proprietary data of American energy producers and users.

Finally, the congressional review sections are a living testimony to the fact that Congress is neither capable of establishing energy policy itself, nor willing to permit the administration to do so.

So much for individual provisions of the bill. Let us discuss the future implications if it is enacted.

This bill sets the stage for nationalization of the U.S. petroleum industry. A glance at the history of nationalization in England tells why.

Following the Labour Party's victory in the 1945 elections, the new Government established a nationalization planning operation called the Committee on the Socialization of Industries. From this was soon given birth the bills nationalizing coal, electricity, gas, and other industries. The Labour government was substantially aided in its implementation of its nationalization program by virtue of the fact that strict price controls instituted during World War II were still in effect when Labour took over in 1945. It is tuted during World War II were still instituted during World War I in Great Britain gave the Labour Party great impetus in its almost successful effort following that war to nationalize coal.

Price controls, regulations pertaining to procedures for wage bargaining leading to higher incomes for the labor forces, and other regulations imposing higher costs on the operation of various industries all led to a situation of chronic under investment of capital. It simply became more difficult for management to generate sufficient income to reinvest and, under the circumstances, borrowing sufficient additional capital was prohibitively expensive. Caught between an economic rock and a hard spot created by Government policies, businesses were run into the ground. They had considerable difficulty sustaining themselves as viable commercial institutions within the British economic climate and substantially greater difficulties competing in world trade. As a result, management's will to survive was significantly eroded and therefore its political resistance to nationalization became progressively weaker.

Mr. President, we seem to be launching ourselves on a similar course with the enactment of S. 622.

As we look back to this debate 3 years and 4 months from now from the vantage point of an even more seriously deteriorated domestic petroleum supply situation, there may be some consolation in the fact that some of us in 1975 identified the handwriting on the wall.

Mr. President, at this time I have an

article by John D. Emerson, a well respected energy economist, on the impacts of oil prices of this new energy bill. It covers world oil prices and goes into considerable detail on the relationship of this bill to U.S. energy supply.

I shall not take time to cover this complete article, but it is a splendid reference for information regarding what has happened in the world market and what will happen here in this country if this legislation is approved.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMPACT ON OIL PRICES OF NEW ENERGY BILL

1. The existing two-tier price system, while not perfect, has the merit of providing an adequate incentive to develop new domestic crude oil production. It has the further merit of being self-liquidating since "old" oil, presently about 60 percent of the total, will decline for natural reasons to about 30 percent in 1980 and 10 percent by 1985 as the reserves become exhausted.

2. The mechanics of a system that requires different grades of oil in different locations to conform to a specific weighted average represent an administrative nightmare. Individual companies could not implement it, neither could the Federal Energy Administration.

3. Under the proposed formula, if price controlled "old" oil remains at an average of $5.25 a barrel, the price of "new" oil could only rise at 4.4 percent a year—far below any reasonable estimate of inflation. If the price of "old" controlled oil is allowed to rise with inflation, the impact on the price of "new" oil would be worse. It would increase by only 1.7 percent a year.

4. With the weighted average price of all domestic crude oil controlled and with "old" oil prices also controlled, producers would have an incentive to produce as little "new" oil as possible. The fewer the barrels of "new" oil, the higher the allowable price per barrel.

For every potential barrel of "new" oil that was not found, developed, and produced, one barrel of foreign oil would have to be imported at world prices. OPEC itself could not have devised a plan more calculated to perpetuate OPEC's oligopoly position.

5. The pricing formula in the new energy bill is at variance with the principles of Project Independence.

JOHN D. EMERSON,
Energy Economist.

WORLD OIL PRICES

Oil is a commodity like rubber, sugar, copper, or wheat, and economics teaches that in the long run, the free market price of a commodity should be equal to the marginal cost of production. What does this mean in the world of oil today?

The first phrase to examine is "in the long run". This is an aspect of pricing that many people have difficulty with. Quite often the reaction of consumer prices to changes in supply/demand relationships is buffered by movement in and out of storage. Thus it may be months before basic changes in supply or demand are reflected in prices.

"The free market price" implies a price that is arrived at by willing and informed buyers and sellers operating in a marketplace that is free of governmental restrictions and monopolistic practices. Despite the unceasing stream of charges and accusations, there is no good evidence of monopolistic practices in the private sector of the petroleum industry. There are just too many companies involved. The concentration of economic power is far less than in such industries as automobiles, steel, or copper. When it comes to government distortion of free market economics, however, that is another matter. All over the world, in both oil producing and consuming countries, tariffs, quotas, and excise taxes are the rule rather than the exception. During the past two years in the United States, the multiplicity of regulations issuing from the Federal Energy Administration has usurped management decisions in every phase of the petroleum industry. In the OPEC countries, the same situation exists. Companies no longer have control over prices or rates of production; even the destination of their oil shipments can be dictated by government.

The last part of the commodity pricing formula refers to "the marginal cost of production". Included in the costs of production should be an allowance for profit that is commensurate with the risks of the operation. In the oil producing business, more than in most industrial activities, unit production costs vary tremenodusly from one part of the world to another. Moreover, even in the same region, these costs will vary over time as the cheapest resources are used up and the industry has to move on to more expensive areas.

The price of oil is set by competition in the marketplace, which given the international nature of oil, may be thousands of miles from the point of production. Thus location and transportation costs play an important role in the value of crude oil to the producer. The producer with the lowest delivered costs is in the best competitive position. If only his oil were needed to satisfy demand, no other oil would be produced. This, of course, is not the case in the real world. Crude oils with widely differing delivered costs are required to satisfy world oil demand. Since oil cannot sell at widely differing prices in the same market, the price is set by the highest cost barrel that is needed to satisfy the demand. Producers with lower cost crude would be foolish to accept a lower price than the market is willing to pay. This is not a static situation. New oil is continuously being discovered in different parts of the world with the result that the marginal costs of production are changing constantly. In these highly inflationary times, of course, the change is generally upward.

The foregoing is intended as a preamble to a discussion of worldwide crude oil price developments. Although crude oil is essentially a homogeneous substance, there are differences apart from location that influence the price such as sulphur content and refining characteristics. It is true to say that no two crude oils have precisely the same value to the user. For this reason the most practical course of action is to discuss basic price changes in terms of one particular crude oil and then consider changes in the differentials between this "reference" crude and other crude oils.

Saudi Arabian Light 34° crude oil is widely accepted as the most appropriate reference crude. It is by far the largest source of crude oil in international trade and, because of its relatively low production costs, is not likely to be priced out of the market under any pricing system that rests on marginal costs of production.

Until the formation of OPEC in 1960, crude oil prices meant posted prices. Companies publicly posted the price at which they were willing to sell a particular grade of crude oil, and this price was consequently the basis on which producing country governments calculated their income tax and royalty receipts fluctuated with changes in both volume and price.

OPEC's principal success during the sixties was the prevention of any downward movement of the posted price, and consequently, of government per barrel revenue. Total revenue became linked to volume alone. However, the sixties was a period of great oversupply in world crude oil markets, and the companies were unable to obtain the full posted price in the marketplace. Discounts off the posted price of up to 25 percent were quite common with the companies absorbing the full discount out of their profits. While these conditions lasted, the oil industry had no desire to increase the posted price since this would have resulted in higher taxes. Governments of oil producing countries, of course, had quite opposite aims.

Early in the seventies, the world oil supply demand balance began to swing in favor of the sellers. The Teheran and Tripoli Oil Agreements of 1971 and the Geneva Currency Agreements of 1972 and 1973 were evidence of OPEC's greatly increased bargaining power. By January 1973 the posted price of crude oil had risen by almost 50 percent in three years. Although, in historical terms, this increase was substantial, it did little to slow the growth of oil demand since prices for other forms of energy were even higher.

Under the income tax and royalty rates in effect at that time, increases in the posted price of crude oil resulted in increases in oil company profit margins, as well as increases in government revenue. An illustration is given below:

Arabian Light (34°) Crude Oil

	August 1970	*January 1973*
Posted price per bbl	$1.80	$2.59
Royalty at 12½%	.23	.32
Production costs	.12	.12
Taxable income	1.45	2.15
Income tax at 55%	.80	1.18
Government revenue (income tax and royalty)	1.03	1.50
Company profit margin based on posted price	0.65	0.97

The increase in the oil company's profit margin was in practice more dramatic because in 1970 oil was still selling at a discount off the posted price, whereas by 1973 these discounts had virtually disappeared. This big rise in the companies' profit margin was a bone of contention with producing country governments who believed that the companies' traditional margin of 25–30 cents a barrel was ample recompense. Accordingly, on Oct. 16, 1973, OPEC countries raised the posted price far above the price that could be recovered in the marketplace with the intention of reducing the profit margin. The posted price of Arabian Light (34°) crude oil was increased to $5.12 a barrel, resulting in a tax paid cost to producers of $3.16—higher than the posted price at the beginning of the year.

This oil price increase had already been decided before the October war broke out. The Arab embargo, however, which followed the war, sent short-term spot prices up into the $15–$20 a barrel range and paved the way for the January 1974 price increases. At that time, Arabian light crude oil was posted at $11.65 a barrel, and the company's tax paid cost increased to about $7.15 a barrel. The old income tax and royalty formula at these high prices left far more money with the companies than was acceptable to OPEC governments. The situation was modified, however, by an increase in "participation"—the compulsory purchase by the OPEC governments of a share of the industry's production assets. Since the government had only a small market for the oil it acquired under "participation", most of it was sold back to the companies at close to the posted price—93 percent became the magic number.

Thus it happened that when the Arab oil embargo ended in March 1974, the oil companies acquisition costs contained two separate elements—the cost of their equity share of production calculated under the old formula and the cost of the "buy-back" oil. The weighted average of these two elements resulted in average acquisition costs of about $9.25 a barrel, and this price became the basis for the industry's worldwide pricing.

Within weeks of the end of the embargo, OPEC governments learned some economic facts of life. Influenced by the January price increases, the world demand for oil turned down for the first time in over twenty years. The demand for oil at $10 a barrel was not the same as the demand at $2.50 a barrel. That was the first lesson. The second lesson concerned marginal costs and prices. OPEC discovered that in a weak market you cannot sell oil based on 93 percent of posted prices ($10.83/bbl.) in competition with similar oil which is based on acquisition costs of $9.25 a barrel. When consumers cut back, the first oil to be shut in was the expensive OPEC "participation" oil.

This two-tier price system lasted until November 1974 when most OPEC countries raised the royalty and income tax rates to levels that would yield tax paid costs for equity oil approximating the OPEC market price (93 percent of the posted price). As a sop to public opinion, the posted price was lowered by 40 cents a barrel on Arabian light (34°) oil, but the increased costs to producing companies resulted in higher prices to importing countries. The two-tier price system came to an end, and company acquisition costs of both equity and buy back crude were established at about $10.46 a barrel. This represented a $1.00 a barrel increase over the companies' previous average acquisition costs.

Consuming nations responded to these additional price increases by reducing their demand for oil still further. In most industrialized countries, the demand for oil thus far in 1975 has been below 1974 levels, and of course below 1973 levels. This was the background against which the October 1975 price increases were debated by OPEC.

There was, of course, no economic justification based on supply/demand relationships for oil prices to increase at all this year; supply costs, including a *normal* profit margin, were so far below the administered price level for oil. The justification for higher prices was based on the notion that international commodity supplies are entitled to be protected against the effects of world inflation and changes in international exchange rates. Apart from escalation clauses in long-term contracts, this theory is not customary in international trade mainly because in the absence of an effective monopoly, it is impossible to enforce.

It is undoubtedly true that during much of the past two decades the terms of trade have moved against the OPEC countries and that some correction was morally justified. The January 1974 price increases, however, were more than adequate compensation for loss of purchasing power in earlier years. It is always possible to select specific years to prove a point, but on the basis of any reasonable analysis, no further increases in oil prices could have been justified for several years. This fact was not lost on some OPEC members and may account for the modest, by current standards, size of the price rise. After some initial confusion, this turned out to be a 10 percent increase in the posted price of the reference crude oil which is currently set at $12.38 a barrel.

In the past few weeks, the price of other crude oils, both OPEC and non-OPEC, have been adjusted to the change in the price of Arabian 34° oil. Very few of these changes corresponded precisely to the 10 percent increase in the price of the reference crude for the very good reason that during the past four years most of the world's crude oil prices have been out of phase with the reference crude.

This situation would not have happened in a free market. Market forces would have kept world oil prices properly aligned with each other almost on a day to day basis. The market was not free, however. It was administered by governments. Although the basic prices already reflected quality and location advantages, governments added on premiums for these factors which as long as demand remained strong, they could get away with. When demand weakened, early in 1974, these add-ons priced a number of crudes out of the market.

The lower demand for oil created a shipping surplus almost immediately, and freight rates plummeted. The tanker market is one of the best examples of the free enterprise system. Lower freight rates reduced the value of African crudes by up to a dollar a barrel in the big European market. These oils were also affected by a lessened concern over the use of relatively expensive, low sulphur fuel oil which followed the tripling of oil prices in January 1974. On the other hand, the lower world demand for oil impacted more on heavy industrial fuel oils than on gasoline and home-heating oil. Thus crude oils with a high gasoline content became more valuable to refiners. The complexity of these pricing factors is far beyond the ability of a government bureaucracy to respond to rapidly even though the need to adjust was apparent.

Since OPEC was far from united in its recent price decisions, governments took the opportunity to realign their prices versus the reference crude. They should realize that even if they have guessed right today, in six months time the situation will probably have changed.

The table below shows the variations from Arabian light of a number of other OPEC crudes both before and after the October 1st price increase.

Official selling price differentials from Arabian Light 34° ($ per bbl)

	Oct. 1, 1975	*Prior to price increase*
Iranian light—34°	+$0.11	+$0.21
Kuwait—31°	−0.21	−0.10
Abu Dhabi—39°	+0.41	+0.41
Qatar—36°	+0.15	+0.34
Iraq Kirkuk—36°	+0.23	+0.21
Algerian—42°	+1.24	+1.29
Libya—37°	+0.70	+0.64
Nigeria—34°	+1.19	+0.94
Indonesia—35°	+1.29	+2.14

The first four crude oils in the table are all shipped out of the Persian Gulf so that virtually none of the price differentials can be attributed to transportation costs. The changes represent the producing government's perception of the value to the refiner versus Arabian Light. The marketplace will signal rapidly whether their judgments are correct.

At today's depressed freight rates, the transportation difference between Persian Gulf crudes and Mediterranean crudes delivered to North Europe and East Coast United States is only 30 to 40 cents a barrel. It can be seen from the table, therefore, that Iraq's Kirkuk crude is priced very competitively, and this is reflected in the fact that only Iraq among Middle East OPEC countries has increased its level of production this year. Among the African crudes, Libya appears to be most closely aligned with the reference crude. Algerian and Nigerian crude oils are entitled to an additional premium over Libya because they yield more gasoline and less fuel oil which matches the current market demand pattern. Again, the market will quickly determine whether the quality premiums are realistic.

There are no official selling prices for Venezuelan oils, but based on the new acquisition cost plus a 21 cent profit margin, oficina 35° crude would sell for $12.55 a barrel—$1.04 above the reference crude. The transportation differential is currently only about 30 cents a barrel, making this oil considerably overpriced in the U.S. market.

Of all the OPEC nations, Indonesia increased prices the least. The official selling price of its Minas 35° low sulphur crude moved from $12.60 a barrel to $12.80. The differential versus the reference crude narrowed from $2.14 a barrel to $1.29. The transportation differential to Japan, Indonesia's principal market, is, however, negligible because Persian Gulf producers can use larger and cheaper ships than can be accommodated in Indonesian ports. Thus, even the $1.29 differential looks excessive and is unlikely to be realized.

In the manipulation of posted prices and "participation" terms which led to the new official selling prices, the oil companies' profit margin was increased slightly in most countries, but the typical margin remained betweed 20 and 25 cents a barrel (about one-half cent a gallon). Only those countries with higher investment costs or needing to attract new investment allowed higher profit margins. And these are only on paper. Unless the marketplace approves them, volume will suffer and so will the overall profits.

As long as 10 million barrels a day of surplus producing capacity exists in OPEC, prices will remain under pressure in all the producing countries. We have almost surely not seen the end of price adjustments as different countries seek a competitive edge.

Just as foreign oil prices are administered by OPEC, United States prices are administered by the Federal Energy Administration—at least on the up-side. *When demand is weak, market forces are still the controlling factor on the down-side.*

For national security reasons, domestic oil prices were supported by the oil import control program for many years. By 1972, however, the delivered price of foreign oil had risen to the same level as domestic oil. There was, therefore, no further need for an import control program, and the controls were lifted in May 1973 leaving only a modest tariff on imports. The United States was once again directly linked to the world market. It was not surprising, accordingly, when world prices tripled in January 1974 that United States domestic prices began moving up to the import parity level.

At that time, however, the government's principal concern was with inflation, and it reacted with a partial freeze on oil prices. *The problem was to prevent higher oil prices from adding to inflation while at the same time maintaining an incentive for increased drilling to realize the aims of Project Independence.*

These conflicting goals were handled by the creation of a two-tier price system for domestic crude oil. Oil production was designated as either "old" or "new." Old oil was defined as production at the 1972 level on a lease by lease basis. "New" oil is production from reserves added after 1972. As an incentive to increase domestic oil production and to prevent the premature abandonment of existing producing wells, two modifications of the price control on oil oil are permitted. Stripper well production, though technically "old" oil, may be priced as "new" oil. Additionally, for every barrel of "new" oil produced from a lease, another barrel of "old" oil may be released from price control.

Thus, the current makeup of domestic crude oil prices is approximately as follows:

Old price controlled oil—5290 thousand barrels daily @ $5.25.

Stripper well production—1000 thousand barrels daily @ $14.00.

Released oil—590 thousand barrels daily @ $14.00.

New oil—1520 thousand barrels daily @ $14.00.

Total 8400 thousand barrels daily @ $8.49.

The two-tier price system, while not perfect, has the merit of providing an adequate incentive to develop new domestic production. It has the further merit of being self-liquidating since "old" oil, presently 60 percent of the total, will decline for natural reasons to about 30 percent by 1980 and 10 percent by 1985 as the reserves become exhausted. The recent debate in Congress over the timetable for decontrol represented nothing more than the acceleration of an inevitable process.

The new energy bill, currently before the President, is a very different proposition, however. It provides for prices to be controlled through the overall weighted averages of "old" oil and "new" oil. The initial level is $7.66 a barrel, which is some 80¢ a barrel below the existing average level, although only 10 cents a barrel below the average price if the $2 a barrel tariff is eliminated. *The immediate effect of price rollback and tariff elimination would be to reduce the price of "new" crude (including stripper and "released" oil) to $11.75 a barrel.*

It should be emphasized that the prices referred to are weighted averages. Quality and location affect prices in the United States just as they do overseas. All "old" oil does not sell for $5.25 a barrel. It ranges from $4–$6 a barrel. The same applies to new oil prices. The weightings are constantly changing among "old" oils, among "new" oils, and between the two. *It would be an administrative nightmare to price all the crude oils in the United States in such a way that the average would equal the Congressionally mandated level. Individual companies could not do it and neither could the Federal Energy Administration. Two tier pricing is one thing, but to try to work back from an average is quite different.*

Quite apart from the administrative chaos involved, the whole concept of a weighted average price that increases by a maximum of 10 percent a year is contrary to the aims of Project Independence. At present, the relationships between "old" and "new" oil is about 63:37. By the end of forty months, this position will be reversed due to a natural decline in the production from old wells. Assuming for the moment that total production remains unchanged, the following calculations illustrate the effects of the new energy bill:

Current position under new bill

100% @ weighted average price of $7.66/bbl.

63% "old" oil @ weighted average price of $5.25/bbls. equals

37% "new" oil @ weighted average price of $11.75/bbl.

Position after forty months

100% @ weighted average price of $10.54/bbl.

37% "old" oil @ weighted average price of $5.25/bbl. equals

63% "new" oil @ weighted average price of $13.65/bbl.

The average increase in the price of "new" oil during this period of time would be 4.4 percent a year—*far below any reasonable estimate of inflation.* If in addition to the national average price, "old" oil prices were also increased at 10 percent a year, reaching a level of $7.30/bbl. by April 1979, the price of "new" oil would be forced down to $12.45 a barrel.

With the weighted average domestic price fixed by law, and the controlled "old" oil price also fixed, it is a simple mathematical certainty that producers would have an incentive to produce as little "new" oil as possible.

If producers limited their investment so that they only produced as much "new" oil as "old" oil in April 1979, then under the formula they could sell that oil for $15.83 a barrel. *The nation would lose over 2 million barrels a day of potential production that would have to be made up by higher imports.* All in all, a policy more adverse to this country's energy interests would be hard to conceive.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, what is the time situation?

Mr. FANNIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. Yes.

Mr. FANNIN. Mr. President, I ask unanimous consent that Elwin Skiles of Senator TOWER's staff be accorded privileges of the floor during voting and the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time remaining is 48 minutes for the Senator from Arizona and 47 minutes for the Senator from Ohio.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold of my staff be permitted privileges of the floor during the debate of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. GLENN. Mr. President, I yield whatever time the Senator from Arkansas may need.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I wish to make a few remarks that go to some of my personal feelings about the bill, having served on the conference committee and before that on the Committee on Interior and Insular Affairs.

This bill is not perfect, and I do not think anyone on the conference committee, those who approved it and those who did not, would suggest that it is.

But I do not think there is anyone on the conference committee who would suggest that there was not a free and open discussion, that people did not labor with a great deal of dedication and concern for the future of the country so far as our energy policy is concerned, and that we did not try our very best to meet all of the opposition and all of the alternative proposals that were suggested in the utmost good faith.

It is admittedly, as I said, not a perfect bill, but, in my opinion, it addresses issues that absolutely must be addressed in the energy conservation area, and I think that most everyone on the conference committee will agree with that. My guess is that the primary opposition to the bill emanates from the pricing policy that was arrived at by the conference.

But I think one thing that ought to be borne in mind is that in arriving at a domestic average price of $7.66, as opposed to the present domestic average price of $8.75, people who say we have rolled the price of domestic oil back by $1.09 a barrel should bear in mind that is not quite true.

As a matter of fact, when the President imposed a $2 import fee on all imported crude oil last year, as to the price of decontrolled or, shall we say, uncontrolled domestic production, which constitutes probably slightly in excess of 40 percent of the production in the United States right now, we saw the domestic producers of uncontrolled oil raise their prices not just to follow the OPEC price, but to add the $2 import fee.

To make it simple for computation purposes, instead of 40 percent of uncontrolled oil in this country bearing that $2 import fee, let us assume for a moment that 50 percent of domestic production carried an increase price of $2, which was based on the import fee. That means that all of the domestic oil would have been raised on an average of $1 a barrel simply because the President said to put a $2 import fee on all imported crude oil.

So, Mr. President, if we use that hypothesis, which is only slightly in error, we actually lowered the price of domestic crude by 9 cents a barrel, and that is taking into consideration the OPEC increase which was recently announced.

I cannot conceive of anyone objecting to this bill on the basis of so slight a rollback which was so patently correct in its theory and its implications.

Then, of course, there was the case of my own State of Arkansas which happens to be the No. 1 State in the Nation in the use of propane per capita. In the winter of 1973 and 1974, propane prices in my State tripled because there was a loophole in the law, and all of the oil companies who were in the propane business, were allowed to raise prices any amount they wished to without any interference by FEA.

There is a provision in this bill which will prohibit such an outrage ever occurring again because the oil companies will no longer be allowed to tilt the price of their products over on something like propane in the middle of the winter simply because they know people must have it. In the future propane will not bear more than its proportionate share of the cost of production.

I felt that that was extremely important.

I shall not attempt to go through the whole bill because I have not been here during most of the debate, and I am sure most of it has been covered. I do not wish to be repetitious or redundant.

Mr. President, the people of the country would like to see this bill passed. They are tired of confrontation politics. They feel that they are being held hostage to the confrontations which seem endless between the executive and legislative branches.

While the Administrator of the Federal Energy Administration did not come to me and say, "Senator, the President will sign this bill if you do these things," it certainly was my impression—and I yielded on some points that I would not otherwise have yielded on—that if I did yield and if the conference yielded and we agreed to the suggestions made by the Administrator, the President would sign the bill. We certainly were led to believe, by implication, that the President wanted this bill as badly as we wanted it. A majority of the members on that committee acceded to some things that they did not want to accede to, in the belief that we could engage in a détente with the President and at least, as I say, lessen the hostilities between the executive branch and the legislative branch.

Mr. President, some Members of this body have not yet firmly fixed their minds on how they intend to vote, but it is my honest conviction that, while the bill is not perfect, it is infinitely better than nothing. The consequences of what will ensue by a defeat of this bill or even a Presidential veto—which certainly could not be overridden—are much too devastating to contemplate or for me to try to point out.

So I implore my colleagues to think very seriously when the roll is called on this bill.

The PRESIDING OFFICER (Mr. HANSEN). Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I require.

I thank the Senator from Arkansas for his remarks. I agree with him wholeheartedly regarding the nature of the compromise that was worked out during the many months that were spent on this bill. The impression that we all gained of the willingness of the administration to go along, when we not only came up considerably on the pricing that we had originally sought at this end of Pennsylvania Avenue but when we also provided a flexibility within this act for the President to come back at any time on a quarterly basis, 90 days after the beginning of this act, and propose any types of pricing changes he wants, subject to the disapproval of either House.

That type flexibility is something, quite frankly, that I would not have thought possible at the beginning of this year, because it does permit the President to mold and shape this legislation with regard to whatever the economic situation is at the particular time. He can mold it to fit an economic recovery or a rapid recovery. It has far more flexibility than I would have thought possible when we started working on this energy legislation this year.

This is a very comprehensive bill, one that does not please everyone, as the distinguished Senator from Arkansas pointed out, but it is one that I think forms a basis of cooperation between the administration and Congress in this very highly complex matter. It gives us a good platform from which to start and to continue working out our energy problems in the years ahead.

So I appreciate very much the remarks of the Senator from Arkansas.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. GLENN. I yield to the Senator from Washington such time as he may require.

Mr. JACKSON. Mr. President, on Monday, the House of Representatives deleted two portions of the conference report on S. 622 from the bill. These deletions are:

First, on page 8 of the conference report, paragraph (4) of subsection (c) of section 102 dealing with the definition of term "developing new underground coal mines" has been deleted.

Second, the amendment adding part B of a new title V to the Motor Vehicle Information and Cost Saving Act (15 U.S.C. 1901 et seq.) entitled "Application of Advanced Automotive Technology," has been deleted. In the conference report this language is contained in section 301 on pages 51 through 58.

Technically, the conference report on S. 622 has been rejected by the House. The bill before the Senate this afternoon is identical to that conference report except for the deletions noted above.

Mr. President, in view of the action of the House and the manner in which S. 622 comes before the Senate, I consider the appropriate portions of the joint explanatory statement of the committee of conference on S. 622 to be a part of legislative history of the bill before the Senate, along with the hearing, committee reports, and floor discussions on the respective House and Senate bills.

I ask unanimous consent that the summary of the conference report and a description of title IV of S. 622, "Petroleum Pricing Policy and Other Amendments to the Allocation Act," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all after the enacting clause and inserted a substitute text. The Senate receded from its disagreement to the amendment of the House to the text of the bill with an amendment which was a substitute for both the House amendment to the text of the bill and the Senate bill. The House recedes from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill with an amendment which is a substitute for both the House amendment and the Senate amendment thereto. The differences between the House amendment, the Senate amendment to the House amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

THE ENERGY POLICY AND CONSERVATION ACT

Summary

The Energy Policy and Conservation Act of 1975 is the result of the deliberations of the Conference Committee convened to reconcile provisions of H.R. 7014, the Energy Conservation and Oil Policy Act, and S. 622, the Standby Energy Authorities Act. Before requesting Conference the Senate added to S. 622 as amendments the texts of three previously passed Senate bills: S. 677, The Strategic Energy Reserves Act; S. 349, The Energy Labeling and Disclosure Act; and S. 1883, the Automobile Fuel Economy Act.

The Act reported by the Conference Committee establishes a comprehensive national energy policy to:

(1) maximize domestic production of energy and provide for strategic storage resrves of crude oil, residual fuel oil and refined petroleum products;

(2) to minimize the impact of disruptions in energy supplies by providing for emergency standing measures;

(3) provide for domestic crude oil prices that will encourage domestic production in a manner consistent with economic recovery; and

(4) reduce domestic energy consumption through the operation of specific voluntary and mandatory energy conservation programs.

In the short term, the Act is designed to reduce the vulnerability of the domestic economy to increases in import prices, and to insure that available supplies will be distributed equitably in the event of a disruption in petroleum imports.

For the long run, the Act will decrease dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford.

I. Measures to Increase Domestic Supply

The Energy Policy and Conservation Act provides for direct actions to increase domestic oil production and the development and use of alternatives to petroleum and natural gas. Provisions of the Act will:

Extend the authority of the Administrator of the Federal Energy Administration (FEA) to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal;

Authorize the FEA to guarantee loans to increase coal production by encouraging the opening of new underground coal mines;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate.

In addition to providing for expanded domestic energy supply, the Energy Policy and Conservation Act will substantially reduce the ability of foreign energy producers to influence the foreign or domestic policies of the United States by threatening to reduce U.S. imports of petroleum. The Act creates a Strategic Petroleum Reserve of up to one billion barrels of crude oil, residual fuel oil and refined petroleum products to insulate the domestic economy from future supply interruptions.

The plan for the Reserve, which is subject to review and disapproval by either House, must be submitted to Congress not later than December 15, 1976.

The plan must include provision for the creation of regional petroleum product reserves in regions where more than 20 percent of demand for such products is met by imports.

The FEA Administrator is authorized to require importers and refiners to store in readily available inventories, as reserves, up to three percent of their imports as throughputs for the previous calendar year.

The legislation also creates an Early Storage Reserve consisting of not less than 150 million barrels of crude oil, residual fuel oil and refined petroleum products, to be stored within three years of the date of enactment.

II. Standby Energy Authorities

The Energy Policy and Conservation Act grants specific standby authority to the President, subject to Congressional approval, to develop and implement regulations mandating the conservation of energy and the rationing of gasoline and diesel fuel in the event of a severe energy supply interruption.

The provisions authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, to alleviate fuel shortages and to increase domestic energy supplies.

The Act provides for energy conservation and rationing contingency plans to be developed to reduce non-essential energy consumption and assure the continuation of vital services in the fact of severe energy supply interruption.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans (including rationing plans);

To authorize actions necessary to carry out U.S. obligations under the International Energy Program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation under a grant of limited antitrust immunity;

To authorize the President to transmit information to the International Energy Agency.

The energy conservation authorities may be exercised if:

(1) a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate;

(2) the President has determined that implementation of the contingency plan is required by a severe energy supply interruption or the International Energy Program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement such a plan.

The authority for international voluntary agreements and the exchange of information may be exercised at any time in order to carry out the International Energy Program.

III. Energy Conservation Programs

The Energy Policy and Conservation Act establishes aggressive and effective programs for energy conservation designed to encourage the maximum efficient utilization of domestic energy resources.

The Act contains provisions that:

Establish mandatory average fuel economy performance standards for any passenger automobiles and other light duty highway vehicles;

Require energy labeling of major home appliances and certain other consumer products, and authorize energy efficiency standards for major appliances;

Authorize block grants-in-aid for States to assist in the development and implementation of state-administered energy conservation programs; and

Establish a program to encourage increased efficiency of energy use by American industry;

Establish a program for energy conservation within the Federal Government; and

Promote the use of recycled oil.

These provisions are designed to increase energy efficiency through the operation of orderly conservation programs rather than through steep price increases that would hamper the Nation's economic recovery, increase unemployment contribute to the inflationary spiral and impact regressively on consumers.

Mandatory fuel economy performance standards are established for passenger automobiles and other light duty highway vehicles. Standards for passenger automobiles would be applicable in model year 1978 and thereafter.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 miles per gallon (mpg) in model year 1978, 19 mpg in model year 1979, 20 mpg in model year 1980 and 27.5 mpg in model year 1985 and thereafter. Standards for model year 1985 and thereafter may be modified administratively to the maximum feasible level, but either House may disapprove a modification below 26 mpg.

Standards for model years 1981–84 would be set by the Secretary of Transportation at the maximum feasible level. The Secretary would also set standards for vehicles other than passenger automobiles at the maximum feasible level for each model year.

If a manufacturer or importer failed to meet the required average fuel economy standards, he would be liable for a civil penalty, which could be waived or modified under certain specific conditions.

The Energy Policy and Conservation Act would require test procedures for, and energy efficiency labeling of, major home appliances to provide consumers with information essential to making an informed judgment in the purchase of these appliances.

Products explicitly covered include refrigerators, freezers, dishwashers, clothes washers and dryers, water heaters, air conditioners, television sets, kitchen ranges and furnaces.

The required label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or the FTC determines it would not be likely to assist consumers in making purchasing decisions.

The Administrator is required, within specified periods after enactment, to prescribe energy efficiency targets for covered products. These targets would be set at the maximum level that would be economically and technologically feasible, and would require at least a 20 percent overall improvement in aggregate energy efficiency for all types of new major home appliances in 1980, in comparison to 1972 levels.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency that is technologically feasible and economically justified and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, then the FEA would be authorized to prescribe an enforceable energy efficiency performance standard for that class of product. The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets.

The Act authorizes a 3-year $150 million Federal grant-in-aid program to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5 percent reduction in energy consumption by 1980 below levels projected for that time.

The Act identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels.

To be eligible to receive Federal funds a State program would be required to include the following energy conservation measures:

Lighting efficiency standards for non-Federal public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency standards and policies in procurement by State and local government;

Thermal efficiency and insulation requirements for new and renovated buildings; and a traffic regulation permitting right turn on red.

State programs could contain other conservation measures, including a standby energy conservation plan to be put into effect during a severe energy supply emergency.

Within Federal guidelines for the composition of acceptable energy conservation plans, States would establish programs in a manner tailored to local economic, geographic and climatic conditions. The Act thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Industrial energy efficiency

The goal of the industrial efficiency program is to promote increased energy efficiency by establishing voluntary energy efficiency improvement targets.

Voluntary industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum feasible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The ten most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

Federal energy conservation programs

In addition, the President would be required to develop and implement a ten-year plan for energy conservation. This would deal with procurement, lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

IV. Oil Pricing

The Energy Policy and Conservation Act establishes a pricing formula for domestically-produced crude oil which provides for an initial crude oil price rollback and authorizes gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in the price of the crude oil run in domestic oil refineries. A provision of the Act specifically requires that these reductions in crude oil costs be reflected in the prices of refined petroleum products paid by consumers.

Grants the President broad flexibility to set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66 established by the Act;

Permits upward adjustment in the domestic composite price to take account of inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than three percent per year as an incentive for the development of high-cost production, to maintain production from marginally profitable properties, or to encourage the application of enhanced recovery techniques. The sum of these two adjustments may not exceed 10 percent per year unless further authority to modify the upward adjustment rate is obtained from the Congress;

Allows the President to submit to the Congress at three month intervals following enactment, proposals to modify the 3 percent incentive adjustment and the 10 percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House of Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships which have evolved under the Act;

Directs the President to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 States. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed the highest price granted to significant volumes within the composite;

Extends the basic petroleum allocation authority contained in the Emergency Petroleum Allocation Act and the oil pricing provisions described in the Energy Policy and Conservation Act for 40 months;

Converts this oil price control and allocation authority to standby status at the end of the 40-month period; and

Provides that the standby authority terminates five years after enactment.

V. General Provisions

The Act sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

Disclosure of Financial Interests

Among the more important provisions, employees and officers of the FEA and the Department of the Interior who perform regulatory or policy-making functions under this Act are required to disclose their financial interests in oil, natural gas, or coal.

Verification Audits of Energy Information

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies to permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

IV—Matters Related To Petroleum Pricing Policy and the Allocation Act

OIL PRICING POLICY

The Emergency Petroleum Allocation Act of 1973 was enacted to deal with the nation's petroleum needs in the face of a severe shortage of crude oil and its products. Regulations formulated under this Act established a "two-tier pricing system". "Old oil" (oil produced from a property at a level equal to or less than the amount of oil produced from that property during the same calendar month of 1972) is controlled at the price which prevailed in the field on May 15, 1973, plus an additional $1.35 per barrel. This results in a national average price for such oil estimated by FEA to be $5.25 per barrel.

The second tier in the present regulatory system consists of three categories of domestic product that are not subject to ceiling prices. First, the Allocation Act provides that oil from properties producing less than 10 barrels per day per well in the previous year ("stripper well" oil) is not subject to the old price ceiling. Second, the Federal Energy Administration regulation under the Allocation Act provides that oil from producing properties which exceeds the level of production from the same property in the same calendar month of 1972 is not controlled to the extent of that excess. If a property was not producing in 1972, all of the current production is considered "new oil". And, third, a volume of old oil equal to the amount of "new" oil produced from a property that was producing in 1972 is simultaneously released from the price ceiling on old oil ("released oil").

Thus, oil from a property which was producing 1,000 barrels per day in a calendar month of 1972 would be subject to the old oil price ceiling for the first 1,000 barrels per day produced in the same calendar month of 1975. If, however, this property increased its production to 1,200 barrels per day, the extra 200 barrels are not subject to the old oil price ceiling, and an additional 200 barrels are released from the old oil price ceiling. Thus, the first 800 barrels per day of current production would be subject to the price ceiling, and the other 400 barrels per day would not be controlled. Exceptions are made by the FEA, on an individual property basis, for wells which require high-cost production.

OLD OIL

House amendment

The House amendment prescribed a ceiling price of $5.25 on each barrel of old oil, except that old oil produced from fields certified to have applied tertiary recovery techniques could be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The concept of "released" oil was not included in the House amendment.

Senate amendment

The Senate amendment directed the President to maintain the price of old oil at the current level of $5.25 per barrel; "released" oil was excluded from the definition of, and the ceiling price for, old oil.

PRODUCTION ABOVE 1972 LEVELS

House amendment

The House amendment set a ceiling price of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of one percent for each month after the 45th month following the enactment of this legislation on the volume of oil produced in a month from a property in excess of the average monthly production from the property during an eight-month period of 1972. Provision was made for oil subject to tertiary recovery to be sold at such higher price as the President established by rule, but the average of such higher prices could not exceed $10.00 per barrel, plus an inflation adjustment factor of two-thirds of 1 per cent for each month after the 88th month following enactment.

Senate amendment

The Senate directed the President to determine the percentage rate of decline which would normally be expected in production from individual oil reservoirs, absent the application of enchanced recovery techniques. The amount of crude oil which was produced from such a reservoir in excess of this decline curve could be sold at a price not in excess of $7.50 per barrel. Oil produced therefrom in excess of the unadjusted 1972 level could be sold at the highest price applicable to new oil of such quality in such producing area.

NEW OIL

House amendment

The House amendment imposed a statutory price ceiling of $7.50 per barrel, plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 45th month following the enactment of this legislation, on oil produced from properties which were not producing in 1972 ("new oil") and on stripper well lease production which did not qualify for an "independent exemption."

This price ceiling did not apply to new oil which was produced from (1) the Arctic Circle and the Outer Continental Shelf; (2) property certified as utilizing tertiary recovery techniques; and (3) "high cost" properties, including marginal well properties. The President was authorized to establish, by rule, higher prices for new oil from such areas and properties provided that the average of such prices did not exceed $10.00 per barrel plus an inflation adjustment factor of two-thirds of 1 percent for each month after the 88th month following enactment.

The House amendment imposed a statutory ceiling price of $11.50 per barrel of oil (plus $.05 per barrel for each month after the date of enactment) applicable to (1) the first 3,000 barrels per day produced by an independent producer from "qualifying properties," and (2) stripper well production by an independent producer. An "independent producer" was defined as a producer who did not engage in both refining and retailing operations and whose average daily production of crude oil in the preceding year did not exceed 15,000 barrels per day.

Senate amendment

The Senate amendment directed the President to set a ceiling price on production classified as new, released, or stripper oil which was not to exceed the prevailing field price on January 31, 1975, of approximately $11.28 per barrel.

ADJUSTMENT IN PRICE CEILING

House amendment

The House amendment authorized the President to propose an increase in the ceiling price for old oil which could take effect if not disapproved by either House of Congress. The President was not, however, authorized to raise administratively any of the other price ceilings.

Senate amendment

The Senate amendment authorized the President to propose increases in any price ceilings which could take effect if not disapproved by either House of Congress.

DURATION OF PRICE CONTROLS

House amendment

The House amendment did not provide for any termination of price ceilings on domestic oil production. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the House amendment extended that Act without including any provision for its expiration or termination. A mechanism was provided, however, for converting the authority to specify price (or the manner for determining price) from a mandatory requirement to a standby authority, subject to disapproval by either House of Congress. If the Congress did not disapprove the exemption, any oil or product could have been exempted from existing allocation and price controls. The President would thereafter retain authority to reimpose controls upon a determination by him that reimposition was necessary.

Senate amendment

The Senate amendment authorized the President to decontrol classes of oil production, subject to disapproval by either House of Congress within 10 days of submission of a section 4(g)(2) decontrol plan under the expedited congressional review procedures. The price ceilings were set forth in the form of an amendment to the Emergency Petroleum Allocation Act of 1973, and the Senate amendment extended that Act only until March 1, 1976.

CONFERENCE SUBSTITUTE ON OIL PRICING POLICY

The conference substitute establishes a pricing policy which calls for a continuation of controls on the price of crude oil over the next 40 months. Under the terms of the substitute, the President is to have a substantial measure of administrative flexibility to craft the price regulatory mechanism in a manner

designed to optimize production from domestic properties subject to a statutory parameter requiring the regulatory pattern to prevent prices from exceeding a maximum weighted average.

INITIAL PRICING FORMULA

The conference substitute directs the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act within two months of the bill's enactment to establish ceiling prices applicable to any first sale of domestic crude oil so as to result in an initial weighted average first sale price not to exceed $7.66 per barrel.

The conference substitute specifies a "first sale" price (with discretion in the President to impute, in a manner to be specified by regulation, an equivalent price for interaffiliate transfers). The first sale price, which is currently the price to which FEA's current ceiling prices rules apply, is the price charged in the first transfer for value by the producer or royalty owner, which transfer usually but not always occurs at or near the wellhead. The first sale price for crude oil may, in some instances, include costs for transportation and other services.

It is the intention of the conferees that the term "first sale" be defined in the regulations to make clear that it applies to the first transfer of a barrel of crude oil for value in an arms-length transaction. With respect to transactions between affiliated or associated companies, FEA has the authority to impute a transfer value which bears a reasonable relationship to transfers between unaffiliated persons in arms-length transactions. It is the conferees' understanding that the regulation defining "first sale" could extend principles and procedures now applicable under current regulations to determine transfer prices for imports as well as the point of sale and sales price of old crude oil and stripper well oil, to all ceiling prices promulgated under the new pricing program.

While the President is to have considerable discretion in structuring the price regulatory mechanism (as noted above), the Committee contemplates that, at least initially, current differentiations between new and old oil production will be maintained, subject to such modification as is necessary to conform the present regulation to the requirements of this Act. It is the conferees' understanding that should the President structure the price regulatory system in this manner, an initial ceiling price of approximately $11.28 per barrel could be applied to new oil and production from stripper well leases so as to preserve significant price incentives for optimizing production from these sources.[1] Necessarily, working within the parameters of a maximum average weighted first sale price restraint, any system devised by the President which would permit higher prices for old oil production will reduce his ability to provide significant upper-tier price incentives for other classifications of domestic production.

Consequently, the conferees imposed procedural limitations which require the President to make specific findings should he take any action which results in higher prices for current old oil production volumes. Thus, the President may not depart from the current regulatory control of old oil, unless he finds that the departure will provide a positive incentive for the application of enhanced recovery techniques, or for deep horizon development of, old oil producing properties, or as necessary to take account of declining production with respect to such properties. In any such circumstance, the President must also find that the departure from current controls is likely to result in greater production from such properties than would otherwise occur had the departure not been made. Thus, prices for old oil volumes would be permitted to increase only upon a reasonable assurance that there would be a positive production response.

The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production. Subject to the statutory requirement that any such ceiling price and such classification be supported by appropriate findings, the President would have authority, in certain instances, to establish a ceiling price which could be at levels above the then current market clearing price as long as the actual weighted average first sale price for the totality of domestic crude oil production does not exceed the maximum weighted average price allowable under this Act.

As a matter of emphasis, the conferees wish to point out that the President is not required to establish a price mechanism of particular dimension or with specified characteristics provided the maximum weighted average first sale price limitation is not exceeded. The numbers of tiers employed and the types of classifications used will depend upon the President's determination as to what is administratively feasible and can be supportable pursuant to the findings set out in the statute. In this regard, the conferees intend that the term "administratively feasible" be understood to mean a workable pricing program which is both fully enforceable under section 5 and compatible with achieving the policy objectives set forth in section 4(b)(1) of the Emergency Petroleum Allocation Act.

ADJUSTMENTS TO THE MAXIMUM WEIGHTED AVERAGE PRICE

The initial maximum weighted average price of $7.66 per barrel is subject to periodic adjustments to take account of inflation. An additional increase of no more than 3% per year may be made to the maximum weighted average price as production incentive to encourage the development of high cost, high risk properties, including production by independent producers; properties located on the Outer Continental Shelf and North of the Arctic Circle; and deep wells or deeper horizons in existing wells located both onshore and offshore.

The 3% production incentive adjustment may also be applied if the President finds such application will encourage utilization of enhanced recovery processes or the maintenance of production from marginal wells, including production from stripper wells and that such application is likely to provide a positive incentive for increased domestic crude oil production. The sum of the inflation factor adjustment and any production incentive adjustment factor applied in any given year may not increase the maximum weighted average price in excess of 10 percent per year.

Computation of the inflation adjustment factor is to be based on the GNP deflator published by the Department of Commerce, and adjusted by the President to exclude any portion of the published deflator which is directly attributable to OPEC price increases. If the Department of Commerce undertakes any major changes in their method of computing the GNP deflator which would have significant effect on the adjustment for inflation provided in the oil pricing formula proposed in the conference substitute the President would be authorized and expected to modify the adjustment for inflation in a manner determined to be appropriate to avoid any unintended aberration.

Subject to the statutory requirement that certain actions be supported by specified findings which are subject to review by the Courts or the Congress (as the case may be), whether to employ any upward adjustments to the maximum weighted average price and questions related to the timing of any such amendments are matters within the discretion of the President.

Ninety days after the date of enactment of this legislation, at not less than ninety day intervals thereafter, the President may submit to the Congress a proposal in the form of an amendment to the pricing regulations to increase the 3% limitation on the incentive adjustment factor, a proposal to increase the overall 10% annual limitation on adjustments to the maximum weighted average price, or a proposal to increase both.

Disapproval of such a proposal by either House within 15 days would prevent the amendment to the regulation from taking affect.

On February 15, 1977, the President is required to submit to the Congress a report containing an analysis of the impact on the economy and the supply of domestic petroleum products of all amendments adopted pursuant to this section including the supply of domestic petroleum products of ceiling prices promulgated to implement the maximum weighted average price requirement of the conference substitute, and may at that time submit a proposal to continue or modify the incentive adjustment factor, to increase the overall annual limitation factor on upward adjustments or both. Disapproval of this proposal by either House within 15 days would prevent the amendment to the regulations from taking effect. If an initial proposal is disapproved, the President may submit an additional amendment concerning the same subject matter within 30 days of the initial disapproval. Failure of the President to submit any such proposal on February 15, 1977, or disapproval of his first and second submissions, of any, would prevent the continued application of the continued application of the production incentive adjustment factor until such time as a proposal to reinstate this adjustment factor is proposed by the President under his authority to do so at ninety days after the last submission and is not disapproved by either House.

CARRYFORWARD PROVISION

The President is required to periodically test the price regulatory mechanism to determine whether actual prices are within the statutory parameter of the maximum allowable weighted average first sale price. Adjustments in the pricing formula are required in any subsequent period to adjust for any excess above the maximum allowable price and may be made to offset any determined deficiency.

If, during any period, the actual weighted average price is less than the allowable maximum weighted average price solely because (overall) market conditions and competition produced actual sales prices below established ceiling prices (such as may result from a break in OPEC prices), such prices would be deemed to have "resulted" from the price regulatory system. On the other hand, in the circumstances where the President, having made the appropriate findings, has specifically established a ceiling price for a particular classification of domestic production above the market clearing price, it is contemplated that the market clearing price will be used as the price which results from the regulation for the purpose of testing compliance with the maximum weighted average first sale price established by the statute.

The conferees understand and expect that the administration of the crude oil pricing policy described in the Act will require an expansion in scope, quality and timeliness of the collection and analysis of data by the Federal Government describing the production and sale of domestic crude oil. Under current FEA regulations, each domestic refiner is required to report, on form FEO-96, the average prices of domestic and imported crude oil and the composite average price of all crude oil acquired during any given month. Form FEA-P-102, which contains the basic information for the operation of the current crude oil entitlements program, requires reporting of the volumes of domestic old oil, domestic uncontrolled oil and imported oil processed by each refiner in a given month. The prices obtained from refiners include transportation costs, inventory fees and other charges and/or margins associated with transactions taking place between the time oil is produced and the time it is acquired by the refiner, while the data describing volumes of oil processed in each category do not necessarily reflect the production of such oil in a given month.

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[1] This calculation assumes a weighted average price of old oil of $5.25. Should the $5.25 average price prove to be an inaccurate measure of actual prices the President shall take this into consideration before making any upward adjustment in upper tier prices.

Certain producers of new and released (but not stripper) crude oil currently report, on form FEA-90, both production volumes and first sale prices of such oil. FEA estimates that companies accounting for 87 percent of domestic production are reached in this survey. At present, no data series compiled by FEA or by any other Federal agency covers production and prices of all categories of domestic crude oil.

The conferees expect that a data collection system which substantially increases current FEA coverage of the volumes and first-sale prices of domestic crude oil production will be required to carry out the pricing provision of the Act. The conferees do not intend to preclude the use by the President of valid, reliable, and statistically representative sampling techniques to accomplish the monitoring of domestic oil prices. However, to the extent that the reporting system upon which crude oil price regulation is based covers less than the relevant universe of sources of primary data, the conferees fully intend that the measure of actual weighted average first-sale prices of domestic crude oil which is adopted for purposes of this Act shall be valid, reliable and completely defensible, whether based on a continuation and expansion of the existing FEA data system or its replacement by a new and more comprehensive one. Finally, the conferees intend that the current FEA audit of crude oil price and production data be continued or replaced by a new system which results in a more complete and comprehensive auditing of actual domestic oil pricing practices.

ALASKA PRODUCTION

On April 15, 1977, the President is required to submit to the Congress a report on the adequacy of the then current weighted average price to provide positive incentives for the development of Alaska oil production without reducing ceiling prices and production incentives in the lower forty-eight states.

If the President finds that the then current maximum weighted average price is not adequate to provide such positive incentive, he may submit to the Congress a proposal, in the form of an amendment to the pricing regulation, to exclude up to 2 million barrels per day of Alaska production flowing through the Trans-Alaskan pipeline referred to in paragraph 2(a) in subsection (g) from the calculation of the actual weighted average price. Such a proposal must include a proposed ceiling price or prices for such excluded Alaska production, the average of which cannot exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic oil. Such proposal must be supported by findings justifying the level of such ceiling price or prices. Disapproval of the proposal by either House within 15 days under expedited procedures would prevent such an amendment to the regulations from taking effect.

If such an amendment is disapproved, the President can send an additional proposal for exempting Alaska production within 30 days of the initial disapproval. If either proposal becomes effective, beginning on January 1, 1978, and at no sooner than 90 day intervals thereafter, the President may submit to the Congress, proposals to modify the ceiling price or prices established in his initial Alaska exemption proposal. If either House disapproves the proposal within 15 days, the proposed modification may not become effective.

JUDICIAL REVIEW

Because the conference substitute provides Congressional review of certain amendments to the regulation under section 4 of the Emergency Petroleum Allocation Act, judicial review of such amendments and any supporting findings has been circumscribed in part.

PASS THROUGHS IN PRICES OF COST DECREASES

The Conference Substitute states that the President is required to promulgate a pricing regulation which requires a dollar-for-dollar pass through in prices of all decreases in the costs of crude oil, residual fuel oil, and refined petroleum products which have occurred or will occur. Under current regulations, the opportunity is provided for a refiner or marketer to pass through its increased crude oil or product costs. This is done by allowing the maximum lawful selling price of each seller to be increased upward to reflect increases incurred in the cost of crude oil or products purchased. The Conference Substitute requires that *decreases* in a firm's cost of crude oil, residual fuel oil, or refined petroleum products be fully taken into account in computing that firm's maximum lawful selling prices.

Until now such a provision has been unnecessary because few, if any, firms have enjoyed a reduction in their input costs. The pricing provisions contained in the Conference Substitute and the removal of import fees should, however, result initially in a significant reduction in the actual weighted average first sale price of domestic crude oil. This provision of the Conference Substitute will help to assure that as much of the crude oil price reduction as is possible will be passed through the various levels of refining and distribution to the consumer level. Of course, it cannot realistically result in a full and immediate dollar-for-dollar reduction of any seller's current selling price if that seller is already below its maximum lawful prices and if the Federal Energy Administration does not alter the rules regarding so-called "banked costs".

This provision of the Conference Substitute requiring a dollar-for-dollar pass through in prices of cost decreases in crude oil, residual fuel oil, and refined petroleum products is very much related to the provisions in the Conference Substitute pertaining to cost passthroughs and proportionate pricing. In a letter of December 6, 1975 from Federal Energy Administrator Frank Zarb to the Honorable Henry M. Jackson, Mr. Zarb estimated that the maximum effect on domestic product prices as a result of the pricing provisions in this Conference Substitute would be about 2.5 cents per gallon. In that letter Mr. Zarb went on to explain the relationship between the price decrease, and the way that it could be expected to flow through to the consumer. A portion of that explanation is included in this statement to clarify the relationship between the passthrough in prices of cost decreases provisions of the Conference Substitute and the provisions on banked costs:

The question of how fast this decrease will flow through to ultimate consumers depends more on market conditions than on law or FEA regulations. Under Section 4(b)(2)(A) of the Emergency Petroleum Allocation Act companies are authorized to pass through to consumers increased costs of crude oil, but FEA regulations interacting with market conditions have prevented them from doing so on a current basis. As of November 1, 1975, refiners collectively had unrecovered crude oil cost increases of about $1.4 billion that they were authorized to recoup in higher prices but had as yet been unable to recoup because of the competitive pressures of the marketplace.

These "banks" of unrecovered costs are not equally distributed among all refiners. Most are held by refiners who had higher than average feedstock costs before FEA's old crude oil entitlements program began operating. Accordingly, some refiners who currently have little or no banked costs because they have been passing through increased crude oil costs on a current basis will be required to pass on immediately in product prices any reduction in their average crude feedstock costs caused by this bill. In a market characterized by plentiful supplies of product, this mandatory reduction in prices by some refiners will place substantial competitive pressures on other refiners to meet these lower prices so as to preserve their market shares and their volumes of sales.

The exact timing and extent of price reductions therefore simply cannot be predicted with any degree of confidence. They depend on the individual business decisions of literally thousands of refiners, distributors, and retailers of petroleum products. Each is caught between two conflicting motivations: trying to collect as much as possible of any increased costs not yet recovered, versus the need to meet competition so as to keep volume and market share up. Profit-maximizing behavior for each company will be different depending on its own circumstances.

The general direction of the forces at work is clear. Currently, product markets are characterized by plentiful supplies and prices below those allowable under existing law and regulations. For those refiners without "banks" of unrecovered product costs, regulations will force lower prices early, thereby imparting downward pressure on all market prices. How fast that flow-through will be, on which products it will occur and in what amounts will be determined entirely by the interaction of supply and demand in the marketplace so long as prices are below legal limits.

Regardless of the rate at which the cost reductions flow through in lower prices to consumers, the Conferees may rest assured that their actions, if enacted by the Congress and signed by the President, should result in a savings to consumers of about 2.5 cents per gallon on petroleum products. These savings, however, will not necessarily be evidenced by actual and immediate decreases from current product price levels at the point of final purchase. They will also be evidenced by a reduction in prices in future months as a result of the immediate reduction in the amount of cost that refiners and resellers will have available for passthrough to consumers in those future months. Thus, prices will be less in future months than they otherwise would have been under a continuation of the present program. The combined effect of the operation of FEA regulations and competition in the marketplace should assure that consumers will reap the full benefit of the rollback one way or the other. What cannot be specified with any precision is exactly how that benefit will be distributed over time and among the products covered by price regulations.

The conference substitute repeals existing section 4(d) of the Emergency Petroleum Allocation Act, requiring that all domestic production be allowed for domestic use, and existing section 4(e), granting stripper wells an exemption from price controls. In view of the explicit language in Section 103 of the conference substitute prohibiting the export of crude oil and petroleum products, the less specific language of Section 4 with regard to the domestic allocation of petroleum products is no longer needed.

Under the conference substitute, stripper well ceiling prices come within the President's broad discretion to set ceiling prices to implement the maximum weighted average price requirement of the legislation. It is the conferees' understanding that, within the limitations of the conference substitute, the President will most likely establish a separate stripper well ceiling price of approximately $11.28—the equivalent of the upper tier under a continuation of the current two-tier pricing program subject to limits of the conference substitute in order to assure sustained rates of production from such properties.

LIMITATIONS ON PRICING POLICY

House amendment

The House amendment amended section 4(b)(2)(A) of the Emergency Petroleum Allocation Act of 1973 to provide that no passthrough of any net increases in the acquisition cost of crude oil (which were incurred after the enactment of this legislation) would be permitted more than 60 days after the date on which these increases were incurred.

In addition, the House amendment required that the specification of, or the manner for determining, the prices of residual fuel oil and of each refined petroleum product by a refiner whose facilities are located in the United States, shall reflect a proportionate distribution of costs.

Senate amendment

No provision.

Conference substitute

The conference substitute provides that any crude oil costs increase incurred by refiners in the month preceding the effective date of the amendment to the Allocation Act regulation mandated by section 8(a), or any time thereafter, which are not passed through within the 60 day period which follows the month in which such increases are incurred, as product prices charged by a refiner may not be subsequently passed through by such refiner at a later date, except as provided in this section. To permit such later pass through, the President must report to the Congress respecting his findings that such authority is necessary to alleviate the impact of significant increases in crude oil costs, to provide for equitable cost recovery by refiners and to avoid competitive disadvantages to individual refiners. Any such later pass-through is further limited by an overall 10% per month limitation.

With respect to such net increases in the cost of crude oil incurred one month prior to the effective date of the pricing program by the Conference and not passed through as of that date, not more than ten percent of the amount of such banked costs in effect on that day can be passed through in any subsequent month.

With respect to net increases in the cost of crude oil incurred after one month prior to the effective date of the Conference substitute pricing program, and subject to passthrough beyond the allowable 60 days pursuant to the appropriate Presidential findings, passthrough in any given subsequent month cannot exceed ten percent of the total of such net cost increases incurred after such date and not passed through within the allowable 60 days.

The net effect of both these limitations on banked cost passthroughs is to limit such passthroughs beginning with the effective date of the conference substitute's pricing program to ten percent of any banks in existence on the last day of the last calendar month prior to the effective date plus ten percent of any amount incurred one month prior to effective date and not passed through within 60 days of the month in which incurred.

Any allowable increase in the cost of crude oil, residual fuel or other refined petroleum products must be permitted to be passed through on a dollar for dollar basis to all levels of the petroleum distribution chain.

This provision also prohibits the distribution by volume any increase in the cost of crude oil to Number 2 oils, aviation fuel, and propane produced from crude oil in greater than a directly proportionate amount. Under current regulations, refiners are not permitted to passthrough crude oil cost increases on a greater than directly proportionate by volume basis to Number 2 oils, heating oil and diesel fuel and propane. This provision adds aviation fuel to this proportionate pricing formula and elevates the regulatory scheme to statutory status. The conference committee fully intends, however, to preserve the existing flexibility to tilt away from propane and home heating oil as provided in existing regulation.

Such proportionality in cost passthroughs pertaining to these three categories of refined petroleum products applies to all net increases in the cost of crude oil, including those incurred in the month preceding the effective date of the conference substitute's pricing formula and passed through within the allowable 60 days, those incurred in the month preceding the effective date and passed through after the 60 day limitation, pusuant to the appropriate Presidential findings, and the ten percent limitation, and all such costs incurred before the effective date of the Act's pricing program and subject to the appropriate ten percent passthrough limitations.

With respect to the conference substitute's proportionate distribution of costs requirement, the President may, by order, permit a deviation from proportionate passthrough upon a finding that such deviation would be consistent with the objectives specified in section 4(b)(1) of the Allocation Act and will not result in inequitable prices to any class of users of such product.

PROHIBITION OF MINIMUM PRICES

House amendment

The House amendment prohibited the President from prescribing minimum prices for crude oil, residual fuel oil, or any refined petroleum product.

Senate amendment

No provision.

Conference substitute

The Conference substitute follows the provision in the House amendment, but confines its reach to negating the use of any authority under this Act or the Emergency Petroleum Allocation Act.

EXEMPTION FOR SMALL REFINERS

House amendment

The House amendment added a new subsection to section 4 of the Emergency Petroleum Allocation Act of 1973 to exempt from any provision of the regulation promulgated under section 4(a) which requires refiners to purchase entitlements for crude oil based on the number of barrels of such refiner's crude oil input, the first 50,000 barrels per day of the input of a refiner whose total refining capacity (including that of affiliates) was not in excess of 100,000 barrels per day on January 1, 1975 and whose capacity did not thereafter exceed that daily amount. The exemption was made effective with respect to any payments due on or after the last day of the month in which this legislation was enacted.

Senate amendment

The Senate amendment amended section 4 of the Allocation Act to provide that any requirement of the section 4(a) regulation as to the purchase of crude oil entitlements would not apply to the first 50,000 barrels per day of those refiners whose total refining capacity (including that of affiliates) did not exceed 100,000 barrels per day on January 1, 1975. The exemption would be effective as to payments due with respect to crude oil receipts and runs to stills which occurred on or after February 1, 1975.

Conference substitute

The conference substitute follows the provision in the House amendment.

PHARMACEUTICALS

House amendment

The House amendment amended section 4(b)(1)(A) of the Emergency Allocation Act of 1973 to make clear that protection of public health includes needs related to the production of pharmaceuticals.

Senate amendment

No provision.

Conference substitute

The conference substitute follows the provision in the House amendment.

PRIORITIES FOR MINERAL EXTRACTION

House amendment

No provision.

Senate amendment

The Senate amendment amended section 4(b)(1) of the Allocation Act to include a priority for exploration, production and extraction of minerals essential to the requirements of the United States and for any required transportation which is related thereto.

Conference substitute

The conference substitute follows the Senate amendment.

PENALTIES FOR ALLOCATION ACT VIOLATIONS

House amendment

The House amendments increased the amount of the civil penalty which could be imposed under the Emergency Petroleum Allocation Act of 1973 to (1) a maximum of $20,000 for violations related to the production and refining of crude oil; and (2) a maximum of $10,000 for violations related to the wholesale distribution of residual fuel oil or refined petroleum products. The maximum such penalties for retail-level violations remained $2,500. The criminal penalties for Allocation Act violations were changed to authorize (1) imprisonment for not more than one year; (2) a fine of up to $40,000 for willful violations related to crude-oil production or refining; (3) a fine of up to $20,000 for willful violations related to the wholesale distribution of residual fuel oil or any refined petroleum product; and (4) a fine of up to $10,000 for willful violations, at the retail level, related to the distribution of residual fuel oil or of any refined petroleum product.

Any individual director, officer, or agent of a corporation who knowingly and willfully authorized, ordered, or performed any act in violation of the Allocation Act and who had notice, or reasonably should have had notice, of such corporation's noncompliance, would be subject to these criminal penalties, regardless of whether or not civil penalties were imposed on the Corporation.

Senate amendment

No provision.

Conference substitute

The conference substitute follows the House amendment. With respect to those provisions of the House amendment which permitted corporate directors, officers and agents to be held individually responsible for those violations of the corporation which they knowingly and willfully authorized, ordered, or performed, the conference substitute limits the authority to seek a term of improvement to circumstances when the director, officer or agent had knowledge or reasonably should have known of prior notice of noncompliance received by the corporation. With the exception of this latter proviso, nothing in the section is intended to change existing case law relating to the individual responsibility of corporate directors, officers or agents for violations of those corporations.

It should be pointed out that under FEA regulations, each day of a continuing violation is considered a separate violation for purposes of the penalty provisions under the current Act. Such a construction is necessary if the penalty provisions are to provide a meaningful deterrent to violations which are continuing in nature, such as the failure to supply oil or products pursuant to an allocation regulation or order. Although the maximum penalties have been substantially increased by the conference substitute, there are still likely to be numerous instances in which the maximum penalty would not deter unlawful conduct unless such a construction were applied. The Committee therefore expects the FEA to continue to view each day of a continuous violation to be a separate violation.

ANTITRUST PROVISION IN ALLOCATION ACT

House amendment

No provision.

Senate amendment

The Senate amendment added a new subsection to section 6 of the Emergency Petroleum Allocation Act of 1973 and removes the provisions of that section which relate to assertions of a defense in antitrust litigation. The new provision makes it an affirmative defense, in an action for breach of contract, that the alleged breach was caused solely by compliance with the Allocation Act or regulations or orders thereunder.

Conference substitute

The conference substitute follows the provision in the Senate amendment.

REEVALUATION OF SECTION 4(a) REGULATION

House amendment

The House amendment amended the Allocation Act to direct the President, within 30 days after enactment of this legislation, to conduct a review (including notice thereof and an opportunity for interested persons to comment in writing and orally) of the appropriateness and continuing efficacy of, or need for, any of the provisions of the regulation promulgated under section 4(a) of that Act with respect to the attainment of the objectives stated in section 4(b)(1) of that Act. Within 90 days after enactment, the section 4(a) regulation as he determined were necessary or appropriate to modify or eliminate any provisions thereof which were found to be inconsistent with, or no longer necessary to the attainment of, the section 4(b)(1) objectives. Any such amendment would take effect as provided under its terms.

Senate amendment

No provision.

Conference substitute

The conference substitute modifies the House Amendment by requiring the President to hold hearings within 60 days of enactment to determine the need for amending any regulations under the Emergency Petroleum Allocation Act in an effort to better achieve the objects specified in 4(b)(1) of the Act.

The President is required to submit to the Congress, within 120 days of the enactment of this legislation, an analysis of all such recommendations, and thereafter promulgate such amendments as are necessary to modify the regulations for the purpose of better attaining the objectives specified in section 4(b)(1).

The conferees believe that, in connection with the review and oversight of the FEA regulations under the Allocation Act, the following matters should be considered: (1) an equitable and proportionate distribution of costs among all refined products; (2) the contention by some that major petroleum companies are selling to their captive stations or employee-operated stations on more favorable terms than to branded and non-branded independent marketers; (3) an evaluation of the feasibility of removing controls from the retail and/or wholesale level; (4) an assessment of whether crude oil purchasers and resellers who initiated business after the 1972 base period should be able to have an opportunity to establish a business and to compete with others for the purchase of crude oil from producers; (5) a review of the mandate to allocate on an equitable basis between regions, giving due regard to historical patterns rather than to create preferences between regions without reference to historical patterns; and (6) the extent to which environmental impacts are being adequately considered prior to making allocation decisions.

CONVERSION TO STANDBY AUTHORITIES

House amendment

The House amendment authorized the President to convert mandatory provisions of the Emergency Petroleum Allocation Act of 1973 to standby authority, subject to disapproval by either House in an expedited 15-day Congressional review procedure. The President was authorized to exempt from controls crude oil, residual fuel oil, or any refined petroleum product. Such amendment may apply to different market levels (i.e. production, refinery, wholesale distribution, or retailing) and may provide for scheduled or phased implementation. It would not, however give the President the authority to exempt first sales of domestic crude oil production from the statutory price ceiling.

Once exempted, the President would have standby authority to reimpose allocation and price controls and subsequently modify them without Congressional review.

Senate amendment

No provision.

Conference substitute

In early October 1973 the "Yom Kippur" war broke out in the Middle East. An embargo was imposed on the United States and other countries by the oil producing Arab countries. Suddenly, the Untied States was faced with the possibility of drastic shortages in crude oil supplies and spiralling of petroleum costs. In this crisis atmosphere, Congress passed the Emergency Petroleum Allocation Act in 1973 (EPAA). The Act gave the President the necessary authority to meet the shortage conditions that existed in the first half of 1974 with minimum impact upon the Nation while preserving the market position of the independent segments of the petroleum industry.

The conference substitute, thus, grants the President limited authority to amend the regulation prescribed under section 4(a) of the Emergency Petroleum Allocation Act if he determines that such amendment is consistent with the attainment of the public policy objectives specified in section 4(b)(1) of the Act, except as required by section 8(a) and that the regulation, as amended, provides for the attainment of those objectives, to the maximum extent practicable. If the President proposed to exempt crude oil, residual fuel oil, or a refined petroleum product or product category with respect to a class of persons or transactions with respect to any market level, he must submit such amendment to the Congress. Any amendment of this character may take effect if not disapproved by either House within 15 days under expedited Congressional review procedures.

The regulations promulgated by the Federal Energy Administration pursuant to the mandatory authority of the EPAA establish a comprehensive regulatory structure which cuts across and applies to all sectors of the petroleum industry. Conceptually, the regulations may be segmented into two parts—those provisions dealing with the pricing of covered petroleum products and those provisions dealing with allocation of those products.

The price regulations are further divided into three sets of rules, each dealing with one segment of the petroleum industry. The pricing provisions treat crude oil producers, refiners, and resellers and retailers.

The allocation regulations are divided into two allocation programs, one dealing with crude oil and one dealing with products refined from crude oil.

The United States still faces a critical energy problem. However, the dimensions of that problem are far different from those which existed in 1973 and were addressed by the EPAA. There is no longer a general shortage of either crude oil or refined petroleum products, with the possible exception of propanes. In many ways, the supply side of the market has returned to near the pre-embargo conditions which prevailed in 1972.

In view of these changed conditions, a comprehensive regulatory structure of the scope outlined above may no longer be necessary. On the other hand, to allow such a comprehensive structure to expire, overnight, may itself create severe dislocations. To the extent that mandatory controls are no longer needed or desirable, a gradual return to an unregulated market is preferable to sudden decontrol.

In addition, while some products or some markets may no longer need mandatory price and allocation controls, conditions are not identical throughout the entire industry. Moreover, certain policies adopted in Title IV of this legislation would require continuation of certain controls. Section 401 establishes a pricing policy applicable to domestic crude oil which promises to maintain domestic crude oil prices below the OPEC cartel-established world market prices. This policy requires a continuation of certain programs established pursuant to the authorities of the EPAA. Specifically, it is contemplated that crude oil cost equalization (entitlements) program would have to be continued or some equivalent devised to preserve competition so long as a substantial difference continues to exist between OPEC established world market crude oil prices and domestic crude oil prices established pursuant to Section 401.

Finally, so long as the United States continues to be dependent upon insecure or unstable foreign sources of crude oil for a substantial portion of the Nation's energy requirements, reimposition of an embargo could produce severe shortages such as those experienced during the Arab oil embargo of 1973–74. Therefore, the President must have authority on a standby basis to deal with such shortages. Such authority has been specifically requested by the President. A proposal regarding standby price control and allocation authority was included in Title XIII of the bill, The Energy Independence Act of 1975, proposed to the Congress by the President.

The conferees believe that the flexibility of the existing law and its demonstrated adequacy during the 1973–74 Arab embargo make it a prime candidate for conversion to a standby authority. The conferees believe that such conversion would be preferable to enactment of a separate authority.

Extension of the EPAA and its conversion to a standby authority offers, in addition, the potential for a smooth transition of petroleum markets from a closely regulated state to a large unregulated status subject to standby pricing and allocation authority.

For the purpose of this provision, "refined product category" means motor gasoline, Number 2 oils (including heating and diesel fuel), propane, or all or any portion of other refined petroleum products as a class (including natural gas liquids and natural gas liquid products other than propane).

Any amendment which proposes to exempt crude oil, if permissible under and consistent with the requirements and limitations of section 8, residual fuel oil, or any refined petroleum product or product category, from the regulation pertaining to allocation must be submitted to Congress together with a finding that such product is no longer in short supply and the exemption would not have an adverse impact on the supply of any other oil or product.

Any proposed exemption with respect to price must be accompanied by a finding that (1) competition and market forces would provide adequate protection for the consumer, and (2) such amendment would not result in inequitable prices for any class of users.

Any amendment submitted to the Congress must be accompanied by the President's findings on the potential economic impact of such amendment.

Any oil or refined product category which is exempted from the regulation is subject to the reimposition of the regulation if the President determines that such reimposition is necessary for and consistent with the objectives specified in section 4(b)(1). Subsequent re-exemption of that oil or refined product category would not be subject to Congressional review.

The President may also submit to the Congress an amendment to modify the regulation with respect to exemption from payments or purchases of entitlements for the first 50,000 barrels per day of inputs for certain small refiners, if he determines that such an exemption has resulted in unfair economic or competitive advantage with respect to other small refiners or otherwise seriously impairs his ability to provide for the attainment of the objectives of the Act.

Here the conference substitute has added a constraint on the President's authority to amend the regulation. This constraint, not found in the House amendment, has been included to clarify and make compatible the terms of this section with those contained in new section 4(e) relating to exemptions from entitlement obligations for certain small refiners.

TECHNICAL PURCHASE AUTHORITY

House amendment

The House amendment amended the Allocation Act to give the President discretionary authority to act as exclusive agent for and to become the technical purchaser of all imports into the United States of crude oil, residual oil, or any refined petroleum product, on a sealed bid basis. The contract authority was limited to amounts approved in appropriations acts.

Senate amendment

No provision.

Conference substitute

The conference substitute authorizes the President to prepare and submit to the Congress a technical purchase authority plan which would grant the United States the exclusive right to import all or any part of the crude oil, residual fuel oil or any refined petroleum products produced in foreign nations for resale in the United States.

There is a strict prohibition on application of the authority in a manner that would result in a subsidy or preference for any individual importer, purchaser or user of such products in the United States.

The authority cannot be used in a manner that will result in a profit or loss to the United States, except in the circumstance where the President finds that competitive-bid sales to purchasers in the United States below the acquisition price to the United States government may result in progress toward lowering world oil prices.

Such plan and submission must be supported by findings by the President that the likely effect of the procedure would be to reduce prices for imported oils and products.

Such plan would take effect if not disapproved by either House of Congress within 15 days under the expedited Congressional review procedure.

This provision also requires the President to submit to the Congress, within 90 days of enactment, a report on the feasibility of providing an incentive for reducing the price of imported oil by granting domestic producers an increase in the price of old oil corresponding to any decreases in the price of foreign oil.

DEFINITIONS UNDER THE ALLOCATION ACT

House amendment

The House amendment amended the definitions section of the Emergency Petroleum Allocation Act of 1973, (1) to make it clear that domestic crude oil production includes oil produced from the Outer Continental Shelf, (2) to add a definition of "motor gasoline" (the operative term in the House amendment provision establishing a mandatory gasoline allocation program), and (3) to indicate that the term "includes", when used in that Act, means "includes, but not limited to".

Senate amendment

The Senate amendment amended the definitions section of the Allocation Act to add a definition of "handicapped person" and a definition of "eligible person" (a handicapped person or the parent or guardian of such a person who must transport the handicapped person to and from special services).

Conference substitute

The Conference substitute does not propose any amendment to the definitions to be employed in the Emergency Petroleum Allocation Act. The concept of affording special consideration to handicapped persons is picked up and provided for in those sections of the Conference substitute in Title II which pertain to energy conservation plans and rationing. It should be stressed that the conferees' failure specifically to include oil produced from the Outer Continental Shelf in the definitional category of domestic crude oil reflects the strong belief of the conferees that such inclusion was unnecessary; the conferees have consistently interpreted the term as including such production and intend for it to be so regarded in the future.

DIRECT CONTROLS ON REFINERY OPERATIONS

House amendment

The House amendment amended the Emergency Petroleum Allocation Act of 1973 to authorize the President to require adjustments in the processing operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations. These adjustments could be made when they were necessary to assure the production of fuels in proportions necessary to obtain the objectives of section 4(b), or section 12 of the mandatory gasoline allocation savings program.

Senate amendment

The Senate amendment authorized the President to require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

Conference substitute

The conference substitute follows the House amendment, except that all reference to the mandatory gasoline allocation savings program has been deleted. (See supra). The conferees intend that this authority shall be narrowly applied and that it shall not be construed to authorize governmental operation of refineries.

INVENTORY REQUIREMENTS

House amendment

The House amendment amended the Allocation Act to authorize the President to require persons engaged in the business of importing, producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product to build upon draw-down inventories as the President may deem necessary to satisfy the requirements of the mandatory gasoline allocation savings program, and to carry out obligations of the United States under the international energy program. This authority is limited to requiring the maintenance of "90-day inventories." In no case could such persons be required to make physical additions to storage facilities.

Senate amendment

No provision.

Conference substitute

The conference substitute authorizes the President, if he finds an existing or impending regional or national supply shortage of any fuel, by order or by amendment to the regulation, to require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product held in inventory by any persons engaged in the business of importing, producing, refining, marketing or distributing such products. The President may require distribution of inventories to specified persons or classes of persons at specified rates of distribution, or to specified levels of inventory accumulation, or the accumulation of such inventories at a specified rate or to specified levels. This authority may be exercised if the President determines that such order or amendment may be necessary (1) to the attainment of the public policy objectives stated in section 4(b)(1) of the Emergency Petroleum Allocation Act or (2) to carry out the obligations of the United States under the International Energy Program.

Such authority may also be exercised to require the maintenance of inventories at levels above or below normal operating levels, with the limitation that such requirements may not exceed the amount which would be used or distributed during any 90-day period of peak usage. In no event may any requirement for maintenance of inventories require a physical addition to storage facilities to comply with any such amendment or order.

HOARDING

House amendment

The House amendment amended the Allocation Act to prohibit persons in the business of producing, refining, distributing or marketing crude oil, residual fuel oil, or refined petroleum products from accumulating, during a severe energy supply interruption, "amounts of such oils or products in inventories or otherwise which are in excess of such person's reasonable needs".

Senate amendment

No provision.

Conference susbtitute

The conference substitute follows the provision in the House amendment, except that (1) the prohibited conduct is to be defined with specificity in the regulations; (2) only a "willful" hoarding is made a violation; and (3) exemption from this requirement is specifically provided with regards to activities required by the Industrial Strategic Petroleum Reserve provisions of this Act.

ASPHALT ALLOCATION AUTHORITY

House amendment

The House amendment amended the Allocation Act to authorize the President to provide for the mandatory allocation of, and to establish price ceilings applicable to, asphalt.

Senate amendment

No provision.

The conference substitute follows the provision in the House amendment, with an additional provision allowing the President to exempt asphalt from such mandatory allocations without regards to Congressional review provisions of section 12, once such an allocation program for asphalt has been established pursuant to this provision.

EXPIRATION OF CERTAIN AUTHORITIES

House amendment

The House amendment provided that all standby energy authorities and the authority with respect to the strategic petroleum reserve would expire at midnight on June 30, 1985. Any rule, regulation, or order issued pursuant to any such authority would expire at the same time. Expiration would not affect pending civil or criminal proceedings nor would it preclude any legal action based upon any act committed prior to expiration.

Senate amendment

The Senate amendment provided that all standby energy authorities would expire at midnight on June 30, 1977, except that such authority was authorized to be exercised until midnight on November 18, 1978 if required to implement the obligations of the United States under the international energy agreement. Expiration would not affect pending legal action or preclude any such proceeding brought after expiration based upon any act committed prior thereto.

Conference substitute

The conference substitute provides that at the end of 40 months, the mandatory requirements of the Emergency Petroleum Allocation Act convert to discretionary authority, and the limitations imposed by sections 4 (b) (2), 8, and 9 terminate. As standby authority the Act expires on September 30, 1981.

REIMBURSEMENT TO STATES

House amendment

No provision.

Senate amendment

The Senate amendment directed the President to provide financial assistance to States. A State would be eligible for such assistance if it established a State plan for energy conservation, provided satisfactory fiscal control and accounting procedures, and complied with applicable President regulations. The purpose of such grants would be to assist States in carrying out functions delegated to them under this legislation, in carrying out appropriate energy conservation, rationing, or allocation programs which qualify for an exemption from a Federal energy conservation plan, and in reimbursing them for functions carried out under the Emergency Petroleum Allocation Act of 1973. For the purpose of this section the amendment authorized $50 million to be appropriated for each of the 2 fiscal years including and following the effective date of this legislation.

Conference substitute

The conference substitute authorizes the Administrator of the Federal Energy Administration to reimburse States, to the extent of available funds, for functions performed under the Allocation Act and directs the President to report to the Congress no later than June 1, 1976, on the amount and nature of reimbursements made to States under this provision. The President must also report regarding recommendations as to whether authorization of additional funds are necessary for direct grants to States to continue the operation of the reimbursement program.

EFFECTIVE DATE OF AMENDMENTS TO THE ALLOCATION ACT

House amendment

The House amendment provided that amendments to the Emergency Petroleum Allocation Act of 1973 would take effect on September 1, 1975.

Senate amendment

No provision.

Conference substitute

The conference substitute is similar to the House amendment. Section 463 provides that the amendments to the Allocation Act made by this Act shall be effective as of midnight December 15, 1975, except as otherwise provided. The conferees expressly recognize the possibility that this Act may not be enacted until after December 15, 1975. For that reason, the December 15, 1975, date was expressly written into section 463 as the effective date so as to make it absolutely clear that no gap in the President's authority to promulgate regulations or to issue or enforce orders under the Allocation Act is intended, that the extension of the Allocation Act authority will apply retroactively to December 15, 1975, and that the regulation under section 4(a) in effect on December 15, 1975, shall be deemed to have been continuously in full force and effect thereafter.

Mr. JACKSON. Mr. President, I yield 10 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, the conference action on S. 622 is of intense interest to Members of this body.

The RECORD should reflect, in reference to the coal loan guarantee provision in the measure, that there was agreement between the Senate-House conference on this provision. The provision was modified on Monday in the House. The House restricted the coal loan guarantee provision to new underground mines. So under the provision, existing mines no longer would qualify. I reiterate, the broader based program was approved by the conferees.

Mr. President, this omission has materially weakened the conference agreement and it is with reluctance that I support the conference action as modified by the House.

I do so with the hope that the President will approve this measure. After 2 years of negotiation this legislation reflects the judgment of the conferees, although several provisions could be improved if additional time were available. However, the current program expired on December 15 and an extension is necessary.

I will continue to work for improvements in the energy field, particularly with regard to the coal loan guarantee program which, unfortunately, had to be modified by the House in response to procedural problems.

The RECORD should indicate that in 1974, there were only 73 mines in the United States that produced more than 1 million tons of coal annually, out of a total of about 600 million tons that year. By comparison, between 700,000 and 1 million tons were produced by 28 mines, of which 10 were deep mines. Between 500,000 and 700,000 tons were produced by 31 mines.

For between 400,000 and 500,000 tons, there were 43 mines. Between 300,000 and 400,000 tons, there were 59 mines. Between 200,000 and 300,000 tons produced, the number is listed at 101 mines. And, between 100,000 and 200,000 tons, there were 262 mines. In 1974, there were 524 mines producing between 100,000 and 1 million tons of coal annually. About one-half of these mines, according to the best information we can secure, are underground operations. Coal production is not dominated by large producers as for oil and natural gas.

Mr. President, the time required to open a new mine is considerably longer than that needed to expand an existing mine. We are thinking in terms of 3 years to bring a new mine into production, compared with 12 to 18 months to expand the output of an existing mine. It is also important to stress that the cost of opening a new mine is much greater. For example, it costs about $35 million for 1 million tons of annual production to open a new mine.

We must underscore this fact: It costs approximately $35 million per one million tons of annual production to open a new mine. This compares with approximately $20 million per million tons to expand an existing underground mine. Thus, by restricting the coal loan guarantee to only new mines, as the House action on the conference report has done, the total new coal tonnage will be reduced to about one-half of that which we would expect if existing mines could take advantage of the loan guarantees. Moreover, the time required is twice as long.

Since the provision was intended to supplement coal conversion, the effect of restricting it may well be a retardation of coal conversion itself.

It is very important for us to realize that the ban guarantee program was to foster new coal supplies and, I emphasize, to enhance competition. But the conference agreement now authorizes loan guarantees only for new coal mines. Such production must be either low-sulfur coal or coal which can be used in compliance with Federal or State requirements issued pursuant to the Clean Air Act.

I also underscore the fact, to be eligible, a mine must produce less than 1 million tons per year to qualify for such coal loan guarantees.

It has been my responsibility to discuss this problem with the chairman of the Committee on Interstate and Foreign Commerce of the House (Mr. STAGGERS), a Member of Congress from the State of West Virginia. Our State is either the second or first—the figures vary between West Virginia and Kentucky—in the production of coal.

We also have been in touch with Representative DINGELL, who as chairman of the House Subcommittee on Energy, has been articulate on this subject. I think I am correct in saying that they both support an action early next year on legislation that would expand the provision of the conference agreement to include existing coal mines.

I appreciate the work that has been done by all of the conferees on this legislation. There was very careful consideration of all provisions. I am fully conversant with them, and I express personal as well as official appreciation of the efforts of the able manager of the conference report, the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON). I now inquire of the Senator from Washington as to his feelings about this crucial matter. If legislation, which I intend to draft, in consultation with him and others, is presented early in the next session, could this measure be addressed promptly and thoroughly in the Interior Committee. I am hopeful that we could bring to the Senate and to the House such legislation to foster coal conversion. We must strengthen coal production in the United States from existing as well as new mines.

Mr. JACKSON. Mr. President, I can assure the distinguished Senator from West Virginia, (Mr. RANDOLPH), who has been so long active in this all-important area of energy—coal—that, at least as far as the chairman is concerned, he feels very strongly that there should not be a division, really, between old and new.

Mr. RANDOLPH. The Senator is correct.

Mr. JACKSON. Old mines have a lot of need for development and we may save money by prosecuting that effort.

Mr. RANDOLPH. Again, the Senator is correct.

Mr. JACKSON. In areas where development is already underway, to open up a new mine could be more expensive and take much longer, and time is of the essence in this matter. I wish to say, as the Senator (Mr. RANDOLPH) knows, I have strongly supported his position in Congress. I have strongly supported it in the Committee on Interior and Insular Affairs. I assure him that upon the introduction of the legislation which he has discussed, we shall move expeditiously for a hearing on that legislation.

I understand, too—I have not been in touch with Representative DINGELL, but from indirect touch with the staff of the distinguished chairman of the Subcommittee on Interstate and Foreign Commerce, Mr. STAGGERS, that he will join in that effort so we can move bilaterally and rapidly. I cannot make it any stronger.

I am fully in accord with the Senator's comments on this particular point and I shall do everything I can, as I have in the past, as the Senator (Mr. RANDOLPH) knows, to see that that such a program moves forward.

Mr. RANDOLPH. Mr. President, I appreciate the assurance of the Senator from Washington (Mr. JACKSON). I know that he joins me—in fact, we are partners—in an effort to secure the fullest utilization of coal in the United States of America. Toward that end, we are in agreement.

Mr. JACKSON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. May I ask the Senator from Arizona for time?

Mr. FANNIN. How much time does the Senator desire?

Mr. DOMENICI. I believe 10 minutes would be adequate.

Mr. FANNIN. I yield 10 minutes to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Arizona.

Mr. President, the two most dangerous problems that the United States faces today are inflation and lack of energy supply. At a time when Congress is making every effort to contain the inflation which has depressed our economy, the Senate is considering an energy proposal which threatens not only to jeopardize our effort to attain energy independence, by increasing our domestic supply, but encourages the inflation we are trying so desperately to control.

The bill is doubly dangerous because many of the adverse effects are not immediately obvious.

I would like to take a minute here to talk about the petroleum industry in New Mexico, a State which ranks sixth among the 50 States in the production of crude oil. The State of New Mexico contains 77.7 million acres and 33.9 percent has been proved productive of oil and/or gas, or is leased for possible future exploration. The petroleum industry is one of New Mexico's largest nongovernment employers, providing jobs for over 18,000 people in 1974.

The pricing provisions of the bill discourages rather than encourages domestic oil production and in the State of New Mexico, the provisions threaten the entire petroleum production industry. Approximately 60 percent of New Mexico's oil is old. Approximately 35 percent of the State's production comes from enhanced recovery methods with the remainder from stripper well production.

The provisions of this measure provide uncertainties for all categories of oil, because the President is given discretion to change the price in any category as long as the composite does not exceed $7.66. In addition, the price controls have been extended to new oil, released oil and stripper well oil. The composite price will cause an immediate rollback of "uncontrolled" oil prices from $13.50 to $11.28 per barrel. This will hurt the independent producer more than anyone else because they have a greater mix of new and stripper well oil than the majors.

The petroleum industry is the greatest single source of tax revenue for the State of New Mexico, its counties, cities, and other political subdivisions. The State of New Mexico Energy Resources Board and Governor Jerry Apodaca indicated that the price rollback provision could cause an immediate decrease of 7 to 10 percent in direct production revenues to the State of New Mexico.

My analysis of the pricing provisions of this conference report is that they are bad for the Nation as a whole, will lead to even higher dependency on foreign sources for petroleum, and will jeopardize the country's critical conservation efforts.

There will be no real savings for the American consumer because American development and exploration will be substantially diminished, thus forcing us into greater reliance on high-priced foreign crude oil.

I find the plan set forth by the conference to be deficient in achieving the three main goals of any responsible national energy policy. In reality, the proposal promotes consumption, when it should demand conservation; it prohibits expansion of domestic petroleum supplies, when it should generate such expansion; it makes us increasingly vulnerable to another embargo by foreign sources, when it should make us more self-sufficient.

Proponents of this legislation feel this proposal is responsible governmental action and will benefit the American consumer. I am convinced that both its immediate and ultimate effect will be just the opposite, and that we will see it work to the detriment of all consumers of energy in the Nation.

If this proposal were in the best interests of the Nation, and penalized the producing States, such as my home State, I would, nevertheless, vote for it and support it. But, this bill does not put the national interest first. It is contrary to the national interest.

Because of this, I shall vote against the measure, and if it passes the Senate, I will urge the President to veto the bill.

Mr. President, I have been in the U.S. Senate almost 3 years now. Of course, we all know that shortly after those of us who came here in 1972 arrived, the energy crisis hit the United States. I think it is fair to say that for many of us, we have spent a great deal of time and effort, energy, and enthusiasm, attempting to be innovative and concerned—all of this directed at bringing to the U.S. Senate some comprehensive energy policy. In particular, with reference to crude oil in the United States, we have attempted over these years to bring to the Senate and participate in the formulation of a policy for this country with reference to crude oil.

For a long period of time, under the guise of freezing the prices, we had the two-tier system in existence in this country which, basically, froze old oil and more or less let new oil in the United States find its market value. We had various exceptions such as stripper wells which might be old but, because of basic geological and economic reasons, were exempt from this system.

Literally, month after month this body struggled, with at least four committees having jurisdiction over energy, trying to come up with what everyone thought might be a better approach.

I can say for this Senator that even though my involvement was only on the Committee on Public Works, I am going to vote against this bill for a number of reasons. I would also like to express some serious concern I have about the procedure.

Mr. President, neither the House of Representatives, any Member in that House, on the floor of that body, nor any U.S. Senator on the floor of the Senate, has had a real opportunity to vote on the so-called composite price-fixing that is in this bill, a totally new and innovative idea that some might think is going to work.

But the point I want to make, Mr. President, is that after all that effort, after the effort of months of endeavors, voting up or down constructive and destructive amendments being brought here to the floor on the old two-tier system, stripper wells, and the like, I have come to the floor of the Senate under a procedural system which gives me absolutely no opportunity to consider and recommend by amendment or otherwise make changes in this new and completely different approach called the composite system.

I understand at the conference what the House did to us; I understand that procedure. But I truly suggest to this body if we are confronted with difficult problems that cross jurisdictional lines, that go to the heart of America's economic growth and vitality, such as energy, and we are left with this procedural system which, basically, wrote a completely new energy bill in conference. There was no chance on the part of any Senator, other than the conferees to have any input. Then bring that pricing section here under a procedural design which says I have got to vote "yes" or "no" on the whole bill. This is admitting unequivocally that this body has no way to handle this kind of problem in the normal system of letting the Senators participate, and we are here and now delegating authority through this procedure to a conference made up of 4 committees, 25 Senators, and 5 or 6 House Members, we are abdicating the prerogatives of U.S. Senators to participate.

Now, had we come back with something similar to what either House had adopted, it seems to me either the conference or the method the House used of adopting our bill and taking the conference report as an amendment to it would make sense. But I think I am, as a newcomer, warning the Senate that at the heart of this problem is our committee jurisdictional hangup over energy.

If we have to abdicate every time we have a major energy problem to a group of conferees who are going to rewrite the entire energy law of our country, we are abdicating our right to participate in a meaningful way in that decision-making process.

Mr. President, we have done that here, and I honestly feel, as a junior U.S. Senator, not serving on the Committee on Interior or the Joint Committee but on the Public Works Committee, and from an energy-producing State, producing not just oil but one that is fifth in natural gas, sixth in crude oil, first in uranium—and I can go on almost ad infinitum—it just seems to me many people with that kind of interest are denied substantial rights under this process.

Mr. President, let me say there are many good parts to this bill. Many good bills that were passed by this body in a normal and ordinary manner, after proper hearing and presentation on the floor, were put into this composite, and then it went to conference. It does discourage me to have to vote against some of the good sections that are in it. But the composite provisions, as I see them, are inferior, Mr. President, and, I repeat, inferior, to the two-tier system with frozen old oil and new oil kind of seeking its market value, and a stripper exemption that we sat around here for months abhorring and that we sat around here for months saying, "So let us get rid of it, let us find something else to take its place." I can say unequivocally that 40 months hence an evaluation of this approach versus what we would have under the old system will, in my opinion, yield a conclusion that we were better off with a very weak, flimsy, developed almost totally administratively by the FEA under a general guideline of the Emergency Energy Act than this one.

In one major respect this particular provision, in my opinion, under any reasonable administrative procedure penalizes the production of new oil. It seems to me that secondary and tertiary recovery in this Nation are our only hope for extending the short life into some kind of real longevity of domestic crude oil which exists on the continental United States, and it is not going to be produced for any $7, $8, $9, or $10. There are huge secondary and tertiary pools that are going to cost $13 and $14. What we are going to see is all work stopped on those until we get close to the 40 months, and then see people go into it and then, mark my word, Mr. President, we are going to blame those people, independents and small producers who do that. We are going to say they are working against the interests of America's energy needs when, as a matter of fact, we are almost dictating that as a matter of economics they might as well get out and wait until this 40-month mishmash is about to go out of existence, and then get back into it.

In my statement I have our Governor—and a distinguished Governor, a Democratic leader in the Southwest, and he is not of my party persuasion—and his energy experts are saying that if you look clearly at New Mexico, you can expect less production during this composite pricing during the 40 months than you have today under the much-abhorred two-tier system which many of us thought was indeed working against the best interests of energy independence, only to find that this procedure of dreaming it up, dreaming the composite up, in conference and bringing it to the floor, with our having nothing to say but "yes" or "no," that that new one is worse than the one we all tried to get rid of.

Our State almost guarantees that its own income is going down, the production of crude oil is going to go down. So I can only ask where are we going to get the new oil to keep the equilibrium going? I ask where are we going to get this position of neutrality, maybe not getting any worse off than we are now, that is espoused by those who want this bill?

It seems to me we are going to be more dependent at the end rather than less. We are going to be paying whatever the foreign cartel wants us to pay, and instead of paying it for our own secondary and tertiary recoveries we will be paying it to Saudi Arabia or one of the others.

It seems to me on all scores it is bad economics, bad energy policy, and for the State of New Mexico as a producer it is bad for New Mexico.

I can genuinely say if it were only bad for New Mexico, and it was good for the United States, I would vote for it. But I think if it is bad for all of the producing States it means we are going to produce less, and if we are going to produce less, then it cannot be good for the United States. There is no way that less production of new crude oil in the United States during the next 40 months without some international agreement, which we can only hope for, is good; and, without that, less production can only be bad as we seek energy independence and alternate sources of energy for this great country.

I thank the distinguished ranking Member for yielding me the time he has.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. I yield 5 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I congratulate the distinguished Senator from New Mexico. He mentioned the manner in which the composite price idea was created, and the fact that there have not been hearings on the subject.

I think, as he, that it could very well be a Pandora's box that those who have created it will later on regret, because as it is pushed in one direction with a higher price there must be an adjustment down in another direction, and as new oil comes on there will have to be adjustments in the price of other oil.

Mr. President, I am opposed to S. 622, the Energy Policy and Conservation Act of 1975. It is not a sound or workable energy policy for the United States.

If S. 622 becomes law, imports of insecure foreign crude could increase to nearly 50 percent of our total petroleum consumption by 1980 to even greater proportions by 1985. Most of the incremental increase in these imports will have to come from OPEC nations. Thus, instead of freeing us from OPEC control, this Congress would be passing legislation to make us more dependent on the cartel. Such action is not in the best interests of the American people and I urge my colleagues to vote against this bill.

There are many provisions in S. 622 with which I object. Overall, it takes the entirely wrong approach to energy policy. Instead of employing market forces and individual freedom of choice to solve our Nation's energy problems, the bill envisions a controlled economy in which Government bureaucratic decisions replace the sound economic judgment of free men.

The ramifications of the bill's crude pricing provisions provide a good example. Prices of petroleum are to be controlled at artificially low levels. Thus, consumption is stimulated and supplies reduced. In an attempt to correct this market distortion, other provisions in the bill establish mandatory conservation standards for the automobile industry, the appliance industry, and major manufacturing industries. It establishes these mandatory standards in the face of ongoing successful voluntary conservation programs in which companies are cooperating with Government to accomplish conservation. This is nothing more than sound business practice. However, because companies differ in their financial makeup, in their product mix, and in their marketing practices, mandatory standards which remove flexibility could inflict serious harm on some individual companies. If all fuel would be priced in the free market, conservation measures would be implemented voluntarily by individuals and by businesses alike.

The most onerous provisions in S. 622 are those dealing with crude pricing. Even though the proponents of S. 622 argue that these pricing provisions provide adequate incentives to increase our production, this is just not true. The controlled crude prices mandated by this bill cannot even begin to provide the capital or the incentive necessary to solve our crude supply problem.

In the past, I have used as an illustration of the number of drilling rigs in use today with the number being used in 1955 when drilling activity was at its peak. It is appropriate to reiterate this example now.

In 1955 when the U.S. consumption of petroleum was 8.9 million barrels per day, there were on the average 2,700 rigs actively drilling in the United States. Now with consumption at nearly 17 million barrels per day, there are only 1,800 active rigs. In order to proportionately provide the same effort as there was in 1955, we should now have nearly 5,200 rigs drilling. Thus, our domestic drilling effort must nearly triple, and we are far behind.

The Independent Petroleum Association of America has presented an interesting analysis of this same question which shows that during the period from 1960 to 1973, the domestic petroleum industry invested on the average $2.5 billion per year to drill wells; in 1974, expenditures were $4.5 billion—nearly an 80 percent increase. Yet, this level of investment is still inadequate. As the IPAA states:

> To reverse the downtrend in domestic oil production and raise 1985 output to desired levels, we must almost double the 1974 expenditures for drilling in the year 1976–1980 and more than double the . . . expenditures in the succeeding five years, 1981–1985.

The perplexing problem faced by this Congress is how to accomplish this goal. Does S. 622 provide the solution? The answer is an unequivocal "no." The bill is a major step backward. Currently 40 percent of domestic production sells at uncontrolled prices. All prices will be controlled under this bill. New oil prices would initially be rolled back from current levels by nearly $2 per barrel and by nearly $1 per barrel if the import tariff is removed and the effects of the recent OPEC price hike fully work their way into our system.

Thus, rather than providing more capital for the petroleum industry to invest in exploration and development drilling, this bill initially reduces income to the industry by $1 to $2 billion annually. On top of the $2.5 billion reduction in investible funds resulting from the tax changes in the Tax Reduction Act, this additional loss could have a very disastrous impact.

In addition to the initial rollbacks on prices, the bill provides no means by which controls can ever be phased out. During the 40-month tenure of mandatory controls in the bill, the difference between the average U.S. price and the estimated world price widens to probably between $6 to $7 per barrel. Thus Congress would likely be less inclined to eliminate controls in 40 months than it is right now. Even though the pricing provisions revert to standby at the end of 40 months, Congress would probably continue the controls by either passing another extension or, depending upon who is President, demand that he exercise the standby authority. S. 622 is, therefore, just the first installment in a program to permanently control crude prices and regulate the petroleum industry.

The crude pricing provisions are a quagmire of uncertainty for producers, for several reasons.

First, because of the concept of the composite average price producers would have no idea from month to month what price they will be receiving in the future. The bill requires downward adjustments in the average price if in the previous 6 month period, the actual composite was above that permitted in the bill.

Second, the composite pricing method in itself is a disincentive for production because if producers succeed in discovering and producing new crude oil, which would most likely be priced above the composite, the mix of crude will be diluted thereby requiring a reduction in the price of all existing crude oil.

Third, because the President is given broad flexibility to design the pricing procedure, he will have to establish the categories of production and the prices to be received by those categories. If a new high priced category is added or if a price increased, the other categories of crude production will suffer a corresponding reduction. Such changes could conceivably be made throughout the life of the program, further adding to the uncertainty.

Fourth, there are numerous opportunities for Congress to disapprove administration actions to increase the incentives for production. These are—

In February 1977, the President may submit to the Congress a proposal to continue or modify the 3 percent production incentive. If he does not make this proposal or if Congress twice disapproves it, the production incentive adjustment cannot be applied thereafter and the only adjustment is a GNP adjustment.

In April 1977, the President may submit to the Congress a proposal to exclude Alaskan production from the composite price calculation. Depending upon the volume of Alaskan production, this could affect the price of new oil by as much as $1 per barrel. If the proposal is not made or if Congress twice disapproves, Alaskan oil will significantly reduce the price of all other crude oil.

Any proposal by the President to modify the 10 percent limitation or the 5 percent production incentive, which may be made at 3 month intervals, can also be disapproved by the Congress.

Fifth, the value of the GNP deflator could be greater than 7 percent or even greater than the 10 percent upward adjustment limitation. Thus the production incentive adjustment may not be implemented at all. Further, the President has discretion on whether or not to institute the production incentive adjustment.

Sixth, with the 1976 Presidential elections approaching, there is uncertainty as to who will be elected President and whether he will be inclined to make proposals to increase the incentives for our domestic producers to search for and produce more oil.

All the things I have just enumerated can affect crude price significantly and will act as additional disincentives to producers. Prudent business practice would require producers to forecast conservatively the prices used in the evaluation of exploration and production ventures. Thus less oil and gas will be found and produced in the future.

Mr. President, we have had experience with price controls in the past—in all cases they have created shortages. Natural gas is a notable example and recently the Senate voted to eliminate those controls. I am certain that some of the impetus for the favorable vote to decontrol natural gas arose because those Senators realized the disastrous impacts of natural gas shortages on their constituents. Although we are able to import enough crude oil to offset our domestic shortage of crude and some of the shortage of natural gas, it would be a terrible shame for this Congress to worsen the consequences of a crude oil shortage if in the future imports are cut off or curtailed. Another embargo would reak greater havoc now than the one in 1973; and if this bill becomes law, another embargo would cause even greater economic disaster and chaos in future years.

Even without another embargo, this bill would cost the United States dearly. Using figures generated by the FEA comparing import requirements of this bill with total decontrol, I conservatively calculate that the incremental volumes of crude oil which will have to be imported because of the S. 622 crude pricing provisions, will cost through 1985 a minimum of $150 billion. These funds will be removed from the U.S. economy where they could otherwise be employed. Also the value of the dollar abroad would be weakened, further contributing to domestic inflation.

There are a number of other aspects of S. 622 with which I disagree strongly. These are all regulatory in nature and are unnecessary. A few are:

The GAO auditing provisions which grant to the Comptroller General broad authority to audit the books of energy users and producers alike. This is an unwarranted intrusion by Government into the private sector and will add greatly to the manpower and paperwork requirements of already overregulated industries. It will discourage voluntary participation by industry with the Federal Government and it could damage the competitive position of private companies if proprietary information is leaked. Also contained in this GAO section are requirements for the SEC to develop accounting standards for the petroleum industry which would break down for accounting and financial reporting purposes the various segments of the industry by function and location.

When coupled with the price and other controls contained in the bill, this is the first step toward public service regulation of the petroleum industry—an action which would have tragic consequences for the American people.

The mandatory fuel standards established for automobile manufacturers are arbitrary and possibly unattainable. Congress has not been successful at mandating consumer preference and technological advancement in the past and I strongly suspect it will fail miserably this time also. The unfortunate aspect, however, is that this section could have significant negative impact on automobile industry output with corresponding effects on all industries supplying materials to the automobile industry and on labor.

The bill grants to the President authority to become the sole importer of crude oil and petroleum products into the United States. Although designed to counter cartel action, it could very easily backfire because the cartel could collude on bids or oil values as it does now on price. Notwithstanding the very complex problem of supplying crude oil to individual refineries which in itself casts doubt upon the workability of the Federal import concept, I question its wisdom because OPEC countries could refuse to deal with the U.S. Government at all. It has been beneficial to the United States for the companies to buffer the political actions of producing and consuming governments.

This authority, if implemented, would be another significant step toward the nationalization of the petroleum industry. As our imports continue to increase, as they will if this bill becomes law, the Government would be controlling and allocating 50 percent of the crude oil to our domestic refining industry. Both small and large refiners alike owe their competitive viability to their own ingenuity and ability to acquire and purchase crude on the open market at the lowest possible price. If the Federal Government controls the majority of the feedstock of the refining industry, then even independent marketers will lose certainty as to the continuity of their supplies.

Mr. President, S. 622 is a bad bill—our country would be better with no bill than with this one. Instead of reducing imports and consumption and increasing domestic supply, the bill does the opposite.

Rather than removing us from OPEC control, it forces us to become more reliant.

Instead of decontrolling prices and letting the marketplace work, the bill controls indefinitely and distorts the marketplace.

Rather than reducing Federal regulation and bureaucracy, S. 622 increases regulation and expands bureacratic authority.

S. 622 is a hackneyed nostrum, conjured up by the Nation's Congress of energy alchemists, hoping to turn hot air into black gold.

It will not work.

I just want to say that I think what we are doing here is approaching energy the same way we have approached some of our war efforts, fighting with one arm behind our back.

It does not make sense to me that we approach this one, therefore, with price controls and other restrictions that are not placed on any other single industry in the United States. Yet, this is the industry that is producing the commodity that is needed by all the rest, that is in shortest supply. This is the one that is needed for our economy, for our national security, for our welfare, to make us self-reliant. Yet we go about it in a way of holding back, hamstringing ourselves.

We have approached it in the way of how to keep the prices down the best. I just do not think when we do that that we are really leveling with the American people and that we are coming up with an energy sufficiency program or one that will do the trick or the job for the United States.

Unfortunately, instead of bringing on additional reserves over what we are doing now, we will be bringing on less. There will be less wells drilled than would otherwise be drilled. There will be more oil imported than would otherwise be imported. We will become more reliant. We will have less conservation methods because the tendency will be to have a lower price.

On the other hand, the lower price hopes will be dashed on the rocks because it is self-defeating, because as we price our domestic crude at a lower level we necessarily must increase the amount we import, giving more leverage to the OPEC nations to raise their prices even higher.

So I am very disappointed that this is the result of about 3 years' work of a lot of people. I am disappointed because it is not a workable solution.

I certainly hope that it will not be passed. If it is, I do hope that the President will veto it and that we can sustain his veto because I do think the American people are ready, willing, and able to have an energy program that will work, that they are ready, willing, and able to pay what it takes to bring on the sufficient amounts of oil and gas, coal, alternate fuels, and do the research and development required.

I call on my colleagues to vote down S. 622 in the interests of having a free market. If there is a desire to have controls, have controls that will phase out and eventually lead to a free market that will maximize the efforts for a domestic energy policy that will guarantee sufficiency.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, the Energy Policy and Conservation Act, S. 622, can be more accurately described as the Oil Importers Relief Act. This control plan would discourage domestic production and continue to subsidize the importation of foreign oil. In addition, it will adversely affect the economics of developing higher-cost alternate energy sources, sources we need such as coal, shale, solar, and geothermal. The crude oil average price plan found in this act might well insure for domestic oil production the fate that 20 years of price controls has wrought for natural gas.

In addition, the average pricing plan in this legislation does far more than just add stifling bureaucratic controls—it also would do the following:

Assuming that Congress continued to hold the lid on prices, this act would increase imports of OPEC oil by perhaps as much as 4 million barrels a day by 1980 and by 7 million barrels a day by 1985 over what they could otherwise be.

This in turn could increase annual OPEC revenues by $17 billion in 1980 and by $31 billion in 1985.

This could very well contribute to driving up OPEC's prices in the next decade.

This would most likely stifle exploration in the Gulf of Alaska and other high cost frontier areas.

Mr. President, the House amendments to S. 622 before us today on energy is counterproductive. What this country needs is a proposal that eliminates the unproductive cost of administering controls, increases domestic production, and minimizes our reliance on insecure foreign energy supplies.

In addition to the specific problems already referred to with the average price plan, the plan also retains all of the following disadvantages of previous price ceiling proposals.

In brief, it continues a price control system that just does not maintain and encourage domestic production. Instead—

It would continue and possibly expand the multiple tier price system and thus necessitate enlarging the costly, complicated control apparatus now operated by FEA.

It would continue and even increase the subsidization of imported oil by in effect granting entitlement payments for every barrel of improted oil.

The program would continue to offer greater incentives to the development of foreign oil than to domestic oil.

The Energy Policy and Conservation Act of 1975 merely supports the fact that as of today, this moment, 2 years after the Arab oil embargo—we have not developed an economically sound energy policy which will encourage the development of our large fossil fuel resources. This act really does essentially nothing to encourage the development for the reserves we own. The U.S. Geological Survey estimates that there is potentially more oil and gas in the ground at the present time than has been consumed in our past history—resources that we must develop and produce if we are to preserve our current standards of living and regain our strong, independent influence in international affairs. We have the technology—but not the proper incentives to deal with our energy needs. The Energy Policy Act supports Government intervention in the form of controls which truly have hindered our ability to alleviate our energy shortages. So, how are we filling the gaps? —With increasing imports—over 6 million barrels per day for 1975, for which we are currently paying other countries $26 billion a year.

Mr. President, the relationship between the controls contained in S. 622 and increased imports has been explained in detail by Hans H. Helbing and James E. Turley, in their paper from the Federal Reserve Bank of St. Louis Review. Writing in the November 1975 issue they conclude:

> Controls provide both disincentives to produce oil domestically and incentives to import oil. As imported oil becomes an increasing proportion of total domestic consumption, the effective domestic price of oil will increase also. The greater U.S. reliance on foreign sources of supply, in turn, enhances the unity of the foreign oil cartel such that the United States becomes increasingly vulnerable to external pricing and producing decisions. A situation has been fostered which would perpetuate rising world oil prices in the future.

In other words, not only does the program dictated by S. 622 increase imports of foreign oil, it would also result in higher prices for domestic consumers. In addition, the continuation of the so-called entitlements program would add to the injustices and irrationality of this approach to a national energy policy.

> In essence, the price control and entitlements effort is an income redistribution program within the oil industry. Domestic "old" oil is taxed and the proceeds are used to subsidize the purchase of imported oil. This subsidy/tax program, through its effect on the relative prices of imported and domestically produced oil, has had a perverse impact on the national goal of self-reliance. Domestic production is discouraged by the imposition of price controls and therefore has continued to decline. This, in turn, has increased our reliance on external suppliers.

Mr. President, I believe that my colleagues should have the complete paper, "Oil Price Controls: A Counterproductive Effort," available for their consideration, and I ask unanimous consent that it be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLURE. Mr. President, in summary, then, S. 622 would accomplish the exact opposite of our stated goals for a national energy policy. It would decrease domestic energy supplies, both from oil and new alternate sources, such as solar and geothermal, it would increase oil imports, particularly from the OPEC nations of the Eastern Hemisphere, and it would ultimately result in higher prices to the consumer, prices which we would have even less capability to influence than we do now.

Mr. President, I urge the Senate to reject this proposal and to begin work immediately on the creation of a rational energy policy. We have the knowledge and the resources to accomplish that job. The question remains if we have the will.

Mr. President, there are two or three additional remarks I would like to make. I ask if anyone can answer the question, is it not a fact that any decrease in production of domestic oil or energy resources must be made up inevitably by increases of oil produced in foreign countries, the main portion of which will be in Arab countries?

Mr. GLENN. I will respond, Mr. President, to the distinguished Senator.

I do not think anyone could argue that if we do not have adequate production in this country that it will be made up from outside this country with additional buying and purchasing of oil outside the country.

But I think the question is of the pricing. The free market price in this country has been OPEC induced to give increases until the domestic price follows the OPEC price. That was the case for the "free market plus OPEC" price in this Nation of ours January 31 of this year, before our price was artificially raised by the President by including a tariff, and a later OPEC addition was placed on top of that.

Mr. McCLURE. My question was not whether the price is sufficient. My question is if production in the United States is not increased, whatever degree it might otherwise have increased, whatever that shortfall in increased production might be, it must be made up by increased imports from foreign sources, the major portion of which will be Arab oil-producing countries.

Mr. GLENN. I agree with the Senator from Idaho with only one exception; that is, whatever we are able to conserve in this country will reduce the necessity for additional imports.

Mr. McCLURE. There is no question of that. I support the conservation efforts.

But, if it is 1 barrel or 100,000 barrels or a million barrels that we fail to produce in this country, those barrels will be additionally imported from other sources.

In just the last few years, we have moved up on our reliance on Persian Gulf oil, Arab-country oil, from something on the order of 6 percent of our total supply to 20 percent of our total supply. That is where we stand now.

We are importing 40 percent of our domestically consumed petroleum supplies; 40 percent of the total is brought in from outside the United States. That has gone up from 30 percent to 40 percent while we have been arguing about the problem, and the proportion of that oil that has been from Arab countries has increased from 6 percent of the total to 20 percent of the total in the same period of time. Those are irrefutable facts.

I think there is no question that whatever our decrease in the increased production is that might be attributable to this bill, that whatever that decrease is, whether it is 1 barrel or a million barrels, that will be represented by increased Arab oil sales in this country.

The second question, in their composite price system, as we have now, if we have a higher proportion of new oil, that drives down the composite price unless we allow the increase—it does not drive down the composite price, but it is a leverage in which the old oil cannot either be increased or it must—the old oil must actually decrease in price, old oil production is declining year by year.

If we only maintain a level without any increased domestic production, a higher percentage of the total domestic production will be new oil; is that not a fact?

Mr. GLENN. The Senator from Idaho will probably recall that in conference we increased that composite from a considerably lower figure up to the $7.66, which permitted us to come up to the new oil price of $11.28, which took the free-market-plus-OPEC price from earlier this year.

The Senator is absolutely correct in that if we start trying to raise the $5.25 price, then we would have to cut down the top $11.28 price to keep that same composite.

But I would add to that, what we did was write in a tremendous flexibility into this bill, one I thought we would absolutely not be able to attain when we started out. It lets the price go up by the GNP deflator plus 3 percent per year. The 10-percent flexibility he has with those two figures should give ample room under the formula.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator's 3 minutes have expired.

Mr. GLENN. I yield whatever is required on my time on this colloquy.

Mr. FANNIN. Very well.

Mr TUNNEY. Mr. President, 2 nights ago the House arbitrarily removed an extremely important part of this comprehensive energy package, torpedoing a 9-year effort by the Senate. The Senate has overwhelmingly passed in the last two sessions of the Congress legislation to institute a Federal program to develop advanced automobiles which are simultaneously fuel-efficient, safe, damage-resistant, and environmentally sound. This legislation was the outgrowth of 11 days of comprehensive hearings. These hearings demonstrated that the automobile manufacturers have consistently failed to carry out adequate research on advanced powerplant alternatives. In fact, our hearings demonstrated that the dollars devoted to alternative powerplant research by the automakers has been dwindling. The automobile manufacturers, with billions of dollars invested in the present powerplant configurations, not surprisingly have been reluctant to fully examine alternatives.

Several studies by the Federal Government have called for a major expansion of the Federal role in automotive research and development. Dixie Lee Ray, while Chairman of the Atomic Energy Commission, in a report entitled "The Nation's Energy Future," estimated that Federal funding for advanced propulsion systems should be $53 million in fiscal year 1975 and a total of $300 million for fiscal years 1975 through 1979.

A 1974 FEA report also called for greatly expanded Federal expenditures in the area of automotive R. & D. It stated:

> Some simple estimates suggest that in order to generate the necessary new (automotive) technology, a national R & D investment on the order of $150 million per year

> for the next 25 years or so will be required. Private industry is (prior to the current economic squeeze) investing on the order of one-third of this amount.

And the FEA report went on to state:

> Integration of the national objectives of energy efficiency, alternatives to petroleum, and minimum environmental impact into a coherent long-term program requires perspectives and responsibilities well beyond those of the private automobile companies, whose objectives are rooted in the marketplace

Existing Federal programs in the area of advanced automotive technology are pitifully inadequate in relation to the demonstrated need.

A new program to systematically investigate advanced automotive systems is a essential adjunct to the mandatory fuel economy performance provisions of this legislation. Such a Federal program would provide assurance that all reasonable advanced automotive technology will be explored, would provide the technical data necessary for developing long-term regulatory policies and would also provide benchmarks necessary to evaluate industry's efforts to develop the most fuel-efficient, safe, and environmentally sound automobiles.

We can ill afford to place ourselves once again at the mercy of the automobile manufacturers to tell us what technology is or is not possible. For these reasons, I am extremely distressed that the House deleted these important provisions due to a jurisdictional dispute between two House committees.

This is a classic example of myopic behavior that has increasingly eroded the public's confidence in the Congress. Without a strong Federal advanced automotive technology program, the Congress will be unable to evaluate the claims of the automakers as to whether they can meet the fuel efficiency standards mandated in the legislation before us today. The House, in effect, put petty jurisdictional considerations ahead of the national interest. This Nation can ill afford such shortsighted action. I am hopeful that the House, on more careful consideration, will realize the critical need for this legislation and that we can rectify this serious error by rapidly passing advanced automotive technology legislation.

Despite my disappointment with the House action, I still believe S. 622 as amended should be accepted by the Congress.

After the Arab oil embargo, 17 major industrial nations, including the United States, formed the International Energy Agency to develop contingency plans in the event of future fuel shortages. A recent report by the International Energy Agency analyzing the preparedness of various of its members criticized the United States for having "no standards, no incentives, almost no taxes that would cut down energy consumption." In fact, only two other nations among the 17-member International Energy Agency ranked lower than the United States in terms of effective energy conservation programs.

The amended version of S. 622, the Energy Policy and Conservation Act, takes major steps to alter this situation. S. 622 as amended contains a group of proposals which establish an aggressive, effective program of energy conservation designed to achieve national security of energy supply and the maximum efficient utilization of our energy resources.

The energy conservation provisions in the conference report include measures which could save the equivalent of nearly 6 million barrels of oil per day by present oil import level.

S. 622 contains provisions that—

Establish mandatory average fuel economy standards for new passenger automobiles and other new light-duty highway vehicles;

Require mandatory labeling of major home appliances and certain other consumer products, with the additional requirement that consumers be provided with estimated annual operating cost information where possible;

Authorize block grants-in-aid for States to assist in the development and implementation of State-administered energy conservation programs;

Establish a program to promote increased efficiency of energy use by American industry;

Require Federal agencies to develop a 10-year plan for energy conservation;

Promote the use of recyclable oil.

These provisions are premised on the belief that improved energy efficiency can and must be accomplished by orderly conservation programs rather than through steep and unnecessary price increases.

I ask unanimous consent to have printed in the RECORD the following table put together by staff which lists estimates of fuel savings—in oil equivalent barrels per day—and dollar savings, if the conservation measure contained in S. 622 as amended are implemented, and petroleum imports are reduced accordingly.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATES OF FUEL AND DOLLAR SAVINGS [1]

Program	1980 fuel savings (barrels per day)	1980 dollar savings [2]	1985 fuel savings (barrels per day)	1985 dollar savings [2]
1. Automobile fuel economy	780,000	$4,270,000,000	2,000,000	$10,950,000,000
2. Consumer product testing, labeling, and standards	120,000	656,000,000	500,000	2,740,000,000
3. State energy conservation	(3)	(3)	(3)	(3)
4. Federal energy conservation	(3)	(3)	(3)	(3)
5. Recycled oil	(3)	(3)	(3)	(3)
6. Industrial energy conservation	1,300,000	7,110,000,000	3,000,000	16,400,000,000
7. Total (excluding programs 3, 4, and 5	2,200,000	12,036,000,000	5,500,000	30,090,000,000

[1] To put the fuel savings in perspective: (a) 2,200,000 barrels of oil per day is the expected flow from the Trans-Alaska pipeline. (b) 5,500,000 barrels of oil per day is 85 percent of our current imports, is nearly equal to the current demands of our motor vehicle fleet, and could supply the energy requirements of 74 percent of the U.S. residential sector.

[2] In 1975 dollars, assuming an imported oil price of $15 per barrel.

[3] Estimates not available.

Mr. TUNNEY. In order to explain the energy conservation provisions in more detail I will now discuss certain key provisions.

FUEL ECONOMY PERFORMANCE STANDARDS

Average fuel economy performance standards would be established for new passenger automobiles and other new light-duty highway vehicles. Standards for passenger automobiles would be in effect in each model year after model year 1977, whereas standards for other light-duty highway vehicles—such as certain light-duty trucks, recreational vehicles, and other multipurpose vehicles—would be in effect in each model year which begins more than 30 months after the date of enactment of this legislation.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 miles per gallon in model year 1978; 19 miles per gallon in model year 1979; 20 miles per gallon in model year 1980; and 27.5 miles per gallon in model year 1985 and thereafter.

Passenger automobile standards for model years 1981 through 1984 would be set by the Secretary of Transportation at maximum feasible levels. The Secretary would also set standards for vehicles other than passenger automobiles at maximum feasible levels for each model year.

If a manufacturer or importer failed to meet an applicable average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain conditions. A manufacturer or importer would also receive credit for exceeding an applicable average fuel economy standard in any model year.

A labeling program for new passenger automobiles and other new light-duty highway vehicles would also be instituted, as would a program to systematically examine fuel economy representations made with respect to retrofit devices—that is, devices capable of being added to existing motor vehicles.

It is estimated that the automobile fuel economy standards program will result in a fuel savings of 780,000 barrels of oil per day by 1980, and at least 2 million barrels of oil per day by 1985—assuming that vehicle miles traveled by the automobile fleet remains constant.

CONSUMER PRODUCT ENERGY CONSERVATION PROGRAM

Consumer efforts to conserve energy often have been stymied by lack of information on effective methods of achieving energy savings, and by the lack of overall direction and coordination of energy conservation programs. Since appliances account for approximately 8 percent of U.S. energy consumption, an important target of any conservation program must be consumers who will purchase and use household appliances. Part B of title III of S. 622, as amended, will require energy labeling of the following major consumer products and their hybrids:

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air conditioners.
(13) Furnaces.

And provides authority to extend energy labeling to other consumer products whose average household energy use is greater than 100 kilowatt-hours per year. Labeling of consumer products is not limited strictly to appliances.

A label must disclose estimated annual operating cost associated with the use of a consumer product unless certain determinations are made, such as that estimated annual operating cost labeling would not be feasible or would not be likely to assist consumers in making purchasing decisions. If either of these determinations are made, then the label must display some other useful measure of energy consumption. The FTC could also require that a manufacturer provide additional information to consumers relating to energy consumption.

Energy efficiency improvement targets would be set by the FEA for consumer products of types (1) through (10) listed above. These targets would be set at maximum feasible levels, but in any case would require at least a 20-percent aggregate improvement in energy efficiency for all such consumer products manufactured in 1980 relative to 1972 efficiency levels. Energy efficiency improvement targets would also be set for consumer products (11) through (13) listed above. Each of these targets would be set at the maximum feasible level which would be economically and technologically feasible to attain by 1980.

If a 20-percent overall energy efficiency improvement target is met, the estimated fuel savings are 120,000 barrels per day oil equivalent by 1980 and 500,000 barrels per day by 1985. Even greater savings can be achieved by increasing public awareness of the link between improved energy efficiency and cost savings. The labeling and consumer education programs have been designed to achieve this public awareness and are important elements in developing a conservation ethnic in the Nation.

The Administrator of FEA is also authorized to prescribe energy efficiency standards for specified consumer products under guidelines specified in the conference report.

It should be noted that section 333(c) of part B of title III of S. 622, as amended, is intended to make it an unfair or deceptive act or practice in or affecting commerce—within the meaning of section 5(a)(1) of the Federal Trade Commission Act—for any person to violate section 323(c)(2) of part B of title III of S. 622, as amended.

STATE PROGRAMS

S. 622, as amended, authorizes Federal grants-in-aid to assist the States in developing and administering energy conservation programs. The programs will provide for the maximum reduction in energy consumption by the States consistent with technological feasibility, financial resources, and economic objectives. The planning goal for these State programs is at least a 5-percent reduction in the energy consumed in any such State in the year 1980 from the projected energy consumption for such State for that year.

S. 622, as amended, requires the FEA to issue guidelines to provide for sufficient specificity for State planning efforts, but calls for administration of the programs at State and local levels.

In order to qualify for Federal assistance under this program, a State must include the following energy conservation measures:

Mandatory lighting efficiency standards for public buildings.

Programs to promote carpooling, vanpooling, and the use of public transportation systems.

Mandatory energy efficiency standards and policies to govern State and local procurement practices.

Mandatory thermal efficiency and insulation standards for new and renovated buildings.

Laws permitting motor vehicles to turn right on red traffic signals.

Within this framework and in accordance with FEA guidelines, States are free to develop energy conservation programs tailored to fit each State's economic, geographic, and climatic conditions. S. 622, as amended, thus strikes a balance between the need for Federal involvement and the State's need for flexibility in planning and implementation.

FEDERAL ENERGY CONSERVATION PROGRAMS

The President is required to develop Federal energy conservation programs which call for mandatory standards with respect to Federal procurement policies and the development of a 10-year plan for energy conservation with respect to Federal buildings.

In addition, the Administrator of FEA is required to establish a program of public education to encourage energy conservation, and to promote vanpooling and carpooling.

S. 622, as amended, additionally directs the independent regulatory agencies to conduct a study and report to Congress on energy conservation policies and practices instituted since October of 1973. The agencies are also required to report within 120 days on the feasibility and methods of developing programs to reduce energy consumption by 10 percent with respect to persons regulated by such agencies within 12 months after the institution of a program.

RECYCLED OIL

S. 622, as amended, provides a means to promote the use of recycled oil by altering certain labeling requirements of the Federal Trade Commission which give the impression that recycled oil is inferior to new oil intended for the same purpose. The conference substitute will ensure that recycled oil which is substantially equivalent to new oil may be so labeled and precludes the use of any term which connotes less than substantial equivalency. The EPA Administrator is also given labeling authority to prevent unnecessary disposal of oil and disposal in environmentally degrading ways.

INDUSTRIAL ENERGY CONSERVATION

Industrial participation is a crucial element of any meaningful energy conservation program. Industry consumes approximately 40 percent of all U.S. energy—the equivalent of over 15 million barrels of crude oil per day. If we are to reverse the dangerous drift toward increasing dependence on foreign energy sources and begin to use our scarce resources wisely—industry must rapidly improve its energy efficiency.

In order to stimulate industry's energy conservation efforts, S. 622, as amended, directs the FEA to establish and maintain a program to promote increased energy efficiency in American industry and to establish voluntary energy efficiency improvement targets for the 10 most energy-consumptive manufacturing industries. These 10 industries utilize the majority of energy in the industrial sector of the United States. These targets are to be set within 1 year of the date of enactment at levels representing the maximum feasible improvement which each of these industries can attain by January 1, 1980.

The chief executive officer—or his designee—of each corporation identified by the Administrator of FEA as being among the 50 most energy-consumptive corporations in each of the 10 identified industries, and which consumes at least 1 trillion Btu's of energy per year, must file an annual report with the Administrator of FEA describing the corporation's progress in energy conservation.

Conservation thus becomes an important concern of executives at the highest levels of the corporate structure.

If the Administrator of FEA determines that an industry subject to the reporting requirements under this section has an "adequate" voluntary reporting program—the corporation would be then allowed to continue reporting through such program. In determining "adequacy" of such a program the Administrator of FEA must determine that—

First, each corporation in such industry which otherwise would be required to report, participates fully;

Second, all necessary information is provided to the Administrator of FEA to gage progress toward meeting the established targets; and

Third, reports made to trade associations or other applicable groups in connection with such reporting provisions are retained for a reasonable period of time and are available to the FEA.

I would urge my colleagues to strongly support S. 622 as amended. I believe it will provide us major tools to combat our present energy dependence and allow this Nation to utilize its energy resources more wisely.

Mr. GLENN. What we also did was to write in a flexibility which permitted the President to come back on any phase of the pricing, any phase that he wants. He can come back in and make any proposal he wants, subject to either House disapproval. We started out even with a compromise on that. Originally, they wanted both Houses for approval instead of either House for disapproval. He can come back in at any time, in any 90-day period, and ask for any change he wants. He can greatly modify the price. So we are not as locked in to this as the Senator from Idaho would indicate.

Mr. McCLURE. Will the Senator yield 5 minutes to me?

Mr. FANNIN. How much time remains?

I yield to the Senator.

Mr. GLENN. Will the Senator yield for a moment?

Could we have a clarification on what time is left on both sides at this point?

The PRESIDING OFFICER The Senator from Ohio has 21 minutes and the Senator from Arizona 29 minutes.

Mr. McCLURE. Will the Senator yield 5 additional minutes?

Mr. FANNIN. I yield.

Mr. McCLURE. I want to make the point that although the bill has that amount of flexibility, how will the flexibility be used? We know that old oil production is declining in this country. As the old oil declines in total volume of old oil, if we do not increase total production in this country at all we will simply increase the proportion of new oil in the old oil-new oil mix. If new oil is left at the top, if old oil is not increased, just the simple mixture leverages down the new oil price. It has to in order to maintain the composite. That is not an incentive to produce more new oil. It is a disincentive on the production of new oil because the higher the new oil price goes the more it leverages down on the composite price.

Second, in regard to the flexibility, how will that be used? I have heard all kinds of promises made about how it is going to be used. One of the ways we can test how the promises have been made is who is in favor of this bill.

Mr. BUMPERS. Will the Senator yield?

Mr. McCLURE. If I may continue, the people I have seen in the oil industry who are in favor of this bill are people who own old oil. That means that they have the promise from someone, somewhere, that their price is going to be allowed to move upward. But if their price is allowed to move upward, that means that the new oil price cannot take any upward movement to correspond to any changes in world prices or inflation in our country.

What does the 10 percent mean? Much has been said about the 7-percent deflator. That 7-percent deflator is actually less than the increased cost of production. I do not think anybody will argue with me on that. If they get the 7-percent increase, and that is all they get, they still fall back on the purchasing power of the dollars generated compared to the cost of producing that oil.

So the deflator leaves them behind, but that is 7 of the 10 percent. So all they are being offered as a maximum in a real increase in oil price is 3 percent per year. Out of that has to come the difference between actual cost increase and the deflator index.

So the actual increase permitted under this bill, if the President chooses to exercise that right every quarter, is somewhat less than 3 percent, and that is only available to them if the deflator index is always under 7 percent. If the deflator index goes above 7 percent, that 3 percent is eroded to a greater degree. If the deflator index goes to 10 percent, then the entire possibility of an automatic gain ordered by the President is wiped out completely.

Much has been said about the President can come back to the Congress and ask for an increase in price every quarter. What do Senators really believe this Congress is going to do with the Presidential initiative for a price increase every 90 days? All it does is give us an assurance of a political exercise to keep the political demagogs inflamed every 90 days during the life of this bill. It is not going to be, and should not be, held out to anyone as being a realistic program for any kind of a price adjustment. People who believe that are either naive or they are trying to kid someone.

I have been around here long enough to have some idea of what the political responses are going to be every quarter during the balance of the life of this bill. I do not think anyone can really illustrate that there will be any favorable price adjustments aside from the possibility that old oil will be allowed to move up progressively during the life of this to the extent of the 10 percent per year that is built into this bill, 7 percent of that 10 percent being a deflater index that leaves them worse off. Four years from now they will be 28 percent behind where they are now just by the result of that, if that is all they get.

I thank the Senator for yielding time.

EXHIBIT 1

OIL PRICE CONTROLS: A COUNTERPRODUCTIVE EFFORT

(By Hans H. Helbling and James E. Turley)

The U.S. oil industry has been subjected to varying degrees of price controls since August 1971 when general price controls were levied on the entire U.S. economy. As controls were "phased-out" in other industries, more stringent price regulations were imposed on the oil industry in response to the October 1973 oil embargo and the subsequent quadrupling of world oil prices.

The oil price control program is directed at cushioning the domestic impact of sharply higher external oil prices. In this respect, the controls effect can be regarded as successful since the effective domestic price for petroleum remains, in fact, below world market prices. Economic analysis, however, indicates that the controls will (1) become ineffective, over time, with respect to the above stated intention and (2) will enhance the ability of external suppliers to manipulate prices.

In support of these conclusions, this article includes a discussion of the mechanics of the controls program as it currently exists. Using economic theory as a foundation, the eventual effects of controls on domestic production, imports, and the domestic price of oil are derived. In this regard, two of the more popular questions regarding decontrol are analyzed—will decontrol result in (1) higher domestic petroleum prices and (2) increased domestic production and reduced imports?

BACKGROUND

As indicated in Table I, U.S. oil refiners currently process about 12.9 million barrels per day (MBD). Of this total approximately 4.7 MBD, or 36 percent, are produced abroad.

The United States did not always rely to such an extent on external oil supplies. In the mid-1960s oil imports represented only 20 percent of total U.S. consumption. In fact, as late as 1971 import quotas on petroleum products existed in order to prevent "cheap" foreign oil from placing domestic oil producers at a "competitive disadvantage".

Beginning in 1966, the rate of increase in domestic petroleum production began to decline, and in 1972 domestic petroleum production in the United States actually decreased from its 1971 level. Several factors, including price controls and environmental and safety regulations, were responsible for increased U.S. reliance on foreign sources of supply.

OIL PRICE CONTROLS

Through a series of steps, the Federal Energy Administration (FEA) has decreed that "old" oil—that is, oil produced from domestic wells not exceeding the 1972 rate of output from these wells—can sell for no more than $5.25 per barrel. As of March 1975, imported oil sold for $13.28 and "new" domestic oil—that is, oil produced from both new wells and from old wells in excess of 1972 output—sold for $11.47 per barrel (Table II).[1]

In March 1975 (latest available data) total crude oil used by domestic refiners consisted of approximately 41 percent "old" domestic oil, 27 percent "new" domestic oil, and 32 percent imports. The effective domestic price paid by domestic refiners for a barrel of oil is simply the weighted sum of the three prices:

$$(0.41)\mathrm{X}\$5.25+(0.27)\mathrm{X}\$11.47+(0.32)\mathrm{X}\ \$13.28=\$9.49$$

Footnotes at end of article.

TABLE I.—SOURCES OF CRUDE OIL TO DOMESTIC REFINERS

	Total crude oil input to domestic refiners [1] (MBD)	Domestic sources					
			Old [2]		New [2]		
		Total (MBD)	MBD	Percent of total domestic	MBD [3]	Percent of total domestic	Imports (MBD)
1974:							
November	12.455	8.458	5.667	67	2.791	33	3.997
December	12.450	8.471	5.591	66	2.880	34	3.979
1975:							
January	12.608	8.644	5.014	58	3.630	42	3.964
February	12.549	8.488	5.178	61	3.310	39	4.061
March	12.186	8.333	5.000	60	3.333	40	3.853
April	11.983	8.567	NA	NA	NA	NA	3.416
May	11.957	8.464	NA	NA	NA	NA	3.493
June	12.251	8.344	NA	NA	NA	NA	3.907
July	12.641	8.304	NA	NA	NA	NA	4.337
August	12.909	8.238	NA	NA	NA	NA	4.671

[1] Total crude oil input to domestic refiners is the sum of total domestic and imported crude oil.

[2] The proportions of old and new crude oil are available only through March 1975.

[3] The quantities of old and new crude oil were derived from published data on total domestic production and the percentage breakdown between old and new.

NA—Not available.

MBD—Million barrels per day.

Source: Federal Energy Administration. "Monthly Energy Review" (October 1975).

Controls: The mechanics

As gauged by this effective (weighted) domestic price equation for oil, the controls program has been successful; the average input price of oil available to domestic refiners is, in fact, lower than the world market price. Achievement of this lower average price, however, has resulted in at least two adverse developments:

(1) Domestic producers are discouraged from producing "old" oil, insofar as the implicit rate of return of keeping oil in the ground exceeds that of investing the proceeds from the current sale of oil at $5.25 per barrel. For example, suppose domestic oil producers expect the price of "old" to eventually (say, in 39 months, as in recent proposals) rise to the price of uncontrolled oil. If it is assumed that the price of uncontrolled oil at that time will be about $12.00 per barrel, then by keeping oil in the ground until expiration of controls a producer can realize an annual rate of return of about 29 percent[2]—a return which greatly exceeds current market yields. Under these conditions profit-maximizing domestic oil producers would reject the option of producing now in favor of "holding back" until price controls are completely lifted.[3]

(2) Since some refiners have access to greater amounts of $5.25 oil than other refiners, another wave of bureaucratic rules and regulations was deemed necessary to prevent some firms from having a government-mandated competitive advantage over other firms. The nature and extent of these regulations are discussed below.

Entitlements

With the implementation of domestic oil price controls, the FEA recognized that some refiners depended heavily, in the short-run, on relatively high cost foreign crude, while other refiners had access to comparatively large quantities of the cheaper domestic "old" oil. In an attempt to equalize input costs to all refiners, the FEA adopted the "Old Crude Oil Entitlement Program". This program is designed to allocate "old" oil proportionately among all refiners such that apparent cost differentials are reduced; that is, equalization of the average cost per barrel is promoted.

Each month the FEA calculates a national average ratio of "old" crude to total crude usage. On the basis of this ratio, all refiners are issued entitlements to enable them to purchase "old" crude in the same proportion as the national average.[4] For example, if total crude usage in the nation in any particular month consists of 41 percent "old" crude, then *each* refiner is "entitled" to purchase at least 41 percent of his input mix at the controlled price of $5.25 per barrel, no matter where the oil actually comes from.

TABLE II.—AVERAGE CRUDE OIL PRICE TO DOMESTIC REFINERS

	Old		New		Imports				
	Price per barrel	Quantity as a percent of total	Price per barrel	Quantity as a percent of total	Price per barrel	Quantity as a percent of total	Effective domestic Price per barrel [1]	Weighted average price of new and imported oil [2]	Price of entitlement
1974:									
November	$5.25	45.5	$10.90	22.4	$12.53	31.2	$8.85	$10.25	$5.00
December	5.25	44.9	11.08	23.1	12.82	32.0	9.02	10.25	5.00
1975:									
January	5.25	39.7	11.28	28.8	12.77	31.4	9.27	11.25	6.00
February	5.25	41.3	11.39	26.4	13.05	32.4	9.04	12.00	6.75
March	5.25	41.0	11.47	27.4	13.28	31.6	9.49	12.56	7.31
April	5.25	(3)	11.64	(3)	13.26	28.5	(3)	12.54	7.29
May	5.25	(3)	11.69	(3)	13.27	29.2	(3)	12.64	7.39
June	5.25	(3)	11.73	(3)	14.15	31.9	(3)	13.07	7.82
July	5.25	(3)	[4] 12.30	(3)	[4] 14.03	34.3	(3)	13.38	8.13
August	5.25	(3)	(3)	(3)	(3)	36.2	(3)	13.56	8.31

[1] The weighted average price is derived on the basis of the equation presented in this article.

[2] The weighted average price of new and imported oil represents the sum of the price for "old" oil and the price for an entitlement.

[3] Not available.

[4] Preliminary.

Source: Federal Energy Administration, "Monthly Energy Review, and Petroleum Situation Report."

In principle, the refiner with access to less than the national average of "old" crude oil can present his entitlements to another refiner, who has more than the national average of "old" crude, in exchange for crude at a price of $5.25 per barrel. In practice, however, the physical exchange of oil rarely takes place. Rather, the entitlements are bought and sold among refiners, with the price determined on the basis of the difference between the controlled and uncontrolled price of a barrel of oil.[5] For example, in March the average price per barrel of "new" domestic and imported crude was $12.56. Therefore, the FEA established an entitlement price of $7.31 for that month. This is the price at which petroleum refiners exchanged entitlements in March.

Refiners with access to less than the national average of "old" crude can sell entitlements to those refiners with more "old" crude than the national average. The sale of entitlements represents a source of revenue to the refiner with less than the national average of "old" crude. The refiner who, for example, relies mainly on imported oil can use his entitlements revenue to reduce the effective cost of his crude oil input.[6] With "old" oil representing about 41 percent of the national input mix and the price of an entitlement at $7.31, the effective cost per barrel of imports to the refiner is reduced by $3.00 (.41 × $7.31). That is, imputs are subsidized to the tune of $3.00 per barrel. For every barrel of oil imported, the importer is entitled to purchase 0.41 barrel at the controlled price of $5.25 and is forced to pay the market price for only 0.59 barrel.

On the other hand, a refiner who uses more than the national average of "old" crude is required to purchase entitlements in order to enable him to process "old" oil in excess of the national average. A refiner who is able to meet his desired production schedule using only "old" crude is required to purchase entitlements for 59 percent of his input. In this case the effective cost per barrel to this refiner is increased by $4.31 (.59 × $7.31). That is, "old" domestic oil is taxed to the tune of $4.31 per barrel.

In essence, the price control and entitlements effort is an income redistribution pro-

Footnotes at end of article.

gram within the oil industry. Domestic "old" oil is taxed and the proceeds are used to subsidize the purchase of imported oil. The subsidy/tax program, through its effect on the relative prices of imported and domestically produced oil, has had a perverse impact on the national goal of self-reliance. Domestic production is discouraged by the impression of price controls and therefore has continued to decline. This, in turn, has increased our reliance on external suppliers.

AN EVALUATION OF SOME DECONTROL ARGUMENTS

Will decontrol lead to higher petroleum prices?

Regardless of whether petroleum prices are controlled or decontrolled, the price of crude oil to domestic refiners is going to increase. However, the price increases associated with either alternative have completely different implications for domestic production and imports.

The continued maintenance of the oil price controls program will not prevent domestic oil prices from rising. This would occur even without price increases for any of the three sources of supply ("old", "new", imports) to domestic refiners. As production of "old" domestic oil declines and imports increase as a result of the controls program, the *proportion* of the higher priced oil (domestic "new" and imports) increases, thereby raising the effective domestic price of petroleum.

The response to the lifting of domestic price controls will be an immediate rise in the price of petroleum. As long as the United States imports any oil at all, the price of crude to domestic refiners will be dictated by the foreign oil cartel. Accompanying the price rise, however, will be an increase in the quantity of oil produced domestically. Although the increase would probably not be of a magnitude to allow achievement of self-sufficiency in the short run, it does imply a cutback in imports.

Such a situation would create difficulties for foreign suppliers, particularly the Organization of Petroleum Exporting Countries (OPEC), who have already been forced to cut back production in order to maintain existing prices. With reduced U.S. purchases of imported oil as a result of decontrol, additional downward pressure on external oil prices would result. In order to maintain prices, OPEC would have to voluntarily accept a further cut in production and income—and at a time when their domestic development programs are in high gear.

Is the market solution viable?

The free market, or decontrol, solution is rejected by various groups of society. Proponents of continued price controls on "old" oil suggest that although the market price of petroleum products has already doubled, the reduction in the quantity of petroleum products consumed has been insignificant. In fact, they argue that whatever reductions have been observed can be attributed to the reduction in business activity, not the increase in prices. In addition, they maintain that the current high prices have not elicited increased petroleum production. Curiously, these arguments lead to the conclusion that in order to achieve both less reliance on imports and greater domestic production, price increases substantially in excess of those already observed would be necessary.

Opponents of continued price controls, on the other hand, argue that economic agents are not indifferent to the prices they pay and do indeed respond to changes in relative prices. They point out, however, that it is necessary to distinguish between a short-run and a long-run response of both quantity supplied and quantity demanded. With respect to the quantity demanded, the opponents of price controls point out that the short-run response to a hike in prices can indeed be very weak. This has to do with the fact that the nation's capital stock is energy intensive and costs of rapid adjustment to less energy intensive means of production are substantial. The energy requirement per unit of output that has been built into production processes has been based on "cheap" oil, and as a result of today's prices, much of the existing capital stock has become inefficient.

Reductions in the quantity of oil demanded depend on the substitution of relatively less energy intensive means of production. An example would be the replacement of an automobile that averages 15 miles to a gallon of gasoline with one that gets 30 miles per gallon. The fuel costs per passenger mile as a measure of the product produced by an automobile would then be reduced. While this substitution process is proceeding quite rapidly in the area of automobiles, the conversion cost to many industries is very high in the short run and therefore would be expected to take place only over time. Although this adjustment does take time, it must not be forgotten that the economic incentives to make it are great and there is no reason to believe that the adjustment will not eventually be made. The quantity demanded is indeed responsive to price if sufficient time is given for the affected economic agents to respond.

Opponents of continued price controls also point out that the response of the quantity of oil supplied to a change in price has not been substantial because a great deal of uncertainty surrounds the return on new investment projects. For example, exploration for new oil wells, more intensive utilization of existing oil wells, as well as research into new methods of production (such as the liquification of coal and offshore drilling) all require extensive capital investments. Even though today's high market prices for oil might justify such investment expenditures, uncertainty with respect to the future price of oil greatly lessens the incentive to undertake such investments.[7] This argument implies that domestic producers expect world market prices to decline from their present highs and that "cheap" imports could once again be substituted for domestic production.

Former Secretary of the Treasury George P. Schultz recognized this dilemma of uncertainty. He suggested that if self-reliance is indeed a national goal, uncertainty which faces domestic producers should be eliminated. To this end Schultz proposed a variable tariff on imports designed to maintain today's high external price. In the event that the foreign oil cartel would disintegrate and world market prices decline, the proceeds from the tariff could be distributed to consumers via the tax system.

In general, then, those opposed to decontrol are not convinced that market forces will produce greater self-sufficiency and lower petroleum product prices. Those in favor of the removal of petroleum price controls, however, contend that government restrictions only hinder domestic oil production and provide incentives to import, thereby supporting the collusive actions of OPEC. Both of these effects tend to enhance the unity of OPEC members, whose continued strength would result in higher petroleum prices for U.S. consumers. An additional objection is that reliance on controls to provide solutions to economic problems in many cases only aggravates and intensifies the initial problem.

CONCLUSION

The analysis presented in this article points out that the currently existing oil price controls program has been successful in achieving its intended purpose—cushioning domestic prices of petroleum products from the higher world oil prices. But the analysis also suggests that the controls program is in conflict with its stated purpose over the long run. In particular, controls provide both disincentives to produce oil domestically and incentives to import oil. As imported oil becomes an increasing proportion of total domestic consumption, the effective domestic price of oil will increase also. The greater U.S. reliance on foreign sources of supply, in turn, enhances the unity of the foreign oil cartel such that the United States become increasingly vulnerable to external pricing and producing decisions. A situation has been fostered which would perpetuate rising world oil prices in the future.

There is an alternative to this rather ominous scenario. Even though petroleum prices would increase as a result of decontrol, incentives for both increased domestic production and reduced imports are provided. Increased domestic production and reduced imports, in turn, would tend to strain the unity of the oil cartel, and hence, be conducive to lower world market prices for petroleum in the future.

FOOTNOTES

[1] As indicated in Table II, petroleum price data are available through July 1975, but the proportions of "new" and "old" domestic production are only available through March. For the sake of data consistency, the analysis in this paper is based on the prices and relative proportions that prevailed in March 1975.

[2] This compounded annual rate of return was calculated using the following formula: $[\$12.00/\$5.25]^{12/39}-1\times100=29$ percent

[3] This assumes that changes in taxes and depletion allowances are not expected.

[4] For ease of illustration, it is assumed that entitlements are physical documents which are issued by the FEA. In reality, however, they are simply accounting fictions to which refiners are expected to adhere.

[5] The FEA establishes the price per entitlement but their choice is not arbitrary. The market price of an entitlement would rise to the difference between the controlled and uncontrolled price of a barrel of crude, even if the FEA remained out of the transaction.

[6] The analysis with imported oil is also applicable to "new" domestic oil.

[7] There is the additional problem of uncertainty about future tax programs which could reduce sharply the rate of return on these investments, even if the current price of oil prevails.

Mr. FANNIN. Mr. President, I yield 10 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 10 minutes.

Mr. STEVENS. Mr. President, I would like to direct a couple of inquiries to the manager of the bill, knowing that my basic interest and the interest of my State are in the provision that appears on page 89 of the report, the Presidential authorization for determination.

Concerning the words "maximum weighted average first sale price" specified in subsection (a) of this section, as those words relate to the Alaska pipeline, I would inquire of the manager of the bill if he would agree that that means the wellhead price or the nearest equivalent prior to the time that the oil has entered the common carrier Alaska pipeline.

Mr. BUMPERS. The Senator is correct.

Mr. STEVENS. I thank the Senator very much for that response.

It is my understanding of the situation which exists on the North Slope that it is not quite the situation that was described on page 190 of the conference report that deals with the first sale situation in areas or fields that have stripper well and other types of gathering procedures; that this pipeline of ours, since it has a gathering pipeline system, could well be downstream from the wellhead itself. But it is intended to be a wellhead price or its equivalent prior to entering that very expensive approximately 800 miles of pipe. I appreciate the Senator's statement in that regard.

May I inquire further? Last evening I had a comment to make about the public lands section. I understand that we will have an agreed statement pertaining to the impact of the public lands definition, the Federal lands definition, and its relationship to those lands that are currently selected by my State and tentatively approved so that there would be no possible misinterpretation of that language as it applies to my State. Most of the Prudhoe Bay lands have been patented to Alaska, but I would like to be certain that there is no intent that this bill amend our Statehood Act.

I am grateful to the committee for its inclusion specifically of the native lands, but with regard to those tentatively approved State selections I would hope that we would have printed in the RECORD the committee statement in that regard.

Would that meet the approval of the managers?

Mr. GLENN. That would, and we are prepared to present that statement. It is being written at the present time.

Mr. STEVENS. Let me state that we also have a provision on page 90, subsection (h), that pertains to judicial review. I understand we also will have a statement with regard to this section. There are two possibilities.

Suppose the President determines pursuant to subsection (h) that the developments necessary to provide a positive price incentive for it would not reduce or limit the ceiling price in the remainder of the United States at the levels which would result in less production of crude oil.

In other words, he makes a determination, in the first instance, that there would be no effect. Would that determination be subject to judicial review, on the basis of the arbitrary and capricious standards with which we are familiar?

Mr. BUMPERS. Yes, that is my understanding.

Mr. STEVENS. I appreciate that. In other words, section 8(h) and its limitations on judicial review would not be applicable to that determination, because no submission to Congress would have gone forward; is that correct?

Mr. BUMPERS. The Senator is correct.

Mr. STEVENS. I appreciate the Senator's statement.

I am also interested in the corollary of that. I assume, from the manager's answers, that if the President determined that there would be such an effect as contemplated by section 8(g)(2), and still in his discretion determines not to submit an amendment, that, too, would be subject to judicial review?

Mr. BUMPERS. The Senator is correct. At least that is my understanding. With respect to the Senator's previous question concerning the definition of "Federal lands" I want to assure the Senator that it is the conferees' intent that no provision of this act, including the definitions, shall be construed to amend or modify in any way the Alaska Statehood Act. Specifically, there is no intent to modify the Statehood Act as it applies to public lands which have been "tentatively approved" but which have not been patented.

Mr. STEVENS. I am pleased to have the manager's concurrence, because it is apparently causing some concern in my State that if the President determines that the price of Alaska oil would not have an effect of reducing or limiting ceiling prices for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, quoting the language of section 8(g)(2)—in other words, if he made a negative determination, and we wished to contest that, the limitations on judicial review that appear in section 8(h) would not apply.

Mr. President, some Members of the Senate may not fully understand the implications of what S. 622 will mean to the exploration and development of oil in frontier areas such as Alaska.

Because all oil companies will not be in a position to know what price they might receive for crude oil they are now cutting back on their exploratory activities because they do not know if they can afford to look for oil under the provisions of S. 622.

For example, Smoco Production Co. reported that in the coming year they plan to reduce their funding for exploration by about $100 million and a significant part of this reduction will come from exploration in frontier areas such as Alaska, where exploration is terribly difficult and the risks are high.

The other large petroleum companies have also stated that they simply will not be able to explore for new oil in Alaska should S. 622 become law. But, I hasten to add that the impact of S. 622 will not just affect the large petroleum companies. All firms engaged in the search for new oil will be affected. For example, Mr. Don Simasko, president of the Simasko Production Co., Denver-based independent petroleum producer, has said that passage of S. 622 would result in a sharp reduction in his company's Alaska plans. Incidentally, Mr. Simasko said also that passage of S. 622 would also reduce efforts to bring on additional oil in Colorado and the other Rocky Mountain States.

The Forest Oil Co., another firm that has done exploratory and drilling work in Alaska, said that should S. 622 pass they will sharply reduce and perhaps entirely eliminate their Alaska operations.

The hesitancy of petroleum companies to explore for oil in Alaska in an unstable atmosphere might well be emphasized by the fact that today there are no seismic crews waiting or exploratory wells being drilled on the North Slope or in the Cook Inlet.

In fact Mr. President, there were only 9 seismic crews working and only 15 exploratory wells drilled in Alaska this year, compared with 15 active seismic crews operating and 25 exploratory wells drilled last year. This is a decline of 60 percent in seismic activity and a 40-percent decline in exploratory drilling activity in just 1 year. Just imagine what will happen when companies like AMACO and Forest Oil are forced to reduce their activity next year.

Mr. President, the State of Alaska estimates that there is 76.1 billion barrels of oil in Alaska—but if S. 622 were to become law, the economic facts of life and the restrictive provisions of this bill would prohibit us from searching for that oil—this at a time when the country is becoming increasingly dependent on Arab oil.

It would be the height of folly if we block the access to 76.1 billion barrels of oil through one piece of legislation—but that would be the sad and tragic result if this legislation were to become law.

I would say that unfortunately we find ourselves in a position where a determination is going to be made in April of 1977, rather than having been made by this conference. I argued very strenuously for this conference to make the determination as to Alaska pricing, but that has not been done, and that is the basic reason for my continuing opposition to the bill.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from Nevada (Mr. CANNON).

Mr. CANNON. Mr. President, S. 622 presents a comprehensive package of Federal action to:

First, set an oil pricing policy that will encourage domestic production in a manner consistent with economic recovery and price stability;

Second, maximize domestic production of energy supplies and provide for strategic reserves;

Third, reduce energy consumption through conservation programs; and

Fourth, authorize emergency standby measures to minimize the impact of disruptions in energy supplies.

In the short term, this legislation will reduce our vulnerability to increases in import prices, and will insure that available supplies will be distributed equitably in the event of disruptions in petroleum imports.

For long run, this legislation will decrease our dependence upon foreign imports, conserve our energy supplies, achieve the efficient utilization of scarce resources, and maximize domestic production of oil.

I. OIL PRICING PROVISIONS

The oil pricing provisions of this legislation greatly simplify the structure and administration of current price control and allocation authorities. The act establishes a weighted average price for domestic oil production, and the President is given flexibility to establish, within the average price, higher prices for high cost production. The legislation provides the price certainty necessary to permit economic planning and investment while protecting the economy and consumers from pricing.

This act thus takes a major step toward assuring the availability of domestic supplies and ending the Nation's dependence on fuel imports. This legislation should result in final agreement with the administration on an oil pricing and conservation policy that is in the interest of both consumers and producers.

The Energy Policy Act establishes a pricing formula for domestically produced crude oil which provides for an initial oil price rollback and authorized gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in current petroleum prices;

Grants the President broad flexibility to administratively set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66;

Permits upward adjustment in the domestic composite price to take account for inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than 3 percent per year as an incentive for the development of high-cost and high-risk production or to encourage the application of enhanced recovery techniques. The sum of the incentive adjustment and adjustment for inflation may not exceed 10 percent per year unless further authority to modify the upward adjustment rate is obtained by the President.

Allows the President to submit to the Congress, at 3-month intervals following enactment, proposals to modify the 3-percent incentive adjustment and/or the 10-percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House of Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships that have evolved under the act;

Directs the President to submit to the Congress on April 15, 1977, a report on the adequacy of the then current weighted average price to provide positive incentives for the development of Alaska oil production without reducing ceiling prices and production incentives in the lower 48 States. The President may then propose, subject to congressional review, to exclude up to 2 million barrels per day of Alaskan production from the actual weighted average price, and to establish a separate ceiling for this production not to exceed the highest actual weighted average price permitted for any other classification of domestic oil;

Converts the oil price control authority described in the act to standby status at the end of 40 months; and

Provides that the standby authority terminates after 5 years.

COMPOSITE PRICE CEILING

The legislation establishes a domestic crude oil price of $7.66 applicable to all domestic crude oil production. This price represents a rollback of $1.09 from the current $8.75 composite price.

It is generally agreed, and the administration now concurs in this position, that price controls are necessary to protect the consumer as long as OPEC is fixing skyhigh prices. Since artificial prices of the OPEC cartel prevent the establishment of free market oil prices, to end controls abruptly would result in a certain immediate jump of oil prices to the OPEC level.

Uncontrolled prices would destroy the present economic recovery and throw the country back into renewed recession. Business costs would increase at rates that would force many businesses and factories to close, increasing the unemployment rate beyond any acceptable level. Increased consumer costs would jeopardize economic recovery, worsen inflation, and produce general, social, and economic hardship and dislocation.

PRICES ENSURE MAXIMUM PRODUCTION CONSISTENT WITH ECONOMIC RECOVERY

The $7.66 composite price is set to maximum domestic production without unnecessary inflation to the economy. Higher prices would produce higher costs for consumers and windfall profits to producers, but they would not produce more oil.

Studies show that the price for new oil envisioned by this legislation is more than adequate to maximize domestic recovery. The $7.66 average price provides the equivalent of $11.28 per barrel for new oil, and $5.25 per barrel for old oil. These prices are significantly higher than the $9.50 per barrel price necessary to maximize new domestic oil production. Recent studies by the energy task force of the Senate Budget Committee, the Federal Power Commission, the Joint Economic Committee, the Federal Energy Administration, the Independent Petroleum Association of America and the National Petroleum Council indicate that $9.50 per barrel, a price much lower than that envisioned by this legislation, is a generous price for new, primary recovery domestic oil production.

The Senate Budget Committee found that a price between $9 and $10 per barrel gave the industry a 14 percent rate of return, a rate determined more than adequate to maximize production. The initial price of $11.28 per barrel of new oil envisioned by this legislation produces an even higher rate of return.

Late in 1973, the National Petroleum Council and the Independent Petroleum Association of America projected that a price of approximately $6 per barrel would maximize domestic production through 1985. Even allowing an outrageous 50 percent rate of inflation, the price for oil envisioned by this legislation is more than sufficient.

HIGHER PRICES WILL NOT PRODUCE MORE OIL

At prices above $9.50 per barrel, there are diminishing increases in the production of new, primary oil. A Federal Energy Administration report on "Energy and Economic Impacts of Alternative Oil Pricing Policies," dated October 21, 1975, concludes that by raising ceiling prices from $10 to $12 per barrel, oil production by 1980 is increased only by 3 percent while the economy suffers a 50 percent greater increase in the rate of inflation by 1978.

PRICING FLEXIBILITY

The legislation gives the President administrative discretion, within the confines of the composite control price, to establish levels applicable to different classifications of domestic crude oil. For example, the President could permit a higher price for production based on tertiary recovery techniques, or for oil produced from the Outer Continental Shelf.

By providing selective pricing incentives, the legislation permits price increases for high cost domestic production, but prevents unnecessary price increases for lower cost production. The legislation thus allows higher prices for production categories where they are necessary, but avoids higher prices for domestic production as a whole.

The $7.66 average weighted price provides the equivalent of $11.28 per barrel for new oil, an amount $1.78 higher than the $9.50 price for new oil that would provide the domestic oil industry with an adequate rate of return to maximize production. Should the President choose to decrease the $11.28 per barrel of new oil in 1976, for example, he would have over $1.9 billion available to allocate to high cost production without exceeding the limits of the average weighted price.

ADEQUATE UPWARD ADJUSTMENTS OVER THE 40-MONTH PERIOD

After the initial rollback, oil prices start increasing at a rate not to exceed 10 percent per year. The President is authorized to increase the price:

First, to take into account inflation, as measured by the GNP deflator; and

Second, to provide incentive for the development of high-cost and high-risk properties and the application of enhanced recovery techniques. The incentive increases cannot exceed 3 percent per year.

The sum of the inflation factor adjustment and any production incentive adjustment factor applied in any given year may not increase the maximum weighted average price in excess of 10 percent per year.

A 10-percent escalator applied to the $7.66 domestic average would provide 2.4 billion additional dollars for increased production incentives in 1976; $2.6 billion more in 1977; $2.9 billion more in 1978; and $3.1 billion more in 1979.

CONSERVATION MEASURES, NOT HIGHER OIL PRICES, WILL REDUCE ENERGY CONSUMPTION

It has been argued that higher oil prices are necessary to achieve a reduction in domestic energy consumption. This position is fallacious and shortsighted. Its adoption would place inequitable burdens upon energy consumers according to their income level and essential fuel needs, and would produce disastrous economic consequences.

The oil price rollback will not produce any appreciable increase in oil consumption in the United States. When faced with higher energy costs, consumers cut down their non-energy-related expenses rather than cut back in their essential fuel consumption. Because of the low elasticity in consumer demand for fuel, it would require at least a 15- to 20-percent increase in prices to produce a significant reduction in consumption. The benefits obtained in reduced consumption by such a dramatic price increase would be far outweighed by costly and catastrophic effects on the economy. Economic recovery would be destroyed, unemployment would increase, and inflation would be worsened.

Recent events amply demonstrate the low elasticity of consumer demand for fuel. Over the last year and a half, the average price of gasoline at the pump has increased 15 cents per gallon. Yet these price changes have not produced a corresponding decrease in gasoline consumption. Over the July 4 weekend, the price of gas at the pump went up 3 cents, but there was no significant reduction in gas consumption. Likewise, a price decrease of approximately an equal amount would not produce a corresponding increase in consumption.

In rejecting high prices to reduce consumption, this act recognizes that the only effective and economically sound way to decrease energy consumption is to produce energy-efficient products and to promote energy conservation by all energy-consuming sectors of the Nation. The balanced conservation programs established by this legislation achieve the maximum feasible conservation consistent with the continued viability of essential activity. The programs are aimed at all energy-consuming sections of society, and equitably impose the burdens and confer the benefits of conservation on all groups, regardless of their wealth.

In providing for the development of more energy-efficient products the act recognizes that, for example, the way to stop needlessly guzzling gasoline is not to increase gasoline prices, but to stop building gasoline-guzzling automobiles. To this end, the legislation establishes mandatory fuel economy performance standards for certain motor vehicles.

II. MEASURES TO INCREASE DOMESTIC SUPPLY

The legislation takes direct action to increase domestic oil production and promote alternatives to petroleum and natural gas. The measures agreed to will:

Extend the authority of the Federal Energy Administrator to direct powerplants and other major fuel-burning installations, to convert to the use of domestic coal;

Authorize the FEA to guarantee loans to increase coal production by encouraging new market entry;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Promote the use of recycled oil;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate.

These provisions reject steep price increases and tariffs on energy imports, measures which are unnecessary for full domestic production and would only inflate the economy and hamper its recovery. By means of direct measures to increase domestic production and supplies, the legislation secures an adequate supply of energy in a manner that achieves continued economic recovery, price stability and close to a full employment economy.

III. ENERGY CONSERVATION PROGRAMS

In its recent first annual review of the energy conservation programs adopted by its member countries, the International Energy Agency—IEA—concluded that the American conservation program is not comprehensive or strong enough to be effective. The IEA observed that this deficiency contrasts sharply with a number of countries which have established effective, aggressive programs.

Federal Energy Administrator, Frank Zarb, called the IEA review of the U.S. program "accurate" and "disquieting." Zarb stated in a letter to Senator WARREN MAGNUSON on October 31, 1975, that—

> It is particularly distressing to me that even though there is general agreement on the need for many of these actions, we have made little progress.

This legislation fulfills this vital need and establishes aggressive, effective programs of energy conservation designed to achieve national security of energy supply and the maximum efficient utilization of our energy resources.

The energy conservation provisions include measures which could save the equivalent of up to 6 million barrels of oil per day by 1985—a savings almost equal to our present oil import level.

The legislation contains provisions that:

Establish mandatory average fuel economy performance standards for new passenger automobiles and new light duty trucks;

Require mandatory labeling of major home appliances and certain other consumer products, with the additional requirement that consumers be provided with the estimated annual operating costs data where possible;

Authorize block grants-in-aid for States to assist in the development and implementation of State-administered energy conservation programs;

Establish a program to promote increased efficiency of energy use by American industry;

Require Federal agencies to develop a 10-year plan for energy conservation;

Provide for Federal support for the implementation of advanced automobiles which are simultaneously fuel efficient, safe, damage resistant, and low polluting.

These provisions are premised on the belief that energy efficiency can and must be accomplished by orderly conservation programs rather than through steep unnecessary price increases.

ESTIMATES OF ENERGY SAVINGS

The following is a chart listing estimates of energy savings from the four measures approved by the conference committee:

[In barrels per day]

	1980	1985
Automobile fuel economy standards (if vehicle miles travelled remain constant)	780,000	2,000,000
Appliance labeling (appliances use 8 percent of U.S. energy)	120,000	500,000
State programs	(1)	(1)
Industrial energy efficiency (40 percent of U.S. energy)	1,300,000	3,000,000
Total oil equivalent of possible energy savings (excluding State programs)	2,200,000	5,500,000

[1] Calculations not possible.

IV. STANDBY ENERGY AUTHORITIES

This legislation grants standby energy authority to the President, subject to congressional approval in certain instances, to develop and implement regulations mandating the conservation of energy and the rationing of fuels in the event of a severe energy supply interruption. These provisions enable us to prepare now for any future severe energy supply interruptions.

During periods of acute energy shortages, the President is authorized to take specific actions to conserve scare fuels, and to implement rationing and contingency plans in order to reduce nonessential energy consumption and assure the continuation of vital services.

The standby authority is substantially similar to title XIII of S. 594, proposed by President Ford on January 15. The executive authority is discretionary in character; its flexibility enables the President to act expeditiously and effectively.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans—including rationing plans;

To authorize actions necessary to carry out U.S. obligations under the international energy program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation. The Attorney General could grant limited antitrust immunity with respect to such agreements;

To authorize the President to transmit information to the International Energy Agency.

The authority respecting international voluntary agreements and the international information exchanges may be exercised at any time in order to carry out the international energy program.

The energy conservation authorities may be exercised if:

First, a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate; and

Second, the President has determined

that implementation of the contingency plan is required by a severe energy supply interruption or the international energy program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement the contingency plan.

V. GENERAL PROVISIONS

The legislation sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

DISCLOSURE OF FINANCIAL INTERESTS

Among the more important provisions employees and officers of the Federal Energy Administration and the Department of the Interior who perform regulatory or policymaking functions under this legislation are required to disclose their financial interests in oil, natural gas, or coal properties or commercial enterprises. This provision insures that the legislation will be administered in an evenhanded, disinterested fashion, and that no one group or special interest will benefit at the expense of others forced to assume unequal burdens.

VERIFICATION EXAMINATIONS OF ENERGY INFORMATION

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies.

This provision will permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

SUMMARY

This Nation has already experienced the grave results of one curtailment of imported energy supplies. Its serious impacts throughout the economy placed strains on all our energy production, distribution, and financial resources, as well as on the well-being of our citizens. The magnitude of our national demand for energy is such that the United States is unlikely to attain the capability for energy self-sufficiency within the next decade. Until that goal is achieved we remain vulnerable to the "oil weapon." We must acknowledge that there exists the ever-present danger that one or more oil producing countries might deny us petroleum imports in an attempt to influence our foreign or economic policy, or to extort ever higher prices for valuable energy resources.

To avoid the hardship of possible future embargoes, it is essential that national energy self-sufficiency be attained at the earliest practical date, and in a manner that will not create further economic dislocation or more unemployment. It is particularly urgent that legislation be enacted into law which would facilitate the reduction of the Nation's petroleum consumption and would enhance our capability to withstand the pressures of petroleum import curtailment.

This legislation provides the means necessary to achieve these goals of energy independence and adequate domestic supplies. The legislation charts the Nation's energy future by presenting a comprehensive, coordinated approach to the energy issues facing this Nation. It contains the means necessary to achieve, without further delay, increased domestic energy supplies. It provides for standby authority during severe supply interruptions to allocate scarce resources and minimize adverse social and economic impacts. The legislation establishes an oil-pricing policy that will increase our domestic production and reduce our dependence upon petroleum imports in a manner that will not create economic dislocation, more unemployment, unjustified prices, and windfall profits to the oil companies at the expense of the consumer.

The legislation also mandates a national conservation effort which will result in significant energy savings through the cooperative efforts of individual citizens, business and industry, State and local governments, and the Federal Government. Conservation would be accomplished by orderly and cooperative programs in which all sectors of the economy pitched in, rather than through steep price increases that would impact regressively on consumers, hamper the Nation's economic recovery and contribute to the inflationary spiral. A program of conservation by means of energy tariffs, tax and pricing policies is rejected in favor of cooperative programs for conservation in which the burdens are borne by all segments of the Nation, without regard to economic status.

I urge my colleagues to vote in favor of this important legislation.

I thank the Senator from Arkansas for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself 2 minutes.

I mentioned in my statement a few moments ago what happened to propane prices in Arkansas during the winter of 1973 and 1974, when they went from 15 to 55 cents a gallon in my State.

As Senators will recall, Congress acted legislatively to make certain that that was corrected and would never occur again.

If this bill is not passed, of course, it can happen again, because this is an extension of that pricing policy.

IMPACT OF S. 622 ON PROPANE

In all the discussions of the pros and cons of this bill—the macroeconomic impacts and the computer printouts of supply and demand—we are in danger of losing track of the impact of energy prices on people. The alternative we are faced with is rejection of a hard-won congressional energy policy and total loss of price controls and allocation authority for gasoline, heating oil, and propane. Steep price increases in these products have an enormous impact on people who, first, have no alternate choice of fuel and, second, are already overburdened by inflation.

In particular, I am concerned about propane, the principal fuel used to heat the homes of rural Americans. Most of these Americans are not wealthy. They must heat their homes. They have no choice but to use propane.

Mr. President, in my opinion there is a substantial lack of appreciation of the propane situation among those who are not familiar with the facts and problems which rural Americans face. For the record, I wish to discuss that situation and its implications for the debate on S. 622.

BACKGROUND

The domestic supply of propane in 1974 was approximately 860,000 barrels per day—about 5 percent of domestic consumption of petroleum products. Approximately 65 percent was produced at natural gas processing plants, 28 percent at oil refineries and 8 percent was imported.

Natural gas processing plants remove natural gas liquids—propane, natural gasoline, ethane and other liquified petroleum gases—LPG—from the "wet" natural gas produced in the field. This process lowers the Btu content of wellhead natural gas and removes constituents which condense easily. The result is that the natural gas delivered by pipeline to homes and industries is composed principally of "dry" natural gas: methane.

Crude oil refineries also produce liquid petroleum gases, including propane, as a byproduct of refinery operation. The average LPG yield of domestic refineries is very low—about 3 percent of crude oil runs.

Many companies which produce propane own both crude oil refineries and natural gas processing plants. About 70 percent of the supply of LPG involving propane is produced by the 15 largest integrated oil companies.

Approximately one-half of the propane consumed domestically is accounted for by the residential-commercial sector, and a quarter by the petrochemical industry. The remainder of the propane consumed is distributed over industrial, utility, agricultural, and refinery use. Three-quarters of the propane consumed domestically is consumed in the Petroleum Administration for Defense—PAD—Districts II—the Midwest and Eastern Plains States—and III—New Mexico, Texas, Arkansas, Louisiana, Mississippi, and Alabama.

EXISTING REGULATION ON PROPANE

Mandatory allocation of propane was first instituted in October 1973, under authority of the Economic Stabilization Act of 1970. The requirement of equitable prices and allocation for propane was contained in the Emergency Petroleum Allocation Act of 1973 and the Federal Energy Administration Act of 1974. During the winter of 1973–74 crude oil refiners were able to allocate rising crude oil costs disproportionately to propane because of persistent demand for the product even at prices two and three times pre-1973 levels.

Regulations were issued in the summer of 1974 requiring that crude oil costs allocated to propane by refiners could not exceed an amount proportional to the actual production of propane from that crude oil. In the fall and winter of 1974 FEA regulations were finalized extending controls to propane produced by natural gas processors.

Propane allocation priorities established in 1974 under authority of the Emergency Petroleum Allocation Act are as follows:

First. Agriculture and Department of Defense;

Second. Emergency services;

Third. Petrochemical processes where no substitute is available;

Fourth. Residential use with absolute minimum allocation of 85 percent of base period; and

Fifth. Commercial and standby industrial use.

IMPACT OF S. 622

According to the FEA, propane is the only refined petroleum product for which there is a substantial danger of a shortage in the near term. The substitutability of propane for natural gas in many applications is the principal reason for this danger.

At minimum, S. 622 extends—and protects against the sudden loss of—authority to control propane prices and to allocate supplies of propane to users—particularly rural homeowners—who cannot afford to bid for scarce supplies of propane with those consumers whose demand for propane is very insensitive to price. This authority expired at midnight December 15 but would be extended for at least 40 months if S. 622 is enacted.

The bill goes further than mere extension of the Allocation Act, however. The requirement that cost increases be allocated to propane in no more than a proportionate amount is given a statutory basis. Conference report, pp. 91–92, section 402 adding subparagraph (D) to section 4(b) (2) of the Allocation Act.

The Joint Explanatory Statement goes even further (p. 198):

> The Conference Committee fully intends, however, to preserve the existing flexibility to tilt away (in allocating cost increases) from propane and home heating oil as provided in existing regulation.

In addition S. 622 establishes the requirement that cost increases incurred after enactment and not passed through within 60 days must be forfeited and that in any event no more than 10 percent of banked costs eligible for passthrough can be passed through regardless of when they were accumulated. See Conference Report, p. 91, section 402 adding subparagraph (B) to section 4(b)(2) of the Allocation Act, and pages 197–198 of the Joint Explanatory Statement.

A Library of Congress analysis completed in September, 1975 indicated the propane prices—currently approximately 18 cents per gallon—could easily double and might well reach 45 cents per gallon if price control and allocation authority lapses and curtailed gas utilities enter the propane market in force. The analysis concludes that:

> It appears that the potential exists for severe problems of propane supplies to certain traditional customers such as agricultural users and rural residential customers. These problems will result from the end of mandatory allocation and price controls which allows access to propane by curtailed users of natural gas and utilities which either sell or consume natural gas. These large utility and industrial customers have the ability to pay much higher prices than the small traditional users and are likely to preempt much of the available propane in advance. The small customers have no alternative fuel available.

Finally, Mr. President, I would like, in response to the comments of the Senator from Idaho a moment ago, to make a couple of observations.

He raised the question whether the President would be able to maintain or even raise the price to the $11.28 upper level if no new supplies were found.

The answer is that in the past year, domestic supplies have gone down 800,000 barrels. They will in all probability continue to go down. As domestic supplies continue to dwindle, most of that will be old oil, and the President will have that much more flexibility to maintain the price of new oil.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BUMPERS. I yield myself 2 additional minutes.

These arguments I have heard today about pricing, and how present prices are a disincentive, are simply not borne out by the facts.

I would like to make these observations:

In January 1973, the price of oil in this country was $3.40. In July of this year, 1975, the price was $10.60, or over 3 times the price in 1973.

This occurred, Mr. President, at a time when the price of oil in this country was supposed to be controlled.

What has happened during that period, while the price of oil was more than tripling?

Here are the facts:

In 1972, there were 27,291 wells drilled in this country—a low water mark, admittedly.

In 1973, it dropped again, to 26,592 wells, or a decrease of 2.5 percent.

But in 1974, following the first year of the Arab oil embargo, there were 31,698 wells drilled, or an increase of 19.2 percent.

In 1975, the estimate is that there will be 34,214 wells drilled, still another increase of 7.9 percent over the wells drilled in 1974.

That shows conclusively that people are indeed looking for oil, and the reason they are looking for it is because they can do so profitably and they will continue to do so.

I have only been in the Senate since January 14, 1975, and I have heard these arguments time and time and time again, but these are the statistics on how many wells are being drilled and how many wells were drilled last year.

In addition to that, we all know that we must find alternative sources of energy. Taking the incentive argument to its logical conclusion, since oil is a finite resource, and God made only so much of it, ultimately the price would be absolutely out of sight. Presumably the last barrel of oil will sit in the Smithsonian Institution, and we will have paid several hundred million dollars for it, if we allow this argument to go to its ultimate extreme.

I maintain that, under this pricing policy and the 10-percent annual increase the President has been given sufficient latitude, and the fact that he can exempt 2 million barrels a day of Alaskan oil is more than adequate.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BUMPERS. I thank the Chair.

Mr. McCLURE. Mr. President, will the Senator yield himself 1 minute in order to reply to one question?

Mr. BUMPERS. I am a little reluctant to yield on my time because we are running short.

Mr. McCLURE. Mr. President, will the Senator yield 1 minute?

Mr. FANNIN. Yes, I am pleased to yield 1 minute to the Senator from Idaho.

Mr. McCLURE. I think the Senator misunderstood the statement I made earlier.

Mr. GLENN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. What is the time status, Mr. President?

The PRESIDING OFFICER. The Senators from Arkansas and Ohio have 14 minutes, and the Senator from Arizona has 16 minutes. The Senator from Idaho has 1 minute.

Mr. McCLURE. The statement I made earlier was as old oil production decreases and new oil production increases the leverage or the composite pricing structure means that new oil price must come down.

Let me give an example. Under the present situation it is 60 percent old oil, 40 percent new oil, roughly, a composite of $7.60, old oil price $5.25 and new oil price $11.28. If that shifts from 60–40 to 50–50, that means the old price would remain at $5.25 and the new oil price must drop to $10.08. That is simple mathematics.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. McCLURE. Certainly.

Mr. GLENN. Mr. President, this addresses the problem that the——

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I yield on my own time such time as I need. It will only be a couple minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. The Senator addressed this problem before.

I make this statement in response, that the natural decline rate of 7 percent, which is FEA's figure for the decline of old oil, will elevate the average price to a composite price of $7.66 by some 1.5 to 3 percent per year, assuming there is no change in the price of old or new oil. However, under the bill the $7.66 average is permitted to go up by 10 percent per year. Admittedly 1.5 to 3 percent of that 10 percent would be used by the decline rate of old oil. With 7 percent remaining, the price of old and new could each go up by 7 percent without exceeding the permissible average.

Thus it does not follow that as old oil declines at the natural rate it forces prices down. Rather it merely keeps the prices of various tiers by going up by the full 10 percent which the average price is permitted to rise.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. GLENN. Certainly, on the time of the Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator from Arizona yield me 1 minute to respond?

Mr. FANNIN. Yes, 1 minute.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I respond simply in this way: the simple mathematics of it is that unless there is an increase in composite price it leverages the new oil price downward, if the old oil price remains constant and the old oil production goes down.

One can say if he wishes that that will not happen because the 10-percent escalation will allow an adjustment. The 10-percent increase is made up of 7 percent of an inflation deflator which is not a price adjustment except with respect to the inflation in the economy. That has nothing to do with the comparative price of the oil except in the market place as it is reflected. That 7 percent is available, as I said before, only if——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. McCLURE. I thank the Senator for yielding the time.

Mr. GLENN. Mr. President, on my time, I say in addition to the figures I gave here, the President, any time he sees there is a situation that will result in lesser production, can come in with an increased price subject to either House disapproval, of course, and can make any proposal. He could propose doubling the price—in a short time—if he would so desire. He could make the composite $25 a barrel. I imagine that would probably get turned down. But, nevertheless, as he sees things that will reduce production he can come in and make suggested changes to alter the prices according to the current situation on production and also taking into account the economic condition of the country at that particular time. I think that this is a very flexible bill. It gives him a tremendous influence to mold and shape this whole energy program.

Mr. McCLURE. But the fact remains if that flexibility is not utilized and agreed to by Congress there will be a leveraging down of the new oil price.

Mr. GLENN. Congress does have that safety valve, that is correct, in case they disagree completely with the President's proposals.

Mr. President, we know of no other Senators on this side of the bill who wish to have any more time with the exception of the distinguished Chairman of the Committee on Interior and Insular Affairs who wishes to have 2 or 3 minutes at the close. We are prepared, if the other side is, to yield back the remainder of our time and vote early on the bill.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield such time as the Senator from Wyoming needs.

Mr. HANSEN. Yesterday I received certain data regarding section 403(a) of the bill on the basis of which I raised certain questions. I have now obtained data prepared by the Federal Energy Administration which reassures me as to the need for this section.

According to this data, the net impact on the entitlements program in August of this year of this section, assuming that the import tariff were removed, is less than 10 cents per barrel, or less than one-quarter cent per gallon. And this impact is spread over a substantial percentage of the small refiners in this country.

On the basis of the FEA information, I am convinced that the interpretation made by my caller was in error.

I reaffirm my support for section 403 (a).

Mr. President, if we want to reverse what little progress we have made in lessening our dependence on the OPEC oil cartel, we have before us today a bill which would do exactly that.

Nothing could please those who are growing wealthy on their oil sales to the United States more than this bill, the House-amended conference report on S. 622.

Those 13 Senators of the 25 Senators on the conference committee may take some pride in the version of S. 622 now before us.

The Energy Policy and Conservation Act does roll back the price of crude oil at a time when domestic exploration and drilling is at a 10-year high. Well completions for the first 11 months of this year exceeded the 12-month total for 1974 and comparing this with the end-of-November total a year ago, this year's total is up by 4,681 wells, or 16 percent.

Mr. President, this sizable increase can be attributed to one thing—the higher price of new, released and stripper well oil which are not now subject to price controls. But they will be controlled and rolled back if S. 622 is enacted.

Domestic exploration and development had been on the decline since 1959 and as energy consumption increased, production peaked out in 1972 and has been on the decline since.

One of the best explanations of the continuing decline in domestic oil as well as gas production was given in testimony before the Senate Interior Committee from whence this bill came.

Robert R. Nathan in a summary and conclusions of a study he had made said that:

> A series of computations have been made for each of the years from 1959 through 1974 to estimate the economic cost of crude petroleum in the United States. These studies show that the economic cost of crude petroleum in the United States, exclusive of Prudhoe Bay, increased from $2.86 per barrel in 1959 to $8.70 per barrel in 1973. During the same period, the typical selling price of new oil increased from $3.25 to $4 per barrel.
>
> As a consequence of the ever increasing disparity between the actual economic cost and selling prices, petroleum exploration during the period declined sharply. Between 1959 and 1973 total drilling activity dropped 50 percent, drilling rigs in service declined by 60 percent, and over 100 producers, many of substantial size, found it more attractive to sell their properties to larger international firms than to continue exploration activities.
>
> Nationwide costs have not been compiled for 1974, but we have estimated capital expenditures based on the number of wells drilled and have calculated the economic cost of oil found in 1974 to be $12.84 per barrel. As a result of the Arab embargo, the 1974 selling price for crude oil increased to approximately $10.00 per barrel, providing great stimulus to exploratory drilling and a marked reversal in the 15-year trend of declining activity.
>
> Economic cost is defined as the cost of finding, developing, and producing crude petroleum plus the minimum return on the operator's capital necessary to sustain exploration. The economic costs of new oil supplies are calculated by the discounted cash flow rate of return method whereby revenues from the sale of oil and their attendant costs are projected yearly over the expected life of the reserve. Oil prices are adjusted within the economic model until the discounted cash flow rate of return to the producer (after federal income taxes) is 15 percent, the minimum required, in our opinion, to maintain exploration levels. Detailed results of the economic calculations and the methods used in their derivation are contained within the text of the report.
>
> One important factor affecting economic oil costs is the depletion allowance which has now been repealed for the nation's major producers. Calculations made previously using the same economic model but not included in this work have shown that elimination of the depletion allowance will increase economic costs of new oil by approximately 20 to 24 percent.

A more recent analysis of domestic oil prices and the effects of S. 622 were in a report by John D. Emerson, energy economist for Chase Manhattan Bank.

I agree 100 percent with John Emerson's conclusion that the Nation would lose over 2 million barrels a day of potential production that would have to be made up by higher imports. All in all, a policy more adverse to this country's energy interests would be hard to conceive.

> Just as foreign oil prices are administered by OPEC, United States prices are administered by the Federal Energy Administration—at least on the up-side. When demand is weak, market forces are still the controlling factor on the down-side.
>
> For national security reasons, domestic oil prices were supported by the oil import control program for many years. By 1972, however, the delivered price of foreign oil had risen to the same level as domestic oil. There was, therefore, no further need for an import control program, and the controls were lifted in May 1973 leaving only a modest tariff on imports. The United States was once again directly linked to the world market. It was not surprising, accordingly, when world prices tripled in January 1974 that United States domestic prices began moving up to the import parity level.
>
> At that time, however, the government's principal concern was with inflation, and it reacted with a partial freeze on oil prices. The problem was to prevent higher oil prices from adding to inflation while at the same time maintaining an incentive for increased drilling to realize the aims of Project independence.
>
> These conflicting goals were handled by the creation of a two-tier price system for domestic crude oil. Oil production was designated as either "old" or "new". "Old" oil was defined as production at the 1972 level on a lease by lease basis. "New" oil is production from reserves added after 1972. As an incentive to increase domestic oil production and to prevent the premature abandonment of existing producing wells, two modifications of the price control on old oil are permitted.

Stripper well production, though technically "old" oil, may be priced as "new" oil. Additionally, for every barrel of "new" oil produced from a lease, another barrel of "old" oil may be released from price control.

Thus, the current makeup of domestic crude oil prices is approximately as follows:

Old price controlled oil, 5,290,000 barrels daily at $5.25.

Stripper well production, 1,000,000 barrels daily at $14.00.

Released oil, 590,000 barrels daily at $14.00.

New oil, 1,520,000 barrels daily at $14.00.

Total, $8,400,000 barrels daily at $8.49.

The two-tier price system, while not perfect, has the merit of providing an adequate incentive to develop new domestic production. It has the further merit of being self-liquidating since "old" oil, presently 60 percent of the total, will decline for natural reasons to about 30 percent by 1980 and 10 percent by 1985 as the reserves become exhausted. The recent debate in Congress over the timetable for decontrol represented nothing more than the acceleration of an inevitable process.

The new energy bill, currently before the President, is a very different proposition, however. It provides for prices to be controlled through the overall weighted averages of "old" oil and "new" oil. The initial level is $7.66 a barrel, which is some 80¢ a barrel below the existing average level, although only 10 cents a barrel below the average price if the $2 a barrel tariff is eliminated. The immediate effect of price rollback and tariff elimination would be to reduce the price of "new" crude (including stripper and "released" oil) to $11.75 a barrel.

It should be emphasized that the prices referred to are weighted averages. Quality and location affect prices in the United States just as they do overseas. All "old" oil does not sell for $5.25 a barrel. It ranges from $4–$6 a barrel. The same applies to new oil prices. The weightings are constantly changing among "old" oils, among "new" oils, and between the two. It would be an administrative nightmare to price all the crude oils in the United States in such a way that the average would equal the Congressionally mandated level. Individual companies could not do it and neither could the Federal Energy Administration. Two-tier pricing is one thing, but to try to work back from an average is quite different.

Quite apart from the administrative chaos involved, the whole concept of a weighted average price that increases by a maximum of 10 percent a year is contrary to the aims of Project Independence. At present, the relationships between "old" and "new" oil is about 63:37. By the end of forty months, this position will be reversed due to a natural decline in the production from old wells. Assuming for the moment that total production remains unchanged, the following calculations illustrate the effects of the new energy bill:

CURRENT POSITION UNDER NEW BILL

63 percent "old" oil at weighted average price of $5.25/bbl. equals 37 percent "new" oil at weighted average price of $11.75/bbl.

100 percent at weighted average price of $7.66/bbl.

POSITION AFTER FORTY MONTHS

100 percent at weighted average price of $10.54/bbl.

37 percent "old" oil at weighted average price of $5.25/bbl. equals 63 percent "new" oil at weighted average price of $13.65/bbl.

The average increase in the price of "new" oil during this period of time would be 4.4 percent a year—far below any reasonable estimate of inflation. If in addition to the national average price, "old" oil prices were also increased at 10 percent a year, reaching a level of $7.30/bbl. by April 1979, the price of "new" oil would be forced down to $12.45 a barrel.

With the weighted average domestic price fixed by law, and the controlled "old" oil price also fixed, it is a simple mathematical certainty that producers would have an incentive to produce as little "new" oil as possible.

If producers limited their investment so that they only produced as much "new" oil as "old" oil in April 1979, then under the formula they could sell that oil for $15.83 a barrel. The nation would lose over 2 million barrels a day of potential production that would have to be made up by higher imports. All in all, a policy more adverse to this country's energy interests would be hard to conceive.

That 2 million barrels more of OPEC oil on top of the 7 million we are already importing can do nothing but push the price of gasoline, heating oil, jet and diesel fuel and all other petroleum products higher.

It will be a high price to pay for the fleeting benefits of a 1- or 2-cent reduction in the price of such products for a few months—if at all—until they start up again.

There has been a great flood of rhetoric on the pros and cons of this legislation.

One of the best I have seen was by an M.D., Dr. Michael E. Siegel, division of nuclear medicine and radiation health of Johns Hopkins Medical Institutions.

The doctor wrote the editor of the Washington Star in response to an editorial that newspaper had carried which was sort of a lefthanded endorsement of a bill the editor termed "not even nearly the best."

> You state that this flawed measure is better than none, and that is could have been much worse."
>
> Well, I really doubt both of those statements. You say the public needs evidence that the government is capable of doing something."
>
> We feel quite assured that the government can do something but what the people want is for the government to do the right thing, rather than that which appears superficially attractive."
>
> You state, the doctor continued, that although the major thrust of this bill is not in the public interest, it will be difficult to explain that to the people.
>
> May I suggest that you and the government stop underestimating the comprehensibility of the public.

Doctor Siegel concluded that the bill before Congress is absolutely counterproductive to the energy needs and goals of this country—

> I beseech you to reconsider your influential stand on the issue.

For those same most excellent reasons and a good many more, I shall vote against the act and hope the President will veto the bill, should it pass.

It defeats the principal objectives of his Energy Independence Authority Act. His letters to the President of the Senate and Speaker of the House on October 10 of this year when he sent that act to Congress is support enough for his veto of this act.

Mr. President, my reasons for opposing this bill and urging that the President veto it can be summed up rather quickly.

It is going to result in less domestic production in the United States. That is because we are going to be leaving old oil in the ground abandoned because of that oil becoming uneconomic to pump.

There are oil wells in Wyoming right now that pump more than nine barrels of water for each barrel of oil produced. We do not have to change that ratio very much until it becomes uneconomical to pump that kind of oil.

We are going to discourage the development of Alaskan oil, because that oil will be expensive. Everyone knows that. The gathering system necessary to bring oil wells on line and to be able to deliver that oil to the pipelines from the North Slope down to Prudhoe Bay is an expensive operation.

So we are going to delay, not to hasten, the bringing onstream of Alaskan oil.

We are going to close down many stripper wells in this country. People may think that is not too important, but the last time I checked the figures, there were around 350,000 stripper wells in this country, and they produce an average of about three barrels of oil per day. That is not very much, but it is more than a million barrels of oil per day that would not otherwise be produced.

When we roll back the price, we hasten the time that those wells will be plugged and abandoned. That is not conservation. That is waste. It is waste in order to achieve one goal, a political goal.

It will result in increasing dependence on foreign suppliers. We will not take the leverage away from the OPEC countries, rather, we will give them more of the long end of the stick which they already now have, because we are going to have to look to them. It has been estimated that by 1980 we will be importing more than half of all the oil that the United States uses. That is because, as we roll prices back now, we tend to encourage more consumption rather than conservation. It will exacerbate the present tenuous balance of payments situation we have. As we have to pay out more money to buy more oil, we will be spending more money abroad.

We will be exporting American jobs. What we are going to do to the automobile industry is bad enough. What we do in discouraging the search for and the production of American oil, American coal, and American uranium will mean only one thing—a greater exportation of American jobs. That is true because this bill will result in a delay in the development of alternative sources of energy.

The oil shale of the West and the gasification and liquefaction of oil all become economically feasible when one fact occurs, and that is when the prices become competitive.

The PRESIDING OFFICER (Mr. BEALL). The time of the Senator has expired.

Mr. FANNIN. I yield the Senator 2 additional minutes.

Mr. HANSEN. Mr. President, by imposing the regulations that are contemplated and are called for in this bill, we are ultimately going to pass on to consumers higher prices. The bureaucracy that must be in place drawing wages and salaries to enforce these complicated regulations, instead of letting supply and demand play its role in the marketplace, will be given more things to do to regulate the industry and to regulate the American people.

I hope Senators will reject this bill.

I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I have been advised that FEA may reinstitute the program in effect from November 1, 1974 through February 1, 1975, under which crude oil "entitlements" would be awarded to firms which import refined petroleum products. In that connection, I have written the Administrator of the FEA concerning the need for full public hearings with respect to this matter, and ask unanimous consent that my letter to the Administrator and his reply be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 12, 1975.
Hon. FRANK G. ZARB,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR FRANK: It is my understanding that the Federal Energy Administration is considering reinstatement of the program, in effect from November 1, 1974 through February 1, 1975, under which crude oil "entitlements" would be awarded to firms which import refined petroleum products, particularly residual fuel oil, into the United States. I further understand that such a step may be taken at the time the President announces removal of the $2 per barrel supplemental fee on crude oil imports.

The purpose of this letter is to request your assurance that no decision will be reached on reinstatement of a product entitlements program until full opportunity is provided to all interested parties to present both oral and written testimony in formal proceedings conducted by the FEA. As you are undoubtedly aware, a product entitlements program involves very serious policy issues which must be fully explored and considered. Among those issues are: whether such a program is needed at all under current market conditions; whether the program would make it impossible to achieve reductions in the cost of gasoline, home heating oil and other domestically refined products as mandated by the Congress; whether the grant of entitlements would discourage the construction of additional domestic refining capacity; whether such a program would frustrate efforts to remove price and allocation controls; whether the competitive problems affecting the East Coast residual fuel oil market cannot be met in a more direct, effective manner.

It is clear from this brief list that the decision to reinstate a product entitlements program involves major policy issues with serious long-term implications. It is therefore essential that full public comment and hearing procedures be followed.

I hope that we may have your prompt assurance that this is the course which FEA will pursue.

Thank you very much.

Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., December 16, 1975.
Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JOHNSTON: Thank you for your letter of December 12, concerning the possible reinstatement by FEA of an "entitlements" program for imported refined petroleum products.

As you know, if the Energy Policy and Conservation Act now under consideration in the Congress becomes law and the $2.00 per barrel supplemental import fee on crude oil is removed, certain of the conditions which existed prior to the imposition of the supplemental import fees on crude oil and which led FEA to implement an entitlements program for certain imported petroleum products, would again exist.

As you correctly point out, a decision to reimpose such a program would involve significant policy considerations, and would require that we take into account the extent to which conditions now are different than they were at the time the last program was implemented.

Therefore, I can assure you that no product entitlements program would be adopted by FEA without a prior opportunity for written comment and oral testimony. Although the requirements for prior notice and hearing under the Federal Energy Administration Act may be waived upon a finding that compliance with those requirements would cause serious harm or injury to the public health, safety, or welfare, such a finding could not be made with respect to a proposed product entitlements program. This is because the benefits of any such program must lag by two months the month in which the products have been imported due to data collection and analysis requirements.

Thus, if the crude oil import fee were removed in December 1975, the earliest date that product entitlements could be issued with respect to that month would be February 1976. This time lag allows sufficient opportunity for public comments to be received and public hearings held prior to adoption of any final policy decision or amendment to FEA's regulations.

I trust that this letter adequately responds to the concern you have expressed.

Sincerely,

FRANK G. ZARB,
Administrator.

Mr. GLENN. I yield myself such time as I may require.

Mr. President, I reply to the Senator from Wyoming by saying that the high cost of oil in Wyoming, where considerable water is pumped out of the oil can be taken care of in this bill by the President's authority to vary the pricing for high-cost production, such as those specific stripper wells to which the Senator from Wyoming refers.

The Alaska pipeline oil, to which he also referred, will not be delayed because of this bill. The pricing arrangements for the Alaska pipeline can be set up by the specific provision required in the spring of 1977.

The rollback that he referred to I prefer to look at as a return to the "free market plus OPEC" price that was existent on January 31 of this year, because that is what it was. It was the free market new oil price, including the OPEC-induced domestic rise. It was the next day that the President put on his $2 tariff; and subsequent to that, later in the year, OPEC had their second price rise.

I think that the last time we had a "free market plus OPEC" price for new oil was on January 31, and that was the time the $11.28 new oil price applied. That was one of the bases for going back to that particular figure.

We are getting close to the time to vote. We are saving about 5 minutes for the distinguished chairman. Beyond that, Mr. President, I would be glad to yield back the remainder of my time, if the other side were of a like mind.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield 7 minutes to the distinguished Senator from Texas.

Mr. TOWER. I yield 1 minute to the Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Texas.

Mr. President, I should like to respond to the remarks made earlier by the Senator from Arkansas, who cited the situation in 1973 about propane, when the prices increased rather substantially.

The situation right now, according to figures that have been obtained by the economic advisers to the President, is that the supplies of propane are above normal and the demand for propane is low. Normally, the large demand comes from agricultural directions, and the crops are in, so nothing is anticipated there.

Second, they feel that they have sufficient supplies on hand to meet the surges in the demand that might come from the weather becoming colder if the market was freed up.

So they feel quite confident that if there are decontrols on propane, the supplies are adequate to meet the demand.

Mr. TOWER. Mr. President, once again we are afflicted with a severe myopia, a disability similar to that suffered by our colleagues down the hall, as we appear determined with this legislation to sacrifice the long-term national interest for the short-term political gain. A regretable decision indeed, even assuming the choice were a rational one with a political upside to be achieved, but in this instance, with this legislation, there is no political gain—no good sense involved—no semblance of rationality.

The conference report before us today, the loosely termed "Energy Policy and Conservation Act of 1975" (S. 622) might be more aptly tagged the "Cold Homes and Dark Factories Act," or the "Energy Dependence Act," or indeed, the "OPEC Relief Act of 1975." For, undeniably, this legislation finds us mandating a turn of 180 degrees from past efforts to secure energy independence. Contrary to independence, it will necessitate through its pricing formula a continued and increased reliance upon the OPEC cartel.

Mr. President, what we are doing with this bill is treating the American public to the classic "shell game" of old: "Now you see it, now you don't." Running rampant are political promises of a penny price reduction here, a penny there. Yet, in reality, passage will not lower prices at the gasoline pump; prices there are currently being depressed by the workings of the market mechanism of supply and demand. Still, we appear determined to scrap our efforts to achieve energy independence, to see those efforts go a 'glimmering amidst the hoopla of false promises and fugitive pennies.

Mr. President, the positive aspects of this bill—and there are a few the area of innovative conservation methods—are completely overshadowed by the uncertainties surrounding the pricing mechanism. The legislation will not increase production, encourage conservation, or reduce imports of foreign oil. Failing to accomplish these essential goals, what will it do? The answer is not pleasant, nor acceptable.

Passage will continue controls under an ill-conceived composite pricing concept for forty additional months. Controls have not worked in the past in less complicated industries, why should they now be effective in the petroleum industry? Further, has not regulation in the interstate natural gas market illuminated the foolishness of maintaining artificial controls on a product, controls which retard development and distribution? Further still, what assurance is there that at the end of 40 months a termination of controls would be more palatable than now to those who would so hamstring the domestic petroleum industry as to render it an ineffective vehicle for meeting our energy challenge at home?

Passage will dictate the curtailment of marginal production. The roll-back in prices, and the composite formula, does not exempt such production. Fields will be abandoned, wells plugged. Stripper oil will become a commodity of the past. Enhanced recovery techniques will be priced out of reason. And, as marginal production is constrained, domestic supplies will decrease simultaneously with an increased energy consumption. The result? A greater reliance upon imports until by 1985 we could find ourselves fully dependent upon imports for up to one-half of our total energy consumption. So much for "energy independence!"

Passage will prompt the stacking of wells in the producing States. Independents, who historically have drilled 90 percent of this Nation's exploratory or wildcat wells and who represent the most competitive segment of the industry, will be unable to attract the outside capital critical to their drilling ventures. Attractive sites, already spotted, will not be tested. Confusion surrounding the multi-tiered pricing mechanism of this legislation will compound the uncertainty which already grips the domestic industry—an uncertainty fueled by questions concerning the future of percentage depletion, intangible drilling costs, and other incentives so fundamental to the independent's survival.

Mr. President, the Congress in its zeal to fabricate an election year sop for the "voting public" is without just cause to tinker and toy with the domestic petroleum industry. The industry should not be made the scapegoat for our failure to legislate a sensible, productive, and comprehensive energy policy.

We must not deceive the American public. The public deserves more from its elected leadership than blatant attempts to lullaby our Nation into an energy complacency based upon what at best can be termed "well intentioned, but misguided, effort."

Mr. President, in recent days I have spent considerable time with independents in my State discussing the pending legislation in some detail. My hometown, Wichita Falls, is in the middle of the oil patch and on each trip home during this year I have had opportunity to visit with longtime friends who are independent producers and who find their business endeavors frustrated by excessive Federal regulation and governental redtape. They have come face to face with the bureaucracy in recent years and it has not been a pleasant meeting. Now, as if to compound earlier problems, we come forward with this legislation and threaten the very existence of independents, not only in my State, but throughout the country.

Mr. President, I ask that my colleagues consider the retrogressive effect that enactment of this legislation will have upon our efforts to secure independence from foreign petroleum sources. I urge that we give the American public, the American consumer, a reprieve by turning down this ill-advised conference report.

The energy issue has been treated to so much cynical demagoguery in this body and the other one for so many months now that I hope we will rally to our senses and defeat this ill-conceived legislation.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield myself 5 minutes.

There has been a lot of discussion on the subject of the pricing. I think it is well for our colleagues to understand that this is an omnibus energy bill, that we do cover the subject of measures to increase domestic supply. We authorize loans to increase coal production by encouraging the opening of new underground coal mines. We authorize the President to require production of crude oil and natural gas at the maximum efficient rate of production.

We provide, secondly, for standby energy authority. The act provides for standby powers to deal with emergency situation shortages.

Third, Mr. President, there is provision in this bill for energy conservation programs. The act, among other things, establish a mandatory average fuel economy performance standard for new passenger automobiles and other light-duty highway vehicles. It requires energy labeling of major home appliances and certain consumer products, and authorizes energy efficiency standards for major appliances.

It provides for block grants in aid to the States to assist in the development and the implementation of State-administered energy conservation programs.

Fourth, may I say, Mr. President, we establish for the first time a system of strategic reserves. This would be a program of up to 1 billion barrels of crude oil, residual fuel oil, and refined petroleum products to insulate the domestic economy from the adverse effects of future embargoes.

Finally, we deal with the subject of oil pricing. I think, Mr. President, all of our colleagues should understand that this is the last clear chance to deal with this subject as it pertains to inflation. Let me point out that this is the third time that we have extended the price control authority, and it is the last time it is going to be up.

Congress will have to decide whether or not they want to bring the economy to a new bottom by decontrolling the present controlled oil, which will go from $5.25 a barrel in 1975 to $14.50 if the $2 tariff is kept on; otherwise, it will be $12.50. Next year, if the $2 tariff remains, it will be $15.25.

Mr. President, we are talking about a direct increase of $33 billion. This is oil jumping in price over $9 a barrel—$9 a barrel, when the price of oil, 2 years ago, was $3.76 a barrel. It does not take much imagination to see what it would do to an already faltering economy to have that kind of inflationary input and inflationary surge. Our economy can ill afford that kind of shock treatment.

Instead, we have a bill that is not as drastic as I would like to see it in light of the inflation, but it is a bill that we worked out, in large part, with Mr. Zarb. We do provide for a price rollback of somewhere between 2.5 and 3 cents a gallon. It comes at a time when it can be helpful to the economy.

On the other hand, if this bill is voted down, we are going to see this big rise in prices of heating oil, fuel oil, propane, and the farmer is going to feel it as never before in the higher cost of fertilizer.

I want to say that Congress should fully appreciate what the options are. If this bill is defeated, if the President vetoes it—and I am hopeful that he will not veto it—Congress is not about to go through a fourth extension of this act.

Mr. President, it is that clear. We have been on this since February, in stages, and we have brought together five different bills into one bill. It is an omnibus bill. We have been talking about who has an energy policy and who does not have one.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HANSEN. I ask unanimous consent that the distinguished chairman may have as much time as he requires.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. JACKSON. Finally, Mr. President, I want to pay tribute to the staff, especially to William Van Ness, who has been on this legislation now for over 2 years on the Senate side, and Charles Curtis, on the House side, who has been, likewise, involved during that period. I think both sides of the aisle will agree that both expert lawyers have been intellectually honest in their presentation of the legislation. They have been highly professional in the best traditions of a fine Senate and House of Representatives staff.

I say likewise of the minority. They have cooperated and helped with their staffs. I think it is appropriate, as we conclude legislation, to give proper recognition to the staff, who have been so helpful over the period of this legislation.

Mr. FANNIN. Mr. President, I yield such time as he may desire to the Senator from Ohio.

Mr. TAFT. Mr. President, I very much want to vote for an energy conservation and energy production measure. Very much.

Therefore, my decision to vote against the energy conference report is a difficult one. I strongly believe that if the First session of the 94th Congress adjourns without an energy bill, we will have failed to serve the people. On the other hand, I do not buy the proposition that we should pass a bad bill just because it is the only one that can be approved.

Even the supporters of the conference report, when pushed on the matter, say that this bill should pass because it is the only bill that can be approved by the House. Well, I think the people who elected us demand a higher standard.

This bill is advertised as a decontrol bill. I do not believe it. Perhaps the Senator from Washington could explain it to me. After removing the tariff, and rolling prices back to $7.66, there will be a gap of nearly $3 between domestic oil and world oil. World oil will be selling for nearly 140 percent the price of domestic oil. A 40-percent gap.

Then we will begin "decontrol."

We will begin decontrol at a real rate of 3 percent a year, assuming inflation is less than 7 percent, or that the Congress will vote, actually vote, to allow the price to go up faster. Not likely. But assume the price goes up 3 percent a year, after inflation.

Now, let us be realistic. The price of OPEC oil will also go up with the cost of living. The only amount we will be gaining on the world price, under the most realistic conditions, is 3 percent per year. After 40 months, we will have closed only one-quarter of the gap between our prices and the world's prices. We will have a 30 percent gap left to go.

Does the Senator have an answer to that? Does the Senator expect OPEC to do without its cost-of-living increases? Does the Senator expect the Congress to turn around right after the election and let the President push up the price at a realistic rate? The Senator's arithmetic does not produce the results the Senator has promised.

I will tell you what will happen at the end of 40 months. There will be a gap of at least $3 between our price and the world price. The Congress will moan about the shock of sudden decontrol. And we will keep controls. We will keep controls; we will keep our dependence on OPEC oil; we will keep our population bitter, divided, and short of gasoline and heating oil. This is no good at all.

And what of the rest of the title of this bill? The part about conservation?

Oh yes, there is conservation. We save a bit by better insulation. We save a bit with better gas mileage. We save a bit by switching to coal. But we save nothing, because when we lower the price, we send the strongest possible signal to the consumer to go ahead and consume. Yes, Senator Jackson—yes, Virginia—there is such a thing as a demand curve. Like a germ, you cannot see it with the naked eye, but it is there. Economists have measured it. It is real. And it will not be denied. "Price down" means "consumption up." Always.

The title of this bill is a fraud.

There are several useful features in this bill: Better insulation, better gas mileage, more use of coal, energy efficiency labeling. But every one of them is either underway because of natural market forces, or easily attached to some other bill. We do not need this measure as it now stands. Indeed, we cannot stand this measure as it now stands.

Has anybody here seen the massive Brookings Institution report on energy that was sent to every Senator about 2 weeks ago? Has anybody read it? Let me tell you what it says. It says that higher prices will bring more exploration. They will bring less consumption. It says that the recessionary impact of the price rises is already behind us. It says that the biggest factor in the problems we now face was the suddenness and size of the price increase, and the transfer of income that resulted. And it concludes that, since the Government is not ready with a windfall profits tax—which this bill does not contain—and because of the tendency of governments to fight inflation when prices rise, even if it is due to a move by OPEC which has to be countered by expansion to prevent recession, that the only solution is gradual decontrol, as I have said all along. This bill does not give us that. It leaves us with a $3 gap, a gap which must be sending shivers of fear up and down the halls of the Brookings Institute, and which should be sending shivers up and down the Halls of Congress.

I cannot vote to subject this country to a recession in 1979. I cannot vote to subject this country to the shortages and threats from abroad that this bill will produce. I condemn this measure as a fraud. For that is what it is. A fraud on the public, and on the next generation.

I ask unanimous consent to have the Brookings report printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Higher Oil Prices and the World Economy

The point worth stressing in this more or less mechanical exercise is that if governments have learned the lesson of the oil shock of 1973–74, the world economy should be able to adjust more quickly and with less cost to subsequent sudden increases in the world price of oil. First priority should be given to offsetting the depressing effect on aggregate demand and thereby avoiding unnecessary reductions in output and employment. Once this is done—that is, with the normal rate of economic growth maintained—adjusting to the long-run welfare costs is more feasible politically and can be accomplished more gradually.

MINIMIZING LONG-RUN COSTS

The long-run economic costs of higher energy prices will depend directly on the expansion of alternative supplies and curtailment of demand in the importing countries and indirectly on the influence exerted by these developments on the pricing policies of OPEC. Our efforts in this book are directed principally toward an analysis of the ways in which various national economies can best adjust to a world of higher prices. It is not a book about oil policy itself, in the sense of being an analysis of alternative measures for expanding supply or reducing demand. We have much less to say, therefore, about long-run adjustment policies than about those for the short run. Several basic points that should be considered in the determination of oil policy, however, follow from our analysis.

First, to the extent that our estimates of long-run costs in relationship to GNP in the industrial countries are approximately correct, the magnitudes of the economic losses for the United States and Western Europe—and even for Japan—are comparatively small. They imply, not an absolute reduction in living standards, but a modest reduction for a while in the accustomed rate of growth of per capita consumption. While these losses are sufficiently large to warrant the adoption of policies to reduce them, they should not be viewed as in themselves threatening the prospects for achieving normal rates of growth.

Second, for the United States especially, there is a conflict between short-run demand-management objectives and long-run cost-minimization goals. The price of domestically produced fossil fuels in the United States—oil, natural gas, and coal—is being controlled substantially below the world price of oil. As a consequence, oil is being imported at world prices for uses whose values are less than the price paid for those imports. Similarly, to an extent difficult to estimate quantitatively, some domestic fossil-fuel resources which would be exploited at resource costs less than the price of imported oil are being neglected. For both of these reasons a policy of holding domestic energy prices below the cost of imported oil increases the national economic losses from higher OPEC prices. On the other hand, allowing prices of domestic sources of energy (which in the United States account for over 80 percent of total energy consumption) to jump suddenly to parity with world oil prices could introduce major new problems of demand management—a new spurt of inflation, both direct and second-round effects, and an additional drain on consumer income. A failure to cope with these problems would bring about economic losses far greater than the misallocation of resources caused by a multiple price for oil.

A reasonable solution to this problem of conflicting objectives might be to provide for a gradual rise in controlled prices toward parity with imported oil. Particular fossil-fuel deposits are exploited over a large number of years. Similarly, changes in the consumption of energy are often associated with long-term investment decisions. As a consequence it is long-term expectations about prices, rather than immediate price levels, that influence decisions concerning supply and demand. Removing uncertainties, by agreement on a policy of gradual decontrol announced in advance, would raise long-term price expectations while significantly reducing the associated short-run demand-management problems.

Mr. TAFT. Mr. President, I have read the report from the Brookings Institution indicating that higher prices will bring more exploration and, if we cut back on the prices, it will hurt us further. I ask the Senator from Washington: This bill is advertised as a decontrol bill. As I see it, after removing the tariff and rolling back prices to $7.66, there is still going to be a 40-percent gap. Then we begin the decontrol and there are the various adjustments and inflation and so forth that can occur. I think if that occurs, the price of OPEC oil is going to go up similarly. If it does and it reflects the inflationary increase, what is going to happen at the end of that decontrol period? How many dollars' difference is there going to be at that time between the domestic price and international price, and what are we going to do about it at that time?

Mr. JACKSON. I say to the Senator that I see no justification whatsoever for the domestic price of oil, if it is decontrolled, to be fixed, then, by the OPEC price. They control 80 percent of the oil in the world, and that spread may rise. But that does not justify our——

Mr. TAFT. We will go on, then, at the end of the 4-year period and go to further domestic control and a two-price system similar to the one we have now.

Mr. JACKSON. We are going to have a two-price system because the American people, I think with justification, do not want the domestic oil prices dictated by the cartel. I must say that is the evil of this whole business, because there is no justification whatsoever for the pricing of domestically produced oil here at the OPEC rate.

Mr. TAFT. The Senator's answer is right on point, because it just shows that now, through this entire process and at the end, we are going to be at a different price and we are going to be at the mercy of OPEC countries.

Mr. JACKSON. No, I do not agree with the conclusion.

The PRESIDING OFFICER. All time has expired. Under the previous order, the vote will now occur on the motion to concur in the House amendment to the Senate amendment to the House amendments on S. 622.

Mr. BUMPERS. Mr. President, first I ask unanimous consent that the distinguished Senator from Arizona (Mr. FANNIN) be given a moment to express his appreciation to the staff of the committee.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. BUMPERS. Second, Mr. President, I ask unanimous consent that any Member who wishes to insert anything in the RECORD regarding the legislative history of this bill be permitted to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I would like to clarify a colloquy conducted just now between the Senator from Alaska (Mr. STEVENS) and myself. The Senator inquired whether, under section 8(g) (2), at page 89 of the conference report, the President, if he made the positive finding described in that section, would be required to make a submission to Congress of an amended regulation. The answer is that the President would, of course, have to submit any such proposed amendment to Congress in order for it to become effective. He would not be required to propose any such amendment. Under section 8(g)(2), he may do so, but he does not have to do so.

The Energy Policy and Conservation Act establishes a framework for determining domestic crude oil prices which: First, sets specific limits on the economic impact of oil prices; providing for a near term rollback to stimulate economic recovery; second, removes the influence of the Organization of Petroleum Exporting Countries, OPEC, cartel on the price of domestic oil; third, establishes price certainty for the domestic oil industry; fourth, grants the President the flexibility to set oil prices to achieve the maximum domestic production consistent with an acceptable and limited overall impact on consumers; and fifth, removes the specter of immediate and total decontrol of domestic energy prices—the single most potent threat to economic recovery and the well being of the vast majority of Americans.

STRIPPER WELLS

Currently domestic production of crude oil from wells producing less than 10 barrels per day is not subject to price controls. Stripper well oil sold for approximately $11.28 per barrel in January 1975. The latest FEA date—for September—sets stripper oil prices at approximately $12.50 per barrel. This does not reflect the full effect of the President's $2 per barrel tariff—which should increase the price of each barrel of domestic oil not subject to controls by $2 above the pre-tariff value of $11.28 per barrel; nor does it reflect the recent OPEC price increase—which should raise the price of such oil by another $0.80 to $1 per barrel. It is expected that these influences on the price of stripper well oil would conceivably have resulted, sometime next year, in a price of approximately $14 per barrel.

THE EFFECT OF S. 622

Under section 401 of the Energy Policy and Conservation Act—pages 85–86 of the conference report—the President is required to establish ceiling prices for all domestic crude oil—including stripper oil—resulting in a national weighted average price of no more than $7.66 per barrel. In establishing prices to achieve this, the President may provide for different ceiling prices for different classifications of crude oil. In establishing different price ceilings, the President must determine that they are "administratively feasible," and that they "are justified on the basis that such prices and such classifications are consistent with obtaining production of crude oil in the United States."—section 401(a)-8(b) (1).

The joint statement of managers expands on the intended impact of this language on stripper oil:

> Under the conference substitute stripper well ceiling prices come within the President's broad discretion to set ceiling prices to implement the maximum weighted average price requirement of the legislation. It is the conferees' understanding that within the limitations of the conference substitute the President will most likely establish a separate stripper well ceiling price of approximately $11.28—the equivalent of the upper tier under a continuation of the current two-tier pricing program subject to limits of the conference substitute in order to assure sustained rates of production from such properties (page 197 of the Conference Report).

Thus, under this act stripper well producers and royalty owners will lose only that part of the revenue they have been earning which results from the President's import tariff and the recent OPEC price increase. It is likely in any event that this revenue would have been lost either because of a Presidential decision to remove the tariff even without S. 622 or because the tariff is declared illegal by the Supreme Court.

FUTURE ADJUSTMENTS IN PRICES

Stripper well oil is specifically referenced in the provisions of S. 622 relating to adjustments to domestic prices. Under the act, the domestic composite price could increase, without congressional review, in time by as much as 10 percent per year for the purpose, among others, of "sustaining production from marginal wells, including production from stripper wells".

In addition, the President could propose at the end of each quarter an amendment to raise prices faster, provided this is really necessary to increase or to maintain production and provided that neither House disapproves of the President's proposal.

Mr. FANNIN. Mr. President, I thank the Senator from Arkansas. I want to join the chairman of the committee in commendations to the staff, both the majority staff and the minority staff, for the splendid service they have rendered in getting this bill together. It was just nights and days of hard work. I do feel the staff is certainly deserving of praise for the hours they have spent on this bill. But I do commend the staff for the work they have done.

ADDITIONAL STATEMENTS SUBMITTED ON S. 622

OIL PRICING POLICY IN HISTORICAL PERSPECTIVE

Mr. JACKSON. Since the mid-1950's the price of domestic crude oil at the wellhead has been very stable. Between 1955 and 1972, the wellhead price in current dollars moved very gradually from $2.77 per barrel to $3.40 per barrel. The price of imported petroleum landed in the United States during this period remained approximately $1 per barrel below domestic prices and, after 1959, a system of quotas administered by the Department of the Interior restricted the amount of crude oil permitted to enter the United States to a fixed percentage of domestic production.

The rationale for the quota system was the desire to maintain stable prices for domestic crude oil and insulate domestic producers from the severe price competition which inexpensive imports could have provided. Despite these intentions, the capability to produce oil in the United States did not expand substantially during the period the quota was in effect. Rather, crude oil imports were held down and new domestic demand was filled primarily from existing excess domestic producing capacity. Between 1957 and 1972, spare domestic crude oil producing capacity dropped from 29 percent of production to 2 percent.

By early 1973, the inability of declining domestic supply and fixed imports to meet a growing demand for petroleum products became widely recognized. In April 1973, crude oil import restrictions were removed, and crude oil import volumes increased rapidly throughout the summer. The price of both imports and domestic production moved up during this period, and the gap between import prices and domestic prices essentially disappeared.

Domestic prices in January 1973 averaged $3.40 per barrel. By April the price had increased by 25 cents per barrel, and a second set of price increases was underway in early summer of 1973.

At that time, the framework for the present crude oil price controls including the "two-tier" system was set forth when President Richard M. Nixon in June 1973, announced the establishment of phase IV price controls under authority contained in the Economic Stabilization Act of 1970. Included in this regime was provision for a ceiling price applicable to a portion of domestically produced crude oil. The ceiling for each grade and quality category of controlled crude oil that went into effect in August 1973, was set at the May 15, 1973, posted field price plus $0.35 per barrel. "New" oil was defined at that time as production from a property in excess of volumes produced in 1972. In addition, "released" oil—a volume of production, if any, from a given property which would otherwise be subject to control and which could equal the production of "new" oil from that property—would be combined with new oil and exempted from the ceiling price requirement. At that time, the Cost of Living Council—CLC—which administered the phase IV price controls, estimated the average price of domestic production under controls at approximately $4.25 per barrel. In December 1973, in an attempt to close the widening gap between prices of oil under controls and the prices of exempt categories, the CLC authorized an increase of $1 per barrel in the price ceiling for domestic crude oil bringing the estimated price of controlled oil to approximately $5.25 per barrel—the figure which has been reported for old oil by the FEA since that time.

The price of new oil in September 1973, was approximately $5 per barrel and exceeded the cost of imports landed in that month by $0.25 to $0.35 per barrel. On October 16, 1973, six Persian Gulf members of OPEC announced increases in the posted price of crude oil—FOB the Persian Gulf—from $3.01 per barrel to $5.12 per barrel. One day later, in Kuwait, the Arab embargo was announced. The price of domestic new oil began to rise precipitously. The Trans Alaska Pipeline Act, Public Law 93–153, was signed by the President on November 16, 1973. This legislation specifically exempted from price controls production from domestic stripper wells—those producing less than 10 barrels per day. On November 27, 1973, President Nixon signed the Emergency Petroleum Allocation Act of 1973, Public Law 93–159, committing the President to promulgate a regulation providing for the equitable allocation of petroleum at equitable prices.

By the end of November 1973, 75 percent of domestic oil was selling at an average of $4.25 per barrel and 25 percent was classified as new oil, selling for $6.17 per barrel. New oil was priced at approximately a dollar per barrel above the price of imports. On December 18, 1973, the Cost of Living Council, in an attempt to minimize the disparity in refiner crude costs under the two-tier system, announced an increase in the ceiling price permitted for old domestic crude oil of $1 per barrel, from $4.25 to $5.25 per barrel.

On December 23, 1973, OPEC announced that the world price of crude oil would double at the beginning of the year. Saudi Arabia raised the posted price of its "marker" crude oil from $5.12 to $11.65 per barrel, effective January 1, 1974.

Responsibility for the administration of the petroleum price control regulation was transferred from the Cost of Living Council to the Federal Energy Office on December 26, 1973. On January 15, 1974, the FEO issued the basic price control and allocation regulation for crude oil and refined petroleum products. This price control regulation reflected regulations originally administered by the CLC and permitted domestic "new" oil prices to float to reflect the world price level established by OPEC. In February, the landed price of imported crude oil—approximately $12.50 per barrel—passed the domestic new oil price for that month of approximately $9.90 per barrel.

On March 6, 1974, President Nixon vetoed S. 2589, the Energy Emergency Act, which provided for a rollback to approximately $7 per barrel of the price of domestic "new" oil not subject to price controls under the Allocation Act regulation. At that time, "new" oil in the United States was selling for nearly $10 per barrel.

On April 30, 1974, the statutory authority for the CLC contained in the Economic Stabilization Act of 1970 expired, and the Emergency Petroleum Allocation Act became the sole source of Federal price control authority for petroleum. On June 27, 1974, the President transferred all functions of the FEO to the Federal Energy Administration, created by the Federal Energy Administration Act of 1974, Public Law 93–275, May 7, 1975. By midyear, domestic new oil prices were on a plateau at just under $10 per barrel, over $2.50 per barrel below the reported landed price of imported oil.

During the fall, the price of new oil began to rise again, reaching $11.28 per barrel in January of 1975.

The Senate passed, on November 21, 1974, and the President signed, on December 5, 1974, Public Law 93–511, extending the Emergency Petroleum Allocation Act of 1973 until August 31, 1975.

On January 15, 1975, in his state of the Union message, President Ford announced a series of energy-pricing proposals which included progressively increasing tariffs on imported petroleum—$1 each month in February, March, and April—and removal of all price controls on domestic crude oil on April 1, 1975. H.R. 1767, which explicitly denied the President the authority to impose tariffs on imported crude oil, was vetoed by President Ford on March 4, 1975. Presidential implementation of the decision to remove price controls from domestic oil was delayed, pending the results of congressional attempts to formulate a comprehensive counterproposal to the legislation proposed by the President on January 15.

During 1975, the price of both new oil and landed imports rose under stimulus of the tariff. By September, the prices of both these categories of oil were approximately $1.20 per barrel above January levels. The price of imported oil increased by less than $2 per barrel because of softness in the world oil market evidenced by a shutin of OPEC producing capacity of over 30 percent. Uncertainty concerning the future of the tariff had some effect on the slowness of the response of domestic new oil prices to the impetus of the tariff.

On June 21, 1975, H.R. 4035, which would have set a ceiling price rolling back the price of domestic new oil to the level prevailing prior to imposition of the President's import tariff, was vetoed by President Ford. On July 22, 1975, the House disapproved by a vote of 262 to 167 a plan submitted by the President under section 4(g)(2) of the Allocation Act that would have removed price controls on all domestic oil over a 30-month period. On July 30, 1975, a second Presidential decontrol proposal, which included a temporary ceiling on new oil prices and envisioned a decontrol period of 39 months, was disapproved in the House by a vote of 228 to 189.

On September 9, 1975, President Ford vetoed S. 1849, which would have extended the Emergency Petroleum Allocation Act until March 1, 1976. On September 10, the veto was sustained in the Senate by a vote of 61 to 39 and on September 26, 1975, the President signed H.R. 9524, providing for a temporary extension of the Allocation Act until November 15, 1975.

Meeting in Vienna, Austria OPEC on September 27, announced a 10-percent increase in the level of world oil prices effective October 1. The estimated effect of this increase on landed prices in the United States range from $0.80 to $1.25 per barrel. On October 7, 1975, the House-Senate conference on H.R. 7014 and S. 622 was convened.

CRUDE OIL PRICES

End of	Domestic		Imports[1]	Composite including imports[2]
	New	Average		
1973:				
1st quarter		3.40	3.30	3.35
2d quarter		3.60	3.90	3.70
3d quarter	5.12	4.27	4.72	4.41
4th quarter	9.51	6.31	6.44	6.43
1974:				
1st quarter	9.88	7.05	12.73	8.68
2d quarter	9.95	7.20	13.06	9.45
3d quarter	10.10	7.18	12.53	9.13
4th quarter	11.08	7.39	12.82	9.28
1975:				
1st quarter	11.47	8.38	13.28	9.91
2d quarter	11.73	8.38	14.15	10.33
3d quarter	12.46	8.49	14.04	10.97
4th quarter[3]	14.00	8.75	15.00	11.10
S. 622[4]	11.28	7.66	13.00	9.70
1976:				
1st quarter	11.47	7.84	13.19	9.87
2d quarter	11.67	8.03	13.38	10.06
3d quarter	11.87	8.23	13.58	10.32
4th quarter	12.07	8.43	13.78	10.52
1977:				
1st quarter	12.28	8.63	13.98	10.72
2d quarter	12.48	8.84	14.19	10.98
3d quarter	12.70	9.09	14.40	11.21
4th quarter	12.91	9.38	14.61	11.47

Footnotes at end of table.

CRUDE OIL PRICES—Continued

End of	Domestic			Composite including imports[2]
	New	Average	Imports[1]	
1978:				
1st quarter	13.13	9.82	14.82	11.82
2d quarter	13.36	10.41	15.04	12.31
3d quarter	13.59	10.65	15.26	12.54
4th quarter	13.82	10.88	15.48	12.77
1st quarter, 1979	14.05	11.13	15.71	13.05
April 1979	14.14	11.21	15.79	13.13

[1] Actual average prices for imported crude oil landed in the U.S. are listed through September, 1975. Data after 1975 assumes removal of the tariff of $2 per barrel on imported crude oil and a rise in the landed price of 6 percent per year over the 40-month life of the program.

[2] Actual average refiner acquisition costs are listed through August, 1975. After 1975 it is assumed that imported oil comprises 38 percent of the input of crude oil to domestic refineries, and that ths percentage increases gradually to 42 percent at the end of the price control program embodied in S. 622.

[3] Prices estimated for the Conference Committee on S. 622 by the FEA. Composite price including imports assumes imported oil comprises 38 percent of the input of crude oil to domestic refineries.

[4] Pricing policy adopted by Conference Committee on S. 622. (The policy does not specify the rate of increase in new oil prices within the composite. This table assumes a 7 percent annual increase in new oil prices.)

Mr. RANDOLPH. Mr. President, included in subsection 362(d) is a provision dealing with State energy conservation plans which permits a State the discretion to include in its plan regulations governing the hours and conditions of operation of public buildings. I understand that the intent of the conferees is that when a State issues regulations, and the Administrator when he approves a plan containing such regulations, will be fully cognizant of the wide diversity of public buildings which could be subject to restrictions on hours and conditions of operation. For example regulations dealing with the hours of operation of office buildings may well meet the tests of approval of a plan under subsection 363(b). However, other industries, particularly retailing, might suffer economic hardship if their hours of operation are not regulated with recognition of the intricacies of the respective industry. The conferees intend that such restrictions as may be placed on hours of operation of retail establishments will not cause an undue burden on the economy or on local and interstate commerce through regulation pursuant to this section with respect to restrictions on hours and conditions of operations. Would the Senator agree?

Mr. JACKSON. I agree completely with the Senator. The Senator from West Virginia (Mr. RANDOLPH) has been a leader for many years in working for equitable energy conservation.

Mr. JOHNSTON. I would like to address a question to the manager of the conference report with respect to price increases for old oil. As I understand the purpose of section 8(b)(2) of the Emergency Petroleum Allocation Act of 1973, as amended by the conference report, no amendment to the regulations under section 4(a) may permit an increase in the price of any volume of old crude oil production from any properties unless the President finds that such amendment—

(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development from such properties; or

(B) is necessary to take into account declining production from such properties; and

(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

I assume that it is not the purpose of this section to prevent an increase in the price of old oil to take into account the impact of inflation as measured by the adjusted GNP deflator and that, in fact, the President may allow an increase in the price of old oil to reflect the impact of inflation regardless of whether the section 8(b)(2) findings are made.

Mr. JACKSON. That is correct.

Mr. JOHNSTON. I also assume that, insofar as subparagraph (A)(ii) of section 8(b)(2) is concerned, there is no intent to limit increases to horizons that are below existing production, but that any horizon that is effectively separated from any other horizon previously shown to be productive will qualify.

Mr. JACKSON. That is correct.

Mr. JOHNSTON. I thank the Senator.

Mr. BEALL. Mr. President, I rise in opposition to the House amendments to S. 622.

It has been abundantly clear for the last several months that the posture of the Nation's energy policy leaves much to be desired. The 6-percent of the world's population living in the United States consumes 30 to 35 percent of the world's energy with our demand rising 5 percent annually. The inevitable result has been that we have been compelled to rely more and more upon high priced foreign energy sources to make up the difference between domestic energy production and demand. For example, in 1960 we imported 15 percent of our petroleum requirements. Today we import nearly 40 percent of the oil we consume as an ever increasing number of U.S. dollars flow overseas to foreign nations. Congress has dealt intensely with the energy issue for more than a year now, but in my opinion, we have yet to come to grips with the energy problem and to make the hard choices that are necessary to lay the groundwork for a brighter energy future for America.

Although S. 622 contains several onerous provisions, without a doubt the most counterproductive and contrary to the national interest is the oil pricing policy set forth by this legislation. S. 622 initially rolls back the composite average price for domestic crude oil from today's $8.75 per barrel to $7.66. Then it is up to the President to establish different price ceilings for the various categories of domestic oil produced—the average of which may not exceed $7.66. The $7.66 ceiling may be modified both by a GNP deflator, and up to a 3-percent production incentive as long as the sum of these two adjustments does not exceed 10 percent annually. However, every 90 days, the President may recommend to Congress that the production incentive exceed the 3-percent limitation, or that the combined adjustment limitation exceed 10 percent, or both. These recommendations may be disapproved by either House of Congress within 15 days of transmittal. After 40 months, the pricing program will convert to standby Presidential Price Control Authority which will then terminate after 5 years.

The problems generated by this ill-conceived proposal are legion.

First, to roll back domestic oil prices by $1.09 per barrel will have the inevitable result of decreasing our domestic petroleum production efforts and, therefore, increasing our already precarious degree of reliance upon high priced foreign oil sources. In fact, if we assume that predictions of price decreases of 3½ to 2½ cents per gallon at the point of final consumption are true, we can also assume that oil consumption will rise even higher than today's levels which will also contribute to our need for high cost foreign imports.

Still another monumental pitfall of the pricing policy set forth in S. 622 is that it will severely curtail the expected Alaskan oil production, which potentially represents 40 percent of our new oil recovery. To be more specific, as high cost Alaskan oil comes onsteam, the President will find it necessary to reduce prices for many other producers in the lower 48 States in order to maintain the composite average within $7.66. I had hoped that we would begin to reap some of the fruits of the Trans-Alaskan Pipeline Act when Alaskan oil is first delivered to market—now scheduled for sometime during the summer of 1977. Yet this is nearly 2 years away and during that 2 years, we will be using more and more of our lower 48 reserves, forcing these producers into deeper wells, tighter rock formations, and secondary and tertiary recovery techniques. So, as time goes on, when we should be providing more attractive price incentives for lower 48 oil recovery, we will actually be presenting those producers with price reductions which will become more severe as the need for incentive becomes more acute. This is exactly the opposite direction from where our pricing policy should be taking us.

S. 622 attempts to correct this policy of blatently backward economics by providing that on February 15, 1977, or at the close of every 90-day period thereafter, the President may recommend to Congress that up to 2 million barrels per day of Alaskan oil be excluded from the computation of the composite price as long as the price of this excluded oil does not exceed the highest actual price permitted for any other classification of domestic crude oil. The President's recommendation, however, may be disapproved by either House of Congress within 15 days. On its face, this may appear to be a reasonable approach, since in all probability, Alaskan oil will not be ready for market until 1977. Yet much remains to be done between now and the next 2 years if we expect Alaskan oil to come onstream as scheduled. For instance, in addition to the estimated $7 billion cost of constructing the Alaska pipeline, it is anticipated that an additional $7.6 billion will be needed to drill out Prudhoe Bay. Of this $14 billion total, less than one-fourth has already been invested—meaning that $6 billion must be raised over a 20-month period. However, neither investors nor producers nor anyone else will know what the exact price or profitability of Prudhoe Bay oil will be at least until February 1977, when the President submits his first Alaskan recommendation. Consequently, it will be extremely difficult to raise the necessary $6 billion within the next 20 months without the assured knowledge that the high cost of Alaskan exploration and development can be recovered.

Moreover, since this bill raises the possibility that Congress may not allow Alaskan oil to come in at its full market value, investors may choose not to take the risk of developing higher cost fields. Indeed, an analysis of this bill by the State of Alaska indicates that, as a result, the recovery of hundreds of millions of barrels of Alaskan oil could be delayed.

What perplexes me about this issue is why we must wait until 1977 to see whether or not sales of Alaskan oil will impair the enhancement of production in the lower 48 States. It should be obvious to anyone today that the effect of Alaskan production will be to increase the amount of new oil, and accordingly make it necessary to drop the price of oil recovered in the lower 48 when the additional supplies of high cost Alaskan production is added to the composite ceiling.

Still another obstacle arises, because it is certainly reasonable to expect the President, when he designs a pricing system which will fit into the composite price limit, to establish more than the two price tiers than we have today. We can, therefore, anticipate the administrative problems associated with the current entitlements program to be compounded because instead of merely attempting to equalize refiner costs within the context of two price levels, the Federal Energy Administration will have to equalize refiner costs of a multitiered pricing system.

As I have said before, the President may choose to take inflation into account or to provide a production incentive during his initial formulation of the pricing scheme or every 3 months thereafter. However, he must first make certain conclusions which are subject to both judicial review and congressional disapproval. Since investors cannot predict the actions of Congress or how long it will be before the President's price categories have cleared the courts, it will be impossible for them to predict ahead of time what price crude oil will bring on the market. Congress will have then succeeded in surrounding this country's oil pricing policy with the same kind of uncertainties and delay that I believe have contributed to our present shortage of natural gas. I cannot conceive of a more counterproductive approach.

Furthermore, and most important, what I find most distressing about the pricing policy set forth in this legislation is that it is the offspring of political motivations and not sound economics. To be specific, the oil price rollbacks that will be brought about under this bill are expected to initially save consumers about 2½ cents per gallon—back to where prices were in January of this year—with an obvious political benefit to those facing the upcoming election. Yet these consumer savings will be short lived indeed as we can expect the $7.66 composite figure to increase within a year to a level near today's domestic composite of $8.75. In other words, gasoline and home heating oil prices go down before the election and go up afterwards.

Presumably, the ultimate goal of this legislation is oil price decontrol after 40 months. The Nation's economy has only now begun to adjust to the oil price increases we have experienced as a result of OPEC's cartel action. There is no rationale for taking such a giant step backward by reducing prices only to let them rise again to where we started from in the first place—no rationale, that is, other than politics and I will not play politics with America's energy future. If this Nation is to maintain her position of world strength and influence, we in the Congress should have the courage to rise above the easy path and make the kind of hard decisions that are necessary to meet our energy needs of tomorrow.

I have advocated an orderly phaseout of oil price controls and an excess profits tax, with the revenue thus generated being returned to consumers to help them offset higher energy costs. Conservation would then be encouraged and the Federal Government could assist the private sector to carry out their conservation effort.

However, the provisions of S. 622 now make it abundantly clear that our options for an overall energy program are not merely whether or not to decontrol oil prices. Rather, the price rollbacks contained in this bill depress the price of oil products below their true market value. Consequently, it becomes necessary to heavily inject the Federal Government into the private sector in order to mandate conservation which subjects American business to additional volumes of Federal regulations, expands the Federal bureaucracy's stranglehold on private enterprise, increases operating costs which are ultimately shouldered by consumers, and restricts freedom of consumer choice. As far as I am concerned, this represents a move in the direction of big government at a time when we should be trying to rid the marketplace of unwarranted Government interference.

I believe there is a place for the Federal Government in encouraging energy conservation. However, when we set mandatory standards without fully exploring their impact upon consumer choice, consumer prices, and which will subject private enterprise to still another Federal encroachment on their ability to conduct their own affairs. I do not believe it serves the best interest of the Nation. Both individual consumers and American businessmen are acutely aware of rising energy costs and are accordingly taking measures to conserve. I believe the Government should assist these individuals in developing an effective conservation program rather than substituting the judgment of Federal regulators for that of management with an expanded bureaucracy in a manner which may prove to create more problems than are solved.

However, the ultimate example of S. 622's expanded Government interference into private enterprise is its provision authorizing the General Accounting Office to enter the premises of any business establishment in order to inspect their records or other documents relating to energy information required to be submitted to the Federal Energy Administration, the Department of Interior, or the Federal Power Commission. Some of those affected by this provision include producers, refiners, distributors, neighborhood service stations, automobile manufacturers, and makers of household appliances. Yet, pursuant to title 15, section 771 of the United States Code, the Comptroller General already has the authority to require the production of energy information from the business community. However, the difference between GAO's existing authority and that envisioned by S. 622 is that today the Comptroller General must first obtain the approval of the committee of Congress having legislative jurisdiction over the subject matter before subpenaing energy information—and this is as it should be. The General Accounting Office is not an independent regulatory agency. It is part of the legislative branch of Government responsible solely to Congress and we in the Congress, therefore, have a responsibility to closely oversee their actions. To grant GAO unbridled subpena power over all energy information supplied to Federal agencies will impose auditing duties upon the Comptroller General which may become too monumental to carry out with the limited resources available in the GAO office. Moreover, Congress will have taken a giant step toward creating still another independent Federal agency. We will have avoided our responsibility of overseeing the actions of an arm of Congress and American businessmen will be subjected to another bureaucratic encroachment on their affairs—all to obtain information which we have access to under existing law.

In nearly every section of this bill, the theme of big government is repeated. Big government when we need it the least and when we are trying to cut down on the amount of Federal intervention into the affairs of the private community.

In conclusion, Mr. President, the oil pricing policy proposed by the conference report on S. 622 will not solve America's petroleum problems. It will discourage our efforts for expanded domestic oil recovery, it will encourage energy consumption and increase our dependence upon high-priced foreign energy sources placing our national security more firmly in the hands of the OPEC cartel. This bill injects the Federal bureaucracy more deeply into marketplace transactions with the result of limiting consumer choices and raising consumer costs. It is the product of decisions which are politically advantageous to those facing the upcoming 1976 election and circumvents the difficult choices that must be made to secure America's energy future. I cannot support such a misdirected measure and accordingly urge my colleagues to vote against the conference report on S. 622.

Thank you, Mr. President.

Mr. STENNIS. Mr. President, shortly the Senate will vote on the energy bill. The measure now before us is the culmination of months and months of hearings, discussions, and debates on what this Nation's energy policy ought to be. We have been trying since 1973 to agree on an energy policy and implement it. It has been extremely difficult to get to where we are now because the President has advocated one program and the Congress another. Even within the Congress, it has been difficult to get a consensus because our Nation is large and interests and lifestyles are different from region to region and area to area. A particular suggestion for an energy policy affects people in various States differently, and thus the American people are at odds over what should be done to get this Nation moving forward toward a sound energy program.

We now have before us a bill, Mr. President, which calls in part for conservation and price rollbacks for domestic crude oil and petroleum products. I find myself in an awkward position, Mr. President, because I believe that it is necessary to allow the price of "old" oil to rise gradually because this should provide producers with more capital to explore for more oil, cause conservation, and keep "old" wells producing badly needed oil. I also believe that "new" oil prices should be kept at their present level in order to provide the incentive to explore for and produce additional oil supplies. This is a position I have advocated for many months in caucuses, privately with my colleagues, to the people of my State, and on the Senate floor. I firmly believe that this is the correct approach. I have said all along that if we adopted this method and it did not work, we could always go to something else. None of us fully know what the correct approach should be, but we should make a start.

Notwithstanding my feelings about the pricing part of S. 622, I find myself in accord with the bill, for the most part, as it relates to conservation.

For example, the bill mandates an increase in the miles per gallon an automobile must get. It would provide money for the States to develop and administer energy conservation programs. It would also call for the development and implementation of a plan to increase energy efficiency with respect to the operation of Federal buildings, and it has other vital conservation provisions.

This is an area we have been lax on, although we have made some headway. But conservation is a highly desirable method to help end our dependence upon foreign sources for our oil needs.

Mr. President, we can conserve energy more without adversely affecting our economy. We can be strong and our economy can continue to expand. We must cut out waste and not cut back on the use of petroleum for vital needs. There is much waste involved in our consumption of petroleum and this is what I want to end.

Mr. President, I have concluded, after much deliberation, that I should vote for the conference report. This is a start, a beginning. We can now build on this program, refine it, alter it and make it better. If we do not pass it, or if the President vetoes it, we will once again be at a standstill. We will continue to pass piecemeal legislation, hitting around an energy solution, but not at it. We have got to have a starting point and this bill is it.

I am not going to give up trying to get the pricing provisions changed later on, because on this point I believe this bill takes the wrong approach. But this bill has many fine points and these, I think, for the moment outweigh the bad points. This bill is much better than nothing and that is what we will continue to have if we do not pass it.

This is the way I see this thing now, Mr. President. I hope other Senators will see it the same way.

I urge adoption of the conference report—we cannot wait any longer.

A NATIONAL ENERGY POLICY

Mr. HUMPHREY. Mr. President, this is a most satisfying occasion for the Senate and the entire Congress.

After 10 long months, we have finally pieced together a national energy policy—which, despite President Ford's vacillations, was developed with the administration and one which will take us a long way toward energy independence.

Development of this policy as set forth in the Energy Policy and Conservation Act will have a profound effect in Minnesota and nationally. It will result in an immediate 4 percent drop in oil and gasoline prices.

In Minnesota, for example, it will mean a cut of $60 million in oil costs over the next year; it will cut gasoline prices almost 2 cents per gallon; and industrial users of residual fuels will receive a $5 million cut in their oil bills.

More importantly, passage of this act enables the Federal Energy Administration to allocate Canadian oil exports to Minnesota. This authority is necessary to prevent massive economic disruption and unemployment in the Northern Tier as Canada cuts off oil sales to us. It gives us 2 years of preferential oil supplies—a time period during which new supplies can be developed from outside of Canada.

A DIFFICULT COMPROMISE

This policy is the fruit of a difficult process of compromise; a process characterized by bitter words between Congress and the President; and a process characterized repeatedly by both Presidential and congressional vetoes of energy proposals.

It was a process which evolved through months of hearings; a process which revealed that the fundamental difference on energy between Congress and the President was the issue of oil prices. On issues of oil stockpiling, improved automobile energy efficiency, energy-use labeling of appliances, incentives for greater coal utilization and a host of other components of a national energy policy, Congress and the President have long been in agreement. There were, and still are, differences in degree of emphasis in many of these areas.

For example, the Congress has imposed mandatory auto fuel efficiency standards on Detroit and foreign car producers; the President would have preferred voluntary ones. Yet, the differences are minor in comparison to the yawning gap originally separating Congress and the President on the oil price issue.

THE OIL PRICE DEBATE

As dictated by the Organization of Petroleum Exporting Nations—OPEC—the price of imported crude oil rose from $3.30 per barrel in 1973 to $12.77 per barrel this past January—a 387-percent leap.

This price jump directly and indirectly is diverting $55 billion annually in consumer spending power from the domestic economy to OPEC and our oil companies. This drain pushed us into our current recession, the worst we have experienced for over 35 years, with unemployment soaring to depression-era levels. And this drain of consumer spending power would have been even higher had Congress not frozen prices on two-thirds of our domestic oil at $5.25 per barrel in December 1973.

The oil price debate focused on congressional efforts to retain these controls against the administration's efforts to free oil prices and allow them to float up and equal the OPEC oil price level.

The stakes in this debate were enormous, with consumers and oil companies, respectively, standing to lose and gain the most. Complete decontrol of oil prices, as urged by the administration, would have transferred directly and indirectly as much as $25 billion to oil companies from consumers. It would raise gasoline prices 10 cents per gallon.

TO DECONTROL OIL PRICES OR NOT?

President Ford's position was clear: Higher oil prices would force consumers to reduce oil consumption; the enormous oil company profits would fuel a new spurt of domestic oil exploration. In short, the President contended that decontrol would reduce our oil imports and render us less vulnerable to economic disruption by an Arab oil boycott.

Congressional Democrats argued that oil price decontrol would have exactly the opposite effect. By freeing all oil prices, decontrol would result in domestic prices always equal to that price set by OPEC: when OPEC raised prices, all U.S. domestic oil would rise along, too.

With oil price decontrol, then, OPEC would dictate the price charged for our own oil—leaving us far more vulnerable to economic disruption than any Arab boycott ever could. After all, we had no trouble finding eager non-Arab nations, such as Venezuela, Indonesia, and Nigeria, willing to sell us oil in the winter of 1973–74; our problem was the inept Federal oil allocation program and not a lack of imported oil. The real danger posed in 1973 and posed still today by OPEC is the loss of consumer spending power—drained abroad by ever-raising oil prices. Put simply, any OPEC price rise will drain much more spending power from consumers with decontrol, than with continued price controls.

There are other persuasive arguments against the administration's policy of decontrol. For one, the administration's own data revealed that decontrol would cut oil imports by less than 10 percent in 1980—a small benefit to receive for taking $25 billion every year from consumers. For another, the oil companies are hardly in need of new capital for oil exploration; many oil firms, in fact, had seen profits rise 400 or 500 percent in 1974 and 1975—with even brighter prospects ahead.

But the most telling argument against oil price decontrol was the state of the economy itself. Studies by the Joint Economic Committee, the Congressional Budget Office, and many private economic analysis concluded that oil price decontrol would push us into another recession—just as we were stumbling out of our worst recession since the 1930's. Put simply, the fragile state of our economic recovery could not absorb the massive debilitating impact of oil price decontrol.

The oil price decontrol issue was felt with such intensity by both Congress and the President that establishment of a national energy policy awaited resolution of that issue. But it was not an issue easily resolved.

The oil price decontrol debate was joined in January when President Ford urged decontrol—and imposed a $1 tariff on imported crude oil. This raised new domestic oil and all foreign oil to almost $12.50 per barrel. In February, Congress passed H.R. 1767, designed to eliminate this tariff and force oil prices down. But on March 4, the President vetoed this legislation—and later added another $1 to the tariff, pushing new domestic oil and foreign oil to $13.50 per barrel by mid-year.

This past summer, President Ford twice offered schemes to decontrol oil over 2 or 3 years—and both times Congress rejected his proposals. Congress in turn passed S. 1849 and H.R. 4035 designed to extend oil price controls to 1976 while rolling back new domestic oil prices. President Ford, in his turn, vetoed each of these bills.

Finally, in the midst of this stalemate on October 1, OPEC raised foreign crude oil prices by 10 percent, pushing prices to more than $14.50 per barrel—a total 439 percent price increase in under 2 years. In an effort to offset the economic impact of this price rise, I offered the OPEC Price Reduction Act of 1975 on September 30. This legislation, S. 2431, was designed to slash the administration's oil tariff by an amount equal to the OPEC price rise.

OIL PRICE COMPROMISE

Facing the alarming prospect of sudden oil price decontrol on November 15, Congress and President Ford were confronted with a difficult choice: They could continue the increasingly acrimonious and seemingly endless debate over decontrol; or they could compromise on the issue of oil prices and clear the way to establishment of a national energy policy.

Congress was able to forestall the administration's decontrol scheme and the President was able to forestall a continuation of price controls. Compromise was necessary and compromise we did.

The oil price issue was settled with Congress demanding and receiving an initial oil price cut of some 4 percent—a cut designed to accelerate our economic recovery and reduce unemployment. The administration received, on the other hand, agreement that oil prices will rise starting in 1977 in step with the rate of inflation—a rise designed primarily to stimulate further oil exploration. Finally, Congress agreed to review all oil price levels and controls in 1979 and decide at that time whether decontrol is then warranted.

It was a compromise designed to assist in our economic recovery while also stimulating oil production. And it was a compromise that opened the path to passage of the Energy Policy and Conservation Act—the foundation of our National Energy Policy. All should understand that Congress acted on good faith in this compromise under the assurance of Mr. Frank Zarb, the head of the FEA, that this compromise was acceptable to the Ford administration.

COMPONENTS OF OUR NATIONAL ENERGY POLICY

This act focuses on three major areas in addition to the issue of oil prices.

First, specific steps are established to increase the domestic supply of energy.

Second, a variety of programs to encourage energy conservation are set out in detail.

Third, broad discretionary authority is granted to the President to limit our energy exports and to deal with embargoes by foreign energy producers.

I will attach a detailed summary of the entire Energy Policy and Conservation Act prepared by the Senate Interior Committee at the conclusion of my remarks. In addition to these noted provisions, the Senate attached a provision establishing strategic oil reserves. This provision has already been passed by the Senate as S. 677, on July 8, and significantly increases the scope of the act. It provides for up to 1 billion barrels of crude oil to be stored domestically—thereby enabling us to effectively deal with future oil embargoes.

While these provisions are extensive, there are a number of additional provisions which should also be part of our National Energy Policy. These additional steps are designed to accelerate energy conservation, thereby making energy independence a reality. These further steps are outlined in S. 1149, the National Energy Conservation Act of 1975, which I sponsored last spring. These additional provisions include:

Tax credits for insulation of homes, offices, and factories;

Tax credits for the installation of solar energy devices and to encourage utilization of coal as a boiler fuel;

Massive, new Federal research program to increase the energy efficiency of autos, appliances, solar energy devices, and home heating and cooling systems;

Greater compliance with the national 55 miles-per-hour speed limit.

In addition, I would urge my colleagues to act speedily on S. 2439—legislation I recently offered to accelerate the recycling of urban solid waste. The Federal Energy Administration estimates that this single step will save our 500,000 barrels of imported oil a day.

A NOTE OF CAUTION

Passage of the Energy Policy and Conservation Act is a very positive development in our efforts to achieve energy independence. I urge the President to sign this important legislation to establish a national energy policy. But let me speak frankly. Our economy is not yet on a sound path to recovery. Real output grew only two-tenths of 1 percent in November. Unemployment has been virtually unchanged at 8.3 percent for 5 months. The Federal Reserve Board has been pursuing such a contradictory monetary policy that from mid-September to mid-November, the money supply actually declined.

There is little prospect that unemployment will fall while our economic growth remains anemic. And the Paris-based Organization for Economic Cooperation and Development now estimates that our economic growth will remain low well into the future. In fact, they predict that it will be so anemic that our total output during 1976 will only equal that obtained in 1973, and no higher.

We should recognize that the modest economic stimulus provided by the 4 percent oil price cut provided by the Energy Policy and Conservation Act will not significantly alter this situation. A minor 1-year cut in oil prices certainly will increase our economic growth—but not enough to do much to reduce unemployment.

In short, we cannot view the oil price reduction provided in this legislation as a substitute for continued Federal policies designed to spur economic recovery. We still must have a tax cut this January. We still must aggressively fight inflation. And we still must argue for an expansionary Federal Reserve policy.

Mr. President, I ask unanimous consent to include in my remarks at this point an outline of the Energy Policy and Conservation Act prepared on November 13 by the Senate Interior Committee.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

ENERGY POLICY AND CONSERVATION ACT

Final agreement was reached by House and Senate conferees on November 12, 1975 on the Energy Policy and Conservation Act. This legislation establishes a comprehensive national energy policy to:

(1) Maximize domestic production of energy supplies and provide for strategic storage reserves for petroleum products;

(2) Reduce consumption through energy conservation programs;

(3) Set an oil pricing policy that will encourage domestic production in a manner consistent with economic recovery and price stability; and

(4) Authorize emergency standby measures to minimize the impact of disruptions in energy supplies.

In the short term, this legislation will reduce our vulnerability to increases in import prices, and will insure that available supplies will be distributed equitably in the event of disruptions in petroleum imports.

For the long run, this legislation will decrease our dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford.

I. MEASURES TO INCREASE DOMESTIC SUPPLY

The legislation takes direct action to increase domestic oil production and promote the development and use of alternatives to petroleum and natural gas. The measures agreed to will:

Extend the authority of the Federal Energy Administrator to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal;

Increase competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf;

Promote the use of recycled oil;

Authorize the President to restrict exports of energy supplies and energy-related materials under certain circumstances; and

Authorize the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate;

II. ENERGY CONSERVATION PROGRAMS

The Energy Policy Act establishes aggressive and effective programs for energy conservation designed to achieve security of energy supply and the maximum efficient utilization of our energy resources.

This legislation contains provisions that:

Establish mandatory average fuel economy performance standards for new passenger automobiles and new light duty trucks;

Require energy labeling of major home appliances and certain other consumer products, and authorize energy efficiency standards for major appliances;

Authorize block grants-in-aid for states to assist in the development and implementation of state-administered energy conservation programs; and

Establish a program to encourage increased efficiency of energy use by American industry.

These provisions are premised on the belief that energy efficiency can and must be accomplished by orderly conservation programs rather than through steep price increases that would hamper the Nation's economic recovery, increase unemployment, contribute to the inflationary spiral and impact regressively on consumers.

The following are the major features of the key energy conservation measures approved by the conference committee:

Fuel economy performance standards

Mandatory fuel economy performance standards are established for passenger automobiles and other light duty highway vehicles. Standards for passenger automobiles would be applicable in model year 1978 and thereafter.

Each manufacturer or importer of passenger automobiles would be required to achieve the following fleet average fuel economies: 18 mpg in model year 1978, 19 mpg in model year 1979, 20 mpg in model year 1980 and 27.5 mpg in model year 1985 and thereafter.

Standards for model years 1981–84 would be set by the Secretary of Transportation at the maximum feasible level. The Secretary would also set standards for vehicles other than passenger automobiles at the maximum feasible level for each model year.

If a manufacturer or importer failed to meet the required average fuel economy standard, he would be liable for a civil penalty, which could be waived or modified under certain conditions.

A labeling program for new passenger automobiles and other new light duty highway vehicles would also be instituted, as would a program to test the fuel economy improvement potential of retrofit devices—devices capable of being added to existing vehicles to increase their gasoline mileage.

Appliance labeling

The Energy Policy Act would require test procedures for, and energy efficiency labeling of, major home appliances and certain other consumer products using more than 100 kilowatt-hours of energy per year. This will provide consumers with information essential to making an informed judgment in the purchase of appliances.

The label must include representative annual operating costs associated with the use of these products unless the FEA determines that labeling would not be feasible or would not be likely to assist consumers in making purchasing decisions.

If the FEA prescribes a labeling rule for a class of major household appliances and then finds (1) that labeling will not suffice to induce manufacturers to produce (or consumers to purchase) products of that class which achieve the maximum energy efficiency which is technologically feasible, and (2) that the benefits of increased energy efficiency outweigh any increased consumer costs and any decrease in utility of the product, the FEA is authorized to prescribe an energy efficiency performance standard for that class of product. The FEA would be required to exercise this authority in certain cases where industry is unable to achieve energy efficiency improvement targets which would be set by the FEA for major home appliances. These targets would be set at the maximum level which would be economically and technologically feasible, and would require at least a 20 percent overall improvement in energy efficiency for new major home appliances in 1980, in comparison to 1972 levels.

State energy conservation programs

This legislation authorizes a $150 million Federal grant-in-aid program to assist States in developing and administering State energy conservation programs. These programs will have as a target a 5% reduction in energy consumption by 1980 below levels projected for that time.

The legislation identifies conservation measures to be implemented by the States, but calls for administration of the programs on the State and local levels.

State programs would include the following energy conservation measures:

Lighting efficiency standards and restrictions on hours of public buildings;

Programs to promote carpooling, vanpooling, and public transportation systems;

Energy efficiency standards for public buildings; and

Thermal efficiency and insulation requirements for new and remodeled buildings.

Within these federal guidelines, States would establish conservation programs in a manner tailored to local economic geographic and climatological conditions. This legislation thus provides impetus, direction and financial assistance for energy conservation while protecting the States' interest in self-determination and local control.

Federal energy conservation programs

In addition, all Federal agencies would be required to develop a ten-year plan for energy conservation. This plan would deal with lighting standards, construction guidelines, restrictions on hours of operation, thermostat settings and other conditions related to the operation of Federal buildings.

Industrial energy efficiency

The goal of the industrial efficiency program is to increase the national average industrial energy efficiency by the maximum feasible amount by January 1, 1980. The Energy Policy Act recognizes that industry must share responsibility for attaining the goals of energy independence and wise utilization of scarce resources. The Project Independence Blueprint estimates that the energy equivalent of 400,000 to 600,000 barrels of crude oil per day can be saved in the industrial sector in the 1980's.

Industrial energy efficiency targets would be set for the ten most energy-intensive industries. Each target would represent the maximum possible improvement in industrial efficiency which a particular industry could achieve by January 1, 1980. The 10 most energy-intensive industries would be required to report annually on their programs in attaining energy-efficiency targets.

III. OIL PRICING

The Energy Policy Act establishes a pricing formula for domestically-produced crude oil which provides for an initial oil price rollback and authorizes gradual increases in the prices received by domestic producers over a 40-month period. The new oil price policy:

Establishes a domestic composite price of $7.66 per barrel. This represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel. In combination with the removal of the $2 per barrel import tariff, this program will result in a significant reduction in current petroleum prices.

Grants the President broad flexibility to administratively set prices for various categories of oil production so long as the average domestic price does not exceed the composite price of $7.66 established by the Act;

Permits upward adjustment in the domestic composite price to take account of inflation, and, if the President finds it necessary, to provide an additional increase in the composite price of no more than three percent per year as an incentive for the development of high-cost and high-risk production or to encourage the application of enhanced recovery techniques. The sum of these two adjustments may not exceed 10% per year unless further authority to modify the upward adjustment rate is obtained;

Allows the President to submit to the Congress at three month intervals following enactment, proposals to modify the 3 percent incentive adjustment and the 10 percent ceiling on adjustments if the President finds that such a modification is likely to result in an increase in domestic production. These proposals would take effect unless disapproved by either House or Congress under expedited review procedures;

Directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships that have evolved under the Act;

Directs the President to submit to the Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 states. The President may then propose, subject to Congressional review, the exclusion of up to two million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed $11.28 per barrel as adjusted for inflation;

Converts the oil price control authority described in the Act to standby status at the end of 40 months; and

Provides that the standby authority terminates after five years.

IV. STANDBY ENERGY AUTHORITIES

This legislation grants standby energy authority to the President, subject to Congressional approval in certain instances, to develop and implement regulations mandating the conservation of energy and the rationing of fuels in the event of a severe energy supply interruption. These provisions enable us to prepare now for any future severe energy supply interruptions.

The provisions authorize the President during periods of acute energy shortages to take specific actions to conserve scarce fuels, to alleviate fuel shortages and to increase domestic energy supplies.

The legislation provides for energy conservation, rationing and contingency plans to be developed to reduce non-essential energy consumption and assure the continuation of vital services in the face of severe energy shortages.

The conference substitute contains the following standby powers:

To prescribe energy conservation plans (including rationing plans);

To authorize actions necessary to carry out U.S. obligations under the International Energy Program;

To authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation. The Attorney General could grant limited antitrust immunity with respect to such agreements;

To authorize the President to transmit information to the International Energy Agency.

The energy conservation authorities may be exercised if:

(1) a contingency plan for the exercise of the authorities has been approved by concurrent resolution of the House and Senate;

(2) the President has determined that implementation of the contingency plan is required by a severe energy supply interruption or the International Energy Program.

In addition, a plan which provides for rationing cannot take effect if either House of Congress disapproves the President's request to implement the contingency plan.

The authority respecting international voluntary agreements and the international information exchanges may be exercised at any time in order to carry out the International Energy Program.

V. GENERAL PROVISIONS

The legislation sets forth provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement.

Disclosure of financial interests

Among the more important provisions, employees and officers of the Federal Energy Administration and the Department of the Interior who perform regulatory or policy-making functions under this legislation are required to disclose their financial interests in oil, natural gas, or coal. This provision insures that the legislation will be administered in an even-handed, disinterested fashion, and that no one group or special interest will benefit at the expense of others forced to assume unequal burdens.

Verification audits of energy information

The legislation also authorizes the Comptroller General to conduct verification examinations to verify the accuracy of energy and financial information filed with Federal agencies.

This provision will permit independent and objective evaluation of energy data from which realistic projections can be made and on which future energy policy decisions will be based.

SMALL REFINERS WHO ARE SELLERS OF ENTITLEMENTS

Mr. INOUYE. Mr. President, there is a general consensus that this bill must provide some relief for the small refiners in their attempts to compete with the major oil companies. I believe that section 403 does include some relief for small refiners, but it leads to some questions as to the intent of the conference committee and the implications of the language in section 403.

Section 403 grants relief from the obligations to purchase entitlements for small refiners of less than 100,000 barrels per day capacity for the first 50,000 barrels per day of throughput. As you are presumably aware, the majority of small refiners of less than 100,000 barrels per day capacity are sellers of entitlements, not buyers.

On the basis of the August entitlements list, I am informed that 37 "small" refiners would have benefited from this exemption while many other small refiners would have their costs increased in order to pay the bills. There seems to be some lack of clarity as to both the intent of the conference committee and the identity of the beneficiaries of this exemption.

Could you clarify the legislative history on this provision in two areas:

First, was it the intent of the conference committee that all small refiners receive the benefit of this exemption? and

Second, if the answer to the first question is yes, how does section 403 provide equitable relief for those small refiners whose capacity is less than 100,000 barrels per day, and who are sellers of entitlements, not buyers?

Mr. JACKSON. One of the basic purposes of the Allocation Act—in section 4 (b) (1) (D)—was to provide for the preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition in the refining sector of that industry and to preserve the competitive viability of small refiners.

The answer to your first question is yes. The general intent of the conference committee was to assist all small refiners with a capacity of 100,000 barrels per day or less. The entitlement exemption was considered as a method to assist small refiners to compete with the large oil companies without creating unfair competitive advantages among themselves. If small refiners who are entitlement sellers are disadvantaged relative to other small refiners S. 622 contains specific provisions which underline the authority already in the Allocation Act which permit the President to eliminate this disadvantage. The conferees would expect him to do so expeditiously.

Within the framework of the basic Allocation Act regulation the President, if he finds it necessary to achieve the purposes of the act, particularly the purposes of 4(b) (1) (D), has the authority to increase the entitlement allotment to small refiner sellers to eliminate competitive disadvantages. Nothing in S. 622 alters or diminishes this authority.

In addition, section 455 of the conference report adds to the Allocation Act a subsection specifically permitting the President to amend the regulation subject to congressional review, with right of disapproval, in the event that the exemption from payments for certain small refiners contained in section 403 of S. 622 results in unfair economic or competitive advantage with respect to other small refiners or otherwise has the effect of impairing the achievement of the objectives of the act including the purposes outlined in 4(b) (1) (D).

It is clear from the language of the bill that the conferees intend to provide a benefit to small refiners. It is also clear that the conferees intend that this benefit not create undue economic or competitive distortions among small refiners and that the President have the flexibility to deal with such distortions should they arise. The mechanism by which these benefits are distributed among small refiners could, if the President finds it necessary, include the use of additional entitlement allotments for small refiner sellers.

Mr. MONTOYA. Mr. President, the Senate will soon be considering S. 622, the Energy Policy and Conservation Act, as reported out of conference. The importance of this bill cannot be overemphasized. It is a vital step as we move closer to formulating a comprehensive energy policy. I would like to commend my colleagues in both the Senate and the House for their hard work in conference committee on this legislation. It is with deep regret that I must state that I cannot support the bill as it now stands, in spite of its many valuable aspects.

Energy production and pricing are both important lifelines to our sick economy. Solving energy problems will help us to solve other problems. For that reason, this issue transcends all other domestic issues at this time.

We have seen how international actions have affected our domestic energy policy through price increases and supply insecurity. The OPEC oil embargo and our increased and growing reliance on foreign oil must be considered when we work on this legislation. They cannot be ignored.

The conferees on S. 622 set important goals for the Energy Policy and Conservation Act. They sought to include maximizing domestic production. All of these goals were established to relieve us from the growing influence of foreign energy suppliers and to further bolster our own economy.

Mr. President, even though we are indesperate need of a workable energy policy, and even though this bill contains many provisions to provide that policy, I still must oppose the bill as it is being reported out of conference. I do so because of the absence of what I consider to be a workable oil pricing section that would benefit the total national energy effort. I have long supported a phased decontrol of oil prices in order to protect both the consumer and the producer. I have long supported efforts to create added incentives for increased domestic production. The pricing section in S. 622 would keep controls on the price of oil for an additional forty months, without actually attempting to phase these controls out slowly. It would, therefore, provide no incentives for increased domestic production.

I am aware that the composite price of $7.66 per barrel could be tiered in any way the administrations deems appropriate, but with this $7.66 price, all flexibility to stimulate production is gone. Let me review the provisions of this bill as I understand them:

First, with the composite per barrel price of all domestic oil being set at $7.66, one can assume that the price of old oil will remain roughly at $5.25 per barrel, Old oil, as it is currently defined, includes oil that is produced by secondary and tertiary methods. We are all aware of the various methods used in these difficult recovery processes, and the cost involved. If legislation is enacted which perpetuates the low price received by producers who use secondary and tertiary recovery techniques, this oil which is so desperately needed will remain underground. Producers will simply not be able to recover secondary and tertiary oil and still remain in business. We must allow for price increases for this critical kind of oil in order to stimulate production and provide appropriate incentives to producers.

In correspondence from producers in my home State of New Mexico, I have been constantly reminded of the need for prices for secondary and tertiary oil which will be consistent with the costs involved in using these recovery methods. In spite of this need, the price for old oil has remained at approximately $5.25 per barrel, while the cost for recovery has increased rapidly with inflation. Proponents of the pricing section of S. 622 counter this fact with the argument that the administration could raise prices if it was necessary. But in doing so, prices of oil in other classifications would have to be lowered in order to maintain the composite price of $7.66. This "robbing Peter to pay Paul" philosophy only hinders our total energy effort. Surely the Congress of the United States is capable of providing a more realistic and honest pricing ratio. In this area we must rely on cooperation and cohesiveness in order to provide for our country's energy requirements—not only today but in the years immediately ahead.

My second reason for objecting to the oil pricing section of this bill centers on the effect it would have on the independent oil producers. Most of the oil produced in New Mexico is a result of the effort of independents. Most exploration and increases in domestic production come from the independents. We are dependent on these small companies now and we will be even more dependent on them in the future, unless we drive them out of business entirely. I believe that S. 622 would seriously discourage and depress production from these small independent firms, through price rollbacks, while at the same time it would accelerate the consumption of domestic crude oil. The end result of this would be an increase of our reliance on foreign energy suppliers.

Independent producers, last year, accounted for 90 percent of the exploratory wells drilled domestically for new oil and natural gas resources. Yet the price rollback in S. 622 would have a strong impact on new and stripper well oil, subjecting 60 percent of the production by independents to the rollback. Even worse, it appears that as much as 20 percent of the gross oil revenues of these independent producers would be lost in the first year of enactment of this bill. This loss of revenue would have a severe negative impact on the operations of those who are doing most of our domestic exploration. Once again, we can see the counterproductive effects of the oil pricing section of this bill.

Mr. President, it seeems that the Congress established good and necessary goals to achieve energy independence and then turned right around to produce legislation which would keep us from reaching those goals. In my opinion, if the pricing provisions of S. 622 are enacted, the result would be the premature abandonment of many oil wells, the abandonment of the higher-cost secondary and tertiary projects, and a general retardation of domestic exploration and development drilling. The result of that will be less domestic production and a greater reliance on foreign oil. Most importantly, our economy, which has begun a very wobbly recovery, would suffer immediate setbacks if the domestic production of energy is hampered by these pricing regulations.

Mr. President, I urge my colleagues to vote against the acceptance of this conference report. I urge the conferees to go back to the drawing board. If we are ever to formulate a comprehensive and intelligent energy policy, we must find a way to reduce our Nation's dependence on foreign oil, increase the domestic production of energy of all kinds, explore alternative sources for future development, and curtail consumption for greater conservation. S. 622, as reported out of the conference, would only increase our dependence on foreign oil and decrease our domestic production. It contains no incentives for greater production, and it rolls back domestic prices substantially more than current market conditions.

I believe that it is possible for us to produce legislation which will reflect our energy goals, both for this year and for the future. I urge every Member of the Senate to insist that we write that kind of well reasoned and pragmatic bill. We cannot afford any other kind of legislation on energy policy.

Mr. HOLLINGS. Mr. President, let me say, at the outset, that while I intend to oppose passage of S. 622, it does contain several important elements of a national energy policy, and I support those provisions. Since the Arab embargo, the administration and the Congress have been at odds over the substance of our national energy policy—and the American public has been the loser. The administration has opted for the high priced approach to solving our energy crisis, and gasoline is now approaching 70 cents. The Congress has opted to use the regulatory approach by establishing goals and standards, but congressional action has been slower than we had hoped and hence it is especially significant to see so many of our proposals packaged in this bill.

Any national energy policy must place great emphasis on conservation of our available energy resources and many of the programs authorized in S. 622 are desirable steps to conservation. Provisions similar to the automobile fuel economy bill, S. 1883, which passed the Senate earlier this year, are contained in this bill. These provisions will assure us of a 50-percent improvement in new car fuel use by 1980 saving us 800,000 barrels of oil per day in that year and 2 million barrels by 1985. Further, S. 622 contains provisions for the improved energy efficiency of major household appliances as well as labeling requirements to disclose energy consumption information. Aided with Federal grants, States are encouraged to develop their own energy conservation plans, and industry is encouraged to reduce fuel consumption through voluntary conservation programs.

To support reduced reliance on oil and natural gas, the bill would establish guaranteed loans up to $750 million to small coal operators to encourage increased production. Further, the existing authority to order powerplant conversion to coal from oil or natural gas is extended. And to help us avoid the consequences of another Arab oil embargo, an oil reserve of 90 days is established.

Under the terms of this provision, 150 million barrels would be stored in existing storage tanks, and funds are provided to build storage facilities for the remainder of the reserves, which, over the next 7 years, would approach a billion barrels. So that the Congress can begin to formulate and adjust energy policy based on reliable information, the bill contains authority for the GAO to audit the books of any oil company if requested to do so by a congressional committee.

All of these provisions are salient. Many of them have passed either or both Houses of Congress as separate legislation, and I have no doubt that these provisions could pass on their own and be signed into law.

Unfortunately, however, everything good about this bill is tied to the pricing provisions which are overwhelmingly bad. I can think of no better way to describe the pricing provisions in S. 622. Upon close examination, I think my colleagues would agree with me today that the Congress is being asked to buy a whole loaf of bread when only five or six of its slices are unspoiled. I am not going to buy it.

Let us dispose of the belief right now that the pricing provisions of this bill will increase domestic production or cut down on our imports. Pricing provisions simply will not accomplish this end, and the proof is readily available. The administration has had its way for over 2 years with high prices, and all the while our domestic production has declined. Domestic production, in fact, has declined steadily since the Arab embargo in 1973, despite an increase in price from $3 to $13 per barrel. The FEA itself admits that "the decline since July 1973 has averaged about 220,000 barrels per day each quarter. The 8,294,000 barrels per day produced in July—1975, the latest month for which data is available—was the lowest monthly average for the past 9 years." To counter this decline in production, we have had to increase our imports. Again quoting the FEA:

> To offset falling production, crude imports rose to a record high of 4,331,000 barrels per day. (Source: Monthly Energy Review, September 1975, FEA.)

There is only one way to increase domestic production, and that is through direct, positive action. This country desperately needs an Energy Production Mobilization Board to correlate the data, identify our energy needs and set a course for meeting those needs. I have been urging the creation of an Energy Policy Council for 5 years and an Energy Production Board for 2 years, but we have yet to see any action. Further, since most of our new oil is located on Federal lands, we can increase production by requiring development of Federal leases within specific periods of time and enforcing these requirements. We can also clear the remaining hurdles to offshore production by enabling the States to plan for the onshore impacts of this production. These are all positive measures to insure increased production, included in other legislation before Congress, for the most part.

The only real purpose to be served by price controls is to reassert U.S. control over domestic oil prices at a reasonable, not monopolistic, level. The bill fails in this purpose so seriously as to undermine the potential benefits of a national policy.

The oil pricing provisions in this conference report are not a compromise. They are a sellout. In an attempt to cooperate with the administration so that the bill will be signed, we have lost sight of the whole purpose of establishing oil prices by legislation—namely, to roll back the price of oil so that this country will be setting the price for our oil rather than having it set by the OPEC cartel.

This bill establishes a ceiling price for new oil somewhere between $11.28 and $11.50, depending on whose estimates you use. At the present time, "new" domestic oil is selling at $13, and this price includes the $2 tariff. None of us believe for a minute that the tariff will not be eliminated soon, either by the courts or by the President. So by establishing an average price of $7.66 and thereby allowing new oil to rise to at least $11.28, we would establish a price for new oil in excess of what the natural course of events would establish once the tariff is removed. We would legislate the worst of all possible worlds. Congress would be in the business of price setting, itself highly undesirable, and, at the same time, the legislated price would be higher than what OPEC actions would set. If we accept the pricing actions of OPEC as being arbitrary and capricious, then, by implication, the legislated price of $11.28 is arbitrary and capricious, because it is no different than that established by OPEC.

This is a subsidy, not a rollback. Congress is building a floor for big oil, not a ceiling.

I would be the first to contend that, because of OPEC, there is no viable market in operation which can establish a price which relates to the cost of production—hence, the need for legislated oil prices. But, once we decide to step in and take over pricing, then it is incumbent upon us to establish a price that is in line with these costs of production, and which, of course, would include incentives for additional domestic exploration and production.

The bill does not do this.

Not only in the initial ceiling price established by the bill too high, but the bill also guarantees periodic increases in the price of oil for the 4 years of the program. First, in its generosity, the legislation would allow the price of oil to rise by the GNP plus 3 percent upon a "finding" that this additional 3 percent would lead to increased production. Thus, the industry would be guaranteed at least a 10 percent annual increase in the average price with a minimum of findings by the administration.

I have asked the Library of Congress to prepare a graph of oil prices and inflation over the past 20 years. Unfortunately, graphs cannot be reproduced in the RECORD, but I would show my colleagues here the clear case made by this graph that crude oil prices and inflation never tracked one another until the 1973 embargo. For the entire period 1955 to 1973, the GNP deflator steadily increased—from 90 to 160—while oil prices remained relatively stable, only increasing from $2.75 per barrel to $3.75. From 1963 to 1973, the GNP deflator increases continually outpaced oil prices.

As you can see, oil prices have never enjoyed the ability to track inflation—and that is precisely the point being made in prenegotiations by the OPEC cartel wherein they are seeking world inflation increases. This bill's guaranteed inflation increase completely undercuts our negotiating position with the OPEC cartel. How can this country contend that the oil cartel should be denied an inflation increase which we have given to ourselves?

The administration has called the $7.66 price and this escalator their "bottom line." I would remind my colleagues that when the OPEC cartel announced their September increases, based on world inflation rates, Mr. Zarb labeled the action outrageous. Yet 2 months later, he was requesting that it be written into the law.

In addition to the 10-percent annual increases I just noted, the administration may allow prices to skyrocket through the use of several other authorities in the bill. First, upon a finding that increases in excess of 3 percent are needed for increased production, the administration may further increase prices every 3 months, subject to congressional disapproval. On February 15, 1977, they may recommend permanent changes in the 10-percent ceiling and in the 3-percent production adjustment. On April 15, 1975, they may recommend exempting Alaskan oil from the composite price using the same fallacious arguments that we heard during the conference—about the alleged exorbitant costs of production in Alaska. Granted transportation costs will be high, but the prices set in this bill are wellhead prices, and Alaskan oil is the cheapest oil to produce that we will see come on line.

For example, even assuming field development costs are $7.6 billion, and that is a very high assumption, at 10 percent depreciation and a 15 percent rate of return, the cost per year is $1.96 billion. This results in a wellhead cost of $2.61 per barrel—$1.96 divided by 740 million barrels per year. As to transportation costs, if the pipeline and tankers cost $7 billion, at 5 percent depreciation and a 15 percent rate of return, the cost per year is $1.4 billion, or $1.90 per barrel. Hence, the oil would arrive at the refinery costing $4.51 and even at a refinery price of $10, this leaves $5.49 per barrel to be divided between the State's royalty and taxes—20 percent of $5.49 equal $1.10—and the companies net profit—80 percent of $5.49 equals $4.39.

I have no doubt that the present administration, given this exemption authority, will ignore the actual cost data and submit a plan to separately price Alaskan oil. This would cause the price of that oil—two million barrels per day of our production—to skyrocket. In addition, by exempting Alaskan oil from the domestic average price computation, the domestic oil remaining subject to the computation would also be allowed to increase.

The bill does retain a congressional disapproval of these increases but, as a practical matter, if the administration wishes to continue its high price policy, it will have its own "facts" justifying these various increases. As I noted earlier, production is substantially down now and is likely to continue in this mode, so that the pressures will be on and the public relations games will still be played.

Let us turn our attention, for a moment, to the immediate pact this legislation will have on the American consumer.

It is being said by many who support this bill that it will amount to a 3½ cents per gallon reduction in the current price of gasoline. I certainly hope that is the case, but I do not believe it will be. The 3½ cents figure is calculated on the basis of an estimate that imported oil is currently selling at $15, with the tariff, and new domestic oil is currently selling at $14 with the tariff. These calculations are higher than what the actual prices are. At the present time, imports are selling between $14.50 and $14.75, and new domestic oil is quoted in Oil Daily as selling at around $13. As a consequence, the estimate starts out assuming that the present costs are higher than they actually are.

In addition, the industry has accumulated banked costs amounting to approximately $1.4 billion. After the enactment of S. 622 and the setting of prices based on its formula, if the industry chooses to pass through these banked costs, and I have every reason to believe they would, this pass-through would work at odds with any reduction by the bill in the price per gallon of gasoline.

The net effect of these two adjustments to the 3½ cents calculation, first computing the present price of gasoline on the basis of actual quoted prices and then including the presumed pass-through of banked costs, means a real gasoline price reduction of no more than 1 cent per gallon. Have we worked, argued and hammered out a national policy, taking over 2 years in the process, to roll the price of gasoline back by 1 cent. What a tremendous exercise in futility. After a 30 percent or more increase in gasoline prices since the embargo, a penny rollback is not even a token. And with the bill's built-in price increases, even that penny will be taken away in the first year.

With the same kind of administration we now have, this bill could turn out to be such a boon to the industry that I can imagine them coming in here 4 years from now requesting an extension of the law. By then, we may well have substituted the U.S. Government for the OPEC cartel as the agency which underpins big oil's prices.

Of course, the authorities contained in this bill are largely discretionary with the administration. Given a good administration, a tough-minded President who is not willing to give in to the oil industry and who is willing to take a tough line on oil prices, this bill would lend itself to the establishment of a fair-minded energy pricing policy. The President could tie the annual increases to a real showing of incentive and cost, and he could establish pricing tiers on a similar basis. I sincerely hope we will elect such a tough-minded President in November 1976.

But this is December 1975, and my vote must be based on current facts, not hope. The fact is the present administration will administer this bill in every way which concerns me. This will be disastrous for the American consumer and for the American economy. The facts today are a permissive bill and a permissive President, both heading for higher and higher oil prices. I cannot, I will not, support that course.

Mr. MATHIAS. Mr. President, the energy situation is one of, if not the, most crucial problems facing our Nation. Both the problem itself and our actions in dealing with it will have far-reaching effects throughout our society. Our national security and independence, our foreign policy, our economy and national growth, our natural and cultural environments, and our efforts to develop a more peaceful, productive world will be profoundly affected—for many years to come—by the degree to which we succeed in solving the energy crisis, Our Nation and the nations of the world look to us for leadership in developing solutions to the problem. If we fail to take decisive, far-sighted action we will not only fail to solve our Nation's problems, we will intensify them in future years.

The International Energy Agency—IEA—has recently concluded its final annual review of the energy conservation programs adopted by its member nations and has made some accurate, disquieting conclusions concerning our nation's program.

> The American program must overcome an extremely high per capita historical energy consumption pattern and as such must be comprehensive and strong to be effective. At the present time it is neither. The current program depends almost entirely on voluntary programs, research and development and public education. . . . A major deficiency of the current United States situation is that energy prices for oil and natural gas are controlled below world market levels.

It is precisely for these reasons that I profoundly disagree with the conference report on S. 622. The program which is to be offered to the American people is not creative, is not decisive, is not comprehensive—in short, it is not adequate. S. 622 is rife with vague, voluntary programs which encourage or promote conservation, but which do little to insure that conservation will become a potent force. Such actions will fail to achieve the required reductions in demand and waste.

The bill's proposals for dealing with increasing supply are equally shortsighted and politically oriented. The bill does absolutely nothing to provide incentives for the discovery and development of new sources of domestic petroleum. Uncertainties with regard to price and future Government action will certainly discourage investment. Further, the bill does nothing to make price increases and resulting increased revenues contingent upon the development of new sources of petroleum.

Overall, the conference report provides little incentive for decreasing demand or for increasing domestic production. The probable consequences of passage of S. 622 have been described in the attached reprint from the CONGRESSIONAL RECORD.

It is for these reasons that I oppose S. 622. I have developed an amendment to the Emergency Petroleum Allocation Act which is substantially different from any that have heretofore been advanced and which will provide an interim solution to the pricing problem and encourage development of new domestic production while development of a comprehensive program is underway.

I urge you to join me in opposing the conference report and in developing a comprehensive, workable program.

ENERGY AND INFLATION

Mr. STEVENSON. Mr. President, the stakes involved in the debate over the Energy Act are described in an article "Energy Shock: Oil and the Economy" by Lawrence Kumins. Without OPEC price increases since the last quarter of 1973, real GNP would be 14.2 percent higher. About 3.5 million more people would be employed, and prices generally would be about 6.7 percent lower. No such estimates can be precise, but these are conservative. Such analyses come late because the Nation was slow to accept the reality of OPEC and the real meaning of an "energy crisis." But it is still not too late to protect the economy from more unnecessary energy shocks. By enacting S. 622 the Senate will adopt conservative measures that will reduce consumption, authorize strategic oil reserves, and price oil at a level which protects the economy and provides producers with the necessary incentives and resources with which to increase oil supplies.

Mr. President, I ask unanimous consent that this important article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY SHOCK: OIL AND THE ECONOMY

(By Lawrence Kumins, Energy Economist, Congressional Research Service, Library of Congress)

The cartel pricing actions of the Organization of Petroleum Exporting Countries (OPEC)[1] on the American economy and the economies of many other countries dependent on the world oil market.[*]

OPEC was established after the 1959 reduction in prices paid to oil producers by the seven major international oil companies, the "seven sisters" who dominate world oil commerce. Faced with a chronic glut of oil on world markets, a phenomenon characteristic of the international crude market prior to 1973, the major oil companies, acting as one either by design or happenstance, took the classic step of a monopsonistic buyer (one strong buyer facing several uncoordinated sellers)—they unilaterally lowered crude prices approximately 10 percent to 15 percent.[2] Subsequently, in September, 1960, five major crude exporters, meeting in Baghdad, formed OPEC to organize a united front vis-á-vis the monopsonistic "seven sisters." It would be 13 years before OPEC would become a truly effective cartel, setting prices and supply levels on world markets by fiat alone.

OPEC was able to bring its potential power to bear because industrialized nations other than the United States vastly increased their oil consumption during the 1960's. Until 1968, the United States produced 80 percent of its own consumption; there after, world consumption began to increase and the cartel faced a more manageable situation. Additional world demand was created by declining United States production, which peaked in 1970, and internal American demand, which continued to grow at about seven percent per year. The failure of American domestic production to keep pace with internal demand created an increased demand on world markets; the United States demand grew from about 2.5 million barrels per day (mbd) in 1970 to 6.5 mbd just before the embargo (the current level of United States imports remains at about the 6.5 mbd pre-embargo level). This extra demand on world markets, caused by falling United States production and the steadily increasing American demand, strengthened OPEC's position. The United States was becoming more and more dependent on OPEC oil, and this became increasingly clear to the nations that halted oil shipments to the United States in late 1973.

Some OPEC watchers believe that the Arab oil embargo was motivated more by economics than by politics. In early 1973, the embargoing Organization of Arab Petroleum Exporting Countries (OAPEC)[3] was receiving an average price for crude oil of under $3.000 per barrel. When the embargo created a short-fall in world supply, the OPEC group as a whole raised prices in several steps, quadrupling per barrel revenues and greatly increasing their gross revenues, in spite of a somewhat reduced world demand because of higher prices.

With the exception of Canada, most United States oil imports come from OPEC, and American dependency has increased since the embargo. In fact, in 1975, 66 percent of our imports were from OPEC,[4] up from 56 percent during the fall of 1974. In roughly their order of importance, the following countries provided about 90 percent of

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[1] OPEC member nations are Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela.

[*] I wish to thank my colleague, Dr. Warren E. Farb, for his assistance in preparing this paper.

[2] *See OPEC, Background Review and Analysis*, a Library of Congress, Congressional Research Service, publication by Dario Scuka (published in multilith form).

[3] This organization's members are Algeria, Iraq, Kuwait, Libya, Qatar, Saudi Arabia and the UAE, the nations that actually halted United States-bound shipments.

[4] *See The Effects of Decontrol*, an August 18, 1975, Federal Energy Administration paper, Chart 1.

United States imports: Nigeria, Canada, Iran, Saudi Arabia, Venezuela, Indonesia, Algeria, and the UAE.

TABLE 1.—DISTRIBUTION OF ENERGY CONSUMPTION BY SOURCE AND BY SECTOR

Consuming sector	Oil percent	Natural Gas percent	Coal percent
Household and commercial	20. 2	34. 0	2. 7
Industrial	17. 4	46. 0	33. 0
Transport	51. 7	3. 5	nil
Electric generation	9. 9	16. 6	64. 3

Source: Energy Backgrounder (Washington, D.C.: American Petroleum Institute, December, 1974).

Canada, once the main American import source, is phasing out oil and natural gas exports. This is ironic because, not long ago, the United States restricted imports to provide price competition protection for domestic producers. Canada had sought (and not received) preferential treatment under the import restriction program, in order to tap vast United States fuel markets to finance the development of what was regarded, during the 1960's, as a very large potential oil reserve. This resource base, however, turned out to be smaller than anticipated, and with disappointing discoveries the Canadian government adopted a conservation policy that was based on export curtailment. Coupled with a declining United States production (about 10 percent below early 1974 levels), this has caused increased United States dependence on OPEC. Because most of the world's potential for increased supplies in the near future lies within the cartel nations, much of the future increase in United States import levels will come from OPEC until the trans-Alaska pipeline is completed.

THE IMPORTANCE OF OIL

Because oil fuels provide about 45 percent of the total energy input into the United States economy, embargo and post-embargo price increases affected nearly all end products. More than half the oil consumption is used by the transport sector; hence anything that is shipped will, as it reaches market, embody the increased cost of oil in its sale price. Table 1 indicates the distribution of oil and other fossil fuel consumption by various broad sectors of the economy.

Because oil is by far this country's most important fuel, it exercises price leadership over coal and whatever natural gas is not price controlled by the Federal Power Commission (FPC). Therefore, higher oil fuel prices mean higher coal and unregulated natural gas prices. During the year and a half after the embargo, these other fuel prices, on a heat value basis, increased in price proportionately to the average barrel of oil fuel escalation.

The post-embargo energy price experience of the United States shows that OPEC energy pricing policy invades and dominates the domestic fuel marketplace. Many observers believe that there can be no free market for energy, and that the choice lies between OPEC cartel price fixing and government price controls. Proponents of government controls cite the inflationary impact of uncontrolled oil prices.

ENERGY PRICES, INFLATION AND RECESSION

There was clearly a relationship between energy price increases and inflation, employment and real (constant 1958 dollar) GNP in the period that includes the fourth quarter of 1973 to the second quarter of 1975. Simply stated, the current deep recession's early history was interrelated with record inflation. Rapid price increases reduced purchasing power. Decreased purchasing power resulted in the purchase of fewer goods and services, measured in terms of physical units. Fewer units of output sold necessitated lower employment. This became a cycle, starting a self-reinforcing recessionary process in which gross national product (GNP) and employment contracted.

This cycle was amplified by the fact that the primary inflationary impact stemming directly from the aggregate energy price increase itself was smaller than the total amount of inflation generated. In other words, the initial price impact generated a wave of secondary inflation, frequently called the "ripple" effect. A ripple effect is felt because a price increase in a commodity that enters into the manufacturing process at an early stage becomes involved in layer on layer of markup as it passes through successive stages of manufacturing and distribution. A simple example of how this works is pricing in a department store. Typically, major retailers buy an article at some cost and double its price (what retailers call a 50 percent markup). If, for example, an item cost the retailer $1.00, it will sell for $2.00. Now if that item embodies 25 cents worth of energy at the manufacturer's level, and if energy prices double, the manufacturer will sell the item to the retailer for $1.25 under a doubled energy price regime. The retailer takes his normal 50 percent markup, and sells the item for $2.50. Because of an energy increase of 25¢, the retail price increases 50¢. This process is repeated many times throughout the economy, in manufacturing as well as in distribution and retailing, creating a secondary wave of inflation.

Wage contracts and transfer payments are also involved because they are tied into the cost of living or otherwise "indexed." These automatically increase as the relevant price index rises, amplifying secondary inflation. The markup phenomena and the indexing effect combine to make the total inflationary effect from a given energy price increase larger than the sum of the energy price increase elements themselves.

Since late 1973, oil fuel prices and coal and unregulated natural gas prices have risen. These price increases, totaling $49.3 billion, are the principal propellant behind the generalized price inflation of 1974 and the first half of 1975. Crude oil prices were originally controlled under Cost of Living Council (CLC) regulations at $4.25 per barrel. "New" oil was decontrolled in August, 1973. It began to rise and has continued to increase. Under the $2.00 tariff surcharge, in effect at the end of the second quarter of 1975, uncontrolled domestic crude sold for over $12.50 per barrel at the end of that quarter. An average of 3 million barrels per day (mbd) were involved in the period between the fourth quarter of 1973 and the second quarter of 1975. At an average annual rate, the increased total bill may be computed as: 3 mbd × 365 × (12.50−4.25), or a total of $9.0 billion per year.

Just before its merger into the Federal Energy Administration (FEA), the CLC increased "old" oil prices by $1.00 per barrel, from $4.25 to $5.25. Old oil is defined as crude produced from wells that were producing in 1972 or earlier. Production above 1972 levels from those wells is not controlled, being classed as new oil. About 5.5 mbd of old oil was involved during the period under consideration. The increase in the aggregate bill is estimated roughly at an average annual rate of $2.0 billion (5.6 mbd × 365 × $1.00).

The Emergency Petroleum Allocation Act, now expired, gave the FEA authority to regulate fuel dealers' margins. Early on, FEA raised gasoline dealers' margins from a traditional 7.25 cents per gallon to 11 cents. Subsequently, this figure eroded slightly to average an estimated 9.5 cents. About 100 billion gallons annually were affected, raising the national gasoline bill $2.3 billion annually, 100 bil. gallons×(9.5¢–7.25¢).

At the same time, foreign oil increased from a preembargo $4.00 or so per barrel, to an average price of $14.00 under the new tariffs, in the second quarter of 1975. Roughly, 6.5 mbd of crude and foreign refined products embodying this expensive crude were involved. An easy cost calculation to make here is: 6.5 mbd × 365 × ($14.00–$4.00) = $23.7 billion, again at an average annual rate.

It must be remembered that oil has a clear-cut role as the energy price leader. Rising oil prices have escalated unregulated natural gas prices. About 10 trillion cubic feet (or billion Mcf's) are involved in unregulated intrastate sales not jurisdictional to the FPC—either made directly by producers at the wellhead or by interstate pipelines to intrastate customers. Prices have increased from about 55¢ per Mcf (1,000 cubic ft.) to an estimated $1.40 current average. Absolutely no data is available at present on intrastate prices, and these figures represent crude estimates made on the basis of fragmentary press reports. Nevertheless, they are probably of the correct order of magnitude. Using them, a rough estimate of the contribution of gas to the energy price inflation would be: 10 bil. Mcf × ($1.40−$.55) = $8.5 billion at an average annual rate.

Coal is also influenced by oil's price leadership. According to Federal Power Commission Form 423 statistics, covering about 60 percent of domestic coal consumption, coal prices climbed from an average of $9.10 per ton in October, 1973, to $17.51 in April, 1975 (the latest data available). Extrapolating this is roughly 450 million tons of annual domestic consumption of boiler fuel type, oil-competitive coal, we can calculate that: 450 million tons×($17.51−$9.10) = $3.8 billion.

In a rough way, these estimates delineate the aggregate inflationary contribution of energy prices during the post-embargo period under analysis. The estimated components are summed up here:

[In billions]

Domestic uncontrolled crude	$9.0
Old oil increase	2.0
Gasoline dealer margins	2.3
Imported oils	23.7
Unregulated natural gas	8.5
Coal	3.8
	$49.3

We can estimate that the dollar value of energy price increases was running at an annual rate of $49 billion at the end of the period under study. As this raw material price increase flows through the economy, the total inflationary contribution will be larger than $49 billion worth of annual inflation due to the ripple effect, and the energy shock drag on other macroeconomic variables will be proportionately larger.

MEASURING ENERGY SHOCK

Because post-embargo macroeconomic statistics are history, the key question is what would have happened to the economy with virtually no energy price increases. To simulate this, an exercise was devised using the Data Resources Inc. (DRI) econometric model. This model is a computerized system of hundreds of interrelated equations that relate many economic variables like prices, monetary and fiscal policy, imports and so forth to the important macroeconomic parameters like income, aggregate price levels and employment. The model is commercially available; it is used by nearly all government economic policy makers at the federal level and by many private firms to estimate the impact of various alternative policies on the economy. For our purpose, the question was posed: "What would the economy have looked like if there had been no OPEC price increase?" To answer it, the model was run with all historical input data as they actually were, with the exception of energy prices, which were held stable.

Energy price changes were introduced into the DRI model via the Wholesale Price Index (WPI) component for energy. The rate of increase for this component of the WPI was held to 7.2 percent per year. The actual rate of increase was, of couse, much higher. The 7.2 percent figure was estimated to be the early 1970's trend in energy price increases prior to the embargo. The results of the simulation of how key macro-variables would have behaved without energy shock are compared with actual historical data below on a key variable basis.

Current dollar GNP, unadjusted for inflation, was the first variable examined. Table 2 compares actual GNP with forecast GNP under energy price assumptions spelled out above. Note that this estimate implies that, without OPEC cartel energy price increases, current dollar GNP would have been over $100 billion higher (7 percent above actual) than it, in reality, was. This represents lost GNP due to the impact of higher energy prices.

TABLE 2.—CURRENT DOLLAR GNP (BIL. $/YR) WITH/WITHOUT ENERGY PRICE INCREASES

Quarter	With price increase	W/O price increase	% lots
4–1973	1344	1354	. 76
1–1974	1359	1370	. 81
2–1974	1384	1386	. 17
3–1974	1416	1421	. 33
4–1974	1431	1458	1. 90
1–1975	1416	1489	5. 10
2–1975	1440	1541	7. 04

Source: Actual data from Commerce Department. Simulated data derived from the Data Resources Inc., Lexington, Mass., model.

Real GNP, adjusted for inflation and stated in constant 1958 dollars, gives a more accurate picture of economic performance, especially during periods of inflation. Table 3 compares actual data simulated on the basis of the above energy price assumptions.

TABLE 3.—DOLLAR GNP (BIL. $/YR.) WITH/WITHOUT ENERGY PRICE INCREASE

Quarter	With price increase	W/O price increase	Percent lost due to price increase
4–1973	846	855	1. 1
1–1974	831	851	2. 4
2–1974	827	851	2. 9
3–1974	823	858	4. 2
4–1974	804	867	7. 8
1–1975	780	874	12. 0
2–1975	783	895	14. 2

Source: Actual data from Commerce Department. Simulated data derived from the DRI model.

Table 4 contains a tabulation of estimated unemployment compared with actual unemployment. Note that by the second quarter of 1975, as the lagged effects of energy shock are worked out, unemployment would have been 3.8 percentage points lower than it actually was. This implies that about 3.5 million more people would have been employed without the energy shock of OPEC price increases.

TABLE 4.—UNEMPLOYMENT RATE WITH/WITHOUT ENERGY PRICE INCREASE

Quarter	With price increase	W/O price increase	Percent points due to price increase
4–1973	4. 8	4. 4	0. 3
1–1974	5. 2	4. 6	0. 6
2–1974	5. 1	4. 8	0. 3
3–1974	5. 5	5. 0	0. 5
4–1974	6. 6	5. 2	1. 4
1–1975	8. 4	5. 2	3. 1
2–1975	8. 9	5. 1	3. 8

Source: Actual data from Commerce Department. Simulated data derived from DRI model.

Perhaps the most important variable examined here is the general price level. The broadest measure of price levels and changes is the GNP deflator, a price index which represents virtually all goods and services bought and sold. In Table 5, we have estimated what this price index would have been without energy price increases.

TABLE 5.—GNP DEFLATOR WITH/WITHOUT ENERGY PRICE INCREASES

Quarter	With price increase	W/O price increase	Percent increase due to energy prices
4–1973	158. 9	158. 4	0. 3
1–1974	163. 6	161. 1	1. 6
2–1974	167. 3	162. 9	2. 7
3–1974	172. 1	165. 6	3. 9
4–1974	178. 0	168. 2	5. 8
1–1975	181. 6	170. 4	6. 6
2–1975	183. 9	172. 3	6. 7
	[1958=100]		

Source: Actual data compiled by Commerce Department. Simulations from DRI model.

Generally speaking, the nation's broadest price measure would be 6.7 percent lower had it not been for energy price increases.

While these estimates give the appearance of mathematical precision, it should be emphasized that this is indeed not the case; the simulations provide only rough estimates. Moreover, the model is in an evolutionary state and is therefore subject to frequent changes. Reproduction of these estimates may therefore be impossible. Nevertheless, the data generated here provide some estimates of the impact of the energy shock. They represent the first attempt at separating energy shock from other economic developments as a recession/inflation causal factor.

Given the estimate that the total effect of energy shock was to raise the GNP deflator 6.7 percent, the dollar value of energy shock inflation was 6.7 percent of the current dollar GNP of $1440 billion (annual rate), or $96.5 bilion, in the second quarter of 1975. This represents the total inflationary impact after most lags are worked out. It is composed of the primary inflationary component plus ripple.

With the increase in energy prices themselves at $49 billion, we can say that the ripple factor is $96.5 bil. over $49 bil. or about 2.0. By multiplying the amount of the primary energy price increase by this 2.0 factor, the total macroeconomic impact can be estimated at the end of the approximately six quarters necessary to calculate the full impact as the economy's lags are overcome.

Over the next several years, the need for price controls on fossil fuels, the pricing of electricity, and the tax treatment of all fuel sources will be the subject of much attention. Energy price inflation has had a far-reaching impact on the nation's gross national product, on employment and on prices—an impact much stronger than might be expected from the size of the energy price escalations themselves. Future increases in the price of energy may have the same sort of impact on the economy.

Mr. HATFIELD. Mr. President, when S. 622 was last on the Senate floor it was the Standby Energy Authorities Act, and I voted against it. Today it returns from conference with the House as the Energy Policy and Conservation Act, and I hardly recognize it.

To be sure, the standby energy authorities are there, but they are accompanied by 116 other sections about equally divided between good and bad. Looking just at the authorities granted to the President to accomplish this and that, one would think we were at war. And perhaps we are, but I would argue that waging war against energy consumption is rather less desirable than taking the country through positive approaches toward better ways—less wasteful, more efficient ways—of utilizing the energy that is necessary to accomplish our diverse goals and serve our various ends.

I applaud such parts of this legislation as the coal use incentives, the oil and gas lease bidding reform, the establishment of a strategic petroleum reserve, the contingency planning for a future energy emergency, the energy labeling requirements for consumer products, and the improvement of our energy data base. I question such parts of this bill as the oil pricing mechanism, the extension of mandatory Federal allocation of petroleum, Federal allocation of materials, Federal energy efficiency requirements for consumer products, and Federal mandates for components of State energy conservation programs.

The oil pricing mechanism does not appear to phase out price controls. On the contrary, it is likely that prices under the controls of this bill will be as far below market levels 40 months from now as they are today. Congress then will be faced with the same problem that they are today—whether to allow a precipitous price rise or to phase out the controls over a period of months.

Furthermore, over the next 40 months the price mechanism of this bill will probably work as a disincentive for producing new domestic crude oil, for in order to stay within the overall price ceiling for crude, the producer will have to accept a lower and lower price for his new oil. Every barrel of relatively expensive new oil which today replaces a barrel of relatively cheap oil that can no longer be produced from a declining field will have to be sold at a lower price than new oil got yesterday in order to keep the average price of all oil within the federally established price ceiling.

The ceiling may be moved upward by as much as 7 percent per year to account for inflation, and by as much as 3 percent per year to provide an incentive for producing new oil, which actually means the "incentive" is to produce no more than 3 percent more new oil in any given year in order to keep getting the same price—and less if a producer wants to get a better price. Of course, if inflation runs higher than 7 percent in a year, the producers will lose ground unless they cut back production. I cannot see where any of this makes sense.

As there are no petroleum shortages today, and there have not been shortages since the crisis of the winter of 1973–74, it appears without reason that Congress extend the mandatory allocation program rather than move it to a standby basis. The marketplace remains frozen in the supplier-purchaser relationships that existed prior to the Arab embargo, with all of the additional individual adjustments that have been made by the Federal Energy Administration over the intervening months and years. Suppliers cannot compete for new service contracts as long as they are locked into base period relationships with their historical customers, and customers cannot shop for the best buy when they are offered a supply from only one company It is time to untie the straightjacket and see what a dose of competition in the rearrangement of supplier-purchases relations does.

Presidential authority to allocate all materials used in energy production, Presidential authority to require that Federal efficiency standards be met by manufacturers of every energy consuming commodity in the country, and Presidential authority to tell the States when, where, how, and how much energy they must conserve are unnecessary new programs of Federal rule by regulatory fiat.

Even though I know the country cannot realistically expect a better response to the need for a comprehensive energy policy than the bill now at hand, I must cast my vote against it. Forty months from now we will be well on the way to building a strategic reserve, we will have contingency plans for handling a future crisis, we will have better energy information, and we will have energy labeling of consumer products, all for the better. But we will still be mired in pricing and allocation, and we may have shackled ourselves into living lives dictated to us by Federal energy planners in which I have little confidence.

Mr. STEVENS. Mr. President, the bill that the Senate has before it—now in revised form from when it was originally adopted by the conferees—would effectively retard and perhaps end the exploration for new petroleum sources in frontier areas.

S. 622 ignores the special problems that we face in oil development in Alaska. The failure of this bill to include an adequate price for Alaska crude oil really means that the transmission of Alaska's 10 billion barrels of crude oil may now be in jeopardy—this after billions of dollars and years have already been put into this mammoth project.

What S. 622 does is say in effect the Congress does not care how much money went into the construction of the trans-Alaska pipeline—we will ignore the realities of the world petroleum market and decide how much Alaska will receive for its oil ourselves.

But, as unfair as this bill is on the trans-Alaska pipeline now under construction, the real disaster that this bill holds for America—which only a handful of persons have come to realize—is that S. 622 will shut off the exploration and development of new oil in my State and other frontier areas. Does the Congress really want to say to heck with the billions and billions of barrels of oil that are waiting to be developed in Alaska? If S. 622 passes the answer would be an unbelievable yes.

Because Alaska is remote from the primary U.S. oil markets, and since most of Alaska's oil reserves are located in high-cost Arctic and offshore areas, the costs of developing, producing, and transporting Alaskan oil are necessarily high.

Reserves can only be developed if economics justify such development. Any reduction of crude prices due to a roll back will adversely impact the economics, thereby moving those reserves which were previously economically marginal into the uneconomic category. Such reserves will then not be developed simply because the new economics do not justify development. The larger the price rollback, the larger the volume of reserves that will stay in the ground and be replaced by foreign imports.

The basic formula for energy independence is simple—reduced demand, increase domestic supply. But S. 622 would widen the energy supply-demand gap by encouraging demand and reducing incentives for developing new supply. Rolling back the price of oil would increase demand by some 500,000 barrels per day beginning in 1976, and reduce supply by about 500,000 barrels per day in 1976 and 600,000 barrels per day in 1977. The conclusion is obvious: Imports will have to increase by 1 million barrels per day in 1976 and more than 1.1 million barrels per day in 1977 beyond the surge we already anticipate due to economic recovery.

This means that the bill plays directly into the hands of OPEC by enhancing the cartel's ability to maintain and increase prices. As I said during the conference, S. 622 could be called the Arab Relief Act of 1975. This legislation would effectively institutionalize Government controls of the oil industry, perpetuating and intensifying their counterproductive effect. If you like the FPC you will just love S. 622, because we would be putting FEA in the role of regulating petroleum. Controls could be extended for another 40 months and since the bill contains no phased decontrol provisions, possibly another 40 months beyond that or whatever future appeals to the Congress at that time. It increases uncertainty regarding crude oil prices discouraging long term investment decisions and thereby development of new domestic energy supplies. The bill, in other words, does not solve the decontrol issue but simply pushes it further into the future—at a time when we must act positively to bring on new sources of energy.

Mr. President, S. 622 is not a positive answer to solving our energy problems, rather it is a blueprint for effectively stopping the development of Alaska's bountiful energy supplies. I do not think that my colleagues really want to do that but by supporting S. 622 that will be the unfortunate and disastrous result.

Mr. THURMOND. Mr. President, I rise in opposition to the conference report on S. 622, the Energy Policy and Conservation Act of 1975. I was indeed hopeful that the energy conference committee could agree on a comprehensive decontrol plan which would be fair to all Americans. Unfortunately, the report before the Senate does not encompass such a plan.

I am deeply disturbed by the pricing provisions in this bill. The effects of this provision would be the reduction of domestic oil supplies and the encouragement of consumption. This in turn will increase our reliance on imports and thus strengthen the power of OPEC instead of reducing it. Because of this additional dependence upon OPEC cartel oil, the threat to our national security will be increased, and consumers may ultimately be required to pay higher energy prices. Additionally, this report may jeopardize the development of oil from Alaska and other frontier areas by failing to provide an acceptable price for that oil.

Mr. President, I was hopeful that the energy conference would develop a plan that would gradually end domestic price controls. Unfortunately, this legislation continues the price control system for 40 months. Postponing the decision on deregulation will only serve to increase America's dependence on OPEC oil.

I do not feel this conference report will help our Nation achieve energy independence. In fact, it will do just the opposite, and I urge the Senate to reject it.

Mr. INOUYE. Mr. President, earlier today I engaged in a colloquy with the distinguished manager of S. 622, Senator JACKSON, on the subject of section 403 of the act which grants relief from the obligations to purchase entitlements for small refiners of less than 100,000 barrels per day capacity for the first 50,000 barrels per day of throughput. As I pointed out in that colloquy, the majority of small refiners are sellers of entitlements and not buyers. One of those small refiners, Hawaiian Independent Refinery, Inc., is located in my State and is 100 percent dependent on our most expensive imported crude.

I was, therefore, particularly pleased to receive the assurance of Senator JACKSON that it was the intent of the conference committee to assist all small refiners with a capacity of 100,000 barrels per day or less. It is essential that in trying to help small refiners we provide equivalent assistance to all small refiners, and I was pleased to receive Senator JACKSON's assurance that section 4(b) (1)(D) of the basic Allocation Act provides the authority for the President to increase the entitlement allotment to small refiner sellers to eliminate any competitive advantage which would otherwise be created by the application of section 403 of S. 622.

It is obviously not the intent of the Congress to create economic disadvantage for one group of small refiners in our effort to help another group of such refiners. Neither is it our intent that such small refiners which are sellers of entitlements should have to demonstrate severe economic hardship in order to achieve equivalent benefits and secure the relief to which they are entitled under the law.

It has always been the content of the Allocation Act that the President treat all similarly sized refiners on an equitable basis. This implies that such refiners should be able to go to the marketplace with generally equal crude oil costs. If there are to be any differences in crude costs they should at least not be the result of the implementation of the Allocation Act or the provisions of this bill.

Mr. President, I wish to insert as part of the RECORD of our consideration of this historic energy bill a copy of Gov. George Ariyoshi's cable to Senator JACKSON and also a copy of my letter of November 25 to the conferees pointing out in greater detail the reason for my concern that the legislative history of this act make clear our intent to assist all small refiners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HONOLULU.

Hon. HENRY M. JACKSON,
Russell Senate Office Building,
Washington, D.C.

Reference Senate bill 622. Understand you are soon to have a colloquy with Senator Inouye on the exemption of small refineries of 100,000 bpd or less concerning the status of sellers of entitlements as well as buyers.

I also understand that you have agreed that the conference committee intended equal economic treatment for all small refiners. For that to be realized our small refiner seller in Hawaii must have the assurance of equal treatment concurrently and without administrative delay with those small refiner buyers.

For entitlements provided for under the bill to assure its competitive economic viability relief must be prompt and not delayed by time consuming administration grievance procedures predicated on demonstration of hardship. I would appreciate your modifying your colloquy to indicate that the conferees would expect the President to act expeditiously to provide equivalent relief and not wait until such small refiner sellers demonstrate hardship. This would eliminate our regions, small refiner from having to demonstrate the quite obvious critical cost of crude hardship on both that refiner, its contract customers, as well as the competitive disadvantage in the market place that would otherwise result. Your support will be greatly appreciated.

Gov. GEORGE R. ARIYOSHI,
State of Hawaii.

NOVEMBER 25, 1975.

DEAR :

On behalf of the State of Hawaii, I wish to communicate to you a deep concern that the interest of the people of my state be fully considered and protected in the Conference which is now taking place on the Energy Policy and Conservation Act. Hawaii's unique geography and complete lack of indigenous energy resources make us uniquely vulnerable and a special case which must be recognized in the Act. The proposed act contains a provision exempting all refineries of 100,000 bpd or less capacity from the requirement to purchase entitlement for the first 50,000 bpd of runs to still.

Since the inception of the old oil entitlements program, Hawaiian Independent Refinery Inc. (HIRI) and consequently its customers have been uniquely disadvantaged due to a total lack of access of old oil and consequently is a "small" entitlement seller. While several attempts have been made to administratively correct this inequity, all have failed. Hopefully, some action can be taken in conjunction with the entitlements exemptions provision currently in the bill which will assist HIRI and other small refineries who are entitlement sellers like it is in achieving equal treatment with similarly sized refineries who are entitlement buyers.

I must point out that the inclusion of this recommended language in the conference report does not add to or change what is already in the act. It would merely express the intent of Congress that all "small" refiners be treated equitably. The Authority to adjust the number of entitlements for "small" sellers exists under the present legislation but to date the Federal Energy Administration has refused to use it.

Recommended language for inclusion in conference report:

In implementing the provisions of this section, the Administrator is directed to insure that those independent refineries whose capacity is less than 100,000 bpd and who are required to sell entitlements receive relief equal in value to that provided to small independent purchasers of entitlements.

Justification:

1. It appears that a concensus exists in the Congress to include in this act some special provision to assist "small" refiners in their attempt to compete with major oil companies. However, the entitlement exemption as it is now structured would provide assistance only to some of the small refiners at the direct expense of other small refiners. Not all "small" refiners are buyers of entitlements. "Small" entitlement sellers are equally in need of this type of assistance.

If indeed the intent of the Conference Committee is to help all small refiners compete with the major oil companies, a stronger argument can be made for helping sellers than buyers. This can be demonstrated through a brief review of the history of the program.

In 1973 all refiners were in effect paying $5.25 per barrel for crude oil. When OPEC raised the prices on foreign crude oil all of the prices began to rise. The Administration, in their efforts to control the price rise while simultaneously providing an incentive for increased production, decided to designate some of the crude oil in the system as old and price controlled and the remainder of the oil as new and uncontrolled. In effect, some refiners were told they could run with feedstock that cost $5.25 while others were forced to run with feedstock that cost up to $10.00. Both had to compete in selling their products in the same markets. In order to share the benefits of the old, price controlled, crude oil, the Federal Energy Administration initiated an entitlements program whereby, rather than physically sharing all of the old oil, those refiners who have more than the national average would have to transfer some of their income to those who have less than the national average. In effect, the old oil refiners were forced to face a price increase of one-half the gap to the price that was being faced by the new oil refiners. Simultaneously, the new oil refiners, of course, had a reduction in price which represented half the distance to $5.25.

The entitlement buyers complained extensively when they were forced to face higher costs due to the entitlements program, while not recognizing that in the absence of that program their cost would have been as high as for those dependent on new or released crude oil.

In the provisions for exemption for purchase contained in the present legislation, those firms which already have a lower cost of crude oil are granted additional relief at the direct expense of those whose cost of crude oil is already higher. If the intent of the legislation is to assist small refiners in their competition with major oil companies, then it must be designed in such a manner as to provide equitable assistance to all small refiners rather than some small refiners at the expense of other small refiners.

2. A detailed analysis of what the implication of this entitlement exemption would have been, had it been in existence during the month of August, makes an interesting example. In reviewing the August entitlements list published a few weeks ago, 37 refineries with capacity of less than 100,000 barrels who are net buyers of entitlements would appear to benefit from the exemption. The list of the firms together with an indication of the number of barrels of old oil which would have been exempted in the month of August if the exemption would have been in existence at that time is listed below. The total number of barrels of old oil which would have been removed from the Entitlements Program is 13,179,928 or 8.552% of the total old oil used during August. The direct impact of this exemption on all sellers of entitlements cost of crude would have been a reduction of 8.552% in its entitlement receipts. This reduction in entitlements revenue would be reflected as a $.250 weighted average cost of crude increase for Hawaiian Independent Refinery. This implies that if the runs-to-still and value of entitlements which apply during the month of August are typical of the next twelve-month period, Hawaiian Independent Refinery, a small independent refinery, will forego $5,232,744 in an entitlement income so that the 37 firms noted below may operate at a substantially less than national average cost of crude.

Eligible firms:	*Exempted old oil*
1. Allied	60, 812
2. Arizona	36, 157
3. Beacon	314, 203
4. C & H	1, 969
5. Canal	67, 434
6. Charter	1, 106, 563
7. Cross	7, 705
8. Delta	425, 004
9. Eddy	41, 689
10. Edgington	391, 952
11. Evangeline	28, 999
12. Famariss	411, 999
13. Fletcher	386, 669
14. Flerit	11, 447
15. Getty	297, 132
16. Howell	848, 452
17. Hunt	483, 296
18. Lagloria	434, 640
19. Little America	309, 406
20. Monsanto	441, 831
21. Northland	78, 941
22. Oil Shale	1, 084, 515
23. Pasco	894, 492
24. Pennzoil	600, 530
25. Placid	452, 406
26. Plateau	134, 317
27. Powerine	603, 346
28. Rock Island	449, 911
29. Sigmor	6, 594
30. Sound	61, 625
31. Southland	313, 009
32. Tesoro	1, 077, 378
33. Texas City	849, 889
34. Union Texas	144, 275
35. Warrior	63, 636
36. West Coast	60, 307
37. Witco	197, 398

However, the $.25 per barrel cost of crude additional differential that this exemption creates for HIRI and other small independent entitlement sellers is not the main difficulty. Seven of the 37 beneficiaries on the August list are direct competitors of HIRI. These seven firms would face drastic cost reductions which would make it impossible for the "small" sellers to compete with them.

Dollar reduction in weighted average cost of crude due to exemption

Firm:	
Beacon	$2. 433
Charter	0. 447
Edgington	1. 591
Fletcher	0. 550
Pasco	0. 446
Powerline	1. 476
Tesoro	2. 036

In summary, the provisions of this section of the bill can bring extreme hardship on some small refiners in the name of helping other small refiners. If the recommended language is included in the conference report, a means to achieve equal treatment for the disadvantaged small refiners would at least be available. If all of the small refiners who sell entitlements, receive equal benefit which the small refinery buyers of entitlements by way of additional entitlements, the major oil companies would have their weighted average cost of crude oil increased by $.15 a barrel.

It is essential that we provide the whole small refiner segment of the industry with at least an opportunity to achieve similar benefits through administrative channels with the support of the report language.

Aloha,

DANIEL K. INOUYE,
U.S. Senator.

Mr. GRIFFIN. Mr. President, it has been nearly a year since President Ford sent Congress a comprehensive energy program. And it has been more than 2 years since the Arab oil embargo forced long lines at gas pumps and imposed many other hardships on the American people.

While Congress has sat on its hands, our dependence on imports of foreign oil continues to grow. In 1973, imports from OPEC countries accounted for 49 percent of our imports. Today, these countries supply 60 percent of our imports. And the bill for these imports has skyrocketed from $8 billion to a staggering $24 billion.

After all this delay, Congress is finally ready to present its version of a national energy program. Unfortunately, the conference report on S. 622—the proposed Energy Policy and Conservation Act—is in the words of the Washington Post a "botched job."

The best thing that can be said about the bill agreed to in conference is that it provides some measures to deal with emergencies, such as the creation of a strategic petroleum reserve to cushion the effects of another embargo.

This legislation, if enacted into law, will jack up the price of some products, will reduce incentives for oil and gas production, and will delay, rather than hasten, the day when America can hope for energy independence.

At a time when there is much talk in Congress about the need for regulatory reform, this bill goes in the wrong direction.

For example, S. 622 would mandate still more Federal standards for automobiles. Under the legislation, fuel economy standards for new cars would be imposed beginning with the 1978 model year.

To illustrate how arbitrary this proposal really is, the average fuel economy of cars sold in 1985 would have to be at least 27.5 miles per gallon. Only a handful of very small cars could meet that standard today.

As UAW President Leonard Woodcock told the Senate Finance Committee last July:

> We need additional knowledge to determine appropriate emission and fuel efficiency goals for the 1980's. . . . In that regard I question whether the establishment of a fuel efficiency standard for 1985 models is justifiable at this time.

Unfortunately, the bill reported by the House-Senate conference contains an unreasonable standard for 1985 and fails to include necessary changes in emission standards.

The conferees recognized that more stringent emission and safety standards are likely to reduce fuel economy—and empowered the Secretary of Transportation to lower fuel economy standards accordingly if a manufacturer uses a reasonable technology to meet these tougher standards. But this provision only underscores why Congress should not be legislating more conflicting standards without knowing what the consequences will be.

It is difficult for me to understand why Congress would want to impose costly new standards at a time when the auto industry and its workers are just beginning to recover from the throes of a devastating economic crisis. Furthermore, even the most reasonable standards unnecessary because the public demand for more fuel efficient cars has produced results—namely a 26 percent improvement in overall fuel economy in the past 2 years.

S. 622 also extends the reach of Federal regulation into the area of home appliances. Under the bill, FEA could set energy efficiency standards for appliances such as air conditioners, refrigerators, dishwashers, kitchen ranges, and TV sets. And these appliances would have to be labeled with respect to information about their estimated operating costs and energy efficiency.

The original Senate version of this legislation only required disclosure of comparative energy costs and efficiency. In fact, the Senate has never considered legislation authorizing appliance standards.

Such disclosure is a far preferable approach because it gives consumers an opportunity to compare the increased cost of purchasing a more efficient appliance with the long-term savings in operating costs. Because appliances that consume less energy are likely to be heavier and more costly to produce, setting inflexible standards will hit hardest at low-income consumers and the dozens of small appliance firms which have to compete with the major manufacturers.

Apparently the concern about oil prices of those who support this bill does not extend to price increases for cars and household products which are likely to result from these new regulations.

In addition, the legislation would thrust unprecedented, unwanted power upon the General Accounting Office to audit the books of any and every person who submits energy information to the Federal Energy Administration, the Federal Power Commission or the Department of the Interior.

Under existing law, such audits can be conducted with the approval of a congressional committee. This is as it should be since the GAO is an arm of Congress. Although I proposed in conference that the expanded audit powers be limited only to the oil companies, the conference bill would allow GAO to examine the books of corner gas stations, farmers and other small businesses. Even GAO itself has objected to this provision, pointing out that the new responsibilities would be "so enormous as to be impractical."

As for the oil pricing provisions, they represent a compromise which sacrifices economic commonsense for political expediency. Under the bill, oil prices would be conveniently held down below current levels until after next year's election.

This so-called compromise is really a Christmas present to the OPEC countries. Furthermore, the tangled web of price controls written into the bill includes some puzzling inconsistencies—such as a requirement that refiners pass along increased costs to retailers and consumers within 60 days. This provision will not only hike up consumer prices, but it will also make it more difficult for small, independent refiners and distributors to compete with the major oil companies.

Regrettably, this bill is not a blueprint for energy independence; it is a blueprint for excessive and self-defeating Government regulation.

Accordingly, I urge the Senate to reject this measure.

Mr. ABOUREZK. Mr. President, S. 622 represents our best effort so far to come up with an oil policy. The bill is wide-ranging. It includes provisions for conservation planning, auto efficiency standards, energy labeling for products, strategic oil reserves, and it enables the Federal Government to obtain more reliable information about the oil industry. It also contains price controls on crude oil.

It is the pricing provision that has drawn the exclusive attention of both the administration and the oil companies. S. 622 establishes a composite price of $7.66 a barrel for oil produced in this country. If the President keeps the price of old oil at $5.25, that means we would have a new oil ceiling of about $11.28 per barrel. Oil produced in the United States currently sells for an average of about $8.66 per barrel, including old oil at $5.25—60 percent of our total production—and new oil at an ever-increasing price which stands now somewhere between $13 and $14 per barrel.

The oil companies have conducted a massive propaganda campaign against the pricing provision ever since the conference agreed on this bill. With all the money at their command, they bought full-page ads in major newspapers, and haunted the offices of Senators, Representatives, and FEA, and the President.

Their message was that the price this bill sets for oil is too low—they will have no incentive to produce any oil, they said. People would begin using oil products like water, they said. We would become desperately dependent on foreign oil, they said. But the fact of the matter is that none of these things are true, and the price set by S. 622 is too high.

What S. 622 does is to maintain the status quo, minus the President's tariff and 30 cents. This may lower the price at the gas pump by about 1 cent. This is not a major rollback for anyone—not the public, not the oil companies. A price ceiling simply holds the line until we can come up with a reasonable, long-term, nonregulatory solution to the control of our limited fuel resources. It is not a happy bill for the people, but it is better than decontrol.

OLD OIL

The price level set by S. 622 is too high because it simply does not cost the oil companies that much to produce their oil. By the most generous estimates, the FPC has calculated that the average of the highest production cost for old oil, and the lowest, is $2.94 a barrel. It may even be less. But $2.94 covers production costs—including a return on investment—and unsuccessful exploration and development costs, and Federal income taxes. The oil companies are not making 10 cents a barrel, or 50 cents a barrel. They are making much more on their old oil.

NEW OIL

The same generous FPC estimate gives costs of finding and producing new oil, including royalties, return on investment, dry holes, et cetera—the whole shooting works—at $5.49 per barrel. So the oil companies are crying that $5.80 per barrel beyond their total costs simply is not enough. Perhaps the $5.80 above costs provided in S. 622 is not enough to cover the oil companies giant executive salaries, foreign bribes, lobbying expenses, and massive advertising budgets.

INFLATION

The oil companies claim that inflation has doubled their costs. I submit this table for the Record showing that since 1972, some oil industry costs have risen a maximum of 28 percent per year, while the price of crude oil rose 68 percent, and it has been rising faster in the last months of 1975, which do not show on this table:

PRICE AND COST INDEXES, 1967=100

	Price		Costs					
Year	Crude oil wholesale price	Percent increase	Oil field machinery	Percent increase	Oil well casing	Percent increase	Oil field wages	Percent increase
1972	113.8		127.3		128.4		137.2	
1973	126.0	11	133.2	5	133.2	4	147.7	8
1974	211.3	68	154.8	19	170.7	23	163.0	10

Source: Independent Petroleum Association of America, "United States Petroleum Statistics, 1975."

What is more, much of the inflation that has occurred in oil costs is caused by the high price of oil itself. The Joint Economic Committee has told the Congress that the oil companies use their high revenues to drive up the cost of entering the oil business. They have the funds to outbid one another for leases, for supplies, and for labor and equipment. They do just that, and then they point to their high costs. With prices of $13 per barrel, the oil companies have no incentive to make their operations efficient, or to bargain for low prices on work they contract for, or to trim costs. Their propaganda about increased costs has been so successful that the more money they spend, the higher the price they can demand for their product.

DEMAND

The oil industry also says that demand will jump unless the price of oil continues to rise. Demand is increasing while the price increases.

We all know that much of the demand for oil is fixed. We need to heat homes and places of work, and we need to drive to work, in many cases, no matter how much it costs us. Right now, we have no alternatives. The fact is that gasoline prices are 5 cents higher this year than they were last year, yet gasoline consumption for 1975 has been above consumption for every month in 1974. Obviously, the possibility of a penny or two less a gallon will have no effect whatsoever on our gasoline use.

It is also peculiar to hear the oil companies worrying about increased consumption. This is a profit-motivated statement, since the oil companies have been going all out to increase sales in their gasoline marketing outlets. It is notorious that service station operators leasing from the major companies have been told to stay open longer hours and decrease their margins in order to get their gallonage up. We will not have a policy of conservation while the economy depends on consumption.

PRODUCTION

The Wall Street Journal, a newspaper that should understand inflation, wrote in March of last year that—

> Seven dollars is a price beyond the wildest dreams of oil men at any time up until last fall. At that price . . . exploration and production go forward at the industry's full capacity. Beyond that figure, higher prices do not increase production incentives enough to justify the cost to the consumer.

There is a lot of truth to that comment. In fact, high prices, swollen revenues, and big cash flows decrease incentives to produce. A company making enough money on its existing production volume has no interest in depressing the price by bringing on additional supply.

Our recent experience bears this out. With the threefold increase in oil prices—from $4 per barrel to $13.50—production of new oil has not increased. Total domestic production declined from 9.2 million barrels a day in 1973 to 8.3 million barrels a day in 1975.

Even if oil production did begin to climb, this would not be a solution to the energy problem. We would simply face the situation of domestic depletion in 25 years. Any oil pricing policy has to be made in the context of a balanced energy program which changes our reliance from oil to alternate fuels. If we take away all of the disposable income of people and assign it to the oil industry, we are asking for real trouble.

First, we will delay the development of renewable alternatives. Second, we will put energy policy into the hands of the oil companies. Third, we will pay enormous amounts of money for very small increments of oil.

PROFITS

The oil companies also tell us that the $7.66 average price is too low because it would not give them enough money to develop alternate resources. The oil companies' 1974 profits were a third higher than those of 1973, and double the profits of 1972. The companies complain that their 1975 profits will be lower than the 1974 figure. This hardly makes them small, since 1974 was the year the oil companies realized massive profits on inventories due to OPEC's pricing policy. Moreover, most oil companies will post higher profits for their 1975 domestic operations than they did in 1974.

ECONOMIC IMPACT

High energy prices are the single major contributor to inflation. Declines in consumption which have been achieved have come about not as the result of conservation, but because the economy is in a major recession. Energy prices are inextricably tied to economic recovery. For the economy to recover and grow, we will immediately need new energy inputs—from increased foreign inputs, most likely. That is the only source of immediate additional supplies of oil. But we will never need to have that recourse if there is no economic recovery. And there will be no recovery without lower energy prices. The capital shortage that the oil companies keep pointing to will worsen unless the economy as a whole expands.

Finally, I want to point out two things. The fact that the oil companies say that production will decline if they do not get higher prices simply indicates that there is no free market in oil. America's oil supply is controlled through control of crude oil production and pipelines. If the industry were competitive, other companies would come in with better management, more innovative techniques, and begin to undersell the big, inefficient operators. As long as we have market power, there is no likelihood that prices will go down without Government intervention in some form. It is also true that if the oil companies lack the "incentive" to produce oil at $5.25 and $11.28 per barrel, then we must begin to produce our own energy from public lands. Certainly, no government would need to pay salaries at the half million dollar level that prevails among the directors of oil companies.

Second, my reasons for not signing the conference report on this bill. I did not sign because the price was too high—and it leads people to think that the cost of oil is much higher than it actually is. The abandonment of all costs as a component of a price ceiling in the case of a commodity as vital as fuel. Without cost-based pricing, we have no way of knowing when a firm is efficient, or when a fuel is economical. Second, we have institutionalized inflation in this bill. As the price of oil begins to rise in response to the 7- and 3-percent annual escalators, we will see further increases in food, in primary metals, in transportation, and in every other sector except, perhaps, wages. We will certainly see no reductions in the prices of these commodities as a result of the original rollback.

The reason I will vote for the bill is

the muscle of the oil companies in the administration—if we did not pass this price ceiling the oil men would get Jerry Ford to force an even higher price on the people of the United States.

Mr. PACKWOOD. Mr. President, the ultimate objective of our energy policy is not just to decrease our consumption because "it is a good thing to conserve," or because we will appear to have an energy policy. The ultimate objective of our energy policy must be to make us independent of imported oil. In short, we do not need an energy policy just to say "we have an energy policy"; we need an energy policy to curb our dependence on imported oil. I will vote against the conference report bill because it does not sufficiently stop the flow of Arab oil into this country; it does not sufficiently stop the outflow of American dollars and jobs, which we cannot afford, and it does not sufficiently put us on the road towards energy independence.

The legislation adopted by the Senate and House conferees contains several good attempts to encourage conservation. The bill sets up a system of standby authorities for the President in the event of another crisis or embargo; it delineates a system of strategic reserves; it establishes energy-labeling procedures for major appliances; and it mandates fuel standards for automobiles. Although all of these are good measures, and I supported each of them when they were passed in the Senate as separate bills, they in themselves are not enough. They are not enough to curb the flow of Arab oil into this country. They are not enough to keep American dollars and jobs here. They are well-intended measures, but not enough to be called "an energy policy."

The heart of the problem, and it always has been, is the growing reliance on imports. This results from the fact that our domestic production is decreasing and our domestic consumption is increasing. In order to fill this gap between production and consumption, we must rely on imports. This gap is growing. Unless we take action on both sides of the problem, production and consumption, we cannot have a long-term satisfactory solution.

This bill dabbles on the consumption side, but does nothing to encourage production. Most of the measures set out in the bill were designed to decrease consumption. However, combined with the restrictive pricing mechanism, the so-called average price—the average price of controlled oil and new oil—there is a real possibility that consumption will increase. As the price of oil is held artificially low, the American consumer will be encouraged to buy more. Less attention will be given to the development of energy alternatives. In addition, with an artificially low price, production will fall even further behind the demands of consumers. Result: More imports.

Of three major studies undertaken to show the effects of the conference report legislation, all predict that imports will increase faster with the adoption of this bill than with immediate decontrol. No studies indicate decreasing imports under this bill. Perhaps even more condemning, the Federal Energy Administration predicts that this legislation will cause an immediate increase of imports over what we would have if we kept the status quo; that means more important with the bill than with the current price controls! A study by Data Resources, Inc., a private think-tank, claims that imports can be expected to rise up to 1,300,000 barrels per day by 1977. The American Petroleum Institute sees imports up an additional 3,400,000 barrels per day by 1980 as a result of this legislation.

Mr. President, this is absolutely contrary to the direction Congress has been proclaiming for the past year. Our initial attempts at forging an energy policy were aimed at reducing the level of imports of 1 million barrels per day within 1 year. Now, if this bill is enacted, we will see the exact opposite: We will have succeeded in increasing our imports by over 1 million barrels per day within a year. This is not energy policy; this is political capriciousness.

I cannot support a bill which has all the trappings of an energy policy, but which is built around a hollow shell. Growing dependence on imports prompted the embargo crisis 2 years ago and proved the strength of the OPEC cartel. To date, Congress has done little to curb that growing dependence. I refuse to vote for a bill which is palliative and a disguise to the real problem.

Mr. MUSKIE. Mr. President, ever since the OPEC embargo plunged the world into the energy crisis 2 years ago, our Nation has been muddling along with no real, comprehensive energy policy. As a result, the very complex problems of energy price, supply and conservation, have been even further complicated by political problems such as Presidential threats to decontrol domestic prices and partisan disputes of who is to blame.

We have an opportunity today to put an end to these problems. We have an opportunity today to give our approval to a rational, comprehensive energy policy for the Nation.

This policy, embodied in S. 622, the Energy Policy and Conservation Act, is not a product of partisan politics, as one might surmise by reading the list of those who signed the conference report. It is, rather, the end result of a thoughtful and bipartisan committee effort, which was marked by an unusual amount of participation by Administration officials. These officials, in fact, assured the conference committee members that the agreed to bill would be acceptable to the administration. And while the President has not yet chosen to indicate his approval, I trust that the assurances given to the Congress by his representatives still hold.

I continue in my trust because I would like very much to see S. 622 become law. I think it makes sense.

Those of us from New England have a special interest in energy policy because of our region's heavy dependence on petroleum. We know firsthand the effects of skyrocketing oil prices and supply shortages. We know that we must have a rational energy policy and we must have it now.

This legislation makes sense for my home State of Maine, for New England, and for the Nation. It would stabilize prices by rolling them back a small amount immediately and allow them to rise slowly over the next 3½ years. It would guarantee conservation by setting strict standards. And it would give the President the authority he needs to deal with another severe shortage should one occur.

S. 622 represents an important step in moving the Nation toward a brighter energy future. I urge my colleagues to support it.

Mr. KENNEDY. Mr. President, I shall be very brief.

My purpose in these remarks is not to review the many substantive features of the Energy Policy and Conservation Act. The act represents the best consensus possible to achieve a sensible and sound long-run energy program. Other Senators, particularly those who participated in the 5-week conference, have presented these features in detail and argued persuasively why they should become law.

Anyone who has studied the energy issue knows that the United States cannot begin to manage its energy problems without providing for a national strategic petroleum reserve to protect the country from future oil embargoes, a mandatory program of fuel economy for automobiles, an energy efficiency labeling program for major appliances, authority to order the conversion of electric powerplants to coal, incentives for the development of new coal mines, federally funded State conservation programs, industrial energy efficiency targets, and Government access to industrial cost and pricing data. And, of course, S. 622 contains a hard-won compromise on the oil pricing issue, one that probably satisfies no Senator completely but one that, in my judgment, is the best we are likely to obtain in the foreseeable future.

Because the Energy Policy and Conservation Act contains these important provisions it should be approved by the Senate and signed by President Ford.

My purpose in these remarks, however, is to underline for the Senate the likely consequences of S. 622 not becoming law.

As chairman of the Energy Subcommittee of the Joint Economic Committee, I want to stress the serious economic consequences that would occur if this legislation should fail of passage or be vetoed by the President.

Next week the Joint Economic Committee's staff evaluation of the administration's current services budget will be released. Without going into detail prematurely, I can say that this report underlines the highly fragile nature of our present economic recovery.

It points out that by the middle of next year we are likely to be at a point where growth in output will be barely adequate to prevent a new rise in unemployment. Many of the factors in the current recovery, such as the sharp growth of business inventories and the recovery of residential construction, will have subsided. Similar economic analyses have been prepared by the Congressional Budget Office and the Budget Committees of the Senate and House.

In other words, our present economic condition will not permit any additional and unanticipated shocks, such as the sharp rise in fuel prices that surely would occur if all domestic price controls lapse.

Immediate decontrol of oil prices would mean a direct $20 billion loss in the gross national product. It would mean an increase in unemployment of at least 1 million workers by 1977. And it would bring about an increase in the Consumer Price Index of at least 1.5 percent.

These economic consequences will raise havoc with an economy that already is in a very fragile condition. They will make almost impossible any serious efforts to enact a full employment bill, or a system of national health insurance, or reform of our welfare system.

We will be plunged back into the recession out of which we are just beginning to emerge. Such a development would have the most serious consequences for every American citizen, but particularly for those who already have suffered most from the disastrous economic policies of recent years.

Those would be among the most immediately economic consequences of the Energy Policy and Conservation Act not becoming law.

And, of course, our energy policy would be in total disarray. The one feature that is perhaps the most significant part of the pending bill, even though not a line in the bill is devoted to this provision, is the assurance of certainty in a host of vital energy policy areas.

Once this bill becomes law, producers and consumers of energy will know what to expect and can begin to make their plans accordingly. No longer will there be incentives to do nothing, to wait for Congress and the executive branch to make up their respective minds over energy, before taking decisions that in many cases have been postponed for years.

We will have a framework of basic law that we can continue to refine and improve. But the fundamental groundrules will be in place. We can get on with the business of making this country more sufficient in energy, with due regard for our international obligations and problems. The period of indecision and inaction will be over.

One final word on the subject of energy conservation. This bill contains some highly significant provisions that, at last, will begin a serious national program of conserving our limited energy. But I think it is important that Congress realize these are just beginning steps. Much more remains to be done before we fully capitalize on the tremendous potential that is involved in energy conservation.

There is no argument with the proposition that energy conservation is the least expensive, most rapid, and most environmentally acceptable way to increase the Nation's available supply of energy. Savings in the range of 25 to 35 percent over current levels are clearly feasible.

And these savings need not involve the sacrifice of jobs or a decline of economic output. To the contrary, a properly designed energy conservation program should provide significant stimulus in both areas.

The Energy Subcommittee will be examining the energy conservation potential in detail in the next session of Congress. It is our hope to develop a number of specific recommendations that can then be considered by the appropriate legislative committees and by the full Senate.

But these efforts can only have meaning if the present bill becomes law. That will provide the foundation on which we can build a comprehenive national energy policy that truly serves the needs and interests of the American people.

The PRESIDING OFFICER. Under the previous order, the vote will now occur on agreeing to the motion to concur in the amendment of the House to the amendment of the Senate to the amendments of the House to the bill, S. 622.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

(At this point Mr. Weicker assumed the chair.)

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh) is necessarily absent.

I also announce that the Senator from Alabama (Mr. Allen) is absent because of illness.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 604 Leg.]

YEAS—58

Abourezk
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Hart, Philip A.
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
McClellan
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Talmadge
Tunney
Williams

NAYS—40

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hatfield
Helms
Hollings
Hruska
Johnston
Laxalt
Long
Mathias
McClure
McGee
Montoya
Packwood
Pearson
Scott, William L.
Stevens
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—2

Allen
Bayh

So the motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. GRIFFIN. Mr. President, I send a modification of my amendment to the desk and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Senate will be in order. No further business will be transacted until the Senate is in order.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, I ask that the amendment that is pending, as modified, be stated.

Mr. McCLELLAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted, insert the following: "$205,600,000, none of which, nor any other funds appropriated in this Act may be obligated or expended to finance the involvement of United States military or civilian forces in hostilities in or over or from off the shores of Angola, unless specifically authorized by the Congress, which funds are".

Mr. GRIFFIN. Mr. President, in drafting this amendment——

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from Michigan will suspend.

The Chair wishes to advise the Senate that the Chair will not waste his breath or violate the ears of Senators until the Senate is in order.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, in drafting this amendment I have drawn heavily upon the actual language which was adopted in the so-called Cooper-Church amendment of 1973 which prohibited the use of U.S. military forces in hostilities in, over, or from off the shores of Indochina.

I offer this amendment because I share the deep concern which I know most of my colleagues have about the possibility that we might slide into another Vietnam by any involvement whatsoever in Angola. I share the concern of those who wonder about the possibility that some covert assistance by the CIA might lead to the use of advisers, and that might ultimately lead to the introduction of military forces. I share the view that we ought to slam the door and keep it closed from the outset on any possibility that any American military forces or civilian forces could be used for military purposes in Angola.

But I think Senators should realize that the reach of the Tunney amendment goes much further than that. The question my amendment, which is really a substitute, poses is: Do we want to close the door, tie the hands, and cut off any and all flexibility of the executive branch in this situation.

In other words, should there be no way that we can provide any assistance to the majority of people in Angola who are resisting Soviet imperialism at the present time?

I am not ready, frankly, to endorse the use of funds for covert purposes in Angola, but neither am I ready to say that the executive branch should not have some flexibility.

Mr. President, before we vote on this issue there are some facts that need to be recited that were not mentioned earlier.

The Soviet Union has spent vast sums of money in support of the MPLA, sums far larger than we have talked about here.

In a clear act of international aggression, Cuba has sent thousands of well trained and equipped soldiers—Jack Anderson reports there are now 6,000 Cubans fighting in Angola—and it is clear from press accounts that these soldiers, armed with Soviet tanks and rockets, are largely responsible for the military successes of the MPLA. Other estimates differ between 4,000 and 6,000.

Mr. PASTORE. Will the Senator yield for a question?

Mr. GRIFFIN. Will the Senator allow me to make a few points, and then I will be glad to yield.

Mr. PASTORE. Of course.

Mr. GRIFFIN. The majority of the people of Angola do not support the MPLA, which at best is credited with the support of 25 percent of the population. Fighting against them—and presently losing because of the massive Soviet and Cuban intervention—are a clear majority of the people under the leadership of the UNITA-FNLA coalition.

While both UNITA and the FNLA have called for an end to the fighting and for free elections to determine the will of the people—as envisioned by the "Alvor Agreement"—the Soviet-sponsored MPLA has refused to agree to elections and is trying to seize control of the entire country by military force.

The stakes in Angola are high. Writing in a recent issue of The New Republic—not exactly the organ of conservative thinking—Tad Szulc observed:

> There are numerous reasons for this Soviet interest. Quite aside from its wealth—oil, diamonds, sugar and coffee—Angola is strategically located on Africa's west coast. Control would give Moscow a military presence on the South Atlantic. The Soviets have a foothold in Cuba in the Caribbean and a foothold in Somalia right below the entrance to the Persian Gulf. Bases in Angola, if they were to be obtained, would be crucial in supporting the Soviet fleet both in the South Atlantic and the Indian Ocean, thus facilitating operations along the oil tanker routes around Cape Horn. . . .
>
> If the MPLA reconquers Lobito and south-central Angola, the Soviets may have a major say in the operations of the Benguela Railway, possibly placing Zaire and Zambia at their mercy in terms of copper exports. Finally a Soviet-controlled state in Angola would add to the pressures on the white regimes in Rhodesia and South Africa.

Angola has implications for the policy of détente with the Soviet Union as well. After the fall of South Vietnam last April, the Soviets again began to voice strong support for "wars of national liberation" and to assert the Communist victory in Vietnam was a success for the Soviet Union's Leninist foreign policy. As the Washington Post editorialized on November 26:

> Moscow perhaps sees a post-Vietnam international setting in which its own power is waxing and American power, or American resolve, is on the wane. Angola may be a test case to establish how much Soviet intervention the international traffic will bear.

I could go on and on, but I only go through this to emphasize and underscore that we have a very critical, very serious and far-reaching international issue before us. I am not convinced that it is in the national interest to deny the executive branch, with one broad stroke of the pen, the flexibility necessary to carry out U.S. foreign policy in a dynamic and changing situation, which is what the Tunney amendment seeks to do. By contrast, using the Cooper-Church language, my amendment would make it clear that none of these funds—and if I could do so under the rules of the Senate, without having it ruled out of order as legislation on an appropriation bill, I would say funds not only under this bill, but under any act—could be used to support any U.S. personnel for military action in Angola.

I think we all agree on that. I would urge the Senate not to adopt the Tunney amendment, but to take the language that I have offered as a substitute, which it seems to me would make very strong policy, but would be the kind of statement with which we could all live. It would not put any stamp of approval upon CIA covert action with regard to Angola, but it would leave the Executive branch with the kind of flexibility in the implementation of foreign policy that it needs to have.

Several Senators addressed the Chair.

Mr. GRIFFIN. I yield to the Senator from Rhode Island.

Mr. TUNNEY. Mr. President, who has the floor?

Mr. PASTORE. Mr. President, I do not believe there is any dispute at all——

The ACTING PRESIDENT pro tempore (Mr. STONE). The Senator from Michigan has not yielded the floor, has he?

Mr. PASTORE. No, he yielded to me for a question.

The ACTING PRESIDENT pro tempore. The Senator from California is advised that the Senator from Michigan still has the floor.

Mr. PASTORE. I quite agree with the Senator from Michigan that we all understand the criticality that exists in Angola, and we all realize, too, that we do not want to get into another Vietnam. We are trying to avoid that.

But my question is this: The Senator speaks of a flexibility that he would like to give the administration. What does he envision that can be dealt with with flexibility? What would he do? I mean that is the question that is before this body. How far would we go?

Mr. GRIFFIN. As I understand, based on press reports—and I will use that preface rather than try to relate what might have been conveyed in any secret sessions—this would be in terms of financial assistance which would go to, perhaps, a neighboring state, that would, perhaps, be channeled to these forces to help them resist. To help them. It could be in terms of military equipment, or——

Mr. PASTORE. I do not want to get into any classifications, but would the Senator use the CIA as a channel? I mean they are the ones that have gotten us in trouble in many parts of the world.

Mr. GRIFFIN. I do not disagree with the Senator from Rhode Island that the CIA has in the past made mistakes and gotten us into some trouble, but I think the question here is whether we can do away with the CIA, and do away with the possibility of any covert action.

Mr. PASTORE. No, I want them for counterintelligence. There is no question about that. But where does the Congress of the United States come in, as we get into these things step by step by step? I would like to have something a little more explicit, if we could.

Mr. GRIFFIN. I do not think we should go as far as the Senator from California (Mr. TUNNEY) would have us go, at least on the record at this point. I would go as far as my amendment proposes, which I think the Senator would agree would be a long, solid step. But I wonder if we have the knowledge, I wonder if we have the information, that we should have before we tie the hands of the Executive to the extent that the Senator from California is asking us to do.

Several Senators addressed the Chair.

Mr. GRIFFIN. I yield to the Senator from Louisiana.

Mr. JOHNSTON. I presume that under the Senator's amendment, the United States would continue to give aid until something happens. Generally that means until we win. I wonder, in the case of Angola, if the Senator's amendment passes, what event do we look to as the point at which we can say we have achieved our goal, that we have achieved our objective, and we can stop, now, giving aid?

Mr. GRIFFIN. I cannot answer the Senator's question, and I would not presume to. As I have indicated, I am not necessarily advocating that we do anything in this particular instance. I am only saying I do not think we should close the door and make it impossible for the executive to have some flexibility at this point.

Mr. JOHNSTON. We are talking about the spending of some $50 million American dollars and getting on some kind of, perhaps, long-range commitment. Do we have any goals in Angola?

Mr. GRIFFIN. This is a 1-year appropriation bill, so if the Senator is talking about getting another crack at it, obviously the appropriation bills come along every year. We are not making a decision of any kind, it seems to me, of the nature that the Senator from Louisiana is concerned about.

Mr. JOHNSTON. I would hope that someone would try to define as clearly as they can for my edification, and I am seeking information, what our goals are in Angola, because I think that was one of the problems in Vietnam. I do not think this will lead to another Vietnam, but that is one of the problems if we get into one of these things without having a goal. We do not know when we have achieved our objective, and there is no end to it. Pretty soon it gets to be just a question of credibility.

Several Senators addressed the Chair.

Mr. GRIFFIN. Mr. President, I am willing to yield the floor to others.

The ACTING PRESIDENT pro tempore. Senators will suspend momentarily until we can get order.

The Senator from Michigan still has the floor.

Mr. CLARK and Mr. BIDEN addressed the Chair.

Mr. GRIFFIN. I think the Senator from Delaware was on his feet first.

Mr. BIDEN. Mr. President, I would like to ask the Senator from Michigan a question, if I may.

He has read a portion of an article from the New Republic, stating that a Russian dominance in Angola would give them a strategic foothold in the South Atlantic. The article went on to cite the wealth of the country with reguard to oil, diamonds, and the railroad that goes through Angola, and the pressure that would be brought on Rhodesia and South Africa.

I would like to ask the Senator whether or not he believes that there would be a strategic advantage gained by the Soviets, and what that advantage would be, with regard to the United States? How would that affect our interests? Secondly, what difference does it make to us? What difference should it make to us? What pressure is placed on Rhodesia and South Africa? I assume the author is talking about exacerbation of the black-white conflict that exists there. What is the United States interest in either of those situations, assuming they are true?

Mr. GRIFFIN. I was quoting from the article in the New Republic. I do not depend on everything that is said in it, and I am not here advocating that this should be our policy. I am only saying I am not ready to say it should not be. That is my point.

Mr. BIDEN. Does the Senator believe we have any strategic interests in Angola?

Mr. GRIFFIN. I think that the location of it, the geopolitics of it, indicates that we ought to be very much interested and concerned about the establishment of a Soviet satellite in Africa; yes.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GRIFFIN. I am glad to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. For the probable edification of my friend from Delaware, before we took the very liberal attitude of encouraging our friends around the world to quickly dispose of their colonies, the United States could depend on, I believe, 16 or 18 ports around the world. If Angola is lost to the Soviets, we have only eight now. This in itself is a matter of great strategic importance to the United States, because as long as we depend on oil from the Middle East, and that will be for some time, the oil that is delivered to the United States by way of the Atlantic would pass Angola at the smallest part of the South Atlantic, and possible enemy controlling the two ports, one good port and one not so good, in Angola, could, if they wanted to, use Angola as a base to prevent or slow down shipments of oil to the United States.

I see this as a definite strategic advantage to any country that could wind up friendly with whatever government we may find in Angola.

That is the reason I think it is to the United States' interest to pursue this.

We are having a difficult time, for example, in this Senate and in this Congress getting a group to agree that Diego Garcia is an important place in the most strategic place in the world, in my mind, the Indian Ocean, for much the same reason that I am reciting our loss of friendly ports around the periphery of Africa.

So I am trying to add whatever I can to this discussion as what I see that particular part of South Africa as being of value and vital to our strategic interests.

On the other hand, I might be completely wrong. We might find the Soviets on our side some time. So far, we have not had that pleasure. Until we do, I think it is of the utmost importance to the United States to maintain friendly relations with countries, even though we may disagree with them on the use of ports, and so forth.

Several Senators addressed the Chair.

Mr. BIDEN. As I am sure the Senator knows, we have made little or no use of those two ports, as long as they have existed and have been available to the United States.

Mr. GOLDWATER. That is correct.

Mr. BIDEN. I am sure the Senator knows that.

Mr. GOLDWATER. Yes. We have not made particular big use of other ports, but we had them accessible. If the Soviets have control of whatever government ends up in Angola I say, with some assurance, we will not have access to those ports. One of them is not too good. The other one is so-so.

Several Senators addressed the Chair.

Mr. CLARK. Mr. President, will the Senator from Delaware yield?

Mr. BIDEN. Yes.

Mr. CLARK. I wish to ask the Senator from Michigan about his amendment.

As I understand it, the amendment would do absolutely nothing to affect our present activity or our planned activity in Angola. It would rather address itself to a very important question and indeed important enough, I think, that if it were added to the Tunney amendment, rather than substituted for it, it ought to be adopted because it does say that no American personnel, military or civilian, should be used in Angola. I think that is a good addition to the Tunney amendment.

Unfortunately, it is offered as a substitute. The question before the Senate, of course, is whether we ought to continue covert activities of the kind that we have already entered into and planned to continue. It does absolutely nothing, as I understand it, with any of the military assistance programs, any CIA activity, any credit arms sales, any commercial sales, paramilitary activities, or payments of cash. None of those, as I understand it, will be affected by this amendment.

Am I correct in that?

Mr. GRIFFIN. The Senator is correct. Let me respond that the amendment would serve a very important purpose, however, by making sure that such involvement, as we might have in an indirect way through covert activities, would not escalate into the introduction or the use of any American military or civilian personnel in the hostilities.

Mr. CLARK. I compliment the Senator on his amendment. If it were to be withdrawn and added to the Tunney amendment, instead of a substitute for it, I would support it.

Mr. GRIFFIN. And to the extent that Senators have a concern or a fear about that kind of a slide into a Vietnam situation, it seems to me that my amendment would answer that concern.

Mr. CLARK. One further question. As I understand it, then, if we were to continue the present activity, we could put millions of dollars of military assistance in as long as it was done under the present kind of legislative or legal arrangement whereby covert activities could be continued as long as no civilian or military forces of the United States were involved.

Mr. GRIFFIN. The Senator knows as well as I that there are limits in this appropriations bill. When he talks about millions and millions he is talking about years down the road.

Mr. CLARK. Yes.

Mr. GRIFFIN. He is not talking about this appropriations bill.

Mr. CLARK. But it would apply, as I understand it, only to personnel, military and civilian, and in no way affects the present activities that are occurring?

Mr. GRIFFIN. It is almost the exact wording of the Cooper-Church amendment.

Mr. CLARK. I thank the Senator.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to make the following points:

First, in regard to comparing the Griffin amendment with the Tunney amendment I should make clear, and I have already expressed myself to the distinguished Senator from California, if I had my way his amendment would be even tighter than it is. In other words, there is a third option here. I consider the amendment of the distinguished Senator from California and the distinguished Senator from Massachusetts to be in the middle ground. I would not exempt intelligence gathering, such as is done by the Tunney amendment. After all, that is supposed to be the only duty of the Central Intelligence Agency, but they have used that as a pretense for engaging in all sorts of other activity. In my opinion, the very fact that the Tunney amendment exempts intelligence gathering leaves a door wide open that they could drive a truck through.

If I had my druthers, I would like to see it eliminated.

The fact is that allegations have been made that in the past, under the name of intelligence gathering, Mr. Mubutu was on the CIA payroll. Would President Mubutu still qualify to be on the CIA payroll?

These are questions that have been raised. These have been the abuses in the past.

Clearly they could still continue under the language of the Tunney amendment where it stages, "this act may be used for any activities involving Angola other than intelligence gathering, which funds are".

I told the Senator from California that it was my intention to eliminate "other than intelligence gathering," so it would read "nor any other funds appropriated in this act may be used for any activities involving Angola, which funds are."

Point No. 2, there is another loophole in the Tunney amendment. What happens to those funds that are channeled through Zaire into Angola? And believe me, that has been the case. What about replenishing the funds of Zaire? That never appears in this amendment. Yet, on the basis of past history, it will be necessary to do that.

The only reason I make these points is I wish our colleagues to clearly understand that some of us feel that in some ways the amendment of the distinguished Senator from California and the distinguished Senator from Massachusetts is not tight enough. Because I think it is necessary for us to go on record in a practical way, I accept this type of compromise, but that is exactly what I consider it to be, a compromise between my position and the position of the Senator from Michigan which is even more open-ended.

Several Senators addressed the Chair.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. WEICKER. I will yield for a question, but I have a couple other points that I wish to make.

Let me yield first to the distinguished Senator from California for a question and then to the distinguished Senator from North Dakota.

Mr. TUNNEY. Mr. President, the Senator indicated there were two rather substantial loopholes in the amendment in that it would be possible, through the intelligence-gathering language of the amendment, to allow more military and paramilitary aid to be given to Angola, or in the alternative, that it would be possible to channel this aid through a third country, such as Zambia or Zaire.

I point out with regard to the second loophole suggested, the diversion to a third country, that the language of the amendment reads "nor may any other funds appropriated in this act be used for any activities involving Angola other than intelligence gathering, which funds are," and so forth.

Additionally, the way the amendment was drafted by Senator CLARK, Senator CRANSTON, Senator BROOKE, Senator KENNEDY, and myself, we had the language "in Angola" rather than "involving Angola" and we changed "in" to "involving" to close that precise loophole that the Senator suggests still exists.

I do not think it does exist, because I think the word "involving" proscribes any diversion of aid from Zambia or Zaire or any other third country to Angola.

Second, with regard to the first objection——

Mr. WEICKER. I say to the distinguished Senator from California this is the second part of his question.

Mr. TUNNEY. Yes. I shall ask the Senator at the end of my point whether or not he agrees with me.

The ACTING PRESIDENT pro tempore. Will the Senate be in order?

Mr. TUNNEY. The second point is that there is a great difference between covert actions and intelligence gathering.

There is no doubt that some of us feel that the United States should have the ability to gather intelligence in any foreign country where it is going to be advantageous to the United States' foreign policy interests. Clearly, the gathering of information as to what is going on in Angola would be advantageous to our general foreign policy interests. However, some of us feel that covert actions would be seriously detrimental to our foreign policy interests. That is the reason why we use the words "intelligence gathering."

I know that other Senators who have sponsored this amendment are going to speak to this point, but it is certainly my intention, by using this language, not to allow for the shipment of any military equipment or paramilitary equipment to Angola. The purpose is to allow simply the use of funds for the gathering of intelligence.

I ask the Senator from Connecticut, after having heard that explanation, whether he agrees.

Mr. WEICKER. I am satisfied in regard to the first point the Senator from California made in responding to my second point—specifically, the way the amendment is drafted now, it would prevent the use of that money being channeled through third parties.

On the other hand, I am not satisfied as to the language of that amendment locking the loophole since it refers to intelligence gathering, for the simple reason that that is the mandate that presently rests upon the CIA, and it is used for every activity under the Sun. I do not think they are going to pay any more attention to this law, if it becomes such, than they do to the present law.

I think the Senator from California will agree with me that the way this language is written—let me give a specific example and ask a question, without my yielding the floor—it would be possible still to go ahead and have Mr. Holden Roberto on the CIA payroll even with this language, would it not?

Mr. TUNNEY. It would be possible to put people on the payroll for the purposes of gathering information but not for the purposes of allowing an individual to fight in a guerrilla war.

Mr. WEICKER. Mr. President, I yield for a question to the distinguished Senator from North Dakota.

Mr. YOUNG. Is it not true that the CIA now has less than $10 million of unobligated funds that could be spent in Angola? If the Tunney amendment were defeated, they would have no more funds approved until Congress approved reprograming for additional funds, and that requires the approval of the chairman and the ranking member of the Appropriations Committee, the Armed Services Committee of the Senate, and the same in the House—the Appropriations and Armed Services Committees. They would get no more money until then. So, at best, it would be until January, until we meet again and hold meetings or hearings, before they would get any more money. Under our procedure, if one of those eight members of the House and Senate committees disapproved, they would get no more money at all.

The advantage of this would be that the administration would have a chance to present its side of this issue to the members of the House and the Senate committees.

I do not think we should act abruptly this way.

Mr. WEICKER. I have to respond to the distinguished Senator by saying that, unfortunately, we do not know what money the CIA does have. That is one of the bones of contention on the floor of the Senate today—not just as represented in this piece of legislation, but God knows where else it is squirreled. I do not know the answer. I do not think anybody else does, either. I do know that we have to draw the line with respect to policy. That is what is being attempted on the floor of the Senate today.

The other point that has been made is that the United States is involved with two of these factions, one in conjunction with the Chinese, another in conjunction with the South Africans.

Let me point out that the United States is involved with all three factions. As I understand it, the Gulf Oil Co. pays into the banks of Luganda some $100 million a quarter, in the way of oil royalties or what have you; and that this money is being used by the Russian-backed factions. So, in effect, American dollars, of either governmental entities or this private corporation, are backing all three factions. I think that is a good time to get out. If we are going to be among all three, we can get out and leave everybody at the same time.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WEICKER. I would like to finish.

The figure that has been used regarding additional funding for the CIA has been anywhere between $28 million and $35 million. The escalation has been far greater than that. As I recall, the initial requests in this area were around $6 million. It was also my understanding that at one point, until obvious hostility appeared, the initial request was for $100 million, and that this was pared back to the $35 million which has been referred to on the floor of the Senate today.

Then, again, when it comes to exactly how much money is being spent, it is also my understanding that the CIA has acknowledged some $17 million as the cost of ordnance supplied into that country. Yet, the cost figures are rather amazing. For example, a .45-caliber pistol is listed at $5. That is a rather interesting price. So that, actually, the $17 million that already has been spent on ordnance probably is far lower than the actual figure.

Mr. President, in conclusion, I would only say that I concur completely with the amendment as proposed by the distinguished Senator from California, in that this body is finally waking up to its obligations, and to the fact that wisdom, patriotism, and loyalty do not reside just in the older heads in Washington, D.C., whatever the branch of Government. Rather, those things are in abundance on the floor of the Senate, in the House, and in the executive branch, and better decisions are made when all participate rather than a few.

If there is one thing we should have learned from Vietnam it is that our concepts of politics on any of these continents have to be tuned to facts and historical reality, rather than to a frame of reference born of the cold war after World War II.

I think this fact has become clear, for example, in relations between China and Vietnam. China is no longer enthusiastic about Vietnam and they are reverting to their traditional and historical roles of antagonism toward each other.

Believe me, no white superpower is going to establish itself on the continent of Africa. It is not going to happen. The Soviet Union is a society far more racist than ours. I do not think they stand a prayer of establishing themselves on the African continent. No white nation will do that.

Therefore, I discount that argument, as I discount the rationale in Vietnam, where our reason for entering the war was that China was going to benefit enormously, regardless of what history had taught us up to that point. Now we are asked to act regardless of what history has taught us about Africa.

I support the Tunney amendment. I think it is clear that the involvement of this country in Angola is even greater than that which has come to public attention or to the attention of the U.S. Senate. As a matter of policy, I think it is time that we drew the policy and drew it here, tonight.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. Mr. President——

Mr. WEICKER. I yield to the distinguished Senator from New York for a question.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has the floor. The Senator from California is seeking recognition, but the Senator from Connecticut has the floor.

Mr. JAVITS. Mr. President, the Senator has pointed out various loopholes in the Griffin amendment. But is it not a fact that the major loophole is the very avoidance of the very issue we are debating? We are debating now whether to give military assistance to Angola. That is the issue, because that is what money is supposed to be in this bill somewhere.

The Tunney amendment says:

> Nor any other funds appropriated in this act may be used for any activities involving Angola, other than intelligence gathering.

That would include military assistance, not personnel.

By the way, I point out that the Griffin amendment is covered fully by the War Powers Act. That is why we passed it. If we are going to put people in hostilities or imminent danger of hostilities, we have a tight arrangement to cover that.

I ask the Senator: Is it not a fact that if we adopt the Griffin amendment, we simply allow an administration to proceed as it is proceeding in the very thing that we feel we have joined in—to wit, giving military materiel assistance in or about or directly or indirectly to the Angolan struggle?

Mr. WEICKER. If we adopt the Griffin amendment, that is correct. The Senator is correct.

Mr. JAVITS. Mr. President, I should advise my colleague that I hope—even if it is adopted, and I hope it is not—to add the necessary language to close that door, because that is exactly what we are arguing about.

Mr. WEICKER. I yield the floor, Mr. President.

Mr. TUNNEY. Mr. President, I wish to make a few points as to what the Tunney-Brooke amendment does and what I think the Griffin amendment does not do. Then I shall yield the floor very quickly, because there are others who have spent a great deal of time on the subject of military assistance to Angola who are very knowledgeable—men such as Senator CLARK, Senator CRANSTON, Senator BROOKE, and others.

I wish to point out, No. 1, that it is the intention of the authors of this amendment that intelligence-gathering does not mean military aid of any kind. It does not mean the financing of military forces in Angola. It does not mean ferrying or transporting forces or equipment to Angola or to any other country so that they may be shipped to Angola.

It is very clear, at least to the drafters of this amendment, that what we mean is that the moneys under this defense appropriations bill can only be used to collect intelligence.

I know that we may have entered the world of double talk or "newspeak," as George Orwell referred to it, when the precise meaning of words does not mean to a party who does not want to agree to it what the drafters of the language intended. But we intend—and this is, hopefully, legislative history—that this money can only be used for the collection of intelligence, but certainly not for any military or paramilitary activities whatsoever.

The problem with the Griffin amendment, as the Senator has offered it, is that it is, in effect, a substitute for the language which proscribes the use of funds for military or paramilitary activities. The Griffin amendment says that we cannot send troops to Angola, but it would certainly allow us to continue to spend money to support one, two, or more factions that are fighting in Angola. That, of course, is the problem that some of us feel is going to destroy our foreign policy interests in Africa and other parts of the world.

To give an example of how tricky the problem is, I just heard from my distinguished colleague from Hawaii (Mr. INOUYE) that he was approached by the administration to permit fund transfers through Zaire, in his position as chairman of the Appropriations Subcommittee on Government Operations. He refused, and his committee is going to continue to try to plug up this hole.

That is how tricky it is. Here we are, trying to participate in foreign policy decisions through the use of the purse strings, and we have a perfect right to do that under the Constitution, and the executive attempts to nullify our actions by slipping in secret appropriation measures that nobody knows anything about. Certainly, from the language that is contained in the bills that come before us, there is no way of finding out whether the money is intended to support military or paramilitary activities in places such as Angola.

As to the merits of cutting off funds to Angola, I think it is quite clear that we have spent many tens of millions of dollars in the past year in Angola supporting UNITA and FLNA. It is also clear that UNITA is being supported by South Africa. It is clear that the FLNA has been supported in the past by Communist China.

It is also clear that the MPLA, which is being supported by the Soviet Union, and which is the third faction, has been supported by 14 black African countries, who are ardent in their opposition to South Africa.

Dr. Neto, who is the head of the MPLA faction, is a protege of the Socialist, Mario Soares, in Portugal. Mario Soares is the Socialist leader who is considered moderate, who is supported in Portugal by the United States.

Mr. McGOVERN. Will the Senator yield on that?

Mr. TUNNEY. Yes.

Mr. McGOVERN. Is it not a fact that when the Chinese discovered that the South Africans were coming in to back the same two factions that we had supported along with the Chinese, they thought that was time for them to get out, that they did not want to be identified on a black continent with a government that is thought to be a racist white government? Therefore, they made a political judgment, without regard to the financial cost, that they did not want to have anything more to do with backing these two groups that, previous to that time, we had supported with them.

Mr. TUNNEY. That is correct. That is my understanding.

Mr. McGOVERN. The Senator, I know, has studied these three factions that are struggling for control in Angola. I can say that I listened to the briefings of the CIA people and the Department of State and others for hours about these groups and what they were attempting to do. Does the Senator understand where the American interest is involved in any way with the triumph of one of these three groups? In other words, what difference does it really make to the security of the United States whether the MPLA or the FNLA or the so-called UNITA group wins? Why do we really care in terms of anything that affects the interests and well-being of the people of the United States—or, for that matter, the interest and well-being of the people of Africa?

Mr. TUNNEY. I do not see how it makes a great deal of difference other than the fact that, apparently, our Secretary of State has a particular fear of Soviet involvement anywhere. He feels that the Soviet Union has decided to challenge the United States in Angola, and therefore, he is apparently prepared to escalate our assistance to other factions, despite the fact of their being backed by the South African Government, and despite the fact that many observers feel that there is no way that the two factions that we are backing can possibly win.

It does not make any sense to me. I was talking the other day—yesterday, as a matter of fact—to three representatives of the CIA. They are knowledgeable about Africa. This is their specialty. I was asking them whether it made much difference which group, which faction, won. The answer was that they saw that it made very little difference, that there was practically no ideological difference among the three groups and that it was clear that all three groups were primarily pro-Angolan. They were only nominally pro-Soviet or pro-Marxist, or pro-American; they were basically pro-Angolan, Socialists, and highly nationalistic. It seemed clear to them that, whether the Soviet faction won or one of the other factions won, they were going to be independent. They were going to run their government in an independent fashion.

I have not been, as Senator CLARK has, to Angola. I have not met with the three leaders and Senator CLARK is going to have an opportunity to tell us in a few minutes what his experiences were there. But it is clear to me that there is no real foreign policy interest which justifies the United States pouring tens of millions of dollars, and perhaps eventually, hundreds of millions of dollars, down a rathole, causing more death and destruction in that country, siding with South Africa in a way that is going to alienate all the other black African nations.

It is clear, also, that a country like Nigeria, which is so important to the United States—it is our second largest foreign source of supply of oil, our most important source of sweet crude—low-sulfur crude—is going to be outraged and alienated if the United States, over a period of months and years, is supporting a faction that is being supported by the South Africans, inasmuch as the Nigerians have been some of the principal leaders in black Africa against the white government in South Africa.

Mr. McGOVERN. Is the Senator not saying in effect that that is why the Chinese were smart enough to pull out? They did not wait until some legislative body in Peking ordered them to get out, they saw the handwriting on the wall. When they saw the South African Government move in behind us in support of these two other factions they thought it was time to get out in terms of their own posture in Africa.

I would like to ask the Senator one other question. Has not the Soviet record of intervention in Africa generally been a self-defeating one? In other words, in one country after another where they have played this kind of a heavy-handed role they have turned out to be unwelcome. They have had, perhaps, not as painful an experience as we have had in Vietnam, but they have discovered that a white imperialist government is not popular in Africa; is that not the case?

Mr. TUNNEY. I think that is the case.

Mr. McGOVERN. It seems to me the logic of the argument we have heard here that because the Soviets have backed the MPLA faction that we have to back one of the other two, that would lead us to the conclusion that if the Soviets decide tomorrow to change their backing to one of the others, then we have got to suddenly change our ally and maybe back the ones the Soviets have been backing today.

The whole thing seems to be so preposterous that I cannot understand why this Government would even consider pouring tens of millions of dollars into one of these particular factions.

We read in the press this morning that some $60 million is being invested in activities by our Government to support the so-called FNLA and the UNITA group.

I do not think it makes 60 cents worth of difference to the interests of the United States which one of these three groups ultimately prevails. I hope the Senator's amendment will be adopted.

Mr. McCLELLAN. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. I will be glad to yield to the chairman of the committee, and I will then yield to the Senator from Ohio.

Mr. McCLELLAN. I want to assure the Senator I ask this question for a sincere purpose of getting information. If we have no legitimate interests there, if it means nothing to us that Russia takes——

Mr. McCLURE. Mr. President, will the Senator use the microphone. We cannot hear him.

Mr. McCLELLAN. All right.

What I am trying to ask is if we have no interest there, if it means nothing to us who controls it or who does not, why does it mean so much to Russia? Can the Senator give me that answer?

Mr. McGOVERN. Is the Senator asking me that?

Mr. McCLELLAN. I would like to know. They seem greatly concerned and are spending a lot of money. There is something there for somebody or something or they at least—they are either stupid or they think there is.

Mr. TUNNEY. I think we have to be concerned about Soviet intervention in Angola and other parts of the world. I think it is clear that the Soviet Union is expansionist and clearly the Soviet Union wants to royal the pot wherever they can. Of course, they are going to try to do it. Certainly I am not suggesting that the United States become pacifist.

I believe in a strong, adequate defense posture, but I say one of the ways or the most important way to handle the Soviet involvement in Angola is to go to the heart of the problem—the Soviet leadership. We are just about to enter into or we have entered into a grain agreement with the Soviet Union where we are going to be sending them food that they need desperately, apparently not only to feed their own people but to live up to commitments for grain exports they have made to satellite countries, and there does not seem to me to be any reason why we cannot use this as one bargaining chip to encourage them to make détente a living, vital force rather than a sham.

The Soviet Union, as the Senator so well knows has stretched the SALT agreements to the limit. Perhaps we should suspend the SALT talks for a time as a signal to them if they are going to continue their intervention in Angola.

Additionally, there is no reason for us to transfer technology to the Soviet Union without some compromises on their part. But what we do not have to do, in my view, is to spend tens of millions of dollars and come down on the side of South Africa, perhaps endangering the moderate regimes all over the rest of Africa.

I think there are many reasons why we can be deeply concerned about the Soviet intrusion in Angola, and we can do things to meet that intrusion other than spending our treasure and causing great problems to the supporting of military and paramilitary activities in that country.

Mr. HUMPHREY. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. I had not quite finished.

Mr. HUMPHREY Go ahead then, please.

Mr. McCLELLAN. I understand the Senator feels, do I understand the Senator feels, the way for us to combat Russian expansion is to simply cease to have business relations with them by not selling them grain and not having other business transactions? Is that the answer the Senator uses?

Mr. TUNNEY. Not at all. It depends on the place. If the Soviet Union were to intrude upon Western Europe I would be prepared to use military force as our NATO allies and treaty agreements provide. I would not be prepared to use tens of millions of dollars in Angola when it will only result in a further deterioration of our relations with the great majority of African states.

I do not think it is a good thing for the taxpayers of this country to have to have once again an open-ended secret commitment made in an underdeveloped part of the world which is going to produce more inflation, more disruption and dissent, and higher taxes, and the Senator knows it as well as I. It is also going to result in a greater loss of national security as a result of the damage it is going to do to our relations with pro-American black African states.

Mr. McCLELLAN. I may say to the Senator I do not think I could be accused of squandering money of foreign governments. I voted against all the foreign aid ever since 1954.

Mr. TUNNEY. Here is another chance. [Laughter.] I urge the Senator to accept my amendment.

Mr. McCLELLAN. I know this is another chance, but I will be asked before the end of this session of Congress, and I am asked now, to vote for billions of dollars to combat Russia in other places of the world.

Now, she is expansionist, the Senator admits that. I am not saying necessarily this money should be spent, but I am trying to get this thing in its proper perspective. If this is so valuable to Russia that she is willing to spend millions of dollars, as she is, to gain control, evidently she thinks it is of some value to her in a strategic plan of world expansion.

It may be that it is of no value to her. Maybe she is stupid and it may be she is mistaken. But, obviously, she feels it is of some great strategic value to her, and I assume of military strategic value for her to aid the forces she is aiding down there.

If she succeeds, I am not so sure that all of this expectation that has been expressed here that it will do them no good, they will not be able to control anything down there, I am not sure that can very well be depended on.

I am not overenthusiastic about any of this, but I do think we are going to put ourselves in a position here where it is going to look to Russia like it is going to look to our friends as if after we have gotten this thing all out in the open all around the world, every time Russia wants to expand and we are in that area then we start retreating. If this is going to look like a retreat I think it ought to be thought about again.

Mr. HUMPHREY. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. I want to thank the Senator for yielding.

Mr. TUNNEY. Yes, I want to thank my distinguished friend for his questions.

I promised to yield to the Senator from Ohio and then I will yield to the Senator from Minnesota.

Mr. TAFT. I thank the Senator for yielding.

I want to ask the Senator a question. Let me lead up to it with a preliminary remark or two. First, I feel very frustrated, as I am sure many of the Members of the Senate must feel frustrated, about how this issue has come up, about the information or lack of information with regard to it.

I have long had the view that we pretty much ought to stay out of Africa and African affairs, and I probably will vote with the Senator on his amendment when we get to it, and vote against the Senator from Michigan's amendment. But before doing that I think I ought to say I feel we are legislating a vacuum. To some extent we have had a limited presentation of what we have done. I do not think we have had any presentation of why we have done it to date. I do not think we have had any statement of what the objectives are. I do not think we have had any indication of what we plan to do from either the Executive or, for that matter, from the committees of of Congress.

This I find to be a very frustrating exercise.

There has been some discussion of the strategy involved and the strategic necessity of this area.

I am very concerned with this. I am currently in hearings on antisubmarine warfare looking at the entire South Atlantic problem. But so far as a review by the committees of the Congress, what really is the strategic impact of this, we have had none.

Here we deal with the CIA which is supposed to be in the jurisdiction of the Armed Services Committee. There was an inquiry yesterday as to what information they had with regard to the entire matter. They said they had absolutely no information with regard to it.

We have not had a hearing here on the whole issue.

Finally, we had the subcommittee meet and discuss it yesterday at great length, I know. But it always seemed to me when we passed a war powers resolution, one of the concomitant principles which I thought was involved, that I backed at that time, was that we were annually going to have a review in the appropriate committees of the various areas of activity in the world where we should have some concern.

We have not had that. We have not had a single hearing of the Armed Services Committee on this issue.

I just have to say, under those circumstances it seems to me the burden of proof is certainly upon those who advocate that we should be taking some particular action.

They may be absolutely right. The Senator from Michigan in his resolution may be absolutely right.

We have had discussions, at times, I know, in the Foreign Relations and Armed Services Committees to do this kind of thing at the beginning of a session. I had hoped we would start next year. I do not see much prospect, but I think we ought to start.

The other thing is that I think we have to take another look at what we have discussed before here on the floor, and that is the whole area of how we do report on covert activities, of how we finance them in the CIA.

I do not think there is any way today where we can trigger the kind of discussion and debate we want to have before we are called upon to make this kind of decision out of the present mechanism we have as far as the control of the CIA.

Does the Senator think both points are to what we should be looking at in the entire Senate?

Mr. TUNNEY. I cannot agree more. I think it was an excellent statement of what the basic questions are in this body. I feel as much in the dark as the Senator from Ohio. I want to thank him for his very good statement.

Mr. TAFT. I thank the Senator for yielding.

Mr. HUMPHREY. Will the Senator yield to me?

Mr. TUNNEY. I promised to yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, let me just, first of all, say that the African Affairs Subcommittee chaired by Senator Clark held hearings on the relationship of the United States to African countries, and that, in part, involved Angola.

The chairman of that subcommittee has taken his responsibilities very seriously and, with appropriate staff, made an extended tour in Africa, including Angola.

We have had 280 pages of testimony in the Committee on Foreign Relations in Africa, and primarily Angola.

So it is not as if we are totally unaware of what is going on there. To the contrary.

The point is that the administration never came forth on its own. The policy on Angola was being formed and fashioned in secret. It became what they call a covert operation which blossomed into a full-page headline in the leading newspapers of the United States, which in turn compelled Members of this body to say, "What is going on here?"

In the beginning of this year, in January 1975, we were involved in Angola to the sum of $10,000. We are now up to considering $60 million.

The issue here is not whether we ought to be helping Angola. The issue is who makes policy about help in Angola.

First of all, let us keep in mind that Angola is represented today by warring factions of three separate tribes.

By the way, I doubt that anybody in this body knows much about those separate tribes, their customs. their background, their hangups, their prejudices, and all that kind of thing.

We have decided to be on the side of two of the groups because of our involvement with Zaire and Zambia. We were helping because of their interests, primarily.

The Soviets got involved here, not in massive amounts in the beginning. They got in just like we did, a little at a time. As we stepped up the ante, they stepped it up. But the difference is they do not have any public opinion, they do not have a parliament that is really an open parliament, and their government can go willy-nilly, push vast sums of money into Angola or elsewhere.

But I am here to say, Mr. President, that every instance in Africa where the Soviet Union has expended billions of dollars, as it has in North Africa, hundreds of millions as it did in Egypt, in every country the spirit of nationalism triumphed over the intrusions of communism, and that ought to be remembered in this debate.

So we are talking about whether we are going to put a stop order on the activities of the executive branch of the Government through the CIA to establish policy by preempting the field before we get a chance in this Congress to know what is going on.

Now, we let this happen in Vietnam, I know. I was in this body when we had all too little information. Then I became Vice President and was surrounded by information.

Thank God we have now the opportunity to debate this in the open where at least we can have some conflict of opinion and some difference of opinion to air what could be one of the fundamental issues facing this Congress.

Angola today is a former Portuguese colony, really not governed, it is in a civil war and will be in one for a long time, the United States and the Soviet Union notwithstanding. For us to become openly involved when knowing so little is the blind leading the blind, the fools following the fools. It is just ridiculous.

Mr. President, let me say what the Defense Department can do here.

The Defense Department has a huge budget and it is possible within that budget to reprogram funds to the amount of $750 million with their programs.

That amount can be used for activities that this Congress would have no control over at all unless we insist that there be a justification for what is asked and what is done.

I call to our attention that we are not just talking about $28 million or $30 million. We are talking about a potential of three-quarters of a billion dollars of reprogramed funds. That is why this amendment of the Senator from California should not even deal with the money part of it, in terms of figures. It should really start out that none of which of the funds—none of which—none of which, nor any other funds appropriated in this act, may be used, et cetera, et cetera.

Mr. President, the Congress needs to review this entire matter of our relationship not only in Angola but in all of Africa.

How much money do we think we were making available for the whole continent before the Russians got involved in Angola? One hundred and fifty million dollars. For economic aid, for technical assistance, for medical help, anyone can name it, $150 million.

Now they have got 200 or more Russian advisers. They sent in some Russian rockets and, by the way, many of those forces do not know how to use them. They scare each other to death, according to the testimony we have had. They have got 3,000 or 4,000 Cubans there that really want to go home and, according to the testimony we have had, they are in serious morale problems.

Then all at once, in 1 month, we are going to put $60 million in to chase the Communists away when there is a whole treasure house in Africa, people crying out for their independence, people that are nationalistic more than anything else, and for years we ignored them, for years.

I was chairman of the Subcommittee on African Affairs until last year. I tried to do a little something about it with our Government to see if we could not get some basic interests in economic development, on reading, writing, arithmetic, on health and food.

Thank God DICK CLARK came here and took over that subcommittee.

I am privileged to chair the Committee on Foreign Assistance.

We have learned more the last year about what this Government is and is not doing in Africa than in the last 5 years. Why? Because when I asked for the money for this Subcommittee on Foreign Assistance, I said that we would exercise legislative oversight, and we have. The oversight tells us that the proposal that is being made by the administration is out of sight, unnecessary, and I think will lead us into incredible amounts of trouble.

Ten thousand dollars, my colleagues, a few months ago; $60 million now.

Who wants the Soviets in there? God only knows I do not. I believe the President of the United States ought to get that man Moynihan up at the U.N. who knows how to make better speeches than mine, every bit as loud and every bit as flamboyant, to go before the Security Council and lay it on the line and say "Out! Out!"

We ought to be using our good offices with members of the Organization of African Unity, telling them that we are prepared to go out tomorrow morning, to get all American assistance out, and ask them to try to settle this dispute.

As has been mentioned here, as my esteemed colleague from Illinois (Mr. STEVENSON) has noted, we do have other things we can use.

The Soviet Union says they want détente. They say they want trade; they want cultural exchange; they want high technology.

I would like to work with them. I am not a cold warrior in the sense of looking for a battle every day with the Soviet Union. The peace of the world depends on how we work things out. But we need to tell the Soviet Union that it is not a one-way street. We need to simply say to them, "Look, we are prepared to take step No. 1 of honor and decency to leave the people of Angola work out their destiny." Lord only knows, they will be fighting there for months. If any Senator here thinks he can make peace over there in a day or 2, he is a miracle man. He is the man we need. That would be the greatest Christmas present since the first Christmas.

Mr. President, the United States of American better start taking care of things it knows how to take care of. We know so little about Africa, the 800 and some tribes that make up Africa. Where are the experts here in the Senate on the 800 and some cultural organizations or tribes in Africa? I have traveled in those countries. I say it is like a different world. They are magnificent people. They want to be left alone.

The Soviets are in there, and they are going to mess it up? I will tell the Senate something; if I could figure it out myself, I would like to trap them in there. It is like quicksand. They would not know what hit them. They would have these rockets, guns, and halftracks and they will be fighting there for God only knows how long. But when it is all done, there will be a Nationalist Angola Government which most likely we will not like, most likely unreliable from our point of view because we like our old friends we can have coffee and tea with, an occasional martini or a bottle of beer. They do not always like it that way.

I suggest we take the amendment. I suggest further that we keep in mind what the Senate Foreign Relations Committee is asking us to do. We have laid out a procedure that if the President feels that Angola is a matter of high foreign policy, if he feels it is a matter of national security, then I want the President or his agents, the Secretary of State or the Secretary of Defense, to come before the appropriate committee of Congress, lay out what the request is, and, Mr. President, if there is a reason we ought to be there, I think the majority of the 100 U.S. Senators will concur.

Mr. ROBERT C. BYRD. Will the President yield?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. Does the Senator agree that it is about time we used a little bit of market basket diplomacy? The Soviet Union is having its problems with its wheat harvest. Why should we not let the Soviets know that if they are not going to live up to their signature on the Helsinki agreements, not only détente is going to be jeopardized but some of the future grain purchases are going to be jeopardized. Why not use that as a lever?

Mr. HUMPHREY. The Senator from Illinois has proposed such a resolution. I have been privileged to join with him. I ask Senators to take a look at it. We need to do basic legislation in this area, but in the meantime we have an immediate proposition before us. We have a conference report on the defense budget. I want to say again, Mr. President, that in that defense budget there is the possibility of the transfer of funds of three quarters of a billion dollars. That is just in the hands of people who can play games with the money. I submit that that amount of money ought to be under the control of my distinguished friend, the chairman of the Budget Committee. He ought to have something to say about it. And the chairman of the Appropriations Committee, the chairman of the Armed Services Committee and the members—not just the chairman. The chairmen have a responsibility, but members also have a responsibility.

I think the time is at hand to blow the whistle on this kind of transferability of such fantastic sums of money.

We are rewriting the Military Sales Act. We are rewriting the Military Assistance Act. I have been working at it for days. We are going to put a stop to this business of peddling arms all over the world. We are going to put a stop to this business of the executive branch deciding willy-nilly what it wants to do and after the fact we are dragged in and told "Here it is."

I want to say it is time to do it because great changes are underway in this country. This is but the beginning.

I commend the Senators from California and their cosponsors. It is not all we ought to have. It does not go to what

I think is an equal balance, but we have no choice. We cannot basically amend a conference report. All we can do, because of the technical situation, is to do what the Senator from California is asking.

I ask my colleagues to listen well. I am not known as a softy on these matters. I do not exclude the possibility of covert operations. I know that a president has to have authority. I do not want to cripple him. But what is needed in this country right now is a closer coordination and cooperation between the executive branch and the Congress. We must not permit, once again, the United States of America to go unknowingly, blindly, into a part of the world where we are so ill-informed. God only knows we are a world power with a half world knowledge, and that is how we got into Indochina. We are going to be involved in the same rotten mess in Africa unless we blow the whistle, and I am going to blow the whistle with my vote, loud and clear.

Mr. MANSFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. Mr. President, first I commend the Senator from Minnesota for making a speech which has gone right to the heart of the matter and which I think lays down a firm foundation as to what the foreign policy of this country should be in relation to the Angolan situation, which, as he pointed out, has developed with such suddenness from $10,000 donated on the part of this country, or allocated, in January to a figure approaching $35 million at the present time, and to which will be added something on the order of $28 million very shortly.

I do want the Senator to know how much I appreciate his comments. I, for one in this Chamber, have been fully aware for a good many years of the Senator's attitude toward the situation in Vietnam when he was Vice President of the United States.

I want to say that it was just about as close to mine as it could be, despite the reports which emanated from the White House and despite the difficulties which the then Vice President had to undergo.

I am sure that everybody is still fully aware of my feeling on Vietnam because it left scars on me and on us which will never, never go away but which must never, never be repeated again.

UNANIMOUS-CONSENT REQUEST SETTING A TIME CERTAIN FOR THE VOTE ON THE GRIFFIN AMENDMENT AS MODIFIED

Mr. MANSFIELD. Mr. President, I would like to propound a unanimous-consent request, and I specially ask that the distinguished Senator from Idaho (Mr. McClure), with whom I have had some discussions, will listen. I do so after discussing the matter with the distinguished acting Republican leader, the Senator from Michigan (Mr. Griffin), the chairman of the Appropriations Committee (Mr. McClellan), who has been so patient and so gracious in his handling of this bill, and the distinguished Senators from California (Mr. Cranston and Mr. Tunney).

I ask unanimous consent, Mr. President, that the vote on the pending amendment occur at the hour of 6:30.

Several Senators addressed the Chair.

Mr. McCLURE. Mr. President, I object.

Mr. MANSFIELD. Is the Senator inflexible?

Mr. McCLURE. Well, Mr. President, if I may explain the reason, I will reserve the right to object and then restate the objection.

We were in executive session, in closed session, this morning for 3 hours. About 15 minutes of the 3 hours were devoted to discussion of Angola, and about 2 hours and 45 minutes were spent discussing other matters.

We have now been on the pending matter since a little after 4:30, and I have been seeking recognition intermittently during that period of time, and have been on my feet now for the last 43 minutes awaiting recognition.

This has not been a debate, it has been a monologue. If there are members of the various committees that have evidence that could have been submitted in the closed session this morning, it was not. There was evidence on one side of the issue, but not on the others.

I would hope that the majority leader would understand the reason why I feel constrained to object to the unanimous-consent agreement before we have even had an opportunity to initiate the debate from another point of view.

So, Mr. President, I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MANSFIELD. Mr. President, will the Senator still withhold it, briefly? I can understand the Senator's feelings, because we discussed this matter in some detail before I made the request, and I had a pretty good idea what the reaction would be.

But I would point out that the Senate, for the past several weeks, has been meeting on an average of 10 to 12 hours a day, and that the chairman of this committee has been under tremendous pressure and has borne up under it quite nobly. He indicated earlier today, indirectly, in his statement, that he did not intend to go beyond the hour of 6:15 or 6:30, and I can well understand how he feels.

I do think that we ought to face up to the realities of the situation, and in my opinion no matter what any Senator says, no minds will be changed, and the longer we delay the more difficult it is going to be. Tempers will become frayed, the results will be delayed, and the objective which we all seek will not be attainable within a reasonable period of time.

Frankly, I do not intend to keep the Senate in late tonight, because I, too, am as tired as any other Member—not as tired as the distinguished Senator from Arkansas, who has borne this burden so well.

If no agreement is reached in some form or another, it will be my intention to move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning. That hour has already been agreed to. I shall make that motion no later than 7 o'clock this evening if I am able to get the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes, indeed.

ORDER FOR RECOGNITION OF SENATORS TAFT, PERCY, ROBERT C. BYRD, DOMENICI, AND LONG TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order tomorrow, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. Taft, Percy, Robert C. Byrd, Domenici, and Long.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. LONG. Mr. President, will the majority leader yield to me at this point?

Mr. MANSFIELD. Yes, indeed.

Mr. LONG. It occurs to me that there are some matters that ought to be taken care of, such as the amendment to the medicare law which the administration favored, and with regard to which I know of no opposition whatever, the extension of the renegotiation bill, the social security bill, and a number of other measures that I believe could be passed by unanimous consent if we could find time to consider them. I wonder if we might be able to consider some of those things sometime this evening or tomorrow.

Mr. MANSFIELD. Not this evening, may I say to my beloved friend, because we are going against time, as far as time is concerned. But hopefully tomorrow.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. CLARK. Mr. President, will the distinguished majority leader yield for the purpose of a motion?

Mr. MANSFIELD. Yes, indeed.

Mr. CLARK. I move to table the Griffin amendment, and ask for the yeas and nays.

Mr. GRIFFIN. Will the Senator withhold that? I am perfectly willing to vote, but there are Senators who wish to speak.

Mr. CLARK. Senators wish to speak on the issue of Angola, and this motion in no way affects the question of Angola.

Mr. MANSFIELD. Mr. President, I wish the Senator would not make that motion at this time. I can understand, but it places me in a very embarrassing position, and I wish there would be some other way at this time, at this moment, so that while I have the floor I will not be in a position of taking advantage of any other Senator, although the Senator from Iowa is perfectly within his rights.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PASTORE. Could we not possibly reach an agreement on a time limitation on the various amendments that are pending, so that we would not be forced into motions to lay on the table?

Mr. McCLURE. Mr. President, will the Senator yield to me for a moment, without losing his right to the floor?

Mr. MANSFIELD. Yes.

Mr. McCLURE. As I said a while ago, I have been on my feet since 28 past 5 seeking recognition, and I have not had the opportunity to ask one question. I would hope the Senator would withhold that motion.

Mr. CLARK. Does the Senator intend to speak on Angola or the pending amendment?

Mr. McCLURE. I think the two are inextricably intertwined. I do not think the Senator from Michigan's amendment is unrelated to that issue.

Mr. CLARK. Can the Senator make some estimate of how long he wishes to speak?

Mr. McCLURE. Mr. President, I can respond in this fashion: I had hoped, in the closed session this morning, that we might have made available to Members of the Senate some information given to some Members of the Senate under conditions in which it was not presented to the rest of us. That opportunity was not afforded to us this morning. The Senator from Wyoming suggested that the matter be debated in open session and a determination made whether or not the Senator from Arkansas should be relieved of any inhibition and granted the authority to present the information to the Senate in closed session.

It would be my hope that tomorrow morning we could debate that motion and vote upon it, and then go into closed session for whatever that might produce in the way of information, and then go back into open session and resolve the issue.

Mr. MANSFIELD. Mr. President, I do not see any reason for going into any further closed sessions. It is largely a waste of time, interesting though the proceedings may be. We usually do not end up knowing much more than at the time we went in.

But I must dispute the Senator's contention that no hard information came out of the closed meeting this morning, because I think it was made quite clear, on the basis of statements made by both the chairman of the Subcommittee on Foreign Aid Appropriations of the Foreign Relations Committee (Mr. HUMPHREY), and indirectly, at least, by the chairman of the Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), that there was such a thing as—what is the word? Refundable? Returnable?

Mr. HUMPHREY. Reprograming.

Mr. MANSFIELD. Reprograming, that is the word. Reprograming, which indicates that funds can be used for that purpose. Evidence was forthcoming that funds had been used for that purpose, and I think that those of us who had doubts this morning had those doubts resolved insofar as this particular piece of legislation was concerned.

Mr. GRIFFIN. Mr. President, will the majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. GRIFFIN. I share the interest and desire of the majority leader and the Senator from Iowa to get to a vote on my amendment. I wonder if there is a possibility, could we agree to vote on my amendment, not the Tunney amendment, at 10:30 tomorrow morning? That would give us time, if we could get back to the debate, 45 minutes now and an hour tomorrow.

Mr. McCLURE. Mr. President, will the majority leader yield?

Mr. MANSFIELD. Yes, indeed.

Mr. McCLURE. I thank the majority leader for yielding.

I can only reiterate what I said before. I have not been privy to the discussions that may have involved other members of perhaps the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations. Whatever that information may be was not discussed in any great detail.

I agree with the Senator from Montana.

Mr. MANSFIELD. Not in any great detail.

Mr. McCLURE. The Senator from Montana is exactly correct.

Growing out of a very brief discussion on Angola this morning, we did discover that some funds had been made available and expended, and we have some idea of the amounts of money there might be if this appropriation goes forward, but we have not really gotten into the issues of discussing whether or not we ought to do it.

Mr. MANSFIELD. Mr. President, if the Senator will yield there, the Senator is correct in what he said. It is a matter of interpretation.

But the distinguished acting Republican leader and Senator from Michigan (Mr. GRIFFIN) did make a suggestion which would allow all Members to talk as much as they wished tonight, and that we vote on the Griffin amendment and on the Tunney amendment. I request at the hour of 10:30 a.m. tomorrow morning.

Mr. JAVITS addressed the Chair.

Mr. MANSFIELD. We come in at 9 a.m.

Mr. JAVITS. Mr. President, reserving the right to object, what has been overlooked is that I announced that I had an amendment which I would make to the Griffin amendment if it carried or to the Tunney amendment if the Griffin amendment did not carry, and I wish to facilitate it, but I need to make that reservation. I suggest a half hour on that amendment, whichever way it goes, whether it is added to Griffin or whether it is added to Tunney.

Mr. MANSFIELD. That would be perfectly allowable as far as the Senator from Montana is concerned if it meets the approval of the Senator from Idaho.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. McCLURE. I think the leadership knows that I tried to cooperate in every way possible to expedite not only the flow of this legislation but other legislation. I lean over backwards in an attempt to do so.

Mr. MANSFIELD. That is correct.

Mr. McCLURE. But I most honestly must insist upon whatever right I have as a Member to move to go into closed session.

Mr. MANSFIELD. The Senator has that privilege. All he needs is a second to that, and that would be forthcoming.

Frankly, I am getting a little bit tired, speaking personally, of closed sessions, because I do not think much good comes out of them, but I certainly would not—I could not—oppose such a proposal. The Senator is perfectly within his right, if he wants to make such a motion. But would it be possible in the meantime to reach an agreement to vote on the two pending amendments and the Javits amendments, say, beginning at the hour of 11 a.m. tomorrow morning?

Mr. McCLURE. It would be possible for us to resolve the procedural question that was raised earlier today by the Senator from Arkansas first thing tomorrow and then move into whatever closed session there would be, and then have a time limit for the consideration of these amendments following the closed session.

Mr. MANSFIELD. If that is the best we could get, of course, the leadership has no choice, but I remind our colleague from Idaho that National Airlines and United Airlines are on strike, and that comprises about 23 percent of the transportation business of this Nation. Neither one of them goes to Montana so neither one of them causes me any difficulty. But many Members have their tickets and if they lose out I do not know when they are going to get their tickets renewed.

I think of our colleagues in this body. My mind is made up. I know how I am going to vote, and I think the Senator knows that.

I wish to give some consideration to the distinguished Senator from Arkansas as well. I hope that out of this could come some reasonable arrangement so that this matter could be brought to a head.

I say that, if we cannot come to an agreement on this conference report by Friday at the latest, what we will have to do is to leave it in limbo and go on with the continuing resolution which I think is operative—that is a nice word—until February 15.

Mr. McCLURE. I say to the Senator I did not raise this issue; the Senator from California did. I hope it can be resolved, but I would think, as one Member of the Senate, that even the Senator from California would agree that it is a matter of some import, and we ought to have the opportunity to understand it before we are called upon to vote on it.

Mr. MANSFIELD. I thought I was offering some opportunity when I suggested the hour of 11 a.m. We are coming in at 9 a.m. We have been in now about 10 hours.

Mr. McCLURE. I think we have four

special orders tomorrow morning; is that correct?

Mr. MANSFIELD. That is right.

Mr. ROBERT C. BYRD. We have six.

Mr. MANSFIELD. We have six. We can come in at 8 a.m. How about a vote at 12 noon and come in at 8 a.m.?

Mr. McCLURE. Would it be possible to include in the unanimous-consent agreement that we have the debate and vote on the matter that was presented by the Senator's motion in closed session this morning, relating to the question that the Senator from Arkansas had raised, and then prior to going into closed session that, if indeed there is no very great amount of information to be revealed in closed session, that should not take long.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. MANSFIELD. I say my motion is not pending. It was withdrawn before the closed meeting ended because of the revelations emanating therefrom which took care of it.

Several Senators addressed the Chair.

Mr. MANSFIELD. I yield to the distinguished chairman of the committee.

Mr. McCLELLAN. Mr. President, I wish to make this observation. Practically all of the information that pertains to the CIA and its operations has been revealed to the Committee on Foreign Relations or a subcommittee thereof. They have discussed it all day. Still I am not going to make any statement about it without being released from the obligations I feel I have, but I do not know whether the Senator wishes to pursue that any further. I am satisfied with the situation as it is. I do not know whether the Senator wishes to pursue it, but I am not going to make any statement about it other than repeat maybe what has been said in the Chamber by others.

All I wished to do was to be certain as to whether the Senate changed its position. It has a position on this and it is of record, and as a servant of this body, I was undertaking to follow what I conceive to be the Senate's will as last expressed.

Mr. HANSEN. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. The Senator is acting perfectly within his rights.

In response to the distinguished Senator from Idaho, I repeat again that the motion I offered is moot, and I do not intend to offer it again at this time.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I only wish to say that I have the very strong conviction that if the Senator from Arkansas is to be called upon, as I suspect some Members may seek to try to do, knowing him as I do, but certainly not trying to speak for him, it is my feeling that we ought to have passed in open session, as was suggested by the Senator from Wyoming earlier in the day, a motion relieving him from any inhibition or curtailment that he feels may have been imposed upon him either by law or by custom or tradition.

Mr. MANSFIELD. Mr. President, will the Senator yield there?

Mr. HANSEN. I am happy to.

Mr. MANSFIELD. May I say I strongly believe that——

Mr. HANSEN. I should add relating to Angola alone. That was spelled out in the motion.

Mr. MANSFIELD. It is my very strong opinion, and I would bet my life on it, that there is no Senator on this side of the aisle nor any Senator on that side of the aisle who is going to do to the Senator from Arkansas what the distinguished Senator from Wyoming has suggested because I think the point was made there. His position is clear. He has, in effect, reiterated it once again. I see nothing to be gained but a great deal to be lost by resuming that kind of pressure tactic.

Mr. CLARK. Mr. President, I have pending a motion to table the Griffin amendment. I do wish to press that if there is a time agreement, but I do not wish to——

The ACTING PRESIDENT pro tempore. Does the Senator yield for that?

Mr. MANSFIELD. I did not yield for that purpose. I did yield to the distinguished Senator, but I did have the floor.

The ACTING PRESIDENT pro tempore. The Senator did not yield for that purpose.

Mr. MANSFIELD. I again raise the possibility. Is it possible at some time tomorrow to vote at a time certain on the Javits, Tunney, and Griffin amendments?

Mr. President, I suggest the absence of a quorum, without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, it is my understanding that we have five special orders tomorrow. Whether or not they will all be taken and, if so, the full time will be used, remains to be seen.

The Senate will convene at 9 a.m. tomorrow. At the conclusion of the special orders, the Senate will again go into closed session—I hope for not too long a period of time.

At the conclusion of that closed session, the Senate will then return to open session.

I ask unanimous consent that at that time there be a 40-minute time limitation on the Griffin amendment, the time to be equally divided between the Senator from Michigan, the sponsor of the amendment, and the Senator from California (Mr. TUNNEY) or whomever he may designate; that following that, there be a 40-minute time limitation on the Javits amendment, if it is called up, the time to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from Arkansas (Mr. McCLELLAN).

It is anticipated that with a little flexibility, give and take, once those two amendments are out of the way, if they are both offered, it will then be possible to arrive at a reasonable agreement covering the Tunney amendment which, in the meantime, will be modified, I understand, with the $33 million deleted.

The ACTING PRESIDENT pro tempore. Does the request include a request for a closed session?

Mr. MANSFIELD. Yes. On behalf of the distinguished Senator from Idaho (Mr. McCLURE) I will include that in the request.

Mr. JAVITS. Mr. President, will the Senator yield for a clarification?

Mr. MANSFIELD. I yield.

Mr. JAVITS. If the money is eliminated, it will be unnecessary to consider my amendment. My amendment would eliminate the money.

Mr. TUNNEY. Mr. President, it is my understanding that the parliamentary situation is such that that money will have to be deleted by an amendment such as the Senator from New York is going to offer.

Mr. JAVITS. That is correct. I am just informing the majority leader.

Mr. MANSFIELD. That will save 40 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I hope that all Members who are interested will stay tonight and make as many of their speeches as they can.

I say to the distinguished Senator from Arkansas, "Go home, get a good night's rest, and come back tomorrow."

THE TAX BILL

Mr. MANSFIELD. One more thing; I talked to the President this afternoon after the conference report on the tax bill was agreed to, and I asked him if he intended to veto the tax bill. He said, "Yes." I requested that he veto it this afternoon, so that we could consider it as expeditiously as possible, providing, of course, that the House overrode the veto. He said that he did not think he could make it, because he had to wait for the papers, but that if he did not make it this afternoon, he was going to veto it before 10 o'clock tomorrow morning and have the veto up on the Hill.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. The President has vetoed the bill.

Mr. MANSFIELD. In talking to the Speaker, he indicated to me about a half-hour ago—I did not know that the veto was on the Hill—that he would take it up tomorow morning, around 10 o'clock, as I recall.

The Senate should be on notice that if the House overrides the President's veto, the Senate, despite these agreements reached, will undertake to do the same at an appropriate time in the course of the proceedings.

ORDER OF BUSINESS

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. CURTIS. What will be the remaining business tonight?

Mr. MANSFIELD. Talk.

Mr. CURTIS. On what—which bill?

Mr. MANSFIELD. The defense appropriation conference report or anything else.

Mr. CURTIS. Will any tax bill be called up tonight?

Mr. MANSFIELD. If the Senator will allow me, I would like to yield to the Senator from North Dakota, the dean of the Republicans, and I hope that the chairman of the committee can be contacted in the meantime, because he was discussing something about that.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. YOUNG. Mr. President, I would like to be recognized for a 3-minute speech.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

The Senate will be in order. Senators who wish to converse will kindly withdraw. Senators will clear the aisles and withdraw to the cloakrooms if they wish to converse. Senators are very close to the cloakroom physically, anyway, and if Senators who are conversing will withdraw the rest of the way to the cloakroom, that will put the Senate in order. Staff members will kindly take their seats.

Will the Senators really close to the cloakroom kindly movc 3 feet farther into the cloakroom?

Will the Senators standing in the rear kindly withdraw to the cloakroom or resume their seats?

Mr. YOUNG. Mr. President, the amendment proposed by the distinguished Senator from California (Mr. Tunney) and others, would prohibit the use of any money appropriated under this defense appropriations bill to finance CIA operations in Angola.

Our activities in Angola have been very minimal compared with those of Russia. Unlike the Russians, we have no military personnel there. The funds made available to the CIA have only been to provide for weapons and other associated assistance, short of any personnel, to help prevent a takeover of Angola by a minority faction of that country under the control of the Soviets.

This amendment would end all U.S. assistance to Angola except for some minor intelligence-gathering operations. While the United States would be abruptly withdrawing our assistance from Angola under this amendment, Russia would continue their extensive military operations and undoubtedly would take over still another country in Africa within a matter of a very short while.

The proponents of this amendment, particularly the distinguished Senator from California (Mr. Tunney) propose that we withhold sales of grain and other farm commodities to Russia, thereby trying to force them to cease their operations in Angola.

Mr. President, I think the United States would make a serious mistake if we used our food as a weapon of foreign policy. We have had too much of that already. May I remind the Senate that most of the wars fought throughout history have been over food shortages or living space. Sooner or later, using food as a weapon of determining foreign policy would bring us to grief.

A past embargo of soybeans has brought deep resentment from some of our best allies. The more recent embargo on grain to Russia and East European countries has prevented us from replacing dollars we now have to spend to import oil and other purchases. The embargo has had, and is still having, a disastrous effect on our farmers. They were urged to go all out to produce the biggest crop ever to meet our own and foreign needs.

Mr. President, if the Tunney amendment is passed, we would undoubtedly have to immediately withdraw all assistance to Angola. It would be far better to follow the regular reprograming procedures for further financial assistance to Angola. Under these procedures it is very unlikely that any further assistance will be provided unless there is very strong support for it. Under reprograming procedures the chairmen and ranking minority members of the Senate Appropriations and Armed Services Committees and their House counterparts would have to give unanimous approval. This means that if even one of these eight committee members dissented, no reprograming would be possible.

Mr. President, I was disturbed by a statement by a Senator made earlier that $750 million could be made available for Angola. That is an unreasonable statement. So far, they have only obligated $24 million. They are asking for $28 million more under a reprograming procedure.

Under the established reprograming procedures, approval of four Members of the Senate and four Members of the House is required. Any one Member can veto a reprograming request. It is unbelievable that these eight Members of the House and Senate would approve $750 million or even $100 million for Angola. So such charges as that, I think, are unreasonable and paint an untrue picture of CIA operations.

It would be far better if the Foreign Relations Committee and other committees which have jurisdiction would have further consultations with the executive branch, and especially the President, the State Department and the CIA, as to the advisability of abruptly ending assistance now.

ADDITIONAL STATEMENTS SUBMITTED ON DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, the conference report accompanying the Department of Defense appropriation bill for fiscal year 1976 deserves the support of the Senate, and I am glad to compliment the effort made by our conference colleagues on H.R. 9861. At a time of a mounting Federal deficit and debt, the conferees have kept the spending level of this largest appropriations bill below the levels previously passed by the Senate and within the national defense totals assumed for this legislation in the second budget resolution.

The fiscal year 1976 DOD appropriations bill, as agreed to in conference, amounts to $90.5 billion in budget authority and $64.3 billion in outlays, both being under target in budget authority and in outlays. As chairman of the Committee on the Budget, I welcome these results.

I particularly wish to congratulate the distinguished chairman of the Committee on Appropriations, Mr. McClellan, for his leadership on this measure. At a time of pressing and often conflicting national interests, he has worked to balance fiscal responsibility and national security.

For the past several months, the Senate Budget Committee has carefully considered the national defense function of the Federal budget. Our work has been diligent and serious. Our intentions have been to carry out the mandate of the Congressional Budget Act.

I believe our work has been effective. Perhaps nowhere is this better demonstrated than in the final outcome of the defense appropriation bill for fiscal 1976. The President and his advisers vigorously sought an appropriation too much for defense needs. The Budget Committees in both Houses sought a level which would eliminate unnecessary spending yet maintain essential military programs. In the best tradition of democratic deliberation and debate, the two Appropriations Committees agreed.

In short, Mr. President, I salute Senator McClellan and the other Senate conferees for their attention to detail and their prudence. I shall vote for this conference report.

Mr. MORGAN. Mr. President, the debate now raging may well determine the future course of the foreign policy of this country for years to come. Shall we turn inward as we did in the thirties? The answer is not clear.

I was interested in an editorial appearing in the Charlotte Observer in North Carolina on December 14, 1975. It is especially noteworthy since the editorial policy of this paper has been strongly against American involvement in the affairs of other countries. I ask unanimous consent that it be printed in the Record for the consideration of my colleagues as they search for a decision on this vital issue.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

A RED COLONY?—ANGOLA CANNOT BE IGNORED

The Cuban-Soviet invasion of Angola marks a new turn in Communist efforts to replace European powers in colonizing Africa. It also shows just how weak detente is. Can Washington do nothing about this?

The most powerful forces that the United States could reasonably bring to bear are diplomatic and economic. Yet there is no clear evidence that we are applying strong pressure to the Soviet Union, where our leverage should be substantial. Washington may be reluctant to do that because of its hopes for progress in the U.S.-Soviet arms limitation talks. If the Soviets feel free to move as flagrantly as they have in Angola, however, they obviously regard detente as a trifle that should not get in the way of their military expansion.

What they evidently want is a Soviet naval base in Angola, on the eastern coast of southern Africa. They also want an Angolan regime they can use to cause trouble for white-controlled South Africa and Rhodesia, as well as black-controlled African governments they dislike. Toward these ends, they have suddenly made a bold move whose seriousness is only now being recognized.

The Portuguese left Angola, their last African colony, on Nov. 11. Fighting among various Angolan independence organizations began immediately. The Soviets and Cubans are helping the Popular Movement for the Liberation of Angola (MPLA), which now has control of the capital, Luanda.

American involvement appears to be limited to indirect and minimal assistance to the combined forces of two other Angolan groups. South Africa, China and Zaire (the former Belgian Congo) also support those groups.

It is clear that the principal intruders have been the Cubans and the Russians. The Cuban force, which has been described by Havana and Moscow as volunteers, instead seems to be a regular army of some 5,000 men. It has been supported by Soviet flights of giant Antonov transport planes, comparable to the American C–5A.

It is, in short, a major invasion force. It has struck so rapidly and with such strength that it threatens to succeed in taking over the country.

Secretary of State Henry Kissinger has warned that the United States cannot "remain indifferent to the foreign intervention in Angola's civil war." Indeed, we cannot. American troops are not the answer. But the situation in Angola should be given top priority in Washington.

We should move to assist the moderate forces fighting in Angola; bring the strongest kind of diplomatic pressure to bear upon Moscow; and make Cuba pay a high price economically for its intervention. We have it within our legitimate power to do all of that.

If the Soviets gain a naval base and a friendly regime in Angola, they will have added appreciably to the advance they have made on the other side of Africa with a naval and missiles base in Somalia. This would give them strategic strength along the sea lanes around Africa. The United States cannot watch that take place and believe that detente has any meaning.

Mr. NELSON. It is outrageous that this administration should secretly thrust this Nation into the midst of a civil war in Angola. What kind of arrogance possesses that tiny handful of men in the executive branch who presume the right to involve us in war without consent of the Congress or the people of this Nation and without bothering even to tell us. That abuse of power must be unequivocally repudiated.

Sixty million dollars has already been spent on this mistaken enterprise without a word of debate in the Congress or public dialog of any kind.

These kinds of expenditures and involvements are major issues of public policy and must be settled in a public forum.

This intervention was undertaken contrary to expert advice and opinion in both the State Department and the intelligence community.

THE RESTORATION OF FUNDING FOR PASTORAL COUNSELING, FAMILY AND CHILD COUNSELING, AND MARRIAGE COUNSELING AND RECOGNITION OF CLINICAL PSYCHOLOGISTS UNDER CHAMPUS IN DOD APPROPRIATIONS BILL

Mr. INOUYE. Mr. President, I am very pleased that the final version of the Department of Defense appropriations bill, H.R. 9861, which has been approved by the House-Senate conferees, reaffirms the coverage for the services of pastoral counselors, family and child counselors, and marital counselors and provides for the status of clinical psychologists as independent providers under the CHAMPUS—Civilian Health and Medical Program of the Uniformed Services—program.

The House-passed version of this bill would have prohibited any funding for these vital services and would have subordinated the services of clinical psychologists by making mental health treatment subject to physician supervision. Senator YOUNG and I sponsored an amendment in the Senate Appropriations Committee to restore these counseling services under CHAMPUS. I promoted an amendment which would provide for the independent services of psychologists. Both our amendments were accepted by the committee and affirmed by the full Senate.

The House-Senate conferees basically accepted the Senate version on this point, adding a proviso that these counseling services cannot be paid for under CHAMPUS if available at military medical facilities. This proviso is consistent with the intent and purpose of the CHAMPUS program—which was created to provide medical and health care to military retirees where such care was not readily available at military medical facilities.

The importance of the conferees' decisions is twofold: First, the reaffirmation of the need for the services of pastoral counselors, family and child counselors, and marital counselors under CHAMPUS; and second, recognition by both the House and the Senate of the status of trained psychologists in the field of mental health care.

As I have stated previously, the strength of our armed services rests on its morale. In restoring and affirming these professional services under the CHAMPUS program, the conferees have recognized the unique stress on marriage and family life imposed by military service—and the vital necessity of offering quality care under CHAMPUS to treat these serious problems.

Mr. TUNNEY. Mr. President, before I turn the floor over to several of my distinguished colleagues, there are a few brief comments I would like to make about my reasons for holding up the vote on the defense appropriations bill until the Senate could consider this problem of Angola in secret session.

First, I would like to say that a week ago I found myself confronted with what seemed to be an ever-widening American commitment in Angola, a commitment which previously I knew little or nothing about. I was seriously disturbed to discover that my country, in the wake of Vietnam, could carry on a covert action thousands of miles from our shores at a cost of $50 million without the question ever having been considered by the full Congress. My consternation only grew when I was informed by a staff member of the Central Intelligence agency that while I could be informed by them of what the Russians were doing in Angola, I could not be briefed on what we were doing. I know a great many Members of this body shared my own dismay.

I think that if there is one thing we have learned from our experience in Vietnam it is that this country cannot afford to leave foreign policy decisionmaking to a few grand-global strategists on the 40 committee and policy planning staff of the Department of State. The Congress, if it is to fulfill its responsibilities, must be informed about foreign commitments and about the financing of covert actions. I believe the American people have made their feelings about intervention abundantly clear. We would be remiss if, in the wake of our devastating experience in Asia, we failed to demand a clear and precise accounting of the interests, objectives, and policies which this country is pursuing today in Africa.

Beyond my deep concern over the procedure by which our Angolan policy seemed to evolve, I am terribly troubled by some of the misconceptions upon which our decisions are based. For example, Secretary Kissinger and his policy staff appear to be suffering from a kind of reverse myopia. They see everything as part of a grand global game for influence carried on by the Soviet Union and the United States in which every new Soviet adventure contains in it the seeds of an eventual Communist checkmate of the free world. There is no attempt to place these conflict in the context of the lives and the cultures of the people most directly involved—be they nationalist Vietnamese or tribal Angolans.

Mr. President, this war is no opening gambit in some colossal scheme of Soviet hegemony. Let us see it for what it is—a conflict between three warring factions whose tribal origins and animosities go back decades if not centuries with little or no ideological commitment—or even recognition—on any side.

Take, for instance, the MPLA—the Soviet-backed Popular Movement. They are led by a man whose closest friend and political mentor is Mario Soares—the American-backed Portuguese Socialist leader. According to the Africa experts with whom I have spoken—including several members of the Central Intelligence Agency Africa staff—MPLA opposition to the other groups is more based upon ethnic considerations than political philosophy, and their courtship with the Soviet Union appears to be largely a matter of convenience rather than conviction.

The ethnic connections of the other two factions are just as interesting. The front for the National Liberation backed, by both the United States and Zaire, is made up largely of members of the Bakongo tribe whose natural rivals make up the majority of the MPLA. The National Front is led, oddly enough, by a man the CIA gave up on years ago as being hopelessly incompetent and who is the brother-in-law of Joseph Mobutu, the President of Zaire who hopes to extend his own influence by proxy into Angola. The Union for the Total Independence of Angola—UNITA—is led by Jonas Savimbi—a man with an Ovambo tribal connection who was formerly foreign minister of the FNLA—but split off accusing that group of "flagrant tribalism." UNITA is backed by South Africa largely because South Africa is afraid that if the MPLA wins it will allow anti-South African guerrilla groups to use the area now controlled by UNITA for a guerrilla war against South Africa.

This brings me to another crucial misconception. That is, that any victory by the non-Soviet-backed forces could ever hope to erase the tremendous negative impact that will be produced in other black African states by the impression that we are backing the South Africans on this question. The Africans may fear great power interference, but they unquestionably fear South African intervention more.

We must never let this vital point slip from our minds. By appearing to intervene on the side of groups backed by the South Africans we are giving black Africa what amounts to a slap in the face. We are saying to them that "we are not concerned about your fate or your fears. If we have to sign a pact with the devil to stop the Soviets in Angola we are willing to do it." I ask my colleagues, what will it profit us if we do manage to stop the Russians in Angola and further alienate the rest of Africa in the process?

Perhaps if the Washington policy geniuses would stop for a second to get the reaction of the grassroots experts they could separate the wheat of tribal factionalism from the chaff of rigid cold-war categorization. We have academic experts on Africa talking about this lack of ideological commitment on the part of any of the factions. We have an Assistant Secretary of State Nathaniel Davis resigning, because of the damage he thinks our intervention in Angola will do to our relations with Africa as a whole. This is the man who as Ambassador to Chile ran an entire operation to destabilize a government—yet he remains unconvinced. Finally, we have experts in the Central Intelligence Agency telling me they do not understand the reason for our policy of supplying the FNLA and UNITA, and admitting that in their opinion "the differences in government should the MPLA win would be minimal." According to them, the pro-Soviet policy in an MPLA government would be muted the way it was in Mozambique as control of the country was really secured. Do we want to alienate all of Africa—and particularly a country as close and important as Nigeria—for "minimal differences in government?" I think not.

I want to emphasize here that we all share the concern over the willingness of the Soviet Union and Cuba to intervene in Angola. But let us put that intervention in perspective. Let us make it very clear to the Soviets and the Cubans that we view their meddling as inconsistent with détente. Let us tell them clearly that if they want American technology and investment, if they want American grain, then they had better seriously reconsider the advisability of their current strategy in Africa.

Then, let us immediately sit down with our friends in Africa—which we should have done long ago anyway—with Nigeria, and Zaire, and Ethiopia and others and try to work something out within the framework of the Organization of African Unity to get all foreign powers out of Angola. I was told yesterday by someone in the administration that an American Secretary of State had never been to Africa. Maybe now is the time.

Finally, I would like to point out that while we do not know definitely that there are funds for Angola earmarked in this bill—and while we hope that this secret session will resolve some of these questions—it is important now to put the Senate clearly on record as opposing a precipitate involvement in Angola without close and careful congressional consideration. While funds may not be earmarked specifically here, it seems clear that there is enough authority contained in the bill to provide funds either from existing contingency accounts or under general transfer authority. I would only refer my colleagues to section 733 of the bill which grants to the Secretary of Defense the authority to transfer up to $750 million between categories in the bill for "higher priority items"—provided those items have not been proscribed by Congress.

I want to make it very clear that as long as our information is limited, as long as we are not absolutely sure that none of the money in this bill will filter down to Angola or for the use of Angola, it is vitally important that we close the gap of doubt.

In conclusion, I think this vote on my amendment which will come up following the vote on the conference report itself will be a testimony to either the determination of the Senate to assert its rightful role in insuring the careful consideration of our foreign involvements, or our own failure to learn from our past mistakes in a way the American people have clearly demanded.

I hope the current debate can help us meet those obligations. I hope, too, that it can be done in a way that will not preclude a full and frank public discussion of the issues.

SENATE RESOLUTION 333—SUBMISSION OF A RESOLUTION RELATING TO ANGOLA

Mr. STEVENSON. Mr. President, I send a resolution to the desk on behalf of myself, Senator Humphrey, Senator Robert C. Byrd of West Virginia, and also, Senator Muskie.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution.

The second assistant legislative clerk proceeded to read the resolution.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution is as follows:

S. Res. 333

Whereas outside powers are intervening in the conflict between rival factions in newly independent Angola;

Whereas such foreign intervention causes a higher level of violence, a tragic loss of life, and more prolonged conflict;

Whereas the peoples of Angola should be permitted to resolve their conflicts without outside interference; and

Whereas it is morally wrong and politically imprudent for the United States to ignore such intervention and the pursuit of strategic interests by foreign countries in Angola: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President of the United States should call upon all nations to withhold support from any of the factions in Angola engaged in military conflict;

(2) the President of the United States should instruct the United States Permanent Representative to the United Nations Security Council to introduce a resolution condemning all intervention in the civil conflict in Angola;

(3) the President should urge the Organization of African Unity to make a renewed effort to assist the opposing factions in Angola to compose their differences and establish stable democratically based government in Angola, and should pledge the support of the United States in this effort;

(4) the President, pursuant to his authority under the Export Administration Act of 1969, should curtail exports to countries which persist in intervening in the conflict of Angola;

(5) the President should seek the cooperation of other nations in imposing economic sanctions against those countries which persist in intervening in the conflict in Angola; and

(6) the President should suspend further assistance to any faction in Angola pending efforts to seek an end to all foreign intervention in Angola.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senator will not proceed until the Senate is in order.

Mr. McCLURE. Will the Senator from Illinois yield for a question?

Mr. STEVENSON. Yes, I will yield for that purpose.

Mr. McCLURE. Is it the purpose of the Senator from Illinois to ask for immediate consideration of this resolution and its adoption?

Mr. STEVENSON. Yes, it is the intention of the Senator to do that.

Mr. President, Vietnam, the CIA, the Union of South Africa, national experiences in recent years, the association with unlikely bedfellows—all make objectivity about Angola difficult. We do not have all of the facts, and we certainly do not have sufficient time with which to adequately debate U.S. interests in Angola. This debate has generated far more heat than light.

In these circumstances, prudence dictates a discrete way out of this imbroglio and, if it is possible, some action by the Senate to serve the interests of the American people and those of this newly independent nation in Africa.

Such facts as we do have indicate the Soviet Union is testing détente, probing the disarray and weakness in the West to pursue obscure strategic objectives. The Soviet Union is pressing us to the limit—and we have defined no limit. Indeed, the Soviet Union, détente, the relationship between the superpowers have been scarcely discussed.

Soviet activities in sub-Sahara Africa have not met with unmixed success—but they now reach into Zambia, Tanzania, Nigeria, Somalia, Ethiopia, Benin, Central African Republic, Upper Volta, Burundi, Mali, and Guinea and elsewhere. Now the Soviet Union is playing for high stakes with a major effort to install a regime of its own making in Angola. One question is whether by continued acquiescence, or an apparent indifference, the United States invites further Soviet transgressions against U.S. strategic interests in the world and against the rights of other people to conduct their own affairs. The largest question is the Soviet Union—not Angola.

Mr. President, I would be the last to minimize U.S. interest in the Third World or the historical imperatives of nationalism and self-determination which the United States sought to arrest in Southeast Asia—and which the Soviet Union is seeking to arrest in Africa. The warring tribal factions in Angola all claim the mantle of national liberation, and who can say their claims are not equal? One is backed, massively, by the Soviet Union and Cuba. That faction will succeed by force unless other factions are given some arms and money. Recognizing those facts and the implications for developed and undeveloped nations alike, the FNLA and UNITA are supported by the United States, the Union of South Africa, Zaire, and to some extent, the People's Republic of China and North Korea. In such circumstances, it should not be said of the United States that by aiding one faction in Angola, it maintains a hostile, neocolonialist presence. These nations aiding the FNLA and UNITA have a shared concern about the methods and motives of the Soviet Union in Angola and the world.

The United States, at least, is committed to the principle of self-determination. Ironically, the cessation of U.S. aid for a nationalist alliance in Angola could invite the apartheid Union of South Africa deeper into Angola. Certinly an unconditional act of withdrawal by the United States would cause greater doubts in Peking and in the capitals of our allies about U.S. resolve in the face of aggression and steadfastness in support of friends. With limited U.S. aid, not to include U.S. personnel, the Union of South Africa would probably leave Angola. While the reaction to U.S. aid would not be uniformly unfavorable in the third world, it would be, as it already is, mixed and in some places, as in Zaire, highly favorable.

Mr. President, I share all of the reservations which have been eloquently expressed today about the dangers of U.S. assistance for any party to this civil conflict. I am also deeply concerned about the consequence of a U.S. failure to heed Soviet intervention in Angola and the pleas of the Soviet Union's victims. And that brings me to the proposal by the Senator from California which, in my judgment, offers the Senate a no-win proposition. If approved, it will be perceived as sanctioning by acquiescence Soviet intervention in Angola. If it is not approved, it will be perceived as sanctioning U.S. intervention. Some Members, myself included, do not want the Senate to take either course.

So, Mr. President, I probably will vote against the Tunney amendment. I do not want to vote for an amendment which terminates all support for the anti-Soviet side in Angola without any alternative response to this Soviet challenge. Have we been so traumatized by the tragic American adventure in Vietnam that henceforth we are to accept Soviet military arrogance wherever it shows its head?

Mr. President, this debate has skirted the central fact and the central issue: Soviet arms on a massive scale and a Cuban expeditionary force have landed on the shores of a newly independent African state in naked pursuit of strategic advantage.

What does détente mean, anyway? Certainly not the same to us as to the Soviet Union. If détente is to mean anything for the United States. It must be a two-way street. If the Soviet Union is to enjoy the benefits to trade in commodities which are valuable to the improvement of its standard of living, and other advantages of détente, then it must also meet certain standards of civilized international behavior.

The implausibility of continued U.S. aid to the Soviet Union in the form of technology, capital and wheat, irrespective of its conduct in the world, is brought inescapably to the attention of the Senate. The United States has just committed supplies of grain to the Soviet Union for 6 years—not withstanding its transgressions in Angola or anywhere else. The agreement cannot mean what it says on its face. All such agreements are subject to abrogation or modification by one party if conditions are changed materially by another. The Soviet Union is relieving the United States of any obligations under that agreement—and I say "any" because it is of arguable legality anyway.

The resolution which we offer urges upon the President a course of action which emphatically rejects the Soviet exploitation of détente at the expense of U.S. interests and the rights of people in other nations—without exposing the United States unnecessarily to the risks of a long and ultimately unsuccessful involvement in Angola.

It makes it clear, and in the most emphatic terms, that the United States does not approve Soviet intervention in Angola. It proposes steps to create a climate in which the warring factions in that country can compose their differences without external interference. It charts a course that could accomplish U.S. objectives in Angola. And if the Tunney amendment is disapproved, it will make it plain that diplomatic steps, including sanctions, should be taken before the United States starts once again down the slippery slope of military involvement in a distant part of the world.

So, Mr. President, I introduce this resolution with the distinguished Senators from Minnesota, West Virginia, and Maine, which calls upon the President to undertake a multilateral effort to induce all outside powers to withdraw support from the warring factions in Angola and, at the same time, to exercise his authority to control exports to countries which persist in providing such support.

More specifically, Mr. President, this resolution calls upon the President to call, in turn, upon all nations to withhold support from any of the factions in Angola engaged in military conflicts. It calls upon the President of the United States to instruct the U.S. Permanent Representative at the United Nations Security Council to introduce a resolution condemning all intervention in the civil conflict in Angola. It calls on the President to urge the Organization of African Unity to make a renewed effort to assist the opposing factions in Angola to compose their differences and establish stable, democratically based government in Angola, and pledge the support of the United States in that effort.

This resolution calls upon the President, also——

The ACTING PRESIDENT pro tempore. The Senator will suspend. Will the Senators and the staff in the rear of the Chamber retire to the rear to carry on their conferences—or better still, to the cloakrooms? That would assist the Senator greatly. The Chair appreciates that.

The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, the resolution calls upon the President, pursuant to his authority under the Export Administration Act of 1969, to curtail exports to countries which persist in intervening in the conflict in Angola.

It also suggests, as the sense of the Senate, that the President should seek the cooperation of other nations in imposing economic sanctions against those countries which persist in intervening in the conflict in Angola, and suggests, further, that the President should suspend further assistance to any faction in Angola pending efforts to seek an end to all foreign intervention in that country.

NO AID TO ANGOLA

Mr. MUSKIE. Mr. President, I stand in support of the Stevenson resolution expressing the sense of the Senate to suspend U.S. support to the warring factions in Angola and by economic leverage to persuade the Soviet Union to adhere to this same principle.

Mr. STEVENSON. Mr. President, Fighting among indigenous factions in Angola has intensified in recent days and both the Soviet Union and the United States are involved. Such a situation deeply concerns me.

This state of affairs is troubling for several reasons, mainly what it tells us about the intentions of the Soviet Union. Today, Moscow is pursuing an interventionist policy in Angola, increasing the anguish of that southern African state and escalating tensions between the nuclear superpowers at that very time when Washington and Moscow are supposedly trying to work out between them the confrontation strains of the past.

The lessening of tensions or détente

between the United States and the Soviet Union, if it is going to work at all and reach a level of success, must be a two-way street. Yet, the kind of aggression and expansionism on the part of the Soviet Union in Angola suggests less than a complete commitment by the Kremlin to pursue détente seriously.

Indeed, Soviet military intervention in the internal affairs of Angola is a serious erosion of Russian credibility in the United States-Soviet quest for better relations. Such hostile behavior not only erodes the spirit of détente, but also the practical possibilities of working out a mutually beneficial relationship.

Détente was never an easy policy to pursue; it is a challenge by both sides in statesmanship. But due to the Soviet escalation of the Angolan civil war, the U.S. Senate and the country as a whole should now take a new look at the current course of accommodation and cooperation on the part of the United States.

Critical and crucial stakes are involved here. Why are the Russians risking these stakes? In a year the Soviet Union is facing serious shortages in her harvest, the country requires massive importation of American grain. This will probably be true for the next several years. As the international energy crisis continues, the Soviet Union could potentially export great quantities of oil and gas, especially to western Europe and North America. These markets could now become less open to Russian commodity exports as well as manufactured goods. Western technology is greatly desired by the Soviets in order to advance its 5-year economic plans, but American experts and sophisticated electronic products, for instance, will continue to stay outside of the Soviet Union if détente does not progress. If the Russians are prepared to make a mockery of the détente relationship, then, as the Stevenson resolution proposes, let them lose some of the material advantages of détente. For instance, the President, pursuant to his authority under the 1969 Export Administration Act, could curtail exports to countries like the Soviet Union, which persist in intervening in the Angolan conflict.

Then, too, the heart of détente is the SALT II negotiations with its potential agreements on the further control of nuclear weapons. This is an essential element to the whole relationship and, as I understand it, to the future standing of the present political leadership in Moscow. The question of stabilizing European affairs, such as MBFR negotiations, and implementing the spirit of the Helsinki agreement are involved, as are potential Soviet-American projects in Third World economic development activities, in the joint exploration and exploitation of the oceans and space for the well-being of all mankind, and in common ventures to bring peace to the Middle East.

It is incredible the Soviets would risk losing these potential avenues of international cooperation and benefit unless they were never willing to fulfill the responsibilities required by détente in the first place. Perhaps they were only interested in playing an unrestrained, mischievous role in faraway areas of the world.

Moscow's relations with the new nations of black Africa are not very close; only in Somalia is Soviet influence great. It has never had outright control in any African country. Perhaps the prospect of such domination motivates the men of Moscow to bolster the Popular Movement for the Liberation of Angola—MPLA, one of the three contending Angolan parties. Russian manpower, materiel, and money are now abundant in the savage fighting. There are an estimated 5,000 Cuban specialists and combat troops supporting the MPLA's operations. Soviet military advisers are on the ground, intelligence reports are unsure if they are actually involved in combat operations.

What is the U.S. interest in Angola? There is no overriding U.S. interest in this new nation which only received its independence from Portugal last month. Our security and economy will not be affected by whatever political philosophy is at the foundation of its government. It is my hope that the United States and Angola can construct a relationship that benefits both peoples. However, beyond American involvement in Angola's economic and developmental affairs, openly agreed to, we have no other interest. We should never have gotten involved to the extent we have. We know that a minimum of $50 million is being spent by the United States covertly to support the anti-MPLA factions with rifles, machine guns, vehicles, ammunition, and logistics. The Ford administration wants more money. Will they soon want military advisers?

I oppose any further escalation of U.S. military invlovement, covert or overt. America's tragic intervention in the Vietnam civil war should be a clear enough warning to our policymakers.

The current tribal conflict in Angola dates back more than several decades. Ethnic, racial, class, regional, and ideological differences divide the three nationalist movements. In addition, an intense distrust and personal animosity exist among the movements' leaders. The MPLA, the Nationalist Front for the Liberation of Angola—FNLA, and the Nationalist Union for the Total Independence of Angola—UNITA—draw most of their supporters from one of three major ethno-linguistic regions. During the many years of armed struggle against Portuguese colonialism, Angolan natianalists were unable or unwilling to form a common front.

This historical conflict and the present triangular tribal warfare should be left to the peoples of Angola to work out. Foreign governments and foreign mercenaries can only increase the bloodshed and keep the people apart. Certainly all great powers, especially white ones, should lay off. As long as the Soviet Union and the United States, in conjunction with dozens of secondary powers like Communist Cuba, the repugnant white racist regime of South Africa, Zaire, Zambia, and others, pursue policies of unilateral intervention instead of multilateral reconciliation, any hope for peace in Angola remains dim. All diplomatic efforts need to be centered on the Organization of African Unity which has the best chance to negotiate a settlement. The Council of Ministers of the OAU will meet very soon in Addis Ababa to consider the Angolan crisis. Both the United States and the Soviet Union should be placing maximum efforts behind the activities of the OAU and its African leaders in the political pursuit toward peace so badly needed now in Angola.

I hope this message is heard loud and clear in Moscow: There is a self-defeating quality to any power-grab in places like Vietnam, Cambodia, and Angola. The wisest policy for the United States is to stay out of the Angolan conflict. I oppose any aid to Angola. The perils outweigh the rewards.

The wisest policy for the Soviet Union vis-a-vis the United States is to get out of Angola, too, if the bigger stakes—mutual cooperation between our two countries—are of any value to them. Otherwise, the Russian bear may have gained a South Atlantic outpost they cannot hold for long but lost a relationship with America, the benefits from which they may never regain.

Mr. President, not only has the debate skirted that central fact but Soviet intervention in Angola and that central question of the meaning of détente. But the amendments proposed by the Senator from California (Mr. TUNNEY) and the Senator from Michigan (Mr. GRIFFIN) are unresponsive to those central issues.

In the case of the amendment offered by the Senator from California——

The ACTING PRESIDENT pro tempore. The Chair reluctantly requests the Senator from Illinois to suspend momentarily.

Will the Senators conferring kindly withdraw to the cloakrooms.

The Senator from Illinois.

Mr. STEVENSON. If the amendment offered by the Senator from California is adopted, it will end U.S. intervention in Angola. If the amendment of the Senator from Michigan, Mr. President, is not adopted, it will be interpreted, however wrongly, as a sanction by the United States of Soviet intervention in Angola. Neither is responsive to either of these issues. Both, in my judgment, should be withdrawn.

I might add, Mr. President, this is no way to conduct the foreign policy of the United States. The Senator from Ohio was absolutely right. We do not have all the facts, and even if we had the facts, we would not have the time to debate them and to make a sensible decision about our interests in Angola and how best to pursue them.

What is more, Mr. President, the Senate is in some danger of acting with emotion rather than reason, reacting to Vietnam rather than Angola.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. STEVENSON. Yes; I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to commend the Senator from Illinois for this resolution. I think it is the first thing that has made any sense in a long day.

While it may shock the Senator from Illinois to find the Senator from Arizona agreeing with him, I do. I think this resolution comes at a proper time. I am particularly interested in paragraph 4 when he urged the President to use his authority under the Export Administration Act of 1969 to curtail exports to countries which persist in intervening in Angola.

I might say we have never, as a Nation, used the instruments of national policy that we have available to us, instruments that are short of the instrument of war itself, and the one instrument we have had in which we dominated the world was the economic instrument, but we have never in my memory used that instrument, particularly during the times when we were the world's No. 1 economic power which, if we are any longer, it is only by a slim margin.

I am thinking particularly of the need of the Soviet Union for wheat, a desperate need for wheat, and we have that wheat. We seem to break our backs trying to get that wheat to the Soviets without any concession on her part as to what she might do to help us.

I think in a case such as the Senator from Illinois has discussed in his resolution that the President could use this authority given to him, and I think all Americans would back him in using this power, to extract from the Soviets or extract from any country that is causing conflict in Angola or other parts of the world an agreement that they would desist and stop this help.

I just want to again commend the Senator from Illinois, and if he does not think it would be detrimental to his interests at home or here, I ask unanimous consent, if he agrees, to have my name included, along with Senator HUMPHREY and Senator STEVENSON, as a cosponsor, and I will ask the forgiveness of my saints in heaven. [Laughter.]

Mr. STEVENSON. Mr. President, I hope that does not require the forgiveness of the saints in heaven. I am delighted and pleased by the Senator's comments, and I hope it does not shock him to find me agreeing with him and, what is more, agreeing to the extent that I probably will vote against the amendment offered by the Senator from California and for the reasons suggested by the Senator from Arizona, namely, that the United States should not deprive itself of any weapons with which to pursue any legitimate foreign policy objectives.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Arizona is included as a cosponsor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator include my name also?

Mr. STEVENSON. If the Senator will withhold for one moment, I respond further to the remarks of the Senator from Arizona about questioning the suggestion that food is and should be used as a weapon. I would put the proposition slightly differently and suggest that the United States loses its authority, loses its credibility in the world, when, on the one hand, it seeks to oppose Soviet intervention in Angola with aid to tribal factions in that country and, on the other hand, aids the intervenor with not only food but also with capital and with technology and noncommercial measures which we could go into but will not.

The United States has just entered into a 6-year agreement for the supply of food to the Soviet Union and, on the face of that agreement, the commitment of the United States is unconditional.

The commitment is good notwithstanding the behavior and conduct of the Soviet Union in Angola or any other part of the world or on any issue whether it is emigration, mutual and balanced force reduction in Europe, or SALT or you name it.

One of the concerns of the Senator from Illinois is that détente is a legitimate objective of the United States, if by détente we mean relaxation of tensions. But the pursuit of détente by such methods, a 6-year commitment, unconditional agreement, transfers of technology, in a year and a half a billion in subsidized credits to the Soviet Union, will produce the reverse of détente. It produces tension, confrontation, and is doing so today in Angola.

So it is not simply a matter of using food as a weapon. My own opinion is that it is very largely a question of stopping the pursuit of a legitimate objective by counterproductive methods; and, in the case of food or any other form of assistance for the Soviet Union conditioning that assistance upon a continuing and a periodic evaluation of that country's conduct in the world, and that conduct in that part of the world, Angola, is not, in the judgment of the Senator from Illinois, justified at the present time with a commitment of food or of other exports to the Soviet Union for the benefit of that country.

So I thank the Senator for his comments.

I ask unanimous consent, Mr. President, to add the present occupant of the Chair, the Senator from Florida, as a cosponsor of this resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, will the Senator yield for just a moment?

Mr. STEVENSON. Yes.

Mr. GOLDWATER. I am in agreement, further agreement, with the Senator from Illinois, especially in his understanding of the word "détente."

I have begged the Secretary of State on three different occasions to go on television in this country to explain to the American people what he looks on détente as being because I do not believe the average American understands what the Secretary is trying to do with that term.

I would like to think that his understanding is the same as that of the Senator from Illinois. Détente is merely "you have something I want and I have something you want. Can't we get together and have an understanding," and from time to time we will get over it. Maybe I am a bit harsh in including food in economic warfare, but it is a very effective weapon. War is far worse and, with the proper use of the weapons we have had available, political, economic, and so forth, I believe war can be avoided. I believe war can be avoided, along with power for as long as we care to do it.

I am glad again the Senator has introduced this resolution. I am glad he made the comments he has made, and I think it will provide very interesting reading to those who follow the RECORD.

Mr. STEVENSON. I thank the Senator.

We have our disagreements about the sources of power, but not about the necessities for power. I certainly agree with his comments.

Mr. President, I ask unanimous consent for the immediate consideration of this resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, did the Senator add my name as I asked him to?

Mr. STEVENSON. I did and I am grateful to the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

The ACTING PRESIDENT pro tempore. On the immediate consideration of the resolution——

Mr. MANSFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent——

The ACTING PRESIDENT pro tempore. There is a pending unanimous-consent request by the Senator from Illinois.

Mr. MANSFIELD. Fine.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PACKWOOD. What is that request?

The ACTING PRESIDENT pro tempore. To the immediate consideration of the Senator's resolution.

Mr. PACKWOOD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

It will go over under the rule.

The Senator from Montana.

Mr. MANSFIELD. Mr. President, I am sorry there was objection to an amendment of this nature which has such disparate and different sponsors as the Senator from Illinois and the Senator from Arizona, as well as others, but I would suggest that in view of the objection raised that the distinguished Senator ask unanimous consent that it be placed on the calendar.

Mr. STEVENSON. Mr. President, I so request.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GOLDWATER. Reserving the right to object—I might implore our friend, if he would reconsider, we do not have much time left to get such a resolution up before this——

Mr. PACKWOOD. I understand that. I regard it as very significant.

I will say to the Senator from Illinois, it was so significant that I do not want to take it up tonight and have it passed just by voice vote.

I think I am with him, but to do something of this magnitude at this hour of the night, we talk about persistent intervening, I do not know if that means South Africa or a variety of countries. I am just not prepared on this short notice to take up a matter of this magnitude.

The ACTING PRESIDENT pro tempore. Is there objection to placing it on the calendar?

Without objection, it is so ordered.

ORDER FOR NOMINATIONS TO BE RETAINED IN THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all nominations sent down by the President prior to the ending of the first session of the 94th Congress be retained in the Senate and not sent back to the White House because of the 30-day interregnum which may exist between the first and second session, with the exception of the nominations which are or will be before the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GOLDWATER. Again reserving the right to object—and I will not object—the Armed Services Committee is meeting tomorrow morning at 9:30 to consider a number of nominations that are very important. I wonder if the majority leader would abide by his request that these will be held over until after the first of the year?

Mr. MANSFIELD. All those which the President sent down before the Congress adjourns sine die, the end of the 1st session of the 94th Congress, will remain down here with the exception of the nominations now in or may be in the Committee on Labor and Public Welfare.

In other words, an agreement to this unanimous-consent suggestion prevents the usual return of nominations during which a 30-day lapse occurs.

Mr. GOLDWATER. But if the Armed Services Committee tomorrow voted out the appointments we had to consider, would there be a chance of having them considered before the end of this session?

Mr. MANSFIELD. If there is no objection, if there are no holds, but if there are any holds they will have to wait until the beginning of the session, but they will be available rather than being sent down again.

Mr. GOLDWATER. I thank the Senator.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. I yield to the Senator.

Mr. ROBERT C. BYRD. May we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Chair asks the Senator from Montana, is it the purpose of the unanimous-consent request of the Senator that nominations be kept alive irrespective of the sine die adjournment?

Mr. MANSFIELD. That was the purpose, rather than be sent back to the White House, to be sent down again and the process started out.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator.

Mr. MANSFIELD. Will the distinguished leader yield to me?

Mr. ROBERT C. BYRD. Mr. President, I will yield to the Senator.

SENATOR STONE COMPLETES 200TH HOUR AS PRESIDING OFFICER OF THE SENATE

Mr. MANSFIELD. Mr. President, the distinguished Senator from Florida now presiding over this body has just completed his 200th hour as the Presiding Officer of the Senate during this session.

We are making all kinds of records this year. I am not sure all of them are good, though this record is a good one, because I believe that the record will indicate, as I tried to state on yesterday, that we have been in session more hours than in any other session up to date, that we have eclipsed the old record for rollcall votes, as the distinguished assistant Democratic leader brought out a couple of days ago.

But I am not too proud about the long hours spent in this Chamber. I think there are too many, too long.

I am not too happy about the voting record. I think we could do with less voting and save more time.

But I am extremely happy about the record just established by the distinguished Senator from Florida who, incidentally, during the course of the closed meeting of the Senate this morning for a period of 3 hours conducted himself with aplomb, dignity, integrity, and a knowledge and understanding which I think surprised his colleagues, though it did not surprise me.

So all honor to the Senator from Florida who has proved himself to be an outstanding Senator, who believes in sunshine, who avoids closed meetings—except the one today, we got him there—and who has performed quite nobly.

Mr. McCLURE. Will the majority leader yield to me?

Mr. MANSFIELD. Yes, indeed.

Mr. McCLURE. I would like to join in the remarks that have just been made in commendation to the Senator who now occupies the Chair.

It is not only the number of hours he spent in the Chair, but the manner in which he has conducted himself and the business of the Senate while he has been there.

I think it would be fair to say that on behalf of all the Members of the Senate, and certainly the Members of the minority, that the Senator from Florida has certainly grown in the esteem and the affection of every Member of the Senate and every one of us would like to join in the commendation that have been expressed by the majority leader.

Mr. JAVITS. Will the Senator yield to me?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Just to associate myself with those remarks and to add, he is a great beginner.

Mr. ROBERT C. BYRD. Mr. President, I share the views that have been expressed so ably by the distinguished majority leader, the distinguished Senator from Idaho, and the distinguished Senator from New York about the Senator from Florida who now presides over the Senate.

He is a man whose heart is as stout as the Irish oak and as pure as the lakes of Killarney.

The ACTING PRESIDENT pro tempore. The Chair wishes to thank each of the Senators for their very kind remarks. The Chair is deeply gratified.

HOUSE JOINT RESOLUTION 749—PROVIDING FOR THE BEGINNING OF THE SECOND SESSION OF 94TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 749.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 749) to provide for the beginning of the second session of the 94th Congress and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask for the immediate consideration of the amendment at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 2, line 3, change the period to a comma and insert the following: "and (c) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1976 Economic Report with the Senate and the House of Representatives not later than March 19, 1976.
>
> SEC. 3. That prior to the convening of the second regular session of the Ninety-fourth Congress on January 19, 1976, as provided in section one of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section four of this resolution.
>
> SEC. 4. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation."

Mr. ROBERT C. BYRD. Mr. President, I move the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read the third time.

The joint resolution was read the third time.

The ACTING PRESIDENT pro tempore. The joint resolution having been read a third time, the question is, Shall it pass?

The joint resolution (H.J. Res. 749), as amended, was passed.

ORDER TO POSTPONE INDEFINITELY SENATE JOINT RESOLUTION 153 AND SENATE CONCURRENT RESOLUTION 74

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution, Senate Joint Resolution 153, be postponed indefinitely, and that the same request is made for Senate Concurrent Resolution 74.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT OF THE NATIONAL READING IMPROVEMENT PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8304, and that the bill be considered as having been read twice.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8304) to amend the National Reading Improvement Program to provide more flexibility in the types of projects which can be funded, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was considered to have been read the second time by title.

Mr. ROBERT C. BYRD. Mr. President, I call up an amendment which is at the desk and ask for its immediate consideration.

The ACTING PERSIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The amendment is as follows:

On page 1, line 4, insert "(a)" after "Section 1.".

On page 1, lines 9 and 10, insert after the word "paragraph" the following: "during the fiscal year 1976 and the period beginning July 1, 1976 through September 30, 1976,".

On page 2, line 12, strike out "any" and insert in lieu thereof "the".

On page 2, line 13, after "year" insert the following: "1976, and, for the period from July 1, 1976 through September 30, 1976,".

On page 2, between lines 13 and 14, insert the following:

(b) (1) Part C of such Act is amended by adding after section 723 the following new section:

"STATE LEADERSHIP AND TRAINING PROJECTS

"Sec. 724. The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading deficiencies. The activities authorized by this section shall be limited to—

"(1) assessments of need, including personnel needs, relating to reading problems in the State,

"(2) inservice training for local reading program administrators and instructional personnel, and

"(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1976.

(3) Section 705 (a) (3) of the Education Amendments of 1974 as added by subsection (a) of this section is repealed effective September 30, 1976.

(c) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated to carry out the provisions of section 724, relating to State leadership and training projects, $6,400,000 each for the fiscal year ending September 30, 1977, and for the succeeding fiscal year."

On page 3, line 20 and 21, strike out "3 per centum" and insert in lieu thereof "1 per centum".

On page 4, between lines 7 and 8, insert the following:

NATIONAL IMPACT READING PROGRAMS

On page 4, line 8, insert "(a)" after "Sec. 6.".

On page 4, line 9, strike out "section 723" and insert in lieu thereof "section 724".

On page 4, line 11, strike out "Sec. 724." and insert in lieu thereof "Sec. 725.".

On page 4, line 20, strike out the word "any" and insert in lieu thereof "the".

On page 4, line 21, after "year" insert the following: "1976, and for the period from July 1, 1976 through September 30, 1976,".

On page 4, between lines 21 and 22, insert the following:

(b)(1) Section 725 of the Education Amendments of 1974 as added by subsection (a) of this section is amended by striking out "(a)" after the section designation and by striking out subsection (b) of such section.

(2) The amendment made by paragraph (1) of this subsection shall take effect on September 30, 1976.

(c) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(f) There are authorized to be appropriated to carry out the provisions of section 725, relating to national impact reading programs, $800,000 each for the fiscal year ending September 30, 1977 and for the succeeding fiscal year."

On page 5, line 19, strike out "Sec. 725." and insert in lieu thereof "Sec. 726.".

On page 8, line 6, strike out "(e)" and insert in lieu thereof "(g)".

On page 8, line 7, strike out "section 725" and insert in lieu thereof "section 726".

On page 8, line 14, strike out "section 725" and insert in lieu thereof "section 726".

On page 8, lines 15 and 16, strike out "section 725" and insert in lieu thereof "section 726".

On page 8, after line 16, insert the following:

SPECIAL EMPHASIS PROJECTS

Sec. 10. Section 721(b)(1) of such Act is amended by inserting "and (c)" after "section 705(b)".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BEALL. Mr. President, I rise to urge the enactment of H.R. 8304. This measure provides that a number of amendments to the national reading improvement program, which was enacted in 1974 as part of the education amendments of that year. I was pleased to coauthor this program with Senator Eagleton and believe that it is one of the most promising education programs that we have.

The bill before the Senate today makes two important changes in the 1974 program.

First, it makes clear that the reading programs funded under the discretionary right-to-read program, which preceded the national reading improvement program, will continue. It was never the intent of Senator Eagleton or me that the ongoing right-to-read efforts be terminated with the enactment of the national reading improvements program. Indeed, in the Senate-passed bill, the right-to-read effort was clearly continued. The right-to-read effort provides grants to the States for leadership and training programs and also for certain national impact programs. The 1974 conference committee authorized a State grant approach but provided that the State grant program would not become operative until the funding level exceeded $30 million. With the appropriation level only $17 million, the State-level grant programs are in jeopardy unless the Congress acts. Thus, this clarification will mean that the State grants, such as received by Maryland, will be able to continue.

In my State, the right-to-read program has given emphasis to and impetus for reading efforts. Maryland is developing standards for evaluating both system and school reading programs, developing leadership through seminars for supervisors and principals, and reviewing reading material.

The second major amendment would authorize a new reading motivation program under which local community agencies will contribute inexpensive books to school children. The bill makes available Federal matching assistance of 50 percent of the cost of conducting reading motivational programs by local sponsors of such programs. A 3-year, $22 million program is provided and if fully funded, it is estimated that an additional 21 million books will be distributed to over 4 million children.

Again, I would point out that in the Senate-passed reading provisions last year, we included support for reading is fundamental—RIF-like projects which we will be able to expand with the enactment of today's bill. The RIF provisions under this measure, however, are much more comprehensive than the 1974 provisions and are essentially the language of S. 2535, which was coauthored by Senator Eagleton and I, on the Senate side and by Congressman Al Quie as H.R. 9048 on the House side.

The RIF program results from idea of an individual and it serves to show how an individual can make a difference, and can effectuate positive changes. I am speaking of Mrs. Robert McNamara. Mrs. McNamara was a volunteer reading teacher aid in the Washington, D.C. school system and she became concerned with the dullness of reading material available. She took to the school a Jules Verne adventure story and the student whom she was assisting said: "I sure would like to own a book like that." Mrs. McNamara gave the book to the child. Based on that experience, Mrs. McNamara has created a private, national organization which has done a marvelous job in promoting reading by giving books to youngsters.

RIF's purpose then is to motivate children to read for pleasure through experiencing the "joy and ownership" of owning exciting books of their own. RIF is now in operation in 47 States and in past years, RIF distributed over 5 million paperbacks to 2 million children. In Maryland, we have six RIF action programs underway and two more are in the developing stage—no books yet distributed. Last year in Maryland over 6,000 books were distributed to over 250 children. RIF not only believes that reading is fundamental, but also believes that reading is fun.

It is interesting to note the different organizations which have sponsored RIF projects. These include community groups, private industry, military wives' clubs, educational organizations, civic clubs, and church groups. In fact, an essential element of the RIF program has been the grass-roots support and involvement. In this program, each community organizes, develops, and runs its own program. Most of the children that RIF serves have never owned a book. By providing them with books of their own, we may be beginning for these youngsters a habit that will last a lifetime.

Mr. President, in October, I had the pleasure of witnessing the distribution of books in a RIF project in Baltimore City at the Barclay Elementary School. I only wish my colleagues could have seen the eagerness, excitement and enthusiasm of the children as they selected their own book from a wide variety of attractive and appealing paperbacks. One's impression, based on observing these students, that this program would encourage and stimulate reading was confirmed by my discussions with the school's principal, teachers, and parents. This is an excellent program which will be a valuable addition to the 1974 Reading Improvement Act and will be a great stimulus to the creation of more reading motivational programs not only in Maryland, but throughout this entire Nation.

Mr. President, I have labeled the reading problem as the "Achilles heel" of American Education. The following statistics indicate the magnitude of the reading problem:

> Some 7 million elementary and secondary children are in severe need of special reading assistance.
>
> In large urban areas, 40 to 50 percent of the children are reading below grade level.
>
> An Office of Education survey indicated 22 percent of the urban schools had 70 to 100 percent of their pupils reading a year or more below grade level.

These massive reading difficulties have been confirmed by surveys of teachers and pupils alike. Over and over again, parents, the general public, and the press across the Nation have expressed concern with the poor pupil performance in the fundamental reading area. For example, a 1973 survey in my State found that "the people of Maryland believe that the mastering of reading skills is the most important education goal for the schools of the State."

Mr. President, after I had introduced the 1974 reading proposal, I received a letter from an individual from Texas who sent me a copy of an article from the Dallas Morning News. I would like to read a couple of paragraphs from this article.

> At commencement exercises throughout the city recently, anywhere from 500 to 1,000 of Dallas' 9,000 graduating seniors, according to official estimates, walked across stages to be handed diplomas they could not read. Barely able to read, many will wind up with poor jobs or no jobs at all. Still in school, youngsters who are either unable to read at all or read only at the most elementary level can be found in almost every one of Dallas' 43 secondary schools. Dallas School Superintendent Noan Estes has estimated more than 20,000 of the public school system's 70,000 secondary students read at least two or more years below grade level.

In summary, Mr. President, H.R. 8304 provides for both emergency amendments to allow the continuation of the former right-to-read programs, as well as the enactment of a promising and proven reading motivational program. Both will be welcome additions to the national reading improvement program and I urge its enactment.

I also ask unanimous consent that articles from the Baltimore Sun and the Baltimore News American be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 14, 1975]

BEALL WANTS MORE BOOKS GIVEN AWAY

Books are almost always lent, and seldom given away, but Senator J. Glenn Beall, Jr. (R., Md.) visited a Baltimore public school yesterday where the latter is the case and announced that he would co-sponsor federal legislation to give the cause a push.

Senator Beall and several aides visited Barclay Elementary School, where they watched eager children visit the library and choose from a selection of books that were given them free under a program called Reading Is Fundamental.

It was the 14th such distribution since the 1971–1972 school year, when Reading Is Fundamental came to Barclay. Parent contributions and aid from the Barclay-Brent Education Corporation have helped pay for reading material, although this year it is being financed by Title I of the Elementary and Secondary Education Act.

Margaret McNamara, wife of the World Bank president, who created the private, national Reading Is Fundamental organization while working as a volunteer reading teacher aide in Washington nine years ago, also visited Barclay. She said the programs are now in 400 schools in 47 states and have distributed 5 million free books.

Senator Beall said his legislation, to be cosponsored by Senator Thomas Eagleton (D., Mo.), would create a three-part national reading-improvement program.

Among other features, it would authorize a three-year, $22 million "reading-motivation" program under which local communities would distribute books to schoolchildren. The federal government would bear half cost of setting up a program.

"We want to see Barclay schools all over the nation," he said.

[From the Baltimore News American, Oct. 16, 1975]

LISTENING IS IMPORTANT

Relating to young children is not always an easy task for full grown adults, and Maryland's Sen. J. Glenn Beall Jr. surely falls in that category.

The senator did a remarkable job recently in listening to a swarm of eight-year-olds in the Barclay Elementary School Library.

On the library floor with youngsters clustering around him, Sen. Beall seemed to be enjoying this part of his job as he learned about sea monsters, dinosaurs, giant dogs and other strange species which poke their heads up from time to time in children's literature.

The senator's tour of Barclay was meant to dramatize what he believes is a need for additional federally sponsored programs to improve the reading skills of elementary school children.

The senator's tact in listening to the kids, instead of indulging in campaign oratory inappropriate for eight-year-olds, was exemplary.

For a good politician, like a good minister, has to learn to listen as well as to preach. Sen. Beall clearly knows that.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 8304), as amended, was passed.

GUADALUPE MOUNTAINS NATIONAL PARK, TEX.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 313.

The assistant legislative clerk laid before the Senate the amendment of the House of Representatives to the bill (S. 313) to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Tex., and for other purposes.

(The amendment of the House is printed in the RECORD of December 1, 1975, beginning at page 37833.)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

RELIEF OF MRIKA MRNACAJ

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10555.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

An act for the relief of Mrika Mrnacaj.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to the immediate consideration of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the bill (H.R. 10555) was considered, ordered to a third reading, read the third time, and passed.

CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention for the Conservation of Antarctic Seals, with Annex, done at London June 1, 1972 (Executive K, 94th Congress, first session), transmitted to the Senate today by the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I also ask unanimous consent that the convention, with accompanying papers, be referred to the Committee on Foreign Relations and ordered to be printed and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I am pleased to transmit for the Senate's advice and consent to ratification the Convention for the Conservation of Antarctic Seals, with Annex, done at London June 1, 1972. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Convention.

Though commercial sealing has not yet started in the water and on the sea ice in Antarctica, this Convention provides some valuable protection for seals of that region. It prohibits entirely the commercial taking of three species of Antarctic seals and sets conservative limits on the taking of three other species. It prohibits sealing in the water, except in limited quantities for scientific research. It sets aside reserves where no sealing can take place and forbids sealing entirely during six months of the year. More importantly, it sets up the machinery to give the necessary warning when catch limits are being approached. It obligates the Parties at that point to prevent further sealing by their nationals and vessels. Provision is also made for adoption of additional controls, including an effective system of inspection, if commercial sealing starts in the area. There is nothing in the Convention to prevent a Party from adopting for its nationals and vessels more stringent controls than provided in the Convention. The United States has done this in the Marine Mammal Protection Act of 1972. While that legislation is in effect, and until the Parties decide to adopt controls and inspection procedures in accordance with Article VI, no new legislation is needed to implement the Agreement.

Unfortunately in recent years, it has often been only after a species or class of wildlife has become severely depleted or even endangered that international conservation measures have been initiated. This Convention represents a unique opportunity for the world community to put into practice the hard learned lessons of the past and to act prospectively to protect the seals of Antarctica. I urge the Senate to give the Convention its prompt and favorable consideration.

GERALD R. FORD.

THE WHITE HOUSE, *December 17, 1975.*

COMPENSATION AND OTHER EMOLUMENTS FOR ANY PERSON FILLING THE VACANCY OF THE FEDERAL MARITIME COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11172.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11172) to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the bill (H.R. 11172) was considered, ordered to a third reading, read the third time, and passed.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1975

The Senate proceeded to consider the bill (S. 642) to amend the Federal Trade Commission Act to authorize certain State and local officials to enforce certain rules promulgated by the Federal Trade Commission, and for other purposes, which had been reported from the Committee on Commerce with amendments, as follows:

On page 1, beginning with line 3, strike out

That this Act may be cited as the "State and Local Enforcement Act of 1975".

and insert

That this Act may be cited as the "Federal Trade Commission Amendments of 1975".

On page 1, beginning with line 6, strike out:

SEC. 2. Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by adding at the end thereof the following two new sentences: "The functions of the Commission under this subsection with respect to the issuance and service of complaints may be exercised by bureau and regional directors designated by the Commission for such purpose, pursuant to the general policy of, and any guidelines set forth by, the Commission. Any such designated person may exercise the powers which the Commission is authorized to exercise under section 9 of this Act, in pursuing investigations to determine whether facts exist which would warrant the issuance of a complaint. If any such complaint is issued, any such designated person may bring suit pursuant to section 13 of this Act."

SEC. 3. The first sentence of Section (5) (c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by striking out in the first sentence thereof "where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business" and inserting in lieu thereof "where such person, partnership, or corporation has its principal place of business".

On page 2, beginning with line 19, insert

SEC. 2. Section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business.".

On page 3, in line 4, strike out:

STATE AND LOCAL ENFORCEMENT

On page 3, in line 5, strike out "4" and insert "3".

On page 3, in line 7, after the semicolon, insert "and".

On page 3, in line 13, strike out the semicolon and insert a period.

On page 3, beginning with line 14, strike out

(3) by redesignating section 20 as section 21; and (4) by inserting after section 19 the following new section:

"SEC. 20. (a)(1) If any person, partnership, or corporation (A) violates any rule which is promulgated by the Commission under this Act with respect to unfair or deceptive acts or practices (other than an interpretive rule or a rule which the Commission has provided is not one whose violation is an unfair or deceptive act in or affecting commerce), or (B) engages in any act or practice in or affecting commerce with respect to which the Commission has issued against any person, partnership, or corporation a cease and desist order which has become final, then the Attorney General of the State in which such act or practice occurred, or his delegate, may commence a civil action for appropriate relief against such person, partnership, or corporation, in any court of competent jurisdiction in such State.

"(2) If any person, partnership, or corporation violates any rule which is promulgated by the Commission under this Act with respect to unfair or deceptive acts or practices (other than an interpretive rule or a rule which the Commission has provided is not one whose violation is an unfair or deceptive act or practice in or affecting commerce), then the chief law enforcement officer of any Indian reservation or similar self-governing entity not under the jurisdiction of State authorities, in which such act or practice occurred, may commence a civil action against such person, partnership, or corporation for relief in a tribal court or in an appropriate district court of the United States.

"(3) If any person, partnership, or corporation violates any rule promulgated by the Commission under this Act with respect to unfair or deceptive acts or practices (other than an interpretive rule or a rule violation which the Commission has provided is not one whose violation is an unfair or deceptive act or practice in violation of section 5(a) of this Act), then any person directly affected by such violation may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in any court of competent jurisdiction of a State or of an Indian reservation or similar self-governing entity not under State jurisdiction.

"(4) In commencing an action authorized by paragraph (1) or (2) the Attorney General, the chief law enforcement officer, or the moving party shall give notice of the theory and the alleged facts of the action to the Commission and its appropriate regional office, or in the case of an action authorized by paragraph (3) to the appropriate State Attorney General, within 10 days of filing the action. The Commission, or a regional office if so authorized by the Commission, or in the case of an action authorized by paragraph (3) such Attorney General may intervene in any such action as a matter of right to move that such action be consolidated, in whole or in part, with a broader civil action which involves the same issue or issues and the same or different parties and which the Commission, or, in the case of an action authorized by paragraph (3), the Attorney General, is in the course of diligently pursuing through appropriate administrative or judicial proceedings. The court, in ruling on such motion, shall consider which course is more likely (i) to resolve the factual or legal issues involved; (ii) to preclude repetition of the alleged unfair or deceptive act or practice; and (iii) to result in substantive justice to the parties directly involved in such litigation. A court order consolidating such an action with other actions shall not prejudice the right of any claimant involved to recommence such civil action if the Commission's action fails to result in a conclusive determination of the claim. Any applicable limitation periods are tolled in the interim and begin running again on the termination of the Commission's action.

"(b) The court, in an action under subsection (a), shall have jurisdiction to grant such relief as it finds necessary to redress injury which resulted to consumers or other persons, partnerships, and corporations as a consequence of the rule violation. Such relief may include, but shall not be limited to, injunctions, rescission or reformation of contracts, the refund of money or return of property, or the payment of damages or attorneys' fees, or both, and public notification respecting the rule violation, except that nothing in this subsection shall be construed to authorize any award of exemplary or punitive damages. In any action brought under this section, Federal statutes and the decisions of the Commission and decisions and opinions of the courts of the United States shall be the rules of decision, and any remedy available in a court of the United States or for enforcing an order of a court of the United States shall be available. Except with regard to the actual claims settled or decided in actions brought under subsection (a), actions brought under subsection (a) shall in no way restrict or prejudice any right of the Commission to commence any actions involving the same or other parties of the same or similar issues in any place wherein the Commission has jurisdiction to act.

"(c)(1) The governing body on Indian reservations, or similar self-governing entities not under State jurisdiction, is authorized to develop regulations required by local circumstances or conditions to eliminate or preclude unfair or deceptive acts and practices in commerce. Such regulations, when adopted, are to supplement existing laws, rule, and regulations affecting trade on the reservations and similar self-governing entities not under State jurisdiction. Such regulations promulgated shall preempt any trade regulations promulgated by the Bureau of Indian Affairs, wherever the two conflict. Such regulations are to be promulgated under procedural rules adopted by the local self-governing body and they shall be applied uniformly to such proceedings: *Provided*, That reasonable opportunity shall be given for oral or written comment on proposed regulations before they take effect. The local self-governing body may alter or amend such regulations and procedural rules from time to time as is necessary to insure the smooth flow of commerce and the elimination or preclusion of trade abuses.

"(2) The governing body of Indian reservations, and other self-governing entities not under State jurisdiction, shall have the exclusive authority to license traders as a prerequisite to the operation of trading establishments. The Commission shall cooperate with such governing body to develop regulations and procedures to control the granting of such licenses. Upon the approval of such regulations and procedures by such local self-governing body, the sole authority to license trading establishments shall vest in such body, and any prior Federal or State authority with reference to such licensing shall lapse and cease to have any further force and effect.

"(d) The Commission shall coordinate local, State, and Federal trade regulation and enforcement activities. Such coordination shall include, but not be limited to, the gathering and dissemination of information about regulation enforcement in all parts of the United States, periodic evaluations and progress reports concerning the enforcement of trade regulations, special studies to develop recommendations for alternative enforcement strategies, consumer education programs, and other programs that might enhance the impact of regulations, and seminars or similar educative programs designed to inform State and local authorities of current Commission regulations and anticipated Commission initiatives.".

On page 8, in line 21, after "SEC." strike out "5." and insert "4".

On page 8, at the end of line 22, strike out "repealed." and insert

amended to read as follows: "(2) outer coverings of furniture, mattresses, and box springs, except that the Commission may require care labeling with respect to outer coverings of furniture.".

On page 9, beginning with line 3, strike out

(b) Paragraphs (3) through (11) of section 12(a) of such Act (15 U.S.C. 70j(a)(3) through 70j(a)(11)) are renumbered as paragraphs (2) through (10), respectively, of such section 12(a).

SEC. 6. Section 5(a)(6) of the Federal Trade Commission Act (15 U.S.C. 45(a)(6)) is amended to read as follows:

"SEC. 5. (a)(6) The Commission is empowered and directed to prevent persons, partnerships, or corporations, except banks and entities subject to the Packers and Stockyards Act, 1921, as amended (to the extent so subject, and except as provided in section 406(b) of such Act) from using unfair methods of competition in or affecting commerce and from committing unfair or deceptive acts or practices in or affecting commerce.".

On page 9, in line 18, strike out "7" and insert "5".

On page 9, in line 22, strike out "8" and insert "6".

On page 10, in line 13, strike out "9" and insert "7".

On page 10, in line 13, after "Section" strike out "21" and insert "1".

On page 10, in line 15, after "by" strike out

(1) inserting "(a)" before the first sentence thereof; and (2)

On page 10, in line 17, strike out "three" and insert "two".

On page 10, beginning with line 18, strike out

"(b) The Congress, through the duly authorized committees of the Senate and the House of Representatives, shall exercise continuing oversight over the activities of the Commission. In the exercise of such oversight, such committee may authorize professional staff members to conduct inquiries into the activities of the Commission, maintain transcripts of pertinent discussions, and to report thereon to such committees in order to facilitate such oversight. Each agency and officer of the Federal Government is directed to assist, and cooperate with, such oversight.

On page 11, beginning with line 19, insert

SEC. 8. Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g) An order of the Commission to cease and desist shall become effective against a party thereto 60 days after such order is served on such party, except that any such order may be stayed, in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to and denied by the Commission; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

The Commission may modify or set aside any order to cease and desist, pursuant to subsection (b).".

SEC. 9. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by—

(a) inserting "(1)" immediately after "(b)", and

(b) inserting at the end thereof, the following new paragraph—

"(2)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person petitions the Commission for issuance, amendment, or repeal of a rule under this section, the Commission shall grant or deny such petition within 120 days after the date that such petition is received by it. If the Commission grants such a petition, it shall commence an appropriate proceeding under subsection (a)(1)(B) of this section as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(B) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period mandated by subparagraph (A)), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate within 60 days after the date of expiration of such 120-day period.

"(C) If such a petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in a de novo proceeding before such court, that the action requested in such petition to the Commission is necessary to prevent acts or practices which are unfair or deceptive acts or practices in or affecting commerce, within the meaning of section 5(a)(1) of this Act, and that the failure of the Commission to take such action will result in the continuation of such unlawful acts or practices, such court shall order the Commission to initiate such action.

"(D) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a rulemaking proceeding in accordance with this section.".

SEC. 10. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by—

(1) inserting "(a)", "(b)", "(c)", and "(f)" immediately before the first, second, third, and fourth paragraphs thereof,

(2) deleting the first sentence of the newly designated subsection (c) thereof, and inserting in lieu thereof the following:

"(c) If any person, partnership, or corporation which is required by the Commission to file or submit any annual or special report, or to obey any subpoena or other order requiring access to documentary evidence, fails to comply with any such requirement within the time prescribed therefor by the Commission, and if such failure continues for 15 days after notice of such default to such person, partnership, or corporation, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not less than $1,000 nor more than $5,000 as the court may determine, for each day that such failure continues after such 15th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit by and in the name of the Commission, brought in the district court of the United States within which such person, partnership, or corporation resides or does business.",

(3) inserting immediately after the newly designated subsection (c) thereof, the following two new subsections:

"(d) No action to stay accumulation of any of the penalties provided by subsection (c) or to challenge the validity, or to enjoin the Commission or the United States from enforcement, of any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence may be commenced until after the service of a notice of default by the Commission as provided in such subsection (c). No court shall issue any order staying the accumulation of such penalties unless the party seeking such relief shall have first demonstrated—

"(1) a substantial probability of ultimate success on the merits;

"(2) that such party will be irreparably injured unless the accumulation of such penalties is stayed; and

"(3) that the equities clearly favor such stay.

"(e) No court shall hold invalid, or issue an order enjoining the Commission or the United States from enforcement of, any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence unless the party subject to such requirement shall have first demonstrated—

"(1) that such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is unduly burdensome; or

"(2) that the information sought by such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is not reasonably relevant to an inquiry being conducted by the Commission. The Commission shall have authority to conduct investigations and to adjudicate complaints consistent with the applicable provisions of this Act, unless such investigation or adjudication is expressly prohibited by this Act.".

SEC. 11. Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out the term "wood" in the second paragraph thereof and inserting in lieu thereof "wool".

SEC. 12. Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out the term "volating" and inserting in lieu thereof "violating".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Amendments of 1975".

SEC. 2. Section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business.".

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by (1) striking out section 21 thereof; *and* (2) amending section 1 thereof by striking out "That a" in the first sentence thereof and inserting in lieu thereof, with appropriate paragraph indentation, the following:

"(a) This Act may be cited as the 'Federal Trade Commission Act'

"(b) A".

SEC. 4. Section 12(a)(2) of the Textile Fiber Products Identification Act (15 U.S.C. 70j(a)(2)) is amended to read as follows: "(2) outer coverings of furniture, mattresses, and box springs, except that the Commission may require care labeling with respect to outer coverings of furniture.".

SEC. 5. Sections 2, 2a, and 3 of the Clayton Act (15 U.S.C. 13, 13a, and 14) are amended by striking out "in commerce" wherever the term appears and inserting in lieu thereof "in or affecting commerce".

SEC. 6. Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by adding at the end thereof the following new paragraph:

"No officer or agency of the United States, other than the Civil Service Commission for the purpose of evaluating professional qualification, shall have any authority to require the Chairman or the Commission to obtain approval of the appointment, employment, or promotion of any individual by the Commission. No individual may be required to advocate, or to be involved in advocating or supporting programs and positions espoused by the executive branch of the Federal Government or to participate significantly in the determination of major political questions by such branch, as a prerequisite to, or as a condition of, any appointment, employment, or promotion by the Commission.".

SEC. 7. (a) Section 1 of the Federal Trade Commission Act, as amended by this Act (15 U.S.C. 41), is further amended by adding at the end thereof the following two new subsections:

"(c) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(d) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.".

SEC. 8. Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended to read as follows:

"(g) An order of the Commission to cease and desist shall become effective against a party thereto 60 days after such order is served on such party, except that any such order may be stayed, in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court and if an application for such a stay was previously submitted to and denied by the Commission; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.

The Commission may modify or set aside any order to cease and desist, pursuant to subsection (b).".

SEC. 9. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57(b)) is amended by—

(a) inserting "(1)" immediately after "(b)", and

(b) inserting at the end thereof, the following new paragraph—

"(2)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person petitions the Commission for the issuance, amendment, or repeal of a rule under this section, the Commission shall grant or deny such petition within 120 days after the date that such petition is received by it. If the Commission grants such a petition, it shall commence an appropriate proceeding under subsection (a)(1)(B) of this section as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(B) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period mandated by subparagraph (A)), the petitioner may commence a civil action in an appropriate district court of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate within 60 days after the date of expiration of such 120-day period.

"(C) If such a petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in a de novo proceeding before such court, that the action requested in such petition to the Commission is necessary to prevent acts or practices which are unfair or deceptive acts or practices in or affecting commerce, within the meaning of section 5(a)(1) of this Act, and that the failure of the Commission to take such action will result in the continuation of such unlawful acts or practices, such court shall order the Commission to initiate such action.

"(D) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a rulemaking proceeding in accordance with this section.".

SEC. 10. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by—

(1) inserting "(a)", "(b)", "(c)", and "(f)" immediately before the first, second, third, and fourth paragraphs thereof,

(2) deleting the first sentence of the newly designated subsection (c) thereof, and inserting in lieu thereof the following:

"(c) If any person, partnership, or corporation which is required by the Commission to file or submit any annual or special report, or to obey any subpoena or other order requiring access to documentary evidence, fails to comply with any such requirement within the time prescribed therefor by the Commission, and if such failure continues for 15 days after notice of such default to such person, partnership, or corporation, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not less than $1,000 nor more than $5,000 as the court may determine, for each day that such failure continues after such 15th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit by and in the name of the Commission, brought in the district court of the United States within which such person, partnership, or corporation resides or does business.",

(3) inserting immediately after the newly designated subsection (c) thereof, the following two new subsections:

"(d) No action to stay accumulation of any of the penalties provided by subsection (c) or to challenge the validity, or to enjoin the Commission or the United States from enforcement, of any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence may be commenced until after the service of a notice of default by the Commission as provided in such subsection (c). No court shall issue any order staying the accumulation of such penalties unless the party seeking such relief shall have first demonstrated—

"(1) a substantial probability of ultimate success on the merits;

"(2) that such party will be irreparably injured unless the accumulation of such penalties is stayed; and

"(3) that the equities clearly favor such stay.

"(e) No court shall hold invalid, or issue an order enjoining the Commission or the United States from enforcement of, any requirement to submit or file any annual or special report or any subpoena or other order requiring access to documentary evidence unless the party subject to such requirement shall have first demonstrated—

"(1) that such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is unduly burdensome; or

"(2) that the information sought by such requirement to submit or file any annual or special report or such subpoena or other order requiring access to documentary evidence is not reasonably relevant to an inquiry being conducted by the Commission. The Commission shall have authority to conduct investigations and to adjudicate complaints consistent with the applicable provisions of this Act, unless such investigation or adjudication is expressly prohibited by this Act.".

SEC. 11. Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out the term "wood" in the second paragraph thereof and inserting in lieu thereof "wool".

SEC. 12. Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out the term "volating" and inserting in lieu thereof "violating".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend the Federal Trade Commission Act, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? The Senate is transacting business.

APPOINTMENT OF MARINE CORPS OFFICERS TO BE ASSISTANT COMMANDANTS OF THE MARINE CORPS IN THE GRADE OF GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this request has been cleared, I believe, on both sides—that the Senate reconsider the action by which the Senate earlier today passed S. 2117, and that the measure be reconsidered for the purpose of one amendment to be offered by the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2117) to amend secs. 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of the Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility.

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

SEC. 2. (a) Section 1216 of title 10, United States Code, is amended—

(1) by striking out "The Secretary" in subsection (b) and inserting in lieu thereof "Except as provided in subsection (d) of this section, the Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(d) The Secretary concerned may not, with respect to any member who is in pay grade O-7 or higher or is a Medical Corps officer being processed for retirement under chapter 63 or 65 of this title—

"(1) retire such member under section 1201 of this title;

"(2) place such member on the temporary disability retired list pursuant to section 1202 of this title; or

"(3) separate such member from an armed force pursuant to section 1203 of this title by reason of unfitness to perform the duties of his office, grade, rank, or rating unless the determination of the Secretary concerned with respect to unfitness is first approved by the Secretary of Defense on the recommendation of the Assistant Secretary of Defense for Health and Environment.".

"SEC. 2. The amendments made by the first section of this Act shall apply with respect to unfitness determinations made on or after the date of the enactment of this Act by the Secretaries of the military departments concerned for purposes of sections 1201, 1202, and 1203 of title 10, United States Code.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment has been cleared by the chairman of the Armed Services Committee (Mr. STENNIS) and by the ranking Republican member of the Armed Services Committee (Mr. THURMOND).

This measure passed the House of Representatives by a vote of 398 to 4 in the form of House bill 9691.

Mr. ROBERT C. BYRD. Mr. President, I cannot hear the Senator and I am standing beside him. May we have order in the Senate.

Mr. HARRY F. BYRD, JR. In the form of H.R. 9691. This amendment, Mr. President, provides that in determining disability retirement for general officers and medical officers, the decision must be made by the Secretary of Defense, rather than by the service secretary.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the status of the bill be returned to second reading, and that the amendment of the Senator from Virginia be considered to be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. As I say, Mr. President, this amendment already has passed the House of Representatives as H.R. 9691.

I have discussed the amendment with the distinguished floor manager of the bill, who is also a cosponsor of the amendment.

The purpose of this proposal is to amend title 10 of the United States Code in order to make certain disability retirements determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.

This amendment would provide that for general and medical officers retiring for length of service, or because of age, a finding of unfitness for duty may not be made by the Secretary of the military department concerned unless first approved by the Secretary of Defense on the recommendation of the Assistant Secretary for Health and Environment.

Such determinations of unfitness for duty make the retiring officer eligible for disability retirement, and thus preferred tax treatment.

I have no desire to deny disability pay to service personnel of any rank who are legitimately entitled to it, and this amendment does not reflect on any individual.

Instead it is the intent of this legislation to eliminate abuses in the system.

In 1972, the General Legislation Subcommittee of the Senate Armed Services Committee, which I chair, held hearings on the awards of disability pay on retirement, and found that disability benefits were proportionately much greater for senior officers than for lower-ranking men.

Defense Department officials, at that time, conceded that there had been abuses in the system, and, as a result of the legislation before the Senate and House Armed Services Committees, the Department of Defense changed its guidelines for awarding disability benefits for retiring military personnel.

These guidelines have worked well, but I think this amendment is necessary to further clarify the procedures, and insure that decisions concerning disability benefits for retiring general and medical officers are made at the highest level at the Department of Defense.

To that end, I introduce this amendment, and I would like to point out that the House of Representatives has already approved a similar proposal.

The proposal was offered in the House of Representatives by the distinguished Congressman from New York, Mr. Sam Stratton. Mr. Stratton has long shared my concern in this matter. Under his able leadership the House of Representatives adopted this proposal overwhelmingly, by a vote of 398 yeas to 4 nays.

I think this is a timely and important matter, and I thank the distinguished floor manager for his support.

The PRESIDING OFFICER (Mr. Burdick). The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMALL BUSINESS EMERGENCY RELIEF ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 5541, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Burdick). The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Record of December 12, 1975, at pages 40244–40245.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

AMENDMENT OF ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the recognition of Senators tomorrow morning be in the following order, each for not to exceed 15 minutes: Mr. Percy, Mr. Robert C. Byrd, Mr. Long, Mr. Taft, Mr. Domenici, and Mr. Javits.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from New Jersey.

SENATE JOINT RESOLUTION 154—EXTENSION OF TIME FOR WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Mr. WILLIAMS. Mr. President, I send to the desk a joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals and to extend the time period during which funds appropriated for such conference may be expended, and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 154) to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. WILLIAMS. Mr. President, title III of Public Law 93–516, enacted in December of 1974, authorized the President to call a White House Conference on Handicapped Individuals within 2 years from the date of enactment. Unfortunately, Mr. President, there was a 10-month delay in appointing the National Planning and Advisory Council which is to oversee the development and planning of the Conference, and consequently, it was not until October of this year that the Planning Council commenced its activities. I was very pleased that last month the President announced the convening of the White House Conference, but because of the 2-year period provided in the authorizing legislation, this Conference must be convened by December of 1976, leaving only 14 months in which to work with the States to develop and convene the required State conferences and to plan and develop the national conference.

On December 11, the Committee on Labor and Public Welfare received communication from the Planning Council detailing the difficulties this short time span would cause for development of a successful national conference. The Council informed us that participation by disabled individuals in the State conferences and in the national conference will be jeopardized by the short time span remaining and considerable problems will arise in assuring that all persons who will want to be and should be involved will be able to participate.

Recognizing these problems, the Planning Council has recommended that the Conference be postponed until September of 1977. I ask unanimous consent that the letter from the Chairman of the Planning Council, Mr. Henry Viscardi, be printed in the Record at this point.

There being no objection, the letter and enclosure were ordered to be printed in the Record, as follows:

The White House Conference on
Handicapped Individuals,
Washington, D.C., December 11, 1975.
Hon. Harrison A. Williams, Jr.,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Williams: I know the importance you place on the success of the White House Conference on Handicapped Individuals in helping to provide programmatic directions for the legislative and administrative branches of our Government.

Although the Presidential Announcement of the Conference will play a significant role in officially launching Conference activities, it is, as we discussed, unfortunate that there was an 11-month delay between the passage of the legislation (December 1974) until the announcement by President Ford.

The National Planning and Advisory Council (which was not appointed until October 1975) and the White House Conference planning staff have expended large amounts of time energy planning Conference-related activities. However, the short time line of one year seriously works against the possibility of a successful White House Conference. Extensive planning is required, regional and State conferences need to be conducted, not to mention the National Conference itself.

The number of handicaps are many and the issues are so broad that sufficient time is required to create a national awareness of the problems, provide adequate State input, and develop meaningful solutions that will result in dignity and integration of the handicapped into all aspects of community life.

The National Planning and Advisory Council to the White House Conference on Handicapped Individuals recommended a delay in the National Conference from December of 1976 to September of 1977 (rationale enclosed). This position was reaffirmed in the Council's December meeting.

The Council, and I, as Chairperson of the Conference, trust we can rely on your support to secure an extension for the Conference, which is in the best interest of all mentally and physically handicapped individuals and the Country.

Warmest regards.

Cordially,

Dr. Henry Viscardi, Jr.,
Chairperson, National Planning and Advisory Council.

National Planning and Advisory Council: Rationale For Delay in Date For White House Conference

Title III of the Rehabilitation Act Amendments of 1974 authorizes the President to call a White House Conference on Handicapped Individuals within two years of the date of enactment of this law (December 7, 1974). The purpose is to stimulate a national assessment of problems facing individuals with physical and mental handicaps and develop recommendations to solve such problems. Conferences are to be conducted in each State, and in the territories, in order to insure maximum consumer input

The members of the National Planning and Advisory Council to the White House Conference on Handicapped Individuals feel an effective White House Conference is in the Country's best interest. The Council was not initiated as a functioning body until Otcober, 1975; the President's announcement of the Conference was made November 22, 1975. Accordingly, the members are of the strong opinion that the previously established date of December 11–15, 1976, would not permit sufficient time to develop successful, meaningful State and National Conferences.

It is the opinion of the Council that the scheduled date for the National Conference of December 11–15, 1976, mitigates against a successful Conference for the following reasons:

The focus on the competition of the Bicentennial will prevent the Conference from receiving the national attention essential to its success.

The Christmas holidays will have the same effect on national visibility in terms of media coverage.

The holiday season will make it difficult for delegates, 50 percent of whom are handicapped, to arrange travel.

This time of year for the Conference could produce weather that will prevent many consumers from participating as Conference delegates.

With only 14 months for planning (other conferences have had up to three years for planning), states will be required to conduct State Conferences in June and July of 1976. This early date will diminish the effectiveness of State Conferences. State Conferences, according to the legislation, are to provide to the National Conference the input relative to problems faced by handicapped individuals.

The date of December, 1976, for the Conference also works against the inclusion of state input into materials used by delegates to the National Conference.

Therefore, in order to (a) insure national input to the White House Conference, (b) develop thorough State and National Conferences, and (c) develop, through public information programs, a national awareness regarding the needs of all physically and mentally handicapped individuals, as spelled out in the legislation, the Council hereby strongly recommends that the National Conference be postponed until September 11–15, 1977.

The final completion date for the White House Conference on Handicapped Individuals would be April 15, 1978, in order to complete the final report and carry out the necessary wrap-up activities. This final date would comply with the legislation mandates.

Dr. HENRY VISCARDI, Jr.,
Chairperson, National Planning and Advisory Council, White House Conference on Handicapped Individuals.

Mr. WILLIAMS. Because of the critical nature of the planning and development of representative and comprehensive State and national conferences, and because the month of December may cause problems for attendance by disabled individuals because of holiday travel and weather, it is the committee's position that the Conference should be postponed.

Therefore, Senator RANDOLPH and I offer this joint resolution which would provide that the President would be authorized to call the White House Conference within 3 years from date of enactment or until December 1977 and that funds appropriated to carry out the White House Conference remain available for expenditure until the close of fiscal year 1977. It is our further understanding that the White House Conference could be held in September of 1977, as that is the first available time for appropriate conference facilities.

Mr. President, I understand that there would be no objection to this resolution. It has been cosponsored by 15 of the 16 members of the Committee on Labor and Public Welfare. The resolution would simply allow the postponing of the Conference until calendar year 1977 and does not involve an additional authorization. I, therefore, urge that the joint resolution be approved.

Mr. RANDOLPH. Mr. President, during the last few years, we have seen an increasing public awareness of the fact that many of the benefits and fundamental rights of our society are denied individuals with physical and mental handicaps. Because of this awareness, Congress sought to explore the problems faced by handicapped individuals and to find solutions to these problems by the establishment of a White House Conference on Handicapped Individuals.

In December of 1974, the President signed into law the Rehabilitation Act Amendments of 1974, Public Law 93–516, which authorized him to call a White House Conference on Handicapped Individuals in order to develop recommendations and stimulate a national assessment of problems, and solutions to the problems, facing handicapped individuals. Certainly, the Conference can make a meaningful contribution to the lives of many handicapped Americans; therefore, it is essential that the Council members of the Conference and support personnel have the necessary flexibility to determine the date of the Conference so that it will have maximum impact on both handicapped and non-handicapped Americans.

Public Law 93–516 required that the White House Conference on Handicapped Individuals be called not later than 2 years after date of enactment; however, it has become increasingly apparent that holding the Conference in December of 1976 will not permit the fullest exploration of the many possible benefits that this Conference can bring to handicapped Americans. There are a number of reasons for delaying the Conference until calendar year 1977:

First. The National Planning and Advisory Council was not appointed until October of 1975, and the Presidential announcement of the Conference was not made until 11 months after passage of the legislation. This delay necessarily contributed to postponement of planning activities vital for a successful Conference in December of 1976.

Second. Unless there is a postponement until calendar year 1977, the short planning period available will necessitate that States hold their State conferences in June or July of 1976. This early date will not allow the States enough time to plan effectively for their own conferences and will therefore diminish their ability to provide input for the national Conference.

Third. One important goal of the White House Conference on Handicapped Individuals is to stimulate national awareness of the problems facing the handicapped. It is essential that adequate time be allowed to develop this national awareness since nonhandicapped Americans have too long seen handicapped persons as handicapped first, and persons second. The success of the national awareness activities will contribute to a greater sensitivity and understanding of the problems faced by persons with handicaps and is vital to the total success of the Conference.

Fourth. Other conferences have had up to 3 years for planning; the White House Conference on Handicapped Individuals has been allowed only 14 months.

Fifth. The Christmas holidays will make it difficult for delegates, 50 percent of whom are handicapped, to arrange travel.

Sixth. Inclement weather, always a possibility in the month of December, could prevent the participation of handicapped delegates.

Seventh. The Bicentennial activities will detract from the national attention that the Conference on Handicapped Individuals would receive otherwise.

For these reasons, I urge that my colleagues join with me in supporting this joint resolution to extend the time period during which the President is authorized to a call a White House Conference on Handicapped Individuals.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 154

Joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended

Whereas the White House Conference on Handicapped Individuals Act (Public Law 93–516) authorized the President to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of such Act; and

Whereas that Act authorized funds appropriated to carry out the White House Conference to remain available for expenditure until June 30, 1977; and

Whereas that Act provided that the White House Conference be planned and conducted under the direction of a National Planning and Advisory Council, appointed by the Secretary of the Department of Health, Education and Welfare; and

Whereas the National Planning and Advisory Council has recommended that the convening of the White House Conference be postponed in order to assure sufficient time to develop and convene required State conferences, to assure ease in travel to the Conference by individuals with handicaps, and to assure more effective mobilization of national awareness regarding the problems faced by individuals with handicaps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 302 (a) of the White House Conference on Handicapped Individuals Act (Public Law 93–516) is amended to read as follows: "The President is authorized to call a White House Conference on Handicapped Individuals not later than three years from the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps.".

SEC. 2. Section 306 of the White House Conference on Handicapped Individuals Act (Public Law 93–516) is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1978".

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, there having been no such period today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

APPROVAL OF BILL

A message from the President of the United States announced that on December 15, 1975, he approved and signed the bill (S. 240) to amend the act entitled "An Act Granting a Charter to the General Federation of Women's Clubs."

MESSAGES FROM THE HOUSE

At 12:34 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed without amendment the bill (S. 2350) to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations.

At 1:15 p.m., a message from the House of Representatives by Mr. Hackney announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 1425. An act for the relief of Juliet Elizabeth Tozzi;

H.R. 1645. An act for the relief of Kevin Patrick Saunders;

H.R. 1647. An act for the relief of Gabriel Edgar Buchowiecki;

H.R. 2399. An act for the relief of Leonard Alfred Brownrigg;

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes;

H.R. 4046. On act for the relief of Valerie Ann Phillips, nee Chambers;

H.R. 4113. An act for the relief of Mitsue Karimata Stone;

H.R. 4941. An act for the relief of Oscar H. Barnett;

H.R. 10555. An act for the relief of Mrika Mrnacaj;

H.R. 10792. An act for the relief of Jana Hlavaty;

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes; and

H.J. Res. 749. A joint resolution to provide for the beginning of the second session of the 94th Congress and for other purposes.

ENROLLED BILLS SIGNED

At 3:45 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bills:

S. 848. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes.

S. 1922. An act to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

H.R. 1535. An act to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service.

H.R. 5559. An act to make changes in certain tax provisions of the Internal Revenue Code of 1954, and for other purposes.

H.R. 6851. An act to increase the retired pay of certain members of the former Lighthouse Service.

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended.

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager.

The enrolled bills were subsequently signed by the President pro tempore.

At 4:29 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 2672) to extend the State Taxation of Depositories Act, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1469) to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such act, and for other purposes, with amendments in which it requests the concurrence of the Senate.

At 5:55 p.m., a message from the House of Representatives by Mr. Hackney announced that the House agrees to the amendment of the Senate to the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 1391. An act for the relief of Boulos Stephan; and

H.R. 5090. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes.

At 8:15 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price of milk.

The message further announced that the House has passed the bill (H.R. 11184) to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following letters, which were referred as indicated:

REPORTS OF THE COMPTROLLER GENERAL (S. Doc. No. 94–141)

A letter from the Comptroller General of the United States dated December 12, 1975, transmitting, pursuant to law, a report on certain deferrals and proposed rescissions by the President in his seventh special message for fiscal year 1976 (with an accompanying report); jointly, to the Committees on Appropriations, Budget, Labor and Public Welfare, Foreign Relations, and Finance, pursuant to the order of January 30, 1975, and ordered to be printed.

A letter from the Comptroller General of the United States dated December 15, 1975, transmitting, pursuant to law, a report on the status of certain impounded budget authority including certain proposed rescissions contained in the President's second special message of July 25, 1975 (with an accompanying report); jointly to the Committees on Appropriations, Budget, Banking, Housing and Urban Affairs, Agriculture and Forestry, Labor and Public Welfare, and Interior and Insular Affairs, pursuant to the order of January 30, 1975, and ordered to be printed.

REPORT OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET (S. Doc. No. 94–140)

A letter from the Director of the Office of Management and Budget transmitting the cumulative report required by the Congressional Budget and Impoundment Control Act (with an accompanying report); jointly, to the Committees on Appropriations, Budget, Agriculture and Forestry, Labor and Public Welfare, Banking, Housing and Urban Affairs, Interior and Insular Affairs, Commerce, Finance, Armed Services, Foreign Relations, Public Works, and Aeronautical and Space Sciences, and ordered to be printed.

REPORTS OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Two letters from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on proposed transfer of $3.9 million of construction and facilities funds (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting, pursuant to law, a report relating to reductions in 1976 active military and civilian manpower (with an accompanying report); to the Committee on Armed Services.

Report of the Council on Wage and Price Stability

A letter from the Chairman of the Council on Wage and Price Stability transmitting, pursuant to law, the quarterly report of the Council for September 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Report of the Export-Import Bank

A letter from the Vice President of the Export-Import Bank transmitting, pursuant to law, a report on transactions of the Bank during October 1975 (with an accompanying report); to the Committee on Banking, Housing, and Urban Affairs.

Proposed Legislation by the Securities and Exchange Commission

A letter from the Chairman of the Securities and Exchange Commission transmitting a draft of proposed legislation to amend the Investment Advisers Act of 1940 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

Proposed Legislation by the Secretary of Commerce

A letter from the Secretary of Commerce transmitting a draft of proposed legislation to authorize appropriations for the Federal Fire Prevention and Control Act of 1974 (with accompanying papers); to the Committee on Commerce.

Report of the Department of the Interior

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a report of the Migratory Bird Conservation Commission for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Commerce.

Report of the Secretary of Defense

A letter from the Secretary of Defense transmitting pursuant to law the 10th report on the Federal voting assistance program (with an accompanying report); to the Committee on Rules and Administration.

Report of AMVETS

A letter from the National Executive Director of the American Veterans of World War II—Korea and Vietnam transmitting, pursuant to law, the audit report for the year ending August 31, 1975 (with an accompanying report); to the Committee on the Judiciary.

Report of the District of Columbia Auditor

A letter from the District of Columbia Auditor transmitting, pursuant to law, a report entitled "Need for Copies of Birth Certificates" (with an accompanying report); to the Committee on the District of Columbia.

Proposed Acts of the Council of the District of Columbia

Four letters from the Chairman of the Council of the District of Columbia each transmitting, pursuant to law, a copy of a proposed act adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

Report of the Committee for Purchase From the Blind and Other Severely Handicapped

A letter from the Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped transmitting pursuant to law, a report on a proposed change in the committee's system of records (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

Six letters from the Comptroller General of the United States each transmitting, pursuant to law, a report entitled as follows: "Federal Support for Restaurant Sanitation Found Largely Ineffective," "How States Plan for and Use Federal Formula Grant Funds To Provide Health Services," "Concept, Cost, and Management of Administrative Support Services Provided by Department of State to Other Federal Agencies Overseas," "Assessment of Reading Activities Funded Under the Federal Program of Aid for Educationally Deprived Children," "Overseas Military Banking: How It Is Financed and Managed," and "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1975" (with accompanying reports); to the Committee on Government Operations.

Proposed Concession Contract of the Department of the Interior

A letter from the Deputy Assistant Secretary of the Interior transmitting a copy of a proposed concession contract to provide certain facilities and services for the public within Mount Rainier National Park (with accompanying papers); to the Committee on Interior and Insular Affairs.

Orders of the Immigration and Naturalization Service

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered by the service concerning certain visa applications (with accompanying papers); to the Committee on the Judiciary.

Report of the Civil Rights Commission

A letter from the Chairman of the Civil Rights Commission transmitting, pursuant to law, a report relating to the extent of civil rights progress in the United States since 1954 (with an accompanying report); to the Committee on the Judiciary.

Report of the Secretary of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the first annual report to the Congress on the activities of the health maintenance organization program (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the Veterans' Administration

A letter from the Administrator of Veterans' Affairs transmitting, pursuant to law, a report entitled "Education Tuition Assistance Study, 1975" (with an accompanying report); to the Committee on Veterans' Affairs.

Report of the National Transportation Safety Board

A letter from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, a report on the budget estimate for the fiscal year 1976 (with an accompanying report); to the Committee on Commerce.

Proposed Legislation by the Attorney General

A letter from the Attorney General of the United States transmitting a draft of proposed legislation relating to the compensation and other emoluments attached to a seat on the Federal Maritime Commission (with accompanying papers); jointly, by unanimous consent, to the Committees on Post Office and Civil Service, the Judiciary, and Commerce.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication from the Attorney General transmitting proposed legislation relative to the compensation of a seat on the Federal Maritime Commission be referred jointly to the Committees on Judiciary, Post Office and Civil Service, and Commerce.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. STONE) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the Board of Legislators of Westchester County, N.Y., urging approval of Federal aid to New York City, N.Y.; ordered to lie on the table.

A letter from the Iowa Department of Environmental Quality relating to Federal assistance programs to State and local governments; to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Commerce, with amendments:

S. 1187. A bill to authorize the documentation of the vessel, *Bruja Mar*, as a vessel of the United States with coastwise privileges (Rept. No. 94–571).

By Mr. BUCKLEY, from the Committee on Public Works, without amendment:

S. 2796. A bill to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes (Rept. No. 94–573).

By Mr. JOHNSTON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1689. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578), as amended (Rept. No. 94–572).

By Mr. LONG, from the Committee on Finance:

S. 2804. An original bill to amend title IV of the Social Security Act to encourage increased employment among recipients of aid to families with dependent children, and for other purposes (Rept. No. 94–574).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, without amendment:

S. 726. A bill to direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho (Rept. No. 94–575).

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare:

S. Res. 332. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807). Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Thomas A. Olson, of Montana, to be U.S. attorney for the district of Montana; and

Frederick M. Coleman, of Ohio, to be U.S. attorney for the northern district of Ohio.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

SENATE RESOLUTION 328—ORDER FOR A STAR PRINT

Mr. KENNEDY. Mr. President, on Friday, December 12, 1975, the distinguished Senator from Delaware (Mr. Biden) and I introduced Senate Resolution 328, relating to long-term energy needs and the Paris Conference on International Economic Cooperation.

Inadvertently, a portion of a sentence was omitted from section 2 of Senate Resolution 328.

Accordingly, I ask unanimous consent that a star print be made of this resolution, as submitted on December 12, and I further ask that the corrected version of the resolution be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. Res. 328

Whereas fundamental changes are taking place in the global economy, requiring bold and imaginative steps to restructure and reform international economic practices and institutions, for the benefit of all nations and peoples; and

Whereas the United States retains the capacity and responsibility for sharing effective leadership in efforts to promote constructive efforts to achieve this end; and

Whereas the world's fossil fuels are being progressively exhausted, thus creating an imperative need to develop new sources of energy, and design equitable ways of sharing energy among nations; and

Whereas meeting the world's long-term energy needs involves and affects all countries; and

Whereas the World Food Conference demonstrated that nations can work together in seeking to meet long-range problems critical to the future of mankind; and

Whereas, on December 16 and 17, 1975, the first meeting of the Conference on International Economic Cooperation will be held in Paris, bringing together oil producing and consuming nations: Therefore be it

Resolved, That it is the sense of the Senate that—

(1) the President should propose to other nations a global approach to world energy problems, seeking to assess energy needs for the future, the energy sources most likely to prove both cheap and abundant, the areas of the world where investments are most likely to produce cheap and abundant energy, and the problems of equity and justice in sharing among nations the world's energy resources;

(2) that the President should make this proposal within such forums that would be most likely to permit systematic effort to understand the problems and work toward the goals in section 1. These forums should include, but not be limited to, the Conference on International Economic Cooperation and a global energy conference to which all nations would be invited; and

(3) the Secretary of the Senate shall transmit copies of this resolution to the President and the Secretary of State.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 1425. An act for the relief of Juliet Elizabeth Tozzi; to the Committee on the Judiciary.

H.R. 1645. An act for the relief of Kevin Patrick Saunders; to the Committee on the Judiciary.

H.R. 1647. An act for the relief of Gabriel Edgar Buchowiecki; to the Committee on the Judiciary.

H.R. 2399. An act for the relief of Leonard Alfred Brownrigg; to the Committee on the Judiciary.

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 4046. An act for the relief of Valerie Ann Phillips, nee Chambers; to the Committee on the Judiciary.

H.R. 4113. An act for the relief of Mitsue Karimata Stone; to the Committee on the Judiciary.

H.R. 4941. An act for the relief of Oscar H. Barnett; to the Committee on Interior and Insular Affairs.

H.R. 10792. An act for the relief of Jana Hlavaty; to the Committee on the Judiciary.

H.R. 1391. An act for the relief of Boulos Stephan; to the Committee on the Judiciary.

H.R. 5090. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket numbered 218 and for other purposes; to the Committee on Interior and Insular Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRAVEL (for himself and Mr. Stevens):

S. 2798. A bill for the relief of the city of Yakutat, Alaska. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 2799. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion of capital gains realized by taxpayers other than corporations with respect to securities purchased after the date of enactment. Referred to the Committee on Finance.

By Mr. KENNEDY:

S. 2800. A bill to authorize the Secretary of Housing and Urban Development to enter into contracts with State and local governments to provide interest subsidy payments with respect to bond issues in order to broaden and stabilize the municipal capital market and to establish within the Department of Housing and Urban Development a Municipal Technical Assistance Office. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself, Mr. Abourezk, Mr. Packwood, and Mr. Bartlett):

S. 2801. A bill to repeal the Act terminating Federal supervision over the property and members of the Confederated Tribes of Siletz Indians of Oregon; to reinstitute the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe; and to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. CULVER (for himself, Mr. Nelson, Mr. Philip A. Hart, Mr. Brooke, Mr. Hartke, Mr. McGee, Mr. Bayh, Mr. Clark, Mr. McGovern, and Mr. Abourezk):

S. 2802. A bill to require the Federal Trade Commission, the Department of Justice, and the Department of Agriculture, to compile information and annually report to the Congress with respect to antitrust enforcement, market structure, and state of competition in the food industry, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. STONE:

S. 2803. A bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances. Referred to the Committee on the Judiciary.

By Mr. LONG, from the Committee on Finance:

S. 2804. An original bill to amend title IV of the Social Security Act to encourage increased employment among recipients of aid to families with dependent children, and for other purposes. Placed on the Calendar.

By Mr. DOLE:

S. 2805. A bill to permit any person otherwise eligible to become a naturalized citizen during calendar year 1977 to become a naturalized citizen during calendar year 1976. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2806. A bill for the relief of Miss Aurora B. Munar. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. Cranston, Mr. Williams, Mr. Pell, Mr. Kennedy, Mr. Hathaway, Mr. Stafford, Mr. Taft, Mr. Schweiker, and Mr. Javits):

S. 2807. A bill to amend the Rehabilitation Act of 1973 to extend the authorization of appropriations contained in such Act. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 2808. A bill to amend the Agricultural Act of 1949, as amended, to require a loan program for the 1975 through 1977 crops of soybeans. Referred to the Committee on Agriculture and Forestry.

By Mr. BEALL (for himself and Mr. Mathias):

S. 2809. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act. Referred to the Committee on Labor and Public Welfare.

By Mr. RANDOLPH:

S. 2810. A bill for the relief of Victorino D. Chin. Referred to the Committee on the Judiciary.

S. 2811. A bill for the relief of Gaspar Z. Barcinas. Referred to the Committee on the Judiciary.

By Mr. MANSFIELD (for Mr. Proxmire):

S.J. Res. 153. A joint resolution extending the filing date of the 1976 Joint Economic Committee Report. Considered and passed; subsequently, passage vitiated and joint resolution indefinitely postponed.

By Mr. WILLIAMS (for himself, Mr. Randolph, Mr. Stafford, Mr. Cranston, Mr. Javits, Mr. Pell, Mr. Taft, Mr. Kennedy, Mr. Schweiker, Mr. Mondale, Mr. Beall, Mr. Durkin, Mr. Eagleton, Mr. Hathaway, and Mr. Laxalt):

S.J. Res. 154. A joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAVEL (for himself and Mr. Stevens):

S. 2798. A bill for the relief of the city of Yakutat, Alaska. Referred to the Committee on Interior and Insular Affairs.

Mr. GRAVEL. Mr. President, I am today introducing a bill for the relief of the city of Yakutat, Alaska.

In August 1950, the Department of Interior granted to the city of Yakutat a parcel of land, better described in Patent No. 1143948, under the terms of the act entitled "An Act to direct the Secretary of Interior to convey abandoned school properties in the Territory of Alaska to local school officials." (64 Stat. 470). Certain restrictions were made a part of this land grant by placing the parcel of land in "school reserve" status. At the time of the land conveyance, this restriction did not pose a problem. However, in recent years the city of Yakutat has changed substantially, and the city now finds the restrictions on this land greatly encumber the formation of comprehensive planning and zoning policies.

Since the time of the land grant, the Yakutat school complex has been relocated approximately 1 mile away from the land in question. This parcel of land is no longer needed for school purposes.

Another factor which is greatly affecting the city of Yakutat is the U.S. Department of Interior's announced accelerated Outer Continental Shelf petroleum leasing program wherein the Gulf of Alaska adjacent to Yakutat is scheduled for immediate leasing. The development of Yakutat into a primary port city is imminent. The city has sufficient present and contemplated municipal lands for future public use purposes but has had difficulty in providing land to Yakutat residents for homesites and other private uses. In addition, there is a scarcity in Yakutat of lands for economic development located in areas identified as suitable for that purpose in the city's overall land use plan.

The city feels it must be able to plan the use of all municipal lands based upon up-to-date planning and current needs assessments and accordingly desires the encumbrances attached to the school parcel removed.

The bill I am introducing today would allow the city of Yakutat to dispose of this parcel of land in order to further economic development and enhance the city's aggressive program of planning for the impact of Outer Continental Shelf leasing. Proceeds from the disposal or lease of the land in question would, under the terms of my bill, be used for public school or other public purposes.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior, upon request of the city of Yakutat, Alaska, is authorized and directed, according to the provisions under section 2 of this Act, to convey without consideration to the city of Yakutat, Alaska, by quitclaim deed, all right, title, and interest of the United States in and to the following described tract of land situated in Alaska:

Beginning at corner No. 4 of school reserve, identical with meander corner No. 4, Tract A, of United States Survey No. 1897, from which United States location monument No. 179 bears S. 54° 06′ E. 37.04 chains distant; thence S. 52° 54′ E. 243.17 feet to meander corner No. 1 of school reserve; thence N. 33° 41′ E. 177 feet to corner No. 2 of school reserve; thence N. 43° 15′ W. 184.65 feet to corner No. 3 of school reserve; thence S. 50° 47′ W. 213.75 feet to corner No. 4, the place of beginning; containing 41.169 square feet, according to the Official Plat of the Survey of the said Land, approved March 1, 1937, on file in the Bureau of Land Management.

SEC. 2. The Secretary of the Interior shall condition the conveyance of the land to the city of Yakutat upon the use of the land for public school or other public purposes, or upon the use of any revenues derived from the sale, lease, or other disposition of the land or any interest therein for public school or other public purposes.

SEC. 3. The Secretary of the Interior is authorized and directed to prepare and execute such instrument as may be appropriate to carry out the provisions of this Act.

By Mr. KENNEDY:

S. 2800. A bill to authorize the Secretary of Housing and Urban Development to enter into contracts with State and local governments to provide interest subsidy payments with respect to bond issues in order to broaden and stabilize the municipal capital market and to establish within the Department of Housing and Urban Development a Municipal Technical Assistance Office. Referred to the Committee on Banking, Housing and Urban Affairs.

THE MUNICIPAL CAPITAL MARKET IMPROVEMENT ACT—A FEDERAL INTEREST SUBSIDY FOR STATE AND LOCAL GOVERNMENT BONDS

Mr. KENNEDY. Mr. President, I introduce and send to the desk the Municipal Capital Market Improvement Act and I ask that it be appropriately referred.

Identical legislation is being introduced in the House of Representatives today by Congressman HENRY S. REUSS, of Wisconsin, chairman of the House Committee on Banking, Currency and Housing.

Mr. President, the purpose of this legislation is to provide a significant alternative for hard-pressed State and local governments in their efforts to obtain capital to meet their growing needs. A summary and explanation of the proposed legislation is contained in the joint statement I made today with Congressman REUSS. I ask unanimous consent that the text of the bill, the joint statement, and a summary of the issue prepared by the staff of the House committee be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Municipal Capital Market Improvement Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that municipal capital markets as presently organized are unable to provide needed capital at reasonable interest rates at all times;

(2) that municipal capital markets are subject to cyclical instability; and

(3) that the Federal Government does not, at present, provide efficient financial assistance to State and local governments.

(b) It is, therefore, the purpose of this Act to broaden the municipal capital market, to stabilize it, and to provide more efficient Federal assistance to State and local governments.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "State or local public body" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or a possession of the United States, or any political subdivision of any of the foregoing.

(2) "State or local obligation" means any obligation issued by or on behalf of a State or local public body which, but for the election under section 4(a) of this Act, would be an obligation to which section 103(a) (1) of the Internal Revenue Code of 1954 applies.

(3) "Secretary" refers to the Secretary of Housing and Urban Development.

INTEREST SUBSIDY PAYMENTS

SEC. 4. (a) The Secretary shall, upon the written notice of any State or local public body that it has elected to issue a taxable obligation, provide interest subsidy payments to such entity for such obligation. Such payments shall be used to reduce the net interest cost, as determined in subsection (b), to such body on such obligation. Such payments shall be made on any taxable State or local obligation issued or authorized to be issued by or on behalf of such State or local public body on or after the effective date of this Act.

(b) (1) The interest subsidy payments authorized under subsection (a) on account of a State or local obligation shall (a) be sufficient to pay 40 percent of the net interest cost per annum of such obligations, and (B) be made at such periodic intervals as may be necessary to enable a State or local public body to pay interest to the holder of such obligation at the time such interest is due.

(2) No interest subsidy payment shall be made under this section with respect to any State or local obligation for any period for which the United States or any agency or instrumentality thereof makes any payment of interest on such obligation pursuant to a guarantee by the United States or any agency or instrumentality thereof of the payment, in whole or in part, of interest on such obligation.

(c) The interest subsidy payments referred to in subsection (b) shall be made by the Secretary either directly to the issuer of the State or local obligation or to a trustee or paying agent therefor or other designee, as may be requested by such issuer.

(d) All interest paid on any State or local obligation with respect to which an interest subsidy payment is made under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1954.

RULES

SEC. 5. The Secretary shall promulgate such rules as may be necessary or appropriate to carry out this Act.

MUNICIPAL TECHNICAL ASSISTANCE OFFICE

SEC. 6. (a) There is established within the Department of Housing and Urban Development the Municipal Technical Assistance Office (hereinafter referred to in this section as the "Office").

(b) The Secretary shall appoint a director and staff of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and who shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) The Office is authorized to provide technical assistance to State and local governments concerning municipal capital market management and budget planning.

(d) The Office is authorized to undertake research and information gathering and to facilitate the exchange among State and local governments of advanced concepts and techniques relating to municipal growth and development.

(e) The Office may charge appropriate fees to State and local governments for its services under this section.

REPORTS TO CONGRESS

SEC. 7. Not later than April of each calendar year which begins on or after the effective date of this Act, the Secretary shall transmit a report to each House of Congress concerning the administration of his functions under this Act.

AUTHORIZATION

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect on the sixtieth day beginning after the date of its enactment.

MUNICIPAL FINANCING: AN ALTERNATIVE APPROACH

(Statement by Rep. HENRY S. REUSS, chairman of the House Committee on Banking, Currency, and Housing, and Senator EDWARD M. KENNEDY of Massachusetts)

Today we are introducing the Municipal Capital Market Improvement Act to provide an automatic 40 percent federal interest subsidy for municipal bonds which the issuing unit of state or local government has chosen to make taxable. The Act also sets up a Municipal Finance Assistance Office within HUD to extend technical assistance in fiscal matters to state and local governments. The Act would take effect 60 days from enactment. (A brief summary of the provisions of the Act is attached.)

The problems of municipal financing have been catapulted to headline status this year by the New York fiscal crisis. But New York is not alone in feeling the impact of these problems.

The average municipal bond yield has risen 5.17 percent in 1973 to 7.52 percent in 1975—an increase of 45 percent, representing an enormous additional burden of debt on state and local governments. Many bond issues have been crowded out altogether from the market.

Immediate causes of this situation are tight money and high interest rates generally, high prices and investor expectation of further inflation, and the new perception of municipal risk introduced by the New York crisis.

But there are also long-term problems with the municipal capital market as traditionally constituted which prevent state and local governments from borrowing the growing amount of money they need at interest rates they can afford. Now that the New York crisis is nearing a satisfactory resolution in Congress, we believe it is time for Congress to turn to the more general problems of capital financing by state and local governments.

We believe that the proposal we are introducing today in the House and Senate can reduce substantially the long-term structural difficulties from which the municipal capital market suffers in six major areas.

1. The Municipal Bond Market Is Too Narrow to Absorb State and Local Obligations at Reasonable Rates of Interest.

Municipal bonds have traditionally appealed to only a handful of institutional and wealthy private investors, for whom the tax exemption outweighs the interest sacrifice. In the case of institutions already tax-exempt, for example, tax-exempt bonds are no bargain at all.

The Municipal Capital Market Improvement Act, by encouraging municipalities to issue taxable bonds bearing a market rate of interest, would bring new investors into the municipal market. The 40 percent interest subsidy would prevent exorbitant debt service burdens on state and local governments. In many cases, the actual interest cost to state and local governments would be lower than for tax-exempt bonds today.

The 40 percent subsidy level is an appropriate incentive to state and local governments to include the taxable bond among their fiscal options. A lower subsidy might prove ineffective, while a higher one might provoke unnecessary disruption of existing markets.

With a federally-subsidized taxable bond, institutional investors which are now tax-exempt or lightly taxed would enter the market for state and local bonds. Pension funds could purchase billions of dollars. Mutual savings banks, charities, universities, and tax-exempt foundations could all provide substantial new sources of funds. Life insurance companies, attracted by higher rates of interest, could invest heavily.

In addition, the municipal bond market would be opened up to individual investors with moderate incomes and lower marginal tax rates, who would be induced to invest in these higher-interest bonds.

2. The Municipal Bond Market Is Subject to Serious Cyclical Instability.

Because bank purchases of municipals drop sharply as interest rates rise generally, the tax-exempt market is subject to severe periodic disruptions. The Municipal Capital Market Improvement Act would help ensure that municipal borrowers are not disproportionately handicapped in tight money periods.

In practice, the taxable subsidized bond option will generate a counter-cyclical effect by tying the tax-exempt interest rate to the taxable rate. When the interest rate spread beween tax-exempt and taxable securities is less than 40 percent (at present, it is closer to 20 percent), state and local governments are likely to choose the taxable option. There will tend to be few new issues of tax-exempts at that time unless they can be placed with yields at least 40 percent below taxable yields. Thus municipalities will be able to survive tight money periods more easily, and the additional interest costs incurred will be relieved by the federal government. In periods of easier money, local governments will not tend to choose the taxable option—tax-exempt rates should be low enough to make them attractive.

Moreover, by broadening the market for municipal securities and attracting new investors, the taxable subsidized bond option will reduce the heavy reliance of state and local finances on small and relatively volatile institutions. Pension and life insurance funds, in particular, should be more stable sources of funds, since they are less sensitive to monetary policy than are banks, and usually seek long-term investment.

3. Tax-exempt Bond Interest Distributes Tax Benefits Inequitably.

Tax-exempt interest on state and local bonds is a large windfall for the wealthiest taxpayers. In 1974, approximately 88 percent of the tax benefit from about $2.8 billion in tax-exempt interest to individuals went to the richest 1.2 percent of all taxpayers.

The Municipal Capital Market Improvement Act, by encouraging state and local governments to issue taxable bonds, would lessen the flagrant inequity of the present system. In general, with a 40 percent subsidy, it is estimated that about 15 percent of tax-exempt bonds would be replaced by taxable bonds.

4. The Tax Exemption Is an Inefficient Subsidy to State and Local Governments.

Under the present system, tax-free interest on municipal bonds costs the federal Treasury $4.8 billion, and generates interest savings of $3.5 billion for state and local governments. Thus, it costs the Treasury $1.00 to provide a $.75 subsidy to state and local governments. The remaining $.25 is siphoned off as a "commission" to wealthy individuals and institutions.

By contrast, the Municipal Capital Market Improvement Act's subsidized taxable bond option provides its benefits directly to state and local governments, at a much smaller net cost to the federal government. Increased federal revenues on taxable bonds will come close to meeting the cost of the 40 percent subsidy. An Urban Institute study has estimated that the maximum cost per year to the Treasury of the 40 percent subsidy would be $650 million, while state and local governments would derive $1.3 billion in interest savings. Under the current program, each $1.00 of federal subsidy buys only $.75 of state and local relief; under the taxable bond option, each federal $1.00 would buy $2.00 of state and local aid. In effect, the new program would almost triple the efficiency of the federal subsidy to municipal bonds. State and local governments would find their borrowing costs reduced for both taxable and tax-exempt issues.

5. Municipalities Have Been Forced into Financing Long-Term Investments with Short-Term Borrowing.

In an effort to accommodate the commercial banks' preference for short-term obligations, municipalities have been forced to finance long-term projects through one-year bond anticipation notes, and are thus in perennial jeopardy of default.

The Municipal Capital Market Improvement Act, by providing a taxable alternative, will allow state and local governments to tap the long-term taxable market, reduce their dependence on unstable short-term obligations, lower the risk of default, and help remove the risk premium incorporated in today's high municipal interest rates.

6. Local Governments' Access to Municipal Capital Markets Is Limited by Size, Location, and Lack of Financial Expertise.

Many local governments, particularly those which are small, which borrow rarely, and which are located far from major capital markets often fail to obtain money on terms which their creditworthiness deserves. Frequently, they suffer from the lack of sound financial advice.

The Municipal Capital Market Improvement Act deals with this problem by establishing a Municipal Finance Assistance Office within HUD, to provide local governments with the technical assistance they require. Municipal market experts will advise local governments on whether to borrow, how much to borrow, when to borrow, where to borrow, and what yields to expect. Additional counseling in budget procedures and management will also be available.

While the Municipal Finance Assistance Office cannot remedy the marketing problem which the small size of many local issues presents, it can assure local governments of access to the best financial advice available.

The legislation we are proposing can achieve its goals in these six areas without any significant federal intrusion into state and local governments. The federal interest subsidy is automatic. It is triggered by the issuance of a state or local taxable bond. It is not contingent on federal approval of the purpose of the bond issue or on any other condition. The new federal subsidy is as automatic for state and local governments as the tax-exempt federal subsidy is today.

Finally, we would note that the essence of this proposal is neither new nor the special preserve of any political party. It was proposed by Democratic Administrations in the 1960's, and was incorporated in the House version of the Tax Reform Act of 1969. Subsequently, it has been endorsed by officials of the Nixon and Ford Administrations.

We feel that the time is now ripe for Congress to take this major step to deal with the serious problems of obtaining capital confronting state and local governments. The New York crisis has made both the House and the Senate sensitive to the urgency of these problems. We believe that the measure we are proposing offers the fairest and the most effective form of federal assistance with the least intrusion into state and local affairs.

SUMMARY—REUSS-KENNEDY MUNICIPAL CAPITAL MARKET IMPROVEMENT ACT

Purposes: Authorizes HUD to provide an alternative method of financing for state and local governments, by offering a federal interest subsidy for taxable bond issues.

Findings: The high cost of borrowing, the periodic instability of municipal capital markets, and inadequate federal assistance have compounded the financing problems of state and local governments and require action by Congress.

Provisions:

1. Participation: States and local governments, the District of Columbia, the Commonwealth of Puerto Rico, and all U.S. territories or possessions.
2. Administrator of the Program: The Secretary of Housing and Urban Development.
3. Eligible Bonds: Any obligation of a state or local government which, but for the Act, would qualify for tax-exempt status.
4. Election and Level of Subsidy: The federal government will pay 40 percent of the net interest cost of obligations of states or local governments electing to issue taxable bonds. Interest payments on such bonds will be included in the gross income of the recipient under the Internal Revenue Code.
5. Automatic Subsidy: The subsidy is triggered solely by notice of the issuance of a taxable state or local obligation. It is not contingent on the financial condition of the issuing jurisdiction, on federal audit or approval, or any other condition.
6. Method of Interest Payments: At such intervals as appropriate to enable jurisdictions to make requisite interest payments; specific methods of payment will be determined by HUD regulations.
7. Technical Assistance: Establishes a new Municipal Technical Assistance Office in HUD to provide financial and other advice and technical assistance to states and localities with respect to municipal capital market management and budget planning. The Office is also authorized to undertake research into municipal financing and to serve as a clearinghouse for exchanges of information among states and local governments. The Office may charge appropriate fees for its services.
8. Reports to Congress: HUD is required to make a report each April to the House and Senate on its administration of the program.
9. Cost: The bill authorizes such sums as necessary for the program. Under present conditions, the Treasury cost for 1976 is estimated at $650 million, with a savings of $1.3 billion to state and local governments.
10. Effective Date: 60 days after enactment.

[Staff summary prepared for the use of the Committee on Banking, Currency and Housing]

THE MUNICIPAL CAPITAL MARKET—WHY IT NEEDS HELP

Two years ago, Madison, Wisconsin, rated Aa by Moody's, sold its 10-year general obligation bonds at 4.4 percent net interest cost. This year, it was forced to pay 5.3 percent on a comparable issue. And Madison is not alone in facing soaring interest costs; the same pattern is repeated by state after state and local government after local government. The Bond Buyer's 20-Bond Index of average municipal bond yields was 5.17 percent in November, 1973; last month it was 7.52 percent. Even more frightening is the fact that these state and local governments are the *lucky* ones—they at least have obtained funds, although at a high price. Many other borrowers have been crowded from the market altogether. Clearly, a crisis exists in the municipal bond market today, and it promises to get worse over time.

This crisis has some immediate sources. Restrictive monetary policy has raised rates on municipals as it has on other securities. Investor expectation of further inflation has kept interest rates high. And the New York fiscal catastrophe has made investors see risk in municipals previously considered as firm as the Rock of Gibraltar.

Beyond these immediate problems, however, are some long-term difficulties with the municipal capital market which must be faced:

1. The municipal bond market, as traditionally constituted, is too narrow to absorb state and local obligations at reasonable rates of interest.

The tax-exempt bond, with its lower rate of interest than the taxable bond, has limited the number of potential investors. It has attracted only those taxable institutional investors which have substantial unshielded profits neither distributed to stockholders nor re-invested. (Commercial banks have special tax treatment which has made the investment especially desirable, and until recently they dominated the market.) Foundations, pension funds, mutual savings banks, and other low-tax institutions with substantial funds to invest have no incentive to buy tax-exempt municipals. It has attracted only those individual investors whose high marginal tax rate has more than offset the interest sacrifice. The market has effectively been restricted to about 2 percent of individual taxpayers and a handful of institutional ones.

To bring new investors into this narrow market, state and local governments are paying higher and higher interest rates, and the differential between tax-exempt and taxable bond interest rates, normally averaging 30 percent of the latter, has narrowed to about 20 percent. Many municipalities are unable to carry so large a debt service burden without cutting back on needed expenditures or raising taxes at the possible expense of economic recovery.

Municipal borrowing has more than doubled in the last decade. In 1964, outstanding tax-exempt municipals totalled $93 billion; by the end of 1974, they were $207 billion. Annual long-term borrowing figures show the same trend—$10.5 billion in 1964, rising to almost $23 billion in 1974, with the 1975 total likely to reach $27 billion. In addition, municipal bonds are taking an increasingly important share of the capital market. In 1964, they represented 19.4 percent of all securities, while by 1974, they accounted for 21.8 percent.

Municipal capital expenditures are expected to continue to grow for the rest of the decade. A recent Brookings Institution study put the annual figure at $66 billion (in 1973 dollars) by 1980. About half this sum, the authors predict, must come from bond proceeds.

Another source of pressure in the municipal bond market, much of which is not included in the Brookings estimate, is the growing volume of state and local borrowing for non-governmental purposes, especially for pollution control in private industry. Local governments may float tax-exempt bonds and use the proceeds to lease equipment "for controlling pollution and for a significant purpose other than controlling pollution" to private industry. This arrangement has several intrinsinc disadvantages. First, it provides private companies not only with pollution control facilities at substantially lower than market cost but with substantial additional tax write-offs as well. Second, it tends to discriminate against smaller companies, which cannot convince municipalities to float bonds on their behalf or investors to buy such bonds. Third, it encourages capital-intensive pollution control techniques to the exclusion of other processes.

Pollution control bonds are a form of industrial development bonds, which were heavily used in the late 1960's. The Revenue and Expenditure Control Act of 1968 and the Tax Reform Act of 1969 cut back on industrial development bonds as a whole, but left a loophole for pollution control. With the passage of environmental legislation, publicly-reported issues of pollution control bonds jumped from $93.3 million in 1971 to $1.6 billion in 1974, and will reach an estimated $3.5 billion in 1975. The annual total could eventually rise as high as $7.5 billion. Unreported issues may add at least as much again to the total of pollution control bonds.

Reported issues of pollution control bonds alone have raised all tax-exempt bond yields by 30 basis points, and, according to George Petersen at the Urban Institute, if unreported issues are again as great, total pollution control borrowing in the tax-exempt market has probably raised yields by 80 to 85 basis points. Unless the tax-exempt status of these securities is repealed, pollution control bonds will put even greater pressure on interest rates for bona fide municipal borrowing.

While municipal borrowing is increasing, traditional investors seem to be cutting back.

Banks. Commercial banks have been the biggest buyer of municipal bonds. In 1974, they held about 48 percent of all outstanding municipal debt—up from 36 percent a decade earlier. Municipal bonds were 10.7 percent of bank assets in 1964, and 12.1 percent in 1974. Municipals have traditionally been attractive to banks for several reasons. First, the tax law does not forbid banks, as it does other investors, to deduct from taxable income interest costs attributable to the purchase of tax-exempt bonds. Second, commercial banks are forbidden under national law to invest in corporate stocks for their own accounts. Third, many local governments require banks to hold municipal bonds against tax and loan accounts. But state and local bonds as an investment may be less attractive to their banks now.

First, in the 1950's and 1960's, banks were reducing as a percent of portfolio their large holdings of federal securities built up during the 1930's, and 1940's, and thus had funds available for investment in municipals. Now that they have cut their federal holdings from 40 percent of total assets in 1954 to 10.7 percent in 1974, this source of funds has largely dried up.

TABLE I.—U.S. GOVERNMENT AND MUNICIPAL SECURITIES HELD BY ALL BANKS

Type of security	1954		1964		1974	
	Percent of bank assets	Billions	Percent of bank assets	Billions	Percent of bank assets	Billions
U.S. Government (including agencies)	40.0	$73.3	21.9	$68.8	10.7	$89.8
Municipal	7.0	12.9	10.7	33.7	12.1	101.2

Source: Federal Reserve Board flow of funds data.

Second, and perhaps more important, the Bank Holding Company Act opened up new tax shelters for banks through holding company subsidiaries qualifying for such tax breaks as accelerated depreciation, investment tax credit, and deferral of tax on unrepatriated foreign earnings. Municipal bonds are no longer the only way for banks to shelter income.

As a result, bank demand for municipals has been decreasing for the last 4 years.

TABLE II.—ANNUAL NET CHANGES IN BANKS HOLDINGS OF MUNICIPAL SECURITIES

[Amounts are in billions of dollars]

1971	1972	1973	1974	1974 (1st qtr.)	1975 (2d qtr.)
12.6	7.2	5.7	5.5	−2.7	6.9

Source: Congressional Budget Office, New York City's Fiscal Problem, Oct. 10, 1975, p. 8.

It may well continue to decrease. Can other major municipal investors be expected to take up the slack?

Fire and casualty insurance companies. The only other institutional investors of significant proportion, these companies held 15 percent of outstanding municipals in 1974, slightly more than the 12 percent which they owned in 1964. Since fire and casualty insurance companies, unlike life insurance companies, are taxed at regular corporate rates and buy municipals to shield profits, their purchase of state and local bonds falls sharply in years when they have little or no profit to shield (for example, 1963-5, 1968, 1969). These investors cannot be counted on to provide the investment capital which state and local governments will need over the next few years.

Individuals. The household sector had 30 percent of outstanding municipals in 1974, a decrease from the 37 percent which they held in 1964. While statistics of individual ownership of municipals are sketchy (holders are not required to include the income on their tax returns, still less to pay tax on it), it seems that over 85 percent of tax-exempt bonds held by individuals are owned by people with $25,000 or more of gross income. Over 70 percent are in the hands of investors with gross incomes of $50,000 or more.

It is obvious why the number of individual investors has tended to be limited to the rich and near-rich. Suppose that a prosperous corporate executive with a marginal tax rate of 50 percent is comparing the advantages of a $1,000 15-year tax-exempt municipal with a 7 percent yield against a similar taxable corporate security at 10 percent. His after-tax (there is no tax) yield on the municipal is $70, while the corporate security will give him, after taxes, only $50. He buys the tax-exempt.

But suppose a young couple of moderate means and in, for instance, the 25 percent bracket weigh the same alternatives. The tax-exempt would net them $70, but the after-tax corporate security would be worth $75 to them. They buy the corporate taxable bond.

The spread between tax-exempt and taxable rates must be greater than the investor's marginal tax rate before he or she will buy state and local obligations. The higher the tax bracket, the stronger the incentive to buy tax-exempt bonds. With individual participation in the market thus limited, at reasonable interest rates, to a handful of upper and upper-middle income investors, and with alternative tax shelters competing for their investment dollars, the danger of oversaturation of the market is strong.

The only way for municipalities to draw more individual investors into the tax-exempt market is to offer higher yields relative to taxable securities. The smaller the yield differential between tax-exempt and taxable bonds, the greater the incentive for moderate-income investors to buy municipal and for upper-income investors to move from other tax shelters into municipal bonds. But there are reasons for which many moderate-income investors are not interested in tax-exempts. First, the customary $5,000 minimum denomination in which municipals are marketed is a substantial barrier. Second, the secondary market for these bonds is weak, a sizeable penalty is usually incurred in liquidating holdings, and investors without much financial leeway are reluctant to tie themselves up for long periods. Thus, many moderate-income investors will come into the tax-exempt market even for higher interest rates.

Bank demand for municipals is decreasing, fire and casualty insurance companies demand for municipals fluctuates with profits, and middle-income individuals can be lured into the market only at the price of interest rates which many municipalities find insupportable.

2. The municipal bond market is subject to cyclical instability.

Over the recent years, tax-exempt yields have tended to average about 70 percent of taxable yields. When money is tight, however, and interest rates rise, tax-exempt rates rise faster than taxable rates. At present, for instance, the ratio is closer to 80 percent (although the New York City crisis must take part of the blame). State and local governments are periodically simply squeezed out of the market.

The main reason for this cyclical instability of municipal bonds is that the behavior of commercial banks (who hold about 50 percent of municipal bonds) is strongly influenced by money market and economic changes. Banks are primarily in business to make relatively short-term loans to corporations and individuals. Investment in tax-exempt bonds is considered a residual use for funds. When private sector interest rates rise, banks tend to put more funds into loans and cut back on purchases of municipals or even sell them. During these periods, there are thus relatively more municipal bonds and relatively fewer buyers, and interest rates soar. A number of states—especially southern states—have legal or constitutional limits on the amount of interest its obligations can bear, and if unable to waive the ceilings are forced out of the market at this point. Others are forced out by fiscal limits.

The impact of this cyclical pressure on state and local finances is terrible. Enormous debt burdens are incurred, capital projects are suspended with increased eventual costs, effective planning becomes impossible, and substantial sacrifices result.

3. The tax-exempt bond interest distributes tax benefits inequitably.

Tax-exempt bond interest amounted to some $9.4 billion in 1974, of which roughly 30 percent went to individuals. That tax-free $2.8 billion give-away to wealthy investors contributes to the persistent inequality of income in this country and undermines the progressivity of our federal income tax.

An average factory worker, receiving perhaps $13,000 total a year, all of it in wages, pays income tax on every penny of it, and social security as well. A municipal coupon clipper, whose $13,000 in interest on tax-exempt bonds is likely to be only a fraction of his total income, pays not one red cent. The principle of progressive taxation is that richer people pay a larger percent of income. Even allowing for the fact that interest on a municipal bond contributes less to the investor's income than would interest on a taxable bond, exempting bond interest is a flagrantly regressive element in the tax code.

A study using the tax expenditure data for fiscal year 1974 provided by the Treasury Department came up with the following distribution of tax benefits from state and local bond interest:

TABLE III.—DISTRIBUTION OF TAX-EXEMPT BOND INTEREST BENEFITS

Adjusted gross income (thousands)	Amount distributed (millions)	Percentage distribution
$0 to $3	(1)	0.09
$3 to $5	(1)	------------
$5 to $7	(1)	------------
$7 to $10	$1	------------
$10 to $15	4	2.5
$15 to $20	22	------------
$20 to $50	98	9.3
$50 to $100	389	88.2
Over $100	546	------------
Total	1,060	100.0

(1) Statistically insignificant.

Source: Staff Study, Office of Senator Walter F. Mondale, May 1975.

The table shows that 88 percent of the tax benefit went to people with more than $50,000 in adjusted gross income—or 1.2 percent of all taxpayers.

Another tax principle more honored in the breach than the observance is horizontal equity—giving taxpayers at the same income level the same tax treatment. By failing to tax municipal bond interest, inequity is created between taxpayers—whether corporate or individual—with identical income totals derived from different sources.

4. The tax exemption is an inefficient subsidy to state and local governments.

What would we say to a person who wanted to give $1,000 to a worthy cause, handed the cash to a messenger, and allowed him to keep 25 percent as a commission for transmitting the rest? We would say that the donor was weak in the head.

Yet this is exactly what is happening with municipal tax-exempts. In recent years, it has cost the federal government $1.00 to give state and local governments about $.75 in interest savings through tax exemption, while municipal investors received the missing $.25. The gap is caused by the difference between the tax-exempt taxable spread necessary to attract the marginal investor (the middle income person with a tax rate just greater than the spread) and the tax rate of the average investor (the upper income person or the corporation who would have bought even at a lower yield and greater spread, and thus reaps a windfall on the deal). Thus, while the spread (by definition, the tax rate of the last, or marginal, investor) from 1960 until less than a year ago averaged about 30 percent, the Treasury Department estimates the average tax rate of municipal investors at 42 percent. The 30 percent interest saving goes to state and local governments; the 42 percent tax revenue loss depletes the federal Treasury.

In fiscal 1976, the federal government will lose $4.8 billion in taxes foregone on municipal bond interest, while local governments will save only $3.5 billion in lowered interest costs. The missing $1.3 billion goes right into the pockets of well-to-do investors—the higher the tax bracket the greater the subsidy. And these figures are based on the traditional 30 percent spread. If tax-exempt yields continue to hover close to 80 percent of taxable yields, the gap between Treasury losses and municipal savings is likely to be even greater in future years.

5. Municipalities have been forced to finance long-term investment with short-term loans.

It used to be that municipalities used short-term borrowing only for seasonal cash-flow requirements, and financed all of their capital projects with the appropriate long-term bonds. No longer. Because of highly unstable municipal interest rates, and because of the demand by commercial banks for short-term investments which can be liquidated in only a few months time at full face value, municipalities have increasingly been forced to issue bond anticipation notes with maturities of only one year. These then are rolled over year after year, in the hope that eventually interest rates will fall and a low-cost, long-term bond may be issued. If interest rates instead go up, the municipality finds itself forced at frequent intervals to find new money at ever higher costs. If the money cannot be found, then there is a persistent danger of default which, once present, further compounds the difficulty of raising funds. This is one of the problems which almost brought New York City to its knees in the past month. There are only two solutions: to lower the general level of interest rates, or to provide states and municipalities with access to the market for long-term taxable funds.

6. Local governments' access to municipal capital markets is often limited by size, location, and lack of financial experience.

In municipal bond markets, it is whom you know that counts. For many units of local government, the main barrier to credit is the fact that they are an unknown quantity to bond index makers, underwriters, and investors. A small town which borrows rarely often finds it hard to establish a credit rating, or may be given one lower than its creditworthiness deserves, and pays the penalty in higher interest rates and unplaced issues. Underwriters frequently object to bidding on small bond offerings. Local governments far from financial centers and without expert technical staff tend to rely upon the advice of local banks or brokers, which may or may not be in their best interests. Municipal capital markets are thus an imperfect source of funds for many local governments.

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These are the main problems besetting the municipal bond market—narrowness, cyclical instability, inequity of tax subsidy, inefficiency of tax subsidy, short-term bias, and imperfect access. Now for some proposed solutions.

MUNICIPAL CAPITAL MARKET IMPROVEMENT PROPOSALS

The proposals which have been presented to the House Committee on Banking, Currency, and Housing to improve the municipal capital market are of four types. All are worthy of careful consideration, and aspects of each may be incorporated into a final recommendation.

The four ideas now before the Committee are as follows: (1) an interest-subsidized federally-taxable municipal bond option (Reuss-Kennedy), (2) a federal guarantee of a subsidized taxable municipal bond option (Congressman Barrett), (3) a plan for insurance of tax-exempt municipal bond offerings (two variants: one by Senator Jackson, the other by a private insurance company), and (4) a plan for an intergovernmental RFC or Urbank, which would borrow in the taxable market and relend to states and municipalities on advantageous terms. (Many variants of this plan have been proposed, notably by Reps. Sullivan and Patman, by two former officials of the Johnson Administration, Charles Haar and Peter Lewis, and by a private securities firm.)

1. The taxable municipal bond option.

This proposal, advanced by Senator Kennedy and Chairman Reuss, is undoubtedly the simplest of those presented today. It would provide a federal subsidy of 40 percent of the interest cost of taxable bonds which states and municipalities may choose to offer in lieu of tax-exempts. The subsidies would be administered by the Secretary of Housing and Urban Development and would be automatic upon the election by a municipality or state of the taxable bond option. A Municipal Technical Assistance Office would be established within HUD to assist municipalities in capital market management and budget planning.

Arguments in favor: The Reuss-Kennedy proposal would stabilize the long-run differential between taxable and tax-exempt securities at a level equal to the subsidy rate, or 40 percent of the taxable interest rate. This would confine the demand for tax-exempt bonds among individual investors to those whose marginal tax rates exceed 40 percent. But it would create a market in taxable municipal securities for those moderate income individual investors whose low marginal tax rates have hitherto made tax-exempt municipal securities an unattractive investment. Equally, it would open to states and municipalities the vast market for long-term securities provided by pension funds, life insurance companies and other institutions whose own tax-exempt or tax-sheltered status has previously made municipals unattractive to them. Therefore, the proposal would widen the market for municipal bonds, and would lessen the cyclical instability caused by the unstable tax-exempt market share held by commercial banks.

The provision of a taxable municipal bond option also has progressive effects on the distribution of income. At a 40 percent subsidy rate, between 10 and 15 percent of the borrowing now undertaken by states and municipalities would be shifted from the tax-exempt to the taxable market, according to a study by the Urban Institute. This would reduce the market interest rate on tax-exempts from current levels to about .6 of the rate on comparable taxable obligations. The effect would be a substantial transfer of future income from wealthy purchasers of tax-exempt securities to state and local governments. The efficiency of the federal subsidy of state and municipal governments provided by the tax-exempt status would be improved, along with the equity of the federal tax system.

Arguments against: The Reuss-Kennedy proposal does not completely resolve the problems of the municipal bond market. It only slightly reduces the perception of risk which the New York City crisis has suddenly introduced into municipal bonds. Although it provides technical marketing assistance, it does not assure market access for those small jurisdictions whom size or location may have prevented from competing in the municipal capital market on reasonable terms in the past. It ameliorates but does not completely eliminate the cyclical nature of the municipal bond market.

The redistributive effects of the proposal, and its effects on efficiency and tax equity, while progressive, are not so progressive as those which could be had under a 50 percent subsidy for somewhat greater net Treasury cost. The net Treasury cost of the Reuss-Kennedy plan was estimated by the Urban Institute in March, 1974 to be $54 million in the first year and $650 million annually after twenty years, compared with $161 million and $2 billion respectively for a 50 percent subsidy rate. Under the higher subsidy, virtually all municipal borrowing would shift to the taxable market, with progressive redistribution effects greater than that of the 40 percent rate.

The Committee will consider subsidy rates in the range of 30 to 50 percent.

2. A federal guarantee of a taxable municipal bond option.

Under a proposal introduced by Congressman Barrett (H.R. 10113), a Municipal Debt Guarantee Corporation would be established under the Secretary of Housing and Urban Development to issue federal guarantees and a 33⅓ percent interest subsidy on a taxable obligation of municipalities found to be in sound fiscal condition. The guarantee would carry a one-quarter percent annual fee. Under certain emergency conditions, local governments threatened with default could exchange their outstanding obligations for taxable, guaranteed obligations under the Act. The Secretary of HUD could direct the Federal Financing Bank to purchase bonds for federally-assisted projects, such as housing and urban development, thereby relieving pressure on the municipal capital market.

Arguments in favor: The bill by Congressman Barrett would eliminate the risk involved in the issue of a taxable obligation, although not that of tax-exempts. Under some but not all conditions, it would encourage municipalities to issue a taxable obligation, which would open the market to investors in low marginal tax brackets, moderate the cyclical instability of the municipal market, have favorable effects on the efficiency of the subsidy, on the equity of the tax system, and on the distribution of income, and would somewhat alleviate the difficulty of selling long-term bonds

To be precise, H.R. 10113 would set a long-term floor on the differential between interest on unguaranteed tax-exempt and guaranteed taxable securities of the same municipality at 33⅓ percent of the latter, less the one quarter of one percentage point guarantee fee. During periods of high risk, when the interest on an unguaranteed taxable security rises far above the risk-free guaranteed rate, large movements from the tax-exempt market to the option provided by H.R. 10113 would be induced. The effect would be similar to that of a far higher subsidy rate on the interest on an unguaranteed taxable bond option (as is proposed in the Reuss-Kennedy bill).

This feature enhances the positive effects of Congressman Barrett's proposal: the broadening and lengthening of the municipal market, and the progressive effects on efficiency, equity, and income distribution. However, during periods of low risk municipalities would flow back into the tax-exempt market, and it is possible that during an extremely stable economic period no use at all would be made of the guaranteed taxable bond option.

Under the exchange plan which Congressman Barrett proposes to assist municipalities threatened by default, investors would be given the choice between retaining the tax-exempt securities they hold—and running the risk of default—or of trading those securities for identical guaranteed securities without the tax-exempt feature. On securities which have substantial time to run before maturity, investors would bear the cost of averting default in proportion to the benefit they previously enjoyed from tax-exemption. Those who sold such relatively low-interest securities on the market would bear the cost in the form of a capital loss, thus assuring an equitable sharing of sacrifice.

Arguments against: Congressman Barrett's proposal would empower the federal government to supervise and audit the fiscal condition of state and local governments which elect assistance under his program. A new federal regulatory agency is established to meet this need. The strong reluctance of state and local governments to submit to such supervision may seriously impair the effectiveness of the plan.

Second, H.R. 10113 would introduce a significant new element of uncertainty in municipal capital management. In times of recession and rising tax-exempt interest rates, municipalities would shift rapidly from tax-exempt to guaranteed taxable bonds—under current conditions, for example, if economic considerations predominated virtually all new issues of municipal debt might be guaranteed taxables instead of tax-exempts. As economic conditions improved the shift back to tax-exempt might be equally rapid. Such changes might fuel speculation in the municipal bond market.

Third, while the effect of the municipal debt exchange plan designed to stave off municipal default would be progressive in the case of securities which have a long time to maturity, it is usually securities on which maturity is imminent which are threatened by default. H.R. 10113 would permit such short-maturity bonds, threatened with default, to be exchanged for fully-guaranteed bonds of equally short maturity. The effect of guaranteeing full payment of principal amount—and enormous capital gains to recent purchasers of the threatened security—would far outweigh the minor loss of interest income to high-tax-bracket investors in the case of these short-term securities. Moreover, the municipality would not be saved from default: barring other significant assistance it would merely default to the federal government rather than to its investors. The costs to the Treasury of this aspect of H.R. 10113 could be very large, and its effect on income distribution in this case would be regressive.

Finally, H.R. 10013 would provide assistance to political subdivisions of states only. States themselves would be unaffected.

3. Proposals for insurance and re-insurance of municipal bonds.

The Committee has two proposals involving insurance of tax-exempt municipal bond offerings which it will consider. One of these, offered by Senator Jackson, would establish a Fair Finance Insurance Board to reinsure 75 percent of the tax-exempt obligations of local government previously insured by a private insurance company. The Board would also be empowered to guarantee 75 percent of the debt issued by a state agency established to assist local governments, upon finding that such an agency was fiscally sound. The Board would charge a fee for its services, and would be designed to be self-financing.

The second proposal, which the Committee received from the W. R. Berkley Corporation, a private insurer, would establish a Municipal Bond Insurance Corporation (MBIC), capitalized by financial institutions, the federal government and, at their option, the states, which would insure the payment of principal and interest on tax-exempt municipal securities maturing in more than five years. Congress would authorize the Federal Reserve to lend up to $10 billion to the MBIC to cover potential losses, and the initial amount of insurance could be up to $100 billion. Premiums would vary according to risk, and would increase at penalty rates on insured municipalities which fail to achieve a balanced budget. Coverage would be available to all municipalities in member states, and to municipalities in non-member states which pay a coverage fee.

Arguments in favor: The Municipal Bond Insurance Corporation would enable large, troubled cities plagued by uncertainty to market their debt. It would also solve the marketing problem of smaller locales who must pay an interest premium because the infrequency of their bond issues prevents them from establishing a top credit rating. Fees could be varied according to risk, so that relatively sound municipalities would not bear the insurance cost of those which are weaker. Penalty insurance rates on cities which slip into the red, together with the accounting supervision implicit in an insurance plan, would provide a strong incentive to sound financial management. If insurance were extended only to long-term securities, the problem of competition with taxable Treasury instruments would not arise. The effect of the plan on borrowing cost would be to eliminate the element of market skittishness which recently has forced risk premiums on many municipalities far above the actual level of risk. Insured municipalities would benefit on the market from a high credit rating; the insurance fee would augment the market borrowing cost to each municipality to the extent of actual risk, as determined by the MBIC.

The reinsurance proposal of Senator Jackson would share many of the advantages listed above. In addition, it would encourage private insurance companies to enter the municipal bond market, and to share the risk in that market, to a greater extent than they now do. Since Senator Jackson's bill would not limit the initial maturity on insured debt to more than five years, some problem of competition with Treasury issues might arise.

Arguments against: The insurance proposals are addressed solely to the question of risk. Historically, risk has been a minor factor in the municipal bond market, and may fade again when the current recession is over. The insurance proposals do not open the market for municipal bonds to classes of investors and institutions which historically have been shut out, they do not act to lower the net-of-risk interest cost to state and local governments, they do not offset the cyclical instability of the municipal bond market, they improve neither the efficiency of the subsidy nor the equity of the tax system, and they do not make it any easier for a municipality to borrow long-term. It is possible that the existence of insurance schemes for some municipalities will drive up interest costs for others which are not insured.

In the MBIC proposal, participation by municipalities is somewhat limited by the willingness of their states to help capitalize the Corporation. In Senator Jackson's proposal, federal insurance may be severely limited by the necessity to attract private insurance money into the municipal market as a prior condition. Also, in Senator Jackson's bill, it is the financial condition of the insurer, not the municipality, which determines eligibility for reinsurance. Senator Jackson's proposal could have the effect of providing a large windfall to those few gigantic private insurance companies capable of making a multi-milion dollar commitment to the municipal bond market. It is possible that lower insurance costs could be delivered to state and local governments by a direct insurance scheme.

4. Proposals for a federal municipal financing bank.

The Committee will consider three proposals for a federal bank which would channel credit to state and local governments on favorable terms. These are:

(1) a proposal to reconstitute the Reconstruction Finance Corporation with broad loan and guarantee powers. This approach was introduced by Congresswoman Sullivan, Congressman Patman, and 16 cosponsors (H.R. 10452).

(2) a proposal to constitute an Urban Development Bank (Urbank) with subsidized loan powers only. This approach has been advanced most recently by two officials of the Johnson administration, Charles Haar and Peter Lewis.

(3) a proposal for a federal municipal financing bank, to take advantage of the borrowing power of the federal government, but without explicit additional subsidy powers. This approach is suggested by a private securities firm, Blyth, Eastman, Dillon Co.

All three of these proposals would create a new federal institution to borrow on the capital market with the borrowing power of the United States, and to relend to state and municipal governments at a rate lower than that they could otherwise obtain on a comparable (taxable) instrument. The effect is to give state and municipal governments a route of access to the market for taxable securities, albeit with strings attached.

The bill by Congresswoman Sullivan would create an Emergency Financial Assistance Corporation with broad powers to extend credit to state and municipal governments and to private corporations. The assistance to state and local government could be in the form either of loans or guarantees; such loans as were extended could be at below-market interest rates. The Corporation would have a capital stock of $1 billion paid in by the Treasury; it could incur indebtedness of up to twenty times paid in capital. It would be empowered to establish criteria and procedures necessary to assure the fiscal soundness of assisted state and local governments.

Under the Urbank proposal, shares would be owned by the state and local governments themselves, and not by the federal Treasury, thereby avoiding the need to pass loan outlays through the federal budget. Urbank would extend loans at subsidized interest rates to state and local governments for a wide variety of capital improvements, with maturities geared to the economic amortization period of the project. Differences between the cost of money to Urbank and the subsidized interest rates charged would be covered by an annual appropriation. The bank would extend technical assistance to its debtor governments where needed, and would act as an investment banker, intermediary and organizer of consortia where such a function is useful.

The Federal Municipal Financing Agency proposal would establish a profit-making, federally-capitalized bank specializing in municipal loans. The bank would borrow without the full faith and credit of the United States, and relend at a slight premium to needy state and local governments. It would have an annual appropriation as needed and a line of credit with the Federal Reserve in order to make good on any losses. It would have broad powers to intercede to assure the fiscal soundness of its debtor governments.

Arguments in favor: All three proposals would share, to a greater lesser extent, in the advantages of the taxable municipal bond option. They would open the municipal capital market to individuals and institutions which hitheto have found the returns in that market unattractive. They would reduce the cyclical instability of the market by reducing the proportionate share of municipal debt held in tax-exempt form by commercial banks. By causing a reduction in the volume of tax-exempt borrowing, they would put downward pressure on tax-exempt interest rates, which would improve the efficiency of the subsidy, reduce the inequity of the tax exemption, and have a progressive effect on the distribution of income.

The extent to which these benefits would be achieved depends on the degree to which the bank, corporation or agency is empowered to subsidize the interest cost of its loans. All three proposals would also enable cities and states to make long-term loans whose maturities accurately reflect the working life of the projects they finance. All three would serve to reduce or eliminate the borrowing disadvantage suffered by small communities remote from the money market. And, to the extent that the technical assistance provided by the federal agency improved municipal management and investor confidence in assisted governments, such governments might expect an improved rating and reduced rates on their tax-exempt borrowing.

In this connection, it is necessary to distinguish the third proposal from the first two. In the case of the Emergency Financial Assistance Corporation or of Urbank, subsidized loans would be forthcoming. If the subsidy were, say, 40 percent of the rate which the assisted municipality would have to pay on a taxable instrument independently issued, the effect on efficiency, equity, income distribution market-widening and reduction of cyclical instability would be virtually identical to that of a taxable bond option at a 40 percent subsidy rate, on the assumption that the bank was able to meet all forthcoming loan demands. In the case of the profit-making bank, such a subsidy would be precluded. The clients of such a bank would therefore be those municipalities whose tax-exempt rates were higher than the bank's lending rate, who were shut out of the market altogether for any reason, or who had a particular interest in a long-term loan not normally attainable on the market.

Arguments against: The proposals for a federal financing bank for state and local governments imply a substantially larger degree of direct control over the composition of state and local capital budgets than do the alternatives presented above. Under the Reuss-Kennedy bill, for example, the subsidy would be automatic; under the bank proposals it would depend upon evaluation and approval by the bank of each loan application. While this has some advantages from a national policy perspective, it would be considered a negative feature by many state and local governments.

The debt obligations issued by a federal bank would compete more or less directly with Treasury offerings; they would therefore apply some upward pressure to the cost of federal borrowing. As was true of the RFC, there would be a potential for abuse, and the bank would have both a difficult regulatory job and, from time, to time, the difficult decision whether to cut off further financial assistance to a municipality which has failed to meet its commitments, thereby forcing it into default.

It may be objected that under Congresswoman Sullivan's proposal, the Emergency Financial Assistance Corporation could extend guarantees to the tax-exempt obligations of state and local governments. This would have the effect of creating a class of securities considered superior to U.S. Treasury obligations, which the Treasury has traditionally opposed.

Finally, it may be objected that the only clients of a profit-making federal assistance bank (the third proposal) would be those municipalities whose credit ratings are so low as to force their interest costs above the federal taxable rate. Such municipalities would enjoy a benefit not available to those who are better managed, and the wisdom of extending such a benefit is open to question. In any case, the risk of loss to such a bank would be great, and the potential benefits in terms of a shift from tax-exempt to taxable indebtedness would not be large.

* * * * *

The appropriate subcommittee is expected to begin hearings on these four municipal capital market proposals early in the year.

By Mr. HATFIELD (for himself, Mr. ABOUREZK, Mr. PACKWOOD, and Mr. BARTLETT):

S. 2801. A bill to repeal the act terminating Federal supervision over the property and members of the Confederated Tribes of Siletz Indians of Oregon; to reinstitute the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe; and to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, I am pleased today to introduce legislation to restore to the Confederated Tribes of the Siletz Indians of Oregon the status of a federally recognized Indian Tribe. This legislation would reverse the termination of Federal supervision over this small western Oregon tribe which came with the act of August 13, 1954 (68 Stat. 724–58; 25 U.S.C. 691–708).

In 1953, termination was declared to be the long-range goal of Federal Indian policy; basically, this meant that the trust relationship which existed between the Federal Government and the various Indian tribes would be severed. During the 1950's, 13 termination acts were passed by the Congress, including 1 which terminated all of the small tribes and bands of western Oregon. It was this act which terminated the Confederated Tribes of the Siletz Indians.

In order to understand the reasons why the legislation I am introducing today is necessary, it is important to provide some background on the Federal Government's trust responsibility toward Indians. After all, the Government did not assume the role of guardian and trustee of Indian existence as an act of generosity toward a disadvantaged people. Rather, this special relationship arose out of solemn commitments in the nature of contractual obligations. The Indians agreed to cede vast tracts of lands to the Federal Government and agreed not to take up arms against the white settlers; in return, the Government agreed to protect the Indians from incursions, within certain described tracts of land, or reservations.

These reservations and, indeed, the very nature of the Government-Indian relationship, were intended to provide a structure whereby Indian culture could survive and flourish. Through formal treaties, acts of Congress, and formal and informal agreements, the United States secured the Indians with the possession of their lands and agreed to provide health, education, and other social services. These commitments continue to carry immense legal and moral force. To simply wipe them out by congressional action is unfair and dishonorable.

The purpose of the termination of this special, contractual relationship was to end a paternalistic governmental relationship. Termination was to allow native Americans to participate fully in the mainstream of our society. As a general proposition, however, Indians have suffered greatly under the termination policies; the social and economic devastation which these policies have wrought upon many groups has been tremendous. While, in many cases, unemployment, health problems, alcoholism, and school dropout rates have risen dramatically, the means for dealing with these problems has been withdrawn. While these problems were already severe among Indian societies generally, they have become epidemic among terminated Indians. In Oregon, 60 western Oregon tribes and the larger Klamath Tribe were terminated; the difference in economic and social development between these groups and federally recognized tribes in Oregon is easily discerned.

It has been my observation that the Indian citizens with the most severe social problems, the most pronounced inability to function successfully in American society, are those who have been told by the Federal Government that they are no longer recognized as Indians, that their tribes no longer exist, that they are to go and live as non-Indian people do—that they are terminated.

The ill effects of termination have not been confined to the members of those tribes which were terminated. President Nixon noted in his 1970 address on Indian affairs that the very threat of termination has created tremendous apprehension among recognized tribes. As a result, he said:

> Any step that might result in greater social, economic, or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the federal government will disavow its responsibility and cut them adrift.

The threat of termination has worked to encourage excessive dependence upon the Federal Government, exactly the opposite goal which termination was to achieve.

Termination is no longer the policy of this Nation. In 1970, the administration called upon the Congress to repudiate House Concurrent Resolution 108, which declared termination to be the long-range goal of Government Indian policy. In 1973, the Congress passed and the President signed into law the Menominee Restoration Act, which restored to the Menominee Tribe of Wisconsin its status as a Federally recognized tribe. And again, on December 7 of this year, Dr. Theodore Marrs, Special Assistant to the President for Human Resources, expressed the administration's opposition to termination philosophies.

In attempting to reverse the effects of termination, we must be careful not to foster an excessive dependence upon the Federal Government. As was noted so often during the 1950's, the effects of excessive paternalism can be extremely destructive; it is my view that this danger rivals that of termination in its ability to destroy the Indian way of life. We must learn that the control over one's destiny is absolutely necessary for personal dignity and that this cannot be achieved through dependence upon the Federal bureaucracy.

We must strive for the middle ground of self-determination without termination, a system in which tribal governments and their social programs are controlled not by outsiders who are responsible to Federal officials in Washington, but are controlled by the Indian people themselves. Congress recognized the wisdom of this approach when it enacted the Indian Self-Determination Act of 1974, which provided the mechanism for tribal governments to assume far greater control over the programs and decisions which affect the lives and welfare of their members.

When they were terminated in 1954, the Siletz were ill prepared to cope with the realities of American society. They were tossed abruptly from a state of almost total dependency to a state of total independence. The ensuing disorientation was massive, and its effects are pronounced even today. Siletz Indians were told by officials of the Bureau of Indian Affairs to leave the only way of life they had known and to begin to participate fully in the dominant society. But they were not accepted as equals by the dominant culture, nor were they any longer accepted as Indians by other tribes which had not been terminated. The Siletz were lost between two cultures.

Recent figures indicate a 44-percent unemployment rate among Indians in Lincoln County, Oreg., the majority of whom are in Siletz. The median family income of Indian families in the town of Siletz is $3,300 per year. The Siletz public school in 1974 reported that 40 percent of Siletz Indians between the ages of 17 and 25 did not finish high school. Roughly 70 percent of the Indian students in Siletz School have only one parent due to the death of the other parent. Twenty-three percent of the Indian children in grades 1 through 12 come from broken homes. Indian children at Siletz School averaged 0.6 grade equivalent below the school mean. In a nonrandom sample of 84 Siletz Indians, 52.9 percent reported dental needs, 21 percent reported medical needs, and 21.8 percent reported visual needs. These figures bear sad witness to the presumably inadvertant attempt through termination to destroy a once proud people.

The legislation I am introducing today is designed to turn this picture of what termination can do around. It is consistent with the principle of self-determination and is strongly supported by the Siletz Indians. This legislation is the product of lengthy deliberations of the Siletz and other interested parties. Restoration is, in fact, a goal toward which the Siletz have been working for over 3 years; tribal meetings where the bill has been discussed have been well attended and there is enthusiastic support.

One issue which has come up in connection with this bill—an issue which is important to nearly all Oregonians—is that of hunting and fishing rights. As this bill is presently written, it would not grant or restore any hunting, fishing, or trapping rights to the Siletz Indians. The language on this point could not be any clearer. I ask unanimous consent that a letter which Congressman Les AuCoin and I wrote to Governor Straub of Oregon on this matter be printed in the Record, as it clarifies our position on this particular issue.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., December 4, 1975.

Hon. Robert Straub,
Governor,
State Capitol,
Salem, Oreg.

Dear Bob: Your support of legislation to restore federal recognition to the Confederated Tribes of the Siletz Indians is greatly appreciated. We share your view that the termination policy has been extremely detrimental to the Confederated Tribes, and we intend to introduce the restoration legislation in the near future.

As you recognize, the issue of hunting and fishing rights has been the most controversial issue which has arisen in relation to this legislation. We agree that the issuance of additional rights to the Indians would be undesirable. The enclosed draft bill is very clear on this point: section 3(c) specifically states that no new rights would be granted.

We do not believe, however, that this legislation can or should be utilized as a vehicle to resolve other hunting and fishing rights issues. To include language which would prohibit the Siletz or other tribes from seeking a definition of their rights would be to withdraw rights which have not yet been defined and might constitute a taking without compensattion. Moreover, it is not clear that such rights exist at all.

The issue of Indian hunting and fishing rights is a complex and difficult one. We want to be of all possible assistance in assuring that our valuable natural resources will be protected and conserved.

We are looking forward to working with you further on these matters. It is our hope that the Congress will give the Siletz bill the thorough consideration it deserves; public hearings will allow an airing of all the issues surrounding this legislation.

Again, we appreciate your support of the efforts of the Confederated Tribes, and we hope that they will prove to be successful.

Warmest personal regards.

Sincerely,

Mark O. Hatfield,
U.S. Senator.
Les AuCoin,
Member of Congress.

Mr. HATFIELD. Mr. President, the bill I am introducing today is a simple one. It does not involve the transfer of any Federal lands; the tribe has regained 10 acres of ancestral lands from the town of Siletz and any additional lands which would form a small reservation would have to be obtained through purchase or donation. The basic thrust of the bill is to formally recognize the Siletz as a tribe, and to make this group eligible for the Federal services to which other federally recognized Indians are entitled. Passage of this legislation would restore the sense of tribal unity which tends to be destroyed through termination.

It is my hope, therefore, that the Congress will give this matter the thorough consideration which the Siletz Indians deserve, and that the bill will be approved during the 94th Congress. This measure has been supported by both local and State government units in Oregon, and I ask unanimous consent that several supportive letters be printed in the Record following my remarks, as well as the bill itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. As my colleagues are aware, the American Indian Policy Review Commission is presently studying all aspects of Indian policy, including termination. As a member of that Commission, I share the view of its chairman, Senator James Abourezk, who stated on September 18, 1975:

> The Congress of the United States and the executive and judicial branches of the U.S. government cannot wait for the American Indian Policy Review Commission to, within two years, find answers to questions and solutions to problems which it has taken 200 years to create. These branches of government cannot neglect their duties.

Senator Abourezk then went on to say:

> The Commission now calls on the U.S. Congress and all Federal agencies to move expeditiously on pending legislation and other current matters brought before them on behalf of American Indians.

Mr. President, let us heed these words and move ahead to correct a serious error which has had such a serious impact on the lives of the Confederated Tribes of the Siletz Indians. As a resident of Lincoln County, the home of the Siletz, I know firsthand the hardships they have suffered. The enactment of this small piece of legislation will serve as a much-needed installment toward paying a moral debt to which this Nation has committed its national honor; it is the right thing to do.

S. 2801

Be it enacted by the Senate and House of *Representatives of the United States of America in Congress assembled,* That this Act may be cited as the Siletz Restoration Act."

Sec. 2. For the purpose of this Act—

(1) The term "tribe" means the Confederated Tribe of Siletz Indians of Oregon, which is comprised of any tribes and bands, or remnants thereof, which were represented on the membership roll of the tribe which was published in the Federal Register on July 26, 1956.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Siletz Interim Council" means that council of nine Siletz Indians who shall be elected pursuant to sections 4(a) and 4(b) of this Act.

Sec. 3. (a) Notwithstanding the applicable provisions of the Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. 691–708), or any other law, Federal recognition is hereby extended to the Tribe and the provisions of the Act of June 18, 1934 (25 U.S.C. § 461, et seq.) are made applicable to it. The Tribe and its members shall be entitled to all Federal services and benefits furnished to federally recognized Indian tribes and their members.

(b) The Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. § 691–708), to the extent such act is applicable to the tribe, is hereby repealed. There are hereby reinstated all rights and privileges of the tribe or its members, except for hunting, fishing, and trapping rights, under Federal treaty, executive order, agreement, statute, or otherwise which may have been diminished or lost pursuant to the Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. § 691–708).

(c) This Act shall not grant or restore any hunting, fishing, or trapping rights of any nature to the tribe or its members.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied.

(e) In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary and the Secretary of Health, Education, and Welfare, as appropriate, are authorized, from funds, appropriated pursuant to the Act of November 2, 1921 (25 U.S.C. 13); the Act of August 5, 1954 (68 Stat. 674); the Act of January 4, 1975 (88 Stat. 2203); or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Siletz Interim Council shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Siletz Interim Council: *Provided, however*, That the Siletz Interim Council shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

SEC. 4. (a) Within fifteen days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Siletz Interim Council. Such general council meeting shall be held within thirty days of the date of enactment of this Act. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Siletz Interim Council from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Siletz Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Siletz Interim Council shall represent the Siletz people in the implementation of this Act and shall be the interim tribal governing body until tribal officials are elected pursuant to Section 5(c) of this Act. The Siletz Interim Council shall have no powers other than those given to it in accordance with this Act. The Siletz Interim Council shall have no power or authority under this Act after the time which the duly-elected tribal governing body takes office: *Provided, however*, That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of section 3(e) of this Act.

(b) In the absence of a completed tribal roll prepared pursuant to subsection (d) hereof and solely for the purposes of the general council meeting and the election provided for in subsection (a) hereof, all living persons on the final roll of the tribe published under section 3 of the Act of August 13, 1954 (25 U.S.C. 693), and all descendants, who are at least eighteen years of age and who possess at least one-fourth degree of Siletz Indian blood of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(c) If vacancies occur on the Siletz Interim Council the Siletz Interim Council shall hold a general council meeting within thirty (30) days after receiving written notice of such vacancy. The Siletz Interim Council shall give at least ten (10) days notice of such general council meeting. Any vacancy or vacancies shall be filled at such general council meeting after nominations have been made at such general council meeting. The person or persons receiving the highest number of votes shall fill the vacancy or vacancies. Eligibility to vote at such general council meeting shall be determined by the procedures provided for in subsection (b) hereof except that verification of descendancy, age, and blood quantum shall be made upon oath before the Siletz Interim Council and their determination thereon shall be conclusive and final. The Siletz Interim Council shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(d) The membership roll of the tribe which was published in the Federal Register on July 12, 1956 is hereby declared open. The Secretary, under contract with the Siletz Interim Council, shall proceed to make current the roll in accordance with the terms of this Act. The names of all enrollees who are deceased as of the date of enactment of this Act shall be stricken. All persons shall be added to the roll who were entitled to be included on the roll of July 12, 1956 but who were not, for whatever reason, included on that roll. The names of any descendents of an enrollee shall be added to the roll provided such descendant possesses at least one-fourth degree Siletz Indian blood. Upon installation of elected constitutional officers of the tribe, the Secretary and the Siletz Interim Council shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll, including the determination of membership in the tribe, shall be performed by the tribe in such a manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with the Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within ninety days after an appeal is initiated.

SEC. 5. (a) Upon request from the Siletz Interim Council the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, for the purpose of determining the tribe's constitution and by-laws. The election shall be held within sixty days after final certification of the tribal roll.

(b) The Siletz Interim Council shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and by-laws as drafted by the Siletz Interim Council which will be presented at the election, along with a brief impartial description of the constitution and by-laws. The Siletz Interim Council shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and by-laws. Such consultation shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Within one hundred and twenty days after the tribe adopts a constitution and by-laws, the Siletz Interim Council shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and by-laws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and by-laws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and by-laws and ordinances adopted thereunder.

(d) In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and by-laws and the initial election of the tribe's governing body, so long as, in each such election, the total vote cast is at least 30 percent of those entitled to vote.

SEC. 6. (a) The Secretary shall negotiate with the Siletz Interim Council to develop a plan for the assumption of the assets of the tribe. The Secretary shall submit such plan to the Congress within six months from the date of the enactment of this Act.

(b) If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty (60) days of the date the plan is submitted to Congress, the Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (a) of this section, accept the assets of the tribe, but only if transferred to him by the tribe subject to the laws of Oregon. Such assets shall be subject to all valid existing rights, including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Oregon. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(c) The Secretary shall accept the real property (excluding any real property not located in or adjacent to the former boundaries of the reservation) of members of the tribe, but only if transferred to him by the Siletz owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obligations. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Oregon. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) The Secretary and the Siletz Interim Council shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

SEC. 7. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

OFFICE OF THE GOVERNOR,
Salem, Oreg., December 4, 1975.
Hon. MARK O. HATFIELD,
U.S. Senator,
Washington, D.C.

DEAR MARK: I want to assure you of my continued support for the Siletz Restoration Bill.

I understand that the Confederated Tribes have agreed to the following substantive language for Section 3(c) in an effort to accommodate my and other concerns about hunting, trapping and fishing rights:

"3(c) This Act shall not grant or restore any hunting, fishing, or trapping rights of any nature to the tribe or its members."

The only other change I understand is to be made in the proposed draft is to delete the allusion to Section 3(c) in Section 3(b): "as described in Section 3(c)."

I do not believe that the legitimate needs of the Siletz Confederated Tribe should be jeopardized or made subject to Congressional consideration of the much larger question respecting fishing and hunting rights.

Sincerely,

BOB.

COUNTY OF LINCOLN,
BOARD OF COUNTY COMMISSIONERS,
Newport, Oreg., October 13, 1975.
Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The Confederated Tribes of Siletz Inc. is an organization composed of Siletz Indians, living in the Siletz area of Lincoln County.

Tribal Identity is an important factor to these people and at a full general Council meeting last June, more than 140 members of the Tribe voted to support the Siletz Restoration Bill" which will continue and improve Social progress for these people.

The Restoration Bill will correct some of the loss of Federal benefits received in Health, Education, and Welfare that these individuals have not had the benefits from. Under Title IV, recognized tribes can receive additional aid in the Indian Education Act, C.E.T.A. and many other H.E.W. Programs. Without this recognition many of these available aids will be lost.

B.I.A. programs and other Federal Administered benefits will mean more and better job opportunities upon the Restoration Bill's" passage.

The Board of Commissioners of Lincoln County urge you to help in any way possible to better these Citizens and we as a Board will help any way possible.

Sincerely,

LINCOLN COUNTY
BOARD OF COMMISSIONERS.

OREGON STATE SENATE,
Salem, Oreg., September 28, 1975.
Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR MARK: Legislation has been introduced on behalf of the Siletz tribe and I want to tell you how much it is appreciated and how essential this legislation is.

I have worked with Mayor Bensell, who is now President of the Confederated Tribes of Siletz, in the past and he is truly a dedicated man. He has a deep heartfelt interest in assisting his people.

I know you will do all in your power to push this much-needed legislation and I just wanted to add my own endorsement.

Sincerely,

W. STAN OUDERKIRK,
State Senator.

COUNTY OF LINCOLN,
OFFICE OF THE ASSESSOR,
Newport, Oreg., October 22, 1975.
Hon. MARK O. HATFIELD,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR MARK: I understand that you and Les AuCoin are introducing the Restoration Bill for the Indians in Congress.

I am sure you are aware of my appointment to five Counties for the A.A.R.P.–N.R.T.A. Joint Legislative Committee, and that these organizations have given endorsement to your Bill.

As a Part-Indian, and a member of the Cherokee Nation, and since I am in the process of being adopted by the Confederate Tribes of Siletz, I wish to offer my support for your Bill, which has great local endorsement.

We all talk about Affirmative Action, and I am sure that everyone concerned must do their part at their own level. We hear it talked at the State level and the Federal level and in my little way, I have my own Affirmative Action program in my office.

We have on the Assessor's staff; eight Part-Indians, five Handicapped, and one of Mexican nationality. So, you see, it has to come from the local level as well as the Federal and State level.

Now, referring back to the Restoration Bill, I am writing to Al Ullman, Jim Weaver, Robert Duncan and Bob Packwood for their support of your Bill.

Would you please send the address of Senator Meads of Washington, and Forrest Gerard, who I understand, is on the Sub Committee for the Senate, as I would like to write to both of them.

Also, would it be possible for you to send me a copy of this Bill, which you intend to introduce.

Mark, you know you have my full support as a Senator and I would appreciate keeping in close contact with you with regard to any legislation that you might introduce.

They hare having a Pow-Wow at Siletz on November 12. I am sorry to say, I will not be able to attend, due to illness in the family, I will be in Albuquerque, New Mexico that week, but I understand Forrest Gerard will be in attendance.

Any information that will be helpful to me, I will appreciate, Mark.

Warmest personal regards.

Sincerely,

JAMES (JIM) H. JOHNSON, *Assessor.*

By Mr. CULVER (for himself, Mr. NELSON, Mr. PHILIP A. HART, Mr. BROOKE, Mr. HARTKE, Mr. MCGEE, Mr. BAYH, Mr. CLARK, Mr. MCGOVERN, and Mr. ABOUREZK):

S. 2802. A bill to require the Federal Trade Commission, the Department of Justice, and the Department of Agriculture, to compile information and annually report to the Congress with respect to antitrust enforcement, market structure, and state of competition in the food industry, and for other purposes. Referred to the Committee on the Judiciary.

Mr. CULVER. Mr. President, the statistics which showed that in the first 9 months of 1975 the average American family's food bill climbed $126 came as no surprise to American consumers. For them, food inflation is an unsavory fact of life rather than a number on an economist's chart. Nor were the Nation's farmers amazed to learn that only 26 percent of the increase in price would go to them. Farmers have grown to realize that higher food prices scarcely mean increased profits for those who actually produce the food.

Nevertheless, Mr. President, although these facts are unmistakable, there does remain a substantial element of mystery about the food price situation.

We do not know exactly who does gain from high food prices.

We do not understand as well as we must the economic structure of the food industry.

We do not know the extent to which processors, transporters, and retailers of food operate in a competitive market. We do not know whether the growth of large corporations, the degree of vertical integration, the creation of barriers to entry, and other factors have created unconscionable oligopolies.

Until we enlighten ourselves on these matters, we will not learn why consumer prices are high and farm prices are low. We will not be able to take effective action to correct this imbalance. And we will have to view high food prices as a reality to be lived with instead of a condition to be equitably adjusted and corrected.

Mr. President, I am introducing today the Food Industry Antitrust Reports Act on behalf of myself and Senators NELSON, PHILIP A. HART, BROOKE, HARTKE, MCGEE, BAYH, CLARK, MCGOVERN, and ABOUREZK.

This bill would provide for the Congress the hard information about the food industry which is essential to dealing effectively with the food price situation. Specifically, it provides the following:

First, a comprehensive study of the food industry updating the 1966 study by the National Commission of Food Marketing. The study would contain an examination of the makeup of various food industries including possible trends toward vertical integration, conglomerate and multinational predominance, and antitrust exemptions. It would also examine regulated transportation in order to determine its effect upon food prices. The study would take 5 years and would be released in segments.

Second, a yearly index of competition in the industry accompanied by specific recommendations to promote competition. This would be prepared by the FTC and the Justice Department.

Third, annual reports by the Department of Agriculture, the Department of Justice, and the FTC on their antitrust activities in the food industry. These reports would provide a yardstick for appraising the commitment of these agencies to the removal of anticompetitive practices in the industry.

I stated earlier that we lacked the complete, detailed information we needed for proper decisionmaking. The information which is available only strengthens the need to update, revise, and increase our data.

We know, for example, that the number of firms competing nationally in almost every manufacturing segment of the food industry has declined drastically in the 10-year period from 1963 to 1972.

We know that in that period the num-

ber of firms engaged in the production of fluid milk declined from 4,030 to 2,024.

We know that the number of firms producing canned fruit and vegetables declined from 1,135 to 766.

We know that 540 meatpacking plants disappeared in that decade.

These figures reflect the situation throughout the food industry. And they do not even begin to suggest the decline of competition within limited geographic areas.

What do they mean for the consumer and the family farmer?

One tentative conclusion drawn by an FTC study was $2.6 billion of the food bill was an unwarranted overcharge on the part of the food industry—directly attributable to the lack of competition.

The FTC, however, could endorse neither the conclusions nor statistics of this study: It was based on inadequate data.

The study and others like it, however, are sufficiently rooted in evidence to suggest that Congress must obtain the necessary facts. Until those facts are available, Congress will not be able to fulfill its obligations to the American public. The Food Industry Antitrust Reports Act is an effort to make those facts available.

I ask unanimous consent that the text of the Food Industry Antitrust Reports Act be printed in the Record, together with Sylvia Porter's article in the Washington Star of December 4, 1975, "Don't Know Who Gets What As Food Rises."

There being no objection, the bill and article were ordered to be printed in the Record, as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Industry Antitrust Reports Act of 1975".

FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that:

(1) in order for the Congress, the executive branch, and the public to be fully informed, the Federal Trade Commission should be charged with making a continuing review of market structure and competition in the food industry and report annually thereon to the Congress;

(2) the economic reports on the food industry which have in the past been regularly compiled by the Federal Trade Commission have been decreasing in number;

(3) well-documented evidence of the growing concentration and mergers in the food industry exist but the effect of this trend on food prices and quality has not received adequate scrutiny;

(4) food prices have risen more than 30 per centum over a two year period and are still rising.

(5) there is evidence that antitrust exemptions, anticompetitive regulations, monopolistic practices, and industry structure are contributory causes of inflated food prices;

(6) the coordination between the Federal Trade Commission, the Department of Justice, and the Department of Agriculture in initiating antitrust investigations and law suits in the food industries under their jurisdictions is haphazard and informal and that there is a lack of agency and departmental policy planning and assessment of effectiveness; and

(7) no systematic and yearly accounting to Congress is made by the agencies of governments with jurisdiction over any segment of the food industry of the state of competition, litigation initiated, and action necessary to insure competition in the food industry.

(b) It is the purpose of this Act to make it possible for Congress and the public—

(1) to evaluate the planning, activities, and general effectiveness of the Federal Trade Commission, the Department of Justice, and the Department of Agriculture as enforcers of the antitrust laws as they relate to the various segments of the industries which produce, process, and market foods in the United States; and

(2) to determine whether a healthy competition exists in those food industries and whether anticipated changes in the structure of those industries will result in greater or lesser competition.

To accomplish this purpose, Congress shall require a three-fold series of reports described in sections 4 and 5 of this Act which will give an accounting of antitrust enforcement in the food industries, a yearly index of the state of competition in the food industries, and an in-depth study of the structure of the food industries which will update the Reports of the National Commission on Food Marketing.

DEFINITION

Sec. 3. For purposes of this Act, the term "food industry" means the various food industries from the producers of food through the retail distribution of food, including, but not limited to such industries as agricultural marketing, commodity trade and exchanges, livestock feeding and meat packing, production, processing, manufacturing, distribution and marketing, and other economic activities as defined in Officer of Management and Budget's Standard Industrial Classification, Groups 01, 02, 07, 09, 20, 514, 5154, and 54 (as in effect on the date of enactment of this Act).

ANNUAL REPORTS ON THE FOOD INDUSTRY

Sec. 4. (a) Not later than six months after the date of enactment of this Act, and yearly thereafter, the Federal Trade Commission (hereinafter in this Act referred to as the "Commission"), the Department of Justice, and the Department of Agriculture shall submit to the appropriate House and Senate committees, and shall publish in the Federal Register, a report on their policy planning, budget allotments, investigations, complaints, indictments, litigation, and other actions with respect to the enforcement of the antitrust laws in the various sectors of the food industry.

(b) Not later than six months after the date of enactment of this Act, and yearly thereafter, the Commission and the Department of Justice jointly shall submit to the appropriate House and Senate committees, and shall publish in the Federal Register, an index of the state of competition in the food industry, based on economic indicators available to or collected by the Commisssion, and such index shall include an account of all major segments of the food industry by commodity as well as by line of business, indicating market structure, and performance and trends; growth of horizontal and vertical integration; and possible monopoly overcharges, and be accompanied by specific recommendations to promote competition in the food industry.

COMPREHENSIVE REPORT OF THE FOOD INDUSTRY

Sec. 5. (a) The Commission shall prepare a comprehensive report on the market structure and state of competition in food industries and related economic problems, which shall include:

(1) Industry Studies: an analysis of the structure, conduct, performance, and major trends in the various food industries.

(2) Economic Studies: an analysis of economic problems and trends which affect the various food industries, including concentration, common ownership or control, conglomerate nad multinational predominance, economies of scale, barriers to entry, barriers to product and service innovation, adequacy of product and price information, advertising intensity, antitrust exemptions, vertical integration, and government regulation with an emphasis on regulated transportation.

(b) The Commission shall submit the report specified in subsection (a) to the Congress and make it available to the public no later than five years after the date of enactment of this Act, the Commission shall submit to the Congress and make available to the public yearly status reports with respect to the report specified in subsection (a), and the Commission shall, from time to time within the five-year period, publish segments of the report as they are completed.

AVAILABILITY OF DATA

Sec. 6. (a) The Commission, and the Department of Justice, shall each provide to the Congress an analysis of the adequacy of available data on which any study or report authorized by this Act is based, and where necessary, make legislative recommendations to the Congress with respect to any additional authority needed to improve the reliability or availability of such data or to assist in the prompt and adequate collection of such data.

(b) In preparing the report specified in sections 4 and 5 of this Act, the Commission shall collect and use line of business data in both individual business and aggregate form as may be necessary to insure the completeness and accuracy of such report.

(c) The Commission shall have access to data in the records of the Department of Justice, the Department of Commerce, including the Bureau of the Census, the Department of Labor, and the Department of Agriculture, when necessary to insure the completeness and accuracy of any study or report authorized under this Act or to avoid unnecessary duplication of governmental data collection.

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. (a) For purposes of carrying out the provisions of section 4 of this Act, there are authorized to be appropriated such sums as are necessary.

(b) For purposes of carrying out the provisions of section 5 of this Act, there is authorized to be appropriated to the Commission, $1,000,000 for each of the next five fiscal years.

DON'T KNOW WHO GETS WHAT AS FOOD RISES

(By Sylvia Porter)

The average retail cost of a marketbasket of U.S. produced foods—enough to feed a typical American household for one year—climbed $126 to $1,860 in the first nine months of 1975.

Only $33 of this $126 went to the farmer. A whopping 74 percent, or $93 of the $126 rise, went to the faceless, ever-increasing middleman: Bottlers, meat packers, transporters, processors, wholesalers, grocers.

Over all, for every dollar you spend on food, only 40 cents goes to the farmer—and even this is 6 cents less than he was getting two years ago. Details on specific foods simply underline that central fact. Of the price you pay for a half-pound of American cheese, middlemen take 51 percent; of the price for a 10-pound sack of potatoes, they take 64 percent. Of the price for a 1-pound loaf of bread, they get 80 percent. So it goes.

Why? Why are we paying ever more for food, while the farmer's share stays the same or actually falls? What are the reasons for this food price trend? Are today's prices fair or have they been inflated by profiteering and lack of competition?

The startling answer is: We don't know. In fact, the House Agriculture's subcommittee on domestic marketing and consumer relations reported a short while ago that "data presently collected by the government on the food-marketing system is not sufficiently specific or timely to allow meaningful interpretation of price changes and profit margins throughout the system."

Way back in 1966 the National Commission of Food Marketing completed the last major study of the multibillion-dollar food industry. There has been no investigation as thorough or conclusive since.

A 1972 Federal Trade Commission study of 17 food and food-related industries suggested that consumers pay $2.6 billion a year overcharge, because the industries are not competitive. But the FTC never officially endorsed this conclusion, on the basis that the data available was inadequate.

Another FTC investigation grew out of that fiasco. It was begun in June, is called the National Food Program and is receiving 18 percent of the FTC's $15 million antitrust enforcement budget.

But this probe also may falter because of lack of essential information. For instance, one of the FTC's studies—an investigation of major retail food chains in Atlanta, Denver, Detroit, Jersey City, Little Rock and Washington, D.C.—has stalled because four of the retailers refused a subpoena to provide the requested data. The FTC is now seeking enforcement of the subpoena through the courts.

Much of the data the commission is seeking never has been disclosed before: The price each store pays for various products, amount of each store's overhead, each firm's earnings per store in each area, each company's contacts with its competitors.

"This is the first in-depth, fact-finding inquiry of representative major food retailers," says Joseph O'Malley of the FTC's Bureau of Competition. "We hope when our work is completed—at least a year from now—we'll be able to give the public a more rational picture of the food-marketing industry. . . . I don't know whether or not the end result will be lower prices to consumers."

Meanwhile, Congress, too, is trying to figure out explanations for food prices and food producers' profits during the economic slump of 1973 to mid-'75. In the words of Sen. George McGovern, D-S.D., chairman of the Senate Committee on Nutrition and Human Needs, "Clearly, there is an urgent need to collect from industry and share with the public the information which explains where the food dollar is going."

Perhaps a new food marketing commission with power to get to the bottom of the issue is needed to get our answers. Or perhaps you will force the explanations on your own, by eliminating as much as you can the costly "middle" packaging, handling, transporting, etc. That's really what you are doing when you patronize farmers' markets, shop at local co-ops, form buying clubs, etc. You're tackling the middleman head on, daring him to come out in the open and answer you.

By Mr. STONE:

S. 2803. A bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances. Referred to the Committee on the Judiciary.

Mr. STONE. Mr. President, I am today introducing a bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances. Specifically, the Secretary of State would be directed to deny nonimmigrant visas to citizens of governments which discriminate against U.S. citizens in the issuance of nonimmigrant visas on the basis of race, color, sex, or national origin. Accredited diplomats, members of their immediate families, attendants, servants, and their personal employees would receive visas, as would individual applicants for whom the President has waived these stipulations in the national interest.

The need for this legislation is becoming increasingly urgent, as exempliefid by recent breakdowns in projects in which U.S. universities were working in conjunction with other nations. Two instances were cited in news reports earlier last month. In both cases, joint projects by U.S. universities and the Saudi Arabian Government broke down because of the United States refusal to yield to the Saudi Government's discriminatory practices in the issuance of nonimmigrant visas to Jewish American citizens. Under present law, the United States is handicapped in working with nations such as Saudi Arabia because of religious discrimination against American participants.

If we are to deal with this situation effectively, we must deal with governments on our terms as well as on their terms. In refusing to issue visas to individuals whose governments discriminate against U.S. citizens, we would demonstrate our resolve that all countries that conduct business in the United States or which use American technology and personnel, shall do so in a nondiscriminatory manner.

A companion bill, H.R. 8075, has been introduced to the House of Representatives by Congressman Fish and cosponsored by approximately 12 of his colleagues. This bill is presently before the House Judiciary Subcommittee of Immigration and Naturalization.

By Mr. DOLE:

S. 2805. A bill to permit any person otherwise eligible to become a naturalized citizen during calendar year 1977 to become a naturalized citizen during calendar year 1976. Referred to the Committee on the Judiciary.

Mr. DOLE. Mr. President, I am introducing today a bill which, if enacted, would waive the final year of residency required for those immigrants eligible for naturalization in 1977, thus permitting them to obtain their U.S. citizenship during our Nation's Bicentennial year—1976.

In the last 50 years of this country's development, the native-born have become an overwhelming percentage of our population. As a result, we have tended to overlook and deemphasize our great immigrant heritage—to forget that immigrants or the sons and daughters of immigrants colonized the United States of America; won its independence from foreign control; settled its 3.6 million square miles; and built its unsurpassed agricultural and industrial strength.

In our justifiable concern over current national problems and priorities, we have often lost perspective as to how the United States—and what it stands for—is viewed from the outside. The size, scope, and activism of the media in America assures that our difficulties are the most widely publicized in the world; yet nothing has discouraged those abroad from wishing to enter this country.

We are all aware that the INS denies admission to thousands of potential immigrant aliens annually because no permanent visa numbers are available. The obvious reason for this heavy desire to come to our shores is that no matter how challenging our problems might seem when weighed, as they should be, against our own high standards, they appear much less imposing to the people of many other lands who must deal daily with such basic wants as health, nutrition, and economic opportunity.

So as a tribute to those who have helped make our Nation what it is today, I think we owe a special recognition to the naturalization process in 1976. In order to provide that recognition, it is only appropriate, I believe, that we extend the gesture of gratitude and incentive which I am proposing with respect to our established citizenship standards.

While the practical effect of the modification which my bill contemplates would be to double the number of petitions submitted to the Immigration and Naturalization Service during the coming year, it is my feeling that any adjustments or sacrifices necessary to overcome administrative burdens would be especially worthwhile and well made. In the spirit of our 200-year history, such traditional demonstrations of extra effort on the part of our public servants and court officials would be more than compensated by the deep sense of appreciation, satisfaction, and patriotic dedication among our new Bicentennial citizenry.

The best estimates available indicate that since 132,000 citizens were naturalized in fiscal year 1974 and 142,000 in fiscal year 1975, we could expect in round figures a total of some 300,000 applications to be processed in calendar year 1976 should the minor waiver I am suggesting be approved. That is not, in my view, an overwhelming number and one which could certainly be met if adequate planning and promotion can be accomplished.

Many ceremonies and celebrations will mark our Bicentennial year, Mr. President, but perhaps none will be a more direct testimony to the strength and vitality of this country than the naturalization ceremonies scheduled to occur. Those who carry a 1976 date on their citizenship certificates will always hold that symbolic year in special high regard, and it is to enhance its meaning for all of us that I offer this measure to the 94th Congress.

By Mr. RANDOLPH (for himself, Mr. Cranston, Mr. Williams, Mr. Pell, Mr. Kennedy, Mr. Hathaway, Mr. Stafford, Mr. Taft, Mr. Schweiker, and Mr. Javits):

S. 2807. A bill to amend the Rehabilitation Act of 1973 to extend the authorization of appropriations contained in such act. Referred to the Committee on Labor and Public Welfare.

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, I am introducing on behalf of Senators Cranston, Williams, Pell, Kennedy, Hathaway, Stafford, Javits, Taft, Schweiker, and myself, a measure which would extend the Rehabilitation Act of 1973 for 1 additional year, through fiscal year 1977. This act, as amended, expires June 30, 1976. Recently, the House Subcommittee on Select Education and the Senate Subcommittee on the Handicapped held 2 days of joint hearings on extension legislation. Witnesses at those hearings testified in favor of a 1- to 3-year extension of the existing act, with more in-depth hearings to be held early next year on substantive issues and possible amendments.

In the meantime, we must act quickly. As Senators know, the authorizations for grants to the States under this act must be matched by each State if it desires to receive Federal funds for rehabilitation programs. In order to commit the funds to meet its 20 percent of a grant, a State needs to know the amount of available Federal funds. Many State legislatures meet in January. Approval of legislation in a timely manner to authorize appropriations for the vocational rehabilitation program will enable the State legislatures to plan for the required amounts of matching funds.

At the recent hearings, there were organizations that testified in favor of a 2- or 3-year extension of the Rehabilitation Act. The House subsequently passed a 2-year bill. The measure which I introduce calls for a 1-year extension at current funding levels authorized to be appropriated for fiscal year 1976. This approach is taken, in part, because a commitment was made by the Subcommittee on the Handicapped—at the time of the last amendments to the act—to explore the possibility of a different formula for the grants to the States. More importantly, as I mentioned earlier, all witnesses at the hearings requested an additional hearing early in 1976 to discuss other problems and long-term amendments to the act. Having given these matters considerable attention and discussion, our subcommittee generally believes that a 1-year extension would enable the members to meet the commitment I have noted and to give attention to a review of the program. The latter objective is desired by most organizations representing handicapped Americans. The members of our subcommittee and the full Committee on Labor and Public Welfare are in agreement that thorough oversight hearings on the implementation of rehabilitation legislation are urgently needed.

It should be stressed also that a simple extension enable us also to begin a conference with the House at the earliest possible time to resolve the differences between this bill and the House bill that contains a higher funding for the basic grant program, longer extension time, and different amounts for other rehabilitation programs.

Finally, it is our hope that after extensive discussions during the oversight hearings, we will develop legislation that will strengthen the rehabilitation program, resolve differences over issues and will insure a sizable increase in funding, possibly beginning in fiscal year 1977. It is my intention to begin these hearings early next year hopefully during the latter part of January so that we can move forward with comprehensive legislation in an expeditious fashion. The Labor and Public Welfare Committee is reporting a waiver resolution to the Budget Act for the purpose of considering the provisions of the bill I am introducing.

Mr. President, I express deep appreciation to the cosponsors of this legislation and to all members of our committee for their cooperation, particularly during the past several days of extensive discussions on this subject of rehabilitation programs. The very able ranking minority member of our subcommittee, Senator STAFFORD joins in this expression of thanks. He has worked diligently on this vital matter. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rehabilitation Act Extension of 1975"

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

SEC. 2. (a)(1) Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)), as amended (hereinafter in this Act referred to as the "Act"), is amended by striking out "and" immediately after "1975," and by inserting imediately before the period at the end thereof ", and $720,000,000 for the fiscal year ending September 30, 1977".

(2) Section 100(b)(2) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $42,000,000 for the fiscal year ending September 30, 1977".

(b) Section 112(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1977".

(c) Section 121(b) of the Act is amended by striking out "June 30, 1977" and by inserting in lieu thereof "September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 3. (a) Section 201(a)(1) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $32,000,000 for the fiscal year ending September 30, 1977".

(b) Section 201(a)(2) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $32,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 4.(a) Section 301(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and September 30, 1977".

(b) Section 301(a) of the Act is further amended by striking out "July 1, 1978" and by inserting in lieu thereof "October 1, 1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 5. Section 302(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 6. Section 304(a)(1) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $20,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 7. Section 305(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAMS AND PROJECT EVALUATIONS

SEC. 8. Section 403 of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES

SEC. 9. Section 405(d) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $600,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 10. Section 502(h) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $1,500,000 for the fiscal year ending September 30, 1977".

By Mr. THURMOND:

S. 2808. A bill to amend the Agricultural Act of 1949, as amended, to require a loan program for the 1975 through 1977 crops of soybeans. Referred to the Committee on Agriculture and Forestry.

Mr. THURMOND. Mr. President, I am today introducing legislation to require that the Secretary of Agriculture reinstate a Commodity Credit Corporation nonrecourse loan program on soybeans.

CCC loan programs have previously been made available to soybean producers, just as they are still available to the producers of cotton, wheat, corn, other feed grains, and a number of other commodities. However, on November 27, 1974, the Secretary of Agriculture suspended the CCC nonrecourse loan program for soybeans. At that time the price of soybeans was over $8 per bushel and farmers had little need or desire to put their crop in storage.

Today, the situation is markedly different for the average soybean grower. Soybean prices have declined drastically, to the point where prices received often do not cover production costs. As we all know, farm production costs have greatly increased in the last few years, with the prices farmers have to pay for fuel and fertilizer having doubled and tripled. How can we expect farmers to continue to produce food for this Nation and much of the rest of the world if they are not given some relief from this tightening cost-price squeeze?

According to this morning's Washington Post, soybean futures prices on the Chicago Board of Trade rallied slightly yesterday after declining again on Monday. Contracts for delivery in January, 1976, closed at a price of $4.55 per bushel. Actual market prices in South Carolina are 20 to 30 cents lower, with some farmers reporting prices as low as $3.85 per bushel. There is just no way that farmers can stay in business at such low prices, especially if they have no realistic opportunity to store their crop until prices improve.

Mr. President, the bill I am introducing offers no profit guarantee to soybean farmers. However, I do feel its early enactment will have a favorable psychological impact on soybean markets. Most important, it will give the average farmer the means to hold his crop until prices advance later in the season, while receiving a significant portion of the value of his crop as a nonrecourse loan.

The bill has language similar to the soybean loan provision of the emergency price supports farm bill, disapproved by the President earlier this year. It requires the Secretary of Agriculture to make available CCC soybean loans on the 1975 through 1977 crops at such levels as reflect the historical average relationship of soybean support levels to corn support levels during the 3 years immediately preceding the year for which the support level for soybeans is established. Under this formula, the average loan level for No. 1 grade soybeans would be about $3.94 per bushel.

Mr. President, earlier this year I asked the Secretary of Agriculture and other USDA officials to reinstate the soybean loan program and do everything possible to expand foreign marketings of soybeans. I ask unanimous consent that the USDA replies to these requests be printed in the Record at the conclusion of my remarks, together with the bill itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, since this bill would reestablish a loan program, I do not feel its enactment would be costly to the Government. Historically, the overwhelming majority of farmers who place their commodities in loan and storage programs have later repaid their loans, with interest, and sold their commodities at then higher market prices. This is the manner in which CCC grain loan programs have worked in the past, and, I might add, they have generally worked very well.

The average soybean producer typically does not have sufficient onfarm grain storage facilities. Furthermore, he often must sell his crop immediately after harvest to pay outstanding debts incurred in the production of that soybean crop. As a result, he has little choice but to accept the presently very low market price for soybeans. Reinstating the CCC loan program for soybeans will give farmers an opportunity to store all or some of their crop until prices improve, while making some funds available for immediate needs.

Soybean farmers have responded to the urgings of their Department of Agriculture to step up production. The 1975 soybean crop ranks as a close second to the 1973 crop as the largest ever. Worldwide demand for soybeans and soy products is still good, although not as strong as in previous years. Competing oil products—such as Malaysian palm oil, anchovies, sunflowers, and peanuts—are abundant this year. Brazil has greatly increased its exports of soybeans, thus becoming a major competitor to the United States in a world market where we have long reigned supreme.

All of these supply-demand factors have together resulted in soybean growers receiving only about half as much per bushel for soybeans in late fall 1975 as compared to 1974. If farmers continue to be forced to take a loss on their soybean crop, not only might their already precarious financial situations be jeopardized, but they will probably be forced to shift to alternative crops next year.

I suggest that long-run domestic and world needs for soybean protein and oil products do merit near-maximum production of soybeans by U.S. farmers. It will be unfortunate if the lack of a CCC loan-storage program on soybeans during this period of low prices causes too great a shift away from soybean production. This would be highly unfavorable for domestic livestock farmers, as well as for those countries throughout the world who buy or might want to buy U.S. soybeans. I believe reestablishing a CCC loan program for soybeans will help stabilize market prices and soybean production in the future. Thus, I urge that this bill be promptly and favorably considered.

S. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof a new section as follows:

"Sec. 108. The Secretary shall make available to producers loans and purchases on the 1975 through 1977 crops of soybeans at such levels as reflects the historical average relationship of soybean support levels to corn support levels during the three years immediately preceding the year for which the support level for soybeans is established.".

Department of Agriculture,
Washington, D.C., December 11, 1975.
Hon. Strom Thurmond,
U.S. Senate.

Dear Senator Thurmond: This is in response to your letter of November 20 concerning reinstatement of the Soybean Loan and Purchase Program. This will also respond to your letters to Secretary Butz and Messrs. Feltner, Foltz and Frick.

At the time of our decision to terminate the soybean loan program, prices were strong, farmers were making very little use of the loan program, and prospects were very favorable for continued strong foreign and domestic demand. It was concluded that a loan program was not needed and that terminating the program would have little effect on prices or the farmers' decision to produce soybeans. Further, it was concluded that adequate interim financing was available through local financial institutions on terms comparable with those offered through the loan program. The decision was also in keeping with our policy of less government interference in agriculture and more reliance on the marketplace.

The supply-demand and price situation for soybeans has not changed substantially since our decision to terminate the program. It is true that prices have declined from the record levels we experienced in 1972–73 when there was a shortage of fishmeal and the demand for soybean meal expanded rapidly. Current prices, while on a downward trend, are still almost double the previous loan rate.

The recent decline in soybean prices is viewed as a temporary situation due to the large supply relative to demand. This year's soybean crop almost reached the level of the record 1973 crop. Most farmers experienced ideal weather and crop conditions which led to rapid harvest and created a temporary market glut. We believe this situation will correct itself as the season progresses and prices will begin to recover. The long term outlook for soybeans is favorable. Foreign demand is expected to continue strong with some increase in soybean meal use likely as a result of a possible shortfall in Peruvian fishmeal. Livestock feeding in the U.S. is on an upward trend and demand for grains and concentrates is likely to increase.

The Government has disposed of its storage facilities and at this time does not plan on reestablishing a government-owned storage program. Loans are available to farmers for the construction of grain storage facilities. Anyone interested should contact their county ASCS office. Farmers should be encouraged to arrange for interim financing and storage at the local areas of production.

Many more farmers are utilizing the facility loan program this year than last. Nationally during the July-October 1975 period, farmers obtained loans amounting to more than $26 million to construct farm storage with a capacity of more than 31 million bushels. Last year for the same period, loans were about half this level. We expect at least 60 million bushels to be added to farm storage capacity for the full 12 months of the program. In South Carolina, 73 loans for nearly $340,000 were made during the four-month period this year. This also was about double last year's activity.

The latest figures on soybean exports show that inspections are nearly 35 percent greater this marketing year than last. This bears out our appraisal of strong export demand for soybeans this year which we expect to continue, with soybean exports larger this year than last. We will continually watch the supply-demand and price situation for soybeans. If the situation warrants, consideration will be given to reinstatement of the loan program.

Sincerely,

Richard E. Bell,
Assistant Secretary.

U.S. Department of Agriculture,
Washington, D.C., December 8, 1975.
Hon. Strom Thurmond,
U.S. Senate

Dear Senator Thurmond: Thank you for your letter of November 13 to Deputy Under Secretary John C. Foltz on behalf of Mr. Harold Ingram, Jefferson, South Carolina, regarding soybean prices and market expansion.

We assure you the Department of Agriculture is quite concerned about the decline in the market price of soybeans and farmers' reaction to the handling of sales to the Soviet Union. The weakness in the market price is caused by a number of factors. Brazilian soybeans and Malaysian palm oil are causing overseas markets to become increasingly competitive. The decreased demand for soybean meal and oil overseas is the result of unemployment, reduced income, previous high prices for fats and oils, and slower population growth which has reduced consumption of edible oils and meat. Another factor is the unusual rapid harvest of the large, good quality crop.

The temporary ban on soybean exports to the Soviet Union was a move to set a cooperative atmosphere for the United States to work towards a long term grain trade agreement. The recently signed agreement should reduce the uncertainty that resulted from the past erratic pattern of Soviet purchases by providing the Department with viable information on the size of foreign demand. Enclosed is a fact sheet giving highlights of the Grain Trade Agreement with the Soviet Union.

This year's production plus last year's carryover will yield a record supply of soybeans of 1,706 million bushels. Since farmers must export about 50 percent of their soybean crops, the Foreign Agricultural Service (FAS), is working to find overseas markets for this year's record supply of soybeans and products (soybean oil, meal and soy protein) and to offset increasing competition in those markets.

To expand exports of U.S. soybeans and products, FAS is working in close contact with the American Soybean Association (ASA), in conducting an aggressive market development program. In FY 1976, approximately $5.3 million will be contributed by ASA, FAS, and foreign cooperators to promote soybeans and products overseas. The ASA has six offices overseas which conduct worldwide activities for soybean products. After analyzing market development opportunities, promotional campaigns are initiated in areas where it is believed export expansion can achieve the best results. Also, current FAS/ASA promotional activities are being expanded in West and East European countries. In addition, a new program emphasizing soybean meal in feed rations will be initiated in the Middle East this fiscal year.

Two government-industry teams will go abroad in January to encourage sales of soybean oil. The teams will discuss the use of Commodity Credit Corporation credit for soybean oil in an effort to create additional interest in purchases. Other possible aids to increased oil exports are under active consideration.

We hope this information will prove to be helpful.

Sincerely,

David L. Hume,
Administrator.

By Mr. BEALL (for himself and Mr. Mathias):

S. 2809. A bill to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such act. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, today I am introducing a 2-year extension of the Rehabilitation Act, the identical bill to that introduced and passed by the House of Representatives on December 15, 1975.

The basic reason for a 2-year extension is the fact that our States have only been operating under the new regulations and the new law for 1 year, hardly enough time to adjust to the new requirements. In addition, I feel that the full implications of the changes in the Rehabilitation Act have not been felt at this time. It seems, then, that a 1-year extension gives the States little to work with, particularly with regard to planning for future programs and establishing long-range goals.

The hearings held by the Senate Subcommittee on the Handicapped and the House Education and Labor Subcommittee evidence the fact that those involved with the rehabilitation programs feel the need for at least a 2-year extension. This longer extension is needed to insure program stability in the State-Federal vocational rehabilitation programs and to provide continued quality services to the millions of disabled Americans who are in desperate need of help. I would point out that the administration also requested and urged a 2-year extension, reflecting their belief that the programs funded under the act are making a significant contribution toward helping handicapped individuals acquire the skills and ability necessary to lead productive lives.

Unless Congress moves promptly to enact extension legislation, it will be impossible for States to maintain the continuity of funding which is so essential to the operation of a major social program. The House has already agreed to a 2-year extension, and, as previously mentioned, the administration supports such an extension. I feel that we must act quickly in this matter, and I also feel that we should be attentive to the needs of those in the field who are trying to provide these services. The programs have proved to be a highly effective investment of Federal funds, and have helped thousands of our handicapped citizens.

One of the major arguments I hear against a 2-year extension is the belief by some that an earlier review of the program is needed. I have no objection to early oversight of the vocational rehabilitation program and if such hearings demonstrate the need for amendments, there is nothing to stop us from enacting legislation making those changes next year, even if we provide the 2-year extension at this time.

The overwhelming requests by consumers and providers is for a 2-year extension. I do not feel that we should ignore these requests, and I hope that the Senate will take quick action on this bill.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 388

At the request of Mr. Church, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of S. 388, a bill to amend titles II, VII, XVI, XVII, and XIX of the Social Security Act to provide for the administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes.

S. 2020

At the request of Mr. Ribicoff, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 2020, a bill to provide medicare coverage for optometric services.

S. 2548

At the request of Mr. Cranston, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 2548, a bill to revise and extend the authorizations of appropriations in provisions of title XII of the Public Health Service Act relating to emergency medical services systems, and for other purposes.

S. 2732

At the request of Mr. Roth, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of S. 2732, to amend the Internal Revenue Code of 1954 to permit an individual to deduct amounts paid by that individual for retirement savings for the benefit of his spouse.

S. 2740

At the request of Mr. Brock, the Senators from Kentucky (Mr. Ford and Mr. Huddleston) were added as cosponsors of S. 2740, a bill entitled the "Tennessee Valley Citizen Review Act of 1975."

S. 2741

At the request of Mr. Mondale, the Senator from Pennsylvania (Mr. Schweiker) was added as a cosponsor of S. 2741, a bill to establish a series of six regional Presidential primaries at which the public may express its preference for the nomination on an individual for election to the Office of President of the United States.

S. 2791

At the request of Mr. Roth, the Senator from Pennsylvania (Mr. Scott) was added as a cosponsor of S. 2791, a bill to require approval by the Director of the Office of Management and Budget of the use of new or revised forms by the Internal Revenue Service.

S. RES. 319

At the request of Mr. Curtis, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of Senate Resolution 319, relating to the occupation of certain Baltic nations by the Soviet Union.

S.J. RES. 147

At the request of Mr. Randolph, the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of Senate Joint Resolution 147, calling upon the President to designate 1976 as National Bicentennial Highway Safety Year.

S.J. RES. 148

At the request of Mr. Brock, the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of Senate Joint Resolution 148, a joint resolution to clarify and reaffirm Government purchasing policies.

S. CON. RES. 66

At the request of Mr. Hatfield, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of Senate Concurrent Resolution 66, declaring as national policy the right to food.

SENATE RESOLUTION 332—ORIGINAL RESOLUTION REPORTED PROVIDING A WAIVER UNDER THE CONGRESSIONAL BUDGET ACT

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH, from the Committee on Labor and Public Welfare, reported the following resolution:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807). Such waiver, with respect to so much of such provisions as would provide new budget authority, and new spending authority under section 401(c)(2)(C) of the Congressional Budget Act of 1964, for fiscal year 1977 prior to adoption of the first concurrent resolution on the budget for such year (by extending the State allotment formula in the Rehabilitation Act of 1973 (Public Law 93–112), as amended, through fiscal year 1977 to be determined, pursuant to section 110 of such Act, based on a nationwide allocation level equal to the amount authorized to be appropriated for making grants to the States for basic vocational rehabilitation services), is necessary because the authorization of appropriations in the Rehabilitation Act of 1973, as amended, for the State grant vocational rehabilitation program, on which authorization level the State-by-State allocation formula is based, expires on June 30, 1976. The twenty-per-centum matching requirement for such allotments to States is determined on the basis of funding decisions by State legislatures which generally meet and adjourn prior to May 15, the date by which the first concurrent resolution on the budget must be adopted under the Congressional Budget Act of 1974. During such sessions of State legislatures, commitments are made to provide each State's share, on the basis of which the Federal eighty-per-centum allotment is then paid to each State with an approved State plan. If legislation authorizing a nationwide allotment level for the program for fiscal year 1977 is not enacted at an early date, many State legislatures will be unable to authorize the funds needed for vocational rehabilitation programs for such year.

Further, the authorization of appropriations and the nationwide allotment level for fiscal year 1977 for State grants for basic vocational rehabilitation services in the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807) would not increase the currently authorized and Congressionally-approved program level for fiscal year 1976 but would maintain continuity in the vocational rehabilitation program and permits the States to continue such programs at reasonable levels.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 11045, the Rehabilitation Act Amendments of 1975, but only for purposes of consideration of an amendment, incorporating the provisions of S. 2807, in the nature of a substitute for the text of H.R. 11045.

REPORTING OF A RESOLUTION PROVIDING WAIVER UNDER SECTION 303(a) OF CONGRESSIONAL BUDGET ACT OF 1974, FOR CONSIDERATION OF PROVISIONS OF SUCH BILL

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, I am reporting from the Committee on Labor and Public Welfare, a Senate resolution to provide a waiver, pursuant to section 303(a) of the Congressional Budget Act of 1974, as it would apply to consideration by the Senate of a simple 1-year extension of the State grant program for providing vocational rehabilitation services to handicapped individuals under title I of the Rehabilitation Act of 1973—Public Law 93–112—as amended by Public Law 93–516. Section 303(a) of the Budget Act provides that—

> It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides . . . new budget authority for a fiscal year . . . until the first concurrent resolution on the budget for such year has been agreed to . . . .

Such concurrent resolution must be agreed to by May 15 of each year.

With the cosponsorship of 10 of the 16 members of the Committee on Labor and Public Welfare, including the chairman, Mr. Williams and ranking minority member, Mr. Javits, and the ranking minority member of the subcommittee, Mr. Stafford, I introduced earlier today S. 2807, a measure to extend for 1 fiscal year, through fiscal year 1977, all of the authorizations of appropriations in the Rehabilitation Act of 1973, including the authorization of appropriations and the allotment level for the basic State grant program. The authorization levels in our bill are the same as those in current law for fiscal year 1976.

Mr. President, a waiver is necessary to permit Senate consideration of legislation proposing such a simple extension, because the allotments paid to States for providing basic vocational rehabilitation services under the Rehabilitation Act of 1973, as amended, are in the nature of entitlements under the formula and State plan provisions in that act. As I indicated in my earlier remarks, the total level available for such State grants is, under section 110 of that act, the amount authorized to be appropriated—$720 million for fiscal year 1976. Once the State plan of a State is approved, then if that State commits itself to provide its 20-percent matching share, it becomes entitled to the 80-percent Federal grant. Thus, under section 303(a) of the Congressional Budget Act, authority to carry out this program in fiscal year 1977 constitutes the provision of new budget authority as well as new spending authority under section 401(c)(2)(C) of that act, for that fiscal year, thereby necessitating the waiver we are seeking in order to take up the simple 1-year extension at this time.

Mr. President, during the conference on the Rehabilitation Act of 1973, the conferees were advised regarding this entitlement aspect of the basic State grant program by the American Law Division of the Congressional Research Service of the Library of Congress. Mr. President, the written opinion on this subject, dated September 21, 1973, was printed in the Congressional Record on November 7, 1973, by the Senator from California (Mr. Cranston)—page 36168—and reprinted by the Labor and Public Welfare Committee as part of appendix D to the hearings on the Rehabilitation Act Amendments of 1974, now Public Law 93–516. For ease of reference, Mr. President, I ask unanimous consent that this opinion and Mr. Cranston's remarks on it be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the Appropriations Committees and the Congress have treated these grants to the States under the Rehabilitation Act of 1973 as an entitlement, having provided full funding for this program.

In my comments on S. 2807, I stressed that in order for each State to know how much money it must put up to meet its 20 percent matching requirement in order to earn its full 80 percent Federal fund entitlement, the total Federal allocation level must be known. As my colleagues are aware, most State legislatures meet in January, and some meet for only 60 days or so. Thus, Mr. President, the States must know in the very near future exactly how much they can expect to receive in Federal grants for the basic State grant program under title I of the Rehabilitation Act.

This makes it necessary for us to request a waiver, pursuant to section 303(a) of the Congressional Budget Act, so that the Senate can consider this extension now rather than having to wait until the first concurrent resolution is agreed to, on or about May 15. Obviously, waiting until after May 15 to take this action would be too late for many States to make their commitments for matching their Federal grant entitlements.

Mr. President, it should be emphasized that delay until after May 15 to extend the basic State grant program would be disastrous. We must provide the States at an early date with certainty as to their fiscal year 1977 grant levels.

Mr. President, I want to outline clearly what the members of our subcommittee and full Committee on Labor and Public Welfare understand will transpire procedurally at this point. S. 2807 has been referred to the Labor and Public Welfare Committee. The waiver resolution reported from the Labor and Public Welfare Committee will now be referred to the Budget Committee. I will ask my good friend, the very chairman of that committee, Mr. Muskie, to attempt to secure the most rapid action on that resolution. Hopefully, that resolution will be favorably reported back to the Senate in a day or so, and the Senate will adopt it.

Then, it is our plan to ask the Senate to take up the bill, H.R. 11045, passed by the House on Monday, providing for a 2-year extension with increased basic State grant program levels. But we plan to move adoption of a substitute amendment incorporating the provisions of S. 2807, providing for a simple 1-year extension, in lieu of the House text. The waiver resolution reported by the Labor and Public Welfare Committee provides for a waiver to permit consideration of the House bill but only for purposes of considering this substitute amendment.

As I stressed in remarks on S. 2807, our position at this point is that a 1-year extension is what is necessary now both to provide sufficient certainty to the States and to allow a full and effective opportunity for the Subcommittee on the Handicapped to study carefully exactly how the existing programs under the Rehabilitation Act are being carried out and whether the statutory purposes, policies, and directives are being fully complied with.

To do this, Mr. President, early next Congress, it is my intention to open in-depth oversight hearings to develop the basis for committee action to extend and revise, where necessary, the program and the authorizations of appropriations under the Rehabilitation Act of 1973 beyond fiscal year 1977.

Mr. President, I hope that my colleagues will agree to this waiver and the amendment to the House bill we will propose in order that the States may commit the necessary funds to continue a vitally needed program.

[Excerpt from the Congressional Record of November 7, 1973]

Vocational Rehabilitation Funding: A Legally Enforceable Entitlement

Mr. Cranston. Mr. President, on September 26, 1973, the President signed into law, as Public Law 93–112, the Rehabilitation Act of 1973, which I was privileged to manage through committee, Senate floor, and conference committee consideration. The provisions in that act—in section 110—for funding the basic vocational rehabilitation State grant programs are essentially the same as those in section 2 of the Vocational Rehabilitation Act, which the new law superseded.

Mr. President, in the course of the meeting of the conferees on this legislation during September of this year, there was considerable discussion with respect to the legal effect of the statutory language to govern the allotment of funds to each State under the basic program, both in terms of the language in the applicable provisions in the House-passed version and in compromise language proposed as a substitute for that language by Senate conferees.

In order to attempt to resolve these questions, the conferees directed that committee staff submit to the Congressional Research Service of the Library of Congress the following two questions:

First. What is the extent of the entitlement vested in the states to an allotment of funds for vocational rehabilitation services, both under existing law and under proposed amendments to the law?

Second. To what extent would the states be entitled to funding under the law, either if the Secretary of Labor refused to execute the program to the full extent authorized by Congress, or if Congress failed to appropriate for expenditure the full amount authorized to be allotted?

Mr. President, these questions were addressed in a very interesting and thorough manner by the American Law Division of Congressional Research Service in a September 21, 1973, memorandum prepared in response to our request. That memo concluded on page 3 as follows:

"These provisions indicate that the Vocational Rehabilitation Act contemplates a two-stage appropriations process: first, allotment, on which states base their program plans; and second, approval of plans, giving rise to an obligation on the part of the United States to pay the federal share."

The memorandum goes on, Mr. President, to state on page 9:

"Summarizing, with respect to the allotment provisions, it may be stated that the existing Vocational Rehabilitation Act demonstrates the clear intent of Congress that the full amount authorized be allotted among the states. Based upon the still incomplete line of 'impoundment' cases, the language of the Act has adequately translated that intent into a binding legal mandate that the funds be allotted. The proposed compromise amendment, although raising several questions, would also appear to provide for the full allotment if a court construing it can determine a clear congressional intent to that effect. It should be pointed out that the proposed compromise was eventually rejected in favor of single, precise authorization figures agreeable to both the House and Senate, so that the bill finally enacted closely resembled the provisions in the existing Act. If signed into law, the new Rehabilitation Act of 1973 also appears to provide for a legal mandate for full allocation."

And on pages 12 and 13, the memorandum further states:

"The statutory scheme established by the Vocational Rehabilitation Act, and subsequent amendments, provides for approval of plans submitted by states, which approval is apparently intended to give rise to an obligation on the part of the United States. If it does, then litigation would arguably be authorized to require the United States to meet the obligation.

"The crucial questions, then, are whether approval of state plans under the Vocational Rehabilitation Act actually does give rise to a contractual obligation on the part of the United States, and whether the Secretary is granted 'complete and unrestricted' authority to enter such a contract.

"Regarding the first question, it is suggested that pursuant to 31 U.S.C. sec. 200(a) (5) (see *Supra*), approval of a state plan under the Vocational Rehabilitation Act gives rise to a contractual obligation on the part of the Government.

"It may then be argued that the Secretary not only has complete and unrestricted authority to enter a contractual obligation on the part of the United States, he is virtually mandated to do so by the terms of the Vocational Rehabilitation Act. He *shall* approve eligible state plans, and he *shall* pay. Therefore, it would follow that a state, having received approval for its submitted plans, would gain an enforceable right to funding under the Vocational Rehabilitation Act even if Congress declined to appropriate the full amount alloted or authorized."

Mr. President, I should note that the substance of this memorandum was communicated to the conference committee on September 10, 1972, in connection with our deliberations on this legislation and our resolution of the major question of the provisions regarding allotment of funds, by Legislative Attorney Stuart E. Glass of the American Law Division. Thus, the conferees were very well aware of the interpretation set forth in Mr. Glass' memorandum.

Mr. President, I want to thank Mr. Glass and the American Law Division for their care and thoroughness in preparing this memorandum, and I ask unanimous consent that the full text of the September 21, 1973, memorandum, be set forth in the Record at this point.

There being no objection, the text was ordered to be printed in the Record, as follows:

The Library of Congress,
Congressional Research Service,
Washington, D.C., September 21, 1973.

To: Honorable Alan M. Cranston.
Attention: Mr. Jon Steinberg.
From: American Law Division.
Subject: Legal Effect of Entitlement Provisions Regarding Allotment of Vocational Rehabilitation Funds to States.

On September 10, 1973. pursuant to your request of September 7, I appeared before the House and Senate Conference Committee on H.R. 8070, the Rehabilitation Act of 1973, to discuss the legal effect of certain provisions of that bill, and in the existing law, the Vocational Rehabilitation Act, codified at 29 U.S.C. secs. 31–42b (1970). The questions presented were, basically, two: first, what is the extent of the entitlement vested in the states to an allotment of funds for vocational rehabilitation services, both under existing law and under proposed amendments to the law?; and second, to what extent would the states be entitled to funding under the law, either if the Secretary of H.E.W. refused to execute the program to the full extent authorized by Congress, or if Congress failed to appropriate for expenditure the full amount authorized to be allotted?

To answer either question requires a background understanding of the appropriations process envisioned by the Vocational Rehabilitation Act. The process is a relatively new one, designed to limit the appropriations prerogatives of Congress by authorizing an administrative official to enter the United States into financial obligations, which Congress is pressed to cover by appropriating funds. Briefly stated, the appropriations scheme operates as follows: Funds are authorized to be allotted among the states, according to a statutorily specified formula. The allotment to each state constitutes a figure on which that state bases its plans for the statutory program, be it vocational rehabilitation, federal-aid highways, or water pollution control. Final approval of these plans by the executive official authorized by statute to administer the program is meant to signify that the states may begin effectuating their plans, and to bind the United States contractually for its proportional share of the costs. Only after these costs come due does any necessity arise for Congress to appropriate funds to make payment, but by this time, the moral obligation to appropriate exerts the highest pressure.

In recent court decisions on the so-called "impoundment" issue, regarding whether an administrative officer is required by statute to allot or expend congressionally appropriated funds, courts have acknowledged that where a two-stage appropriations process is found to exist, allotment itself does not give rise to an obligation on the part of the United States to spend money. (See, e.g., *City of New York* v. *Ruckelshaus*, *infra*.)

The existing Vocational Rehabilitation Act, Sec. 2(a) [29 U.S.C. sec. 32(a) (1970)], provides that, "for each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated . . ." Sec. 2(b) of the Act further provides that "For each fiscal year the Secretary [of H.E.W.] *shall pay* to each State an amount equal to the Federal share . . . of the cost of vocational rehabilitation services under the plan of such State approved under section 5. . . ." [29 U.S.C. sec. 32(b) (1970)] [Emphasis added.] Criteria for approval of state plans are contained in Sec. 5(a) of the Act [29 U.S.C. sec. 35(a) (1970)], and Sec. 5(b) [29 U.S.C. sec. 35(b) (1970)], provides that, "The Secretary *shall approve* any plan which the Secretary finds fulfills the conditions specified in subsection (a) of this section." [Emphasis added.] The amount authorized to be appropriated, upon which the allotments to the states are based, appears in Sec. 1(b)(1) [29 U.S.C. sec. 31(b)(1) (1970)].

These provisions indicate that the Vocational Rehabilitation Act contemplates a two-stage appropriations process; first, allotment, on which states base their program plans; and second, approval of plans, giving rise to an obligation on the part of the United States to pay the federal share.

Several cases in the United States District Courts have dealt with the issue of whether such a two-stage appropriations process imposes a statutory requirement upon the administrative official designated to execute the program to allocate the full amount of the authorized allotment. These cases concern the allocation provisions of the Water Pollution Control Act Amendments of 1972 [86 Stat. 816], sec. 207, which authorizes the appropriation of sums "not to exceed" $5 billion in fiscal year 1973, $6 billion in fiscal 1974, and $7 billion in fiscal 1975, to be made available to the states for obligation for sewage treatment works construction approved by the Administrator of the Environmental Protection Agency. In the case of *City of New York* v. *Ruckelshaus* [C.A. No. 2466–72 (D.D.C., May 8, 1973)], it was held that the language of the Act, providing that "Sums authorized to be appropriated . . . *shall be allotted* by the Administrator not later than the January 1st immediately preceding the beginning of the fiscal year for which authorized . . . " mandated the allotment of the full amount authorized to be appropriated because of the use of the word "shall" instead of "may." [Emphasis added.]

The Administrator argued that the words "not to exceed" permitted him to decrease, upon the construction of the President, the amount of the allotment by $6 billion for fiscal years 1973 and 1974 [37 Fed. Reg. 26282, Sec. 35.910–1(2) (1972)]. Judge Gasch ruled, however, that whatever discretion the Administrator had to refuse to spend water pollution control funds came at the obligation stage, rather than the allotment stage, of the appropriations process. Although the legislative history of the Act reveals that the words "not to exceed" were added by amendment, and another amendment deleted the word "all" from the phrase "Sums authorized to be appropriated . . .," the court instead relied upon colloquy on the floor of the House between the manager of the bill, Rep. William Harsha [R-Ohio] and others, as demonstrating that the express purpose of the amendments was to grant the Administrator discretion only in obligating and expending funds.

The holding in this case was echoed in *Minnesota* v. *Fri*. [No. 4–73 Civ. 133 (D. Minn., June 26, 1973)]; and *Martin-Trigona* v. *Ruckelshaus*, [No. 18–73–R (E.D. Va., June 5, 1973)].

Judge Merhige, in *Campaign Clean Water, Inc.*, v. *Ruckelshaus*, [No. 18–73–R (E.D. Va. June 5, 1973)], regarding the same Act, could not agree with Judge Gasch's interpretation. He found Judge Gasch, the plaintiff, and the defendant in agreement that the legislative history was ". . . in the main, unclear, politically charged, and in the Court's view, to some degree based upon suspect constitutional interpretation of the powers of the President." Consequently he concluded that ". . . Congress did intend for the executive branch to exercise some discretion with respect to allotments . . . " but agreed with the plaintiff's contention that ". . . the Congress could not have intended to give the Administrator the discretion to gut the Act." Judge Merhige thus declared that the announced policy of the Administrator to refuse to allot $6 billion of the designated $11 billion under sec. 205 of the Federal Water Pollution Control Act Amendments of 1972 constituted an abuse of discretion under the authority and powers conferred by the Act, and accordingly, were null and void. It is not clear whether Judge Merhige would have reached the same conclusion had the President withheld part of the funds, but substantially less than $6 billion.

These holdings indicate a sentiment in favor of allotment when the act specifies that ". . . the Secretary shall allot . . .," because such language shows an apparent congressional intent that the statutory program be fully executed. The Vocational Rehabilitation Act might be said to reveal an even stronger congressional intent in favor of full allotment, because it creates an entitlement: ". . . each state shall be entitled to an allotment . . .," instead of authorizing or directing an executive officer to allot. It might be argued that the Secretary of H.E.W. has discretion to withhold allotment, because, whereas the Act directs him to approve state plans meeting statutory criteria, it nowhere directs him to allot. On the other hand, it can be argued equally strongly that the Secretary has no such discretion: because the Act creates an entitlement, the allotment process self-executes when the Act goes into effect, and no executive officer has either the responsibility or the discretion to allot. This precise language has not been litigated in any of the numerous United States District Court decisions regarding the presidential policy of impounding congressional appropriated funds.

Questions have been raised concerning the effect upon the allotment provisions of the Act, which might be brought about by a proposed compromise between the House and Senate versions of the Rehabilitation Act of 1973, amending and superseding parts of the Rehabilitation Act of 1973, amending and superseding parts of the Vocational Rehabilitation Act. Before the proposed compromise, both the House version [H.R. 8070, Title I—Vocational Rehabilitation Services] and the Senate Amendments thereto, retained language to the effect that ". . . each state shall be entitled to an allotment . . ." But there the similarities end in numerous important respects. The House version, in pertinent part, [sec. 110(a)] bases the allotment formula upon the amount *authorized to be appropriated*, and further authorizes the appropriation, [sec. 100(b)(1)], for fiscal 1974 and 1975, respectively of $660 million and $690 million. The Senate amendments thereto relate the allotment formula to the amount *appropriated*, and authorize the appropriation of $610 million and $640 million for fiscal 1974 and 1975, respectively, ". . . and there is further authorized to be appropriated for each such year such additional sums as the Congress may determine to be necessary."

In an effort to retain the House allotment formula based upon the amount authorized to be appropriated, and also retain the language and lower dollar figures in the Senate version for the authorization, the proposed compromise added a new subsection (d) to section 110, wherein it was specified that for the purposes of allotment, the term "amount authorized to be appropriated" would mean $660 million and $690 million for fiscal years 1974 and 1975, respectively. ". . . . or such higher amount as the Congress may appropriate for that year."

The authorization language in the Senate version originally created an open-ended authorization on which to base the allotment formula. Acknowledging that it would be meaningless to base allotment upon an open-ended figure, the Senate designed the compromise not only to establish a specified minimum figure upon which to base allotments, but also retain a figure which the House would accept. In addition, the compromise would, for the purpose of authorizing appropriation, establish a lower figure more to the Senate's liking.

It might be possible to question the use of two definitions for "amount authorized to be appropriated" in a single statute, but it is reasonably clear from the language of the compromise that one definition is to be used exclusively for the purposes of allotment under the Act. A court would have no alternative but to give effect to the express terms of the Act in this instance.

A more serious question concerns whether the amount authorized to be appropriated for the purpose of allotment does not still create an open-ended figure on which it is meaningless to try to base an allotment ration. Under the compromise, for the purpose of appropriation the authorization will be a precise figure, ". . . and there is further authorized to be appropriated for each such year such additional sums as the Congress may determine to be necessary." For the purpose of allotment, there will be a precise figure, ". . . or such higher amount as the Congress may appropriate for that year." It could be argued that although the terms are different in each, both actually create open-ended authorizations. Nevertheless, the compromise expressly establishes a minimum amount on which to base the allotment formula, to be raised only if Congress appropriates more. Courts will look at the intent of Congress to resolve apparent ambiguities, if such intent can be ascertained. [See, e.g., *State Highway Comm. of Missouri* v. *Volpe*, No. 72–1512 (8th Cir., April 2, 1972); *City of New York* v. *Ruckelshaus, supra; Commonwealth of Pennsylvania* v. *Lynn*, No. 990–73 (D.D.C., July 23, 1973)]. The intent of Senators Stafford and Cranston, who offered the compromise, is adequately expressed in their explanation accompanying the proposed compromise:

> In order for the Senate to accept the House allotment basis and retain the dollar-amount-plus-such-sums authorization formula (which in effect is an open-ended authorization), it is necessary to fix for FY 1974 and FY 1975 a dollar figure on the basis of which to allot, because the House bill reference to "the amount authorized to be appropriated" has no meaning for those years in the event of such an open-ended ("such sums") authorization.
>
> The compromise would have exactly the same State-by-State allotment effect as the House bill, as long as the authorization amounts permit an appropriation up to $660 million for FY 1974 and $690 million for FY 1975, as *both* the House bill and the Senate amendment presently do.
>
> The net effect of the proposal would be a blend on the two points—with more funds authorized to be appropriated, in fact and law, than under the House bill. [Emphasis in original.]

Summarizing, with respect to the allotment provisions, it may be stated that the existing Vocational Rehabilitation Act demonstrates the clear intent of Congress that the full amount authorized be allotted among the states. Based upon the still incomplete line of "impoundment" cases, the language of the Act has adequately translated that intent into a binding legal mandate that the funds be allotted. The proposed compromise amendment, although raising several questions, would also appear to provide for the full allotment if a court construing it can determine a clear congressional intent to that effect. It should be pointed out that the proposed compromise was eventually rejected in favor of single, precise authorization figures agreeable to both the House and Senate, so that the bill finally enacted closely resembled the provisions in the existing Act. If signed into law, the new Rehabilitation Act of 1973 also appears to provide for a legal mandate for full allocation.

Assuming full allotment under whatever provisions finally become law, the questions arise whether the Vocational Rehabilitation Act funds would have to be spent if either the Secretary declined to obligate the full amount authorized, or Congress failed to appropriate the full amount allotted to the states.

Regarding the first question, the preponderant weight of authority in the still unsettled "impoundment" issue holds that congressional enactments establishing grant programs impose a statutory duty upon the executive branch to execute the programs fully, including accepting and processing grant applications, and paying authorized funds to applicants meeting statutory criteria. [See, e.g., *Berends* v. *Butz*, 357 F. Supp. 143 (D. Minn. 1973); *Local 2677, A.F.G.E.* v. *Phillips*, 358 F. Supp. 60 (D.D.C. 1973); *Commonwealth of Pennsylvania* v. *Lynn, Supra;* but see, *Local 2816, A.F.G.E.* v. *Phillips*, No. 73–C–500 (N.E. Ill., May 21, 1973)]. Following the trend in the above-cited cases, the language in the Vocational Rehabilitation Act: "The Secretary shall approve any plan which the Secretary finds fulfills the conditions specified . . ." [29 U.S.C. sec. 35(b) (1970)]; "For each fiscal year the Secretary shall pay to each State an amount equal to the Federal share . . . under the plan for such State approved . . ." [29 U.S.C. sec. 32(b) (1970)], and the language in H.R. 8070: "The Commissioner shall approve any plan which he finds fulfills the conditions specified . . ., and he shall disapprove any plan which does not fulfill such conditions . . ." [Sec. 101 (b)]; "From each State's allotment under this part for any fiscal year . . ., the Commissioner shall pay to each State an amount equal to the Federal share . . . under the plan for such State approved . . ." [Sec. 111(a)], is of a sufficiently mandatory nature as to require the designated officer to carry forward with the program and pay grants to eligible applicants.

Where an applicant has fulfilled every statutory criterion for eligibility under a federal grant program, it has been held that the designed office may not prevent payment by withholding final approval for reasons not contained within the statute. [*State Highway Comm. of Missouri* v. *Volpe*, 470 F. 2d 1099 (8th Cir. 1973)]. In that case, the Missouri State Highway Commission had met every criterion for receipt of highway construction funds under the Federal-Aid Highway Act [23 U.S.C. secs. 101 et seq. (1970)], and had received tentative approval from the Secretary of Transportation on several occasions. However, the Secretary withheld final approval for reasons based, not upon the statutory requirements, but upon status of the national economy and the need to control inflation. The court found that he had no statutory authority to do so, and ordered him to release the funds.

Under the existing Vocational Rehabilitation Act, the Secretary has the discretion to withhold funding for certain specified reasons, largely dealing with adherence of state plans to statutory criteria. Moreover, the Secretary may cease payments for approved plans if he finds, after the due hearing, that:

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any such provisions; [29 U.S.C. sec. 85(c) (1970)].

These provisions give the Secretary adequate discretion to control the rate of spending for reasons pertaining to the efficient management of the vocational rehabilitation program, and present judicial authority would limit the Secretary to the amount of discretion expressly in the statute.

One major distinction between the situation surrounding the Federal-Aid Highway Act and the Vocational Rehabilitation Act is that when final approval comes due for state vocational rehabilitation plans, funds may not yet have been appropriated, whereas funds for approved state highway plans come from the fulsome Highway Trust Fund established by that Act. Where the United States is obligated to spend unappropriated funds, serious questions arise, and there is scant litigation to shed light on a possible solution.

One major provision in the United States Code would seem to permit the obligation of funds, even before appropriation:

No amount shall be recorded as an obligation of the Government of the United States unless it is supported by documentary evidence of—

(5) a grant or subsidy payable (i) from appropriations made for payment of or contributions toward, sums required to be paid in specific amounts fixed by law, or (ii) pursuant to agreement authorized by, or plans approved in accord with and authorized by, law; or

(6) a liability which may result from pending litigation brought under authority of law; . . . [31 U.S.C. sec. 200 (1970)].

The statutory scheme established by the Vocational Rehabilitation Act, and subsequent amendments, provides for approval of plans submitted by states, which approval is apparently intended to give rise to an obligation on the part of the United States. If it does, then litigation would arguably be authorized to require the United States to meet that obligation.

Moreover, federal law provides that "No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment. . . ." [41 U.S.C. sec. 11 (1970)]. It has been held that this act is applied in the alternative so that where authority to make contracts is complete and unrestricted, a liability arising thereunder is not avoided by omission of Congress to provide the money to discharge it. But where an alleged liability rests wholly upon authority of an appropriation, they must stand or fall together [*Shipman* v. *United States*, 18 Ct. Clms. 138, cf. 19 Op. Atty. Gen. 650; 37 Comp. Gen. 199, 201].

The crucial questions, then, are whether approval of state plans under the Vocational Rehabilitation Act actually does give rise to a contractual obligation on the part of the United States, and whether the Secretary is granted "complete and unrestricted" authority to enter such a contract.

Regarding the first question, it is suggested that pursuant to 31 U.S.C. sec. 200(a)(5) (See *Supra*), approval of a state plan under the Vocational Rehabilitation Act gives rise to a contractual obligation on the part of the Government.

It may then be argued that the Secretary not only has complete and unrestricted authority to enter a contractual obligation on the part of the United States, he is virtually mandated to do so by the terms of the Vocational Rehabilitation Act. He *shall* approve eligible state plans, and he *shall* pay. Therefore, it would follow that a state, having received approval for its submitted plans, would gain an enforceable right to funding under the Vocational Rehabilitation Act even if Congress declined to appropriate the full amount allotted or authorized.

STUART E. GLASS,
Legislative Attorney.

AMENDMENTS SUBMITTED FOR PRINTING

UNIFORM REVIEW PROCEDURES UNDER SOCIAL SECURITY—H.R. 10727

AMENDMENT NO. 1304

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

PREVAILING FEES OF MEDICARE—H.R. 10284

AMENDMENT NO. 1305

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENTS NOS. 1306, 1307, AND 1308

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

AMENDMENT NO. 1313

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENTS NOS. 1314 AND 1315

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted two amendments intended to be proposed by him to the bill (H.R. 7727), supra.

PAYMENTS TO THE GOVERNMENT OF THE VIRGIN ISLANDS—H.R. 9432

AMENDMENT NO. 1309

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself, Mr. RIBICOFF, Mr. KENNEDY, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9432) to amend the Internal Revenue Code of 1954 in order to provide for quarterly payment, rather than annual payment, to the Government of the Virgin Islands of amounts equal to internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

AMENDMENT NO. 1310

(Ordered to be printed and to lie on the table.)

Mr. CHURCH (for himself, Mr. RIBICOFF, Mr. HUDDLESTON, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 9432), supra.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976—H.R. 9861

AMENDMENT NO. 1312

Mr. JAVITS submitted an amendment intended to be proposed by him to amendment No. 1303 proposed to the House amendment to Senate amendment numbered 75 to the bill (H.R. 9861) making appropriations for the Department of Defense for the fiscal year 1976, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1075

At his own request, the Senator from Maine (Mr. Muskie) was added as a cosponsor of amendment No. 1075, intended to be proposed to the bill (H.R. 7727) suspending duties on certain yarns of silk.

Mr. MUSKIE. Mr. President, I join today in cosponsoring an amendment to the Internal Revenue Code to deal with the special problems of Maine fishermen. The statutory changes which this amendment achieves would solve two problems which have troubled Maine fishermen in recent months. Both of the problems result from administrative rulings by Federal officials in the Internal Revenue Service and the Postal Service, but efforts short of legislative action have failed to relieve the problem. Both of these problems were addressed by legislation which I introduced earlier this year with Senator Hathaway and I am delighted that the Finance Committee has indicated a willingness to accept the amendment.

This amendment would have a direct impact on the efforts of Fisheries Communications, a Maine organization, which publishes the Maine commercial fisheries newspaper in an effort to make available free to the fishing industry in Maine, educational materials and information relevant to the harvesting, processing and marketing of our marine resources. Tax exempt status under 501(c)(5) is important to this organization to permit the use of favorable postal rates for the distribution of their paper.

A statement of the problem and the relief which this amendment would provide is well stated in a statement on the subject by Fisheries Communications, which publishes the Maine commercial printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. MUSKIE. This amendment also addresses the problem of fishermen troubled by recent IRS rulings which have disrupted the traditional working arrangements in that industry. The amendment restores the status of nonremuneration paid to certain workers on fishing boats as self-employment income for purposes of the Federal Insurance Contributions Act and for purposes of Federal income tax withholding requirements.

This amendment is designed to permit the continuation of a traditional working arrangement in the lobster fishing industry which is threatened by recent IRS rulings. Maine lobstermen informally cooperate from time to time with others to overcome hardships resulting from bad weather or other unusual work demands. For example, a lobster boat captain might ask a colleague or clam digger to join him in his rounds and assist him in handling traps during inclement weather. The locus of the duties performed handling traps and gear in the rear of the boat accounts for the designation of these individuals as "sternmen." According to the traditional, informal agreements, the sternmen receive a share of the lobster catch for the day in return for their assistance.

The boatowner makes no guarantee as to how much the sternman will earn. In the case of an unsuccessful trip, the sternman might not receive anything.

There is generally little formality or continuity to these arrangements. There are no written contracts and the sternman usually works with a boatowner for only brief periods. He may own his own boat and join another captain while his own vessel is under repair or he may be a clam digger working on fishing boats while flats are closed or inaccessible.

Until recent IRS rulings altered the practice, both the boat owner and the sternman considered themselves as self-employed and reported their income from the fishing venture on their own return with no withholding required. These arrangements were convenient and logical since each was otherwise filing a return as a self-employed person and because of the occasional nature of the sternman's work. Maine fishermen have always filed returns in the manner which was accepted by the Internal Revenue Service until they began to demand that taxes be withheld.

The situation changed dramatically for Maine fishermen with the application of this Revenue ruling and the beginning of a massive IRS audit of lobstermen under the "Lobster Project." In some cases, boatowners were required to pay withholding taxes retrospectively despite payment of taxes on the same wages as self-employment income by the sternmen. The apparent inequities involved have offended all familiar with the audits and have discouraged cooperation between lobstermen and IRS.

The frustration and expense related to keeping records and withholding taxes for sternmen has discouraged use of these cooperative arrangements and threatens to adversely affect lobstering efforts in areas of rough seas for the individuals and communities involved, an unacceptable cost for the minimal convience afforded the IRS under this ruling, and I am cosponsoring this amendment to correct the situation by treating sternmen as self-employed under the Federal Insurance Contribution Act and withholding provisions of the Federal Income Tax.

[Exhibit 1]

Statement of Fisheries Communications in Connection With Proposed I.R.C. Section 501(g)

Fisheries Communications, a nonprofit corporation organized under the laws of the State of Maine on July 20, 1973, proposes a new Internal Revenue Code section 501(g). A draft of such an amendment is attached. An explanation of the amendment follows.

REASON FOR AMENDMENT

Fisheries Communications publishes the Maine Commercial Fisheries, a publication sent free to all licensed sea food dealers and fishermen in the State of Maine. Its purpose is to provide a free source of educational materials and information to all segments of the fishing industry in Maine.

The Internal Revenue Service has ruled that Fisheries Communications does not qualify as an "agricultural" organization and is not exempt under I.R.C. section 501(c)(5) *solely* on the ground that the fishing industry is not an agricultural industry. (Were it not for this questionable interpretation of the meaning of "agricultural," it is clear that Fisheries would qualify under I.R.C. section 501(c)(5).) This private ruling was subsequently reiterated in a public ruling (Rev. Rul. 74-488, 1974-41 I.R.B. 9). Copies of both rulings are attached.

PURPOSE OF AMENDMENT

The proposed amendment would make it clear that the term "agricultural" in I.R.C. section 501(c)(5) includes the harvesting of acquatic resources.

Such definition should be viewed as merely declaring modern realities—a position by Congress in substitution of the unduly restrictive meaning given the term by the I.R.S. That is, both land and marine activities are concerned with the harvesting of food resources and it is unrealistic not to view fishing in the 1970's as an "agricultural" endeavor.

Congress has enacted comparable legislation in recent years. Congress has recognized that the fish resources of the nation make a material contribution to our national economy and food supply. 16 U.S.C. § 742a. Congress has also recognized that agriculture includes the harvesting of sea resources. 16 U.S.C. § 1085. Provisions of the federal agriculture statutes include fishing within their purview. E.g., 7 U.S.C. §§ 991, 1732.

The case law and I.R.S. rulings indicate that the term "agriculture" is to be liberally construed. *Campbell* v. *Big Spring Cowboy Reunion*, 310 F. 2d 143 (5th Cir. 1954). The term is extremely broad and broader than the term "farming". *Florida Industrial Commission* v. *Growers' Equipment Co.*, 12 So. 2d 887 (S. Ct. Fla. 1943). The term "agricultural" has been ruled by the I.R.S. to include organizations that raise fur-bearing animals and market pelts (Rev. Rul. 56-245, 1956-1C.B. 204), test soil for farmers and non-farmers (Rev. Rul. 54-282, 1954-2 C.B. 126), and are composed of women married to farmers (Rev. Rul. 74-118, 1974-11 I.R.B. 11).

There is no federal tax policy to be advanced by narrowly interpreting the term "agricultural" to exclude the harvesting of marine resources when it clearly encompasses the harvesting of land resources. As one federal court has stated, "agriculture" is defined in a broad sense as "the science or art of the production of plants and animals useful to man". *Sancho* v. *Bowie*, 93 F. 2d 323, 324 (1st Cir. 1937). The raising and trapping of muskrats constitutes an agricultural pursuit for state tax purposes. *Bonham & Young Co.* v. *Martin*, 11 A. 2d 371 (N.J. St. Bd. Tax App. 1940). Consequently, the term "agricultural" warrants a comparably meaningful statutory definition, in view of the I.R.S.' restrictive policies.

Today's facets of ocean harvesting were unknown in 1909 (when I.R.C. section 501(c)(5) originated) but have subsequently been determined by Congress in other contexts to be agricultural. The time has come for this general recognition of the contemporary meaning of the term "agricultural" (as reflected in the proposed amendment) to be reflected in the Internal Revenue Code.

AMENDMENT NO. 1153

At the request of Mr. Mondale, the Senator from Maryland (Mr. Beall), the Senator from Arkansas (Mr. Bumpers), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), and the Senator from Vermont (Mr. Stafford) were added as cosponsors of amendment No. 1153 providing a tax-free rollover for distributions from a qualified pension plan that result from a plan termination, intended to be proposed to the bill (H.R. 7727), suspending duties on certain yarns of silk.

AMENDMENT NO. 1287

At the request of Mr. CRANSTON, the Senator from Wyoming (Mr. McGEE) was added as a cosponsor of amendment No. 1287, intended to be proposed to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

AMENDMENT NO. 1303

At the request of Mr. TUNNEY, the Senator from New Hampshire (Mr. DURKIN), the Senator from Colorado (Mr. GARY HART), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of amendment No. 1303, intended to be proposed to the amendment of the House to Senate amendment numbered 75 to the bill (H.R. 9861), making appropriations for the Department of Defense for the fiscal year 1976, and for other purposes.

REGULATORY REFORM HEARING DECEMBER 19

Mr. METCALF. Mr. President, on behalf of the distinguished chairman of the Government Operations Committee (Mr. RIBICOFF), I wish to announce that the committee will conduct a hearing on regulatory reform Friday, December 19, at 10 a.m., in 3302 Dirksen Senate Office Building.

The witness will be Dr. David Schwartz, adjunct professor of economics at Michigan State University and former assistant chief of the Bureau of Economics at the Federal Power Commission. Dr. Schwartz had been scheduled to testify at the hearing this week that was postponed because of the Senate's secret session for discussion of the Angola matter.

ADDITIONAL STATEMENTS

UNITED STATES IN THE UNITED NATIONS

Mr. ROBERT C. BYRD. Mr. President, the United States is talking back in the United Nations—and it is about time.

For too long, America sat silent while Third World and Communist countries heaped ridicule and criticism and abuse on the United States, and on the American way of life.

Now the United States is talking back. Our U.N. delegation is telling the third world nations that their problems are of their own making, and that whatever little development has occurred is due, in large measure, to the technology and generosity of America and its people.

And we are using the U.N. forum to expose Russia's expansionist plans in Africa.

The United Nations has proved ineffective over the years in many ways.

But as long as we are a member of the United Nations, our representatives should make it plain that our role is that of a partner in the family of nations—not that of a whipping boy for countries which have contributed little or nothing to the progress of the world.

"SCHOOLMASTER" ASPINALL BACK IN CLASSROOM

Mr. HANSEN. Mr. President, a lucky group of students at the University of Wyoming has had the good fortune this past semester of learning about political science from a distinguished former Member of Congress and good friend. The Honorable Wayne Aspinall, who for 24 years represented Colorado's western slope, has once again assumed a familiar position at the front of a classroom.

Mr. Aspinall was the first of what we hope will be a long series of men in public life who venture to the Laramie campus to teach in the field of government and politics. This exciting concept is made possible by the establishment of the Milward L. Simpson Fund for Political Science, named for our respected former colleague who served as Senator for Wyoming from 1962 to 1967.

As the statement of purposes of the fund says—

> Few people have had a greater influence upon the State of Wyoming than Milward Simpson. As a member and President of the University of Wyoming Board of Trustees, as Governor, and later as a U.S. Senator, the name Milward Simpson is synonymous with honest government, loyalty, personal courage, and a progressive and innovative outlook.

Mr. President, as a cochairman of this fund with Senator McGEE, I say eagerly that we are pleased and honored to inaugurate this series with the outstanding services of Mr. Aspinall, who embodies the high ideals of this new program.

The Denver Post of Denver, Colo., recently paid a visit to the University of Wyoming to witness Mr. Aspinall in action, and I ask unanimous consent that the article which followed that visit be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"SCHOOLMASTER" ASPINALL BACK IN CLASSROOM AS WYOMING LECTURER

(By Todd Phipers)

LARAMIE, WYO.—It has been more than four decades since he last taught school, but the return to the classroom this fall has been an easy and enjoyable move for Wayne Aspinall.

Teaching always has been the first love of the former (12-term) Colorado congressman, who is nearing his 80th birthday.

"They say I've never stopped," he said, adding that his schoolmaster approach as chairman of the powerful House Interior Committee made some newer members of Congress "a little provoked" over the years.

There is no argument about that.

HEADMASTER MOOD

One congressional reformer, Rep. Phillip Burton, D-Calif., said earlier this year that Aspinall ran his committee like a "personal fiefdom." After five years as a member, Burton complained, "he still treated me like a rank kindergartner."

"You can only have one captain," Aspinall said matter-of-factly. "I was the captain."

It is that no-nonsense manner, the same he exhibited in Congress from 1949 to 1972, that Aspinall has brought to the University of Wyoming this semester as the first Milward Simpson visiting professor in political science.

Can a man in his 80th year find happiness in an academic world populated by students the age of his grandchildren?

"I've had a wonderful time," he said with a typical big smile. "I've been especially pleased and pleasantly surprised."

NO MOLDY FIG

The university didn't drag Aspinall out of mothballs to become the "guinea pig," as he calls it, for the professorship in the name of Simpson, a former Republican governor and U.S. senator from Wyoming.

Since his defeat in the 1972 Democratic primary—his first in 40 years of politics—Aspinall has kept active as a consultant for the Federation of Rocky Mountain States and American Metal Climax, as a spokesman for the Western Slope's Club 20 and as a sometimes-legal counsel for Indian tribes in southwestern Colorado.

He trimmed back on those activities this fall because "I wanted to give this a full-time operation." But he will gear up on the other work again at the semester's end next week.

Aspinall doesn't want to be one of those people who, he says, grows "old and dingy and useless. I'd just as soon have something ahead of me all the time."

Clearly, he enjoyed his 24 years in Congress. But his defeat in 1972 in a rearranged congressional district seems not to have left any scars of bitterness.

Although he thinks the district stronghold he once enjoyed on the Western Slope was gerrymandered to his disadvantage, Aspinall considers that a political reality—and little more.

"They had a right to try to get me out. All is fair in love and war and politics and business." He doesn't dwell on who "they" were.

"I understood being defeated. I didn't like it, but it was just a little sting. It bothered me for a few hours."

DISTURBING EVENTS

Perhaps it is best that Wayne Aspinall left the Congress when he did. Although he remains dedicated to the nation and its political course, he is quick to admit he is disturbed with some of the events on Capitol Hill today.

Does he keep an eye on Congress?

"I don't think anybody can keep an eye on Congress today. I don't understand some of those people."

Aspinall isn't for the sweeping reforms which would virtually eliminate the seniority system in which he operated—"experience is the best teacher"—and he questions the motives of some members of Congress.

INSTANT EXPERTS

"The tendency in the last decade and a half has been for people to think they know it all as soon as they get out of the university."

That tendency, for a man who received his bachelors degree from the University of

Denver in 1919, and his law degree there in 1925, is understandably hard to accept.

But he keeps his differences on a philosophical plane. Aspinall's enthusiasm for life, and his genuine fondness for people, prohibit it from going further than that.

He can add up all the people he doesn't like who he's met in his 79-plus years, Aspinall said, and not get the total to two dozen.

Is that possible for a veteran of 40 political campaigns?

"I had wonderful opponents. There were only two, in the later days, that I wouldn't have been comfortable sitting down at their dinner table the next day (after the election)."

The same conviviality has carried over to his four months on the University of Wyoming campus.

"There is a discipline here. You can feel it. And there is a friendliness that is most apparent."

Aspinall admitted he was concerned at first about how the faculty would respond to his presence.

After all, "it was kind of a ticklish proposition to bring in a fella who never had taught on this level," especially one "in his 80th year, since he'd been out of the schoolroom since 1933."

But the faculty has been "so cooperative," he added, "I was at ease at the end of the first week."

Being at ease seems to come naturally for the eldest son of a ranching family which came to western Colorado near the turn of the century, a man who corresponds with the President and little children who write him for information, a man who addresses statesmen and students with equal candor.

You may not agree with him that the only way for America to come out of the energy crisis is to explore every energy source, and to use it to its fullest.

You may not agree with him that teachers have no right to strike, because "the kids are their responsibility and you don't strike against an innocent kid."

You may not agree with him that President Ford was correct in vetoing federal strip-mining legislation because it was loaded with provisions resulting from "the obsessions of individuals."

ROLL CALL HABIT

And you may not even agree with him that a roll call should be taken in college classrooms. ("I guess I'm old fashioned," he told a professor who didn't call roll before Aspinall delivered a guest lecture last week.)

But those who have encountered the man from Palisade, Colo., can say what Aspinall says of his "idol of legislative procedures," the late House Speaker Sam Rayburn:

"I didn't always agree with him, but I knew where he stood."

GENOCIDE—TO CONDEMN OR CONDONE

Mr. PROXMIRE. Mr. President, there is no question that the United States condemns, rather than condones, the crime of genocide. And yet in almost a quarter of a century since the Genocide Convention was drawn up, we still have not become a party to this treaty. If we truly desire to prevent genocidal acts from recurring, this Nation must take two steps.

First, the Senate must advise and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide. In so doing, we will show the international community that we abhor this crime.

Second, Congress must pass the implementing legislation necessary to put the terms of the Genocide Convention into effect. This provides for the arrest, trial, and punishment within America's borders for our citizens accused and convicted of acts of genocide that took place here in the United States. Of course, those charged will be fully protected by the Constitution.

In the future, the United States may enter into agreements whereby genocide would become one of many crimes for which we will consent to extradition. This has already been done for such crimes as robbery and murder. And like the extradition treaties of which the United States is a signatory, our citizens will be properly protected.

But the first step to demonstrate our condemnation of genocide is to ratify the Genocide Convention. Mr. President, I urge the Senate to take that first step without delay.

EDWARD GALLAGHER'S BOOK ABOUT "THE MOST EXCITING MAN IN AMERICAN PUBLIC LIFE"

Mr. McINTYRE. Mr. President, from now until the 24th of February, the political attention of the Nation will focus on my own State of New Hampshire, quadrenially the site of the first Presidential primary election.

Between now and that fateful day, we can expect analysis after analysis, prediction after prediction, and reams of copy about the wintry New Hampshire countryside and the ordeal of the candidates.

Now, Mr. President, we Granite Staters take pride in our first of the Nation primary, and for the most part we relish this transient attention. But we regret that the frenzy of an election year precludes all but a superficial consideration of our State and its politics by the public and by the media.

Surely there must be those who are intrigued enough by the New Hampshire Presidential primary experience to want to know more about our politics and political history than they can glean from the hasty accounts filed late every fourth winter.

Fortunately, Mr. President, some of that earlier history has now been set down in print by an old friend of mine, a fellow citizen of my hometown of Laconia, N.H.

Edward J. Gallagher, publisher emeritus of the Laconia Evening Citizen and one of the most respected newspapermen in New England, has written a profile of a man who was not only the most colorful personality in New Hampshire politics for 32 years, but was once described as "the most exciting man in American public life."

His subject is the late George Higgins Moses, U.S. Senator from New Hampshire from 1918 to 1933, President Pro Tempore of the Senate for 8 years, and for some 30 years prior to his Senate tenure, editor of the Concord, N.H., Monitor, where the author knew him as a formidable publishing rival.

So colorful was Moses that his many pithy utterances, as one book reviewer notes, tend to overshadow his considerable ability and accomplishments. It was Moses, after all, who coined the phrase "Sons of the Wild Jackass" to characterize several of his Senate colleagues.

But such acrimony ought not to obscure the fact that Moses was an extremely able legislator and a President Pro Tem of vigor and decision, nor that his tour of duty as Ambassador to Greece earlier in the century was so noteworthy that one Washington correspondent of the time was moved to call him "the most popular and influential minister the United States has ever sent to the Balkans."

Mr. President, what is so intriguing about Mr. Gallagher's account of George Moses' public career is the way it points up the essential truth behind the all too familiar cliche: "History repeats itself."

Take the matter of Moses' successful battle to stop President Wilson from bringing the United States into the League of Nations.

Whatever one might think of the merits of Moses' position on this issue, it does give one pause today—considering the affronts we have suffered in the United Nations in more recent times—to recollect Moses' rationale, so acidly expressed in this single sentence:

"Joining the League of Nations," Moses said, "would make the United States an umpire in international disputes and I do not want to see the umpire beaned with a pop bottle."

And Moses' denunciation of Wilson's "gluttony for the limelight" strikes a prescient note in these days of bemoaning the rise of the "imperial Presidency."

Even the contemporary arms supply race is but a replay of history made when George Moses was our Ambassador to Greece.

Mr. Gallagher's book offers a fascinating account of how Moses met the competition in that earlier rivalry.

Greece, at that time, was determined to start its own navy and was in the market for three battleships. Bid invitations were extended to the United States, England, Germany, and Russia. When the bids were opened, the Russian offer was by far the lowest, and ours the highest.

But somehow Moses reportedly learned that the Greek Minister of Defense had been promised $250,000 by the Russians, who planned to cover the payoff by claiming they had made a terrible mistake in calculating costs and would need more contract money to complete this job.

Moses went directly to the Defense Minister's home and so loudly demanded admission that the Minister finally opened his bedroom window to see what the commotion was all about. In no uncertain terms. Moses told him that if he did not sign the order for the United States to build the battleships Moses would expose the whole plot. Realizing exposure would surely result in his trial and possible execution, the Minister signed the order for the United States to build the ships.

Mr. President, Mr. Gallagher's book is replete with such incidents and anecdotes, but as our long-time friend and colleague, the Honorable Norris Cotton, wisely observes, the book is much more than the profile of one colorful journalist and politician. "It not only presents a real picture of the man and his personality," Senator Cotton says, "but there is a wealth of material concerning the era in which he played a part."

And, Mr. President, it remained for Senator Cotton to flush out the real character of George Moses, for, as the beneficiary of his kindness, Senator Cotton knew another side to the man.

In the preface to the book, Norris Cotton recounts how, penniless and indebted following his graduation from college, he approached Senator Moses and Moses immediately "made a place for me as one of the clerks for this committee and enabled me to get my legal training at George Washington University Law School in Washington while working for him."

Later in the preface, Senator Cotton says:

> To the world, he (Moses) gave the impression of a sarcastic, though brilliant, individual with a biting tongue. I came to suspect that he enjoyed that role, indeed that he almost reveled in it, but I can testify, as can many others, that he was warm and sympathetic to all who needed help and encouragement, and to the last hour of my life, I shall be grateful to him for all that he did for me.

Mr. President, in like manner a good many of us from New Hampshire, will always be grateful to Edward Gallagher for profiling this giant from our political past and chronicling the political history George Moses lived.

A NEW WAVE OF SOVIET EXPANSIONISM?

Mr. FANNIN. Mr. President, all signs point to the fact that despite détente the Soviet Union has not reversed its policy of extending communism throughout the world. U.S. intelligence sources discovered massive Soviet intervention in the domestic affairs of Portugal and Angola. The White House, the State Department, Western European nations, and independent observers all agree that Russian economic and military intervention in these countries is enormous.

In Portugal, Russia is backing the efforts of the Communist party to control the government of that traditionally pro-Western nation. The Portuguese armed forces, which rule that nation, have been factionalized to the point that chaos and anarchy are the norm in the daily operations of the government. Only within the last several weeks, has President Costa Gomes been able to use the power of his office to begin to restore some order to his government. Leftist and Communist interests, supported by Moscow, have kept Portugal in disabling chaos for the past year and a half.

Western European nations, along with the United States, became increasingly concerned about the unmistakably leftward drift of Portugal during the past year. The free world was concerned because a Communist Portuguese Government would be the first Communist government to control a country of Western Europe. The North Atlantic Treaty Organization was another major reason Western nations objected to the Communist influence in Portugal. Portugal is a member of NATO and it is inconceivable that her representation in that Western security organization would be in the person of a Communist. Communist infiltration of NATO is not acceptable to the free world.

Due to the help of Western intelligence-gathering organizations, the United States and Europe received valuable information on the extent and purpose of Soviet intervention in Portugal. Western European countries and the United States, to a lesser degree, were able to use their established intelligence agencies to combat the Soviet presence in Portugal. Thanks to substantial economic assistance from Western Europe, the anti-Communist forces in Portugal were able to combat a preemptory leftist takeover of Portuguese cities, towns and government agencies earlier this year. However, the struggle for Portugal is far from over.

The on-going battle for Portugal makes two things obvious. Despite détente, the Soviet Union is continuing to force its type of government on nations which are remote from the U.S.S.R. and have never shared the Soviet philosophy. Second, intelligence-gathering organizations are essential. Not just because they can ferret out Communist infiltration but because they can provide legitimate governments with information about outside plots and conspiracies dedicated to their downfall.

Angola is another nation which is undergoing rapid political change. Three factions are fighting for control of that country. Angola just became independent on November 11, 1975, and already three separate groups claim to represent the people of that country. The Soviet-backed Popular Movement for the Liberation of Angola has been most successful in the battles raging in that nation. The Popular Movement is supported economically and militarily by the Soviet Union. They have the use of sophisticated Russian weaponry and the help of Cuban soldiers. Clearly, this is Communist interference in the domestic affairs of a sovereign nation. The remaining two Angolan factions have recently joined forces against their common enemy but they are not supplied with the arms and machinery necessary to defeat the Communist attack.

Because of her own chaotic situation, Portugal is in no condition to send economic or military aid to her former colony in Africa. The United States and South Africa are most prominent among nations coming to the aid of the National Front for the Liberation of Angola and the National Union for the Total Independence of Angola. In Angola, as in Portugal, reports from the intelligence community provided the basis for our limited assistance to this African country. The intelligence community discovered the massive covert operations of the Soviet Government and should be commended for diligent surveillance of this situation from the outset of the Russian buildup.

Mr. President, the December 11, 1975, Washington Post carried an article by Victor Zorza, "A New Wave of Soviet Expansionism?" which I found most persuasive. I share Mr. Zorza's concern that massive Russian intervention in Angola could precipitate Russia's deep involvement in Africa even while détente is her official foreign policy. Mr. President, I ask unanimous consent that Mr. Zorza's article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

A New Wave of Soviet Expansionism?

(By Victor Zorza)

The Soviet intervention in Angola could be the first step in a new expansionist policy practised under the cover of detente, or it may be a minor incident, unworthy of serious concern. In Washington, there are supporters of both views, but the growing extent of Soviet involvement is giving rise to increasing apprehension about the Kremlin's intentions, and to calls for firm counteraction. The Kremlin, in turn, will have to decide whether to heed Dr. Kissinger's warning that its adventure in Angola is inconsistent with detente, or to press on regardless.

For the Soviet Union, it is argued that its primary interest in Angola, as in the rest of Africa, is to keep out Chinese influence, and that the West therefore need not be unduly concerned about its role there. The Chinese have indeed been active in supporting one of the rival factions in Angola, but they have lately begun to reduce their involvement, which was never as large as Moscow's.

Peking's withdrawal from the fray would make it easier for the Chinese to accuse the Soviet Union of acting as a superpower which intervenes in the affairs of smaller countries, and to claim that China has clean hands. It has also been suggested that the Chinese are pulling out because they know that the Kremlin has backed the stronger horse. Their realism, it is said, should serve as a lesson to the West which is supporting the losing side. An even more Machiavellian suggestion has it that Peking's main purpose throughout has been to cause bad blood between the Soviet Union and the West, and that China can therefore now withdraw from the scene because the West is taking up the good fight.

Washington officials regard these suggestions as excuses for Soviet behavior rather than as an explanation of what is happening. Moscow has now provided its proteges with something like 150 to 200 armored vehicles, thousands of small arms such as rifles and machine-guns, and with 3,000 to 4,000 Cuban troops. The United States has provided a much small number of arms to the opposing faction, which is also being helped by some South African troops.

The Moscow-supported faction, the Popular Movement for the Liberation of Angola which is led by Agostinho Neto, has proclaimed itself the lawful government of the country after the recent withdrawal of the Portuguese colonial authorities. Its forces occupy a coastal strip of which Luanda, the capital, is the center. Its claim is disputed by two rival groups, which previously fought each other but have now joined forces against the common foe. Of these two, the National Front for the Liberation of Angola, headed by Holden Roberto, now has its main strength in the north of the country, where it receives the support of neighboring Zaire. Its former rival, the National Union for the Total Independence of Angola, has its main strength in the south, where it receives military support from the South Africans.

The geographical and political lines of demarcation coincide, as so often in Africa, with traditional tribal lines of rivalry and hostility which the Western powers exploited so unscrupulously in their drive to colonize the continent. Was it merely a rhetorical flourish when Daniel P. Moynihan, the U.S. Ambassador to the United Nations, warned the U.N. against the Soviet Union's new imperialism? "A new colonial power," he said, "more mighty than any that preceded it, has come with its arms, its armies, its new technology—and the recolonization of Africa commences."

That is not how Moscow sees its role, Its press speaks of the need to complete the "decolonization" process, and it voices the Soviet Union's support for all who take part in it. For Moscow, this is part of the ideological struggle which, it insists, is inseparable from détente. Indeed, there are those in Moscow who argue that détente is good because it has tied the West's arms and has made it more difficult for the Western powers to react forcefully to attempts to expand Soviet influence in the third world.

Something of this is reflected in Pravda's argument that détente has provided "new and favorable opportunities" for what it calls the national liberation movement. The relaxation of international tensions, Pravada says, "has been a powerful force behind the new upsurge in the struggle . . . for the total liberation of peoples." In Kommunist, Soviet Foreign Minister Andrei Gromyko explains that support of national liberation forces is "an extremely important sector of our foreign policy work," and that it will "undoubtedly" retain its significance in the years to come.

These may be the first elements of what could, in the context of Angola, grow into a new Brezhnev doctrine for Africa. The Soviet Union is asserting in Angola its right to build up and to arm a client government whose legitimacy is disputed by its internal rivals. For the time being, the Cubans are performing on Moscow's behalf the role which Soviet forces performed in Czechoslovakia. But if the Kremlin is allowed to get away with it, Angola may prove to be only the beginning of a new drive to expand Soviet power under the cover of détente—and not just in the third world.

There are those in Moscow who would like to use détente in this way, but there are also others who would prefer to use its benefits to develop trade with the West and to modernize the internal workings of the Soviet system. In the continuing Soviet debate, the West's failure to take a firm stand on the issue of Angola will be used by the "hawks" against those Soviet "doves" who might prefer to concentrate on domestic tasks, and to avoid foreign adventures.

Mr. FANNIN. Mr. President, we cannot tolerate the expansion of Soviet influence in Africa. Strong Russian interference is evident in Berbera, Somalia, on the Indian Ocean, in Portugal on the Mediterranean Sea, and in Angola on the west coast of Africa. This is an ominous situation, especially for Africa and also for the Western World. Soviet control of Africa's northern tier has the potential for serious disruption of international sea commerce from the Persian Gulf, and, therefore, for economic blackmail of enemies of Russia. I urge my colleagues to pay close attention to the warnings of our defense establishment and our intelligence community about Soviet expansionism in Africa. Their professional judgment is valuable and it should be used to determine American response to blatant Soviet violations of the spirit of détente, the United Nations Charter, and the Helsinki Agreement.

NUTRITION PROGRAM FOR THE ELDERLY

Mr. CHILES. Mr. President, the nutrition program for the elderly is one of the finest programs implemented by the Federal Government. Thus, it is with great pleasure that I note that the recently passed Labor-HEW appropriations bill makes substantial improvements in the program's funding levels.

Under the conference report, a section has been incorporated that, with only slight modification, was first passed by the Senate. The bill mandates that the elderly nutrition program's "level of operations" be increased to $187.5 million in fiscal year 1976. As a result, local feeding sites throughout the country that serve the elderly will now be told that they should spend $187.5 million, during the course of fiscal year 1976, to provide feeding and ancillary services to needy senior citizens.

The conference bill accomplishes this by taking $62.5 million of funds that were forward funded from previous fiscal years, and adding the $125 million appropriated through the pending legislation, and requires that the combined amounts be spent on the program during fiscal 1976. In order to accomplish this in a timely manner, it is our expectation that the program's annualized expenditure rate be increased immediately to the amount that is needed so that the entire $187.5 million is spent this year.

The need for speedy action on the part of HEW is evident. Currently, more than 116,000 people are on program waiting lists seeking nutrition services. Additional people reside in areas where no feeding program exists at all, and consequently, they have been denied the opportunity to apply for program services. In many areas, disabled elderly people need meals brought to their homes but they cannot obtain them because of the program's inadequate funding.

By requiring that $187.5 million be spent this year by local projects, we hope to expand the program to these needy, but unserved, senior citizens. Making this legislative mandate a local reality will require cooperation by many—particularly quick action by the HEW Secretary to increase and subsequently adjust the program's rate of expenditures. Only through this cooperation will $187.5 million be spent and elderly people properly served.

THE AMERICAN CONSTITUTION

Mr. McGOVERN. Mr. President, Mr. Norman Cousins, the brilliant editor of the Saturday Review, has written a thoughtful editorial on the meaning of the American constitutional system. The editorial appearing in the December 13, 1975, issue of the Saturday Review will be of interest to the Members of the Congress. I therefore ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

REFLECTIONS ON A "BIRTHDAY"

The range of America's contribution to history, as detailed in this issue, runs broad and deep, but the idea that ultimately may have the single greatest impact on the world is that human beings are capable of designing a rational future. The specific expression of that capability in this nation was the United States Constitution. This country was not the first in history to devise a representative government, but no other society was more carefully constructed for the express purpose of making representative government work.

The fact that the United States has lived longer under a single continuous form of government than has any other major nation is a tribute to that design. The U.S. Constitution was a piece of political architecture specifically intended to withstand the stresses and flaws that throughout history had caused other governments to become erratic or irresponsible or to turn against their own people. The American idea that government could be constructed as an act of intelligence and free will has inspired countless peoples and has produced more change in the world than any other political or even ideological concept, not excluding Marxism.

The design of the young American Founding Fathers was not struck off overnight. It took two years to hammer out that design and to put it into effect. Each problem and challenge had to be examined in the light of historical experience and common sense. Failures of previous governments became the raw materials for constructing a durable new model. Of all these failures, none was more dramatic, significant, or insistent than the collapse of the American states themselves in their ill-fated experience before federation.

This failure, indeed, was to serve as the impetus for the enduring structure that became the United States; but the fact and implications of that failure are not generally understood today by Americans themselves.

The popular notion about the origin of the United States government is that the Declaration of Independence and the United States Constitution were part of a single historical process. This misconception is reflected in the Bicentennial celebration itself. The United States will not be 200 years old in 1976. The United States was not born until 1789. The nation will not have its Bicentennial until 1989. This is not a historical quibble. There were years of deterioration and disintegration after the end of the Revolution before the U.S. Constitution came into being.

Before the United States could be born, the 13 sovereign American governments had to undergo a collapse of mammoth proportions. John Fiske, in the Critical Period of American History, 1783–1789, has written a sobering account of this collapse. The 13 states thought they could retain predominant sovereignty and still be at peace with one another. After 1783, when the treaty was signed with England, the American states slid into a period of disruption bordering on anarchy. New York and New Jersey shot it out in the harbor over the right to tax incoming ships. Pennsylvania and New Jersey never could agree on a mutually satisfactory border. Connecticut and Massachusetts were at odds over the acquisition of western territories. The value of a citizen's currency would shrink 10 percent when he or she crossed a state line. Thus a citizen who started out from New Hampshire with $100 in his pocket would have $20.24 left by the time he arrived in Georgia—without having spent a cent.

Men of reason were convinced that it was a fallacy to suppose that 13 separate sovereign states could exist within a compressed geographic unit. They came together at Philadelphia in 1787 because the situation confronting the states was intolerable. They had no way of knowing whether they could create a new design acceptable to each of the separate states. But they hoped that the results of their efforts might produce a groundswell of popular support that would create an imperative for ratification by the individual legislatures.

The most distinctive feature of the document created at Philadelphia was its federalist principles. The individual states retained jurisdiction over their own territories while yielding authority on all matters concerned with common dangers and common needs. This meant that a central authority spoke and acted for all the states in their collective relationship to the rest of the world.

The main contribution to history of the American Founding Fathers, therefore, was their delineation of the principles by which peace among sovereign units could be created and maintained. They had studied the basic causes of war all the way back to the conflict between Athens and Sparta. They understood the imperatives of geography. They knew that the freedoms of the individual would erode without a structured framework of order for society itself.

The fact that our national Bicentennial birthday is not in 1976 but in 1989 is not so important as our ability to understand the principles that went into the making of this nation. Those principles are no less valid now than they were 200 years ago. The peace of the world today is precarious because many of the sovereign units, especially the major ones, are unwilling to accept, or even to consider, the principles that alone can establish workable world order and thus guarantee their peace and independence. The United States, against the background of its history and traditions, has a natural reason to proclaim these principles. We can perform a great service to ourselves and to the cause of world peace by refuting the notion that the highest value is absolute national sovereignty. We can carry the banner for the idea that world peace cannot be achieved, nor the natural rights of human beings protected and enlarged, without a genuine world order.

It will be said that to draw a parallel between the failure of the American states from 1783 to 1787 and the United Nations' situation today is to overstretch historical analogy. It will be claimed that the hundred or so sovereignties in the present world are too diffuse, too farflung, too complex, to be compared with the 13 states. But one can almost hear James Madison or Alexander Hamilton saying, as they did in The Federalist Papers, that historical principles transcend the size and complexity of the case at hand. The larger the problem, they said, the more pertinent the principle. And the principle that informed their efforts at Philadelphia, and that has meaning for us today, is that the only way to eliminate anarchy is by establishing law. They would say that the only security for Americans today, or for any people, is in the creation of a system of world order that enables nations to retain sovereignty over their cultures and institutions but that creates a workable authority for regulating the behavior of the nations in their relationships with one another. They would recognize the mountainous complexities to be surmounted, but they would also believe that there are nuclear imperatives which dictate the need for world law.

World federalism may seem too remote a goal to serve as the basis for immediate efforts. But a world that is ingenious enough to create the means of nuclear incineration ought to be resourceful enough to devise a way out with a time schedule to match.

COMMON SITUS PICKETING

Mr. THURMOND. Mr. President, Monday the Senate agreed on the conference report on H.R. 5900, the "common situs" picketing bill. I feel this is a terrible piece of legislation. This bill will do nothing but inflate the cost of construction projects in both the public and private sectors. This will result in fewer construction projects and less work for those who work in construction. In short, this bill will hurt, not help, construction workers.

I have urged President Ford to veto this unfortunate piece of legislation. Mr. James J. Kilpatrick has written an article expressing the same sentiment. I ask unanimous consent that an article by Mr. Kilpatrick entitled " 'Common Situs' Calls for Presidential Veto" which appeared in the December 13, 1975, edition of the Washington Star, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

" 'COMMON SITUS' CALLS FOR PRESIDENTIAL VETO"

A showdown is at hand on the "common situs" bill. The bill ought to be vetoed.

In any competition to choose the worst bill of 1975, H.R. 5900 would rank near the top. The purpose of the measure is plain and indeed undenied: It is to force nonunion workers in the construction industry to join the building trades unions.

The legislative mechanism is equally simple. This bill would overturn the famous Denver Building Trades decision of 1951. That Supreme Court decision (341 U.S. 675) upheld a provision of the Taft-Hartley Act making it an unfair labor practice to engage in secondary boycotts.

The Denver case illustrates what this bill is all about. A general contracting company, Doose & Lintner, was erecting a building. A number of subcontractors were engaged on the job. Among them was Gould & Preisner, which had a $2,300 subcontract for electrical work. The firm for 20 years had employed non-union workers. The Denver Building and Construction Trades Council demanded that the contract be canceled, or that Gould & Preisner employ union electricians instead. When the general contractor refused, other unions put out a picket and the entire job closed down. After two weeks Doose & Lintner caved in and ordered Gould & Preisner off the site. The subcontractor took the matter to the NLRB, which found an unfair labor practice. On June 4, 1951, in a 6–3 decision, the Supreme Court affirmed.

The important thing, said the Court, was that the dispute did not involve employes of the general contractor. So far as the record shows, Gould & Preisner had no disagreement whatever with its own workers. The assumption, in a free society, is that the non-union workers had a right to work, and that the electrical subcontractor had a right to compete for jobs. These rights would be effectively abolished if the pending common situs bill becomes law.

Every consideration of morality, common sense, and practical politics argues in support of the veto.

It is morally wrong—there is no way to make it right—for unions to abuse their power in the fashion here demanded. Of the 4.7 million workers in construction, some 1.8 million belong to no union. They prefer it that way. More than 80 per cent of those involved in small construction are nonunion. These are the carpenters, bricklayers, electricians, plumbers, and manual laborers who work for small companies. They are overwhelmingly opposed to the bill.

His common sense should tell Mr. Ford what enactment of the bill would mean in economic terms: strikes, disruption, violence on building sites, greatly increased costs of construction across the country. It is unbelievable that the President could invite this blow to an economy slowly struggling for recovery.

The political considerations scarcely need to be spelled out. Mr. Ford will not win a single vote from union zealots by signing the bill. Fanatical union members will oppose him willy-nilly. But if the President has nothing politically to gain, he has much politically to lose. Business and industry are solidly opposed to the bill. A survey by the respected Opinion Research Corporation found 68 per cent of the people (including 57 per cent of union members) opposed to the bill. Such liberal newspapers as The New York Times and the Louisville Courier-Journal have made common cause with conservative newspapers in opposition.

Labor bosses defend the measure, of course, as no more than an innocent little bill to give equal treatment to craft and industrial workers. This is a smokescreen. Industrial workers in a given factory, may belong to different unions, but they are all employed by the same employer. The situation in construction is wholly different.

This is a bill to strike at small open shop contractors. It is a bill to dragoon free men, against their will, into joining some of the most violent, vicious, and disruptive unions in the country. A number of cosmetic provisions, intended to encourage peaceful collective bargaining, amount to so much bogus makeweight.

This is the all-around bad bill, as the President himself well knows. During his 25 years in the House he opposed it all the way. Why would he change his mind now?

ZIONISM EXAMINED

Mr. RIBICOFF. Mr. President, much confusion exists over the United Nations General Assembly Resolution equating Zionism and racism. Prof. Nathan Glazer of Harvard University has set out the reasons for the confusion and a very clear explanation.

I ask unanimous consent that his essay appearing in the New York Times of Saturday, December 13, 1975, be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 13, 1975]

ZIONISM EXAMINED

(By Nathan Glazer)

CAMBRIDGE, MASS.—Three confusions have been present in the debate over the United Nations General Assembly resolution equating Zionism and racism. One is the confusion between Zionism and the religion of Judaism; the second, confusion between Zionism and Israel; the third, confusion between Zionism and Jews.

One might add a fourth, that between Zionism and racism, but that is no confusion at all: It is, as Ambassador Daniel P. Moynihan said, simply a lie. But certainly the first three confusions are legitimate.

Is Zionism a political movement, or the religion of Judaism?

The Arabs are right: Zionism is not Judaism. There are many roots of Zionism, as there are to any complex political movement, and among them are the Hebrew Bible; the Jewish prayer book with its repeated pleas to the Eternal to restore Zion; the Jewish religion.

But the Zionism that created the state of Israel is none of these: It was a political movement that arose primarily among the oppressed Jews of Czarist Russia, a movement that promised release from anti-Semitism in this world, not the next.

Against those who argued that the salvation of the Russian Jews lay in socialism, or constitutional liberalism, or in establishing an autonomous socialist Jewish community in Eastern Europe despite the dispersed condition of the Jews, Zionists argued that Jews would continue to suffer from anti-Semitism until they established their own nation on their own territory, as a place of refuge for persecuted Jews and as a defender of Jewish rights. Many religious Jews opposed Zionism, and some still do.

Is Zionism the state of Israel?

To the Arabs, they are identical. By raising the specter of an exotic political movement, they hope to condemn the living and ordinary state of Israel—a state like other states, with the same rights as other states—as the creature of a strange and "racist" ideology.

But whatever the role of the Zionist movement in creating the state of Israel, the living Israel is now a nation and a state that exists independent of any ideology.

Its people have been gathered from Jews everywhere, and only a minority have come from any Zionist political commitment. The Jews of Germany came because they had to get out of Germany. The surviving Jews of post-war Europe came because no other state would have them. The Jews of the Arab countries came because they were forced to live under humiliating conditions or were driven out. The Jews of the Soviet Union come because of an endemic anti-Semitism that the Communist state has encouraged now for three decades.

Zionism is scarcely relevant to the current living reality of Israel.

Does one condemn the Jewish people if one condemns Zionism?

Of course one doesn't, say the Arabs: After all, is it not clear that not all Jews are Zionists? That is true, and one can add, not even the majority of the Israelis are Zionists.

Nevertheless, one does condemn the Jewish people when one condemns Zionism, because the fight is not about, as the Arabs and the Communist countries contend, an outmoded late nineteenth-century ideology, Zionism; otherwise who would care?

It is about the existence of the state of Israel, which the Arab states wish to destroy, by withdrawing from it the respect to which all states are entitled, and which Jews everywhere want to protect.

And further, the fight over Zionism as "racism" is about the people of Israel, Jews, against whom Soviet Russia and some of its satellites continue to bear an unconcealed animus, which can only be understood as anti-Semitism.

It will no longer do to attack Jews as such, even in Communist countries, so the Soviet makes do by attacking Judaism, Zionism, and Israel, in a vulgar and disgusting state propaganda.

That all this is simply Jew-hatred is revealed by the fact that hundreds of thousands of Russian Jews, who know almost nothing about Zionism or Judaism, want to get out and live in a state where as Jews they will not meet prejudice and discrimination. It was also revealed when the remaining Jews—loyal Communists almost without exception—were driven out of Poland after 1967 as "Zionists." When Communist countries say "Zionist," they mean "Jew." By now, when Arab countries say "Zionist"—supporter of Israel—they perforce mean "Jew," too.

Arab spokesmen and Communist spokesmen explain that in attacking Israel they are attacking only an illegitimate ideology. Actually the Arabs are expressing an almost unreduced hatred of the state of Israel, which Jews everywhere, Zionist, non-Zionist or anti-Zionist, support; the Soviet Union is expressing the old hatred of Jews; and the rest of the world has been dragged into the fight.

SENATOR WILLIAM L. SCOTT NEWSLETTER

Mr. WILLIAM L. SCOTT. Mr. President, each year our office makes a survey of constituents to ascertain their views on major issues confronting the Congress and the country. We have prepared the newsletter, including a questionnaire for mailing at the end of the year and I ask unanimous consent that a copy be printed in the Record for the information of my colleagues. When responses are received and tabulated, the results will be shared not only with Virginia constituents but with Members of the Senate.

There being no objection, the newsletter was ordered to be printed in the Record, as follows:

Your Senator Bill Scott Reports, January 1976

Sharing Views

During this Bicentennial year, our attention will be focused upon government even more than usual. Attention will be called to the heritage we enjoy, to the pride we have in our Nation and, of course, this is as it should be. We will, however, have many issues confronting the country as we have in the past and I would like to have the views of constituents on some of the more important ones. Therefore, a questionnaire is included on page 3 of this newsletter, constituting the 10th annual opinion poll since my election to the Congress. As you know, I represented the 8th District of Virginia in the House of Representatives for three terms before being elected to the Senate, and am beginning the second half of a six-year term in this body.

We receive numerous letters from citizens representing various political and philosophical points of view, as well as mail generated by special interest groups and welcome correspondence from any individual or group in our State. The greater the response and the better informed I am regarding the views of citizens of Virginia, the better I can represent you in the United States Senate. The responses to this questionnaire, going as it does to Virginians without regard to their political or philosophical opinions, should, however, provide a better basis for decisions to be made on your behalf than mail generated by specific events or special groups. It will, therefore, be appreciated if you will take a few minutes to answer the questionnaire and mail it back. The results will be tabulated and reported to you in a subsequent newsletter.

Whether or not you respond to this poll, I hope you will continue to share your views on any matter of concern and you can be assured that the opinions of all citizens will be considered. Perhaps I should add that at this time no decision has been made as to whether I will be a candidate for reelection and a decision will be delayed for at least another year. However, after becoming fully informed, I intend to rely upon my own best judgment on issues coming before the Senate as though I had already determined not to become a candidate for reelection. In my opinion, this will permit me to vote independently of political considerations.

VETERANS' CEMETERY

Congress authorized the Veterans Administration to construct four new national cemeteries. One of these is expected to be in Virginia at the Quantico Marine Base near Interstate 95, approximately 32 miles south of Washington. Among the reasons this site is being chosen over the Manassas area are the reluctance of the Interior Department to release any land at the Battlefield Park, the opposition of some citizens to that site, and the fact that access has been impeded by the failure to construct a segment of Interstate 66. It is understood that the Commandant of the Marine Corps will recommend that an approximate 625-acre portion of the Marine Corps Base be made available to the Veterans Administration. After talking with Mr. Roudebush, Administrator of Veterans Affairs, and reviewing the various alternative proposals, I believe this is a suitable location for a national cemetery to supplement the Arlington facility.

Although the Administrator has general authority to select a site and establish a cemetery, I have introduced specific legislation as a precaution against undue delay under the Surplus Property Act and have urged the Administrator to proceed in as expeditious a manner as possible. A new cemetery is desirable because restrictions prevent the average veteran from being buried at Arlington National Cemetery. However, at the Quantico facility most veterans will be eligible for burial, as well as their widows and dependents. It is hoped that there will be no further delay in providing this essential burial space for veterans.

200-MILE FISHING LIMIT

As you may know, the House has passed and the Senate is considering legislation to help prevent depletion of fish in our coastal regions by generally prohibiting foreign fishing within 200 miles of our coastlines. Under this proposal the State Department would be required to initiate negotiations to amend or terminate any agreement to which the U.S. is a party inconsistent with the measure. However, it is hopeful that this will be interim legislation in that it would expire at such time as any comprehensive international treaty with respect to fishing jurisdiction became effective.

It is understood that coastal fishery stocks have been steadily depleted due to vast overfishing off both the Atlantic and Pacific coasts in recent years. In addition, the three Senate committees considering the legislation have been advised that the catch of foreign fishing fleets has been increasing significantly at the expense of U.S. coastal fishermen.

Proponents say the measure is needed to protect vital U.S. fisheries interest while not interfering or pre-empting pending negotiations regarding a new Law of the Sea treaty. They point out the measure is of limited scope, dealing strictly with fishery practices and conservation, and does not affect other ocean-related interests. Those supporting the legislation also indicate it is consistent with the U.S. negotiating position on an economic zone for fisheries at a recent Law of the Sea Conference.

However, opponents express concern over unilateral action by the United States, as contrary to international law which could undermine efforts to successfully negotiate a comprehensive Law of the Sea treaty. In addition, concern has been voiced over possible claims by foreign nations not only over fishing rights but sovereignty far out into the ocean which some say may pose a potential threat to U.S. defense interests in other parts of the world.

Hatch Act

A proposal previously passed by the House to permit participation by Federal employees in partisan political activities is under consideration. As you may recall, the merit system for government employees originated prior to the turn of the century after a President had been assassinated by a dissident job applicant. Several decades later, in 1939, the Hatch Act was adopted to prohibit many phases of political activity by Federal employees, including the right to be a candidate for public office or to fully participate in partisan activities. A number of well-known exceptions include the right to seek local office on a nonpartisan basis; the right to discuss your political preferences with friends and neighbors; the right to contribute to the political party of your choice; the right to be an election judge in your precinct to perform nonpartisan duties and, of course, the right to vote in primary or general elections.

Some feel that not permitting full participation in the electoral process by government employees is a reflection upon the rights as citizens. An opposite point of view is that the Hatch Act is the cornerstone of the merit system which has protected the Federal employee from the pressures and threats of political reprisals. Some leaders of government employees' unions appear to prefer the repeal of the Act but I am not sure that this represents the feeling of the majority of employees.

As one who has been a government employee at various levels for more than 35 years, I seriously doubt that the repeal of this Act would be in the interest of either the government or its employees. However, you may want to share your thoughts on this proposal.

Your Opinion, Please

1. What do you consider the major issues confronting the country today? (Number several in order of priority): High cost of living, Foreign aid, Moral decay, Government spending, Détente, Excessive paperwork and regulations, Racial busing, Unemployment, Energy, Crime, Soviet military expansion, Other.

2. With regard to Federal employees, would you favor:

a. Collective bargaining rights for all employees.

b. Collective bargaining rights for those not engaged in services vital to health and safety.

c. Continuation of present laws.

d. Other.

3. Do you favor allowing the Supersonic Transport Concorde to land at American airports such as Dulles?

4. Which of the following actions would you favor to improve the national economy?

a. Increase Federal spending to stimulate the economy.

b. Limit Federal spending to reduce inflation.

c. Stimulate the private sector of our economy by reducing Federal taxes.

d. Balance the budget.

e. No change in present law.

f. Other.

5. Do you favor the following foreign policy positions?

a. Establishing normal relations with Cuba.

b. Continuing "détente" with Russia.

c. An evenhanded policy in dealing with Israel and Arab nations.

d. Additional grain sales to communist nations.

e. Additional economic and military aid to Israel.

f. Renegotiating our position in the Panama Canal Zone.

g. Establishing diplomatic relations with Mainland China even if it means severing relations with Taiwan.

6. To deal with the energy shortage do you favor:

a. Higher fuel taxes.

b. Modifying air quality controls to increase energy production.

c. Having supply and demand determine price.

d. Further development of nuclear energy.

e. Rationing.

f. Greater use of coal.

g. Other.

7. Which of the following proposals for Federal health insurance do you favor?

a. A federally administered and tax-supported program for everyone, regardless of income or age.

b. Establish catastrophic health insurance to cover extraordinary medical expenses.

c. Retain private health insurance, with the Federal Government paying the premiums for those unable to pay.

d. Create no new federally funded health insurance programs.

e. Other.

NEW YORK PROBLEM

In recent weeks the committees in both Houses of the Congress have been considering whether or not the Federal Government should assist New York City and, if so, in what manner. As you may know, the city had an indebtedness of approximately $12.5 billion on September 30, 1975 of which $4.75 billion was short-term obligations with a long-term indebtedness of $7.75 billion. The city estimated that about 90% of the debt was held by banks outside of the city, but there is some disagreement as to who holds the various bonds.

As you may remember, the House Banking and Currency Committee recommended guaranteeing loans to the city of not more than $7 billion and the Senate Committee a ceiling of $4 billion. The President indicated opposition to the loan guarantees and my mail was very heavy in opposition to them. However, the President later submitted a different proposal to the Congress which provided for direct loans of not more than $2.3 billion made by the Federal Government, and this measure was enacted into law.

As a separate matter, both the House and the Senate have approved a new chapter to the Federal Bankruptcy law under which a city that is unable to meet its obligations as they mature may file a petition in bankruptcy. A Federal district judge would be substituted for the usual referee in bankruptcy and would have authority under conditions specified in the Act to extend the period within which various obligations would have to be paid. He would also, with the consent of creditors, have authority to adjust claims and to require the city to revise its fiscal policies. Perhaps the most important portion of the Act is that the city could obtain the necessary funds for essential services through the issuance and sale of debt certificates having priority in repayment over all other obligations. This new section of the Bankruptcy Act appears more desirable than either of the measures originally recommended by the banking committees or the loan measure recommended by the President and passed by the Congress.

In other words, under the new chapter of the Bankruptcy Act, the city could sell bonds, having priority of repayment, to the private sector of our economy and the Federal Government would not need to either loan or guarantee loans to the city. My concern is that loans to New York will constitute a precedent for other cities and states at a time when our national debt is between $565 to $570 billion and upon which interest or carrying charge is $70,000 per minute. It seems to me that governments at all levels must learn to live within their incomes even though this may mean that some desirable services will not be available. No individual or government at any level can continue to spend more than it receives in revenue. A copy of my remarks on the Senate floor is available upon request.

SOMETHING TO PONDER

"The question today is whether we have enough of the old spirit which gave us our institutions, to save them from being overwhelmed."—Chief Justice Hughes.

William L. Scott,
U.S. Senator.

TOURISM

Mr. INOUYE. Mr. President, tourism which is estimated to be a $70 billion a year business, is one of the top 3 industries in 46 of our 50 States.

Despite the industry's significance to our economy, it is no secret that many in official Washington regard tourism as something of lesser importance in terms of Government priorities.

It was only 2 years ago, in fact, that a major segment of the industry was going to be classified as "nonessential" for fuel allocation purposes during the energy crisis. Fortunately, the administration reconsidered its position.

Until recently the many separate industries which make up the tourism industry have rarely united in a combined show of strength.

Failure to do so, I believe, is a major reason why the industry has been lightly regarded in some official quarters.

I have often called this matter to the industry's attention, and urged its leaders to subordinate whatever differences they have to the greater common good.

An excellent example of what I have been advocating is the speech which Mr. Edward T. Hanley, president of the Hotel and Restaurant Employees and Bartenders International Union delivered to the Industry Advisory Council of the American Hotel and Motel Association.

In my judgment Mr. Hanley's statesmanlike remarks deserve the attention of everyone who is interested in the contribution a healthy tourism industry can make to our national welfare.

Mr. President, I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH BY EDWARD T. HANLEY

This is a golden opportunity for a bartender from Chicago to appear again before the Industry Advisory Council and invited guests to continue our dialogue regarding the problems of our industry and the opportunity we have to solve these problems by working together in areas of mutual interest. Apparently, my remarks were not too bad the last time, since an invitation was extended to appear before this group again. Actually, I'll let you in on a secret—I was really invited again because the last time half of the group was in a state of shock hearing a representative from organized labor and I talk so fast that the other half missed what I said. Today, you can sit back and relax, secure in the knowledge that the only thing emanating from the podium will be golden pearls of wisdom couched in brilliant oratorical eloquence.

It is altogether appropriate that I begin my remarks in one of the finest cities of the West by quoting Horace Greeley, whom I believe said something about this area that resulted in subsequent migration from all parts of the country. In another context, he said, "The illusion that times that were are better than those that are has probably pervaded all ages." So it is today, in these troubled times, that many are reflecting upon the past and ruminating about the future. In spite of our troubled national economy and the problems affecting our industry, I remain an optimist and am strongly committed to the proposition that a recovery is inevitable. Certainly all the economic barometers even today allude to the excellent prospects for future growth for the overall service trades industry, of which we are a dominant part. But all of the theories and forecasts are meaningless if they cannot be translated into a program of action and accomplishment.

Let's establish one thing right up front—I am not the enemy. We have many common goals, and one of them is to erase the stereotyped image that labor and management are adversaries. Our world, our country, our economy, and our industry are all undergoing massive changes. As a result, our traditional roles must change. We have proven, in my opinion, that our international union is equally as concerned with the health of this industry as is the American Hotel and Motel Association.

Many of you might assume that as a labor leader I am automatically against profitability or think that profit is a dirty word. Nothing could be farther from the truth. Profitable properties afford job security to our members. A proportionate percentage of profits must be used for capital investments to expand and improve our industry, thereby creating more jobs and potentially more members of this international union. On the converse side, any time we hear of a hotel or motel closing, it automatically means we lose members. So we have just as keen an interest and desire to see your operations as profitable as they can be, and have already worked in these areas to help your affiliates here in California by expressing a strong dissent over the enforcement of proposed new fire code regulations which would have cost the industry millions of dollars. Our major reason for involvement in the California situation should be readily apparent. We, too, have a substantial investment in your business, but it concerns people, not dollars, and people are what we are all about.

While touching upon the subject of profitability, I could hardly ignore another aspect which is intrinsically woven into the profit pattern—productivity. This is a fertile area for proving how the cooperative efforts between our organizations can be a benefit to all concerned. As I mentioned to many of you in Memphis, a recent study showed that the United States has the smallest average annual rise in productivity among all industrial countries, and this is an appalling statistic.

Technology and science can only do so much to enhance productivity because we are essentially a people industry. I challenge all of you to explore with us the methods necessary to attract and retain capable people with a commitment to our industry. Unless we reverse the trend of the exorbitant turnover rate in our industry, we will never be in a position to deal effectively with productivity. My challenge to you is a sincere one, and there are people on the staff of our international union ready to cooperate with representatives of your organization to find the solution to our number one problem—transiency in our people. We must make our industry more interesting and provide reasons for people not to leave their jobs so often or to disband the industry altogether. One of the recent steps we took along these lines was to establish jointly administered national pension and welfare plans, a prime example of the kind of benefit we feel is necessary to stabilize employment and provide an incentive to stay in the industry—and what is more vital than that if we sincerely desire to increase productivity.

While mentioning the important areas of profitability and productivity, one cannot ignore another area closely allied with these—courtesy. Service is the most important commodity we have to offer. Courtesy is often a natural attribute, but it can also be an acquired social grace, learned through example, self-improvement, and training. Most of your management people spend 8 hours a day with our members, and I believe that your people would be most effective in implementing a program which could be dealt with in conjunction with an overall productivity program. This becomes especially significant when we generally agree that increased productivity may be a major solution to the problems facing our industry.

Unless travel is an enjoyable experience, the discretionary traveller can become easily discouraged and reduce the number and frequency of trips he takes. This is a problem that obviously affects both of us, for it can mean reduced profits or losses for you and a loss of members for us. Industry standards in these areas have got to be upgraded and the public made aware of our efforts to achieve new standards of excellence.

A major part of courtesy is communication. Lack of proper communication creates untold problems in the operation of any business, especially one which is people oriented. Our international union has endeavored to improve communications with our members through its official publication, the catering industry employee magazine. By improving the content and style of the magazine and making it more member oriented and issue oriented, we have attempted to make our members involved in their jobs, their industry, and their communities. Since your association has recently introduced its new official publication, lodging, why not establish a cooperative program where we would submit articles to be published in lodging magazine and you would have a designated member submit articles for our C.I.E. magazine. This area obviously presents a great challenge, and an even greater need for mutual cooperation.

Before touching upon the important areas of legislative activity, let me touch briefly on a fact which many of you may not be aware of, as recently as 18 months ago, our industry was categorized by the administration in Washington, D.C. "non-essential" in the event gasoline rationing became a reality. Through the combined efforts of some of your representatives and ours, we were able to change that classification to a "commercial" status within 24 hours. This occurred during the energy crisis.

The position of this international union regarding gas rationing is a matter of public record—to us, it is totally unacceptable. We even took a view contrary to that of the AFL–CIO regarding gas rationing because we knew the adverse affect rationing would have on our industry. Even though I have recently been elected a vice-president of the AFL–CIO, my position has not wavered, and will not waver, at all. We all know that exorbitant increases in gasoline prices will have a substantial adverse impact on our industry, and our organization has been very active in support of the Alaska pipeline project, both legislatively and physically. I can think of no more worthy goal than for your organization and ours to establish a cooperative effort to support any approach which will reduce our dependency on foreign oil, increase domestic supplies at reasonable prices, and embark upon major programs to develop alternative means of energy, such as coal.

I want to take this opportunity to commend your leadership for their increased awareness of the importance of becoming deeply involved in legislative and political matters. This interest culminated in the formulation of a new governmental affairs program, a positive step which can only provide increased recognition and benefit for our industry. One of my first duties upon assuming office was to establish an office in Washington, D.C. geared predominantly towards legislative and political activity. Our international union has become one of the most active and strongest in the legislative and political arenas.

You also have a strong legislative arm in Washington in Mr. Al McDermott. Lest you begin to be lulled to complacency, let me quote Sen. Daniel K. Inouye of Hawaii, one of the greatest friends our industry has in Congress, from a speech he made some months ago to a group of your leaders: "Let there be no misunderstanding. Official Washington is not and has not been aware of tourism and its contribution to the economic and mental and social welfare of the American people. And for this you are in large measure responsible.

The executive branch does not regard the tourism industry as important and never has, quite candidly, a major portion of the blame rests with you, the industry leaders over the years who have not made your combined muscle felt at 1600 Pennsylvania Avenue. When the many segments of your industry join together you will present a formidable case. Not only do you number among yourselves leading representatives of the hotel and motel industry, but also the very powerful and effective voice of organized labor. Whatever other differences might exist among various segments of the industry, none should exist on this question. You should all be united and work together to advance the cause of your industry within the government. This is the single message that I bring to you." Powerful words from a good friend and highly effective legislator. Let us examine them more closely in the light of recent events since Sen. Inouye made those comments.

The last time I spoke to this group the President had vetoed the tourism bill. We worked extremely hard to override that veto. When it became apparent that our forces would prevail, the minority leadership indicated the veto might have been a mistake after all. A new bill was drawn up with new language, which amounted to a change of 3 words. The new bill passed the Senate and the House by unanimous consent. The President signed the bill in the Rose Garden on July 9. End of fight? Not hardly.

The bill that was passed contained for the first time ever an authorization to promote domestic tourism. It authorized an appropriation of 2.5 million dollars for the next three fiscal years for the United States travel service. This was separate and distinct from the large amounts of 25, 30, and 35 million for international tourism programs for the next 3 fiscal years. What could be more appropriate than to promote our country to our own citizens especially during the years of our bicentennial. Congress was very explicit in its legislative intent—the moneys for domestic tourism were to be spent for promotion.

Well, the House conferees were ready to eliminate the 2.5 million from the budget and would have except for the oral efforts of Sen. John O. Pastore. Yet, Cong. John Slack, the head of the House conferees, is also a good friend, so we could not understand why the House conferees were wavering. Well, your good friend, Sec. Rogers Morton sent a letter regarding the overall Commerce Department budget to Cong. Slack before the conference started, and the letter recommended the deletion of the entire 2.5 million for domestic tourism. His reason was that the appropriation was premature since a firm program had yet to be developed by the U.S.T.S. That is official Washington language. In our more comfortable jargon, it is commonly known as getting shafted. This is where Sen. Inouye meant you need more muscle.

However, we were able to get an appropriation of $1.25 million, and we just received word that the U.S.T.S. has broken down the appropriation roughly this way: 47% for promotion, 38% for research and 15% for public information. Do you know why more of this was not spent for actual promotion—you guessed it, our good friend Sec. Rogers Morton.

My union has been involved in legislation which recently called for the formation of a national tourism policy. This study will be geared toward determining the role of Federal Government in helping the industry better solve its problems. I might add that the Senate Resolution 347 which created the study passed the Senate by unanimous consent with 71 co-sponsors. The study is now underway and I am confident that Sen. Inouye's subcommittee will be calling on all of us for input. It is imperative that we all cooperate in this venture which will probably be the most important study ever done on our industry.

Recently, I was appointed through the White House to be a member of the Travel Advisory Board which advises the Secretary of Commerce on all matters relating to tourism. Our first meeting was held in October and was a revelation for me to hear many of the disparate comments being proffered by fellow board members at the meeting. The chairman of this meeting did an excellent job even though it was his first meeting as the new head of the U.S. Travel Service

I refer of course, to Creighton Holden, a past president of the American Hotel and Motel Association, who was recently appointed the assistant Secretary of Commerce for Tourism. It was our pleasure to testify on Mr. Holden's behalf when the Senate conducted hearings on his nomination, since his appointment represented the first time that a man with a professional background in our industry is heading the U.S. Travel Service. The American Hotel and Motel Association also testified in his behalf. Again, I must conclude that we have made a significant step in the right direction and for the future laid the ground work for additional support from the U.S. Travel Service and a more meaningful role for our industry in their deliberations. Proof again of the value of working together.

Some of you may be aware of the recent move by the House Ways and Means Committee to eliminate the deduction for foreign travel. There was considerable sentiment that the many abuses that existed in this area had to be eliminated. We concurred and we know all of you would concur with the elimination of such abuses. However, as often is the case in the legislative process, knee-jerk reaction produces a bill which goes further than rectifying an inequity and begins to delve into areas where governmental interference creates havoc. My representative wrestled with this problem for many months. Obviously, we would have preferred their not touching this area at all.

However, we wanted to make absolutely certain that none of the restriction that were imposed would affect the domestic market in any way. Some association people suggested that my union opposed a move to lessen the suggested restriction on foreign travel. Nothing could be farther from the truth. My position is simple. In no way can we afford to have any sort of restrictions of travel within North America and its possessions. Neither should we penalize people who are travelling to foreign countries for legitimate meetings and conventions. I fear that if we convey the impression to our friends throughout the world that we no longer welcome or allow Americans to travel to their countries that those countries may retaliate and suggest to their citizens that they should no longer visit the United States of America. Such retaliation would mean a tremendous loss in revenue and a loss of members.

The final bill passed by the Ways and Means Committee and full House is palatable to all concerned. We were deeply involved in this fight even though there was a split in your ranks about supporting various aspects of the bill. We will work together on the Senate side and in conference to make absolutely certain that the ultimate version is acceptable to all.

The last area that I wish to discuss concerns a bill called the tip credit which I think some of you may have heard of. Obviously, you may be thinking that this is one area where the bartender from Chicago is absolutely in an adversary position with the industry. You are wrong. Let me quote verbatim from testimony which was submitted on my behalf by our legislative representative on October 22, 1975 before Chairman John Dent and his subcommittee on Labor Standards. "We strongly support Chairman Dent in his efforts to rectify the tip credit situation. Our international union is confident that the members of this subcommittee and the members of Congress share the desire to reach an equitable solution.

"It is our desire to see many more new hotels, motels, and restaurants open since that conceivably could lead to a greater growth in our membership. Expansion can be achieved not at the expense of workers, but to their benefit. Thus, we assume the posture that labor and management share the problems of the industry and can mutually benefit from working together on most issues. In fact, our union has probably expended more effort on helping the tourism industry than the industry itself.

"The item which this distinguished subcommittee is presently deliberating is purportedly one which pits labor and management in an adversary position. I view that as a traditional, institutional concept that does not necessarily apply anymore, except to those who are archaic enough to adhere to cherished tradition. In fact, at this time I respectfully challenge the leaders of the hotel, motel and restaurant industry to sit down with us to discuss this problem in an enlightened manner. All we are asking is equitable treatment under the law for our members. We are confident that no enlightened leader in the industry desires anything different for his employees."

I hardly think that you could surmise from this quote that our position is etched in granite. Let us also sit down and discuss these sensitive areas for I am confident that we can reach an equitable solution.

Let me reiterate what a pleasure it is for me to be here today. At the recent special convention of our international union, the theme we adopted was meeting the challenges of the changes in industry. Now I am determined to make our international union more responsive to the needs of its members and more responsive to the industry in which we all work. I firmly believe that unless we are willing to accept these challenges, our industry as with many others will stagnate and the standards of service to the guests we serve will deteriorate. So let us go to work and once again thank you very much.

THE GREAT POTATO CHIP CONTROVERSY

Mr. FANNIN. Mr. President, in line with the comments I have been making recently regarding the ridiculous extent of Government regulation in our country today, I would like to call the attention of my colleagues to the column by George Will which was printed in Monday's Washington Post. The great potato chip controversy shows how far we have strayed from the principles of Jefferson and other sound statesmen who founded our country.

Mr. President, I ask unanimous consent to have this column printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INALIENABLE RIGHTS OF POTATO CHIPS

(By George F. Will)

Jefferson said: That government is best that governs least. After two centuries of progress, our government says:

"Part 102 of Chapter I of Title 21 of the Code of Federal Regulations is amended . . . as follows . . .

"(a) The common or usual name of the food product that resembles and is of the same composition as potato chips, except that it is composed of dehydrated potatoes (buds, flakes, granules, or other form), shall be 'potato chips made from dried potatoes.'

"(b) The words 'made from dried potatoes' shall immediately follow or appear on a line(s) immediately below the words 'potato chips' in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

"(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

"(2) Not less than one-half the height of the largest type used in the words 'potato chips.'"

Ah, the drama of government.

This drama began, sort of, about 100 years ago in a kitchen in Saratoga Springs, N.Y., when an American Indian chef, George Crum, deep-fried thin slices of potatoes, and the potato chip was born. But the drama began in earnest in the mid-1950s when Proctor & Gamble said: "What the nation needs is a better potato chip!"

I will not dwell on the appropriateness of the nation's largest detergent manufacturer undertaking to improve the potato chip, that monument to the American genius for junk food. Suffice it to say that Procter & Gamble's scientists labored mightily and, in 1969, brought forth "Pringles Newfangled Potato Chips."

They are "newfangled" because they are made from dried potato granules which are moistened, rolled into sheets, cut into uniform bits, and fried. Because the chips are uniform, they can be stacked and merchandized in hard cylinders, like tennis balls.

To hear Procter & Gamble tell it, this is a betterment of the human condition comparable to the development of penicillin because, unlike chips sold in bags, few Pringles get broken.

But did a grateful nation heap honors on Procter & Gamble's scientists? No, the scientists learned a bitter truth: Build a better (or, at any rate, newfangled) potato chip and the Food and Drug Administration will beat a path to your door.

The problem is that the lowly little potato chip is big business—about $1.5 billion annually. And most manufacturers are regional firms that do not relish competing with Procter & Gamble, a $4.9 billion a year conglomerate that can effortlessly spend a decade and $70 million developing and marketing Pringles.

Understandably, traditional chip manufacturers are haunted by the specter of Procter & Gamble as the AT&T of chips. But the traditionalists did not incite the Justice Department's antitrust forces to resist Procter & Gamble as an emerging chip monopoly.

Rather, the potato chip traditionalists, who evidently have a metaphysical turn of mind, reacted like scholastic philosophers, and demanded that the Food and Drug Administration answer the question, "What is a potato chip?"

So the government, confronted with a challenge commensurable with its talents, brooded about the traditionalists' argument that the word "chip" is misleading when applied to restructured potato products like Pringles. Finally, the FDA ruled that such products are not unambiguously chips, but are more chippy than non-chippy, and shall be baptised "potato chips made from dried potatoes."

This semantic fiat is a compromise, but it is not pleasing to the anti-Pringles forces. Out in Euclid, Ohio, the Potato Chip Institute International, the Vatican of potato chip orthodoxy, has sounded a dolorous note on its trumpet: Americans reaching for something bearing the noble words "chips" may get something that does not deserve the name.

But I remember that, 199 and a half years ago, Jefferson said that governments are instituted to secure inalienable rights. Presumably that is what our government has done regarding potato chips.

TRIBUTE TO RALPH A. JOHNSON

Mr. CHILES. Mr. President, today I would like to share with my colleagues the many accomplishments of the late Ralph A. Johnson, Department of Florida American Legion adjutant and secretary-treasury of Florida American Legion Boys State. He served almost 20 years actively with Boys Nation in Washington and Boys State in Tallahassee, Fla.

He enlisted in the U.S. Marine Corps in January 1940, saw combat duty in the Pacific, was wounded twice, and later discharged in 1943 with a total disability rating. He joined American Legion Post 24, Alexandria, Va. the day of his discharge.

Ralph was department commander, 1949–50, of the Virginia American Legion, and following his World War II service, was a national field representative with the American Legion before becoming Florida adjutant.

He was claims representative, assistant to five National American Legion commanders, and national field representative serving several Southern States, including Florida. He was also chairman of the National American Legion Internal Affairs Commission and has represented the national commander in Hawaii and 13 European countries on two different occasions.

His many awards over the years would fill numerous pages and his membership on various committees and his background of public speeches regarding our American Legion and our youth, especially Boy Staters, is impressive.

Certainly Ralph Johnson's life was one of contribution to all around him. He will be greatly missed, and I know members of the Senate will join me in recognizing this outstanding American.

COASTAL FISHERIES PROTECTION ZONE

Mr. PACKWOOD. Mr. President, once again in the Senate we turn our attention towards the establishment of a coastal fisheries protection zone. As you recall, last year the Senate passed a 200 mile bill by a margin of 68–27 but similar legislation did not come up for a vote in the House. Now the House has passed 200-mile legislation of their own.

As we resume consideration of this measure in the Senate it might be worth while to examine a few events which have transpired since we passed the bill 1 year ago:

First. Most significantly, the latest session of the Third Law of the Sea Conference held in Geneva adjourned last May without reaching a 200-mile accord. How this brings back memories of State Department officials who have implored Congress over the years not to act unilaterally on a 200-mile limit because a negotiated one was just around the corner. I can recall the litany all too well. We need to go back only a few short months prior to the Caracas session of the Law of the Sea Conference.

The date is February 26, 1974 and Congressman Downing is questioning John Norton Moore, Deputy Special Representative for the Interagency Task Force on Law of the Sea, in proceedings before the House Merchant Marine and Fisheries Committee, Subcommittee on Oceanography on the prospect of achieving a negotiated 200-mile treaty at the upcoming Caracas session:

Mr. Downing. Now the Caracas conference will probably conclude when, in September?

Mr. Moore. August 29.

Mr. Downing. Do you reasonably expect agreement at Caracas?

Mr. Moore. The United States will be going to the session fully prepared to reach an international agreement, which we feel will be not only in our interest but one which will be in the interest of all nations. We hope very much that would be the outcome of Caracas. We would particularly expect at Caracas, at the least, that there would be an outline or an agreed parameter of the outlines of the final agreement. For our part, we are going, prepared to reach that agreement at Caracas and will be negotiating accordingly.

Well, Mr. President, by the end of August 1974, the nations meeting in Caracas had not reached agreement on a 200 mile limit so Mr. Moore was back before the House Merchant Marine Committee on September 25, 1974, explaining why. This gave Congressman Kyros an opportunity to ask Mr. Moore about the prospects for a 200 mile treaty at the next Law of the Sea session in Geneva.

Mr. Kyros. Let me ask you one question that you can perhaps answer categorically and it is simply this: By what date and in what year will we have a comprehensive Law of the Sea agreement on fisheries that will encompass every foreign nation fishing off our waters right now?

Just give me a figure—10 years, 15 years, 50 years?

Mr. Moore. There is no reason that we cannot have that agreement within 1 year, that is on the General Assembly schedule of not later than 1975.

Mr. Kyros. A 200-mile fishing limit included within an economic zone, controlled by America, by the coast States within 1 year?

Mr. Moore. That is correct. There is no reason we cannot have it on the General Assembly schedule which calls for any additional session or sessions of the Conference to be held no later than 1975 and if we can provisionally apply the treaty then provisional application would go into effect at that point.

Mr. Kyros. When is your meeting in Geneva?

Mr. Moore. March 17 to May 10.

Mr. Kyros. Of what year?

Mr. Moore. Next year.

Mr. Kyros. A year from now, 1975 is that right?

Mr. Moore. This coming year.

Mr. Kyros. You mean to say you will have a treaty that the 37 odd nations that fish off the United States are going to sign?

Mr. Moore. We very much hope it will be a much larger group than even those fishing off our coasts.

Mr. Kyros. In the whole history of the Law of the Sea Conference this has never happened before. You could not go amiss?

Mr. Moore. Unlike 1958 and 1960 we genuinely have a unique opportunity because it is being approached in a package treaty. All of the nations of the international community that have an interest are involved in these negotiations. If we lose the opportunity now for a widely agreed treaty it may never return.

Mr. President, Geneva is history, as will soon be 1975, and the 200-mile limit is not among them. Thus even the most optimistic proponents of a negotiated 200-mile limit have turned to face the pessimistic realities. So Mr. Moore returned to the House this year after Geneva to report that 200-mile negotiations "cannot be completed before mid-1976 at the earliest and at this time it is not clear whether or not a treaty can be completed during 1976." At the same time, under Secretary of State Maw announced that he could not say whether the Law of the Sea Conference would conclude negotiation of a 200-mile treaty within 3 to 5 years.

Two. Yet the failure of Geneva to achieve a 200-mile accord is not the only event which has taken place this past year which would increase the burden on Congress to make such a limit a reality through legislation. I would like to call attention to valuable surveillance of foreign fishing carried out on a year round basis by the National Marine Fisheries Service. The Service reports each month the number of foreign fishing vessels it observes operating off a given U.S. coastal area. On the west coast, I receive from NMFS reports covering foreign fishing activity in an area stretching generally from San Francisco north to the United States/Canadian border. In this coastal area of the United States alone, NMFS has observed a dramatic increase in foreign fishing vessels for each of the first 10 months of 1975 over 1974 except September:

Month	No. vessels 1974	No. this year	Percent increase (1975 over 1974)
January	--	7	700
February	--	8	800
March	--	66	560
April	7	94	100
May	72	107	49
June	75	111	48
July	86	114	33
August	75	82	9
September	87	28	[1] 68
October	13	23	76
Average percent increase (1975 over 1974)			60

[1] Decrease.

It is interesting to note that the only month which shows a decrease in foreign fishing activity is September. This decrease is due to the fact that the Soviet hake fishing fleet left the west coast and headed for home earlier this year. National Marine Fisheries Service estimates that the Soviet hake catch was down this year over last giving rise to speculation that the Soviets may have substantially depleted the west coast hake fishery.

Third. Of course, this year as last, the proposed unilateral establishment of a 200-mile zone brings with it fears that other countries will not respect the zone thereby causing a military confrontation. However, while we cannot cavalierly discard such fears, their credibility must be examined in the light of available evidence. For example, the Soviets have been extremely receptive to negotiations by U.S. private industry to a plan which would pay U.S. fishermen to fish for the Russians should a 200-mile zone be created. The existence of such negotiations indicates to me a certain willingness on the part of the Soviets to respect a 200-mile zone.

Fourth. Lastly, Mr. President, we cannot ignore the fact that other countries continue to move ahead on their own to protect their fisheries resources through the establishment of fishery protection zones. In the past year both Iceland and Mexico declared 200-mile zones joining a list of 36 other countries who have zones extending beyond the traditional territorial limits.

We are told by the State Department and others who oppose the unilateral establishment of fisheries protection zones that such actions are ill-considered and not in keeping with "international responsibilities." We are warned that others would not respect our zone if we went ahead on our own. The merits of recent international agreements are extolled as having a significant impact on reducing foreign fishing. And, as always, there is another session of the Law of the Sea Conference just around the corner upon which we can predicate rosy hopes for multilateral accord.

Mr. President, I am tired of indulging in these fantasies. I have taken some length in this statement to attempt to point out their weaknesses. I would prefer to see a 200-mile zone established in accord with the other countries of the world but I am not prepared to defer the matter indefinitely in favor of diplomatic niceties. When the Senate voted last year to approve a 200-mile zone it was our mandate for action—that we put this matter off long enough. It is time now to reaffirm that mandate. The events of the past year serve only to support our reasons for doing so.

MR. MOYNIHAN AND THE THEATER OF THE ABSURD

Mr. McGOVERN. Mr. President, in recent weeks our tempestuous ambassador to the United Nations has been making headlines with his emotion-charged attacks on other member countries in the General Assembly. Some of these attacks have been justified, at least in part, although I question their enduring value to the American interest and the cause of international understanding.

Recently, Mr. Moynihan described the U.N. as a "theater of the absurd" because of the behavior of so-called third world countries. There is indeed a generous share of absurdity in international affairs. But it would be well for Mr. Moynihan to recall from time to time that far and away the most absurd and barbaric behavior in the 30 year history of the United Nations was the American war in Indochina. No other country has equalled that tragedy in absurdity, folly, cruelty and sheer stupidity. Under these circumstances, it might be well for an occasional note of humility and patience to mark the judgment of American spokesmen as they view the follies of others.

Mr. Paul Good has written a critical evaluation of Mr. Moynihan which appears in the December 20, 1975, issue of The Nation. Believing that it might in some small way add a dimension of value in appraising the Moynihan record, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DANIEL PATRICK MOYNIHAN—THE MASK OF LIBERALISM

(By Paul Good)

With the United Nations in turmoil over Zionism and racism, the United States is represented by the wrong man, in the wrong place, at the wrong time. Whatever one feels about the complex, conflicting claims of the Israelis and the Arabs, and of the Western world and the Third World—claims fired by passions as intense as they are threatening to global peace, and by politics alternately crude and subtle—the American position at the world body should not be compromised by the man voicing it.

But the chief U.S. delegate, Daniel Patrick Moynihan, by his performance during the last ten years of racial struggle in his own country, has forfeited any credentials he might once have held as a man committed to an understanding of racism and dedicated to its eradication. A decade ago, he was widely regarded as an intellectual liberal from a working-class background actively engaged in effecting profound social change. This is a blend rarely encountered in American public life and he cultivated the popular estimate of himself to advance a successful academic and governmental career.

Today, he has emerged as a bombastic spokesman for the new, Mr. Clean image of America that Washington is trying to project. It would make our past national mistakes (even those which extend into the present) an irrelevant subject for international discussion. It would equate democracy with morality, despite evidence to the contrary as glaring as recent CIA assassination plots, and label en masse governments that choose other forms as "despotisms" (Moynihan's word). Finally, it would assert that criticisms of Israel or sympathetic consideration of any Arab claim constitute anti-Semitism and reveal a desire to destroy the Jewish state.

In one sense, Moynihan is the ideal man for this slogan mongering which insists on black or white reactions to such vastly complicated issues as the dilemma of the Palestine refugees, and which facilely blames the victims for condemning their victimizers Moynihan is ideal for such work because of a demonstrated ability to make a virtue of his own errors by blaming those he has failed for his failures, while reinforcing his wrong-headedness with sophistries that ingratiate him with the powerful, but never with the powerless. This matching of man and mission may be good for Moynihan, but it is not good for the United Nations or for the United States.

It was not good on October 3, when the debate on Zionism began, for delegate Moynihan, referring to Uganda President Idi Amin's call for extinction of the Israeli state, to say publicly: "It is no accident, I fear, that this racist murderer, as one of our leading newspapers [The New York Times] called him this morning, is head of the Organization of African Unity."

One can abominate Amin's call for the eradication of Israel and still wonder at Moynihan's exercise in vituperation. President Amin is among the least lovable and coherent chiefs of state ever to visit the U.N., but when it comes to being a racist murderer—i.e., having people killed to further racist government policies—the white leaders of Rhodesia and South Africa have not over the years been under-achievers. Yet Moynihan has never denounced them; in fact, his government provides them with consistent support. And why did Moynihan feel free to level his gross insult not only at Amin but at the entire black membership of the OAU—*many of whose members are not sympathetic either to Amin or to anti-Israeli actions?*

To understand his behavior and to appreciate fully why he should not be speaking for the United States in its relations with Third World countries, which already have ample historic grounds to fear and distrust us, it is necessary to examine the career of this man whom the media helped establish in the role of liberal champion of minority rights, despite a wealth of ambivalent evidence suggesting that he has been something quite different.

The foundation of that career was Moynihan's long association with the Joint Center for Urban Affairs of Harvard and M.I.T., a prestigious, impressive-sounding institution which he eventually headed. He has served under four Presidents—Kennedy, Johnson, Nixon and Ford—and for Johnson and Nixon he prepared secret memoranda that undermined the efforts of black leadership, distorted the shape of racial realities, and created public confusion that played into the hands of racial reactionaries. His opportunistic judgments on current events have curried favor with power sources at the expense of minorities and of the truth. Step by step, Moynihan's career is revealed in the public record and the record should determine his fitness for continued public service.

In 1965, President Johnson made his dramatic "We shall overcome" speech at Howard University, pledging a full national commitment to racial equality and announcing a future White House conference entitled, "To Fulfill These Rights." At the same time, Moynihan was working on his own approach to the black American dilemma in a study called "The Negro Family: The Case for National Action." It focused on the absence of fathers from two out of five black families (the accuracy of the statistic has been debated) and its central theme was that matriarchal black families did not prepare children for a patriarchal society.

Of course, he conceded, there was racial injustice in that society, and America's history of discrimination had produced the black family pathology. To reason otherwise—that paternal absence was a racial trait—Moynihan would have had to demonstrate that Ebo or Zulu tribesmen regularly abandoned their families when, in fact, those societies were more stable than their Western counterparts. But Moynihan was not interested in delineating these distinctions. He was out to prove that family breakdown, not 1965 American race prejudice, was responsible for black powerlessness and despair.

The report, prepared under the aegis of the Labor Department, was kept secret, although President Johnson approved it and planned to tailor the White House conference to its specifications. But blacks, the subjects of the conference, were to be kept ignorant of the "Moynihan Report." Obviously, either he or somebody was nervous over black reaction, so the report was sneaked around in the white-father-knows-best tradition and on this note of duplicity conference planning skulked forward.

However, word of the "Moynihan Report" leaked and almost to a man black leaders denounced it. They saw it as another of white America's ploys to transform an effect of racism into a cause of black failure to progress, when the emphasis, they felt, should be on existing legal, economic and political inequities. The controversy inspired by Moynihan cast a shadow over the conference before it ever got underway in June 1966, and Johnson's attempt to gag conference debate on the war in Vietnam insured its eventual, abject failure.

One would think that Moynihan might have been chastened by the mischief he had caused. But in February 1967, writing in Commentary, a magazine that for years had been lecturing blacks on what was good for them, Moynihan asserted that civil rights leaders themselves were responsible for wrecking the greatest opportunity in America's history to achieve genuine equality. According to Moynihan, when President Johnson made his 1965 Howard University speech, the nation was prepared to make a "total commitment to the cause of Negro equality," but "Negro leaders unable to comprehend their opportunity . . . militants, Negro and white, caught up in a frenzy of arrogance and nihilism," blew it.

This kind of headline-grabbing verbal overkill was to be heard again eight years later at the United Nations. If George Wallace had lashed out at Negro leaders as too dense to recognize that salvation was being handed them on a platter, the attack would have been ascribed to simple racism in the liberal environs of New York and Washington. But Moynihan could characteristically blame blacks for their racial predicament with impunity, even when he went on to assert simplistically that their opposition to his identification of "momism" as a root cause of that predicament had sabotaged the White House conference. Never mind that Vietnam was killing and wounding black draftees far out of proportion to their percentage of the population, while diverting energy and resources from President Johnson's vaunted "War on Poverty." Never mind that Martin Luther King had had the White House door irrevocably slammed shut on him because he insisted that Vietnam must be discussed, that the fighting must end. One need only recall the total social condition in 1965, the year when America allegedly was ready for a "total commitment to the cause of Negro equality," to realize how cruelly Moynihan distorted the facts.

In 1965, John Lewis and dozens of other blacks were beaten insensible on the Selma Bridge by an Alabama posse because they were trying to force a laggard Congress to pass a Voting Rights Act. In that year, Congressmen received the greatest volume of grassroots mail in history, mail opposing any open-housing bills. It was the year when blatant segregation at all levels of life still persisted in the South, despite the 1964 Civil Rights Act, when Northern blacks had to go to court to join volunteer fire departments, when Moynihan himself said that whites in general felt that blacks "have received enough for the time being." And in that year, when thirty-three blacks and four whites died in Watts during what the press liked to call shoot-outs, the nation was prepared, so Moynihan would have us believe, to make a "total commitment to the cause of Negro equality."

Nor had Moynihan yet finished with his obsessive effort to impose his own version of reality on blacks. During the riotous 1967 summer, with Detroit in flames and fifteen blacks dead, The New York Times carried a story with the headline, "Moynihan Blames Low Status, Not Race, for Riots." In a country practicing the most onerous apartheid outside South Africa and Rhodesia, Moynihan found class the cause for the "desperately unhappy and disorganized" ghetto populations. First momism, then classism, although Moynihan conceded that "race interacts with everything in America" as he offered the Times some interesting samples of his analytical processes.

"Curiously," he said, "life patterns among the lower class in East Harlem [where riot was also flaming] and the jet set of the East 50s are almost identical—they like their dances, take existence casually."

One proposal sociologist Moynihan made to improve ghetto economic conditions among the black Lumpen-proletariat, as he called them, was that the Post Office should return to its former practice of delivering residential mail twice a day. This, he estimated, would open up 50,000 jobs to those down-at-the-heels ghetto blacks who were somehow sufficiently well educated to pass civil service examinations and who could somehow vault over long-existing lists of qualified postal applicants, cleansing themselves as they did so of the police records, the addictions and the apathy that afflicts many at the bottom of the ghetto heap and make Post Office recruiters flee at the sight of them.

Still later in that tumultous year, Moynihan was urging liberals in Americans for Democratic Action to form "working partnerships" with conservatives. To make clear what sort of work he was proposing, he said: "Liberals must somehow overcome the curious condescension which takes the form of sticking up for and explaining away anything, howsoever outrageous, which Negroes individually or collectively might do."

How smoothly this Agnew-like indictment of blacks and of their white liberal supporters came from Moynihan's lips. That certain individual whites indiscriminately condoned the "outrageous" black actions that Moynihan had in mind (what precisely he had in mind remaining undefined) was probably true. But here he converted the personal flaw of such individuals into a black-induced mental aberration afflicting liberals in general. And not only were liberals disgracing themselves with blacks but the Civil Rights Act of 1964 was being perverted in favor of blacks! Moynihan complained that "employers are given quotas of the black employees they will hire, records of minority group employment are diligently maintained and censuses are repeatedly taken. . . . That which was specifically forbidden by the Civil Rights Act is now explicitly (albeit covertly) required by the federal government."

What, where, whom was Moynihan talking about? In 1967, flagrant employment racism, in government agencies and private industry, had just been documented by the U.S. Commission on Civil Rights. The Department of Agriculture had been publicly identified as a major agent, because of its pervasive racist practices, of black flight from the rural South. Although the 1964 Civil Rights Act specifically instructed federal agencies to cancel contracts with firms that persisted in discriminatory labor practices and although giant suppliers like U.S. Steel, American Can and McDonnell Douglas, along with thousands of other companies, were not complying, the federal government had never canceled *even one* of 100,000 contracts and myriad subcontracts. In 1967, discrimination on the part of giant unions defied belief, even as Moynihan fulminated about quotas: 915 blacks among 133,904 electrical workers; 320 black plumbers out of 147,862 in the union; 1.7 per cent blacks in the total force of iron workers, .2 per cent of sheet metal workers, etc. Still Moynihan persisted in his peculiar dance around the word "racism," flitting from "mom-ism" to "class-ism" to "quota-ism." Where would he turn next?

As intriguing as the question "where" was the question "why" he had made the fatuous suggestion that liberals should seek a partnership with conservatives whose interests were so inimical to theirs on race and other matters. The answer lay, perhaps, in Moynihan's theatrical nature, a craving for an audience to marvel at his self-conceived uniqueness. All liberals save him were out of step with reality; only he was audacious enough to risk his reputation with feisty individualistic assaults on the conventional wisdom of lesser thinkers. Liberal? Risk?

His immediate reward came from President Nixon, who liked Moynihan's sociological style and on December 10, 1968, named him to head the newly created Council on Urban Affairs. A New York Times account, headlined "Moynihan, a Liberal Scholar, May Spur Rapid Action on Cities," referred to his "impeccable liberal credentials." But Murray Kempton, both a seasoned liberal and a liberal watcher, wrote in response to an ecstatic New Republic appraisal of Moynihan: ". . . shouldn't there be a body of work to go with the testament that someone is a 'passionate reformer and crusader for the poor?' My only experience with Moynihan in an administrative capacity was when the Labor Department sent him to New York as a mediator when the local plumbers were kicking three colored applicants downstairs. I should have expected a man of passion for reform to be at least distressed about this tableau; but Moynihan came back quite jovial about the plumbers."

In 1968, Moynihan published *Maximum Feasible Misunderstanding*, an evaluation of community action programs in the so-called War Against Poverty. Any doubt about his "impeccable liberal credentials" should have vanished with this book, in which he discoursed on "social theorists" who really didn't understand the mostly black poor people about whom they theorized. It is true that programs of the Office of Economic Opportunity, then in the process of being dismantled by the Nixon administration, were often ill-conceived and superficial in planning and execution. It was also true, as Moynihan noted, that the "issues of Negro poverty in the present time have been defined and analyzed by white social scientists, and the subsequent programs have been administered by white political executives. . . . It does not follow that the presence of influential Negroes at any stage in this process would have led to any greater insights into the problems that were to be encountered, but it might certainly have served to suggest that the enterprise was not going to be an especially simple one."

But even truth, in Moynihan's rhetoric, performs strangely. He seems at first to be condemning the exclusion of blacks from decision making controlled by white experts (like himself), but then he immediately undermines black ability to provide "any greater insights" into its own problems. How strange that the oppressed comprehend as little about their predicament as do their oppressors; how incapable blacks appear.

Moynihan went on in his book to inveigh against militant community organizers (the great majority of these were black, the brainwashed white poor remaining largely inert in the 1960s). "The institutions of representative government have the singular virtue of defining who speaks for the community," he wrote. The struggle of community militants "took the form of denying the legitimacy of these institutions that had developed over the years—indeed, over the centuries—and which nominally did provide community control."

Did he mean the corrupt white regime of Mayor Hugh Addonizio in predominantly black Newark? Or Mayor Daley's institutions of representative government in ghettoized Chicago? Or perhaps Mayor Joe Smitherman speaking for the black community of Selma, Ala.? The press did not pin him down on what he meant, and the "urban scholar" continued on his erratic way.

A memo to President Nixon (intended to be kept secret, as was his earlier report to President Johnson on the Negro family) finally and fully revealed Moynihan's incompetence to speak on race. This was the famous communication urging "benign neglect" of blacks, in view of the "enormous progress" the race had been making. Given Nixon's dismal record on race, and coming at a time when, for all the visible but limited advances, ghettos were expanding instead of diminishing and when infant mortality rates for black babies born in both Northern cities and Southern rural areas were two to four times the white rates, this memo was a pseudo-scientific mismash. Its toadying tone was the perfect accompaniment to its pretensions of objectivity.

"During the past year," wrote Moynihan, "intense efforts have been made by the administration to develop programs that will be of help to blacks. I dare say, as much or more time and attention goes into this effort in this administration than any in history." Some critics might argue that, say, the Coolidge administration was being slighted, given Moynihan's criteria. Two days before the memo surfaced, HEW Civil Rights Director Leon Panetta had quit, charging that "political pressures" were blocking school desegregation. In the same week, Civil Service Commission Chairman Robert Hampton reported that the Nixon administration had stopped efforts to have federal agencies hire more minority group employees. Such facts did not deter Moynihan. Neither did figures—what was most revealing in his awful document was a calculated attempt to mismarshal figures in a way that would justify the renouncing of governmental concern for a black populace which in 1970—despite some middle-class gains—remained in a morbid fix through malignant neglect, past and present. A sample of Moynihan's tactic is contained in this sentence: "Negro college enrollment rose 85 per cent between 1964 and 1968, by which time there were 434,000 Negro college students. (The total full-time university population of Great Britain is 200,000.)" To begin with, government statistics for 1968 from the Census Bureau and the U.S. Office of Civil Rights show approximately 287,000 blacks in institutions of higher education, not "434,000." This represents an enrollment increase over 1964 of barely 21 per cent, not "85 per cent."

Beyond this gross statistical gaffe by Moynihan, why didn't he compare American black enrollment to that of Tasmania or the Isle of Man, as long as he was trying to make it look good? What possible relevance did the total British university population have to the number of black American collegians, unless Moynihan was deliberately mixing unrelated figures to color his rosy thesis? Why didn't Moynihan break down his figures to show that nearly half of black collegians were attending all-black colleges, mainly in the South, which ran on shoestring budgets with facilities and faculties limited by economic need? Why did he not point out that black enrollment at major schools was minuscule—1.7 per cent of the student body at the University of Pennsylvania, 1.9 per cent at Stanford, and at Harvard and M.I.T.—the twin home of Professor Moynihan's Urban Studies Center—3.5 per cent and 0.7 per cent respectively?

Why, in fact, include any education figures without reminding Nixon that the government's own Equal Employment Opportunity Commission, in a survey of 43,000 employers covering 26 million workers, had found that educational lacks "accounted only for about one-third of the difference in occupational ranking between Negro men and majority group men; the inevitable conclusion is that the other two-thirds must be attributed to discrimination, deliberate or inadvertent." To do so, Moynihan would have had to use the word "racism" and, for reasons best known to him, he had been avoiding that word for years.

Instead, he deliberately misinterpreted data to "prove" that blacks were "making extraordinary progress." Hurrying over the South, where half the nation's blacks were living a fewer than 20 per cent of black families made $8,000 a year, he said that "outside the South young husband-wife Negro families have 99 per cent of the income of whites!" (Exclamation point supplied by him for Nixon's benefit.) What this statistic specifically referred to was hard to say and when Moynihan is vague readers do well to be on guard. The previous year, the Census Bureau had reported that black men and women in urban centers earn about 70 per cent of white income. It said that nearly half of white men held white-collar jobs compared to 20 per cent of blacks. Then where did Moynihan's exciting 99 per cent figure come from? It came from comparing apples and oranges, as any good sociologist should have suspected before urging benign neglect on the President. It turned out that the figure applied only to black families in which both husband and wife worked. In black families where only the husband worked, comparative income remained at 75 per cent of white *throughaut the entire decade of the 1960s.* Instead of "extraordinary progress," there had been little or no progress.

In light of the facts about jobs, education and income, could a convincing argument be made for Moynihan's benign neglect—i.e., soft-pedaling the talk about discrimination and its effects? Prof. Lester Thurow, from M.I.T., had studied the black labor market in the year of the Moynihan memo and reported to the OEO the reasoning on which administration policy was based: "Discrimination lowers black incomes, but it is difficult to eliminate. Direct attacks on discrimination generate political protest and pressure. Therefore, we will attempt to circumvent the discrimination problem. We will first use other instruments, such as education and training, to equalize black and white incomes, and after this has been accomplished we will worry about discrimination. . . ." But, said Professor Thurow, "Unfortunately, all of my research indicates this strategy will not work."

In his own effort to "circumvent the discrimination problem," Moynihan sent copies of his secret memo to various Nixon officials, among them Vice President Agnew and Attorney General Mitchell. Again, no black official was consulted about or permitted to see a document whose purpose was to alter government policy toward 25 million black Americans.

At this point, a reader may come to his or her own conclusions about Moynihan's racial perceptions and how they qualify him for his role in the United Nations. Since he has been there this year, he has presented himself as the defender of a national faith that is easier to trumpet than to define. He has categorized the U.N. as an organization containing "two dozen democracies." The remaining countries being "despotic, totalitarian and Communist." His vaunted oratorical style, likened to "cowboy behavior" by British delegate Ivor Richard, has earned him few plaudits from any sector of the U.N., but his fierce condemnation of the anti-Zionist resolution has won him an instant American constituency. No one should be surprised to find Moynihan out of the United Nations and running for the U.S. Senate by next fall.

Earlier in 1975, before the President named him to his present post, Moynihan was back in his favorite magazine, Commentary, discoursing on how "liberating" it would be if the United States got tough with Third World countries. (Commentary, by the way, apparently has become a collaborator in Moynihan's U.N. speech making. In an extravagantly favorable article about Moynihan in The New York Times Magazaine (December 7) reporter Tom Buckley describes how, on the eve of the U.N. vote on the Zionism-racism resolution, Commentary editor Norman Podhoretz was in Moynihan's apartment helping him prepare his U.N. speech. Buckley says:

"When it came to the politics of the Middle

East, an area in which he has never set foot, Moynihan was happy to take his direction from the State Department, he had told me, but when it came to Zionism, Jewish history, anti-Semitism and related topics, Podhoretz is Moynihan's maven." (*Commentary* is published by the American Jewish Committee.) Certainly, the United States does not need to accept all criticisms, just and unjust; but neither does it need the kind of intellectual know-nothingism that Moynihan has brought to the chief delegate's position.

Zionism in the Mideast is a profoundly difficult question that should require all sides to exercise personal tact, diplomatic expertise and simple humanity so that every opportunity is given to create conditions in which the Jewish and Arab states can coexist. The job of chief U.S. delegate requires racial sensitivity, the capacity to re-examine and re-evaluate previously held positions and a largeness of spirit, not of ego. Moynihan has demonstrated that he lacks all these qualities and is particularly unfitted to deal with people of color. That he has been able to project a false image for so long is a cautionary tale which the press and that portion of the public committed to truly liberal politics should remember long after Moynihan is only another United Nations' memory, like Khrushchev's thumping shoe.

REPRESENTATIVE GUDE AND THE POTOMAC RIVER

Mr. BEALL. Mr. President, there is no greater friend to the Potomac River than my distinguished colleague from Maryland, Representative GILBERT GUDE. Throughout his congressional career, GIL GUDE has worked tirelessly to protect the Potomac River region from environmentally unsound activities and preserve it for all our people.

Last August, Representative GUDE demonstrated his deep concern for the river by spending the entire month traveling—by foot, bike, and boat—the entire 385 mile length of the Potomac, from its source near Thomas, W. Va. to its mouth at the Chesapeake Bay. Throughout his trip, he saw both the beauties of and threats to the Potomac. On November 17, in an article in the Baltimore Sun, Representative GUDE reported on his journey. I ask unanimous consent that this excellent article, entitled, "The Potomac: Acid, Sewage and Grandeur," be printed in the RECORD, so that my colleagues and others interested might better appreciate this great river.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE POTOMAC: ACID, SEWAGE AND GRANDEUR

(By Congressman GILBERT GUDE)

What is a river?

I had often driven past the Potomac river that flows, slow and filthy, through the nation's capital. I had also camped and boated along stretches of the river that had great beauty. But the whole river, the entire 385 miles from the mountains of West Virginia to the Chesapeake Bay, was hard to conceive.

Talking about the river, I found others, too, who wanted to see and understand the whole river and were ready to spend the time and energy to travel its entire length by foot, boat and bike. No one, as far as we could tell, had made quite such a trip before.

We felt like pioneers one Sunday, August 3, as we drove up a crooked mountain road near Thomas, W. Va., to where the Potomac begins as a trickle from a mountain spring, barely wetting the ground in dry seasons. The 18 of us posed with our gear for a formal portrait and, waving to the friends who were seeing us off, pushed into the brush and woods where deer and raccoon are far more common than people.

The dribble flowed west at first, rather than east, and then bent around upon itself to head toward Chesapeake Bay. As it turned about, the stream became Maryland's southern boundary. We easily jumped from one side of the "river" to the other, landing first in Maryland and then in West Virginia.

However, our first day of hiking soon proved to be our hardest. Beavers had dammed up the little stream so that it spread out into a large marsh. To avoid the marsh we had to walk along an old railroad spur.

But we soon discovered that the tracks were being used as a storage area for rail cars. The brush was so closed in we couldn't go around. Carrying our packs and cameras and other gear, we had to climb up, over and around the seemingly endless stream of cars, one by one—box cars, flat cars and gondolas.

This tough going continued for nearly two miles. Some of the 18 in our group were ready to drop out and head back for air-conditoned Washington—except you had to climb over the darned cars to get out, too.

We covered eight miles, but it felt like 28.

The next few days, as we hiked, we found our clear stream joined by other streams bearing "yellow boy," the brownish-yellow acid that seeps from abandoned coal mines.

As the acid accumulated, the river became an eerie place. No fish could live in the acid. What was more surprising, not even insects would light on this water.

Without fish or insects, the stream was no place for birds to find food, so they were absent, too. We walked fifty miles through Rachel Carson's "Silent Spring."

We visited a deep mine in operation and found no water in the mine. Water would have hampered the operation, so what accumulates is pumped out and, as required by the Environmental Protection Agency, neutralized. The drainage problem is primarily with mines no longer in use. Various experiments are being conducted to find a practical way to stop the deadly acid from reaching the water or to neutralize it.

To low-income areas of West Virginia and western Maryland, solving the acid problem could mean revival of sport fishing and recreation—which could mean money and jobs.

The river continues acid and dead to about Luke, Maryland. Near there, Bloomington Dam is being built. Its reservoir may be too acid to be a good recreational lake.

The Westvaco paper mill at Luke must use special intake pipes and neutralize the water it uses in order to prevent corrosion of its equipment from the acidity.

At Cumberland, second-largest city of the Potomac, we found few remains of the early frontier outpost, but I was tremendously impressed by the later architecture which proud citizens are preserving.

The river, as it left westernmost Garrett county and began winding along the southern border of Allegany county, was still only 35 feet wide or so, but below Cumberland we were able to canoe and bike. We sometimes tipped a canoe, but we were glad for the break from hiking.

We found areas in the upper river to swim, but we also found raw sewage being released by several towns. They aren't proud of it, but officials say the towns need financial help to treat the sewage.

Kitzmiller and Gorman, both in Garrett county, and other towns may find the money in the trash of urban and suburban areas. Montgomery county might pay Garrett county to put the suburbs' trash in landfills.

This might not only provide revenues but help fill up strip-mined areas. After an area is filled, it would be covered with earth and plants, making it attractive again.

Our second day down from Cumberland, we found the South Branch joining the Potomac from West Virginia and making it considerably cleaner. We were told that fishing was good here, and even better up the Southern Branch.

We were hardly Daniel Boones. I nearly stepped into a rattle snake and was warned back just in time. I was also the group "loser." To hear the others tell it, the banks of the Potomac are littered with socks, trousers and shirts I somehow misplaced.

While we were examining the Southern Branch as it entered the Potomac from Virginia, Interstate Commissioner Rockwood (Adam) Foster started down a steep hill—a big man on a small bike. Suddenly, he made signs as if his brakes wouldn't hold. The rest of us couldn't do a thing but watch as he careened, faster and faster, down the road toward the water.

The road turned; Adam couldn't.

He and his bike hit the brush, vaulted upward, separated in the air, and plunged—kerplop, kerplop—into the Southern Branch. He was okay, but the bike needed major surgery.

Our meetings with citizens and officials along the way went well. We were impressed by the interest in improving the river.

However, we ran into some hostility at Williamsport from people who thought the trip was a prelude to a federal land grab. This was the day the Martinsburg (W. Va.) Journal editorialized that I was traveling with "a doughty band of teen-agers and assorted bureaucratic hangers-on to tell us how bad the Potomac is and how a federal takeover would cure all of the problems."

The fears of unwarranted meddling by Big Brother were valuable to us, because we came primarily to listen, not to preach.

Two of our citizen meetings, however, were pure pleasure, thanks to the American-Irish Bicentennial Committee. Irish immigrants, fleeing the potato famine, built much of the C&O Canal used to bypass the rapids and falls in the river from Cumberland down to Washington, so we celebrated their work with harp and pipes and Irish songs, Irish stew and special breads, at both Cumberland and Seneca. At Seneca, we even had co-operation from the weather as a good facsimile of an Irish mist crept up from the river.

We walked next day to Great Falls, just above Washington, which is much as in George Washington's time—a remarkable wild area to be so close to a big city.

After the falls, the river widens and slows, dropping its silt, as many Washington area sailboat owners were eager to tell us. They want some sections dredged.

We hitchhiked out of Washington on the National Capital Parks' Lightship Chesapeake. Once a floating lighthouse outside the mouth of the Chesapeake Bay, it is now used for research and educational programs.

From the ship, we tested the water near the Blue Plains sewage treatment plant on the down-river side of Washington. Our tests showed the river here incompatible with sport fish. Sewage plant improvements are under way, and none too soon.

Ten miles or so below Blue Plains, the natural forces of the river had partially restored the water's quality, so that it was again compatible with some good fish.

There, below Washington, we saw Mount Vernon from the river, as did many of its early visitors.

We headed up a quiet bay to Gunston Hall, the Virginia home of George Mason, author of the Bill of Rights. We had a candlelight tour of the home, cocktails and dinner—feeling like "river rats" brought into a palace.

Some of us would still be camping on peopeople's lawns, but the lawns were now more and more likely to be those of old mansions and that made the ground seem softer, even if the mosquitoes were just as bad.

From a second research ship, the Chesapeake Biological Laboratory's Aquarius, we caught perch, striped bass and flounder.

Further along, traveling now on a charter fishing boat, we found little Breton Bay beautiful but, for a seafood lover, sad. The bay is full of oysters, but they can't be harvested because of pollution from Leonardtown.

In addition to this pollution, we found fear that oil spills will hurt the shellfish harvest and sports fishing. St. Mary's County groups are fighting the expansion of Steuart Petroleum's large "tank farm" at Piney Point, which stores oil from ocean-going tankers.

The groups fear Steuart may try to add a refinery, despite Steuart's denials. St. Mary's is not wealthy, but the residents we met want any jobs created there to be in industries compatible with the county's rural, river-oriented ways, and its historic sites—including St. Mary's City, the earliest settlement in Maryland and the capital until 1694.

As our fourth week ended, there were lumps in a few throats at Point Lookout, where the Potomac enters Chesapeake Bay. We looked across a river wider than the Mississippi. What a difference from the trickle where we started four weeks before!

We knew that Point Lookout and the Potomac had been discovered by the Elizabethan seadog Captain John Smith—the chap Pocahontas saved, according to the story. Smith wrote that the river was "6 or 7 myles in breadth" with fish so thick they could hardly keep their heads under water.

On our trip, 367 years after Smith's, we saw a river badly hurt—but not destroyed beyond restoration. Many sections boast tree-lined shores that George Washington, and maybe even Smith, would recognize.

There is, however, an urgency to the task of preserving the best and restoring the damaged areas. As never before, population and industrial pressures are threatening the still-quiet banks of the river.

We must continue the sewage plant construction that will improve the quality of the water in the river. And we must preserve an attractive shoreline so that the river can be fully used for boating, fishing and swimming, and can be the proper setting for the great monumentts of history and democracy.

The Potomac is, of course, Maryland's river, owned by the State to her far shore. But you cannot visit the historic sites along the river without knowing that the Potomac is the nation's river as well.

Early in our history, Maryland and Virginia found the Articles of Confederation inadequate to the needs of commerce along the Potomac. Meetings such as the Mt. Vernon Convention led to the calling of the Constitutional Convention—and thus, ultimately, to our present federal system.

Today's Potomac is beset by different problems, but the same sort of innovative cooperation today can solve them.

(Mr. Gude is United States Representative from Maryland's Eighth district.)

THE ENVIRONMENTAL PROTECTION AGENCY

Mr. PELL. Mr. President, 5 years ago this month, the Environmental Protection Agency was created to wage a coordinated national fight to protect and restore our Nation's environment.

During those 5 years this Agency has achieved an outstanding record. Aided in many cases by strong new laws passed by the Congress, EPA has moved vigorously on many fronts, tackling such massive and threatening problems as water and air pollution, solid waste management, pesticide control, and noise pollution.

In some areas EPA has had striking success. In others, the battle has just begun. But in every area, EPA has emerged as a potent force and a staunch friend of environmental quality.

The qualities that have marked EPA over those 5 years—forcefulness and independence—also characterize the man who has directed the Agency for almost half of its lifetime, Russell E. Train, its Administrator. Particularly in the last year when many were willing to abandon or sacrifice environmental concerns because of the economic problems which afflict us, Russell Train and his agency have continued to remind us that our precious heritage must not be sacrificed.

Mr. President, Administrator Train recently wrote a brief retrospective of EPA's first 5 years which was published on the editorial page of the Providence Journal-Bulletin. I ask unanimous consent that the text of Mr. Train's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal-Bulletin, Nov. 29, 1975]

EPA's 5 YEARS HAVE BROUGHT SOME IMPRESSIVE RESULTS

(By Russell E. Train)

WASHINGTON.—The U.S. Environmental Protection Agency celebrates its fifth birthday on December 2, 1975. The anniversary is worth noting because it marks the passage of that half-decade during which the United States began its first coordinated federal effort to grapple with environmental pollution.

Over a relatively short period of time—short in comparison to the historic period in which our environmental problems have been accumulating—EPA has made substantial progress in the environmental area. Equally important, the nation has new laws firmly on the books and functioning to protect the American public from the unwanted side-effects of an increasingly complex technology.

The creation of EPA in 1970 pulled together some 15 different units in various federal departments and agencies that had been trying, with uneven results, to cope with mounting environmental problems. At the same time, Congress began enacting, in response to public demand, a number of major new environmental laws in areas such as air, water, pesticides, solid waste, and noise.

The results of this consolidation of environmental efforts, improved funding, and new legal authority have been impressive.

Specifically, some of the environmental improvements over the past half-decade are these:

Emissions by 1975 model cars of two major pollutants, carbon monoxide and hydrocarbons, have been reduced nearly 85 percent from autos made before 1968. Thanks to this and compliance with regulations by other sources of air pollution such as factories and power plants, the nation has made significant progress in cleaning up the air. Concentrations of sulfur dioxides, which can cause lung damage in humans as well as attack plants and buildings, have been reduced by about 25 percent. Dust, soot and smoke declined 14 percent between 1970 and 1974.

The quality of the water in our Great Lakes, as well as numerous rivers and other lakes, is steadily improving, thanks to EPA enforcement activities, state and local efforts, and the federal construction grant programs. This $18 billion program, it should be added. is creating hundreds of thousands of jobs while cleaning up waterways.

After generations of operating as a "throw-away" society, we are taking the first serious steps to convert trash to fuel and to recycle valuable materials. EPA now has several demonstration projects in both energy and materials recovery systems which have stimulated cities to develop their own plans for such conversion. By 1980, at least 25 major American cities will be involved in some sort of resource recovery of municipal trash.

The agency has promulgated new noise regulations for interstate motor carriers, and has proposed other noise standards for air compressors, railroads, commercial jet aircraft and small propeller-driven airplanes. The goal is to achieve by 1992 a reduction of the population exposed to excessive, health-related noise from the present 13 million to less than one million.

More than 34,000 pesticide products made from one or more of 1,200 chemical compounds are now registered by EPA. After lengthy research and hearings, the agency has banned three pesticides—DDT, aldrin and dieldrin—because their damage to human health and the environment were judged to outweigh their benefits to society.

While substantial progress has been made during the past five years, a number of major problems remain. Despite improvements in emission from new cars, auto pollution is still a major problem in our large cities. It will be several more years before the national air quality standards are achieved in many of these areas.

Another problem is the threat posed by the introduction of thousands of new chemicals into the environment each year. A number of these chemicals have been found to cause cancer, and yet the agency still lacks legislative authority to deal with this problem.

Recent studies have also shown that the drinking water supplies in a number of cities are threatened by exotic new organic chemicals which, up to now, have gone uncontrolled. EPA, under the new Safe Drinking Water Act, is just beginning to attack this problem; a great deal of work remains to be done.

None of these problems has an easy solution. Whether EPA is able to solve them during the next five years depends largely on public support for environmental improvement. Fortunately, there is every indication that public support for our efforts remains strong. A recent poll by the Opinion Research Corporation found that "given a choice, most people (over 60%) indicate that they believe it is more important to pay the costs involved in protecting the environment than to keep prices and taxes down and run the risk of more pollution."

Even more important, Opinion Research has reported that "current economic problems facing the nation, despite their distressing effect on so many segments of the population, do not seem to have dispelled the public's basic desire for permanent pollution controls."

What these findings suggest is that even hard economic times have not blunted public support for environmental protection. The environmental movement is emerging from a difficult and trying period. First, the energy crisis and then the recession slowed progress toward achieving critical environmental goals. Now that the economy is improving and steps are being taken to solve our energy problems, it is time to re-emphasize our commitment to cleaning up the nation's air and water.

The goal of clean air and clean water is now within reach. The worst problems have been cleaned up. But a great deal remains to be done in the next five years. In working to solve future problems, we intend to be firm, but fair. We will not be deterred by the delaying tactics of those who refuse to accept their responsibility to comply with the law. On the other hand, we will make every effort to be reasonable. Delays which are beyond the control of industry will be considered.

But the basic commitment will not be allowed to lapse. We must and will move forward.

DOCUMENT FRAUD

Mr. CURTIS. Mr. President, I commend my distinguished colleague from Nebraska (Mr. HRUSKA) for his December 5 remarks on the problem of document fraud, and for his insertion in that day's RECORD of a recent speech on the subect by Miss Frances Knight, Director of the Passport Office.

The problem of document fraud is one of staggering dimensions; the crimes falling within Federal jurisdiction alone cost American taxpayers millions of dollars annually. This year Congress had an opportunity to take a constructive step toward correcting the problem—and, I am sorry to say, rejected it.

On September 11 I introduced an amendment to the Foreign Relations authorization bill granting the Passport Office $1 million for the development of the new travel document and issuance system. TDIS is the product of 5 years of careful study and research, and has been praised by the International Civil Aviation Organization. One of its most significant features is its safeguards against fraud. While presently photos must be glued on, with TDIS they would be inserted in a laminated sheet. Similarly, personal information would be "frozen," and coded for machine reading. These features would make tampering incomparably more difficult; not only would this save us millions every year, but it would also deal a setback to international criminals presently escaping prosecution through the use of false papers.

There are still other advantages to TDIS. This sophisticated computerized system is estimated to increase man-year productivity from the present 3,000 units to 10,000. Additionally, by conservative OMB estimates, TDIS would result in a net saving to American taxpayers of $31 million in its first 10 years of operation.

My amendment, which had the full support of the Foreign Relations Committee, was approved unanimously on the Senate floor. Unfortunately, the House-Senate conference committee on the legislation chose to drop the provision. Why? Members of the House Subcommittee on International Operations stated they had not been briefed on TDIS, and therefore were not convinced of its cost-effectiveness. As a result, funds for TDIS were forbidden, and the Passport Office was given $100,000 for a study of its "desirability and cost implications."

Mr. President, if ever there was a classic example of Government waste, this is surely it; $280,000 has already been spent for contractual work in addition to approximately $300,000 of in-house funds for the original groundwork. The plan has been accepted and approved by the International Civil Aviation Organization, by the Department of State, by the Office of Management and Budget, and by Members of Congress. As a result, $100,000 is being poured down the drain on a useless document—an unneeded duplication of existing reports.

In Congress we are used to dealing with sums in the millions and billions, and by comparison $100,000 seems a small sum. Perhaps that is one of our problems. We forget that squandering $100,000 is no more and no less than wasting the tax revenues of hundreds of families—funds they could have used for their own needs. One can add to this the $3.1 million lost by postponing TDIS by a year and the millions lost through document fraud during that period of time. It is no wonder the American people have lost faith in their Government.

There is a final irony in this situation. The Passport Office is only one of a number of Government agencies which are supposedly self-supporting, but is one of the few actually achieving this goal. Not only does it support its own operations, but in fiscal year 1974 turned back almost $8 million in surplus revenues to the Federal Treasury. This is a tribute to Miss Knight's efficient management and, by inference, a strong endorsement for TDIS, which she has developed. So in essence the Passport Office only requests permission to retain less than 15 percent of its own surplus funds. It does so in order to institute a system which will result in still greater savings. And the request has been denied.

Mr. President, funding for TDIS will be coming up again in a few months. I hope the Members of both Houses will study the issues involved, and in 1976 give approval to TDIS. A country with a deficit such as ours cannot afford to pass up an opportunity to save funds. Neither can we deny our law enforcement agencies the powerful tool which TDIS fraud deterring features would constitute.

PARKS AND OUTDOOR RECREATION AREAS

Mr. JOHNSTON. Mr. President, I was greatly disturbed recently to learn that the Office of Management and Budget recommended that the President's budget request contain less than the full appropriation of $300 million from the land and water conservation fund for the next fiscal year.

As my distinguished colleagues are aware, appropriations from this fund are used to establish Federal parks and outdoor recreations areas and to assist the States through grants to establish State parks and outdoor recreation areas. Already, more than $3 billion in authorized Federal parks and recreation areas located throughout our Nation are awaiting funding. The States have obtained approved plans for parks and recreation areas which will require $45 billion in Federal grants over the next two decades. Any reduction in appropriation from the land and water conservation fund will only force the implementation of our national policy on parks and recreation areas further behind schedule.

The Senate recently indicated its strong commitment to parks and outdoor recreation areas by approving legislation which will increase the fund to $1 billion annually. Such legislation was approved in response to the desire of our constituents that we get on with the business of protecting for posterity the already threatened areas of natural beauty and scenic charm in our great Nation.

I recently wrote to James T. Lynn, Director of the Office of Management and Budget, urging that he cooperate with Congress in our efforts to preserve a healthy and beautiful environment for all future generations of Americans.

Mr. President, each year an area 2½ times the size of the Oakland-San Francisco metropolitan area is lost to urban development. The unjustifiable delay which will be caused by the proposed reduction in allocation from the land and water conservation fund cannot be tolerated. We must not waver from our efforts to preserve the natural beauty of this great land of ours.

I ask unanimous consent that my letter of December 10, 1975, to Mr. Lynn be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., December 10, 1975.

Hon. JAMES T. LYNN,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR JIM: I was extremely disturbed to learn that the Office of Management and Budget apparently opposes inclusion in the President's budget for the next fiscal year the full $300 million allocated to the Land and Water Conservation Fund for the creation of parks and outdoor recreation areas.

As you know, a backlog of $3 billion in Federal projects in parks and outdoor recreation areas have been authorized, but are awaiting funding. Any reduction in appropriations out of the Land and Water Conservation Fund will only further aggravate a presently intolerable situation. While I sympathize with efforts to control the growth of the national budget, reductions in appropriations from the Land and Water Conservation Fund appear to have the least adverse budgetary effect in that at least with respect to the acquisition of Federal parks, and outdoor recreation areas, there is merely a conversion of one Federal asset (cash) to another (land).

I might also note that the Congress has indicated that it believes even the present funding level is inadequate in as much as legislation to increase funding of the Land and Water Conservation Fund has passed one body and is moving ahead in the other.

I strongly urge your careful consideration of this matter.

With kindest personal regards, I am,
Sincerely,

J. BENNETT JOHNSTON,
U.S. Senator.

WHAT MAKES OUR ECONOMY WORK

Mr. GARN. Mr. President, many observers have remarked in recent years that we seem to be losing our sense of what makes our economy work in America. The failure is seen at the basic level, in the education of our children, who receive very little understanding of the forces of economics in their schools.

The result of this lack of basic education can be seen in an experience of Mr. John Prince, as he tells it in his column in the December 10 issue of the National Enterprise, published in Salt

Lake City. I ask unanimous consent that Mr. Prince's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THERE IS NO FREE LUNCH

(By John Prince)

There is a restaurant by the name of Corey's Kitchen located across the street from my office. Well, I was in the place the other day and noticed some 3 x 5 in. cards on the tables. The cards were to be filled out in advance if you wanted to order a pie for Thanksgiving or for Christmas.

So, just to make conversation I said to my waitress, "Does anyone order a pie at Christmas time?"

And she said, "Unfortunately they order millions." I said "Unfortunately?"

And she said, "Yes, more work for us."

Now in a nutshell—or pie shell—that's what is wrong with America. That girl had no idea that her pay check ultimately comes from people buying pies at Christmas, etc.

In fact, the whole subject of pay is fascinating. I've been told by many a construction worker that his job is harder than the bank officer so ought to be paid more.

Well the truth of it is, he probably is paid more than most bank officers. But he isn't paid more than the bank's senior officers. Many a construction worker will resent this. My only answer of course, is that if your job is so hard and pays so little—and if his job is so easy and pays so well, why don't you get his job? His job ain't so easy.

So, the only way we can decide what a person is really worth, is how hard is it to replace him. Now I can just hear the people saying that I'm too cold blooded—that I'm not concerned about people. Actually I'm getting sick of that line. The simple truth, whether we like it or not, is we aren't worth much if thousands of people can step in and immediately do the same job.

So we can imagine all the garbage we hear every day such as "I work as long as he does," or "I have to lift all this stuff while all those guys do is sit behind a desk." Because when it comes right down to it, society only pays us to the extent to which it can't replace us with people who will do the same work for less.

It's just amazing to me when I look around at the attitude of various people I have contact with throughout the year. I have an afternoon radio program in Salt Lake City. The last secretary (now part of history) was so typical:

"When do I have to come to work? How long do I get for lunch? When do I get to go home? Do I get holidays off?"

I guess that the thing that bothers me the most isn't the person with a job with a bad attitude, it's the person without a job with a good attitude.

If you haven't met any of this flavor, may I suggest a weekend of skiing at Snowbird.

"Single," you say and some scraggly bearded kid lifts his hand.

So, on the lift you get with this chap.

"Where are you from?" you ask.

"California."

"Are you on vacation?

"Na, I'm here for the winter."

"Working up here?"

"Na."

"No? How do you live?"

"Unemployment insurance."

And so it goes. Before we are at the top he will have told me that he "pays into unemployment so he figures he deserves it." He will also tell me about the screwing the poor people are getting. And the last thing he'll tell me about is how crowded it is on the weekends.

"You ought to come up here on the week days."

"Well, I'd love to, fella," I'm thinking, "but I'm too busy supporting you."

As I say, it's this kind of person who has no job and feels great about it that overwhelms me the most.

It sounds corny but a person can still make it big in America. I don't know if we have more or less opportunities today than we did in the old days. But I know we have plenty. And I know that hard work and being dependable still count for something. And I know that our values have slid so far that it's almost embarrassing to admit to such convictions in public. It just seems to me that if more and more people believe that an even smaller minority owe them a living, eventually the whole machine will break down.

It's old and trite to say "there is no free lunch." But it's true. In fact, with service like I get across the street, there is barely enough time for lunch in the first place.

DEFENSIVE DRIVING COURSE FOR THE SPANISH SPEAKING

Mr. MONTOYA. Mr. President, recently I was able to be of assistance to Mr. Duane Lehr, the supervisor of education and training of the District of Columbia Department of Transportation. He sought my assistance in publicizing a course which would be given in Spanish for the Spanish-speaking community of this city. I am pleased that he has now succeeded in starting those classes with a beginning class of 24 students.

The course which the District government is offering is one which I believe is valuable for all residents. It has only been given in English until recently. I want to offer my congratulations to Mr. Lehr and the members of his department for their efforts in making this course available to Spanish-speaking citizens. I ask unanimous consent that the announcement concerning the defensive driving course be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

DEFENSIVE DRIVING COURSE PLANNED FOR SPANISH SPEAKING

The District of Columbia's Department of Transportation invites members of the Spanish speaking community in the Washington metropolitan area to attend a class in defensive driving planned for the near future in the D.C. Red Cross building auditorium.

More than five million men and women have graduated from the course, which, up to now, has only been presented in English. The National Safety Council developed the eight hour course more than ten years ago.

Although the course has been given in Spanish previously in other large cities, this will be the first time such a course has been offered in Spanish only in the Washington metropolitan area. The lecture, along with student workbooks and film are in the Spanish language.

Registrations are now being accepted for the course, which is free of charge. Those interested in taking the course may telephone 629–3368 or 629–4070, or they may write to the Office of Traffic Safety, Department of Transportation, 301 C St. N.W. Washington, D.C. 20001.

THE HEW POSITION ON H.R. 10727

Mr. HUGH SCOTT. Mr. President, at the request of the administration I ask unanimous consent that a letter to me outlining the HEW position on H.R. 10727, a bill amending the Social Security Act, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 16, 1975.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This is to bring to your attention the Department's views with regard to H.R. 10727, a bill ordered reported by the Senate Finance Committee on December 10, 1975, and which may be scheduled for Senate floor action in the near future.

The Department supports this bill as it was passed by the House of Representatives, for reasons set forth in my letter of December 9 to Chairman Long (see the enclosure at Tab A). As passed by the House, the bill would permit, for a period of three years, the Social Security Administration's (SSA's) black lung Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners to hear cases under all titles of the Social Security Act. Limiting the black lung ALJ's and hearing examiners to hearing cases under the Federal Coal Mine Health and Safety Act and title XVI of the Social Security Act, respectively, has been a primary cause of the dramatic growth in the number of pending requests for hearing in the past few years. We believe that enactment of H.R. 10727 will improve our ability to deal with this backlog on a timely basis.

The request for hearing backlog, which reached a high of 113,225 cases in April 1975, has now been reduced (as of December 6) to 100,163. We anticipate that enactment of H.R. 10727 will enable SSA within one year to reduce the backlog further, so that a claimant's average waiting time for a hearing will not exceed ninety days. Without this bill, we anticipate that such a reduction will require two years.

In addition, we have no objection to two of the four amendments added to the bill by the Finance Committee. (For a summary of each of these amendments, see the enclosure at Tab B.) We do believe unnecessary another Committee amendment, which would require that the States be given at least 1½ years advance notice before regulations could become effective to require more frequent deposits of withheld social security contributions. The Department has already indicated to the States its intention to provide substantial lead time along the lines proposed by this amendment.

We are opposed, however, to the amendment added by the Committee which provides for the annual reporting of wages for social security income tax purposes. We also do not believe that a statutory restriction on the timing of social security deposits is necessary. This amendment is intended to reduce the number of reports employers must submit to Federal agencies. While we applaud this goal, the approach taken by the Finance Committee would only minimally reduce the paperwork burdens of employers and would seriously strain the administrative capacity of the Social Security Administration. In a report on annual wage reporting submitted to the House Ways and Means and Senate Finance Committees by this Department and the Treasury Department on December 31, 1974, both Departments recommended an alternative approach to annual reporting under which employers would not be required to furnish a quarterly breakdown of wages paid during the year and the States would also be required to report covered wages on an annual basis.

Our recommendation has great potential for reducing the Federal paperwork burden on employers, for improving compliance with the income tax laws, and for bringing about a net savings in Federal Government administrative costs. These benefits to employers and Government alike would be substantially reduced under the approach proposed by the Finance Committee. Also, the Finance Committee approach would increase SSA's administrative costs by $20.2 million in the first year as compared to a $8.6 million increase under our recommended approach. (For a more detailed comparison of our recommendation with the Finance Committee's proposal, see the enclosure at Tab C.)

Since the submittal of our report on annual reporting, the Departments of the Treasury and Health, Education, and Welfare have been drafting legislation to implement our recommendation. Because our recommended approach would involve some very complex changes in the social security program, including changes in the provisions for granting quarters of coverage, drafting this legislation has of necessity been a time-consuming task. However, it is for the most part completed, and the draft bill is now being coordinated with other Federal agencies whose programs would be affected by the program. Because of the great advantages to employers and Government alike of our recommended approach, we urge you and your colleagues to defer action on the Finance Committee's proposal until our work on the draft bill has been completed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report.

Sincerely,

David Mathews,
Secretary.

DEVELOPMENTS IN SOUTH KOREA

Mr. KENNEDY. Mr. President, over the past decade, South Korea has had an impressive rate of economic growth, and is often cited as a singular success story of U.S. foreign assistance.

However, if the findings of a new study by the Institute for International Policy are correct, South Korea is heading for default on its debts and economic difficulties, raising serious questions for American policy.

The Institute's report indicates that to finance its very creditable growth, the South Koreans have accumulated a foreign debt of $6 billion, and Department of State analysts are now worried about an impending debt crisis. The report cites World Bank and U.S. Government figures, not yet made available to Congress, indicating that South Korea's balance-of-payments deficit has widened from $300 million in 1973 to $2.2 billion this year. A confidential International Monetary Fund estimate suggests that this deficit will remain at the $2-billion level for the next few years.

Mr. President, if the figures reported in the Institute's study are accurate, the United States is headed toward a crisis in our relations with South Korea, and in the nature of our assistance program. Not only are there increasingly serious questions over the political repression launched by President Park Chung Hee, but these troubling economic questions demand a fundamental review of our policy toward South Korea.

Mr. President, I would like to draw to the attention of my colleagues the report on South Korea recently published by the Institute for International Policy, and I ask unanimous consent that excerpts be printed at this point in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Economic Crisis Looms for South Korea

(By Institute for International Policy)

The Republic of Korea is headed for default on her debts abroad and economic chaos at home, if current confidential estimates being circulated at the State and Treasury departments can be believed. The implications of the unpublished reports for American policy are equally alarming.

The new data—final estimates for 1975 and 1976—discredit previous assessments by Treasury, AID officials, World Bank and the Korean government that that country is about to "turn the corner" on its economic problems. Figures coming into government offices now indicate that the Korean balance of payments crisis is chronic. Massive foreign aid—estimated at $1 billion—will be needed for years to come.

This crisis poses a major problem for the Ford Administration, and the American people, who have already committed $189 billion to South Korean survival. If the Administration chooses to go to the rescue of the Koreans, that aid request will run on into the new Human Rights Amendment just passed by Congress. Aid to the repressive Park government will not pass easily, but collapse of the Korean economy endangers a country long thought to be strategic to American defense interests. The debate promises to be heated, long and fundamental to the future American role in Asia.

THE KOREAN CRISIS—HOW?

For two years, South Korea has been caught between rising costs for her vital imports—mainly oil and raw materials—and declining foreign markets for her exports. The result has been $4 billion in trade deficits during the 1974–1975 period. The trade deficits have led to massive borrowing by the Koreans on the assumption that their problems were temporary. In the last three years, Korea has borrowed almost $4 billion net from overseas sources.

This year South Korea's external borrowing increased by 96% over the previous year. Although U.S. officials are not talking about it publicly, this phenomenal increase in South Korean foreign debt has become "a very real worry" within the State and Treasury bureaucracies. The debt outstanding has shot up from $3.3 billion in 1973 to $5.9 billion in 1975. The nature of the debt and Korea's ability to pay is also a matter of concern.

Some $2.2 billion is high-interest, short-term debt outstanding in credits from traders, suppliers, and banks. This short-term level is twice that of Korean net reserves—now at $1.1 billion—and U.S. government analysts consider it "extremely high." Payments of principal and interest on short and long term debt together will run over $1 billion in 1975 alone, and American banks have refused to extend any more long term credit to South Korea.

Even more serious is a confidential estimate by an International Monetary Fund mission led by Joachim Ahrensdorf which visited South Korea from July 26 to August 9, 1975. Whereas most analysts have projected a significant easing of pressure on the Korean balance of payments in 1976, the IMF mission forecasts a continuing deficit at the $2 billion level "for the next few years." This first official estimate that large Korean deficits are becoming chronic means that the bulk of future borrowing—just as in the past three years—will go to cover merchandise trade deficits and rising debt service payments rather than capital projects. If accurate, the new reports spell disaster for Korea, or massive aid from the United States.

ECONOMIC "MIRACLE" DISSOLVES

Only two years ago, South Korea seemed on the verge of achieving the coveted goal of economic self-sufficiency proclaimed as the national goal by President Chung Hee Park on his seizure of power in 1961. Exports rose spectacularly from $175 million in 1965 to $4.5 billion in 1974. South Korea jockeyed herself up into the ranks of "semi-industrialized" or "middle income" countries, closing 1974 with a per capita GNP of $380.

President Park's Fourth Five-Year Plan set the goals of "transforming Korea from a borrowing to a lending country" by 1981, and financing Korean industry "with continued increases in domestic savings without relying on foreign sources." Those goals must now be set aside. Korean exports grew only 6% in 1975, compared with the average annual rate of expansion of 35% in the previous decade. Exports fueled the Korean economic "miracle."

Despite the impressive figures and rhetoric of the past, the hard-working Koreans are now working themselves into debt at a furious pace. The basic structural features of South Korea's export-oriented industry leave it exceptionally exposed to severe deterioration in terms of trade. Her high dependence upon imported raw materials and intermediate products makes Korea vulnerable even among non-oil developing countries. Figures from the International Monetary Fund show a 4% deterioration in terms of trade of all nonoil developing nations in 1974, compared to Korea's 18.5% drop. The South Koreans have to run faster just to stay in place.

To finance the growing deficit and debt service, U.S. government working papers estimate that even assuming future real export growth of 15% a year South Korea will require a gross capital inflow of $14 billion over the period 1976–1980. This is a large amount of capital to mobilize over the next five years, and some U.S. government analysts doubt that South Korea can raise it. Private direct investment on the scale required is out of the question. Paring down imports will only translate into an equal or greater sacrifice of exports, and no improvement in South Korea's trade balance.

Even accepting the optimistic assumption of a 15% yearly rate of real export growth, the Institute for International Policy sees no reason to disagree with current internal U.S. government predictions that increased levels of official assistance will be required to avoid a Korean debt crisis. Should such export growth fail to materialize, and today's unfavorable conditions persist, the Institute estimates foreign aid needs at $1 billion by mid-1976.

DEVELOPMENT OF THE PROBLEM—BALANCE OF PAYMENTS

Until mid-1973 most South Korean borrowing went to build up export industries and other productive projects. Then came the "oil shock" and recession in the U.S. and Japanese markets. Since then, laments one U.S. banker, "Korea has been overborrowing on commercial terms to finance balance-of-payments deficits, loans that don't add to debt service capacity." Several international banks have put South Korea on their monitoring lists. U.S. government analysts are similarly concerned; State Department officials briefly raised, then dropped a proposal for new bilateral aid.

Korean balance of payments suffered the impact of the twin shocks of sharply increased world prices for the fuel, food and raw material Korean industries must import and the deep recession in the U.S. and Japanese markets. The current account deficit widened from $309 million in 1973 to $1.8 billion in 1974 and official U.S. estimates peg the 1975 deficit at a record $2.2 billion.

While the sudden twin shock of declining purchasing power and stagnating exports understandably placed severe pressure on the 1974 balance of payments, it is the further slide in 1975 from a $1.8 billion to a $2.2 billion deficit that raises the most serious questions about South Korea's capacity to control its swelling debt burden. For while South Korea's terms of trade dropped 18.5% from 1973 to 1974 (93.6 to 76.2, 1970=100), no such sharp deterioration in the terms of trade is expected this year, yet external borrowing has increased this year by 96% over 1974. The near-exhaustion of traditional credit sources is illustrated by the extreme reluctance of the traditional foreign commercial capital sources—Chase Manhattan, First National City, Morgan Guaranty, and a score of other international banks—to come to South Korea's rescue with a relatively small $200 mill balance of payment support loan sought by the South Korean government in late 1974. "Basically, we felt the Korean balance-of-payments problem was of such a magnitude that the Government had to take certain measures" before banks could supply major support, said Morgan Guaranty Executive Vice-President Lewis Preston in explaining his bank's initial decision to withdraw from the syndicate. Morgan Guaranty is one of South Korea's major supporters. Only after months of what the Far Eastern Economic Review termed "scrambling," the loan was concluded in March 1975 with the following major participants:

[In millions]

First National City Bank	$25
Chase Manhattan	25
First National Bank of Chicago	25
Bank of America	25
Others (20 banks)	100
Total	200

Interest was set at two percentage points above the London Interbank rate—tough compared with what was available a year and a half ago.

While this was only one loan among many, the total South Korean borrowing program over the past two years has involved "some pretty fancy financial footwork," in the words of one U.S. official in Seoul quoted in Business Week. Sensing hard times ahead, the Korean strategy has been to exhaust the high interest commercial market before turning to last-resort sources such as the IMF and World Bank. As a result, interest payments on long term debt in 1975 will reach $350 million—twice the 1974 level.

SHORT-TERM PROJECTION

Balance of payments difficulties have thus forced South Korea into heavy foreign borrowing which has severely strained its debt-service capability and has increased skepticism about the country's creditworthiness among its traditional private lenders. World Bank, IMF and U.S. government analysts are in agreement that after relying on short-term borrowing to cover its average $2 billion current account deficits over the last two years, South Korea must look to expanded export earnings to improve its balance of payment position in 1976. "Our concern now is recovery in our main export markets," a Korea Trade Promotion Corporation official concurs.

There is no assurance that such recovery will occur. Tidings from Japan are especially dismal:

A just-released Sanwa Bank reports puts the Japanese growth rate March 1975-March 1976 at only 0.4%, lower than the Japanese government projection of over 2%.

August 1975 Japanese imports from the Asian region were down 21.6% from a year ago. September imports were down 5.7% from a year ago.

The Far Eastern Economic Review warns, "Asian countries, many heavily dependent on exports, cannot expect any sharply rising Japanese purchases to pull them out of recession. Increased demand for their products will have to come largely from the U.S."

But the U.S. market is still struggling to recover from recession. The U.S. Commerce Department's Index of Leading Indicators for September slipped by 0.9%, tending to support those forecasters who believe that the current economic upswing in the U.S. will run out of steam next spring. Plywood exports to the U.S. fell from $20.3 million in November 1973 to $7.1 million November 1974 as U.S. housing weakened. Textile sales in the U.S. market are held down by a voluntary sales restraint agreement concluded between South Korea and the U.S. in 1971.

As for Western Europe, the Organization for Economic Cooperation and Development (O.E.C.D.) does not envisage a significant upturn in economic activity until the fourth quarter of next year. The Common Market has imposed severe quotas on Japanese textile and clothing exports. So uncertain are South Korea's export prospects that worried U.S. government analysts in Washington have requested embassy reports of export letters of credit openings on a month-by-month basis.

Three 1976 projections have been prepared to summarize these unknowns. (See the appendix for a discussion of the assumptions underlying these projections.) Realization of the optimistic Korean projection would put South Korea well on the road to recovery. The moderate projection favored by the U.S. government analysts has South Korea barely squeezing through 1976 at the cost of moving heavily into an extremely reluctant and high-interest short-term market for the third straight year. The current trends extended projection, prepared as an alternative by the Institute, leaves an approximate $1 billion capital shortfall in 1976 after currently envisaged new availabilities are exhausted. This is too large a sum to be raised on the short-term market. Either South Korea's debt will have to be renegotiated—disastrous to her future credit rating—or the country will have to get an emergency infusion of quick-disbursing concessional commitments on a scale not now projected by any of South Korea's traditional bilateral or multilateral sources.

TRADE DEFICIT

[In billions of dollars]

	1973	1974	1975	1976 projections		
				Korean	United States	Institute
Exports	3.3	4.5	4.8	6.5	5.8	5.1
Imports	3.8	6.2	6.7	7.9	7.6	7.2
Deficit	−.5	−1.7	−1.9	−1.4	−1.8	−2.1

LONG-TERM PROJECTION

Peering further into the future, U.S. government analysts estimate South Korea's gross foreign capital requirements to cover the current account deficit and debt service at between $11.4 billion and $14.3 billion over the five-year period 1976–1980, with $14.3 billion seen as the more likely figure. This is an optimistic prediction. It uses the official Korean Five-year Plan's projection of a 15% real growth in exports, and assumes alternate projections of 10% and 13% real import growth. Even so, the analysts question whether such large sums can be raised on favorable terms. They wonder out loud whether South Korea's projected needs of new capital over the next years may outdistance its availability. Most significantly, they predict that South Korea will require increased levels of official assistance. They put no dollar figure on this prediction; we may be assured only that it will be substantial.

Another less sanguine if not necessarily less realistic possibility overlooked by the official analysts is simple extrapolation of today's sluggish 6% export growth rate ahead to 1980. The analysts are perhaps to be forgiven for not exploring this possibility since the situation it would reveal would be utter chaos, and such analysts might suffer the usual fate of messengers of bad news. Here we are under no such restraint. Unless South Korea's export demand picture improves, the country is headed for an unmanageable debt crisis.

DEBTS AND DEPENDENCE

In brief, South Korea's pattern of export-oriented growth fueled by foreign capital, the source of her past prosperity, is also the source of her present malaise. South Korean planners are products of the finest U.S. business schools and training programs. They have faithfully followed the favored models of export-led development. In so doing, they have staked all on the vicissitudes of international trade and finance. As long as international markets remained buoyant, the highly geared South Korean economy surged ahead. Today, as export growth becomes a more and more distant memory, the debts incurred to build exports remain.

It is not suggested that there is anything inherently mistaken about emphasizing exports or relying on foreign savings. A developing nation is naturally a debtor nation, and the size of the debt alone does not reflect on the nation's basic creditworthiness. Indeed foreign borrowing and investment has fueled a spectacular development of Korean industry. During 1963–1972 real GNP rose at an average annual rate of nearly 10%; in 1973 GNP grew by a spectacular 17%, and in 1974 still by 8%. Foreign capital financed 45% of investment in the first two five-year plans.

Nevertheless, the basic structural features of South Korea's export-oriented industry concentrated in the light manufacturing sector—high dependence on imported raw materials, energy and intermediate products and low value-added component—leave it relatively little room to maneuver when terms of trade deteriorate. Some economies can ease an external payments crisis through import substitution. South Korea can do little here. Her textile industry spins and weaves imported cotton; her steel mills and shipyards work on imported ore and scrap iron; her sawmills process imported lumber; her electornics industry assembles imported components. All her industries run on imported energy. Buoyant export markets could absorb the passthrough of higher imported factor costs; today's recession-bound markets cannot. The twin blows of falling terms of trade and export depression leave the South Korean economy with diminishing capacity to earn the foreign exchange needed to service the country's growing external debt burden. Yet the South Korean government is obligated under the 1972 Foreign Capital Inducement Law to guarantee repayment of all previously approved foreign borrowing and investment—some 90% of the total. As the situation escapes the South Korean government's control, Koreans may wryly recall an old Chinese saying:

He has so many lice that he doesn't itch anymore;

He has so many debts that he doesn't worry anymore.

EXTERNAL AID: U.S. RESPONSIBILITY?

Should the South Koreans ever reach the point where they give up worrying, then the real headaches for Washington begin. Formally the South Korean government is guarantor of the South Korean debt. Implicitly, the American government is guarantor of the whole South Korean government, lock, stock and barrel. Since 1946 the U.S. has spent or incurred obligations of about $189 billion relating to Korea, more than for any other country except Vietnam (see Table I).

TABLE I.—*Official U.S. expenditures on Korea, 1946–1976*

[Fiscal years; millions of current dollars]

I. Korean war:	
A. Original war cost	54,000
B. Total estimated veterans benefits	99,000
C. Total estimated interest payments	11,000
Estimated ultimate total	164,000
II. U.S. troops in Korea, 1953–74	10,300
III. Payments to Korean troops in Vietnam war (estimate):	
A. 1966–71	1,418
B. 1972	168
C. 1973	124
Total	1,710
IV. Military assistance and credit sales:	
A. Total 1946–1973	6,040
B. 1974 actual	170
C. 1975 estimate	150
D. 1976 proposed	200
Total	6,560
V. Economic assistance—loans and grants:	
A. AID, PL–480, Peace Corps:	
1. Total 1946–1973	5,430
2. 1974 actual	38
3. 1975 estimate	103
4. 1976 proposed	163
B. Export-Import Bank (active credits, July 1975)	380
C. All other bilateral (net)	78
D. Through IFIs *	320
Total	6,512
Grand total	189,082

* Total international financial institution assistance to South Korea divided by U.S. share of paid-in and callable capital contributions.

These spending levels indicate the extent of U.S. official "investment" in Korea. For fiscal 1976 the administration is requesting $200 million in military assistance and credit sales and $163 million in economic assistance, including $158 million in PL 480. These totals are small compared to South Korea's projected capital needs of $3 billion a year, a substantial part of which will have to come as official assistance to avoid the debt crisis discussed above. However, before the U.S. government's ultimate responsibility is invoked, there are several forward lines of defense to be overcome.

THE IMF

Most important of the stopgap measures ought to be the IMF, the agency created at Bretton Woods to help nations over international payments crises. So far, however, the prospects of significant IMF support are not great. South Korea has a small quota of 80 million special drawing rights ($95.3 million) in the IMF General Account, and has received only SDR 20 million ($23.8 million) under the Special Drawing Account. Total South Korean drawing on the Oil Facility reached $188 million in August, 1975, IMF returns show, an amount $5 million short of South Korea's current allocation. (See Appendix.)

In early August the Ahrensdorf mission to South Korea concluded a Standby Agreement running from July 1, 1975 to July 1, 1976, which will make available the second credit tranche of SDR 20 million, although the IMF is dragging its feet on the SDR 112 million ($136 million) Extended Fund Facility requested by South Korea. The new draft standby further envisages $2 billion in 1–15 year non-bank borrowing over the period.

In return, South Korea reluctantly agreed to an IMF austerity program which would force Korean planners to moderate their vigorous expansionary internal policies, cut government spending on domestic programs, and ease the few remaining restrictions on foreign investment. The South Korean planners are extremely reluctant to run the risk of exacerbating domestic recession and unemployment as the price for a balanced budget and improved balance of payments. February 1975 negotiations with the IMF broke down over the Korean unwillingness to abandon their vigorous contracyclical fiscal measures.

Even now, President Park's budget bill for fiscal 1976 submitted October 3, 1975, doubles military spending from this year's $735 million; overall the budget is 28 per cent larger than the current one and earmarks more than $1 billion for development of the petrochemical industry and $675 million for raising the salaries and pensions of government officials, the New York Times reported. There are some financial analysts in the U.S. government who question whether such levels of military spending conflict with the purposes of development lending and prudent balance of payment management.

If implemented, the immediate effect of the IMF Standby Agreement will be to aggravate recession and unemployment in the highly geared South Korean economy, threaten the interests of domestic industry and agriculture, significantly reduce the personal income of all but civil servants and the elite, and feed social unrest. In brief, the price is high, and despite formal conclusion of the Standby Agreement some U.S. government analysts doubt that Park is willing to pay it. And he is not alone. While U.S. officials publicly continue to urge South Korea to maintain tight monetary and fiscal policies, reverse its expansionary policies and reduce its balance of payments deficit, such a draconian solution may provoke major social upheaval and so threaten the larger U.S. strategic interest in maintaining the uneasy status quo on the Korean peninsula. Thus the standard IMF recipe may not apply to the volatile Korean situation.

OTHER MULTILATERAL SOURCES

Next line of defense before greatly increased U.S. bilateral assistance is other international financial institution (IFI) lending, from which South Korea has borrowed a total of $1.6 billion.

WORLD BANK

In 1975 South Korea borrowed heavily from the International Bank for Reconstruction and Development—$352.5 million, a 400% leap from 1974. The 1975 borrowing figure accounted for 41% of all IBRD loans to South Korea. In considering appropriate levels of future IFI support for South Korea, some U.S. government analysts question whether South Korea should receive such a large share of the available capital. During the past World Bank fiscal year (July 1974–June 1975) South Korea received $297.5 million from the IBRD, second only to Indonesia in Asia ($332 million) and highest on a per capita basis ($8.80 per capita for Korea, $2.60 for Indonesia), according to the World Bank 1975 annual report. Other U.S. officials, however, invoke the theory of "rewarding the winners": South Korea has used loans effectively in the past and so should have first claim on new availabilities. In the Institute's judgment, political priorities are likely to resolve this debate in favor of U.S. support of greater World Bank lending to South Korea. A recent Asian precedent is the unsuccessful International Development Association credit to South Vietnam, which was defeated by the opposition of West European delegations at a Paris conference in October 1974. (The IDA is the World Bank's soft loan window.)

However, World Bank loans are of limited usefulness in combating a balance-of-payments crisis. They are project loans to finance new capital goods imports; they cannot be diverted to offset other parts of the import bill. Some IBRD projects in South Korea, e.g. agricultural investment, are import-substituting, and as they come into operation they will help relieve the crisis. Overall the total expected level of $300 to $500 million annual IBRD loans, while substantial, will be insufficient to pull South Korea through.

ADB AND OTHER

In 1974–1975 South Korea's borrowing from the Asian Development Bank increased by $150 million, or 40% of all ADB loans to South Korea which is the largest single borrower from this institution:

Main recipients of ADB loans

As of December 31, 1974; millions of dollars:

South Korea	336
Philippines	242
Pakistan	238
Malaysia	204

SOURCE.—House Foreign Operations Subcommittee hearings, 94th Cong., First session, part 1, pg. 778.

The ADB has two projects in the pipeline totaling $54 million. The International Finance Corporation has extended $40.7 million in credits. The United Nations Development Program has contributed $25.2 million, and other UN programs $9.0 million. While a complete accounting of future IFI support of South Korea is difficult to project at this time, the IMF's target of $2 billion in non-bank borrowing by July 1976 is well beyond the reach of all the IFIs put together, even in the unlikely event of complete South Korean compliance with the IMF Standby Agreement.

OTHER BILATERAL AID

Last line of defense before the U.S. Treasury is other Development Assistance Council (D.A.C.) countries whose contributions totaled $1.6 billion at the end of 1974, distributed as follows:

TABLE II.—D.A.C. COUNTRIES (EXCLUDING UNITED STATES) OFFICIAL BILATERAL GROSS EXPENDITURES ON SOUTH KOREA

[In millions of dollars; calendar years]

Donor	1972	1973	1974 est.	1960–74
Japan	171.5	180.3	200.0	1,282.2
Germany	21.0	23.2	20.0	141.8
Italy	.9	.2	.2	20.9
Canada	3.9	5.8	5.0	20.3
Other [1]	3.6	3.6	4.5	11.7
Total	200.9	213.2	229.7	1,476.9

[1] Australia, Belgium, Denmark, Netherlands, New Zealand, Norway, Sweden, United Kingdom.

Source: A.I.D., East Asia Fiscal Year 1976 Congressional Presentation Document, p. 40–A.

The State Department estimates 1975 Japanese aid to South Korea at $78 million. South Korean-Japanese relations have been going downhill since 1973 when the Korean CIA abducted a leading opposition politician from a Tokyo hotel. Last spring South Korean officials were reported meeting with the Japanese in hopes of reopening the flow of aid.

In addition, foreign corporations, chiefly Japanese, have invested some $700 million in South Korean export industries. During 1975 the South Korean government hopes to attract $130 million in new foreign investment, the same as in 1974 but only half the 1973 rate—a telling indicator of foreign confidence in the prospects of the Korean manufacturing sector.

In brief, third country bilateral aid ran at the $200 million level in the years 1972–1974, dropped to $100 million 1975, and holds out no promise of suddenly multiplying to a level sufficient to cover South Korea's projected foreign exchange shortfall given currently projected new availabilities of other capital.

U.S. BILATERAL ASSISTANCE

Apart from the $164 billion ultimate cost of the Korean war and billions more in other military expenditures, the U.S. has provided South Korea with $5.6 billion in economic assistance since 1946, according to A.I.D. documents.

Turning to the aid program itself, A.I.D. Assistant Administrator Arthur Gardiner in his budget justification to the House Foreign Operations subcommittee June 19, 1975, defined current aid operations in South Korea as a "transition program" from concessional to nonconcessional forms of assistance. As the A.I.D. Congressional Presentation Document for FY 1976 expressed it:

"While Korea finds itself vulnerable to economic dislocations affecting all industrialized countries, its problems are not those to which the A.I.D. development assistance program is now addressed. Korea must turn for needed balance of payments support to other international and commercial facilities for the capital * * * petroleum and raw materials. In line with the transition strategy, FY 1976 will be the final year of bilateral concessional funding of AID loans and grants."

However, Gardiner was careful not to close the door entirely on the possibility of resumed A.I.D. activity:

"Should there be unanticipated requirements in connection with the transition program in Korea, these will be presented to Congress under separate requests and notifications as provided by the legislation."

Indeed, as mentioned earlier the State Department recently aired the notion of revived concessional assistance to South Korea. Following is an inventory of various U.S. forms of economic assistance to South Korea:

PL–480. The major form of bilateral U.S. economic aid still going to South Korea is "Food for Peace" shipments under PL–480. During FY 1975 South Korea received $74 million in PL–480, and for FY 1976 the Administration has requested $158 million. South Korea is to receive 57% of the worldwide political use allotment—an eloquent statement of South Korea's political priority to the Administration. The bill has emerged from conference with the Korean allocation substantially intact.

Ex-Im Bank. The Export-Import Bank has $380 million in active credits to South Korea.

CCC Cotton credits. South Korea gets Commodity Credit Corporation cotton credits, Housing Investment Guaranties, and other credits totaling $259.6 million from 1946 to 1974; of which repayments and interest have come to $181.1 million, leaving $78.5 million in unpaid balance. South Korea seeks $200 million more in CCC cotton credits by July 1976.

U.S. private direct investment. Book value of privately held U.S. assets was $313 million as of December 31, 1973. During 1973 $29 million had been invested, and in 1974 a further $49 million was invested. In resource-poor South Korea, U.S. investors tend to avoid involvement in joint U.S.-Korean enterprises and prefer the putative security and fixed return of lending to the South Korean government who then makes the capital available to South Korean private entrepreneurs or government development agencies. A recent decision by U.S. Steel illustrates U.S. investor wariness. Last April, according to the Far Eastern Economic Review, U.S. Steel torpedoed the new $2.7 billion Asian integrated steel mill project, championed by the South Korean government in order to make South Korea a net steel exporter by 1980. U.S. Steel was to have taken a 20% interest in the mill and provide technical assistance. After considering South Korea's deteriorating trade and investment position, U.S. Steel insisted on a guaranteed return of 20% on investment and delay of expansion at the state-run Pohang Iron and Steel works to avoid overproduction. Other projects dependent on U.S. investment, especially in the petrochemical industry, are still hanging fire.

OPIC. The Overseas Private Investment Corporation insures nearly all U.S. private equity capital invested in South Korea. This year OPIC insurance outstanding is for $332.8 million maximum coverage (war, revolution, insurrection coverage).

U.S. bilateral aid: Overall assessment, Given the limited size of currently proposed FY 76 assistance, persistence of current two-year economic trends in South Korea will create the need for as high as $1 billion in supplemental U.S. bilateral assistance in FY 76 which Congress will be most reluctant to approve. The near-exhaustion of traditional commercial credit sources, overborrowing on the short-term market, difficulties in IMF negotiations, heavy drawing on IBRD and ADB, and poor prospects of significant bilateral Japanese support combine to throw the burden on bilateral U.S. support, the ultimate guarantor of a non-Communist South Korea. Any renegotiation of the South Korean commercial loans and service payments would further damage the country's already threadbare credit standing. Yet U.S. aid has in recent years been flowing into South Korea at entirely inadequate levels to affect the eventuality of default. Anything less than a major resumption of border hostilities will fail to pry loose the required sums from Congress.

FOOD FOR THOUGHT

Mr. BROCK. Mr. President, I recently held hearings in my home State of Tennessee and received testimony from small businessmen. Some of the problems created by too much Government were beyond description. Shortly after returning, I read an article by Meg Greenfield, entitled "Food for Thought." It certainly is. I ask unanimous consent that the article be printed in the Record as food for thought.

There being no objection, the article was ordered to be printed in the Record, as follows:

Food for Thought

(By Meg Greenfield)

"Sec. 18. The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act . . . As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program . . . The Secretary . . . shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976."

This week you and I are going to draft some legislation. It will be called the National Plate Waste Act of 1978. We will be taking our cue from the language cited above. It comes from the recently enacted school-lunch and child-nutrition statute, and if it means anything, it means that there is Federal anti-plate-waste legislation in our future.

The reason we are postdating our bill to 1978 is that it will take time for the Secretary to complete and the Congress to consider the newly mandated study of the "cause" of lunchroom plate waste. It is, of course, true that anyone who has had occasion to eat a school lunch at any time in the past 50 years will know what the cause of plate waste is—it is what the scientifically minded would call the Yecch! Factor. But never mind: while the Federal government will not move hastily, there is no question that in time it will move. Who pays the piper, as the fellow said, ends up buying an awful lot of plate waste; and Washington can hardly be expected to sit still for this forever.

A WASHINGTON BREAKTHROUGH?

I will confess that for a fleeting moment in my reading of the school-lunch act, I thought a libertarian solution was at hand. "Students in senior high schools which participate in the school-lunch program under this Act," it says at one point, "shall not be required to accept offered foods which they do not intend to consume."

This struck me as something of a Washington breakthrough—ceding back to the people the right not to have a ladleful of creamed carrots dropped down over their Spam croquette. But I am afraid the tone and thrust of the act on this point go in another direction; and especially as the mountain of plate waste gets higher and we find that we can't burn it for fuel, I expect we shall see a bipartisan consensus develop. On the right, plate waste can surely be construed as just one more form of welfare profligacy, ingratitude and cheating. And on the left the issue should have great appeal for those humanitarian, if coercive, guardians of our well-being, whose message of concern for the citizen can best be summed up: eat your spinach or else . . .

Actually, we shouldn't be too hard on these propositions, since they will be the basis of our legislative "findings." All legislation should arise out of "findings." The Plate Waste Act's findings will read like this: "The Congress of the United States, finding that 2.3 cents of every Federal dollar is currently being expended on uneaten consumable food products furnished to certain disadvantaged public-school children; further finding that the result is gravely detrimental to the physical health of the children and the financial health of the Nation; and further finding that State and parental authority are inadequate to act in this matter—does hereby declare School Lunch Plate Waste to be a threat to the general welfare."

OUTLAWING PLATE WASTE

Once we have done that, we can do almost anything, and I would suggest that we be forthright about it and simply outlaw plate waste. It's no trick. Thus: "(A) It shall be unlawful for any person dispensing foodstuffs paid for in full or in part by public monies to knowingly dispense such foodstuffs in amounts which he has reason to believe are more than 33⅓ per centum in excess of what the dispensee can be expected to consume without suffering ill effects.

"(B) It shall be unlawful for any person receiving foodstuffs paid for in full or in part by public monies (*provided that* these are dispensed in accord with the provisions of subsection (A) above) to refuse to consume within a reasonable period of time more than 33⅓ per centum of such foodstuffs.

"(C) The standard for determining the appropriate amount of foodstuffs to be dispensed in the first instance and in each case shall be: the age, weight and height of the schoolchild; divided by the change in the Consumer Price Index for the preceding fiscal year; times two."

That last formula may sound a little arbitary to you, but I have been studying these legislative formulas, and you will have to take it from me that ours is in the ball park. We do want to provide some flexibility, however, for unusual circumstance, and for special cases. To this end, we can borrow a phrase from the school-lunch act just passed and allow for certain exceptions based on "cultural eating patterns"—which I figure covers ethnic habits, religious proscriptions and whether or not forks are used in the home. We will also make provision for due process in contested cases. Adjudication should be fairly simple, since we shall naturally require that records of the amounts of foodstuffs dispensed and returned on individual plates be kept for no less than five years and filed quarterly with HEW.

ENFORCING THE ACT

That leaves us only the matter of definitions to tidy up. There should be no problems here: "As used in this Act, the term (a) 'plate' shall mean any container no wider than 8¼ inches and no deeper than 1¼ inches on a graduated depression from rim to center; (b) 'waste' shall mean any normally consumable foodstuffs dispensed upon plates in accord with subsection (A) of this Act and excluding 'refuse'; (c) 'refuse' shall include, but not be limited to, fruit pits, egg shells, bones, and such foreign matter as may from time to time be included in the serving. For the purposes of this Act, bread crusts shall be considered 'waste' and not 'refuse.' Apple cores shall be considered 'refuse' and not "waste' *provided that* such apple cores have been consumed to within one-half inch of the fibrous membrane."

I will grant that enforcement of all this could pose a problem in normal times. But these are not normal times, and we are in luck. For by the time the National Plate Waste Act goes into effect, there should be at least two Federal affirmative-action officers stationed in every public-school yard and gymnasium in America to look after the recently promulgated sex-discrimination regulations. And I see no reason why they should not double as plate-waste officers at lunchtime. It would represent a terrific saving and probably bring our act in at a modest half billion dollars for its first full years of operation.

The spoilsports will tell you, of course, that you could buy kids a lot of edible food for that much money—like hamburgers and peanut-butter sandwiches. But pay them no mind. They're living in another world.

HOLLYWOOD-BURBANK AIRPORT

Mr. TUNNEY. Mr. President, Hollywood Burbank Airport serves a vital need to growing numbers of Californians, but before Federal funds are committed to its purchase by the city of Burbank, I believe a thorough environmental impact statement should be prepared.

I believe funds under the airport development aid program should be withheld until the impact statement has been prepared and until Burbank and other jurisdictions have reached consensus on purchase of the airport from its current owner, Lockheed Air Terminal, Inc.

The airport should not be sold for nonairport uses, and I urged the subcommittee to include in its report language stating the subcommittee's willingness to reconsider a public purchase plan provided the above issues are satisfactorily resolved. The subcommittee has agreed on that course of action, and I believe it will help preserve the public purchase option.

My position on this matter is more fully explained in two letters which I ask unanimous consent to have printed in the RECORD at the conclusion of these remarks. The first is my letter to the mayor of Burbank, the Honorable William Rudell. The second is my letter to the chairman of the subcommittee, Senator CANNON. I also ask unanimous consent that Senator CANNON'S response be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., October 31, 1975.

Hon. WILLIAM B. RUDELL,
Mayor, City of Burbank,
Burbank, Calif.

DEAR MAYOR RUDELL: Thank you for your letter of September 23, 1975 regarding the future of Hollywood-Burbank Airport. After a lengthy and thorough review of the matter, I have decided to oppose the inclusion of statutory language providing for the purchase of Hollywood-Burbank Airport in the Airport Development Aid Program (ADAP) bill. In light of several unanswered questions regarding the purchase of the airport, to include such language would be premature.

My objections to including the language center upon two points. First, I could not consider supporting such language without studying the necessary environmental impact statements. As you know, numerous questions have been raised concerning noise and air pollution, and ground access congestion resulting from the airport. The environmental impact statement will address these questions.

Second, the respective roles of the Cities of Burbank and Los Angeles, as well as other affected jurisdictions, must be clarified. Since the use and operations of the airport involve and affect jurisdictions other than Burbank, some consensus as to the purchase and future operation of the airport must be achieved.

I am opposed to language in this bill for these reasons, but since many people use and depend upon the airport in its current configuration, I am very concerned over recent reports that Lockheed Air Terminal, Inc. may well sell the airport for non-airport uses before the unresolved questions noted above can be addressed, even though the airport is a profit-making operation for them.

Such sale would be premature. If and when the questions surrounding the purchase of the airport are satisfactorily answered, the City of Burbank or another public entity could resubmit a request for ADAP language to the Commerce Committee, as I expect the Committee, in its report to the full Senate on the ADAP bill, will clearly state its willingness to reconsider the request if the issues are indeed resolved.

Until those questions are answered, however, I will oppose any ADAP language with regard to the purchase of Hollywood-Burbank Airport.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., October 31, 1975.

Hon. HOWARD CANNON,
Chairman, Aviation Subcommittee, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: I do not believe that language providing for the purchase of Hollywood-Burbank Airport through ADAP should be included in the bill currently before the subcommittee. Too many issues remain unresolved.

The local jurisdictions involved have not determined their respective roles in the purchase, nor has an environmental impact statement assessing the impact of the airport's purchase and future use upon the area been prepared.

However, as Hollywood-Burbank Airport has been named in both national and state airport plans, and since many people make use of the airport in its current configuration, I would hope that it would not be sold for uses other than an airport until these issues can be fully investigated.

The Committee cannot be certain that the current owner of Hollywood-Burbank will not sell the airport for alternative use before the local jurisdictions resolve the outstanding issues. However, I believe the Committee can help preserve the purchase option by stating in the Committee's report on the bill our reasons for not including statutory language at this time, making clear that if the issues involved in the purchase of the airport are resolved satisfactorily, the Committee would reconsider the issue.

Sincerely,

JOHN V. TUNNEY,
United States Senator.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 2, 1975.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: In response to your letter of October 31, 1975, I share your view that no language providing for the purchase of Hollywood-Burbank Airport should be included in the ADAP bill currently before the Aviation Subcommittee. As you know, the draft on which we have been working contains no such language.

I share your concern over recent reports that the airport may be sold for non-airport uses before a final decision on public purchase can be made. Thus, I concur with your suggestion that the Subcommittee's report on the bill include the Subcommittee's rationale for not providing ADAP funds for purchase of the airport at this time. I will recommend that the report state that if and when an environmental impact statement is prepared and evaluated, and the local jurisdictions arrive at a consensus on the airport's purchase and future use, the Subcommittee would be willing to reconsider the possibility of amending ADAP to allow for public purchase of Hollywood-Burbank.

Sincerely,

HOWARD W. CANNON,
Chairman, Subcommittee on Aviation.

ECONOMIC FREEDOM IN AMERICA

Mr. BROCK. Mr. President, I recently read an article by Rogers C. B. Morton, Secretary of Commerce which appeared in NAM Reports—National Association of Manufacturers—volume 20, No. 23, November 17, 1975. I found the article very interesting and well considered. It clearly points out the necessity for economic freedom in America. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREE ENTERPRISE AS A CATALYST

(By Rogers C. B. Morton, Secretary of Commerce)

"America was conceived in the search for a better economic life," M.I.T. Economics

Professor Paul Samuelson once noted. For every family coming here seeking religious freedom and relief from despotism, there were a hundred settlers coming to our shores in search of jobs, he observed.

If the motivations of these disparate early Americans varied in some respects, however, they shared a common vision—a dream of freedom.

Economic freedom—freedom from want, the right to a choice of jobs—has been a magnetic field equal in force to the attractions of political and religious freedom.

The spirit of free choice and egalitarianism that has breathed life into our political, social and religious institutions has been no less an influence on our economic establishments. Free enterprise is a democratized economic arrangement which offers opportunities commensurate with ambition and ability. It offers anyone a chance—to start a company, patent products, make and sell goods. The ultimate success of such undertakings is not as important, really, as the opportunity to undertake them. For free choice has been the catalyst for the ideas, inventions, innovations, and daring that swept a continent and pushed the frontiers to outer space.

"America had to be made before it could be lived in," D. W. Brogan reflected in "The American Character" in 1944. The making of the country was the forge that fashioned the American character, one that Brogan saw stamped with the spirit of the pioneer, the gambler, the booster, the discounter of the future "who is to some extent bound to be a disparager of the past."

These qualities emerged in the search for the better economic life, in the search for freedom from want, in a fusing of national wealth, science and technology, and democratic ideals, in which business and industry played a principal, dominant role.

The making of America began with an idea; it was shaped by the American character whose qualities were marked by a willingness to take risks, to experiment, to seek the far horizon. Originality, optimism, initiative became national traits. As President Ford has said: "No nation has taken greater risks or experimented as much for progress."

He also observed, "The explosion of American ideas began 200 years ago with our Declaration of Independence. A century ago a tide of industrial progress started to sweep over America."

The tide set in motion a revolution in living standards. Electricity brightened and made more prosperous all the corners of the nation; sewing machines created a giant clothing industry; mechanization, along with the opening of vast new tracts of land, lifted American farm production in the mid-1800s to unprecedented outputs; automobile assembly lines turned us into a mobile America, and the telegraph and telephone, and later movies, radio and television, communicated ideas, information and even life styles from coast to coast. The tide continued to run in our generation as we split the atom and probed space.

Of course, the history of business and industry cannot be portrayed as a sugar-coated tale of sweetness and virtue, a saccharine flavored story of unbroken successes. It is a history that has had its share of strife, ethical indifference, the surrender of integrity to avarice. Corrupting alliances of business and politics, "robber barons," labor violence and slavery are a part of that history.

But America was the first nation to dedicate itself consciously to the ideal that all men—not just an elite—should be free of the degrading effects of poverty. It has always been part of the American dream that material security could free the human spirit from the material needs that held its potential in check. The goal of our society, which gives meaning to the continuing efforts of our economic system to increase our material abundance, is to free man from want and poverty and all the debasing and debilitating effects that accompany them.

In the early days of the Republic, achieving material security was for the most part hard and agonizing physical labor, as it is now in the underdeveloped countries of the world. But as science, machines, and technology unleashed undreamed of productive powers, we began to realize, for the first time in history, that we could produce the quantities needed to achieve our material needs.

At the country's first centennial celebration in Philadelphia in 1876, an English reporter, after viewing acres of inventions and machines, wrote, "The American mechanizes as the old Greeks sculptured and as the Venetians painted."

But an organizing principle was required to weld the machines, raw materials, labor skills and needed capital investment together to build the nation's industrial complex. That principle came to fruition in the modern business organization, the heart of an economic system that supplies the goods which have freed men and women for higher aspirations and attainments.

As French writer Jean-Jacques Servan-Schreiber comments on our economic system in "The American Challenge": "The American challenge is not ruthless, like so many Europe has known in her history, but it may be more dramatic . . . Its weapons are the use and systematic perfection of all the instruments of reason. Not simply in the field of science, where it is the only tool, but also in organization and management . . ."

It was such an approach that started a multibillion-dollar industry and revolutionized the marketing of food in America, although the author of this particular revolution, Clarence Birdseye, put it another way when he said, "Go around asking a lot of damfool questions and taking chances." Birdseye added, "Only through curiosity can we discover opportunities, and only by gambling can we take advantage of them."

In 1912, working as a U.S. government purchasing agent and fur trader among the Eskimos in Labrador, Birdseye became interested in the way the natives preserved their food supplies. Cold storage was already used to keep food, but the methods seemed to rob thawed frozen meats and vegetables of their flavor. Slow freezing took up to 18 hours, but Birdseye had an idea that faster freezing, as occurred in the North, would seal in the freshness. With $7 worth of brine, ice and an electric fan, he experimented with quick freezing and achieved his goal.

At the nation's 100th birthday celebration in Philadelphia, crowds were intrigued by the velocipede, a two-wheeled English contraption kept in equilibrium by the skill of the rider. Colonel Albert A. Pope, a Boston manufacturer, after seeing the device went home and converted his air pistol factory into a bicycle works, redesigning the vehicle so that the rider could "avoid falling on his face." Within eight years there were 50,000 cyclists in the United States and Pope had made a fortune.

But in the amassing of these personal fortunes, many of these entrepreneurs never forgot their beginnings, nor were they immune to the country's democratic traditions. Andrew Carnegie, who at 12 got a $1.20 a week job as a bobbin boy in a cotton mill near Pittsburgh on the way to building an annual personal income exceeding $25 million by 1900, never forgot his past. In 1886, the steel magnate published a book, "Triumphant Democracy," whose cover showed a crown and a pyramid, both upside down. He believed the bottom of the social order could rise to the top, as he had so amply demonstrated could be done. Carnegie also spoke volumes about American managerial skills when he suggested his epitaph should read, "Here lies the man who was able to surround himself with men far cleverer than himself."

Then there was A. P. (Amadeo Peter) Giannini, a boy fruit peddler who built the biggest non-government bank in the world, beginning with the Bank of Italy to serve the "little man." Pioneering in branch banking and consumer loans, its assets multiplied 60 times in 10 years. In 1930 it became the Bank of America. Toward the end of his life, Giannini noticed that he had almost a million dollars and gave half of it away, explaining that he would rather give the money away than leave it for somebody else to spend.

Cyrus H. McCormick's career began when he and his father began tinkering with machinery on their Shenandoah Valley farm. His reaper was not the first patented nor perhaps the best made. But his guarantee of money back to unsatisfied customers made it preeminent in its field. McCormick's business outlook was formed from the viewpoint of the farmer, whom he saw as hard-pressed for cash and manpower. He introduced installment selling, with so much down and the rest to be paid in six months, or longer if the harvest was poor.

These were some of the men who were a part of, and gave substance and direction to our economic system. They were not driven by greed, an obsession with power, a godless materialism. Profit was not an obscene word to them. It was one of the instruments needed to achieve their ends. The word "profit" derives from a Latin root that means to advance, to progress, or to go forward. That is what it meant to them. That is what the free enterprise system is founded upon. Many of the same challenges we encountered in the past we face today and we must overcome them if we are to go forward. In so doing, it is not a few who will profit but many who wil prosper in jobs, incomes, conveniences, and everything else that gives us the economic freedom needed to make our other freedoms more meaningful and secure.

President Ford has put the challenge this way: "Today, America is again called upon to invest, to risk, to experiment in the name of progress. But unfortunately, we have reached a watershed. A decision must be made. The question, put simply is precisely this: How do we finance both the investment needed for economic growth and essential programs needed to solve our human problems?"

The history of this country, of business and industry, suggests that we can do both. America needs the expertise of business in every field of endeavor. We need its proven ability to bring together the material resources, the necessary capital, the science and the innovative technology in enterprises of all kinds that add to the well being of our people. We need its organizational and managerial skills. We need its creative spirit, its willingness to take risks. Yes, we need its ability to make profits—reasonable profits to refuel the great engines of the American economy.

Who can doubt that we can do it? As a production man once said, describing his company's approach to some of the demands made by the government during World War II, "The difficult we do immediately. The impossible takes a little longer."

SOME PRACTICAL SUGGESTIONS FOR REDUCING PAPERWORK

Mr. MOSS. Mr. President, I ask unanimous consent to have printed in the Record a statement I submitted to a pubic hearing in Salt Lake City on December 9, 1975, conducted by the U.S.

Department of Commerce on the general topic of regulatory reform. My comments focused on what we can do now to relieve the regulatory burden, especially on small businesses, while we begin the necessarily arduous task of examining the myriad of rules and regulations to determine if all that regulation is necessary.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REGULATORY AND PAPERWORK REFORM

We are in a period of resurgence in interest in what has been generally called "regulatory reform" and "deregulation". Criticism is directed at what I see as two different aspects of the regulatory process—the merits of various kinds of regulation and the burdens they impose on citizens and businesses. I want to address my remarks at this second aspect because I believe that there are practical and specific steps which can be taken now to control and contain unnecessary recordkeeping and reporting while we begin the lengthy process of examining the purpose and effects of each regulatory program.

I think it is important to keep this distinction clearly before us because the general distress with Federally required recordkeeping and reporting could lead to an unreasoning attack on all forms of recordkeeping and reporting and confuse two basic types of recordkeeping and reporting.

The first type are those where there is an absolute necessity for accurate and orderly recordkeeping and reporting to protect the public interest, such as when an employer acts on behalf of the Federal, state or local government in tax collection; when an employer acts as trustee for his employees such as when an employee had authorized the employer to act as his agent to withhold money for U.S. Savings Bonds and the requirements that businesses keep accurate and orderly information to substantiate their tax returns just as every other taxpayer is required to do.

The second type has been called "rate and route" regulation. "Rate and route" regulations typically have extensive recordkeeping and reporting requirements but their function is entirely distinct. These recordkeeping and reporting requirements come about to enable business itself to gather data to be used by the business itself to obtain or continue a benefit, such as a particular route for an airline or to substantiate a claim to continue or increase a publicly regulated rate, such as air fares or other user charges.

It is this latter type of regulation and the recordkeeping and reporting which grows out of it which I testified against recently in hearings held before the Oversight Procedures Subcommittee and the Subcommittee on Reports, Accounting and Management of the Government Operations Committee (October 10, 1975).

In this testimony I explained the purposes behind my introduction of S. 2443, the Government Forms Justification Amendments of 1975, introduced in October 1975, which is to place a positive requirement on the Office of Management and Budget to conduct an annual review of the continuing justification for all government forms and to make a positive determination that the forms continuation and the regulation behind it is still required. At present OMB makes no general judgment as to whether or not a form is justified—this is left to the Agency which proposes the form. OMB's review extends only to determine if the form duplicates another which is already in existence. This sort of approach is too shortsighted. What of forms which do not duplicate any current requirement but simply add to the bewildering proliferation we have seen in recent years or when two pre-existent forms are simply combined into a new monstrosity? The second and equally serious shortcoming of the current approach is that there is no independent review of the necessity for the form beyond the judgment of the Agency which proposes the form.

It is within this general framework that I have 5 specific suggestions to offer to reduce excessive and unnecessary reporting. I have already acted on some of these suggestions as you will see.

1. The Congress itself needs to be more sensitive to the reporting and recordkeeping implication of legislation it passes. Horrible examples abound in this area but suffice to point to the Pension Reform Act which intended to protect workers pension rights especially when they contributed to pension systems operated by their employers or third parties. The principal problem had been that employees lacked adequate information in a form useful to them about their entitlements under company or union operated pension plans. As a result of this lack of information, many workers were deprived of benefits to which they were legitimately entitled by virtue of their contribution over their working life. From this simple premise has grown a nightmare of bureaucratic bungling and new reporting requirements have grown like weeds threatening to choke the vitality of this much needed reform. In some extreme instances, it may have even had the opposite effect intended by forcing some small businessmen to drop a major job benefit that they had previously offered willingly rather than cope with the additional costs associated with completing the required paperwork.

The most controversial piece of such paperwork was the infamous "EBS–1" issued by the Labor Department in April 1975 which required employers offering pension plans to describe their terms and the kinds of employees covered, among other things. Including the instructions the forms are 31 pages long! Bruce G. Fielding, a California accountant and a member of the Commission on Federal Paperwork, estimated that it would have cost employers an average of $700 for each employee—just to do the paperwork! Secondly, and this is a particularly regrettable aspect of the problem, is that most of the new forms require specialists, either lawyers or accountants, to complete accurately. Fortunately, as a result of effective Congressional action, the Labor Department was called to task this spring. As a result of hearing and the department's own review, employers as of August 1 will only be required to complete the first two pages of EBS–1 while the Labor Department prepares a revised six-page form for use after May 31, 1976.

I pledge myself to examine carefully before acting the recordkeeping and reporting requirements which may arise from any legislation which I sponsor or support.

2. The EBS–1 example calls to mind the need for a more careful examination by the Federal Agencies of their true information requirement. In this instance what had been a 31-page requirement magically reduced itself to 2 pages—and the role Congress must play to ensure that legislation it passes does not create conditions for the Federal agency mischief such as that described above.

A more comprehensive examination of the true information requirements of various agencies could lead to more use of scientifically selected sampling or annualization of certain reporting forms. This could be accomplished and still serve the legitimate information requirements of federal agencies. My bill, S. 2443, the Government Forms Justification Amendments of 1975, would, I believe, begin to force Federal agencies to examine its information requirements at regular intervals under the guidance of the Office of Management and Budget rather than engaging in self-justification exercises, as is currently the case.

3. Examine in greater detail what the proper source of certain information should be—To use a simplistic example: If there is a legitimate need to know the amount of gasoline sold, governments should seek the information from the taxing authority rather than from the buyer or seller. This suggestion coupled with the following one for better coordination among local, state and Federal agencies could go a long way to substantially reduce duplicate recordkeeping and reporting without depriving any level of government of information it legitimately needs to accomplish its programs.

4. Better Coordination of local, state and Federal requirement especially in the area of tax reporting and similar areas which rely on the same records to eliminate the need to keep duplicate records in different formats to serve the same purpose.

5. A closer examination of the manner in which records and forms are managed by the Federal government—To this end I introduced S. 998 "The Records Management Act" in March 1975 which would strengthen the role of the National Archives and Records Service in the General Services Administration by amending the Federal Records Act of 1950. The current legislation has three major weaknesses which the Records Management Act would correct. First there is no practical and comprehensive definition of the records management function. Second, National Archives Records Service does not now have authority to compel Agency heads to improve their records management and third, the inspections and studies done by the National Archives and Records Service which contain constructive suggestions rarely come to the attention of Congress and the public. No one knows the potential savings to be realized by more effective records management but it appears that most agencies can reduce their paperwork costs by 10 percent and achieve $10 savings for every $1 spent on records management personnel salaries. If the Federal agencies manage their recordkeeping properly, the savings could be enormous.

As a follow up, I have written to the head of the National Aeronautics and Space Administration, Dr. James C. Fletcher, in my capacity as the Chairman of the Senate Aeronautical and Space Sciences Committee asking him to review the procedures used throughout that agency with the objective of reducing both the amount of required paperwork and the amount of time taken to prepare it. (October 8, 1975) Other Congressmen and Senators could do likewise and include paperwork reduction as a regular item in exercising their oversight responsibilities as I have in this instance, and as the House did on EBS–1.

These suggestions can be applied now without waiting for lengthy investigations of whether the regulations which require the recordkeeping and reporting are themselves justified. If conscientiously followed, I believe they can serve as a logical beginning and put us on a better footing to consider the merits of the regulations themselves.

NATION'S CAPITAL SEEMS PREOCCUPIED WITH PAST

Mr. BROCK. Mr. President, our Nation faces enormous difficulties. I fear we are not addressing them or even admitting the seriousness of them. Instead, we have chosen to look over our shoulders rather than to our future. James Reston recently wrote a very perceptive column in this regard, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATION'S CAPITAL SEEMS PREOCCUPIED WITH PAST

(By James Reston)

The practical question in most American minds these days is probably the present condition of their private lives—their families, their economic and spiritual security, and beyond this, their anxieties and hopes for the future.

But while the political prize of power in the next few years in Washington will undoubtedly go to the people who seem to understand these vague wonderings in the night about where we are, where our children are going, Washington seems almost hopelessly lost in the tangles, personalities, and controversies of the past.

This capital is backing into the future. It is starting new investigations into the murders of President Kennedy and the Rev. Dr. Martin Luther King Jr. It is determined to know what role Henry Kissinger played years ago, not only in the invasion of Cambodia, but in the tragedies of Chile and Cyprus. In short, Washington seems to be lost in the past.

It is not satisfied that President Ford finally came around to the aid of New York City, but wants to know why he switched and why it took him so long. It is fascinated by the riddle of the President's Cabinet changes—who "got" Schlesinger at Defense, and Colby at the Central Intelligence Agency—and why Pat Moynihan almost quit as ambassador to the United Nations, and then was given a phony vote of confidence by Ford and Kissinger, who didn't think the issue was worth another political flap.

All these things are interesting and good journalism, and even worth pursuing—on Santayana's theory that people who don't pay attention to the blunders of the past are fated to relive them.

Nobody here would mind much if these investigation impulses about past events were a minor theme leading to remedies in the future, but they are now the dominant theme in Washington.

The Democrats, in control of Congress, are blaming the President for high prices, unemployment, and interest rates. The President is blaming the Democrats for the inflation and most other disasters. George McGovern is harking back to his spectacular ideological defeat in the Presidential campaign of 1972 and urging this party to be faithful above all else to busing kids to school against the experience and even the will of blacks and whites alike.

It is interesting in this struggle how many men, for various reasons, have decided to give up. The resignation rate in the House and Senate in recent years is much higher than ever before. Serious members of both Houses, even in middle age, have decided to go home, and the leaders of Congress, and the executive Cabinet, are now looking gloomily to the future after the election of 1976.

Nelson Rockefeller's withdrawal from the race for the vice presidency next year is only the most prominent case in point. The Republican leader of the Senate, Hugh Scott of Pennsylvania, is pulling out. Mike Mansfield of Montana, the majority leader and conscience of the Senate, will probably not run again.

So when you look to the future in this town, you have to think about a different set of questions and a different cast of characters. The majority leader of the Senate at the end of next year will probably not be Mike Mansfield of Montana but Robert Byrd of West Virginia. The Speaker of the House will probably not be Carl Albert of Oklahoma, but Tip O'Neill of Massachusetts.

So for the moment, everything is the same here but everything is in the process of change. In the next few days, the Senate will consider a new appointee to the Supreme Court of the United States to replace William O. Douglas. This, maybe more than anything else, may change the balance of power on all executive, legislative, and judicial decisions in American life.

Fortunately, outside the political struggle of this capital, some people and institutions are thinking about the problems of the coming age. For example, Kingman Brewster, the President of Yale, made a remarkable speech, in the name of Winston Churchill, before the English-speaking Union of the British Commonwealth in London on Thanksgiving Day.

He raised the sort of questions for the future that probably should replace the dreary debates of the past in this town. Are we capable of the discipline necessary for the survival of Western civilization, he asked. And is that discipline consistent with our ideals of individual freedom?

Should we not be thinking about the graduated tax on expenditures rather than on income? What are we to do about congressmen who have to run every two years and vote outrageous expenditures because they are thinking primarily about re-election?

"We have not lost our global mission," he said. "It will best be fulfilled by proving that most ancient liberal art—the art of having it both ways. It is still our task to prove to the world that we can have both liberty and an order which is perceived as fair."

But Washington is not talking about this eternal dilemma, or thinking like Brewster about practical tax reform to assure capital investment, jobs, health and education. It is thinking about the future only in terms of arguments that might win the next presidential election. And this is the present dilemma and tragedy of this town.

THE PRICE-ANDERSON ACT

Mr. MONTOYA. Mr. President, yesterday, the Senate passed the extension of the Price-Anderson Act, providing governmental indemnity in the case of a nuclear accident. Mr. President, let me briefly relay my reasons for voting in favor of this important legislation.

Mr. President, I support S. 2568, a bill which would provide for the phaseout of governmental indemnity in the unlikely event of a very serious nuclear accident and which would continue the financial protection provided by the act until 1987.

The Price-Anderson system has been in effect now for more than 18 years. During that time, the system has served well its dual purpose of providing financial protection to the public and of eliminating a potential deterrent to the establishment of a nuclear industry.

For as long as the Price-Anderson system has been in existence, the public has been absolutely assured that if a catastrophic nuclear accident were ever to occur, there would be a substantial sum of money available immediately to swiftly compensate the victims with a minimum of administrative and/or legal redtape. Moreover, this assurance of financial protection for claims arising in the commercial nuclear industry has been provided at no cost to the Federal Government whatsoever.

Yet, there are those who persist in arguing that the Price-Anderson system represents some kind of special subsidy to the nuclear industry. That argument should be rejected for the following reasons:

First. First of all it should be understood that the Price-Anderson Act is not a substitute for the maximum amount of liability insurance which would be underwritten by the private insurance industry. The Price-Anderson Act does not impede the development of or in any way act as a substitute for the insurance which can be provided wholly from the resources of the private insurance industry. Utilities are required by the act to purchase the maximum amount of insurance available, for which they pay substantial premiums averaging around $20 million or more per year.

Second. The utilities' investment in the reactor, some one-half to three-fourths of a billion dollars, is not covered by the Price-Anderson insurance system but is covered only by property insurance underwritten by the private insurance industries. At the present time, $175 million of insurance is provided for each reactor site—a fraction of the total value of the plant—and each utility pays up to $2 million per year in premiums for this protection.

Third. The Government indemnity which is provided under the present Price-Anderson Act is needed simply because the amount of liability insurance from the private insurance industry is not sufficient to provide the amount of coverage up to the limitation of liability level. This indemnity is provided by the Government at an annual fee. It bears repeating that over the years not one cent of money has ever been paid from the Federal Treasury for claims arising in the commercial nuclear industry. At the same time, the Government has collected and brought into the U.S. Treasury over $10½ million in indemnity fees.

Fourth. Even without the Price-Anderson system, the private insurance industry would not provide any additional amount of liability insurance. In view of the foregoing, Price-Anderson does not constitute a subsidy in any commonly accepted sense of that term. It could be properly viewed as a subsidy only by those who do not agree with either or both of its two objectives: Public protection and giving assurance to those who are engaged in the nuclear energy industry that their assets would not be completely wiped out by unlimited liability in the highly unlikely event of a catastrophic accident having consequences of great magnitude. In this regard, the following excerpt from the Joint Committee on Atomic Energy's report—House Report 883, August 26, 1975, at page 8—on the bill which extended the Price-Anderson Act to its present expiration date is pertinent:

> Although the committee regards the Price-Anderson legislation as a necessary building block for a healthy, progressive nuclear industry, the committee does not consider the legislaton to be a subsidy for that industry, as this term is commonly understood. To date, no Government money has ever been expended under a Price-Anderson indemnity agreement with an AEC licensee. The costs of administration of this program have been nominal, and have been more than repaid through indemnity fees paid by

AEC licensees. In fact through June 30, 1965, the AEC has already received almost $343,000 in indemnity fees and these fees are expected to increase substantially in the future.

This legislation is also consistent with the basic principles underlying other Federal programs such as, for example, reclamation projects and improvement of the inland waterways of our Nation. In determining the value of these programs, the costs to the Federal Government of the improvements must be measured against the savings to the American people which the improvements must produce. As has already been stated, the savings to the American taxpayer resulting from the nuclear power program have been estimated at $1 billion per year, and the Price-Anderson indemnity legislation has thus far cost the Government nothing.

It is true that the Government's indemnity is valuable and is provided at a charge which is presumably much lower than the charge which would be assessed for "commercial" insurance if such insurance were available. However, the fundamental reason why the indemnity is necessary is that there is yet not enough experience on which to base a firm judgment on the likelihood of the indemnity ever being utilized. Expert opinion holds this indemnity almost certainly will never be utilized. If this opinion eventually is proven correct, then there surely is no Government subsidy involved here, and in fact power reactor operators would have been paying for protection above that which is necessary.

Moreover, the basic financial protection for which these reactor operators are paying—nuclear liability insurance—involves no Government subsidy. Under the Price-Anderson Act, operators of large power reactors must carry the maximum amount of such insurance from private sources. The premiums for this insurance are currently much higher than for conventional liability insurance. For example, according to testimony presented to the committee the annual liability insurance premiums plus indemnity fees for a 450,000-electrical kilowatt nuclear plant amount to over $361,000, versus about $6,500 for a conventional plant of the same capacity, without taking into consideration that partial refund of premiums for nuclear liability insurance which is expected to be made under the nuclear insurance pools' industry credit rating plant.

Fifth. Even if the Price-Anderson Act were viewed as some kind of subsidy for the nuclear energy industry, it does not follow that it should be abandoned. As in the case of any legislation which either does or could involve the expenditure of Government funds, the benefits of the legislation have to be considered along with the cost to the American public.

As has been stated, to date no Government money has ever been spent under a Price-Anderson indemnity agreement with an AEC licensee. Over $10 million has been received by the U.S. Treasury. On the other hand, at the same time, the American public has been assured that in the event a catastrophic accident does occur, their interests would be protected by the Price-Anderson system which assures a readily available source of funds and arrangements for the prompt payment of legitimate public liability claims.

Moreover, those who are involved in the nuclear energy industry, including anyone involved in the construction of the nuclear plant, the suppliers of materials for that plant and the banks which finance a large part of the money needed to construct the plant, would be assured that they would not be forced into bankruptcy in the event of a catastrophic nuclear accident.

Sixth. Finally, I want to stress that one of the principal purposes of the bill now before the Senate is to phase out the need for governmental indemnity of licensees in the commercial nuclear power industry. The bill provides for the gradual replacement of governmental indemnity by a workable system of self insurance on the part of the electric utility companies. Through this orderly phaseout of governmental indemnity, private industry will gradually assume full responsibility for providing the compensation required under the act and the dual purposes of the Price-Anderson system will continue to be met. I urge passage of the bill as reported.

THE QUESTIONS ABOUT ECONOMIC GROWTH

Mr. BROCK. Mr. President, there appeared in the Washington Post an editorial entitled "The Questions About Economic Growth." This editorial is well considered and provocative. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE QUESTIONS ABOUT ECONOMIC GROWTH

As the United States contemplates the last quarter of the century, the questions about economic growth keep coming up with unexpected force. Part of the reason is certainly the growing environmental movement. Another is probably the misbehavior of the economy in the past several years. More important, a large and influential part of the American public has evidently decided that it is living comfortably enough, and it is not prepared to make large sacrifices for further increases in production.

But ever since World War II governments here and in all of the industrial countries have taken it for granted that steady and rapid growth is essential to social and political stability. As the country now comes out of its second recession in five years, the Ford administration is struggling to recover steady progress along the American economy's accustomed trend line of about 4 per cent annual growth in the Gross National Product. That growth rate is now under challenge from two directions. Ecologists and conservationists put it as a moral issue: It is wrong to push for endless growth. But a group of systems analysts and management specialists, centered around Jay W. Forrester of MIT and Dennis Meadows of Dartmouth, warn that it is not a choice at all. The limits on growth are inherent, they conclude, and the only question is how advanced societies can adapt to them.

It is very much a matter of debate whether the first point of view will ever command a solid majority in America politics, or whether the second will be proved accurate. But both have already acquired a substantial influence on public policy, and will certainly have an effect as the present recovery picks up momentum. The questions here are fundamental to the way that this country runs. The best approach to them is to consider the nature of growth, and what it has meant to Americans over the past generation.

In 1950, GNP per capita—computed in today's dollars, to keep inflation from distorting the comparison—was $4370. Currently it is just over $7000, although in the same period the American population grew from 152 to 214 million. That represents a staggering increase in national wealth. As husbands and wives say to each other: Where did all that money go? What difference did it make? Did it all go into pop-top aluminum cans and electric lawn-mowers?

The biggest change produced by this enormous wave of prosperity has unquestionably been in the level of education. In 1950, half of all adult Americans had no more than a ninth-grade education. Today, half of all adults have finished high school and have done at least some college work. Among young adults in their late twenties in 1950, one out of every 13 had finished four years of college. Today, it is approaching one out of every four. These numbers explain much of the transformation of this country's culture and politics. If a wise man had been asked a generation ago how this country might best use its coming wealth, he probably would have answered first: Education. But the costs have been formidable. The country was spending about $9 billion on education, including the universities, in 1950. Today the total is $119 billion. It was 3.4 per cent of GNP in 1950; it is nearly 8 per cent now.

Another immense rise in expenditure came, of course, in health care. The country spent $12 billion on it in 1950, and spends around 10 times as much now. Here again, its share of GNP has almost doubled. What have we bought for this huge sum? First of all, a significant reduction in the infant mortality rate. It was 29 per thousand in 1950, and it's around 18 per thousand now. For the population as a whole, life expectancy at birth was 68 years in 1950 and is 71 now—although not all of that gain is owed directly to better medical care. The death rates for several large groups of disease, most notably cardiovascular diseases, have hardly changed at all over the past generation. Doctors increasingly admonish the country that there is a clear pattern of self-destructiveness in the way a great many Americans live, and any further large improvements in Americans' health is going to require changes in our behavior. We are rich enough, for example, to afford a diet that is not as good for us as the food we ate when we were poorer. As for drinking, the death rates for cirrhosis of the liver are up sharply. Medical care can do wonders—but it appears that the greatest single contribution to the health and longevity of Americans in the past couple of years was not any great scientific breakthrough but simply the 55 mph speed limit on the highways.

Greater wealth has meant vastly broadened protection of the elderly. In 1950, 3.5 million people were getting federal Social Security checks. Currently 32 million get them and the purchasing power of the average check has doubled. The fear of destitution in old age has always been one of the darkest shadows on human hopes and, although it persists, at least a part of the new national wealth has gone into alleviating it.

There is more to growth than waste, rising crime rates (the homicide rate has also gone up 150 per cent over the past 25 years) and hypertension. An expanding economy has given massive support to genuinely civilized values during the long ride upward since World War II. Ought that ride to continue? As Herman Kahn recently observed, "the moral case for growth is the poor"—the poor in this country and around the world. Will it continue? Dr. Forrester and his colleagues have developed a provocative and interesting analysis arguing that it cannot. Theirs is very much a minority view, but there is a real possibility that this country may now be coming into a period of substantially lower growth than it is accustomed to. The great public achievements of the past generation have been financed out of expanding wealth. It is now necessary to begin considering how to protect and enhance those achievements in a period when there may not be much new money to pay for them.

RIGHTS OF WOMEN

Mr. HUMPHREY. Mr. President, on Saturday, December 13, I had the privilege to speak at a holiday fundraiser sponsored by the Feminist Caucus of the Democratic Party in Minnesota, the DFL.

The caucus has a membership of some 1,000, approximately one-third of whom are men. They have provided—and continue to provide leadership to insure that the needs of women are addressed in the context of DFL Party operations in Minnesota. Indeed, as I have pointed out in this address, the Feminist Caucus has offered its leadership not only to Minnesotans but to Democrats all over the country through the efforts of its outstanding leaders.

In this address, I attempted to scan some of the issues which are of special concern to women, many of which are outlined in the National Women's Agenda for 1976. I urge my colleagues in the Congress to study this agenda and to give serious consideration to the goals it includes.

Of special importance in the coming months, and in the course of development of the issue agenda which both political parties will place before the American people, is the need for ratification of the Equal Rights Amendment. I addressed this issue in the context of the struggle for civil rights for all Americans. It is my hope that my colleagues will note the need for renewed emphasis on ratification of this important constitutional guarantee.

Mr. President, I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY

I am honored to be able to join you for this holiday party—to celebrate your victories and to look ahead to the goals on which we should focus our attention.

The Feminist Caucus continues to be a strong, clear voice working within our Party to address the needs and wishes of women in Minnesota.

And that voice has echoed all the way to Washington, because the leadership in Minnesota under the capable hand of Koryne Horbal has become a visible and undeniable force in our national Party.

You have expanded the awareness of the Democratic Party. You have prodded our Party out of its intransigence. You have lifted the spirits and pricked at the conscience of Democrats everywhere. I salute you!

With your sustained and forward-looking activity, you have helped the DFL Party to maintain its position of progressive leadership in the Nation.

I get around the country a good deal, and I am repeatedly struck by the farsightedness of our State Party—by the quality of life that is available to Minnesotans—and by the irrepressible spirit of our people. You have helped to build our DFL party into one of the best organized, most progressive political organizations in the country.

Tonight I want to talk to you about the directions we must take in the area of women's rights over the coming months and years. But first, I'm going to challenge you.

In less than 11 months, the Democratic Party will face its ultimate battle. We will attempt to recapture the White House for the American people.

We must—and we will—end this reign of chaos and turmoil.

These last 7 years of Republican siege have featured:

An unprecedented and unscrupulous assault on the political system;

Economic mismanagement characterized by inflation and recession;

Retrenchment and equivocation on our hard-won battles in civil rights;

A sustained attack on the First Amendment;

Constant and insidious attacks on the rights of organized labor;

And a whole laundry list that adds up to just one thing—*bad government*.

Our people deserve better. They *demand* better. And we're going to make it better for them.

So I want you to gird yourselves for some tough battles. 1976 is going to be the year for Democrats, and the DFL will be right out front leading the way:

But the Republicans will be ready for the attack. They will accuse the Democratic Congress of everything in the book. Nevertheless, we will be ready. We Democrats will have a good, sound program and we will prove to the American people that their trust is safe with us.

But we must work together to develop this program. And high on the list of our priorities must be the role of women in our political and economic systems.

As we work on our Democratic action agenda, we must give the most serious consideration to goals outlined in the National Women's Agenda for 1976.

I want to commend the Caucus leaders on the development of this Agenda, a program supported by some 80 national women's organizations.

This is a far-reaching agenda, and one which attempts to strike at those remaining obstacles which impede our progress toward realization of true equality for all Americans.

This represents the first major statement of goals which we Democrats have to help us build our platform for 1976, and I applaud your initiative.

In the last 10 years, we have come far down the road toward equal treatment of men and women in our society. We have enacted landmark legislation:

The Equal Pay Act;

Title VII of the 1964 Civil Rights Act, prohibiting discrimination in employment;

Title IX of the Higher Education Amendments of 1972, banning discrimination in education on the basis of sex.

Through law and regulation, we have seen a good deal of progress in assuring women equal access to education, employment, credit and other services of financial institutions.

We should not underestimate this progress. But we all know that there is much more work to be done. And it is our responsibility to get it done.

But we must view women's issues in the context of our over-all national policy questions.

The economic troubles which plague us are of special significance to women.

For example, the overall unemployment rate published last month was 8.3 percent. Among adult men, the rate was 6.9 percent, while for adult women it was 7.8 percent.

If we don't act, this high unemployment is likely to become even higher as more and more women seek to enter the work force. Between 1962 and 1974, the number of working women increased by 10 million. And this trend is certain to continue, while the number of men in the job market remains fairly stable.

Because we have expanded educational opportunities, the percentage of women students in the professions is growing. In 1960, only six percent of medical students were women, while in 1974, they constituted 18 percent.

In pharmacy, the percentage of women students enrolled increased from 12 to 32 percent in this period. In law, the comparable percentages were four percent in 1960, 19 percent in 1974.

This increased access by women to professional training is long overdue, and was made possible by our efforts to broaden the educational experience of women.

But the question remains: How will we assure fairness and equal opportunity to these women when they prepare to enter the labor force?

How can we guarantee that they will be equally compensated for their efforts when we know that equal pay for equal work still is not a reality?

Figures for 1974 reveal that full-time adult women employees still can expect to earn less than adult male workers. This is grossly unfair!

Women managers and administrators earn 60 percent of what their male counterparts earn.

Women in a production-line factory job earn 64 percent of what the men doing the same job earn.

Female sales workers earn less than half—42 percent—of the men's earnings.

This is just an example of the problems that working women face.

We still don't have an adequate system of day care and child development centers. And Social Security and pension laws don't accurately reflect the fact of life that most women work because of economic necessity, either to support a family or to supplement the family income.

We also must pursue the development of programs and services which are necessary to make the transition of women into the work force a smooth process.

We must press for more part-time job opportunities in the Federal government.

We need to pass the Displaced Homemakers Act, which would provide services to women who are thrust unprepared into the working world.

We need to expedite enactment of the Child and Family Services Act, to assure that the children of working families receive the care they need and which low- and moderate-income families cannot always afford.

I have joined in sponsoring these and other important proposals, and I will continue to work for their enactment.

In addition, we need to reassess the provisions of the Social Security program which affect women and their survivors. And pension plans need to be looked at to assure that they meet the retirement needs of women who work.

We must take a hard look at our public assistance programs to ensure that sufficient incentives exist to assist poor women who want to work, and provide the support services they and their children must have to exist.

We must look at the needs of women in every walk of life—to homemakers as well as those in the professions. I am pleased to see that the Feminist Caucus is representing the interests of all women in the development of Democratic policy.

But more than anything else—our agenda must have as its first priority ratification of the Equal Rights Amendments. The Congress will continue to make statutory changes in the law which are deemed necessary to assure fairness to women. But this is not enough

We must press for the fundamental affirmation of equality of the sexes which this constitutional amendment will grant.

Some people have been subjected to a campaign which evokes fears that somehow the ERA will completely alter the concept of marriage and family.

That just is not true. Whatever interpretation is given to changing social patterns, it is irrelevant to the central issue of this constitutional amendment. Simply put, that issue is whether at long last we are going to guarantee equal rights and justice to *all* our citizens—the majority of whom are women.

The Equal Rights Amendment is very straightforward. It simply states:

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

This means that the government cannot pursue policies which arbitrarily discriminate between citizens of the United States because they are male or female.

It does not deal with private individuals or companies.

It does not deal with matters which are the private concerns of husbands and wives.

It simply states what already should be understood.

The controversy over the ERA reminds me a good deal of the battles which raged when we were trying to enact the landmark civil rights laws of the 1960's. You heard every excuse in the world why we shouldn't pass these simple laws of justice and equity.

But the fear-mongers didn't deter us then, and those who misrepresent the facts shouldn't deter us now.

In the 1960s, we had to *educate* our people. We had to address their fears and lay them aside. We had to demonstrate the justice of our cause. And then, after we had talked and preached and persuaded, we had to have the courage to do what we knew was right—simply because it *was* right.

So that is what must be done today. We must *educate* our people—those in our own State who have misgivings and especially those in other parts of the country whose ratification vote is essential.

We must address ourselves to their fears, using a little friendly persuasion and good gospel sense—and then we must have the strength of our convictions.

I am confident we will succeed. The beauty of the Constitution is the capacity it gives us to bring to fruition those ideals which are expressed so eloquently in it.

The Founders gave us the means—and indeed, the responsibility—to right those wrongs which come to light. And that is what we are doing now.

What better way exists to celebrate the Bicentennial of our Nation's founding than to reaffirm the Constitutional promise of the establishment of justice for all!

There can be no freedom in America unless all are free. And there can be no civil rights without women's rights. Until we affirm, once and for all, the inalienable rights of women, the blessings of liberty will not be secure.

THE FUTURE OF THE RETREATING AMERICAN PRESIDENCY

Mr. BROCK. Mr. President, an excellent article has been written by David Broder of the Washington Post about a most remarkable collection of essays concerning the Presidency of our Nation. I ask unanimous consent that Mr. Broder's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Future of the Retreating American Presidency

In the remarkable collection of essays that constitutes the current tenth anniversary issue of The Public Interest magazine, one essay makes particularly compelling reading at the start of an election year. It is called "The Past and Future Presidency" and is written by Aaron Wildavsky, dean of the graduate school of public policy at the University of California-Berkeley.

The heart of Wildavsky's argument is that, whoever is elected President in 1976, there is great risk of a growing breach between the people and the presidency. The office that is at the peak of our politics and government, he predicts, will continue to grow more powerful. But the occupant, unable to maintain popularity, will "change the rules of the game" to put more distance between himself and the predatory public.

That is a very different forecast than the one which has been outlined here before. It poses a different sort of danger to the health of our democracy. This reporter's fear has been that a frustrated public might well turn in 1976, or 1980, to an anti-politics politician—a demagogue of the right or left, probably running outside the two-party system. Once installed in the White House, he could rally his mass constituency to curb the power of Congress, the bureaucracy, the press or any other institution which attempted to check his exercise of power.

But Wildavsky argues that "the failure of demagogues, parties or mass governments to take advantage of the national disarray" of the past ten years suggests the unlikelihood of any great change in today's basic political arrangements.

And so he raises the question of how the next Presidents are likely to adapt to a situation in which their power is increased but their popularity continues to decline.

He assumes that their power will grow because the role and responsibility of the central government will grow. "In the backlash of Watergate," he writes, "it has become all too easy to imagine a weakening of the presidency.

"Not so. Does anyone imagine fewer groups will be interested in influencing a President's position in their own behalf or that his actions will matter less to people in the future? The question answers itself. The weakening of the presidency is about as likely as the withering away of the state."

In fact, he is almost certainly right. But there is some reason to question his next assumption—that the next Presidents will also be as unpopular as recent ones have become.

Wildavsky notes that all recent Presidents have suffered severe erosion in their reputations, Lyndon Johnson, Richard Nixon and Gerald Ford during their terms, and John Kennedy at the hands of more recent historians. He also notes there is a monumental lack of the enthusiasm for their potential 1976 replacements. "When one or two leaders fail," he says, "that may well be their fault. When all fail . . . and when, moreover, all known replacements are expected to fail, the difficulty is not individual but systemic."

The systemic problems are twofold: The substantive policy questions, whether of energy conservation or urban education, are becoming more intractable. And, since political party membership, which provides the hardcore of support for any President, is declining, future Presidents will have less of a stable constituency to get them over the inevitable rough places on the road.

It is this latter point that seems most questionable in his analysis. Politicians who disdain their own parties, or have no party affiliation, like Govs. George Wallace, Edmund G. Brown, Jr., and James Langley, are extraordinarily popular. They create their own constituency by their confrontations with legislatures, bureaucracy or the press. Their success suggests to me the pattern by which a future independent President could maintain his popularity and his powerbase.

But Wildavsky may be right, and his forecast is worth pondering. What he sees is a retreat of the presidency from its intimate relationship with the people. It might take the form of a continued growth of the White House bureaucracy, a device he sees as "a means of insulating Presidents from the shocks of a society with which they can no longer cope."

But, he says, I might also take the form of a real devotion of responsibility—to the Cabinet, to the agenices, to states and cities. "When Presidents wanted to keep the credit, they keep their Cabinet quiet," he says. "But they will welcome Cabinet notoriety now that they want to spread the blame."

Similarly, "This is the rationale behind wholesaling instead of retailing domestic policies; behind revenue sharing instead of endless numbers of categorical grants . . . behind a transfer to state and local government of as much responsibility (though not necessarily as much money) as they can absorb. 'Here is a lot of trouble and a little money,' these presidential policies seem to say, 'so remember the trauma is all yours and none of mine.' "

Wildavsky doesn't think the process of lowering the expectations of what a President can do is at all bad for the country. But he says that unless it's stabilized at some point, by the revival of parties and Congress, a retreating presidency could become as costly as the aggrandizing presidency we have known.

THE WORLD FOOD COUNCIL

Mr. McGEE. Mr. President, very little publicity is given to the day-to-day operations of the United Nations and its various organs. I suppose this is due to the fact that these activities, although vital and important to the international community, are not of a controversial nature and therefore not deemed to be front-page news.

The world food crisis is something which touches each and every one of us. It means that millions of people in the less developed nations face death by starvation, or mental and physical impairment for the rest of their lives due to malnutrition. From the standpoint of the American consumer, global food shortages and poor harvests mean higher prices in the marketplace. Higher prices in turn mean a lowering of our own quality of life.

What are we doing to meet the global food needs of mankind? It is evident that one nation cannot accomplish the resolution of this unconscionable set of circumstances, despite what efforts we make on a unilateral effort. A truly international effort is required if we are to come to grips with this problem. An international effort has been underway, under the aegis of the United Nations' World Food Council. Quietly, and without much fanfare, a mobilization of global resources to meet the world food problem is developing coherence. It is an impressive effort and one which demonstrates that global cooperation is taking place in the U.N. organs whose responsibilities are to deal with specific problem areas.

The World Food Council has not captured the headlines as has the United Nations General Assembly, which, I might add, is a 3-month operation. The World Food Council and the global assault on world hunger is a year-round operation.

Since I believe the world food problem is one of the most important issues confronting the international community, I would urge my colleagues to study the four background documents on the World Food Council which I am making available for the RECORD today. I am confident if Members of this body are as concerned as I am about starvation and malnutrition threatening the existence of millions of the world's population, they, too, will be impressed with the work of the World Food Council.

I ask unanimous consent that the four background documents be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

THE WORLD FOOD COUNCIL

NOVEMBER 1975.

Why: The world food crisis in 1972/73 stimulated the world community to show political will to solve the world food problem.

The Non-Aligned countries meeting in Algiers in September 1973 called for an international conference on food, and the General Assembly at its 28th session decided to convene a United Nations World Food Conference.

When: The World Food Council was created at the proposal of the United Nations World Food Conference held in Rome from 5 to 16 November 1974. This proposal was endorsed by the 29th Session of the General Assembly.

What: The World Food Council has been established by the General Assembly as a *United Nations organ established at a ministerial or plenipotentiary level to function as an organ of the United Nations* reporting to the General Assembly through the Economic and Social Council. It will follow-up on the recommendations of the World Food Conference.

The Council is to function "as a coordinating mechanism to provide overall, integrated and continuing attention for the successful coordination and follow-up of policies concerning food production, nutrition, food security, food trade and food aid, as well as other related matters, by all the agencies of the United Nations system".

At the first session of the World Food Council held in *Rome from 23 to 27 June 1975,* the Council agreed that, as the world's highest political body dealing exclusively with food, its main functions would be:

(a) to monitor the world food situation in all its aspects, including what international organizations and governments were doing to develop short-term and long-term solutions to food problems;

(b) to look at the total food picture and determine in its co-ordinating role whether the world food strategy as a whole made sense;

(c) to identify malfunctions, gaps and problem areas;

(d) to exert its influence, through moral persuasion, to get any necessary improvements made.

The World Food Council secretariat has also been entrusted by the Secretary-General of the United Nations to facilitate the arrangements for the creation of the *International Fund for Agricultural Development (IFAD)* requested by the World Food Conference and the General Assembly.

Who: The Council consists of 36 *Member States* elected by the General Assembly on the basis of nominations by the Economic and Social Council for a term of three years.

The current States Members of the Council are:

Argentina, Australia, Bangladesh, Canada, Chad, Colombia, Cuba, Egypt, France, Gabon, Federal Republic of Germany, Guatemala,

Guinea, Hungary, India, Indonesia, Iran, Iraq, Italy, Japan, Kenya, Libyan Arab Republic, Mali, Mexico,

Pakistan, Romania, Sri Lanka, Sweden, Togo, Trinidad and Tobago, USSR, United Kingdom, USA, Venezuela, Yugoslavia, Zambia.

The President of the World Food Council is H. E. Mr. Sayed A. Marei, who is the President of the People's Assembly of Egypt, and who was the Secretary-General of the World Food Conference.

The Executive Director is Dr. John A. Hannah who was formerly Administrator of USAID.

Where: The World Food Council headquarters are located in Rome, within the Headquarters of the Food and Agriculture Organization of the United Nations.

More information can be obtained by writing to the Executive Director, World Food Council, Viale delle Torme di Caraoalla, Rome, Italy. Telephone: 5797 (extensions 4522/4518) or the Liaison Office within the United Nations Headquarters in New York (Telephone: 755–1234, extension 3388).

THE WORLD FOOD COUNCIL: ORIGINS AND OBJECTIVES

The World Food Council represents the culmination of efforts over more than three decades to create an authority with international force to tackle mankind's most basic need.

The Council's task can be simply stated: to supervise and improve the way men grow their food and the way they share it among themselves.

Created by decision of the United Nations General Assembly in December 1974, the World Food Council has a membership of 36 countries elected on a rotational basis with one-third retiring each year. It will meet at ministerial or ambassadorial level and report to the General Assembly through the Economic and Social Council (ECOSOC).

Resolution XXII of the World Food Conference declared that the WFC should function "as a coordinating mechanism to provide overall, integrated and continuing attention for the successful coordination and follow-up of policies concerning food production, nutrition, food security, food trade and food aid, as well as other related matters, by all the agencies of the United Nations system." Under the same resolution the World Food Council should:

"Review periodically major problems and policy issues affecting the world food situation and the action proposed by governments, the United Nations system and its regional organizations to resolve these problems. The Council will recommend remedial action as appropriate. The scope of the Council's review will extend to all aspects of world food problems in order to adopt an integrated approach towards their solution.

"Coordinate all relevant United Nations bodies and agencies, giving special attention to the problems of the least developed countries and those most seriously affected.

"Maintain contact with, receive reports from, give advice to, and make recommendations to United Nations bodies and agencies with regard to formulating and following-up world food policies.

"Cooperate with regional bodies to formulate and follow-up policies approved by the Council."

Secretariat and supporting bodies

In January 1975 Dr. John A. Hannah, Deputy Secretary-General of the World Food Conference and former Administrator of the United States Agency for International Development, was appointed by the United Nations Secretary-General as the Council's first Executive Director to head a small Secretariat headquartered in Rome.

The World Food Conference proposed that the World Food Council be supported in its work by a number of bodies, some constituted specially for the purpose. These should include:

1. *FAO,* which is specifically requested to provide reports from the Global Information and Early Warning System set up by the FAO Council immediately following the World Food Conference.

2. *International Fund for Agricultural Development* (IFAD), which is intended to generate a massive new flow of resources for increasing food production in the developing countries. The initial target has been fixed at 1 billion SDR's and a plenipotentiary Conference will be called by the Secretary-General early in 1976.

3. *Committee on Food Aid Policies and Programmes* (CFA). The purpose of this Committee will be to help evolve and coordinate the food aid policies recommended by the World Food Conference. Proposals for reconstituting the Intergovernmental Committee of the World Food Programme to form this Committee have been drawn up by an intersecretariat group of UN, FAO and WFP representatives.

4. *Committee on World Food Security,* which the World Food Conference recommended to be established as a standing committee of the FAO Council. Its functions, as described in Conference Resolution XXII, would be to maintain a continuous review of the demand, stock and supply position for basic foodstuffs; to evaluate the adequacy of stock levels to meet actual or prospective requirements on domestic and world markets, to review action by governments to implement the International Undertaking on World Food Security; and to recommend action considered necessary to assure adequate cereal supplies for minimum world food security. An *Ad Hoc* consultation on World Food Security was held in June, 1975, pending action by the FAO Conference in November to establish the Committee.

5. *Consultative Group on International Agricultural Research* (CGIAR), which is aimed at mobilizing substantially increased funds for the research efforts proposed by the World Food Conference.

6. *Consultative Group on Food Production and Investment* (CGFPI), organized by the World Bank, FAO and the United Nations Development Programme (UNDP) to coordinate and improve the effectiveness of multilateral and bilateral financial and technical assistance. The CGFPI held its first session in July 1975.

7. *FAO Commission on Fertilizers,* which held its second session in June 1975 to consider measures for the improvement and stabilization of the fertilizer situation in developing countries.

8. *The United Nations Conference on Trade and Development* (UNCTAD), which should supply the WFC with reports and take account of its advice and recommendations.

Through these bodies and other international agencies and governments, the World Food Council is charged with carrying forward an integrated world food strategy, seeking both the financial resources and the political commitment to see it implemented.

In the 30 years since World War II several initiatives have been undertaken to try to set up international machinery that would oversee the production and distribution of food supplies. Most of these initiatives have achieved little result.

As long ago as 1946, shortly after creation of the Food and Agriculture Organization, proposals were submitted to it for setting up a World Food Board "to ensure that sufficient food is produced and distributed to bring the consumption of all peoples up to a health standard." Among other things, it was proposed that the Board should buy and hold an international buffer stock of food to stabilize prices and provide security against bad harvests.

Eight years later, in 1954, the General Assembly passed a resolution in the establishment of a World Food Reserve to raise food production and standards of consumption, counteract excessive price fluctuating and promote the rational disposal of agricultural surpluses. Again, nothing happened.

The first World Food Congress was called by FAO in Washington in 1963 and was followed by creation of the World Food Programme, a body whose main activity is making food available for development projects. A second World Food Congress held in The Hague in 1970 produced an impressive list of recommendations and proposals but little in the way of direct action.

Despite this history of disappointments, the food crisis which gathered momentum in 1972–73 stimulated the world community to take a fresh look at its policies. The Non-Aligned Countries, meeting in Algiers in September 1973, called for an emergency conference on the shortage of food and other commodities, and this was followed by a United States proposal for a world food conference under United Nations auspices.

The World Food Conference, held in Rome 5–16 November 1974, was a landmark in the fight against hunger. Its principal achievements were to lay the foundations of the International Fund for Agricultural Development and the establishment of the World Food Council to implement its recommendations and provide continuing surveillance of the world food scene.

The Conference also mapped out in detail a strategy for increased food production in the developing countries, improvement of food aid programmes and measures to achieve food security through stockpiling and a global early-warning information system. Pursuit of action on these matters, along with the recommendations concerning fertilizers, pesticides, land and water, research and nutrition, is now brought together for the first time under the aegis of the World Food Council.

IMPLEMENTATION OF THE RESOLUTIONS OF THE WORLD FOOD CONFERENCE

1. The World Food Conference adopted twenty-two resolutions laying the groundwork for an overall strategy to attack the world food problem. The resolutions of the Conference were endorsed by the General Assembly in resolution 3348 (XXIX), December 1974, which requested the Secretary-General to submit a report to the General Assembly, at its thirtieth session, on the implementation of the resolutions of the World Food Conference.

2. In the year that has elapsed since the World Food Conference, the overall food situation has shown some improvement reflecting a recovery of output and an expansion in food aid programmes during 1975. World food production in 1975 is expected to be 3% or more above 1974 and rice production 5% higher. Good rice crops in Asia this year are encouraging and large grain crops in North America are increasing export availabilities. But production difficulties in some other countries and regions are resulting in large grain imports this year, especially by the Soviet Union and Eastern Europe. With world grain stocks in 1974/75 at their lowest level in twenty years, these recent adverse developments make it unlikely that world food grain stocks will be significantly replenished in the present season.

3. Little satisfaction can therefore be taken from the production results one year after the World Food Conference. The conditions of the most seriously affected developing countries (MSA's) have further deteriorated. Continuing and increasingly heavier foreign exchange burdens are resulting from high energy, food, fertilizer and pesticide costs. World food security is still precariously balanced on extremely low world food stocks. The numbers and conditions of the malnourished have not improved. Of particular concern is the persistence of the adverse trends in food production which were the fundamental concern of the Conference.

In the first five years of this Decade (1970–75), food production in the developing countries increased by only 1.7 percent per year compared with 2.7 percent annually during 1961–70. This is well below the rate of population growth in the developing countries and only half the increase of 3.6 percent needed to keep up with their effective demand for food. The target growth rate of 4 percent called for in DD II seems distanct indeed.

Major institutional developments

4. In the face of this serious and continuing challenge, positive steps have been taken to bring into being the new institutions called for by the Conference to implement its resolutions and recommendations. The World Food Council has been organized and held its first session in Rome, June 23–27, 1975.

(a) The Secretary-General convened a Meeting of interested countries and organizations on the new International Fund for Agricultural Development at Geneva on 5 and 6 May 1975 and set up a Working Group to work out details for the Fund. The Working Group held its first meeting in Rome, June 30–July 4, 1975, and its second meeting in Geneva, September 22–27, 1975. Many organizational and operating details have been resolved and draft articles of agreement have been prepared. A second meeting of interested governments took place in Rome, 27/10–1/11 and a third one is planned early in 1976 in Rome. A plenipotentiary conference and the Pledging Conference should follow immediately to resolve final issues. The recommendations of this meeting on final steps required to set up the Fund will be presented to the current session of the General Assembly.

(b) The Consultative Group of Food Production and Investment in developing countries (CGFPI) held its first session in Washington, July 21–23, 1975.

(c) The FAO Council has begun action on the establishment of a Committee on World Food Security and on the reconstitution of the Intergovernmental Committee of the World Food Programme as a Committee on Food Aid Policies and Programmes. Action on both of these will be finalized at the next FAO Conference which meets in Rome from 8 to 27 November 1975.

5. The rapid creation of these new institutions demonstrates that the momentum created by the World Food Conference has not been lost. Understandably, these new institutions are still in their formative stages. Meanwhile the existing agencies of the United Nations system have responded in an encouraging way with many new initiatives undertaken on a wide front for the implementation of the various Resolutions. It is clear that a concerted effort has been mounted by the agencies to make a good beginning toward pursuing the mandate given them by the World Food Conference either individually or in cooperation with others.

6. At the first session of the World Food Council, the agencies of the United Nations system repsonsible for follow-up to World Food Conference resolutions submitted a detailed report on their actions with respect to specific resolutions.

The World Food Council is initiating a second updated and expanded report from the agencies to be submitted to its second session. A summary of follow-up actions under major activities follows.

Food production in developing countries

7. The major element of the strategy of the World Food Conference is to increase food production in the developing countries to at least 3.6 percent per year and hopefully 4.0 percent during the next decade. This depends on an increased flow of resources for food production in the developing countries. Progress toward the establishment of the International Fund for Agricultural Development, expanded operations in international lending by existing international financial institutions and larger bilateral aid efforts during 1975 are hopeful developments. But the goal of $5 billion annually in external financial assistance is still far from being reached. Major additional efforts will be required in future years. The immediate aim should be the establishment of the Fund to seek contributions aimed at reaching the initial target of one billion SDR's of support by some governments in October were encouraging.

Food aid and assistance for agricultural inputs

8. Food aid in cereals increased to 8.6 million tons in 1974/75 from the dangerously low level of 5.4 million tons to which it had fallen in 1973/74. Commitments for 9 million tons are expected for 1975/76. This is still short of the 10 million ton target established by the World Food Conference and much below the 12.7 million level of 1970/71. While this modest recovery of food aid is encouraging, the still low and uncertain level of food aid is a significant failure of governments to respond to the resolution of the World Food Conference on food aid policies and programmes. The proposed Committee on Food Aid Policies and Programmes can be expected to bring about improvements, but governments must act now to raise their contributions so that the 10 million ton target can be reached this year and established on a three year planning basis.

9. The worsened balance of payments of the MSA's and the still limited assistance for food and fertilizers impose a heavy burden on the ability of the developing countries to augment their own agricultural production efforts. Fertilizer prices have declined and supplies are more plentiful than a year ago, but unless bilateral and multilateral assistance is increased over that of 1974/75, the most seriously affected countries will face a gap of 0.8 million tons of fertilizer which will not be covered by commercial imports or their own production.

10. At the Second Session of the FAO Commission on fertilizers, 3–7 June 1975, the main elements of a world fertilizer policy were identified which include increasing bilateral fertilizer aid, strengthening multilateral assistance through the International Fertilizer Supply Scheme, improving the efficiency of fertilizer plants in developing countries, expanding the fertilizer intelligence system, action on price instability, and developing new production capacity in developing countries. These recommendations were endorsed by the World Food Council at its first session and it recommended that the FAO/UNIDO/World Bank Working Group on Fertilizers should accelerate efforts to improve utilization of fertilizer plant capacity in developing countries and that the CGFPI should investigate the feasibility of expanding fertilizer production in developing countries.

World food security

11. The FAO Council at its November 1974 Session adopted the International Undertaking on World Food Security which was transmitted to all Member Nations of FAO and to members of the United Nations with a substantial interest in world production, consumption and trade of food, primarily cereals, inviting their cooperation in meet-

ing the common objectives. By August 1975, 56 governments had responded positively to the International Undertaking; the European Economic Community has also subscribed to it. The countries concerned account for over 85 percent of world cereal exports and for more than half of world imports. But a number of governments, including some of the major food producing, consuming and trading countries, have not yet subscribed to the International Undertaking, and two have stated that they are not able to adopt it at this stage.

12. A key element in establishing a sound programme for effective world food security is agreement on a minimum level of world grain stocks and the management of such stocks. Discussions during the first half of 1975 showed little promise toward reaching agreement on these issues and this lack of agreement will seriously affect the ability of governments to implement the International Undertaking on Food Security. The Seventh Special Session of the General Assembly, in its resolution on Food and Agriculture has asked for intensive work on a priority basis in the World Food Council and other appropriate forums on the size of the reserve including the proposal made at the current session that the components of wheat and rice be 30 million tons. This, together with some new initiatives by governments should lend a new impetus to progress on this crucial issue.

Nutrition

13. The World Food Conference recommended in Resolution V that all governments and the international community as a whole take actions to develop plans and programmes to improve nutrition. The agencies of the United Nations system have responded with a number of actions in 1975. An interagency meeting at FAO in March 1975 discussed a new Nutrition Planning Scheme which the FAO Council in June recommended proceed without delay.

An interagency Cooperative Committee of FAO, WHO, UNICEF, UNFPA, WFP, bilateral agencies and NGO's was established to expand feeding programmes. The WFP, FAO, WHO and UNICEF have been in close consultation on joint efforts to support emergency programmes for supplementary feeding in 1975–76 and have established an Inter-Agency Working Group to respond quickly with nutrition assistance upon government request. UNICEF has prepared the first place of a special assistance programme for 1975–76 for 13 MSA countries.

14. These initatives are encouraging, but the magnitude of the nutrition problem—over 430 million undernourished in developing countries, of which almost half are children—means that we have scarcely begun to face up the task ahead. Special assistance programmes for emergency feeding and actions taken to alleviate vitamin and other deficiencies have thus far been more in the direction of improving the method of operation of such programmes rather than new programmes which will be on a scale large enough to reduce malnutrition substantially. Funds are extremely limited at present. The World Food Council intends to initiate, in cooperation with the international agencies concerned, consideration of the main elements of an overall plan of action on nutrition, stressing the five main areas addressed to international agencies by the World Food Conference in Resolution V—special feeding programmes for children and other vulnerable groups, a world-wide control programme to substantially reduce nutrition deficiencies as quickly as possible, a Nutrition Surveillance System to monitor the food and nutrition conditions of disadvantaged groups, programmes for assisting governments to develop intersectoral food and nutrition plans, and an internationally coordinated programme of applied nutrition research. This effort can be expected to crystalize the main priority areas where funds and policy actions are urgently needed.

Rural development

15. Follow-up action on Rural Development so far has focused on establishing a programme to access the effectiveness of existing rural development projects and programmes to determine whether the United Nations system can evolve a more meaningful and effective approach in this vital sector. This would set the stage for a larger effort to deal with the problems associated with small farmers and the rural poor. Meanwhile substantial increases in external financing for such projects is planned by existing international agencies.

International trade

16. International discussions of agricultural trade issues in including food trade problems have greatly intensified in recent months in UNCTAD, GATT and other forums. There have also been some promising recent moves toward a more constructive approach to the commodity and trade problems experienced by the developing countries. In accordance with paragraph 8 of Resolution XXII, UNCTAD will submit a report to the next session of the World Food Council on the world food trade situation and on progress made toward trade liberalization.

17. It is clear from this brief review that a great deal has been done on follow-up actions to the resolutions of the World Food Conference. It was to be expected that much of this would initially take the form of setting the stage for future programmes and policies. We can be encouraged by the efforts of agencies and governments and by the fact that the momentum of the World Food Conference has not been dissipated. But we can also see that the larger issues of additional resources, larger and stable levels of food aid, a viable system of world food security, a significant improvement in world nutrition, and a higher priority for food production have not yet been broached in a manner that will generate substantial additional commitments of real resources or mobilize adequate policy support for the proposals and action programmes. A major test of this real commitment is before us with the new International Fund for Agricultural Development. Decisive and rapid establishment of that fund in the next few months with its full initial commitment of resources will be an unequivocal measure of progress in the follow-up to the resolutions of the World Food Conference. Completion of this report will therefore be determined by actions of governments with respect to the Fund and some key proposals during the remaining months of this session of the General Assembly.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

November 1974—The creation of an International Fund for Agricultural Development (IFAD) was one of the most important resolutions adopted by the *World Food Conference* last November in Rome. Originally proposed to the Conference by its Secretary-General Mr. Sayed A. Marei (presently President of the People's Assembly of Egypt and since last June President of the World Food Council) this resolution was sponsored initially by 34 countries including members of the Organization of Petroleum Exporting Countries (OPEC), developing countries and a few developed countries.

There was broad agreement at the World Food Conference that a large increase in investment in agriculture in developing countries was required to achieve a major improvement in their food production. Estimates presented at the Conference indicated the need in this direction. As a step to increase the flow of development assistance to agriculture in developing countries from about US $1.5 billion to at least US $5 billion during 1975–80, the Conference resolved that an International Fund for Agricultural Development (IFAD) should be established to help finance agricultural development projects primarily for food production in developing countries.

After adoption of the resolution by the General Assembly at its 29th session, the Secretary-General of the United Nations entrusted the Executive Director of the World Food Council—Dr. John A. Hannah—to consult with all interested parties to determine whether there was sufficient interest and probability of attracting substantially greater resources to warrant the creation of such a Fund.

May 1975—After a series of preliminary consultations, a first meeting of *Interested Countries* was called in Geneva on 5 and 6 May 1975 and was opened by the Secretary-General of the United Nations, Mr. Kurt Waldheim. Sixty-six countries attended the meeting and endorsed the proposal made by Saudi Arabia that the initial target for the Fund should be 1 billion SDRs (or approximately US $1.2 billion. At this meeting many traditional donors joined in expressing their willingness to participate in the Fund's creation.

July /September 1975—A *Working Group* of representatives from developing countries and potential donor developed and developing countries was set up to work out the details of the Fund and held two sessions, one in Rome 30 June–4, the other in Geneva 22–27 September 1975.

October 1975—At a second meeting of Interested Countries held in Rome from 27–31 October 1975, representatives of 67 countries have completed another important stage in setting up this new financing institution.

Developed countries as well as developing contributing countries (OPEC) attending the meeting confirmed or re-affirmed their firm intention to meet the initial target of 1 billion SDRs originally proposed by Saudi Arabia, Iran and other OPEC countries.

Some countries indicated the level of the contributions they would intend to pledge next year to the Fund (United Kingdom, £15 million; Norway, 10 million SDRs; the Netherlands, 32 million EDRs). The USA restated their intention—as expressed in September at the Special Session of the General Assembly—to seek congressional approval for a contribution of US $200 million to IFAD, provided other countries would contribute in such a way that the one billion target would be met. The European Community is considering the possibility of contributing to the Fund pending final agreement between the nine European countries.

Other developed countries and some OPEC countries and in particular Saudi Arabia, Kuwait, Iran, Libya, Venezuela, stated their intention to contribute to the Fund. Their contributions would be announced formally at a pledging conference to be convened in Rome early next year.

In the text adopted by the delegates to be transmitted to the Secretary-General of the United Nations, Mr. Kurt Waldheim, it was recommended:

(a) that the Fund be established as a specialized agency within the UN system with autonomy for policy formulation and operations;

(b) that the General Assembly authorize the Secretary-General of the United Nations to convene in Rome a plenipotentiary conference to complete arrangements for the creation of the Fund to adopt and open for signature an agreement for establishing the Fund as a specialized agency, to receive pledges to the Fund and to establish a Preparatory Commission to make all arrangements necessary to enable the Fund to commence its operations at the earliest possible date.

It is planned that another meeting of Interested Countries will meet before the Plenipotentiary Conference to finalize a few remaining questions in the text of the draft agreement.

REGULATORY REFORM

Mr. BROCK. Mr. President, during the second session of the 93d Congress, the genesis of the regulatory reform study began during the consideration of the need for an Agency for Consumer Protection. The emergence of the need for the study as a matter of national priority has, in the intervening year, gained in recognition. Attempts have been made to quantify the costs attributable to regulation and arguments have been advanced which cover the spectrum of solutions from doing away with all governmental intervention to expanding and increasing government involvement into previously unregulated sectors.

Throughout all this, little thought had been given to problems of government which extended even beyond regulatory agencies and of which regulation was only a symptom. Former Secretary of HEW, Caspar Weinberger, has identified as crucial the problems that accompany big government. The problem which plagues our house is how to say "no." Mr. Weinberger cogently has warned that government's "unplanned, uncoordinated and spasmodic responses" of "yes" to nearly every demand for societal assistance "is quite literally threatening to bring us to national insolvency." This propensity to say yes has brought about government regulatory agencies with millions of regulations and which add annually another 25,000 new ones. In its October 1975 issue, the Government Executive magazine published its first in a continuing series of articles on how private industry views government and governmental interferences within what now remains of our private enterprise system.

For the first time, I think, Congress is exposed as an all too willing accomplice in this "unmanageable tyranny" of Government over the private sector, as it, by its acquiescence, permits Federal agencies to extend their congressionally mandated powers beyond the intent of Congress. Agency extension of power leads them into countless fights over "mission pre-eminence" between the Environmental Protection Agency and the Energy Research and Development Agency, between the Federal Energy Agency and ERDA, and between the Environmental Protection Agency and the Department of the Interior, and so forth.

As a member of the Senate Government Operations Committee, and a participant in the regulatory reform study, I will seek to bring these problems into daylight in the coming hearings so that a resolution which would benefit all Americans could be hammered out.

I ask unanimous consent that the article which appeared in the October 1975 issue of the Government Executive be printed at the end of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVEY SHOWS GOVERNMENT "WRECKING" FREE ENTERPRISE SYSTEM

(By C. W. Borklund)

In 1960, Robert Lovett, former Under Secretary of State and one-time Secretary of Defense, warned a Senate Government Operations Subcommittee of the dangers he saw in a deliberately built-in "head wind to government decision-making efficiency." Said he, in part:

"This 'foul-up factor' in our equation of performance must have worked very well when government was small; when government became large, it probably worked fairly well. But government has now become gigantic at the very moment in history when time itself is not merely a measure or a dimension, but perhaps the difference between life and death.

"The Federal Government is by far the largest and most complicated operation in this country. This huge organization would be hard enough to run if authority were given where responsibility was placed. Yet, that frequently is not the case."

The checks-and-balances philosophy, he added, when applied to the Executive Branch, "is really a method of requiring power to be shared—even though responsibility may not be—and of introducing rival claimants from another department with a different mission into the policy-making or decision-taking process.

"This is the 'foul-up factor' in our methods and it needs some careful examination because there is, I think, a discernible and constantly increasing tendency to try to expand the intent of the system to the point where mere curiosity on the part of someone or some agency . . . can be used as a ticket of admission to the merry-go-round of 'concurrences.' This doctrine, unless carefully and boldly policed, can become so fertile a spawner of committees as to blanket the whole Executive Branch with an embalmed atmosphere.

UNLIMITED ACCESS

"Whether or not this itch to get into the act is a form of status-seeking, the idea seems to have got around that just because some decision may affect your activities, you automatically have a right to take part in making it . . . It would be well to look into (this 'foul-up' factor) because there is some reason to feel that the doctrine may be getting out of hand and that what was designed to act as a policeman may, in fact, become a jailor."

He said he'd felt the same way, though not as strongly, eight years earlier when he was Secretary of Defense. Looked at today, not only in terms of internal agency-to-agency governmental relations, but of pulling-and-tugging communication and influence among Executive, Legislative and Judicial branches, among Federal and State and local government, among government, industry and the consumer-taxpayer Public, is worse today.

The Federal Government alone already has counted in excess of 8,000 record systems kept by more than 75 of its agencies—files covering everything from World War I decoration receivers in the Army to HEW records of Kentucky toll booth operators' "behavioral performance."

The full listing, required by the Privacy Act passed last year, is still incomplete and adds up currently to some 92 billion pages worth. Federal officials fear the deluge that may soon hit them when private citizens ask, as is now their right, to see the file on themselves.

Government regulatory agencies already have literally trillions of regulations, which impose some kind of control or other on U.S. industry, and are adding an estimated 25,000 new ones to the pile each year. Nearly all of them are neither catalogued nor cross-referenced. They are symptoms of the growing numbers of fights for "mission pre-eminence" between Federal agencies and among Federal, State and local governments.

In short, Government, at least in its accountability to the People as envisioned by the United States' forefathers, may today be close to being an unmanageable tyranny. In his last major speech as HEW (Health, Education, and Welfare) Secretary, Caspar Weinberger warned that "Federal programs to solve social ills are leading the Nation toward egalitarian tyranny and fiscal bankruptcy."

Citing as one example, the "mountain of paperwork" required not only by HEW but by the Labor Department and the courts of school systems at local levels, he decried "the futility of a distant government to concentrate on narrow, statistical, mechanistic goals (such as busing and 'affirmative action' hiring) and thereby lose sight of the real goals—equality of opportunity and better schools for all."

He warned further that government's "unplanned, uncoordinated and spasmodic responses" of "yes" to nearly every demand for societal assistance "is quite literally threatening to bring us to national insolvency." Moreover, sums up industry—in response to a *Government Executive* questionnaire sent to 570 leading industrialists—government seems bent on crippling the sources of revenue for those social programs, i.e. the free enterprise system.

Summed up one respondent, "Federal regulation alone is estimated to cost the consumer $130 billion a year. Need I say more?"

Added another, "We frequently find government moving in the international trade and domestic regulation areas without advance consultation with business . . . As long as government and industry continue to bicker without recognizing that the excellence of each is essential to the other, we will continue to suffer declines in productivity rates and growth." Concluded Weinberger, if the U.S. fails to change course, "we risk delivering our destinies over to the cold and lifeless grip of a distant egalitarian government whose sole purpose is to ensure an equally mediocre existence for everyone."

Government Executive's survey results claim, in effect, that government's awareness of that is well short of encouraging. Out of a 27.7% return, more than enough according to survey experts to qualify as comprehensive, a dozen companies, e.g. Mobil, Phillips Petroleum, General Signal, Carnation, Hershey Foods, Coca Cola, Borden, DuPont, Textron, sent the survey back unanswered, with apologies.

Though the words differed, the message was the same: "The sheer volume lately of information requests from Federal and State agencies and foreign governments has increased to such an extent, we have adopted a policy of not answering questionnaires except when required by law."

That amounts to commentary all by itself, tending as it does to corroborate a persistent complaint by the Small Business Administration specifically (see story, this issue) and small business generally that "Government regulations and paperwork are killing us." (Small business claims it spends 130 million man hours a year, filling out some 5,175 Federal forms—not counting tax forms.

Though for 9.2 million small businesses in the country that may not seem like much, and isn't for the guy who gets only a handful, it can lead to bankruptcy for the little company that gets 1,000 of them.

Highlights from the useable 24% questionnaires returned to *Government Executive:*

86% said government does not appreciate the intrinsic merits to the Public of the profit motive;

75% said government seems unaware that its mandates on industry add to operating costs and, in turn (including corporate taxes) are passed onto the consumer.

86% said government regulations on how industry conducts business, e.g. hiring practices, environmental controls, worker health and safety rules etc., add more to industry product and/or service costs than the benefits they supposedly provide are worth;

57% said the cost and complexity of government procurement regulations, themselves, discourage industry from competing for government business.

Several respondents said, in brief, that such questions are difficult to answer "yes" or "no." Said one, for instance: "Some regulations add more to the cost of our products and services than the benefits they are intended to provide—and some do not.

"In some cases, government adequately evaluates the cost vs. the value of a regulation it is imposing; in too many cases, it does not—particularly their impact on small business.

"In many ways the current Administration appreciates and communicates the intrinsic merits of the profit motive; but there are exceptions, especially in the Legislative Branch."

But, even allowing for the fact that many questionnaire replies pointed out some regulations are sounder than others and some officials better informed than others, the results still add up to a strong indictment.

Concluded one: "There can be little question that regulation is required in our society, on the sound basis that freedom cannot exist without order. The problem is that as a Nation we seem to be of the opinion that the 'more order the more freedom.' We should all know it does not work that way. Government increasingly is deciding what kinds of products and services should be offered for sale which in a very fundamental way takes decision-making away from the consumer, thus directly limiting his economic freedom."

Added another: "I would not want to leave an overall impression of being anti-government. The real key to the future is more effective relationships between government and business—and I might add, other major interests of society such as labor. Government appropriately has become involved in areas which would have been unthinkable 20, 30, 40 years ago . . .

". . . But if there is one overall criticism, it is that government doesn't know where to stop when it becomes involved in a social or economic problem. Cutting back on excesses—retrenching on over-regulation as the President has put it—should have high priority."

The President agrees. Said he, in part, at a White House meeting of Regulatory agency heads last July:

"I do not suggest that the problems reside exclusively in your agencies or commissions. Regulations that impose costs on consumers can also be found in Cabinet departments and in the intricate, sometimes invisible web of laws and regulations at State and local levels."

Still, he added, "I think it is quite obvious that I feel very deeply that we must seriously consider the costs to the American consumers of all government activities, and this, of course, includes regulatory agencies.

"Regulatory reform is a theme that arose repeatedly in the course of last Fall's Economic Summit meeting. It is a theme that is finding, as I travel around the country, growing Public attention and support, both in popular and economic literature, in the Executive Branch, in the Congress, and, I am pleased to note, among the Government regulators themselves."

It is personal with President Gerald Ford, too. Noted Paul MacAvoy, one of his economic advisers, at an American Enterprise Institute/Hoover Institution seminar on regulatory reform:

"Make no mistake. He doesn't need any prompting sheets to tell him what to say when he's addressing a group on regulatory reform, including on some of our specific proposals to Congress. He knows these things better than the prompting sheets."

Ford asked the group for attention to four major areas:

1.—"A constant effort to improve each Commission's ability to identify the costs and the benefits of current and proposed regulations;"

2.—"Make every possible step to make sure that the backlog and the delays in regulatory proceedings do not weaken the public belief in an equitable and efficient regulatory system;"

3.—"The Public can rightfully expect that you will be the leaders" in asking legislative changes in agency authorizing statutes;"

4.—"I have asked all departments and all agencies to reexamine their present procedures for assuring that the consumer interests prevail . . . It is my strong conviction that the consumer is best able to signal his wants and needs through the marketplace. The government should not dictate what his economic needs should be."

(Next month: who won the "unpopularity contest" in *Government Executive's* survey and some "war stories" on the millions consumers are paying for benefits that aren't there.)

RCA Chairman Robert Sarnoff, whose company spent $110 million on research and development last year, points to "the alarming erosion in the U.S. position as the world's leader in science and technology." Some of his statistics:

Total national expenditure—Federal and private—for basic research has declined 10% in the period 1970–74, with Federal outlays dropping 15%.

U.S. spending for non-military and space research and development "is only 80% of Japanese or Common Market undertakings and only 60% of the British."

Measured in terms of people doing R&D, the U.S. effort is "almost 30% smaller than the commitment of the Common Market countries, less than half the British, and only about 35% of the comparable effort in Japan."

The share of U.S. patents awarded to foreign investors has climbed steadily from 17% in 1961 to 30% in 1973.

Ironically, the U.S. is the nation which showed the rest of the world that investment in technology advance lads inevitably to increasd national security, economic growth, a cleaner and healthier environment and a better quality of life.

It also can lead to political interdependence and thus a lessened likelihood of wars.

PERMANENT BENEFITS

A second irony which compounds the first: technology advance is a much more permanent, plausible way to achieve economic growth, i.e. "help the poor and underprivileged," and clean up the environment at the same time than simply shovelling money into welfare and writing Clean Air regulations.

In short, engineers and environmentalists should be working together instead of working as adversaries (One Montana State Senator told *Government Executive* his State is stagnant and dying because the industrialists—who would level the whole State if there's a dollar to made from it—and the environmentalists—who don't wait a mountain or a tree or a blade of grass touched—won't give an inch to the other's point of view.")

Points out Dr. Edward David, who runs a $23 million-a-year product development effort for Gould Inc., "Life today certainly isn't ideal. We don't have all the things we feel we need, e.g. creature comforts, equal rights. But to say the economic system hasn't worked well and then abandon what made us great is a key mistake.

HISTORICAL IGNORANCE

His concern: "Technology innovation is the critical item in our economy, our society. Those who haven't taken part in it (which includes college students and much of Government) don't understand very well that in the past the innovation which made life better here than anywhere else has come from the private sector."

Though it is a very multi-faceted, complex phenomenon, at the base of it innovation has been strongly individual, done mainly by "small groups with the courage to use the tools at hand to make life better for ourselves. They are the ones who find a way to put ideas to the real test—in the public marketplace."

Among the ways: their own venture company; attracting outside capital; becoming part of a larger business and gaining its support; or selling their ideas to one of the big corporations. "Which one you choose is very snarled, not monolithic, but one thing is certain—the mistakes of one approach can be corrected by another."

Government, the Nation's largest purchaser, could encourage innovation through its buying practices "such as ETIP," (See July, *Government Executive* cover story) he believes. Instead, in too many instances, he sees Government discouraging, even crippling, innovation.

Among the ways: creating double-digit interest rates, through money management and competition with private industry for capital, which threaten to "manage innovation right out the window;" anti-trust attacks against "the great R&D industries (Bell Labs, IBM, etc.) without recognizing that the problems we face are so large a large critical mass is essential to meet the size of the problem involved."

Adds Sarnoff, "Our crucial energy programs, for example, are expected to require more than 300,000 scientists, engineers and technicians over the next decade—about twice as many of these specialists as we have now."

Other Government-imposed obstacles David sees: regulatory agency rulings which don't allow the cost of R&D to be put in the rate base; arbitrary, poorly researched regulations—as in the drug field—which discourage getting innovations to market; wholesale rulings on business ethics imposed via procurement regulations which are "liable to be worse than the original practice" (such as the rules resulting from recent Press criticism of the way over-seas sales are financed.)

Dr. David is hardly a neophyte on the subject. Before his current post, he was Science Advisor to the President and Director of the now-defunct White House Office of Science and Technology (which President Ford is trying to get re-established.) Before that, he worked 25 years for Bell Labs, specializing in underwater sound and communications acoustics, computing science and "man-machine communications," holds eight patents for his inventions in those fields; and for Stevens Institute of Technology as professor of electrical engineering.

Holder of a B.S. in electrical engineering from Georgia Institute of Technology and master's and doctorate degrees from MIT, he is the originator of "The Man-Made World," a course to provide "technological literacy" now being taught in some 1000 U.S. high schools.

CREATED VACUUM

Citing the railroads as an example, Government, he contends, has "idealized certain situations to such an extent that we have destroyed the industry without putting something in its place." It's not the people so much, he says, as it is "the nature of the (Government) system."

For "all the good intentions of conscientious people (in Government), it takes the special know-how that exists in industry to develop communiactions satellites for public use, for instance; to create and market energy-saving devices; to look at ways to spin off new industries from this technology."

In short, because Government is regulating rather than encouraging innovation, "we don't get the thrust we need at trying to get companies involved in these problems in the intrinsic way that's going to be necessary if the jobs are to be done."

BANGLADESH

Mr. HARTKE. Mr. President, on December 16, 1971 the Government of the Peoples Republic of Bangladesh was formed in Dacca. This new country was formerly a part of Pakistan and has prospered in spite of diversity.

Bangladesh is located in an area of Asia that is severely affected by floods and monsoons. In many areas of the country 250 inches of rain falls each year and this torrent of rain triggers floods in the Ganges and Jamuna Rivers. Because of the periodic flooding and the devastating rains, the United States gives substantial relief through the AID program. Much of this aid is in the form of food through the Public Law 480.

Since 1971 the Government of Bangladesh has received multidonor aid of $3.5 billion and of this amount the United States contributed $822 million.

Over the years the United States has had an excellent relationship with the Government of Bangladesh and is anxious to see that the new nation succeeds and to this end I join with the people of the United States in wishing the people of Bangladesh much success on their National Day.

COST OF LIVING AND OLDER AMERICANS

Mr. CHURCH. Mr. President, the Senate Committee on Aging has held a number of hearings in Washington, D.C., on "Future Directions in Social Security."

The testimony has been valuable and has dealt with such social security subjects as: Long- and short-range financing issues, treatment of women, the earnings limitation, and so on.

But a few months ago it became evident that the committee should also conduct hearings to obtain firsthand information about adequacy of social security benefits in the face of inflationary increases in the costs of such essentials as: food, health care, housing and utilities, and transportation.

Hearings conducted in California by Senator Tunney, in New Jersey by Senator Williams, and in Iowa by Senator Clark have helped the Committee to document the desperation and hardship faced by so many older persons in cities, smaller communities, and rural areas.

Within recent weeks I have continued these hearings with 2 days of testimony in Portland, Oreg., and 1 day in Nashville, Tenn. Hearings will be held in other cities within the near future.

Everywhere, the story has been the same: Even people who thought they had prepared well for retirement wonder how they will get through the next month or even the next week. They, and the younger members of their families, are affected very directly by their uncertainty about the buying power of retirement income.

The importance of these hearings was summed up in an editorial which appeared in the December 9 issue of the Tennessean in Nashville. It included:

> The Committee is holding hearings in a number of cities across the nation. If all of them are as productive as the one here, they are adding greatly to the public's understanding of the suffering and misery inflicted on millions of old people. It is hoped the sessions will lead to relief of these deserving citizens in the not too distant future.

Mr. President, I ask unanimous consent to have printed in the Record at the end of these remarks my opening statement in Nashville. It refers to several bills I have introduced to provide some help to hardpressed older persons.

I also ask unanimous consent to have printed the Tennessean editorial and an article describing the hearing and similar stories from the Oregonian about the Portland hearings.

Finally, I would like to thank the witnesses and others who helped at the hearings. Several of them spoke from personal experience about the severe cost-of-living problems they face every day.

There being no objection, the material was ordered to be printed in the Record, as follows:

Future Directions in Social Security: Impact of High Cost of Living

(By the Honorable Frank Church)

Thank you for joining with me and Senator Brock for this hearing in Nashville today.

We are here as representatives of the Senate Committee on Aging.

We are continuing hearings begun in Washington, D.C., on the overall subject of "Future Directions in Social Security."

We have heard from many expert witnesses in our Senate hearing rooms, and they have dealt with vital subjects: financing, future and present; failures in the Supplementary Security Income, or SSI, program; inequitable treatment of women, the Social Security earnings limitation; and so on.

Important as this sometimes technical testimony is, it has real meaning only if we can relate it to what is actually happening to the people who depend on Social Security and SSI either as the sole or major source of retirement income.

And so the Committee has held field hearings in California, Iowa, New Jersey, and Oregon to hear from the elderly and others who can tell it like it really is when it comes to making those precious few Social Security dollars stretch out through the four weeks of each month.

Some of the testimony has dealt primarily with low-income people who don't know how they are going to meet the next rent increase or pay for the prescription drugs they need.

These are the very persons, by the way, who would have been hardest hit by proposed food stamp cutbacks, even though they need this help most. But 49 Senators joined me recently in protesting the Administration's ill-considered proposals, and I am happy to report that our efforts proved successful

But you don't have to live in statistical poverty or near-poverty in order to live in desperation when you are old.

Other witnesses—people whose retirement income would have been regarded a few years ago as relatively comfortable—are living in deepening uncertainty and some despair.

The large house which has been home for decades now is burdened, not by a mortgage, but by out-of-sight property taxes and—in many States—by utility bills that rise a third or more in a few months.

Where's the money to come from for rent when a person can't buy meat or medicine?

Where's the money to come from for better things in life when the bare needs of life can't be met?

I've introduced several bills to improve retirement income or make it stretch further.

One would improve the cost-of-living adjustment mechanism for Social Security and SSI.

Another would put out-of-hospital drugs under Medicare. In fact, I think there's much more that must be done to make Medicare a real program that will maintain health, rather than one which leans so heavily on the hospital for care. Home health, for example, should be encouraged, not hampered as it now is.

And, until such time as the so-called retirement test under Social Security can be eliminated, it should be liberalized to reflect current realities. And so should the income tax retirement credit be liberalized as well.

Yes, there's work to be done in improving the flow of retirement dollars to Americans, and there's work to be done in providing the services that will help them save dollars as well.

For that reason I'm glad that the Congress has enacted the Older Americans Act Amendments of 1975 and that President Ford has signed them.

I hope that this action is one of many the President will take in analyzing anew the problems facing the elderly of this Nation.

I have asked our witnesses to abide by a 5-minute time limit on their statements, and to set an example, so will I. But I hope to have conversation with the witnesses and with people in the audience as we go along, and I know that Senator Brock does, too.

Thank you once again for being here today.

[From the Tennessean, Dec. 9, 1975]

Relief for the Aged

A U.S. Senate committee's hearing in Nashville Saturday on the needs of the aged focused public attention on one of the most urgent problems facing the state and nation.

The committee heard from a line of witnesses about the troubles confronting all too many elderly persons every day.

They don't have enough income and consequently are without adequate nutrition and medical care.

Those living in rural areas have special problems. They are isolated from the rest of society not only by reason of their age but also by the remoteness of their homes.

If they are sick and hungry and can't feed and care for themselves, there is often no one to care for them. If they need to go to a doctor or a hospital, there is no one to drive them.

Younger, healthier people are often reluctant to assist the elderly. Some worry about their financial liability if something should happen to an old person in their charge. Others just don't want to be bothered.

The institutions of government and others have not done enough to alleviate the suffering of the elderly poor. "The churches" were accused of failing to do their duty in such things as furnishing transportation for the aged.

Sen. Frank Church, D-Idaho, chairman of the committee, said during the hearing that people on fixed incomes like Social Security payments have been hit the hardest by inflation and that periodic adjustments of income need to be made to reflect the needs of these people. He said he favored legislation to establish a cost of living index based on needs of the elderly.

Sen. William Brock III, R-Tenn., a member of the committee, pointed out that according to a 1974 census report 45% of all households headed by people over 65 earned less than $6,000 and almost 35% had an income below $5,000.

"These are very distressing statistics, and clearly deserve our attention," Senator Brock said. "In my judgment, inflation is the most pernicious social evil of our time. . . ."

Some other members of Congress participated in the hearing. Rep. Clifford Allen of the Fifth District advocated amending the Social Security law so that a retired person could receive benefits while still working at a regular job.

Rep. Marilyn Lloyd of the Third District bemoaned the fact that the U.S.—"the most prosperous country in the world"—has neglected its fastest growing minority, the elderly.

"We want to be more aware of where we have neglected to serve you," she told the audience of mostly elderly persons.

The committee is holding hearings in a number of other cities across the nation. If all of them are as productive as the one here, they are adding greatly to the public's understanding of the suffering and misery inflicted on millions of old people. It is hoped the sessions will lead to relief for these deserving citizens in the not too distant future.

[From the Tennessean, Dec. 7, 1975]

SENATOR ASKS COST OF LIVING INDEX FOR ELDERLY

(By Dwight Lewis)

Sen. Frank Church, D-Idaho, said here yesterday he favors legislation to establish a cost of living index based upon the needs of the country's elderly citizens.

"Right now, we don't have the right type of cost of living index," Church said at the Joseph B. Knowles Center while presiding over a hearing about problems now burdening older Americans.

"People on fixed incomes have been hit the hardest by inflation and a lot of things elderly people need are not covered by programs that they're on," Church said. "Therefore, periodic adjustments need to be made that reflect the needs of these people."

Church, chairman of the U.S. Senate's special committee on aging, told the estimated 375 persons attending yesterday's meeting that "we are holding the hearing in Nashville as we have in other cities across the country to hear from those who can tell it like it really is."

Sen. William Brock III, a member of Church's committee, told the audience there are about 445,000 persons in Tennessee over the age of 65, and that they comprise almost 11% of the state's population today.

"A 40% increase in the number of persons over age 65 can be expected in the next 25 years," Brock added. "In other words, we are concerned with a significant segment of Tennessee's population.

"It goes without saying that the negative aspects of inflation have been felt by every person living in Tennessee. However, that impact on our elderly citizens is particularly severe."

Brock said that according to a March 1974 census estimate, 45% of all households headed by people over 65 earn less than $6,000 and almost 35% had an income below $5,000.

"These are very distressing statistics, and clearly deserve our attention," he added. "In my judgment, inflation is the most pernicious social evil of our time. Those with low incomes receive less for the dollar spent and are also often faced with higher taxes."

Also participating in yesterday's hearing with Church and Brock were 3rd Dist. Rep. Marilyn Lloyd and 5th Dist. Rep. Clifford Allen.

"We're here because we care about your problems," Rep. Lloyd said. "The United States is the most prosperous country in the world, yet it has neglected the country's fastest growing minority.

"We want to be more aware of where we have neglected to serve you," she added.

Allen, who was sworn in as a member of Congress just last week, told the audience that "a society as rich and prosperous as America must have a conscience that permits the elderly to live in dignity."

Allen, appearing on a panel during the hearing, said the whole subject of the elderly "is one very dear to my heart."

He said he feels the Social Security law needs to be amended so that a person, when he becomes eligible, could enjoy his benefits and still keep his regular job if he wanted to.

During the hearing, several citizens from Nashville and other parts of the state were invited to appear as witnesses.

One of them, State Rep. John M. Steinhauer of Hendersonville, chairman of the House general welfare subcommittee on aging, said his subcommittee has recently completed a series of public hearings across the state.

"A common theme at the hearings has been the increasing importance of income maintenance and the cost of living to our senior population," Steinhauer said. "Naturally, because the hearings have focused primarily on actions the Tennessee General Assembly can take to aid the elderly, much of the testimony received addressed state concerns.

"Many of the needs of the elderly on the state level are directly related to federal matters," he added. "The main topics of discussion at the public hearings included pharmaceuticals, housing, Medicaid/Medicare funding, nutrition, revenue sharing, Social Security benefits and transportation."

Mrs. Clint Pickens, 67, of Lewisburg, director of the Marshall County Senior Citizens Center and chairman of the South Central Aging Council, told leaders of the hearing that elderly persons living in rural areas are in desperate need of help.

"There are no public means of transportation for elderly people in the rural areas," Mrs. Pickens said. "This handicaps the elderly."

Mrs. Pickens received heavy applause from the audience when she said: "If the churches did their duty, it wouldn't be like this. It is difficult to get private citizens to take elderly people to the doctor or any other place because they are scared of having a wreck with an elderly person in their car."

Nat Caldwell, a reporter from the *Tennessean*, told the audience the situation has gotten so bad in this country that some older people are being sold "pet food."

Caldwell also told the hearing leaders that "it is bad that the SSI benefit program is being cut out in Tennessee and 18 other states.

"You folks in Congress underestimated the number of people that would become eligible for SSI benefits and it's a cruel thing to cut the program off," Caldwell said.

Nashville Mayor Richard Fulton was invited to attend the hearing but was unable to do so. However, Fulton submitted a five-page paper to be made a part of the record.

In his paper, Fulton said: "We in Nashville-Davidson County have been trying to get federal participation in an innovative condominium facility for the ambulatory elderly who require tender, loving care and service to avoid becoming totally dependent in a geriatric hospital facility.

"I would appreciate your committee investigating why our social service agency has had so much difficulty in getting federal participation in this innovative project."

[From the Portland Oregonian, Nov. 25, 1975]

ELDERLY NEEDS IGNORED—CHURCH RAPS SPENDING FOR ARMS

(By Stan Federman)

Sen. Frank Church, D-Idaho, accused the Pentagon Monday of "gobbling up" billions of dollars for unnecessary new weapons at a time when the nation should instead be devising a medical program to help its needy elderly citizens.

Church said the military was attempting to get congressional approval for funding of a new fleet of bombers that would cost approximately $100,000 million each.

"And nobody knows what they are for," he told an audience of about 300 who were attending the first of two days of hearings in Portland by the Senate Committee on Aging, of which he is chairman.

Church noted that the nation is also building nuclear submarines for $1.8 billion each.

"That type of spending has got to be changed," he said. "We're simply wasting money for weapons when the needs of the American people should be attended to first."

Church's comments came as he heard testimony detailing the harsh economic problems affecting elderly Oregonians.

Spokesman after spokesman described the plight of the state's senior citizens in battling ever-increasing health, housing and utility costs.

An example of the elderly's Medicare problems was voiced by David S. Brown, a 68-year-old retired school custodian. He has hospital bills totaling $15,000 for a recent nine-month hospital stay by his late wife.

"There is absolutely no way a man in my position on a fixed income can pay these bills," said Brown. "It doesn't seem right that someone who works all his life now has to spend his retirement trying to pay medical bills."

Several spokesmen, including former Oregon Sen. Maurine Neuberger, scored governmental bureaucracy for "eating up" funds for administrative costs that should be going directly to help the elderly.

Portland City Commissioner Charles Jordan, in describing the housing problems of elderly persons in the city, observed that some low-cost housing structures may shut down by Jan. 1 because of rigid government standards.

"The federal standards don't meet local needs," said Jordan. "And there's too much red tape when you try to get federal money for housing. There's no flexibility left to us in the federal regulations."

Some suggested and Church agreed that one method for providing more housing for the elderly might be programs aimed at rehabilitation of older structures rather than attempting to build costly new buildings.

Among those attending the hearing in the Bonneville Power Administration's auditorium was 99-year-old Jesse Proffer, a resident of the Northwest Pilot Housing Project.

Proffer an ex-logger and camp cook throughout Oregon, hopes to mark his 100th birthday on July 4, 1976. "He'll be half as old as our country next year," said an admiring Church.

The hearings will continue at 10 a.m. Tuesday at the BPA auditorium.

[From the Oregonian, Nov. 26, 1975]

FOOD STAMP CUTBACKS BLASTED

(By Stan Federman)

Proposed Department of Agriculture food stamp regulations came under fire Tuesday at the final day of hearings in Portland by the Senate special committee on aging.

The proposals, aimed at slashing the program's costs, were labeled "totally inadequate" by Beth Sprinkle, Grants Pass, president of the Oregon State Council for Senior Citizens.

She noted that "millions of needy senior citizens would be cut out of the program," while administrative costs would rise.

Mrs. Sprinkle also scored Agriculture Department attempts to link stamps to a "thrifty food diet," which she said was based on 10-year-old studies and failed to take into account today's high food prices.

Sen. Frank Church, D.-Idaho, committee chairman, said "the people who make up these diets should have to live on them for awhile."

For the second day in a row, Church heard testimony from the elderly and spokesmen for groups catering to them.

For the most part, the comments centered on problems that those on fixed incomes have in "just getting by" during continuing inflation.

What she called failures of the Supplemental Security Income (SSI) program were listed by Sister Mary Phyllis Soreghan, a community aide with the Northwest Pilot Project.

She noted that the program, which provides extra cash to elderly persons on low Social Security payments needed to educate those who spurn it because they think "it is some sort of welfare program."

Church agreed that the SSI program "is not working as it should; we've got to get it away from the stigma of welfare." He also rapped the program's "red tape," which he said makes it difficult for oldsters to apply for it.

The Loaves and Fishes program that provides hot meals to the elderly on a "pay as you can" basis was lauded by several speakers.

"It's difficult to describe it to someone unfamiliar with the program," said Etho Husel, an 80-year-old Portlander.

"You see, unless you have used the program, you can't tell what it means to an elderly person," he told Church.

Husel and others observed that the program not only offered nourishing meals but the opportunity for lonely oldsters to socialize with their peers.

The need for federal funding to provide better transportation for the elderly was stressed by Ruth Shepherd, a director of the Lane Transit District in Eugene.

She said the worst transportation problem is in rural areas. Eighty-six per cent of Oregon's senior citizens live in areas far removed from metropolitan bus service, she said.

Mrs. Shepherd said potentially "overwhelming" operating costs have prompted defeats at the local level of government to provide bus transportation for the elderly.

Earlier, Sen. Church visited the Lindquist Hotel in Portland, which is undergoing a $20,000 renovation to meet building code regulations.

The hotel, built around the turn of the century, will eventually house 44 elderly persons and include community kitchens. No federal monies are involved.

Church told one of the owners, Joseph Harrison, that such local initiative was "different from what I normally see."

"This is one of the ways we should be handling the low-cost housing problems," he added, "because the federal Housing and Urban Development (HUD) program just isn't working out in this area."

FOOD STAMP LEGISLATION

Mr. BURDICK. Mr. President, an amendment has been added to H.R. 10284 by the Senate Finance Committee which I fully support and which is of great importance to my State, North Dakota.

The amendment would make the food stamp public assistance withholding program optional with the States.

The present provisions of the law have proven to be extremely difficult for some States to implement. The State of North Dakota has objected to the law from the start, because of the high cost of such a program in the State. Unless the amendment in the bill before us is adopted, however, North Dakota will be forced to implement PAW because the present law makes it mandatory.

The U.S. Department of Agriculture has stated that they feel this program should be optional, and States should be permitted to make the judgment as to whether or not it is feasible for them to administer this program.

With food stamp legislation now pending in Congress, it make little sense to force States such as North Dakota to implement this program at this time. I hope that this amendment will be approved by the full Senate as well as by the House.

VOLUNTEER WINTERIZATION PROGRAM ASSISTS IDAHO ELDERLY

Mr. CHURCH. Mr. President, rising energy costs have had a severe impact on older Americans across the country, especially those living on fixed incomes. The problem is further complicated because millions of older Americans live in substandard housing, and they are losing fuel dollars because of poor insulation.

In my own State of Idaho, the Capitol Jaycees, a volunteer service group, took on the task of winterizing homes of elderly persons in the Boise area. This program met with great success. Funding raised by the Capitol Jaycees and local merchants helped to winterize 13 homes. It is estimated that these efforts helped to reduce heat loss by 40 percent.

The Idaho Daily Statesman recently included an article about this winterization project, and I ask unanimous consent that it be printed in the Record at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, I commend my Idaho friends for their dedication toward helping Idaho's seniors. I know that the time and effort that they gave will result in more comfortable winters for the families served.

Earlier this year I introduced legislation, S. 1277, to assist older persons in winterizing and repairing their homes. Older Americans Home Repair and Winterization Act would have another benefit—providing new job opportunities for older workers. Part of this proposal, I am pleased to say, was incorporated in the recently enacted Older Americans Amendments of 1975. Witnesses before the Senate Special Committee on Aging have repeatedly emphasized the need to adopt such a program.

Although winter is upon us in most parts of the country, it is not too late to implement this program. Much can still be done to protect elderly persons from the harsh effects of winter. The successful project of the Idaho Jaycees is just one example of what can be done with a little initiative.

I believe the Federal Government should encourage such assistance on a more comprehensive level.

EXHIBIT 1

CAPITOL JAYCEES WINTERIZE HOMES FOR ELDERLY, LOW-INCOME OWNERS

(By Pat Thornton)

Mary Coleman won't worry so much about her cactus house plants freezing this winter.

In fact, everything in her little bungalow at 517 South Fifteenth will be warmer due to the result of the Capitol Jaycees' Home Winterizing Project.

About 15 club members working in conjunction with four insulating contractors spent all day Saturday battening down Mrs. Coleman's home and 12 others in Boise. Depending upon the construction of individual houses, the Jaycees added insulation and/or weather stripping and/or visqueen (a heavy, plastic-like material) to cut down heat losses.

Richard Heaton, 10040 Hickory Court, project chairman, said the work was more than a club project; it was a community project. The funding came from the Jaycees' Hot Baked Potato booth at the Western Idaho Fair last summer that raised about $1,500.

The club visqueened windows of several homes last year, and when the booth "did better than usual at the fair" decided to "tackle a bigger than normal project," Heaton said. He estimated that for a cash outlay of about $1,000, the club was able to give between $2,500 and $3,000 worth of protection.

"The materials were bought at dealer's cost or below and I would say we had at least 200 man-hours donated. That 200 hours is a conservative estimate. These guys really worked."

Heaton said effects of the work were already felt, literally, Saturday afternoon. At one home, a crew found a door that hadn't closed for 15 years. "They had to plane three-eighths of an inch off the bottom before they could begin insulating," he said. Other homeowners said they felt warmth in areas that had always been cold.

Ben Kohler, 3220 Good, who served on the club's screening committee, said the Jaycees' project would result in cutting over-all heat loss in each of the 13 houses by at least 40 per cent. "A single pane of glass," he explained, "at 10 below zero will lose 110 BTUs per square foot per hour. With double glass, visqueen or storm windows, that same window will lose only 70 BTUs—that's 40 per cent right there. The ceiling looses about 14 to 17 BTUs per square foot, and insulation cuts that down to about 5 BTUs. I'd say 40 per cent is a good, conservative figure."

Homes for the winterizing project were selected, Kohler said, on the basis of several points: The person must own his own home; he must be a senior citizen; he must not be able to afford to purchase insulation at regular prices; the house must be insulatable and must not be in a renewal or other area where it would be likely to be destroyed in the near future.

Heaton said he was "very pleased with the reception from club members and from the people we've helped. Our guys could have been out watching the parade this morning, but instead, they were up in attics getting dirty. I'd have to say, and I think the others will agree, this has been one of the really enjoyable days of my life. Everybody has been just grand."

THE NEGATIVE EFFECTS OF EPA REGULATIONS

Mr. FANNIN. Mr. President, when Congress first began to discuss the need to protect air and water quality for the sake of public health, we agreed that we must establish standards of quality and aid the States in meeting these levels. Unfortunately, under the pressure of court suits and arbitrary deadlines—largely set by Congress—the EPA regulations pursuant to programs under such legislation as the Clean Air Act have cost the public and industry dearly in the form of jobs and plant efficiency, to say nothing of the actual monetary cost of pollution equipment which is often judged obsolete months later.

Though our intent in environmental legislation has been admirable, our results have been unreasonable and unrealistic. I and my constituents in Arizona are willing to pay for clean air and water, but we resent programs which are clumsily administered without regard for the unique situation in each State and with each different industry.

The Clean Air Act regulations presently facing the copper industry in southern Arizona are a perfect example of an ill-considered approach which in turn forces the private sector to pay exorbitant prices for environmental protection. According to spokesmen from Arizona's copper producers, the regulations are severe enough to force smelter closings. As producer of over 53 percent of the Nation's newly mined copper, and as a major Arizona employer, the Arizona copper industry must not be forced to abide by regulations which are totally unreasonable and which are aimed at meeting deadlines instead of air quality standards. The EPA is presently conducting hearings in several mining towns in southern Arizona, but I would like to share information on this situation with my colleagues, as we will soon be discussing amendments to the Clean Air Act which may even aggravate an already dangerous situation.

Mr. President, I ask unanimous consent to have printed in the Record articles from the Arizona Silverbelt and the Bisbee Review weekly newspapers, outlining the consequences of the EPA regulations for Arizona copper mining communities.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Arizona Silver Belt, Dec. 4, 1975]

EPA RULES COULD CLOSE SMELTER

"If the EPA regulations are enacted as written, it will shut our smelter down!" This is what Douglas Middleton, vice president and general manager of Inspiration Consolidated Copper Company, told members of the Globe and Miami city councils Monday night.

Middleton appealed to the governing bodies of the two towns for assistance in protesting new proposed regulations for smelter emission control announced by the Environmental Protection Agency (EPA).

The Globe Council took immediate action in adopting a resolution supporting Inspiration and a special meeting of the Miami Town Council has been called for Monday to pass a similar resolution.

Mayor Katie Weimer of Miami and G. H. (Hank) Williams of Globe both stated they would appear at the hearings scheduled at 1:30 and 7:30 p.m., Friday, December 13, in the Miami High School Auditorium to represent their individual communities.

The new EPA regulations would require the removal of 98 percent of the sulfur dioxide from the smelter's emissions, a standard which Middleton said was impossible to meet.

"If enacted," the mining official declared, "the new regulations would make the newly constructed Inspiration smelter facilities obsolete." Inspiration has spent in excess of $60 million dollars since 1971 to build what Middleton described as the cleanest smelter facility in Arizona."

State regulations require the removal of 90 percent of the sulfur dioxide from emissions and Inspiration has met this requirement and at the time of licensing, the acid plant was removing 92 percent of the sulfur dioxide from the emissions.

In his presentations to the two councils Middleton asked that residents of the area consider two questions:

How do the people feel about pollution of the smelter when it is working as it should?

What would be the economic and sociological impact in the community if Inspiration had to shut down?

Both mayors used local residents to attend one of the EPA hearings to provide input, if possible, but to indicate support for Inspiration in any event.

Middleton and other Inspiration officials are busily preparing technical data upon which to base arguments that the EPA rules are too stringent for compliance and that as applied to Inspiration are from three to 10 times more stringent than those proposed for other smelters in the state.

Further community support is being solicited by the legislative committee of the Globe Chamber of Commerce which has prepared a fact sheet of information regarding the economic impact of the smelter operation on the area.

The committee has prepared a statement which is reproduced with this story asking concerned citizens to take part in the hearings and protest "impossible air standards . . . thus causing a collapse of the economic base in Globe-Miami and throughout Arizona."

Area citizens were asked to sign a statement contained in today's Silver Belt and return it to the Chamber office on North Broad or mail it to the chamber at P.O. Box 2539, Globe, 85501.

Concerned citizens and organization representatives are being asked by the chamber to attend the hearings December 13.

Factual information concerning the economic impact the implementation of the proposed regulations would have on the Globe-Miami area is available at the chamber office, and citizens are urged to prepare statements for the hearing.

Included among the facts assembled by the chamber committee are 13 points of information:

1. Wages and salaries paid to area mining employees in 1975 will total $36 million, not including fringe benefits, or thousands of dollars in civic contributions. These dollars are multiplied three to four times as they are spent in the community.

2. Gila County mines paid more than $2 million in state property and sales taxes in 1974.

3. Globe-Miami school districts received $1.5 million in state property and severance taxes. Globe and Miami municipal governments received $45,787 in 1975 from the same source.

4. Inspiration has already spent $60 million in air pollution controls which is more than the company's entire capitalization, and has removed 90 per cent of sulfur dioxide emissions.

5. Local mines employ some 2700 people which directly affects 8100 individuals or more than one third of the Globe-Miami population. Hundreds more are employed in mining related industries. In Arizona 64 cents out of every dollar received from copper production is spent in Arizona.

6. During the eight month work stoppage due to the labor dispute in the copper mining industry in 1967–68, retail sales in Gila County dropped $10 million.

7. Inspiration has one of two smelters in Arizona which has already met the 90 per cent standard, but if new regulations are enforced, the cleanest smelter in the state would be forced to close.

8. Mineral production in Gila County in 1973 was valued at $122,980,000 or 10.4 per cent of the state's total.

9. Inspiration was ranked 11th among the nation's leading copper producers in 1974. Cities Service Company which produces 125 million pounds of copper per year from its Pinto Valley operation concentrates depends upon Inspiration for smelting.

10. Arizona Senator Barry Goldwater has recently asked the EPA for an immediate reconsideration and revision of the air quality regulations and said evidence showed the regulations were made in a haphazard manner without proper supporting technical evidence as to whether the standards could be met with presently available technology.

11. We should demand that industry protect and beautify the environment, but we must be more reasonable or we will destroy our industrial base. Our Globe-Miami mining companies have spent millions of dollars in behalf of the environment, beginning this program voluntarily before environmental pressures were ever exerted.

12. Not too long ago, the smoke from the stack was a beautiful symbol of thousands of jobs for the people in our area. Yet over the past decade we have allowed emotionalism to cloud people's good common sense to the point where nonsensical things are being done in the name of beauty and environmentalism.

13. There must be a balance between beautification and economic viability. Beauty can mean untrammeled nature to some and to others food for the table, fuel for the fire, and shelter from the elements.

Representatives of the committee plan to attend the EPA hearing Monday in Douglas to gain insight for the local presentation. If possible, members of the committee also plan to attend the Kennecott hearing in Hayden Wednesday.

Area citizens who may have additional data which would add to the effort being made locally are urged to contact the Globe Chamber and coordinate the presentation of the case for Inspiration and the entire Globe-Miami area.

[From the Bisbee (Ariz.) Review, Dec. 4, 1975]

DOUGLAS SMELTER WILL CLOSE IF EPA INSISTS ON AN ACID PLANT

(By Bill Epler)

If the federal Environmental Protection Agency insists on construction of a sulphuric acid plant at the Douglas smelter, the smelter will be closed. John A. Lentz of Douglas, senior vice president of Phelps Dodge, said the company simply cannot justify expenditure of an estimated $119 million to build the acid plant.

Lentz made the flat statement Monday morning at a special meeting called by the company at the Adams Hotel in Phoenix attended by state legislators, representatives of the news media and officials of several other major mining companies.

The meeting was an outgrowth of the release on Oct. 22 by the EPA of its proposed regulations for the control of sulphur oxide emissions from the state's copper smelters.

Public hearings on the proposed regulations will be held in the Arizona communities in which the state's seven copper smelters are located, beginning next Monday in Douglas.

The Douglas hearing will be held in the high school auditorium. The hearing will be in two sessions, 1:30 in the afternoon and 7:30 in the evening to enable more people to attend.

It is a long and technically involved story, but in essence the EPA's proposed regulations say that it is possible for all the smelters to continue operating in the state, if they meet certain conditions. Among them is the basic requirement each smelter must utilize the intermittent control system, frequently referred to as the "closed-loop system," and must have a sulphuric acid plant to remove sulphur dioxide from converter emissions.

Lentz said at the Phoeniz meeting that after the proposed EPA regulations were published in the Federal Register on Oct. 22 that Phelps Dodge was "aghast" at the requirements and "dismayed" at their implications, especially insofar as the Douglas smelter is concerned.

Lentz related that Phelps Dodge had Stearns Roger Corp. of Denver, one of the largest engineering and construction firms for mining industry plants in the world, survey the Douglas smelter and prepare an estimate of the cost of constructing the kind of an acid plant that would be required.

Stearns Roger conservatively estimated it would cost $119 million. And the way inflation has been going, the plant's costs would likely go at least 50 percent higher than that before it could be completed.

"There is no way we can justify spending that kind of money," Lentz stated. "We would close the smelter first."

The Phelps Dodge official said the company wants to keep the Douglas facility operating. He said that when the company's new Hildalgo smelter in southwestern New Mexico becomes operational within the next several months that no Phelps Dodge mine will be dependent upon the Douglas smelter.

Although it will no longer be essential for Phelps Dodge operations, the company wants to keep the Douglas smelter going to do custom smelting work for others.

This lead Lentz into recounting that Phelps Dodge has 12 years remaining on a 14-year contract with Cyprus Pima Mining Co. to process concentrates from its large copper mine south of Tucson.

Closure of the Douglas smelter would eliminate jobs for its 640 employees, as well as more than 1,100 employees of the Cyprus Pima mining and concentrating operation.

In a statement read at the Phoenix meeting, Paul Allen, president of Cyprus Pima, said the Douglas smelter is currently processing 75 percent of his firm's copper production. Unable to justify it making the investment in the acid plant at Douglas, Cyprus Pima would be forced to shut down its operations at once, Allen said.

It was explained that due to a shortage of smelting facilities, it would be impossible for Cyprus Pima to get its concentrates processed anywhere else.

Jack Boland, Phoenix attorney, stated that if the EPA, after the hearings and upon adoption of the final regulations, continues to insist upon construction of an acid plant at Douglas that the company will immediately file suit in the federal courts. If necessary, the company will pursue the matter all the way to the U.S. Supreme Court, Boland said.

The attorney and other company officials explained that in their opinion the acid plant is not really required to meet reasonable standards for the ambient air, which is the air around the smelter in which people live.

Among the many requirements in the proposed regulations is one that states that certain emission limitations must be met over a six-hour period. Because of the very nature of the smelting process, it is virtually impossible to meet this requirement without raising hope with economic production.

When asked why this six-hour standard was required, an EPA official is reported to have explained that this would make it handy for EPA employees to visit a smelter, set up their measuring devices in the smelter stack, test the emissions to see if standards were being met, and then pack up and go home within a standard eight-hour shift. Mining company officials about slid under the table when they heard that one!

Possible time schedule for closure of the Douglas smelter, if the EPA insists on construction of an acid plant, is very difficult to project at this time, Boland said.

He explained that after the hearings this month, the EPA will take written material and transcripts of verbal presentations back to Washington and study them. It could take from several weeks to many months before the EPA adopts and publishes the final regulations.

If it insists on construction of the acid plant, Phelps Dodge intends to take the matter to court. If it goes all the way to the Supreme Court, it could be several years before the matter is resolved.

Loss of the Douglas would wipe out more than 1,700 jobs, severely damage the economy of the Douglas area and Cochise County, create a serious tax loss problem for the Douglas school districts and threaten continued rail service for Bisbee, Douglas and southern Cochise County as principal business for Southern Pacific is hauling concentrates and supplies to the Douglas smelter and anode copper from the smelter to El Paso.

Next Monday's hearing sessions at Douglas are expected to be lively affairs as the company, many individuals and organizations are planning to protest the threatened loss of the smelter.

TOWARD A SECURE SOCIAL SECURITY

Mr. CHURCH. Mr. President, nearly 32 million persons now receive social security benefits, about one out of every seven Americans.

For the vast majority of older Americans, social security is their primary support.

As things now stand, most retirees do not have private pensions to supplement monthly social security benefits.

Only 1 out of 4 couples receiving social security benefits and 1 out of 10 nonmarried beneficiaries also receive private pensions.

Even when benefits from other Federal programs are considered, only one out of three couples and one out of six individual beneficiaries have a second pension.

These facts underscore the need to assure that the social security system is not only administered efficiently but also impartially.

Social security is simply too important to be exploited for narrow, partisan advantage.

In January, I introduced legislation, S. 388, to help insulate the social security program from political pressures.

My bill would reestablish the Social Security Administration as an independent, nonpolitical agency outside the Department of Health, Education, and Welfare.

Second, it would prohibit the mailing of political notices with social security checks.

Third, S. 388 would separate the transactions of the social security trust funds from the unified budget.

My proposal has generated widespread bipartisan support. In fact, 51 Senators have sponsored this measure, including the majority leader (Mr. Mansfield) and the minority leader (Mr. Scott).

I am also pleased that my Social Security Administration Act has won solid backing from several national senior citizen publications.

One such example is Weekly Review which called S. 388 "the most important piece of legislation affecting social security since Franklin D. Roosevelt signed the program into law 40 years ago."

Mr. President, I commend this article entitled "Toward a Secure Social Security" to my colleagues, and ask unanimous consent that it be printed in the Record at the close of my remarks.

In addition, I ask unanimous consent that a listing of cosponsors of S. 388 be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Weekly Review, Dec. 6, 1975]

Toward a Secure Social Security

Sen. Frank Church of Idaho, Chairman of the Senate Special Committee on Aging, has introduced the most important piece of legislation affecting Social Security since Franklin D. Roosevelt signed the program into law 40 years ago.

The bill, S. 388, also known as the Church Independent Social Security Agency Bill, contains three important provisions.

One, to remove the Social Security Administration from the Department of Health, Education and Welfare and to create an independent Agency administered by a 3-man board, with no more than two members from the same political party. The President, with the approval of the Senate, will appoint the members to the board for a 5-year term.

Two, to prohibit any Administration from using SSA for political purposes. More specifically, the Church bill would make it illegal to mail any literature, with the Social Security or Supplimentary Security checks, that would make reference by name or title to any officer of the United States.

Three, to prohibit the counting of Social Security Trust Funds as part of the general revenues of the Federal Budget.

The reasons that prompted Sen. Church to introduce the bill are many.

The Social Security is a state-operated insurance agency that derives its funds from the hard labor of the working people. It is only fair that these funds should be administered by an independent agency.

In October 1972, the Committee to Reelect the President used the SSA for political trickery by mailing a note with the Social Security checks, reminding the recipients that Nixon was responsible for the increase in Social Security benefits.

There have also been charges that the Social Security Trust funds have been used to offset budget deficit caused by irresponsible expenditure on military hardware.

In spite of these reasons, only 38 Senators have committed to support the Church bill.

Sponsors of S. 388, Social Security Administration Act

Senators Church, Clark, Humphrey, Kennedy, Biden, Ribicoff, Williams, Burdick, Tunney, Huddleston, Hart (Michigan), Hatfield, Schweiker, Jackson, McGovern, Abourezk, McGee, Scott (Pennsylvania), Cannon, Bayh, McIntyre, Stevenson, Case, Brock, Inouye, Pell.

Senators Hartke, Symington, Brooke, Randolph, Javits, Stone, Mondale, Magnuson, Montoya, Metcalf, Eagleton, Nelson, Hollings, Eastland, Stafford, Domenici, Mathias, Haskell, Pastore, Moss, Durkin, Mansfield, Allen, Leahy, Morgan.

COOPERATIVES IN THE GRAIN EXPORT MARKET

Mr. HUMPHREY. Mr. President, for some time I have been concerned that farmer cooperatives assemble large quantities of grain for export, yet are almost totally dependent on the large international grain traders for making the export sales. In the last few months news reports indicate that these multinational firms are acquiring increasing numbers of grain-handling facilities near the sources of grain supplies in this country.

I am concerned that the cooperatives are at a competitive disadvantage in responding to the greatly increased export demand for grains in recent years. Dr. Michael Phillips, Agricultural Economist, Farmers Cooperative Service, USDA, has made a timely analysis of the competitive position of farmers cooperatives in the export grain trade and has indicated the courses of action family farmers may take to improve their position.

Dr. Phillips finds that producer-owned cooperatives have accounted for only 7 percent of the grain exports since 1971, in contrast to 85 percent of the exports being made by the five large multinational grain traders: Cargill, Continental, Cook Industries, Bunge, and Dreyfus.

He finds the general requirements for exporting grain are: First, a worldwide market information system; second, an economic research staff; third, worldwide sales network; fourth, flexible delivery terms; fifth, alternative port loading facilities; and sixth, ability to accept risk.

Dr. Phillips finds that cooperatives can strengthen their position in the export grain market with a more coordinated approach.

I ask unanimous consent that this excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE STATUS OF COOPERATIVES IN THE IMPERFECTLY COMPETITIVE GRAIN EXPORT MARKET

(By Michael J. Phillips)

As agriculture becomes more integrated in a horizontal, vertical and conglomerate sense, farmers find themselves more involved in imperfectly competitive markets. This statement may raise the eyebrows of economists who cling to the notion that agriculture is still the purest example of perfectly competitive markets. However, a classic example of this developing phenomenon is the grain industry, where changes in the nature of demand for U.S. grains is requiring a better understanding of this industry's competitive structure.

This paper's basic premise is that grain producers are increasingly becoming involved in imperfectly competitive markets and that their status via their own cooperatives is tenuous. Discussion is divided into four parts: (1) It will verify that the nature of demand for U.S. grain has changed and that grain exports are vitally important to the industry; (2) It will argue that farmers are competing in an imperfectly competitive market for grain exports; (3) It will show that family farmers through their cooperatives are not in a competitive position vis-a-vis the competition; and (4) It will lay out alternative courses of action the family farmer may follow.

THE CHANGING NATURE OF DEMAND FOR U.S. GRAIN

The U.S. grain industry underwent a dramatic change between 1972 and 1974, a period in which exports increased from $7 billion to $21 billion.[1] The importance in the change, however, was not in the price increase itself but in the nature of the demand that brought about the price increase.

Through the sixties and up to 1972, Government with its large grain surpluses was the prime determinant of farm prices. In 1974, without these large surpluses, the prime determinant of farm prices was export demand. Domestic demand for major grains is relatively constant. For example, between 1970–74, domestic demand for wheat decreased 11 percent, corn increased 14 percent and soybeans increased 12 percent. On the other hand, export demand between 1970–74 for U.S. wheat increased 47 percent, corn 58 percent and soybeans 13 percent.[2] As long as Government is not holding large surpluses, export demand is going to play a significant role in determining agricultural prices.

This fact is particularly important to producers and marketers of wheat, soybeans, corn and grain sorghum. These crops are the four leading agricultural exports as a percent of farm sales. Since 1972, 75 percent of the wheat; 55 percent of the soybeans, and 30 percent of the corn and grain sorghum have been exported.[3]

Export volume of these major grains increased significantly since 1960, from .9 billion bushels to 2.9 billion bushels in 1973.[4] In 1974, exports were less due to a bad crop year. However, USDA economists projecting to 1985 predict the U.S. will experience continued growth in export demand for agricultural products.

Therefore, if the prime determinant of agricultural prices continues to be the export market and if demand does increase over the next decade the conclusion is obvious: Exports will be increasingly significant and farmers will need a better understanding of this grain export industry.

COMPETITIVE STRUCTURE OF THE GRAIN EXPORT INDUSTRY

Using the Bain classification of markets by defining the market share of the four or eight largest firms in an industry, conclusions can be reached with regard to seller concentration or the competitive elements of an industry. Basically, the higher the seller concentration the more oligopolistic or imperfectly competitive the industry. Conversely, the lower the seller concentration the more atomistic or perfectly competitive the industry.

In the grain industry many merchandising and processing firms do some overseas business but five firms dominate the U.S. grain export industry accounting for 85 percent of total exports. Since 1971, Cargill and Continental, each have had about 25 percent of the U.S. exports; Cook Industries, 15 percent; and Bunge and Louis Dreyfus corporations, 10 percent each.[5] These companies, which basically comprise the grain export industry, are multinational, diversified and closely held corporations. They are multinational in the sense that they operate on a world-wide scale, buying and selling grain from and to any country. They are diversified companies dealing in such varied industries as leather goods, pet food, termite control, insurance, cotton merchandising and fishing fleets—just to name a few. These companies, with the exception of one, are closely held corporations in which family members and a small number of key executive own the major portion of the stock.

The rest of the grain export industry is much different. Of the remaining 15 percent of the market, 8 percent is divided among five small export companies and the remaining 7 percent among four producer-owned cooperatives.[6] The 7 percent market share accounts for family farmers' direct representation in the export market. No individual cooperative accounts for more than 2.3 percent of the market. Thus, the largest cooperative exporter is competing with firms at least five times its size.

This weak position of cooperatives in the final export market is not indicative of cooperative strengths at other levels in the grain marketing system. Cooperatives are in a relatively stronger position further back in the marketing channel. At the point of first receipt, or the local level, cooperatives handle about 41 percent of the off-farm grain sales. About 90 percent of these locals are affiliated with regional cooperatives, yet these regionals get only one-half or about 19 percent of the off-farm sales. The rest of local cooperative grain is sold to the non-cooperative grain trade. Regional cooperatives make available for export 9 percent of off-farm sales and directly export 3 percent of off-farm sales; which is equivalent to 7 percent of total U.S. grain exports.

In contrast to the cooperative position the firms that dominate the industry become weaker further back in the marketing channel. They rely heavily on the cooperative sector to procure their grain for export. Regional cooperatives from 1972–74 sold the bulk of their grain for export to the five major companies. By commodity, regional cooperatives sold for export 85 percent of their wheat, 63 percent of their corn and 64 percent of their soybeans to the major companies who then made the direct sale. More than 60 percent of that grain was put through a cooperative port facility.

Thus, while the cooperatives assemble large quantities of grain for export they are almost totally dependent upon the dominant firms to market the grain for export. A better understanding of the industry is needed to learn why this situation exists.

Agricultural economists outside of the export industry know very little about it. However, general requirements for exporting grain are: (1) A world-wide market information system, (2) an economic research staff, (3) world-wide sales network, (4) flexible delivery terms, (5) alternative port loading facilities and (6) ability to accept risk.

(1) World-wide market information system: Probably the most basic requirement for exporting grain is the need for information. The dominant firms gather information on the world supply and demand situation, the importing country's supply and demand situation, information on transportation, information on U.S. and foreign government policies and programs as well as information on the competition. This is usually computerized on a world-wide basis and compiled in central headquarters for evaluation. Cooperatives exporting grain have no such system. In contrast to the dominant firms, the information gathered by cooperatives is totally inadequate. Sustaining such a large-scale information system requires an organization of substantial size, which in the grain export business at the present time means a market share of about 10 percent. As previously stated, no individual cooperative has more than 2.3 percent of the market.

(2) Economic research staff: Evaluating this massive amount of information gathered by the dominant firms requires a substantial and well trained economic staff. These firms use a staff of economists to analyze supply and demand data and recommend alternative

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Footnotes at end of article.

courses of action to the sales management staff. They also become involved in the long-range planning strategies for the company. No cooperative exporting grain has an economic research staff. Information the cooperative does have is analyzed by the traders. There is also no staff involved in long-range corporate planning. Lack of these functions severely limits cooperatives' export marketing ability.

(3) World-wide sales network: Establishing connections in foreign markets is accomplished by the dominant firms by either (1) establishing and staffing overseas offices or (2) use of commissioned agents. From what is known about the dominant firms, they emphasize establishing sales offices and using their own personnel.

In contrast, cooperatives have no sales offices in the countries they market grain. Cooperatives rely entirely on commissioned agents to make their sales as well as provide them with market information. Buyers wanting to purchase grain from a cooperative find it difficult to establish connections, as opposed to locating the office of one of the dominant grain firms.

(4) Flexible terms of delivery: Delivery terms of grain to the buyer are of two basic types. The most commonly used terms are f.o.b. (free on board) ship and c.i.f. (cost, insurance, freight) a foreign port. Delivery terms f.o.b. basically mean an exporter is responsible for the grain only until it is loaded on ship. The buyer arranges and pays for the ocean transportation. With delivery terms of c.i.f., it is the responsibility of the exporter to obtain the shipping vessel, schedule it for delivery and be responsible for the grain until it reaches the port of destination. The dominant exporting firms are able to deliver both c.i.f. and f.o.b. Cooperatives do not have this flexibility. Almost all cooperative export sales are on a f.o.b. ship basis. This lack of flexibility handicaps cooperatives competing with the major grain firms.

(5) Alternative port location: The flexibility to deliver from a number of port locations in the U.S. is a characteristic of the dominant firms. This is quite an advantage as it allows the exporter to coordinate sales inland to the most economical port location for the foreign buyer. Under the present cooperative system, each cooperative has its own port location and transports grain only through the cooperative's own facility. Very little coordination exists in using cooperative port facilities on a joint basis and taking advantage of many of the economies in transportation and scale that the dominant firms enjoy.

(6) Ability to accept risk: The size and scope of the dominant firms, which includes their vast diversification, places them in a good position to assume many of the risks involved in exporting grain. These risks include being in a long or short position for any great length of time, risk in chartering ocean freight, and risks in delivering grain to the port of destination Any of these risks is too great for any single cooperative to accept. The large size and diversification of the dominant firms allow them to accept these risks by being able to absorb any losses in the short run without threatening the survival of the organization. This is not true for cooperatives.

ALTERNATIVE COURSES OF ACTION BY COOPERATIVES

Cooperatives can strengthen their competitive position in the imperfectly competitive grain export market through several courses of action. At a minimum they need a more coordinated approach to the export market. At least three courses of action are available:

(1) Procure grain for the dominant firms: On an individual cooperative basis, it can be argued that this course of action is already taking place. However, inherent in this alternative is procuring and marketing grain to the dominant firms on a more coordinated basis. This course of action takes advantage of cooperatives' expertise in procuring grain and the dominant firms' expertise in marketing the grain for export.

(2) Make all export sales: Marketing all grain on a joint cooperative basis direct to the foreign buyer essentially bypasses the dominant firms and competes with them in the export market. This requires establishing a worldwide sales system and all the other requirements needed to sell direct to foreign buyers.

(3) Use a combination of strategies: This alternative involves selling to the dominant firms and to the foreign buyer direct. It requires continuing to develop export markets already penetrated by cooperatives and continue to sell grain to the dominant firms for export only in a more coordinated cooperatives system.

No effort has been made to analyze these various strategies. To do so requires more research of the grain export industry, which at the present time is lacking in land-grant universities as well as USDA. Cooperatives need to analyze further their status in the grain industry and the course of action they are to pursue if they want to become a stronger competitor in the grain industry.

FOOTNOTES

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[1] U.S. Department of Agriculture, Economic Research Service, *U.S. Foreign Agricultural Trade Statistical Report, Fiscal Year 1974, p. 1.*

[2] U.S. Department of Agriculture, Economic Research Service, *Wheat Situation, Feed Situation and Fats and Oil Situation*, WS–230, Fds–252 and FOS–277 respectively, pp. 2, 16 & 2 respectively.

[3] Ibid.

[4] U.S. Department of Agriculture, Economic Research Service, *U.S. Foreign Agricultural Trade Statistical Report, Fiscal Year 1974, pp. 8–9.*

[5] Compiled from statistics furnished by the North American Export Grain Association, Inc.

[6] Ibid.

ADDRESS BY SENATOR JOHN CULVER: "LOOKING AT THE FUTURE—A RATIONAL PROCESS"

Mr. GLENN. Mr. President, in the early part of 1976, the Government Operations Committee will be holding hearings, which I will have the privilege of chairing, on how best we Americans can evaluate alternative future goals in energy, transportation, population distribution, economic growth, governmental and corporate structure, possible technological advances, and other identifiable factors which are basic to the future of our Nation, and our civilization. We will also explore how we should move to achieve those goals identified as necessary and desirable.

My distinguished colleague from Iowa, Senator JOHN CULVER, has the foresight to know how necessary cooperation among all levels of government is and will be in identifying and achieving these goals. Senator CULVER was instrumental in establishing a State futures-evaluation program, known as Iowa 2000.

When initiating the idea for Iowa 2000 in 1972, Senator CULVER stated:

> We need to be aggressively looking towards our future, deciding on the kinds of priorities we want for ourselves right here at home, and giving hard thoughts to the steps we will need to take to achieve them.

In a recent address to the Iowa Commonwealth Conference at the University of Iowa, Senator CULVER discussed the processes by which we can achieve the identification and realization of these National, State, and local goals for the year 2000. I recommend a study of the full text of his searching remarks, but would like to underline two most important points the Senator makes:

First, the process of identifying goals is, and must continue to be, a "rational" process—"a rational study of future options available to us, based on multidisciplinary research to determine the most likely course of events."

Second, these processes must be from the bottom up; not from the top down—there must be active involvement of Americans at the grassroots level—there must be involvement and shared decisionmaking by Americans all across America; not dictation of where this Nation is to go by a few elite seated at their ivory computers.

> I believe we can and must work out a form of national planning that will not be coercive but at the same time will provide both government and the private sector with the kind and quantity of information on which rational decisions for the future can be made, and so that we successfully preserve the opportunity for free choice.

Mr. President, I should like to share Senator CULVER's thoughts on this vital issue with my colleagues. I ask unanimous consent that the full text of his address at the University of Iowa, as well as the introductory remarks by Dr. William Shanhouse, vice president of the University of Iowa, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL-STATE AND FEDERAL-LOCAL RELATIONS IN THE YEAR 2000

(Remarks by Senator JOHN CULVER)

A committee, organized in 1486 at the command of King Ferdinand and Queen Isabella of Spain, to study Columbus' plans to sail west to find a shorter route to the Indies, reported in 1490 that such a voyage was impossible for various reasons, including these:

The western ocean is infinite and perhaps unnavigable.

If he reached the other side of the globe—the antipodes—he could not get back.

So many centuries after the creation, it was unlikely that anyone could find hitherto unknown lands of any value.

I would point out that the attitude of that royal committee in 15th century Spain was in marked contrast to the response of the people of Iowa—including the governor, the legislature and the State's civic leaders—to the idea of initiating an "Iowa 2000" project in the year 1972.

Like the proposed voyage of Columbus, the Iowa 2000 futures project was a projected trip into the unknown. But the response in our State to the idea was overwhelmingly affirmative. And now, in an incredibly short space of time, more than 50,000 concerned Iowans have become involved in this vast and imaginative undertaking. The project's task forces on natural resources, energy, economic development, and life enhancement, have all made a significant contribution in assembling necessary information on which enlightened decisions concerning Iowa's future can be made. I note that this work will continue in the course of this commonwealth conference today.

As one who believes devoutly that to neglect the study of the future is to betray the heritage of the past, I want to salute all of you who have had a part in Iowa 2000.

In order for me to make any kind of meaningful commentary on what Federal-State and Federal-local relations will be, 25 years hence, I need to lay out for you first the premises or beliefs from which I proceed.

As we near the completion of the first two hundred years of our republic, I believe we have reached the point where there is an imperative need for comprehensive, long-range national planning. In this era of accelerated change, we simply can't afford to reel along from one crisis to another as we are doing now.

For one thing, resource shortages in the years ahead are going to compel some coordinated national effort to pull together information and foresight capabilities to match scarce resources with consumption in a manner that will serve both the public interest and the needs of the private sector.

But the need for national planning, of course, goes beyond the objective of preserving the health of the economy with respect to resources and beyond the goal of developing long-range and budget policies designed to avoid both recession and inflation.

It goes to the heart of setting our national goals five, twenty, thirty years ahead, to meet public needs in health, education, housing, employment, transportation, preservation of the environment, national defense, and other vital areas.

The opponents of national planning are concerned—and I share their concern—about the danger that a planned society could become a regimented society where big brother takes over and free thought and initiative are stifled.

But I believe we can and must work out a form of national planning that will not be coercive but at the same time will provide both government and the private sector with the kind and quantity of information on which rational decisions for the future can be made and so that we successfully preserve the opportunity for free choice.

One way of avoiding over-concentration of power in national planning is to make a conscious effort to decentralize the planning process itself.

For this, our federal-state-local system provides the ideal format.

Planning must be increasingly done, in the years ahead, at the local level, and more and more citizens must be drawn into the information-gathering and decision-making processes. I recognize that we can't go back to the New England town meeting, and I am aware of the difficulties of getting consensus out of people at the local level.

But if we are to do the kind of national planning that will better enable us to avoid the crises of the future, without yielding our individual freedoms, I believe this is the way it will need to be done.

And our federal system offers a range of opportunities for participatory democracy that we have barely begun to tap up to now.

My view of what the state of the federal system will be in the year 2000 is conditioned by my faith that through disciplined planning and the development of effective foresight capability, we can do something about shaping our destiny as a society. I do not subscribe to the gloomy determinism that sees the future as disaster overtaking us, regardless of what we do.

Futurists deal with what they call "alternative futures"—based not on certainties but on highly likely possibilities. Obviously, the future is not always a direct continuation of the past. If nuclear war or some other world disaster strikes or if we experience a revolution of new break-throughs in technology, then all bets are off.

But the kind of long-range planning to which I refer is a rational study of future options available to us, based on multidisciplinary research to determine the most likely course of events.

This kind of study of the future may read like science fiction at times, but it is basically the essence of practicality and good sense.

The state of our federal system in 2000 will, of course, reflect the dramatic changes in our general environment that will have taken place by that time.

The technical changes are perhaps what first come to mind. Air transit at 4,000 miles an hour will be taken for granted. The computer and communications revolution will have a greater influence on our society than the industrial revolution. Computerized television terminals will be owned by most families, permitting a wide range of activities to be carried out via electronic communication at home. A permanent manned base on the moon is within the range of probability.

Control of most bacterial and viral diseases will be achieved. There is a good chance that a baby's sex will be predictable.

Migration into cities and suburbs is expected to continue, perhaps accelerate. The current trend toward smaller families will continue. The number of Americans 65 and older will increase substantially. An average of the forecasts of what the total population will be is around 250 million.

Most health care will be covered by national health insurance. Basic causes of heart disease and cancer may have been found.

There will still be problems with shortages—essential minerals, as well as oil, although synthetics will have been developed to fill some of the needs. Shortage of water may well be one of our principal concerns.

It is predicted that the average workweek will be a little shorter—perhaps 36 hours. Education, it is predicted, will be increasingly a lifelong process, pursued on an intermittent, rather than a concentrated schedule. Pollution will still be a problem although technology will have made great strides—e.g. in the depollution of inland waters. The production of artificial protein may ease the world food situation somewhat. There will have been significant progress in the development of alternate energy sources. Although the private automobile will still be with us, driving in congested urban areas will give way to mass transit systems and special routes above and below street levels.

The gross national product will take a quantum leap—perhaps to three trillion dollars annually. Despite inevitably increasing government controls, private enterprise will still be functioning in most areas of commerce.

It is foreseen that urban concentration by 2000 will have reached the point where five-sixths of the nation's population will be living in one-sixth of the land area. Labor on farms will continue to give way to machinery and chemicals. Projections show as much as a 70 percent increase in state and local governments—nearly four times more than the expected increase in federal employment.

Urban problems—crime, poverty, pollution, concentration of minorities in central cities—will doubtless still torment us. The present trend of increasing demand for outdoor recreation space will have greatly accelerated by the end of the century.

Racial tension will diminish, although it will remain a problem. Unconventional family forms and life styles will continue to be in evidence. The percentage of working women will rise from the present 38 percent to about 46 percent and the role and status of women in our society will be substantially strengthened.

I have touched on only a few aspects of the changed context to which our federal system will be required to adapt in another 25 years.

Obviously, 2000 will be dramatically different from 1975 in many ways.

Yet, as we all know, many of the same human problems and concerns will remain as they are today.

In terms of the explosive growth of knowledge and the pace of accelerated change we will experience in the final quarter of this century, the year 2000 seems light years away.

Yet it is not as remote in time as World War II.

To millions of Americans, that seems like only yesterday.

I personally see our three-level federal system continuing to operate in the year 2000 in substantially its present form.

Despite its admitted imperfections, the system has been serviceable and durable over the years, and, like the constitution itself, has, in the overall view, proved itself adaptable to new problems and stresses brought about by industrialization and other powerful trends in our country's development.

I have faith that the capabilities are in the system although there are certain areas in which it has notably failed thus far and the agenda of unfinished business is a matter of general concern.

The Federal system, like all governmental systems, has been resistant to institutional change, and it is clear that there must be such change in the years ahead if we are to cope with such major social problems as crime, proverty, the plight of the cities, the energy crisis, and many other national problems.

I believe that slowly but surely on the Federal level and in the other jurisdictions, we are facing the imperative need for such change and that it will spell the difference.

The idea of getting government out of private business and our private lives is attractive, but scarcely realistic. Government at all levels will be required to perform an increasing number of regulatory functions, in the years ahead, made necessary by new stresses on our society.

While regulation will continue, reorganization of our Federal and State regulatory systems is a priority item on the list of needed institutional reforms.

Local government officials, businesses and private individuals are in open revolt against unnecessarily stringent regulations and nonessential paperwork required by the Federal and State governments. I believe the message is, at long last, getting through.

When we think of the federal establishment, we are more inclined to think of programs that didn't entirely succeed rather than those that did. With regard to this, the point has been aptly made that features of our governmental system most protested by one generation often become the qualities most valued by the next.

Moreover, we have asked too much and expected too much of the Federal Government. I agree with President Boyd in his admonition to the Iowa 2000 commission to search for non-governmental solutions wherever possible.

I believe the Federal Government will be continuing its traditional role in the Federal system, although with some significant modifications. Reforms under consideration in the Congress at the present time could spell a vast difference in the Federal Government's ability to carry out its intergovernmental functions more effectively.

The role of local government will have both changed in some respects and grown by the end of the century—particularly with respect to the planning function. The bulk of the Nation's planning, I am convinced, must be done at the grass roots level.

As I stated earlier, I expect an even-increasing number of citizens to be participating in governmental decision-making. This is not going to be a rose garden for those in positions of leadership, but there is no other way if we are to avoid centralization of power as we move into long-range national planning.

The trend toward the consolidation of local government units and intergovernmental arrangements along functional and other lines will have changed the form of local governments substantially by 2000. The convulsions of many city governments these days point up the need for modernization—information systems, personnel recruitment, and, most of all, the establishment of assured financial bases. Experimentation with regional government patterns and other innovations needs to be encouraged and supported in the years ahead.

As the role of local governments grows and cities overflow their boundaries and develop new intergovernmental patterns, the role of the state and regional government will grow correspondingly, as I see it.

General revenue sharing has given state governments as well as local governments a new lease on life, and I believe that revenue sharing is here to stay despite rumblings of criticism of the program in Congress and elsewhere.

Incidentally, it is a matter of pride to me that Iowa has, by and large, made effective and proper use of its revenue sharing funds. This record is of substantial help to those of us in the Congress who are supportive of a five-year extension for the general revenue sharing program.

By the end of the century, I believe we will see both general revenue sharing and categorical programs, as we have today. In my judgment, there is a need for both.

By the end of the century, I believe we will see increased inter-state cooperation in a wide variety of functional areas. I believe additional attention will be given in the years ahead to relating these multi-state organizations to the regional administrative structure of the federal bureaucracy—that is, the federal regional councils.

Land use planning assistance to states will long since have been provided. I believe land use legislation will be enacted by the Congress in the foreseeable future, but if this should not be the case, land use planning assistance can be provided through some existing channel, such as the 701 program, for which such authority currently exists.

By the end of the century, I believe that an inter-governmental mechanism for developing national growth and development policy, as envisaged by the housing and urban development act of 1970, title VII, will be in operation.

These are a few random comments about federal-state and local government relations in the year 2000.

The point I would stress the most is that, as we look to the future a generation away, we can have faith in the viability and continuity of our federal system.

I have described long-range planning as a rational exercise—which indeed it is—but I should add that along with the rationality there must be faith.

I would say, in conclusion, that the approach of our country's 200th birthday provides a symbolic watershed for reacquainting ourselves with the heritage of the first 200 years and for making some dynamic and courageous decisions about the long-range future.

In the first two centuries, we proceeded along developmental lines that were roughly the same from the beginning—aggressive geographical expansion, economic growth, lavish use of resources, and unplanned use of space and energy.

Now we must proceed in a more rational, disciplined and foresighted way if we are to continue the good life.

I am proud that Iowa is in the forefront of this movement.

Introduction of Senator Culver by Dr. William Shanhouse, Vice President, University of Iowa

The great dramatist Henrik Ibsen tells us ". . . Man is in the right who is most closely in league with the future."

Until this morning I had never had the pleasure of meeting Sen. John C. Culver. In seeking information from those who know him well, he has been described as "a man of powerful intellect, committed to excellence; an intense individual with imagination and tenacity; a winning kind of man."

However, in order to get a truly discerning picture of John Culver, I turn to the one person who has known the Senator longest. I called his mother.

Mrs. Culver told me how at the age of 21, John confronted two very successful people whom he deeply admired—his Harvard educated, staunch Republican father and grandfather. He then declared that he was registering with the Democratic Party, and that he would forsake their world of business to pursue a career in politics. His father and grandfather respected his outspoken determination. John Culver knew where he was going.

When initiating the idea for Iowa 2000 in 1972, John Culver stated, ". . . We need to be aggressively looking towards our future, deciding on the kinds of priorities we want for ourselves right here at home, and giving hard thoughts to the steps we will need to take to achieve them."

The future demands planning. But "the paradox of planning is that only action can determine whether the plan is valid."[1]

In looking toward the future we must be prepared to risk the challenge and adventure of the unknown and convert tomorrow's visions into reality.

As Senator Culver recently noted in discussing the goals of the Culver Commission on the Operation of the Senate, "We do not need to be anesthesized or reassured. We need a comprehensive and probing analysis, and a tocsin to action."

President Boyd recently asserted that "People in our society must try new things and new ways—this is the genius of democracy." Senator John C. Culver is most representative of this genius.

U.S. EXPORT POLICY AND NEGOTIATIONS WITH THE SOVIET UNION

Mr. HUMPHREY. Mr. President, I wish to share with this body an editorial in the December 14 Washington Post entitled "What Should Moscow Pay For Grain?"

The question which this editorial poses for U.S. policymakers is what concessions it can legitimately ask of the Soviet Union in return for our grain supplies. It is quite clear that the reduced Soviet grain harvest—now estimated at 137 million metric tons—will pose serious policy choices for the Soviet Union.

Already the Soviet Government has attempted to back out of its agreement with regard to shipping one-third of its American-bought grain on U.S. ships. This development probably signals the beginning of an attempt by the Soviet Union to bargain hard now that it is in a belt-tightening situation.

The Soviet Union obviously could use a great deal more of our grain, but it faces certain serious logistical problems at its ports which will mean that it cannot import much more than it is doing at the present time.

The editorial suggests that access to further supplies of American grain could be linked to a cooperative Soviet attitude in Middle East diplomacy and perhaps a closeout of the Soviet sponsored intervention in Angola.

Our leverage in the grain market does give us certain bargaining chips. We should negotiate firmly but responsibly, remaining alert to the sensitivities and vital interests of the Soviet Union, and avoiding policies and actions which can disrupt America's existing markets for its agricultural exports.

There is little doubt that our attempt to include oil concessions as a part of our grain agreement with the Soviet Union resulted in the loss of soybean sales during the months we established informal export controls.

Again, we see the price that we pay for not having an agricultural policy relating our economic and political interests in the area of grain exports.

Mr. President, I ask unanimous consent that this thoughtful editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

What Should Moscow Pay for Grain?

Kremlin confirmation that the Soviet grain harvest—at 137 million tons, a full third below plan—is the worst in 10 years poses a sharp policy choice for the United States. With the Russians virtually certain to approach Washington to buy more grain, on top of the 12 million tons already ordered for 1975–76, should the United States ask for something more than money in return? Fortunately, American officials, especially in the State Department, are more alert than they were in 1972 when they bailed the Russians out of another (lesser) crop disaster just for cash. This time around, the general disposition is to link a larger grain sale to Soviet concessions on other things. But to what?

One possibility suggested earlier this year was to tie grain sales to a deal for Russian oil. We believed at the time that this was a bad idea, and it has since fallen of its own ponderous weight. It remains possible and worthwhile, however, to link grain sales to greater Soviet cooperation in creating international grain reserves, supplies set aside to stabilize markets and to ensure against famines in the desperate nations. Beyond that, Soviet need affords the United States leverage to make Moscow live up to its earlier agreement to ship at least a third of its American-bought grain on American ships, whose rates are almost double current world shipping rates. The Russians are balking on this agreement. But they will have to bend if they are to assure delivery of the unshipped seven million tons out of the 12 million tons already ordered, let alone assure delivery of any additional supplies.

The more delicate aspect of the question is, of course, whether Washington should also ask Moscow to pay some kind of a political price. That the Russians anticipate and fear such a demand can be inferred from their determination to strike a tough belt-tightening posture—to demonstrate to outsiders that they don't need much more imported grain. On the basis of past record, no one can doubt that the Soviet leadership would, if it felt it necessary, tighten its subjects' belts. That would produce, however, a major deterioration of the Russian diet, reducing the meat component—and this at a time when Mr. Brezhnev presumably is eager to celebrate the gains he has brought to the Soviet consumer.

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[1] Satish B. Parekn, Senior Director of Phelps-Stokes Fund.

What political price could the United States legitimately and effectively demand? The Jackson and Stevenson amendments linking economic relations to Jewish emigration proved one point conclusively: Given harsh and conspicuous foreign pressure on a sensitive internal policy matter, the Kremlin will not easily yield. Nor would it seem productive to ask the Russians to give up anything important bearing directly on their national security; that would rule out any significant linkage to the strategic arms talks, we presume. And, in another framework, it would also be unwise to link grain to any demand that could not be met before the next harvest, for in that event enforcement would itself likely become a bone of contention.

Something not excessively internal, not too close to security, not too long-range: What about a cooperative Soviet attitude in Mideast diplomacy, now perhaps entering an important phase of emphasis on the Palestinian question? What about a closeout of Soviet and Soviet-sponsored intervention in Angola, a place where Moscow is playing out a whole range of adventurous and irresponsible urges? These are the kinds of political matters, we think, that the Russians could properly be expected to address in order to gain further access to American grain.

UNEMPLOYMENT IS DREADFUL

Mr. CHURCH. Mr. President, I was shocked and appalled by a recent Wall Street Journal report on the desperate plight of some of the human beings included in the Nation's unemployment statistics. It is a painful reminder to those of us who are "fully employed," and who are responsible for formulating the Nation's economic policy; we can take no comfort because unemployment did not rise as much this November as it usually does. When jobless people are driven to attempt to sell their kidneys in order to stay alive, then something is drastically wrong with this country's commitment to its most valuable resource. Does the predicament of these people have to turn on a hoped-for increase in consumer demand which will put people back to work and encourage industrial leaders to expand their investment decisions? Recent surveys indicate that consumers are not overly optimistic about the near future. Are policymakers so preoccupied with fear of inflation that human beings are forced to this extreme? What part of their body, much less their dignity, will those who are carrying the burden of this fumbling economy have to sell next? What kind of a country have we got when the economy cannot put people to work, and society cannot take care of the jobless when it does not work?

Mr. President, as this year comes to a close, some 7.2 million Americans are seeking jobs and income they cannot find. Nearly 100,000 workers who were minimally protected by unemployment insurance are exhausting their benefits each week. There are 1½ million more people without jobs just before Christmas this year than last. Monthly data do not really tell the full story: For over the course of 1975, it is likely that 25 to 30 million persons will have experienced at least one period of joblessness?

During 1974, when monthly unemployment averaged 5.1 million people, some 18.1 million different individuals were without jobs at some time during the year. Of these—

Five and four-tenths million, or 30 percent had two or more spells of unemployment during 1974.

Two and six-tenths million, or 18 percent had three or more spells of unemployment.

Two million found no job at all during the year.

One and nine-tenths million had periods of unemployment totaling more than half the year.

Three and one-tenth million were out of work from 15 weeks to half a year.

Five and two-tenths million were unemployed from 5 to 14 weeks.

Three and one-tenth million were Negro and other ethnic minorities, or 26 percent of their number in the labor force.

One and seven-tenths million, or more than 9 percent, were workers over the age of 55.

Eight and seven-tenths million, or 47 percent were in the prime working age group of 25 to 54.

Mr. President, the number of our citizens with the demeaning experience of unemployment will be dramatically higher this year.

Indeed, solving the unemployment problem is complicated by the inflation which has already occurred. In his December 5 appearance before the Joint Economic Committee, Commissioner of Labor Statistics, Julius Shiskin, noted that the number of people working or seeking work has risen by 1¼ million persons during the first 8 months of what we describe as "economic recovery." This is nearly five times the rate of labor force growth during earlier recoveries. Among possible reasons for this, the Commissioner stated:

> . . . the combination of inflation and unemployment has put severe financial pressure on many families and induced an unusually large number of family members to seek jobs.

And that—

> . . . some people who might otherwise have left the labor force may be staying in because of the extension of unemployment benefits. Eligibility for these payments requires the beneficiary to be seeking work.

Mr. President, what greeting do we have for the unemployed this Christmas?

I ask unanimous consent that the article referred to above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 16, 1975]

SPARE PARTS?

Some jobless workers try to sell their kidneys for cash.

Kidney surgeons report an upsurge of offers from cash-starved former workers seeking to sell one of their kidneys. The National Kidney Foundation has had 100 such calls recently, says medical director Dr. Ira Greifer, from people who "needed money." Kidney "for sale" ads have run in New York and Pittsburgh papers, the latter offering a jobless blue-collar worker's kidney for $5,000.

But surgeons shun the idea. St. Louis specialist Dr. Keith Hruska says he blocked a patient's bid for the Pittsburgh kidney because there wasn't likely to be "an acceptable tissue match" and "I also thought it was morally wrong." It's legally wrong, too, in many states, to sell bodily organs, though giving them away is allowed.

Dr. Greifer says the loss of one kidney presents a health risk that "isn't big at all," but, he asks, "why risk anything?"

PATCO LABOR TACTICS: A MOCKERY OF ENERGY CONSERVATION

Mr. DOLE. Mr. President, having discussed the conference reports on two very controversial pieces of legislation dealing with our national labor and energy policies this week, my Senate colleagues should find particularly timely for their attention the substance of a recent telephone call to my office from a very frustrated Kansas constituent.

The conversation in question originated from LaGuardia Airport in New York City with a major commercial airline pilot who is also a part-time farmer back in the southeastern area of my State. He was calling to express his annoyance and bewilderment at just having undergone a 45-minute delay in landing his aircraft due to a Professional Air Traffic Controllers Organization—PATCO—work slowdown.

His concern was not aroused by the personal loss of time experienced by himself and his passengers, but rather by the unnecessary, unreasonable, and unconscionable waste of fuel deliberately precipitated by a labor disagreement. The air traffic controllers were intentionally holding up the arrival and departure of scheduled flights just to demonstrate their protest over current contract negotiations—and the impact was both costly and disruptive.

At a time when the operations divisions of trunk air carriers—as well as the airline pilots themselves—are making a concerted effort to improve fuel efficiency by flying at higher altitudes and lower speeds, among other techniques, he found it very distressing that he should needlessly be placed in a holding pattern 150 miles out and forced to waste away some 7,000 pounds of fuel just to satisfy the objectives of disgruntled PATCO employees. Since he was operating one of the smallest commercial jets in the air—a 2-engine, 80-passenger DC–9—that 7,000 pounds, or 1,000 gallons, was only a very small part of the massive waste which resulted from the slowdown action.

When we consider the size and number of other aircraft going into New York and the fact that a Boeing 727, 707, and 747 will burn 9,000, 10,800, and 19,587 pounds of fuel per hour at holding, respectively, it is obvious that figure would be multiplied several hundred times over—perhaps running into the millions of gallons. In view of the fact the practice has been going on for several weeks now, the losses in terms of energy alone are a disappointment to every citizen in this country who has made a conscientious effort to save our Nation's resources.

Delays caused by congestion or weather are one thing, Mr. President, but those induced by labor disputes which should be settled in more conventional ways are quite another. At LaGuardia on the day of the call, the visibility was an incredibly clear 20 miles, and except for the actions of the controllers, traffic would have proceeded under the most favorable conditions imaginable.

I think my constituent's displeasure over this incident was intensified by his recollection of the difficulty farmers had in getting fuel just for normal plowing, planting, and harvesting operations during our "crisis" periods of 1973 and 1974. Certainly, I can appreciate that feeling myself, having personally assisted in resolving the shortage problems of a great number of Kansans who have had vital requirements in recent years for diesel fuel—which as many Senators know is very similar to jet fuel in the refining process.

Mr. President, if we are ever going to succeed in our energy conservation goals, we are going to have to have the cooperation of everyone—including labor organizations which can surely rely on basic, acceptable means of pursuing their work grievances. For as long as we have inconsistencies of this type in our important national policies, I doubt that we can ever attain the energy independence which we so desperately need.

The actions of the PATCO controllers on this and related occasions are a matter of some concern in my opinion, and should be questioned by those of us in Congress who are serious about our Nation's energy future. It is inappropriate, of course, for us to actively discourage these types of "bargaining" pressures, but I for one think it would be in order for both the FEA and the GAO to determine just how much fuel was senselessly consumed during this episode—and to seek an understanding from those who are responsible.

REGIONAL PRESIDENTIAL PRIMARIES

Mr. MONDALE. Mr. President, 2 weeks ago I introduced S. 2741, a bill which would establish a series of regional Presidential primaries. I indicated at that time that one of my primary purposes in doing so was to help encourage a national debate on whether and how we might restructure the entire means by which we select candidates for the Presidency.

I am pleased that the introduction of S. 2741 has had that effect. Since then a number of editorialists and commentators have focused on the many serious problems contained in our present nominating system and called for its drastic overhaul. My colleague from Minnesota (Mr. Humphrey) was kind enough to have several of these commentaries inserted in the Record of December 11, 1975. Since then more have appeared, and I would like to share them with my colleagues as well.

Mr. President, I ask unanimous consent that the following commentaries be printed in the Record.

There being no objection, the commentaries were ordered to be printed in the Record, as follows:

[From the New Britain (Conn.) Herald, Dec. 8, 1975]

FEWER PRIMARIES

Instead of getting better, it's getting worse. That is, the situation in which a person who wants to become President of these United States has to come up with the job-stealing time, the small fortune, and the physical endurance required to conduct what amounts to 30 mini-presidential campaigns across the country, before he even gets to run the big one itself. That is, assuming he or she wants to compete in all of the state presidential primaries that are now scheduled next year, including the one in the state of Connecticut.

The problem of proliferating primaries has been the subject of scrutiny and reform for some time now. Even when there were fewer such contests nationwide, there was agitation for a national primary, or at least for a series of regional primaries.

Now a man who gave up the presidential race last year for the very reason that he was unwilling to undergo the rigors required by running in up to 30 primaries, Senator Walter Mondale (D-Minn.) has introduced a bill to create a regional primary system.

There have been other regional primary bills before, but Sen. Mondale's is apparently the first of its type to be introduced, one that would divide the country into six regions which are roughly comparable in their populations.

All of New England would be included in one of the six regions, along with New York State and New Jersey. Currently there are six primaries scheduled in this area, in New York, New Jersey, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

Certainly it appears to make electoral sense to be moving toward fewer primaries, even a regional system. Political parties in the United States may not yet be strong enough to justify a single, national presidential primary for each party and states' rights advocates may prevent this from ever happening. But we now have 30 separate state primaries. If this goes all the way to 50 state primaries, why not just hold them all the same day and call it a national presidential primary? Meanwhile a regional primary system might help get voters used to the idea of fewer primaries, and would serve as a half-way house on the road toward total consistency.

[From the Minneapolis Tribune, Dec. 13, 1975]

MONDALE'S REGIONAL PRIMARY BILL

The way presidential candidates are selected "is indisputably one of the most important processes in our entire political system," Sen. Walter Mondale told the U.S. Senate this month, "but it is also, unfortunately, one of the most irrational. It has evolved over nearly 200 years without design, structure or purpose into a complex maze of state laws, party regulations, and unwritten traditions. No other major nation chooses its leaders in such a chaotic manner, and the question is whether we should continue to do so."

Mondale's answer to that last question is no. And as part of a program for changing the selection process—only part, he emphasizes—the Minnesota Democrat has proposed a bill setting up a system of regional primaries. The bill would divide the nation into six regions, each of which would have a primary-election date assigned to it by lot, with the six dates two weeks apart. States within each region would be free to hold primaries or not, but those that did would have to conduct them on their region's election date.

The effect, Mondale says, would be to eliminate both "the disproportionate and unfair advantage" a few states have because their primaries are either very early or very late and "the unseemly race every four years" to hold the nation's first primary. The plan would also shorten the primary campaign and give candidates a chance to present their views in each region. Moreover, it would bring order—and perhaps substantive discussion of issues—to what is now a media event conducted in a circus atmosphere and a game in which candidates vie for psychological advantages over one another.

A side effect of the bill, Mondale says, might be to reduce the number of primaries. "Since no single primary state would be allowed . . . to stand uniquely apart from the other states, but would be compelled instead to share with them the commercial, publicity and other benefits, they might have previously enjoyed, perhaps the idea of holding a primary will be less attractive." And that, the senator suggests, might help restore "a blend of states holding preferential primaries and states using the caucus-convention system of electing (national party) convention delegates"—a blend Mondale says "is now seriously out of balance."

That balance is worth preserving. And Mondale is right in calling the caucus system, used in Minnesota, "one of the healthiest elements in our entire political process because it permits greater and more direct individual participation than any other system." The caucus system lets people take part in the political decision-making process from its beginning instead of making them wait to choose among alternatives others have selected for them.

But changing the primary system would not be enough, Mondale says, because it's only one of the four basic elements in the presidential nominating process. Others are party rules and procedures governing the selection of national convention delegates, the financing of presidential campaigns and the relationship between candidates and the news media. Efforts to solve problems in some elements, Mondale contends, have often resulted in new problems in others, and the nominating process now "desperately needs a comprehensive approach. . . ."

Mondale suggests a presidential commission, comprising "scholars, political figures and ordinary citizens" to take such a comprehensive look and report back after the 1976 election. "I can think of no more worthy or appropriate undertaking in our nation's 200th year as we celebrate the blessings of our democratic system than to begin a serious effort to improve one the most important elements of that system," he told the Senate. Nor can we. Mondale has performed an important public service by suggesting the effort and by providing, in his primary bill, a focus for part of the needed discussion.

[From the New York Times, Dec. 16. 1975]

THE PRIMARY PROBLEM

Senator Mondale of Minnesota has joined the ranks of thoughtful politicians who are bent on modifying that once highly touted reform, the Presidential primary. The nominating process has come a long distance since such progressive states as Oregon and Wisconsin offered the direct primary as the way to freedom from party bosses. That purpose was sometimes well served; but, as with so many cures, the side effects have proved harmful in their own right.

Senator Mondale, convinced that the system now "verges on anarchy," would drastically alter it with a bill to create six regional primaries instead. The idea is not new. Senator Packwood of Oregon and Representative Udall of Arizona have been nursing similar legislation, while Senator Mansfield of Montana and others favor a nationwide primary held on a single day.

Like the original concept itself, these variations pose difficulties. In particular, a national primary might, if a party had many candidates in the field, required a run-off, exposing the aspirants, not to mention the voters, to three nationwide elections, at a staggering expenditure of money and energy.

Yet even that drawback might be preferable to the present hodgepodge, in which 30 states offer 30 different sets of rules and opportunities, allowing a candidate to shop for political terrain that favors him while ignoring states where he might lose. Throughout the process as it stands now, the emphasis is on a trumped-up "psychology." The objective is to create a snowball effect by snatching early victories—or even making showings that can be blown up as victories—in a few unrepresentative states that catch all the attention of the media because they are the first to be heard from.

A regional system, with five or six primary election days for the entire process, might not eliminate this snowball effect entirely. But where it developed, it would at least be based on something more valid than a minority turnout of a minority party of a tiny state like New Hampshire—or a free-for-all among nine or ten candidates in Florida, with none of them getting a really significant proportion of the vote.

It is premature to regard the Presidential primary as expendable, but good sense demands at the very least a drastic move toward uniform rule and a curtailment of what Senator Packwood has rightly described as "a Barnum and Bailey traveling sideshow" that leaves the candidates "tired and broke, and the public bored or bewildered and—far too often—disgusted."

REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975—H.R. 4073

Mr. MONTOYA. Mr. President, the Regional Development Act Amendments of 1975 are something of a landmark for regional economic development in the United States today. Essentially, this act extends some of the same authorities of the Appalachian Regional Development Act to the other regions of the Nation.

The conference report continues the programs of Appalachia for another 4 years as the administration proposed. Congress in this act also recognizes the successes and the great benefits these programs have achieved in the Appalachian communities and agrees to such an extension, together with important amendments that will improve present programs.

Many Members of the Senate have been aware that the other seven regional commissions, established largely on the Appalachian model, have not enjoyed the same kind of approval from the administration. It has said: "OK, if we must have these commissions, let us keep them modest in program authority and modestly funded."

Through the efforts of many Senators—not least of whom are Senators McCLELLAN and MANSFIELD—we bring this conference report to the floor for final approval that at least provides greater authority in both programs and funding to these regional action planning commissions on a scale of some comparability with Appalachia.

The Senate bill—the Regional Development Act of 1975—provided a 2-year extension of the Appalachian programs. It provided also a 2-year extension of the title V regional commissions in order to put them on the same cycle as the Appalachian Act.

For the first time, the commissions are given authority like those in the Appalachian Act in areas of health and vocational education. New authorities are also provided in energy and transportation. The authorization for the present fiscal year is raised from $150 million to $200 million, with $50 million for the transitional quarter, and then to $250 million for fiscal year 1977.

Most people know that the gap between authorization and appropriations—close to 4 to 1—for the title V Commissions has been one of the best jokes in Washington. This year we were able—through the initiatives of Senators McCLELLAN, PASTORE and others—to raise that ratio to about 5 to 2.

Those of us who have championed the upgrading of these Commissions can take some pride in this bill. But we did not get everything we sought. We wanted the seven Commissions on the same authority cycle as the Appalachian Regional Commission. In the Senate bill, all Commissions were on the same cycle. The earlier passed House bill was simply an extension of the Appalachian programs for 4 years. The House conferees were unwilling at first to accept our title V amendments to the Appalachian extension bill. Finally and reluctantly, after much effort by many in both Houses, the House conferees accepted all of the Senate version. But it was only a 2-year extension of the title V Commissions. The Senate conferees agreed to a 4-year extension of Appalachia.

I wish to emphasize that we have not yet achieved our goal of having all the regional development programs on the same cycle. Conferees from the House Public Works Committee agreed that they would support a further 2-year extension of the Commission when legislation to extend the Public Works and Economic Development Act comes before us early in 1977.

As chairman of the Economic Development Subcommittee, I wish to assure my colleagues that I will work energetically to extend the title V Commissions to 1979, the same as the Appalachian Commission programs.

The title V Commissions are not yet comparable institutions to the Appalachian Regional Commission. But we have made a start. At the same time, there is interest in extending the regional economic development programs to other parts of the Nation, including a Commission for Puerto Rico and the Virgin Islands, and possible single State Commissions for Texas and California.

One thing is certain in my mind. The idea of regional development and regional planning is more viable than ever. We do in fact have regional economies in this country. As we debate and discuss the need to set national priorities and goals, we will begin to appreciate the regional building blocks that make up this huge country. These Regional Commissions are going to be the precursors of that process which I suspect we will grudgingly accept as a national necessity one of these years.

Let me say a word directly to the Federal and State officials of these title V Commissions. In offering these amendments to your programs, we are mindful that a change in emphasis is being given for development planning and programing. When we passed the Public Works and Economic Development Act in 1965, we in the Congress responded to conditions of economic lag that characterized most of the regions. Today, those conditions are considerably different. Many of the regions now confront the dual problems of managing and facilitating growth in some parts, while trying to stimulate and enhance it in others. Also, the urban areas of the regions, as well as the previously emphasized rural ones, in many cases now present equally compelling development problems in their own right.

The amendments offered by this legislation broaden the program capacity of the Commissions, particularly in the areas of energy and transportation. They improve the capability of each Commission to deal with the many aspects of development. But they do not, nor were they intended to, move the Commissions from their basic economic development missions.

Mr. President, this legislation passed the Senate last summer by an overwhelming vote of 92 to 1. I hope we can repeat that message to the administration in accepting this conference report.

Finally, I wish to express my thanks to the chairman of the committee, Senator RANDOLPH, and the ranking member on the other side, Senator BAKER. They are two Senators who are in great measure responsible for the successes of the Appalachian programs. But I wish also to acknowledge their openmindedness and statesmanship in accepting and supporting the title V amendments to the Appalachian legislation. They did this at the risk of considerable disfavor from their own constituencies and the other Appalachian States.

SOCIAL SECURITY UNIFORM REVIEW PROCEDURES

Mr. LONG. Mr. President, I move that the Senate proceed to consider H.R. 10727.

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 10727, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was greed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment on page 4, beginning with line 6, strike out:

> SEC. 5. The amendments made by the first two sections of this Act, and the provisions of section 3, shall take effect on the date of the enactment of this Act. The amendment made by section 4 of this Act (and the amendment made by the first section of this Act to the extent that it changes the period within which hearings must be requested) shall apply with respect to any decision or

determination of which notice is received by the individual requesting the hearing involved on or after the date of the enactment of this Act.

And insert in lieu thereof:

SEC. 5. The amendments made by the first two sections of this Act, and the provisions of section 3, shall take effect on the date of the enactment of this Act. The amendment made by section 4 of this Act shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act, to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act.

SEC. 6. (a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of West Virginia heretofore entered into pursuant to such section 218 may, at any time prior to 1977, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by a retirement system on the date of the enactment of this Act by individuals as employees of any class III or class IV municipal corporation (as defined in or under the laws of the State) if the State of West Virginia has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions by individuals as employees of such municipal corporation, the sums prescribed pursuant to subsection (e)(1) of such section 218. For purposes of this subsection, a retirement system which covers positions of policemen or firemen, or both, and other positions, shall, if the State of West Virginia so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of West Virginia under subsection (a) of this section, to the extent it involves services performed by individuals as employees of any class III or class IV municipal corporation, may be made effective with respect to—

(1) all services performed by such individual, in any policeman's or fireman's position to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individual in such a position before such date of enactment with respect to which the State of West Virginia has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of West Virginia repays to the Secretary of the Treasury the amount of such refund within ninety days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

SEC. 7. Notwithstanding any other provision of law, no regulations and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare, after the date of enactment of this Act, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 218(e) of the Social Security Act.

SEC. 8. (a) This section may be cited as the "Combined Old-Aged, Survivors, and Disability Insurance-Income Tax Reporting Amendments of 1975".

(b) Title II of the Social Security Act is amended by adding after section 231 the following section:

"PROCESSING OF TAX DATA

"SEC. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury.".

(c) Section 232 of the Social Security Act, as added by subsection (b) of this section, shall be effective with respect to statements reporting income received after 1976.

(d)(1) Section 201(g)(1) of such Act is amended to read as follows:

"(g)(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

"(i) the amounts estimated by him and the Secretary of Health, Education, and Welfare which will be expended, out of moneys appropriated from the general fund in the Treasury, during a three-month period by the Department of Health, Education, and Welfare and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954, less

"(ii) the amounts estimated (pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection) by the Secretary of Health, Education, and Welfare which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i).

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II, XVI, and XVIII of this Act and subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, and chapters 2 and 21 of the Internal Revenue Code of 1954. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. There are hereby authorized to be made available for expenditures, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 other than those referred to in clause (i) of the first sentence of this subparagraph.

"(B) After the close of each fiscal year the Secretary of Health, Education, and Welfare shall determine the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clauses (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury and the portion of such costs which should have been borne by each of the Trust Funds; except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the method prescribed by the Board of Trustees under paragraph (4) of this subsection. After such determination has been made, the Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to insure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year for the part of the administration of this title, title XVI, and title XVIII for which the Secretary of Health, Education, and Welfare is responsible and of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.".

(2) Subsection (g) of such section is further amended by adding at the end thereof the following new paragraph:

"(4) The Board of Trustees shall prescribe before January 1, 1981, the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Department of Health, Education, and Welfare, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds deem such action advisable they may modify the method so determined.".

(e) Any persons the Board of Trustees finds necessary to employ to assist it in performing its functions under section 201(g) (4) of the Social Security Act may be appointed without regard to the civil service or classification laws, shall be compensated, while so employed at rates fixed by the Board of Trustees, but not exceeding $100 per day, and, while away from their homes or regular places of business, they may be allowed traveling expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(f) The Secretary shall not make any estimates pursuant to section 201(g) (1) (A) (ii) of the Social Security Act before the Board of Trustees prescribes the method of determining costs as provided in section 201(g) (4) of such Act. The determinations pursuant to section 201(g) (1) (B) of the Social Security Act with respect to the carrying out of the functions of the Department of Health, Education, and Welfare specified in section 232 of such Act, which relate to the administration of provisions of the Internal Revenue Code of 1954 (other than those referred to in clause (i) of the first sentence of section 201(g) (1) (A) of the Social Security Act), during fiscal years ending before the Board of Trustees prescribes the method of making such determinations, shall be made after the Board of Trustees has prescribed such method. The Secretary of Health, Education, and Welfare shall certify to the Managing Trustee the amounts that should be transferred from the general fund in the Treasury to the Trust Funds (as referred to in section 201(g) (1) (A) of the Social Security Act) to insure that the general fund in the Treasury bears its proper share of the costs of carrying out such functions in such fiscal years. The Managing Trustee is authorized and directed to transfer any such amounts in accordance with any certification so made.

(g) Section 6103 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(g) DISCLOSURE OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE.—The Secretary or his delegate is authorized to make available to the Secretary of Health, Education, and Welfare information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F for the purposes of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective information return processing program.".

(h) (1) Section 230(b) (2) of the Social Security Act is amended to read as follows:

"(2) the ration of (A) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year in which the determination under subsection (a) with respect to such particular calendar year was made to (B) the average of the wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973 or, if later, the calendar year preceding the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).".

(2) Section 230(b) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the average of the wages for the calendar year 1977 (or any prior calendar year) shall, in the case of determinations made under subsection (a) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year."

(i) (1) Section 203(f) (8) (B) (ii) of the Social Security Act is amended—

(A) in clause (I) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of the calendar year", and inserting in lieu thereof "wages of all employees as reported to the Secretary of the Treasury for the calendar year preceding the calendar year", and

(B) in clause (II) thereof, by striking out "taxable wages of all employees as reported to the Secretary for the first calendar quarter of 1973, or, if later, the first calendar quarter of the most recent calendar year", and inserting in lieu thereof "wages of all employees as reported to the Secretary of the Treasury for the calendar year 1973, or, if later, the calendar year preceding the most recent calendar year".

(2) Section 203(f) (8) (B) (ii) of such Act is further amended by adding at the end thereof the following new sentence: "For purposes of this clause (ii), the average of the wages for the calendar year 1977 (or any prior calendar year) shall, in the case of determinations made under subparagraph (A) prior to December 31, 1978, be deemed to be an amount equal to 400 per centum of the amount of the average of the taxable wages of all employees as reported to the Secretary for the first calendar quarter of such calendar year.".

(j) Section 224(f) (2) of the Social Security Act is amended, in the first sentence thereof, by—

(1) inserting "before the calendar year" immediately after "calendar year", and

(2) inserting "before the calendar year" immediately after "taxable year".

(k) Notwithstanding the provisions of section 218(i) of the Social Security Act, nothing contained in the amendments made by the preceding provisions of this section shall be construed to authorize or require the Secretary, in promulgating regulations or amendments thereto under such section 218 (i), substantially to modify the procedures, as in effect on December 1, 1975, for the reporting by States to the Secretary of the wages of individuals covered by social security pursuant to Federal-State agreements entered into pursuant to section 218 of the Social Security Act.

Mr. LONG. Mr. President, the bill H.R. 10727, as passed by the House of Representatives, would make certain changes in the hearings and appeals provisions of the social security and supplemental security income programs in order to overcome a huge backlog in processing hearings cases which has developed within the Social Security Administration. The changes would make the provisions relating to appeals under the two programs virtually identical. It would also authorize individuals who have been hired to conduct hearings under the SSI program to serve as temporary administrative law judges between now and the end of 1978 with authority to hear social security cases. The Committee on Finance recommends the acceptance of the provisions as passed by the House with one modification. A provision reducing the time within which a social security appeal may be filed would be effective March 1, 1976, rather than immediately.

The committee also proposes three other amendments to the House bill. One of these amendments would make possible the elimination of quarterly reporting of social security wages by the Nation's employers and the substitution of a single annual report. The change would not in any way affect the liability for social security taxes or the times for paying such taxes. Another amendment would prohibit the Department of Health, Education, and Welfare from instituting any change in requirements on State and local governments for the deposit of social security contributions with respect to their employees without giving at least 18 months' notice. The final committee amendment would allow the State of West Virginia additional time—until 1977—to make certain retroactive changes in its social security coverage agreements. This would rectify a situation in which some policemen and firemen in that State paid social security taxes in the mistaken belief that they were covered under the program.

Mr. President, I ask unanimous consent that a more detailed summary of the provisions of H.R. 10727 be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 10727

The bill as passed by the House of Representatives made certain modifications in the provisions of the Social Security Act dealing with the appeals process under programs administered by the Social Security Administration. The committee modified the effective date of one of the provisions in the House bill and added to the bill a number of amendments as described below.

SOCIAL SECURITY HEARINGS AND APPEALS

The programs administered by the Social Security Administration presently have a huge backlog of some 103,000 cases awaiting a hearing. The committee bill would attempt to alleviate this problem by making certain changes in the social security hearings and appeals processes. The bill would make the provisions of law governing hearings and judicial review under the supplemental security income (SSI) program virtually identical to those of the social security cash benefit and medicare programs. It would permit the Social Security Administration to use existing SSI hearing examiners to also hear social security and medicare cases between now and the end of 1978. In addition, the bill would change the time in which a person could request a hearing after a claim had been disallowed. For both social security cases and SSI cases, the time would be 60 days—an increase from 30 days for SSI claims and a decrease from 6 months for social security claims. The bill as passed by the House and as approved by the committee is effective on enactment except that the effective date of the reduction in the time for filing a request for hearings in social security cases would be March 1, 1976.

POLICEMEN AND FIREMEN IN WEST VIRGINIA

The Social Security Amendments of 1972 included a provision which allowed the State of West Virginia to modify its social security coverage agreements so as to provide social security protection to certain policemen and firemen who had erroneously paid social security taxes in the belief that they were covered. Under the 1972 amendments, the State of West Virginia had to amend its agreement with the Social Security Administration before 1974. The State, however, has not made the necessary amendment in its agreement, and the committee bill provides an extension through 1977 of the time in which the agreement may be changed.

DEPOSIT OF SOCIAL SECURITY CONTRIBUTIONS BY STATE AND LOCAL GOVERNMENTS

Under the committee bill, the Secretary of Health, Education, and Welfare would be required to give notice at least 18 months in advance of any changes he proposes to make in the way in which social security contributions are paid by State and local governments. This would assure that States would be given ample leadtime to implement any changes and would also give Congress an opportunity to review any changes which the Secretary might propose.

ANNUAL REPORTING OF SOCIAL SECURITY WAGES

The committee bill includes a provision which is designed to reduce the tax reporting burden of the nation's employers. Under the provision, the Secretaries of the Treasury and of Health, Education, and Welfare would be given the authority needed to exchange information so that social security reports of individual earnings could be made once each year rather than once each quarter.

The provision would not affect the responsibility of employers for collection and payment of social security taxes nor would it change the requirements as to when these payments are due. It would not have any effect on the way in which State and local Governments pay or report social security contributions to the Social Security Administration. Payments by both private employers and State and local Government units would continue to be made in the same way that they are made under existing law.

Mr. FANNIN. Mr. President, I join with our chairman in recommending favorable action on this bill by the Senate.

The principal purpose of this legislation is to alleviate the backlog of cases awaiting hearing under the various programs administered by the Social Security Administration. In a letter to Chairman LONG dated December 9, 1975, HEW Secretary Mathews stated that this backlog of cases awaiting hearing is one of the most critical problems of the Social Security Administration and that the Department supports the bill as passed by the House.

The committee's report adequately explains the changes made by the bill, but there is one change to which I want to make specific reference. The bill reduces the time from which a medicare or social security appeal can be taken from 6 months to 60 days. The committee agreed that this change was proper, but delayed its effective date to March 1, 1976, so that the Social Security Administration could advise all applicants of this change. I want to emphasize that the committee expects the Social Security Administration to take all necessary steps to assure that applicants are informed of this change. It should not simply let the notice of this change be buried in the fine print.

There are three committee amendments to the bill. One of these, offered by the distinguished Senator from Tennessee, is designed to reduce the tax reporting burdens of the Nation's employers with respect to collection and payment of social security taxes. One of the problems of big government is that we are increasingly buried in an avalanche of regulations and reports. Under present law, an employer must in effect submit five reports per year with respect to each employee covered by social security. This amendment would provide a way to reduce this to one report a year and I commend Senator BROCK for offering it.

I understand that the administration has been preparing a somewhat different legislative proposal designed to accomplish the same result and that it has some difficulty with the committee amendment. Senator BROCK has conferred with the administration and, if there are improvements that can be made, this can be done at an appropriate time.

The other two committee amendments extend the time for the State of West Virginia to make certain changes in its laws to permit social security coverage for certain policemen and firemen and provide for an 18-month advance notice requirement for HEW regulations affecting social security collections by State and local governments.

This legislation was ordered reported without objection by the committee and I urge its adoption in the Senate.

Mr. President, I ask unanimous consent that a letter from the Secretary of Health, Education, and Welfare to the Republican leader (Mr. HUGH SCOTT) with attachments thereto be printed in the RECORD.

There being no objection, the letter and enclosures were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 16, 1975.

Hon. HUGH SCOTT,
U.S. Senate, Washington, D.C.

DEAR SENATOR SCOTT: This is to bring to your attention the Department's views with regard to H.R. 10727, a bill ordered reported by the Senate Finance Committee on December 10, 1975, and which may be scheduled for Senate floor action in the near future.

The Department supports this bill as it was passed by the House of Representatives, for reasons set forth in my letter of December 9 to Chairman Long (see the enclosure at Tab A). As passed by the House, the bill would permit, for a period of three years, the Social Security Administration's (SSA's) black lung Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners to hear cases under all titles of the Social Security Act. Limiting the black lung ALJ's and hearing examiners to hearing cases under the Federal Coal Mine Health and Safety Act and title XVI of the Social Security Act, respectively, has been a primary cause of the dramatic growth, in the number of pending requests for hearing in the past few years. We believe that enactment of H.R. 10727 will improve our ability to deal with this backlog on a timely basis.

The request for hearing backlog, which reached a high of 113,225 cases in April 1975, has now been reduced (as of December 6) to 100,163. We anticipate that enactment of H.R. 10727 will enable SSA within one year to reduce the backlog further, so that a claimant's average waiting time for a hearing will not exceed ninety days. Without this bill, we anticipate that such a reduction will require two years.

In addition, we have no objection to two of the four amendments added to the bill by the Finance Committee. (For a summary of each of these amendments, see the enclosure at Tab B.) We do believe unnecessary another Committee amendment, which would require that the States be given at least 1½ years advance notice before regulations could become effective to require more frequent deposits of withheld social security contributions. The Department has already indicated to the States its intention to provide substantial leadtime along the lines proposed by this amendment.

We are opposed, however, to the amendment added by the Committee which provides for the annual reporting of wages for social security income tax purposes. We also do not believe that a statutory restriction on the timing of social security deposits is necessary. This amendment is intended to reduce the number of reports employers must submit to Federal agencies. While we applaud this goal, the approach taken by the Finance Committee would only minimally reduce the paperwork burdens of employers and would seriously strain the administrative capacity of the Social Security Administration. In a report on annual wage reporting submitted to the House Ways and Means and Senate Finance Committees by this Department and the Treasury Department on December 31, 1974, both Departments recommended an alternative approach to annual reporting under which employers would not be required to furnish a quarterly breakdown of wages paid during the year and the States would also be required to report covered wages on an annual basis. Our recommendation has great potential for reducing the Federal paperwork burden on employers, for improving compliance with the income tax laws, and for bringing about a net savings in Federal Government administrative costs. These benefits to employers and Government alike would be substantially reduced under the approach proposed by the Finance Committee. Also, the Finance Committee approach would increase SSA's administrative costs by $20.2 million in the first year as compared to a $8.6 million increase under our recommended approach. (For a more detailed comparison of our recommendation with the Finance Committee's proposal, see the enclosure at Tab C.)

Since the submittal of our report on annual reporting, the Departments of the Treasury and Health, Education, and Welfare have been drafting legislation to implement our recommendation. Because our recommended approach would involve some very complex changes in the social security program, including changes in the provisions for granting quarters of coverage, drafting this legislation has of necessity been a time-consuming task. However, it is for the most part completed, and the draft bill is now being coordinated with other Federal agencies whose programs would be affected by the program. Because of the great advantages to employers and Government alike of our recommended approach, we urge you and your colleagues to defer action on the Finance Committee's proposal until our work on the draft bill has been completed.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report.

Sincerely,

DAVID MATHEWS,
Secretary.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
December 9, 1975.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you of the Department's views with regard to H.R. 10727, a bill unanimously passed by the House of Representatives on December 1, 1975, which is now pending before the Senate Finance Committee.

The bill addresses one of the most critical problems of the Social Security Administration (SSA)—the large backlog of cases awaiting hearings. This backlog has created inordinate delays in processing requests for hearings, with consequent hardships imposed on individual beneficiaries. Because H.R. 10727 would remove a number of obstacles to more timely disposition of hearing requests, the Department supports its enactment.

One of the obstacles that would be removed by H.R. 10727 is the present distinction between SSA's Administrative Law Judges (ALJ's) and Supplemental Security Income (SSI) hearing examiners. The hearings officers of the former class meet qualifications set forth under the Administrative Procedure Act and can hear cases under the Old-Age, Survivors, and Disability Insurance (OASDI) program, the Hospital Insurance (Medicare) program, and the Supplemental Security Income program. The SSI hearing examiners, appointed by the Secretary under special authority granted in title XVI of the Social Security Act, can only hear SSI cases. Our inability to utilize these hearing examiners to conduct other types of hearings, especially OASDI hearings, has resulted in an inefficient and costly use of manpower and thus is one of the primary causes for the large number of pending requests for hearings.

(As of November 8, 1975, approximately 103,000 hearings were pending.) H.R. 10727 would temporarily eliminate this distinction among hearings officers by authorizing the present SSI hearing examiners, through December 31, 1978, to hear OASDI and Medicare cases as well as SSI cases. The bill would thus give the Department the necessary temporary authority to utilize one corps of hearings officers to deal quickly and directly with the hearings backlog. It would also make the Administrative Procedure Act applicable to SSI cases in the same way that it is now applicable to OASDI and Medicare cases, thereby providing for consistent treatment under all three programs. In this regard, we note that the report of the Ways and Means Committee on the bill, Report No. 94–679, makes clear that grade GS–14 would be an appropriate classification for those holding authority provided for by the bill, rather than GS–15. The necessity of using these temporary ALJ's to deal with the current hearings backlog will obviate our training them to handle the more complex issues that arise in provider hearings under title XVIII. In consequence, it will not be practicable to use these ALJ's for these more demanding title XVIII cases. Also, we are further considering whether it is appropriate to authorize use of temporary hearing examiners in any title XVIII case as proposed in the bill. We therefore agree that a GS–14 grade would be appropriate.

H.R. 10727 would also reduce the time limit for the filing of a request for a hearing of denied OASDI and most Medicare claims from six months to sixty days, and it would increase the time limit for SSI cases from thirty to sixty days. This change would provide equal treatment for claimants under all three programs. Also, the shorter time limit for requesting a hearing would serve to reduce the degree of change that can occur in the medical condition of a claimant for disability benefits between his previous denial and the date of his hearing; this could reduce, in many cases, the need to develop new medical evidence of disability. This medical development can be quite time-consuming and can therefore be a major contributing factor to the delay in the processing of hearing requests and disability claims, which comprise a major portion of the hearings backlog.

The changes made under H.R. 10727 would have a very beneficial impact on the Social Security hearings backlog. With them, the Social Security Administration expects to be able to reduce the backlog to manageable proportions within one year, at which time the median processing time for hearings would be reduced to ninety days. (Without H.R. 10727, it would take SSA two years to reduce the backlog.) The bill would entail no additional benefit payment costs, and could cause administrative savings as great as $16.3 million in fiscal years 1977 through 1981. Although we are reviewing the need for temporary ALJ's to participate in title XVIII hearings, we urge you and your colleagues to support speedy passage by the Senate of H.R. 10727 in its present form.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID MATHEWS,
Secretary.

SENATE FINANCE COMMITTEE AMENDMENTS TO H.R. 10727 TO WHICH THE ADMINISTRATION DOES NOT OBJECT

1. Change in Effective Date of Change in Time Limit for Requesting Hearings in OASDI and SSI Claims.

Section 4 of H.R. 10727, as passed by the House, would shorten the time limit for requestioning a hearing for claims under the Old-Age, Survivors, Disability, and Health Insurance (OASDHI) programs from six months to sixty days. Section 4 would also change the time limit for requesting hearings on Supplemental Security Income (SSI) claims from thirty days to sixty days. The Finance Committee amendment would modify the effective date of this provision so that it would be applicable to hearings requests made as a result of notices of adverse decisions received on or after March 1, 1976. Under the House-passed bill, the revised time limits would be applicable to requests for hearings made as a result of notices of adverse decisions received on or after enactment of the bill.

2. Modification of Coverage Agreement with West Virginia to Provide Coverage for Certain Policemen and Firemen

Under this amendment the State of West Virginia would be able to modify its coverage agreement at any time prior to 1977 to provide retroactive and prospective coverage for services performed in certain policemen's or firemen's positions covered by a retirement system, if the State has at any time prior to the date of enactment paid to the Secretary of the Treasury social security contributions with respect to the retroactive services.

A similar provision was included in H.R. 1, the Social Security Amendments of 1972. That provision permitted the State to modify its agreement at any time prior to 1974; however, the State did not modify its agreement before expiration of the time limit.

COMPARISON OF ANNUAL WAGE REPORTING SYSTEM PROPOSED BY THE SENATE FINANCE COMMITTEE WITH THAT RECOMMENDED BY THE DEPARTMENTS OF TREASURY AND HEALTH, EDUCATION, AND WELFARE

There are two major areas of difference between these two approaches to annual wage reporting. These differences are described in the following discussion.

1. Annual Reporting of Annual Wages vs. Annual Reporting of Quarterly Wages

Under present law employers must file with the Internal Revenue Service (IRS) quarterly tax returns containing wage and tax liability information on wages paid during the quarter. Part of this information is transmitted by IRS to the Social Security Administration (SSA), where it is used to update each employee's social security earnings record. Quarterly wage information is essential to the determination of an individual's eligibility for and the amount of his social security benefits.

In a report submitted to the Congress on December 31, 1974, the Secretaries of Health, Education, and Welfare and the Treasury recommended a change to a system of annual reporting without a quarterly breakdown of wages. Under this proposal, necessary legislative changes in the Social Security Act would be made so that there would no longer be a need for employers to record or report quarterly wages paid to employees. Employers would report annually the total amounts paid to employees during the year.

Under the Finance Committee proposal employers would still be required to maintain quarterly records of wages paid to employees, which they would submit at the end of each year with their annual report. (These quarterly wage records would be necessary because under the Committee's proposal social security coverage determinations, determinations of eligibility for social security benefits, and certain other provisions of the Social Security Act would still be based on quarterly earnings.) Thus, while the number of employer reports would be reduced, employers would still have to keep a record of quarterly wages paid to each employee. The relief to employers under this system would, therefore, be minimal. Moreover, the administrative impact of this system on SSA would be tremendous. Annual reporting would cause administrative problems for SSA because all wage information would have to be processed at the beginning of the year rather than spread out over the four quarters of the year as under the present system. In addition, annual reporting of quarterly wages would require SSA to process more than twice as many wage items than if no quarterly breakdown were required. (The HEW-Treasury proposal would cause an increase in SSA's administrative costs of $8.6 million in the first year, while the increase in SSA's administrative costs resulting from requiring a quarterly breakdown of wages would be $20.2 million.)

2. Treatment of State and Local Governments

Under the HEW-Treasury recommendation, the States, as well as private employers, would be included in a change to annual reporting. The Finance Committee's proposal would allow the States to continue reporting under the present quarterly system. This special treatment of the States, which have about nine million employees covered under social security, would seriously aggravate SSA's administrative problems and increase SSA's administrative costs by $3.5 million under an annual reporting system. Since the great majority of State and local employees work for fairly large public employers who have sophisticated accounting and reporting techniques and who are used to keeping extensive business records, the States should report on an annual basis like private employers. Therefore, we recommend strongly that State and local governments be included in any proposal to change to annual reporting of wages for social security and income tax purposes.

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendment be regarded as original text and that it appear in the RECORD before we accept the Gravel amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The RECORD will so show.

Mr. GRAVEL. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. —. Section 1612 (b) (2) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972) is amended (1) by inserting (A) immediately after (2), and (2) by adding at the end thereof the following new paragraph:

'(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.' "

Mr. GRAVEL. Mr. President, this amendment was part of a bill that was accepted by the committee, passed by the Senate, and sent to the House of Representatives. That bill was not acted upon by the House of Representatives, so obviously this amendment fails.

This amendment was brought up again in committee and was accepted unanimously by the committee.

What the amendment would do is this: In Alaska about 4 or 5 years ago, the Alaska State Legislature passed a law establishing a longevity bonus. Most of the old people in Alaska when they reached the age of 65 or passed retirement would leave Alaska because they could not afford to stay there because it is so much more expensive to live in Alaska than elsewhere. So they would migrate out of Alaska after living their whole lives or essentially 25 or 30 years there.

The legislature, in an effort to cause these people to stay in Alaska to give them an incentive to stay in Alaska passed a law where each citizen who was a pioneer, over 65 years of age, will receive $100 per month which means we give the people in Alaska $1,200 a year each if they qualify. There are 7,500 Alaskans who receive this money paid for out of the State treasury of Alaska.

HEW granted Alaska a waiver so that for the computation of SSI and Old Age Assistance this money paid for by the State of Alaska to these Alaskan citizens would not be considered income for that computation, if this waiver were granted until the end of this year, and then they renewed the waiver until June, but they told the State administration of Alaska that, if this were not enacted into law, they would no longer give us any waivers. This does not mean a loss of one dime to the Federal Treasury.

It is something the Senate has acted on in the past, the committee has acted on unanimously, and I hope that we act on it also at this point in time.

Mr. DOLE. Mr. President, we are prepared to accept it on this side of the aisle.

Mr. LONG. This matter was discussed in the committee. After a very fine explanation that the Senator from Alaska made, it was unanimously agreed to. I do think the amendment is meritorious, and I know of no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1282

Mr. PELL. Mr. President, I call up my amendment No. 1282, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new titles:

TITLE II—REPLACEMENT OF LOST, STOLEN, OR DELAYED CHECKS

SEC. 201. Section 205(q) of the Social Security Act is amended to read as follows:

"Expedited Benefit Payments

"(q) (1) Notwithstanding any other provision of law, the Secretary shall establish and put into effect procedures under which expedited payment of monthly benefits under this title will, subject to paragraph (4) of this subsection, be made in the manner prescribed in paragraphs (2) and (3), of this subsection.

"(2) (A) Not later than one day after the date an individual files (with the official and at the place prescribed under regulations of the Secretary) a completed application (described in subparagraphs (b)), the Secretary shall certify for payment and cause to be made to such individual the monthly insurance benefit payment, or so much thereof which has not been paid, alleged in such application to be due to such individual, unless information known to the Secretary indicates that a material allegation made in the application is untrue or for other reasons such individual is not entitled to such benefit payment, in which case, the Secretary shall apprise such individual of such information in writing.

"(B) The application referred to in subparagraph (A) shall contain:

"(i) the name, address, and social security number of the applicant.

"(ii) (a) an allegation that, one or more monthly benefit payments due and payable to the applicant have not been received by the applicant as of the date of the filing of the application, and are at least seventy-two hours overdue, together with the date that each such payment was due, or,

"(b) an allegation, concurred in by the Secretary, that one or more monthly benefit payments have been made and received in an amount less than that to which such individual is entitled, together with the date that each such payment was received.

"(iii) an allegation that the applicant is entitled to such benefit, and,

"(iv) such other data or information as the Secretary shall by regulations prescribe.

"(3) Any payment made pursuant to a certification under this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

"(4) For purposes of this subsection, benefits payable under section 228 and under title XVI shall be treated as monthly insurance benefits payable under this title.".

SEC. 202. Section 1631(d) (1) of the Social Security Act is amended by striking "and (f)" and inserting the following in lieu thereof: "(f) and (q)".

SEC. 203. The amendments made by sections 201 and 202 of this Act shall be effective in the case of applications filed and written requests filed, under section 205(q) of the Social Security Act, on and after the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

TITLE III—EXPEDITING OF HEARINGS AND DETERMINATIONS

SEC. 301. Part A of title XI of the Social Security Act is amended by inserting, immediately after section 1123, the following new section:

"SEC. 1124. (a) In the administration of the programs established by titles II, XVI, and XVIII, the Secretary shall establish procedures designed to assure that—

"(1) Any duly requested hearing to which an individual is entitled thereunder will be held within a reasonable period of time after such hearing is so requested, if such hearing is requested with respect to a determination of the Secretary: (A) as to the entitlement of such individual to monthly insurance benefits under title II and title XVIII or the amount of any cash benefit; (B) which is described in section 1869(b) (1); and (C) as to the entitlement of such individual to benefits under title XVI or the amount of any such benefit.

"(2) (A) Not later than ninety days after any hearing (except a hearing described in subsection (2) (B) of this section) described in subsection (1) of this section is requested, the Secretary shall render a final determination on the issues which were the subject of such hearing, or if no final determination of the Secretary has been made at that time, the Secretary shall make payments of benefits to such individual in like manner as if a final determination has been made fully in favor of the individual.

"(B) Subsection 2(a) of this section shall be applicable to any hearing in which the matter in disagreement involves the existence of a disability (within the meaning of sections 423(d) and 1614(a) (3) of the Social Security Act) except that the applicable period of time shall be one hundred and ten days.

"(3) The time periods described in subsection (2) of this section shall be extended whenever and to the extent that such individual requests any extension of time or continuance, or fails to appear at the time of a hearing.

"(4) No payments to an individual shall be made under paragraph (2) for any period after a final determination of the Secretary has been made (after a hearing on the matter) denying the claim of such individual.

"(5) Any payments made pursuant to paragraph (2) shall not be considered to be an incorrect payment for purposes of determining the liability of the certifying or disbursing officer who made or authorizes such payment to be made.

"(6) Any payment made pursuant to paragraph (2) shall be nonrefundable and shall remain the property of the individual.".

TITLE IV—EXPEDITED PAYMENT OF BLACK LUNG BENEFITS; AND EXPEDITED HEARINGS AND DETERMINATIONS RESPECTING SUCH BENEFITS

SEC. 401. (a) Section 413(b) of the Federal Coal Mine Health and Safety Act of 1969 is amended by striking out "and (1)" and inserting in lieu thereof "(q), and (1)".

(1) The amendment made by subsection (a) shall be effective in the case of applications filed and written requests filed, under part B of title IV of the Federal Coal Mine Health and Safety Act of 1969, on and after the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

SEC. 402. The Secretary of Health, Education, and Welfare, in the administration of part B of title IV of the Federal Coal Mine Health and Safety Act of 1969, shall, with respect to hearings and determinations on claims thereunder, establish procedures for the expediting of such hearings and determinations which are, to the maximum extent feasible, patterned after and consistent with the objectives of section 1124 of the Social Security Act.

TITLE V—LIMITATION OF BENEFIT REDUCTION TO COMPENSATE FOR BENEFIT OVERPAYMENT

SEC. 501. (a) The first sentence of section 204(a) (1) of the Social Security Act is amended by inserting, immediately before the period at the end thereof, the following: "; except that the monthly insurance benefit to which any individual is entitled shall not be reduced by more than 25 per centum on account of any overpayment (or overpayments) in monthly insurance benefits previously made to such individual or any other individual".

(b) The amendment made by subsection (a) shall be applicable in the case of decreases made under section 204(a) of the Social Security Act from monthly insurance benefits payable for months after the month in which this Act is enacted.

Mr. PELL. What this amendment does is it provides a procedure whereby a recipient whose check arrives more than 3 days late can go to the local social security office, fill out an application, and get a replacement within a day.

It provides that hearings on disability appeals must be completed within 110 days after filing requests for hearing and that other hearings under Titles II, XVI, and XVII must be completed within 90 days.

It provides benefits for applicants black lung benefits, and it provides when there is an accidental overpayment no more than 25 percent of the recipient's due benefits be taken out of that particular check so he does not lose his complete month's payment because of no fault of his or her own.

These are four very simple amendments to bring a great deal of fairness and I think correctness to the administration of social security procedures. This is being cosponsored by 40 separate Senators, so it would seem to have merit.

I would think if it were put to a vote it would pass since it has such a large number of supporters.

I hope that the Senator from Louisiana, the chairman of the committee, would be willing to accept this amendment.

Mr. LONG. Mr. President, I regret that I cannot accommodate the Senator at this point.

Here is our problem. With regard to all of the matters that have been considered in the Committee on Finance at this late date in the session, any determined opposition would defeat any of the measures that we have reported—even though some of these proposals have passed the House of Representatives and have been unanimously recommended by the committee. We are compelled to proceed as though we were on a consent calendar, because where there is any objection, all one who feels strongly opposed to it need do is simply debate the matter for a while and the leadership would be compelled to set the bill aside, and the bill would not become law.

Furthermore, I do not know if we are going to be able to hold conferences on these bills.

If the House of Representatives is willing to go to conference, we will certainly try to do so, but we may simply have to act on the basis that if the House will not accept what we send them, the measure will simply fail to become law in this session of Congress.

We in the Committee on Finance have a problem that is not experienced by most of the committees. Under the Constitution, revenue bills must originate in the House of Representatives, and we have to wait until the House sends us a revenue bill in order to act. The House will often insist that we respect their right to initiate legislation and not take a simple tax bill and make it into a social security bill.

It can happen that this means we are precluded from acting in an area until late in the session. It was well on into the session before we received any social security bill at all to give us an opportunity to legislate in this area.

What I propose to the Senator is that this amendment be offered at a time when we are not proceeding on a unanimous-consent type basis, a time when his proposal can be debated and voted upon. I have no doubt that with some 40 cosponsors, the amendment very likely would be agreed to by the Senate and if so I would expect to support it in conference and do all I can to help it prevail, as a servant of the Senate, if I should be a member of the conference. But in view of the fact that the administration opposes the amendment, I have no doubt that one of those on the minority side would feel compelled to resist the amendment, as a loyal member of the President's party——

Mr. PELL. They might not. They might be cosponsors.

Mr. LONG [continuing]. And in due course, we would find that the bill simply could not pass.

Therefore, Mr. President, I hope that the Senator will be willing to withhold his amendment, with the understanding that we will bring out a social security bill sometime during the first half of next year, hopefully, one that the President would like to sign.

It might be a bill that would contain enough controversy that we would fully expect that the Senator would offer his amendment, and we would vote on that, together with other meritorious amendments that Senators have been thinking about for some time which have some opposition but which could muster a majority of the vote. If the Senator does that, I think his amendment could be considered thoughtfully by the Senate, and I am sure the Senate would give him a good, fair judgment on it.

In the meantime, I would hope that we could accord the Senator a hearing in the committee and present to the committee his views. We might be able to improve on his amendment. We would like to have a try at it prior to the time that matter is voted on in the Senate.

Mr. PELL. I thank the Senator from Louisiana for his thoughts.

As a matter of comity and friendship to the Senator, bearing in mind the exigencies of the Senate at this time, I will accept his advice. I appreciate his commitment that at some time in the next 6 months, when the social security bill comes up, I will be given an opportunity to call up this amendment and debate it.

Mr. President, I ask unanimous consent to withdraw my amendment at this time.

Mr. LONG. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment, and it is withdrawn.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

That section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation puposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

SEC. 2. The amendments made by the first section of this Act shall apply to obligations issued after the date of the enactment of this Act.

Mr. McCLURE. Mr. President, briefly, this is a matter which is on the calendar and has been considered by the Committee on Finance. It is fully explained in Report No. 94-570, under Calendar No. 546. I think there is a consensus that it may be added to this bill.

I yield to my colleague from Idaho.

Mr. CHURCH. Mr. President, I join my colleague and say to the distinguished manager of the bill that we ask for this because of the great time urgency. If this bill is not passed in this session of Congress, we may lose a whole year in the replacement of a dam at American Falls that has already been declared unsafe. There is a great need to proceed as quickly as possible.

For that reason, I hope very much that the manager of the bill can accept the amendment.

Mr. LONG. Mr. President, I hope that the Senators will be willing to withhold this amendment long enough for us to see if this bill is going anywhere; because if the bill is not going anywhere, it serves no purpose to put the amendment on it.

If we are able to perfect the bill in such a fashion that we think that it is likely that the President will sign the bill and that it will not run into a snag in the House of Representatives—then if the Senate would be willing to permit me to put this amendment on the bill, in view of the fact that it has been approved by the committee and it has passed the House, I would be willing to agree to it.

I feel compelled to resist it at this point because the bill has not been perfected; and I am not sure that if we start taking amendments of a nongermane nature, we are going to move the bill at all.

Mr. CHURCH. I ask the manager of the bill this: If he can prevail, so that the bill is in an acceptable form, will he then add this amendment, in view of the fact that the House has approved it and the Senate committee has approved it and time is of the essence?

Mr. LONG. If we can keep the bill in such shape that we think it can be agreed to on a pro forma basis, I will be willing to agree to it. For the moment, I am not sure that we could keep it in that shape.

Mr. McCLURE. Mr. President, will the Senator from Idaho join me in withdrawing the amendment for the time being?

Mr. CHURCH. Yes.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . Tax Credit for Home Heating System Improvement Expenditures.

(a) Findings.—The Congress finds that—

(1) the heating of private homes accounts for a significant portion of our national energy consumption, and that substantial increases in the cost of oil, gas, and electricity have significantly and adversely affected million of American homes;

(2) at present, national energy sources are limited and the capacity of the national energy supply system to meet future demand is inadequate;

(3) it is in the national interest to conserve energy by improving the efficiency with which fossil fuels are used;

(4) significant energy savings for the Nation and the consumer may be achieved by the installation of commercially applicable energy-saving components, including insulation, and the application of advanced technologies; and

(5) it is an important national objective to encourage sound investment practices which improve the operating efficiency of existing residential heating systems.

(b) Insulation and Other Energy-Conserving Alteration of Principal Residence.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44A. Insulation and Other Energy-Conserving Alteration of Principal Residence.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified insulation and other energy-conserving expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $500.

"(b) Limitations.—

"(1) Application with other credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to credit for personal exemptions), and

"(G) section 44 (relating to purchase of new principal residence).

"(2) Verification.—No credit shall be allowed under subsection (a) with respect to any qualified insulation or other energy-conserving expenditures unless such expenditures are verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(c) Definitions.—For purposes of this section—

"(1) Qualified insulation and other energy-conserving expenditures.—The term 'qualified insulation and other energy-conserving expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after January 1, 1976, and before January 1, 1979, of insulation or other energy-conserving components in any dwelling unit which—

"(A) at the time of such installation is used by the individual as his principal residence; and

"(B) is in existence on January 1, 1976, and used on such date by one or more individuals as a residence.

Such term shall only include amounts paid for the original installation of any insulation or other energy-conserving components in a dwelling unit.

"(2) Insulation.—The term 'insulation' means any insulation, storm (or thermal) window or door, or any other similar item—

"(A) which is specifically and primarily designed to reduce, when installed in or on a building, the heat loss or gain of such building,

"(B) the original use of which commences with the taxpayer,

"(C) which has a useful life to the taxpayer of at least 3 years, and

"(D) which meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development.

"(3) Other energy-conserving component.—The term 'other energy-conserving component' means any item, fixture, equipment, or material including, but not limited to, a heat exchanger, combustor, ducting, piping, and control which—

"(A) is capable of increasing thermal efficiency in a residential structure or improving the operating efficiency of a heating system already installed in such structure;

"(B) meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development;

"(C) the original use of which commences with the taxpayer; and

"(D) has a useful life of at least 3 years.

"(4) Heating system.—The term 'heating system' means any item, fixture, equipment, or material which is designed, when installed in or on a building, to contribute to the heating of such building, to contribute to the heating of water for use within such building, or to control the automatic cycling of such hardware. Such term includes, but is not limited to, all necessary fittings and related installations.

"(d) Special Rules.—

"(1) Joint occupancy.—In the case of any dwelling unit which is jointly occupied and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified insulation or other energy-conserving expenditures paid during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(2) Tenant-stockholder in cooperative housing corporation.—The case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified insulation or other energy-conserving expenditures paid by such corporation.

"(e) Reduction of Basis.—The basis of any property shall not be increased by the amount of any qualified insulation or other energy-conserving expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(f) Termination.—This section shall not apply to any amount paid after December 31, 1978.".

(c) Technical and Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44A. Insulation and other energy-conserving alteration of principal residence.".

(2) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out "; and" at the end of clause (vii) and inserting in lieu thereof ", and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to insulation and other energy-conserving alteration of principal residence); and".

(3) Section 56(c)(1) of such Code (relating to tax carry-overs) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to insulation and other energy-conserving alteration of principal residence), exceed".

(4) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon and by inserting after paragraph (22) the following new paragraph:

"(23) to the extent provided in section 44A (d), in the case of property with respect to which a credit has been allowed under section 44A."

(5) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof "44, and 44A".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after January 1, 1976, in taxable years ending after such date.

Mr. BROOKE. Mr. President, the home heating systems improvement amendment which I and my colleagues Senators DOMENICI, MCINTYRE, RIBICOFF, PACKWOOD, JAVITS, KENNEDY, GARN, SYMINGTON and PELL are introducing today is an essential part of a national energy conservation program. Each year, the 35 million American homes which lack adequate insulation waste the equivalent of 130 million barrels of oil that could have been saved through proper retrofit of the building.

Each year, 2 million gas and oil fired home heating systems waste 9 million barrels of oil which could be saved if they were simply fitted with more efficient components.

We cannot keep missing the opportunity for fuel savings which could be realized by proper home heating conservation measures.

A large part of the problem, particularly in the market for heating system improvements, is that consumers are not aware of possible savings. Furthermore, the heating equipment industry needs to expand its procedures for evaluating and standardizing new conservation equipment. And homeowners need more education about the money-saving impact of home insulation and storm windows.

One efficient way to educate homeowners is through a temporary program of tax credits for such energy saving expenditures. This would be an appropriate use of the tax system, as few national goals are so important as a reduced reliance on oil imports.

The House of Representatives wisely passed a tax credit for home insulation as part of the Energy Conservation and Conversion Act of 1975 which it sent to the Senate last summer. In July, I testified before the Senate Finance Committee on provisions of this Act, as well as on energy conserving measures of my own I hoped would be included.

But the committee has taken no action on this vital matter. Winter is upon us, and again, poorly insulated and inefficiently heated houses are billowing forth wasted heat into the cold air. I believe the Senate can wait no longer, so I have used the House language the Senate Finance Committee has already considered in this legislation.

I have made one amendment I feel is important which was not a part of the House bill. The tax credit in H.R. 6860 only applied to expenditures for insulation. But important fuel savings can also be realized by upgrading existing oil and gas furnaces and the pumps, ducts, and thermostats which control heat flow. Many well-insulated homes are still using 10 percent more fuel than they should for lack of new heating system components. I have added the words "other energy conserving alterations" to the list of those expenditures which may be counted for the tax credit. This means "any item fixture equipment or material" used as part of the existing heating system which meets conservation and quality standards established by the FEA Administrator. As the ceiling of 30 percent of $500, remains as the House passed it, this should not increase the demands on the Treasury above the House estimates of $260 million per calendar year.

This program is not the answer to all our residential energy conservation problems. Clearly we need loans, consumer education, and tough construction standards for energy conservation. More important, this bill treats residences owned by individuals who can respond to admittedly small tax incentives by investing in improvements. It is not a response to the high energy costs borne by tenants in multifamily buildings. Nor is it a solution to the truly dire needs of the poor who usually live in the least well insulated buildings.

Nevertheless, most residential energy is used and wasted by middle income families. This tax credit is an important and long overdue incentive to cut our residential fuel consumption.

The House Ways and Means Committee estimate of revenue loss to the Treasury is $260 million for each calendar year. This must be considered in light of the $539 million which will be saved each year both during and long after the 3-year life of this program. This figure is also a conservative estimate of the gains, since it is calculated by considering the 47,450,000 barrels of oil saved per year by the end of 1978 at the current world price of oil, which is likely to rise.

The addition of heating system retrofit as a qualifying expenditure under this program should not significantly increase the use of the tax credit. This is because most of the 35 million homes which need insulation also need their heating systems updated and will have to choose between one or the other kind of expenditure for the tax credit. Furthermore, as I pointed out earlier, we are talking about heating components for only an additional two million home heating systems, which is the number of those estimated to be able to achieve additional savings through retrofit. Even if all these users were added to the 35 million potential users of the tax credit foreseen by the House, that is only an addition of 5 percent or, at the outside, a $13 million revenue loss.

Finally, the impact on the fiscal year 1976 revenues about which the Senate Budget Committee is quite rightly concerned is minimal. Most of this revenue loss will be realized in spring of 1977, as there is no impact on tax withholding. Therefore, the fiscal year 1976 impact should be between $25 and $35 million of lost revenues expended to realize the important energy savings so vital to our national health and security.

Mr. LONG. Mr. President, this amendment is already included in the energy bill, as the Senator has so well stated. I do think, Mr. President, that we are going to be able to act on the energy bill some time in the early part of next year. In fact, we had undertaken to move with that energy bill until we found that there was so much controversy on the production question, over which our committee does not have jurisdiction, that we were compelled to simply wait and see if the controversy could be ironed out in order that we could know on what basis we were working when we proceeded with the energy bill in the Committee on Finance.

It is too late for us to act on our energy bill this year. We will have to work on it next year and do the best we can. I hope to support a measure of the sort the Senator is proposing.

At this point, Mr. President, we are not able to act on measures that are going to receive any substantial opposition or measures that are going to give us a problem from a budgetary standpoint. This amendment, meritorious as it is, does involve a substantial cost. Without the other revenue-raising provisions in the energy tax bill, to help defray the cost, this provision could be regarded as a budget-buster. We have already passed about as much tax reduction as we can afford within the budget to which we have committed ourselves under the budget resolution. That being the case, Mr. President, if the amendment is added to the bill, I should feel compelled to move to recommit the bill, because the basis upon which we are proceeding here is that we will only add those measures to it that are not subject to determined opposition by even a single Senator. At this point, I should feel that this matter is next year's business and it will have to be considered next year.

I assure the Senator that I shall join with him and he will have my help in trying to pass this amendment next year, perhaps subject to some modification as the Senate might in its wisdom see fit to agree to. I hope that the Senator would be willing to permit us to pass what we have in other respects, a bill that has no objection to any part of it, also one that involves only a modest amount of money. Actually, what we have here really involves a modest saving of money.

I hope the Senator will not press for this amendment on the bill and that he will be willing to join with us in seeking to enact this measure when we get back in here next year and report the energy bill. The energy bill has been the subject of hearings, and the committee has done a lot of work on it and, as I say, it has had to be laid aside because we had to wait to resolve this very severe controversy which yet awaits the decision of the President of the United States after the Senate finally voted on it today.

I ask the Senator this: Could he cooperate with us in that respect, to wait until next year to let us decide this matter? I know that he does not want to deny these Senators the right to have action on these relatively noncontroversial matters that, on the overall, actually amount to revenue savings.

Mr. BROOKE. Mr. President, as the Senator knows, this legislation was passed by the House. The Committee on Finance has had it for some time. I can appreciate the press of problems that the Committee on Finance has had to address.

Mr. LONG. As I recall, we had agreed

to this particular provision in the committee.

Mr. FANNIN. Will the Senator yield?

Mr. LONG. I believe that we in the committee, on the energy bill, actually went beyond what the Senator has and agreed not only to this but to go beyond this.

If we try to do now what we have in our energy bill, we will have to find a way to raise some money to pay for it within this year's budget. Otherwise, it will be subject to a point of order, as I understand the budget procedure.

We share the Senator's objective and we want to work with him to achieve that. Our problem is, we cannot do it now.

Mr. BROOKE. The only problem, as I pointed out to the Senator, Mr. President, is that this puts it over to another year, which means we shall lose another heating season, namely, the 1975–76 heating season.

Mr. LONG. Let us look at it this way: Everybody who is going to buy a more modern heating system or improve the efficiency of that which he has, will be doing it next year. Insofar as people have bought a more efficient heating unit already, they did it without the tax incentive being in place.

We fully expect to propose next year to do what the Senator has in mind here and if we do, I have no quarrel with a date that starts early in the year. Perhaps we can agree that when we act on it next year, the effective date ought to be January 1, 1976. The Senator could stand on the floor, if need be, and offer an amendment to insist that we do it that way, because he had sought to bring this matter to the consideration of the Senate this year.

Mr. President, I am confident that if we add this amendment, we are going to have problems with the budget resolution. Members of the budget committee may not be here at the moment, but I think the amendment will present problems in that respect.

In addition to that, I think that we would have a much larger package than we started out with. Senators who did not know we were going to be considering amendments of the sort that are in the energy bill, which are also of merit, are going to say, "Well, if you consider that one, I have some things I think ought to be brought to your attention in that regard." I think the result will be that we are just not going to pass any bills.

I want to help with what the Senator wants to do, but I want to help in a way that is going to be effective and not in a way that is not going to be effective.

Mr. BROOKE. I want to assure the distinguished chairman of the Committee on Finance that I have no intention of, in any way, trying to delay or defeat the social security bill. I think it is an important piece of legislation.

I am very pleased that the chairman of the Finance Committee feels that this is an important piece of legislation, and also feels further this is legislation that, if we cannot delay it for another year and deprive homeowners of this tax credit, which will be an overall boost to our overall energy program, that we ought to do so.

Now, there are many cosponsors of this legislation, and I hope to have a rollcall vote on this particular amendment. Putting it on the social security bill, of course, is not something that is sacrosanct.

I would be willing, in view of what the Senator has said, to withdraw this amendment from the social security bill and, perhaps, reserving the right tomorrow to add it to another vehicle if my cosponsors do want an up-and-down vote on this particular amendment at this time.

But I am very pleased to have the assurance of the distinguished chairman of the committee that we could move on this hopefully early in January when we come back, and his assurance—and I certainly accept that assurance—that he would do everything he can possibly do because he believes himself in the merits of this legislation because it is sorely needed, and I think it is good legislation.

Mr. LONG. Mr. President, I am glad the Senator brought the amendment up, because it warms my heart that there are Senators who feel as I do that there are good provisions in that energy tax bill that should be passed, and that we ought to be about it as soon as we can get to it.

I felt, and I still feel, that even before we take the tax reform bill up we ought to take up the energy tax bill and do the best we can to make it the best bill the Senate can agree upon and pass it, and reserve judgment on the tax reform issue until we pass the energy tax bill. I do not see any reason why we could not do that as the first order of business after we get back here in January.

Mr. BROOKE. With the Senator's assurance and with my stated reservation, Mr. President, I withdraw the amendment.

Mr. LONG. Mr. President, I appreciate the Senator's cooperation, and he can be assured of my cooperation.

Mr. CHURCH. Mr. President, would it be appropriate at this time to reintroduce the amendment of the Senators from Idaho?

The PRESIDING OFFICER. Is the Senator withdrawing his amendment?

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CHURCH. Mr. President, I ask unanimous consent that the amendment that heretofore was introduced by my colleague and myself relating to the American Falls Dam be offered at this time.

The PRESIDING OFFICER. Is the Senator calling it up a second time?

Mr. CHURCH. I am calling it up a second time on behalf of myself and my colleague.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

That section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Irrigation Dams.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

Sec. 2. The amendments made by the first section of this Act shall apply to obligations issued after the date of the enactment of this Act.

Mr. CHURCH. Mr. President, we have already reviewed the purpose of this amendment, and the distinguished manager of the bill agreed to consider it at an appropriate time, and I hope he would find it possible to accept the amendment.

Mr. LONG. Mr. President, if the Senate will permit me to accept the amendment, I would be willing to do so on condition that we show the same consideration to the Virgin Islands bill which has passed the House and which, so far as I have been able to determine, is subject to no objection whatsoever here in the Senate.

The reason both of these bills have not passed the Senate already has been that Senators wanted to offer amendments to them. If we do what the Senator is hoping to achieve here, we would simply take these unobjected-to measures which have passed the House already and add them to the social security bill. Then we would keep the House-passed bills on the calendar, and when we take them up, we would amend those bills to strike the House language to reflect the fact that it has already been enacted.

Mr. McCLURE. Mr. President, for myself that is perfectly satisfactory with me, and I would certainly cooperate with the chairman of the committee.

Mr. LONG. I offer as an amendment the text of the Virgin Islands bill, which is on the calendar.

The PRESIDING OFFICER. The clerk will report the amendment in the second degree.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an amendment to the amendment.

At the appropriate place, insert the following new section:

Sec. . (a) Section 7652(b) (3) of the Internal Revenue Code of 1954 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Beginning with the calendar quarter ending September 30, 1975, and quarterly thereafter, the Secretary or his delegate shall determine the amount of all taxes imposed by, and collected during the quarter under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.";

(2) by amending the first sentence of subparagraph (A) to read as follows: "There

shall be transferred and paid over, as soon as practicable after the close of the quarter, to the Government of the Virgin Islands from the amounts so determined a sum equal to the total amount of the revenue collected by the Government of the Virgin Islands during the quarter, as certified by the Government Comptroller of the Virgin Islands."; and

(3) by amending the sentence immediately following subparagraph (C) by striking out "at the beginning" and inserting in lieu thereof the following: "with respect to the four calendar quarters immediately preceding the beginning".

(b) The amendments made by paragraphs (1) and (2) of subsection (a) shall apply with respect to all taxes imposed by, and collected after June 30, 1975, under, the internal revenue laws of the United States on articles produced in the Virgin Islands and transported to the United States.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. PROXMIRE. First, on the Idaho amendment, the Church-McClure amendment, as I understand it, as it was explained to me by the distinguished Senator from Idaho, the senior Senator, this would permit a creature of the State of Idaho to issue obligations that would be tax-free in order to finance the construction of a dam; is that correct?

Mr. CHURCH. That is correct.

Mr. PROXMIRE. Well, now, I do not understand why this does not qualify under present law inasmuch as any obligation of a State or an instrumentality of a State is exempt from the Federal income taxes under present law. Why would this not qualify?

Mr. CHURCH. It is an irrigation—my colleague might respond.

Mr. McCLURE. Might I respond? The present law provides that historic water is provided for irrigation alone.

The question that becomes involved is because this is a rather complex mix of irrigation entities and a prior falling water right that is used for the production of power, and it is on that latter case that the Internal Revenue Service felt there might be, if they issued a ruling granting the exemption, an opening of the window wider than if there were a specific statutory exemption, so they determined after a period of time that the specific statutory exemption would serve their purposes better than trying to issue a ruling under the existing statute.

Mr. PROXMIRE. Is the Internal Revenue Service on record supporting this kind of legislative remedy? It seems to me there is no difference. If this would provide a precedent if there were a ruling, it would provide a precedent also by legislation. After all, why could not everybody else come in and say, "Idaho has blazed the trail and, therefore, we should be exempt."

Mr. McCLURE. I would say to the Senator we have letters from the administration stating they have no objection to the passage of this legislation, and that communication has been addressed to the committee both here and to the committee in the House.

Mr. CHURCH. I might add, if I may, the situation is really unique and has been so recognized. The dam that is there was a Federal dam. It has now been condemned. A large reservoir has had to be reduced fully one-third because of the public danger posed by the existing structure.

This proposal enables us to secure a replacement without having to appropriate Federal money and build it as a Federal dam.

It is an arrangement that will permit the bonding mechanism to be used to finish financing for the dam, though title to the dam, once built, will still revert to the Federal Government.

So, from every standpoint, it is good. The only problem has been to secure this kind of legislation to make certain that the bond issue will pass.

It should be tax-free, nobody objects to that. It is just that the IRS was hesitant to make a ruling and preferred legislation owing to the uniqueness of the situation. That is why this subject bill was introduced.

Mr. PROXMIRE. One more question. Is it true as to the reason that the IRS has not issued a ruling, would it be true they have not done so because Federal money is involved in this particular project and they feel that it would be wrong, at least in principle, to provide that kind of double subsidy, both Federal contribution in appropriations and a tax-free status for additional funding?

Mr. McCLURE. The Federal Government is not involved in the reconstruction of the dam at all.

As a matter of fact, that is one of the reasons for the legislation. It is to avoid the necessity of asking the Federal Government to provide financing for the reconstruction of the dam.

Mr. LONG. The fact is that we passed a law to say that interest on this kind of bond would be tax exempt, and the only reason the tax status of this specific issue is in doubt is just due to a technicality that the mind of man could not foresee.

I urge that one of the staff assistants show the Senator the statute.

It is simply a matter that no one could have foreseen here in Washington. It is my point of view it is a mere technicality. If we had known this problem would exist, we would have provided for it.

If this power were to be distributed locally for use by the citizenry, the dam would qualify for the tax exemption anyway.

That is the kind of thing we contemplated when we passed the original tax provision.

In this case, as I understand it, power will only be generated when the water is used for irrigation purposes. When they take some water out for those purposes, it will generate some power to help with the irrigation. At that point, the power is not being distributed locally to the citizenry.

We just did not anticipate this limited set of facts would occur. If we had, we would have taken care of it when we passed the general statute.

It would indicate this should qualify, as all the others would. But we just do not have enough foresight in drawing a specific statute to try to take care of people similarly situated, to foresee there would be someone who would meet the qualifications in every respect, except some minor technicality.

Mr. PROXMIRE. I think the three Senators have given a very convincing explanation, as far as I am concerned, on the Idaho part. How about the Virgin Islands aspect?

Mr. LONG. That is to permit the Virgin Islands to receive certain revenue collections on a quarterly rather than annual basis for the simple reason they need the money, and if they can receive it quarterly they are able to put their money to use more quickly.

Mr. PROXMIRE. What does the IRS say about that?

Mr. LONG. They are for it.

Mr. PROXMIRE. They support it?

Mr. LONG. Yes.

There is no objection to it, as far as they are concerned.

Mr. PROXMIRE. How about the cost involved?

Mr. LONG. No cost, as I understand it. It is just that as the Virgin Islands becomes entitled to revenues collected under United States tax laws on articles produced in the Virgin Islands and transported to the United States, they could get them quarterly rather than annually.

Mr. PROXMIRE. How would this apply as a precedent elsewhere?

Would this mean if we do it quarterly here, we do it quarterly elsewhere?

Would not other territories who were in the same position as the Virgin Islands be able to claim they also should get the quarterly distribution?

Mr. LONG. It is my understanding that there is no other territory having the same arrangement with the United States as the Virgin Islands. Their arrangement with the U.S. Government is different from the other territories.

Mr. PROXMIRE. As I understand it, this bill passed the House?

Mr. LONG. Yes.

Mr. PROXMIRE. And it is reported unanimously by the committee?

Mr. LONG. Yes. I am not aware of any opposition.

Mr. PROXMIRE. There is no opposition on the part of the administration?

Mr. LONG. I have never heard the first person make an argument against it or express any reason why it should not be passed.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Idaho, as amended.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

Sec. . Section 218(e)(1) of the Social Security Act is amended by adding at the end thereof the following new sentence:

"The regulations referred to in clause (A) of the preceding sentence shall provide that payments to be made by States to the Secretary of the Treasury shall be made on a calendar-quarter basis no more frequently than the 15th of the second month following each calendar-quarter and the regulations, referred to in clause (B) of such sentence shall provide that reports and remittances shall be made simultaneously by States on a calendar-quarter basis no more frequently than the 15th of the second month following each calendar-quarter."

Mr. ROBERT C. BYRD. Mr. President, this amendment would provide that payments which the States make to Secretary of the Treasury would continue to be made on a quarterly basis as has been the customary method of making these payments and reports.

There have—within recent months—been initiatives by the Social Security Administration to force the States and their political subdivisions to begin making deposits of social security contributions on a more frequent—monthly—basis. I believe that forcing the States to make deposits on a more frequent basis would work an unnecessary hardship on the States and their political subdivisions, and would—in many cases—lead to the termination of coverage for many public personnel, especially within the smaller communities, which do not have the personnel or the facilities to provide more frequent reporting. Unfortunately, these are the communities whose personnel desperately need social security coverage, because they do not possess the means to obtain other types of coverage.

Mr. LONG. Mr. President, the committee was aware of the views of the Senator from West Virginia, and we may even be in unanimous agreement with his position. But we were aware of the fact that the administration does not favor it and because we feared a veto of the bill if we put the Senator's amendment on it, we settled for something less than that.

Here is what we did. We say in this bill that if the Social Security Administration intends to mandate monthly reporting of wages by States, then they must allow at least 18 months before this can become effective.

The administration agrees that substantial leadtime is necessary before such a change can be made by the States, and this will give Congress a chance to look at what is involved in this.

Meanwhile, Mr. President, if we have the good fortune to have before us a major social security bill which would look to be one the President is likely to sign, I would expect the Senator to offer his amendment and I would vote for it. But I think he jeopardizes his objective if he offers his amendment on this bill.

We provide an 18-month leadtime, which would give the Senator a chance to have the amendment considered and also gives us a chance to work with him, trying to resolve this problem before anything can happen to adversely affect the State of West Virginia or any other State.

Mr. ROBERT C. BYRD. Mr. President, with the understanding that the leadtime is provided for in the measure currently pending before the Senate, and also I want to make it clear I would not want to jeopardize the measure by inviting a veto of it, and with the understanding that I will have an opportunity at a time when a social security vehicle will be before the Senate to offer this amendment, and with the support of the distinguished chairman in mind, as I have understood it in his expressions tonight, I withdraw my amendment.

The amendment was withdrawn.

Mr. DOLE. I would like to ask the chairman one question with reference to the Virgin Islands bill, if I may, so those of us who have amendments discussed yesterday will understand that they have added the text of this amendment but the number of the Virgin Islands bill is still floating around. Is that correct?

Mr. LONG. Yes; the bill is still on the calendar, and that bill can be used as a vehicle to which a rider can be attached. We would hope that that bill can be passed with some meritorious and unobjected-to amendments to give the Senate a chance to have some of its thoughts considered. There have been bills and proposals by the 100 Senators this year when there has been no chance to have them considered because there has been no revenue bill brought up to give them a chance to offer amendments. We would hope that those amendments, such as those discussed in the Finance Committee and which have been agreed to by unanimous vote, could be cleared and sent to the House. The only difference would be if the President meanwhile has signed into law the social security bill.

I really think that no harm is done to pass the same bill twice, if it is a good bill. I do not think it does any harm to have it appear twice in the statute books. It is a lot easier to strike surplusage from a statute book than it is to get a good provision onto the statute book.

Mr. DOLE. I appreciate the comment. It has been suggested that we could decorate the tree tomorrow. I wanted to make certain that some of us who had legitimate amendments to discuss and offer, still had that right.

Mr. LONG. Yes; that is correct.

Mr. President, there is an amendment which I would like to call up which should be on this bill. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an amendment.

H.R. 10727

Sec. 9(a) The matter preceding clause (i) in section 402 (a)(19)(A) of the Social Security Act is amended—

(1) by inserting "under the work incentive program established by part C" after "register", and

(2) by striking out "and employment" and inserting in lieu thereof "employment, and employment search activity".

(b) Section 402(a)(19)(F) of such Act is amended—

(A) by striking out "(certified to the Secretary of Labor pursuant to subparagraph (G))", and

(B) by inserting ", in the case of a child, relative, or other individual certified to the Secretary of Labor pursuant to subparagraph (G)," immediately after "except that".

(e) The amendments made by this section shall take effect on April 1, 1976.

Sec. 10 Section 402(a)(19)(B) of the Social Security Act is amended—

(1) by inserting "to families with dependent children" after "aid",

(2) by inserting "(i)" immediately after "project", and

(3) by striking out "or (3)" and inserting in lieu thereof ", or (ii) under the program established by section 432(b)(3) solely by reason of the number of hours of the individual's employment thereunder".

Sec. 11 (a) Section 402 (a)(19)(D)(i) of the Social Security Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(c) Section 402(a)(19)(G)(ii) of such Act is amended—

(1) by striking out "subparagraph (A)," and inserting in lieu thereof "subparagraph (A) of this paragraph (I)",

(2) by striking out "part C" the first place it appears therein and inserting in lieu thereof "section 432(b) (but without regard to clause (4) thereof)", and

(3) by striking out "part C," the second place it appears therein and inserting in lieu thereof the following: "section 432(b) (but without regard to clause (4) thereof), (II) such social and supportive services as are necessary to enable such individuals actively to search for employment under the program established pursuant to section 432 (b)(4), and (III) after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment;".

(d) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b) (but without regard to clause (4) thereof)".

Mr. LONG. Mr. President, the Finance Committee has reported an original bill making changes in the work incentive program. These changes were sought by the Labor Department. Since reporting the bill, we find that some of the provisions fall within the jurisdiction of the House Education and Labor Committee and some provisions fall within the jurisdiction of the House Ways and Means Committee. In order to accommodate this split jurisdiction in the House, I am offering the Ways and Means Committee portion of the committee bill as an amendment to the social security bill.

Now let me explain this provision. This provision would amend title IV of the Social Security Act to assure that mandatory registrants under the work incentive or WIN program would actively seek work by providing for a program of employment search. The bill also provides that the earned income minus work-related expenses under the public service employment program in the work incentive program would not be disregarded in computing eligibility for aid to families with dependent children.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 10727), as amended, was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. FANNIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes.

Mr. LONG. Mr. President, I do not know if we will be conferring with the House on this bill, but just in case, I move that the Senate insist on its amendments to H.R. 10727, a bill from the Finance Committee, request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. CURTIS, and Mr. FANNIN conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of amendments to H.R. 10727.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF THE RENEGOTIATION ACT OF 1961 FOR 6 MONTHS

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to consideration of the renegotiation bill, H.R. 11016.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11016) to extend the Renegotiation Act of 1961 for 6 months.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice.

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On line 5, strike out "June 30, 1976" and insert in lieu thereof "September 30, 1976."

Mr. LONG. Mr. President, the House has passed and forwarded to the Senate H.R. 11016, an act to extend the Renegotiation Act of 1961 through June 30, 1976. The Renegotiation Act has been extended by the Congress 12 times and is scheduled to expire on December 31, 1975. The General Oversight and Renegotiation Subcommittee of the House Committee on Banking, Currency and Housing has conducted extensive hearings and markup sessions which have culminated in the adoption of a series of proposed amendments to the Renegotiation Act. These provisions have been favorably reported by the full Committee on Banking, Currency and Housing as H.R. 10680 and are explained in detail in House Report 94-699. In order to fully review these proposed changes which may be approved by the House early in 1976 and to give detailed consideration to a report prepared pursuant to Public Law 93-368 which directed the staff of the Joint Committee on Internal Revenue Taxation to evaluate various proposals to extend and amend the Renegotiation Act, it is imperative that additional time be provided to the Committee on Finance. Accordingly, the committee has authorized me to offer a committee amendment to H.R. 11016 extending the Renegotiation Act for a period of 9 months. Such an amendment is essential to permit the Committee on Finance to responsibly discharge its obligation to complete its work on a major tax revision measure by June 1976, amendments to the Renegotiation Act, and the numerous other substantive matters within the jurisdiction of the committee which will require action prior to June 30, 1976.

Mr. PROXMIRE. Will the Senator yield?

Mr. LONG. I yield.

Mr. PROXMIRE. I am hopeful, Mr. President, that the Senator will do his best to hold hearings on this bill during the 9-month period and to enact reform legislation, if not the kind of reform legislation the House has, legislation that will improve and strengthen that agency. It is an agency that I think has been one of the weakest agencies of our Government. It is just pathetic the poor job that they have done. I happen to have worked hard on that Renegotiation Board work, both in the Joint Economic Committee and elsewhere. I think that the House amendments, and I understand that they go quite a ways to improve the operations of the Renegotiation Board, represent a great improvement.

Mr. President, absent the opportunity to improve this agency, I think we should abolish it. People get the impression that defense contracts and other contracts of the Federal Government are renegotiated when there is an excessive profit. That is just not the case.

After renegotiation, there is case after case where the profit it literally over 1,000 percent, and typically it is over 100 percent. This is an agency, as I say, that has done a poor job. It has been badly staffed in the past, and the House of Representatives has done great work to improve this law.

So I do hope that the Senator from Louisiana, whose committee is so busy, will do his best to schedule hearings on that measure, and will do his best to bring in vigorous, far-reaching reform legislation either to give us an agency that does the job, or to abolish the Renegotiation Board.

Mr. LONG. Mr. President, the Senator has made a very impressive statement on the Renegotiation Board, and as far as I am able to determine, he has spent more time studying the performance of the Renegotiation Board, or the lack of it, than any other Member of this body.

I look forward to hearing the Senator's views after he has had a chance to study the performance of the Board and the results that have been obtained since that time. We very much want the Senator's views, and of course we will welcome the views of any other Senator, as well as persons who have reason to be concerned with the Board, both with regard to what it is accomplishing and what it is not accomplishing.

Mr. PROXMIRE. Will the Senator agree to hold hearings and do his best to bring in a reform bill in the event that he and the committee feel such a bill would be desirable?

Mr. LONG. Well, I will be happy to, with the understanding that the Senator knows what I mean by reform. What I mean by reform is something that I think is an improvement on the existing situation. I think every Senator feels that way. If he is for it, he thinks it is reform; if he is not for it, he does not think it is reform.

When the Senator makes his suggestions, I will certainly look into them, and those I agree with I will certainly try to implement. If I do not implement them, those that the Senator feels strongly about he will be offering here on the floor, and I welcome his doing that.

Mr. PROXMIRE. What I ask the Senator to do is consider the House bill, which we all expect to come over sometime in the next 6 months, and act on it and bring it to the floor so that the Senate can work its will on it.

Mr. LONG. Yes, and I certainly want to consider the Senator's views, because, as I said before, he has given this matter a great deal of attention, and we are all indebted to him for it.

Mr. PROXMIRE. I should have said earlier that one of the reasons for my interest and concern is that the Renegotiation Board came under the jurisdiction of a subcommittee of the Appropriations Committee of which I am chairman, so we had some reason to go into the Renegotiation Board's performance.

Mr. FANNIN. Mr. President, I support the committee amendment to this bill, which would extend the Renegotiation Act, without changes, for a period of 9 months.

The Renegotiation Board was created in 1951 and has as its principal purpose the determination of whether certain persons who have contracts with the Government have made "excessive" profits. The Renegotiation Act, which provides the Board's statutory authority to act, is now scheduled to expire on December 31, 1975. The pending bill, as passed by the House, would extend the Renegotiation Act for a period of 6 months. The committee amendment provides for a 9 months' extension.

The purpose of this longer period of time is to give the Committee on Finance and the Senate an opportunity to give careful consideration to any bill dealing with this subject. Also, pursuant to the most recent legislation extending the Renegotiation Act, the staff of the Joint Committee on Internal Revenue Taxation has submitted a comprehensive report on the renegotiation process. This report contains an evaluation of the many proposals that have been made to extend and amend the Renegotiation Act. Given the many issues that we will have to address ourselves to, and the fact that the House has not as yet acted on its proposed permanent legislation, I think a 9-month simple extension is preferable to the 6-month extension bill passed by the House.

For these reasons, Mr. President, I support the committee amendment to the pending bill and urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (H.R. 11016) was passed.

Mr. LONG. Mr. President, I ask unanimous consent that the title of H.R. 11016 be changed so as to read:

An act to extend the Renegotiation Act of 1951 for 9 months.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF TITLE XXVIII OF THE SOCIAL SECURITY ACT

Mr. LONG. Mr. President, I am not sure this next bill has been cleared on both sides. I make this request of the majority and minority leaders: that if there is no objection, the Senate proceed to the consideration of H.R. 10284, which is a bill involving amendments to the medicare law. I would like to consider that bill.

There was some talk of Senators wanting to offer amendments, but I believe that we have accommodated most of those amendments, and I would even be glad to have them considered tomorrow.

But if there is no objection, I ask unanimous consent that the Senate proceed to the consideration of that measure.

Mr. ROBERT C. BYRD. Mr. President, my calendar shows that there are Senators who want to be notified on the Democratic side.

Mr. LONG. Well, my understanding, for example, was that Senator Nelson wanted to be notified, but he has been contacted, and his amendment is already in the bill.

Mr. ROBERT C. BYRD. What about Senator Nelson?

Mr. LONG. Senator Nelson has been contacted, and he is satisfied. His amendment has been agreed to, and it is in the committee bill.

Mr. ROBERT C. BYRD. Very well. I have no objection.

Mr. DOLE. There is no objection on the minority side.

Mr. LONG. Mr. President, this bill contains a series of relatively minor though quite important amendments to the medicare and medicaid program, and one amendment to the food stamp program.

The PRESIDING OFFICER. Does the Senator wish to take up the bill?

Mr. LONG. Yes; I had hoped to.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for three years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert the following:

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SECTION 1. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the prevailing charge level for the fiscal year beginning July 1, 1975, as determined under clause (ii) of the third sentence of this paragraph and with application of the fourth sentence of this paragraph, with respect to any particular physician service performed in any particular locality, is, by reason of the application of such fourth sentence, lower than the prevailing charge level for such service performed in such locality for the fiscal year ending June 30, 1975, as determined pursuant to such clause (ii), then, such prevailing charge level for the fiscal year beginning July 1, 1975, shall be deemed to be equal to the prevailing charge level so determined for the fiscal year ending June 30, 1975.".

(b) The fourth sentence of section 1842 (b)(3) of such Act is amended—

(1) by inserting "(including, to the extent feasible, data with respect to premiums for medical malpractice insurance)" immediately after "index data",

(2) by inserting "in any region" immediately after "physician services", and

(3) by inserting immediately before the period at the end of such sentence the following: "in the region".

(c)(1) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of the amendment made by subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1.

(2) The amendments made by subsection (b) of this section shall be effective only with respect to determinations of prevailing charge levels under the third and fourth sentences of section 1942(b)(3) of the Social Security Act for fiscal years beginning after June 30, 1976.

(d) The fourth sentence of section 1842(b)(3) of the Social Security Act is amended—

(1) by striking out "fiscal" each place it appears therein, and

(2) by inserting immediately before the period at the end thereof the following: "(and, for purposes of this sentence, the term 'year' means a period which begins on July 1 of any calendar year and ends on June 30 of the succeeding calendar year)".

(e) Not later than 90 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report explaining the reasons why, in the administration of so much of the provisions of section 1842(b)(3) of the Social Security Act as relate to the establishment of indices to determine the prevailing charge level for physician's services, there was a failure to carry out the congressional intent that indices be established on a regional basis, and, instead, there was established a single national index applicable to physicians practicing in all areas of the Nation. Such report shall include any recommendations which the Secretary may have as to any legislative action which might be necessary to further implement the congressional intent with respect to the establishment of such indices.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 2. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1977".

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 3. Section 1862(c) of the Social Security Act is repealed.

TECHNICAL AMENDMENT RELATING TO PART B PREMIUM DETERMINATIONS

SEC. 4. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

(b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

SEC. 5. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?' If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

"(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this Act, the Secretary has entered into an agreement with an organization designating it as the Professional Standards Review Organization for any area in the State.".

UTILIZATION REVIEW ACTIVITIES

SEC. 6. (a) (1) Section 1861(w) of such Act is amended—

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.".

(2) Section 1815 of such Act is amended—

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.".

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.".

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

CERTAIN EMERGENCY HOSPITAL SERVICES FURNISHED BY VETERANS' ADMINISTRATION HOSPITALS

SEC. 7. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" immediately after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j) (1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital or under arrangements (as defined in section 1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though such hospital is a Federal provider of services if (A) such individual was not entitled to have such services furnished to him free of charge by such hospital, (B) such individual was admitted to such hospital in the reasonable belief on the part of the admitting authorities that such individual was a person who was entitled to have such services furnished to him free of charge, (C) the authorities of such hospital, in admitting such individual, and the individual, acted in good faith, and (D) such services were furnished during a period ending with the close of the day on which the authorities operating such hospital first became aware of the fact that such individual was not entitled to have such services furnished to him by such hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove such individual from such hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf if such individual).".

(c) The amendments made by this section shall be applicable in the case of inpatient hospital services furnished on and after July 1, 1974.

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO NURSING HOMES

SEC. 8. (a) Section 1861(j) (13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".

(b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j) (13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j) (13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861 (j) (13), as it is amended by subsection (a) of this section.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 9. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).

OCCUPATIONAL THERAPY UNDER MEDICARE

SEC. 10. (a) Section 1814(a) (2) (D) of the Social Security Act is amended by inserting ", occupational," immediately after "physical".

(b) Section 1835(a) (2) (A) (i) of such Act is amended by inserting ", occupational," immediately after "physical".

(c) Section 1835(a) (2) of such Act is amended—

(1) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and", and

(2) by adding after clause (D) the following new clause:

"(E) in the case of outpatient occupational therapy services, (i) such services are or were required because the individual needed occupational therapy services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(d) The last sentence of section 1861(p) of such Act is amended by inserting "and occupational therapy services" after "speech pathology services".

(e) The amendment made by the preceding provisions of this section shall be applicable in the case of services furnished on and after the first day of the first month which begins not less than thirty days after the date of enactment of this Act.

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

SEC. 201. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"FOOD STAMP DISTRIBUTION

"SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

"(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

"(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).".

(b) Administrative costs incurred by a State plan for aid and services to needy families with children, approved under part A of title IV of the Social Security Act, in conducting procedures (described in section 410 of such Act, as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended.

Mr. LONG. Mr. President, two of the medicare amendments would change effects scheduled to occur under present law as of December 31, 1975. First, the HEW Secretary's authority to waive certain nursing requirements for rural hospitals expires on December 31 with the result that many rural hospitals might lose their medicare accreditation. This bill would extend that waiver authority.

Similarly, without action on this bill by December 31, the current relationship between the medicare and the Federal employees' health benefits program would change with the result that Federal employees would have to pay higher health insurance premiums. This bill contains a provision continuing the present relationship between medicare and the Federal employees' program.

In another area current law and regulations will require States by January 1 to establish a new procedure relating to food stamps for recipients of aid to families with dependent children. The committee amendment would make the establishment of this new procedure optional with each State.

In addition to these amendments which must be acted on by December 31, the bill contains several other amendments which, though not major in their scope, are aimed at either removing an inequity in the current medicare law or improving the administration of that law.

Amendments to remove inequities in the law include a provision which would guarantee that medicare payments for physicians' fees are not unintentionally rolled back; an amendment to allow the regular increase in the part B premium intended by the Congress; an amendment to put occupational therapists on an equal footing with other therapists; and an amendment allowing reimbursement of VA hospitals by medicare under certain situations of good faith error.

Amendments designed to improve the administration of the program include an amendment dealing with the Professional Standards Review Organization area designations in those areas where there has been no PSRO activity; an amendment to equalize the funding for delegated and nondelegated direct review of hospital care under the PSRO program; an amendment to up-date the life safety code requirements for health facilities in the current statute; and an amendment to give the Secretary authority to proceed with a retroactive portion of a grant aimed at developing information necessary to tighten up reimbursement of HMO's under medicaid.

Mr. President, I ask unanimous consent that the summary of the provisions of this bill contained in the committee report be printed at this point in the RECORD.

There being no objection, the excerpt from the committee report (No. 94-549) was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

H.R. 10284 as passed by the House contained provisions relating to prevailing charges, nursing requirements in rural hospitals, the relationship between medicare and the Federal employee health program, and the medicare part B premium. The committee amendment incorporates these provisions, with some modifications, and adds a number of new provisions.

PREVAILING CHARGE DETERMINATIONS UNDER MEDICARE

Due to the late issuance of regulations implementing the provision in law intended to limit increases in physicians' prevailing fees from year-to-year, some physicians' fees have unintentionally been rolled back to a point below their previous level. The first provision of the House bill would assure that no prevailing charge in fiscal year 1976 is less than it was in fiscal year 1975. The committee amendment modifies the House provision to indicate that, in calculating the index by which physicians' prevailing fees can increase, the Department should include, to the extent feasible, factors related to any increases in costs of malpractice insurance and that index calculations should be prepared on a regional rather than a national basis.

WAIVER OF 24-HOUR NURSING REQUIREMENTS FOR CERTAIN RURAL HOSPITALS

The second provision of the House bill extends for 3 years (until December 31, 1978) the Secretary's authority to grant temporary waivers of nursing staff requirements in hospitals located in areas where nurses are in short supply and other hospitals are not readily accessible. The committee amendment provides instead for a 1-year extension of the waiver authority.

RELATIONSHIP BETWEEN MEDICARE AND FEDERAL EMPLOYEES HEALTH BENEFIT PROGRAM

The House bill would repeal a provision of Public Law 92-603 which provides that, unless the Federal employees' health program were rewritten to provide supplementary benefits to those older or retired Federal employees who also have medicare eligibility, the medicare program would no longer serve as the primary payer of benefits. The committee amendment incorporates this change, so that the medicare program would continue as the primary payer of benefits without requiring any change in the Federal employees' program.

MEDICARE PART B PREMIUM

The fourth provision of the House bill, included in the committee amendment, would correct a drafting error in Public Law 93-233 which, in modifying the social security cash benefit provision, had unintentionally failed to make corresponding changes allowing for annual changes in the part B medicare premium. The provision would correct this drafting error and permit adjustments in part B premiums on July 1, 1976 and in future years at rates no greater than the percentage rate of increase in cash social security benefits.

In addition, the committee amendment includes the new provisions described below.

PROFESSIONAL STANDING REVIEW ORGANIZATIONS (PSRO) AREA DESIGNATIONS

The committee amendment provides that in those States (1) which have been divided into more than one PSRO area, and (2) in which no conditional PSRO's have been designated, the Secretary would poll the physicians in each designated area as to their preference for a local or statewide PSRO. If a majority of physicians in each currently designated PSRO area in that State approved a statewide PSRO, the Secretary would redesignate that State as a single area.

PSRO DIRECT UTILIZATION REVIEW ACTIVITIES

The committee amendment also contains a provision aimed at equalizing the reimbursement for utilization review activities where they are carried out by a hospital under delegation from a PSRO or by the PSRO itself. Under current law, utilization review expenditures are reimbursable by medicare for delegated review. Under this provision, utilization review expenses of the PSRO in carrying out nondelegated review would also be reimbursable through medicare benefit payments.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

Under this committee provision, the medicare program would be authorized to pay for care rendered to a medicare-eligible patient in a Veterans' Administration hospital if the patient had entered the hospital and the hospital had accepted the patient under the belief that he was eligible for veterans' benefits, and it was later determined that he was not eligible.

UPDATING OF THE LIFE SAFETY CODE REQUIREMENTS APPLICABLE TO SKILLED NURSING FACILITIES

The next committee provision would update the current requirements for skilled nursing facilities under the medicare and medicaid programs by replacing the current requirement that such facilities meet the provisions of the 1967 Life Safety Code with a requirement that they meet the conditions of the 1973 edition of the code. The provision would also assure that facilities currently qualified under the 1967 code, or State codes which are approved by the Secretary, would not lose their eligibility for participation in the programs.

GRANTS TO DEMONSTRATE APPROPRIATE MECHANISMS FOR CAPITATION PAYMENTS

Another committee provision would remove a technical barrier to the Secretary's approval of a grant to the Sacramento Medical Care Foundation which is aimed at obtaining data to assist the Department in developing appropriate reimbursement mechanisms for health maintenance organizations.

OCCUPATIONAL THERAPY UNDER MEDICARE

The committee amendment includes a provision to expand coverage of occupational therapy services under the medicare program to cover such services when they are provided through clinics, rehabilitation agencies and other organized settings. The provision also allows patients to qualify for home health services on the basis of a need for occupational therapy services alone.

FOOD STAMP PURCHASES BY WELFARE RECIPIENTS

Another provision of the committee amendment to H.R. 10284 relates to food stamps. Agriculture Department regulations scheduled to go into effect in January 1976 will require welfare agencies in all States to allow recipients of Aid to Families with Dependent Children (AFDC) to purchase food stamps through a withholding procedure. The price of the stamps would be deducted from the AFDC check and the stamps themselves would be mailed with the check. Current law requires the Department to impose this procedure on the States on a mandatory basis even though a significant number of States believe that the adoption of this procedure will create severe problems of administration. The committee amendment will allow each State to decide whether or not to use this method of distributing food stamps to welfare recipients.

Mr. FANNIN. Mr. President, during its consideration of H.R. 10284, the Senate Finance Committee adopted provisions contained in S. 2560, the Physician Fee Index Reform Act of 1975 which I had introduced on October 22. This legislation was designed to correct deficiencies in the administration of section 224(a) of Public Law 92-603, the Social Security Amendments of 1972. Section 224(a) added a new feature of the process by which prevailing charges are computed under the medicare part B program. Under section 224(a) prevailing charge levels would be subject to appropriate economic index data.

In adopting this provision Congress envisioned a process by which increases in prevailing charge levels would occur only when such increases were justified by other changes in the economy and only to the extent justified by indexes reflecting changes in the operating expenses of physicians and in earnings level. The intent of Congress in approving this provision was fully amplified by the Senate Finance Committee when it stated in its report accompanying H.R. 1 that—

> The Committee, as well as the Committee on Ways and Means believes that it is necessary to move in the direction of an approach to reasonable charge reimbursement that ties recognition of fee increases to appropriate economic indexes so that the program will not merely recognize whatever increases in charges are established in a locality but would limit recognition of charge increases to rates that economic data indicate would be fair to all concerned and follow rather than lead any inflationary trends.

By imposing an economic index framework on the existing prevailing charge formula the Congress was attempting to develop a rational system by which to justify increases in physician reimbursement. For the medicare program to assume that increases in prevailing charges were acceptable without any clear justification was a situation the Congress apparently could no longer tolerate.

Whether the application of an economic index makes sense, is fair, and will result in the containment of costs, was not the subject of S. 2560 although these issues will have to be addressed at an appropriate time. Rather, S. 2560 was designed to correct certain existing deficiencies and inequities in the economic index provision itself and with its administration. Among these deficiencies were: First, the effect of the index of prevailing fees; second, the use of a national economic index as opposed to local or areawide index, and the absence of any consideration of increases in medical liability premiums in computing the index.

Public Law 92-603 was enacted into law on October 30, 1972, but it was not until April 14, 1975, nearly 2½ years later, that regulations promulgating section 224(a) were issued. As a result of this delay its application is having serious unintended effects.

As I understand it, the index is applied on a cumulative basis with fiscal year 1973 prevailing charges as the base. The cumulative index for fiscal year 1976 is 1.179. Thus, an increase in any fiscal year 1976 prevailing charge greater than 17.9 percent over the fiscal year 1973 prevailing charge for that service will be reduced to 17.9 percent, while any charge that increased by less than 17.9 percent will be allowed in full and any unused portion of the allowable increase would be carried forward for use in future years.

Instead of limiting increases, however, this index is causing fiscal year 1976 prevailing fees to decrease below 1975 fees in a substantial number of cases. While HEW assumed that the effect of this distortion would be minimal it is understood that over 15 percent of fiscal year 1976 prevailing charges are being decreased below 1975 levels. As a result, affected beneficiaries will no doubt have to pay additional costs as physicians will not be willing to accept assignment under these conditions.

In addition, the medicare program will suffer increased costs as these same beneficiaries seek payment directly from medicare. As this was clearly not the intent of the Congress in developing the index I have drafted legislation which will adjust the index so as to avoid a rollback in prices. This amendment will provide that no reimbursement based on the prevailing charge for physician services in fiscal year 1976 will be less than what was recognized in fiscal year 1975. In addition, the amendment also authorizes retroactive payments to physicians whose fees have been adversely affected by the application of the index.

In response, the Senate Finance Committee adopted language similar to S. 2560 which would have the effect of preventing a rollback in medicare fees which might have occurred in fiscal year 1976.

In regard to the problems associated with data developed on a national basis as opposed to a more limited geographical area, the committee approved bill language which would require the Social Security Administration to utilize economic index data derived from a "regional" area. This language was designed to resolve the differences between the Congress and the Administration over the scope of data utilized in the index.

Under the regulations issued to implement section 224(a), the Social Security Administration determined that the economic index should be based on national data. This determination, however, was in direct conflict with the very clear intent of both the House Ways and Means Committee and the Senate Finance Committee that such an index reflect changes in the economy for a locality. In this case, "locality" was defined by the Senate Finance Committee as an "area of a size and nature permitting proper calculation and determination of the types required to adjust prevailing charge levels."

In developing the regulations the Social Security Administration apparently concluded that sufficient data was not available at the local level to permit the development of an economic index. Even though the Social Security Administration could reasonably argue that the definition of "locality" could be interpreted as permitting a national index in the event that a locality index was impossible to develop, there remains the conviction of both the House Ways and Means Committee and the Senate Finance Committee, that a locality index was far more preferable and was to be utilized.

A "local" index is more appropriate since it would conform to the "local" determination of the prevailing charge itself. In addition, a local index would be more relevant and reflective of local economic changes and increases in practice costs and earnings as opposed to the generalities of a national index.

Finally, the committee agreed to my proposal to specify malpractice premiums as part of the index.

In addition to the omission by Congress to more clearly specify, in law, its intent regarding the use of local data in building an economic index it also failed to indicate what factors should be taken into account in developing such an index especially as it relates to physician's operating expenses. The statute is virtually silent on this issue on the assumption perhaps that administrative experience would provide sufficient information to make such a determination.

Yet, the regulations implementing section 224(a) do not, for example, take into consideration the recent precipitous rise in medical liability premiums. In 1972 when Public Law 92-603 was enacted the cost of such premiums was being estimated at $600 million nationwide. In just 3 years, according to the HEW Commission on Medical Malpractice, such costs were estimated to have risen to over $1 billion. In view of the obvious impact of these premium costs to many physicians it would seem appropriate therefore to recognize the effect of these costs by requiring the Social Security Administration to take such costs into account in determining changes in the economic index that reflects operating expenses of physicians. As a result, H.R. 10284 seeks to amend the economic index provision by including medical liability premiums as a specified element of such an index. This provision would be effective beginning July 1, 1976.

It is obvious, of course, that other elements should be specified to assure that the economic index is clear as to its basis and scope. Certainly, as presently constituted the language of the law is more vague than clear; a fact which makes the situation involving the administration of this provision difficult and confusing to physicians, carriers, and perhaps to the Social Security Administration itself. The step I propose will, I hope, lead to other suggestions as to what other elements should be recognized and whether their mention in the law should be affected.

Mr. President, I am aware of the view of the Department of Health, Education, and Welfare that the provisions which I proposed regarding a "regional" index, and the inclusion of malpractice costs in computing the index are impossible to administer. It is, of course, unfortunate that the Department did not communicate its concern earlier especially in view of the fact that it took the Department 2½ years to produce the existing index. Nevertheless, I have included a stipulation that the Department report to the Senate Finance Committee and the House Ways and Means Committee, not later than 90 days following enactment of this legislation, as to its capacity to meet the objectives of these provisions. This report will serve the purpose of providing the Department with a formal opportunity to indicate if it can comply or what further legislation may be needed to assure compliance. Certainly, if the Department expressed concern that its ability to comply was impossible or would involve controversial data gathering techniques, then I would be the first to recommend legislation to either modify the index or repeal it altogether.

This mandated report should clarify the issues by permitting the Department to express its concerns so that the Congress can act appropriately in assisting the Department. This is a cooperative endeavor as the Congress is anxious to produce legislation which the Department can administer without imposing impossible conditions and then demanding compliance of the Department where compliance is impossible. In this regard, it is not my intent to demand compliance in connection with these two provisions during the months in which the Department is evaluating its capacity to implement them. This is the only fair way to approach this problem and I hope my colleagues will agree.

Mr. President, in conclusion, this legislation was initially designed to correct some minor problems. They were viewed as improvements in the existing law, but it now appears that these "minor" changes may aggravate the problems which we seek to correct. It is my hope that these changes can be accommodated but, if not, then the Congress has the responsibility to resolve these problems and to extricate the Department from implementing policies which are impossible to administer.

Mr. LONG. Mr. President, I ask unanimous consent that the committee amendment be agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

AMENDMENT NO. 1292

Mr. BEALL. Mr. President, I have two amendments at the desk which have been cleared with the committee. I call up my amendment No. 1292, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) offers an amendment numbered 1292.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL's amendment (No. 1292) is as follows:

At the end of title I, add the following new section:

SEC. . (a) Section 1167(b) of the Social Security Act (42 U.S.C. 1320c–16(b) is amended to read as follows:

"(b) In any civil suit, action, or proceeding brought against a Professional Standards Review Organization, a member, director, trustee, employee, or official thereof, or a person who is requested by, and who furnishes professional counsel or services to, such organization—

"(1) such organization, individual, or person shall not be held liable for the negligent performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person was grossly negligent in such performance;

"(2) such organization, individual, or person shall not be held liable for defamation in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person acted with malice or with gross negligence in connection with such performance; and

"(3) the Secretary shall make payment to such organization, individual, or person equal to the reasonable amount of the expenses of legal counsel actually and necessarily incurred, as determined by the Secretary, in connection with the defense of the portion of such suit, action, or proceeding in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part.".

(b) The amendments made by this Act shall take effect on the date of enactment of this Act, but shall not apply with respect to any civil action, suit, or proceeding brought prior to the date of enactment of this Act.

Mr. BEALL. Mr. President, this amendment would amend the Professional Standards Review Organization provisions of Public Law 93–603 in three important respects. I might say it is a duplicate of a bill introduced in the House by Representative GUDE.

First, it would make PSRO's as well as its members and employees, civilly liable in connection with the performance of duties authorized or required of PSRO's only if it can be demonstrated that such organizations or individuals were "grossly negligent." Present law makes such organizations and individuals liable for the failure to exercise "due care."

Second, it would make PSRO's as well as its member and employees liable for defamation in connection with its PSRO's duties and functions only when it can be shown that such organization or individual acted with malice or with gross negligence; and

Third, it would authorize HEW to pay PSRO's and individual's expenses for legal counsel "necessarily incurred as determined by the Secretary in connection with the performance of any duties, functions, or activities of professionals standards review laws."

With respect to the payment of the expenses of legal counsel, I wish to make it clear that it is my intent and that of Congressman GUDE that such HEW payments would only take place if the PSRO's were unable to secure liability insurance. If in fact such liability insurance is available, this provision would not be needed.

When enacted in 1972, PSRO's were designed to provide review of health services by health professionals to assure that such services were medically necessary, provided at the appropriate level of care, and that the quality of such services would meet professionally recognized standards of care.

Today there are 63 PSRO's actually in operation in the country and another 57 in various planning stages. The growth of PSRO's is threatened, however, unless liability protection can be provided to those professionals who are willing to undertake the review of medical services and perform this important public responsibility.

In Montgomery County, for example, the Montgomery County Medical Care Foundation, is scheduled to cease its professional review activities as of the end of this year if some such protection is not forthcoming. This is because such foundation, notwithstanding a yearlong search, has been unable to secure liability insurance protection.

The problem of adequate liability insurance is not just a problem for Montgomery County, but evidentially one for PSRO's throughout the Nation. In a recent survey, 99 out of 105 PSRO's indicated that the issue of liability insurance was of major importance to them. Thus, unless we can solve this liability issue, the PSRO's will be endangered. HEW to date has been only able to promise reimbursement to PSRO's for defense "under certain conditions" and "subject to the availability of funds." Obviously, such conditional and "iffy" assurances are not adequate for the PSRO's.

This amendment incorporates the language of S. 2782, introduced by me and H.R. 11139, introduced by Congressman GUDE.

If PSRO's are to work, physicians and other health professionals involved must be protected against personal liability for carrying out their responsibilities.

Mr. President, I ask unanimous consent that my colleague from Maryland (Mr. MATHIAS) be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, our staff has studied the amendment the Senator has suggested, and we believe it would be meritorious and have no objection to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1293

Mr. BEALL. Mr. President, I call up my amendment No. 1293 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) proposes an amendment No. 1293.

The amendment is as follows:

At the proper place in the bill, insert the following new section:

COVERAGE UNDER PART B OF MEDICARE OF DURABLE MEDICAL EQUIPMENT PROVIDED TO CERTAIN INSTITUTIONALIZED PATIENTS

SEC. . (a) Section 1861(s)(6) of the Social Security Act is amended by inserting "and which is used as the patient's home during a period for which the patient is entitled to have payment made under part A for the inpatient hospital or post-hospital extended care services furnished to him by such institution" immediately after "of this section".

(b) The amendment made by this section shall be effective only with respect to services furnished on and after the first day of the first calendar month which begins not less than thirty days after the date of enactment of this Act.

Mr. BEALL. This amendment corrects what I believe to have been a technical oversight in the medicare legislation of 1965. Section 1861(s) of title XVIII defines "medical and other health services" as the terms are used in referrence to the scope of benefits provided under part B. Durable medical equipment is defined in section 1861(s)(6) as follows:

> Durable medical equipment, including iron lungs, oxygen tents, hospital beds and wheelchairs used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

The apparent purpose of the parenthetical language is to make these benefits available to persons making their homes in institutional settings as well as to persons residing in individual homes, but to exclude them from coverage under part B when they can be covered under part A. Subsection (e)(1) refers to hospitals and subsection (j)(1) refers to skilled nursing facilities which provide posthospital extended care services under part A.

The problem is created by the fact the exclusion is written in terms of the characteristics of the institution in which a person may make his or her home rather than in terms of the person's entitlement to receive the services through the institutional care covered by part A. Many persons make their homes in institutions which meet subsection (j)(1) but who are not currently eligible for institutional benefits under part A. These include, for example—

Patients in skilled nursing facilities who require skilled care but not in connection with a prior hospitalization.

Residents of intermediate care facilities. Many ICF's "meet the requirements of subsection (j)(1)."

Patients who have exhausted their coverage under part A.

The most serious manifestation of this problem is its denial of coverage for oxygen. Medicaid generally is not a resource. A few States, but very few, provide some oxygen under the heading of prescribed drugs. In general, a person needing oxygen, who would be entitled to it under part B if he resided in an individual home, has no access to coverage of oxygen because he makes his home in an institution, a situation contrary to the apparent intent of the original legislation.

Mr. President, my amendment seeks to correct this situation by adjusting the service to fit the patient rather than the other way around.

Mr. LONG. Mr. President, the amendment is meritorious, and I have no objection to it. Our staff has studied the amendment and have agreed it is a good amendment.

The amendment was agreed to.

Mr. BEALL. Mr. President, on behalf of the Senator from New York (Mr. JAVITS), I send an amendment to the desk, which I understand has been cleared with the staff of the committee, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. BEALL) on behalf of Mr. Javits proposes an amendment.

The amendment is as follows:

On page 16, between lines 3 and 4, insert the following:

SEC. 11. Section 1815 of the Social Security Act is amended by deleting the parenthesis after "monthly", and inserting: "with no greater lag in payment to the provider than occurs in the providers' payments for the products and services it purchases)".

Mr. JAVITS. Mr. President, the purpose of this amendment is to overcome changes in the periodic interim payment—PIP—program under medicare, pursuant to recently published regulations in the Federal Register, which would slow down payments to hospitals in the medicare program.

The effect of the regulations will be a devastating blow to the critical cash flow situation of many of our Nation's hospitals. While the longer the delay in payment the greater the gain to the Government that holds the money, the greater the loss is to the institutions that receive the funds. Moreover, the institutions then have to borrow money—if they can—and pay interest on loans when they become cash short as a result of Government delay in payment.

I believe the Congress can act to prevent shortchanging hospitals in this way and require by law that payment be prompt.

The amendment I proposed achieves that result by amending section 1815 of the Social Security Act with respect to payments to providers of services. It amends the law requiring providers to be paid "but not less often than monthly" by further requiring such payment to be "with no greater lag in payment to the provider than occurs in the providers' payments for the products and services it purchases."

The amendment does not authorize hospitals to receive advances on which they will make a profit—but rather assures the medicare program will pay hospitals as promptly as hospitals pay their own bills. Thus, the hospitals would not be compelled to go into debt to pay their bills. This is the effect of the amendment I am proposing.

It is my view that the proposed amendment would be in accord with the legislative history of medicare that the program was to avoid "placing any financial burden upon hospitals by providing funds as nearly as possible after the time of providing services"—Provider Reimbursement Manual Paragraph 2407 of February 12, 1974.

Since the interest cost of the hospitals' borrowing—due to delayed payments—is ultimately shared by all of the hospital's patients, the proposed regulation—which this amendment seeks to overcome—appears in conflict with section 1861 of the Social Security Act which declares that nonmedicare payors should not be made to bear any medicare-related costs.

While the amendment does not specify "payroll," it is intended that "payroll" is included within "services it purchases" as set forth in the amendment.

Mr. LONG. I believe it to be a good amendment, Mr. President, and our staff has also studied this amendment and think it is meritorious.

Mr. BEALL. I thank the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I have been informed by the acting majority leader, Mr. ROBERT C. BYRD, that he has learned that there are other Senators who wish to offer amendments to the bill with which I am not familiar, and I appreciate the problems of the leadership. Therefore, I think that we have no choice but to ask that this bill be temporarily laid aside and try to accommodate those Senators when we can.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. DOLE. The Senator from Kansas has two minor amendments, and he may not be in the Capitol tomorrow. I wonder if we could consider the two amendments that I have, which have been agreed to before we lay aside the bill.

Mr. LONG. I have no objection.

Mr. FANNIN. Mr. President, I also have one amendment for the Senator from Georgia, the Senator from Kansas, and the Senator from Arizona. I think that the chairman is familiar with the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I send an

amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Kansas ask that the two amendments be considered en bloc?

Mr. DOLE. No, I do not. The Senator does not.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, between lines 3 and 4, insert the following new section:

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 11. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than four months after the date of enactment of this section a report containing his findings and recommendationis with respect to, the appropriateness of reimbursement under the insurance program established by part B of title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

Mr. DOLE. Mr. President, this amendment is essentially identical to one adopted by the Senate 2 years ago as a part of H.R. 3153, the Social Security Amendments of 1973. It simply calls upon HEW to make a determination of what diagnostic functions and professional services provided by optometrists should be reimbursable under medicare.

Under present medicare law, all routine vision care—including refractive services—are specifically excluded from coverage. However, with respect to services provided under title XVIII for aphakic patients; that is, those whose natural lenses have been removed—optometrists are included within the definition of a physician whose services are reimbursable.

Because of this inconsistency, a great deal of confusion has arisen as to precisely what services provided an aphakic patient are reimbursable. The purpose of this amendment is to create a mechanism by which that issue can be resolved.

In order that the intent might be clear on this, I think it would be well to refer back to the Finance Committee report language on H.R. 3153. On page 70 of that document, Senate report 93-553, it was noted that an appropriate study should be undertaken utilizing the expertise of both optometrists and physicians who are not employed directly or indirectly in governmental agencies, and that at least half of the professionals consulted should be actively practicing optometrists.

In addition to those original guidelines, I would further suggest now that the Secretary might assign the designated task to his Assistant Secretary of Health, and that his office in turn utilize existing Health Manpower agencies so that information could be supplied regarding the optometric curriculum and the distribution of optometrists generally. I would also hope that the panel formed would include consumer representatives and that, in the course of their investigation, consideration can be given to services provided the entire cataract patient—including precataract cases where appropriate.

These additional recommendations will, I believe, enhance the HEW study and result in a much needed clarification of the reimbursement policy in this entire area. For that reason, the Department should look upon them as specific recommendations designed to reflect legislative intent.

Mr. President, it is my understanding that the distinguished floor manager, Mr. LONG, is familiar with this amendment and has no objection to it. Before seeking his comments, however, I would like to note that the distinguished Senator from Connecticut (Mr. RIBICOFF) who was unable to be here at this time, also wishes to be associated with this effort.

The amendment has been discussed at the staff level. I think it is agreeable to the chairman and there is no objection on the minority side.

Mr. LONG. Mr. President, we have no objection to the amendment, and we believe it to be meritorious.

The amendment was agreed to.

Mr. LONG. Mr. President, I have been informed by the staff that Mr. CRANSTON and Mr. MONDALE had left notice with the leadership because they wished to offer amendments with which we are familiar and which we would support, and I am sure they have no objection to the Senate adding their amendments to the bill in view of the fact that they are not here at this moment. They have discussed them with our staff, and they have discussed them with me and others. I simply now, knowing what those Senators had in mind, ask that those amendments be obtained, and I will offer them on their behalf.

Mr. ROBERT C. BYRD. Mr. President, I have the name of Mr. MCINTYRE as a Senator who has an amendment at the desk.

Mr. LONG. Mr. President, that amendment is a solar tax amendment, I am told, and it would confront the same problem as the Brooke amendment. That amendment, if it is offered at all, ought to be offered on a revenue bill, and we are saving two revenue bills here on the calendar.

I would hope we could simply complete the work on this bill this evening and give Senator MCINTYRE the opportunity of offering his amendment on another bill tomorrow.

Mr. ROBERT C. BYRD. Very well.

Then the Senator from Louisiana assures me that Mr. MCINTYRE will have an opportunity to offer his amendment to another bill.

Mr. LONG. Definitely.

Please understand that that will have the same problem we have with the Brooke amendment.

Mr. ROBERT C. BYRD. At least he will be here.

Mr. LONG. But Senator BROOKE has the right to offer his amendment again on these two bills.

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. And Senator MCINTYRE will have his opportunity to offer his amendment.

Mr. ROBERT C. BYRD. He will have the opportunity to offer it and to speak to it and defend it.

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. What about Mr. CRANSTON? I have his name also.

Mr. LONG. I am sending for the text of his amendment right now. I will offer it on his behalf.

Mr. ROBERT C. BYRD. Very well.

Mr. LONG. The amendment that Senator CRANSTON wishes to offer has previously been agreed to by the Senate on two occasions. I am sure the Senate would have no objection to agreeing to it again.

Mr. ROBERT C. BYRD. I do not know of any Senator who the Senator from California (Mr. CRANSTON) would rather have offer an amendment on his, Mr. CRANSTON's behalf than the Senator from Louisiana, especially when the Senator from Louisiana is managing the bill.

Mr. LONG. The Senator from California lives in the building right next to me, and I can assure the Senator that I would not be able to go home again if I did not do this for him. I am proud to be his neighbor, and I am confident that he would not object to my adding his amendment to the bill on his behalf.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his consideration and also for his assurance with respect to the McIntyre bill.

Mr. LONG. Yes.

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, between lines 3 and 4, insert the following new section:

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 11. (a) Subsections (c)(1) and (f)(1) of Section 1152 of the Social Security Act are amended by changing the date "January 1, 1976," in each to "January 1, 1978,".

(b) The amendments made by the above subsection shall not apply in any area designated in accordance with Section 1152(a)(1) of the Act where—

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located, if different, has adopted by resolution or other official procedure a formal policy position of opposition to or non-cooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under Section 1152 has been negatively voted upon in accordance with the provisions of Section 1152(f)(2).

Mr. PROXMIRE. Mr. President, what would this amendment do?

Mr. DOLE. It would simply extend for 2 years the deadline by which professional standards review organizations must be established by local initiative and without preemption by the Secretary of Health, Education, and Welfare.

In view of the slow progress toward development of these institutions and the limited funding available for PSRO contracts, the present startup deadline of January 1, 1976, is, I believe, very unrealistic. Although the Secretary's most recent policy statement on PSRO's indicate that HEW will not move to unilaterally establish these review bodies during the next 12 to 18 months, it seems only fair and prudent that we remove that "pressure" from those associations which are still in the formative stages.

There are only 63 PSRO's actually in operation in the country today and another 57 in various planning stages. It is apparent, therefore, that the current date must be extended if we are to allow independent development of review organizations without HEW interference.

In order to eliminate the creation of a situation in which no action would be pending, my amendment does stipulate that the delay would not be effective in those areas where a formal policy of opposition or nonacceptance has been voted. Although very few in number, I recognize that the Department may, in those instances, have a legitimate basis for going ahead on its own.

Mr. President, I believe the distinguished floor manager, Mr. LONG, is acquainted with the advisability of this proposal and would be willing to accept it. If that is the case, and the Senate should then adopt the provision, it would certainly be my hope the House might give its concurrence.

Mr. President, I yield to the distinguished floor manager for his comments on this proposal.

Mr. LONG. Mr. President, there is a need to extend the time. There is no cost in the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, on behalf of Mr. CRANSTON, Mr. STONE, Mr. RIBICOFF, Mr. PHILIP A. HART, and Mr. PELL, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill:

SEC. . (a) Title XVIII of the Social Security Act is amended by adding after section 1818 the following new section:

"HOSPITAL INSURANCE FOR INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

"SEC. 1819. (a) Every individual who—

"(1) has attained the age of 60, but has not attained the age of 65; and

"(2) is either—

"(A) an individual entitled to monthly insurance benefits under section 202 or benefits under the Railroad Retirement Act of 1937, or

"(B) the wife or husband of a person entitled to benefits under this part, or

"(C) an individual entitled to benefits under—

"(i) section 223(a), or

"(ii) subsection (e), (f), (g), or (h), of section 202 based on disability,

but who has not met the conditions of section 226(b)(2); and

"(3) is enrolled under part B of this title shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll only once under this section and only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) In the case of an individual who satisfies paragraph (1) of subsection (a) of this section and either subparagraph (A) or (C) of paragraph (2) of such subsection, his enrollment period shall begin with whichever of the following is the latest:

"(A) April 1, 1976, or

"(B) the date such individual first meets the conditions in such paragraph (2), or

"(C) the date the Secretary sends notice to such individual that he is entitled to any monthly insurance benefits as specified in subparagraph (a) or (C) of such paragraph (2),

and shall end at the close of the—

"(D) 90th day thereafter, if such enrollment period begins on the date specified in subparagraph (B) or (C) of this paragraph, or

"(E) the 180th day thereafter, if such enrollment period begins on April 1, 1976.

"(3) In the case of an individual satisfying paragraph (1) and paragraph (2)(B) of subsection (a) of this section, his enrollment period shall begin on whichever of the following is the later: (A) April 1, 1976, or (B) the date such individual first meets the conditions specified in such paragraphs, and shall end at the close of the (C) 90th day thereafter, if such enrollment period begins on the date specified in clause (B) of this paragraph or (D) the 180th day thereafter, if such enrollment period begins on April 1, 1976.

"(c)(1) In the case of an individual who enrolls pursuant to the provisions of this section, the coverage period during which he is entitled to benefits under this part shall begin on the first day of the second month after the month in which he enrolls, or July 1, 1976, whichever is later.

"(2) An individual's coverage period shall terminate at the earlier of the following—

"(A) for failure to make timely premium payments, at such time as may be prescribed in regulations which may include a grace period in which over-due premiums may be paid and coverage continued, but such grace period shall not exceed 30 days; except that it may be extended to not to exceed 60 days in any case where the Secretary determines that there was good cause for failure to pay overdue premiums within such 30-day period; or

"(B) at the close of the month following the month in which an individual files a notice with the Secretary that he no longer desires to be enrolled under this section; or

"(C) with the month before the month he no longer meets the conditions specified in subsection (a).

Notwithstanding the preceding provisions of this paragraph, an individual's coverage period shall terminate at such time as such individual becomes eligible for hospital insurance benefits under section 226 of this Act or section 103 of the Social Security Amendments of 1965; and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such month the application required to establish such entitlement.

"(d)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1977 shall be $40.

"(2) The Secretary shall, during the last calendar quarter of each year beginning in 1976, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums chargeable to individuals for months occurring in the 12-month period commencing July 1 of the next succeeding year. Such amount shall be actuarily adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period; and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1, or if midway between multiples of $1, to the next higher multiple of $1.

"(e) Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or other arrangement is administratively feasible.

"(f)(1) The provisions of section 1840 shall apply to individuals enrolled under this section if such individuals are entitled to monthly insurance benefits under section 202 or 223. The provisions of subsections (e), (f), (g), and (h) of such section 1840 shall apply to any other individual so enrolled.

"(2) Where an individual enrolled under this section meets the provisions of paragraph (2)(B) of subsection (a) (but does not meet the provisions of paragraph (2)(A) or (2)(C) of such subsection) and the person referred to in such paragraph (2)(B) is entitled to monthly insurance benefits under section 202 or section 223, the provisions of section 1840(a)(1) shall apply to such benefits as though such husband or wife were entitled to such benefits, unless such person files a notice with the Secretary that the deductions provisions of such section 1840(a)(1) shall not apply.

"(g) The term 'wife', or 'husband' as used in this section shall have the meaning assigned to those terms by subsection (b) and subsection (f) of section 216, as the case may be, except that the provisions of clause (2) of such subsection (b) and clause (2) of such subsection (f) shall not apply.".

(b) Title XVIII of such Act is further amended by adding after section 1844 the following new section:

"ELIGIBILITY OF INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HOSPITAL INSURANCE

"SEC. 1845. (a) Any individual who meets the conditions of paragraph (1) and paragraph (2) of section 1819 (a) shall be eligible to enroll in the insurance program established by this part. The provisions of subsections (b), (c), (e), (f), and (g) of section 1819 shall apply to individuals authorized to enroll under this section.

"(b) An individual's coverage period shall also terminate when (A) he no longer meets the conditions specified in paragraphs (1) and (2) of section 1819(a) or (B) his enrollment under section 1819 is terminated. Where termination occurs pursuant to this subsection, the coverage period shall terminate with the close of whchever of the following months is the earliest: (C) the month before the month the individual attains the age of 65 or (D) the month following the month in which such individual no longer meets the conditions of paragraph (2) of section 1819(a) or (E) the month in which his enrollment under section 1819 terminates.

"(c)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1976 shall be 200 per centum of the premium payable by an individual who has attained age 65 for such month.

"(2) The Secretary shall, during December of each year beginning in 1976 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period, and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1 or if midway between multiples of $1, to the next higher multiple of $1.

"(d) All premiums collected from individuals enrolled pursuant to this section shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.".

Mr. LONG. Mr. President, this amendment was originally included in the Social Security Act Amendments of 1972 (H.R. 1) as reported from the Finance Committee. It also was adopted by the Senate in the 93d Congress as a floor amendment to H.R. 3153, the Social Security Act Amendments of 1973. This amendment is designed to enable certain individuals who have not yet reached age 65 to buy-in to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

The Senator from Florida (Mr. STONE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. HART), the Senator from Rhode Island (Mr. PELL), the Senator from Wyoming (Mr. MCGEE), and the Senator from Tennessee (Mr. BROCK) join Senator CRANSTON in sponsoring this amendment.

The need for this legislation stems from the fact that medicare eligibility generally does not begin until age 65 yet many older persons lose their group health coverage when they retire before the age of 65. They are forced to enroll in high cost individual health policies with extremely limited and inadequate coverage—and even those are almost never available to individuals over 60 years old—or to forego any coverage whatsoever, gambling that they will stay healthy at least until they reach 65 when they become eligible for medicare.

Even if they are able to purchase coverage, it is at a prohibitive cost and in many cases excludes coverage of preexisting conditions. I am unaware of any health insurance currently available for this age group which is anywhere near as good a buy as medicare.

This provision is identical to that currently in the statute governing "buy-in" provisions for those over 65 not covered by social security.

The "buy-in" procedure we propose today is also similar to that allowing States to "buy-in" to medicare on behalf of their retired public employees 65 years or older.

Mr. President, adequate health care coverage is a matter of the greatest concern to Americans reaching retirement age. This legislation addresses that concern and provides a mechanism for a substantial number of particularly hard-pressed older Americans to take full advantage of the benefits under the medicare program.

The Senate having already twice passed this bill, I would hope that this third effort, if sucessful, will convince the other body of the Senate's commitment to bringing better health care to our senior citizens.

Mr. President, I hope the Senate will agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

BUY-IN AMENDMENT TO MEDICARE

Mr. CRANSTON. Mr. President, this amendment No. 1287 to H.R. 10284 was originally included in the Social Security Amendments of 1972—H.R. 1—as reported from the Finance Committee. It also was adopted by the Senate in the 93d Congress as a floor amendment to H.R. 3153, the Social Security Act Amendments of 1973. This amendment is designed to enable certain individuals who have not yet reached age 65 to "buy in" to parts A and B of medicare by payment of equal-to-cost premiums with no additional cost to the American taxpayer or burden to the Federal budget.

Mr. President, I am pleased that the Senator from Florida (Mr. STONE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Rhode Island (Mr. PELL), the Senator from Wyoming (Mr. MCGEE), and the Senator from Tennessee (Mr. BROCK) join me in sponsoring this amendment.

The need for this legislation stems from the fact that medicare eligibility does not begin until age 65—except for those disabled social security beneficiaries and individuals suffering from chronic kidney disease to whom medicare coverage was extended as the result of Public Law 92-603—yet many older persons lose their group health coverage when they retire before the age of 65. They are forced to enroll in high cost individual health policies with extremely limited and inadequate coverage—and even those are almost never available to individuals over 60 years old—or to forego any coverage whatsoever, gambling that they will stay healthy at least until they reach 65 when they become eligible for medicare.

Even if they are able to purchase coverage, it is at a prohibitive cost and in many cases excludes coverage of preexisting conditions. I am unaware of any health insurance currently available for this age group which is anywhere near as good a buy as medicare.

This is an intolerable situation, Mr. President, and I believe that we can effectively counteract it through the enactment of the measure we are proposing today. This amendment provides that if one spouse is over 65 and enrolled in medicare, the other spouse, if at least 60 years old, would be able to enroll in the program and receive equivalent benefits at cost.

In addition, these benefits would be made available to those receiving social security benefits who are 62 years of age and over; a divorced mother or widow between the ages of 60 and 64 if she is caring for a child under age 18 who is receiving payments based on the worker's record; the dependent parents between the ages of 60 and 64 of a deceased worker; and individuals between the ages of 60 and 64 who are retired on social security disability.

Persons in this last category whose disability persists for 2 years are eligible for medicare coverage now under existing law. Under the amendment we are offering today, these individuals would be able to "buy in" to medicare without waiting 2 years if they are over 60 years old.

Mr. President, our proposal would allow each of these categories of individuals, at a total cost of approximately $54 per month each in the first year of operation to enroll in part A of medicare—the hospital insurance benefits—if they also enroll in part B, supplementary medical insurance. The monthly premium for part A coverage would be $40 and for part B, approximately $14 or 200 percent of the current part B premiums—one-half of which the Government presently underwrites for medicare beneficiaries. This Federal subsidy would not apply to those individual who "buy in" to medicare. These individuals would be permitted to enroll in these programs anytime they are or become eligible during a 90-day period following receipt of notice of eligibility from the Social Security Commissioner.

We have mandated that any individual "buying in" to medicare must "buy in" to both part A and part B in order to reduce the potential excessive utilization of part A that might occur if that were the only coverage available to an individual. With coverage of both hospital benefits and ambulatory care benefits, the individual will have an opportunity to utilize the most cost effective and appropriate means of treatment for his ailment. Otherwise, if enrolled only under part A, an incentive might be created for overutilization of the most expensive kinds of in-hospital services.

This provision is identical to that currently in the statute governing "buy in" provisions for those over 65 not covered by social security added by Public Law 92-603.

Premium costs after the first year of operation for part A coverage would be set at a level which the Secretary determines, based on the estimated cost of hospital insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. This premium would be adjusted annually to reflect both the experience of the group and any changes in costs. It is conceivable that experience will show the part A premium should be less than the $40 which we propose for the first year of operation of this program.

That figure is based on the premium charged by HEW currently to individuals over 65 who wish to enroll in medicare and who are not eligible for social security. The group we propose to enroll is a younger and, presumably, healthier group so one would expect the premium to be less.

Though in 1972 the Senate Finance Committee clearly recognized the need for this extension of medicare coverage, and recognized that it would provide important health insurance benefits at no cost to the Government, this provision was deleted from the bill by the conference committee, and not included in the final version of the Social Security Amendments of 1972 as signed by the President.

At that time I was advised by the Finance Committee that the major factor in its deletion was simply the lack of opportunity, given the time constraints under which we were all operating in the concluding days of that Congress, for the House to evaluate this Senate provision thoroughly.

Subsequently, in the 93d Congress, the Finance Committee again recommended support for the "buy in" provision when I offered it as an amendment to H.R. 3153 and it was adopted by the Senate during floor consideration of that act. Unfortunately, as you know, the House was unwilling to come to conference on H.R. 3153 and the bill was allowed to die with adjournment of the 93d Congress.

Mr. President, adequate health care coverage is a matter of the greatest concern to Americans reaching retirement age. This legislation addresses that concern and provides a mechanism for a substantial number of particularly hard-pressed older Americans to take full advantage of the benefits under the medicare program.

The Senate having already twice passed this bill, I would hope that this third effort, if successful, will convince the other body of the Senate's commitment to bringing better health care to our senior citizens.

Mr. President, I ask unanimous consent that an excerpt describing these provisions from the Senate Finance Committee report on H.R. 1, the Social Security Amendments of 1972, (S. Rep. No. 92–1230) be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT NO. 92–1230

MEDICARE COVERAGE FOR CERTAIN INDIVIDUALS AGED 60–64

(Sec. 214 of the bill)

Present law provides hospital insurance protection for persons aged 65 and over who are insured or are deemed to be insured for cash benefits under the social security or railroad retirement programs. Essentially, all persons aged 65 and over are eligible to enroll for medical insurance (part B) without regard to insured status. The committee has approved a provision in the House bill which would permit persons aged 65 and over who are not insured or deemed insured for cash benefits to enroll in part A at a premium rate equal to the cost of their protection.

The committee is concerned that many social security and railroad retirement cash beneficiaries aged 60–64 and spouses aged 60–64 of medicare beneficiaries find it difficult to obtain adequate private health insurance at a rate which they can afford. Frequently these older persons—retired workers, wives, husbands, widows, widowers, mothers, parents, brothers and sisters, for example—have been dependent for health insurance protection on their own group coverage or that of a related worker who is now retired or deceased. It is a difficult task for such older persons to secure comparable protection at affordable cost when they are not connected with the labor force.

The committee, therefore, has added to the House bill a provision which would make medicare protection (both part A and part B) available on an optional basis at cost to spouses aged 60–64 of medicare beneficiaries; others aged 60–64 who are entitled to retirement, wife's, husband's, widow's, widower's, mother's, parent's, or brother's and sister's benefits under social security and the railroad retirement programs; and disability beneficiaries aged 60–64 not otherwise eligible for medicare because they have not been entitled to cash disability benefits for 24 months. The availability of medicare protection would be limited to persons aged 60–64 because the committee believes that people under age 60 who are not disabled generally have relatively little difficulty in obtaining private health insurance. About 6 million persons aged 60–64 would be potentially eligible to enroll for medicare as spouses of medicare beneficiaries or as beneficiaries entitled to the benefits specified above.

Persons who elect to avail themselves of medicare protection under this provision would pay the full cost of such protection. Enrollees would pay a monthly part A premium based upon the estimated cost of hospital insurance protection for persons eligible to enroll plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any; such premium would be $33 a month through June 1974 and would be adjusted for each 12-month period thereafter to reflect both the experience of the group and any changes in costs.

The monthly premium for persons in the group who enroll for part B would be twice the premium paid by an individual who has attained age 65 until June 1974 and would be adjusted for each 12-month period thereafter to reflect the estimated cost of supplementary medical insurance protection for persons eligible to enroll under the provisions plus amounts sufficient to cover administrative expenses and underwriting losses or gains, if any. Aliens who have been in the United States less than 5 years and persons who have been convicted of certain subversive crimes would be excluded from participation under this provision, just as they are excluded from enrolling for supplementary medical insurance.

The committee bill would require, as it requires under the provision in the bill making medicare protection available to uninsured persons aged 65 and over, that in order for persons to be eligible to enroll for hospital insurance they must be enrolled for supplementary medical insurance. If a person terminates his supplementary medical insurance, his hospital insurance coverage under this provision would be automatically terminated effective the same date as his supplementary medical insurance termination. The committee believes that such a restriction is necessary to reduce the possibility of excessive utilization of the more expensive hospital insurance coverage as might occur if an individual were enrolled for hospital insurance (covering primarily institutional care) but not for supplementary medical insurance (covering primarily outpatient care).

Coverage would be initially available as of July 1, 1973, to enrolled eligible persons.

Mr. FANNIN. Mr. President, I send to the desk an amendment which I have joined with Senator TALMADGE in sponsoring and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the proper place in the bill, insert the following new section:

UTILIZATION REVIEW UNDER MEDICAID

SEC. . (a) Section 1903(g)(1)(C) of the Social Security Act is amended to read as follows:

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel and (i) the information developed from such review or screening, and (ii) the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, who are not themselves directly responsible for the care of the patient involved and who do not have a significant financial interest in any such institution and who are not, except in the case of a hospital, employed by the institution providing the care involved; and, any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (iii) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (iv) subjecting admissions to early or more extensive review where information indicated that such consideration is warranted; and".

(b) The amendment made by subsection (a) shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

Mr. FANNIN. Mr. President, the chairman is familiar with this amendment. It is offered on behalf of myself, Senator TALMADGE, and Senator DOLE.

Mr. President, this amendment deals with utilization review requirements in the medicare and medicaid statutes.

In 1972 the Congress spent a good deal of time on amendments to the medicare and medicaid programs. At this time there was a great deal of interest in the need for improved utilization and peer review activities in order to assist in controlling the cost and quality of services rendered under the programs.

In drafting the PSRO provision and other utilization review provisions in medicare and medicaid, the Committee on Finance sought to draft meaningful and substantive review requirements and yet sought to give the reviewing physicians latitude in how the review would be carried out. For example, throughout the PSRO statute, and the other utilization review requirements in medicare and medicaid, we attempted to indicate that review was not to be done on just a token basis, but rather that substantial numbers of cases were to be reviewed and, further, that all cases were to be reviewed through the use of a screening process. We tried, however, to leave room in the statute so that we did not require by statute the direct review of each and every patient and admission.

It has been brought to our attention that there was one place in the statute where the review of each hospitalization under the medicaid program appears called for and, because of a cross reference in the statute, this review of each case would apply to the medicare program also. The Department has recently issued utilization review regulations aimed at implementing these provisions of law. The draft regulations met heavy objection and were eventually withdrawn by the Department of Health, Education, and Welfare. New regulations are currently being drafted. A number of groups, including both the American Hospital Association and the American Medical Association, have objected to the provision in the utilization review regulations calling for direct review of each admission. However, the Department has been bound by statute to call for such review.

Since, as I have pointed out above, such review is beyond the scope of what we intended, my amendment to medicaid would make it clear that 100-percent review was not mandated by law and that, rather than requiring 100-percent review of all cases, sample reviews would be carried out to keep a careful eye on the patterns of care being offered, and to subject problem patterns to early and extensive review. Where a particular problem exists, the amendment allows 100-percent review to be performed. Furthermore, the language allows for 100-percent review at the early stages of a program when the patterns of care are as yet unknown. In general, and over the long run, this amendment would allow utilization review to be carried out in the fashion that is most cost-effective.

Of course, the utilization review activities described in the amendment will be taken over by PSRO's in an area as the PSRO's become active and are found capable by the Secretary of assuming such responsibilities.

Mr. LONG. Mr. President, I am led to believe that this is such a popular amendment that it would be well to ask that my name be added as a cosponsor. I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. I thank the distinguished chairman.

Mr. LONG. Mr. President, as I understand it, the law now would appear to require a 100-percent review of these medicaid claims. I do not think we really intended that. In many cases, a simple screening is adequate; and if someone finds that there is an irregularity or something wrong with a claim, they could look at it more closely. The idea of requiring that everything in a claim be reviewed is not what we had in mind when we passed the law. It is a technical error that should be corrected. Otherwise, there would be needless cost and a great deal of unnecessary paperwork.

Mr. FANNIN. I thank the Senator. It will bring about a great deal of saving.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I have an amendment at the desk which I submit on behalf of myself and Senator CHURCH.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without obection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

That section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

SEC. 2. The amendments made by the first section of this Act shall apply to obligations issued after the date of the enactment of this Act.

Mr. McCLURE. Mr. President, this is the same amendment that was offered to the other bill, and it was fully explained at that time. I hope the Senator can accept this amendment.

Mr. LONG. Mr. President, if I understand what the Senator is seeking, he is seeking to add the same amendment as has already been added to the social security bill. He is seeking to do that in the event that the social security bill might not become law while this one might.

Mr. McCLURE. The Senator is correct.

Mr. LONG. I would then like to do the same thing with the Virgin Islands bill.

Mr. McCLURE. I have no objection.

Mr. PROXMIRE. Mr. President, I have great sympathy with the Senators from Idaho, who have made a very good case with their proposed legislation. But it seems to me that this is a bad precedent. Are we going to do this on every bill that comes up? I think that if any bill has a chance of passage, it is the social security bill. Everybody is for it. It would have every chance of going through. Perhaps if it were my State, I might try to do the same, but it seems to me that there would be no end to this.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. McCLURE. The Senator from Idaho would not ordinarily do this just because he happens to have a bill he would like to get passed. This particular matter has an absolutely critical time question involved in it. There is no next year for us on this one. If anything happens to the one bill that is moving, then the entire arrangement that has been put together so meticulously and with so much pain and so much effort comes apart.

All that I and my colleague from Idaho are seeking to do is to make certain that there is a bill that gets through and that carries this provision, without it getting lost. If it does not get through and get to the President and signed by the President, the entire arrangement comes apart. It is just that critical. We do not have a second chance on it.

Mr. LONG. Mr. President, in view of the eloquent statement the Senator has made, I will not insist on offering the Virgin Islands bill as an amendment to his amendment.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. I send to the desk an amendment in behalf of Senator MONDALE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Add at the end thereof the following new section:

"TECHNICAL AMENDMENT RELATING TO JUDICIAL REVIEW AVAILABLE TO PROVIDERS OF SERVICES"

"SEC. 5. Section 3 of P.L. 93–484 is amended by redesignating subsection (b) therefor as subsection (c), and inserting the following new subsection:

"(b) Notwithstanding any other provision of law, section 1878 of the Social Security Act shall not be construed as affecting any right to judicial review which may otherwise be available under law to providers of services with respect to cost reports for accounting periods ending prior to June 30, 1973."

Mr. LONG. Mr. President, this is a technical amendment that was previously passed through the Senate to protect a legal right. It is something we have passed before, but we have passed it on a bill that failed to become law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 10284) was passed.

Mr. LONG. Just in case the House should ask for a conference on this matter, I move that the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Long, Mr. Talmadge, Mr. Hartke, Mr. Curtis, and Mr. Fannin conferees on the part of the Senate.

The title was amended so as to read:

An Act to amend title XVIII of the Social Security Act, and for other purposes.

Mr. LONG. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 10284.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I thank the distinguished acting majority leader (Mr. Robert C. Byrd) and the distinguished Senator from Wisconsin (Mr. Proxmire) for their helpful cooperation in considering and passing these measures, as well as the other Senators who have participated in this discussion tonight. It is a difficult problem when the committee is limited by the action in the other body. We on the Committee on Finance oftentimes find ourselves frustrated by the fact that the committees on the other side handling revenue bills take a long time in getting those bills to us. Their failure to act early in a session and, sometimes, failure to act on a measure entirely in a session, oftentimes frustrates us and presents us from offering the Senate an opportunity to do as much fine work as the Senate would like to do.

I appreciate the cooperation of the Senators in helping us pass some very needed and desirable legislation here tonight. It is true that none of these measures has any great impact on individual, but they are vital to those people affected.

Mr. FANNIN. Mr. President, I commend the distinguished chairman of our committee, the Senator from Louisiana, for his very capable and diligent work on these measures. These bills are very important and he was willing to devote long days and many, many hours to getting these bills to the floor. On the floor, he has carried them in a very commendable manner. I very much appreciate the splendid work he has done.

Mr. LONG. Mr. President, I thank the distinguished Senator. I very much appreciate the great contribution the Senator from Arizona has made. He has been a very busy man and has done a great deal of work for Congress and for his Nation.

I only regret that some of the other committees have not agreed with him as much as the Senate Committee on Finance has. I think the Nation would be better off if the other committees had seen fit to see things his way as often as the Committee on Finance has.

Mr. FANNIN. Mr. President, I want to thank the majority and minority staff for the work they have done.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, the Senate has now been in session for 12 hours and 40 minutes.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 539, 541, 543, and 544.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION IN SPENDING LEVELS

The concurrent resolution (S. Con. Res. 79) declaring the commitment of the Senate to comply with the Congressional Budget and Impoundment Control Act of 1974 and to reduce spending levels was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That Congress reaffirms its commitment to following the procedures established by the Congressional Budget and Impoundment Control Act of 1974. The Senate recognizes and approves the President's determination to reduce spending levels in order to reduce the national deficit, and requests that the President expedite his submission to the Congress of specific spending cut proposals. The Senate further declares its intention to seek to counterbalance future tax reductions enacted by the Congress by restricting the growth of spending.

WILLARD H. ALLEN, JR., AND NICOLE J. ALLEN

The Senate proceeded to consider the bill (S. 209) for the relief of Willard H. Allen, Jr., and Nicole J. Allen which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 1, in line 6, strike "$10,000" and insert "$6,476";

On page 1, in line 8, strike out "for reimbursement of expenses they incurred as the result of an error by personnel of the Bureau of Indian Affairs";

On page 2, in line 4, strike "25" and insert "10";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $6,476 to Willard H. Allen, Junior, and Nicole J. Allen of Brighton, Colorado, in full settlement of all their claims against the United States in connection with a defective sale to them of restricted Indian land in the Wind River Reservation, Wyoming.

Sec. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof may be paid to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $2,000, imprisonment not to exceed one year, or both.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94-566) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of S. 209, as amended, is to authorize the Secretary of the Treasury to pay Willard H. Allen, Jr., and Nicole J. Allen the sum of $6,476 in full satisfaction of their claim. The bill prohibits payment of agent or attorney fees in excess of 19 percentum of the funds authorized to be appropriated by this Act and impose a penalty for violation of the limitation.

BACKGROUND AND NEED

While employed by the Indian Health Service (Department of Health, Education, and Welfare) on the Wind River Reservation, Wyoming, Willard H. Allen offered the sum of $6,476 for 20 acres of restricted Indian land owned by Stanford St. Clair. The award was made on May 22, 1972, when the sale was approved by the Bureau of Indian Affairs, and the deed issued.

Bureau of Indian Affairs officials at the Area Office in Billings, Montana, learned later in the year that Mr. Allen was employed by the Indian Health Service; and the sale, therefore, was declared null and void by the Bureau, pursuant to the Act of June 30, 1834 (4 Stat. 738), which prohibits any trading with Indians by persons employed in the Indian service.

By the time the sale was declared null and void, Mr. St. Clair had used the funds to discharge a mortgage held by the Tribal Credit Program on the land in question. Mr. St. Clair did not have sufficient funds or resources to reimburse the Allens.

Early in 1973, Mr. St. Clair died; the estate was settled but the assets of the estate, aside from the restricted land, were insufficient to satisfy the outstanding obligation. The Bureau of Indian Affairs contends that it cannot legally force the sale of restricted or trust land in order to satisfy any outstanding obligations.

Since the Bureau of Indian Affairs contends that neither the Wind River Tribes nor the heirs of Mr. St. Clair can be held liable for the obligation, the only recourse for the Allens was to seek legislative relief as proposed in S. 209.

LEGISLATIVE HISTORY

S. 209 was introduced by Senator McGee on January 17, 1975. The bill was originally referred to the Committee on the Judiciary; but that Committee discharged its responsibility. and referred the measure to the Committee on Interior and Insular Affairs on January 23, 1975.

A hearing was held before the Subcommittee on Indian Affairs on S. 209 on April 24, 1975. At that hearing, Administration witnesses testified that Bureau of Indian Affairs officials at the Wind River Reservation should have discovered that Mr. Allen was not eligible to purchase trust Indian land, and his offer, therefore, should have been rejected. The Indian Health Service, through a written communication to the Subcommittee, confirmed that they have no formal orientation procedures which would inform their employees of the statutory provisions restricting their ability to trade with Indians. Notwithstanding this deficiency in the

Indian Health Service's orientation procedures, the Bureau argues that Mr. Allen should have been aware of the prohibition contained in the 1834 Act.

The Department of the Interior recommends against enactment of S. 209. However, the Department states further that it would have no objection to the enactment of the measure, if the Congress should determine that the circumstances of this case warrant a grant of relief, if it is amended to limit the amount of the relief to the purchase price of $6,476 only, and if the amount authorized for payment to an attorney or agency is limited to 10 per cent of the recovery, the customary amount allowed in this type of bill.

S. 209 was first considered by the full Committee in open markup session on May 14, 1975. At that time there appeared to be a consensus among the Members that the heirs of Mr. St. Clair may have been unjustly enriched by the Allen transaction. As a result they were reluctant to approve the bill authorizing the United States to compensate the Allens.

The Committee deferred action on the proposed measure and instructed Committee staff to explore four specific questions as follows:

1. Did the Allens have any legal claim against Mr. St. Clair or his estate while in probate or did they have any claim against the heirs subsequent to probate?

2. Do the Allens have any right of subrogation which could be enforced by the Secretary or any Court against the Tribe for recovery of the amount paid to retire the Tribe's mortgage on the land?

3. Do the Allens have any claim against the United States as a result of the transaction which could be brought in the Court of Claims under existing law?

4. What would be the legal consequences for the United States, the Allens, and the heirs of Mr. St. Clair if legislation were to be enacted (a) authorizing Secretarial sale of the land and payment from the proceeds to the Allens; (b) authorizing Secretarial issuance of a patent in fee to the heirs of Mr. St. Clair; (c) authorizing judicial action to establish a lien against the land or other assets of the heirs of Mr. St. Clair; and (d) validating the May 1972 sale.

The Committee questions were submitted to the Departmental Solicitor for his views and comments. In a lengthy written response to Senator Hansen, the Department stated that there are no legal means by which the heirs of Mr. St. Clair could be required to compensate the Allens without subjecting the United States to liability to the heirs; that the Allens did not appear to have any right of subrogation against the Tribe which could be enforced by action of the Secretary or any court; that the Allens did not have any claim against the United States which could be brought in the Court of Claims or otherwise under existing law; and that legislation which would authorize the Secretary to sell the restricted land in question and pay the Allens from the proceeds would be of questionable constitutional validity. Under such circumstances, the United States could be held liable for a Fifth Amendment taking of the heirs' title to the land. The Department cited several statutory prohibitions and court cases to support their conclusions in their response to the questions.

The American Law Division, Congressional Research Service, was also requested to review the circumstances surrounding the Allens' claim and provide the Committee with a legal analysis. Their analysis parallels that of the Departmental Solicitor.

VETERANS AND SURVIVORS PENSION INTERIM ADJUSTMENT ACT OF 1975

The Senate proceeded to consider the bill (H.R. 10355) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Veterans and Survivors Pension Interim Adjustment Act of 1975".

TITLE I—INTERIM ADJUSTMENT IN CURRENT STATUTORY PENSION PROVISIONS

SEC. 101. Effectvie January 1, 1976, title 38, United States Code, is amended as follows:

(1) chapter 1 of title 38, United States Code, is amended—

(A) by striking out in paragraph (3) of section 101 "widow", "woman", "wife", "his", "him", "man", and "herself" each time they appear and inserting in lieu thereof "surviving spouse", "person of the opposite sex", "spouse", "the veteran's", "person", and "himself or herself", respectively;

(B) by striking out in the second sentence of paragraph (4) of section 101 "his support" and "his spouse" and inserting in lieu thereof "the person's support" and "the veteran's spouse", respectively;

(C) by striking out in paragraph (5) of section 101 "his" and inserting in lieu thereof "the veteran's";

(D) by striking out in paragraph (13) of section 101 "widow" and inserting in lieu thereof "surviving spouse";

(E) by striking out in paragraph (14) of section 101 "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(F) by striking out in paragragh (15) of section 101 "widow" and inserting in lieu thereof "surviving spouse"; and

(G) by adding at the end of section 101 the following new paragraph:

"(31) The term 'spouse' means a person of the opposite sex who is a wife or husband and the term 'surviving spouse' means a preson of the opposite sex who is a widow or widower."; and

(2) chapter 15 of title 38, United States Code, is amended—

(A) by inserting in subsection (a) of section 503 "and" after the semicolon at the end of clause (16) of such subsection;

(B) by striking out in subsection (a) of section 541 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(C) by striking out in subsection (e) of section 541 the language preceding clause (1) of such subsection and inserting in lieu thereof "No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—" and by amending subclause (D) of clause (1) of such subsection, to read as follows: "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or";

(D) by striking out in section 542 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(E) by striking out in section 543 "widow" and inserting in lieu thereof "surviving spouse";

(F) by repealing sections 510 and 531;

(G) by striking out in the heading of subchapter III "Widows" and inserting in lieu thereof

"Surviving Spouses";

(H) by striking out in the catchline of section 541 "Widows" and inserting in lieu thereof "Surviving Spouses";

(I) by striking out in the subheading of subchatper III immediately following section 543 "WIDOWS' and inserting in lieu thereof "SURVIVING SPOUSES"; and

(J) by amending the table of sections at the beginning of such chapter 15—

(i) by striking out

"510. Confederate forces veterans.";

(ii) by striking out

"SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN";

and inserting in lieu thereof

"SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN";

(iii) by striking out

"531. Widows of Mexican War veterans.";

(iv) by striking out

"541. Widows of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."

and inserting in lieu thereof

"541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."; and

(v) by striking out

"Widows of Veterans of All Periods of War"

and inserting in lieu thereof

"Surviving Spouses of Veterans of All Periods of War".

SEC. 102. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	1,200
.06	1,200	1,700
.07	1,700	2,000
.08	2,000	3,300

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,300.

"(c)(1) If the vetern is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension for a veteran shall be— $186 if such veteran has one such dependent; $191 if such veteran has two such dependents; and $196 if such veteran has three or more such dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,300
.04	1,300	2,800
.05	2,800	3,200
.06	3,200	3,800
.08	3,800	4,500

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,500.";

(2) by striking out in subsection (d) "him" and "$123" and inserting in lieu thereof "such veteran" and "$133", respectively; and

(3) by striking out in subsection (e) "his", "him", and "$49" and inserting in lieu thereof "such veteran's", "such veteran", and "$53", respectively.

SEC. 103. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 541 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b) (1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,500
.05	1,500	2,700
.06	2,700	3,300

"(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,300.

"(c) (1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $139 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,800
.03	1,800	2,700
.04	2,700	3,500
.05	3,500	4,500

"(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $4,500.

"(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate."; and

(2) by striking out in subsection (d) "widow" and "$20" and inserting in lieu thereof "surviving spouse" and "$22", respectively.

SEC. 104. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 542 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$49" and "$20" and inserting in lieu thereof "$53" and "$22", respectively; and

(2) by striking out in subsection (c) "$2,400" and inserting in lieu thereof "$2,700".

SEC. 105. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $69.".

SEC. 106. Effective January 1, 1976, chapter 15 of title 38, United States Code, is amended—

(1) by striking out in section 501(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in subsections (a), (b), and (c) of section 502 "he" and "his" each time they appear and inserting in lieu thereof "such person" and "such veteran's", respectively;

(3) by striking out in section 503(a)(7) "wife", "his", and "widow" and inserting in lieu thereof "spouse", "such veteran's", and "surviving spouse", respectively;

(4) by striking out in subclauses (A), (B), and (C) of section 503(a)(7) "his" each time it appears and inserting in lieu thereof "such veteran's";

(5) by striking out in subclauses (A) and (B) of section 503(a)(9) "his", "widow", and "wife" each time they appear and inserting in lieu thereof "such veteran's", "surviving spouse", and "spouse", respectively;

(6) by striking out in section 503(a)(14) "his widow" and inserting in lieu thereof "such veteran's surviving spouse";

(7) by striking out in section 503(a)(16) "his" and inserting in lieu thereof "such employee's";

(8) by striking out in section 503(c) "widow" and inserting in lieu thereof "surviving spouse";

(9) by striking out in section 505(a) "his" each time it appears and inserting in lieu thereof "such individual's";

(10) by striking out in section 505(b) "his wife" and inserting in lieu thereof "such veteran's spouse";

(11) by striking out in section 505(c), including clauses (1) and (2), "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(12) by striking out in section 506(a)(1) "he" and inserting in lieu thereof "the Administrator";

(13) by striking out in section 506(a)(2) "him", "he", and "his" each time they appear and inserting in lieu thereof "the Administrator", "such person", and "such person's", respectively;

(14) by striking out in section 506(a)(3) "his" each time it appears and inserting in lieu thereof "such person's";

(15) by striking out in section 507 ", in his discretion,"; by striking out in such section "his wife" and inserting in lieu thereof "such veteran's spouse"; and by striking out in such section "wife" the second time it appears and inserting in lieu thereof "spouse";

(16) by striking out in subsections (b) and (c) of section 511 "he" each time it appears and inserting in lieu thereof "such veteran";

(17) by striking out in subsections (a) and (b) of section 512 "he" each time it appears and inserting in lieu thereof "such veteran";

(18) by striking out in section 521(g) "he" and inserting in lieu thereof "such veteran";

(19) by striking out in section 523(b) "him" and inserting in lieu thereof "such veteran";

(20) by striking out in section 532(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(21) by striking out in subsections (b) and (c) of section 532 "widow" and "he" each time they appear and inserting in lieu thereof "surviving spouse" and "such veteran", respectively;

(22) by striking out in section 532(d) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(23) by striking out in the catchline of section 532 "Widows" and inserting in lieu thereof "Surviving spouses";

(24) by striking out in the table of sections at the beginning of such chapter 15

"532. Widows of Civil War veterans."

and inserting in lieu thereof

"532. Surviving spouses of Civil War veterans.";

(25) by striking out in section 533 "widow" and inserting in lieu thereof "surviving spouse";

(26) by striking out in section 534(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(27) by striking out in section 534(b) "widow" and inserting in lieu thereof "surviving spouse";

(28) by striking out in section 534(c) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(29) by striking out in the catchline of section 534 "Widows" and inserting in lieu thereof "Surviving spouses";

(30) by striking out in the table of sections at the beginning of such chapter 15

"534. Widows of Indian War veterans."

and inserting in lieu thereof

"534. Surviving spouses of Indian War veterans.";

(31) by striking out in section 535 "widow" and inserting in lieu thereof "surviving spouse";

(32) by striking out in section 536(a) "widow", "she", "wife", and "his" and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(33) by striking out in subsections (b) and (c) of section 536 "widow", "she", and "him" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(34) by striking out in section 536(d)(1) "widow", "she", and "widows" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "surviving spouses", respectively;

(35) by striking out in section 536(d)(2) "widow" and inserting in lieu thereof "surviving spouse";

(36) by striking out in clauses (A) and (B) of section 536(d)(2) "her" and "widow" each time they appear and inserting in lieu thereof "such surviving spouse" and "surviving spouse", respectively;

(37) by striking out in the catchline of section 536 "Widows" and inserting in lieu thereof "Surviving spouses";

(38) by striking out in the table of sections at the beginning of such chapter 15

"536. Widows of Spanish-American War veterans."

and inserting in lieu thereof

"536. Surviving spouses of Spanish-American War veterans.";

(39) by striking out in section 537 "widow" and inserting in lieu thereof "surviving spouse";

(40) by striking out in subclauses (A), (B), and (C) of section 541(e)(1) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(41) by striking out in section 560(b) "himself" and "his" and inserting in lieu thereof "such person" and "such person's", respectively;

(42) by striking out in subsections (a) and (b) of section 561 "his", "him", and "he" each time they appear and inserting in lieu thereof "such person's", "such person", and "such person", respectively;

(43) by striking out in section 561(c) "by him";

(44) by striking out in section 562(a) "him" and inserting in lieu thereof "the Administrator" and

(45) by striking out in subsections (b) and (d) of section 562 "he" each time it appears and inserting in lieu thereof "such person".

SEC. 107. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,900 and $4,200, instead of $2,600 and $3,900, respectively.".

TITLE II—INTERIM ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 415 of title 38, United States Code, is amended—

(1) by redesignating paragraph (2) of subsection (b) as paragraph (4) of subsection (b) and by striking out the redesignated paragraph (4) of subsection (b) "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,500
.06	1,500	1,700
.08	1,700	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.";

(3) by amending subsections (c) and (d) to read as follows:

"(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compenstion shall be paid to each parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,600
.05	1,600	2,400
.06	2,400	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.

"(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $90 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,300
.03	2,300	3,300
.04	3,300	4,500

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,500.";

(4) by striking out in subsection (e) "him" each time it appears and inserting in lieu thereof "the Administrator";

(5) by striking out in subsection (f) "he" and inserting in lieu thereof "the Administrator";

(6) by striking out in subsection (g)(1)(J)(ii) "his" and inserting in lieu thereof "such veteran's"; and

(7) by striking out in subsection (h) "$64" and inserting in lieu thereof "$69".

SEC. 202. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 322 of title 38, United States Code, is amended by striking out in subsection (b) "$64" and inserting in lieu thereof "$69".

Mr. THURMOND. Mr. President, I rise in support of H.R. 10355, as amended, the Veterans and Survivors Pension Act of 1975.

On December 15, the Senate passed a more generous pension reform act, which included the provisions of H.R. 10355. That bill, S. 2635, is now pending before the House of Representatives.

Unfortunately, we have been informed that the House of Representatives will be unable to take up this measure before we adjourn for the Christmas recess. If a pension bill is not passed before we go home, as a result of this past year's social security increases, over 1 million veterans and widows are scheduled to have their pensions reduced on January 1, 1976. Another 40,000 will be dropped from the pension rolls completely if the income limitations are not increased. Therefore, in the pending bill, we are increasing the income limitations by $300, and providing a cost-of-living increase of 8 percent.

H.R. 10355 does not contain the provisions which are aimed at reforming the current pension laws. However, let me state again my firm view that we need pension reform. By following this course of action, I am led to believe that the House of Representatives will look seriously at the issue of pension reform in the early days of the next session.

Mr. President, the current pension system is filled with inequities. We have labored under the promise of pension reform for the last 3 years. We need to act on a final solution early next year.

Finally, Mr. President, I want to commend the distinguished chairman of the Veterans' Affairs Committee (Mr. HARTKE) and the distinguished ranking minority member (Mr. HANSEN) for their hard work on pension reform. The effort in the Senate has been a bipartisan one, and I am confident that this will be the case in the next session.

Mr. President, it is with some disappointment to me that we are not sending the President a veterans' pension reform bill. Reluctantly, I am supporting the interim measure before us today, but with full expectation that pension reform will be considered in both Houses of the Congress early next year.

Mr. President, I, therefore, urge my colleagues to support this measure.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–568), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND AND DISCUSSION

Current pension benefits and characteristics of pensioners

Under current law, a veteran may be eligible for pension benefits if:

First, he served in the armed forces at least 90 days, including at least 1 day of service during wartime;

Second, his income does not exceed the limits specified in the law—currently $3,000 if the veteran is single and $4,200 if he has a dependent;

Third, he is permanently and totally disabled (for the purposes of the pension law, veterans age 65 or older are defined as totally disabled); and

Fourth, his net worth is not excessive as determined by the Veterans' Administration.

Widows and children of deceased wartime veterans are also eligible for pension benefits if they qualify on the basis of need.

As provided by Public Law 93–527, for an eligible veteran without dependents, the monthly pension rates range from $5 to $160 with a limitation on countable annual income of $3,000. Monthly rates of $14 to $172 are provided for veterans with dependents where the annual countable income does not exceed $4,200. Widows with no children are subject to the same income limitations as veterans alone although the pension rates vary from $5 to $108. The $4,200 annual income limitation for veterans with dependents also applies to widows with children. The rates for widows with one child range from $49 to $128; the applicable rate is increased by $20 per month for each child in excess of one.

Curently, there are approximately 2 million veterans and widows receiving pension of whom 1,000,963 are veterans and the remainder are their widows. The present cost of the non-service-connected pension program is approximately $2.8 billion a year. The following table shows the distribution of all active compensation, dependency, and indemnity compensation and pension cash as of September 1975:

TABLE 1.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Total	3,235,722	1,622,840	2,218,466	1,179,628	866,157	172,681
Service connected	2,221,514	368,676	491,961	211,012	108,268	172,681
Compensation	2,221,514	90,225	101,539	206	37	101,296
Dependency and indemnity compensation		273,519	380,004	206,202	108,030	65,772
Dependency and indemnity compensation and compensation		4,932	10,418	4,604	201	5,613
Non-service-connected	1,013,824	1,254,135	1,726,475	968,600	757,875	
Public Law 86-211	911,448	1,159,480	1,630,655	875,239	755,416	
Prior law	102,376	94,655	95,820	93,361	2,459	
Special acts	41	29	30	16	14	
Retired emergency officers	342					
Retired Reserve officers	1					
World War II	1,888,830	726,253	1,053,447	433,324	508,656	111,467
Service connected	1,303,265	191,189	222,256	95,073	15,716	111,467
Compensation	1,303,265	71,767	79,788	112	16	79,660
Dependency and indemnity compensation		115,768	134,833	91,499	15,611	27,723
Dependency and indemnity compensation and compensation		3,654	7,635	3,462	89	4,084
Non-Service-connected	585,565	535,064	831,191	338,251	492,940	
Public Law 86-211	576,344	532,032	827,959	335,237	492,722	
Prior law	9,221	3,032	3,232	3,014	218	
World War I	419,194	614,648	630,385	602,722	27,283	380
Service connected	53,519	34,880	35,496	34,027	1,089	380
Compensation	53,519	186	198	55	1	142
Dependency and indemnity compensation		34,690	35,290	33,968	1,088	234
Dependency and indemnity compensation and compensation		4	8	4		4
Non-service-connected	365,332	579,768	594,889	568,695	26,194	
Public Law 86-211	273,711	507,486	521,873	496,488	25,385	
Prior law	91,621	72,282	73,016	72,207	809	
Special acts	1					
Retired emergency officers	342					
Korean conflict	293,663	136,363	287,116	49,252	213,544	24,320
Service connected	239,869	39,381	51,373	18,728	8,325	24,320
Compensation	239,869	14,798	17,535	14	2	17,519
Dependency and indemnity compensation		23,620	31,777	17,841	8,294	5,642
Dependency and indemnity compensation and compensation		963	2,061	873	29	1,159
Non-service-connected	53,794	96,982	235,743	30,524	205,219	
Public Law 86-211	52,779	96,914	235,651	30,458	205,193	
Prior law	1,015	68	92	66	26	
Vietnam era	438,407	72,344	153,528	38,372	93,135	22,021
Service connected	430,561	54,852	114,032	30,861	61,150	22,021
Compensation	430,561	26	38	9	14	15
Dependency and indemnity compensation		54,802	113,915	30,835	61,100	21,980
Dependency and indemnity compensation and compensation		24	79	17	36	26
Non-service-connected	7,846	17,492	39,496	7,511	31,985	
Public Law 86-211	7,846	17,492	39,496	7,511	31,985	
Regular establishment	194,324	48,122	68,547	32,096	21,959	14,493
Service connected	194,283	48,110	68,535	32,083	21,959	14,493
Compensation	194,283	3,448	3,980	16	4	3,960
Dependency and indemnity compensation		44,375	63,920	31,819	21,908	10,193
Dependency and indemnity compensation and compensation		287	635	248	47	340
Special acts	40	12	12	12		
Retired Reserve officers	1					
Spanish-American War	929	24,078	24,394	23,048	1,346	

TABLE 1.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975—Continued

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Service connected	9	253	258	236	22	
Compensation	9					
Dependency and indemnity compensation		253	258	236	22	
Non-service-connected	920	23,816	24,127	22,809	1,318	
Public Law 86-211	401	4,989	5,100	4,985	115	
Prior law	519	18,827	19,027	17,824	1,203	
Special acts		9	9	3	6	
Mexican Border Service	375	569	578	562	16	
Service connected	8	2	2	2		
Compensation	8					
Dependency and indemnity compensation		2	2	2		
Non-service-connected	367	567	576	560	16	
Public Law 86-211	367	567	576	560	16	
Indian wars		78	79	64	15	
Service connected		1	1		1	
Dependency and indemnity compensation		1	1		1	
Non-service-connected		76	77	63	14	
Prior law		76	77	63	14	
Special acts		1	1	1		
Civil War		385	392	189	203	
Service-connected		8	8	2	6	
Dependency and indemnity compensation		8	8	2	6	
Non-service-connected		370	376	187	189	
Prior law		370	376	187	189	
Special acts		7	8		8	

Source: Reports and Statistics Service Office Controller, Oct. 6, 1975.

The following tables illustrate the historical development of both current law pensions and protected or "old law" pensions for veterans:

TABLE 2.—HISTORICAL DEVELOPMENT OF PROTECTED LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension				Aid and attendance	Housebound
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents		
WW VA, July 1, 1933	$1,000	$2,500	$30	$30	$30	$30		
Public Law 77-601, June 10, 1942	1,000	2,500	$40	$40	$40	$40		
Public Law 78-313, May 27, 1944	1,000	2,500	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.		
Public Law 79-662, Sept. 1, 1946	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.		
Public Law 82-149, Nov. 1, 1951	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$120.00	
Public Law 82-356, Public Law 82-357, July 1, 1952	1,400	2,700	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	129.00	
Public Law 83-698, Oct. 1, 1954	1,400	2,700	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75.	135.45	
Public Law 90-77, Oct. 1, 1967	1,400	2,700	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 90-275, Jan. 1, 1969	1,600	2,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 91-588, Jan. 1, 1971	1,900	3,200	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 92-198, Jan. 1, 1972	2,200	3,500	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 93-527, Jan. 1, 1975	2,600	3,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100

TABLE 3.—HISTORICAL DEVELOPMENT OF CURRENT LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension				Aid and attendance	Housebound
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents		
Public Law 86-211, July 1, 1960	$1,800	$3,000	$85 down to $40	$90 down to $45	$95 down to $45	$100 down to $45	$70 added	
Public Law 88-664, Jan. 1, 1965	1,800	3,000	$100 down to $43	$105 down to $48	$110 down to $48	$115 down to $48	$100 added	$35 added.
Public Law 90-77, Oct. 1, 1967	1,800	3,000	$104 down to $45	$109 down to $50	$114 down to $50	$119 down to $50	$100 added	$40 added.
Public Law 90-275, Apr. 1, 1968	2,000	3,200	$110 down to $29	$120 down to $34	$125 down to $34	$130 down to $34	$100 added	$40 added.
Public Law 91-588, Jan. 1, 1971	2,300	3,500	$121 down to $29	$132 down to $34	$137 down to $34	$142 down to $34	$110 added	$44 added.
Public Law 92-198, Jan. 1, 1972	2,600	3,800	$130 down to $22	$140 down to $33	$145 down to $38	$150 down to $43	$110 added	$44 added.
Public Law 93-177, Jan. 1, 1974	2,600	3,800	$143 down to $28	$154 down to $39	$159 down to $44	$164 down to $49	$110 added	$44 added
Public Law 93-527, Jan. 1, 1975	3,000	4,200	$160 down to $5	$172 down to $14	$177 down to $19	$182 down to $24	$123 added	$49 added.

Over 11 percent of veterans and 15⅓ percent of pension widows reported no other outside income other than pension, thus leaving these recipients far below the poverty level. The annual income of pensioners (other than their pensions and excludable income) is shown in the following tables:

TABLE 4.—ALL VETERANS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law
$100	158, 507	9, 121	149, 386
$200	4, 229	656	3, 573
$300	4, 233	576	3, 657
$400	3, 424	540	2, 884
$500	3, 648	452	3, 196
$600	3, 155	429	2, 726
$700	3, 296	434	2, 862
$800	2, 766	386	2, 380
$900	8, 524	482	8, 042
$1,000	15, 057	795	14, 262
$1,100	37, 638	3, 219	34, 419
$1,200	18, 966	1, 570	17, 396
$1,300	18, 946	1, 627	17, 319
$1,400	21, 777	2, 025	19, 752
$1,500	28, 581	2, 676	25, 905
$1,600	29, 112	2, 754	26, 358
$1,700	33, 439	3, 436	30, 003
$1,800	31, 524	3, 520	28, 004
$1,900	34, 390	4, 183	30, 207
$2,000	33, 722	4, 401	29, 321
$2,100	35, 604	5, 028	30, 576
$2,200	33, 351	4, 672	28, 679
$2,300	37, 995	5, 359	32, 606
$2,400	39, 391	6, 686	32, 705
$2,500	39, 860	4, 621	35, 239
$2,600	42, 534	5, 355	37, 179
$2,700	39, 321	3, 388	35, 933
$2,800	35, 343	2, 803	32, 540
$2,900	26, 312	2, 817	23, 495
$3,000	26, 248	2, 937	23, 311
$3,100	20, 882	2, 867	18, 015
$3,200	18, 504	2, 939	15, 565
$3,300	16, 306	2, 842	13, 464
$3,400	14, 480	2, 898	11, 582
$3,500	13, 942	2, 899	11, 043
$3,600	12, 790	2, 257	10, 533
$3,700	11, 549	1, 972	9, 577
$3,800	12, 621	1, 448	11, 173
$3,900 to $4,200	28, 919	1, 115	27, 804
Total	1, 000, 963	108, 232	892, 731

TABLE 5.—ALL WIDOWS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law
$100	126, 514	2, 001	124, 513
$200	4, 987	153	4, 834
$300	6, 460	147	6, 313
$400	5, 695	142	5, 553
$500	6, 200	162	6, 038
$600	7, 576	238	7, 338
$700	7, 510	283	7, 227
$800	8, 137	259	7, 878
$900	10, 838	334	10, 504
$1,000	28, 745	1, 133	27, 612
$1,100	53, 584	2, 180	51, 404
$1,200	26, 162	1, 603	24, 559
$1,300	27, 936	1, 943	25, 993
$1,400	31, 472	2, 789	28, 683
$1,500	37, 419	3, 555	33, 864
$1,600	37, 068	3, 734	33, 334
$1,700	38, 291	4, 239	34, 052
$1,800	39, 942	4, 869	35, 073
$1,900	42, 548	5, 652	36, 896
$2,000	45, 682	5, 971	39, 711
$2,100	45, 185	6, 209	38, 976
$2,200	44, 530	8, 713	35, 817
$2,300	40, 565	6, 432	34, 133
$2,400	45, 388	7, 979	37, 409
$2,500	36, 656	3, 783	32, 873
$2,600	38, 456	2, 517	35, 939
$2,700	28, 395	28	28, 367
$2,800	21, 787	41	21, 746
$2,900	11, 822	34	11, 788
$3,000	7, 319	37	7, 282
$3,100	2. 071	30	2, 041
$3,200	1, 191	27	1, 884
$3,300	1, 681	28	1, 653
$3,400	1, 630	17	1, 613
$3,500	1, 595	21	1, 574
$3,600	1, 533	14	1, 519
$3,700	1, 376	24	1, 352
$3,800	2, 271	5	2, 226
$3,900 to $4,200	4, 588	15	4, 573
Total	931, 575	77, 356	854, 219

Scheduled Pension Reductions on January 1, 1976

A prospective pension reduction faces a majority of our veterans and widows.

Most pensioners are elderly—and the most common source of income available to them is social security. The average social security payment now received by veteran pensioners is reported as $187 monthly. The figure for widows was placed at $157 monthly. The following table shows the number of non-service-connected pensioners receiving OASI benefits broken down by age grouping and average benefit:

TABLE 6.—NON-SERVICE-CONNECTED PENSIONERS WITH OLD AGE SURVIVORS INSURANCE

Veterans	Number with OASI[1]	Total caseload	Percent with OASI[1]	Average OASI[1]
Less than 65	275, 700	448, 800	61. 4	$2, 447
65 to 69	106, 300	113, 100	94. 0	2, 103
70 to 74	54, 600	58, 600	93. 1	2, 012
75 to 79	181, 600	200, 700	90. 5	2, 191
80 and over	165, 600	196, 700	84. 2	2, 061
Total veterans	783, 800	1, 017, 900	77. 0	2, 229
Survivors	945, 700	1, 250, 990	75. 6	1, 883

[1] Source: 1 percent sample of AIQ's; March 1975.

Note: No age breakout is available for survivors.

Solely because of the 8 percent cost-of-living increases in social security benefits this year, on January 1, 1976, 1,327,176 veterans and widows, or approximately 53.1 percent of all pensioners, are scheduled to sustain annual pension reductions averaging $98. Another 41,845 veterans and widows will be dropped from the pension rolls altogether. The number reduced or terminated by category and the average annual reduction in pension is shown in the following table:

TABLE 7.—ESTIMATED EFFECTS OF 8 PERCENT INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY)

	Number reduced pension	Average annual reduction	Number termination
With no change in law:			
Veteran alone	225, 567	$117	6, 602
Veteran with dependent	467, 339	123	17, 805
Widow alone	526, 391	79	16, 748
Widow with dependent	107, 879	44	690
Total	1, 327, 176	98	41, 845

Note: Data supplied by Veterans' Administration.

In addition, it is estimated that if there is no change in annual income limitations, another 12,000 pensioners under the old law provision program will be ineligible for that program.

Interim pension increases effective January 1, 1976

As a result of changes in the Consumer Price Index and because of the large number of veterans and survivors who will sustain pension reductions on January 1, 1976, the bill provides for interim adjustments in the current program effective January 1, 1976.

An 8-percent increase in the rates payable and a $300 increase in the maximum annual income limitations are provided for veterans and survivors in the current program.

Similarly, maximum annual income limitations for the "old law" pensioners are increased by $300. An 8-percent increase in rates and increase in the annual income limitations are authorized also for needy parents receiving dependency and indemnity compensation.

Finally, aid and attendance allowances for "housebound" are increased by 8 percent. Thus, under the current program the maximum rate for a veteran without dependents would be increased from $160 to $173 a month, while the rate for a veteran with a dependent would be increased from $172 to $186. The following tables show the rates currently payable and those proposed.

TABLE 8.—PENSION PROPOSAL

Income not over	Veteran alone		Veteran and 1 dependent		Widow alone		Widow with 1 dependent	
	Current	Bill	Current	Bill	Current	Bill	Current	Bill
$300	$160	$173			$108	$117		
$400	157	170			107	116		
$500	154	167	$172	$186	106	115		
$600	150	163	170	184	105	114		
$700	146	159	168	182	102	111	$128	$139
$800	142	154	165	179	99	108	127	138
$900	138	149	162	176	96	105	126	137
$1,000	133	144	159	173	92	101	125	136
$1,100	128	139	156	170	88	97	124	135
$1,200	123	134	153	167	84	93	122	133
$1,300	118	128	150	164	80	89	120	131
$1,400	113	122	147	160	76	85	118	129
$1,500	108	116	144	156	72	81	116	127
$1,600	102	110	141	152	68	76	114	125
$1,700	96	104	138	148	64	71	112	123
$1,800	90	97	135	144	60	66	110	121
$1,900	84	90	131	140	56	61	108	118
$2,000	77	83	127	136	52	56	106	115
$2,100	70	75	123	132	48	51	104	112
$2,200	63	67	119	128	43	46	101	109
$2,300	56	59	115	124	38	41	98	106
$2,400	48	51	111	120	33	36	95	103
$2,500	40	43	107	116	28	31	92	100
$2,600	32	35	103	112	23	26	89	97
$2,700	24	27	99	108	18	21	86	94
$2,800	16	19	95	104	13	15	83	90
$2,900	8	11	91	99	8	9	80	86
$3,000	5	5	87	94	5	5	77	82
$3,100		5	82	89		5	73	78
$3,200		5	77	84		5	69	74
$3,300		5	72	78		5	65	70
$3,400			67	72			61	66
$3,500			62	66			57	62
$3,600			56	60			53	57
$3,700			50	54			49	53
$3,800			44	48			49	53
$3,900			37	40			49	53
$4,000			30	32			49	53
$4,100			22	24			49	53
$4,200			14	16			49	53
$4,300				8				53
$4,400				5				53
$4,500				5				53

TABLE 9.—DIC PARENTS.

Income not over	1 parent		2 parents not together		2 parents together	
	Current	Bill	Current	Bill	Current	Bill
$300						
$400						
$500						
$600						
$700						
$800	$123	$133	$86	$93		
$900	120	130	84	91		
$1,000	117	127	82	89	$83	$90
$1,100	113	123	80	87	82	88
$1,200	109	119	76	83	80	86
$1,300	105	114	72	79	78	84
$1,400	100	109	68	75	76	82
$1,500	95	104	64	71	74	80
$1,600	90	98	60	67	72	78
$1,700	84	92	56	62	70	76
$1,800	78	84	52	57	68	74
$1,900	71	76	48	52	66	72
$2,000	64	68	44	47	64	70
$2,100	56	60	40	42	62	68
$2,200	48	52	35	37	60	66
$2,300	40	44	30	32	58	64
$2,400	32	36	25	27	56	61
$2,500	24	28	20	21	54	58
$2,600	16	20	14	15	51	55
$2,700	8	12	8	9	48	52
$2,800	4	5	4	5	45	49
$2,900	4	5		5	42	46
$3,000	4	5		5	39	43
$3,100		5		5	36	47
$3,200		5		5	33	30
$3,300		5		5	30	34
$3,400					27	30
$3,500					24	26
$3,600					20	22
$3,700					16	18
$3,800					12	14
$3,900					8	10
$4,000					4	6
$4,100					4	5
$4,200					4	5
$4,300						5
$4,400						5
$4,500						5

According to information supplied by the Veterans' Administration, if the interim adjustments contained in this measure are enacted, none of the 41,845 veterans or survivors currently scheduled to be terminated because of social security increases will be dropped. Further, 1,098,566 veterans, widows and dependents can expect to receive an average annual gain in pension of approximately $94.

And although no veteran or survivor will sustain a loss in aggregate income, solely as a result of social security increases, it should be explicitly acknowledged that even if provisions contained in titles II and IV are enacted, 655,000 veterans and survivors will sustain some reduction in pension despite such adjustments. The following tables show the projected gains and losses with respect to the current pension population if H.R. 10355 is enacted into law.

TABLE 10.—ESTIMATED EFFECTS OF 8 PERCENT OASI INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY) AND OF S. 2635

With no change in law:	Number gaining pension	Average annual gain	Number reduced pension	Average annual reduction	Number gaining aggregate	Average annual gain	Number reduction aggregate	Average annual reduction	Number terminating
Veteran alone	0	0	225,567	$117	230,568	$48	0	0	6,602
Veteran w/dependent	0	0	467,339	123	464,738	136	0	0	17,805
Widow alone	0	0	526,391	79	530,528	82	0	0	16,748
Widow w/dependent	0	0	107,879	44	120,884	104	0	0	690
Total	0	0	1,327,176	98	1,346,718	97	0	0	41,845
With enactment of Title II of S. 2635:									
Veteran alone	202,825	$122	130,597	93	333,927	119	0	0	0
Veteran w/dependent	364,175	93	202,319	111	567,505	125	0	0	0
Widow alone	400,171	76	308,983	60	709,852	77	0	0	0
Widow w/dependent	131,395	110	13,369	18	145,063	136	0	0	0
Total	1,098,566	94	655,268	82	1,756,247	105	0	0	0

Note: It is estimated that if there is no change in income limitations, 12,000 pensioners under the old law would have excessive income because of the 8 percent OASI increase, and that the vast majority of those would elect to come under new law.

COST ESTIMATES

The Veterans' Administration estimates the fiscal 1976 cost attributable to H.R. 10355 to be $100.1 million. Costs for the Transition Quarter are estimated at $50 million. These figures have been included in the reestimates for "function 700-Veteran Benefits" as passed by both the House and the Senate in their respective versions of the Second Concurrent Budget Resolution currently pending in conference.

LEWIS AND CLARK NATIONAL FORESTS, MONTANA

The Senate proceeded to consider the bill (S. 392) to designate certain lands in the Flathead and the Lewis and Clark National Forests in Montana as wilderness, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That the Secretary of Agriculture, in accordance with provisions of subsection 3(d) of the Wilderness Act (78 Stat. 890, 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to their suitability or nonsuitability for preservation as wilderness, certain lands (hereinafter referred to as the "study area") in the Flathead and Lewis and Clark National Forests, Montana, which comprise approximately three hundred seventy-eight thousand acres, and which are generally depicted on a map entitled "Great Bear Wilderness—Proposed", and dated November 1975. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and House of Representatives his recommendations with respect to the designation of the study area or portions thereof as wilderness on or before the expiration of the one year period following the date of enactment of this Act. Any recommendation of the resident that such study area or portions thereof shall be designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, shall become effective only if so provided by an Act of Congress.

SEC. 2. During the one year review period provided by section 1 and for a period of four years after the recommendations of the President are submitted to the Congress, the Secretary of Agriculture shall manage and protect the study area in such a manner so as not to preclude its possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing as part of this recommendation to the Congress, the designation as wilderness of any additional lands adjacent to the study area.

SEC. 3. In conducting his review pursuant to section 1, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall identify any potential utility corridors within or contiguous to the study area, review any adverse effects such corridors may have on the wilderness character of such area, determine whether any such corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects. Nothing in this section shall be construed as prohibiting the siting of any such corridor within the boundaries of any area recommended by the President for wilderness preservation pursuant to this Act or designated as wilderness by the Congress.

SEC. 4. (a) The Secretary of Agriculture shall consult with the Blackfeet Tribe throughout all phases of the review required pursuant to section 1. All information collected during said review, including information obtained in the mineral survey, related to that portion of the study area under the Blackfeet Treaty Rights Agreement of 1895 shall be made available promptly and without cost to the Blackfeet Tribe.

(b) During the review period, the Secretary of Agriculture in consultation with the Secretary of the Interior shall make every effort to initiate and carry to completion a program to permit the Blackfeet Tribe to obtain rights of concomitant value on land outside the study area to those possessed by the tribe within that portion of the study area under the Blackfeet Treaty Rights Agreement of 1895, or to otherwise release such land from said rights in a manner satisfactory to the tribe.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to study certain lands in the Flathead and Lewis and Clark National Forests, Montana, for possible inclusion in the National Wilderness Preservation System.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–569), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE AND DESCRIPTION OF S. 392, AS INTRODUCED, AND THE COMMITTEE AMENDMENT TO THE TEXT

S. 392, as amended, would designate an approximately 378,000 acre area known as the Great Bear Wilderness, in the Flathead and Lewis and Clark National Forests in the State of Montana to be studied for its eligibility to be included in the National Wilderness Preservation System. S. 392, as introduced by Senators Metcalf and Mansfield, would have immediately designated the Great Bear Wilderness area as a component of that system.

WILDERNESS STUDY AND INTERIM PROTECTION

Although the 378,000 acres appear to be of wilderness quality, the Committee noted that no official wilderness study, as contemplated in the Wilderness Act (78 Stat. 890), had been conducted. The Committee, therefore, amended S. 392 to require a one year wilderness study (Section 1 of the Committee amendment). The short period of the study was considered not to be burdensome because most of the data needed for the study has already been gathered pursuant to the Forest Service's Roadless Area Review and Evaluation and their unit planning for the area. For example, the Forest Service has indicated that the mineral survey work on most of the Great Bear area will be completed by early 1976.

As the area is generally acknowledged to be of wilderness quality, the Committee amendment includes a strict mandate to the Secretary of Agriculture to manage the area so as to protect that quality during the study period and for four years after the submission of the President's recommendation to Congress—a period of sufficient length to permit enactment of legislation designating the Great Bear Wilderness area as a component of the National Wilderness Preservation System, should such legislation then appear warranted (Section 2 of the Committee amendment).

In addition to the study and interim protection provisions, the Committee amendment contains two additional provisions not included in S. 392, as introduced:

TRANSMISSION CORRIDOR

The Bonneville Power Administration advised the Committee as to the potential need for a transmission corridor right-of-way in the vicinity of the proposed Great Bear Wilderness. While a wilderness study would normally consider such an issue, section 3 of the Committee amendment includes specific provisions directing the Secretary of Agriculture, in consultation with the Secretary of Interior, to (1) identify potential utility corridors within or contiguous to the study area; (2) review adverse effects such corridors may have on the wilderness character of such lands; and (3) determine whether any corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects.

Section 3 of the Committee amendment is designed to ensure that adequate consideration is given to the power corridor issue during the study period and that the Committee has the information necessary to make a decision on this matter when the study is completed and the President's recommendation is forwarded to the Congress.

BLACKFEET TREATY RIGHTS AGREEMENT

Approximately 20,000 of the 378,000 acres included in the study area are lands subject to a Treaty Rights Agreement entered into between the United States and the Blackfeet Tribe of Indians in 1895. That Agreement was subsequently ratified by Congress, Act of June 10, 1896, 29 Stat. 353. In the

Agreement of 1895 the Blackfeet Tribe of Indians ceded nearly 1,000,000,000 acres of land, running from its present boundary west to the Continental Divide and south from the Canadian Border to Birch Creek. The Blackfeet Indians reserved the rights to hunt, fish, and gather timber on this extensive area so long as it remained public lands of the United States. The 20,000 acres included in the study area thus represents a small portion of the area over which the Blackfeet Tribe has asserted these treaty claims. The Blackfeet have never exercised any of their rights under the treaty in this particular area.

Section 4 of the Committee amendment directs the Forest Service to work closely with and make resource data available to the Blackfeet Tribe during the study period (subsection (a)). The Committee amendment also directs the Secretary of Agriculture, in consultation with the Secretary of the Interior, to actively pursue a program to permit the Tribe to obtain rights of concomitant value on land outside the study area or to otherwise release this 20,000 acres of land from these asserted rights in a manner satisfactory to the Tribe (subsection (b)).

II. LOCATION, DESCRIPTION AND ATTRIBUTES OF THE AREA

The Great Bear Wilderness area is located in the Flathead and Lewis and Clark National Forests, Montana. This 378,000 acre area is a starkly beautiful mountainous area which supports populations of bear, elk, lynx, moose, mountain goat, coyote, ducks, grouse, and many nongame wildlife species. The mountains, valleys, and streams of the proposed wilderness are unexcelled for hiking, hunting, backpacking, horseback trips, fishing, ski touring, whitewater boating, photography, and other outdoor activities. The Great Bear Wilderness area consists entirely of public lands unspoiled by the hand of man. Within the proposed boundary are lands where man can find solitude, gain awareness, develop his spirit of adventure, or simply renew himself. These are priceless values which are increasingly difficult to obtain.

The public lands and waters of the Great Bear Wilderness proposal presently provide habitat for two species of America's diminishing wilderness wildlife—the grizzly bear and the west slope cutthroat trout.

The steep mountainous terrain of the headwaters of the Middle Fork of the Flathead shelter one of the last free-moving grizzly bear populations in the continental United States. Grizzlies are true wilderness animals and without wild they will perish. The grizzly faces extinction mainly because man has steadily taken his habitat through logging, roading, dam construction and other developmental activities. The proposed Great Bear Wilderness will provide a vital habitat link between Glacier National Park and the Bob Marshall Wilderness.

In fact, with the Lincoln-Scapegoat Wilderness to the south of the Bob Marshall, the Great Bear Wilderness links together one of the largest unroaded ecosystems left in the United States. Within this vast ecosystem, large animals such as the grizzly bear are able to conduct daily movements and seasonal migrations unimpeded. They can make use of several habitats and interact with an entire spectrum of native predators and competitors.

The west slope cutthroat trout has been reduced to threatened species status due to destruction of spawning habitat throughout its former range. There are three major forks in the Flathead River system—South, North and Middle. Dams, mining, and subdivision development have greatly reduced the water quality of the North and South Forks. The survival of this native trout species and other important sport fish in the Flathead River system is dependent on protection of the upper Middle Fork watershed. This objective would be accomplished were the Great Bear Wilderness to be designated as a result of the study mandated by S. 392, as ordered reported.

III. LEGISLATIVE HISTORY

S. 392 was introduced by Senator Metcalf, for himself and Senator Mansfield, on January 27, 1975. The Subcommittee on the Environment and Land Resources held a hearing on the measure on May 20, 1975. On December 12, 1975 the Committee on Interior and Insular Affairs, by unanimous voice vote, and with a quorum present, ordered S. 392, as amended, reported to the Senate.

IV. COST

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 392, as ordered reported: As much of the study has already been conducted in the form of Forest Service intensive planning for the area, the study is not expected to be costly. Section 5 of the measure authorizes the appropriation of such funds as are necessary to conduct the study.

V. COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, in open markup session on December 12, 1975, with a quorum present, unanimously recommended that S. 392, as amended, be enacted.

VI. EXECUTIVE COMMUNICATIONS

The reports of the Federal agencies to the Committee concerning S. 392, are set forth in full, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 11, 1975.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: As you requested here is the report of the Department of Agriculture on S. 392, a bill "To designate certain lands in the Flathead and the Lewis and Clark National Forests in Montana as wilderness."

The Department of Agriculture recommends that S. 392 not be enacted.

S. 392 would designate as wilderness certain lands comprising about 378,200 acres in the Flathead and the Lewis and Clark National Forests, Montana. The area would be known as the "Great Bear Wilderness" and would be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131–1136).

Most of the area that would be designated as wilderness by S. 392 was included in the recent Forest Service review of all national forest roadless areas containing 5,000 acres or more. Nationwide, 1,449 national forest roadless acres containing about 56 million acres were systematically evaluated. Of this number, 219 roadless areas totaling about 5.2 million acres are located in Montana. Each of the areas was rated as to its potential wilderness quality using criteria such as scenic quality, isolation, size and variety of potential wilderness experience. The procedure also evaluated other resource values that would be foregone by wilderness designation.

In Montana, 36 roadless areas containing about 1.6 million acres were selected as wilderness study areas. Two of the selected areas, Middle Fork Continental Divide containing 302,700 acres and Rocky Mountain Face Continental Divide containing 65,000 acres, are substantially within the area that would be designated as wilderness by S. 392. The enclosed supplemental statement summarizes the relationship between the acreage that would be designated as wilderness by S. 392 and the acreage included in our roadless area review of the Great Bear area.

The Forest Service land-use planning process provides the basis and context for the study of national forest areas. Public involvement is an important part of that process. Of the 378,200 acres proposed in S. 392 for wilderness designation, 291,800 acres are within five planning units of the Flathead National Forest and 86,400 acres are within the Rocky Mountain Division of the Lewis and Clark National Forest. Field inventory work is scheduled to begin on the Flathead National Forest planning units in 1979, and the planning process is expected to be completed in 1983. A Draft Environmental Statement analyzing management alternatives for the Rocky Mountain Division will be completed this year.

As a part of the overall land-use planning process, a detailed study of the two associated wilderness study areas will be undertaken to determine their suitability or nonsuitability for possible inclusion in the National Wilderness Preservation System. Contiguous lands will also be considered. The U.S. Geological Survey and the Bureau of Mines have completed fieldwork on a mineral survey of the two wilderness study areas within the Great Bear area. Preliminary recommendations concerning wilderness designation will be presented to the public for additional evaluation and comment. Upon completion of the detailed study and review of public response, we will recommend wilderness designation for any areas we believe should be added to the National System.

During the entire study process, the wilderness study areas will be managed so as to protect them from activities that would change the land characteristics in such a way as to disqualify the areas from wilderness designation.

The area that would be designated as wilderness by S. 392 includes 20,000 acres which are included in the Blackfeet Treaty Rights Agreement of 1895. This Agreement allows the Tribe to cut and remove timber for houses, fences, and other purposes. This area was included as a part of the Badger Creek Roadless Area in our roadless area review, but we did not select it for further wilderness study because of the commitments established under the Blackfeet Agreement. Permitted uses under the agreement would not be compatible with wilderness designation.

We strongly recommend that Congress not designate additional wilderness in the Great Bear area until studies of all resource values, including wilderness values, are completed. Based on the results of the studies now underway or to be undertaken, a more deliberate, orderly decision can be made as to the desirability of adding any specific area to the National Wilderness Preservation System.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

RECESS UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 9:10 p.m. the Senate recessed until Thursday, December 18, 1975 at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate December 17, 1975:

SUPREME COURT OF THE UNITED STATES

John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court of the United States.

HOUSE OF REPRESENTATIVES—*Wednesday, December 17, 1975*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Unto you is born this day in the City of David a Saviour, who is Christ the Lord.—Luke 2: 11.

Eternal God, our Father, our refuge and strength in every hour of need, we come to Thee in this quiet moment opening our hearts to Thy love, our minds to Thy truth, and our spirits to Thy redeeming power. Help us to live through these Advent days with the lift of good will within us that life may be better and brighter for us and for those around us. Bind us together in one great effort to keep democracy and freedom alive in our day.

God bless America and these leaders of a free people. Give wisdom to all who govern us that they may use their power for the welfare of our Nation and the well-being of all mankind.

Then having done our work faithfully may we come to the end of the day with the peace of a quiet heart.

In the spirit of Him whose birthday we celebrate, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1535. An act to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service;

H.R. 6851. An act to increase the retired pay of certain members of the former Lighthouse Service;

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended; and

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8631. An act to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2089. An act to authorize modifications to Dickinson Dam, Dickinson Unit, Pick-Sloan Missouri Basin program, North Dakota, and for other purposes; and

S. 2361. An act to reauthorize and modify McKay Dam, Umatilla project, Oregon, for multiple functions, and for other purposes.

RESIGNATION FROM COMMITTEE ON THE JUDICIARY

The SPEAKER laid before the House the following resignation from a committee:

December 17, 1975.

Hon. Carl Albert,
Speaker of the House of Representatives, U.S. Capitol, Washington, D.C.

Dear Mr. Speaker: I hereby tender my resignation from the Committee on the Judiciary, effective December 17, 1975.

Sincerely yours,

Ray Thornton,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

RESIGNATION FROM COMMITTEE ON EDUCATION AND LABOR

The SPEAKER laid before the House the following resignation from a committee:

December 10, 1975.

Hon. Carl Albert,
Speaker, House of Representatives, Washington, D.C.

Sir: I hereby tender my resignation from the Committee on Education and Labor effective December 17, 1975.

Sincerely,

Ted Risenhoover,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

ELECTION AS MEMBERS OF COMMITTEE ON AGRICULTURE, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, COMMITTEE ON BANKING, CURRENCY AND HOUSING, AND COMMITTEE ON VETERANS' AFFAIRS

Mr. O'NEILL. Mr. Speaker, I offer the following privileged resolution (H. Res. 935) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 935

Resolution designating memberships on standing committees of the House

Resolved, That Ray Thornton of Arkansas be, and he is hereby, elected a member of the Committee on Agriculture; and,

That Theodore M. (Ted) Risenhoover of Oklahoma be, and he is hereby, elected a member of the Committee on Public Works and Transportation; and,

That Clifford Allen of Tennessee be, and he is hereby, elected a member of the Committee on Banking, Currency and Housing and a member of the Committee on Veterans' Affairs.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESOLUTION INTRODUCED TO EXPRESS THE SENSE OF CONGRESS CONCERNING EVENTS IN ANGOLA

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, last Friday I expressed on the floor of the House my concern over the course of events in Angola. In the intervening days it has become increasingly apparent that the United States is, in fact, secretly supporting tribal factions in that unhappy country's civil war. It is not my intention today to preclude our Government from ever undertaking such ventures. Nor do I seek to hamstring the intelligence community in the conducting of its day-to-day operations. It is conceivable that extraordinary circumstances may arise making such covert activities in the national interest. Should that be the case, our Government should be free to act. It is possible, although I believe unlikely, that the Angola venture falls in that category. To that end, Mr. Speaker, Congressman Anderson and I yesterday introduced a resolution which, if approved, would express the sense of the House on this matter. Its language is necessarily broad, and it will require from the executive branch an element not always present in the past: The recognition that the elected representatives of the people of this country must be apprised of secret foreign ventures which, by definition, carry important risks. I believe, Mr. Speaker, that only through such mutual respect can we hope to avoid a repetition of the tragic spectacle of this Nation's leaders taking us blindly down dark and dangerous paths where our national interest is as unclear as the light at the end of the tunnel. I, therefore, will move today for the immediate House consideration of the resolution introduced yesterday by Congressman Anderson and myself, House Concurrent Resolution 512.

REAFFIRM STAND ON CASTRO

(Mr. FREY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FREY. Mr. Speaker, this morning's Washington Post informs us that between 3,500 and 4,000 Cubans have been sent to Angola "providing the Soviet-backed faction with the expertise to handle sophisticated equipment."

At the same time, we here in Congress hear rumors from the State Department to the effect that some people have advised the President to move toward resumption of trade and diplomatic relations with Castro.

I cannot swallow both of those reports.

Castro has not changed: His merchandise remains the same. If ever there was a question of his desire to export terror, revolution, and communism—the answer is in his actions in Angola. The hard facts are in, the evidence has been presented, and to me it signals a guilty verdict.

I am today urging the President to reaffirm his strong stand against Castro and his brand of communism. It seems to me that now, while the world is watching Castro's reprehensible antics in Africa, is the time to stop him.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 799]

Andrews, N.C.
Archer
Ashley
Boggs
Breaux
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Casey
Chisholm
Clay
Conyers
Daniels, N.J.
Davis
Dellums
Diggs
Drinan
Esch
Eshleman
Foley
Ford, Mich.
Fraser
Gaydos
Gibbons
Green
Hanley
Harris
Hastings
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Hinshaw
Howard
Ichord
Jones, Tenn.
Kindness
Krueger
LaFalce
McClory
McDonald
McKinney
Macdonald
Madden
Matsunaga
Melcher
Milford
O'Brien
Pike
Railsback
Rees
Runnels
Ruppe
Ryan
Sisk
Stanton, James V.
Stephens
Sullivan
Taylor, N.C.
Teague
Udall
Vander Jagt
Wilson, Tex.
Young, Alaska

The SPEAKER. On this rollcall 368 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF HON. EDMUND L. HENSHAW, JR., AS CLERK OF U.S. HOUSE OF REPRESENTATIVES

Mr. PHILLIP BURTON. Mr. Speaker, I send to the desk a resolution (H. Res. 936) appointing Edmund L. Henshaw, Jr., as Clerk of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 936

Resolved, That Edmund L. Henshaw, Jr., of the Commonwealth of Virginia, be, and he is hereby, chosen Clerk of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HON. EDMUND L. HENSHAW, JR.

The SPEAKER. Will the Clerk-elect present himself in the well of the House to take the oath of office?

Mr. Henshaw presented himself at the bar of the House and took the oath of office.

AMENDING THE SMALL BUSINESS ACT

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2498) to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes, and to strike out all after the enacting clause of said Senate bill, and to insert in lieu thereof the provisions contained in H.R. 9056, as passed by the House.

The Clerk read the title of the Senate bill.

The Clerk read the House amendment to the Senate bill, as follows:

Strike out all after the enacting clause of S. 2498 and insert in lieu thereof the provisions of H.R. 9056, as passed, as follows:

TITLE I

SEC. 101. Section 2 of the Small Business Act (15 U.S.C 631) is amended by redesignating subsections (b) and (c) as (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) It is the declared policy of the Congress that the Government, through the Small Business Administration, should aid and assist small business concerns which are engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture and all other farming and agricultural related industries; and the financial assistance programs authorized by this Act are also to be used to assist such concerns.".

SEC. 102. The first sentence of section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting after "concern" the following: ", including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultral related industries,".

SEC. 103. Section 7(a)(1) of the Small Business Act (15 U.S.C. 636(a)(1)) is amended by inserting "from non-Federal sources" immediately before the period at the end thereof.

SEC. 104. Section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)(4)) is amended by striking out the proviso.

SEC. 105. Section 18 of the Small Business Act (15 U.S.C. 647) is amended by inserting after "Federal Government" the following: ", except those enterprises engaged in the production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

TITLE II

SEC. 201. Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by striking from the first paragraph following paragraph (8) of such section 7(b) the following: "Notwithstanding the provisions of any other law, and except as otherwise provided in this subsection, the interest rate on the Administration's share of any loan made under this subsection shall not exceed 3 per centum per annum, except that in the case of a loan made pursuant to paragraph (3), (5), (6), (7), or (8), the rate of interest on the Administration's share of such loan shall not be more than the higher of (A) 2¾ per centum per annum; or (B) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum per annum.", and inserting in lieu thereof the following: "Notwithstanding the provisions of any other law, the interest rate on the Administration's share of any loan made under subsection (b) shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: *Provided, however,* That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster.".

TITLE III

SEC. 301. Part A of title IV of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new sections:

"SEC. 404. (a) For purposes of this section, the term—

"(1) 'pollution control facilities' means such property (both real and personal) as the Administraiton in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

"(2) 'person' includes corporations, companies, associations, firms, partnerships, societies, joint stock companies, States, territories, and possessions of the United States, or subdivisions of any of the foregoing, and the District of Columbia, as well as individuals.

"(3) 'qualified contact' means a lease, sublease, loan agreement, installment sales contract, or similar instrument, entered into between a small business concern and any person.

"(b) The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor, guarantee the payment of rentals or other amounts due under qualified contracts. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

"(1) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property may be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax.

"(2) Any such guarantee shall be the full amount of the payments due under such qualified contract and shall be a full faith and credit obligation of the United States.

"(3) No guarantee shall be issued by the Administration unless the Administration determines that there exists a reasonable expectation that the small business concern in behalf of which the guarantee is issued will perform the covenants and conditions of the qualified contract.

"(c) The Administration shall fix a uniform annual fee for any guarantee issued under this section which shall be payable at such time and under such conditions as may be prescribed by the Administrator. The fee shall be set at an amount which the Administration deems reasonable and necessary and shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. In no case shall such amount exceed 3½ per centum per annum of the minimum annual guaranteed rental payable under any qualified contract guaranteed under this section. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as the Administrator determines are reasonable and necessary to pay the administrative expenses that are incurred in connection therewith.

"(d) In connection with the guarantee of rentals under any qualified contract pursuant to authority conferred by this section, the Administrator may require, in order to minimize the financial risk assumed under such guarantee—

"(1) that the lessee pay an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, which shall be held in escrow and shall be available (A) to meet rental charges accruing in any month for which the lessee is in default, or (B) if no default occurs during the term of the qualified contract, for application (with accrued interest) toward final payments of rental charges under the qualified contract;

"(2) that upon occurrence of a default under the qualified contract, the lessor shall, as a condition precedent to enforcing any claim under the qualified contract guarantee, utilize the entire period, for which there are funds available in escrow for payment of rentals, in reasonable diligent efforts to eliminate or minimize losses, by releasing the property covered by the qualified contract to another qualified lessee, and no claim shall be made or paid under the guaranteee until such effort has been made and such escrow funds have been exhausted;

"(3) that any guarantor of the qualified contract will become a successor of the lessor for the purpose of collecting from a lessee in default rentals which are in arrears with respect to which the lessor has received payment under a guarantee made pursuant to this section; and

"(4) such other provisions, not inconsistent with the purposes of this section as the Administrator may in his discretion require.

"(e) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.

"(f) Section 402 shall apply to the administration of this section.

"SEC. 405. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of section 404. There are authorized to be appropriated to the fund from time to time such amounts not to exceed $15,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 404 shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under section 404 shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under section 404 may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

SEC. 302. Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is amended by striking out "this part" wherever it appears therein and by inserting in lieu thereof "section 401".

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from Iowa (Mr. SMITH) explain what the necessity of this is?

Mr. SMITH of Iowa. If the gentleman will yield, it is just merely to facilitate taking from the Speaker's table. We are not going to go into conference until after the recess.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will take unanimous-consent requests from Members but will not take speeches until later in the day.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 5559, REVENUE ADJUSTMENT ACT OF 1975

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 933 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 933

Resolved, That immediately upon the adoption of this resolution, any rule of the House to the contrary notwithstanding, it shall be in order to consider the conference report on the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, and all points of order against said conference report are hereby waived.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. ANDERSON), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 933 provides for a rule on the conference report on H.R. 5559, a bill to amend section 883(a) of the Internal Revenue Code.

House Resolution 933 provides that it shall be in order to consider the conference report, any rule of the House to the contrary notwithstanding and also provides that all points of order against the conference report are waived.

Mr. Speaker, the conferees met yesterday and agreed on the conference report and then the conference report was brought to the floor under suspension of the rules. It received a majority vote of 256 ayes and 160 nays, but failed to receive a two-thirds majority. Adoption of this rule is needed to insure that the House will have a chance to adopt the conference report by majority vote.

Mr. Speaker, I urge the adoption of House Resolution 933 in order that we may debate and discuss the conference report on H.R. 5559.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the basic purpose of this rule is to provide for consideration of the tax reduction conference report without the usual 3-day layover. The actual effect of the rule and the report in my opinion is to provide for a tax increase with a New Year's hangover. I say that because the President has made it quite clear that it is his intention to veto this bill if it is not accompanied by a spending ceiling for fiscal year 1977.

I intend to ask for a "no" vote on the previous question on this rule because, although we attempted in the Committee on Rules on yesterday evening to amend the rule so that it would provide for a vote on the spending ceiling, we were not able to do so, and under the rules of the House that proposition would not be germane. It is a little difficult for me to see why a spending ceiling is not germane to this particular bill in view of the fact that the Members have perhaps noted, as the title was read, actually this conference report deals with a section of the Internal Revenue Code that would provide for the exclusion of income from the temporary rental of railroad rolling stock by foreign corporations. If a tax reduction bill in the magnitude of some $13 billion is germane for that particular conference report, it seems to me a pity that we do not have the procedures whereby we can have a vote on the question of whether we should have a $395 billion spending ceiling.

Mr. Speaker, I pulled from the financial pages of one of our daily newspapers a clipping which I hold in my hand and which says, "Christmas spending is up, but not on credit."

That is from a recent editorial in a financial paper. Chalk one up for the commonsense of the average American, but not so, apparently, in Washington, D.C.; not apparently so in the U.S. Congress.

Then, of course, the cry goes up that we cannot shoot Santa Claus, least of all a week or 10 days before Christmas.

To reassure the children of America, let me say, "Yes, Virginia, there is a Santa Claus; but he is not the Federal Government."

Therefore, we are obliged in discussing this rule today to ask the Members to vote "no" on the previous question so that we can have a vote on the question of a spending ceiling.

To be sure, the distinguished chairman of the Committee on Ways and Means appeared before us yesterday and said that this would be an exercise in futility. He said that this would be going down the road that we have traveled all too often before, and therefore, we should wait until next May or wait until some indefinite time in the future, and then we will take up the question of a spending ceiling.

Mr. Speaker, I am reminded of that phrase that we used to hear once in a while quoted by a former Member of this body, that on the street of by and by you come to the land of never, never.

I have another reason that I think Members would be justified in turning down this rule in its present form, because I want to ask one question of the members of the Committee on Ways and Means: Whatever happened to tax reform?

I happen to be one of those who very proudly voted for every one of the six amendments recommended by the Committee on Ways and Means, save one.

Down with the idea of a carryback on capital losses. I agree.

Down with a limitation on artificial accounting losses on real estate and leasing computed on a property-by-property basis. I agree.

Onward and forward with withholding taxes on foreign investment portfolios. I agree. However, what happened to these much-touted reforms? They have mysteriously disappeared or are safely locked up in Uncle Russell's storage vault and are apparently marked, "Do not open before Christmas."

In fact, they should be marked, "Do not open ever" because those provisions on tax reform are not in the conference report that we will act on this morning.

Yet, I recall just a few days ago that we actually recessed a meeting of the Committee on Rules when we were acting on the tax bill so that the majority of the members of the Committee on Ways and Means could solemnly file back into the committee room and caucus on the question of whether or not it would be advisable to decouple the tax reduction features of this bill from the tax reform.

The SPEAKER. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 3 additional minutes.

What happened then, Mr. Speaker? Solemnly they returned to the Committee on Rules and they said, "No, we must not endanger tax reform. We cannot have tax reform unless we have it moved forward at the same time with the tax reduction features of this bill."

A rule was consequently adopted, and the bill came to the floor, and we voted on it. Some of us, as I say, supported virtually every one of those tax-reform amendments, and yet, now they are gone; they are totally absent from this bill.

Mr. Speaker, I hope that when the Members have the opportunity to do so, they will vote down the previous question so that I may add to the suggested rule these simple, but, I think, meaningful words, that we ought to be given the opportunity to offer a motion to recommit with instructions as follows:

Insist on the inclusion of a provision providing that maximum outlays under the budget to be submitted by the President of the United States—we are telling the President, in other words, that he has to submit a budget of $395 billion or less—and that the budget of the U.S. Government for the fiscal year beginning October 1, 1976, shall not exceed $395 billion, providing that nothing in the provision shall be construed as to preclude an adjustment in this outlay ceiling under the procedures established by the Congressional Budget and Impoundment Control Act of 1974, should changed economic conditions warrant such an adjustment.

Mr. Speaker, 202 Members of this body supported a motion to recommit that included that identical language when this bill was before the House previously.

I see no reason at all today why any of the Members who voted that way on a prior occasion should surrender their position and deny themselves the privilege of at least casting a vote on that very important and vital question.

Mr. Speaker, I ask for a "no" vote when the previous question is put.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. The gentleman is correct when he says that the point is that when we get to the motion to cut off debate if we want to support the concept that taxation and spending limitations should be directly related that alone is an important reason to vote against the motion on the previous question. If Members of this body feel that those two subjects should be connected, and as public officers have found belatedly in New York that they are connected, we should continue to support that sound position by voting down the previous question.

Mr. ANDERSON of Illinois. The gentleman has stated the proposition correctly.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman yielding.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I think the gentleman from Illinois (Mr. ANDERSON) has stated the issue as well as it can be stated, plus the comments of the gentleman from California (Mr. ROUSSELOT).

The question is whether or not we are going to adopt a posture which we should have adopted many years ago, and connect expenditures with revenue. The President of the United States has asked that we do this. By not doing so all of these years we have now rolled up a national debt of about one-half trillion dollars. I think that at this blessed Christmas season it is a good time to give the taxpayers of the United States a break, and to take up the cudgel of fiscal responsibility and put it in the hands of every Member of the House where it should have been years ago. Then we can do our best to bring spending under control once and for all.

I recognize the fact that the gentlemen on my right will argue that the budget system will do this. I hope it will, but it has not been tried yet. Certainly the first feeble efforts of the Budget Committee to set realistic ceilings have not been particularly encouraging. It seems logical to me that we have this opportunity, when we have a tax cut before us. It seems a very good idea to take this opportunity to bring together these two component parts, of fiscal sanity, one the outgo and one the income, and see if we cannot get some correlation. The people of the United States, the voters, the taxpayers of our country want this done, and they want it now.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I would ask the gentleman from Arizona is it not, also true, that across this country in the elections just passed, that the electorate was wise enough to perceive the reckless deficit financing philosophy in which some politicians have engaged is wrong and they voted down 90 percent of the bond issues that clearly exceeded the abilities of those cities to pay for them?

Now the American people are waiting to see whether Congress is willing to accept that same kind of fiscal responsibility.

Mr. RHODES. The gentleman is absolutely correct.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the able gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, as a member of the House Committee on the Budget, I think it is extremely important that we put the facts in their total perspective and understand exactly what we are doing.

This bill quite simply extends present withholding tax rates for 6 months. If this bill is defeated, tax rates will go up at the first of the year to their previous level.

The gentleman from California (Mr. ROUSSELOT) mentioned a moment ago that the citizens of the United States have been voting down local bond issues. That is true. Out of the last $8 billion in bond issues submitted to the citizens of American localities, less than $1 billion have been approved.

What the citizens have been voting against is tax increases. A "no" vote on this bill is a vote for a tax increase. A "no" vote is a vote for the very thing that the citizens have been voting against. A "no" vote is a vote to increase withholding rates and increase taxes by about 8 percent.

We decided early this year that the citizens of the United States needed a tax cut to stimulate economic recovery so as to release more spending power out into the stream of the American private sector. It has had some beneficial effect. Unemployment has declined by perhaps one percentage point. Do the Members want to shut that off? We still have 8.3 percent unemployment. No economic argument can be made for raising taxes at this time, and a "no" vote is a vote to raise taxes.

Let us examine the logic on which the Republican side has been saying that we should vote down this 6 months' continuation of the lower tax rates. They say we should vote it down because we are not yet in a position to vote a binding spending ceiling for a fiscal year which will not begin until next October, and which will continue until October of 1977, almost 2 years from now.

Obviously, we are not prepared to establish that ceiling today, since we do not yet have any factual basis on which to do so. The President himself has not submitted the budget that he will recommend for that fiscal year. We have no way of knowing what it may contain. It would be the height of fiscal irresponsibility for us at this moment to assume the almighty wisdom to adopt a spending ceiling for a year in which the President has not even submitted his requests.

I urge the Members' attention to this thought. In October, only some 2 months ago, the President was saying that the appropriate ceiling for fiscal year 1977, which will extend until a point almost 2 years from now. was $395 billion. In the meanwhile, he has changed his own estimate. In the past 2 months he has decided that it ought to be maybe $404 or $406 billion. If the President has made this much change in 2 months, Mr. Speaker, what may we expect the President to think by October of year after next? And how can he possibly expect us to forecast a responsible figure that even he would find acceptable at that time? It would be nothing more than guesswork.

Since the beginning of this calendar year, the President has come to us and asked for extraordinary expenditures which he had no way of anticipating or including in budgets a year ago. One was for the Vietnam situation; one was for the Sinai agreement; one was for the New York City crisis. If we had been bound a year ago to a budget ceiling applicable to the year in which we now are living, what would we have had to say to the President on those extra requests which he brought to us after the year began?

I am not criticizing the President; I am simply pointing out that there are exigencies which cannot be foreseen 2 years in advance. It would be the height of irresponsibility for us now, at this moment, without even examining the President's requests, to adopt a ceiling applicable 18 months in the future. We will have that opportunity in the regular orderly budget process.

One more thing: I want every Member of this House to realize that we have adopted a spending ceiling, a binding spending ceiling, for the entirety of the period to which this bill will apply. This bill applies only to the next 6 months. The Congress already has adopted a spending ceiling of some $375 billion for fiscal 1976. This is at least $20 billion less than the one the President is talking about for the ensuing fiscal period. Under the circumstances it comes in extremely poor grace for him to be lecturing Congress so piously about fiscal responsibility.

What he is saying in effect is, "Fly now and pay later." Go ahead now, he says, and give this money back to the taxpayers in 1976 but reduce our services to them in 1977. Give back $28 billion in tax cuts now, he says—more than this bill offers—but say now that we shall cut our expenditures in 1977 by $28 billion.

Is that not the same as a family's saying, "Oh, well, it is all right. We will go $28,000 in debt this year, but that's all right because about a year from now we will cut our expenditures by $28,000"? Without knowing what big cataclysmic illnesses or other crises may occur in the meanwhile, that family would be acting irresponsibly. It would be equally irresponsible behavior for the Nation.

The responsible thing to do is to vote "aye" and adopt this resolution, and then adopt this bill, and then address the 1977 budget carefully and responsibly under the proper and orderly budget processes we have established.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, the gentleman from Texas is a polished orator and quite adroit at making things appear different than they are.

The fact is a vote for the previous question is a vote to prevent expenditure limitation, not a vote to decrease taxes. That is No. 1.

No. 2, I will grant that for fiscal year 1976 the Budget Committee has adopted a spending ceiling $20 billion below what the President is asking for fiscal year 1977, but we should be concerned with the long-term direction of Government. Unless this body gives some policy direction to the Budget Committee and instructs them, with a spending target, to try to cut back on the massive growth we can otherwise expect, we can be quite sure that the Budget Committee once again will participate in an arithmetical exercise without policy direction. This will leave the American people with the certainty that their dollars are going to be worth less and that their Government is going to continue out of control to the same degree that it is as a result of this year's Budget Committee exercise where we are anticipating a $75 billion deficit.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. Is it not also true that if we accept the position of the gentleman from Texas that the way this reduction in taxes will have to be financed is by massive deficit financing. That type of irresponsible financial action created the very kind of problem that New York City now faces.

Mr. CONABLE. That is absolutely correct.

I would like to add the arguments the gentleman from Texas made against the possibility of future contingencies could be made against anything in the budget process. That does not mean we should not try to get a target at this point and that is what the President is asking us to do.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. Mr. Speaker, I would like to answer the argument suggested by the gentleman from Texas that we have a tax cut or a tax increase.

Regardless of what we do here today, the conference has determined what that tax cut shall be for the calendar year 1976 and there is going to be no change from this. If the new tax reduction provisions reduce an individual's tax by $120 a year, he will be entitled to the $120 a year whether it is in effect for 8 months or 12 months. The only difference is that until we get a spending limitation there may be a deferral of this total tax reduction. However, in the final analysis the taxpayer will be entitled to the full amount.

What happened to the Tax Reduction Act of 1975? We voted for it in March, and it was put into effect in May. Beginning May 1 the taxpayer got his tax reduction through increased withholding. If by this confrontation we delay implementation of the cut until May the tax reduction the taxpayer will get in the May check will be 50 percent greater than in his January check. I do not think there is any argument about that and I would like to disabuse anyone of that notion.

It should be noted that the President is not asking for an actual decrease in spending but rather a limit on the increase and the increase will amount to $25 billion. What we are asking for is not a spending cut. We are asking for a spending limitation. We are asking that the limitation on increase for 1977 be more than 6 percent over 1976. If we do not have that limitation, automatically it goes up 15 percent.

Let us get a little bit of perspective on this whole situation. For fiscal year 1973 we had a spending ceiling of $250 billion and, if we do not do anything about it in fiscal year 1977, 4 years later, it will be $423 billion, a 69-percent increase.

As I said several times on the floor here, it is perfectly disgraceful that in 4 years our budget spending should go from $250 to $423 billion.

Mr. Speaker, I ask that we vote down the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I think the gentleman from Pennsylvania has made a valid point, that a vote against the previous question does not mean an increase in withholding rates necessarily even on January 1. It certainly does not mean that we have the capability to pass the kind of tax bill, coupled with a meaningful spending ceiling in 1976, that will give the American people both tax relief and relief from excessive Government expenditures.

Mr. Speaker, I would urge a "no" vote on the previous question.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 232, nays 178, not voting 24, as follows:

[Roll No. 800]

YEAS—232

Abzug
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Chisholm
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Fraser
Fuqua
Giaimo
Ginn
Gonzalez
Green
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hefner
Helstoski
Henderson
Hightower
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
Landrum
Leggett
Lehman
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pike
Preyer
Price
Randall
Rangel
Reuss
Richmond
Riegle
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Steed
Stephens
Stokes
Stratton
Studds
Symington
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—178

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Biester
Bowen
Breaux
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Esch
Evans, Ind.
Fenwick
Findley
Fish
Flowers
Flynt
Forsythe
Fountain
Frenzel
Frey
Gibbons
Gilman
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hansen
Harsha
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hillis
Holt
Horton
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Levitas
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
Pettis
Peyser
Pickle
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson
Rousselot
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Fla.

NOT VOTING—24

Alexander
Burke, Fla.
Burton, John
Clay
Daniels, N.J.
Eshleman
Ford, Mich.
Gaydos
Hays, Ohio
Hébert
Hinshaw
Ichord
LaFalce
Macdonald
Rees
Runnels
Ruppe
Ryan
Stanton, James V.
Sullivan
Udall
Vander Jagt
Wilson, Tex.
Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Hays of Ohio for, with Mr. Hébert against.

Mr. Udall for, with Mr. Burke of Florida against.

Mr. John L. Burton for, with Mr. Eshleman against.

Mr. James V. Stanton for, with Mr. Hinshaw against.

Mrs. Sullivan for, with Mr. Vander Jagt against.

Mr. Dominick V. Daniels for, with Mr. Charles Wilson of Texas against.

Mr. Macdonald of Massachusetts for, with Mr. Runnels against.

Mr. Clay for, with Mr. Ichord against.

Mr. Ford of Michigan for, with Mr. Alexander against.

Mr. LaFalce for, with Mr. Young of Alaska against.

Until further notice:

Mr. Ryan with Mr. Rees.

Messrs. EVANS of Indiana and SHRIVER changed their votes from "yea" to "nay."

Mr. PERKINS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 5559) to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 16, 1975.)

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this Nation has very deep economic troubles. Although there has been a partial recovery from the depths of the recession, unemployment still remains at a level of over

8 percent and leading indicators indicate a downtrend in the economy ahead. That is the only reason this bill is before us today.

This Nation also has deep troubles in the decisionmaking process, and the American people are very aware of those difficulties.

It is important at this time that this Congress move on this legislation and move decisively. It is important that we move decisively enough so that we can give the Nation an indication that we can make decisions. I am most hopeful that if there is a veto, we can override it.

Mr. Speaker, we debated this matter at some length yesterday. The issue is very simple. This is an extension of the withholding system for a 6-month period and provision for the reductions only for this period. This will prevent a major tax increase for American citizens on January 1. If we fail to pass this measure, there will go into effect very significant tax increases for virtually every American.

By continuing the withholding system for a 6-month period, we are giving the economy a change to continue to improve from the depths of the recession we have been in. Economists almost universally are agreed that we need this tax reduction and that if we fail to keep it in effect, there will be grave economic consequences.

Let me very briefly recap what is included in this 6-month extension:

We extend the 10-percent earned income credit for 6 months and add a disregard rule.

We increase the low-income allowance from $1,300 to $2,100 for married taxpayers and from $1,300 to $1,700 for single persons.

We increase the percentage standard deduction from 15 percent of income with a $2,000 limit to 16 percent, with a limit of $2,800 for married taxpayers and $2,400 for single persons, for this 6-month period.

We increase the $30 per capita credit to $35, and add an alternative credit of 2 percent of the first $9,000 of taxable income, if that amount is larger than the $35 per capita credit. These provisions also apply for the 6-month period.

We increase the corporate surcharge exemption from $25,000 to $50,000 and cut the normal tax rate on the first $25,000 of income from 22 to 20 percent for the 6-month period.

Mr. Speaker, the above actions are within the budget resolution ceiling.

Let me close by relating very briefly to the problem of the spending ceiling. The integrity of the budget process is at stake in what we do here. To put a spending ceiling on for fiscal 1977 now would violate procedures in the most significant congressional reform that we have had for 50 years. On January 19, the President will send up a budget. When the President sends up his budget we will know the components and at that time I will agree to be part of a concerted effort on the part of the Congress to move toward a responsible spending ceiling because at that time we will be able to face up responsibly to the total spending ceiling problem by addressing specifically where the spending cuts are to be made.

Mr. Speaker, I urge that the debate be brief so that we can get to an early vote on this very important matter.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I want to say to my good friend the gentleman from Oregon (Mr. ULLMAN) that the debate will be brief. We have very few speakers on our side so we will take only a very short time.

Mr. Speaker, I think we should wrap this up by emphasizing a few points. The main point that I would like to emphasize this morning is the fact that the worker's tax cut will not be renounced, it will not be diminished, it will not be changed by anything that we do or any vote we make here at all. The tax cut that has been initiated by the committee, which has been agreed to between the two bodies, will remain constant and the worker will get the full benefits of his total tax cut during the year whether it is through an orderly process each month or whether we do it at a later date is another subject.

As I remarked earlier, the tax cut for the current year 1975 began in May of this year. So if we skip a few months then the tax cut will be larger in the months in which it is effective.

We have been told by responsible people that the time to get a spending reduction is at the time that you make a concession on tax cuts. Somebody said that we must earn our tax cuts by having some fiscal discipline and having spending reductions at the same time, and I agree with him. The request for the spending reduction that is being asked is not an unreasonable figure, the figure of $395 billion, is this unreasonably low? In fact I think I heard a complaint from the gentleman from Texas that it is unreasonably high, it is too much, a budget ceiling of $395 billion. But the budget ceiling request that has been made of $395 billion is still 6 percent above our current spending rate. All we are asking is that we do not go into orbit and continue at the 15- to 20-percent increase that we have had every year.

On the subject of correlating tax reductions with spending limitations, we have much editorial comment. I do not want to repeat myself, but yesterday I referred to several articles in the Christian Science Monitor by Roscoe Drummond where he says that Congress is a little slow in catching up with the rest of the United States on this subject. He said how long will it take before this clear issue starting among the Democrat leaders at the State and local levels will begin to take hold in Washington among the Democrat liberals in Congress? My guess will be not too long.

Yesterday I referred to an editorial comment by Frank Mankewiecz, a well-known Democrat, and he had this to say:

> Congressional Democrats took their first tentative steps toward their quadrennial goal of finding the precise stance which could cost them the Presidential election.

What stance is he referring to? The stance he is referring to is turning down this request for a spending limitation.

This morning's editorial in The Wall Street Journal reiterates the same subject. It says the President has the right position, the right philosophy, the right tax package. All he needs is the right words to explain that when spending goes up, taxes have to follow, and for taxes to go down, spending must come down, too.

If Congress wants to argue with him about this, we will find out who is in this box. Increasingly, the economic writers express this concern of reducing our income while increasing our spending. It is a proper and rightful concern. It is a concern that reflects the spending activities of some Democratic Governors in Massachusetts, New York, Wisconsin, Colorado, and California.

The SPEAKER. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself 3 additional minutes.

These Democratic Governors are becoming very popular for one singular and sole reason: They are cutting spending.

I think we had an indication of this just last week. In a mayor's contest in San Francisco, virtually a political unknown, who a year ago probably would not have gotten 30 or 35 percent of the vote, got 49 percent of the vote last week on the spending reduction issue. The mayors are aware of the problem and are taking action. The Governors are doing the same. It is about time the Congress recognizes its responsibility and acts in like fashion.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from California whose city I mentioned.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

First, I would like to say on behalf of my brother we are delighted that our fair city is graced by a member of the Schneebeli family. And I would not want my remarks to in any way disturb what the relationship may be between that family member and my colleague.

However, speaking from the viewpoint of a Democrat, we were delighted with the results of the mayor's election. I might note that there is little substitute for winning. I might also note that losers somehow have an ability to rationalize that a defeat was really a victory, even though they were on the short end of the vote total.

The gentleman is correct that in municipal elections, and particularly in our city where party designation does not appear on the ballot, voters are sensitive to the homeowning taxes that they must pay. Inevitably, the taxes in our city were increased by some 40 percent on our homeowners, in no small measure because the Federal Government has cut back on the real dollar commitment they had been giving programs in the past.

But apart from that special problem, we found ourselves in analyzing this unique election that for the first time was held in December on a Thursday, that the 10 percent unemployed in our district, a great number of whom are homeowners out of work so long because of disastrous policies of the Republican administration, were, with this tax cut, simply willing to run no risk at all as it affected local government.

But I can assure the gentleman on the record that when they march to the polls in November of 1976, it is going to be with a total determination to remove those Republicans from office that have put the national economy in this desperate strait.

The SPEAKER. The time of the gentleman has expired.

Mr. SCHNEEBELI. Mr. Speaker, I would like to answer the gentleman myself. I am rather happy he did not accuse the Republicans of getting San Francisco into the fiscal mess they are in now. Also I did not get much response to my statement that the gentleman who ran on the Republican ticket probably would have gotten 30 percent of the vote 6 months ago while he got 49 percent last week.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman yielding.

I think the voters in San Francisco and in many other places in this country do perceive in fact that the Congress as a whole has been irresponsible in the way it spends money. The Congress refuses to balance revenues and expenditures. All the talking in the world will not remove that basic perception on the part of the American people. The recent election in San Francisco makes that clear.

The gentleman from Pennsylvania is right: Sooner or later we are going to have to face up to the issue of a balanced Federal income and expenditure statement.

Mr. SCHNEEBELI. I thank the gentleman from California for his contribution.

I would like to leave one thought. We are asking New York City and all other areas actually to reduce their spending. Our only request is to limit the Federal Government's increase in spending during fiscal year 1977 to 6 percent. Is this asking too much?

I think the voters next November will have an answer to some of these questions.

Mr. ULLMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. JONES) a member of the committee.

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of the tax cut extension. I recognize that it has both political and economic overtones and everybody has to make his own political judgments on this but I am supporting this basically on economic grounds.

I voted against the 1975 tax cut for a number of reasons, but with regard to the tax cut itself I voted against it because I thought at that time that private debt was so large that a tax cut would likely result in consumers paying off past debt and not spending the money to stimulate the economy. In retrospect, the preponderance of evidence indicates that the tax cut has indeed stimulated the economy to the point where we are on the road to economic recovery. The last 2 or 3 months that road to recovery has been somewhat bumpy but the fact is we are on the road to recovery.

What we are faced with now is deciding the question as to whether or not come January 1 that tax cut will be extended or whether we are going to have a tax increase in terms of an increase in withholding rates.

In real dollar terms I doubt seriously that this tax cut would make much difference to the economy. In psychological terms I think it would make a very great difference because after Christmas buying and the bills come in, if the consumer is faced also with an increase in taxes I think the psychological impact of that on the recovery of the economy would be devastating.

I want to look at this question of tying this spending ceiling of $395 billion to the tax cut extension. I particularly would address these remarks to Representatives from the South and the border States, in our part of the country, because I think in that part of the country we have a sense of fiscal responsibility that is unmatched in any other part of the country.

We do want to hold down spending. I have voted for a balanced budget. I think Congress in the past has not faced up to that issue, but I think that with the new Budget Control Act we are going to have to face up to that issue. Should we tie this $395 billion spending ceiling to the tax cut, or if it is not so tied should we vote down the bill? I think we should not.

I mentioned yesterday the senior Senator from Oklahoma who is also the ranking Republican on the Senate Budget Committee, who said that this issue of the spending ceiling of $395 billion tied to the tax cut is a phony issue. What we have is a tax cut extension before us for the next 6 months. What we have done just a few days ago was to put into law a spending ceiling during that 6-month period of $375 billion, $20 billion below the President's request.

If we are going to establish the tax cut beyond the next 6 months, in other words going into fiscal year 1977, we will also have to face the question simultaneously as to what is going to be a spending ceiling. We are going to have to face both of those issues next spring. I think Congress will clearly go on record with a spending of $395 billion or less because the people of this country demand it.

So, in retrospect, I say that the tax cut voted earlier this year proved to be a correct economic stimulus. I think in this legislation we have done it in the proper way because we have coupled it to a spending ceiling of $375 billion.

We must pass this tax cut extension, because I think to do otherwise runs a very great risk that the recovery of the economy we have will be turned around and this country will be back in an economic slump.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, in harmony with the request of the gentleman from Oregon on the matter of time, I shall be very brief.

Mr. Speaker, the issue is being framed in such a way that the Members of the other side are trying to make it appear that the Republicans are for higher taxes. That is not true in either the short-term or the long-term range. In the long term, we all know that if there is more spending, there are going to be higher taxes or an increased tax of inflation.

In the short term, let me predict, Mr. Speaker, that when a third of the Members of this House support the President's veto, the majority party will be back here the next day accepting an expenditure limitation which they know is in the Nation's interest, and that we will get the kind of spending cut that has been suggested in this conference report.

Now, the President, frankly, would like a spending cut twice as big if it were coupled with a dollar-for-dollar reduction in expenditures. But in one way or another, we are going to get the tax cut as of the first of this year. I do not think for a minute that the Democratic majority would force the people to accept higher taxes, rather than themselves accepting a spending limitation. Thus, it is clear to me that the correct strategy for those who believe in lower taxes, both long term and short term, is to vote against the conference report at this time.

Mr. SCHNEEBELI. Mr. Speaker, in the interest of contributing brevity, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, this bill has not improved overnight. It ought to be defeated. When the often-promised and inevitable veto occurs, and is sustained, this Congress can, and will, vote for both a tax cut and a spending limit.

There is no question that the American people want a spending ceiling most of all from their Government. Any tax reduction is nice. It will not do any good, however, without a spending ceiling. The people will not be fooled by getting back a couple of bucks a week when they know inflation will quietly eat up those couple of bucks.

A number of our Members have been confused by the red herring that the budget process will somehow be violated by the spending ceiling. The Chairman of the Budget Committee said on this floor yesterday that the House had the right to instruct his committee.

Unless this spending ceiling is set by resolution now, and later confirmed by our budget resolution, there is no way the budget can hold down spending, no matter how hard it tries. Once the authorizing committees begin bringing in their want-lists, each line item becomes an issue. Vigorously supported by its powerful lobby clientele, each line item, or each committee's programs, becomes unstoppable, or unamendable.

If, on the other hand, the House sits on an overall limit on Federal spending, each committee or clientele lobby will have to persuade the Budget Committee of the priority of its need with that ceiling. The Budget Committee will make the critical decision. The House will have to ratify the Budget Committee decisions.

The procedure is wholly consistent with the budget process, and, more importantly, it is the only way that our wild spending can be controlled.

If we rely on the Budget Committee to control spending on its own, we will get another budget like this year's—a $75 billion deficit.

The Budget Committee has done good work. It will do better work. It should be encouraged. But it cannot fight spending by itself. It could not do it this year, and it will not be able to do it next year.

So, in fact, the fatuous statements about "leaving the job to the Budget Committee," or "preserving the budget process," are, in fact, a cop-out on the spending issue. They are only attempts to use procedural and jurisdictional rationalizations to avoid giving the taxpayers, what the taxpayers want—a spending ceiling. I don't believe the people are being fooled.

The real problem here is that this Congress has willingly accepted from its predecessor Congresses the philosophical legacy of spending for self-preservation. No single committee can make us revoke the legacy. We all have to do it together. If this House is unwilling now, I believe the people will force us to do it soon enough. But let us show a little leadership now by voting down this bill.

Mr. FREY. Mr. Speaker, when I was first elected, the Federal budget was under $200 billion. Next year it could reach $420 billion. The national debt will be over $600 billion. For years the people of this Nation have been bought with their own money. A theory has prevailed that Uncle Sam has unlimited resources; that the American citizen does not really care so long as his or her particular interest is protected. It is no longer "We the people" but "I the people." Take care of yourself or the devil with anyone else.

But with New York City we have reached the end of our rope. In fact, there are only three differences between the Federal Government and New York City. One, we are in worse shape; two, we print money; three, we have no one to help us out. I personally favor an extension of the tax reduction. But to do this without holding down our spending is the same old shell game. The majority party by using the device of suspension of the rules has prevented us from even attempting to limit spending. A vote against the bill is a vote for fiscal sanity and our only chance to do so. We cannot have it both ways and survive as a nation.

Mr. GOLDWATER. Mr. Speaker, there is not one Member of the Congress who opposes giving the American taxpayer some long overdue relief. There is not one Member of the Congress that opposes extending the Tax Reduction Act. It is equally true that the American public would be grateful for a Christmas present from the Congress in the form of some relief of their tax burdens. All political considerations aside, this Congress owes the American taxpayer some relief because it has been this Congress that has refused so far to control its spending habits by setting a limit on spending.

And that is just the point. Unless the Congress, this Democrat-controlled Congress, gets serious about fiscal responsibility and limits spending, it will not make any difference whether a tax rebate bill passes or not. It will not make any difference because inflation will continue to rage on and the few dollars the taxpayer gets back will not add one iota to his real buying power.

It is fiscally irresponsible to pass a bill authorizing a tax rebate or tax reduction for individuals and not cut Federal spending by an equal amount. To refuse to cut spending by an amount equal to the tax reduction will increase the deficit by an equal amount. It is as simple as that. If you want to be guilty of adding to the Federal deficit, to inflation, to continued economic misery and disruption, then pass a tax reduction without cutting Federal spending by an identical amount.

My constituents and the citizens of California have sent a loud and clear message to Washington. They want deficit spending, inflation, political games, and charades stopped. This bill as it comes before us fails to do that and I cannot support it.

Mr. VANIK. Mr. Speaker, the issue before the Congress today is whether we will extend the 1975 tax cut for individuals through 1976 or whether we permit taxes to increase by 8 percent for most individuals on January 1, 1976, and by as much as 12 percent for the poor and those of low income.

In retrospect, it is debatable whether the 1975 tax cut for individuals and for corporations and business was a wise thing. If the tax cuts and tax rebates of 1975 had not been enacted, the deficit would have been reduced by more than $22 billion. A $22 billion reduction in the deficit might have reduced the inflationary impact on the cost of living by 2 or 3 percent—and the effect the cost of living may have been more meaningful to the average American than a tax cut.

However, once the decision was made to move to a tax cut to stimulate the depressed economy, a premature withdrawal from that course before recovery would absolutely "wash out" whatever value there was in the 1975 reduction.

Unfortunately, the Congress gave business and industry a tax cut through 1976—while the individual tax cut was limited to 1975.

If the Congress fails in its effort to continue the 1975 tax cut into 1976, if this legislation is vetoed by President Ford, then it is perfectly proper to label the 1976 individual tax increase as a policy of the President which prevailed over the wishes of a large majority of the Congress because of his Presidential veto.

Mr. ULLMAN. Mr. Speaker, I have no further requests for that.

Mr. SCHNEEBELI. Mr. Speaker, I have no further requests for time. I yield back further requests for time.

Mr. ULLMAN. Mr. Speaker, I yield myself 2 minutes to conclude the debate.

Mr. Speaker, the gentleman from Pennsylvania suggested that if we do not act now we still can have a tax reduction next year. If we fail to pass this bill there will be a tax increase in January. The withholding schedules will go up. There is no question about it. The taxpayers will have a tax increase if we fail to pass this bill.

Now second, the gentleman from Pennsylvania (Mr. SCHNEEBELI) said that the tax reform bill is pending over on the Senate side, that sometime later in the year we could pass the reduction and it would be retroactive. Let me say, this is similar to what happened for 1975. If we pass a tax reduction in a bill that will probably be consummated next June, that would mean that if we put the cuts into place at existing levels on an annual basis, then, in place of the $1 billion per month and $12 billion annual cuts, we would have to put into effect cuts of about $1.5 billion or possibly $2 billion per month for the rest of the year.

What we would be doing is going back into a gyrating economy with a tax increase in January, when we should not have a tax increase, and which is directly adverse to every interest in the economy. Then along about July, there would be a major tax reduction.

Now, that is foolhardy economics. It is the wrong way to carry out tax policy.

So, it is not right to say that we can get this tax reduction one way or another. If we are going to get the tax reduction, or from the taxpayer's point of view if we are to prevent a tax increase, we have to act now. There is no other way we are going to prevent taxes from going up at the present time.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the distinguished minority leader.

Mr. RHODES. Would it not be possible for the House and Senate to adopt a resolution empowering the President of the United States not to increase withholding rates, say, until March 15, which would give this House, if the veto comes back and if the veto is sustained, an opportunity to pass a tax reduction bill so that it will not be necessary for this impact which the gentleman suggests, and on which I agree, to be visited upon the American taxpayer?

I cannot help but believe that the House will act if we have the time to do it without acting at the end of the year, as we now are, and it seems to me that it would be a very good idea if we could get such a resolution adopted. I intend to introduce it if the conference report is vetoed and the veto is sustained, so that there will be this net under the American taxpayer so that he would not have to increase his withholding payments the first of the year.

Mr. ULLMAN. Let me say to the gentleman that it is not a good tax procedure to decrease withholding rates and payments of estimated tax without also decreasing tax liabilities for the same period. Some taxpayers, especially corporations on a fiscal year, would have years ending in this period and their taxes would be underpaid under your system. This bill is the best way to do what the gentleman suggests. The only difference is this bill provides a 6-month extension and also matches with it a comparable change in tax liabilities.

Now, it also seems to me that if the President objects to a 6-month extension he would also object if there was a 3-month extension of withholding. He would raise the expenditure limit as an issue on any bill we act on. Moreover, at the end of 3 months Congress still will not have set its expenditure limit under the budget procedure. Finally, I would be opposed to giving the President complete leeway in setting withholding rates.

This is the choice; this is the final position. The Members of the Congress are going to have to face up to it. There is no other answer down the road somewhere in the future.

Mr. RHODES. What the gentleman is saying, in effect then, is that he is unalterably opposed to any sort of expenditure limitation on this legislation. I think that it is the issue between us, and I think we will have to let the American people decide who is right.

The SPEAKER. The time of the gentleman from Oregon has expired.

Mr. ULLMAN. Mr. Speaker, I yield myself 1 additional minute.

Let me say I favor an expenditure limitation on the right vehicles. Let me repeat that on January 19, when the President sends up his budget, then I will join with others here through the budget procedure which we have established to try and establish a budget limitation, a spending limitation, that is consistent with the orderly procedures of the House. But, that has nothing to do with what we are facing here today. This is a matter of grave economic emergency in this country, and we must extend this reduction. I hope we can do it overwhelmingly.

The SPEAKER. The time of the gentleman from Oregon has again expired.

Mr. ULLMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I may revise and extend my own remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDING NATIONAL SECURITY ACT OF 1947 TO INCLUDE THE SECRETARY OF THE TREASURY AS MEMBER OF NATIONAL SECURITY COUNCIL

Mr. CARR. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2350) to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the fourth paragraph of section 101(a) of such Act is amended by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively, and by adding after clause (4) a new clause (5) as follows:

"(5) The Secretary of the Treasury;".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for the public remuneration in the event of a nuclear incident, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That section 11 of the Atomic Energy Act of 1954, as amended, is amended by amending subsections q. and t. to read as follows:

"q. The term 'nuclear incident' means any occurrence, including an extraordinary nuclear occurrence, within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided however,* That as the term is used in subsection 1.70 l., it shall include any such occurrence outside the United States: *And provided further,* That as the term is used in subsection 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material owned by, and used by or under contract with, the United States: *And provided further,* That as the term is used in subsection 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act, which is used in connection with the operation of a licensed stationary production of utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.

"t. The term 'person indemnified' means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in subsection 170 c., and with respect to any nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship *Savannah*, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of subsection 170 d. has been extended or under any subcontract, purchase order, or other agreement, of any tier, under any such contract or project.".

Sec. 2. Subsection 170 a. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"a. Each license issued under section 103 and 104 and each construction permit issued under section 185 shall, and each license issued under section 53, 63, or 81 may, for the public purposes cited in subsection 2 i. of the Atomic Energy Act of 1954, as amended, have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require in accordance with subsection 170 b. to cover public liability claims. Whenever such financial protection is required, it may be a further condition of the license that the licensee execute and maintain an indemnification agreement in accordance with subsection 170 c. The Commission may require, as a further condition of issuing a license, than an applicant waive any immunity from public liability conferred by Federal or State law.".

Sec. 3. Subsection 107 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. The amount of financial protection required shall be the amount of liability insurance available from private sources, except that the Commission may establish a lesser amount on the basis of criteria set forth in writing, which it may revise from time to time, taking into consideration such factors as the following: (1) the cost and terms of private insurance, (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard, and (3) the nature and purpose of the licensed activity: *Provided,* That for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the amount of financial protection required shall be the maximum amount available at reasonable cost and on reasonable terms from private sources. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures and shall be subject to such terms and conditions as the Commission may, by rule, regulation, or order, prescribe. In prescribing such terms and conditions for licenses required to have and maintain financial protection equal to the maximum amount of liability insurance available from private sources, the Commission shall, by rule initially prescribed not later than twelve months from the date of enactment of this Act, include, in determining such maximum amount, private liability insurance available under an industry retrospective rating plan providing for premium charges deferred in whole or major part until public liability from a nuclear incident exceeds or appears likely to exceed the level of the primary financial protection required of the licensee involved in the nuclear incident: *Provided*, That such insurance is available to, and required of, all of the licensees of such facilities without regard to the manner in which they obtain other types or amounts of such financial protection: *And provided further*, That the standard deferred premium which may be charged following any nuclear incident under such a plan shall be not less than $2,000,000 nor more than $5,000,000 for each facility required to maintain the maximum amount of financial protection: *And provided further*, That the amount which may be charged a licensee following any nuclear incident shall not exceed the licensee's pro rata share of the aggregate public liability claims and costs arising out of the nuclear incident. Payment of any State premium taxes which may be applicable to any deferred premiums provided for in this Act shall be the responsibility of the licensee and shall not be included in the retrospective premium established by the Commission. The Commission is authorized to establish a maximum amount which the aggregate referred premiums charged for each facility within one calendar year may not exceed. The Commission may establish amounts less than the standard premium for individual facilities taking into account such factors as the facility's size, location, and other factors pertaining to the hazard. The Commission shall establish such requirements as are necessary to assure availability of funds to meet any assessment of deferred premiums within a reasonable time when due, and may provide reinsurance or shall otherwise guarantee the payment of such premiums in the event it appears that the amount of such premiums will not be available on a timely basis through the resources of private industry and insurance. Any agreement by the Commission with a licensee or indemnitor to guarantee the payment of deferred premiums may contain such terms as the Commission deems appropriate to carry out the purposes of this section and to assure reimbursement to the Commission for its payments made due to the failure of such licensee or indemnitor to meet any of its obligations arising under or in connection with financial protection required under this subsection including without limitation terms creating liens upon the licensed facility and the revenues derived therefrom or any other property or revenues of such licensee to secure such reimbursement and consent to the automatic revocation of any license.".

Sec. 4. (a) Subsection 170 c. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "and August 1, 1977, for which it requires financial protection," in the first sentence and substituting therefor the phrase "and August 1, 1987, for which it requires financial protection of less than $560,000,000," and by deleting the date "August 1, 1977" in the last sentence wherever it appears and substituting therefor the date "August 1, 1987".

(b) Such subsection is further amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 5. (a) Subsection 170 d. of the Atomic Energy Act of 1954, as amended, is amended by deleting the phrase "until August 1, 1977," in the first sentence and substituting therefor the phrase "until August 1, 1987,".

(b) Such subsection is further amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 6. Subsection 170 e. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"e. The aggregate liability for a single nuclear incident of person indemnified, including the reasonable costs of investigating and settling claims and defending suits for damage, shall not exceed (1) the sum of $500,000,000 together with the amount of financial protection required of the licensee or contractor or (2) if the amount of financial protection required of the licensee exceeds $60,000,000, such aggregate liability shall not exceed the sum of $560,000,000 or the amount of financial protection required of the licensee, whichever amount is greater: *Provided*, That in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude: And provided further, That with respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection 170 d. is applicable, such aggregate liability shall not exceed the amount of $100,000,000 together with the amount of financial protection required of the contractor.".

Sec. 7. Subsection 170 f. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"f. The Commission is authorized to collect a fee from all persons with whom an indemnification agreement is executed under this section. This fee shall be $30 per year per thousand kilowatts of thermal energy for facilities licensed under section 103: *Provided*, That the Commission is authorized to reduce the fee for such facilities in reasonable relation to increases in financial protection required above a level of $60,000,000. For facilities licensed under section 104, and for construction permits under section 185, the Commission is authorized to reduce the fee set forth above. The Commission shall establish criteria in writing for determination of the fee for facilities licensed under section 104, taking into consideration such factors as (1) the type, size, and location of facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. For other licenses, the Commission shall collect such nominal fees as it deems appropriate. No fee under this subsection shall be less than $100 per year.".

Sec. 8. The last sentence of subsection 170 h. of the Atomic Energy Act of 1954, as amended, is amended by striking "may include reasonable" and inserting in lieu thereof "shall not include".

Sec. 9. Subsection 170 i. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"i. After any nuclear incident which will probably require payments by the United States under this section or which will probably result in public liability claims in excess of $560,000,000, the Commission shall make a survey of the causes and extent of damage which shall forthwith be reported to the Joint Committee, to the Congressmen of the affected districts, and to the Senators of the affected States, and, except for information which would cause serious damage to the national defense of the United States, all final findings shall be made available to the public, to the parties involved and to the courts. The Commission shall report to the Joint Committee by April 1, 1958, and every year thereafter on the operations under this section.".

Sec. 10. (a) Subsection 170 k. of the Atomic Energy Act of 1954, as amended, is amended by deleting the date "August 1, 1977" wherever it appears and substituting therefor the date "August 1, 1987".

(b) Paragraph (1) of such subsection is amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 11. Subsection 170 l. of the Atomic Energy Act of 1954, as amended, is amended by striking "including the reasonable" and inserting in lieu thereof "excluding".

Sec. 12. Section 170 n. (1)(iii) of the Atomic Energy Act of 1954 is amended by striking "ten years" and inserting in lieu thereof "twenty years".

Sec. 13. Subsection 170o. of the Atomic Energy Act of 1954, as amended, is amended by adding at the end of the second sentence in subparagraph (3) the words "and shall include establishment of priorities between claimants and classes of claims, as necessary to insure the most equitable allocation of available funds.", and by adding a new subparagraph (4) to read as follows:

"(4) the Commission shall, within ninety days after a court shall have made such determination, deliver to the Joint Committee a supplement to the report prepared in accordance with subsection 170l. of this Act setting forth the estimated requirements for full compensation and relief of all claimants, and recommendations as to the relief to be provided.".

Sec. 14. Section 170 of the Atomic Energy Act of 1954, as amended, is amended by adding subsection p. to read as follows:

"p. The Commission shall submit to the Congress by August 1, 1983, a detailed report concerning the need for continuation or modification of the provisions of this section, taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of this section.".

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

AMENDING TITLE 3, UNITED STATES CODE, EXECUTIVE PROTECTIVE SERVICE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11184) to amend title 3, United States Code, to provide for foreign diplomatic mission to increase the size of the Executive Protective Service, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

Mr. SNYDER. Mr. Speaker, I reserve the right to object for the purpose of asking the gentleman to explain what this is about.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I will yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, the

House of Representatives, on May 19, 1975, passed an executive protective service bill, H.R. 12, by a vote of 276–123. It was a bill to provide for the extraordinary protection of foreign diplomatic missions, to increase the size of the executive protective service and for other purposes. The bill particularly addressed itself to new areas of international concern resulting from the recent increase in actual and threatened acts of violence and terrorism against foreign diplomats, which required extraordinary protection to be provided by local governments to foreign diplomatic missions located in metropolitan areas outside of the District of Columbia. Because of the rise in these situations of extraordinary protective need, which required local areas to fulfill the longstanding international obligation imposed on a host country by international law and practice to protect such foreign officials, cities have increasingly found themselves in a position in which they were forced to assign local personnel to provide such protection.

The bill recognized that the Federal Government had an interest in protecting foreign officials and missions. It also recognized that this interest was greatest in those cities which had a significant number of foreign missions, and which were carrying the greatest burden in providing this protection. Included, therefore, in the category eligible for reimbursement or assistance were those cities with 20 or more missions. These include New York City, Chicago, Los Angeles, New Orleans, San Francisco, Houston, and Miami.

This bill, therefore, recognized that the burden placed upon these cities to guarantee the adequate protection was a service they performed in behalf of the Federal Government, and that therefore extraordinary protection which had to be provided including personnel, facilities and other costs should be reimbursed by the Federal Government.

After the legislation was passed in the Senate it went to the White House where it was vetoed on November 29 by the President. Since that time we have developed a substitute piece of draft legislation for H.R. 12, in consultation with the Office of Management and Budget. The new bill meets the objections to H.R. 12 which were set forth in the President's veto message and the administration no longer has any objection to its enactment. In essence, it makes clear that the bill covers extraordinary protective needs for foreign diplomats in one of the designated cities "when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member." This provision explicitly reflects the obligation which this country has under international law and by specific agreement to protect diplomats engaged in the work of an international organization.

Second, the bill changes the method by which reimbursement will be granted. In the original bill, there was a provision allowing for an immediate transfer of funds upon the approval of a request of a city that had provided this extraordinary protection. This revised bill only provides for authorization of the funds for reimbursement. There will now therefore have to be a second step—namely the appropriation of such funds.

I therefore urge the passage of this bill.

Mr. SNYDER. Mr. Speaker, further reserving the right to object, do I understand that the gentleman has cleared this with the minority?

Mr. RONCALIO. Yes. If the gentleman will yield to the gentleman from New York (Mr. WALSH), he can concur in that observation.

Mr. SNYDER. If the gentleman would do so, I will yield to the gentleman for that purpose.

Mr. WALSH. I thank the gentleman for yielding. Mr. Speaker, this is, as I understand it, a compromise that has been worked out with the administration. It is acceptable to me, as the ranking minority member on the committee. We worked this out very carefully. In fact, we worked it out with the administration, in the first place, and the administration then changed its mind and vetoed it. We think we have the proper solution to this. I urge my colleague to withdraw his reservation of objection, in the name of justice. I think this is necessary, and I would hope he would do that.

I thank the gentleman again for yielding.

Mr. SNYDER. Mr. Speaker, withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 202 of title 3, United States Code, is amended by striking out "and (7)" and inserting in lieu thereof the following: "(7) foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request of the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection may be extended at places of temporary domicile in connection with such a visit."

(b) Section 202(8) of title 3, United States Code, as renumbered by subsection (a) of this section, is amended by striking out "other".

(c) Subsection (a) of section 203 of title 3, United States Code, is amended by striking out "eight hundred and fifty" and inserting in lieu thereof "twelve hundred".

(d) (1) Section 208 of title 3, United States Code, is amended by redesignating section 208 as section 209, and by inserting the following new section 208:

"208. Reimbursement of State and local governments.

"(a) In carrying out the functions pursuant to section 202(7), the Secretary of Treasury may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments, and is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. The authority of this subsection may be transferred by the President to the Secretary of State.

"(b) There is authorized to be appropriated not more than $3,500,000 under this section for the purposes of reimbursement for any fiscal year, to remain available for expenditure as provided in appropriation acts."

(2) The table of sections for chapter 3 of title 3 of the United States Code is amended by striking out "208. Appropriations to carry out provisions." and inserting in lieu thereof the following:

"208. Reimbursement of State and local governments.
"209. Appropriation to carry out provisions.".

(e) The amendments made by subsections (a), (b), and (d) of this section shall take effect as of July 1, 1974.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

RAIL REVITALIZATION AND REGULATORY REFORM ACT OF 1975

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 931, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 931

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10979) to improve the adequacy, efficiency, and financial viability of the rail system of the United States by reforming the regulatory process under which such rail system operates, by providing long-term financial assistance for such rail system, and by amending the Regional Rail Reorganization Act of 1973 to enhance and insure the private enterprise character of the Consolidated Rail Corporation. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said amendment in the nature of a substitute shall be read for amendment by titles instead of by sections.

It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 10631 as reported by the Committee on Public Works and Transportation if offered by Representative Howard of New Jersey as a new title to the committee amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 10979 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 10979, it shall be in order in the House to take from the Speaker's table the bill S. 2718 and to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 10979 as passed by the House.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, this is an open rule, providing for 2 hours of general debate an d waiving the 3-day rule. The committee substitute is in order as an original bill for the purpose of amendment. It is to be read by title instead of by section. The rule makes us order as an amendment the text of a bill, H.R. 10631, reported by the Committee on Public Works and Transportation. There was no controversy concerning this particular provision, as I understood it.

The rule makes it in order for the Senate bill to be taken from the Speaker's table and the language of the House-passed bill to be inserted.

Mr. Speaker, I know of no controversy over this rule, and I, therefore, reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us is essentially a 2-hour open rule for the consideration of the bill, H.R. 10979, the "Railroad Revitalization and Regulatory Reform Act of 1975." This rule does waive clause 2(1)(3) of House Rule XI, the so-called 3-day rule. It also makes the committee substitute which is printed in the bill in order as an original bill for the purpose of amendment. In addition, it makes in order the text of the bill H.R. 10631, as introduced by Mr. HOWARD of New Jersey, if offered as a new title to the committee substitute. Mr. HOWARD's amendment provides for emergency rail passenger service operating assistance. Finally, this rule provides for taking S. 2718 from the Speaker's table upon adoption of H.R. 10979, striking all after the enacting clause of the Senate bill and inserting the language of the House-passed bill, for the purpose of sending this legislation to conference with the other body.

Mr. Speaker, the main thrust of H.R. 10979 is to create the Consolidated Rail Corporation, ConRail, through an income-based reorganization of the bankrupt railroads. This will involve an investment of Federal funds in the Corporation to provide necessary capital for the upgrading of the physical facilities of the bankrupt carriers to enable them to provide competitive, income-producing service, without burdening the financial structure of the corporation with unreasonable interest payments.

Mr. Speaker, it is my understanding that the urgency of this bill is predicated on a possible judgment by the special court under the Tucker Act that could cost the United States from $6 to $12 billion. This bill is designed to avoid that possibility as well as increasing erosion suits.

Mr. Speaker, another important aspect of this bill is its regulatory reform provisions which will enable the railroad industry to compete more effectively with other modes of transportation. The bill would reform the procedures of the Interstate Commerce Commission to expedite the proceedings of the Commission and insure that its orders are based on conclusions of fact and law. The bill provides a zone of reasonableness in which railroads can raise or lower their rates without suspension because of protests, as is now the case. This should enhance the competitive ability of railroads: while 100 percent of railroad freight is presently regulated, only 7 percent of commodities traveling by water carrier are regulated and only 40 percent of commodities carried by truck are regulated.

Mr. Speaker, I do not want to take further time to discuss the substantive aspects of this bill. I think the 2 hours of general debate time provided by this rule will enable those more expert than I on this legislation to adequately discuss these matters. I therefore urge adoption of this rule.

Mr. Speaker, the Committee on Rules acceded to the request of the Speaker that this matter be considered as emergency legislation, and I think in fact it can be considered in that light because it is my understanding that if no rail legislation is passed before Congress recesses this month, the ConRail would not be able to begin operations as scheduled on February 27, 1976.

In addition to that, any postponement of the initiation of ConRail would mean that it adds over $1 million a day as added cost to the taxpayers, further deterioration of the bankrupt railroads in our country, and a disruption in the orderly transition phase that will lead to the creation of ConRail.

I certainly find myself in general support of this legislation.

As the gentleman from Missouri (Mr. BOLLING) has said, this is a 2-hour, open rule. I am sure that will afford us ample time for discussion.

I would like to point out that there are some concerns that have been expressed by the Secretary of Transportation, who believes that some of the amendments should be adopted to this rule, including one providing that the funding authority for rail rehabilitation and improvement contained in section 802 should be reduced from $1 billion to $500 million.

The obligational authority of USRA, U.S. Railway Association, in section 902 should be cut from $500 million to $235 million, with only $200 million of this to be available under section 910 to meet the obligations of a railroad in reorganization, this in order to permit the orderly continued operations after conveyance pursuant to the final system plan.

He has also expressed the belief that section 902 should be amended to provide that ConRail must pay dividends on the Government-held preferred stock when cash is available, and there is no prohibition of total repayment of ConRail's indebtedness to the Government.

Fourth, section 906, dealing with supplemental transactions, should be amended to prevent ConRail from exercising veto power over proposals for supplemental transactions.

Fifth, section 205, dealing with the Office of Rail Public Counsel should be eliminated; and finally, section 304, which deals with rate bureaus, should be amended to remove antitrust immunity for agreements and voting on rates of general applicability, subject to amendments and changes being made.

Mr. Speaker, it is my understanding that the Secretary of Transportation does endorse this legislation, subject to these changes.

I have heard that it has been suggested that some groups may try to change at least two important provisions that are contained in the bill: Section 904, dealing with certificates of value that are issued to the estates of public railroads, and section 302, concerning the downward pricing flexibility for railroads. Under the legislation, they would be given a certain zone within which they could raise or lower rates without receiving permission, as I understand, from the Interstate Commerce Commission.

Mr. Speaker, the Secretary opposes these particular changes; and, Mr. Speaker, I support the adoption of the rule.

I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10979) to improve the adequacy, efficiency, and financial viability of the rail system of the United States by reforming the regulatory process under which such rail system operates, by providing long-term financial assistance for such rail system, and by amending the Regional Rail Reorganization Act of 1973 to enhance and insure the private enterprise character of the Consolidated Rail Corporation.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10979, with Mr. STUDDS in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 1 hour, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Northeast rail problem brought into focus by the bankruptcy of seven railroads in that area represents the first manifestation of a problem which has spread through the entire rail system of the United States.

At the present time there appear to be 21 more railroads whose financial condition is, at best, marginal today. Their rate of return for the last year was less than 4 percent, and in some areas of the country it was less than 1 percent. The rate of return for the rail industry for the first quarter of 1975 was less than 1 percent.

These problems are caused by several factors, including Government regulations, and inability on the part of the railroads to compete. Also, the rate of return on investments is so low that railroads today cannot borrow money without losing on their investments. Further, there is inefficient management, among other problems.

Mr. Chairman, this bill has four main purposes that focus on the problems of the lines. These are reform of the administrative procedure and the Federal regulatory policy under which railroads operate today.

Second, removal of many of the restrictions that prohibit railroads from competing with other modes of transportation.

Third, making funds and guarantees available so that railroads can borrow in the private market without additional losses caused by their low rate of return.

And, finally, the creation of ConRail through an income-based reorganization of the bankrupt railroads in the Nation.

The sections relating to the reform of the administrative procedures of the Commission attempt to bring the 90-year-old rules of practice and procedures of the Interstate Commerce Commission up to date. Those sections provide time limits for certain procedures to be completed, and uniform guidelines for the orders of the Commission.

Such sections simplify many of the appellate processes within the Commission by reducing the number of steps from about seven, at the present time, to about three. In this way, with the reforms of the Commission that are in H.R. 10979, many of the regulatory problems that have caused delay within the Commission, and imposed financial burdens upon the Nation's railroads, are being completely eliminated.

Title III of this act focuses on the railroads' ability to compete with other modes of transportation. Since competition is the heart of the regulatory process, my Subcommittee on Transportation and Commerce examined the questions of whether railroads could ever compete within the existing regulatory framework today. Railroads today are 100 percent regulated, whereas only 7 percent of commodities which travel by water carrier are regulated, and 40 percent of commodities that travel by motor carrier are regulated. This act gives the railroads a zone of reasonableness in which they can go up or down without having their rates suspended, because of protests. It also gives the railroads more latitude in pricing flexibility.

Funding, Mr. Chairman, is another important issue. The existing deferred maintenance within the rail system is estimated to be $9.5 billion. The rate of return is less than 1 percent for the first quarter of 1975, and was only 3.45 percent for 1974. Every study that has been done indicates that within the next 8 to 10 years the railroads are going to experience new cash shortfalls. Estimates of the shortfall range from the ICC's low of $3.6 billion to a high of $21.1 billion, which is the First National City Bank's estimate.

Mr. Chairman, with these projections, it is obvious that the railroads are not going to be able to repair their tracks. The marginal railroads are going to go under, because they cannot offer competitive services. And the lack of available funds will only result in more deferred maintenance, more disinvestment in the railroad industry, and eventually we will be faced in this country with more bankrupt railroads.

That is what we have got to face here in Congress today, whether or not we think we want a viable rail system in this country. I know it is going to take money and we will hear this argument for the next 2 or 3 hours, but we have to keep in mind one thing and one thing only and that is that we are the only first rate nation in the world with a second class rail transportation system.

With all of the parties agreeing that the railroads are going to have a serious cash shortfall with financial conditions of 21 percent of the railroads at best marginal, with the rate of return of less than 1 per cent for the first quarter, and the fact that public policy through section 77 of the Bankruptcy Act prohibits railroads from going out of business, the need to make money available on reasonable interest terms to the railroads today is apparent, if the rail system is to be preserved.

Therefore, the funding provisions of this bill provide for two things. They provide for the development of funding for those parts of the rail system that are heavily used because continued deterioration will only further erode any hope of ever restoring the system. This money is in the form of direct grants, matching grants, with either State or railroad participation; loans, either direct or interest-free; interest subsidies or any combination of the above, depending on the rate of return of the railroad for any one individual project.

There are very strict criteria as to how this money should be distributed and how it is to be used.

This bill also guarantees loans for those high-rate-of-return projects that those railroads want to undertake but are unable to undertake because they cannot borrow funds for capital investment. With the banks and the insurance companies threatening to withdraw all money for railroad investment, Government-guaranteed loans may represent the only way profitable projects can be funded today.

ConRail is the main issue of this bill, the goal being to establish the corporation through an income-based reorganization. To achieve this goal, Mr. Chairman, it must be shown that based on the facts and projections, on the way the Federal Government's money is invested, and based on the debt structure, ConRail can become a viable entity.

If an income-based reorganization is achieved, a Tucker Act judgment can be avoided. The cost of a Tucker Act judgment as projected by the creditors could cost the taxpayers somewhere in the neighborhood of between $6 and $12 billion.

Money must be invested in ConRail in a way that does not kill the corporation with interest payments. If the debt structure of ConRail is too burdensome, then the coropration will default on that debt. The courts will find that the creditors' property has been taken by the Government and the Federal Government will eventually have to compensate the creditors. This bill attemtps to keep ConRail in private hands by providing that the corporation does not have to pay the required 7½ percent interest on the Series A preferred stock purchased by the United States until it has sufficient retained earnings as defined by the final system plan to do so.

However, interest is to be paid by ConRail on debentures—a debt instrument—or, in lieu of interest, additional shares of Series A preferred stock.

Underwriting all of the provisions of the transfer, this legislation authorizes "certificates of value", which are financial instruments, to guarantee the creditors the net liquidation value of their assets if the new corporation fails. It is this net liquidation value that the Supreme Court in the New Haven case determined was the value of a bankrupt railroad.

In summary, Mr. Chairman, this legislation has two goals: First, to reorganize the bankrupt railroads in the Northeast into a private for-profit corporation; and, second, to prevent additional railroad bankruptcies throughout the Nation by providing regulatory reform in low-interest rehabilitation money.

This committee, Mr. Chairman, has spent 6 long months drafting and considering this bill. There have been over 61 amendments to the original committee draft. We have worked long and hard. I should like to commend the distinguished minority member, the gentleman from Kansas (Mr. SKUBITZ), who worked long with me and the members of the committee in helping to draft this bill that is before the House today. I know that, as I said before, the Members are going to hear many comments this afternoon about how unreasonable it is, and why should we put Federal moneys into private corporations.

But I would like to tell the Members, Mr. Chairman, that in Federal aid-to-transportation loans per year since the early 1970's we have put $11 billion into highway funds, $16½ billion into waterways, $1.1 billion into transit funds, a half billion dollars into air transport funds, and $300 million into railroads.

I think this committee has come up with reasonable legislation and I am hopeful this afternoon we will see an accord.

I know how concerned the President is. As a matter of fact he made the statement to the press 2 weeks ago that he would call Congress back into a special session if this bill were not before him before we adjourn. I am certain we can work out a compromise and I am sure that this bill can be enacted into law before we adjourn here on Friday.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania (Mr. ROONEY) for yielding. I certainly wish to compliment the distinguished gentleman from Pennsylvania, the chairman of the subcommittee, for such an outstanding job.

I do want to point out, however, that on the railroad track in eastern Kentucky during the first years after World War II, in 1946 and 1947, there was more coal transported over those tracks at that time than presently, even though there is a greater demand for coal now than ever before. Because of the condition of those tracks, I seriously doubt whether the loans are adequate for repair work for any eastern Kentucky coal rail system and whether the loans are adequate for the construction of hopper cars to get the metallurgical coal out of that area of the country.

I agree with the gentleman that the Congress has already been derelict for several years in not doing a better job for the railroad situation in general in this country.

I recall that just before World War II, when I was county attorney, the Federal Government enacted a war statute which allowed it to come in, buy the right-of-way and construct a narrow-gage road, in order to get needed timber out for ships. Presently many of the coal operators are building their own sidings and it is costing them tremendous amounts of money. I think something along this line of assistance should be provided for these coal operators who are making every effort possible to get their coal to market. There are so many coal operators presently who cannot get coal hopper cars to transport their coal in. The shortage is much greater than this Congress realizes.

I am hopeful somewhere along the line we can take all that into consideration and make sure that adequate loans are provided for those purposes.

Again, Mr. Chairman, I compliment the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. ROONEY). I think he has done a terrific job.

As the House considers H.R. 10979, we ought to remember that certain types of rail transportation in the country are not failing, but they also are not gearing up enough to handle future needs. I am referring specifically to the major coal-carrying lines in eastern Kentucky.

Coal mine operators tell me that there is a great shortage of hopper cars, and that a lot of track is not in good enough condition to move the coal cars as fast as they should be moved.

The Federal Railroad Administration has told me that so far this year 31 track investigations have been made in eastern Kentucky, covering more than 500 miles of track, and quite a few defects were found. When defects are found, the railroad is notified, and makes repairs, but the coal mine operators are saying that extensive work needs to be done so that the coal can be moved faster.

Mr. Chairman, sooner or later the Congress is going to realize the need to develop an energy policy based on coal and coal liquefaction and coal gasification. But when we do establish a national energy policy based on coal, we are going to find ourselves way behind when it comes to transporting the coal and the synthetic fuel produced from coal, unless we start planning to upgrade the rail system now.

We will be having many more small operators opening mines, and they will have to have help with coal sidings, because the Nation will need the coal, and the smaller operators will not be able to raise the money for rail sidings as well as for the costs of starting a mine up.

It is difficult enough for bigger coal operators to finance sidings, but it is impossible for the little operators.

Availability of coal cars is going to be a problem also, when this country adopts the coal energy policy it should have years and years ago.

Some of the rail lines in my area are trying to do what they can. The Chessie System is building 16 large coal hopper cars a day, as part of a goal to add 16,000 new cars to its fleet. The Chessie is also replacing 40 miles of track a month with new continuous band rails.

The Norfolk and Western will have completed an order for 2,000 new coal hopper cars by May of next year, and then start work on another 2,000-car order. It is also upgrading its track, and I am sure the L. & N. is making similar improvements, but these lines will not be able to do everything they should unless we plan some form of assistance with financing.

I am concerned about this because I want to see our coal business operate at maximum capacity, our people at work, and our energy costs brought down from the extortionist rate now being extracted by the oil exporters.

Mr. Chairman, Congresses in the past have seen problems such as the one I am describing, and produced effective legislation to alleviate them.

Back in 1941, the 77th Congress amended the Federal Aid Road Act, to authorize the Commissioner of Public Roads to build access roads to defense installation, "and to the sources of raw materials when such roads are certified to the Federal Works Administrator as important to the national defense * * *."

That act was used in my home county in Kentucky to build roads so that timber needed for warship construction and other defense requirements could be brought out of the woods.

We need to be thinking about a similar act now, to haul coal out of the rural areas, because when a coal energy policy is established, we are going to be needing those roads to move the coal to railroads or water transportation.

I want to urge the appropriate committees to begin work on these problems, so that they can be taken care of in time.

Mr. Chairman, when the Senate was considering the Federal Aid Highway Act on December 11, an amendment was offered and accepted which has a lot of merit, and I would like to call it to the attention of the House. This amendment requires the Secretary of Transportation to look into the need for Federal support of a road building program for transportation of coal.

The amendment was offered by the senior Senator from Kentucky, Senator HUDDLESTON, and cosponsored by Senators WENDELL FORD, JENNINGS RANDOLPH, and MIKE MANSFIELD.

Mr. Chairman, most of the roads that run near coal mines are unpaved, or paved for light local traffic. They cannot withstand the load and the pounding of coal trucks, and they break up. I know of areas where children cannot go to school for weeks at a time when a cold, bad weather sets in, because there is no way for them to get out to the school. The road has been destroyed by coal trucks.

But the Nation needs the coal, and needs the energy from the coal. In the future, when the Congress realizes that we must have synthetic fuel production from coal, we will need the coal even more.

And we will have to have Federal road funds to build the kind of roads that will support trucks efficiently.

Mr. Chairman, I am including the text of the Senate amendment with my remarks, and I want to urge that when this bill goes to conference, the conferees accept the Senate amendment:

STUDY OF HIGHWAY NEEDS TO SOLVE ENERGY PROBLEMS

SEC. 139. (a) The Secretary of Transportation shall make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal-aid system necessary for the transportation of coal or other uses in order to promote the solution of the Nation's energy problems. Such study shall include appropriate consultations with the Secretary of the Interior, the Administrator of the Federal Energy Administration and other appropriate Federal and State officials.

(b) The Secretary shall report the results of such investigation and study, together with his recommendations, to the Congress not later than one year after the date of enactment of this Act.

(c) In order to carry out the study, the Secretary is authorized to use such funds as are available to him for such purposes under section 104(a) of title 23 U.S.C.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

Did I understand correctly the gentleman's statement that since the early 1970's about $12 billion has been spent in Federal funds on highways?

Mr. ROONEY. It is $11 billion.

Mr. SHUSTER. I would point out to the distinguished gentleman he is much too modest in his estimate. Indeed between $6 to $7 billion every year is spent in Federal funds. Therefore in the past 4 or 5 years the Federal Government alone has spent over $20 billion, more than twice the modest estimate of the gentleman, and on top of that $20 billion of Federal money one must add the State expenditures which are three or four times the $20 billion. So the amount of public money spent on highways happens to be in this decade of the seventies almost $100 billion thus far.

Indeed, I think this simply substantiates the thrust of the point the distinguished gentleman was making, that if we are going to have a balanced system, we need to revitalize the railroads.

Mr. ROONEY. Mr. Chairman, I thank the gentleman for his support. I know that with the gentleman's support we can revitalize the railroads of Pennsylvania.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, did I understand the gentleman to say that, since 1970, we had spent only $300 million to aid the railroads? If the gentleman did say that, he must not have included the funds voted for AMTRAK or the Federal funds used to bail out the Penn-Central railroad.

Mr. ROONEY. Mr. Chairman, yes; as the gentlewoman knows, we did authorize and appropriate $1.1 billion to AMTRAK; but this has nothing to do with AMTRAK, this has to do with trying to save the rail freight services in this country.

Mrs. SMITH of Nebraska. Does the $300 million include what we spent to bail out the Penn-Central on three occasions?

Mr. ROONEY. I do not know that we bailed out the Penn-Central. We bailed out the American people.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I also want to compliment the gentleman from Pennsylvania and the members of the subcommittee on the hard work they have done.

Although I do not agree with all the provisions in the bill and I have reservations about the level of funding, I know from the experience in my district how difficult it has been to work out a formula to cover all the problems that have arisen in the Northeast railroad situation.

Mr. Chairman, I would like to ask the gentleman to elaborate on the issue of the hold-harmless clause, section 907, regarding deficiency judgments which has been a constant problem for the solvent railroads that have proposed to buy parts of the Penn-Central and other bankrupt railroads. Perhaps the gentleman could tell us how the committee finally resolved that particular issue, which is very important to my district and many others.

Mr. ROONEY. We are going to involve ourselves in that particular issue during the amendment process. I will be very happy to direct my answer to the gentleman at that time.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I would like to extend my congratulations to the chairman of the subcommittee, the chairman of the full committee, and the ranking minority members for the excellent job done on a difficult bill. This is a matter of importance, Mr. Chairman, to my State and its people. I wish to commend those involved.

Mr. Chairman, the chairman of the subcommittee was very kind to me and my constituents when they visited him on this matter. I thank the chairman of the subcommittee very much.

Mr. Chairman, during the course of the review of both H.R. 10979 and S. 2718, language was included to provide that subsidies may be used for a period of 1 year in certain related facilities, including docks, shops, yards, lighters, car floats, and ferries.

The State of Michigan due to its peninsular geography depends on car ferries to transport freight quickly and at relatively low cost. Currently, a ferry operation by the Ann Arbor Railroad may be discontinued if a subsidy is not provided. Abandonment applications are pending before the Interstate Commerce Commission by both the Chessie and the Grand Trunk for their ferry operations at other points in the State.

It has been persistently believed that these ferry operations would be eligible for the full duration of the rail services continuation subsidy program, whatever that might be. The State rail planning section has devised its phase II plan on that assumption. Due to the language within these amendments offered by Senator GLENN and Congressman BROWN of Ohio, it may be misconstrued that the subsidy on these ferry operations is now restricted to 1 year. It was not the intention of these gentlemen to decrease the subsidy for any service, but to provide additional facilities within the category of those eligible to receive assistance.

I have contacted the Federal Railroad Administration in order to determine their policy with respect to the subsidization of these ferry operations within the State of Michigan. I have been informed by letter that to the extent these operations provide freight service, they shall be eligible for the full duration of the subsidy program. Mr. Chairman, I respectfully request that this letter from the FRA be inserted in the RECORD of these proceedings at this time to demonstrate our intention of not curtailing operating subsidies on any operation previously considered eligible for the full duration of such subsidy program:

WASHINGTON, D.C.,
December 16, 1975.

Hon. BOB TRAXLER,
House of Representatives,
Washington, D.C.

DEAR MR. TRAXLER: This is in reference to a recent conversation between your staff and that of my Office of State Rail Programs concerning eligibility of the Ann Arbor Railroad's car ferry service for assistance under Title IV of the Regional Rail Organization Act of 1973.

The Federal Railroad Administration has determined that such service insofar as it is for transport of freight is eligible under Section 402(b) of the Act. In addition, the Act has been amended by P.L. 93-488 so that should the Interstate Commerce Commission grant a certificate of abandonment to the Chessie or the Grand Trunk Western for their car ferry services across Lake Michigan, these would also be eligible for Federal assistance to the extent that they involve freight transportation.

If you have further questions concerning Title IV eligibility, please contact my office or Ms. Madeleine G. Schneider, Director of the Office of State Rail Programs, telephone: 755-2008.

Sincerely,

ASAPH H. HALL,
Administrator.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Illinois (Mr. METCALFE), a member of the subcommittee, who has made a very substantial contribution to this legislation.

Mr. METCALFE. Mr. Chairman, I rise in support of H.R. 10979, the Railroad Revitalization and Regulatory Reform Act.

First of all, I want to commend the subcommittee chairman, Mr. ROONEY, for his patience and his work. This bill is a credit to the hard work of the subcommittee chairman, the members of the Transportation and Commerce Subcommittee, and the staff.

H.R. 10979 addresses itself to the serious problems in the railroad industry. The immediate crisis that dramatized the problems in this sector of the transportation industry was the bankruptcy of the Penn Central and the subsequent bankruptcy of several railroads in the northeastern sector of the United States.

The Congress responded by passing the Railroad Reorganization Act of 1973. This act established the U.S. Railway Association. USRA submitted a final systems plan to the Congress. This core plan indicated the number of track miles which ConRail should control.

The subcommittee has studied USRA recommendations. These recommendations, pursuant to the provisions of the statute, have already become effective.

However, the subcommittee realized that unless other actions were taken by the Congress, this malaise that exists in the Northeast would spread to the rest of the country. H.R. 10979, as amended, is the Transportation and Commerce Subcommittee's response.

The bill is directed at regulatory reform within the railroad industry, especially through reform of the Interstate and Foreign Commerce Committee. The bill is also concerned with railroad rates and with amendments to the Railroad Reorganization Act of 1975, to cite but a few areas.

Section 104 of H.R. 10979, is of special concern to me. This section establishes a statutory prohibition against discrimination and establishes a procedure for terminating funds received under the bill.

Two recent court decisions, one handed down by a Federal district court in the District of Columbia and another by a Federal district court in northern Illinois, indicate that when legislation contains a statutory prohibition such as in this bill, the courts are willing to move to cut off funds to obtain compliance. In both of these instances the court did not act under the 1964 Civil Rights Act. Rather, the court acted pursuant to 31 United States Code section 1242.

A recent report of the Equal Employment Opportunity Commission indicated that 10 years after the 1964 Civil Rights Act was enacted, there was pervasive discrimination within the railroad industry. One study showed that of the total work force, 6.7 percent were black; 5.8 percent were women; and 3.5 percent were Spanish surnamed. As for management within the railroad industry: 1.1 percent were women; 1.0 percent were black; and 2.3 percent were Spanish surnamed.

It should also be pointed out that 42 United States Code 2000d exempts loan guarantees from the Civil Rights Act. Also title VI of the Civil Rights Act does not ban discrimination based on sex. Discrimination in employment by the recipient of the Federal assistance also is not covered under title VI unless employment is a primary objective of the Federal assistance. In view of the fact that H.R. 10979 does not have employment as a primary objective, obviously there is a serious question as to whether title VI does in fact apply. Section 104 also bans sex discrimination and it includes loan guarantee programs.

It should be pointed out that section 104(e) provides for judicial review to preclude any possibility of an abrupt termination of financial assistance.

There are precedents for Congress to enact legislation such as Sec. 104. The State and local Financial Assistance Act of 1972, has a nondiscrimination clause, 31 United States Code section 1242. Also, the Housing and Community Development Act, Public Law 93-383, section 109; the Comprehensive Training and Manpower Act of 1973, 29 United States Code section 983; and the Public Works and Economic Development Act of 1965, 42 United States Code section 3123.

In view of the fact that such large amounts of Federal money, directly and indirectly, are involved, and in view of the fact that recent Court decisions indicate the willingness of the courts to cut off funds when there has been a finding of discrimination within programs receiving Federal funds of this nature, I am hopeful that this amendment will go a long way toward eliminating the blatant discrimination which the Equal Employment Opportunity Commission indicates still exists 10 years after the Civil Rights Act was enacted.

Mr. Chairman, I urge passage of this bill.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset of this debate on this important piece of legislation I want to take this opportunity to commend the distinguished chairman of the Transportation and Commerce Subcommittee, the gentleman from Pennsylvania (Mr. ROONEY).

Over the last 4 or 5 months it has been my pleasure to work closely with Mr. ROONEY on this bill. His patience, understanding, fairness, and perseverance have been exceptional. Mr. ROONEY and I sat in his office late last July and set the course for an omnibus rail bill.

He has stuck to that course and, on occasions too numerous to count, his patience has kept the bill on track. He and I have disagreed on a number of points in this legislation but never were our disagreements disagreeable. At this point in time our disagreements are minimal.

I have been in this body for a number of years, and worked in the other body for a long time, too. Mr. ROONEY's dedication, personality, and perseverance are second to none. I thank him for his cooperation, commend him as a gentleman, respect him as a scholar, and bow to him as a legislator and leader.

Mr. Chairman, time does not permit me to review the history and development of our Nation's rail transportation system. Nor does it permit a thorough analysis of the problems that confront the industry today. But if we are to understand where we are going it seems to me that some knowledge of where we have been, and where we are now, is necessary. Otherwise we profit not from the lessons of history.

Sixty years ago most of the country's freight and passengers were moved by rail, and we had one of the finest rail transportation systems in the world. And then something happened.

As competing technologies matured, thanks to Federal subsidies and assistance, the railroads could not cope. And so, by 1973, the rail share of intercity freight dropped to less than 40 percent.

Now, what were the basic factors that contributed to the decline of the railroads?

If we add to the Federal assistance we have given competing forms of transportation—

First. Government regulation of freight rates, and the ICC's unwillingness to act with dispatch on such rates;

Second. The inability of the railroad to adjust to meet the changing markets;

Third. The taxing policies of the several States;

Fourth. The insistence of Congress that branch lines not be abandoned, even though they were losing money, and yet refusing to provide subsidies to make up these losses.

Fifth. Antiquated work rules and problems with labor, and may I say here that I think too much stress is placed on labor;

Sixth. The growth of conglomerates that have taken over railroads and "bled" them; and

Seventh. The depletion of natural resources in the East which caused industry to leave the East and move to the South and West, and the rails with fixed rights-of-way, making it impossible to adjust.

We begin to understand what is wrong with the rail transportation system because all these factors contributed to the present state of the rail industry. But the Government's basic policy of promoting and developing other modes of transportation has done more to wreck the railroads than any other single factor.

It has been estimated that we spent in the neighborhood of $20 billion annually since 1970 on the highways;

Around $500 million annually on the airways;

About $1 billion for mass transit; and

We have spent, through 1971, about $16 billion for the waterways. And the barge lines do not pay a thin dime for the construction, maintenance, or operation of the waterways, and worse yet, 90 percent of them are unregulated. Any wonder they showed a profit of 12 percent compared with the railroads' 3 percent?

Contrast this with the railroads that

build their own roadbeds—construct their own facilities, and pay State and local taxes on their rights-of-way property. If we had done for the railroads what we have done and are doing for the trucklines, barge lines, and the airlines the railroads would not be in the shape they are in.

The collapse of the Penn Central Railroad in 1970 began to waken America to the real problems of our rail transportation system. However, here in Congress we dawdled along, pumping money into the railroads, and hoping the problems would disappear. But they did not.

Finally in 1973 we began to consider the problem and out of that consideration came the Railroad Reorganization Act of 1974. We did a number of things—

First, we established USRA—U.S. Rail Association—and we gave it the nearly impossible task of taking "seven losers" in the rail industry and directed it to organize them into a viable rail system; second, we directed USRA to plan and finance the acquisition and rehabilitation of a new rail system; and, third, we directed USRA to keep the old service operating until a new plan could be formulated and put into operation.

CONRAIL

Next, we provided for the creation of a private corporation which we called the Consolidated Rail Corporation—ConRail for short—because we did not want Uncle Sam in the rail business. Our plan was to reorganize, not take over the railroad. Now the stock in this company was to be owned by the bankrupt estates and its job was to run the new railroad for the bankrupt estates, once a final system plan was presented by USRA and adopted by the Congress.

SPECIAL COURT

And, lastly, we created a special court whose job was to serve as the body through which all the reorganization processes cleared and it was to serve as the protector of the interests of the bankrupt estates.

FINAL SYSTEM PLAN

Out of the Reorganization Act came the final system plan which was approved by the Congress by the failure to take any action.

Under the final system plan a system of financing was established:

First. For control of the rail properties, ConRail would turn over to the bankrupt estates preferred and common stock.

Second. ConRail would get its funds from USRA who in turn would draw from the Treasury depositing securities for such fund.

Third. As further protection for the bankrupt estates the final system plan provided for the issuance of certificates of value to be given to the bankrupt railroad in addition to the common and preferred stock given by ConRail for the properties. These certificates guarantee the estates that they will always get the constitutional minimum value for the properties given ConRail.

Hence, the bankrupt estates were given all the common and preferred B stock in ConRail and, in addition, a certificate of value so that, if ConRail failed, the bankrupt estates were still guaranteed that they would be paid the minimum constitutional value of the properties which they had transferred to ConRail plus interest at 8 percent. Did you ever hear of a sweeter deal?

Hence, under the Railroad Reorganization Act, USRA was in a sense to be the banker: ConRail, a private corporation, was to run the railroad; a special court would protect the assets of the bankrupt estates; and Uncle Sam would put up the money.

H.R. 10979

To breathe life into the final system plan our committee has presented to you H.R. 10979. Speaking rather loosely H.R. 10979 is the product of legislative compromise. But very little was placed in the bill to modernize Government regulations that was not first approved by the railroad industry and the Brotherhoods of Railroad Workers. So you can rest assured that neither have been hurt and the taxpayers will pick up the bill.

I had hoped that in this legislation we would meet the problems of the railroads head on. That we would come forth with a bill that would modernize and revitalize the rail system. We have not done that. That is not to say the bill is all bad. What I am trying to say is that the bill is not entitled to loud applause but by the same token, it should not be "drummed off" the stage.

ANALYSIS OF THE BILL

TITLE I

Title I of the bill deals with the findings and purposes of the legislation as well as the definitions of terms.

TITLE II

In title II we deal with procedure reform. For example: We have provided for a new uniform system of accounting to be prepared by the ICC. This is something that should have been done years ago so the Commission would have a true picture of what is going on in the rail industry.

We have taken away from the ICC its supervision over railroad securities and placed this under the Securities and Exchange Commission.

For better or for worse, we provided for an Office of Public Counsel. I opposed it. Personally I opposed it because in my opinion, the Interstate Commerce Commission is supposed to protect the public interest. I see no reason for establishing an Office of Public Counsel to look over the shoulder of the ICC.

TITLE III—RATEMAKING

In title II which deals with ratemaking we provide:

First. That all rates should be just and reasonable. But that the Commission could not hold a rate unjust and unreasonable on the grounds that it was too low; the real test in the future is to be whether the rate is compensatory;

Second. By definition we have defined compensatory as a rate which equals or exceeds the variable costs or out-of-pocket costs.

Third. We have denied the Commission the authority to hold railroad rates up to a particular level simply to protect the traffic of a competing mode of transportation.

Fourth. We have directed the Commission that when a charge is made regarding the lawfulness of a rate that the Commission was not to approve a carrier's request to decrease rates which are below out-of-pocket costs. We also directed the Commission not to disallow a request for rate increase which does not exceed the out-of-pocket costs by 10 percent. All this is aimed at expediting service by the ICC.

RATE ZONE FREEDOM

This bill also provides that whenever a rail carrier files a schedule and an objection is filed by someone, then the Commission must act within 10 months or the rate becomes effective.

What we were trying to do here is stop the Commission from stalling around; too often increases are requested, and the Commission stalls, and when the rate is granted it cannot be made retroactive like wages.

One provision of this bill which no doubt will cause discussion is that provision which provides that—

If a carrier applies for a rate increase or a rate decrease within 3 years of the enactment of the law, the Commission cannot deny it on the basis that it is not just and reasonable if the increase or decrease is not greater than 7 percent a year.

This gives railroads an opportunity for the first time to compete with the water carriers who do not maintain their own rights-of-way or pay any of the costs of operating, maintaining, or developing their waterways.

TITLE IV—ABANDONMENTS

Title IV which deals with abandonments is cosmetic in nature.

One of the biggest complaints of the railroads in the East has been that they have not been permitted to abandon light density lines, that is, lines that must be operated at a loss. Every railroad that testified complained of the losses suffered and the need for reform.

All this bill provides is a restatement of what the Commission already does; namely, that in an abandonment proceeding the public convenience and necessity shall be weighed against the financial effect on the carrier.

TITLE V—MERGERS AND CONSOLIDATIONS

Title V deals with mergers and consolidations. With a score of railroads in the Midwest now headed for receivership or bankruptcy, it would seem wise to me, to give the Secretary of DOT more authority to meet the problem before the fact rather than after the fact. The administration requested that the Secretary of Transportation be permitted to recommend mergers, said recommendations not to be considered by the ICC unless the railroads approved. But the railroad managers are not about to give up their plush jobs and the brotherhoods are opposed to mergers on the grounds that mergers usually result in job losses and this may be true. But in every instance that job losses are the result of a merger, we have provided job protection for labor.

In the last 10 years there has not been a single instance where those who were affected by a merger or a consolidation have not been guaranteed at least a job for 5 years or a payment in cash for a period covering 5 years.

So what we have done, is provided for a modified merger program—for the next 5 years whereby the Secretary of DOT can recommend mergers to the Commission and submit a report to the ICC.

The one plus feature, however, under the merger clause, is that we have directed the Commission to come forth with a decision on every merger case, within 24 months, instead of the 3, 4, and 5 years or even up to 10 years in the Rock Island instance.

TITLE VI—DISCRIMINATORY STATE TAXES

In title VI we have tried to deal with the problem of discriminatory State taxes. Here, we provided that any constitutional provision or statute or practice by the States, or any subdivision of the State, which attempts to impose a higher rate of tax than the true market value of the rail property, would be considered a burden on interstate commerce and, therefore, unconstitutional. We have provided that the tax rate should be the same as that for other industrial property located in the area through which the railroad passes.

TITLE VII—EMPLOYEES PROTECTION CLAUSE

Title VII relates to employee protection which may be affected by action under title VIII of the act which relates to the transportation fund and the improvement of facilities, passenger service, et cetera, the provision as drafted was not objected to by management, labor, the shippers, or the Government.

TITLE VIII—RAILROAD TRANSPORTATION FUND

Title VIII deals with the railroad trust fund. Thanks to amendments made by the subcommittee and the full committee we have reduced the funding level from $10.3 billion to $6.4 billion. That is good but we can do much better.

DIRECT SUPPORT FOR NORTHEAST REGION

Let us take a look at the funds we provide just for the northeast region and for ConRail.

First, the administration's position calls for $2.1 billion in direct support for ConRail.

The House bill provided $2.1 billion for ConRail;

The Senate bill calls for $3.2 billion in direct support for ConRail.

Second, there are indirect aids which we give to support ConRail in the form of funds for: employee protection; subsidies for light density lines; and funds to make up commuter deficits.

The administration estimates call for $520 million in indirect support; the Senate, $577 million; and the House $430 million. The House is lower because we do not allow anything for commuter deficits.

You can rest assured that when we get to conference something will be put in the conference report.

And what is proposed to upgrade the passenger service in the Northeast Corridor?

Here the administration estimated that $1.08 billion would be sufficient to provide safe, comfortable passenger service at a speed of 70 to 90 miles an hour.

The Senate, in its desire to cut the travel time between Washington to New York by 30 minutes, and from Washington to Boston by 45 minutes, upped the amount to $3.05 billion.

In the House committee we took a more sensible approach; our bill out of subcommittee provided $1.6 billion. But Mr. Adams and I proposed to cut this to $700 million. The committee finally allowed $1.1 billion.

Certainly, I am a great supporter of fast rail transportation, but with a $71 billion deficit staring us in the face this year, and another $70 billion deficit next year, I am fearful that some of these dreams of trains traveling at 150 miles an hour will have to be shelved for the time being.

So, the total funds that have been recommended through direct and indirect support for the northeast region alone are, according to the administration figures, $4.643 billion; Senate figures, $8.05 billion; and House figures, $4.448 billion. Our figures are pretty much in line with the administration's.

FUNDS FOR ALL RAILROADS

What do we propose in this bill for all the Nation's railroads? Well, when compared with what we provided for the Northeast, very little.

The administration proposed $2 billion in guaranteed loans. It opposed any grant money. The House bill proposed $2 billion in guaranteed loans and $1.5 billion in grants.

During the committee discussion Congressman Brock Adams and I introduced an amendment to section 802, which would reduce giveaway money from $1.5 billion to $400 million. A substitute was offered to Congressman Adams' and my amendment, increasing the authorization from $400 million to $1 billion. It was adopted.

I shall introduce a modified Adams-Skubitz amendment which calls for the reduction of giveaway money from $1 billion to $500 million.

TITLE IX—REGIONAL RAILWAY ACT AMENDMENTS OF 1975

Title IX of the act deals with the amendments to the Regional Rail Reorganization Act of 1974. Under the act the bankrupt estates will receive common and preferred stock which will represent the total value of the assets that they turn over to ConRail. But, in addition, USRA will also issue to the bankrupt estates certificates of value which will ultimately represent the court's judgment of the constitutional minimum value of the assets turned over to ConRail. Hence, come hell or high water, the bankrupt estates have been protected.

First, if ConRail does not make it, then the bankrupt estates can forget about their common and preferred stock and cash in on their certificates of value.

But if ConRail makes it and becomes a thriving organization then the stocks will go up and the bankrupt estates will be much better off. Now that is what you call having your cake and eating it, too.

SUPPLEMENTARY TRANSACTIONS

Section 906 of title IX, which deals with supplemental transactions, does not meet with the administration's approval—and rightly so. And if you think the Government should get out of the rail business you ought to disapprove of this section and support my amendment. Under this provision, if the Secretary of Transportation, the Interstate Commerce Commission, or the U.S. Railway Association determines that further restructuring of rail properties in the region—

Would promote the public interests and provide a self-sustaining rail service system;

Would meet the transportation needs of the region; and

Would be fair and equitable to the bankrupt estates.

They can develop proposals to implement the needed restructuring.

The final decision as to the appropriateness of any supplemental transaction, however, in all cases would be decided by the special court. But, as presently written, the management of ConRail can prevent such a proposed transaction from even being submitted to the special court.

The officials of ConRail should not have the power to veto a transaction which the Secretary, the association, the Commission, and the special court might find to be in the public interest. The public goal of a viable rail system, adequate to meet the rail transportation needs of the region, is the goal to be sought, not some permanent structure for ConRail.

I shall present an amendment striking the veto power of ConRail.

Mr. Chairman, we are pumping $2.5 billion of taxpayers money into ConRail, and the sooner we get out and let private enterprise again operate these railroads, the less it is going to cost the Government and the better it is going to be for the taxpayers.

May I conclude as I began: This bill does not rate loud applause but neither should it be drummed off the stage.

I hope this committee will accept my amendments, because it will bring us one step closer to administration acceptance.

I hope this committee will reject every move that is made by any Member to increase the spending under this program. It is going to be difficult enough to try to work with the other body.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, this bill is the result of many months of work in hearings and markup sessions by the Committee on Interstate and Foreign

Commerce and our Subcommittee on Transportation and Commerce. The hearings covered many aspects of the problems of financing the new corporation called Conrail to operate a major portion of the bankrupt railroads in the Northeast under the final system plan drawn up by the U.S. Railway Association.

The facts developed at our hearings indicated that we must enact comprehensive legislation to create a viable rail system rather than take a piecemeal approach to pour Federal money into the operation of the bankrupt railroads by a new corporation. We must also enact some necessary regulatory reforms to give the new corporation a fighting chance to survive in the competitive transportation markets.

Our bill has four main purposes which focus on the problems of the railroad industry.

First. To reform some of the administrative procedures and regulatory policies under which railroads operate.

For example, we have imposed an overall time limit of 2 years for ICC consideration of merger proposals. This will avoid situations like the Rock Island case where almost 12 years went by before the ICC decided whether or not to permit the Rock Island to merge with a strong railroad.

Second, the bill removes some of the regulatory restrictions which prevent railroads from competing effectively with other modes of transportation.

For example, the bill gives railroads some pricing flexibility by establishing a 7-percent zone of reasonableness in which railroad rates can go up or down without ICC suspension of the new rate solely because of a routine protest. The bill does, however, preserve the authority of the ICC to suspend a railroad rate which they find to be unfair or destructive or otherwise undermines competition which is in the public interest.

Third, the bill makes Federal funds and guarantees available so that railroads can borrow in the private market without having to pay exorbitant rates of interest because of their low rate of return.

For example, the bill gives the Secretary of Transportation discretion to make money available in the form of direct grants, matching grants, or guaranteed loans, depending on the financial health of the railroad seeking help and the rate of return on the particular project involved. Banks and insurance companies are threatening to withdraw all money for railroad investment, and Federal guaranteed loans may be the only hope of preventing further deterioration of railroad roadbeds because of deferred maintenance—already estimated to be at a level of $9.5 billion. Also, it may be our only hope of ever restoring the heart of our rail system.

Fourth, the bill provides for the financing of the new corporation, ConRail, to operate a rail system in the Northeast created out of the estates of the bankrupt railroads.

ConRail is the most essential part of this bill. It will be established through an income based reorganization of the bankrupt railroads in the Northeast. In order to achieve an income based reorganization, the bill creates a reasonable debt structure for ConRail and provides sufficient guidelines for the investment of Federal funds to assure that ConRail will be a viable railroad. This approach is absolutely necessary in order to avoid a Tucker Act judgment which could run as high as $6 to $12 billion, if the courts find that the creditors' property has been taken by the Federal Government.

Mr. Chairman, this bill authorizes Federal funding at a total level of approximately $6.4 billion. The total amount is divided up as follows:

There is $1 billion in a rehabilitation account for the rehabilitation of the rail system over the next 6 years.

There is $2 billion in a loan guarantee account which can be used not only for rehabilitation but also for purchase of rolling stock. This money would remain available in a revolving fund and, if the private sector withdraws money from railroad investments, the railroads would be able to borrow through loans guaranteed by the Federal Government. This would not require any expenditure unless there is an actual default.

There is $1.1 billion authorized for the improvement of high speed rail passenger service in the Northeast Corridor, and other passenger lines outside the Northeast Corridor. The amount of $200 million is earmarked for expenditure outside the corridor, leaving $900 million for expenditure on the corridor.

There is $2.1 billion authorized to finance ConRail. The first $1 billion would be used for the purchase of ConRail debentures and the remaining $1.1 billion for purchase of preferred stock of ConRail.

There is $180 million authorized for rail continuation subsidies over the next 4½ years.

There is $6 million authorized for a fossil fuel rail bank.

There is $5 million authorized for projects to convert abandoned rights of way for public recreational and conservation uses.

There is $2 million authorized for the Rail Services Planning Office in the ICC.

There is also $2 million authorized for the Office of Public Counsel in the ICC.

Finally, there is $1 million authorized for expenses of the U.S. Railway Association.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I am pleased to rise in support of H.R. 10979, the Railroad Revitalization and Regulatory Reform Act of 1975, which contains amendments to the Railroad Reorganization Act of 1973, and the ConRail final system plan which was developed under that act.

While the changes made by this legislation are important to revitalize the Nation's rail service and reform our regulatory procedures, a number of provisions carry special significance for my congressional district which encompasses a major portion of south Jersey, and which has a large number of light density freight lines which are affected by the ConRail final system plan.

Of the seven light density freight lines in my congressional district, five lines, at one time or another, have been excluded from either the preliminary or final system plans of ConRail. Fortunately, that number has now been reduced down to four, and if this legislation is adopted, one additional line will be included, the CNJ Southern Division line which runs from Lakehurst to Bridgeton Junction.

As some of my colleagues know, the U.S. Railway Association represented on several occasions that no lines would be excluded from the final system plan which were not excluded from the preliminary system plan. Those declarations, of course, removed any incentive members of the public might have had to testify in support of those lines included in the preliminary system plan, inasmuch as they did not appear to be in jeopardy in any way.

It therefore came as a surprise and shock to many when the final system plan was published and 14 lines, including the CNJ Southern Division, were excluded although they had been included in the preliminary system plan. To many of us, it seemed that this action had denied the public, shippers, government officials and others any meaningful opportunity to participate in the decision.

I am very pleased that H.R. 10979 reverses this unfortunate decision which to many of us appeared to be a denial of due process. I wish to commend the chairman of the Commerce Committee, Mr. STAGGERS, the chairman of the subcommittee, Mr. ROONEY, and my colleague from New Jersey, Mr. FLORIO, for the strong leadership they exercised in obtaining the reinstatement of the affected lines.

The CNJ Southern Division is the only intrastate north-south link in New Jersey, and it is an economic lifeline for the many shippers who use it, particularly for the shipment of sand to glass and china factories to the north. Its loss would have created many problems, including an unwanted increase in truck traffic. It would have also seriously jeopardized the success of a 4,000- to 5,000-acre industrial park which has been planned along the line near Bridgeton.

With respect to the remaining three freight lines in my area which have been excluded from the ConRail final system plan, the legislation takes an important step by providing a large subsidy over a greater length of time. This stay of execution for lines which otherwise have been abandoned will help us work toward the balanced transportation system we need in south Jersey to help our economy grow, so as to reduce the high rate of unemployment. Hopefully some industries can be encouraged to locate along the railbeds now that they have some assurance that the lines will continue to run while we reassess the data supporting exclusion of those lines from the final system plan.

Originally, the Regional Rail Reorganization Act provided for 2 years of subsidy with the Federal share being 70 percent. Under the terms of H.R. 10979, the subsidy will stretch over a period of 4½ years, commencing at 100 percent for the first 6 months, and declining down to 30 percent in the final year. During this time, an independent reanalysis of the liens can take place to determine whether they are truly not profitable, and whether any changes might be necessary or desirable in order to make them profitable and encourage greater utilization of the lines.

The Senate version of this legislation, S. 2718, also recognizes the need for subsidies, but even to a greater extent. That legislation provides for a 100 percent Federal subsidy in the first year, and 90 percent through fiscal 1983. Such a program, of course, would provide an even greater degree of security to railroads, and give industries an even greater incentive to make decisions to utilize the rails.

Mr. Chairman, I feel that H.R. 10979 is overall an excellent piece of legislation, and I urge my colleagues to give it their full support.

Mr. VANDER JAGT. Mr. Chairman, I am pleased to join Congressman TRAXLER in affirming the Federal Railroad Administration's plan to extend subsidy funds to the Ann Arbor Railroad car ferry and to other rail car ferries operated by profitable carriers on Lake Michigan which will become eligible if approved for abandonment by the Interstate Commerce Commission.

These car ferries, which are central elements in the respective lines of railroad, are a vital element in the transportation system of the Northern States. The States of Michigan and Wisconsin have a deep and direct interest in the car ferries and are actively examining their place in the revitalized rail system.

I have worked actively for the continuance and modernization of the ferries for a number of years. I am pleased to have this asurance that they will receive the subsidy assistance of the Regional Rail Reorganization Act.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Chairman, I wish to congratulate my colleagues on the Interstate and Foreign Commerce Committee for their endeavors on this complex and important piece of legislation. H.R. 10979 envisages changes in the economic regulation of the railroads; changes in regulatory processes of the Interstate Commerce Commission, and changes in the Regional Rail Reorganization Act of 1973. It is an important piece of legislation.

The jurisdiction of the various House committees was changed for the 94th Congress. The Committee on Public Works and Transportation on which I serve, was given extensive jurisdiction in the area of transportation. Specifically, the committee has jurisdiction over express companies, oil and gas pipelines, motor carriers, domestic water carriers, and freight forwarders. The regulatory law with respect to these carriers is set forth in the Interstate Commerce Act.

That act also serves as the basis of regulation for the Nation's railroads. Railroads are subject to the jurisdiction of the Committee on Interstate and Foreign Commerce. Because of the competitive interplay of the various transportation modes and because of the interaction of the various parts of the Interstate Commerce Act, it is exceedingly difficult to isolate the effects of a change in that act or for the agency that administers it.

H.R. 10979 has been drafted in a manner so as to minimize any direct effect on the carriers subject to the jurisdiction of the Committee on Public Works and Transportation. Although the jurisdictional problems are minimized, they are not eliminated. For example, jurisdictional problems exist in section 201. That section affects the budgetary process of the Interstate Commerce Commission.

Section 205 of the bill establishes an Office of Public Counsel which is permitted to participate in matters that "involve a railroad." Theoretically, this permits involvement in proceedings involving a railroad and nonrailroad carrier, such as a motor carrier. Similar language appears in sections 207 and 208 that deal with the establishment of new rules of practice for the Commission and with respect to hearings and appellate procedures of the Commission.

Title III of the bill changes the law with respect to the establishment of railroad rates. The change brought about by that title indirectly affects other carriers.

The merger provisions of title V apply to any merger or consolidation and are apparently aimed only at railroad proceedings of this type. However, again, the language states that they apply to any of these proceedings "which involve a railroad."

Hence, they could be construed as applying to a merger or consolidation involving a rail and motor carrier. Similarly, some of the provisions of title III authorize studies that go beyond any sole application to railroads.

H.R. 10979 is considered emergency legislation because it involves changes in the Regional Rail Reorganization Act that are deemed necessary if Conrail is going to work.

I, therefore, do not in any way wish to hinder the progress of this legislation, and I will in no way object on jurisdictional grounds to the contents of the bill. Failure to object, however, is not to be construed as any waiver of jurisdiction in whole or in part of the committee on Public Works and Transportation.

Under the rule granted for consideration of H.R. 10979, it is in order for H.R. 10631, as reported by the Committee on Public Works and Transportation, to be offered as an amendment to this bill. The amendment affects the Urban Mass Transportation Act that is subject to the jurisdiction of the Committee on Public Works and Transportation. I intend to offer that bill as a new title when amendments are in order under the 5-minute rule. This has been discussed with the gentleman from Pennsylvania who is the floor manager and I believe we are in agreement on this procedure.

Mr. SKUBITZ. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. HASTINGS), a member of the committee.

Mr. HASTINGS. Mr. Chairman, first, I would also like to pay tribute to the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. ROONEY), and the ranking member, the gentleman from Kansas (Mr. SKUBITZ).

Mr. Chairman, it has been a most difficult piece of legislation and it has been a pleasure to work with both of these gentlemen.

Mr. Chairman, I voted in support of reporting this bill from both the subcommittee and the full committee. Overall, I think that there is much which is commendable in this bill. As I indicated in my supplemental views, however, I am disappointed that the subcommittee's action which limited general rate increases over the next 3 years to increases necessitated by either labor costs or fuel costs was not adopted by the full committee.

As we know, the problems affecting the Nation's railroads have continued to become worse. In 1973, when we passed the Regional Rail Reorganization Act, there were seven railroads bankrupt in the Northeast. Today, there are 2 additional railroads in bankruptcy and according to the ICC, another 21 railroads are at the brink of bankruptcy. It is, therefore, essential that the measures contained in this bill become law.

Railroads need a great influx of income if they are to be able to mass enough capital to rehabilitate their facilities and improve their service. I am not certain that the bill before us provides the kind of money necessary to really rehabilitate the Nation's railroads and the entire railroad problem, but I am convinced that it is the most we can get.

Mr. Chairman, title II of the bill proposes procedural reforms for the ICC, many of which are long overdue. First, we direct that the Commission's appropriations request come directly to Congress. Since the ICC is an arm of Congress, this change is appropriate. Without such a change, I might add, the budget of the Department of Transportation would continue to grow, while the ICC budget would continue to shrink.

The Commission is also directed to reform its rules of practice and to institute specific time limitations. The current rules of practice at the ICC are quite out of date and encourage delay rather than speed.

The Commission is also directed to provide a uniform set of rules for railroad accounting. This provision is essential if we are to provide railroads with Federal money.

The rail industry must also file with the SEC, which is another long overdue reform.

In and of themselves, Mr. Chairman, these reforms are significant improvements in the reorganization of the rail industry.

Mr. Chairman, first let me speak of the ratemaking reforms. Railroads in this bill will be permitted to decrease their rates to variable cost. Under the bill, the Commission must find that a rate decrease which equals or exceeds variable cost is just and reasonable. By the same token, the Commission must find that a rate increase which does not exceed variable cost by 10 percent is also just and reasonable. This provision may provide significant assistance to railroads inasmuch as it has been estimated that over 40 percent of the current railroad charges are below variable cost.

In addition, the bill introduces the new concept of market dominance.

Under that concept, a carrier may increase its rates to any level it wishes. If there is competition, of course, where a carrier has market dominance, the Commission may require that a rate must be just and reasonable according to its standards.

In addition to the changes made in ratemaking, the committee has provided an expedited merger procedure which, hopefully, will end discriminatory State tax practices.

Mr. Chairman, the bleak railroad situation facing the Northeast is being brought to a close. The seven bankrupt railroads are being reorganized into ConRail with some portions of the railroad lines going to strong, profitable railroads. I, for one, am grateful that my part of the country can look forward to a rail system directed toward service, rather than day-to-day survival.

This bill makes a number of improvements over the proposal originally submitted by USRA and the administration. The financing of the corporation formed under this bill is set at $2.1 billion, rather than the $1 billion originally anticipated by the 1973 act. This additional capitalization also is designed to assure that the courts consider this an income-based reorganization.

Third, the considerable abandonment of lines contained in the final system plan is tempered by this bill in that it provides a more generous subsidy program. In addition, the bill makes sure that ConRail is given avoidable costs plus a reasonable return on investment, plus a reasonable management fee. This, too, contributes to insuring that the court will find an income-based reorganization.

Fourth, the accumulation of interest is confined only to the debentures, so, in effect, the money going to ConRail from the Federal Government represents something between an outright grant and a very soft loan.

Fifth, the tremendous commuter losses sustained by some of the bankrupt railroads will be relieved by the subsidy program and new full reimbursement policies contained in the bill.

Sixth, throughout the bill there are a number of provisions designed to assure the strength of ConRail, thereby assuring the court that a fair and equitable reorganization will have taken place on date of conveyance.

Finally, the primary motivation for the complete overhauling of ICC provisions and the regulatory reform was to create a better environment in which ConRail could operate.

Mr. Chairman, I intend to support this legislation not only because it assures good rail service for my part of the country, but also because it represents a positive approach toward solving the problems of the Nation's railroads.

Mr. Chairman, I might point out that without this legislation, this Congress and this country will have to consider alternatives, and I might say the alternatives will be:

First. To liquidate the railroads which are bankrupt in the Northeast, and with that economic impact obviously unacceptable, that is not a viable alternative. The second alternative would be to nationalize the railroads in this country, and I do not believe that is a viable alternative as of this time. Third, Mr. Chairman, we could have the Congress continue to provide a $1½ million operating subsidy per day for the railroads now in bankruptcy. So, I suggest that although this legislation is not, of course, the miracle of the ages, it will not solve all of the problems of the railroad industry in this country, it is the only alternative to which this Congress can address itself. I strongly urge its passage.

Mr. Chairman, I have one concern about section 910(h) of the bill which I would like to address to the chairman for clarification, if I may.

Section 910(h) amends the Regional Rail Reorganization Act to authorize loans by the U.S. Railway Association to ConRail and any profitable railroad to enable them to meet obligations of the railroads in reorganization which are necessary to permit continued orderly railroad operations. Included among those obligations of the railroads in reorganization are employee claims which section 908 requires ConRail or a profitable acquiring railroad to pay. I just want it to be perfectly clear that claims paid under section 908 by ConRail or the acquiring railroads are included among those which will qualify for loans and the other treatment provided by section 910(h) of H.R. 10979.

I would appreciate clarification by the chairman.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I will yield to the gentleman.

Mr. ROONEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like at this time to commend the gentleman, who has made a very substantial contribution to the development of this legislation before the committee today. As all of my colleagues know, the distinguished gentleman from New York (Mr. HASTINGS) will be leaving Congress on January 19, and I want to take this opportunity to pay tribute to him for the very significant contribution he has made not only to this committee but in representing the people of the great State of New York. Mr. Chairman, I want to commend the gentleman at this time.

Mr. HASTINGS. I thank the gentleman for his kind remarks.

I would hope the answer to my question was yes.

Mr. ROONEY. If the gentleman will yield, the answer to the gentleman's question is yes. I thought we had clarified that prior to the beginning of the session.

Mr. HASTINGS. I thank the gentleman. The record always speaks very loudly.

Mr. SKUBITZ. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. COLLINS) a member of the committee.

Mr. COLLINS of Texas. Mr. Chairman, a few minutes ago we heard the distinguished minority leader on our side, the gentleman from Kansas (Mr. SKUBITZ) begin his remarks by speaking with great eloquence about the leadership of this Commerce Committee on Transportation. I agree completely with him. I think the great strength for this bill are the people in the committee who have sponsored it.

Mr. Chairman, certainly there is no one in America who understands railroads better or believes in railroads more enthusiastically than the chairman of our committee, the gentleman from West Virginia (Mr. STAGGERS). In all the days I have served on the Commerce Committee I never observed anyone who worked as hard and as diligently and as fairly or had more extensive hearings than the gentleman from Pennsylvania (Mr. ROONEY) has had on this bill. Mr. Chairman, Job would pay tribute to the patience of the gentleman from Pennsylvania, who has directed so well the preparation of the final bill.

As I heard our distinguished minority leader Mr. SKUBITZ say many times, this bill has been thoroughly and completely debated. Furthermore, as we are discussing the bill on the floor, I realize I am the only one speaking in opposition to it. But I think it is well today that we do see where we are going, because in session after session we spend more money on railroads. We always talk about the disaster of railroading with the disaster of the financial condition of the railroads. But we never get down to the causes of it. In some discussions I heard about the savings we have made on behalf of the railroads, they said we have reduced this bill from $10,000 million to $6,000 million and that is all we are asking, is $6,000 million to subsidize these deficient, that is, these losing, railroads. We do not call the bill the railroad subsidy bill. We have a dignified name for it. We call the bill the Rail Revitalization and Regulatory Reform Act of 1975.

Mr. Chairman, what we are literally doing is giving away $6,000 million of American taxpayers' money. It is not money we have in the U.S. Treasury. I hope we all stop and realize that. It is not money that is in the bank. This is money that Congress is going out to borrow, so we can increase the deficit of the United States. Then Congress gives it to the railroads.

Just a few weeks ago we talked about Amtrak. Amtrak is not very deeply involved in this bill. I think they will only get $200 million. They will also suffer because some of the costs and charges will be passed on to them.

Mr. Chairman, as I picked up Forbes magazine of December 15 I saw a reference to the problem that Amtrak has. Despite all we have done in giving them money to try to get them out of loss operations, Amtrak continues as a loser. The heading was "Track to Nowhere." They referred to the Floridian, which is the name of the train which leaves Chicago. They said the following:

> After 22 stops—and 37 hours—the 12-car express pulls into St. Petersburg, Fla.
>
> * * * * *
>
> Not surprisingly, only about 200 through passengers ride The Floridian on a typical day. Whenever someone shells out $120 for a Chicago-St. Petersburg roomette, Amtrak subsidizes his trip to the tune of $264. The Government could save money by giving each of those unhurried customers first-class air fare, plus $100 to spend at the beach.

They go on down here and further they discuss the 25,000-mile system of Amtrak, and they say:

> Costs per passenger-mile are 15.4 cents; revenues are just 6.7 cents. The Government makes up the difference.

They go on further to say:

> Without changes, Amtrak is a loss leader with no economic justification. Today, trains carry less than 1% of all intercity travel. The rest moves by car (87%), air (10%) or bus (2%).

I did not know this, but according to Forbes, in Europe and Japan they run quality trains and they report break-even revenues.

The real problem the trains have was not faced in this bill. The real problem is the fact that labor costs on the trains are such that, compared to the amount of productive work to the amount of revenue, there is inadequate relationship between the two.

For the statistics that I included in the summary the H.R. 10979 dissenting remarks, I took several railroads for comparison. It was called to my attention that some profitable ones have work rules similar to the losers. Therefore, the reason for the differences was partly because of management. Let us compare the railroads.

I took the Florida East Coast Railroad, which has the best transportation ratio on transportation expense of any railroad in America, and that is 24.9 percent. Then I took three other excellent railroads, Southern, Union Pacific, and Norfolk & Western, and I found Southern has a few working advantages, so let us take Union Pacific and Norfolk Western. Their transportation ratio percentages were 35.4 and 35.8.

That means that even if they do have the same work rules as others, they were 10 points better out of 100 points in their ratio because of these work rules than the bankrupt railroads have.

Then I took the bankrupt railroads, which run from the Lehigh Valley, with 44.1 percent, on up to Pennsylvania, Reading, Seashore, which has 66 percent for a transportation expense ratio.

Mr. Chairman, the first place they have got to start—and they must start somewhere—is to consider their labor costs relative to the productivity dollar. In this bill we have not done anything about that.

I took some figures from the Penn Central Transportation Co. I looked at the total number of employees from 1966 to 1974, and I found they now have 23.3 percent fewer employees. But although they have 23 percent fewer employees, they are paying 46 percent more in salaries. They have fewer employees, but there has been a tremendous increase in salary. They have got to relate those items.

Another thing we should certainly think about is this subject of abandonment. They have talked a great deal about this, but there is very little done about it. On page 56 of the report, under title IV, there is a description of what is involved here. I want to quote what the committee report says:

> This title repeals the Commission's rules which establish a presumption that a line should be abandoned if it does not carry 34 cars, per mile, per year, of traffic. In addition, it assures labor protection should an abandonment adversely affect an employee's job.

What this says is that they are going to eliminate this basic requirement, which I thought was a very sound requirement. The law was that if they do not have 34 cars a year run down a train track, railroads should abandon it. That seems to me very logical. If no one uses the dead track, abandon it.

Mr. Chairman, I want to highlight some of the other things in this report.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, will the gentleman explain this for me? I want to be sure I understand the point he made about the 23-percent decline in employees coupled with a 46-percent increase in wages.

Did the gentleman say that was from 1967 to date?

Mr. COLLINS of Texas. That was from 1966 to 1974. Here are the statistics. I imagine pay scales are higher now.

Mr. SHUSTER. Mr. Chairman, I find that interesting.

Would the gentleman not agree that by adding the two together, that really represents a 69-percent increase in wages during that period, if they have a 23-percent decline in labor and a 46-percent increase in wages?

Mr. COLLINS of Texas. If we apply the percentages, it would be even more than 69 percent.

Mr. SHUSTER. Therefore, it would appear to be around 69 percent by putting the two together. However, during the same period the rate of inflation in America was about 70 percent. Therefore, it would appear to me, in terms of real dollars, the employees of the Penn Central have received nothing more than an amount which is not quite equal to the rate of inflation in this country, so there would appear not to be any windfall at these figures at all.

Mr. COLLINS of Texas. Inflation in this country is primarily caused by the overspending of Congress.

Mr. SHUSTER. Absolutely; I agree with the gentleman on that point, and this Congress should spend less on foreign giveaways and social experimentation, so funds will be available for worthy programs such as this Rail Revitalization Act.

Mr. COLLINS of Texas. What we are doing here is that we are just piling another $6,000 million onto that casket to bury it.

Inflation in this country is severe, and I hope we do not make it any worse with more congressional subsidies.

Mr. Chairman, to go on with the sections in this bill which I noted and to which I take exception, they discuss rail financing and why railroads need more money.

One thing we need to realize is that the railroads simply do not have the traffic that they used to. In 1939 the railroads carried 62 percent of the intercity freight. By 1973, they only carried 38 percent.

The railroad rate of return in 1929 was 5.3 percent. Today the rate of return is 3.45 percent. When we think that it cost railroads 10 percent to get capital, they just simply cannot economically justify capital.

I ask the Members to vote no to this massive subsidy railroad bill.

Mr. SKUBITZ. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of the Railroad Revitalization and Regulatory Reform Act of 1975 (H.R. 10979).

This is the long-awaited hope and salvation of our national railroad system. It is sad to see such a vital industry to our national economy and transportation system in such a state of affairs. It is alarming to note that national rail receipts in 1975 represented only 75 percent of the gross receipts in 1947. The railroads have been caught in a vicious circle. Mismanagement and labor problems presented the rail carriers with shortages of funds. To compensate, the carriers cut down on their most expensive operating responsibility—maintenance of the rights-of-way. This pattern of deferred maintenance multiplied many times over. It seems as though it took us 20 years to wake up to realize the deteriorated state the railroads are in today. Deferred maintenance has taken such a toll in New Hampshire that trains are literally limited to speeds not to exceed 11 miles per hour throughout the State. The condition is serious. Legislation such as that before us now has been long in coming—but it is here.

The bill before us now includes the funding authorization for ConRail. If ConRail is to realize its statutory startup date on February 26, 1976, it is most essential that this bill is passed before the end of this session.

I should like to reiterate that this is not a regional bill. This legislation will affect the operation of every railroad in the United States.

To demonstrate the all-encompassing

nature of this bill, I should like to review what I believe are two of the most important sections of this legislation. Section 802 of the bill makes $1 billion available to the Secretary of Transportation in the form of grants for railroad rehabilitation. Section 804 authorizes the Secretary to approve up to $2 billion in loan guarantees to finance rail improvement projects.

There is one category of railroad to which I wish to address myself with regard to these rail transportation assistance accounts established by this act. If we are concerned with rehabilitating where the need is greatest, there is no doubt that we will have to make substantial amounts of capital available to the bankrupt railroads attempting to reorganize on an income basis under section 77 of the Bankruptcy Act. Clearly, it is the intent of Congress that railroads reorganizing within section 77 of the Bankruptcy Act, or those on the verge of section 77 reorganization, would qualify for grants under section 802 of this act while the more financially solvent railroads would utilize loan guarantees.

However, I would not wish to draw any hard and fast lines. Therefore, I am pleased to note that the loan guarantee program is flexible. Loans may be for a 30-year period, and by utilizing section 804 authority, the Secretary may subsidize interest for loans guaranteed to railroads in the weakest financial condition. Remarkably, the two railroads presently in section 77, the Boston and Maine and the Rock Island, appear to be surviving independently, and there is even evidence that they are growing stronger in many respects. This is good news which is to be cheered by all of us concerned over the prospects of rail nationalization, and to be encouraged by Federal policy.

The Rock Island, for example, despite opposition from some of its bondholders, has already applied for $19 million in loan guarantees which remains from an earlier Federal emergency rail program. The Boston and Maine, which is an essential rail carrier through my district, is the only Northeast bankrupt not to succumb to ConRail. This is important because it is a vital link in the system providing competition to ConRail out of New England. Without the Boston and Maine we will be subjected to a rail monopoly. I was pleased to note in yesterday's Wall Street Journal that the Boston and Maine has just filed a plan for reorganization as an independent railroad. The plan calls for eliminating the bonded indebtedness by issuing preferred stock and common stock to willing bondholders with cash payments to the other first mortgage and income bondholders.

Thus we come to an interesting situation with regard to the Boston and Maine. This railroad has not been in a position to apply for loan guarantees under the Regional Rail Reorganization Act because of the priority claim of such a loan over the bonded debt. Thus no Federal money has been available to them while their direct competition, soon to be ConRail, is now in receipt of about $1 million a day in Federal subsidy. I believe the Rail Revitalization and Regulatory Reform Act of 1975 can correct this situation. First, grants can, and I trust will, be made available to underpin the reorganization into genuine solvency. Second, it may be appropriate, as a part of the Federal package, to guarantee loans. From my discussions with members of the committee and staff I understand that the Secretary of Transportation has wide discretion to set loan guarantee conditions even to the extent of subordinating them to claims of preferred stockholders, or bondholders, or others if that appears to be the overall interest of the country.

I should like to point out that the gentleman from Kansas (Mr. SKUBITZ) has circulated a "dear colleague," advising of his intention to offer an amendment to cut the section 802 grant funds from $1 billion to $500 million. His rationale is that the $2 billion in loan guarantees are sufficient to fund improvement and rehabilitation programs. I say, not so.

Loan guarantees have been made available before, and the fact is that the stockholders of the bankrupt railroads across the Nation are unwilling to be subrogated to the Government's "secured" position. History proves me correct. Loan guarantees will work with all carriers except the bankrupts, and they are the lines in so desperate a need. It is my hope that the gentleman from Kansas (Mr. SKUBITZ) will decide not to offer his amendment.

There is a most welcome section in the bill to provide $1.1 billion for the rail passenger service account. I should like to note that $200 million must be spent in areas other than the Northeast Corridor. These funds will be used for improvements of rights-of-way, improved communication facilities, extension of electrification systems, improvement and rehabilitation of rolling stock, and countless other programs to make rail passenger service more reliable, economical, and convenient for all Americans.

I should like to conclude by complimenting the committee's proposals for regulatory reform at the Interstate Commerce Commission—the grandfather of all regulatory agencies.

Specifically, I should like to note the alternate procedure for mergers provided in this legislation. Under that provision a 2-year limit will be set for approving or disapproving mergers by the ICC. Further filing deadlines and deadlines for participation in the proceeding will be imposed to assure the 2-year limit would be achieved. This could have saved the Rock Island from the precarious situation it is in now. It entered a merger proceeding before the ICC 14 years ago. It took ICC more than 12 years to rule on the merger. I am satisfied that the bureaucratic lag was responsible for the Rock Island's present economic hardships. I am not pointing the finger at the ICC—they can only be as effective as the antiquated Interstate Commerce Act and the Administrative Procedure Act allow. The provisions amending ICC procedure is a most welcome step in the right direction.

This legislation is not the solution to all our rail problems but it represents a genuine desire on the part of this Chamber to regain this Nation's once thriving and healthy rail system.

I urge my colleagues to support this legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROONEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I want to call the gentleman's attention to the fact that the amendment I am presenting calling for a reduction of $500 million comes out of that part of the bill that deals with all of the Nation's railroads. This does not affect the Northeast corridor, the Northeast region. The administration had nothing in its request for grants for the entire Nation. It asked for $2 billion in loans. Our committee put in $1 billion. The gentleman from Washington (Mr. ADAMS) and I tried to reduce that to $400 million, which would still be $400 million over the administration's request.

What I am doing is trying to cut $500 million out of the billion dollars that is still in the bill for the railroads all over the country. It does not affect ConRail or affect the Northeast.

Mr. CONTE. I realize that. As I said, I appreciate what the gentleman has done. I think the gentleman has helped to bring a good bill here, but the railroad problem is not only in the Northeast, but across the country, and that is why I oppose the gentleman's amendment.

Mr. RUSSO. Mr. Chairman, I am pleased to rise in support of this legislation which will provide financial assistance to restore and improve rail service not only throughout the Northeast, but throughout the Nation as well.

I have, over the last few months, been actively concerned over the future of and the service on one railroad, the Rock Island. The continued operation of the Rock Island is of great consequence to the economy and prosperity of my congressional district as well as many other midwestern districts. You will remember the shock we all felt early this spring when the Rock Island was forced to file for section 77 bankruptcy because it had less than 1 day of cash on hand.

I am happy to note that both the service and the financial condition of the Rock Island has improved greatly since that time, and I want to compliment the tough management decisions and the rail labor cooperation which made the improved service possible. But the Rock is still not out of the woods. In this, the Rock Island is not unique. One other railroad in section 77 reorganization has stayed free of ConRail and I understand that there are upwards of 20 railroads which stand on the verge of section 77 bankruptcy proceedings. This legislation is particularly important to such railroads in difficult financial condition.

I am particularly pleased to note that

the Commerce Committee has provided for considerable flexibility in section 802—which provides grant funds—and section 804—which provides for $2 billion in long-term, low-interest loans. Such flexibility should make it possible for the Secretary and the railroads involved to work out the best possible package of financial assistance to allow the railroads to completely rehabilitate their lines and equipment and restore the kind of total service for which they have been famous throughout our history. As one who has worked closely with the Rock Island over the past 6 months in their application for $19 million in trustee certificates under the Emergency Rail Services Act of 1970, I want to comment on two aspects of this bill which I believe will be important.

First, my experience in working with the Rock Island on their trustee certificates application has frequently been frustrating because of numerous bureaucratic delays as the Department of Transportation made "specific findings," "analyzed the application," "studied the statutory prerequisities," requested more and more information from the railroad, "made a physical investigation of the property," et cetera, et cetera. Fortunately, these problems now appear to be largely resolved and it now appears probable that the certificate money will be available to the Rock in the very near future. However, in light of this experience, I am pleased that the Omnibus Rail Act contains provisions for expeditious procedures for the consideration of applications.

Second, in the instance of the Rock Island there was strong resistance on the part of bondholders to the acquisition of the Government of a prior lein of this magnitude on the estate of the railroad. The House bill provides the Secretary with sufficient flexibility in financial arrangements that a package should be possible which would provide railroads with funds essential to their rehabilitation while protecting both the interests of the taxpayers and those who hold the bonded indebtedness and own the preferred stock in these firms. The return to financial stability will be of great importance to all concerned.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROONEY. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, H.R. 10979, the Rail Revitalization and Regulatory Reform Act of 1975, is both crucial to, and inseparable from, the redevelopment of our railroads in the Northeast.

This bill authorizes, the essential financing to implement, the Regional Rail Reorganization Act of 1973.

This tradition-breaking legislation is designed, to rehabilitate, and upgrade, the northeast freight and passenger rail system.

The 25-member New England congressional caucus, which I cochair with my colleague SILVIO CONTE, worked long and hard to obtain passage of this law.

The role the caucus played during that legislative activity finds its fulfillment in the bill before us today.

Most members of the caucus will support the committee's bill. Nevertheless, we are disappointed, that the committee has not been able to accept a number of New England proposals, which we feel, would ensure better national transportation policy and would make revival, of the northeast railroads, more certain.

I do not blame the committee for turning aside some of our proposals.

I believe, this may be the best rail bill that Congress can send on to President Ford, at this time, with any hope of avoiding a veto.

The committee has worked under great pressure. It has had to be concerned about a veto. Thus it has turned aside a number of specific rail proposals which the New England Congressional Caucus and others believe, would make a better bill.

But this bill is a second step in the right direction following the Regional Rail Reorganization Act of 1973.

New England's specific preferences in the rail area are well known. The New England Governors, and the congressional caucus, have strongly supported Federal ownership of rights-of-way to get these costly track systems off the back—not only of the northeast railroads—but of staggering railroads in almost every other area of the United States.

We testified to this effect both in the House committee and on the Senate side.

Secretary of Transportation Coleman, however, made clear to us, that the administration would not accept Federal ownership of rail rights-of-way despite our belief that it is a much cheaper and surer solution, and that it must come eventually, if railroads are to be saved from nationalization.

Federal ownership of rights-of-way corresponds to the way we operate our highways, waterways, and airways in this country, and these are the modes of transportation with which the railroads compete.

We hope that ConRail can become viable economically with the $2.1 billion in aid provided in this bill, while still maintaining the burdensome obligation to maintain and rehabilitate its own rights-of-way.

We hope the committee approach works but we are clearly on record as believing that a more imaginative and progressive approach would be better and in the long run, cheaper.

Despite our failure to win this important point, New England has been able to include in this bill a requirement that USRA conduct a thorough study of Federal ownership of rights-of-way.

We believe once again that this is the only real alternative to eventual outright federalization of the whole rail industry.

The administration through Secretary Coleman also argued that adequate funding for the Northeast Passenger Corridor from Boston to Washington would draw a Presidential veto.

Again, the committee has tailored its bill to meet this problem. We understand the committee's approach.

Nine hundred million dollars for the corridor is barely a start. It will hardly do more than bring the corridor up to 1968 standards.

We hope that the conference will increase this funding level, but we understand the committee's reluctance to take on the administration.

We think full development of the corridor, with 3-hour service from Boston to New York and 2½-hour service from Washington to New York is better national transportation policy. Forty million people live in the corridor. It is not a question of subsidizing their transportation needs.

High speed rail service is an alternative to two $1 billion-plus airports, which may have to be built in New York and Boston during the early 1980's if we cannot get people out of planes and back onto the trains.

These airports require more than 15,000 acres of land apiece.

Similarly, if the corridor is developed to sufficiently high-use levels we can save $2 billion or more which might otherwise go for an enlarged Baltimore Harbor Tunnel.

But although we are sorry the committee could not support more than $900 million for the corridor, we recognize that this also is a start in the right direction.

Later on, we believe, when the real hard transportation choices are finally made by some administration, the corridor will be fully funded.

The New England caucus did succeed in knocking out of this bill the administration's onerous requirement that the corridor States raise $120 million in matching funds before corridor work could begin. This could have torpedoed the corridor altogether.

The caucus is also greatly encouraged by the greatly liberalized and extended provision in the bill for the subsidization of low-density branch lines.

Over a 4½-year period, subsidies would be provided by the Federal Government for such lines at the rate of 100 percent for the first 6 months, 90 percent for the next year, 70 percent for the following year, 50 percent for the year following it, and 30 percent for the last year.

This expansion of the original formula found in the Regional Rail Reorganization Act of 1973—along with the flexibility provided for in the use to which those funds can be put—will greatly alleviate the initial shock that would otherwise be administered to so many communities and industries that rely on rail freight service.

Breathing space can now intervene to permit reutilization of freight service in order to make these lines profitable again.

New England as well as every other region is well served by this provision.

Mr. Chairman, I have said that this bill has its faults. They are not in any sense irreparable, however.

New England can live with it. It is not everything we in New England want by a long shot, but it is a step—a giant step—in the right direction.

I urge its adoption.

Mr. ADAMS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to compliment the gentleman from Massachusetts (Mr. BOLAND) on the gentleman's statement. The gentleman has long been an expert in transportation and has served New England very well, as well as the gentleman's native State, in seeing that the transportation system of the entire Northeast remains intact.

Mr. Chairman, I agree with the gentleman's comments. I think there is a first step in trying to revitalize the railroad system in this area. I appreciate the patience and the support the New England caucus has given to the committee in trying to pass this bill at this time, so that we can have the bill signed into law prior to the date of transfer of the assets from the bankrupt railroads to the new ConRail Corporation.

Mr. BOLAND. Mr. Chairman, I appreciate the remarks of the distinguished gentleman from Washington. Let me say, there is no Member of the House of Representatives who is more familiar with the problems of railroads than the gentleman from Washington (Mr. ADAMS).

The Rail Reorganization Act would never have come into view, never have come into being, except for the gentleman's efforts. We would never have had ConRail. We would never have had the USRA without the superb work of the gentleman from Washington, the work of the full committee, and the support of the ranking minority members. I want to commend, particularly, the distinguished gentleman from New York (Mr. JAMES F. HASTINGS) for his splendid and fruitful efforts to try and save the railroad industry, not alone in the Northeast, but throughout the Nation. I regret his decision to retire from Congress. He has given great service to his district, his State, and the Nation. I wish him well for the future.

Mr. SKUBITZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I will not go into detailed specifics concerning the Railroad Revitalization and Regulatory Reform Act. I believe we have already heard knowledgeable remarks and that we have all become increasingly familiar with the problems involved as well as the pressing need to act decisively to assist in the restoration and maintenance of our rail system. I do want to complement the committee members on the fine work they have done in developing this legislation.

The factors leading to the deterioration of our rail system, especially in the Northeast and Midwest, are numerous. Insufficient funding has caused rail tracks and equipment to deteriorate and Government regulation has tended to discourage innovation and investment in the rail industry. It is my sincere hope that our desire to see the eventual operation of a for-profit rail organization will be successful and that the Congress will continue to push for the return of the rail industry to the private sector as rapidly as practicable.

Furthermore, I hope that the Congress will continue to evaluate and alter those regulations which have hampered the operation of our rail system in the past. I support the long-range vision of a privately owned and profitable intercontinental rail system and hope that with further merger and consolidation this vision will become a reality.

Mr. SKUBITZ. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I thank the distinguished gentleman from Kansas.

Mr. Chairman, I rise in support of this bill today. As the ranking minority member of the Surface Transportation Subcommittee of the Committee on Public Works and Transportation, which has jurisdiction for all modes of surface transportation except railroads, I am acutely aware of the need for a balanced transportation system. There are those who have come before our Surface Transportation Subcommittee and have testified that the way to solve the railroad problem is to impose restrictions on the other modes of transportation, restrictions in terms of sizes, weights, and by increasing costs; they have told us that the way to get the railroads more competitive is to make other modes less competitive. I submit that the solution to our railroad problem is not to tear down the other modes of transportation, but rather to build up the railroad system in America, and particularly in the Northeast and Midwest, where the problem is most acute.

Now, I would submit that there are few in this House who can lay claim to being more fiscally conservative than I. And there are few in this House whose record stands more staunchly in favor of free enterprise; but given the problems we have today with America's transportation system, I believe it is imperative that we support this legislation to revitalize America's railroad system.

Mr. Chairman, there are three questions which I think deserve answers in this debate today.

First, is this legislation a proper expenditure of Government funds? My colleagues this is an investment in assets for America. This is a rebuilding—a rebuilding, after which we will have a revitalized transportation system. Creating assets is much different from pouring money down a rathole and having nothing to show for it after the money is gone. We are talking here today about expenditures of about $4 billion over the next 4 years. Why, we give away more than that each year in foreign aid. We know what we have done for New York City, and that is only one of many congressional giveaways which seem to garner support. I ask, if we hand out billions to foreign countries and for social programs of dubious merit, is it indeed improper to expend Government funds as an investment in the real assets for America? I suggest that it is not improper.

The second question, I believe, is what is the real choice before us today? The real choice is not between the status quo of continuing a beleaguered railroad system or accepting this bill to revitalize the railroad system. Rather, the real choice unless we are willing to accept nationalization, and I think very few support that—the real choice we face today is either a closing down of the railroads or a revitalization of the railroads, because operations will cease without funding.

So, the real hard choice before us is either to revitalize the railroads or face up to closing them down. Think about the implications of that! If the bankrupt roads are shut down, our economy will be seriously hurt. Energy conservation will be set back and pollution will be increased because we will jam America's highways with trucks. Defeat of this bill will raise consumer prices as far as transportation costs are concerned, and thousands of jobs will be destroyed.

So, I suggest that if we face, not what we would like the situation to be, but rather the real hard alternatives, there is no responsible choice before us today but the hard choice of approving this attempt to revitalize America's railroads.

This bill does not provide any guarantee for success, but defeat of this bill does guarantee the failure of a private for profit railroad system in America. If we defeat this legislation, we will not have a revitalized railroad system in America.

The last question we must ask is, is this a bailout of the railroads? I suggest to the Members that it is not. First, the stockholders of the bankrupts will receive stock in the new ConRail, and if ConRail succeeds as a private "for profit" corporation, then the stock will be worth something. If it fails, the stock will not be worth a plugged nickel.

Second, the creditors will only have assurance of receiving liquidation value, so there is certainly no windfall here for either the creditors or the stockholders. The people who stand to gain the most from this bill are not the stockholders or creditors of the bankrupt roads, but rather the American people who depend on the railroads to transport needed products and commodities.

Mr. Chairman, I urge support of this vital legislation.

Mr. ROONEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, my colleagues, this is not an easy subject to broach, but I feel in good conscience that since we are here dealing with the public's money, we must not use it in ways that we know to be unwise.

I wonder if the committee has worked with and consulted the Labor-Management Committee which, as I understand it, is sitting now in either St. Louis or Chicago, to try to rationalize some of the work rules that are making the system uneconomic.

Mr. Chairman, what I worry about is pledging or spending the money of the public, when we know that the system is not as efficient as it should be. If we had to broach this without preamble or without any preliminary action on the part of labor and management, it would be more difficult. But in fact there is such a committee, Mr. Chairman. There is such a committee studying this particular subject.

The money of the people of this Nation must be handled with all of the prudence that we would bring to the spending of our own. I think if the railroads cannot be run efficiently under present conditions, if the committee is set up in fact to consider changes which would make it more possible for railroads to meet their costs, surely it is incumbent upon this Congress to take note of such an effort, and to cooperate in every way with this committee.

I wonder if by any chance the gentleman has.

Mr. ROONEY. If the gentlewoman will yield, I will say to the gentlewoman that I want the gentlewoman to know that this committee has consulted with AAR, it has consulted with labor, it has consulted with the administration, and it has consulted with the Department of Transportation. We have considered the views of everybody involved here and I can assure the gentlewoman from New Jersey that every nickel of taxpayers' dollars in this bill will be well protected.

Mrs. FENWICK. I am sorry I did not phrase my question very well. There is a labor-management committee.

Mr. ROONEY. If the gentlewoman will yield, I did not consult them, no.

Mrs. FENWICK. Were any of these practices brought to the attention of labor and management, the ones that might make the whole system more efficient?

Mr. ROONEY. If the gentlewoman will yield further, I cannot say that we discussed work rules with respect to drawing up this legislation. We have discussed, as I said, certain views of labor and management and the administration, and we have a bill that I think everybody can live with.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. ROONEY. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. I thank the gentleman.

Mr. ROONEY. If the gentlewoman will yield further, I think this bill will go far in preventing nationalization of railroads in this country.

Mrs. FENWICK. I do not object to the bill—in fact, I support it. It is just that I feel we are moving more and more into subsidizing areas which are not economically viable; and at some point that fact must be recognized. We are subsidizing one section of our economic life after another. And, one after another, inefficient methods and practices will be sustained by money taken from the public. This is our responsibility here.

I thank the gentleman.

Mr. ROONEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. McKinney).

Mr. McKINNEY. Mr. Chairman, I thank the committee chairman for yielding, and I congratulate him on the bill. I have just a few questions through which, I hope we could establish some congressional intent on, so that it will be considered by the agencies involved as our opinion.

Mr. Chairman, one of the things that disturbs me is that there has been a great deal of confusion as to freight in the Northeastern corridor. Initially, we were advised that there would be no freight along the Northeastern corridor, and then we were advised that local freight would be carried because there would be too much disruption of shipping if it were not.

Mr. Chairman, the committee counsel has advised my office that local and long haul will occur along the Northeastern corridor but it will be spaced so as not to interrupt or get in the way of passenger service. I wonder if we could have some clarification from the chairman on this subject, for the record.

Mr. ROONEY. Mr. Chairman, we are going along with the USRA final system plan, and I do not think my amendment is needed. Passengers and freight will be on two separate lines for the long haul.

Mr. McKINNEY. But we will have northeastern freight service on the short line? Will the gentleman verify that?

Mr. ROONEY. Yes, we will.

Mr. McKINNEY. Mr. Chairman, the other question I would like to get clarified is this: I realize there is some question as to who is going to end up operating certain parts of our passenger service in the Northeast, particularly the commuter service. There are two questions, I think should be cleared up for the record. One relates to commuter decisions and fare decisions, and the other relates to freight decisions.

I just want to make sure that we will require the ICC to report the reasons for its actions to the Congress and to the public at large rather than have them, in their usual sort of cavalier manner, just say that they are approving or disapproving a fare increase.

We had a recent increase, a 27-percent fare increase on a New York commuter line, and I believe anyone would say that is a substantial increase.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. McKinney) has expired.

Mr. ROONEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Connecticut (Mr. McKinney).

Mr. McKINNEY. Mr. Chairman, to continue with my thought, no reason was given to the paying public or, I might add, to those involved in the volunteer work of trying to keep the Connecticut Transportation Authority and others in operation as to why this increase was accepted or why it was not rejected. I just hope that we can get that clarified for the record, also.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, this applies to all orders and all decisions of the ICC, as I understand it, and it will be made public.

Mr. McKINNEY. Mr. Chairman, I thank the gentleman for his time and for his answers for the benefit of the record.

Mr. ROONEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SKUBITZ. Mr. Chairman, I understand that I only have 5 minutes left?

The CHAIRMAN. The gentleman is correct.

Mr. SKUBITZ. Mr. Chairman, I yield myself 2 minutes at this time.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. Skubitz).

Mr. SKUBITZ. Mr. Chairman, I will close by saying once again to the Members of the House that I think our committee has come out with a reasonably good bill. It is one, with the addition of a few amendments, which the President will probably sign.

It is going to be a bill that will call upon the conferees to hold the line and not accept a lot of additions. So I hope the Members of the House will restrain themselves and not try to put in amendments to take care of some particular little problem in their districts that is going to cost only $1 million here or only $25 million there.

As much as we in the committee would like to help in all cases, we are faced with the problem of going up against the Senate bill, which contains nearly $9 billion, as compared to our bill with $6 billion.

Mr. Chairman, again I want to express my appreciation to the chairman of the subcommittee, who all through the hearings and markup before the subcommittee was very cooperative and very fair.

Mr. ASHLEY. Mr. Chairman, I rise to express my regret that the bill before us, H.R. 10979, does not contain certain clarifications I have sought regarding protection for all employees displaced by the creation of the Consolidated Rail Corporation and the various conveyances of rail properties attendant on its formation.

My specific concern is directed toward the employees of Lakefront Dock, a coal and ore loading and unloading facility near Toledo, Ohio, which the U.S. Railway Association has slated for abandonment in the final system plan and transfer of its business to the nearby Presque Isle Dock. The Association, which apparently will play the central role in the implementation and management of ConRail, has repeatedly asserted that the workers affected by this coordination project, OH-3 in the final system plan, are not covered by the labor protective provisions of Public Law 93-236.

Title V of the Regional Rail Reorganization Act grants certain statutory job protection rights to employees of a "carrier which is controlled by (a) railroad in reorganization." It is my belief that all of the affected employees of Lakefront Dock fall into the protected category. The Lakefront Dock and Railroad Terminal Co., owned 50 percent by Penn

Central and 50 percent by B. & O., owns the land and facilities involved. Responsibility for loading and unloading operations resides with the Toledo Lakefront Dock Co., again owned 50 percent by B. & O., and 50 percent by the Pickands Mather Co., which functions solely as a management agent for Penn Central. The Dock Co. has been found repeatedly by the courts to be a carrier-employer subject to the Railway Labor Act. Employees of the Dock Co. are covered by railroad retirement, and furthermore both Penn Central and B. & O. are signatories to the labor contracts at Lakefront Dock.

Despite this relationship of the Lakefront employees to Penn Central, a railroad in reorganization, the USRA has repeatedly held that the employee protection provisions of title V do not apply to these specific workers, who face permanent loss of jobs through the transfer of their livelihood to Presque Isle, a loading and unloading facility leased by C. & O., a solvent carrier. In fact, the Chessie System, C. & O.'s parent, which proposed the consolidation project and which would stand to gain financially by acquisition of lakefront business and facilities, informed the Interstate Commerce Commission that its participation in this project was conditioned on the eligibility of affected employees for title V protection.

Let me repeat, Mr. Chairman, Penn Central, a railroad in reorganization, has 50 percent control of the properties, operations, and labor agreements at Lakefront Dock. The 187 employees whose jobs are threatened by the abandonment of this facility should therefore be clearly entitled to the coverage of title V of Public Law 93-236, the more so since one of the explicit goals set forth by Congress in passage of the Regional Rail Reorganization Act of 1973 is that the new ConRail be established with "minimization of job losses and associated increases in unemployment and community benefit costs in areas in the region presently served by rail service." I would also like to emphasize my conviction that if Chessie acquires business, facilities, or employees of the lakefront, any employees displaced as a result of the acquisition would also be covered by title V since Presque Isle employees would then be employees of an acquiring railroad within the meaning of section 501(1) of the act.

The legislative history of the Rail Reorganization Act makes it clear, Mr. Chairman, that Congress did not intend to add to the Nation's already swollen unemployment rolls through the restructuring of the Northeast and Midwest railroads. Great care was taken in drafting the language providing for job offers for displaced employees, where possible, and displacement allowances calculated on years of service for those for whom no jobs are available in ConRail or with solvent carriers. I believe that it is a matter of simple equity, as well as the clear intent of the law, that those employees of Lakefront Dock who are not offered work at Presque Isle be deemed fully entitled to the labor protective provisions of title V of the Regional Rail Reorganization Act. Any other interpretation of the statute would be completely inconsistent with the intent of Congress and would work a hardship on hundreds of families that can be avoided simply by the granting of title V benefits to such workers displaced by the final system plan.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 10979, the Railroad Revitalization and Reform Act and to urge its approval by the Members of the House. I wish to commend the gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) for the long and painstaking work that has gone on before this bill could be brought to the floor today. It is a complex bill but it has concise objectives—to restore the bankrupt Northeast rail lines into a network of strong competitive railroads. And in the process of doing so it gives the diverse segments of our economy that rely on the rails an economic shot in the arm.

Mr. Chairman, there are a number of provisions of this bill that are of special importance to my constituency in the eight-county area of northeastern Pennsylvania. The most important amendment in this bill is the provision written into section 917 modifying the subsidy formula for operation on light density branch lines scheduled for abandonment by ConRail.

The Rail Reorganization Act of 1973 provided that the local share would be 30 percent. Yet many States and localities have not had sufficient time or sufficient revenues to pick up these costs. The committee wisely recognized this and provided a 6-month 100-percent subsidy. This is important, yet I fear that it is an insufficient amount of time for many States, including my own, to keep these branch lines running. I would have preferred the committee include a 2-year 100-percent subsidy, as suggested in legislation I introduced earlier this year. I would hope that when the conferees meet to reconcile this bill with the Senate version, the members of that committee will agree to extend the 6-month subsidy to at least 1 year. Such an extension would not require additional authorization of funds because the U.S. Rail Association has already concluded that subsidized operations in the 17-State area will only cost $35 million per year; the additional 6-month subsidy will only cost an additional $17.5 million, for which these are ample funds in this bill.

Indeed the subsidy formula and its usage is going to spell success or failure for our efforts to complete the reorganization of the Northeast railroads with a minimum of economic difficulty. Of paramount importance to such efforts is another provision of this bill, section 917(b), included by the gentleman from Ohio (Mr. BROWN), which allows for a State sponsor to continue operations at rail shops and facilities for 1 year after conveyance to prevent the severe economic dislocations which will occur to communities whose facilities will not be acquired by ConRail.

This amendment applies directly to such a situation being faced by the borough of Sayre in my congressional district. For many years one of the largest employers in that community has been the Lehigh Valley Car Repair Shops, employing some 270 workers. This facility will not be acquired by ConRail despite personal appeals and what I believe to be convincing evidence that it could greatly assist ConRail's needs if left intact.

Nevertheless, this provision does provide another option for the future of the Sayre shops. It would allow subsidy money to be used by the State to maintain the facility for 1 year after conveyance while efforts continue to provide more permanent employment opportunities for the shop workers and their families. This provision should help prevent the random exporting of jobs from one locality to another than has become a byproduct of the final system plan. And it could soften the impact of the ConRail reorganization on a community like Sayre. I commend the foresight of the committee for including this provision in the bill.

One additional provision, section 1007, is of great importance to the coal-producing regions of Pennsylvania. This amendment allows the Department of Transportation to lease or purchase property for fossil fuel rail banking along any trackage recommended for disposition in the final system plan. This is a most meaningful provision affecting a number of branch lines in which an investment of funds could be rehabilitated and used to assist coal production. One of the great constraints to greater coal production in Pennsylvania is getting that coal to the processing plants and to market. The decline of the coal industry has gone hand in hand with the decline in rail service. This provision should stimulate the transportation needs of our coal producing areas.

Mr. Chairman, prompt action is needed for Congress to pass and the President to sign a bill that reorganizes the bankrupt northeastern carriers that gives shippers a chance to transport their goods to market, and ends the years of economic decline that have weakened our rail transportation links. Because this is the largest such corporate reorganization ever undertaken, there are numerous uncertainties accompanying the entire program. But the stakes are high and the Nation's economy cannot survive without a strong northeast rail system, where competition produces quality service. I am hopeful that what the Congress does today is to pass this bill and give the northeast railroads the opportunity to lead the way to new economic prosperity in this part of our country.

Mr. BURKE of Massachusetts. Mr. Chairman, I rise in reluctant support of H.R. 10979. I say reluctant because this measure's bad points almost—but not quite—outnumber its good ones.

The Railroad Revitalization and Regulatory Reform Act does perform some valuable services. We have been told by the U.S. Railway Association that the ConRail system will not work if we do not make some changes in the original Rail Reorganization Act. This bill makes those changes.

It also continues the support we provided on October 23, when we adopted H.R. 8672. That was a temporary measure to start a program of railbed rehabilitation which had been long overdue, and the bill we are considering today puts the rehabilitation effort on a more permanent footing.

I am happy to see that we are finally attempting to speed up the Interstate Commerce Commission's regulatory processes. We have all heard horror stories about how the ICC's delays in making decisions have resulted in chaos or bankruptcy or worse. If we allow this situation to continue, we are merely driving the first nail into a viable transportation system's coffin. A streamlined system needs streamlined regulation, and H.R. 10979 at least makes the ICC a little more aerodynamic.

My enthusiasm for these provisions, however, is tempered by my chagrin at several other provisions.

Let us look, for a moment, at the rail service continuation subsidies. We are being asked to endorse a program which will provide total Federal assistance for non-ConRail freight lines for only 6 months. Then our assistance to the States will phase out in 10- and 20-percent yearly increments. I submit that such a program will result in the virtual discontinuance of rail freight service over these lines.

We have been told by responsible legal authorities that when we put this subsidy program into operation, we are going to open a legal can of worms. Six months is not going to be a long enough time to resolve all the legal entanglements which the ConRail system will create. We here in Washington are responsible for this system, and we should be willing to shoulder the burden of paying for the operation of the excluded lines until the legal problems are ironed out.

So what happens in 6 months or 18 months, when the States are asked to assume part of the cost—and part of the responsibility—for running these lines. If I were a State legislator or a Governor, I know I would have serious reservations about throwing my State government into this morass. If the States do not support the program, then the excluded lines become nonfunctioning lines, and thousands of workers will be out of a job because their employers will be forced to either close up shop or move.

Enough has been said about the States' financial problems to fill several truckloads of books, so I will merely point out that continuation of a full subsidy would have a negligible effect on the Federal budget compared to the effect which noncontinuation would have on State treasuries.

While I applaud the Commerce Committee's efforts to aid the implementation of high-speed rail passenger service in the Washington-Boston corridor, I must admit that I am somewhat nonplussed at the amount authorized to pay for it. If we want to persuade the public to use the railroads—the most energy-efficient method of public transportation—we will have to help make rail travel as attractive as possible.

We cannot do this with $900 million. It just is not feasible to expect that amount to cover the cost of all the construction which will be necessary to correct decades of neglect. Bridges are weakening, signals are malfunctioning, ties are rotting, rolling stock is collapsing from old age and disrepair. We need a concerted effort to right all those old wrongs, and we should face the fact that it is going to cost a lot of money.

I have heard rumblings that the Northeast Corridor project is beneficial to only one region. This is partially true. The Northeast is, however, much more dependent on rail transportation than any other part of the country, both for freight and passengers. We have 25 percent of the Nation's population in 6 percent of the land area, and almost no navigable rivers. The short distances involved almost preclude economical use of air transport, particularly when we are concerned with portal-to-portal service. We cannot survive without efficient rail service.

But when we consider the regional aspects of the program, let us not forget such programs as the TVA, and the Bureau of Reclamation. While they are unquestionably beneficial, they are also unquestionably regional, so there is a definite precedent set for such assistance.

We are also being asked to place the management of the Northeast Corridor program in the hands of the Department of Transportation, an agency which has indicated time and time again its lack of eagerness to undertake such a program. There is, however, a creature of Congress which is exceptionally enthusiastic about the project's potential, and would give it the attention which it deserves—Amtrak. Amtrak is in the business of providing rail passenger service, so who could be more qualified to oversee this complex and intricate endeavor?

As I have stated, I have many qualms about putting this bill into effect. A measure which covers this much territory is bound to have difficulty satisfying everyone, as our energy and tax reform bills so clearly revealed. I do want to commend the committee for its diligence under obviously trying conditions, and thank my colleague from Malden, Mr. MACDONALD, for his efforts.

Mr. MURTHA. Mr. Chairman, in the many significant aspects of the Railroad Revitalization and Regulatory Reform Act, there is one section I believe is very important and should not be overlooked.

I want to congratulate the Interstate and Foreign Commerce Committee for adopting an amendment to create an emergency fossil fuel rail bank plan. This proposal will insure the upgrading and continuation of vital rail lines near coal deposits and insure the delivery of this energy source.

After all is said and done on the energy front, Mr. Speaker, I think it will be clear that we must rely on coal for our intermediate energy needs until alternate sources can be developed. To realize this full potential we must start now to develop programs that will insure enough miners to mine the coal, proper safety to protect the miners, and, with this provision, the means to move the coal to its destination.

The section gives the Secretary of Transportation—in consultation with the Secretaries of Interior and Commerce—the right to protect lines they deem vital to the national coal production, from the list recommended by the USRA in its final system plan. I believe this is a positive, logical and efficient step forward in our overall energy and rail plans.

It was my pleasure, Mr. Speaker, to be the first Member of Congress to sponsor such a proposal. I was further pleased to join with Congressman JOHN HEINZ in introducing the bill based on the final USRA recommendation. And I congratulate Transportation and Commerce Subcommittee Chairman FRED ROONEY for the outstanding job he has done in preparing this legislation, and thank him for his careful consideration of this section.

I believe the fossil fuel bank is a positive step, and I look forward to it being part of the final rail plan.

Mr. GILMAN. Mr. Chairman, I rise in support of the Railroad Revitalization and Regulatory Reform Act of 1975, which provides $6.4 billion to assist the bankrupt and ailing railroads—funding which is so vital to the rail industry and to the Nation's diverse systems of transportation. An unsafe, inefficient rail industry, coupled with deteriorated railway tracks, yards, and other rail facilities, is detrimental to our national interest and to our national defense.

Mr. Chairman, the Committee on Interstate and Foreign Commerce, in its report, succinctly pinpointed the issue, stating:

> The problems of the rail industry are so deep-rooted that to take any steps to create a viable rail system one had to move in a comprehensive manner, rather than a piecemeal approach which consisted of oversight hearings as well as hearings on particular pieces of legislation.

This measure accomplishes this mission. It is comprehensive in its approach and design, providing long-term financial assistance to rehabilitate, revitalize, and preserve a vital sector of our economy.

Along with many of my colleagues, I have been deeply involved and have supported the revitalization of the rail lines in the Northeast. Funds for this effort is essential in order to preserve an industry so vital to the needs of our Nation and so important to public service. The public demands and deserves a first-rate railway system.

Mr. Chairman, this bill goes a long way toward contributing to such a system. Railroads which will benefit from this proposal in my district are the Penn Central, Lehigh and Hudson River, and the Erie Lackawanna Railroads.

Accordingly, I enthusiastically urge my colleagues to support this measure.

Mr. ESCH. Mr. Chairman, I am very pleased to rise in support of the Michigan amendment to be offered by Mr. BRODHEAD. My staff and I have worked very closely with the officials in the State transportation department on this issue, and I am delighted to have this opportunity to express my strong support of their plans to continue rail service throughout the State of Michigan.

Michigan was particularly hard hit under the final system plan by the abandonment of more than 1,100 miles of track within the State. The State has put together a plan to retain service on most of this abandoned track. However, for their plan to be financially possible, the State feels that it must have the right to purchase some portions of profitable track as well as that which is being abandoned. The State feels that they can run the entire Ann Arbor Railroad on a nearly break-even basis. However, a short portion of the Ann Arbor is included in the final system plan for inclusion in ConRail. This portion of the track generates very heavy shipments and is deemed essential to the operation of the entire State system.

The amendment before us today provides a mechanism for the State to acquire that track. It provides an opportunity for the State to make a strong presentation to the USRA of the wisdom of its plan. I am convinced that this plan is essential to rail service in Michigan and that it would not significantly impair the profitability of ConRail. Its importance to Michigan is far greater than its importance to ConRail.

Rail service is essential to an industrial State such as Michigan and I believe this amendment makes adequate rail service possible. I urge its adoption.

Mr. ROUSH. Mr. Speaker, I strongly oppose the section of this bill which would commit the United States to make good any deficiency judgment that might be lodged against a solvent rail carrier which purchased any of the properties of the bankrupts designated to them by the U.S. Railway Association.

This provision has as its purpose protection of the Chessie System in its purchase of portions of several bankrupt carriers in the Mid-Atlantic Region including portions of the Reading and portions of the Erie-Lackawanna.

From the standpoint of my district, the decision of Chessie to purchase only the eastern portion of the Erie-Lackawanna and to ignore the western division of this railroad led to what has been, in fact, a flourishing mainline being analyzed by the U.S. Railway Association as a branch line and as such to not be included in either the Chessie System or ConRail.

The deficiency judgment protection being offered for Chessie essentially means that this particular carrier is being allowed to purchase those properties it desires at the price it wishes to pay. At the same time, it is guaranteeing that if the special court finds the price to be paid too low, the Federal Government will pay the additional money offered to the estates of the bankrupts.

I believe that this is neither good for rail competition nor good for the Federal treasury. The concept of rail reorganization contained in the Act of 1973 does not include bargain basement financing for the solvent carriers, and I do not believe that this act should contain those provisions either.

Mr. CONTE. Mr. Chairman, my amendment to H.R. 10979, the Rail Revitalization Act of 1975, would require the development of proposals for ConRail acquisition of certain profitmaking branch rail lines which are eligible for, but not included in the final system plan.

Under existing provisions of this bill, the Secretary of Transportation, the Interstate Commerce Commission, or the U.S. Railway Association, may if they wish, make such proposals if they first determine that restructuring of the ConRail system is necessary.

Once a proposal is made by these authorities, it would be reviewed and evaluated by the association and then face a public hearing and possible veto in special court proceedings.

The amendment I offer would make it mandatory for the Transportation Secretary to draft acquisition proposals by ConRail of those abandoned branch lines which have operated without subsidy and have shown a profit for 2 consecutive years.

This amendment would not, and I repeat, would not force acceptance of any acquisition proposal. It would merely require that such a proposal be initiated to insure that eligible, profitmaking branch lines receive fair and full consideration for entry into the ConRail system.

In addition, it would create a flexible mechanism by which this vital freight rail system can expand to meet the growing needs and demands of the Northeast and Midwest regions of our Nation.

I should point out, Mr. Chairman, that the U.S. Railway Association has recommended abandonment of approximately 5,700 miles of branch rail lines in New England.

This could mean a loss of up to 11,000 jobs in a region already suffering from severe unemployment. These figures could well mean economic disaster for many communities.

Mr. Chairman, my home State of Connecticut, alone, has 124,000 rail-related jobs. Certainly abandonment of these freight rail lines will not directly affect all rail workers, but we can be sure that those who can least afford it will be the hardest hit.

My amendment would at least create an incentive for abandoned lines to show a 2-year profit margin on their operations for possible inclusion in the ConRail system.

I want to stress again, though, that this amendment does not call for the automatic acquisition of successful rail lines, but only that such lines be considered for ConRail acquisition.

Mr. Chairman, already hard-pressed communities in Connecticut, New England, and across the country, should not be faced with the possibility of further economic burdens which would befall them should these lines fail.

The amendment before us now should serve as a vital element in the ultimate success of many of our branch rail lines.

I strongly urge my colleagues to join me in this effort. Thank you.

Mr. MURTHA. Mr. Chairman, I rise to support the provision to include more loan guarantees in the rail bill to stimulate the production of railroad coal cars.

It is obvious that planning to increase our coal production in this Nation to depend on less foreign oil, will do us no good if we do not have the coal cars to move the fuel.

Let us look at the figures surrounding this situation. The number of coal cars in service has declined from 400,000 in 1970 to 353,000 by 1974. Meanwhile, only 7,100 cars were delivered last year. At this rate it will take many years to restore the coal fleet of hopper cars to the 1970 level, let alone expand sufficiently to carry the volume expected in 1985.

The USRA's final system plan outlined expansion in coal production expected over the next 10 years. Based on their figures, a study has been made by Peat, Marwick, and Mitchell for the FEA which outlines the car growth that will be needed to carry to load. Hopper construction will have to be in the area of 9,000 to 14,000 cars per year for the period from 1975 through 1977, increasing to 17,000 to 27,000 for the years 1978 through 1985. Similarly construction of about 11,000 gondola cars per year will be required to handle the expanding demand during the 1975-85 period. Both figures allow for replacement of normal retirements.

Given the present construction rate, and the competition for the loan guarantees already allowed in the bill, I believe we have to make the coal car production a top priority.

Mr. DODD. Mr. Chairman, I will support and urge my colleagues to join me in supporting the important amendment which will be offered by the gentleman from Massachusetts (Mr. CONTE), to H.R. 10979.

As all of my colleagues well know, the cost of shipping freight by rail has increased dramatically in recent years, and this has been due principally to the increased operating costs which our Nation's railroads have realized during that period. The escalated rail rates have not occurred to the same degree nationwide, however, and this is principally due to the imperfect procedure used by the Interstate Commerce Commission in regulating rail rates. The unfortunate result of this dysfunctional aspect of ICC rate regulation is that rail rates in the Northeast are approximately 170 percent higher than those in the South. It is easy to see that this disparity in rates would effect an inequitable cost factor for industries in the Northeast which depend on rail freight, and which are in competition with their counterpart industries in other regions of the Nation where rail rates are less.

To illustrate this problem, it is useful to note that for September 1975, ex parte 313 rates the cost for corn shipped from Toledo, Ohio, to Augusta, Maine, by rail a total of nearly 900 miles, at $17.25 per ton. The rate for a similar shipment across Southern Freight Lines is $10.24. Thus, in this instance, we have a disparity of $7.28 per ton.

It is easy to understand the dilemma which rail-dependent industries in the Northeast must face in trying to compete with their competitors in other areas when these disproportionate rail rates are taken into account.

At this time I would like to submit the following table, which further illustrates this problem by graphic comparison of rail rates in the Northeast with those in the South, and demonstrates the widening disparity which is occurring. I would like to mention that these figures were provided to me by the New England Grain and Feed Council, and I would ask that this table be included in the RECORD:

COMPARISON RAIL RATES NEW ENGLAND AND SOUTH

	Ex Parte	Percent increase	From Toledo to Augusta, Maine, miles 890	From Toledo to Boston, Mass., miles 759	From St. Louis to Atlanta, Ga., miles 601	Difference relative to South	
						Augusta	Boston
1972	281	--------	$12.40	$10.30	$5.05	+$7.35	+$5.25
1973	295	3.0	12.80	10.60	5.20	7.60	5.40
1973	299	2.8	13.20	10.89	5.35	7.85	5.54
1974	303	4.0	13.70	11.32	5.56	8.14	5.76
1974	305(a)	3.3	14.20	11.69	5.74	8.46	5.95
1974	305(b)	10.0	15.60	12.86	6.31	9.29	6.55
1975	310	7.0	16.69	13.78	6.75	9.94	7.03
1975	313	5.0	17.52	14.46	7.09	10.43	7.37

Mr. Chairman, it is clearly in the interest of fair competition and the continued economic viability of rail dependent industries in the Northeast that we establish an equitable and comprehensive system for ICC rate regulation. The amendment to the Railroad Revitalization and Regulation Reform Act which is offered now by my distinguished colleague from Massachusetts would accomplish this objective.

This amendment provides an ICC rate setting procedure by which the Commission must consider allegations that the rate change will affect the competitive positions of shippers and consignees, in addition to considering allegations that rate changes would affect the relationship between commodities, ports, and regions. Thus, it would promote equity in the nationwide rate structure for rail freight.

Mr. Chairman, the Senate adopted a similar amendment when it was offered by the distinguished gentleman from Massachusetts (Mr. KENNEDY) by a decisive voice vote. It was included in the ratified form of the Rail Services Act of 1975, S. 2718, in Senate action on December 4.

I urge my colleagues to join me in supporting this most important amendment, and I am hopeful that it will receive the same favorable action by the House as its counterpart has in the Senate.

Mr. GRADISON. Mr. Chairman, more than a month ago, the most massive transportation reorganization in the history of this country was tacitly sanctioned by the Congress. Pursuant to the Regional Rail Reorganization Act of 1973, a new Government funded corporation called ConRail took over the operations of bankrupt railroads.

H.R. 10979, the Railroad Revitalization and Regulatory Reform Act of 1975 provides funds for ConRail and attempts to deal with the many problems facing the railroad industry today. The solutions presented, however, are expensive and shortsighted.

To begin with ConRail, little has been said about the financial assumptions behind the planning for ConRail. There appear to be serious shortcomings in the financial planning. These defects make it extremely unlikely that ConRail will ever be a viable, moneymaking operation.

The projected Government financial involvement in ConRail is truly amazing. Title 9 of H.R. 10979 foresees a total Federal investment of $2.1 billion in debentures and preferred stock on which the Government will not receive any interest until ConRail becomes a profitmaker. The $2.1 billion in Government investment is only the tip of a potentially huge financial iceberg.

Several independent analyses of the ConRail capital structure and financial outlook project an ever deepening Federal involvement. The Interstate Commerce Commission, in its critique of the final systems plan, found that the pro forma projections for the financial performance of ConRail done by the USRA were too optimistic. According to this evaluation, "the likelihood of ConRail's becoming a private enterprise company is minimal." The report went on to describe the debt and financial structure as "tantamount to nationalization." Our first brush with Government operation of railroad service—Amtrak—should serve as a convincing argument on the cost, waste and inefficiency of Government-run railroads. In addition, the national railways of Canada, Britain, France, Italy, Japan, and Germany all lose money.

The First National City Bank also estimates that ConRail is little more than a "defacto nationalization" of the Northeast freight system. Their estimates of the 10-year cost of ConRail range from $7 to $10 billion, with an additional $4 to $8 billion needed for acquisition of bankrupt rail properties.

The Princeton University transportation group found that there is considerably more risk of shortfalls in ConRail revenues, tonnage and operating efficiency improvements than there is potential for meeting or exceeding the USRA estimates. This study foresees a total Federal involvement of $6.49 billion, and this does not include such items as the $1 billion in improvement grants to all railroads or the $1.1 billion for improvements of passenger rail properties, principally in the Northeast corridor.

Another potential source of problems for the fledging ConRail system would be special court judgments increasing the valuation of rail properties and, consequently, the cost to ConRail of acquiring these properties. USRA valued all the rail properties to be transferred to ConRail at $422 million. Using valuation estimates other than net liquidation value, which was the method used by the USRA, estimates of the cost of the Penn Central's assets alone range from $7.5 billion to $14.8 billion. In any deficiency judgments initiated against ConRail, the U.S. taxpayer would ultimately be left holding the bag, as the Federal Government would be obligated, through ConRail, to pay these people whatever the court finally decides is a constitutional minimum value.

If the American people are eventually going to be saddled with the burden of a nationalized freight system, which seems to be where the bill leads, we should clearly state so. The ConRail provisions of H.R. 10979 amount to a back-door nationalization, and this is a very poor way to commit billions of tax dollars to such a project.

There are several other questionable uses of the taxpayer's money in this bill. In addition to the $2.1 billion in financing for ConRail, over $4.2 billion is provided for other rail-related purposes. One of the weak points of the bill is the financial assistance provided solvent railroads. The Secretary of Transportation has $1 billion at his disposal to distribute to all railroads—either through grants, loans or interest subsidies, or a combination thereof—for the improvement of rail facilities and services. In addition, the Secretary can guarantee any loan executed by a railroad for rail improvement expenditures up to a maximum of $2 billion. Giveaways like this, to profitable as well as financially marginal railroads, fly in the face of a great deal of pious talk on lower Federal spending.

The bill also does not attack the problem of efficiency in railroad operation. When one examines the figures on worker productivity for the Penn Central, it becomes abundantly clear that increased efficiency is badly needed to put ConRail on the road to financial self-sufficiency. For example, the average revenue per employee for all class I railroads in the United States is $28,200. Penn Central receives an average of $24,100 in revenues from each employee, which is a sizable difference.

In another provision of the bill, $900 million is authorized for improvements in passenger service along the Northeast Corridor. Aside from the size of the request, one questions both the equity of making all taxpayers pay for improvements in a small area of the country; and the wisdom of appropriating this much money in addition to the already sizable amount of funds used by Amtrak in the Northeast Corridor. Despite this already heavy investment, the Department of Transportation estimates that Amtrak lost money on operations in the corridor during 1974.

H.R. 10979 is another example of bills which have become all too frequent in Congress—giving something to everyone, and leaving the bill with the American taxpayer. The bill does not deal effectively with the problems which have driven railroads into reorganizations like this.

In its present form, H.R. 10979 constitutes a gross waste of taxpayers' dollars.

Mr. MOFFETT. Mr. Chairman, I am taking this opportunity to stand in support of the Railroad Revitalization and Regulatory Reform Act of 1975. This bill does, I believe, step in the direction of putting this Nation's railroads back into competition with other modes of transportation. My State of Connecticut, along with the rest of New England, has suffered from railroad bankruptcies. Freight service is essential to much of the industry within my district.

Realizing the need for rail service, Connecticut has provided first the New Haven Railroad and then Penn Central with forgiveness on rail property tax, gross receipts tax, plus free trackage and facility rights. To do this, Connecticut has absorbed a loss of $9 million per year. This forgiveness will be continued to ConRail.

With this in mind, I offered and had accepted by the Commerce Committee an amendment that would allow the Secretary of Transportation the discretion to allow States granting tax relief the opportunity to use this relief as an in-kind contribution toward its share of the rail service continuation subsidy. Thus for a State such as Connecticut, this would mean that in addition to granting the tax relief, the State would not have to pay their part of the subsidy. This I believe is a fair arrangement, especially in regard to the depressed condition of many States.

This country needs a viable fuel-efficient mode of transportation and the railroads answer this description. I see the Railroad Revitalization and Regulatory Reform Act as a sign that we are moving in the right direction.

Mr. JONES of Tennessee. Mr. Chairman, provision of adequate funding for ConRail is essential and I fully support the provisions of H.R. 10979 which are designed to accomplish that objective. Unfortunately, the Senate Committee elected to use the ConRail legislation as a vehicle to which to attach ill-conceived and poorly thought-out provisions for regulatory reform and the House Committee has done the same thing. The regulatory reform provisions of H.R. 10979, in my judgment, constitute irresponsible legislation and if we enact them in haste, we shall certainly repent them in leisure.

It has long been a fundamental economic tenet in this country that shippers are entitled to protection against the fixing of rates by private industry acting in concert. Where effective competition exists, the antitrust laws are designed to guarantee that rates will be fixed by the forces of competition. Where effective competition does not exist, provision has been made for the protection of the consumer by regulation. For the first time in its history, this Congress proposes to confer upon a private industry the right to agree on rates and to extract a monopoly price from the consumer.

Section 301(h) of this bill exempts from maximum price regulation any rates over which an individual carrier does not have market dominance and defines market dominance as a situation in which: First, there are not at least two competing rail carriers or a rail carrier and another form of transportation which compete for traffic in an area; or second, with respect to any single commodity if a single rail carrier does not have a monopoly. It would be a rare case indeed in which market dominance could be found to exist under this bill. But even in that situation, Section 302 (d) imposes an impossible burden on the shipper who would seek a suspension.

Under the umbrella of their 5a agreements, the railroads can discuss increases in rates with complete immunity from antitrust laws. The proposed amendment to section 5a of the Interstate Commerce Act set out in section 304 would provide no relief. It would prohibit railroads from agreement and voting on rates for movements in which they do not participate but they could participate fully in discussions of such rates and where there are competing routes between origin and destination, the "competing" railroads could even agree formally on what the rates should be.

Nor would the exception in favor of general increases help the shipper in any material way. If this bill is enacted, there is no need for the railroads ever to apply to the Commission for a general increase since they will have complete freedom to increase individual rates.

The situation where a single carrier has a monopoly is rare but there are many cases in which the railroad industry has a monopoly. Coal is a good example. Coal is captive traffic on which we depend for the generation of a large part of our electricity. Under this bill railroads could raise the rates on coal to a utility to any level they saw fit. The increases would be discussed in a 5a meeting and, while the railroads could not vote on increases in rates in which they did not participate, it should take no genius to understand that the rates would rise to whatever level the railroads desired and the consumer of electricity would pay for it in his electric bill.

The report speaks of title II—page 55—as designed to give railroads sufficient rate flexibility to compete for traffic with other modes of transportation. In fact, it gives them unbridled authority to fix rates.

The existing regulatory scheme undoubtedly needs reform and I would support greater ratemaking freedom for the railroads but if the railroads are to be given almost complete freedom to fix rates, they should be subjected to the antitrust laws. If the shipper is deprived of the protection of regulation, he should be given the protection afforded by the antitrust laws.

The market dominance concept has surfaced only in the last few weeks and the impact of the market dominance provisions has never been explored or, I believe, understood. These provisions should not hastily be enacted into law. We should enact the provisions necessary for the adequate funding of ConRail and defer action on regulatory reform until this concept has been fully considered.

Mr. TRAXLER. Mr. Chairman, I rise in commendation of the excellent work done by the conferees in their review of the bill, S. 2718, the Rail Revitalization and Regulatory Reform Act of 1975. This bill is an excellent proposal to maintain the viability of the Nation's railroads, and I am very hopeful of seeing it enacted as law.

I am particularly pleased that this legislation follows certain essential ideas manifested in H.R. 9586, a rail bill which I had introduced with several of my Democratic colleagues from Michigan. The bill will now provide an improved ability for the State of Michigan to operate an efficient rail system.

The subsidy program within this legislation has been improved in substantial ways. The bill now provides for a 5-year subsidy program starting out at 100 percent in the first year, 90 percent in the second, 80 percent in the third, and 70 percent in both years four and five. This is extremely similar to the top half of the subsidy program in H.R. 9586, and is in line with the amendment that Congressman BRODHEAD and I considered introducing during the full Interstate and Foreign Commerce Committee markup.

Each State shall also now be eligible to receive subsidy funds in relation to the level of discontinued service. This is a marked improvement over the original Rail Reorganization Act which distributed funds based on total rail mileage, without regard for the particular impacts of the discontinued service proposed by USRA in its final system plan. H.R. 9586 had initiated this method of subsidy distribution in the House, and I thank my colleague Congressman BRODHEAD for sponsoring this provision before the committee for me. We had originally intended to set a floor on the level of funds that any State might have been entitled to, and the House in its wisdom went along with the proposal.

I must honestly state, however, that I am distressed that the conferees accepted the position of the Senate—that is, there funds will all be distributed proportionally. The impact is that the discretionary fund is eliminated by the Senate position, and that States effectively have a ceiling imposed on the amount of subsidy that they can receive in any one year. Some States may have high cost subsidy programs. That is definitely the case in Michigan. It will now be distinctly possible that the State will not be able to receive the total amount of subsidy funds that should be right be attributed to the Federal Government. I am fearful that this may lead to harmful cuts in certain portions of the State rail plan. Our colleagues in the Senate may believe that it is better to guarantee the States higher levels of funds, but many of us here in the House have always believed that the rail legislation should be one which maximized State options, not put limits on them.

The legislation also includes provisions for States to petition USRA to redesignate lines which had been included in ConRail so that the States can more effectively implement their various rail plans and improve the quality of service. It is important to note that this is a limited review program. Such petition may be made up until the presentation of the final system plan to the special court, and USRA must approve it. We are not nor ever will be proposing a policy of controlled liquidation, as suggested by the administration through the Department of Transportation.

Of crucial interest to the State of Michigan is that both the record of the floor debate here in the House and the conference report indicate that according to a letter I have received from the Federal Railroad Administration all ferry service in the State is eligible for the full duration of the subsidy program, and not limited to the related facilities program of only 1 year. The service is crucial to Michigan, and I consider it essential that all interested parties are on record as indicating the long-term program. We now have a clear demonstration of legislative intent.

We are now at almost the end of a 2-year process to revitalize the rail system of the Northeast and Midwest. We have worked long and hard. We in Michigan have been well served by interest groups which have worked most diligently to advise all in the State of the need for rail service. Michigan Citizens To Save Rail Services has been one of the most influential groups involved in this process. They had met here in Washington with the entire delegation from Michigan, and with Congressman FRED ROONEY, the chairman of the Transportation and Commerce Subcommittee. He has remarked to me at great length what a well-informed group this has been, and has indicated that every State should have been so well represented. The Rail Advisory Committee within the State has also worked to make especially the State offices and officials aware of the crucialness of effective planning. By bringing together representatives of railroads, shippers and government, they demonstrate what type of cooperation is needed to get an effective solution.

I have had the opportunity to meet and speak with these groups, most notably Michigan Citizens in both September and November. I was most fortunate to share their expertise and consideration, and I publicly thank them for all the support they have given me in my efforts to preserve the rail system in Michigan and the region.

But, Mr. Chairman, as we all well know, no solution ever comes to us without its problems. While members of the House and Senate have provided us with the most comprehensive rail legislation of the century, news reports indicate that the legislation may be vetoed. DOT believes that it is not the right approach, and are advising the President to scrap the work of nearly a year in legislative review, and to start over again because they do not like it.

I have long been supportive of holding down the level of Federal expenditures. Upon review of the implications of the suggestion by the Department of Transportation that the President veto this bill, I am confident that we all will find the policy suggested by DOT most distressing. If we fail to enact this measure and allow for the orderly startup of ConRail, the Congress will be forced by an executive department's recommendation to continue the bankrupts at well over $1 million per day, or $366 million in 1976. We will be forced to spend this amount, equivalent to a 4-year subsidy program for the entire Nation under S. 2718 just to satisfy some officials at DOT. For some reason I thought Congress was the body that made the laws, not an executive department. I wonder if those at the Transportation Department advising the President to wrongly veto this bill would maintain their position if in a policy of fiscal restraint we subsidized the bankrupt railroads with the salaries of these individuals instead of making additional appropriations.

Mr. Chairman, I compliment the members of Mr. ROONEY's committee for an excellent piece of legislation, and hope that all my colleagues join me in support of the Rail Revitalization and Regulatory Reform Act of 1975.

Mr. ROONEY. Mr. Chairman, I have no further requests for time.

Mr. SKUBITZ. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Both sides having yielded back the balance of their time, all time has expired.

Pursuant to the rule, the Clerk will now read by title the committee amendment in the nature of a substitute reported in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 10979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Railroad Revitalization and Regulatory Reform Act of 1975":

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Sec. 804. Loan Guarantee for Rail Improvement and Service Account.

TITLE IX—REGIONAL RAIL REORGANIZATION ACT AMENDMENTS OF 1975

Sec. 901. Government Banking Committee.
Sec. 902. Association investment in the Consolidated Rail Corporation.
Sec. 903. Capitalization of Corporation.
Sec. 904. Certificates of value.
Sec. 905. Directors of the Corporation.
Sec. 906. Supplemental transactions and supplemental assistance.
Sec. 907. Transfers involving profitable railroads.
Sec. 908. Supplemental employee protection.
Sec. 909. Designations to National Railroad Passenger Corporation outside Northeast Corridor.
Sec. 910. Miscellaneous amendments to title II.
Sec. 911. Miscellaneous amendments to title III.
Sec. 912. Alternative designations to profitable railroads.
Sec. 913. Authorization of appropriations for administrative functions of association.
Sec. 914. Transfers to subsidiaries or affiliates of Corporation.
Sec. 915. Rail Services Planning Office.
Sec. 916. Assistance for commuter rail passenger service
Sec. 917. Rail service continuation subsidies.
Sec. 918. Audit by Comptroller General.
Sec. 919. Termination of powers and duties of the Interstate Commerce Commission under the Bankruptcy Act.
Sec. 920. Partial distribution by special court.
Sec. 921. Application of National Environmental Policy Act.

TITLE X—STUDIES AND REVISIONS; FOSSIL FUEL RAIL BANK; INVESTIGATION OF FREIGHT RATES FOR RECYCLABLES

Sec. 1001. Law revision.
Sec. 1002. Study of rate bureaus.
Sec. 1003. Study of railroad electrification.
Sec. 1004. Study of Federal aid to rail transportation.
Sec. 1005. Study of conglomerates.
Sec. 1006. Study of United States rail system.
Sec. 1007. Emergency fossil fuel rail bank.
Sec. 1008. Investigation of discriminatory

freight rates for the transportation of recycled materials.

TITLE I—GENERAL PROVISIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) a safe, viable, and efficient rail industry in the United States is essential to the national interest and to the national defense;

(2) the efficiency and the economic stability of the rail industry are impaired by the deteriorated condition of tracks, yards, and other rail facilities, and by the existence of excess rail facilities;

(3) a clear need exists to eliminate duplication, inefficiency, and deterioration of the rail plant and equipment of the Nation's railroads;

(4) procedures under the Interstate Commerce Act with respect to rates, abandonments, mergers, and consolidation and joint use of facilities have become obsolete and have often been an obstacle to the improvement of rail efficiency and to the development of a sound transportation system which meets the public needs;

(5) technological changes, public demand, and the development of new modes of transportation and communication have significantly affected the competitive ability and financial stability of the rail industry;

(6) funds for capital improvement in plant and equipment, right-of-way and track maintenance, control systems, yards, and grade crossings are difficult or impossible to obtain by some of the railroads operating the Nation's rail system;

(7) long term financial assistance must be made available to such railroads in order to rehabilitate and preserve a viable rail industry in the private sector of the economy.

PURPOSE

SEC. 102. The purpose of this Act is to provide for the restoration, maintenance, and rationalization of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

(1) to assist the railroads of the Nation in rehabilitating and rationalizing the rail system by 1980 in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to assist the State and local units of government in meeting the social and economic costs incurred in the rationalization of the rail system;

(5) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(6) to assist in the rehabilitation and financing of the rail system where the necessary capital cannot be obtained from private sources on a reasonable basis, or where the cost to a railroad of obtaining private capital exceeds the expected rate of return.

DEFINITIONS

SEC. 103. As used in this Act, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(4) "railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation;

(5) "Secretary" means the Secretary of Transportation; and

(6) "variable costs" means variable costs as defined by the Commission.

NONDISCRIMINATION

SEC. 104. (a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project, program, or activity funded in whole or in part with funds made available under this Act.

(b)(1) Whenever the Secretary determines that any person receiving financial assistance under this Act has failed to comply with subsection (a) of this section, or with any applicable Federal civil rights statute or regulation issued thereunder, the Secretary shall notify such person of such determination and shall direct such person to take such action as may be necessary to assure compliance with subsection (a).

(2) If, within a reasonable period of time after receiving notification pursuant to paragraph (1), such person fails or refuses to comply with subsection (a), the Secretary shall—

(A) provide no further financial assistance to such person under this Act;

(B) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(C) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(D) take such other actions as may be provided by law.

(c) Whenever a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section.

(e) Any determinations made or actions taken by the Secretary pursuant to this section shall be subject to judicial review.

(f) For purposes of this section, the term "financial assistance" includes loan guarantees made by the Secretary of the Treasury.

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—PROCEDURAL REFORM OF THE INTERSTATE COMMERCE COMMISSION

APPROPRIATIONS REQUEST

SEC. 201. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsection:

"(j) Whenever the Interstate Commerce Commission submits any budget estimate or request to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No officer or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by the Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.".

RATE BUREAU PROCEDURES

SEC. 202. Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended by adding at the end thereof the following new paragraph:

"(12) A railroad conference, bureau, committee, or other organization established or continued pursuant to any agreement approved under this section shall take final action upon any rule, rate, or charge docketed with it within 120 days after the date of docketing.".

UNIFORM COST AND REVENUE ACCOUNTING SYSTEM

SEC. 203. Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall, not later than June 30, 1977, issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all common carriers by railroad subject to this part. Such regulations and procedures shall become effective not later than January 1, 1978. Before promulgating such regulations and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, and their employees, and the general public.

"(b) In order to assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, information required in establishing fair and reasonable rates, and other regulatory areas of responsibility, the Commission shall identify and define the following items as they pertain to each facet of rail operations:

"(i) operating and nonoperating revenue accounts;

"(ii) direct cost accounts for determining fixed and variable costs for materials, labor, and overhead components of operating expenses and the assignment of such costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

"(iii) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of such costs to various functions, services, or activities.

"(c) The accounting system established pursuant to this paragraph shall be in accordance with generally accepted accounting principles uniformly applied to all common carriers by railroad subject to this part, and all reports shall include any disclosure considered appropriate under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. Other provisions of this section notwithstanding, the Commission should, to the extent possible, devise the system of accounts to be cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and to give due consideration to appropriate economic principles. The Commission should attempt, to the extent possible, to require that such data be reported or otherwise disclosed only for essential regulatory purposes, including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

"(d) In order that the accounting system established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such accounting system and revise it as necessary.

"(e) For purposes of carrying out the provisions of this paragraph, the Commission is authorized 2 additional systems accountant positions at GS–14 level and 2 additional systems accountant positions at the GS–13 level of the General Schedule under subchapter III of chapter 53 of title 5, United States Code.

"(f) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed $1,000,000, to be available for—

"(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

SECURITIES

SEC. 204. (a)(1) Paragraph (6) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6)) is amended to read as follows:

"(6) Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any interest in a railroad equipment trust. For purposes of this paragraph 'interest in a railroad equipment trust' means any interest in an equipment trust, lease, conditional sales contract, or other similar arrangement entered into, issued, assumed, guaranteed by, or for the benefit of, a common carrier to finance the acquisition of rolling stock, including motive power.".

(2) The second sentence of section 19(a) of such Act (15 U.S.C. 77s(a)) is amended by striking out "; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20".

(3) Section 214 of the Interstate Commerce Act (49 U.S.C. 314) is amended by striking out "That the exemption" and all that follows through "*And provided further*.".

(b) Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by striking out ", and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act" and all that follows in such subsection, and inserting in lieu thereof "(except that such rules and regulations of the Commission may be inconsistent with such regulations to the extent that the Commission determines that the public interest or the protection of investors so requires).".

(c) Paragraph (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(7)) is amended to read as follows:

"(7) Any company (A) which is subject to regulation under section 214 of the Interstate Commerce Act, except that this exception shall not apply to a company which the Commission finds and by order declares to be primarily engaged, directly or indirectly, in the business of investing, reinvesting, owning, holding, or trading in securities; or (B) whose entire outstanding stock is owned or controlled by a company excepted under clause (A) hereof, if the assets of the controlled company consist substantially of securities issued by companies which are subject to regulation under section 214 of the Interstate Commerce Act.".

(d)(1) The amendments made by subsection (a) of this section shall take effect on the sixtieth day after the date of enactment of this Act, but shall not apply to any security with respect to which a bona fide offering was made by the issuer or by or through an underwriter before such sixtieth day.

(2) The amendment made by subsection (c) of this section shall not apply to any report by any person with respect to a fiscal year of such person which began before the date of enactment of this Act.

(3) The amendment made by subsection (c) of this section shall take effect on the sixtieth day after the date of enactment of this Act.

PUBLIC REPRESENTATION AND PARTICIPATION

SEC. 205. (a) The Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by redesignating sections 25 through 27 as sections 26 through 28, respectively, and by inserting immediately after section 24 the following new section:

"OFFICE OF RAIL PUBLIC COUNSEL

"SEC. 25. (a) There shall be established within 60 days after the date of enactment of this section, a new Office in the Commission to be known as the Office of Rail Public Counsel. The Office of Rail Public Counsel shall function continuously pursuant to this section and other applicable Federal laws.

"(b) The Office of Rail Public Counsel shall be administered by a Director. The Director shall be appointed by a majority of the Commission. In considering any nomination of the Director of the Office of Rail Public Counsel, the Commission shall give consideration exclusively to the qualifications of the nominee. The Director shall be appointed for a term of 6 years and may be reappointed, and shall be responsible for the discharge of the functions and duties of the Office of Rail Public Counsel, unless removed for malfeasance by the Commission. The Director shall be appointed and compensated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, but at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title.

"(c) The Director of the Office of Rail Public Counsel shall coordinate the administrative functions of the Office with the Commission. The Director is authorized to appoint, fix the compensation, and assign the duties of employees of such Office subject to the provisions of title 5, United States Code, and to procure temporary and intermittent services to the same extent authorized under section 3109 of title 5, United States Code, but at a rate not to exceed $250 per day for qualified experts. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office of Rail Public Counsel with such information and data as it requests in writing. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties. The Director shall submit a monthly report on the activities of the Office of Rail Public Counsel to the Chairman of the Commission, and the Commission in its annual report to the Congress shall summarize, analyze, evaluate, and make recommendations with respect to such Office and its activities, accomplishments, and shortcomings.

"(d) In addition to any other duties and responsibilities prescribed by law, the Office of Rail Public Counsel of the Commission—

"(i) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves a common carrier by railroad subject to this part;

"(ii) is authorized to petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves a common carrier by railroad subject to this part;

"(iii) is authorized to seek judicial review of any Commission action on any matter involving a common carrier by railroad subject to this part, to the extent such review is authorized by law for any person and on the same basis; and

"(iv) shall solicit, study, evaluate, and present before the Commission, in any proceeding, formal or informal, the views of those communities and users of rail service affected by proceedings initiated by or pending before the Commission, whenever the Director determines, for whatever reason (such as size or location), such community or user of rail service might not otherwise be adequately represented before the Commission in the course of such proceedings.

"(e) The budget requests and budget estimates of the Office of Rail Public Counsel of the Commission shall be submitted without modification by the Commission directly to the Congress, and moneys appropriated for the use of such Office shall not be used by the Commission for any other purpose.

"(f) There are authorized to be appropriated to the Office of Rail Public Counsel for the purpose of carrying out the provisions of this section such sums as are necessary, not to exceed $2,000,000, for the fiscal year ending September 30, 1977.".

REFORM OF RULES OF PRACTICE BEFORE THE COMMISSION

SEC. 206. (a) Within 180 days after the date of enactment of this Act, the Commission shall study, develop, and submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives an initial proposal setting forth rules of practice under which the Commission proposes to conduct all adjudicatory and rulemaking proceedings with respect to any matter involving a common carrier by railroad subject to this part. Such rules of practice before the Commission shall be consistent with existing law, shall take into consideration the varying nature of proceedings before the Commission, and shall include—

(1) specific time limits imposed upon the filing and disposition of all complaints, petitions, pleading, motions, appeals, and rulemaking procedures before an administrative law judge, individual Commissioner, review board, division or panel of the Commission, or the full Commission;

(2) specific methods of taking testimony, receiving evidence, hearing cross-examination, and the modification of such procedures so as to facilitate the timely execution of the functions of the Commission;

(3) utilization of additional administrative law judges or the assignment of employees of the Rail Services Planning Office in complex adjudicatory or rulemaking procedures so as to facilitate proper focus and timely resolution of the issues within the required time limits; and

(4) specific remedies in any case of failure to observe required time limits.

(b) Within 210 days after the date of the enactment of this Act, the Administrative

Conference of the United States shall submit to the Congress and to the Commission its comments on the rules of practice before the Commission proposed pursuant to subsection (a), together with such recommendations as it may deem appropriate.

(c) Within 30 days after receipt of comments submitted by the Administrative Conference of the United States, the Commission shall consider such comments and shall submit to the Congress a final proposal setting forth the rules of practice before the Commission. Such rules of practice shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of the submission of such final proposal, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such final proposal. If no resolution is adopted as provided in the preceding sentence, the Commission shall adopt such proposed rules of practice. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

(d) If either the Senate or the House of Representatives passes a resolution of disapproval under subsection (c), the Commission shall develop a revised proposal setting forth the rules of practice before the Commission. Within 60 days after the date of such disapproval, each such revised proposal shall be submitted to the Congress by the Commission for review pursuant to subsection (c).

(e) The Commission shall periodically, but not less than once every 3 years, review the rules of practice adopted pursuant to subsection (c) and revise such rules as it considers necessary.

COMMISSION HEARING AND APPELLATE PROCEDURE

SEC. 207. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively, and by inserting immediately after paragraph (8) the following new paragraph:

"(9) (a) Whenever the Commission assigns the initial disposition of any matter before the Commission which involves a common carrier by railroad subject to this part to an administrative law judge, individual Commissioner, employee board, or division or panel of the Commission, such judge, Commissioner, board, division, or panel shall—

"(i) complete all proceedings with respect to such matter within 180 days after its assignment; and

"(ii) with respect to any matter so assigned which involves written submissions or the taking of testimony at a public hearing, submit in writing within 120 days after the completion of all proceedings an initial decision, report, or order containing—

"(A) specific findings of fact;

"(B) specific and separate conclusions of law;

"(C) a recommended order; and

"(D) any justification in support of such findings of fact, conclusions of law, or order. A copy of the initial decision, report, or order shall be served upon interested parties by the Commission within 5 days after such material is submitted to the Commission pursuant to this subdivision. Such initial decision, report, or order shall become the order of the Commission unless an appeal is filed with the Commission by a party to the proceedings within 30 days after such order is submitted to the Commission. If an appeal is filed, such appeal shall be considered and acted upon by the Commission or a duly designated division thereof within 180 days after the date on which such appeal is filed.

"(b) The duly designated division of the Commission shall reconsider each matter referred pursuant to subdivision (a) and shall make its decision, order, or requirement within 180 days after the date on which such matter is referred. The Commission shall not assign to the designated division any Commissioner who participated in the initial decision, report, or order which is being reconsidered. Review of an initial decision, report, or order of an administrative law judge, individual Commissioner, or employee board shall be considered in accordance with the provisions of section 557 of title 5, United States Code, and with such rules limiting and defining the issues and pleadings upon review as the Commission may adopt in accordance with section 557(b) of such title.

"(c) The mandate of the designated division shall take effect 30 days after the entry of the decision, order, or requirement unless—

"(i) such decision, order, or requirement, or any applicable rule adopted by the Commission, provides that such decision, order, or requirement shall become effective at an earlier date; or

"(ii) within such 30-day period, the entire Commission, upon application of an interested party and subject to such rules and limitations as the Commission may establish, decides, in its discretion, to review the matter and to stay the effective date of the decision, order, or requirement until the final disposition of such matter by the entire Commission.

The Commission may, in its discretion, determine to review the decision, order, or requirement of the duly designated division without staying the effects of such order, decision, or requirement. If the Commission reviews a decision, order, or requirement of the duly designated division, it must complete the review process and issue its final order not more than 120 days after the date it granted the application for review.

"(d) The Commission may, in its discretion, extend any time period set forth in subdivision (a), (b), or (c) for a period of not more than 90 days if a majority of the Commissioners, by public rollcall vote, agree to such extension. The Commission shall submit an annual report in writing to each House of the Congress setting forth each extension granted pursuant to this subdivision, classified by the type of proceeding involved, and stating the reasons for each such extension and the duration thereof.

"(e) In extraordinary situations in which an extension granted pursuant to subdivision (d) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

"(i) not less than 7 of the Commissioners, by public rollcall vote, agree to such further extension; and

"(ii) not less than 15 days prior to expiration of the extension granted pursuant to subdivision (d), the Commission reports in writing to the Congress that such further extension has been granted, together with—

"(A) a full explanation of the reasons for such further extension;

"(B) the anticipated duration of such further extension;

"(C) the issues involved in the matter before the Commission; and

"(D) the names of personnel of the Commission working on such matter.

"(f) The Commission may at any time upon its own motion—

"(i) reopen any proceeding;

"(ii) grant rehearing, reargument, or reconsideration with respect to any decision, order, or requirement; and

"(iii) reverse, modify, or change any decision, order, or requirement.

The Commission may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.

"(g) Notwithstanding the provisions of paragraphs (5), (6), (7), and (8), the foregoing provisions of this paragraph shall govern the disposition of any matter before the Commission which involves a common carrier by railroad subject to this part.".

ACCESS TO INFORMATION BY CONGRESSIONAL COMMITTEES

SEC. 208. Section 17 of the Interstate Commerce Act (49 U.S.C. 17), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(14) Whenever the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce of the Senate makes a written request for documents which are in the possession or under the control of the Commission and which relate to any matter involving a common carrier by railroad subject to this part, the Commission shall, within 10 days after the receipt of such request, submit such documents (of copies thereof) to such committee, or submit a report in writing to such committee stating the reason that such documents have not been so submitted, and the anticipated date on which they will be submitted. If the Commission transfers any document in its possession or under its control to any other agency or to any person, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission for purposes of complying with the preceding sentence. This paragraph shall not apply to documents which have been obtained by the Commission from persons subject to regulation by the Commission, and which contain trade secrets or commercial or financial information or a privileged or confidential nature. This paragraph shall not be deemed to restrict any other authority of either House of Congress or any committee or subcommittee thereof to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.".

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

SEC. 209. Section 1(2) of the Interstate Commerce Act (49 U.S.C. 1(12)) is amended by adding at the end thereof the following: "In applying the provisions of this paragraph (12), however, unit-train service and non-unit-train service shall be considered separate and distinct classes of service and a distinction shall be made between these two classes of service and between the cars used in each class of service; and questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any provision of sections 1, 2, and 3 of this Act, and of sections 1, 2, and 3 of the Elkins Act (49 U.S.C. 41, 42, and 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. As used in this paragraph, 'unit-train service' means the movement of a single shipment of coal of not less than 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one day and destined to one consignee, at one plant, at one destination, via one route.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to title II?

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Skubitz: Strike all of section 205, page 166, line 8 through page 169, line 19.

Mr. SKUBITZ. Mr. Chairman and Members of the Committee, this is a simple amendment. It strikes from the bill the creation of the Office of Public Counsel.

Mr. Chairman, the Interstate Commerce Commission is an arm of the Congress of the United States. It is an independent agency whose function is to protect the public interest.

It already has created, by regulation, an Office of Public Counsel that serves all modes of transportation. Why a separate public counsel for railroads?

We have worked hard and long trying to modernize the rules and update the procedures before the Interstate Commerce Commission in order to expedite cases and stop delay.

I cannot think of anything this body could do that would create more confusion, more chaos, more delay, more work, than failure to strike this proviso.

In effect, we would give this office the power to supervise and regulate the Interstate Commerce Commission.

It has been given authority to become a party before the ICC.

It can petition or force the Commission to institute a proceeding.

It is authorized to seek judicial review of any Commission action on any matter involving a railroad.

It can go out into the communities and institute proceedings for any reason relating to rail service.

Any person having a complaint—any reform organization—can go to the public counsel for relief and insist that he petition the Commission to hear a case at the public expense.

If the counsel does not like a particular decision he can seek judicial review at the public expense.

Imagine the public counsel petitioning the Commission to act on a case.

The Commission does so. It comes up with a decision not to the liking of the public counsel.

So, under H.R. 10979 as it is now written, the public counsel, at public expense, takes another branch of the Federal Government before the courts.

This could become a branch office of Common Cause, or any environmental group in the country.

The budget of the office does not pass through the ICC or the Office of Management and Budget, but comes directly to Congress.

Mr. Chairman, if this plan has any merit, hearings should be held. It should not have been slipped into this bill, as it was, by amendment.

Not a shred of evidence was presented in this committee, or subcommittee, for or against this kind of office.

Mr. Chairman, I urge adoption of this amendment.

There was not a shred of testimony offered by anybody asking for the creation of this; this came into our committee by amendment of one of the members.

Mr. Chairman, I urge the adoption of my amendment.

Mr. ROONEY. Mr. Chairman, I reluctantly rise in opposition to the amendment offered by the gentleman from Kansas (Mr. Skubitz).

I did not know that the amendment would be proposed by the gentleman from Kansas. This amendment will strike a section from the bill that eliminates from small communities the right of representation when its transportation service is adversely affected in its area, or to have representation if the ICC disagrees. I do not think that an ICC lawyer can disagree with the Commission.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. Of course, I yield to the gentleman from Kansas.

Mr. SKUBITZ. We have the Office of Public Counsel now that these people can go to. In addition, if we create this, then this new counsel can represent the group. If the Commission decides it does not want something and issues an order, the Public Counsel can take it up for judicial review.

Mr. ROONEY. I am aware of that but it is very difficult for me to believe that a client could have a lawyer that is being paid by his opponent, and in this case his opponent would be the ICC. As I say, in my opinion I do not see how an ICC lawyer can represent someone that disagrees with the ICC. It is that simple.

Again, Mr. Chairman, let me say that I rise in opposition to the amendment offered by the gentleman from Kansas (Mr. Skubitz) and urge my colleagues to vote against the amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment offered by the gentleman from Kansas (Mr. Skubitz).

Mr. Chairman, in deference to the gentleman from Kansas (Mr. Skubitz) I think it is clear that Congress has already in 1973 in the authorizing statute adopted the concept of the public counsel. In fact, the Office of Public Counsel has performed a yeoman's service in the case of the preliminary system and the final system plan. For many municipalities and many individuals in the United States the public voice thus was represented to the ultimate decision that resulted in the elimination of some railroads, the abandonment of certain lines and the incorporation of some lines.

The comment was made that the ICC has already adopted the public counsel concept. It seems to me that the truth is that we should statutorily enter it into railroad law.

It is true there has been an administrative decision by the ICC that this be incorporated into the Rail Service Planning Office.

I must say the concept is one that requires a certain degree of autonomy, and that is what this provision would put in the bill.

The fact of the matter is, Mr. Chairman, that ICC proceedings have of necessity to be adversary proceedings. In the past the counsel has acted as the public spokesman and as the judge and in this sense we have an abrogation of the public voice never truly being represented in an adversary fashion. Yet the ICC is required to serve in two capacities, one as the judge and one as the proponent of the public interest. The provision in the bill that the gentleman from Kansas seeks to strike out is to insure that there is a source of support for the public interest. The public counsel is that source of support.

Mr. Chairman, I would urge that that provision be retained in order to preserve and provide some integrity into the area of the appeal procedure that the ICC is required to do.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, first of all we already have the concept of the Public Counsel and anybody can go in and visit with them, not only the railroads but the waterways and the truckers, any of them can go in and discuss their problems that affect them. That was created. What I am objecting to is creating by statute a Public Counsel and giving that counsel the right to go in and inject himself into hearings, and if he is not satisfied with the decision that is handed down, then he can order them to take it up to the courts for judicial review. I object to the fact that the counsel can order the Commission to take up a case, or he can do it if they do not want to do it, he can force the Commission to do so.

Mr. FLORIO. In response to the gentleman's point, it seems to me that he is impaled upon the horns of a dilemma. If, in fact, he is enthusiastic about the establishment by administrative procedure of the Office of Public Counsel, which has been done, it seems to me that the enthusiasm for that move requires that he say that there is a need for adequate public representation. There can be no adequate public representation until the public representative is autonomous. Therefore, we are not duplicating—and certainly there are not going to be two Offices of Public Counsel—within the ICC. This provision will supersede the administrative difficulty, and what we will have will be a true representative who is autonomous and able to represent the public interest, independent of the ICC's determination.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr FLORIO. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Thirty-five years ago I taught high school debating. One of the main things I heard in those days was that one was impaled upon the horns of a dilemma. The trouble with the gentleman's dilemma is he does not have one horn.

The fact that there is a counsel there—and I have no objection to the counsel being there—is so that people can go in and talk to him about the problems that confront them. But I am objecting to giving this counsel as much authority as we are giving to the Commission itself, and placing the counsel even above the Commission.

Mr. FLORIO. I would merely say to the gentleman that I object to the point he is making that we would have the counsel for the purpose of consulting. That is not true representation. Consultation is merely the first step. Consultation ultimately may result in some advice if litigation is required, and public representation in a more active form is required if that would take place.

Under the administrative proposal that is in existence now, there would be no effective representation because the administrative-created representative would not be in a position to actively advocate the interests of the public.

Mr. SKUBITZ. Will the gentleman yield further?

Mr. FLORIO. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

If my amendment does not succeed, will the gentleman accept an amendment that we will appoint somebody else to look over the shoulder of the public counsel to see if he is doing his job, who is looking over the shoulder of the Commission?

Mr. FLORIO. That is called congressional oversight.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HASTINGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas. I will not restate the arguments that were presented by him, but I will just, perhaps, add to the argument.

No. 1, I think the public counsel did play a significant role in the reorganizational process. Certainly in my State of New York they did; but that role now has concluded. We have reorganized the railroads. My problem is in my State of New York the Department of Transportation strongly opposes a continuation of the Office of Public Counsel for the reason that the Department of Transportation of the State of New York is perfectly adequate to speak on behalf of the various municipalities and the members of the public in the State of New York. For that reason I would support the amendment and oppose the imposition of an Office of Public Counsel.

An additional consideration, Mr. Chairman, is that as we talk about a transportation policy in this country, hopefully, we can talk about all modes of transportation. But here we are, about ready to inject on the railroads of this Nation the Office of Public Counsel, when this office could not and would not apply to airlines, would not and could not apply to the trucking industry, and would not and could not apply to water carriers. Part of the basic problems that the railroads find themselves in is the fact that they have had to compete with other modes of transportation, sometimes at a serious disadvantage by the actions of this very Congress.

So the other argument I present to this committee is that since this Office of Public Counsel could only relate to the railroads, then I suggest that it is not an appropriate place for it.

I might add that the Office of Public Counsel, which has been formed in the ICC, does in fact and would have the authority to address itself to the problems of all modes of transportation. For those reasons, Mr. Chairman, I urge that the committee support the amendment offered by the gentleman from Kansas.

Mr. EVANS of Colorado. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to address my question to the chairman of the subcommittee, the gentleman who just spoke in response to the statement made by the gentleman from Kansas.

I notice on page 104 of the committee report a description is contained there of section 205 relating to the Office of Rail public counsel.

I notice the Commission is to establish the office within 60 days and the office is to be administered by a director who shall be appointed by the Commission and the term will be for 6 years and the director may be reappointed, unless removed for malfeasance.

I have two questions. I am tempted to support the amendment offered by the gentleman from Kansas because I am not sure we will get the independent individual that we think we will get when he is appointed by the Commission itself and he may not be reappointed if the Commission does not want to reappoint him. That is No. 1. I hope if I am wrong, I will be corrected.

No. 2, I am bothered that we do this here in this instance, while at the same time Congress is attempting to create a Consumer Protection Agency. Certainly if that becomes law it could intervene in the actions of all independent agencies. I wonder if the gentleman would care to respond.

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, with regard to the second point it seems clear with the Consumer Protection Agency, when it goes into effect, if it is signed by the President and becomes the law, under the McCloskey amendment there would be no duplication because that provides for consolidation of all consumer protection activities in all agencies in that agency.

Of course it is speculative whether it will go into operation, but I do not think there would be duplication.

With respect to independence, if we read the bill we will see the key to independence is the financing of any agency, and it is not clearly within the ICC. On financial responsibility there will be a certain amount of independence, but we do not want irresponsible independence. We must weigh both considerations.

Mr. EVANS of Colorado. I understand the gentleman does point to one item of independence and that is the requirement that the agency come directly here for financing and does not have to go through the Commission for financing.

It seems to me the only way to get an independent person in this position is to get a man who wants to serve just one term of 6 years and does not have to worry about his behavior pleasing the Commission. If the Director wants to be reappointed for another 6-year term he would have to please the Commissioners.

Mr. FLORIO. Hopefully the interests of both bodies, the Rail Public Counsel as well as the ICC would not be so unparallel that there would not be such a good-faith community of interest. It seems to me there should not be such a divergence of interest that they cannot work together. I think financial independence is sufficient to insure a sufficient degree of independence so as to provide independent performance in the office.

Mr. EVANS of Colorado. I would like to ask another question in addition to those I have already posed.

We have heard the gentleman from Kansas describe the powers that this Office of Counsel is going to have. Does the gentleman substantially agree with the description of the powers this Public Counsel will have?

Mr. FLORIO. The Public Counsel already has these powers. The ICC has adopted the concept of the Public Counsel and has administratively already appointed a Public Counsel.

Mr. EVANS of Colorado. Does the Public Counsel already have the power to disagree with the Commission and, if the Commission does not want to proceed, then to require the Commission to proceed?

Mr. FLORIO. Yes, sir. Under the rail system plan and in the plan there are numerous occasions where they protested decisions of the ICC.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, on that point I call this to the attention of the gentleman. Under this bill we would keep in mind there are several hundred cases always before the Commission. The Public Counsel at any time can ask the Commission to review any one of these 700 cases.

Mr. EVANS of Colorado. Does the Public Counsel now have that power?

Mr. SKUBITZ. No. No, he does not have that power at all. We do that by this bill where we say:

"(i) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves a common carrier by railroad subject to this part;

"(ii) is authorized to petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves a common carrier by railroad subject to this part;

"(iii) is authorized to seek judicial review of any Commission action on any matter involving a common carrier by railroad subject to this part, to the extent such review is authorized by law for any person and on the same basis; and

Mr. EVANS of Colorado. Mr. Chairman, if I may take back my time, I would ask the gentleman from Kansas if these powers he is now reading are new powers that the office does not now have?

Mr. SKUBITZ. These are new powers.

Mr. EVANS of Colorado. Is that the understanding of the gentleman from New Jersey?

Mr. FLORIO. Mr. Chairman, that is not correct. If I can take a minute just to indicate that now anyone has standing to apply before the ICC when there is a showing of interest, such as shippers. All this concept says is that the public has an interest in these decisions and, therefore, the representative of the public, the public counsel, should have standing. I do not regard that as something violative of the basic concept of due process.

Mr. EVANS of Colorado. Mr. Chairman, I do not want to belabor the point, but if we are looking for a strong independent officer, if he is going to be appointed by the Commissioner, he may thereafter be adversary. Under a 6-year term, I wonder what kind of officer they would get. I would suggest that rather than getting an independent officer they would choose one they could get along with.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SKUBITZ. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Kansas (Mr. SKUBITZ) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 224, not voting 23, as follows:

[Roll No. 801]

AYES—187

Abdnor
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bowen
Breaux
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Casey
Cederberg
Chappell
Clancy
Clausen,
Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Dent
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Fenwick
Findley
Flowers
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammer-schmidt
Hansen
Harsha
Hastings
Henderson
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hutchinson
Hyde
Jacobs
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead,
Calif.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
Nowak
O'Brien
Passman
Pettis
Poage
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rogers
Roncalio
Rousselot
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Nebr.
Snyder
Spence
Stanton,
J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wylie
Young, Alaska
Young, Fla.
Young, Ga.

NOES—224

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson,
Calif.
Andrews,
N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Diggs
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Esch
Evans, Ind.
Fary
Fascell
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Fraser
Giaimo
Ginn
Green
Gude
Hall
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Holtzman
Howard
Howe
Hughes
Hungate
Ichord
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
Krueger
Leggett
Lehman
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Nolan
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson,
Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Preyer
Price
Randall
Rangel
Reuss
Richmond
Riegle
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Smith, Iowa
Solarz
Spellman
Staggers
Stanton,
James V.
Stokes
Stuckey
Studds
Symington
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—23

Allen
Burke, Fla.
Daniels, N.J.
Dingell
Evins, Tenn.
Flynt
Ford, Mich.
Gaydos
Hanley
Hébert
Hinshaw
Macdonald
Neal
Patman, Tex.
Rees
Roybal
Runnels
Stark
Sullivan
Udall
Wiggins
Wilson, C. H.
Wydler

Messrs. MURPHY of New York and GINN changed their votes from "aye" to "no."

Messrs. CEDERBERG, DERWINSKI, EVANS of Colorado, NICHOLS, RHODES, BRECKINRIDGE, WINN, and SARASIN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, you have heard a number of speakers today from both sides of the aisle and they have spoken on this bill but now I rise to talk to you because I am the only expert on railroads. I will tell you why. For two summers, for two hot, long summers, I worked as a navvy on the Lehigh Valley Railroad. Let me tell you, I know railroads. And until you have laid 16-foot creosote ties on the Port Bowkley bridge across the Susquehanna River, when it is 103 degrees in the shade, with the creosote burning your nose, your hands and skin, then you do not know railroading.

In the hard coal fields in my area—Wilkes-Barre, northern part of Pennsylvania, this deals with the Northeast—a line in the center of the Northeast, we had more railroads coming into that area than any place else in the United States except Chicago. Hundreds of thousands of passengers were hauled for many years; but the largest shipping product was coal, hundreds of millions of tons.

Now we are engaged in a great debate over the future of coal. It is a problem. People say, "We have an energy crisis. Where is all that coal you are talking about, FLOOD? For 30 years you have been down there yelling about coal."

I said, "Fine. Will you go across the street and tell the Secretary of Transportation how I am going to get that coal out if we do not have railroads?" We cannot take hard coal out with carrier pigeons. They never thought about that.

We have many branch lines going into

the area. Let me tell the Members what happened. When anthracite coal fell upon its bad days—and it did—there took place in that part of Pennsylvania, northeast Pennsylvania, one of the greatest actions taken by people for themselves—Operation Bootstrap—in the history of this Nation. These people pulled themselves up by their own bootstraps, creating one of the greatest diversified manufacturing centers in the Nation.

Now, thanks to that effort and thanks be to God, and for the help from the Members here, the economy has been greatly restored and widely diversified, so that the demand for the railroads is as acute and as important to the economy as it was when they hauled nothing but coal. The acquisition of the branch lines by ConRail is to be commended; but, of those many which were not slated for inclusion, there remains many critical lines which need protection and coverage.

Cognizant of this critical problem, there was set up in northeastern Pennsylvania by all of the people and the leaders of the area a task force to work with the Railroad Association, and with the committees, to see what could be done. We did not get all we wanted and asked for or intended in this bill. But we got something. Regarding the necessity for local areas to finance the acquisition of branch lines as required by the law, unfortunately, the committee so far has a moratorium for only 6 months. We feel a minimum of 1 year is necessary and essential to the local communities to finance the acquisition of branch lines, not protected by ConRail.

We will go into that later, as we pursue our course in conference with the Senate, where their bill does include a 1-year, 100-percent subsidy.

But overall this is the kind of law that we wanted for years.

The first meetings were held in my office here before the bill became a written law. We sat day and night for 2 years with the leaders of the industry, my friend, the chairman, the gentleman from Pennsylvania (Mr. ROONEY), and the gentleman from Washington (Mr. ADAMS), and great work was done by these people to help. So we have done that, and the bill is here. I have my compliments for the committee. Much will come from this, and there will be much more.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Are there further amendments to title II?

Mr. ROONEY. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The remainder of the bill is as follows:

TITLE III—RAILROAD RATES

RAILROAD RATEMAKING

SEC. 301. (a) Paragraph (5) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(5)) is amended by inserting "(a)" immediately after "(5)" and by inserting at the end thereof the following new sentence: "The provisions of this subdivision shall not apply to common carriers by railroad subject to this part.".

(b) Paragraph (5) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(5)), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subdivisions:

"(b) As used hereafter in this paragraph, the term 'rate' means rate, fare, or charge, or any classification, regulation, or practice relating thereto.

"(c) Each rate for a service rendered or to be rendered in the transportation of passengers or property by a common carrier by railroad, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable rate is prohibited and declared to be unlawful. A rate that is compensatory may not be found to be unjust or unreasonable on the basis that it is too low.

"(d) In exercising its power to prescribe just and reasonable rates, the Commission shall give due consideration to the effect of rates on the movement of traffic by the common carrier by railroad for which the rates are prescribed, and to the need in the public interest of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of the service. The Commission may not hold the rate of a common carrier by railroad up to a particular level to protect the traffic of a carrier of another mode, if the rate proposed by the common carrier by railroad is compensatory. If the Commission, after notice and opportunity for a hearing, finds any rate to be noncompensatory and unlawful, it may order such rate to be increased but by only so much as will make such unlawful rate compensatory.

"(e) The rate of a common carrier by railroad is deemed to be compensatory when it equals or exceeds the variable cost to such carrier of providing the specific transportation to which the rate applies.

"(f) In any proceeding instituted upon complaint to determine the lawfulness of a rate, the Commission may not approve a proposed rate decrease by a common carrier by railroad which is below the variable cost to such carrier of providing the specific transportation to which the rate applies, and the Commission may not disallow a proposed rate increase by such a carrier where the increase does not raise the rate to a level exceeding by more than 10 per centum the variable cost to such carrier of providing the specific transportation.

"(g) Nothing in this section shall be construed to modify the application of section 2, 3, or 4 of this Act in determining the lawfulness of any rate or practice, or to make lawful any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is in the public interest.

"(h) Following the promulgation and review of the initial standards established pursuant to subdivision (i), no rate shall be found unjust or unreasonable on the ground that it is too high unless the Commission determines that the common carrier by railroad charging the rate has market dominance. As used in this paragraph, the term 'market dominance' refers to an absence of effective competition from other carriers or modes of competition. Market dominance shall be presumed in any situation in which (i) in any geographical market there are not at least 2 competing rail carriers or a rail carrier and an alternative mode of transportation both of which compete for the business in the area, or (ii) with respect to any single commodity or type of goods there is the observance of competition between the rail carriers for transport of that commodity, or where there is only one rail carrier, the absence of a competing mode which in fact provides transportation for that commodity in a reasonably effective and competitive fashion.

"(i) Within 240 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, the Commission shall establish, by rule, standards and procedures for determining whether and when a carrier possesses market dominance over a service rendered or to be rendered at a particular rate or rates. Such rules shall be designed to provide for a practical determination without administrative delay. The Commission shall solicit and consider the recommendations of the Secretary, of the Attorney General, and of the Federal Trade Commission in the course of establishing such rules.".

RATE ZONE FREEDOM

SEC. 302. (a) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended—

(1) by adding at the end of paragraph (7) thereof the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to this part."; and

(2) by redesignating paragraphs (8) through (14) as paragraphs (9) through (15), respectively, and by inserting immediately after paragraph (7) the following new paragraph:

"(8)(a) Whenever a schedule is filed with the Commission by a common carrier by railroad stating a new individual or joint rate, fare, or charge, or a new individual or joint classification, regulation, or practice affecting a rate, fare, or charge, the Commission may, upon the complaint of an interested party or upon its own motion, order a hearing concerning the lawfulness of such rate, fare, charge classification, regulation, or practice. The hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Such hearing shall be completed and a final decision rendered by the Commission not later than 7 months after such rate, fare, charge, classification, regulation, or practice was scheduled to become effective, unless, prior to the expiration of such 7-month period, the Commission reports in writing to the Congress that it is unable to render a decision within such period, together with a full explanation of the reason for the delay. If such a report is made to the Congress, the final decision shall be made not later than 10 months after the date of the filing of such schedule. If the final decision of the Commission is not made within the applicable time period, the rate, fare, charge, classification, regulation, or practice shall go into effect immediately at the expiration of such time period, or shall remain in effect if it has already become effective. Such rate, fare, charge, classification, regulation, or practice may be set aside thereafter by the Commission if, upon complaint of an interested party, the Commission finds it to be unlawful.

"(b) Pending a hearing pursuant to subdivision (a), the schedule may be suspended for 7 months beyond the time when it would otherwise go into effect, or for 10 months if the Commission files a report to Congress pursuant to subdivision (a), except under the following conditions:

"(i) in the case of a rate increase, a rate may not be suspended on the ground that it exceeds a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act; or

"(ii) in the case of a rate decrease, a rate may not be suspended on the ground that it is below a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act.

"(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b) (i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only to rate changes in which—

"(i) the rate increase or decrease is filed within 3 years of the date of the enactment of this subparagraph;

"(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subparagraph;

"(iii) the increase or decrease in any rate filed within the first calendar year following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1976;

"(iv) the increase or decrease in any rate filed in the second calendar year following such date of enactment is not greater than 7 per centum of the rate in effect on January 1, 1977; and

"(v) the increase or decrease in any rate filed in the third calendar year following such date of enactment is not greater than 7 per centum of the rate in effect on January 1, 1978.

"(d) The Commission may not suspend a rate under this paragraph unless, upon complaint of an interested party, the Commission determines that—

"(i) without suspension the proposed rate change will cause injury to the complainant;

"(ii) the complainant is likely to prevail on the merits; and

"(iii) suspension would further the national transportation policy.

The burden of proof shall be upon the complainant to establish the matters set forth in clauses (i) through (iii) of this subdivision. Nothing in this paragraph shall be construed as establishing a presumption that any rate increase or decrease in excess of the limits set forth in subdivision (c) is unlawful or should be suspended.

"(e) If a hearing of a proposed increased rate, fare, or charge is initiated and the schedule is not suspended pending hearing, the Commission shall require the common carrier by railroad to keep an account of all amounts received because of the increase from the date such rate, fare, or charge became effective until an order issues or until 7 months elapse, whichever first occurs, or, if the hearings are extended pursuant to subdivision (a), until an order issues or until 10 months elapse, whichever first occurs. The account shall specify by whom and in whose behalf the amounts are paid. In its final order, the Commission shall require the common carrier by railroad to refund to the person in whose behalf the amounts were paid that portion of such increased rate, fare, or charge found to be not justified, plus interest at a rate which is 1 per centum below the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. With respect to any proposed decreased rate, fare, or charge which is suspended, if the decrease or any part of it is ultimately found to be lawful, the common carrier by railroad may refund any part of the portion of such decreased rate, fare, or charge found justified if such carrier makes such a refund available on an equal basis to all shippers who participated in such rate, fare, or charge, according to the relative amounts of traffic moving at such rate, fare, or charge.

"(f) In any hearing under this section, the burden of proof is on the common carrier by railroad to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall give such hearing and decision preference over all other matters relating to railroads pending before the Commission and shall make its decision at the earliest practicable time.

"(g) Notwithstanding any other provision of this Act, the authority and responsibility of the Commission to guarantee the equalization of rates between ports shall remain intact.".

(b) The Secretary and the Commission shall separately study the effect of the amendments made by subsection (a) of this section on the development of an efficient railroad system. Such studies shall include an analysis of the effects of the provisions upon shippers and upon carriers of all modes of transportation and shall include proposals for further regulatory and legislative changes if necessary. The Commission shall gather all data relating to such studies as requested by the Secretary, and shall make such data available to the Secretary. The Secretary and the Commission shall transmit the results of their respective studies to each House of the Congress within 30 months after the date of the enactment of this Act.

RATE INCENTIVES FOR CAPITAL INVESTMENT

SEC. 303. Section 15 of the Interstate Commerce Act (49 U.S.C. 15), as amended by section 302 of this Act, is amended by redesignating paragraph (15) thereof as paragraph (16), and by inserting immediately after paragraph (14) the following new paragraph:

"(15) Notwithstanding any other provision of law, a common carrier by railroad subject to this part may file with the Commission a notice of intention to file a schedule stating a new rate, fare, charge, classification, regulation, or practice whenever the implementation of the proposed schedule would require a total capital investment of $1,000,000 or more, individually or collectively, by such carrier, or by a shipper, receiver, or agent thereof, or an interested third party. The filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such filing is based. Any interested person may request the Commission to investigate the schedule proposed to be filed, and upon such request the Commission shall hold a hearing with respect to such schedule. Such hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Unless prior to the 180-day period following the filing of the notice of intention the Commission has determined, after a hearing, that the proposed schedule, or any part thereof, would be unlawful, such carrier may file the schedule at any time thereafter to become effective after 30 days' notice. The schedule may not, for a period of 5 years after its effective date, be suspended or set aside as being unlawful under section 1, 2, 3, or 4 of this Act, except that the Commission may order such schedule to be revised to a compensatory level after such date if the rate stated therein is found to be not compensatory.".

JOINT AND SINGLE LINE RATES

SEC. 304. (a) Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively, and by inserting immediately after paragraph (6) the following new paragraph:

"(7) (a) The Commission may not approve under this section any agreement among railroad carriers which—

"(i) permits agreement with respect to, or any voting on, single-line rates, fares, classifications, allowances, or charges established by any railroad; or

"(ii) permits any carrier to participate in agreements with respect to, or to vote on, rates, fares, classifications, allowances, or charges relating to any particular joint line or interline traffic if such carrier cannot participate in such traffic.

As used in clause (i) of this subdivision, a single line rate, fare, classification, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

"(b) The limitations set forth in subdivision (a) shall not be applicable (i) to general rate increases or decreases, if the agreements accord the shipping public, under specified procedures, adequate notice of at least 15 days of such proposals and an opportunity to present representations thereon, in writing or otherwise, prior to the filing with the Commission of the tariffs containing such increases or decreases, or (ii) to broad tariff changes where such changes are of general application or substantially general application throughout a territory or territories within which such changes are to be applicable.".

(b) The Commission shall enter no order terminating or modifying its approval of any agreement by reason of the amendment made by subsection (a) of this section earlier than 6 months after the date of the enactment of this Act.

ADEQUATE REVENUE LEVELS

SEC. 305. (a) Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended—

(1) by adding at the end of paragraph (2) and at the end of paragraph (3) the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to the part."; and

(2) by redesignating paragraph (4) as paragraph (5), and by inserting immediately after paragraph (3) the following new paragraph:

"(4) With respect to common carriers by railroad subject to this part, the Commission shall, after notice and hearing, within 24 months after the enactment of this paragraph, develop, promulgate, and thereafter continually maintain reasonable standards and procedures for the determination and establishment of revenue levels adequate under honest, economical, and efficient management, to cover total operating expenses (including depreciation and obsolescence) and a fair, reasonable, and economic profit or return on total capital prudently employed in the transportation business of such carriers. Such standards and procedures shall be so developed as to afford an opportunity for the establishment of revenue levels that are sufficient to cover operating expenses, cost of debt, cost of equity capital, and effects of inflation or deflation (including the effects of inflation or deflation of the costs of equipment and facilities), and for the retention and attraction of capital in amounts adequate to provide a sound and efficient transportation system in the United States. In formulating such standards and procedures, the Commission shall consider, among other things, productivity factors and financially sound debt and equity ratios.".

DEMURRAGE CHARGES

SEC. 306. Paragraph (6) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(6)) is amended by inserting at the end thereof the following: "Demurrage charges shall be computed, and rules and regulations relating to such charges shall be established, in such a manner as to fulfill the national needs of freight car utilization and distribution and of maintenance of an adequate freight car supply available for transportation of property.".

CAR COMPENSATION

SEC. 307. (a) Paragraph (14) (a) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(14) (a)) is amended to read as follows:

"(14) (a) It is the intent of the Congress to encourage the purchase, acquisition, and efficient utilization of freight cars. In order to carry out such intent, the Commission may, upon complaint of an interested party or upon its own motion and after notice and opportunity for a hearing, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including the compensation to be paid for the use of any locomotive, freight car, or other vehicle, the other terms of any contract, agreement, or arrangement for the use of any locomotive, freight car, or other vehicle not owned by the carrier by which it is used (and whether or not owned by another carrier, shipper, or third party), and the penalties or other sanctions for nonobservance of such rules, regulations, or practices. The Commission shall, at least once every 2 years, determine the rates of compensation to be paid for the use of each type of freight car. In fixing such compensation, the Commission shall give consideration to the national level of ownership of each such type of freight car and to other factors affecting the adequacy of the national freight car supply. Such compensation shall be fixed on the basis of elements of ownership expense involved in owning and maintaining each such type of freight car, including a fair return on the value of such type of freight car, giving due consideration to current costs of capital, repairs, materials, parts, and labor Such compensation may be increased by such incentive element or elements of compensation as in the judgment of the Commission will provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. The Commission shall not make any incentive element applicable to any type of freight car if the Commission finds that the supply of such type of freight car is adequate. The Commission may exempt from the compensation to be paid by any group of carriers such incentive element or elements if the Commission finds such exemption to be in the national interest.".

(b) The Commission shall, within 18 months after the date of the enactment of this Act, revise the rules, regulations, and practices with respect to car service in accordance with the amendment made by subsection (a).

INTRASTATE RAILROAD RATE PROCEEDINGS

SEC. 308. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by striking out ": *Provided*, that" and all that follows through "notwithstanding" in paragraph (4) thereof, and by adding at the end thereof the following new paragraph:

"(5) The Commission shall have exclusive authority, upon application to it, to determine and prescribe intrastate rates if—

"(a) a carrier has filed with an appropriate administrative or regulatory body of a State a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing the rate, fare, or charge, for the purpose of adjusting the rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and

"(b) the State administrative or regulatory body has not acted finally within 120 days after the date of the filing of the change in the intrastate rates hereunder.

Notice of the application to the Commission shall be served on the appropriate State administrative or regulatory body. The Commission shall determine and prescribe the rate thereafter to be charged according to the standards set forth in paragraph (4) of this section. The provisions of this paragraph shall apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.".

CONTRACTS

SEC. 309. Paragraph (5½) of section 1 of the Interstate Commerce Act (49 U.S.C. 1 (5½)) is amended by inserting "(a)" immediately before "Nothing", and by adding at the end thereof the following new subdivision:

"(b) Nothing in this part shall be construed to prevent any common carrier by railroad subject to this part from entering into or operating under any contract with any freight forwarder subject to part IV of this Act governing the transportation of property moving on the bills of lading of such freight forwarder and the compensation to be paid for such transportation. It shall be the duty of the parties to any such contract to establish just, reasonable, and equitable terms, conditions, and compensations, and to file such contract with the Commission. The Commission may, after notice and opportunity for a hearing, prescribe just, reasonable, and equitable terms, conditions, and compensation to govern any such contract.".

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

SEC. 310. Paragraph (1) of section 12 of the Interstate Commerce Act (49 U.S.C. 12 (1)) is amended by inserting "(a)" immediately before "The Commission" and by adding at the end thereof the following new subdivision:

"(b) Whenever the Commission determines, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for hearing, that the application of any provision of this part to any person or class of persons or to any services or transactions by reason of the limited scope of such services or transactions is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall by order exempt such persons or class of persons or services or transactions from such provisions to the extent and for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it finds, after notice and reasonable opportunity for hearing, that the subjugation of the exempted person or class of persons or exempted services or transactions to the provisions of this part, to the extent specified in the order, is necessary to effectuate the national transportation policy declared in this Act and to achieve effective regulation by the Commission, and would serve a useful public purpose."

TITLE IV—ABANDONMENT

ABANDONMENT PROCEDURES

SEC. 401. (a) Paragraph (18) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended by inserting immediately after the first sentence thereof the following new sentence: "In determining whether public convenience and necessity permit an abandonment, the Commission shall give primary weight to the needs of those served by the line of railroad involved and the financial effect of the continued operation of the line upon the carrier by railroad seeking its abandonment.".

(b) Paragraph (20) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(20)) is amended by inserting immediately after the first sentence thereof the following: "If the issuance of the certificate may affect interests of railroad employees, the Commission shall impose a fair and equitable arrangement for the protection of such employees containing benefits no less than those established pursuant to section 5(2) (f) of this Act and section 405(b) of the Rail Passenger Service Act.".

TITLE V—MERGERS AND CONSOLIDATIONS

MODIFIED MERGER PROCEDURE

SEC. 501. (a) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) as paragraphs (4) through (17), respectively, and by inserting immediately after paragraph (2) the following new paragraph:

"(3) (a) If any merger, consolidation, coordination project, joint use of tracks or other facilities, or acquisition or sale of assets which involves any common carrier by railroad subject to this part is proposed by the Secretary or by a common carrier by railroad subject to this part during the period beginning January 1, 1976, and ending December 31, 1981, the party seeking authority may utilize the procedure set forth in this paragraph or paragraph (2).

"(b) Any transaction referred to in subdivision (a) may be proposed by—

"(i) the Secretary, with the consent of the common carriers by railroad subject to this part which are parties to the proposed transaction; or

"(ii) any common carrier by railroad subject to this part, but only if such carrier first submits such proposed transaction to the Secretary, for evaluation pursuant to subdivision (f), not less than 6 months prior to proposing such transaction pursuant to this paragraph.

"(c) Whenever a transaction is proposed under subdivision (a) utilizing the procedure set forth in this paragraph, the proposing party shall submit an application to the Commission with respect to such proposed transaction. Within 10 days after the receipt of such application, the Commission shall notify—

"(i) the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(ii) the Attorney General;

"(iii) the Secretary of Labor; and

"(iv) the Secretary (with respect to any such application not submitted by the Secretary).

The Commission shall accompany its notice to the Secretary with a request for the report of the Secretary pursuant to subdivision (f)(v).

"(d) The Commission shall hold a public hearing on each application submitted pursuant to subdivision (c) within 90 days after the receipt of such application. Such public hearing shall be held before a panel of the Commission, and such panel may utilize administrative law judges or the Rail Services Planning Office in such manner as such panel considers appropriate for the timely and effective resolution of the issues. The panel shall, in a manner it considers necessary for the expedition of the hearing, complete such hearing within 180 days after the commencement of such hearing, and render an initial decision and certify the record to the entire Commission for a final decision within 90 days after the termination of such hearing. The entire Commission shall allow oral argument on the matter so certified and shall render a final decision within 120 days after the receipt of the certified record and initial decision of the panel. The Commission may, in its discretion, extend any time period set forth in this subdivision, except that the aggregate of all such time periods shall in no case exceed 2 years.

"(e) In making its initial decision with respect to any transaction proposed under this paragraph, the panel of the Commission shall—

"(i) request the views of the Secretary

with respect to the effect of such proposed transaction on the National Transportation Policy;

"(ii) request the views of the Attorney General with respect to the competitive or anticompetitive effects of such proposed transaction; and

"(iii) request the views of the Secretary of Labor with respect to the effects of such proposed transactions on railroad employees, particularly as to whether such proposal contains adequate employee protection provisions.

"(f) Whenever a proposed transaction is submitted to the Secretary by a common carrier by railroad pursuant to subdivision (b) (ii), and whenever the Secretary develops a proposed transaction for submission to the Commission pursuant to subdivision (c), the Secretary shall—

"(i) publish the contents of such proposed transaction in the Federal Register in order to provide reasonable notice to interested parties of such proposed transaction;

"(ii) give notice to the Attorney General and to the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(iii) conduct an informal public hearing with respect to such proposed transaction and provide an opportunity for all interested parties to submit written comments;

"(iv) study each such proposed transaction with respect to—

"(A) the needs of rail transportation in the geographical area affected;

"(B) the effect on the retention and promotion of competition in the provision of rail and other transportation services in the geographical area affected;

"(C) the environmental impact of such proposed transaction and of alternative choices of action;

"(D) the effect on employment and the communities in the geographical areas affected;

"(E) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings on losses from other possible choices of action;

"(F) the rationalization of the rail system;

"(G) the impact on shippers, consumers, and railroad employees;

"(H) the effect on the geographical areas contiguous to the geographical areas affected by such proposed transaction; and

"(I) whether such proposed transaction will improve rail service; and

"(v) submit a report to the Commission setting forth the results of each study conducted pursuant to clause (iv). Such report shall be submitted to the Commission within 10 days after an application is submitted, pursuant to subdivision (c), with respect to the proposed transaction which is the subject of such study. The Commission shall give due weight and consideration to such report in making its determinations under this paragraph.

"(g) The Commission may—

"(i) approve a transaction proposed under this paragraph if the Commission determines that such proposed transaction is in the public interest; and

"(ii) modify any such proposed transaction, with the consent of the common carriers by railroad involved, if the Commission determines such modification is in the public interest.

"(h) As used in this paragraph, the term 'Secretary' means the Secretary of Transportation.".

MODIFICATION OF EXISTING MERGER PROCEDURE

SEC. 502. Section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)) is amended by adding at the end thereof the following new subdivision:

"(g) Within 90 days of the filing of an application under this paragraph, all applications which are inconsistent in whole or in part with the original application and all petitions for inclusion in the proposed transaction shall be filed with the Commission. The Commission shall not consider any such application or petition filed after such 90-day period, nor, following such period, shall it allow any substantial amendment of such application or petition or of the original application.".

EMPLOYEE PROTECTIVE ARRANGEMENTS

SEC. 503. Section 5(2) (f) of the Interstate Commerce Act (49 U.S.C. 5(2) (f)) is amended by inserting immediately before the last sentence thereof the following new sentence: "Such fair and equitable arrangement shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subdivision (f) and those established pursuant to section 405 of the Rail Passenger Service Act.".

TECHNICAL AMENDMENTS

SEC. 504. Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended—

(1) in paragraph (2) (a) thereof, by inserting "or paragraph (3)" immediately after "subdivision (b)";

(2) in paragraph (2) (f) thereof, by inserting immediately after "(2)" the following: "or paragraph (3)";

(3) in paragraph (5) thereof, as redesignated by this Act, by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)", and by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(4) in paragraph (8) thereof, as redesignated by this Act, by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)", and by striking out "(12)" and inserting in lieu thereof "(13)";

(5) in paragraph (10) thereof, as redesignated by this Act, by striking out "(7)" and inserting in lieu thereof "(8)";

(6) in paragraph (14) thereof, as redesignated by this Act, by striking out "(12)" and inserting in lieu thereof "(13)";

(7) in paragraph (16), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)"; and

(8) in paragraph (17), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

TITLE VI—PROVISIONS RELATING TO DISCRIMINATORY STATE TAX PRACTICES

DISCRIMINATORY STATE TAXATION

SEC. 601. Part I of the Interstate Commerce Act is amended by redesignating section 28, as redesignated by section 205 of this Act as section 29, and by inserting immediately after section 27 the following new section:

"DISCRIMINATORY STATE TAXATION

"SEC. 28. (1) Any of the following actions by any State, or subdivision or agency thereof, whether any such action be taken pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, is declared to constitute an unreasonable and unjust discrimination against, and an undue burden upon, interstate commerce and is forbidden and declared to be unlawful:

"(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described in paragraph (3)), for purposes of a property tax levied by any taxing district, of transportation property owned or used by a carrier by a railroad subject to this part at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other commercial and industrial property (located in the assessment jurisdiction to any State in which is included such taxing district and subject to a property tax levy) bears to the true market value of all such other commercial and industrial property.

"(b) The collection of any tax on the portion of such assessment so declared to be unlawful.

"(c) The collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the taxing district.

"(d) The imposition of any other tax which results in discriminatory treatment of a carrier by railroad subject to this part.

"(2) As used in this section—

"(a) The term 'transportation property' means transportation property, as defined in the regulations of the Commission, owned or used by a carrier by railroad subject to this part.

"(b) The term 'assessment jurisdiction' means a geographical area, such as a State, or a county, city, or township within a State, which is a unit for purposes of determining assessed value of property for ad valorem taxation.

"(c) The term 'commercial and industrial property' means property devoted to a commercial or industrial use, except that such term shall not include land used primarily for agricultural purposes or primarily for the purpose of growing timber.

"(d) The term 'all other property' means all property, real or personal, other than transporting property and land used primarily for agricultural purposes or primarily for the purpose of growing timber.

"(3) In the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study, conducted in accordance with statistical principles applicable to such studies, to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then it shall be unlawful (a) to assess such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property (located in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy) bears to the true market value of all such other property, or (b) to collect any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(4) Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other property process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any person from doing anything or performing any act declared by paragraph (1) to be unlawful, except that such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have. No relief shall be granted under this subsection unless the assessment percentage applied to transportation property exceeds by at least 5 per centum the assessment percentage applied to all other property in the assessment jurisdiction. The provisions of this section shall not become effective until 3 years after the date of its enactment.".

TRANSFER TAXES AND RECORDING FEES

SEC. 602. Section 206 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716) is amended by adding at the end thereof the following new subsection:

"(j) TRANSFER TAXES AND RECORDING FEES.—All transfers or conveyances of rail properties in accordance with designations made in the final system plan under subsection (c) of this section, or pursuant to a supplementary transaction under section 306 of this Act, shall be exempt from any tax, impost, or levy now or hereafter imposed by the United States, any commonwealth, territory, dependency, or possession thereof, or by any State or political subdivision thereof on such transfers or conveyances or on the recording of any deed, lien, encumbrance or other instrument evidencing, effectuating, or incident to such transfers or conveyances, whether imposed on the transferor or transferee. The transferors or transferees shall be entitled to record any such deed, lien, encumbrance, or other instrument and, consistent with the designations and applicable principles contained in the final system plan, to obtain the release or removal of any preexisting lien or encumbrance of record with respect to properties so transferred or conveyed upon the payment of any recording or clerical fees applied generally to compensate for the cost of the services performed."

TITLE VII—EMPLOYEE PROTECTION PROVISIONS

PROTECTIVE ARRANGEMENTS

SEC. 701. Fair and equitable arrangements shall be povided for the protection of the interests of employees which may be affected by actions taken pursuant to authorization or approvals obtained under the provisions of title VIII. Such arrangements shall be determined in the following manner:

(1) By the execution of an agreement between the representatives of the railroads and the representatives of their employees within 60 days following the effective date of title VIII.

(2) In the absence of such executed agreement, the Secretary of Labor shall prescribe the protective arrangements within 90 days of the effective date of title VIII.

CONTENTS OF ARRANGEMENTS

SEC. 702. Such arrangements shall relate to individual employees having an employment relationship with the particular railroad employer involved on the date a particular authorization or approval is first sought hereunder and shall include, without being limited to, such provisions as may be necessary (1) to provide for notice, negotiation, and execution of agreements providing for the manner in which the protective arrangements shall be applied, which agreements shall be executed prior to implementation of the authority or approval obtained under the provisions of title VIII: *Provided, however,* That where such agreements have not been reached within 30 days after the date on which such authorization or approval is obtained either party to the dispute may thereafter submit it for final and binding arbitration, the arbitration decision to be rendered within 30 days thereafter: *Provided further,* That the arbitration decision shall in no way modify the protection afforded in the protective arrangements established hereunder and shall be final and binding on the parties thereto and shall become a part of the agreement; (2) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe beenfits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees on the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise; (3) to provide for final and binding arbitration of any dispute with respect to the interpretation, application or enforcement of the provisions of the protective arrangements which cannot be settled by the parties; (4) to provide that an employee unable to secure employment by the exercise of his seniority rights as a result of actions taken pursuant to authorizations or approvals obtained hereunder shall be offered reassignment and where necessary retraining to fill a position comparable to that which he held at the time of such adverse effect, for which he is, or by training and retraining can become, physically and mentally qualified, not however in contravention of collective bargaining agreements relating thereto; and (5) to provide that the protection afforded pursuant to this section shall not be applicable solely as a result of the completion of any work financed by funds provided pursuant to the provisions of title VIII.

SUBCONTRACTING

SEC. 703. The arrangements to be negotiated by the parties or prescribed by the Secretary pursuant to sections 701 and 702 shall include provisions regulating subcontracting by the railroads of work financed pursuant to authorizations or approvals obtained under the provisions of title VIII.

TITLE VIII—ESTABLISHMENT OF RAIL TRANSPORTATION FUND

RAIL TRANSPORTATION FUND

SEC. 801. (a) The Secretary shall establish within the budget of the Department of Transportation a special fund to be known as the "Rail Transportation Fund" (hereinafter in this Act referred to as the "Fund"). The Fund shall have 3 separate accounts designated as follows: (1) the Improvement of Facilities and Services Account, (2) the Rail Passenger Service Account, and (3) the Loan Guarantee for Rail Improvement and Service Account.

(b) The total of any expenditures or guarantees made from the Fund in any fiscal year shall not exceed limitations specified in appropriations acts.

(c) The Secretary shall prepare and transmit to the Congress a business-type budget for the Fund in accordance with sections 102 and 103 of the Government Corporation Control Act (31 U.S.C. 847 and 848) and such budget shall be considered and enacted in accordance with section 104 of such Act (31 U.S.C. 849).

IMPROVEMENT OF FACILITIES AND SERVICES ACCOUNT

SEC. 802. (a) (1) There are authorized to be appropriated to the Improvement of Facilities and Services Account not more than $1,000,000,000. All funds appropriated pursuant to this authorization shall be available to the Secretary for making expenditures pursuant to subsections (b) and (c) of this section in a manner calculated to fully implement the goals of this Act before September 30, 1981. Funds so appropriated are authorized to remain available until expended, except that no funds shall be expended after September 30, 1981.

(2) Not to exceed $25,000,000 of the funds authorized under paragraph (1) shall be available to the Secretary for purposes of making grants pursuant to paragraph (3) of subsection (b).

(b) The funds appropriated pursuant to subsection (a) may be expended by the Secretary to assist any common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) which is classified by the Commission as a class I or class II common carrier and any switching and terminal company, for purposes of—

(1) constructing, rehabilitating, improving, or modernizing—

(A) track, roadbed, or related structures;

(B) electrical transmission systems and communication and power transmission systems;

(C) signal systems;

(D) terminal or yard facilities; or

(E) shop or other repair facilities;

(2) providing supplemental assistance and funding for supplemental transactions pursuant to section 906 of this Act; or

(3) developing an integrated computer system for train control and car scheduling within and among such class I and class II common carriers by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) by means of projects for—

(A) acquisition, construction, and installation of new freight car utilization and distribution computer systems compatible with an integrated national system;

(B) conversion of existing systems to promote national system compatibility; and

(C) modification or addition to existing systems to more adequately meet the requirements of an integrated national car utilization and distribution system.

(c) The Secretary can only expend funds on a project pursuant to paragraph (1) of subsection (b) of this section if the Secretary determines that—

(1) such project is in the public interest;

(2) such project is in furtherance of the goals of this Act and the National Transportation Policy; and

(3) financial assistance is necessary if the project is to be undertaken.

(d) Before the Secretary expends funds on projects pursuant to paragraph (1) of subsection (b) of this section, the Secretary shall develop criteria for the most effective utilization of the funds authorized for rail rehabilitation and the furtherance of the goals of this Act. The development of such criteria shall be accomplished in the following manner:

(1) Within 90 days after enactment of this Act, each common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) shall analyze its rail system and prepare and file with the Secretary and the Commission a full and complete schedule showing the traffic density on each of its main and branch rail lines for the preceding 5 calendar years, except that such requirement shall not be applicable to (A) the Consolidated Rail Corporation, established under section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741), or (B) any common carrier by railroad which is being reorganized under the provisions of such Act.

(2) Within 180 days after enactment of this Act, the Secretary shall develop and publish (A) preliminary standards for classifying both main and branch rail lines, in at least 3 categories, according to their degree of essentiality, based on their level of usage measured in gross ton-miles and probable economic viability, and (B) a preliminary designation, based on such classifications, of all main and branch lines of common carriers by railroad subject to I of the Interstate Commerce Act (49 U.S.C. 1 et seq.). In determining level of usage and probable economic viability for purposes of such classification, the Secretary shall take into account such operational, service, and other factors as appropriate, and may make reasonable allowance for differences in operation among individual common carriers by railroad or groups of such carriers.

(3) Within 30 days after the publication by the Secretary of the preliminary standards for classification and the preliminary designations under paragraph (2), the Rail Services Planning Office of the Commission shall hold public hearings in the District of Columbia and in other parts of the Nation with respect to such standards and designations. Notices of the dates, time, and places of such hearings shall be in a manner as to assure full and fair opportunity for all interested parties to be heard.

(4) Within 120 days after the publication by the Secretary of such standards and designations under paragraph (2), the Office shall

report to the Secretary its conclusions and recommendations with respect to such standards and designations. Such conclusions and recommendations shall be based on the record developed during such hearings as supplemented by such studies as may be undertaken by the Office.

(5) Within 60 days after the receipt of such conclusions and recommendations of the Office, the Secretary shall, after giving due consideration to such conclusions and recommendations, and with the cooperation and assistance of the Office, prepare and publish the final standards for main and branch rail line classification and the final designation of all main and branch lines according to such classifications. The Secretary shall include in such publication findings in support of each material change in the preliminary standards and designations published pursuant to paragraph (2).

(e) Any common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.), which is classified by the Commission as a class I or class II common carrier and any switching and terminal company may apply to the Secretary, in accordance with regulations promulgated by such Secretary, for financial assistance authorized pursuant to subsection (b). Each such application shall set forth—

(1) a description of the project proposed by the applicant, including the reasons for requesting financial assistance and the physical conditions of any rail properties involved in such project;

(2) the effects such project will have on implementing the goals of this Act;

(3) the recommendations of such applicant with respect to the most economical method of implementing such project;

(4) the estimated cost of labor and materials and the estimated completion time of such project, and the opinion of such applicant as to the priority to be accorded such portions of such project as are reasonably divisible;

(5) the type of funding necessary or desirable, together with a statement as to why the provision of such funding is in the public interest and why such funding is not obtainable by such applicant in the private market at a reasonable rate of interest;

(6) the expected rate of return of such project;

(7) with respect to applications filed subsequent to the publication, pursuant to paragraph (5) of subsection (d) of this section, of the final standards of rail line classifications and the final designation of rail lines, the classification of each main and branch rail line included in such project; and

(8) with respect to any application for a project for constructing, rehabilitating, improving, or modernizing the railroad facilities and equipment described in subparagraphs (A) through (E) of subsection (b) (1), whether the State in which such project is to be undertaken intends to contribute a portion of the cost of such project, pursuant to subsection (h).

(f) The Secretary shall act upon each application submitted under subsection (e) within 6 months of the submission of such application. The Secretary may approve any application upon a determination that the proposed project is technically feasible and further implements the goals of this Act. In considering such applications, the Secretary shall give first priority to applications for rehabilitation of the highest classification of main lines, as determined pursuant to subsection (d), unless the Secretary determines that there are compelling reasons for giving such priority to an application for rehabilitation of main lines which are not so classified. The Secretary shall promptly, after approval of an application, enter into a contract with the applicant carrier to provide financing in such amounts and at such times as is sufficient in the judgment of the Secretary to meet the total reasonable cost of the project as is approved in whole or in part. The Secretary shall include in each such contract terms and conditions sufficient in his judgment to assure that the financing is used by the carrier exclusively in the manner and for the purposes approved by the Secretary, and that the carrier is not diverting funds which would otherwise be available for railroad operations to nonrailroad operations.

(g) The financial assistance under this section may be in the form of:

(1) grants, either partial, total, or matching;

(2) direct loans made by the Secretary to the applicant in which the Secretary either defers or forgives all or a portion of the interest;

(3) the payment of all or part of the interest payments of an applicant with respect to an eligible project; or

(4) any combination of the above forms of financial assistance, or any combination of the above forms of financial assistance combined with a guaranteed loan pursuant to section 804 of this Act.

In the case of direct loans the Secretary shall take such security on the principal as he deems necessary to protect the interests of the United States.

(h)(1) Each State is encouraged to contribute a portion of the cost of any project approved by the Secretary which is to be undertaken in such State by a class I or class II common carrier or by a switching and terminal company to construct, rehabilitate, improve, or modernize railroad facilities and equipment described in subparagraphs (A) through (E) of subsection (b)(1).

(2) The State portion of the cost of such project may be derived, in such portions and in such manner as the State considers appropriate, from contributions from one or more of the following parties:

(A) the State government;

(B) local governments;

(C) class I or class II common carriers which operate rail service in such State;

(D) shippers of property over lines of railroad in such State; and

(E) other interested persons.

(3) Each such State is authorized to enter into agreements with the Secretary under which the State agrees to contribute, pursuant to this subsection, a portion of the cost of any such project.

RAIL PASSENGER SERVICE ACCOUNT

SEC. 803. (a)(1) There are authorized to be appropriated to the Rail Passenger Service Account not more than $1,100,000,000. Funds appropriated pursuant to this paragraph are authorized to remain available until expended.

(2) Of the funds authorized under paragraph (1), $200,000,000 shall be expended in areas and on projects other than the Northeast Corridor.

(b) All funds appropriated pursuant to subsection (a)(1) of this section shall be available to the Secretary for making expenditures for purposes of upgrading on an expeditious basis the rail passenger system along the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, and in other parts of the Nation, by—

(1) eliminating the deferred maintenance in the Northeast Corridor system and elsewhere in the Nation which has contributed to the deterioration of service reliability, thereby establishing both a smooth and reliable ride the length of the corridor and a sound basis for an adequate annual maintenance program;

(2) conversion to new commercial power sources and extension of electrification from New Haven, Connecticut, to Boston, Massachusetts;

(3) providing for significant improvements in the signaling and control system needed to improve the safety of passenger operations through the installation of a central traffic control system in New York, New York, Philadelphia, Pennsylvania, and Boston, Massachusetts;

(4) rehabilitating and upgrading the numerous deteriorated bridges in the Northeast Corridor;

(5) improving certain operational aspects of stations along the Northeast Corridor; and

(6) effecting other significant improvements to the service facilities of the Northeast Corridor system.

(c) The Secretary of Transportation is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe, to enter into agreements with, and to make payments to any railroad, including the National Railroad Passenger Corporation, or to any other person, including any Federal or State agency, to assist in financing improvements to railroad facilities and equipment described in subsection (d) which are necessary to permit, in accordance with standards of safety, speed, and comfort specified by the Secretary, the provision of improved intercity rail passenger service on the mainline passenger route between Boston, Massachusetts, and Washington, District of Columbia, by way of New London, Connecticut, and the Hell Gate Bridge, and on other passenger routes throughout the Nation.

(d) Activities eligible for financial assistance under this section are as follows:

(1) the improvement of railroad rights-of-way, including bridges, tunnels, and related structures;

(2) the improvement of signaling, control, and communications facilities;

(3) the extension and modernization of electrification systems, including the acquisition of land necessary for the installation or operation of such systems;

(4) the improvement of facilities and equipment used for maintenance and repair of intercity rail passenger facilities and equipment and rolling stock used for maintenance and repair;

(5) the improvement of stations essential to the operation of intercity rail passenger trains and station platforms and facilities providing access to such platforms for intercity rail passengers;

(6) the planning, designing, and engineering associated with each of the aforementioned activities; and

(7) the design and development of rolling stock suitable for use in intercity rail passenger service on rights-of-way improved under this Act.

(e)(1) In carrying out his duties under this section, the Secretary shall provide for the accomplishment of improvements to railroad facilities and equipment—

(A) in a manner compatible with the accomplishment in the future of additional improvements in service levels;

(B) by the most effective and efficient means and by the earliest practicable date, affording due regard to the impact of disruptions to intercity, commuter, and freight operations; and

(C) in a manner which will produce the maximum labor benefit in terms of hiring persons who are presently unemployed.

(2) Before entering into any agreement pursuant to subsection (c), the Secretary shall obtain assurances that railroad facilities and equipment improved with financial assistance provided pursuant to such agreement will be properly maintained.

(3) The Secretary shall take appropriate action to encourage the prompt and just settlement of any dispute with respect to the

use of railroad rights-of-way during the period in which improvements are made to such rights-of-way under this section.

LOAN GUARANTEE FOR RAIL IMPROVEMENT AND SERVICE ACCOUNT

SEC. 804. (a) The Secretary is authorized, on such terms and conditions as he may prescribe and with the approval of the Secretary of the Treasury, to guarantee any lender timely payment of principal and interest of securities, obligations, or loans, including refinancing thereof, issued for the purpose of financing acquisitions or improvements specified in subsection (d) of this section. The maturity date of any security, obligation, or loan, including all extensions and renewals thereof, shall not be later than 30 years from its day of issuance, nor be later than the end of the useful life of any asset to be financed by such security, obligation, or loan. The Secretary may prescribe and collect a reasonable annual guarantee fee and such additional fees as may be required in his judgment to cover expenses under the program authorized by this section.

(b) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States backed by the full faith and credit of the Government of the United States.

(c) Any guarantee made by the Secretary under this section shall not be terminated, canceled, or otherwise revoked and shall be conclusive evidence that such guarantee complies fully with the provisions of this section and of the approval and legality of the principal amount, interest rate, and other terms of the security, obligation, or loan. Any such guarantee shall be valid and incontestible in the hands of a holder of a guaranteed security, obligation, or loan except for fraud or material misrepresentation on the part of such holder.

(d) The loan guarantees authorized by subsection (a) of this section may be made for purposes of financing the acquisition, construction, maintenance, or development of the following facilities and equipment used in the rendering of rail transportation services:

(1) track, roadbed, and related structures subject to projected traffic usage of at least 5 million gross ton miles per mile of road per year;

(2) structures and similar improvements;

(3) electric power transmission systems and communication and power transmission systems;

(4) signals;

(5) terminal facility modernization and consolidation;

(6) new and rebuilt rolling stock, and trailers and containers for carriage on flatcars;

(7) tugs, carfloats, shoreside facilities, and related marine equipment used by or in connection with any common carrier by railroad;

(8) computer-based information or data systems; and

(9) abandoned lines where the potential purchaser of such lines is a State, local, or regional transportation authority, or a shipper or receiver of traffic over such lines.

(e) (1) Before making any guarantee pursuant to this section, the Secretary must consider whether the prospective lender is responsible and whether adequate provision will be made for servicing the obligation. The Secretary may not make a guarantee pursuant to this section unless the borrower has an equity interest in the asset to be financed, or in the case of a lease, a beneficial interest in such asset. The Secretary may not make a guarantee for purposes (1) through (4) of subsection (d) unless he determines that—

(A) the management of the railroad is actively pursuing necessary programs designed to upgrade and develop plant facilities and operations as necessary to fulfill its obligations as a common carrier;

(B) the prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that the borrower will be able to repay the loan within the time fixed and afford reasonable protection to the United States in the event of a default;

(C) the activity to be financed under the guarantee will enhance the efficiency of rail operations;

(D) credit is not otherwise available to the prospective borrower on reasonable terms;

(E) the interest rate on the obligation to be guaranteed is a reasonable rate, taking into consideration the range of interest rates prevailing in the private market for similar obligations and the risk assumed by the United States; and

(F) a fair and equitable arrangement containing benefits no less than those required by and established pursuant to section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)) has been provided for the protection of the interests of railroad employees who may be affected by the activity financed.

(2) The Secretary may not make a guarantee for the purpose of improving track or terminal facilities unless he also finds that the proposed improvements will contribute to the establishment of a rational, efficient, and economical national rail transportation system.

(3) The Secretary may not make a guarantee—

(A) for the purpose of the acquisition or rebuilding of rolling stock or trailers and containers for carriage on flatcars unless the Secretary determines that—

(i) the acquisition or rebuilding is justified by the present and future need for rolling stock; and

(ii) the probable value of the rolling stock or trailers and containers for carriage on flatcars will provide reasonable protection to the United States in the event of a default; and

(B) for the purpose of the acquisition of an information or data system unless the Secretary determines that the proposed acquisition of the information or data system is consistent with the purposes of section 803(b)(3) of this Act.

(4) In making a guarantee for any of the purposes specified in subsection (d), the Secretary shall also give consideration to the return on investment of the improvement for which a guarantee is sought, the potential for intermodal connections and substitutions and for improved utilization of freight cars, the relationship of the proposed improvement to other improvement plans of the borrower, the contribution of the improvement to improved rail transportation service both for passengers and for shippers, and the contribution of the improvement to the efficiency of the borrower.

(f) The Secretary may prescribe such rules and regulations as may be necessary for the administration of this section.

(g) In order to reduce the cost of borrowing under this section and to assure that the borrowings are financed in a manner least disruptive of private financial markets and institutions, the Secretary may enter into agreements with the Federal Financing Bank under which the Federal Financing Bank may purchase obligations issued by the borrower and guaranteed by the Secretary.

(h) The Loan Guarantee for Rail Improvement and Service Account shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of this section. The total of any guarantees made from such fund in any fiscal year shall not exceed limitations specified in appropriations acts.

(i) (1) There are authorized to be appropriated to the Loan Guarantee for Rail Improvement and Service Account from time to time such amounts as may be necessary to provide capital for such account. All amounts received by the Secretary as payments or fees, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section shall be deposited in the Fund.

(2) All guarantees, expenses, and payments pursuant to operations of the Secretary under this section shall be paid from such Account. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from such Account into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations available as capital to such Account, less the average undisbursed cash balance in such Account during the year. The rate of such interest shall be determined by the Secretary of the Treasury, except that such rate shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of loans guaranteed from the Fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in such Account exceed the present and any reasonably prospective future requirements of the Fund, such excess may be transferred to the general fund of the Treasury.

(j) If at any time the moneys available in the Loan Guarantee for Rail Improvement and Service Account are insufficient to enable the Secretary to discharge his responsibilities under guarantees under this section, he shall issue to the Secretary of the Treasury, in such amounts as are provided in appropriation acts, notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under subsection (i) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection, and for purposes of making such purchase the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued after the date of the enactment of this Act under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(k) The aggregate unpaid principal amount of securities, obligations, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $2,000,000,000.

(l) The Secretary may not, pursuant to this section, guarantee any security, obligation, or loan, if the income from such security, obligation, or loan is excluded from gross income for the purposes of chapter I of the Internal Revenue Code of 1954.

(m) For purposes of this section, the term "rolling stock" means new or rebuilt standard gauge railroad freight cars, including refrigerator cars and cabooses, suitable for use by more than one railroad in normal interchange under the interchange rule of the Association of American Railroads, and standard gauge railroad locomotives.

TITLE IX—REGIONAL RAIL REORGANIZATION ACT AMENDMENTS OF 1975

GOVERNMENT BANKING COMMITTEE

SEC. 901. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by redesignating subsections (i) and (j) thereof as subsections (j) and (k), respectively, and by adding immediately after subsection (h) thereof the following new subsection:

"(i) GOVERNMENT BANKING COMMITTEE.—The Board of Directors of the Association shall have a Government Banking Committee which shall consist of the Chairman of the Board, the Secretary, and the Secretary of the Treasury (or their duly authorized representatives). The Government Banking Committee shall be vested with the exclusive decisional power to—

"(1) exercise or decline to exercise, as provided in this title, the rights of the Association as holder of any securities of the Corporation issued to the Association under section 216 of this title;

"(2) make the affirmative findings and exercise any exclusive powers, as expressly provided in section 216 (b) of this title; and

"(3) exercise the authority expressly conferred on it under section 216(d) (2) of this title.

The vesting of such exclusive decisional powers in the Government Banking Committee shall not be deemed to relieve the Board of Directors of the Association of any obligation to exercise all other decisional powers conferred on it under this Act, and the power to perform analyses and make advisory findings on any matter relevant to the role of the Association as an investor in the securities of the Corporation."

ASSOCIATION INVESTMENT IN THE CONSOLIDATED RAIL CORPORATION

SEC. 902. (a) Paragraph (2) of section 202 (a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all rights, privileges, and powers of a holder of any such securities; and issue certificates of value under section 305 of this Act;"

(b) Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720 (b)) is amended to read as follows:

"(b) The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed $500,000,000. After the date on which the Association first makes a purchase of securities of the Corporation under section 216 of this title, no additional obligations or proceeds thereof shall be issued or made available to the Corporation.".

(c) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711 et seq.) is amended by adding at the end thereof the following new section:

"PURCHASE OF DEBENTURES AND SERIES A PREFERRED STOCK

"SEC. 216. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to $1,000,000,000 principal amount of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to $1,100,000,000 principal amount of the series A preferred stock of the Corporation.

"(b) PURPOSES AND PROCEDURE FOR INVESTMENT.—(1) The Association shall purchase debentures and thereafter series A preferred stock of the Corporation, in accordance with terms and conditions governing such purchases which shall be prescribed by the Board of Directors of the Association, at such times and in such amounts as may be required and requested by the Corporation to provide (A) for the modernization, rehabilitation, and maintenance of rail properties acquired by the Corporation under this Act, (B) for the acquisition of equipment and other capital needs, (C) for the refinancing of indebtedness incurred by the Corporation under section 211 of this title, or incurred under section 215 of this title and assumed by the Corporation, or (D) for working capital as contemplated by the final system plan.

"(2) Purchases of up to $1,000,000,000 of debentures and thereafter of up to $1,100,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation unless the Government Banking Committee makes an affirmative finding that (A) the Corporation has failed in any material respect to comply with any covenants or undertakings made to the Association and such failure remains uncorrected, (B) the Corporation has failed substantially (as determined by performance within margins jointly prescribed by the Board of Directors of the Association and the Government Banking Committee) to attain the overall operating and financial results projected in the final system plan, as they may be modified by the Board of Directors, or (C) taking into consideration all relevant factors, including its overall operating and financial results, it is not reasonably likely that the Corporation will be able to become financially self-sustaining without requiring Government funds substantially in excess of the amount authorized in this section.

"(3) If the Government Banking Committee makes the affirmative finding referred to in paragraph (2), the Government Banking Committee may (A) direct the Association not to purchase debentures and series A preferred stock of the Corporation, or (B) notwithstanding the provisions of subsection (d)(1) of this section, approve the purchase of debentures and series A preferred stock of the Corporation by the Association after the date of such affirmative finding, but only in such amounts, at such times, and on such terms and conditions as the Government Banking Committee determines to be consistent with the Association's role as an investor in the debentures and series A preferred stock of the Corporation.

"(c) TERMS AND CONDITIONS.—The debentures and the series A preferred stock shall have such terms and conditions (not inconsistent with the final system plan or title IX of the Railroad Revitalization and Regulatory Reform Act of 1975) as may be prescribed by the Board of Directors of the Association, except that—

"(1) the Corporation shall not be required to issue to the Association additional shares of series A preferred stock as a dividend on any such stock;

"(2) the dividends payable on series A preferred stock shall not be cumulative and shall be paid only from 'cash available for restricted cash payments' as that term is defined in the final system plan;

"(3) in no event shall the total repayment, plus accumulation, exceed $4,200,000,000; and

"(4) any terms and conditions which prescribe covenants or undertakings referred to in paragraph (2) of subsection (b) shall be jointly prescribed by such Board of Directors and the Government Banking Committee.

"(d) MODIFICATIONS AND WAIVERS.—(1) The Association's Board of Directors and the Government Banking Committee, acting jointly, may agree with the Corporation to modify any of the terms and conditions governing the purchase of the Corporation's securities held by the Association upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan or title IX of the Railroad Revitalization and Regulatory Reform Act of 1975. The Association's Board of Directors and the Government Banking Committee may jointly agree with the Corporation to modify any terms and conditions of the Corporation's securities which prescribe covenants or undertakings referred to in paragraph (2) of subsection (b), and the Association's Board of Directors may agree with the Corporation to modify any other terms and conditions of the Corporation's securities in a manner not inconsistent with the final system plan or this title.

"(2) The Government Banking Committee may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of the Act or the goals of the final system plan or title IX of the Railroad Revitalization and Regulatory Reform Act of 1975, waive compliance with any term, condition, provision or covenant of the Corporation's securities held by the Association, including without limitation any provision of such securities with respect to payment or redemption of principal or issuance price or payment of interest or dividend, or with any term or condition governing the purchase of such securities.

"(e) APPROPRIATION.—There is authorized to be appropriated to the Association the sum of $2,100,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

(d) Section 202(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(e)) is amended by inserting immediately after "obligations issued" in paragraph (4) the following: ", certificates of value issued, securities purchased,".

(e) Section 202(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(f)) is amended by inserting immediately after "section" in the first sentence the following: "and receipts and disbursements under section 216 of this title and section 305 of this Act".

CAPITALIZATION OF CORPORATION

SEC. 903. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out the first 2 sentences of subsection (e) thereof and inserting in lieu thereof the following: "In order to carry out the final system plan, the Corporation is authorized to issue debentures, series A preferred stock, series B preferred stock, common stock, and other securities. Debentures and series A preferred stock shall be issued initially to the Association pursuant to section 216 of this Act. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, or controlled by railroads in reorganization in the region, and to other transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. All securities of the Corporation issued to the Association as the initial holder of such securities, or issued in connection with the transfer to the Corporation or any subsidiary or affiliate thereof of rail properties under this Act, shall be deemed for all purposes to have been authorized pursuant to section

20a of the Interstate Commerce Act (49 U.S.C. 20a).".

CERTIFICATES OF VALUE

Sec. 904. (a) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) by inserting ", certificates of value," immediately after "securities" in paragraphs (1)(A)(i) and (3), and immediately after "securities" the first place it appears in paragraph (2); and

(2) by inserting "and certificates of value" immediately after "securities" in paragraph (2)(A).

(b) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended by striking out "obligations of the Association" each place it appears and inserting in lieu thereof "certificates of value issued by the Association", and by striking out "obligations" each place it appears in paragraphs (3) and (4) of subsection (b), and inserting in lieu thereof "certificates of value".

(c) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741, et seq.) is amended by adding at the end thereof the following new section:

"CERTIFICATES OF VALUE

"Sec. 305. (a) General.—On the date a certified copy of the final system plan is delivered to the special court pursuant to section 209(c), the Association shall deliver to the Corporation, for deposit with the special court pursuant to section 303(a)(1), the certificates of value of the Association required by this section. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this section. All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to fraud or material misrepresentation by the holder of such certificates.

"(b) Number and Distribution.—The number of certificates of value shall be equal to the number of shares of series B preferred stock of the Corporation required to be deposited by the Corporation with the special court under section 303(a)(1). The certificates of value shall be distributed by the special court under section 303(c)(4) at the same time and to same transferors in the same numbers of units as shares of such series B preferred stock are so distributed.

"(c) Redemption.—(1) Certificates of value shall be redeemed by the Association on December 31, 1985, or on such earlier date as the Association may determine and specify.

"(2) Each certificate of value shall be redeemable for an amount, payable in cash, equal to its base value on the redemption date, minus (A) the sum of the fair market value of the series B preferred stock applicable to such certificate and the fair market value of the common stock applicable to such certificate and all cash dividends theretofore paid on any such series B preferred stock and on any such common stock (B) any sums paid to a transferor of rail properties resulting from sales or leases by the Corporation of properties transferred to it by such transferor. The number of shares of series B preferred stock and common stock so applicable to each certificate of value shall be, respectively, one share of series B preferred stock and the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiving such certificate of value by the total number of certificates of value so distributed to such transferor.

"(3) The base value of each certificate of value shall be the value obtained by taking the net liquidation value, as determined by the special court, to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1) to the Corporation and any subsidiary or affiliate thereof, subtracting the value of other benefits provided by this Act, as determined by the special court, adding interest from the transfer date to the redemption date at a rate of 8 per centum per annum, and dividing the resulting value by the number of certificates of value distributed to such transferor. In making such determination, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1).

"(4) The fair market value of series B preferred stock and of common stock shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the two first selected.

"(d) Authorization for Appropriations.—There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.".

(d) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(e)) is amended by inserting immediately after "section," in the first sentence thereof the following: "or under subsection (a) of section 305 of this Act".

DIRECTORS OF THE CORPORATION

Sec. 905. (a) The second sentence of section 301(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(c)) is amended to read as follows: "The members of the Executive Committee of the Association shall also adopt the initial bylaws of the Corporation and serve as the Board of Directors until at least 7 of the members of the Board of Directors have been selected in accordance with subsection (d) of this section.".

(b) Section 301(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended to read as follows:

"(d) Board of Directors.—(1) The Board of Directors of the Corporation shall consist of 11 individuals selected in accordance with the articles and bylaws of the Corporation as follows: (A) the President of the Association, (B) the Chairman and chief executive officer of the Corporation, (C) the President and chief operating officer of the Corporation, (D) 2 individuals appointed by the President, by and with the advice and consent of the Senate, (E) 2 individuals selected by the holders of the debentures and series A preferred stock of the Corporation, voting as a class, (F) 2 individuals selected by the holders of the series B preferred stock of the Corporation, and (G) 2 individuals selected by the holders of the common stock of the Corporation. One of the individuals appointed by the President shall be qualified to represent the interests of communities and users of rail service affected by the operations of the Corporation. The Corporation shall provide the Presidentially appointed members with sufficient staff to allow them to exercise their duties knowledgeably and responsibly. Subject to the provisions of paragraph (2) of this subsection requiring resignation of directors, the Presidentially appointed members shall serve as directors for a period of not more than 2 years, unless reappointed by the President, by and with the advice and consent of the Senate.

"(2) Beginning on the sixth anniversary of the date on which the special court issues the orders described in section 303(b)(1) of this title, (A) one director designated at the time of his appointment by the President from among the Presidential appointees shall resign when the aggregate outstanding principal amount of debt securities and the original issue price of equity securities of the Corporation held by the Association is reduced below $1,700,000,000, (B) one such director designated at the time of his appointment by the President shall resign when such aggregate outstanding principal amount held by the Association is reduced below $1,200,000,000, (C) one director selected by the holders of the debentures and series A preferred stock of the Corporation shall resign when such aggregate outstanding principal amount held by the Association is reduced below $700,000,000, (D) one such director so selected shall resign when such aggregate outstanding principal amount held by the Association is reduced below $200,000,000, and (E) the President of the Association shall resign when the Association no longer holds any securities of the Corporation issued to it pursuant to section 211 or section 216 of this Act.".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (f) and inserting in lieu thereof the following new subsection:

"(f) Special Court Appointments.—The special court shall appoint one or more voting trustees to exercise the rights of holders of the series B preferred and common stock of the Corporation during the period beginning on the date of the deposit of securities of the Corporation with the special court pursuant to section 303(a) of this title and ending on the date of the distribution of such securities pursuant to section 303(c) of this title; or in the alternative, and in the special court's role and exclusive discretion, the special court may appoint Directors to represent the series B preferred and common stock to the Corporation pursuant to subsection (d) of this section. In determining whether to appoint voting trustees or Directors, and in selecting any such voting trustees or Directors, and in selecting any such voting trustees or Directors for appointment, the special court may entertain and consider the views of any interested parties, but shall be guided primarily by the consideration that the interests of the ultimate beneficiaries of the series B preferred stock and common stock of the Corporation, as well as the public interest, will be best served by the selection of persons of the highest stature, integrity, and business experience.".

SUPPLEMENTAL TRANSACTIONS AND SUPPLEMENTAL ASSISTANCE

Sec. 906. (a) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702), as amended by this Act, is amended—

(1) in paragraph (14) thereof, by striking out "and";

(2) in paragraph (15) thereof, by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(16) 'Supplemental transaction' means any transaction proposed under section 306(a) of this Act as supplemental to the final system plan within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation under section 303(b), under which the Corporation (which for purposes of supplemental transactions shall be deemed to include any subsidiary or affiliate thereof) would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary or affiliate of the Corporation or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or, for rail use, to any other responsible person, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services."

(b) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new sections:

"SUPPLEMENTAL TRANSACTIONS

"SEC. 306. (a) PROPOSALS.—If the Secretary, the Commission, or the Association determines that further restructuring of rail properties in the region through transactions supplemental to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary, the Commission, or the Association, as the case may be, may develop proposals for such supplemental transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 206(c)(1)(A) of this Act but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the efficient operations of the Corporation, and (2) transfers, consistent with the final system plan, of rail properties from the Corporation to a subsidiary or affiliate thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state the rail properties involved, the parties to any transactions, the financial and other terms of any transactions, the purposes of the Act or goals of the final system plan intended to be effectuated by any transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary or the Commission, and upon the development of a proposal developed by the Association, the Association shall publish a summary of such proposal in the Federal Register, and shall afford interested persons an opportunity to comment thereon.

"(b) EVALUATION BY ASSOCIATION.—The Association shall analyze each proposal for a supplemental transaction, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may have been held, and shall, within 120 days after the publication required by subsection (a), publish in the Federal Register a report evaluating the proposal. Such evaluation shall state whatever the proposal for supplemental transactions is (1) in the public interest as defined by the purposes of the Act and the goals of the final system plan, and (2) fair and equitable. Within 30 days after the Association publishes its report, each proposed transferor or transferee shall notify the Association in writing as to whether the proposed supplemental transaction is acceptable to such proposed transferor or transferee. If any such proposed transferor or transferee fails to notify the Association that the proposed supplemental transaction is acceptable to it, no further administrative or judicial proceedings shall be conducted with respect to such proposed supplemental transaction. In such supplemental transactions, the transferor and transferee shall be subject to the provisions of title V of this Act, except that the term 'effective date of this Act' as contained in such title V shall be applied to such supplemental transactions as if such term read 'effective date of the supplemental transaction'.

"(c) SPECIAL COURT PROCEEDINGS.—(1) If the Association makes the determination that a proposal for supplemental transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, the Association shall, within 40 days after the publication of its report, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal. If the Association determines that a proposal made by the Secretary is not in the public interest or is not fair and equitable, the Secretary may, if he determines that such proposal is in the public interest and is fair and equitable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal.

"(2) Within 180 days after the filing of a petition under paragraph (1) of this subsection the special court shall decide, after a hearing, whether any proposed supplemental transactions, considered in their entirety, are in the public interest as defined by the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that any such proposed supplemental transactions, considered in their entirety, are in the public interest and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines either that any such proposed supplemental transactions, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusion and the reasons therefor. In such event the Association, the Secretary, or the carriers involved may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor or transferee, and may petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal as modified by the certification is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(3) The special court shall make such rules for the conduct of proceedings under this subsection, including any necessary provisions for the representation of interests not otherwise represented, as it deems necessary or appropriate.

"(4) In proceedings under this subsection, the special court is authorized to exercise the powers of a judge of a United States district court with respect to such proceedings and such powers shall include those of a reorganization court.

"(5) Any evaluation of the Association or the Secretary shall not be reviewable in any court except the special court in accordance with the provisions of this section. The supplemental transactions shall not be restrained or enjoined by any court nor shall they be otherwise reviewable by any court other than by the special court to the extent provided in this section.

"(6) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings shall be required with respect to any proposal for supplemental transactions other than as expressly set forth in this section.

"(d) DEFINITION.—For purposes of this section, the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), to (1) the estates of railroads in reorganization, and railroads leased, operated, or controlled by railroads in reorganization, or other transferors who have conveyed rail properties under section 303(b) of this title in exchange for the securities of the Corporation, the securities of the Association and other profitable railroads and the other benefits provided by the Act, and to any subsequent holders of such securities at the time of such supplemental transaction; and (2) to the holders of other securities of the Corporation. Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplemental transaction are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by all classes of security holders except that the special court shall not assign to the Series B Preferred Stock and common stock any values added to those securities by reason of the investment by the Association in the Debentures and Series A Preferred Stock issued by the Corporation in excess of any value required by constitutional principles applicable to a reorganization process.

"(e) APPEALS.—Judgments of the special court entering or denying orders pursuant to this section may be appealed directly to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code. Such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after the entry of such judgment.

"SUPPLEMENTAL ASSISTANCE

"SEC. 307. (a) PURPOSES.—The Secretary is authorized to provide financial assistance in the form of grants or loans, pursuant to title VIII of the Railroad Revitalization and Regulatory Reform Act of 1975, by the acquisition of securities of the Corporation or other railroads, any State or local or regional transportation authority, or any other responsible person, for the purposes of providing supplemental assistance to the Corporation, facilitating the implementation of a supplemental transaction, or otherwise furthering the purposes of this Act.

"(b) CORPORATE SIMPLIFICATION.—In the interests of corporate simplification, the Corportation, in implementing the final system plan, shall undertake, as soon as possible and pursuant to financial assistance provided pursuant to section 802(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1975, to acquire all interests in rail lines and related rail property otherwise conveyed to the Corporation, upon the tender of such interests to it, so as to eliminate any remaining intermediate layers of ownership or interest, such as leaseholds, owned or held by persons who are neither a railroad, a railroad in reorganization, nor controlled by a railroad in reorganization. Any option conditions regarding the purchase price for such interests, in existence since prior to January 2, 1974, shall be deemed to be conclusive of fair and equitable value.".

(c) Section 601(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(2)) is amended by adding immediately before the period at the end thereof the following: "and with respect to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act".

(d) Section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)) is amended—

(1) by striking out "to the extent necessary" and inserting in lieu thereof "taken"; and

(2) by striking out "whenever" and all that follows through "this Act" and inserting in lieu thereof the following: "where such action was in compliance with the requirements of such plan, or to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act".

(e) Section 601(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(c)) is amended to read as follows:

"(c) Environment.—The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)) shall not apply with respect to any action taken under authority of this Act before, and including, the conveyance of rail properties ordered by the special court under section 303(b)(1) of this Act, and shall not apply thereafter to any action taken in compliance with the requirements of the final system plan.".

TRANSFERS INVOLVING PROFITABLE RAILROADS

Sec. 907. (a) Section 214(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a)) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the United States arising under section 303(c)(5) of this Act.".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (c)(3)) is amended by adding at the end thereof the following new paragraph:

"(5) The United States may, in its discretion, represent any profitable railroad, or any State, local, or regional transportation authority, to which rail properties are conveyed pursuant to the final system plan in any proceedings before the special court which could result in a judgment against such profitable railroad, or such State, local, or regional transportation authority, under this subsection. Any profitable railroad, or any State, local, or regional transportation authority, which is represented by the United States shall cooperate diligently in whatever manner the United States shall reasonably request in connection with such proceedings. Without regard to whether the United States elects to so represent such profitable railroad, or such State, local, or regional transportation authority, in such proceedings, the United States shall have the obligation to pay the lesser (or the amount if equal) of—

"(A) the amount by which any judgment entered against such profitable railroad, or such State, local, or regional transportation authority, under this subsection, plus any amount previously paid with respect to the rail properties which are the subject of such judgment, exceeds the net liquidation value (as heretofore determined by the Association) of such rail properties, or

"(B) the amount of any such judgment, plus interest thereon at such rate as may be determined by the special court. Such obligation to pay shall be guaranteed by the full faith and credit of the United States.".

(c) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(1)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) 'protected employee' means any employee of—

"(A) an acquiring or selling railroad adversely affected by a transaction;

"(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who was adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under section 206(c) (2) of this Act; and

"(C) a railroad in reorganization who, in any such case, has not reached age 65 on the effective date of this Act."; and

(2) by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(10) 'selling railroad' means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act;".

(d) Section 508 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778) is amended—

(1) by amending the title thereof to read as follows:

"ACQUIRING AND SELLING RAILROAD";

(2) by inserting immediately after the words "Sec. 508." the following: "(a) Acquiring Railroads.—";

(3) by striking out "section 303" and inserting in lieu thereof "section 206(d)(4)"; and

(4) by adding at the end thereof the following:

"For purposes of this subsection, the Corporation shall be deemed to be an acquiring railroad with respect to employees described in clause (B) of section 501(3) of this title.

"(b) Selling Railroads.—A selling railroad shall offer such employment and afford such employment protection to its employees who are adversely affected by such sale as shall be agreed upon between such selling railroad and the representatives of such employees prior to such sale, except that (1) the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 505 of this title, and (2) unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act.".

SUPPLEMENTAL EMPLOYEE PROTECTION

Sec. 908. (a) Paragraph (2) of section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(2)) is amended by striking out "except a president" and inserting in lieu thereof: "(except a Class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but is controlled by a railroad in reorganization), but does not include a president".

(b) Section 502(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 772 (b)) is amended to read as follows:

"(b) Mandatory Offer.—The Corporation shall offer employment, to be effective as of the date of conveyance or discontinuance of service under the provisions of this Act, to each employee of railroad in reorganization who has not already accepted an offer of employment by the Association, where applicable, an acquiring railroad or the Corporation. Such offers of employment to employees represented by labor organizations will be confined to their same craft and class. The Corporation shall apply to such employees the protective provisions of this title.".

(c) Section 504 of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new subsections:

"(e) Liability for Employee Claims.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization, and subject to section 3 of the Railway Labor Act, the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing and payment of any such claims which are sustained on or subsequent to the date of conveyance and shall be entitled to direct reimbursement as a current expense of administration from the estates of the railroads in reorganization which were the employers at the time such claims arose, except that in any case in which claims for employees were sustained prior to the date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of their former employers.

"(f) Transfer of Employees to the National Railroad Passenger Corporation.—Notwithstanding otherwise applicable provisions of this title, protected employees to whom the Corporation has made offers of employment may be transferred to the National Railroad Passenger Corporation in accordance with the following procedure:

"(1) Implementing agreement.—Not later than 90 days after completion of the transaction contemplated by section 206(c)(1) (C), implementing agreement negotiations between representatives of the various crafts or classes of employees associated with the involved properties, the Corporation, and the National Railroad Passenger Corporation shall commence. Such negotiations shall (A) identify the specific employees of the Corporation to whom the National Railroad Passenger Corporation offers employment; (B) the procedure by which those employees of the Corporation may elect to accept employment with the National Railway Passenger Corporation; (C) the procedure for acceptance of such employees into the National Railroad Passenger Corporation's employment; and (D) the procedure for determining the seniority of such employees in their respective crafts or classes on the National Railroad Passenger Corporation's system which shall to the extent possible, preserve their prior seniority rights. If no agreement regarding the matters referred to in this subsection is reached by the end of 60 days after commencement of negotiations, which shall also be at least 90 days after completion of the transaction contemplated by sectiton 206(c)(1)(C), upon notice of any party all parties shall, within an additional 10 days, select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall promptly appoint a referee. Hearings shall commence no later than 30 days thereafter, and a decision shall be rendered within 60 days after commencement of the hearings. The referee shall resolve and decide all matters in dispute regarding the negotiation of the implementing agreement or agreements; all parties may participate, but the referee shall have the only vote, and the referee's decision shall be final and binding and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railway Labor Act.

"(2) Collective bargaining agreements.—Prior to implementation of the agreement or agreements in the preceding paragraph, the representatives of the various crafts or classes of employees designated to be transferred to the National Railroad Passenger Corporation shall meet with representatives of the National Railroad Passenger Corporation for the purposes of negotiating agreements regarding rates of pay, rules and working conditions. If after 60 days from commencement of negotiations no agreement has been reached, the bargaining agreement in existence on the property from which the employees are to be transferred and applicable to the craft or class of employees being transferred will apply and the implementing agreement will be put into effect.

"(3) TRANSFER OF PROTECTION.—An employee of the Corporation shall retain his protected status upon transfer to the National Railroad Passenger Corporation. The National Railroad Passenger Corporation, as employer, shall be responsible for payment of protective benefits and shall be entitled to reimbursement pursuant to section 509 of this title.

"(4) NON-CONTRACT EMPLOYEES.—The National Railroad Passenger Corporation may offer employment to any non-contract employee prior to completion of any of the agreements referred to in this section. Non-contract employees accepting employment with the National Railroad Passenger Corporation shall retain all rights and benefits accorded to them under this title.

"(g) DEATH AND PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization arising prior to the date of conveyance of rail properties pursuant to section 303 of this Act shall be assumed by the Corporation or an acquiring carrier, as the case may be, and the Corporation or the acquiring carrier shall process any pay any such claims that are sustained or settled and shall be entitled to direct reimbursement as a current expense of administration from the estates of railroads in reorganization which were the employers at the time the claim arose.".

(d) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (b)) is amended—

(1) in paragraph (1) thereof, by striking out "the last twelve months immediately prior to his being adversely affected", and inserting in lieu thereof "the 12 full calendar months immediately preceding February 26, 1975"; and

(2) in paragraph (3) thereof, by striking out "his being adversely affected", and inserting in lieu thereof "February 26, 1975".

(e) Section 505(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (f)) is amended to read as follows:

"(f) TERMINATION ALLOWANCE.—The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than 3 years' service as of the effective date of this Act. The Corporation's right to terminate an employee must be exercised within a period of one year from the date of conveyance. Upon notification to the employee of the Corporation's intent to terminate his services, the employee shall have the option of accepting the termination allowance or accepting a voluntary furlough without pay. In the event the employee entitled to receive a lump sum separation allowance accepts such an allowance the amount shall be determined as follows:

Two to three years' service	One hundred and eighty days' pay at the rate of the position last held.
One to two years' service	Ninety days' pay at the rate of the position last held.
Less than one year's service	Five days' pay at the rate of the position last held for each month of service.".

(f) Section 505(h) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (h)) is amended by adding at the end thereof the following: "The provisions of this title shall also be applied, upon a conveyance or discontinuance of service, to employees who are otherwise entitled to protective benefits and who were placed in furlough status on or after February 26, 1975."

(g) Section 505 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775) is amended by adding at the end thereof the following new subsection:

"(i) NONCONTRACT EMPLOYEES.—(1) Compensation, severance, termination and moving expense benefits for employees not governed by a collective bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section.

"(2) A protected employee, whose employment is not governed by the terms of a collective bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsection (e) and (f) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

"(3) In the event any dispute arises between the Corporation and a non-contract employee regarding the interpretation or application of the provisions of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. Either party may request arbitration and the cost and expenses of said arbitration shall be shared equally by the parties.".

(h) Title VI of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 606. (a) Except with respect to laws and regulations otherwise applicable pertaining to safety, to representation of employees for purposes of collective bargaining, to the handling of disputes between carriers and their employees, to employment retirement, annuity, and unemployment systems, and to other dealings between employers and employees, no local public body or operator therefor which is otherwise subject to the Interstate Commerce Act and which provides mass transportation services shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or the rules, regulations, and orders promulgated thereunder.

"(b) For the purposes of this section the term 'local public body' shall have the meaning given to such term in section 12(c)(2) of the Urban Mass Transportation Act (49 U.S.C. 1608), and the term 'mass transportation' shall have the meaning given to such term in section 12(c)(5) of such Act.".

DESIGNATIONS TO NATIONAL RAILROAD PASSENGER CORPORATION OUTSIDE NORTHEAST CORRIDOR

SEC. 909. Paragraph (1)(D) of section 206 (c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)) is amended—

(1) by inserting "(i)" immediately after "by"; and

(2) by striking out "; and" at the end thereof and inserting in lieu thereof the following: ", or (ii) the National Railroad Passenger Corporation to meet the needs of improved passenger service over intercity routes, other than the Northeast corridor, identified by the Association pursuant to the final system plan; and".

MISCELLANEOUS AMENDMENTS TO TITLE II

SEC. 910. (a) Section 201(h) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(h)) is amended to read as follows:

"(h) EXECUTIVE COMMITTEE.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of the Board, the Secretary, the Chairman of the Commission or a duly authorized representative. and 2 other members who shall be selected by the members of the Board.".

(b) Section 203(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 713(a)) is amended by striking out the last sentence thereof.

(c) Paragraph (3) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(3)) is amended by adding at the end thereof the following: "All determinations made by the Association in correction to the preliminary system plan published on April 11, 1975 (40 Fed, Reg. 16377) shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to such correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to acquisitions by profitable railroads pursuant to a supplement to the preliminary system plan published under section 207(b)(2) of this title shall be deemed to be timely if made before adoption of the final system plan under section 207(c) of this title.".

(d) Paragraph (4) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 206(d)(4)) is amended—

(1) in the first sentence thereof, by striking out "30 days after the effective date of the final system plan" and inserting in lieu thereof "5 days after the date of the enactment of the Railroad Revitalization and Regulatory Reform Act of 1975"; and

(2) by inserting immediately after the first sentence thereof the following new sentence: "Such offer may be modified until date of acceptance to the extent that such modification does not result in an offer for sale less than the net liquidation value of the property to be sold.".

(e) Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any statement to the contrary in the final system plan, a State or a local or regional transportation authority shall not be required to deliver to the Corporation a firm commitment to acquire rail properties designated to such State or a local or regional transportation authority prior to January 9, 1976, or 5 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, whichever is later.".

(f) Section 207(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(c)) is amended by adding at the end thereof the following: "Any line of railroad or segment of a line of railroad on which train service was being provided as of the effective date of the Act and which was recommended in the preliminary system plan for transfer to the Corporation shall be deemed to be designated in the final system plan for transfer to the Corporation under section 206(c)(1) (A) of this title. Any designation in the final system plan pursuant to section 206(c)(1) (B) of this title of overhead trackage rights to be acquired by a profitable railroad operating in the region over specified rail properties to be acquired by the Corporation, where such designation does not (1) include the right for such profitable railroad to interchange traffic with at least one railroad, or (2) provide for the connection of portions of such profitable railroad's rail properties, and where the transfer of ownership of such rail properties or trackage thereover to such profitable railroad was recommended in the preliminary system plan and the Commission has made a determination in respect thereto in accordance with section 206(d)(3) of this title, shall be deemed to include the right for such profitable railroad to interchange traffic with the Corporation and any other profitable railroad connecting with such specified properties.".

(g) Section 208 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 718) is amended by adding at the end thereof the following new subsection:

"(d) The provisions of the Association's Official Errata Supplement to the final system plan dated December 1, 1975, including all designations made therein, shall be treated for all purposes as if they had been included in the final system plan adopted by the Association, and the final system plan shall for all purposes be deemed to be approved as modified and amended by such Official Errata Supplement.".

(h) Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended by adding at the end thereof the following new subsections:

"(e) INJUNCTIVE AND DECLARATORY ACTIONS.—Notwithstanding any other provision of law, any action—

"(1) for injunctive or other relief from enforcement, operation, or execution of any part of this Act or from any action taken pursuant to authority purportedly conferred under this Act.

"(2) for a declaratory judgment of the unconstitutionality of any part of this Act or of the illegality of any action or of any failure to take action pursuant to authority conferred or purportedly conferred under this Act, or

"(3) to enforce or declare rights under this Act, shall be within the exclusive jurisdiction of the special court. On order or judgment of the special court in any such action shall be reviewable by direct appeal to the Supreme Court of the United States. Any such appeal is exclusive and shall be filed not more than 20 days after the entry of such order or judgment.

"(f) TIME EXTENSION.—The time prescribed in subsections (c) and (d) of this section for the delivery of certified copies of the final system plan may be extended to a date, not later than March 11, 1976, prescribed in a notice filed by the Association not later than February 1, 1976, with the special court, the President of the Senate, the Speaker of the House of Representatives, and each court referred to in subsection (d) of this section. Such notice shall contain the certification of the Association that an orderly conveyance of rail properties cannot reasonably be effected before the date for conveyance determined with respect to such notice. The time prescribed in section 303(a) of this Act shall be determined with respect to the date prescribed in such notice.".

(i) Section 210(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(c)) is amended by adding at the end thereof the following new sentence: "All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States.".

(j) Section 211 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsections:

"(g) PRE-CONVEYANCE LOANS TO THE CORPORATION.—It is the further intent of Congress that in the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 303(b) of this Act, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment; and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation subject to the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and subject to the further condition that any loan to the Corporation under this subsection shall be refinanced by the issuance of debentures under section 216 of this title. In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors.

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1) Notwithstanding any other provision of this Act, the Association may, subject to the limitation set forth in section 210(b) of this title, provide assistance in the form of loans to the Corporation, and to any profitable railroad to which rail properties are transferred or conveyed pursuant to the final system plan, in an amount adequate to enable the Corporation or such profitable railroad to meet obligations which are determined by the Association to be obligations of the transferors, and as to which obligations it is necessary for the Corporation or profitable railroad to make direct payment on behalf of a railroad in reorganization in order to permit continued orderly operations, including accrued employee benefits and claims, damages claimed by shippers, and inter-railroad payments for per diem charges and rate divisions. The Association shall make such loans to the Corporation or a profitable railroad, as the case may be, for obligations imposed because of the provision of section 504(g) of this Act. The Association shall not make such a loan unless the Association finds that—

"(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

"(B) the obligations are, under other applicable law, the responsibility of a railroad in reorganization and

"(C) the Corporation or profitable railroad has advised the Association that the direct payment of the obligations by the Corporation or profitable railroad is necessary to permit continued orderly operations.

"(2) Any obligation of a railroad in reorganization with respect to which assistance is provided pursuant to paragraph (1) shall be processed on behalf of the railroad in reorganization by the Corporation or a profitable railroad, as the case may be. Any such obligation that the Corporation or a profitable railroad deems to have been the obligation of a railroad in reorganization on the date of conveyance pursuant to section 303(b)(1) of this Act, and which such transferor acknowledges to have been its obligation or which the United States district court having jurisdiction over the reorganization of a railroad in reorganization pursuant to section 77 of the Bankruptcy Act (11 U.S.C. 205) approves for payment on behalf of such railroad in reorganization, may be paid on behalf of such transferor by the Corporation or a profitable railroad. The Association shall resolve any dispute between the Corporation and a profitable railroad with respect to which party shall process and pay any particular obligation on behalf of a particular railroad in reorganization. The Corporation or the profitable railroad shall be entitled to direct reimbursement as a current expense of administration from the estate of the railroad in reorganization on behalf of whom the obligation was paid, together with interest thereon at the rate of interest charged by the Association for the loan from which the funds for such payment were provided. Notwithstanding any other provision of law, the railroad in reorganization shall be required to apply all cash and any other current assets arising from railroad operations accrued on its books as of the date of conveyance pursuant to section 303(b)(1) to such reimbursement before any other application of such current assets. Such application shall be made in accordance with procedures established by the Association. To the extent that the Corporation or a profitable railroad fails to receive reimbursement from the estate of the railroad in reorganization within 2 years following payment, it shall be entitled to a credit and forgiveness in like amount, plus accrued interest, applied to any indebtedness incurred pursuant to paragraph (1). The Association shall have a direct claim as a current expense of administration from the estate of the railroad in reorganization equal to the amount by which the Corporation or a profitable railroad has not been reimbursed, plus interest. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counterclaim which the estate of the railroad in reorganization may be entitled to assert against the Corporation, the profitable railroad, the Association, or the United States.".

(k) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION PROJECTS FOR ABANDONED RAILROAD RIGHTS-OF-WAY

"SEC. 217. (a) IDENTIFICATION OF RIGHTS-OF-WAY.—The Secretary shall identify any railroad rights-of-way, or segments of rights-of-way, on which rail service has been permanently terminated or which are scheduled for abandonment or are likely to be abandoned in the future, and which are potentially suitable for national parks, national recreation areas, wildlife refuges, wildlife management areas, habitats for non-game wildlife, or other trail, bikeway, or walkway public recreational uses.

"(b) GENERAL AUTHORITY.—To develop properties referred to in subsection (a) of this section, the Secretary shall provide assistance to other Federal agencies, to States, local agencies, and to private groups for purposes of planning, developing, and operating programs and projects for the conversion of abandoned railroad rights-of-way into the uses referred to in subsection (a) of this section. In providing assistance under this section the Secretary shall require that plans be developed by citizen participation to the maximum degree possible in consultation with the Secretary of the Interior. For purposes of increasing available information and technical expertise with respect to projects for the conversion of rights-of-way, the Secretary is authorized to contract for special studies or programs and to collect, evaluate, and disseminate information with respect to such conversion projects.

"(c) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out the provisions of this section. Funds appropriated under this subsection are authorized to remain available until expended.".

MISCELLANEOUS AMENDMENTS TO TITLE III

SEC. 911. (a) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(h) No director, officer, employee or agent of the Corporation shall be subject to suit in any court or made a party to any threatened, pending or completed action, suit or proceeding, whether civil, administrative, or investigative (including an action by or in the right of the Corporation), nor shall any such person be liable for money damages or otherwise to any party by reason of the fact that such person is or was, at any time prior to the issuance of an order from the special court ordering the conveyance of rail properties pursuant to section 303(b) of this Act, a director, officer, employee, or agent of the Corporation or of any subsidiary thereof, if, with respect to the subject matter of such action, suit, or proceeding, such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interest of the Corporation. The United States shall indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any such action, suit, or proceeding in which such person is determined to have met such standard of conduct. This subsection shall not be construed to grant any immunity from any criminal law of the United States.".

(b) Paragraph (2) of section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(2)) is amended by striking out "it shall" and inserting in lieu thereof "it may do any or all of the following", by striking out "and" at the end of subparagraph (A), by striking everything before "order" in subparagraph (B), and by amending subparagraph (C) to read as follows:

"(C) enter a judgment against the Corporation, but no such judgment shall be entered which would endanger the viability or solvency of the Corporation.".

(c) Paragraph (4) of section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(4)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)"; and

(2) by inserting immediately after "region" the following: "and to railroads leased, operated, or controlled by railroads in reorganization in the region and to other transferors of rail properties".

(d) Section 303(d) of the Regional Rail Reorganiaztion Act of 1973 (45 U.S.C. 743 (d)) is amended by striking out "5 days" and inserting in lieu thereof "20 days", and by striking out the last sentence thereof.

(e) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763 (b)) is amended by inserting immediately after "additional assistance" in the first sentence thereof the following: "in the form of loans", and by striking out the second sentence thereof.

(f) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by inserting "and" at the end of paragraph (7), and by striking out ", and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganiaztion Act of 1973".

ALTERNATE DESIGNATIONS TO PROFITABLE RAILROADS

SEC. 912. Paragraph (1)(B) of section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(B)) is amended by inserting immediately after "paragraph" the following: ", and what alternative designations shall be made under this subparagraph".

AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNCTIONS OF ASSOCIATION

SEC. 913. Section 214(c) of the Regional Rail Reorganiaztion Act of 1973 (45 U.S.C. 724(c)) is amended by striking out "not to exceed $40,000,000.".

TRANSFERS TO SUBSIDIARIES OR AFFILIATES OF CORPORATION

SEC. 914. (a) Paragraph (2) of section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(2)) is amended by adding at the end thereof the following new sentence: "Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary or affiliate thereof.".

(b) Section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (e)) is amended by adding immediately after paragraph (2) thereof the following:

"The Corporation shall, within 45 days following the effective date of the final system plan, give notice to the Association with respect to any rail properties designated under paragraph (1)(A) which are to be transferred to a subsidiary or affiliate of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan.".

(c) The following provisions of the Regional Rail Reorganization Act of 1973 are each amended by inserting immediately after "Corporation" each place it appears "or any subsidiary or affiliate thereof":

(1) paragraph (1) of section 206(d) (45 U.S.C. 716(d)(1));

(2) section 209(c) (45 U.S.C. 719(c));

(3) section 209(d) (45 U.S.C. 719(d));

(4) section 215(d) (45 U.S.C. 725(d));

(5) paragraphs (2), (3), and (4) of section 303(b) (45 U.S.C. 743 (2), (3), and (4));

(6) paragraph (1)(A)(i) of section 303 (c) (45 U.S.C. 743(c)(1)(A)(i));

(7) section 304(e) (45 U.S.C. 744(e)); and

(8) paragraphs (1) and (2) of section 501 (45 U.S.C. 771 (1) and (2)).

(d) Paragraph (1) of section 303(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(a)(1)) is amended by striking out "Corporation shall" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof, shall".

(e) Paragraph (1) of section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) is amended by striking out "Corporation and" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof or to".

(f) Paragraph (2)(A) of section 303(c) (45 U.S.C. 743(c)(2)(A)) is amended by striking out "Corporation; and" and inserting in lieu thereof the following: "Corporation or any subsidiary or affiliate thereof; and".

(g) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" in paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) "'Corporation' means the Consolidated Rail Corporation or (as may be appropriate in the context) any subsidiary or affiliate thereof.".

RAIL SERVICES PLANNING OFFICE

SEC. 915. (a) Section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended to read as follows:

"RAIL SERVICES PLANNING OFFICE

"SEC. 205. (a) ESTABLISHMENT.—The Rail Services Planning Office is established as an office in the Commission. The Office shall function continuously pursuant to the provisions of this Act and shall be administered by a director.

"(b) DIRECTOR.—The Director of the Office shall be appointed for a term of 6 years by the Chairman of the Commission with the concurrence of 5 members of the Commission. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

"(c) POWERS.—The Director of the Office is subject to the direction of, and shall report to, such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or (in case of disagreement) the Chairman of the Commission, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of functions and duties of the Office with any person (including a Government entity). Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

"(d) DUTIES.—In addition to its duties and responsibilities under other provisions of this Act, the Office shall—

"(1) assist the Commission in studying and evaluating proposals for merger, consolidation, control, coordination projects, joint use of tracks or other facilities, and acquisition or sale of assets, as authorized by section 5(3) of the Interstate Commerce Act (49 U.S.C. 5(3));

"(2) assist the Commission in developing a national and efficient economic regulatory policy for common carriers by railroad which achieves a competitive, energy-efficient, and coordinated transportation system;

"(3) assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies, with such criteria to include the following considerations: rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation; the cost to the gross national product in terms of reduced output of goods and services; the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby; and the cost to the environment measured by damage caused by increased pollution.

"(4) conduct an ongoing analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of such analysis, and advise the Commission of the results of such evaluation; and

"(5) within 180 days after the effective date of title 5, United States Code, which conulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code, which contain—

"(A) standards for the computation of subsidies for commuter rail passenger service, as provided in section 304(c)(2)(A), assuring compensation to the Corporation at the level of avoidable cost of providing service, plus a reasonable management fee and an allowance for depreciation of equipment; and

"(B) standards for the determination of emergency commuter rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964.".

(b) Section 214(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (b)) is amended by striking out "$5,000,000" and inserting in lieu thereof "$7,000,000".

ASSISTANCE FOR COMMUTER RAIL PASSENGER SERVICE

SEC. 916. (a) Paragraph (5) of section 206 (d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (d)(5)) is amended to read as follows:

"(5) All rail properties—

"(A) sold by the Corporation pursuant to section 206(c)(1)(C) and 601(d);

"(B) sold by the Corporation to any State or local or regional transportation authority pursuant to subsection (c)(1)(D) of this section; or

"(C) sold by the Corporation to any State or local or regional transportation authority within 900 days after the date of conveyance to meet the needs of commuter or intercity rail passenger service;

shall be transferred at a value related to the value received for the transfer to the Corporation of such properties. The value of such properties transferred pursuant to subparagraph (B) of this paragraph shall be adjusted to reflect the value attributable to maintenance and improvement provided to such rail properties by the Corporation, and shall include administrative expenses and carrying charges.".

(b) Subparagraph (B) of section 304(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(a)(2)(B)) is amended to read as follows:

"(B) not sooner than 30 days following the effective date of the final system plan the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not sooner than 60 days after the date of such notice, or the date of conveyance ordered by the special court pursuant to section 303(b) (1), whichever is later;".

(c) Section 304(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by inserting before the semicolon at the end of paragraph (2)(A) a colon and the following: "*Provided*, That if a rail service continuation subsidy is offered for both freight and passenger service on the same rail property, the owner of such property may not be entitled to more than one payment of a reasonable return on the value of such property";

(3) by striking out the period at the end of subparagraph (C) of paragraph (2) and inserting in lieu thereof a semicolon and "or"; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) if rail passenger service is being provided over such properties pursuant to subsection (e) of this section.".

(d) Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively; and

(2) by striking out the last unnumbered paragraph of subsection (c) and inserting in lieu thereof the following:

"(d) FREIGHT AGREEMENT.—If a rail freight service continuation subsidy is offered pursuant to subsection (c)(2)(A) of this section, the government or person offering the subsidy shall enter into an operating agreement with the Corporation or any responsible person (including a government entity) under which the Corporation or such person (including a government entity) will operate rail freight service over such rail properties and receive the difference between the revenue attributable to such properties and the avoidable costs of providing freight service on such rail properties, and the trustee of any railroad in reorganization shall receive a reasonable rate of return on the value of any rail properties for which a rail freight service is operated under such subsidy.

"(e) PASSENGER AGREEMENTS.—The Corporation shall provide commuter rail passenger service, for a period of 180 days following the date of conveyance pursuant to section 303, on all rail properties on which such service was being provided by the railroads in reorganization immediately prior to the date of conveyance, regardless of whether such properties are designated for inclusion in or exclusion from the final system plan. If a State or a local or regional transportation authority was providing financial support for the continuation of rail passenger service pursuant to a lease or agreement which was in effect immediately prior to the date of conveyance, the Corporation shall provide the level of service provided in such lease or agreement for the 180-day period. If no financial support was being provided, or if no lease or agreement was in effect immediately prior to the date of conveyance, the Corporation shall provide the level of service which was being provided by the railroads in reorganization immediately prior to the date of conveyance for the 180-day period. In any case where a State or a local or regional transportation authority was providing financial support for the continuation of rail passenger service immediately prior to the date of conveyance, such State or local or regional transportation authority shall maintain the level of such financial support for the 180-day period. If such financial support is not provided, or if at the end of the 180-day period a State or a local or regional transportation authority has not offered a rail passenger service continuation subsidy pursuant to subsection (c)(2)(A) of this section, the Corporation and, where applicable, the trustee or trustees of the railroads in reorganization may discontinue such service, and, in the case of rail properties not designated for inclusion in the final system plan, abandon such properties pursuant to subsections (a) and (b) of this section. Nothing in this subsection shall affect the obligations of the Corporation or the trustee or trustees of the railroads in reorganization to provide rail passenger service pursuant to section 303(b)(2) or 304(c)(2)(B). If at the end of the 180-day period a State or a local or regional transportation authority has offered a rail passenger service continuation subsidy pursuant to subsection (c)(2)(A) of this section, the Corporation shall continue to provide such service. In any dispute over the application of regulations promulgated pursuant to section 205(d)(5)(A), the parties thereto may agree to arbitration by a third party; in the event the parties cannot agree to an arbitrator, the Director of the Office shall serve in that capacity. The Corporation shall be relieved of all obligations to provide rail passenger service under this subsection on rail properties for which a State or a local or regional transportation authority contracts with an operator other than the Corporation to provide such rail passenger service. The Corporation shall provide access to such rail properties for such service.".

(e) The first sentence of subsection (g) of section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744), as so redesignated by subsection (d) of this section, is amended by inserting before the period at the end thereof the following: "and where the Corporation can demonstrate that no State or local or regional transportation authority is willing to offer or to continue to offer a rail freight or passenger service continuation subsidy pursuant to subsection (c) of this section".

RAIL SERVICE CONTINUATION SUBSIDIES

SEC. 917. (a) Section 402(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(a)) is amended to read as follows:

"SEC. 402. (a) GENERAL.—The Secretary shall provide financial assistance in accordance with this section for the purpose of rail service continuation subsidies, and for the cost of operating and maintaining rail services facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service. For purposes of subsection (b)(1) of this section, the Federal share of a rail service continuation subsidy shall be 100 per centum for the 6-month period beginning on the date on which rail properties are conveyed pursuant to section 303(b)(1) of this Act, if the State or responsible person to receive such subsidy certifies to the Secretary that such State or responsible person has the intention and the capability to provide its required share of such subsidy during subsequent periods. For the succeeding 12-month period, the Federal share of a rail services continuation subsidy shall be 90 per centum and the share of such State or responsible person shall be 10 per centum. With respect to each succeeding 12-month period during which such subsidy plan is in continuous operation, the Federal share referred to in the preceding sentence shall be reduced by 20 per centum for each such succeeding 12-month period. For purposes of subsection (b)(2) of this section, a State receiving discretionary assistance shall be required to contribute at least 30 per centum of the cost of the program for which the Federal assistance is provided. The Secretary shall prescribe regulations establishing standards and procedures under which the State share of a rail services continuation subsidy or the State share of the cost of a program for which Federal discretionary assistance is provided may be provided through in-kind benefits, such as forgiveness of taxes, trackage rights, and facility privileges.".

(b) Section 402(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(b)) is amended—

(1) by amending paragraph (1) thereof to read as follows:

"(1) Each State in the region is entitled to an amount for rail service continuation subsidies from 50 per centum of the sum appropriated each fiscal year for such purpose in the ratio which the total rail mileage of all discontinued rail lines in such State, as determined by the Secretary and measured in point-to-point length (excluding yard tracks and sidings), bears to the total rail mileage of all discontinued rail lines in all the States in the region, measured in the same manner, except that no State shall be entitled to less than 3 per centum of such funds. In the event that the total amount allocated under this formula, due to the application of the maximum and minimum limitations which it establishes, is greater or less than 50 per centum of the funds appropriated, the excess or deficiency, as the case may be, shall be added to or deducted from the Secretary's discretionary fund provided for in paragraph (2) of this subsection. The entitlement of any State which is withheld in accordance with this section and any sums not used or committed by a State during the preceding fiscal year shall be paid into the discretionary funds provided for in paragraph (2) of this subsection. In addition to the amounts provided pursuant to this title, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail services and which are also contained in each State's rail plan. Federal financial participation under the preceding sentence shall extend only one calendar year beyond the date of conveyance. During the period of such extension the Secretary, not later than 90 days prior to the termination of Federal participation in support of rail facilities continuance, shall prepare a report to the Congress in conjunction with a designated State agency, recommending future action with respect to rail facilities referred in this subsection. Notwithstanding the providing of any funds for the operation and maintenance of rail service facilities pursuant to this subsection, the Corporation, or any profitable railroad, shall not be required to operate such facilities."; and

(2) by adding at the end thereof the following new paragraph:

"(3) For a period of not more than 1 year following the effective date of the final system plan, the Secretary is authorized to provide financial assistance under this section for the continuation of local rail services to any person determined by the Secretary to be financially responsible who will assume the legal liability for the payment of the State share of a rail service continuation subsidy, regardless of the eligibility of the State within which are located the rail properties over which such services are to be performed, to receive rail service continuation subsidies under subsection (c) of this section. In any case in which a State is eligible to receive rail service continuation subsidies under subsection (c) of this section, State and local and regional transportation authorities shall have priority to receive such subsidies over any other person eligible under this paragraph and no other person eligible under this paragraph shall receive such subsidies unless his application therefor has been approved by the State agency designated under subsection (c) to administer the State plan.".

(c) Section 402(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762 (f)) is amended by striking out "2 years" and inserting in lieu thereof "4½ years".

(d) Paragraph (1) of section 402(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(i)(1)) is amended by striking out "2 fiscal years" and inserting in lieu there "4 fiscal years".

(e) Section 402(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(j)) is amended by inserting immediately before the period at the end thereof the following "; and 'discontinued rail lines' means lines of railroad which are not designated to be continued pursuant to the final system plan, or with respect to which the Commission issues a certificate of abandonment effective on or after the date of enactment of this Act".

(f) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763 (b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title for acquisition and modernization pursuant to this section, or for any project designated pursuant to a State rail plan. For purposes of the preceding sentence, in any case in which a State notifies the Secretary, in writing, that such State intends to expend sums received by it under section 402(b)(1) of this title for acquisition and modernization of rail properties pursuant to this section, such State shall be entitled to receive in a lump sum an amount equal to the rail service continuation subsidies (computed under section 402 of this title) based upon the costs of operating such rail properties during the 12-month period ending November 9, 1975.".

(g) Section 304(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (c)) is amended by striking out the last sentence and inserting in lieu thereof the following: "If a rail service continuation subsidy is offered for the operation of rail service that would otherwise be discontinued under this section, the government or responsible party offering the subsidy shall tender a contract on reasonable terms and conditions to the Corporation, a profitable railroad, or other responsible party (including a government entity), and the Corporation or the profitable railroad shall, or other responsible person (including a government entity) may, accept a contract on such reasonable terms and conditions and shall provide rail service over the rail properties designated in the contract until the contract expires of its own terms. The party providing the service shall receive the difference between the revenue attributable to such properties and avoidable costs of providing rail service over such properties, plus a reasonable management fee for the services rendered, and the trustees of the railroad in reorganization shall permit operation over, and receive a reasonable rate of return on the value of, any rail properties over which rail service is to be operated pursuant to any rail service continuation subsidy contract entered into by a government or a responsible person pursaunt to this section.".

AUDIT BY COMPTROLLER GENERAL

Sec. 918. Title VI of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"AUDIT BY COMPTROLLER GENERAL

"Sec. 601. (a) The Comptroller General is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (1) Federal funds are being used to finance any portion of its operations, (2) Federal funds have been invested therein, or (3) the Corporation has outstanding obligations guaranteed by the United States. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the status of the Corporation, and to make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations.

"(b) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a duly authorized representative, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by the Corporation.".

TERMINATION OF POWERS AND DUTIES OF THE INTERSTATE COMMERCE COMMISSION UNDER THE BANKRUPTCY ACT

Sec. 919. Section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)) is amended by adding at the end thereof the following: "The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205) with respect to a railroad in reorganization, and the duty of such railroad to file a reorganization plan with the Commission pursuant to such section 7, shall terminate upon—

"(1) the conveyance by such railroad to the corporation or to profitable railroads operating in the region of all or substantially all of its rail properties designated for such conveyance in the final system plan, or

"(2) the discontinuance, after notice in accordance with the provisions of section 304(a) of this Act, of rail service over all rail lines of such railroad which are not designated for conveyance in the final system plan,

whichever occurs later. Thereafter, such powers and duties of the Commission shall reside in the United States district court having jurisdiction over such railroad on the date of such termination. Such district court shall continue the proceeding of reorganization of such railroad, or for other appropriate debtor relief, in accordance with the applicable provisions of such section 77 and pursuant to such procedures as such court considers just and reasonable, or, if determined by such court to be in the best interests of the estate of such railroad, in accordance with the provisions of another section or sections of the Bankruptcy Act.".

PARTIAL DISTRIBUTION BY SPECIAL COURT

Sec. 920. Section 303 of the Regional Rail Reorganization Act (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

"(e) Disposition of Cash Deposits.—Whenever the compensation which is deposited with the special court under subsection (a) of this section is in the form of cash, such cash shall be invested and reinvested upon such terms and conditions as the special court shall determine, pending the making of the findings referred to in paragraphs (1), (2), and (3) of subsection (c) of this section. Notwithstanding paragraph 4 of such subsection (c), the special court may order (1) the income from such investments, (2) the dividends or interest, if any, received on any securities or obligations deposited with the special court under subsection (a) of this section, and (3) the income, if any, received with respect to any other form of compensation so deposited to be distributed to the trustee or trustees of each railroad in reorganization and to any person leased, operated, or controlled by such a railroad which conveyed right, title, and interest in the rail properties with respect to which such cash, securities, obligations, or other compensation have been so deposited with the special court. Notwithstanding paragraph (4) of subsection (c) of this section, the special court may also order, within 90 days after the date of its order of conveyance of rail properties pursuant to subsection (b) of this section, up to 25 per centum of any cash (including investments made with cash) and other compensation so deposited to be distributed to each such transferor and, on petition of any such transferor, it may order such additional distributions as it finds reasonable and appropriate, to be made prior to the making of the findings referred to in paragraphs (1), (2), and (3) of subsection (c) of this section.".

APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec. 921. Nothing in this title shall effect the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) to actions of the Commission.

TITLE X—STUDIES AND REVISIONS; FOSSIL FUEL RAIL BANK; INVESTIGATION OF FREIGHT RATES FOR RECYCLABLES

LAW REVISIONS

Sec. 1001. The Commission shall prepare, or shall cause to be prepared by consultants, a proposed modernization and revision of the Interstate Commerce Act (49 U.S.C. 1 et seq.), insofar as it relates to transportation by railroad, and, if feasible, a proposed codification of all Federal laws relating to rail transportation and shall submit the final draft thereof to the Congress within 500 days after the date of enactment of this Act. The final draft shall include comments on each proposed provision, alternative provision considered but not recommended, and such other information as may be useful to the Congress. The final draft shall be designed to simplify and to render the Interstate Commerce Act more easily understandable.

STUDY OF RATE BUREAUS

SEC. 1002. The Commission shall, within 1 year after the date of enactment of this Act, conduct a proceeding or proceedings in which all interested parties may participate, pursuant to paragraph (7) of section 5a of the Interstate Commerce Act (49 U.S.C. 5b (7)), to determine if any conference, bureau, committee, or other organization established or continued pursuant to an agreement among common carriers by railroad and approved under such section 5a is preventing an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation. In carrying out the provisions of this section, the Commission shall consult with, and give consideration to the views of, the Secretary and the Attorney General. A report which shall include recommendations by the Commission shall be transmitted to the Congress during the 1-year period referred to in the first sentence of this section.

STUDY OF RAILROAD ELECTRIFICATION

SEC. 1003. The Secretary shall conduct a study of the potential benefits of railroad electrification for high density rail lines in the United States, and shall report the findings of such study to the Congress not later than 6 months after the date of enactment of this Act. The study shall evaluate the costs and benefits of electrifying rail lines in the United States with a high density of traffic, including—

(1) the capital costs of such electrification and the oil fuel economies which would be derived therefrom, the ability of existing power facilities to supply the additional power required, and the amount of coal or other fossil fuels required to generate the power necessary for railroad electrification; and

(2) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution, and the disadvantages to the environment from increased use of fuels such as coal.

STUDY OF FEDERAL AID TO RAIL TRANSPORTATION

SEC. 1004. (a) Within 30 days after the date of the enactment of this Act, the Secretary shall initiate a comprehensive study and analysis of (1) past and present policies and methods of providing Federal aid for the construction, improvement, operation, and maintenance of rail transportation facilities and services, (2) the relationship of such policies and methods to the policies and methods of providing Federal aid for other modes of transportation, and (3) the extent to which common carriers by railroad have been and are disadvantaged by reason of such policies and methods.

(b) Incident to the study and analysis called for in paragraph (a) of this section, the Secretary shall examine ways and means by which future policy respecting Federal aid to rail transportation may be so determined and developed as to encourage the establishment and maintenance of an open and competitive market in which rail transportation competes on equal terms with other modes of transportation, and in which market shares are governed by customer preference based upon the service and full economic costs.

(c) The Commission and the Secretary of the Army are authorized and directed to cooperate fully with the Secretary in carrying out the purposes of this section, and also to submit such independent and separate reports, comments, and recommendations as they may deem appropriate.

(d) In carrying out the purposes of this section, the Secretary may require all common carriers by railroad to file such reports containing such information as the Secretary may deem necessary. The Secretary shall have the power to require by subpena the production of such books, papers, tariffs, contracts, agreements, or other documents or data of a common carrier by railroad related to the study and analysis as he may deem relevant. The Secretary may treat as confidential and privileged any document, data, or information received for such study and analysis, notwithstanding the provisions of section 552 of title 5, United States Code.

(e) Within 1 year after the date of enactment of this title, the Secretary shall complete the study and analysis herein authorized and directed, and shall transmit a report to the Congress containing his findings and conclusions together with his recommendations for a sound and rational policy respecting Federal aid to rail transportation.

STUDY OF CONGLOMERATES

SEC. 1005. The Commission shall undertake a study of conglomerates and of such other corporate structures as are presently found within the rail transportation industry. The Commission shall determine what effects, if any, such diverse structures have on effective transportation, on intermodal competition, on revenue levels, and on such other aspects of national transportation as the Commission shall deem to be legitimate subjects of study. The Commission shall prepare a report with appropriate recommendations and shall submit its report to the Congress within 1 year after the date of enactment of the Act.

STUDY OF UNITED STATES RAIL SYSTEM

SEC. 1006. (a) The Association shall conduct an evaluation of the present condition and projected future (for each of the next 15 years) of the rail system of the United States. Such evaluation shall include an analysis of—

(1) the physical condition, the financial condition, and the performance of the present rail system;

(2) the physical and financial needs of the rail system;

(3) the economic, environmental, and social costs and benefits of the projected level of investment in the system, of reasonable increased and decreased levels of investment, and of the proposals set forth in paragraphs (1) through (10) of subsection (b); and

(4) such other items as the Association may deem appropriate.

(b) The evaluation of the Association conducted pursuant to subsection (a) shall include an evaluation of the following proposals for changes in the rail system, the rail industry, or the related institutional structures:

(1) rationalization of physical plant;

(2) transcontinental mergers;

(3) rate and regulatory reform;

(4) elimination of cross subsidies;

(5) public ownership of rights-of-way;

(6) Federal loan guarantees;

(7) Federal loans;

(8) Federal capital grants;

(9) unimodal and multimodal surface transportation trust funds; and

(10) such other proposals as the association considers appropriate.

For each of the concepts listed above, the Association shall examine the prominent proposals of 1975 plus any others which the Association determines significant.

(c) The Association shall complete its evaluation and report to Congress within 120 days after the date of the enactment of this Act. The Secretary and the Commission shall cooperate with the Association in carrying out this evaluation. The Association may draw upon the work, data, and information of any party, public or private, as it deems appropriate.

(d) The Association shall prepare on an annual basis a report to the Congress on the performance of the Corporation. Such report shall include an evaluation of—

(1) the degree to which the goals of the Regional Rail Reorganization Act of 1973 are being met;

(2) the deviation, if any, from the pro forma financial projections of the final system plan required under section 206(a)(1) of such Act;

(3) the projected financial needs of the Corporation and ability of the Corporation to become financially self-sustaining without requiring government funds in excess of those authorized by section 216 of such Act; and

(4) the ability of a program of public ownership of rail rights-of-way, coupled with public financial assistance for capital improvements and rights-of-way maintenance, to assist the Corporation in becoming financially self-sustaining.

(e) There are authorized to be appropriated $1,000,000 to the Association for purposes of carrying out the provisions of this section.

EMERGENCY FOSSIL FUEL RAIL BANK

SEC. 1007. (a) The Congress finds and declares that—

(1) railroad rights-of-way or other railroad properties existing in certain areas of the United States in which fossil fuel natural resources are located are essential to the public interest;

(2) severe energy shortages can be reduced by preserving railroad rights-of-way and properties in areas in which fossil fuel natural resources are located; and

(3) sufficient steps should be taken to insure that any such rights-of-way which may be needed to meet future transportation needs are kept intact for possible future reconversion to railroad uses.

(b) It is the purpose of this section to authorize the Secretary, after consultation with the Secretary of the Interior and the Secretary of Commerce, to provide for the creation of a fossil fuel rail bank to assure the preservation of rail trackage and other rail properties for transporting fossil fuel materials.

(c) The Secretary shall, within 180 days after the date of enactment of this Act, and after consultation with the Secretary of the Interior and the Secretary of Commerce, in accordance with this section, establish a fossil fuel rail bank to consist of rail trackage and other rail properties eligible under subsection (d), for purposes of preserving existing service in certain areas of the United States in which fossil fuel natural resources are located.

(d) The Secretary may include in the fossil fuel rail bank established under this section any railroad trackage or other rail properties which are recommended for inclusion in a rail bank under part III, section C, of the final system plan.

(e) The Secretary may acquire, by lease, purchase, or in such other manner as he deems appropriate, rail properties or any interests therein eligible for inclusion in the section.

(f)(1) Except as provided in paragraph (2), the Secretary may hold rail properties acquired for the fossil fuel rail bank, and may sell, lease, grant rights over, or otherwise dispose of interests or rights in connection with such rail properties.

(2) The Secretary may not engage in the disposition of any such rail property pursuant to paragraph (1) if he determines, after consultation with the Secretary of the Interior and the Secretary of Commerce, that such disposition would adversely affect the availability of such properties for any continued necessary access to, and egress by rail from, facilities in which fossil fuels are being or can be extracted or processed.

(g) As used in this section, the term "final system plan" means the final system plan issued by the United States Railway Association on July 26, 1975, under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717).

(h) There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this section such sums as are necessary, not to exceed $6,000,000. Sums appropriated pursuant to this section are authorized to remain available until expended.

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR THE TRANSPORTATION OF RECYCLED MATERIALS

SEC. 1008. (a) The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

(1) conduct an investigation of (A) the rate structure for the transportation, by carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which the rate structure has been affected by successive rate increases approved by the Commission for such common carriers by railroads. The Commission shall, after a public hearing during which the burden of proof shall be upon such common carriers by railroad to show that the rate structure as affected by rate increases applicable to the transportation of such competing materials is just, reasonable, and nondiscriminatory, determine whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;

(2) in all cases in which such transportation rate structure is determined to be, in whole or in part, unjustly discriminatory or unreasonable, issue orders requiring the removal from such rate structure of such unreasonableness or unjust discrimination; and

(3) report to the President and the Congress, in the annual report of the Commission for each of the 3 years following the date of enactment of this Act, and in such other reports as may be appropriate, all actions commenced or completed under this section to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable or recycled materials.

(b) The Administrator of the Environmental Protection Agency shall take such steps, in proceedings before the Commission, as are necessary to assure that the directives set forth in subsection (a) of this section are carried out as expeditiously as possible. Such Administrator may participate as a party in the investigation to be commenced by the Commission under such subsection (a).

(c) The Secretary, in cooperation with the Commission, shall establish a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods for the purpose of facilitating the competitive and efficient transportation of recyclable materials by common carriers by railroad subject to part I of the Interstate Commerce Act.

(d) Orders issued by the Commission pursuant to this section shall be subject to judicial review or enforcement in the same manner as other orders issued by the Commission under the Interstate Commerce Act. In all proceedings under this section, the Commission shall comply fully with the requirements of the National Environmental Policy Act.

(e) As used in this section, the term—

(1) "recyclable material" means any material which has been collected or recovered from waste for a commercial or industrial use, whether or not such collection or recovery follows end usage as a product; and

(2) "virgin natural resource material" and "virgin material" mean any raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource which is, or which will become (through the application of technology) a source of raw material for commercial or industrial use.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: On page 214, at line 2, strike 1,000,000,000" and substitute in lieu thereof $500,000,000."

Mr. SKUBITZ. Mr. Chairman, let me make one point crystal clear.

This amendment to cut $500 million from the bill has nothing to do with the grant money for railroad maintenance and rehabilitation work in the northeast region.

This amendment does not affect the funds provided in the bill for use in the northeast corridor.

This amendment proposed to delete $500 million of the grant money provided in section 802 of title IX, leaving $500 million.

Mr. Chairman, the administration did not request any funds in the form of grants—it supported only $2 billion in the form of guarantees.

Now, in committee, Congressman ADAMS and I joined in an amendment to cut the subcommittee recommendation of $1.5 billion in grants to $400 million, which the administration hinted it would accept.

The gentleman from Florida (Mr. ROGERS) suggested that our amendment be raised from $400 million to $1 billion and his recommendation was accepted.

So all this amendment does is to reduce the $1 billion in grant money in section 802 from $1 billion to $500 million, which is $500 million more than the administration recommended.

The $2 billion in guaranteed loans is still in the bill.

Mr. Chairman, when Mr. ROONEY and I first introduced this bill, we asked ourselves whether the railroads of the Nation could get funds in the private market if guaranteed loans were provided, and we found that in most cases they could.

Frankly, I never dreamed of providing $1.6 billion and I do not think Mr. ROONEY did either, but, somebody in the committee recommended it and it was accepted.

Mr. Chairman, with the administration's objection to the proviso, it just seems to me that, at this time, when we have a budget deficit of $71 billion facing us for this year and another $70 billion deficit facing us next year, it just does not make good sense that because of the plight of the railroads in the Northeast, we decide to give grants to all the railroads in the country.

Why should railroads that are in sound financial condition be invited to get on the gravy train?

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman for yielding.

Mr. Chairman, this is a very, very important bill and time is of the essence. We have been compromising in committee. We compromised in the subcommittee, and I am going to compromise here on the floor today. I will accept the amendment offered by the gentleman from Kansas striking $500 million from the bill.

Mr. SKUBITZ. I thank my colleague for his attitude.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Amend section 908 of H.R. 10979 by inserting a new subsection (i) after line 23, page 271.

CONTINUATION OF EMPLOYEE PENSION PROGRAMS

(i) Amend Section 505(a) of the Rail Reorganization Act of 1973 by striking the period at the end thereof and inserting in lieu thereof the following: ", including, without limitation, all accrued pension benefits under any employee pension benefit plan in effect on December 1, 1975, until such time as a replacement employee pension benefit plan, establishing a fair and equitable overall program covering all such employees, shall have become effective."

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I will explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Chairman, this amendment merely assures that the original intent of the 1973 Act is carried out to protect employee rights in all respects. We thought this was spelled out in 1973, but some question has been raised concerning accrued pension rights.

This amendment preserves those rights.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ADAMS

Mr. ADAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ADAMS: Page 240, line 1, strike out "only from" and insert in lieu thereof "if and to the extent there is".

Page 240, line 3, after the semicolon, insert "and".

Page 240, strike out lines 4 and 5.

Page 240, line 6, strike out "(4) : and insert in lieu thereof "(3)".

Mr. ADAMS. Mr. Chairman, I hope this amendment will be agreed to by both sides. I think it can be. What this amendment does is to make certain in the bill and to clarify the language so that the moneys that are due and owing on the debentures will be paid with preferred A stock which will keep this corporation from losing its cash position in the early years, so that there will not be an accumulation of stock on the preferred stock, so that we will not be lowering the value of the amounts the creditors could be entitled to under the common B and under the preferred B. I have checked this with the gentleman from Kansas (Mr. SKUBITZ) and others on the minority side and with the chairman and they have indicated to me prior to this that they were in support of it.

I would urge adoption of this amendment which is also supported by the administration.

Mr. SKUBITZ. Mr. Speaker, I agree to the amendment and there is no objection on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. ADAMS).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HASTINGS

Mr. HASTINGS. Mr. Chairman, I offered three amendments and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. HASTINGS: On page 237, strike lines 2–6 and insert in lieu thereof the following: "at any one time shall not exceed $235,000,000. After the date on which the Association first makes a purchase of securities of the Corporation under section 216 of this title, no additional obligations shall be issued except to meet existing or potential commitments for loans under section 211 made or applied for prior to January 1, 1976, and except for the purpose of providing loans pursuant to section 211(h)."

Strike lines 3 through 25 on page 279, all of pages 280 and 281, and lines 1 and 2 of page 282, and insert in lieu thereof the following:

"(h)(1) Notwithstanding any other provisions of this Act, the Association is authorized, subject to the limitations set forth in section 210(b), to make loans, in amounts not to exceed $200,000,000 in the aggregate, to the Corporation, the National Railroad Passenger Corporation, and to any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, for the purpose of meeting existing or prospective obligations of the railroads in reorganization which the Association determines should be paid by the Corporation, the National Railroad Passenger Corporation or profitable railroad on behalf of the transferors in order to permit continued, orderly operations. Such obligations shall be limited to amounts claimed by suppliers of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline accounts, claims of employees arising under the collective bargaining agreements of the railroads in reorganization and subject to section 3 of the Railway Labor Act, and claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act. The Association shall not make such a loan unless it first finds that—

"(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

"(B) such obligations arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) and are, under other applicable law, the responsibility of a railroad in reorganization;

"(C) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation or profitable railroad is necessary to permit continued, orderly operations; and

"(D) the transferor is unable to pay such obligations, under the procedures established pursuant to paragraph (2) of this subsection within a reasonable period of time.

"(2) The Association shall, not less than thirty (30) days prior to conveyance pursuant to section 303(b)(1), petition each of the United States district courts having jurisdiction over the reorganization of a railroad in reorganization for an order, which shall be entered prior to such conveyance, and which—

"(A) establishes the priority and the manner in which administrative claims attributable to operations prior to conveyance of properties pursuant to section 303(b)(1) shall be satisfied in the period following such conveyances;

"(B) identifies the assets of the estate of the railroad in reorganization which shall be utilized to satisfy such claims;

"(C) establishes guidelines which the Trustees of such railroads shall follow in negotiating agency agreements with the Corporation, the National Railroad Passenger Corporation, or a profitable railroad for the processing of all accounts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 303(b)(1); and

"(D) requires the Trustees of such railroads and their agents to apply, consistent with the principles of reorganization under Section 77 of the Bankruptcy Act, all cash and current assets available as of the date of conveyance, together with all other available assets which the estates may have, to the payment in the post-conveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

"(3) Any obligation of a railroad in reorganization paid with assistance provided pursuant to paragraph (1) of this subsection shall be processed on behalf of the railroad in reorganization by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be. Any such obligation that the Corporation, the National Railroad Passenger Corporation or a profitable railroad deems to have been outstanding on the date of conveyance pursuant to section 303(b)(1), and which said transferor acknowledges to have been its obligation or which the United States district court having jurisdiction over the reorganization proceeding of the transferor approves as a valid administrative claim against such transferor, and which cannot be paid within a reasonable period of time under the procedures established pursuant to paragraph (2) of this subsection, shall be paid on behalf of such transferor by the Corporation, the National Railroad Passenger Corporation or a profitable railroad to the extent funds are available under paragraph (1) of this subsection. The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization. The Corportion, the National Railroad Passenger Corporation or the profitable railroad shall be entitled to reimbursement directly, as a current expense of administration, from the estate of the railroad in reorganization on behalf of whom the obligation was paid, together with interest thereon at the rate of interest charged by the Association for the loan from which the funds for such payment were provided.

"(4) If at any time the Government Banking Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of the railroad in reorganization for any obligation of the estate paid pursuant to this subsection could adversely effect the fairness and equity of the transfers and conveyances pursuant to section 303(b)(1) of this Act, or that failure of the National Railroad Passenger Corporation to receive such full reimbursement with interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Committee. The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization, equal to the amount by which loans of the Corporation or the National Railroad Passenger Corporation, plus interest, have been forgiven, and such claim shall be prior to all other administrative claims of the estate. Such direct claim shall not be subject to any reduction by way of set-off, cross-claim or counter-claim which the estate of the railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association or the United States of America.

Amend Sec. 911 of the Act by inserting the following new section (c) at the bottom of p. 284:

Paragraph (d) of section 303(c) of the RRRA is amended by adding the following:

"The special court shall also find the amount of the payments, if any, which each profitable railroad has made on behalf of a transferor railroad in reorganization in accordance with section 211(h) of this Act, for which payment the profitable railroad has not been reimbursed, as provided in section 211(h). Notwithstanding any other provision of this paragraph or of paragraph (4), the special court shall order the return to any such profitable railroad, from compensation deposited by said profitable railroad pursuant to section 303(a)(2), of any such amount so found, together with interest at the rate provided in section 211(h)."

Mr. HASTINGS. Mr. Chairman, the amendments I offer come as the result of extensive discussions that have been taking place between DOT, USRA, ConRail, and members of the committee since this bill was reported. I am bringing them to the floor because they modify certain amendments to the bill that I offered in committee at the request of USRA.

It is my understanding that the chairman of the committee and the chairman of the subcommittee are both willing to accept the amendments. With that understanding, Mr. Chairman, I would like to briefly explain them.

The first amendment limits the loan authority of the U.S. Railway Association to $235 million. When the Congress passed the Regional Rail Reorganization Act of 1973, USRA was given $1.5 billion in loan authority. When USRA determined that such loan authority was not an adequate means for providing the needed capital investment in ConRail, it recommended that $1 billion of that authority be rescinded and this bill so provides. Originally, the Association recommended that the remaining $500 million in loan authority be preserved for the other purposes of the act. Now, all of the parties involved have concluded that $230 million is an appropriate limit on such loan authority.

So, my amendments reduce the authority to that figure. In addition, my amendments restrict the use of the loan authority for ConRail to the point when USRA has begun purchase of ConRail securities under other provisions of the bill. After that point, the loan authority can only be used to enable ConRail, Amtrak, and acquiring carriers to pay, on behalf of a bankrupt railroad, obligations of such a railroad arising from preconveyance operations which the Association determines should be paid to insure the continued, orderly operation of the restructured rail system.

What we are talking about here, is giving ConRail, Amtrak, and the other acquiring carriers the ability to pay claims against the bankrupt estates for such things as: Claims for payment, for materials or services for current rail services; payments to railroads for the settlement of interline accounts; claims of employees under collective-bargaining agreements and claims of employees for injuries and death benefits.

Let me hasten to add that these provisions in no way diminish the utlimate responsibility of the bankrupt estates to pay these liabilities. As to this, my amendments include a section which directs each bankruptcy court for each of the bankrupt carriers to determine the manner in which these liabilities should be repaid to ConRail, Amtrak or the acquiring carriers. It also requires that the bankruptcy court determine the principles under which these claims should be handled.

In addition, the Government Banking Committee, created elsewhere in this act, does have the authority, under certain conditions, to forgive the loans to ConRail and Amtrak if they are not compensated in a timely fashion by the bankrupt estates.

However, should such forgiveness take place, USRA is to receive an administrative claim against the bankrupt estates that is prior in right of payment to any other such claims. Finally, to the extent to which an acquiring carrier fails to receive compensation for the liabilities assumed from a bankrupt estate, the special court is given authorization to return to that acquiring carrier funds paid by that carrier for the purchase of the rail properties involved.

I hope, Mr. Chairman, that this brief explanation adequately sets forth the purposes for the amendments I offer. Put simply, they are necessary to make certain an orderly and smooth transition from the bankrupt railroads to ConRail, Amtrak and the other acquiring carriers.

They will help make sure that there is no interruption of service and will create a positive climate for the startup, if you like, of the restructured rail system in the Northeast/Midwest.

I urge their adoption.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I certainly will yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, I have had an opportunity to look over the amendments and I would be very happy to accept them.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield I want to commend the gentleman from New York for his amendments. I heartily agree with them.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. Hastings).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Collins of Texas: On page 195 beginning at line 17, strike section 309 through line 9 on page 196. In line 11 on page 196, strike "Sec. 310" and insert in lieu thereof "Sec. 309".

Mr. COLLINS of Texas. Mr. Chairman, in this railroad bill it has included one special-privilege section. What I have asked in this amendment is that everybody be treated exactly the same. We have now provided that contracts for a special group, known as freight forwarders, will be a special rate contract. They can get a special low rate; whereas people that provide the same volume of freight, travel the same way, cannot have that benefit.

Now, in my area we have a large number of retailers and in every area we have represented we have thousands of retailers. Any retailer is hurt by this provision, because I do not care whether you run a hardware store, or one as big as Sears Roebuck or Montgomery Ward, they are going to be hurt by this provision. They are not going to be treated fairly.

Mr. Chairman, all we are asking is to eliminate this section so as to give everybody an equal shake. This issue has come up time and again through the history of railroads. This is the first time this section has reached the floor. It has always been defeated, because on its very face it is inequitable. It is providing freight forwarders this special provision for a special rate.

Mr. Chairman, I want to emphasize if we give forwarders a lower rate, it is going to mean that everybody else is going to pay a higher rate and the retailer, wherever he is, is going to have to pay a higher rail rate, because this bill gives special permission through this one special section for preferential treatment of forwarders.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, in my district where there are large tonnages of the potato crop grown and frozen, they are interested in this section of the bill. We have a single railroad service. As the gentleman's amendment reads, would it mean they can negotiate a lower freight rate to ship frozen potatoes; is that what the gentleman is saying?

Mr. COLLINS of Texas. Mr. Chairman, rates as such will be set by the rate structures. All I am saying is that a group called freight forwarders are getting special rates, against the group called shippers. We want shippers to get the same rate as freight forwarders. This amendment does not get involved in treating the question of frozen potatoes.

Mr. SYMMS. Mr. Chairman, is it going to give more flexibility to the rate structure?

Mr. COLLINS of Texas. I would say the gentleman's situation will stay exactly like it is, which I imagine the gentleman is satisfied with if this section is eliminated. And strike 309 from the bill.

The gentleman would be better off just where he is than having a special benefit of section 309. He is better off to strike 309.

Mr. SYMMS. Better off?

Mr. COLLINS of Texas. Better off if we have this provision struck from this bill.

Mr. SYMMS. In other words, this is a consumer vote then?

Mr. COLLINS of Texas. It is for the plain man, because it is going to mean higher costs to the consumers if the retailer has to pay more. We want all to share alike and strike this special privilege section.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I want to commend the gentleman on his amendment, and state that I agree with it. I am hopeful that it is adopted. As written, the bill would give a monopoly, so to speak, or an edge to the freight forwarders.

If the gentleman's amendment does not succeed, I hope to be recognized next on that same section with an amendment which will at least add shippers so that they, at least, can contract directly with the railroads.

Frankly, I approve of the gentleman's amendment, but if it does not succeed I shall be offering another amendment.

Mr. COLLINS of Texas. I thank the gentleman.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I understand the gentleman's amendment wants to strike the provision?

Mr. COLLINS of Texas. That is exactly correct.

Mr. SKUBITZ. I offered this amendment in committee, to no avail. The difficulty here with this amendment is that the shippers' organization will want to come in, and the potato growers will want to come in, and I presume in the end we will be exempting everybody.

Mr. COLLINS of Texas. We want to treat everybody the same and we need to strike 309.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, as a member of the Transportation Subcommittee, I would like to associate myself with the gentleman's statements. I think it is worthy to observe that in my reading of the legislative history on this matter, I believe it is true that since 1958, in both the House and the Senate, this very question has been rejected innumerable times.

Mr. COLLINS of Texas. That is right.

Mr. SANTINI. And I know that with all the other considerations both the chairman and other members of the subcommittee had, it is understandable how a situation of this kind can happen, because the members had many, many things on their minds.

But, I think it is worthy to observe that in the committee report there is no discussion of section 309 as such. The vague illusions to it are contained on page 74, one sentence, and on page 111, I believe there again with one sentence. Certainly, an issue of this magnitude deserves something more than two or three sentences in the committee report, and I think it is worthy for every Member to consider.

Mr. ROONEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Texas just talked about equality. The purpose of this section of the bill is exactly that, to treat the freight forwarders the same as the trucks. The freight forwarders can contract for trucks, but the freight forwarders cannot contract with railroads as the trucks do.

The purpose of this section is to increase competition in the field of less than carload shipments, provide for more efficient utilization of rail freight cars, and reduce the energy demands of many small shipments moving by many different trucks, which are energy-inefficient. Other environmental benefits that can be expected are reduced air and noise pollution.

This section, Mr. Chairman, would allow the freight forwarders who specialize in less than carload shipments to work with the railroads. Such a relationship with railroads, which is now extended only to motor carriers, would benefit the shipping public by permitting two kinds of carriers, carload-oriented railroads and less than carload forwarders, to service, complement, and cooperate with each other.

Presently, freight forwarders can contract with motor carriers and there is no reason, other than to limit competition between trucks and trains, why the freight forwarders should not be allowed to contract with railroads. This provision of the bill benefits the consumer because it will stimulate competition in an area now monopolized by motor carriers. So, if the Members want fairness they should vote against the gentleman's amendment.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to compliment the chairman of the subcommittee for the way in which he is moving this bill. It is a very complicated bill and there has been a great deal of work that has gone into it in trying to get agreements on a form of bill that can be signed by the President and go into effect to meet the deadline of the Court.

Mr. Chairman, I do want to indicate, however, that on this particular amendment I have a disagreement with the chairman of the subcommittee. I am in support of the amendment that has been offered by the gentleman from Texas. I offered that amendment in subcommittee and it was defeated. The struggle between the freight forwarders, the truckers, the shipping associations, and other parties at the railhead is a long and classic struggle. I know the freight forwarders are very enthusiastic about having the right to contract at the railhead. The reason for this is because they have great leverage at the railhead. They would be able to have an arrangement with the railroads because in the past they had better arrangements with the railroads than trucking companies were able to enjoy and better than the shipping associations have been able to enjoy.

Mr. Chairman, I simply want to indicate to the House that this is a measure that has sharply divided the transportation community for over a generation, and I feel that we should leave this particular very controversial area alone; leave it as it is now. Therefore, I think this should be out of the bill.

The chairman of the subcommittee and I agree on nearly all of this bill except this part. He knows my disagreement with him on this particular provision. I hope that the committee will accept the amendment and strike this portion out of the bill, and if it does so I think it makes the bill more fair to all of the parties that are involved and let them work out their differences with a different bill.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I will yield to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. I thank the gentleman for yielding. Mr. Chairman, I support my colleague's position and I am going to support the amendment. The thing that bothers me is whether the railroads may like this provision of the bill. We have notice served on us right now that the gentleman from Rhode Island (Mr. ST GERMAIN) is going to offer an amendment for the shipping associations. I am sure the railroads will be in favor.

Mr. ADAMS. I thank the gentleman for his comments. This is a very controversial area. We begin to run into other areas if we leave this provision in. There may be a shipping association amendment. There may be an amendment to bring other groups in. As it is now, under plan 1 and plan 2, at the rail head they are able to make contracts with the railroads for carriage of freight. The freight forwarders want the ability to negotiate contracts on a more favorable basis. I am simply stating to the House that I think this will be very controversial with the competing groups, and I do not think we need it in this bill.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I will yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding. Mr. Chairman, I first want to commend the gentleman on his continuing interest in railroads, with everything else on his mind. And, second, I think it is worthy to note—and the gentleman can correct me, with his longstanding knowledge of the history in this proposal—that the railroads of our country are, if not equally divided, substantially divided, as to whether or not they want section 309 because it would place many of the railroads in a weakened position.

Mr. ADAMS. The gentleman is absolutely correct. The railroads in a weakened condition can be dominated by shipping interests. The shipping interests represented by the freight forwarders gather together large amounts of freight and are extremely valuable customers. They can therefore drive down railroad rates. As I indicated and as the gentleman from Kansas has stated, this is a very controversial proposal due to the competition at the railhead, and this group wants to have this kind of a change to relieve them of using the rate system. They have been trying to get this change for many, many years. I do not blame them for trying to get it. I just happen to be opposed to it, and I hope they are not successful.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in response to the gentleman from Idaho (Mr. SYMMS) concerning the shipment of potatoes, I think we know that agricultural commodities are not regulated and, therefore, are not subject to the regulation of the Interstate Commerce Commission as far as rates and services and perhaps regulations on safety are concerned. I also do not think the freight forwarders have ever shipped a single shipment of potatoes or a single potato, and, therefore, I would classify that as irrelevant to the debate taking place on section 309.

I think we must also deal with relevancy when we speak of the common carriers. Shippers' associations are not common carriers. Freight forwarders are common carriers, railroads are common carriers, and truck lines are common carriers.

What section 309 does is this: It merely permits the freight forwarders, who are common carriers, to do precisely what a common carrier trucking company can do, and that is to make a contract with another common carrier, a railroad. We are dealing with common carriers now; we are not dealing with shipping associations.

Mr. Chairman, I will explain what a shipping association is. A shipping association is an association of major industrial corporations such as General Motors, Ford, and International Harvester. They get together, they consolidate all their shipments, they drive the rate down between different points of movement, and they ship the way they want.

What does the freight forwarder do? The freight forwarder historically has done what no one else would do in the transportation industry, what a truck line would not do and what a railroad would not do or perhaps could not do. What they would do is to consolidate small shipments, small packages.

The consumer would benefit by this. I am talking to the consumer now, not to the retailer. As a consumer, if one wants to ship a small package, what does he do? He either pays a high rate or he can get a freight forwarder and the freight forwarder will ship it at a lower rate because he will consolidate the small shipments of many small packages. He is not like the big shippers who are opposing the inclusion of section 309, and, therefore, the consumer benefits by the retention of section 309.

He can move his small package. The truck lines want to move straight loads of shipments, and they want to make a contract with the railroad to put their trailer on a flatcar and move it. What the freight forwarder wants to do is a very simple thing: He wants to save the consumer fuel at a 4-to-1 ratio, because it is much easier for him to put that trailer on a flatcar, the same as a trucker would.

So in effect what we are doing is what the ICC recommended.

I will say this to my friend, the gentleman from Nevada (Mr. SANTINI): We have had this issue before the committee for about 11 years. We asked the Interstate Commerce Commission to go through a complex ex parte hearing, which they did. It took them 9 months. At specific request this very issue was brought up. And incidentally, they came back and recommended that this language be adopted by the Congress, and this is the opportunity once and for all for the small shipper and for the consumer to be able to ship his goods and for us to assist the railroads, which is the basic purpose of the Act we are debating today.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I am sure the gentleman from New York does not want to leave us with the impression that shippers' associations are all made up of International Harvester and other large corporations.

I am here supporting this amendment on behalf of the Jewelry Manufacturers' Association. That association is made up of manufacturers of costume jewelry who operate in the New England area in plants employing 25 to 75 or 100 people. They have gotten together, and they want to be able to ship their goods at a reasonable rate so they can sell goods to customers who want to purchase at a reasonable price.

So let us not leave the impression that shippers' associations are all giants. There are many small shipping associations.

Mr. MURPHY of New York. Mr. Chairman, there are a few small shippers' associations that are not regulated. We are dealing with common carriers who are freight forwarders under part IV of the act, and that includes the truckers and the railroads. Let us permit the contractual arrangements between and among these carriers.

Mr. Chairman, the central purpose of this legislation is to help the railroads of the United States to continue as the bulwark of our free enterprise system. We must realize that self-help is more important than any amount of outside help in this situation. One provision of this bill will free the railroads to help themselves in one area of their operations if they choose to do so. That is the provision which authorizes the railroads to enter into and operate under contracts with freight forwarders.

Under the law as it stands railroads are required to charge freight forwarders for hauling freight forwarder shipments the same published rates which apply to commercial shippers. Forwarders are not shippers. They are common carriers regulated by a separate part of the Interstate Commerce Act. Part IV of the act, which regulates forwarders, imposes the same obligations and responsibilities on forwarders as parts I, II, and III impose on rail, motor, and water carriers.

Railroads are not required to charge truckers, who compete with forwarders, the same rates which they charge shippers. Railroads haul truckers' trailers, for example, on the same train with forwarders' trailers, and yet charge the truckers a lower amount. There is nothing wrong with the railroads hauling the freight of any common carrier at charges less than they apply to the freight of a shipper because the circumstances are not the same. Freight coming to railroads from other common carriers is different from freight of the railroads' own patrons, the shippers. Railroads do not have the primary responsibility for the freight of other common carriers.

But railroads ought to be able to treat the freight of all common carriers the same way. And freight forwarders are common carriers, not shippers.

In particular, railroads ought to be able to treat the freight of forwarding companies as common-carrier and not shipper freight. The reason is that railroads, today, look to the freight forwarders as a means of obtaining a share of the less-than-carload or small-shipment freight of the Nation. The railroads have found it too expensive to continue to handle this less-carload freight in their own service and have abandoned it to the trucks, except insofar as the freight forwarders intervene and, through the process of assembly and consolidation, put the freight back on the rails in profitable volume.

Ironically, the railroads are permitted to make contractual arrangements to haul the freight of their competitors, the trucks, whereas they are required to treat their partners, the freight forwarders, as though they were commercial shippers.

The truck lines want to keep this advantage which they have over their competitors, the freight forwarders. That is why they oppose this provision of the bill. Their position is understandable, but it is not laudable. Our purpose ought to be to encourage, not to restrain competition. And no matter what face the truckers may put upon it, their real purpose is to restrain competition. They have the freight forwarders at a disadvantage and they want to keep it that way.

Legislation to authorize railroads, on a voluntary basis, to make contracts with freight forwarders, has been advocated by the Interstate Commerce Commission for a long time. The Interstate and Foreign Commerce Committee asked the ICC to make a study of the matter, which the Commission did. That study, completed after almost a year of investigation in which all interested viewpoints were solicited and carefully considered, was filed with Congress in 1971. It fully justifies this provision of the legislation. This provision for voluntary contracts is supported by the administration. In fact it has the support of all persons and agencies having an interest in the matter except, naturally, the competitors of the forwarders.

I think it ought to be taken as a good indication that this legislation has possibilities for improving service to the public and improving the posture of the railroads and the freight forwarders that it is so strongly opposed by the competitors of the railroads and forwarders. I suggest that we ought to be more concerned with improved service and stronger competition than with arguments for the status quo.

Mr. ST GERMAIN. Mr. Chairman, I am rising in support of Mr. COLLINS' amendment to delete section 309 from this bill. I believe that Mr. COLLINS is correct when he states that this section which favors freight forwarders will cause other industries, including shipping concerns, to feel the weight of discrimination because of the competitive advantage which this provision would give to the forwarders.

As a matter of fact, if Mr. COLLINS' amendment does not succeed, I intend to introduce an amendment which would include shippers, their associations and agents within this provision, so that these segments of the freight industry can have the benefits of contracts with railroads which the forwarders would enjoy.

The passage of either Mr. COLLINS' amendment or the one which I will offer is necessary if we are to preserve the level of competition which now exists among rail freight shippers. Many communities and towns across the Nation are not served by freight forwarders, who confine their activities to large cities with large volumes of traffic, and it is my intention to see that this provision does not harm the interests of the smaller towns and communities and their shipping concerns. Shippers, their cooperative associations and agents in these communities and towns without freight forwarder service should not be prevented from competing in our national market because of a lack of contracts with railroads for service and rates.

Shippers, wherever located, should be

able to cooperate in shipping activities and have the right to the same contracts with railroads as the bill permits forwarders. My amendment would take nothing away from the benefits the bill would grant to forwarders and railroads by entering into contracts, but would improve the bill by granting to all customers of the railroad the same benefits.

In its comments upon this provision, the Interstate Commerce Commission, which had initially proposed this legislation, noted several further changes which should be made in section 309. One of the changes which the ICC would have added would extend the encouragement of competition among railroad freight carriers beyond just freight forwarders, to include a protection against undue preference or prejudice to shippers as well, because there is, in ICC's words, "some danger that forwarders will be able to drive their rates down to an unreasonably low level and that other shippers on the railroad in question, in effect, would have to make up the difference."

Further the ICC, on legislation which it had initiated, noted that there was "some question about the overall effect of this amendment" as it is presented in the legislation before us, and suggested that the freight forwarder provision "be put on an experimental 2-year basis" to determine whether or not it was indeed a wise change to make.

The amendment which I will offer if Mr. Collins' amendment is rejected will avoid any of the possible unpleasant consequences which section 309 might have and which we can all foresee, such as the freight forwarders forcing the small shippers out of competition because of the great contract advantage which freight forwarders would enjoy. The rather vague benefits that section 309 would encourage the use of energy-saving rail services and would help to improve railroad car utilization do not adequately compensate for the results, which even the ICC anticipates, that competition between shippers' associations and freight forwarders would be destroyed.

Therefore, Mr. Chairman, I urge my colleagues to lend their support to Mr. Collins' amendment, or in lieu of that, to support the amendment which I will offer.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Collins).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COLLINS of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 196, not voting 16, as follows:

[Roll No. 802]

AYES—222

Abdnor
Adams
Alexander
Allen
Ambro
Archer
Armstrong
Ashbrook
AuCoin
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bell
Bennett
Bergland
Bevill
Blanchard
Bonker
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burleson, Tex.
Butler
Carr
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dingell
Downing, Va.
Duncan, Oreg.
Eckhardt
Edwards, Ala.
English
Erlenborn
Esch
Evans, Ind.
Evins, Tenn.
Fisher
Fithian
Flowers
Flynt
Ford, Tenn.
Fountain
Fraser
Frenzel
Frey
Fuqua
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hannaford
Hansen
Harris
Hastings
Hayes, Ind.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Holland
Holt
Horton
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
Lagomarsino
Landrum
Levitas
Litton
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McEwen
McKay
Madigan
Mahon
Mann
Martin
Mathis
Meeds
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nichols
O'Brien
Passman
Patman, Tex.
Patterson, Calif.
Pattison, N.Y.
Pettis
Pickle
Poage
Pressler
Preyer
Quie
Quillen
Railsback
Rees
Rhodes
Riegle
Roberts
Robinson
Roncalio
Rose
Roush
Ruppe
St Germain
Santini
Satterfield
Schneebeli
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Nebr.
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Ullman
Vander Veen
Waggonner
Wampler
Weaver
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NOES—196

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Bedell
Biaggi
Biester
Bingham
Blouin
Boggs
Boland
Bolling
Bowen
Brademas
Brodhead
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Chisholm
Clawson, Del
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
Danielson
Delaney
Dellums
Dent
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Fary
Fascell
Fenwick
Findley
Fish
Flood
Florio
Foley
Forsythe
Giaimo
Gilman
Green
Gude
Hall
Hanley
Harkin
Harrington
Harsha
Hawkins
Hays, Ohio
Hechler, W. Va.
Helstoski
Hicks
Holtzman
Howard
Hungate
Jeffords
Johnson, Calif.
Karth
Kindness
Koch
LaFalce
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Long, Md.
McCormack
McDade
McDonald
McFall
McHugh
McKinney
Madden
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
Ottinger
Patten, N.J.
Pepper
Perkins
Peyser
Pike
Price
Pritchard
Randall
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Russo
Ryan
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Smith, Iowa
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Symms
Thompson
Tsongas
Van Deerlin
Vander Jagt
Vanik
Vigorito
Walsh
Waxman
Whalen
Whitten
Wiggins
Wolff
Wydler
Yates
Yatron
Zeferetti

NOT VOTING—16

Andrews, N.C.
Burke, Fla.
Daniels, N.J.
Eshleman
Ford, Mich.
Gaydos
Hébert
Hillis
Hinshaw
Macdonald
Maguire
O'Neill
Runnels
Sullivan
Udall
Wilson, C. H.

Messrs. ANDERSON of California, ROUSSELOT, DEL CLAWSON, REGULA, FINDLEY, BURGENER, MOORHEAD of California, CRANE, and RISENHOOVER changed their vote from "aye" to "no."

Messrs. SEIBERLING, D'AMOURS, and HORTON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

The Speaker resumed the chair.

The SPEAKER. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) entitled "An act to authorize a local public works capital development and investment program."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5559) entitled "An act to amend section 883(a) of the Internal Revenue Code to provide for exclusion of income from the temporary rental of railroad rolling stock by foreign corporations."

RAIL REVITALIZATION AND REGULATORY REFORM ACT OF 1975

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for many years, the coal operators of eastern Kentucky have felt the pinch of a car shortage. Every operator in Kentucky understands that without rail cars to move the coal, production would come to a standstill. In 1969, the operators took the L. & N. Railroad, the sole provider of rail service to a great section of southeastern Kentucky, to the Interstate Commerce Commission charging that their use of the unit train system in the area during a car shortage period discriminated against the small single car shippers of coal.

The ICC ruled that the operators were justified in their complaint and decided in favor of the operators this past July. Presently, that decision is being appealed by the L. & N. Railroad, and that appeal is pending before the sixth circuit court.

For this reason, I have expressed great concern over section 210 of the bill, H.R. 10979, which, as I understand it, would reverse the decision of the ICC by amending that law providing for the assignment of cars. I find this amendment highly irregular, and I fear it unjust to the small coal operators.

This proposal, as far as I know, received no great consideration in the subcommittee or the full committee. Its potential impact is quite significant, and I wish to obtain the assurance of the subcommittee chairman, the full committee chairman, and the ranking member of the minority that this issue will be addressed in the conference. I believe it to be extremely important that this matter be considered, for it is only through careful consideration that we as a Congress can assure that, during a time of car shortages, each and every coal operator will be treated fairly and with equity. I do not wish to see a supplier, a railroad providing the total service needs to a section of the country as important as southeastern Kentucky is now, and will certainly continue to be, use this provision of the law to discriminate against the smaller coal operators.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, I intend to discuss this with the conferees; yes.

Mr. CARTER. And the gentleman will attempt to assure that small operators get their fair share of coal cars; is that correct?

Mr. ROONEY. I will make that commitment; yes.

Mr. CARTER. I thank the gentleman.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I am quite sympathetic with my colleague's position because years and years ago—more years than I care to remember—when I was a boy, my father operated a coal mine. He was just a little independent, grubbing it out, trying to make a living.

One of our big problems was that whenever the train quota of cars came in, the bigger companies got their share, and if there was one left, we got it.

I want to assure the gentleman that his remarks will be seriously considered.

Mr. CARTER. I certainly appreciate the position of the ranking minority member of the subcommittee and of the chairman of the subcommittee. I want to state that the gentleman from Kansas has shown a total knowledge of this legislation and has explained it well. The State of Kansas should be extremely proud of the work this able gentleman has done.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to my colleague from Kentucky.

Mr. PERKINS. Mr. Chairman, I want to thank my colleague, the distinguished gentleman from Kentucky (Mr. CARTER) for bringing this subject matter before us. This has been one of the chief complaints throughout the whole of eastern Kentucky for several years. I know the railroads say this problem is being slowed, but the gentleman in the well is absolutely true, and we are going to have to get an amendment before the appropriate subcommittee if the railroads do not manage to equitably distribute their cars to the small operators.

Another thing is that in many instances in eastern Kentucky, the operators are having to put in the spurs, and pay all the expenses themselves, in order to get any coal gondolas. It is a subject matter that deserves tremendous attention in view of the energy situation in this Nation today.

The Nation is not going to be able to get the metallurgical coal out of eastern Kentucky which it needs within the next few years, unless this situation is corrected, and unless something is done about the deterioration of the tracks, and unless more coal hopper cars are manufactured. The railroads have completely underestimated all these needs, and there is not an adequate amount of money for loans to repair the tracks even in this bill, as good as it is.

Mr. CARTER. I thank the distinguished chairman, the gentleman from Kentucky.

AMENDMENT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MADIGAN:

On page 193, line 6, strike the words freight car," and insert after the words "or other vehicle" the words, "(other than a freight car)"

On page 193, line 8, strike the words ", shipper, or third party"

On page 193, line 12, insert after the words, "freight car" the words "owned and controlled by a railroad"

Mr. MADIGAN. Mr. Chairman, this is a technical amendment required to put the language of this bill in compliance with the language of the Surface Transportation Act, which the House passed last year. I understand this amendment has the support of both the gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ). I would yield to the gentleman from Pennsylvania for confirmation.

Mr. ROONEY. I would like to have a copy of the amendment.

Mr. MADIGAN. The only copy of the amendment is at the desk, the only copy I have.

Mr. Chairman, I might be able to expedite this. I understand that the gentleman from Pennsylvania (Mr. ROONEY) did not hear my explanation, but that he was distracted.

This is an amendment my staff discussed with the gentleman's staff yesterday, with the attorney, who assured us that the gentleman from Pennsylvania (Mr. ROONEY) would be supporting this amendment.

This amendment puts the bill back in the form in which it was when the gentleman originally introduced it.

Mr. ROONEY. If the gentleman will yield, is it not correct that this language is the same as was included in the Surface Transportation Act of 1974?

Mr. MADIGAN. What it does is that it makes the language of this bill comply with the language of the Surface Transportation Act which was passed last year.

Mr. ROONEY. Mr. Chairman, I have no objection to the amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I will yield to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. I thank the gentleman for yielding.

If I understand the amendment correctly, what the gentleman is doing is saying it brings the per diem rates of the railroad in line with those of private carriers; is that correct?

Mr. MADIGAN. As the gentleman knows, section 307 allows the Interstate Commerce Commission through its ratemaking policy to address the problem caused by the shortage of freight cars. Unless the Commission has the opportunity to treat, for ratemaking purposes, cars owned by railroads differently than cars owned by private shippers, then the results will be ultimately that all of the cars will be owned by private carriers and will not be available for the general movement of freight. We recognized that last year when we passed the Surface Transportation Act, and all I am trying to do is make the provision of this bill comply with that act that we passed last year.

Mr. ROONEY. Mr. Chairman, I have no objection to the amendment.

Mr. SKUBITZ. Mr. Chairman, did I understand that the gentleman accepted it?

Mr. ROONEY. Yes.

Mr. SKUBITZ. If the gentleman will yield, I would like to ask my colleague a question. It seems to me that under the existing law we provided for per diem rates for railroad cars and, after long debate in the committee itself, we arranged that we should take care of private carriers who owned cars that are operated on the tracks. The moment these cars are taken over by carriers themselves, it holds them up. It seems to me we should encourage more cars to be built by private carriers rather than discourage that, and that is exactly what the gentleman's amendment would do.

Mr. MADIGAN. I am not attempting to discourage construction or acquisition of cars by private carriers. I am attempting to encourage the acquisition and construction of cars by railroad-operating companies. And the reason I wish to do that is because all of the evidence we have so far indicates that the private cars spend a substantial amount of their time on sidings, being used for storage, and are not available for other shippers. I think if we continue that practice we are going to wind up with the situation where big shippers own all of the cars and the little shippers do not have the same access to the railroad right-of-way of this country. I do not think that is in the public interest.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield further?

Mr. MADIGAN. I will yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, the fact is that it is not just the railroad cars. It is privately owned cars, and everything else, that stand on the siding because the shippers, the merchandisers, would sooner store their commodities in cars. It is cheaper that way than it is to take it out of the cars and put it on the railroad.

Mr. Chairman, I object to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MADIGAN).

The amendment was agreed to.

Mr. ROONEY. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude at 4:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. COHEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ROONEY. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. COHEN. Mr. Chairman, reserving the right to object, may I ask, how many amendments are left at the desk?

The CHAIRMAN. There are at the moment 17 amendments left at the desk.

Mr. COHEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I move that all debate on the bill and all amendments thereto conclude at 5 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The question was taken; and on a division (demanded by Mr. SKUBITZ) there were—ayes 61, noes 37.

RECORDED VOTE

Mr. STEIGER of Wisconsin. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 258, noes 161, answered "present" 1, not voting 14, as follows:

[Roll No. 803]

AYES—258

Adams
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
Aspin
AuCoin
Barrett
Baucus
Beard, R.I.
Bell
Biaggi
Blanchard
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carter
Chappell
Chisholm
Clancy
Clay
Collins, Ill.
Conable
Conlan
Conyers
Corman
Cotter
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Dickinson
Diggs
Drinan
Eilberg
English
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Fountain
Frenzel
Fuqua
Gibbons
Ginn
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hannaford
Harrington
Harris
Hastings
Hawkins
Hays, Ohio
Hechler, W. Va.
Hefner
Helstoski
Henderson
Hightower
Holland
Holt
Horton
Howard
Howe
Hubbard
Ichord
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Ketchum
Krebs
Krueger
LaFalce
Landrum
Latta
Leggett
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCormack
McDade
McFall
McHugh
McKay
Madden
Mahon
Martin
Meeds
Melcher
Metcalfe
Meyner
Mikva
Milford
Mills
Minish
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Schneebeli
Sebelius
Seiberling
Sharp
Shriver
Sikes
Simon
Sisk
Skubitz
Smith, Nebr.
Spellman
Staggers
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stokes
Stratton
Stuckey
Symington
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOES—161

Abdnor
Abzug
Addabbo
Allen
Anderson, Ill.
Andrews, N. Dak.
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blouin
Bonker
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burton, John
Carr
Casey
Cederberg
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conte
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Esch
Evans, Ind.
Fenwick
Findley
Fish
Flynt
Forsythe
Frey
Giaimo
Gilman
Goldwater
Green
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harsha
Hayes, Ind.
Heckler, Mass.
Heinz
Hicks
Holtzman
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Kelly
Kemp
Keys
Kindness
Koch
Lagomarsino
Lehman
Lent
Levitas
McCloskey
McCollister
McDonald
McEwen
McKinney
Mann
Mathis
Matsunaga
Mazzoli
Mezvinsky
Michel
Miller, Calif.
Miller, Ohio
Mineta
Mink
Mitchell, Md.
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Nolan
Peyser
Pritchard
Quie
Regula
Richmond
Rinaldo
Roush
Rousselot
Runnels
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Shipley
Shuster
Slack
Smith, Iowa
Snyder
Solarz
Spence
Stanton, J. William
Stark
Steiger, Wis.
Symms
Talcott
Treen
Vander Jagt
Waggonner
Wampler
Waxman
Weaver
Whalen
Wiggins
Wolff
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Studds

NOT VOTING—14

Burke, Fla.
Daniels, N.J.
Duncan, Oreg.
Ford, Mich.
Fraser
Gaydos
Hébert
Hillis
Hinshaw
Macdonald
Madigan
Maguire
Sullivan
Udall

Messrs. LEHMAN and MEZVINSKY changed their votes from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair will recognize Members for about a minute and a half.

The Chair would encourage those Members who are protected by having had their amendments printed in the RECORD to wait until 5 o'clock in order to help those Members who are not so protected.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: Page 307 after line 23 insert the following:

TITLE X—URBAN MASS TRANSPORTATION ACT AMENDMENTS

EMERGENCY RAIL PASSENGER SERVICE

SEC. 1001. The Urban Mass Transportation Act of 1964 as amended (49 U.S.C. 1601) is amended by adding at the end thereof the following new section:

"EMERGENCY RAIL PASSENGER SERVICE OPERATING ASSISTANCE

"SEC. 17. (a) The Secretary shall provide emergency financial assistance to States and local public bodies and agencies thereof named in subsection (i) and to certain common carriers by railroad, for the following purposes:

"(1) The reimbursement of any person who is not subject to a binding lease or agreement as of January 2, 1974, and who furnishes commuter rail passenger service for a State or local public body or agency thereof for the six-month period beginning on February 27, 1976, and ending August 30, 1976. Such reimbursement shall cover all costs not otherwise paid by a State or local public body or agency thereof as if the regulations issued in accordance with the provisions of subsection (b) had been in effect on February 27, 1976, except that in any case where a common carrier by railroad is required to furnish rail commuter service pursuant to an existing Federal law for any or all of the six month period, commencing February 27, 1976, and ending August 30, 1976, and the State or local public body or agency thereof does not offer a subsidy for that period, the Secretary shall reimburse the common carrier by railroad furnishing the service in accordance with the regulations issued in accordance with subsection (b).

"(2) The reimbursement of any State or local public body or agency thereof for the purpose of defraying the additional cost incurred for payment of commuter rail passenger continuation subsidies as the result of the regulations issued in accordance with the provisions of subsection (b).

"(b)(1) Within 180 days after November 9, 1975, the Rail Services Planning Office of the Interstate Commerce Commission shall issue regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code, which shall contain standards for the computation of subsidies for commuter rail passenger service, for use in determining and for the determination of emergency commuter rail passenger operating assistance service provided by the Secretary pursuant to this section.

"(2) The standards for the computation of subsidies shall provide that such subsidies shall cover the net avoidable loss from operating the commuter rail passenger service including a reasonable return on the value of properties that are required by such service and which properties would be unnecessary if the service were not operated.

"(3) There is authorized to be appropriated to the Commission for the use of the Planning Office to carry out the purposes of this subsection an amount not to exceed $500,000, which sum shall remain available until expended.

"(c) Any State or local body or agency thereof which was providing financial support for the continuation of rail commuter service on or before February 27, 1976, must continue to provide the same level of financial support in order to qualify for assistance under this section.

"(d) In any dispute over the application of any regulation issued pursuant to subsection (b), the parties to such dispute may agree to arbitration by a third party. In the event such parties cannot agree to an arbitrator, the Director of the Rail Services Planning Office shall serve in the capacity of arbitrator.

"(e)(1) No assistance shall be made pursuant to this section for any obligation incurred by any State or local public body or agency thereof for the furnishing of any commuter rail passenger service prior to February 27, 1976, or after September 30, 1978.

"(2) No assistance shall be available pursuant to this section after August 30, 1976, to any State or local public body or agency thereof unless such state or local public body or agency thereof has in effect a lease or agreement for the furnishing of rail commuter service, and has offered a subsidy in conformity with the standards provided in regulations issued in accordance with the provisions of subsection (b).

"(3) No funds which are available to provide assistance in accordance with the provisions of this section shall be used to provide assistance to the National Railroad Passenger Corporation for any intercity noncommuter service.

"(f) Any assistance provided in accordance with the provisions of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate with such reasonable exceptions to requirements and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

"(g)(1) The Federal share of assistance made available under this section from February 27, 1976, to August 30, 1976, shall be 100 per centum of the costs eligible under the regulations issued pursuant to subsection (b).

"(2) The Federal share of assistance made available under this section from August 30, 1976, until the end of fiscal year 1977 shall be 75 per centum of the costs eligible under the regulations issued under subsection (b).

"(3) The Federal share of assistance made available under this section for the fiscal year ending September 30, 1978, shall not exceed 50 per centum of the costs eligible under the regulations issued under subsection (b). No assistance may be provided for the fiscal year ending September 30, 1978, unless the State or local public body or agency thereof provides satisfactory assurances to the Secretary that the service for which such assistance is sought will be continued after the termination of the assistance authorized by this section. The terms and provisions applied by the Secretary for assistance provided in the fiscal year ending September 30, 1978, shall be consistent insofar as is practicable with those applicable to operating assistance under section 5 of this Act.

"(h) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, subject to such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $125,000,000. There is authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 for the interim fiscal period ending September 30, 1976, not to exceed an aggregate of $95,000,000 for the fiscal year ending September 30, 1977, and not to exceed an aggregate of $125,000,000 for the fiscal year ending September 30, 1978.

"(i) Assistance under this section shall be available only to the States of Connecticut, Delaware, Indiana, Maryland, Massachusetts, Ohio, New Jersey, New York, Pennsylvania, and Rhode Island, and local public bodies and agencies thereof, and to common carriers by railroad as authorized by subsection (a)(1) of this section."

Renumber existing title X, including sections and references thereto, as title XI.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Chairman, the amendment adds a new title to the Urban Mass Transportation Act of 1964. The new title provides $125,000,000 over a 31-month period for assisting States and local public bodies and agencies thereof for defraying costs of commuter rail passenger service continuation subsidies. In certain circumstances the subsidy can be paid to a common carrier by a railroad that furnishes the service.

For example, ConRail is required to continue commuter rail passenger service for a period of 180 days under section 916 of H.R. 10979. If for any reason, the appropriate local authority does not offer a subsidy, the Secretary of Transportation is required to pay ConRail directly.

The level of Federal assistance will be determined in accordance with the regulations issued by the Rail Services Planning Office of the Interstate Commerce Commission.

In order to be eligible for assistance, State and local public bodies and agencies thereof must maintain the level of financial assistance they are presently providing, if any. Moreover, they must enter into service contracts and offer a subsidy in accordance with the regulations mentioned earlier if they are to be eligible for any Federal assistance after August 30 of next year.

Under the Regional Rail Reorganization Act, subsidies are available for freight service; however, none are provided for commuter rail passenger service. This amendment closes that gap. The relief afforded is temporary, and it is necessary to offset the effect of the final system plan on these vital services. The Federal share of any increased subsidy payment is 100 percent for 6 months. It is reduced to 75 percent for the subsequent 13 months, and drops to 50 percent for the last 12 months.

Implementation of the final system plan without this amendment could have adverse effects on certain States in the region affected by the plan. The problem originates with the fact that certain commuter rail passenger services are now being operated by the bankrupt railroads involved in the plan either without a contract or subject to a contract that will not be assumed by ConRail.

Consequently, in order to assure that these services will be maintained at existing levels, new contracts must be negotiated. Most certainly, these new contracts will require new or higher subsidies from the States or local public bodies or agencies thereof. This will have immediate financial effects at the local level.

In order to give the States and local public bodies and agencies thereof sufficient time to make the necessary financial adjustments for these costs, and in order to prevent any curtailment of service for the thousands of commuters involved, the amendment provides for payment of Federal subsidies on a limited basis.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, I commend the gentleman from New Jersey.

There was a dual jurisdiction. The committee accepts the amendment.

AMENDMENT OFFERED BY MR. HARSHA TO THE AMENDMENT OFFERED BY MR. HOWARD

Mr. HARSHA. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The Clerk read as follows:

Amendment offered by Mr. HARSHA to the amendment offered by Mr. HOWARD: Amend Subsection (g)(2) of the proposed new Sec. 17 of the Urban Mass Transportation Act of 1964 to strike out "75 percentum" and insert in lieu thereof "50 percentum".

Mr. HARSHA. Mr. Chairman, the amendment which I am offering to H.R. 10631 would authorize Federal assistance to the States for 50 percent of the eligible costs of commuter rail service after the first 180-day period following the conveyance date of rail properties. My amendment provides for a fairer distribution of Federal support than does the bill.

The final system plan will require additional funds to subsidize commuter rail service. The main impact of the final system plan will be felt during the first 180 days. I agree that for the first 180 days a 100 percent Federal payment for the increased costs is appropriate. We need to keep the commuter service in operation until the affected States can adjust their budgets and negotiate new contracts. Fine. But then this bill would give these States a 75-percent subsidy for the next full year. Why 75 percent, when the regular UMTA share for operating assistance is 50 percent? We are given some theoretical talk about States not being able to adjust their budgets, but nobody has explained just why they cannot.

Just who needs this bailout? Who is getting the benefit of this giveaway? New York and Connecticut have extensive commuter networks, but will not get a penny under this bill because they subsidize their lines and their commuters pay reasonable fares. The main recipients of this assistance will be Pennsylvania and New Jersey, two States that have kept their fares low and their subsidies low. New Jersey commuters pay only 4 cents per passenger mile, for an average trip of 22 miles. We should all be so lucky.

Are we being asked to provide Federal funds here just to subsidize a low-fare policy? If this commuter service is really as vital as New Jersey and Pennsylvania say it is, the commuters themselves might be willing to pay a little more for it. If it is important enough for the Federal Government to subsidize, it ought to be important enough for the State and local governments to subsidize. Of course everybody loves to get a Federal dollar. But I can see no good reason why taxpayers all over the country pay extra so that New Jersey and Pennsylvania passengers can ride for 4 and 6 cents per passenger mile. The Federal share for regular UMTA transit operating assistance is 50 percent. This particular small group of people ought not be treated any differently. I urge that this amendment be accepted by the Members of the House.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Chairman, I rise in support of the Howard amendment.

(By unanimous request, Mrs. Fenwick yielded her time to Mr. Howard).

Mr. HOWARD. Mr. Chairman, I thank the gentlewoman for yielding this time.

Mr. Chairman, the original amendment had in this middle section 100 percent of subsidies. The administration requested 50 percent, and so what the committee did was split it down the middle and make it 75 percent; so that is about as fair as this Congress can be, with the administration going half way.

Also, concerning the money coming out of existing funds, this money would not be available until fiscal year 1977.

Mr. Chairman, we are talking about all through the East and the Midwest having passenger lines closing down on February 27 of next year; so the money has to be there to continue this.

Mr. Chairman, I would urge that we reject the amendment of the gentleman from Ohio (Mr. Harsha) and approve my amendment, as accepted by the Committee on Interstate and Foreign Commerce.

Mr. HARSHA. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I appreciate the gentleman's statement that the gentleman had endeavored to accommodate the administration by dropping the subsidy from 100 to 75 percent; but I would like to accommodate the rest of the Nation to a little equity and make it 50 percent, as the rest of the country must live with.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Shuster).

Mr. SHUSTER. Mr. Chairman, I support the amendment of the gentleman from New Jersey (Mr. Howard).

Mr. Chairman, since I have come to the Congress I have always opposed operating subsidies for mass transit. I still do; however, this is not an operating subsidy on a continuing basis for mass transit; rather, this is a short-term provision to permit the continuation of service until local subsidies can be generated.

Therefore, Mr. Chairman, I urge defeat of the Harsha amendment and passage of the Howard amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Chairman, I rise in opposition to the Harsha amendment and in support of the Howard amendment.

Mr. Chairman, unless we adopt the Howard amendment, we will find a situation where ConRail, which was put in operation for the facilitating of transportation opportunity, is going to have the impact of terminating commuter contracts on the 27th of February. That is not the intent of this Congress in passing ConRail. This is merely a temporary impact program designed to assist the railroads in the interim period between the implementation and the renegotiation of the contracts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Harsha) to the amendment offered by the gentleman from New Jersey (Mr. Howard).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HARSHA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 231, not voting 22, as follows:

[Roll No. 804]

AYES—181

Abdnor
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bell
Bennett
Bergland
Bevill
Bowen
Breaux
Breckinridge
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Casey
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Findley
Flowers
Flynt
Fountain
Frenzel
Frey
Fuqua
Gibbons
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hansen
Harkin
Harsha
Hastings
Hechler, W. Va.
Henderson
Hightower
Holland
Howe
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Litton
Lloyd, Tenn.
Long, Md.
Lujan
McCloskey
McCollister
McCormack
McDonald
McEwen
McKay
Madigan
Mann
Martin
Mathis
Mazzoli
Michel
Milford
Miller, Ohio
Mills
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Passman
Perkins
Pettis
Poage
Pressler
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Risenhoover
Robinson
Rogers
Roush
Rousselot
Runnels
Ruppe
Santini
Satterfield
Schneebeli
Sebelius
Sharp
Shriver
Sikes
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Symington
Symms
Talcott
Taylor, Mo.
Thone
Treen
Ullman
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Wiggins
Winn
Wylie
Young, Alaska
Young, Fla.
Young, Tex.

NOES—231

Abzug
Adams
Addabbo
Alexander
Ambro
Annunzio
Ashley
Aspin
Badillo
Barrett
Baucus
Beard, R.I.
Bedell
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Esch
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Green
Gude
Hall
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.

Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
McClory
McDade
McFall
McHugh
McKinney
Madden
Mahon
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Pickle
Pike
Preyer
Price
Pritchard
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Shipley
Shuster
Simon
Sisk
Solarz
Spellman
Staggers
Stark
Steelman
Stephens
Stokes
Stratton
Stuckey
Studds
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—22

Burke, Fla.
Carney
Daniels, N.J.
Evins, Tenn.
Ford, Mich.
Forsythe
Fraser
Gaydos
Hébert
Hillis
Hinshaw
Jacobs
Landrum
Lott
Macdonald
Maguire
Montgomery
Stanton, James V.
Sullivan
Teague
Udall
Wilson, C. H.

Mr. WIGGINS, Mrs. LLOYD of Tennessee and Messrs. SKUBITZ, KAZEN, and ROGERS changed their votes from "nay" to "aye."

Mr. SCHEUER changed his vote from "aye" to "nay."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. PEYSER. Mr. Chairman I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. PEYSER. Mr. Chairman does the time of the vote go against the 5 o'clock deadline?

The CHAIRMAN. The Chair will state that it does, yes.

Mr. PEYSER. In other words, Mr. Chairman, if we have another vote we would then cut 15 more minutes out of that time?

The CHAIRMAN. The gentleman is correct, yes.

Mr. PEYSER. I thank the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Howard).

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from North Dakota (Mr. Andrews).

AMENDMENT OFFERED BY MR. ANDREWS OF NORTH DAKOTA

Mr. ANDREWS of North Dakota. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Andrews of North Dakota: Page 315, line 5, after line 5 add this new paragraph:

"(3) food requirements for this nation and outside this nation can be assured by preserving railroad rights of way and properties in areas in which agriculture production is located; and"

(Conforming amendments.)

At line 6, renumber "(3)", "(4)".

At line 23, after word resources, add "or agriculture production,".

At line 19, after the word "bank", add "or agricultural production bank,".

Mr. ANDREWS of North Dakota. Mr. Chairman, my amendment is very simple. The bill provides a rail bank for branch lines to coal mines to provide fuel energy for our Nation.

This amendment provides the same thing for agriculture. Branch lines in agricultural areas will be given the same protection as grain and fertilizer, bulk commodities that depend on the availability of rail transportation can move. If fuel energy is important to our country, and it is, so is food energy without which life itself cannot survive. These branch lines in agricultural areas are much needed.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, we have no objection to the amendment on this side.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, we have no objection to the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I am glad to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding.

I am in support of this amendment. It is necessary out in the rural areas where fertilizer and other commodities are produced.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota (Mr. Andrews).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Skubitz: On page 252, at line 1, strike the words "Supplemental Transactions:" and substitute in lieu thereof "Continuing Reorganization".

On page 252, at line 2, strike the word "If" and insert in lieu thereof:

"The reorganization process described in the Regional Rail Reorganization Act of 1973 and the amendments thereto set forth in this Act is hereby deemed to be a continuing reorganization for a period of six years from the date of enactment of this Act. To insure the financial viability of the Corporation and at the same time provide protection for the federal funds invested pursuant to this act it is hereby provided if".

On page 253, at lines 16–17, strike the words "as defined by the purposes of the Act and the goals of the final system plan".

On page 253, at line 20, immediately after "transferee" insert the words "(other than the Corporation where it is a proposed transferor)".

On page 254, at line 20, immediately after "determines" insert the words, "after consultation with the Commission,".

On page 255, at lines 18–19, strike the words "Association, the Secretary, or the carriers involved", and substitute in lieu thereof "Association (with regard to a proposal developed by the Association or the Commission) or the Secretary (with regard to a proposal developed by the Secretary)".

On page 255, at line 23, immediately after the word "transferee" insert the words "(other than the Corporation where it is a proposed transferor)".

On page 256, strike out line 24, and substitute in lieu thereof the following:

"(d) Definitions. (i) For all purposes of this section, the term 'in the public interest' means in the public interest as defined by the purposes of the Act and the goals of the final system plan, including the goal of the maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region.

(ii) For all purposes of this section the".

Mr. SKUBTZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

(By unanimous consent, Mr. Quillen yielded his time to Mr. Skubitz.)

Mr. SKUBITZ. Mr. Chairman, my amendment takes away the veto ConRail now has over future rail transactions.

By virtue of legislation that is before you—the Federal Government is investing between $2 and $3 billion in an attempt to reorganize the bankrupt railroads in the Northeast and Midwest United States.

If this reorganization should fail, the inevitable next step would be nationalization of these lines.

The cost to the taxpayers of nationalization would be astronomical.

The U.S. Railway Association has recommended that to insure the success of this reorganization we implement a continuing reorganization of the bankrupt properties for a period of 6 years after the date of conveyance to ConRail.

Under USRA's plan the continuing reorganization would be implemented by means of "supplemental transactions" in which properties of ConRail might be transferred to one or more profitable railroads.

Supplemental transactions could be proposed by the ICC, USRA, or DOT.

In all cases a supplemental transaction would have to be approved by a special court.

In title IX we outline this procedure. The proviso specifically provides that only when the special court finds that a proposed transaction—

First, will not affect the public service;

Second, will not make ConRail a nonviable railroad; and

Third, that the creditors and stockholders are protected.

Then, and only then, will such a transfer be permitted.

Mr. Chairman, the argument will probably be made that if the Secretary, the ICC, or USRA is given authority to make transfers the viability of ConRail will be seriously impaired—and it would become unprofitable—all to the detriment of the bankrupt estates.

Now nothing could be further from the truth:

First. In the first place the Secretary, the ICC, or USRA could not act unless the special court, set up to protect the bankrupt estates, approve the transfer; and

Second. Furthermore, I submit that if the whole railroad were sold—or two-thirds were sold—it would not affect assets of the bankrupt estates.

And I will tell you why—

First. The bankrupt estates get all the common and preferred stock in ConRail—they own it; and

Second. In addition they get certificates of value from the Government which guarantees them the constitutional minimum value for their properties.

Hence—

First. If ConRail is a roaring success then the value of the bankrupt estates' stock increases in value; and

Second. If ConRail goes broke then the bankrupt estates can forget their stock and cash in on their certificates of value which is the cash value of the assets given ConRail plus 8-percent interest.

The bankrupt estates with their certificates of value are in the same position as our farmers when the Government gives them certificates of value worth $2 for each bushel of wheat they sell.

If the price of wheat went up during the year from $2 to $2.50 a bushel the farmer could turn in his certificate, get his wheat, and resell it for $2.50 a bushel.

If the price dropped to $1.50 a bushel he could say "No, thank you," to the Government, turn in his certificate and get $2.

This is what you call having your pie and eating it too.

I submit that when it is receiving between $2 and $3 billion in Federal financial assistance ConRail management should not be allowed to prevent steps which would enhance the achievement of a successful reorganization and an amendment should be adopted to eliminate this ConRail power of veto.

I urge the adoption of this amendment.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, what this amendment will do will take away from ConRail the right to do what it has to do. In fact, the suggestion has been made that what this is is a means of providing control, that is to whittle away at the profitable rail operations of ConRail down the line. What we want to do is to put into operation a successful venture, and we do not want to have the authority taken away from ConRail on its right to conduct its business in a way that will be profitable on down the road. The amendment is not only to provide protection for the funds to ConRail, but to take away their right to management.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. Skubitz).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Murphy of New York: At page 187, line 18, after the word "between" insert the words "and within".

Mr. MURPHY of New York. Mr. Chairman, the amendment I propose would preserve existing authority of the Interstate Commerce Commission to maintain rail freight rate parity within ports of the United States. Historically, parity has prevailed because the railroads have quoted joint rates to and from ports and they have absorbed in the joint rates terminal and switching costs in shipping rail freight from its point of origin or delivering rail freight to its particular destination within the port.

In the port of New York, the Hudson River makes rail marine service a necessity to connect the New York side of the port with the railheads of the line-haul carriers on the New Jersey shore.

As the USRA Final System Plan recognizes—volume II, page 10:

> New York Harbor is the only port on the Eastern seaboard where, because of a lack of direct rail access, car-float operations are required to serve docks and other locations.

Moreover, USRA has stated in its preliminary system plan—page 360:

> Traditionally rates to the greater New York area have been equalized. This equalization was predicted on a premise that New York City and the Eastern New Jersey shoreline were integral parts of a single economic entity.

Indeed, the USRA final system plan—volume II, page 246—acknowledges testimony that a surcharge on rail carfloat operations in New York Harbor "could ruin New York as a port city."

Mr. Speaker, I offer this amendment to protect the port of New York from such ruin by preserving the authority of the Interstate Commerce Commission to maintain rail freight parity within the port.

Mr. Speaker, I am not alone in my concern. A Joint Agency Committee, consisting of all the public agencies concerned with rail freight transportation in the port of New York, has submitted a comprehensive report on New York Harbor railroad operations. In its report the committee stated:

> * * * it is essential that surcharges not be imposed which would have the adverse effect of discriminating against the New York side of the bi-State Port. Such a system would place the City of New York in a serious position vis-a-vis competition with other Port areas, and should be avoided at all costs.
>
> In the Port of New York, the orderly development of commerce and industry and the protection and preservation of existing manufacturing, commercial and rail facilities require the maintenance of the rate parity system. * * *
>
> This equalization must be maintained. The Interstate Commerce Commission and the Courts have on numerous occasions recognized the single entity concept and in reliance thereon, the City of New York, the Port Authority and extensive private business and commercial interests have made large investments in port facilities that need to be protected and fostered.

Mr. Speaker, New York needs all the help it can get. Its commerce and industry should certainly not be subjected to a rail freight rate surcharge. To protect against any such surcharge I offer this amendment, and I earnestly hope my colleagues will support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer two amendments and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read as follows:

> Amendments offered by Mr. Dingell: Page 265, line 8, strike out "Corporation.—" and insert in lieu thereof the following: "Corporation or Acquiring Carrier.—"
>
> Page 267, strike out lines 16 through 22 and insert in lieu thereof the following:
>
> "(3) Transfer of Protection.—An employee of the Corporation entitled to protection and transferred as a result of an acquisition pursuant to this Act shall carry with him his protected status upon transfer to the National Railroad Passenger Corporation or to an acquiring carrier. The National Railroad Passenger Corporation or an acquiring carrier, as new employers, shall be responsible for payment of protection benefits and shall be entitled to reimbursement pursuant to section 509 of this title.
>
> And on page 282, line 10, immediately after "Secretary" insert the following: ", in consultation with the Secretary of the Interior,".
>
> Page 282, beginning in line 14, strike out "national parks" and all that follows down through line 17 and insert in lieu thereof the following: "Federal, State, or local parks or recreation areas, wildlife refuges, wildlife management areas, habitats for non-game wildlife, or other trail, bikeway, or walkway public recreational uses including those identified by the Department of the Interior and the several states in the Final System Plan in Volume II, pages 519 through 524."
>
> Page 282, strike out line 18 and all that follows down through page 283, line 1, and insert in lieu thereof the following:
>
> "(b) General Authority.—In providing assistance under this section, the Secretary shall notify other Federal agencies, States, local agencies, and private groups of property identification referred to in subsection (a) of this section for purposes of conversion of rights-of-way referred to such subsection (a). The Secretary shall also require that conversion plans be developed by citizen participation".

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendments be dispensed with and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. STEIGER of Wisconsin. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the amendments.

Mr. DINGELL. Mr. Chairman, I repeat my unanimous-consent request. I know they are quite simple and they are noncontroversial.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. The first amendment is one which permits an employee of USRA to carry with him the protected status, which we have given him by statute under earlier amendments, as he moves to a new acquiring carrier.

The second is an amendment which changes the technical language but not the substance of an amendment earlier adopted and embodied in the bill relating to the preservation of lands on railroads which will be abandoned.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. ROONEY). He has read the amendments.

Mr. ROONEY. Mr. Chairman, I have had an opportunity to review the amendments and we will accept them.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. DINGELL).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RINALDO: On page 210, after line 11, add the following new section:

"ADVANCEMENT TO STATES FOR DELINQUENT TAXES

"SEC. 603. (a) The Secretary may advance an interest free loan to any state (or any political subdivision thereof) which has been entitled to ad valorem or property taxes from a rail carrier in bankruptcy, provided that such loan does not exceed 50% of the amount due and that such amount due is more than 12 months in arrears.

"(b) Any state receiving money under this Section shall make repayment of such money within 30 days after receiving a settlement from any bankrupt estate which is equal to or exceeds the amount borrowed under this Section."

"(c) There is hereby authorized to be appropriated $200 million to be available to the Secretary for making expenditures pursuant to this section. Funds so appropriated are authorized to remain available until expended, except that no funds shall be expended after September 30, 1981."

Mr. RINALDO. Mr. Chairman, under the present bankruptcy laws, a railroad must continue operating even though it is not making money.

One of the few things the courts can do to alleviate this hardship is to defer payment of State and local taxes.

However, in relieving the bankrupt railroads of their tax burdens, the courts throw an additional burden on other taxpayers who are not exempt from tax liability.

What happens to a State or local government which has railroad property within their jurisdictions—property on which no taxes can be collected?

First, they encounter severe budgetary problems when they attempt to continue providing essential services such as education, police, fire protection, and sanitation. Property taxes, for the most part, fund these services. Right now, between $300 and $400 million worth of property taxes are owed by the bankrupt railroads.

This is money which these units of government need in order to continue operating in a fiscally responsible way.

When they cannot collect it, their only recourse is to raise the property taxes which other people have to pay—ordinary individuals and businesses. It is simply not fair to place such a burden on the people of the States where these millions of dollars in taxes are owed.

We, the Congress, created the Federal bankruptcy laws. We, the Congress also created the Northeast Regional Rail Act, which froze the whole situation as it existed in 1973. To the extent that these actions have prohibited States from collecting their taxes, we have an obligation to provide some assistance.

The assistance which I am proposing will not cost the Federal Government a dime.

The $200 million authorized by my amendment can only be used for interest-free loans to State and local governments. The amount of the loan may not exceed 50 percent of the amount owed, and the loan must be repayed within 30 days after the unit of government receives a settlement from the bankrupt estates.

This is not a handout. This is a business arrangement. It fulfills what I believe is the obligation of the Federal Government to relieve unfair burdens created by its own laws, yet will not actually cost the Government any money whatsoever.

The entire $200 million is a loan which must be repaid, but which in the meantime is desperately needed to tide State and local governments over until they can once again count on full revenues.

I repeat, Mr. Chairman, the laws we passed caused this monetary crisis and we have an absolute obligation to provide fair and equitable relief.

This is what my amendment will accomplish. And it will not cost a cent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PEYSER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I believe that the amendment is a very far reaching and important one for any municipalities who are owed money by the railroads. It would end up costing the Federal Government nothing. It would simply allow the municipality to be able to collect taxes now through the Secretary of the Treasury, who would then be reimbursed when the final bankruptcy proceedings are settled.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

Mr. Chairman, I repeat, as the gentleman from New York has said, this is an amendment that will not cost the Federal Government 1 cent. It is equitable. we have an absolute obligation under this bill to provide this type of fair relief. I certainly hope that the Members will vote in favor of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

The amendment was rejected.

AMENDMENT OFFERED BY MR. NOLAN

Mr. NOLAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NOLAN: Page 197, strike out line 11 and all that follows through page 198, line 5, and insert in lieu thereof the following:

TITLE IV—LOCAL RAIL SERVICE CONTINUATION

EXTENSION OF SERVICE

SEC. 401. (a) Section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended to read as follows:

"(18) (a) No common carrier by railroad subject to this part shall—

"(i) undertake the extension of any of its lines of railroad or the construction of any additional line of railroad;

"(ii) acquire or operate any such extension or any such additional line; or

"(iii) engage in transportation over, or by means of, any such extended or additional line of railroad,

unless such extension or additional line of railroad is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or will be enhanced by the construction and operation of such extended or additional line of railroad. Upon receipt of an application for such a certificate, the Commission shall (A) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of such extended or additional line; (B) send an accurate and understandable summary of such application to a newspaper of general circulation in such affected area or areas with a request that such information be made available to the general public; (C) cause a copy of such summary to be published in the Federal Register; (D) take such other steps as it deems reasonable and effective to publicize such application; and (E) indicate in such transmissions and publications that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(b) The Commission shall establish and may from time to time amend rules and regulations (as to hearings and other matters) to govern applications for, and the issuance of, any certificate required by subdivision (a). An application for such a certificate shall be submitted to the Commission in such form and manner and with such documentation as the Commission shall prescribe. The Commission may—

"(i) issue such a certificate in the form requested by the applicant;

"(ii) issue such a certificate with modifications in such form and subject to such terms and conditions as are necessary in the public interest; or

"(iii) refuse to issue such a certificate.

"(c) Upon petition or upon its own initiative, the Commission may authorize any common carrier by railroad subject to this part to extend any of its lines of railroad or to take any other action necessary for the provision of adequate, efficient, and safe facilities for the performance of such carrier's obligations under this part. No authorization shall be made unless the Commission finds that the expense thereof will not impair such carrier's ability to perform its obligation to the public.

"(d) Common carriers by railroad subject to this part may, notwithstanding this paragraph and section 5 of this part, and without the approval of the Commission, enter into contracts, agreements, or other arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The authority granted to the Commission under this paragraph shall not extend to the construction, acquisition, or operation of spur, industrial, team, switching, or side tracks if such tracks are located or intended to be located entirely within one State and shall not apply to any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.

"(e) Any construction or operation which is contrary to any provision of this paragraph, of any regulations promulgated under this paragraph, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this paragraph or of the conditions of a certificate issued under this paragraph.".

(b) Section 1(19), 1(20), 1(21), and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(19), (21), and (22)) are repealed.

DISCONTINUANCE OR ABANDONMENT

SEC. 402. The Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately after section 1 thereof the following new section:

"DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

"SEC. 1a. (a) No common carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line (hereafter referred to as 'discontinuance'), unless such abandonment or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance, and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, and notwithstanding any decision, order, or procedure of any State administrative or judicial body.

"(b)(i) Whenever any common carrier by railroad submits to the Commission a notice of intent to abandon or discontinue, pursuant to subdivision (a), such carrier shall attach thereto an affidavit certifying that a copy of such notice (A) has been sent by certified mail to the chief executive officer of each State that would be directly affected by such abandonment or discontinuance; (B) has been posted in each terminal and station on any line of railroad proposed to be so abandoned or discontinued; (C) has been published for 3 consecutive weeks in a newspaper of general circulation in each county in which all or any part of such line of railroad is located; and (D) has been mailed, to the extent practable, to all shippers who have made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12 months preceding such submission.

"(ii) The notice required under clause (i) shall include (A) an accurate and understandable summary of the carrier's application for a certificate of abandonment or discontinuance together with the reasons therefor, and (B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(c) During the 60-day period between the submission of completed application for a certificate of abandonment or discontinuance pursuant to subdivision (a) and the proposed effective date of an abandonment or discontinuance, the Commission shall, upon petition, or may, upon its own initiative, cause an investigation to be conducted to assist it in determining what disposition to make of such application. An order of the Commission to implement the preceding sentence must be issued and served upon any affected carrier not less than 5 days prior to the end of such 60-day period. If no such investigation is ordered, the Commission shall issue such a certificate, in accordance with this section, at the end of such 60-day period. If such an investigation is ordered, the Commission shall order a postponement, in whole or in part, in the proposed effective date of the abandonment or discontinuance. Such postponement shall be for such reasonable period of time as is necessary to complete such investigation. Such an investigation may include, but need not be limited to, public hearings at any location reasonably adjacent to the line of railroad involved in the abandonment or discontinuance application, pursuant to rules and regulations of the Commission. Such a hearing may be held upon the request of any interested party or upon the Commission's own initiative. The burden of proof in any such investigation shall be upon the applicant for such a certificate.

"(d) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

"(i) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience and necessity;

"(ii) issue such certificate with modifications in such form and subject to such terms and conditions as are required, in the judgment of the Commission, by the public convenience and necessity; or

"(iii) refuse to issue such certificate.

In determining whether public convenience and necessity permit an abandonment, the Commission shall give primary consideration to the needs of those served by the line of railroad involved and the financial effect of the continued operation of the line upon the carrier by railroad seeking its abandonment.

"(e)(i) Each common carrier by railroad subject to this part shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish, a full and complete diagram of the transportation system operated, directly or indirectly, by such carrier. Each such diagram shall include a detailed description of each line of railroad which is a 'low density line', as such term is defined by the Commission. Such term shall be defined by the Commission by rules, and such rules may include standards which vary by region of the Nation and by railroad or group of railroads. Each such diagram shall also identify any line of railroad as to which such carrier plans to submit an application for a certificate of abandonment or discontinuance in accordance with this section. Each such carrier shall submit to the Commission and publish, in accordance with regulations of the Commission, such amendments to such diagram as are necessary to maintain the accuracy of such diagram.

"(ii) The Commission shall not issue a certificate of abandonment or discontinuance with respect to a line of railroad if such abandonment or discontinuance is opposed by—

"(A) a shipper or any other person who has made significant use of such line of railroad during the 12-month period preceding the submission of an applicable application under subdivision (a); or

"(B) a State, or any political subdivision of a State, if such line of railroad is located, in whole or in part, within such State or political subdivision;

unless such line or railroad has been identified and described in a diagram or in an amended diagram which was submitted to the Commission under clause (i) at least 4 months prior to the date of submission of an application for such certificate.

"(f)(i) Whenever the Commission makes a finding, in accordance with this section, that the public convenience and necessity permit the abandonment or discontinuance of a line of railroad, it shall cause such finding to be published in the Federal Register. If, within 30 days of such publication, the Commission further finds that—

"(A) a financially responsible person or a government entity has offered financial assistance to enable the rail service involved to be continued; and

"(B) it is likely that such proffered assistance would cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable rate of return on the value of such line; or

the Commission shall postpone the issuance of a certificate of abandonment or discontinuance for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment or discontinuance, to provide such assistance and to provide for the continued operation of rail services over such line. Upon notification to it of the execution of such an assistance or operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

"(ii) A common carrier by railroad subject to this part shall promptly make available, to any party considering offering financial assistance in accordance with clause (i), its most recent reports on the physical condition of any line of railroad with respect to which it seeks a certificate of abandonment or discontinuance, together with such traffic, revenue, and other data as is necessary to determine the amount of assistance that would be required to continue rail service.

"(g) Whenever the Commission finds, under subdivision (f) of this section, that an offer of financial assistance has been made, the Commission shall determine the extent to which the avoidable cost of providing rail service plus a reasonable return on the value of the rail properties involved exceed the revenues attributable to the line of railroad or the rail service involved.

"(h) Petitions for abandonment or discontinuance, which were filed and pending before the Commission as of the date of enactment of this section or prior to the promulgation by the Commission of regulations required under this section shall be governed by the provisions of section 1 of this Act which were in effect on such date of enactment, except that subdivisions (f) and (g) of this section shall be applicable to such petitions.

"(i) Any abandonment or discontinuance which is contrary to any provision of this section, or any regulation promulgated under this section, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this section or of any regulation under this section.

"(j) If the issuance of the certificate may affect interests of railroad employees, the Commission shall impose a fair and equitable arrangement for the protection of such employees containing benefits no less than those established pursuant to section 5(2)(f) of this Act and section 405 of the Rail Passenger Service Act."

"(k) For purposes of this section, 'avoidable costs of providing service' shall have the meaning given such phrase pursuant to section 205(d)(3) of the Regional Rail Reorganization Act of 1973."

LOCAL RAIL SERVICE ASSISTANCE

SEC. 403. Section 4 of the Department of Transportation Act (49 U.S.C. 1653) is amended by adding at the end thereof the following new subsections:

"(l) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

"(1) the cost of rail service continuation payments;

"(2) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line;

"(3) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service.

"(m) The Federal share of the costs of any rail service assistance program shall be—

"(1) for the first 6-month period beginning 6 months after the date of enactment of this section, 100 per centum for rail services and other projects designated pursuant to the state rail plan; and

"(2) with respect to the following 12-month period during which the assistance program is in continuous operation, the Federal share shall be 90 per centum; and

"(3) with respect to each succeeding 12-month period during which the assistance program is in continuous operation, the Federal share shall be reduced by 20 percent. The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(n) Each State which is, pursuant to subsection (p) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this section and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this section during such periods. Notwithstanding the provision of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of his subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in the first sentence of this subsection.

"(o) Rail service assistance to which a State is entitled under this section may be allocated by such State to meet the cost of establishing and implementing the State rail plan required by subsection (p) of this section or section 402(c)(1) of the Regional Reorganization Act of 1973 (45 U.S.C. 762(c)(1)). Such grants shall be made available by the Secretary during the court of the State rail planning process, and shall be distributed by the Secretary as needed by the States. The amount of State rail planning grants to which each State (including each State referred to in subsection (m)(1) of this section) is entitled shall be proportionate to the amount of rail service assistance to which such State is entitled under this Act.

"(p) A State is eligible to receive rail service assistance from the Secretary if—

"(1) such State has established an adequate plan for rail services in such State as part of an adequate plan for all transportation services in such State, including a suitable process for updating, revising, and amending such plan;

"(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources;

"(3) such State agency (A) has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient transportation services; (B) employs or will employ, directly or indirectly, sufficient trained and qualified personnel; (C) maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation; and (D) is designed and directed to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution;

"(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of Federal funds; and

"(5) such State complies with regulations of the Secretary issued under this section, and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

"(q) A project is eligible in any year for financial assistance from the applicable rail service assistance program only if—

"(1)(A) the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project, or (B) the line of railroad, or related project, was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and

"(2) such line, or related project, has not previously been the subject of Federal rail service assistance under this section for more than 4 fiscal years.

"(r)(1) The Secretary shall pay to each eligible State an amount equal to its entitlement under subsection (n) of this section, to be expended or committed to one or more projects which are eligible, pursuant to subsection (q) of this section.

"(2) In any case in which the State notifies the Secretary, in writing, that such State intends to expend sums received by it under this section for continuation and rehabilitation of rail properties pursuant to this section, such State shall be entitled to receive in a lump sum an amount equal to the local rail service assistance (computed under this section) based upon the costs of operating such rail properties during the 12-month period proceeding the date of the enactment of this section.

"(s)(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

"(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

"(A) a financial audit, in accordance with generally accepted auditing standards; and

"(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

"(t) As used in this section, the term 'State' means—

"(1) during the period beginning on the date of enactment of this subsection and ending 4½ years after the date on which rail properties are conveyed pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(1)), any State in which a common carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad, except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virgina, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

"(2) during the period following 4½ years after the date on which rail properties are conveyed pursuant to such section 303(b)(1), any State in which a common carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad.

"(u) There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $15,000,000 for the fiscal year ending June 30, 1976; not to exceed $15,000,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979. Of the foregoing sums, not to exceed $5,000,000 is authorized to be made available for planning grants during each of the 3 fiscal years immediately following the enactment of this section. Such sums as are appropriated are authorized to remain available until expended.".

Mr. NOLAN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. NOLAN. Mr. Chairman, the amendment to title IV which I am introducing will help to assure the continuation of vital branch line services in the Midwest, South, and West.

The amendment revises the abandonment procedures of the Interstate Commerce Act to provide more advance notice to communities and rail users of proposed abandonments. Under this amendment, every railroad would be required to submit to the ICC a full and complete map of its transportation system, including a detailed description of each branch line, before an application to abandon could be filed. Each line which a railroad then proposes to abandon must have been on the map for at least 4 months. An additional 60 days would have to elapse before any abandonment application that had been filed by a railroad could become effective, thereby providing a minimum of 6 months advance notice to communities and rail users all over the country who might be threatened with losing unprofitable but essential rail service.

The bill already contains language that would abolish the ICC's 34 carload rule and thereby make it more difficult for a railroad to abandon service. I support this language and my amendment would only add to it. The language currently contained in section 401 of the bill is included in my amendment.

This amendment also provides that in any instance in which the ICC finds that the public convenience and necessity permit rail service on a particular line to be discontinued or abandoned, if an individual, a company or a government entity agrees to offer a subsidy to continue that service, the ICC shall postpone the discontinuance or abandonment for up to 6 months while an operating agreement is worked out.

My amendment also provides a nationwide multi-year program of Federal assistance to States in order to assure the continuation of essential branch line services that might otherwise be abandoned.

For a period of 6 months beginning 6 months after enactment of this legislation, the Federal Government would put up 100 percent of the cost of continuing service on the line; for the following year, the Federal share would be 90 percent for each succeeding year in which the subsidy plan is in effect, the Federal share would be reduced by 20 percent. The funds would be disbursed by the Secretary of Transportation.

To be eligible, each State would have to prepare a plan for rail services as part of a plan for all transportation services within the State and submit that plan to the Secretary for his approval. This requirement will encourage States to analyze all their transportation options and will promote intermodal transportation planning. The amendment also provides funds for State rail planning.

This amendment simply extends to the rest of the Nation the same protection against massive rail abandonment that we already have extended to the Northeast.

The cost of this amendment is a maximum of $180 million. Let me point out, however, that the actual cost of this amendment will be limited by the extent to which railroads seek to abandon service, the extent to which the ICC approves such abandonments, and the interest of States in subsidizing continuation of service. If the ICC refuses to approve abandonments, none of this money would be spent. Or, if fewer abandonments are approved than the amount authorized, then not all the funds will have to be appropriated.

Each State would be entitled to an amount based upon a ratio of rail mileage in each State eligible for rail service assistance compared to total rail mileage in all States eligible for such assistance. Each State shall be entitled to receive not less than 1 percent of the funds appropriated.

I am sure I do not need to remind Members about the large number of rail abandonments that have occurred in recent years all over the country. For example, during the period from 1960 to 1972, the ICC granted 1,592 of 1,639 rail applications to abandon lines; only 47 were denied and 109 were dismissed or withdrawn.

I am informed that there are more than 6,000 miles of rail lines throughout the United States that could soon be abandoned if this amendment is not agreed to. And I would like to insert at this point in the RECORD a table of railroad mileage included in 340 abandonment cases pending before the ICC in July 1974, on a State-by-State basis:

TABLE 4.—*Railroad mileage included in 340 abandonment cases pending before the Interstate Commerce Commission in July 1974, by State*

REGION AND STATE	*Miles*
Northeast:	
Maine	17
New Hampshire	128
Vermont	1
Massachusetts	40
Rhode Island	15
Connecticut	50
New York	444
New Jersey	45
Pennsylvania	778
Delaware	24
Maryland	186
District of Columbia	0
Total	1,728
Lake States:	
Michigan	648
Wisconsin	130
Minnesota	392
Total	1,170
Corn Belt:	
Ohio	539
Indiana	486
Illinois	418
Iowa	370
Missouri	83
Total	1,896
Northern Plains:	
North Dakota	18
South Dakota	337
Nebraska	138
Kansas	85
Total	578
Appalachian:	
Virginia	86
West Virginia	48
North Carolina	44
Kentucky	10
Tennessee	51
Total	239
Southeast:	
South Carolina	73
Georgia	38
Florida	106
Alabama	18
Total	235
Delta States:	
Mississippi	78
Arkansas	71
Louisiana	44
Total	193
Southern Plains:	
Texas	132
Oklahoma	51
Total	183
Mountain:	
Montana	109
Idaho	24
Wyoming	11
Colorado	61
New Mexico	28
Arizona	0
Utah	4
Nevada	115
Total	352

Pacific:	
Washington	31
Oregon	3
California	86
Hawaii	0
Alaska	0
Total	120
United States	6,694

Source: Based on a special tabulation of abandonment applications provided by the Interstate Commerce Commission.

To be sure, many of these lines may be obsolete and outdated. But we have reached the point where we must be concerned lest our rail system be so reduced in size that this energy and environmentally efficient mode of transportation not be capable of meeting present and future transportation needs.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. I yield to the Chairman of the subcommittee, the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman for yielding.

Mr. Chairman, I have had an opportunity to review the amendment, and the committee will accept it on this side.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Mr. Chairman, I think this is a good amendment, and I accept it.

Mr. BEDELL. Mr. Speaker, the problem of rail service deterioration is not regional; it does not end abruptly with the boundaries of the 17 States comprising the designated Northeast region under the Rail Reorganization Act of 1973.

While the problems of the Northeast and the much discussed Penn Central must surely be rectified, I strongly believe that we cannot afford a piecemeal solution which offers a remedy for one region but does not realistically come to terms with the railroad conditions in the Nation as a whole.

The railroads of the Northeast did not falter in isolation. Neither can they recover their economic health in isolation. Many of the same economic strains and pressures which have forced the railroads of the Northeast to the brink of the largest corporate reorganization in history are now more and more visible in the Midwest, the South, and the West.

With this year's bankruptcy of the Rock Island, now under title 77 receivership, and indications that the coming year may bring other such failures by railroads in the Midwest, it is clear that the search for answers to our rail transportation crisis must not stop with the 17 States of the Northeast region, but rather must merely begin there.

If we do settle for geographically limited assistance on the question of rail operating subsidies, that partial answer will come back, and very soon, to haunt us all, in the Northeast region and in every other State in every other region which must rely on economical and efficient rail services.

For these reasons, I strongly endorse the amendment offered by Mr. NOLAN and urge its adoption.

PRELIMINARY ESTIMATES OF NATIONWIDE NONVIABLE LIGHT DENSITY BRANCH LINE PROBLEM (ASSUMING OPERATION FOR A MAXIMUM OF 2 YEARS)

[In 1974 dollars]

	Total route miles	Potential excess miles	Potential percent excess	Amount (million dollars per year)[1]
Northeast/Midwest:				
Bankrupts under RRR Act	26,700	5,800	21.7	43.3
Solvents	34,300	6,860	20.0	51.2
Subtotal	61,000	12,600	20.8	94.5
Outside Northeast/Midwest	140,000	21,000	15.0	156.8
Total	201,000	33,660	16.7	251.3
70 percent Federal share				175.9

[1] Assuming $7,466 estimated subsidy per mile.

Note: The above includes operating loss, 8 percent return of salvage and 10 percent of cost to bring the lines to class I standards.

The figures for estimates of how much will be needed in subsidies vary widely and the figures for the roads outside the Northeast, are all that can be guessed at, for the movement. The Northeast estimates of how much money would be needed vary greatly. Example:

Northeast subsidies—cost to Federal Government for 70 percent per year:

RSPO (Rail Services Planning Office), $18,000,000 (including $1,000 per mile maintenance).

USRA (U.S. Railway Association—in charge of Conrail), $38,700,000 ($7,466 per mile).

AAR (Association of American Railroads), $60,000,000 "rough estimate."

H.R. 9802 (original House subcommittee bill), $33,500,000.

Source: Transportation Subcommittee of the House Committee on Interstate and Foreign Commerce.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. NOLAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COHEN

Mr. COHEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COHEN: Page 228, line 5, immediately before the semicolon, insert the following: ", or (B) have been identified by the Secretary (after consultation with appropriate State agencies) as significantly contributing to improvements in, or the continuation of, essential present or anticipated transportation needs of a State or region".

Mr. COHEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. COHEN. Mr. Chairman, I rise to offer an amendment which will make roadbeds and facilities eligible for Federal loan guarantees under section 804 of this bill if they have been identified by the Secretary of Transportation as essential to the transportation needs of a State.

As H.R. 10979 is presently drafted, loans may only be guaranteed on track, roadbed, and related structures which are subject to projected traffic usage of at least 5 million gross ton miles of road per year. An exception is made for abandoned lines where the potential purchaser is a State, local, or regional transportation authority, or even a shipper. Unfortunately, viable rail lines in a category between abandoned and those carrying 5 million gross tons are excluded from rehabilitation through the vehicle of guaranteed loans. My amendment allows any essential line, which has been identified by the Secretary of Transportation, to be rehabilitated by loan guarantees.

The "5 million ton" requirement is clearly prejudicial to lines running through rural areas and those serving local shippers. In many instances, it is exactly those lines which have not yet been abandoned, but also are not carrying heavy tonnage, that most need the kind of improvement that can be provided as a result of a loan guarantee program.

In my own State, the tonnage requirement artificially excludes most of the tract in Maine including primary railroads. Our Maine railroads are vital to the industry of our State. The paper industry, for example, is a key employer in an area of high unemployment and is dependent on smaller railroads like the Bangor and Aroostook and the Maine Central. Just because the paper industry in Maine is not served by major lines such as the Union Pacific, it should not be penalized because Maine's railroads are excluded from the benefits of a Federal program that will undoubtedly make capital available to the wealthiest railroads in the Nation. While I appreciate the initiative of the committee to attempt to set priorities on the use of these funds, to artificially exclude those lighter-density lines is pure folly.

I have had a chance to review the amendment the chairman of the subcommittee and I am hopeful it will be acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. COHEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 302, line 12, insert "(1)" immediately after "title,".

Page 302, line 16, strike out the period and insert in lieu thereof the following: ", and (2) a State may utilize sums so received for reimbursement of expenditures made by such State (or a local or regional transportation authority), at any time during the 5-year period preceding the date of enactment of this Act, for acquisition and modernization of rail facilities on which rail services would have been curtailed or abandoned but for such expenditures;".

Mr. JEFFORDS. Mr. Chairman, on January 2, 1974, the Regional Rail Reorganization Act was signed into law. On March 29, 1974, the Vermont General Assembly passed an act which authorized the State to purchase the St. Johnsbury and Lamoille County Railroad. A passage from this statute indicates the terms and expectations of this statute:

Act 182 of the Public Acts of 1973 Adjourned Session of the Vermont General Assembly.

SECTION 4—APPROPRIATION

a. For the purposes of this act $3,600,000.00 is hereby appropriated for the purchase of bonds. This sum shall be used for the purchase and rehabilitation of the St. Johnsbury and Lamoille County Railroad, for the purchase and rehabilitation of any railroad previously acquired or to be acquired by the State of Vermont as provided in sections 402 and 403 of the Regional Rail Reorganization Act of 1973.

b. $75,000 is hereby appropriated for Administration expenses of the purchase of bonds associated with this act until expended.

SECTION 5—NOTE OR BOND ISSUE

The state treasurer, with the approval of the Governor, shall issue renewable or refundable notes for an amount not to exceed $3,600,000 to pay outstanding obligations of the Vermont Transportation Authority in existence on the effective date of this Act, and to finance any other activities authorized by this Act. Such notes may be secured in part by the asset of the railroads owned by the State of Vermont and shall be retired with funds received under the provisions of Section 402(b1) of the Regional Rail Reorganization Act of 1973, to the extent permitted by federal law and regulations. In the event the receipt from the Regional Rail Reorganization Act of 1973 does not total the amount of the notes issued by this Act, the state treasurer shall, pursuant to Chapter 13 of title 32, issue bonds for the amount of the difference.

As you can see, it was generally assumed that entitlement money under section 402(b) could be used to reimburse the State for its costs in acquiring and refurbishing the line. The assumption was made upon the good authority of legal council as well as the assurances of the Congressional delegation. However, the Federal moneys were not forthcoming.

On October 26, 1974 Public Law 93-488 was enacted. The provisions of section 2(B) of the joint resolution which gave way to this law were designed to rectify the confusion on the part of the Federal Railway Administration with regard to the Vermont situation. This section reads:

Rail freight services eligible for rail service continuation subsidies pursuant to subsection (b) of this section are—

(B) those rail services in the region which have been at any time during the 5 year period prior to the date of enactment of this Act, or which are subsequent to the date of enactment of this Act, owned, leased or operated by a State agency or a local or regional transportation authority or with respect to which a State, a political subdivision thereof, or a local or regional transportation authority has invested at any time during the 5 year period prior to the date of enactment of this Act, or invests subsequent to the date of enactment of this Act, substantial sums for improvement or maintenance of rail service.

While the FRA acknowledged that this act did indeed qualify Vermont for the entitlement program under 402(b), subsequent to enactment of this joint resolution it ruled that continuation assistance through 402(b) entitlements could be used only for operational subsidies.

The ruling has caused considerable reaction and spurred an effort to clarify congressional intent in both Houses of Congress. Title VIII of the Senate version of the railroad bill generally clarifies the intent of 402(b) and specifically allows the States complete flexibility in the expenditure of their entitlement funds. It also contains a subsection which deals specifically with the Vermont situation which reads:

the term "rail service continuation assistance" includes expenditures made by a State (or a local or regional transportation authority), at any time during the 5-year period preceding the date of enactment of this Act, or subsequent to the enactment of this Act, for acquisition, rehabilitation, or modernization of rail facilities on which rail services would have been curtailed or abandoned by for such expenditures.

A colloquy on the Senate floor further clarifies the intent of this language. If I may quote the Congressional Record of December 4, 1975:

Mr. Stafford. Mr. President, I would like to inquire from the distinguished chairman of the Surface Transportation Subcommittee as to the status of the eligibility of the State of Vermont for reimbursement for its costs in acquiring and rehabilitating the St. Johnsbury and Lamoille County Railroad.

Mr. Hartke. I would be pleased to respond. As the Senator from Vermont knows, this is not the first time that the Senate Commerce Committee has reported legislation to the floor of the Senate to take care of this particular problem. Last year, the committee reported several amendments of the Regional Rail Reorganization Act. This bill, which was enacted into law as Public Law 93–488, contained an amendment to section 402 of the 1973 act which we thought at the time would have qualified Vermont for assistance under title IV of the 1973 act. Unfortunately, the Department of Transportation was able to find a loophole in the statute which permitted them to frustrate the legislative intent.

Mr. Stafford. What has the Commerce Committee done to correct this situation?

Mr. Hartke. At the Senator's suggestion, we have adopted an amendment that would rectify the situation. First, the bill allows States to use their entitlements for any purpose. This should be enough but we have also, on page 218 of the bill, specifically referenced the Vermont situation by providing that a State is eligible for assistance under the amended section 402 assistance if it invested substantial sums for the improvement or maintenance of rail service at any time 5 years prior to the date of enactment of this act. This is intended to qualify Vermont with respect to its expenditures for the St. Johnsbury and Lamoille County."

I was gratified to see that the Committee on Interstate and Foreign Commerce has also directed itself to this issue and specifically to the faulty ruling on the part of the FRA. Subsection (f) of section 917 of H.R. 10979, says:

Notwithstanding any other provisions of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title for acquisition and modernization pursuant to a state rail plan.

I assume that the word "rehabilitation" was deleted because it is synonymous with modernization. I assume moreover, that the language of this section would allow Vermont to use section 402(b) entitlements to defray acquisition and modernization costs of the St. Johnsbury and Lamoille County Railroad, which was purchased with this understanding 1½ years ago. Is this the understanding of the chairman? If not I am prepared to offer clarifying language to this section of H.R. 10979.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, I certainly do not want to see Vermont not be eligible for funds to purchase branch lines which were purchased since 1974 and so I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. Jeffords).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: At page 187 of the bill H.R. 10979, line 11, immediately after "reasonable" insert the following new sentence: "The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation or practice will have a significantly adverse effect on the competitive posture of shippers or on consignees to be affected by such a change."

Mr. CONTE. Mr. Chairman, I ask the Members to support this amendment.

I yield quickly to the gentleman from Maine (Mr. Cohen).

Mr. COHEN. Mr. Chairman, the amendment provides that during a rate-setting proceeding, in addition to considering allegations that a rate change would affect the relationship between commodities, ports, and regions, the Interstate Commerce Commission must also consider allegations that the rate change will affect the competitive positions of shippers and consignees.

In New England, agriculture is a billion dollar enterprise within which the dairy and poultry industries represent better than two-thirds of the region's total farm value. Yet, it would be difficult to think of any industries more directly dependent upon the railroads than these two, because New England is a feed grain deficit area. The grains and concentrates we feed our dairy herds and poultry flocks are imported from the Midwest, since New England is not self-sufficient in feed grain production. New England imports well over 2 million tons of feed grain annually, or over 95 percent of our requirements.

Nevertheless, for more than a decade the poultry and livestock industries in New England and the Northeast generally have been subjected to a discriminatory rail rate structure for the transportation of feed grains. Analysis of the grain rate structure discloses a pattern of rates lower for all consumers of feed grains in other parts of the country than for consumers in the Northeast. The rates in the Northeast are between 25 percent and 150 percent greater than the rates charged for the transportation of feed grains from the Midwest to the South. Since the setting of this rate in 1963, the disparity has been magnified by general freight rate increases, of which there were 45 in the last 18 months alone.

In the absence of all-water routes from the Midwest, the railroads have the leverage to determine rates and service because of their monopoly position. In this respect, rate levels within the Northeast are from 60 percent to 100 percent greater than the rates applicable to the transportation of feed grains within the Southern States.

On a per mile basis, then, the Eastern carrier rates on feed grains are approximately 70 percent higher than comparable rates in the South. This has created a noncompetitive environment, which is destroying the poultry and livestock industries of New England. For example, in 1960 New England was 100 percent self-sufficient in the production of broiler chickens; today we only produce 54 percent of our needs. On the other hand, in the same time period, the South has not only retained its self-sufficiency but doubled its level of exports.

This railroad freight rate structure not only has caused stagnation in, and threatens destruction of, the poultry industry in New England, but has had a significantly depressing effect on our rural economy. The loss of the $600 to $800 million annually from the dairy and poultry industries would be devastating. Moreover, the effects of this loss would not be confined to New England, but would extend to the Midwest as the market for grain is further eroded.

Consequently, consideration of these additional competition factors by the Interstate Commerce Commission is desirable and essential. It is important for the Commission to consider all the competitive aspects of the ratesetting procedure. The committee bill specifies a number of vital factors to be taken into account, and the amendment would add additional important factors.

Mr. CONTE. Mr. Chairman, I yield to the gentleman from Pennsylvania, the chairman of the subcommittee.

Mr. ROONEY. Mr. Chairman, I was going to rise in opposition to the amendment but I will not at this time.

Mr. CONTE. Mr. Chairman, I rise in support of my amendment to amend ratemaking criteria now utilized by the Interstate Commerce Commission in 49 U.S.C. 1(5), 2, and 3(1). I should like to note that this amendment would be extremely beneficial to the whole ratemaking posture at the Interstate Commerce Commission. An amendment very similar to this was accepted without objection by the Senate, during consideration of its version of the railroad legislation.

The significance of the Conte amendment may not be readily apparent. But it bears directly upon a case that I have instigated—and pursued—as the cochairman of the New England Congressional Caucus before the Interstate Commerce Commission for almost 3 years.

This issue came to my attention in January 1973, when a small dairy farmer in my district, Mr. Edmund Smith of Buckland, Mass., came to me and complained that the railroads were charging an unreasonably high tariff to ship feed grains to New England. He cited facts, which I verified, that it cost more than twice as much to ship feed grains from a common point in the Midwest to New England as compared to the South. Also, the railroads refused to provide a bulk discounted tariff on large shipments to New England, while bulk rates for shipments to the South are common.

I took this case to the Interstate Commerce Commission and urged its immediate inquiry. In March 1973, the Commission agreed to open a docket on this matter. This petition has been joined by the New England Congressional Caucus, which was formed at that time, all of the New England Governors, Regional Grain Distributors, and other organizations.

I regret to say that this case has now been before the Commission for almost 3 years, and a resolution is not yet in sight. I certainly hope that the expedited procedures provided in title II of this bill will straighten out this kind of mess and insure that it cannot happen again.

This case is interesting, however, because a group of Great Lakes shippers have intervened in the docket case, and asked the Commission to be considered as a competing and interconnecting competitor for shipment of feed grains from the Midwest to New England.

The amendment before this House now would directly address this type of situation. This amendment provides that in a ratesetting proceeding, the Commission, in addition to considering allegations that a rate change would affect the relationship between commodities, ports, and regions, must also consider allegations that the rate change would affect the competitive positions of shippers and consignees.

It is important to note that the Conte amendment would not change any existing law. The provisions of 49 U.S. Code 1(5), 2, 3(1) of the Interstate Commerce Act already mandate that rates shall be just and reasonable; that discrimination of rates between various ports shall be prohibited; and that no carrier or shipper shall receive a preferential advantage over another carrier or shipper with regard to rate structures. The Cohen amendment simply clarifies the spirit of these sections of the Interstate Commerce Act. The problem we have today is that these discrimination criteria are only considered when a party to a ratemaking proceeding appeals the propriety of the rate to the Commission. The Cohen and Conte amendment would require that these discrimination criteria are considered initially by the Interstate Commerce Commission in a ratemaking proceeding, rather than after the fact.

Fellow Members, regulatory conformity should be uppermost in our minds when considering any legislation that should be intended to "revitalize" the Nation's railroads as this important bill does. The disparity in rates for the shipment of the same commodities to different points in the United States is alarming. It is clear that this wide disparity tends to give a preferential treatment to industries and agricultural concerns in some parts of this Nation as opposed to other. Fellow Members, this must not exist any longer. The finger should not be pointed at the Interstate Commerce Commission as the culprit. They can only be as effective as their act allows. The situation as it now stands provides that discriminatory effects of rates will only be considered on review of an existing rate. My amendment will mandate that the actual ratemaking proceeding must include a consideration of any potential discriminatory or preferential treatment that a particular carrier or shipper will receive over another carrier or shipper. Fellow Members, this relatively simple change in procedure that my amendment will accomplish will result in an assurance that discriminatory rate structures as exist today in the feed and grain shipments can be avoided at the onset.

It is essential and desirable that the Commission consider these added factors. For in its rate proceedings, the Commission must take it upon itself to consider all the competitive aspects of the petition to insure that the public interest is best served.

I urge the adoption of the Conte amendment to this important rail legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. THONE

Mr. THONE. Mr. Chairman, I offer technical amendments and I ask unanimous consent that they be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

Mr. KAZEN. Mr. Speaker, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

Amendments offered by Mr. THONE: on page 2004, beginning on line 2, strike out "a certified copy" and all that follows through "Corporation, for" on line 5, and insert in lieu thereof the following: "the Corporation is required to deposit stock and other securities with the special court pursuant to section 303(a)(1) of this title, the Association shall".

Page 248, line 20, immediately after "Senate." insert the following new sentence: "The Chairman and chief executive officer and the President and chief operating officer of the Corporation shall not be entitled to vote on any question subject only to class vote, nor shall either be entitled to vote on his reelection to the Board of Directors."

Page 249, line 16, immediately after "Act." insert the following new sentence: "As directors resign in accordance with the provisions of this paragraph, the election of corporate directors to fill the vacancies created by such resignations shall be governed by applicable State law and by the articles and by-laws of the Corporation."

Page 258, line 19, strike out "shall" and insert in lieu thereof "may".

Page 259, beginning on line 1, strike out ", such as leaseholds" and all that follows through "by a railroad in reorganization" on line 3, and insert in lieu thereof the following: "that are not transferred to the Corporation pursuant to the final system plan."

Page 263, immediately after line 25, insert the following new subsection:

(b) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) 'where applicable', as used in section 502(a) of this title with respect to the Association, refers to the relation of the Association, as an employer (A) to employees of the Association who, before the date of conveyance under section 303(b)(1), had creditable service under the relevant statute and who were offered and accepted coverage under such statute; and (B) to former employees of railroads in reorganization, after the date of such conveyance.

Page 276, line 10, immediately before "Notwithstanding" insert "(1)".

Page 276, line 11, strike out "(1)" and insert in lieu thereof "(A)".

Page 276, line 15, strike out "(2)" and insert in lieu thereof "(B)".

Page 276, line 19, strike out "or".

Page 276, line 20, strike out "(3)" and insert in lieu thereof "(C)".

Page 276, line 21, strike out the period and insert in lieu thereof ", or ".

Page 276, strike out line 21 and all that follows through page 277, line 2, and insert in lieu thereof the following:

"(D) to obtain, inspect, copy, or review any document in the possession or control of the Association that would be discoverable in litigation pursuant to section 303(a) of this Act, shall be within the original and exclusive jurisdiction of the special court. Except as the Constitution may require, the special court shall not hear or decide any such action which is brought after the approval of the final system plan pursuant to section 208(a) of this title and before conveyance pursuant to section 303(b) of this Act.

"(2) The original and exclusive jurisdiction of the special court under this subsection shall include any action, whether filed by any interested person or initiated by the special court itself, to interpret, alter, amend, modify, or implement any of the orders entered by such court pursuant to section 303 (b) of this Act or the goals of the final system plan. During the pendency of any such action, the special court may enter such orders as it determines to be appropriate, including orders which enjoin, restrain, condition, or limit any conveyance, transfer, or use of any asset or right which is subject to such an order or which is in issue in such an action or which involves the enforcement of any liens or encumbrances upon such assets or rights. Any orders entered under this subsection which interpret, alter, amend, modify, or implement orders entered by the special court under section 303(b)(1) shall be final and shall not be restrained or enjoined by any court.

"(3) The special court shall have the exclusive jurisdiction over any action which is brought, after conveyance pursuant to section 303(b)(1) of this Act, to set aside, annul, or secure in any way the reconveyance of rail property so conveyed. Relief in any such action or in any action referred to in subparagraphs (A), (B), or (C) of paragraph (1) of this subsection, shall not be granted unless the person seeking such relief establishes that the Association acted arbitrarily and capriciously, in disregard of the provisions of this Act.

"(4) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement or declaring or determining the unconstitutionality or invalidity of this Act, in whole or in part, or of any action taken under this Act, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code. Such an appeal is exclusive and shall be filed not more than 20 days after entry of such order or judgment.".

Page 284, immediately after line 15, insert the following new subsections:

(b) Section 303(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (a)(1)) is amended by striking out "designated in the final system plan" and inserting in lieu thereof "certified to the special court, pursuant to section 209(c)(3) of this Act".

(c) Section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (a)(1)) is amended by striking out "any railroad leased" and inserting in lieu thereof "any person leased".

Pages 284 and 285, redesignate subsections (b), (c), (d), (e), and (f) as subsections (d), (e), (f), (g), and (h), respectively.

Page 285, line 9, insert immediately after "to other" the following: "persons who are leased, operated or controlled by railroads in reorganization and who are".

Page 285, immediately after line 13, insert the following new subsection:

(e) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

"(e) Dispositions of Designated Rail Properties.—(1) Except as provided in paragraph (2) of this subsection, no railroad in reorganization and no person leased, operated, or controlled by such a railroad shall sell, transfer, encumber or otherwise dispose of rail property or any right or interest therein designated for transfer to the Corporation or conveyance to a profitable railroad in the final system plan, except in accordance with subsection (b) of this section.

"(2) This subsection shall not apply to any sale, transfer, encumbrance or other disposition of rail property described in paragraph (1), of this subsection, or any interest therein—

"(A) as to which the Association generally or specifically consents, in writing;

"(B) which, before the enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, had been specifically approved by a United States district court having jurisdiction over the reorganization of a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); or

"(C) following certification to the special court pursuant to section 209(c) of this Act, where such rail property is not certified under such section.

Page 285, redesignate subsections (e) and (f) as subsections (f) and (g), respectively.

Page 306, line 12, strike out "is amended" and insert in lieu thereof ", as amended by this Act, is further amended."

Page 306, line 14, strike out "(e)" and insert in lieu thereof "(f)".

Page 285, strike out the comma at the end of line 12, and insert in lieu thereof a period.

Page 285, strike out line 13.

Mr. THONE (during the reading). Mr. Chairman, I renew my request that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. THONE. Mr. Chairman, I yield to the gentleman from New York (Mr. HASTINGS).

Mr. HASTINGS. Mr. Chairman, I appreciate the gentleman offering these amendments. These are technical amendments which were agreed to by the chairman of the subcommittee.

Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. THONE. Mr. Chairman, I yield to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I urge this body not to adopt amendments helter-skelter with little or no knowledge of the effect, because we will have a bill that the White House will not accept; but I do urge support for the technical amendments submitted by Mr. HASTINGS.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Nebraska (Mr. THONE).

The amendments were agreed to.

The CHAIRMAN. The Chair has endeavored to protect those Members who have amendments to offer which have not been printed in the RECORD. Are there other Members who have amendments to offer that have not been printed in the RECORD?

AMENDMENTS OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. BENNETT: Page 217, line 11, insert immediately after "factors" the following: ", including labor and management efficiency,".

Page 231, strike out the period at the end of line 11 and insert in lieu thereof the following: ", including labor and management efficiency.".

Mr. BENNETT. Mr. Chairman, these are very simple amendments. They do not require anybody to do anything, except the Secretary is required to consider, or take into consideration in the efficiency standards under this bill, labor and management efficiency; that is all that is required by these two amendments.

One of them does this with regard to grants for particular developments in the railroad industry. The other one is in regard to guaranteeing loans.

Mr. Chairman, if there are any questions, I would be glad to answer them, but that is all this does.

Mr. Chairman, I think it is the fair and proper thing to do. When billions of tax dollars are being expended under this program, it seems only right that the Secretary consider labor and management efficiency in the beneficiary railroad.

Mr. ROONEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida.

Mr. Chairman, I believe that the intent of this amendment is a good one, but I do not believe the Congress should involve itself with work rules. I think this amendment should be worked out with management and labor and not here in Congress; so I oppose the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida (Mr. BENNETT).

The amendments were rejected.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. MURPHY).

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York: At page 187, line 18, after the word "between" insert the words "and within".

Mr. MURPHY of New York. Mr. Chairman, the courts of the country, the Interstate Commerce Commission, and the Federal courts have tried to equalize rights. The problem here is within a port city such as New York, where we may have a difference of 35 miles. We simply ask that the Interstate Commerce Commission may retain its authority over rates within that port district so that we do not have a disparity in the ratemaking process between those ports.

Mr. ECKHARDT. Mr. Chairman, I think I have time.

Mr. Chairman, I think it would be very indiscreet to pass an amendment at this time which could remove from this bill about 40 percent of the flexible area of rating wherein water transportation may be a competitive factor. This is not the way to amend the bill, by quickly accepting an amendment which may have wide ramifications.

Mr. MURPHY of New York. The agreement I would like to work out on this is not to go to the problem the gentleman from Texas just brought up, where 100 percent of the rail rates are involved, where 40 percent of the truck rates, and 5 percent of the waterborne rates are involved. What we are talking about are the rates within a single port district, where the Interstate Commerce Commission has jurisdiction over the setting of those rates.

If the chairman of the subcommittee would assure me that the language to that effect clarifying it would appear in the conference report, I would withdraw the amendment.

Mr. ROONEY. Mr. Chairman, the chairman would certainly take that under advisement, and we will try to work out some kind of agreement.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. JOHNSON OF PENNSYLVANIA

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I offier an amendment.

The Clerk read as follows:

Amendment offered by Mr. Johnson of Pennsylvania: Page 319, immediately after line 24, insert the following new section:

BRANCH LINE STUDY; OPERATION OF RAIL SERVICES

Sec. 1009. (a) The Rail Services Planning Office (hereinafter in this section referred to as the "Office") shall conduct a study of each branch line of railroad in the region which is—

(1) less than 1½ miles in length;

(2) not receiving rail service on the effective date of the final system plan; and

(3) capable of serving an industrial park which has sewer and water lines and on which construction was completed in calendar year 1975.

Such study shall be conducted for purposes of determining whether rail service can be operated at a profitable level over any such line.

(b) In conducting the study required by subsection (a), the Office shall solicit the views of carriers, shippers, manufacturers, and other interested persons, and shall give due consideration to the existing and potential industrial and manufacturing activity in the area to be served by the line of railroad being studied.

(c) The Office shall, within 6 months after the date of the enactment of this Act, make its determination as to whether rail service can be operated at a profitable level over any line of railroad studied pursuant to subsection (a). Prior to such determination, any such line may not be abandoned, sold, or otherwise disposed of.

(d) Upon a determination by the Office, pursuant to subsection (c), that rail service can be operated at a profitable level over a particular line of railroad, the Consolidated Rail Corporation is authorized to operate rail service over such line. For purposes of operating such rail service, the Consolidated Rail Corporation shall enter into an operating agreement with the railroad or person owning such line. Such agreement shall be reasonable and equitable with respect to all parties to the agreement.

(e) For purposes of this section—

(1) the term "final system plan" means final system plan as defined in paragraph (6) of section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(6)); and

(2) the term "region" means region as defined in paragraph (13) of section 102 of such Act (45 U.S.C. 702(13)).

Mr. JOHNSON of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, in Clinton County at Lock Haven, Pa., there has been constructed an industrial park in which park there has been invested $1,196,911, of which amount the Federal Government has contributed $768,000, the State of Pennsylvania $236,911, and local funds $192,000. One of the reasons for the construction of the park was because there was a railroad leading out to it. The USRA plan did not include this short line of 1½ miles because it was not in operation, due to a relocation of the track. This amendment would require the Rail Services Planning Office to study this branch line to determine if it could be operated at a profitable level and if they so find it to be a profitable line ConRail is authorized to operate it.

Mr. ROONEY. Mr. Chairman, we will accept the amendment offered by the gentlemen from Pennsylvania.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Johnson).

The amendment was agreed to.

The CHAIRMAN. The time for debate on the bill has expired, according to the agreement adopted in the committee.

Are there Members who wish to offer further amendments?

AMENDMENT OFFERED BY MR. BRODHEAD

Mr. BRODHEAD. Mr. Chairman, I offer an amendment that was printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Brodhead: Section 906, page 252, line 2. New Section 306(a). Final System Plan Modifications.—

"Notwithstanding any other provisions of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations are likely to result in improved rail service to users on such lines and connecting lines and would not materially impair the profitability of the Corporation and other railroads operating in the region. Such designations, including designations of such rail lines and properties to a State, a profitable railroad, or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209 of this Act. Such designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes be deemed to be approved as modified by such designations."

Redesignate subsections (a) through (e) an (b) through (f) respectively.

Mr. BRODHEAD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BRODHEAD. Mr. Chairman, this amendment provides a limited opportunity for States to petition the USRA to redesignate certain lines. This time would expire at the time when the final system plan is reported to the court on February 27. It applies only in situations where the profitability of ConRail and other railroads is not impaired. I urge the adoption of the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I endorse the amendment. I will advise the gentleman that I had this matter cleared with the USRA. They approved the amendment.

Mr. Chairman, I suggest we yield to the chairman of the subcommittee for such comments as he wishes to make.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Pennsylvania (Mr. Rooney).

Mr. ROONEY. I thank the gentleman for yielding.

Mr. Chairman, I checked with the USRA. They have no objection to the amendment and I have no objection to the amendment.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Michigan (Mr. Cederberg).

Mr. CEDERBERG. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Michigan (Mr. BRODHEAD) and I support this amendment.

Mr. Chairman, this amendment would permit a State to petition USRA for a change in the final system plan with respect to rail lines that are not designated for transfer to ConRail. Currently, there are many situations where rail lines would be split, with the most desirable portion going to ConRail and the remainder to the State.

For example, in Michigan, the Ann Arbor Railroad would be split up so that the southern portion of the line would go to ConRail, but the northern half, including the Lake Michigan car ferry, would not. The Ann Arbor line is a vital transportation link for communities in northern Michigan as well as those in Wisconsin which depend on the cross-lake ferry service.

Because of its importance, there has been considerable effort by the State of Michigan, local communities, and shippers to develop a plan for continuing service on the entire line. And it is believed that with improvements the line can be operated on an efficient and possibly profitable basis.

But if the line is divided up in the manner proposed by USRA, there will be little incentive for any railroad to provide any adequate and efficient service over that part of the line not transferred to ConRail.

My amendment would allow USRA to correct this problem by modifying the final system plan so that the Ann Arbor line could be transferred intact, whether to the State, a railroad, or other organization.

Before making any modification of the plan, the Association would have to find that the change would be likely to improve rail service to users on the line involved and would not substantially impair the profitability of ConRail. Revisions could be made at any time before USRA delivers the plan to the special court and they would be treated as part of the final system plan for all purposes of the Regional Rail Reorganization Act.

This amendment does not cost any money but it does provide some flexibility to accommodate special situations in some States.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Michigan (Mr TRAXLER).

Mr. TRAXLER. Mr. Chairman, I want to commend my colleague, the gentleman from Michigan (Mr. BRODHEAD), and thank him for offering this amendment.

Mr. Chairman, I wish to associate myself with the remarks of the gentleman.

Mr. Chairman, I rise in favor of the amendment offered by my colleague from Michigan. It has been the intention of the House during the consideration of H.R. 10979 to maximize the options that an affected State may have within the rail reorganization process. This amendment would allow the States to petition USRA to change a line designation in the final system plan, and the USRA may grant such request provided that it results in improved rail services for the area and does not impair the viability of ConRail. We are not mandating any transactions, but are simply providing the opportunity for additional review.

I have been in contact with the rail planning section within the Michigan Department of State Highways and Transportation and they are highly in favor of such a provision. They are interested in having reasonable opportunity to improve the quality of rail service in the State of Michigan, and I am certain that there are similar interests in all other States within the region of the reorganization.

States must petition USRA prior to the end of February for the change in line designation.

I ask that my colleagues support the amendment offered by Congressman BRODHEAD.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding, and I wish to commend the gentleman for offering this amendment.

I also wish to take this opportunity to commend my colleague from Michigan, Mr. BRODHEAD, as a member of the committee, for representing the position that many of us from Michigan have taken with respect to several other aspects of this legislation, especially with regard to the allocation formula. As the gentleman knows, my colleague from Michigan, Mr. VANDER JAGT, and I had sponsored legislation to accomplish the change which now has been incorporated in this bill. I thank my colleague for the great help he has given us.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Chairman, I thank the gentleman for the position he has taken. I commend the gentleman for offering this amendment.

Mr. Chairman, I am pleased to rise in support of the amendment offered by Mr. BRODHEAD which will enable a State, prior to the date of conveyance, to petition the USRA for the deletion of a portion of rail trackage from ConRail.

I believe that Congress responsibility in the revitalization of the rail system extends beyond the formation of ConRail. Congress must be responsive to the needs of States as they seek to provide continued service on light density lines not incorporated in ConRail. The subsidy program speaks to that concern, yet that is not an exclusive answer.

In letters to the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce I have discussed more fully the significance of this matter to the State of Michigan, which has been seriously harmed by the ConRail designation of the portion of the Ann Arbor railroad route between Ann Arbor and Toledo.

I urge the adoption of this amendment which is consistent with a provision in the Senate bill offered by Senator ROBERT P. GRIFFIN. In my judgment this approach will be of great value to the State in accepting and fulfilling its responsibilities under our evolving national rail policies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BRODHEAD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEARD OF TENNESSEE

Mr. BEARD of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEARD of Tennessee: Page 209, immediately after line 11, insert the following new paragraph:

"(5) The provisions of this section shall not apply in any State which on the date of enactment of this section, has in effect a provision of its constitution (or an amendment thereto) which provides for the reasonable classification of property for State purposes."

Page 209, line 11, strike out the quotation marks and the second period.

The CHAIRMAN. The Chair has observed that the gentleman's amendment has been printed in the RECORD.

Mr. BEARD of Tennessee. Mr. Chairman, the Rail Revitalization and Regulatory Reform Act of 1975 contains a section which declares unlawful that portion of any State tax which is discriminatory. Under this section railroads would be required to go to a Federal court for a determination of the unlawful amount and once determined would be relieved from that required payment. Mr. Chairman, I would like to offer an amendment to this legislation dealing with that particular section.

As a result of recent court decisions, a number of States have made an effort to reform their tax systems which have resulted in a significant reduction in discriminatory tax assessments against railroads. For example, a constitutional amendment was overwhelmingly adopted in Tennessee which established a system of property classification according to use. Under this amendment, residential and farm property is assessed at 25 percent of its market value; industrial and commercial property at 40 percent; and public utility property at 55 percent. Transportation property, like any other industry regulated by the Tennessee Public Service Commission, is considered in the public utility category.

If this particular section is enacted in its present form, it will be in direct conflict with the overwhelming support that Tennessee voters gave to the new system of property taxation. It will also provide windfall profits for railroads operating in Tennessee which are among the most profitable in the Nation. Also, without the adoption of this proposed amendment, Tennessee tax revenues will be substantially reduced. It is estimated by the State's Public Service Commission that there would be a 40 percent decrease in taxes paid by transportation carriers to local units of government and an average 6 percent increase in tax rates of all other taxpayers to make up for this shortfall.

In support of this amendment, there is a sizable amount of legal precedent affirming the right of States to classify property for the purpose of taxation, so long as those classifications are fair and reasonable. The State Supreme Court, the U.S. District Court for the Middle District of Tennessee, and the U.S. Supreme Court have determined that the Tennessee system as it applies to railroads is neither arbitrary nor discriminatory. In addition, the simple fact that the railroads which are subject to Tennessee's property classification system are the most successful in the country, certainly does not support the argument that this is an unduly burdensome tax system.

There does not appear to be any justification for this Congress to pre-empt State constitutional systems of property taxation, especially when such a preemption would provide windfall income to already profitable railroads at the expense of homeowners, farmers, and other taxpayers.

Mr. ALLEN. Mr. Chairman, will my distinguished colleague, the gentleman from Tennessee, yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Tennessee.

Mr. ALLEN. Mr. Chairman, I wish to ask as a point of inquiry, is this amendment not the exact language that Senator BAKER inserted in the Senate bill?

Mr. BEARD of Tennessee. Yes, this is the exact language that Senator HOWARD BAKER inserted in the Senate bill, and it was adopted there.

Mr. ALLEN. And he will be on the conference committee?

Mr. BEARD of Tennessee. The gentleman is correct.

Mr. ALLEN. So I would suggest, Mr. Chairman, if we want to get a bill passed, we need to adopt this amendment.

Mr. QUILLEN. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this amendment. It is a very deserving one, and I would ask my colleagues to support the amendment because it affects only Tennessee and perhaps Alabama and a few other States.

This is a just amendment, and I would appreciate the support of the Members.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Chairman, I appreciate what the gentleman in the well has said, and I certainly support this amendment.

We need this badly, and I hope that our colleagues here will give us a favorable vote on the amendment.

Mrs. LLOYD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the amendment, and I thank the gentleman for offering it. I hope our colleagues will accept the amendment.

Mr. ADAMS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is the so-called Tennessee amendment. It was offered in the House 2 years ago when we passed the Surface Transportation Act. At that time the House defeated the Tennessee amendment, and this is the reason why it did so:

We have had the proposition in the United States by which States have decided that they want to tax the nonvoters, in other words, transportation companies coming through the States, at rates greater than those that apply to other commercial property. So what was done in this bill was to say that the States can only tax transportation companies such as railroads coming through them at rates which are within 5 percent, up or down, of the rates they use to tax other commercial property.

Therefore, what we have in this case is two States that want to come in and tax, and, in the case of Tennessee, 33 percent more than they tax their regular commercial property for the transportation companies that are coming through. There are 17 other States available that can do this. These 17 other States can go to an amount of $50 million, out of the railroads; and the whole purpose of this particular provision was to say that the States through which transportation companies are passing shall tax them fairly with their other items.

Mr. Chairman, we were through this issue before. I hope that the House will defeat this amendment because it does take this provision out.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I certainly agree with my friend and colleague, the gentleman from Washington (Mr. ADAMS).

If a State may qualify for a higher tax charge against railroads and against other businesses by a constitutional amendment, it may, in effect, as I understand it, place an additional load on shippers of every State in the Union, because that is a part of the level of cost of transportation. Is that correct?

Mr. ADAMS. That is correct. It goes into the rate base and becomes part of the taxation base. Therefore, they are entitled to collect from their ratepayers.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman for yielding.

Really, this goes to one of the titles in our bill itself. This would discriminate, and we should try to stop any State from passing a constitutional amendment or passing a statute that would place an undue burden on commercial shippers.

What we are doing by this bill is to make a personal exemption, I understand.

I wonder whether I am not correct that there are about 21 States today that have provisions or laws that do discriminate against the railroads? Under this title here we would be helping the railroads.

Mr. ADAMS. Mr. Chairman, that is correct. There are 17 potential States whose constitutions can be so interpreted. That would amount to a $54 million additional property tax being placed so that the transportation companies are not treated the same as the other commercial carriers within each State.

It had been agreed to before by the State commissioners throughout the United States that this is the way to go. The only State at that time that objected to it was the State of Tennessee.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield further, is it not also correct that under this amendment, a State might fashion its own constitutional amendment and even pass it at this stage?

Mr. ADAMS. There is no question about that. A burden will be placed on many States in order to build up the tax base, as I say, through the nonvoting group that comes along.

What we are saying is that an industry is an industry and should be taxed within 5 percent up or down of how we are taxing the others in the State in order to avoid discrimination.

Mr. Chairman, I hope that the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. BEARD).

The amendment was rejected.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: On page 213, in line 11, strike out the number "3" and insert in lieu thereof "4". At the end of line 14, change the period to a comma and add: "and (4) the Research, Education and Training for Railroad Development and Improvement Account."

On page 235, at line 3, add a new section 805:

"RESEARCH, EDUCATION AND TRAINING FOR RAILROAD DEVELOPMENT AND IMPROVEMENT ACCOUNT

"SEC. 805. (a) There are authorized to be appropriated to the Research, Education and Training for Railroad Development and Improvement Account not more than—

"(1) $2,000,000 by September 30, 1976

"(2) $5,000,000 by September 30, 1977

"(3) $10,000,000 by September 30, 1978

"(4) $5,000,000 by September 30, 1979

"(5) $2,000,000 by September 30, 1980

All funds appropriated pursuant to this authorization shall remain available until expended,

"(b) Funds appropriated pursuant to subsection (a) may be expended by the Secretary to assist public and private non-profit institutions of higher learning in establishing and carrying out comprehensive training, planning, and research in the problems of rail transportation. Such funds shall be used to conduct competent and qualified research and investigations into the theoretical and practical problems of rail transportation to provide for the training of persons to carry on further research or to obtain employment in private or public organizations, which plan, construct, operate, or manage rail transportation systems. Such research and investigations may include, without being limited to, the design and functioning of rail transportation systems; the interrelationship between various modes of transportation; the role of transportation planning in overall planning; public preferences in transportation; the economic allocation of transportation resources; and the legal, financial, engineering, and aesthetic aspects of rail transportation. In expending funds pursuant to this paragraph, the Secretary shall give preference to institutions of higher learning that undertake such research and training by bringing together knowledge and expertise in the various social and managerial sciences and technical discipline that relate to rail transportation problems."

Mr. EDGAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman's amendment was printed in the RECORD; was it not?

Mr. EDGAR. It was, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. EDGAR) is recognized for 5 minutes in support of his amendment.

Mr. EDGAR. Mr. Chairman, this amendment would authorize the investment of $24 million for the purpose of establishing training and research programs in our Nation's postsecondary institutions during the next 5 years.

Allow me to take a minute to explain what this amendment will do. The amendment authorizes $2 million in fiscal year 1977, $5 million in fiscal year 1978, $5 million in fiscal year 1979, $5 million in fiscal year 1980, and $2 million in fiscal year 1981 for training and research programs. The funding authorizations are phased out gradually; the Government's obligation will not increase year by year. I anticipate that the railroads will bear an increasing share as the Government's contribution decreases beginning after September 30, 1979.

The funds will be granted primarily to learning institutions to carry out comprehensive training, planning, and research programs to solve problems of rail transportation. Types of programs which will be eligible for grants include, but are not limited to, programs in the area of:

First, railroad system design;
Second, planning;
Third, construction;
Fourth, engineering;
Fifth, operation;
Sixth, management;
Seventh, financing; and
Eighth, legal training.

Other areas of research and training are included in the language of this amendment.

During the debate on H.R. 10979, we have become sensitized to the importance of our railroad network to our economy, and the problems which have arisen during the last several decades. The railroads have been the victim of not just poor management. Also affecting the quality and vitality of the industry have been various social trends.

The bill we are considering today, authorizing billions of dollars, will be a major impetus in returning the industry to the profitability and service which have characterized it in better years.

However, Mr. Chairman, we know now that the difficulties of the railroads will not be completely solved only by writing Government checks. The spirit of an industry goes far beyond its financial statements. It is the people who work for the industry who will have more to say about whether this Government program will achieve success or be resigned to failure.

This amendment is designed to encourage the human resources which will be required to utilize the money we are authorizing in this bill to best advantage. This amendment provides the needed incentive of our Nation's lending institutions to provide the specialized training in railroad management and railroad technology. Highly skilled professionals and technicians are essential if we do not desire to waste the resources we are providing for the railroads in H.R. 10979.

Currently, Mr. Chairman, technical training in the specialty of railroads is almost an anachronism. As the industry has been suffering from a bankruptcy of both its financial statements as well as its spirit, the formal programs in railroad technology and management which once flourished in our colleges and universities have withered away. Our talented young people rarely seek careers now in this industry for very good reasons. And when they do, there is a critical lack of curriculum programing to meet the needs of both the students and the industry.

This amendment will provide the funds necessary to address this need. Without well-trained, talented professionals devoting themselves to the problems of the industry, our well-motivated and thoughtful bill will be doomed to failure.

Mr. Chairman, the railroad labor force has steadily declined in recent years. In 1947, the labor force was 1.3 million. In 1973, the labor force was 520,000. The figure today is significantly less. The average age of railroad employees is extremely high compared to other industries. Unless the Congress concurrently addresses the problems of manpower and training with the problems of deferred maintenance and capital availability, we will surely be back here again in 5 or 10 years debating the fate of the industry. I have been in contact with institutions of higher learning in my State as well as other States across the Nation. There is high interest in such a proposal. The railroads have also been active in supporting this concept. At this point, Mr. Chairman, I ask unanimous consent that a letter written to me from Mr. Stephen Ailes, president and chief executive officer of the Association of American Railroads, be inserted at this point in the RECORD:

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., October 6, 1975.

Hon. ROBERT W. EDGAR,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN EDGAR: It has come to our attention through conversations with Ms. Priscilla Skillman of your staff that you are giving consideration to offering an amendment to H.R. 9802 which would provide federal funds for educational institutions to assist in establishing and carrying on comprehensive education, training, and research in railroad transportation.

The Association of American Railroads has a long and continued history of interest in such programs. We are currently, through our Research and Test Department and Staff Studies Group, attempting to stimulate greater academic interest in railroad problems by means of grants and research contracts. We sincerely wish that the railroad industry were sufficiently profitable to permit significant expansion of these efforts.

We are concerned with the increasingly popular belief that the mere expenditure of federal funds on railroad problems, such as deferred track maintenance, will of and by itself eliminate those problems. Expenditure of those funds will be inefficient or even counterproductive if they are not expended by technically qualified and educated personnel. We are now facing an increasing shortage of these kinds of people.

In the long run, it is our view that this industry can be made sufficiently profitable to support the kinds of educational programs required to produce the kinds of people we need. However, we face an immediate shortfall of trained personnel, and therefore support the idea expressed in your proposed amendment of interim federal financial aid to public and private non-profit institutions of higher learning. It is our understanding that you propose that such grants shall be used to provide for the training or retraining of persons to carry on further research or to obtain employment in private or public organizations which plan to construct, operate, or manage railroad transportation systems. It is also our understanding that such grants would be limited to a period of approximately five years. We strongly urge that institutions and universities which have demonstrated their interest and expertise in railroad transportation problems in the past be given preference in the awarding of such grants.

If we can be of any further help to you in this matter, or in any other, please call upon us.

Sincerely,

STEPHEN BIB.

Mr. Chairman, I have been gratified to learn that this amendment is receiving widespread and bipartisan support. I urge my colleagues to support it.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Chairman, I would like to compliment the gentleman from Pennsylvania (Mr. EDGAR) on offering his amendment. I think it is a very good amendment. I do know that many railroads today, including ConRail itself, are looking for qualified people.

I think that, if we can have such a program within our colleges and schools, it will be a good thing and we will be able to get the type of people we need.

Again I commend the gentleman for offering his amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I would ask the gentleman from Pennsylvania if this is the amendment that provides about $24 million for college grants?

Mr. EDGAR. That is correct.

Mr. SKUBITZ. Mr. Chairman, in that case I rise in opposition to the amendment.

Mr. EDGAR. Mr. Chairman, I believe I still have control of the time and I would like to just take a moment to say to all of my colleagues that this amendment, printed in the RECORD, provides a very minimal cost for the preparation of trained and educated persons in the fields of railroad engineering, design, and planning. The money would be spread out over a 5-year period of time. It would be very helpful not only to revitalize our railroads and their rail beds but would also go to the point of assisting in reducing the unemployment patterns in our urbanized areas.

I think that adoption of this amendment will enhance this bill.

Mr. SKUBITZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I cannot quarrel with the general concept that colleges and universities should be devoting time to the training of students for fruitful careers in the railroad industry.

However, I disagree with the proposal that earmarked Federal money be used in order to create a special incentive for such training.

The educational establishment itself should be perceptive enough to see that there is a need for training and take the initiative.

One of the problems of earmarking specialized grants to education is that the institutions of higher learning continue programs far beyond their actual need.

As long as the Federal dollars keep coming, the programs keep operating.

Mr. Chairman, I cannot support this amendment—but I commend the gentleman who has sponsored it for bringing to the forefront the fact that colleges and universities need to do much more in the development of skills essential to the improvement of our Nation's rail industry.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding to me. I find it difficult to believe that we are now trying to add Federal aid to education in a railroad bill. That type of provision is supposed to be handled in an education authorization.

I just really do not understand the fact that this House has accepted the concept of limiting debate in such a stringent manner. We have had less than a few seconds of debate on many of these amendments. I am seriously disturbed about the procedure in which we are now engaged. To add Federal aid to education in a railroad bill seems almost upside down. It may be very worthwhile to have education in the field of railroading, but if we include this in a railroad bill then we will in all probability next have an abortion amendment or maybe a busing amendment to help the distressed parents in Boston.

It is just incredible to me that we can sit here and in a period of less than a half hour agree to better than 10 amendments, and all we need to do is to have a nod from the chairman or the ranking minority member of the committee and zap, the amendment passes.

Mr. SKUBITZ. Mr. Chairman, I refuse to yield further.

I would like to say to my colleague, the gentleman from California (Mr. ROUSSELOT), that the reason should be quite obvious—the Members of this body have confidence in the chairman of this committee and the ranking member.

Mr. HASTINGS. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from New York.

Mr. HASTINGS. Mr. Chairman, I can think of few proposals that we have come out with in the last few days wherein we have committed $24 million of the taxpayers' money as worthwhile as that which is included in this amendment. I would urge support for the amendment.

Mr. ASHBROOK. Mr. Chairman, the bill before us today is an important piece of legislation. It not only deals with the implementation of the final system plan of the U.S. Railway Association but also has provisions concerning many other aspects of the Government regulation of railroads. Unfortunately the manner in which it is being presented this week neither provides the time nor environment in which it can be given thorough consideration.

In addition, the lateness in considering this legislation presents problems for those thousands of individuals who depend on the so-called light-density lines to transport the raw materials and finished products on which their jobs depend. Numerous businesses in the Northeast section of the United States must make arrangements to have branch lines that they depend on eligible for subsidization.

This Congress must give consideration to the impact of the abandonment of service that Penn Central and other railroads have filed. Many of these abandonments are in our more rural areas where the particular railroad line scheduled for abandonment is an important part of the economic life.

At the same time some of these areas have been encouraged under various Government programs to attract industry. Holmes County in my district is such an area. Having been successful in attracting industry, they now find themselves threatened with the loss of railroad service which makes some of that industry possible.

This country cannot afford wholesale abandonment of railroad lines. The Congress must help to insure that those regions which are threatened with abandonment under the final system plan are not ignored.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I support the amendment of the gentleman from Pennsylvania.

As my colleagues know, I am proud of my record of resistance to new spending programs. Our country cannot support massive budget deficits forever.

I do not look at this measure as a new spending program. Why? For two reasons:

One, it is a matter of survival. Our railroads must get technically trained manpower in order to make good use of the money we are voting for ConRail today.

Two, this amendment provides money for education but it is not a bottomless pit. The money is phased out as fast as it is phased in. In 5 years when the railroads are making a profit, they will pay for their own training—as they should.

I commend both gentlemen from Pennsylvania, the gentleman who introduced the amendment and the chairman of the subcommittee who enthusiastically supports the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. EDGAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 252, line 11, immediately after "restructuring.", insert the following new sentence: "In addition, the Secretary shall develop a proposal for a supplemental transaction involving the transfer of rail properties in any case in which service has been operated on rail properties for 2 consecutive years under a rail service continuation subsidy provided pursuant to section 304(c)(2) of this title, and the difference between revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties, together with a reasonable return on the value of such properties, has been one dollar or less.".

The CHAIRMAN. Was the gentleman's amendment printed in the RECORD?

Mr. DODD. It was, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, this amendment would require the development of proposals for ConRail's acquisition of certain profitmaking branch lines which are eligible for but not included in the final system plan. Under existing provisions of this bill, the Secretary of Transportation, the ICC, or the U.S. Railway Association may—and I emphasize the word "may"—if they wish, offer proposals if they first determine that a restructuring of the ConRail system is a necessary one.

The amendment I offer would make it mandatory for the Secretary of Transportation to draft acquisition proposals by ConRail of those abandoned branch lines which have operated without subsidy but have shown a profit for 2 consecutive years.

This amendment would not—and I repeat would not—force acceptance of any acquisition proposal. It would merely require that such a proposal be initiated to insure that eligible profitmaking branch lines receive fair and full consideration for entry into the ConRail system.

In addition, it would create a flexible mechanism by which this vital freight rail system can expand to meet the growing needs and demands of the Northeast and Midwest regions of our Nation.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the chairman of the subcommittee, the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman for yielding.

I rather feel intimidated now by giving this amendment a nod, but I think it is a good amendment. It is merely a study for 2 years, and if ConRail finds that it is profitable, or not profitable, it does not have to take the branch line into the system. So I think it is a good amendment, and I will be very happy to accept it on this side of the aisle.

Mr. DODD. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. SKUBITZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if I understand the amendment that has been offered, it means that if any railroad that has been taken out of the final system plan—is that correct?

Mr. DODD. It is those railroads.

Mr. SKUBITZ. If those railroads then become profitable after 2 years, then it is mandated that they go back under ConRail?

Mr. DODD. If the gentleman will yield, it is not mandated at all. All it requires is the Secretary to draft proposals which would allow for acquisition into the plan. It does not mandate anything other than the drafting of proposals to include a profitable line. The rail line may not want to come into the system, and under my amendment would not be required to do so.

Mr. SKUBITZ. That is what I was concerned about. Why in the world would a railroad that is profitable want to go under ConRail?

The second point, Mr. Chairman, is do we realize that after 5 years of time if ConRail then decided to abandon the line or discontinue it, they have no protection, and they would not be entitled to any subsidies either. I do not think the gentleman intended that.

Mr. DODD. If the gentleman will yield, that is a matter of choice, though. That is the rail line's choice.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

This is another one of those incredible amendments added on without an understanding of just what it really does. If it was so good, why was it not done in the committee?

I cannot understand why we would want to put a railroad line company back under ConRail, even on a permissive basis or allow them to take it back, that had become profitable. That is just an unbelievable proposal to me.

Further than that, this is an example of trying to legislate under the pressure of no time to discuss adequately the amendment. I will say again to the body, although my colleague, the gentleman from Kansas, felt compelled to say it before, we are cut off by an unreasonable time constraint. We have now had over 18 amendments that have been accepted by the simple nod of the head, some of these amendments by our committee chairman—with hardly a moment's notice.

We do not have the slightest idea of what the cost will be. To be legislating in this way under pressure I think is an irresponsible way to write bills and I think it contributes to the further belief that we do not know what we are doing. I object strenuously to this method of legislating.

Mr. SKUBITZ. Mr. Chairman, let me say this. We established ConRail in order to keep this rail service in operation. What we ought to be doing is trying to get out of the rail business by taking a part of ConRail and turning it over to the other lines if it does not reduce service or lose money for the bankrupt estate. But what we are doing is saying we will turn this back to ConRail and what we are really doing is setting up another Penn Central system. I object to that.

We ought to defeat this amendment and defeat it soundly and get on with the business of this Committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and on a division (demanded by Mr. DODD) there were—ayes 25, noes 71.

So the amendment was rejected.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10979) to improve the adequacy, efficiency, and financial viability of the rail system of the United States by reforming the regulatory process under which such rail system operates, by providing long-term financial assistance for such rail system, and by amending the Regional Rail Reorganization Act of 1973 to enhance and insure the private enterprise character of the Consolidated Rail Corporation, pursuant to House Resolution 931, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. MURPHY of New York. Mr. Speaker, I demand a separate vote on the so-called Collins of Texas amendment.

The SPEAKER. Is a separate vote demanded on any other amendment?

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 195 beginning at line 17, strike Section 309 through line 9 on page 196. In line 11 on page 196, strike "Section 310" and insert in lieu thereof "Section 309".

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SNYDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. SNYDER. Mr. Speaker, I demand a division.

On a division (demanded by Mr. SNYDER) there were—yeas 197, nays 23.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROONEY. Mr. Speaker, pursuant to House Resolution 931 I call up the Senate bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY moves to strike out all after the enacting clause of the Senate bill (S. 2718) and to insert in lieu thereof the provisions of H.R. 10979, as passed, as follows:

That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Railroad Revitalization and Regulatory Reform Act of 1975":

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TITLE I—GENERAL PROVISIONS

FINDINGS

Sec. 101. The Congress finds and declares that—

(1) a safe, viable, and efficient rail industry in the United States is essential to the national interest and to the national defense;

(2) the efficiency and the economic stability of the rail industry are impaired by the deteriorated condition of tracks, yards, and other rail facilities, and by the existence of excess rail facilities;

(3) a clear need exists to eliminate duplication, inefficiency, and deterioration of the rail plant and equipment of the Nation's railroads;

(4) procedures under the Interstate Commerce Act with respect to rates abandonments, mergers, and consolidation and joint use of facilities have become obsolete and have often been an obstacle to the improvement of rail efficiency and to the development of a sound transportation system which meets the public needs;

(5) technological changes, public demand, and the development of new modes of transportation and communication have significantly affected the competitive ability and financial stability of the rail industry;

(6) funds for capital improvement in plant and equipment, right-of-way and track maintenance, control systems, yards, and grade crossings are difficult or impossible to obtain by some of the railroads operating the Nation's rail system;

(7) long term financial assistance must be made available to such railroads in order to rehabilitate and preserve a viable rail industry in the private sector of the economy.

PURPOSE

Sec. 102. The purpose of this Act is to provide for the restoration, maintenance, and rationalization of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are—

(1) to assist the railroads of the Nation in rehabilitating and rationalizing the rail system by 1980 in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to assist the States and local units of government in meeting the social and economic costs incurred in the rationalization of the rail system;

(5) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(6) to assist in the rehabilitation and financing of the real system where the necessary capital cannot be obtained from private sources on a reasonable basis, or where the cost to a railroad of obtaining private capital exceeds the expected rate of return.

DEFINITIONS

Sec. 103. As used in this Act, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(4) "railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation;

(5) "Secretary" means the Secretary of Transportation; and

(6) "variable costs" means variable costs as defined by the Commission.

NONDISCRIMINATION

Sec. 104. (a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project, program, or activity funded in whole or in part with funds made available under this Act.

(b) (1) Whenever the Secretary determines that any person receiving financial assistance under this Act has failed to comply with subsection (a) of this section, or with any applicable Federal civil rights statute or regulation issued thereunder, the Secretary shall notify such person of such determination and shall direct such person to take such action as may be necessary to assure compliance with subsection (a).

(2) If, within a reasonable period of time after receiving notification pursuant to paragraph (1), such person fails or refuses to comply with subsection (a), the Secretary shall—

(A) provide no further financial assistance to such person under this Act;

(B) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(C) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(D) take such other actions as may be provided by law.

(c) Whenever a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section.

(d) The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section.

(e) Any determinations made or actions taken by the Secretary pursuant to this section shall be subject to judicial review.

(f) For purposes of this section, the term "financial assistance" includes loan guarantees made by the Secretary of the Treasury.

TITLE II—PROCEDURAL REFORM OF THE INTERSTATE COMMERCE COMMISSION

APPROPRIATIONS REQUEST

Sec. 201. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsection:

"(j) Whenever the Interstate Commerce Commission submits any budget estimate or request to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No officer or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by the Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.".

RATE BUREAU PROCEDURES

SEC. 202. Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended by adding at the end thereof the following new paragraph:

"(12) A railroad conference, bureau, committee, or other organization established or continued pursuant to any agreement approved under this section shall take final action upon any rule, rate, or charge docketed with it within 120 days after the date of docketing.".

UNIFORM COST AND REVENUE ACCOUNTING SYSTEM

SEC. 203. Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall, not later than June 30, 1977, issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all common carriers by railroad subject to this part. Such regulations and procedures shall become effective not later than January 1, 1978. Before promulgating such regulations and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, and their employees, and the general public.

"(b) In order to assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, information required in establishing fair and reasonable rates, and other regulatory areas of responsibility, the Commission shall identify and define the following items as they pertain to each facet of rail operations:

"(i) operating and nonoperating revenue accounts;

"(ii) direct cost accounts for determining fixed and variable costs for material, labor, and overhead components of operating expenses and the assignment of such costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

"(iii) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of such costs to various functions, services, or activities.

"(c) The accounting system established pursuant to this paragraph shall be in accordance with generally accepted accounting principles uniformly applied to all common carriers by railroad subject to this part, and all reports shall include any disclosure considered appropriate under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. Other provisions of this section notwithstanding, the Commission should, to the extent possible, devise the system of accounts to be cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and to give due consideration to appropriate economic principles. The Commission should attempt, to the extent possible, to require that such data be reported or otherwise disclosed only for essential regulatory purposes, including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

"(d) In order that the accounting system established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such accounting system and revise it as necessary.

"(e) For purposes of carrying out the provisions of this paragraph, the Commission is authorized 2 additional systems accountant positions at GS-14 level and 2 additional systems accountant positions at the GS-13 level of the General Schedule under subchapter III of chapter 53 of title 5, United States Code.

"(f) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed $1,000,000, to be available for—

"(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

SECURITIES

SEC. 204. (a)(1) Paragraph (6) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6)) is amended to read as follows:

"(6) Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any interest in a railroad equipment trust. For purposes of this paragraph 'interest in a railroad equipment trust' means any interest in an equipment trust, lease, conditional sales contract, or other similar arrangement entered into, issued, assumed, guaranteed by, or for the benefit of, a common carrier to finance the acquisition of rolling stock, including motive power.".

(2) The second sentence of section 19(a) of such Act (15 U.S.C. 77s(a)) is amended by striking out "; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20".

(3) Section 214 of the Interstate Commerce Act (49 U.S.C. 314) is amended by striking out "That the exemption" and all that follows through "And provided further,".

(b) Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by striking out ", and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act" and all that follows in such subsection, and inserting in lieu thereof "(except that such rules and regulations of the Commission may be inconsistent with such regulations to the extent that the Commission determines that the public interest or the protection of investors so requires).".

(c) Paragraph (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(7)) is amended to read as follows:

"(7) Any company (A) which is subject to regulation under section 214 of the Interstate Commerce Act, except that this exception shall not apply to a company which the Commission finds and by order declares to be primarily engaged, directly or indirectly, in the business of investing, reinvesting, owning holding, or trading in securities; or (B) whose entire outstanding stock is owned or controlled by a company excepted under clause (A) hereof, if the assets of the controlled company consist substantially of securities issued by companies which are subject to regulation under section 214 of the Interstate Commerce Act.".

(d)(1) The amendments made by subsection (a) of this section shall take effect on the sixtieth day after the date of enactment of this Act, but shall not apply to any security with respect to which a bona fide offering was made by the issuer or by or through an underwriter before such sixtieth day.

(2) The amendment made by subsection (c) of this section shall not apply to any report by any person with respect to a fiscal year of such person which began before the date of enactment of this Act.

(3) The amendment made by subsection (c) of this section shall take effect on the sixtieth day after the date of enactment of this Act.

PUBLIC REPRESENTATION AND PARTICIPATION

SEC. 205. (a) The Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by redesignating sections 25 through 27 as sections 26 through 28, respectively, and by inserting immediately after section 24 the following new section:

"OFFICE OF RAIL PUBLIC COUNSEL

SEC. 25. (a) There shall be established within 60 days after the date of enactment of this section, a new Office in the Commission to be known as the Office of Rail Public Counsel. The Office of Rail Public Counsel shall function continuously pursuant to this section and other applicable Federal laws.

"(b) The Office of Rail Public Counsel shall be administered by a Director. The Director shall be appointed by a majority of the Commission. In considering any nomination of the Director of the Office of Rail Public Counsel, the Commission shall give consideration exclusively to the qualifications of the nominee. The Director shall be appointed for a term of 6 years and may be reappointed, and shall be responsible for the discharge of the functions and duties of the Office of Rail Public Council, unless removed for malfeasance by the Commission. The Director shall be appointed and compensated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, but at a rate not in exces of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

"(c) The Director of the Office of Rail Public Counsel shall coordinate the administrative functions of the Office with the Commission. The Director is authorized to appoint, fix the compensation, and assign the duties of employees of such Office subject to the provisions of title 5, United States Code, and to procure temporary and intermittent services to the same extent authorized under section 3109 of title 5, United States Code, but at a rate not to exceed $250 per day for qualified experts. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office of Rail Public Counsel with such information and data as it requests in writing. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties. The Director shall submit a monthly report on the activities of the Office of Rail Public Counsel to the Chairman of the Commission, and the Commission in its annual report to the Congress shall summarize, analyze, evaluate, and make recommendations with respect to such Office and its activities, accomplishments, and shortcomings.

"(d) In addition to any other duties and responsibilities prescribed by law, the Office of Rail Public Counsel of the Commission—

"(i) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves a common carrier by railroad subject to this part;

"(ii) is authorized to petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves a common carrier by railroad subject to this part;

"(iii) is authorized to seek judicial review of any Commission action on any matter involving a common carrier by railroad subject to this part, to the extent such review is authorized by law for any person and on the same basis; and

"(iv) shall solicit, study, evaluate, and present before the Commission, in any proceeding, formal or informal, the views of those communities and users of rail service affected by proceedings initiated by or pending before the Commission, whenever the Director determines, for whatever reason (such as size or location), such community or user of rail service might not otherwise be adequately represented before the Commission in the course of such proceedings.

"(e) The budget requests and budget estimates of the Office of Rail Public Counsel of the Commission shall be submitted without modification by the Commission directly to the Congress, and moneys appropriated for the use of such Office shall not be used by the Commission for any other purpose.

"(f) There are authorized to be appropriated to the Office of Rail Public Counsel for the purpose of carrying out the provisions of this section such sums as are necessary, not to exceed $2,000,000, for the fiscal year ending September 30, 1977.".

REFORM OF RULES OF PRACTICE BEFORE THE COMMISSION

SEC. 206. (a) Within 180 days after the date of enactment of this Act, the Commission shall study, develop, and submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives an initial proposal setting forth rules of practice under which the Commission proposes to conduct all adjudicatory and rulemaking proceedings with respect to any matter involving a common carrier by railroad subject to this part. Such rules of practice before the Commission shall be consistent with existing law, shall take into consideration the varying nature of proceedings before the Commission, and shall include—

(1) specific time limits imposed upon the filing and disposition of all complaints, petitions, pleading, motions, appeals, and rulemaking procedures before an administrative law judge, individual Commissioner, review board, division or panel of the Commission, or the full Commission;

(2) specific methods of taking testimony, receiving evidence, hearing cross-examination, and the modification of such procedures so as to facilitate the timely execution of the functions of the Commission;

(3) utilization of additional administrative law judges or the assignment of employees of the Rail Services Planning Office in complex adjudicatory or rulemaking procedures so as to facilitate proper focus and timely resolution of the issues within the required time limits; and

(4) specific remedies in any case of failure to observe required time limits.

(b) Within 210 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit to the Congress and to the Commission its comments on the rules of practice before the Commission proposed pursuant to subsection (a), together with such recommendations as it may deem appropriate.

(c) Within 30 days after receipt of comments submitted by the Administrative Conference of the United States, the Commission shall consider such comments and shall submit to the Congress a final proposal setting forth the rules of practice before the Commission. Such rules of practice shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of the submission of such final proposal, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such final proposal. If no resolution is adopted as provided in the preceding sentence, the Commission shall adopt such proposed rules of practice. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

(d) If either the Senate or the House of Representatives passes a resolution of disapproval under subsection (c), the Commission shall develop a revised proposal setting forth the rules of practice before the Commission. Within 60 days after the date of such disapproval, each such revised proposal shall be submitted to the Congress by the Commission for review pursuant to subsection (c).

(e) The Commission shall periodically, but not less than once every 3 years, review the rules of practice adopted pursuant to subsection (c) and revise such rules as it considers necessary.

COMMISSION HEARING AND APPELLATE PROCEDURE

SEC. 207. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively, and by inserting immediately after paragraph (8) the following new paragraph:

"(9) (a) Whenever the Commission assigns the initial disposition of any matter before the Commission which involves a common carrier by railroad subject to this part to an administrative law judge, individual Commissioner, employee board, or division or panel of the Commission, such judge, Commissioner, board, division, or panel shall—

"(i) complete all proceedings with respect to such matter within 180 days after its assignment; and

"(ii) with respect to any matter so assigned which involves written submissions or the taking of testimony at a public hearing, submit in writing within 120 days after the completion of all proceedings an initial decision, report, or order containing—

"(A) specific findings of fact;

"(B) specific and separate conclusions of law;

"(C) a recommended order; and

"(D) any justification in support of such findings of fact, conclusions of law, or order. A copy of the initial decision, report, or order shall be served upon interested parties by the Commission within 5 days after such material is submitted to the Commission pursuant to this subdivision. Such initial decision, report, or order shall become the order of the Commission unless an appeal is filed with the Commission by a party to the proceedings within 30 days after such order is submitted to the Commission. If an appeal is filed, such appeal shall be considered and acted upon by the Commission or a duly designated division thereof within 180 days after the date on which such appeal is filed.

"(b) The duly designated division of the Commission shall reconsider each matter referred pursuant to subdivision (a) and shall make its decision, order, or requirement within 180 days after the date on which such matter is referred. The Commission shall not assign to the designated division any Commissioner who participated in the initial decision, report, or order which is being reconsidered. Review of an initial decision, report, or order of an administrative law judge, individual Commissioner, or employee board shall be considered in accordance with the provisions of section 557 of title 5, United States Code, and with such rules limiting and defining the issues and pleadings upon review as the Commission may adopt in accordance with section 557(b) of such title.

"(c) The mandate of the designated division shall take effect 30 days after the entry of the decision, order, or requirement unless—

"(i) such decision, order, or requirement, or any applicable rule adopted by the Commission, provides that such decision, order, or requirement shall become effective at an earlier date; or

"(ii) within such 30-day period, the entire Commission, upon application of an interested party and subject to such rules and limitations as the Commission may establish, decides, in its discretion, to review the matter and to stay the effective date of the decision, order, or requirement until the final disposition of such matter by the entire Commission.

The Commission may, in its discretion, determine to review the decision, order, or requirement of the duly designated division without staying the effects of such order, decision, or requirement. If the Commission reviews a decision, order, or requirement of the duly designated division, it must complete the review process and issue its final order not more than 120 days after the date it granted the application for review.

"(d) The Commission may, in its discretion, extend any time period set forth in subdivision (a), (b), or (c) for a period of not more than 90 days if a majority of the Commissioners, by public rollcall vote, agree to such extension. The Commission shall submit an annual report in writing to each House of the Congress setting forth each extension granted pursuant to this subdivision, classified by the type of proceeding involved, and stating the reasons for each such extension and the duration thereof.

"(e) In extraordinary situations in which an extension granted pursuant to subdivision (d) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

"(i) not less than 7 of the Commissioners, by public rollcall vote, agree to such further extension; and

"(ii) not less than 15 days prior to expiration of the extension granted pursuant to subdivision (d), the Commission reports in writing to the Congress that such further extension has been granted, together with—

"(A) a full explanation of the reasons for such further extension;

"(B) the anticipated duration of such further extension;

"(C) the issues involved in the matter before the Commission; and

"(D) the names of personnel of the Commission working on such matter.

"(f) The Commission may at any time upon its own motion—

"(i) reopen any proceeding;

"(ii) grant rehearing, reargument, or reconsideration with respect to any decision, order, or requirement; and

"(iii) reverse, modify, or change any decision, order, or requirement.

The Commission may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.

"(g) Notwithstanding the provisions of paragraphs (5), (6), (7), and (8), the foregoing provisions of this paragraph shall govern the disposition of any matter before the Commission which involves a common carrier by railroad subject to this part.".

ACCESS TO INFORMATION BY CONGRESSIONAL COMMITTEES

SEC. 208. Section 17 of the Interstate Commerce Act (49 U.S.C. 17), as amended by this

Act, is further amended by adding at the end thereof the following new paragraph:

"(14) Whenever the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce of the Senate makes a written request for documents which are in the possession or under the control of the Commission and which relate to any matter involving a common carrier by railroad subject to this part, the Commission shall, within 10 days after the receipt of such request, submit such documents (or copies thereof) to such committee, or submit a report in writing to such committee stating the reason that such documents have not been so submitted, and the anticipated date on which they will be submitted. If the Commission transfers any document in its possession or under its control to any other agency or to any person, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission for purposes of complying with the preceding sentence. This paragraph shall not apply to documents which have been obtained by the Commission from persons subject to regulation by the Commission, and which contain trade secrets or commercial or financial information of a privileged or confidential nature. This paragraph shall not be deemed to restrict any other authority of either House of Congress or any committee or subcommittee thereof to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof."

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

SEC. 209. Section 1(2) of the Interstate Commerce Act (49 U.S.C. 1(12)), is amended by adding at the end thereof the following: "In applying the provisions of this paragraph (12), however, unit-train service and non-unit-train service shall be considered separate and distinct classes of service and a distinction shall be made between these two classes of service and between the cars used in each class of service; and questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any provision of sections 1, 2, and 3 of this Act, and of sections 1, 2, and 3 of the Elkins Act (49 U.S.C. 41, 42, and 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. As used in this paragraph, 'unit-train service' means the movement of a single shipment of coal of not less than 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one day and destined to one consignee, at one plant, at one destination, via one route.".

TITLE III—RAILROAD RATES

RAILROAD RATEMAKING

SEC. 301. (a) Paragraph (5) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(5)) is amended by inserting "(a)" immediately after "(5)" and by inserting at the end thereof the following new sentence: "The provisions of this subdivision shall not apply to common carriers by railroad subject to this part.".

(b) Paragraph (5) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(5)), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subdivisions:

"(b) As used hereafter in this paragraph, the term 'rate' means rate, fare, or charge, or any classification, regulation, or practice relating thereto.

"(c) Each rate for a service rendered or to be rendered in the transportation of passengers or property by a common carrier by railroad, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable rate is prohibited and declared to be unlawful. A rate that is compensatory may not be found to be unjust or unreasonable on the basis that it is too low.

"(d) In exercising its power to prescribe just and reasonable rates, the Commission shall give due consideration to the effect of rates on the movement of traffic by the common carrier by railroad for which the rates are prescribed, and to the need in the public interest of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of the service. The Commission may not hold the rate of a common carrier by railroad up to a particular level to protect the traffic of a carrier of another mode, if the rate proposed by the common carrier by railroad is compensatory. If the Commission, after notice and opportunity for a hearing, finds any rate to be noncompensatory and unlawful, it may order such rate to be increased but by only so much as will make such unlawful rate compensatory.

"(e) The rate of a common carrier by railroad is deemed to be compensatory when it equals or exceeds the variable cost to such carrier of providing the specific transportation to which the rate applies.

"(f) In any proceeding instituted upon complaint to determine the lawfulness of a rate, the Commission may not approve a proposed rate decrease by a common carrier by railroad which is below the variable cost to such carrier of providing the specific transportation to which the rate applies, and the Commission may not disallow a proposed rate increase by such a carrier where the increase does not raise the rate to a level exceeding by more than 10 per centum the variable cost to such carrier of providing the specific transportation.

"(g) Nothing in this section shall be construed to modify the application of section 2, 3, or 4 of this Act in determining the lawfulness of any rate or practice, or to make lawful any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is in the public interest.

"(h) Following the promulgation and review of the initial standards established pursuant to subdivision (i), no rate shall be found unjust or unreasonable on the ground that it is too high unless the Commission determines that the common carrier by railroad charging the rate has market dominance. As used in this paragraph, the term 'market dominance' refers to an absence of effective competition from other carriers or modes of competition. Market dominance shall be presumed in any situation in which (i) in any geographical market there are not at least 2 competing rail carriers or a rail carrier and an alternative mode of transportation both of which compete for the business in the area, or (ii) with respect to any single commodity or type of goods there is the absence of competition between the rail carriers for transport of that commodity, or where there is only one rail carrier, the absence of a competing mode which in fact provides transportation for that commodity in a reasonably effective and competitive fashion.

"(i) Within 240 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, the Commission shall establish, by rule, standards and procedures for determining whether and when a carrier possesses market dominance over a service rendered or to be rendered at a particular rate or rates. Such rules shall be rendered at a particular rate or rates. Such rules shall be designed to provide for a practical determination without administrative delay. The Commission shall solicit and consider the recommendations of the Secretary, of the Attorney General, and of the Federal Trade Commission in the course of establishing such rules.".

RATE ZONE FREEDOM

SEC. 302. (a) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended—

(1) by adding at the end of paragraph (7) thereof the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to this part."; and

(2) by redesignating paragraphs (8) through (14) as paragraphs (9) through (15) respectively, and by inserting immediately after paragraph (7) the following new paragraph:

"(8) (a) Whenever a schedule is filed with the Commission by a common carrier by railroad stating a new individual or joint rate, fare, or charge, or a new individual or joint classification, regulation, or practice affecting a rate, fare, or charge, the Commission may, upon the complaint of an interested party or upon its own motion, order a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice. The hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Such hearing shall be completed and a final decision rendered by the Commission not later than 7 months after such rate, fare, charge, classification, regulation, or practice was scheduled to become effective, unless, prior to the expiration of such 7-month period, the Commission reports in writing to the Congress that it is unable to render a decision within such period, together with a full explanation of the reason for the delay. If such a report is made to the Congress, the final decision shall be made not later than 10 months after the date of the filing of such schedule. If the final decision of the Commission is not made within the applicable time period, the rate, fare, charge, classification, regulation, or practice shall go into effect immediately at the expiration of such time period, or shall remain in effect if it has already become effective. Such rate, fare, charge, classification, regulation, or practice may be set aside thereafter by the Commission if, upon complaint of an interested party, the Commission finds it to be unlawful.

"(b) Pending a hearing pursuant to subdivision (a), the schedule may be suspended for 7 months beyond the time when it would otherwise go into effect, or for 10 months if the Commission files a report to Congress pursuant to subdivision (a), except under the following conditions:

"(i) in the case of a rate increase, a rate may not be suspended on the ground that it exceeds a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act; or

"(ii) in the case of a rate decrease, a rate may not be suspended on the ground that it is below a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act.

"(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b) (i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only to rate changes in which—

"(i) the rate increase or decrease is filed within 3 years of the date of the enactment of this subparagraph;

"(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subparagraph;

"(iii) the increase or decrease in any rate filed within the first calendar year following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1976;

"(iv) the increase or decrease in any rate filed in the second calendar year following such date of enactment is not greater than 7 per centum of the rate in effect on January 1, 1977; and

"(v) the increase or decrease in any rate filed in the third calendar year following such date of enactment is not greater than 7 per centum of the rate in effect on January 1, 1978.

"(d) The Commission may not suspend a rate under this paragraph unless, upon complaint of an interested party, the Commission determines that—

"(i) without suspension the proposed rate change will cause injury to the complainant;

"(ii) the complainant is likely to prevail on the merits; and

"(iii) suspension would further the national transportation policy.

The burden of proof shall be upon the complainant to establish the matters set forth in clauses (i) through (iii) of this subdivision. Nothing in this paragraph shall be construed as establishing a presumption that any rate increase or decrease in excess of the limits set forth in subdivision (c) is unlawful or should be suspended.

"(e) If a hearing of a proposed increased rate, fare, or charge is initiated and the schedule is not suspended pending hearing, the Commission shall require the common carrier by railroad to keep an account of all amounts received because of the increase from the date such rate, fare, or charge became effective until an order issues or until 7 months elapse, whichever first occurs, or, if the hearings are extended pursuant to subdivision (a), until an order issues or until 10 months elapse, whichever first occurs. The account shall specify by whom and in whose behalf the amounts are paid. In its final order, the Commission shall require the common carrier by railroad to refund to the person in whose behalf the amounts were paid that portion of such increased rate, fare, or change found to be not justified, plus interest at a rate which is 1 per centum below the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. With respect to any proposed decreased rate, fare, or charge which is suspended, if the decrease or any part of it is ultimately found to be lawful, the common carrier by railroad may refund any part of the portion of such decreased rate, fare, or charge found justified of such carrier makes such a refund available on an equal basis to all shippers who participated in such rate, fare, or charge, according to the relative amounts of traffic moving at such rate, fare, or charge.

"(f) In any hearing under this section, the burden of proof is on the common carrier by railroad to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation or practice will have a significantly adverse effect on the competitive posture of shippers or on consignees to be affected by such a change. The Commission shall give such hearing and decision preference over all other matters relating to railroads pending before the Commission and shall make its decision at the earliest practicable time.

"(g) Notwithstanding any other provision of this Act, the authority and responsibility of the Commission to guarantee the equalization of rates between and within ports shall remain intact.".

(b) The Secretary and the Commission shall separately study the effect of the amendments made by subsection (a) of this section on the development of an efficient railroad system. Such studies shall include an analysis of the effects of the provisions upon shippers and upon carriers of all modes of transportation and shall include proposals for further regulatory and legislative changes if necessary. The Commission shall gather all data relating to such studies as requested by the Secretary, and shall make such data available to the Secretary. The Secretary and the Commission shall transmit the results of their respective studies to each House of the Congress within 30 months after the date of the enactment of this Act.

RATE INCENTIVES FOR CAPITAL INVESTMENT

SEC. 303. Section 15 of the Interstate Commerce Act (49 U.S.C. 15), as amended by section 302 of this Act, is amended by redesignating paragraph (15) thereof as paragraph (16), and by inserting immediately after paragraph (14) the following new paragraph:

"(15) Notwithstanding any other provision of law, a common carrier by railroad subject to this part may file with the Commission a notice of intention to file a schedule stating a new rate, fare, charge, classification, regulation, or practice whenever the implementation of the proposed schedule would require a total capital investment of $1,000,000 or more, individually or collectively, by such carrier, or by a shipper, receiver, or agent thereof, or an interested third party. The filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such filing is based. Any interested person may request the Commission to investigate the schedule proposed to be filed, and upon such request the Commission shall hold a hearing with respect to such schedule. Such hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Unless prior to the 180-day period following the filing of the notice of intention the Commission has determined, after a hearing, that the proposed schedule, or any part thereof, would be unlawful, such carrier may file the schedule at any time thereafter to become effective after 30 days' notice. The schedule may not, for a period of 5 years after its effective date, be suspended or set aside as being unlawful under section 1, 2, 3, or 4 of this Act, except that the Commission may order such schedule to be revised to a compensatory level after such date if the rate stated therein is found to be not compensatory.".

JOINT AND SINGLE LINE RATES

SEC. 304. (a) Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively, and by inserting immediately after paragraph (6) the following new paragraph:

"(7)(a) The Commission may not approve under this section any agreement among railroad carriers which—

"(i) permits agreement with respect to, or any voting on, single-line rates, fares, classifications, allowances, or charges established by any railroad; or

"(ii) permits any carrier to participate in agreements with respect to, or to vote on, rates, fares, classifications, allowances, or charges relating to any particular joint line or interline traffic if such carrier cannot participate in such traffic.

As used in clause (i) of this subdivision, a single line rate, fare, classification, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

"(b) The limitations set forth in subdivision (a) shall not be applicable (i) to general rate increases or decreases, if the agreements accord the shipping public, under specified procedures, adequate notice of at least 15 days of such proposals and an opportunity to present representations thereon, in writing or otherwise, prior to the filing with the Commission of the tariffs containing such increases or decreases, or (ii) to broad tariff changes where such changes are of general application or substantially general application throughout a territory or territories within which such changes are to be applicable.".

(b) The Commission shall enter no order terminating or modifying its approval of any agreement by reason of the amendment made by subsection (a) of this section earlier than 6 months after the date of the enactment of this Act.

ADEQUATE REVENUE LEVELS

SEC. 305. (a) Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended—

(1) by adding at the end of paragraph (2) and at the end of paragraph (3) the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to the part."; and

(2) by redesignating paragraph (4) as paragraph (5), and by inserting immediately after paragraph (3) the following new paragraph:

"(4) With respect to common carriers by railroad subject to this part, the Commission shall, after notice and hearing, within 24 months after the enactment of this paragraph, develop, promulgate, and thereafter continually maintain reasonable standards and procedures for the determination and establishment of revenue levels adequate under honest, economical, and efficient management, to cover total operating expenses (including depreciation and obsolescence) and a fair, reasonable, and economic profit or return on total capital prudently employed in the transportation business of such carriers. Such standards and procedures shall be so developed as to afford an opportunity for the establishment of revenue levels that are sufficient to cover operating expenses, cost of debt, cost of equity capital, and effects of inflation or deflation (including the effects of inflation or deflation of the costs of equipment and facilities), and for the retention and attraction of capital in amounts adequate to provide a sound and efficient transportation system in the United States. In formulating such standards and procedures, the Commission shall consider, among other things, productivity factors and financially sound debt and equity ratios.".

DEMURRAGE CHARGES

SEC. 306. Paragraph (6) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(6)) is amended by inserting at the end thereof the following: "Demurrage charges shall be computed, and rules and regulations relating to such charges shall be established, in such a manner as to fulfill the national needs of freight car utilization and distribution and of maintenance of an adequate freight car supply available for transportation of property.".

CAR COMPENSATION

SEC. 307. (a) Paragraph (14)(a) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(14)(a)) is amended to read as follows:

"(14)(a) It is the intent of the Congress to encourage the purchase, acquisition, and efficient utilization of freight cars. In order to carry out such intent, the Commission may, upon complaint of an interested party or upon its own motion and after notice and opportunity for a hearing, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including the compensation to be paid for the use of any locomotive, freight car, or other vehicle, the other terms of any contract, agreement, or arrangement for the use of any locomotive, or other vehicle (other than a freight car) not owned by the carrier by which it is used (and whether or not owned by another carrier), and the penalties or other sanctions for nonobservance of such rules, regulations, or practices. The Commission shall, at least once every 2 years, determine the rates of compensation to be paid for the use of each type of freight car owned and controlled by a railroad. In fixing such compensation, the Commission shall give consideration to the national level of ownership of each such type of freight car and to other factors affecting the adequacy of the national freight car supply. Such compensation shall be fixed on the basis of elements of ownership expense involved in owning and maintaining each such type of freight car, including a fair return on the value of such type of freight car, giving due consideration to current costs of capital, repairs, materials, parts, and labor. Such compensation may be increased by such incentive elements of compensation as in the judgment of the Commission will provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. The Commission shall not make any incentive element applicable to any type of freight car if the Commission finds that the supply of such type of freight car is adequate. The Commission may exempt from the compensation to be paid by any group of carriers such incentive element or elements if the Commission finds such exemption to be in the national interest.".

(b) The Commission shall, within 18 months after the date of the enactment of this Act, revise the rules, regulations, and practices with respect to car service in accordance with the amendment made by subsection (a).

INTRASTATE RAILROAD RATE PROCEEDINGS

SEC. 308. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by striking out ": Provided, that" and all that follows through "notwithstanding" in paragraph (4) thereof, and by adding at the end thereof the following new paragraph:

"(5) The Commission shall have exclusive authority, upon application to it, to determine and prescribe intrastate rates if—

"(a) a carrier has filed with an appropriate administrative or regulatory body of a State a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing the rate, fare, or charge, for the purpose of adjusting the rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and

"(b) the State administrative or regulatory body has not acted finally within 120 days after the date of the filing of the change in the intrastate rates hereunder.

Notice of the application to the Commission shall be served on the appropriate State administrative or regulatory body. The Commission shall determine and prescribe the rate thereafter to be charged according to the standards set forth in paragraph (4) of this section. The provisions of this paragraph shall apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.".

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

SEC. 309. Paragraph (1) of section 12 of the Interstate Commerce Act (49 U.S.C. 12 (1)) is amended by inserting "(a)" immediately before "The Commission" and by adding at the end thereof the following new subdivision:

"(b) Whenever the Commission determines, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for hearing, that the application of any provision of this part to any person or class of persons or to any services or transactions by reason of the limited scope of such services or transactions is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall by order exempt such persons or class of persons or services or transactions from such provisions to the extent and for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it finds, after notice and reasonable opportunity for hearing, that the subjugation of the exempted person or class of persons or exempted services or transactions to the provisions of this part, to the extent specified in the order, is necessary to effectuate the national transportation policy declared in this Act and to achieve effective regulation by the Commission, and would serve a useful public purpose."

TITLE IV—LOCAL RAIL SERVICE CONTINUATION

EXTENSION OF SERVICE

SEC. 401. (a) Section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended to read as follows:

"(18)(a) No common carrier by railroad subject to this part shall—

"(i) undertake the extension of any of its lines of railroad or the construction of any additional line of railroad;

"(ii) acquire or operate any such extension or any such additional line; or

"(iii) engage in transportation over, or by means of, any such extended or additional line of railroad, unless such extension or additional line of railroad is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or will be enhanced by the construction and operation of such extended or additional line of railroad. Upon receipt of an application for such a certificate, the Commission shall (A) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of such extended or additional line; (B) send an accurate and understandable summary of such application to a newspaper of general circulation in such affected area or areas with a request that such information be made available to the general public; (C) cause a copy of such summary to be published in the Federal Register; (D) take such other steps as it deems reasonable and effective to publicize such application; and (E) indicate in such transmissions and publications that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(b) The Commission shall establish and may from time to time amend rules and regulations (as to hearings and other matters) to govern applications for, and the issuance of, any certificate required by subdivision (a). An application for such a certificate shall be submitted to the Commission in such form and manner and with such documentation as the Commission shall prescribe. The Commission may—

"(i) issue such a certificate in the form requested by the applicant;

"(ii) issue such a certificate with modifications in such form and subject to such terms and conditions as are necessary in the public interest; or

"(iii) refuse to issue such a certificate.

"(c) Upon petition or upon its own initiative, the Commission may authorize any common carrier by railroad subject to this part to extend any of its lines of railroad or to take any other action necessary for the provision of adequate, efficient, and safe facilities for the performance of such carrier's obligations under this part. No authorization shall be made unless the Commission finds that the expense thereof will not impair such carrier's ability to perform its obligations to the public.

"(d) Common carriers by railroad subject to this part may, notwithstanding this paragraph and section 5 of this part, and without the approval of the Commission, enter into contracts, agreements, or other arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The authority granted to the Commission under this paragraph shall not extend to the construction, acquisition, or operation of spur, industrial, team, switching, or side tracks if such tracks are located or intended to be located entirely within one State and shall not apply to any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.

"(e) Any construction or operation which is contrary to any provision of this paragraph, of any regulations promulgated under this paragraph, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this paragraph or of the conditions of a certificate issued under this paragraph.".

(b) Section 1(19), 1(20), 1(21), and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(19), (21), and (22)) are repealed.

DISCONTINUANCE OR ABANDONMENT

SEC. 402. The Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately after section 1 thereof the following new section:

"DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

"SEC. 1a. (a) No common carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line (hereafter referred to as 'discontinuance'), unless such abandonment or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance, and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, and notwithstanding any decision, order, or procedure of any State administrative or judicial body.

"(b)(1) Whenever any common carrier by railroad submits to the Commission a notice of intent to abandon or discontinue, pursuant to subdivision (a), such carrier shall attach thereto an affidavit certifying that a copy of such notice (A) has been sent by certified mail to the chief executive officer of each State that would be directly affected by such abandonment or discontinuance; (B) has been posted in each terminal and station on any line of railroad proposed to be so abandoned or discontinued; (C) has been published for 3 consecutive weeks in a newspaper of general circulation in each county in which all or any part of such line of railroad is located; and (D) has been mailed, to the extent practicable, to all shippers who have made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12 months preceding such submission.

"(ii) The notice required under clause (i) shall include (A) an accurate and understandable summary of the carrier's application for a certificate of abandonment or discontinuance together with the reasons therefor, and (B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(c) During the 60-day period between the submission of completed application for a certificate of abandonment or discontinuance pursuant to subdivision (a) and the proposed effective date of an abandonment or discontinuance, the Commission shall, upon petition, or may, upon its own initiative, cause an investigation to be conducted to assist it in determining what disposition to make of such application. An order of the Commission to implement the preceding sentence must be issued and served upon any affected carrier not less than 5 days prior to the end of such 60-day period. If no such investigation is ordered, the Commission shall issue such a certificate, in accordance with this section, at the end of such 60-day period. If such an investigation is ordered, the Commission shall order a postponement, in whole or in part, in the proposed effective date of the abandonment or discontinuance. Such postponement shall be for such reasonable period of time as is necessary to complete such investigation. Such an investigation may include, but need not be limited to, public hearings at any location reasonably adjacent to the line of railroad involved in the abandonment or discontinuance application, pursuant to rules and regulations of the Commission. Such a hearing may be held upon the request of any interested party or upon the Commission's own initiative. The burden of proof in any such investigation shall be upon the applicant for such a certificate.

"(d) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

"(i) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience and necessity;

"(ii) issue such certificate with modifications in such form and subject to such terms and conditions as are required, in the judgment of the Commission, by the public convenience and necessity; or

"(iii) refuse to issue such certificate.

In determining whether public convenience and necessity permit an abandonment, the Commission shall give primary consideration to the needs of those served by the line of railroad involved and the financial effect of the continued operation of the line upon the carrier by railroad seeking its abandonment. If such a certificate is issued, actual abandonment or discontinuance shall take effect, in accordance with such certificate, 60 days after the date of issuance thereof.

"(e)(i) Each common carrier by railroad subject to this part shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish, a full and complete diagram of the transportation system operated, directly or indirectly, by such carrier. Each such diagram shall include a detailed description of each line of railroad which is a 'low density line', as such term is defined by the Commission. Such term shall be defined by the Commission by rules, and such rules may include standards which vary by region of the Nation and by railroad or group of railroads. Each such diagram shall also identify any line of railroad as to which such carrier plans to submit an application for a certificate of abandonment or discontinuance in accordance with this section. Each such carrier shall submit to the Commission and publish, in accordance with regulations of the Commission, such amendments to such diagram as are necessary to maintain the accuracy of such diagram.

"(ii) The Commission shall not issue a certificate of abandonment or discontinuance with respect to a line of railroad if such abandonment or discontinuance is opposed by—

"(A) a shipper or any other person who has made significant use of such line of railroad during the 12-month period preceding the submission of an applicable application under subdivision (a); or

"(B) a State, or any political subdivision of a State, if such line of railroad is located, in whole or in part, within such State or political subdivision;

unless such line or railroad has been identified and described in a diagram or in an amended diagram which was submitted to the Commission under clause (i) at least 4 months prior to the date of submission of an application for such certificate.

"(f)(i) Whenever the Commission makes a finding in accordance with this section, that the public convenience and necessity permit the abandonment or discontinuance of a line of railroad, it shall cause such finding to be published in the Federal Register. If, within 30 days of such publication, the Commission further finds that—

"(A) a financially responsible person or a government entity has offered financial assistance to enable the rail service involved to be continued; and

"(B) it is likely that such proffered assistance would cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable rate of return on the value of such line;

the Commission shall postpone the issuance of a certificate of abandonment or discontinuance for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment or discontinuance, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to it of the execution of such an assistance or operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

"(ii) A common carrier by railroad subject to this part shall promptly make available, to any party considering offering financial assistance in accordance with clause (i), its most recent reports on the physical condition of any line of railroad with respect to which it seeks a certificate of abandonment or discontinuance, together with such traffic, revenue, and other data as is necessary to determine the amount of assistance that would be required to continue rail service.

"(g) Whenever the Commission finds, under subdivision (f) of this section, that an offer of financial assistance has been made, the Commission shall determine the extent to which the avoidable cost of providing rail service plus a reasonable return on the value of the rail properties involved exceed the revenues attributable to the line of railroad or the rail service involved.

"(h) Petitions for abandonment or discontinuance, which were filed and pending before the Commission as of the date of enactment of this section or prior to the promulgation by the Commission of regulations required under this section shall be governed by the provisions of section 1 of this Act which were in effect on such date of enactment, except that subdivisions (f) and (g) of this section shall be applicable to such petitions.

"(i) Any abandoment or discontinuance which is contrary to any provision of this section, or any regulation promulgated under this section, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this section or of any regulation under this section.

"(j) If the issuance of the certificate may affect interests of railroad employees, the Commission shall impose a fair and equitable arrangement for the protection of such employees containing benefits no less than those established pursuant to section 5(2)(f) of this Act and section 405 of the Rail Passenger Service Act."

"(k) For purposes of this section, 'avoidable costs of providing service' shall have the meaning given such phrase pursuant to section 205(d)(3) of the Regional Rail Reorganization Act of 1973."

LOCAL RAIL SERVICE ASSISTANCE

SEC. 403. Section 4 of the Department of Transportation Act (49 U.S.C. 1653) is amended by adding at the end thereof the following new subsections:

"(l) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

"(1) the cost of rail service continuation payments;

"(2) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line;

"(3) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service.

"(m) The Federal share of the costs of any rail service assistance program shall be—

"(1) for the first 6-month period beginning 6 months after the date of enactment of this section, 100 per centum for rail services and other projects designated pursuant to the state rail plan; and

"(2) with respect to the following 12-month period during which the assistance program is in continuous operation, the Federal share shall be 90 per centum; and

"(3) with respect to each succeeding 12-month period during which the assistance program is in continuous operation, the Federal share shall be reduced by 20 percent.

The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(n) Each State which is, pursuant to subsection (p) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this section and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this section during such periods. Notwithstanding the provision of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in the first sentence of this subsection.

"(o) Rail service assistance to which a State is entitled under this section may be allocated by such State to meet the cost of establishing and implementing the State rail plan required by subsection (p) of this section or section 402(c)(1) of the Regional Reorganization Act of 1973 (45 U.S.C. 762(c)(1)). Such grants shall be made available by the Secretary during the course of the State rail planning process, and shall be distributed by the Secretary as needed by the States. The amount of State rail planning grants to which each State (including each State referred to in subsection (m)(1) of this section) is entitled shall be proportionate to the amount of rail service assistance to which such State is entitled under this Act.

"(p) A State is eligible to receive rail service assistance from the Secretary if—

"(1) such State has established an adequate plan for rail services in such State as part of an adequate plan for all transportation services in such State, including a suitable process for updating, revising, and amending such plan;

"(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribtuion of resources;

"(3) such State agency (A) has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient transportation services; (B) employs or will employ, directly or indirectly, sufficient trained and qualified personnel; (C) maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation; and (D) is designed and directed to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution;

"(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of Federal funds; and

"(5) such State complies with regulations of the Secretary issued under this section, and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

"(q) A project is eligible in any year for financial assistance from the applicable rail service assistance program only if—

"(1)(A) the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project, or (B) the line of railroad, or related project, was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and

"(2) such line, or related project, has not previously been the subject of Federal rail service assistance under this section for more than 4 fiscal years.

"(r)(1) The Secretary shall pay to each eligible State an amount equal to its entitlement under subsection (n) of this section, to be expended or committed to one or more projects which are eligible, pursuant to subsection (q) of this section.

"(2) In any case in which the State notifies the Secretary, in writing, that such State intends to expend sums received by it under this section for continuation and rehabilitation of rail properties pursuant to this section, such State shall be entitled to receive in a lump sum an amount equal to the local rail service assistance (computed under this section) based upon the costs of operating such rail properties during the 12-month period preceding the date of the enactment of this section.

"(s)(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

"(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

"(A) a financial audit, in accordance with generally accepted auditing standards; and

"(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

"(t) As used in this section, the term 'State' means—

"(1) during the period beginning on the date of enactment of this subsection and ending 4½ years after the date on which rail properties are conveyed pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(1)), any State in which a common carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad, except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

"(2) during the period following 4½ years after the date on which rail properties are conveyed pursuant to such section 303(b)(1), any State in which a common carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad.

"(u) There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $15,000,000 for the fiscal year ending June 30, 1976; not to exceed $15,000,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979. Of the foregoing sums, not to exceed $5,000,000 is authorized to be made available for planning grants during each of the 3 fiscal years immedately following the enactment of this section. Such sums as are appropriated are authorized to remain available until expended.".

TITLE V—MERGERS AND CONSOLIDATIONS

MODIFIED MERGER PROCEDURE

SEC. 501. (a) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) as paragraphs (4) through (17), respectively, and by inserting immediately after paragraph (2) the following new paragraph:

"(3)(a) If any merger, consolidation, coordination project, joint use of tracks or other facilities, or acquisition or sale of assets which involves any common carrier by railroad subject to this part is proposed by the Secretary or by a common carrier by railroad subject to this part during the period beginning January 1, 1976, and ending December 31, 1981, the party seeking authority may utilize the procedure set forth in this paragraph or paragraph (2).

"(b) Any transaction referred to in subdivision (a) may be proposed by—

"(i) the Secretary, with the consent of the common carriers by railroad subject to this part which are parties to the proposed transaction; or

"(ii) any common carrier by railroad subject to this part, but only if such carrier first submits such proposed transaction to the Secretary, for evaluation pursuant to subdivision (f), not less than 6 months prior to proposing such transaction pursuant to this paragraph.

"(c) Whenever a transaction is proposed under subdivision (a) utilizing the procedure set forth in this paragraph, the proposing party shall submit an application to the Commission with respect to such proposed transaction. Within 10 days after the receipt of such application, the Commission shall notify—

"(i) the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(ii) the Attorney General;

"(iii) the Secretary of Labor; and

"(iv) the Secretary (with respect to any such application not submitted by the Secretary).

The Commission shall accompany its notice to the Secretary with a request for the report of the Secretary pursuant to subdivision (f)(v).

"(d) The Commission shall hold a public hearing on each application submitted pursuant to subdivision (c) within 90 days after the receipt of such application. Such public hearing shall be held before a panel of the Commission, and such panel may utilize administrative law judges or the Rail Services Planning Office in such manner as such panel considers appropriate for the timely and effective resolution of the issues. The panel shall, in a manner it considers necessary for the expedition of the hearing, complete such hearing within 180 days after the commencement of such hearing, and render an initial decision and certify the record to the entire Commission for a final decision within 90 days after the termination of such hearing. The entire Commission shall allow oral argument on the matter so certified and shall render a final decision within 120 days after the receipt of the certified record and initial decision of the panel. The Commission may, in its discretion, extend any time period set forth in this subdivision, except that the aggregate of all such time periods shall in no case exceed 2 years.

"(e) In making its initial decision with respect to any transaction proposed under this paragraph, the panel of the Commission shall—

"(i) request the views of the Secretary with respect to the effect of such proposed transaction on the National Transportation Policy;

"(ii) request the views of the Attorney General with respect to the competitive or anticompetitive effects of such proposed transaction; and

"(iii) request the views of the Secretary of Labor with respect to the effect of such proposed transaction on railroad employees, particularly as to whether such proposal contains adequate employee protection provisions.

"(f) Whenever a proposed transaction is submitted to the Secretary by a common carrier by railroad pursuant to subdivision (b)(ii), and whenever the Secretary develops a proposed transaction for submission to the Commission pursuant to subdivision (c), the Secretary shall—

"(i) publish the contents of such proposed transaction in the Federal Register in order to provide reasonable notice to interested parties of such proposed transaction;

"(ii) give notice to the Attorney General and to the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(iii) conduct an informed public hearing with respect to such proposed transaction and provide an opportunity for all interested parties to submit written comments;

"(iv) study each proposed transaction with respect to—

"(A) the needs of rail transportation in the geographical area affected;

"(B) the effect on the retention and promotion of competition in the provision of rail and other transportation services in the geographical area affected;

"(C) the environmental impact of such proposed transaction and of alternative choices of action;

"(D) the effect on employment and the communities in the geographical areas affected;

"(E) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

"(F) the rationalization of the rail system;

"(G) the impact on shippers, consumers, and railroad employees;

"(H) the effect on the geographical areas contiguous to the geographical areas affected by such proposed transaction; and

"(I) whether such proposed transaction will improve rail service; and

"(v) submit a report to the Commission setting forth the results of each study conducted pursuant to clause (iv). Such report shall be submitted to the Commission within 10 days after an application is submitted, pursuant to subdivision (c), with respect to the proposed transaction which is the subject of such study. The Commission shall give due weight and consideration to such report in making its determinations under this paragraph.

"(g) The Commission may—

"(i) approve a transaction proposed under this paragraph if the Commission determines that such proposed transaction is in the public interest; and

"(ii) modify any such proposed transaction, with the consent of the common carriers by railroad involved, if the Commission determines such modification is in the public interest.

"(h) As used in this paragraph, the term 'Secretary' means the Secretary of Transportation.".

MODIFICATION OF EXISTING MERGER PROCEDURE

SEC. 502. Section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)) is amended by adding at the end thereof the following new subdivision:

"(g) Within 90 days of the filing of an application under this paragraph, all applications which are inconsistent in whole or in part with the original application and all petitions for inclusion in the proposed transaction shall be filed with the Commission. The Commission shall not consider any such application or petition filed after such 90-day period, nor, following such period, shall it allow any substantial amendment of such application or petition or of the original application.".

EMPLOYEE PROTECTIVE ARRANGEMENTS

SEC. 503. Section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) is amended by inserting immediately before the last sentence thereof the following new sentence: "Such fair and equitable arrangement shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subdivision (f) and those established pursuant to section 405 of the Rail Passenger Service Act.".

TECHNICAL AMENDMENTS

SEC. 504. Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended—

(1) in paragraph (2)(a) thereof, by inserting "or paragraph (3)" immediately after "subdivision (b)";

(2) in paragraph (2)(f) thereof, by inserting immediately after "(2)" the following: "or paragraph (3)";

(3) in paragraph (5) thereof, as redesignated by this Act, by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)", and by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(4) in paragraph (8) thereof, as redesignated by this Act, by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)", and by striking out "(12)" and inserting in lieu thereof "(13)";

(5) in paragraph (10) thereof, as redesignated by this Act, by striking out "(7)" and inserting in lieu thereof "(8)";

(6) in paragraph (14) thereof, as redesignated by this Act, by striking out "(12)" and inserting in lieu thereof "(13)";

(7) in paragraph (16), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)"; and

(8) in paragraph (17), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

TITLE VI—PROVISIONS RELATING TO DISCRIMINATORY STATE TAX PRACTICES

DISCRIMINATORY STATE TAXATION

SEC. 601. Part I of the Interstate Commerce Act is amended by redesignating section 28, as redesignated by section 205 of this Act as section 29, and by inserting immediately after section 27 the following new section:

"DISCRIMINATORY STATE TAXATION

"SEC. 28. (1) Any of the following actions by any State, or subdivision or agency thereof, whether any such action be taken pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, is declared to constitute an unreasonable and unjust discrimination against, and an undue burden upon, interstate commerce and is forbidden and declared to be unlawful:

"(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described in paragraph (3)), for purposes of a property tax levied by any taxing district, of transportation properly owned or used by a carrier by railroad subject to this part at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other commercial and industrial property (located in the assessment jurisdiction of any State in which is included such taxing district and subject to a property tax levy) bears to the true market value of all such other commercial and industrial property.

"(b) The collection of any tax on the portion of such assessment so declared to be unlawful.

"(c) The collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the taxing district.

"(d) The imposition of any other tax which results in discriminatory treatment of a carrier by railroad subject to this part.

"(2) As used in this section—

"(a) The term 'transportation property' means transportation property, as defined in the regulations of the Commission, owned or used by a carrier by railroad subject to this part.

"(b) The term 'assessment jurisdiction' means a geographical area, such as a State, or a county, city, or township within a State, which is a unit for purposes of determining assessed value of property for ad valorem taxation.

"(c) The term 'commercial and industrial property' means property devoted to a commercial or industrial use, except that such term shall not include land used primarily for agricultural purposes or primarily for the purpose of growing timber.

"(d) The term 'all other property' means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber.

"(3) In the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study, conducted in accordance with statistical principles applicable to such studies, to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then it shall be unlawful (a) to assess such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property (located in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy) bears to the true market value of all such other property, or (b) to collect any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(4) Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other property process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any person from doing anything or performing any act declared by paragraph (1) to be unlawful, except that such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have. No relief shall be granted under this subsection unless the assessment percentage applied to transportation property exceeds by at least 5 per centum the assessment percentage applied to all other property in the assessment jurisdiction. The provisions of this section shall not become effective until 3 years after the date of its enactment.".

TRANSFER TAXES AND RECORDING FEES

SEC. 602. Section 206 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716) is amended by adding at the end thereof the following new subsection:

"(j) TRANSFER TAXES AND RECORDING FEES.—All transfers or conveyances of rail properties in accordance with designations made in the final system plan under subsection (c) of this section, or pursuant to a supplementary transaction under section 306 of this Act, shall be exempt from any tax, impost, or levy now or hereafter imposed by the United States, any commonwealth, territory, dependency, or possession thereof, or by any State or political subdivision thereof on such transfers or conveyances or on the record of any deed, lien, encumbrance or other instrument evidencing, effectuating, or incident to such transfers or conveyances, whether imposed on the transferor or transferee. The transferors or transferees shall be entitled to record any such deed, lien, encumbrance, or other instrument and, consistent with the designations and applicable principles contained in the final system plan, to obtain the release or removal of any pre-existing lien or encumbrance of record with respect to properties so transferred or conveyed upon the payment of any recording or clerical fees applied generally to compensate for the cost of the services performed."

TITLE VII—EMPLOYEE PROTECTION PROVISIONS

PROTECTIVE ARRANGEMENTS

SEC. 701. Fair and equitable arrangements shall be provided for the protection of the interests of employees which may be affected by actions taken pursuant to authorizations or approvals obtained under the provisions of title VIII. Such arrangements shall be determined in the following manner:

(1) By the execution of an agreement between the representatives of the railroads and the representatives of their employees within 60 days following the effective date of title VIII.

(2) In the absence of such executed agreement, the Secretary of Labor shall prescribe the protective arrangements within 90 days of the effective date of title VIII.

CONTENTS OF ARRANGEMENTS

SEC. 702. Such arrangements shall relate to individual employees having an employment relationship with the particular railroad employer involved on the date a particular authorization or approval is first sought hereunder and shall include, without being limited to, such provisions as may be necessary (1) to provide for notice, negotiation, and execution of agreements providing for the manner in which the protective arrangements shall be applied, which agreements shall be executed prior to implementation of the authority or approval obtained under the provisions of title VIII: *Provided, however,* That where such agreements have not been reached within 30 days after the date on which such authorization or approval is obtained either party to the dispute may thereafter submit it for final and binding arbitration, the arbitration decision to be rendered within 30 days thereafter: *Provided further,* That the arbitration decision shall in no way modify the protection afforded in the protective arrangements established hereunder and shall be final and binding on the parties thereto and shall become a part of the agreement; (2) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees on the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise; (3) to provide for final and binding arbitration of any dispute with respect to the interpretation, application or enforcement of the provisions of the protective arrangements which cannot be settled by the parties; (4) to provide that an employee unable to secure employment by the exercise of his seniority rights as a result of actions taken pursuant to authorizations or approvals obtained hereunder shall be offered reassignment and where necessary retraining to fill a position comparable to that which he held at the time of such adverse effect, for which he is, or by training and retraining can become, physically and mentally qualified, not however in contravention of collective bargaining agreements relating thereto; and (5) to provide that the protection afforded pursuant to this section shall not be applicable solely as a result of the completion of any work financed by funds provided pursuant to the provisions of title VIII.

SUBCONTRACTING

SEC. 703. The arrangements to be negotiated by the parties or prescribed by the Secretary pursuant to sections 701 and 702 shall include provisions regulating subcontracting by the railroads of work financed pursuant to authorizations or approvals obtained under the provisions of title VIII.

TITLE VIII—ESTABLISHMENT OF RAIL TRANSPORTATION FUND

RAIL TRANSPORTATION FUND

SEC. 801. (a) The Secretary shall establish within the budget of the Department of Transportation a special fund to be known as the "Rail Transportation Fund" (hereinafter in this Act referred to as the "Fund"). The Fund shall have 3 separate accounts designated as follows: (1) the Improvement of Facilities and Services Account, (2) the Rail Passenger Service Account, and (3) the Loan Guarantee for Rail Improvement and Service Account.

(b) The total of any expenditures or guarantees made from the Fund in any fiscal year shall not exceed limitations specified in appropriations acts.

(c) The Secretary shall prepare and transmit to the Congress a business-type budget for the Fund in accordance with sections 102 and 103 of the Government Corporation Control Act (31 U.S.C. 847 and 848) and such budget shall be considered and enacted in accordance with section 104 of such Act (31 U.S.C. 849).

IMPROVEMENT OF FACILITIES AND SERVICES ACCOUNT

SEC. 802. (a)(1) There are authorized to be appropriated to the Improvement of Facilities and Services Account not more than $500,000,000. All funds appropriated pursuant to this authorization shall be available to the Secretary for making expenditures pursuant to subsections (b) and (c) of this section in a manner calculated to fully implement the goals of this Act before September 30, 1981. Funds so appropriated are authorized to remain available until expended, except that no funds shall be expended after September 30, 1981.

(2) Not to exceed $25,000,000 of the funds authorized under paragraph (1) shall be available to the Secretary for purposes of making grants pursuant to paragraph (3) of subsection (b).

(b) The funds appropriated pursuant to subsection (a) may be expended by the Secretary to assist any common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) which is classified by the Commission as a class I or class II common carrier and any switching and terminal company, for purposes of—

(1) constructing, rehabilitating, improving, or modernizing—

(A) track, roadbed, or related structures;

(B) electrical transmission systems and communication and power transmission systems;

(C) signal systems:

(D) terminal or yard facilities; or

(E) shop or other repair facilities;

(2) providing supplemental assistance and funding for supplemental transactions pursuant to section 906 of this Act; or

(3) developing an integrated computer system for train control and car scheduling within and among such class I and class II common carriers by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) by means of projects for—

(A) acquisition, construction, and installation of new freight car utilization and distribution computer systems compatible with an integrated national system;

(B) conversion of existing systems to promote national system compatibility; and

(C) modification or addition to existing systems to more adequately meet the requirements of an integrated national car utilization and distribution system.

(c) The Secretary can only expend funds on a project pursuant to paragraph (1) of subsection (b) of this section if the Secretary determines that—

(1) such project is in the public interest;

(2) such project is in furtherance of the goals of this Act and the National Transportation Policy; and

(3) financial assistance is necessary if the project is to be undertaken.

(d) Before the Secretary expends funds on projects pursuant to paragraph (1) of subsection (b) of this section, the Secretary shall develop criteria for the most effective utilization of the funds authorized for rail rehabilitation and the furtherance of the goals of this Act. The development of such criteria shall be accomplished in the following manner:

(1) Within 90 days after enactment of this Act, each common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) shall analyze its rail system and prepare and file with the Secretary and the Commission a full and complete schedule showing the traffic density on each of its main and branch rail lines for the preceding 5 calendar years, except that such requirement shall not be applicable to (A) the Consolidated Rail Corporation, established under section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741), or (B) any common carrier by railroad which is being reorganized under the provision of such Act.

(2) Within 180 days after enactment of this Act, the Secretary shall develop and publish (A) preliminary standards for classifying both main and branch rail lines, in at least 3 categories, according to their degree of essentiality, based on their level of usage measured in gross ton-miles and probable economic viability, and (B) a preliminary designation, based on such classifications, of all main and branch lines of common carriers by railroad subject to I of the Interstate Commerce Act (49 U.S.C. 1 et seq.). In determining level of usage and probable economic viability for purposes of such classification, the Secretary shall take into account such operational, service, and other factors as appropriate, and may make reasonable allowance for differences in operation among individual common carriers by railroad or groups of such carriers.

(3) Within 30 days after the publication by the Secretary of the preliminary standards for classification and the preliminary designations under paragraph (2), the Rail Services Planning Office of the Commission shall hold public hearings in the District of Columbia and in other parts of the Nation with respect to such standards and designations. Notices of the dates, time, and places of such hearings shall be in a manner as to assure full and fair opportunity for all interested parties to be heard.

(4) Within 120 days after the publication by the Secretary of such standards and designations under paragraph (2), the Office shall report to the Secretary its conclusions and recommendations with respect to such standards and designations. Such conclusions and recommendations shall be based on the record developed during such hearings as supplemented by such studies as may be undertaken by the Office.

(5) Within 60 days after the receipt of such conclusions and recommendations of the Office, the Secretary shall, after giving due consideration to such conclusions and recommendations, and with the cooperation and assistance of the Office, prepare and publish the final standards for main and branch rail line classification and the final designation of all main and branch lines according to such classifications. The Secretary shall include in such publication findings in sup-

port of each material change in the preliminary standards and designations published pursuant to paragraph (2).

(e) Any common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.), which is classified by the Commission as a class I or class II common carrier and any switching and terminal company may apply to the Secretary, in accordance with regulations promulgated by such Secretary, for financial assistance authorized pursuant to subsection (b). Each such application shall set forth—

(1) a description of the project proposed by the applicant, including the reasons for requesting financial assistance and the physical condition of any rail properties involved in such project;

(2) the effects such project will have on implementing the goals of this Act;

(3) the recommendations of such applicant with respect to the most economical method of implementing such project;

(4) the estimated cost of labor and materials and the estimated completion time of such project, and the opinion of such applicant as to the priority to be accorded such portions of such project as are reasonably divisible;

(5) the type of funding necessary or desirable, together with a statement as to why the provision of such funding is in the public interest and why such funding is not obtainable by such applicant in the private market at a reasonable rate of interest;

(6) the expected rate of return of such project;

(7) with respect to applications filed subsequent to the publication, pursuant to paragraph (5) of subsection (d) of this section, of the final standards for rail line classifications and the final designation of rail lines, the classification of each main and branch rail line included in such project; and

(8) with respect to any application for a project for constructing, rehabilitating, improving, or modernizing the railroad facilities and equipment described in subparagraphs (A) through (E) of subsection (b) (1), whether the State in which such project is to be undertaken intends to contribute a portion of the cost of such project, pursuant to subsection (h).

(f) The Secretary shall act upon each application submitted under subsection (e) within 6 months of the submission of such application. The Secretary may approve any application upon a determination that the proposed project is technically feasible and further implements the goals of this Act. In considering such applications, the Secretary shall give first priority to applications for rehabilitation of the highest classification of main lines, as determined pursuant to subsection (d), unless the Secretary determines that there are compelling reasons for giving such priority to an application for rehabilitation of main lines which are not so classified. The Secretary shall promptly, after approval of any application, enter into a contract with the applicant carrier to provide financing in such amounts and at such times as is sufficient in the judgment of the Secretary to meet the total reasonable cost of the project as is approved in whole or in part. The Secretary shall include in each such contract terms and conditions sufficient in his judgment to assure that the financing is used by the carrier exclusively in the manner and for the purposes approved by the Secretary, and that the carrier is not diverting funds which would otherwise be available for railroad operations to nonrailroad operations.

(g) The financial assistance under this section may be in the form of:

(1) grants, either partial, total, or matching;

(2) direct loans made by the Secretary to the applicant in which the Secretary either defers or forgives all or a portion of the interest;

(3) the payment of all or part of the interest payments of an applicant with respect to an eligible project; or

(4) any combination of the above forms of financial assistance, or any combination of the above forms of financial assistance combined with a guaranteed loan pursuant to section 804 of this Act.

In the case of direct loans the Secretary shall take such security on the principal as he deems necessary to protect the interests of the United States.

(h) (1) Each State is encouraged to contribute portion of the cost of any project approved by the Secretary which is to be undertaken in such State by a class I or class II common carrier or by a switching and terminal company to construct, rehabilitate, improve, or modernize railroad facilities and equipment described in subparagraphs (A) through (E) of subsection (b) (1).

(2) The State portion of the cost of such project may be derived, in such portions and in such manner as the State considers appropriate, from contributions from one or more of the following parties:

(A) the State government;

(B) local governments;

(C) class I or class II common carriers which operate rail service in such State;

(D) shippers of property over lines of railroad in such State; and

(E) other interested persons.

(3) Each such State is authorized to enter into agreements with the Secretary under which the State agrees to contribute, pursuant to this subsection, a portion of the cost of any such project.

RAIL PASSENGER SERVICE ACCOUNT

SEC. 803. (a) (1) There are authorized to be appropriated to the Rail Passenger Service Account not more than $1,100,000,000. Funds appropriated pursuant to this paragraph are authorized to remain available until expended.

(2) Of the funds authorized under paragraph (1), $200,000,000 shall be expended in areas and on projects other than the Northeast Corridor.

(b) All funds appropriated pursuant to subsection (a) (1) of this section shall be available to the Secretary for making expenditures for purposes of upgrading on an expeditious basis the rail passenger system along the Northeast Corridor between Boston, Massachusetts, and Washington, District of Columbia, and in other parts of the Nation, by—

(1) eliminating the deferred maintenance in the Northeast Corridor system and elsewhere in the Nation which has contributed to the deterioration of service reliability, thereby establishing both a smooth and reliable ride the length of the corridor and a sound basis for an adequate annual maintenance program;

(2) conversion to new commercial power sources and extension of electrification from New Haven, Connecticut, to Boston, Massachusetts;

(3) providing for significant improvements in the signaling and control system needed to improve the safety of passenger operations through the installation of a central traffic control system in New York, New York, Philadelphia, Pennsylvania, and Boston, Massachusetts;

(4) rehabilitating and upgrading the numerous deteriorated bridges in the Northeast Corridor;

(5) improving certain operational aspects of stations along the Northeast Corridor; and

(6) effecting other significant improvements to the service facilities of the Northeast Corridor system.

(c) The Secretary of Transportation is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe, to enter into agreements with, and to make payments to any railroad, including the National Railroad Passenger Corporation, or to any other person, including any Federal or State agency, to assist in financing improvements to railroad facilities and equipment described in subsection (d) which are necessary to permit, in accordance with standards of safety, speed, and comfort specified by the Secretary, the provision of improved intercity rail passenger service on the mainline passenger route between Boston, Massachusetts, and Washington, District of Columbia, by way of New London, Connecticut, and the Hell Gate Bridge, and on other passenger routes throughout the Nation.

(d) Activities eligible for financial assistance under this section are as follows:

(1) the improvement of railroad rights-of-way, including bridges, tunnels, and related structures;

(2) the improvement of signaling, control, and communications facilities;

(3) the extension and modernization of electrification systems, including the acquisition of land necessary for the installation or operation of such systems;

(4) the improvement of facilities and equipment used for maintenance and repair of intercity rail passenger facilities and equipment and rolling stock used for maintenance and repair;

(5) the improvement of stations essential to the operation of intercity rail passenger trains and station platforms and facilities providing access to such platforms for intercity rail passengers;

(6) the planning, designing and engineering associated with each of the aforementioned activities; and

(7) the design and development of rolling stock suitable for use in intercity rail passenger service on rights-of-way improved under this Act.

(e) (1) In carrying out his duties under this section, the Secretary shall provide for the accomplishment of improvements to railroad facilities and equipment—

(A) in a manner compatible with the accomplishment in the future of additional improvements in service levels;

(B) by the most effective and efficient means and by the earliest practicable date, affording due regard to the impact of disruptions to intercity, commuter, and freight operations; and

(C) in a manner which will produce the maximum labor benefit in terms of hiring persons who are presently unemployed.

(2) Before entering into any agreement pursuant to subsection (c), the Secretary shall obtain assurances that railroad facilities and equipment improved with financial assistance provided pursuant to such agreement will be properly maintained.

(3) The Secretary shall take appropriate action to encourage the prompt and just settlement of any dispute with respect to the use of railroad rights-of-way during the period in which improvements are made to such rights-of-way under this section.

LOAN GUARANTEE FOR RAIL IMPROVEMENT AND SERVICE ACCOUNT

SEC. 804. (a) The Secretary is authorized, on such terms and conditions as he may prescribe and with the approval of the Secretary of the Treasury, to guarantee any lender timely payment of principal and interest of securities, obligations, or loans, including refinancing thereof, issued for the purpose of financing acquisitions or improvements specified in subsection (d) of this section. The maturity date of any security, obligation, or loan, including all extensions and renewals thereof, shall not be later than 30 years from its day of issuance, nor be later than the end of the useful life of any asset to be financed by such security, obligation, or loan. The Secretary may prescribe and collect a reasonable annual guarantee fee and such additional fees as may be required in his judgment to cover expenses under the program authorized by this section.

(b) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States backed by the full faith and credit of the Government of the United States.

(c) Any guarantee made by the Secretary under this section shall not be terminated, canceled, or otherwise revoked and shall be conclusive evidence that such guarantee complies fully with the provisions of this section and of the approval and legality of the principal amount, interest rate, and other terms of the security, obligation, or loan. Any such guarantee shall be valid and incontestible in the hands of a holder of a guaranteed security, obligation, or loan except for fraud or material misrepresentation on the part of such holder.

(d) The loan guarantees authorized by subsection (a) of this section may be made for purposes of financing the acquisition, construction, maintenance, or development of the following facilities and equipment used in the rendering of rail transportation services:

(1) track, roadbed, and related structures which (A) are subject to projected traffic usage of at least 5 million gross ton miles per mile of road per year, or (B) have been identified by the Secretary (after consultation with appropriate State agencies) as significantly contributing to improvements in, or the continuation of, essential present or anticipated transportation needs of a State or region;

(2) structures and similar improvements;

(3) electric power transmission systems and communication and power transmission systems;

(4) signals;

(5) terminal facility modernization and consolidation;

(6) new and rebuilt rolling stock, and trailers and containers for carriage on flatcars;

(7) tugs, carfloats, shoreside facilities, and related marine equipment used by or in connection with any common carrier by railroad;

(8) computer-based information or data systems; and

(9) abandoned lines where the potential purchaser of such lines is a State, local, or regional transportation authority, or a shipper or receiver of traffic over such lines.

(e)(1) Before making any guarantee pursuant to this section, the Secretary must consider whether the prospective lender is responsible and whether adequate provision will be made for servicing the obligation. The Secretary may not make a guarantee pursuant to this section unless the borrower has an equity interest in the asset to be financed, or in the case of a lease, a beneficial interest in such asset. The Secretary may not make a guarantee for purposes (1) through (4) of subsection (d) unless he determines that—

(A) the management of the railroad is actively pursuing necessary programs designed to upgrade and develop plant facilities and operations as necessary to fulfill its obligations as a common carrier;

(B) the prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that the borrower will be able to repay the loan within the time fixed and afford reasonable protection to the United States in the event of a default;

(C) the activity to be financed under the guarantee will enhance the efficiency of rail operations;

(D) credit is not otherwise available to the prospective borrower on reasonable terms;

(E) the interest rate on the obligation to be guaranteed is a reasonable rate, taking into consideration the range of interest rates prevailing in the private market for similar obligations and the risk assumed by the United States; and

(F) a fair and equitable arrangement containing benefits no less than those required by and established pursuant to section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)) has been provided for the protection of the interests of railroad employees who may be affected by the activity financed.

(2) The Secretary may not make a guarantee for the purpose of improving track or terminal facilities unless he also finds that the proposed improvements will contribute to the establishment of a rational, efficient, and economical national rail transportation system.

(3) The Secretary may not make a guarantee—

(A) for the purpose of the acquisition or rebuilding of rolling stock or trailers and containers for carriage on flatcars unless the Secretary determines that—

(i) the acquisition or rebuilding is justified by the present and future need for rolling stock; and

(ii) the probable value of the rolling stock or trailers and containers for carriage on flatcars will provide reasonable protection to the United States in the event of a default; and

(B) for the purpose of the acquisition of an information or data system unless the Secretary determines that the proposed acquisition of the information or data system is consistent with the purposes of section 803(b)(3) of this Act.

(4) In making a guarantee for any of the purposes specified in subsection (d), the Secretary shall also give consideration to the return on investment of the improvement for which a guarantee is sought, the potential for intermodal connections and substitutions and for improved utilization of freight cars, the relationship of the proposed improvement to other improvement plans of the borrower, the contribution of the improvement to improved rail transportation service both for passengers and for shippers, and the contribution of the improvement to the efficiency of the borrower.

(f) The Secretary may prescribe such rules and regulations as may be necessary for the administration of this section.

(g) In order to reduce the cost of borrowing under this section and to assure that the borrowings are financed in a manner least disruptive of private financial markets and institutions, the Secretary may enter into agreements with the Federal Financing Bank under which the Federal Financing Bank may purchase obligations issued by the borrower and guaranteed by the Secretary.

(h) The Loan Guarantee for Rail Improvement and Service Account shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of this section. The total of any guarantees made from such fund in any fiscal year shall not exceed limitations specified in appropriations acts.

(i)(1) There are authorized to be appropriated to the Loan Guarantee for Rail Improvement and Service Account from time to time such amounts as may be necessary to provide capital for such account. All amounts received by the Secretary as payments or fees, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section shall be deposited in the Fund.

(2) All guarantees, expenses, and payments pursuant to operations of the Secretary under this section shall be paid from such Account. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from such Account into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations available as capital to such Account, less the average undisbursed cash balance in such Account during the year. The rate of such interest shall be determined by the Secretary of the Treasury, except that such rate shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of loans guaranteed from the Fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in such Account exceed the present and any reasonably prospective future requirements of the Fund, such excess may be transferred to the general fund of the Treasury.

(j) If at any time the moneys available in the Loan Guarantee for Rail Improvement and Service Account are insufficient to enable the Secretary to discharge his responsibilities under guarantees under this section, he shall issue to the Secretary of the Treasury, in such amounts as are provided in appropriation acts, notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available under subsection (i) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection, and for purposes of making such purchases the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued after the date of the enactment of this Act under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(k) The aggregate unpaid principal amount of securities, obligations, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $2,000,000,000.

(l) The Secretary may not pursuant to this section guarantee any security, obligation, or loan, if the income from such security, obligation, or loan is excluded from gross income for the purposes of chapter I of the Internal Revenue Code of 1954.

(m) For purposes of this section, the term "rolling stock" means new or rebuilt standard gauge railroad freight cars, including refrigerator cars and cabooses, suitable for use by more than one railroad in normal interchange under the interchange rule of the Association of American Railroads, and standard gauge railroad locomotives.

TITLE IX—REGIONAL RAIL REORGANIZATION ACT AMENDMENTS OF 1975

GOVERNMENT BANKING COMMITTEE

SEC. 901. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by redesignating subsections (i) and (j) thereof as subsections (j) and (k), respectively, and by adding immediately after subsection (h) thereof the following new subsection:

"(i) GOVERNMENT BANKING COMMITTEE.—The Board of Directors of the Association shall have a Government Banking Committee which shall consist of the Chairman of the Board, the Secretary, and the Secretary of the Treasury (or their duly authorized representatives). The Government Banking Committee shall be vested with the exclusive decisional power to—

"(1) exercise or decline to exercise, as provided in this title, the rights of the Association as holder of any securities of the Corporation issued to the Association under section 216 of this title;

"(2) make the affirmative findings and exercise any exclusive powers, as expressly provided in section 216(b) of this title; and

"(3) exercise the authority expressly conferred on it under section 216(d)(2) of this title.

The vesting of such exclusive decisional powers in the Government Banking Committee shall not be deemed to relieve the Board of Directors of the Association of any obligation to exercise all other decisional powers conferred on it under this Act, and the power to perform analyses and make advisory findings on any matter relevant to the role of the Association as an investor in the securities of the Corporation."

ASSOCIATION INVESTMENT IN THE CONSOLIDATED RAIL CORPORATION

SEC. 902. (a) Paragraph (2) of section 202(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all rights, privileges, and powers of a holder of any such securities; and issue certificates of value under section 305 of this Act;"

(b) Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720 (b)) is amended to read as follows:

"(b) The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed $235,000,000. After the date on which the Association first makes a purchase of securities of the Corporation under section 216 of this title, no additional obligations or proceeds thereof shall be issued except to meet existing or potential commitments for loans under section 211 made or applied for prior to January 1, 1976, and except for the purpose of providing loans pursuant to section 211(h).".

(c) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711 et seq.) is amended by adding at the end thereof the following new section:

"PURCHASE OF DEBENTURES AND SERIES A PREFERRED STOCK

"SEC. 216. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to $1,000,000,000 principal amount of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to $1,100,000,000 principal amount of the series A preferred stock of the Corporation.

"(b) PURPOSES AND PROCEDURE FOR INVESTMENT.—(1) The Association shall purchase debentures and thereafter series A preferred stock of the Corporation, in accordance with terms and conditions governing such purchases which shall be prescribed by the Board of Directors of the Association, at such times and in such amounts as may be required and requested by the Corporation to provide (A) for the modernization, rehabilitation, and maintenance of rail properties acquired by the Corporation under this Act, (B) for the acquisition of equipment and other capital needs, (C) for the refinancing of indebtedness incurred by the Corporation under section 211 of this title, or incurred under section 215 of this title and assumed by the Corporation, or (D) for working capital as contemplated by the final system plan.

"(2) Purchases of up to $1,000,000,000 of debentures and thereafter of up to $1,100,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation unless the Government Banking Committee makes an affirmative finding that (A) the Corporation has failed in any material respect to comply with any covenants or undertakings made to the Association and such failure remains uncorrected, (B) the Corporation has failed substantially (as determined by performance within margins jointly prescribed by the Board of Directors of the Association and the Government Banking Committee) to attain the overall operating and financial results projected in the final system plan, as they may be modified by the Board of Directors, or (C) taking into consideration all relevant factors, including its overall operating and financial results, it is not reasonably likely that the Corporation will be able to become financially self-sustaining within requiring Government funds substantially in excess of the amount authorized in this section.

"(3) If the Government Banking Committee makes the affirmative finding referred to in paragraph (2), the Government Banking Committee may (A) direct the Association not to purchase debentures and series A preferred stock of the Corporation, or (B) notwithstanding the provisions of subsection (d)(1) of this section, approve the purchase of debentures and series A preferred stock of the Corporation by the Association after the date of such affirmative finding, but only in such amounts, at such times, and on such terms and conditions as the Government Banking Committee determines to be consistent with the Association's role as an investor in the debentures and series A preferred stock of the Corporation.

"(c) TERMS AND CONDITIONS.—The debentures and the series A preferred stock shall have such terms and conditions (not inconsistent with the final system plan or title IX of the Railroad Revitalization and Regulatory Reform Act of 1975) as may be prescribed by the Board of Directors of the Association, except that—

"(1) the Corporation shall not be required to issue to the Association additional shares of series A preferred stock as a dividend on any such stock;

"(2) the dividends payable on series A preferred stock shall not be cumulative and shall be paid if and to the extent there is 'cash available for restricted cash payments' as that term is defined in the final system plan; and

"(3) any terms and conditions which prescribe covenants or undertakings referred to in paragraph (2) of subsection (b) shall be jointly prescribed by such Board of Directors and the Government Banking Committee.

"(d) MODIFICATIONS AND WAIVERS.—(1) The Association's Board of Directors and the Government Banking Committee, acting jointly, may agree with the Corporation to modify any of the terms and conditions governing the purchase of the Corporation's securities held by the Association upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan or title IX of the Railroad Revitalization and Regulatory Reform Act of 1975. The Association's Board of Directors and the Government Banking Committee may jointly agree with the Corporation to modify any terms and conditions of the Corporation's securities which prescribe covenants or undertakings referred to in paragraph (2) of subsection (b), and the Association's Board of Directors may agree with the Corporation to modify any other terms and conditions of the Corporation's securities in a manner not inconsistent with the final system plan or this title.

"(2) The Government Banking Committee may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of the Act or the goals of the final system plan or title IX of the Railroad Revitalization and Regulatory Reform Act of 1975, waive compliance with any term, condition, provision or covenant of the Corporation's securities held by the Association, including without limitation any provision of such securities with respect to payment or redemption of principal or issuance price or payment of interest or dividend, or with any term or condition governing the purchase of such securities.

"(e) APPROPRIATION.—There is authorized to be appropriated to the Association the sum of $2,100,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

(d) Section 202(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712 (e)) is amended by inserting immediately after "obligations issued" in paragraph (4) the following: ", certificates of value issued, securities purchased,".

(e) Section 202(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 712(f)) is amended by inserting immediately after "section" in the first sentence the following: "and receipts and disbursements under section 216 of this title and section 305 of this Act".

CAPITALIZATION OF CORPORATION

SEC. 903. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out the first 2 sentences of subsection (e) thereof and inserting in lieu thereof the following: "In order to carry out the final system plan, the Corporation is authorized to issue debentures, series A preferred stock, series B preferred stock, common stock, and other securities. Debentures and series A preferred stock shall be issued initially to the Association pursuant to section 216 of this Act. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, or controlled by railroads in reorganization in the region, and to other transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. All securities of the Corporation issued to the Association as the initial holder of such securities, or issued in connection with the transfer to the Corporation or any subsidiary or affiliate thereof of rail properties under this Act, shall be deemed for all purposes to have been authorized pursuant to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).".

CERTIFICATES OF VALUE

SEC. 904. (a) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) by inserting ", certificates of value," imediately after "securities" in paragraphs (1)(A)(i) and (3), and immediately after "securities" the first place it appears in paragraph (2); and

(2) by inserting "and certificates of value"

immediately after "securities" in paragraph (2)(A).

(b) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended by striking out "obligations of the Association" each place it appears and inserting in lieu thereof "certificates of value issued by the Association", and by striking out "obligations" each place it appears in paragraphs (3) and (4) of subsection (b), and inserting in lieu thereof "certificates of value".

(c) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741, et seq.) is amended by adding at the end thereof the following new section:

"CERTIFICATES OF VALUE

"SEC. 305. (a) GENERAL.—On the date the Corporation is required to deposit stock and other securities with the special court pursuant to section 303(a)(1) of this title, the Association shall deposit with the special court pursuant to section 303(a)(1), the certificates of value of the Association required by this section. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this section. All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to fraud or material misrepresentation by the holder of such certificates.

"(b) NUMBER AND DISTRIBUTION.—The number of certificates of value shall be equal to the number of shares of series B preferred stock of the Corporation required to be deposited by the Corporation with the special court under section 303(a)(1). The certificates of value shall be distributed by the special court under section 303(c)(4) at the same time and to the same transferors in the same numbers of units as shares of such series B preferred stock are so distributed.

"(c) REDEMPTION.—(1) Certificates of value shall be redeemed by the Association on December 31, 1985, or on such earlier date as the Association may determine and specify.

"(2) Each certificate of value shall be redeemable for an amount, payable in cash, equal to its base value on the redemption date, minus (A) the sum of the fair market value of the series B preferred stock applicable to such certificate and the fair market value of the common stock applicable to such certificate and all cash dividends theretofore paid on any such series B preferred stock and on any such common stock (B) any sums paid to a transferor of rail properties resulting from sales or leases by the Corporation of properties transferred to it by such transferor. The number of shares of series B preferred stock and common stock so applicable to each certificate of value shall be, respectively, one share of series B preferred stock and the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiving such certificate of value by the total number of certificates of value so distributed to such transferor.

"(3) The base value of each certificate of value shall be the value obtained by taking the net liquidation value, as determined by the special court, to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1) to the Corporation and any subsidiary or affiliate thereof, subtracting the value of other benefits provided by this Act, as determined by the special court, adding interest from the transfer date to the redemption date at a rate of 8 per centum per annum, and dividing the resulting value by the number of certificates of value distributed to such transferor. In making such determination, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of transfers of rail properties under section 303 (b)(1).

"(4) The fair market value of series B preferred stock and of common stock shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the two first selected.

"(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.".

(d) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(e)) is amended by inserting immediately after "section," in the first sentence thereof the following: "or under subsection (a) of section 305 of this Act".

DIRECTORS OF THE CORPORATION

SEC. 905. (a) The second sentence of section 301(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(c)) is amended to read as follows: "The members of the Executive Committee of the Association shall also adopt the initial bylaws of the Corporation and serve as the Board of Directors until at least 7 of the members of the Board of Directors have been selected in accordance with subsection (d) of this section.".

(b) Section 301(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended to read as follows:

"(d) BOARD OF DIRECTORS.—(1) The Board of Directors of the Corporation shall consist of 11 individuals selected in accordance with the articles and bylaws of the Corporation as follows: (A) the President of the Association, (B) the Chairman and chief executive officer of the Corporation, (C) the President and chief operating officer of the Corporation, (D) 2 individuals appointed by the President, by and with the advice and consent of the Senate, (E) 2 individuals selected by the holders of the debentures and series A preferred stock of the Corporation, voting as a class, (F) 2 individuals selected by the holders of the series B preferred stock of the Corporation, and (G) 2 individuals selected by the holders of the common stock of the Corporation. One of the individuals appointed by the President shall be qualified to represent the interests of communities and users of rail service affected by the operations of the Corporation. The Corporation shall provide the Presidentially appointed members with sufficient staff to allow them to exercise their duties knowledgeably and responsibly. Subject to the provisions of paragraph (2) of this subsection requiring resignation of directors, the Presidentially appointed members shall serve as directors for a period of not more than 2 years, unless reappointed by the President, by and with the advice and consent of the Senate. The Chairman and chief executive officer and the President and chief operating officer of the Corporation shall not be entitled to vote on any question subject only to class vote, nor shall either be entitled to vote on his reelection to the Board of Directors.

"(2) Beginning on the sixth anniversary of the date on which the special court issues the orders described in section 303(b)(1) of this title, (A) one director designated at the time of his appointment by the President from among the Presidential appointees shall resign when the aggregate outstanding principal amount of debt securities and the original issue price of equity securities of the Corporation held by the Association is reduced below $1,700,000,000, (B) one such director designated at the time of his appointment by the President shall resign when such aggregate outstanding principal amount held by the Association is reduced below $1,200,000,000, (C) one director selected by the holders of the debentures and series A preferred stock of the Corporation shall resign when such aggregate outstanding principal amount held by the Association is reduced below $700,000,000, (D) one such director so selected shall resign when such aggregate outstanding principal amount held by the Association is reduced below $200,000,000, and (E) the President of the Association shall resign when the Association no longer holds any securities of the Corporation issued to it pursuant to section 211 or section 216 of this Act. As directors resign in accordance with the provisions of this paragraph, the election of corporate directors to fill the vacancies created by such resignations shall be governed by applicable State law and by the articles and by-laws of the Corporation.".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (f) and inserting in lieu thereof the following new subsection:

"(f) SPECIAL COURT APPOINTMENTS.—The special court shall appoint one or more voting trustees to exercise the rights of holders of the series B preferred and common stock of the Corporation during the period beginning on the date of the deposit of securities of the Corporation with the special court pursuant to section 303(a) of this title and ending on the date of the distribution of such securities pursuant to section 303(c) of this title; or in the alternative, and in the special court's role and exclusive discretion, the special court may appoint Directors to represent the series B preferred and common stock to the Corporation pursuant to subsection (d) of this section. In determining whether to appoint voting trustees or Directors, and in selecting any such voting trustees or Directors for appointment, the special court may entertain and consider the views of any interested parties, but shall be guided primarily by the consideration that the interests of the ultimate beneficiaries of the series B preferred stock and common stock of the Corporation, as well as the public interest, will be best served by the selection of persons of the highest stature, integrity, and business experience.".

SUPPLEMENTAL TRANSACTIONS AND SUPPLEMENTAL ASSISTANCE

SEC. 906. (a) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702), as amended by this Act, is amended—

(1) in paragraph (14) thereof, by striking out "and";

(2) in paragraph (15) thereof, by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(16) 'Supplemental transaction' means any transaction proposed under section 306 (a) of this Act as supplemental to the final system plan within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation under section 303(b), under which the Corporation (which for purposes of supplemental transactions shall be deemed to include any subsidiary or affiliate thereof) would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary or affiliate of the Corportion or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or, for rail use, to any other responsible person, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services."

(b) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new sections:

"SUPPLEMENTAL TRANSACTIONS

"Sec. 306. (a) Final System Plan Modifications.—Notwithstanding any other provisions of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations are likely to result in improved rail service to users on such lines and connecting lines and would not materially impair the profitability of the Corporation and other railroads operating in the region. Such designations, including designations of such rail lines and properties to a State, a profitable railroad, or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209 of this Act. Such designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes be deemed to be approved as modified by such designations.

"(b) Proposals.—If the Secretary, the Commission, or the Association determines that further restructuring of rail properties in the region through transactions supplemental to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary, the Commission, or the Association, as the case may be, may develop proposals for such supplemental transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 206(c)(1)(A) of this Act but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the efficient operations of the Corporation, and (2) transfers, consistent with the final system plan, of rail properties from the Corporation to a subsidiary or affiliate thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state the rail properties involved, the parties to any transactions, the financial and other terms of any transactions, the purposes of the Act or goals of the final system plan intended to be effectuated by any transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary or the Commission, and upon the development of a proposal developed by the Association, the Association shall publish a summary of such proposal in the Federal Register, and shall afford interested persons an opportunity to comment thereon.

"(c) Evaluation by Association.—The Association shall analyze each proposal for a supplemental transaction, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may have been held, and shall, within 120 days after the publication required by subsection (a), publish in the Federal Register a report evaluating the proposal. Such evaluation shall state whatever the proposal for supplemental transactions is (1) in the public interest as defined by the purposes of the Act and the goals of the final system plan, and (2) fair and equitable. Within 30 days after the Association publishes its report, each proposed transferor or transferee shall notify the Association in writing as to whether the proposed supplemental transaction is acceptable to such proposed transferor or transferee. If any such proposed transferor or transferee fails to notify the Association that the proposed supplemental transaction is acceptable to it, no further administrative or judicial proceedings shall be conducted with respect to such proposed supplemental transaction. In such supplemental transactions, the transferor and transferee shall be subject to the provisions of title V of this Act, except that the term 'effective date of this Act' as contained in such title V shall be applied to such supplemental transaction as if such term read 'effective date of the supplemental transaction'.

"(d) Special Court Proceedings.—(1) If the Association makes the determination that a proposal for supplemental transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, the Association shall, within 40 days after the publication of its report, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal. If the Association determines that a proposal made by the Secretary is not in the public interest or is not fair and equitable, the Secretary may, if he determines that such proposal is in the public interest and is fair and equitable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal.

"(2) Within 180 days after the filing of a petition under paragraph (1) of this subsection the special court shall decide, after a hearing, whether any proposed supplemental transactions, considered in their entirety, are in the public interest as defined by the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that any such proposed supplemental transactions, considered in their entirety, are in the public interest and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines either that any such proposed supplemental transactions, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusion and the reasons therefor. In such event the Association, the Secretary, or the carriers involved may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor or transferee, and may petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal as modified by the certification is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(3) The special court shall make such rules for the conduct of proceedings under this subsection, including any necessary provisions for the representation of interests not otherwise represented, as it deems necessary or appropriate.

"(4) In proceedings under this subsection, the special court is authorized to exercise the powers of a judge of a United States district court with respect to such proceedings and such powers shall include those of a reorganization court.

"(5) Any evaluation of the Association or the Secretary shall not be reviewable in any court except the special court in accordance with the provisions of this section. The supplemental transactions shall not be restrained or enjoined by any court nor shall they be otherwise reviewable by any court other than by the special court to the extent provided in this section.

"(6) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings shall be required with respect to any proposal for supplemental transactions other than as expressly set forth in this section.

"(e) Definition.—For purposes of this section, the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), to (1) the estates of railroads in reorganization, and railroads leased, operated, or controlled by railroads in reorganization, or other transferors who have conveyed rail properties under section 303(b) of this title in exchange for the securities of the Corporation, the securities of the Association and other profitable railroads and the other benefits provided by the Act, and to any subsequent holders of such securities at the time of such supplemental transaction; and (2) to the holders of other securities of the Corporation. Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplemental transaction are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by all classes of security holders except that the special court shall not assign to the Series B Preferred Stock and common stock any values added to those securities by reason of the investment by the Association in the Debentures and Series A Preferred Stock issued by the Corporation in excess of any value required by constitutional principles applicable to a reorganization process.

"(f) Appeals.—Judgments of the special court entering or denying orders pursuant to this section may be appealed directly to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code. Such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after the entry of such judgment.

"SUPPLEMENTAL ASSISTANCE

"Sec. 307. (a) Purposes.—The Secretary is authorized to provide financial assistance in the form of grants or loans, pursuant to title VIII of the Railroad Revitalization and Regulatory Reform Act of 1975, by the acquisition of securities of the Corporation or other railroads, any State or local or regional transportation authority, or any other responsible person, for the purposes of providing supplemental assistance to the Corporation, facilitating the implementation of a supplemental transaction, or otherwise furthering the purposes of this Act.

"(b) CORPORATE SIMPLIFICATION.—In the interests of corporate simplification, the Corporation, in implementing the final system plan, may undertake, as soon as possible and pursuant to financial assistance provide pursuant to section 802(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1975, to acquire all interests in rail lines and related rail property otherwise conveyed to the Corporation, upon the tender of such interests to it, so as to eliminate any remaining intermediate layers of ownership or interest, that are not transferred to the Corporation pursuant to the final system plan. Any option conditions regarding the purchase price for such interests, in existence since prior to January 2, 1974, shall be deemed to be conclusive of air and equitable value.".

(c) Section 601(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 (a)(2)) is amended by adding immediately before the period at the end thereof the following: "and with respect to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act".

(d) Section 601(b) of the Regional Rail Reorganizaton Act of 1973 (45 U.S.C. 791 (b)) is amended—

(1) by striking out "to the extent necessary" and inserting in lieu thereof "taken"; and

(2) by striking out "whenever" and all that follows through "this Act" and inserting in lieu thereof the following: "where such action was in compliance with the requirements of such plan, or to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act".

(e) Section 601(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 (c)) is amended to read as follows:

"(c) ENVIRONMENT.—The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2) (C)) shall not apply with respect to any action taken under authority of this Act before, and including, the conveyance of rail properties ordered by the special court under section 302(b)(1) of this Act, and shall not apply thereafter to any action taken in compliance with the requirements of the final system plan.".

TRANSFERS INVOLVING PROFITABLE RAILROADS

SEC. 907. (a) Section 214(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a)) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the United States arising under section 303(c)(5) of this Act.".

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c) (3)) is amended by adding at the end thereof the following new paragraph:

"(5) The United States may, in its discretion, represent any profitable railroad, or any State, local, or regional transportation authority, to which rail properties are conveyed pursuant to the final system plan in any proceedings before the special court which could result in a judgment against such profitable railroad, or such State, local, or regional transportation authority, under this subsection. Any profitable railroad, or any State, local, or regional transportation authority, which is represented by the United States shall cooperate diligently in whatever manner the United States shall reasonably request in connection with such proceedings. Without regard to whether the United States elects to so represent such profitable railroad, or such State, local, or regional transportation authority, in such proceedings, the United States shall have the obligation to pay the lesser (or the amount if equal) of—

"(A) the amount by which any judgment entered against such profitable railroad, or such State, local, or regional transportation authority, under this subsection, plus any amount previously paid with respect to the rail properties which are the subject of such judgment, exceeds the net liquidation value (as heretofore determined by the Association) of such rail properties, or

"(B) the amount of any such judgment, plus interest thereon at such rate as may be determined by the special court. Such obligation to pay shall be guaranteed by the full faith and credit of the United States.".

(c) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(1)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) 'protected employee' means any employee of—

"(A) an acquiring or selling railroad adversely affected by a transaction;

"(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who was adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under section 206(c) (2) of this Act; and

"(C) a railroad in reorganization who, in any such case, has not reached age 65 on the effective date of this Act."; and

(2) by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(10) 'selling railroad' means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act;".

(d) Section 508 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 778) is amended—

(1) by amending the title thereof to read as follows: "ACQUIRING AND SELLING RAILROAD";

(2) by inserting immediately after the words "SEC. 508." the following: "(a) ACQUIRING RAILROADS.—";

(3) by striking out "section 303" and inserting in lieu thereof "section 206(d)(4)"; and

(4) by adding at the end thereof the following:

"For purposes of this subsection, the Corporation shall be deemed to be an acquiring railroad with respect to employees described in clause (B) of section 501(3) of this title.

"(b) SELLING RAILROADS.—A selling railroad shall offer such employment and afford such employment protection to its employees who are adversely affected by such sale as shall be agreed upon between such selling railroad and the representatives of such employees prior to such sale, except that (1) the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 505 of this title, and (2) unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act.".

SUPPLEMENTAL EMPLOYEE PROTECTION

SEC. 908. (a) Paragraph (2) of section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(2)) is amended by striking out "except a president" and inserting in lieu thereof: "(except a Class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but is controlled by a railroad in reorganization), but does not include a president".

(b) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) 'where applicable', as used in section 502(a) of this title with respect to the Association, refers to the relation of the Association, as an employer (A) to employees of the Association who, before the date of conveyance under section 303(b)(1), had creditable service under the relevant statute and who were offered and accepted coverage under such statute; and (B) to former employees of railroads in reorganization, after the date of such conveyance.

(c) Section 502(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 772(b)) is amended to read as follows:

"(b) MANDATORY OFFER.—The Corporation shall offer employment, to be effective as of the date of conveyance or discontinuance of service under the provisions of this Act, to each employee of railroad in reorganization who has not already accepted an offer of employment by the Association, where applicable, an acquiring railroad or the Corporation. Such offers of employment to employees represented by labor organizations will be confined to their same craft and class. The Corporation shall apply to such employees the protective provisions of this title.".

(d) Section 504 of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new subsections:

"(e) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization, and subject to section 3 of the Railway Labor Act, the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing and payment of any such claims which are sustained on or subsequent to the date of conveyance and shall be entitled to direct reimbursement as a current expense of administration from the estates of the railroads in reorganization which were the employers at the time such claims arose, except that in any case in which claims for employees were sustained prior to the date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of their former employers.

"(f) TRANSFER OF EMPLOYEES TO THE NATIONAL RAILROAD PASSENGER CORPORATION OR ACQUIRING CARRIER.—Notwithstanding otherwise applicable provisions of this title, protected employees to whom the Corporation has made offers of employment may be transferred to the National Railroad Passenger Corporation in accordance with the following procedure:

"(1) IMPLEMENTING AGREEMENT.—Not later than 90 days after completion of the transaction contemplated by section 206(c)(1) (C), implementing agreement negotiations between representatives of the various crafts or classes of employees associated with the involved properties, the Corporation, and the National Railroad Passenger Corporation shall commence. Such negotiations shall (A) identify the specific employees of the Corporation to whom the National Railroad Passenger Corporation offers employment; (B) the procedure by which those employees of the Corporation may elect to accept employment with the National Railroad Passenger Corporation; (C) the procedure for acceptance of such employees into the National Railroad Passenger Corporation's employment; and (D) the procedure for determining the seniority of such employees in their respective crafts or classes on the National Railroad Passenger Corporation's system which shall to the extent possible, preserve their prior seniority rights. If no agreement regarding the matters referred to in this subsection is reached by the end of 60 days after commencement of negotiations, which shall also be at least 90 days after completion of the transaction contemplated by section 206(c)(1)(C), upon notice of any party all parties shall, within an additional 10 days, select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall promptly appoint a referee. Hearings shall commence no later than 30 days thereafter, and a decision shall be rendered within 60 days after commencement of the hearings. The referee shall resolve and decide all matters in dispute regarding the negotiation of the implementing agreement or agreements; all parties may participate, but the referee shall have the only vote, and the referee's decision shall be final and binding and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railroad Labor Act.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—Prior to implementation of the agreement or agreements in the preceding paragraph, the representatives of the various crafts or classes of employees designated to be transferred to the National Railroad Passenger Corporation shall meet with representatives of the National Railroad Passenger Corporation for the purposes of negotiating agreements regarding rates of pay, rules and working conditions. If after 60 days from commencement of negotiations no agreement has been reached, the bargaining agreement in existence on the property from which the employees are to be transferred and applicable to the craft or class of employees being transferred will apply and the implementing agreement will be put into effect.

"(3) TRANSFER OF PROTECTION.—An employee of the Corporation entitled to protection and transferred as a result of an acquisition pursuant to this Act shall carry with him his protected status upon transfer to the National Railroad Passenger Corporation or to an acquiring carrier. The National Railroad Passenger Corporation or an acquiring carrier, as new employers, shall be responsible for payment of protective benefits and shall be entitled to reimbursement pursuant to section 509 of this title.

"(4) NON-CONTRACT EMPLOYEES.—The National Railroad Passenger Corporation may offer employment to any non-contract employee prior to completion of any of the agreements referred to in this section. Noncontract employees accepting employment with the National Railroad Passenger Corporation shall retain all rights and benefits accorded to them under this title.

"(g) DEATH AND PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization arising prior to the date of conveyance of rail properties pursuant to section 303 of this Act shall be assumed by the Corporation or an acquiring carrier, as the case may be, and the Corporation or the acquiring carrier shall process and pay and such claims that are sustained or settled and shall be entitled to direct reimbursement as a current expense of administration from the estates of railroads in reorganization which were the employers at the time the claim arose.".

(e) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) in paragraph (1) thereof, by striking out "the last twelve months immediately prior to his being adversely affected", and inserting in lieu thereof "the 12 full calendar months immediately preceding February 26, 1975"; and

(2) in paragraph (3) thereof, by striking out "his being adversely affected", and inserting in lieu thereof "February 26, 1975,".

(f) Section 505(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(f)) is amended to read as follows:

"(f) TERMINATION ALLOWANCE.—The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than 3 years' service as of the effective date of this Act. The Corporation's right to terminate an employee must be exercised within a period of one year from the date of conveyance. Upon notification to the employee of the Corporation's intent to terminate his services, the employee shall have the option of accepting the termination allowance or accepting a voluntary furlough without pay. In the event the employee entitled to receive a lump sum separation allowance accepts such an allowance the amount shall be determined as follows:

Two to three years' service	One hundred and eighty days' pay at the rate of the position last held.
One to two years' service	Ninety days' pay at the rate of the position last held.
Less than one year's service	Five days' pay at the rate of the position last held for each month of service.".

(g) Section 505(h) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(h)) is amended by adding at the end thereof the following: "The provisions of this title shall also be applied, upon a conveyance or discontinuance of service, to employees who are otherwise entitled to protective benefits and who were placed in furlough status on or after February 26, 1975."

(h) Section 505 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775) is amended by adding at the end thereof the following new subsection:

"(i) NONCONTRACT EMPLOYEES.—(1) Compensation, severance, termination and moving expense benefits for employees not governed by a collective bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section.

"(2) A protected employee, whose employment is not governed by the terms of a collective bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsections (e) or (f) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

"(3) In the event any dispute arises between the Corporation and a non-contract employee regarding the interpretation or application of the provisions of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. Either party may request arbitration and the cost and expenses of said arbitration shall be shared equally by the parties.".

(i) Title VI of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 606. (a) Except with respect to laws and regulations otherwise applicable pertaining to safety, to representation of employees for purposes of collective bargaining, to the handling of disputes between carriers and their employees, to employment retirement, annuity, and unemployment systems, and to other dealings between employers and employees, no local public body or operator therefor which is otherwise subject to the Interstate Commerce Act and which provides mass transportation services shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or the rules, regulations, and orders promulgated thereunder.

"(b) For the purposes of this section the term 'local public body' shall have the meaning given to such term in section 12(c)(2) of the Urban Mass Transportation Act (49 U.S.C. 1608), and the term 'mass transportation' shall have the meaning given to such term in section 12(c)(5) of such Act.".

CONTINUATION OF EMPLOYEE PENSION PROGRAMS

(j) Amend Section 505(a) of the Rail Reorganization Act of 1973 by striking the period at the end thereof and inserting in lieu thereof the following: ", including, without limitation, all accrued pension benefits under any employee pension benefit plan in effect on December 1, 1975, until such time as a replacement employee pension benefit plan, establishing a fair and equitable overall program covering all such employees, shall have become effective.".

DESIGNATIONS TO NATIONAL RAILROAD PASSENGER CORPORATION OUTSIDE NORTHEAST CORRIDOR

SEC. 909. Paragraph (1)(D) of section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)) is amended—

(1) by inserting "(i)" immediately after "by"; and

(2) by striking out "; and" at the end thereof and inserting in lieu thereof the following: ", or (ii) the National Railroad Passenger Corporation to meet the needs of improved passenger service over intercity routes, other than the Northeast corridor, identified by the Association pursuant to the final system plan; and".

MISCELLANEOUS AMENDMENTS TO TITLE II

SEC. 910. (a) Section 201(h) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771(h)) is amended to read as follows:

"(h) EXECUTIVE COMMITTEE.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of the Board, the Secretary, the Chairman of the Commission or a duly authorized representative, and 2 other members who shall be selected by the members of the Board.".

(b) Section 203(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 713(a)) is amended by striking out the last sentence thereof.

(c) Paragraph (3) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(3)) is amended by adding at the end thereof the following: "All determinations made by the Association in correction to the preliminary system plan published on April 11, 1975 (40 Fed. Reg. 16377) shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to such correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to acquisitions by profitable railroads pursuant to a supplement to the preliminary system plan published under section 207(b)(2) of this title shall be deemed to be timely if made before adoption of the final system plan under section 207(c) of this title.".

(d) Paragraph (4) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 206(d)(4)) is amended—

(1) in the first sentence thereof, by striking out "30 days after the effective date of the final system plan" and inserting in lieu thereof "5 days after the date of the enact-

ment of the Railroad Revitalization and Regulatory Reform Act of 1975"; and

(2) by inserting immediately after the first sentence thereof the following new sentence: "Such offer may be modified until date of acceptance to the extent that such modification does not result in an offer for sale less than the net liquidation value of the property to be sold.".

(e) Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any statement to the contrary in the final system plan, a State or a local or regional transportation authority shall not be required to deliver to the Corporation a firm commitment to acquire rail properties designated to such State or a local or regional transportation authority prior to January 9, 1976, or 5 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, whichever is later.".

(f) Section 207(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(c)) is amended by adding at the end thereof the following: "Any line of railroad or segment of a line of railroad on which train service was being provided as of the effective date of the Act and which was recommended in the preliminary system plan for transfer to the Corporation shall be deemed to be designated in the final system plan for transfer to the Corporation under section 206(c)(1)(A) of this title. Any designation in the final system plan pursuant to section 206(c)(1)(B) of this title of overhead trackage rights to be acquired by a profitable railroad operating in the region over specified rail properties to be acquired by the Corporation, where such designation does not (1) include the right for such profitable railroad to interchange traffic with at least one railroad, or (2) provide for the connection of portions of such profitable railroad's rail properties, and where the transfer of ownership of such rail properties or trackage thereover to such profitable railroad was recommended in the preliminary system plan and the Commission has made a determination in respect thereto in accordance with section 206(d)(3) of this title, shall be deemed to include the right for such profitable railroad to interchange traffic with the Corporation and any other profitable railroad connecting with such specified rail properties.".

(g) Section 208 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 718) is amended by adding at the end thereof the following new subsection:

"(d) The provisions of the Association's Official Errata Supplement to the final system plan dated December 1, 1975, including all designations made therein, shall be treated for all purposes as if they had been included in the final system plan adopted by the Association, and the final system plan shall for all purposes be deemed to be approved as modified and amended by such Official Errata Supplement.".

(h) Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended by adding at the end thereof the following new subsections:

"(e) Injunctive and Declaratory Actions.

"(1) Notwithstanding any other provision of law, any action—

"(A) for injunctive or other relief from enforcement, operation, or execution of any part of this Act or from any action taken pursuant to authority purportedly conferred under this Act,

"(B) for a declaratory judgment of the unconstitutionality of any part of this Act or of the illegality of any action or of any failure to take action pursuant to authority conferred or purportedly conferred under this Act,

"(C) to enforce or declare rights under this Act, or

"(D) to obtain, inspect, copy, or review any document in the possession or control of the Association that would be discoverable in litigation pursuant to section 303(a) of this Act,

shall be within the original and exclusive jurisdiction of the special court. Except as the Constitution may require, the special court shall not hear or decide any such action which is brought after the approval of the final system plan pursuant to section 208(a) of this title and before conveyance pursuant to section 303(b) of this Act.

"(2) The original and exclusive jurisdiction of the special court under this subsection shall include any action, whether filed by any interested person or initiated by the special court itself, to interpret, alter, amend, modify, or implement any of the orders entered by such court pursuant to section 303(b) of this Act or the goals of the final system plan. During the pendency of any such action, the special court may enter such orders as it determines to be appropriate, including orders which enjoin, restrain, condition, or limit any conveyance, transfer, or use of any asset or right which is subject to such an order or which is in issue in such an action or which involves the enforcement of any liens or encumbrances upon such assets or rights. Any orders entered under this subject which interpret, alter, amend, modify, or implement orders entered by the special court under section 303(b)(1) shall be final and shall not be restrained or enjoined by any court.

"(3) The special court shall have the exclusive jurisdiction over any action which is brought, after conveyance pursuant to section 303(b)(1) of this Act, to set aside, annul, or secure in any way the reconveyance of rail property so conveyed. Relief in any such action or in any action referred to in subparagraphs (A), (B), or (C) of paragraph (1) of this subsection, shall not be granted unless the person seeking such relief establishes that the Association acted arbitrarily and capriciously, in disregard of the provisions of this Act.

"(4) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement or declaring or determining the unconstitutionality or invalidity of this Act, in whole or in part, or of any action taken under this Act, shall be reviewable by direct appeal to the Supreme Court to the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code. Such an appeal is exclusive and shall be filed not more than 20 days after entry of such order or judgment.

"(f) Time Extension.—The time prescribed in subsections (c) and (d) of this section for the delivery of certified copies of the final system plan may be extended to a date, not later than March 11, 1976, prescribed in a notice filed by the Association not later than February 1, 1976, with the special court, the President of the Senate, the Speaker of the House of Representatives, and each court referred to in subsection (d) of this section. Such notice shall contain the certification of the Association that an orderly conveyance of rail properties cannot reasonably be effected before the date for conveyance determined with respect to such notice. The time prescribed in section 303(a) of this Act shall be determined with respect to the date prescribed in such notice.".

(i) Section 210(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(c)) is amended by adding at the end thereof the following new sentence: "All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States.".

(j) Section 211 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsections:

"(g) Preconveyance Loans to the Corporation.—It is the further intent of Congress that in the period between the effective date of the fiscal system plan and the date of the conveyance of rail properties pursuant to section 303(b) of this Act, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation subject to the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and subject to the further condition that any loan to the Corporation under this subsection shall be refinanced by the issuance of debentures under section 216 of this title. In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors.

"(h)(1) Notwithstanding any other provisions of this Act, the Association is authorized, subject to the limitations set forth in section 210(b), to make loans, in amounts not to exceed $200,000,000 in the aggregate, to the Corporation, the National Railroad Passenger Corporation, and to any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, for the purpose of meeting existing or prospective obligations of the railroads in reorganization which the Association determines should be paid by the Corporation, the National Railroad Passenger Corporation or profitable railroads on behalf of the transferors in order to permit continued, orderly operations. Such obligations shall be limited to amounts claimed by suppliers of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline accounts, claims of employees arising under the collective-bargaining agreements of the railroads in reorganization and subject to section 3 of the Railway Labor Act, and claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Acts. The Association shall not make such a loan unless it first finds that—

"(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

"(B) such obligations arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) and are, under other applicable law, the responsibility of a railroad in reorganization;

"(C) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation or profitable railroad is necessary to permit continued, orderly operations; and

"(D) the transferor is unable to pay such obligations, under the procedures established pursuant to paragraph (2) of this subsection within a reasonable period of time.

"(2) The Association shall, not less than thirty (30) days prior to conveyance pursuant to section 303(b)(1), petition each of the United States district courts having jurisdiction over the reorganization of a railroad in reorganization for an order, which shall be entered prior to such conveyance, and which—

"(A) establishes the priority and the manner in which administrative claims attributable to operations prior to conveyance of properties pursuant to section 303(b)(1) shall be satisfied in the period following such conveyances;

"(B) identifies the assets of the estate of the railroad in reorganization which shall be utilized to satisfy such claims;

"(C) establishing guidelines which the Trustees of such railroads shall follow in negotiating agency agreements with the Corporation, the National Railroad Passenger Corporation, or a profitable railroad for the processing of all accounts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 303(b)(1); and

"(D) requires the Trustees of such railroads and their agents to apply, consistent with the principles of reorganization under Section 77 of the Bankruptcy Act, all cash and current assests available as of the date of conveyance, together with all other available assets which the estates may have, to the payment in the post-conveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

"(3) Any obligation of a railroad in reorganization paid with assistance provided pursuant to paragraph (1) of this subsection shall be processed on behalf of the railroad in reorganization by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be. Any such obligation that the Corporation, the National Railroad Passenger Corporation or a profitable railroad deems to have been outstanding on the date of conveyance pursuant to section 303(b)(1), and which said transferor acknowledges to have been its obligation or which the United States district court having jurisdiction over the reorganization proceeding of the transferor approves as a valid administrative claim against such transferor, and which cannot be paid within a reasonable period of time under the procedures established pursuant to paragraph (2) of this subsection, shall be paid on behalf of such transferor by the Corporation, the National Railroad Passenger Corporation or a profitable railroad to the extent funds are available under paragraph (1) of this subsection. The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization. The Corporation, the National Railroad Passenger Corporation or the profitable railroad shall be entitled to reimbursement directly, as a current expense of administration, from the estate of the railroad in reorganization on behalf of whom the obligation was paid, together with interest thereon at the rate of interest charged by the Association for the loan from which the funds for such payment were provided.

"(4) If at any time the Government Banking Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of the railroad in reorganization for any obligation of the estate paid pursuant to this subsection could adversely affect the fairness and equity of the transfers and conveyances pursuant to section 303(b)(1) of this Act, or that failure of the National Railroad Passenger Corporation to receive such full reimbursement with interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Committee. The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization, equal to the amount by which loans of the Corporation or the National Railroad Passenger Corporation, plus interest, have been forgiven, and such claim shall be prior to all other administrative claims of the estate. Such direct claim shall not be subject to any reduction by way of set-off, cross-claim or counter-claim which the estate of the railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association or the United States of America.".

(k) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION PROJECTS FOR ABANDONED RAILROAD RIGHTS-OF-WAY

"SEC. 217 (a) IDENTIFICATION OF RIGHTS-OF-WAY.—The Secretary, in consultation with the Secretary of the Interior shall identify any railroad rights-of-way, or segments of rights-of-way, on which rail service has been permanently terminated or which are scheduled for abandonment or are likely to be abandoned in the future, and which are potentially suitable for Federal, State, or local parks or recreation areas, wildlife refuges, wildlife management areas, habitats for nongame wildlife, or other trail, bikeway, or walkway public recreational uses including those identified by the Department of the Interior and the several states in the Final System Plan in Volume II, pages 519 through 524.

"(b) GENERAL AUTHORITY.—In providing assistance under this section, the Secretary shall notify other Federal agencies, States, local agencies, and private groups of property identification referred to in subsection (a) of this section for purposes of conversion of rights-of-way referred to such subsection (a). The Secretary shall also require that conversion plans be developed by citizen participation to the maximum degree possible in consultation with the Secretary of the Interior. For purposes of increasing available information and technical expertise with respect to projects for the conversion of rights-of-way, the Secretary is authorized to contract for special studies or programs and to collect, evaluate, and disseminate information with respect to such conversion projects.

"(c) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out the provisions of this section. Funds appropriated under this subsection are authorized to remain available until expended.".

MISCELLANEOUS AMENDMENTS TO TITLE III

SEC. 911. (a) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(h) No director, officer, employee or agent of the Corporation shall be subject to suit in any court or made a party to any threatened, pending or completed action, suit or proceeding, whether civil, administrative, or investigative (including an action by or in the right of the Corporation), nor shall any such person be liable for money damages or otherwise to any party by reason of the fact that such person is or was, at any time prior to the issuance of an order from the special court ordering the conveyance of rail properties pursuant to section 303(b) of this Act, a director, officer, employee, or agent of the Corporation or of any subsidiary thereof, if, with respect to the subject matter of such action, suit, or proceeding, such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Corporation. The United States shall indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any such action, suit, or proceeding in which such person is determined to have met such standard of conduct. This subsection shall not be construed to grant any immunity from any criminal law of the United States.".

(b) Section 303(a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(a)(1)) is amended by striking out "designated in the final system plan" and inserting in lieu thereof "certified to the special court, pursuant to section 209(c)(3) of this Act".

(c) Section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (a)(1)) is amended by striking out "any railroad leased" and inserting in lieu thereof "any person leased".

(d) Paragraph (2) of section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)(2)) is amended by striking out "it shall" and inserting in lieu thereof "it may do any or all of the following", by striking out "and" at the end of subparagraph (A), by striking everything before "order" in subparagraph (B), and by amending subparagraph (C) to read as follows:

"(C) enter a judgment against the Corporation, but no such judgment shall be entered which would endanger the viability or solvency of the Corporation.".

(e) Paragraph (d) of section 303(c) of the Regional Rail Reorganization Act is amended by adding the following:

"The special court shall also find the amount of the payments, if any, which each profitable railroad has made on behalf of a transferor railroad in reorganization in accordance with section 211(h) of this Act, for which payment the profitable railroad has not been reimbursed, as provided in section 211(h). Notwithstanding any other provision of this paragraph or of paragraph (4), the special court shall order the return to any such profitable railroad, from compensation deposited by said profitable railroad pursuant to section 303(a)(2), of any such amount so found, together with interest at the rate provided in section 211(h).".

(f) Paragraph (4) of section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (c)(4)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)"; and

(2) by inserting immediately after "region" the following: "and to railroads leased, operated, or controlled by railroads in reorganization in the region and to other persons who are leased, operated, or controlled by railroads in reorganization and who are transferors of rail properties".

(g) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended by striking out "5 days" and inserting in lieu thereof "20 days".

(h) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

"(e) Dispositions of Designated Rail Properties.—(1) Except as provided in paragraph (2) of this subsection, no railroad in reorganization and no person leased, operated, or controlled by such a railroad shall sell, transfer, encumber or otherwise dispose of rail property or any right or interest therein designated for transfer to the Corporation or conveyance to a profitable railroad in the final system plan, except in accordance with subsection (b) of this section.

"(2) This subsection shall not apply to any sale, transfer, encumbrance or other disposition of rail property described in paragraph (1), of this subsection, or any interest therein—

"(A) as to which the Association generally or specifically consents, in writing;

"(B) which, before the enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, had been specifically approved by a United States district court having jurisdiction over the reorganization of a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); or

"(C) following certification to the special court pursuant to section 209(c) of this Act, where such rail property is not certified under such section.

(i) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763(b)) is amended by inserting immediately after "additional assistance" in the first sentence thereof the following: "in the form of loans", and by striking out the second sentence thereof.

(j) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by inserting "and" at the end of paragraph (7), and by striking out ", and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganization Act of 1973".

ALTERNATIVE DESIGNATIONS TO PROFITABLE RAILROADS

Sec. 912. Paragraph (1)(B) of section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(B)) is amended by inserting immediately after "paragraph" the following: ", and what alternative designations shall be made under this subparagraph".

AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNCTIONS OF ASSOCIATION

Sec. 913. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended by striking out "not to exceed $40,000,000,".

TRANSFERS TO SUBSIDIARIES OR AFFILIATES OF CORPORATION

Sec. 914. (a) Paragraph (2) of section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(2)) is amended by adding at the end thereof the following new sentence: "Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary or affiliate thereof.".

(b) Section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(e)) is amended by adding immediately after paragraph (2) thereof the following: "The Corporation shall, within 45 days following the effective date of the final system plan, give notice to the Association with respect to any rail properties designated under paragraph (1)(A) which are to be transferred to a subsidiary or affiliate of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan.".

(c) The following provisions of the Regional Rail Reorganization Act of 1973 are each amended by inserting immediately after "Corporation" each place it appears "or any subsidiary or affiliate thereof":

(1) paragraph (1) of section 206(d) (45 U.S.C. 716(d)(1));

(2) section 209(c) (45 U.S.C. 719(c));

(3) section 209(d) (45 U.S.C. 719(d));

(4) section 215(d) (45 U.S.C. 725(d));

(5) paragraphs (2), (3), and (4) of section 303(b) (45 U.S.C. 743 (2), (3), and (4));

(6) paragraph (1)(A)(i) of section 303(c) (45 U.S.C. 743(c)(1)(A)(i));

(7) section 304(e) (45 U.S.C. 744(e)); and

(8) paragraphs (1) and (2) of section 501 (45 U.S.C. 771 (1) and (2)).

(d) Paragraph (1) of section 303(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(a)(1)) is amended by striking out "Corporation shall" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof, shall".

(e) Paragraph (1) of section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(a)) is amended by striking out "Corporation and" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof or to".

(f) Paragraph (2)(A) of section 303(c) (45 U.S.C. 743(c)(2)(A)) is amended by striking out "Corporation; and" and inserting in lieu thereof the following: "Corporation or any subsidiary or affiliate thereof; and".

(g) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) by striking out "and" in paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) 'Corporation' means the Consolidated Rail Corporation or (as may be appropriate in the context) any subsidiary or affiliate thereof.".

RAIL SERVICES PLANNING OFFICE

Sec. 915. (a) Section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended to read as follows:

"RAIL SERVICES PLANNING OFFICE

"Sec. 205. (a) Establishment.—The Rail Services Planning Office is established as an office in the Commission. The Office shall function continuously pursuant to the provisions of this Act, and shall be administered by a director.

"(b) Director.—The Director of the Office shall be appointed for a term of 6 years by the Chairman of the Commission with the concurrence of 5 members of the Commission. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

"(c) Powers.—The Director of the Office is subject to the direction of, and shall report to, such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or (in case of disagreement) the Chairman of the Commission, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office with any person (including a Government entity). Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

"(d) Duties.—In addition to its duties and responsibilities under other provisions of this Act, the Office shall—

"(1) assist the Commission in studying and evaluating proposals for merger, consolidation, control, coordination projects, joint use of tracks or other facilities, and acquisition or sale of assets, as authorized by section 5(3) of the Interstate Commerce Act (49 U.S.C. 5(3));

"(2) assist the Commission in developing a national and efficient economic regulatory policy for common carriers by railroad which achieves a competitive, energy-efficient, and coordinated transportation system;

"(3) assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies, with such criteria to include the following considerations: rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation; the cost to the gross national product in terms of reduced output of goods and services; the cost of relocating or assisting through unemployment retraining, and welfare benefits to individuals and firms adversely affected thereby; and the cost to the environment measured by damage caused by increased pollution;

"(4) conduct an ongoing analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of such analysis, and advise the Commission of the results of such evaluation; and

"(5) within 180 days after the effective date of the final system plan, issue additional regulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code, which contain—

"(A) standards for the computation of subsidies for commuter rail passenger service, as provided in section 304(c)(2)(A), assuring compensation to the Corporation at the level of avoidable cost of providing service, plus a reasonable management fee and an allowance for depreciation of equipment: and

"(B) standards for the determination of emergency commuter rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964.".

(b) Section 214(b) of the Region Rail Reorganization Act of 1973 (45 U.S.C. 724(b)) is amended by striking out "$5,000,000" and inserting in lieu thereof "$7,000,000".

ASSISTANCE FOR COMMUTER RAIL PASSENGER SERVICE

Sec. 916. (a) Paragraph (5) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5) is amended to read as follows:

"(5) All rail properties—

"(A) sold by the Corporation pursuant to section 206(c)(1)(C) and 601(d);

"(B) sold by the Corporation to any State or local or regional transportation authority pursuant to subsection (c)(1)(D) of this section; or

"(C) sold by the Corporation to any State or local or regional transportation authority within 900 days after the date of conveyance to meet the needs of commuter or intercity rail passenger service;

shall be transferred at a value related to the value received for the transfer to the Corporation of such properties. The value of such properties transferred pursuant to subparagraph (B) of this paragraph shall be adjusted to reflect the value attributable to maintenance and improvement provided to such rail properties by the Corporation, and shall include administrative expenses and carrying charges.".

(b) Subparagraph (B) of section 304(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(a)(2)(B)) is amended to read as follows:

"(B) not sooner than 30 days following the effective date of the final system plan the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not sooner than 60 days after the date of such notice, or the date of conveyance ordered by the special court pursuant to section 303 (b)(1), whichever is later;".

(c) Section 304(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by inserting before the semicolon at the end of paragraph (2)(A) a colon and the following: "Provided, That if a rail service continuation subsidy is offered for both freight and passenger service on the same rail property, the owner of such property may not be entitled to more than one payment of a reasonable return on the value of such property";

(3) by striking out the period at the end of subparagraph (C) of paragraph (2) and inserting in lieu thereof a semicolon and "or"; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) if rail passenger service is being provided over such properties pursuant to subsection (e) of this section.".

(d) Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsection (f), (g), and (h), respectively; and

(2) by striking out the last unnumbered paragraph of subsection (c) and inserting in lieu thereof the following:

"(d) FREIGHT AGREEMENT.—If a rail freight service continuation subsidy is offered pursuant to subsection (c)(2)(A) of this section, the government or person offering the subsidy shall enter into an operating agreement with the Corporation or any responsible person (including a government entity) under which the Corporation or such person (including a government entity) will operate rail freight service over such rail properties and receive the difference between the revenue attributable to such properties and the avoidable costs of providing freight service on such rail properties, and the trustee of any railroad in reorganization shall receive a reasonable rate of return on the value of any rail properties for which a rail freight service is operated under such subsidy.

"(e) PASSENGER AGREEMENTS.—The Corporation shall provide commuter rail passenger service, for a period of 180 days following the date of conveyance pursuant to section 303, on all rail properties on which such service was being provided by the railroads in reorganization immediately prior to the date of conveyance, regardless of whether such properties are designated for inclusion in or exclusion from the final system plan. If a State or a local or regional transportation authority was providing financial support for the continuation of rail passenger service pursuant to a lease or agreement which was in effect immediately prior to the date of conveyance, the Corporation shall provide the level of service provided in such lease or agreement for the 180-day period. If no financial support was being provided, or if no lease or agreement was in effect immediately prior to the date of conveyance, the Corporation shall provide the level of service which was being provided by the railroads in reorganization immediately prior to the date of conveyance for the 180-day period. In any case where a State or a local or regional transportation authority was providing financial support for the continuation of rail passenger service immediately prior to the date of conveyance, such State or local or regional transportation authority shall maintain the level of such financial support for the 180-day period. If such financial support is not provided, or if at the end of the 180-day period a State or a local or regional transportation authority has not offered a rail passenger service continuation subsidy pursuant to subsection (c)(2)(A) of this section, the Corporation and, where applicable, the trustee or trustees of the railroads in reorganization may discontinue such service, and, in the case of rail properties not designated for inclusion in the final system plan, abandon such properties pursuant to subsections (a) and (b) of this section. Nothing in this subsection shall affect the obligations of the Corporation or the trustee or trustees of the railroads in reorganization to provide rail passenger service pursuant to section 303(b)(2) or 304(c)(2)(B). If at the end of the 180-day period a State or a local or regional transportation authority has offered a rail passenger service continuation subsidy pursuant to subsection (c)(2)(A) of this section, the Corporation shall continue to provide such service. In any dispute over the application of regulations promulgated pursuant to section 205(d)(5)(A), the parties thereto may agree to arbitration by a third party; in the event the parties cannot agree to an arbitrator, the Director of the Office shall serve in that capacity. The Corporation shall be relieved of all obligations to provide rail passenger service under this subsection on rail properties for which a State or a local or regional transportation authority contracts with an operator other than the Corporation to provide such rail passenger service. The Corporation shall provide access to such rail properties for such service.".

(e) The first sentence of subsection (g) of section 304 of the Regional Reorganization Act of 1973 (45 U.S.C. 744), as so redesignated by subsection (d) of this section, is amended by inserting before the period at the end thereof the following: "and where the Corporation can demonstrate that no State or local or regional transportation authority is willing to offer or to continue to offer a rail freight or passenger service continuation subsidy pursuant to subsection (c) of this section".

RAIL SERVICE CONTINUATION SUBSIDIES

SEC. 917. (a) Section 402(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(a)) is amended to read as follows:

"SEC. 402. (a) GENERAL.—The Secretary shall provide financial assistance in accordance with this section for the purpose of rail service continuation subsidies, and for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service. For purposes of subsection (b)(1) of this section, the Federal share of a rail service continuation subsidy shall be 100 per centum for the 6-month period beginning on the date on which rail properties are conveyed pursuant to section 303(b)(1) of this Act, if the State or responsible person to receive such subsidy certifies to the Secretary that such State or responsible person has the intention and the capability to provide its required share of such subsidy during subsequent periods. For the succeeding 12-month period, the Federal share of a rail service continuation subsidy shall be 90 per centum and the share of such State or responsible person shall be 10 per centum. With respect to each succeeding 12-month period during which such subsidy plan is in continuous operation, the Federal share referred to in the preceding sentence shall be reduced by 20 per centum for each succeeding 12-month period. For purposes of subsection (b)(2) of this section, a State receiving discretionary assistance shall be required to contribute at least 30 per centum of the cost of the program for which the Federal assistance is provided. The Secretary shall prescribe regulations establishing standards and procedures under which the State share of a rail services continuation subsidy or the State share of the cost of a program for which Federal discretionary assistance is provided may be provided through in-kind benefits, such as forgiveness of taxes, trackage rights, and facility privileges.".

(b) Section 402(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(b)) is amended—

(1) by amending paragraph (1) thereof to read as follows:

"(1) Each State in the region is entitled to an amount for rail service continuation subsidies from 50 per centum of the sum appropriated each fiscal year for such purpose in the ratio which the total rail mileage of all discontinued rail lines in such State, as determined by the Secretary and measured in point-to-point length (excluding yard tracks and sidings), bears to the total rail mileage of all discontinued rail lines in all the States in the region, measured in the same manner, except that no State shall be entitled to less than 3 per centum of such funds. In the event that the total amount allocated under this formula, due to the application of the maximum and minimum limitations which it establishes, is greater or less than 50 per centum of the funds appropriated, the excess or deficiency, as the case may be, shall be added to or deducted from the Secretary's discretionary fund provided for in paragraph (2) of this subsection. The entitlement of any State which is withheld in accordance with this section and any sums not used or committed by a State during the preceding fiscal year shall be paid into the discretionary fund provided for in paragraph (2) of this subsection. In addition to the amounts provided pursuant to this title, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail services and which are also contained in each State's rail plan. Federal financial participation under the preceding sentence shall extend only one calendar year beyond the date of conveyance. During the period of such extension the Secretary, not later than 90 days prior to the termination of Federal participation in support of rail facilities continuance, shall prepare a report to the Congress in conjunction with a designated State agency, recommending future action with respect to rail facilities referred to in this subsection. Notwithstanding the providing of any funds for the operation and maintenance of rail service facilities pursuant to this subsection, the Corporation, or any profitable railroad, shall not be required to operate such facilities."; and

(2) by adding at the end thereof the following new paragraph:

"(3) For a period of not more than 1 year following the effective date of the final system plan, the Secretary is authorized to provide financial assistance under this section for the continuation of local rail services to any person determined by the Secretary to be financially responsible who will assume the legal liability for the payment of the State share of a rail service continuation subsidy, regardless of the eligibility of the State within which are located the rail properties over which such services are to be performed, to receive rail service continuation subsidies under subsection (c) of this section. In any case in which a State is eligible to receive rail service continuation subsidies under subsection (c) of this section, State and local and regional transportation authorities shall have priority to receive such subsidies over any other person eligible under this paragraph and no other person eligible under this paragraph shall receive such subsidies unless his application thereof has been approved by the State agency designated under subsection (c) to administer the State plan.".

(c) Section 402(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(f)) is amended by striking out "2 years" and inserting in lieu thereof "4½ years".

(d) Paragraph (1) of section 402(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(i)(1)) is amended by striking out "2 fiscal years" and inserting in lieu thereof "4 fiscal years".

(e) Section 402(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(j)) is amended by inserting immediately before the period at the end thereof the following "; and 'discontinued rail lines' means lines of railroad which are not designated to be continued pursuant to the final system plan, or with respect to which the Commission issues a certificate of abandonment effective on or after the date of enactment of this Act".

(f) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763(b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title (1), a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title for acquisition and modernization pursuant to this section, or for any project designated pursuant to a State rail plan, and (2) a State may utilize sums so received for reimbursement of expenditures made by such State (or a local or regional transportation authority), at any time during the 5-year period preceding the date of enactment of this Act, for acquisition and modernization of rail facilities on which rail services would have been curtailed or abandoned but for such expenditures. For purposes of the preceding sentence, in any case in which a State notifies the Secretary, in writing, that such State intends to expend sums received by it under section 402(b)(1) of this title for acquisition and modernization of rail properties pursuant to this section, such State shall be entitled to receive in a lump sum an amount equal to the rail service continuation subsidies (computed under section 402 of this title) based upon the costs of operating such rail properties during the 12-month period ending November 9, 1975.".

(g) Section 304(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(c)) is amended by striking out the last sentence and inserting in lieu thereof the following: "If a rail service continuation subsidy is offered for the operation of rail service that would otherwise be discontinued under this section, the government or responsible party offering the subsidy shall tender a contract on reasonable terms and conditions to the Corporation, a profitable railroad, or other responsible party (including a government entity), and the Corporation or the profitable railroad shall, or other responsible person (including a government entity) may, accept a contract on such reasonable terms and conditions and shall provide rail service over the rail properties designated in the contract until the contract expires of its own terms. The party providing the service shall receive the difference between the revenue attributable to such properties and avoidable costs of providing rail service over such properties, plus a reasonable management fee for the services rendered, and the trustees of the railroad in reorganization shall permit operation over, and receive a reasonable rate of return on the value of, any rail properties over which rail service is to be operated pursuant to any rail service continuation subsidy contract entered into by a government or a responsible person pursuant to this section.".

AUDIT BY COMPTROLLER GENERAL

SEC. 918. Title VI of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"AUDIT BY COMPTROLLER GENERAL

"SEC. 607. (a) The Comptroller General is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (1) Federal funds are being used to finance any portion of its operations, (2) Federal funds have been invested therein, or (3) the Corporation has outstanding obligations guaranteed by the United States. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the status of the Corporation, and to make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations.

"(b) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a duly authorized representative, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by the Corporation.".

TERMINATION OF POWERS AND DUTIES OF THE INTERSTATE COMMERCE COMMISSION UNDER THE BANKRUPTCY ACT

SEC. 919. Section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)) is amended by adding at the end thereof the following: "The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205) with respect to a railroad in reorganization, and the duty of such railroad to file a reorganization plan with the Commission pursuant to such section 77, shall terminate upon—

"(1) the conveyance by such railroad to the corporation or to profitable railroads operating in the region of all or substantially all of its rail properties designated for such conveyance in the final system plan, or

"(2) the discontinuance, after notice in accordance with the provisions of section 304(a) of this Act, of rail service over all rail lines of such railroad which are not designated for conveyance in the final system plan,

whichever occurs later. Thereafter, such powers and duties of the Commission shall reside in the United States district court having jurisdiction over such railroad on the date of such termination. Such district court shall continue the proceeding of reorganization of such railroad, or for other appropriate debtor relief, in accordance with the applicable provisions of such section 77 and pursuant to such procedures as such court considers just and reasonable, or, if determined by such court to be in the best interests of the estate of such railroad, in accordance with the provisions of another section or sections of the Bankruptcy Act.".

PARTIAL DISTRIBUTION BY SPECIAL COURT

SEC. 920. Section 303 of the Regional Rail Reorganization Act (45 U.S.C. 743), as amended by the Act, is further amended by adding at the end thereof the following new subsection:

"(f) DISPOSITION OF CASH DEPOSITS.—Whenever the compensation which is deposited with the special court under subsection (a) of this section is in the form of cash, such cash shall be invested and reinvested upon such terms and conditions as the special court shall determine, pending the making of the findings referred to in paragraphs (1), (2), and (3) of subsection (c) of this section. Notwithstanding paragraph 4 of such subsection (c), the special court may order (1) the income from such investments, (2) the dividends or interest, if any, received on any securities or obligations deposited with the special court under subsection (a) of this section, and (3) the income, if any, received with respect to any other form of compensation so deposited to be distributed to the trustee or trustees of each railroad in reorganization and to any person leased, operated, or controlled by such a railroad which conveyed right, title, and interest in the rail properties with respect to which such cash, securities, obligations, or other compensation have been so deposited with the special court. Notwithstanding paragraph (4) of subsection (c) of this section, the special court may also order, within 90 days after the date of its order of conveyance of rail properties pursuant to subsection (b) of this section, up to 25 per centum of any cash (including investments made with cash) and other compensation so deposited to be distributed to each such transferor and, on petition of any such transferor, it may order such additional distributions as it finds reasonable and appropriate, to be made prior to the making of the findings referred to in paragraphs (1), (2), and (3) of subsection (c) of this section.".

APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 921. Nothing in this title shall effect the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) to actions of the Commission.

TITLE X—URBAN MASS TRANSPORTATION ACT AMENDMENTS

SEC. 1001. The Urban Mass Transportation Act of 1964 as amended (49 U.S.C. 1601) is amended by adding at the end thereof the following new section:

EMERGENCY RAIL PASSENGER SERVICE OPERATING ASSISTANCE

"SEC. 17. (a) The Secretary shall provide emergency financial assistance to States and local public bodies and agencies thereof named in subsection (i) and to certain common carriers by railroad, for the following purposes:

"(1) The reimbursement of any person who is not subject to a binding lease or agreement as of January 2, 1974, and who furnishes commuter rail passenger service for a State or local public body or agency thereof for the six-month period beginning on February 27, 1976, and ending August 30, 1976. Such reimbursement shall cover all costs not otherwise paid by a State or local public body or agency thereof as if the regulations issued in accordance with the provisions of subsection (b) had been in effect on February 27, 1976, except that in any case where a common carrier by railroad is required to furnish rail commuter service pursuant to an existing Federal law for any or all of the six month period, commencing February 27, 1976, and ending August 30, 1976, and the State or local public body or agency thereof does not offer a subsidy for that period, the Secretary shall reimburse the common carrier by railroad furnishing the service in accordance with the regulations issued in accordance with subsection (b).

"(2) The reimbursement of any State or local public body or agency thereof for the purpose of defraying the additional cost incurred for payment of commuter rail passenger continuation subsidies as the result of the regulations issued in accordance with the provisions of subsection (b).

"(b)(1) Within 180 days after November 9, 1975, the Rail Services Planning Office of the Interstate Commerce Commission shall issue regulations, after conducting a proceeding in accordance with section 553 of title 5, United

States Code, which shall contain standards for the computation of subsidies for commuter rail passenger service, for use in determining and for the determination of emergency commuter rail passenger operating assistance service provided by the Secretary pursuant to this section.

"(2) The standards for the computation of subsidies shall provide that such subsidies shall cover the net avoidable loss from operating the commuter rail passenger service including a reasonable return on the value of properties that are required by such service and which properties would be unnecessary if the service were not operated.

"(3) There is authorized to be appropriated to the Commission for the use of the Planning Office to carry out the purposes of this subsection an amount not to exceed $500,000, which sum shall remain available until expended.

"(c) Any State or local body or agency thereof which was providing financial support for the continuation of rail commuter service on or before February 27, 1976, must continue to provide the same level of financial support in order to qualify for assistance under this section.

"(d) In any dispute over the application of any regulation issued pursuant to subsection (b), the parties to such dispute may agree to arbitration by a third party. In the event such parties cannot agree to an arbitrator, the Director of the Rail Services Planning Office shall serve in the capacity of arbitrator.

"(e)(1) No assistance shall be made pursuant to this section for any obligation incurred by any State or local public body or agency thereof for the furnishing of any commuter rail passenger service prior to February 27, 1976, or after September 30, 1978.

"(2) No assistance shall be available pursuant to this section after August 30, 1976, to any State or local public body or agency thereof unless such state or local public body or agency thereof has in effect a lease or agreement for the furnishing of rail commuter service, and has offered a subsidy in conformity with the standards provided in regulations issued in accordance with the provisions of subsection (b).

"(3) No funds which are available to provide assistance in accordance with the provisions of this section shall be used to provide assistance to the National Railroad Passenger Corporation for any inter-city non-commuter service.

"(f) Any assistance provided in accordance with the provisions of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate with such reasonable exceptions to requirements and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

"(g)(1) The Federal share of assistance made available under this section from February 27, 1976, to August 30, 1976, shall be 100 per centum of the costs eligible under the regulations issued pursuant to subsection (b).

"(2) The Federal share of assistance made available under this section from August 30, 1976, until the end of fiscal 1977 shall be 75 per centum of the costs eligible under the regulations issued under subsection (b).

"(3) The Federal share of assistance made available under this section for the fiscal year ending September 30, 1978, shall not exceed 50 per centum of the costs eligible under the regulations issued under subsection (b). No assistance may be provided for the fiscal year ending September 30, 1976, unless the State or local public body or agency thereof provides satisfactory assurances to the Secretary that the service for which assistance is sought will be continued after the termination of the assistance authorized by this section. The terms and provisions applied by the Secretary for assistance provided in the fiscal year ending September 30, 1978, shall be consistent insofar as is practicable with those applicable to operating assistance under section 5 of this Act.

"(h) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, subject to such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $125,000,000. There is authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 for the interim fiscal period ending September 30, 1976, not to exceed an aggregate of $95,000,000 for the fiscal year ending September 30, 1977, and not to exceed an aggregate of $125,000,000 for the fiscal year ending September 30, 1978.

"(i) Assistance under this section shall be available only to the States of Connecticut, Delaware, Indiana, Maryland, Massachusetts, Ohio, New Jersey, New York, Pennsylvania, and Rhode Island, and local public bodies and agencies thereof, and to common carriers by railroad as authorized by subsection (a)(1) of this section.".

TITLE XI—STUDIES AND REVISIONS; FOSSIL FUEL RAIL BANK; INVESTIGATION OF FREIGHT RATES FOR RECYCLABLES

LAW REVISIONS

SEC. 1101. The Commission shall prepare, or shall cause to be prepared by consultants, a proposed modernization and revision of the Interstate Commerce Act (49 U.S.C. 1 et seq.), insofar as it relates to transportation by railroad, and, if feasible, a proposed codification of all Federal laws relating to rail transportation and shall submit the final draft thereof to the Congress within 500 days after the date of enactment of this Act. The final draft shall include comments on each proposed provision, alternative provisions considered but not recommended, and such other information as may be useful to the Congress. The final draft shall be designed to simplify and to render the Interstate Commerce Act more easily understandable.

STUDY OF RATE BUREAUS

SEC. 1102. The Commission shall, within 1 year after the date of enactment of this Act, conduct a proceeding or proceedings in which all interested parties may participate, pursuant to paragraph (7) of section 5a of the Interstate Commerce Act (49 U.S.C. 5b(7)), to determine if any conference, bureau, committee, or other organization established or continued pursuant to an agreement among common carriers by railroad and approved under such section 5a is preventing an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation. In carrying out the provisions of this section, the Commission shall consult with, and give consideration to the views of, the Secretary and the Attorney General. A report which shall include recommendations by the Commission shall be transmitted to the Congress during the 1-year period referred to in the first sentence of this section.

STUDY OF RAILROAD ELECTRIFICATION

SEC. 1103. The Secretary shall conduct a study of the potential benefits of railroad electrification for high density rail lines in the United States, and shall report the findings of such study to the Congress not later than 6 months after the date of enactment of this Act. The study shall evaluate the costs and benefits of electrifying rail lines in the United States with a high density of traffic, including—

(1) the capital costs of such electrification and the oil fuel economies which would be derived therefrom, the ability of existing power facilities to supply the additional power required, and the amount of coal or other fossil fuels required to generate the power necessary for railroad electrification; and

(2) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution, and the disadvantages to the environment from increased use of fuels such as coal.

STUDY OF FEDERAL AID TO RAIL TRANSPORTATION

SEC. 1104. (a) Within 30 days after the date of the enactment of this Act, the Secretary shall initiate a comprehensive study and analysis of (1) past and present policies and methods of providing Federal aid for the construction, improvement, operation, and maintenance of rail transportation facilities and services, (2) the relationship of such policies and methods to the policies and methods of providing Federal aid for other modes of transportation, and (3) the extent to which common carriers by railroad have been and are disadvantaged by reason of such policies and methods.

(b) Incident to the study and analysis called for in paragraph (a) of this section, the Secretary shall examine ways and means by which future policy respecting Federal aid to rail transportation may be so determined and developed as to encourage the establishment and maintenance of an open and competitive market in which rail transportation competes on equal terms with other modes of transportation, and in which market shares are governed by customer preference based upon the service and full economic costs.

(c) The Commission and the Secretary of the Army are authorized and directed to cooperate fully with the Secretary in carrying out the purposes of this section, and also to submit such independent and separate reports, comments, and recommendations as they may deem appropriate.

(d) In carrying out the purposes of this section, the Secretary may require all common carriers by railroad to file such reports containing such information as the Secretary may deem necessary. The Secretary shall have the power to require by subpena the production of such books, papers, tariffs, contracts, agreements, or other documents or data of a common carrier by railroad related to the study and analysis as he may deem relevant. The Secretary may treat as confidential and privileged any document, data, or information received for such study and analysis, notwithstanding the provisions of section 552 of title 5, United States Code.

(e) Within 1 year after the date of enactment of this title, the Secretary shall complete the study and analysis herein authorized and directed, and shall transmit a report to the Congress containing his findings and conclusions together with his recommendations for a sound and rational policy respecting Federal aid to rail transportation.

STUDY OF CONGLOMERATES

SEC. 1105. The Commission shall undertake a study of conglomerates and of such other corporate structures as are presently found within the rail transportation industry. The Commission shall determine what effects, if any, such diverse structures have on effective transportation, on intermodal competition, on revenue levels, and on such other aspects of national transportation as the Commission shall deem to be legitimate subjects of study. The Commission shall prepare a report with appropriate recommendations and shall submit its report to the Congress within 1 year after the date of enactment of the Act.

STUDY OF UNITED STATES RAIL SYSTEM

SEC. 1106. (a) The Association shall conduct an evaluation of the present condition and projected future (for each of the next 15 years) of the rail system of the United States. Such evaluation shall include an analysis of—

(1) the physical condition, the financial condition, and the performance of the present rail system;

(2) the physical and financial needs of the rail system;

(3) the economic, environmental, and social costs and benefits of the projected level of investment in the system, of reasonable increased and decreased levels of investment, and of the proposals set forth in paragraphs (1) through (10) of subsection (b); and

(4) such other items as the Association may deem appropriate.

(b) The evaluation of the Association conducted pursuant to subsection (a) shall include an evaluation of the following proposals for changes in the rail system, the rail industry, or the related institutional structures:

(1) rationalization of physical plant;
(2) transcontinental mergers;
(3) rate and regulatory reform;
(4) elimination of cross subsidies;
(5) public ownership of rights-of-way;
(6) Federal loan guarantees;
(7) Federal loans;
(8) Federal capital grants;
(9) unimodal and multimodal surface transportation trust funds; and
(10) such other proposals as the Association considers appropriate.

For each of the concepts listed above, the Association shall examine the prominent proposals of 1975 plus any others which the Association determines significant.

(c) The Association shall complete its evaluation and report to Congress within 120 days after the date of the enactment of this Act. The Secretary and the Commission shall cooperate with the Association in carrying out this evaluation. The Association may draw upon the work, data, and information of any party, public or private, as it deems appropriate.

(d) The association shall prepare on an annual basis a report to the Congress on the performance of the Corporation. Such report shall include an evaluation of—

(1) the degree to which the goals of the Regional Rail Reorganization Act of 1973 are being met;

(2) the deviation, if any, from the pro forma financial protections of the final system plan required under section 206(a)(1) of such Act;

(3) the projected financial needs of the Corporation and ability of the Corporation to become financially self-sustaining without requiring government funds in excess of those authorized by section 216 of such Act; and

(4) the ability of a program of public ownership of rail rights-of-way, coupled with public financial assistance for capital improvements and rights-of-way maintenance, to assist the Corporation in becoming financially self-sustaining.

(e) There are authorized to be appropriated $1,000,000 to the Association for purposes of carrying out the provisions of this section.

EMERGENCY FOSSIL FUEL RAIL BANK

SEC. 1107. (a) The Congress finds and declares that—

(1) railroad rights-of-way or other railroad properties existing in certain areas of the United States in which fossil fuel natural resources are located are essential to the public interest;

(2) severe energy shortages can be reduced by preserving railroad rights-of-way and properties in areas in which fossil fuel natural resources are located;

(3) food requirements for this nation and outside this nation can be assured by preserving railroad rights-of-way and properties in areas in which agriculture production is located; and

(4) sufficient steps should be taken to insure that any such rights-of-way which may be needed to meet future transportation needs are kept intact for possible future reconversion to railroad uses.

(b) It is the purpose of this section to authorize the Secretary, after consultation with the Secretary of the Interior and the Secretary of Commerce, to provide for the creation of a fossil fuel rail bank to assure the preservation of rail trackage and other rail properties for transporting fossil fuel materials.

(c) The Secretary shall, within 180 days after the date of enactment of this Act, and after consultation with the Secretary of the Interior and the Secretary of Commerce, in accordance with this section, establish a fossil fuel rail bank, or agricultural production bank, to consist of rail trackage and other rail properties eligible under subsection (d), for purposes of preserving existing service in certain areas of the United States in which fossil fuel natural resources, or agriculture production, are located.

(d) The Secretary may include in the fossil fuel rail bank established under this section any railroad trackage or other rail properties which are recommended for inclusion in a rail bank under part III, section C, of the final system plan.

(e) The Secretary may acquire, by lease, purchase, or in such other manner as he deems appropriate, rail properties or any interests therein eligible for inclusion in the fossil fuel rail bank established under this section.

(f)(1) Except as provided in paragraph (2), the Secretary may hold rail properties acquired for the fossil fuel rail bank, and may sell, lease, grant rights over, or otherwise dispose of interests or rights in connection with such rail properties.

(2) The Secretary may not engage in the disposition of any such rail property pursuant to paragraph (1) if he determines, after consultation with the Secretary of the Interior and the Secretary of Commerce, that such disposition would adversely affect the availability of such properties for any continued necessary accesss to, and egress by rail from, facilities in which fossil fuels are being or can be extracted or processed.

(g) As used in this section, the term "final system plan" means the final system plan issued by the United States Railway Association on July 26, 1975, under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717).

(h) There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this section such sums as are necessary, not to exceed $6,000,000. Sums appropriated pursuant to this section are authorized to remain available until expended.

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR THE TRANSPORTATION OF RECYCLED MATERIALS

SEC. 1108. (a) The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

(1) conduct an investigation of (A) the rate structure for the transportation, by carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which the rate structure has been affected by successive rate increases approved by the Commission for such common carriers by railroads. The Commission shall, after a public hearing during which the burden of proof shall be upon such common carriers by railroad to show that the rate structure as affected by rate increases applicable to the transportation of such competing materials is just, reasonable, and nondiscriminatory, determine whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;

(2) in all cases in which such transportation rate structure is determined to be, in whole or in part, unjustly discriminatory or unreasonable, issue orders requiring the removal from such rate structure of such unreasonableness or unjust discrimination; and

(3) report to the President and the Congress, in the annual report of the Commission for each of the 3 years following the date of enactment of this Act, and in such other reports as may be appropriate, all actions commenced or completed under this section to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable or recycled materials.

(b) The Administrator of the Environmental Protection Agency shall take such steps, in proceedings before the Commission, as are necessary to assure that the directives set forth in subsection (a) of this section are carried out as expeditiously as possible. Such Administrator may participate as a party in the investigation to be commenced by the Commission under such subsection (a).

(c) The Secretary, in cooperation with the Commission, shall establish a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods for the purpose of facilitating the competitive and efficient transportation of recyclable materials by common carriers by railroad subject to part I of the Interstate Commerce Act.

(d) Orders issued by the Commission pursuant to this section shall be subject to judicial review or enforcement in the same manner as other orders issued by the Commission under the Interstate Commerce Act. In all proceedings under this section, the Commission shall comply fully with the requirements of the National Environmental Policy Act.

(e) As used in this section, the term—

(1) "recyclable material" means any material which has been collected or recovered from waste for a commercial or industrial use, whether or not such collection or recovery follows end usage as a product; and

(2) "virgin natural resource material" and "virgin material" mean any raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource which is, or which will become (through the application of technology) a source of raw material for commercial or industrial use.

(c) The Office shall, within 6 months after the date of the enactment of this Act, make its determination as to whether rail service can be operated at a profitable level over any line of railroad studied pursuant to subsection (a). Prior to such determination, any such line may not be abandoned, sold, or otherwise disposed of.

(d) Upon a determination by the Office, pursuant to subsection (c), that rail service can be operated at a profitable level over a particular line of railroad, the Consolidated Rail Corporation is authorized to operate rail service over such line. For purposes of operating such rail service, the Consolidated Rail Corporation shall enter into an operating agreement with the railroad or person owning such line. Such agreement shall be reasonable and equitable with respect to all parties to the agreement.

(e) For purposes of this section—

(1) the term "final system plan" means

final system plan as defined in paragraph (6) of section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(6)); and

(2) the term "region" means region as defined in paragraph (13) of section 102 of such Act (45 U.S.C. 702(13)).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 10979) was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 10979) just passed by the House.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 2718, RAIL REVITALIZATION AND REGULATORY REFORM ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, with a House amendment thereto, insist upon the House amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. CLANCY. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REPORT ON RESOLUTION ON APPOINTMENT OF SPECIAL COUNSEL TO REPRESENT COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. HAYS of Ohio, from the Committee on House Administration, submitted a privileged report (Rept. No. 94-756) on the resolution (H. Res. 899) providing for the appointment of a special counsel to represent the House Committee on Interstate and Foreign Commerce in Federal judicial proceedings, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR PRESENTATION BY UNITED STATES TO ISRAEL OF A STATUE OF ABRAHAM LINCOLN

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the joint resolution (H.J. Res. 406) to provide for the presentation by the United States to Israel of a statue of Abraham Lincoln to be donated by Mr. and Mrs. Leon Gildesgame of Mount Kisco, N.Y.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. Res. 406

Whereas President Abraham Lincoln symbolizes for millions of Americans the cherished dreams of freedom, human dignity, and hope for mankind;

Whereas the people of the State of Israel share with the American people those dreams which Abraham Lincoln symbolizes; and

Whereas Leon Gildesgame, of Mount Kisco, New York, is the owner of an award-winning statue of Abraham Lincoln which he has expressed an interest in donating to the United States in order that it may be given as a gift from the people of the United States to the people of Israel: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President (1) shall accept, on behalf of the United States, a statue of Abraham Lincoln from Leon Gildesgame, of Mount Kisco, New York, and (2) shall present such statue to the people of Israel on behalf of the people of the United States. The President may pay reasonable costs incurred in conjunction with such presentation, including costs incurred for the transportation to, and placement in, Israel of such statue.

The following committee amendments to the preamble were considered and agreed to:

Whereas President Abraham Lincoln symbolizes for millions of Americans the cherished dreams of freedom, human dignity, and hope for mankind;

Whereas the people of the State of Israel share with the American people those dreams which Abraham Lincoln symbolizes; and

Whereas Leon and Ruth Gildesgame, of Mount Kisco, New York, are the owners of an award-winning statue of Abraham Lincoln which they have expressed an interest in donating to the United States in order that it may be given as a gift from the people of the United States to the people of Israel: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President (1) shall accept, on behalf of the United States, a statue of Abraham Lincoln from Leon and Ruth Gildesgame, of Mount Kisco, New York, and (2) shall present such statue to the people of Israel on behalf of the people of the United States.

The committee amendments were agreed to.

The joint resolution was ordered to be engrossed, read a third time, was read the third time, and passed.

The title was amended so as to read: "Joint resolution to provide for the presentation by the United States to Israel of a statue of Abraham Lincoln to be donated by Leon and Ruth Gildesgame, of Mount Kisco, New York.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON SENATE JOINT RESOLUTION 121, PROVIDING FOR QUARTERLY ADJUSTMENTS IN THE SUPPORT PRICE FOR MILK

Mr. JONES of Tennessee. Mr. Speaker, I call up the conference report on the Senate joint resolution—Senate Joint Resolution 121—to provide for quarterly adjustments in the support price for milk, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 12, 1975.)

The SPEAKER. The Chair recognizes the gentleman from Tennessee.

Mr. JONES of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the exact same bill the House has already passed on a voice vote. In conference with the Senate, the Senate conferees agreed to all of the provisions of the House bill.

This bill does two things: It increases the dairy price support price to an amount equivalent to 85 percent of parity as of the beginning of the marketing year. The present level was established by the Secretary at 80 percent of parity. Second, the bill will require adjustment of the support level, set by the Secretary of Agriculture, on a quarterly basis for each of the next succeeding three quarters of the year.

The need for this legislation has been well documented. Subcommittee hearings have been held in the major dairy areas across the country from Vermont to Louisiana, and from New York to California. Everywhere we saw the need for this legislation.

Opponents of this bill would have you believe that we should stick with the present program because it is a success. I suppose everyone has a right to define success as they like but to me it is inconceivable that we would call a program a successful program that has bankrupted thousands of dairymen across the country, and has the price of milk in the grocery stores rising at an almost alarming rate.

Opponents of Senate Joint Resolution 121 have suggested that the bill will increase the Government outlays for the dairy support program by $180 million for 1976-77, and by $350 million in 1977-78. The administration which is opposed to the bill and I am sure used the largest numbers they thought were reasonable, estimated these costs to be $140 million and $210 million, respectively. Even from the USDA the estimates do not agree. Within the last month we have received two separate estimates of milk prices and price support program costs as a result of Senate Joint Resolution 121.

I assume these different estimates reflect different assumptions. However, the estimates used by some of the opponents of the bill must represent gross distortions of the available data.

What neither the opponents of this bill nor the administration bothers to say is that these figures are completely misleading for two reasons:

First. They include the paper costs of adjusting for the increase in value of the Government stocks. These stocks are purchased at a low price and as the market price goes up, the inventory value of these stocks is raised, and the difference is charged to the dairy price-support program. If you subtract this paper cost, you subtract a sizable portion of $340 million.

Second. Of the commodities CCC purchases, a substantial portion goes into the food aid programs and rightfully should be considered foreign aid or welfare rather than costs of the dairy price-support program. Most of the butter and cheese purchased this year went to the school lunch program. The costs of these food aid commodities are included in the figures we receive on how much the program costs.

If we subtract the cost listed in items 1 and 2 above, the actual total program costs for dairy price supports in 1976–77 would be something less than $200 million, and for 1977–78 about $200 to $225 million. Therefore, Senate Joint Resolution 121 will not increase the cost of the dairy price-support program.

Mr. Speaker, I urge the Members of the House to join me in support of the conference report on Senate Joint Resolution 121.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we ask acceptance of the conference report on Senate Joint Resolution 121. I would like to point out that the Senate receded completely to the House version of the bill and we are therefore pleased to present a conference report which contains the same language as originally approved by the House. Our Dairy and Poultry Subcommittee has held extensive field hearings. The hearings were conducted in every major dairy section of the United States and the subcommittee heard from dairymen, industry leaders, and consumer spokesmen. Problems facing the dairy industry were examined in detail. The conclusion is clearly that the present financial situation of the Nation's dairy farmers is serious. Many dairy farmers have gone out of business in the last year and without some immediate assistance, thousands of dairymen will be going out of business in the months ahead.

Mr. Speaker, we have been able to gain wide support for this bill both from consumer advocates and from Members who have large concentrations of agriculture in their districts. This bill will not raise the price of milk to consumers.

It will encourage dairymen to expand production to meet present market needs by providing a floor price at a level such that they will not face financial disaster. The present program does not give this assurance, thus explaining why milk production has not kept pace with demand. Establishing the support price at the current parity level of 85 percent will have no upward impact on the present manufacturing market price of milk since it is well above this amount.

Mr. Speaker, the present situation in the dairy industry clearly substantiates both the results of our recent dairy hearings and the position the subcommittee took earlier this year.

The previous projections on milk production and consumption by USDA have consistently proven to be wrong.

The impact of lower milk prices last winter and spring forced many dairy farmers out of business and resulted in lower milk production nationally. This has resulted in increased prices for fluid milk, cheese, and butter. Currently Government stocks of cheese and butter are completely depleted. Unless an adequate support is established to cushion the present market price we will again experience the "roller coaster" effect which, in the past, has injured both consumers and farmers.

Each time milk shortages occur they bring about increases in retail and farm milk prices followed by plummeting prices to the farmers but with no corresponding decreases in consumer prices.

Mr. Speaker, I would also like to add that the subcommittee looks upon this dairy bill as a temporary measure. The Dairy and Poultry Subcommittee intends to hold additional hearings on the problems related to the cyclical effect of milk production and prices to determine why retail prices to consumers never decrease during periods when farmers are receiving lower milk prices.

We therefore urge your support of the conference report since it will benefit both consumers and dairymen alike.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on Senate Joint Resolution 121 and urge its adoption by this body.

The conference report we have before us today is exactly the same as Senate Joint Resolution 121 as passed by the House. The points of difference between the House-passed and Senate-passed versions of this legislation were both resolved in favor of the House position.

Senate Joint Resolution 121 is badly needed by the dairy farmers of this country. It will provide for a quarterly adjustment of support prices at not less than 85 percent of parity. Even though I would personally favor a higher price support level for dairy products, I think an 85-percent support level, quarterly adjusted, will greatly help to improve our dairymen's situation and not work any hardship on the consumers of this country. In fact, I feel that the enactment of this bill into law would result in a more stable supply of milk being produced at a more stable and—over the long term—a more reasonable price to consumers.

The following facts should be considered with respect to the resolution before us: The 85-percent provision will not increase consumer prices. Present market price for milk is well above 85-percent parity; 85 percent of parity equal $8.25 per hundredweight, whereas blend prices to dairy farmers are currently averaging close to $10 per hundredweight.

The quarterly adjustment bill will change the support price quarterly, upward or downward based on costs of production to dairy farmers. Therefore, if production costs drop, the support price will be adjusted downward.

Milk production levels have been decreasing and total U.S. production will be slightly below last year's production of 115.4 billion pounds; 1975 production is estimated at about 115.2 billion pounds.

Consumption has been increasing and levels will be above last year.

As of this moment, Government stocks of butter and cheese are completely gone and the CCC is presently selling stocks of powdered milk. USDA estimates of $340 million purchases for the 1975–76 marketing year are falling well below earlier estimates. This year USDA's purchases have amounted to only $200 million and they have sold off most of their stocks.

Consumer prices always go up when farm prices go up, but rarely come down when farm prices drop back. For example, in 1974, farm prices dropped 23 percent or $2 per hundredweight and at the same time consumer prices dropped less than 2 percent or about 1½ cents per half gallon of milk.

Unless relief of the nature provided in this bill is forthcoming soon, many thousands more of our dairy farmers will be forced out of business, thereby losing their dairy production potential forever.

It is the responsibility of the Congress to try to make sure this does not happen. We can exercise our responsibility today to the dairy producers and the consumers of this Nation by approving the conference report on this measure.

Mr. Speaker, the House has approved the quarterly adjustment feature of this bill on two previous occasions in the past year, but for one reason or another it has never been enacted into law. It is my hope that this time we will finally be able to get the job done, and I urge all of my colleagues to vote for this very necessary legislation.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, just for a point of information, what is the price support now, in dollars and cents?

Mr. JEFFORDS. The price is $7.71 per hundredweight.

Mr. QUIE. If the gentleman will yield further, what percentage of parity is that at the present time?

Mr. JEFFORDS. It would be 80 percent. It would actually be a little under 80 percent.

Mr. QUIE. If the gentleman will yield

further, the fact that it is set at 80 percent of parity at the half-year mark now, the price support is actually lower than the 80 percent of parity?

Mr. JEFFORDS. That is correct.

Mr. QUIE. Mr. Speaker, will the gentleman yield further?

Mr. JEFFORDS. I yield further to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, when the price support rolls to 85 percent of parity, at what price will the support levels be at that time?

Mr. JEFFORDS. The price will then go to $8.20 per hundredweight.

Mr. QUIE. Mr. Speaker, I thank the gentleman.

Mr. JEFFORDS. Mr. Speaker, I would like to mention again that the present market price for manufactured milk as reflected by the Minnesota-Wisconsin price is $8.94 per hundredweight which is well above the 85-percent parity level.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I thank the gentleman for yielding.

One thing I want to bring out here is that last year as a member of the Committee on Agriculture I had the opportunity of very closely examining the dairy industry and traveling to the dairy areas to see what was happening to the dairy farmers. I have felt previously at times that increases were not in the best interest of the consumer, but I have now learned and I am fully convinced, I want to say to many of my friends here who have raised this question with me, that today, with the economic circumstances that the dairy farmer is faced with, it is in the best interest of the consumer to have a reasonable income derived by the dairy farmer.

The simple facts are that we are seeing an increasing number of dairy farms go out of business. A shortage in the whole area of milk and dairy products can develop in this country.

Therefore, Mr. Speaker, I urge that we support this legislation. I think for the consumer it is the very best thing we can do at this time. I am hopeful that this is the attitude that will be taken by the rest of the Members of the body.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from New York (Mr. PEYSER).

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I rise in support of the bill and the conference report.

Mr. Speaker, I would like to bring to the attention of the House two issues not yet covered in the debate.

First. The committee believes that the milk production estimates which are being made by USDA are high. At 85 percent of parity, they project 115.6 billion pounds for the current—1975-76—marketing year, 117.4 billion pounds for 1976-77, and 118.8 billion pounds for 1977-78.

We project 115 billion pounds for this year, 116 billion next year, and no more than 117 billion pounds for 1977-78.

During the past few years, there has been a decline in production. While we concur with USDA that this would reverse itself if supports are set at 85 percent of parity, we do not believe it will move as swiftly nor as sharply as they indicate. As one spokesman aptly put it, "Dairying is not something you turn on and off like a light bulb." It takes 3 years from the planning point to bring a milk cow into production.

During the past 3 years, we have had a decline of half a million dairy cows in the United States. This is the equivalent of 15,000 average sized dairy farms. Most of those who have gone out of dairying will not return.

The only factor which has tended to offset these declining figures has been increased production per cow. So far this year production per cow has increased only 0.5 of 1 percent.

In 1976, for the first time we will likely end the year with less than 11 million cows in the United States. While present milk-feed ratios are favorable and will likely encourage expanded production, we do not see this developing fast enough to reach the production totals estimated by USDA.

Second. Establishing dairy price supports at 85 percent of parity will not currently increase the price to the consumer for milk, butter or cheese, all of which are well above this support level.

The December 12 wholesale price of butter—grade A—New York market was $1.105, compared to a support level of 81.25 cents.

Cheese on that same day on the Wisconsin Cheese Exchange in 40 pound blocks was 99 cents, compared to the present support level of 85 cents.

When the present support level of $7.71 is adjusted to 85 percent of parity, which on latest data would be $8.19, the market prices for these commodities will be well above the support level, because the present price received for manufactured milk averages $8.94, which is actually over 92 percent of parity.

Assuming the same factors as were used by the Department of Agriculture when they last established CCC purchase prices and using $8.19 as the support level would increase the CCC purchase price for butter to 85.75 cents and for cheese to 90.8 cents, both of which are still well below the present market prices.

Mr. Speaker, passage of this legislation is critical for the survival of our domestic dairy industry; it is critical for consumers who need an adequate supply of reasonably priced dairy products. And essential if our Nation is going to be self sufficient and reliant in milk production.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I rise in support of this conference report. I have had the privilege of serving on the Dairy and Poultry Subcommittee of the House Agriculture Committee, and during my service on the subcommittee I have come to better understand the plight of the dairy producers in our country. In my view this bill is a responsible effort to bring greater equity to the dairy industry and at the same time not compromise the interests of consumers.

The bill would provide for a minimum support level of 85 percent of parity, and it would require the Secretary of Agriculture to adjust the support price each quarter to reflect changes in the farmers' production costs, interest, taxes and wage rates. Under current law the minimum support level is 80 percent and no adjustments are required after the annual price has been established.

As you know, Mr. Speaker, I represent a district located in central New York. New York State ranks third in the Nation in dairy production. It is an important industry for us. However, our family farmers have been going out of business at an alarming rate. Since 1964, approximately 10,000 dairy farms have ceased production. This phenomenon is not limited to New York, but is consistent with a national pattern.

The primary cause is a severe cost-price squeeze. The farmer's costs of production—the prices he pays for feed, machinery, bailing wire, et cetera—have increased dramatically, as have his interest and property tax payments. At the same time, the price he receives for his product has not kept pace.

The farmer's investment in his business is heavy. In 1974 the average investment of a New York dairy farmer with 250 acres and only 45 cows was $180,000. Moreover, his days are long—14-18 hours—he gets little or no vacation, and more often than not his family works with him. For all of this investment and hard work to produce a wholesome product, he realizes a very small return.

As a result of the foregoing, not only are farmers leaving the business but very few young people are getting in. They cannot afford it.

This situation is a problem for the consumer as well as the farmer. As the number of farms continues to decline, production of milk will likewise diminish. Demand will exceed supply and the price paid by the consumer will rise. The demand could be met by importing dairy products, but we have observed in the case of petroleum what can happen to prices if we become reliant upon imports for a necessity.

In short, we all have an interest in maintaining a fair support price for our family farmers. The pending bill attempts to do that. It is the product of testimony taken at field hearings held throughout the country, including one in my own district. It is legislation thoughtfully arrived at.

The bill calls for a minimum support price of 85 percent of parity, which today would be approximately $8.20 per hundredweight of milk. This is the price at which the Government would purchase manufactured milk products if the market price fell to that point. At present, manufactured milk is selling for about $8.95 per hundredweight. Therefore, if the market holds, there will be no cost to the Treasury. On the other hand, if the market drops, the farmer will be assured a price which more fairly reflects his costs and thus we can probably avoid a further exodus from the business.

The bill's purpose in requiring the Secretary of Agriculture to adjust the support price quarterly is to have that price more promptly reflect the farmer's actual costs. If we have a rapid shift in costs, up or down, fixing the support price annually, which is all the law now requires, is not adequate.

Mr. Speaker, the members of the New York State delegation recently met and discussed this legislation. I have every confidence that my colleagues from New York, including those from New York City, will be lending their strong support to this conference report. This reflects the merits of the legislation, and the willingness of New Yorkers to support legislation to aid rural America when it is reasonable to do so.

I urge all of my colleagues to vote affirmatively on this conference report.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. BALDUS), a member of the committee.

Mr. BALDUS. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, at 85 percent of parity, it is projected that milk production will only be stimulated enough to meet actual needs. As a result, there is little indication that CCC will be deeply involved in price support purchase programs, other than the seasonal one of acquiring stocks during the spring flush, to be returned to the market during the short fall production season.

These projections, prepared by the National Milk Producers Federation, indicate two things: First, a support level of 85 percent is needed to induce enough production to meet our needs; and second, Government costs of these programs will be minimal.

The following is the production-consumption data on which this is based:

	1974 (actual)	1975 (projected)	1976	1977
	(in billion lbs.)		(estimated)	
Production	115.4	115.0	116.0	117.0
Imports	2.9	1.4	1.7	1.7
Beginning inventory	5.2	5.8	3.7	3.0
Total supply	123.5	122.2	121.4	121.7
Ending inventory	5.8	3.7	3.0	3.4
Total use	117.7	118.5	118.4	118.3
Exports	1.2	1.0	1.0	1.0
Fed to calves	1.6	1.4	1.3	1.2
Military	1.1	1.1	1.1	1.1
Civilian use	113.8	115.0	115.0	115.0

The assumptions on which these projections and estimates are made are reasonable and conservative. Imports are projected at the norm which has prevailed for several years, somewhat higher than those for 1975. The "fed to calves" figure is declining because there are fewer cows and calves on farms.

Civilian use, which has shown an increase in recent years, is projected as stabilizing with the slight per capita decline in consumption offset by the increased population total.

During the past few years, many of us have strongly urged moves to encourage increased dairy production, just as we are doing now. Unfortunately, our voices often went unheeded.

What was even worse was that in 1973 and early 1974, rather than taking steps to stimulate domestic production, imports of dairy products were substantially increased. This action has shown itself to be extremely shortsighted. As was evidenced at dairy field hearings this past fall, these imports did more than anything else to discourage continued and expanded milk production throughout all of the United States. In the case of nonfat dry milk, unneeded and poorly timed imports have continued to cast a cloud over the market.

For our Nation's best long-term interests, imports are not the answer. Instead the answer is to encourage our dairy farmers to maintain a production sufficient to meet our needs.

Even at 85 percent of parity, these figures paint a grim picture which I hope proves to be too conservative. It shows that in the current year and in 1976 we will be using more dairy products than are available to us through production and imports. Because dairying requires several years to redevelop production, these figures show that setting supports at 85 percent of parity now will barely correct this situation by 1977.

That is why, if we are to maintain adequate dairy supplies, it is necessary for us to make this adjustment now—to give dairy farmers assurances through an 85 percent of parity support level that it will pay them to stay in dairying and to produce our needed dairy supplies. The longer we wait, the longer it will take for this situation to correct itself.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, I rise in support of this legislation.

I would like to point out to the Members of the House that in the State of California we today have one-sixth of the number of dairymen that we had 15 years ago. Unless this legislation is passed, the number of dairymen throughout this Nation is going to decrease further, and that will be much to the detriment of both producers and consumers.

So, Mr. Speaker, I urge the Members to support the conference report.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to my good friend and colleague, the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I rise in support of the conference report and of the position of my distinguished colleague.

Certainly this legislation is much to be needed if we are not to wind up with empty shelves in our supermarkets and empty dairy counters.

Mr. JONES of Tennessee. Mr. Speaker, I have no further requests for time.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Speaker, I rise in support of congressional report.

For the Congressmen representing districts where family dairy farmers work and live this is an easy "yes" vote. Once familiar with the family dairy farm operation to vote otherwise would be unthinkable.

So, today I am directing my remarks to Members without family dairy farms in their districts—especially those who feel they must vote in the best interest of the consumers they represent. This is one of those rare pieces of legislation that benefits both the consumer and the family farmer. You can support it in good conscience with an explanation they can readily understand and appreciate.

I can appreciate why urban Congressmen would normally have a knee jerk response against legislation which increases the parity support for milk from 80 to 85 percent and provides for quarterly adjustments. The main reason is we who represent the family dairy farmer have not provided you with an adequate explanation. I have attended many meetings in Washington sponsored by dairy organizations. Which Congressmen attend? Well, those who represent dairy farmers. The information presented has been generally excellent. The plight of the farmer is presented accurately and effectively. But there rarely have been Members from urban areas in attendance. There are many worthy reasons why we should in good conscience support this measure. But I wish to address just one aspect of the situation.

In a nutshell this is how this congressional report is good for both the family dairy farmer and the consumer.

The farmer and his family work amazingly long hours each day, 7 days a week. It is rare that a farmer takes even 1 day off a week or a week off a year. My survey showed an average family workweek of 140 hours.

They do this because they must just to stay in business. With this awesome effort and an average investment in the neighborhood of $130,000, their net income averages $5,000—less than the poverty level for the average farm family.

Due to the high cost of operation and a low return for milk many farmers are going out of business. They cannot make sufficient profit to continue.

The temporary result of this situation is to create a shortage of milk. This results in an increase in the cost of dairy products—the long range result could be the replacing of family farmer by big operator who will be forced to pay far higher labor costs—and will charge the consumer appropriately higher prices.

So if you wish to keep milk prices down for the consumer keep family farmer in business.

Your vote for a living wage for the

dairy farmer is a vote for the best possible price break for the consumer.

By this conference report their best interests are mutually served.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, it is obvious that there may be some impatience here, and that is something I thoroughly understand. An innocent visitor from abroad might wonder why anyone would take further time on this conference report. In view of the uninterrupted stream of comments in favor of the conference report, why say anything more about it?

One would think that it was for the benefit of the consumers, for the benefit of dairy farmers, that it would probably reduce the cost of the program, and do all kinds of wonders for the Federal budget.

Let me just state a few, simple, unchallengeable facts. This is a big-money bill any way anyone looks at it.

In saying that, Mr. Speaker, I am not referring to the much-publicized $3 million war chest that has been amassed by the milk lobby. This is a budget buster. It will require an increase in Government outlays for the dairy program for the first fiscal year in the amount of $180 million. This is a raid on the taxpayer.

The 2-year cost to taxpayers of this bill is estimated by the Office of Management and Budget at $530 million, a one-half billion dollar price tag in Government cost for the 2-year life of this bill.

This is also a raid on the consumer. Its 2-year cost to consumers is estimated by the Dairy Division of USDA at $1.4 billion. Therefore, the 2-year cost of this bill to the American people is $1.9 billion.

That is almost as much as the loan to New York City will be. I kind of see a little evidence of a dairy-New York coalition at work today here, and I think I just have to recognize that.

These figures, in my view, cannot be disputed. They are from the Dairy Division, USDA, certified to by Richard Bell, the Assistant Secretary of the USDA.

The committee itself compiled no hearing record on such figures. No testimony challenged USDA's estimates because there was no testimony worthy of the name.

Mr. Speaker, it is bad for the taxpayer and bad for the consumer, but it is also bad for the dairy farmer. It will lead the dairy farmer into deeper trouble than he is now already. Frankly, he is in trouble. I recognize that. It will cause unnecessary dairy production. It will force the Government to take over this unneeded dairy production; and at 85 percent of parity, USDA estimates that consumers will buy 1.2 billion pounds less of milk than would be the case at 80 percent of parity.

Mr. Speaker, how the dairy farmer is possibly going to be better off under a measure like this is beyond me.

Finally, a veto seems assured. I have a letter from James Lynn of the Office of Management and Budget stating that if Congress passes this bill, OMB will recommend a veto to the President.

I had a telephone call from Secretary Butz stating that he, too, will recommend a veto, and saying that if anything can be certain these days, a veto is forthcoming.

In fact, Mr. Speaker, I will just summarize it in this way: If John Connally will stay out of town, I think I can promise that this conference report bill is going to be vetoed when it gets to the White House.

Why do we not save ourselves a problem and dispose of the conference report right now? Let us reject it.

In conclusion, I include the following correspondence from the U.S. Department of Agriculture, the Office of Management and Budget, and the Office of the Special Assistant to the President for Consumer Affairs setting forth in detail the administration's position and calculations in regard to this bill:

DECEMBER 15, 1975.

Hon. PAUL FINDLEY,
House of Representatives,
Washington, D.C.

DEAR MR. FINDLEY: The Department of Agriculture is opposed to Senate Joint Resolution 121. We believe that existing legislation provides the Secretary with authority to make adjustments in the dairy support price, up to 90 percent of the April 1 parity price, at anytime during a marketing year.

Further, based on the latest USDA estimates of production and parity indexes the added consumer costs of this legislation would be more than half a billion dollars in 1976–77.

For your information we are enclosing additional documentation to support our position on this matter.

Sincerely,

RICHARD E. BELL,
Assistant Secretary, Department of Agriculture.

SENATE JOINT RESOLUTION 121

Purpose: S.J. Res. 121 provides for quarterly adjustments to be established at 85 percent of parity in the support price for milk.

Administration position: Secretary of Agriculture Earl Butz is strongly opposed to this legislation. If enacted he intends to recommend a Presidential veto on these grounds:

The legislation is not needed. Existing legislation provides the Secretary with authority to make adjustments in the dairy support price, up to 90 percent of the April 1 parity price, at any time during a marketing year.

S.J. Res. 121 would be extremely costly to consumers. Based on the latest USDA estimates of production and parity indexes, the added consumer costs of this legislation would be $501 million in 1976–77. The cost would escalate to $882 million in 1977–78.

The resolution would excessively increase dairy program costs. Mandatory adjustments in support price would require adjustments in the purchase program for dairy products by the Commodity Credit Corporation. Estimated purchases in 1976–77 would cost taxpayers $180 million more than a continuation of the existing program. In 1977–78, the added cost would be $350 million.

S.J. Res. 121 would not increase the price farmers receive for their milk. The average price received by farmers for manufacturing milk in November 1975 was $8.76 per 100 pounds. This is well above the $7.71 support price announced in October. It is $1.87 per cwt. above the average price received by farmers a year ago.

The proposed legislation would disrupt normal marketing. The likelihood of higher (or lower) prices at the beginning of the next quarter would encourage processors and manufacturers to hold back dairy products from normal marketing. This would make a complete mockery of the orderly marketing goal of the federal dairy price support program.

Additional facts for consumers: Dramatic changes in market conditions have occurred since S.J. Res. 121 was first proposed.

Milk production in 1975 has continued high, which is good news for consumers. Huge U.S. grain crops this year will bring relief to farmers from the high cost of milk production. The result should point to favorable retail prices for all dairy products. However, a mandated adjustment in the support level would artificially boost retail prices, wiping out this obvious consumer benefit.

Higher retail prices also would hurt farmers by cutting their sales. It is significant that consumption of dairy products has dropped steadily from 620 pounds per capita in 1965 to about 542 pounds per capita at present. During that same period the support price climbed steadily from less than $3.50 per hundred pounds to the present $7.71 per cwt.

	Per capita civilian consumption lb [1]	Farm milk price [2] $/cwt	Support price [3] $/cwt	
1965	620	4. 23	3. 24	
1966	604	4. 81	3. 50	[4] 4. 00
1967	581	5. 02	4. 00	
1968	577	5. 24	4. 28	
1969	569	5. 49	4. 28	
1970	561	5. 71	4. 66	
1971	558	5. 87	4. 93	
1972	561	6. 07	4. 93	
1973	554	7. 14	5. 29	[5] 5. 61
1974	543	8. 32	6. 57	[6] 7. 24

[1] Milk in all dairy products, fat solids basis, from all sources.
[2] All milk sold to plants and dealers.
[3] Marketing year starting April 1.
[4] Effective June 30, 1966.
[5] Effective August 10, 1973.
[6] Effective January 4, 1974.

TABLE 2.—ERS ESTIMATES OF CONSUMER COSTS IF S. J. RES. 121 IS ENACTED

	Support (per hundredweight)	All milk price (per hundredweight)	Retail[1] value (per hundredweight)	Fixed commercial use (billion pounds)	Consumer expenditures (millions)	Difference, consumer expenditures[2] due to price (millions)	Estimated commercial use (billion pounds)	Estimated consumer expenditures (millions)	Estimated difference in[3] consumer expenditures (millions)
1976–77	$7.71	$8.83	$18.79	111.8	$21,007		113.0	$21,233	
	8.42	9.48	19.44	111.8	21,734	$727	111.8	21,734	$501
1977–78	7.82	9.00	19.57	111.9	21,899		113.4	22,192	
	8.99	10.05	20.62	111.9	23,074	1,175	111.9	23,074	882

[1] Assumes farm-retail margins unaffected by changes in support level within a given year.
[2] Based on the cost of identical quantities associated with lower support level.
[3] Based on a decline in consumption resulting from the price increase.

MILK PRODUCTION AND UTILIZATION AT VARIOUS LEVELS OF SUPPORT—MARKETING YEAR

	1973-76				1976-77				1977-78			
Support level	[1][2]7.71	[1][3]7.69	[1][4]7.69	[1][5]7.75	[2]7.71	[3]7.86	[4]7.91	[5]8.42	[2][6]7.82	[3]8.16	[4]8.46	[5]8.99
Percent of parity	84	84	84	85	78	80	80	86	75	78	81	86
Milk production	115.6	115.6	115.6	115.6	116.9	117.2	117.3	117.5	117.6	118.2	118.6	119.1
Farm use	3.2	3.2	3.2	3.2	3.1	3.1	3.1	3.1	3.0	3.0	3.0	3.0
Marketings	112.4	112.4	112.4	112.4	113.8	114.1	114.2	114.4	114.6	115.2	115.6	116.1
Beg. commercial stocks	5.0	5.0	5.0	5.0	4.5	4.5	4.5	4.5	5.0	5.0	5.0	5.0
Imports	1.8	1.8	1.8	1.8	1.8	1.8	1.8	1.8	2.0	2.0	2.0	2.0
Commercial supply	119.2	119.2	119.2	119.2	120.1	120.4	120.5	120.7	121.6	122.2	122.6	123.1
Commercial use	113.3	113.3	113.3	113.3	113.0	112.8	112.5	111.8	113.4	113.0	112.8	111.9
End commercial stocks	4.5	4.5	4.5	4.5	5.0	5.0	5.0	5.0	5.1	5.1	5.1	5.1
Total utilization	117.8	117.8	117.8	117.8	118.0	117.8	117.4	116.8	118.5	118.1	117.9	117.0
CCC net purchases	1.4	1.4	1.4	1.4	2.1	2.6	3.0	3.9	3.1	4.1	4.7	6.1
Butter	45	45	45	46	75	90	105	140	110	145	165	215
Cheese	40	40	40	41	50	65	75	100	75	110	125	160
Nonfat dry milk	325	325	325	328	285	300	325	380	300	375	400	475
CCC purchase prices:[7]												
Butter (New York)	81.25	81.00	81.00	82.00	81.25	83.00	83.50	89.25	82.50	86.50	89.75	95.75
Cheese	85.00	85.00	85.00	85.5	85.00	86.50	87.00	92.00	86.25	89.50	92.25	97.25
Nonfat dry milk	62.4	62.3	62.3	62.6	62.4	63.3	83.7	66.7	63.1	65.00	67.00	70.2
CCC purchase cost[8]	263	263	263	267	280	320	350	460	340	460	530	690

[1] January to March quarter.

[2] Continue present level of support.

[3] Projected quarterly adjustments.

[4] 80 percent of purity with quarterly adjustments.

[5] 85 percent of parity with quarterly adjustments.

[6] Support at 75 percent of parity.

[7] For 1975-76 at 85 percent of parity assumes ¾ on butter. For remaining alternatives assumes half and half.

[8] For cost purposes, Chicago butter price was used (1.56 cents less than New York).

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., December 16, 1975.
Hon. PAUL FINDLEY,
House of Representatives,
Washington, D.C.

DEAR MR. FINDLEY: This is in response to your request for the OMB position on S.J. Res. 121, a measure that would require the government to support the price of milk at 85 percent of parity starting April 1, 1976 and to make quarterly adjustments in the support price.

OMB is opposed to S.J. Res. 121, and will recommend a Presidential veto if the bill is passed by the Congress.

USDA's analysis of S.J. Res. 121 discloses that the higher support prices will increase Federal outlays by $180 million in fiscal year 1977 and $350 million in fiscal year 1978. According to latest projections of milk supply and demand, the Federal government will be buying surplus dairy products next year, even at current support prices. To increase those prices in the face of mounting surpluses and *the need for fiscal restraint* would, in our view, be irresponsible.

In addition to increasing budget outlays, the Resolution would:

Raise consumer expenditures for dairy products by an estimated $501 million in 1976-77 and $882 million in 1977-78.

Disrupt normal marketing patterns as processors attempt to take advantage of likely changes in support prices.

I hope that you are successful in persuading your colleagues not to add this to burdens already borne by consumers and taxpayers.

Sincerely yours,
JAMES T. LYNN,
Director.

THE WHITE HOUSE,
Washington, December 11, 1975.
Hon. PAUL FINDLEY III,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. FINDLEY: I am delighted to have the opportunity to express my views and the views of the Office of Consumer Affairs on Joint Resolution 121, which would set a fixed 85 percent parity for the support price of milk through March 31, 1978, and move to the required quarterly adjustment basis for prices under the new parity.

An increase in the parity price from the present 80% to 85% together with a quarterly adjustment escalator has the potential for significantly raising the price of milk and dairy products to the consumer.

According to U.S. Department of Agriculture dairy forecasts, such a rise could cost consumers, either in their role as buyer or taxpayer, hundreds of millions of dollars over the next few years. We have seen no data which would reveal benefits commensurate with these substantial costs.

A fixed parity ratio has the potential for serious misallocation of resources since it fails to allow for the operation of normal free market cost and demand forces in setting prices. Moreover, at a time when inflation remains a serious and persistent problem, quarterly adjustment periods for determination of support prices would almost certainly aggravate the inflationary potential of this basic commodity category, and could set a dangerous precedent for acceleration of the adjustment period for other economic escalators as well.

We are especially concerned with the potential impact that this kind of legislation would have on the millions of low income consumers for whom milk is a basic necessity. Low income families now spend approximately 15% of their basic food budget on milk and dairy related products, and this proposal could seriously aggravate the hardships that many of them already face.

For the above cited reasons we are strongly opposed to Resolution 121.

Sincerely,
VIRGINIA H. KNAUER,
Special Assistant to the President for Consumer Affairs.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the gentleman's yielding.

I must say that I find it difficult to understand either the logic or the rationale of the Department of Agriculture or that of my friend, the gentleman in the well.

I wish the gentleman from Illinois (Mr. FINDLEY) might give the House the benefit of some of the figures that he has given us from the U.S. Department of Agriculture.

I think the gentleman from Vermont (Mr. JEFFORDS), in his response to our colleague, the gentleman from Minnesota (Mr. QUIE), indicated that there is very little indication that this will have the kind of Federal Government impact that USDA seems to believe will happen.

Mr. FINDLEY. Mr. Speaker, the gentleman is asking me a question. Let me respond.

I read directly from the letter of Mr. Lynn.

The SPEAKER. The time of the gentleman from Illinois (Mr. FINDLEY) has expired.

Mr. JEFFORDS. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. FINDLEY).

The letter says that the U.S. Department of Agriculture's analysis of Senate Joint Resolution 121 will increase Federal outlays by $180 million in fiscal 1977, by $350 million in fiscal 1978. According to the latest projections on milk supply and demand, the Federal Government will be buying surplus dairy products next year even at current support prices. To increase those prices in the face of a mounting surplus and the need for fiscal restraint would in our view be harmful.

That is the information upon which I base my remarks.

Mr. RICHMOND. Mr. Speaker, if the gentleman will yield, the figures we have from the USDA indicate the total cost will be roughly $200 million which will not cost anything if the price of milk stays as it is today.

Mr. FINDLEY. That is the additional Government outlay cost of the first year but the second year will be much greater.

The SPEAKER. The time of the gentleman has expired.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I would like to address my remarks to the urban Members of the House. There is no question, in listening to all of this dairy dialog that the American dairy farmer is in very poor condition. In the State of New York alone we have lost 10,000 dairy farmers since 1964. That is a very unhealthy rate and if it continues at the same rate, we will find ourselves at the mercy of foreign countries for our milk supply.

As you may know, I have in the past taken a position against legislation to increase parity for the dairy farmer and to provide for the guaranteed adjustment of marketing orders. However, during the past few months I have had the opportunity to observe firsthand the impact that the current method of adjusting marketing orders and 80 percent parity is having upon dairy farmers, and I am convinced that unless we pass the conference report on Senate Joint Resolution 121, we will make it economically impossible for the small farmer to stay in business, which would be a disaster for both farmers and consumers.

The legislation before us would raise parity to 85 percent and provide for the quarterly readjustment of milk marketing orders. The impact of this might be a small price increase for consumers, but nothing like the consequences of not taking this action. If we do not enact this legislation, many small dairy farmers will simply go out of business, as many have already done. This will result in less supply of milk and dairy products which will force milk and dairy prices higher at the retail level.

In the light of these facts, I urge you to support the conference report on Senate Joint Resolution 121.

Mr. JONES of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I would like to say I do not see how my good colleague the gentleman from Illinois (Mr. FINDLEY) thinks this will hurt the dairy farmers. I might say that the dairy farmers that I represent in my district are only a handful of my constituents so there is no big political issue over this as far as I am concerned, but let me say to the gentleman that they work about 16 hours a day, 7 days a week, and when the end of the year comes and if they have gotten $3,000 they are doing pretty well.

I would just say that from my standpoint if this causes the price of milk to go down from having a governmental investment in this program, it will at least keep the open spaces around our metropolitan areas in northern California and help keep these small businesses, these family businesses operating. To me this is a pretty good contribution to the history of this country.

I would definitely urge an "aye" vote for the conference report.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding and I would say to my good friend the gentleman from California does the gentleman mean to tell me that after we passed that marvelous California milk pool act that there are dairymen making $3,000 a year?

Mr. JOHN L. BURTON. Grade B producers. The gentleman knows they are not covered.

Mr. KETCHUM. Grade B producers are not included in the Milk Act.

Mr. GILMAN. Mr. Speaker, I rise today in support of the conference report on Senate Joint Resolution 121, which requires quarterly adjustments in milk price support levels until March 31, 1978, and a minimum support level of 85 percent of parity.

When this bill initially came before the House, I strongly supported this measure, for our Nation's dairy farmers have had to bear the brunt of inflation's impact on production materials without any accompanying increase in prices received for milk.

In recent hearings which I conducted in my congressional district, dairy farmers pinpointed the many severe economic problems confronting them and causing so many of them to discontinue farming. Since 1968, the number of dairy farms in my congressional district has been reduced from 677 to approximately 300. This bill provides assurance to our dairy farmers that their Government is concerned about them and their problems and is seeking to do something to help them.

The price support level, set at 85 percent of parity—a level which I believe is sound—along with quarterly price adjustments, will help the farmer plan and organize his production at a more even rate throughout the year. Knowing that he will receive an equitable price for his product will also provide an incentive to young people to enter dairy farming.

Mr. Speaker, it is imperative that the Congress provide a solution to the cost-price squeeze confronting the dairy farmers. This bill is a step in that direction.

Accordingly, I urge my colleagues to support the conference report on Senate Joint Resolution 121.

Mr. VIGORITO. Mr. Speaker, I rise in support of the conference report on Senate Joint Resolution 121, the bill to provide for quarterly adjustments of dairy price supports and to establish the statutory minimum for price supports on manufacturing milk at 85 percent of parity. The 85 percent level is currently about $8.26 per hundredweight of milk.

This legislation is the minimum that we can do in behalf of our dairy farmers, who have suffered a drastic cost-price squeeze during the past 2 years.

Over the course of this year, the Dairy and Poultry Subcommittee of the House Agriculture Committee held extensive field hearings throughout the country on the depressed condition of dairying and possible measures to correct that situation. A day of hearings was held in Meadville, Pa., in my district, on September 19, 1975, and some 300 dairymen participated in that hearing. Quarterly adjustments and more adequate price support levels were among the primary recommendations for action that were voiced during that hearing.

During the last few weeks, the price of milk to producers has increased modestly. On the basis of current price levels, establishment of price supports at 85 percent of parity would result in no Treasury costs, since market prices are presently above the $8.26 level. Now is the proper time, therefore, to enact this legislation.

Mr. Speaker, the conference report that is before the House today is completely identical to the version of Senate Joint Resolution 121 that passed the House November 18, and I urge my colleagues to support the conference report today.

Mr. STEIGER of Wisconsin. Mr. Speaker, I am in support of this conference report.

On December 16, a number of colleagues banded together on a bipartisan basis and that letter shows up aptly why this conference report is necessary and I want to include it as part of my remarks at this point:

DEAR COLLEAGUE: This week you will be asked to approve a Conference Report (94-723) on the Dairy Bill (S.J. Res. 121) passed without opposition in the Conference Committee as the Senate receded to the House Bill. When the original resolution was presented on the House floor, the bill was supported by a wide coalition of Consumer Advocates, members from dairy regions, and those with interests in food and agriculture in general.

The reason this bill was able to gain such wide support can be summarized as follows:

(1) Extensive field hearings have been held by the House Agriculture Subcommittee on Dairy and Poultry. The hearingse were conducted in every major dairy section of the U.S. and the Subcommittee heard from dairymen, industry leaders and consumer spokesmen. Problems facing the dairy industry were examined in detail. The conclusion is clearly that the present financial situation of the nation's dairy farmers is serious. Many dairy farmers have gone out of business in the last year and without some immediate assistance, thousands of dairymen will be going out of business in the months ahead.

(2) This bill will not—repeat will not raise the price of milk to consumers. It will encourage dairymen to expand production to meet present market needs by providing a floor price at a level such that they will not face financial disaster. The present program does not give assurance, thus explaining why milk production is not presently expanding.

(3) The previous position of the USDA has proven to be wrong. The impact of lower milk prices last winter and spring forced many dairy farmers out of business and resulted in lower milk production nationally. This has resulted in increased prices for fluid milk, cheese and butter. Currently government stocks of cheese and butter are completely depleted. Unless an adequate support is established to cushion the present market price we will again experience the "roller coaster" effect which, in the past, has injured both consumers and farmers.

(4) The Subcommittee looks upon this dairy bill as a temporary measure. The Dairy and Poultry Subcommittee intends to hold additional hearings on the problems related to the cyclical effect of milk production and prices to determine why retail prices to consumers never decrease during periods when farmers are receiving lower milk prices. Remarks of Rep. Fenwick which were directed to this problem are included on the attached sheet.

We urge your support of the Conference Report. Please help us keep Dairy Farmers in business so that we can keep the price of dairy products from escalating further now and in the future.

Sincerely,

Fred Richmond, Ed Jones, Joseph P. Vigorito, John Krebs, Alvin Baldus, Bob Bergland, Tom Hagedorn, James Jeffords, David R. Bowen, Matt McHugh Richard Nolan, Bill Wampler, William Steiger.

Mr. MOORE. Mr. Speaker, I rise in support of the conference report on

Senate Joint Resolution 121. I strongly supported this bill when it originally passed the House and in the Agriculture Committee of the House of which I am a member.

As a matter of fact, Mr. Speaker, earlier in this session, I cosponsored H.R. 3965, which provided for the raising of the price support to dairy farmers to 85 percent of parity as does this conference report. The provisions of this bill were incorporated into H.R. 4296 by the full Agriculture Committee, which was the Agricultural Act of 1975 which, likewise, I cosponsored. This bill was passed by the House and Senate, but was vetoed by the President. Subsequently, I cosponsored House Joint Resolution 682, calling for quarterly readjustments of a price support figure as does this conference report. Therefore, I have long and consistently proposed the provisions of this conference report.

In addition and most importantly, Mr. Speaker, with the cooperation of the chairman of the full committee, Mr. FOLEY of Washington, and chairman of the Dairy and Poultry Subcommittee, Mr. JONES of Tennessee, I was able to have Dairy and Poultry Subcommittee hearings conducted in my district in Franklinton, La., on November 21, 1975. Those hearings were tremendously successful. A more than capacity crowd of dairymen and their families packed the courthouse for the entire day of the hearings, and over 30 dairymen actually testified at those hearings. The result of their testimony was unanimous.

I might point out, Mr. Speaker, that this has been the only hearing held on Senate Joint Resolution 121 since its passage by either body of the Congress. There was unanimous and very strong support by the dairymen at those hearings who came from Louisiana and Mississippi for the passage of Senate Joint Resolution 121. They felt very strongly and argued very convincingly with fact and figures in hand that this bill was necessary in order to save the domestic dairy industry.

I believe earnestly that the results of these hearings should be made known to the Members of the House in an effort to get them to accept the conference report and to the President in order to convince him to sign this legislation into law. Not only is this legislation important to the future of the dairy industry, which is the single largest agricultural industry in my congressional district and thus vitally important to its economy, it is also important to our consumers. We must do what we can to keep a viable domestic dairy industry less we become dependent on foreign countries for dairy products as we have done in oil. We should have learned our lesson with OPEC oil never to become dependent on a foreign country for energy or food.

If the domestic dairy industry continues to decline, as it has done consistently in the last several years in my congressional district, then consumers will soon be paying a great deal more for milk and becoming dependent upon foreign countries in the process. I strongly urge my colleagues to pass this conference report and to do so in a manner sufficient to override a possible Presidential veto.

Mr. MIKVA. Mr. Speaker, I speak today against the conference report on Senate Joint Resolution 121. Senate Joint Resolution 121 provides for quarterly adjustments to be established at 85 percent parity in the support price of milk.

First and foremost, the House Budget Committee has informed us that the quarterly adjustment in the support price of milk exceeds the budget resolution by more than $65 million. As recently as a few weeks ago, we accepted a budget ceiling. And now here we are, already considering bills that will exceed that ceiling. Mr. Speaker, we have agreed that we can no longer afford to look at budget items in a piecemeal fashion. Let us keep in mind our resolve to consider the budget as a whole. According to the Budget Act, the first bill to exceed the total is subject to a point of order. Therefore, Congress will be faced with the choice of cutting $65 million from another bill or of increasing the budget by that amount. The fact that this resolution exceeds the budget ceiling is reason enough to subject the conference report to special scrutiny.

But in addition to this, there are inherent problems in the resolution. An increase in the parity price to 85 percent, along with a quarterly adjustment escalator, will increase the Government outlay for the dairy support program by $180 million for 1976–77 and by $350 million for 1977–78. This will cost consumers $501 million more for dairy products in 1976–77 and $882 million in 1977–78. In addition to increased costs to the consumer over the next few years, the higher prices which would follow will result in lower levels of consumption of dairy products. Ultimately, farmers themselves will not be helped by this resolution.

For these reasons, the resolution is bad from every standpoint—the producer, the consumer, and all of us as taxpayers.

Both the Department of Agriculture and the Special Assistant to the President for Consumer Affairs oppose this resolution.

I sympathize with many farmers who find themselves in a difficult economic situation, but there is little evidence that an increase in the support price of milk would help the farmer to any significant degree. Higher support levels would be inflationary, with damaging consequences to all the American people. We have seen this happen before where the unanticipated consequences of such actions as those proposed in this resolution have led to a situation which was detrimental to all Americans, including those it is intended to aid. Let us not continue to repeat our mistakes.

Mr. Speaker, I urge my colleagues to vote against the conference report.

Mr. JONES of Tennessee. Mr. Speaker, we could go on and on with this colloquy. I have a lot of figures that would refute what my good friend the gentleman from Illinois (Mr. FINDLEY) has said but I do not think it is necessary.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. FINDLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 307, nays 111, not voting 16, as follows:

[Roll No. 805]

YEAS—307

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
D'Amours
Daniel, Dan
Davis
de la Garza
Delaney
Dent
Derrick
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fish
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fuqua
Gilman
Ginn
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Harkin
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Landrum
Latta
Leggett
Lehman
Levitas
Litton
Lloyd, Tenn.
Lloyd, Calif.
Long, La.
Lott
McCloskey
McCormack
McDade
McEwen
Madden
McFall
McHugh
McKay
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mills
Mineta
Mink
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Poage
Pressler
Preyer
Price
Pritchard

Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Symington
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Weaver
White
Whitten
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—111

Adams
Anderson, Calif.
Anderson, Ill.
Archer
Ashley
Bafalis
Barrett
Bell
Blanchard
Brodhead
Broomfield
Broyhill
Buchanan
Burgener
Butler
Clancy
Clawson, Del
Collins, Tex.
Conlan
Cotter
Coughlin
Crane
Daniel, R. W.
Danielson
Dellums
Derwinski
Devine
Drinan
Duncan, Oreg.
du Pont
Early
Erlenborn
Evans, Ind.
Fenwick
Findley
Fisher
Frenzel
Frey
Giaimo
Gibbons
Goldwater
Gonzalez
Gradison
Green
Gude
Hannaford
Hansen
Harrington
Harris
Hechler, W. Va.
Helstoski
Holt
Howard
Hyde
Jacobs
Jarman
Jones, Okla.
Kelly
Ketchum
Lagomarsino
Lent
Long, Md.
Lujan
McClory
McCollister
McDonald
McKinney
Madigan
Mann
Martin
Michel
Mikva
Milford
Minish
Mitchell, Md.
Moakley
Moorhead, Calif.
Mosher
Mottl
Myers, Pa.
Nix
O'Brien
Patten, N.J.
Pettis
Pike
Rhodes
Rinaldo
Rogers
Rousselot
Sarasin
Satterfield
Schneebeli
Schroeder
Smith, Nebr.
Spellman
Steelman
Steiger, Ariz.
Studds
Symms
Talcott
Van Deerlin
Vanik
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wolff
Wydler
Wylie
Yates
Young, Fla.

NOT VOTING—16

Ashbrook
Burke, Fla.
Daniels, N.J.
Ford, Mich.
Fraser
Gaydos
Hastings
Hébert
Hinshaw
Macdonald
Maguire
Moss
Sullivan
Udall
Ullman
Waxman

The Clerk announced the following pairs:

Mr. Hébert with Mr. Ullman.

Mr. Dominick V. Daniels with Mr. Maguire.

Mr. Ford of Michigan with Mr. Ashbrook.

Mr. Macdonald of Massachusetts with Mr. Burke of Florida.

Mrs. Sullivan with Mr. Moss.

Mr. Udall with Mr. Fraser.

Mr. Waxman with Mr. Hastings.

Messrs. DELLUMS and BUCHANAN changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report on the Senate joint resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

AUTHORIZING CLERK TO MAKE NECESSARY TECHNICAL CHANGES IN PUNCTUATION, SECTION NUMBERS AND CROSS-REFERENCES IN ENGROSSMENT OF H.R. 11184

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make necessary technical changes in punctuation, section numbers, and cross-references in the engrossment of H.R. 11184.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN SECTION NUMBERS, CASE REFERENCES AND PUNCTUATION IN ENGROSSMENT OF S. 2718

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers, case references and punctuation in the engrossment of the Senate bill (S. 2718).

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 2718, RAIL REVITALIZATION AND REGULATORY REFORM ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, with a House amendment thereto, insist upon the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. CLANCY. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

APPOINTMENT OF CONFEREES ON S. 2718, RAIL SERVICES ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, with a House amendment thereto, insist upon the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROONEY, ADAMS, METCALFE, HEFNER, SANTINI, FLORIO, DEVINE, SKUBITZ, and HASTINGS.

PROVIDING FOR CONSIDERATION OF H.R. 9771, AMENDING THE AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 930 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 930

Resolved, That upon the adoption of this resolution it shall be in order to move without the intervention of any point of order that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9771) to amend the Airport and Airway Development Act of 1970. After general debate, which shall be confined to the bill and to the amendments made in order by this resolution and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be read for amendment by titles instead of by sections. It shall be in order to consider without the intervention of any point of order an amendment inserted in the Congressional Record of December 15, 1975, by the chairman of the Committee on Ways and Means if offered as a new title III to the said amendment in the nature of a substitute, and said amendment shall not be subject to amendment in the House or in the Committee of the Whole except, in the Committee of the Whole amendments offered by direction of the Committee on Ways and Means and an amendment inserted in the Congressional Record of December 15, 1975, by chairman of the Committee on Ways and Means. If said amendment inserting a new title III is agreed to in Committee of the Whole, it shall not then be in order in the House or in the Committee of the Whole to offer an amendment which would change title III. At the conclusion of the consideration of H.R. 9771 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30

minutes to the able gentleman from California (Mr. Del Clawson), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 930 provides that it shall be in order to consider, without the intervention of any point of order, H.R. 9791, a bill to amend the Airport and Airway Development Act of 1970.

House Resolution 930 provides for a modified open rule with 2 hours of general debate, 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and 1 hour to be equally divided and controlled by the Committee on Ways and Means.

House Resolution 930 also provides that it shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule, and the substitute shall be read for amendment by titles instead of by sections. It shall be in order to consider without the intervention of any point of order an amendment inserted in the Congressional Record of December 15, 1975, by the chairman of the Committee on Ways and Means if offered as a new title III to the amendment in the nature of a substitute, and the amendment shall not be subject to amendment in the House or in the Committee of the Whole except, in the Committee of the Whole amendments offered by direction of the Committee on Ways and Means and an amendment inserted in the Congressional Record of December 15, 1975, by the chairman of the Committee on Ways and Means. If the amendment inserting a new title III is agreed to in Committee of the Whole, it shall not then be in order in the House or in the Committee of the Whole to offer an amendment which would change title III.

H.R. 9771 revises and extends the Airport and Airway Development Act of 1970 under which State and local airport sponsors receive direct grants for airport improvement from the airport and airway trust fund.

H.R. 9771 authorizes $4,688,625,000 through fiscal year 1980 from the trust fund.

Mr. Speaker, I urge the adoption of House Resolution 930 in order that we may discuss and debate H.R. 9771.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 930 provides for 2 hours of general debate on H.R. 9771, the Airport and Airway Development Act of 1975. The debating time shall be divided between the Committee on Public Works and Transportation and the Committee on Ways and Means. The committee substitute shall be in order as an original bill for the purpose of amendment. The substitute shall be read for amendment by titles instead of by sections. This resolution waives points of order against consideration of the bill, the committee substitute, and certain amendments offered by the chairman of the Committee on Ways and Means, as published in the Congressional Record of December 15, 1975. Amendments offered by the chairman of the Committee on Ways and Means shall not be subject to amendment.

The purpose of H.R. 9771 is to amend the Airport and Airway Development Act of 1970, and to authorize funding from the airport and airway trust fund through 1980.

H.R. 9771 authorizes $4,760,625,000 for the next 6 fiscal years. The sum of $2,612,500,000 is authorized through fiscal year 1980 for airport development, and an additional $1,362,500,000 will be utilized for the aquisition and improvement of air navigation facilities. Research and development activities related to air navigation are authorized in the 1976 fiscal year and transition period. The Federal share of airport development project costs would be increased from 50 to 75 percent. Also the Federal share of planning grants would be increased from 66⅔ to 75 percent.

With respect to the airport and airway trust fund, moneys in the trust will be utilized for capital expenditures and safety features. It has been stated that after provision for the above items, trust fund moneys may be used for FAA system maintenance services.

Mr. Speaker, while there may be some controversy concerning the bill, I propose we adopt the rule and debate the bill during the allotted time.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Anderson).

Mr. ANDERSON of California. Mr. Speaker, I just want to use this time to make an inquiry for the record because it is not too clear to me. This refers to page 2 of the rule, about two-thirds of the way down, where the gentleman from Florida (Mr. Pepper) referred to an amendment that would be in order. The gentleman said this is an amendment that was inserted in the Congressional Record of December 15, 1975, by the chairman of the Committee on Ways and Means.

It is my understanding that that is the provision that allows me to introduce my amendment to the entire amendment of the Committee on Ways and Means to reinstate terminal development.

Mr. PEPPER. Mr. Speaker, if the gentleman will yield, that was the intention of the Committee on Ruless. The gentleman is correct.

Mr. ANDERSON of California. Mr. Speaker, I thank the gentleman.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

TAX REDUCTION ACT EXTENSION—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 94–325)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning without my approval the bill, H.R. 5559, sent to me today.

I have clearly stated ever since last October 6 that I would veto any tax cut if you failed to cut future Federal spending at the same time. You have refused at this time to put any limit on spending for the next fiscal year and instead sent me a temporary 6-month extension of the present temporary 1975 tax levels due to expire on New Year's Eve.

There is no need for withholding taxes to go up in 1976. There is no need for a prolonged confrontation between us on this question. I believe and you evidently believe that our nation will benefit by giving taxpayers a break in 1976.

The differences between us are these:

As I proposed last October 6, I want a larger tax cut in 1976 than we have had in 1975—$28 billion to be exact—while the bill before me merely extends this year's tax rate which works out to about $18 billion a year.

As I made clear over two months ago, I want any cut in Federal tax revenues coupled with a cut in the runaway growth of Federal spending. Unless we start doing this now we will run up larger and larger deficits and get farther and farther away from a balanced budget. We will risk a new round of double digit inflation which would invisibly tax every dollar the American people have or earn in the future by a much higher figure than any temporary relief this bill offers.

I said I would submit my recommendations for a $395 billion budget for fiscal 1977 to you next January and I intend to do so. This represents a $28 billion reduction in the projected growth of Federal spending and—if you will go along with me only on this overall ceiling—not on every detail as to where the cuts should come—we could have a $28 billion tax cut next year without adding to inflation, instead of this $18 billion cut that contains no spending cut commitment.

The third difference between our positions as represented by the bill I am vetoing is that your smaller tax cut extension does not give middle income taxpayers their fair share of relief. My $28 billion tax cut proposal would remedy this glaring inequity in the current schedule. While I want even lower Federal income taxes than you have approved in this legislation, I am determined to turn our whole tax policy toward a more fundamental reform. I believe we should leave more and more dollars with the people to spend or save as they please rather than send us more and more dollars to be spent in Washington.

I must return this bill, but this does not mean that taxes must go up next year. I am aware of the new Congressional budgetary procedures for which I voted when I was a member of the House of Representatives. I know that many Senators and Congressmen are trying in good faith to make them work in order to gain control of the currently uncontrollable growth of Federal spending. You still have time before Christmas to send me back a tax cut extension for 1976 coupled with a clear commitment to cut the growth of spending. Such a signal to the country and to the world that the Federal government in Washington is at least facing up to its responsibility to control runaway inflationary spending would be the best Christmas present overburdened American taxpayers have had in decades. I am willing and waiting to sign such legislation.

There is only one real issue here, and it requires some plain speaking. The American people want tax relief, need tax relief and deserve tax relief. Their government—the officials they entrust with the power to tax and to spend taxes—for years and years has not been honest with them. Their government has been cutting Federal taxes with one law and raising Federal benefits with another, knowing full well those benefits have to be paid for by future taxpayers or by the merciless tax of constant inflation, which even taxes the poor.

The American people know this. Upon serious thought, I am sure the majority of this Congress will recognize it. The only honest way to reduce taxes is to reduce the spending of tax money.

I am returning this half-way legislation and asking you to send me a bill that goes all the way, that takes the honest and responsible first step toward a balanced Federal budget, a stable economy, lower taxes and reduced rates of government spending.

GERALD R. FORD.

THE WHITE HOUSE, *December 17, 1975.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that further consideration of the veto message from the President on the bill H.R. 5559 be postponed until Thursday, December 18, 1975.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON H.R. 4073, REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975

Mr. JONES of Alabama. Mr. Speaker, I call up the conference report on the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional 2-fiscal-year period, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 15, 1975.)

Mr. JONES of Alabama (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. JONES of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset, may I express my appreciation to my colleagues, Mr. WRIGHT, Mr. JOHNSON of California, Mr. ROE, Mr. HARSHA, and Mr. HAMMERSCHMIDT, who served as House conferees on H.R. 4073, for their fine participation in the discussion we have had with the other body on the conference report which is before us today. I particularly want to express my appreciation and thanks to my colleague JIM WRIGHT for the outstanding leadership he demonstrated as conference chairman at the conference. I believe we have achieved a reasonable compromise with the other body on this legislation.

The conference report we have before us contains amendments and extensions to the Appalachian Regional Development Act of 1965, that passed this body on May 19 of this year.

In addition, the conference report contains amendments and extensions to the title V regional commissions authorized by the Public Works and Economic Development Act of 1965. Although the House bill did not contain these amendments, our Subcommittee on Economic Development, chaired by my colleague BOB ROE, held hearings on September 18 and 23, prior to going to conference on this bill, on all bills referred to the committee to amend and extend the Public Works and Economic Development Act. This included an administration bill that recommended a simple 3-year extension of the title V Regional Action Planning Commission program. The major provisions of the conference report are as follows:

AUTHORIZATIONS

First. The programs authorized by the Appalachian Regional Development Act are extended for 4 additional years. This continues the nonhighway programs through fiscal year 1979 and the highway program through fiscal year 1981.

BASIC CHANGES TO PROGRAMS

Second. The Commission is given the additional responsibility to coordinate planning and to coordinate Federal, State and local efforts in dealing with energy policies. Changes are made to improve the Commission structure and operation. Minor changes are made to the health, mine area restoration, and vocational education programs to improve their effectiveness.

The legislation provides for an Appalachian State development planning process in order to insure that the economic development of the region progresses in a planned and coordinated manner.

TITLE V—REGIONAL COMMISSIONS

Third. The Title V Regional Commission program authorized by the Public Works and Economic Development Act of 1965 is extended for 1 year through fiscal year 1977.

New demonstration programs are authorized for the Commissions in the areas of health, transportation, energy, and vocational education. These provisions will give the commissions more flexibility in meeting the particular needs of each region to reach the problem areas that have caused the region to fall behind in economic growth.

Total funds authorized by the bill is $1,850.85 million

Included the following:

FUNDING SUMMARY—REGIONAL DEVELOPMENT ACT OF 1975—H.R. 4073—AS AGREED TO IN CONFERENCE DECEMBER 2, 1975 (IN MILLIONS OF DOLLARS)

TITLE I—AMENDMENTS TO THE APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

Section of Appalachian Regional Development Act, 105. Section 106 of H.R. 4073:

Administrative Expenses: $4.6 million for 2-year period ending September 30, 1977 (not more than $.8 for expenses of Federal Cochairman and staff) $5 million for 2-year period ending September 30, 1979 (not more than $.9 for expenses of Federal Cochairman and staff)

Section of Appalachian Regional Development Act, 106. Section 107 of H.R. 4073: Office space through September 30, 1979.

Section of Appalachian Regional Development Act, 201. Section 110 of H.R. 4073:

HIGHWAY PROGRAM AND NEW AUTHORIZATION (IN PARENTHESES)

F/Y 1977, 185.
F/Y 1978, 180 to 250 (70).
F/Y 1979, 300 (300).
F/Y 1980, 300 (300).
F/Y 1981, 170 (170).

Authorized mileage increased from 2700 to 2900 miles. Access road mileage decreased from 1600 to 1400 miles.

Total, $840.

Section of Appalachian Regional Development Act, 401. Section 121 of H.R. 4073:

$340 million for 2-year period ending September 30, 1977.

$300 million for 2-year period ending September 30, 1979.

Total, $640.

Section of Appalachian Regional Development Act, 405. Section 122 of H.R. 4073:

Extends Act except Highway Program to October 1, 1979.

Total Additional Appalachia Funding, $1489.6.

TITLE II—AMENDMENTS TO TITLE V OF THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

Section 201 of H.R. 4073:

"Regional Action Planning Commission Improvement Act of 1975"

Regional Commissions New Authorizations.

Commissions that have been established for at least two (2) years.

Section of Public Works and Economic Development Act, 509. Section 202 of H.R. 14073:

F/Y 1976, 150 to 200 (50) plus 3 months (50).

F/Y 1977, 250 (250).

New Commissions: F/Y 1976 (5); plus 3 months (1.25); F/Y 1977 (5).

Total additional Title V funding, $361.25.

Grand total, $1,850.85.

SECTION-BY-SECTION OF H.R. 4073—AS AGREED TO IN CONFERENCE 12/2/75

Section 101. Cites the Title as the "Appalachian Regional Development Act Amendments of 1975."

Section 102. Amends Section 2 of the Appalachian Regional Development Act (hereinafter stated as Act) to add to the purpose clause a new subsection. The new subsection adds an additional purpose to the Act to coordinate planning and to coordinate Federal, State, and local efforts in dealing with energy policies.

Section 103. Amends Section 101 of the Act to require the Governor to be the State member of the Commission. The State Co-chairman must be elected to serve a term of not less than one year. Important decisions cannot be made without a quorum of Governors present. The Governor's alternate is not counted toward the quorum and the Commission's powers cannot be delegated.

Section 104. Amends Section 101(d) to revise the salary structure of the Federal Co-chairman and his alternate. Federal Co-chairman—level III—$42,000; Alternate—level V—$37,800.

Section 105. Amends Section 102 of the Act to insert a subsection to add to the functions of the Commission to identify the characteristics and distinguish between the needs and goals of subregional areas.

Section 106. Amends Section 105 to extend authorization of the expenses of the Appalachian Regional Commission not to exceed $4.6 million for the period beginning July 1, 1975 and ending September 30, 1977. No more than $800,000 is to be available for expenses of the Federal Co-chairman and staff. And not to exceed $5.0 million for the 2-year period ending September 30, 1979. No more than $900,000 is to be available for expenses of the Federal Co-chairman and his staff.

Section 107. Amends Section 106 to extend authority of Commission to rent office space through September 30, 1979.

Section 108. Amends Section 106 of the Act to make the executive director responsible for the administrative functions of the Commission and direction of the Commission staff.

Section 109. Amends Section 107 of the Act to insert a subsection to provide for public participation in the development and revision of all plans and programs under the Act and requires the Commission to publish guidelines for such public participation.

Section 110. Amends Section 201 of the Act to increase the highway mileage from 2700 to 2900 miles and to reduce the access highway mileage from 1600 to 1400 miles.

Section 201(g) is amended to increase highway authorizations from 180 million to 250 million for the fiscal year 1978. It also authorizes 300 million for each of the fiscal years 1979 and 1980 and 170 million for the fiscal year 1981.

Section 111. Amends Section 202, the Demonstration Health Program, to permit the acquisition of privately-owned health facilities operated for a profit where the acquisition is the most cost effective means of proving increased health services, and but for the acquisition, such services would not otherwise be available to the area, and the facility is not incompatible with existing Federal health laws and program implementation provisions of this Act.

Section 112. Amends Section 205, the Mining Area Restoration Provisions, to permit grants for planning and engineering for the abatement and control of mine drainage pollution and extinguishing mine fires and to make cover materials such as sand, clay and stone eligible project costs. It also amends the section to allow reclamation on lands owned by private non-profit entities when the land is to be used for public recreation, conservation, community facilities and public housing.

Section 113. Amends Section 207, the Low and Moderate Income Housing Provisions, authorizing planning and other preliminary expenses to expand the types of housing programs which may be assisted with "seed money" grants or loans to include any Federal or State low or moderate income housing assistance program. The amendment includes limited dividend or cooperative organizations as eligible for assistance and allows up to 10% of the value of rehabilitated housing for offsite improvements for housing rehabilitation projects. The amendment also provides funds to States, in addition to the Secretary or the Commission, for making grants and loans to non-profit limited dividend or cooperative organizations and public bodies for the purposes for which the Secretary is authorized to provide funds under this Section.

Section 114. Amends Section 211, the Vocational Education Program, to broaden the scope of areawide demonstration projects from strictly vocational and technical educational projects that will serve to demonstrate areawide education planning, services and programs, career education, and guidance and counseling. Selection of projects must involve all sectors of the community including labor and industry. It also amends a program to require that facilities of a demonstration project be publicly owned. It does not preclude training or on-the-job employment activities away from the facility if the project is administered through a public body.

Section 115. Amends Section 214, the Supplemental Grant Program, to include additional Federal Grant-in-Aid Programs eligible to be supplemented, including those that may be enacted up to December 31, 1978.

Section 116. Amends Section 223, the Program Implementation Provisions, to require only that the responsible Federal official determine that proposed projects or programs are not incompatible with the provisions and objectives of the laws he administers. It also requires that the programs and projects assisted must meet the planning process requirements established in new Section 225 of the Act.

Section 117. Amends Section 224, the Program Development Criteria, to require the Commission prior to project or program approval to determine that the level of Federal and State funding under other legislation for similar projects and programs are not diminished in order to substitute funds authorized by this Act.

Section 118. Amends the Act by adding a new Section 225 providing for an Appalachian State Department Planning process. Each State within the region must submit a development plan for the area of the State within the region to the Commission. This plan must reflect the goals, objectives, and priorities identified in the regional development plan and any subregional development plan that may be developed. It must describe the State organization and planning process including procedures for the participation of local development districts in the process. It must also state how the plan is related to overall statewide planning and budgeting process and the method of coordinating planning and projects under this Act and the Economic Development Act and other Federal, State and local programs. The plans must set forth goals, objectives and priorities as determined by the Governor and identify the needs, the means of achieving the objectives, and the funding sources. In carrying out the development planning process, States must consult with local development districts, local units of government and citizen groups and take into consideration their goals, objectives, priorities, and recommendations. Federal agencies providing financial assistance in the region must, to the maximum extent possible, take into account the policies established by the Commission, and recognize the State development programs approved by the Commission as satisfying requirements for overall Economic Development Planning. Also, they should accept the boundaries of any local development district certified under this Act which the Governor may designate as the A 95 review agency for the State.

Section 119. Amends Section 302 which authorizes the Administrative expenses of local development districts and research and demonstration projects to permit grants for the development of areawide plans or action programs and to authorize grants to the Commission for assistance to States up to 2 years to strengthen State development planning process for the region and to coordinate State planning under this Act, the Economic Development Act, the other Federal and State programs. Notwithstanding the prohibition of assisting gas and electric facilities, also the amendment authorizes the Commission to provide assistance up to 3 million dollars per fiscal year for demonstration projects including site acquisition in connection with the development of the region's energy resources, and up to 2.5 million per fiscal year for the development and stimulation of indigenous arts and crafts of the region. This Section also directs the Commission to study and report on the status of Appalachian migrants, current migration patterns, and the impact the Appalachian program has had on out-migration from the region. The Commission is also directed to study physical hazards which are constraints on land use and the risks associated with these hazards. The study is to identify the hazard areas throughout the region and is to report to Congress within 2 years after enactment of this Section.

Section 120. Amends Section 303 to require that State and Regional development plans, implementing investment programs, and any multi-State subregional plans be annually reviewed and approved by the Commission. Project applications for assistance under this Act must be made through the State member of the Commission who shall evaluate the application for approval. All projects must be certified by the State member to implement the development plans and otherwise meet the requirements of the Act. Once a State development plan is approved, the submission and approval of a project by a State and the Federal Co-chairman, are deemed to satisfy the requirements for approval.

Section 121. Amends Section 401 to authorize $340 million for the period beginning July 1, 1975, and ending September 30, 1977, and $300 million for the 2 fiscal year periods ending September 30, 1979, for non-highway programs.

Section 122. Amends Section 405 of the Act to extend the termination date of the Act except for the highway programs to October 1, 1979.

It also amends the Section to require the Commission to submit to the Congress by July 1, 1977, a report on the progress implementing the new authorities made by amendments to the Appalachian Regional Development Act under this Title.

Section 123. Repeals Section 104 of the Public Works and Economic Development Act which prohibits any funds appropriated under Title I of that Act to be expended for any project within the Appalachian Region.

Section 124. A provision to make new or increased authority to enter into contracts under the highway provisions in Section 201 of the Act subject to such amounts as are provided in appropriation acts pursuant to the requirements of Section 401 of the Congressional Budget and Impoundment Control Act of 1974.

Section 201. Cities the Title as "The Regional Action Planning Commission Improvement Act of 1975"

Section 202. Amends Section 509(d) of the Public Works and Economic Development Act (hereinafter stated as Act) to increase the authorization to carry out the title for the fiscal year 1976 from 150 to 200 million dollars and 50 million dollars for the transition quarter ending September 30, 1976. It authorizes 250 million dollars for the fiscal year 1977. After deducting the amounts required by the Secretary to carry out the administration and technical assistance, the Secretary is to apportion the remainder of sums appropriated to the regional commissions which have been established for more than two fiscal years.

An additional $5,000,000 for fiscal year 1976; $1,250,000 for the transition period; and $5,000,000 for fiscal year 1977 is authorized for the management and authorized activities of new commissions that may be established by the Secretary, for their first two fiscal years.

Section 203. Amends Section 513 of the Act to authorize each Commission to conduct studies and investigations of the transportation needs of the region. Each Commission can make grants for planning, construction, purchase of equipment and operation for transportation demonstration projects. Planning grants may be up to 100% of costs. Grants for construction, equipment and operation are authorized for up to 80% of costs. Not more than 5 million dollars of the funds apportioned to each region can be expended in any one fiscal year to carry out this Section.

Section. 204. Adds a new Section 515 to the Act to authorize grants for energy related demonstration projects and programs. Not more than 5 million dollars of the apportioned funds to each Regional Commission may be expended in any fiscal year for the purpose of carrying out this provision. In addition, this section authorizes each Commission to carry out demonstration projects, not to exceed $2,500,000 per Commission per fiscal year, for the development and stimulation of the indigenous arts and crafts of the region.

Section 205. Adds a new Section 516 to the Act which authorizes grants for multicounty demonstration health projects. Grants may be used for planning, construction, equipment, and operation of projects similar to those authorized by the Appalachian Regional Development Act. Construction and equipment grants may not exceed 80% of cost. Grants for the operation may be up to 100% of cost for the first two years and 75% of cost for next three years of operation.

Section 206. Adds a new Section 517 to the Act to authorize grants for planning, construction, equipping and operating vocational and technical education projects which will serve to demonstrate areawide educational planning services and programs. Construction and equipment projects may not exceed 80% of cost, grants for operation may be up to 100% of cost for the first two years and 75% of cost for the next three years. A planning grant for the development of a demonstration project may not exceed 75% of such expenses. All projects must be for publicly owned facilities. Funds for projects under this Section may be combined with the funds available under other federal grant-in-aid programs.

Section 207. Each Regional Commission must submit to each Committee on Public Works within 120 days after enactment their regional development plan.

Section 208. Amends Sec. 502(b) to require each State member of the commission be the governor of each state. The State members of the commission must elect a State Cochairman from their members for a term of not less than one year.

Amends Sec. 502(c) to require a quorum of State members be present to decide commission policy, approve the regional development plan, implement investment programs, or allocate funds among the States.

Amends Sec. 502(d) to permit the governor to appoint an alternate from his cabinet or staff. The alternate cannot be counted toward the quorum in matters requiring the presence of state members. No commission power, responsibility or vote may be delegated.

Section 209. Amends Section 501(a)(B) to add California, Texas, the Commonwealth of Puerto Rico and the Virgin Islands as exceptions to the requirement that a region must be within contiguous States to be designated as an "economic development region" by the Secretary.

Amends Section 502(f) to permit the Secretary to designate single State Commissions for the State of California or the State of Texas if they otherwise meet the requirements for an economic development region.

Congressional intent is also expressed that the Secretary encourage formation of a regional commission along the Mexican border in the States of Texas, New Mexico, Arizona and California.

Mr. Speaker, today I bring before the House, for myself and the members of the Committee on Public Works and Transportation, the conference report on the Regional Development Act of 1975, a bill to extend and amend the Appalachian Regional Development Act of 1965, and title V of the Public Works and Economic Development Act of 1965.

Mr. Speaker, as you know, on March 19 of this year the House overwhelmingly passed H.R. 4073 by a vote of 309 to 88. The House-passed bill provided for a 4-year simple extension of the nonhighway programs and a 2-year extension of the Appalachian regional development highway system.

The bill before you today, authorizes the extension of the Appalachian regional development highway program for 3 additional years through fiscal year 1981 and extends the Appalachian Commission and the nonhighway programs for 4 additional years through fiscal year 1979.

The Appalachian development highway program is presently authorized through June 30, 1978. Authorizations for the highway program are increased from $180 million for fiscal year 1978 to $250 million for fiscal year 1978, to $300 million for fiscal year 1979, $300 million for fiscal year 1980, and $170 million for fiscal year 1981. The increase in these authorizations is a reflection of the sharp increase in highway construction costs. In addition, H.R. 4073 increases the highway mileage from 2,700 to 2,900 miles and decreases the access road mileage from 1,600 to 1,400 miles.

Authorizations for the Appalachian nonhighway programs expire June 30 of this year. The current authorization for the nonhighway programs for the 2-year period is $294 million. H.R. 4073 authorizes $340 million for the period beginning July 1, 1975, and ending September 30, 1977, and $300 million for the 2-fiscal-year period ending September 30, 1979. In addition to the funds authorized for the highway and nonhighway programs, H.R. 4073 authorizes $4.6 million for the administrative expenses of the Appalachian Commission for the 2-year period ending September 30, 1977, and $5 million for the 2-year period ending September 30, 1979. Of the funds authorized to be appropriated, not more than $300,000 for the first 2-year period and not more than $900,000 for the last 2-year period may be used for the expenses of the Federal cochairman, and his staff.

Mr. Speaker, at the time the House was considering the extension of the Appalachian bill, the administration had not yet completed its review of the Appalachian Commission's proposed revisions to the Appalachian Act. Our committee did hold extensive hearings on the Commission's proposals. Between the time the House passed H.R. 4073 and the Senate began its consideration of the Appalachian program, the administration's bill was sent to Congress with a series of comprehensive recommendations to amend the Appalachian Act. The amendments proposed by the administration and adopted by the Senate were based on a thorough review of the Appalachian program. In addition, during our committee hearings on the Appalachian bill, witnesses from every State in Appalachia—mayors, Governors, local officials and citizens—supported the administration's proposed revisions to the Appalachian Act.

On July 17, the Senate passed, by an overwhelming margin of 92 to 1, the Regional Development Act of 1975 (S. 1513), which contained amendments to the Appalachian Regional Development Act of 1965 as well as amendments to title V of the Public Works and Economic Development Act of 1965.

Mr. Speaker, as you know, during the last decade the Appalachian regional development program has provided assistance to the economically and socially depressed areas of the 13-State Appalachian region. The 1975 amendments continue a program that has helped the people of Appalachia develop the base of institutions and public facilities that are vital to the region's economic growth and development.

When Congress devised the Appalachian program in 1965 we recognized that the special problems of Appalachia were not to be solved overnight nor even in the first 10 years of its existence. In 1960, Appalachia was a terrible scar on the face of our Nation. The States not only lacked the most basic services that people need—those of primary health care and education—but the tax base was so low in these 13 Appalachian States, that there was no money to construct mountain highways nor provide the physical infrastructure necessary for sound economic growth. And, despite the wealth of its natural resources, coal production was down in Appalachia and unemployment continued to rise.

During these early years the level of unemployment in Appalachia was nearly twice the national average and one out of every three families existed on an annual income of less than $3,000. Simply put, our major goal was to transform the Appalachian region from a pocket of poverty and despair into a region of hope and a full participation in our Nation's wealth and prosperity.

Mr. Speaker, it gives me a great sense of pride today to know that the programs we have authorized under the Appalachian Regional Development Act have had a profound impact on the lives of the Appalachian people. We have improved the quality of inadequate human services and provided public works facilities to communities badly in need. Accessibility has now been improved in Appalachia by the completion of over half of the routes in the Appalachian development highway system. And, the Appalachian Regional Commission has proven its effectiveness in administering a unique regional program that has established a viable partnership; Federal, State, and local governments. The Appalachian Commission has provided the framework for the establishment of innovative governmental mechanisms in all the Appalachian States. The 70 local development districts that now exist throughout the Appalachia region have enabled local units of government to participate more effectively in building a better future for their communities within the joint-Federal-State decisionmaking process.

Mr. Speaker, the bill before the House today extends a program that has proven its effectiveness as a unique and innovative approach in solving regional problems. The House conferees have agreed to several amendments offered by the Senate. These amendments strengthen ongoing programs as well as provide new authorities to meet the challenges and problems that confront Appalachia in our changing world economy. We recognize that fundamental changes are occurring in national energy requirements and production which will undoubtedly have long-term impacts on the Appalachian region.

Although the energy resource potential of Appalachian coal is now recognized as a major national asset, it is also imperative that we assist the region in developing a balanced and rational energy policy that recognizes the changing structure of energy and fuel supply and demand, that protects fragile environmental areas and the economic and social life in Appalachia. The Appalachian Regional Commission is uniquely qualified to provide the framework for coordinating Federal, State, and local efforts in the formulation and implementation of a regional energy policy. Our amendments in H.R. 4073 encourage this new direction in the Commission's regional development strategies.

Mr. Speaker, one of the most significant aspects of the Appalachian experiment is the continuing development of the partnership role among all levels of government. In the bill before you today, we have strengthened the original concept of a partnership role between the Federal Government and the 13 Appalachian States. To enhance the participation of the region's Governors as active members of the Appalachian Regional Commission, H.R. 4073 makes certain amendments which clarify the Governor's role within the Commission's structure and operation.

The major difference between the House-passed Appalachia bill and the conference report is title II which will strengthen the programs of the other regional commissions. When Congress passed the Public Works and Economic Development Act in 1965, it was recognized that there were regions of distress which lagged behind the Nation, that were outside the boundaries of the 13-State Appalachian region. Although the causes of distress varied among the regions and often extended beyond State boundaries, Congress recognized that earlier efforts to assist the people in these areas were usually fragmented and uncoordinated.

The Appalachian Commission was recognized as a "test bed" or demonstration of how regional development should be undertaken in other depressed regions like the Appalachian region. The magnitude of the problems in these areas clearly required a regional strategy that could coordinate diverse development strategies, focus on priority needs, and build a lasting and unified economic base for the region. In addition, the resources of any one local government were so limited that coordination of investment decisions was imperative. To begin an effective program of development assistance to these regions, Congress authorized the creation of multistate regional commissions through the Public Works and Economic Development Act. The "Title V Commissions"—there are seven—have been considered an innovative experiment since their establishment and have demonstrated that they can provide the framework needed to achieve cohesion and direction in regional development activities.

The seven commissions—Ozarks, Old West, Upper Great Lakes, New England, Coastal Plains, Four Corners, and the Pacific Northwest—cover all or parts of 31 States. As in Appalachia, the title V commissions were given broad authority to supplement other Federal grants, to undertake planning and studies, to provide technical assistance to local government, and to encourage the capability of State members to foster the economic growth of the region. However, because the title V commissions have only had the skeleton of a program, these commissions have never been able to achieve the level of program performance of the Appalachian Commission.

Mr. Speaker, it is now time to elevate the title V commissions to a level that is comparable to the Appalachian Regional Commission. H.R. 4073 will increase the authorizations as well as expand the program authority of these commissions in the fields of energy, transportation, education, and health—all crucial elements in economic development. In addition, H.R. 4073 provides new authority for the creation of additional regional commissions throughout the country.

Just as we are concerned about the fate of the Appalachian region and the national importance of its energy-rich coalfields, we must also be concerned about the demand for energy from the Western States and the impact it will have on the economic and social life of these communities. We must also be concerned with energy-consuming regions of our Nation. Many of the title V commissions are concerned with the high costs of energy and associated problems in transportation and in rate regulation.

In view of the serious energy problems that exist in the Nation today, and the need to develop a regional-wide strategy to anticipate and plan for the economic and environmental impacts of the energy crisis on the various regions of the country, H.R. 4073 authorizes each regional commission to develop, as soon as possible, a regional energy policy that will address the unique problem of each region as these relate to the commission's overall programs.

H.R. 4073 provides the commissions with new authority to develop a transportation system that is meaningful to each particular region. Transportation planning for regional economic growth is essential if the title V regional action planning commissions are to properly address the problems of economic distress in the Nation. New authority is also provided to assist the commissions in encouraging comprehensive, areawide health planning and in providing expanded opportunities in vocational and technical education. In developing vocation-educational programs and comprehensive health care delivery systems, the title V regional commissions should benefit from the decade of experience in this field of the Appalachian Regional Commission.

The title V commissions are extended for 2 additional years with authorizations increased from $150 million in fiscal year 1976 to $250 million, and $250 million for fiscal year 1977. Funding for new commissions established is authorized at $6.25 million for fiscal year 1976 and $5 million for fiscal year 1977. The total authorization for title V commissions under H.R. 4073 is $361.25 million.

Mr. Speaker, the Regional Development Act of 1975 reaffirms the original purpose, and objectives that Congress endorsed when it enacted both the Appalachian Regional Development Act and the Public Works and Economic Development Act in 1965. The creation of multistate regional commissions have provided a unique governmental structure to meet the diverse needs of distressed areas in our country. It is time that we now expand the authorities of these commissions as well as encourage the creation of new regional commissions.

I want to particularly commend the members of the Public Works and Transportation Committee for their support and commitment to the Appalachia program and the title V commissions. We have clearly made a record of achievement. It is now time to complete our task.

I urge the Congress to adopt the conference report and extend these programs as reported in H.R. 4073.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 4073, the Regional Development Act Amendments of 1975. This report provides a 4-year extension of the Appalachian Regional Commission programs through fiscal year 1979 and an extension of the Appalachia highway programs through fiscal year 1981. The conference committee agreed to the 4-year extension and the basic funding figures which the House passed overwhelmingly in May of this year.

In addition to the extension of the Appalachian program contained in the House bill, the conferees accepted the Senate provision amending title V of the Public Works and Economic Development Act of 1965, as amended, to extend through fiscal year 1977 the regional development commissions created under this act.

Presently there are seven regional commissions covering 31 States, in whole or in part. These commissions will be extended by this bill and their authority will be expanded to provide for demonstration projects in the areas of health, vocational-technical education, transportation and energy. This expansion of authority and extension of the regional commissions is important as it will provide an additional stimulus for economic development to benefit a much larger part of the country.

In past years the funds and the authority of the title V commissions have been minimal. It has been insufficient to bring about substantial economic development comparable to that which has been achieved in the Appalachia region. The Appalachian Regional Commission programs have demonstrated that economic development requires better educational facilities, vocational training programs, health facilities, and adequate transportation systems. This bill gives the regional commissions authority to undertake demonstration projects in areas comparable to those of the Appalachian Regional Commission. These additional tools are needed by these commissions to accomplish their goal of economic development in areas of the country which are lagging behind the Nation in per capita income.

This is an important step toward equalizing the distribution of money that may be available for economic development. We can all be proud of the accomplishments which have been brought about in the Appalachia region. This progress shows that economic development can occur when supplemental funds are provided to depressed areas. It is time that the other regional commissions be given the same chance to develop their areas. It is time for the Congress to demonstrate its commitment to stimulating economic development in other areas of the country.

New language was added in this bill to insure that the Governors take a personal interest in these programs. This is necessary to strengthen the Federal-State partnership. Greater Governors' participation will also insure that the projects undertaken by the regional commissions will serve the entire region and not merely one State or segment of that State. The conferees have agreed to an allocation formula for distributing funds among the title V regional commissions. The use of an allocation formula based on population, land area, per capita income (weighted inversely) and equality among the various commissions recognizes that there are different needs in the separate regions. This is a more realistic way of allocating funds, than dividing the funds equally between the commissions as has been done in the past. As the mission and means of the regional commissions grows, it is essential that an allocation formula be adopted.

Next year the Economic Development Subcommittee of the Public Works Committee will be considering legislation to extend the Economic Development Administration programs. During the consideration of this legislation, we will examine closely the title V Commissions in an effort to evaluate their progress and to suggest other changes which may be needed to increase the effectiveness of the commissions. The expanded authority of the regional commissions, the allocation formula and the funding of projects by the various commissions will be studied by the subcommittee next year.

At this time when a very large segment of the Nation is suffering severe economic problems, Congress must demonstrate a commitment to stimulating economic development throughout the country and toward providing additional flexibility to achieve this goal. I believe this bill is an important step to accomplish this worthwhile goal.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 4073, the conference report on the amendments to the Appalachia Regional Development Act and amendments to title V of the Public Works and Economic Development Act of 1965, as amended. Earlier this year the House passed a simple 4-year extension of the Appalachia program together with a 2-year extension of the highway program contained in Appalachia. This act, which expired in June of this year, has, since its inception, provided over a billion dollars in nonhighway program funds for the development of this region. When the act was originally passed the Appalachia Region was a national disgrace, with income, health, and educational levels far below the country's and the general standard of living significantly below the rest of the Nation. Appalachia was losing population through outmigration. For years it relied on a single industry—coal—to sustain its fragile economic base. The Appalachia Regional Development Act was a response to the needs of this region covering all or part of 13 States. Since 1970 outmigration has been arrested and reversed; today parts of Appalachia enjoy a population growth rate higher than the United States and an income gap that is narrowing. But, more needs to be done. We cannot rest now without sure signs of the region turning the corner and becoming a part of the economic mainstream of this country.

The other body passed an extension of the Appalachia Act last summer, extending the act for 2 years and extending the highway program through fiscal year 1981, or 3 years beyond its expiration date. This extension encompassed many of the administration's requested changes to the act as well as changes the other body felt necessary for the continued operation. Specifically, a new provision calls for the Governors of each of the States to attend commission policy meetings. Additionally, a new planning process has been devised which will target Appalachia funds into projects that are consistent with development plans of each of the States. Approval of these plans by the Governors is necessary before funds can be used in implementing the plans. The conferees agreed to the amendments by the other body and the product of the conference is a 4-year extension of the nonhighway program, 3-year extension of the highway program, and the language contained in the Senate amendments to the act.

Lastly, the Senate added several provisions to the title V regional commissions authorized under the Public Works and Economic Development Act of 1965, as amended, and extended the commissions for an additional year, through fiscal year 1977. The title V commissions will now have authority to conduct demonstration programs in transportation, energy, and can fund vocational-technical education projects and health projects. The conferees agreed to these amendments and to the increase in the authorizations for the title V commissions and stated in the conference report the intent to have funds distributed to the commissions on a formula basis, with per capita income, weighted inversely, as the primary factor for the distribution of funds.

Mr. Speaker, I support this conference report and I urge the House to accept it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Will the gentleman inform the House how much money is authorized in this conference report?

Mr. HAMMERSCHMIDT. The authorization is about $1.9 billion, which includes the extension of the Appalachia program for 4 years, the Appalachian highway program for 3 years and title V EDA regions for an additional year, through fiscal year 1977.

Mr. BAUMAN. It is $1.9 billion over 4 years?

Mr. HAMMERSCHMIDT. Over 4 years for Appalachia.

Mr. BAUMAN. How much is that above the House budget?

Mr. HAMMERSCHMIDT. It is hard to compare because the House conferees accepted the title V regional commission amendments in this conference report. These commissions were being considered by the committee in EDA legislation, but we decided to move it into this. Title V is $360 million in new authorization. That is new authorization.

Mr. BAUMAN. Is that in the budget request made by the President?

Mr. HAMMERSCHMIDT. The administration requested $150 million per year. They had asked for a 3-year extension to the authorization at $150 million a year, but we only extended this through fiscal year 1977. It is a little bit hard to compare the two figures. In my opinion, we are not substantially outside of the administration's request. It is within the "Hill" budget as well. It is through fiscal year 1977, and adds a total of $360 million. The administration had requested a 3-year extension of the EDA Act, of which title V was in at $150 million per year.

Mr. BAUMAN. I thank the gentleman for the explanation.

Mr. HAMMERSCHMIDT. I have no further requests for time.

Mr. ROE. Mr. Speaker, I rise in support of the conference report on H.R. 4073, a bill to amend the Appalachian Regional Development Act of 1965 and the Title V Regional Action Planning Commissions. As the chairman of the Subcommittee on Economic Development, I am pleased to join with Congressman ROBERT JONES, chairman of the Committee on Public Works and Transportation, in urging the passage of the Regional Development Act of 1975. I want to pay a special tribute to Congressman JOHN PAUL HAMMERSCHMIDT, the ranking minority member of our subcommittee, who worked vigorously in carrying this bill through conference and to the floor today.

Mr. Speaker, the bill before you today continues two programs in regional economic development that are perhaps the most effective and innovative measures in our national economic development efforts. The Title V Regional Action Planning Commissions and the Appalachian Regional Commission have amply demonstrated the effectiveness of regional economic development in our country. Within the framework of these commissions we have established a unique Federal-State-local partnership which has distinguished these programs from their inception. Programs initiated and funded through these acts have originally been conceived and undertaken at the local level, where the needs and aspirations of the people directly concerned are considered.

All of us who have watched these programs develop over the years recognize that the title V commissions have never reached the level of program performance that the Appalachian Commission has achieved. The time has now come to bring equity among the title V commissions and Appalachia. In the bill before you today, we have not only increased the authorizations of the title V commissions, but we have extended their program authority into four crucial areas—energy, transportation, health, and education. The success of the title V commissions in regional economic development is in our hands today. Previous administrations have provided the title V commissions with a bare-bones budget—some have said that the title V commissions have always been allocated just enough money to die. I sincerely believe that the lessons we have learned from Appalachia represent a decade of invaluable experience in regional development planning. Let me briefly review today, the success of the Appalachian region that was literally pulled out of isolation and the depths of poverty 10 years ago today.

Under the Appalachian Regional Commission we have witnessed the success of the Federal Government and the 13 Appalachian States working together to improve the economic and social well-being of a diverse region. The flexibility of the ARC funding and the joint Federal-State decisionmaking process has made this commission a dynamic program capable of responding to new problems and opportunities within the region. The commitment of the Appalachian Governors to the maintenance and enhancement of this decision-sharing process has enabled the 13 States to work together and resolve differences in the interests of the region as a whole. The Appalachian program will continue to be relevant to the needs of the region's people, because this program has within itself the capacity to modify development strategies to changing conditions and new challenges.

The establishment of the local development districts within the Appalachian region has provided yet another mechanism to insure the participation of the local communities within the decisionmaking process. The LDD's provide the link which is so essential for insuring that the needs and potentials of local areas are recognized in overall economic planning.

Within the framework of the Appalachian Regional Commission structure, we have made great strides in meeting the goals of achieving a diversified and sustained economy in Appalachia and a quality of life which is closer to the national norm.

During the past 10 years the Appalachian Commission has provided the region with basic community facilities such as hospitals, vocational education schools, child development centers and housing which were virtually non-existent in the early 1960's. In addition, the Appalachian program has provided the roads, water and sewer systems and a wide range of other community infrastructure needs that were necessary to transform many depressed areas into viable communities. The provision of badly needed human services in Appalachia has given hope and a sense of pride to its people.

Although much still remains to be done to fulfill our goal of improving the quality of life in all of the 13 Appalachian States, it is imperative that we also face the new realities confronting Appalachia in a changing world economy. We have yet to tap the vast energy resource potentials in Appalachian coal. It is clear that the patterns of economic growth and social quality in much of Appalachia are significantly related to the development of coal. We also know that the concurrent diversification of industry and the provisions of public facilities and services will be crucial to sustaining the region after the coal "boom" declines. The Appalachian Regional Commission will be in a unique position to participate in the formulation and implementation of regional energy policy. In addition, the Appalachian States have an excellent opportunity to use the resurgence of the coal industry as a source of new income to be used for providing infrastructure and repairing environmental damage.

Mr. Speaker, the Appalachian region and the title V regions clearly offer great opportunities for the future of our Nation to decrease its dependence on foreign energy resources. Under the Appalachian Regional Development Act and the Public Works and Economic Development Act, we have seen many changes in these regions and have made solid progress in meeting the goals set forth by the Congress in 1965. I urge the passage of the bill before us today, Mr. Speaker, and want to commend Congressman ROBERT JONES, chairman of the Committee on Public Works and Transportation for his leadership and his efforts which have made it possible for us to bring this conference report before you today.

Mr. HOWE. Mr. Speaker, I rise in support of the conference report on H.R. 4073, the Regional Development Act Amendments of 1975. I specifically want to stress to my colleagues the importance and value of title II of this bill, since it is a new title based on the Senate version and no comparable provisions were previously considered in the House. This title slightly increases funding levels for the title V Regional Commissions, of which there are now seven, and expands their program authority so that they may better carry out their mandate to stimulate economic development in depressed areas.

Members of the House should be aware that although title II is new to you today, the Subcommittee on Economic Development, on which I serve, devoted several days to hearings and discussions on the title V Regional Commissions. While it was our original intention to report a separate bill dealing with these Commissions, our thinking was in complete accord with the Senate amendments to the Appalachia bill. In fact, since our goal was to give the title V Commissions authority somewhat comparable to the Appalachian Regional Commission, it is probably fitting that the two programs be considered in the same bill and I am pleased by the conferees' retention of the Senate's title II.

I have a strong personal interest in the Regional Commissions program since I served as executive director of the Four Corners Regional Commission for 4 years before coming to the Congress. During my experience with the Four Corners Commission I saw firsthand the potential for success of this program. At the same time I was continually frustrated by our inability to realize this potential because we lacked the funding and authority to generate the economic growth needed in the region.

The Appalachian experiment has been an overwhelming success and has proved to be a very sound investment of the taxpayer's dollar. I am convinced the title V commissions could achieve the same outstanding results if their funding and authority were commensurate with that provided the Appalachian Regional Commission. Title II of this bill is a good beginning. It increases the authorization for the title V commissions from $150 to $200 million for fiscal year 1976 and increases it to $250 million in fiscal year 1977. In addition it provides new authority to the commissions to fully fund demonstration projects in the fields of transportation, energy, health, and education. The new authority for developing regional energy strategies is particularly important to the Four Corners Regional Commission and my State of Utah. This Congress will have to answer in November for our success or failure in trying to restore the Nation to a healthly economy. Holding the line on Federal spending and voting for tax cuts are important, but they are only treatments for the symptoms. The title V regional commissions were established to foster real economic growth and they have the capacity to invigorate heretofore nonproductive segments of our economy. But to do this, they have to have our enthusiastic support and the tools to do the job as evidenced in the amendments contained in title II of this bill. I strongly urge House passage of the conference report on H.R. 4073.

Mr. PERKINS. Mr. Speaker, I want to give strong support to the conference report on H.R. 4073, the legislation which concerns itself with regional development, including the continuation of the programs of the Appalachian Regional Commission.

Although the legislation is significantly different from the bill we passed in the House by a vote of 309 to 88 last May 19, I think the conferees have done an admirable and a commendable job of continuing the programs which means so much to the economic development of the Appalachian region.

To my way of thinking, these programs are not really expenditures, but are investments in the future of an entire area—a great area, with wonderful, hard-working thoughtful people. Once we have the facilities we need—the water and sewer systems, the industrial sites, the vocational schools, we will also have the industrial and commercial jobs we need to make the area an economic showplace, and a credit to the thinking of the people here in the Congress who realized what true progress really involves.

I want to mention especially Represenative HARSHA, for his work, and I want to point out that the chairman of the Public Works Committee, Representative BOB JONES, deserves the deepest, most sincere admiration of every man and woman who believes in building a better life for the people.

Representative JONES is the legislative giant of the Tennessee Valley of Alabama, a man who has never forgotten and never will forget what it means to farm for a living, fighting the sun and the soil and the weather; or what it means to work hard, hour after hour, sometimes for little pay, to support a family; or the struggle involved to build a business up, plugging away, day after day. He is one of the greats of the House of Representatives, a man for education, a man for health, a man for good government which helps the people, and as this report comes before us for a vote, I just wanted the Members to appreciate a few of BOB JONES many high qualities.

Mr. BROYHILL. Mr. Speaker, I rise to support the conference report on H.R. 4073 which extends the Appalachia Regional Commission nonhighway program through fiscal year 1979 and the highway program through fiscal year 1981. In addition, this bill provides for an extension and expansion of authority for the title V Regional Commissions.

I have watched with interest and pride the development of the Appalachia Regional programs over the years. In my congressional district, which presently includes four Appalachia counties, real progress and development has been made as a result of these programs. Supplemental funds provided through the Appalachia program have been responsible for improved educational, health, and vocational facilities. It has been a truly effective Federal-State partnership and deserves credit for economic stimulation and development in an area of the Nation which previously lagged far behind the national average.

The Appalachian highway program has lead to the construction of roads through the region. This improved transportation system has meant that the people of the region are able to travel to better jobs, to get to better health facilities and that goods manufactured in this area are able to be moved quickly to the marketplace. Therefore, the people who live in the Appalachia area now have a reason to remain there to live and work. Thus the outmigration which once was a characteristic of this region has now been reversed.

This legislation is important to continue the job of economic and regional development for these areas of the country. I am hopeful this measure will be enacted swiftly.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PUBLIC BROADCASTING FINANCING ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 11, 1975.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The gentleman from West Virginia (Mr. STAGGERS) is recognized.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 6461—the Public Broadcasting Financing Act of 1975—is a good one and I trust that it will be adopted by the House.

In summary, the conference report would—

First. Authorize not more than $634 million for the 5 fiscal years 1976 through 1980 for the Corporation for Public Broadcasting—CPB—and public broadcasting generally, but provide that the actual authorization for each fiscal year will be based on non-Federal financial support of public broadcasting, with $1 authorized to be appropriated for every $2.50 of non-Federal financial support received by public broadcasting entities in the second preceding fiscal year.

Second. Require that, of the amounts appropriated to the CPB, from 40 to 50 percent be distributed directly to on-the-air noncommercial educational broadcasting stations for their programing, operation, and maintenance.

Third. Authorize the Corporation to engage in the development and use of nonbroadcast communications technologies, such as CATV and communications satellites, for the distribution and dissemination of educational radio and television programs.

Mr. Speaker, the conference report on H.R. 6461 differs in three substantive respects from the bill as passed by the House. I should like to address myself briefly to those differences.

First. The House bill would have provided that for fiscal years 1979 and 1980 $1 would have been authorized to be appropriated for every $3 in non-Federal financial support received by public broadcasting entities during fiscal 1977 and 1978, respectively. The conference report, however, provides that the matching requirement for fiscal years 1978 and 1980 will be the same as for fiscal years 1976, 1977, and 1978; namely, $1 for every $2.50 of support received by public broadcasting entities in the second preceding fiscal year.

Substantial, and I think legitimate, concern was raised with respect to the House matching requirement for 1979 and 1980, Mr. Speaker. There was some belief expressed that no matter how desirable the goals those requirements established, they were unobtainable and may have prevented substantial and badly needed sums of money from being received by the public broadcasting community. Nonetheless we intend to closely follow the trend of non-Federal financial support for public broadcasting and if the $1 to $3 matching requirement appears to become feasible and in the public interest, we intend to establish it as the basis for authorizations of appropriations for public broadcasting.

The second substantive difference between the bill as passed by the House and the conference report is that the conference report omits a provision which would have required that a significant portion of the funds appropriated pursuant to the legislation be utilized for the development and dissemination of instructional programing. Mr. Speaker, the conferees concluded that this was already a policy stated in section 396(a)(i) of the act and that it was unnecessary to include the House provisions on instructional programing.

The third substantive difference, Mr. Speaker, is the omission of the Stokes civil rights amendment which was adopted on the House floor. There was no other difference between the House and Senate versions which gave the conferees on this legislation more difficulty.

The Senate conferees strongly objected to the inclusion of this provision in the conference report on grounds that it raised serious technical problems and that it would place the CPB in the position of a Federal agency for purposes of promulgating and enforcing civil rights regulations. This, of course, is contrary to the whole scheme of the Public Broadcasting Act. Under that act, the CPB is, and was intended to be, a private, nonprofit corporation serving as an interface between the Federal Government and this Nation's noncommercial, educational broadcasting stations. This is in conformity with the intent and spirit of the first amendment.

Accordingly, Mr. Speaker, the Stokes amendment has been omitted in the conference report. This should not be taken as any indication that the conferees believe that there are no problems with regard to discrimination in public broadcasting. Instead it is a reflection of the view that the problems of discrimination require careful consideration in hearings to determine what, if any, legislation is best designed to eliminate it. As the statement of managers spells out, Mr. Speaker, the gentleman from Massachusetts (Mr. MACDONALD) intends to hold hearings as soon as practicable before the House Subcommittee on Communications on the questions raised by the Stokes amendment and to explore fully the underlying problems of discrimination against minorities and women in public broadcasting. A similar commitment was made by the chairman of the Communications Subcommittee of the other body who chaired the Senate conferees.

Mr. Speaker, as I said at the outset, I think that this conference report is a good one which deserves the support of every Member of the House. Today nearly 80 percent of our population are within the range of our 254 public television stations. The 176 qualified public radio stations can be received by nearly 62 percent of the American public.

The American people support public broadcasting, Mr. Speaker, and are being educated and informed by it in growing numbers. This legislation will allow this process to continue.

Mr. MITCHELL of Maryland. Mr. Speaker, will the distinguished chairman yield at that point?

Mr. STAGGERS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I understand the House would like to adjourn at a reasonable hour tonight and I do not want to be forced into asking for a recorded vote, if I can possibly avoid it.

Will the distinguished chairman respond to me? Am I right in assuming that the provisions of the Stokes amendment on title VI of the Public Broadcasting Board has been completely eliminated although it had the overwhelmingly approval of this House?

Mr. STAGGERS. That is correct. The gentleman from Ohio (Mr. STOKES) has been informed and he is in agreement with the report as it is now, and with the agreement that there would be hearings held on this subject itself in both Houses.

Mr. MITCHELL of Maryland. I cannot talk about my colleague's willingness to accept this capitulation. However, I am unwilling to accept it. I think it is totally unnecessary for the Senate to be adamant in its position on such a fundamental issue as contained in title VI.

Mr. STAGGERS. In reply to the gentleman I might say that their entire objection to it was that this puts us into a position of treating it like a Federal agency. It was felt when this was founded that the Federal Government would not have any say in this. But both chairmen have agreed that the Congress would have hearings and bring something back.

Mr. MITCHELL of Maryland. If the gentleman will yield for one last question, it is impossible for me to understand the logic of how Federal funds can be funneled into a private agency and we in turn would have no control over the use of those Federal funds. That is totally illogical in my opinion and I wish the gentleman could explain that for me.

Mr. STAGGERS. I might say this. When it was set up it was decided that this would be one agency that the Federal Government did not have a hand in and the Public Broadcasting did not have a hand in and they would be completely free to bring things before the Board and it would be a nonpartisan board or a bipartisan board and it would not be just the party in power. This would be here allowing us to say we would be telling them what to do if we had it that way.

But it was agreed under the circumstances this would be looked into fully and be brought back into both Houses.

The gentleman from Massachusetts (Mr. MACDONALD) had agreed to that as had the chairman on the Senate side.

Mr. MITCHELL of Maryland. I thank the gentleman from West Virginia for his explanation.

In closing I want to indicate it seems to me that the same promise was made previously that we would go back and study it in effort to try to remedy the situation, and that has not been done.

Miss JORDAN. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentlewoman from Texas.

Miss JORDAN. Mr. Speaker, could the chairman explain to me what the status of public versus private has to do with the obligation to obey the law as far as title VI is concerned as long as it is the law?

Mr. STAGGERS. I would say to the gentlewoman from Texas there should not be any whatsoever but they say in order to keep the Federal Government hand off this, which was agreed to when it was first put up, that they would not try to tell them how to do it and they thought it ought to be handled in a different way.

Miss JORDAN. Would the gentleman agree that such an argument is totally without logic?

Mr. STAGGERS. We would be inclined to agree with the gentlewoman.

Mr. FREY. Mr. Speaker, the conference report before us today is essentially the Senate amendment to H.R. 6461. The House bill and the Senate amendment differed in three significant areas:

First. The matching requirements for Federal funding;

Second. The Brown amendment requiring a significant amount of funds to be devoted to instructional programing; and

Third. The Stokes amendment affecting the status of the Corporation for Public Broadcasting under the Civil Rights Act of 1964.

The House receded in each area due to strong opposition to the House language on the part of the Senate.

I was especially concerned about the rescission with regard to the matching requirements. I understand that since the formula requires the Federal match for a given year to be based on the amount of funds raised by public broadcasters 2 years prior to the year of the match, the 3-to-1 match in the House bill would have had an impact on small broadcasting stations that are dependent on State funds and, therefore, would be unable to raise the necessary amounts in 1977 and 1978. However, I stated in the conference meeting, and wish to reemphasize at this time, that I believe that the matching requirements should be raised in the future to give public broadcasting the incentive to become self-sufficient.

This is not to say that I oppose the adoption of this conference report. The authorization ceilings are the same as in the House bill, so there will not be additional Federal spending under this report. What we lose is the possibility of additional funds generated by public broadcasters.

In clearing this legislation for Presidential action today, we are for the first time in history guaranteeing public broadcasting a financial base on which to operate with some degree of foresight and security. The administration supports the concept of long-range funding; in fact, the President proposed the insulated approach of an authorization and appropriation contained in the original House bill. While this conference report does not give public broadcasting that sort of insulation, it goes a long way in giving CPB the lead time necessary to make decisions with regard to upcoming programing.

In addition to the advance authorization contained in this report, there are several other features which should be mentioned:

First. The report provides for a separation of funds for television and radio. Too long have funds for public radio lagged behind those available for television. While public television is currently available to roughly 80 percent of the people in the United States, public radio is available to only 62 percent and is not present in 34 of the top 100 population centers. With the separation of the funds authorized in this report, radio has the opportunity to mature as a viable partner with television in a much more diversified public broadcasting effort. Such diversification will result in greatly improved service to the varied needs of each broadcast area.

Second. This report requires direct pasthroughs to local noncommercial educational stations of from 40 to 50 percent of the fund apropriated. This is a significant feature for it guarantees funds for each noncommercial educational television station that is on the air and for each eligible radio station on the air.

Third. Congress, through this legislation, will maintain a watchful eye on the Corporation even with long term funding; for it provides that the officers and directors of the Corporation shall be available to testify before appropriate committees of Congress with regard to its annual report, any report of the Comptroller General, with respect to its financial condition, or any other matter that such committee may determine.

Obviously, there are a sufficient number of good points in this legislation, and in the spirit of compromise, I urge its adoption despite my disappointment over the matching requirements.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, is the gentleman now making a commitment that an effort will be made to remedy this situation in the next Congress? Is it the same kind of commitment that we made 1 year ago and I think, if I recall correctly, 2 years ago?

Mr. FREY. I would say this: The gentleman from Massachusetts, Chairman Macdonald indicated he would hold hearings on this. We have had hearings. I sat through the hearings. He came down to Florida. I am sure the gentleman has read the testimony, and I have noticed this.

We put a great deal of pressure on them to comply and I think we are in the same vein. I think we can speak for the committee, and the parties are here; we will put pressure on, as we did before.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Ohio.

Mr. CARNEY. Mr. Speaker, I can assure the gentleman as one member of the subcommittee that when the time comes I will see that this matter is thoroughly considered and I will hold the chairman of the subcommittee to his word.

Ms. ABZUG. Mr. Speaker, I have been and I continue to be a staunch advocate of public broadcasting and educational television. However, I am also very concerned over the lack of participation of women and minorities in employment and decisionmaking in public broadcasting and the failure of the corporation and the Congress to address this issue. That is why I joined Congressman Stokes in amending the original bill.

I am disappointed that the conference committee did not include the House amendment making the corporation subject to the provisions of title VI, VII, and IX of the Civil Rights Act, although the conference report and the House committee report both note that discrimination in employment practices in the Corporation for Public Broadcasting (CPB) and the local public television and radio station is continuing.

Despite the considerable evidence already compiled documenting discrimination against women and minorities in public broadcasting, the conferees indicate that they, too, will hold hearings on this subject. I would like to point out that hearings were held in the House this past spring and in the Senate last year on the existence of discrimination against women and minorities, but no action was taken. Moreover, the Task Force on Women in Public Broadcasting, approved by CPB, has found pervasive under-representation of women throughout the public broadcasting industry both in employment and in program content.

Although women make up almost 30 percent of the public broadcasting work force they are concentrated at the lower levels of responsibility. Few women are hired or promoted to top decision-making positions. A survey conducted by the task force found that women were frequently hired at lower levels and often lower salaries than men of the same age and educational levels, and that subsequent promotions and pay raises followed that same pattern. For example, 42 percent of the women with a post-graduate education who were surveyed entered the profession at the level of secretaries, librarians, production assistants, or at best, assistant production managers, while 42 percent of the men with the same education entered at an executive level.

In public broadcasting nationwide, women outnumber men by more than 3 to 1 in nonprofessional positions. However, women hold only 9 percent of the seven executive-level positions in public broadcasting stations, one-third of the full time jobs in programing, and virtually no jobs in engineering.

During the debate in 1973, Congress discussed discrimination in public broadcasting and considered an amendment to prohibit such discrimination. The House voted to postpone such action in order to study the matter further. Today the conference report suggests we do the same thing again to await the outcome of further committee hearings. In the interim, there has been little improvement by CPB in eliminating discrimination.

This is the time for remedial action; no further study is necessary. Although I am in favor of long-range funding for CPB I cannot give them a license to discriminate against women and other minorities with Federal funds. While the conference report acknowledges the continuing discrimination in employment by the public broadcasting industry, it calls on Congress to press for an immediate end to these discriminatory practices. This suggestion is outrageous since Congress, that is the House of Representatives, attempted to do exactly that—end discrimination by making all stations receiving funds from CPB subject to the prohibitions of titles VI, VII of the Civil Rights Act of 1964 and title IX of the 1972 Education Act Amendments.

The Congress can act immediately to end discrimination in public broadcasting by voting down the conference report and then supporting a motion to recommit with instructions to include the House amendment prohibiting discrimination.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report to the Public Broadcasting Financing Act of 1975, H.R. 6461.

I have been an advocate of this legislation from the beginning. I supported this legislation on its original passage in this Chamber on November 10, 1975, as I do today. It was most unfortunate that the original bill as drafted by the Interstate and Foreign Commerce Committee contained appropriations language which was stricken out by a point of order citing rule XXI, clause 5, of the House rules.

As a member of the Appropriations Subcommittee on Labor-HEW I should like to reemphasize the fact that the subcommittee will approve an initial 3-year financing plan when the Corporation for Public Broadcasting comes to us for funding under this legislation. The subcommittee originally intended to provide only a 2-year initial funding plan. I was most gratified when my colleagues on the subcommittee accepted my proposal to increase the funding plan to 3 years. This funding scheme is most necessary to insure planning and effective pilot projects that are important to the operation of the Corporation for Public Broadcasting. In the 84 months of existence of the Corporation for Public Broadcasting, they have had to endure operating on a continuing resolution basis for 39 months.

I should like to commend my good friend, the gentleman from Massachusetts (Mr. Macdonald), who serves as the chairman of the Interstate and Foreign Commerce Subcommittee on Communications. He and the members of his subcommittee have done a fine job with the expeditious manner in which this legislation was handled.

I stand ready to do all that I can to insure that the Corporation for Public Broadcasting will receive their appropriation for the initial 3-year period with all due expedition as it so rightly deserves.

I urge my colleagues to support this legislation.

Thank you, Mr. Speaker.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. MITCHELL of Maryland) there were—yeas 114, nays 19.

Mr. MITCHELL of Maryland. Mr. Speaker, fully recognizing the yuletide season and in a spirit of brotherhood and with respect for the party going on in the White House, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 313, nays 72, not voting 49, as follows:

[Roll No. 806]

YEAS—313

Abdnor
Adams
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Conte
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Ala.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Green
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Holland
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Ohio
Minish
Mink
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Scheuer
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Steed
Steelman
Steiger, Wis.
Stratton
Stuckey
Studds
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—72

Abzug
Armstrong
Badillo
Bauman
Breaux
Breckinridge
Brodhead
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Chisholm
Clancy
Clay
Collins, Ill.
Collins, Tex.
Conlan
Conyers
Corman
Crane
Dellums
Derwinski
Devine
Diggs
Dodd
Downey, N.Y.
Edgar
Fenwick
Flynt
Ford, Tenn.
Gilman
Gude
Hansen
Hechler, W. Va.
Helstoski
Holt
Holtzman
Johnson, Colo.
Jordan
Kelly
Koch
Latta
McDonald
Martin
Mathis
Melcher
Metcalfe
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
O'Brien
Ottinger
Poage
Rangel
Richmond
Rodino
Rose
Rousselot
Satterfield
Schroeder
Schulze
Shuster
Spellman
Stanton, James V.
Stark
Steiger, Ariz.
Stokes
Symms
Vanik
Wiggins
Yates
Young, Ga.

NOT VOTING—49

Addabbo
Alexander
Allen
Ashbrook
Boland
Broomfield
Burke, Fla.
Butler
Casey
Daniels, N.J.
Dickinson
Dingell
Edwards, Calif.
Erlenborn
Esch
Findley
Fish
Ford, Mich.
Fraser
Gaydos
Goodling
Harsha
Hastings
Hawkins
Hébert
Hillis
Hinshaw
Landrum
Macdonald
Maguire
Mills
Moss
O'Neill
Rees
Rooney
St Germain
Schneebeli
Sisk
Stanton, J. William
Stephens
Sullivan
Teague
Thompson
Traxler
Udall
Ullman
Waxman
Wilson, C. H.
Winn

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Hawkins.
Mr. Hébert with Mr. Alexander.
Mr. Dominick V. Daniels with Mr. Casey.
Mr. Thompson with Mr. Allen.
Mr. Teague with Mr. Ashbrook.
Mrs. Sullivan with Mr. Broomfield.
Mr. Rooney with Mr. Edwards of California.
Mr. O'Neill with Mr. Ullman.
Mr. Ford of Michigan with Mr. Butler.
Mr. Waxman with Mr. Winn.
Mr. Udall with Mr. Erlenborn.
Mr. Macdonald with Mr. Findley.
Mr. Landrum with Mr. Burke of Florida.
Mr. Dingell with Mr. Harsha.
Mr. J. William Stanton with Mr. Maguire.
Mr. St Germain with Mr. Esch.
Mr. Sisk with Mr. Hastings.
Mr. Moss with Mr. Fish
Mr. Charles H. Wilson of California with Mr. Dickinson.
Mr. Rees with Mr. Mills.
Mr. Fraser with Mr. Traxler.
Mr. Stephens with Mr. Goodline.
Mr. Boland with Mr. Hillis.
Mr. Hinshaw with Mr. Schneebeli.

Mrs. COLLINS of Illinois and Messers. CONYERS, MARTIN, STARK, and DODD changed their votes from "yea" to "nay."

Mr. BROWN of Ohio changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROHIBITING CERTAIN ASSISTANCE TO AND ACTIVITIES IN ANGOLA

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, earlier today I addressed the House on the subject of the situation in Angola and our Government's intervention therein and stated that I intended to introduce a resolution today conforming substantially to that which passed the other body's Subcommittee on Foreign Relations yesterday and which will be taken up in the Committee on Foreign Relations tomorrow.

It is a resolution which was authored by the senior Senator from Iowa, and I will now append it to my remarks in the RECORD for the benefit of those persons who are interested in following the situation.

The joint resolution follows:

H.J. Res. 755

Joint resolution prohibiting certain assistance to and activities in Angola

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 3 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 665. Limitation on Certain Assistance to and Activities in Angola.—(a) It is the sense of Congress that—

"(1) the people of Angola should be allowed to determine their own political future without military interference from any foreign country;

"(2) the Congress supports efforts by the Organization of African Unity to achieve a settlement of the conflict in Angola and calls upon all countries to terminate any military assistance such countries may be giving to any group, organization, movement, or individual in Angola;

"(3) a disengagement by such countries would be a welcome reaffirmation of the spirit of detente, both throughout the world and in Africa; and

"(4) the President should do his utmost to seek an agreement among the various parties involved in hostilities or in the support of such hostilities in Angola to terminate such hostilities or such support.

"(b)(1) Notwithstanding any other provision of law, except as provided by paragraph (2)(B) of this subsection, no payment of money may be made, no security assistance may be furnished or delivered, and no assistance may be furnished or delivered for military or paramilitary operations, or to provide, in connection with such operations, police training, assistance, or advice, directly, or indirectly, in, to, for, or on behalf of, Angola, any individual, group, organization, or movement in Angola, or any other country for the purpose of furnishing or delivering such assistance, unless such assistance is specifically authorized under this Act.

"(2)(A) The President shall, in the event any such specific authority is requested, describe in writing in connection with such request—

"(i) the extent to which the foreign policy interests of the United States require such assistance; and

"(ii) the amounts and types of assistance which have been furnished and which are proposed to be furnished.

Such materials shall be furnished to the Congress in unclassified form.

"(B)(i) Security assistance, the furnishing of which would otherwise be prohibited under paragraph (1) of this subsection, may be furnished in accordance with this Act after the end of the first period of thirty days Congress is in session following the transmission of any such request under subparagraph (A) of this paragraph unless before the end of such thirty-day period either House of the Congress has agreed to a resolution disapproving the furnishing of such assistance.

"(ii) Such resolution shall be considered in accordance with the provisions of section 301(b) of the International Security Assistance and Arms Export Control Act of 1975.

"(iii) For the purposes of such section, the term 'certification', as used in section 301(b) of such Act, shall be deemed to mean a request transmitted under subparagraph (A) of this paragraph.

"(iv) The term 'resolution', as used in section 301(b) of such Act, means, for purposes of this paragraph, only a simple resolution of either House, the matter after the resolving clause of which is as follows: 'That the (Senate/House of Representatives) does not approve of the request for security assistance with respect to Angola, transmitted to the Congress by the President on , 19 .', the appropriate term being selected from the parentheses; and the blank space therein being filled with the date of the transmittal of the request.

"(c) Not later than 30 days after the date of enactment of this section, the President shall transmit on the same day to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a full and complete report describing—

"(1) the military activities of foreign countries in Angola and any military assistance or support provided by such countries; and

(2) steps he has taken to carry out paragraph (4) of subsection (a) of this section.

"(d) For the purposes of this section, 'security assistance' means—

"(1) assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of part II of this Act;

"(2) sales of defense articles or services, extensions of credits (including participations in credits), and guarantees of loans under the Foreign Military Sales Act;

"(3) deliveries pursuant to any license in effect with respect to the transportation of arms, ammunitions, or implements of war (including technical assistance relating thereto) under section 414 of the Mutual Security Act of 1954 or subsequent corresponding legislation; and

"(4) assistance for public safety under this or any other Act.

"(e) The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section.".

OBJECTING TO THE PROPOSED SALE OF THE F–15 FIGHTERS TO ISRAEL

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I have today joined our distinguished colleague, Representative BENJAMIN ROSENTHAL, in objecting to military sales to the Middle East, by introducing a resolution objecting to another proposed sale of military hardware to that area.

In this particular instance my resolution, House Concurrent Resolution 517, objects to the proposed sale of the very sophisticated, very deadly, and very expensive F–15 aircraft to Israel.

Although the details of this proposed sale are classified, I am sure, judging from the equipment in question, that it involves over $600 million.

This proposal comes at the same time of an announced sale of over $1½ billion to Saudi Arabia to which Mr. ROSENTHAL's resolution has objected.

I think it is the height of irresponsibility on the part of the executive branch to be proposing these sales involving billions of dollars on the eve of the Christmas recess.

I consider this action as nothing short of an attempt by the executive branch to deny the Congress an adequate opportunity to review these huge arms sales.

Under the law the Congress is supposed to have 20 days in which to consider these sales.

I am writing, today, to the President and the Secretary of Defense requesting that these proposed offers of sale be withdrawn until the Congress returns from the Christmas recess.

Two of our subcommittees—one headed by Representative HAMILTON, the other chaired by Representative FASCELL—have been studying the issue of the massive arms transfers to the Middle East.

Investigations by other committee members and staffs are also in process.

I do not think that the executive branch should try to circumvent and possibly abort these efforts by rushing through these multibillion-dollar sales to the Middle East on the eve of the Christmas recess, when Congress is preoccupied with the tax bill, the energy bill, the highway bill, and other important legislation.

Although I take this action for legitimate reasons, I hasten to point out that I also do so after much thought. Mr. Speaker, I want to make abundantly clear that I recognize and support the preservation of the State of Israel. My votes over the years give ample testimony to that support. Where I do depart and begin to take exception relative to U.S. support for Israel is the point at which we begin to equate Israel's preservation exclusively and solely in military terms.

Because the proposed sale of these F–15 jet fighters underlines and endorses that mentality in a dramatic and forceful way, I have been moved to introduce the resolution of objection.

Mr. Speaker, my reasons for taking this action are many and entirely valid. They are based on fact—not the fiction of emotion. They are generated by a genuine attempt to bring a semblance of balance to our efforts in the Mideast and a sincere desire to deemphasize the prevailing military dimension of the conflict.

Among the reasons why I believe this proposed sale should be delayed are the following:

The F–15 is one of the newest and most sophisticated aircraft in our Air Force inventory. Only about 20 of the planes are available for use by the U.S. Air Force and none are in use by our NATO or other allies.

Vital and primary U.S. national security interests could be seriously jeopardized if deliveries to Israel were made out of the Air Force's stocks before our own legitimate needs have been met.

Since it is reported that delivery to Israel would not be made until 1977, the proposed sale at this time is premature.

The transaction is also premature in the sense that the funds for the proposed sale will in all likelihood come from the security assistance legislation currently in the markup stage in the House International Relations Committee, the completion of which is not expected until after Congress returns from its Christmas recess in mid-January. In short, the cart is far ahead of the horse.

Little, if any, consideration has been given to the arms control impact of this proposed sale on the delicately balanced situation in the Mideast. Before approving it we should have a clear and definitive understanding of what potential destabilizing effect the introduction of the F–15 will have, what alternative solutions may be available, and other relevant considerations.

The proposed sale is rationalized on the contention that the F–4 aircraft currently in the Israeli inventory is inferior to the MIG–23 fighter that the Soviet Union has supplied to Syria and Egypt and the MIG–24 reportedly now being flown by Soviet pilots in Syria. That contention is subject to serious doubt since it has never been conclusively proven. Saying it often enough simply does not make it true.

For these many valid and compelling reasons, Mr. Speaker, the resolution which I have introduced today deserves—indeed, demands—serious and careful committee consideration and ultimate approval on the Floor.

In conclusion, I should point out that the notification relating to the proposed sale of the F–15 came to Congress without indicating either the number of planes involved or the total sale price. However, according to recent press reports, the transaction involves a total of $600 million for 25 planes.

As I said earlier, Mr. Speaker, I fully support the preservation of the State of Israel. To the extent that prudent and reasonable military capability is necessary to offset Soviet involvement with the Arab States, I support that also. I am convinced, however, that these F–15's will not attain the goal of peace. Indeed, by the oversupply of war material—to both sides in the conflict—we merely make possible more conflict and war. The time for rationality and commonsense is now.

House Concurrent Resolution 517 follows:

H. CON. RES. 517

Resolved by the House of Representatives (the Senate concurring), That the Congress objects to the proposed sale to Israel of F–15 aircraft, spare parts, spare engines, support equipment and training, such proposed sale being described in the statement submitted by the President, pursuant to section 36(b) of the Foreign Military Sales Act, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate on December 9, 1975 (transmittal numbered 76-22).

EXPLANATION OF VOTE AGAINST THE PUBLIC BROADCASTING AND FINANCING ACT OF 1975 CONFERENCE REPORT

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, it was with regret that I had to vote against the Public Broadcasting and Financing Act of 1975, which we just completed, because I am very supportive of public broadcasting, as would be the vast majority of the people in my district.

However, I felt compelled to do so because of the striking of the civil rights provision from that conference report. The reason I find it absolutely necessary to explain that is that there are many who voted against the conference report because they are opposed to the conference report, as such, and object to public broadcasting.

I want my constituents to know, given the opportunity, that I will vote for public broadcasting, but only when it has this civil rights provision in it.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. KOCH. Yes, I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from New York for yielding.

I applaud his statement. I join him in his statement.

It was for the exact, same reason that I also joined my colleague, the gentleman from New York (Mr. Koch), in opposing this legislation.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I too voted for the same reasons and I would like the record to show that I supported public broadcasting for the very reasons the gentleman from New York has stated and that is why I voted against the conference report.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I would like to share the sentiment expressed by the gentleman from New York. I too voted for public broadcasting when the bill left the House but I could not vote for the conference report when it came back from the other body without a civil rights clause.

Mr. KOCH. I thank the gentlewoman for her remarks.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Speaker, I too wish to associate myself with the remarks of the gentleman in the well and to commend the gentleman for his statement on this matter.

I was rather appalled, Mr. Speaker, that the conference committee saw fit to bring back this particular bill without this particular amendment particularly in light of the fact that in the conference report they make the statement that discrimination is intended and that the Congress must take some strong enforcement steps with reference to this discrimination. It is for this reason that those of us who are in favor of public broadcasting in principle could not in good conscience vote for this bill.

I again commend the gentleman from New York.

Mr. KOCH. I thank the gentleman from Ohio.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, even though I have had some difficulty in the past in supporting public broadcasting authorizations and/or appropriations because on some occasions I have felt that they were too extensive, I did support the effort on this floor to provide proper equity to see that the Public Broadcasting Organization would abide by the same basic ideals and provisions of law that other agencies have to abide by.

Mr. Speaker, I appreciate the gentleman from New York (Mr. Koch) taking this time to make it clear that those who do generally support public broadcasting have had a chance to mention that this was unfortunate that the other body evidently in some haste decided to take this kind of a position when normally there have been champions over there who have tried to make sure that an equitable position was maintained.

So again I compliment my colleague, the gentleman from New York (Mr. Koch) for making this point and I think he should be commended.

Mr. KOCH. Mr. Speaker, I thank the gentleman from California. I would like to add that when the gentleman from California (Mr. Rousselot) who is a very good friend of mine, and I are in accord, then we must be correct.

PERSONAL EXPLANATION

Mr. GUDE. Mr. Speaker, on roll No. 777, the vote on the conference report accompanying H.R. 9861, Department of Defense appropriation, I was recorded as not voting. I was present at the time and voted "yea." I supported H.R. 9861 when it was first considered by the House, and I supported the conference report as well.

CONGRESS IS IN DISFAVOR WITH THE PEOPLE

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from California (Mr. Bell) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, there has never been a time when Federal Government—and particularly our branch of Federal Government here on Capitol Hill—has been in such disfavor.

People are fed up with Washington and with Congress.

They think that we have been all talk and no action on matters that really count in this Nation, and for the most part they have been right.

Unfortunately for our public reputation in the last 2 years—we have shown that we can act and act decisively when it comes to feathering our own nest.

More self-serving measures to benefit Members of Congress have been approved in the past 2 years than during any comparable period in our history.

What we have done for ourselves in 1974 and 1975 simply cannot be justified on the basis of inflation or larger constituencies or increased congressional responsibilities.

We have raised our salaries.

We have created automatic future pay raises for ourselves by tying our salaries to a cost of living index.

We have increased the number of free round trips to our home districts during each Congress from 36 to 52.

We have—in addition—given ourselves and one of our staff members a free round trip to the organizational caucus of each Congress.

We have increased our annual stationery allowance by $1,250—up 23.8 percent.

We have increased our district office allowance by 42.8 percent. We have changed the telecommunications compensation formula with the practical effect of increasing our allowances in this category.

We have increased our staff salary allowance by $32,000—up 18.5 percent.

We have increased the permissible size of our office staffs from 16 to 18—up 12.5 percent.

We have increased the allowance for air mail and special delivery stamps by 25.2 percent.

We have created a new budget—of approximately $5,000 per member—to reimburse the printing costs of two newsletters each year.

We have passed—and await Senate action—on legislation which will probably more than double the tax deduction for our living expenses in the District of Columbia.

In the last 20 years while the population of this country was increasing by 30 percent—and inflation was eroding the value of the dollar by 83 percent—the cost of running Congress has increased by 560 percent.

It has been estimated by one national organization that—in just the last 2 years—the average cost to the Amercan taxpayer of maintaining each Member of Congress has risen from $376,505 to $488,505, approximately a 30-percent increase.

This means that citizens now must pay $112,000 more than they did in 1973 to keep each of us in business.

I am not sure they think we are worth it.

And I suggest that as we wind up our legislative business for this year—and prepare to return home for the holidays—we plan an especially diligent effort to test grassroots sentiment.

When we reconvene on January 6 I hope that we will recognize better than we have in the past that—especially in times of inflation—people expect us to perform as we have urged all other segments of the economy to perform and keep costs down.

If you do not do this, I am afraid there will be a major housecleaning in the elections next November.

And, thereafter, many Members will not be around to enjoy the unprecedented array of conveniences that have been approved on Capitol Hill in the last 24 months.

Mr. HARKIN. Mr. Speaker, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I just noticed the gentleman mentioned something about pay raises for Congress. That is a matter dear to my heart since I campaigned against it and I voted against it. It has always been my experience, though, that in the past many Members of Congress supported the same thing and campaigned against it and voted against it, but they were always the first in line to pick it up. So many Members—I do not say just myself alone, but many Members—including myself, took the next step which I believe exhibits our determination to keep spending in line, and that is to turn back in our pay raises. So every month I send a check down to the Department of the Treasury turning back my pay raise, as do many other Members.

I would hope the other gentlemen would support that move. If all 212 or 213 Members of Congress who voted against the pay raise would take that step, that woud return a considerable amount of money to the U.S. Treasury.

Mr. BELL. For the gentleman's information I have been doing that ever since we got it.

Mr. HARKIN. I congratulate the gentleman in the well for that move, and I would hope that other Members would follow suit.

Mr. BELL. I thank the gentleman.

A NEW COMPACT BETWEEN PUERTO RICO AND THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Puerto Rico (Mr. Benitez) is recognized for 60 minutes.

Mr. BENITEZ. Mr. Speaker, I am pleased to introduce today a bill approving a new Compact of Permanent Union between Puerto Rico and the United States. After 2 full years of studies, deliberations, hearings and discussions a joint advisory group appointed by the President of the United States and the Governor of Puerto Rico in September 1973 to recommend ways of improving the present Commonwealth status, has unanimously endorsed the adoption of the measures embodied in this bill.

It was my privilege to be a member of that advisory group which included the gentleman from Washington (Mr. Foley) and the gentleman from California (Mr. Clausen). Both of them, together with the then Senator from Kentucky, Mr. Cook, acting as cochairman, the Senator from Louisiana, Mr. Johnston, the Senator from New York, Mr. Buckley, the ex-Governor of Illinois, Mr. Ogilvie, and Mr. Paul Howell of Texas constituted the appointees of the President of the United States. The delegation from Puerto Rico, appointed by Gov. Hernández Colón, included the founder of the Commonwealth status, former Gov. Luis Muñoz Marín, the president of the senate, the speaker of the house of representatives, the secretary of state of the Commonwealth, two other distinguished Puerto Rican citizens and myself.

This new compact involves a reaffirmation and clarification of the basic concepts of Commonwealth status approved by the Congress of the United States and the people of Puerto Rico after an extensive process of consultation conducted in the nature of a compact. That extensive process began with our general elections of 1948 and was completed when all the mutual conditions were agreed upon and that agreement was proclaimed by the Governor of Puerto Rico on July 25, 1952.

The new compact broadens the autonomy of Puerto Rico, formalizes and extends the flexibility of adjustments in the implementation of common purposes which has been an outstanding merit of the relationship between United States and Puerto Rico. The new compact conforms with the findings of the United States-Puerto Rico Status Commission report of August 1966, with the terms of the plebiscite held on July 23, 1967, with the needs of changing times, and with the wishes of the people of Puerto Rico.

As we enter the last quarter of the 20th century, we are bound to acknowledge that there is no perfect political status anywhere. The free associated State is now and will continue to be quite imperfect. The proposals embodied in the new pact reflect, however, our mature judgment as to what should be done at this juncture by the Congress, the White House, the Government and the people of Puerto Rico to reaffirm, strengthen and facilitate the continued identification of basic goals and our joint democratic striving for a nobler and more worthwhile relationship in the years ahead.

SUPPORT FROM PUERTO RICO

The great majority of the people of Puerto Rico support the principles of the bill. By far the largest segment of such supporters favor the free associated State as a definite, final status for Puerto Rico. But over and above those supporters, many Puerto Ricans endorse this bill even though they may believe in eventual statehood or in eventual independence. They appreciate that the improvement of Commonwealth hurts no one and benefits all. They believe that since their own first choice is out of the question as long as they are a minority, they should support desirable improvements in the present status. They understand that working for a different status is not precluded by the improvement of Commonwealth. They hold that in the meantime the common goal should be to strengthen the community at large rather than to weaken it. This is the patriotic, intelligent, and socially responsible attitude.

Unfortunately, party leaders favoring statehood or independence have such vested interests in their own ideological positions that they fail to see the overriding interests and desires of the majority. Knowing they speak only for a minority in each case, they nonetheless feel bound to oppose any improvement in the position of the community. They act in accordance with the well-known but discredited doctrine that the job of the opposition is to oppose, to oppose and to oppose. Such obstinacy, if allowed to prevail, would only serve to paralyze democratic government. I invite once again all Puerto Ricans, regardless of partisan consideration, to support the basic goals and objectives of this new compact of permanent union.

BRIEF POLITICAL BACKGROUND

For the benefit of those Members who may be unfamiliar with our 77-year-old debate on political status, I shall explain briefly why neither statehood nor independence are majority choices. After the Spanish-American War of 1898 the two political parties that were immediately formed in Puerto Rico, the Republican and the Federal, favored and requested statehood.

THE STATEHOOD REQUEST

It was then generally assumed in Puerto Rico that statehood would be promised immediately by the Congress and extended shortly thereafter. After all, Puerto Rico had just received an autonomous charter in 1897 from the Spanish monarchy and statehood was assumed to be the equivalent of Spanish autonomy. Further on landing in Puerto Rico, in 1898, General Miles had proclaimed that his troops were bringing to the island "the freedoms and blessings of American democracy." It was taken for granted that the history of American expansion to the West, the constitutional constraints, and the genius of American federalism guaranteed full inclusion under the flag, the Constitution, and the Union. On August 15, 1899, the commanding general, George W. Davis, published throughout Puerto Rico a circular from which I quote:

> Under the American Constitution the whole theory of government is based on the principle that the people themselves are to make and enforce their own laws . . .
>
> The changes that have already been made, and those now intended, should supply for the island, until otherwise provided by the Congress, a form of government resembling, as respects the superior branches, the Territorial from heretofore applied in the United States to those portions of the national domain in a transition state or one preparatory to full statehood and membership in the National Union

Puerto Rican leaders had a rude shock and a bewildered awakening as the Congress, the President, the Supreme Court, and the Nation at large debated the implications of their great leap forward into the uncertainties of "manifest destiny." The immediate outcome was a new chapter in American constitutional development which could be entitled "keep all options open, but some less open than others." That approach was bluntly stated by Chief Justice Fuller, of the U.S. Supreme Court as follows:

> If an organized and settled province of another sovereignty is acquired by the United States, Congress has the power to keep it like a disembodied shade, in an intermediate state of ambiguous existence for an indefinite period.

THE FORAKER ACT—1900–17

The first Organic Act, known as the Foraker Act, was approved in 1900. It lasted until 1917 although it was proposed as an interim bill and was specifically entitled "an act temporarily to provide revenues and civil government for Puerto Rico and for other purposes." The Foraker Act was an extremely limiting political document, sharply contrasting with the Spanish Charter of Autonomy of 1897. It reserved all effective political power to the Governor and to his Executive Council, appointed by the President of the United States, with the advice and consent of the U.S. Senate. It allowed an elective House of Delegates which together with the Executive Council would constitute "the Legislative Assembly of Puerto Rico."

A body politic entitled "The People of Puerto Rico" was established. Its inhabitants were declared to be "citizens of Puerto Rico" and entitled to the protection of the United States. The Supreme Court decided that as such they would be "nationals" but not "citizens." It also created a new category of territorial status, the "unincorporated territory." As such, Puerto Rico could be included in or excluded from Federal legislation. As far as the Constitution itself was concerned, Puerto Rico was not necessarily covered except by such provisions as involved fundamental individual rights or essential structural requirements. This Supreme Court interpretation left a constitutional penumbra which has lasted to the present day. To avoid any implication of eventual statehood, the Foraker bill was amended on the floor so that the elected Representative of Puerto Rico to the United States should be called Resident Commissioner rather than Delegate as had been the case in all previous territories since the Northwestern Ordinance of 1790.

The economic arrangements provided for by the Foraker Act were in sharp contrast with its political provisions. They were designed to demonstrate that there was no intention of economically exploiting Puerto Rico. The Foraker Act provided for a common market, the exclusion of Puerto Rico from Federal taxation, and a basically flexible sui generis case-by-case resolution of tariff provisions.

THE JONES ACT—1917–52

The second and last organic law, known as the Jones Act, was approved in 1917. It extended U.S. citizenship to Puerto Ricans. It made elective both legislative Houses. The President continued to appoint the Governor and three members of his cabinet with the advice and consent of the U.S. Senate, but the Governor was entitled to appoint four cabinet members with the advice and consent of the Puerto Rican Senate. The economic provisions of the Foraker Act were retained. They now form part of the Puerto Rican Federal Relations Act.

During the first third of the century expressions by Presidents, Members of Congress, and other public figures discouraging statehood for Puerto Rico had served to ruffle the sensitivities of a proud community. Political parties and political leaders in Puerto Rico readjusted their approaches to deal with local problems and to face problems of relationships with the United States.

By 1904 the Federal Party had dissolved itself into a broader political grouping, the Partido Unión de Puerto Rico pledged to "unite the Puerto Rican family" under the banner of local initiative, immediate improvements in self-government, and subsequently statehood or independence. From its inception and until its disappearance in 1932, the Union Party was the leading party in Puerto Rico.

By 1915 another party, a prolabor organization which called itself the Socialist Party, was formed. The Republican Party, which had become the one party which proposed statehood as the only political status acceptable, lost all elections from 1904 until 1932. Yet, when in the 1933 elections it was able to organize a legislative majority in conjunction with the Socialist Party, it refrained from insisting upon statehood, under the assumption that they would be subjected to additional rejections.

ON INDEPENDENCE

The political debate in Puerto Rico acquired a deep note of exasperation during the thirties when the economic depression, two devastating hurricanes and the initial confusions and frustrations of the New Deal uncertainties provided ingredients of desperation, hopelessness, and intensive searches for new approaches. By this time many of the political and intellectual leaders of Puerto Rico were espousing independence. They had become thoroughly discouraged by the vast gulf of misunderstanding which increasingly seemed to isolate Puerto Rico from the United States and which seemed to render impossible any meaningful communication. The consistently inept Governors sent to Puerto Rico as political payoffs, the combination of benign neglect and overall amnesia in the Nation at large about the very existence of Puerto Rico did little to help the situation. There were, however, three main difficulties envisioned with regard to independence:

First. While there prevailed significant failings at the political level, the basic relationship in health, education, urban development, and justice showed a marked improvement over the past. The electorate, and particularly the working-class and the destitute, distrusted independence. The experience of the neighboring republics was discouraging; the fear of the essentially feudal agricultural setup and of the domineering mentality of the Puerto Rican ruling class seemed to them to require the guarantees and balancing protections of United States citizenship.

Second. The nationalist movement, initiated early in the 1930's, preached and practiced violence as the only way of achieving independence after a resounding defeat at the polls in 1932. Identification of independence with violence and with nearby dictatorships further deterred the electorate from the independence movement. Additionally, the black shirts of the "Nationalist Liberation Army" were associated with Mussolini's Black Shirts and with Hitler's Brown Shirts.

Third. The awareness that the development of a competently trained, able middle class and the reconstruction of the economy were imperative prerequisites to a peaceful, evolutionary independence movement.

THE POLITICS OF SOUND AND FURY

The cavalier and clumsy manner in which Puerto Rican affairs were handled in Washington is attested to by the fact that President Franklin D. Roosevelt, in spite of his humane and broad overall view, appointed successively and carelessly two of the worst and most incompetent Governors Puerto Rico ever had. The first was a bumbling, insensitive third-rate newspaperman from Florida with an exceptional capacity for alienating friends and opponents alike. His successor was a superannuated, retired general from Georgia with an imperiel mien. As Judge Advocate he had rendered the opinion that the United States could not constitutionally grant independence to the Philippines. He was generally held responsible for the worst political tragedy in Puerto Rico history: the shooting of a group of nationalists participating in an unauthorized parade in 1937 when 21 persons were killed. This has come to be known in Puerto Rico as the Ponce massacre.

With such an accumulation of mistakes, misfortunes, and tragedies, it is understandable that the decade of the 1930's saw Puerto Rico going through the throes of its most difficult collective crisis. The profound stability, basic loyalties and wisdom of the community allowed Puerto Rico to withstand all impulses of despair or toward self-destruction.

PAN, TIERRA Y LIBERTAD

Out of the many struggles with the implications of ultimate choice came a vigorous concern with the meaning of political power and the potentials of the democratic process. Perhaps the most illuminating conclusion was the judgment that political status is not an end in itself but a means toward an end. The measure of all things is man, not the philosophical abstraction devoid of reality, but the human being, the man of flesh and bones, and particularly the destitute human being deprived of opportunities and alternatives. The basic tenet of this new level of political direction was that the unquestionable first item on Puerto Rico's agenda was social justice. Accordingly, a new party, the Popular Democratic Party, was founded by Luis Muñoz Marin, committed to the principle that the rectification of the injustices and deprivations suffered by the man of flesh and bones was, and by right ought to be, the basic purpose and objective of any society, particularly a poverty-ridden society.

The electoral process would be called upon to validate this purpose. The test would come if an all-encompassing program on behalf of the destitute majority was proposed and if that destitute majority endorsed the program at the polls. The Popular Democratic Party proposed such a program, symbolized in the slogan "pan, tierra y libertad"—"bread, land, and liberty"—and called for unity among the destitute through a moratorium on the debate of political status. The program centered on social justice, to be achieved through employment opportunities, minimum wages, maximum hours, land reform, free and public education for all, health services, public housing, greater taxation, industrial development, secret, free and universal suffrage, efficient government. The Popular Democratic Party won a partial victory in 1940 and total victory in 1944.

The new program was decisively aided and influenced by the wholehearted cooperation of the last mainland-appointee Governor: the brilliant and courageous administrator, Rexford G. Tugwell, appointed by President Roosevelt in October 1941. The effective, progressive, personal partnership which like-minded Rexford G. Tugwell and Luis Muñoz Marín worked out for the benefit of Puerto Rico set the stage for a subsequent institutionalized partnership between the United States and Puerto Rico.

THE FREE ASSOCIATED STATE

The desideratum of a free associated State political status for Puerto Rico dawned upon our leaders, as through a glass darkly, at the end of World War II, much against our own preconceived ideas. Those preconceived ideas were the then-acknowledged—and for us unworkable—established political formulae of the 18th and 19th centuries. As those of us who exerted leadership responsibilities in the 1940's faced an uncharted sea of troubles ahead, we realized the obligation to move away from the risks and pitfalls of the Scylla of independence and the Charybdis of statehood. As we succeeded in a program of social, economic, industrial, cultural internal decolonization and reconstruction, we came upon the shores of our own undiscovered continent. For a while, like many other such travellers, we did not perceive the true dimensions, the real potentials or even the right name of the new land.

The status of free associated state has evolved more through a historical, economical, cultural, and political evolutionary process than through any theoretical formulation or preexisting model. Insofar as there has been any theory about the free associated state it has been provided by the Puerto Rican spokesman and interpreters.

We have met a high degree of misunderstanding, perplexity, and even skepticism when not out-and-out resistance among many of our North American and Latin American political counterparts. These critics have been spared the task of having to forge out of their own vicissitudes a new political formula in the second half of the 20th century for a Western island one hundred miles long and 34 miles wide, with 800 persons per square mile and half of its terrain covered by mountains.

Four years ago, while discussing the issue with scholars in Spain, France, and Italy, I was gratified, although not particularly surprised, to discover that the concept of free associated state struck a more responsive chord among political thinkers in the Old World than in the New. The reason was not difficult to identify. The concept of the national state had run its full course in Europe. Mussolini, Stalin, and Hitler managed to achieve the ultimate reductio ad absurdum of the religion of nationalism, at least for the Western powers. The end of World War II produced, not only the liquidation of their empires, but also an active search for more valid forms of association within the European continent, both outside their national boundaries and within their central jurisdictions.

Previous economic exploitation, political abuses, and burning racial reactions hindered or precluded associations or accommodations with their former colonies, many of which proceeded to incorporate for themselves the discarded theories of nationalism and the adhesive tape of hate politics.

Furthermore, the doctrine of self-determination itself came back to plague many European countries as the political specter of cultural minorities asserted itself both within the territorial boundaries and even more pointedly in nearby islands: Corsica, Sardinia, Sicily, the Canary Islands, Catalonia, Wales, and Scotland have raised much more sophisticated issues involving problems of asymmetrical relationships within a wider political context.

For many of my friends in Europe exploring with me the growing, darkening horizon of national minorities, the Puerto Rican experience and the free associated state relationship reflected a notable, infrequent instance of rationality governing the resolution of an emotional political impasse. In their expression, we had chosen to untie the Gordian knot rather than to cut it.

THE NEW COMPACT

There is one overall problem which this new compact endeavors to resolve. We must bring the compact up to date. There has been no significant revision of the norms and agreements since 1952. We knew then and said so, that changes would be necessary although the basic principles were lasting. Puerto Rico and the United States have in many ways outgrown the 1952 format. The world around us has changed significantly. We wish to adapt the principles of 1952 to the realities of 1975 and to the demands of the years ahead. The proposed compact endeavors to strengthen that reality. It also provides needed mechanisms to deal with difficult challenges ahead. This is the fourth proposal elaborated in Puerto Rico for such improvements since 1953.

We believe that both the United States and Puerto Rico should regain under a new compact of permanent union the drive and dynamism which distinguished our cooperation 20 years ago as symbolized then by Operation Bootstrap. We owe it to the new generations which did not participate in the struggles of the 1940's and the 1950's to have for their own clarification a basic document reflecting the dignity and the quality of our relationship. The other basic Puerto Rican document, our Constitution, expresses our own efforts and aspirations in moving and forceful language. We need to have a new language governing our relationship. We must clarify the nature of that relationship through a clear, definite pronouncement for the present and for the future. It is high time that we remove the vestiges of the Jones and Foraker Organic Acts which survive today in the Puerto Rican Federal Relations Act with a new declaration. We propose instead the provisions of this bill, entitled "Compact of Permanent Union Between Puerto Rico and the United States."

Finally, Mr. Speaker, I wish to thank Members from both sides who have been generous enough to cosponsor this bill. Since more than the allowed number of cosponsors had expressed their desire to support this presentation, I will submit later a second identical bill including an additional number of cosponsors.

This proposal, together with an extensive favorable report was submitted to the President of the United States on October 9 by former U.S. Senator and cochairman of the joint advisory group, the Honorable Marlow Cook. I was advised the day before yesterday by the White House staff that it will not be possible to render their recommendations to the Congress before the forthcoming recess. Given this delay I am certain it is most expeditious all around to file this bill now, take care of the required preliminary parliamentary procedures before the Congress reconvenes, arrange for hearings at the earliest time thereafter, and if necessary postpone ultimate deliberations until after the recommendations from the White House and from the Departments are received and considered.

May I say in conclusion that it is my fondest hope and expectation that before we enter the first day of the third century of the birth of the United States this new compact, with endorsement of the Congress, the President of the United States and the people of Puerto Rico, will have become a definite reality.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise as a cosponsor of the legislation introduced by the Resident Commissioner of Puerto Rico which will establish a Compact of Permanent Union Between Puerto Rico and the United States. As a member of the ad hoc advisory group on Puerto Rico, I am familiar with the compact and consider it a significant step in lessening the ambiguity which characterizes current Federal-Puerto Rican relations.

For over 2 years, the advisory group was involved with the complexities that have arisen, over the years, in the conduct of proceedings between the U.S. Federal and Puerto Rican Governments. The ad hoc advisory group was chartered to investigate these complicated relationships and to recommend measures which would lead to greater self-government for Puerto Rico. Further, the group was charged to establish guidelines, within the framework of the U.S. Constitution, relevant to the applicability of Federal statutory laws and administrative regulations in Puerto Rico. The legislation introduced today represents the product of intensive hearings and debate conducted both in Puerto Rico and Washington. In its final discharge of duty the advisory group concluded that—

> This Compact as approved represents the *consensus* of the Group. It recommends the Compact be referred to both Houses by the President of the United States with his endorsement for congressional action.

Thus, this legislation, although significant in scope, is not all inclusive and requires further refinement through the legislative process.

Do not forget, the compact deals with matters of great moment, calling for profound changes in Federal-Puerto Rican relations. Accordingly, I join in the cosponsorship of this legislation only with the understanding that Congress must await the due deliberations and recommendations of the President and the executive branch. Moreover, in consideration of the compact, the separate views of those advisory group members—four from the mainland and four from Puerto Rico—who expressed a divergence of opinion on specific provisions of the compact, must receive congressional attention. Lastly, the Congress in holding hearings on the compact should invite all significant groups with views, either in support of or differing from those expressed in the compact, to testify, thereby attaining broad-based and bipartisan support for the final document.

Contrary to the Covenant of the Northern Mariana Islands, which this body acted upon last summer, the Puerto Rican compact has yet to be submitted to the Puerto Rican electorate. Before that historic occasion, it is encumbent on the Congress to review in detail the provisions of this compact and to amend those sections which are not in consonance with modern federalism. Thus, all Puerto Ricans, at the time of their decision, will be assured that the compact upon which they are voting has received the full benefit of 200 years of congressional legislative experience.

With reference to specific sections of the compact, I find section 21 particularly troublesome. Recent precedent has led me to conclude that Congress, in dealing with U.S. territories, may agree to limit its regulation and control in certain fundamental constitutional areas. Such is the case in the compact, wherein section 21 enumerates 12 fundamental provisions of the compact which are constitutionally derived and can only be altered by mutual consent of the U.S. Congress and the Puerto Rican electorate. On the other hand, section 21 also stipulates that the remaining sections of the compact can only be changed with the mutual approval of both Governments. It is this aspect which raises doubts. In my view, those nonfundamental sections of the compact are subject to alteration or abrogation by the Congress unilaterally and without the consent of the Puerto Rican Government.

I view the future relationship between the United States and Puerto Rico as one of the most important in this hemisphere. Not only is Puerto Rico a key link with our friends in the Caribbean but it is a major economic and cultural bridge with our friends in Latin America. The final draft compact must be the fairest and finest attainable as a result of the legislative process. We, in the Congress, will be carefully scrutinized and judged by our performance and ability to deliver a responsive and responsible legislative improvement in our Federal relations with Puerto Rico. The ultimate compact must be overwhelmingly satisfactory to the U.S. Congress, the executive branch, the American people and most importantly, the members of the American family residing in Puerto Rico and their elected officials.

Mr. Speaker, the continuing experience which typifies dynamic democracy, functioning within a republican form of government, characterizes the legislation introduced today. Puerto Rico's final political destiny remains to be determined; but in my view, the compact which will emerge from the Congress in conjunction with the recommendations of the administration, the Puerto Rican Government and expert testimony assures Puerto Rico an integral place within the American political family. The very strong ties of the past will become increasingly closer as we work cooperatively toward strengthening the union between the 50 States of the United States and the Free Associated State of Puerto Rico.

GENERAL LEAVE

Mr. HARKIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on the subject of the special order taken today by the gentleman from Puerto Rico (Mr. BENITEZ).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

THE SITUATION IN KOREA TODAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. ROBERT W. DANIEL, Jr.) is recognized for 60 minutes.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, my colleagues and I have requested time for a special order today on the critical situation in Korea. I and several others who will speak today have recently returned from a visit to the Republic of Korea where we saw at first hand the determination of the South Korean people to resist the tyranny of communism which has ravaged their land more than once. We also saw the tremendous economic strides made by an industrious and hard-working people who have made their country one of the major trading nations of the world in a short time. We also saw that the Republic of Korea is not as democratic as our own Nation, and we strongly urged the Korean officials we met to move toward an increase in civil liberties as soon as the security situation will permit. We also saw, it is fair to say, that there is a strong and responsible constitutional opposition which is well represented in the National Assembly.

Today I would like to stress the vital importance to our own country that we maintain policies which will avoid another war on the Korean peninsula; the last war, as many Americans will recall from firsthand experience, cost the United States 53,000 men and more than $10 billion. The Korean people themselves, of course, suffered terribly on both sides, and many other members of the United Nations made sacrifices to keep freedom alive on the peninsula.

The strategic situation at the present time is very delicate. The North Koreans have stepped up their propaganda and guerrilla warfare campaign against the south. Right now, with the North Koreans in possession of sophisticated weapons, Seoul with its population of 6 million—only 25 miles from the DMZ—is vulnerable. Their Mig's could be bombing Seoul only 3 minutes after crossing the border. Their approximately 1,000 tanks would make a very effective blitzkreig attack.

We only have to think of what our reaction would be if Canada—by some improbable event—were to be in Communist hands and if armed forces equal to ours were to be stationed all along the Canadian border.

I am convinced it is the presence of American troops which is acting to prevent a new war in Korea. The North Koreans know they risk a devastating counterattack if they attempt an invasion of the south. Without our presence, they would be in a much better military position and more inclined to run the risk of war.

I spoke with several of our military leaders on my visit to Korea, and I am proud of the excellent job our armed services are doing there in their peacekeeping role.

Assuming we can prevent a war there, South Korea is well on its way to becoming one of our major trading partners. The tremendous gains made by the Korean economy provide a stunning testimonial to what a free economy can accomplish. Despite the heavy toll of the war, the Korean economy has recovered remarkably. In 1961 South Korea had a per capita GNP of only $83. Now with a population of 34 million it has quadrupled to about $400, giving it one of the highest per capita GNP among developing nations. In a 5-year period of rapid growth between 1967 and 1971, the Republic of Korea enjoyed an average per annum growth in GNP of 11.4 percent.

Following in the pattern of the Republic of China and Japan, the Republic of Korea is on its way to becoming the newest economic power in Asia.

A staff member of the Council on Foreign Relations, Zygmunt Nagorski, Jr., recently wrote in the New York Times—June 14, 1975:

> The case of South Korea . . . has been a success story in Asia. It is a country which has gone through a trauma of a Communist war and a Communist occupation that left deep scars. The mere fact of the existence of a democratic opposition in Korea is a suc-

cess story. Add to it the Korean economic growth which made that little peninsula one of the most rewarding experiences for the American economic assistance program.

I believe, Mr. Speaker, that all Americans can take pride in contributing to the foundations of another economically self-reliant nation which remains a firm and loyal ally—the Republic of Korea.

Mr. SPENCE. Mr. Speaker, in the course of her recent tour to South Korea, our esteemed and gracious colleague, Congresswoman MARJORIE HOLT of Maryland, had the oportunity to meet and confer with a number of key personnel. These included officials of the South Korean Government, prominent private businessmen, union leaders, professors, and industrial leaders, as well as officials of our Embassy and of our Armed Forces.

As a result, Mrs. HOLT has developed a keen insight into the issues which pertain to the Korean situation, as well as the current status of that volatile area.

Upon her return, Mrs. HOLT was interviewed by an outstanding journalist, my good friend Frank van Der Linden, who is now a columnist for United Features.

The result was an excellent article on the situation in Korea at this time, and I include Mr. Van Der Linden's column at this point in the RECORD:

SITUATION IN SOUTH KOREA

(By Frank van Der Linden)

WASHINGTON.—The head of the House Republican Study Committee has come home from a trip to South Korea convinced that the threat of a new Communist invasion from the North is real and can be averted only by repeated demonstrations of the United States' unswerving military support for the South.

Rep. Marjorie Holt of Maryland said she asked President Park Chung Hee to relax his curbs on his own people's civil liberties, noting that his critics in the United States are demanding a pull-out of the 38,000 American soldiers in South Korea.

She said Park replied that he would not end the restrictions as long as North Korea's dictator Kim Il-Sung continually vows his intention of "reunifying" the entire peninsula under the Communist flag, by military force, whenever he can use the excuse of helping revolutionary forces inside South Korea.

Hence, Park attempted to justify his repressive measures as necessary to stamp out subversion.

Park's capital, Seoul, a booming city of five million people, is only 30 miles south of the Demilitarized Zone which has divided the two Koreas since the 1953 truce. The Communists could easily attack the city with missiles and artillery and with their 300 Soviet-built Mig aircraft—if they dared.

Rep. Holt said she realized, with a shock, the situation would be comparable to having invading armies arrayed at Baltimore, in her home state, ready to strike Washington, D.C. In that case, she said, the American capital might well have some of the same restrictions such as the curfew and curbs on the press, which prevail in Seoul.

"We can't expect South Korea to have a perfect democracy when it is in a state of siege," she said. "We must remember that North Korea would impose a total dictatorship with no liberties at all." Rep. Holt said South Koreans in various walks of life, including those at Seoul's university who criticized Park's policies, nevertheless are completely united in their determination to resist Communist oppression.

"They told me they know Communism, from suffering under it personally during the war, when the invaders reduced Seoul to rubble, and they won't submit to it again without a fight," she said.

Rep. Holt found South Korea has one of the world's best armies, composed of soldiers who drill by day and build tank traps by night. They do not need the 38,000 American troops in their country merely for the sake of having that many additional soldiers, she said.

However, she was told, it is imperative that the Americans remain there at present as a symbol and a warning to the world that an invasion of South Korea would mean instant massive retaliation by American sea and air power. The message is intended not only for North Korea but also for its giant allies, Soviet Russia and the People's Republic of China.

After the collapse of South Vietnam last spring, the South Koreans feared that Kim Il-Sung might misinterpret the American pull-out as a sign of retreat from all of Asia, and then he might be emboldened to attack. President Ford cautioned Moscow and Peking to discourage the tinpot dictator from any such adventures, which would draw the nuclear superpowers into war.

So far, the deterrent has worked. But it can keep on working only as long as American resolve is reiterated by Congress as well as the executive. "I have spoken to President Ford about this, and there is no doubt that he intends to keep our troops in South Korea," Rep. Holt said.

Defense Secretary James R. Schlesinger restated the policy when he inspected the defending troops at the D.M.Z. in August. At that time Lt. Gen. James Hollingsworth, their commander-in-chief, said: "We are acting under a violent short-war concept, to suppress and destroy the enemy in nine days, with our tremendous fire power and air support."

Schlesinger significantly did not rule out the possibility of using tactical nuclear weapons stored in South Korea.

"South Korea is one ally we can count on," Rep. Holt said. "With firmness, we can prevent another war there."

Mr. DICKINSON. Mr. Speaker, it is a pleasure for me to join today in the special order on Korea called by our distinguished colleague from Virginia, Congressman ROBERT DANIEL.

Several of our colleagues have discussed the important strategic questions involved in our commitment in North East Asia; others have discussed problems arising from the internal political situation in the Republic of Korea; others have contributed to our discussion from their first hand impressions after having recently visited that part of the world.

I should like to call to the attention of our colleagues a recent report on the economic progress made by our ally on the Korean peninsula. It is not generally known that South Korea, through the great industry of her people, is fast becoming one of the major trading nations of the world. Foreign trade accounts for an amazing 70 percent of her GNP, compared to 7 percent for the United States and 21 percent for Japan. For this reason, Korea is rapidly becoming important to the American economy as much of her trade is with our people.

I should like to insert in the RECORD at this time a firsthand report on the Korean economy written by a Chicago Daily News reporter which was published in the November 30, 1975 issue of the New Orleans Times Picayune.

SOUTH KOREA ECONOMIC GROWTH TO BE 7 PERCENT

(By Keyes Beech)

SEOUL.—It looks as though the amazing South Koreans have done it again.

Undaunted by the oil crisis and a global business slump, South Korea will end the year with a healthy 7 per cent economic growth at a time when most of its Asian neighbors are singing the blues and the rest of the world is still groping for a way out of recession.

Which is not bad for a country that only 15 years ago was being called the "Beggar Nation" of the Far East, whose only natural resource is its people and which, as somebody once put it, is surrounded by "water and Communists."

Seoul is a 2½-minute flight from Communist North Korea.

"Never under-estimate the ability of the South Koreans to bull their way through—even though they sometimes fall flat on their face doing it," said an American businessman as he attacked a piece of pecan pie in the Chosun Hotel coffee shop.

Foreign trade accounts for an astonishing 70 per cent of South Korea's gross national product—compared to 7 per cent for the United States and 21 per cent for Japan—which makes it terribly vulnerable to the ups and downs of the world economy.

But Korean exporters will meet their target of $6 billion for 1975 or face the wrath of President Park Chung-Hee, a terrifying prospect for any Korean.

The stern little president's monthly economic briefings are conducted with military-style briskness as becomes an ex-general.

The country's exports will increase by about 17 per cent this year, a neat trick considering the global business decline. When sales to Korea's two biggest customers, Japan and the United States, fell off sharply, the government's economic planners diversified with agility and style.

Its most spectacular success was in establishing economic ties with such oil-rich Middle Eastern nations as Iran, Saudi Arabia and Kuwait. South Korea launched its "oil diplomacy" two years ago and it has paid rich dividends.

It seems that hardly a week goes by without the arrival of another Communist-hating Arab oil sheik ready to wrap up yet another business deal. During the first half of 1975, exports to the Middle East shot from virtually nothing to $131 million. This, coupled with a 38 per cent rise in exports to Europe, raised to a remarkable 45 per cent the share of trade going to other countries than the United States and Japan.

One of the most striking aspects of the Middle East connection is the spread of Korean influence in that part of the world through the export of Korean labor.

Bigtime Korean contractors have won construction contracts throughout the Middle East, especially Saudi Arabia. Today there are more than 2,000 Korean workers employed in the Middle East.

The overseas construction industry has become a major Korean export and foreign exchange earner. During the first nine months of this year Korean contractors won nearly $1 billion worth of contracts.

Nearly 5,000 workers are employed in 26 different countries by 32 companies. Remittances from Koreans living and working abroad amount to about $500 million annually, which explains why South Korea encourages migration to the United States.

South Korea's phenomenal growth in the face of adversity has not been without cost, in the form of roaring inflation and whopping trade deficits. Inflation hit 42 per cent last year and is only now being brought under control.

The country's trade deficit at the end of 1974 was $2 billion; it will be slightly less this year. But the bankers still consider South Korea a good credit risk. Earlier this year a nine-nation consortium agreed to loan South Korea $2 billion a year "for the next few years."

The guiding hand behind South Korea's astonishing economic performance is a former economics professor, Nam Duk-woo, 51, who got his doctorate in economics from Oklahoma State University and returned to Seoul to teach in a Jesuit university until Park tapped him first for the job of finance minister and then director of economic planning.

Mr. KEMP. Mr. Speaker, it is a pleasure for me to join my distinguished colleague Mr. ROBERT DANIEL in the discussion of the Republic of Korea this afternoon. At a time when we are all concerned about our global interests, and concomitant global responsibilities, it is important to know which nations we can trust to remain our friends and allies. Possibly no nation in Asia has been more supportive of our efforts to bring peace and stability to that troubled area of the world than the Republic of Korea.

Korea has consistently demonstrated her reliability as an ally, and also her own great initiative and motivation in self-help and economic recovery from the devastation of war.

With American assistance, the Koreans have become increasingly self-reliant and in the course of the past two decades have just about succeeded in achieving the status of a developed country. This accomplishment in such a short period of time is all the more impressive because the Korean people have few natural resources upon which to rely.

The United States is besieged virtually every day at the United Nations and, in other world forums, for the very system that has enabled nations throughout the world to receive the economic assistance they desperately need. It is refreshing, I think, to find a friend like the Republic of Korea that has not simply ingested our foreign aid dollars, while condemning the system that made them possible, but has tried and is trying to internalize our democratic way of life.

Our very able United Nations Ambassador Daniel P. Moynihan has warned that democracy is in trouble throughout the world. There are only some 2 dozen democracies in the entire U.N. membership list—and these democracies are almost continually under fire from the assorted totalitarian Communist regimes and, ancient and modern despotisms, united in the conviction that, as Moynihan put it, "their success ultimately depends upon our failure."

It is no accident that the Republic of Korea has prospered by trying to adopt more political and economic freedoms. I certainly would be the last to submit that this effort has been without fault or can be without criticism today, but I believe that credit should be given where credit is due. The Republic of Korea has utilized our foreign aid dollar to the advantage of stability and democracy in Asia—and deserves to be recognized for this important achievement as a vital ally of the United States.

Mr. ARMSTRONG. Mr. Speaker, I am happy today to take part in the special order called by my good friend and colleague, Congressman ROBERT W. DANIEL, JR., of Virginia, who has recently returned from a visit to the Republic of Korea.

As we all know there has been considerable controversy in the past few months in the press and in this body in regard to some of the internal policies of the South Korean Government.

With this in mind, I thought it might be useful for our colleagues to have the opportunity of reading a recent interview with President Park conducted by a distinguished Colorado journalist. I offer this article from the Denver Post as a contribution to our discussions of the South Korean situation:

SOUTH KOREA PRESIDENT RESPONDS TO QUESTIONS BY EDITOR OF POST

On a month-long trip to five Far East countries in October, Denver Post editor and publisher Charles R. Buxton sought an interview with President Park Chung Hee of the Republic of Korea.

Advance arrangements worked out with Park's staff in Seoul included submission in writing of questions which Buxton intended to ask.

The interview was canceled by Park at almost the last minute, but with a pledge that the questions would be answered later, also in writing.

This is the result:

Question: Is there any realistic likelihood of reconciliation between North and South Korea in the foreseeable future? Under what conditions would South Korea accept such reconciliation?

Answer: If the North Korean Communist regime gives up their unwarranted ambition to force communism on the whole Korean peninsula, I see no reason why we cannot attain reconciliation between the South and the North.

On August 15, 1970, commemorating our liberation from Japanese colonial rule, I called upon the North Korean Communists in all earnestness to embark upon peaceful coexistence and bona fide competition in creativeness toward mutual development and prosperity. Ever since, we have been steadfast in our efforts to bring forth reduction of tension and peaceful coexistence. We are firmly convinced that the peaceful coexistence between the South and the North of Korea is the only avenue which, by preventing recurrence of war, would lead us eventually to peaceful and justifiable reunification.

In keeping with this premise of peaceful coexistence, we have enthusiastically tried to continue the South-North dialogue, proposed mutual entry of South and North Korea into the United Nations, and urged the North Korean Communists to agree to conclude a nonaggression agreement with us. Such friendly gestures and endeavors on our part have been in consistence with the prevailing trend of detente in international policies.

However, the North Korean Communist regime with their unparalleled bellicosity have been all out against the world-wide trend. They have turned down the cause of peaceful coexistence on the Korean peninsula; they are preoccupied with the preparation for another war to communize the whole of the Korean peninsula by force of arms.

In brief, I believe that we can work out reconciliation between South and North Korea only if the North Korean Communists renounce such a delusion and accept peaceful coexistence with us.

Q: It has been reported that within five years South Korea's defensive capabilities will be self-sufficient. There are two parts to my question on this subject:

a. What role will the United States be called on to play during those five years?

b. How will the picture change in the event of extensive third power military aid to North Korea?

A: Before giving my answer to this question, let me explain briefly what we mean by "self-reliant defense." Self-reliant defense in our terms means to build up our national strength to the level where we can effectively strike back any invasions launched by the North Korean Communists on their own without support from either Communist China or the Soviet Union.

We expect to build up such self-defense capabilities in five years. In the meantime until our self-reliant defense posture is achieved, I think it profoundly important for us to see to it that the American armed forces remain in Korea and to keep up our military modernization program with sufficient American support as mutually agreed upon. Such a role to be played by the United States in Korea will help maintain power balance between the free world and the Communist powers in Northeast Asia, prevent recurrence of war in the Korean peninsula, and stabilize peace in this region.

In the case that a third power provides extensive military aid to North Korea, the power equilibrium on the Korean peninsula and in Northeast Asia as a whole will inevitably undergo a drastic change. As a consequence, we can easily predict a deplorable situation where peace in this region will break down and the security of this country will be gravely endangered.

Personally I hope that such eventuality would not occur. Even if we were to encounter such a situation, we will cope with it in close cooperation with the United States.

Q: What economic, political and defense roles do you see for the United States in this area of the world, keeping in mind our withdrawal from Indochina and the diminishing influence of colonial powers like Great Britain (in Malaysia and Singapore) and the Netherlands (in Indonesia)?

A: The British withdrawal from east of Suez produced a power vacuum for a while in those areas directly affected by the action. The American evacuation from Indochina has called in growing Russian influence in its wake. So does breach of the status quo tend to create disorder and dangers of war in international politics.

Unlike the southeastern part of Asia, Northeast Asia is the industrialized region of the Asian continent. If an imbalance of power places this region under the threat of war, it would be a most unfortunate thing for preserving the world peace.

As an avowed Pacific power, therefore, the United States is expected to continue its presence and to perform its functions in this part of the world. Politically, the United States should stand for mutual respect of sovereignty, reciprocity and equality; militarily, it should play the role of a balancer against the Communist powers including Communist China and the Soviet Union; and economically, it should cooperate as a partner for regional development.

Q: South Korea has made an astonishing economic recovery since the devastation resulting from the war in 1950. How has Korea been able to do this?

A: I am aware that many foreigners have been amazed at the remarkable economic development we have achieved since the 1960s. This outstanding achievement is by no means a miracle. As a matter of fact, it is a natural result of the cooperative efforts devoted by our people and government who have been firmly united in the spirit of Saemaul (New Village), which stands for diligence, self-help and cooperation

The spirit of Saemaul that embodies the national will be unshackled from age-old poverty has been the driving force for our economic development. It has certain common features with the frontier spirit of the American West which played a great part in laying groundwork for the American civilization in challenge against all the conceivable difficulties in that early era.

I deeply appreciate the self-sacrificing, devoted endeavors of our people toward nation-building.

I believe that another important factor that has contributed to attaining the remarkable economic growth in such a short span of time lies in the political stability of our country. Without political stability, economic growth can never be sustained. The history of human progress and the cases of many developing countries that have experienced frustrations since World War II stand witness to the fact.

Now let me outline the strategy which we have employed for our economic development.

In the first place, since it is a basic precondition for successful implementation of the economic development plan that the people should have self-confidence in progress, we endeavored to plant the spirit of "We can do it if we try" deep in the hearts of our people. We did this by marking priority to tangible economic projects.

Secondly, emphasis has been placed upon the acceleration of industrial development, because the productivity and profit rate of industrial production is relatively high. Then we stepped up rural development by investing both self-confidence inspired through visible economic progress and profit accrued from industrialization into rural areas. The farm areas are precisely extensive markets for industrial products. Without their simultaneous development, industrialization cannot be sustained. As a consequence, we have been consistently pursuing a balanced development of both agriculture and industries.

Thirdly, we are now at the stage of economic growth where our all-out efforts are launched toward promotion of heavy and chemical industries. This is to fulfill our nation's aspiration for joining the ranks of advanced industrial states.

This development strategy, so uniquely our own, has so far been in operation with remarkable success.

Q: Mr. President, you have been criticized by some Americans for allegedly repressing the political freedom and civil rights of the Korean people. We have heard there is stringent press censorship, that political foes have been arrested, that student protests have been muzzled. Can you tell me whether such conditions exist, and if so, how they can be justified?

A: I have never repressed political freedoms and civil rights of our people. As you witnessed during your visit here, there is no press censorship. No politicians have ever been arrested for their lawful politcal activities. As a matter of course, it was inevitable for our government to prohibit some student protests and demonstrations to maintain public peace and order and national security.

I am no less concerned than anyone else about the importance of basic human rights and freedom of the individual, and I also recognize how they deserve for building up a democratic society. In practice, however, these rights and freedom can be protected only within the framework of the law and the Constitution.

In Korea fundamental rights and freedom of the people are sufficiently upheld on the basis of law and order. No nation can tolerate anyone who attempts to overthrow the government by means of violence, nor anyone who threatens law and order, merely for the cause of safeguarding basic rights or freedoms. It is quite natural that we should also control such subversive actions in our country in accordance with the law and the Constitution.

I would like to remind you that at the time of Civil War in America, President Abraham Lincoln declared an emergency measure in which espionages, rebels and others violating public peace and order should be arrested, searched and put under detention without a warrant. Some of the newspapers were also forced to close down as part of press control under President Lincoln's emergency measure.

At the moment, Korea is faced with an emergency situation far more critical than was the United States during the Civil War. Our own national survival is under constant threat of war from the North Korean Communists, who outrightly reject lessening of tension as well as peaceful coexistence with us.

Those who criticize a series of measures which our government has taken to preserve national security and national survival in a crisis of our country, defaming them as "repression" or "oppressive measure," must be misinformed of our present realities. I think that before long they would come to understand the situation of our country better, recognizing that they had incorrect perception of our country.

Q: The Association of Southeast Asian Nations (ASEAN) was established eight years ago for regional cooperation. We know ASEAN has not been very effective. Is there a leadership role for Korea in an expanded organization of this kind?

A: Situated in the Asian and Pacific region, the Republic of Korea has had a sustained interest in the promotion of regional cooperation among the countries in the region. We strongly believe in the value of regional cooperation. As for ASEAN, the Republic of Korea maintains friendly and cooperative relations with its member countries and supports their aspiration for developing their region by strengthening mutual cooperation among themselves.

As regards expansion of the organization, I think it inappropriate for us, a non-member, to make any comment. However, we would attach very much importance to the value of such a regional organization as the ASEAN and to its possible contribution to the maintenance of peace, stability and prosperity in the Asian and Pacific region.

Q: That leads to the next question: What is the future of South Korea's relations with Japan? Will Japan replace the United States as Korea's most important partner?

A: For the past decade, since normalization of their relations in 1965, Korea and Japan have promoted mutual cooperation as close partners. It is my belief that the Korea-Japan partnership should live long in the future. The two neighbors should also exert joint efforts for peace, development and prosperity in Northeast Asia.

Nevertheless, I do not foresee that Japan will replace the United States in the role of protecting the security of Korea, because the present constitution of Japan prohibits its security role of any kind concerning foreign countries.

In the wake of the Indochina debacle, the United States must have decided that its continuous presence as a Pacific power in Northeast Asia serves its national interests. I think this is why the American leaders of both administration and legislature have repeatedly reconfirmed U.S. commitment to the defense of Korea.

As responsible leaders of the Japanese government have also reassured that the security of the Republic of Korea is essential to the security of Japan, it is self-evident what roles Japan is supposed to play toward preservation of peace and peaceful coexistence in Northeast Asia as well as the Korean peninsula.

Japan is expected to contribute to achieving peaceful coexistence and prosperity in the region through promoting reciprocal cooperation with Korea in the fields of economic development and foreign trade.

Q: Many of your countrymen have migrated to the United States as a result of a rewriting of our immigration laws. More than 1,500 persons from Korea have moved to my own city of Denver in recent years. How do you feel about the outward flow of human resources, and what has your government heard about the reception received by these immigrants?

A: The so-called "brain drain" has recently in reverse in the case of our country. This trend is likely to show an upward turn as our economic development gains momentum.

A number of Korean scholars, technicians and various professionals have lately returned from abroad in response to increasing demand from their fatherland for their knowledge and skills. From a positive point of view, we can probably say that emigration is a form of international exchange of human resources which contributes to the progress of mankind.

Our government has adopted a policy to encourage emigration of our citizens to foreign lands since the 1960s. Consequently, many Korean people have moved to various parts of the world including the United States, South America, Southeast Asia, Europe, etc. I heard that they had settled down in their respective new countries, serving them through hard work in a variety of occupations.

Mrs. HOLT. Mr. Speaker, the United States was the first Western nation to sign a treaty with Korea, in 1882. Since that time it has experienced a stormy history including annexation by Japan in 1910, division at the 38th parallel into North and South Korea in 1945, and invasion of the Republic of Korea by the North Korean dictatorship in 1950. Throughout this period the Korean people have maintained a common dedication to the promotion of economic prosperity and resistance to aggression.

Having recently returned from a visit to the Republic of Korea, I would like to take this opportunity to inform my colleagues that this common dedication to these principles is still flourishing in South Korea.

The Republic of Korea is perhaps unique among the nations of Southeast Asia in that it has, with very little American assistance, been able to successfully resist Communist aggression, develop a highly trained and effective military force, and sustain a dynamic economy.

The South Korean Armed Forces are among the finest in Asia, having amply displayed their determination and ability in the Korean as well as the Vietnamese conflict. Today their regular troops number about 625,000 with a 2-million-man home guard. In addition there is an American division of about 40,000 troops in South Korea.

The future role of American Armed Forces in South Korea has been a subject of much debate in this Chamber. Though I have great confidence in the military forces of South Korea, I firmly believe that a withdrawal of American troops would be premature at this time. It must be remembered that an American presence is the prime guarantee of stability which so far has prevented active Russian or Chinese intervention in Korea. The recent collapse of governments in South Vietnam, Laos, and Cambodia will undoubtedly provide a turbulent future in Southeast Asia. An American withdrawal at this time would, in my opinion, be a clear invitation to North Korea and its allies to invade the South with no fear of international consequences and reaction.

The economy of South Korea is equally as impressive as its military strength. Its rapid economic growth, the skill and industry of its people, and the increasing prosperity of both urban dwellers and farmers place it among the economic powers of Asia. In recent years its economy has been growing at a rate of 8 to 10 percent annually, and it must be remembered that this is being accomplished by a nation which is poor in natural resources, densely populated, and still suffers from an inadequacy of trained technicians and managers. Its primary resource is its people and their determination to grow and survive. They have, indeed, overcome seemingly insurmountable obstacles.

Finally, some mention must be made of the status of democracy in South Korea. Much attention has been focused on political "repression" in the Republic of Korea and the "dictatorship" of President Park. It is true that the people of South Korea do not enjoy all the democratic principles that we take for granted, but I think that we must be pragmatic about this matter. A democratic government is an evolutionary institution which comes into being gradually over time. It cannot be instantaneously formed in a culture which for centuries has adhered to Confucian principles with their emphasis on authority, hierarchy, and submission.

Immediate results cannot be expected. Look at our own history. Our democracy was more than 150 years old before women were granted the right to vote; it was a little more than 30 years ago that we interned Japanese Americans on the west coast. Our democracy is constantly evolving. Every action in this Chamber, judicial decision, and executive action affects our freedoms on a daily basis. In effect, I do not think that we can expect a nation which has been in existence for less than 30 years and which has a totally different cultural background to be a carbon copy of our own democracy. And it should also be pointed out that the existence of massive hostile forces 24 miles from Seoul, the capital of the Republic of Korea, necessitates some actions which would not be necessary in a peaceful environment.

Mr. Speaker, the survival of the Republic of Korea is vital to the maintenance of the balance of power in this critical area and as a symbol to all developing nation throughout the world. I urge my colleagues to support all necessary actions to insure this survival.

Mr. DERWINSKI. Mr. Speaker, the President has recently returned from a trip through the Far East in which he once again has emphasized the need for maintaining our alliances in the region as part of preserving the stability in Asia. Thus it is especially fitting that this afternoon we discuss the Republic of Korea which has been a close and very reliable ally in the region over the past 30 years.

Not only did we fight alongside Koreans in the defense of their peninsula from Communist aggression; but they reciprocated by sending a force of over 50,000 men to Vietnam. Aside from the Vietnamese and our own commitment, the Koreans had the largest number of men in the field in Vietnam and suffered over 1,000 fatalities. This demonstrates that the Koreans have always had a broad view of their own security in the Orient. Interestingly the number of Americans currently stationed in Korea about equals the force they had serving in Vietnam.

The value of the continued presence of American troops in Korea can easily be grasped by the events of the past two decades. While this relatively small number of Americans have been stationed on the Korean peninsula the truce has been maintained and the South Koreans have been able to develop into a thriving economic power in the region. Unlike 1950, if again invaded by North Korea, there is little doubt that the South Koreans could hold their own against the forces of their Communist neighbor.

Why then should we keep U.S. troops in Korea and pledge to go to their support in the event of an attack? Pulling American forces out of Korea would only destabilize the situation and make the possibility of war more likely. As long as the North Koreans and their allies in Peking and Moscow know that they will have to tangle with the United States if they attack Seoul again, they will not renew the war. If we seek stability and peace in East Asia then we want to preserve the present status quo in Korea. We can only do this by maintaining our commitment to the Republic of Korea. We have only a small force in Korea, but the psychological impact of their presence over the years has far outweighed costs entailed by maintaining them there.

Finally I should comment on another aspect of our military relationship with the Republic of Korea. As part of our program of developing self-reliance among the Koreans we have undertaken a modernization program that is designed to bring the South Korean Army up to the standards of the North Korean Army. In some areas this program has progressed well, but in the field of delivery of modern aircraft the program has fallen badly short of its goals.

Right now the North Koreans, largely through massive Soviet aid, have tremendous air superiority over the South Koreans. They do not have better pilots or training but simply larger quantities of more modern equipment. And it is precisely this air power that would lead the waves of any new assault on the South Korean Capital of Seoul, less than 30 miles from the truce demarcation line. As long as we do not provide our Korean allies with equipment comparable to that of their potential adversaries we must keep our own air power in the area and be prepared to move in concert with the ROK forces in the event of renewed Communist aggression.

We must remain keenly aware of the situation in Korea because the consequences of a renewal of war there has implications far beyond that one small peninsula. Korea borders in the west on the two great Communist powers, the Soviet Union and China, while to their east lies Japan, the third most powerful industrial country in the world and America's major trading partner. For centuries Korea has been the focal point of contention between China, Russia, and Japan. Only by preserving the status quo within Korea do we have any hope of preventing serious confrontation and possible conflict among the great powers of east Asia. In particular the fate of Japan is inextricably tied to that of Korea. As an article on the situation in Korea in U.S. News & World Report commented:

> A U.S. backed South Korea is vital to the security of Japan—America's No. 1 ally in Asia—and serves to check expansionist designs by China and Russia in the region.

With our continuing commitment to Korea, we can maintain the truce there and provide security to the people there so that they can continue their tremendous economic advancement. More broadly the relatively inexpensive support we provide for the defense of Korea has a vital stabilizing effect upon all of Asia.

In order to bring these points more fully to the attention of the members of the House, I include the assessment of the situation in Korea that appeared in U.S. News & World Report, which I alluded to, in the Record at this point:

[From U.S. News & World Report, June 30, 1975]

AMERICAN GI'S STILL KEY TO KOREA DEFENSE

(On familiar battlefields, will American mettle be retested? K. M. Chrysler of the magazine's staff sizes up the latest Communist threat in Korea.)

Seoul.—It was just 25 years ago—on June 25, 1950—that North Korea's surprise invasion of the South dragged Americans into yet another Asian war. Today—

The specter of the U.S. once again fighting on the Asian mainland is being raised by ominous hints that Communists are preparing for a second attempt at overrunning the Korean peninsula.

Tensions now building up arise more from psychological reasons than from actual military pressures. Fear is that North Korea's leaders, emboldened by rapid fire Communist victories in Indo-China, will persuade themselves that the U.S. will withdraw its troops rather than defend South Korea against direct assault or subversion.

Fueling the tension was discovery of two tunnels the Communists had dug under the demilitarized zone (DMZ) separating the two Koreas. The smaller one was to be used to slip Communist agents into the South. But South Korean intelligence sources estimate that two divisions of North Korean troops could have been infiltrated through the larger tunnel in a matter of hours.

Moreover, South Koreans claim that Communist engineers have dug up to 20 more tunnels under the DMZ. At least six are believed still under construction.

Opposing forces.—More than two thirds of the 410,000-man Communist Army is deployed within 50 miles of the DMZ. Elements of the North Korean Air Force—which includes about 500 Russian and Chinese-made MIG jets—are based at an airfield only 70 miles north of Seoul.

Opposing these forces is a South Korean Army of 560,000 soldiers, many of whom fought in South Vietnam, and an Air Force with 210 fighter planes. Seoul's Army is considered more than a match for the Communists on the ground. Its Air Force, although outnumbered, is believed to be superior with its U.S.-supplied F–4s, F–5s and Korean War-vintage F–86s.

Despite invasion warnings from South Korean President Park Chung Hee, some analysts in Seoul argue that chances of an assault are less than 50–50. They cite North Korea's shaky economy and the apparent reluctance of both China and Russia to back another expensive military adventure by Pyongyang.

Nevertheless, these experts worry that a miscaluation by North Korea's unpredictable leader, Kim II Sung, could shatter the 22-year-old Korean cease-fire and trigger a new conflict.

America's role.—Critical to the question of war or peace is U.S. resolve to help defend South Korea and to maintain American troops in the South. These forces, including the Second Infantry Division and a tactical fighter wing, recently have been increased to their authorized strength of 42,000 men.

Yet military experts emphasize that the number of U.S. forces is not particularly relevant. To South Korea, the real value of the U.S. presence is to deter North Korea and to serve as "hostages" or as a "trip wire" which would guarantee an American response if the Communists attacked.

"As long as U.S. troops stay on Korean soil," says Foreign Minister Kim Dong Jo, "we have no doubts at all about the U.S. commitment." Adds former Prime Minister Chung Il Kwon: "With U.S. forces here, we feel safe. Withdraw them, and we will be attacked within three to six months."

Why GI's remain.—Denying any present plans to pull out troops, American officials point out that the U.S. stake here is greater today than in 1950, when the Communists set off a three-year war that cost the lives of 54,246 Americans.

Washington has pumped more than 10 billion dollars in military and economic aid into the country, and American businessmen have invested more than 200 million in industries ranging from electronics to petrochemicals.

More important, a U.S.-backed South Korea is vital to the security of Japan—America's No. 1 ally in Asia—and serves to check expansionist designs by China and Russia in the region.

Officials in Seoul were heartened by the declaration of Secretary of State Henry Kissinger in New York on June 18 that the U.S. was "resolved to maintain the peace and security of the Korean peninsula, for this is of crucial importance to Japan and to all of Asia."

South Korea has come a long way since 1950. Then a land of farms, poverty and illiteracy, three years of conflict further scarred it with political instability and economic stagnation. The outlook, even after the armistice agreement was signed in July, 1953, was bleak.

The road back.—Recovery did not begin until the early 1960s when—sparked by U.S. aid and prodded by American experts—the economy began to accelerate. Since 1962, real growth has averaged 9.5 per cent a year, and the gross national product jumped 7.5 times to 17.2 billion dollars in 1974. Per capita income rose from $87 to $513. Literacy now is more than 90 per cent.

Exports have risen 44.5 per cent each year and exceeded 4.4 billion dollars last year. Postwar industries include a petrochemical complex, an integrated steel mill, two shipyards, three oil refineries and our auto-assembly plants. A seventh fertilizer factory now under construction will be the largest in the world.

South Koreans who once worried about getting enough to eat now exercise excess pounds away in neighborhood health centers. Night clubs do a booming business. Sales of hiking, camping and fishing equipment are brisk. Vacation resorts and weekend cottages are beginning to catch on.

Even the long-neglected farmers—still almost half the 35 million population—are beginning to share in the prosperity. Nearly 2 out of 3 households have electricity, and regular bus services reach most villages. Average annual family income has multiplied nearly 10 times to $1,330.

In contrast, Communist North Korea has consistently undershot its economic targets and is saddled with a foreign debt estimated at 1.7 billion dollars. It is in default on foreign loans and is considered a bad credit risk. Even the Russians are disappointed by the sluggish economic growth and are said to be slowing their aid for construction of 30 industrial plants in the North.

New foreign investment.—Ironically, while President Park tries to keep his countrymen alert to the dangers from the North, he must also avoid over-dramatizing the Communist threat for fear of frightening off foreign investors, mainly American and Japanese. They already have a stake of more than 5.5 billion dollars in this country—about 10 per cent of this in direct investments—and about 1.5 billion more will be needed annually in the years ahead to sustain growth.

South Korea, hit hard by the oil crisis and the worldwide business slump, saw its international-payments deficit in 1974 climb to a record 1.8 billion dollars. Still, there is strong optimism among businessmen, centered on high productivity, modern management, sound planning—and a labor force paid only one fifth to one fourth the wages prevailing in Japan.

Experts agree that South Korea is the only country in Asia other than Japan that has the potential to develop into a significant industrial power in the near future.

"This is no longer a two-bit client state or a developing nation," says a U.S. diplomat. "South Korea is well on its way to becoming a minipower."

Iron rule. South Korean has paid a price for its unprecedented growth and affluence. To keep the economy moving—and to prevent weakening of the nation's anti-Communist stand—President Park has felt it necessary to curb political freedom.

Democratic institutions, never strong here, have been steadily eroded since 1972 when Mr. Park declared martial law and rammed through a new Constitution that gave him uncontested control. Since then, the press has been gagged and critics jailed or intimidated.

"Excessive repression is the most delicate problems we have here," a U.S. official reports. "The only lever we have left on the Government is the presence of our troops, and it's one we're reluctant to use," says another American.

President Park's tough, one-man rule has not helped his country in the competition between the two Koreas to gain international acceptance. North Korea, although its society is tightly closed, now enjoys diplomatic recognition by 80 nations—only 13 fewer than South Korea.

Yet President Parks accepts the risks of alienating friendly nations while pushing his people to the breaking point.

"This country is a powder keg with a long fuse," a Western diplomat cautions. "It will blow someday, if there is no easing of the screws."

Veteran observers in Seoul make this point: Political upheaval in the South and certainly withdrawal of U.S troops would tempt North Korea into another invasion. But Kim II Sung should not expect South Korea to collapse under Communist military pressure as did South Vietnam. There are vast differences between the governments and people of the two countries.

Not only does Seoul have a security treaty with the U.S. and a well-led disciplined Army, but South Koreans are united in their determination to remain independents at all costs.

"A harsh climate has produced a tough people," says an Asian ambassador. "South Koreans have accomplished more than the South Vietnamese. They have a right to more self-confidence."

GENERAL LEAVE

Mrs. FENWICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of the special order taken today by the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

TWO BILLS INTRODUCED TO IMPLEMENT RECOMMENDATIONS OF COMMISSION ON REVISION OF FEDERAL COURT APPELLATE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WIGGINS) is recognized for 5 minutes.

Mr. WIGGINS. Mr. Speaker, I have today introduced two bills which are intended to implement recommendations of the Commission on Revision of the Federal Court Appellate System.

The first, entitled the "National Court of Appeals Act of 1975," creates a new National Court of Appeals to sit principally in Washington, D.C., consisting of seven judges. It shall possess "reference" jurisdiction, that is, to decide cases referred to it by the Supreme Court; and "transfer" jurisdiction, that is, to decide a certain category of cases transferred to it by the various circuit courts of appeal, the Court of Claims, and the Court of Customs and Patent Appeals. The decision of the National Court of Appeals would be final, except that its decisions would be reviewable by writ of certiorari granted by the Supreme Court.

The second bill implements several procedural and structural recommendations concerning the circuit courts. Most noteworthy, perhaps, are the proposals to reduce en banc hearings to a panel of not to exceed 9 judges and the availability of senior status to judges who have served at least 10 years, have attained age 60, and whose combined service and age equals 80.

The National Court bill, in particular, is a controversial one. I have introduced these measures so that the controversy may shift from the legal community to the Congress where it must ultimately be resolved. Identical bills have been introduced in the Senate under the principal sponsorship of Senator HRUSKA. I wish to echo the remarks of Senator HRUSKA upon his introduction of this legislation that the sponsors are not irrevocably committed to the particular text. The Congress must, however, be provided a vehicle upon which to work its will and to fairly consider the recommendations of the Commission on Revision of the Federal Court Appellate System. The legislation is introduced in that spirit.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HELSTOSKI), is recognized for 5 minutes.

Mr. HELSTOSKI. Mr. Speaker, I was unavoidably absent from the House floor due to official matters which necessitated my being in New Jersey for the period of December 3 through 12. Had I been present, I would have voted on legislation considered by the House as follows:

December 3: the conference report on S. 1537, to amend the Defense Production Act of 1950—agreed to by a vote of 404–4—Yea; the previous question on House Resolution 878, the rule providing for the consideration of H.R. 10612, the Tax Reform Act—agreed to by a vote of 219–197—Yea.

December 4: an amendment to H.R. 10612 that strikes the provisions permitting individuals to carry back capital losses in excess of $30,000 for a period of 3 years—agreed to by a vote of 379–27—Yea; a motion that the committee rise and report H.R. 10612 back to the House with the enacting clause stricken—rejected by a vote of 60–355—Nay; an amendment to H.R. 10612 that sought to apply the real estate LAL provisions on a property-by-property basis so that artificial losses from one real estate venture could not be used to write off income from another real estate venture—rejected by a vote of 192–226–2—paired against; an amendment that eliminates the exemption of 50 percent of regular income taxes from preferential income made subject to the minimum tax provisions—agreed to by a vote of 314–107—Yea; an amendment that sought to establish a minimum taxable income in lieu of the LAL and minimum tax provisions of the bill—rejected by a vote of 85–334—Nay; an amendment that strikes the provisions which eliminate the 30 percent withholding tax presently imposed on portfolio income paid on foreign investments in the United States—agreed to by a vote of 301–119—Yea; an amendment to the provisions relating to Domestic International Sales Corporations (DISC's) that sought to retain the 1972–74 base period for calculating DISC benefits for the next 3 years, after which the base period would move forward 1 year annually—rejected by a vote of 199–223—Nay; a motion to recommit the bill to the committee with instructions to report it back to the House with a provision stating that no revenues raised by the bill should be used to finance a level of budgetary expenditures in excess of $395 billion during the fiscal year 1977—rejected by a vote of 202–220—Nay; final passage of H.R. 10612, to reform the tax laws of the United States—passed by a vote of 257–100—Yea; motion to recommit H.R. 8069, Labor-HEW Appropriations, to the committee of conference—rejected by a vote of 156–265—Nay; the conference report on H.R. 8069, making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year 1976 and the period ending September 30, 1976—agreed to by a vote of 321–91—Yea; motion to concur with amendment in Senate amendment No. 72 to conference report on H.R. 8069—rejected by a vote of 133–259–15—Nay; motion to concur in Senate amendment No. 72—agreed to by a vote of 260–141–1—paired against.

December 8: an amendment to H.R. 8631, Price-Anderson Provisions of the Atomic Energy Act of 1954, that sought to eliminate the $560 million limitation of liability and require the industry to carry full protection for losses—rejected by a vote of 176–217—Yea; an amendment to H.R. 8631 that sought to challenge the constitutionality of the liability limit in the court—rejected by a recorded vote of 161–244—Yea; final passage of H.R. 8631, Price-Anderson Provisions of the Atomic Energy Act of 1954—passed by a vote of 329–61—Nay; adoption of House Resolution 817, the rule providing for the consideration of H.R. 9721, to provide for increased participation by the United States in the Inter-American Development Bank—agreed to by a vote of 353–24—Yea.

December 9: motion to recommit H.R. 9721 to the Committee on Banking, Housing and Currency—rejected by a vote of 140–276—Nay; passage of H.R. 9721, to provide for increased participation by the United States in the Inter-American Development Bank—passed by a vote of 249–166—Yea; conference report on H.R. 9005, International Development and Food Assistance Act—agreed to by a vote of 265–150—Yea; an amendment in the nature of a substitute to H.R. 10624, Bankruptcy Act Amendments, that would have added a new chapter XVI, limited to cities with populations exceeding 1 million persons—rejected by a vote of 145–264—Nay; final passage of H.R. 10624, Bankruptcy Act Amendments—passed by a vote of 373–29—Yea.

December 10: adoption of House Resolution 846, the rule providing for the consideration of H.R. 9924, the National Women's Conference—agreed to by a vote of 369–31–1—Yea; adoption of House Resolution 902, providing for the consideration of S. 95, Overseas Citizens Voting Rights Act—agreed to by a vote of 394–7–1—Yea; passage of H.R. 9924, to organize and convene a National Women's Conference—passed by a vote of 252–162–1—Yea.

December 11: conference report to H.R. 5900, Common Situs Picketing and Construction Industry Collective Bargaining Act—agreed to by a vote of 229–189—paired for; conference report on H.R. 8773, making appropriations for the Department of Interior and related agencies for the fiscal year ending June 30, 1976 and the period ending September 30, 1976—agreed to by a vote of 407–5—Yea; motion to strike from the conference report on H.R. 3474, Energy Research and Development Administration, section 103, which sought to authorize up to $6 billion for a commercial demonstration loan guarantee program—agreed to by a vote of 263–140—paired for; motion to strike from H.R. 3474 section 104, which sought to authorize the Administrator of ERDA to select a tract of public land for an in-situ oil shale demonstration program to evaluate the feasibility of commercial production—agreed to by a vote of 283–117–1—paired for.

December 12: conference report on House Concurrent Resolution 466, Second Concurrent Resolution on the Budget—agreed to by a vote 189–187—Yea; conference report on H.R. 8122, making appropriations for public works for water and power development on energy research for fiscal year 1976, and the transition period—agreed to by a vote of 339–31—Yea; conference report on H.R. 9861, making appropriations for the Department of Defense for fiscal year 1976, and the transition period—agreed to by a vote of 314–57—Yea.

NATIONAL BUREAU OF STANDARDS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Missouri (Mr. SYMINGTON) is recognized for 5 minutes.

Mr. SYMINGTON. Mr. Speaker, I have introduced today a bill, which in essence would do two things.

First. It would sever the National Bureau of Standards from the Department of Commerce and make it an independent Federal agency.

Second. It would elevate the Bureau of Standards in the Federal hierarchy by making the office of its Director a level III position in the Federal schedule rather than the current level V.

The bill itself, as written, is technical and does not otherwise attempt to alter the structure or mission of the Bureau. In this sense, it is not a definitive bill, nor was it intended to be. As chairman of the Subcommittee on Science, Research and Technology of the House Committee on Science and Technology, I should point out that no decision has been made with regard to hearings on this or similar legislation next year. The matter has not been discussed with other members of the subcommittee thus far.

This does not mean that the introduction of the bill is merely a gesture or without purpose or seriousness.

The bill is intended to provoke careful thought and promote free discussion not only within those communities, Government and non-Government, which would be most immediately involved but among the general public as well.

I should like to call attention to the fact that the National Science Policy and Organization Act of 1975, H.R. 10230, which was reported from our full Committee in October and passed by the House by an overwhelming vote on November 6, contains provision for a Survey Committee which would spend 2 years in a comprehensive study of the total Federal science and technology effort and recommended such legislative action for improvement as its findings may warrant. Assuming that H.R. 10230, or something like it, becomes law, it is my hope that the Survey Committee will study the desirability, the utility, and the potential of the goals toward which H.R. 11215 is directed.

Mr. Speaker, the NBS was founded in 1901 as the Office of Standard Weights and Measures. It operated independently for half a century until 1950, at which time it was placed within the Department of Commerce which had been formed some 12 years after the Bureau.

The Bureau of Standards, it is generally agreed, has consistently been one of the most productive, useful, and underrated elements of the U.S. Government. There is probably no activity within the Federal sphere where the Government and the public get more for their money. Not only does the Government itself depend upon the Bureau for a variety of services—so do academic, industrial, and other business-labor communities.

The Bureau of Standards is divided into four major institutes which deal with: a. Basic Standards; b. Materials Research; c. Applied Technology; and d. Computer Sciences and Technology.

The Institute for Basic Standards is concerned primarily with physical measurements, units and standards, and reference measurements for physical quantities.

The Institute for Materials Research is concerned primarily with the properties and performance of materials, reference materials, and environmental pollution measurements.

The Institute for Applied Technology is concerned with State weights and measures, voluntary engineering standards, building science and technology, product performance and safety, radiation safety and fire research.

The mission of the Institute for Computer Sciences and Technology can probably best be described as seeking to improve the application of such technology through developmental, managerial, service, systems engineering and information techniques.

In addition to the foregoing functions, NBS also conducts an Experimental Technology Incentives Program, the largest and most active of such programs within the Federal Government.

The directly appropriated budget of NBS, which employs some 3,600 persons, is currently running at a relatively modest $65 million. However, the extent to which other agencies make use of the Bureau is evident from the fact that in the current fiscal year an additional $46 million will be transferred by them to the Bureau. Still another $7 million will go to the Bureau for services rendered to non-Government organizations and institutions. In short, NBS is supported almost evenly by (a) funds appropriated directly to it and (b) funds received from other sources.

In many ways, the National Bureau of Standards seems to be something of an orphan, even though it is a component of the Department of Commerce. Indeed, the Bureau does have relevance to the Department of Commerce, but, as indicated, it is equally relevant to many other departments and agencies. Under the aegis of the Department of Commerce, for whatever reason, NBS seems to have been relegated to a rather obscure position and has experienced only marginal growth or change. While this may not be intrinsically a bad thing, it does seem to point to possible stagnation in this case.

The office of the Director is currently at level V of the executive schedule—which places it on a par with GS-18's and, today, with some GS-17's and below. Hence the political weight of the Director of the Bureau tends to be minimal in an arena where such weight is extremely important to the effectiveness of any activity. It is not just coincidence that the Bureau of Standards has lost its last two Directors, both of whom were men of extraordinary talent and competence, in a span of 3 years. This sort of trend is often catching, and there are signals that it may be turning up at other levels in NBS where the Bureau can least afford it.

There are no indications that I know of which suggest the Department of Commerce is trying to do anything about this.

Moreover, in many instances the Bureau is used as an arbiter to establish factual baselines on which possible Federal support, regulation, or other action is based. Environmental matters are a good example. At the same time, the Department of Commerce which necessarily functions as an advocate for the business world, is motivated in quite a different context. Such relationships are at times bound to be incompatible; undoubtedly similar relationships would also exist if NBS were a part of many other Federal departments.

As an independent agency, the Bureau, which is certainly capable of conducting its own affairs with its present personnel, might reasonably consider some expanded services which it does not presently provide, particularly in fields of applied research and technology and increased coordination with industry. While I do not necessarily advocate such a step, it may be that some of the applied research which has been a growing part of the programs of the National Science Foundation, and which is not geared to the original NSF purpose, nor even to the 1968 amendments to the Foundation's organic act as Congress intended them, might better be handled through the NBS environment.

Mr. Speaker, I emphasize that this bill is to promote some serious thought and self-examination on the part of the departments and agencies involved—and hopefully a careful investigation by the new survey committee in the Executive Office of the President, or whatever similar group may emerge.

The bill represents an important matter and one with which, I believe, Congress will be confronted sooner or later.

DISTRICT COMMITTEE'S ACTION ON S. CON. RES. 78, THE SENATE RESOLUTION DISAPPROVING THE D.C. COUNCIL'S BOND AUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, in the CONGRESSIONAL RECORD of December 15, 1975, a typographical error was committed in the printing of my remarks on the House District Committee's action on Senate Concurrent Resolution 78, the Senate resolution disapproving the District of Columbia Council's bond authorization act. This typographical error—eliminating the word "not" in a crucial sentence—leads to misinterpretation of a key factor in our deliberations.

Although the typographical error is being corrected in the permanent RECORD, I would like to resubmit my entire statement for publication in today's RECORD, so that Members may have the benefit of a correct version of my statement:

Mr. Speaker, on Saturday morning, December 6, 1975, the Senate passed Senate Concurrent Resolution 78, a resolution disapproving act 1-57 of the Council of the District of Columbia. The Council's act authorizes the issuance of $50 million in general obligation bonds to refinance two debts the District government owes the U.S. Treasury. On December 8, 1975, Senate Concurrent Resolution 78 was referred to the House District Committee for consideration. The full committee, following 3 days of hearings and markup, voted 19 to 1 on Thursday, December 11, 1975 against reporting the resolution to the House.

Because Senate Concurrent Resolution 78 passed both the Senate District Committee—7 to 0; and the Senate—80 to 3 by such wide margins, I felt it incumbent upon me as chairman of the House District Committee to advise the House: First, of the procedures we followed, and second, of the discussions and rationale for the action taken by our committee on the resolution.

First, let me say that most of our Members expressed the view either for the record or to me privately that if the choice had been theirs, they would not have brought this matter before Congress in the middle of the New York financial crisis. Most felt that because the District officials brought this matter before Congress on the heels of the often bitter and divisive debate on New York, serious questions were raised about the level and extent of communication, confidence and trust between the District government officials and Congress. While I personally have been seeking, in a low-keyed way, to create a climate of communication and confidence between the local elected officials and both Houses of Congress, it is clear that, if the partnership is to succeed, greater effort must be made on the part of all concerned to strengthen our channels of communication, to eliminate the attitudes of suspicion and distrust, and to accept the fact that the Nation's Capital is both a local and a Federal city.

This, in no way, is to suggest any weakening of our commitment to home rule; quite the contrary, it is a reaffirmation of the commitment of the members of our committee to make home rule work and work effectively. We are equally committed to protecting the Federal interest, and do not believe that the objectives of home rule and protection of the Federal interest need be in conflict.

As I have already indicated, most of us on the committee would have waited until the New York situation had cooled down before confronting the Congress with any kind of bond authorization bill. But the decision was not ours; it was that of the elected officials of the District, operating under authority given under Public Law 93-198. This authority, the authority to issue bonds, was neither questioned nor challenged during the home rule debate and conference considerations, except on the matter of whether or not a public referendum should be required or simply permitted in connection with issuing bonds. Therefore, we approached our task of considering Senate Concurrent Resolution 78 not in the spirit of what we would have done or what they should have done, but whether permitting the Bond Authorization Act to take effect at this time would adversely affect the Federal interest.

In considering Senate Concurrent Resolution 78, the full committee conducted 2 days of hearings and had the benefit of the testimony of 10 witnesses, including: Mr. David Mosso, Fiscal Secretary, U.S. Treasury, the official primarily responsible for handling the District's accounts at the Treasury; Mr. Elmer B. Staats, Comptroller General of the United States; Mayor Walter Washington; District of Columbia Chairman of the Council Sterling Tucker; Mr. Comer Coppie, Director of Budget and Finance for the District of Columbia; and others from the private sector familiar with the District's financial condition and the state of its accounts and records. Pursuant to instructions from the committee, five members of our committee, including myself and the ranking minority member, met separately with Senator EAGLETON and Mayor Washington in an effort to both fully understand the issues and hopefully to arrive at a compromise in this regard.

In structuring our hearings, the committee's position was that while the matter of the fiscal condition of the city and the Bond Act of the Council were somewhat related, they should be treated separately because they raise different questions.

The first day of our hearings concentrated on H.R. 11009, a bill which I introduced with seven cosponsors, including the ranking minority member, that would provide for an independent audit of the financial condition of the District government. At that hearing, the Comptroller General told us that there most certainly was a need for an independent audit of the city's books and records. While stating that the first and most pressing need was to develop an adequate financial management system for the District, because the city's records are kept in accordance with standards for Federal agencies and are not kept in accordance with generally accepted accounting procedures for municipalities. Mr. Staats assured the committee that the financial situation of the District was not alarming and in no way parallel to the New York situation.

Other witnesses testified to the need for an independent outside audit of the District, but most agreed with Mr. Staats that what was needed first was to review the present management systems and to establish a new system or systems whereby the city would be operating in accordance with generally accepted municipal acounting pratices. Otherwise, they felt that an audit would be unproductive.

Mr. W. Keith Engel, president of the District of Columbia Institute of Certified Public Accountants—the D.C. Chapter of the American Institute of Certified Public Accountants—advised our committee that his organization, using their members who have special expertise in municipal fiscal affairs, would on a voluntary basis undertake a 6- to 8-week survey of the management systems deficiencies and needs of the District of Columbia government and advise the committee of an approach for an in-depth analysis leading toward new management systems and legislation to define the scope of an audit.

We have already begun preliminary negotiations with the Association regarding this survey. However, it is critical to stress that the witness who testified about the need for rational management and accounting systems stated clearly and unequivocally that this should not be determinative of whether or not the city should be allowed to go forward with bonds that are simply designed to refinance, at a lower rate of interest, an existing debt the city owes the U.S. Treasury.

Savings for the city could be between $400,000 and $600,000 per year over a 30-year period. Under the act, the Mayor can reject any and all bids for the bonds and he has indicated that he will do so if the bids do not reflect a clear and substantial financial gain for the city.

Our second hearing focused on Senate Concurrent Resolution 78 and specifically whether the Congress should veto the Council's Bond Authorization Act. I think it important to understand the specificity of the Council's Bond Act. It is not to embark on a program of capital projects—which incidentally would have to be approved by the Appropriation Committees in the first instance—but to roll-over existing debt at a lower interest rate. The Assistant Secretary of the Treasury, who is responsible for the District's accounts, while quite properly taking no position on whether or not the Congress should veto the Council's Act, stated:

> If the District were to issue its own obligations, they would be tax exempt, exempt from both Federal and state taxes as I understand and therefore, with an adequate credit rating, they would normally sell at a yield less than Treasury securities which means that they would cost the District less for interest expense.

That statement crystalized the issue for many of us. The Bond Authorization Act is not a $50 million commitment for new programs, but merely an option for the city to go to the private market for funds at an interest rate cheaper than the 8-percent interest rate paid on Treasury loans. As one Member described it, it was simply an authorization for the city to save money since it is estimated that the city would save $400,000 annually for every percentage point it obtains below the Treasury 8-percent level.

The committee was concerned that, in going to the public market, District officials be mindful of the New York financial crisis and assure that in entering the market a savings in fact be realized. We approached the Mayor on these matters and in response he submitted the following letters which satisfied us relative to those two issues and in which he also made a commitment to confer with both Senator EAGLETON and myself prior to committing the city to the sale of the bonds:

The text of the letters follows:

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 9, 1975.
Hon. CHARLES C. DIGGS,
Chairman, Committee on the District of Columbia, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to reaffirm my commitment to maintaining the spirit of cooperation and partnership that has existed between your Committee and the Government of the District of Columbia.

The need for continued cooperation was emphasized at the hearing held this morning on Senate Concurrent Resolution 78. In this regard, I intend to confer with and keep the chairmen of the District Committees of both Houses appropriately advised as we proceed with our preparations for the bond issue. If the bond authorization act is permitted to go into effect, as I strongly believe it should, we will inform the committees of the numerous steps that will have to be taken in order to bring the bonds to market.

It is my intention to reject all bids on the City's bonds if the sale of the bonds at that time would not result in significant savings to the District. An average rate of interest, around 7 percent, would be required to yield significant savings. The City would save more than $400,000 a year by refinancing the two Treasury loans at an average interest rate of 7 percent with a maturity of 30 years. Total savings would equal approximately $12,000,000 under those circumstances.

I greatly appreciate your interest in the District's bond program.

Sincerely yours,
WALTER E. WASHINGTON,
Mayor.

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 10, 1975.
Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In my letter to you dated December 9, 1975, I reaffirmed my commitment to maintain the spirit of partnership between your Committee and the

> District Government. Further, I stated my intention to confer with the Chairmen of the House and Senate District Committees in order to keep them advised as the District of Columbia proceeds with its preparations for the proposed bond issue.
>
> In view of the Committee's deliberations today on S. Con. Res. 78, I believe it important to ensure a full understanding as to what was meant by my commitment. I will consult and seek the advice and counsel of the Chairmen of the House and Senate District Committees as I seek to determine just when the District should offer the proposed issue to the market.
>
> Our financial advisors, who appeared before the Committee on December 8, 1975 will advise the city on market conditions and other factors to be considered in finally setting the date for the actual offer of the proposed issue.
>
> I fully intend to cooperate with the Congress as necessary to ensure that the city will be able to exercise its bond authority.
>
> Sincerely yours,
>
> WALTER E. WASHINGTON,
> *Mayor.*

Finally, let me say that the committee approached its task in a most serious way, looking not only at Senate Concurrent Resolution 78, but down the road because of our concerns about the broader implications of Senate Concurrent Resolution 78. We see a number of unresolved and complex issues involving the city—unfunded pension liabilities, increasing budget, decreasing tax base, just to mention a few—issues which, if they are to be resolved, will require the diligent effort of both Houses of Congress. Therefore, it was in the spirit of cooperation that we approached Senator EAGLETON and we are in agreement on a number of matters relative to the future of this city and the role and responsibilities of Congress. Senator EAGLETON said that he did what he felt he had to do with respect to the Bond Authorization Act, and we likewise feel that we did what we had to do on this issue. Our approaches were different, but our objectives were the same.

The committee realizes the role that Congress through the years has played in bringing us to where we are today, and see the oversight and legislative role it must continue to play in order to keep the Nation's Capital a viable Federal and local city. We will be making every effort to work with officials of the District government, the appropriate committees of our own body and the Senate as we collectively, in the spirit of home rule and protecting the Federal interest, move toward making the Nation's Capital the Nation's model.

FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS—THE MUNICIPAL CAPITAL MARKET IMPROVEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, I introduce for appropriate reference H.R. 11214, the Municipal Capital Market Improvement Act. Senator KENNEDY is introducing an identical bill today in the other body.

The Municipal Capital Market Improvement Act is designed to broaden and stabilize the municipal capital market for providing an automatic 40 percent Federal interest subsidy for municipal bonds which the issuing unit of State or local government has chosen to make taxable. The act also sets up a Municipal Finance Assistance Office within HUD to extend technical assistance in fiscal matters to State and local governments. The act would take effect 60 days from enactment.

The problems of municipal financing have been catapulted to headline status this year by the New York fiscal crisis. But New York is not alone in feeling the impact of these problems.

The average municipal bond yield has risen from 5.17 percent in 1973 to 7.52 percent in 1975—an increase of 45 percent, representing an enormous additional burden of debt on State and local governments. Many bond issues have been crowded out altogether from the market.

Immediate causes of this situation are tight money and high interest rates generally, high prices and investor expectation of further inflation, and the new perception of municipal risk introduced by the New York crisis.

But there are also long-term problems with the municipal capital market as traditionally constituted, which prevent State and local governments from borrowing the growing amount of money they need at interest rates they can afford. Now that the New York crisis is nearing a satisfactory resolution in Congress, we believe it is time for Congress to turn to the more general problems of capital financing by State and local governments.

We believe that the proposal we are introducing today in the House and Senate can reduce substantially the long-term structural difficulties from which the municipal capital market suffers in six major areas.

THE MUNICIPAL BOND MARKET IS TOO NARROW TO ABSORB STATE AND LOCAL OBLIGATIONS AT REASONABLE RATES OF INTEREST

Municipal bonds have traditionally appealed to only a handful of institutional and wealthy private investors, for whom the tax exemption outweighs the interest sacrifice. In the case of institutions already tax exempt, for example, tax-exempt bonds are no bargain at all.

The Municipal Capital Market Improvement Act, by encouraging municipalities to issue taxable bonds bearing a market rate of interest, would bring new investors into the municipal market. The 40-percent interest subsidy would prevent exorbitant debt service burdens on State and local governments. In many cases, the actual interest cost to State and local governments would be lower than for tax-exempt bonds today.

The 40-percent subsidy level is an appropriate incentive to State and local governments to include the taxable bond among their fiscal options. A lower subsidy might prove ineffective, while a higher one might provoke unnecessary disruption of existing markets.

With a federally subsidized taxable bond, institutional investors which are now tax exempt or lightly taxed would enter the market for State and local bonds. Pension funds could purchase billions of dollars. Mutual savings banks, charities, universities, and tax-exempt foundations could all provide substantial new sources of funds. Life insurance companies, attracted by higher rates of interest, could invest heavily.

In addition, the municipal bond market would be opened up to individual investors with moderate incomes and lower marginal tax rates, who would be induced to invest in these higher interest bonds.

THE MUNICIPAL BOND MARKET IS SUBJECT TO SERIOUS CYCLICAL INSTABILITY

Because bank purchases of municipals drop sharply as interest rates rise generally, the tax-exempt market is subject to severe periodic disruptions. The Municipal Capital Market Improvement Act would help insure that municipal borrowers are not disproportionately handicapped in tight money periods.

In practice, the taxable subsidized bond option will generate counter-cyclical effect by tying the tax-exempt interest rate to the taxable rate. When the interest rate spread between tax-exempt and taxable securities is less than 40 percent—at present, it is closer to 20 percent, State and local governments are likely to choose the taxable option. There will tend to be few new issues of tax-exempts at that time unless they can be placed with yields at least 40 percent below taxable yields. Thus municipalities will be able to survive tight money periods more easily, and the additional interest costs incurred will be relieved by the Federal Government. In periods of easier money, local governments will not tend to choose the taxable option—tax-exempt rates should be low enough to make them attractive.

Moreover, by broadening the market for municipal securities and attracting new investors, the taxable subsidized bond option will reduce the heavy reliance of State and local finances on small and relatively volatile institutions. Pension and life insurance funds, in particular, should be more stable sources of funds, since they are less sensitive to monetary policy than are banks, and usually seek long-term investment.

TAX-EXEMPT BOND INTEREST DISTRIBUTES TAX BENEFITS INEQUITABLY

Tax-exempt interest on State and local bonds is a large windfall for the wealthiest taxpayers. In 1974, approximately 88 percent of the tax benefit from about $2.8 billion in tax-exempt interest to individuals went to the richest 1.2 percent of all taxpayers.

The Municipal Capital Market Improvement Act, by encouraging State and local governments to issue taxable bonds would lessen the flagrant inequity of the present system. In general, with a 40 percent subsidy, it is estimated that about 15 percent of tax-exempt bonds would be replaced by taxable bonds.

THE TAX EXEMPTION IS AN INEFFICIENT SUBSIDY TO STATE AND LOCAL GOVERNMENTS

Under the present system, tax-free interest on municipal bonds costs the Federal Treasury $4.8 billion, and generates interest savings of $3.5 billion for State and local governments. Thus, it costs the Treasury $1 to provide a $0.75 subsidy to State and local governments. The remaining $0.25 is siphoned off as a "commission" to wealthy individuals and institutions.

By contrast, the Municipal Capital Market Improvement Act's subsidized taxable bond option provides its benefits directly to State and local governments, at a much smaller net cost to the Federal Government. Increased Federal revenues on taxable bonds will come close to meeting the cost of the 40-percent subsidy. An Urban Institute study has estimated that the maximum cost per year to the Treasury of the 40-percent subsidy would be $650 million, while State and local governments would derive $1.3 billion in interest savings. Under the current program, each $1 of Federal subsidy buys only $0.75 of State and local relief; under the taxable bond option, each Federal $1 would buy $2 of State and local aid. In effect, the new program would almost triple the efficiency of the Federal subsidy to municipal bonds. State and local governments would find their borrowing costs reduced for both taxable and tax-exempt issues.

MUNICIPALITIES HAVE BEEN FORCED INTO FINANCING LONG-TERM INVESTMENT'S WITH SHORT-TERM BORROWING

In an effort to accommodate the commercial banks' preference for short-term obligations, municipalities have been forced to finance long-term projects through 1-year, bond anticipation notes, and are thus in perennial jeopardy of default.

The Municipal Capital Market Improvement Act, by providing a taxable alternative, will allow State and local governments to tap the long-term taxable market, reduce their dependence on unstable short-term obligations, lower the risk of default, and help remove the risk premium incorporated in today's high municipal interest rates.

LOCAL GOVERNMENTS' ACCESS TO MUNICIPAL CAPITAL MARKETS IS LIMITED BY SIZE, LOCATION, AND LACK OF FINANCIAL EXPERTISE

Many local governments, particularly those which are small, which borrow rarely, and which are located far from major capital markets often fail to obtain money on terms which their creditworthiness deserves. Frequently, they suffer from the lack of sound financial advice.

The Municipal Capital Market Improvement Act deals with this problem by establishing a Municipal Finance Assistance Office within HUD, to provide local governments with the technical assistance they require. Municipal market experts will advise local governments on whether to borrow, how much to borrow, when to borrow, where to borrow, and what yields to expect. Additional counseling in budget procedures and management will also be available.

While the Municipal Finance Assistance Office cannot remedy the marketing problem which the small size of many local issues presents, it can assure local governments of access to the best financial advice available.

The legislation we are proposing can achieve its goals in these six areas without any significant Federal intrusion into State and local governments. The Federal interest subsidy is automatic. It is triggered by the issuance of a State or local taxable bond. It is not contingent on Federal approval of the purpose of the bond issue or on any other condition. The new Federal subsidy is as automatic for State and local governments as the tax-exempt Federal subsidy is today.

Finally, we would note that the essence of this proposal is neither new nor the special preserve of any political party. It was proposed by Democratic administrations in the 1960's, and was incorporated in the House version of the Tax Reform Act of 1969. Subsequently, it has been endorsed by officials of the Nixon and Ford administrations.

We feel that the time is now ripe for Congress to take this major step to deal with the serious problems of obtaining capital confronting State and local governments. The New York crisis has made both the House and the Senate sensitive to the urgency of these problems. We believe that the measure we are proposing offers the fairest and the most effective form of Federal assistance with the least intrusion into State and local affairs.

I include the following:

SUMMARY—MUNICIPAL CAPITAL MARKET IMPROVEMENT ACT

Purpose: Authorizes HUD to provide an alternative method of financing for state and local governments, by offering a federal interest subsidy for taxable bond issues.

Findings: The high cost of borrowing, the periodic instability of municipal capital markets, and inadequate federal assistance have compounded the financing problems of state and local governments and require action by Congress.

Provisions:

1. Participation: States and local governments, the District of Columbia, the Commonwealth of Puerto Rico, and all U.S. territories or possessions.
2. Administrator of the Program: The Secretary of Housing and Urban Development.
3. Eligible Bonds: Any obligation of a state or local government which, but for the Act, would qualify for tax-exempt status.
4. Election and Level of Subsidy: The federal government will pay 40 percent of the net interest cost of obligations of states or local governments electing to issue taxable bonds. Interest payments on such bonds will be included in the gross income of the recipient under the Internal Revenue Code.
5. Automatic Subsidy: The subsidy is triggered solely by notice of the issuance of a taxable state or local obligation. It is not contingent on the financial condition of the issuing jurisdiction, on federal audit or approval, or any other condition.
6. Method of Interest Payments: At such intervals as appropriate to enable jurisdictions to make requisite interest payments; specific methods of payment will be determined by HUD regulations.
7. Technical Assistance: Establishes a new Municipal Technical Assistance Office in HUD to provide financial and other advice and technical assistance to states and localities with respect to municipal capital market management and budget planning. The Office is also authorized to undertake research into municipal financing and to serve as a clearinghouse for exchanges of information among states and local governments. The Office may charge appropriate fees for its services.
8. Reports to Congress: HUD is required to make a report each April to the House and Senate on its administration of the program.
9. Cost: The bill authorizes such sums as necessary for the program. Under present conditions, the Treasury cost for 1976 is estimated at $650 million, with a savings of $1.3 billion to state and local governments.
10. Effective Date: 60 days after enactment.

The text of the bill follows:

H.R. 11214

A bill to authorize the Secretary of Housing and Urban Development to enter into contracts with State and local governments to provide interest subsidy payments with respect to bond issues in order to broaden and stabilize the municipal capital market and to establish within the Department of Housing and Urban Development a Municipal Technical Assistance Office

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Municipal Capital Market Improvement Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds—

(1) that municipal capital markets as presently organized are unable to provide needed capital at reasonable interest rates at all times;

(2) that municipal capital markets are subject to cyclical instability; and

(3) that the Federal Government does not, at present, provide efficient financial assistance to State and local governments.

(b) It is, therefore, the purpose of this Act to broaden the municipal capital market, to stabilize it, and to provide more efficient Federal assistance to State and local governments.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "State or local public body" means a State, a Territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia, or of the Commonwealth of Puerto Rico.

(2) "State or local obligation" means any obligation issued by or on behalf of a State or local public body which, but for the election under section 4(a) of this Act, would be an obligation to which section 103(a)(1) of the Internal Revenue Code of 1954 applies.

(3) "Secretary" refers to the Secretary of Housing and Urban Development.

INTEREST SUBSIDY PAYMENTS

SEC. 4. (a) The Secretary shall, upon the written notice of any State or local public body that it has elected to issue a taxable obligation, provide interest subsidy payments to such entity for such obligation. Such payments shall be used to reduce the net interest cost, as determined in subsection (b), to such body on such obligation. Such payments shall be made on any taxable State or local obligation issued or authorized to be issued by or on behalf of such State or local public body on or after the effective date of this Act.

(b)(1) The interest subsidy payments authorized under subsection (a) on account of a State or local obligation shall (A) be sufficient to pay 40 percent of the net interest cost per annum of such obligations, and (B) be made at such periodic intervals as may be necessary to enable a State or local public body to pay interest to the holder of such obligation at the time such interest is due.

(2) No interest subsidy payment shall be made under this section with respect to any State or local obligation for any period for which the United States or any agency or instrumentality thereof makes any payment of interest on such obligation pursuant to a guarantee by the United States or any agency or instrumentality thereof of the payment, in whole or in part, of interest on such obligation.

(c) The interest subsidy payments referred to in subsection (b) shall be made by the Secretary either directly to the issuer of the State or local obligation or to a trustee or paying agent therefor, or other designee, as may be requested by such issuer.

(d) All interest paid on any State or local obligation with respect to which an interest subsidy payment is made under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1954.

RULES

SEC. 5. The Secretary shall promulgate such rules as may be necessary or appropriate to carry out this Act.

MUNICIPAL TECHNICAL ASSISTANCE OFFICE

SEC. 6. (a) There is established within the Department of Housing and Urban Development the Municipal Technical Assistance Office (hereinafter referred to in this section as the "Office").

(b) The Secretary shall appoint a director and staff of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and who shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) The Office is authorized to provide technical assistance to State and local governments concerning municipal capital market management and budget planning.

(d) The Office is authorized to undertake research and information gathering and to facilitate the exchange among State and local governments of advanced concepts and techniques relating to municipal growth and development.

(e) The Office may charge appropriate fees to State and local governments for its services under this section.

REPORTS TO CONGRESS

SEC. 7. Not later than April of each calendar year which begins on or after the effective date of this Act, the Secretary shall transmit a report to each House of Congress concerning the administration of his functions under this Act.

AUTHORIZATION

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect on the sixtieth day beginning after the date of its enactment.

INTERNAL REVENUE SERVICE ACTS TO HELP PURCHASERS OF INDIVIDUAL RETIREMENT ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, on November 17, the Ways and Means Oversight Subcommittee held a hearing on individual retirement accounts—the new tax-deductible pension plan provided by the Employee Retirement Income Security Act of 1974. The hearing was chaired by our colleague from Texas, Mr. PICKLE.

During the hearing, the subcommittee received a report from the Library of Congress on IRA's sold by insurance companies, banks, savings and loans, and mutual funds. The subcommittee also heard from a number of outside witnesses who described some rather questionable practices in the sale of these retirement accounts. For example, Mr. Joseph Mintz, an independent insurance salesman from Dallas, Tex., presented testimony to the subcommittee which showed that the guaranteed payout after 25 years varied between $35,175 for a Bankers Life IRA to $39,518 for a U.S. Life IRA. He also presented data which showed that estimated payouts varied enormously between companies—ranging from $43,391 for Bankers Life to $66,090 for the Travelers Co. One of the interesting things about these figures is not that Banker Life's plan may or may not be a poor buy, but that the other companies may be making pie-in-the-sky promises.

The testimony clearly demonstrated that the consumer was often not provided with necessary information with which to make an informed choice in the purchase of these long-range financial commitments.

The subcommittee was particularly concerned about the lack of consumer information, because the conference report on the Pension Reform Act specifically mentioned that the IRS was to issue regulations to require the disclosure of "such matters as load factors for insurance contracts and earnings factors for individual retirement accounts." Although ERISA was enacted in September of 1974, the IRS did not issue disclosure regulations until November 3, 1975. The November 17 hearing brought out the fact that the new IRS regulations left a lot to be desired.

At the hearing, several witnesses and Congressman PICKLE stressed the point that since disclosure had not been provided—despite the clear intent of the Congress—that purchasers of IRA's should be provided an opportunity to review their purchase and switch to another more attractive plan. Of course, under the law, an individual can rollover his IRA into another IRA without adverse tax consequence—but only once every 3 years.

The IRS was very receptive to a number of the points which were raised at the hearing, and we are pleased to report that a new Technical Information Release—TIR 1425—has been issued which allows taxpayers up to the time they file their 1975 returns—which are due by April 15, 1976—to rollover their IRA's into a more attractive and possibly better-yielding account. The IRS regulation provides that this particular one-time rollover will not be "charged against the one rollover every 3 years limitation. In addition, an individual who desires to terminate an IRA without claiming it as a deduction may do so up to April 15, 1976, without suffering a distribution penalty.

I want to compliment the IRS for its initiative in this area and our colleague, Mr. PICKLE, for his early interest and hard work in the area of protecting the consumer and improving the administration of the Pension Reform Act.

REPORT ON THE FIRST SESSION OF THE 94TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Iowa. Mr. Speaker, at the end of each session I summarize the activities of the Congress, reprint it from the CONGRESSIONAL RECORD and distribute it to many of my constituents so that they may have a summary of the year's activities. Although it is impossible to list every bill and describe every time-consuming and important action taken during a session of Congress, I will list the items which are most likely to be of interest to constituents in the Fourth Congressional District of Iowa.

That summary is as follows:

AGRICULTURE

Public Law 94–25 continues the emergency loan program for livestock producers operated by the Farmers Home Administration.

Public Law 94–68 makes improvements to the emergency loan program operated by the Farmers Home Administration to assist farmers who have been hit by a natural disaster.

Public Law 94–16 extended for 90 days certain provisions of the law, passed in 1974, setting up the Commodity Futures Trading Commission. The extension was needed because President Ford delayed nominating members to the Commission, which regulates the multi-billion-dollar commodity futures market.

Public Law 94–140 extends until April 1977, the authority of the Environmental Protection Agency to regulate the use of pesticides. The law includes provisions designed to assure that EPA be made aware of the impact of any proposed regulation on agriculture.

In addition, both the House and Senate began action to deal with the massive grain inspection scandal centered at New Orleans and spreading to other cities. This scandal, which involves theft, fraud, short-weighing and misgrading of grain and other illegal activities, threatens the United States with the loss of foreign buyers for soybeans, corn, and other grain. The impact on U.S. agriculture would be severe.

I am sponsoring the principal House bill (H.R. 8764) which would make the corrective changes needed, but the administration is opposing this and other remedial legislation. The General Accounting Office will be issuing a report on the scandal in February.

Although we already know the weakness of the law and what needs to be done, the Senate has taken the position that a comprehensive bill should not be passed until the report is filed. This torpedoed the House drive for strong corrective action and caused House Members to move to other legislation. As a result, it is likely that the effective date of the legislation will be delayed until one more crop is marketed.

A bill which I authored in the House requires the Small Business Administration to provide the same loans and services to farmers which are available to other small businesses. Farmers have been arbitrarily excluded and required to rely on much less adequate FHA services.

LABOR

Public Law 94–45, Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 extended the Federal emergency unemployment compensation program through March 31, 1977 and also extended unemployment benefits programs through March 31, 1977.

Public Law 94–82, makes clear the responsibility of the U.S. Postal Service to comply with the provisions of the Occupational Safety and Health Act of 1970.

Public Law 94–92 amends the Railroad Unemployment Insurance Act to increase the maximum daily entitlements for unemployment and sickness; to reduce the waiting period before an individual is eligible for sick benefits; to provide extended unemployment benefits to employees with less than 10 years of service in the railroad industry, but only during periods of high unemployment; to establish a sliding scale schedule for employer payments into the unemployment account, depending upon the amount of money in the account at the time of payment.

The act also provides that an individual who was awarded an annuity under the Railroad Retirement Act of 1937 will not be entitled to receive an annuity under the 1974 act.

Public Law 94-36 appropriates $473,350,000 in urgently needed supplemental funds for summer youth employment and recreation programs during the remainder of fiscal year 1975. These funds were allocated in this way: $456,350,000 for disadvantaged youths; $15,300,000 for youth recreation programs and $1,700,000 for youth transportation programs.

HEALTH, EDUCATION, AND WELFARE

Public Law 94-43 amended the Higher Education Act of 1965 to permit the intrastate reallocation of funds appropriated for the work-study program, when such funds are in excess of those needed. Also it extended the life of the National Advisory Council on Equality of Education Opportunity for 15 months.

Public Law 94-142, continues the existing entitlement formula for funding of part B of the Education of the Handicapped Act—assistance to States for education of handicapped children—through fiscal 1976 and 1977.

Beginning in fiscal 1978, the act establishes a new formula for funding of part B in which the Federal Government makes a commitment to pay a gradually escalating percentage of the national average expenditure per pupil times the number of handicapped children receiving special education and related services. The percentage escalates on a yearly basis until 1982 when it becomes a permanent 40 percent. In fiscal 1978, it is 5 percent, in fiscal 1979, it is 10 percent; in fiscal 1980, it is 20 percent; and in fiscal 1981 it is 30 percent.

Moneys received under part B must first be spent on providing a free appropriate public education for handicapped children who are not now being served and second, on more adequately serving those handicapped children who are severely handicapped within each disability. Federal moneys must be spent only on those "excess cost" factors attendant to the high costs of educating handicapped children. It requires the development of an individualized written education program for each handicapped child served.

The law also authorizes a special incentive grant aimed at encouraging the States to provide special education and related services to its preschool handicapped children. Each enrolled handicapped child in the State aged three to five will generate a special $300 entitlement. Necessary sums are authorized for this program beginning in fiscal 1978.

Public Law 94-4 was passed over the President's veto on February 20. The law suspends until December 30, 1975, any increase in the cost of food stamps that will exceed the cost of such coupons under the rules and regulations the administration put in effect on January 1, 1975.

Public Law 94-20 extends the special food services program for 3 months through September 30, 1975.

Public Law 94-88, amends the child support and establishment of paternity program of the Social Security Act, to authorize a waiver for a temporary period, not to extend beyond June 30, 1976, of the provisions requiring the assignment of support rights or any part of the child support program which the State could not implement because of the lack of statutory authority; to require that States, in seeking to determine paternity and secure support, to take into consideration the best interests of the child.

Public Law 94-105, National School Lunch Act Amendments of 1975 amends the act to make permanent the school breakfast program; extends for 2 years, from June 30, 1975 to June 30, 1977 the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to child nutrition programs; to extend through September 30, 1977 the summer food program; to extend through September 30, 1978 the special food program for women, infants, and children, WIC; to expand the definition of "school" to include nonprofit private school, including, but not limited to, orphanages and homes for the mentally retarded; to make children from families with incomes that are 95 percent above the income poverty guidelines eligible for reduced price lunches; and to provide that a child whose parent or guardian is unemployed shall be served a free or reduced price lunch if the existing family income falls within the income eligibility criteria for free or reduced price lunches.

Public Law 94-135, provides grants for State and community programs on aging and is extended through fiscal year 1978. The program is modified to assure that States will commit at least 50 percent of any additional moneys from their fiscal year 1976 allotment to provide the following four categories of services; transportation, home care, legal services and residential renovation and repair.

The older Americans community services employment program is extended through fiscal year 1978. A more equitable State allocation formula which takes into account the relative capacities of States and local communities to support employment programs for the elderly is authorized. Continued funding of employment programs for older Americans such as "green thumb" is assured.

The law providing support for nutrition programs for the elderly is extended beyond its existing expiration date of June 30, 1977, through fiscal year 1978.

The law as amended requires an additional donation of high protein foods and authorizes such sums as are necessary for this purpose. In addition, the existing requirement that the Secretary of Agriculture donate commodities at a level of 10 cents per meal is increased to 15 cents per meal through the period ending September 30, 1976, and 25 cents per meal in fiscal year 1977.

The model projects the act providing support for training and research and providing support for multipurpose senior centers are extended through fiscal year 1978. Authorization is also extended for the senior opportunities and services program through fiscal year 1978.

The retired senior volunteer program is extended for 2 additional years through fiscal year 1978. The foster grandparents program is extended for 2 additional years through fiscal year 1978. The senior companions program is extended for 2 additional years through fiscal year 1978.

The law as amended provides for the prohibition of discrimination on the basis of age in programs and activities receiving Federal assistance. The act incorporates major elements of the prohibition against age discrimination in federally assisted programs and activities, along with an expanded version of the provisions relating to a study of age discrimination in such programs and activities to be conducted by the U.S. Commission on Civil Rights.

Public Law 94-4 suspends any increase, until December 30, 1975, in the cost of food stamps that will exceed the cost of such coupons under the rules the administration put into effect January 1, 1975. It revises eligibility requirements and portion of income to be paid for food coupons under the Food Stamp Act.

Public Law 94-105 makes permanent the school breakfast program and extends for 2 years, to June 30, 1977, the Secretary of Agriculture's authority to purchase agricultural commodities for donation to child nutrition programs.

Public Law 94-20 extends the special food service program for children for 3 months through September 30, 1975.

Public Law 94-88 authorizes a waiver of the provisions requiring the assignment of support rights or any part of the child support program that the State could not implement because of lack of statutory authority. It requires that States, in determining paternity or securing support, take into consideration the best interests of the child.

Public Law 94-135 provides grants for State and community programs on aging and assures that additional State funds be used to provide transportation, legal services, home care, and residential renovation and repair. Federal nutrition and employment programs for the elderly are extended and discrimination based on age in federally assisted programs and activities is prohibited.

Public Law 94-28 continues the special supplemental food program for women, infants, and children through September 30, 1975.

Public Law 94-48 extends protection against the loss of medicaid because of the 1972 increase in social security benefits.

Public Law 94-63, a composite of three health services, extends and revises programs under the Public Health Service Act for nurse training and programs of health revenue sharing.

Public Law 94-103 amends the Developmental Disabilities Services and Facilities Construction Act to revise and extend programs authorized by that act.

TRANSPORTATION

Public Law 94–5 increases from $85 million to $282 million the authorization of the Secretary of Transportation to provide emergency grants aid for operating expenses to the Penn Central and other Northeast railroads in reorganizations and increases from $150 million to $300 million the Secretary's authority to guarantee loans to those railroads for capital improvement, and modifies rules to governing development of the plan for the railroads reorganization by the U.S. Railway Association established under the act of 1973.

Public Law 94–25 amends the Rail Passenger Service Act of 1970 to increase the salary of the President of the Corporation to a maximum of $85,000, to direct the Secretary of Transportation and Attorney General to establish onboard inspection procedures while trains are moving to facilitate both customs inspection and rail passenger service to provide that the Board of Directors of Amtrak rather than the Secretary of Transportation shall designate experimental routes to serve States that have no large population centers, to direct the directors of the Corporation to develop an initial proposal setting forth criteria and procedures under which the Corporation would be authorized to add or discontinue routes and services; and authorizes $1,118,000,000 to the Corporation through October 1, 1977.

Public Law 94–30 authorized advancements from the Federal-aid highway trust fund to States so they could let contracts sooner and thus help increase employment. Iowa received about $60 million.

LABOR

Public Law 94–36 appropriates supplemental funds for summer youth employment and recreation programs, $456,350,000 for disadvantaged youth, 15,300,000 for youth recreation programs and $1,700,000 for youth transportation programs. These funds were vital to the summer youth employment project in the State.

Public Law 94–92 increases the maximum daily entitlements for unemployment and sickness and reduces the waiting period before an individual is eligible for sick benefits. It provides extended unemployment benefits to employees with less than 10 years of service in railroad industry—during periods of high unemployment—and establish a sliding scale schedule for employer payments into the unemployment account.

FOREIGN AFFAIRS

Public Law 94– provides for international economic development assistance by the United States. This includes "Public Law 480" food assistance programs. This is the first time economic aid has been separated from military assistance in passing foreign aid legislation.

Public Law 94–23 authorizes funds to assist Cambodian and Vietnamese refugees entering and settling in the United States.

Public Law 94–37 authorizes U.S. financial assistance for the United Nations peace-keeping forces in the Middle East.

Public Law 94–110 authorizes the use of U.S. Civilian Technicians to man the Sinai early-warning system, a key part of the Suez pullback agreement between Egypt and Israel.

Public Law 94–104 provides for a partial suspension of the U.S. arms embargo on Turkey.

House Resolution 335 establishes a select committee in the House to investigate the problem of U.S. servicemen missing in action in Indochina.

House Resolution 591 and Senate Resolution 21 establish select committees in the House and Senate, respectively, to investigate the CIA and other U.S. intelligence-gathering agencies.

U.S. TERRITORIES, POSSESSIONS

Public Law 94–26 amends the Organic Act of Guam and the Revised Organic Act of the Virgin Islands.

Public Law 94–27 provides for the continuance of civil government for the trust territory of the Pacific Islands.

Public Law 94–34 provides an authorization for an ex gratis payment to the people of Bikini Atoll, in the Marshall Islands of the trust territory of the Pacific Islands.

INDIAN AFFAIRS

Public Law 94–80 authorizes the American Indian Policy Review Commission to accept volutary contributions of services.

Public Law 94–81 amends the Internal Revenue Code of 1954 to exclude from gross income gains from the condemnation of certain forest lands held in trust for the Klamath Tribe.

Public Law 94–114 declares that certain submarginal land. of the United States shall be held in trust for certain Indian tribes and be made a part of the reservations of such Indians.

Public Law 94–115 declares that certian land of the United States is held by the United States in trust for the Pueblo of Laguna.

SCIENCE, ARTS

Public Law 94–39 authorizes appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management.

Public Law 94–86 authorizes appropriations to the National Science Foundation for fiscal year 1976.

Public Law 94–119 authorizes appropriations for services necessary to nonperformance arts functions of the John F. Kennedy Center.

Public Law 94–98 authorizes the Smithsonian Institution to plan museum support facilities.

Public Law 94–49 authorizes a program to carry out the Standard Data Reference Act.

CIVIL RIGHTS

Public Law 94–73 prohibits States and political subdivisions from reinstituting voting eligibility tests for an additional 7 years. It makes prohibition and enforcement procedures of the law applicable to area which have a voting age population of at least 5 percent single language minority; bilingual ballots and voting information are required.

MONEY, BANKING, AND FINANCE

Public Law 94–78 authorizes the Council on Wage and Price Stability to subpena witnesses and require advance notice from businesses of wage and price increases in an effort to obtain information about wages, costs, prices, and profits. The Council can delay inflationary increases and take action against violators.

Public Law 94–145 repeals the permission for States to have "fair trade" laws. Agreements for minimum prices on appliance, and so forth, will now be illegal.

Public Law 94–60 clarifies the authority of Federal savings and loan associations to act as custodians of individual retirement accounts.

Public Law 94–29 gives the Securities and Exchange Commission the authority to regulate the clearing agencies and transfer agents, to strengthen their oversight of the securities market's self-regulation, and to regulate the municipal bond industry. The Commission can require financial institutions to report their securities holdings and transactions under the measure.

Public Law 94–143 authorizes short-term loans to New York to prevent default. This is the bill recommended to Congress by President Ford.

HOUSING

Public Law 94–13 continues the national insurance development program, extending the duration of Federal riot insurance and crime reinsurance programs.

Public Law 94–50 authorizes temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions.

Public Law 94–12 contained several tax credit and other provisions to provide economic incentives to purchasers and builders of homes.

NATIONAL DEFENSE

Public Law 94–107 authorizes appropriations for acquisition and construction of military installations and for construction and improvement of public works. This includes construction, purchase, and/or improvement of military family housing, authorization of public works and additional facilities for Guard and Reserve Forces.

S. 1537 extends the operation of the Defense Production Act until June 30, 1977.

JUSTICE

Public Law 94–64 amends to the Federal Rules of Criminal Procedure.

Public Law 94–113 amends the Federal Rules of Evidence.

Public Law 94–149 makes technical amendments to the Federal Rules of Evidence and Federal Rules of Criminal Procedure.

VETERANS

Public Law 94–71 provides increased compensation for veterans receiving disability compensation for service-connected injuries effective August 1975. Those with a disability rating between 10 and 50 percent received a 10-percent increase. Those with a 60 percent or more rating received a 12-percent increase.

Public Law 94-123 provides special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel.

Public Law 94-126 amends the law relating to crediting for retirement of National Guard technicians. The previous law gave 55-percent credit for service prior to 1969; Public Law 94-126 gives 100-percent credit for service prior to 1969.

Public Law 94-97 redesignates November 11 as Veterans' Day effective in 1978.

ENERGY AND ENVIRONMENT

Public Law 94-18 authorizes $50,200,000 for Nuclear Regulatory Commission during the remainder of fiscal year 1975.

Public Law 94-38 authorizes $4,100,000 to carry out the provisions of the Saline Water Conversion Act of 1971 during fiscal year 1976.

Public Law 94-79 authorizes $222,935,000 during fiscal year 1976 and $52,750,000 during the budgetary transition period between the close of fiscal year 1976 and the beginning of fiscal year 1977 to carry out the purposes of the Nuclear Regulatory Commission and amends the Energy Reorganization Act of 1974, to clarify the responsibilities of the Commission.

Public Law 94-133 extends the Emergency Petroleum Allocation Act to December 15, 1975.

Public Law 94-83 amends the National Environmental Policy Act of 1969, to permit a State agency or official to prepare environmental impact statements. The law was passed in response to the decisions in *Conservation Society of Southern Vermont* v. *Secretary of Transportation*, 508 F. 2d 927 (2d Cir., 1974), and *Swain* v. *Brinegar*, 517 F. 2d 766 (7th Cir., 1975).

Public Law 94-102 amends the Rehabilitation and Betterment Act of 1949, to enable projects constructed under the Small Reclamation Projects Act of 1956, to apply for rehabilitation and betterment loans.

VETOED BILLS

While the vetoes of three bills were overridden and these bills appear under "Measures Enacted," 10 bills vetoed by the President since January were not overridden by Congress. They are as follows:

H.R. 4296 would have adjusted target prices and loan and purchase levels on the 1975 crops of upland cotton, corn, wheat and soybeans. A loan of $1.87 per bushel would have been available on 1975 corn and $3.94 on soybeans.

H.R. 25 would have required strip miners to level stripped areas and place nonacid soil on top.

H.R. 4481 would have authorized emergency appropriations to various Federal agencies to fund Emergency Employment.

H.R. 4485 would have authorized reduced interest rates on home mortgages for middle-income families.

H.R. 4035 would have established procedures for Congressional review of certain administrative actions with respect to the pricing of domestic crude oil and petroleum products.

H.R. 1767 would have suspended for 90 days the authority of the President to increase tariffs on petroleum or petroleum products.

H.R. 5357 would have amended the International Travel Act to authorize appropriations for the promotion of tourist travel. A modified bill was agreed to by the Congress and the President and enacted into law.

H.R. 9497 revised the time period for which the index of prices paid farmers is averaged for the purpose of computing the level of the loan on tobacco.

H.R. 12 would have set forth the conditions under which police protection is authorized for foreign diplomatic missions.

S. 1849 would have extended the Emergency Petroleum Allocation Act of 1973 for an additional 2 years.

BILLS THAT HAVE PASSED ONE OR BOTH HOUSES OF CONGRESS

As the first session ends a number of bills have progressed at least part way through the legislative course. While there is no guarantee that they will pass, I will list those that I feel are most important and most likely to receive serious consideration and be enacted.

S. 1537—passed House and Senate, awaiting White House approval—extends the Defense Production Act until September 30, 1977.

H.R. 9005—passed House and Senate, awaiting White House approval—authorized funds for international economic development and disaster assistance and food for peace.

H.R 9924—passed House and Senate, awaiting White House approval—authorizes funds for a national women's conference.

H.R. 8574—passed House and Senate, awaiting White House approval—declares a national policy of voluntary conversion to the metric system.

H.R. 5900—passed House and Senate, awaiting White House approval, permits unions to picket at common construction sites under certain conditions and provides restrictions on actions of local unions when those actions have not been approved by a national board.

H.R. 6461—conference report, awaiting House and Senate approval—authorizes long-term funding for the Corporation for Public Broadcasting.

H.R. 7656—House rejected conference report, enables cattle producers to establish and finance a program of research, producer and consumer information and promotion.

Senate Joint Resolution—conference report, awaiting House and Senate approval—provides for quarterly adjustments in the support price for milk.

H.R. 3474—conference report, House approved, authorizes funds to provide for both nuclear and nonnuclear research and development in a variety of energy fields.

H.R. 5247—pending in conference committee, authorizes funds for local public works and capital development investment, business loans' funds for water pollution control projects. It provides five quarters of counter cyclical assistance to municipalities.

H.R. 49—pending in conference committee, provides for commercial development of Elk Hills and other naval petroleum reserves.

H.R. 4073—pending in conference committee, authorizes funds through fiscal year 1980 for Appalachian regional development highway and nonhighway programs.

S. 2017—pending in conference committee, extends grants to States for drug abuse prevention programs and authorizes project grants to individuals and organizations for drug-related programs and research.

S. 1281—pending in conference committee, requires home mortgage disclosure by depository institutions, provides for extension of interest rate controls and extends the life of the National Commission on Electronic Fund Transfers.

H.R. 5541—pending in conference committee. This is my bill which allows for modification or termination of terms of any fixed-price contract granted by Federal Government agencies to small business contractors.

H.R. 3979—pending in conference committee, authorizes funds for fiscal year 1976 for the Indian Claims Commission.

H.R. 5727—pending in conference committee, establishes the ULSL Parole Commission as an independent agency within the Department of Justice.

H.R. 10624—pending in conference committee, would revise the Bankruptcy Act to provide a procedure for the adjustment by an insolvent municipality of its debts.

S. 644—pending in conference committee, amends the Consumer Product Safety Act of 1972.

S. 2372—pending in conference committee, revises real estate settlement protection for homebuyers.

S. 322—passed House and Senate in different forms, creates an Agency for Consumer Protection to represent and protect the interests of consumers.

S. 322—passed the House and Senate in different forms, establishes the Hell's Canyon National Recreation Area in Oregon and Idaho.

H.R. 5272—passed House and Senate in different forms, extends the Noise Control Act and authorizes funds through fiscal year 1977.

S. 313—passed House and Senate in different forms, authorizes a property exchange in Guadalupe Mountains National Park.

H.R. 8674—passed House and Senate in different forms, declares a national policy of voluntary conversion to the metric system.

S. 1739—passed the House and Senate in different forms, authorizes funds for railroad repair and would create about 20,000 jobs.

S. 95—passed House and Senate in different forms, establishes voting registration procedures for overseas citizens.

H.R. 9721—passed House, pending in Senate, authorizes funds as the U.S. contribution to Inter-American Development Bank and an initial contribution to the African Development Fund.

H.R. 8650—passed House, pending in Senate, assists States in insulating homes of low-income persons and would develop and encourage State and local adoption of energy conservation standards.

H.R. 8800—passed the House, pending in Senate, establishes a 5-year Electric

Vehicle Research, Development and Demonstration Project.

H.R. 8603—passed House, pending in Senate, authorizes public service costs of the U.S. Postal Service in fiscal year 1976 revises Postal Rate Commission procedures, limits the proposed postage increase to 2 cents, requires authorization for all Postal Service expenditures, and requires that postal revenue be deposited in the Treasury to be made available upon appropriation.

H.R. 10355—passed House, pending in Senate, provides an 8 percent cost-of-living adjustment to veterans and survivors and increase by $300 the amount of income a beneficiary may receive and remain eligible for benefits.

H.R. 6209—passed House, pending in Senate, prohibits Federal savings and loan associations from offering variable interest rate mortgage loans on one to four family homes of dwelling units.

H.R. 10339—passed House, pending in Senate, encourages the direct marketing of agricultural commodities from farmer to consumer.

H.R. 5546—passed House, pending in Senate, extends major health manpower programs including capitation grants to schools, encourages health service in medically underserved areas and expands National Health Service Corps.

H.R. 8835—passed House, pending in Senate, amends the Truth in Lending Act to protect consumers against inadequate and misleading leasing information.

H.R. 8617—passed House, pending in Senate, liberalize restrictions on Federal, civilian, and postal employee participation in political activities.

H.R. 9852—passed House, pending in Senate, increases maximum loan limits under FHA's mobile home insurance program and makes other amendments in housing and community development programs.

House Joint Resolution 549—establishes the Northern Mariana Islands as a Commonwealth of the United States.

H.R. 8948—provide for audit by the Comptroller General of the Internal Revenue Service.

H.R. 200—extends the exclusive fisheries zone of the United States to 200 miles offshore.

H.R. 8631—extends the Price-Anderson Act for 10 years and gradually phases out Government responsibility to pay for losses caused by a nuclear accident.

H.R. 8578—restores Federal matching shares for community action agencies to the 80-percent level that prevailed before fiscal 1976.

TAXES

Taxes and the relative burden that each citizen shall bear to support the cost of government at all levels has become a matter of top concern throughout the Nation. This was dramatically expressed by voters in recent bond elections when they approved only $1 billion in local bond issues in elections seeking approval for $8 billion. With progressive tax rates, inflation causes an increase in the percentage of one's income which is paid in taxes and it does this without changing the tax table. Therefore there is even more than the usual demand to revise tax tables and adjust rates.

It was partly for the above reasons to also spur the economy that a Tax Reduction Act was enacted at the beginning of the session. Statisticians have found that a 1-percent increase in unemployment results in the collection of $14 billion less in taxes and therefore tax reductions and increases in a Government which relies heavily upon the progressive income tax is directly tied to unemployment rates. Any responsible tax action must consider its effect upon employment.

At first President Ford opposed such a bill but later approved it and the joint approval resulted in enactment of a major tax bill in the first few weeks of the session. The details of that legislation are set forth below.

Since the Tax Reduction Act enacted early in the session was only for the calendar year 1975, failure to extend it into 1976 would, in effect, result in an increase in taxes including withholding unless a new Tax Act is passed. The average increase would be about 8 percent. A major effort was made in the House to develop a tax reform package to accompany the extensions of these reductions but the President has vigorously opposed some of the tax reform provisions and set forth conditions for extension of the 1975 reductions. The proposal which has passed the House is currently pending in the Senate and will be given urgent consideration early in 1976. A brief description of it is set forth below:

Tax Reduction Act of 1975: Public Law 94–12, the Tax Reduction Act of 1975, provides a refund to individuals on 1974 tax liability generally equal to 10 percent of liability up to a maximum of $200. The measure increases the percentage standard deduction for 1975 and provides a new $30 tax credit for 1975 in addition to the personal exemption. It provides a refundable credit for 1975 of 10 percent of earned income up to a maximum of $400, to be phased out from the maximum $400 to zero as the earned income increases. The bill increases permanently the income level at which the phaseout of the maximum allowable child care deduction of $4,800 begins and provides $50 payment to each individual who, for the month of March 1975, received social security, railroad retirement or SSI benefits.

The measure increases permanently for sales of residences after December 31, 1974 from 12 to 18 months the period during which the seller of an old principal residence must purchase a new principal residence and defer gain and provides a new tax credit for purchase or construction of a new principal residence equal to 5 percent of the taxpayer's basis and is limited to a maximum of $2,000. It increases the investment tax credit for all taxpapers to 10 percent from 7 percent and increases the corporate surtax exemption from $25,000 to $50,000 for 1975 only. The tax bill eliminates 22 percent depletion allowance for major oil and gas producers but retains it in limited form for small producers, provides new limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income, and expands the extent to which foreign subsidiaries of U.S. corporations are subject to current U.S. taxation.

Extension of tax reductions: The Tax Reform Act of 1975 provides individual tax reductions that will permit withholding rates in 1976 that, on the average, are the same as those prevailing in the last 8 months of 1975, when the Tax Reduction Act of 1975 was in effect. The bill makes permanent the temporary increases in the standard deduction contained in that Act. The bill includes a tax credit equal to the greater of: a. $30 for each taxpayer and dependent; or b. 2 percent of the first $12,000 of taxable income. This taxable income credit involves a decrease in tax liability of $10.5 billion for 1976. The bill extends the increase in the investment credit to 10 percent which was provided in the Tax Reduction Act of 1975 for 4 additional years. The bill extends for 2 years (that is, until the end of 1977) the increase in the corporate surtax exemption to $50,000.

Current status: As of today, there is a disagreement between the administration and Congress as to the extension of the Tax Reduction Act of last spring. Unless it is extended, taxes will be increased the first of January and this includes withholding.

The majority feeling in the Congress is that such an increase at this time would endanger the slow recovery from the recession which seems to be underway. Although the new tax bill is very controversial and various goups will use any excuse available to defeat it, the 37 members of the Ways and Means Committee consumed hundreds of hours in developing this bill and I believe the majority of the House are determined to pass this bill and perhaps some additional legislation before the Congress expires at the end of 1976.

Tax Reform Act of 1975: A new tax bill recently passed the House of Representatives and is now pending in the Senate where action is expected early in the next session It is a most extensive tax bill, affecting millions of taxpayers, containing 668 pages and divided primarily into three categories of tax changes: First, tax reform; second, tax simplification; third, extensions with some modifications of the tax reduction made last spring for 1975 and described above.

A further—although very simplified and somewhat incomplete—description of the bill is as follows:

Tax reform: The bill includes a "limitation of artificial losses"—LAL—under which deductions that do not accurately reflect current expenses cannot be used to shelter, unrelated income from tax. LAL is applied to real estate, farming, oil and gas, equipment leasing, sports franchises and movies. The measure strengthens the minimum tax for individuals by raising the rate from 10 to 14 percent, lowering the exemption, halving the existing deduction for regular income taxes and adding two new preference items to the base of the tax.

The tax bill limits deductions for expenses attributable to business use of the home and vacation homes and deductions for foreign conventions. Special tax treatment for qualified stock options is eliminated. The exclusion for income earned abroad by U.S. citizens residing abroad is phased out for most taxpayers; the use of foreign trusts to shield income from tax is eliminated; the preferential treatment for income from corporations doing business in less developed countries is ended; the per-country limitation on the foreign tax credit is repealed, and a requirement is added providing that foreign losses, deducted against U.S. income are to be recaptured in future years; preferential treatment for capital gains in determining the foreign tax credit limitation is ended; and the preferences for Western Hemisphere Trade Corporations and China Trade Act Corporations are repealed.

Tax deferral for income from exports through Domestic International Sales Corporations—DISC—is significantly cut back. The bill includes several technical income tax changes relating to taxation of housing cooperatives, disaster loans and payments, and prepublication expenses of publishers. The limit on the amount of ordinary income against which capital losses may be deducted is raised from $1,000 to $4,000 and the holding period defining long-term capital gains is increased, in three stages, from 6 months to 1 year.

Tax simplification: The bill revises the existing optional tax tables and increases to $20,000 the maximum amount of taxable income a taxpayer can have and still use the tables. The deduction for alimony is made available to taxpayers who claim the standard deduction. The retirement income credit is drastically simplified and is made more equitable by converting it into a "tax credit for the elderly." The amount of income on which the credit is computed is increased, and earned income is made eligible for the credit. The child care deduction is converted to a 20-percent tax credit. The eligibility for the credit is to be broader than for the existing deduction, and the provision is greatly simplified. The sick exclusion is eliminated, except for the permanently and totally disabled. The deduction for moving expenses is simplified and liberalized.

It also contains an amendment which I authored and passed on the floor of the House which preserves certain practices permitting farmers to buy fertilizer and feed in the fall for crops and livestock in the following year. It also continues to encourage purchase of farm machinery. Without the amendment employment in our farm machinery industry would have been discouraged.

BUDGET

While there has been considerable public discussion and many political statements concerning budget requests by President Ford, congressional action and Government spending in general, the fact is that the Congress has decreased some of the President's requests and increased some others. On a net overall basis, the Congress has reduced the President's spending request by $7,372,452,222. To secure a balanced view of the meaning of this budget and spending argument, it is necessary for one to examine the requests and the appropriations for each program and make a judgment for oneself. The table in detail is set forth below:

APPROPRIATIONS BILLS PASSED BY 1ST SESS., 94TH CONG. (CALENDAR 1975)

Departments or agencies	President Ford's request	Amount approved by Congress	Appropriations compared to President's request
A. Bills for fiscal 1976:			
1. Education	$6,134,339,000	$7,480,312,952	+$1,345,973,952
2. Legislative	838,265,425	827,546,570	−10,718,855
3. Continuing Appropriations, 1976		2,379,800,000	+2,379,800,000
4. HUD-Independent Agencies	48,779,570,000	49,344,914,000	+565,344,000
5. Public Works	7,300,162,000	7,440,912,500	+140,750,500
6. State-Justice-Commerce-Judiciary	5,721,747,400	5,958,676,000	+236,928,600
7. Labor-HEW	35,157,909,000	36,073,748,318	+915,839,318
8. Transportation	4,069,994,775	3,978,924,775	−91,070,000
9. Agriculture and Related Agencies	11,084,514,000	11,061,282,000	−23,232,000
10. Treasury-Postal Service-General Government	6,330,463,000	6,314,070,000	−16,393,000
11. Interior	4,307,158,000	4,234,621,000	−72,537,000
12. Defense	97,857,849,000	90,466,961,000	−7,390,888,000
13. Military Construction	4,109,020,000	3,585,014,000	−524,006,000
14. Supplemental Appropriations	11,304,210,377	10,299,533,117	−1,004,677,260
B. Bills for fiscal 1975:			
1. Foreign Assistance	5,946,460,909	3,674,346,982	−2,272,113,927
2. Supplemental	142,175,000	143,175,000	
3. Summer Youth Employment	412,700,000	473,350,000	+60,650,000
4. 2d Supplemental	14,956,698,548	15,071,595,998	+114,897,450
5. Additional Appropriation, Veterans	638,538,000	638,538,000	
6. Vietnam Refugee Assistance	507,000,000	405,000,000	−102,000,000
C. Cumulative totals for the session	267,224,774,434	259,852,322,212	−7,372,452,222

CONGRESSMAN AuCOIN INTRODUCES SILETZ RESTORATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

Mr. AuCOIN. Mr. Speaker, it is my privilege today to introduce legislation which will restore to the Confederated Tribes of Siletz the status of a federally recognized Indian tribe. I am pleased that my friend, the Senator from Oregon (Mr. Hatfield) is today introducing companion legislation in the other body.

Federal supervision over this small western Oregon tribe was terminated by the act of August 13, 1954.

The Confederated Tribes of Siletz Indians are the descendants of a large number of tribes and bands of coastal Indians who were grouped on the 1.4 million acre Coast Reservation in Oregon in the 1850's. Many of these tribes and bands were forcibly removed from their homelands and transported to the reservation. Under constant pressure from increasing numbers of settlers, the once magnificent reservation steadily decreased in size and, when the tribe was terminated in 1954, the reservation comprised only about 7,900 acres. At the time of termination, there were less than 1,000 enrolled tribal members.

Termination was declared in 1953 to be the long-range goal of Federal Indian policy. It meant that the trust relationship which existed between the Federal Government and the various Indian tribes would be ended. Indian lands would lose their tax exempt status, the Federal Government would no longer be responsible for the social and economic well-being of individual Indians, and tribal governments would be dismantled.

A total of 13 termination acts were passed by Congress in the 1950's, one of which terminated all the small tribes and bands of western Oregon, including the Confederated Siletz. As a general proposition, Indians have suffered greatly under the policies of termination; the social and economic devastation which this ill-conceived policy has wrought on terminated tribes, including the Confederated Siletz, has been tremendous.

Termination of the Siletz Tribe has meant that while unemployment, health problems, alcoholism, and the school dropout rate have risen dramatically since the time of termination, the means for dealing with these problems have been withdrawn. The Siletz Tribe was terminated with little real thought and even less planning. Much-needed services were withdrawn at a time when the Indians were ill equipped and ill prepared to cope successfully with the mainstream of society.

Let me cite some of the startling facts to which termination of the Siletz Tribe contributed.

The most recent figures available indicate a 44-percent unemployment rate among Indians in Lincoln County, the majority of whom are Siletz.

The median family income of Indian families in the town of Siletz is $3,300 per year.

The Siletz public school in 1974 reported that 40 percent of Siletz Indians between the ages of 17 and 25 did not finish high school.

Roughly 70 percent of the Indian students in the Siletz School have only one parent due to the death of the other parent.

Twenty-three percent of the Indian children in grades 1 through 12 come from broken homes.

Indian children at Siletz School averaged 0.6 grade equivalent below the mean.

In a nonrandom sample of 84 Siletz Indians, 52.9 percent reported dental needs, and 21.8 percent reported visual needs.

Mr. Speaker, these figures bear sad witness to the misguided and inadvertent degradation of a once-proud people. We now have before us legislation which has the potential of correcting some of the injustice which history has cast upon the Indians of the Confederated Tribes of Siletz.

This legislation is an attempt to reverse the effects of the now-discredited termination policies of the 1950's. Before I continue, let me remind the Members of what termination was and why it was so harmful. In doing so, it is not my intention to discredit the motives of those who supported the old termination policy, but to assert that, wittingly or unwittingly, this policy amounted to a backhanded way of shirking the solemn duties and responsibilities to which our Nation had committed itself.

You see, the Federal Government did not assume the role of guardian and trustee of Indian welfare and existence as an act of generosity toward a disadvantaged people. The special relationship between Indians and the Federal Government arose instead out of solemn commitments in the nature of contractual obligations. The Indians agreed to cede vast tracts of lands to the Federal Government and agreed not to take up arms against the settlers. In return for practically the entire land area of the Western United States and promises of peace, the Federal Government agreed to protect the Indians from the incursions of settlers within certain prescribed tracts of land, or reservations. Through formal treaties, acts of Congress, and formal and informal agreements, the United States guaranteed the Indians' possession of their lands and agreed to provide health, education, and other social services. These commitments continue to carry immense legal and moral force.

Indian reservations, and indeed the very nature of the Federal-Indian relationship, were intended to provide a structure whereby Indian culture could survive and flourish. The termination of tribal existence by unilateral Federal action is no more appropriate than the termination of the citizenship rights of any other American.

Mr. Speaker, termination simply did not work. While the Federal Government naively believed that termination would suddenly make full-fledged citizens out of Indians and afford them the opportunity to fully participate in society, experience has shown just the opposite to be true. In Oregon, where in addition to the 60 terminated western Oregon Tribes, we have the terminated Klamath Indian Tribe in southern Oregon, the result has created tremendous social disorientation among Indian people. Unemployment, alcoholism, the breakdown of the family unit, and already severe problems among Indian societies generally have become epidemic among terminated Indians. The Indian citizens with the most severe social problems, the most pronounced inability to function successfully in society, are those who have been told by the Federal Government that they are no longer recognized as Indians, that their tribe no longer exists—that they are terminated.

Interestingly, the ill effects of termination have not been confined to members of those tribes which were terminated. President Nixon noted in his 1970 address on Indian affairs that the very threat of termination has created tremendous apprehension among tribes which are still recognized. As a result, "any step that might result in greater social, economic, or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal Government will disavow its responsibility entirely and cut them adrift." The threat of termination has therefore actually worked to encourage excessive dependence upon the Federal Government.

That tribal termination is no longer the policy of either Congress or the administration can hardly be challenged.

In 1970, the administration called upon Congress to expressly repudiate House Concurrent Resolution No. 108, which had declared termination to be the long-range goal of Government Indian policy. In 1973, Congress enacted and the President signed the Menominee Restoration Act, which restored to the Menominee Tribe of Wisconsin its status as a federally recognized tribe. And on December 7 of this year, in an official policy statement, the administration once again called upon Congress to expressly repudiate termination philosophies and repeal House Concurrent Resolution No. 108.

Like the Menominee legislation, the Siletz Restoration Act will provide the means for reestablishment of the tribal government. It will restore to the Siletz Indians a sense of Indian identity, which experience has shown cannot survive in the absence of tribal recognition. As a federally recognized tribe, the Siletz would once again be eligible to participate in much-needed Federal educational, health, and other social programs which are available only to members of federally recognized tribes. This legislation will restore a small 10-acre piece of land the tribe now owns to Federal trust protection and contains provisions for the Secretary of the Interior to take into trust additional lands which the tribe might purchase on its own. While it is true that any such lands would be tax exempt, there would be no loss of tax revenue to the local community because such a loss would enable the community to qualify for compensating impact aid under existing Federal law.

Mr. Speaker, the Siletz Tribe is not even asking the Government to return lands it formerly owned. The 10-acre reservation called for in this legislation is actually an Indian cemetery which was turned over to the Siletz Indians by the city of Siletz. This sign of community support speaks, I think, for itself.

Mr. Speaker, some may be reluctant to support restoration of the Siletz Tribe because they feel that by accepting monetary settlements at the time of termination, the Indians forfeited claim to any further Federal assistance. This, however, is an inaccurate interpretation. These payments simply compensated the tribe for the value of the land and buildings it gave up—land and buildings the tribe has not regained and is not regaining now.

Mr. Speaker, this bill has also caused great concern among hunters and fishermen in Oregon. Because of recent court decisions, there are those who are concerned that Indian treaty rights may allow hunting and fishing by the Siletz and other tribes to be exempt from State management. But with or without this bill, that issue will still be before us and will have to be dealt with. Let us deal with that issue but, Mr. Speaker, let us not suspend justice for the Siletz in the meantime. For this reason, it is wrong to encumber this legislation with a separate issue. I commend the tribe, however, for going so far as to agree to language in section 3(c) stating that the act does not grant or restore any hunting, fishing, or trapping rights of any nature to the tribe or its members. This bill has two goals, and two goals only: To allow the Siletz Indians to regain their sense of tribal identity, and to make them eligible once again for health, educational, and other social benefits.

Mr. Speaker, when we examine the particular history and present status of the Confederated Tribes of Siletz, we find that the case for restoration of tribal status is especially compelling. The Confederated Siletz are the contemporary representatives of a large number of tribes and bands of western Oregon Indians, many of which were forcibly removed by the Army from their homelands and transported to the Coast Reservation in the 1850's. Through this process of forced removal and relocation, by no means unique in the history of our westward expansion, these small Tribes were uprooted from their homeland and forced into a state of dependency upon the United States Government. In exchange either for their lives or promises of food, health care, educational benefits and a home free from the incursions of white men, the Indians relinquished their claims to the lands of their ancestors. The once self-sufficient hunters and fishermen were encouraged by the Indian agents to abandon their nomadic habits and take up agriculture on land which was generally unsuited for farming. The continual failure of Indian farms forced the Government to provide special assistance, thereby increasing Indian dependence upon the Federal Government. The Bureau of Indian Affairs managed the operation, leasing, and sale of tribal enterprises and assets, thereby depriving the Indians of the opportunity to develop the skills and motivations usually associated with private ownership and management of property. Indians were second class citizens, unable to vote, sign contracts, or purchase alcohol.

By depriving the Siletz of their homelands and their means of subsistence, and by creating this state of dependency upon the Federal Government, the United States thereby assumed legal and moral obligations to the Siletz Indians.

Wisely, the Congress and the administration are today no longer seeking to foster this state of excessive dependency. Congress is instead attempting to provide the opportunity for true self-determination among existing, legally recognized tribes. But for the confederated Siletz, the means whereby they might have benefited through these enlightened policies were withdrawn at the moment of termination. Instead, the Siletz were tossed abruptly from a state of almost total dependency into a state of total independence. This disorientation created by termination was massive, and its effects are pronounced even today.

Siletz Indians were told by Bureau officials to leave the only way of life they had known and begin to participate fully in society. But they were not accepted as equals by the dominant culture, nor were they any longer accepted as Indians by other tribes which had not been terminated. The Siletz were lost between two cultures.

Mr. Speaker, the restoration effort has the support of Governor Straub of Oregon, virtually all units of local government in the area, and many newspapers around the State. But the real measure of support can be found among the Siletz Indians themselves. Unlike most pieces of Federal Indian legislation, this bill is the product of lengthy deliberations on the part of tribe members. The tribe has been working toward the goal of restoration for over 3 years and there has been a remarkable resurgence of tribal identity centered around the restoration effort. Tribal meetings have been consistently well attended and the grassroots support for restoration among tribal members is strong and widespread.

In the final analysis, Mr. Speaker, we have a solemn and continuing duty to meet the needs of our Indian citizens, particularly where those needs can be met consistent with established policy. Indeed, we would be remiss were we to fail to act. The desirability of this legislation cannot be gaged solely in terms of minimal Federal expenditure and widespread popular support. It can be judged on the fundamental rightness of the cause. I submit to my colleagues that the Siletz cause is right and I urge their support of this bill.

The text of the bill follows:

H.R. 11221

A bill to appeal the Act terminating Federal supervision over the property and members of the Confederated Tribes of Siletz Indians of Oregon; to reinstitute the Confederated Tribes of Siletz Indians of Oregon as a federally-recognized sovereign Indian tribe; and to restore to the Confederated Tribes of Siletz Indians of Oregon and the members those Federal services and benefits furnished to federally-recognized American Indian tribes and their members; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Siletz Restoration Act".

SEC. 2. For the purpose of this Act—

(1) The term "tribe" means the Confederated Tribe of Siletz Indians of Oregon, which is comprised of any tribes and bands, or remnants thereof, which were represented on the membership roll of the tribe which was published in the Federal Register on July 26, 1956.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Siletz Interim Council" means that council of nine Siletz Indians who shall be elected pursuant to sections 4(a) and 4(b) of this Act.

SEC. 3. (a) Notwithstanding the applicable provisions of the Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. 691–708), or any other law, Federal recognition is hereby extended to the Tribe and the provisions of the Act of June 18, 1934 (25 U.S.C. § 461, et seq.) are made applicable to it. The Tribe and its members shall be entitled to all Federal services and benefits furnished to federally-recognized Indian tribes and their members.

(b) The Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. § 691–708), to the extent such act is applicable to the tribe, is hereby repealed. There are hereby reinstated all rights and privileges of the tribe or its members, except for hunting, fishing, and trapping rights, under Federal treaty, executive order, agreement, statute, or otherwise which may have been diminished or lost pursuant to the Act of August 13, 1954 (68 Stat. 724–28; 25 U.S.C. § 691–708).

(c) This Act shall not grant or restore any hunting, fishing, or trapping rights of any nature to the tribe or its members.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, or any obligations for taxes already levied.

(e) In providing to the tribe such services to which it may be entitled upon its recognition pursuant to subsection (a) of this section, the Secretary and the Secretary of Health, Education, and Welfare, as appropriate, are authorized, from funds appropriated pursuant to the Act of November 2, 1921 (25 U.S.C. 13); the Act of August 5, 1954 (68 Stat. 674); the Act of January 4, 1975 (88 Stat. 2203); or any other Act authorizing appropriations for the administration of Indian affairs, upon the request of the tribe and subject to such terms and conditions as may be mutually agreed to, to make grants and contract to make grants which will accomplish the general purposes for which the funds were appropriated. The Siletz Interim Council shall have full authority and capacity to be a party to receive such grants to make such contracts, and to bind the tribal governing body as the successor in interest to the Siletz Interim Council: *Provided, however,* That the Siletz Interim Council shall have no authority to bind the tribe for a period of more than six months after the date on which the tribal governing body takes office.

SEC. 4. (a) Within fifteen days after the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Siletz Interim Council. Such general council meeting shall be held within thirty days of the date of enactment of this Act. Within forty-five days of the general council meeting provided for herein, the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect the membership of the Siletz Interim Council from among the nominees submitted to him from the general council meeting provided for herein. The ballots shall provide for write-in votes. The Secretary shall approve the Siletz Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. The Siletz Interim Council shall represent the Siletz people in the implementation of this Act and shall be the interim tribal governing body until tribal officials are elected pursuant to Section 5(c) of this Act. The Siletz Interim Council shall have no powers other than those given to it in accordance with this Act. The Siletz Interim Council shall have no power or authority under this Act after the time which the duly-elected tribal governing body take office: *Provided, however,* That this provision shall in no way invalidate or affect grants or contracts made pursuant to the provisions of section 3(e) of this Act.

(b) In the absence of a completed tribal roll prepared pursuant to subsection (d) hereof and solely for the purposes of the general council meeting and the election provided for in subsection (a) hereof, all living persons on the final roll of the tribe published under section 3 of the Act of August 13, 1954 (25 U.S.C. 693), and all descendants, who are at least eighteen years of age and who possess at least one-fourth degree of Siletz Indian blood, of persons on such roll shall be entitled to attend, participate, and vote at such general council meeting and such election. Verification of descendancy, age, and blood quantum shall be made upon oath before the Secretary or his authorized representative and his determination thereon shall be conclusive and final. The Secretary shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(c) If vacancies occur on the Siletz Interim Council the Siletz Interim Council shall hold a general council meeting within thirty (30) days after receiving written notice of such vacancy. The Siletz Interim Council shall give at least ten (10) days notice of such general council meeting. Any vacancy or vacancies shall be filled at such general council meeting after nominations have been made at such general council meeting. The person or persons receiving the highest number of votes shall fill the vacancy or vacancies. Eligibility to vote at such general council meeting shall be determined by the procedures provided for in subsection (b) hereof except that verification of descendancy, age, and blood quantum shall be made upon oath before the Siletz Interim Council and their determination thereon shall be conclusive and final. The Siletz Interim Council shall assure that adequate notice of such meeting and election shall be provided eligible voters.

(d) The membership roll of the tribe which was published in the Federal Register on July 12, 1956 is hereby declared open. The Secretary, under contract with the Siletz Interim Council, shall proceed to make current the roll in accordance with the terms of this Act. The names of all enrollees who are deceased as of the date of enactment of this Act shall be stricken. All persons shall be added to the roll who were entitled to be included on the roll of July 12, 1956 but who were not, for whatever reason, included on that roll. The names of any descendants of an enrollee shall be added to the roll provided such descendant possesses at least one-fourth degree Siletz Indian blood. Upon installation of elected constitutional officers of the tribe, the Secretary and the Siletz Interim Council shall deliver their records, files, and any other material relating to enrollment matters to the tribal governing body. All further work in bringing and maintaining current the tribal roll, including the determination of membership in the tribe, shall be performed by the tribe in such a manner as may be prescribed in accordance with the tribal governing documents. Until responsibility for the tribal roll is assumed by the tribal governing body, appeals from the omission or inclusion of any name upon the tribal roll shall lie with Secretary and his determination thereon shall be final. The Secretary shall make the final determination of each such appeal within ninety days after an appeal is initiated.

Sec. 5. (a) Upon request from the Siletz Interim Council the Secretary shall conduct an election by secret ballot, pursuant to the provisions of the Act of June 18, 1934, for the purpose of determining the tribe's constitution and by-laws. The election shall be held within sixty days after final certification of the tribal roll.

(b) The Siletz Interim Council shall distribute to all enrolled persons who are entitled to vote in the election, at least thirty days before the election, a copy of the constitution and by-laws as drafted by the Siletz Interim Council which will be presented at the election, along with a brief impartial description of the constitution and by-laws. The Siletz Interim Council shall freely consult with persons entitled to vote in the election concerning the text and description of the constitution and by-laws. Such consultation shall not be carried on within fifty feet of the polling places on the date of the election.

(c) Within one hundred and twenty days after the tribe adopts a constitution and by-laws, the Siletz Interim Council shall conduct an election by secret ballot for the purpose of determining the individuals who will serve as tribal officials as provided in the tribal constitution and by-laws. For the purpose of this initial election and notwithstanding any provision in the tribal constitution and by-laws to the contrary, absentee balloting shall be permitted and all tribal members who are eighteen years of age or over shall be entitled to vote in the election. All further elections of tribal officers shall be as provided in the tribal constitution and by-laws and ordinances adopted thereunder.

(d) In any election held pursuant to this section, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate the adoption of a tribal constitution and by-laws and the initial election of the tribe's governing body, so long as, in each such election, the total vote cast is at least 30 percent of those entitled to vote.

Sec. 6. (a) The Secretary shall negotiate with the Siletz Interim Council to develop a plan for the assumption of the assets of the tribe. The Secretary shall submit such plan to the Congress within six months from the date of the enactment of this Act.

(b) If neither House of Congress shall have passed a resolution of disapproval of the plan within sixty (60) days of the date the plan is submitted to Congress, the Secretary shall, subject to the terms and conditions of the plan negotiated pursuant to subsection (a) of this section, accept the assets of the tribe, but only if transferred to him by the tribe subject to the laws of Oregon. Such assets shall be subject to all valid existing rights, including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, outstanding corporate indebtedness of all types, and any other obligation. The land and other assets transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Oregon. Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be their reservation. The transfer of assets authorized by this section shall be exempt from all local, State and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(c) The Secretary shall accept the real property (excluding any real property not located in or adjacent to the former boundaries of the reservation) of members of the tribe, but only if transferred to him by the Siletz owner or owners. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local, State, and Federal), mortgages, and any other obligations. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Oregon. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe and shall be part of their reservation. The transfer of assets authorized by this section shall be exempt from all local, State, and Federal taxation. All assets transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(d) The Secretary and the Siletz Interim Council shall consult with appropriate State and local government officials to assure that the provision of necessary governmental services is not impaired as a result of the transfer of assets provided for in this section.

Sec. 7. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

Sec. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

REINTRODUCTION OF EMERGENCY TENANTS' LOAN ACT

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Chairman, last month I introduced the Emergency Tenants' Loan Act to provide temporary assistance to tenants who are unable to meet rental payments due to recession-related unemployment. This would give to tenants the identical relief given homeowners with respect to mortgage payments by legislation recently passed and signed into law by the President.

This bill, H.R. 10775, gives standby authority to the Secretary of Housing and Urban Development to make repayable loans in amounts not to exceed $250 per month to persons who may be faced with eviction because of present economic conditions in the country. A secondary effect of the proposal would be to prevent the deterioration of many rental housing projects by allowing the owners to keep the units continuously occupied and adequately maintained through the regular, consistent receipt of monthly rents.

Today I am reintroducing this measure along with the following cosponsors: Ms. Abzug, Mr. Badillo, Ms. Collins of Illinois, Messrs. Conyers, Edgar, Eilberg, Flood, Harrington, Harris, Ms. Heckler of Massachusetts, Mr. Helstoski, Ms. Holtzman, Messrs. Koch, Lehman, Metcalfe, Mitchell of Maryland, Murphy of New York, Riegle, Rodino, Scheuer, Solarz, Waxman, and Wolff. I am happy to have the support of these individuals and hope that many other Members will join in the effort to provide the same type of protection to tenants as we have already authorized for homeowners.

THE COSTS TO THE COUNTRY OF PRESIDENT FORD'S BRINKMANSHIP ON NEW YORK CITY'S FINANCIAL CRISIS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, on Monday, this body overwhelmingly adopted the conference report on the supplemental appropriations bill which contained $2.3 billion for the New York City seasonal financing fund. This very welcome action brings to a conclusion, at least for the time being, a very dark and, in my view, dangerous chapter in the financial history of this great Nation.

A very timely and perceptive article on this subject appeared in yesterday's Washington Post. Written by Neil Peirce of the National Journal, this article points out the tremendous cost to cities throughout the United States of the President's failure to assure Federal backing for the city's securities. It also emphasizes the destructiveness of the administration's negative attitude to the effort to give greater responsibility over their own affairs to States and municipalities.

I commend Mr. Peirce's article to our colleagues' attention and suggest that they give the points which it raises close and careful consideration, particularly in light of the rejection of numerous bond issues at the polls throughout the country last month:

State and Federal Responsibility to New York City

(By Neal R. Peirce)

The chorus of praise to President Ford for finally agreeing to short-term federal loans as part of the recovery plan for New York City should not be allowed to rise too high.

For long weeks, the federal government was playing Russian roulette with the possibility of a New York default that conceivably might have triggered a firestorm in the nation's municipal bond markets, halted the nation's steps toward economic recovery, and possibly triggered a real depression.

Without any kind of contingency plan for assuring law and order in its greatest city, for instance, the federal government allowed New York to come within an eyelash of default October 17. If the President's rhetoric was to be believed, he was willing to run that risk again and again.

The President's only proposal, laid out in his October 29 Press Club speech, was to let the city go into bankruptcy, thereafter putting it in the tender hands of a federal court, backed up by a triumvirate of Cabinet officers elected by nobody. Home rule—and state rule—would have been totally abrogated.

All of this, in the President's eyes, was apparently a worthwhile risk to punish New York for its scarlet fiscal sins and to evoke political applause lines in the Peorias of America—an abrogation of presidential leadership with few parallels in our history.

The fact is that from start to finish (if indeed we have reached it) of the New York crisis, the most important initiatives to put the city on a sound financial basis and protect the national interest came not from Washington but from the state of New York.

By late October, when the President delivered his Press Club speech, the state had already taken heroic steps. It had established, in June, the Municipal Assistance Corporation (Big MAC), which succeeded temporarily in shoring up the city's credit. More important was the establishment, in September, of the Emergency Financial Control Board, which assumed an unprecedented degree of financial control over the city, including the mandating of a three-year financial plan including transition to a truly balanced budget by 1978.

Under pressure from the state, the city had already cut 31,000 workers from its bloated municipal payrolls, upped the transit fare, imposed a wage freeze, and increased its taxes by $330 million a year.

In that context, Congress began to develop feasible plans for a federal guarantee of New York bonds and loans—plans which the President callously dismissed as a form of "bail-out," when in fact they included numerous safeguards to assure that the city would move to and stay on a sound financial course.

At least by implication, the President would now have us believe that it was his hard-lining that forced New York to go its latest mile, agreeing to the $200-million boost in city taxes, a "moratorium" on the payment of short-term city notes coming due, and a requirement that city workers begin to contribute toward their own pension plans.

It's probably true that New York would not have bitten the bullet—not so quickly, in any event—in the absence of the President's ultra-hard line. Sources close to Big MAC note that Mayor Abraham Beame has desperately resisted each new tax, each new economy, with little understanding of the city's real plight. Governor Hugh Carey's resolve to force dramatic reforms would probably have been weaker without the stiff federal line.

So it's possible the President was acting—despite his dangerous brinksmanship—with a grand strategy in mind. More likely, however, he began to fear the consequences of default more acutely himself, and recognized that the fearsome anti-New York mood noted out across the country had begun to shift rapidly toward endorsement of some federal assistance.

The New York crisis has already had a profound effect on other states and cities as they move to check their own fiscal stability. The massive rejection of bond issues in the November 4 balloting indicated a deep uneasiness among voters in letting indebtedness (which has already passed the $200-billion mark at the state-city level) go any higher.

But caution and austerity, for all their merits, have a negative side too. In recent years many states and cities decided it was a mistake to rely on Washington for all major advancements in higher education, mass transit, environmental reform and social programs. They began to do a great deal more for themselves—flawed efforts in many cases, but certainly a creative use of the states as laboratories of democracy.

That effort fit in well with the most promising new direction in government to emerge in recent years—the "New Federalism" doctrine of returning more money, power and responsibility to state and local governments.

It was inevitable that the recession would force many states and localities to pull in their horns on new programs. But if the administration had remained adamant on not helping New York before bankruptcy, the effect would have been to kill off the creative aspects of new federalism for years to come. Even the soundest state initiatives might have been scuttled by local nay-sayers warning, "Look what happened to New York. We don't dare try anything new."

State and cities would consequently have looked to Washington for financing practically all new programs, an alarming move toward government centralism in America.

Now that the administration has backed down a few inches on New York there's at least hope that after the present recession, states and cities will again be willing to do more for themselves and not be paralyzed by the fear that the federal government will leave them in the lurch if the going gets tough.

Another thin ray of sunshine is that the Ford administration now seems to take more seriously the state role in resolving New York's problems. Even the short-term loans now proposed by Mr. Ford would go through the state government—in contrast to his bankruptcy proposal, which would have made New York City a satrapy of the federal government. Under the federal system, it is the states which have first-line responsibility for their cities. New York State, by its recent initiatives in the city's crisis, has given that constitutional doctrine fresh force and apparently won over a federal leadership that had forgotten its high school civics.

The risk in the heavy burden of new taxes placed on New York City, however, is that it may have a devastating effect on the quality of life and services there and the city's efforts to stem the massive hemorrhaging of businesses and middle class population it has been suffering.

No euphoria about the short-term solution to New York's cash flow should mask the responsibility of the federal government, whose housing and highway and tax policies have contributed so heavily to the decline of large cities, to engage in a cooperative effort with states to restore the vitality of our great metropolises. The worst long-term effect of the New York crisis could be that it could popularize the methods of turning the thumb-screws on a profligate municipality, without pointing the way to formulas to return the patient to real health.

THE GASSING OF THE RULES COMMITTEE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the lesson of yesterday's extraordinary session of the Rules Committee and its decision to report out an unprecedented rule for the benefit of the gas industry is this: Never underestimate the power of the power companies or the energy of the energy industry.

To meet what was presented by the gas industry and its Government advocates as an impending emergency shortage of natural gas supplies this winter, the Commerce Committee, immediately after its consideration of the omnibus energy bill, held hearings and reported out the Natural Gas Emergency Act of 1975, H.R. 9464. It is a simple noncontroversial bill permitting the use of unregulated intrastate gas surpluses for distressed interstate pipelines should a shortage occur resulting in severe disruption of service. The only controversy was the desire of a minority to attach to the measure permanent provisions for deregulation of natural gas prices, the Krueger amendment, on which no hearings have been held. Despite the emergence of substantial evidence that the industry-proclaimed emergency shortage will not occur, the committee chairman promptly sought to have the bill considered on the Suspension Calendar.

The ink was not even dry on the Commerce Committee report—indeed, the committee had not even received copies of the report, though amazingly the members of the Rules Committee had—when the Rules Committee, without request by or even invitation to the committee or subcommittee chairman, seized initiative on the bill and called a hearing to consider a rule. These chairmen were in no way delinquent; there could be no reason for this incredible discourtesy to them and to the committee, save for pressure by the gas industry to use the emergency bill as a vehicle to get total decontrol considered immediately, flouting the rules, without hearings, without any committee of Congress having the opportunity to mark up a bill and consider alternatives. There is no justification for this action to serve any emergency, even if it exists, because decontrol even if it were passed would not affect any emergency that might occur this winter.

The Rules Committee was never intended as a body to be substituted for legislative committees to overrule the substantive judgment of a majority. Yet, that is what the Rules Committee did. Despite the fact that there have been no hearings on the Krueger bill, indeed, that the House rules would not have permitted its consideration in connection with the committee bill, the Rules Committee decided it liked the bill and, flouting the rules of the House, as it has power to do, made the unconsidered Krueger bill in order.

Furthermore, the rule it provided is outrageously unfair. It provides 3 hours of debate, divided 2 hours to the advocates of the gas industry—1 to the committee minority and 1 to Mr. Krueger, himself—and just 1 hour to the committee majority.

To add further insult to injury, the Rules Committee provided for recognition of any member of the committee to present legislation, depriving the chairman and subcommittee chairman of their ordinary prerogatives under the rules of the House.

The Rules Committee is given extraordinary powers only to enable the House to meet extraordinary emergencies. This rule is an example of the grossest abuse of power.

When the rule is called up for consideration, I hope the vast majority of the House will join our committee majority and demonstrate our outrage by soundly defeating it. The House should not be made even a shadow of an excuse for having the Rules Committee seize legislative jurisdiction in this situation and require the House to consider for the first time legislation of huge economic impact and great controversy without the benefit of normal legislative process.

DEDICATION OF THE C. & O. CANAL NATIONAL HISTORIC PARK TO JUSTICE WILLIAM O. DOUGLAS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, retired Supreme Court Justice William O. Douglas rendered 38 years of public service to the American people, 36 of them as one of the most outstanding Justices in the history of the Nation. When he retired last month, he had served longer than any other member of the Court, wrote more than any Justice now on the Court—including 30 books and countless magazine articles—and left a legacy of Court decisions which were a symbol for civil liberties and equal justice advocates throughout the land. His career as a distinguished jurist will serve as a shining light to future generations and will be recorded as a beacon of freedom in American legal history. Congressman DON EDWARDS and I are introducing legislation today which will offer a fitting tribute to this great American—a bill to dedicate the Chesapeake and Ohio Canal National Historic Park in his name.

Justice Douglas is one of our first and foremost environmentalists. An ardent conservationist, he is a naturalist in the true sense of the word—a man who not only appreciates the need to protect our resources but who also understands and appreciates mankind's attachment to the land. The natural world, he wrote, was the world that was closest to him ever since his boyhood in the Cascade Mountains town of Yakima, Wash. Throughout his life, Bill Douglas has been actively involved in efforts to make this world a better place to live—both on and off the bench. He has crusaded to save rivers, lakes, forests, and trees, preserve our fisheries, and husband our resources wisely.

Among his greatest conservation accomplishments and successes is his work to preserve the Chesapeake and Ohio Canal, running along the Potomac River from Washington, D.C., to Cumberland, Md. Over 20 years ago, before environmentalism was a household word, Bill Douglas took his case for the C. & O. to the people in a letter to the Washington Post. To dramatize his opposition to plans to pave the canal over with a highway, he proposed and led an 8-day hike along its banks to demonstrate the importance of preserving it. In his letter, he wrote:

> The stretch of 185 miles from Washington, D.C. to Cumberland, Maryland is one of the most fascinating and picturesque in the nation. . . . It is a refuge, a place of retreat, a long stretch of quiet and peace at the Capitol's back door . . . a place not yet marred by the roar of wheels and the sound of horns.

Justice Douglas' hike to save the canal by exposing its natural value and beauty attracted the attention and the sentiment of the Nation's press and raised public consciousness about the need to preserve the property as a recreation area. Following the hike, Congress demonstrated its solidarity with Douglas' wise proposal and halted the highway legislation. Four years ago, the canal was made a national historic park.

Anyone who has walked along the canal or visited Great Falls Park just outside Washington knows and understands the beauty and importance of preserving this land. It is Justice William O. Douglas who is responsible for this valuable recreational resource today.

We are introducing a bill today which is identical to legislation proposed in the Senate by Senators EAGLETON, MAGNUSON, and JACKSON to dedicate C. & O. Canal National Historic Park to Justice Douglas, a most appropriate gesture to a man who made the park possible. The bill would require that the words "Dedicated to Justice William O. Douglas" appear on all existing and future signs in the park bearing the name "Chesapeake and Ohio National Historic Park" or any abbreviation thereof. There are approximately 120 to 150 such signs standing today and the cost of inserting the inscription on a new piece of wood would be about $20,000. The cost of replacing the signs would be about $50,000. These figures have been supplied by the Department of Interior which, I might add, has offered its endorsement of this project. This dedication, in my view, is but a small tribute to a great man who dedicated so many hours of his time in saving and preserving the C. & O. and did so much for the cause of conservation.

Mr. Speaker, all of the organizations associated with the park have given their endorsement, as well, for this legislation. Upon introducing the bill in the Senate, Senator EAGLETON published letters of support from Secretary of the Interior Thomas Kleppe, the C. & O. Park Commission, the C. & O. Canal Association, Friends of the Earth, the Izaak Walton League of America, the National Audubon Society, the National Parks and Conservation Association, the National Wildlife Federation, the Defenders of Wildlife, and the Wilderness Society. If my colleagues are interested in seeing these letters, I refer them to pages 38539–38541 in the CONGRESSIONAL RECORD of December 4, 1975.

This bill has been reported to the Senate by the Senate Committee on Interior and Insular Affairs and will hopefully be passed by the Senate shortly. In the meantime, Congressman EDWARDS and I urge support for this legislation and invite our colleagues to join with us in cosponsoring this tribute to one of the greatest leaders in American history.

I include the text of the legislation to be printed following these remarks:

H.R. 11226

A bill to dedicate the Cheapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Chesapeake and Ohio Canal National Historical Park, as described in the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y—410y-6), is hereby dedicated to Justice William O. Douglas in grateful recognition of his long and outstanding service to the people of the United States as a teacher, writer, jurist, and naturalist. The Secretary of the Interior shall have the words "Dedicated to Justice William O. Douglas" prominently displayed on all existing and future signs bearing the name "Chesapeake and Ohio Canal National Historical Park" or any abbreviation thereof, and shall take such other appropriate actions as may be necessary to call to the attention of the public the fact that such park has been so dedicated.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

CHARACTERISTICS AND NEEDS OF VETERAN-INMATES IN PENNSYLVANIA STATE CORRECTIONAL INSTITUTIONS

(Mr. EDGAR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDGAR. Mr. Speaker, today I am introducing into the RECORD a study conducted by the Commonwealth of Pennsylvania to determine the characteristics and needs of veterans who are inmates in Pennsylvania State correctional institutions. This study indicates that there are a large number of veterans in prison who served in the Armed Forces and earned veterans benefits. They are still eligible for these benefits, and it seems to me that in their present situation utilization of these benefits would be beneficial to both the State and the inmates. Veterans benefits, earned by these men, are an untapped resource which could be used to achieve the goal of criminal rehabilitation.

The study follows:

CHARACTERISTICS AND NEEDS OF VETERAN-INMATES IN PENNSYLVANIA STATE CORRECTIONAL INSTITUTIONS

Darryl Kehrer, Chief, Division of Programs to Advance Veterans Education (PAVE), Office of Equal Opportunity, Pennsylvania Department of Education.

Dr. Sitansu Mittra, Chief, Systems and Operations Research, Bureau of Correction, Pennsylvania Department of Justice.

SUMMARY

The purpose of the study is to determine characteristics and needs of veteran-inmates in Pennsylvania state correctional institutions.

The conclusions derived from the study follow:

1. Approximately 25 percent or 1521 inmates incarcerated in 8 state prisons are veterans.

2. Approximately 4.8 percent of veteran-inmates received a dishonorable discharge from the military service.

3. Approximately 26.8 percent of veteran-inmates received an undesirable, bad conduct, or dishonorable discharge from the military service.

4. Approximately 61 percent of veteran-inmates served in the Army.

5. Average months of active duty of veteran-inmates was 33.2.

6. Average length of minimum sentence of veteran-inmates is 4 years.

7. Average age of veteran-inmates is 33.6 years.

8. Average grade level of education of veteran-inmates is 10.7 years.

9. Fifty-two percent of veteran-inmates are black.

10. On the average 64 percent of veteran-inmates had no prior offense, 14 percent had 1 prior offense, and 22 percent had 2 prior offenses or more.

11. On the average burglary and robbery are the most predominant offenses of veteran-inmates.

12. Fifty-two percent of veteran-inmates are Vietnam era; 20 percent are post-Korean but pre-Vietnam era; 10 percent are Korean era; 10 percent are post WWII but pre-Korean era, or not separated from military service, or information is not available; 8 percent are WWII veterans.

13. Fifty percent of veteran-inmates are eligible for Vietnam era GI Bill educational benefits; 21 percent are ineligible for educational benefits because of a less-than-general discharge; 8 percent are ineligible for educational benefits because they are WWII veterans; 7 percent are ineligible for educational benefit because they are not separated from the military service or are temporarily considered ineligible because discharge information is not available; 6 percent are ineligible for educational benefits because they are Korean conflict veterans; 6 percent are ineligible for educational benefits because they have served less than 181 days active duty; 2 percent are ineligible for educational benefits because they are post-WWII but pre-Korean conflict veterans.

14. Veteran-inmates assessed their needs revealing that institutional skill training was most prevalent; the second next most prevalent need was securing post-release state or federal grants or loans for education; the third most prevalent need was using GI Bill benefits while incarcerated.

RECOMMENDATION

Based upon experiences gained in conducting this study, recommendations are offered in the form of supporting the detailed interagency chronology written by PAVE in September, 1974 and amended in February, 1975. This chronology indicates the importance of utilizing educational and vocational programs as well as the GI Bill in veteran-inmate prescriptive planning. It also indicates the importance of benefits counseling.

CHARACTERISTIC AND NEEDS OF VETERAN-INMATES IN PENNSYLVANIA STATE CORRECTIONAL INSTITUTIONS

1. Who are the veterans

Late in 1974 the Pennsylvania Bureau of Correction started mobilizing its efforts to gather necessary information on veterans among inmates of the eight state correctional institutions. The purpose was to identify veterans and inform them primarily of GI Bill educational benefits as well as other federal and state benefits which could be useful to them. This effort was made in conjunction with Pennsylvania Department of Education, Office of Equal Opportunity, Division of Programs to Advance Veterans Education (PAVE).

2. History and mission of PAVE

In October, 1971, Governor Milton J. Shapp hired ten Vietnam-era veterans to work regionally with postsecondary educational institutions and various agencies to motivate and assist veterans in furthering their education and training. At that time only 13.5 per cent of Pennsylvania Vietnam-era veterans were enrolled in college level programs.

PAVE developed on-campus advocacy services and out-reach programs. During 1973, 5,068 young veterans received assistance via a network of 53 college counseling centers. By mid-1974 the veterans cost of instruction, state veteran action center, and VA man-on-campus programs were initiated to meet veterans needs. PAVE was fortunate enough to assist veterans for a two to three year period prior to government agencies provision of comprehensive services per their mandate.

PAVE redefined its mission in July of 1974 to include the following priorities:

(1) Improve educational opportunities and advocacy services for veterans incarcerated in state correctional institutions.

(2) Develop veterans remedial and preparatory programs regionally on college campuses.

(3) Improve opportunities for educationally and economically deficient veterans.

(4) Improve educational opportunities for wheelchair-bound veterans.

(5) Explore methods for granting credit for life experiences.

3. Joint effort of PAVE and correction

Secretary of Education John C. Pittenger and Commissioner of Correction Stewart Werner signed a memorandum of agreement on July 1, 1974 which gave the Department of Education primary responsibility for administering educational programs in state correctional institutions. Late in 1974, Pennsylvania Bureau of Correction joined with PAVE to design a course of action for assisting veteran-inmates. After some initial discussion, the following plan was adopted:

During budget year 1974–75 PAVE agreed to be responsible for the development, improvement, and expansion of educational opportunities and services for veteran-inmates in the eight state correctional institutions. PAVE also agreed to seek assistance from state and federal agencies and write a chronology of service.

During November and December 1974 steps were taken to identify incarcerated veterans in the eight state correctional institutions. The following data elements were gathered on each veteran-inmate:

(1) Name
(2) Bureau of Correction number
(3) Armed Forces Service Number
(4) Branch of Service
(5) Months of active duty
(6) Date of separation from active duty
(7) Type of discharge
(8) Type of offense committed
(9) Minimum Sentence
(10) Date of expiration of minimum sentence
(11) Age
(12) Educational level i.e., last grade completed before incarceration, or Wide Range Aptitude Test reading level, or Stanford Achievement Test.
(13) Race
(14) Prior offense committed.

4. Services rendered by Bureau of Veterans Services and Veterans Administration

The Department of Military Affairs, Bureau of Veterans Services, agreed to be responsible for providing benefits counseling and advisory services to veteran-inmates and ex-offenders. The Bureau participated in initial group benefits briefings and needs assessment sessions. The Bureau also agreed to initiate the following:

(1) An early identification program in which inmates would receive GI Bill and other information at the diagnostic and classification point. GI Bill would be used in prescriptive planning as various educational programs were approved for veterans training by the Department of Education.

(2) Assistance in making application to upgrade other-than-honorable discharges.

(3) Visit each prison at least bi-weekly.

The Veterans Administration offices in Pittsburgh and Philadelphia agreed to participate in initial group benefits briefings and needs assessment sessions. They also agreed to initiate the following:

(1) Follow-up assistance for inmates.

(2) Guidance with regard to VA laws and regulations and how they affect benefits for incarcerated veterans.

(3) Visit each prison at least twice each year; visit the Pittsburgh Institution more often, as needed.

5. Statistical analysis of veterans' data

The data collection process took nearly six weeks to complete. Since most of the data were not available in the computer files, they had to be gathered manually. Some general facts are stated below pertaining to these data elements.

As of December 31, 1974, there were 1,521 veterans among a total of 6,039 inmates in the eight state correctional institutions. This indicates that approximately 25 per cent of inmates are veterans. The actual breakdown by institutions follows:

TABLE 1.—VETERAN INMATE POPULATION

Institution	Population	Veterans	Percentage
Camp Hill	895	83	9
Dallas	745	143	16
Graterford	1,570	384	24
Greensburg	179	55	30
Huntingdon	822	254	30
Muncy	173	13	7
Pittsburgh	879	285	32
Rockview	776	304	39

Camp Hill and Muncy have remarkably low percentages of veterans because the former institution has a large percentage of juveniles and the latter is for women. Due to the nature of the security classification and the offender type for any institution, the incarcerated population at Muncy could be regarded as somewhat unique. Accordingly, the data collected on the 1,521 veterans was taken as a basis for stratified random sampling with proportional allocation. A flat 20% sample of the veteran population was chosen from each institution and estimates were made for the following:

(1) Percentage of dishonorable discharges

(2) Percentage of bad conduct, dishonorable and undesirable discharges

(3) Percentage of veterans who served in the Army

(4) Average number of months in active duty

(5) Average length of minimum sentence

(6) Average age group

(7) Average grade level of education

(8) Percentage of blacks

(9) Number of prior offenses committed

(10) Breakdown of the offense types

The statistical results are incorporated in tables 2 through 11. All results are based on a 99% confidence level.

A 100% sample was taken from each institution to gain information on the following:

(1) Breakdown of military service by war era (See Table 12)

(2) Eligibility/non eligibility for GI Bill educational benefits in prescriptive planning (See Table 13)

TABLE 2.—DISHONORABLE DISCHARGE

Institution	Percentage of dishonorable discharge	Error of estimate
Camp Hill	0	0
Dallas	8.0	.13
Graterford	3.9	.05
Greensburg	0	0
Huntingdon	4.0	.05
Muncy	0	0
Pittsburgh	3.5	.06
Rockview	1.7	.04
Entire bureau population	4.8	.22
6 institutions (except Camp Hill and Muncy)	3.1	0

TABLE 3.—BAD CONDUCT, DISHONORABLE AND UNDESIRABLE DISCHARGE (BCD, DD, UD)

Institution	Percentage of BCD, DD and UD	Error of estimate
Camp Hill	44.0	0.33
Dallas	20.0	.20
Graterford	26.0	.11
Greensburg	18.0	.33
Huntingdon	16.0	.05
Muncy	33.0	2.24
Pittsburgh	35.0	.15
Rockview	23.0	.13
Entire Bureau population	26.8	.31
6 institutions (except Camp Hill and Muncy)	24.6	0

TABLE 4.—VETERANS SERVING IN ARMY

Institution	Percentage of veterans in Army	Error of estimate
Camp Hill	44	0.37
Dallas	76	.21
Graterford	64	.13
Greensburg	64	.43
Huntingdon	52	.12
Muncy	67	2.46
Pittsburgh	58	.01
Rockview	63	.15
Entire Bureau population	61	0
6 institutions (except Camp Hill and Muncy)	62	0

TABLE 5.—NUMBER OF MONTHS IN ACTIVE DUTY

Institution	Months in duty	Error of estimate
Camp Hill	21.0	7.96
Dallas	28.0	7.58
Graterford	41.0	8.48
Greensburg	47.0	37.08
Huntingdon	32.0	6.89
Muncy	60.0	112.45
Pittsburgh	31.0	3.51
Rockview	28.0	4.63
Entire Bureau population	33.2	.02
6 institutions (except Camp Hill and Muncy)	31.4	.02

TABLE 6.—LENGTH OF MINIMUM SENTENCE

Institution	Minimum sentence (in years)	Error of estimate
Camp Hill	2.5	3.48
Dallas	3.7	1.29
Graterford	5.0	1.48
Greensburg	.8	2.66
Huntingdon	4.0	2.33
Muncy	10.0	51.61
Pittsburgh	5.5	1.76
Rockview	2.5	1.57
Entire Bureau population	4.0	0
6 institutions (except Camp Hill and Muncy	3.8	0

TABLE 7.—AVERAGE AGE

Institution	Age (in years)	Error of estimate
Camp Hill	24.2	4.50
Dallas	30.9	3.79
Graterford	37.3	2.85
Greensburg	30.7	7.80
Huntingdon	32.3	2.11
Muncy	46.3	74.24
Pittsburgh	36.0	2.55
Rockview	31.7	2.61
Entire Bureau population	33.6	.01
6 institutions (except Camp Hill and Muncy)	31.9	.01

TABLE 8.—AVERAGE GRADE LEVEL OF EDUCATION[1]

Institution	Grade level completed	Error of estimate
Camp Hill	10.7	1.11
Dallas	10.3	.86
Graterford	8.6	3.33
Greensburg	10.5	1.24
Huntingdon	10.0	.48
Muncy	10.5	.61
Pittsburgh	12.4	1.18
Rockview	10.0	.63
Entire Bureau population	10.7	0
6 institutions (except Camp Hill and Muncy)	10.7	0

[1] In computing the average grade level in table 8, the grade equivalence of the wide range aptitude test was used for those inmates who did not have any data pertaining to the grade level completed.

TABLE 9.—PERCENTAGE OF BLACKS

Institution	Percentage of black veterans	Error of estimate
Camp Hill	53.0	0.35
Dallas	44.0	.25
Graterford	74.0	.12
Greensburg	27.0	.38
Huntingdon	36.0	.16
Muncy	0	0
Pittsburgh	46.0	.16
Rockview	33.0	.15
Entire Bureau population	52.0	0
6 institutions (except Camp Hill and Muncy)	51.9	0

TABLE 10.—NUMBER OF PRIOR OFFENSES

[Percentage of inmates]

Number of prior offenses	Camp Hill	Dallas	Graterford	Greensburg	Huntingdon	Muncy	Pittsburgh	Rockview
None	93	52	29	100	68	67	69	57
1	0	24	24	0	10	33	9	12
2	0	8	15	0	10	0	19	8
3	7	8	2	0	16	0	11	10
4	0	0	8	0	0	0	4	3
5	0	4	11	0	6	0	4	7
6 or more	0	4	11	0	0	0	4	3

TABLE 11.—BREAKDOWN OF OFFENSE TYPES

Offense type	Camp Hill	Dallas	Graterford	Greensburg	Huntingdon	Muncy	Pittsburgh	Rockview
Assault	6	0	4	0	6	0	4	7
Burglary	40	28	23	19	18	0	18	13
Forgery	0	4	0	0	8	0	2	5
Homicide	12	12	29	0	22	67	36	10
Narcotics	0	4	3	18	6	0	12	10
Prison breach	0	4	0	0	6	0	2	0
Robbery	18	32	31	0	16	0	20	21
Sex offense	18	12	5	0	10	33	14	12
Theft	6	4	4	18	2	0	4	18
Vehicle violations	0	0	0	18	2	0	0	2
Others	0	0	1	27	4	0	0	2

TABLE 12.—BREAKDOWN OF MILITARY SERVICE BY WAR ERA

Institution	World War II		Korea		Post-Korea Pre-Vietnam		Vietnam		Other	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Camp Hill, 83	2	2	4	5	10	12	61	74	6	7
Dallas, 143	10	7	12	8	27	19	82	57	13	9
Graterford, 384	42	11	47	12	91	24	169	44	35	9
Greensburg, 55	2	4	3	5	7	13	38	69	5	9
Huntingdon, 254	12	5	22	9	47	18	136	53	37	15
Muncy, 13	2	15	1	8	2	15	5	39	3	23
Pittsburgh, 285	35	12	37	13	77	27	111	39	25	9
Rockview, 304	20	7	19	6	51	17	183	60	31	10
Total, 1,521	125		145		312		785		156	
Percentage of total bureau population		8	----	10		20		52		10

TABLE 13.—ELIGIBILITY/NONELIGIBILITY FOR GI BILL EDUCATION BENEFITS IN PRESCRIPTIVE PLANNING

Institution	Eligible		Ineligible					
	Vietnam service	Post-Korea, pre-Vietnam	Korean service	Post-World War II, pre-Korea	World War II service or prior	Less than general discharges (all wars)	Less than 181 days active duty (all wars)	Not separated from military service information not available
Camp Hill	31	5	4	0	2	20	14	7
Dallas	63	24	12	1	14	24	0	5
Graterford	112	69	36	9	38	82	12	26
Greensburg	28	7	2	0	3	4	7	4
Huntingdon	89	33	16	7	10	49	21	29
Muncy	2	0	1	1	3	4	1	1
Pittsburgh	73	49	14	5	35	69	26	14
Rockview	126	41	13	8	14	68	13	21
Entire Bureau population, total	524	228	98	31	119	320	94	107

TABLE 14.—TYPES OF REQUESTS FOR ASSISTANCE

Request or need	Camp Hill	Dallas	Graterford	Greensburg	Huntingdon	Muncy	Pittsburgh	Rockview	Total
Institutional skill, training/education	49	175	378	34	206	8	59	131	1,040
GI bill education benefits (while incarcerated)	13	42	78	12	42	2	23	50	262
Postrelease skill, training/education	8	32	59	6	35	0	4	44	188
GI bill education benefits (when released)	11	38	82	10	42	3	0	48	234
State or Federal grants or loans for education (when released)	14	37	75	9	41	1	39	50	266
Emergency assistance (family)	6	14	34	4	13	0	5	17	93
Discharge review	22	31	53	4	60	2	25	50	247
Vietnam bonus	3	6	23	3	9	0	1	10	55
Employment (when released)	12	31	70	7	50	1	8	39	218
Home loan (when released)	8	28	50	8	38	1	12	49	194
Other (while incarcerated and when released)	11	10	66	9	27	2	22	37	184
Total	157	444	968	106	563	20	198	525	2,981

Table 15: Frequency of requests for assistance

Number, and request or need

1040, Institutional Skill Training/Education.

266, State or Federal Grants or Loans for Education (when released).

262, GI Bill Education Benefits (while incarcerated).

247, Discharge Review.

234, GI Bill Education Benefits (when released).

218, Employment (when released).

194, Home Loan (when released).

188, Post-release skill training/education.

184, Other; while incarcerated and when released.

93, Emergency Assistance (family).

55, Vietnam Bonus.

6. General parameters of veteran population

Tables 2 through 11 show the following general characteristics of veteran-inmates:

(1) Only 4.8% have dishonorable discharges while 26.8% have bad conduct, or dishonorable, or undesirable discharges

(2) 61% of the veterans served in the Army

(3) On the average, a veteran served 33.2 months in service and has 4 years of minimum sentence

(4) On the average, a veteran is 33.6 years old and has a level of education between 10th and 11th grades

(5) 52% of the veterans are black

(6) On the average, burglary and robbery are the most prevalent offenses

(7) On the average, 64% had no prior offense, 14% are first offenders, 22% had 2 or more prior offenses

All these results are derived with a 99% confidence level, and except for Table 2, the error of estimate is virtually zero. Hence the facts above are highly reliable. Since the age level of the total (veteran and nonveteran) inmate population is nearly 27 years and the grade level is approximately 5th grade, clearly the veterans indicate a higher age level and more maturity in education.

A look at the last column (error of estimate) in each table shows that Muncy has relatively high amount of error. The reason is that Muncy is the only state correctional institution for women in Pennsylvania and only 7% (Table 1) of the population are veterans. Consequently, the sample estimates for Muncy are widely divergent from those at other institutions.

Table 12 shows the following characteristics of veteran-inmates:

(1) 52% are Vietnam era veterans

(2) 20% are post-Korean but pre-Vietnam era veterans

(3) 10% are Korean era veterans

(4) 10% are post-WWII but pre-Korean era, or not separated from military service, or information is not available

(5) 8% are WWII veterans (July 1946 was used as the WWII cut-off date)

Table 13 shows the following characteristics of veteran-inmates:

(1) 50% are eligible for Vietnam era GI Bill educational benefits; 35% are Vietnam era veterans while an additional 15% are post-Korean but pre-Vietnam era who are eligible under Vietnam era GI Bill

(2) 21% are ineligible for educational benefits because of a less-than-general discharge; this figure is based on a 100% sampling and varies slightly from the 20% sampling

(3) 8% are ineligible for educational benefits because they are WWII veterans

(4) 7% are ineligible for educational benefits because they are not separated from the military service or are temporarily considered ineligible because information is not available

(5) 6% are ineligible for educational benefits because they are Korean conflict veterans

(6) 6% are ineligible for educationl benefits because they have served less than 181 days of active duty

(7) 2% are ineligible for educational benefits because they are post-WWII but pre-Korean conflict veterans

In Table 13 those veterans ineligible for more than one reason were counted only once beginning with the right ineligible column and working left.

7. Veteran-inmates assess their needs

Six hundred and forty-three veteran-inmates attended small group benefits briefings organized and coordinated by PAVE in January, February, and March 1975. This was accomplished with cooperation from the Bureau of Correction, Department of Military Affairs-Bureau of Veterans Services, and Veterans Administration. This figure represents 54.4% of veterans incarcerated on the briefings days. Inmates filled out Veteran Request for Assistance (need assessment) Forms following the briefings. Results of this 54.4% sampling are incorporated in Tables 14 and 15.

Tables 14 and 15 show the following:

(1) Each inmate asked for assistance in approximately 4–5 categories of the request for assistance form

(2) Institutional skill training/education was the most prevalent request; many inmates indicated first, second, and third preferences for training; requests totaled 1,040

(3) Two hundred and sixty-six requested post-release state or federal grants or loans for education

(4) Two hundred and sixty-two requested to use GI Bill benefits while incarcerated

(5) Two hundred and forty-seven requested a review of military discharge

(6) One hundred and eighty-four requested assistance on individual problems which were indicated under "other" category.

After identifying veterans and completing initial benefits briefings and needs assessment the Pennsylvania Department of Military Affairs-Bureau of Veterans Services arranged personal follow-up counseling for more than 700 veterans in a wide variety of need areas. The Veterans Administration offices in Philadelphia and Pittsburgh assisted in this follow-up.

8. What next

As reported in Section 3, the primary purpose of gathering data on veteran-inmates is to assist them in taking advantage of veterans educational benefits.

Veteran-inmates will be encouraged to take advantage of educational benefits. In order to be eligible a veteran must meet the following three requirements:

(1) Separated from military service under honorable conditions

(2) Separated from service after January 31, 1955

(3) 181 days active duty or more

Participation in educational programs will not be restricted by grade level completed. In view of the statistical facts reported in Section 6, 50 per cent will be eligible for GI Bill educational benefits.

The monetary value of such benefits is quite significant: $270 per month for full-time instruction and $135 per month for half-time instruction. After meeting educational expenses, a veteran can save the balance of the monthly allowance. This could provide a source of support for the veterans family or be kept in trust to meet educational (or other expenses) upon release.

In order to insure the highest success of the project, corrections staff will be encouraged to give veterans fullest consideration for enrollment in institution secondary and post-secondary programs. Prison caseworkers are following-up to enroll veteran-inmates in requested education programs. Many will not begin until summer and fall, 1975. Follow-up is being documented. The goal will be to increase significantly veterans participation in educational programs.

The Pennsylvania Department of Education will develop curriculum guidelines to have non-college academic and vocational programs approved for veterans training. Instructional hours will have to be expanded to at least 12–15 or 25–30 hours per week. The Department of Military Affairs will provide maximum assistance to incarcerated veterans and veteran ex-officers and will visit institutions on a bi-weekly basis. Early identification of the veteran at the time of incarceration will be implemented to include the GI Bill in prescriptive planning. Educational goals will be established for each veteran-inmate to meet while incarcerated.

Pennsylvania is probably unique in that it has initiated a joint project by the state Education, Correction and Military Affairs Departments and Veterans Administration in helping incarcerated veterans help themselves.

SUGGESTIONS FOR PRESIDENTIAL VETO AND APPROVAL

(Mr. MARTIN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MARTIN. Mr. Speaker, those of us urging the President to veto all of the bills providing for energy reduction, for tax reduction without an offsetting spending reduction, for common situs picketing to compel union membership, and for consumer paternalism; we realize that the President does not want to be against everything this 94th Congress is trying to do for the country.

Mindful of the need that he must feel to sign some of our legislation, may I respectfully suggest he sign the bill to extend the Renegotiation Act. He might also sign the municipal bankruptcy bill and the Baltic States resolution, as well as the continuing appropriations resolution. And by all means he should sign the Keys-Jacobs wedding congratulations.

He thus could sign five and veto four for a good progressive record and for the good of the country.

ANGOLA—"CURIOUSER AND CURIOUSER"

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the published facts as to our Government's involvement in the Angolan mess become more incredible each day. The bypassing and deception of the Congress by the administration violate the spirit if not the letter of the War Powers Act.

The President is reported to have authorized spending $50 to $60 million, without even so much as notifying the Congress in advance. It was reported in yesterday's New York Times that American pilots are flying five artillery spotter planes in and out of Angola from neighboring Zaire.

It is reported in the press that Secretary of State Kissinger made the decision for military aid last July and, further, that he did so against the advice of his own Assistant Secretary for African Affairs, Nathan Davis. Mr. Davis is reported to have felt so strongly about it that he quit his job in August, as Anthony Lewis, the distinguished columnist for the New York Times pointed out yesterday.

Mr. Speaker, yesterday I introduced a resolution which would prohibit further American military intervention in Angola unless specifically authorized by Congress. Yesterday afternoon a subcommittee of the Senate Foreign Relations Committee approved a similar resolution authored by the senior Senator from Iowa. In order to expedite consideration of this matter by both bodies, I am today introducing a new resolution substantially identical to the one approved by the Senate subcommittee.

The text of Mr. Lewis' article follows these remarks:

NO QUESTIONS, PLEASE

(By Anthony Lewis)

BOSTON, December 14.—In the last six months the Ford Administration has secretly supplied $25 million in arms and money to factions it favors in Angola. The President has just approved another $25 million. American pilots are flying five American artillery spotter planes in and out of Angola from neighboring Zaire.

The Angola operation is already one of the largest covert actions ever mounted by the United States outside Indochina, and it raises large questions of policy. Does the Angolan faction we oppose, which gets aid from the Soviet Union and Cuba, threaten American interests? Is there any realistic chance of defeating it, or is the prospect an endless struggle without success? And more.

But there is a fundamental question of process before those of policy. If American action is needed, why should it be clandestine? Why has our policy on so dangerous a problem been made and executed in secret?

The answer given is that U.S. aid might embarrass the recipients if sent openly. American motives are suspect in Africa these days, in part because of leftist bias but also because of the record of American activities in the Congo, Chile and elsewhere.

But an operation as large as that in Angola could hardly be expected to remain secret for long, so that answer is less than persuasive. In any event, the Angola action has now been disclosed in considerable detail—by unnamed sources who sound very much like the C.I.A. Continuing to handle the policy covertly is not likely to avoid embarrassment.

The Angolan affair, in fact, makes clear what must often be the real reason that officials choose the covert path. It is more convenient. It allows policy to be made by a handful of men who know best. It avoids annoying questions by Congress, the public and experts within the executive branch.

After Vietnam, an open decision to intervene in an armed struggle thousands of miles from the United States and outside our traditional sphere of interest would surely have aroused some questions. There is no need for conjecture. Seymour M. Hersh of The New York Times has disclosed that there was government opposition to the Angolan policy—and that it was suppressed.

Secretary of State Kissinger made the decision for military aid against the advice of his own Assistant Secretary for African Affairs, Nathaniel Davis. Mr. Davis felt so strongly about it that he quit the job last August. Since then Mr. Kissinger has cut down the flow of cables on Angola to the department's African specialists and even to the Bureau of Intelligence and Research, which also opposed his decision.

Mr. Davis is said to have seen three main dangers in the growing U.S. involvement in Angola. The factions we favor are so weak that the policy probably will not work. A prolonged struggle ending in failure would deeply damage the two African figures on whom we most rely, President Kaunda of Zambia and Mobutu of Zaire. And the United States may become identified with white South Africa.

Those arguments look rather convincing today, after a direct South African military intervention in Angola and after the decline in the fortunes of the Angolan groups favored by the Ford Administration. But right or wrong, the arguments should have been heard—heard by someone other than Henry Kissinger.

Under the American system, secret decisions by one official or a few are wrong in principle. They also tend to be wrong in practice. Whatever good we can imagine covert operations doing, what they actually did is evident enough in the major examples: Vietnam, Laos, Cuba.

Henry Kissinger's record makes it particularly unwise to leave policy on Angola largely in his hands. A National Security Council memorandum drafted under his direction in 1970 predicted continued Portuguese power in Angola, and thereafter some help was given to Portugal in its colonial war. This absurd episode is described by Tad Szulc in the current issue of Foreign Policy.

But the point is much larger than the specifics of Angola. Our attitude toward that affair will really indicate whether we have learned from Vietnam and Watergate and the rest how much harm we do to ourselves by secrecy—by letting a handful of officials make policy without public examination of the premises.

The worst danger of covert action on such a scale is that it may commit the United States to a position and make extrication awkward. That may indeed be the intention. The time to stop the process is now. Senator Dick Clark of Iowa has a foreign aid bill amendment that would bar any Angolan aid unless Congress has authorized it. That proposal takes no position on the rights or wrongs in Angola. It would simply make sure that the country has a constitutional opportunity to look out for quagmires before taking this large step.

THE PUBLIC'S RIGHT TO PRESERVE LANDMARKS UPHELD

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to call to our colleague's attention the decision on Monday by the New York State Supreme Court upholding the landmark status of Grand Central Terminal in New York City. The court's action overturned an earlier decision by a lower court which, if it had prevailed, would have permitted the construction of a 55-story office tower above Grand Central Terminal, effectively destroying the exterior aesthetics of the building which is considered to be one of the city's best examples of Beaux Arts architecture.

I applaud the State supreme court's decision. During the past year I have worked in New York City and in the Congress in an effort to protect the public's interest in preserving what the court's presiding judge rightly called "a major part of the cultural and architectural heritage of New York City." On February 20, 1975, when the House considered the Department of Transportation's supplemental appropriations, the distinguished chairman of the Subcommittee on Transportation (Mr. McFall) and I discussed the public's right to make landmark preservation designations and the special responsibility the Penn Central Transportation Co. has to the public as a result of the subsidy given the railroad by the taxpayers of this country. To date the Congress has aided the railroad to the extent of some $660 million; indeed the appropriation considered last February 20 was for $125 million.

In general, Monday's decision is important in upholding the overall concept of the public's right to make landmark designations and the precedence the interests of the public can take over private interests in cases where a particular structure represents a landmark in our architectural or cultural history. One mistake that New York—like many other cities in this country—has made is to throw out the old as soon as it has become a little outmoded and simply build anew, instead of modernizing the old structure within its original framework. So many landmarks of the past have been carelessly destroyed, leaving us few to document our history. The hour is late, but there still are some structures such as Grand Central left. Monday's court decision will be important in allowing the city's Landmark Preservation Commission to preserve the remaining jewels from the past before they, too, are destroyed.

While the Penn Central Transportation Co. has the right to appeal the decision, I would hope that the trustees will agree that the best interests of all concerned weigh against carrying this case further.

MEXICO IS OFF LIMITS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to call attention to an action recently taken by the Association of Immigration and Nationality Lawyers. That association canceled its plans to conduct its 1976 annual conference in Mexico and it did so as the result of the Mexican Government's support of the United Nations resolution condemning Zionism as a form of racism.

Some leaders of the Jewish community had had discussions with Mexico's President Luis Echeverria Alvarez last Friday and had received what they considered assurances that Mexico had rethought its position in this matter and had not intended the implications of that vote. Indeed President Echeverria told the Jewish representatives that his Government "in no way identified Zionism with racism."

However, on Monday of this week, the Mexican Government in the General Assembly voted for what is known as the Declaration of Mexico which calls for action against Zionism.

If there was reason before for those who reject anti-Semitism and support the State of Israel to find other places than Mexico in which to spend their vacation, that reason is now embraced. The Mexican Government is not only guilty of anti-Semitism, its leader is guilty of duplicity. The letter of the Association of Immigration and Nationality Lawyers is appended. I urge other men and women of conscience to follow the Association's example.

Association of Immigration
and Nationality Lawyers,
New York, N.Y., November 25, 1975.

His Excellency Jose Juan De Olloqui,
Ambassador of Mexico,
Washington, D.C.

Excellency: I am obliged to advise you of the recent cancellation by our Association of plans to conduct its 1976 annual conference in Mexico, as a direct result of your Government's support of the United Nation's resolution condemning Zionism as a form of racism. The cancellation of arrangements for next May with El Camino Real Hotel was initiated by resolution of our Board of Governors and adopted overwhelmingly by a plebiscite of our members who number some 600 lawyers throughout the United States.

We are mindful, of course, that it is not the usual function of an American lawyer's association to react to the public positions of other sovereign nations. We are moved, however, to our decision by our special interest in the plight of people who seek to immigrate to the homeland of their choice and by the impact of the extraordinary action of the United Nations to which Mexico subscribed.

Your Government is aware of the history of Zionism rooted in the extinction of the Jewish Commonwealth in 70 A.D. and the exile which followed. Fifty years after the formal genesis of Zionism in Basle, the efforts of its leaders were rewarded with the partition resolution to establish the "Jewish State" of Israel adopted on November 29, 1947 by the General Assembly of the United Nations. The resolution was urged in testimony by the world's foremost Zionists.

That their movement to establish the democratic State of Israel, a creature of the United Nations, should be condemned as racist, is an affront to reason and to the institutions of peace.

Whatever may be Mexico's legitimate political need, among the family of nations, to assert its independence of the Western powers, the issue of Zionism is perniciously misused for that purpose. The condemnation of Zionism by Mexico transcends international politics and tramples on fundamental human rights.

It is only a tangential irony that one of the main grounds our Association has urged within the last two months, and will continue to urge in its vigorous opposition to pending immigration legislation which would adversely affect millions of undocumented citizens of Mexico in the United States, is a proper regard for the fundamentally close ties maintained between our two countries. That, however, is a matter of comity between states. Mexico's vote in the United Nations is an injustice against people as individuals, everywhere, an action which our Association can only deplore.

Sincerely yours,

STANLEY MAILMAN.

FEDERAL FIREARMS ACT OF 1975

(Mr. CONYERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CONYERS. Mr. Speaker, today I introduce on behalf of the Subcommittee on Crime of the Committee of the Judiciary the Federal Firearms Act of 1975. During the past 10 months the subcommittee conducted some of the most extensive hearings ever held on gun control legislation. Testimony from more than 200 witnesses was taken in seven cities and eight volumes of hearings and documentation were produced.

Through public hearings across the country the legislative process was brought to citizens in a way that, I believe, contributed to their heightened interest in this paramount public issue. An October Harris poll revealed that 77 percent of the American people favored registration of guns. A CBS poll in July reported that 51 percent wanted the sale of handguns banned. In fact, from 1938 to the present never fewer than 60 percent of the people polled expressed support for stricter gun laws. There is little doubt in my mind that Americans have become increasingly aware of the horrifying reality of gun-related violence.

The incontrovertible facts about gun violence are these: At least 50 million handguns are loose in the land. A new one is sold every 13 seconds. Each day of the year at least 33 people die as a result of handgun violence and another 540 people are injured by gunfire. One out of every 100 deaths is caused by a firearm, and 40 percent of the victims are 19 years of age or younger. Handguns are involved in more than 200,000 crimes each year. In 1973 13,072 gun murders occurred in the United States and 10,340 of them were committed with handguns. That year New York City alone had more than 800 handgun murders, 266 times more than in Tokyo, a city of 10 million, which had only 3 such murders.

New York City had 23 times the gun murders that occurred in England and Wales, the population of which is approximately 50 million. We surpass the rest of the world in our domestic arms race and violence caused by guns. Why? Because Americans enjoy the dubious distinction of having virtually unlimited access to guns. It is erroneous to claim, as some do, that Americans are more violent than others. We are, however, more lethal. Two-thirds of all the handgun killings result from a quarrel or act of passion within families or between friends. Most of these killings could have been avoided, according to the FBI, if it were not for the easy availability of guns. An altercation is more likely to end in bloodshed rather than a shouting match or fist fight simply because guns are around. Japan and England, and for that matter the rest of the industrialized world, simply have far stricter gun control laws. Can there be any question that one part of the solution is to put a stop to this social self-destruction by eliminating the easy access to handguns?

The accumulated evidence has persuaded me that the only way to reduce gun violence is to ban the manufacture, sale and possession of handguns. Nevertheless, on November 20 such legislation was rejected by the subcommittee and in its place this measure to strengthen the Gun Control Act of 1968 was approved. Although H.R. 11193 will not in my opinion reduce gun violence, it represents an important step in the development of meaningful Federal legislation in this area.

The bill eliminates weaknesses and tightens loopholes in the existing law. The importation of handgun parts is prohibited except as authorized by the Secretary of the Treasury for the purpose of repair or replacement. The shipping of firearms by carriers is regulated to reduce the high incidence of theft. The bill tightens title VII of the 1968 act concerning the possession of firearms by certain people. Two or more handguns cannot be purchased from a dealer within 30 days without prior approval of the Secretary of the Treasury.

A handgun cannot be purchased from a dealer until the purchaser executes a sworn statement which has to be certified by an appropriate law enforcement official and dealers are restrained from transferring handguns for at least 21 days and until notified that the transaction is lawful. Serial numbers are standardized and a National Handgun Tracing Center within the Bureau of Alcohol, Tobacco, and Firearms is created which will monitor all transfer of firearms between licensees, excluding private parties.

New categories of Federal firearms licenses are established, which include separate licenses for manufacturers, importers, gunsmiths, ammunition dealers as well as wholesale and retail handgun dealers. Qualifications for licensees are upgraded and a new schedule of license fees is created. The time required to approve applications for licenses is increased from 45 to 90 days and the Secretary of the Treasury has the authority to assess penalties in cases where licensees violate Federal law.

Unfortunately, the bill establishes mandatory sentences for the commission with firearms of a Federal crime—1 to 10 years, first offense; 2 to 25 years, second offense—in addition to any sentence for the crime itself. Suspended sentences and probations are barred. The mandatory sentence provision, I believe, does a disservice to those who want to reduce gun violence in America. Without the incentive of shortened prison terms for good behavior, those confined are more likely to practice violence both within prison and after they return to society. Prisons as a whole are 20 percent overpopulated and a number of prison systems are under orders to reduce overcrowding. Furthermore, mandatory sentencing removes judicial discretion, results in clogged court calendars, and has contributed significantly to the breakdown in the criminal justice system.

The subcommittee wisely decided not to include a provision to ban the so-called "Saturday Night Special" because this would mislead the public into believing that its enactment would result in fewer guns being available for street crime. On the contrary, such a ban might not diminish the number of guns in existence and could lead to the production of more efficient and costly guns. Passage of this provision would also probably make it difficult to enact more effective legislation for a good number of years.

The members of the subcommittee and I have been gratified by the commitment of our colleagues to familiarize themselves with the intricacies of this legislation. As this bill moves through the legislative process, I will continue to work with my colleagues to foster understanding of the role of handguns in domestic violence. I think this dialog is important and I know it will continue. But regardless of what gun laws are passed now or in the future, they must be seen as part of a criminal justice system that must become fair before it can become more effective. Finally, the criminal justice system itself must be viewed as part of a larger governmental framework which undeniably provides economic justice and political opportunity to all its citizens.

A summary of the bill's provisions and a print of the bill follow.

SUMMARY OF THE FEDERAL FIREARMS ACT OF 1975

Title I contains findings relating to the increasing seriousness of the problem presented by handgun misuse, based on nine months of testimony and study by the Subcommittee on Crime.

Title II amends the Gun Control Act of 1968 to close acknowledged "loopholes" and improve the ability of Federal, State and local law enforcement authorities to curb illegal firearms trafficking:

Section 201 amends the Act's definitions, principally by requiring wholesale and retail firearms dealers to obtain separate licenses and establishing separate license categories for pawnbrokers, gunsmiths and ammunition retailers.

Section 202 increases license fees by category to make the Federal regulatory system cost-effective, and requires annual compliance inspections of certain licensee premises prior to license renewal.

Section 203 improves the license-applicant pre-screening process by imposing additional qualifications upon prospective licensees.

Section 204 increases the time during which the Secretary of the Treasury may consider license applications from 45 to 90 days.

Section 205 empowers the Secretary to prescribe reasonable regulations to prevent loss or theft of firearms from licensees.

Section 206 gives to the Secretary authority to assess civil penalties of licensees for violations of Federal firearms laws and to compromise, mitigate or remit liability for such violations. The section also sets forth a hearing and appeal process for aggrieved parties.

Section 207 imposes regulations upon interstate carriers and shippers of firearms which are designed to minimize risks of loss, theft or pilferage in transit.

Section 208 amends Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to conform with the ruling of the United States Supreme Court in *Bass* v. *United States*, 404 U.S. 336 (1971).

Section 209 makes it unlawful: to sell, purchase or transfer more than one handgun in any thirty-day period without prior approval of the Secretary; to deal in imitation firearms unless they are clearly identifiable as such; to knowingly sell or transfer handguns in violation of State or local law; to perform work on any handgun unless the owner thereof demonstrates lawful possession; to import handgun parts for use in assembly or manufacture, with certain exceptions; to remodify any handgun in such a way so as to make it unacceptable for importation under the standards set forth in section 925(d)(3) of title 18 of the United States Code; and to accept, by way of pledge or pawn, any handgun.

Section 210 establishes requirements that all firearms manufactured after the effective date of this Act be marked with a unique serial number.

Section 211 amends the Act to clarify Congress' intent to reach unlawful acts of an intrastate nature which burden or affect interstate commerce.

Section 212 amends section 925 of title 18 to permit cured mental incompetents to apply for relief from disabilities imposed by the Act in the same manner as ex-felons may under current law.

Section 213 prescribes mandatory penalties for the use or carrying of a firearm in the commission of a Federal felony.

Section 214 sets forth effective dates for the amendments to the Act contained in title II.

Title III establishes a handgun purchase preclearance procedure and improves Federal record-keeping ability in an effort to curb the illegal interstate flow of handguns:

Section 301 prohibits the transfer by a dealer of any handgun within 21 days of application, during which time the dealer must forward purchase applications to State and local law enforcement authorities for record checks of the prospective purchaser. The appropriate law enforcement authorities must report back to the dealer during the 21-day period, or the weapon cannot be transferred.

Section 302 establishes within the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury a National Handgun Tracing Center. Each Federal firearms licensee is required to submit to the Center quarterly reports on all firearms transactions with other licensees. The Secretary is required to submit reports on this collected data to the Congress annually, and to make them available to State and local law enforcement agencies for evaluation and study. In addition, the Secretary is directed to assist in the promulgation of State and local firearms laws and to obtain additional information on handgun characteristics necessary to obtain a complete picture of illicit firearms trafficking. In addition, all licensees are required to report loss or theft of firearms or ammunition inventory within 48 hours of discovery. Willingness to share information and statistics is a precondition to State and local law enforcement authorties' use of the Center's facilities. The section also contains conforming amendments to chapter 44 of title 18 and the effective date of title III.

H.R. 11193

A bill to amend title 18 of the United States Code to provide for more effective gun control, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Firearms Act of 1975".

TITLE I

FINDINGS

SEC. 101. The Congress finds and declares—

(1) that annual sales of handguns in the United States have risen sharply in the last decade, bringing the total number of handguns in private hands to approximately forty million by the end of 1974;

(2) that violent crime in the United States has been increasing at an uncontrollable rate;

(3) that the handgun has increasingly become the principal instrument of such violent crime and now threatens the peace and domestic tranquillity of citizens of the United States, the security and general welfare of this Nation, general law enforcement and the integrity of State and local firearms control laws;

(4) that the personal safety of the President and other Federal officials and candidates for Federal office is seriously threatened by assassins wielding handguns and other firearms;

(5) that there now exists a substantial illicit interstate traffic in handguns which includes traffic from jurisdictions with less stringent regulation of handguns to jurisdictions with more stringent regulation of handgun acquisition and possession;

(6) that throughout the United States convicted felons, mental incompetents, and other disqualified persons have virtually unrestricted access to, and possession of, handguns which are used in violent crime;

(7) that existing law which prohibits felons and other persons from purchasing firearms is almost impossible to enforce because of the ease by which these persons can falsify information concerning their backgrounds on firearms purchase forms;

(8) that handgun acquisition and possession and use, even where purely intrastate in character, directly affects and burdens interstate commerce;

(9) that persons obtaining Federal licenses to import, manufacture, or deal in firearms should be bona fide importers, manufacturers, or dealers operating within Federal, State, and local laws, and subject to close supervision and control;

(10) that pawnbrokers have been shown to be the source of large numbers of handguns used in crime and should not be permitted to take handguns by way of pledge or pawn;

(11) that the ability of law enforcement officials to trace handguns used in crime would significantly increase the rate of clearances in certain felony cases;

(12) that the present recordkeeping system of the firearms industry, which is inefficient and poorly supervised, seriously affects the ability of the Federal Government to swiftly and accurately respond to requests for handgun tracing;

(13) that acquisition and possession of handguns by felons and by other persons barred from possession of handguns by Federal, State, or local law requires an increased obligation on dealers in firearms and on law enforcement agencies to assure that there is no acquisition, possession, or use of a handgun by a person not authorized to possess it;

(14) that an interrelated handgun purchasers preclearance procedure and handgun tracing is required to prevent the acquisition, possession, and use of handguns by disqualified persons; and

(15) that such systems will not unduly interfere with the activities and privileges of law abiding citizens.

TITLE II

NEW DEFINITIONS FOR MANUFACTURERS, DEALERS, AND GUNSMITHS

SEC. 201. (a) Section 921(a) of title 18 of the United States Code is amended by striking out paragraphs (11) and (12) and inserting in lieu thereof the following:

"(11) The term 'dealer' means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, and who may, without further license, engage in business as a gunsmith, (B) any person who is a pawnbroker, (C) any person who is a gunsmith and who is not otherwise a dealer, or (D) any person who is an ammunition retailer. The term 'wholesale firearms dealer' means any person, other than a dealer in destructive devices, who purchases or otherwise acquires firearms or ammunition from licensed importers or manufacturers and sells, or offers for sale, firearms or ammunition to retail firearms dealers or other wholesale firearms dealers. The term 'retail firearms dealer' means any persons, other than a dealer in destructive devices, who sells, or offers for sale, any firearms or ammunition to person not licensed under section 923 of this chapter. The term 'licensed dealer' means any dealer who is licensed under the provisions of this chapter.

"(12) The term 'ammunition retailer' means any person who is not otherwise a dealer and who is engaged in the business of selling ammunition (other than ammunition for destructive devices) at retail.

"(13) The term 'gunsmith' means any person who is not otherwise a dealer and who is engaged in the business of repairing firearms or making, modifying, or fitting barrels, stocks, or trigger mechanisms to firearms.

"(14) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of firearms other than destructive devices or handguns as security for the payment or repayment of money.".

(b) Such section 921(a) is further amended by redesignating paragraphs (13) through (20) as (15) through (22), respectively.

(c) Section 922(a)(1) of title 18 of the United States Code is amended by inserting "repairing," immediately after "manufacturing,".

LICENSING RESTRUCTURING

SEC. 202. (a) Section 923(a) of title 18 of the United States Code is amended—

(1) by striking out paragraphs (1)(B) and (1)(C) and inserting in lieu thereof the following:

(B) of firearms other than destructive devices, a fee of $750 per year;

(C) of firearms other than destructive devices or handguns, a fee of $250; and

(D) of ammunition for firearms other than ammunition for destructive devices, a fee of $250 per year.";

(2) by striking out or" at the end of paragraph (2)(A);

(3) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B) of firearms other than destructive devices, a fee of $750 per year; and

"(C) of firearms other than destructive devices or handguns, or of ammunition for firearms other than ammunition for destructive devices, or both, a fee of $250.";

(4) in paragraph (3), by striking out all that follows subparagraph (A), and inserting in lieu thereof the following:

"(B) who is a pawnbroker dealing in firearms other than destructive devices or handguns, a fee of $250 per year;

"(C) who is a wholesale firearms dealer, a fee of $300;

"(D) who is a wholesale firearms dealer in firearms other than handguns, a fee of $200 per year;

"(E) who is a detail firearms dealer, a fee of $200 a year;

"(F) who is a retail firearms dealer in firearms other than handguns, a fee of $100;

"(G) who is a gunsmith, a fee of $50 per year; and

"(H) who is an ammunition retailer in other than ammunition for destructive devices, a fee of $25 per year.".

(b) Section 923(c) of title 18 of the United States Code is amended by inserting "(1)" immediately after "(c)" and by adding at the end the following new paragraph:

"(2) No application to renew the license of a manufacturer, importer, or wholesale firearms dealer shall be approved until the Secretary has inspected the premises for which the license renewal is sought and reviewed the records of the applicant and determined that the applicant for renewal is in compliance with the requirements of this chapter.".

LICENSE QUALIFICATION PROVISIONS

SEC. 203. Section 923(d)(1) of title 18 of the United States Code is amended—

(1) by inserting "the Secretary finds that" immediately after "approved if";

(2) by striking out "and" at the end of subparagraph (D); by striking the final period in subparagraph (E) and inserting a semicolon in lieu thereof; and by inserting immediately after subparagraph (E) the following:

"(F) the applicant has notified the chief local law enforcement officer of the jurisdiction in which his premises are located, on a form provided by the Secretary, of the fact that the applicant has applied for a license, and has complied with the laws, ordinances, and regulations of the State and locality wherein his premises are located;

"(G) the applicant is familiar with the appropriate requirements, as determined by the Secretary, of Federal, State, and local law concerning the importation, manufacture, sale, distribution, and repair of firearms;

"(H) except in the case of a collector, gunsmith, or ammunition dealer, the applicant intends to conduct business on a full-time basis;

"(I) the applicant is capable of recording, retrieving, and forwarding all information with respect to his business, as required under this chapter; and

"(J) the applicant has on the premises for the licensed activity adequate security devices or personnel, or both, to maintain the security of firearms, firearms parts, or ammunition stored on such premises in accordance with regulations prescribed by the Secretary.".

EXTENSION OF LIMIT ON ACTION ON LICENSE APPLICATIONS

SEC. 204. Section 923(d)(2) of title 18 of the United States Code is further amended by striking out "forty-five-day" and inserting "ninety-day" in lieu thereof.

SEC. 205. Section 923 of title 18 of the United States Code is amended by adding at the end the following new subsection:

"(k) The Secretary may prescribe reasonable regulations to prevent loss or theft of firearms and ammunition from licensees,".

SUSPENSION OF LICENSES; CIVIL PENALTIES

SEC. 206. That portion of section 923 of title 18 of the United States Code which follows subsection (d) and precedes subsection (g) is amended to read as follows:

"(e) The Secretary may suspend or revoke any license issued under this section, or may subject the holder of such license to a civil penalty of up to $10,000 per violation, if such holder has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary may at any time compromise, mitigate, or remit the liability with respect to such violation. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

"(f)(1) Any person whose application for a license is denied and any holder of a license which is suspended or revoked or upon whom is assessed a civil penalty shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was suspended or revoked or the civil penalty assessed. Any notice of a suspension or revocation of a license shall be given to the holder of such license before the effective date of the suspension or revocation.

"(2) If the Secretary denies an application for, or suspends or revokes a license, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the suspension or revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application, or suspend or revoke a license, or assess a civil penalty, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to suspend or revoke the license or to assess the civil penalty, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.".

CARRIERS REGULATION

SEC. 207. Section 922 of title 18 of the United States Code, is further amended by inserting "(1)" immediately after "(f)" in subsection (f) and by adding at the end of subsection (f) the following new paragraphs:

"(2) It shall be unlawful for any person to ship or transport any firearm or ammunition in interstate or foreign commerce if such shipment or transportation is in violation of a State law in a place to which or through which the firearm was shipped or transported, or of a published ordinance applicable at the place of sale, delivery, or other disposition.

"(3) It shall be unlawful for any common or contract carrier to transport any firearm or ammunition in a manner not in conformity with regulations which the Secretary shall promulgate to assure safe and secure transportation of the firearms or ammunition.

"(4) Each person engaged in the business of transporting firearms or ammunition shall register with the Secretary that person's name, the chief executive officer, address, fleet size, license plate numbers or other vehicular identification numbers, and the States in which that person conducts business within sixty days after the effective date of this paragraph and thereafter on June 1 of each year. Each such person shall report to the Secretary the loss or theft of any firearm or ammunition in the custody, possession, or control of such person not later than forty-eight hours after the discovery of such loss or theft. Such report shall be made on forms prescribed by the Secretary which shall contain the serial number, manufacturer, barrel length, frame length, caliber, model, type, and the consignee and his address. Manufacturers and wholesale firearms dealers shall provide the carrier with a list of serial numbers of all guns shipped. Each person engaged in the business of transporting firearms or ammunition shall maintain a copy of such list on his premises. Such person shall record the license number and other description of the vehicle carrying such firearms or ammunition. In addition, the driver and other employees accompanying the shipment, as well as the names of persons moving firearms or having custody of them, shall be identified.

MISCELLANEOUS AMENDMENTS TO UNLAWFUL ACTS SECTION; CONFORMING REPEAL OF SAFE STREETS ACT TITLE VII

SEC. 208. (a) Section 922 of title 18 of the United States Code is further amended—

(1) in subsection (g)(3), by striking out "drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)", and inserting in lieu thereof "substance";

(2) in subsection (g)(3), by striking out "(as defined in section 4731(a) of the Internal Revenue Code of 1954); or" and inserting in lieu thereof "as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);";

(3) by amending subsection (g)(4) to read as follows:

"(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution: or";

(4) in subsection (g), by striking out "to ship or transport any firearm or ammunition in interstate or foreign commerce" and inserting in lieu thereof the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

to possess, ship, transport, or receive any firearm or ammunition."; and

(5) by amending subsection (h) to read as follows:

"(h)(1) It shall be unlawful for any person who—

"(A) is employed by a person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition under subsection (g); and

"(B) knows or has reason to believe his employer falls within one of the classifications enumerated in subsection (g);

to possess any firearm or ammunition in the course of such employment.

"(2) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person unless he knows or has reason to believe that the transferee is not prohibited from possessing, shipping, transporting, or receiving a firearm or ammunition under subsection (g) or (h)(1) of this section. This paragraph shall not apply to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who, pursuant to section 925(b) of this chapter, is not precluded from dealing in firearms or ammunition.".

(b) Section 922 of title 18 of the United States Code is amended by striking out subsection (d).

(c) Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1201–1203) is repealed.

ADDITIONAL PROHIBITED ACTS

SEC. 209. Section 922 of title 18 of the United States Code is further amended by adding at the end the following new subsections:

"(n) (1) It shall be unlawful for any person licensed under section 923 of this chapter to sell, deliver, or otherwise transfer two or more handguns to the same person, other than a person licensed under such section 923, in a period of thirty days or less, unless the transferee has obtained prior approval of the purchase from the Secretary, pursuant to regulations promulgated by the Secretary.

"(2) It shall be unlawful for any person, other than a person licensed under section 923 of this chapter, to purchase or receive two or more handguns in a period of thirty days or less from one or more persons licensed under such section 923, or from such a licensee and from a person or persons who are not such licensees, unless the person purchasing or receiving the handguns has obtained prior approval of the purchase from the Secretary pursuant to regulations promulgated by the Secretary.

"(3) It shall be unlawful for any person, other than a person licensed under such section 923, to purchase or receive two or more handguns in a period of thirty days or less from a person or persons not licensed under such section 923, unless the person purchasing or receiving the handguns notifies the Secretary of such purchase or receipt within thirty days after the purchase or receipt.

"(o) It shall be unlawful for any person who purchases or receives a handgun with the purpose of selling or transferring the handgun to another person to sell or transfer the handgun to such other person unless he knows or has reason to believe that the purchase and possession by such other person of the handgun would be in accordance with Federal, State, and local law applicable at the place of sale, delivery, or other disposition.

"(p) It shall be unlawful for any person to import, manufacture, deal in, or transfer any imitation of a firearm that is not clearly marked or identifiable as an imitation in such manner as the Secretary shall by regulation prescribe.

"(q) It shall be unlawful for any person licensed under section 923 of this chapter to repair, rebuild, remodel, alter or otherwise perform work on any handgun unless the person purporting to be the owner verifies, in such manner as the Secretary shall by regulation prescribe, that the person purporting to be the owner is in lawful possession of the handgun.

"(r) It shall be unlawful for any person licensed under section 923 of this chapter knowingly to sell, deliver, or otherwise transfer a firearm to any person who resides in any jurisdiction which requires a license or permit as a prerequisite to the purchase of that firearm unless the transferee has complied with the law of that jurisdiction pertaining to licenses or permits. In the case of a jurisdiction which requires the registration of a handgun or other firearm, each licensed dealer shall forward to the chief local law enforcement authority notice of any acquisition made by a resident of that jurisdiction within the time limit required by the registration law of that jurisdiction. In the case of a jurisdiction which requires a waiting period to purchase a handgun or other firearm, each dealer shall submit notice of such purchase to the chief local law enforcement authority of the transferee's residence and shall not transfer the firearm within the waiting period of that jurisdiction.

"(s) Except as provided in the second sentence of this subsection, it shall be unlawful for any person to import any handgun parts intended for use in the manufacture or assembly of handguns. This provision does not make unlawful the importation of parts to be used for repairing handguns, if parts are not readily available in the United States, and the Secretary has approved such importation.

"(t) It shall be unlawful for any person to modify a handgun previously approved by the Secretary for importation, if as a result of such modification the handgun no longer meets the standards for approval set forth in section 925(d) (3).

"(u) It shall be unlawful for any person to take or receive a handgun by way of pledge or pawn as security for the payment or repayment of money.".

SERIAL NUMBERS

SEC. 210. (a) Section 923(i) of title 18 of the United States Code is amended by adding at the end the following new sentence:

"The Secretary shall standardize the serialization of firearms to assure that every firearm manufactured or imported after the effective date of the amendment made to this subsection by the Federal Firearms Act of 1975 is marked with a unique serial number."

(b) Section 922(k) of title 18 of the United States Code is amended by inserting immediately after "any firearm which" the following: "does not bear a serial number or which".

DEFINITION OF INTERSTATE COMMERCE

SEC. 211. Section 921(a) (2) of title 18 of the United States Code is amended by striking out "but such term does not include commerce between places within the same State, but through any place outside of that State".

MENTAL INCOMPETENTS; RELIEF FROM DISABILITY

SEC. 212. Section 925(c) of title 18 of the United States Code is amended by inserting "(1)" immediately after "(c)" and by adding a new paragraph at the end to read as follows:

"(2) Any person who, having been adjudicated as mentally incompetent, or who, having been committed to a mental institution, subsequently has been adjudicated by a court or other lawful authority to have been restored to mental competency, if such court or other lawful authority specifically finds that the person is no longer suffering from a mental disorder, shall be relieved from the disabilities imposed by this chapter with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred because of such adjudication or commitment.".

MANDATORY PENALTIES

SEC. 213. Section 924(c) of title 18 of the United States Code is amended to read as follows:

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

"(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States.

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment of not less than one year nor more than ten years in the case of the first offense, and to a term of imprisonment of not less than two nor more than twenty-five years for a second or subsequent offense. Notwithstanding any other provision of law, the court shall not suspend the sentence imposed under this subsection or give a probationary sentence under this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.".

EFFECTIVE DATES

SEC. 214. (a) The amendments made by this title shall take effect ninety days after the date of the enactment of this Act.

(b) A valid license issued pursuant to section 923 of title 18 of the United States Code shall be valid until it expires according to its terms unless it is sooner suspended, revoked, or terminated pursuant to applicable provisions of law.

TITLE III—HANDGUN PURCHASERS PRECLEARANCE PROCEDURES AND NATIONAL HANDGUN TRACING CENTER

SEC. 301. Section 922 of title 18, United States Code, as amended by title II of this Act, is further amended by inserting immediately after subsection (c) the following new subsection:

"(d) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a handgun to a person (other than a licensed importer, manufacturer, or dealer) only if such person appears in person at the licensee's business premises and, in order to assure that purchase and possession of the handgun by the transferee would be in accordance with Federal, State, and local law applicable at the place of sale, delivery, or other disposition, only if—

"(1) the transferee submits to the transferor a sworn statement on a form prescribed by the Secretary which states—

"(A) his name, his residence, and the place where the handgun will be kept; and

"(B) that his receipt of the handgun will not be in violation of Federal law, or of a State or local law applicable to his place of residence, or, if the handgun will be kept at a place other than his place of residence, of the place where the handgun will be kept, and that he does not intend to resell or transfer the handgun to a person who is barred from owning or possessing it by Federal, State, or local law applicable to the place of the latter person's residence or other place where the handgun will be kept.

The sworn statement shall be accompanied by an impression of the applicant's thumbprint, and shall also include the title, name and address of the chief law enforcement officer of the place of the transferee's residence and of the place where the handgun will be kept. If a State or local law applicable at the place of the transferee's residence or where the handgun will be kept requires that a person must have a permit or license to own, possess, or purchase the handgun, a true copy of such permit or license shall be attached to the sworn statement. Any other information required to be supplied to own, possess, or acquire a handgun under such State or local law shall also be attached to the sworn statement,

"(2) the transferee provides identification sufficient to establish, under regulations prescribed by the Secretary, reasonable grounds to believe that the transferee is the person he claims to be, and that the transferee's residence is at the address stated in the transferee's sworn statement;

"(3) the transferor has, prior to delivery of the handgun, forwarded immediately by registered or certified mail (return receipt requested), to the chief law enforcement officer of the transferee's place of residence and to the chief law enforcement officer of any other place where the transferee indicates in his sworn statement that he will keep the handgun, a copy of the sworn statement, in a form prescribed by the Secretary, for purposes of notifying such officer of the proposed transaction, and of permitting such officer—

"(A) to check the record and identity of the transferee, to determine whether ownership or possession of the handgun by the transferee would be in violation of State or local law of the transferee's residence or the place where the handgun will be kept;

"(B) to request a record and identity check by the Federal Bureau of Investigation which shall be sent to the chief law enforcement officer within ten working days of the Bureau's receipt of the request; and

"(C) to report to the transferor the results of such check, determination, and request; and

"(4) the transferor has received reports from the chief law enforcement officer of the transferee's place of residence and of the other place where the transferee has indicated that the handgun will be kept, and the reports do not indicate that the transferee is prohibited from shipping, possessing, transporting, or receiving a handgun under subsection (g) of this section, that the transferee is less than eighteen years of age, or that the purchase or possession of a handgun by the transferee would be a violation of State or local law applicable at the place of residence or place where the handgun will be kept.

In no event shall the transferor deliver the handgun to the transferee before at least twenty-one days have elapsed after the transferee has submitted his sworn statement to the transferor. A copy of the sworn statement and a copy of the notification or notifications to the chief law enforcement officer or officers, together with the reports received from such officer or officers under paragraph (3) of this subsection shall be retained by the licensee as a part of the records required to be kept under section 923(g).".

NATIONAL HANDGUN TRACING CENTER

SEC. 302. (a) Chapter 44 of title 18 of the United States Code is amended by redesigning sections 924 through 928 as 925 through 929, respectively, and by inserting immediately after section 923 the following new sections:

"§ 924. National Handgun Tracing Center.

"(a) There is established in the Bureau of Alcohol, Tobacco and Firearms a National Handgun Tracing Center (hereinafter in this section referred to as the 'Center') for the purpose of aiding Federal, State, and local law enforcement officials in apprehending illegal users of handguns and recovering lost or stolen handguns and returning such weapons to their lawful owners.

"(b) Every person licensed under section 923 of this chapter shall make quarterly reports to the Secretary which shall include the following information: (1) the number, types, calibers, models, barrel lengths, and serial numbers of firearms imported or manufactured, or sold, delivered or otherwise transferred to other persons licensed under section 923 of this chapter; (2) the States and localities in which the firearms and ammunition were imported, manufactured, sold, delivered, or otherwise transferred; (3) the names and addresses of those governmental entities and persons licensed under section 923 of this chapter to whom firearms were sold, delivered, or otherwise transferred; (4) the names and addresses of each carrier to whom firearms, firearms parts or ammunition were delivered for shipment; and (5) every factory, warehouse, or other facility in which the licensed person manufactured, received, distributed, stored, or otherwise held any firearms, firearms parts, or ammunition. These reports shall not be made public except as authorized by this chapter.

"(c) The Secretary shall compile the information contained in the reports required by subsection (b) of this section and submit to Congress annual reports containing summaries of such information describing the pattern of firearms manufacture, traffic, and sale in the United States. The annual reports to Congress shall also provide information on the success of the Federal Government in aiding State and local efforts to curb the illicit traffic in handguns, and on the effectiveness, administration, and estimated compliance with the provisions of this chapter.

"(d) The reports required under subsection (c) of this section shall also be made available to State and local governments and law enforcement agencies for the purpose of providing information on the extent of legitimate firearms transactions in their jurisdictions and on the success of the Federal Government in aiding State and local efforts to curb the illicit traffic in handguns. The Secretary shall also correlate the amount of handgun traffic with crime rates in cities of over 100,000 population and standard metropolitan statistical areas to determine the relationship between violence and crime to the level of handgun purchases and ownership.

"(e) The Secretary shall maintain an indexed list of all licenses issued under section 923 of this chapter, according to license classification. Such list shall also contain information compiled on a basis no less frequent than quarterly on the numbers, models, types, calibers, barrel lengths, and manufacturers of handguns produced or sold by each licensee. The list and the information shall not be made public except as permitted by this chapter.

"(f) The Secretary shall compile and maintain with current information a list by State, of every city or county within its jurisdiction which prohibits the sale of handguns or other firearms, requires a license or permit to purchase a handgun or other firearm, a waiting period between purchase and receipt, or requires residents to register handguns or other firearms upon purchase. At least twice each year this list shall be distributed to all licensed firearms dealers.

"(g) Every person licensed under section 923 of this chapter shall report to the Secretary the loss or theft of any firearm or ammunition in the custody, possession, or control of such person not later than forty-eight hours after the discovery of such loss or theft.

"(h) The Secretary may enter into agreements with State and local law enforcement agencies to provide information the Center deems necessary on a periodic basis including at least the following:

"(1) The number of handguns by caliber, make, model, barrel length, frame length, and approximate age which were confiscated by the agency.

"(2) The number of confiscated handguns which were destroyed.

"(3) The number of trace requests to the Center and the number of such requests which resulted in successful traces.

"(4) The number of traces which led to the arrest, indictment, or conviction of a person or which led to information which made such arrest, indictment, or conviction possible.

"(5) Comments on the relative use of tracing to the agency.

"(i) No law unforcement agency shall be entitled to use the facilities of the Center unless it notifies the Secretary within sixty days after the effective date of this section and provides satisfactory assurances that it will share such information and statistics concerning firearms as the Secretary shall by regulation require, including that which is described in subsection (h) of this section.".

(b) The table of sections for chapter 44 of title 18 of the United States Code is amended by striking out:

"924. Penalties.
"925. Exceptions: Relief from disabilities.
"926. Rules and regulations.
"927. Effect on State law.
"928. Separability clause."

and inserting in lieu thereof the following:

"924. National handgun tracing center.
"925. Penalties.
"926. Exceptions: Relief from disabilities.
"927. Rules and regulations.
"928. Effect on State law.
"929. Separability."

SEC. 303. The amendments made by this title shall take effect ninety days after the date of the enactment of this Act.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. FENWICK) to revise and extend their remarks and include extraneous matter:)

Mr. ROBERT W. DANIEL, JR., for 60 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. WIGGINS, for 5 minutes, today.

(The following Members (at the request of Mr. HARKIN, to revise and extend their remarks, and to include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. HELSTOSKI, for 5 minutes, today.

Mr. SYMINGTON, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. VANIK, for 15 minutes, today.

Mr. MCHUGH, for 5 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. SMITH of Iowa, for 60 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,358.

Mr. ASHBROOK to revise and extend his remarks immediately following consideration of the Edgar amendment in the Committee of the Whole today.

Mr. RUSSO immediately following the remarks of Mr. CONTE in the Committee of the Whole today.

Mr. ST GERMAIN to revise and extend his remarks immediately preceding the vote on the Collins of Texas amendment.

Mr. VANDER JAGT, immediately following the remarks of Mr. TRAXLER, on H.R. 10979 in the Committee of the Whole today.

Mr. TRAXLER, and to include extraneous matter in general debate on H.R. 10979 today.

(The following Members (at the request of Mrs. FENWICK) and to include extraneous matter:)

Mr. CRANE in five instances.

Mr. COUGHLIN.

Mr. YOUNG of Florida.

Mr. JARMAN.

Mr. FORSYTHE.

Mr. MITCHELL of New York.

Mr. DERWINSKI.

Mr. WIGGINS.

Mr. O'BRIEN in four instances.

Mr. Cochran.

Mr. Carter.

Mr. Gradison.

Mr. Shriver in three instances.

Mr. Symms in three instances.

Mr. Erlenborn.

Mr. Steiger of Wisconsin.

Mr. Ashbrook in six instances.

Mr. Esch.

Mr. Conlan.

(The following Members (at the request of Mr. Harkin) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Dodd.

Mr. Ginn.

Mr. Stokes in three instances.

Mr. Breckinridge.

Mr. Helstoski in five instances.

Mr. Delaney.

Mr. Eilberg.

Mr. Diggs in two instances.

Mr. Downey of New York in two instances.

Mr. Russo.

Mr. Hall.

Mr. Kastenmeier.

Mr. Mazzoli.

Mr. Ottinger in two instances.

Mr. Slack.

Mr. O'Hara in two instances.

Mr. Koch in five instances.

Mr. Edwards of California.

Mr. Rangel.

Mr. Hayes of Indiana.

Mr. Brown of California in two instances.

Mr. Vanik in three instances.

Mr. Flowers in two instances.

Mr. Bonker.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2089. An act to authorize modifications to Dickinson Dam, Dickinson Unit, Pick-Sloan Missouri Basin program, North Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2361. An act to reauthorize and modify McKay Dam, Umatilla project, Oregon, for multiple functions, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 848. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes; and

S. 1922. An act to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1535. An act to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service;

H.R. 5559. An act to make changes in certain tax provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 6851. An act to increase the retired pay of certain members of the former Lighthouse Service;

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended; and

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio. From the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following title:

On December 16, 1975:

H.R. 1753. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes;

H.R. 2110. An act for the relief of Joyce Ann Farrior and Sarah E. Farrior;

H.R. 4865. An act to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office;

H.R. 6642. An act to provide for allotment or assignment of payments from civil service annuities, and for other purposes;

H.R. 7976. An act to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes; and

H.R. 10647. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

On December 17, 1975:

H.R. 1535. An act to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service;

H.R. 5559. An act to make changes in certain income tax provision of the Internal Revenue Code of 1954, and for other purposes;

H.R. 6851. An act to increase the retired pay of certain members of the former Lighthouse Service;

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended; and

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager.

ADJOURNMENT

Mr. HARKIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 27 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, December 18, 1975, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2214. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to correct timing problems in the transfer and withdrawal of obligated and unobligated fund balances for any fiscal year or years ending on or before June 30, 1976; to the Committee on Government Operations.

2215. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Switzerland, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2216. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

2217. A letter from the Acting Secretary of State, transmitting the views of the Department of State on a proposed amendment to the Airport and Airway Development Act of 1970 which would prevent the operation of supersonic commercial aircraft in the United States; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 899. Resolution providing for the appointment of a special counsel to represent the House and the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in certain judicial proceedings; with amendment (Rept. No. 94-756). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 937. Resolution providing for the consideration of H.R. 9464. A bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976 (Rept. No. 94-757). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 938. Resolution providing for the consideration of conference reports and motions to suspend the rules. (Rept. No. 94-758). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENITEZ (for himself, Mr. Badillo, Mr. Phillip Burton, Mr. Don H. Clausen, Mr. Haley, Mr. Skubitz, Mr. Taylor of North Carolina, Mr. Steiger of Arizona, Mr.

Kastenmeier, Mrs. Mink, Mr. Lujan, Mr. Stephens, Mr. Vigorito, Mr. Ruppe, Mr. Won Pat, Mr. de Lugo, Mr. Lagomarsino, Mr. Miller of California, Mrs. Pettis, Mr. Johnson of California, Mr. Udall, Mr. Melcher, Mr. Roncalio, Mr. Bingham, and Mr. Seiberling):

H.R. 11200. A bill to approve the Compact of Permanent Union Between Puerto Rico and the United States; to the Committee on Interior and Insular Affairs.

By Mr. BENITEZ (for himself, Mr. Eckhardt, Mr. Santini, Mr. Tsongas, Mr. Howe, Mr. Weaver, Mr. Carr, Mr. Risenhoover, Mr. Patman, Mr. Pepper and Mr. Dent):

H.R. 11201. A bill to approve the Compact of Permanent Union Between Puerto Rico and the United States; to the Committee on Interior and Insular Affairs.

By Mr. CRANE (for himself, Mr. Abdnor, Mr. Burgener, Mr. Clancy, Mr. Del Clawson, Mr. Don H. Clausen, Mr. Conlan, Mr. Hutchinson, Mr. Long of Maryland, Mr. Flowers, Mr. Frenzel, Mr. Ichord, Mr. Latta, Mr. Montgomery, Mr. Mann, Mr. Pickle, Mr. Risenhoover, Mr. Sarasin, Mr. Satterfield, Mr. Spence, Mrs. Smith of Nebraska, Mr. Talcott, Mr. Vander Jagt, Mr. Charles Wilson of Texas, and Mr. Yatron):

H.R. 11202. A bill to require that the U.S. Government prepare and make public annual consolidated financial statements utilizing the accrual of accounting, and for other purposes; to the Committee on Government Operations.

By Mr. DERRICK (for himself, Mr. Mann, Mr. Holland, Mr. Spence, Mr. Jenrette, and Mr. Stephens);

H.R. 11203. A bill to authorize the Secretary of the Interior to establish the Old Ninety Six and Star Fort National Historical Park in the State of South Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. FENWICK (for herself, Mr. Scheuer, Mr. Forsythe, Mr. Bingham, Mr. Koch, Mr. Gude, Mr. Florio, Mr. Harrington, Mr. Heinz, Mr. Eilberg, Mr. Ottinger, Mr. Solarz, Mr. Badillo, Mr. Pike, Mr. Levitas, Ms. Abzug, Mr. Addabbo, Mr. Dominick V. Daniels, Mr. Gradison, Mr. Roe, and Mr. Horton):

H.R. 11204. A bill to establish a Commission on Security and Cooperation in Europe; to the Committee on International Relations.

By Mr. GUYER:

H.R. 11205. A bill to establish a reduced rate of postage for letters sealed against inspection mailed by private individuals; to the Committee on Post Office and Civil Service.

By Mr. HANLEY:

H.R. 11206. A bill to amend titles II and XVIII of the Social Security Act to provide for the payment of wife's, husband's, widow's, and widower's insurance benefits without regard to age in cases of disability (and for medicare coverage for those entitled to such benefits); to the Committee on Ways and Means.

By Mr. HUGHES:

H.R. 11207. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who have attained age 65 or who are disabled a refundable tax credit for property taxes paid by them on their principal residences or for a certain portion of the rent they pay for their principal residences; to the Committee on Ways and Means.

By Mr. JENRETTE (for himself, Mr. Rose, and Mr. Young of Alaska):

H.R. 11208. A bill to amend title 5, United States Code, to provide that certain air traffic specialists be considered as air traffic controllers for retirement and certain other purposes; to the Committee on Post Office and Civil Service.

By Mr. MITCHELL of New York:

H.R. 11209. A bill to amend the Age Discrimination in Employment Act of 1967 to prohibit an employer from requiring evidence of age of an applicant for a job, and for other purposes; to the Committee on Education and Labor.

By Mr. MURTHA:

H.R. 11210. A bill to amend title 18, United States Code, so as to impose mandatory minimum terms with respect to certain offenses, and for other purposes; to the Committee on the Judiciary.

H.R. 11211. A bill to amend title 18 of the United States Code with regard to the additional sentence imposed for commission of a felony while using or unlawfully carrying a firearm; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 11212. A bill to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; to the Committee on Banking, Currency and Housing.

By Mr. OTTINGER (for himself, Ms. Abzug, Mr. Badillo, Mrs. Collins of Illinois, Mr. Conyers, Mr. Edgar, Mr. Eilberg, Mr. Flood, Mr. Harrington, Mr. Harris, Mrs. Heckler of Massachusetts, Ms. Holtzman, Mr. Koch, Mr. Lehman, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Murphy of New York, Mr. Riegle, Mr. Rodino, Mr. Scheuer, Mr. Solarz, Mr. Waxman, Mr. Wolff, and Mr. Helstoski):

H.R. 11213. A bill to authorize temporary assistance to help defray rent payments by persons who are temporarily unemployed or underemployed as the result of adverse economic conditions; to the Committee on Banking, Currency and Housing.

By Mr. REUSS:

H.R. 11214. A bill to authorize the Secretary of Housing and Urban Development to enter into contracts with State and local governments to provide interest subsidy payments with respect to bond issues in order to broaden and stabilize the municipal capital market and to establish within the Department of Housing and Urban Development a Municipal Technical Assistance Office; to the Committee on Banking, Currency and Housing.

By Mr. SYMINGTON (for himself and Mr. Mosher):

H.R. 11215. A bill to make the National Bureau of Standards an independent agency, and for other purposes; to the Committee on Science and Technology.

By Mr. VIGORITO:

H.R. 11216. A bill to provide that certain law enforcement officers who, by reason of an agency reorganization, lost their coverage under the law enforcement retirement provisions of title 5, United States Code, shall be entitled to have such coverage restored; to the Committee on Post Office and Civil Service.

By Mr. WIGGINS:

H.R. 11217. A bill to amend titles 18 and 28 of the United States Code to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings; to the Committee on the Judiciary.

H.R. 11218. A bill to establish a National Court of Appeals, and for other purposes; to the Committee on the Judiciary.

H.R. 11219. A bill to improve the appellate court system, and for other purposes; to the Committee on the Judiciary.

By Mr. ABDNOR:

H.R. 11220. A bill to authorize grants to Indian controlled community colleges; to the Committee on Education and Labor.

By Mr. AuCOIN (for himself, Mr. Duncan of Oregon, and Mr. Weaver):

H.R. 11221. A bill to repeal the act terminating Federal supervision over the property and members of the Confederated Tribes of Siletz Indians of Oregon; to reinstitute the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe; and to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CLEVELAND (for himself and Mr. Harrington):

H.R. 11222. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

By Mr. HARRINGTON:

H.R. 11223. A bill to reform the food stamp program; to the Committee on Agriculture.

By Mr. LITTON (for himself, Mr. Downey of New York, Mr. Eilberg, Mr. Jones of North Carolina, Mr. Long of Maryland, Mr. Murphy of New York, Mr. Pattison of New York, Mr. Poage, Mr. Rose, Mr. Won Pat, and Mr. Yatron):

H.R. 11224. A bill to reduce the payments by the United States to the United Nations, and for other purposes; to the Committee on International Relations.

By Mr. LITTON (for himself, Mr. Badillo, Mr. Carney, Ms. Chisholm, Mr. Downey of New York, Mr. Edgar, Mr. Fauntroy, Mr. Frazer, Mr. Hannaford, Mr. Helstoski, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Pattison of New York, Mr. Russo, Mr. Ryan, Mr. Solarz, and Mr. Weaver):

H.R. 11225. A bill to provide that the terms of office of the Director of Central Intelligence and the Director of the Federal Bureau of Investigation shall be 10 years and that no individual shall hold such office more than once; jointly to the Committees on Armed Services, and the Judiciary.

By Mr. OTTINGER (for himself and Mr. Edwards of California):

H.R. 11226. A bill to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas in grateful recognition of his contributions to the people of the United States; to the Committee on Interior and Insular Affairs.

By Mr. RHODES:

H.R. 11227. A bill to amend the Internal Revenue Code of 1954 to provide that the current withholding tables will remain in effect until March 15, 1976; to the Committee on Ways and Means.

By Mr. WRIGHT (for himself, Mr. Roncalio, Mr. Walsh, and Mr. Cleveland):

H.R. 11228. A bill to amend the act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped; to the Committee on Public Works and Transportation.

By Mr. CARTER:

H.J. Res. 752. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself and Mr. Rinaldo):

H.J. Res. 753. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.J. Res. 754. Joint resolution designating the week beginning April 4, 1976, as National Drafting Week; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING:

H.J. Res. 755. Joint resolution prohibiting certain assistance to and activities in Angola; to the Committee on International Relations.

By Mrs. FENWICK (for herself, Mr. FRENZEL, Mrs. HECKLER of Massachusetts, and Mr. CONTE):

H. Con. Res. 516. Concurrent resolution expressing the sense of the Congress with respect to the duty to share; jointly, to the Committees on International Relations, and Agriculture.

By Mr. ZABLOCKI:

H. Con. Res. 517. Concurrent resolution objecting to a proposed sale of F-15 aircraft to Israel; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BYRON:

H.R. 11229. A bill for the relief of Carmelline Leonora Mariano Barzaga; to the Committee on the Judiciary.

By Mr. CONTE:

H.R. 11230. A bill for the relief of Febe Antolin Rumingan; to the Committee on the Judiciary.

PETITION, ETC.

Under clause 1 of rule XXII.

349. The SPEAKER presented a petition of the county commissions, Johnson County, Tex., relative to revenue sharing, which was referred to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8235

By Mr. COHEN:

Page 41, line 4, strike out "State of New Hampshire" and insert in lieu thereof "State of Maine and in the State of New Hampshire".

By Mr. EDGAR:

On page 52, after line 4, insert the following:

SEC. 115. Section 127 of title 23, United States Code, is amended by inserting after the language, "twenty thousand pounds carried on any one axle" the following words, "(except front, steering axles of truck tractors)", and by adding the following new proviso at the end thereof: "Provided further, That no front, steering axle of a truck tractor shall carry a weight in excess of ten thousand pounds, including all enforcement tolerances." This section shall become effective in each state on the thirtieth calendar day after the commencement of the first scheduled session of the state's legislature following enactment of this Act and shall automatically expire on January 1, 1978.

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any state within the boundaries of which the Interstate System may lawfully be used by vehicles with more than ten thousand pounds on the front, steering axle of a truck tractor. Any amount which is withheld from apportionment to any state pursuant to the preceding sentence shall lapse.

Renumber the succeeding sections accordingly.

Title I, strike the last word.

Title II, strike the requisite number of words.

Title III, strike the penultimate word.

By Mr. HARSHA:

Page 66, lines 17 and 18, strike out ", out of the Highway Trust Fund,".

Page 66, line 22, strike out the period and insert in lieu thereof a comma and the following: except that the Federal share of any grant for payment of costs in connection with a project, other than operating costs, shall be paid out of the Highway Trust Fund.

H.R. 9771

By Mr. EDGAR:

Strike the last word.

By Mr. SNYDER:

(Amendment to the bill or as a substitute for any amendment relating to the same subject matter.)

On page 48, after line 11, insert the following new subsection:

"SEC. 23. The Congress hereby finds that, in order to protect the health and welfare of the people of the United States, aircraft designed for supersonic flight should not engage in commercial service to or from any airport located within the United States until such time as the Administrator of the Federal Aviation Administration prescribes reasonable rules, approved by the appropriate Committees of Congress, prescribing maximum noise levels for such aircraft.

EXTENSIONS OF REMARKS

KEEP AMERICA BEAUTIFUL, INC., LEADING THE WAY TO CREATING A CLEANER AMERICA

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, December 16, 1975

Mr. RANDOLPH. Mr. President, I wish to recognize a gift to the people of the United States on the 200th anniversary of our independence. The gift is from the members of Keep America Beautiful, Inc., the nonpartisan public service organization which promotes citizen action to improve the environment. It will, in time, affect each and every community which my colleagues serve.

That gift may wear strange wrapping, a program, using behavioral science techniques in reducing litter to manageable proportions, which can be adapted by any community meeting certain specifications. KAB's gift has enormous implications—as I said, it will affect us all, because it will change the way in which each American views the town in which he or she lives.

As chairman of the Senate Committee on Public Works, I know—as does KAB—that littering is not merely a problem in these United States; it is an international problem. For that reason, James C. Bowling, chairman of Keep America Beautiful, Inc., spoke on the process at the Clean World International Conference held in Berlin in November.

This was an important meeting. Representatives from Canada, Australia, and 15 other nations joined the American delegation—Mr. Bowling and KAB's President Roger W. Powers—to discuss what is happening to the health and beauty of our world. The resolutions adopted advocated educational programing, the involvement of industry in environmental improvement and the responsibility of local government in environmental improvement and the responsibility of local government to promote efforts to better our world—the objectives KAB has worked for since its founding in 1953.

Senate duties prevented me from accepting KAB's invitation to address the Clean World International Conference. I joined KAB long ago, and am one of KAB's first citizen members. I paid my citizen membership fee to KAB because I know what they are doing, and I believe in it. KAB is encouraging people to take positive initiatives to improve the local environment.

This gift, the model developed through the 18-month field test of the Action Research Model, comes from KAB. Mr. Bowling's remarks served as the third annual report which he made on KAB's Action Research Model. Since Mr. Powers made the first report at the 1973 International Conference in Stockholm, and Mr. Bowling described the progress of the research to the conference in London last year, portions of the process have been implemented on a provincial basis in western Canada and in South Australia. Other nations have inquired about the program.

Why are these nations interested in the process? Because it works. The residents of the three demonstration cities—Charlotte, N.C., Macon, Ga., and Tampa, Fla.—so testify. I am gratified to note one aspect, in particular, of the program's success—the increased public support for innovative sanitation practices which the system generates.

People in those cities are involved in changing their own destinies. Now, through KAB's new program, citizens in many more cities will become active participants in shaping their tomorrows together through their valuable voluntary efforts and KAB's guidance.

The Action Research Model—the experimental phase—will be made available for implementation by communities nationwide through a certification procedure. After a series of initial steps, including gaining the expressed support of the mayor and sanitation director and the backing of businesses and civic groups, a project team will undergo extensive training in behavioral techniques.

Once the project team—one representative each from a citizen organization, business and municipal government—has been trained, they will receive a comprehensive set of program materials to guide them through the creation of the citizens' committee which will administer the local litter-control program. As the program becomes adapted to the needs of each city, the project managers will select appropriate supplementary materials from a resource library created especially by KAB.

The goal? To demonstrate to each citizen in these cities that their own efforts can cause change in their community; and this cooperative program is available to the people of America for our Bicentennial. We have, here, a process through which our citizens can make their voices heard—first, perhaps, by cleaning their cities and ridding their streets and yard of litter—but think what will happen later.

People will recognize that what they do does matter, that they can make a tangible difference in their community; and I believe that once they, and their neighbors around the globe, realize what the KAB program can do, they will adapt its percepts to creating more livable cities.

Mr. President, I suggest to my colleagues that they might wish to encourage communities in their States to know more about this program by writing to Keep America Beautiful, Inc., 99 Park Avenue, New York, N.Y. 10016. I ask unanimous consent that excerpts of Mr. Bowling's remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOR A CLEANER WORLD

(By James C. Bowling)

Last year, I discussed the results of the preliminary research, the behavioral factors that had been identified, and the initial success of the field tests.

One very gratifying result of our meeting last year has been the extension of the research to two other nations. The Canadians are testing the model on a provincial level, under the name TEEL. On the other side of the world, a number of communities in southern Australia are testing a model known as LARM. Each of these projects is bringing further insights into aspects of the program and holds promise for possible global implementation of a systems approach which will reduce litter to manageable proportions.

My remarks last year stressed the importance of citizen involvement in a voluntary structure to carry out the program on the community level. That has been the traditional American way to deal with social problems since the Revolution and before. While that form of organization is, we believe, essential for reaching every individual in a given American community—and, through ARM, it is the individual's behavior we are trying to change—much of what we have learned this past year can be used to reach individuals in other societies where volunteerism is not only a way of life.

I am convinced that it is the systematic approach embodied in ARM which responsible for litter reductions of at least 60% in our three original demonstration cities—Charlotte, North Carolina, Macon, Georgia and Tampa, Florida—and has sustained that reduction over the months.

But let me emphasize, as strongly as I can, that ARM is not a magic wand, nor a little black box a community can plug in to solve the littering problem. It is a comprehensive effort to identify the pressure points within the existing normative system in a given community, all the norms relating to the handling of trash which can be changed by up-dated ordinances, modern technology, continuous education and vigorous enforcement.

Most trapped litter in American communities comes, not from motorists and pedestrians—the traditional targets of our efforts to educate, inform and persuade—but from five other sources—carelessly handled household and commercial refuse, loading docks, construction sites and uncovered trucks. If trapped litter is removed and these five major sources of loose trash are dried up, the primary stimulus for littering, existing litter, will be markedly reduced. So, the normative system approach involves changing the day-to-day habits of everyone who handles—or influences the handling of—trash.

Getting the facts to the people in the ARM demonstration cities has taken a number of forms, the most important of which, in my opinion, has been the workshops. These are programs designed to bring groups of people with common interests—the sanitation workers, managers of manufacturing concerns, fast food operators, school administrators—to examine the trash-handling practices at their operations and to agree on ways to improve them. The workshops revolve around a slide presentation which gives the facts about litter—where it comes from, how it travels and is trapped—the facts about littering norms—and suggestions for actions that can be taken to containerize trash before it can become litter. In one city of almost 300,000, over 17,000 residents have participated in ARM workshops and more are taking part each week.

But, obviously, you can't get 300,000 people to attend an ARM workshop. So ARM information campaigns use publications and the media to "give the people the facts." An ARM city with a landfill problem has put out a brochure illustrating, in cartoon form, the sources of litter and what can be done to dry them up.

Sensible, well-publicized regulations in themselves constitute an information system. A new sanitation code articulates the best thinking of the government officials responsible, and indicates that, by passing the code, the governing body which enacted it believes the matter is important. Most people will accept a new code as being in their own best interest, and follow it until the required behavior changes become norms.

In my country, we have found that publicizing regulations goes a long way towards insuring voluntary compliance. One of our demonstration cities has had a sensible regulation covering the maintenance of vacant lots but, because the inspectors were too busy to enforce it (and most of the violators were non-residents) few people were aware of its provisions. When a summary of the regulation was included in water bills sent to 90,000 property owners, unused property that had been serving neighborhoods as open dumps all over town were quickly cleaned up.

Improved sanitation equipment and practices are a far cry from space flight, but they have had a tremendous impact on the attitudes of residents of the ARM demonstration cities—not environmental attitudes as we commonly think of them, relating exclusively to the physical quality of life—but in their attitudes toward their fellow residents, the sanitation workers. Too often, in our concern for cleaner air and water, for trees and birds and wildlife, we seem to forget that human beings, too, are part of the ecosystem.

In my country, "garbage man" tends to be a pejorative term. Sanitation workers are often regarded—if they are regarded at all—as unskilled, unimportant cogs in a bureaucratic machine that really isn't interested in providing good service to residents, only in getting itself re-elected every four years.

People in the demonstration cities are beginning to see that they are city hall. Sanitation workers, given the right equipment, using it on schedules that meet the current needs of the city, having their suggestions for improved practices considered and adopted—for that is what ARM means by modern technology—"the garbage men" are showing themselves to be as dedicated as the finest nurses, clever and as hardworking as the best of engineers and as proud of their contributions to the quality of life as any university president. And the people are responding to that new self-respect in these men.

One striking fact that came out of the preliminary research leading to the development of the Action Research Model is that most anti-littering campaigns are based on negative parenting, chiding, scolding, shaming. "Don't be a litterbug." "Pigs don't litter, people do." "Doesn't litter make you sick." Most of the public service advertising and other persuasive material being used in the demonstration cities follow the basic psychological premise—positive reinforcement is more effective than negative reinforcement.

Positive reinforcement can take many forms: public service advertising, displays, even bumper stickers and decals. Another is encouraging people to take on worthwhile projects that will be rather quickly and visibly successful.

Keep America Beautiful, Inc. has practiced positive reinforcement for years, although I'm not sure we quite realized that was what we were doing when we began our National Awards Program, to give recognition to people who were "doing good things" all across the country! In one of the ARM demonstration cities, a women's organization provides a monthly award for the cleanest shopping center; another, for the most carefully maintained school campus. Winners get their pictures in the paper or, if the local clean city committee can possibly arrange it, appear on television.

There is one more component in ARM's systematic approach to changing the normative system relating to littering. Enforcement. For years, KAB has held that education, equipment and enforcement would help to reduce litter to manageable proportions. And I am delighted to say that we were only partially right. If the ordinances are sensible, and people understand them, if the education program gets the facts across, persuasively, very little enforcement is needed. Most people will adopt the new norms even without threat of sanctions.

But, as I remarked earlier, there are some stubborn people in this world. And the people responsible for implementing ARM in the demonstration cities will invoke sanctions when and where they must. One city issued 15,000 citations for violations of the sanitation code in the past two years—most of them, I am happy to say, to non-residents who owned neglected vacant lots—took 200 violators to court and imprisoned one person for 30 days for improper trash put outs, and resisting arrest.

That is the effect that ARM—education, information and persuasion—is having on the environmental attitudes and behavior of the people in the demonstration cities. I think you will agree it is a good effect; that we are accomplishing what we set out to do, and more—much, much more. We are not only reducing litter to manageable proportions, we are giving these communities a whole new approach to community problem solving.

At Keep America Beautiful's 22nd Annual Meeting next month, we will announce a plan to transfer the model developed through the ARM project from research to national implementation. It will be KAB's contribution to our nation's Bicentennial celebration, our way of thanking the American people for their support of the KAB movement over the years, our gift to the country we cherish.

To some, a program to control litter may sound like a paltry present for our 200th birthday, but, I believe that in ARM, we are giving our fellow citizens so much more—not just cleaner cities, but a whole new attitude towards the environment, social as well as physical. By dealing with one small, visible issue—systematically—they will develop techniques whose application will be limited only by the depth of the courage and the height of the imagination of those who employ them.

America is a relatively young nation—the two hundred years of our independence have been only a interlude in the history of many of the other countries represented here today. Yet, like other, older nations, our society grows increasing complex, our institutions increasingly remote from the people they serve, our people apart from one another. There are those who say our time has come—and gone.

Not so! See what the people, the American people of Charlotte and Macon and Tampa—of all the communities where the ARM project is underway—see what the people have done—for themselves and for their neighbors.

In ARM, I believe we have a tool to help to restore the "can do" spirit that gave us our independence in the first place and has sustained us, in turmoil and tranquility, for 200 years. That is our gift to the American people, the justification for the funds and time and effort KAB's industry sponsors have devoted to this research.

Our most trivial actions have far-reaching effects, and these effects, we must always remember, can be good. With the power to destroy, we also have the power to mend, to improve, to shape a better, cleaner world for the generations to come. This is what has been demonstrated in the test cities, ladies and gentlemen, this is what ARM means. It is KAB's proud gift to the people of America. It is our privilege to offer it to you.

UNITED STATES VERSUS THE VIETNAMESE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. WYDLER. Mr. Speaker, recently we have heard discussion about the refusal of our Nation to allow trade with what was formerly the free nation of South Vietnam but which has now been conquered by the totalitarian and Communist-dominated nation of North Vietnam. There are people in our Nation who believe that we should aid the governments of both South and North Vietnam, but as the letter that follows points out, these countries are now part of a repressive dictatorship which has, in the past, and continues to refuse to even give information to the world, particularly to the involved families of the Americans missing in action for many years past. It would seem to me that we should use some of the pressure we have available to try to get the information that should be given freely by the Communist leaders in North and South Vietnam. The letter from the Council for Civilized Treatment of POW's, Inc., located at 663 Fifth Avenue, New York, N.Y., is an excellent one, and I am pleased to read it into the RECORD:

COUNCIL FOR CIVILIZED TREATMENT OF POW'S INC.,
New York, N.Y., November 10, 1975.

LETTERS TO THE EDITOR,
The New York Times,
New York, N.Y.

TO THE EDITOR: In the letters to the Editor in your November 6th issue, under the heading "U.S. vs the Vietnamese," the writer wailed bitterly at the inclusion by the United States of Vietnam under the Trading with the Enemy Act, stated that the American Friends Services Committee was going to send economic aid anyway in violation of the law, and that Representative Bingham and Senators Clark and Hatfield were introducing legislation to end this "Trading With The Enemy Act Against Vietnam."

What the writer failed to state was that the Coalition to Stop the War has instituted a campaign among Communist-oriented groups to persuade Congress to sponsor legislation for financial goodies, recognition, and ending this U.S. trade embargo.

It is unfortunate that the congressmen named in the writer's letter have seen fit to succumb to this campaign, if indeed they have. For if the writer doesn't know, at least these men should know that the war has not ended for 1300 families whose sons, brothers, fathers and husbands, many known to have been captured alive, have not been returned or accounted for as provided by the Paris Accords of January 27, 1973. The efforts of these congressmen should be devoted in behalf of these men, not against them.

The writer should also know that some twenty noncombat correspondents, including Sean Flynn and Welles Hangen, have not been returned or accounted for; nor have the bodies of the two dead Marines left behind in Saigon been returned.

This is all part of the Communist cruel war on women, children and elderly people, some of whom have already died in the agony of not knowing the fate of their loved ones.

The traditional use of these captured and missing Americans and their families as political hostages by these Communist barbarians is illegal, immoral and based on the unacceptable premise that sufficient terrorist activity to these people will be rewarded.

Nor does it come as a surprise that the American Friends Service Committee (described in a Congressional Hearing as a "transmission belt for the Communist apparatus") should continue its quest in behalf of this Communist cause.

It is true that the lot of the Vietnamese people has been an unhappy one ever since Ho Chi Min admittedly slaughtered 50,000 of his people to establish his repressive government. Another million, mostly Catholics, fled to South Vietnam in vain, since that country was ultimately invaded by the Communist horde.

It would be as wrong for the United States to come to the aid of this Communist dictatorship while its people lived under the heel of its cruel leaders, as it would be to come to its aid while our 1300 brave men reposed in its tiger cages and uneasy graves.

The repressive Communist government of Vietnam cares no more for its own people, except for their usefulness as vassals of the state, than it does for the hated Americans.

By contrast, we care not only for our own citizens, including our POW-MIAs, but we also care for those Vietnamese people under the Communist yoke, whose fate could be worsened by aid to its government.

JOHN M. CONNOLLY, Jr.,
Executive Director.

COMMISSIONS SOLICITING COMMENT ON IMPROVED CORPORATE OWNERSHIP AND CONTROL REPORTS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, December 16, 1975

Mr. METCALF. Mr. President, recent actions by two regulatory commissions will be of interest to those Members and others who are interested in improving the accuracy and availability of information regarding corporate ownership and control.

One is the decision of the Interstate Commerce Commission to waive an earlier requirement that six copies of written position papers be submitted by persons who wish to participate in its informal conferences on corporate disclosure, which begin January 13. All that is needed is a letter briefly outlining points to be made in the oral presentation. The letter should go to John A. Grady, Director, Bureau of Accounts, ICC, 12th Street and Constitution Avenue NW., Washington, D.C. 20423. Filing deadline is December 29.

Second, the Securities and Exchange Commission has extended to January 2 the time for comment on its various proposals relating to disclosure of beneficial owners and holders of record of voting securities.

The ICC, commendably, has proposed adoption of the uniform model corporate disclosure regulations which were proposed almost a year ago by the interagency Steering Committee on Uniform Corporate Reporting. Adoption of this model would reduce the burden on businesses which have to file ownership reports with two or more agencies, while vastly improving the accuracy and availability of the data now submitted.

The SEC, unfortunately, has proposed reporting changes which deviate from the model and would produce less information than the model despite the work involved in filling out a unique SEC form.

Persons who wish to participate in the ICC informal conferences or submit formal comments to the SEC—only one copy of comments is required by the SEC—will find the agency proposals and other useful information in the November 1975 Government Operations Committee print, "Corporate Ownership and Control." It can be obtained from the Subcommittee on Reports, Accounting and Management, 161 Russell Senate Office Building, 20510. Persons who already have this publication should note the errata sheet, which I shall insert in the CONGRESSIONAL RECORD, concerning the holdings and voting powers of one of the institutional investors listed in table II, p. 18.

Mr. President, I ask unanimous consent to have printed in the RECORD the ICC press release of November 12, "Requirement of Written Position Papers Waived in January Corporate Disclosure

Conference," the SEC notice of extension of time for comment on its proposals relating to disclosure, my November 25 comments to the SEC and the errata sheet for the committee print, "Corporate Ownership and Control."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REQUIREMENT OF WRITTEN POSITION PAPERS WAIVED IN JANUARY "CORPORATE DISCLOSURE" CONFERENCE

The Interstate Commerce Commission announced today it will not require the submission of written position papers in order to participate in informal conferences, scheduled to begin Jan. 13, 1976, on proposed corporate disclosure regulations, Docket No. 36141.

Originally, interested parties were required to submit six copies of a position paper containing their proposed oral comments by Dec. 1, 1975. While these position papers are still encouraged, to foster participation, the Commission said it will also accept a letter briefly outlining the points to be made in the oral presentation.

Although all participation is welcome and individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests may consolidate their presentations.

The filing date for either position papers or letters of intent to participate is Dec. 29, 1975.

Letters or position papers should be sent to John A. Grady, Director, Bureau of Accounts, Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C. 20423.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

NOTICE OF EXTENSION OF COMMENT PERIOD ON VARIOUS PROPOSALS RELATING TO DISCLOSURE OF BENEFICIAL OWNERS AND HOLDERS OF RECORD OF VOTING SECURITIES (FILE NO. S7-580)

Securities Act of 1933, Release No. 33-5050/December 2, 1975.

Securities Exchange Act of 1934, Release No. 34-11891/December 2, 1975.

Public Utility Holding Company Act of 1935, Release No. 35-1276/December 2, 1975.

On August 25, 1975, the Securities and Exchange Commission announced that it is considering various proposals relating to disclosure of beneficial owners and holders of record of voting securities (Securities Act Release No. 5609, Securities Exchange Act Release No. 11616, Public Utility Holding Company Act Release No. 19140). The proposals include proposed rules and amendments to Commission rules, schedules, and reporting and registration forms relating to the disclosure of beneficial ownership for purposes of Sections 13(d) and 14(d) of the Securities Exchange Act of 1934 ("Exchange Act"); the proxy rules and certain registration and reporting forms under the Exchange Act, certain registration forms under the Securities Act of 1933 and Form U5S under the Public Utility Holding Company Act of 1935. In addition, the proposals would require disclosure in proxy statements and certain reporting forms and registration statements of the 30 largest record holders of any class of voting securities and of the associated underlying voting authority.

The time for submitting comments on this matter expired November 30, 1975. However, the Commission has received a request for additional time within which to submit such comments. Accordingly, the comment period has been extended to January 2, 1976. Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All such communications will be placed in the public files of the Commission, and should refer to File No. S7-580.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS, SUBCOMMITTEE ON REPORTS, ACCOUNTING, AND MANAGEMENT,
Washington, D.C., November 25, 1975.

Re: File No. S7-580

Mr. GEORGE A. FITZSIMMONS,
Secretary, Securities and Exchange Commission, Washington, D.C.

DEAR MR. FITZSIMMONS: I am concerned about these proposed rules on corporate ownership reporting which are intended to correct the confusion and deficiencies of present reporting.

The proposed rules deviate substantially from the model uniform corporate disclosure requirements developed by the interagency Steering Committee on Uniform Corporate Reporting after six months of careful consideration. This is particularly disturbing in view of the SEC staff's thorough participation and substantial influence in developing the model.

The Federal Reports Act requires that information collected by Federal agencies be tabulated so as to maximize its usefulness to other agencies and the public. The Act further provides that information be collected with minimum burden on reporting companies.

The model fulfills all of these objectives. The rules proposed by the SEC do not.

The Steering Committee sought reporting of basic information which is necessary to determine which persons have significant leverage in a corporation, or the ability to control its policies. It was intended that the model—through disclosure of basic ownership and control data—would serve the needs of all agencies, as well as the Congress and the public. Only minor changes by some agencies might be necessary to fulfill their particular needs.

Investors have special need for the information to be disclosed under the model. Without such information, they are unable to determine who controls the policies of a corporation. Direction of corporate policies is the most significant factor affecting the value of an investment over a period of time, yet, current and proposed SEC disclosure regulations do not reveal the ultimate persons or institutions who can exercise control.

Adoption of the model would promote uniformity among Federal reports and reduce the workload for reporting companies. Waste and burden result from the present system of collecting information which is not responsive to public needs. Replacing this extensive and largely worthless flow of paper with a single, meaningful report would reduce regulatory burden while helping to achieve regulatory goals.

Vast amounts of time, space, and energy are currently wasted by people searching the agency filerooms in Washington and suburban archives for fragments of information on the ownership and control of the nation's largest publicly-owned corporations. Most ownership reports, if found, are not designed to elicit from respondents the identity of ultimate owners and manner of control. Even when a report asks the right questions, many respondents provide incorrect answers.

Existing files at the SEC are a prime example of present reporting inadequacies. Although heavy in bulk, they contain only partial, dispersed, or imprecise information on corporate control. What information is available may be in different locations or in use by the staff. There is no index to materials in the files. It would take a very patient and wealthy investor to discover who is controlling the fortunes of the company in which he invests, even in the unlikely event that all necessary information were available somewhere in the files.

The time has come to compile all necessary information in a single, straightforward form which is both current and easily available. The stacks of paper reporting street names and holding companies as ultimate owners should be eliminated. Blank pages stating "incorporated by reference" should not be used as a subterfuge for meaningful reporting. In short, agencies such as the SEC should become serious about responsive and uniform reports regarding corporate ownership and control.

It is ironic that some agencies insist on collecting information of little value by unique reporting requirements while expressing concern about the burden on responding companies. Responsive and uniform reports are not burdensome; vague, varying reports are.

The Interstate Commerce Commission has recognized the need for responsive uniform reports by proposing adoption of the model, with only two minor alterations, in Docket No. 36141. The present rule-making before your commission is essentially a modification of only Part II of the model, which deals with voting stock ownership. I hope that proposed rules will soon be forthcoming to adopt the other three parts, which deal with corporate structure, affiliations of officers and directors and debt holdings.

One of the primary problems regarding voting stock ownership is the intertwining of information on voting stock control with information on beneficial ownership. As defined on page seventeen of the proposed rule, beneficial ownership broadly includes many factors and, indeed, there can be two or more beneficial owners of the same security under the SEC definition. Note one, on page eighteen, acknowledges this fact, but states that only one report need be filed. It is not clear as to which one of multiple beneficial owners must file the report.

Responsive information on voting stock control as proposed in the model involves disclosing which parties actually have the authority to vote significant amounts of securities, and whether that authority is shared or sold. In cases where the holder has no voting authority, information would be disclosed regarding the parties who have voting authority, unless the investment amounts to less than 1/10 of 1% of the portfolio's voting stock.

Information on record ownership is sought only as a basis for determining voting rights. Voting is the active element of security ownership which is the key to corporate organization and control. The model elicits information on voting authority as it relates to record security ownership.

When I testified before the SEC on its inquiry last year into beneficial ownership, takeovers and acquisitions (File 4-175) I stated that "much more important than definition of beneficial control, in my opinion, is the mere reporting of the facts regarding the various levers of control, in response to clear questions and instructions that do not permit evasive answers." I would emphasize that point again, and note finally on this point that on page 28 of the proposed rule information is sought regarding beneficial owners holding more than 5% of any class of security, while on page 31 information is sought regarding the 30 largest security holders of record. Such questions can lead to duplication and confusion, in view of the SEC's extremely broad new definition of beneficial ownership.

A further crippling defect in the proposed rules appears in both Item X concerning beneficial owners as well as Item XA concerning the 30 largest holders of record. Information as to the identity of significant beneficial owners, their voting authority and their nationality is only required to be reported *if known* by the respondent. Voting authority of the 30 largest security holders and their principals is also required only *if known* by the responding company.

From the experience of this subcommittee in dealing with reports from many corporations filed with several agencies, I can state with assurance that this gigantic loophole would render meaningless the voting authority disclosure requirements. Respondents must be required to act affirmatively in discovering the necessary data. The ICC has been successful in many instances—even before adoption of a formal rule—in receiving data on ultimate voting authority when it has required respondents to obtain and report such information. The SEC should follow this precedent.

Corporations choosing the avenue of public ownership owe investors, the SEC and the public a greater duty than merely reporting the voting rights if they should happen to stumble across them. Regulations of publicly-held companies has been determined by the Congress to be a valid exercise of its police powers. Federal agencies charged with performing regulatory functions must not be beggars in seeking the information needed to fulfill their responsibilities.

To avoid undue reporting by small companies which do not have significant impact on securities exchanges and the economy, I suggest that the reporting requirements apply only to companies above an appropriate size to be determined by the Commission. Larger corporations typically have greater diversity of ownership and more complicated financing arrangements, so there is a need for more detailed information. The task of reporting to the Federal government is substantially less for large corporations in relation to the size of their business activities. And the ownership and control of large corporations is of much more import to regulatory commissions and the Congress than is that of thousands of small companies which report to the SEC.

I note that the Commission has in the past distinguished between large and small companies for reporting purposes. Sections 12(c) and 13(c) of the Securities Exchange Act of 1934 provide that "if in the judgment of the Commission, any (required) information . . . is inapplicable to any specified class or classes of issuers, the Commission shall require . . . such other information of comparable character as it may deem applicable . . ."

Acting under Section 7 of the Securities Act of 1933, which contains a similar authorization, the Commission has in fact promulgated a simpler registration form (Form S-7) for offerings by companies which have earned more than $500,000 in each of the last five years and have had a stable board of directors for at least three years, and an even more simplified registration form (Form S-9) for offerings of debt securities by companies which had met a specified ratio of earnings to fixed charges for each of the last five years. The adoption of these special forms evidences a recognition by the Commission that the public's need for information may vary according to a company's size and stability.

The Commission has proposed recently that new disclosure rules on replacement cost data should only apply to companies whose total sales or total assets exceed $50 million (File No. S7-579). A similar cut-off could be used for applying the corporate ownership requirements.

For both Items X and XA, in your proposed rule, the columns dealing with voting rights are both titled simply "Authority to Direct Vote". Meaningful disclosure of voting rights requires that the number of shares be listed separately as to sole voting authority, shared voting authority and no voting authority. In certain situations—such as that of a bank which acts as record holder for an investment company—a party may appear to have control influence based on significant record ownership of securities, and yet lack any real ability to control because voting rights belong to another party.

A breakdown of voting rights is also necessary to analyze the proposed reporting provision which requires the respondent to identify those who hold voting authority for the securities where the respondent has no voting rights. The ability to control corporate activities derives from voting authority rather than mere record ownership. Identification of voting rights by type is an integral part of any disclosure regulations.

Part (b) of Item X requires disclosure of the voting authority and beneficial ownership of securities held by the officers and directors of a respondent as a group, without naming them. This relates to Part III of the model dealing with the affiliations of officers and directors. The interagency Steering Committee proposed that the holdings and voting authority of each officer and director should be listed separately because the holdings and influence of such individuals may differ greatly. I agree that such information should be disclosed on an individual basis.

On page 14 of the proposed rule, the text states that nominee accounts must be aggregated and the nominees identified, yet there are no instructions to aggregate for either Item X or Item XA. Clear instructions on aggregating *all* holdings—whether nominees or not—are an absolute necessity. One of the worst problems of present reporting procedures has been the failure to aggregate multiple holdings. It is possible for a single party to amass sizable holdings in a company through multiple accounts and still avoid reporting his total holdings under his own name. This is one reason why it is so important to report all holdings down to 1/10th of 1 percent in determining the top 30 shareholders.

As to the cost of complying with the proposed rules, I question its significance for larger companies in relation to the public benefit derived. I do know that the cost of collecting virtually useless and confusing information is high in relation to its benefit. Adoption of the model will reduce the workload of investors, regulators, Congress, and the public, resulting in more informed decisions at a lower cost.

The SEC is recognized as a leading agency in the area of disclosure. It is vital that the Commission acknowledge its responsibility to move toward uniformity, responsiveness, and usefulness in the information it collects on corporate ownership and control.

I strongly urge that the Commission replace this inadequate proposed rule with the "voting stock ownership" provision of the model, and propose the other three parts of the model for rulemaking.

Enclosed for consideration as part of my formal comments is the committee print, "Corporate Ownership and Control," prepared by this Subcommittee. My comments to the ICC, in letters beginning on pages 138 and 140, Appendix A, pertaining to the model and Appendix I, which deal with the Anaconda Company and the Crane Company, are especially pertinent to this rulemaking.

Very truly yours,

LEE METCALF.

Enclosure.

ERRATA SHEET—"CORPORATE OWNERSHIP AND CONTROL," SENATE GOVERNMENT OPERATIONS COMMITTEE PRINT, NOVEMBER 1975: P. 18, TABLE II.—MAJOR NATIONAL BANK TRUST DEPARTMENT HOLDINGS AND VOTING RIGHTS IN 12 COMPANIES, DEC. 31, 1974

Morgan Guaranty share holdings should read:

	Burlington Northern	Crane	1st Bank System	Montana Power	Northwest Airlines	Northwest Bancorp.	R. J. Reynolds (Sealand Services)	VEPCO
Total shares held	63, 440	438, 938	515, 853	22, 705	359, 000	527, 379	12, 137	12, 100
Sole voting authority	0	0	183, 255	3, 900	353, 400	334, 276	3, 867	8, 000
Shared voting authority	(This information was not requested on the form to which Morgan Guaranty, a State-chartered bank, voluntarily responded to the Comptroller of the Currency. The subsequently revised form to which national banks responded requested information on shared voting authority.)							

FREE ENTERPRISE AND THE MAGIC OF NEW PRODUCTS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. CRANE. Mr. Speaker, free enterprise has provided Americans with the highest standard of living in the world. This, however, is merely its result. The reason we believe in free enterprise is more basic. It is that free enterprise is democracy applied to the marketplace. Each of us enters the market with the dollars we have earned and we vote with each dollar for the kinds of products we wish to purchase. Very few people voted with their dollars for the Edsel automobile. Production, accordingly, stopped.

The incentive to fulfill the needs of the market has kept American business and industry in the forefront of research and the production of new products to meet the needs of the consuming public. Most of the advances in science and technology, in medical procedures, in time-saving devices, in recent years have occurred in the United States. The rest of the world—much of which lives under one kind of economic regimentation or another—simply borrows from what we have developed. In Communist countries such as the Soviet Union more than 50 percent of the people work on farms, yet the country is unable to feed itself. In the United States, approximately 6 percent of the American people work on farms, yet we feed not only ourselves but much of the remainder of the world.

The Business Roundtable recently noted that Americans have become complacent about their great achievements:

> We take this all so for granted. But neither life saving computers nor longer-lasting lip-

stick comes about by chance. They are the final, and quite amazing, result of capital investment and long-range research in a thriving market of myriad needs and desires. No government, no single planning entity, could possibly keep track of, let alone provide, the material, human and technological resources to fill so many needs and solve so many problems. But American businesses, large and small, provide an endless stream of products to meet the constant demands of our changing world . . .

For American business to continue to do this job, it must be free of Government control and interference. In order to have capital to invest it must not see all of its profits taxed away. In order to produce economically and efficiently, it must not be subjected to bureaucratic management which makes it impossible to be either economical or efficient.

I wish to share with my colleagues the message, "The Magic of New Products," which was presented by the Business Roundtable and published in the December 1975 issue of the Reader's Digest, and insert it into the RECORD at this time:

THE MAGIC OF NEW PRODUCTS

A young girl lies unconscious in a Boston hospital. Coursing through her bloodstream is a poison—something she ate or drank unseen by parents or friends. But what has she taken? How much? What antidote to administer? Can answers be found within the ebbing minutes of a child's life? A sample of her blood is rushed by taxi to a nearby laboratory and placed in a machine called a mass spectrometer, hooked up to a computer with a "medical brain." Within seconds it identifies three poisons and notes the approximate amounts of each in the girl's system. An antitdote is administered. Two days later the girl is home playing with her friends.

The system that saved her life took three years to develop. Created by Dr. Klaus Biemann, it was made possible because of two products already at hand. The 1800-series computer was developed by IBM and the mass spectrometer by several companies. The results of such long and costly research are, of course, priceless—the saving of untold lives.

Yet this single device is merely one of thousands of new products and product improvements that are the daily dynamics of the private-enterprise system. It is a magic pool of inventiveness into which we dip for a staggering range of goods and services from the most vital to the most frivolous.

We take this all so for granted. But neither life-saving computers nor longer-lasting lipstick comes about by chance. They are the final, and quite amazing, result of capital investment and long-range research in a thriving market of myriad needs and desires. No government, no single planning entity, could possibly keep track of, let alone provide, the material, human and technological resources to fill so many needs and solve so many problems. But American businesses, large and small, provide an endless stream of products to meet the constant demands of our changing world—a reflective window glass that dramatically cuts energy use in office buildings; a respirator so precise it can stimulate natural breathing and even be programmed to "sigh" at intervals.

Of course, the benefits aren't always vital or dramatic. Often they are simply satisfying contributions to everyday life—new products and improvements to old ones as "common" and "ordinary" as the clothing on our backs. Two cases in point:

Permanent-Press Washing. The creation of permanent-press fabrics, the result of years of research and many millions of dollars' investment by various chemical and fabric manufacturers, was a tremendous boon to the consumer, making neat appearance and easy care a reality. But this development triggered other, largely unnoticed developments. At the Whirlpool Corp., for instance, engineers began in 1964 to modify their washing machines for the new permanent-press fabrics that were coming on the market. For if permanent-press clothes are washed and rinsed like other fabrics, they crease and wrinkle. A team of technicians began devising a special permanent press cycle for the company's machines. Required: a hot wash, a cool-down rinse and a slowed spin-drying, so that centrifugal force would not set wrinkles.

Engineers and home economists in a laboratory duplicated by machine every step a housewife would take were she washing these fabrics herself by hand. Load after load of permanent-press garments were tested with various wash cycles. Then machines with the best cycle were put into homes for further tests. Competitors, of course, were also at work. When the new machines came on the market, "permanent press" was just a new stop on the control dial for most housewives. But that little change meant months of design and testing.

Fire-Safe Children's Sleepwear. Years before federal regulations prescribed fire-retardant fabrics for children's sleepwear, industry began developing such material. A team of five Monsanto Corp. researchers started work in 1965 at Durham, N.C.

"It was easy to make a fire-retardant fabric," says Graham Chantrey, manager of commercial apparel development, "but hard to make one that would meet consumer requirements—softness, color, texture, durability and reasonable cost, to name a few." There were three ways to go about it. First, introduce fire-retardant particles into the fabric; but these might wash out eventually. Second, treat the fabric externally with chemicals. The third way was to implant the flame-resistant chemicals into the very molecuar structure of the fabric. Monsanto chose the last and toughest way.

It took the research team two years to come up with a suitable fabric. And that was only the beginning. Work then moved to the Monsanto textile facility in Decatur, Ala., where extensive testing continued. By late 1971, a promising new fleece fabric had been developed, and design engineers were working on new machines to make it. In mid-1972, a year before government flame-retardant standards were to take full effect, the first flame-retardant children's sleepwear was in stores across the country. It represented some seven years of intensive work and an investment of millions of dollars.

Examples like these abound in every industry. We are surrounded by the bounty—digital clocks, anti-histamines, instant cameras, unbreakable records, weather-resistant house paints. But there's another big plus from this pool of inventiveness that we sometimes forget—jobs. In the past 30 years, whole new industries employing millions have come about as the result of new and improved products. For instance, 211,000 Americans are employed in the manufacture of computers, jobs that simply would not exist without development of these machines following World War II. Or consider electronics, where newly created devices, particularly the transistors, have brought about 400,000 jobs. And then there's the case of the General Electric Corp., with 400,000 employes and an annual payroll of $5.2 billion. How many jobs would it be providing today if it had confined itself to its original product, the incandescent light bulb? G.E. currently employs 4000 in light-bulb manufacture and sales.

The stakes are enormous for all of us. Over the next ten years 15 million more people will be in the job market. The careers and challenges they are counting on will come to a great extent from new-product research being done today.

Whether they save a life, or save a little time in the kitchen, the abundant products and services we consider so casually at every hand are the inevitable results of the American economic system. We produce for each other—table lamps and sailboats, face powder and wonder drugs. And in this cycle of innovation and production lie the paychecks, bank accounts, homes—indeed the hopes and dreams of untold Americans.

HELP?

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. HARRINGTON. Mr. Speaker, President Ford's grudging concession of $2.3 billion per year in short-term loans to New York City, and the Congress' timid approval of plans to avoid the disastrous effects of default by one of the Nation's major economic and cultural centers, offer no real solutions to the fundamental, long-range problems threatening the future of New York and other large metropolitan centers. I voted to fund the Intergovernmental Assistance Act only yesterday because I was left with no reasonable choice.

In place of the Committee on Banking, Currency and Housing's infinitely more realistic bill, which was branded "irrelevant" by the White House, Mr. Ford turned the New York City crisis into a patently political issue and forced through Congress a shortsighted, vindictive proposal at a time when he well knew that any delay by the Congress would have guaranteed default. The bill, while appearing to address the immediate situation, in effect may damage the city's prospects of long-term recovery, exacting as it does a "pound of flesh" in additional taxes.

I have to wonder about the logic behind increased taxes on individuals and businesses already laboring under the weight of the heaviest tax burden in the country. It is well known that past erosion of the municipal tax base has been largely the result of this very kind of disincentive to middle class families, corporations and industries. More tax increases can only further diminish the deteriorating tax base, reduce already cut back services and lengthen the city's welfare rolls. Higher sales taxes will depress sales and boost unemployment and the tourist industry will suffer accordingly.

Not surprisingly, economists conclude that there is little possibility that the city can straighten out its budget in 3 years in view of the negative effects that increased taxes and service cutbacks will have on the city's potential for economic growth.

But the President can now shift all blame for future fiascos onto the shoulders of the city and State administrators, and the legal, logistical, and financial obstacles to recovery tangled up in the President's proposals seem insurmountable.

Already, several lawsuits have been filed challenging the constitutionality of proposals in Governor Carey's plan. It is also conceivable that few holders of the $1.6 billion in notes will agree to the public exchange at all. The State's own financial problems and a deficit in its current budget estimated at $700 million could well undermine rescue plans for the city. And in order for the dangerously low figure of $2.3 billion in Federal loans to be sufficient, New York City must keep expenditures at an unprecedented low while making $270 million cuts each year.

The Congress has been forced to accept a bill based on unknowns. While no one has proved to be qualified to adequately appraise the huge potential for disaster, it is quite clear that the ripple effects of New York's financial instability have already taken a toll in the northeast and beyond. Boston's Mayor White, at the recent Congress of Cities conference in Miami Beach revealed that a "very real financial crisis" recently threatened to put Boston into default on an equal amount in short-term loans issued in anticipation of a $40 million bond offering. And largely as a result of the current climate of crisis in the municipal bonding market, the Massachusetts Housing Finance Agency, typically regarded as a model agency both in terms of financial solvency and its ability to produce needed housing, was forced recently to seek a State guarantee for $500 million in short-term notes.

Members of Congress, in voting against any form of Federal aid, have demonstrated a sad lack of understanding for the potential effects of default on municipalities across the Nation. It is disturbing that so large a Democratic majority has been unable, or unwilling, to challenge the bankrupt social and economic policy of the administration. While the President appealed to and encouraged the fears and prejudices of people across the country, Members of Congress appear to have denied aid to 8 million Americans in New York for the most parochial and regionalist of reasons.

The irresponsibility and lack of foresight demonstrated recently by the Federal Government in dealing with the New York City crisis easily has equaled that demonstrated by city administrators who knowingly contributed to the present urban situation. After 30 years of instituting and implementing federally and State mandated programs that actually encouraged middle class and corporate flight from the cities, leaving behind poverty and disintegration, the administration and Members of Congress have refused to intervene until we found ourselves on the brink of a national disaster with international implications. And now, since any aid is better than none, we have forced ourselves to settle for a plan that promises only a slim rag of hope for the immediate recovery of New York, and even less for its long-term survival.

NO FIRST USE OF NUCLEAR WEAPONS AGAINST CITIES: AN INVITATION TO LIMITED NUCLEAR WAR?

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. OTTINGER. Mr. Speaker, on Monday, November 24, Dr. Fred Ikle, Director of the Arms Control and Disarmament Agency, proposed that the United States "should never lock our forces into a posture that would make us the first to use nuclear weapons in a cruel and wanton way." Indeed, we should never find ourselves in a position that would make us the first to use nuclear weapons in any way. Unfortunately, Dr. Ikle only suggested that the United States should never use nuclear weapons, first against cities. I am sure this proposal is well intentioned and it sounds worthwhile on the surface. Upon examination however, this proposal may be seen as fatally flawed, offering further justification for a strategy of counterforce and limited war.

While Dr. Ikle discussed a wide range of problems in arms control worthy of consideration by all of the Members of this body—particularly his suggestions that cruise missiles and chemical weapons may prove to be barriers in future arms control negotiations because of the difficulty in verifying compliance with agreements covering those weapons—I was disappointed that he did not offer any suggestion as to where his limited no first use proposal might lead—to limited nuclear war or to a policy of non-first use of nuclear weapons.

Recently, Dr. Jerome Stone, director of the Federation of American Scientists, offered some comments on Dr. Ikle's speech. In particular he addressed himself to Dr. Ikle's first use proposal and its implications. I call my colleagues attention to Dr. Ikle's speech, which Congressman ZABLOCKI placed in the RECORD of December 1, page 38025, and to Dr. Stone's comments which follow:

COMMENTS ON DR. FRED IKLE'S SPEECH OF NOVEMBER 24, 1975

In his speech of November 24, 1975, Dr. Fred Ikle said:

"If a nuclear attack should ever occur, what purpose ould be served by destroying the cities of the nation which launched the attack? What would be accomplished, at that point, by killing and maiming millions of men, women and children who had no part in the decision to attack?"

These questions suggest that Dr. Ikle is raising a little discussed moral question: viz., Should America retaliate if, and after, the worst has happened, and American cities are in ruins and the country is virtually destroyed? What good would it serve? This is an obviously important question.

In fact, however, he is evidently raising a different question and discussing "limited" nuclear attack. He goes on to ask:

"Is such retaliation a rational response to a limited nuclear attack? For example, an attack against some of our military forces overseas? And if it doesn't seem rational, can we count on it to deter the enemy? Our government has come to recognize this fundamental problem and it has taken steps during the last few years to see that our forces have a broad range of choices for responding to nuclear attack."

These further questions would seem to suggest that Dr. Ikle is not raising a new issue but simply supporting the Administration's present position that it needs "options" to be credible in deterring less than all out attack. From the point of view of our Federation of American Scientists, this request for options—when advanced by former Secretary of Defense Schlesinger—was as much a quest for limited nuclear use options as for limited nuclear retaliation options. After all, it is now, and has always been, America which argued over and over again that it needed credible means of nuclear use to deter conventional attack in Europe.

From massive retaliation (of the fifties) to counterforce and flexible response (of the sixties) to these "options" (of the seventies) there has been one continuing thread: the threat to the Soviet Union that nuclear weapons could, and would, be used by us first and that their use could, in some fashion, be rationalized and made credible by us.

In this context, Dr. Ikle's speech takes on a reverse image. The call for "no first use" against cities becomes a moral formulation of the strategic doctrine that limited nuclear war is possible. It is a suggestion that a nuclear war restricted to military targets might not escalate to use against cities if both sides follow a "no first use against cities doctrine". In this form, it is similar to statements of Secretary McNamara in his June 16, 1962 speech at Ann Arbor which triggered the counterforce debate of the 1960's:

"The U. S. has come to the conclusion that to the extent feasible, basic military strategy in a possible general nuclear war should be approached in much the same way that more conventional military operations have been regarded in the past. That is to say, principal military objectives, in the event of a nuclear war stemming from a major attack on the Alliance, should be the destruction of the enemy's military forces, not of his civilian population."

We do not question the sincerity of the Director of the Arms Control and Disarmament Agency in seeking to raise new and important questions of morality with regard to nuclear use. But for our taste he has not raised them sharply enough to distinguish them from counterforce. For example, in the second and last place in his speech in which he raises these issues, this is what he says:

"Too many people have lost the sense of proportion as to what is needed—and what is morally justified—to deter nuclear aggression. To have effective deterrence we need not guarantee to kill millions of innocent people—people who could never influence the decision we wish to deter. Rather, for fundamental morality, we should not rig our forces in such a way as to cause mass killing—totally unnecessary killing—in any nuclear war. If the war had been caused by accident, what would be the sense of such "retaliation"?

Thus far, we can agree completely; and here Dr. Ikle is raising new and important issues. But the next two sentences simply reach again the more limited conclusion that we fear:

"We should never lock our own forces into a posture that would make us the first to use nuclear weapons in a cruel and wanton way. We must not be the first to use nuclear weapons against cities."

We ask the reader to re-read these quotes so as to verify that the conclusion is, indeed, much more limited than the initial questions would demand. Why, for example, should we be even the second "to use nuclear weapons in a cruel or wanton way" or to be even the second to engage in "totally unnecessary killing" or to be even the second in killing so many "innocent people."

In short, in both discussions of this problem, Dr. Ikle begins by raising questions that deserve the answer "never" but answers them by saying "we should not be first." The trumpet call is highly muted. And, as a result, in logic the position does not differ, as far as we can tell, from a moral rationale of the counterforce policy we have opposed for a quarter century. Such new questions deserve newer answers.

We are eager to have the question of "no first use" of nuclear weapons reexamined and opened up. Perhaps this doctrine will open up some useful discussion. But is the specific doctrine "no first use against cities" a way-station on the road to no first use of nuclear weapons or strengthened control over the use of nuclear weapons? We do not believe that it is. In other words, even if both sides agreed on this doctrine, it would not advance the notion that nuclear weapons should not be used; quite the contrary, it would still give a justification for their use—the justification that ultimate escalation to cities from military targets might not result.

After all, we are not living in an era in which the only thing under consideration for attack is "cities"; in such an era, Dr. Ikle's doctrine would be equivalent to no first use itself. Quite the contrary, we live in a decade in which each side is accusing the other of planning limited attacks on military targets with aggressive intent to be followed by ultimatums and warnings to avoid city attacks. In such a decade, the doctrine no first use against cities can look to the other side as a cute ploy. If the Russians had put it forth, it would seem to confirm the worst fears of those of our generals who have talked ominously about limited attacks upon our land-based missiles.

Quite apart from the result of adopting the doctrine in the appearance it gives others, there is an even more basic question: What is to be a city? There are towns of all kinds everywhere and they merge into cities. Attacks upon military targets are going to hit some kind of city. At present, neither side is prepared to undertake instantaneous damage assessment so neither side is going to be particularly clear on whether and what kind of cities have "not been struck." We doubt very much whether the Arms Control and Disarmament Agency has examined the concrete problems raised by this doctrine, and hope that it will do so.

These concrete problems are not quibbles: they provide some of the reasons why escalation in nuclear war cannot be neatly stopped at the level of military targets and before the level of "cities". Whether or not "no first use against cities" and "counterforce" spring from different instincts they demand the same explanations.

JEREMY J. STONE,
Director, FAS.

IS IT CHRIST?

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. HELSTOSKI. Mr. Speaker, I recently had the memorable occasion to view an exceptional and absorbing documentary, "Is It Christ?" In recognition of its superior quality and intriguing subject, the documentary received the Golden Eagle Award last month from the Council on International Non-Theatrical Events in Washington, D.C.

Shot in Europe with locations in England, France, and Italy, this film probes the extraordinary mystery story of a 2,000-year-old burial cloth, the Holy Shroud of Turin, which bears the remarkably well-defined images of a man's face and crucified body. The provocative and engrossing question, "Is It Christ?" is cogently explored.

Producers George Suski, a constituent of mine from Closter, N.J., and Mort Fallick, who also directed the film, narrator James Earl Jones, and writer Margie Goldsmith have skillfully collaborated in a very rewarding and worthwhile endeavor. I wish to enter into the RECORD a brief synopsis of the film and three reviews which capture the viewers' fascination upon seeing "Is It Christ?"

[From Worldvision Enterprises, Inc.]

IS IT CHRIST?

(Narrated by James Earl Jones)

Is It Christ? is a fascinating 60-minute color documentary exploring the intriguing and fascinating questions surrounding a linen shroud dating back to the time of Christ. On the 2,000 year old cloth there is an almost photographic image of a man who wore a capulet of thorns, whose side was pierced, who was brutally beaten and crucified. Experts in all fields who have studied the shroud insist it cannot be a forgery. Experiments have proven the bloodstains are in strict conformity with reality and that the wounds of the scourging adhere to archeological findings. No one can determine how or when the image appeared but authorities agree it was not made by man. The question remains, "Is It Christ?"

[From the Boston Evening Globe, Mar. 28, 1975]

WBZ MAKES GOOD CASE FOR "HOLY SHROUD OF TURIN"

(By Percy Shain)

IS IT CHRIST? CHANNEL 4

A strong and almost unshakable case is made for the authenticity of the "Holy Shroud of Turin," in this well-made documentary to be aired as an Eastertime special by WBZ–TV tomorrow night (8–9 on Ch. 4).

It's surprising that more has not been heard about this remarkable piece of linen which is supposed to have been wrapped around Jesus after the crucifixion and which contains an almost photographic image of His face as well as a clear outline of the body with all its wounds as described in the New Testament.

It did not show up until 600 years after Calvary, and then disappeared for 152 years in the 11th century. But there is no possibility of forgery and the measurements and marks tally so closely with what is known that leading scientific and religious authorities have vouched for its genuineness after exhaustive tests.

How the body likeness was transferred to the cloth could be explained in two ways, it was declared: either from a chemical reaction, due to the oil used to bathe the corpse; or from a burst of light, similar to a nuclear explosion, which might be attributable to the act of Resurrection.

The TV cameras were not allowed to film the actual relic, now reposing in a casket in Turin, Italy. But it did have pictures of the pictures taken of the sacred cloth, first in 14 and 20-minute exposures in 1898, and later, in 1931, with more modern equipment. It's an awesome likeness of a face that has no parallel anywhere.

Actor James Earl Jones narrates this syndicated documentary, which interviewed experts in Italy, France and England, and delved into every aspect of the fascinating story. There is a segment devoted to possible causes of death. Another cites the flawless proportions of the figure in the fabric, the nearest approach to the perfect man that any individual could attain.

Since the Catholic Church although it has extolled the find, has taken no official position on its authenticity, as is its attitude toward all relics, the question will always remain as Jones points out in his summation, "Is It Christ?"

[From the Boston Herald American, Mar. 28, 1975]

EASTER SATURDAY SPECIAL

(By Anthony LaCamera)

A fascinating and fantastic mystery story not to be confused with the general run of TV fare is slated for Channel 4 tomorrow night at 8 o'clock. It is the uncanny tale of The Holy Shroud of Turin, told in compelling and deductive fashion in a special hour titled "Is It Christ?" Whether you accept all, any or none of its findings, it should hold you spellbound.

From its early-century discovery to its present site in Turin's Cathedral, the program provocatively traces the history and the travels of the mysterious shroud which some venerate as Christ's burial cloth because of imprinted images of a crucified man's body and wounds. After presenting the testimony of photographic, scientific and medical experts, the documentary leaves a strong impression that the images on the 14-foot-long linen of 2000 years ago constitute a physiochemical phenomenon which is not manmade and which corresponds to the New Testament accounts of Christ's passion and death.

"Is It Christ?" was produced by the independent production team of George Suski and Mort Fallick (who was also its director), written by Margie Goldsmith and narrated by James Earl Jones—all of whom have collaborated in a most stimulating and timely project.

[From Variety, Apr. 12, 1975]

IS IT CHRIST?

Producers: George Suski, Mort Fallick.
With James Earl Jones (narrator).
Director: Fallick.
Writer: Margie Goldsmith.
60 Min., Sat. (29), 8 P.M. WBZ–TV Boston.

"Is It Christ?" showing here in its first syndie date, is not necessarily a religious film albeit aired in the Easter season. It's rather in the unsolved mystery category with pros and cons of the mysterious Holy Shroud of Turin, which is venerated by some as Christ's burial cloth because of imprinted images of a crucified man's body and wounds.

Film is well photographed, and documented, and lures viewer curiosity. Interviews with photographers who have lensed the Holy Shroud, and discussions of positive and negative images and medicos are fascinating, especially the medical interviews. The combo of photo-scientific-medico experts seems to support the belief that the physio-chemical phenomenon is not manmade, and corresponds to the New Testament accounts of Christ's passion and death.

Producer George Suski, who came up to Boston for the unveiling of his docu, said he has plans to adapt and expand "Is It Christ?" into a full-length motion picture for commercial showing. He also noted that it has just won the Golden Eagle award in N.Y., which will put it into showing in film festivals all over the world.

Writer Margie Goldsmith has done a fine job in arranging the material, the direction is just right, and James Earl Jones narrates in a forceful manner. It's an unusual piece of film, and stands out high above the usual run of tv fare.

GOVERNMENT SPENDING DOES IN FACT CREATE INFLATION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. MICHEL. Mr. Speaker, there are signs, not yet conclusive but promising nonetheless, that my friends and colleagues from the liberal side of the political spectrum have come to realize that Government spending does in fact create inflation.

I want them to know that they are welcome to stand with me on that plank of conservative orthodoxy. I shall not recriminate; I offer them amnesty, and I welcome them with open arms.

Just to show how far this trend has gone, I am asking that a recent column by William F. Buckley, Jr. be reprinted in the RECORD. In this column, Buckley documents the conversion to fiscal sanity of none other than that outstanding liberal spokesman, Kingman Brewster, the president of Yale University.

In addition to effectively arguing against spending, Brewster's comments put the blame for spending precisely where it belongs—here in the Congress. The column is thus of interest to Members on two counts, the need to reduce the budget, and the need to make Members of Congress accountable for their votes on spending issues.

The article follows:

[From the Washington Star, Dec. 12, 1975]

AN UNEXPECTED SOURCE OF ANTI-INFLATION SENSE

(By William Buckley Jr.)

Mr. Kingman Brewster, the president of Yale University, found himself safely in England the other day, out of range of the Kids' Dewline, which, round the clock, catches orthodox blips from educational officials and launches deadly missiles against the offenders. Accordingly, Mr. Brewster talked to the English Speaking Union in London about problems which, up until now, have been associated in the public mind as problems only the troglodytes worry about. Such problems as overspending, the shortage of capital, the heavy cost of bureaucracy, and, above all, the irresponsibility of Congress.

It is sobering to contemplate that not one of the politicians—or professors—President Brewster is normally linked with could have guessed, reading this speech, who delivered it.

Mr. Brewster said that "(The) inflationary bias of representative government seems to me the greatest threat to the survival of a democratic political economy." That statement is worthy of having been written by, well, myself.

"We need," said the president of the university that teaches its students for the most part to scoff at the dangers of inflation and to support such massive increases in state welfarism as were most recently championed by George McGovern, "some higher law to restrain the natural temptation to use the spending power for political self-perpetuation. If we do not solve this problem, representative government will drive us up to altitudes of inflation which, like anoxia above 14,000 feet, will not be able to sustain productive economic life."

Then came the clincher. "Until we can devise ways by which the inflationary consequence of a congressman's vote is traced to him with the same particularity which attaches to a yea or nay on a revenue bill, we will not cure the disease of public spending motivated by the desire to achieve reelection."

Mr. Brewster's warning is timely. The President last fall asked for a reduction in taxes but only if tied to a reduction in spending.

Prof. Ernest van den Haag of New York has advanced the novel notion which, if explored, might provide such countervailing pressures as Mr. Brewster calls for. The President should "refuse" to borrow the money needed to pay for deficit federal programs. As things generally go, Congress passes a tax bill which will bring in Revenue X. Then it passes a spending bill which authorizes Expenditure Y. Y is almost always larger than X. The President has the authority to borrow, through the Federal Reserve System, the differential.

What if he would refuse?

Congress would have to permit the executive to trim expenditures. Or else it would have to order the President to borrow, bringing on more inflation. In doing so, it would become far more exposed than it is now. Individual inflationists might then be traceable with that requisite "particularity" proposed by Kingman Brewster.

No doubt there are other means. Since we are to have highly elaborated election laws, perhaps, picking up the theme of consumer protection, we should require all candidates to list after their names the percentage over revenue for which they voted appropriations, so that, for instance, one would routinely refer to "Mrs. Bella Abzug, D-NY.-50" meaning that she had voted to spend half again as much money as she voted to tax.

Meanwhile, the sunburst of Mr. Brewster lights the skies, and we pray that having discovered the light, he will one day soon discover the truth.

SENATE—*Thursday, December 18, 1975*

(Legislative day of Monday, December 15, 1975)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O Lord, our God, watch over Thy servants in this place. As here we seek to solve the Nation's pressing problems of the hour, grant that this body may act with justice and truth, with reverence and selflessness. Use all the debates, differences, and contentions as a means for light and healing. We beseech Thee not to deliver us from the burdens and stresses of the day but to give us grace and wisdom to carry them. When evening comes refresh us with the rest and peace of those whose hearts are in tune with Thee.

We pray in the name of Him who was servant of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
Washington, D.C., December 18, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, December 17, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY, EXCEPT DURING CLOSED MEETING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today with the exception that during a closed meeting committees will not be allowed to meet.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider two nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations of Frederick M. Coleman, of Ohio, to be U.S. attorney for the northern district of Ohio; and Thomas A. Olson, of Montana, to be U.S. attorney for the district of Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the President be notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I yield what time I have under the courtesy extended to the joint leadership to the distinguished Senator from Rhode Island (Mr. PASTORE).

Mr. PASTORE. I thank the Senator.

"FAMILY VIEWING"—A RESPONSIBLE ANSWER TO THE PROBLEM OF TELEVISED VIOLENCE

Mr. PASTORE. Mr. President, for the 1975–76 television season the networks and the National Association of Broadcasters have designated the first 2 early evening hours as a "Family Viewing" period in which programing should be suitable for all members of the American family to view, including children.

Because of the carping criticism this move has provoked in some quarters of the television industry, I think it is necessary to review for both Congress and the public record the very serious concerns which support fully the broadcasters' actions.

"Family Viewing" is the broadcast industry response to a problem which has been with us, unfortunately, for almost a decade: That problem clearly and simply is the exploitation of violence on television.

For instance, during 1 typical week in the 1960's, television treated the American family, including its younger children, to 144 murders, 13 kidnapings, 7 tortures, 4 lynchings, and numerous other acts of violence and cruelty. Estimates have suggested that the average American child would see more than 13,000 persons killed on television as that child grew from age 5 to age 15.

For the most part, this televised violence has been gratuitous, used solely for the purpose of attracting and maintaining audience attention. It has been violence in a moral vacuum, devoid of any human consequences and any human understanding. It has been a gross distortion, rather than an accurate representation, of any conception of reality.

As the violence on television increased, so did national concern over the harmful effects that such programing might be having on the mental and social health of our children. The protest was not limited certainly to members of the scientific community. The anxious voices of parents, educators, clergymen, media critics, and public officials were heard as well. The 1969 report of the National Commission on the Causes and Prevention of Violence, chaired by Dr. Milton Eisenhower, summed up the growing concern:

> It is reasonable to conclude that a constant diet of violent behavior on television has an adverse effect on human character and attitudes. Violence on television encourages violent forms of behavior, and fosters moral and social values about violence in daily life which are unacceptable in a civilized society.

While there was some preliminary evidence to suggest a causal connection between the viewing of televised violence and antisocial behavior, other opinion contended that the limited research had produced no clear-cut proof for or against that conclusion.

In March of 1969, the Subcommittee on Communications of the Committee on Commerce called upon the Surgeon General of the United States to assemble the best minds in America to resolve this critical question. The result was the appointment of the Surgeon General's Scientific Advisory Committee on Television and Social Behavior. Its 12 members represented such diverse fields as psychology, sociology, political science, anthropology, and child development, and they were drawn from the broadcast industry, as well as the academic and governmental research communities.

In 1972, after over 2 years of research encompassing 23 independent projects and experiments, the Scientific Advisory Committee delivered its report to the Surgeon General and to our subcommittee. Although the findings of the report were couched in the careful language of the social sciences, the ultimate conclusion of the advisory committee was clear and unanimous:

> The causal relationship between televised violence and antisocial behavior is sufficient to warrant appropriate and immediate remedial action.

Subsequent research and congressional hearings have further confirmed the validity and seriousness of this conclusion.

While the causal relationship between televised violence and antisocial behavior is disturbing, of equal gravity is the warning of Dr. Bertram S. Brown, Director of the National Institute of Mental Health—a warning voiced by many other witnesses at our subcommittee's follow-on hearings in April of 1974:

> The emotional effects of repeated media violence programming on toleration of real life aggression and violence may in the long run be the most damaging result of that programming. Repeated exposure can produce insensitivity to cruelty and violence because it gradually extinguishes the viewer's emotional responses and builds the feeling that violent behavior is normal and appropriate under some circumstances.

This ominous prediction is also tentatively supported by preliminary studies and experiments.

Additional research, including the development of an annual profile of violence on television, is ongoing, and, in my judgment, should continue under the auspices and sponsorship of the National Institute of Mental Health.

The research evidence to date, however, clearly warrants action to protect children from excessive violence. As the Surgeon General, Dr. Jesse Steinfeld, told our subcommittee in 1972:

> The data on social phenomena such as television and/or aggressive behavior will never be clear enough for all social scientists to agree on the formulation of a succinct statement of causality. But there comes a time when the data are sufficient to justify action. That time has come . . . (N)o action in this social area is a form of action: it is an acquiescence in the continuation of the present level of violence entering American homes.

In response to the serious concerns expressed by the scientific community, the Congress, and—most importantly—by the American public, the Chairman of the Federal Communications Commission held general discussions with major representatives of the broadcast industry in late 1974 to bring the continuing problem to their attention. These discussions also sought to ascertain whether positive action could be taken by the industry to achieve meaningful self-regulation of television violence.

The broadcasters and the networks themselves freely proposed—I repeat—the broadcasters and the networks themselves freely proposed, adopted, and implemented the "family viewing" concept for the 1975–76 television viewing season as the industry's own response to the problem.

I strongly support these broadcaster and network reforms. While "family viewing" may not mark the millennium, it is an encouraging sign that the broadcast industry recognizes its great responsibility to the American public and intends to act accordingly to police its own house to avoid exposing children to excessive televised violence.

I think it is noteworthy that quite independently of this action by the broadcasting industry, the advertising industry is also recognizing its responsibility to the American family and reassessing sponsorship of violence-laden programing.

The American public appears to support these reforms overwhelmingly. According to a December 1, 1975, TV Guide poll, over 70 percent of those surveyed believe that there is too much violence on television, and 82 percent favor the "family viewing" concept.

In our society you always find dissenters. We respect their right to disagree. A particular segment of the television program production industry claims that "family viewing" violates their first amendment right "to do their own thing." "Their own thing" appears to be peddling violence for profit while poisoning the minds of our children and grandchildren with total disregard for the obvious social and psychic costs to our Nation.

Except for the fact that the first amendment has actually been invoked on the side of mindless violence, I would not address this incredible callousness. Of course, neither the first amendment nor the Communications Act guarantees any group the right to have its particular type of commercial program broadcast on the public airwaves.

It has been suggested, also, that "family viewing" is a form of censorship imposed on the broadcasters and the networks by the FCC at the insistence of various committees of the Congress. As far as I am concerned, the charge has no merit.

Of course, the Congress is troubled by the problem of televised violence—as are many American parents. We have also been sensitive to the question of Government censorship implicit in any attempt to resolve the problem by legislation. I have often stated that our role is that of watchdog: We can bark, but we cannot bite. We have, therefore, moved with caution—some would say too much caution—urging the industry to recognize its own moral, if not legal, obligations to the American public it is licensed to serve.

The broadcasters and the networks themselves originated, adopted, and implemented the "family viewing" concept. I think it is a great idea, but I did not order the industry to adopt it nor, I am sure, did the Chairman of the FCC. If the Chairman played an effective role in bringing the problem and public concern to the attention of the industry, I applaud him. I cannot believe that anyone would censure him for his efforts.

The industry responded freely to this problem and concern with specific, responsible self-regulation. They, too, deserve our applause.

I understand that some critics also claim that "family viewing" is resulting in "bland" television programing. If current television fare is "bland"—and a good deal of it was certainly bland before "family viewing"—then this is a sad commentary on the "creative genius" of the established American television program production industry. It is not a legitimate criticism of "family viewing." In my view, if the only way our commercial program producers can capture and hold audience interest is with murder, mayhem, and other sordid acts of human degradation, then broadcasters should reexamine their programing sources.

I know that the Muse still speaks to television writers and producers in England and Canada. They do not need excessive violence to spark audience imagination. Under these circumstances, perhaps American broadcasting should look elsewhere for creative programing.

In short, the threat of excessive televised violence has been too well documented and too long ignored for us to listen to the carping of a self-interested few who would oppose any attempt at meaningful reform. The critics of "Family Viewing" have offered no specific, positive alternative, only morally bankrupt apologies for a violent status quo which would keep the coins jingling in their pockets at the expense of our youth. What is at stake is nothing less than the hearts and minds of our children and grandchildren; the critics of "Family Viewing" should either put up or shut up.

While I am heartened by the broadcast industry's action in instituting "Family Viewing," I can only express a sense of dismay and tragedy at the time, expense, and effort which have been directed to the negative effects of television programing. It is my hope that these efforts may yet be turned toward discovering and developing the positive potential of the medium.

Indeed, recent research indicates that pro-social television programing can effect helping behavior in children. In simple layman's terms, television can teach lessons of understanding and kindness, rather than alienation and violence. TV can reaffirm the best that is in the human mind and spirit, rather than appeal to base, animal instincts.

As our knowledge of the effects of television on social behavior expands, these alternatives will appear in sharper contrast. Right now, I want to congratulate the broadcasting industry for freely taking a step forward with Family Viewing in the effort to improve the human condition.

I applaud and compliment the FCC and particularly its Chairman, Mr. Wiley, for efforts well spent in the interest of American family life.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I yield any remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

REGULATORY REFORM ACT OF 1976—S. 2812

Mr. PERCY. Mr. President, I am pleased to introduce today, together with Senator ROBERT C. BYRD of West Virginia, the Regulatory Reform Act of 1976. I had the great pleasure of working with Senator BYRD on the Budget Reform Act of 1974. The Committee on Rules and Administration, in the hearings that Senator BYRD held, as I recall, over a holiday period 2 years ago, did an outstanding job in connection with that legislation. I look forward very much indeed to working with him on the Regulatory Reform Act of 1976.

Mr. President, nobody needs to be told that the American economy is ailing. The symptoms are all around us: tragic unemployment, stubborn inflation, a troublesome deficit, and skittish, uncertain markets. Though some persist in calling it a "temporary downturn," no worse than a bad cold, others contend it is more serious than that. But amidst the confusion, one thing has become increasingly clear: If we ever expect the economy to get better and stay that way, we must strip the wet blanket of unnecessary Government regulation from its back.

We cannot afford to let misguided, outmoded policies stifle competition, inflate prices, and smother businessmen with needless paperwork. Old-fashioned nostrums and cosmetic treatments will not do the job—we need a comprehensive overhaul of the whole structure and scope of regulation.

A diverse collection of moderates and conservatives, industry and consumer groups, Republicans and Democrats, administrators and legislators have called for regulatory reform. Each group's emphasis differs somewhat, but together they constitute a potent coalition. Congressional committees in both Houses are gathering information on a wide variety of regulatory problems and forging legislation in a number of specific areas. President Ford did us a great service by highlighting the issue of misdirected Government regulation when we met with him in the Cabinet room earlier this year, and bringing it to the forefront of public attention, as well as submitting specific plans for deregulating the airline, railroad, and trucking industries.

All of this bodes well for the Nation. But a great deal remains to be done, and the problem of momentum will become crucial in the coming months and years. The enormous complexity of Government regulation makes prompt action less likely, but no less important. Unless we establish a framework for a timely and coordinated response to the full range of regulatory problems, the present initiatives of Congress and the President may be dissipated in a matter of months, leaving hidden facets of the problem untouched.

We cannot afford to underestimate the power of bureaucratic inertia and tenacious interest groups to delay and defuse any serious challenge to the status quo. The bill we introduce today would constitute an effective countervailing force against this tendency, setting a clear agenda for the Congress and the President in addressing a problem of profound economic and social importance.

In brief, the bill would provide that over a period of 5 years, from 1977 through 1981, the President would submit to the Congress by March 30 of each year comprehensive plans for reforming regulation in five specific areas of the economy, namely: Banking and finance; energy and environmental matters; commerce, transportation and communications; food, health and safety, and unfair and deceptive trade practices; housing, labor-management relations, equal employment opportunity, Government procurement and small business.

Each plan would include recommendations for increasing competition, and for procedural, organizational, and structural reforms—including the merger, modification, establishment or abolition of Federal regulations, functions, and agencies. Each plan would be referred to the committee with appropriate subject matter oversight jurisdiction, as well as to the respective Government Operations Committees of the House and Senate.

The bill also provides for an action-forcing mechanism—in the form of impending abolition of specific agencies and regulations unless a comprehensive regulatory reform measure is enacted by a certain date—as the best way to assure prompt and effective action on the full range of regulatory issues. Responsibility for action is thus squarely placed on the Congress as a whole. Without such a provision, any specific proposal for reform might be left to expire quietly in committees which may be heavily lobbied by affected industries.

The action-forcing mechanism works in this manner: After receiving the President's plan on March 31, the designated committees would be responsible for reporting to the respective House and Senate floors a comprehensive regulatory plan, to become the pending business of both houses no later than September

15. Should the President fail to submit a plan by March 31, the committees would commence work on a plan of their own, to become the pending business by September 15.

These provisions would make certain that the Congress would have a regulatory plan before it by September 15. The bill also provides that, unless Congress enacts a regulatory plan by December 31, the President's original plan would become law, unless either body adopts a resolution specifically disapproving the President's plan. In that case, the Congress would have until the end of the following June to adopt a plan satisfying the guidelines set forth in this bill; if by June 30 Congress has still not enacted a comprehensive regulatory reform measure, all benefits conferred by the agencies in the enumerated areas would be terminated, and be of no further force or effect.

The bill places a heavy burden on both Congress and the President. But the issue of regulatory reform deserves this kind of priority attention. Traditionally, both the executive and legislative branches have dealt with the problem by appointing blue-ribbon panels to study the issue. After months or years of work, the reports of these commissions are foisted on an apathetic public and consigned to that infamous dustbin of inaction, the circular file. But today, the people recognize the importance of regulation; and they want us to do something about it. Another long hard look at the problem will not suffice. Only a timely and coordinated effort directed to its sundry aspects—by the executive branch, the House, and the Senate—will provide a sufficient impetus for change.

Clearly, Government regulation did not wither away when the public ignored it. And by the same token, we cannot now expect it to shrivel up and disappear amidst the heat of public indignation and disapproval. Regulation has quietly become an integral part of our economy; we cannot go back on 90 years of history overnight. But we can keep the Government from stifling healthy competition and distorting economic patterns. We can take steps to minimize pointless paperwork, byzantine litigation, and protracted delays. It is in the interests of pursuing these highly important and realistic ends that we introduce this bill.

To convey a sense of the scope of the problem, and to underline the need for a comprehensive approach, I want to discuss, for a moment, a few abbreviated examples of counterproductive regulation. An exhaustive list would fill several books, but a handful of examples should drive home the point.

BANKING AND FINANCIAL REGULATION

Today, the Federal Reserve Board, the Federal Home Loan Bank Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration simultaneously look after the regulation of our Nation's banking system—with the assistance of a raft of State banking commissions, boards, and agencies. One would think that no stone could possibly be left unturned, no serious problem in the world of finance left unaddressed.

Indeed, these various regulatory entities exercise an impressive degree of control over some areas of banking, including absolute discretion over matters of entry. The Office of the Comptroller can grant or deny national bank applications for charters and branch locations, and the courts have ruled that the Comptroller's decisions, based on criteria that have never been spelled out, are virtually unreviewable. The Federal Home Loan Bank Board holds similar sway over Federal savings and loan charters and branch banking. Because the initial statutes were vague, these two agencies have retained an enormous amount of discretion over how many banks, run by whom, will be operated where—with a minimum of legal or public accountability.

But by and large, rather than complementing one another, the bewildering array of Federal agencies involved in the banking business have fallen into what Arthus Burns, Chairman of the Federal Reserve Board, has called a "competition in laxity." This could also be termed the "weakest link syndrome." When one agency yields to industry pressures to loosen regulation, the others tend to follow suit. Banks capitalize on a regulatory system Burns called "a jurisdictional tangle that boggles the mind" by playing regulatory agencies off against each other.

Moreover, certain trends in banking, which have accelerated in recent years, have increased both the importance and the difficulty of Government regulation. Since World War II, and especially in the last 15 years, rapid expansion and intensified competition among commercial banks has led to a potentially dangerous attenuation of equity capital bases. "Liability management," another byproduct of the race by banks to expand, depends on the instant availability of unlimited funds to meet borrowers' demands. This has led to advance commitments of enormous amounts of funds. A regulatory ruling in the midsixties accelerated this trend, lifting all Federal limits on the amount of excess reserve funds banks could borrow from one another. A growing dependence on these and such other volatile liabilities as short-term Eurodollars and time deposits—on which interest rate ceilings have been lifted by the Government—has also reduced the banks' incentives to maintain the liquidity of their assets. While contributing to expansion and diversification of bank services, such practices have led some to question the ultimate soundness of the whole system.

These trends, compounded by the tremendous size and complexity of modern banks and the greatly increased speed with which their financial status can change, have made our present Federal regulatory scheme obsolete. Even if supervisory personnel were increased tenfold, they could never adequately assess the management, assets and liabilities, and trust and foreign exchange activities of even a portion of America's 20,000 separate institutions possessing over a trillion dollars in total assets. Moreover, the tangle created by overlapping mandates, disparate and conflicting regulations, and jurisdictional competition has rendered the Government incapable of coherent, rational policymaking in the regulation of banking and finance. Unless we endow our regulators with appropriate information-gathering, supervisory and policymaking resources and structures, we may find our system incapable of responding swiftly and effectively to changes in the financial world.

Many have advocated merging Federal regulatory responsibilities into one agency to eliminate overlap and policy conflict and increase efficiency and accountability. Such a move would also improve regulation of bank holding companies, complex joint ventures and shaded credits, thus making possible a full assessment of a bank's risk exposure in any given transaction. One thing is clear—that the Congress must address these issues soon. In light of the failures of the U.S. National Bank, the Franklin National Bank, and the Security National Bank, continued complacency could prove dangerous.

AVIATION REGULATION

It is generally acknowledged that our system of air transportation is far and away the most sophisticated and efficient in the world. As people who fly much more than the average American, we Members of Congress especially appreciate the airlines' fast, safe, friendly, and dependable service. Often during a busy week, one of the few opportunities I have to relax is during that hour-and-a-half flight between Washington and Chicago, so believe me, I appreciate it.

But the benefits of this system—the marvelous technology, fast service, and generally good safety record—are denied to the vast majority of Americans. The reason is apparently simple: Most Americans cannot afford to fly. But this simple truth must also be explained. I believe that the protectionist policies of the Civil Aeronautics Board are largely responsible for the fact that air travel continues to be a luxury for consumers.

The Civil Aeronautics Board was granted broad authority to set rates and fares for commercial air transport in 1938. But over the years the Board seems to have interpreted its mandate to "promote" the industry as meaning it may ignore the consumer. For instance, in 1974 the CAB flatly refused to allow London-based Laker Airways to fly regular "no-frills" flights between London and New York for $125 each way, or slightly over one-third the current "economy" fare. The CAB turned down Laker because the price cut allegedly would have threatened American companies with "unfair competition."

Despite its authority to set rates and fares, the Board has consistently accepted without serious question the industry's proposed rate schedules. After an adverse court ruling in 1970, the CAB finally undertook a review of domestic fares, only to authorize another increase. The Board also banned youth and family discounts and cut back severely on charter flights.

The move backfired. In the first quarter of this year, the airlines lost $190 million, filling slightly over half their seating capacity. Yet air travelers continue to pay artificially inflated prices. Intrastate flights in Texas and California, for example, not subject to CAB regulation, cost about half as much per mile as regulated interstate flights.

The CAB has recently made some encouraging tentative moves toward reversing its protectionist policies, including an experiment in limited deregulation. But much more remains to be done.

In a related area, the Federal Aviation Administration has the authority to make and enforce air safety rules. Although, as I said, our air safety record has been good, the FAA has too often failed to act until tragedy forced its hand. On December 1, 1974, TWA flight 514 crashed on an approach to Dulles Airport, killing 92 people. Shortly thereafter, the FAA passed a rule requiring installation of ground proximity warning systems in all passenger planes. Yet, as far back as 1969, the National Transportation Safety Board had urged adoption of these devices, citing 15 previous crashes they could have prevented.

The FAA also knew about the dangers of DC–10 cargo doors as early as May 1972. But the agency waited until 72 hours after the worst crash in aviation history to do anything about it. On March 3, 1974, the cargo door of a DC–10 flew open, the cabin floor collapsed, and 346 people lost their lives. Three days later, the FAA ordered modifications for DC–10 cargo doors.

SURFACE TRANSPORTATION REGULATION

Economists have estimated that, directly and indirectly, the Interstate Commerce Commission costs Americans not less than $4 billion a year, and possibly as much as $8.7 billion. Back in 1966, the Council of Economic Advisers wrote that if the ICC set rates appropriate to actual costs, savings from rate reductions would amount to over $400 million a year, for the railroads alone.

The ICC bends over backward to prevent competition from developing in the trucking industry. "Gateway restrictions" require some firms to go miles out of their way, through a "gateway city," instead of taking the quickest route to their destination. Other restrictions on routing and delivery points force some trucks to return empty from long hauls, wasting time, money, and vital fuel. Private carriers, who haul their own products to market, are specifically forbidden to haul anything back for money.

All told, these rules waste up to 460 million gallons of fuel annually, and contribute 150,000 tons of pollutants to the air we breathe. Added costs are passed on to consumers, thus feeding the inflationary spiral. Inflation, pollution, wasted fuel, and higher prices: The ICC prefers all of these to exposing established carriers to the rigors of competition. That is the Commission's understanding of the public convenience and necessity which it is mandated, by law, to serve.

Besides restricting entry into the trucking industry almost to the point of nonexistence, the ICC allows carrier-dominated rate bureaus to fix prices. The ICC's putative "regulation" legitimizes a cartel-like arrangement. Theoretically the Commission would guard the public from abuses. But the oversight it exercises is perfunctory at best. Of the rate increases the bureaus filed in 1974, the Commission investigated only 5 percent, and disapproved less than a third of those it scrutinized.

Many factors contribute to the high cost of groceries, but few Americans realize that the ICC is one of them. When a court ruling made the transport of frozen fruits and vegetables exempt from ICC regulation, shipping rates for these goods declined 19 percent. When fresh-dressed and frozen poultry were also 'deregulated," rates dropped even further, by 33 percent.

The ICC's railroad record has been equally undistinguished. The Penn Central merger eliminated what competition for passenger service remained in the Northeast, cost $75 million to effect, and resulted in none of the economies management had promised. Management disputes, incompatibility of computer systems, and gross inefficiency, coupled with an economic downturn contributed to Penn-Central's collapse. Congress has been left to pick up the pieces. Furthermore, scholarly studies show that other ICC-approved mergers of giant rail corporations have uniformly failed to live up to industry promises of greater efficiency, resulting instead in the elimination of competition and overinflated prices.

The ICC has also opposed technological innovations in transportation which would benefit American consumers. Southern Railway Co. developed a "Big John" car which could haul grain at rates up to one-third less than those set for conventional boxcars. But in 1961 when Southern filed reduced rates with the ICC, truckers and other railroad companies objected. The ICC refused to allow Southern to cut its prices. Southern finally won its case, but at an incredible cost: "Big John" spent 4 years before the ICC, went to the Federal courts nine times, and reached the Supreme Court twice.

The ICC's attitude about pricing is also hard for outsiders to understand. Late delivery of merchandise plagues manufacturers who have deadlines, complex jobs or high warehousing overhead. When a crucial item fails to appear on time, losses may be substantial. In 1974 the Pacific Intermountain Express Co. offered relief to frustrated merchants: in return for a 10-percent premium charge, PIE would guarantee on-time delivery, or a full refund of all freight charges. The ICC turned down this imaginative scheme on the grounds that Pacific would be "shipping for free." Perish the thought.

Perhaps the most humorous of the ICC's efforts to nip competition in the bud was the infamous yak fat case. A trucker named Leroy Hilt, whose rates the ICC had rejected several times as too low, decided to strike back. In March 1965, he prepared a seven-page tariff schedule for a wholly nonexistent commodity which began:

> **Yak Fat, Omaha to Chicago, 45 cents per one hundred pounds. Effective April 11, 1965.**

The tariff further stipulated 80,000 pounds as the minimum shipment; the fat could be sent in boxes, barrels, pails, tubes, or glass or metal containers. Unbelievably, a Yak Fat Arguing Committee quickly materialized and sprang to the defense of the railroads. Clearly, the committee told the ICC, Hilt's tariff was "noncompensatory." It should cost at least 63 cents to ship yak fat from Omaha to Chicago—therefore the tariff was 18 cents below cost. To the committee, this was outrageous.

The ICC needed no further persuasion. On April 7, 1965, the Commission suspended Hilt's rate, offering him a chance to come to Washington and argue his case, within 30 days. When Hilt declined, the ICC ruled that he had "failed to sustain" his rate, and rejected the application. With a sigh of relief, the Yak Fat Arguing Committee disbanded.

COMMUNICATIONS REGULATION

In a number of areas, the Federal Communications Commission's policies have tended to inhibit the adaptation of useful new technologies which could both cut costs and provide a wider range of services to consumers. The Commission's approach to the complex question of cable and pay television has proved contradictory and overcautious, seemingly designed to protect existing networks from competition.

However appropriate such protectionism might have been in the forties when TV programing first appeared, this attitude seems anachronistic today, considering that in 1974 network profits rose 21 percent and American industries paid $4.5 billion for TV advertisements alone. The networks did some advertising themselves, spending $1 million for anticable and pay-TV ads. They, of course, had every right to do so—I merely cite these figures to show that the FCC need not be so solicitous of such a robust industry.

Despite some recent progress, domestic satellite development has also come slowly, partly due to Commission resistence. Likewise, the FCC has not sufficiently encouraged the many small new communications companies which could offer consumers specialized services at substantial savings. In part, the FCC's policies in these areas seem to stem from an urge to protect another corporation—the world's largest monopoly—which is perfectly capable of fending for itself.

Like our air travel system, our telephone system is the best and most efficient in the world. But the evidence is mounting that it is likewise over-priced in some respects—for example, equipment rental, installation charges, certain rate assessments—because the FCC has traditionally lacked the will or the resources to develop a cogent pricing policy.

A.T. & T. dominates the communications field and enjoys a monopoly on telephone manufacture, service, and even installation, which involves enormous annual revenues. Yet the FCC has proved extremely reluctant to explore the company's rate structure, despite its enormous impact on individual consumers and the economy at large. In the absence of a pricing policy, the Commission has traditionally granted about one-half of each requested rate increase, after a suitable delay. Such basic issues as what constitutes a fair rate of return and what should be included in A.T. & T.'s base rate remain unresolved. Though the problem is admittedly complex, we need a resolution of these issues soon. Because of the magnitude of the sums involved, a few percentage points either way mean millions of consumer dollars saved or spent.

The FCC claims it simply cannot cope with a corporation listing $31 billion worth of assets. This may well be true. But the Commission, with its budget of $31 million, has not sufficiently tried in the past. There are signs of some improvement. The Commission's recent decision to reopen its investigation of A.T. & T.'s controversial high-low pricing policy is encouraging, as are recent steps to remove some of the bureaucratic obstacles to domestic satellite development.

But we need to reassess the FCC's overall purpose and priorities. Smothering the small and ignoring the giants is no way to regulate. When a small TV station in Oregon must file a license application weighing 45 pounds, yet the rate structure of the only true monopoly in American remains unexamined, there is something out of kilter.

OTHER REGULATORY CONCERNS

Many other areas of regulation could easily be trimmed or abandoned altogether. For instance, the Federal presence in agriculture is far too pervasive. Farmers are told how much of what crops to grow and how much they can charge. Over the years, the Government has spent enormous amounts to prevent production, with surplus storage fees and direct payments to farmers. But in the context of today's worldwide food crisis such a policy is morally unacceptable and economically unsound.

Conversely, the Congress may find some areas of the economy underregulated rather than overregulated. For instance, because the ICC, the CAB, and the various bank regulatory agencies have jurisdiction over common carriers, air carriers and banks, respectively, these industries are specifically exempt from the jurisdiction of the Federal Trade Commission. The FTC has a broad mandate to investigate and prohibit unfair methods of competition and deceptive acts or practices. But the ICC, the CAB, the Federal Maritime Commission, and the various bank boards and agencies have neither the statutory mandate, the staff resources, nor the historical inclination to delve deeply into the difficult consumer protection areas the FTC covers. Formed in large part as a response to industry crises, the agencies have over the years rated consumer protection a distant second to industry promotion.

Nor have State regulatory agencies commonly pursued consumer protection complaints with vigor. Thus, for example, in the insurance area, there are charges of misrepresentation and exaggeration of benefits, failure to disclose policy terms and conditions, and inadequate customer grievance machinery. The public utility area is also one which generates considerable complaint, especially concerning high prices and rates.

By raising these points, I do not mean to imply a pattern of abuse in the industries concerned, or an endemic insensitivity to consumer interests on the part of regulatory agencies. Nor do I wish to suggest that enlarging the duties of an already overworked Federal Trade Commission is the way to address these problems. I merely raise these issues as a concern which the Congress should not overlook in the months ahead. As a slogan, "deregulation" packs more rhetorical punch than "reregulation," but as Congress and the President delve more deeply into the problem, we may find that the latter term more accurately describes the task at hand.

CONCLUSION

In sum, for too many of our citizens, big government has come to mean unproductive bureaucracies, cronyism and even corruption. Liberals and conservatives of both parties in recent months have sounded the cry to cut government down to a more manageable and effective size. No part of the Federal bureaucracy is more ripe for such trimming than the regulatory agencies, plagued with duplication, trivia, unresponsiveness, and delay.

But other compelling reasons exist for reforming regulation. Our position as an international leader we owe in good part to the tremendous productive power of the American economy. Yet we have undermined that power by allowing Government regulation to distort the healthy dynamics of a free and open marketplace. Consumers carry the dual burdens of higher taxes and higher prices to support a policy which does them no good. Increasingly they demand that the Government start restoring competition and removing market restraints.

I am not calling for an economic free-for-all. Any new plan Congress adopts will have to take varying market conditions and industry idiosyncracies into account. Some kinds of Government regulation will continue to be necessary; some, as I have suggested, will even need to be intensified. In order to minimize any economic shocks which might result from regulatory change, the bill Senator BYRD and I introduce today deals with five broad areas of the economy one at a time, over a 5-year period.

But while exercising care in deregulating the economy, we must keep sight of the primary objective. Unnecessary Government regulation contributes to inflation, stifles new technology, and jeopardizes America's standing in world markets. Consumers—and voters—are beginning to realize this and urge change. We should heed them, not the few fearful companies which would stand in the way of changes promising to strengthen this Nation's economic underpinning.

The regulatory commissions have languished in obscurity for far too long. As creatures of Congress, they have suffered from our neglect. But because of the increased public exposure the regulation issue has had in recent months, Congress now has two options: We can take advantage of this unprecedented opportunity to shape national economic policy; or we can let the commissions keep fumbling along.

I firmly believe that we cannot afford to permit an opportunity such as this to slip through our fingers. Mr. President, I ask unanimous consent to have printed in the RECORD, a summary analysis of the "Regulatory Reform Act of 1976," together with the text of the bill we are introducing today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

ORDER FOR JOINT REFERRAL

Mr. PERCY. I ask unanimous consent that the bill be referred jointly to the Committee on Government Operations and the Committee on Rules and Administration.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

Mr. PERCY. Mr. President, in conclusion, I should simply like to point out that when we come to looking at the cost of Government regulation to the American public, the estimates range from $60 billion a year up to as high as $130 billion a year, which the executive branch has estimated Government regulation costs the consumer.

The No. 1 priority of the U.S. Chamber of Commerce this year, according to a poll taken at their annual meeting in Washington, is to find some way to cope with Government regulation. At the same time, we have had testimony by Ralph Nader to the effect that Government regulation is one of the greatest enemies the consumer has in America today.

When we can get Ralph Nader and the U.S. Chamber of Commerce on the same side of the fence, I think that the Senator from West Virginia and the Senator from Illinois should be encouraged. We feel that there will be a great deal of support for this legislation.

What this bill does to those of us in the Congress who have been bemoaning Government regulation for years is to put our feet to the fire by providing us with a framework to do something about harmful regulation on a hard, substantial basis.

The mechanism built into this bill is the best that Senator BYRD and I could think of, after a great deal of work. But it will be subject to improvement and modification as a result of ideas that will come to us. We feel that this legislation is a vital step forward.

The only thing I can compare it to is the Budget Reform Act of 1974. As I said in my opening comments, Senator BYRD and I worked closely together on that piece of legislation, which Senators Ervin and MUSKIE, myself, and others in the Government Operations Committee had worked on for several years. The Committee on Rules and Administration, through the meaningful work which Senator BYRD did to perfect that legislation, helped enable the Congress, after years of talking about fiscal responsibility, to finally arrive at a mechanism for making it possible.

So, too, with Government regulation. We are concerned that Congress accept its responsibility in the area of regulatory reform. We feel the Regulatory Act of 1976 could be a monumental piece of legislation, which could inspire all of us to work a good deal harder in this important area in the next 5 years. At the end of that road, I think we will have a government far more responsive to the needs of the consumer and of American business, and a regulatory system of which the executive branch and Congress can be proud.

Mr. ROBERT C. BYRD. Mr. President, how much time remains to the Senator from Illinois (Mr. PERCY)?

The ACTING PRESIDENT pro tempore. The Senator from Illinois has 6 minutes remaining.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may have control of that time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Illinois (Mr. PERCY) for his kind references in connection with the Budget Reform Act, and also in connection with this bill which he and I are jointly introducing today.

Mr. President, I join today our distinguished colleague (Mr. PERCY) in introducing the Regulatory Reform Act of 1976. This bill sets forth a timetable for regulatory reform, with guarantees for action by the Congress and the President which would enable us to deal effectively with this important issue in all its many facets.

Government economic regulation has become an intolerable burden to American business and the American consumer. For businesses, frustrating redtape, piles of paperwork, and interminable delays make Government regulation a chronic headache and a drain on resources; consumers feel the pain in their pocketbooks, when businesses pass additional costs on to them. As a result, regulation has in recent months become for many Americans a symbol of government out of control. As a result, a powerful groundswell for change is building among both business and consumer groups.

But Government regulation still suffers from a case of chronic obscurity. Most Americans have only a vague idea of what the various regulatory commissions and executive agencies really do. Few see any particular reason to care. Until recently, Congress and the executive branch also tended to accord regulatory agencies a priority, or lack of it, commensurate with their profile, which was low. Not surprisingly, the news media made little effort to raise the public's consciousness in this regard, since regulatory squabbles usually lacked drama.

This has not bothered the commissions, by and large. Unlike executive departments, which need to publicize themselves to justify their funding, most regulatory agencies thrive on anonymity. Their considerable discretion over various industries depends not on congressional appropriations, but on their original congressional mandates. Indeed, recent publicity, and the push in Congress for decisionmaking out in the open, has made their discretion harder to exercise: with more people watching, there are more people to please. In the past, many agencies found it easier to work without the public looking over their shoulders.

But this way of doing business has consequences for the kind of decisions they make. A lack of accountability to Congress and to the public has helped foster an overly cozy relationship between many agencies and the industries they regulate. Commissioners often come from the ranks of a regulated industry, and return to it after completing their tenure. Though not necessarily leading to conflicts of interest, this arrangement has a potential for both subtle and not-so-subtle abuses.

Over the years, several agencies have developed a protectionist attitude toward the industries they regulate, and even toward individual companies. Competition and new entries have dwindled in many industries and disappeared entirely in some. Bureaucracy and paperwork have mushroomed, certain technological innovations have been discouraged and even suppressed, and rates and prices continue to rise.

Specific examples of these disturbing trends abound. Despite the energy crisis, the Interstate Commerce Commission apparently considers avoiding competition in the trucking industry more important than conserving fuel. ICC rules force the industry to waste up to 460 million gallons of fuel annually on empty backhauls and circuitous routes, through what the ICC euphemistically terms "gateway cities."

Similarly, CAB policies encourage airlines to fly gas-guzzling jets half-empty, instead of scaling down their sky-high prices and flying at full capacity. Rather than letting airlines compete to offer what the public really wants—safe, low-cost air transportation—CAB policies freeze prices at levels out of reach of many persons. For instance, in 1974 the CAB refused to allow London-based Laker Airways to fly unreserved "no-frills" flights between London and New York for about one-third the current "economy rate." The grounds for their decision: Laker's service would have constituted "unfair competition."

Regulation in other areas needs much improvement. Jurisdictional tangles among the bewildering array of bank regulatory boards and agencies have led to a hodgepodge of conflicting regulations regarding banks, savings and loan institutions, credit unions, and other lending institutions. When one agency yields to industry pressures to loosen regulation, the others tend to follow suit. With more permissive regulation, bank services have expanded and become more complex; the speed with which a bank's financial status can change has increased accordingly. But supervisory procedures have not adapted to these new conditions, and today our system of bank regulation is obsolete.

Agencies which are literally tripping over one another cannot develop consistent policy or provide the centralized early-warning capability we need to spot problem areas before they get out of hand. The recent failures of three national banks underline the need to deal swiftly with this problem.

I have touched on just two of the areas in need of reform. There are many others that could be selected. The development of a cogent and coordinated energy policy, for instance, may require change in the various commissions and administrations presently charged with regulating energy and environmental matters. In any case, the policies of the FEA, FPC, EPA, and NRC and others should be subjected to the same kind of critical scrutiny needed by the ICC and CAB. Likewise, studies should be made as to how the policies of the Federal Maritime Commission fit into and affect a national transportation policy. Nor should the important areas of food and drug regulation presently covered by the FDA and certain departments within the Department of Agriculture be ignored.

In short, it is my firm belief that the Congress should re-evaluate the policies of all the executive agencies and independent commissions with important regulatory responsibilities. The hidden economic effects of regulation are much too important to be ignored any longer—we can no longer afford to assume that the benefits of all regulation outweigh its monumental costs.

Clearly, the time has come for Congress to bring the practices of this long-neglected fourth branch of Government into conformity with our national goals and priorities. Our economy stands in need of a clear-headed, even-handed regulatory policy, which will seek to minimize needless paperwork, costly delays, and inflationary consumer prices. The bill we introduce today reflects a great deal of thought as to devising a means for assuring an active dialogue and debate on these and related issues. I personally believe that, after hearings and refinement within the Committee on Government Operations and the Committee on Rules and Administration, we will have molded for ourselves a discipline through which meaningful reform will be assured over the next 5 years. The importance of such a discipline—as we have already seen in the implementation of last year's landmark Budget Reform Act—cannot be overstated. I anticipate that the discipline for regulatory reform outlined in this important measure will lead to similar acceptance and accomplishment.

EXHIBIT 1

S. 2812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Reform Act of 1976".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that government economic regulation all too often has become a burden rather than a benefit to American businesses, to American consumers, and to the American economy as a whole.

(1) Regulatory agencies have fueled inflation by approving fare, price, and rate increases not commensurate with the public interest, frequently without due consideration of the relative costs and benefits involved in such decisions.

(2) Regulatory agencies have, by their actions, barred competition in certain industries, thereby contributing to monopolistic and cartel-like market patterns contrary to the public interest. Such regulatory policies harm both industry and consumers by denying small businesses the chance to compete for a fair share of the market and by

depriving consumers of the lower prices and diversity of services that greater competition would present.

(3) Too often, regulatory agencies have squandered their limited resources by focusing on trivial aspects of regulation while neglecting critical economic issues. By failing to set clear priorities or to articulate cogent policies, certain agencies have fostered a pattern of bureaucratic stagnation and waste, and consequent public frustration and confusion.

(4) The outmoded and inefficient case-by-case adjudicatory approach of most regulatory agencies has burdened business with excessive paperwork and unreasonable delays, impaired the ability of many industries to adapt to changing market conditions and beneficial new technology, and contributed to price rises, inefficiencies, and misallocations of resources.

(5) By consistently failed to take consumer and small business interests adequately into account and by arbitrarily limiting the operation of the free enterprise system, regulatory agencies have poorly served the public interest in disregard of their Congressional mandates.

(b) It is the purpose of this Act to require over a period of five years the President to submit at least once in each year, and to require the Congress to act upon, a plan designed to eliminate unnecessary or harmful regulation because such regulation has led to inflationary consumer prices, a reduction of competition in the providing of important goods and services, and other economic inefficiencies which distort and disrupt the operation of a free enterprise system without correspondingly benefiting the health, safety, or economic welfare of the Nation.

(c) Each such plan shall establish without designated areas more efficient organizational and administrative forms for the regulation of commerce; the encouragement, development, and enunciation of broad policy guidelines; and a lessening of repetitious, costly, and inefficient case-by-case decisionmaking. Each such plan shall attempt to increase regulatory agency accountability and responsiveness to the public interest.

(d) Each plan shall include such provisions as are appropriate to merge, modify, or abolish existing agencies and functions so as to eliminate overlapping regulatory jurisdictions, conflicting mandates, and anticompetitive and duplicative regulations.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "agency" has the same meaning as provided in section 552(e) of title 5, United States Code; and

(2) "rule" has the same meaning as provided in section 551(4) of title 5, United States Code and includes any rulemaking, adjudication, agency proceedings, or agency action, as defined in paragraphs (5), (7), (12), and (13) respectively, of section 551 of title 5, United States Code, except any rule which has as its principal purpose or effect the preservation or enforcement of (A) the public safety, (B) free and unregulated economic competition, or (C) consumer interests.

AGENCY REORGANIZATION PLANS

SEC. 4. (a) Not later than the last day of March in each of the years referred to in paragraphs (1) through (5) of this subsection, the President shall submit a plan containing the information required to be included under subsection (c) with respect to the following area:

(1) Regulation of banking and finance by the Federal Government, by the last day of March 1977, for the following agencies:

(A) the Office of the Comptroller of the Currency of the Department of the Treasury;

(B) Federal Deposit Insurance Corporation;

(C) Federal Home Loan Bank Board;

(D) Board of Governors of the Federal Reserve System;

(E) National Credit Union Administration;

(F) Federal Savings and Loan Insurance Corporation;

(G) International Trade Commission;

(H) Commodity Futures Trading Commission;

(I) Farm Credit Administration; and

(J) Securities and Exchange Commission.

(2) Regulation of energy and environmental matters by the Federal Government by the last day of March 1978, for the following agencies:

(A) Environmental Protection Administration;

(B) Federal Energy Administration;

(C) Federal Power Commission;

(D) Nuclear Regulatory Commission; and

(E) the relevant regulatory functions of the Department of the Interior agencies.

(3) Regulation of commerce, transportation, and communications by the Federal Government by the last day of March 1979, for the following agencies:

(A) Civil Aeronautics Board;

(B) Interstate Commerce Commission;

(C) Federal Maritime Commission;

(D) the relevant regulatory functions of the Department of Transportation; and

(E) Federal Communications Commission.

(4) Regulation of food, health and safety and unfair or deceptive trade practices by the Federal Government by the last day of March 1980, for the following agencies:

(A) Consumer Product Safety Commission;

(B) Federal Aviation Administration, Department of Transportation;

(C) Federal Trade Commission;

(D) Food and Drug Administration, Department of Health, Education, and Welfare;

(E) National Transportation Safety Board;

(F) Occupational Safety and Health Administration, Department of Labor;

(G) the relevant regulatory functions of the Department of Agriculture; and

(H) National Highway Traffic Safety Administration, Department of Transportation.

(5) Regulation of labor, housing, government procurement, and small businesses by the Federal Government by the last day of March 1981, for the following agencies:

(A) the National Labor Relations Board;

(B) Federal Mediation Board;

(C) Equal Employment Opportunity Commission;

(D) Federal Housing Administration, Department of Housing and Urban Development;

(E) General Services Administration; and

(F) Small Business Administration.

(b) Each plan submitted under subsection (a) shall include provisions relating to such other agencies as the President elects to include, or the Speaker of the House of Representatives and the President pro tempore of the Senate may require. Notice of any additional agency to be included in such plan shall be sent to the President not later than the last day of September of the year immediately preceding the year in which such plan is required to be submitted.

(c) A plan submitted by the President pursuant to subsection (a) shall contain the following information with respect to agencies which are included in any such plan pursuant to paragraphs (1) through (5) of subsection (a)—

(1) recommendations for the transfer, consolidation, codification, or elimination of functions;

(2) recommendations for organizational, structural and procedural reforms;

(3) recommendations for the merger, modification, establishment or abolition of Federal regulations or agencies;

(4) recommendations for eliminating or phasing out outdated, overlapping or conflicting regulatory jurisdictions or requirements of general applicability; and

(5) recommendations for increasing economic competition.

(d) If by the last day of March in each of the years 1977, 1978, 1979, 1980, and 1981, the President—

(1) has failed to submit the appropriate plan as required by paragraphs (1) through (5) of subsection (a); or

(2) has submitted a plan which fails to provide such information as is required by subsection (c) of this section, the committees of Congress having primary legislative jurisdiction or oversight responsibilities with respect to any such areas, with the respective Committee on Government Operations of the House or the Senate, shall prepare such plan(s) which shall become the pending business in the House of Representatives and the Senate not later than the 15th day of September of that year. Such plan(s) shall be jointly reported if agreement between and among such Committees can be made with respect to such plan(s) but otherwise shall be separately reported.

CONGRESSIONAL REVIEW

SEC. 5. (a) The President shall submit each plan required under section 4 to the Congress and separately transmit such plan to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(b) Each plan submitted under sections 4(d) or 5(a) shall be referred jointly—

(1) to the Committee on Government Operations of the House of Representatives and the appropriate committee or committees of the House of Representatives having legislative jurisdiction or oversight responsibilities with respect to the subject matter of such plan; and

(2) to the Committee on Government Operations of the Senate and the appropriate committee or committees of the Senate having legislative jurisdiction or oversight responsibilities with respect to the subject matter of such plan.

(c) The committees to which a plan is referred under this section shall review such plan and report a bill approving or disapproving such plan in whole or in part, with such amendments as are deemed appropriate. Such reports shall be joint reports if agreement between or among such committees can be made with respect to any such plan(s), but otherwise shall be separate reports. The reported bill shall become the pending business in the House of Representatives and the Senate not later than the 15th day of September of that year.

(d) If no comprehensive regulatory reform legislation in a designated area as described in Sec. 4(a) and which conforms to criteria set forth in section 4(c), is enacted by December 31 of the year in which a comprehensive plan has been submitted by the President, the President's plan as originally submitted shall become effective as of March 15 of the following year, unless either House of Congress specifically disapproves the President's plan.

SUSPENSION AND TERMINATION

SEC. 6. (a) In the event that no comprehensive regulatory reform legislation has been enacted with respect to a designated area described in section 4(a), all rules of any agency described in each plan submitted under this Act shall be of no force or effect after the last day of June in the calendar year next following the calendar year in which such plan is required to be submitted, unless other appropriate provision for the revocation, suspension, or modification, in whole or in part, of such rules is made by the Congress.

(b) Within nine months after the date of enactment of this Act, the President shall, upon comprehensive review of the anticipated application and effect of this section, transmit to the Congress a detailed listing of the agency rules of general and specific applicability which would be rendered of no further force or effect in the event that no comprehensive regulatory reform legislation is enacted with respect to a designated area described in section 4(a).

Exhibit 2

SUMMARY ANALYSIS OF REGULATION REFORM ACT OF 1976

FINDINGS AND PURPOSE

SEC. 2 identifies the major failings of the present regulatory system, namely that all too often regulatory agencies have done injury to American businesses and consumers, and impaired the healthy functioning of the American economy as a whole by setting inflationary rates and prices; barring competition in certain industries, thereby contributing to cartel-like market patterns contrary to the public interest; focusing on trivial aspects of regulation while neglecting critical economic issues; failing to set clear priorities or articulate cogent policies; burdening business with excessive paperwork and unreasonable delays; impairing the ability of many industries to adapt to changing market conditions and beneficial new technology; and consistently failing to take consumer and small business interests adequately into account, in disregard of Congressional mandates.

SEC. 2 and SEC. 4(c) of the bill require the President to submit yearly plans which would include recommendations for eliminating unnecessary or harmful regulation, for increasing competition, and for procedural, organizational, and structural reforms, including the merger, modification, establishment or abolition of Federal regulations, functions and agencies.

TIMETABLE FOR REFORM

SEC. 4 of the Act provides that the President shall submit to Congress his plans for reforming government regulation in five areas, according to the following timetable:

(i) by March 31, 1977—a plan for the regulation of banking and finance. The following agencies would be affected (as listed in Sec. 4):

The Office of the Comptroller of the Currency of the Department of the Treasury;
Federal Deposit Insurance Corporation;
Federal Home Loan Bank Board;
Board of Governors of the Federal Reserve System;
National Credit Union Administration;
Federal Savings and Loan Insurance Corporation;
International Trade Commission;
Commodity Futures Trading Commission;
Securities and Exchange Commission; and
Farm Credit Administration.

(ii) March 31, 1978—a plan for the regulation of energy and the environment. Affected agencies:

Environmental Protection Administration;
Federal Energy Administration;
Federal Power Commission;
Nuclear Regulatory Commission; and
The relevant regulatory functions of the Department of the Interior agencies.

(iii) by March 31, 1979—a plan for the regulation of commerce, transportation and communications. Affected agencies:

Civil Aeronautics Board;
Interstate Commerce Commission;
Federal Maritime Commission;
The relevant regulatory functions of the Department of Transportation; and
Federal Communications Commission.

(iv) by March 31, 1980—a plan for the regulation of food, health and safety, and unfair and deceptive trade practices. Affected agencies:

Consumer Product Safety Commission;
Federal Aviation Administration, Department of Transportation;
Federal Trade Commission;
Food and Drug Administration, Department of Health, Education, and Welfare;
National Transportation Safety Board;
Occupational Safety and Health Administration, Department of Labor;
The relevant regulatory functions of the Department of Agriculture; and
National Highway Traffic Safety Administration, Department of Transportation.

(v) by March 31, 1981—a plan for the regulation of labor-management relations, housing, government procurement and small business. Affected agencies:

The National Labor Relations Board;
Federal Mediation Board;
Equal Employment Opportunity Commission;
Federal Housing Administration, Department of Housing and Urban Development;
General Services Administration; and
Small Business Administration.

ACTION-FORCING PROCEDURES

SEC. 5(b) provides that the President's proposal would be referred to the committees with appropriate subject matter or oversight jurisdiction, as well as the respective Government Operations Committees of the House and Senate. The committees would report in the form of a bill the President's plan, with or without amendments, to become the pending business of both Houses no later than September 15 of that year (Sec. 5(c)). Should the President fail to submit a plan by March 15, the committees would commence work on a plan of their own, which would likewise reach the floor of both Houses by September 15 (Sec 4(c)(2)).

SEC. 6 provides that unless Congress enacts a regulatory plan by December 31, the President's original plan would become law, unless either House adopted a resolution disapproving the President's plan. In that case, the Congress would have until the end of the following June to adopt a plan satisfying the guidelines set forth in Section 4(c); if by June 30 Congress has still not enacted a regulatory reform bill, all benefits conferred by the agencies in the enumerated areas would be terminated, and be of no further force or effect.

The bill places a heavy burden on Congress. But it is felt that the issue of regulatory reform deserves this kind of priority and timely attention. The action-forcing mechanism places responsibility for action squarely on the Congress as a whole. Without such a provision, the momentum generated in the last year by Presidential and Congressional initiatives might be dissipated in a matter of months, leaving much of the problem untouched, and even unrevealed. The sheer complexity of government regulation will tend to blunt the thrust for reform, and tenacious interest groups, including affected agencies and industries, can be expected to actively resist any serious challenge to the status quo. This measure would constitute an effective countervailing force against this tendency by setting a clear and workable agenda for the Congress in resolving a problem of profound economic importance.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for not to exceed 15 minutes.

Mr. TAFT. Mr. President, first of all, I commend our distinguished colleagues from Illinois and from West Virginia on the legislation which they have introduced. I have not had a chance to study it in detail. I have had a bill dealing with this subject pending for some time. I certainly concur strongly with them in the great necessity and tremendous priority that ought to be given to this legislative effort.

I cannot think of anything more important for us to accomplish and accomplish at an early date. I think it would do much to restore the confidence of the people in the process of government.

When the hearings are held, I hope to have an opportunity to appear there myself and express my views on this subject.

SENATE CONCURRENT RESOLUTION 80—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PRICE OF GOLD RELEASED BY THE INTERNATIONAL MONETARY FUND

(Ordered placed on the calendar.)

Mr. TAFT. Mr. President, on behalf of the distinguished Senator from Connecticut (Mr. RIBICOFF) and myself, I send a concurrent resolution to the desk and ask the clerk to read it.

The ACTING PRESIDENT pro tempore. The resolution will be read.

The assistant legislative clerk read as follows:

Whereas the Interim Committee of the International Monetary Fund (IMF), which has been charged with negotiating outstanding issues of monetary reform, has announced that it has reached substantial agreement on future arrangements regarding the role of gold in the IMF; and

Whereas these arrangements would tie together a reduction in the role of gold in the world monetary system (to be brought about by the disposition of one-third of the gold held by the IMF) and an increase in the amount of financial assistance provided by the developed nations to the developing nations (to be brought about by restitution of only one-half of the released gold to the member nations at the official price, while selling the remainder at market prices and transferring the profits to a trust fund for the benefit of developing nations); and

Whereas the report of the Subcommittee on International Economics of the Joint Economic Committee of the Congress of the United States entitled "The Proposed IMF Agreement on Gold" contains a proposal to sell all of the released gold at market prices and to transfer all of the profits from said sale to said trust fund; and

Whereas the gold deposited with the IMF has been deposited by the United States and other member nations of the IMF in proportion to their cumulative subscriptions to the IMF; and

Whereas members' subscriptions to the IMF have been based on members' quotas in the IMF, which quotas have been changing over time; and

Whereas the next meeting of the Interim Committee is scheduled for January, 1976: Now, therefore be it resolved by the Senate (the House of Representatives concurring),

That it is the sense of the Congress that the question of the proper role of gold in the International Monetary System and the question of the level of aid to be given by the United States and other developed nations to the developing nations are and ought to be separate and distinct questions; and

That it is not the function of the IMF to act as a development agency; and

That, in view of the variety of relationships between the United States and the several developing nations, both in international organizations and in bilateral dealings, the United States should determine its policies relating to foreign aid through the legislative process, and should provide aid only after Congressional study and debate, and at such levels as Congress shall determine; and therefore,

That it shall be the position of the United States that all gold released by the IMF should be restituted at the official price to the member nations of the IMF, and furthermore,

That such restitution should be in proportion to the cumulative subscriptions of the member nations, rather than their current quotas.

Mr. TAFT. Mr. President, I ask unanimous consent that the concurrent resolution be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TAFT. Mr. President, our distinguished colleague, Senator Ribicoff, and I are introducing a concurrent resolution which expresses our reactions to a series of ongoing negotiations among the members of the International Monetary Fund, and to a report of the Subcommittee on International Economics of the Joint Economic Committee.

For several months, the Interim Committee of the IMF has been negotiating agreements which would lead to the reduction of the gold holdings of the IMF.

It has been the position of the United States, for a number of years, that nations have not been willing to take the needed steps to make a system of fixed exchange rates function properly, and, therefore, that a system of floating exchange rates, not linked to gold, is the system that ought to be adopted. To insure the adoption of such a system, the administration and several committees of the Congress have encouraged the IMF to reduce the importance of gold in the international monetary system.

Now, however, we have had a chance to see what a strange twist has been given to this advice. Instead of a straightforward restitution of gold at the official price to the member nations of the Fund, there has been proposed a complex agreement involving the disposition of one-third of the Fund's gold, linked to a large increase in multilateral aid to the developing nations.

Indeed, after hearings on this matter, the Subcommittee on International Economics of the Joint Economic Committee on which Senator Ribicoff and I serve has recommended, in a report entitled "the proposed IMF agreement on gold," that we go even further than the IMF suggests in the direction of multilateral aid.

I expressed dissenting views in that report, and Senator Ribicoff has concurred in those views.

Recommendation No. 5 of the report states that all of the contemplated divestiture of one-third of the fund's gold should be by means of sale at market prices, and that all profits from that sale should be turned over to a trust fund for the benefit of Third-World nations. This is precisely twice as bad as the already unacceptable IMF proposal, which would at least set aside one-sixth of the IMF gold for restitution at the official price to member nations, who deposited the gold at the IMF in the first place. Another one-sixth would be sold at market prices to fill the trust fund.

I see no reason to confuse the two distinct questions, "What should be the role of gold in the international monetary system?" and "How much foreign aid should we give over the next few years?" The gold belongs to the member states which deposited it in proportion to their subscriptions to the Fund, and it should be restored to the member nations in proportion to their subscriptions.

The IMF is not designed to be a relief agency, nor a development agency. If the nations owning stock in the International Bank for Reconstruction and Development wish to increase their subscriptions, or to increase their bilateral aid, or their donations to the U.N., out of profits from the sale of their shares of IMF gold or out of any other funds, then well and good. However, such a decision should be taken openly, by each nation, unencumbered by an artificial link between the question of aid and the role of gold international payments.

One good reason for stressing openness on this particular aid package is a little technicality which, unfortunately, has received little publicity. The members of the IMF have paid into the Fund certain subscriptions, over time, consisting of payments that were one-fourth in gold and three-fourths in currency. These payments were made under the quotas, that is, the percentage shares in the Fund's total holdings which were assigned to the members. These shares have been changing over time. The cumulative payments made by a nation cannot now be determined by applying the nation's current quota to the current absolute size of the Fund. Instead, the record of actual past payments, under the historical quotas, must be examined. There is a chance, which we should attempt to eliminate, that restitution of gold to the member nations will be done in proportion to current quotas. This will penalize nations, such as the United States, whose current shares in the Fund are lower than formerly. Restitution should be in proportion to the member's cumulative subscriptions.

This resolution is especially important for the United States at this time, in view of the increasingly disturbing trends we see developing in our relations with certain Third World nations, whether in international organizations or on a bilateral basis. As illustration of these difficulties, I ask unanimous consent to have an article from the Washington Post of December 14, which presents the views of our distinguished, and I may say, distinctive, Ambassador to the United Nations, Mr. Moynihan, printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Moynihan Blasts U.N. "Lies"

United Nations, December 12.—Daniel Patrick Moynihan, the controversial U.S. ambassador at the United Nations, has capped a week of controversial statements by dismissing the General Assembly as "a theater of the absurd."

He made the comment late last night in a debate on the annual report of the U.N. Special Committee on Colonialism, which accuses NATO of supplying arms to Rhodesia and South Africa and says that the United States threatens the sovereignty of Latin American nations with its bases in the Virgin Islands.

Moynihan dismissed the accusations as "lies, lies," but the General Assembly approved the report by 108 to 3. "I begin to feel," said Moynihan, that the "increasing contempt in the world" for the United Nations "is increasingly deserved."

"We pretend seriousness to an audience that realizes all is pretense," the ambassador said, noting, "The United Nations has gotten to the point where responsible and truthful representatives are prepared to accept a report of concern to all of us which is riddled with untruth."

He said the United States would no longer find it acceptable for U.N. member-states to say privately that they had voted for such reports without having read them or that their names had appeared as co-sponsors to measures without their knowledge or permission. "That game is over," said Moynihan.

Ambassador Salim of Tanzania, chairman of the Special Committee that write the report rose to rebut Moynihan, only to find that the American ambassador had left the assembly chamber.

Salim took offense, accusing Moynihan of "hit and run tactics." The Tanzanian noted that "when you try to find consensus on a resolution you make a number of concessions."

Salim called Moynihan "a new man in the United Nations . . . I hope and trust that his statement was . . . made out of ignorance of the methods." The Tanzanian said Moynihan had engaged in name-calling, "as usual."

Late last night, sipping Pernod at the U.N. bar, Moynihan was asked by a group of reporters whom he had summoned whether all this was counterproductive.

"If it is counterproductive to stand up in the assembly and protest an assembly resolution that tells lies, so be it" he said. "They came to us and said, "If you object to the language, it will be made worse," and sure enough they kept their threat. Does anyone believe that, if we gave in to the threat, it would not be made again and again and again."

The decolonization report claimed the U.S. installations in the Virgin Islands "are a threat in the sovereignty, independence and territorial integrity" of the nations of Latin America.

Moynihan listed the U.S. installations in the Virgin Islands: "A three-man Coast Guard navigational light station, weapons system—one shot gun. A Coast Guard administrative office, three men at full strength, weapons system—one pistol. An 82-foot search and rescue vessel manned by eight Coast Guardsmen, special weaponry—one line-throwing device.

"Wishing in no way to disparage the determination and valor of the men of the U.S. Coast Guard, I must nevertheless admit that I am unable to grasp fully the nature of the threat they pose.

"Of course, one Caribbean country has so many troops now in Africa. It may have denuded itself as to feel intimidated," said Moynihan in a reference to Cuban forces in Angola.

Despite Moynihan's effort, only Israel and Nicaragua voted with Washington against the resolution. While 16 Caribbean and European nations abstained, American friends such as Australia, Austria, Canada, Denmark, Iceland, Italy, Japan, New Zealand, and Norway voted for the resolution.

Moynihan's most successful action of the week came on Angola. He charged in an earlier assembly speech that the Soviet Union was attempting to colonize the former Portuguese colony, and warned that "the Soviet-sponsored invasion of Angola is not an isolated event. The recolonization of Africa has begun at the hands of the Soviet empire."

Some pro-Soviet Africans had tried to sneak through the assembly a statement blaming South Africa alone for intervention in Angola. When the United States supported an amendment condemning all intervention, the Africans dropped the issue completely sweeping Angola under the rug.

Soviet Ambassador Yakov Malik accused Moynihan of being a liar, an object of ridicule and—the most potent curse in the Moscow arsenal, reserved heretofore for the Chinese alone—being "anti-Soviet."

Mr. TAFT. If this country is subject to such abuse, the very least the Congress can do is to insure that policies relating to foreign aid by the United States be determined through the legislative process, after congressional study and debate, and that aid be given at such levels, and in such manner, as the Congress shall determine.

As if to emphasize the need for openness, an article has appeared in the Washington Post of yesterday, Wednesday, December 17, in which Under Secretary of the Treasury, Edwin H. Yeo III, confirmed that the question of restitution and of circumventing IMF rules which prohibit IMF sales of gold at market prices will be settled this weekend at a Group of Ten meeting, so that this scheme will not even have to wait for amendments to the IMF charter at the IMF meeting in January in Jamaica. This is unseemly haste, to say the least, and illustrates the improper procedures which have been followed throughout these negotiations. It also demonstrates the need for the Congress to act quickly on this resolution.

I ask unanimous consent that this article, too, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOLD PLAN CRITICIZED BY REUSS

(By Hobart Rowen)

American acquiescence in an agreement which would allow the International Monetary Fund to sell back one-sixth of its gold to the countries that originally deposited it was sharply criticized by the chairman by a Joint Congressional subcommittee yesterday.

This agreement, reached on August 31, 1975 by the IMF's Interim Committee also provided for one-sixth of the gold to be sold in the market, with the profits to be used for developing countries.

Under Secretary of the Treasury Edwin H. Yeo III told The Washington Post that other nations would not yield on their insistence for some "restitution" of gold.

"We think that the gold deal is a good deal, and goes a long way to confirm our objective of moving gold out of the center of the monetary system," Yeo said.

He also confirmed a story in last Saturday's Washington Post that the Group of Ten has agreed on a maneuver to bypass a legal restriction that would bar the sale of IMF gold above official prices before actual amendment of the IMF articles.

The gold sales would be part of an over-all deal which abolishes the official $42.22 an ounce gold price, and ends the use of gold in transactions with the Fund.

But Henry S. Reuss (D.-Wisc.) and chairman of the Joint Senate-House Subcommittee on International Economics argued that whatever gold is sold by the IMF should be used for the benefit of the poor countries.

Reuss charged that the "restitution" of gold at the official price to wealthy countries would give them a windfall profit "and accentuate rather than diminish the monetary role of gold."

Sens. Abraham Ribicoff (D-Conn.) and Robert Taft (R-Ohio) and Rep. John H. Rousselot (D-Calif.) dissented from Reuss' view on restitution on grounds that the role of gold should be kept distinct from the problem of development aid.

Reuss also questioned the French-American compromise reached at Rambouillet on the question of floating vs. fixed exchange rates, citing the Rambouillet declaration of intent to "work for greater stability" in exchange rates by countering "disorderly market conditions or erratic fluctuations."

He said, "Agreement between the United States and France on outstanding issues of international monetary reform is certainly a desirable objective and one worth working for.

"But we should not seek agreement at all costs, and should be aware of what we are giving up as the price of compromise. To reach the gold agreement, we gave way on restitution, an important principle that should not have been forsaken.

"With reference to the Rambouillet understanding, 'erratic' fluctuations in exchange rates remain to be defined. What kind of fluctuations reflect changes in basic economic conditions and what do not? I hope these issues will be clarified and resolved satisfactorily next month in Jamaica."

The IMF Interim Committee will meet January 7 and 8 to put the final touches on both the gold and exchange rate deals as part of a wrapup of monetary reform rules that will later be submitted to the IMF nations for legislative approval.

Mr. TAFT. In all questions of this type, it behooves us to follow proper channels, and to provide time for full disclosure of all proposals which affect the prerogatives of the Congress. This matter should not be rushed into over the weekend; rather, especially on a matter of funding, the Congress should be allowed to play its constitutional role.

Mr. President, I yield to the distinguished Senator from Connecticut (Mr. RIBICOFF).

Mr. RIBICOFF. Mr. President, it is with a sense of urgency that I join with my distinguished colleague, Senator ROBERT TAFT, JR., in offering this concurrent resolution to the Senate.

On August 31, 1975, the Interim Committee of the International Monetary Fund, IMF, announced it had reached substantial agreement on a plan to begin the process of phasing gold out of the international monetary system. Further discussions on this matter will be held again in January in Jamaica.

One aspect of the committee's agreement—a complex arrangement for disposing of one-third of the IMF gold stock—deeply disturbs me. The purpose of this resolution is to place Congress on record as opposing the IMF disposal scheme while at the same time offering a more equitable solution for the nations who gave IMF the gold as part of their subscription.

One-sixth of the IMF gold holdings would be returned proportionately to nations who originally gave this international financial institution the gold in return for currency.

I have no quarrel with this concept. It is proper that nations get back at the same rate what gold they gave IMF. Then, these nations can determine whether to keep the gold or sell it at a profit.

I do oppose the IMF's intentions for disposing of the other one-sixth of the gold stock. This part of the agreement calls for the sale of the gold on the open market with profits placed in a trust fund to benefit developing nations, or Third World countries as they commonly are called today.

Profits from the same of such gold would be substantial. While its official price is about $42 per ounce, gold sold on the open market would bring much more than $100 an ounce.

Estimates alone are that the U.S. share of the sale of this one-sixth of the gold stock would bring in at least $500 million in profit. Therefore, in effect, Uncle Sam is giving up a half billion dollars in potential profits and funneling it to Third World nations as back-door financial aid.

To emphasize the impact of such a large amount of aid going to these nations, I would like to point out that we only spent an estimated $881.4 million under our entire foreign economic assistance package in fiscal year 1975.

I do not quarrel with helping developing countries. I believe that my voting record proves this point. The developed countries of the world should help the more needy nations. This is not in question.

What I do challenge is the lack of control that we will have over the distribution of such a large amount of money to nations where our dealings have become very complicated and sensitive. Who will decide what nations are the neediest and most deserving of this financial assistance? Not the United States, but faceless IMF bureaucrats—many with little allegiance or interest in the policies and interests of our country.

The proper forum for determining the best interests of this Nation and the policies that will best serve it is the U.S. Congress. Levels of foreign assistance to other countries should be decided through the legislative process after careful study and debate.

It is not the function of IMF to act as a development agency, but to monitor the international monetary system. Subsequently, Congress should make it clear to IMF that financial assistance to developing nations is a question that should not be linked to determining the role of gold in the international monetary system.

The proper position then for IMF is to restitute to its rightful owners all gold it intends to release at the official price. Final disposition of such gold rests with these nations.

I thank the Chair and the Senator from Ohio for yielding.

Mr. TAFT. Mr. President, I yield the floor.

RADIO-TELEVISION VANDALISM

Mr. ROBERT C. BYRD. Mr. President, the willful or malicious destruction of radio and television facilities—especially the often-unmanned and isolated transmitters—has become an increasing problem for the broadcast media in the United States.

The potential damage, not only to the facilities themselves, but also to the public's right to receive uninterrupted transmissions from these facilities, is an area which has not previously been protected by the Federal criminal law.

The bill which I am introducing today would amend section 1362 of title 18 of the United States Code to make it a Federal crime to willfully or maliciously injure or destroy any of the works, property, or material of any radio or television facility. The bill would also make it a Federal crime to willfully or maliciously interfere in any way with the working or use of such facilities—including the obstruction, hindrance, or delay of any transmission from such facility.

Upon conviction, violations of this section would be punishable by a fine of not more than $10,000 or imprisonment for not more than 10 years, or both.

The scope of this legislation, prohibiting the destruction of property of those licensed by the Federal Communications Commission, is clearly within the constitutional authority of Congress and comparable to other Federal statutes based upon the commerce clause of the Constitution.

The Constitution authorizes Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." U.S. Constitution article I, section 8, clause 18. Included among these powers is the congressional power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." U.S. Constitution, article I, section 8, clause 3. Congress has exercised its constitutional authority to regulate interstate and foreign commerce by enacting legislation to license and regulate wire and radio communications through the Federal Communications Commission, 47 U.S.C. 151.

Congress has also utilized this authority to enact criminal legislation prohibiting conduct which utilizes, or adversely affects interstate commerce or those who engage in interstate commerce; for example, 18 U.S.C. 2312—interstate transportation of a stolen motor vehicle—18 U.S.C. 1951—interference with interstate commerce by threats or violence—18 U.S.C. 32, 33—destruction of aircraft or aircraft facilities, or of motor vehicles or motor vehicle facilities used in interstate commerce. It has also enacted criminal legislation to protect those licensed by the FCC from certain types of misconduct, 47 U.S.C. 506—coercive practices affecting broadcasting.

In discussing the scope of congressional legislative authority under the commerce clause, the Supreme Court has noted:

> The Commerce Clause reaches in the main three categories of problems. First, the use of channels of interstate or foreign commerce which Congress deems are being misused, as, for example, the shipment of stolen goods (18 U.S.C. §§ 2312–2315) or of persons who have been kidnapped (18 U.S.C. § 1201). Second, protection of the instrumentalities of interstate commerce, as, for example, the destruction of an aircraft (18 U.S.C. § 32), persons or things in commerce, as, for example, thefts from interstate shipments (18 U.S.C. § 659). Third, those activities affecting commerce. *Perez* v. *United States,* 402 U.S. 146, 150 (1971).

Since, "by its very nature broadcasting transcends State lines and is national in its scope and importance—characteristics which bring it within the purpose and protection, and subject it to the control of the commerce clause," *Fisher's Blend Station* v. *Tax Commission,* (297 U.S. 650, 655 (1936)), there is no doubt that this legislation is within the scope of the congressional power to expand Federal criminal jurisdiction into this area.

Mr. President, I send the bill to the desk and ask unanimous consent that it be printed in the RECORD, and I ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and without objection, the bill will be printed in the RECORD.

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 1362 of title 18, United States Code, is amended to read as follows:

"Whoever willfully or maliciously injures or destroys any of the works, property, or material of any radio, television, telegraph, telephone or cable, line, station, or system, or other means of communications, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, or of any commercial or public television or radio broadcasting station licensed by the United States, whether constructed or in the process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or system, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.".

RUSSIA AND THE AMERICAN COMPUTER

Mr. ROBERT C. BYRD. Mr. President, détente and the fruits of détente have again been in the headlines in recent weeks. The mild reception which President Ford received in China has been attributed primarily to apprehensions concerning anti-Chinese activities by the Soviet Union, that might occur under an umbrella of Russian-American détente. Likewise, the Soviet Union has become deeply involved in the civil war in Angola—in violation of the Helsinki agreements and the Nixon-Brezhnev understanding that both the United States and the Soviet Union would avoid actions that would enhance "unilateral advantage" and increase international tensions. Moreover, questions have been raised by several responsible parties with regard to Soviet compliance in the matter of arms limitations agreements. These incidents remind us that relations between the United States and the Soviet Union are still complex and sensitive.

The policy of détente transcends the areas of international politics and military relaxation. Since the era of détente began in 1972 with the first Nixon-Brezhnev meeting, science, technology, and trade have likewise been viewed as possible vehicles for détente.

Détente as an instrument for easing tensions and for preserving peace between great powers with radically different political and economic systems and often contrary international goals is a policy which has merit. Cooperative agreements in science and technology, when they yield benefits for the United States without incurring risks to our national interests, can be fruitful if obtained on a quid pro quo basis.

However, I fear that an enthusiasm for any policy that promises to ease tensions between the United States and the Soviet Union may have affected the critical judgment of some. Many people are prone to lapse into the fantasy that the Soviet Union has discarded its interests in furthering Marxist imperialism and joined the family of Western parliamentary democracies. In this spirit, many people fail to question the effects that specific contact with the Soviet Union may produce. For the sake of a momentary atmospheric calm in the present, they would risk permanent harm to our own national security interests in the future.

A case in point is the matter of the commerce in computer technology. We know—and the Soviet Union knows—that the United States has unquestioned superiority in computer technology. This is an area in which the Soviet Union has been notably weak. From the defense standpoint, the edge in military potential which the United States has enjoyed is due, in large part, to the application of computer technology. The margin of our advantage rests not in quantity but in quality. We have enhanced our military technology edge through the computer. Thus, for example, we have quieter submarines and more accurate missiles than the Soviet do.

The Soviets can produce computers, to be sure, but they lack the technology necessary to manufacture them en masse. This we have in abundance, also.

American intelligence experts report that the Soviets have been acquiring computers, scientific instruments, and advanced equipment which can be applied to military technology. The major channel through which the Soviet Union has been acquiring this technological hardware is through direct purchase from Western manufacturers. Soviet trade in such machinery and instruments reached $2.7 billion last year—a 60-percent increase over 1972. Of these orders, $500 million worth was from the United States. The other means by which the Soviet Union is acquiring computer technologly are through data exchanges, contracts with computer firms and scientists, and joint research projects. While the Soviets have not achieved great success in adapting computer technology to civilian purposes, they have obtained some very good results in military applications.

In other words, while this Nation would never consent to give away sensitive and highly complex military technology directly to the Soviet Union, we have entered into trade and scientific agreements which allow the Soviets access to much of that sophisticated technology with the application of only a little imagination. Thus, with the intention of contributing to the preservation of peace, our traffic in computer technology has the potential of threatening that same peace.

The concern over selling computers to the Soviet Union extends outside the military and intelligence community. In congressional hearings on technological exchanges, Mr. J. Fred Bucy, executive vice president of Texas Instruments, Inc., emphasized the Soviet weakness in the field of computer technology. Furthermore, he cautioned against the possibilities of a loss of advantage by the United States in providing the Soviet Union with the results of the efforts of some of Americas' finest scientists. He advised that such trade and transfer of technology should be limited at present to less intense and sensitive areas of technology. Whatever transfer of technology that does occur ought best to be in those fields that do not jeopardize our technological superiority and which would insure that our national defense continues to have at its service a technology unequalled anywhere in the world.

This point cannot be emphasized too strongly. If the transfer of computer technology, either through commercial agreements or cooperative research, brings our greatest competitor in the international arena to our level of development, then we are impairing our national security as well as our own commercial interests.

Détente has a real potential value for the United States. However, détente does not require that we give, sell, and tell all in its name. The Soviets know this, but I am afraid that we sometimes do not. I am particularly concerned about the unilateral surrender of technological expertise through scientific and technological agreements; I find no justification for this kind of commerce with the Soviet Union.

A moratorium on the sale and exchange of sensitive technologies is needed, and I recommend that the Departments of State and Commerce make arrangements for instituting such a moratorium. We can use this time to decide on those areas which are most suitable to us for such exchanges to take place. This moratorium would also afford time to evaluate the gains and losses in technology that have already been exchanged or sold.

I think that the United States needs to reevaluate its position vis-a-vis the exchange of computer technology immediately, however. Furthermore, I believe that it is time for the United States to learn some of the shrewd bargaining techniques which the Soviets have used in their dealings with us and to determine what benefits we can obtain from détente rather than to continue one concession after another in order to insure the appearance of amicable relations with the Soviet Union. The realities of the current international situation still demand alertness and wariness as well as warmth and openness; some of our actions in relation to the Soviet Union suggest an unawareness of that fact. The time has come to correct any possible imbalance that may exist in that area.

Mr. President, I am sending a letter to the Secretaries of State and Commerce expressing my concern about the exchange of computer technology with the Soviet Union and urging a moratorium on such commerce. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 17, 1975.

Hon. ROGERS C. B. MORTON,
Secretary, Department of Commerce, Commerce Building, Washington, D.C.

DEAR MR. SECRETARY: The policy of detente with the Soviet Union has opened a number of new opportunities for the United States in the areas of foreign and commercial relations. I welcome any steps that will ease tensions between this country and the Soviet Union as long as the United States does not jeopardize its own welfare and security in the process of taking such steps.

The possibilities of trade with the Soviet Union are especially valuable. Commerce for mutual benefit has traditionally established a base on which peaceful relations between nations can be maintained.

However, the apparent value of commercial transactions can be negated if the United States, in blind pursuit of a policy of detente, allows trade in potentially sensitive materials, technology, and goods that could enhance the military capability of the Soviet Union.

One such area that is of concern to me is that of computer technology. The United States has a universally unquestioned superiority in this field; the Soviet Union, conversely, has been notably weak in the mass development of computer technology. From the standpoint of defense, the edge in military potential that the United States has enjoyed is due, in large part, to our application of computer technology to military weaponry. While the Soviet Union can produce computers, it lacks the technology necessary to manufacture them en masse.

American intelligence experts report that the Soviets have been acquiring computers, scientific instruments, and advanced equipment which can be applied to military technology. The major channel through which the Soviet Union has been acquiring this technological hardware is through direct purchase from Western manufacturers. Soviet trade in such machinery and instruments reached $2.7 billion last year; of that amount, $500 million was with the United States. The other means by which the Soviet Union is acquiring computer technology are through data exchanges, contacts with computer firms and scientists, and joint research projects. While the Soviets have not achieved great success in adapting computer technology to civilian purposes, they have obtained some very good results in military applications.

In other words, while this nation would never consent to give away sensitive and highly complex technology directly to the Soviet Union, we have entered into trade and scientific agreements that allow the Soviet Union access to much of that sophisticated technology with the application of only a little imagination.

Though detente has a potential value for this country, such a policy does not require that we share our most complex and sensitive technology with the Soviet Union; I find no justification for such a trade or exchange. Therefore, I urge that the Department of Commerce institute an immediate moratorium on the sale or exchange of sensitive technologies with the Soviet Union, until such time as we can best determine those areas of technology in which trade may occur without endangering our national security.

Sincerely yours,

ROBERT C. BYRD.
U.S. Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 5 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair. I ask unanimous consent that I may reserve that time in order that Mr. LONG, who has to attend a committee meeting within the next few minutes, may proceed with his order and that I may come back at a later point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Louisiana (Mr. LONG) is recognized for not to exceed 15 minutes.

THE FEDERAL PAPERWORK REDUCTION ACT OF 1976—S. 2814

Mr. LONG. Mr. President, the Senator from Texas (Mr. BENTSEN) and I are pleased today to introduce the Federal Paperwork Reduction Act of 1976. I ask unanimous consent that the complete text of the proposal be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately after section 33 the following new section:

"SEC. 34. EXPENSE OF FILING FEDERAL FORMS.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year for each item of information or inquiry on any form or document which the taxpayer is required by Federal law to file with the United States Govevrnment or any agency or establishment thereof during such taxable year, without regard to whether the Government furnishes a specific form to the taxpayer to transmit such item, the amount of:

"(1) 10 cents for each such item, but not less than $1 for each form or document, in the case of an individual,

"(2) 20 cents for each such item, but not less than $2 for each form or document, in the case of a corporation (other than a small business, or an organization described in section 501(c)(3) which is exempt from tax under section 501(a)), and

"(3) 30 cents for each such item, but not less than $3 for each form or document, in the case of a small business.

"(b) Definition of Small Business.—For purposes of this section, the term 'small business' means an electing small business corporation (as defined in section 1371(b)), or a small business concern as determined by the Administrator of the Small Business Administration under section 3 of the Small Business Act (15 U.S.C. 632).

"(c) Application with Other Credits.—In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to retirement income),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs),

"(5) section 41 (relating to contributions to candidates for public office),

"(6) section 42 (relating to credit for personal exemptions), and

"(7) section 44 (relating to purchase of new principal residence), the tax imposed by this chapter shall (before any other reductions except the reduction allowed under section 42) be reduced by the credit allowed by this section.".

(b) Section 6401 (b) of such Code (relating to excess credits) is amended by—

(1) inserting after "wages)," the following: "34 (relating to expenses of filing Federal forms),"; and

(2) striking out "sections 31, 39, and 43" and inserting in lieu thereof "sections 31, 34, 39, and 43".

(c) Section 6012 (a) of such Code (relating to persons required to make returns of income) is amended by—

(1) striking out "and" at the end of paragraph (5),

(2) inserting "and" immediately after the semicolon at the end of paragraph (6), and

(3) inserting immediately after paragraph (6) the following new paragraph:

"(7) every individual, corporation, and small business claiming the credit allowed by section 34;". (d) Section 6201(a)(4) of such Code (relating to assessment authority) is amended to read as follows:

"(4) Erroneous credit under section 34, 39, or 43.—If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 34 (relating to the expense of filing federal forms), section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), or section 43 (relating to earned income), the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary or his delegate in the same manner as in the case of a mathematical error appearing upon the return.".

(e) Section 56(a)(2) of such Code (relating to imposition of minimum tax) is amended by redesignating clauses (ii), (iii), (iv), (v), (vi), and (vii) as clauses (iii), (iv), (v), (vi), (vii), and (viii), respectively, and inserting immediately after clause (i) the following new clause:

"(ii) section 34 (relating to credit for expense of filing Federal forms),".

(f) Section 56(c)(1) of such Code (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G), and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 34 (relating to credit for expense of filing Federal forms), exceed".

(g) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by inserting "34," after "33,".

(h) The table of sections for such subpart is amended by inserting immediately after the item relating to section 33 the following:

"SEC. 34. Expense of filing Federal forms.".

(i) The amendments made by this section apply to taxable years ending after July 4, 1976, with respect to forms required by law to be filed after such date.

Sec. 2. Subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following new section:

"SEC. 145. EXPENSE OF FILING FEDERAL FORMS.

"(a) GENERAL RULE.—The Secretary shall pay to any State or local unit of government, upon application by such unit, the amount of 20 cents for each item of information on any form or document which such unit is required by Federal law to file with the United States Government or any agency or establishment thereof during a particular fiscal year, without regard to whether the Government furnishes a specific form to the unit to transmit the required information, but not less than $2 for each form or document.

"(b) Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.".

SEC. 3. The Secretary of the Treasury shall determine the amount of tax credit under section 34 of the Internal Revenue Code of 1954 or direct payment under section 145 of the State and Local Fiscal Assistance Act of 1972 to which a taxpayer or a State or local unit of government is entitled for each form or document issued by the Federal government, or any agency or establishment thereof. The Secretary of the Treasury shall notify the head of each Federal agency or establishment of such amount, and the head of such agency or establishment shall cause that amount to be printed on each form or document issued by the agency or establishment. If the Federal agency or establishment does not furnish a specific form to the taxpayer or State or local unit of government, the head of such agency or establishment shall cause the estimated amount of tax credit or direct payment to be included in its request for any information.

SEC. 4. (a) The Secretary of the Treasury shall pay to each organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of such Code, upon application made by such organization would be entitled for the taxable year under section 34 (a) of such Code but for the matter in parentheses in paragraph (2) of such section.

(b) For purposes of any law of the United States, any payment made under subsection (a) shall be considered to be a refund of an overpayment of the tax imposed under chapter 1 of the Internal Revenue Code of 1954.

Mr. LONG. Mr. President, recently, there has been an increasing concern over the proliferation of Federal paperwork and the concomitant reporting burdens placed on individuals, small businesses, corporations, and State and local governments by Federal bureaucratic agencies.

The national press and the syndicated columnists are full of reports and analyses about the seriousness of the problem. The headlines read:

> Federal Paperwork, A Drain on the Economy; Firms Muddle Through US Paperwork; The Ballooning Bureaucracy; Rising Furor over Federal Red Tape; Getting the Government off People's Backs and Burden of Bureaucracy.

Last year, Congress went so far as to establish the Federal Paperwork Commission, giving as its rationale the following Declaration of Purpose:

> (a) The Congress hereby finds that Federal information reporting requirements have placed an unprecedented paperwork burden upon private citizens, recipients of Federal assistance, businesses, governmental contractors, and State and local governments.
>
> (b) The Congress hereby affirms that it is the policy of the Federal Government to minimize the information reporting burden, consistent with its needs for information to set policy and operate its lawful programs.
>
> (c) The Congress hereby determines that a renewed effort is required to assure that this policy is fully implemented and that it is necessary to reexamine the policies and procedures of the Federal Government which have an impact on the paperwork burden for the purposes of ascertaining what changes are necessary and desirable in its information policies and practices.

Every Presidential candidate complains at least weekly, if not daily, about the paperwork monster that threatens to devour us all.

The President himself has spoken time and again about his determination to stem the tide. Some weeks ago, he told the National Federation of Independent Business—

> I hear your cries of anguish and desperation. I will not let you suffocate.

But, Mr. President, despite all the protestations and gnashing of teeth, the bureaucracy proliferates and daily imposes more onerous burdens on the people and the economy, despite the President's pledge to end the suffocation.

As with the weather, everyone complains about it, but no body does anything about it.

I am pleased to announce, however, that at long last, two Senators have decided to lead the charge in doing something to stem the tide of Federal paperwork. I think that once other Senators have had the opportunity to study our approach, they will join in cosponsoring the legislation by which we seek to correct the cancerous growth of paperwork that is consuming so much of the healthy tissue of our Nation.

I am pleased to say that my co-conspirator in this magnificent enterprise is Senator LLOYD BENTSEN of Texas, whose concern for the problem was recognized in the opening paragraph of Newsweek magazine's extensive December 15 article entitled "Big Government."

We submit that now is the time to provide a workable incentive for all Federal agencies to halt the incredible growth of Federal paperwork and to eliminate unnecessary, repetitive, or frivolous Federal forms and requests for information by the Government.

The approach taken by the Long-Bentsen bill is to award taxpayers a refundable income tax credit—not a deduction, but a refundable credit—for each item of information on any form or document which the taxpayer is required to file with the Federal Government or any Federal agency.

Such a tax credit would have a very large impact on the Federal budget, thus discouraging the practice of requiring countless and mostly valueless forms. As a corollary, billions of Federal dollars would be saved by elimination of needless paperwork, thereby enabling Federal employees to devote their time and energies to more productive enterprises.

The Long-Bentsen Paperwork Tax Credit would work as follows:

For any form or similar document that an individual is required to file or answer, he would be entitled to a tax credit of 10 cents per item of information or inquiry, but not less than $1 per form. A 20-question form would entitle him to a $2 credit, and so forth.

For any form or similar document that a corporation, other than a "small business," is required to file, the stakes would double: 20 cents a question, with a minimum of $2 per form.

For any form or similar submission required of a "small business," the credit would be 30 cents per question with a $3 minimum per form.

State and local governmental units would operate under the 20 cents per question, $2 minimum standard, and since they do not pay taxes would be able to claim their credit in the form of an increased payment under the general revenue-sharing program now in the law.

Nonprofit and charitable organizations as defined under section 501(c)(3) of the Tax Code would also receive the 20 cents per question, $2 minimum payment directly from the Treasury.

As to the revenue impact, I have no firm estimate. Neither the Federal Commission on Paperwork, nor the Office of Management and Budget, nor the General Accounting Office was able to give us an easy estimate. That is something the agency reports on the bill will have to address. But, my guess is that if no forms or similar documents of inquiry are exempted, and if their numbers are not reduced, the impact could run somewhere between $20 and $40 billion. This guess comes from the finding in 1973 by the Small Business Committee that Americans fill out about 50 forms per capita per year—a total of more than 10 billion forms.

That is how incredibly big the problem is, Mr. President. That is how imperative it has become for us to come to grips with the self-aggrandizing monster which we call "Federal paperwork." Unless we beat it back, it will choke the very life from our people and our economy.

With so large a revenue impact a prospect, the question arises as to what Federal forms or other types of inquiry should be exempted from the tax credits and direct payments of the Long-Bentsen bill. The bill as introduced provides for no exceptions at all.

As a result of hearings and studies and recommendations from the administration and from colleagues in the House and Senate, there may well be some exclusions and exceptions. But this bill does not presume that there should be any, and it will be this Senator's view that there should possibly be none whatever.

The basic premise should be that if the information is worth having, the bureaucracy should be willing to pay $1, $2 or $3 for it. If it is not worth that much, then the taxpayer should not be burdened with providing it.

It should be emphasized that this bill does not preempt in any way the studies and recommendations forthcoming from the newly formed Commission on Federal Paperwork. Our distinguished colleague, Senator THOMAS MCINTYRE, is already doing a fine job as Cochairman of the Commission, and I know that we shall be able to count on his cooperation and assistance in solving the paperwork burden for once and for all. This bill merely provides a workable incentive for a cutback in the avalanche of Federal paperwork and redtape. Thus, a laudable common goal is shared with the Commission which is attempting to formulate ways by which to minimize Federal reporting burdens while still allowing the Government to obtain the essential information needed to conduct its business.

Let me also dispel any thoughts that the intent of this bill is to deny the Federal Government the data it truly requires to legislate, regulate, and govern effectively. Many Federal reporting requirements are unquestionably necessary. However, many required forms could be eliminated or at least streamlined or simplified.

Furthermore, a more efficient use of information gathering pools by Federal agencies might discourage unnecessary duplication of effort, with the stipulation that such information pools be limited in such a way so as to avoid the establishment of an Orwellian "big brother" system.

This bill will serve as an impetus to break the bureaucratic lethargy toward eliminating certain worthless required forms. Such inaction many times stems not from any bad motives on the part of the individual agency, but merely from bureaucratic inertia and insensitivity.

The tangible and intangible costs of the Government's "regulatory overkill" has grown to outlandish proportions. In a study by Prof. Murray K. Weidenbaum of Washington University of St. Louis, a former Assistant Secretary of the Treasury, he concludes that the regulatory agencies fail to "weigh the merits against the costs to business and to the consumer and taxpayer."

The Commission on Federal Paperwork reports that Federal agencies produce 10 billion forms, applications, and reports each year at a cost of $40 billion to the economy. Furthermore, paperwork stemming from Federal, State, and local governments averages about 50 forms for every man, woman, and child in the United States.

The Office of Management and Budget found that 5,146 different types of Federal regulatory forms were in use last year, plus an additional estimated 4,400 more for the Internal Revenue Service, the regulatory commissions, and bank supervisory agencies. That is almost 10,000 different types of forms.

It is obvious that business spends literally billions of man-hours filling out these forms. It is appalling that businesses with 50 employees or less are confronted with approximately 75 to 80 different types of forms. The time required to fill out these forms for each agency multiplies for the small businessman like the tedious drip of water splashing on his forehead in a Chinese torture chamber.

Here are some other "bits and pieces" of the paperwork problem as described by the Paperwork Commission in a recent release:

A company with 40,000 employees maintains about 125 file drawers of records to meet Federal reporting requirements.

A company operating 3 small TV stations filed 45 pounds of forms for a license renewal application.

A radio station in New Hampshire paid $26 in postage to mail an application to Washington.

A Philadelphia utility preparing to build a plant needed 24 different kinds of approval from 5 Federal agencies, 5 State agencies, 2 townships and a regional commission.

Government redtape keeps more than 100,000 Federal workers busy writing, reviewing and enforcing regulations.

A tire and rubber company spent $30 million in 1974 to meet various State and Federal regulations—enough money to pay annual salaries of 3,400 employees.

A big oil company files 409 reports to 45 different Federal agencies, excluding tax reports.

As a matter of fact, Mr. President, one of those reports ran about 430,000 pages, and so it goes.

Each year the Federal government issues a 2-mile high stack of quarterly wage report forms.

Harvard University employs 26 people full time to complete paperwork at a manpower cost of $300,000.

A big aluminum company filed 10,000 reports in 1974; primarily for the Federal government, including 3,500 tax returns, at a cost of $5 million.

A typical small business with gross income under $30,000 is required to file 52 tax forms.

The State of Maryland refused a $60,000 HEW grant for a consumer education program because costs of completing forms would approximate 75 percent of the grant.

The Department of Agriculture has on hand 989,224 cubic feet of records, including an increase of 64,631 cubic feet or almost 36,500 file drawers in the last year. The Department spends $150 million yearly on forms, reports, and supporting systems.

A New York City bank spends $3 million to $5 million annually to comply with financial disclosure regulations.

Another big oil company spends $17 million and 475 man years annually for filing reports to the Federal government, excluding all tax reporting.

A stack of all Census Bureau forms measures 6 feet.

Now, Mr. President, most of my remarks have been directed toward what we call "forms." But, Senators will note that the Long-Bentsen bill refers also to other "documents . . . without regard to whether the Government furnishes a specific form."

This latter wording is intended to cover such inquiries as I now submit for reproduction in the RECORD at this point. It is not a form but is a letter from a Federal agency to a constituent company which happens to be a "small business."

If Senators will read the entire letter of inquiry, which had to be answered in full and returned within 30 days, they will understand a bit better the combination of frustration, anger, astonishment, fear, panic and disbelief when this small businessman opened an envelope in early October of this year to learn the good news that "Your facility has been selected for a review of compliance with the requirements of . . ."

I have eliminated the names of both the constituent and the Federal agency in question, because this is not a special case. It is a typical, faceless, bureaucratic one, which is repeated thousands of times daily and results in the alienation and disenchantment of the very individuals and businesses and taxpayers on whom our Government depends for its resources and for its public support and acceptance.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SIR: Your facility has been selected for a review of compliance with the requirements of Executive Order 11246, as amended, and OFCC Regulation 41 CFR, Parts 60-1, 60-2, 60-3, 60-20, 60-40, 60-50, and 60-60. The Affirmative Action Program (AAP) and supporting data must be submitted to this office no later than thirty (30) days following receipt of this letter as required by Title 41 CFR, 60–60.2(a). If this requested data are not reecived within the 30-day period, this office is directed by regulations to issue a letter requiring you to show cause why sanction proceedings under 60–1.26 should not be initiated.

a. AAP must address all elements of 60–2.13.

b. A copy of your Employer Information Report EEO–1 Standard Form 100, revised for 1975.

c. Your most recent workforce statistics as required by 41 CFR 60–2.11 (as amended) and as prescribed by 41 CFR 60–60.9, Part A, II Workforce Analysis. Workforce analysis must be by job title and organizational unit ranked from the lowest paid to the highest paid showing total employees, males, females, minority groups (male and female).

d. Utilization analysis as required by 60–2.11.

(1) Evaluating the inside and outside workforce.

(2) Minority and female availability must be separately analyzed for each job group. The utilized analysis must state the availability for Blacks (males and females) and non-minority females.

(3) Identification of underutilization by job groups. (A job group meaning a job or a group of jobs having similar content, wage rate, and opportunities.)

e. Assessment of your current workforce to identify affected class situations and plans to correct those identified situations. (This may be submitted as part of your AAP or as a separate document.) For guidance, see 41 CFR 60–60.9, Part A. (VI) and Part B.(X).

f. Identification of problem areas by organizational units and job groups. (60–2.13(d) and 60–2.23(a) and (b))

g. Give lines of progression for all job titles. (60–60.3)

h. Establishment of goals and timetables to correct any underutilization or deficiencies, 60–60.9, Part B.XIX, by job group and organizational unit.

(1) A goal must be established for each job group in which underutilization exists and must be designed to completely correct the underutilization.

(2) The goal must be stated as a percentage of the total employees in the job group and must equal to the percentage of minorities or women available.

i. Action oriented programs must be established to correct all the deficiencies. (60–2.12 (f) and 60–2.24)

j. Summary data on new hires, offers of employment, promotions, terminations, applicant flow data, transfers, layoffs, recalls and trainees by job groups, race and sex for the past 12 months. Listings of these personal activities may be retained by the contractor until they are requested. (60–1.7, 60–1.40 and 60–2.12(1 & m))

k. A copy of current organizational chart down to the lowest organizational unit. (60–60.9, Part A.(II) (B) (3))

1. Submit copies of recruitment advertising, including college recruitment brochures and a list of all recruitment sources. (60–60.9, Part B(XII) (B) (2) (e) and (f))

m. A list of community leaders and organizations contacted during the past year. (60–60.9, Part B.(XII) (2) (a))

n. A seniority and/or employee roster giving name, sex, ethnic group, job title, date of hire and salary. Salary and wage data must be given for each job title up to and including the highest salary grade in a facility in which either minorities and/or women are employed. (60–2.12(1) and 60–60.3)

o. Give a narrative report of prior year's Affirmative Action Program accomplishments. Make a complete evaluation of goals not accomplished and a report of progress made toward attainment of current AAP goals. (60–60.9, Part A (II) (B) (3) (b))

p. List all training programs, formal and informal, internal and external, in which employees participate on a job related basis. Give a breakout of participants by ethnic groups and sex for each program. (60–60.9, Part B (XI) (A) and (B))

q. Please provide the following current information:

(1) Name of Chief Executive Officer, title and phone number.

(2) Name of EEO Coordinator, title and phone number.

(3) Name of corporate CEO, title and phone number.

(4) Name of corporate EEO Coordinator, title and phone number.

(5) Address of corporate headquarters.

(6) List your plant and corporate Dun & Bradstreet identification numbers.

(7) If you have government contracts, list all subcontractors, vendors, or suppliers that have received a purchase order or an agreement of $50,000 or more in a single transaction. Open-end agreements are considered single transactions.

(8) Give the high five current contracts and/or subcontracts. List agency, contract number, dollar value, and type of contract.

(9) List all facilities of your corporate structure within the following states: Texas, New Mexico, Oklahoma, Louisiana, Arkansas, and Arizona. For each facility give name, address, principal officer, telephone number, SIC code, the number of employees, and the principal product.

(10) Give the EEO–1 number for local facility and corporate. Your cooperation in this review is appreciated. If there are any questions relative to the elements of this letter or the development of the Affirmative Action Program, please feel free to contact me, 504/589–2375.

Mr. LONG. Mr. President, I challenge you to read this document and study what it means. It amounts to a virtual death sentence on a small business unless this person complies with very lengthy, time-consuming, and tedious requirements for information.

Mr. President, if the Long-Bentsen bill were on the books today, such a letter would never have been written to this small businessman. It would be too costly for the Government because of the revenue loss it would entail if submitted to numerous taxpayers or other eligible organizations.

Under the standard prescribed in our bill, this taxpayer would have been due a very sizable tax credit for filling out the letter's interminable list of "items for information or inquiry."

This Senator does not know enough about the various references to the Code of Federal Regulations contained in the letter to be able to calculate the credit, but I would not be surprised if his credit—at 30 cents per "item of information or inquiry"—would reach $30 or $40, or maybe twice that amount.

The effect of the Long-Bentsen bill would be either that this small business would not have been sent an inquiry or, for likely, he would have been sent a brief and simple questionnaire on the principle, essential points that the agency really needed to know. In either event, he would have been spared the intolerable expense and diversion of effort and manpower necessary to answer the incredibly complex questions cited above.

Under our bill, the amount of the tax credit or Treasury payment earned for complying with the request would have to be calculated in advance either by the Treasury Department or by the Agency submitting the inquiry. In this way, the taxpayer, or the local or State governmental agency, or the 501(c) (3) organization would simply use this predetermined amount in applying for its credit or Treasury payment for having complied.

Of course, Mr. President, many Federal reporting requirements are undoubtedly necessary. Without vital information, our Government would grind to a halt. But much of this blizzard of paperwork is repetitive, frivolous, and counterproductive. The question must be continually asked: "Is this information necessary?"

I am confident that this bill, if enacted, can serve to discourage needless paperwork. Tax incentives have proven to be extremely effective in accomplishing various legislative goals. By reversing this process, the adverse impact on the Federal budget, due to our proposed tax credit, should encourage a streamlining of the Federal information gathering system.

One more thing it would necessitate, Mr. President, is a more careful attitude on the part of the Congress in the reporting and paperwork requirements it builds into the legislation it passes. Indeed, we will have to revise some of the laws we have passed which force on the bureaucrats certain aspects of the paperwork burden which even they would rather not have to impose on the public.

With regard to the congressional culpability for part of what is going on and as an indication of some of the changes of direction and emphasis which we shall have to make, I ask that an excellent article from the December 8 issue of the Wall Street Journal be inserted in the Record at the conclusion of my remarks. I ask also that an excellent article from the October 11 issue of Congressional Quarterly entitled "Federal Paperwork: A Drain on the Economy" be reproduced at that point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. LONG. Although the Journal article does not deal specifically with Federal paperwork, it points out in helpful detail many instances in which the Congress has overlegislated and thereby caused the overregulation with which the public is burdened.

Until now, Mr. President, the bureaucratic philosophy has been, "When in doubt, make 'em fill it out."

Under the Long-Bentsen approach, the rule of thumb would be, "When in doubt, cut it out."

In conclusion, let me point out that as written the effective date of this bill is July 4, 1976, the 200th anniversary of our country. I would hope that by scheduling hearings fairly early next year Senator Bentsen and I will be able to insure that Senators will have an opportunity to vote on final passage before that national anniversary date.

Exhibit 1

Congress Is Moving To Patch Up Its Acts That It Now Regrets

(By Arlen J. Large)

Washington.—It made sense for Congress in 1973 to discourage people from building in flood-prone river valleys. But now lawmakers are getting angry letters calling the rules unfair, and the Senate is beginning to rewrite them.

In 1970 Congress set up a job safety inspection system that has irked many employers. Now the House has tried to quiet complaints by saying a federal safety man's visit to a factory may bring just helpful advice, not a fine.

Congress is doing a lot of such revising lately, trying to correct what many term mistakes in laws passed in the past few years.

The original 1970 timetable for cleaning up auto exhaust is being rejiggered.

Surgery is in progress on a 1973 law that has failed to stimulate prepaid medical care.

A law requiring advance disclosure of real estate settlement costs is being overhauled less than a year after it was passed.

Even the federal time law is covered with erasures as Congress searches for a clock-setting formula that infuriates the fewest people.

The apparent need to do much patching up is causing some soul-searching on Capitol Hill, especially among newcomers.

IN TOO GREAT A HURRY?

"We pass too much legislation too hurriedly without any realization of its eventual effect," says freshman Sen. Patrick Leahy of Vermont, a liberal Democrat. "The trouble with correcting it after the fact is that it's a lot more expensive. It just isn't a good way of legislating."

Sen. Leahy thinks the Senate needs a new internal rule that would prevent a bill from coming to the floor unless outside auditors had put it to a special test: Is it drafted so that the purpose is sharply defined, and does the bill include some means of measuring its effectiveness? The Senator says the General Accounting Office, an arm of Congress, is already making a trial run at such an auditing job.

Freshman Sen. Jake Garn of Utah, a conservative Republican, agrees on the need for more careful screening of bills the first time around. Most of the legislation we're passing shouldn't be passed at all," he says. And more than just newcomers want to crack down; cosponsors of Sen. Leahy's proposed screening rule are such veterans as Hubert Humphrey of Minnesota and Paul Fannin of Arizona, normally ideological opponents.

SOME CHANGES OF HEART

Of course, no lawyerish rules change could head off all future demands to do away with some law or other. A less-than-cosmic example is a 1968 law intended to create a series of Monday holidays. At the time, veteran groups didn't fight very hard against divorcing Veterans Day from the Nov. 11 anniversary of the 1918 armistice in France. But veterans slowly began persuading state legislatures to restore tradition, and Congress this year surrendered and switched back to Nov. 11.

In some cases a law that seemed like a good idea at its passage has simply been overtaken by events. That has happened to the 1970 Clean Air Act, which set a statutory timetable for reducing pollution from automobiles. Since then rising gasoline prices have made motorists more interested in buying cars that get better mileage, and many experts say the fuel-economy goal is incompatible with the clean-air schedule of five years ago.

The push for improved gasoline mileage "certainly generated a lot of pressure for changing the Clean Air Act," says Democratic Sen. Edmund Muskie of Maine, a chief author of the original law. "I'm not talking about pressure from the automobile companies. I'm talking about public pressure."

Moreover, the 1970 law was an unusually bold effort—Detroit thought it a dreadful mistake—to legislate technological change. "We had no way of knowing then, any more than we do now, how to time technological advances," Sen. Muskie says. "So even if the energy crisis hadn't come along, there would have been some slippage in the schedule."

NOT THE USUAL "REFORM"

Congress talks endlessly about the need to change old laws, but often in the lofty category of "reform": tax reform, welfare reform, food-stamp reform. What seems to be different this year is the urge to rewrite legislation that appeared innocuous when enacted not long ago. An example is the national flood insurance program.

The federal government offers subsidized flood insurance covering homes and businesses in areas it deems vulnerable to flooding. In return for the subsidy, an entire town must agree to adopt rules against putting up new buildings in flood-prone areas. And there is a federal stick as well as the subsidy carrot. If a communtiy opts to stay out of the anti-flood zoning program after being designated as flood-prone, residents are ineligible to buy the flood insurance, and federal mortgage insurance also is denied. Worse, starting Jan. 1 most banks will be forbidden to lend money to people who want to buy or fix up a house in the area.

When Congress adopted these rules in 1973, only 21 House members voted against them and the Senate didn't even take a roll-call vote. Even now, not everybody thinks they are bad. "In a government where so few programs work, the national flood insurance program is a rare exception," says George Bernstein, a lawyer who used to run the insurance operation.

But Democratic Sen. Thomas Eagleton of Missouri thinks the government is bearing down too hard. He argues the rules are especially unfair to homeowners ineligible to buy the insurance because local voters have rejected anti-flood zoning. It is, he says, "a base injustice that demands correction." Democratic Sen. Thomas McIntyre of New Hampshire agrees, and wonders: "I don't know how these bills get out, get away from us."

Earlier this year Congress agreed to delay until Jan. 1 any denial of commercial bank credit to owners of existing homes in a flood-designated town that hasn't joined the program. Even the administration agrees with Sen. Eagleton that these homeowners should never be hit with this rule, and a permanent exception is included in a bill drafted by the Senate Banking Committee.

Perhaps no handiwork of Congress draws more hisses and boos at gatherings of small businessmen than the Occupational Safety and Health Act of 1970. This law gives the Labor Department authority to set accident-prevention standards in each of the nation's five million workplaces, no matter how small. So far labor unions, backed by the department, have largely succeeded in staving off business attempts to soften the law; the unions have blocked proposed exemptions from job-site inspections for small employers.

Now the law isn't exactly being softened, but Congress is telling the Labor Department to change its methods in dealing with employers. The House last month passed a bill setting up a nationwide system on how to comply with the safety standards. If the Senate concurs, an employer would be able to ask a federal man to visit his plant and coach the employer on the proper height of doorways, number of washrooms and other requirements. Currently, a safety inspector's unannounced visit can only result in a citation and fine if he sees a mistake, with no coaching allowed.

Some unions oppose this change, fearing it will "dilute" enforcement. But it was overwhelmingly popular on the House floor. "I realize that no law is perfect, that there comes an appropriate time to amend a law in order to improve it," said Democratic Rep. Dominick Daniels of New Jersey, normally a faithful ally of labor.

Just as upsetting to many people as the job safety law is the Real Estate Settlement Procedures Act, passed only last December. Among other things, it requires mortgage lenders to tell home buyers 12 days in advance how much they will be charged in settlement fees at legal ceremonies closing the transaction.

The law took effect last June 20, and lenders and buyers immediately howled about a blizzard of government forms and red tape. While some sponsors argued the law hadn't had enough time to work, a consensus quickly developed for repealing the 12-day rule and some other parts.

"Laws passed with good intentions sometimes do not work," said freshman Democratic Rep. Les AuCoin of Oregon during House debate on the repeal bill last month. "And when they do not work, when they prove harmful to the very people they were enacted to protect, they should be amended or repealed as quickly as possible."

Not all of the law is being repealed. Instead of the 12-day rule, lenders would have to give would-be home buyers an estimate of settlement fees when the buyers apply for a mortgage loan. This is "a good compromise," says Kathleen O'Reilly, legislative director of the Consumer Federation of America.

Not so much yelling has surrounded an attempt to correct a 1973 law providing federal startup subsidies to health maintenance organizations, the prepaid medical plans that emphasize preventive care. In return for a subsidy, an HMO had to promise that its team of medical specialists would offer fee-paying customers a government-decreed list of health services, such as treatment for alcoholism and preventive dental work for children.

"When we wrote the original bill, we put in every service we could think of," said Democratic Rep. Paul Rogers of Florida last month during House debate on amendments to the law. As it turned out, not many HMOs were set up because the list of required treatment made fees uncompetitively high. The new bill, passed by the House and pending in the Senate, chops the list and allows other economies for HMOs.

EXHIBIT 2

FEDERAL PAPERWORK: A DRAIN ON THE ECONOMY

Deluged with complaints from a public enmeshed in red tape, Congress and the Ford administration have begun turning serious attention—and resources—to untangling the mass of paperwork generated by the federal government.

No one knows just how big the problem is. The Senate Select Small Business Subcommittee on Government Regulation reported in 1973 that the federal government was using 5,298 different kinds of forms. But that did not include forms used by regulators of the banking industry and the Internal Revenue Service, two of the biggest data collectors in Washington.

Ten billion sheets of paper flow through federal offices every year, the subcommittee has said, enough to fill 4.5 million cubic feet of space. It calculated that there are 50 forms to be filled out each year for every man, woman and child in the country.

Estimates of the cost of all that paper vary. Thomas J. McIntyre (D.-N.H.), chairman of the subcommittee, has estimated that the paperwork burden drains more than $18,-billion a year from American business. Frank Horton (R.-N.Y.), ranking Republican on the House Government Operations Committee, puts the cost to the full economy at more than $40-billion.

Those costs, McIntyre and Horton point out, are nonproductive—they bear no return—and business passes its costs on to the consumer.

Nor is the cost of paperwork measured in dollars alone. Said McIntyre: "The endless forms to fill out and file are nurturing a growing suspicion that government no longer trusts responsible citizens, that Big Brother has moved out of Orwellian fantasy and into reality."

Public frustration over the growing tide of paperwork has drawn the attention of the administration as well. President Ford has singled out paperwork as a prime target of his administration's war on regulation and red tape. He has directed the Office of Management and Budget (OMB) to eliminate 500 forms by next summer.

"I want very desperately to have small business freed from the excessive federal paperwork," Ford told an audience of small businessmen in June. "Your time can be used far more productively, and you know it better than I."

Ford used that occasion to announce his appointees to the Commission on Federal Paperwork, an independent body set up by Congress last year to study the paperwork problem. Comprising 14 members from the private sector, Congress and the state, local and federal levels of government, the commission was given two years to come up with recommendations for cutting the current level of paperwork and preventing its future growth.

The commission, which will employ a peak of about 80 full-time staff members, began operations Oct. 3 and is expected to spend from $4-million to $6-million.

Horton is commission chairman and McIntyre is cochairman. Mark D. Littler, retired partner of Arthur Anderson and Co., an accounting firm, is vice chairman. (*Commission member, box, p. 2169*)

DRAMATIC GROWTH

Paperwork is nothing new to the federal bureaucracy, but its increase has been dramatic in the last 10 years. Much of the growth is blamed on the proliferation of new federal "purpose" program—occupational safety and health, equal employment opportunity, pension reform and others—that require an accounting to the government by businesses. "We've added so many purposes to the federal armada in the last 10 years that we can't control all the paperwork," said David A. Lovenheim, an aide to Rep. Rorton.

Exacerbated by the pinch of recession, the mounting cost of paperwork is being felt by the business community, especially small business, and constituents are passing on their concern to Congress. "As a congressman," says Horton, "you see more and more people coming up to you and saying, 'Look, I'm sick and tired of this business. I've had to put one person full-time on handling paperwork.' Productivity has been affected by the burden we are laying on the American people."

Curtailment efforts

The last major congressional effort to cut down on paperwork came in 1942, when Congress passed the Federal Reports Act to limit red tape generated by the social programs of the New Deal. The law (44 USC 3501) declared the policy of Congress that information required by the Federal government be obtained "with a minimum burden upon business enterprises." The act placed within the Bureau of the Budget (now the Office of Management and Budget) the responsibility for supervising and monitoring federal reporting systems. Specifically exempted from regulation were the federal bank regulatory agencies, the Internal Revenue Service and several other offices within the Treasury Department.

Government-wide efforts to curtail paperwork have been attempted since then, but with little success. Paperwork was the subject of a task force study under the second Hoover Commission set up in 1953. But the resulting recommendations were very general and had little impact on the problem. One recommendation, that the Social Security Administration annualize the employee wage reporting form that is required quarterly, remains a major goal of business today. (Details, p. 2171)

In 1970, President Nixon ordered the bureaucracy to "discard those reports that fail to meet vigorous standards of need." After an 18-month study, according to OMB, 7.8-million man-hours were eliminated from the public reporting requirement. But that reduction was a drop in the bucket compared with the total 130.5 million man-hours estimated to be spent on paperwork each year. Other bodies, administrative and executive, have issued recommendations over the years on how to reduce paperwork. But none has had a lasting impact.

Since 1973, the paperwork monitoring function has been split between OMB and the General Accounting Office. That year, in the Alaska pipeline act (PL 93-153), Congress transferred to GAO the authority of OMB to review the reporting forms used by all regulatory agencies. OMB retained "clearance" authority over forms of all other executive agencies, except those exempted in the 1942 law. Several congressional sources have said since then that, although the action did reflect the dissatisfaction of Congress with OMB's monitoring performance, it was essentially a move to ensure that OMB and the White House had no role in the clearance of surveys by the Federal Trade Commission to uncover possible anticompetitive behavior in big business.

Commission created

Horton sponsored legislation in 1974 to create the Paperwork Commission after Congress repeatedly had been frustrated in efforts to get a grasp of the reporting problem. McIntyre's subcommittee had made studies but found that it did not have the resources to take more than surface soundings of the problem. To congressional requests that it conduct a detailed study, GAO pleaded that it did not have the staff or time to do a thorough job. **Finally Horton introduced his** bill (H.R. 16424—P.L. 93-556) in August, and it sailed through both chambers without opposition in less than five months. President Ford signed it Dec. 27.

The commission must issue a final report within two years of its first meeting Oct. 3. The Office of Management and Budget must review the recommendations and then, under the law, report every six months on actions it takes and issue its own final report within two more years.

PAPERWORK PROBLEMS

Major paperwork problems that the commission will be considering already have begun presenting themselves. One is the 1942 law itself. In its 1973 report, McIntyre's Government Regulation Subcommittee concluded that the Federal Reports Act was ineffective because it did not cover IRS, which generates some 35 percent of federal paperwork, and because OMB had not adequately administered it.

A major recommendation of the subcommittee was that IRS be brought under the Reports Act. "It is not clear, at this date, why Congress in 1942 excluded the tax and banking agencies from coverage," the report said. "Certainly, the development of an enormous and autonomous reporting system was not foreseen."

OMB performance

Another recommendation was that the clearance function be removed from OMB, which the subcommittee said had never made much of an effort to perform that responsibility. It pointed out that the agency had not used its authority under the Reports Act to hold hearings on the need for any report and that it regularly had refused congressional advice to upgrade its clearance staff. "We've been consistently unhappy with OMB," complained subcommittee aide John M. Cross. "They've left it to the agencies to clear a form. Then the agencies would send it to OMB and they would put their final imprimatur on it."

OMB disputes that assessment, saying it never has tried to do more than eliminate duplication. "We expect the agencies to do the major part of the effort to validate to us the necessity for a form, that the data is really required," said Fernando Oaxaca, associate director of OMB. "What we provide that a department can't provide for itself is to ensure that the data is not already being collected somewhere else."

With IRS and the regulatory agencies excluded from its purview, Oaxaca claimed, OMB is responsible for clearing only about 18 per cent of the total mass of paperwork. He felt that OMB had done an adequate job of clearance in the past and said the function should remain in OMB. "I don't know where else you'd put it, unless you created a special bureaucratic layer, which I think would be a sad mistake."

Centralization

A number of observers, however, have suggested creating just such an agency, with authority to oversee all paperwork that goes through federal agencies. "It may be that you would want to start some kind of agency that would be the data-collecting agency of the federal government," suggested Horton.

Ernest P. Evans, staff coordinator of the Paperwork Commission, observed that most other nations have a central statistics agency that gathers data for the program-administering agencies. To a limited extent, such information-sharing is practiced by the government now. Since 1944, the IRS has culled information from quarterly business reports and transferred it, sanitized for confidentiality, to the Census Bureau. A centralized agency would be concerned simply with gathering statistics, Evans stressed. It would perform no other function.

Proposals for such centralization are controversial, however; because they raise the prospect of a "data bank," a computerized repository of raw information for use by all federal agencies. Such a facility, civil libertarians warn, would make confidential information filed by private citizens vulnerable to abuse by careless or unscrupulous officials. Corporations fear that a data bank, open to any agency, would make it impossible to protect trade secrets from competitors.

Commission aides are sensitive to those concerns and generally discourage speculation about data banks. Ernest Evans, the staff coordinator, said that the staff is working with the newly created Privacy Protection Study Commission on ways to collect information without violating individual and corporate privacy.

Congressional culpability

A central problem that is certain to be considered by the Paperwork Commission is the role of Congress itself in the reporting process. Congressional committees have come under fire from the administration, lobbyists and individual members for writing legislation without giving thought to the amount of paperwork it might generate. As a measure of just how large the problem is, the commission ran a computer check to determine how many statutes simply contain the word "report." The study turned up some 12,000 instances, Horton said, and it missed legislation that used other language to require reporting.

"To the best of our knowledge," OMB's

Oaxaca said of legislative committees, "they have no controls at all." He called for creation of "mechanisms" to throttle paperwork in committees before it gains a life of its own in the bureaucracy. "Head them off at the pass," he said. "Don't try to solve the problem after the law is passed and regulations are printed and working."

McIntyre introduced in the 93rd Congress a bill (S. 200) that would have required a committee, when it approved legislation, to include in the report an "impact statement" showing the amount of paperwork the law could entail. The bill drew indignant criticism from members who argued that it would impose a tremendous paperwork burden upon committees. Ernest Evans, who drafted the bill for McIntyre, said S. 200 was a facetious bill never intended to be passed, but he said it was successful in its purpose of drawing attention to the problem.

How to apply control mechanisms to the law-writing process is a serious concern, however, for members of the commission, especially those in Congress. Most observers agree that an impact statement would be unworkable, but Horton has suggested that the commission might come up with some "rule of thumb" for use by committees in considering how much paperwork a given bill might generate. A major responsibility he and other congressional members of the commission will have, he added, is "to alert the other members of Congress to the problem so that they are aware of the need to not create so much paperwork."

Commission's own paperwork

A lesser concern of the commission, but a real one nonetheless, is making sure that it does not itself create an embarrassing amount of paperwork. "We're very sensitive to the public out there," said Evans. "We can't just run around issuing our own forms on how many forms you can issue."

Even before it began operations, the commission was the butt of jokes by government critics who perceive irony in the fact that the bureaucracy created a bureaucracy to tell itself how to reform itself. Several commissioners have pointed out that their first acquaintance with the commission was a sheaf of papers several inches thick describing its purpose and goals. And the White House was criticized for taking a conspicuously long time—about six months—in picking the President's appointees to the commission. "We think it was their internal paperwork," said an aide to one of the congressional members of the commission. "They're very slow with their paperwork there."

Other sources indicate that the delay was caused for trade associations and business groups jostling for representation on the commission. With its membership drawn from such diverse and sometimes antagonistic areas as Congress, OMB, GAO and state and local government, there is a possibility that the commission may have trouble reaching agreement on what should be done about paperwork.

A particular concern of Bruce G. Fielding, a California accountant who may be said to represent small business interests on the commission, is that the over-all purposes of the commission may be overlooked in the scramble by some members, especially from Congress, for "self-glorification." "It's going to be the biggest bunch of bureaucratic infighting you're ever going to run into," predicted an aide to one of the congressional members.

Possible approaches

One of the commission's biggest challenges will be determining just what the paperwork problem is. Its task invariably is described in gargantuan terms. "The problem is so huge," said John Motley, a lobbyist with the National Federation of Independent Business Inc., "that a trade association or a congressional committee can't get a handle on it. It's like a hydra; you cut off a head and it comes up somewhere else."

The commission just began outlining plans in September. Its job, basically, is to identify problems and then make recommendations on how to correct them. Members of the skeleton staff now drawing up strategy see two basic approaches the commission can take toward the job:

It can study paperwork on an agency-by-agency basis, treating each one as a separate problem.

Or it can take a "process" approach, following the life of a reporting system from authorization in Congress through the agencies and clearance offices, out to the public and then back to the government, in the form of information necessary to fulfill the purpose of legislation.

The agency approach, say staffers, would enable the commission to diagnose specific problems within an agency and then prescribe remedies, thus having an immediate and visible impact on the level of paperwork. The process approach, on the other hand, might give the commission a more comprehensive view of the paperwork system and reveal how it can be streamlined by, for instance, cutting duplication and eliminating the demand for useless information. Such an approach, it is argued, would allow the commission to have a more lasting impact on the problem.

What is likely to emerge from the early planning is an amalgam of the two approaches. "The commission has an intention to study the system all the way down the line," said Warren B. Buhler, an aide to Horton on the Government Operations Committee, "but it also wants to cut the burden right now." Thus, Horton suggests having some study groups under the commission looking at the total process. But others would investigate specific agencies and still others would look at groups that are notable victims of the burden. Agencies that might come under study, Horton suggested, are the Internal Revenue Service, the Equal Employment Opportunity Commission and various fair employment arms of other agencies, and the Labor Department's Occupational Safety and Health Administration. Specific groups mentioned by Horton aides as particularly burdened by paperwork are small business, educators, government contractors, labor and consumers.

The 1975 legislation

Specific bills to reduce paperwork have been introduced in the 94th Congress, but legislative proposals for the time being are likely to await recommendations of the Paperwork Commission.

McIntyre has reintroduced his bill from the previous Congress that would allow employers to report employee wage earnings to the Social Security Administration just once a year instead of quarterly as required now. The 941–A form, which requires an accounting of all wages earned by all employees, is cited by small business groups as the most burdensome peperwork propagated by the federal government. McIntyre has said his bill (S 2156), which has passed the Senate three times but always fallen short of enactment, could save small businessmen more than $275-million a year. No action is planned on the bill by the Finance Committee, but a staffer said it could show up as an amendment to tax reform legislation under consideration by the committee this year.

William Proxmire (D Wis.) has introduced in the Senate a bill he calls the "Form Reform Act," which would require the government to phase out all forms over a five-year period and replace them with simpler ones. The bill (S 2132) will be one subject of oversight hearings on paperwork Oct. 10 by two Government Operations Subcommittees: Oversight Procedures and Reports, Accounting and Management. The focus of the hearings will be on a GAO report issued in July criticizing OMB and the Labor Department for inadequate administration of the 1942 reports act. "We'd like to have their [OMB and Labor] response on the record for the consideration of the commission," an aide to the oversight subcommittee said.

Described by one source as "an act of sheer frustration," Proxmire's bill is not likely to be given serious consideration beyond the hearings. The House Government Operations Committee has planned no action on a similar bill (HR 8998) by Rep. Mark W. Hanaford (D Calif.).

The House Government Operations Subcommittee on Government Activities and Transportation is considering several bills that would give GSA authority to study and recommend changes in the record management systems of federal agencies. The concept generally is opposed by the agencies. The subcommittee held a day of hearings on the bill July 11 but has planned no further action.

OUTLOOK

The effectiveness of the Federal Paperwork Commission will depend upon a variety of factors. One will be the ability of the congressional members to take the recommendations back to Congress and convert them to legislation. "It will come up with some nice recommendations," predicted John Cross of the McIntyre subcommittee staff. "Whether or not they are acted upon depends largely on the members of the commission."

On that score, Horton is optimistic. He was a member of a similar commission on government procurement policy (1969–72) that, he says, has seen a third of its recommendations already enacted. He said that the new commission, to be effective, will have to establish a "track record" of accomplishment to attain credibility with the public. "I think that the willingness of Congress is mainly going to be related to the response of the public to what we do," Horton said.

Rather than present Congress with a cumbersome piece of omnibus legislation containing all its recommendations, the commission probably will send legislative proposals piecemeal to Congress as individual study groups complete work on separate aspects of the problem. That way, observed Evans, one unpopular recommendation will not sink all the rest. He predicted that in the end the legislative proposals will amount to very little—perhaps to tighten the 1942 law, revise the congressional law-writing process and create a central paperwork clearance and collecting agency. Much of the work to clear out the glut of paperwork now, Evans and most other observers agreed, can be done administratively, by executive order or otherwise, "I think that controlling paperwork is more than anything else a matter of good management," said Oaxaca of OMB.

Sen. Thomas J. McIntyre—"The endless forms to fill out and file are nurturing a growing suspicion that government no longer trusts responsible citizens, that Big Brother has moved out of Orwellian fantasy and into reality."

COMMISSION MEMBERS

In creating the Commission on Federal Paperwork, Congress required that the commission be made up of 14 members, including two each from the House and Senate, the comptroller general, the director of the Office of Management and Budget (OMB) and one other executive branch official, and seven members appointed by the President from state and local government and the private sector.

The commissioners are:

From Congress—Sens. Bill Brock (R Tenn.) and Thomas J. McIntyre (D N.H.), Reps. Frank Horton (R N.Y.) and Tom Steed (D. Okla.). Horton is commission chairman, McIntyre is co-chairman.

Comptroller general (General Accounting Office)—Elmer B. Staats.

From the executive branch—James T. Lynn, director of OMB, and Donald C. Alexander, commissioner of Internal Revenue.

From state and local government—Otis R. Bowen (R), governor of Indiana, and Gil Barrett, commissioner of Dougherty County, Ga.

Other public members—Robert D. Benton, superintendent of public instruction for the state of Iowa; Bruce G. Fielding, certified public accountant with Bruce G. Fielding & Co., Mountain View, Calif.; Louis B. Knecht, international secretary-treasurer of the Communication Workers of America; Mark D. Littler, retired partner of Arthur Anderson and Co. accounting firm; and Esther Peterson, consumer adviser to Giant Food Inc. and former U.S. assistant secretary of labor for labor standards.

IN 25 WORDS OR LESS, WHY DO YOU HATE EBS-1?

The Labor Department calls it EBS-1. Its critics call it "an abortion." It could cost employers hundreds of dollars per employee and force small businessmen to drop a major job benefit that they previously had offered willingly.

EBS-1 is a particularly controversial piece of paperwork devised by the Labor Department to obtain from employers information required under the 1974 pension reform act (PL 93-406). The form, issued by the department in April 1975, required employers offering pension plans to describe their terms and the kinds of employees covered, among other things. Including instructions, it is 31 pages long.

Lengthy and complex, the EBS-1 rankled just about everyone—employers, Members of Congress, even the people who had to administer it in the Labor Department. "The form was ridiculously complicated," remarked an official in the department's office of employee benefit security. What particularly troubled the people who had to use the form was that many of the questions required answers in essay form. Respondents never were quite sure how detailed their answers should be. As a result, the department got a wealth of information it did not need and what it did get, because of the varying responses, its computers could not use. "There was no consistency, no comparability," moaned the official.

WITHDRAWAL

Almost immediately upon issuing the form, the Labor Department withdrew it. But by then the damage had been done. Individual members and congressional committees were besieged with complaints from outraged businessmen. Bruce G. Fielding, a California accountant, estimated that filing out EBS-1 and other pension paperwork would cost employers an average of $700 for each employee. "It's almost impossible for a laymen to complete the form," he said. "You've got to have a lawyer or an accountant do it."

John Motley of the National Federation of Independent Business, Inc., a trade organization of small businessmen, reported that members said they would drop their pension plans rather than take the time and expense of filling out the forms.

The House Education and Labor Subcommittee on Labor Standards called in Labor Department officials to explain the form during oversight hearings on the pension law this spring. As a result of those hearings and of the department's own internal review, employers as of Aug. 1 are required for the time being to complete only the first two pages of EBS-1. The department, meanwhile, is preparing to issue a revised six-page form for use after May 31, 1976. The essay questions have been eliminated and "now it is a totally objective, checkbox document," the official said.

But despite the adjustments, the controversy is not over. Dissatisfied with what he sees as the department's refusal to cooperate in simplifying the form for small businessmen, subcommittee chairman John H. Dent (D Pa.) introduced a bill (HR 7597) mandating simplified forms and requiring the Labor Department to obtain at least part of the information it needs from the Internal Revenue Service. The revised form may obviate the need for the legislation, an aide said, "but whether we'll be pleased with the final product, we don't know yet. We really want to make sure the form is amended properly."

Who's to blame?

Why was EBS-1, which has earned the enmity of nearly everyone, issued in the first place? "It was compiled under severe time restraints," pleaded the Labor Department official. Aides to Dent place the blame on the Labor Department for misinterpreting the law: "It was never our intention for the form to be in an essay-question format," said a subcommittee aide.

But other observers trace the roots of EBS-1, and of much other government paperwork, to its seed in Congress.

"If Congress would just step back and think about what they're doing," remarked Motley of the NFIB. "That's one of the major goals—consciousness. Not once in the consideration of the Pension Reform Act did they consider the paperwork it would engender."

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. ROBERT C. BYRD. Mr. President, I have 5 minutes remaining. I ask unanimous consent that I may yield about 5 minutes to Mr. Bentsen, who is here on the floor, on the same matter to which Mr. Long has just addressed himself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I thank the distinguished Senator from West Virginia.

Mr. President, I am pleased to join the distinguished chairman of the Senate Finance Committee, Senator Long, in sponsoring tax legislation that will finally force Federal bureaucrats to ask themselves a question that they may not have heard in quite some time: Is this paperwork really necessary?

This bill will provide all taxpayers—private citizens and businessmen alike—with tax credits of between $1 to $3 on every form they fill out for the Federal Government. By forcing Government to pay for every item of information it is asking from the people of this country, we will be creating a very tangible and very persuasive incentive to cut down on paperwork.

Because forms and documents and questionnaires would be translated into dollars and cents, Federal agencies would begin thinking and hesitating before they issue unnecessary, repetitive and frivolous paperwork. The wheat would finally be separated from the chaff, and only really vital information would be requested.

This is the way the bill would work:

For any form or similar document that an individual is required to file or answer, he would be entitled to a tax credit of 10 cents per item of information or inquiry, but not less than $1 per form. A 20-question form would entitle him to a $2 credit.

For any form or similar document that a corporation, other than a "small business," is required to file, the stakes would double; 20 cents a question, with a minimum of $2 per page.

For any form or similar submission required of a "small business," the credit would be 30 cents per question with a $3 minimum per form.

State and local governmental units would operate under the 20-cent per question, $2 minimum standard, and since they do not pay taxes would be able to claim their credit in the form of an increased payment under the general revenue-sharing program now in the law.

Nonprofit and charitable organizations as defined under section 501(c)(3) of the Tax Code would also receive the 20 cents per question, $2 minimum payment from the Treasury.

The basic premise of this bill is that if the information is worth having, the bureaucracy should be willing to pay $1, $2, or $3 for it. If it is not worth that much, then the taxpayer should not be burdened with providing it.

The intent of this bill is not to deny the Federal Government the data it truly requires to legislate, regulate and govern effectively. Many Federal reporting requirements are unquestionably necessary. However, many required forms could be eliminated or at least streamlined or simplified.

Government agencies presently churn out billions of sheets of paperwork for the American people each year, probably enough to fill several major league baseball stadiums. Just to print, shuffle, and store all this paper costs Government at all levels an estimated $18 billion annually.

And, at the receiving end of the red-tape tangle, it costs the American people, businessman, and worker alike, another $18 billion to fill out the mass of forms: Internal Revenue forms, wage and price forms, unemployment forms, health forms, accident forms, social security forms, quarterly this and monthly that.

For many small businesses, this added expense proves to be the final straw that drives them out of business. And for those giant corporations that can afford accountants and lawyers to deal with all this paperwork—well, they are forced to pass the cost along to the consumers.

In terms of dollars and cents, or frustration and irritation, the endless tangle of paperwork imposed by Government has become unbearable.

There are well over 5,000 forms in use in the Federal Government, excluding all tax and banking forms. There are 10 forms to be filled out each year for every man, woman, and child in the United States. The private citizen is very literally inundated with requests for information.

Some have referred to the endless series of forms and documents as "strangulation in triplicate." Others call it "Federal forms pollution."

It is particularly difficult for small firms to absorb the cost of this paperwork. Small businessmen must employ outside accountants and lawyers to fill out complex forms and keep the extra recordkeeping involved. Professional assistance, of course, is expensive. Having few employees, the small firms find it more difficult to spread the cost. A rise in per unit cost to cover paperwork can result in loss of sales and loss of competitive standing for small enterprises.

Small businesses, especially the mom-and-pop type operations, must fill out numerous reports, as many as 52 tax forms in a singe year. This is not an example of a Government which is concerned and responsive to the needs of its people. It is not a Government which is protecting free enterprise. It is instead a Government which favors only those large concerns that can satisfy repetitious requests for data, statistics, and information.

There are hundreds of instances in which Government redtape has proved an unmanageable burden for Americans trying to go into business for themselves.

One example, in particular, sticks in my mind. A young man developed a revolutionary device which represented a tremendous technological improvement for a certain industry.

He raised enough money to do research and develop his device for 1 year, hoping to go into production at the end of that time.

Keep in mind that during the first year he was earning no income. Regardless, though, he was required to fill out more than 60 Government forms and to pay out more than $3,600 in accounting fees.

As a consequence, he wound up behind schedule, frustrated and out of money at the end of the year. And it is doubtful that his new business will ever get off the ground.

Even a going concern is diverted by paperwork pollution from its main job of making a good product, selling it, keeping solvent, providing jobs, making profits, and paying taxes.

And, if the owner of a small firm is forced to spend too much money and too much effort on nonproductive paperwork, he must either go out of business or be swallowed up by a giant conglomerate.

Beyond the cost of Federal paperwork as measured in dollars and cents, there are other disturbing aspects of this problem. What is a small businessman to think, when his primary contact with his Government is a futile and frustrating battle with forms and regulations?

In an era when citizens distrust their Government, a wall of redtape is a needless barrier to trust and understanding. It is time that wall came down.

I began, in the spring of 1973, to move against this slow and steady strangulation by redtape. I introduced legislation creating a Federal Paper Commission, charged with studying the massive paperwork burden and making recommendations to eliminate much of it.

That Commission has just begun its work. But, even as it examines the overall problem, we cannot afford to sit still when countless flagrant instances of redtape are begging to be simplified. We can and should make the fight against excessive paperwork an ongoing battle.

For example, earlier this year, I introduced legislation to relieve thousands of small businessmen from the costly and complex paperwork now required by the Federal Government for pension plans. Basically, my bill would require the Secretary of Labor to issue simplified reporting and disclosure requirements for pension plans with less than 100 participants.

Let us face it, the detailed reporting requirements geared toward the largest pension plans in the country are simply not needed for our smallest pension plans. And, if they are not needed, why have them?

The sooner we adopt this attitude toward paperwork pollution, the closer we will be to a really streamlined and efficient Federal Government.

In this same spirit, I have introduced another measure to insure that Congress gives much closer attention to the paperwork requirements on small businessmen by new legislation. My bill would require that all congressional committee reports on new legislation include a rundown on the forms and recordkeeping burden it entails.

Such rundowns would include the estimated costs of required paperwork—in terms of dollars and cents, in terms of time, and in terms of frustration.

The Long-Bentsen paperwork reduction tax credit represents a major step to focus greater attention on the avalanche of Federal forms. Enactment of this legislation would encourage all Federal agencies to streamline forms and eliminate unnecessary ones.

Mr. LONG. Mr. President, the Senator from Texas has made a very fine statement.

This $20 billion to $40 billion is less than the taxpayer has to spend to fill out these forms now. The $40 billion that taxpayers are paying to fill out all these forms are deductible expenses, and so about $20 billion of this is a reduction of Federal tax revenues by virtue of the $40 billion expense being imposed on the American taxpayer.

This paper work burden could be reduced by about 75 percent, as I believe it should be. For example, in many cases, if the information is needed, a mere survey or sample like the Gallup poll may be used to obtain the same information. Often we do not need statistical precision within one-tenth of 1 percent, and by reducing the paper work by 75 percent—and I think that is a fair objective—the Government would then save money, even though it would be paying people to fill out the forms.

This same principle could be applied to business. The Government could greatly increase its tax revenues if businessmen would not be required to hire employees to fill our innumerable Federal forms. Instead, those people could be put to work doing something useful. These unnecessary forms are driving the average businessman absolutely mad, and needlessly running up the expenses of business as well as Government.

Mr. BENTSEN. Mr. President, it also means, of course, we would be able to cut down on the number of Government employees and reduce the Government budget with this kind of approach. That, certainly, is a worthy objective with the deficits we are seeing.

Mr. LONG. I have seen some pictures of Government employees sitting side by side as far as the eye could see and I wonder what they do with all those people. Obviously, they are trying to process a great number of these completely useless forms time and time again.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

I thank the Senator from West Virginia.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized for not to exceed 15 minutes.

SENATE PROCEDURES—IN NEED OF AN OVERHAUL

Mr. DOMENICI. Mr. President, I have become increasingly concerned during my initial 3 years as a Member of this body that its procedures prevent it from dealing effectively with the kinds of massive national problems we are confronted with today.

In this category, I place such important and complex issues as creation of a coherent national energy policy, establishment of priorities for our national transportation system, and addressing the spiraling costs and associated problems of trying to provide adequate income security for older and needy Americans.

The reason for my concern with the procedural and organizational deficiencies of the Senate as an institution is a recognition that here, as in most institutions, procedure actually controls substance. I have no quarrel with tradition or custom, because I also recognize that an institution such as the Senate will necessarily develop arrangements and processes that are extremely personal to that institution and which have been adopted over the years to improve the functioning of the institution.

There comes a time, however, when the course of events demonstrates beyond question that even the most personal and traditional of arrangements and processes must be evaluated and modified for improved functioning. We have reached that time in the Senate long ago, Mr. President, and our ability to function for the good of this Nation and its citizens under the crush of events of this era is severely hampered by procedures not in tune with the times.

I do not intend to belabor the effect of this circumstance on individual Senators, Mr. President, because all the Members of this body know the utter frustration generated by the lack of processes that allow us to address and resolve the major issues we must deal with if the United States is to continue as the greatest Nation on earth. So, it is not change for change's sake, or to make my job either more rewarding or easier: It is my concern and my fear that we will simply be unable to carry out successfully the business of the people without some basic procedural overhaul in this institution.

Mr. President, the operating procedures governing the scheduling of the various kinds of functions we engage in simply must be changed to allow us to make more efficient and effective use of our time and energy. We need a system that permits the various functions of committee action, floor involvement, constituent interaction and interface with the House of Representatives to be complimentary to each other, not at the expense of each other.

It is not uncommon under the present scheduling system for Senators to be scheduled for several major committee events and to be involved in a conference on an important piece of legislation at the same time that the other equally important legislation is being debated on the floor.

I am fully aware that a certain amount of conflict of the kind I have been describing is inevitable, but that is no excuse not to at least try to reduce it to the very minimum. We could, for example, establish a routine weekly calendar that sets aside specific days or parts of days of every week for committee activity and specific days or parts of days for floor activity. We could then computerize the scheduling of committee meetings so that conflicts were minimized. These are only some brief examples of improvements I think could be made and I intend to pursue this matter in the upcoming session.

There just has to be a better way to utilize the time and talent of the 100 people sent here by the citizens of this country to do more than make the difficult choice almost daily of which important matters will be left out that day. I urge my colleagues to pursue this matter since it is, in my opinion, of fundamental importance.

Also of fundamental importance is our committee system, because the committee system is the real workplace within the institution. As such, it ought, at the minimum, be adaptable to the important massive issues and problems of these times. But, Mr. President, it is not. The present system actually detracts from our ability to deal effectively and expeditiously with the major problems that face this Nation in the 1970's.

Look, for example, at how we are organized to address the issue of income assistance, a problem that in the years ahead will dwarf all others in terms of money committed by the Federal Government. We have five Senate committees dealing with some aspect of this issue or with one or more of the growing number of major categories of recipients. Unless we act soon to bring some order, some uniformity of approach from the perspective of an overall policy developed in the Nation, long-term best interest, we can expect this to become a problem so pervasive that a national calamity is not unlikely.

As an example of the problem that has existed for some time, to which we have thus far failed to respond, let me cite the way we attempt to deal with national transportation issues, not to mention develop and adhere to a national transportation policy. How can we do either, when legislative jurisdiction is divided between five subcommittees of four different committees in the House and between five subcommittees of three different committees in the Senate? The closest we come to pulling these activities together is in the Appropriations Subcommittee on Transportation, one in each House.

The situation is even worse as to energy and energy policy. At least in transportation, most of the appropriations process is handled in one subcommittee in each House, but in energy, there are multiple appropriations subcommittees in each House attempting to handle some part of the action. Add to that these startling facts relating to energy jurisdiction of committees of the Congress:

First. In the House there are 17 standing committees and one ad hoc select committee that deal with some aspect of energy legislation or oversight. There are 34 subcommittees that have some part to play in the energy scenario in the House.

Second. In the Senate there are 14 standing committees and one select committee with a total of 38 subcommittees that have been active in energy matters.

Third. In addition, there are two joint congressional committees with a total of nine subcommittees that deal with energy issues.

Is it any wonder, Mr. President, that with this kind of diffuse arrangement, we have to go through the gyrations that finally produced S. 622, so proudly advertised as a comprehensive bill on energy policy and conservation?

I know that the distinguished majority leader has addressed this issue frequently and that it is a matter the leadership recognizes as extremely serious. The time for recognition is past and it is now time for action. I know there have been proposals in the 93d Congress and in this Congress for reorganizing to deal more effectively with energy. I know that any of those proposals which would stand a chance of achieving its purpose would be hard to cause to happen, but that is no reason not to try.

I am convinced that we must try and that we must ultimately change the present committee structure. We have not settled our energy problems with the passage of S. 622. In fact, I am convinced we have worsened it by that legislation and partly at fault is the "nonsystem" by which that bill was produced. I intend to propose that while longer range solutions, such as committee reorganization, are being pursued, we create a temporary Select Committee on Energy in the Senate. I am fully aware that there are drawbacks and disadvantages to that arrangement, but it would be so much better than what we have now that we must at least try it while a complete overhaul is being worked out.

In conclusion, Mr. President, I sincerely urge my colleagues to consider, earnestly and carefully, the dangers of our present procedural system in the Senate and to work together with the common goal of changing that system to make it responsive to the problems we are not now able to solve, particularly energy. The second session of the 94th Congress can have no more an important matter to deal with than that which has been the subject of my remarks this morning.

Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of the time yielded back by the distinguished Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum while awaiting the next speaker, and I ask that the time be charged against the time allotted to me.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALMADGE). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time remains to me under my control?

The PRESIDING OFFICER. The Senator's time has expired.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, while the Senate awaits the arrival of the last Senator to be recognized under a special order (Mr. JAVITS), I ask unanimous consent that there be a brief period for the transaction of routine morning business of not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CLARK TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow after the two leaders or their designees have been recognized under the standing order, the Senator from Iowa (Mr. CLARK) be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 95.

The PRESIDING OFFICER (Mr. TAFT) laid before the Senate the amendment of the House of Representatives to the bill (S. 95) to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

(The amendment of the House is printed in the RECORD of December 10, 1975, beginning at page 39736.)

Mr. PELL. S. 95 passed the Senate by unanimous consent May 15, 1975. The House December 10, 1975, by an overwhelming majority, passed the Senate bill with the amendment of the House Administration Committee striking out all after the enacting clause and inserting new language.

We intend to ask the Senate to agree to the House version of S. 95. This would eliminate the need for referring the bill to a time-consuming conference, and would enable the bill to be cleared for the President before the end of this session. As a result, overseas citizens would be able to vote in Federal primary elections in 1976 as well as in the Federal general election next November.

In general, the House changes in S. 95 do not adversely affect the primary purposes of the bill: First, to assure the right of U.S. citizens residing outside the United States to vote in Federal elections in their State of last domicile; and second, to adopt uniform absentee registration and voting procedures covering these citizens in Federal elections.

Mr. President, I must report, however, that the Senate sponsors of S. 95 are troubled by the House deletion of a provision in the Senate bill which would have clarified the Federal and State tax status of the overseas citizen voting in Federal elections under this bill.

Our concern about the House deletion of the tax provision is based upon the evidence in the committee hearings on this bill, as confirmed by our firsthand experience, that one of the primary reasons large numbers of overseas citizens have declined to vote in elections back home in the past was the fear they would as a result be subjected to State taxation.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Maryland who, I should say, was one of the original sponsors of this bill when it was introduced in the Senate last January, and who has been one of the strongest supporters in our efforts to enfranchise U.S. citizens abroad to vote in Federal elections back home.

Mr. MATHIAS. I thank the Senator from Rhode Island for his kind words, and would mention that, as chairman of the Subcommittee on Privileges and Elections of the Committee on Rules and Administration, he has been at the forefront for a number of years in seeking legislation to assure the right of overseas citizens to vote in Federal elections.

I want to join the Senator in asking the Senate to agree to the House version of S. 95. As he said, we are not fully satisfied with the House amendment, particularly the deletion of the tax provision in the bill. I have been advised, however, that the House managers of the bill in all likelihood would not be able to agree to reinstatement of the tax provision in S. 95 even if the bill were referred to a conference. The House does not take the position that overseas citizens should be subject to tax liability solely for the privilege of voting in Federal elections under this bill. The House Administration Committee said they deleted the tax provision as simply "inappropriate for this legislation." The chairman of that committee, WAYNE HAYS, stated the House position succinctly during floor consideration of the bill:

> The amended bill is neutral on the question of taxation and neither restricts the right of a State or locality to attempt to tax an overseas citizen voting in federal elections under this bill, nor limits the right of an overseas citizen to contest the imposition of such taxation under applicable law.

We have been informed that the principal supporters of S. 95 overseas believe that the bill, even without the tax provision, represents a major advance in their efforts to secure the franchise in Federal elections back home. Indeed, as a practical matter, the silence of the House amendment on the tax question may not have any significant effect on the imposition of taxation on overseas citizens voting under this bill. As I have noted, the House managers, both in the committee report and on the floor, made clear that the bill does not limit the right of an overseas citizen voting under this bill to contest the imposition of State taxation "under applicable law." The Senate sponsors thought the tax provision would have helped clarify this applicable law, and regret deletion of the provision in the House amendment. An examination of the applicable law will show that the Constitution alone is sufficient to assure that the overseas citizen would not be subject to taxation solely by voting in Federal elections under S. 95.

Mr. PELL. In light of the House deletion of the clear and specific tax provision in the Senate bill, I think it would be useful at this point to summarize our understanding of the tax law—Federal and State—applicable to overseas citizens whose sole continuing contact with a State is voting in Federal elections under S. 95.

The touchstone of this applicable law is the 24th amendment to the Constitution abolishing the poll tax as a qualification to vote in Federal elections. This amendment reads as follows:

> "SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.
>
> "SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."

The prohibition in this amendment applies to U.S. citizens residing overseas as well as those at home.

FEDERAL TAXATION

Voting in Federal elections under S. 95 should have no effect on the Federal income or estate tax liability of U.S. citizens residing outside the United States.

All U.S. citizens, whether residing at home or overseas, are subject to Federal income taxation on all of their income, with certain exceptions. For the citizen residing overseas, the Internal Revenue Code currently allows a limited exclusion for income earned in work overseas. The Internal Revenue Service has already issued a ruling, Revenue Ruling 71-101, 1971-1 Cumulative Bulletin 214, stating that the overseas citizen would not lose this exclusion solely by voting in elections back home. This ruling has been further clarified by a letter, dated August 28, 1972, from the Acting Chief of the Corporation Tax Branch of the Internal Revenue Service to Senator GOLDWATER, which the Senator kindly inserted, at page 49, in the September 1973 hearings before our Subcommittee on Privileges and Elections on voting by U.S. citizens residing abroad. I should point out that the tax reform bill passed by the House a few weeks ago, and now under consideration in the Senate Finance Committee, would phase out even this limited exclusion from Federal income taxation for foreign-earned income.

The overseas citizen does not enjoy any Federal tax exemption for investment income by reason of residence outside the United States. Investment income of overseas citizens is subject to Federal income taxation in the same manner as investment income of citizens at home. This includes dividends, interest, rents, royalties—all income other than income earned in work overseas.

The overseas citizen is also fully liable for Federal estate taxation to the same extent as citizens residing in the United States. The Internal Revenue Code provides no exemption from Federal estate taxation for U.S. citizens by virtue of their residence overseas.

STATE AND LOCAL TAXATION

As we construe existing applicable law, the overseas citizen would not be subject to State and local income, estate, or inheritance tax liability solely for the privilege of voting in Federal elections under S. 95. In other words, if his sole contact with a State is voting in Federal elections under S. 95, that in itself would not be sufficient to subject him to State or local taxation.

S. 95 requires that an overseas citizen need retain only a voting domicile in a State in order to continue voting in Federal elections in that State. The bill does not require that he retain a domicile in the State for other purposes. For example, the bill expressly recognizes that such a citizen's intent to return to his State of last domicile may be uncertain.

There is ample support for our conclusion that under existing applicable law the overseas citizen would not be subject to State and local tax liability solely for the privilege of voting in Federal elections under S. 95:

First, the 24th amendment, as I have indicated, insures that a State cannot, in effect, inhibit "citizens of the United States" from voting in Federal elections in the State by the imposition of "any poll tax or other tax." Such a State tax would be equally suspect whether it were imposed on the overseas citizen before or after he were to vote in Federal elections.

This bill does not require the overseas citizen to retain full domicile in a State in order to vote in Federal elections in that State. Such a requirement would, in many instances, amount to an unconstitutional poll tax in the same way as if such a tax were imposed directly on the act of voting itself.

Second, compelling an overseas citizen to pay State and local taxes solely for the privilege of voting in a Federal election, without the citizen enjoying any of the rights and privileges incident to domicile in the State, might well be a violation of the due process clauses of the fifth and 14th amendments as well as of the poll tax amendment.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator.

Mr. MATHIAS. Naturally, S. 95 will not preclude a State from seeking to impose taxation on an overseas citizen if the State can reasonably prove that such tax liability has a basis other than voting in Federal elections in that State. Furthermore, it must be emphasized that S. 95 applies only to Federal elections. If an overseas citizen wants to vote in State and local elections, he must still persuade the State to accept him as a full domiciliary of that State for purposes of voting in State and local elections. S. 95 would not change that result in any way.

Mr. PELL. The Senator's understanding is correct.

Third, according to Treasury statistics, the Federal tax liability of overseas private citizens runs into the hundreds of millions of dollars.

In 1973, for example, 138,000 Federal income tax returns were filed on behalf of over 200,000 overseas taxpayers in the private sector alone—not counting Federal Government employees. These tax returns of overseas private citizens reflected a total Federal income tax liability, even after allowance of all tax credits, exclusions and exemptions, of nearly $150,000,000. The average Federal income tax per return of $1,058 for these overseas private citizens was greater than or about the same as the average income tax per return for individual taxpayers residing in each of 15 States back home. This amount is greater than for taxpayers in nine States—Arkansas Idaho, Maine, Mississippi, New Mexico, South Carolina, South Dakota, Utah, and Vermont; and about the same as for taxpayers in six States—Alabama Kentucky, Minnesota, Montana, North Carolina, and South Dakota.

The House phaseout of the present limited exclusion from income taxation for foreign-earned income would eventually increase the Federal income tax collections from these overseas private citizens by at least another $50,000,000 a year. The phaseout probably will also result in the filing of Federal income tax returns by tens—and possibly hundreds—of thousands of additional overseas private citizens.

It is worth noting, moreover, that in these days of massive Federal grants-in-aid and revenue sharing, the States receive a substantial amount of Federal tax revenue paid in part by overseas private citizens to the U.S. Treasury.

For example, the $150,000,000 in Federal individual income taxes paid by overseas citizens for 1973 would have been sufficient to bear the entire cost of all Federal aid to State and local governments in fiscal year 1973 for each of at least five States, including Delaware, Nevada, New Hampshire, Vermont, and Wyoming. Overseas citizens already pay, and will continue to pay, a fair share of State revenues through the U.S. Treasury, whether or not they vote in Federal elections under this bill.

Fourth, the imposition of State taxes on the overseas citizen solely for the privilege of voting in Federal elections under S. 95 would in many instances constitute double taxation. The overseas citizen generally is subject to substantial income tax and sales tax—or value-added—liability in his foreign country of residence. The foreign income tax is ordinarily creditable against his Federal income tax liability, but not against any State or local tax liability.

The foreign sales—or VAT—tax may run as high as 30 percent on some items, but it is not allowed either as a credit or as a deduction against Federal, State, or local income taxation in the United States.

These foreign taxes paid by the overseas citizen help defray the cost of services actually used by the citizen in his foreign country of residence. He pays for police and other services, schools, sewers, garbage collection, streets and highways, health care, social security, and any other government benefits provided by that country and used by him.

It would be wholly unreasonable, as well as a violation of the due process clauses and the 24th amendment, for a State to impose an additional tax burden on the overseas citizen solely for the purpose of voting in Federal elections if he makes no use of any other service provided by the State, such as police, fire, education, sanitary, transportation, and social services for which he is already paying taxes in his foreign country of residence.

Mr. MATHIAS. Mr. President, would the Senator yield once more.

Mr. PELL. I am pleased to yield to the Senator from Maryland on this bill at any time.

Mr. MATHIAS. I commend the Senator from Rhode Island for his excellent exposition of the tax law applicable to overseas citizens voting in Federal elections under S. 95, and want to confirm that I am in total agreement with every step of his analysis.

For the RECORD, I think we also ought to enumerate the other significant House changes in S. 95, since they were not all described in the House report or floor debate.

FINDINGS AND DECLARATION

The House deleted the findings and declarations in the Senate bill as being unnecessary. The House apparently concluded that adequate justification for the bill, including its constitutionality, was contained in hearings on the bill before the Senate Rules and Administration and House Administration Committees and in the commitee reports. The Senate sponsors of S. 95 regard this change as mainly a technical one.

RIGHT OF OVERSEAS CITIZEN TO VOTE IN FEDERAL ELECTIONS

The House recast in a positive form the declaration contained in the Senate bill of the right of a citizen residing outside the United States to vote in Federal elections in his State of last domicile. The House also added the requirement that the overseas citizen must have been able to meet all qualifications—except for the minimum age requirement—to vote in Federal elections in such State under present law prior to departure from the United States. The Senate sponsors of S. 95 believe this change is also essentially technical.

ABSENTEE REGISTRATION AND VOTING PROCEDURES

The House made three changes in the absentee registration and voting procedures enumerated in S. 95.

First, the House version provides that the deadlines for submitting applications to vote and completed ballots must be based on the time of their receipt by the State election official, because it was thought considerable time may elapse between the mailing of such materials by the overseas voter and their receipt by the election official. This also amounts to a technical change in the bill.

Second, the House deleted a detailed description of the obligation of a State election official to mail election materials to the overseas applicant, since it was believed such an obligation is inherent in the absentee registration and voting rights secured by the bill, and generally is now provided by State law. While the Senate sponsors regard this change as also one of a technical nature, we should emphasize it is our intention, in the case of any properly completed application for an absentee ballot received by a State election official under this bill, that he will mail an absentee ballot by air mail to the overseas citizen as promptly as possible.

Third, the House deleted a specific provision for payment of postage in the U.S. mails—including the authorization of an appropriation therefor—for election materials sent to and from the overseas citizen, since it was considered unnecessary to modify existing Federal and State law governing the payment of such postage. The Senate sponsors believe this House change also is a technical one, since the mailing of election materials to and from citizens residing overseas, and the payment of postage on those materials in the U.S. mails, is already covered by the Federal Election Assistance Act of 1955, as amended, and corresponding State law.

In sum, we do not think that any of the House changes I have mentioned in the absentee registration and voting provisions of S. 95 will significantly affect its practical operation.

Mr. PELL. Mr. President, as the Senator from Maryland has stated, while the Senate sponsors of S. 95 are disappointed in the House deletion of the tax provision in the Senate bill, we think it probably would not be productive for the Senate to insist on a conference solely to seek restoration of this provision in the bill. The bill as passed by the House retains the principal substantive provisions of the Senate bill guaranteeing the constitutional right of the overseas citizen to register and vote in Federal elections and providing uniform absentee registration and voting procedures for this purpose. By avoiding a conference, we can clear the bill for the President before Christmas recess, and assure that the overseas citizen will be able to participate in the entire Bicentennial year of Presidential and congressional elections.

Mr. MATHIAS. I wholly agree with the Senator from Rhode Island. I think it is essential that S. 95 be enacted in time for overseas citizens to vote in the Presidential and congressional primaries and the Federal general election of our Bicentennial year. If it should turn out that the fear of State taxation continues to discourage a significant number of overseas citizens from voting in Federal elections under this bill, even with our statement today confirming the protection conferred by the due process clauses and the 24th amendment, I think we would then be in a better position to go back to the House in a future year and seek to add a specific tax provision to the law.

Mr. President, I ask unanimous consent to have printed in the RECORD portions of a letter, dated December 11, 1975, from the Bipartisan Committee on Absentee Voting to the Senate sponsors and supporters of S. 95 urging that the Senate act as promptly as possible to accept the House version of the bill, so as to eliminate the need for referring the bill to a conference. The Bipartisan Committee represents all the major groups, both at home and overseas, which support S. 95.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

BIPARTISAN COMMITTEE
FOR ABSENTEE VOTING,
Washington, D.C., December 11, 1975.

Re S. 95—Overseas Citizens Voting Rights Act of 1975.

Hon. HOWARD W. CANNON, MARK HATFIELD, CLAIBORNE PELL, CHARLES McC. MATHIAS, BARRY GOLDWATER, BIRCH BAYH, WILLIAM E. BROCK, WILLIAM V. ROTH.

DEAR SIRS: As you probably know, the Overseas Citizens Voting Rights Act of 1975 (S. 95), which had passed the Senate by unanimous consent May 15, 1975, was adopted by the House of Representatives December 10, 1975 by 374–43. The House passed the Senate bill with the amendment of the House Administration Committee striking out all after the enacting clause and inserting new language.

We want to confirm to you by this letter that the Bipartisan Committee on Absentee Voting, representing all the major groups which support S. 95, strongly urges that the Senate act as promptly as possible to accept the House version of the bill, so as to eliminate the need for referring the bill to a conference.

We believe that the House changes in S. 95 do not adversely affect the primary purposes of the bill (1) to assure the right of U.S. citizens residing outside the United States to vote in federal elections in their State of last domicile and (2) to adopt uniform absentee registration and voting procedures covering these overseas citizens in federal elections. Except for the House deletion of the taxation provision (see discussion below), the House changes in S. 95 represent essentially technical amendments to the version of the bill passed by the Senate last May.

* * * * *

In the one significant House change, the other Chamber deleted, as inappropriate for this legislation, the provision in the Senate bill which would have expressly provided that the exercise by an overseas citizen of the right to register and vote in federal elections under this bill would not affect the determination of his place of residence or domicile for purposes of any tax imposed under federal, State or local law. The House version is neutral on the question of both federal and State taxation.

The House Administration Committee report on S. 95 noted that the effect of voting in federal elections on the determination of an overseas citizen's liability for federal taxation is already dealt with in the Internal Revenue Code and the regulations and rulings of the Internal Revenue Service.

With respect to State taxation, the report stated that the Committee did not intend either to restrict the right of a State or locality to attempt to tax an overseas citizen voting in federal elections under this bill, or to limit the right of an overseas citizen to contest the imposition of such taxation under applicable law.

While we opposed House deletion of the taxation provision contained in the Senate bill, we have been advised it is highly unlikely the House would agree to reinstatement of his provision in S. 95 even if the bill were referred to a conference. We believe, therefore, that it probably would not be productive for the Senate to insist on a conference solely to seek restoration of the tax provision in the bill.

* * * * *

Since S. 95 carries an effective date of January 1, 1976, we think it would be extremely helpful for the Senate to agree to the House version of the bill before the Christmas recess. This would enable the bill to be cleared for the President before the end of the year, so that overseas citizens would be able to vote in federal primary elections in 1976, as well as in the federal general election next November.

If you should have any questions regarding the foregoing, please do not hesitate to telephone either Mr. Wallace (at 833-1973) or Mr. Marans (at 223-2151).

Very truly yours,

CARL S. WALLACE,
Executive Director.
J. EUGENE MARANS,
Secretary and Counsel.

Mr. GOLDWATER. Mr. President, I am delighted that the Senate is about to approve and send to the White House S. 95, legislation to strengthen the voting rights of overseas American citizens. The bill will nail down the absentee voting rights of a law which I introduced in 1970, regarding Presidential elections, and extend those rights to all Federal elections.

In short, the 1970 amendments which I authored struck down legal technicalities preventing Americans from voting for President and Vice President solely because they had moved their households before the election. The law also extended absentee registration and balloting rights to American citizens who were away from home on election day.

Although the number of Americans casting Presidential absentee ballots in 1972 increased by 26 percent over the previous Presidential election, it became clear that some States would not extend the full voting rights to Americans who were outside the United States that I and the other sponsors of the 1970 law intended. Also, that law is limited in its application to voting for President and Vice President and does not cover voting for all Federal offices. Thus, it is clear that a new law is now needed to clarify the meaning of the 1970 statute and to extend comparable benefits to citizens who wish to vote in congressional elections as well as for President and Vice President.

Mr. President, there is no question in my mind about congressional power to protect the right of U.S. citizens to vote. In this connection, my counsel has prepared a legal memorandum in support of the constitutionality of S. 95 and I ask unanimous consent that this paper be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. In short, I believe it is a firmly established principle of American law that the right to vote for national officers is one of the fundamental, personal rights of national citizenship. Moreover, the right to vote and the freedom to travel are both among the privileges of U.S. citizenship which are directly dependent on and secured by the Constitution.

Also, I would point out that Americans abroad have a distinct and direct interest in Federal elections similar to that of citizens who remain at home. Overseas Americans have a great interest in decisions and policies acted upon by the President and Congress jointly and have a very real stake in being allowed to participate in the political process. In acting to protect the franchise for these citizens, Congress is merely implementing the basic scheme of the Constitution that Americans shall enjoy a representative government whose officers are as responsive as possible to all of the people.

EXHIBIT 1

MEMORANDUM OF LAW IN SUPPORT OF CONGRESS' POWER TO PROTECT THE VOTE IN FEDERAL ELECTIONS

(By J. Terry Emerson, counsel to U.S. Senator Barry Goldwater)

I. THE RIGHT TO VOTE FOR NATIONAL OFFICERS IS AN INHERENT RIGHT OF NATIONAL CITIZENSHIP

It is firmly established in American law that the right to vote for National officers is a fundamental, personal right of National citizenship. The Supreme Court has plainly announced that "among the rights and privileges of National citizenship recognized by this court are the right to vote for National officers . . . "*Twining* v. *New Jersey*, 211 U.S. 78, 97 (1908)."

According to Justice Frankfurter's opinion in *U.S.* v. *Williams*, 341 U.S. 70, at 79 (1951), the Supreme Court has held or assumed in at least seven decisions that the right to vote in Federal elections can be protected by Congress because it is a right directly dependent on and secured by the Constitution. *Ex parte Yarbrough*, 110 U.S. 651, 663 (1884), is but the first of these decisions. In *Yarbrough*, the Court expressly rejected a claim "that the right to vote for a Member of Congress is not dependent upon the Constitution or laws of the United States, but is governed by the law of each state respectively." Instead, the Court held that these offices are created by the Constitution and by that alone. *Id.*, at 663. See also *United States* v. *Classic*, 313 U.S. 299, 314, 315 (1941); *Wiley* v. *Sinkler*, 179 U.S. 58, 62 (1900); *In re Quarles*, 158 U.S. 532, 535 (1895).

The same doctrine applicable to voting in Congressional elections is true of Presidential elections. That office is created by the Constitution alone, and it and the Vice Presidency are the only national offices chosen in a nation-wide election. All doubt of the standing accorded this right is removed by *In re Quarles*, where the Supreme Court expressly enumerated among the rights secured to citizens by the Constitution "the right to vote for *presidential electors* or members of Congress. . . ." *Id.*, at 535. (Emphasis added.) Moreover, the Supreme Court later held that Presidential electors exercise Federal functions, a truism which further supports the power of Congress to legislate with respect to Presidential elections *Borroughs* v. *United States*, 290 U.S. 534 (1934).

The concept from which the right to vote for officers of the National government is derived is the recognition by the Supreme Court that there are certain basic rights of National citizenship which "arise from the relationship of the individual with the Federal government" and "are dependent upon citizenship of the United States, and not citizenship of a state." *U.S.* v. *Williams*, *supra; Slaughter-House Cases*, 16 Wallace 36, 80 (1872).

Thus, the rights belonging to National citizenship arise out of the very nature and existence of the National government. *Ward v. Maryland*, 12 Wallace 418 (1870); *Paul v. Virginia*, 8 Wallace 168, 180 (1868). The right to vote in National elections is among these fundamental rights since it is basic to the scheme of the Constitution that Americans enjoy a representative-type of government with National officers who are as responsive as possible to the people.

II. THE RIGHT TO VOTE FOR NATIONAL OFFICERS IS A PRIVILEGE OF NATIONAL CITIZENSHIP

Section I of the Fourteenth Amendment provides that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The right to vote for National officers has not only been recognized as being among the "rights" of National citizenship, but also among the "privileges" granted or secured by the Constitution. *In re Quarles, supra; Twining v. New York, supra.* Accordingly, Congress is free to enforce the privilege of voting pursuant to section 5 of the Fourteenth Amendment, the Enforcement Clause.

III. THE FREEDOM TO TRAVEL IS A PRIVILEGE OF UNITED STATES CITIZENSHIP

The freedom to travel across State lines has long been held to occupy a position fundamental to "the nature of our Federal Union and our Constitutional concepts of personal liberty." *Shapiro v. Thompson*, 394 U.S. 634, 639 (1969); *United States v. Guest*, 383 U.S. 745, 757 (1966); *Crandall v. Nevada*, 6 Wallace 35, 47 (1867).

In *Kent v. Dulles*, 357 U.S. 116, 126 (1958), the Supreme Court clearly equated the right of interstate travel with the right to travel abroad:

"Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears, or reads. Freedom of movement is basic in our scheme of values." *Id.*, at 126.

Thus, the freedom to travel abroad has been held to be an important aspect of the citizen's liberty," guaranteed in the Due Process Clause of the Fifth Amendment. *Kent, supra* at 127; *Aptheker v. Secretary of State*, 378 U.S. 500, 505 (1964). Indeed freedom of movement is considered of such great importance, the Supreme Court has held that a Federal restriction upon the personal liberty of travel outside the United States was unconstitutional even though a substantial governmental interest was asserted in support of the restriction on grounds of national security. *Aptheker, id.*, at 508.

Since it is well settled that the Fourteenth Amendment operates to extend the same protection against State legislation, affecting life, liberty, and property, as is offered by the Fifth Amendment, Congress has full power to secure the liberty of free travel against unnecessary State restraint. *Hibben v. Smith*, 191 U.S. 310, 325 (1903).

IV. CONGRESS HAS POWER TO PROTECT RIGHTS AND PRIVILEGES OF NATIONAL CITIZENSHIP UNDER BOTH THE NECESSARY AND PROPER CLAUSE AND THE FOURTEENTH AMENDMENT

With respect to protection and facilitation of the exercise of rights or privileges of United States citizenship, the Supreme Court has ruled that Congress may act under the Necessary and Proper Clause of Article I of the Constitution. As stated by Chief Justice Waite in *United States v. Reese*, 92 U.S. 214, 217 (1875), the "right and immunities created by or dependent upon the Constitution of the United States can be protected by Congress." See also *Strauder v. West Virginia*, 100 U.S. 303, 310 (1879).

As in all cases involving the reserved powers of the States, the applicable rule under which Congress may legislate is the classic formulation by Chief Justice Marshall in *McCulloch v. Maryland*, 4 Wheaton 316, 421 (1819). If the end be legitimate and within the scope of the Constitution, Congress can choose any means which has a rational basis.

This principle was upheld in *United States v. Texas*, 252 Fed. Supp. 234 (1966), striking down the poll tax system in Texas. The case involved an action brought under section 10 of the Voting Rights Act of 1965 in which Congress found that payment of a poll tax as a precondition to voting denies or abridges the Constitutional right of citizens to vote. In holding that the Texas poll tax must fall, the Court placed its decision squarely on the ground that the right to vote is "one of the fundamental rights included within the concept of liberty." *Id.*, a 250. The Supreme Court upheld this ruling in *Texas v. United States*, 384 U.S. 155 (1966).

The same rule of *McCulloch v. Maryland* is applicable to measure the exercise of Congress' power to enforce the guarantees of the Fourteenth Amendment. For example, see *Katzenbach v. Morgan*, 384 U.S. 641, at 650, 651 (1966), upholding the constitutionality of section 4(e) of the Voting Rights Act of 1965 which prohibits enforcement of the New York State English language literacy test against New York residents from Puerto Rico.

V. S. 95 IS APPROPRIATE LEGISLATION

Applying the above principles to the subject legislation, it is clear S. 95 is constitutional. Its end is clearly legitimate. Its object is to protect and enhance the right of almost one million United States citizens overseas to exercise the franchise in Federal elections. These citizens have a direct and great interest in decisions and policies acted upon by the President and Congress and are substantially affected by decisions made by the Executive and Congress jointly. Federal action is required if these citizens are to be brought within the workings of representative government. No single State can undertake to guarantee the franchise to all these persons. In order to establish a uniform means by which all national citizens can be guaranteed an equal opportunity to vote in national elections, it is necessary for Congress to act.

In acting to facilitate and protect the rights to vote and travel, the record indicates that Congress is concerned with at least three categories of overseas citizens, all of whom it seeks to enfranchise in Federal elections. A professional survey of United States citizens abroad, which was recently compiled for the Department of Defense pursuant to the Federal Voting Assistance program, provides the best evidence available as to the characteristics of these citizens. An analysis of applicable principles proves Congress is acting within the scope of the Constitution with respect to each of these categories of citizens.

VI. CONGRESS CAN PROVIDE UNIFORM PROCEDURES FOR ABSENTEE RESIGNATION AND VOTING IN FEDERAL ELECTIONS

The recent Department of Defense survey indicates that there are 630,300 Americans abroad who are presently eligible to vote based on age, citizenship, and legal residence criteria. As to this class of citizens Congress is concerned with removing technical limitations of State and local law which unnecessarily restrict their opportunity to vote and consequently burden the privilege of travel as well. Congress is concerned that these citizens, who are admittedly bona fide residents of the several States, shall not be disenfranchised by mere lack of minimal voting processes. For this reason, Congress proposes to enact uniform national standards with respect to the means for absentee registration and voting by such residents in order to provide them with the fullest opportunity for exercising the franchise.

The basic standards which Congress uses in S. 95 are derived from section 202 of the Voting Rights Act of 1965, which in turn were drawn from the proven practice of the States themselves. Congress has found that these practices were successfully applied by many States with respect to some of their residents without significant fraud or administrative difficulty and has accordingly found there is no compelling reason why the States should not apply the same standards to all of their residents on a national, uniform basis. See testimony of Senator Goldwater, "Amendments to the Voting Rights Act of 1965," Hearings before the Sucomm. on Const. Rights, Senate Comm. on the Judiciary, 91st Cong., 1st and 2d Sess. (1969–1970), at 277–306.

VII. CONGRESS CAN ENACT A UNIFORM DEFINITION OF RESIDENCE FOR VOTING PURPOSES IN FEDERAL ELECTIONS

A second class of overseas citizens who are covered by S. 95 includes persons who are ineligible to vote because of strict residence restrictions, but who plan to return to States that have been their homes before residing abroad. According to the recent survey made for the Department of Defense, there are up to 334,000 Americans of voting age who may be in this category.

Giving proper consideration to the interests of the States, Congress can legislate a uniform definition of residence for voting purposes in Federal elections in order to secure the fundamental right to vote and freedom of travel for these citizens. If a person who departs a State for overseas has an intent to return to that State and considers himself still to be a resident of that State for voting purposes, Congress has a rational basis for determining that these persons remain bone fide residents of the State for purposes of voting in Federal elections.

All States now permit absentee servicemen and their accompanying dependents to register and vote from abroad and this has not caused any significant problems of fraud or administrative difficulty. The universal rule applied by States to servicemen and their dependents is one of intent. These persons do not lose or abandon the voting residence they had when the military member entered the service, nor do they acquire one at the place where he or she serves, irrespective of the duration of actual residence at such place. American Jurisprudence, 2nd, Elections, section 75.

Since all States have successfully administered their elections under the liberal test of residence applied to military personnel and since the total numbers of absentee residents so continued on the voting rolls exceeds the combined total of persons accorded the same rights by S. 95. Congress may rationally conclude that the setting of a uniform definition of residence for voting purposes based on the same criteria applicable to servicemen and their dependents is an appropriate and workable means for protecting the vote of citizens overseas in Federal elections and their liberty of travel without penalty by reason of loss of the vote.

VIII. THERE IS NO COMPELLING STATE INTEREST IN IMPOSING A STRICT RESIDENCE TEST AGAINST AMERICANS OVERSEAS

Though the general proposition may be accepted that a State may require its voters to be bona fide residents, the Supreme Court has made it clear that the States may not use a test of residence as a technical device for sweeping an entire class of citizens off the voting rolls unless the restriction is *necessary* to promote a compelling State interest. For example, State determinations that certain classes of citizens were not residents for voting purposes were overturned in at least three recent cases because the residence rules were found not necessary to serve any compelling State interest. *Carrington v. Rash*, 380 U.S. 89, 95, 96 (1965), *Evans v. Cornman*, 398 U.S. 419, 424, 426 (1970); *Dunn v. Blumstein*, 405 U.S. 330, 337 (1972).

Congress has here determined that there is no compelling governmental interest in restricting the right to vote and penalizing the right to travel of Americans overseas who possess a nexus with a particular State. Though the States have an obvious interest in preserving the basic conception of their political communities, they have shown themselves able to do this while using a broad standard of residence in the case of servicemen and their accompanying dependents. Thus, a stricter rule than that applied to servicemen and their families cannot be said to be necessary.

Moreover, S. 95 is applicable only to Federal elections and not to filling local public offices. Federal elections are substantially national and international in scope and to a large extent the issues cut across all areas and regions of our country. Whatever the interest of States in limiting the definition of residence in the case of voters for State, county and municipal offices, there is no compelling need for using a stricter rule in Federal elections than the one which is set forth in S. 95.

Nor will enactment of the broad definition of residence required by S. 95 abrogate all State functions with respect to the qualifications of voters in Federal elections. States will retain the power to test whether an applicant for absence registration or voting (1) is of legal age, (2) is incapacitated by reason of insanity, (3) is disqualified as a convicted felon, (4) meets the prescribed time and manner for making application, and (5) is truthful in statements made on registration or voting forms, such as with respect to a claim to actual past residence in a particular State.

Nor can a State claim that it is necessary to exclude all persons overseas from voting in Federal elections in order to guarantee that its voters will be minimally knowledgeable about the elections. It is common knowledge that Americans overseas have wide and immediate access to English language newspapers, journals and news programs circulated and broadcast in foreign areas. These private sources of information are supplemented by the services of the Armed Forces Network, Voice of America, and USIA libraries which are well known to Americans abroad in even the most isolated of places.

The acute interest and awareness of Americans overseas in Federal elections is apparent on the record. In fact, the Department of Defense survey of persons overseas shows that at least 151,000 Americans, not including Federal employees or servicemen, voted in the 1972 election while residing abroad. There is nothing to support an assumption that citizens overseas are uninformed or uninterested in Federal elections and any such argument would crudely and impermissibly exclude large numbers of otherwise qualified voters.

It is also clear that a State cannot exclude persons overseas from voting because they might hold a different viewpoint than persons who have not been absent from the State. The Supreme Court has ruled that differences of opinion may not be the basis for excluding any group of persons from the franchise. See the discussion of cases set forth in *Dunn* v. *Blumstein*, supra, at 355–356.

A similar analysis is applicable with respect to the small numbers of citizens overseas who do not intend to return. According to the Department of Defense survey of citizens overseas, this group may include some 26,500 persons. The critical fact with respect to Congress' power to secure the vote in Federal elections for these persons in that there are numerous and vital ways in which these individuals are affected by the decisions and policies acted on by Federal officers. *Evans* v. *Cornman, supra*, at 424.

Although they are outside the country, these persons are subject to the United States Internal Revenue Code, retirees among them may be directly affected by changes in the Civil Service retirement and Social Security programs, and they are greatly affected by trade and tariff measures, export controls, and foreign policy decisions, among many other actions and programs dealt with by the Executive and Congress jointly. These persons have distinct, direct and great interests in the election of Federal officers and Congress may protect their stake in these elections by providing a uniform procedure for implementing the exercise of their vote, so long as such persons have a past nexus with the particular State in which they seek to vote.

IX. SUMMARY

Without regard to whether the Judiciary itself would find that State restrictions on the vote of overseas residents are unconstitutional, Congress may act to protect the rights to vote and travel by enacting uniform, national standards for Federal elections. Time and again, the Supreme Court has announced that "the right of suffrage is a fundamental matter in a free and democratic society" and "is preservative of other basic civil and political rights." e.g., *Reynolds* v. *Sims*, 377 U.S. 533, 561, 562 (1964); *Kramer* v. *Union Free School District*, 395 U.S. 621, 626 (1969). The Court has further indicated that, "No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live." *Westberry* v. *Sanders*, 376 U.S. 1, 17 (1964). If this is so, surely Congress can act to protect the right of Americans abroad to participate in the choice of Federal officers whose decisions affect them personally and directly.

In so acting, Congress need not assert a general power to prescribe qualifications for voters in Federal elections. S. 95 is confined to Federal action against a particular problem clearly within the purview of Congress' powers to facilitate and protect the personal rights and privileges which the Supreme Court has found to be guaranteed to each citizen by the Federal Constitution.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

RAIL SERVICES ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2718.

The PRESIDING OFFICER (Mr. TALMADGE) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HARTKE, Mr. MOSS, Mr. PASTORE, Mr. FORD, Mr. STEVENSON, Mr. INOUYE, Mr. MAGNUSON, Mr. BEALL, Mr. BAKER, and Mr. WEICKER conferees on the part of the Senate.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:17 a.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROONEY, Mr. ADAMS, Mr. METCALFE, Mr. HEFNER, Mr. SANTINI, Mr. FLORIO, Mr. DEVINE, Mr. SKUBITZ, and Mr. HASTINGS were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long term financing for the Corporation for Public Broadcasting, and for other purposes.

At 1:50 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 11016) to extend the Renegotiation Act of 1951 for 6 months.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 4573) to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing.

The message also announced that the House has passed the bill (S. 2498) to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that, on reconsideration by the House and two-thirds of the House not having voted in the affirmative, the bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes, returned by the President of the United States with his objections, failed of passage.

The message also announced that the House has passed the joint resolution (H.J. Res. 406) to provide for the presentation by the United States to Israel to a statue of Abraham Lincoln to be donated by Leon and Ruth Gildesgame, of Mount Kisco, N.Y., in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

ENROLLED BILLS SIGNED

At 5:55 p.m., a message from the House of Representatives by Mr. Berry announced that the Speaker has signed the following enrolled bills:

S. 313. An act to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Texas, and for other purposes.

S. 1281. An act to extend the authority for the flexible regulation of interest rates on deposits and share accounts in depository institutions, to extend the National Commission on Electronic Fund Transfers, and to provide for home mortgage disclosure.

S. 2350. An act to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council.

H.R. 3474. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

H.R. 4073. An act to extend the Appalachian Regional Development Act of 1965, to increase the authorizations for the title V Action Planning Commission, and for other purposes.

H.R. 5541. An act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts.

H.R. 6461. An act to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes.

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts.

H.R. 8631. An act to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

H.R. 10555. An act for the relief of Mrika Mrnacaj.

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED JOINT RESOLUTION SIGNED

At 7:04 p.m., a message from the House of Representatives by Mr. Berry announced that the Speaker has signed the enrolled joint resolution (S.J. Res. 121) to provide for quarterly adjustments in the support price for milk, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STONE).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BEALL, from the Committee on Commerce, with an amendment to the title:

S. 180. A bill for the relief of Charles Hammond, Junior (Rept. No. 94–576).

By Mr. ABOUREZK, from the Committee on Interior and Insular Affairs, with amendments:

S. 1659. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes (Rept. No. 94–577).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H.R. 10792. An act for the relief of Jana Hlavaty (Rept. No. 94–579).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 330. A resolution authorizing supplemental expenditures by the Committee on the Judiciary for inquiries and investigations (Rept. No. 94–578).

By Mr. WEICKER, from the Committee on Commerce, with an amendment:

S. 1941. A bill to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes (Rept. 94–580).

By Mr. JOHNSTON, from the Committee on Interior and Insular Affairs, with amendments:

S. 1640. A bill to provide for the establishment of the Santa Monica Mountains and Seashore Urban Recreation Area in the State of California, and for other purposes (Together with minority and additional views) (Rept. No. 94–581).

S. 847. A bill to establish the Seward National Recreation Area in the State of Alaska, and for other purposes (Rept. No. 94–582).

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, with an amendment:

S. 507. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes (Rept. No. 94–583).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S.J. Res. 156. An original joint resolution prohibiting certain assistance to and activities in Angola (Rept. No. 94–584).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Brig. Gen. Richard Martin Connell, Corps of Engineers, to be a member of the California Debris Commission.

Col. Frederick Gore Rockwell, Jr., Corps of Engineers to be a member of the California Debris Commission

Col. Henry Augustus Flertzheim, Jr., Corps of Engineers, to be a member of the California Debris Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STENNIS, from the Committee on Armed Services:

George Bush, of Texas, to be Director of Central Intelligence.

Robert Ellsworth, of New York, to be a Deputy Secretary of Defense.

William I. Greener, of Virginia, to be an Assistant Secretary of Defense.

Thomas C. Reed, of California, to be Secretary of the Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STENNIS, from the Committee on Armed Services:

Matthew J. Perry, Jr., of South Carolina, to be a judge of the U.S. Court of Military Appeals.

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Maj. Gen. Thomas H. Miller, Jr., USMC, to be lieutenant general and Lt. Gen. Wallace H. Robinson, Jr., when retired, to be lieutenant general in the U.S. Marine Corps. There are 20 Reserve officers in the Navy for permanent promotion to the grade of rear admiral—list beginning with Robert N. Colwell. I ask that these names be placed on the Executive Calendar. In addition, I ask that Col. Wayne Bridges, USAR National Guard's appointment as Reserve commissioned officer in the grade of brigadier general be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of December 10 and 11, 1975, at the end of the Senate proceedings.)

Mr. STENNIS. Mr. President, also from the Committee on Armed Services, I report favorably the 2,480 promotions in the Army to the grade of colonel and below beginning with Virginia M. Barr; the 32 promotions in the Army in the grade of lieutenant colonel beginning with Claude T. Barlow and the 1,017 appointments and promotions in the Reserve of the Army and National Guard beginning with Robert M. Baker. In the Air Force, there are 169 for promotion to the grade of colonel and below in the medical and dental corps beginning with Frank W. Berry, Jr.; 30 appointments to the grade of captain and below beginning with Mary J. Auton; and, 43 in the Air Force and Reserve of the Air Force in the grade of colonel and below beginning with George G. Mitchell. Since these nominations have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of December 9, 1975, at the end of the Senate proceedings.)

By Mr. PROXMIRE (from the Committee on Banking, Housing and Urban Affairs):

Stephen M. DuBrul, Jr., of New York, to be President of the Export-Import Bank of the United States.

J. Charles Partee, of Virginia, to be a member of the Board of Governors of the Federal Reserve System.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Ex. D, 81st Cong., 1st Session; and

Ex. J. 88th Congress, 1st Session: Inter-American Convention on Granting of Political Rights to Women (Ex. D., 81st Cong., 1st session) and the Convention on Political Rights of Women (Ex. J. 88th Congress, 1st session) (Exec. Rept. No. 94–20).

Samuel W. Lewis, of Texas, to be an Assistant Secretary of State.

Thomas O. Enders, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Enders, Thomas O.
Post: Ottawa.
Contributions:
1. Self, none.
2. Spouse, none.
3. Children and Spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and Spouses, none.
7. Sisters and Spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate

Thomas O. Enders.

William J. Porter, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Statement of Political Contributions

Nominee: William J. Porter.
Post: Jidda.
Amount: None.
1. William J. Porter, none.
2. Eleanore (Henry) Porter, spouse, none.
3. Eleanor Anne (Porter) Clark, daughter, Gentry Clark, spouse, none.
William J. Porter, Jr., son, Elizabeth Mary (Whittemore) Porter, spouse, none.
4. Sarah (Day) Porter, mother, none.
5. No living grandparents.
6. No living brothers.
7. No sisters.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge the information contained in this report is complete and accurate.

William J. Porter,
Ambassador.

(The foregoing nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSION OF TIME FOR COMMITTEES TO FILE REPORT

Mr. HARTKE. Mr. President, I ask unanimous consent that the Committee on Commerce and the conference committee on the rail reorganization bill be given permission to file the report until midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, December 18, 1975, he presented to the President of the United States the following enrolled bills:

S. 622. An act to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes.

S. 848. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes.

S. 1922. An act to amend the act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 406) to provide for the presentation by the United States to Israel of a statue of Abraham Lincoln to be donated by Leon and Ruth Gildesgame, of Mount Kisco, N.Y., was read twice by its title and referred to the Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY (for himself and Mr. Robert C. Byrd):

S. 2812. A bill to reorganize the executive branch of the Federal Government to eliminate excessive, duplicative, inflationary, and anticompetitive regulation. Referred jointly, by unanimous consent, to the Committee on Government Operations and the Committee on Rules and Administration.

By Mr. ROBERT C. BYRD:

S. 2813. A bill to amend section 1362 of title 18, United States Code, relating to the injury or destruction of communication lines, stations, or systems. Referred to the Committee on Finance.

By Mr. LONG (for himself and Mr. Bentsen):

S. 2814. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the expense of filing forms required by Federal law. Referred to the Committee on Finance.

By Mr. HUGH SCOTT:

S. 2815. A bill to amend the Internal Revenue Code of 1954 to provide that the current withholding tables will remain in effect until March 15, 1976. Ordered placed on the Calendar.

By Mr. MONTOYA:

S. 2816. A bill to amend the Railroad Retirement Act of 1974 with respect to the annuities payable under such Act to the widows of retired railroad employees. Referred to the Committee on Labor and Public Welfare.

By Mr. STEVENS:

S. 2817. A bill to authorize the Secretary of Commerce to assist in the construction of certain facilities. Referred to the Committee on Commerce and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

By Mr. MORGAN:

S. 2818. A bill to amend section 1915 of title 44, United States Code, to exempt from the provisions of section 1909 of such title those libraries of the highest appellate court of a State which have been designated as depository libraries. Referred to the Committee on Rules and Administration.

By Mr. NELSON (for himself, Mr. Mondale, Mr. Humphrey, Mr. Johnston, Mr. Brock, Mr. McIntyre, and Mr. Dole):

S. 2819. A bill to amend the Internal Revenue Code of 1954 to revise and improve certain provisions thereof relating to estate and gift taxes. Referred to the Committee on Finance.

By Mr. DOLE:

S. 2820. A bill to amend title 5, United States Code, to change the method of computing annuities of employees with at least 5 but less than 20 years of service as law enforcement officers or firefighters. Referred to the Committee on Post Office and Civil Service.

By Mr. STEVENS (for himself and Mr. Gravel):

S. 2821. A bill to amend title 5, United States Code, to provide that certain air traffic specialists be considered as air traffic controllers for retirement and certain other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. KENNEDY (for himself, Mr. Mondale, and Mr. Pell):

S. 2822. A bill to extend the provisions of the Rehabilitation Act of 1973 for 2 years. Referred to the Committee on Labor and Public Welfare.

By Mr. HUDDLESTON:

S. 2823. A bill to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations. Referred to the Committee on Agriculture and Forestry.

By Mr. HELMS:

S. 2824. A bill to provide for increased employee ownership of business and accelerated capital formation. Referred to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. TOWER, Mr. PHILIP A. HART, Mr. MONDALE, Mr. HUDDLESTON, Mr. MORGAN, Mr. GARY HART, Mr. BAKER, Mr. MATHIAS, and Mr. SCHWEIKER):

S. 2825. A bill to make unlawful the entering into a conspiracy to assassinate a foreign official outside the United States, or the attempted assassination of a foreign official outside the United States, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 2826. A bill to incorporate United Service Organizations, Incorporated. Referred to the Committee on the Judiciary.

By Mr. PELL:

S. 2827. A bill to require the establishment of safety standards for snowmobiles, and for other purposes. Referred to the Committee on Commerce.

By Mr. INOUYE:

S.J. Res. 155. A joint resolution establishing the Hawaiian Aboriginal Claims Settlement Study Commission, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S.J. Res. 156. An original joint resolution prohibiting certain assistance to and activities in Angola. Placed on the Calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. ROBERT C. BYRD):

S. 2812. A bill to reorganize the executive branch of the Federal Government to eliminate excessive, duplicative, inflationary, and anticompetitive regulation. Referred jointly, by unanimous consent, to the Committee on Government Operations and the Committee on Rules and Administration.

(The remarks of Mr. PERCY on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. ROBERT C. BYRD:

S. 2813. A bill to amend section 1362 of title 18, United State Code, relating to the injury or destruction of communication lines, stations, or systems. Referred to the Committee on Finance.

(The remarks of Mr. ROBERT C. BYRD on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. LONG (for himself and Mr. BENTSEN):

S. 2814. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for the expense of filing forms required by Federal law. Referred to the Committee on Finance.

(The remarks of Mr. LONG and Mr. BENTSEN on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. MONTOYA:

S. 2816. A bill to amend the Railroad Retirement Act of 1974 with respect to the annuities payable under such act to the widows of retired railroad employees. Referred to the Committee on Labor and Public Welfare.

Mr. MONTOYA. Mr. President, today I am introducing legislation which, when enacted would go a long way toward easing the financial difficulties of a significant portion of our older Americans.

The bill which I am proposing today would allow the surviving spouse of a retired railroad employee to receive a pension equal to that of the deceased spouse. This is what happens in several other pension plans, and it seems only just that railroad employees should be treated in the same manner.

Health costs, food costs and Housing costs are the three places where inflation has been the worst in recent years. These same areas are the ones which account for the largest share of the older Americans' budget. Under the current law, the surviving spouse of a railroad employee is expected to be able to live more cheaply than the unmarried retired employee. The current situation often results in the surviving spouse living in a state of near poverty.

My friend, Congressman CLAUDE PEPPER of Florida, has introduced this measure in the House, where it is pending before the Committee on Foreign and Interstate Commerce. I hope that my colleagues in both the House and Senate will agree with me that this legislation is important and that both will act in an expeditious manner to assure that railroad families receive the benefits they worked so long to secure.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Railroad Retirement Act of 1974 (88 Stat. 1327) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of this Act, whenever a retired employee receives an annuity under this Act in an amount that is larger than the amount that would be payable to the widow of such employee, the amount payable to such widow shall be the amount which would have been payable to the retired employee but for his death.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to annuities accruing, under the Railroad Retirement Act of 1974, for months beginning after the date of the enactment of this Act.

By Mr. STEVENS:

S. 2817. A bill to authorize the Secretary of Commerce to assist in the construction of certain facilities. Referred to the Committee on Commerce and the Committee on Banking, Housing and Urban Affairs, jointly, by unanimous consent.

Mr. STEVENS. Mr. President, today I am introducing the Small Community Hydroelectric Generating Facility Assistance Act. This bill would provide Federal loan guarantees to small communities for the purpose of financing the construction of hydroelectric generating facilities. There is considerable need in several areas of the United States for the development of hydroelectric power sources.

Southeast Alaska is a prime example of an area in which there is a serious need in small communities for hydroelectric power. Presently, most of these communities in southeast Alaska are dependent upon diesel-powered generators for the production of electricity. Needless to say, the energy crisis which our Nation is now facing has drastically increased the cost of diesel fuel. As a result, diesel-generated electricity is very costly to produce and is expensive for the consumer to purchase. In addition, this method of producing electricity eats up fossil fuel, which is a valuable energy resource and is now in critical demand in our country.

At the same time, these communities of southeast Alaska have access to an abundant natural resource which now is going to waste but could be utilized to solve the problem of electrical production. The resource is water and the solution is hydroelectric power.

Mr. President, this bill would enable certain small communities to obtain loans on the private market for the purpose of constructing hydroelectric projects at affordable interest rates. Federal guarantee of these loans would make this possible.

This bill outlines the requirements for Federal loan guarantees for the construction of hydroelectric generating facilities. Construction projects are eligible for a Federal loan guarantee under the bill upon a determination by the Secretary of Commerce that the following criteria have been met:

First. The construction of the hydroelectric facility is essential to the economic development of the area;

Second. Without a Federal loan guarantee, necessary financing on reasonable terms could not be obtained for the construction;

Third. The project must be economically viable. That is, the prospective earning power of the facility to the area makes the project a sound economic investment; and

Fourth. The total obligations for such a project must not exceed $100 million. Under the bill the Secretary of Commerce may guarantee a loan for up to 90 percent of this amount.

The bill further provides that only those bonds, notes, or other obligations which are made on reasonable terms under reasonable interest rates can qualify for Federal guarantees.

Under this bill the Secretary of Commerce also is authorized to grant an interest subsidy on certain of the federally guaranteed loans for hydroelectric facility construction.

Mr. President, I would again like to stress the importance of hydroelectric power to small communities in certain areas of the United States. I feel this bill would solve many of the problems now confronting these communities in their efforts to achieve reliable, low cost power.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Community Hydroelectric Generating Facility Assistance Act."

Sec. 2. (a) The Secretary of Commerce is authorized to enter into necessary agreements to guarantee the bonds, notes, or other obligations (including interest thereon) of any State or local public body issued for the purpose of financing the construction of a hydroelectric generating facility (including pre-licensing costs), upon determination that—

(1) the construction of such facility is essential to the economic development of the area;

(2) the total of the obligations for each such facility to be guaranteed does not exceed one hundred million dollars;

(3) the provisions of Federal and State law relating to such construction will be complied with;

(4) without such guarantee, in the amount thereof, necessary financing on reasonable terms could not be obtained for such construction;

(5) such obligations are to be paid in not to exceed 50 years;

(6) the prospective earning power of such facilities, including all benefits to the area, makes the project economically viable; and

(7) the construction and operating plans for such facility provide for sound engineering designs and procedures and fiscal management.

(b) Only bonds, notes, and other obligations which are issued or made on reasonable terms and which bear a reasonable interest rate (as determined under regulations of the Secretary) shall be eligible to receive a guarantee under this Act. No guarantee under this Act shall apply to so much of the principal amount of any bond, note, or obligation as exceeds 90 percentum of the cost of the project with respect to which such bond, note, or obligation is issued or made.

Sec. 3. The Secretary is authorized under such rules and regulations as he may prescribe to pay as an interest subsidy on loans which are guaranteed under the provisions of this Act amounts which are necessary to reduce the rate payable by the borrower to the rate determined under Section 2 of this Act.

Sec. 4. Payments required to be made as a consequence of any guarantee of subsidy by the Secretary of Commerce pursuant to this Act shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as are necessary for such purpose. There are further authorized to be appropriated such sums as are necessary to administer this Act.

Mr. STEVENS. Mr. President, I have cleared this with the chairman of the two committees involved:

I ask unanimous consent that the bill which I am introducing be jointly refered to the Committee on Commerce and the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. MORGAN:

S. 2818. A bill to amend section 1915 of title 44, United States Code, to exempt from the provisions of section 1909 of such title those libraries of the highest appellate court of a State which have been designated as depository libraries. Referred to the Committee on Rules and Administration.

Mr. MORGAN. Mr. President, by passing Public Law 92–368, the Congress responded to problems caused by the increasing weight of Federal law and regulations in the work of State courts. It was realized that it was of the utmost importance to make sure that law and law-related documents published by the Government Printing Office be made available on a routine basis to the State courts of highest appeal.

To get this done as a matter of course, and to avoid endless special-ordering and high costs, it was felt that the libraries of the State supreme courts should be made part of the Federal Depository Libraries System. This would use an existing apparatus under which documents are routinely distributed. Public Law 92–368 accomplished this by amending title 44 of the United States Code, which creates the depository libraries.

This was an attempt to solve a communications problem between Federal and State legal bodies, and not to serve the purpose, per se, of insuring safe storage and public access for Government publications. Hence the law specifically exempts the State high court libraries from having to comply with regulations having to do with library size and location, special care, public access, and nondisposal of documents. These were inappropriate to the intention of providing the State supreme courts with the information they needed. Such court libraries are for the use of the court, and not the public, and ought to be able to dispose of unwanted materials.

In accordance with the intent of Congress, the Acting Public Printer promulgated rules in 1972 for the State courts. State court libraries were exempted not only from size and location criteria, from providing any special care or custody, and from keeping the documents permanently, but also from making reports to the Superintendent of Documents on these matters.

In 1974, however, with an administrative change at the Government Printing Office, the State supreme courts began to be inspected by agents of the Printing Office, and to be required to make periodic reports.

These reports consist almost entirely of questions asking whether the libraries have been in compliance with those very regulations from which the State court libraries are exempt—those dealing with size and location, public access, and the safety and permanence of storage. Thus the small staffs of State supreme court libraries are made to respond to inspection and information demands which make no sense. This is a great waste, since the information does not apply to court libraries, and can, therefore, be of no use to the libraries or to the Printing Office itself.

Mr. President, in order to remove any possible interpretation that depository libraries of State courts are exempt from provisions of title 44, United States Code, section 1911, yet must report on their compliance with these provisions under section 1909, I am proposing an amendment to the title. This bill would amend section 1915 of title 44 to exempt such libraries from section 1909 as well as section 1911, thus making the original intent of Congress quite clear.

By Mr. NELSON (for himself, Mr. Mondale, Mr. Humphrey, Mr. Johnston, Mr. Brock, Mr. Packwood, Mr. McIntyre, and Mr. Dole):

S. 2819. A bill to amend the Internal Revenue Code of 1954 to revise and improve certain provisions thereof relating to estate and gift taxes. Referred to the Committee on Finance.

SMALL BUSINESS ESTATE AND GIFT TAX REFORM ACT

Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I am pleased to introduce a bill entitled the "Small Business Estate and Gift Tax Reform Act."

The bill has the following features:

First. It would double the size of the estate tax exemption, from $60,000 to $120,000 in three $20,000 stages—in 1976, 1978, and 1980;

Second. The lifetime gift tax exclusion, presently at $30,000, would rise to $60,000 immediately, in 1976;

Third. In order to give a farmer or businessman additional flexibility in transferring productive property, the bill would permit a combined use of these two provisions—partially in 1976 and fully in 1980;

Fourth. In recognition of the contributions of wives to agricultural and other family enterprises, the bill would allow transfer of the first $240,000 of business and other property to a surviving spouse free of tax at death;

Fifth. The option to deferral estate tax payments under section 6166 would become more accessible and less expensive by permitting substitution of a lien on the assets of the business for the personal liability of the executor, and expanding the definition of closely held business to 15 partners or shareholders;

Sixth. Stock redemption possibilities under section 303 of the Internal Revenue Code, would be expanded to 10 years, and the penalty against participation in more than one business would be removed;

Seventh. A farmer or other small entrepreneur would be permitted to reduce the value of his property for estate tax purposes by restricting its future use; and

Eighth. The Treasury Department would be instructed to recommend to the Congress within a year additional legislative and administrative estate and gift measures which could further encourage the continuity of small, family, and locally controlled farms and businesses.

When the present $60,000 estate tax exemption was established in 1942, it was not the intent of the estate and gift tax statutes to force families to divest themselves of the small, independent businesses they had founded and nourished over the years. However, because of inflation and other changes in the economy since 1942, the law has acquired that unintended effect. The purpose of this bill is to remove this consequence and to move back toward what the Congress had in mind when this legislation was enacted.

A technical explanation of each provision is contained in the section-by-section analysis accompanying this statement.

NEED FOR CHANGES ESTABLISHED IN HEARINGS

The proposal is based upon 10 days of hearings in Washington, D.C., and extensive testimony in 4 days of field hearings in Minneapolis, Minn., Eugene, Oreg., and Milwaukee and LaCrosse, Wis., by our committee,[1] and in cooperation with the Financial Markets Subcommittee of the Senate Finance Committee, under the chairmanship of the Senator from Texas (Mr. BENTSEN)[2] and the Joint Economic Committee under the chairmanship of the Senator from Minnesota (Mr. HUMPHREY).[3]

The subject of estate taxes has grown very technical and complex—and that is one of the difficulties. But one simple fact stands out: small businessmen have told us that they "cannot afford to die owning a small business." Inflation has increased the value of business and farm assets 224 percent since the $60,000 exemption was enacted in 1942. The income tax exemption has been increased several times since then, a total of 50 percent. The estate tax exemption, however, has not been touched since that year. The fixed-dollar amounts of both the estate and gift tax exemptions have placed businessmen in a straitjacket. Because of this steeply graduated Federal estate tax on one side, and the prospect of a tax-free exchange of stock with a large company on the other, prudent small businessmen who want their businesses to be continued by their families are under terrific pressure to merge their farms and businesses into a larger company, or to sell them out. Indeed, it would be hard to devise a more efficient device for systematically snuffing out independent businesses and eliminating continuity of small family, and local enterprises than the combined effects of Federal estate taxes, capital gain taxes and income taxes which presently exists in this country.

The combination of these three taxes have made merger and consolidation widespread and pervasive. A special study in 1967 revealed that 52 percent of all the companies having assets between $10 million and $25 million—a growth band of the economy—disappeared through merger in that year.[4]

Authorities have observed that mergers more than any other single economic factor, explain the existing structure of many American industries.[5] These taxes are thus a prime factor in bringing about mounting aggregations of wealth—in this instance in the hands of large, conglomerate corporations. That is a result exactly opposite to the purpose for which the estate tax was enacted.

This bill is intended to once again provide a practical alternative to merger for many small businessmen and family farmers who wish to pass the product of their lifetimes of work along to their heirs or employees or another local small firm. It would accomplish this by adjusting the value of the estate and gift tax exemptions toward their real worth in 1942, and by introducing additional flexibility in planning for these transfers. There have been suggestions that gifts to heirs have been underutilized by businessmen and farmers. One of the reasons is undoubtedly that the $30,000 exemption is obsolete. The bill emphasizes the doubling of the lifetime gift exemption in an attempt to encourage family gifts to children wishing to take over a business or farm while the parents are still able to give advice and assistance during the transition period.

HISTORICAL BACKGROUND

The estate tax is a minor Federal tax from a revenue standpoint. Over the past 5 years, it has stabilized at about 2 percent of Federal tax receipts. Yet it generates an enormous amount of anxiety, paperwork, and complexity. It is creating economic and social problems, particularly for small business owners and family farms, and the question that has emerged from our studies is this: "Is it really worth it to impose these burdens on people of more and more modest means with each passing year?"

For the past 33 years, since the estate tax laws were last revised in 1942, this area of the tax law has lain unrevised and largely unexamined.

In 1942, only 17,000 estate tax returns were filed, approximately one for every 60 deaths. In 1972, the last year for which we have statistics, 175,000 such returns were required, one out of every 10 estates.[6] According to witness Robert Oelke of Minneapolis before joint hearing of the Small Business Committee and the Joint Economic Committee:

> The present Federal estate tax exemption was established at a time when a loaf of bread cost a dime, a fine automobile could be purchased for less than $1,000, and good farmland was available for $100 per acre or less. If a man left his wife and children with an aggregate of $100,000 in assets, he was thought to have secured their financial future. Today bread approaches 50 cents a loaf, a cheap car is $4,000, and it is not unusual for farmland to be traded at $1,000 per acre or more. Whereas an estate of $60,000 generated no estate tax 30 years ago, an estate representing the same purchasing power today would bear the burden of a Federal estate tax well in excess of $20,000. . . . It is long past time for the Congress to acknowledge the eroding effect which inflation has had on the $60,000 estate tax examination . . . .[7]

According to the Joint Economic Committee, inflation has increased 224.1 percent from 1942 to mid-1975.

Farming is one of the most heavily capitalized of U.S. industries, but similar trends in the price of raw materials, land, buildings and equipment affect manufacturing and most other businesses, small and large.

As a result of inflation and rising demand for food in the world, the value of assets on the average American farm soared from a modest $51,000 in 1960 to nearly $170,000 in 1974. In 1975, the average cost of farmland exceeded $1,000 per acre in six States and was approaching that figure in four more.[8] The following table summarizes the valuation of U.S. farms:

Number of farms (1974):	*Average assets per farm*
2,821,000 (total)	$169,744
600,000	250,000
240,000	[9] 350,000

This means that not just the wealthy but the average farmer, as well as the average business person, must be concerned with the painful and often lethal bite of Federal and State estate and inheritance taxes.

It is difficult for most people to imagine the impact of combined Federal and State death taxes upon farmers who bought their land 30 or 35 years ago for $50 per acre, as did Tim Velde of Granite Falls, Minn.; or $60 an acre as many in Kansas and Missouri did a generation ago.

One authority estimated that in his part of the country less than one-third of farmers had wills, and even fewer had done any estate planning; and that many of them went into "shock" when they learned the current value of their properties and the estate and inheritance tax consequences.[10]

HOW MANY SMALL BUSINESSES AND FARMS WILL SURVIVE?

The family farmer of the 1970's is thus confronting the situation which long ago became apparent to the small businessman. Having spent a lifetime building value into his enterprise, he finds the estate will need large amounts of cash to pay Federal and State death taxes if he wants his heirs to have the business. But small businesses and farms typically do not generate large amounts of cash. Many of them are borrowed and mortgaged to the hilt.

The crunch is even greater if there are several children, because the one who wants to continue the farm or business must buy out the other heirs at the same time he is paying the taxes.

The fact that 1 estate out of every 10 is required to file an estate return is evidence that the occurrence of these problems is becoming commonplace. That means 10 times as many persons must be concerned than in 1942, a growth far outpacing the rise in population. It means cost burdens, which are proving insuperable for a growing number of farms and small commercial businesses. Even those which survive must expend significant amounts of energy and money to prepare for the estate tax collector.

A recent survey by the U.S. Department of Agriculture revealed that of 76 Iowa landowners questioned, 91 percent would not have enough liquid assets in their estates to pay administration costs and taxes, and thus might not be able to pass the farm on to their sons or daughters. In our August hearings on the west coast, Earl Pryor of the Oregon Wheat Growers League testified that one farm in every three is being sold to satisfy inheritance taxes.[11] Also, hearings in the Midwest in October and the Midsouth this month contained extensive testimony along the same lines. All of this squarely raises the question of how

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Footnotes at end of statement.

many smaller and independent businesses will be able to survive the financial gauntlet which the estate tax/capital gain tax/income tax combination has created.

Certainly if the owner can afford to pay for estate planning services and is young and healthy and affluent enough to be able to afford insurance, then there are certain avenues to continuing the business. However, no one knows how many owners are too old for insurance or cannot qualify.

Therefore, we cannot tell whether a rate of attrition of family agriculture and small business will be in the range indicated by this information. But, anything approaching this magnitude over the next few years should, in my view, be totally unacceptable from the standpoint of national policy. Mass exodus from family farming and family business would be plainly and flagrantly unfair for the people involved. It would put an end to independent business and agriculture as a significant element of our economy, and that would be ruinous for our economic, social, and political institutions.

LEGISLATION IS URGENT FOR SMALL BUSINESSES AND SMALL TOWNS

Mr. President, let us start revising the estate tax and the gift tax immediately.

While the $60,000 exemption enabled a farmer or business owner in 1942 to pass along to his heirs a home, an automobile, and a substantial part of his business, the $60,000 can be absorbed today by the family residence alone.

In addition to this general escalation of the price level, small businessmen and farmers face special problems which other taxpayers do not. First, the steep graduation in the estate tax, on top of a completely outdated exemption, is pushing most businesses and farms into a danger zone where estate and inheritance tax brackets make retention of the business or farm impossible.

The assets involved are needed for the owner to make a living for his own family and often to support others. If the family cannot keep the business intact, they must look elsewhere for sustenance. In our economy, that increasingly means a big city, a big company, a big union, or big government. Between 1950 and 1974, half—2.8 million—of the farms disappeared in the United States.[12] The migration of population from rural areas to big cities weakened the institutions and lowered the quality of life in both the country and the cities.

Smaller business and farm assets are not as liquid as stocks, bonds or general-purpose real estate. It is not well known that only about 6,000 of the 1.8 million corporations and 13 million U.S. businesses have stock which is actively traded by the public. People having their savings in this kind of stock, can raise money in a week through a stock exchange. A chosen number of shares can be sold under well-established procedures to raise additional money for taxes.

But, the problems of selling a business after the founder and his special talents are gone can be monumental. There is often the sharpest type of controversy over valuation. Money must usually be raised in large quantities over short periods of time. Under these circumstances, it is little wonder that many businessmen take the easy, painless, tax-free merger exit from the business world.

THE MATHEMATICS OF MERGER

Stock acquired in a merger, under the present law, is free of both income tax and estate tax, so the tax on this type of transfer of business assets is zero. A sale of the business during life incurs a capital gains tax of up to 35 percent. In comparison, the estate tax reaches 35 percent of a taxable estate of $500,000—$175,000—and 39 percent of a taxable estate of $1 million—$390,000. So, the mathematics are conclusively against the continuity of small and independent firms and farms.

This kind of tax structure has, for the span of an entire generation, been mowing down local independent businesses and potential competitors. It has discouraged continuity of such firms in the hands of a family or closely held group, and has pushed them toward mergers with the largest corporations, those with publically listed stock.

As a country, we have not addressed ourselves to the consequences of this pattern. We have not counted the cost of excess prices because of the elimination of competition. We have not thought about the social cost of people working for big organizations, rather than preserving their greater self-expression and independence as owner of a smaller business. We have ignored the costs to communities across the Nation which are being drained of their vitality as their finest enterprises may be transferred into the hands of absentee owners, who may know little and care less about local charities, schools, churches, and communities.

BILL IS A VEHICLE FOR CONSIDERATION OF VITAL QUESTIONS

We hope that the hearings on this measure can open up vital social and economic questions underlying the estate tax system to public discussion.

In our view, estate tax reform for small business and family farms is a necessity to permit small business owners and farmers to dispose of their property as they wish; to allow their children or employees to carry on these enterprises if they so desire; to inhibit further large-scale shifting of assets from smaller, independent businesses into large and conglomerate businesses; and, in summary, to restore the situation as Congress envisioned it when the present legislation was enacted in 1942.

The policy of taxing estates should be rational. We should have a clear idea of what is considered to represent "excessive wealth." There are no justifiable criteria for that determination now. The standards we used 33 years ago are completely out of date in 1975.

If we could agree upon a rule of thumb that $10 of assets created $1 of earnings, or something along these lines, we might begin to think in terms of the amount of assets that would support a businessman or farmer who is willing to take the risks of the economy and the weather, and thus creates jobs for other people, instead of working for salary or wages and leaving the risks to others. We could then shape our tax laws accordingly. But, apparently no such method exists at the present time. Once an approach was developed, our ideas and calculations could be refined and the tax law could compensate periodically and reasonably for inflation and other relevant economic forces. We could also advance confidently to deal with the technical inequities of the statute, regulations, and practice in this field.

In the absence of landmarks, we are proposing this bill in hopes that Congress and the administration and the private sector can move swiftly to improve these proposals through the legislative process and join together with Congress to help develop meaningful estate tax reform for small business owners and farmers and all smaller estates.

We certainly acknowledge that this bill is not the "last word." But, at least, it is a forward step, a point of departure and a vehicle for systematic consideration of these issues. We have consulted with experts inside and outside of Government in drafting this bill, and we gratefully acknowledge their advice and efforts.

ESTATE AND GIFT TAX REFORM IS OVERDUE AND SHOULD BE ENACTED BY THIS CONGRESS

As a result, we feel that the proposals in this bill are realistic, are justified on the basis of evidence in the record, and entitled to further consideration by the tax-writing committees of Congress and the executive branch. We would, of course, welcome comment and criticism of the measure with a view to finally evolving responsible and effective legislation in this area.

We find no disagreement on the proposition that change in this area is long overdue, that it is critically needed, and that a large proportion of the burdens, inequities, and complications of the estate tax fall upon the small businessman, the small farmer, and the small estate.

The sure way to change the historic character of our free enterprise system from reliance on independent, imaginative small businesses and family farms to absolute dependence on massive corporations is to neglect tax reform after discovering proof that the present system is undermining our values and institutions.

We ask Congress to address itself now to a study of what the estate tax structure is in the long-range best interest of smaller enterprises as a part of our free, private enterprise economy and our democratic society, and to strengthen both by acting upon the basic relief provisions of this proposal during the 94th Congress.

FOOTNOTES

[1] "Small Business Tax Needs," Hearings before the Select Committee on Small Business, U.S. Senate, February 4, 5 and 20, 1975. "Economic Problems of Small Business in the Northwest United States," Hearings before the Select Committee on Small Business, August 25, 1975. "Economic Problems of Small Business in the Midwest," Hearings, October 14 and 15, 1975.

[2] "Small Business Tax Reform," Joint Hearings before the Select Committee on Small Business and the Financial Markets Sub-

committee, Senate Finance Committee, June 17–19, 1975; September 23–25, and November 13, 1975.

[3] "Impact of Federal Estate and Gift Taxes on Small Businessmen and Farmers," Joint Hearing before the Select Committee on Small Business and the Joint Economic Committee, August 26, 1975.

[4] Studies by the Staff of the Cabinet Committee on Price Stability, January, 1969, page 75.

[5] Ibid.

[6] Statistics of Income, 1972 Estate Tax Returns, Internal Revenue Service Publication 764 (4–75), page 1.

[7] Joint Estate and Gift Tax Hearings, Minneapolis, loc. cit. page 45.

[8] "Small Business Tax Reform," Hearings, loc. cit., p. 689.

[9] "Increasing Impact of Federal Estate and Gift Taxes on the Farm Sector," U.S. Dept. of Agriculture, Agric. Economic Report No. 242, July 1973, page 5.

[10] "Taxes Complicate Keeping Farm in the Family," by Jean Haley, *Kansas City Times*, July 5, 1975; Reprinted "Small Business Tax Reform," Hearings June 17–19, 1975, pages 659–62. The estimate of the proportion of farmers having wills was made by James Logan, former dean of the University of Kansas Law School and specialist in farm estate problems.

[11] "Economic Problems of Small Business in the Northwest United States," Eugene, Oregon, August 25, 1975, page 71.

[12] Number of U.S. farms:

1950	5,648,000
1974	2,821,000
Average acres per farm:	
1950	213
1974	385
Average value per acre:	
1950	$76
1974	354

Statistical Abstract of the U.S., 1974, pp. 597 and 604.

Mr. NELSON. I ask unanimous consent that the bill be printed in the RECORD, together with an analysis of the bill.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Small Business Estate and Gift Tax Reform Act".

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Increase in amount of estate tax exemption.
Sec. 3. Bequest, etc., to surviving spouse.
Sec. 4. Valuation of restricted farm and scenic property.
Sec. 5. Increase in amount of gift tax exemption.
Sec. 6. Changes in present law applicable to closely-held businesses, etc.
Sec. 7. Changes in present law applicable to stock redemptions to pay death taxes.
Sec. 8. Study of hardship extension and other provisions.

SEC. 2. INCREASE IN AMOUNT OF ESTATE TAX EXEMPTION.

(a) In General.—Section 2052 of the Internal Revenue Code of 1954 (relating to estate tax exemption) is amended to read as follows:

"SEC. 2052. EXEMPTION.

"(a) In General.—

"(1) Exemption.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an exemption of the amount applicable under paragraph (2).

"(2) Amount.—The amount of the exemption allowed by paragraph (1) is—

"(A) $80,000, for estates of decedents dying after December 31, 1975, and before January 1, 1978,

"(B) $100,000, for estates of decedents dying after December 31, 1977, and before January 1, 1980, and

"(C) $120,000, for estates of decedents dying after December 31, 1979.

"(b) Transfer of Gift Tax Exemption.—In the case of the estate of a decedent whose liability for tax under chapter 12 (relating to gift tax) for all taxable years was determined without regard to the specific exemption allowed under section 2521, the value of the taxable estate for the purposes of the tax imposed by section 2001 shall be determined by deducting from the value of the gross estate, in addition to the amount deducted under subsection (a), an amount equal to the maximum amount of the exemption from the gift tax imposed by chapter 12 which would have been allowable to the decedent under section 2521 for the last taxable year of the decedent had he transferred property by gift that year. This subsection applies to estates of decedents dying after December 31, 1979.

"(c) Denial of Exemption Where Taxpayer Elects to Use Amount for Gift Tax Exemption Purpose.—In the case of the estate of a decedent who, as a taxpayer who, for any taxable year, elected to claim the exemption allowed by subsection (a) of this section as an exemption under section 2521, the exemption allowable under this section to the estate of such decedent under subsection (a) shall be reduced by an amount equal to the amount claimed under such election.".

(b) Effective Date.—The amendments made by this section apply with respect to the estates of decedents dying after the date of enactment of this Act.

SEC. 3. BEQUEST, ETC., TO SURVIVING SPOUSE.

(a) In General.—Section 2056(c)(1) of such Code (relating to limitation on aggregate of deductions) is amended by striking out "50 percent of the value of the adjusted gross estate, as defined in paragraph (2)" and inserting in lieu thereof "$240,000, plus 50 percent of so much of the value of the adjusted gross estate, as defined in paragraph (2), as exceeds $240,000".

(b) The amendments made by this section apply with respect to the estates of decedents dying after the date of enactment of this Act.

SEC. 4. VALUATION OF RESTRICTED FARM AND SCENIC PROPERTY.

(a) In General.—Section 2031(a) of such Code (relating to definition of gross estate) is amended by adding at the end thereof the following: "In determining the value of real property held by the decedent as farming property or scenic open property, any covenant or condition which effectively prevents the property from being used for any other purpose for any period of time shall be taken into account."

(b) Effective Date.—The amendment made by this section applies with respect to the estates of decedents dying after the date of enactment of this Act.

SEC. 5. INCREASE IN AMOUNT OF GIFT TAX EXEMPTION.

(a) In General.—Section 2521 of such Code (relating to specific exemption from gift tax) is amended by—

(1) striking out "in computing taxable gifts" and inserting in lieu thereof "(a) In General.—In computing taxable gifts",

(2) striking out "$30,000" and inserting in lieu thereof "$60,000", and

(3) adding at the end thereof the following:

"(b) Transfer of Estate Tax Exemption.—A taxpayer may elect, at such time and in such matter as the Secretary or his delegate may prescribe, to claim an additional exemption in computing taxable gifts for a calendar quarter equal to the amount of the exemption which his estate would, but for such election, be allowed under section 2052(a) upon his death.".

"(c) Gift Tax Exemption for Gift to Spouse.—Section 2523(a) of such Code (relating to gift to spouse) is amended by striking out "one-half of its value" and inserting in lieu thereof "so much of its value as does not exceed $240,000, plus one-half of so much of its value as exceeds $240,000".

(b) Effective Date.—The amendments made by this section apply to calendar quarters beginning after the date of enactment of this Act.

SEC. 6. CHANGES IN PRESENT LAW APPLICABLE TO CLOSELY-HELD BUSINESSES, ETC.

(a) An increase in Period for Payment of Estate Tax for Estates Involving Closely-Held Businesses.—Section 6166(a) of such Code (relating to extension permitted) is amended by striking out "(not exceeding 10)" and inserting in lieu thereof "(not exceeding 15)".

(b) Lien on assets of closely held business in lieu of executor's bond.—

(1) Imposition of lien.—Section 6165 of such Code (relating to bonds where time to pay tax or deficiencies has been extended) is amended by adding at the end thereof the following: "In the event of an extension of time for payment of a State tax under section 6166, the Secretary or his delegate may, at the election of the taxpayer, impose a lien on such with the assets of the closely held business on what such extension is based as may be necessary in lieu of the bond which he may require under the preceding sentence."

(2) Discharge of fiduciary.—Section 2204 of such Code (relating to discharge of fiduciary impersonal liability) is amended by inserting at the end of subsection (a) and at the end of subsection (b) the following: "For purposes of this subsection, a lien imposed under the last sentence of section 6165 shall be treated as a bond."

(c) Effective Date.—The amendments made by this section apply to the estates of decedents drying after the date of enactment of this Act.

SEC. 7. CHANGES IN PRESENT LAW APPLICABLE TO STOCK REDEMPTIONS TO PAY DEATH TAX TAXES.

(a) Increase in Period Within Which Distributions in Redemption of Stock to Pay Death Taxes Must Be Made.—Section 303(b)(1) of such Code (relating to period for distribution) is amended to read as follows:

"(1) Period for distribution.—Subsection (a) shall apply to amounts distributed after the death of the decedent and before the end of the period within which final payment of the tax imposed by section 2001 must be made (including any extensions thereof)."

(b) Eligibility of Certain Corporations for Section 303 Stock Redemption Rules.—Section 303(b)(2)(B) of such Code (relating to distributions and redemption of stock to pay death taxes) is amended by striking out "75 percent" each place it appears and inserting in lieu thereof "50 percent".

(c) Effective Date.—The amendments made by this section apply to the estates of decedents dying after the date of enactment of this Act.

SEC. 8. STUDY OF DEFERRAL AND EXTENSION AND OTHER PROVISIONS.

(a) The Secretary or his delegate shall study the effect of the provisions of section 6161(a)(2) and section 6166 of the Internal Revenue Code of 1954 (relating to hardship extensions of the time for payment of estate tax and installments thereof and extensions of time for payment of estate tax where estate consists largely of interest in closely held business) and the regulations prescribed thereunder on decisions to continue a small business or closely held business, including farming business rather than to sell or liquidate such business. The study shall include, but not be limited to, a survey of how such sections and the regulations thereunder are applied in the different Internal Revenue Districts and the impact of the present sections and regulations upon the continuity of such enterprises. The Secretary or his delegate shall submit a report of his findings and conclusions to the Congress within 12 months after the date of enactment of this Act, together with such recommendations for legislation as he deems appropriate.

(b) The report described in subsection (a) shall contain findings, conclusions, and such recommendations for legislation, or otherwise, as the Secretary or his delegate deems appropriate upon the general subject of the impact of estate, gift, and related tax provisions of the Internal Revenue Code and Regulations thereunder upon smaller business, and how these provisions should be modified to encourage the prospect of preserving the continuity of smaller, independent, and locally owned businesses and farms in order to strengthen the free enterprise system and the overall economy of the nation. In performing these studies, the Secretary or his delegate shall consult appropriately with the Small Business Administration and private organizations of smaller and independent business persons and farmers.

Section-by-Section Analysis of the Small Business Estate and Gift Tax Reform Act

OVERALL PURPOSE

The objective of the bill is to reform the structure of estate and gift taxes, particularly as they apply to owners of smaller and independent businesses and farms, in light of inflation of 224.1% from 1942 when present provisions were enacted to June 30, 1975. The intent is to provide smaller businessmen and farmers greater opportunities to pass their enterprises along to their heirs, so that the local and independent character of these activities can be preserved.

SECTION 1—SHORT TITLE

The first section states the title of the bill for identification. It also sets forth a table of contents of the bill's provisions, which can be described, in non-technical language, as follows:

Section 1—Title.

Section 2—Increase in Estate Tax Exemption.

Section 3—Increase in the Amount Which May Be Transferred Tax-Free to Surviving Wife or Husband.

Section 4—Reduction in Estate Tax Valuation Based on Scenic and Use Restrictions.

Section 5—Increase in Gift Tax Exemption.

Section 6—Improvements in Sec. 6166, 10-Year Deferral Provision.

Section 7—Improvements in Sec. 303, Redemption of Stock to Pay Death Taxes.

Section 8—Study of Law, Regulations, and Administration of Secs. 6161 and 6166 Deferrals, and General Study of Impact of Estate and Gift Tax Provisions on Smaller Business.

SECTION 2—INCREASE IN ESTATE TAX EXEMPTION

This would increase the estate tax exemption from its present level of $60,000, which has been in effect since 1942, to $120,000. If the 1942 figure is adjusted for inflation during this period, it would rise to approximately $146,000. This has been reflected in the Internal Revenue Code in such ways as an increase in the personal income tax exemption of 50%.

The proposal is to increase the exemption in three stages:

to $80,000 in 1976;
to $100,000 in 1978; and
to $120,000 in 1980.

This phasing would reduce the initial revenue impact of the bill, and provide experience as to its impact as it develops, as a basis for evaluation.

In the last stage, from January 1, 1980, the gift tax exemption could also, to the extent unused during life, be added to the estate tax exemption available at death.

This proposal is intended to operate in connection with the increase in the gift tax exemption (Sec. 5) and the increase in tax-free transfers between husband and wife (Sec. 3).

SECTION 3—INCREASE IN THE AMOUNT WHICH MAY BE TRANSFERRED TAX-FREE TO SURVIVING WIFE OR HUSBAND

The present law allows a deduction for one-half of all the property passing to a surviving spouse. This proposal would permit a transfer of up to $240,000 to be free of estate tax. Above that level, transfers would be subject to the existing 50% provisions. The would recognize the contribution of the spouse in building a family business and is an attempt to avoid double taxation in the descent of business property from one generation to another.

An additional major benefit intended is eliminating complexity and costs over marital deduction provisions on the part of relatively small estates of small business owners, farmers, and others.

There is a counterpart provision in Sec. 5(c) of the bill as to gifts between spouses.

SECTION 4—REDUCTION IN ESTATE TAX VALUATION BASED ON SCENIC AND USE RESTRICTIONS

This proposal is designed to make it more feasible for business property, including farms and ranches, to be continued in the same uses after the death of the original entrepreneur. As real estate development intensifies around such business property, the valuation increases. This often raises the estate taxes substantially, making it more likely that the property must be sold to realize enough cash to pay the tax.

This proposal would provide an avenue for resolving this problem by recognizing, within the Internal Revenue Code, the right of farmers and businessmen to enter into covenants, or grant easements to appropriate authorities, restricting property to desired uses for a period of time of their own choosing. To the extent such restriction effectively reduces the value for development, it is contemplated that such sums will reduce the estate tax value. This, in turn, should reduce the taxes and enhance the possible continuity of the enterprise in its small business character.

SECTION 5—INCREASE IN GIFT TAX EXEMPTION

The present one-time lifetime gift tax exemption is $30,000, plus a $3,000 annual exclusion per donee. The section would not change the $3,000 annual gift. However, it would recognize inflation by increasing the lifetime gift allowance to $60,000. This is a key feature of the proposal. The full increase would be effective immediately in 1976.

The bill would encourage a gift of business property while the businessman or farmer was still alive to assist his family members, employees or other recipients during the transition period. The possibilities, in this area, would be increased further by Subsection (b), which would make the amount of the estate tax exemption available as an added gift tax exemption. This would result in further latitude for the entrepreneur in this respect.

SECTION 6—IMPROVEMENTS IN SEC. 6166, 10-YEAR DEFERRAL PROVISION

This section proposes to expand the definition of a closely held business, presently contained in Sec. 6166, by raising the permissible number of partners or shareholders to 15.

It would be in line with previous small business legislative proposals to increase the number of "Subchapter S" shareholders to 15, which was approved by the House Ways and Means Committee on August 1, 1974. It would allow closely held businesses to seek fresh capital and talent by bringing in additional shareholders, without loss of deferral privileges to major owners.

It also proposes removing a major obstacle in the use of the present deferral mechanism by relieving the executor of the requirement of a personal bond for the payment of the deferred taxes. Instead, it would substitute a lien on the business assets of up to 150% of the deferred tax.

SECTION 7—IMPROVEMENTS IN SEC. 303, REDEMPTION OF STOCK TO PAY DEATH TAXES

This section would expand the effects of Sec. 303 of the Internal Revenue Code regarding redemption of stock of a small busi-Sec. 303 of the Internal Revenue Code redemption period from the present three years to a maximum of 10 years, which is parallel to the maximum deferral period of Sec. 6166.

It is also proposed that the eligibility requirement for stock ownership multiple businesses by reduced from 75% to 50%. This is intended to eliminate the penalty which the present section places on an entrepreneur who wishes to diversify his holdings beyond one smaller business.

SECTION 8—STUDY OF LAW, REGULATIONS, AND ADMINISTRATION OF SECS. 6161 AND 6166 DEFERRALS, AND GENERAL STUDY OF IMPACT OF ESTATE AND GIFT TAX PROVISIONS ON SMALLER BUSINESS

The present Sec. 6161 standard for deferral of "undue hardship" has been criticized as overly stringent. The regulations pursuant to this section recognize that a forced sale can be considered as such an "undue hardship." However, there are questions as to why the deferral provisions of 6161 and 6166 are so little used under present law. The premise of this section is that this area needs to be reviewed. It is contemplated that statistics be gathered nationally as to the operation of the two deferral provisions. The Treasury would be instructed under this section to pinpoint the strengths and weaknesses of the deferral provisions and also to look beyond them to assess the impact of the entire estate and gift tax system on the continuity of smaller and independent businesses, including farming, and to formulate legislative and other recommendations which would encourage the continuity and independence of small and independent enterprise.

Mr. MONDALE. Mr. President, I am very pleased today to join with Senator Nelson as primary sponsor in introducing the Small Business Estate and Gift Tax Reform Act. Many of the provisions in this bill resulted from testimony received last August in hearings that I chaired in Minnesota along with Senator Humphrey. We heard then from a number of small businessmen and farmers about the problems they face in paying Federal estate taxes and of the severe burden this could place on their estates and their heirs.

In some cases, our witnesses testified, it could prove necessary to sell part or all of a family farm or business in order to pay estate taxes. This could hurt everyone—the family that loses its farm or business, the community that loses the support and concern that local ownership brings, and our national economy, as concentration pushes out competition.

If we are to have the healthy competition needed to continue strong, noninflationary economic growth, we must do all we can to keep family farms from being taken over by huge corporate farming operations and to keep independent and innovative small businesses from being taken over by large outside corporations.

Our estate and gift tax laws are intended in part to prevent excessive concentration of wealth. Yet, in their applications to small businesses and family farms, they may inadvertently be increasing it.

This bill would increase the size of the estate tax exemption from its present $60,000 to $120,000 by 1980, and it would increase the lifetime gift tax exclusion immediately from $30,000 to $60,000. The present level of the estate tax exemption has remained unchanged since 1942. Yet prices during that period have increased 224 percent. Increasing this exemption to $120,000 would help to make up for this erosion in its real value since 1942. These two provisions, used together, would increase substantially the value of a small business or farm that could be transferred tax free to heirs. In addition, the bill contains a special provision that permits the transfer tax free of the first $240,000 of business or other property to a surviving spouse.

The bill contains several other features that would enable small businessmen and farmers more easily to pass on their businesses and farms to their families. These provisions would ease the cash shortage problems often faced by those who inherit family businesses and farms and make it unnecessary for them to sell these enterprises in order to pay the estate taxes.

Mr. President, these small businessmen and farmers have often devoted major parts of their lives and their resources to these endeavors. In many cases, one of their strongest desires is to transfer these businesses or farms to their heirs at their deaths. This bill would permit these aspirations to be fulfilled. I urge my colleagues to give it their support.

By Mr. DOLE:

S. 2820. A bill to amend title 5, United States Code, to change the method of computing annuities of employees with at least 5 but less than 20 years of service as law enforcement officers or firefighters. Referred to the Committee on Post Office and Civil Service.

Mr. DOLE. Mr. President, last year we gave our approval to a bill, H.R. 9281—later enacted as Public Law 93-350, to provide Federal law enforcement and firefighting personnel a special 2½ percent retirement computation formula in recognition of the special service which they perform. In doing so, however, we failed to recognize the substantial inequity that would result from promising the incentive credit on a full 20 years of service in such capacity.

In order to correct that oversight, I am introducing today legislation which, if enacted, would extend appropriate annuity credit to retiring Federal employees who have at least 5 years' service as law enforcement or firefighter personnel, but who have not completed 20 years. This would be consistent with the full credit given congressional employees under the higher 2½ percent formula after they have served 5 years. (5 U.S.C.A. 8339 (b))

As the law now stands, Government employees who have performed "hazardous duties" for fewer than 20 years are penalized merely because they fail to reach the magic benefit line. Even though they were exposed to the same dangers, subjected to the same perils, and employed in the same high risk endeavors for our Nation, they receive no recognition if, for one reason or another, they choose or are compelled to leave such service 1 day before their 20 years is up.

Although the Civil Service Commission is on record as opposing preferential computation formulas as a reward for particular kinds of service, it seems to me that as long as the law provides for such treatment, all those entitled should receive it. If they do not, we are going to find ourselves in the business of suppressing lateral movement of these types of Government employees, as well as discouraging the initial recruitment of qualified personnel who may not wish to commit themselves for a full 20 years in such a demanding profession.

In addition to the recruitment argument, it is my belief that the change I am proposing could also operate to help retain qualified and experienced personnel within the Government by encouraging them to stay in, or return to, civil service rather than the private sector. Too often, now, for example, a firefighter or law enforcement officer who has put in perhaps 10 years of service and decides that it is not in his own or his family's best interest to continue for another 10 years, would have just as much motivation to go to private industry as to another Government agency.

It seems to me that 5 years is a reasonable minimum to expect of a career-oriented professional and that, in many instances, we are promoting morale problems and indifference among 15- to 20-year agents who are "putting in their time" simply because of the leverage being held over them by the 20-year requirement. Again, I think we could have a much more dedicated, effective, and inspired contingent of Federal officers if they knew they could transfer at any time from a hazardous position and still receive full credit when they eventually completed a total of 20 years with the Government.

Since the bill I am proposing would become effective upon enactment, any problem of recomputation for those already retired would be avoided. Moreover, Federal service retirement computations are done on an individual basis anyway, and no additional administrative burden would be imposed.

Any measure designed to eliminate an existing inequity should, Mr. President, receive the priority consideration of the respective congressional committees to which it is referred. It is in the hope that this recommendation will receive the early and favorable action of the Congress that I submit it for consideration.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8339(d) of title 5, United States Code, is amended by inserting "(1)" immediately after "(d)" and by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under this subchapter with at least 5 years but less than 20 years of service as a law enforcement officer or firefighter, or any combination thereof, is computed under subsection (a) of this section, except that the annuity of such employee is computed with respect to the service of such employee as a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of his average pay by the years of that service.".

(b) Section 8339 (h) of such title is amended by striking out "section 8336(d)" and inserting in lieu thereof: "section 8336 (d)(1)".

SEC. 2. The amendments made by this Act shall become effective on the date of enactment of this Act.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 2821. A bill to amend title 5, United States Code, to prove that certain air traffic specialists be considered as air traffic controllers for retirement and certain other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, today I am introducing legislation which will equalize the retirement benefits of flight service station specialists—often referred to as air traffic control specialists—to those of the air traffic controllers. The 92d Congress passed legislation which was subsequently signed into law—Public was 92-297 (liberalizing the retirement and other benefits for air traffic controllers. Flight stations service specialists were not included under this act.

These individuals, as with the air traffic controllers, professional objective is to provide for the safe, orderly, and rapid movement of aircraft throughout this Nation. The FSS specialists' primary functions are threefold, first, to provide preflight pilot briefings, including weather briefings; second, provide emergency flight assistance; and third, provide airport advisory service where such service is available.

In addition, new duties have been added to the FSS specialists' responsibility since the Air Traffic Controller legislation of 1972. For example, many FSS are now delegated authority to: First, issue clearance for special VFR operations when weather conditions are below VFR minimums; second, provide VFR recommendations when, in the judgment of the FSS specialist, weather conditions preclude safe flight; third, provide inroute weather advisory service designed to provide pilot with information which will allow him to avoid areas of adverse weather; and fourth, in some cases provide approach control services to all categories of aircraft. All of these duties were previously the responsibility of air traffic controllers exclusively. I cite these responsibilities merely to emphasize the significance of flight service station specialists in assisting the pilots of this Nation and their passengers to fly safely throughout skyways. These individuals should be treated equally with the air traffic controllers and my legislation would bring this about.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2109 of title 5, United States Code, relating to the definition of air traffic controllers, is amended to read as follows:

"SEC. 2109. Air Traffic Controller

"For the purpose of this title, 'air traffic controller' or 'controller' means an employee of the Department of Transportation who is actively engaged in the separation and control of air traffic, who is actively engaged in providing preflight, inflight, or airport advisory service to aircraft operators, or who is the immediate supervisor of any such employee, in an air traffic control or flight service station facility.".

SEC. 2. Section 8335(f) of title 5, United States Code, does not apply to a person appointed to a position before the date of the enactment of this Act which, by reason of the enactment of this Act, is an air traffic controller position.

SEC. 3. This Act shall become effective at the beginning of the nineteenth day after the date of the enactment of this Act.

By Mr. KENNEDY (for himself, Mr. MONDALE, and Mr. PELL):

S. 2822. A bill to extend the provisions of the Rehabilitation Act of 1973 for 2 years. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, I am introducing this bill to extend the Rehabilitation Act for 2 years and to adjust the authorization level upward to meet the cost of inflation.

Just a few days ago, the House passed H.R. 11045 which is similar to the measure I propose today. However, I believe the House authorization in reality fails to adequately meet the spiraling rate of inflation.

Thus, the House bill would authorize $740 million for fiscal year 1977 and $760 million for fiscal year 1978 for the basic State grant vocational rehabilitation program. The current level of spending approved in the regular fiscal year 1976 HEW appropriations bill is $720 million. The level of anticipated inflation is 8 percent. Therefore, the level of spending to prevent a reduction of services should be $780 million, the level I have included in the 2-year bill I am introducing today.

For the same reasons, this bill raises the other important research and training and innovative programs by the same amounts.

Ultimately, I believe a more appropriate level for fiscal year 1978 will be somewhat higher. However, during the course of the oversight activity planned for next session I am sure that we will receive a better estimate of the fiscal year 1978 needs.

I want to emphasize that while I believe higher levels of appropriation are needed along with a 2-year extension, the desire of the vocational rehabilitation groups for certainty in their planning for fiscal year 1977 has been the dominant factor in our consideration.

For that reason, I intend to support and have cosponsored Senator RANDOLPH's 1-year extension. This would be the only measure possible of being passed before we recess. However, I intend to work in conference and in our negotiations with the House to see that the higher figure for fiscal year 1977 is in the final version of the legislation. And early next session a full extension or at least 2 years would be considered following our oversight hearings.

Every indication has been that only a 1-year waiver can be obtained from the Senate Budget Committee, a situation that clearly limits our flexibility in action this late in the session.

Let me express however, the reasons why I believe the legislation I am submitting responds more fully to the needs of the handicapped in Massachusetts and and Nation.

In testimony this year, the administration has urged lower funding levels and also the elimination of the innovation and expansion grant program. This attitude reflects the same callous view of the previous administration which sought to seriously impede our efforts to provide adequate services to the handicapped. We were able to pass the Rehabitation Act of 1973 only after a pocket veto and the overriding of a second veto.

The lower level of funding recommended by the administration along with the elimination of this program represents a false sense of priorities and false view of economy.

Every possible cost-benefit analysis has shown that the rehabilitation program provides benefits to individuals and to the Nation far greater than the actual cost of the program. Estimates of the ratio of benefits to costs over the long run actually range as high as $35 returned to the Federal Treasury for every Federal dollar of investment.

In Massachusetts, there are some 30,000 people in the vocational rehabilitation program. Each year, some 6,000 are rehabilitated and provided the skills to permit them to compete in the outside world.

We know that in Massachusetts, it cost some $25 million to rehabilitate those individuals; yet they now earn some $29 million in salaries every year.

Across the Nation, in fiscal year 1975 State vocational rehabilitation agencies served 239,624 handicapped individuals, and rehabilitated 324,039 persons. The number of people served by the program represents an 8.4 percent increase over fiscal year 1974, and all indications point to similar increases this year. Since the inception of the State-Federal program of vocational rehabilitation, over 4,000,000 handicapped people have been rehabilitated.

This Federal-State program has for over 55 years linked these two levels of governments in a cooperative merger to rehabilitation programs and services which assist physically and mentally handicapped individuals to become employable. No greater government commitment to the people of our Nation can reap so much in terms of sheer human satisfaction and reward, and yet cost so little. I am proud of this outstanding record of accomplishment.

The Rehabilitation Act which I seek to extend today contains tested and successful programs which have been improved over the years since 1973. For example, the act authorizes research programs to develop new and innovative methods of applying up-to-date technological, medical, and psychological developments to rehabilitate handicapped persons.

In addition to such research programs, the Rehabilitation Act provides training programs to insure the availability of skilled manpower needed for the expansion and improvement of vocational rehabilitation services for the disabled. Also, vocational training service projects, which are at the heart of the act, train handicapped individuals in occupational skills so that these persons can get back on their feet and fulfill longheld dreams of contributing to the growth of the Nation and leading productive lives.

One of the more innovative aspects of the Rehabilitation Act is the focus upon projects to improve services to severely handicapped individuals—including the older blind and deaf whose maximum potential has not been reached. This, I am assured, will be a focus of the oversight hearings to be held next year.

As many of my colleagues know, State allotments for the basic program are computed in part on the specific dollar authorization for that program as provided in the Rehabilitation Act. With the advance State allotment, information which for the most part has been available in the past, State rehab directors have been able to plan effectively for the orderly growth of their programs and to estimate and appropriate sufficient State funds to match available Federal support. This we must continue.

To impress upon Congress the crucial need handicapped clients as well as State vocational rehabilitation directors have informed me of the importance of extending as soon as possible the authorization for Federal support of State programs of vocational rehabilitation services. This bill will achieve that goal.

By Mr. HUDDLESTON:

S. 2823. A bill to amend section 502(c) of the Rural Development Act to assist small farmers in upgrading their farming operations. Referred to the Committee on Agriculture and Forestry.

HELP FOR THE SMALL FARMER

Mr. HUDDLESTON. Mr. President, I rise today to introduce S. 2823, a bill to assist small farmers in upgrading their farming operations.

This bill would amend title V of the Rural Development Act of 1972, which already authorizes research and extension to assist small farmers, but the administration has never implemented this provision.

The intent of this bill is to reinforce the commitment of Congress toward preserving the small farm.

I realize that some experts would argue that there is no point in trying to help those farmers who are operating farm units which are too small to sustain a family entirely.

But I take a different view.

Most of these farmers are already relying for part of their income from off-farm jobs. The point is that many of these jobs pay very little, and the small farmer remains in the backwash of the American economy. That is to say that even though many of these producers attempt to operate their farms and work off the farm, the combined income from these sources is still not adequate.

I am not so foolish as to propose a program of assistance that would maintain a pretense that somehow through research and extension a small unit can necessarily be made to provide the total support for these people.

But I do believe that by following the precepts of extension and cooperative State research that are now decades old, many small farms can begin to produce more income for their owners, thereby making these farmers more economically independent.

Ever since the Great Depression, American agriculture has undergone an enormous revolution. Thirty million people have left the farm for the city. A more mechanized agriculture has created a situation in which farm units have to be larger to be profitable.

I am not proposing here some sort of fallacious "back to the farm movement," but rather to give those Americans who were able to remain in rural America the freedom to decide where they will live. My distinguished colleague from Minnesota (Mr. HUMPHREY) used to call this "Freedom of Residence."

Let us face it, after the many economic upheavals that have occurred in American agriculture in recent decades, those who remain on the land are largely there, because they desperately want to be.

They cling tenaciously to their too-few acres, because for them agriculture is a way of life as well as a way of doing business.

If we can help them stay on the land—if we can give them freedom of residence—by simply refocusing our present activities slightly, then it would be foolish, cruel, and uneconomical not to take the appropriate steps.

The tragedy of New York City's present economic state, and sprawling urban ghettos across the face of this land are living testimony to the fact that the mass migration of people from the farm to the cities was not without a cost to the Nation and local governments of tens of billions of dollars.

Therefore, it would seem fitting to me that we say something more to the small farmer than "Adapt or die." To take the actions called for in this legislation would help the rural economy, and save the cities the agony of still more welfare receipients added to their populations.

But beyond the question of population migration is the question: "Who shall own American agriculture?" Better phrased, the question might be, "How many shall own American agriculture?"

In a paper on the "Changing Nature of U.S. Cattle Feeding" last year, Joseph C. Meisner and V. James Rhodes of the University of Missouri reported:

> As a result of the expanded size of feedlots in recent years, the cattle-feeding industry is now much more concentrated than several years ago. USDA data show approximately 2,000 feedlots produce over two-thirds of the nation's beef. However, individual firms are found to own more than one feedlot. Seventeen firms were noted to be supplying one-eighth of the nation's fed beef. Data based on 1972 levels showed three-percent of the nation's fed beef being produced by two cattle feeding firms.

For my part, I cannot get too excited about the scare term, "corporate agribusiness." Many family farms have incorporated for purposes of good management, and agriculture is after all a business.

But the Department of Agriculture reports that the number of farms with sales of $100,000 and over increased from 23,000 in 1960 to 115,000 in 1974. In 1960, these farms accounted for less than 1 percent of all farms, but for over 17 percent of the value of farm products sold. By 1974, farms of this size represented about 4 percent of all farms, but produced about 47 percent of the total value of farm products sold.

Certainly it is fair to ask, "How big is too big?"

In my State of Kentucky the average total of products sold according to 1974 USDA estimates was $11,045 per farm. In the Nation, the average was $33,041 per farm.

We have about 2.7 million units which are classified as farms by the census, but about 1.1 million of these produce 90 percent of the food and fiber.

As Lauren Soth, a distinguished editor of the Des Moines Register says:

> The character of the industry is different We don't even know what to call farming anymore. Is broiler production in industrial setups farming? Is the California factory-of-the-field, producing fruits and vegetables farming, or something else? When agribusiness firms do everything from the soil preparation to the harvesting, what part is farming, and what part is non-farm business?"

I believe in, and I will continue to support a strong American agriculture. It is essential for our nutritional well-being, for our international trading posture and for the future of the world. And, in order to remain strong, American agriculture must be economically strong.

But when I see data which shows that a 500-steer feedlot is about as big as the economies of size will allow increased efficiency; when I see that a 700-acre farm in Iowa is about as big an operation as can be maintained and continue to reduce overhead and operating costs; then I wonder what the need may be for more and more bigness.

I am not saying here that we should divide up the big farms and parcel the land out to the small operators. By and large a farm is about as big as a family operator's abilities to manage it properly and acquire more land.

But I would submit that certain Federal policies are contributing toward bigness, while the Department of Agriculture tends to forget that family farmer which Abraham Lincoln charged it to protect.

In regard to taxes, for instance, Soth says:

> You might expect that Federal income taxation would give an advantage to small farmers as compared with large farming businesses. Farm-produced food, fuel and rental value of homes are largely not taxed. These non-money sources of real income are more important for family farms than for the bigger farms.

But using evidence produced by the U.S. Treasury Department, Soth turns this around and says:

> With the cash accounting privilege, of course, farm firms can deduct against current income, expenditures for land development, soil conservation, irrigation and other capital outlays. This permits building up assets without paying taxes, or, in effect, an interest-free government loan.

Government tax policies have further made it difficult for a father to will his farm to his son, and they have created a system in which wealthy non-farmers own large segments of the cattle business.

It would appear from the evidence that tax breaks for the small farmer help his "farm factory" competitors even more.

Evidence would also seem to indicate that the larger the farms in any given area of the country, the fewer people there are spending farm income in smaller communities, and therefore, the communities located near large-farm areas tend to be in greater peril of economic distress.

Finally, one might ask if it is possible to provide useful information on a timely basis to assist the small farmer. For those farmers who have off-farm employment, this may mean contacting him at night or on weekends. For some who have not had the benefit of much education, the teaching process might tend to be laborious.

Jerry G. West and K. C. Schneeberger, of the University of Missouri, answered this question to my satisfaction in a paper on research and education needs of those living on small farms.

They said:

> Speculation is widespread that we are about to lose one million of our farms. They are about to be defined out of existence. For example, one prognosticator expects all units with less than $2,500 gross sales to be excluded through revision of the census definition of a farm. The ironic aspect of this is that such farms will not actually disappear. The problems of these farm families, along with numerous others with only slightly larger farming operations will continue to exist. It is the thesis of this paper that such problems are much more important than suggested by the resources allocated to them by our profession (agricultural economics).
>
> The phrase "the top one-third of the farms produced 90 percent of all agricultural products" is widely used. On the other hand, very seldom does one read about the large percentage of people who live on the farm that account for only 10 percent of the gross sales. If small farms are defined as those with gross sales of less than $10,000, two-thirds of the farm population lived on such farms in 1964. If "people problems" rather than "commodity problems" are our real concern then certainly the small farms should be an important clientele group for our research and education efforts.

As with many other problems, the relative importance of small farms varies from one geographical area to another. For example, in West Virginia small farms, as defined above, comprised 94.8 percent of all farms in 1964, while in Iowa, only 43.0 percent had less than $10,000 gross sales. . . .

Small farms are not nearly so important in terms of the resources involved but even here their resources cannot be ignored. In 1965, they contained 39 percent of the land in farms, 34 percent of the productive assets, and 38 percent of the rural labor used on farms. Recent ERS (Economic Research Service) projections for 1980 indicate small farms will continue to employ a sizable quantity of resources. The projections indicate that approximately 15 percent of the productive assets and nearly 20 percent of the land and labor will be on farms grossing less than $10,000.

Although the contribution of small farms to total gross or net income from farming in the United States is relatively small, the income is important to the individual family. For all farms grossing less than $10,000 in 1970, net income from farming comprised approximately 20 percent of the income available for family living. . . .

Lack of concern for small farms is often excused with the argument that nonfarm income is the important source of funds for family living. This is true. But the income from the combined sources is relatively low. Data from the Farm Income Situation indicates that families on farms grossing less than $10,000 had an average net income from combined farm and off-farm sources of less than $9,000 in 1970. In contrast, those grossing more than $10,000 had an average income of over $15,000. A USDA study of 1966 income tax returns provided similar results. It concluded:

"In general, persons reporting small farm profits had lower incomes from combined farm and off-farm sources than did those with larger profits. For example, fewer than 10 percent of people with profits of less than $5,000 reported a combined income of $10,000 or more."

The situation is even more disturbing than indicated by average figures. On a large proportion of small farms, agricultural enterprises actually make a negative contribution. Detailed income and expenditure data from the population of farm operators in a two-township area in central Missouri indicated that farm earnings were negative for 25 of the 72 farms grossing less than $10,000.

West and Schneegerger go on to point out that educational programs such as the rapid adjustment program sponsored by the Tennessee Valley Authority are proof that much can be accomplished by helping small farmers.

Secretary Butz is fond of saying that by 2000 we will have to produce twice as much food to feed the world's growing population. It seems to me that we cannot do this by ignoring 39 percent of our farmland.

A recent report entitled "Some Problems Impeding Economic Improvement of Small-Farm Operations: What the Department of Agriculture Could Do" has the following recommendations:

The Department should:

Identify small-farm operators in their productive years who depend on the farm as their primary source of income and categorize them according to their resources, abilities, educational experiences, and willingness to improve their operations by using available technology and efficient management practices.

Estimate the costs and benefits of programs needed to extend training and technical assistance to small-farm operators having the potential for improvement and present the information to the Congress for its consideration.

Examine the potential for research uniquely designed to improve the economic position of small-farm operators and, if such potential exists, consider the priority of such research in relation to other federally funded agricultural research.

Establish procedures for (1) evaluating the economic and social impacts of future research that could greatly change the productivity, structure, and/or size of existing farms, and (2) determining the assistance small-farm operators would need to plan for and adjust to the resulting changes.

The GAO report concludes:

The consensus of knowledgeable government and nongovernment people is that, although various factors contribute to small-farm operators' having relatively low volumes of farm sales, failure to use available technology and efficient management practices effectively is a primary reason many have lower volumes of farm sales than they might have and a major factor limiting improvements in their farming operations.

Although some publicly supported extension and research projects have related to the needs of small-farm operators, the Department and landgrant college have not made a concerted effort to solve problems impending the economic improvement of small-farm operations. Also they have not adequately (1) evaluated the economic and social impacts of production-efficiency research nor (2) determined the assistance that small-farm operators need to plan for and adjust to changes brought about by such research.

Demonstration projects sponsored by cooperative extension organizations and the Tennessee Valley Authority have shown that some small-farm operators are capable of increasing the productivity of their land and increasing their incomes. The type and intensity of assistance provided, and resulting accomplishments, differed widely between their projects as did the abilities and resources of participating farmers.

More complete data on small-farm operators is needed to determine the type and extent of assistance which would be useful and to provide the basis for planning extension and research programs oriented to the specific, known needs of small-farm operators. Such programs could aid in meeting the world's food and fiber needs as well as increasing these farmers' incomes.

An article appeared in the April 1, 1975, edition of Area Development Interchange, a newsletter published by the National Area Development Institute, which outlined research carried out regarding farm size by Earl Heady and Steven Sonka. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STUDY FINDS SMALL FARMS MAY BENEFIT RURAL AREAS MOST, THOUGH HIGHER PRICES RESULT

A study of Farm-size structures indicates that benefits to rural areas may be greater from an agricultural system made up solely of farms having less than $10,000 in gross sales.

The study compares the results in terms of factors such as farm income, food prices, cropland value and rural economic activity, of systems composed of all large farms, all medium-sized farms, all small farms or a range containing operations of all three sizes in a mixture appropriate to current trends. Conducted by the North Central Regional Center for Rural Development at Iowa State University, the study defines large farms as those with gross sales over $40,000, medium farms as those with gross sales between $10,000 and $40,000, and small farms as those having gross sales ranging from $2,500 to $10,000.

Using a linear programming model containing 275 equations and 2,061 real variables, the study finds that the small-farm alternative results in higher returns per acre of land, higher total farm incomes, and increased economic activity in nonfarm sectors dependent on agriculture.

At the same time, however, the all-small-farm system would cause the highest food prices and lowest net income per farm of any of the alternatives.

In contrast, a farming structure characterized by large farms only implies lowest food prices and requires fewest resource inputs, but provides the lowest return to cropland, lowest total farm income and has the smallest income-generating effect on other economic sectors.

Specifically, the study states that on a national basis the low farm prices of the large farm alternative could lead to a decrease in income generation by 16 percent. The small farm system, with food prices approximately 18 percent higher than the large farm structure, could result in 34 percent higher secondary income effects than the large farm system, and 17 percent higher than the percent-day trend. Prices under the current mix of farm sizes are estimated about 9 percent lower than under the small-farm alternative.

The study's authors Earl O. Heady and Steven T. Sonka also note that while the large farm alternative requires fewest resource inputs, unless those freed resources are used in the local community fewer rural businesses may be required. In addition, they state that the lower per-acre returns to cropland provided by large farms indicate potential financing difficulties for many rural institutions.

Outcomes for the medium-farm and current-mix alternatives are less extreme than those of either the large-farm or small-farm cases. Results of the former two farming structures are generally similar, and fall midway between those of all large and all small farms. Their similarity in outcome implies, according to the study, that society could be as well served by an agricultural system made up of all medium-sized farms as by one with a wide range of sizes.

The authors conclude the study by mentioning some policy implications of their findings. Noting that policies designed specifically to alter the farm-size structure have rarely been enacted, they point out that policies adopted to achieve other goals do nonetheless affect the size of farms. They consequently urge policy makers to consider these results when pursuing such other goals.

The publication *Farm-Size Structure and Off-Farm Income and Employment Generation in the North Central Region* is available from the North Central Regional Center for Rural Development, Iowa State University of Science and Technology, 107 Curtiss Hall, Ames, Iowa 50010. Copies are free upon request.

Mr. HUDDLESTON. The response of the Department of Agriculture to the GAO report was similar to its implementation of the small farmer section of the Rural Development Act. Negative.

The Department said incomes of small farmers would not necessarily rise as a result of a concerted effort in a small farmer program, and therefore, no further action on the GAO recommendation is expected.

It seems to me that this kind of response gaves credence to allegations that the Department of Agriculture has become the home province of factory farms and big food companies.

Now Secretary Butz has said that most of his budget goes for "welfare programs" such as food stamps and child nutrition. That is correct. The Congress had to drag the Department kicking and screaming to get into nonfarm rural development, and now it uses rural development as an excuse not to help small farmers.

It seems to me that if USDA is only to be concerned with commercial agriculture, then we ought to make it a bureau within the Department of Commerce and get on with the business of helping rural people.

But Abraham Lincoln charged the USDA to be the peoples' department, and that is what I believe it must be. And it can be.

The Department and its cooperating State agencies are uniquely structured at the ground level to provide all kinds of assistance to all kinds of rural people. These agencies have done this in the past, and they must continue to do it in the future.

The bill I am introducing today amends section 502(c) of the Rural Development Act to provide for small farm extension, research and development programs. It establishes a small farm extension, research and development program that consists of the following:

First. A comprehensive study and survey to identify small farmers, and to determine their resources, abilities, education, and experience.

Second. A program designed by the USDA and the Cooperative Extension Services for improving operations of small farmers.

Third. Procedures for providing for regular updating of the study, survey, and program.

Fourth. Research and development with respect to measures for upgrading small farmer operations.

Fifth. The Secretary of Agriculture is required to submit an annual report on his stewardship of this program.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502(c) of the Rural Development Act of 1972 (86 Stat. 657) is amended to read as follows:

"(c) Small Farm Extension, Research and Development Programs.—(1) Small farm extension and research and development programs shall consist of the following:

"(A) A comprehensive study and survey by the Secretary conducted through the Federal-State Cooperative Extension Services to identify small farmers in each State and to determine their resources, abilities, education, and experience, and the willingness of such farmers to upgrade their farm operations through improved farm management practices, improved agricultural production techniques, improved farm machinery technology, improved products, and improved cooperative agricultural marketing practices.

"(B) The development and implementation of a program by the Secretary and the Federal-State Cooperative Extension Services for improving operations of small farmers by means of the measures referred to in subparagraph (A) for upgrading small farmer operations.

"(C) The establishment of procedures for evaluating the social and economic consequences of the program described in subparagraph (B).

"(D) The establishment of procedures for regular periodic updating of the study and survey provided under subparagraph (A).

"(E) Research and development with respect to measures referred to in subparagraph (A) for upgrading small farmer operations.

"(F) An annual report by the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate regarding the extent to which the objectives of the program provided for in this subsection are being achieved and the effectiveness with which such objectives are being achieved.

As used in this subsection, the term 'small farmer' means any person who depends on farming as his primary source of income, whose gross annual sales from farming operations are less than $20,000, and whose income from non-farm sources is less than $5,000.".

By Mr. HELMS:

S. 2824. A bill to provide for increased employee ownership of business and accelerated capital formation. Referred to the Committee on Finance.

EMPLOYEE BUSINESS OWNERSHIP AND CAPITAL FORMATION ACT OF 1975

Mr. HELMS. Mr. President, today I am introducing the Employee Business Ownership and Capital Formation Act of 1975. This legislation is based upon the concepts popularly known as the Kelson Plan. And it is in many respects similar to the so-called Employee Stock Ownership Plans—ESOP's.

The purpose of the legislation is twofold: First, it provides a mechanism to encourage corporations to give stock in the company to employees, without discrimination in favor of management or any other class. It is predicated upon the belief that if our traditional American free enterprise system is to continue to work, and work well, a greater portion of the labor force must have a piece of the action. By allowing all employees of a company to share in its ownership and its profits, we will be encouraging individual initiative and economic productivity, as well as contributing to the prosperity and indivdual dignity of the average worker.

Second, this legislation, through the creation of corporate tax deductions for gifts of stock to employees, will generate capital funds for the company. These funds will provide the vitally necessary capital for plant expansion, environmental protection, compliance with the Occupational Safety and Health regulations, the installation of more energy-efficient equipment, and any of the host of other capital needs. Of course, as these capital expenditures are made, as existing plants are expended and new ones constructed, jobs will be created. As pollution abatement equipment is installed, the impact of industrialization on the environment will be minimized. As more companies come into full compliance with the OSHA regulations, the safety and health of the working people of this country will greatly improve. And, as industry begins to use energy in a more efficient manner, our national dependence upon foreign countries will be lessened. The achievement of these other important goals is not easy, and it certainly is not free. It requires capital investment. Where will the necessary funds come from?

We are told that at present our economy is suffering from a serious shortage of capital funds. Even as electric rates soar, plans to construct new generating plants are being canceled for lack of funds. The high cost of energy is depriving industry of the capital it needs to purchase more energy-efficient equipment, and at present the costs created by the environmental protection and OSHA regulations are contributing to the inflationary spiral and to unemployment. If we as Americans are to enjoy the better life that we are all seeking for ourselves and our children, we must find the vitally necessary money to pay for it.

The Senator from North Carolina is not alone in his concern about the critical shortage of capital funds. Informed commentaries on the seriousness of the situation are being presented at every turn. The economists at the New York Stock Exchange in their "most likely" scenario, envision a $500 billion gap between business investment demand and the supply of savings—capital funds—over the period from 1974 to 1985. And, on June 25, testifying before the House Ways and Means Committee, General Electric Co. chairman, Reginald H. Jones, estimated that total capital requirements of nonfinancial corporations "will average $312 billion a year during the period 1977 through 1980, compared with $210 billion in 1974." Those figures included normal working capital required to buy raw materials and meet payrolls. But investment in fixed capital assets alone will rise to $536 billion by 1983, according to Wharton Econometric Forecasting Associates models, compared to $194 billion in 1973.

A Brookings Institution study calculated that—

> Adding up all the capital necessary for all the projects that either promise a profitable private return or appear high on someone's list of social priorities for the rest of the seventies, yields a total of $2 trillion.

And, projecting capital demand 5 years further into the future, Treasury Secretary, William E. Simon, has suggested that "cumulative investment needs between 1974 and 1985 will range from $4 to $4.5 trillion." Obviously, unless business can come up with the necessary funds, we will not be able to meet pressing demands for energy, environmental protection, and other high priority needs.

To understand the seriousness of the situation not only for the decade ahead but for the present as well, compare the standing of the United States to other industrialized countries of the world. On April 1, the U.S. Treasury Department reported that:

> The United States ranking in real economic growth is among the lowest of the industrialized countries because a relatively low share of its output is being allocated to investment.

For example, during the period 1960 through 1973, the Treasury Department reported that the total share of our national output devoted to fixed investment averaged 17.5 percent compared to 35.0 percent for Japan, 25.8 percent for West Germany, 24.5 percent for France, 18.5 percent for the United Kingdom, and 20.5 percent for Italy. Indeed, the Treasury Department reported that:

> The U.S. share of total national output devoted to . . . fixed investment . . . was lower than in any of the 11 major industrialized nations . . . studied.

What is more according to the Treasury report—

> This lag in U.S. investment over the past 13 years has contributed to relative lower rates of advance of productivity and national output.

The report noted that:

> This disparity in investment effectively lowered rates of advance in living standards of the average consumer in the United States, created shortages in basic materials industries during periods of economic expansion and added substantially to the inflationary consequences of high employment in recent years.

The Treasury Department further pointed out that:

> The falling share of U.S. resources allocated to investment has limited job opportunities because had the growth of plant and equipment exceeded that of the labor force, more jobs would have been required to utilize that increased capacity.

Finally, the report concluded that:

> The policy implications for the U.S. point towards encouragement of capital formation by minimizing tax disincentives, use of accounting methods which adjust earnings for replacement cost of capital and elimination of tax barriers to the flow of capital into productive uses.

In short, there is an obvious agreement among economists that: First, capital funds are in short supply at present, and second, our national capital needs will intensify dramatically during the decade ahead.

On May 7, Treasury Secretary Simon told the Senate Finance Committee that:

> We must not only replace and modernize existing facilities but also add new capacity, particularly in many of our most basic industries.

And, as every Member of Congress is aware, simply from viewing recently enacted legislation, in addition to our requirements for capital investment for economic recovery, we must find the money to finance a multitude of economic and social programs in both the public and private sectors. Whether one agrees with these programs or not, whether one voted for or against them, they are now on the law books. They will have to be paid for, and that will claim an increasingly large share of capital investment.

With stepped up Federal programs dealing with a wide variety of problems ranging from unemployment to energy efficiency, to environmental protection, to social development and health care, competition for capital funds will continue to intensify rapidly. And, as Business Week noted over a year ago—

> In an economic sense, there can be no shortfall of savings (capital)—the market simply adjusts through higher interest rates and rising prices, and the excess investment demand is choked off. But this may well threaten national priorities in housing, energy, and mass transit.

In short, we in the United States are continuing, year after year, to demand more of everything. We want a cleaner environment, a greater level of energy independence, better transit facilities, improved housing, safer working conditions, more advanced health care, new consumer goods, and income security for our retirement years. We in America are demanding a better life, not for a select few but for every citizen of every background and station. The haunting question remains: How in heaven's name are we going to pay for it?

Amid all the gloom and prophesies of doom, there is a solution. And, in a very real sense that solution is a product of the kind of imagination and ingenuity that has made America the great Nation that it is. This solution is evolved out of the principles associated with the Kelso plan and the employee stock ownership plans—ESOP's. And, not surprisingly an increasingly large segment of both the public and private sectors believe that the answer to the dilemma resulting from this intensifying capital crunch is to be found in a program that encourages increased employee ownership of corporate businesses through providing tax incentives to stimulate that ownership. Of course, the important by-product of the corporate tax deductions used to encourage the employee business ownership is what accountants call retained earnings—but for our purposes we should call it capital for investment.

At present, there are three basic sources of private savings capital available to corporate enterprises. They are: First. Retained earnings, where the corporation saves part of its profits instead of paying it out to stockholders in dividends; Second. Selling additional stock in the corporation; and third. Long-term borrowing from lenders, either by selling bonds or obtaining more conventional loans.

The Employee Business Ownership and Capital Formation Act that I am today introducing stimulates job creation and capital formation by making it feasible to expand the first two sources of capital savings: retained earnings and issuance of additional stock, in a new and unique way. Expanding on the Kelso and ESOP concepts, it addresses our serious need for capital funds while providing a strong incentive to corporate America to bring the previously disenfranchised worker into the firm as a stockholder, who will receive tax-free dividends and thereby share in the profits that result from his labor.

This bill adds a new section to the Internal Revenue Code allowing corporations to give their employees stock in the corporation each year in an amount equal to 25 percent of the employee's salary or $25,000, whichever is the lesser. The maximum amount that can be given to an employee during his entire life with the corporation is $500,000, or an amount equal to 5 percent of the outstanding securities of the corporation, whichever is the lesser.

In order to encourage the employees to hold the stock and therefore to retain an ownership interest in the company, all dividends paid on the stock will be excluded from taxation as long as the employee or his spouse—in the event of the employee's death—continues to own the stock. However, if the employee wishes to sell the stock, he is free to do so although the tax exemption on dividends does not pass on with the sale.

No income tax would result to the employee at the time of the gift of the stock; but when it is sold, so much of the gain realized on the sale of the stock as is equal to the value when given to the employee would be includable in the employee's gross income. Any value of the stock in excess of the amount of the value when given would be taxed to the employee as a capital gain. There is no recapture provision respecting dividends paid to the employee or his spouse on such stock. Rather, such dividends are entirely free from taxation.

Of course, if the employee owned the stock at the time of his death, it would be included in his estate, and under the present Federal Estate Tax law, a new tax base would be created for the stock at that time. If the employee made someone a gift of the stock, applying present tax law, the recipient of the gift would take the stock at the employee's tax base. And, if the stock were sold by the recipient, the proceeds would be subject to the recapture provisions mentioned with respect to the employee.

It should be pointed out that the bill contains the same minimum participation standards and the same prohibition against discrimination that favors executives and high-salaried employees that was written into the Employee Retirement Income Security Act of 1974. This double safeguard will insure that all of the employees of a company benefit from this employee business ownership plan, not just management.

Any such gifts of stock to employees will be tax deductible to the corporation, subject to the limitations contained in section 404(a)(3) of the Internal Revenue Code. That is to say, the total deduction to the corporation shall not exceed 15 percent of the compensation otherwise paid during the taxable year to all employees under the plan.

If a company purchases the stock from the employee, that portion of the purchase price that is in excess of the value of the stock when given is deductible. This provides an incentive for smaller corporations, whose stock has a limited market, to purchase it from the employee, if the employee wishes to sell and cannot find a buyer. Under no circumstances would the employee be required to sell his stock.

The bill applies to the common stock of the corporation. But if the corporation has more than one class of common stock outstanding, the bill insures that the securities are distributed from the common stock possessing the greatest percentage of the voting power of all stock entitled to vote; or from stock issued by the corporation which is convertible into such a class no later than one year after the termination of the recipient's employment.

Additionally, the bill amends the Employee Retirement Income Security Act of 1974 to exclude qualifying employee business ownership plans from the requirements of the labor provisions of the Act—other than the reporting and disclosure rules—since those provisions are either not applicable to such plans or a plan which is created under this bill must by definition satisfy those requirements.

Since stock issuances under employee ownership plans are tantamount to a gift as opposed to a sale, the staff of the Securities and Exchange Commission has taken the position that they are exempt from the registration provisions of the Securities Act of 1933. However, since the position of the staff is not binding upon the Commission, the bill adds a securities exemption favoring the issuance of securities pursuant to this act, if the issuer is a reporting company and if issuances are limited to 1% of the outstanding securities during any 12-month period. Similarly, a provision is added permitting the resale of the stock by the employee or a remote purchaser of the employee stock. Otherwise, of course, the stock would be of limited value to the employee.

Finally, a conforming amendment is made to the Securities Exchange Act of 1934 permitting the issuing company to repurchase employee stock. As stated, this is to encourage smaller companies to insure that there will be a market for the stock if the employee wishes to sell it.

So, Mr. President, that is the technical explanation of this very simple, yet very important legislation. It offers corporations tax deductions for stock which they give to employees on a nondiscriminatory basis. This is stock which the employee owns immediately. It is not held in trust or otherwise encumbered with restrictions. The employee may sell the stock the day he receives it. Or, he may hold it and receive tax-free dividends. When he dies, he may leave it to his spouse, so that for the rest of her life she may also receive tax-free dividends.

On the corporate side of the ledger, the corporation will be able to generate tax deductions which will provide the needed capital for plant expansion, pollution abatement equipment, compliance with OSHA regulations, energy conservation programs, and a host of other capital needs. In short, it will permit corporations to have more money to invest. This investment will in turn create more jobs to be filled by more employees, who will be able to receive more gifts of stock under this Employee Business Ownership Plan, so that they too will have a "piece of the action," an investment in the future of America.

By Mr. CHURCH (for himself, Mr. Tower, Mr. Philip A. Hart, Mr. Mondale, Mr. Huddleston, Mr. Morgan, Mr. Gary Hart, Mr. Baker, Mr. Mathias, and Mr. Schweiker):

S. 2825. A bill to make unlawful the entering into a conspiracy to assassinate a foreign official outside the United States, the assassination of a foreign official outside the United States, or the attempted assassination of a foreign official outside the United States, and for other purposes. Referred to the Committee on the Judiciary.

Mr. CHURCH. Mr. President, I am introducing today, along with my distinguished colleague, Senator Tower, the vice chairman of the Select Committee on Intelligence, and the distinguished members of that committee, Senators Hart of Michigan, Mondale, Huddleston, Morgan, Hart of Colorado, Baker, Mathias, and Schweiker, a bill making it a Federal crime to assassinate a foreign leader in peacetime, or to conspire or attempt to do so.

This bill represents the culmination of months of work by the Select Committee. In the summer of this year, the Select Committee took up the investigation of U.S. involvement in alleged assassination plots against foreign leaders, continuing the task begun by the Rockefeller Commission. In its long investigation the committee heard over 100 witnesses. It studied thousands of documents and amassed a record of sworn testimony almost 10,000 pages long. On November 20, the committee issued an interim report—adopted by unanimous vote—on these assassination plots.

In its report, the committee recommended the enactment of the bill introduced today, which was set out as an appendix to the committee's report. As the committee found, the need for a law banning assassination is clear. On this point, as Oliver Wendell Holmes once said, "a page of history is worth a volume of logic." That page of history, I submit, is embodied in the select committee's report. Assassination plots by U.S. Government officials did happen. It would be irresponsible not to do all that can be done to prevent their happening again. Laws express our Nation's values; they deter those who might be tempted to ignore those values and they stiffen the will of those who want to resist temptation.

The select committee's investigation and report establishes that assassination must never again be considered in time of peace by the U.S. Government. Witnesses who testified before the committee denounced assassination as immoral, described it as impractical, and reminded us that an open society, more than any other, is particularly vulnerable to the risk that its own leaders may be assassinated—something of which we hardly need to be reminded.

Our view that assassination has no place in America's arsenal is shared by the administration. President Ford, when he asked the committee to study the allegations of U.S. involvement in assassination plots, stated:

> I am opposed to political assassination. This Administration has not and will not use such means as instruments of national policy.

Despite this general agreement that the United States must not engage in assassination, present law provides criminal sanctions only with respect to the assassination of foreign officials who are visiting the United States. There is no statute making it a crime to assassinate a foreign leader outside the United States. The bill I am introducing today is designed to close this gap in the law.

In addition to the moral and practical reasons for outlawing assassination, there is an important constitutional principle at stake. Assassination is nothing less than an act of war. Assassinations have set off great wars in the past. World War I was brought on by assassination, and history provides other examples of great conflicts among states begun by the murder of a foreign leader. As all Senators are acutely aware, our Constitution wisely places the power to declare war in the Congress. That design of the Framers of the Constitution is circumvented whenever agents of the executive branch—whether in the White House or the intelligence agencies—feel free to plot and carry out assassinations. The criminal sanctions in this bill will strengthen the checks and balances that, in our constitutional system, should surround those steps that may lead us into war.

Some may ask whether this bill would prevent the President from acting in a case of dire necessity, when the survival of the country may be at stake. Some have cited the case of Adolph Hitler as an example. In a grave emergency, the President has a limited power to act, not in violation of the law, but in accord with his own responsibilities under the Constitution to defend the Nation. As the Supreme Court has stated, the Constitution "is not a suicide pact." This bill leaves the President's constitutional powers intact.

But it is equally clear that any action taken by the President pursuant to his constitutional powers which are in apparent conflict with the law are subject to congressional review. It is a fundamental principle of our constitutional system that any such Presidential action is checked and limited by Congress, including Congress' impeachment power.

Mr. President, I ask unanimous consent that the text of this bill and part V entitled "Recommendations of the Select Committee's Report" on alleged assassination plots be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18 United States Code, is amended by adding immediately after Section 1117 the following new section:

"§ 1118. Conspiracy to assassinate foreign official outside the United States; attempted assassination of foreign official outside the United States; assassination of foreign official outside United States.

"(a) If any officer or employee of the United States or any other person while within the United States or the special maritime and territorial jurisdiction of the United States, conspires with any other such officer, employee or person to kill any foreign official because of such official's political views, actions or statements, while such official is outside of the United States and such jurisdiction, and one or more such officers or employees or persons does any overt act within the United States or such jurisdiction to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

"(b) Whoever being an officer or employee of the United States, or a citizen of the United States, while outside the United States and the special maritime and territorial jurisdiction of the United States, conspires with any other such officer or employee or with any other person or persons to kill any foreign official, because of such official's political views, actions or statements, while such official is outside the United States and such jurisdiction, and one or more such officers, employees, citizens or other persons does any overt act to effect the object of the conspiracy, shall be punished by imprisonment for any term of years or life.

"(c) Whoever being an officer or employee of the United States, or a citizen of the United States, while outside the United States and the special maritime and territorial jurisdiction of the United States, attempts to kill any foreign official, because of such official's political views, actions or statements, while such official is outside the United States and such jurisdiction, shall be punished by imprisonment for any term of years or life.

"(d) Whoever being an officer or employee of the United States, or a citizen of the United States, while outside the United States and the special maritime and territorial jurisdiction of the United States, kills any foreign official, because of such official's political views, actions or statements, while such official is outside the United States and such jurisdiction, shall be punished as provided under sections 1111 and 1112 of this title, except that any such officer or employee or citizen who is found guilty of murder in the first degree shall be sentenced to imprisonment for life.

"(e) As used in this section, the term—

"(1) 'officer or employee of the United States' means any officer or employee, whether elected or appointed, in the executive, legislative, or judicial branch of the Government of the United States (including the District of Columbia) and its territories and first degree shall be sentenced to imprisonber of the armed forces;

"(2) 'foreign official' means a Chief of State or the political equivalent, President, Vice President, Prime Minister, Premier, Foreign Minister, Ambassador, or other officer, employee, or agent; (a) of a foreign government with which the United States is not at war pursuant to a declaration of war or against which United States Armed Forces have not been introduced into hostilities or situations pursuant to the provisions of the War Powers Resolution; or (b) of a foreign political group, party, military force, movement or other association with which the United States is not at war pursuant to a declaration of war or against which United States Armed Forces have not been introduced into hositilities or situations pursuant to the provisions of the War Powers Resolution; or (c) of an international organization;

"(3) 'foreign government' means the government of a foreign country irrespective of recognition by the United States;

"(4) 'international organization' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunity Act (22 U.S.C. 288);

"(5) 'citizen of the United States' means, in addition to a United States citizen, any national of the United States, and any person who has been and is classified as an alien admitted to the United States as a permanent resident under the laws of the United States."

SEC. 2. The analysis of chapter 51 of title 18, United States Code, **is amended by adding** at the end thereof the following:

"1118. Conspiracy to assassinate foreign official outside United States; attempted assassination of foreign official outside United States; assassination of foreign official outside United States."

V. RECOMMENDATIONS

The Committee's long investigation of assassination has brought a number of important issues into sharp focus. Above all stands the question of whether assassination is an acceptable tool of American foreign policy. Recommendations on other issues must await the completion of our continuing investigation and the final report, but the Committee needs no more information to be convinced that a flat ban against assassination should be written into law.

We condemn assassination and reject it as an instrument of American policy. Surprisingly, however, there is presently no statute making it a crime to assassinate a foreign official outside the United States. Hence, for the reasons set forth below, the Committee recommends the prompt enactment of a statute making it a Federal crime to commit or attempt an assassination, or to conspire to do so.

A. GENERAL AGREEMENT THAT THE UNITED STATES MUST NOT ENGAGE IN ASSASSINATION

Our view that assassination has no place in America's arsenal is shared by the Administration.

President Ford, in the same statement in which he asked this Committee to deal with the assassination issue, stated:

"I am opposed to political assassination. This administration has not and will not use such means as instruments of national policy. (Presidential Press Conference, 6/9/75, *Weekly Compilation of Presidential Documents,* Vol. II, No. 24, p. 611.)"

The witnesses who testified before the Committee uniformly condemned assassination. They denounced it as immoral, described it as impractical, and reminded us that an open society, more than any other, is particularly vulnerable to the risk that its own leaders may be assassinated. As President Kennedy reportedly said: "We can't get into that kind of thing, or we would all be targets." (Goodwin, 7/18/75, p. 4)

The current Director of Central Intelligence and his two predecessors testified emphatically that assassination should be banned. William Colby said:

"With respect to assassination, my position is clear I just think it is wrong. And I have said so and made it very clear to my subordinates. (Colby, * * * 5/21/75, p. 89)"

Richard Helms, who had been involved in an assassination plot before he became DCI, said he had concluded assassination should be ruled out for both moral and practical reasons:

"As a result of my experience through the years, when I became Director I had made up my mind that this option * * * of killing foreign leaders, was something that I did not want to happen on my watch. My reasons for this were these:

"There are not only moral reasons but there are also some other rather practical reasons.

"It is almost impossible in a democracy to keep anything like that secret * * *. Somebody would go to a Congressman, his Senator, he might go to a newspaper man, whatever the case may be, but it just is not a practical alternative, it seems to me, in our society.

"Then there is another consideration * * * if you are going to try by this kind of means to remove a foreign leader, then who is going to take his place running that country, and are you essentially better off as a matter of practice when it is over than you were before? And I can give you I think a very solid example of this which happened in Vietnam when President Diem was eliminated from the scene. We then had a revolving door of prime ministers after that for quite some period of time, during which the Vietnamese Government at a time in its history when it should have been strong was nothing but a caretaker government * * *. In other words, that whole exercise turned out to the disadvantage of the United States.

"* * * there is no sense in my sitting here with all the experience I have had and not sharing with the Committee my feelings this day. It isn't because I have lost my cool, or because I have lost my guts, it simply is because I don't think it is a viable option in the United States of America these days.

"Chairman CHURCH. Doesn't it also follow, Mr. Helms—I agree with what you have said fully—but doesn't it also follow on the practical side, apart from the moral side, that since these secrets are bound to come out, when they do, they do very grave political damage to the United States in the world at large? I don't know to what extent the Russians involved themselves in political assassinations, but under their system they at least have a better prospect of keeping it concealed. Since we do like a free society and since these secrets are going to come out in due course, the revelation will then do serious injury to the good name and reputation of the United States.

"Would you agree with that?

"Mr. HELMS. Yes, I would.

"Chairman CHURCH. And finally, if we were to reserve to ourselves the prerogative to assassinate foreign leaders, we may invite reciprocal action from foreign governments who assume that if it's our prerogative to do so, it is their prerogative as well, and that is another danger that we at least invite with this kind of action, wouldn't you agree?

"Mr. HELMS. Yes, sir. (Helms, 6/13/75, pp. 76–78)"

John McCone said he was opposed to assassinations because:

"I didn't think it was proper from the standpoint of the U.S. Government and the Central Intelligence Agency. (McCone, 6/6/75, p. 15)"

B. CIA DIRECTIVES BANNING ASSASSINATION

Helms in 1972 and Colby in 1973 issued internal CIA orders banning assassination. Helms' order said:

"It has recently again been alleged in the press that CIA engages in assassination. As you are well aware, this is not the case, and Agency policy has long been clear on this issue. To underline it, however, I direct that no such activity or operation be undertaken, assisted or suggested by any of our personnel * * *. (Memo, Helms to Deputy Directors, 2/6/72)"

In one of a series of orders arising out of the CIA's own review of prior "questionable activity," Colby stated:

"CIA will not engage in assassination nor induce, assist or suggest to others that assassination be employed. (Memo, Colby to Deputy Directors, 8/29/73)"

C. THE NEED FOR A STATUTE

Commendable and welcome as they are, these CIA directives are not sufficient. Administrations change, CIA directors change, and someday in the future what was tried in the past may once again become a temptation. Assassination plots did happen. It would be irresponsible not to do all that can be done to prevent their happening again. A law is needed. Laws express our nation's values; they deter those who might be tempted to ignore those values and stiffen the will of those who want to resist the temptation.

The Committee recommends a statute[1] which would make it a criminal offense for persons subject to the jurisdiction of the United States (1) to conspire, within or outside the United States, to assassinate a foreign official; (2) to attempt to assassinate a foreign official, or (3) to assassinate a foreign official.

Present law makes it a crime to kill, or to conspire to kill, a foreign official or foreign official guest while such a person is in the United States. (18 U.S.C. 1116–1117). However, there is no law which makes it a crime to assassinate, to conspire to assassinate, or to attempt to assassinate a foreign official while such official is outside the United States. The Committee's proposed statute is designed to close this gap in the law.

Subsection (a) of the proposed statute would punish conspiracies within the United States; subsection (b) would punish conspiracies outside the United States. Subsection (b) is necessary to eliminate the loophole which would otherwise permit persons to simply leave the United States and conspire abroad. Subsections (c) and (d), respectively, would make it an offense to attempt to kill or to kill a foreign official outside the United States.

Subsections (a), (b), and (d) would apply expressly to any "officer or employee of the United States" to make clear that the statute punishes conduct by United States Government personnel, as well as conduct by private citizens. In addition, subsection (a), which covers conspiracies within the United States, would apply to "any other person," regardless of citizenship. Non-citizens who conspired within the United States to assassinate a foreign official would clearly come within the jurisdiction of the law. Subsections (b), (c), and (d), which deal with conduct abroad, would apply to the United States citizens, and to officers or employees of the United States, regardless of their citizenship. Criminal liability for acts committed abroad by persons who are not American citizens or who are not officers or employees of the United States is beyond the jurisdiction of the United States.

"Foreign official" is defined in subsection (e)(2) to make clear that an offense may be committed even though the "official" belongs to an insurgent force, an unrecognized government, or a political party. The Committee's investigation—as well as the reality of international politics—has shown that officials in such organizations are potential targets for assassination.[2] Killing, attempting to kill, or conspiring to kill would be punishable under the statute only if it were politically motivated. Political motivation would encompass acts against foreign officials because of their political views, actions, or statements.

The definition of "foreign official" in section (e)(2) also provides that such person must be an official of a foreign government or movement "with which the United States is not at war pursuant to a declaration of war or against which the United States Armed Forces have not been introduced into hostilities or situations pursuant to the provisions of the War Powers Resolution." This definition makes it clear that, absent a declaration of war or the introduction of United States Armed Forces pursuant to the War Powers Resolution, the killing of foreign officials on account of their political views would be a criminal offense.

During the Committees hearings, some witnesses, while strongly condemning assassination, asked whether assassination should absolutely be ruled out in a time of truly unusual national emergency. Adolf Hitler was cited as an example. Of course, the cases which the Committee investigated were not of that character. Indeed, in the Cuban missile crisis—the only situation of true national danger considered in this report—assassination was not even considered and, if used, might well have aggravated the crisis.

In a grave emergency, the President has a limited power to act, not in violation of the law, but in accord with his own responsibilities under the Constitution to defend the Nation. As the Supreme Court has stated, the Constitution "is not a suicide pact." (*Kennedy* v. *Mendoza-Martinez*, 372 U.S. 144, 160 (1963))

During an unprecedented emergency, Abraham Lincoln claimed unprecedented power based on the need to preserve the nation:

"* * * my oath to preserve the Constitution to the best of my ability, imposed upon me the duty of preserving, by every indispensable means, that government—that nation—of which that Constitution was the organic law. Was it possible to lose the nation, and yet preserve the Constitution? By general law, life and limb must be protected; yet often a limb must be amputated to save a life; but a life is never wisely given to save a limb. I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the Constitution, through the preservation of the nation * * *. (*The Complete Works of Abraham Lincoln,* Vol. X; pp. 65–66.) (Nicolay and Hay, Eds. 1894.)"

Whatever the extent of the President's own constitutional powers, it is a fundamental principle of our constitutional system that those powers are checked and limited by Congress, including the impeachment power. As a necessary corollary, any action taken by a President pursuant to his limited inherent powers and in apparent conflict with the law must be disclosed to Congress. Only then can Congress judge whether the action truly represented, in Lincoln's phrase, an "indispensable necessity" to the life of the Nation.

As Lincoln explained in submitting his extraordinary actions to Congress for ratification:

"In full view of his great responsibility he has, so far, done what he has deemed his duty. You will now, according to your own judgment, perform yours. (Abraham Lincoln, Message to Congress in Special Session, July 4, 1861.)"

FOOTNOTES

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[1] The recommended statute is printed in Appendix A.

[2] For example. Lumumba was not an official of the Congolese government at the time of the plots against his life, and Trujillo, even though the dictator of the Dominican Republic, held no official governmental position in the latter period of his regime.

By Mr. PERCY:

S. 2826. A bill to incorporate United Service Organizations, Incorporated. Referred to the Committee on the Judiciary.

Mr. PERCY. Mr. President, I am introducing a bill to provide a Federal charter for the United Service Organizations. The work of this nonprofit, civilian, voluntary institution is well known to all of us. For years, USO centers have provided homes away from home for millions of Americans, as Bob Hope reminded us when he testified recently on behalf of an identical bill in the House—I understand, incidentally, that House Members became caught up in the spirit of Bob Hope's annual Christmas show and considered chartering him as a national institution. Without addressing the merits of that proposal, Mr. President, I would like to indicate briefly why I consider the USO uniquely qualified for the distinction of a Federal charter.

First, it would provide congressional recognition that we have a permanent need for the USO, in peacetime as well as during wars. The need is the same, whether the ranks of our Armed Forces are filled by volunteers or with draftees. There is a need in our great cities, like New York and Chicago, where USO centers receive strong public backing. And there is an equally important need wherever our military personnel are assigned, in smaller towns and cities across this Nation and in a number of countries overseas. The USO is a broadly based, national institution. It provides a wholesome link between our civilian society and the often self-contained world of the military.

Providing a Federal charter for the USO would not alter the institution's character in any way. The USO now receives limited logistical aid from the Defense Department, mainly for such matters as delivering supplies to some of its centers. A Federal charter would recognize the mutually supportive relationship between the military establishment and the USO. But the USO would remain what it is: a civilian, voluntary organization.

Moreover, the added recognition conferred by a Federal charter would facilitate USO campaigns for public contributions. And it would be easier for the USO to negotiate with public officials abroad in order to establish and maintain centers where American service personnel are serving. For all of these reasons, Mr. President, I believe that the USO is uniquely qualified for the important distinction of a Federal charter.

By Mr. PELL:

S. 2827. A bill to require the establishment of safety standards for snowmobiles, and for other purposes. Referred to the Committee on Commerce.

Mr. PELL. Mr. President, I am today reintroducing legislation proposed during the 93d Congress that would provide for improved safety in the manufacture, operation, and use of snowmobiles.

As those of us living in the Northern tier of States are aware, the use of snowmobiles has increased dramatically over the past 5 years. It is estimated by the industry that there are currently more than 2 million snowmobiles in use in these areas.

While there is no question that this industry has contributed substantially to the economies of many States, including my own State of Rhode Island, as well as providing many hours of enjoyment and outdoor recreation for millions of individuals, the increased use of snowmobiles has also tragically been responsible for an alarming number of injuries and fatalities across the country.

In addition, the increasing use of snowmobiles has raised much concern over the environmental impact of such outdoor activity, especially on wildlife and wilderness areas.

As I have noted, the dramatic growth in the snowmobile industry has not been without a tragic price. During the 1972–73 season, the Consumer Product Safety Commission estimated the number of emergency room injuries related to snowmobile use was 18,900—this figure rose to more than 26,000 for the 1974–75 season and is expected to rise substantially again this year. Fatalities during this same period as reported by the National Safety Council rose from 156 to 170.

On the basis of information available from the Consumer Product Safety Commission and the National Safety Council, snowmobile accidents fall into several patterns. They appear largely the result of collisions with fixed or moving objects, especially when driving on or beside public roads. In addition, excessive speed, unfamiliarity with the machine, and riding on unfamiliar terrain or near bodies of water account for a high percentage of accidents. Other factors include driving while intoxicated, after dark, or too close to another snowmobile, and malfunctions of the machine.

Mr. President, the legislation I am proposing would remedy some of these major concerns through the establishment of minimum safety standards for snowmobile manufacturers, and by restricting the operation of these machines on public lands so that the environment and the rights of other users are protected. In this regard, I wish to strongly commend the snowmobile industry, and specifically the International Snowmobile Industry Association for their efforts to accomplish these goals through the establishment of minimum snowmobile safety standards for manufacturers, as well as the encouragement of safe snowmobile use by urging extensive safety training programs for operators. This work has unquestionably contributed toward the safer use and operation of snowmobiles, and specifically, in reducing the percentage of accidents attributable to equipment failure or malfunction.

Recognizing that most snowmobile accidents and fatalities are largely the result of vehicle operation and use especially, by individuals under the age of 20 years, I am also proposing a new section in my legislation that would provide up to $1 million from the highway trust fund for the establishment of a snowmobile safety training program. This effort would include, but not be limited to, a voluntary snowmobile safety training program for youths 18 years old and under, a voluntary inspection program for snowmobiles, similar to that sponsored by the U.S. Coast Guard, and technical assistance to States in the establishment of individual safety training programs that would encourage the design/use of environmentally safe snowmobile trails. The snowmobile safety training program would be developed jointly by the National Park Service and the Bureau of Outdoor Recreation who share responsibility in this area.

Mr. President, snowmobiles have a capacity to contribute to the work and recreational life in our country. But even the most ardent snowmobilers today recognize the desirability and indeed the necessity of reasonable restraints and regulations to protect snowmobile users, the general public and our environment from unnecessary injury and damage. This is the object of this legislation, and I hope my colleagues and the snowmobile industry will support my efforts to achieve these goals.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Snowmobile Safety Standards Act of 1975".

DEFINITIONS

SEC. 2. For the purposes of this Act the term—

(1) "snowmobile" means a self-propelled vehicle, having a weight of not more than 1,000 pounds, intended for off-road travel, primarily on snow, and which is driven by a track or tracks in contact with the snow, and steered by a ski or skis in contact with the snow;

(2) "helmet" means a snowmobile crash helmet meeting or exceeding the specifications established by the Consumer Product Safety Commission for such devices pursuant to section 3 of this Act;

(3) "Commission" means the Consumer Product Safety Commission established pursuant to section 4 of the Consumer Product Safety Act (15 U.S.C. 2053); and

(4) "dbA" means $20 \times \log_{10}$ of the ratio between the root means square pressure of a given sound and the reference root mean square of 0.0002 microbar as registered on the A-weighted network for A-weighting frequency response specified in the American National Standard S 1.4–1971, or subsequent revisions thereof, of the American National Standard Institute.

SNOWMOBILE AND HELMET SAFETY STANDARDS

SEC. 3. (a) The Commission shall establish consumer product safety standards for the performance, design, and construction of snowmobiles and helmets pursuant to its authority under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056). Such standards, which may be revised in accordance with experience and technological advances, shall include the requirements prescribed under subsections (b) and (c).

(b) Snowmobiles shall be equipped, at a minimum, with the following—

(1) a forward-facing white headlight of sufficient illumination and power to permit the snowmobile operator to distinguish objects at a distance of 200 feet;

(2) a red tail light which is visible from a distance of 500 feet;

(3) a reserve power system, as soon as technologically feasible, sufficient to operate simultaneously both the headlight and tail light of any snowmobile for a period of one hour without operation of the engine;

(4) clearly and conspicuously visible from a distance of 200 feet from all directions, registration numbers which may be required by any State law;

(5) a combination of lights, reflex reflectors, and reflective materials which will permit wide-angle visibility of any snowmobile from all directions both day and night with distance, visibility, and luminosity, at a minimum, comparable to that required for bicycles and passenger vehicles on the highway under standards established by the Consumer Product Safety Commission, or the Department of Transportation, as the case may be;

(6) a throttle control mechanism which automatically returns the snowmobile engine to idle after the operator releases the throttle;

(7) an emergency control system which shall include, but not be limited to—

(a) a device for automatically stopping the engine in the event of a malfunction of the throttle control mechanism; and

(b) an emergency stop switch designed to provide an instantaneous interruption of the engine or disconnection of the drive train system from the engine or both;

(8) a windshield of transparent material that extends above the head of the seated snowmobile operator and is of sufficient strength to withstand impact and deflect stationary objects encountered at normal snowmobile cruising speeds;

(9) a noise suppression system sufficient to reduce the operating noise level of any snowmobile to 78 dbA at 50 feet when measured in accordance with the practices recommended by the Society of Automotive Engineers;

(10) a braking system which shall be capable of stopping the snowmobile in a distance not to exceed 40 feet when the snowmobile is operating at a speed of 20 miles per hour and at the same relative deceleration rate from such other speeds; and

(11) adequate shields and guards over the power driven parts of the engine and drive train, clutch, and drive systems, with the exception of the snowmobile sprocket systems, so as to prevent their physical contact with the operator or bystanders.

(c) Helmets shall, at a minimum, provide user-wearer protection from collision or other harmful contact and protection from harmful sound levels for both brief and prolonged periods of exposure to such sounds.

RESTRICTIONS ON USE OF SNOWMOBILES ON PUBLIC LANDS

Sec. 4. (a) (1) Any individual who operates or is a passenger in a snowmobile or who is being towed or otherwise propelled by a snowmobile being operated on the public lands of the United States shall wear a helmet, whenever such snowmobile is in operation.

(2) It shall be unlawful for any individual who operates or rides as a passenger or who is being towed or otherwise propelled by a snowmobile being operated on the public lands of the United States to carry any firearm on his person or on or attached to his snowmobile or on or attached to any other device which is towed or otherwise propelled by any snowmobile.

(b) It shall be unlawful for any individual—

(1) to operate any snowmobile at a speed in excess of 10 miles per hour while such snowmobile is within a distance of 100 feet of any pedestrian, building, or any hiking or ski trail;

(2) to use any snowmobile to chase or in any other manner to disturb wildlife; or

(3) to operate any snowmobile within any area which has been designated a wilderness area, or cultural or historic site.

(c) Nothing in this section shall be construed to limit the authority of the Secretary of the Interior or his delegate to control or otherwise limit the use of snowmobiles on the public lands of the United States whenever, in his judgment, such use would have a deleterious impact upon any such lands.

PENALTY

SEC. 5. A violation of any of the provisions of section 4 (a) or (b) of this Act is a misdemeanor punishable by imprisonment for not more than 15 days, a fine of not to exceed $100, or both, for each such violation.

SNOWMOBILE SAFETY TRAINING PROGRAM

SEC. 6. (a) The Secretary of the Interior through the National Park Service and the Bureau of Outdoor Recreation shall establish a National Snowmobile Safety Training Program. Such program shall include, but not be limited to—

(1) instruction of snowmobile operators who are 18 years of age or younger;

(2) technical assistance in the establishment of snowmobile safety programs in the several States of the United States;

(3) the design and maintenance of environmentally safe snowmobile trails;

(4) a voluntary snowmobile safety inspection program; and

(5) such other technical assistance as the Secretary of the Interior may direct.

(b) Assistance may not be provided under this Act to any State that does not impose and enforce a requirement that any individual who operates or is a passenger in a snowmobile or who is being towed or otherwise propelled by a snowmobile wear a helmet.

(c) There are authorized to be appropriated out of the Highway Trust Fund such sums, not to exceed $1,000,000 in any one fiscal year, as may be necessary to operate the National Snowmobile Safety Training Program established by subsection (a).

(d) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from assistance provided under the National Snowmobile Safety Training Program established by subsection (a).

EFFECTIVE DATE

SEC. 7. The provisions of section 4(a)(1) shall become effective 30 days after the date on which the Consumer Product Safety Commission promulgates final regulations for helmet standards under section 3(b) of this Act. All other provisions of this Act shall become effective on the date of the enactment.

By Mr. INOUYE:

Senate Joint Resolution 155. A joint resolution establishing the Hawaiian Aboriginal Claims Settlement Study Commission, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. INOUYE. Mr. President, exactly 82 years ago today President Grover Cleveland, in a message to this body outlining his reasons for refusing to submit a Treaty of Annexation of the Hawaiian Islands to the U.S. Senate, stated the following:

> But in the present instance our duty does not, in my opinion, end with refusing to consummate this questionable transaction. It has been the boast of our Government that it seeks to do justice in all things without regard to the strength or weakness of those with whom it deals. I mistake the American people if they favor the odious doctrine that there is no such thing as international morality, that there is one law for a strong nation and another for a weak one, and that even by indirection a strong power may with impunity despoil a weak one of its territory.
>
> By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a friendly but feeble and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair.

Mr. President, the full repair of that injury is still the unfinished business of this Government. I am therefore introducing on this anniversary of that message to the Senate a joint resolution which expresses the sense of the Congress that wrongful acts were committed by agents of the Government of the United States and, by which acts, dominion over the people and the kingdom of Hawaii and domain over the lands formerly owned in common by the Hawaiian aboriginals were acquired by the United States. The joint resolution provides further for establishing the Hawaiian Aboriginal Claims Settlement Commission to secure proper redress of the grievances arising from that action.

My concern over this issue is not of recent origin. Over the years, I have had numerous meetings with representatives of aboriginal Hawaiian peoples in my State. In recent years an organization called ALOHA—Aboriginal Lands of Hawaiian Ancestry—was organized for the specific purpose of pursuing a proper redress of the wrongs committed by agents of the U.S. Government in the overthrow of the lawful government of the Hawaiian Islands and their reigning monarch, Queen Liliuokalani, in 1893, and the subsequent annexation of those islands as an incorporated territory of the United States.

In March 1973, I requested the Library of Congress to do a study of the similarities and differences between the Hawaiian situation and that which had earlier been resolved by the Congress involving the Alaskan Natives. This study served to further strengthen our belief that a just claim exists and that a means can be found for the proper redress of these ancient grievances. The case of the Hawaiian aboriginals is no less strong and the kinship is further recognized by the willingness of the Alaskan Natives to lend not only moral support but monetary support to the Hawaiian peoples in their struggle.

As noted in House Report No. 92–523 which accompanied the Alaska Native Claims Settlement Act of 1971:

> Aboriginal title is based on use and occupancy by aboriginal peoples. It is not a compensable title protected by the due process clause of the Constitution, but is a title held subject to the will of the sovereign.

That report went on to note that:

> It has been the consistent policy of the United States Government in its dealings with Indian Tribes to grant to them title to a portion of the lands which they occupied, to extinguish the aboriginal title to the remainder of the lands by placing such lands in the public domain, and to pay the fair value of the titles extinguished. This procedure was initiated by treaties in the earlier part of our history, and was completed by the enactment of the Indian Claims Commission Act of 1946. That act permitted the Indian Tribes to recover from the United States the fair value of the aboriginal titles to lands taken by the United States (by cession or otherwise) if the full value had previously been paid.

The Indian Claims Commission has not been available to the Hawaiian aboriginals. Except for the Hawaiian Homes Act of 1920 under which the U.S. Government designated 189,000 acres of Territorial, not Federal land, for the Hawaiian people, no action for restitution has been taken. No moneys were provided even for the administration of the Hawaiian Homes Act and today, some 55 years later only some 40,000 acres have been awarded to the Hawaiian natives and then only in the same sense that those few Hawaiians receiving awards have been given legal squatters rights to the few acres of land awarded them. Additionally, much of that very limited land is unsuitable for either agriculture or home construction.

It is not my purpose here to give a full history of the efforts and failures of the Hawaiian aboriginals to achieve a just settlement for grievances now almost a century old. I am confident that hearings will amply demonstrate that agents of the U.S. Government were responsible for the loss of dominion and domain on the part of the Hawaiian aboriginals and that they and their descendants never received proper compensation.

It is my purpose to establish by means of this joint resolution a clear statement that a wrong has been committed; that such wrong has never been redressed and further to establish a vehicle in the form of the Hawaiian Aboriginal Claims Settlement Study Commission for the purpose of recommending to the Congress the extent of our unmet obligations and the means by which that obligation can be met.

I am well aware that the measure which I introduce here today is but a first small step in that process. There are many among the Hawaiian people who seek to approach such redress of their grievances more directly with a detailed legislative proposal outlining the amount and means by which redress shall be achieved and also who shall be qualified to receive compensation and how it shall be distributed. I am personally convinced that while the deliberations involved in formulating such a proposal have had much merit, the matter is of such complexity and importance and so dependent upon convincing the Congress of the merits of the claim, that the establishment of an independent Commission, as proposed in this measure, to recommend to the Congress the amount and the structural format necessary to meeting our obligations is an essential first step to their eventual success. The cause is just. Action is long overdue.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the joint resolution and an article on this subject entitled "Hawaiians Fight To Avoid Saying Aloha to a Heritage" which appeared in the November 8, 1975, issue of the National Observer, an editorial entitled "The Case for ALOHA" from the June 20, 1974, Honolulu Advertiser, as well as the letter of transmittal and the resolution adopted by the Alaska Federation of Natives which was forwarded to the Senate Committee on Interior and Insular Affairs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 155

Whereas, in the year 1893, the United States Minister accredited to the sovereign and independent Kingdom of Hawaii, acting wholly without the authority or knowledge of Congress or the President, unlawfully conspired with a small group of non-Hawaiian residents of that kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii; and

Whereas, in pursuance of such conspiracy, the United States Minister and the Naval Representative of the United States, also acting without authority, caused the armed forces of the United States to be put ashore and deployed in support of the overthrow of such indigenous and lawful government, and that the United States Minister thereupon extended diplomatic recognition to a provisional government formed by the conspirators without the consent of the people or of the lawful government of Hawaii, which provisional government was sustained solely by the armed forces of the United States; and

Whereas, on December 18, 1893, in a message to Congress, President Cleveland did report fully and accurately on these illegal actions, which statement acknowledged that by an Act of War, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the Government of a peaceful and friendly people was overthrown and that substantial wrong was thus done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair; and

Whereas a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Liliuokalani, the lawful monarch of Hawaii and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Aboriginal citizens of Hawaii; that in 1898, Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Hawaiian Aboriginals prior to the overthrow of their indigenous government; and

Whereas some 83 years have now passed without the wrongs done the Hawaiian Aborginals have been repaired: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby declares it is now necessary that a fair and just settlement of the claims of the Hawaiian Aboriginals founded on the lawless, fraudulent and forceful acts of agents of the United States, by which acts the lawful indigenous and sovereign government of the Kingdom of Hawaii was overthrown; the independence and sovereignty of the Hawaiian people were denied; and dominion over the people and Territory of Hawaii and domain over the extensive lands formerly owned, in common, by the Hawaiian Aboriginals were acquired by the United States, which thereby turned to its advantage the illegal acts of its agents.

(b)(1) For the purpose of accomplishing such settlement referred to in subsection (a) of this section, there is hereby established the Hawaiian Aboriginal Claims Settlement Study Commission (hereinafter referred to as the "Commission").

(2) The Commission shall be composed of eleven members appointed as follows:

(A) Six members appointed by the President of the United States from recommendations of the Governor of Hawaii; and

(B) Five members appointed by the President of the United States.

(3) The Commission shall elect a Chairman and Vice Chairman from among its members.

(4) Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) Each member of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by such member in the performance of his duties.

(6) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of the approval of this resolution.

(7) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(A) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(c) Each Federal department, agency, and instrumentality is authorized to furnish the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

(d) The Commission shall give its fullest attention and consideration to the needs and concerns of the Hawaiian Aboriginals, and make a full and complete study with a view to determining, with finality and certainty, the nature of the legitimate claims of, and the extent of the injuries to, the Hawaiian Aboriginals by reason of the action referred to in subsection (a) of this section.

(e) The Commission shall, within the twelve-month period following the date of the approval of this resolution, submit an interim report to the Congress concerning the activities of the Commission during the period preceding such report. The Commission shall, on or before the expiration of the twenty-four month period following the date of the approval of this resolution, submit a final report to the Congress setting forth the findings and results of such study, including the recommendations of the Commission as to the manner in which, and the extent to which, such claims should be settled by the Federal Government so as to meet the economic and social needs of the Hawaiian Aboriginals.

(f) Upon the expiration of the sixty-day period following the submission of such final report, the Commission shall cease to exist.

(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

HAWAIIANS FIGHT TO AVOID SAYING . . . ALOHA TO A HERITAGE

(By John Peterson)

Arthur Kinney is a 71-year-old Hawaiian who likes to talk about his race, culture, heritage, and the grass hut he grew up in on the island of Maui. "Those huts are like so many things—the last one disappeared in 1914," he says. "I guess a lot of us are realizing these days that we have already lost too much of our past to simply try to hold on to what we have left. There's an old Hawaiian saying: 'When the white man came to our islands, they had the Bible and we had the land. Now we have the Bible and they have the land.'

"People say the reason is that the Hawaiian is lazy and stupid. That's not true. It is true that Hawaiians have been cheated, fooled, and robbed so often that many have become lackadaisical and no longer beat their heads against a stone wall."

The courtly gentleman is president of ALOHA (Aboriginal Lands of Hawaiian Ancestry), a group of about 30,000 Hawaiians who seek $1 billion and hundreds of acres of land in reparations from Congress for the usurpation of their islands by the Nineteenth Century U.S. colonizers.

The drive for reparations is but part of a resurgence of interest here in the condition and prospects of Hawaiians. Sure, these are the islands that the airline and hotel industries tout as the home of the beautiful hula dancers, the skillful surfers, and the happy-go-lucky beach boys. But too many of the dancers and surfers speak only a "pidgin" English, and fewer than 15 per cent of those who enter school ever graduate from high school.

Full-blooded Hawaiians and part Hawaiians—"calico Hawaiians"—make up 10 to 20 per cent of the State's 750,000 population, depending upon whether you accept the conservative estimate of the U.S. Census Bureau or the more accepted figure of about 140,000 that the Hawaiians use. Yet Hawaiians account for about half of all welfare recipients and inmates in correctional institutions. They own only about 1 per cent of the state's privately owned land.

Behind these statistics lies a story of a culture very nearly forgotten and now badly maligned by the tourism industry. "The airlines and hotels perpetrate fraud through the U.S. mails every day. It's all bull ----," says Pete Thompson, an instructor in the Hawaiian ethnic-studies program at the University of Hawaii's Manoa campus.

"We take pride in what is Hawaiian," says Collette Machado, a community-college counselor-recruiter in the government's housing projects near the campus. "But even our musical instruments we call Hawaiian aren't really; the ukulele came from Portugal. You know, my family speaks pidgin, they don't know Hawaiian." In fact, hardly anyone speaks the Hawaiian language except those students who have sparked its revival in the schools.

The Hawaiian movement dates only to about 1970. "What the blacks and American Indians have been doing is what made us realize what has been happening to us," says Davianna McGregor, another young Hawaiian-studies instructor.

The Hawaiians have not staged a Watts or a Wounded Knee, but that prospect concerns some officials. "I see a deep cleavage that could lead to a severe confrontation," says one highly placed state official. "I'm part Hawaiian, and I don't like what this preoccupation with our cultural identity is doing to Hawaii. There's further divisiveness now, I call the Hawaiian movement Zionistic."

Nearly all Hawaiians proudly explain that Hawaiians can never agree on anything. "We're all individualists," says Winona Rubin, a counselor at the well-endowed Kamehameha School, which is run solely for youngsters with Hawaiian blood. "That's what is so exciting about the Coalition of Hawaiian Organizations. Never before have the different Hawaiian groups [some estimates say there are more than 100] been able to get together."

A WONDERFUL OPPORTUNITY

Ms. Rubin is also directing the Hawaiians' initial efforts to finance projects under the U.S. Native American Program (NAP), which could funnel millions of dollars into educational, health, economic-development, and housing projects. Congress voted Hawaiians equal status with Indians and Eskimos only this year. "All of our programs will be aimed at making Hawaiians self-sufficient," says Ms. Rubin. "It's a wonderful opportunity for us. We have never known, for example, how many Hawaiians there are, and we really don't know what is most needed for them now."

The NAP designation and its promise of funds, and the more distant promise of reparations through ALOHA's efforts, are expected to give substance to the movement. But it is the coalition, formed in the spring of 1973, that provides the form and forum. Even the handful of Hawaiian radicals—"Saul Alinsky disciples," one observer describes them—embrace the coalition.

Ad hoc groups protesting this development or that action by the state pop up continually. They fight the construction of freeways, the building of more high-rise condominiums, and the manner in which the Hawaii Homes Commission (HHC) administers the 189,000 acres it is charged with doling out to Hawaiians. The HHC was established by Congress in 1921, but it was never given any money and was, instead, charged with financially independent operations. The result is that more than half of the acreage is leased to non-Hawaiians, generally corporations, to generate funds for the commisison's operations.

IT IS A MESS

Martha "Billie" Beamer, HHC chairperson, is part Hawaiian, and she agrees with much of the criticism of the commission. "Some Hawaiians have been on the waiting list to get homestead lands from us for more than 20 years," she says. "In the 53 years of the commission, all of the land should have been awarded to the Hawaiians. It's a mess. I'm going to take the entire system into court. When the critics say we have failed, they are right. But the commission's supposed to do too much—and all without funds."

The HHC reflects congressional admission that the "haoles"—Caucasians—did indeed owe the Hawaiian people something. Hawaii is, after all, another saddening example of what happened to a native race after the white man arrived. (British Capt. James Cook arrived in 1778, the New England missionaries in 1821.) There were an estimated 300,000 Hawaiians in Cook's time, but by 1870 disease had reduced their numbers to about 50,000. Today there are only about 8,000 full-blooded Hawaiians, most of them living in "disadvantaged" pockets scattered throughout the islands.

ANGER AND FRUSTRATION

In many ways the Hawaiians never recovered. The proposal for planning funds that the Ad Hoc Hawaiian Committee submitted for NAP funds says: "For all their proud graciousness, the Hawaiians are a depressed people who have seen the keenly acquisitive Yankee traders take their land and resources, and the disciplined Chinese and Japanese forge ahead in every kind of endeavor. Many young Hawaiians today feel anger and frustration over these events and a need to take corrective action. . . ."

Randall Hongo, a Hawaiian graduate student, wrote in a respected 1972 report, "Strangers in Their Own Land," "The modern island myth of the lazy, fun-obsessed, dumb Hawaiian has become a living, breathing self-image in some Hawaiian adolescents." Hongo adds that Hawaiian youths feel alienated from the schools and believe themselves inferior to other ethnic groups, and that this feeling is reinforced because education is not valued in the tightly knit Hawaiian homes.

"The fear in Hawaiians of losing [their] ethnic identity, is well known. There is deep concern over the loss of language, traditions, skills. One Hawaiian schoolteacher expressed it sadly. . . . 'I fear the Hawaiian will soon exist as a cultural entity no more.' The sentiment is so open and prevalent, it does not have to be documented by extensive research."

RESEARCH ON HAWAIIANS

Hong's pamphlet, written in collaboration with a California educator, has received much of its stature because it is one of the few books or reports on Hawaiians written by a Hawaiian. In early 1973 Katherine Wery, a financial-aids counselor at the University of Hawaii, received financing for student researchers to assist in her researching the question, "Where are the Hawaiians?" "We knew there were not many of them on this main campus," she says, "but we didn't know how many were in the university system."

The report concludes that Hawaiians make up about 10 per cent of the enrollment of all campuses but only 4.4 per cent on the main campus. "The Hawaiians even told us," she says, "that they would rather go to school on the mainland." And she agrees with Hongo, who writes that the Hawaiian does not like to compete, especially with the Japanese-American and haole.

A. Van Horn Diamond, the first Hawaiian to be executive director of the state AFL-CIO, sees the lack of contemporary Hawaiian heroes as a major problem.

It is difficult to describe the station of Hawaiians in the islands. Though many are disadvantaged, certainly many are not. One is the state's chief justice, another is Honolulu's chief of police, and Ms. Beamer's position with the HHC makes her a member of the governor's cabinet. Too, there are still many "royalists" who trace their blood lines back to the last reigning monarch, Queen Liliuokalani, who was overthrown by white planters in a bloodless coup in 1893.

ORGANIZING THE NATIVES

The young instructors in the university's Hawaiian ethnic-studies program are attempting to organize the Hawaiians in the "disadvantaged" pockets, many of them on the windward side of Oahu and in the direct path of developers. They lease land the major corporations wish to utilize to greater profit. There is, too, an effort by what some Hawaiians call the "neomissionaries" to get involved in the Hawaiians' struggles. "I don't like the methods Life on the Land [Hawaii's activist environmental organization] uses," says ALOHA's Kinney. Adds Machado, "they're all Japanese and haoles."

Hawaiians relish retelling their old sayings, and when they do they usually describe how, eventually, Hawaiians must remain individuals. For example: "There's an old Hawaiian saying," says labor leader Diamond, "that says Hawaiians are like crabs in a pot. One almost makes it clear to the top when another pinches him and pulls him back down with the rest of them." The unstated moral, of course, is that the pot must be tipped over so that all can escape at once.

[From the Honolulu Advertiser, June 20, 1974]

THE CASE FOR ALOHA

Not since Hawaii won statehood have the people of these islands embarked on a more important educational campaign than the one currently being launched in Washington, D.C.

Again the aim is fair and equal treatment.

The ALOHA (Aboriginal Lands of Hawaiian Ancestry) association is seeking to win support for a bill to pay reparations for Hawaiian lands taken by the U.S. after the overthrow of the monarchy in 1893.

The organization plans a national program to win support for its cause, which has both parallels and differences with one in Alaska whose native peoples were granted reparations by Congress in 1971 after a long legal struggle.

The material goal of ALOHA is $1 billion, plus return of any Federal land declared surplus, a category that some day might include the island of Kahoolawe.

But the goal is also justice for a Hawaiian people who lost not only land but independent nationhood when Queen Liliuokalani was deposed.

Legally, the case is clear that this was accomplished with the help of then U.S. minister to Hawaii and American military forces. Among other things, there is the damning report of a former Georgia congresman, J. H. Blount, sent by President Grover Cleveland to Hawaii to investigate. In a special message to Congress in December, 1893, Cleveland acknowledged the misuse of U.S. power.

ALOHA has won considerable support for its mixture of zeal and intelligent approach. For example, while perhaps 150,000 living Hawaiians and part-Hawaiians would be beneficiaries under ALOHA's bill, the basic proposal is for a system aimed at continuing help for the Hawaiian community for generations to come.

Money and any land provided by Congress would go to a Hawaiian Native Corporation, All pure and part Hawaiians would receive equal shares of stock that could not be sold and would revert after death to the corporation for distribution to newborn Hawaiians. The corporation would both invest for profit and conduct education and social programs for Hawaiians.

That makes excellent sense to us here in Hawaii. History shows, however, that it takes more than a just cause and good proposal to get a claims bill through Congress, and especially one of this proportion.

So the challenge in Washington is one of making the Hawaiian case in terms meaningful to members of Congress. That calls for support from all in Hawaii for many months, perhaps years.

The week's appeal comes during the anniversary week of Queen Liliuokalani's personal plea in Washington in 1898 against annexation and for the return of lost crown lands.

Hawaii is now part of the United States, and few would change that. But that does not mean the nation can't atone with money, land and justice to a people who lost much out of relative weakness, unsophistication in Western ways, and great hospitality in these, their islands.

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, Alaska, November 20, 1975.
SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
New Senate Office Building,
Washington, D.C.

DEAR SIR: At our recent statewide Convention of the Alaska Federation of Natives, Inc., held during the period of October 23–25, 1975 at Anchorage, Alaska, duly authorized delegates voted passage of AFN, Inc., Convention Resolution Number 75–19 (Enclosed).

The AFN, Inc. is in strong support of the claims entered by the aboriginal people of Hawaii and requests your attention and support toward a quick and just settlement.

Your efforts and time concerning this matter are appreciated.

Sincerely,

JAKE LESTENKOF,
Executive Vice President, Land Claims.

CONVENTION RESOLUTION No. 75–19

Whereas, the aboriginal peoples of Hawaii, through their descendants, are attempting to exercise their legal claims against the United States of America; and

Whereas, the Native people of the State of Alaska have been granted a settlement by the Congress of the United States; and

Whereas, the Native people of Alaska believe in the rights and privileges as defined in the Constitution of the United States,

Now therefore be it *Resolved,* that the Alaska Federation of Natives, Inc. duly assembled on this 25th day of October, 1975 fully supports the legal claims of the descendants of the aboriginal Hawaiian people and urges that the Congress of the United States take expeditious action in a fair and honorable settlement.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 1145

At the request of Mr. Philip A. Hart, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of S. 1145, a bill to provide amnesty to persons who failed or refused to register for the draft.

S. 1173

At the request of Mr. Curtis, the Senator from Oklahoma (Mr. Bellmon) was added as a cosponsor of S. 1173, a bill to amend the Internal Revenue Code of 1954.

S. 1379

At the request of Mr. Fannin, the Senator from Washington (Mr. Jackson) was added as a cosponsor of S. 1379, to amend the Internal Revenue Code of 1954 to provide for tax credits for certain applications of solar energy equipment, and for other purposes.

S. 1745

At the request of Mr. Mathias, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 1745, the Defense Economic Adjustment Act.

S. 2088

At the request of Mr. Mathias, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 2088, a bill to prohibit the use of dogs by the Department of Defense in connection with the research, testing, development, or evaluation of radioactive, chemical, or biological warfare agents, and to require the Department of Defense to develop and use, where feasible, alternative, nonanimal methods of experimentation.

S. 2502

At the request of Mr. Mansfield (for Mr. Moss), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. Humphrey), and the Senator from Pennsylvania (Mr. Schweicker) were added as cosponsors of S. 2502, a bill to reform electric utility rate regulation, to provide for more effective planning of bulk power facilities, to assure reliability of bulk power supplies, to strengthen State electric regulatory agencies, and to establish the Federal Energy Commission.

S. 2522

At the request of Mr. Taft, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 2522, a bill to amend the Securities and Exchange Act of 1934 to provide for the disclosure of certain information relating to persons intending to file tender offers, and for other purposes.

S. 2535

At the request of Mr. Eagleton, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 2535, to amend title VII of the Education Amendments of 1974 to provide for a program of distribution of inexpensive books to schoolchildren.

S. 2712

At his own request, the Senator from Nebraska (Mr. Hruska) was added as a cosponsor of S. 2712, a bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for journalists.

S. 2766

At the request of Mr. Roth, the Senator from Arizona (Mr. Fannin) was added as a cosponsor of S. 2766, a bill to establish procedures for oversight of social research and development by Federal agencies.

SENATE RESOLUTION 306

At the request of Mr. Nelson, the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Ford), the Senator from Maine (Mr. Hathaway), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), and the Senator from Ohio (Mr. Taft) were added as cosponsors of Senate Resolution 306, designating at the Department of the Treasury and in the Congress an expert on long-range tax simplification and tax reform for small business.

SENATE RESOLUTION 333

At the request of Mr. Stevenson, the Senator from Michigan (Mr. Philip A. Hart), the Senators from North Carolina (Mr. Helms and Mr. Morgan), the Senator from Oklahoma (Mr. Bellmon), the Senator from Maryland (Mr. Beall), the Senator from New Mexico (Mr. Domenici), the Senator from South Dakota (Mr. Abourezk), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of Senate Resolution 333, relating to the conflict in Angola.

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. Hatfield, the Senator from Maryland (Mr. Beall) and the Senator from Maine (Mr. Muskie) were added as cosponsors of Senate Concurrent Resolution 66, declaring as national policy the right to food.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. Curtis, the Senator from Virginia (Mr. William L. Scott) was added as a cosponsor of Senate Concurrent Resolution 77, relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws.

SENATE RESOLUTION 334—SUBMISSION OF A RESOLUTION RELATIVE TO EX OFFICIO MEMBERS OF THE COMMITTEE ON APPROPRIATIONS

(Referred to the Committee on Rules and Administration.)

Mr. PELL (for himself, Mr. Williams, Mr. Randolph, Mr. Kennedy, Mr. Mondale, Mr. Cranston, Mr. Hathaway, Mr. Javits, and Mr. Stafford) submitted the following resolution:

S. Res. 334

Resolved, That paragraph 6(a) of rule XVI of the Standing Rules of the Senate is amended by adding at the end of the table therein the following:

"Committee on Labor and Public Welfare.

For the Department of Labor, the Department of Health, Education, and Welfare (except matters relating to welfare under the jurisdiction of the Committee on Finance), The National Science Foundation, the Community Services Administration, the National Foundation on the Arts and the Humanities, Equal Employment Opportunity Commission, National Labor Relations Board, National Mediation Board, Legal Services Corporation, and health and safety in mines."

Mr. PELL. Mr. President, today I am submitting a resolution to amend the Standing Rules of the Senate to secure ex officio representation for the Committee on Labor and Public Welfare, on the Committee on Appropriations.

The practice of ex officio representation on the Committee on Appropriations was inaugurated in 1922. At that time, such membership was extended to three representatives from each of seven Senate committees: The Committee on Agriculture and Forestry, the Committee on Post Office and Civil Service, the Committee on Military Affairs, the Committee on Naval Affairs, the Committee on the District of Columbia, the Committee on Commerce, and the Committee on Foreign Relations.

The Senate rules were amended in 1946 after the Legislative Reorganization Act of 1946 reduced the number of Senate committees from 33 to 15, in order to reflect changes in committee title and function. At that time, ex officio membership was provided for the Committee on Agriculture and Forestry, the Committee on Civil Service, the Committee on Armed Services, the Committee on the District of Columbia, the Committee on Public Works, and the Committee on Foreign Relations.

In 1951, ex officio membership was given to Senate members of the Joint Committee on Atomic Energy; in 1958 ex officio membership was given to the Committee on Aeronautical and Space Sciences; finally, in 1974 ex officio membership was granted to the Finance Committee for consideration of matters related to the International Trade Commission.

At present, nine committees have ex officio representation. This resolution would extend this limited and specified representation to the Committee on Labor and Public Welfare.

Legislation from this committee is complex in its particulars and broad in its scope. With the implementation of the new Senate budget procedures, I believe it becomes particularly important to fully coordinate appropriations and authorizations, especially in terms of the intent behind programs which we authorize.

I believe that it would be to the advantage of the integrity of the legislative process—to the intent of the legislation itself—to allow this ex officio membership.

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENT NO. 1316

(Ordered to be printed and to lie on the table.)

Mr. BROOKE (for himself, Mr. DOMENICI, Mr. MCINTYRE, Mr. RIBICOFF, Mr. PACKWOOD, Mr. PELL, Mr. CASE, Mr. MATHIAS, Mr. SYMINGTON, Mr. BAYH, Mr. HUMPHREY, Mr. GARN, Mr. MONTOYA, Mr. MOSS, and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

AMENDMENTS NOS. 1317 THROUGH 1320

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted four amendments intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT NO. 1321

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT NO. 1322

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT NO. 1323

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS. Mr. President, I submit an amendment and will offer it in the nature of a substitute.

This is a simple measure designed to prevent any increase in withholding and estimated tax payments by individuals as of January 1, 1976, which is less than 2 weeks away.

This is neither a tax cut nor spending ceiling proposal. I do not propose to increase the standard deduction or provide a tax credit for taxpayers or their dependents. My amendment does not extend or eliminate the earned income credit that was provided in the 1975 cuts. With this amendment, I am simply attempting to find shelter for the American people so they may avoid becoming innocent casualties caught in the middle of a political cross-fire between the President and a Congress of opposing parties, both of whom seem to be thinking only of next year's elections.

My amendment may be viewed as a Christmas cease-fire: an opportunity for both sides to disengage. While my amendment will make it possible for the President and the Congress to return to their respective camps, this amendment will not end the conflict. My amendment leaves a time bomb ticking in the middle of the battlefield. While employers and certain individuals will be able to use the withholding tables now in effect to assure that withholdings remain constant, each individual's tax liability will be allowed to revert to the 1974 level should the Congress and the President fail to work out a permanent solution to this problem by July 1, 1976. Therefore, it will be imperative that we reach some agreement on the level of tax reductions and the spending ceiling before the middle of next year. I think that we should be able to accomplish this objective. By July 1976, the Congress will have had a chance to review the President's fiscal year 1977 budget request and will have reached a decision with respect to a spending ceiling and a revenue floor as provided by the Budget and Impoundment Control Act.

But, to wittingly allow $16 billion in additional withholdings to be taken from the American people on New Year's Day borders on a retreat from responsibility.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1237

At the request of Mr. MCINTYRE, the Senator from New Jersey (Mr. CASE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Utah (Mr. GARN), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of amendment No. 1237, the Solar Energy Tax Credit Amendment of 1975, intended to be proposed to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns and silk.

AMENDMENT NO. 1287

At the request of Mr. CRANSTON, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of amendment No. 1287, intended to be proposed to the bill (H.R. 10284) to amend title XVIII of the Social Security Act.

ANNOUNCEMENT OF CONTINUATION OF HEARINGS ON S. 1439, THE EXPORT REORGANIZATION ACT OF 1975

Mr. RIBICOFF. Mr. President, I wish to announce that the Senate Committee on Government Operations will resume hearings on S. 1439, the Export Reorganization Act of 1975, on January 19, 20, 29, and 30.

The hearings again will be chaired on an ad hoc basis by the distinguished Senator from Ohio, Senator GLENN.

The bill, which was introduced by the distinguished ranking minority member of the committee, Senator PERCY, and joined in by Senator GLENN and myself, is being substantially modified to meet objections of the executive agencies, particularly with respect to nuclear safeguards, and to reflect the significant organizational arrangements that have been made recently in the executive branch to promote communication and coordination with the new Nuclear Regulatory Commission with respect to review and licensing of nuclear exports.

The hearings will begin each day at 9:30 a.m. in the committee hearing room, room 3302, Dirksen Senate Office Building.

GOVERNMENT OPERATIONS COMMITTEE HEARINGS ON INTELLIGENCE OVERSIGHT

Mr. RIBICOFF. Mr. President, I wish to announce that the Government Operations Committee hearings on proposals to create a new intelligence oversight committee scheduled to begin January 13, 1976, have been postponed due to the change in the Senate schedule. The hearings will be held January 21, 22, 23, 26, 27, and 28, beginning at 10 a.m. in room 3302 of the Dirksen Building. Witnesses will include Senator BAKER, Senator CHURCH, Senator EASTLAND, Senator NELSON, Senator TOWER, Congressman ASPIN, Congressman GIAIMO, Congressman HARRINGTON, Mr. Robert F. Ellsworth, Department of Defense, Mr. Clarence Kelly, Director of the Federal Bureau of Investigation, Mr. Nicholas Katzenbach, Mr. John McCone, and Mr. Dean Rusk. The names of additional witnesses will be announced later.

ADDITIONAL STATEMENTS

KILPATRICK ON GOVERNMENT REGULATION: THE NEW NATIONAL NIGHTMARE

Mr. FANNIN. Mr. President, the distinguished columnist, Mr. James Jackson Kilpatrick, has written some excellent articles on the problems associated with Government regulation which I wish to bring to the attention of my Senate colleagues.

In Mr. Kilpatrick's view, America has entered the age of the regulators, when more and more ordinary business decisions are being made, not by managers who are influenced by profit-and-loss considerations, but by Government officials without management responsibilities who are subject to neither marketplace nor political restraints. This age is steeped in the belief that all problems can and should be solved by a compassionate "big brother" Government. Unfortunately, says Kilpatrick, people gradually surrender their liberties under the delusion that, "if a little regulation is good, more regulation is better." The result is the tangled web of rules and regulations and the complicated scheme of agencies, boards, bureaus, commissions, departments, and offices that comprise the ominous Federal bureaucracy today.

Mr. Kilpatrick vividly describes the process of growth and development of Government regulation:

> The vice of regulation is that it follows an inexorable process: first a little, then a lot. Within the Congress—and the State legislatures are not materially different—there develops what John Randolph called the legislative itch. On the body politic a rash is seen; it must be scratched. Statutes tumble upon statutes, head over heels, pell-mell, laws upon laws, and these laws must be administered. They must be interpreted, construed, amplified, extended, and enforced. Enter the regulator. He is a decent man, more often than not, eager to do good. But his passion is to regulate. It becomes a consuming passion.

In these articles, Mr. Kilpatrick discusses how Government regulation actually suffocates America because "the regulatory power of the state pervades both business life and human conduct." Kilpatrick provides specific examples demonstrating that today's small businessmen are suffocating under the oppressive burden of paperwork and overregulation, which the public, in turn, must pay for in the form of inflated prices for goods and services they need and in the scarcity of essential products they use.

Kilpatrick examines the record of one of Washington's newest agencies, the Consumer Product Safety Commission. He discusses the effects of three different regulations promulgated by that agency designed to promote product safety—a mandatory standard for swimming pool slides; a standard for bathtubs; and a standard for power lawnmowers. He also discusses the infamous case involving an importer of Oriental decorative dolls, wherein the CPSC drove the company to the brink of bankruptcy simply because their dolls had pins in them which, the Commissioners said, could be dangerous to children, while ignoring the fact that in the 12 years the company had been in business, not a single complaint had been filed with either the Commission or the company complaining about the pins. This is by no means an atypical "horror story" of the harmful effects of overregulation on society by kindly and beneficent Government.

It is true that benign purposes and social concerns generated much of today's regulatory activity. No one will argue against promoting product safety or clean air or a healthier environment. But, as Mr. Kilpatrick demonstrates in these articles: "It is the needless, wasteful, suffocating, solicitous, petty regulations that leech the blood from our national life." It is hoped that the regulatory reform program of this administration and the legislative proposals now before the Congress are not "too little, too late" efforts to save America from the excesses of its own Government.

Mr. President, besides being a fine writer and an articulate commentator, columnist Kilpatrick is a seasoned observer of the Washington scene. I think his criticisms of "the new national nightmare" created by Government regulators will be of interest to my colleagues as they debate and examine the subject of regulatory reform.

Mr. President, I ask unanimous consent that the complete text of the three articles by Mr. Kilpatrick, as they were published in the Arizona Republic, Nation's Business, and the Freeman magazine, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

THE NEW NATIONAL NIGHTMARE

(By James J. Kilpatrick)

The tip point is among the most familiar phenomena of our everyday life. A child discovers the tip point of a tricycle and a teeter-totter. A boatman perceives the turning of a tide. A baseball umpire will take so much sass from a player and then no more. At a certain point, matter will boil, freeze, crystallize, or jell. The tip point is the moment at which conditions change not in degree, but in kind, or in direction.

Two hundred years after our free society began, we are close to such a tip point now. We are within a drop or two of the critical moment at which freedom crystallizes into regimentation, when the people no longer are masters of government, but government is master of the people.

The dangers are widely perceived, but they are separately and not collectively perceived. It is the occluded vision of the man who cannot see the forest for the trees. Doctors see one part of the picture, educators another, businessmen yet another. We dwell in small rooms, in little shut-off cells, and sometimes we labor to breathe. "It is stifling in here," we complain. And we are not always aware that air is being sucked from the next room also. Yet the atmospheric changes are so slow, so gradual, so apparently insignificant, that we seldom complain at all. We do not understand what is missing: It is the very air of freedom.

Thomas A. Murphy, chairman of General Motors, recently spoke to the National Association of Accountants. As a businessman, he spoke from his own small room:

"Our economic system, founded with our nation 200 years ago, has come more and more under government control. Very conspicuously in the marketplace, the government, by mandate and edict, is substituting its sovereignty for that of the individual consumer. Government, rather than the buying public, is increasingly determining the kinds of products and services offered for sale, and government regulations are influencing their costs and consequently their prices. What is of greatest concern is that each intrusion of government, because it takes decision-making power away from the individual consumer, diminishes his economic freedom."

Dr. Murray L. Weidenbaum, director of American Business, notes a "second managerial revolution." The first such revolution saw the rise of professional managers, as distinct from owners. "This new revolution is far more subtle. It involves the shift of decision-making from managers, who represent the shareholders, to a cadre of government officials, government inspectors, government regulators." [See "Where Overregulation Can Lead," *Nation's Business*, June, 1975.]

THE AGE OF THE REGULATORS

The last word is the key word: regulators. If we were to give a name to the ominous new age that lies ahead, the age beyond the tip point, we might well term it the Age of the Regulators. A part of the ominous aspect of the approaching era is that many Americans see nothing ominous in regulation. It is a friendly word. We are favorably inclined toward a regular fellow. We shy from the irregular. The dictionary lumps regular with "normal, typical, natural," as in "a regular pulse." A regulated life is popularly thought to be a good life.

This very complaisance contributes to the creeping oppression. "The people never give up their liberties," said Edmund Burke, "but under some delusion." Here the delusion is that, if a little regulation is good, more regulation is better. On the sound premise that freedom cannot exist without order, a fallacious conclusion is erected: the more order, the more freedom. It does not work that way.

The enveloping process begins with a perceived ill. Thalidomide. Smog. Racial discrimination. The fly-by-night private school. The fire ant. The rickety ladder. The dangerous toy. In our struggle toward a more perfect society, it is altogether natural and desirable that ills be remedied. A boy drowns at summer camp; a little girl dies when her nightgown catches fire. Such tragedies pluck at the heart; and compassionate government responds.

But the vice of regulation is that it follows an inexorable process: first a little, then a lot. Within the Congress—and the state legislatures are not materially different—there develops what John Randolph called the legislative itch. On the body politic a rash is seen; it must be scratched. Statutes tumble upon statutes, head over heels, pell-mell, laws upon laws, and these laws must be administered. They must be interpreted, construed, amplified, extended, and enforced. Enter the regulator. He is a decent man, more often than not, eager to do good. But his passion is to regulate. It becomes a consuming passion.

Out of the perceived ill of thalidomide came the straitjacketing procedures that now govern new drug applications; and these procedures have stifled the drug industry. Out of the perceived ill of smog came the staggering array of environmental controls—controls that have accomplished some good and have added billions of dollars to the cost of consumer goods.

REVERSE DISCRIMINATION

The perceived ill of discrimination has produced the new egalitarianism. Its purpose is to redress old wrongs with new wrongs. Thus, Boston writhes in the unhappiness of racial-balance busing. At Washington University in St. Louis, the chancellor is given four days to sign a 30-page statement of conciliation or be denied a $1.8 million contract. Athletic directors are commanded to rewrite their budgets. The Supreme Court holds that "great deference" must be accorded the "guidelines" of the Equal Employment Opportunities Commission. Whole states embark upon the neuterization of their codes, solemnly amending chairman to read chairperson.

Increasingly, the process pervades the field of health care. At Kettering Medical Center, near Dayton, the regulators descend. The hospital is new, sparkling, modern, safe, efficient; it has met or surpassed every state and local building requirement; it has been professionally accredited. But the regulators are not pleased: The windows are wrong, the airflow system is wrong, the kitchen doors are wrong. And these deficiencies must be corrected at once, never mind the cost, or else—!! Or else Kettering will not be reimbursed for Medicare and Medicaid patients.

Kettering is not alone. Scores of hospitals face the same threat.

One of the busiest agencies in Washington is the Consumer Product Safety Commission. Its mimeographs run night and day. Here the regulators, in an altogether typical week, are concerned with book matches, lawn mowers, television receivers, playground equipment, bicycle brakes, and baseball bat grips. The regulators are concerned with carpets, cigarette lighters, and a prototype child-resistant closure for use by the elderly. They will regulate these things.

Committees of the House of Representatives are at war over FIFRA. This is the Federal Insecticide, Fungicide, and Rodenticide Act, administered by the Environmental Protection Agency. In their zeal to regulate, the FIFRA regulators set up a toll-free telephone network to generate complaints of pesticide misuse. To some members of the House, this is an "indefensible informant system." To others, it is a justified step in pesticide regulation.

Our regulators, state or federal, have this in common: They mean to be obeyed. The smallest offender cannot be ignored, lest larger offenders be encouraged. Thus, in Ohio, the regulators of education have cracked down upon the Tabernacle Christian School in Greenville and brought criminal prosecution against 15 disobedient parents. It is of no consequence that the children in this fundamentalist school are achieving at levels higher than comparable students in public schools. The school does not comply with regulations. Whip it into line!

TOCQUEVILLE'S WARNING OF DEMOCRATIC DESPOTISM

More than a hundred years ago, Alexis de Tocqueville visited the young American republic. He returned to France and between 1835 and 1839 delivered himself of that great work, "Democracy in America." Toward the end of volume II, he reflected upon "what sort of despotism democratic nations have to fear." It would be a different kind of despotism, he thought, from the despotism of old. "It would be more extensive and more mild;

it would degrade men without tormenting them." Looking far ahead, he foresaw a nation populated by an innumerable multitude, all absorbed in their own affairs, preoccupied with "the petty and paltry pleasures with which they glut their lives."

This was De Tocqueville's terrible vision: "Above this race of men stands an immense and tutelary power, which takes upon itself alone to secure their gratifications and to watch over their fate. That power is absolute, minute, regular, provident, and mild. . . . For their happiness such a government willingly labors, but it chooses to be the sole agent and the only arbiter of that happiness; it provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their industry, regulates the descent of property, and subdivides their inheritances. What remains, but to spare them all the care of thinking and all the trouble of living?

"Thus it every day renders the exercise of the free agency of man less useful and less frequent; it circumscribes the will within a narrower range and gradually robs a man of all the uses of himself. The principle of equality has prepared men for these things; it has predisposed men to endure them and often to look on them as benefits.

"After having thus successively taken each member of the community in its powerful grasp and fashioned him at will, the supreme power then extends its arm over the whole community. It covers the surface of society with a network of small, complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd. The will of man is not shattered, but softened, bent, and guided; men are seldom forced by it to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd."

A magazine recently counted 63,444 federal regulators. It put the cost to consumers of federal regulation alone at $130 billion a year. The regulatory network spreads and grows; the tip point approaches; and De Tocqueville's nightmare consumes the American dream.

GOVERNMENT OVER-REGULATION SUFFOCATING AMERICA

(By James J. Kilpatrick)

WASHINGTON.—President Ford has latched onto a popular issue in his declared intention to reduce the over-regulation of American life.

It will be a wonder if he gets anywhere, but even the possibility is marvelously appealing.

In an ideal society, according to our American concepts, the regulatory powers of government would be sharply limited. The state would exercise its authority only in cases of clear and present danger to the public health, safety and welfare. Otherwise, government would let the people lead their own lives, for good or ill, and leave "regulation" largely to the marketplace and to the common law.

Manifestly, today's society is far removed from that ideal. The regulatory power of the state pervades both business life and human conduct. The process functions like one of those fantastic breeder reactors, whose astonishing property is to create its own fuel as it goes along. The regulatory power is a kind of gas; it expands by natural law.

In his recent speech to members of the National Federation of Independent Business, Mr. Ford made a promise: "I hear your cries of anguish and desperation. I will not let you suffocate."

The anguish and desperation are quite real. Suffocation is precisely the right image.

Today's businessman, small or large, scarcely can breathe in the oppressive atmosphere of over-regulation.

The paperwork burden alone is beyond belief. Even in the smallest company, the daily routine is a routine of licenses, permits, applications, reports, returns and forms, forms, forms.

If the Federal Trade Commission succeeds in imposing its ponderous "line of business" reporting requirement, the nation's largest corporations will stagger under the load.

This colossal statistical program would give employment for the next century to perhaps 10,000 clerks, typists, programmers, inspectors, analysts, supervisors and computer specialists—all of them industriously compiling data of no use to anyone.

It is a fair surmise that over-regulation of the automobile industry contributed heavily to the recession. The regulators demanded an ignition-seatbelt interlock, which the people despised. They demanded over-sized bumpers, which added to weight. They demanded catalytic converters, which shot up costs.

Thanks chiefly to Sen. James Buckley, R-N.Y., the hated interlock has been banished but the other regulations remain. Car prices have soared out of sight, and the whole economy suffers.

A couple of years ago, Congress created the Consumer Product Safety Commission. It is the busiest little factory in town.

The Occupational Safety and Health Administration builds its own empire.

Among the current bureaucratic battles is a war between OSHA and the Environmental Protection Agency over permissible noise levels in industry. If OSHA wins, it will cost industry, which is to say the public, $14 billion; if EPA wins, it will cost us $35 billion.

Every day the Federal Register spews forth scores, hundreds, thousands of amended regulations, proposed regulations, and final regulations. Mr. Ford said the last count of Federal forms found 5,146 in regular use. State and local bureaucracies have at least as many more.

The forms are meant to be understood by computers. Ordinary citizens, taxpayers and employers understand them murkily, if at all.

To be sure, most of this busywork has some plausible basis in health, safety or welfare. None of us wants to be cut up by a power mower, or compelled to breathe dirty air. The government's police powers reasonably may be invoked in the name of pure drugs and uncontaminated meat. Only the most doctrinaire libertarians would put an end to all regulations.

It is needless, wasteful, suffocating, solicitous, petty regulations that leech the blood from our national life.

What Mr. Ford condemns is the hoity-toity, high-and-mighty notion that Big Daddy knows best. He condemns the barely concealed attitude that the people are but sheep, and the government their shepherd. These notions and attitudes provide the fuel that keeps the engines of government going.

Mr. Ford's aim is to throttle them back. His effort probably won't succeed, but in the name of a free society, it is worth a try.

CARRYING GOVERNMENT PROTECTIVENESS TOO FAR

(By James J. Kilpatrick)

Once upon a time, or so the dog-eared story goes, a young scholar was asked to write a review of a book entitled, "Birds of the Antarctic." He wrote a splendid review. "This book," he said, "told me more about penguins than I really wanted to know."

The Consumer Product Safety Commission, one of the newest and most industrious agencies in Washington, is promoting safety with the same encompassing zeal. It is perhaps telling us more about safety then we really want to know.

This agency was created by the Consumer Product Safety Act, signed into law by President Nixon on Oct. 27, 1972. The five-member commission, headed by Richard O. Simpson, commenced operations the following May. In the pecking order of official Washington, the independent agencies occupy the catbird seat. They fly high above the sparrow offices and starling divisions of the established departments—not in terms of protocol or social prominence, but in terms of their autonomy.

The 1972 act transferred to the new commission several functions that had been administered by other agencies. In this fashion, the agency inherited enforcement of the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Flammable Fabrics Act, and a few other miscellaneous duties. In its own right, the commission obtained a breathtaking mandate from Congress. Some types of products are not within the commission's purview, but it is to oversee countless consumer products manufactured, imported, distributed, and sold at retail within the United States, to prevent "unreasonable risk of injury." The law lays sweeping requirements upon manufacturers and dealers to keep records, to report hazardous conditions, and to respond to the commission's orders.

No one knows how many consumer products are embraced in the commission's domain, simply because the fact is unknowable. In September, 1973, the commission released a "consumer product hazard index," based upon the frequency and severity of injuries reported to hospital emergency rooms. The index began with bicycles, stairs, doors, cleaning compounds, tables, and beds. The index wound up with such items as children's books, diapers, pot holders, and slide projectors. There were 369 classifications in all.

The commission's best guess, based chiefly upon daily reports from 119 hospital emergency rooms, is that some 20 million persons are injured every year in "product-related" accidents. The figure appears regularly in commission literature and crops up constantly in the commissioners' speeches. Not quite so much publicity is given to a corollary finding: In roughly 80 to 85 percent of these accident cases, the fault lies not with the product, but with the user thereof. The drunk who sprains an ankle in a fall from a ladder has suffered a product-related accident, but the offending product, statistically speaking, is the ladder, not the booze.

During the first few months of his chairmanship, Mr. Simpson traveled about the country rattling a fearsome saber. He warned businessmen repeatedly that his inspectors would be searching for violations of the Consumer Product Safety Act, and he promised to provide "motivation" against future violations by prosecuting to the fullest extent of the law. One such motivation, he said, is a prison term. "Whereas corporations can pay civil penalties, people who work for corporations pay criminal penalties," he said. "I am personally inclined in a criminal proceeding to seek out the board chairman or the corporate president, in addition to other officials, because I believe they are in the best position to assure corporate compliance with CPSC regulations."

It hasn't worked out quite that way. The Justice Department has filed three criminal cases under the Flammable Fabrics Act, but no board chairmen have wound up in the dock. The criminal penalties (fines up to $50,000 and prison terms up to one year) remain in the law, and Mr. Simpson insists the commission is ready to demand them in an appropriate case. Meanwhile, other activities proceed apace.

One of the commission's major responsibilities is to prepare and promulgate mandatory standards for product safety. The first such standard came forth on Sept. 16. It is a standard for swimming pool slides. To a newsman's observation that swimming pool slides would not appear to rank high among those public concerns justifying the full weight, majesty, and dominion of the United States government, Mr. Simpson responds by saying cheerfully that he wouldn't have given first priority to swimming pool slides, either. But the National Swimming Pool Institute and a major slide manufacturer petitioned for promulgation of an official standard, so now the rule is out for public comment.

Under the proposed standard, on the top step of every swimming pool slide a legend must appear: "Look out for people and objects below. One person only." On the third step is to appear an additional instruction: "Legs and arms forward." On slides for use in water four feet deep, or deeper, a sign in red, light blue, and black must advise all users: "Deep water. Swimmers only. Careless belly slides can cause injury." To the observation that this is a great deal for a six-year-old first-grader to read, Mr. Simpson says adults can read the signs, and it is mostly adults who break their necks on swimming pool slides, anyhow.

The commission also is actively at work on a mandatory standard for bathtubs. This is a slippery matter. In an effort to get some expert data to work on, the commission retained a firm of consultants in Cambridge, Mass., to make a study of bathtub and shower accidents. The study cost the taxpayers $142,000. It was a full-dress affair, requiring three principal authors, four "researchitects," and nine consultants. This is how the research proceeded:

"First, a literature search was performed, and significant factors associated with bathtub injuries were identified and prioritized. Second, this data was expanded to a series of 17 accident scenarios, representing all the common factors in the accident system. Third, intervention strategies were developed in response to the accident scenarios, and performance guidelines for safer bathroom products were considered. . . ."

The consultants' most remarkable conclusion was that "slips and falls are by far the most frequent type of bathtub accident, and these slips and falls frequently occur while entering or leaving the tub or while changing between a sitting and standing position." The foremost intervention strategy, it appears, is a slip-proof bottom for the tub. Meawhile, consumers should be taught how to take baths safely.

A third mandatory standard in the commission's mill is a standard for power lawn mowers. The proposal is being developed under a contract between the commission and Consumers Union, to the accompaniment of some low moans of dismay from the Outdoor Power Equipment Institute. On down the line are standards for television sets, book matches, extension cords, and space heaters. By 1982 the commission hopes to have 100 mandatory standards in operation, aimed at alleviating 75 percent of the product-related, preventable accidents.

Some of the commission's enforcement activities have drawn congressional criticism. One case involved the Bradley Import Co. of Los Angeles. Bernie Hartstein, president of the company, had built up a thriving business by importing ornamental, decorative dolls from Japan, and later, from Korea. These were not toy dolls; they did not cry, wet their diapers, blink their eyes, or move their limbs. They were not meant to be dressed and undressed. Many of the dolls were sold to brides as favors for their bridesmaids. These were the kind of dolls you find in glass cases at flossy gift shops.

None of this mattered to the Consumer Product Safety Commission. On July 9, 1974, without preliminary hearing or warning, U.S. marshals swooped down on the Bradley warehouse and confiscated nearly 80,000 dolls. This was at the very peak of the Christmas order season. Mr. Hartstein places his loss in sales at $600,000. And what was the terrible hazard that was thought to justify driving a businessman to the edge of bankruptcy? The dolls had pins in them. That was the be-all and end-all. In order to hold the elaborate costumes in place, the Oriental dollmakers had used a few pins.

In the 12 years that Mr. Hartstein had been importing and selling a half a million such dolls, not a single complaint had reached him of the pins hurting anyone. The commission had received no complaints, either. But a doll is a doll is a doll and, under commission regulations having to do with banned articles "intended for use by children," no pins may be placed in "any doll, stuffed animal, or other similar toy."

Mr. Hartstein went to court, of course, and won hands down. Judge Louis C. Bechtle held that the dolls in question plainly were never intended for use by children. He ordered the confiscated dolls released. A U.S. circuit court sustained his ruling. The experience cost Mr. Hartstein a small fortune in legal fees, and he still is fighting the unrepentant commission in a companion case in Ohio.

Chairman Simpson is understandably unwilling to talk about the Hartstein case, since the litigation is in fact still pending, but he agrees in principle that persons who are damaged by the commission's errors in judgment or plain mistakes should be entitled to sue for redress. Sen. James L. Buckley of New York is trying to push such a provision through Congress. Mr. Simpson supports the Buckley bill. "We could be," says the chairman, "a very dangerous agency."

By his own description, Mr. Simpson is a conservative Republican. He is as reasonable an administrator as one could ask for, and he is doing his best to keep the commission's activities channeled strictly to "unreasonable risks of injury." While he defends the agency's information program specifically mandated under the law, he has been known to wince at some of the baby-talk reminders that flow from the press office: "Never ice skate close to open bodies of water. . . . Avoid driving cars on ice. . . . Sledders should never hook rides on the bumpers of cars. . . ."

The commission has asked for a budget for fiscal '77 of $54.8 million, permitting a staff of 1,226. Present levels are $42.8 million and 1,024 permanent positions. Chairman Simpson looks hopefully to the day, perhaps seven or eight years hence, when the commission can be abolished or vastly reduced in size. By that time, its 100 mandatory standards should be working. Meanwhile, a kindly and beneficent government will continue to instruct a docile people in how to strike matches and how to take baths.

S. 622 FAILS TO OFFER LONG-TERM SOLUTIONS TO ENERGY PROBLEMS

Mr. GARY HART. Mr. President, 2 years ago, in response to the oil embargo, Congress adopted short-term measures of price controls, allocation authority, and entitlements to deal with the emergency at hand. Yesterday we voted on the energy conference report aimed at providing the basis for long-term solutions to the energy crisis by phasing out controls and promoting energy conservation.

I reluctantly concluded that I could not support the bill. Instead of providing a firm foundation for long-term energy policy, the conference bill offered temporary pricing measures and ineffective conservation programs which will only exacerbate the energy problem and impede the adoption of more adequate long-term solutions.

Conservation programs are a necessary and integral part of any national energy policy. However, the provisions in S. 622 are too weak and do not provide sufficient grounds for supporting the bill.

The auto efficiency standards will not require the automobile industry to do more than respond to recent trends in consumer demand. The average efficiency requirement of 18 miles per gallon in 1978 are substantially equivalent to the 17.6 efficiency of 1976 cars currently being sold. Furthermore, the increase in standards to 20 miles per gallon by 1980 is insignificant when viewed in the context of a 25 percent efficiency increase in the past 2 years.

The conference report contains worthwhile provisions to facilitate consumer and industry efforts to conserve energy. However, these programs cannot stand alone as effective measures. Unless consumers and industry fully realize that energy prices will rise—that the age of cheap gasoline and cheap electricity is over, efficiency labeling and voluntary industry efficiency targets will have only a negligible impact on consumption.

For this reason, I believe the conference report's rollback in oil prices will not bring the Nation closer to energy self-sufficiency. Furthermore, the rollback will only serve to reduce industry efforts to find and develop new petroleum reserves.

While I understand and appreciate the arguments that higher prices contribute to industry profits at the expense of consumers, I believe that the problem of income distribution are better solved through progressive tax revisions. Energy policy designed to control the distribution of wealth is at best ineffective and most likely counterproductive.

The conference report's oil pricing provisions fail in several other aspects.

First, the administration control over the details of further price controls will only create industry uncertainty and have a substantially unsettling effect on efforts to explore and develop.

Second, in spite of claims to the contrary, if the report does not provide for a phase-out of oil price controls, a 12-percent rollback plus 10 percent per year increase will result in an average price of about $10.50 when all controls expire 40 months from now. This price will most likely be substantially below the price of imported oil and the Nation will then be faced with the problem of devising yet another decontrol program. This is no long-term solution to the energy crisis.

Third, it is very likely that the administration will promulgate price regulations that will have a devastating impact on independent producers and competition in the industry. The 12-percent price rollback is translated into a 20-percent reduction in the price of new oil. Independent producers who find and develop 80 percent of the Nation's new oil will be hit the hardest by this rollback. In the past months, I have been a strong supporter of congressional efforts to increase competition in the petroleum industry.

A price rollback at this time only increases my conviction that vertical divestiture legislation is vital to the survival of competition in the oil and natural gas industry.

Supporters of S. 622 argue that failure to pass the bill will result in immediate decontrol. In the context of our current economic recovery, immediate decontrol would be far worse than the passage of S. 622. However, my vote against the bill is predicated on the firm belief that further work by both the Congress and the President can and will result in a better long-term solution to the Nation's energy problems.

VERMONT ASBESTOS GROUP, INC.

Mr. STAFFORD. Mr. President. As a member of the Senate Environmental Pollution Subcommittee, I am constantly exposed to arguments that environmental controls are harmful to the economic health and development of our nation. These arguments have grown in number during our long deliberations on amendments to the Clean Air Act, particularly in view of our Nation's prolonged period of inflation and high unemployment.

I am not unaware of the impact of the cost of pollution control efforts on the health of our Nation's economy, but neither am I unaware that there are times when that impact is overstated in an effort to bolster the argument of one side or another.

Because I know that I and my colleagues on the Senate Public Works Committee will continue to hear this argument, and because I know all of my colleagues in this Chamber will be exposed to similar arguments when the clean air amendments are reported to the floor, I would like to share a Vermont experience with my colleagues.

About 2 years ago, the GAF Corp., which operated an asbestos mine and plant in Lowell, Vt., announced that it was going to close down that plant because the Environmental Protection Agency had ordered it to install pollution control equipment estimated to cost about $1 million. GAF said its analysis of the economics of the operation, including the cost of the pollution control equipment, made continued operation an uneconomic venture.

That decision appeared to be a tragic blow to the 180 employes of the operation and to virtually all other residents of the surrounding rural area. The plant was the only industry in the area, and its closing threatened economic disaster.

But, Vermont Yankee faith and determination have combined to produce just the opposite result.

Employees of the plant purchased the operation from GAF; installed the necessary pollution control equipment, and have saved not only their own jobs—but have produced profits for themselves along the way.

The story of this remarkable achievement was reported in a recent issue of the Burlington, Vt., Free Press, under the headline: "The Impossible Asbestos Scheme Succeeds."

I commend the story to my colleagues and to others as an example of Vermont Yankee ingenuity and also as a case study in a positive response to our efforts to protect the quality of the air we all breathe.

I ask unanimous consent that the article from the Burlington, Vt., Free Press of December 14, 1975, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE IMPOSSIBLE ASBESTOS SCHEME SUCCEEDS

(By John Read)

LOWELL.—Raoul Snider has worked at the mine here most of his life. At age 61 he is beginning to enjoy the fruits of his labor.

On Friday, along with 180 other workers at the Vermont Asbestos Group Inc., Snider received a 100 per cent return on the investment he made only nine months ago—an investment made to save his job, knowing he might never see his money again.

What some had regarded as an impossible scheme, has now become the kind of success story uncommon in these economically tenuous times. And Snider and his fellow workers find they are shareholders in an employee-owned company which appears to have nowhere to go but up.

"Things just seemed to break our way," said Snider, who with his wife Theresa took time out from bowling at the Missisquoi Lanes outside of Lowell one night last week to talk about the mine.

"My only regret now is that I didn't buy more stock," Snider said with a smile.

Last year Snider faced the prospect of losing his machinist's job at the mine where he has worked for the past 24 years. In February 1974 the GAF Corp., which then owned the mine, said it could not afford the estimated $1 million worth of pollution-control equipment required by the Environmental Protection Agency to keep the asbestos mine and mill open. The operation was scheduled to close March 12.

"At my age what would I have done? Sit in an easy chair and collect unemployment," Snider said.

To save their jobs, the employes, with some trepidation, decided to buy the mine from GAF and run it themselves.

Snider recalled: "When you get older you get timid. This idea of us buying the mine seemed like a big step. But I talked to my wife and we thought, 'by buying the stock I'm buying my job' and even if it doesn't work I have another year at work, and something more toward my retirement."

Theresa Snider remembered being apprehensive about the purchase, which she discussed with her three children. Two of her sons had worked in the mine themselves.

Like her husband, her only regret now is that the family didn't buy more stock.

In the spring, following a series of complicated financial maneuvers involving loans from a consortium of seven banks, and credit from the state's bonding authority, the employes bought the mine for $400,000. It was just three days before GAF was scheduled to close the 2,300-acre facility which straddles the mountain between the towns of Eden and Lowell.

All the employes of the company bought stock, which sold at $50 per share. Two thousand shares were sold, with a limit of 100 shares per person.

The mine purchase has given Snider and his fellow workers much more than a year of work and something more towards retirement.

Strikes and accidents at competing Canadian mines, where most of the world's asbestos is found, as well as shutdowns at some California operations, have increased the demand for the fibrous mineral and driven its price 50 per cent higher than it was when the employes acquired the mine.

Top grade asbestos fiber now sells for about $850 per ton. Lesser grades sell for about $66 per ton. However, much of the Lowell deposit is the high grade fiber.

The company's high profits, combined with other factors like prompt payment by customers, have enabled the Vermont Asbestos Group Inc. to clear all the debts incurred from the purchase of the mine and the installation of the required pollution control equipment. The entire package of debts at the time of purchase included a $400,000 note taken back by GAF, $100,000 raised by the sale of capital stock, and $400,000 advanced the company by the seven banks, which had made a long-term commitment of $1.5 million. It was estimated it would take five years to pay off these liabilities.

But, according to company president Jerome Hammang, having paid the 100 per cent dividend to stockholders, "the firm is presently debt-free."

"The only thing anyone would have to pay now is the interest on money they might have borrowed to buy stock," he said.

Moreover, Dennis E. Eldred, the company's plant engineer said, "basically all' of the equipment required by the EPA has been installed in the mill where the asbestos is extracted from the quarried rock. He also said a project to comply with recently amended EPA regulations is under way. This would involve control of dust at points where rock which has been milled is dumped.

Yet for the Lowell mine workers, many of whom have grown up beneath the scarred face of Belvidere Mountain, and to whom the plume of asbestos dust which once streamed from the mill was a familiar sight, the EPA regulations never made sense.

Though exposure to asbestos dust has been linked by physicians to a rare form of cancer, and to asbestosis—a respiratory disease found in workers whose lungs have been damaged by breathing the jagged asbestos fibers—there is a standing joke among the workers that starvation will kill you faster than the dust.

The mine's success also has been good for Lowell, which derives more than half of its tax revenue from the mining company.

Rep. Alvin Warner, D-Lowell, now the owner of the Missisiquoi Lanes and a director of Vermont Asbestos Group, left the mine in 1961 after having worked there 13 years.

He recalled that in the old Eden Mill, an earlier operation used when rock was being quarried on the west side of the mountain, "you couldn't see a light bulb a few feet away, the dust was so thick."

Warner said his health is still good, and noted the average retirement age in the region is 71.

Before the mining operation was purchased by the workers there had been reports of 16 cases of asbestos-associated diseases in mil workers at the Lowell operation.

However, plant engineers said a byproduct of the pollution control equipment, required to abate dust emission, has been a cleaner work environment, and said there are ongoing efforts to make the work areas even cleaner and safer.

Nevertheless, work at the mine is not easy. The asbestos-bearing rock must be lossened from 40-foot cliff faces by blasting, and is then loaded in dump trucks by huge electric shovels. Electric sholves are used because diesels would be difficult to start in the winter cold of the mountains.

From the mountain it is transported by truck on roads created from tons of waste rock, called tailings, to a series of crushers, linked by conveyer belts, leading to the mill. There the valuable fiber is extracted from the rock and bagged, and the gravel-like tailings are transported by conveyors to a mountain of wastes.

In the past the tailings could be used for road surfacing. However, EPA regulations now prevent this use since it is thought that car tires would pick up the tiny fibers remaining in the rock and throw them into the air.

The company is studying the possibility of finding a profitable use for the waste, perhaps using it to make fireproof wallboard. However, plant engineers said such product development is only in embryonic stages.

Although it has been widely reported that Vermont Asbestos Group should net $1 million before taxes this year, Hammang is shy about discussing the firm's projected profits. He would say only that "he could not deny" that the $1 million figure is a fair estimate.

The reason for the corporate president's reluctance to discuss the firm's financial good fortune: Stating the Company's profits seems to be an open invitation to would-be entrepreneurs eager to find a use for VAG's excess revenues, say the mine's managers.

R. K. White, a senior vice president, said he has even received calls at home from people "seeking small business loans."

Hammang said the company is planning to diversify into some other industry in an effort to maintain profits when the asbestos in Belvidere Mountain runs out. The productive life of the mountain's ore body has been estimated at 10 to 15 years.

Hammang said the search for other investments is being "carefully conducted" by the company, working in conjunction with investment counselors.

"We want to make the right decision and it may take a while," Hammang said.

But prosperity also has visited certain other problems on Vermont Asbestos Group.

Notoriety has brought a steady stream of journalists to the one-story company offices at the mine site a few miles from Lowell.

All the major television networks have been to the mine, trailing their large camera crews. Officials of the Ford Foundation have visited, as has a film crew working on an educational documentary. For a while, company spokesmen said, it was not unusual for the company to receive several requests a day for interviews or picture-taking privileges.

Despite its financial success the company concedes there are still problems to be ironed out particular to the nature of an employe-owned operation.

While some personnel refer to the company as a "family," others say there still exist some of the traditional tensions and suspicions between labor and management.

Eldred, who has been with the company for 12 years, said that in the early stages of the new operation, "the guy on the line sure kept his eye on the 'white hats.'" White hats are management personnel, a term held over from the days of GAF ownership when different job classifications were denoted by the color of a person's hard hat.

However, Eldred said the suspicion has lessened in recent months.

Snider, like many of the other men at the mine, probably would not have moved from the town where he was born and raised, no matter what had happened to the mine.

"We never worked up here for big wages. We stay because we have a happy life," he said.

Snider said he isn't going out to buy a Cadillac with his dividend check, but with a wink he added, "There are some that could."

FINANCIAL DISCLOSURE

Mr. MONTOYA. Mr. President, under Senate rules, I have been filing annual financial statements with the Secretary of the Senate and with the Comptroller General of the United States. This is the only financial disclosure requirement under the law, and I have complied with it since its inception.

In the past, I never felt the need to make by personal financial holdings public because my honor and integrity had never been seriously questioned by my constituents who reelected me to the Congress time and time again since 1957.

Two recent events, however, and the result of them, have caused me to examine the idea of making public my financial holdings and information on my income and property taxes.

One event was Watergate and its aftermath. At the end of the Watergate hearings, there was definitely a strong distrust of Government and of public officeholders. The other event concerned the U.S. Internal Revenue Service, IRS, and the questions recently raised about the Service and about my taxes.

During this period, there were those who resorted to innuendos and who drew false implications because I had not disclosed my holdings. But I have struggled too hard as a businessman and as a public officeholder to permit these antagonists to have a field day at my expense. Whatever measure of success I have achieved has been done through legitimate and ethical means. I can say without qualification that I have never cast a vote or used my position in public office to benefit myself financially.

So, partially as a result of the aftermath of the Watergate hearings, and primarily as a result of the false implications that were thrown at me during the recent controversy concerning the IRS, I am today taking this action.

I do, however, feel that I owe it to the majority of my constituents who trusted me to reassure them that their trust was well placed. I also owe it to those who may have some doubts to dispel any doubts which they may have about my honesty and integrity.

I am also doing this in spite of the fact that my Federal income tax returns have been given a clean bill of health by the Internal Revenue Service. And, in doing so, I hope to quiet those who have been clamoring for me to publicly disclose my financial holdings. This clamoring could place doubts in the minds of people about my holdings and taxes. And I want to remove any doubts that may exist.

Most of my income is derived from rents and leases from real estate holdings, most of which I acquired before coming to Congress. In fact, two-thirds of my real estate holdings were acquired prior to 1967. And most of the properties acquired since then were accumulated from revenues from the older properties. In addition to income from my real estate holdings, I have income from stocks and bonds purchased through the New York and American Stock Exchanges with the exception of some shares of stock in the Rio Grande Valley State Bank in Alameda, N. Mex.

I am including for the CONGRESSIONAL RECORD a summary of my Federal and State income taxes, and property taxes paid for the past 3 years. In listing my properties and financial holdings, I have purposely omitted placing a value on them, because the value of the holdings is immaterial to the issue of whether there is a conflict of interest. I am also including personal property. And to the best of my knowledge, the items listed below cover all my properties and financial holdings as of November 15, 1975:

Year	Federal income taxes	State income taxes	Real estate taxes	Total paid
1972	$35, 618.73	$6, 020.73	$13, 030.67	$54, 670.13
1973	22, 584.46	3, 999.76	12, 957.12	39, 501.34
1974	33, 945.04	5, 625.00	12, 136.38	51, 706.42

My real estate holdings consist of the following:

One-half interest in Lots 3 and 4, Fort Marcy Addition, Santa Fe, New Mexico. A Chevron station is on the land.

One-half interest in Parking Lot Addition, Santa Fe National Bank. (The interest is only in the land).

Lots 74 and 75, Marcy Heights Residence, Santa Fe, New Mexico, together with an eight-room house and furnishings.

Tract of land (55 acres), and a five-room rental house, Peña Blanca, New Mexico.

Thirty-one unit motel (known as the Linda Courts), that includes a warehouse, cafe, apartments, and the land.

One-fourth interest in a tract of land facing the Las Vegas highway, Santa Fe, New Mexico.

One-half interest and ¼ interest in two tracts of land, respectively, facing Cerrillos Road, Santa Fe, New Mexico.

Ten-room house (residence, furnishings and lot), 5403 Surrey Street, Chevy Chase, Maryland.

Piggly Wiggly store and lots, Cordova Road and San Pedro, Santa Fe, New Mexico.

Ranchitos Shopping Center, Fourth Street N.W., Albuquerque, New Mexico.

Lots (tracts 2 and 3A), Linda Vista Addition, Santa Fe, New Mexico.

Two-thirds interest in office building (Fisk Building), Roswell, New Mexico.

Lots in San Juan County, Farmington, New Mexico.

One-half interest in Payless Shoe Store Building, Clovis, New Mexico.

One-half interest in Cordova Shopping Center, Santa Fe, New Mexico.

My stock and bond holdings consist of the following:

Allegheny Airlines, Inc., 200 shares.
Bank Securities, Inc., 800 shares.
Braniff International Corp., 400 shares.
Continental Airlines, Inc., 345 shares.
Greyhound Corporation, 1,200 shares.
Philadelphia Electric Co., 2,764 shares.
Rio Grande Valley State Bank, 1,140.
Southern Company, 1,053 shares.
Virginia Electric and Power Co., 1,000 shares.
Fitchburg Gas & Electric Light Co., 1 bond.
State of Israel, 2 bonds.
New York State Urban Development Corp., 2 bonds.
Liberty Loan Corp., 1 bond.
UTS Tax Exempt Securities Trust, 10 bonds.

Other properties and personal assets: One airplane, four cars, life insurance policy, and congressional retirement fund. Funds in savings and checking accounts and some notes receivable.

SALT TALKS

Mr. BUCKLEY. Mr. President, since November of 1974, the United States has been engaged in an effort to negotiate firm language which would implement the agreement reached between Secretary Brezhnev and President Ford at their summit meeting at Vladivostok. To date, this effort has been unsuccessful. In the meantime, based upon reports from various sources, we appear to be yielding ground to a dangerous degree while the Soviets continue to disregard critical terms of the existing accords.

The first area of concern relates to our negotiating position with respect to the limitation of strategic arms. I would like to summarize some of my major worries because I fear that an unnecessary and divisive debate may result from the one-sided terms the administration appears willing to propose to the Soviet Union. I would like to be specific in this regard.

First, the United States is willing to permit the lopsided silo limitations of the first round SALT accords to carry over into SALT II. This means that the Soviet Union will be permitted not only to deploy 50 percent more ICBM silos than the United States, but because the Soviets are allowed significantly larger missiles than the United States, their total missile payload advantage will be even more lopsided than they had at the time the SALT accords were ratified in 1972. If the Soviet Union continues to replace its SS–9's and SS–18's and its SS–11's with SS–17's or SS–19's, and the Congress does not provide funds for a new land-based ICBM replacement for the Minuteman missile to offset a part of this growth, the Soviet Union will have a land-based missile payload capacity of 11.7 million pounds to only 1.1 million pounds for the United States. If Soviet engineers and scientists are merely able to match the 1965 vintage warhead design which the United States now deploys, the Soviet Union could translate this payload advantage into 10 times as many warheads as the United States. This clearly is not what the Congress intended when it appended the Jackson amendment to the ratification of the 1972 SALT accords, which called for essential parity in a future agreement. Thus, the first priority of our SALT negotiators should be to correct this imbalance. Unfortunately, our negotiators appear willing to retreat from this essential prerequisite.

Second, I am concerned that the U.S. position on the issue of the Backfire bomber has collapsed. Engineering analysis of the capabilities of the new Soviet bomber and its new air-to-surface missile, the AS–6, clearly indicates that it has the capability to reach all important targets in the United States. Until recently, this had also been the position of the U.S. Government, and in my view, we properly have refused to accept the Soviet position that the Backfire is an aircraft solely designed for the Eurasian landmass, and not for intercontinental attack. Unfortunately, in the face of Soviet intransigence, we are about to advance a proposal that essentially reverses our earlier position. Rather than require that the Backfire be counted among Soviet strategic nuclear delivery systems under SALT II, we are now ready to propose that the Backfire be counted only if it is based on the network of Arctic staging bases on the northern rim of the Soviet Union closest to the North American continent.

This is the most transparent coverup of the collapse of our negotiating position. Backfire bombers, normally deployed in the Soviet interior, can, of course, be deployed at these bases on very short notice. There can be no agreement acceptable to the Congress which does not classify the Backfire as an intercontinental bomber.

Third, our position on the cruise missile is one which reflects an undue zeal to reach an agreement without regard to the consequences for the long-term security needs of the United States. The cruise missile is one of the most important additions made in recent years to our defense capability. Because of the great flexibility of deployment of the cruise missile, and modern guidance technology, cruise missiles armed with conventional or nuclear warheads may be able to replace nuclear weapons in many military applications. Yet, the United which would have the effect of eliminating the U.S. strategic cruise missile program while permitting the Soviets to maintain their deployment of more than 2,000 cruise missiles, and provide an incentive for them to deploy more. By proposing limitations on cruise missiles with respect to range or payload of the missile, the United States is constrained because of the fact that we must deploy a cruise missile with a range in excess of 1,500 nautical miles if it is to be able to penetrate Soviet air defenses to reach Soviet targets which are far inland. By way of contrast, however, most major U.S. targets are located in coastal areas readily accessible to shorter range submarine-launched cruise missiles.

The Soviet Union already has a large number of cruise missiles which are classified as having a range of under 1,500 miles based on low altitude flight profiles. But if they are flown at their most efficient flying altitude, they can have a range which is as much as six times their range at low altitudes. Thus, a Soviet cruise missile, which is classified as having a range of 1,500 miles, could, because of the total lack of serious air defense in the United States, be launched from distances of 6,000 miles. Stated differently, the agreement which we are proposing on cruise missiles is simply unverifiable by any means known to man. We are better off without any cruise missile limitation than one which cannot be verified.

Finally, there is the issue of the failure of the Soviet Union to comply with the terms of the first round SALT accords. More than a year has elapsed since I raised the issue of Soviet noncompliance with the SALT accords. The revelations this week by the House Select Committee on Intelligence Operations has added further confirmation to that which was already widely known in the intelligence community; namely, that the Soviets have violated major portions of the first round accords to the point where it is clear that any future agreement must be fully verifiable. No reliance whatever can be placed on Soviet good faith. Let me briefly review a few of the violations:

First. They have attempted to prevent verification of their compliance with the terms of the SALT I accords through concealment, camouflage, clandestine experimentations, and other techniques, all in violation of article XII of the ABM Treaty.

Second. They have deployed a new generation of ICBM's which are approximately 50 percent larger than permitted under the definition of "light" missiles provided the Senate during hearings on the SALT accords.

Third. They have conducted a clandestine program to upgrade their air defense system to an ABM system. They now have in place the SA–5 system consisting of high-powered transportable radars and 1,100 launchers, each with 6 reloads, which has benefited from more than 60 illegal ABM experiments.

Fourth. Important details about the Soviet submarine construction program is now being concealed so that we may not be able to reliably determine, among other things, whether or not the Soviet submarine is being equipped with multiple warhead missiles.

I recognize, Mr. President, that there are those who maintain that these violations are not really violations, because the language of the SALT I accords can be twisted and stretched to accommodate just about anything the Soviets have chosen to do. The fact is, however, that they plainly violate the interpretations placed upon the agreements by their American negotiators at the time they were ratified by the Senate. They violate the accords as interpreted for us. They clearly breach the spirit of the agreements in their most important aspects. I do not see how any other face can be placed on the matter.

What deeply concerns me is that we may have learned little from this experience. This is why I think it is vitally important, Mr. President, that the President be put on notice that the Senate will not ratify another SALT agreement without asking all the hard questions, and insisting on full disclosure of every collateral understanding. Above all else, we must avoid self-imposed deadlines that will serve to rush us into another ill-conceived agreement that will serve to consolidate the enormous advantages the Soviets achieved through SALT I. Above all, we must think through our strategic posture, and determine how best to achieve the goal of essential strategic parity on a fully verifiable basis. Anything short of this could prove suicidal.

AMENDMENTS TO H.R. 10284 REGARDING PREPAID HEALTH PLAN STUDY AND MEDICARE REIMBURSEMENT TO VA HOSPITALS IN CERTAIN SITUATIONS

Mr. CRANSTON. Mr. President, I would like to express my appreciation to the members of the Finance Commitee, particularly the chairman (Mr. LONG), the Senator from Georgia (Mr. TALMADGE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Indiana (Mr. HARTKE) for the consideration and cooperation they offered me with regard to two amendments I had brought to their attention and had asked be brought up during the Finance Committee executive session markup of H.R. 10284. I am most pleased that these two amendments are included in that bill as reported from that committee and as passed by the Senate yesterday, and am deeply grateful for the support of all the committee members in accepting these amendments.

STUDY OF PREPAID HEALTH PLANS

Mr. President, one amendment would permit HEW to award a grant to the State of California, which a technicality prevents HEW from making. This grant would support a study in California of prepaid health plans providing services to medicaid beneficiaries. California is unique among all the States in that it has pioneered in encouraging the development of prepaid health plans—sometimes referred to as health maintenance organizations—to provide comprehensive health coverage to those eligible for medicaid.

The rapidity with which these plans were developed some 2 years ago in California and the lack of effective State guidelines and regulations governing eligibility for a State contract created some difficulties, and some unfortunate failures to provide quality health care to enrollees. These defects have been the subject of reports of the General Accounting Office, the Legislative Analyst of the California Legislature, and the Joint Legislature Audit Committee of the California Legislature, and have been the subject of an investigation and hearings conducted by the Senate Committee on Government Operations under the leadership of the Senator from Washington (Mr. JACKSON).

Currently, Governor Brown has moved to develop strong guidelines to assure that prepaid health plans under contract with the State to provide health services to medicaid beneficiaries will be managed on a cost-effective basis, and will provide good quality health care to their enrollees.

In conjunction with this restructuring of the prepaid health plans which contract with Medicaid—in California called MediCal—the California Department of Health has applied to HEW for a grant to fund a study of a broad mix of prepaid health plans throughout the State with a view to developing a system for evaluating the quality of care provided by such plans, and to provide data to develop a system for determining appropriate prospective reimbursement levels. The findings of this study would be applicable to all the States in the Nation.

The study involves the collection of data from several prepaid health plans of varying sizes and varying geographical locations, serving a mix of rural and urban enrollees in population groups representing the full range of medicaid beneficiaries and utilizing differing financial mechanisms for provider reimbursement. Among the plans to be studied is the Foundation for Medical Care in Sacramento, an individual practice association made up of 800 physicians and 20 hospitals in a five county area around Sacramento, serving 36,000 enrollees. This foundation is reimbursed by the State at $26 for each medicaid eligible individual enrolled in the plan, and, in turn, reimburse physicians associated with the foundation on a fee-for-service basis. The comparative data which this group can contribute to the study is essential if the study is to be comprehensive and useful in comparing the effectiveness of various mechanisms for providing health care on a prepaid basis to medicaid beneficiaries.

Unfortunately, the Foundation for Medical Care in Sacramento has recently been adversely affected by the sharp increase in the cost of health services, and it estimates it will lose about $800,000 in the period July through December 1975.

A portion of the grant HEW plans to make to the State of California Department of Health is intended to cover these losses. The General Counsel's Office of HEW, however, has been of the view that HEW cannot award a grant to cover costs incurred previously, because of language in the Social Security Act stating that no grants can be awarded to fund demonstration projects without 30 days, advance notice to the chairman of the Senate Finance Committee and the House Committee on Ways and Means. Lawyers outside of the HEW General Counsel's Office have suggested that this opinion reflects too narrow a view of the law.

Because of the HEW General Counsel's interpretation, HEW was reluctant to award the grant, although the study has the full support of all the relevant agencies and services of HEW. To correct this impasse, Senator JACKSON, who has become well acquainted with the issue through the hearings his Government Operations Subcommittee conducted, suggested that an amendment be offered to the Social Security Act which would permit HEW to award this grant. I agreed with him and was delighted that Senator RIBICOFF kindly agreed to describe the situation to the other members of the Committee on Finance and to offer the amendment permitting the grant to be made.

I am confident the results of the study which will now be able to go forward will provide valuable information to the Nation on the most effective means of providing quality health care to medicaid beneficiaries.

Mr. President, I ask unanimous consent that an excerpt from the Finance Committee report on H.R. 10284—No. 94–549—describing this provision, pages 13–14, be printed in the RECORD at this point.

There being no objection the excerpt was ordered to be printed in the RECORD, as follows:

GRANTS TO DEMONSTRATE APPROPRIATE MECHANISMS FOR CAPITATION PAYMENTS

(Section 9 of the bill)

Under present law the various State medicaid programs can make capitation payments to Health Maintenance Organizations (HMO's) which contract in advance to provide services to enrolled medicaid recipients. The use of this type of arrangement has occurred most prevalently in the State of California.

Over recent years, audits by the General Accounting Office and extensive investigative activities by the Senate's Government Operations Committee have shown that the basis on which payments have been made to these organizations is not necessarily reasonable. Officials of the State of California have agreed with this judgment and have applied to the Department of Health, Education, and Welfare for a grant in order to support a program to develop appropriate mechanisms to measure the true cost of providing health care services through HMO's and to measure the quality of services so provided. The results of this HEW-grant-supported project would be used to structure a reasonable payment mechanism for HMO's in California and other States.

One key aspect of the project for which HEW grant support has been sought would include measuring the costs of providing care in an individual practice association—a type of HMO which, while receiving prepaid capitation payment from the State, would continue to pay its member physicians on a fee-for-service basis.

State officials maintain that cost data from this type of HMO is essential to any valid study.

There is one large-scale operating independent practice association in the State, the Sacramento Foundation for Medical Care. This foundation involves over 800 physicians and 20 hospitals and is providing prepaid health services to more than 36,000 medicaid enrollees. Because of an unalterable fixed payment rate set by State law, the State has been unable to pay the foundation an amount fully equal to the costs of providing care for the medicaid enrollees. However, State officials want to pay the foundation a rate sufficient to cover its costs so that it can continue to operate and so that its unique costs data can be used as a part of the overall study.

A problem has arisen in that the General Counsel of HEW has ruled that the section of the social security law which authorizes cost and quality evaluation studies does not allow for any funding of costs already incurred for providing patient care.

This provision would clarify existing law and congressional intent so as to specifically allow in this case for the payment of such retroactive costs where these payments are necessary to assure that the individual practice association can continue in a study, carried out by a State agency aimed at developing a rate setting methodology for HMO's.

The total grant from HEW to the State of California would call for payments of approximately $5.2 million. Of this amount, approximately $1.6 million will be used for conducting the rate setting experiment with the foundation and approximately $700,000 of this $1.6 million will be used to reimburse the foundation for health services provided from July 1 to December 31, 1975.

MEDICARE REIMBURSEMENT TO VA HOSPITALS

Mr. CRANSTON. Mr. President, the other amendment I offered and which the committee has adopted would permit medicare reimbursement to a Veterans' Administration hospital under certain circumstances which very rarely occur. Covered would be those instances where an individual eligible for medicare is treated in a VA hospital on the good-faith assumption, both on the individual's part and that of the hospital that he is a veteran who is eligible for VA hospital care under title 38 of the United States Code. Under title 38, if this situation occurs, the patient or his estate is liable to reimburse the VA for the cost incurred, and under the Social Security Act, medicare cannot reimburse either the patient or his estate for the care provided in any VA or other Federal hospital.

Recently, this situation was brought to my attention by the family of a medicare beneficiary which had been billed for a substantial sum covering his hospitalization in a VA hospital. As chairman of the Subcommittee on Health and Hospitals of the Veterans' Affairs Committee, I joined with the committee chairman (Mr. Hartke) in writing to the chairmen of the Finance Committee and its Subcommittee on Health, Senator Long and Senator Talmadge, respectively, to bring this situation to their attention and proposing that a very tightly drawn amendment which would permit the payment of these costs be considered during the Finance Committee meeting. I am most grateful again that the committee agreed to do this and accepted our amendment in H.R. 10284 as reported.

Mr. President, I ask unanimous consent that the text of the letter Senator Hartke and I sent to Senator Long and Senator Talmadge, as well as an excerpt from the committee report describing this provision, pages 12–13, be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Committee on Veterans' Affairs,
Washington, D.C., December 3, 1975.
Hon. Russell B. Long,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.
Hon. Herman E. Talmadge,
Chairman, Subcommittee on Health, Committee on Finance, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Recently a case was brought to our attention of an elderly Medicare beneficiary who was admitted to a VA hospital for emergent care prior to a determination of veteran eligibility, who received care there for several months, and who was ultimately determined ineligible for such care. Because of the error, which was made without any intention to defraud, the patient's estate is now being billed by the Veterans Administration for $5,000. Section 1814(c) of the Social Security Act leaves no alternative to the VA, and the patient's estate is liable for the debt under title 38, United States Code.

To avoid any recurrence of this unfortunate situation, we recommend that your Committee consider the adoption of an amendment to H.R. 10284 which would permit reimbursement to a VA hospital for hospital care rendered in carefully defined circumstances such as that of the case brought to our attention. We are advised this situation occurs rarely and that the costs would be negligible.

Enclosed is a draft amendment (made retroactive to cover the above case) for such consideration during Committee markup of the House bill.

Your assistance in adding this provision to H.R. 10284 would be very much appreciated.

With warm best wishes.

Sincerely,

Alan Cranston,
Chairman, Subcommittee on Health and Hospitals.

Vance Hartke,
Chairman, Committee on Veterans' Affairs.

MEDICARE PAYMENTS TO VETERANS' ADMINISTRATION HOSPITALS IN CASE OF "GOOD FAITH" ERROR

(Section 7 of the bill)

Under present law, payments may not be made under part A of medicare to any Federal provider of services, such as a Veterans' Administration hospital, where such institution is otherwise obligated by law to render care at public expense.

The committee has had its attention called to circumstances in which an individual, entitled to part A benefits, was admitted to a veterans' hospital with both the hospital and the beneficiary believing the patient was eligible for such care and was subsequently found to be ineligible for care as a veteran. Following such a determination, the Veterans' Administration is required, by law, to recover the costs of such care from the patient (or his estate, if the patent is deceased).

The committee amendment would permit payment by the medicare program to VA hospitals for care rendered to a part A beneficiary in certain circumstances. Payment may be made only when (1) the beneficiary is admitted to the VA facility in the reasonable belief that he is entitled to have service furnished to him by the VA free of charge; (2) the authorities of such hospital and the beneficiary acted in good faith in making such admission; (3) that the beneficiary is, in fact, not entitled to care in the facility free of charge; and (4) the care was provided while those operating the facility remained unaware of the fact that the individual was not eligible for VA benefit or before it was medically feasible to arrange a transfer or discharge.

Payment for services would be in an amount equal to the charge imposed by the Veterans' Administration for such services, or (if less) reasonable costs for such services (as estimated by the Secretary following consultation with the Chief Medical Director of the Veterans' Administration).

FOUR QUESTIONS BY A STUDENT OF ECONOMICS

Mr. TAFT. Mr. President, earlier this month, the very distinguished Chairman of the Board of Governors of the Federal Reserve System, Dr. Arthur Burns, gave a fine address at the fall commencement of the University of Akron.

Dr. Burns mentioned several problems which have been plaguing this country: inflation, Federal deficits and undue monetary expansion, unsound finance in Government and industry alike, and continued dependence on foreign oil.

But inflation is easing, States and cities are reexamining their budgets, and with luck, so will the Federal Government later in the year under the new budget process.

Chairman Burns has several suggestions as to what we might do to speed recovery. We in Congress, and all citizens, should increase our knowledge of economics. Citizens should take a more active interest in government, but we must stop turning to Washington for solutions to all our problems, and instead use market forces to encourage competition through careful shopping and insistence on quality. We can contribute a full day's work for a full day's pay.

The Chairman's most important suggestion is this:

First of all, we can curb any latent discontent or cynicism we may feel about the motives of our fellow citizens in business or government. Americans, by and large, are a moral people who have wrought economic miracles by seeking to improve themselves, their families, and their communities.

Dr. Burns is right. We must stop fighting each other, blaming each other for bad harvests that were due to bad weather, or for high energy prices forced upon us from overseas. Americans must learn to work together.

It is with great pleasure that I ask unanimous consent that the Chairman's remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Four Questions by a Student of Economics

(By Arthur F. Burns)

I am very pleased to join this audience in honoring the graduating class of The University of Akron. Some of you receiving a degree today will continue with your formal education; others will embark on business or professional careers. But whatever your plans for the future, our Nation's economic and political condition will inevitably remain a matter of concern to you.

Recently, I received a letter from a college student named Rebecca who posed several blunt questions concerning our Nation's economy. First, Rebecca asked, "What was the biggest economic setback this year?" Second, "What has been the biggest economic boost this year?" Third, "What plans are being made to get the U.S. out of the red?" Fourth, "What can we as citizens of the U.S. do to help the economic situation?"

These are thoughtful questions, and they are not easy to answer with confidence or precision. But they undoubtedly express the concerns of many of our citizens, and I want to take advantage of this occasion to share with you my attempt to answer Rebecca's earnest inquiry.

Turning to the first question, the list of candidates for the greatest economic disappointment of 1975 is regrettably quite long. During the past year, we experienced a severe recession. The physical output of our national economy declined sharply before recovery got under way. The unemployment rate rose to levels not seen in a long generation. Inflation continued at a disconcerting pace. The deficit in the Federal Government's budget exploded. Interest rates on municipal securities soared. And efforts to move our Nation towards independence in the field of energy made little progress.

While all these developments have been disappointing, the persistence of inflation at a time of such widespread unemployment of labor and of capital harbors the most troublesome implications for our Nation's future. True, the advance of the general price level moderated significantly during the first half of 1975. More recently, however, the upward climb of prices has begun to accelerate again. Since mid-year, wholesale prices have been rising at an annual rate of a little over 10 per cent. Price markups in various depressed industries—such as aluminum, steel, and autos—convey a clear warning that our long-range problem of inflation is unsolved.

By now, many Americans are well aware of the profoundly disruptive consequences of inflation for our country. The inflation from which we continue to suffer got under way more than ten years ago and eventually became a dominant feature of our economic life. As wage and price increases quickened, seeds of trouble were sown across the economy. Rapidly rising prices eroded the purchasing power of workers' incomes and savings. Speculative fever mounted. The construction of new homes, condominiums, and office buildings proceeded on a scale that far exceeded the underlying demand. Managerial practices of business enterprises became lax and productivity languished. Corporate profits—properly reckoned—kept falling. And as businessmen reacted to fears of shortages and still higher prices, inventories of raw materials and other supplies piled up.

It is these basic maladjustments that led to the recent economic decline—the deepest since World War II. This slump has entailed enormous human and financial costs, and we have as yet only partly recovered from it. The behavior of prices in recent months is therefore very worrisome. Not only are the incomes and savings of our people still being eroded, but revival of confidence in the economic future is being hampered by fears of a fresh outburst of double-digit inflation. If such a development occurred, it would ultimately plunge us into an economic recession even more serious than the one we have just experienced.

I therefore believe that control of inflation requires a higher priority in managing our economic policies than it is as yet receiving. We cannot expect inflation to be brought under control if the Federal Government continues to run huge budget deficits or to permit money and credit to expand unduly. We must also face up to the hard truth that competition has become less intense in many of our private markets. If an unemployment rate of 8 or 9 per cent is insufficient to bring inflation to a halt, then our economic system is no longer working as we once supposed. In the future, governmental efforts to achieve economic progress will need to encompass structural reforms as well as responsible monetary and fiscal policies.

Let me turn next to Rebecca's question concerning the most beneficial economic development this year. Once again, there is no shortage of plausible candidates. The recovery in business activity since the spring has been quite vigorous.

Indeed, the rise during the third quarter in the physical volume of our national output was the largest in many a year. Since March the number of people employed has risen by 1½ million. The recovery in stock prices since the beginning of the year has been heartening to investors. The decline in interest rates from the extraordinary heights of 1974 has brought a measure of relief to business borrowers and home buyers. And the turnaround in our foreign trade from a deep deficit to a large surplus has helped to make the dollar once again a highly respected currency around the world.

These recent shifts of economic fortune deserve, and they are in fact receiving, much attention. But another and less widely noticed development—namely, rediscovery of the need for prudence in the conduct of financial affairs—is likely to prove of greater and more lasting benefit to the American people.

During the past year, we have seen the consequences of more than a decade of neglect of the principles of sound finance. Some major business corporations and many smaller ones have fallen into bankruptcy. A number of real estate investment trusts and some airlines are in serious trouble. Many individuals have lost their life's savings by making careless investments. Not a few of our Nation's commercial banks face the possibility of large losses on dubious loans. And various State and local government units are now finding it difficult, if not impossible, to raise new money through our financial markets.

More than any other single event, the agony of New York City has made the consequences of financial mismanagement apparent to the entire nation. A Federal budget deficit in the neighborhood of 90 billion dollars, which is in prospect for this fiscal year, may stagger the imagination; but few of our citizens can grasp its impact on their daily lives. Everyone, however, can relate to what has been happening in New York City—with thousands of municipal workers being dismissed, the number of policemen and garbage collectors dwindling, the subway fare going up, taxes rising, interest on outstanding municipal securities being scaled down, pension benefits being readjusted, and free tuition in the city's colleges placed in jeopardy.

Our country has been divided on the issue of whether, or under what conditions, Federal financial assistance to New York City is justified. But those who favor Federal assistance, as well as those who are opposed, agree on this much: that what happened to New York must not happen in our community or in our state. New York's dramatic encounter with bankruptcy may therefore mark a major turning point in the management of fiscal affairs in our country—certainly at the local and State level, and perhaps at the Federal level as well.

State and local governments are now busy reexamining their financial condition. Many of them are cutting back on postponable or avoidable expenditures, and raising taxes as needed. Proposals for bond issues are being appraised by the citizenry with a more critical eye. And recognition is growing across the country that the New York City crisis is just one manifestation of the lax financial practices that spread through the business, financial, and governmental sectors over the past ten to twelve years.

Fortunately, these unsound practices are now being corrected in our business firms and banks, as well as by State and local governments. This curative process is not without some pain. Capital for risky ventures is harder to obtain nowadays and it is also more costly. But this return to standards of prudent financial management has been an essential step in rebuilding the foundation for a durable prosperity.

I now come to Rebecca's third question: What plans are there for ending the persistent stream of Federal budget deficits? This concern with the need to restore order in our national fiscal affairs is shared, I believe, by the great majority of our people. To be sure, the swelling of the deficit this year reflects the deep recession of economic activity—which reduced Federal revenues, besides increasing outlays for unemployment benefits, welfare payments, and related programs. But the Federal deficit was large even before the recession started; it has continued year after year, in both good times and bad; and it has largely resulted from inadequate attention to the consequences of excessive governmental spending.

Of late, there have been some encouraging changes in the Federal budgetary process. A major reform of Congressional procedures was set in motion by the Congressional Budget Act of 1974. In the past, revenue decisions by the Congress were separated from its spending decisions, and the latter were handled in piecemeal fashion. The result was that budgets just happened; they were not planned. Under the new Budget Act, Congress must assign priorities to the various outlays and set an over-all limit on spending in relation to expected revenues. Hence, Congressional decisions on expenditures will in the future be integrated with decisions on revenues. The discipline imposed by these new procedures offers hope, I believe, of reducing the chronic bias toward deficits in the Federal budget.

So, too, does the initiative of the President in recommending that Federal expenditures be cut next fiscal year by $28 billion below the level that they would otherwise reach. The basic principle underlying this expenditure proposal is sound, and I hope Congress will support it.

Once we put an end to the rapid upward spiral of Federal spending, budget deficits are likely to run smaller or vanish entirely. When the government no longer pours more money into the economy than it withdraws in tax revenues, it will have removed the single most important cause of inflation in our times. Moreover, when the government no longer absorbs so large a portion of private incomes, private capital investment will tend to increase more rapidly. Improved productivity, lower product prices, and a higher standard of living will therefore be fostered.

Let me now turn to Rebecca's final and most challenging question: What can we as citizens do to help the economic situation? This question is so difficult because our economic situation has numerous dimensions—the level of production, the extent of unemployment, the level of prices, the distribution of incomes, the profitability of investment, the state of the environment, and so on. Improvement in any one of these respects need not be accompanied by improvement in others. The question is also difficult because what any one of us can do depends on his personal situation—whether we work at home or in a business, whether we are farmers or miners, journalists or scientists. Moreover, as you well know, even experienced economists who have similar social objectives frequently disagree on what can or should be done to improve economic conditions.

Nevertheless, there are some principles of life that all of us can observe with the conviction that we will be helping our Nation's economic situation.

First of all, we can curb any latent discontent or cynicism we may feel about the motives of our fellow citizens in business or government. Americans, by and large, are a moral people who have wrought economic miracles by seeking to improve themselves, their families, and their communities. We have demonstrated across the years that hope is perhaps the most powerful of all economic forces, and that a spirit of purpose can give meaning to human energy and overcome a lack of material resources.

Second, everyone of us can surely improve his understanding of economic phenomena. Education is a never-ending process. The intellectual excitement of the classroom need not be lost, and should not be lost, as we move on in life. The economic problems of today are profoundly challenging, and there will surely be new ones tomorrow. As citizens we need to strive for dependable knowledge of economic realities, so that we can make wiser decisions in the marketplace and in the voting booth.

Third, we can become more actively involved in the political process of our Nation—by electing officials at all levels of government who demonstrate a serious and informed awareness of our economic problems, by communicating our thoughts on public issues to our representatives with the clarity of conviction, and by holding them responsible for their actions.

Fourth, we can avoid the temptation to implore the Federal Government to solve every economic and social problem through the expenditure of public funds. We are a compassionate people, and I trust we will remain so. It is understandable that we attempt to muster our collective resources to aid the less fortunate among us. Yet we must take great care not to weaken the spirit of self-reliance that has been instrumental in releasing the creative and productive energies of the American people.

Fifth, we can impose discipline on our business enterprises through our daily decisions in the marketplace. The power of the consumer to force business firms to price competitively and to improve their products must never be underestimated. We as consumers can help to keep the spirit of price competition alive by shopping carefully and avoiding impulse buying.

Finally, every American can experience the satisfaction that comes from honest effort—by putting in a full day's work for a full day's pay, whether it be work in a factory, a scientific laboratory, a corporate office, a governmental agency, or wherever one may labor. "Sweet is the sleep of a laborer," so sang Ecclesiastes. Centuries later, Carlyle reminded us that "there is a perennial nobleness . . . in work," that indeed "a man perfects himself by working." The rewards of work accrue, of course, to the public at large as well as to the laborer; for the more we produce by the day or by the hour, the more surely will the standard of living of the American people improve.

The needs of the American economy today are large and compelling. Some of you graduates will approach these needs as liberals, others as conservatives. Some of you doubtless believe in free enterprise, others may aspire to a welfare state, still others may seek the nationalization of our industries. But whatever your philosophic or political attitudes may be, I hope you will recognize that your dreams of a good society have no chance of fulfillment unless our government conducts its financial affairs responsibly. This condition is essential to bringing an end to the inflation that has been raising havoc with our economic institutions; it is essential to the restoration of a lasting prosperity; it is essential also to the preservation of our democratic system.

THE FOOD INDUSTRY ANTITRUST REPORTS ACT OF 1975

Mr. McGEE. Mr. President, I am pleased today to join in sponsoring the Food Industry Antitrust Reports Act of 1975, S. 2802.

As part of the 1966 report by the National Commission on Food Marketing, entitled "Food from Farmer to Consumer," I noted we had barely begun to comprehend the implications arising out of the growth of the great food chains. Now, 10 years later, we view those implications with a greater degree of alarm—with more worry than the "worrisome portent" I mentioned a decade ago.

It is time now to grease the wheels and accomplish those things left undone by the Congress, an inaction warned against by the Commission.

As you know, Mr. President, it was my legislation which created the National Commission on Food Marketing. Today I speak in support of the proposed Food Industry Antitrust Reports Act of 1975. We must not now be guilty of accusations against the Congress that it never follows up on things.

This bill calls for: Examination of the makeup of various food industries—including possible trends toward vertical integration—conglomerate and multinational predominance and antitrust exemptions.

Examination of regulated transportation in order to determine its effect on food prices.

A yearly indexing of competition in the food industry accompanied by specific recommendations to promote competition—to be done by the Federal Trade Commission and the Justice Department—and,

Annual reports by various agencies on antitrust activities in the food industry with definitive commitments from the violators to cease such activities.

The problem is this, Mr. President: Food prices have been and continue rising sharply while, at the same time, the food producers—our farmers and ranchers—receive a decreasing proportion of the dollar spent on food products. The studies and actions proposed in the Food Industry Antitrust Reports Act of 1975 will go a long way in eliminating these gross inequities.

At this time I ask unanimous consent that my statement as published in the National Commission on Food Marketing report of 1966 be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Gale McGee

The National Commisison on Food Marketing findings and conclusions are prudent and valid insofar as they reflect the status of food marketing in the United States today. But I am profoundly troubled by what I see as ominous portents for the future. To my mind, nothing characterizes the American food industry of today more than the element of revolutionary, sweeping change. The American food industry on July 1, 1966 is not the same as it was when the Commission was created 2 years ago, and I suspect it will not be the same even the day after our report is received by the President and the Congress.

I have been moved to submit these brief and separate views because I do not want the Commission's report to mark the close of intensive evaluation and re-evaluation of our food marketing system. While nothing in the report warrants extreme alarm, so nothing in the report warrants smugness or self-congratulation by either industry or Government. It is imperative that this report not be used to condone complacency in the marketing world. For while the Commission's study could not exhaustively probe the disturbing forces at work in the wake of the supermarket phenomena, it at least has opened for us a view that is not without its worrisome portents. To neglect those portents will be to place in jeopardy the constructive forces of a healthy marketing system in our American economy.

Change, even revolutionary change, is not in itself either good or ill. The accumulation of market power can readily lead to the oppression of both consumers and producers. But it need not do so if we are alert, if we shun dogmatism, and if we remain ready to fashion appropriate, regulatory tools with which to preserve and channel competition to the benefit of the economy as a whole.

As disclosed in the Commission report, we have barely begun to comprehend the implications arising out of the growth of the great food chains. I am not so much concerned with the relatively few cases in which market power of the chains is deliberately employed in predatory schemes. But size inevitably begets power, and inordinate power tends to subvert the freeplay of market forces, of supply and demand, upon which we have traditionally relied to insure producers and consumers equity in the marketplace.

The central role in our food distribution system is occupied by food retailing. Over the past several decades the balance of power has increasingly shifted to retailers at the expense of farmers, processors, and consumers. The concentration of economic power among food retailers has progressed furthest in local metropolitan markets where, in some cases, as few as four retailers account for practically all supermarket sales. These developments in local markets presage what may occur in regional and national markets. In truth, since World War II there has been a steady trend toward increasing concentration in national food store sales. And our investigation demonstrated that in many cases food manufacturers are being subjected to intense competitive pressures by food retailers.

Often food manufacturers have responded to changes in the structure of food retailing by attempting to gain market power of their own so as to countervail the power of large food retailers. Many manufacturers have increased their size through mergers and acquisitions, and the largest are spending enormous amounts on promotion and advertising. Some of the largest food manufacturers appear to be more than holding their own in the struggle for market position. But the struggle between giant food manufacturers and retailers has created such a harsh environment that most small manufacturers are finding it increasingly difficult to grow and survive. It may be that we are on the threshold of a new era in food distribution, one in which raw market power rather than economic efficiency will determine the outcome of the competitive race. If so, it is imperative that we plan ahead for the guidelines and regulations to govern such a change before disaster strikes.

It is not clear what the ultimate impact of these developments will be on farmers and consumers. But the best available evidence indicates that the recent structural changes have already had an adverse impact on them. Food retail margins have swollen enormously in the period since about 1954, as price competition increasingly has given way to nonprice competition. The margins of the largest chains have grown by about one-fourth since 1954. Translated into dollars and cents, this means that if the gross profit margins of all retailers had grown by a like amount, the food marketing bill in 1965 would have been about $2.5 billion greater than if the retail gross profit margin had not risen. This would have involved an enormous increase in the food marketing bill to be paid by consumers and farmers. Fortunately, however, the gross profit margins of small chains and independent retailers did not rise as rapidly as those of large chains.

The modern supermarket may be the marvel of the Western World, but our studies disclosed that today the typical supermarket of the largest chains has higher distribution costs than did the small stores operated by these chains before the occurrence of the supermarket revolution in the 1930's. American consumers have a vital stake in these developments because they spend over $60 billion each year in food stores. As a result, each time prices rise by 1 percent, about $600 million is added to the annual expenditures of American housewives. Farmers have an even greater stake in these developments because experience teaches that increased marketing costs bear most heavily on them. If a 1 percent increase in marketing margins is pushed back to farmers, it could cost them about $500 million a year.

Our studies have not developed all of the answers as to why gross profit margins of large chains have grown so dramatically in recent years. Their overall profit margins have not grown correspondingly. However, overall gross and net profit margins tell only part of the story. Our records show that some large chains operate numerous stores for sustained periods of time at a loss and at small gross profit margins, particularly in markets where they have small market shares. It further shows that when a retailer has a strong market position in a market, he may enjoy sustained high net profits without having his market position eroded by competitors.

Our studies also show that another area of central importance to the future of food distribution is the growth and survival of affiliated independent retailers. They further show that many of these groups are extremely unstable and are experiencing high mortality rates. Most small retailers are heavily dependent on cooperative and voluntary wholesaling operations. It is, therefore, imperative that these groups be made as viable and effective as possible.

Agriculture in this country encompasses that part of the economy which produces raw crop and livestock products to meet the Nation's food needs. With some few exceptions agriculture has concerned itself only with production. It has not engaged in processing or final merchandising. The farmers in our country traditionally have been proprietors, and as such sold their products to market firms. There appears to be a definite trend toward removing the production and marketing of farm products from the hands of farmers and transferring them to the direct control of processing firms. At this time nearly all broiler production, more than half the turkey production, and nearly half the egg production have moved into the control of nonfarm firms. Both turkey and eggs seem headed for further takeover. Still others are likely to follow.

As this trend develops commodity pricing as a guiding mechanism is increasingly abandoned. The value of such a price system rests not only on its efficiency but on its impersonal, self-regulating property and its built-in protection of the negotiating independence of each individual and firm. Under this system each seller of farm products enjoys the protection of being able to bargain with several of many possible buyers. As integration continues, central direction by large integrated combines is substituted for market pricing and the individual farmer can no longer freely and fairly negotiate on price.

In the livestock industry, concern has been expressed about the increase in packer feeding. I share this concern. During the last 10 years, the volume of packer feeding of cattle has about doubled. Packer feeding is not in my view conducive to a healthy economic environment for the cattle industry. This type of vertical integration undermines the market price system as the basic system providing rewards and incentives in livestock production and marketing. It puts the packers actively into the feeding industry, the industry from which it buys. It provides packers with an opportunity to use their own cattle as a lever to increase their market power. The farmer on the other hand is reduced to a supplier of feed grains or of young feeder livestock and to the status of mere contractor to the contracting packers.

If livestock feeding is transferred to packers, the principal livestock enterprises under the managerial control of agriculture would be reduced to the production of feeder stock and dairying. And there is no reason to assume integration of livestock would stop with the feeding enterprise. It seems certain that it would eventually extend to the production of feeder cattle, pigs, and lambs as well.

The Commission's work will serve as a valuable guide to public policy regarding our food distribution system. For example, our antitrust agencies have been given a clear mandate for more vigorous antimerger enforcement in food retailing and food manufacturing. Our staff appeared to be of one voice in urging that a more vigorous merger policy be employed in preventing mergers by large food chains and by large manufacturers. But most important of all, our studies revealed that our food distribution system is being transformed in ways which are only imperfectly understood, both in terms of their causes and consequences. Therefore, the Commission's most important longrun policy conclusion is that a high priority be placed on maintaining a high level of "information about market structure and competition in the food industry," by the agency best qualified to perform this job. The Commission, therefore, concluded that "in order that the Congress, the executive branch, and the public will be fully informed, we believe that the Federal Trade Commission should be charged with making a continuing review of market structure and competition in the food industry and report annually thereon to Congress."

This conclusion was based on the recognition that the Federal Trade Commission was best qualified to perform this function in an objective and responsible manner. Although this will require a modest increase in the staff of the Federal Trade Commission, it is imperative that this job get under way immediately. For if it does not, much of the pioneering work of the National Commission on Food Marketing will have been wasted.

One final warning would seem to be in order based upon the experiences in the Commission's study. That is the built-in tendency within the industry and those dependent upon the industry to resist all studies, investigations, or to withhold critical information necessary to the fullest grasp of the problems at hand. Admittedly, this poses the traditional and well-understood questions of trade secrets and corporate privacy. But it is difficult to see how the public interest can be fully served and/or protected without clear access to all the facts. It is to be hoped that the necessary discipline and forthrightness which the complexities of modern marketing require will not be withheld because of past traditions or a history of reluctance to protect the public interest.

When we are talking about the food industry, let it not be forgotten that it grosses between $60 and $80 billion a year, that it employs many millions of wage earners, and that indirectly it influences the lives, the jobs, and the economy of a much larger segment of our country's life than does any other single force in the American economy. Because of the massive impact of huge concentrations of marketing power upon all segments of the population in general, the time has come for the public interest to receive the first priority and to transcend where necessary the outmoded protections heretofore accorded the private sector.

If we are to achieve this approach realistically, we must divest ourselves of the old cliches, concepts, and fetishes that tend to inhibit our freedom of comprehension.

SENATOR ROTH SPEAKS OUT ON ENVIRONMENTAL LEGISLATION

Mr. PACKWOOD. Mr. President, my distinguished colleague from Delaware, Senator Roth, recently made a fine speech before the Delaware Brandywine Association, Inc., in which he praised the environmental strides we have made over the last 6 years in Congress. Yet, more importantly, Senator Roth has stated his firm support to continue pursuing those environmental goals and programs which will protect and enhance this country's quality of life.

Whether it is the establishment of the Environmental Protection Agency, the Council on Environmental Quality, the Clean Air Act, or the Coastal Zone Management Act, Senator Roth has stood behind these meritorious congressional actions to protect our environment.

The greater issue before the Congress today, however, is the possible modification of some of our original environmental acts. In his speech, the Senator from Delaware has made his commitment to protect the integrity of our environment and attempt to reach a balance between the competing interests working on current environmental legislation.

I am sure that is the goal we will be striving to maintain, and I applaud Senator Roth's commitment to meet this challenge in the coming months.

I ask unanimous consent that the text of Senator Roth's recent speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks by William V. Roth, Jr.,
October 23, 1975.

Good evening.

This has been a wonderful evening for me and I want to thank you. I've had the opportunity to visit with all of you as friends and neighbors.

We're working for common goals in the Brandywine River Valley. This is a beautiful region where nature has really done its handiwork.

As most of you know, my family and I live near the Brandywine watershed—down the road just a few miles in northern Delaware. So it's a real honor and privilege for me to be here tonight to participate in this significant and happy celebration—the thirtieth anniversary of the Brandywine Valley Association.

Your Association which some have termed the grandfather among watershed associations, has much to be proud of. The accomplishments listed on the invitation to this meeting show that you have succeeded admirably in achieving the objectives of your Association. I heartily congratulate you for these many solid achievements.

Yet, it was not until five years ago that the interest of society at large became so captured by a concern for the preservation of the environment that effective public action at long last became possible. Because of your work over the years, and that of others who shared your early concern, the American public has finally come to understand that one of the most important needs of our age is to learn how to live with our natural environment, and not be in conflict with it.

This is a land where, two centuries ago, men and women of commitment and courage staved off the British and the harshness of natural elements to carve out a land free from all forms of oppression and tyranny. Yet, today, unfortunately many Americans don't want to accept the realities and the challenges of living in the 1970's. Many still refuse to face up to the demands necessary today to assure our hard-earned freedom and independence in the future.

When I reflect upon the way we Americans have befouled our evironment I'm reminded of a statement by that well known comic strip character Pogo when he exclaimed, "We have met the enemy and he is us." Now that we recognize the enemy is us in our battle to protect our environment, we must also recognize that a befouled environment has resulted from our failure in the past to take proper protective measures as we developed an industrial economy that is the envy of the world. As a result, we are today witnessing a proliferation of wastes injected into the air, into the water, and into the land—wastes which have simply overtaxed the capacity of our natural systems to absorb and dissipate.

But we can't turn back the calendar. We can't step back in history like that mythical Connecticut Yankee in King Arthur's Court. Challenges must be met and overcome. Eighty million Americans now occupy the area that 200 years ago was our original 13 colonies serving 1/100th that amount.

What were problems of taming the wilderness, clearing the land and harnessing rivers and streams have become problems of preservation, of conservation, of these very elements. Of course, this is why the role played by your Association and others like it is so critical today.

The United States has been blessed by two great resources—a brave and creative people and an abundance of natural resources. Working in harmony, these two have brought advancement not imagined by the prophetic writers of earlier years.

But when the proper balance between progress for man and preservation of nature is lost—then disaster threatens our future. We've seen that when man oversteps his use of nature, floods, land-slides, erosion and air and water pollution strike back. The goal of the conservationist becomes clear—he must restore and secure a proper balance between man's need for social and technological advancement and for preservation of the irreplaceable qualities of our natural environment.

The truth is that everything in nature is interrelated. As Dr. Lewis Thomas has observed in his book "The Lives of A Cell," "We are not the masters of Nature that we thought ourselves; we are as dependent on the rest of life as are the leaves or midges or fish. We are part of the system. Who knows . . . movements might start up for the protection of ourselves as a vulnerable endangered species."

Fortunately, while initially slow in recognizing environmental problems we have now begun taking serious affirmative action, and no man in the Congress has done more to help protect our environment than former Senator Cale Boggs. Wherever you go among environmentalists his legislative accomplishments in this field are well known but it's a shame he hasn't been given the public recognition that is his due.

Through the diligence, dedication and persistence of such men and women as Cale Boggs we have made excellent progress toward coming to grips with the management of our environment by passing basically sound and effective environmental legislation. I am pleased to have been a strong supporter of environmental legislation.

Since 1968 at the Federal level we have created the Council on Environmental Quality, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration. Beginning with 1970, we have seen passage of the Clean Air Amendments, the Federal Water Pollution Control Act Amendments, the Coastal Zone Management Act, (the Marine Protection, Research and Sanctuaries Act), the Federal Insecticide, Fungicide, and Rodenticide Act Amendments, the Endangered Species Act Amendments, the Marine Mammal Protection Act and just recently the Safe Drinking Water Act—to name a few.

Amendments to a number of these Acts are now pending in appropriate committees. Some of these proposals are controversial in nature. The most controversy I believe will arise with the Clean Air Act and the pesticides act.

Serious questions have been raised under the Clean Air Act as to whether there should be extensions of deadlines for automobiles and industrial plants to meet emissions and air quality standards; whether degradation or the lowering of air quality should be permitted in areas where air quality is cleaner than minimum requirements of the Act. Farmers and others are complaining that rulings under the pesticides legislation are an adverse impact, and must be modified. It is too early to determine what the committees will recommend.

As one member of Congress I want to make certain that we continue to move ahead in these important legislative areas. However, we cannot be shortsighted in our endeavors to protect and enhance our environment. We must take into account the interlocking needs of our nation.

This raises a matter of great concern to me and that is the ability of a democracy to arrive at a consensus. As I have stated I am a strong believer that this nation must learn to harmonize its way of life with nature. I strongly disagree with those who would turn their backs on the recent progress we have made in the environmental area. But it does disturb me that there are too many in this nation—businessmen, labor leaders, consumers, or environmentalists—who are developing what I call tunnel vision, who are unwilling to consider the legitimate concerns of others; who are unwilling to help develop a national consensus on current problems that will enable us to move forward in their solution.

I am a member of the Trilateral Commission which works to strengthen relations among the great democracies of the world. It is made up of government officials, business and labor leaders and distinguished scholars from Europe, Japan, Canada and the United States.

Its conferences and the studies it has commissioned show wide agreement that Western democracies are in serious trouble today. Many thoughtful observers question whether they have the capacity to cope with rapid social and economic changes, whether they have the ability to make hard decisions necessary to deal with the problems of the economy, the environment and energy, whether they can persuade their people to make the sacrifices which are necessary.

I for one am deeply disturbed that too many in this nation fail to see the need for reconciling the diverse and legitimate needs of this nation.

As we move ahead and clear the decks for more and more accomplishments in protecting the environment we must come to realize that over the long pull there should be no inherent conflict between our energy, environmental and economic goals. Environmental goals should be achieved in the most efficient way possible with an absolute minimum impact upon the economy, employment, industry, food supply, energy and capital. In like fashion we should seek economic, physical and energy growth with the least adverse impact upon our environment.

I fully subscribe to a statement by President Ford shortly after he entered the Presidency when he said, "I do not accept the dismal proposition that pollution is the inevitable price of prosperity nor that we must compromise the environment to gain economic growth. We cannot enrich our lives by impoverishing our land. We can raise both the standard of living and the quality of life."

I should like to turn briefly to the question of land use legislation. I have come to the conclusion that this is a matter for state and local, rather than Federal action. Frankly, the efforts of the Federal government in the recent past to dictate the building of refineries and a superport, with little consideration as to the impact on Delaware gives me little confidence in permitting Washington to move into their area. I think the people of Delaware should have the principal voice as to how Delaware is developed. I do think land use planning is essential, but I believe it should be carried out at local, state and in some instances, regional levels. It is here that the needs and problems are best understood. It is here that we're best equipped to cope with them. I would urge the Brandywine Valley Association to provide leadership in the planning area and do what you can to prevent a Federal takeover of this all-important function.

I want to congratulate you for your efforts in making effective use of sewage sludge. What to do with sewage waste is a growing problem and the Delaware reclamation project as well as your efforts to increase agricultural yield through the use of sludge are commendable and innovative approaches toward solving this problem. As a matter of fact for the past couple of years John Bryson, Delaware's Secretary of Natural Resources and Environmental Control and I have been fighting to prevent EPA from pulling out of Delaware's resource recovery demonstration project, where solid waste will be converted to fuel for power generation and compost for agricultural purposes.

Since serving in Congress I've been particularly interested in the area of government efficiency. Government can best be characterized by duplicating programs, bureaucratic red-tape and paperwork. EPA is no exception. I am pleased to say that there are signs that EPA is seeking at least in some areas to simplify its procedures. Yesterday, the Delaware Committee of 100 met in my office with representatives of EPA and there was agreement in several areas as to steps that could be taken to simplify the grant system. If EPA follows through, these changes could be significant not only in eliminating paperwork, but expediting the construction of waste treatment facilities and creating jobs now in the construction industry. Much also needs to be done in eliminating duplication and overlapping programs. I have introduced legislation to give the Executive branch authority to consolidate similar programs, subject to Congressional veto. I would like to think this legislation might be enacted into law, as it could be a major step to improve government efficiency, but it is too early to make any predictions.

I am hopeful that Congress will adopt legislation that I have introduced in the Senate to give EPA authority to delegate certification or approval responsibilities to the states for municipal waste treatment plant construction. It makes no sense to have several layers of approval when states now have established environmental agencies with competent staffs. This legislation is supported by EPA. I regret that I cannot be encouraging at this time as to any significant changes in the area of environmental impact procedures.

In closing, I am convinced that, in the years ahead, any real and lasting environmental progress must come as a result of state and local initiative and private action. And I agree with Russell Train, Administrator of U.S. Environmental Protection Agency, when he stated he regards the Federal role as focusing more and more, not simply on developing national standards, and regulations, and guidelines, but as encouraging and assisting in every way possible the developmet of joint Federal, state and local decision-making processes that can enable the citizens of this country to really come to grips with environmental issues and, by making intelligent tradeoffs between environmental and other needs and goals, to open up for increasing numbers of Americans the opportunity to enjoy both a higher standard of living and a higher quality of life.

On this point, I should like to quote the famous environmental author, Rene DuBos, for his wonderfully balanced perspective on man and his place in the natural scheme of things (as well as for his assessment of man's future within that scheme if he will but have the wits to work with, instead of at cross purposes with econological law.)

In an essay in the Smithsonian Magazine, Dr. DuBos wrote as follows: "We are hardly ever passive in front of the natural world; we alter it and fence it to create environments to suit our ambitions and limitations. In fact, men have always recognized or imagined patterns in the bewildering opulence of nature—and they have humanized the earth according to the patterns that they perceive . . . I believe that by inserting our dreams and aspirations into ecological determinism, we can enrich the earth and diversify its manifestations by imposing human order on it and bringing out its hidden potentialities. We can manipulate the raw stuff of nature to shape it into environments which are ecologically sound, economically profitable, esthetically rewarding and favorable to the growth of the human spirit."

I share—as I hope you do—this reasoned statement of man's capacity to continue to live as man in responsible harmony with the world about him.

PROVIDING FOR THE REFUSAL OF NONIMMIGRANT VISAS

Mr. STONE. Mr. President, yesterday, December 17, 1975, I introduced S. 2803, a bill to amend the Immigration and Nationality Act to provide for the refusal of nonimmigrant visas in certain instances.

The text of my introductory statement appeared on page 41236 of yesterday's Record. I ask unanimous consent that the text of the bill be printed in the Record at this time.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 221 of the Immigration and Nationality Act (8 U.S.C. 1201) is amended by adding at the end thereof the following new subsection:

"(j) The Secretary of State shall determine on a yearly basis, which, if any, countries whose citizens otherwise qualify to receive nonimmigrant visas, discriminate in the issuance of nonimmigrant visas to United States citizens on the basis of race, color, religion, sex, or national origin. Upon a determination that a country so discriminates, the Secretary of State shall direct that no nonimmigrant visas be issued to citizens of such country other than to accredited diplomats, members of their immediate families, attendants, servants, and their personal employees. Any such determination shall be reviewed by the Secretary of State every six months to establish whether such discrimination continues. The President may, if he determines it to be in the national interest, direct that this subsection be waived in the case of individual applicants. Any such waiver shall be reported to the Congress within thirty days after such determination.".

LABOR RELATIONS FOR JOURNALISTS

Mr. HRUSKA. Mr. President, it is with pleasure that I join Senators Fannin, Thurmond, and Laxalt in cosponsoring S. 2712, a bill which would amend the National Labor Relations Act to provide for a freedom of choice in labor relations for journalists.

This bill, Mr. President, accords well with my own measure, S. 1178, the Fully Free Press Act of 1975.

Both proposals are designed to guarantee the first amendment rights of journalists, both in the print and electronic media.

S. 2712 would exempt persons employed as newspaper and magazine columnists or radio and television commentators and critics from the exclusive representation provisions of the National Labor Relations Act.

These provisions can be found in section 9(a) of the act, or section 159(a) of title 29, United States Code, which reads in relevant parts as follows:

> Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect of pay, wages, hours of employment, or other conditions of employment . . .

Mr. President, this matter has been before the courts. Commentator William F. Buckley, together with National Review, Inc., brought suit against the American Federation of Radio and Television Artists—AFL–CIO—challenging the constitutionality of the requirement that a journalist join and pay dues to the union and maintain membership in good standing or be denied his right to comment on public affairs.

Subsequently, the plaintiffs were joined by Commenator M. Stanton Evans and the liberal columnist, Nat Hentoff. Still later, the American Civil Liberties Union joined as amicus curiae.

The plaintiffs were successful in the Federal district court but were reversed in the Second Circuit Court of Appeals. The Suprmee Court denied a petition for a writ of certiorari.

Thus, Mr. President, the remedy must lie with the Congress. As Mr. Justice Douglas observed:

> When Congress authorizes an employer and union to enter into union shop agreements binding and enforceable over the dissents of a minority of employees or union members, it has cast the weight of the Federal Government behind the agreements just as surely as if it had imposed them by statute.

Clearly, Mr. President, the Congress never intended that this Government should license either the press or individual journalists. Yet that is precisely what the present situation amounts to.

Many segments of the press consider that journalism is under attack on a number of fronts. Pending before the Supreme Court is a Nebraska case involving the difficult issue of free press against fair trial. The Court, in its wisdom, will decide that case.

What S. 2712 seeks to do is to protect the rights of journalists to speak and feters of compulsory unionism. It has the support of many thoughtful columnists and commentators, as Senator Fannin demonstrated in his remarks in the Senate on November 20—Congressional Record, pages 37582 to 37585.

Finally, Mr. President, I ask unanimous consent to have printed in the Record an interview with Mr. William Buckley which appeared in the June 1971, edition of Nation's Business and which sets forth in greater detail the problems of enforced unionism on working journalists.

There being no objection, the interview was ordered to be printed in the Record, as follows:

[From Nation's Business, June 1971]

William F. Buckley, Jr., on Compulsory Unionism

William F. Buckley, Jr. is one of the most articulate voices of the conservative cause in America, championing individual responsibilities and rights.

He has a variety of outlets—a column that appears in over 300 newspapers; the magazine, *National Review,* which he founded; books; the lecture circuit and his television interview show, "Firing Line."

Many of his fans think Mr. Buckley is at his best on television, where his gestures and facial expressions underline his sharp wit and mastery of the English Language.

But he's appeared on his show since its beginning under a particularly rankling condition—that he belong to a labor union or be barred, in effect, from appearing on television.

Now, he is counterattacking.

Mr. Buckley has filed a federal court suit challenging the constitutionality of collective bargaining agreements that make him an involuntary member of the American Federation of Television and Radio Artists (AFTRA), an AFL–CIO union.

"A writ of indenture" is what he calls his compulsory unionism.

The National Right to Work Legal Defense Foundation is backing him in the suit, and he's invited other radio and television personalities to join him in the battle.

He discusses the court case, and his views on some other issues, in this interview with a Nation's Business editor.

Mr. Buckley, why have you brought this suit against compulsory unionism?

Well, the basic argument is an extremely simple one—that the right of free speech is especially singled out for protection by the First Amendment to the Constitution of the United States; that it is inconceivable that the Constitution, having forbidden to Congress the right to encumber one's freedom of speech, should permit Congress to pass a law which, in turn, allows somebody else to encumber freedom of speech.

We take the position that what Congress can't do, AFTRA can't. And therefore, if AFTRA interprets a law of Congress as enabling it to do just that, either it has misinterpreted the law or the law as passed was unconstitutional.

Were there other grounds in addition to the First Amendment rights?

Yes—the right of association, the right to pursue an occupation of your own choice, and deprivation of liberty and property without due process of law.

What is your opinion of compulsory unionism in general, in addition to that in radio and television?

I am opposed to it. I am opposed to all monopolies and oligopolies. I have written over the years, spoken over the years in opposition to compulsory anything where there is a practical alternative.

What was the genesis of your program, "Firing Line"? Why did you want to become host of a television talk show?

To ventilate the conservative point of view.

Did you think the talk shows then on the air went too far in the liberal direction?

I didn't think, I knew. I had been on all of them, and I saw them.

Your show went on the air in 1966. At what point did AFTRA arrive on the scene?

AFTRA arrived in the fall of 1964. The AFTRA people called up and told my secretary that I must join.

Why did they call that early?

I suppose they got word of the idea for the talk show. In 1964, Robert Kline, who is an independent producer, got a backer who agreed to finance a half-dozen trial balloons, using facilities at the New York World's Fair. We did three or four, after which the backer pulled out.

What happened?

He was terribly disappointed because his idea of a successful confrontation between me and Arthur Schlesinger Jr. was one that ended with Schlesinger throwing his arms in the air and saying, "I apologize for all of my sins."

Since it didn't work quite that way, the backer lost interest, and the show didn't go on the air. Kline went around to look for other backers and had it just about organized when I decided to run for mayor of New York. So the whole thing was put in abeyance for one year.

Was the AFTRA issue also put in abeyance?

No. AFTRA renewed its demands in the spring of '65 and told me I had to join.

But the show, at that point, had never appeared on the air?

No, but AFTRA had heard it was going to be launched. And, because I made guest appearances on other shows, I was told I must join AFTRA irrespective of whether the "Firing Line" series ever went on the air.

What was your reaction to that?

A negative one. I called up the greatest lawyer in the world. He said I had to join; i.e., that they had the raw power to keep me from broadcasting. So it was simply a matter of acquiescing or being read out of the medium.

What did the union promise to do in your behalf? What benefits were supposed to flow to you from your membership?

I didn't read all their stuff, but essentially what they said was that they would negotiate a basic rate and I would never get paid less.

That, as a matter of fact, was a solid contribution because I usually wasn't paid anything at all.

But I have always maintained that if I want to go on the air for nothing, I should be permitted to do so, and that if I want to get paid, I have a right to negotiate my own honorarium.

What initiation fee did you have to pay when you joined?

$200.

Is AFTRA engaged in activities that you object to?

Sure.

Does it support causes, for example, that you oppose?

I am not aware whether it suggests to its conscript membership that they ought to vote for this guy or vote for that guy or whether it gives some sort of subterranean help to this guy or that guy.

But it is very active, for instance, in pressing its demands. AFTRA called a strike two or three years ago which had us all listening to network vice presidents giving the news and the weather reports.

So AFTRA is not above using muscle in order to press demands, nor above disciplining those members who are less than fully compliant with instructions.

When AFTRA says, "Get on the picket line tomorrow," they mean: "Get on the picket line tomorrow." And when they say, "Don't cross it," they mean: "Don't cross it." And they are capable of inflicting draconian penalties on anybody who is disobedient.

You have referred to this form of compulsory unionism as "a writ of indenture." What do you mean by that?

I mean that the AFTRA people have a total hold over me which they are unilaterally in a position to use. Without consulting me, they can tell me what I can't do. They can tell me that the only alternative I have is simply to stop using facilities which some people think of as at least semipublic in nature.

At one point, you tried to resign from AFTRA. What was the outcome?

I sent representatives who told AFTRA I wanted to resign and asked would they permit me to do so. They said they would not.

So my colleagues asked, "Would you run him off the air if he did?" The answer was that if I withdrew from the union, AFTRA would instruct stations with which it has contracts—which is, for all intents and purposes, all stations—to stop broadcasting "Firing Line."

So the next step was the filing of the lawsuit last January. Did anything specific bring it to a head?

No. The timing was, to a considerable extent, a matter of backing. I had been in negotiation with various people over a period of two or three years on getting the backing to bring the suit. It was and is impossible to foretell exactly how much it is going to cost. And I was not in a mood to pledge my entire financial future, on which National Review depends, to the cost of this lawsuit.

So, I didn't want to go into it unless I knew that the backing would be forthcoming. That took a long time and a very careful examination of the constitutional issues involved in my case. And, when finally everything did check out, I don't think we delayed very much. The lawsuit was filed two or three months after we decided that everything was O.K.

You have invited other commentators, particularly liberals who have been outspoken in defense of First Amendment rights and other liberties, to join you in this suit. What type of response have you received from them?

Sluggish. Eric Sevareid of CBS reported on Jan. 21 that he had asked his lawyers to look into the documents of the case. He must have slower lawyers than I have because, so far as I am aware, they haven't yet advised him. At least, he hasn't said Yes and he hasn't said No.

We've had, however, very direct action from one or two people—Nat Hentoff, the liberal author and columnist for *The Village Voice,* for instance, and James Jackson Kilpatrick, who writes from the conservative viewpoint. Tom Wicker of *The New York Times* sent me $50 and authorized me to advertise the fact he had done so.

I think a lot of liberals are really vexed. On the one hand, they have the tradition of permitting labor unions to do anything they want to do—because of a sort of class identification between liberals and the labor movement. On the other hand, they are visibly upset by the lucidity of the reasoning in this lawsuit. And that is why there is torment.

The New York Times can't write about it coherently, so confused are they by it.

The American Civil Liberties Union, which has long held that there is no violation of constitutional rights in union shop arrangements, has said it would review its position in the light of your suit. Have you heard any more from the ACLU?

No, I haven't. But I know it is going to be an uphill fight to get its support.

My guess is that the executive director of the ACLU is favorably disposed to this case, but that he is going to face a lot of trouble from those old trade union types who put in a lot of money to keep ACLU alive. Never mind the Bill of Rights, they aren't going to want to see themselves identified with anything as scabbish as this.

Do you see a conflict here between the ACLU's basic avowed purpose of protecting individual rights and the coercion involved in compulsory unionism such as a union shop?

Yes, yes. The ACLU does a lot of foolish things and has often attempted to absolutize the provisions of the Bill of Rights. If you do that, it seems to me, you pretty well make them incoherent. But I don't think it requires the absolutization of the First Amendment to reach the conclusion that nobody ought to be required to belong to any organization in order to appear on television or radio and say whether he is for or against the Common Market.

What sort of public responses have you had to your suit?

I am just back from a lecture trip and I went nowhere on 10 college campuses where the subject wasn't raised.

There is an extraordinary knowledge of the lawsuit all over the country and a tremendous amount of curiosity about it. The students are fascinated by it.

They think it is perfectly O.K. to take a position contrary to the labor union. This doesn't make you a scab or a fascist, or anything of the sort, in their minds. It may very well be that that is because the younger generation is less identified with the labor unions as a matter of class solidarity.

What other impressions did you glean on your trip about the mood of students, after the upheavals of the past two or three years?

I have a feeling that students are less sold than they were a year ago on the utility of demonstrations. They know that the Viet Nam war is winding down, and they know that they didn't have a hell of a lot to do with it—it was winding down anyway.

Also, I think there probably is a certain sense of embarrassment over the lengths they went to in protesting the Cambodia incursion, which turned out to be a rather conventional military operation. All their apocalyptic talk in May of last year now sort of drifts around like fugitive mines after the war's end. And there are those of us mean enough to remind them of those mines.

It doesn't mean that students are now all integrated with the Administration. They don't like Nixon, they don't like Reagan, they don't like the Establishment, as I understand it. But I think they are less disposed than they were to sort of move around licentiously and figure they can ring in a new order.

As a television personality yourself, how do you react when the Vice President and others question the objectivity of some of the news media, particularly network television?

I think it is the greatest redundancy in the history of our time. It has been obvious to me for a great many years that the networks tend to be biased. It is more interesting to observe the reactions than the charge.

In what way are the networks biased?

Liberal; a left-liberal position.

If you could implement just one change in the way that television news and commentary is given, what would it be?

I would encourage a conscious search for intelligent and well-informed people who don't go along with the *Zeitgeist,* who would be on the air on a fairly regular basis.

For instance, Howard K. Smith—who dissented from the general opposition to Viet Nam—made an enormous difference in just the fact that he was there occasionally to say a few things on ABC.

I wish there were somebody like that to put other issues into focus on all the networks.

MODEL INMATE EMPLOYMENT PROJECT

Mr. EAGLETON. Mr. President, the difficulties jail inmates face in finding meaningful employment upon release cuts to the very core of our Nation's crime problem. Recidivism keeps both the crime rate and the cost of incarceration climbing—and the chance for safer streets plummeting.

The Chamber of Commerce of Greater Kansas City was the first chamber in the United States to commit itself to encouraging businesses and industries to provide equal employment opportunities for ex-offenders. Together with Jackson County, Mo., and a trial project funded by the Law Enforcement Assistance Administration, LEAA, called the Model Inmate Employment project, MIEP, significant progress is being experienced in breaking the cycle of repeat offenders in Kansas City.

According to a Kansas City Star editorial of July 15, 1974—

> Of the 50 or so prisoners in the employment project program since it started last March, four or five have been arrested. But that is much better than the record that can be expected from ordinary jail releases.

This approach of reducing crime by finding jobs for ex-offenders is nothing new. What is unique about MIEP is that it is keyed to careful selection and preparation of inmates. Counseling, testing, and training are combined to help inmates find a job commensurate with his or her skills and capacities.

Although it has been estimated that over 3 million inmates pass through county jails yearly, they are rarely exposed to correctional reform efforts. A recent study of the Jackson County jail population showed that most were under 25 years of age, unemployed or working at a job beneath their potential, and had been in jail twice before on charges of nonviolent crimes. Clearly the best chance for halting this type of inmate pattern is while the inmate is young and before he has committed an offense that will result in a prison term.

MIEP, which also operates in two other counties in the Nation on a pilot basis, has a national advisory board comprised of representatives from the National Association of Counties, American Bar Association, National Jail Association, National Alliance of Businessmen, U.S. Jaycees, and the U.S. Chamber of Commerce.

The program operates in three phases: preemployment training, job development/placement, and followup after release. As the project was designed to be replicated elsewhere and, since county jail budgets are traditionally meager, project costs were kept low. Each of the three national sites, including Jackson County, was provided three staff members—a project manager and two assistants. Community agencies and other resources are fully utilized, negating duplication of efforts and correspondingly increased costs.

MIEP operates directly out of the county correctional facility. Services are provided to sentenced inmates 30 to 90 days before release, parole, or work release.

Before entering the first phase of MIEP, an inmate is screened and tested for job aptitude and interest. He is then enrolled in preemployment training. This aspect of the program is designed to prepare inmate clients for reentry into society. A 4-week segment of classes on various topics is provided, with subjects that include money management, banking, personal identity, family planning, housing, health care, community services, personal appearance, law, criminal justice processes, job interview techniques, filling out job applications, industrial safety practices, employer loyalty, promptness, and how to get along with fellow employees.

These classes are conducted by individuals from the community who have expertise in each respective area, and volunteer their time on a monthly basis to the program.

Following testing and prerelease preparation, a client is placed in a job matched to his employment interest. First-year statistics show that the average salary earned by project clients in the three pilot areas to be $3.11 per hour plus fringe benefits. Retention on this first job was over 60 percent. Because of the professional job development and career counseling provided, an inmate client stands a much greater chance of obtaining employment with an opportunity for advancement. These same efforts are, no doubt, responsible also for the 4-percent recidivism rate of project clients.

Followup is provided to clients after release for 90 days to 6 months. However, this time may be extended, depending on individual needs. Employers see this as another positive aspect of MIEP, whereby a client-employee will be given assistance in the community until he is able to "make it" on his own. Many other project clients are provided assistance in areas of education, job training, legal assistance, medical services, family counseling, transportation, tools, and other services.

Statistics for the first year of the Jackson County project, ending in December 1974, show that over 100 clients were placed at a starting salary of over $3 per hour plus fringe benefits. Retention on the job was over 70 percent and recidivism was under 4 percent.

In both economic and human terms the price of incarcerating people is high. Now MIEP is proving that "correction" can have a meaning to both the county inmate and the business community.

Mr. President, I want to commend the Greater Kansas City Chamber of Commerce, Jackson County, and the LEAA for their innovative efforts.

EASING THE HATCH ACT AND PROMOTION POLITICS

Mr. FONG. Mr. President, I wish to call special attention to a column by Joseph Young which appeared in the Washington Star yesterday under the heading "Easing the Hatch Act and Promotion Politics."

Rarely has a knowledgeable writer on this subject described so effectively what is so dangerously wrong with overhauling the Hatch Act, the law which prohibits involvement by Federal workers in partisan political activities.

The veteran columnist, who has covered the "Government beat" for more than 25 years, makes a most persuasive case against H.R. 8617, the bill now before the Senate.

He points to the disastrous consequences for the 2.8 million Federal civil service and postal employees should the bill become law.

To those who argue that politics already exists in the Federal career service and consequently overhauling the Hatch Act will not change anything, Young replies:

> We agree that sometimes there are political factors involved in appointments and promotions in Federal career jobs. And there always will be, to some degree, whether the Hatch Act is overhauled or not.
>
> But our point is that if the Hatch Act is gutted, then the political impact on the career service will be multiplied a thousand-fold.
>
> The irregularities that exist today and which existed during the Watergate era, will be like child's play compared to what it would be if government employees are given the green light to become political partisans and engage freely in all forms of political activity.

Young warns further, if H.R. 8617 becomes law:

> And those careerists who chose to play the political game would suffer the consequences when a new political administration came into power. Those who lived by the sword would die by the sword.

I ask unanimous consent to have Joseph Young's column of December 16 printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EASING THE HATCH ACT AND PROMOTION POLICIES

(By Joseph Young)

During the Nixon administration a Treasury career employe was highly recommended by his boss for promotion to a key career job in the department.

When the boss made the recommendation to the division chief, that worthy asked, "Is he a Republican?"

The employe's boss was nonplussed. "I don't know," he confessed. "I didn't think it made any difference."

"Well, it does to us," said the chief. "Let's find out."

"How can you, short of asking him point-blank?" asked the boss.

"Easy," said the chief. "Let me show you how."

Whereupon, he asked for the career employe's home phone number. When he got it, he dialed the number and the employe's wife answered the phone.

"This is the Committee to Re-Elect the President," the chief lied smoothly. "Would you like to contribute some money to re-elect President Nixon?"

"Nixon!" exclaimed the wife. "That dirty so-and-so. I wouldn't give him a plugged nickel!" she added, slamming down the receiver.

Turning to the employe's boss, the chief said, "Well, there's your answer. Your employee is definitely not a Republican."

P.S. The employee did not get the promotion.

Why do we relate this true story now?

Well, we feel it is very timely, what with Congress ready to revise the Hatch Act in order to give federal and postal employes the right to engage freely in partisan politics. The House already has approved the bill and the Senate is due to act on it next month.

Proponents of the bill no doubt can use our story to bolster their argument that politics already exists in the federal career service and consequently overhaul of the Hatch Act won't change anything.

We agree that sometimes there are political factors involved in appointments and promotions in federal career jobs. And there always will be, to some degree, whether the Hatch Act is overhauled or not.

But our point is that if the Hatch Act is gutted, then the political impact on the career service will be muliplied a thousandfold.

The irregularities that exist today and which existed during the Watergate era will be like child's play compared to what it would be if government employes are given the green light to become political partisans and engage freely in all forms of political activity.

We respect the views of those who contend that government employes should not be treated as second-class citizens when it comes to participating in the political affairs of their country.

But it seems to us that the alternative is very much worse. The political climate and atmosphere that would permeate government would make the term "career service" a gross misnomer. Politics rather than merit would be the byword in determining government careers.

And those careerists who chose to play the political game would suffer the consequences when a new political administration came into power. Those who lived by the sword would die by the sword.

CHILD AND FAMILY SERVICES ACT OF 1975—S. 626

Mr. KENNEDY. Mr. President, legislation on the Child and Family Services Act pending before the Congress is designed to establish fundamental policy for the effective delivery of needed services to our Nation's children and to their parents. As a member of the Senate Subcommittee on Children and Youth, I know that experts in the field of child and family services believe this legislation is properly designed to support and strengthen families. Representatives of social service agencies, church groups, and others who are deeply committed to the interests of our Nation's families have strongly supported the provisions of this important legislation.

Yet, there have been substantial charges aimed at the bill that I cosponsored along with 28 other Senators. And I share the concern of Senator Walter Mondale, the author of this bill, in the need to provide an adequate response to the charges and allegations that in no way address the real intent or purpose of the provisions included in the legislation.

Since 1971, when I joined with other Senators to cosponsor similar legislation, I have been deeply concerned about the need to enact legislation for a program that promises to address the serious demand to offer access to health, education, and child care services that many families want for their children but often cannot afford.

Prenatal health care and early medical screening and treatment to detect and remedy handicapping conditions, and day care services for children of working mothers, are the most essential services authorized in this bill. I fully believe that our Nation's needy families deserve to receive the attention and care that this legislation is prepared to offer.

For that reason, I ask unanimous consent to have printed in the Record a copy of a memorandum that addresses the familiar, but erroneous charges against the bill. And I am also including a section-by-section analysis of S. 626, the Child and Family Services Act of 1975.

There being no objection, the material was ordered to be printed in the Record, as follows:

Memorandum: Attacks on Child and Family Services Bill

1. Unsigned Flyers entitled: "Raising Children—Government's or Parents Right?

ATTACK

"There is before Congress legislation known as the Child and Family Services Act of 1975 (Senate: S. 626 and House: H.R. 2966). If passed it would take the responsibility of the parents to raise their children and give it to the Government."

FACT

This bill would in no way take the responsibility for child rearing away from parents. All programs authorized in the bill (S. 626 and H.R. 2966, Section 2(a)(2)) "must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents or guardians request such services." In addition, any practice which would "infringe or usurp the moral and legal responsibilites of parents or guardians" is specifically prohibited (Section 504(a)).

ATTACK

"Child Advocacy Clause. In the Congressional Record we read: 'If, in the judgment of those who are in charge of such a program (the State by way of the Secretary of Health, Education and Welfare), parents are not doing a good job, the advocate (a "specialist" appointed by the government) would enter the home and direct the education, even within the home. And, if the parent would object, the authority in the home would, DeFacto, be transferred to these advocated (sic).' "

FACT

While this material may have appeared in the Congressional Record (although an exhaustive Record search has failed to discover it), it is categorically false to contend that: (a) such language appears in S. 626 or H.R. 2966; (b) such beliefs are held or advocated by any of the sponsors of S. 626 or H.R. 2966; or (c) that any "child Advocacy clause" of any kind appears in the bill (See "Special Note on the Congressional Record" below).

ATTACK

"Charter of Children's Rights of the National Council of Civil Liberties is becoming a part of this Child Development Act."

The flyers go on to list the following items in this charter, alleging that they can "be found on page 44138 of the Congressional Record":

"(1) All Children have the right of protection from, and compensation for the consequences of any inadequacies in their homes and backgrounds. (Note: In other words, never punish your child because he may come back to you with a civil suit.)"

"(2) Children have the right to protection from any excessive claims made on them by their parents or authority. The question was asked, by way of example, what do you mean by the fact 'Excessive claim', and the example was given. If the mother or father asked the child to take the garbage out and the child doesn't want to the parents have no right to insist on it.' "

"(3) Children have the right to freedom from religious or political indoctrination. That means that you have no right to insist on taking them to church, if they do not wish to go. That also means they have the freedom to insist that they be taught nothing, or any ideas, about God."

"(4) Children shall have the freedom to make complaints about teachers, parents and others without fear of reprisals. This speaks for itself."

FACT

No such language or "charter" has ever been proposed, included or even considered for the Child and Family Services Act or any related piece of legislation. This "charter" initially surfaced during Senate debate on December 2, 1971 on the Conference Report on the Office of Economic Opportunity Act which included child care provisions. Senator Carl T. Curtis (R-Nebraska), an opponent of this measure, said, "In England, child development advocates have gone so far as to draft a charter of children's rights." Curtis continued by reading from something he called the Charter of Children's Rights" of "the British Advisory Center of Education and the National Council for Civil Liberties." Thus, these so-called "rights", never included in this legislation, and were never advocated by sponsors of this legislation. In fact, the "Council" cited is not even an American organization. (See "Special Note on the Congressional Record" below).

S. 626 and H.R. 2966 specifically state in Section 504(a) that "Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

ATTACK

"Can the Government Take Away Your Children? Comprehensive child development, the Soviet-style system of communal child rearing which almost became law in this country in 1971 is once again being pushed through Congress. The current bills H.R. 2966 (House of Representatives) S. 626 (Senate), are virtually identical to the original act passed in 1971, but fortunately vetoed by the then president, Nixon. Now it is known as the Child and Family Services Act of 1975 and any changes are merely cosmetic."

"In vetoing the original bill which would have removed children from their parent's instruction shortly after birth, Mr. Nixon said that it would weaken the American family by committing 'vast moral authority of the national government to the side of communal approaches to child rearing over against the family oriented approach.' "

"We are in serious danger of 'Sovietizing' the education of our children if we let the Child and Family Services Act of 1975 pass. Those who support this Act in the Congress are convinced that it will 'Sail through the House.' "

FACT

This charge is of course, absurd and irresponsible. The sponsors of the bill have carefully drafted it to protect the rights of parents and their children:

First, participation in the program is completely voluntary. Children cannot participate without the specific request of a parent or legal guardian (Section 2(a)(2) and Section 106(b)(1))

Second, the bill prohibits any practice which would "infringe upon or usurp the moral and legal rights and resposibilities of parents or guardians." (Section 504(a))

Third, a child cannot be tested unless the parent or guardian is informed and given the opportunity to exempt the child from testing. (Section 504(a))

Fourth, unlike the public school program, the child and family services programs are totally voluntary.

ATTACK

"According to the Congressional Record, the intent of the bill is for the government to be responsible . . . for the nutritional interests of your child, for all psychological interests of your child."

FACT

This statement is totally inaccurate and irrelevant to the legislation.

The intent of the bill is (Section 2(b)) "to provide a variety of quality child and family services in order to assist parents who request such services, with priority to those preschool children and families with the greatest need, in a manner designed to strengthen family life and to insure decision-making at the community level, with direct participation of the parents of the children served and other individuals and organizations in the community interested in child and family service (making the best possible use of public and private resources), through a partnership of parents, State and local government, and the Federal Government, building upon the experience and success of Headstart and other existing programs." (See "Special Note on the Congressional Record" below).

In fact, the bill specifically prohibits any medical or psychological examination or treatment unless a child's parent or guardian provides written permission (Section 504 (c)).

ATTACK

"The following excerpts are taken from the Congressional Record: 'What is at issue is whether the parent shall continue to have the right to form the character of the children or whether the state, with all its power and magnitude, shall be given the decisive tools and technique for forming the young lives of the children of this country.' "

" 'As a matter of child's rights, the government shall exert control over the family because we have recognized that the child is not the care of the parents, but the care of the state (sic). We recognize further that not parental, but communal forms of upbringing have an unquestionable superiority over all other forms. Furthermore, there is serious question that maybe we cannot trust the family to prepare young children in this country for this new kind of world which is emerging.' "

"This all smells of Communism. This is what in fact has been and is being done in Soviet Russia. This is what can become the law of our land, if the Child and Family Service Act of 1975 is passed by the Congress. We elected this Congress, but do we know what they are attempting to do to our freedoms and our rights?"

FACT

These citations, if they did in fact appear in the Congressional Record, are diametrically opposed to the purpose and intent of the bill.

First, the programs are completely voluntary. (Section 2(a)(2) and Section 106(b)(1))

Second, the precisely stated purpose of the legislation is to "strengthen family life," not weaken it. (Section 2(b))

Third, the program is to be operated locally, not by the national government. (Section 104)

Fourth, the bill contains specific prohibitions against any practice infringing on the rights and responsibilities of parents. Section 504(a))

(See "Special Note on the Congressional Record" below).

SPECIAL NOTE ON THE CONGRESSIONAL RECORD

Throughout this leaflet, the "Congressional Record" is cited. The Congressional Record has the ring of an official pronouncement to it. But, anyone who has ever even glanced at the Record knows that it contains not only the debates in the House of Representatives and Senate but also speeches and material simply "inserted" into the Record. Any Member of Congress has the right to insert material in the Record, and therefore, the assertion that a statement is "according to the Congressional Record" is meaningless since the Record itself makes no statement of policy. Policy statements are made by the Members of Congress quoted in the Record.

This flyer provides a good example of the abuse of the citation of the Congressional Record. Senator Curtis of Nebraska included as part of his remarks on a bill considered by Congress in 1971 some material which he attributed to an organization in a foreign country. By misleading citation, the flyer implies that this material appeared in the Congressional Record this year and that it represents the contents of the bill. The bill's sponsors had never before seen this material.

CHILD AND FAMILY SERVICES ACT

(By the U.S. Senate Subcommittee on Children and Youth)

NEEDS

The infant mortality rate in the United States is higher than that of 13 other nations.

Each year an estimated 200,000 children are struck by handicaps which could have been prevented if their mothers had received early health care.

Forty percent of the young children of this country are not fully immunized against childhood diseases.

Sixty-five percent of all handicapped preschool children are not receiving special services.

There are only one million spaces in licensed day care homes and centers to serve the six million preschool children whose mothers are working.

PROPOSED SERVICES

The bill authorizes funding for local communities and parent organizations to choose among a wide variety of child and family services, including: prenatal health care; medical treatment to detect and remedy handicaps; nutrition assistance; and day care services for children of working mothers. The bill does *not* provide for compulsory preschool education.

PARENT CONTROL

Participation in all programs is totally voluntary, and limited to children whose parents request services.

All programs would be selected, established and controlled by parents whose children participate.

FAMILY STRENGTHENING

The bill states that "the family is the primary and most fundamental influence on children" and that "child and family service programs must build upon and strengthen the role of the family".

The bill has been specifically endorsed as family strengthening by a wide range of civic and religious organizations including the Catholic Church, the Baptist Church, the United Methodist Church and the Lutheran Church.

CHILD AND FAMILY SERVICES ACT OF 1975, S. 626

SECTION-BY-SECTION ANALYSIS

Section 1

Section 2

Statement of Findings and Purpose.—Finds that "the family is the primary and most fundamental influence on children; that child and family services must build upon and strengthen the role of the family and must be provided on a voluntary basis only to children whose parents request them" with priority for preschool children with the greatest economic and human need; that there is a lack of adequate child and family services; and that there is a necessity for planning and operation of programs as partnership of parents, community, state and local governments, with appropriate federal supportive assistance.

Purpose is to "provide a variety of quality child and family services in order to assist parents who request such services, with priority to those preschool children and families with the greatest economic or human needs, in a manner designed to strengthen family life and to insure decision-making at the community level" and provide decision-making with direct parent participation through a partnership of parents, State, local and Federal government.

Section 3

Authorization of Appropriations.—Authorizes $150 million for fiscal 1976 and $200 million for FY 1977 for training, planning, and technical assistance and $500 million in FY 1977 and $1 billion in FY 1978 for program operation. Headstart would be funded under separate authority, and its funding protected by a requirement that no operational funds could be appropriated for this new program unless and until Headstart is funded at the level it received in FY 1975 or FY 1976, whichever is higher.

Forward funding is authorized.

TITLE I—CHILD AND FAMILY SERVICES PROGRAMS

Section 101

Establishes Office of Child and Family Services in HEW to assume the responsibilities of the Office of Child Development and serve as principal agency for administration of this Act; and Child and Family Services Coordinating Council with representatives from various federal agencies to assure coordination of federal programs in the field.

Section 102

Financial Assistance.—Define purposes for which federal funds can be used: (1) planning and developing programs, (2) establishing, maintaining, and operating programs, including part-day or full-day child care in the home, in group homes, or in other child care facilities; other specially designed programs such as after-school programs; family services, including in-home and in-school services; information and referral services to aid families in selecting child and family services; prenatal care; programs to meet special needs of minorities, Indians, migrants and bilingual children; food and nutrition services; diagnosis of handicaps or barriers to full participation in child and family services programs; special services for handicapped children within regular programs; programs to extend child and family service gains, including parent participation, into the elementary schools; (3) rental, renovation, acquisition, or construction of facilities, including mobile facilities; (4) preservice and inservice training; (5) staff and administrative expenses of councils and committees required by the Act; and (6) dissemination of information to families.

Section 103

Allocation of Funds.—Reserves funds proportionately for migrant and Indian children, not less than 10% for services to handicapped children, and not less than 5% for monitoring and enforcement of standards.

Allocates the remainder among the states and within the states, 50% according to relative number of economically disadvantaged children, 25% according to relative number of children through age five, and 25% according to relative number of children of working mothers and single parents.

Allows use of up to 5% of a state's allocation for special state programs under Section 108.

Section 104

Prime Sponsors.—States, localities, combinations of localities or public and nonprofit organizations are eligible to serve as prime sponsors.

The bills current provisions establish performance criteria for prime sponsor; demonstrated interest in and capability of running comprehensive programs, including coordination of all services for children within the prime sponsorship area; assurances of non-federal share; establishment of a Child and Family Service Council (CFSC) to administer and coordinate programs.

Public or private nonprofit organizations can serve as prime sponsors with priority on governmental units. Any locality or combination of localities which submits an application meeting the performance criteria may be designated prime sponsor if the Secretary determines it has the capacity to carry out comprehensive and effective programs. The state may be designated prime sponsor for all areas where local prime sponsors do not apply or cannot meet the performance criteria, provided that the state meets the performance criteria and divides its area of jurisdiction into local service areas with local child and family services councils which approve the relevant portions of the state's plan and contracts for operation of programs within the local service areas.

The Secretary may fund directly an Indian tribe to carry out programs on a reservation. He may also fund public or private nonprofit agencies to operate migrant programs, model programs, or programs where no prime sponsor has been designated or where a designated prime sponsor is not meeting certain needs.

Directs the Secretary to designate an alternative to any prime sponsor discriminating against minority group children or economically disadvantaged children.

Provides opportunity for Governor to comment on prime sponsorship applications and provides appeal procedure for applicants who are disapproved.

The sponsors want to particularly emphasize that as the bill is considered they intend to invite the testimony of representatives of Federal, State, and local government, as well as other experts, with respect to the best allocation of responsibility among various levels of government which will insure parental involvement, local diversity to meet local needs and appropriate State involvement to assure coordination and maximum utilization of available resources.

Section 105

Child and Family Service Councils.—Sets forth composition, method of selection, and functions of councils. Half of members must be parents, selected by parents of children served by programs under the Act. The remaining members appointed by the prime sponsor in consultation with parent members, to be broadly representative of the general public, including representatives of private agencies in the prime sponsorship area operating programs of child and family services and at least one specialist in child and family services. At least one-third of the total council to be economically disadvantaged.

A State prime sponsor must establish councils at the state level and for each local service area. Parent members of the state council to be selected by parent members of local councils.

Council approves goals, policies, action and procedures of prime sponsors, including planning, personnel, budgeting, funding of projects, and monitoring and evaluation.

Section 106

Child and Family Service Plans.—Requires that prime sponsor submit plan before receiving funds. Plan must "provide that programs or services under this title shall be provided only for children whose parents request them"; Identify needs and purposes for which funds will be used; give priority to children who have not reached six years of age; reserve 65 percent of the funds for economically disadvantaged children, and priority thereafter to children of single parents and working mothers; provide free services for children of families below the Bureau of Labor Statistics lower living standards budget and establish a sliding fee schedule based on ability to pay for families above that income level; include to the extent feasible, children from a range of socioeconomic backgrounds; meet the special needs of minority group, migrant, and bilingual children; provide for direct parent participation in programs, including employment of parents and others from the community with opportunity for career advancement; establish procedures for approval of project applications with priority consideration for ongoing programs and applications submitted by public and private non-profit organizations; provide for coordination with other prime sponsors and with other child care and related programs in the area; provide for monitoring and evaluation to assure programs meet federal standards; where possible, supplement funds provided by this Act with assistance from other sources.

Requires that the Governor, all local education agencies, Headstart and community action agencies have the opportunity to comment on the plan.

Establishes appeal procedures if plans are disapproved.

Section 107

Project Applications.—Provides for grants from prime sponsor to public or private organizations to carry out programs under the prime sponsor plan pursuant to a project application approved by the CSFC.

The project applicant must establish a parent policy committee (PPC), composed of at least 10 members with 50% parents of children served by the project, at least one child care specialist, and other representatives of the community approved by the parent members. The PPC must participate in the development of project applications and must approve basic goals, policies, action and procedures of the applicant, including personnel, budgeting, location of center, and evaluation of projects.

The application must: provide for training and administrative expenses of the PPC; guarantee free services for economically disadvantaged children with fees according to the fee schedule for other children; assure direct participation of parents and other family members, including employment opportunities; provide for dissemination of information on the project to parents and the community; and provide opportunities for the participation of children, regardless of participation in nonpublic school programs.

Section 108

Special Grants to States.—Authorizes special grants to the states on approval of Secretary, to establish a child and family services information program to assess goals and needs in state; to coordinate all state child care and related services; to develop and enforce state licensing codes for child care facilities; and to assist public and private agencies in acquiring or improving such facilities. A state must establish a Child and Family Services Council to receive a special grant.

Section 109

Additional Conditions for Programs Including Construction or Acquisition.—Allows federal funding for construction or acquisition only where no alternatives are practicable, and provides federal funding for alteration, remodeling, and renovation. Provides that no more than 15% of a prime sponsor's funds may be used for construction; that no more than half of that may be in the form of grants rather than loans, limited to public and private non-profit agencies, organizations, and institutions.

Section 110

Use of Public Facilities for Child and Family Service Programs.—Requires that federal government and prime sponsors make available for child and family service programs facilities they own or lease, when they are not fully utilized for their usual purposes.

Section 111

Payments.—Provides 100% federal share for planning in FY 1976, 90% federal share for fiscal 1977 and 1978, 80% for subsequent fiscal years. Provides 100% federal share for programs for migrants and Indians, and allows waiver of part of all of non-federal share where necessary to meet needs of economically disadvantaged children.

Non-federal share may be in cash or in kind. Revenues generated by fees may not be used as non-federal share but must be used by prime sponsor to expand programs.

TITLE II—STANDARDS, ENFORCEMENT, AND EVALUATION

Section 201

Federal Standards for Child Care.—Authorizes a national committee on federal standards, with one-half parent participation, to establish standards for all child care services programs funded by this or any other federal act. The 1968 Interagency Day Care Requirements would continue to apply until such standards must be consistent with the 1968 Requirements.

The Secretary must submit the proposed standards for approval to the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor. No prime sponsor or project applicant is allowed to reduce services below these standards.

Section 202

Development of Uniform Code for Facilities.—Requires a committee to develop a uniform minimum code dealing with health and safety of children and applicable to all facilities funded by this Act.

Section 203

Program Monitoring and Enforcement.—Requires the Secretary through The Office of Child and Family Services, to establish an adequately trained staff to periodically monitor programs to assure compliance with the child care standards and other requirements of the Act.

Section 204

Withholding of Grants.—Provides procedure for withholding of funds to programs which have failed to comply with standards or requirements of the Act.

Section 205

Criteria With Respect to Fee Schedule.—Requires Secretary to establish criteria for adoption of the schedule based on family size and ability to pay with considerations for regional differences of the cost of living. The criteria must be submitted for approval by the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor.

Section 206

Evaluation.—Requires the Secretary to make annual evaluations and report to Congress on federal child family services activities.

TITLE III—RESEARCH AND DEMONSTRATIONS

Section 301

Research and Demonstration.—Authorizes child and family services research and requires that the Office of Child and Family Services coordinate research by federal agencies.

TITLE IV—TRAINING OF PERSONNEL FOR CHILD AND FAMILY SERVICES

Section 401

Preservice and Inservice Training.—Provides for training of personnel, including volunteers, employed in programs assisted under this Act.

Section 402

Technical Assistance and Planning.—Provides technical assistance to child and family services programs.

TITLE V—GENERAL PROVISIONS

Section 501

Definitions.—Defines terms used in the Act.

Section 502

Nutrition Services.—Requires that procedures be established to assure adequate nutrition services in programs under the Act, including use of Section 13 (special food service programs) of the School Lunch Act and the Child Nutrition Act.

Section 503

Special Provisions.—Anti-discrimination provisions, including separate provisions on sex discrimination. Requires that programs meet the minimum wage. Prohibits use of funds for constructing, operating, or maintaining facilities for sectarian instruction of religious workshop.

Section 504

Special Prohibitions and Protections.—States that "Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

Section 505

Public Information.—Requires that all applications, plans, and written material pertaining thereto be made available to the public without charge.

Section 506

Repeal or Amendment of Existing Authority and Coordination.

Section 507

Acceptance of Funds.

ANGOLA

Mr. THURMOND. Mr. President, today the Senate will continue to debate the question of Angola. In my opinion, this is a serious situation with implications which reach far beyond Angola. In my opinion, the Soviet interference in Angola questions their commitment to détente.

Mr. President, Mr. Rowland Evans and Mr. Robert Novak have written an excellent column pointing out the dangers of Congress tying the President's hands in this situation. I ask unanimous consent that an article by Mr. Evans and Mr. Novak entitled ". . . . And the U.S. Response" which appeared in the December 18, 1975, issue of the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

. . . AND THE U.S. RESPONSE

Behind the Congressional rush to tie the Ford Administration's hands on Angola lies a more ominous problem now hotly debated at highest levels: how can the United States compete against the political offensive of its rival superpower, the Soviet Union?

That political offensive is certainly not centered on rich, strategically placed Angola. The newly independent state on Africa's west coast is only one example of Moscow's offensive. The Kremlin's battle plan includes rising pressures on Yugoslavia, more complete economic domination of Eastern Europe and political-economic forays almost everywhere the world map reaches.

Angola, in the view of high administration officials, exactly defines the agonizing problem of how the U.S. should respond. As such, it reflects a superpower in decline, still recovering from the Indochina debacle and unable even to approach the speed and unity of its reaction to Soviet pressure after World War II.

The stampede to isolationism by anti-administration Democrats such as Sen. Birch Bayh of Indiana, a leading Presidential candidate, seems politically expedient, compounded by dangerous ignorance.

In a Nov. 28 statement, Bayh equated U.S. "involvement in the brutal civil war in Angola" with "intervention" of the Soviet Union, Cuba, Communist China and South Africa. He also equated small (up to $50 million) U.S. aid for anti-Soviet political movements with incomparably larger U.S. involvement in the earliest stages of the Vietnam war.

In fact, the Soviets for years have financed the popular movement for the liberation of Angola (MPLA) in the absence of any U.S. involvement at all with any other Angolan faction. Washington's policy had been to support the Portuguese, whose original plan for slower Angolan independence was wrecked by the 1974 revolution in Portugal.

The Congressional rampage against President Ford's comparatively modest efforts to slow the MPLA's rise to total political power carries ominous implications for the whole world, not just the "third" or uncommitted world. It symbolizes U.S. inability to respond to Soviet challenges because of the ravages of Vietnam and ten years of internal political upheaval.

Actually, it is extraordinarily difficult to prescribe the correct U.S. reaction to the Soviet challenge in Angola, including its portentous decision to use 3,000 Cuban troops and technicians. That helps explain the decision of Nathaniel Davis, now Ambassador-designate to Switzerland, to resign as Assistant Secretary of State for African Affairs.

Davis objected to Secretary of State Henry Kissinger's decision to send clandestine aid through CIA channels to neighboring Zaire for use in the Civil War against the Soviet-backed MPLA. He reasoned that the Soviets were too far ahead in Angola for any other political faction to win, particularly with Peking withdrawing once Angola achieved independence.

Many U.S. officials agreed with Davis. But Kissinger and the President agonized over the world political impact of the U.S. appearing impotent to challenge Soviet penetration of one of Africa's most strategically important countries. He opted for U.S. aid, not really hoping it would change the course of the Civil War but seeking to enhance the non-communist bargaining position for a political solution.

Such subtleties are entirely lost on Sen. Bayh. He and other Democratic presidential hopefuls appear intent on cashing in on the tragic legacy of Vietnam. They show no interest in a U.S. policy to reassure a world fearful that the U.S. is fading as a super power, leaving the field to the Soviet Union.

Precisely such fears strain the Washington-Peking connection. The Communist government of China, led by power-conscious realists, is far more worried than are the Birch Bayhs of American politics about signs of U.S. decline. So, too, are realistic Communist bosses in Yugoslavia, wary of rising Soviet pressures in anticipation of aging Marshal Tito's death; Tito has ordered a massive education program to remind all party cadres of heavy post-war Soviet pressure against Yugoslavia.

Simultaneously, Moscow is tightening its hold over Eastern Europe. According to Communist sources, the Soviets feel more freedom today than before Vietnam to demand economic concessions from Eastern Europe.

In response, the U.S. has devised no sure way to slow the Soviet global offensive or make credible efforts toward slowing it. Détente was enshrined in the theory that Moscow, like Washington, genuinely desires a mutual respite from costly and frequently bloody competition. Angola suggests Moscow has different fish to fry, a frightening fact that Birch Bayh may soon have to deal with.

SPENDING THE TAXPAYERS' DOLLARS WISELY

Mr. STEVENSON. Mr. President, the distinguished chairman of the Senate Budget Committee, Senator MUSKIE, made an important speech to the Council on National Priorities and Resources which I call to the attention of my colleagues. In his remarks, Senator MUSKIE rightly reminds us that efficient, well managed, cost effective, equitable, and responsive government must be recognized as an essential national priority. Throwing more money after pressing social problems is not the answer. Spending our moneys more wisely is. Senator MUSKIE suggests that Congress subject all Federal programs to continuous review to determine how effectively we are spending the taxpayers' dollars. The Budget Reform Act is rightly seen as only the first step in Congress exercising its historic duty to control the pursestrings of Government.

Mr. President, I ask unanimous consent that Senator MUSKIE's speech be printed in the RECORD, and I urge all my colleagues to read and heed his words.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

After this first year, there is little doubt that congressional budget reform is a giant step forward.

We've established the precedent that Congress will see overall spending and revenue targets.

We've established that these targets mean something. Time and again on the floor of the Senate, we've demonstrated that forcefully.

And we've established the resources and process needed to bring Federal spending more into line with public spending priorities.

Obviously, we're still learning and refining the budget process. We don't start playing hardball until next year. But we can take a great deal of satisfaction in the success already accomplished.

In the conference program, I was asked to speak on the "Five Year Action Agenda" for the budget committees.

That's a tall order.

And the best way to fill it is to outline briefly the major initiatives already begun:

We're continuing to pursue forcefully a spending program that meets our number one need—jobs. We're not going to be stampeded by the Presidential spending cut proposal that would meat-axe both effective and ineffective programs alike.

Next, we're using the process to determine where the Federal dollar is being spent—by function, rather than agency. This is the only way to see the total picture of Federal services—the costs, the services, who delivers the services, and who benefits.

Along that line, we're using the process to determine the economic impact of tax and regulatory policies.

And finally, we'll use the information to readjust spending priorities more in line with real needs.

Already, we've reduced Presidential budget figures for defense and foreign military aid, despite heavy lobbying that would have been more successful without the process. And in turn, we increased the figures for health care, social security and other human services.

With those major initiatives underway in the next five, I foresee a dramatic change in Federal spending patterns.

But the budget process is just one step in a broader effort that I want.

More spending for human services won't automatically mean *better* human services.

For every one in this room has seen well-intentioned, badly needed programs ruined by a Federal bureaucracy that is too expensive, too inefficient and too unresponsive.

We have seen too often a cruel hoax played on people who expect and need help, but are still waiting.

We have seen too often a system develop that benefits those *in* it more than those who *need* it.

And we are now reaping the whirlwind of public acrimony with politicians who can see no farther than the same, shop-worn, old answers that got us the mess we have now.

I noted that this was a major theme of the National Democratic Issues Convention in Louisville last month. John Gilligan, in fact, was a major spokesman for that theme.

Pllainly, they voiced a theme that has rarely been so widely accepted by the American people.

For the people just don't trust government to do the simple, day-to-day tasks that need to be done. Simple tasks like processing claims, investigating complaints, mailing checks, collecting on accounts, or just being sympathetic to someone are not being done.

As Bill Moyers said recently, "I find a growing number of people who question whether anything matters, whether anything works, whether anyone listens, whether anyone cares."

And until the American people see hard evidence—real results—they won't support willingly any major new Federal programs.

Perhaps we can sneak some programs by, as we did when we passed ones without knowing or telling what would be the ultimate costs. We might be able to congratulate ourselves for our parliamentary skills.

But we'd just be going down that same path that led us to where we are now—with little public confidence that government really cares how taxes are spent.

Our intentions were good, mind you. Our intentions were to help solve deep social problems. In the process, we helped many millions of people who otherwise would not have been helped.

But now this inattention to performance is holding us back. If we really want to gain on these growing problems, we've got to make government work better.

For that reason, I will soon introduce a spending reform to find how effectively, as well as how much Federal money we spend.

Here's how it would work:

Related programs—no matter what agency has them—would come up for review every four years. And if they aren't doing their job or duplicate better-run programs, they could be put out of business.

By the end of every four years, all programs would have been reviewed

This would apply not just to grant programs. Many already are limited by time. It would apply to virtually every department and independent agency, as well as so-called "uncontrollable" programs.

During the process, we would question the most basic assumptions about agencies and programs.

To help with that, we would subject all programs and agencies to zero-based budgeting. We would not assume that appropriations are deserved next year, just because there were appropriations made this year.

Rather, Congress could consider the impact of cutting budgets or eliminating them entirely—as well as expanding them.

The act would expand the use of the General Accounting Office, the Congressional Budget Office, and congressional committees to find programs which can be consolidated right now.

And finally, the act would require a list of all authorized programs without appropriations. Right now, scores of "dead" programs exist without staff, without money, just cluttering up the place. Most of these should be terminated immediately.

The purpose of the act, however, is not to propose a grand design for a new government structure. We know the present one is inadequate. But there's no magic organizational chart around now to solve all our problems.

The major congressional problem is that we need a review process—that builds on the budget process—that focuses where to draw organizational lines—and to keep redrawing them.

We need a process that can periodically shake up our government structure—to improve and expand programs, as well as eliminate some.

In doing this, we must discard the old assumptions and fears of the unknown—the fears that somehow we have more to lose than gain through change.

For I know that many of you are probably suspicious of any effort to review the current system. We've all got a lot of years of hard work invested in the system.

In recent years, we've seen consolidation and effectiveness become code words for deep cuts—for shutting down good programs—for neglecting people, rather than helping them.

Yet we heard the same suspicions and fears from liberals when budget reform was considered. And we now see the opportunities that good budget work has presented.

In the same way, we can add to new spending priorities, new effectiveness. We can insure that we get what we pay for.

We can begin to achieve a health program that provides decent and affordable care for everyone. The Federal health care budget is already $40 billion. State and local governments spend billions more. In fact, as a nation, we already spend more per capita on health care than any other nation.

We just don't spend it well enough.

We can begin to achieve a welfare system that gives direct aid to people, rather than passing through a bureaucratic filter.

Too much of it goes for administrators, contractors, and other middle-men.

This year, the Federal Government will spend over $150 billion for income security programs.

It's obvious that we don't spend it well enough.

We can begin to achieve better assistance to State and local governments. We can help reduce the oppressive paperwork that results from the over 1,000 aid programs that now exist. We need to make sure that money goes for services and not for grantsmanship.

We already spend over $50 billion in aid to State and local governments.

We just don't spend it well enough.

Coupled with the new budget process, this spending reform would bring new opportunities to confront directly the problem of government performance.

For I see efficient government as an end in itself. Well-managed, cost-effective, equitable and responsive government is in itself a social good.

Franklin Roosevelt said 39 years ago, "a government without good management is a house built on sand."

He realized then that the less overhead—the less fragmentation—the more even distribution of services—the less paperwork and delay—the more each citizen can benefit from government.

We must recognize this problem as a national priority just as important as the problems of poverty, inequality and joblessness.

And when we talk about reordering national priorities, we must make clear that we also mean better government.

We must realize that this undramatic but imperative task must be accomplished—especially for the sake of those who depend on government.

Last month in Maine, I talked with several elderly people, whose only support comes from Social Security checks. They are now paying the price of our mismanagement. Their resources—their lifelines are fixed and dwindling.

And while we neglect the real problems, their lives are slipping away from them.

We won't help them by simple solutions or empty promises or by ignoring the mismanagement that victimizes them. We can help them only by facing up to waste, bureaucratic inertia and unresponsiveness.

It is an undramatic and not very exciting call.

But it is imperative. And it is the only way that we can again make government the great organizer of our resources.

It's up to us to make government work again. Only we can restore performance that will generate a new confidence in government.

Only then can we again tap the great moral potential of the American people for common sacrifice for the goal of dignity for all citizens.

ST. JOHN'S UNIVERSITY HONORS HIRAM FONG

Mr. MATHIAS. Mr. President, on Monday, December 15, St. John's University, of Jamaica, N.Y., recognized the unusual achievements of our distinguished colleague, the senior Senator from the State of Hawaii, Hiram Leong Fong, by awarding him an honorary degree. This 105-year-old institution of learning has joined seven other colleges and universities by conferring upon Senator Fong the degree of doctor of laws.

Senator Fong now has nine doctorates—a J.D. as the result of his studies at the Harvard University School of Law, a doctor of humane letters degree from Long Island University, 1968, and seven doctor of law degrees conferred on him by the University of Hawaii, 1953; Tufts University, 1960; Lafayette College, 1960; Lynchburg College, 1970; Lincoln University, 1971; University of Guam, 1974; and now St. John's University.

The citation for the doctor of laws degree from St. John's University notes Senator Fong's "dominant concern" in "fostering international understanding and human brotherhood." I ask unanimous consent that the full text of the citation be printed in the RECORD at this point.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

CITATION FOR DOCTOR OF LAWS, SENATOR HIRAM L. FONG

Sixteen years ago in 1959, when the senatorial elections took place in the State of Hawaii, Hiram Leong Fong was elected to the United States Senate as the first American of Asian ancestry. His profoundly dedicated service not only to the people of his own constituency but also to the general welfare of his fellow man in all areas of life won him re-elections to the same prestigious office both in 1964 and 1970. Born in the Kalihi District of Honolulu in 1907, Hiram Leong Fong was the seventh of eleven children of Mr. and Mrs. Lum Fong, who were both immigrants from Kwangtung Province, China. His boyhood was obviously not without struggle as he picked algarroba beans for sale as cattle feed and caddied a nine-hole round of golf for twenty-five cents. A graduate of both Kalihi-Waena Grammar School and McKinley High School, he earned his Bachelor of Arts degree from the University of Hawaii. Eventually he received his Doctor of Jurisprudence degree from Harvard Law School in 1935, and immediately thereafter entered into public service. His long and distinctive career began by serving three years as Deputy Attorney for the city and county of Honolulu. The following fourteen years witnessed service in the Legislature of the Territory of Hawaii, including four years as Vice Speaker of the House of Representatives and six years as Speaker. A wide range of legal knowledge and experience combined with his total dedication to public affairs well equipped him to serve admirably in the United States Senate from 1959 to the present. Senator Fong emerged from World War II as a Major in the U.S. Army Air Corps and is now a retired Colonel in the Air Force Reserve. His dominant concern in so much of his work has been directed to fostering international understanding and human brotherhood. He spares no effort in providing our own Center of Asian Studies with manifest interest and sustained support. St. John's University derives great pleasure in paying tribute to this esteemed statesman and gentleman of noted accomplishments by conferring upon Hiram Leong Fong, *honoris causa*, the degree of Doctor of Laws.

December 15, 1975.

Very Rev. JOSEPH T. CAHILL, C.M.,
President.

Mr. MATHIAS. Mr. President, the action of St. John's University at this time recalls to mind Senator FONG's long record of public service in many fields which has brought him this recognition so far from his island home.

He has been an elector for the Hall of Fame.

In 1960, he was the recipient of a national award for outstanding service to brotherhood from the National Conference of Christians and Jews.

In 1963, he was awarded a Citation for Meritorious Service by the National Association of Retired Civil Employees.

In 1970, he was the first citizen of Hawaii to receive the Horatio Alger Award for outstanding success in law, business, and public service despite humble beginnings.

Also in 1970, the Japanese American Citizen League awarded him a citation for outstanding public service and he was awarded the Social and Rehabilitation Service Medallion for work on behalf of disabled citizens.

In 1971, he received the Golden Plate Award from the American Academy of Achievement.

In 1973, the Organization of Chinese Americans, Inc., presented him with a plaque for his outstanding services to the Nation.

In 1974, he was the recipient of the "Certificate of Award" for his "example of good citizenship" from the national society, Daughters of Founders and Patriots of America.

Also, in 1974, the Pacific Asian Studies Association awarded him its Certificate of Service for his outstanding contribution to the promotion of understanding and unity among the peoples of the Pacific Asian World.

Knowing Senator FONG as well as I do, I should like to add to this record some additional information further substantiating the reasons why he has retained the confidence of the people of Hawaii for so long.

As a lawyer, he founded the law firm of FONG, Chinese; Miho, Japanese; Choy, Korean; and Robinson, Caucasian-Hawaiian. He resigned from the firm after taking office as U.S. Senator.

He has been active in many service and civic organizations, including the Kalihi Community Improvement Club; the Army, Navy, and Civilian Young Men's Christian Associations; Downtown Improvement Club; Parent-Teachers Association; Boy Scouts; Chinese-American Club; Warriors of the Pacific; Commercial Associates; University of Hawaii Alumni Association; Harvard Club of Hawaii; Chinese Civic Club; Chamber of Commerce of Hawaii; Chinese Chamber of Commerce; and other similar groups.

He is a member of the Kau-Tom Post of the American Legion, and Post 1540 of the Veterans of Foreign Wars. He was designated a member of the Board of Visitors of the U.S. Military Academy at West Point, in March 1971. In April 1974, he was appointed a member of the Board of Visitors of the U.S. Naval Academy, Annapolis.

He was elected a delegate from Hawaii to the Republican National Conventions in Chicago, 1952, 1960; San Francisco, 1956, 1964; and Miami, 1968 and 1972. In 1964 and 1968, his name was placed in nomination as favorite son candidate from Hawaii for the office of President of the United States.

He was elected to the U.S. Senate on July 28, 1959. Sworn into office August 24, 1959, he is the first American of Asian ancestry to be elected to the U.S. Senate. The senior Senator from Hawaii has been reelected U.S. Senator on November 3, 1964, and on November 3, 1970.

In the Senate, he has continued his pattern of leadership and service. Senator FONG is a member of the following Senate committees:

Post Office and Civil Service (highest ranking Republican).

Ex-Officio Member of all Subcommittees:
Civil Service Policies & Practices.
Compensation and Employment Benefits.
Postal Operations.

Appropriations (Fourth Ranking Republican).

Subcommittees:

Agriculture and Related Agencies (highest ranking Republican).

Defense (fourth ranking Republican).

HUD-Independent Agencies (third ranking Republican).

Labor, Health, Education, Welfare and Related Agencies (third ranking Republican).

State, Justice, Commerce, the Judiciary and Related Agencies (second ranking Republican).

Treasury, Postal Service and General Government (Ex-Officio on Post Office items—third ranking Republican).

Judiciary (Second Ranking Republican).

Subcommittees:

Antitrust and Monopoly (second ranking Republican).

Constitutional Amendments (highest ranking Republican).

Constitutional Rights (third ranking Republican).

Immigration and Naturalization (highest ranking Republican).

Juvenile Delinquency (third ranking Republican).

Patents, Trademarks and Copyrights (second ranking Republican).

Refugees and Escapees (highest ranking Republican).

Special Committee on Aging (Highest Ranking Republican).

Ex-Officio Member of all Subcommittees:
Housing for the Elderly.
Employment and Retirement Incomes.
Federal, State, and Community Services.
Consumer Interests of the Elderly.
Health of the Elderly.
Long-Term Care.
Retirement and the Individual.

He was appointed by the Vice President in January 1975 to serve on the Commission on Revision of the Federal Court Appellate System.

He represented the United States as a delegate to the 150th anniversary celebration of Argentina's independence in 1960.

In 1961, he was appointed a member of the U.S. delegation to the Canada-United States Interparliamentary Conference; in 1965, 1967, and 1968, he was again named to this conference.

He was appointed U.S. Observer at the Commonwealth Parliamentary Association Meeting in Wellington, New Zealand, in November 1965.

He was appointed Official U.S. delegate to the 55th Interparliamentary Union World Conference in Tehran, Iran, in September 1966. He was appointed official U.S. delegate to the 61st Interparliamentary Union World Conference in Tokyo in 1974.

He represented the U.S. as a delegate to the Ditchley Foundation Conference in England in January 1967.

He was appointed U.S. delegate to Mexico-U.S. Interparliamentary Conference in Honolulu in April 1968.

He participated as a presidentially appointed member of the U.S. congressional delegation to the People's Republic of China in 1974. In October 1974 Senator FONG made a factfinding and inspection tour of U.S. State and Defense Department installations in Japan, Okinawa, Korea, and the Republic of China as well as the island of Guam and the Trust Territory of the Pacific.

In addition to all of this civic and political activity Senator FONG operates a banana and papaya farm and a fish pond; raises cattle, avocados, lichees, macadamia nuts, and mangoes.

All these achievements, I am certain, are in a large way due to his good fortune in being married for the past many years to the lovely, charming Ellyn Lo Fong, a graduate of the University of Hawaii with a bachelor of education degree and a former school teacher.

He is the happy father of four children: Hiram, Jr., who served as a captain with the U.S. Army in Vietnam, 1967–68, and is presently a practicing attorney in Honolulu and a member of the Hawaii State House of Representatives; Rodney L., a graduate of California-Western University Law School in San Diego, Calif., and a member of the bar of the State of Hawaii, and now manager, Kaalaea Farms, Kaalaea, Hawaii; Merie-Ellen—Mrs. William Mitchell—a 1970 graduate of Goucher College in Towson, Md., with a master's degree from Wellesley College, Wellesley, Mass.; and Marvin-Allan, a 1970 graduate of Lynchburg College, Lynchburg, Va., formerly at Finance Realty Co., Ltd., Honolulu, and now attending California-Western University Law School. Senator and Mrs. Fong are the proud grandparents of three grandchildren, Jennifer, daughter of Janet and Hiram Fong, Jr.; Chelsea, daughter of Pasty and Rodney L. Fong; and Emily, daughter of Dr. and Mrs. William Mitchell. And, any day or any moment, Sandra and Marvin Fong expect their first child. They have returned to Hawaii to await his or her birth. I am sure I can speak for my colleagues in wishing for them a healthy, happy child to carry on the proud Fong tradition.

D.C. TEACHER SHIFTS STIR HARDLY A RIPPLE

Mr. ABOUREZK. Mr. President, an article in Tuesday's Washington Star points out some of the continuing difficulties that the D.C. public schools are having in implementing federally mandated teacher transfers under the title I program. I believe that this article will be of interest to my colleagues and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, Dec. 16, 1975]

D.C. Teacher Shifts Stir Hardly a Ripple

(By Lorenzo Middleton)

After four years of confusion and controversy over federally mandated mid-year teacher shifts in the D.C. schools, this year's transfers have been accomplished with barely a riple, officials said yesterday.

About 60 full-time elementary and junior high school teachers and staff workers have been transferred this year for the "equalization" and "comparability" of pupil spending among the schools.

In addition, more than 100 part-time teachers have been shifted in a two-week move completed yesterday.

The transfers this year involved far fewer staff changes nad classroom disruptions than in the past four years, said Mildred Cooper, chief of the Office of Planning Research and Evaluation. "We tried to be as least disruptive as possible."

Most of the schools contacted by The Star agreed that the changes went smoother this year than in the past, but a teacher from Richardson Elementary in Far Northeast complained that her school was stripped of all but one of its special education teachers by the transfers.

"All we have left is a music teacher," said Linda Feldman, a first-grade teacher who complained of the loss of full-time language arts and reading teachers and part-time physical education, math, instrumental music and art teachers at the school. Last year, she said, the school lost its science and foreign language teachers as well as two classroom teachers.

Cooper pointed out that enrollment at Richardson has dropped by more than 100 students since last month, and that principals decide whether to keep classroom teachers or special teachers when transfers are called for.

Cooper said this year's teacher losses at Richardson, which receives Title I federal aid, were caused by "comparability" changes mandated by law. She said the law requires yearly shifts in instructional personnel to insure that Title I schools do not receive less local funding than do non-Title I schools.

About 46 elementary and junior high schools gained or lost teachers this year under the comparability regulation.

BUREAUCRACY CAN BE A DRIP

Mr. BAKER. Mr. President, Ponce de Leon would surely have been outraged by an article which appeared in the Washington Post on December 17, 1975. The magnificent bronze fountain, that currently makes its home in the back yard terrace of the Shoreham-Americana Hotel may be denied posterity, without even so much as a splash.

The London Bridge has been moved to Arizona. A hotel wants to make a tennis court out of a handsome old fountain, filled with a wellspring of memories. In this day and age, it is a sad commentary that no one would even raise an eyebrow at the suggestion that the Alamo be moved to Chicago.

Surely there is a home for this fountain somewhere in the Nation's Capital. Although offers have been made, the National Park Service seems to be drowning in its own environmental impact studies. By displacing a fountain of our youth, the excessiveness of Government in this instance is crystal clear. We must not allow the preservation of this treasured symbol of antiquity to go down the drain.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Fountain, Anyone?

Some months ago this newspaper printed the picture of a handsome fountain that can spurt water 75 feet high and surround the jet with a round waterfall, 40 feet in diameter. The bronze fountain is now in the back yard of the Shoreham-Americana Hotel, which wants to replace it with a tennis court and is willing to donate it to anyone who wants it. Rosslyn wanted it. The citizens of Rosslyn and Arlington's Bicentennial Commission thought the fountain would look mighty fine on the traffic circle in front of Rosslyn as you come off Key Bridge. The Bicentennial Commission thought it could raise anywhere from $150,000 to $175,000 to have the fountain moved and installed. We looked forward to seeing it across Key Bridge. That monolithic clump of highrises needs a little touch of something and a big fountain, we thought, would be just right.

But the National Capital Park of the National Park Service, United States Department of the Interior, thought otherwise. A fountain, explained Messrs. Richard L. Stanton and Edward Peetz of the Park Service, would be difficult to maintain. Maintenance, at any event, would cost money (about $11,000 a year) and money is in short supply these days. What is more, fountains splash water and if the wind is right (or wrong, as the case may be) some of the water might splash on the windshields of passing automobiles and detract the drivers inside. And who knows, anyway, how long that traffic circle would remain, with all the talk of building bigger and better freeways. Also, any fountain would require the approval of the National Capital Planning Commission, the Commission of Fine Arts and the preparation of an environmental impact statement under the provisions of the National Environmental Policy Act of 1969. Now, if the good people of Rosslyn would consider some daffodils, the Park Service said, they might be able to dig some up.

That seems to leave the Shoreham with a fountain it doesn't want. It is, as we said, a lovely fountain. And it's free for the asking, and the taking away, and the upkeep costs.

OKLAHOMA SENATORIAL ELECTION CONTEST

Mr. CANNON. Mr. President, it has been brought to my attention that the ranking minority member of the Committee on Rules and Administration made a statement in the Senate on Tuesday, December 16, with regard to the Oklahoma senatorial election contest. This was followed by a statement and submission of materials on Wednesday, December 17, by the junior Senator from Oklahoma, Senator Bartlett.

As the Senate well knows by this time, on Monday, December 15, 1975, the Committee on Rules and Administration, by a vote of 5 to 3, determined to report to the Senate its inability to determine the outcome of the Oklahoma senatorial election in view of the multiple violations of Oklahoma statutes in Tulsa County on November 5, 1974. The committee is requesting that the Senate take this matter under consideration and, if it cannot reach a determination as to who won the Senate seat, declare that a vacancy exists so that a new election may be held under Oklahoma law.

Mr. President, I ask unanimous consent that the full text of the motion agreed to within the Rules Committee be printed at this point in my remarks.

There being no objection, the motion was ordered to be printed in the Record, as follows:

Rules Committee Motion

The Committee on Rules and Administration of the Senate of the United States hereby finds and declares:

That Article 1, Section 5, of the Constitution of the United States establishes the Senate of the United States as the Judge of Elections of its own Members;

That the Committee on Rules and Administration, in the exercise of such Constitutional responsibility, and pursuant to direction of the Senate of the United States, has reviewed the contested election of November 5, 1974, for the office of United States Senator from the State of Oklahoma, has received and reviewed the results of an investigation by its staff, and has held hearings at which all interested parties were provided an opportunity to be heard;

That the evidence before the Committee conclusively demonstrates that at the said election of November 5, 1974, the election machines of Tulsa County, Oklahoma, were not in conformance with the laws of the State of Oklahoma, in that the candidates for United States Senator were listed after the candidates for State office in violation of 26 O.S. section 277 (c), the machines did not provide straight-party voting devices in violation of 26 O.S. Section 274, and 545 of 640 machines had affixed prominent instructions as to use of straight-party voting devices, which devices were not available for use by the voters;

That experts and other witnesses who appeared before the Committee offered testimony as to the effects of these violations of the laws of the State of Oklahoma upon the results of the election for United States Senator, and further data regarding such effects were received by the staff during its investigation and hearings;

That the evidence offered on behalf of Petitioner, Ed Edmondson, is that the results of the election were in fact affected by the violations of the laws of the State of Oklahoma, and that were it not for the violations of law, there is a high probability that Ed Edmondson would have received sufficient votes in Tulsa County to win in the statewide election;

That the testimony offered on behalf of Senator Henry Bellmon disputes the witnesses for Ed Edmondson as to methodology and conclusions.

In view of the foregoing findings and declarations, the Committee on Rules and Administration reports to the Senate of the United States its inability to determine the outcome of the contested November 5, 1974 election for the office of United States Senator from the State of Oklahoma, and requests that the Senate of the United States exercise its Constitutional responsibility under Article I, Section 5, of the Constitution as the Judge of Elections of its own Members, to determine the outcome of the contested November 5, 1974, election for the office of United States Senator from the State of Oklahoma, and, if unable to so determine, to declare a vacancy exist in such office in order to enable a special election to be held in accordance with the laws of the State of Oklahoma governing Special Elections.

Mr. CANNON. Mr. President, much of the material and argument submitted for the RECORD by the senior Senator from Oregon and the junior Senator from Oklahoma have been before the Committee on Rules and Administration. These matters were fully considered by the committee and most, if not all, were answered during the committee's deliberations. The Senator from Oregon is repeating arguments which were rejected within the committee. First of all, I was explicit in stating to the committee in response to the Senator from Oregon that I was not rejecting out of hand the decisions of the courts of Oklahoma. It must be kept in mind that the Supreme Court of Oklahoma specifically found that the election in Tulsa County was not carried out in accordance with law, but violated sections of the Oklahoma statutes on elections. Second, and more important, we have had presented to the committee a great deal of new and convincing evidence regarding the election contest which was never before the courts of Oklahoma nor considered by them.

At the appropriate time, not now, when the Senate is striving to complete its business before the Christmas recess, we will provide the Senate with a full documentation that was presented to the committee, including presentations by both sides. At the same time, the committee report will be submitted to the Senate; and, I assume, there will be a minority report. We specifically determined to hold this matter in abeyance until the next session of Congress, rather than impede the flow of business during these last few days. I regret that I had to take the time of the Senate to make this partial response to the very one-sided and partly inaccurate statements to which I have referred.

HENRY P. CHANDLER

Mr. MATHIAS. Mr. President, it was with great sadness that I learned of the death of Mr. Henry P. Chandler on Friday, December 12. Maryland has lost one of its most distinguished and most repected citizens.

Mr. Chandler was the esteemed first Director of the Administrative Office of the U.S. Courts. He was well known throughout the United States in judicial and legislative circles for his intellect, his superlatively high standards, complete integrity and great personal warmth and charm. The late Judge Learned Hand of the U.S. Court of Appeals, Second Circuit, one of the great jurists of all time, once wrote to Mr. Chandler, in part:

> In many years of official life I have never met anyone who prevented his personal interests so completely from entering into what he did. Not only that, but you were always alert to see that what was needed was at hand, and there was a pervasive feeling of intelligent compromise without the least shadow of pedantry that in my personal experience has been unique. I often wonder whether they will ever get your equal.

Mr. Chandler has left an indelible imprint on the American scene and we feel a keen sense of loss in his passing. He will be greatly missed, although he will never be forgotten by those who knew him. I join his many friends in extending Mrs. Chandler, to his daughter Mrs. Gibbons, and to all members of his family my deepest sympathy.

Mr. President, I ask unanimous consent that the article from yesterday's Washington Post, detailing some of the highlights of his career, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 17, 1975]

HENRY CHANDLER, 95, DIES, FIRST U.S. COURTS DIRECTOR

Henry P. Chandler, 95, first director of the administrative office of the United States Courts, died Friday after a long illness at Suburban Hospital in Bethesda.

Born in Indian Orchard, Mass., Mr. Chandler attended Stanford University for two years before returning to Massachusetts and graduating magna cum laude from Harvard University in 1901.

In 1901, he joined the faculty of the University of Chicago as an English teacher, debating coach and secretary to the university's founder, President William Rainey Harper. Mr. Chandler graduated from the University of Chicago law school magna cum laude in 1906, and joined the Chicago law firm of Tolman, Redfield and Sexton.

Mr. Chandler practiced law with the firm until 1939, when he was appointed by the U.S. Supreme Court under Chief Justice Charles Evans Hughes to become the first director of the newly created administrative office. Mr. Chandler served under four Chief Justices—Hughes, Harlan Fiske Stone, Fred M. Vinson and Earl Warren—until his retirement in 1956.

In 1957, Mr. Chandler made a study of the territorial courts of Hawaii and recommended a bill for their more effective regulation to the Supreme Court of the Territory, which was enacted, in part, by the territorial legislature in 1959.

In 1959, he was appointed by the Supreme Court of Illinois as the first court administrator for that state, and served until 1960.

While practicing law in Chicago, Mr. Chandler was president of the Chicago Bar Association from 1938 to 1939, and was active in civic projects, serving as president of the City Club of Chicago, 1923–24; president of the Union League Club, 1932–33; president of the Civil Service Association of Illinois, and a trustee of Hull House.

As director of the administrative office of the United States Courts, Mr. Chandler was responsible for the collection of statistics, the direction of efficiency studies and the performance of business chores under the direction of the Judicial Conference of the United States.

Mr. Chandler was also concerned with the development of the federal probation system, which was transferred in 1940 from the Department of Justice to the administrative office.

In 1963, Mr. Chandler published a 210-page report entitled, "Some Major Advances in the Federal Judiciary System (1922 to 1947)."

In 1907 Mr. Chandler married Helen Firman Mack, who died in 1930.

He is survived by his second wife, Olive of the home at 5703 McKinley St., Bethesda; a daughter, Margaret Gibbons of Wilmette, Ill.; three grandchildren, and four great-grandchildren.

The family suggests that memorials to Mr. Chandler may be made to the Organ Fund of the Bradley Hills Presbyterian Church.

PLENTY OF GAS HERE SOMEWHERE?

Mr. ABOUREZK. Mr. President, the Congress has just sent the President a bill which slightly rolls back the price of oil. The rollback represents a tiny fraction of the current, cartel-based price we pay for domestic oil. Even with this rollback, the ceiling on oil prices would be far above the actual cost of production. Of course, that fact has been totally obscured by the press and the oil companies. The press treats the oilmen's propaganda as fact.

For example, in an early Washington Post story on S. 622's pricing section, the reporter wrote:

> The changes would let the oil price ceilings go higher and would allow for the expected extra cost of pipeline oil from Alaska's North Slope.

This is false. Every indication is that production costs for the North Slope will be less. Using the word pipeline implies that the price set by S. 622 would include transportation, but the ceiling price applies to crude oil at the wellhead. It does not matter whether it is pipeline oil, or tanker oil, or oil in a barrel.

I was happy to see that some people are aware of this. A letter to the Washington Star makes the same point about another article:

The wide public acceptance of completely false statements is at the heart of America's energy crisis.

The public acceptance is formed gradually and subtly, as oil company propaganda, misrepresentations, and evasions filter into seemingly objective articles and become accepted as fact merely because they are endlessly repeated as fact.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD. Mr. Breecher's attempt to speak out deserves as wide an audience as possible.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PLENTY OF GAS HERE SOMEWHERE?

Thomas Love's thoughtful "In Focus" article on "Gas Deregulation" (Dec. 6) contains the statement: "In any case, the limits of America's supply of natural gas will probably be reached within a generation".

Now the wide public acceptance of this completely false statement is at the heart of America's energy crisis. It reflects very clever and lavishly financed oil company and OPEC propaganda which has misled many very knowledgeable people, including apparently Mr. Love. Our government, to its discredit, has never done anything effective to set matters straight, so the oil company propaganda has succeeded only too well.

In reality, the natural gas (and the oil as well) are there in the U.S. for many generations. But the large oil companies would find it much more profitable for themselves (in terms of final per share net after-tax profits for the company as a whole, and that's what counts) to import liquefied natural gas from overseas at $2.50 or more per 1000 CF and keep the present shortages, which inevitably drive up all natural gas prices as consumers are becoming desperate.

Exactly that development has already taken place in the case of oil. Every American family of four pays $500 per year in taxes (yes, taxes) to foreign governments for a commodity that is in vast worldwide oversupply and that we could produce here if only it were in the financial interests of the companies to do so. Instead, the oil majors act, for what amounts to a fat fee, as the tax collectors for the OPEC governments, and our legislation actually induces them to do just that.

If you read the fine print of oil company jargon, it indicates that, at present rates of exploration, "proved reserves" of oil and natural gas will be exhausted in the U.S. in another 25–30 years. That's literally true, but completely misleading. "Proved reserves" is a word of art which has no resemblance to oil and natural gas in the ground or under the sea. And present exploration activity for new fields is steadily declining in the lower 48 states and off-shore, again the very contrary to what oil company advertising intimates.

What has made the gigantic oil and gas coverup possible is that those knowledgeable about the rather complicated affairs of the large oil companies (what's involved is 75 percent finance and taxes, and only 25 percent production and marketing) are either present or future high-paid employees of the oil companies, or of OPEC, or else they are beholden to the international oil cartel and its agents, the oil majors, as their lawyers, bankers, or as recipients of campaign contributions.

Some others won't speak out because they have a government career or reputation to protect, as was my own case. We all want to eat, and eat well.

CHARLES H. BREECHER.

REHOBETH BEACH, DEL.

(NOTE.—Mr. Breecher, a foreign service officer for many years, was economic counselor to the U.S. delegation to NATO, and, prior to his retirement last year, director of development planning in the security assistance bureau of AID.)

AMERICA'S ENERGY REALITIES

Mr. BAKER. Mr. President, since the oil embargo of 2 years ago, one of the most complex issues confronting the Congress has been the uncertainties surrounding America's energy needs. Only in the last week, the attention of my colleagues has been drawn to the ERDA authorization bill, the Price-Anderson Act, and, of course, S. 622, commonly called the energy bill. All of these measures will exert an important influence on America's energy policies in the future.

During the course of debate on these and other measures, I have been consistently reminded of the Congress need for exposure to adequate, unbiased information. In this regard, my attention was attracted some time ago to the development of a study designed to analyze America's energy realities.

This report, about to be published as a print of the Joint Committee on Atomic Energy, is authored by Dr. Herman Franssen, an analyst in science and technology at the Congressional Research Service, Library of Congress. I believe it to be an important contribution to the continuing dialog on America's energy needs.

Focusing on the timespan of 1975 to 1985, Dr. Franssen has entitled his work, "Toward Project Interdependence: Energy in the Coming Decade." He systematically analyzes the problems and complexities of securing adequate energy supplies in a recovering and, hopefully, expanding economy. From his analysis, Dr. Franssen concludes that, at least through 1985, the country will grow increasingly dependent on imported sources of energy. He further concludes that if we ever hope to abate the implications of such dependency, our only viable alternative is the full utilization and development of our coal and nuclear potential.

While I am not technically qualified to certify in detail the validity of Dr. Franssen's conclusions, I believe the report merits serious consideration. If for no other reason, I believe that the credibility of the Congress will depend to no small extent on how well we acquaint ourselves with the intricacies of the energy problem. In addition to Congress, however, I commend this report to the attention of the appropriate agencies in the Federal Government and to the American people as a whole in hopes that it will contribute to a general understanding of the problem.

Prior to the publication of "Toward Project Interdependence," I asked the Administrator of FEA, Mr. Frank Zarb, to review the report and make whatever comments he deemed appropriate. Mr. Zarb was kind enough to respond; and I respectfully request unanimous consent, Mr. President, that his response, together with my letter of transmittal to the Joint Committee and a copy of the executive summary of the report, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 16, 1975.

Hon. JOHN O. PASTORE,
Chairman, Joint Committee on Atomic Energy, Washington, D.C.

DEAR MR. CHAIRMAN: Dr. Herman Franssen, Analyst in Science and Technology at the Library of Congress, has prepared at my request a report entitled, "Toward Project Interdependence: Energy in the Coming Decade." I believe the report to be of significant importance. I think that it should be of great interest not only to the Joint Committee on Atomic Energy, but to the Congress and the public as well.

While I am not prepared to certify the validity of all the conclusions reached by Dr. Franssen nor necessarily the priorities and emphasises he describes, nevertheless, I believe that the report is important and would be a worthwhile publication by the Joint Committee. I request that it be authorized for printing as a Committee document.

Sincerely,

HOWARD H. BAKER, Jr.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., December 18, 1975.

Hon. HOWARD H. BAKER, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: As you know, I have recently reviewed a draft of a study entitled "Domestic Energy Supply and Demand: Past, Present and Future" prepared by Dr. Herman Franssen of the Congressional Research Service. In general, we find the study a thorough and insightful analysis of the future world energy environment and agree with the thrust of its major international implications.

We believe, however, that the study is somewhat pessimistic concerning the future import dependence of the United States. Our most recent analyses suggest that U.S. import dependence could be considerably lower than the 10 million barrels/day Dr. Franssen foresees. Moreover, the establishment of strategic reserves, combined with a realistic set of domestic energy policies, will provide the United States with adequate protection from an embargo.

I appreciated the opportunity to discuss the study with you and enjoyed talking to you.

Sincerely,

FRANK G. ZARB,
Administrator.

TOWARD PROJECT INTERDEPENDENCE: ENERGY IN THE COMING DECADE, EXECUTIVE SUMMARY

PROJECT INDEPENDENCE

Almost exactly a year ago, in November 1974, the Federal Energy Administration released Project Independence Blueprint (PIB) to the Nation. It held out prospects that the Nation could achieve energy independence by 1985, provided the price of domestic oil would be allowed to rise to $11 per barrel and the Government would initiate an accelerated leasing schedule in the Atlantic and Pacific OCS and tap the potential resources of the Naval Petroleum Reserves.

Under the PIB energy supply base case, little could be done to prevent further deterioration of the domestic energy supply situation until 1977, when Alaskan oil is expected to come on stream. At a price of $7 per barrel, domestic oil supply would be about 8.9 million b/d, and at $11 per barrel, domestic supply would increase to 12.8 million b/d. Optimistic analysis of the contribution of coal, nuclear energy, natural gas and other energy sources, led PIB to conclude that even without major efforts to increase oil and gas production from offshore areas, imports of oil could be limited to 3.3 million b/d, or about one-half of the current volume of imports, by 1985.

An accelerated domestic supply scenario called for additional leasing of OCS lands off the Atlantic and Pacific coasts, and tapping of Naval Petroleum Reserves. At a price of $7 per barrel, the Nation could not only eliminate foreign imports, but in fact produce a surplus for the export market. Shale oil was expected to add another one million b/d to domestic supplies.

Natural gas was projected at 24.8 TCF under the PIB energy supply base case, and 25.5 TCF under the accelerated leasing program. Estimates for coal run between 900 million and 2.1 billion metric tons, and nuclear energy was projected to contribute between 204 and 275 GWe, depending on assumptions made.

On the demand side, PIB assumed that the United States can have a real increase in GNP of 5 percent annually with an energy demand of 2.5 percent annually beginning now.

CRS REPORT

On the demand side this study disagrees with the contention that a GNP growth rate of 5 percent annually can be achieved with a 2.5 percent energy growth per year. In the past growth rates have been closely related to fluctuations in the GNP. For example, during the 1920–33 depression, when the decline in industrial production was severest of any period in the history of the Nation, energy consumption fell substantially. When the economy improved again, energy consumption followed a similar pattern. The same close relationship between GNP and energy growth rates was noticeable during each one of the post-war recessions.

Given time, institutional change, and sufficient investment in research and development programs, energy consumption per unit of GNP can possibly be reduced considerably. However, it seems highly unlikely that the PIB conservation scenario can be achieved by 1985 without harming the economy and/or causing a substantial adverse impact on our lifestyles.

It is impossible to forecast economic growth rates for the next ten years with any degree of accuracy, and consequently accurate energy growth rates cannot be projected. Assuming the possibility of high, low and medium growth rates over the period 1975–85, and the probability of some successful energy conservation measures without dramatically altering our lifestyles or limiting GNP growth rates to socially undesirable levels, this study assumes energy growth rates ranging from 2.0 to 4.0 percent. Most observers tend to agree that 4 percent growth rates would be close to recent experiences prior to the 1973 Arab oil embargo, which are not likely to reoccur in view of Arab supply constraints, high prices, and current projections of sustainable GNP growth rates. While a number of recent studies have concluded that sound GNP growth rates of 4 percent or more can be achieved with energy growth rates of no more than 2 percent, there is currently no evidence that such a large reduction in energy growth rates can be achieved without doing great damage to the economy or drastically changing lifestyles. Energy growth rates of 2.8 to 3.1 percent per year for the next decade seem more probable. These growth rates assume acceptable levels of economic growth of between 3.0 to 3.5 percent, and some success in the country's efforts to decouple energy growth from GNP growth rates. At the projected energy growth rates, energy demand will be : (in millions b/d oil equivalent.)

ENERGY GROWTH RATES SCENARIOS FOR 1977, 1980, 1985

[In percent]

	2.0	2.5	2.8	3.1	3.5	4.0
1977	37.6	38.0	38.3	38.5	38.8	39.1
1980	39.9	40.9	41.6	42.2	43.0	44.0
1985	44.0	46.3	47.7	49.1	51.0	54.0

DOMESTIC SUPPLY OF ENERGY

[Domestic energy supply scenario has been projected for the 1975–85 period—In millions of barrels per day oil equivalent]

Source	1973	1977	1980	1985
Oil [including natural gas liquids]	10.1	[1] 10.0	11.0	12.0
Natural gas	10.6	8.9	8.0	8.9
Coal	6.4	7.4	8.2	9.7
Nuclear energy	.4	1.6	2.4	2.8
Hydropower and synthetics	1.4	1.4	2.0	2.8
Total domestic supply	28.9	29.3	31.6	38.7

[1] Assumes complete decontrol of oil.

Without decontrol of oil, production is expected to continue to decrease to 9.5 million b/d by 1977. After 1977 production will rise again due to availability of Alaskan oil. Natural gas production has been projected to continue to decline at least until the early 1980's, when Alaskan gas (and possibly some synthetic gas) will come on stream. Projections for 1985 are cautiously optimistic, especially for oil and nuclear energy. It assumes no further cancellations of nuclear plants between 1975 and 1985, and successful discovery and early production of OCS oil from new leases in the Gulf of Mexico and many of the most promising frontier areas. Finally, the 1985 domestic supply scenario assumes that the oil equivalent of 1 million b/d of synthetic fuels (syncrude, syngas, and shale oil) will be marketed.

Any difference between domestic supply and demand must be made up by importing additional liquid hydrocarbons, especially oil, the "swing fuel" par excellence. It is uncertain if any natural gas will still be supplied by Canada by 1985, and the volume of liquid natural gas (LNG) from Algeria and other foreign countries cannot be projected at this time due to a number of uncertainties. The price of imported LNG and dry natural gas is likely to be close to the world market oil equivalent price.

Any attempts to arbitrarily slice foreign oil imports will most probably result in higher unemployment, lowering of the GNP, and a great deal of discomfort for the American people. Assuming annual energy growth rates of 2.8 to 3.1 percent, oil and gas imports will rise rapidly until 1977. By the end of 1977 some 600,000 b/d of Alaskan oil is expected to be produced. Between 1977 and 1980 imports are likely to grow, but at a much slower pace, until the early 1980's when foreign oil imports could reach their highest level. If, however, the cautiously optimistic domestic supply scenario for 1985 cannot be attained due to additional shortfalls in one or more sources of domestic energy supply, imports could very well continue to grow with no end in sight.

PETROLEUM IMPORTS: 1977, 1980, 1985

Year	2.8 percent energy growth per year	3.1 percent energy growth per year
1977	9.0	9.2
1980	10.0	10.6
1985	9.0	10.4

SOURCES OF SUPPLY

U.S. imports of oil have gradually grown from 0.9 million b/d (13 percent of consumption) in 1950 to 6.0 million b/d (37 percent of consumption) in 1974. Natural gas imports have remained relatively small at less than 5 percent of domestic consumption. Whereas almost all imported natural gas comes from Canada, oil imports for years have come from more than 20 countries around the world. Until recent years, however, more than half of the foreign oil was obtained from "secure" sources in the Western Hemisphere, in particular from Canada and Venezuela. In view of domestic supply problems in Canada and Venezuela, oil imports from traditional Western Hemisphere suppliers will decline significantly within the next few years. This fact, coupled with projected increased future demand for foreign oil, will make the United States much more dependent on Eastern Hemisphere oil. A careful analysis of current worldwide oil reserves leads to the inevitable conclusion that the U.S. will become highly dependent on oil from the Middle East and North Africa during the coming decade.

DEMAND BALANCED SCENARIO OF U.S. PETROLEUM IMPORTS BY REGION FOR 1977, 1980, 1985

[In thousands of barrels per day]

	1974	1977	1980	1985
Western Hemisphere:				
Canada	1,083	400	140	0
Venezuela	1,178	1,100	1,000	1,000
Other Western Hemisphere	865	1,160	1,500	1,700
Total Western Hemisphere (oil)	3,126	2,660	2,640	2,700
Canadian natural gas: Optimistic forecast (in thousands of barrels per day oil equivalent)	450	450	450	450
Total, Western Hemisphere (oil and gas)	3,576	3,110	3,090	3,150
Eastern Hemisphere:				
Nigeria	701	800	1,000	1,000
Other Africa south of Sahara	81	120	225	325
Southeast Asia	320	430	560	700
Middle East and North Africa:				
Iran	519	800	1,000	900–1,000
Arab countries	976	3,740–3,940	4,125–4,725	2,925–4,225

Imports from the Middle East and North Africa, which amounted to slightly less than 20 percent of total imports in 1974, will probably grow to 50 percent or more just two years from now. The implications of this new reality are manifold, and include:

1. The possibility of yet another Arab oil embargo, or a reduction of available oil for export, if peace does not come to the Middle East soon. The Sinai agreement may be a first step in the right direction, but it is only a partial solution to a multi-faceted problem, calling for successful negotiations with a number of interested parties other than Egypt and Israel.

2. An oil embargo in 1977 could result in a GNP loss of $39 to $56 billion, and additional unemployment of 1 to 1.5 million, if the embargo were to last for six months. A domestic economic disaster of such proportions would most certainly spread to Western Europe and Japan, even if those nations would not become targets of another oil embargo. Hopes for major economic recovery from the current worldwide recession would be dashed under these circumstances.

3. The ever larger volume of foreign oil would have to be shipped—at least for some years to come—in foreign bottoms. The already low ratio of oil shipped in domestic tankers (less than one-fifth of total imports) would drop even further.

4. Growing dependence of the United States on Middle Eastern oil would tempt the oil cartel to raise prices as soon as the current surplus capacity begins to dry up. At some point in the not too distant future, the United States may have to compete for available supplies with its allies and other oil-importing countries. Tension among oil importing states would increase if several of the major oil producers decided in favor of lowering production to stretch available reserves. Many oil producing nations in the Middle East and North Africa, especially those countries with low populations and limited capital-absorptive capacity such as Saudi Arabia, are in a position to reduce oil output substantially without suffering any adverse impact on their domestic economies.

5. Potential national security problems related to the defense of vital supply lines from the Middle East to the United States. Strategic planners remember too well that U.S. success in denying the Japanese access to their raw material suppliers on the continent of Asia shortened the Second World War significantly. Soviet efforts to obtain bases in East Africa and possibly Angola are no coincidence.

6. Potential environmental damage to the coastal zone as more small tankers will crowd available port facilities.

7. Increased reliance on foreign oil could affect the Nation's leverage in foreign policy. Energy shortfalls may well become the "Achilles heel" of United States foreign policy in the same way as agricultural shortages are for the U.S.S.R.

MIDDLE EAST DEPENDENCE INEVITABLE?

The Middle East produces about 37 percent of the world's oil, consumes only 2 percent, and controls 70 percent of the oil export markets. While both Western Europe and Japan have been highly dependent on Middle Eastern oil for several decades, the United States has only in recent years entered the era of dependence on oil imports from that part of the world. Rather than limiting their dependence on Middle East oil, there is sufficient evidence to state that the three industrial giants together will not only remain dependent, but will in fact increase their dependence on Middle East oil.

Much has been said about energy self-sufficiency in the Western world, but Melvin Conant, Deputy Director of the FEA for International Relations has recently said that even if major discoveries equivalent to the North Sea and North Slope finds were made now, we could not expect their coming into the world market on a scale of any importance for five or even ten years. In order to make a significant dent in the role of the Middle East as a supplier of oil, we would have to find this much oil every year, according to Conant. Over the past 35 years, if one excludes the Middle East and Nigeria, the non-Communist world has not even approached that figure in terms of annual average rates of discovery. In fact, despite the North Sea and North Slope finds, our annual rate of discovery outside the Middle East has only been about 50 percent of our yearly oil consumption level.

Moreover, in view of recent pessimistic U.S.G.S. and industry estimates of remaining undiscovered recoverable oil and gas resources in the United States, and less than optimistic forecasts of worldwide ultimate recoverable petroleum resources outside the Middle East and the Communist world, it seems realistic to maintain that dependence on Middle East oil will continue until the industrial world has found and produced adequate new alternative sources of energy.

Temporary OPEC oil surpluses and successful oil discoveries in the North Sea should not blind us to the realities of the world. The current OPEC surpluses are primarily due to a major recession in the entire industrial world, which was only in part caused by the quadrupling of the price of oil. The United States is well on its way toward economic recovery, Japan is following, and Western Europe is expected to start its recovery early next year. Economic recovery in the industrial world will once again stimulate demand for oil.

The rate of increase of demand for OPEC oil is likely to be slower than during the 1960's and early 1970's for a number of reasons. In the first place, the higher prices of oil are likely to continue to have a downward effect on demand. Secondly, most economic forecasters project GNP growth rates for the remainder of the 1970's to be lower than those during the pre-embargo "boom" years. Thirdly, the United Kingdom will become energy independent by the early 1980's, and Norway will become an exporter of oil. The availability of North Sea oil will probably stabilize Western European demand for Middle East oil until the early 1980's. Japanese demand for Middle East oil will continue to rise, but some of the increased demand will be met by oil imports from the People's Republic of China. The United States is the only major industrial power whose dependence on Middle East oil will grow dramatically over the next decade.

CONSTRAINTS ON SUPPLY AND POSSIBLE SOLUTIONS

During the decade of the 1960's and early 1970's the industrial nations relied on the Middle East and North Africa to supply the difference between non-Communist world demand for oil and supply from areas other than the Middle East and North Africa. At the lower pre-1973 prices of oil, the oil producing nations of the Middle East and North Africa have indeed met growing world demand by continuing to increase supplies. The new high world market prices of oil, however, have added a new dimension, making it much more difficult to forecast oil supplies for the decade ahead. Some countries with ample reserves, large populations, ambitious development plans and subsequent large capital absorptive capacity, are indeed likely to continue to increase, or at least stabilize oil production at pre-embargo levels. Iran and Iraq are among those countries. Several other countries around the Arab Gulf have low populations and limited capital absorptive capacity.

Among those countries are Saudi Arabia, the United Arab Emirates, and Kuwait. At the new high prices of oil some of these nations need produce only a fraction of their physical capacity to meet domestic economic development and military needs. Saudi Arabia, for example, might be able to meet all domestic economic development and military requirements by producing slightly more than one-third of current physical capacity. Some of the Arab Gulf countries have already initiated policies to conserve domestic resources by setting a limit on annual production. Kuwait was the first nation to do so, but several others are contemplating a similar oil conservation policy. It serves a dual purpose of maintaining high world-market prices for the commodity, while conserving precious fossil fuels for the future.

If John Moody and other well-known geologists prove correct, world oil production might peak in the late 1980's or early 1990's. It seems questionable at this time that the industrial nations by then will have succeeded in producing sufficient alterntaive sources of energy to replace dwindling world oil production. Hence, a policy of conserving oil for future, leaner years, may in the end prove more profitable for OPEC. The alternative, maximizing production now, would have the effect of lowering the world market price, and providing the oil producers with low populations and limited capital absorptive capacity (primarily around the Arab Gulf) with enormous amounts of foreign exchange to be invested in the industrial world. Are they willing to supply the industrial world with the oil they need during the period of transition from a basically fossil fuel economy to an economy based on other sources of energy, and if so, under what conditions?

So far, Saudi Arabia, the smaller Gulf states and other countries in the above category have been willing to run substantial surpluses on their trade balances, and have put their money primarily in short-term investments in the West. The nations of the Middle East are aware that a serious worldwide oil shortage will play havoc with the economies of the industrial world, and they have no desire to see this happen. The nations of the Middle East are in the midst of ambitious economic development plans, which will increase the degree of interdependence between them and the industrial world. The industrial countries, on the other hand, should work together in removing some of the most obvious obstacles to closer cooperation between Middle East oil producers and oil consuming nations. Among the more important steps to be taken by the industrial nations are:

(a). Assistance in bringing about an early solution to the Arab-Israeli conflict along the lines proposed by moderate elements on both sides;

(b). Efforts to remove Arab fears that their direct investments will in fact serve as hostage capital, limiting Arab leverage in determining oil production levels. Oil consuming nations could do much in creating new international arrangements and guarantees of foreign investment, designed to reduce politically inspired uncertainties.

(c). Agreement to assist oil producing states in their modernization process, which will require massive transfers of technology to those countries. Modernization and industrialization of oil producing states will inevitably result in growing interdependence of oil producing and consuming nations. The former will in due time become major suppliers of refined oil products, petro-chemicals, and a great many energy-intensive products to the industrial world. The latter in turn will find a growing market for advanced technology products.

Facing growing dependence on imported oil for at least one more decade, the industrial nations can hardly afford a policy of confrontation with the producing nations. Instead, they should maintain as harmonious relationships as possible with the oil producing states and work to limit external disturbances which could threaten the security of oil supplies to the industrial world. The producers, on the other hand, need to understand that nations aspiring rapid economic development have a stake in the peaceful and orderly development of the oil industry and in the maintenance of a viable economy in the consumer nations. Consumers and producers of oil can no longer afford to go separate ways. All nations need to work together to resolve problems which affect all countries in an era of growing global interdependence.

FREEDOM OF INFORMATION ACT CASES INVOLVING THE IRS

Mr. KENNEDY. Mr. President, in 1955 a representative of the Treasury Department testified before the House Special Subcommittee on Government Information, observing:

The Government's business is the people's business. That is why we have no reservations about the public's right to know, with a minimum of restriction, what its Government is doing and why. Almost 10 years later another Treasury witness, this time appearing before the Senate Administrative Practice and Procedure Subcommittee, reemphasized those sentiments:

We assert, without reservation, that it is important for all citizens and, particularly for citizens directly affected by the action of administrative agencies, to be fully informed as is reasonably possible with respect to all aspects of Government agency activities.

Nonetheless, according to a former IRS official who testified before the Administrative Practice Subcommittee last year, when Congress finally moved to enact the Freedom of Information Act in 1966, the IRS participated in the executive branch's efforts to block action on and then to subvert the impact of the legislation.

It was little wonder, then, that the Service was slow to implement the requirements of the Freedom of Information Act. In its 1972 report on Administration of the Freedom of Information Act, the House Committee on Government Operations found that "The delays and frustrations faced by citizens trying to use the Freedom of Information Act are nowhere more apparent than in the attempt by a Seattle, Wash., couple to get information from the Internal Revenue Service." In subsequent legislative hearings in the Senate on proposals to amend the FOIA, I asked Congressman MOORHEAD, who chaired extensive FOI oversight hearings, which agencies had the poorest record of making information available to the public. He replied that the Internal Revenue Service was "among the worst."

In the various debates on the 1974 Freedom of Information Act Amendments, the Service was referred to occasionally to illustrate reasons supporting specific proposed changes. Unresponsiveness, delay, and the need for multiple lawsuits on the same issue characterized IRS handling of many requests for information. By setting administrative deadlines, prescribing certain information to be contained in responses, and generally giving the FOIA teeth, the amendments were intended to assist the public in its efforts to disgorge information from all Federal agencies, including the Internal Revenue Service.

Last year the Administrative Practice Subcommittee held 2 days of hearings on access to IRS information, with both public and agency witnesses discussing practices and policies relating to disclosure of information by the Service. At those hearings we focused specifically on five categories of information: The IRS Manual, statistical material, taxpayer compliance measurement program data, letter rulings and related memorandums, and investigatory records. I recently asked the Service for an update on the status of disclosure practices as to each of these areas, and I received a brief response which I will insert at the end of this statement.

On two prior occasions I inserted in the CONGRESSIONAL RECORD lists of cases decided and pending under the Freedom of Information Act (vol. 121 CONGRESSIONAL RECORD pp. 28428 and 29990). The IRS has provided me with a complete list of FOIA cases in which the Service is involved, and since these were not included in the earlier lists, I will ask that they be included here also.

Mr. President, I believe that the Internal Revenue Service still has a long way to go to bring their disclosure operations up to a fully responsive level mandated by the letter of the Freedom of Information Act and certainly the spirit of that law. The Administrative Practice and Procedure Subcommittee will continue to follow developments at that agency, with a view toward bringing their everyday practice into conformity with those welcome expressions of support for open government put forth by Treasury spokesmen at congressional hearings over the past 20 years.

I ask unanimous consent that the letter and list of cases referred to above be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNAL REVENUE SERVICE,
Washington, D.C., December 3, 1975.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of September 26, 1975 you asked for the current disclosure status of: (1) the Internal Revenue Manual, (2) statistics, (3) taxpayer compliance measurement program data, (4) letter rulings, and (5) investigatory records. You also asked for a list of Freedom of Information cases involving the Service, including the type of records sought and the disposition in decided cases. Information on these items follows:

1. *Internal Revenue Manual:* The entire Internal Revenue Manual is now available to the public for inspection or copying except for particular lines or phrases in certain ADP handbooks that apply to tolerances, enforcement techniques, or criteria. Also, a limited amount of material formerly contained in the Internal Revenue Manual has been transferred to "Law Enforcement Manuals." Law Enforcement Manuals also contain information on tolerances, enforcement techniques and criteria which, if disclosed, would seriously impede the exercise of our law enforcement responsibilities. Hence, these manuals are withheld as exempt under the Freedom of Information Act. In total, they comprise only 186 pages or less than 1 percent of the manual instructions that we issue to our employees.

2. *Statistics:* As discussed in the succeeding section, the Service is making available statistical tabulations relating to the Taxpayer Compliance Measurement Program. At the present time, approximately 1.3 million pages of such tabulations are being released to a member of the public.

In addition, it is the Service's policy to make available under the Freedom of Information Act statistics relative to operating procedures. All statistics are provided, however, only to the extent that they do not reveal the identity of taxpayers.

3. *Taxpayer Compliance Measurement Program:* Reports, analyses, and various internal memoranda referring to Phases II, III, and IV of the Taxpayer Compliance Measurement Program, as well as the statistical output tabulation relating to these phases, have been made available under the Freedom of Information Act.

4. *Letter Rulings:* The matter of release of previously issued letter rulings is still the subject of litigation (see enclosed listing of Freedom of Information cases). Additionally, the Ways and Means Committee is considering legislation which would establish a plan for disclosing future, as well as previously issued, letter rulings.

Because of this unsettled legal situation, the Service cannot determine whether or not requests and/or appeals for letter rulings should be granted or denied. The Service, therefore, defers action on these requests at the present time. However, the requesters are advised that, pursuant to the Freedom of Information Act, they may file an administrative appeal or suit in District Court as the situation dictates.

5. *Investigatory Records:* To the extent that the investigatory records relate to the individual requesting them, the Service is making such records available so long as they do not fall within any of the subsections of exemption 7.

6. *Freedom of Information Cases:* See enclosed list.

If we can be of further assistance in this matter, please let us know.

With kinds regards,
Sincerely,
DONALD C. ALEXANDER,
Commissioner.

Enclosures.

FREEDOM OF INFORMATION ACT INJUNCTION SUITS UNDER 5 U.S.C. 552(a)(3) AGAINST THE INTERNAL REVENUE SERVICE AS OF OCTOBER 21, 1975

Case, documents sought, and disposition:

1. Abel v. IRS: C.D. Cal. Civil No. 70-786-1H, Books and records of the IRS, Government's motion to dismiss granted for failure to describe identifiable records.
2. American Society of Travel Agents, Inc. v. IRS: D.D.C. Civil No. 72-629, Technical Advice Memoranda, Dismissed.
3. B. & C. Tire Co. v. IRS: N.D. Ala. Civ. No. 72-629, Investigatory records, Dismissed.
4. B. & C. Tire Co. v. IRS: 376 F.Supp. 708 (N.D. Ala. 1974), Investigatory records, Summary judgment for Government.
5. Bernstein v. IRS: S.D.N.Y. 74 Civil 2804, Technical Advice Memoranda and background documents, Pending.
6. Brandon v. IRS: D.D.C. Civil No. 74-1083, Documents regarding Special Services Staff, Documents sought were produced.
7. Computal Corporation v. IRS: N.D. Ill. Civil No. 71C 396, Manual material, Dismissed.
8. Chamberlain v. Alexander, S.D. Ala. Civil No. 7742-73-P, Manual material and investigatory records, Pending.
9. Church of Scientology of California v. IRS: C.D. Cal. Civil No. 74-3465, Investigatory records, Pending.

10. Chavkin v. IRS: S.D.N.Y. 75 Civ. 398, Informant's communication, Pending.

11. Donlon v. IRS; Williams v. IRS: 479 F.2d 317 (3rd Cir. 1973), Investigatory records, Government's assertion of exemption upheld.

12. Etheridge v. IRS: 74–1 U.S.T.C. 9354 (N.D. Ga. 1974), Manual material and investigatory records. Dismissed.

13. Fruehauf Corporation v. IRS: 75–2 U.S.T.C. 87, 619 (6th Cir. 1975), Private letter rulings and Technical advice memoranda, Order for plaintiff—affirmed by Sixth Circuit. Petition for certiorari has been filed.

14. Glickman, Lurie, Eiger & Co. v. IRS: Civil No. 4–75–303, U.S. D.C. Minn., Fourth Division (Unreported opinion), Investigatory records, Summary judgment for Government.

15. Giacalone v. IRS: E.D. Mich. Civil No. 5–71–723, Investigatory records, Pending.

16. Hawkes v. IRS: 507 F.2d 481 (6th Cir. 1974), Manual material, Decision for Government reversed on appeal. On remand, decision for plaintiff, which Sixth Circuit affirmed.

17. Imbrunone v. IRS, 379 F. Supp. 256 (E.D. Mich. 1974), Manual material, Ruled in favor of the Government.

18. Klayman v. IRS, D.D.C. Civil No. 75–1584, Letter rulings and Technical advice memoranda, Pending.

19. Knobbe v. IRS, D. Kan. Civil No. 75–156–C6, Letter rulings and determination letters, Pending.

20. Lo, Chou, and Asian-American Recreation Club, Inc. v. United States, IRS, and CAB N.D. Cal. C75–0269, Investigatory records, Dismissed.

21. Long v. IRS, 349 F. Supp. 871 (W. D. Wash. 1972), Manual material and investigatory records, Investigatory records denied to plaintiff. Manual material provided to plaintiff.

22. Long v. IRS, 349 F. Supp. 871 (W. D. Wash. 1972), Statistical records, Judgment for plaintiffs.

23. Long v. IRS, W. D. Wash. Civil No. C74–7245, Statistical records, Case pending but records provided to plaintiffs.

24. Long v. IRS, W. D. Wash. Civil No. C74–5295, Statistical records, Case pending but records provided to plaintiffs.

25. Long v. IRS, W.D. Wash. Civil No. C75–131S, Statistical records, Case pending but records provided to the plaintiffs.

26. Long v. IRS, W.D. Wash. 75–228S, Statistical records, Case pending. Certain records provided plaintiffs while other considered exempt.

27. Mirich v. Alexander, E.D. Mich. Civil No. 473035, Investigative reports pertaining to an accident, Pending.

28. Mason v. Alexander, E.D. Va. Civil No. 75–577–A, Investigatory records, Pending.

29. Nader v. IRS, D.D.C. Civil No. 1851–72, Background records relating to Revenue Ruling, Decision for Government.

30. Owen v. IRS Civil No. 75–0391, D.D.C., Private letter rulings, Dismissed.

31. Peacher v. IRS, D.D.C. Civil No. 8–72, Manual material, Dismissed.

32. Philadelphia Newspapers Inc. v. United States, D.D.C. Civil No. 75–1383, Letter rulings, Pending.

33. Ries v. IRS, D.D.C. Civil No. 75–0639, Letter rulings, Pending.

34. Sahley v. IRS, E.D. La. Civil No. 75–1831, Investigatory records, Pending.

35. Schwartz v. IRS, 511 F.2d 1303 (D.C. Cir. 1975), Inter-agency memoranda relating to $1.00 check-off, Decision for Government.

36. Shakespeare of Arkansas, Inc. v. IRS, W.D. Ark. Civil No. F–75–41–C, Letter rulings and Technical advice memoranda, Pending.

37. Shea v. IRS, D. Conn. Civil No. N–74–S, Inter-agency memoranda relating to Hartford-ITT merger, Dismissed.

38. Swift v. IRS, N.D. Ga. Civil No. C75–77R, Inter-agency memoranda, Pending.

39. Tax Analysts and Advocates and Thomas F. Field v. IRS, 505 F.2d 350 (D.C. Cir. 1974), Letter rulings and index to digest card system relative thereto, On appeal the court ruled that private letter rulings were not exempt but technical advice memoranda were exempt.

40. Tax Analysts and Advocates and Thomas F. Field v. IRS, D.D.C. Civil No. 75–0650, Letter rulings issued since July 4, 1967 and the digest card system relating thereto, Pending.

41. Tax Reform Research Group v. IRS, 74–1 U.S.T.C. 9374 (1974), Confidential comments on regulations, Decision for plaintiff.

42. Tax Reform Research Group v. IRS, D.D.C. Civil No. 74–216, Records of White House Communications particularly as to the so-called "Friends and Enemies" List, Pending.

43. Virginia Independent Schools Ass'n. v. Commissioner, D.D.C. Civil No. 75–0925, Background material on proposed Revenue Procedure, Pending.

44. Warren v. IRS, N.D. Tex. Civil No. 2–74–133, Investigatory record, Pending.

AVIATION HIGH SCHOOL— NEW YORK CITY

Mr. JAVITS. Mr. President, among the variety of purposes which education serves, there is an increasing interest and need to focus attention on its capacity to relate effectively to the world of work—to provide career oriented training which prepares our citizens for opportunities to enter the labor force in worthwhile occupations.

While much must be done to improve the relationship of education to work, we have some exemplary programs already in existence that serve as benchmarks to guide our efforts.

I am pleased to note that in New York City there is such a program. Located in Long Island City, Queens, Aviation High School provides its students, in addition to general academic courses, sound vocational training to work effectively in mechanical, electrical and other technical fields within aviation and related industries.

Specifically, there are three points I should like to emphasize in which Aviation High School fulfills important needs. First, this school offers quality education, providing its graduates with opportunities to enter employment or to pursue further studies including at the college level. Second, Aviation High is interrelated with its target industry, drawing heavily on aviation specialists in the field to design and update its technical curriculum. Third, Aviation High extends broad educational opportunities, with fully 66 percent of its current enrollment composed of students from ethnic minorities. In short, Aviation High School exemplifies those effective career training programs to which we must increasingly direct our attention and efforts.

Mr. President, an article by Peter A. Janssen recently appeared in the New York Times Magazine which describes this exemplary career training school. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine, Dec. 7, 1975]

LET'S HEAR IT FOR AVIATION HIGH

(By Peter A. Janssen)

The school is flanked by a gas station and a men's clothing factory, across the street from the elevated subway tracks, in an industrial section of Long Island City. Next to the seven-story school building of glass and brick, some 16 airplanes, including a biplane, two helicopters, two twin-engine Beechcrafts and two reconnaissance drones left over from the Vietnam war, are scattered about a hangar and an apron. The whole, with its 2,700 students, is the Aviation High School, an exemplar of a flourishing new trend in career education.

In the past, most vocational schools had a well-deserved reputation as dumping grounds for blacks, Puerto Ricans and other minorities who were not regarded by most educators as college material. All too often, the vocational schools "trained" students for jobs that did not exist with equipment that was hopelessly outdated, or were used as a means of tracking students away from the more desirable high schools—and, as a consequence, into the least desirable jobs. A few years ago, however, many educators turned to "career education" as a means of effecting a reform in education generally. About 40 percent of all American high-school students were enrolled in a general curriculum which usually was a watered-down college-prep course that did not prepare students for either college or a job. Sidney P. Marland, then Commissioner of Education, called the prevailing general curriculum "an abomination," and quickly became the main spokesman for career training. The reformers promoted the idea that the institutional barriers between school and work should be broken down; that an end should be put to the secondary-school lockstep that was sending an ever-growing number of high-school graduates unquestioningly to college; and that high schools should train all students for a decent way to earn a living, whether they went on to college or not.

Today, the trend toward career education has received a boost from many educators—and parents—who are taking a second look at the merits of college. While four years at a public college now cost about $11,000, and more than $25,000 at a private college, the economic advantages of a college degree are shrinking. In 1969, men over 25 with a college degree earned 53 percent more than men with only a high-school diploma; by 1973, they earned only 40 percent more, and Harvard economist Richard B. Freeman predicts that by 1979 they will earn just 30 percent more.

With the end of the military draft, a smaller proportion of high-school graduates is going on to college or joining the armed forces. Increasingly, young people are leaving high school and going to work. Their presence on the job market gives extra impetus to upgrading the shopworn vocational and technical schools. And in the sour economy of the past few years, the trend toward career education has become a nation-wide boom.

New York has 23 technical and vocational high schools, currently with 305,486 students, or 14 percent of the city's high-school enrollment. Applications to these schools ran last year at double the number of openings, and those who get in seem to stay. Attendance, which often dips below 60 percent in the general high schools, runs about 75 percent in the vocational schools. The Board of Education claims that two-thirds of the vocational graduates get jobs in the fields they studied.

For all that, many of the vocational schools suffer from a lack of focus, offering vague courses in "office practices" or "career development"; many still struggle along with hopelessly outdated equipment—for instance, teaching television repair on black-and-white sets. The city's five "unit-trade" high schools, however, are a different story. Each of these concentrates on a single industry—aviation, automobile, fashion, printing, and art and design—and directs its training and technology towards a single goal. These specialized schools attract students with a particular desire to learn

Aviation High School, one of a half dozen high schools in the country specializing in the aerospace industry, has a record that is far above the city average even for the vocational schools. Last year, 4,750 seventh and eighth-grade students applied for Aviation's 850 places. Attendance was 96 percent, and Aviation principal Santo J. Frontario says he had more job offers (at $4.50 to $5.20 an hour) for last June's graduates than he had takers. The reason for Aviation's apparent success is that it offers both a highly technical job-training program—with plenty of cooperation and leadership from the aviation industry—and a solid college-bound curriculum. Students can take technical courses and graduate with both a diploma and a Federal Aviation Administration certificate of competency as air-frame or power-plant mechanics; or, in the senior year, they can take the "advanced placement" course with college-level physics labs, avionics (dealing with electronic instruments) and calculus, and earn the F.A.A. certificate, a diploma, and a leg up on college.

In addition, Aviation runs several dozen afternoon and evening courses for adults trying to land entry-level jobs. During the day, students from other schools come to use Aviation's unique shops and equipment; many students from Aviation and other high schools also sign up for after-school courses to get extra job training.

Eddie Luisi, an Aviation junior who is having only mild success in growing a mustache, stays two hours after school to take a paint-spraying course. This winter he will get a certificate of competency in paint spraying, and then he'll enroll in something else. "When I graduate, I'll have these things all piled up," he says. "I can work anywhere. I'll get a diploma and a license from the F.A.A., I'll have three or four of these certificates; I can go to college, the Air Force, work as a technician. Right now I don't know what I want to do, but I know I'll be ahead of a lot of other guys."

Perhaps because of the ever-present glamour of flying or the oft-mentioned $10-an-hour wage for airline mechanics with two years' experience, Aviation's students are uniformly enthusiastic about their school. Waiting for a bus outside the building one warm fall afternoon, Horacio Felgueiras, a sophomore, proudly and without any prompting declared, "It is the best school in New York City." A group of friends agreed, gleefully slapping Felgueiras' outstretched palm every time he mentioned anything remotely connected with the school. "For one thing," he said, "you get a job." Slap, slap. "JFK, LaGuardia." Slap, slap. "You know, $10 an hour." Slap, slap, slap.

Enthusiasm about Aviation is anything but a coincidence. Indeed, it is the result of a highly developed system of recruiting, admission and student motivation and control. The school is open to all city pupils graduating from the eighth and ninth grades. Every fall, Aviation's counseling office sends thousands of brochures and letters to public and private junior highs throughout the city. Frontario speaks at dozens of junior highs during the year, and he puts on at least one open house, so that parents, prospective students and counselors can see for themselves what Aviation is all about. "We work at recruiting," says Frontario. "We want to ensure that we get the largest possible pool of applicants." This fall, some 1,500 people turned out for a Friday evening open house; after visiting the shops and talking with teachers, they were shown a 28-minute, 16-mm. color film extolling the school's virtues.

The film was made in 1965; a new one has been shot and only awaits final editing. It is anything but subtle. The film opens with a DC–10 taking off, and cuts to the plane landing and taxiing toward a passenger terminal. The camera zooms in for a close-up of the co-pilot. "Hi, I'm George Wilson, first officer of American Airlines. I'm a graduate of Aviation High School, class of '62. My mechanical and technical training at Aviation High School provided me with a sense of direction and a foundation upon which to build my career." The highly professional film continues with more success stories and interviews with old grads who are airline executives, pilots and mechanics.

To apply to Aviation, students fill out a standard Board of Education form, and take a written test at the school dealing with math, science and spatial relationships. They are then interviewed by Frontario, an assistant principal or a guidance counselor. "The interview is the most important part of the screening," says Antonio Pepenella, who has been a counselor for 16 years and is in charge of admissions. "That's how we tell about motivation." Aviation puts far more emphasis on a student's desire to learn and his ability to live by the rules than on his brilliance. "We don't take kids who are more than two years retarded in reading," says Pepenella. Frontario says, "We stress accuracy, workmanship, attendance, punctuality. We're vitally concerned about a boy's ability to assume responsibility for his actions."

Finally, all applications are spread out on two long wooden tables in a conference room, arranged in descending order of the test scores. A 12-member committee goes through the piles, with Pepenella and Frontario making the final decisions. Last year, 3,984 applicants took the written test, 1,600 were accepted and 850 were enrolled. "A lot of kids from parochial schools use us as insurance in case they don't get into their diocesan high school," Pepenella said. "But 90 percent of the kids we accepted from ninth grade in public schools actually came."

If, as occasionally happens, the screening process fails and a student does not fit in, he is invited to leave. (This works both ways; some students are astonished at Aviation's rules and regulations, and want out.) Each year, about 10 percent of the entering students are "transferred out."

Aviation does not seem to suffer from racial discrimination. About 38 percent of the students this term are Puerto Rican, 16 percent are black, 12 percent are Oriental and 34 percent are white. (Frontario has a Spanish-language cassette for his 15-minute slide and tape show when he recruits in heavily Puerto Rican schools.) However, another form of discrimination seems to be at work: The school does not have a single female student, although six are scheduled to come parttime for some shop courses in February. "A few girls passed the test and applied," says Frontario. "So I asked their parents in and showed them the shops and classes and all the boys, and then they said their daughters didn't want to come. Can't say as I blame them."

Starting with the 10th grade, an Aviation student spends half the day in shop courses and the other half in academic work. The school day, longer than in many New York high schools, runs from 8 A.M. to 2:56 P.M. and is divided into nine 45-minute periods. The only free period is lunch. There is no study hall or other free time.

The curriculum, of course, is dictated by Board of Education requirements. But two other agencies also control Aviation's technical courses: the F.A.A., which stipulates a specific curriculum for its certificate, and the Aeronautic Educational Advisory Commission, a group of 47 airline, union, management, military and other aviation-related men who meet at the school three or four times a year to review courses, discuss the job market and offer feedback on how graduates are performing. Commission members also make summer jobs available for Aviation teachers—keeping them up-to-date on industry demands and equipment—and donate supplies to the school.

In the 10th grade, students work in airframe, sheet-metal and basic-electricity shops. In the 11th grade, they move on to airplane motor assembly and oxyacetylene and heliarc welding; in the 12th to jet engines, turbines and turboprops, hydraulics and machine-tool operations. Wearing white coveralls with a flying letter A stitched on the back, students work on "live" engines in the hangar and test jet engines in two small labs behind huge soundproof doors.

Much of the training prepares students for jobs outside aviation. In the 11th-grade electrical shop, for example, Alvin Gorlick, who graduated from Aviation in 1963, teaches the fundamentals of wiring a circuit. Students strip a circuit board clean, and then rewire it. Gorlick has worked some summers as a mechanic for Allegheny, National and Mohawk airlines, "but I can do anything. Some summers I do air-conditioning or heating. These kids learn those same skills. If they can't get a job in aviation, they'll be able to get a job someplace."

For students who do want jobs in aviation, the school offers an "extended 12th year" program to the top 50 graduates. They can come back for six months and work in shops full-time. If they pass a qualifying test, they earn a second F.A.A. technician's license.

Not all the courses are oriented to shop and job. One elective English course for college-bound students is "Male-Female Relationships, or Sexuality Through Literature." Recently Martha Sussman, one of the few women teachers in the school, was perched on her desk discussing the previous night's assignment—a story about Mark, 19, a counselor at a summer camp, and Emily, 16, a young camper. At the end of the summer, Mark and Emily have an affair.

As Principal Frontario and Vice Principal Bob Grant quietly escort a visitor into the back of the room, Mrs. Sussman is explaining that "probably the worst thing you can do when you engage in sex is to want something to happen but you're too embarrassed to tell your partner." Frontario groans; Grant struggles with his packet button; Mrs. Sussman flushes but gamely struggles on. "The worst thing in the world is to be naked with someone, exposing yourself in every way, but still to be afraid to ask them a question." The class, 33 teen-age boys, nods in agreement.

"What are your thoughts about women taking steps to avoid pregnancy?" Mrs. Sussman asks.

A Puerto Rican boy: "In my country, it's very hard for a girl to get a prescription for a pill or any help from a doctor."

Another boy, affecting a superreasonable tone of voice: "It's both their responsibility."

Mrs. Sussman guides the discussion from intercourse to other rites of passage, the class hanging on every word, until she is saved by the bell.

In addition to the standard Regents' requirements for academic courses, Aviation offers a dozen or so electives. The more popular: "The Adolescent in Literature," "Exploring the Film" and "Horrors, Witches and the Supernatural." Some 60 students are enrolled in the intense advanced placement program.

Aviation's teachers often use a blend of the Socratic method and practical examples. Frank Cordaro, who has taught at the school for 11 years (after 20 years in the Navy in aircraft maintenance), was leading 21 seniors through "The Theory of Lift" in a chemistry lab. Cordaro scrawled diagrams on the blackboard and gestured with a 2-foot-long wooden model airplane.

"Will the take-off run be longer at JFK or at Denver?"

"Denver," came the reply from several students.

"Why?" asked Cordaro, calling on a boy in the rear.

"Because the air has less density in Denver. High altitudes—less lift."

Cordaro ran through the effects of weather on density: Air expands in heat, becoming less dense and offering less lift. "O.K. We're at Mexico City on a hot day. Are we going to have difficulty getting it off the ground?"

The class chorused "Yes," as Cordaro moved the model plane through a prolonged, low-level take-off.

After class, he explained: "I keep talking with the kids, asking them questions all the time to see if they're getting the stuff. It's also pretty effective to use a lot of visual aids like the model plane. The kids pick it up faster."

Paul Casella, who has been at Aviation for your years (after several years as an Army helicopter crew chief), was teaching a senior class in "Ground Operations." Eighteen boys perched on benches in the hangar, almost under the wing of a jet fighter. Casella ran a short movie showing how to service a private plane when it lands at a small airport; the proper hand signals to use in leading it to the service area; how to chock the wheels, fill the gas tank and check the tires. He then had the class practice hand signals.

"When you're on the ground walking a plane to the service area, why should you always look behind you?" he asked.

A sturdy boy, with "Mean Machine" written on the back of his coveralls, replied: "For Christ's sake, if you don't look where you're going, you'll walk into a propeller."

"Yeah, or you could trip on something, and before he noticed that you weren't there, the pilot could roll over you. It's happened." Casella said that later in the week the class would taxi a single-engine Cessna out of the hangar onto the apron and start up the motor—"and I want everybody to know exactly what they're doing."

Throughout the school, Aviation has 172 certified teachers; 72 of them are certified F.A.A. air-frame and power-plant mechanics as well. One F.A.A. regulation that is causing some trouble requires that shop classes contain no more than 25 students. Frontario got a special extension last February permitting Aviation's shops to go up to 28 pupils, the maximum stipulated in the United Federation of Teachers contract. The U.F.T. maximum for high-school academic courses is 34; Aviation's classes usually are one or two below that.

Like the students, most of Aviation's teachers are uncommonly loyal to the school. Indeed, 35 are Aviation graduates. Aviation opened at the Manhattan High School of Aviation Trades in 1937, on Second Avenue and 63d Street. Frontario, who was born on the Lower East Side and graduated from P.S. 40 and Stuyvesant High School, joined it a year later. He helped plan the present building.

To a large degree, most schools are a reflection of their principals. Frontario, a licensed mechanic, pilot and F.A.A. examiner who "flies as often as I can," is polite, direct and businesslike. He was a colonel during the Second World War, flying B–17's in North Africa and Italy, and there is no doubt today about who runs the show at Aviation; almost everyone in the building defers to Frontario on any question of substance. Frontario works in "the industry" during the summer; this year he evaluated training programs for Pan Am.

The school's ability to produce graduates who land good jobs depends largely on the equipment in its shops. Frontario says Aviation's per-pupil spending is the same as in other vocational high schools. Aviation's operating budget is $3.1 million from the Board of Education this year. Frontario estimates that the budget has been cut about 15 or 20 percent lately. "They started cutting five years ago and I stopped counting," he says. "I can't even tell what the total cut is now."

The cuts that particularly hurt are in expendable supplies. In 1965, for example, the board allocated $47,000 for such supplies; this year the budget is $22,000. Teachers in after-school welding shops say they are now allotted one bottle of gas per class. "Now we show a film that's supposed to teach welding," says one bitterly.

Teachers say that most of the shop equipment is old, but good. "Most of the equipment I use comes from the 50's or early 60's, but it's still being used by the airlines," says Dominic Ciociari, who teaches advanced machine shop at Aviation and works during the summer as a pilot for Air Jamaica.

Frontario gets the most out of Aviation by motivating the student. Most, of course, already are motivated by the prospect of the F.A.A. certificate and a decent job. But Frontario uses other techniques to guarantee interest. At graduation, for example, each student with 100 percent attendance is given a gold lapel button in the shape of wings, plus a plaque. (Frontario always wears his wings.) Last spring 65 graduates won their wings. If a student attends four terms without missing a day he is given silver wings; last June, 165 days, out of a graduating class of 515, got silver wings.

The wings ceremony has a mystique of its own. In a ritual not likely to be duplicated in many other American high schools, an Aviation senior leads the wings winners in reciting the Mechanics' Creed:

"I shall hold in sacred trust the rights and privileges conferred upon me as a wings recipient mechanic. In discharging this trust, I pledge myself never to undertake work or approve of work which I feel to be beyond the limits of my knowledge, nor shall I allow any noncertified superior to persuade me to approve aircraft or equipment as airworthy.

"I realize the grave responsibility which is mine to exercise my judgment on the airworthiness of aircraft and equipment. I therefore pledge unyielding adherence to these precepts for the advancement of aviation and for the dignity of my vocation."

On top of the motivation of the wings, students are required to start each day with 15 minutes in their home room while attendance is taken. The last five minutes of the day they report back for "checkout," while attendance is taken again. "This," says Frontario, "controls what other schools call 'selective attendance.' "

In many ways Aviation is like other high schools. It has the normal signs marking the Down Only and the Up Only stairs, and the P.A. system at the end of each period sounds like a submarine dive signal. But, in a scene more familiar to the 50's than the 70's, the school drill team, 60 strong, practices marching around the yard every afternoon. The drill team was very big this fall in the Columbus Day parade.

"These kids are some of the best in the city," says Vice Principal Grant. "They're good-natured, and that's unusual for high-school kids." Victoria Clark, an English teacher and adviser to Aviation Log, the student paper, agrees: "They're not particularly radical. They're really more or less ultraconservative. They're very pragmatic kids interested in getting jobs."

Whether Aviation graduates actually get the jobs they train for is open to some interpretation. Antonio Pepenella, the admissions director, who doubles as senior counselor, says, "The aviation industry does not have as many jobs as we would like. Also, if the kids want jobs in airlines they have to leave the New York area, and most of them don't want to do that. But things are picking up. We went through a worse period a few years ago."

When asked about jobs, Frontario pulls out a poll of last June's 515 graduates. Of the 258 who responded, 148 were enrolled in some kind of higher education for further technical training (most at City University under Open Admissions); 35 were studying liberal-arts courses; 16 were working full-time in nonaviation jobs; six were working full-time in aviation jobs; six were working part-time but looking for full-time jobs; 29 were unemployed and looking for jobs; 10 had joined the armed forces, and eight who answered the poll did not say what they were doing. There is no way to tell, of course, what happened to the 257 graduates who did not answer the poll.

Is Aviation worthwhile if only six out of 515 graduates are known to be working in aviation jobs? Frontario and many teachers claim that many more uncounted students are in the aviation industry, and that those who did not get aviation jobs immediately are well prepared to work in other fields. Frontario says he had 112 job offers in all parts of aviation last spring—"not as good as in the past, but I still had more jobs than I was able to fill." Many jobs involved working for subcontractors (where graduates would never see an airplane) or moving from New York. Frontario estimates that half of Aviation's graduates end up working in aviation, but he has no solid evidence to back this up.

Aviation graduates who do land jobs tend to perform quite well. Enrico Bello, general foreman for Trans World Airlines and himself an Aviation graduate, says, "They do a fine job. The school teaches fundamentals very well." Patrick Marinelli, maintenance director at Kennedy for Pan Am, and also an Aviation graduate, says, "Young guys get a lot of theory at Aviation; they know how to think, and we like that. We train them ourselves to our own way of doing things, but they already have good basics. We'd rather hire them than people who've been in the Air Force four or five years. The Air Force people have been doing it the wrong way all that time, and it's hard to retrain them." Anthony Vasko, general foreman for technical services for Eastern (yet another Aviation graduate), praises the school's products: "They are really a highly motivated bunch."

The *esprit* and enthusiasm that permeate the school are testimony to its success. Schools such as Aviation are not the entire answer to reforming the nation's high schools, but they certainly offer one alternative. If nothing else, Aviation can point to the pride of its students. Says Claude Laleau, a junior: "If you want to get something out of school, you can get it here."

FAMILY REUNION FOR INDOCHINA REFUGEES

Mr. KENNEDY. Mr. President, in the finest tradition of the American people, the United States has extended a warm hand of friendship and help to the Indochina refugees who have come to our shores. All those involved in the Indochina refugee resettlement program—the voluntary agencies, the President's interagency task force, and the countless individual Americans who have offered their help—deserve great credit for their efforts in recent months on behalf of Indochina refugees.

However, this fine record of humanitarian service is being tarnished by the growing difficulties many refugees are facing in terms of family reunification. Needless impediments have developed in the parole program for Indochina refugees in securing family reunion, which has been a central humanitarian objective in our national immigration policy.

My office has received pleas from scores of Indochia refugees in the United States seeking help in obtaining permission to bring their parents, children, and other family members into the United States. In the confusion and chaos of the evacuation from Saigon, countless families were split, and today some members of the family have been resettled here while others are in Third Countries seeking to rejoin their family in America.

A recent case that came to my attention illustrates the problem. A 16-year-old girl was separated from her family during the evacuation of Saigon in April, and she arrived in Camp Pendleton a few days later. Not knowing whether her family was able to leave Vietnam, and feeling isolated and alone, she opted to travel to Canada where she had a relative. Several days later the remainder of her family—her father and mother and sister—arrived in Camp Pendleton, and after some searching the girl reestablished contact with them.

However, the Immigration and Naturalization Service has ruled that the girl is "resettled" in Canada, and she has not been given permission to enter the United States and rejoin her family in California.

Mr. President, I find such a case an outrageous situation, and I am dismayed that the lack of clearly defined policies and guidelines governing the continuing parole program is bringing unnecessary personal hardship for many refugee families.

This week I wrote to the Attorney General urging that he clarify the parole authority, and to instruct the Immigration and Naturalization Service to act expeditiously on family reunification for Indochina refugees. There is no excuse for delay.

After consultations with Congress, a parole authority for 150,000 Indochina refugees was granted. The total number of refugees in the United States has not yet reached that ceiling, and so I urge the Attorney General and INS to proceed with the parole authority for Indochina refugees—particularly in behalf of family reunions.

Mr. President, I ask unanimous consent that the text of my letter to the Attorney General be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on the Judiciary,
Washington, D.C., December 15, 1975.

Hon. Edward H. Levi,
Attorney General,
Department of Justice,
Washington, D.C.

Dear Mr. Attorney General: I am writing to express the concern I share with others in Congress over the growing difficulties in the continuing parole of Indochina refugees into the United States under Section 213(d)(5) of the Immigration and Nationality Act, as amended. Especially distressing are the needless impediments to family reunion, which has been a traditional humanitarian objective of our national immigration policy.

As you probably know, in recent weeks there has been a great deal of discussion over this matter within Congress, the Executive Branch, the voluntary resettlement agencies and elsewhere. And the lack of clearly defined policies and guidelines for governing the parole program, and the bureaucratic paralysis in resolving individual cases, has not only produced confusion in the public mind, but also considerable personal hardship for many refugee families.

Information available to the Subcommittee on Refugees from its own files, the President's Interagency Task Force on Indochina Refugees, the United Nations High Commissioner for Refugees (UNHCR), the Department of State, and several voluntary agencies, suggest that the bulk of those currently seeking resettlement in the United States wish to join family members already here, and that some additional resettlement needs are also present, in the main, among the growing number of refugees in Thailand. All of these displaced people are under the mandate of the UNHCR, who has assumed a major responsibility for their temporary care and maintenance, and for their eventual repatriation or resettlement in the initial receiving countries or elsewhere.

I fully recognize various constraints in the continuing parole of Indochina refugees, and the apparent lack of any firm consensus over the initial objectives of the parole program. The record suggests, however, that a ceiling of 150,000 persons was generally understood by all parties concerned, and that, in pursuit of various humanitarian objectives within this ceiling, in recent months the Executive Branch and the Department of Justice have often taken expeditious steps to accomplish these objectives.

As one who has long advocated flexible guidelines and procedures to facilitate the expeditious movement of refugees to the United States—especially for the humanitarian purpose of family reunion—I wanted to recommend that the Department thoroughly review the current guidelines and procedures governing the parole of refugees from Indochina, and that the Immigration and Naturalization Service take immediate steps to facilitate the reunion of families and the parole of a reasonable number of additional refugees under the mandate of the UNHCR. It is my understanding that this humanitarian objective can be accomplished within the general parole ceiling of 150,000 persons, that funds are available to assist this movement, and that private voluntary agencies also have sponsors readily available to assist in the resettlement of any new arrivals.

The Department of Justice and the other components of the President's Interagency Task Force deserve much credit for their efforts in recent months in behalf of the Indochina refugees. The anticipated closing of the reception areas by the end of this month attests in part to these efforts. But in viewing these good efforts, I am extremely hopeful that our country will not lose sight of our remaining obligations toward the new arrivals on our shores, and our continuing responsibilities for helping to meet the urgent family reunion and resettlement needs among certain refugees now in Thailand and other areas.

I appreciate very much your consideration, and look forward to hearing from you soon. Best wishes.

Sincerely,

Edward M. Kennedy,
Chairman, Subcommittee on Refugees.

PEOPLE-TO-PEOPLE HUMANITARIAN AID GOES TO VIETNAM

Mr. HATFIELD. Mr. President, on next Monday evening, December 22, a planeload of medical supplies and clothing will leave New York for Vietnam. This is a small token shipment of materials collected by several church groups and others throughout America, and sent as a people-to-people act of reconciliation. Permission had to be sought, and was granted, for the sending of humanitarian relief shipments from the Treasury and Commerce Departments, because of the trade embargo still in effect, which prohibits any trade with Vietnam. I will continue to press for the removal of this embargo as an absolutely essential step toward resolving the outstanding issues between the Government of Vietnam and our own Government, including any unanswered questions concerning the MIA's, and to fully normalizing relations.

Surely during this Christmas season we should be moved as a government and a people in acts of humanitarian concern toward a people whose country was torn assunder through years of war. I ask unanimous consent that a statement describing this compassionate act be printed in the Record. I also ask that a statement by leaders of the Catholic, Protestant, and Jewish communities in America urging a policy of reconciliation with Vietnam, including the removal of the present trade embargo, also be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

"Friendshipment" Plane Bound For Vietnam—25 Tons of "People-to-People" Aid Leaving the United States This Week

An airplane leaves New York December 22, bound for North Vietnam on the third anniversary of the Christmas bombings of Hanoi which virtually destroyed the Bach Mai Hospital. Tonight's flight carries, not bombs, but 3½ tons of antibiotics, medical equipment, sweaters, and health kits, sent as part of a people-to-people aid campaign called Friendshipment. Twenty-two tons of blankets and clothing left by ship for Haiphong, North Vietnam on Saturday, December 20th.

Details of the shipments were revealed today at a New York press conference by representatives of several cooperating organizations in the Friendshipment campaign.

Friendshipment involves thirty-five church, peace, and civic organizations which are fulfilling Vietnamese requests for emergency medical aid and reconstruction materials. Included in the 3½-ton shipment today were: sweaters, gathered by the American Friends Service Committee; medical equipment provided by the Bach Mai Hospital Relief Fund; health kits donanted by Church World Service; and medicine purchased by Clergy and Laity Concerned.

Also included in the air shipment were antibiotics and 200,000 kits for screening venereal disease, provided by the Mennonite Central Committee, along with microscopes purchased by the United Methodist Church's Committee on Relief, a division of their Board of Global Ministries. (Detailed list attached.)

The materials are all being sent in response to recent requests by the Vietnamese and are consigned to the Red Cross Society of Vietnam which will distribute the aid according to need.

In addition to today's flight, Friendshipment reported it has sent 22 tons of clothing and blankets by ship Saturday, December 20th, arriving in Haiphong Harbor, February 6th. These items were an additional contribution from Church World Service, a voluntary relief agency of the National Council of Churches. CWS has also made substantial contributions through the Fund for Reconstruction and Reconciliation in Indochina, an international effort of the World Council of Churches, providing several million dollars more toward the reconstruction of Vietnam.

The American Friends Service Committee's part in today's Friendshipment consists of nearly 3,000 sweaters to help children—five to twelve years old—fend off the chilly winters in Vietnam. The sweaters, many of them hand-made, were donated by people across the nation. If purchased new, they would cost over $15,000.

The AFSC learned of the urgent need for sweaters during discussions with officials in Vietnam in September. The Quaker organization already has shipped sixteen-and-a-half tons of acrylic yarn to Haiphong so the lone sweater factory in North Vietnam can produce 50,000 additional sweaters.

The purchase of antibiotic medicines for leprosy and psychiatric use, as well as the screening tests for venereal disease, resulted from a request made of a Mennonite delegate to Vietnam who recently met with health officials in Saigon and Hanoi. One American legacy in Vietnam is massive venereal disease, affecting more than 300,000 women.

The Bach Mai Hospital Relief Fund, Inc. has already sent over a million dollars worth of medical aid to rebuild the Bach Mai Hospital which was nearly destroyed in the bombing raids three years ago today. The EKG machine and mciroscope in today's flight are part of the continuing commitment of the Bach Mai Fund to help meet the medical needs of the Vietnamese people.

As part of its contribution to Friendshipment, Clergy and Laity Concerned, an interfaith peace group, is sending Opthalmic Bacitracin (eye ointment). The medication is for released political prisoners in South Vietnam, many of whom suffer from serious eye disease due to long periods of confinement in unsanitary conditions.

Don Luce, Clergy and Laity Concerned's Co-Director, has been closely associated with the cause of the political prisoners of the Theiu regime ever since 1970 when he discovered the tiger cages on Con Son Island while on a fact-finding visit with two American Congressmen.

Because trade to Vietnam is currently restricted by the United States, each of the Friendshipment groups sending materials had to apply for licenses from the Treasury and Commerce Departments for permission to ship their relief supplies. An end to the present trade embargo could come soon if Congress would pass proposed legislation, submitted last week, by the House Subcommittee on International Trade and Commerce, chaired by Rep. Jonathan B. Bingham (D-NY).

Other organizations around the country are currently raising funds and collecting more materials for subsequent shipments to Vietnam in January and February. They include: Ad Hoc Coalition for a New Foreign Policy; Another Mother for Peace; Bishop's Call for Peace and Self-Development of Peoples, United Methodist Church; Committee of Responsibility; Disciples Peace Fellowship; Episcopal Peace Fellowship; Fellowship of Reconciliation; Friends of Indochina Organizing Committee; Health-PAC; Indochina Mobile Education Project; Indochina Resource Center; International Children's Fund; Inter-Religious Foundation for Community Organization; The Thomas Merton Center; National Council of Churches, Division of Church and Society; National Interim Committee for a Mass Party of the People; People to People Program, Christian Church, Disciples of Christ; Puerto Rican Socialist Party; SANE, SOS Vietnam: A Time for Healing, International Committee; Union of Vietnames in the United States; United Methodist Church Women's Division and World Division; Vietnamese-American Reconciliation Center; Vietnam Resource Center; War Resisters League; Women Strike for Peace; and Women's International League for Peace and Freedom.

Description of Contents of Friendshipment Leaving by Plane December 22, 1975, From New York to Hanoi

Church World Service: 5,520 lbs. Health kits, $8,250.

American Friends Service Committee: 1,304 lbs. Sweaters, $1,957.

Clergy and Laity Concerned: 61 lbs. Eye ointment, $1,500.

Bach Mai Hospital Fund: 90 lbs. EKG machine, $1,000; 87 lbs. Microscope, $1,000. Antibiotics, $5,000.

Mennonite Central Committee, 150 lbs. Antibiotics, $5,000; 600 lbs. RPR (VD) Kits, $13,068.

United Methodist Committee on Relief: 50 lbs. 2 Microscopes $2,300.

Totals: 6 Agencies, 7,815 lbs., $34,074.

Via Ship, 12/20/75, New York to Haiphong, Church World Service, 22 tons Blankets & Clothing, $59,550.

Reconciliation and Reconstruction of Postwar Indochina

(Statement Issued by the Interreligious Committee of General Secretaries composed of the Chief Executive Officers of the U.S. Catholic Conference, National Council of Churches and the Synagogue Council of America.)

The Catholic, Protestant and Jewish communities of America greeted with relief and happiness the news of the final silencing of guns and the end of the destruction in Indochina. Many of us have long decried the devastation which has been visited upon the land and people of Indochina during the past ten years.

The Jewish-Christian tradition places strong emphasis upon reconciliation and healing after periods of corporate conflict. When the war is over, we must work at making the peace. It is time for America to turn its attention to binding up the wounds of war both at home and abroad. Nothing is to be gained by maintaining an atmosphere of hostility between the nations. Sitting together at the table of nations and opening communication are certain paths to understanding and reconciliation.

To begin the process of reconciliation, we should examine first the need for post-war reconstruction of the lands devastated by war. Currently, an embargo stemming from the Trading with the Enemy Act limits humanitarian aid and prevents shipments of tools and small machinery to the people of Indochina. This embargo, which prevents the free flow of assistance to the people of North Vietnam, South Vietnam and Cambodia, prevents genuine efforts by the American people to express their concern for healing the wounds of war.

The Trading with the Enemy Act was created in 1917 to prevent support for the Germans against whom we had declared war. To those on the "Z" list, it prevents the exportation of any materials without Treasury Department license; further, a license from the Commerce Department is required if goods are to be shipped from the United States.

The Act has been perpetuated by Presidents for purposes which go beyond its original aim. It appears to be used today to prevent the economic reconstruction of the Democratic Republic of Vietnam, the Republic of South Vietnam, and Cambodia. Licenses have been granted solely for shipment of medical supplies. They have generally been denied for shipments of simple equipment which might help the people reclaim lands uncultivated for years so as to begin to return crop production to pre-war levels.

Private agencies attempting to give relief to war victims in Indochina have met with delay and denial in response to their applications for purchase and shipment of assistance materials for Indochina. The Bach Mai Hospital Relief Fund was forced to delay shipment of life-saving medical equipment and medicines for more than nine months pending a U.S. Government decision. The American Friends Service Committee, which applied for and received licenses to purchase not only medical supplies, but also reconstructive materials such as fish nets, rototillers and lathes for building wooden limbs, was then denied a license to ship those items because the U.S. government deemed them economic assistance. The Mennonite Central Committee, which has operated a service agency in South Vietnam for ten years and has supplied materials for humanitarian assistance and reconstruction in the past, was denied a license to purchase $75,000 worth of rototillers to reclaim land for agricultural production. Only in the last few days were these license applications reconsidered and granted, but such applications continue to be considered only on a case-by case basis.

While Cuba is also on the same "Z" list, many evidences of ending that embargo are apparent. Trade with the Soviet Union and China, once also on the highly restricted list, is now open to all but strategic materials. We view flexibility in American policy toward the new governments in Saigon, Hanoi, Phnom Penh, and Vientiane as the best way to regain their friendship, assure their independence and help satisfy unresolved problems of providing information on civilian and military personnel missing in action.

A national examination of conscience may be necessary to create the atmosphere for reconciliation. We encourage our constituents to recall the generous assistance of the United States to Germany, Japan and Italy after World War II. We encourage them to recognize that, to build peace and prevent war, communications must be available; whatever prohibits communication must be removed.

Specifically we propose:

(1) that U.S. government restrictions on private aid shipments to Indochina be removed because they impede citizen action for alleviating suffering and for contributing to the social-economic reconstruction of Indochina.

(2) that the United States withdraw its veto against the seating of the Democratic Republic of Vietnam and the Republic of South Vietnam at the United Nations as a first step to opening communication with those countries with whom we must now establish peace.

(3) that negotiations for normalizing relations between the United States and the nations of Indochina begin at once.

(4) that while appropriate government aid for humanitarian and medical assistance and reconstruction should be negotiated by the Administration, and legislated by Congress, private efforts to heal the wounds of war by the religious community and private citizens be encouraged.

We seek the normalization of relations between our nations as soon as possible. To this end we urge that the trade embargo be lifted, that negotiations for appropriate massive government reconstruction relief begin, and until such aid is forthcoming, that the citizenry support private efforts for a people-to-people aid program for the victims of the war. This voluntary effort would contribute significantly to healing the wounds of the war.

COVERT FINANCING

Mr. CRANSTON. Mr. President, a few days ago I mentioned on the floor a new book by Lou Fisher of the Library of Congress. It is entitled "Presidential Spending Power." A subtitle might well be "How Congress Dropped the Purse Strings." For the book describes all the ways Congress has given up to willing Chief Executives and bureaucrats its power over the purse under the Constitution.

Today, we are again discussing covert funding of Angolan political factions by the CIA out of the Defense Department budget. It might well be called "foreign policy by contingency fund."

I ask unanimous consent to print in the RECORD an excerpt from the chapter on "Covert Financing" in Mr. Fisher's book. It describes several nefarious corners in the Federal budget.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SECRET FUNDS

Confidential funding is overt to the extent that such funds are cited in appropriation bills. In that sense the appropriation is public while the expenditure and auditing are concealed from Congress and the public. Secret funding, in contrast, is covert at every stage: from appropriation straight through to auditing.

An early case of secret funding involved President Madison. Concerned that certain territory south of Georgia might pass from Spain to another foreign power, he asked Congress for authority to take temporary possession. Voting in secret session, in 1811, Congress provided $100,000 for that purpose. The public did not know of the action until years later, in 1818, when Congress published the secret statute.

Secret funding was employed during World War II to develop and produce an atomic bomb. Administration officials contacted three leaders of the House of Representatives: Speaker Rayburn, Majority Leader McCormack, and Minority Leader Martin. An additional $1.6 billion was needed to manufacture the bomb, an amount the Administration wanted without "a trace of evidence" as to how it would be spent. Clarence Cannon, chairman of House Appropriations, and John Taber, ranking majority member, agreed to make an inscrutable appropriation. Some of the money was tucked away under two accounts: "Engineer Service, Army" and "Expediting Production." Only a handful of Congressmen knew how the money was being used. About $800 million was spent before some members of House Appropriations knew of the project.

CENTRAL INTELLIGENCE AGENCY

The Central Intelligence Act of 1949 contained extraordinary authority over the transfer and application of funds. It provided that sums made available to the CIA "may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds. . . ." For objects of a confidential nature, expenditures could be accounted for solely on the certificate of the CIA Director, with each certificate deemed a sufficient voucher for the amount certified. In addition, rather than appropriating funds directly to the CIA, Congress authorized the agency to transfer to and receive from other Government agencies "such sums as may be approved by the Bureau of the Budget" for the performance of any functions or activities authorized by the National Security Act of 1947. Other agencies were authorized to transfer to or receive from the CIA such sums "without regard to any provisions of law limiting or prohibiting transfers between appropriations."

This transfer authority converts a number of appropriation accounts into a vast mixing bowl. Although explicit sums are voted for departments and agencies, that tidiness is quickly upset by siphoning off agency funds and funneling them to the CIA. The funds for the CIA are initially appropriated to the Defense Department. After the chairmen of the Appropriations Committees inform OMB of the level of the CIA budget, OMB approves the transfer of that amount from the Defense Department to the CIA.

The total budget of the entire U.S. intelligence community has been estimated at $6 billion a year. A study by *Newsweek* in 1971 reported that a dozen agencies employed 200,000 and spent some $6 billion annually. Senator Proxmire released comparable figures in 1973. The CIA portion came to $750 million. The largest amount for the intelligence community was $2.8 billion for the Air Force, followed by the National Security Agency with $1 billion. Other amounts: $775 million each for the Army and Navy intelligence activities, $100 million for the Defense Intelligence Agency, and $8 million for the State Department. Intelligence expenditures of the FBI, the AEC, and the Treasury Department were not estimated.

Current criticism of the CIA results from its evolution as an intelligence-gathering agency, confined to foreign activities, to that of a participant-catalyst of military and political operations. Harry Howe Ransom, the leading scholar on the subject, writes that nothing in the public record "nor in such archives as are accessible (for example, in the Truman Library) suggests that Congress ever intended to create or knew that it was creating an agency for para-military operations and a wide range of foreign political interventions." Senator Stennis, during debate in 1974, said that he came to the Senate soon after the original CIA bill was passed "and there was *nothing* clearer around here, not anything that sounded louder, than the fact that the CIA act was passed for the purpose of foreign intelligence." He said he was "shocked and disappointed and considerably aroused" when he learned of CIA's involvement in the Watergate affair.

During the last decade the CIA has come under heavy fire for its secret funding of private organizations, Radio Free Europe and Radio Liberty, military operations in Laos, domestic intelligence gathering, and financial support in Chile for opponents of Allende.

With regard to private organizations, in 1967 it was reported in the press that the CIA had been secretly subsidizing religious organizations, student groups, labor unions, universities, and private foundations. President Johnson appointed a three-member committee, headed by Under Secretary of State Katzenbach, to review the relationship between the CIA and private American voluntary organizations. The committee reported that covert CIA assistance had been made available by the last four Administrations, dating back to October 1951. It recommended that "no federal agency shall provide any covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations." President Johnson accepted the committee's statement of policy and directed all agencies of the Government to implement it fully.

A footnote in the committee's report explained that its statement of policy did not entirely close the door to covert financing of private voluntary organizations. Exceptions might be necessary: "Where the security of the nation may be at stake, it is impossible for this committee to state categorically now that there will never be a contingency in which overriding national security interests may require an exception—nor would it be credible to enunciate a policy which purported to do so. In no case, however, should any future exception be approved which involved any educational, philanthropic, or cultural organization."

The CIA continued to finance the broadcasting that had been conducted by Radio Free Europe (to Eastern Europe) and by Radio Liberty (to Soviet Russia). In 1971 Senator Case estimated that several hundred million dollars had been expended from CIA budgets over the previous decades to fund the two radios. He introduced legislation to require that, in the future, the two stations be subject to annual appropriations by Congress. Starting with a continuing appropriation act in 1971, funding for the two radios has been overt. A GAO report revealed that between 1949 and mid-1971 the Federal Government had spent $482 million in covert funds to support the two radios.

Senator Case, member of both the Appropriations and the Foreign Relations Committees, had to rely on an article in the *Christian Science Monitor* to learn that the Administration had agreed to finance Thai troops in Laos. Further investigation by Senate staff members disclosed that the CIA was covertly financing Thai troops fighting in northern Laos. The cost of the operation ran to several hundred million dollars a year. An amendment by Senator Symington, to establish a ceiling of $200 million on U.S. expenditures in Laos during fiscal 1972, had to be raised to $350 million. Symington later said that the secret war in Laos was done without knowledge on the part of members of the Senate Armed Services Committee.

CONGRESSIONAL OVERSIGHT

A five-man Senate Armed Services subcommittee, responsible for reviewing CIA activities, met with CIA witnesses twice in 1970. not at all in 1971, and only once in 1972. The other CIA subcommittee in the Senate, located in the Appropriations Committee, did not have a more attractive record. With regard to CIA operations in Laos, Senator Ellender (at that time chairman of the Appropriations Committee) said he "did not know anything about it." He did not ask, in his oversight function, whether CIA funds were being used to carry on the war in Laos: "It never dawned on me to ask about it." This frank exchange then took place between Senators Ellender and Cranston:

Mr. CRANSTON. I am sure I never would have thought to ask such a question. But it appeared in the press that perhaps that was happening. I would like to ask the Senator if, since then, he has inquired and now knows whether that is being done?

Mr. ELLENDER. I have not inquired.

Mr. CRANSTON. You do not know, in fact?

Mr. ELLENDER. No.

Mr. CRANSTON. As you are one of the five men privy to this information, in fact you are the No. 1 man of the five men who would know, then who would know what happened to this money?

The fact is, not even of the five men, and you are the chief one of the five men, know the facts in the situation.

Mr. ELLENDER. Probably not.

House supervision of the CIA does not appear to be much better. Congressman Norblad, in a floor statement in 1963, said that he had been on the CIA subcommittee of House Armed Services: "We must annually—one time a year, for a period of 2 hours in which we accomplished virtually nothing."

Congressman Nedzi, chairman of that subcommittee in later years, suggested in 1971 that only the Budget Bureau and the Kremlin had a full understanding of intelligence activities: "Perhaps they are the only ones. We simply don't have that kind of detailed information. . . . I have to be candid and tell you I don't know whether we are getting our money's worth." A step toward closer review was taken by the Committee Reform Amendments of 1974, which expands the jurisdiction of the House Foreign Affairs Committee to include oversight functions of "intelligence activities relating to foreign policy." Beginning February 21, 1975, the CIA began sharing budget details with the entire defense subcommittee of House Appropriations, rather than a select few from that subcommittee.

With respect to the budgets of the U.S. intelligence community, several proposals have been advanced for greater legislative control. In 1971 Senator Symington proposed a ceiling of $4 billion for expenses of the CIA, the National Security Agency, the Defense Intelligence Agency, and for "intelligence work performed by or on behalf of the Army, Navy, and the Air Force." The motion was rejected by a vote of 56 to 31. Part of the opposition came from those who considered Symington's language too broad, possibly applying even to tactical intelligence. No one could suggest a means of distinguishing between intelligence needed to conduct a battle and intelligence to be covered by the $4 billion. Rather than approach the issue from this abstract conceptual plane, Members of Congress could have proceeded on a more down-to-earth level by simply naming the agencies and bureaus to be made subject to the budget ceiling.

Congress did succeed, in the Foreign Assistance Act of 1971, in placing restrictions on CIA expenditures and transfer authority. The Act imposed a ceiling of $341 million for assistance to Cambodia. The statutory language was broad in its coverage. Notwithstanding any other provision of law, no funds authorized to be appropriated by the Foreign Assistance Act of 1971 or any other law could be obligated in any amount in excess of $341 million for the purpose of carrying out directly or indirectly any economic or military assistance for Cambodia. The effect was to limit CIA's ability to transfer its funds to supplement the Cambodian operation. (For further background on this legislation, see pages 107–10.)

As a means of imposing a more general control on the CIA, Senator McGovern introduced a bill in 1971 to require publication in the budget of "proposed appropriations, estimated expenditures, and other related data" for the CIA. Each of the items would be shown as a single sum. Furthermore, the bill would have prohibited the CIA from spending funds that had been appropriated for other departments or agencies. The standard practice has been to inflate certain military appropriation accounts, allowing the superfluous funds to be transferred to the CIA and other intelligence agencies. "As a result," noted McGovern, "we are led to believe that some programs are better financed than, in fact, they are. We have no way of knowing what these programs and agencies might be."

Similar criticism has been voiced by other Senators. During debate in 1971 on the defense appropriation bill, Senator Fulbright remarked that when "you look at an item in this bill you wonder if it is really the amount of money for the A–14, for example, or if it is for the NSA. One cannot tell what it is." One Senator told me that in one of his economy drives he made an attack on a particular appropriation. Later he received a call from a colleague, who sat on one of the oversight subcommittees, and was advised that the money was actually for the CIA.

To appropriate directly to the CIA would preserve the integrity of other accounts and make for more rational debate and decision by Congress. But how would Congress know that a lump sum amount would be too much or too little unless it knew how the money was to be spent? Congress imposed one restriction in 1974 when it prohibited the CIA from spending funds for operations in foreign countries, "other than activities intended solely for obtaining necessary intelligence. . . ." The restriction can be lifted if the President finds that an operation is important to the national security and reports to Congress on the nature and scope of the operation. In 1975, Senator Proxmire introduced a bill to authorize the GAO to audit and analyze the expenditures of intelligence agencies.

Would publication of the *aggregate* budget figures for the intelligence community jeopardize national interests? CIA Director Colby, as well as his predecessor James Schlesinger, testified that the release of such information would not violate national security. Colby said that the question was basically up to Congress, adding that he had found Congress "at least as responsible on this as our friends elsewhere in government, and we have, as you know, shared with Congress some very sensitive material which has been successfully protected by the Congress." He volunteered the view that the American constitutional structure might require publication of more budget information than might be convenient from a narrow intelligence point of view. However, after he was confirmed as CIA Director, Colby was quoted by Senator Pastore as being opposed to revealing the size of his agency's budget: "Please do not do this. If you want to make my job easier, please do not do this."

Schlesinger was asked about the CIA budget during his nomination hearing as Secretary of Defense. He expressed some misgivings at releasing a "free floating figure, unsupported and unsupportable in public," possibly inviting flat percentage cuts in intelligence activities. But he felt that publishing a gross figure would have only a "minimal" effect on security concerns. While he would be more concerned about the component figures, "for the gross national intelligence program figures I think we could live with that on a security basis, yes."

LITIGATION

Pressure for public funding of the CIA has been building from yet another source: the courts. William B. Richardson, a resident of Greensburg, Pa., sought judgment to declare the Central Intelligence Act in violation of the Statement and Account Clause of the Constitution. He had written to the Government Printing Office in 1967 to request the document which would satisfy that clause. He examined available Treasury documents but could find no listing of CIA expenses. His administrative remedies exhausted, he turned to the courts.

In 1968 a U.S. District Court in Pennsylvania held that Richardson lacked standing to raise a justiciable controversy. A month later, in the church-state case of *Flast* v. *Cohen*, the Supreme Court substantially broadened the grounds on which taxpayers could establish standing, but the district court holding against Richardson was affirmed by the U.S. Court of Appeals for the Third Circuit. The Supreme Court denied certiorari to review the Richardson case; only Justice Douglas supported his motion for review.

Richardson initiated a new suit in 1970, this time asking that a three-judge court be convened to determine the constitutionality of the CIA act. Once again the district court decided he lacked standing. Moerover, the subject matter raised "political questions in a governmental sense and the subject is not open to a United States District Court for adjudication in any manner." Up to that point Richardson had been blocked by three procedural hurdles: standing, jurisdiction, and justiciability.

But this time he was successful when he brought the matter to the court of appeals. On July 20, 1972, by a 6–3 vote, the circuit court vacated the district court ruling and directed that a statutory three-judge court be designated to adjudicate the issue. Judge Max Rosenn, writing the opinion, underscored the importance of the Statement and Account Clause:

A responsible and intelligent taxpayer and citizen, of course, wants to know how his tax money is being spent. Without this information he cannot intelligently follow the actions of the Congress or of the Executive. Nor can he properly fulfill his obligation as a member of the electorate. The Framers of the Constitution deemed fiscal information essential if the electorate was to exercise any control over its representatives and meet their new responsibilities as citizens of the Republic.

The Supreme Court agreed to review the procedural aspects of the case, i.e., whether Richardson had standing to request a three-judge court. A separate writ of certiorari by Richardson, urging the Court to examine the substance and constitutionality of the issue, was rejected.

The Court's decision was handed down June 25, 1974. Chief Justice Burger, writing for a 6–3 majority, held that Richardson lacked standing to maintain his suit. Relief was available, noted Burger, through the electoral process. If citizens felt that Members of Congress were delinquent in performing their duties, they could elect others to produce the publication of CIA expenditures. In a dissenting opinion, Justice Douglas denied that Congress was at liberty to suspend a constitutional provision. To claim that Congress had the power to read the Statement and Account Clause out of the Constitution, he said, was "astounding."

OTHER DARK CORNERS

Beyond the question of confidential and secret funds lie other veiled areas of the Federal budget. Before discussing a few examples directly under the President, brief consideration can be given to a regulatory agency: the Federal Reserve System. Although it spends half a billion dollars a year, its funds are not appropriated by Congress. Nor is there any auditing by GAO. By buying and selling Government securities held in its portfolio, the "Fed" derives income from interest on the bonds. Federal Reserve earnings in calendar 1973 came to $5 billion. After deducting $495 million for its operating expenses, plus additional amounts for dividends to banks, losses on securities, etc., it returned the balance ($4.3 billion) to the Treasury. The House of Representatives passed legislation in 1974 to provide for a measure of GAO auditing, but no action was taken by the Senate.

FREE WORLD FORCES

The financing of the war in Vietnam illustrates how billions can be spent for programs known to a handful of Congressmen. In September 1966, President Johnson expressed his "deep admiration as well as that of the American people for the action recently taken by the Philippines to send a civic action group of 2,000 men to assist the Vietnamese in resisting aggression and rebuilding their country." Other announcements from the White House created the impression that not only the Philippines but also Thailand, South Korea, and other members of the "Free World Forces" had shown a willingness to sacrifice blood and resources in the stand against Communism.

Hearings held by the Symington subcommittee in 1969 and 1970 revealed that the United States had offered sizable subsidies. The Philippines received river patrol craft, engineering equipment, a special overseas allowance for its soldiers, and additional equipment to strengthen Filipino forces at home. It cost the United States $38.8 million to send one Filipino construction battalion to Vietnam. Senator Fulbright remarked that "all we did was go over and hire their soldiers in order to support our then administration's view that so many people were in sympathy with our war in Vietnam." Although the Philippine government denied that U.S. contributions represented a subsidy or a fee in return for sending the construction battalion, a GAO investigation confirmed that *quid pro quo* assitance had indeed been given. Moreover, there was evidence that the Johnson Administration had increased other forms of military and economic aid to the Philippines.

The Symington subcommittee also uncovered an agreement that the Johnson Administration had entered into with the Royal Thai Government in 1967. The United States agreed to cover any additional costs associated with the sending of Thai soldiers to Vietnam: payment of overseas allowances, modernization of Thai forces, and the deployment of an anti-aircraft Hawk battery in Thailand. After the Foreign Ministry of Thailand denied that U.S. payments had been offered to induce Thailand to send armed forces to Vietnam, the GAO reported that U.S. funds had been used for such purposes as training Thai troops, payment of overseas allowances and payment of separation bonuses to Thai soldiers who had served in Vietnam. The GAO estimated that the United States had invested "probably more than $260 million in equipment, allowances, subsistence, construction, military sales concessions, and other support to the Thais for their contribution under the Free World Military Assistance program to Vietnam."

Subsidies were also used to support the sending of South Korean forces to Vietnam. Assistance included equipment to modernize Korean forces at home, equipment and all additional costs to cover the deployment of Korean forces in Vietnam, additional loans from the Agency for International Development, and increased ammunition and communication facilities in Korea. To assure that the dispatch of men to Vietnam would not weaken the defensive capabilities of the Republic of Korea, the Johnson Administration agreed to finance the training of forces to replace those deployed in Vietnam, and to improve South Korea's anti-infiltration capability. From fiscal 1965 to fiscal 1970 Korea's military presence in Vietnam cost the United States an estimated $927.5 million.

The legal basis for assistance to Free World Forces in Vietnam derived from legislation passed in 1966. Funds were made available to support Vietnamese "and other free world forces in Vietnam and related costs . . . on such terms and conditions as the Secretary of Defense may determine." Assistance was broadened in 1967 to include local forces in Laos and Thailand. Reports on such expenditures were submitted only to the Armed Services and Appropriations committee of both Houses. The general language of the statutes did not reveal the types of financial arrangements the Administration might enter into, or with what country. Staff members who had access to the reports told me they did not know the nature and dimension of financing the Free World Forces until hearings were held by the Symington subcommittee.

MILITARY ASSISTANCE

On the basis of a GAO report, Senator Edward Kennedy announced that money appropriated for refugee programs, for public health, agriculture, economic and technical projects, and for the "Food for Peace" program, had been diverted to pay for CIA-directed paramilitary operations in Laos. The term "refugee" was a euphemism created by the Agency for International Development to describe the development and support of those operations. Hearings in 1972 confirmed that AID funds had been used to supply Lao military and paramilitary forces with food and medical care and supplies.

Hearings by the Joint Economic Committee in 1971 highlighted the fact that nearly $700 million in Food for Peace funds had been channeled into military assistance programs over the past six years. Since 1954, when the Food for Peace (P.L. 480) program was enacted, $1.6 billion of those funds had been allocated to military assistance. Statutory authority existed, but few Members of Congress were aware that Food for Peace was such a capacious vehicle for military assistance. Nor could they have gained that understanding by reading the budget, which described Food for Peace in these terms: "The United States donates and sells agricultural commodities on favorable terms to friendly nations under the Agricultural Trade Development and Assistance Act (Public Law 480). The program combats hunger and malnutrition, promotes economic growth in developing nations, and develops and expands export markets for U.S. commodities." Senator Proxmire castigated the use of rhetoric by the Administration to conceal the nature of the Food for Peace program. "This seems to me," he said, "to be kind of an Orwellian perversion of the language; food for peace could be called food for war."

The budget itself was deceptive in how much was spent for military assistance. For example, 1971 outlays for military assistance were estimated at $1.175 billion in Defense Department funds, plus an additional $504 million in supporting assistance. The apparent total: $1.679 billion. However, Senator Proxmire obtained from the Pentagon its estimates for military assistance for fiscal 1971: $3.226 billion in the Military Assistance Program, Military Assistance Service Funded, and related programs; $600 million in supporting assistance; $7 million in additional public safety programs; $143 million in Food for Peace funds used for common defense purposes; and $2.339 billion for military export sales. Under that calculation the total rose to $6.317 billion.

Even when Congress appropriates overtly it can act "in the blind" by providing funds for activities that are justified in vague terms by the Administration. In 1972 Congressman Harrington declared that the defense authorization bill contained $830 million that members of the Armed Services Committee "know nothing about. Some of the members of the Armed Services Committee, including the gentleman from New York (Mr. Stratton) and myself have asked for and been refused information. . . ." Three members of that same committee ocmplained in 1973 that the military assistance program for Vietnam and Laos had been "pro forma justified" to the committee. In the words of one member: "All of the backup figures for the $1.185 billion allegedly justified are *Secret* Classified. I haven't seen the figures and the Committee has no idea what program is justified in this area." The dispute continued in 1974 when Snator Fulbright charged that $490 million in military assistance was hidden in the Pentagon's budget. The money was earmarked for "War Reserve Materials"—stockpiled equipment and munitions destined for Vietnam, Thailand, and Korea.

Although the Statement and Account Clause can be interpreted to allow room for a modest amount of confidential funding, particularly in the diplomatic area, we have reached the point where probably $10 billion to $15 billion in the Federal budget is obscured because of confidential funds, secret funds, or cryptic budget justifications. Members of Congress cannot act intelligently on vast portions of the budget because they are denied basic data. Their constituents cannot hold the Members accountable because the issues and amounts are obfuscated. Elementary accounting practices by the GAO are rendered impossible.

In Federalist 58 James Madison claimed that the power over the purse "may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure." Without public knowledge, without public debate, we have traveled far from that basis underpinning of democratic government.

INVENTORYING NATURAL RESOURCES ON NAVAL PETROLEUM RESERVES NO. 4 (PET-4)

Mr. STEVENS. Mr. President, the Senate and House Conferees are now considering H.R. 49. One important aspect of this bill deals with the study and exploration to be continued in Naval Petroleum Reserve No. 4.

Dr. Max Brewer, a scientist and a former Alaska Commissioner of Environmental Conservation who is now a consultant on environmental and Arctic problems, wrote a probing and informative article on the natural resources in Pet-4. The article was published in the November 23 issue of the Anchorage Sunday Times. Dr. Brewer explains that far more time, money, and effort have been expended studying and exploring the surface resources of Pet-4 than the subsurface resources.

I believe this article sheds light on the problems which the conferees are now facing. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INVENTORYING NATURAL RESOURCES ON NAVAL RESERVE NO. 4 (PET-4)

(By Max C. Brewer)

In recent years there has been much speculation concerning the natural resources thought to exist within Naval Petroleum Reserve No. 4 (Pet-4). These speculations, and the speculative numbers advanced by various individuals and agencies, have been repeated so often and have been quoted so often that they are now accepted, without question, by much of the public as being fact.

This often rampant speculation has obscured much of what we do know about PET-4 and has glossed over much that we don't know about the area. This confusion has been compounded by the many "weekend" surveys by agency personnel. The popular books and articles, written by those who have made "quickie" trips to the North only to come way as "instant Arctic experts", also have not been too helpful in advancing knowledge about the region.

Much of the conjecture about Pet-4 concerns oil and natural gas, wildlife, and the people and their culture. To some it may come as a surprise that far more is known about the wildlife, the people, resources, and the surface values of Pet-4 than is known about the subsurface resources. The reason is two-fold: (1) far more money has been spent on basic and applied research in the biological, physical, and social sciences than has been spent on petroleum exploration within the PET-4 area; and (2) it takes a lot of money to drill a single well of any appreciable depth.

Over a period of 28 years the Navy's Office of Naval Research alone has spent $69 million in the support of scientists from many universities, both domestic and foreign, doing basic research on the North Slope and the adjacent seas. ONR provided an additional $8 million for new facilities at the Barrow laboratory.

Other Federal agencies have spent several additional tens of millions of dollars on basic and applied research in Northern Alaska, most of it within or adjacent to PET–4.

All in all, something over $100 million has been spent by the Federal Government on basic and applied research concerning wildlife, tundra, people and other aspects of the environment in Northern Alaska. This compares with the $47.6 million spent for the exploration for oil and or natural gas, during the period 1944–1953, and the $7.5 million provided by the Congress for the first year of further exploration in 1974. Unlike the case at Prudhoe Bay, where the expenditures for scientific research occurred after the discovery of commercial deposits of oil and natural gas, the expenditures for scientific research on PET–4 have preceded significant economic discoveries. They also are continuing, on a concurrent basis, with the exploration of the Reserve.

Speculation has suggested that PET–4 could contain 10 to 33 billion barrels of oil and that the Arctic Wildlife Range could contain up to 20 billion barrels of oil. In each case this speculation is based on the number of cubic miles of sediments in each area and in the proportionate amounts of oil found in sedimentary basins in other areas of the world.

Similar geological-geophysical procedures also have been used to estimate the potential petroleum deposits in the outer continental shelf areas of the United States. Recently, some of the latter estimates have been drastically revised downward. However, until PET–4, or any of these other areas, is explored by actually drilling promising geological structures, their potential petroleum resources remain only a conjecture.

Many of the early wells on PET–4 were drilled in areas where there were known oil or natural gas seeps. Most of the wells were shallow and were drilled to obtain geological information. Only two wells penetrated to the medium well depths at which the Prudhoe Bay field was hit. This is next to nothing, as regards an exploratory program in an area almost as large as the State of California. In those days the Navy was looking at the entire North Slope for exploration. It also is interesting to note that the Navy already had a drill rig and camp set up for drilling near the Shaviovik River, just east of Prudhoe Bay, when the exploration program was recessed in 1953.

There are three known oil fields on PET–4. Only one, the Umiat field, has sizeable reserves, perhaps 70 to 100 million barrels, much of which is confined to the permafrost zone. The permafrost also introduces many uncertainties as regards production. While this would be an exciting discovery down south or even in the Cook Inlet area, by itself it does not even economically warrant building a spur pipeline over to the Alyeska pipeline in Northern Alaska.

Two other, but small, oil fields were discovered on PET–4 about 1950. One, at Cape Simpson, has estimated reserves of 12 million barrels all located within the permafrost zone. The oil occurs at a very shallow depth, about 300 feet. It naturally seeps to the surface in places on land, and probably seeps to the surface under the water in Smith Bay in the Beaufort Sea. One of the oil seeps on land has formed a tar pit which, over the years, has trapped animals in much the same manner as the famous California tar pits. Years ago the Native people used to sack the tar from the Cape Simpson seeps and take it to Barrow to use for heating.

While the Cape Simpson oil field would be a financially rewarding addition to a person's backyard down south, economically it is not very exciting on the North Slope. The Fish Creek oil field, near Cape Halkett, was penetrated by only one well and its extent is unknown.

Four small natural gas fields, including the one near Barrow, also were discovered on PET–4. In each case, because of their size, they are of interest only locally. The Navy also discovered a major natural gas field at Gubik, just outside of PET–4, near where the Colville River turns from its easterly direction to flow north to the Beaufort Sea. This field could supply the heating requirements of the Fairbanks area for many years.

The Navy made a preliminary engineering survey of this possibility and obtained cost estimates for a small natural gas line from the Gubik field, through Anaktuvuk Pass, to Fairbanks in the mid 1950's. That line would have made living in the Pass much more comfortable. However, because of the estimated cost, about $42 million, and the economics involved, the project never got beyond the preliminary engineering stage.

While these are encouraging "shows" indicating the possibility of significant petroleum potential on PET–4, actual exploration to date hasn't yet even begun to provide the information necessary to make decisions. Even the Navy's proposed seven-year exploration and inventorying program will only provide a modest amount of information, as far as indicating what the extent of the subsurface resources of PET–4 might be. However, it should shed considerable light as regards the potential validity of the speculative numbers which are randomly tossed around. The exploratory program, unlike either development programs or pipeline construction, while very expensive, does not require the great influx of personnel needed for the other programs.

One of the intriguing aspects of the Navy's proposed program is that the exploration and inventorying of the petroleum potential of NPR–4 would occur with the government, through the Congress, maintaining its options as to whether development of any oil fields found should occur, when it should occur, and how it should occur. Some members of Congress have suggested using this approach, rather than leasing before exploration, in the case of the outer continental shelf areas. These options are not available under the government's existing leasing programs, such as are contemplated for the Beaufort Sea. Those leases to industry are for the exploration, development and production of any petroleum found.

The Prudhoe Bay area was leased for petroleum exploration before we knew much about the wildlife and other surface resources in the area. The Arctic Wildlife Range was established before we actually knew anything about the subsurface resources in that area. On PET–4 we have the opportunity to obtain both the surface and the subsurface inventories before the Congress makes a final decision regarding the use or uses of the lands.

We already know quite a bit about lemmings, the caribou, the eider ducks, the peregrine falcons, the tundra, the permafrost, and the socio-economic problems of the residents on PET–4. We are continuing to obtain more information about these aspects. Now we need a realistic inventory of the subsurface values of the area.

THANKSGIVING PRAYER

Mr. MORGAN. Mr. President, my good friend, the Reverend Ollis Revels offered a prayer this past Thanksgiving, before his congregation in the Baptist Church in Arden, N.C. The prayer was of unusual quality, and one of the members of the congregation sent it to me.

Reverend Revels is a very thoughtful man, concerned about the democratic process and about serving the people well, which he as a minister and we as elected officials are supposed to do.

As you might expect, his prayer for the Nation on Thanksgiving would well serve as a reminder, to us here in Washington, of what our duty is, even as it makes us thankful and renews our hopes.

For this reason, Mr. President, I ask unanimous consent that Mr. Revels' prayer be printed in the Record.

There being no objection, the prayer was ordered to be printed in the Record, as follows:

A Thanksgiving Prayer

(By Rev. Ollis Revels)

Eternal God, Our Heavenly Father, we assemble during this thanksgiving season to thank you for the blessings of our daily life. We thank you for liberties won by men of courage and honor and preserved by men of high principle and great faith.

For 200 years we have enjoyed the freedom to think, to read, to speak, to worship. We are blessed above all peoples since time began. We pray for the wisdom to use our many resources for the good of all men. Save us from pride and self-centeredness. Drive all bigotry, prejudice, and selfishness from our personal lives. Guide our leaders, political, religious, social, and educational in selfless service. Give us leaders who seek the place of service more than the pedestal of honor and fame.

This is your world and we are your stewards. May our great material blessings be tools in our hands to shape a better world for those who will follow in years to come. Help us to truly make America one nation under God.

Through Jesus Christ, our Lord. Amen.

NO COMMITTEE COVERUP

Mr. GARY HART. Mr. President, in recent days there have been charges that the Senate Select Committee on Intelligence covered up certain personal relationships involving President Kennedy. As a member of the select committee, I reject these charges. The committee decided that these relationships were not significant to the committee's assassination investigation. The full committee, both Republicans and Democrats, concurred with this decision. Yet, despite this unanimous view by the committee, there have been charges that the chairman of the committee, Senator Church, attempted to cover up these relationships to protect President Kennedy. This was not the case. And, the vice chairman of the committee, Senator John Tower, has recently stated that charges of a coverup are "not * * * sustainable on the facts." Senator Tower also stated:

> I think Senator Church has been totally fair and honest on this.

I cite Senator Tower here to demonstrate, for all those who want to know the truth about this matter, that neither Republicans nor Democrats believe there has been a coverup by any member of the committee, including Chairman CHURCH.

I commend Senator TOWER for setting the record straight on this matter. I ask unanimous consent that the Washington Post article "No Cover-Up on Kennedy, TOWER Says," which appeared in Wednesday's Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO COVER-UP ON KENNEDY, TOWER SAYS

The ranking Republican on the Senate intelligence committee yesterday supported claims by the Democratic chairman that there was no effort to cover up a friendship between President John F. Kennedy and a woman also closely tied to the underworld.

Sen. John G. Tower (R-Tex.), vice chairman of the panel chaired by Sen. Frank Church (D-Idaho), told reporters the charges of a cover-up are "not . . . sustainable on the facts."

"I think Frank Church has bent over backward not to even give the appearance of covering up," Tower said. "I think he has been totally fair and honest on this."

He also said he does not think Church—who is expected to announce his candidacy shortly for the 1976 Democratic presidential nomination—has used the committee to further his political ambitions.

Church acknowledged Monday that his committee had found evidence of a close friendship between Kennedy and a young woman during 1961 and 1962 at the same time she was involved with two organized crime figures who were working with the CIA on a plot to assassinate Cuban Premier Fidel Castro.

The committee, in its recent report on CIA assassination schemes, simply said it had learned that a "close friend" of the Kennedys was also a "close friend of the late Sam Giancana and John Roselli, two prominent organized crime figures.

The person was not identified by name or by sex.

(The Washington Post broke the story on Nov. 16 and identified the friend as Judith Campbell and said she had been in frequent contact with Kennedy for more than a year—a relationship that ended after then-FBI Director J. Edgar Hoover learned of her Mafia associations and told the President.)

UNITED STATES-GERMAN DISAGREEMENT ADVERSELY AFFECTS NATO STANDARDIZATION

Mr. EAGLETON. Mr. President, the NATO Ministerial Conference was concluded last week with the standard call for increased cooperation among the allies. Particular emphasis was again placed on the need to standardize weapons systems used by NATO.

Participants at the conference pointed to the $10 to $15 billion in costs attributable to NATO's failure to accept weapons commonality. And the litany of benefits standardization will bring—common equipment, reduced logistical support costs, cooperative training efforts, expanded production lines, and shared research and development expenses—was again widely trumpeted.

But behind the scenes the standardization concept is in trouble due in large part to the refusal of our European allies to bear a larger share of the arms burden, and to the tendency on the part of the American military services to see the value of standardization only when American weapons are standardized. The result is that the theory of common weaponry, like motherhood, is espoused openly and frequently while, in practice, unmet expectations are creating considerable tension.

I will discuss one facet of the problem today—the effort to build a main battle tank for NATO. The story behind this effort is symptomatic of the difficulties which beset the standardization concept.

Mr. President, in December 1974, 1 year ago, the United States and the Federal Republic of Germany signed a memorandum of understanding agreeing to competitively test and evaluate American and German prototypes for a next-generation main battle tank. The two countries agreed that they had a common interest in obtaining the most cost-competitive tank for the U.S. Army as well as in promoting "equipment stabilization in U.S./NATO forces" that is, standardization.

The parties to the agreement—the U.S. Army and the German Defense Ministry—promised that the "comparative test and evaluation" would be conducted without prejudice. The tank chosen would presumably be the best available for U.S. and NATO purposes.

Confident that the agreement was signed in good faith, the German Government proceeded to invest approximately $25 million—not a small part of the German defense budget—to modify their Leopard II tank to meet U.S. Army specifications. At the same time, confident that the agreement would satisfy the "politicians" who were pushing standardization, the U.S. Army proceeded full speed ahead with its XM–1 tank program.

It should be noted here that in addition to agreeing to meet U.S. requirements, some of which the Germans found unnecessary, Germany also agreed that if the U.S. Army chose the Leopard II, it would be built in the United States. No American jobs would be lost.

In May of this year Congress got into the picture and the Senate Armed Services Committee adopted a proposal by Senator CULVER to slow down the Army's headlong rush into the advanced development phase of the XM–1 program. The committee report pointed out that if a decision on the winning prototype was not scheduled until March 1977, then the Army did not need the money to move the XM–1 into an advanced program phase—a phase normally reserved for systems well on their way to production. The report also stated:

> The committee is concerned that the Army's plan to make a source selection of the U.S. tank candidates about 8 months prior to any decision on the German Leopard II tank candidate would basically invalidate the competition. The committee, therefore, recommends that the Army continue the development effort of both U.S. contractors until the evaluation of the Leopard tank is completed and a decision can be made with all of the candidates considered.

The Senate's position on the tank did not get beyond the House-Senate conference, but the threat to the XM–1 program was by now perceived as real by the Army. It was all right to sign an agreement, but when Congress began to translate that agreement into a slowed-down program, the Army felt it had to fight back.

The result was an all-out effort to downplay the seriousness of the competition. The German tank was vastly inferior, Members of Congress were told. It was not cost-effective. The Leopard II would not even be delivered on time for the competition.

The Army finally got its way when the House-Senate conference on the defense appropriations bill approved its request to fund the full-scale XM–1 development program to begin in July, a full 8 months before the completion of the German-American competition. In practical terms, by March 1977 when the winning tank would be selected, the U.S. Army would have spent over $100 million for XM–1 advanced development engineering, including fiscal 1977 money.

If by chance the Leopard II were to be selected at that time, the Army would have to come before Congress and explain why a total of over $300 million had been expended on the XM–1 program. Nothing could be more prejudicial to the choice of the Leopard II than that haunting reality.

The U.S. Army's tactics, designed mostly to effect congressional decisions, have placed great stress on our relations with Germany. So much stress, in fact, that the larger issue of NATO standardization is now being seriously questioned.

On November 6, for example, the Director of Armaments of the German Foreign Ministry, Mr. Hans L. Eberhard, wrote to our Director of Research and Engineering, Dr. Malcolm Currie, to express his government's concern about the U.S. Army's activities. Mr. Eberhard wrote that "a fair comparison—of the tanks—is a matter of genuine concern to us." He pointed out that—

> the Federal Republic of Germany is spending the not insignificant amount of more than 70 million German marks to comply with prerequisites which are considered necessary by the U.S. Army . . .

Mr. Eberhard said that he objected to tests conducted by the Army which misrepresented the true characteristics of the Leopard IIAV. He complained that he had not been advised of such testing in accordance with the agreement.

More importantly, Mr. Eberhard expressed his concern that the Army would go ahead into full-scale development before the Leopard II had been evaluated:

> It is a matter of concern to me to find that the U.S. Army is again entertaining the idea of concluding a development contract for additional XM–1 prototypes at a time when the Leopard II . . . has not been tested. It appears to me that in proceeding in this manner, we would jointly forego the opportunity to save time and money.

Mr. Eberhard concludes his November 6 letter with a plea to Dr. Currie to prevail upon the U.S. Army "to test the end product of the Leopard II–AV main battle tank without any reservations and in a fair manner."

I have written to the Secretary of Defense today to ask him to intercede directly in this matter by canceling the

Army's plan to go ahead with advanced development on the XM–1 in July. It is my strong belief that only this positive action will allay German fears that the competition will be heavily biased in favor of the American tank. In addition, putting the brakes to this program will permit Congress to carefully consider the merits of the XM–1.

Mr. President, in an earlier letter, Mr. Eberhard complained to Dr. Currie about a British-American decision to go forward with the American 105 millimeter tank gun over a 120 millimeter smooth bore German weapon and a 110 millimeter British weapon. Mr. Eberhard points out in an October 31 letter that, when measured against the future threat, the 120 millimeter gun was "the only one to meet all performance requirements."

It should be noted that selection of the German gun would have resulted in a per-unit cost increase of some $23,000 for the XM–1 and would have added a $63 million development cost to the program. It is, therefore, likely that on a present-day cost-effectiveness basis the American decision was a correct one.

But this is a matter for Congress to watch closely. If the 120 millimeter gun is, as the Germans claim, necessary for the threat of the 1980's, then the Army will no doubt seek to retrofit the XM–1 with a similar weapon later, at considerable expense to the taxpayer.

Mr. President, the issues raised by this German-American experiment are troubling, for they reflect an inability to work out common problems.

Perhaps it was wrong for our side to have agreed to the joint competition knowing the intensity of the Army's desire to build an American tank. Perhaps, knowing the difficulties, it was wrong for the Germans to have asked to compete.

One thing is clear: This particular joint venture is the source of great friction between our two countries. There could well be a spillover into other areas of our defense relationship. Certainly the NATO alliance will not benefit from the spectre of its two most important member-nations in a posture of disagreement.

Mr. President, the controversy over the German-American competition, as important as it is to relations between our nations and to the concept of standardization, does not address the central questions: What characteristics should a new NATO tank possess? Should it be heavy or light, small or large, agile or less agile? And, more broadly, what is the proper mix of ground combat weapons?

These are fundamental questions that NATO should collectively address. But as the alliance organization is now structured, the chance that NATO will even study its ground combat requirements in the near future is as remote as the possibility that the U.S. Army will select the Leopard II. So long as NATO countries insist on sacrificing common security objectives to the tradition-ladened proclivites of their respective military services, the consideration of real-world defense requirements will be secondary.

Beyond tanks themselves, American attitudes with respect to standardization may well be forcing our European allies into a closed arms market. Only last December, for example, a number of governments attending the assembly of the Western European Union proposed that the European Common Market be extended to the field of weapons production. The consensus at that meeting was that West European defense should be based on the production and purchase of European arms.

In this sense, the conspiracy to undermine standardization when European equipment is involved could well backfire on our own military services and their industrial counterparts. While there is still time for cooperative effort, our civilian leadership in both the administration and Congress should make a major effort to bring our Government's actions on standardization in line with our stated policy.

SAUDIS FUND $650,000 SOLAR ENERGY PROJECT

Mr. ABOUREZK. Mr. President, I ask unanimous consent that an article from the newsletter of the Institute of Gas Technology, "International Gas Technology Highlights," be placed in the RECORD. It appears that Saudi Arabia, which has the world's largest known petroleum reserves, and which can claim at least as much sunshine as any nation on earth, is funding a solar heating and cooling system in the United States, or more specifically in the town of Reston, Va. The United States has an entire agency, ERDA, which has special responsibility to fund and develop such energy sources. And, Reston, Va., is a subsidiary of Gulf Oil Corp.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAUDIS FUND $650,000 SOLAR ENERGY PROJECT

The Univ. of Petroleum and Minerals in Dhahran, Saudia Arabia, will fund a $650,000 project by the architectural firm of Davis, Smith, and Carter, Inc., to design and build a solar heating and cooling system for the $2.9 million Terraset Elementary School in Reston, Va. The money will be used for research, development, and the construction of the structure, piping, storage tanks, and absorption chillers. In return the university will study the building as a model for cooling by solar power. The 60,000-sq-ft school will be covered with an insulating layer of dirt so that heat generated by people and lights will not be lost. Evacuated tube solar collectors developed by Owens-Illinois, Inc., will gather solar energy to heat water which will be piped to three 10,000-gal storage tanks. The energy will heat the building during the night and generate chilled water to eliminate unwanted heat during the day. The insulation layer is expected to bring energy savings of 70%, with another 10–12% conserved by the solar system. Davis, Smith, and Carter won the 1975 Owens-Corning Design Award for Energy Conservation for the project. The 990-pupil school should be completed by February 1977.

TAX CUT VETO

Mr. MOSS. Mr. President, I am deeply troubled by the President's veto of the tax cut. This is another blow to an a ready fragile economy that is struggling to recover. The President's action suggests that election politics are more important than the health of the Nation's economy. It is most regrettable that he has opted for confrontation rather than the compromise proposed by Congress. Public confidence, a vital element in our economy, is already tattered and will not be helped by this action which poses more conflict in Government and uncertainty in the economy.

The President said he vetoed the tax cut proposed by Congress because Congress would not agree now to a deeper tax cut in fiscal 1976 and 1977 and a spending ceiling for 1977 which does not begin until next October. But the President wants us to buy a "pig in a poke." He insists that Congress set a ceiling now on spending for fiscal 1977 before we have seen any of the component parts of his budget and long before anyone can predict with any certainty the economic situation the Nation is likely to experience nearly a year away. To pretend that ceilings are a function of bookkeeping, is to ignore reality.

I strongly support actions to limit the growth of Federal spending in fiscal 1977. But this can only be accomplished effectively by identification of specific expenditure cuts which the President has not done. Spending ceilings were proposed and enacted by Congress in 5 of the 6 years between 1967 and 1972. But because such ceilings were never combined with specific expenditure reductions they were ineffective in controlling spending. The last such failure in 1972, led directly to the new budget process Congress initiated this year.

Making economic forecasts and budget estimates months in advance is far from being an exact science. And we cannot ignore the administration's track record on economic predictions and budget estimates. For the last 12 years, the administration's budget has misestimated expenditures an average of 7 percent annually. This is about $28 billion of the $395 billion budget ceiling the President is talking about for 1977. A year ago this same administration was recommending a tax increase to balance the budget for fiscal 1976. Some of us in Congress pointed up the glaring need to address the recession as well as inflation. In February this year, the administration did a turn around, and submitted a budget to Congress which included a tax cut and called for a $52 billion deficit.

The President's proposal involves boom-bust economics. A larger tax cut in January would stimulate the economy for the next 9 months but the spending cuts starting next October would force a more substantial drop in the economy—a real net loss—in the next year. Compared to the tax cut recommended by Congress, estimates indicate the President's proposal would:

Increase GNP $8 billion annually by the third quarter 1976, but then reduce GNP over four times that amount—$37 billion—annually beginning fourth quarter 1977. For the average family, this means an increase in disposable income—

after taxes—at an annual rate of $82 next year, but then a reduction of 4½ times that amount—about $380 annually—beginning in the fourth quarter of 1977. What family wants to get so little in one year in order to give up so much each succeeding year?

Reduce unemployment by about 200,000 by the third quarter of 1976 but then add another 600,000 to the unemployment roles by the end of 1977.

Such harsh swings in the economy are already responsible for a lot of the current inflation and unemployment.

The question is not whether there should be a tax cut. The Congress agrees on that. The question is not whether there should be a ceiling. The law requires a ceiling and Congress will set one for fiscal 1977 as it did this year. The question then is whether the ceiling should be set in accordance with the budget law next May—after Congress has received and considered the President's budget and the CBO report on the economic and program options—or whether we should act without the necessary data and pick a figure out of the air that is meaningless. It boils down to whether we are going to be realistic and responsible or whether we are going to play politics with the Nation's economy.

Just what is a valid ceiling remains an open question until a determination can be made of the Nation's needs, the actual economic picture for a period which is many months away, and until specific cuts are identified.

I am confident that some economies are possible through program cuts and better management of existing programs. I support efforts to reduce Federal spending. But we should act responsibly and not in a way which would abort or destroy the new budget process—the very mechanism created to get the budget under control.

I am hopeful that Congress will act positively to override the President's veto so we can end the turmoil, reassure Americans about our commitment to fiscally responsible government, and continue economic recovery.

GENOCIDE CONVENTION WOULD NOT BE RETROACTIVE

Mr. PROXMIRE. Mr. President, the first human rights treaty passed by the United Nations General Assembly was the Genocide Convention. The purpose of this document is to make genocide an international crime whether it is committed in war or peacetime. This treaty attempts to prevent the destruction of a national, racial, ethnic or religious group by killing, causing serious bodily or mental harm, restricting births, forcibly transferring children or inflicting upon the group conditions of life designed to cause its physical destruction. It is a treaty which is in complete accordance with the high principles of our Nation.

The record should be clear on one point, however. The intent and provisions of this treaty are prospective in nature. They cannot be applied retroactively. In this way the treaty cannot be used as a propaganda forum unearthing "alleged" atrocities. Rather this treaty seeks to firmly establish the principle that genocide is a crime that transcends national boundaries and is a loss for the entire world community.

Mr. President, I urge my colleagues to associate themselves with this noble effort.

SENATOR BAYH'S ADDRESS ON AMERICAN POLICY IN THE MIDDLE EAST

Mr. HUMPHREY. Mr. President, my good friend and distinguished colleague from Indiana, Mr. BAYH, recently delivered a very thoughtful speech on the Middle East which I would like to bring to the attention of the Senate. In his remarks, Senator BAYH discussed his disagreement and disappointment with the recent U.N. vote condemning Zionism. I share his strong belief that the General Assembly action will hinder the effectiveness of the world body and only increase international tensions.

Senator BAYH also expressed his concern that American policy of arms sales to countries throughout the Middle East and the Persian Gulf could endanger the future security of Israel and further inflame tensions in the region. Senator BAYH's analysis is one that all of us should contemplate. The administration's policy of unlimited arms sales to OPEC nations and OPEC allies must be curtailed. I have introduced legislation with the distinguished Senator from New Jersey (Mr. CASE) to bring rationality and greater congressional oversight to American arms grant and sales programs. We are currently marking up the legislation in the Foreign Assistance Subcommittee of the Foreign Relations Committee.

Although this legislation is badly needed, the policy of burgeoning arms sales to the Persian Gulf can only be corrected in the near term by executive branch policy. Senator BAYH and I believe that the long-range implications of our policy cannot be forgotten in the pursuit of short-term objectives.

Mr. President, I ask unanimous consent that the text of Senator BAYH's remarks before the Beth Sholom Congregation on December 7 be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR BIRCH BAYH

Jews all over the world have just celebrated the festival of Hanukah. This holiday commemorates the victory of the Jewish forces under Judah Maccabee over the Assyrians. But in reality, it is not so much a celebration of a military triumph as it is of a re-dedication of the human spirit.

The miracle of this holiday is that in the ruins of a desecrated temple, liberators found a small container of consecrated oil for the holy lamp—not nearly enough for the period of purification. But the oil miraculously burned for eight days and the desecrated temple was restored.

Last month another temple was desecrated, but I fear that there was no Judah Maccabee to restore it.

I am speaking, of course, of the United Nations, a temple we once proudly regarded as the world's last best hope for peace.

There is a paradox in the votes of the 72 countries that supported the condemnation of Zionism.

Many of these countries gained sovereignty through movements of national liberation.

Yet Zionism is the national liberation movement of the Jewish people—the expression of the independence of a brave people.

The explanation of that paradox lies in politics—the politics of oil and politics of self interest.

For American Jews, two dates are venerated—1776 and 1948—the American Revolution and the victory of Jewish nationalism which culminated in the establishment of the State of Israel. The parallels between those two historical events are worth pondering.

Here were two immigrant societies composed of people seeking refuge from religious persecution.

Two nations composed of a bewildering variety of national groups.

Two states ringed by hostile neighbors but united by noble principles rather than by the uniformity of origin or by an accident of history.

How could the place of the world's oldest Republic be anywhere but at the side of its youngest democracy?

How could one place of refuge ever forsake another haven of exile?

The bonds of affection between the United States and the State of Israel are not contrived nor artificial, they stem from a common set of principles and beliefs.

This affinity is not a recent invention, but lies deep in the mutual harmony of those things which are simultaneously American and Jewish. This harmony was expressed almost 200 years ago by our second president John Adams who wrote:

"The Jews have done more to civilized men than any other nation. If I were an athiest, and believed only in blind eternal fate, I would still believe that fate had ordained the Jews to be the most essential instrument for civilizing the nations."

In George Washington's celebrated letter to the Jewish Congregation of Newport, Rhode Island in 1790, the basic identity of what is American and what is Jewish was eloquently expressed when Washington wrote: "The government of the United States gives to bigotry no sanction and to persecution no assistance." We must do no less today.

These are principles which many nations claim to profess but few honor in practice. Among the few are the United States and Israel. But it is here that the paradox of the 72 votes for the vicious U.N. resolution becomes irony. Look at those 72 votes and you find among them countries whose regimes have imprisoned and executed their own people in great numbers for political reasons.

Countries in which dissenting opinion may not be expressed.

Countries which deny basic human freedom.

Countries which refuse the right of emigration.

Countries which build walls around themselves to prevent their citizens from leaving and ideas from entering. Countries where it's a crime to be a social democrat or a capitalist.

Countries where it's not safe to be a Christian or a Jew.

It is they who stand indicted by their false accusation. It is they who are condemned by their ignoble charges.

It is they who are racist by unfairly and inhumanely equating Zionism with racism.

The U.N. vote has given us a test and a standard by which to judge the moral precepts of the countries of the world.

To have stood at Israel's side on November 10 confers a privileged status on a nation. History will confirm the soundness of their judgment and the consistency of their principles.

I regret to say that this tragic vote in the U.N. took place scarcely a week after Egyptian President Sadat addressed a Joint Session of the Congress of the United States.

If his mission here was the quest for peace, the vote that followed did little to ensure the achievement of that goal.

President Sadat adopted a conciliatory tone in his address to the joint session.

He called for understanding and moderation in terms that are difficult to criticize.

He reiterated his argument that the Palestinian question is at the heart of the Mideast dispute and asserted the right of the Palestinians for their own state.

This argument has now gained a measure of acceptance as a general principle.

But we encounter major problems with that notion as long as the Palestinians and their allies assert a claim that conflicts directly with the sovereignty of the State of Israel.

The so-called Arab moderates—President Sadat among them—suggest the possibility of a West Bank Palestinian state. This would consist of that territory which was not part of the original State of Israel but has been administered by Israel since the 1967 war.

Let us take President Sadat's statements at face value. Let us assume that he would support a Palestinian state which comprises only this territory.

Can he guarantee the peaceful intentions of the Palestinians once they are installed on the West Bank?

But more important, is he in the position to guarantee that these borders will be forever fixed and frozen?

The answer is no.

President Sadat cannot guarantee a restraining hand on Yassir Arafat, neither can he guarantee permanent borders for a West Bank Palestinian state.

The only person who can guarantee restraint, the only person who can renounce territorial ambition is Yassir Arafat.

And he does not recognize Israel's sovereignty. So what we have are statements of moderation from the many who have no control over the situation, and unremitting hostility from the man who does.

This is not the basis of the speedy solution that President Sadat has advocated.

I would like to believe that President Sadat is a man of good will.

But Sadat's goodwill is little comfort to a nation which is asked to yield territory to a movement which has sworn to destroy it.

Israel's sovereignty is not negotiable. It is a minimum condition for a Middle East settlement.

Until such a settlement is reached the United States must maintain the military strength of Israel and assist in her economic development.

That is why I am committed to supporting the $2.2 billion in military and economic assistance to Israel.

This military assistance is not just a "shopping list" for military equipment. It is the essential ingredient in maintaining the military balance of power between Israel and her Arab neighbors. And that favorable balance is essential to deterring Arab aggression and maintaining the fragile peace.

Moreover, we must recognize how fragile that peace is and precarious the balance of forces has become . . . and will be in the future.

A strong Israel is still the best deterrent to aggression and the best hope for a lasting peace agreement. Only a strong Israel can afford to make the concessions necessary for negotiations to continue. Only a strong Israel can afford to make the concessions necessary for negotiations to continue. Only a strong Israel can persuade the Arab states that it is better to strive for peace than renew war.

Unfortunately, the Ford Administration has failed to recognize the emerging arms imbalance in the Middle East; an imbalance that threatens to grow more unequal in the next five years.

In assessing the balance of forces in the area, the Ford Administration counts only the weapons in the hands of those states that actually confront Israel on its borders and completely discounts the military threat posed by Jordan. The Pentagon, moreover, has neglected to project the possibility of changed circumstances in Lebanon.

Accordingly, it is only the military forces of Egypt and Syria that the Administration sees fit to take seriously in analyzing the military balance.

The failure to take into account all of the potential belligerent states has serious implications for the future. This is so especially in light of the fact that history has proven the military importance of those states which have contributed both troops and weapons to those who directly confront Israel.

We need look back no further than the Yom Kippur War to understand the fact that the Arab world beyond Egypt and Syria are not disinterested bystanders in the arena of conflict. Jordan, which the Administration sees as being virtually neutral, sent two of its best armored brigades to Syria in the 1973 war. Jordanian units were deployed along with Syrians in the attack on Kuneitra and 100 Jordanian tanks assisted in the assault.

Iraq, whose forces are also not computed in the Pentagon's inventory of forces arrayed against Israel sent 20,000 men and 320 tanks against Israeli soldiers in the Golan Heights. Iraqi MIG's operated against the Israelis early in the war and the Iraqis transferred a squadron of aircraft to Egyptian air fields.

Saudi Arabia, the lynchpin of Secretary Kissinger's conservative Arab coalition—did not act in a conservative manner in the Yom Kippur War. A Saudi brigade of 3,000 soldiers was sent to and now is permanently stationed in Syria.

Kuwait, Tunisia, Morocco, and Sudan, although physically remote from the conflict sent forces and equipment which freed Egyptian forces to participate in the assault on the Suez Canal.

Libya, by virtue of the huge amount of oil revenues which it received has become the arsenal of Islam. Colonel Hadaffi turned over 40 mirage jets to the Egyptians and supplied them with 100 tanks.

There are other mysterious omissions—the North Korean pilot who flew air defense sorties for the Egyptians; the Pakistani pilots, North Vietnamese missile technicians, Cuban tank officers, and Yugoslav tanks—these too, do not appear in the strategic balance.

We can do nothing about the huge disparity in populations between Israel and its adversaries.

We can do little to prevent the Soviet Union from shipping arms to the Middle East.

We have no power to halt the transfer of arms from one Arab state to another.

But, must we contribute to the growing disparity of forces by our own shipments of arms to the Arabs?

It is nonsense to assert that the huge number of weapons that we are currently selling to Saudi Arabia will not have an effect on a future conflict.

Last month the State Department admitted that the F–5 interceptors that we sold to Saudi Arabia are participating in military manuevers in Syria and are operating out of Jordanian bases.

Iran is also said to be training Egyptian pilots in the operation of the F–4 which is the basic weapon in the Israeli strategic inventory.

Are we so naive to think that weapons sold by this country to Arab states will be used for parades or ceremonial purposes? For whatever political reason the Administration has chosen to supply weapons to the Arabs, their military value is clear. Whether they are among the so-called "confrontation states" or deep in the Arabian peninsula, the Arabs have now shown an ample disposition to make common cause against Israel and it ill-behooves this country to help lengthen the odds against any ally.

Aside from President Sadat's conciliatory gestures to the United States and his warm regard for his "good friend Henry", what evidence do we have that the Arabs are now disposed to be more gracious toward Israel or even to tacitly acknowledge its rights to exist?

By the November 12th vote in the U.N.?

By the connivance of the Syrian Army with the terrorists who took the lives of three rabbinical students in November?

Certainly not by the continuous efforts of the Arab boycott agency, which is headed by one of President Sadat's countrymen, to dictate the commercial policies of American corporations and meddle in the internal affairs of the United States. What is the word you use to describe an organization which makes a condition for an American company doing business with an Arab state an agreement not to do business with Israel?

What terms do you employ with people who use the secondary boycott against companies that do trade with Israel?

What is the proper phrase that sums up the denial of certain markets to American companies because their management or ownership is predominantly Jewish?

What word captures the essence of a policy which says that American commercial flight crews must submit baptismal certificates for layovers of more than 48 hours in Riyadh?

The word, I submit to you, is chutzpah—sheer unmitigated gall!

How does this government dare to refuse to disclose the efforts of the Arabs to blackmail American companies into compliance with their blacklist?

How does the Commerce Department dare to circulate official requests for contract bids that contain discriminatory clauses? How does the Pentagon dare to negotiate training contracts with the proviso that no Jewish military personnel be involved?

How can a private corporation be expected to stand up to this shameless extortion if the United States government itself gives sanction to it?

Since when has the balance of payments argument outweighed the principle of equal protection of the laws?

Bill Simon's deputy in the Treasury Department says that if the Senate passes a bill prohibiting the President from considering race and religion in foreign assignments, it would antagonize the Saudi Arabians.

The Undersecretary of Commerce said that such a bill would divert Arab oil to other countries.

If these excuses have a familiar ring to them it is because they are the same ones used to justify inaction on the emigration of Soviet Jews.

Is our moral leadership in the world now held so cheaply that we trade principle for petro-dollars and decency for detente?

It is the internal affairs of the United States that are being compromised by this official intolerance, and this practice of meekly submitting to Arab dictates on the rights of our citizens must be halted.

It was a problem such as this that George Washington must have had in mind when he wrote to the Jews of Newport almost 200 years ago and said that we would "give bigotry no sanction and persecution no assistance."

The larger question here is the congruence between what we say and what we do.

It has been said of us that as a people we are honeycombed with moral impulse.

Morality, like politics, does not stop at the water's edge. Our principles are not fashioned for domestic consumption only. We need no tortured rationalizations for the support of Israel. We require no reassurances that our friendship for her is prudent. We demand no extensive evidence of her good faith as a democracy.

The bonds that link us together are unspoken.

The affinity that we share is implicit.

The precepts which unite us need no restatement.

The identity of our values requires no reappraisal.

It is the spiritual alliance of the country that gave democracy to the world and the nation that gave God to mankind.

NATIONAL READING IMPROVEMENT AMENDMENTS

Mr. EAGLETON. Mr. President, I am very pleased that the Senate passed H.R. 8304, as amended, last night.

The House amendments providing authority to continue existing right to read programs were contained in the original Senate version of the national reading improvement program, which Senator Beall and I sponsored in 1973. I believe it is important to accept the House provision to reserve money appropriated under section 705 for this fiscal year because the appropriations process has already been completed for this program. However, in the remaining 2 years of the life of the bill, it is essential that these two programs have separate authorizations so that the already limited funds for school-based reading programs are not diverted for other purposes.

I would also like to stress that, by providing flexibility in the application requirements under part A of section 705, we do not intend to diminish the importance of preservice and in-service training programs for teachers. I do understand that such a requirement can be overly burdensome on a small project, but I would not expect that the training program requirement would be waived except in such cases.

Mr. President, I am particularly pleased that the bill contains an authorization for a low-cost book distribution program. Again, the original Senate version of the National Reading Improvement Act contained a similar authorization for financing the cost of the Federal share of programs to purchase inexpensive books for distribution by sale, loan, or gift to individual schoolchildren.

On October 20 of this year, Senators Beall, Pell, and myself introduced a proposal, S. 2535, which is virtually identical to the House-passed provisions for this program. It would authorize the U.S. Commissioner of Education to contract with a national organization whose primary purpose is to motivate children to read, which would in turn subcontract with local community groups or local schools, to provide an inexpensive book distribution program. The program is patterned after the successful Reading is FUNdamental program—RIF.

Under the able leadership of Mrs. Robert McNamara, RIF originated in Washington, D.C., in 1966. In 1971, RIF operated 18 programs. The program has been so successful that the number has now risen to 400. Although to date the funding for the program has been exclusively from the private sector, it has become apparent that the program cannot continue to grow without some Federal support.

Let me emphasize that this is not a Federal giveaway program. Every community or school which wishes to participate must match the Federal share dollar for dollar. Let me also assure everyone that the Federal Government will not dictate what books are to be used in these programs. The national contractor has the responsibility for making arrangements with publishers to provide books at substantial discounts, but actual book selection will be made at the local level.

In my view, this type of reading motivational program is one of the most important steps that Congress can take to alleviate the illiteracy problem in this country. In 1973, Dr. Daniel Fader, a witness before the Education Subcommittee, persuasively presented the case for building reading motivation by making interesting reading materials readily available to children. Working under a grant from the U.S. Office of Education, he brought newspapers, magazines, and inexpensive paperback books into the classrooms of a junior high school in the District. He found that many of his "illiterate" students were capable of reading when given materials of interest, and that many of them became enthusiastic readers.

The expansion of the RIF program, and the responses of children involved in RIF reemphasize the significant contribution this program can make.

In summary, this legislation makes it possible to continue existing right to read programs, corrects some technical errors contained in Public Law 93–380, and provides an additional authorization for a program which has been proven of significant value in teaching children to read.

ADOLESCENT ABUSE

Mr. MONDALE. Mr. President, for several years the Subcommittee on Children and Youth, which I chair, has taken a deep and active interest in the growing and appalling problem of child abuse in this country. I believe that the work of the subcommittee has helped to contribute to an important new awareness and willingness to confront this terrible problem and to solve it.

One sign of this new awareness is the recent conference on adolescent abuse which was held at the University of Minnesota. This meeting helped to focus on a particular aspect of the problem—abuse of the adolescent child.

This conference was particularly important because, as the director of the national child abuse prevention and treatment program said in his remarks, it is particularly difficult to define and diagnose abuse of adolescents.

I ask unanimous consent that a St. Paul Pioneer Press article on this conference be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the St. Paul (Minn.) Pioneer Press]

Adolescent Abuse Called More Complex Area Than Child Abuse

(By Carol Lacey)

Although 20 to 30 percent of child abuse victims are between 14 and 18 years of age, virtually nothing has been done to discover the causes or to search for solutions to the problems of adolescent abuse and neglect.

That's why the National Institute of Mental Health (NIMH) decided to grant funds for a special University of Minnesota conference on the problem, NIMH executive Ira Lourie said Thursday at the conference's opening session.

Public interest for such a conference is evident in the enrollment; more than 100 persons were turned away because Nolte Center for Continuing Education, location of such conferences, couldn't accommodate them. However, a number of visitors joined registrants for Douglas Besharov's keynote address, which was moved to Mayo Memorial Auditorium to allow greater attendance.

Although a power failure forced Besharov, director of the National Center for Child Abuse and Neglect in Washington, D.C., to deliver most of his speech in the dark, he managed to shed some light on the critical problems of adolescent abuse and neglect and raise questions for further deliberation by conferees.

He urged participants to share their experience during the small workshop sessions and then to bring back ideas to their social service agency and apply them—and ultimately, perhaps, begin to develop some system and support for dealing with adolescent abuse openly and effectively.

"The issue of child abuse for all children is terribly complex," he said. "It involves some of the most difficult theoretical and treatment issues."

But, he continued, the problems of adolescent abuse and neglect are even greater, because they are laced with ambiguities and uncertainties, many of them stemming from the adolescent's position on the threshold between childhood and maturity.

Much past neglect of adolescent abuse, he suggested, might be explained by the sheer difficulty of deciding, case by case, what is "abuse" and what is inadequate parenting.

Unreasonable corporal punishment sounds like a simple category, he said. It's not hard to realize that one shouldn't shake a tiny baby or hit him on the head or abuse his genitalia. It's easy to say "no blood . . . no bruises."

And, although it may be hard to believe that there is "torture of adolescent children in the medieval sense," it isn't difficult to recognize that "we have to do something about it."

Yet, he asked, how about a father who raises welts with a belt buckle beating of his son who has stolen a car? Or, what should be done with a father who, in the course of an argument with his teen-aged daughter, slams the door—accidentally—on her hand and broke all her fingers?

Had he done that to another adult, he would have been hauled into court for assault. Besharov said, and the judge most likely would have given him a suspended sentence and said: "Don't ever do that again."

But, he continued, a child protection worker wouldn't say that "because she would know that might happen again."

"How do we decide if corporal punishment is reasonable?" he asked. "Is it reasonable if the child isn't seriously injured? How about those cases when the child escapes injury only by the grace of God? Or when a child is injured accidentally in the course of reasonable corporal punishment?

"When a father comes home after a round

of drinking and hits an adolescent who just happened to be up and around, full force across the mouth for no apparent reason, do we call it child abuse or alcoholism?" he asked.

Even more difficult to deal with is neglect. "For many adolescent children the necessities of life—food, clothing, shelter—are either denied or provided in a totally inadequate manner," Besharov said.

Then there's the problem of kids thrown out of the home, not just runaways, but kids literally locked out. "They don't get along very well with their parents, but yet they don't want to leave," he said. "Their parents, however, try to abandon them by extra-legal means."

When this happens to kids under 10, it's called "abandonment," he said. But, older children in this predicament are called "ungovernable . . . PINS (Persons in Need of Supervision)."

Sexual abuse is another prevalent aspect of the problem. "It occurs much more than we know," he said. "But, it's important to distinguish among different levels of sexual type behavior. Not all is abuse and neglect."

"Incest between parent and child is clearly a serious matter," he said. "But, I assume fondling goes both ways.

In order for parents—and society—to begin to deal effectively with adolescent abuse they must begin to understand why it happens.

"Parenting is easy when you have easy kids to raise," he said. "But when children start acting out, parents have limited responses and when they start acting out seriously, they have even more limited responses."

MEETING OF THE WESTERN EUROPEAN UNION

Mr. MOSS. Mr. President, for the benefit of the Senate I ask unanimous consent that a copy of my letter to the Vice President reporting on the meeting of the Assembly of Western European Union which I attended by his appointment be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DECEMBER 16, 1975.

Hon. NELSON A. ROCKEFELLER,
Vice President of the United States, President of the U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to your appointment it was my honor to represent the Senate and the Congress of the United States on December 1st and 2nd at the Assembly of Western European Union meeting in Paris. I addressed the Assembly on United States-European cooperation in space. In addition, there were meetings with the Chairman and members of the Assembly's Committee on Scientific, Technological and Aerospace Questions.

Both in my speech and in answers to questions from members of the Assembly, I emphasized that our civilian space program is based on full dissemination of information and open sharing of results. I stated that continued cooperation in space depends on each party paying its share of the costs. For example, this Nation is willing to bear the development costs of a launcher, but we expect full reimbursement of the direct and indirect costs of launching a satellite for the European Space Agency, one of its member countries, or any other country.

The Europeans were very interested in the initial efforts under way in the United States to explore generations of electricity in large satellites and then beaming it to earth. There are real possibilities here for joint research that should be explored.

There is considerable interest in Europe about the depletion of ozone in the upper atmosphere and a growing realization—which I stressed in my speech—that international cooperation is the only way to deal with this potentially worldwide problem.

During my brief stay in Paris, Mr. President, I also met with Roy Gibson, the Director General, and other officials of the European Space Agency. They briefed me on the progress of Spacelab, which ESA is developing to fly in the U.S. Space Shuttle beginning in 1980. Spacelab development is proceeding well. Program managers in Europe and here expect some problems to arise later in the mating of two such complex and advanced spacecraft as the Shuttle and Spacelab, but they are confident these difficulties can be overcome.

I also met with Professor Maurice Levy, President of the French Space Agency, and Michel Bignier, the Director General.

In conclusion, Mr. President, my visit to the Assembly of Western European Union was highly successful. Both the Europeans and I came away with a renewed awareness of the many opportunities available through continued cooperation in space. In this way we can expand our knowledge of the earth and the universe and also seek solutions to the problems of energy and environment that confront us on both sides of the Atlantic.

Sincerely,

FRANK E. MOSS,
U.S. Senator.

CHILD AND FAMILY SERVICES BILL

Mr. MONDALE. Mr. President, I have spoken several times over the past few months about the dishonest propaganda campaign against the Child and Family Services Act.

I am pleased that a number of newspapers in Minnesota and across the country have investigated the charges contained in the widely circulated, unsigned flyer, and based on the results of their investigations, have written editorials clearly denouncing this dishonest attack.

I would particularly like to bring to the attention of my colleagues and the public four of the editorials that appeared in the Minneapolis Star, the New Prague Times, the Minneapolis Tribune, and the St. Louis Post-Dispatch. I ask unanimous consent that they be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Minneapolis Tribune, Dec. 12, 1975]

DAY CARE OPPOSITION VIRULENT—AND FALSE

"This bill . . . is being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service," said Sen. Walter Mondale in a Senate speech last month. The bill to which the Minnesota Democrat referred is one that would increase federal support for day-care programs. Mondale is the Senate sponsor, and Rep. John Brademas, D-Ind., is the sponsor of the House version. The attacks are contained in an anonymously, but widely, circulated flyer that seems to be part of a well-organized campaign to discredit the bill.

The flyer's main argument is that the Mondale-Brademas bill would take childrearing out of the hands of parents and "would give the government, rather than the family the right to control child development." To back that argument, the flyer cites passages from four-year-old issues of the Congressional Record—taking them out of context, sometimes piecing them together, never indicating that instead of being facts they are the unsubstantiated opinions of a previous day-care bill's opponents.

Even vigorous opponents of the Mondale-Brademas bill have denounced the flyer. A spokesperson for one opposition group noted that the flyer is counterproductive because its arguments are so easily discredited. They certainly are: The bill makes it clear that participation in any program would be strictly voluntary and that policies for both sponsors of day-care programs and the individual projects themselves would have to be set by councils on which parents would make up at least half the membership. Moreover, the bill would expressly forbid any interference with "the moral and legal rights and responsibilities of parents."

The need for more and better day-care programs is clear. According to the U.S. Labor Department's Women's Bureau, nearly 27 million youngsters under age 18 had working mothers last year, an increase of 1.2 million since 1970. About 6 million of those children were of pre-school age, but there were spaces in licensed day-care facilities for only about 1 million of them. And the number of children needing day care is growing faster than the facilities: By 1985, the Women's Bureau estimates, there will be 6.6 million mothers with children under age 5 either working or looking for work. The Mondale-Brademas bill would go a long way toward helping provide the care those children are going to need. We hope it isn't scuttled by the virulent—and false—campaign now being waged against it.

UNSIGNED CIRCULAR IS REPLETE WITH FALSEHOODS AND MISREPRESENTATIONS

Customarily when an anonymous letter is received at The Times, it is consigned forthwith to the round file, with or without reading. That is standard practice in newspaper offices.

However, an unsigned mimeographed flyer came to our attention recently which is being widely circulated throughout the country and which calls for refutation and repudation. The mimeographed circular bears no name, no address and no source of identification. That in itself is reprehensible and lacking in courage of conviction. It is wholly a collection of misrepresentations and downright falsehoods.

The anonymous flyer castigates the proposed Child and Family Services Act of 1975 alleging, in brief, that this legislation would deprive parents of parental direction and control of their children and Sovietize the youngsters in some kind of communal system.

In a speech delivered before the United States Senate on November 19, Senator Walter F. Mondale of Minnesota, one of the sponsors of the bill in Congress, declared:

"Contrary to these unsigned allegations, the child and family legislation contains nothing that changes or affects the legal relationship between parents and their children. Instead, it simply offers to families—on a totally volunteer basis—access to health, education and child care services which they want for their children but often cannot afford. It offers prenatal health care and early medical screening and treatment to detect and rectify handicapping conditions, and day care for children of working mothers, and the bill specifically limits eligibility for these services to "children whose parents or guardians request such services"—S. 626 section 2(1), (2), section 106(b).

"In addition, this legislation is deliberately and carefully designed to provide parental control of any services offered. Thus, the bill requires that all programs funded would be selected, established and controlled by the parents of the children participating in them."

In the Congressional Record of that day, Senator Mondale categorically listed and refuted each and every one of the allegations made in the anonymous circular, with citations from the wording of the Child and Family Services Act.

Anyone who has known and watched Fritz Mondale's career from his early activities in public affairs, through his service as Minnesota attorney general and now a United States Senatorship knows full well that he could not be a party to any such program as the anonymous circular falsifies. The people of Minnesota have demonstrated their confidence and trust in Walter F. Mondale by overwhelming majorities at each election in which his name has appeared on the ballot.

It is truly regrettable that able, honest and conscientious public servants who cosponsored the Child and Family Services Act in the Congress must be subjected to such unfair, anonymous misrepresentation—but it appears that is the burden which we place upon them.

[From the St. Louis Post-Dispatch]

ATTACK ON CHILD CARE

Four years ago this month, Congress sent to then President Nixon a bill that would have established a comprehensive national child care system by offering a wide range of educational, nutritional and medical services for preschool children. In vetoing it, Mr. Nixon described the legislation as "the most radical" bill to be passed by the Ninety-second Congress and claimed that it "would commit the vast moral authority of the national government to the side of communal approaches to child rearing against the family-centered approach."

In fact, of course, the bill would have done nothing of the kind. It would have made these services available to any American family that chose to use them, and while poverty-level families would have had access to them for free, all other facilies, which is to say a vast majority of Americans, would have been required to pay according to a sliding scale. Although federally-funded day care program for low-income families have been in existence for some time—indeed were ongoing at the time of Mr. Nixon's veto—no comprehensive child care system has been established.

Such services are envisioned in legislation introduced this year by Senator Mondale of Minnesota and Representative Brademas of Indiana, and like the earlier bill, the consequences of which Mr. Nixon so cruelly distorted, this one also is being subjected to venomous misinterpretation. Mr. Mondale describes the campaign to discredit the legislation as one of the most "dishonest attacks I have witnessed in my 15 years of public service."

Basically, the Mondale-Brademas bill is similar to the 1971 proposal and a successor which died in Congress the following year. It would authorize the Government to designate local or state "prime sponsors" to disperse federal funds for the support of a wide variety of child care programs, all of which would have to meet federal standards. "It is not enough," says Mr. Mondale, "simply to provide mind-numbing, custodial care for children while their parents work, or health and educational services that are third rate . . ."

A key provision of the legislation prohibits any infringement on the "moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical or other development of their children." Despite this unequivocal language, a flyer is being distributed anonymously in many parts of the country accusing the bill of attempting to "sovietize" education and turn the control of children over to the Government. As a result of the flyer, some congressmen report receiving as many as 700 letters opposing the bill.

Moreover the flyer contains a pastiche of citations from the *Congressional Record* on what opponents to the 1971 bill said then in congressional debate. This hodgepodge is presented not as opinion but as fact of federal policy, thusly: "As a matter of the child's right, the Government shall exert control over the family because we have recognized that the child is not the care of the parents, but the care of the State. . . . Furthermore, there is serious question that maybe we cannot trust the family to prepare young children in this country for the new kind of world that is emerging."

It would be highly unfortunate if such vicious attacks on the Mondale-Brademas bill were to interfere with a rational debate on its merits. The need for expanded child care services ought to be manifest. In 1974, for example, 34.4 per cent of all married women with children under six were employed, and the percentage of unmarried working mothers of preschool children was far higher. With time, these percentages will increase.

Making comprehensive child care services available to these women on a voluntary basis, while recognizing their ascendant rights as parents, strikes us as scarcely a surrender to any "communal" system. To the contrary it would seem sensible national policy.

[From the Minneapolis Star]

THE SABOTAGE OF CHILD CARE

Increased federal support for "child care," which includes day care but embraces a mix of services, is potentially one of the most significant social needs in a nation where more and more mothers with young children not only must, but want to, work. In general, we support it.

Unfortunately, the current state of the debate in Washington is one of confusion that began with President Nixon's veto in 1971 of a bill developed by Sen. Walter Mondale on the specious ground that it fostered "communal" as opposed to "family-centered" child care.

The decision to use any kind of child care, including the traditional reliance on grandparents, is, of course, voluntary. But since the veto an intense, virulent campaign has stirred up opposition to Mondale's current bill. For example, the false charge is made that, somehow, the bill would give children the legal right to disobey their parents!

The upshot is that the measure (coauthored by Rep. John Brademas, D-Ind.) is bogged down. If the proposal for a $1.85-billion three-year program did pass, it would face a veto that probably couldn't be overridden. Mondale and his supporters could simply delay, or they could scale it down. But the tragedy is that the attacks, described by Mondale as the "most distorted and dishonest" he's seen during his public career, have made reasoned consideration impossible.

Isn't that lamentable when there are debatable aspects of the program that ordinarily would be ironed out? For example, on the role of schools, on the need for a full array of services. On the size of the price tag itself. Too, some supporters of day care centers doubt the need for a high ratio of staff to children, although Mondale fears overworked supervisors could provide only "mind-numbing custodian care" that would do more harm than good.

The fact is that child care and day care centers are here to stay. The federal government is already in the field with scattered programs. William L. Pierce of the Child Welfare League contends "a lot of it is a very lousy kind of care."

That's where the debate should start.

Granted, this isn't the best time to talk about more government spending on anything, but Mondale has a worthy cause that has been sabotaged by irrational attacks.

S. 1145, THE NATIONAL RECONCILIATION ACT

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that the able Senator from Massachusetts (Mr. BROOKE) be added as a cosponsor to S. 1145, a bill to provide amnesty to persons who failed or refused to register for the draft, refused induction into the armed services, or who were absent without official leave from the armed services during the Vietnam War era.

Mr. President, Senator BROOKE's decision to join with my colleagues, Senators ABOUREZK, GRAVEL, HATFIELD, MCGOVERN, NELSON, and me in cosponsoring this legislation to grant a general and unconditional amnesty to Vietnam war objectors is both welcome and heartening. Coming at a time when the question of amnesty seems to have moved from the public consciousness, I respect the careful thought and reflection which brought him to this decision. His support will be a valuable asset to all of us seeking to alleviate the suffering of those who, because of their objection to the Vietnam war, are still unable to live freely and fully in this country.

Notwithstanding the clamor of other issues, it is fitting that we pause on the amnesty question at this time of year. In yesterday's New York Times, James Reston asks us to consider "A Christmas Amnesty" and I ask unanimous consent that this article be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. PHILIP A. HART. As Mr. Reston so aptly points out, both the President and the Congress have declined to give the plight of these men, our own refugees, even the same degree of consideration we have shown for the rights and liberties of citizens of other countries. He correctly chides us that this is unfinished business in the "urgent problem of how to bind up the Nation's wounds." Further, we are reminded that amnesty is scarcely without precedent in this country, and that it is no less needed or important several years after the fact than it is at the cessation of war. Our country is still not whole, and that is a tragedy when it is within our power to make it so.

Over these holidays, I would ask that my colleagues in the Senate put themselves in the shoes of those young men—some now not so young—and their families, for whom there has yet to be peace. And I urge that they follow the fine example set by my friend from Massachusetts in giving amnesty the serious consideration it demands.

The article follows:

[EXHIBIT 1]

[From the New York Times, Dec. 17, 1975]

A CHRISTMAS AMNESTY?

(By James Reston)

WASHINGTON, Dec. 16.—Before we come to the end of the old year, and go on to celebrate the 200th anniversary of the Declaration of Independence in 1976, is it not possible at least to think about an unconditional Christmas amnesty for the defiant exiles of the Vietnam war?

Washington is not thinking about this now. It is preoccupied with the grievances, blunders and outrages of the past, and also, more and more, with the coming struggles of next year's Presidential election. It is concerned at the moment for human liberty in Uganda, but almost seems to have no concern or even pity for its own forgotten children.

It is odd that President Ford, who has got so far by the accidents and humanity of political life, should have missed this point. When he was sworn in as President on Aug. 9, 1974, he began his inaugural speech with these words:

"My fellow Americans: Our long national nightmare is over. Our Constitution works. . . . Here the people rule. But there is a higher power, by whatever name we call Him, who ordains not only righteousness but love, not only justice, but mercy."

Ten days later, on Aug. 19, 1974, in Chicago, he addressed the Veterans of Foreign Wars. "Unlike my last two predecessors," he said, "I did not enter this office facing the terrible decision of foreign war. But like President Truman and President Lincoln before me, I found on my desk . . . the urgent problems of how to bind up the nation's wounds, and I am determined to do that."

It was a good and even noble speech, and he tried to be faithful to it by offering a conditional amnesty to the Vietnam protesters. He suggested that they could work their passage back home by paying penance for wrongs they didn't admit. So they did not confess and did not come home, and at that point, the President and the Congress forgot them.

President Andrew Johnson, succeeding Mr. Lincoln, faced something of the same problem. Like President Ford, he proposed a conditional amnesty after the War Between the States, and also like President Ford, his compromise amnesties were rejected.

But finally, on Christmas Day, 1868, three and a half years after Appomattox, he cut across all the divisive arguments of the war with his Christmas Proclamation:

"I, Andrew Johnson," he said, "President of the United States, by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare, unconditionally, and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late Civil War, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof."

Though this was a civil war rather than a foreign war, Andrew Johnson's unconditional amnesty proclamation was in many ways more difficult politically for him than President Ford's, but he faced it and the Congress and the nation accepted it. The tragedy now is that President Ford is not even thinking about it, and neither is the Democratic Party's Congress.

Part of the problem now is that neither party here is concerning itself about the true meaning of the word "amnesty." It is not an ethical word, meaning "forgiveness," but a practical word meaning "forgetfulness." It comes from the same root as the word "amnesia," a disturbance of memory, a blotting out of the past, which was precisely what President Ford seemed to be suggesting when he talked in his inaugural address about "love, justice, and mercy," and the "urgent problem of how to bind up the nation's wounds."

Things are different now, however, for President Ford. He is not concentrating on "love, justice, and mercy," but on Ronald Reagan, whose compassion for the Vietnam veterans is somewhat limited, and on the Democratic Presidential candidates, who are equally indifferent to this foreign tragedy.

Actually, the plight of the hundred thousand or so Vietnam exiles is really no big political issue. It is a sad story but the nation is paying no attention to it. Yet coming into the Bicentennial year, it could be put behind us by a Christmas amnesty. There are so many other important questions, but none more human or tragic.

"Our long national nightmare is over," President Ford said. "The urgent problem is to bind up the nation's wounds," but the nightmare won't really be over or the wounds really be bound up until our children come home.

WILD HORSES AND THE OVERGRAZING OF THE NATION'S PUBLIC LANDS

Mr. PACKWOOD. Mr. President, earlier this session I introduced S. 1923, to amend the Wild, Free-Roaming Horses and Burros Act of 1971, to insure that the Nation's public grazing lands are protected, and that this country's wild horses and burros are able to sustain their healthy populations. When I was traveling throughout Oregon during the August recess of Congress, I held an informal hearing on my bill, and the problems of the ever-increasing populations of wild horses and burros, in Burns, Oreg., August 13, 1975. A number of people and organizations presented excellent testimony during this hearing which I believe would be valuable to many people in evaluating the necessity of making possible changes in the 1971 act.

Overall, the need to address the problems of the growing populations of these free-roaming animals is threefold: First, the present populations of these grazing animals is resulting in the overgrazing of public and private rangelands. Not only is the present loss of available forage a threat to sustained quantities of food for wildlife, cattle, and the horses and burros themselves, but it is doubtful that much of these over-grazed lands can recover in the near future. Some estimates indicate that forage recovery is more than 10 years away for these lands, with the possibility of erosion and soil damage during this time period.

Second, the present management restrictions placed on the Bureau of Land Management in its efforts to control these herds are ineffective. Both the National Wild Free-Roaming Horses and Burros Advisory Board and many environmental organizations have recommended changes in these restrictions.

Third, the lack of control which is now placed on the expanding herds of wild horses and burros, which is resulting in significant population increases, poses a threat to the horses themselves.

I for one, Mr. President, am not out to see the destruction and ruination of the Nation's wild horses and burros. I am not seeking to allow the unlimited killing and harassment of these animals wandering upon the country's western lands. But I do believe we need to strike a balance between the size of these herds and the amount of grazing which we are to allow on the Nation's rangeland.

The simple problem with the existing law is that not enough wild horses and burros can be rounded up annually to offset the increasing numbers of these herds. In the interim, the rangeland of the Western States is becoming increasingly overgrazed. Moreover, the BLM's efforts to control the expanding populations of horses and burros has resulted in injury to riders attempting to corral the excess number of animals.

Mr. President, I ask unanimous consent that the following items be placed in the RECORD at this point to document the hearing which I held on this issue earlier this year:

First, a brief history and background of wild horses and burros.

Second, an outline of S. 1982.

Third, resolution by the National Wild Free-Roaming Horses and Burros Advisory Board urging the Secretaries of the Interior and Agriculture to destroy the excess numbers of wild horses and burros.

Fourth, similar resolutions urging amendments be made to the 1971 act to allow for the proper control and management of the country's populations of wild horses and burros.

Fifth, numerous letters of support for S. 1923.

Sixth, testimony offered during the informal hearing which I held on August 13, 1975.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A REPORT TO CONGRESS

BRIEF HISTORY AND BACKGROUND OF WILD HORSES AND BURROS

Today's horses and burros are not native to America. The first modern-day horses and burros were brought here by the Spanish conquistadors. Inevitably, some of these animals escaped and some were released to the wild. The wild horses originating from these early transplants earned the name mustang—a derivation of the Spanish word mestaño, meaning "wild." The Indians of the West seized the opportunities that horses and burros offered them for transportation and food, and established a horse-related culture that hastened the spread of horses throughout the West.

By the late nineteenth century, the wild horse population had reached such heights as to be considered a serious problem on Western rangelands and efforts were initiated to control their numbers. Some estimates placed the population at 2 million animals and more. From that point on, population control efforts steadily became more commonplace.

The Federal land Agencies, in their attempts to control grazing use and balance the numbers of animals with the capacity of the range, encouraged the removal of feral horses and burros from the public lands. The problem was real enough, when viewed in relation to competition for forage with livestock and native wildlife.

A simple matter of priority was exercised in terms of the land use philosophy of those times. At first, the animals were either captured and domesticated, or shot. Later, they came to have value for slaughter, and by the 1940's, captured animals were commonly processed for some commercial purposes. The 1940's saw the last of most large herds of horses. From 1950 on, except in a few locations, control actions consisted of sporadic instances of shooting or capturing the scattered horses. In Nevada and portions of a few other States, however, the populations were large enough to support a few "commercial" capture operations.

Coincident with this time era came the expression of an organized national conscience in regard to the humane treatment of these animals and questioning whether or not there was just cause for their elimination. The first Federal law to deal specifically with these issues was the Act of September 8, 1959, which prohibited the use of motorized vehicles and aircraft and the polluting of waterholes in the capture or killing of wild unbranded horses and burros on public lands.

The 1959 Act dealt with the humane capture of wild horses and burros and perhaps was the major factor that began to alter the downward trend in feral horse numbers on the Western range. Although the capture and sale of horses and burros by private individuals was reduced, more people were concerned. The Federal Agencies reduced their effort toward removal of wild horses and burros on the public lands. Two national wild horse ranges were established by the Bureau of Land Management.

Background Paper on Management of Wild Horses and Burros on National Resource Lands

LEGISLATION

The Act of December 15, 1971 (16 U.S.C. 1331 et seq.), hereinafter referred to as the Wild Horse and Burro Act or the Act, expresses the policy of Congress that wild horses and burros be protected from capture, branding, harassment or death and that they be considered in the area presently found as an integral part of the natural system of the public lands. Section 2 of the Act contains definitions and defines "wild, free-roaming horses and burros" as all unbranded and unclaimed horses and burros on public lands of the United States.

Section 3 places all wild free-roaming horses and burros under the jurisdiction of the Secretary of the Interior with respect to public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture with respect to public lands administered by him through the Forest Service, for purposes of management and protection in accordance with the Act and requires that wild horses and burros be managed in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. All management activities must be at a minimal feasible level and have to be carried out in consultation with the State's wildlife agency.

Section 3 also provides for destruction of old, sick, or lame animals or excess animals in a humane manner and provides for capture and removal of excess animals for private maintenance under humane conditions. Finally, Section 3 prohibits sale of the remains of decreased animals for consideration.

Section 4 requires the Secretary to remove the animals from private lands upon request of the landowner and requires individuals who maintain the animals on private lands to notify the Secretary and supply him with an approximation of the number of animals maintained.

Section 5 permits recovery of horses and burros on the public lands by individuals claiming ownership only if permissible under the branding and estray laws of the State.

Section 6 authorizes the Secretary to enter into cooperative agreements necessary for furtherance of the purposes of the Act.

Section 7 required appointment of a joint advisory board to provide advice on any matter relating to wild horses and burros.

Section 8 makes certain actions pertaining to wild horses and burros a crime subject to a $2,000 fine and/or imprisonment for 1 year, and provides law enforcement authority. These actions include conversion or wilful removal of a wild horse or burro from the public lands without the Secretary's authority, maliciously causing the death or harassment of an animal, processing or permitting the processing of the remains into commercial products, sale of a wild horse or burro or remains thereof, and wilful violation of regulations.

Section 9 clarifies that nothing in the Act authorizes relocation of wild horses or burros on new areas.

Section 10 requires that the Secretary of the Interior and the Secretary of Agriculture submit a report to Congress containing a summary of actions taken under the Act and recommendations.

MANAGEMENT PROBLEMS UNDER THE WILD HORSE AND BURRO ACT

Population Control—Overgrazing

The control of wild horse and burro populations is the most critical and controversial issue in managing the animals. They are hardy animals with no natural enemies. In many areas they are the dominant creature competing for space, water and forage. In the southwest, for example, Bighorn sheep, an endangered species, may not come to drink around springs while burros are present. Burros require several times as much dry forage as Bighorn sheep and, if not controlled, they will diminish the forage value of areas so that they are uninhabitable by the sheep. Wild horses and burros are known to exist on some 50 million acres of public lands administered by the Bureau of Land Management and the Forest Service in 10 Western States. The number of such animals using public lands is substantially greater than preliminary estimates made just prior to passage of the Act. At that time, based upon available data, it was estimated that there were approximately 17,000 wild horses and 10,000 wild burros on lands administered by the BLM. Expanded and improved surveys reveal the BLM estimates were low. Populations are growing now at an annual rate of between 18 and 30 percent. In certain areas, expanding wild horse populations are a major factor contributing to the declining range conditions. Populations estimates for both horses and burros on national resource lands based on an inventory as of May 1, 1975, are:

State	Horses	Burros	* Animals claimed	
			Horses	Burros
Arizona	109	2,134	4	
California	3,373	2,147	321	
Colorado	697			
Idaho	865	9	14	
Montana	314		110	
New Mexico	6,543	104	6,463	64
Nevada	21,868	691	5,268	50
Oregon	6,928	20	1,209	
Utah	1,671	** 78	1	
Wyoming	7,291		725	
Total	$ 49,658	$ 5,183	14,115	114

* Includes animals claimed, proof of ownership still has to be determined under sec. 5 of the Wild Horse and Burro Act.

** Includes 8 mules.

The BLM is constantly improving its inventory techniques and accumulating data on these wild free-roaming animals. Inventory estimates are released periodically.

The Bureau Planning goals provide that optimum numbers of wild horses be determined for general areas they inhabit. In making this determination, the needs for soil and water protection, domestic livestock, maintenance of environmental quality, wildlife and other factors are considered, and, when necessary, domestic livestock numbers are adjusted or excluded to insure that adequate forage and other biological requirements are reserved for wild horses and burros.

Aside from the questions of overgrazing on Federal lands and conflicts with wildlife and other resource values, the increasing numbers of wild horses and burros present a problem to private owners whose lands are also used by the animals. Due to the provisions of the Wild Horse and Burro Act, private owners must depend on the Federal Government to remove animals from their lands.

Alternatives

Under present law there are three alternatives for controlling wild horse and burro populations: wild horses and burros may be relocated to other areas; they may be removed for private maintenance under an agreement to assure proper care for the animals; or they may be destroyed in a humane manner if no other method of control is practical.

Under the private co-operative maintenance arrangement the animals retain their status as wild free-roaming horses and burros and the United States is required to oversee the maintenance of the animals regardless of where they have been transported. We currently have two cases where we have retrieved the animals and are checking charges of inhumane treatment. Experience has been that people are often not interested in receiving the animals subject to such continual oversight. Furthermore, monitoring the maintenance of the animals is difficult and costly.

In addition, the Act of September 9, 1959 (18 U.S.C. 47(a)) prohibits use of aircraft or motorized vehicles to round up wild horses and burros to determine ownership or for management purposes.

Efforts to gather animals to determine ownership for management purposes have generally been unsuccessful since the only methods legally available at present are round-ups with the use of domestic saddle horses or trapping at water holes. Capture of the animals has been further complicated by the rough terrain and the enormous expanses of public domain.

Pursuant to Section 10 of the Wild Horse and Burro Act the Secretary of the Interior and the Secretary of Agriculture submitted a joint report on administration of the Act, including recommendations for legislation and other actions. Among other things, the Report (a copy of which is attached) recognizes the need for amending the Act to provide a more workable legislative framework for capture, relocation, removal, and disposal of excess animals.

Specific Actions

In order to correct overgrazing conditions within the confines of the present law, as an interim measure, BLM's field offices were instructed to initiate plans to control wild horse populations at the 1971 level (the date the Act was passed) where vegetative and other conditions warrant such action, pending completion or updating of multiple-use planning to determine optimum numbers of wild horses, wildlife, and livestock.

The BLM has conducted gathering operations in Oregon, Montana and Nevada to remove excess horses causing damage to the vegetative resources on the national resource lands. Approximate numbers removed are: Oregon—135; Montana—55; and Nevada—80 to date from the 400 contracted in the Stone Cabin Valley Water trapping. A few problem animals have been removed elsewhere.

These horses were removed because their number had increased to the point that there was not enough food available for the grazing animals on the particular allotments. These animals were in competition with other wild horses, domestic livestock and wildlife for the forage available.

As discussed later, other gatherings of privately owned animals have occurred in accordance with Section 5 of the Act providing for recovery of horses or burros on the public lands by persons claiming ownership of such animals.

POPULATION ESTIMATES OF WILD HORSES AND BURROS—A COMPARISON OF JANUARY 1974 TO MAY 1975

[Over the 16-month period total population increase was 21 percent]

State	Estimated numbers of animals*			
	Horses		Burros	
	BLM	FS	BLM	FS
JANUARY 1974				
Arizona	115	7	10, 000	36
California	3, 000	828	3, 200	209
Colorado	500			
Idaho	500	34	8	6
Montana	325	8		
New Mexico	7, 550	207	80	5
Nevada	20, 000	1, 174	1, 000	13
Oregon	5, 265	215	16	
Utah	1, 000	45	50	3
Wyoming	4, 411	23	20	
Subtotal	42, 666	2, 541	14, 374	272
Total	(45, 207)		(14, 646)	

State	Horses	Burros	Animals claimed	
			Horses	Burros
MAY 1975				
Arizona	109	2, 134	4	
California	3, 373	2, 147	321	
Colorado	697			
Idaho	865	9	14	
Montana	314		110	
New Mexico	6, 543	104	6, 463	64
Nevada	21, 868	691	5, 268	50
Oregon	6, 928	20	1, 209	
Utah	1, 670	**78	1	
Wyoming	7, 291		725	
Subtotal	$49, 658	*5, 183	14, 115	114
Total	(54, 841)		(14, 229)	

NUMBER OF CLAIMS FOR HORSES AND BURROS ON NATIONAL RESOURCE LANDS

[Administered by the Bureau of Land Management and the number of animals claimed under sec. 5 of the Wild Horse and Burro Act]

State	Claims	Animals	
		Horses	Burros
Arizona	5	9	20
California	3	305	
Colorado	5	74	
Idaho	7	42	
Montana	10	133	
New Mexico	1, 494	7, 523	36
Nevada	75	6, 854	64
Oregon	24	1, 310	*2
Utah	8	150	
Wyoming	30	765	*1
Total	1, 661	17, 165	123

*Mules.

WILD HORSES AND BURROS AMENDMENTS ACT: S. 1923

SUMMARY OF MAJOR PROVISIONS, ET AL.

1. Allows the Secretary of Interior or his officials to use or supervise the use of helicopters and other motor vehicles (of ground support activities only) to round-up the excess numbers of wild horses and burros.

2. Allows the Secretary to sell or donate excess numbers of captured animals, not including those to which claims of private ownership have been made and sustained by the appropriate State Agency, to private organizations or individuals.

3. Re-opens for ninety days the opportunity to file claims of private ownership of uncaptured wild horses or burros.

4. Waives the imposition of any trespass or other fee, penalty, or charge, against the claimant receiving a horse or burro which has been captured and returned to him or her.

5. Adds an additional action prohibited under the Wild Horse and Burro Act of 1971, so that no medical testing or research can take place on captured wild horses or burros. Fails to distinguish between live animals and dead carcass.

RESOLUTIONS: NATIONAL ADVISORY BOARD ON WILD FREE-ROAMING HORSES AND BURROS

Whereas, populations of feral horses are increasing at rates of 10 to 25 percent annually and that each reproductive year of inaction causes loss of a great national trust in wildlife and rangelands, and

Whereas, the delays in establishing desired levels of feral animals populations on public lands are foreseen for the future,

Be it *Resolved*, that the Secretaries act immediately to reduce feral horse populations in areas where management plans are current and that they reduce other populations to the 1971 level. In the event that Congress has not provided funds or modification of Public Law 92–195 to allow removal of horses and burros and placement in foster care, we recommend that horses and burros be disposed of as provided in Section 3c of PL 92–195 to protect the habitat.

Whereas, during the 3 years that the wild Horse and Burro Act of 1971 has been in force populations of these animals have increased dramatically; and

Whereas, these increases in equine populations have resulted in overgrazing and severe damage to the ecological balance of the public lands and whereas if populations are allowed to continue to increase this damage will become extreme; and

Whereas, the impending worldwide food shortage gives emphasis to the urgent need to manage and conserve the Western rangelands as a resource for food production; and

Whereas, certain provisions in the Act have the effect of severely restricting the Federal Agencies in effectively keeping horse numbers at a level which will prevent deterioration of the ranges.

Now, therefore, be it *Resolved:* That the National Wild Horse and Burro Advisory Board urges the Secretaries, and through them the Congress of the United States, to modify the Act in a manner which will:

Authorize the Secretary to sell or donate excess animals to individuals or organizations on written assurance that such animals will receive humane treatment; place a statute of limitations on claims or ownership of branded or unbranded horses except those animals which entered the public lands after the effective date of these changes; give serious consideration to the use of intensive management areas as a management tool for these animals with appropriate restitution for the grazing privileges lost.

Passed unanimously.

Whereas, helicopters are recognized as an essential and humane tool in management of wildlife throughout the world.

Now, therefore, be it *Resolved:* That the National Wild Horse and Burro Advisory Board urges the Secretaries, and through them the Congress of the United States, to modify the Act in a manner which will allow the use of motorized equipment and helicopters under direct supervision of the Secretary or duly authorized official or employee of the Department in management of wild horses and burros.

BUREAU OF LAND MANAGEMENT,
Portland, Oreg., September 30, 1975.

Hon. BOB PACKWOOD,
6327 New House Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: In response to your recent request we are submitting information on the accident which recently occurred in Malheur County during a wild horse gathering.

Mr. Bob Bailey, Burns, Oregon, is a temporary employee of the Bureau of Land Management. Mr. Bailey is by profession a rancher and has ridden in wild horse roundups for many years prior to passage of the Wild Horse Act. He was initially hired by BLM last year (September 1974) to lend his knowledge and skill to BLM in an attempt to gather a herd of wild horses in Harney County. Mr. Bailey has been employed seasonally by BLM to help on other wild horse roundups. On September 17, Mr. Bailey and several BLM employees were attempting to gather some wild horses near Malheur Cave, southeast of Burns, Oregon. Bailey's horse fell and rolled over him causing severe injury. Fortunately, a BLM helicoper, used in the fire control program, was available nearby. Shortly after the accident occurred, the helicopter pilot was called on the BLM radio net and was able to immediately move Bailey to the hospital at Burns. Mr. Bailey's injuries required that he be moved again to Boise where he underwent surgery to repair internal damages and remove his spleen. Presently, Mr. Bailey is recovering in the hospital and is in satisfactory condition. He remains on the government payroll and is receiving appropriate compensation during his recovery.

Enclosed are copies of news releases, newspaper clippings and the doctor's report.

This accident points out the hazards of attempting to gather wild horses and burros using less than modern techniques. Since passage of the Wild Horse Act, BLM, in Oregon, has gathered 139 horses declared to be excess above the carrying capacity of the rangelands. These 139 horses were caught in five authorized gatherings. All of the horses have been caught using saddle horses and riders. Several of the riders are skilled cowboys hired temporarily to assist in the capture.

In the five gatherings, we have had ten instances where horses fell with their riders while in pursuit of wild horses. One of the horses was killed instantly of a broken neck. The rider luckily was thrown clear and suffered only bruises. In another case, a rider seriously hurt his knee when his horse ran into a juniper tree. Eight saddle horses have been injured. One horse had all of its front teeth knocked out when it fell during a chase. Another horse suffered severe overexhaustion and nearly died. Nearly all of the horses used have suffered minor injuries, cuts or bruises.

We think that these matters should be pointed out to the public and to Congress so that legislation to allow more modern techniques could be allowed. As Director Berklund has stated publically, we think helicopters could do the job cheaper and in a more humane manner than the presently allowed methods.

Thank you for your interest in this matter.

Sincerely yours,

———, ———,
Acting State Director.

BUREAU OF LAND MANAGEMENT,
Washington, D.C., October 29, 1975.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: This letter is in response to your inquiry of October 16 concerning wild horses in Oregon.

Wild horses definitely are not a vanishing species nor do they face extinction. In Oregon, the number of horses on national resource lands was approximately 6,900 as of May 1, 1975. A copy of the most recent inventory of populations in other States is enclosed for your information.

In grazing allotments in Oregon, expanding numbers of wild horses are creating a serious conflict by being in direct competition for forage with domestic livestock and wildlife. The increase in horses and their intensity of use in preferred areas can have a harmful effect on the range vegetative resources. Perennial plant species under heavy grazing give way to annual plant species in unnatural competition situations. Annual plants are less effective in providing soil and watershed protection than perennials. As watershed protection declines, topsoil will be lost to erosion. Density and diversity of wildlife will decline as the habitat deteriorates.

If we were to wait until such time as the horses were starving to death, the soil and plant community relationship would be altered to the point that recovery is slow and the potential optimum production is lower than the original productivity of the area. There are classic examples of such situations in existing literature.

Domestic livestock grazing is controlled on national resource lands by issuance of annual licenses while the number of wildlife is controlled by bag limits and the length of hunting seasons. Wild horse numbers must be controlled similarly to domestic livestock and wildlife to maintain a balanced ecological relationship on the national resource lands. The present methods of controlling wild horses as revealed at the Burns hearing have proven to be ineffective and costly.

A horse generally requires more pounds of forage per day to sustain it than a cow. The reasoning for this is that a horse is larger and more active than a cow with a different digestive system. Being a large, agile animal having both upper and lower teeth, which a cow or sheep does not have the horse becomes highly competitive for any available forage.

The grazing season in Oregon for domestic livestock averages approximately 6 months on national resource lands. The majority of these domestic animals go onto the Federal range usually around the first of May and most are off by the first of November each year. The wild horses and wildlife, however, must rely on enough forage being available to sustain their food supply year-long in their grazing areas. Weather conditions may also restrict the size of areas upon which wild horses and wildlife may graze during the winter months.

Sincerely yours,

GEORGE L. TURCOTT,
Associate Director.

STATEMENT OF OREGON FISH AND WILDLIFE COMMISSION RELATING TO WILD HORSES IN OREGON

The Oregon Fish and Wildlife Commission is becoming increasingly concerned in regards to the impact of wild horses on habitat of native wildlife species. It has been documented that wild horse numbers are increasing at a rate of 20 to 25 percent annually. Big game animals utilize the same ranges as wild horses and severe competition for forage and water is becoming increasingly apparent. Murderers Creek Wildlife Management Area is a prime example.

The 39,000 acre Murderers Creek Area was purchased in 1972 primarily for mule deer winter range, but benefits for other wildlife species will also be provided. Wild horses are becoming an ever increasing problem to attainment of management objectives on the area. Increasing at a rate of 25 percent annually, horses are competing with resident wildlife for both forage and water. One elk winter range was nearly denuded from excessive grazing by wild horses.

Other areas with either existing or potential conflicts between wild horses and resident wildlife include the Stockader, Mahogany Mountain and Westfall Units within the Bureau of Land Management's Vale District. Waterholes are gradually becoming mudholes by the trampling and wallowing of wild horses in the Lakeview District. If the present trend continues unchecked, range overuse will result in drastic reductions in wild horse numbers as well as decreasing populations of native wildlife.

At present, the managing agencies do not have the tools to effectively manage wild horse populations. This is a must for total resource management on public lands. Two primary amendments are needed to the present Act to provide necessary management flexibility: 1. use of motorized vehicles to aid in the round up of surplus animals, and 2. the authority to grant ownership of surplus animals to individuals or organizations.

Helicopters and other motorized vehicles are the most effective and practical means available for round up of wild horses. Alternatives available for roundup under existing laws are not only ineffective, they require extravagant expenditure of funds which makes large scale operations prohibitive.

The present method of placing surplus animals in custody of the public through the cooperative agreement process is cumbersome and ineffective. People are reluctant to accept custody and responsibility of wild horses under the restrictions imposed by the Act, especially when such horses are still theoretically under control of the Federal Government.

Without the two preceding amendments, management agencies not only have difficulty capturing wild horses, they have no practical means of transferring ownership of the few animals that are captured.

We appreciate the opportunity to comment on this important issue.

JOHN MCKEAN,
State Director.

BOARD OF COMMISSIONERS,
Lakeview, Oreg., June 11, 1975.

Senator BOB PACKWOOD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: Recently we read in various newspapers where you are going to introduce legislation where aircraft and helicopters can be used in control of wild horses and burros.

We would like to commend you for introducing this bill as it certainly is needed in order to manage wild horses and burros. According to BLM officials, wild horses are doubling in numbers every four years and if this trend was to continue very long, the range lands on the western states would be over populated with wild horses and burros.

In Lake County lumbering and livestock operations are the major industries. A high percentage of the livestock use range lands and if wild horses were left uncontrolled it would have a severe impact on the livestock industry and our economy as well as affecting the management of federal lands in following the multiple use concept.

Again, we want to commend you for introducing this legislation, which is so necessary for overall management of our national resource lands.

Very truly yours,

DON FITZGERALD,
Commissioner.

SOIL AND WATER
CONSERVATION DISTRICT,
Burns, Oreg., August 13, 1975.

The Harney Soil and Water Conservation District Board makes the following recommendations for the control and management of wild horses.

1. The number of wild horses should be reduced to a number no greater than what they were before the passage of the Wild Horse Act.

2. The agencies that manage the land wild horses roam on shall be allowed to use motorized vehicles to manage the wild horses.

3. That the surplus in the wild horse herds beyond the agreed on number shall be disposed of by sale for pets, work animals, or other economic or commercial use.

4. The wild horse should be managed so they remain an aesthetic factor in the environment.

5. In those areas where the wild horse herds, before the passage of the Wild Horse Act, were in numbers that were destructive to the environment, in these areas the animals numbers should be reduced to a number that will be compatible with good management of the range for livestock and other wild animals.

This statement is agreed by District Board.

JOHN CAMPBELL,
Chairman.
RUSSELL PENGELLY,
Secretary.

NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS 1975: WILD HORSES AND BURROS

The Wild Free-Roaming Horse and Burro Act (Public Law 92–195 of December 15, 1971) delegated to the Secretaries of Interior and Agriculture the authority and responsibility for protection, management and control of wild free-roaming horses and burrors on public lands administered by the Bureau of Land Management and the U.S. Forest Service.

There are now approximately 27,000 wild horses and 14,000 wild burros, unbranded and unclaimed, grazing on the public lands administered by BLM and the Forest Service. These animals have few natural enemies and are known to reproduce at a rate of 20 to 25% each year, thus doubling population every few years.

These wild horses and burros can seriously compete with wildlife and domestic livestock for forage if they are not properly managed as to distribution and numbers. P.L. 86–234 prohibits the use of aircraft and motorized vehicles to capture wild horses and burros, and P.L. 92–195 provides penalties for those guilty of using aircraft to harass or kill any wild animal, bird, or fish. However, the use of aircraft (helicopters or fixed wing) is the most efficient and humane method of herding, capturing, or coralling wild horses and burros.

P.L. 92–195 prohibits the transfer of title of excess wild horses and burros to the public, and permits only private maintenance of these animals under the jurisdiction and custody of the Secretaries, making disposal of these animals to individuals or organizations very difficult. These restrictions greatly hamper proper protection, management and control of wild horses and burros and their habitat used in common with wildlife and domestic livestock.

The NACD urges Congress to enact legislation amending the Wild Free-Roaming Horse and Burro Act to (1) authorize the Secretaries of Interior and Agriculture to use aircraft to provide for the protection, management and control of wild free-roaming horses and burros, such use to be in accordance with humane procedures prescribed by the Secretaries; and (2) authorize the Secretaries of Interior and Agriculture to sell or donate, without restriction, excess horses or burros to individuals or organization.—Adopted.

HARNEY COUNTY STOCKGROWERS
ASSOCIATION,
Burns, Oreg., August 13, 1975.

The Stockgrowers are not against having wild horses on our public land, but are against having the number build up to the point where they are causing an economic hardship to our local communities. If allowed to increase at 20–30% per year, they would eventually take over our range land.

The economic and tax base of our local community is dependent on a viable livestock industry. We would like to see a balance of wild horses, wildlife and domestic livestock on public land.

Therefore:

The Harney County Stockgrowers wish to make the following recommendations for the management of wild horses on public lands.

1. That the use of motorized vehicles especially aircraft, including helicopters should be allowed for management purposes of the animals.

2. The wild horse herds should be managed in a manner that is compatible with other uses under the multiple use concept on public lands. In areas where the animals are doing destructive damage to the forage or soil resources, or are in undue competition with wildlife or permitted livestock, these animals should be removed or reduced in number to the point where no undue conflict occurs.

3. That the agency charged with management of the animals be allowed to sell, transfer to private ownership, or dispose of for economic or commercial use.

John Campbell,
President.

Idaho Cattlemen's Association,
Boise, Idaho, August 5, 1975.
Senator Bob Packwood,
Portland, Oreg.

Dear Senator Packwood: The Forest and Public Lands Committee of the Idaho Cattlemen's Association met formally on August 1, 1975 to discuss S. 1923.

While previous commitments prohibit us from attending the hearing in Burns, Oregon on August 13, 1975, we would like you to consider our comments in this letter.

Considering the fact (Bureau of Land Management Statistics) that there are now some 50,000 wild horses on the public lands of Idaho, Arizona, California, Colorado, Montana, New Mexico, Nevada, Oregon, Utah, and Wyoming and acknowledging the impact that these horses have on the range, the wildlife and the domestic livestock grazing on those public lands, we agree that severe ecological imbalances will occur.

We fully support S. 1923 and urge it's passage in the United States Congress and it's approval by the President of the United States.

We are convinced that wild horses have to be managed as well, or better, than other public land uses and we believe that S. 1923 will enable the Bureau of Land Management to satisfactorily protect, manage and control wild free-roaming horses and burros on public lands.

Sincerely yours,
Bill Swan,
Chairman, Forest & Public Lands Committee.

Oregon Environmental Council,
Portland, Oreg., May 12, 1975.
Hon. Robert Packwood,
6327 New Senate Office Building,
Washington, D.C.

Dear Bob; We understand that you are considering an amendment to the Wild Horses Act which would enable the use of aircraft as a management tool in the roundup of "excess" horses. Our Wildlife Committee has considered this matter and feels that the use of helicopters as a management tool in horse roundup is acceptable.

It is the Committee's feeling that this is a humane and acceptable way to round up these horses. However, the Committee feels that the use of fixed wing aircraft is not acceptable. We will accept only helicopters as a management tool. The reason for this is that fixed wing aircraft have a tendency to cause the horses to run to excess while helicopters can much more gently "nudge" and "steer" the wild horses to the corral without panicking them and causing them to take flight.

Therefore, we urge you to support the amendment for the use of helicopters in the roundup of wild horses and oppose any language that would allow fixed wing aircraft. We understand that there are certainly times when it is difficult to obtain helicopters for roundup purposes, but they can easily be trucked into nearby sites for use. We hope this extra management tool for the Bureau of Land Management will provide the assistance they need for proper handling of the wild horse resource.

Sincerely,
Larry Williams,
Executive Director.

Oregon Environmental Council,
Portland, Oreg., June 13, 1975.
Hon. Robert Packwood,
New Senate Office Building,
Washington, D.C.

Dear Bob: Thanks very much for sending me a copy of the Wild Horses and Burros Amendments Act. I am very pleased with the amendments you proposed.

It appeared to us that the major issue here was whether or not fixed wing aircraft should be used in the roundup of wild horses. I am extremely pleased that you have specifically written the bill to limit the roundup by air to helicopters. Also, the limitation of motor vehicles for ground support purposes is also excellent.

We appreciate your interest in helping to alleviate this knotty problem.

Best regards,
Larry Williams,
Executive Director.

Aug. 13, 1975.

The Harney County Chapter of the Izaak Walton League wants to go on record in support of the recommendations of the Harney County Soil and Water Conservation District Board for the control and management of wild horses.

Russell Pengelly,
Vice President, Harney County Chapter Izaak Walton League.

Oregon High Desert Study Group,
St. Paul, Oreg.

The Wild Horse and Burro Act of 1971 was intended to insure both protection and proper management of wild horse and burro populations. The law states that the Secretary of the Interior and the Secretary of Agriculture "shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands."

It has been pointed out that 97% of all grazing pressure on public lands excluding that of native wildlife comes from livestock grazing and that only 3% can be attributed to wild horses and burros. However, these figures represent an average for the entire West. It is the belief of the Oregon High Desert Study Group that in local situations wild horses and burros, if left unmanaged, can be a very real and significant threat to the ecological balance.

To insure high range quality there must be well-coordinated management of all factors affecting range quality including livestock, native wild animals and wild horses and burros. High range quality and reasonably healthy native wild animal populations are of prime importance to the Oregon High Desert Study Group. We further feel that native wild animals are a more significant part of our national heritage than the introduced wild horse and burro and that maintenance of reasonably healthy native wild animal populations should take precedence over both livestock production and wild horse and burro populations.

Proper management of wild horses and burros requires adequate knowledge, management tools and funding. We believe that more research is needed to elucidate the relationships between wild horses and burros, native wild animals, livestock and range quality. In addition, we feel that the present law does not provide reasonable management tools for proper management of wild horse populations. We further feel that the Bureau of Land Management in the state of Oregon is underfunded and is unable to carry out its management responsibilities adequately.

The Oregon High Desert Study Group is aware that providing government agencies with additional management tools increases the possibility of abuse and indiscriminate harvesting of wild horses and burros. There is evidence that illegal and inhumane harvests have occurred in states neighboring Oregon. However, our direct experience with the Bureau of Land Management is limited to the state of Oregon, and they have shown themselves to be both responsible and competent despite being underfunded and understaffed.

Therefore, the Oregon High Desert Study Group supports the following recommendations of the National Advisory Board for Wild, Free-roaming Horses and Burros:

(1) that in the foreseeable future the total number allowable shall, in general, be limited to a number approximating the number of free-roaming horses and burros in existence at the time of the passage of the Act.

(2) that there be greatly increased funding to do the necessary research to properly manage wild horses and burros on public lands.

(3) that there be an amendment to the law that would explicitly permit transfers of surplus animals to private ownership with adequate provisions for the welfare of the animals.

(4) that legislation be sought to allow the use of aircraft, including helicopters, in the state of Oregon, in the inventory and removal of excess wild horses and burros, provided that each and every aircraft have an employee of the management agency in it.

(5) that the Bureau of Land Management, or management agency, be allowed to dispose of the carcasses.

Because of insufficient information available to us, the Oregon High Desert Study Group has no further statement to make at this time concerning additional recommendations of the National Advisory Board. However, we recommend that the Bureau of Land Management be given significantly greater funding in order for them to properly manage public lands in Oregon.

Colleen Gooding.

Harney County Farm Bureau Policies for 1975

(By Don Barnes)

We favor the multiple use of federal lands. Management of federal lands should recognize that definable land areas have dominant use capability which should be recognized within the concept of multiple use.

Government agencies should manage and control wild horses and burros, following the same guidelines that have been set up for domestic livestock so as to prevent overgrazing and damage to watersheds.

We recommend that the government agencies responsible for wild horses observe the following considerations:

(a) Domestic livestock grazing permits should not be reduced or eliminated as a result of these horses being on the public lands.

(b) Numbers should be controlled so as not to deteriorate the range.

(c) A means of regulating numbers of these animals must be worked out.

Hearing held by Senator Bob Packwood at the Harney County Courthouse, Burns, Oreg., August 13, 1975.

TESTIMONY BY JOSEPH J. THACKABERRY

I am Joseph J. Thackaberry residing at Boise, Idaho. I am a professional land management consultant (range consultant) with offices at 528 Idaho Building, Boise, Idaho. I am self-employed on a consulting basis and work on range matters throughout the Intermountain region consisting principally of Idaho, Oregon, Nevada, Utah, Wyoming, and California.

I give this testimony on my own behalf and in behalf of several clients who have asked me to do so. Clients who have requested that I speak in their behalf at this hearing are as follows:

Little Cattle Company, Emmett, Idaho.

Spring Valley Livestock Company, Caldwell, Idaho, with range in Oregon and Idaho.

Whitehorse Ranch, Fields, Oregon.

Henry-Rust, Inc., Boise, Idaho, with range in Oregon.

Allied Land and Livestock Company, Frenchglen, Oregon, and Elko, Nevada.

Zimmerman Ranching Company, Round Mountain, Nevada.

The 25 Corporation, Inc., Battle Mountain, Nevada.

Henry Filippini, Jr., Battle Mountain, Nevada.

Uinta Livestock Corporation, Woodruff, Utah, with range in Utah and Wyoming.

Midland-Dunton Sheep Company, Rock Springs, Wyoming.

On behalf of myself and those just mentioned, I advocate and recommend the amendment to the Act entitled "An Act to Require the Protection, Management, and Control of Wild Free Roaming Horses and Burros on Public Lands", approved December 15, 1971 (Public Law 92-195), such amendment as contemplated by Senate Bill 1923 introduced by Senator Bob Packwood.

A brief summary of my professional qualifications is as follows:

I graduated from the University of Idaho in 1952 with a Bachelor of Science Degree in Forestry with major work in Range Management. I worked for the Bureau of Land Management in Oregon and Idaho until 1957 at which time I entered the range consulting business dealing with all phases of public and private land management dealing principally with Bueurau of Land Management lands, Forest Service lands, State lands, and private lands. I am engaged in the consulting business to this date.

I have been directly involved in many range adjustments, referred to as range adjudications, in the state that I work in and mentioned above. The adjudication process is a process carried on by the Bureau of Land Management by which the demand for range use is determined, the carrying capacity of the range in question is determined, and the demand for range use is adjusted to range carrying capacity. In many instances, demand for range use included reasonable allowances for wildlife and, in some instances, wild horse populations known at that time. The range adjudication process carried on by the Bureau of Land Management started in the early 1950's and was completed in the late 1960's. In most cases the adjustment to carrying capacity brought grazing privileges down to or near the range carrying capacity as determined by range survey. In most instances, with very little deviation, all the range carrying capacity determined to be available was allocated to domestic livestock, wildlife, and wild horses known at the time. There was no excess carrying capacity that went unobligated or unused.

During the years that followed the adjudication process, many range improvements were installed on the federal range such as fences, water developments, range reseedings, and sagebrush spraying. These range improvements increased range carrying capacity and, in most instances, this increased carrying capacity was restored to those range operators who sustained the downward adjustment in the initial adjudication process. In most recent years more intensive management systems have been developed and are being developed, such as rest rotation grazing systems and deferred rotation grazing systems, which improve range condition and carrying capacity. With increases from these improved management systems, restoration of initial downward adjustments were restored to the various ranch operations involved. Here again the full amount of available carrying capacity that was determined to be available after increases from range reseeding, spraying, and improved management systems, was fully obligated with vary little, if any, excess carrying capacity.

With the Wild Horse Annie Act of 1959 and the Wild Horse and Burro Protection Act of 1971, the means of controlling wild and stray horses and burros on public lands by private individuals and the Bureau of Land Management and Forest Service were dramatically curtailed. As a result, horse and burro populations have drastically increased in many areas of the public lands, this increase to the extent that today those very ranges that went through the adjudication process are again being overgrazed, range condition is deteriorating, and range trend is down. The amount of overgrazing is for the most part in direct proportion to the increased horse and burro populations which exert additional demand for range forage over and above that which is properly determined as available for grazing use.

This is just a simple matter of logic that by establishing carrying capacity for a known population and then have a portion of that known population to become uncontrollable and increasing causes an overobligation to the range at an ever-increasing rate.

The principal reason for the increase in wild horse and burro populations is due to the inability of individuals and agencies to gather excess numbers with the limitations and restrictions presently existing on the method of gathering such excess animals.

In the past individuals and agencies periodically gathered excess animals with the assistance of aircraft. The banning of the use of aircraft for gathering these excess numbers virtually impossible.

In many instances, the wild horses and burros are running in areas of rough, broken country or large expanses of open country in which gathering of these animals is virtually impossible or impractical by using horseback methods. In an effort to gather these excess animals with just the means of men on horseback, the good horses required for this type of work are, in many instances, crippled or destroyed, the riders are subject to serious injury, and very limited numbers of animals are actually gathered. The horses that are gathered are gathered at a cost as high as $700 per head.

I have contacted BLM District and State Office personnel in an effort to secure data on horse populations in the areas where I have worked. In Oregon, based on 1975 inventory, the population by District is as follows:

District	Horses	Burros	Total
Lakeview	1, 235	--	1 235
Burns	2, 738	20	2, 758
Vale	2, 565	--	2, 565
Prineville	360	--	360
Medford	30	--	30
State total	6, 928	20	6, 948

Overall for the State, there is an indicated 18 percent increase per year.

In the Vale District, with the approximate 2,500 horses as indicated above, there is indicated a 23% annual increase. The wild horse population in the Vale District is situated in thirteen different herd areas of which approximately 1,800 animals are situated in three of the thirteen herd areas. The largest of these herd areas containing the largest number of animals is the Sheephead-Barren Valley herd area with 1,146 animals. Rate of increase on this herd area is undetermined. Livestock operators in this area are taking substantial amounts of voluntary non-use on their grazing privileges and are finding that the active use paid for is not available and find it necessary to remove their livestock from the range earlier than planned.

The second largest herd in the Vale District is the Three Fingers herd consisting of approximately 444 animals. These horses are increasing at the rate of an estimated 20-25% per year. This herd area is in the Three Fingers Allotment lying generally on the east side of Owyhee Reservoir. These horses are situated in a very steep, broken terrain with rather severe soil limitations. Vegetative and soil conditions are deteriorating within the herd area. Also within this herd area there is situated the bighorn sheep population and this same area is considered a critical deer winter range. Range for this wildlife population is deteriorating. The wild horse numbers in the Three Fingers area have been controlled many times in the past, but only through the aid of aircraft. In the Three Fingers area it is the plan to reduce this herd to approximately 120 horses.

The Burns District has a total of 2,738 horses with an indicated annual increase of approximately 27%.

The South Steen's herd area situated on the south end of Steen's Mountain based on January, 1975, inventories indicates approximately 576 animals with an annual increase of approximately 25%. This herd is competing with livestock and wildlife in the lower range areas. There are indications of excessive competition between horses, cattle, and wildlife in the low areas that are the winter range concentration areas of deer. Bitterbrush, being the staple winter feed for deer in several areas, is overused and in a few areas showing indications of part of the plant dying.

The Catlow Valley herd situated west of the South Steen's herd has 344 horses with an indicated annual increase of approximately 19%. This Catlow Valley herd area is a salt desert shrub type which is rather fragile due to soil and water limitations. There are dead and dying forage species in portions of this herd area. Yearlong grazing by horses is the most detrimental practice of grazing on the salt desert shrub type.

The Desert-Tule Springs herd, which is situated east of Steen's Mountain, consists of approximately 450 horses. This herd is involved with the adjacent Barren Valley-Sheephead herd in the Vale District.

The State of Nevada contains the largest wild horse and burro population by state in the West. The 1975 inventory indicates approximately 25,924 animals with an indicated increase of 19.6% per year.

The Battle Mountain District has 3,869 horses and burros with an indicated 18% increase per year. Within the Battle Mountain District is the Stone Cabin herd area with approximately 810 animals. More than half of the range area is considered to be in poor condition and range trend is down. The plan is to reduce this herd to 410 animals.

The Bald Mountain area south of Battle Mountain has 116 horses with an indicated 12% annual increase. Range condition is fair to poor and trend is down. This area is extremely dry and lacking in livestock water for which there is severe competition between wild horses and domestic livestock.

The Winnemucca District has the largest number of horses and burros in the State of Nevada with 7,164 animals with an indicated increase of approximately 20% per year.

Within the Winnemucca District the Owyhee Desert herd, situated in northeast Humboldt County, consists of approximately 1,353 animals with an indicated annual increase of approximately 22%. This range area was adjudicated and reduced to carrying capacity and a rest rotation system of management implemented. With the increased horse numbers the range condition is declining and range trend is down. It is estimated the range is over obligated by 45% due to the increased horses. In other words, the range is being used 145% of indicated carrying capacity. It is the plan to reduce this herd to approximately 770 animals.

One of the principal goals of the Bureau of Land Management and Forest Service is to implement an improved management system, either being a rest rotation system or a deferred rotation system. Horse herds in these allotment management plans greatly reduce or eliminate the effectiveness of the improved management systems in that the horse numbers cannot be manipulated and managed, such as domestic livestock can be manipulated and managed.

In the Elko District of Nevada there are approximately 3,202 horses with an indicated annual increase of approximately 20%.

Idaho has two grazing districts with wild horses. The Salmon District has one herd in the Challis area with a December, 1974, inventory of approximately 356 animals with an indicated increase of 28% per year. The projected population number of this herd in 1980 is 1,356 horses without control. It is planned to reduce this herd to approximately 150 horses although this number is subject to change.

In the Boise District there are 512 horses in eighteen different herds. Indicated increase rate is 21% per year.

In Wyoming I have done most of my work within the Rock Springs District. Within the Rock Springs District is the Green River Resource Area with the city of Rock Springs situated approximately in the center. Within the Green River Resource Area there are approximately 3,736 horses with an indicated increase of approximately 20% per year. Virtually all of these horse herds in the Green River Resource Area are situated in areas that have been recently reduced to carrying capacity and with these increased numbers the ranges are again being overgrazed.

Data available for total BLM administered lands taken from the Range Condition Report prepared for the Senate Committee on Appropriations prepared by the Bureau of Land Management dated January, 1975, gives 1974 horse and burro inventories as 42,666 horses and 14,374 burros for a total number of 57,040 animals. The indicated increase is 20–25% per year. It is projected this population will double in four years without control.

Based on a 20% increase, the population for BLM administered lands today is 68,400 horses and burros.

It is imperative that a means of controlling wild horse and burro populations be developed or made available in order to stop the ever increasing downward condition and trend of public lands. The use of a helicopter in gathering excess wild horses and burros from public lands is the most humane, economical, and practical means of controlling these excess animal numbers.

HEARING ON SENATE BILL 1923

My name is Charley Otley. I am a rancher and I live in Diamond, Oregon. I am here to testify in favor of S.B. 1923. I am representing the Oregon Cattlemen's Association and myself.

S.B. 1923 in my opinion, would enable the B.L.M. and individuals to control the fast growth in numbers of the wild horses and burros, that the act of 1971 allowed to grow out of context of good range management. The population increase of these animals is, I think, underestimated. The damage these animals are doing is also underestimated. These animals are on the range the year around and in many cases it is a small area where it is impossible to migrate from summer to winter range. This means the animals are all over this area when the ground is soft and the grass is starting to grow. They run in herds and tramp out the grass and also graze the grass before it gets a good start. This creates stunted growth. This Bill would allow the reduction of the number of animals on year around grazing, so the damage would be much less.

It is my opinion that the "Wild Horse and Burro Act of 1971" was very detrimental to range conservation. Also, people supporting the Act of 1971 mislead a lot of people by telling them they could drive out and see the beautiful wild horses, which is not the case. The truth, is these horses in most cases, take off and run over a hill out of sight when anyone approaches. They would be too far away for good pictures, much less a good look. These horses are not beautiful horses at all, they are inbred and their conformation is bad. These horses are renegade horses, that started from domestic herds that became wild. They are a mixture of draft horses to anything that might have been on the range. They are in comparison to a mongrel dog as far as breeding is concerned.

S.B. 1923 would allow the gathering of the over production of these animals by the aid of helicopters, which would be the humane way to reduce the numbers to a minimum for good range management. This Bill would also allow the Government to dispose of the ownership of these animals, which is not the case under the Act of 1971.

I am in full agreement with S.B. 1923 and I appreciate the opportunity to testify in it's behalf. Thank you.

GLIDE, OREG., *August 10, 1975.*

GENTLEMEN: As one who grew up on a farm where horses were used both for pulling farm equipment and riding I have a deep respect for their intelligence and sensitivity. I firmly believe that the use of airplanes and helicopters in rounding them up has much the same affect on them that strafing did on helpless people trying to escape from their beleaguered cities. . . . They had absolutely no defense whatever. When a horse cannot use his natural defenses of kicking, biting, running and hiding it becomes terrified. . . . And a terrified horse is a crazy horse. He is completely out of control . . . his own or anything elses. Let's use natural means in these roundups . . . Other horses!

Sincerely,

MRS. M. C. DEMENT.

STATEMENT OF BILL LANE, MANAGER, WOLFSEN MC RANCH, ADEL, OREG.

We also have a wild horse problem.

The Wolfsen MC Ranch has grazing permits on BLM land in Oregon and Nevada. Our horse problem in Oregon is on the Beatty Butte allotment, located in South Eastern Lake County and South Western Harney County. The problem in Nevada is on the Sheldon Refuge.

The Beatty Butte allotment is a large one of around 600,000 acres. We have no allotment management plan for this area. We have 27,693 A.U.M.'s in this allotment for cattle. We have a full time crew of cowboys in managing the cattle on this allotment. We use a management plan of turning out in the Spring at different areas each year, and of moving the cattle to other locations when the water and feed get short. Water is a problem. Last year we contributed $10,640 to the BLM in a co-operative agreement for the development of 18 water holes.

This was for the distribution of antelope, cattle, deer, sagehens and wild fowl. I didn't mention wild horses but they will be in the area.

The first inventory of wild horses was taken in October of 1971. At that time there were 234 horses. An inventory has been taken each year since 1971, showing an increase in numbers. The inventory of 1974 was 482 and the August inventory of 1975 was 611 horses, an increase of 26.8 percent.

We have had an increase of 175 head on the Sheldon Refuge since 1973.

We have no issue with wild horses only that they be managed and the number one management problem is their numbers. We hope that you will do all that you can to supply the BLM with the proper tools and funding to do this job.

This issue of wild horses is no closer to being settled now than it was two years ago. We must look beyond the horses to the natural resource that is being used and not managed properly. It is too damned bad that every one concerned, on both sides of the issue, can't take something from the subject matter and use it. That is a little common horse sense and less politics.

VIEW POINT RANCHES,
Silver Lake, Oreg., August 13, 1975.

SENATOR PACKWOOD: Wild horse encroachment within the Vaughn Well Pasture, Lakeview BLM District has become a severe problem and we need assistance in gathering the horses.

Since 1972, View Point has contributed $32,500 toward the improvement of the Vaughn Well Pasture in water development and fencing. Fire Lake is year round water.

The horse population since the water development has increased from zero to 105 head. The production of the Vaughn Well Pasture is set at 3,897 acres. To feed the 105 horses will require 2,520 acres or 65% of the forage production.

We have used helicopters in the round up of cows and calves successfully.

———, ———,
Manager.

HON. SENATOR PACKWOOD: I believe that gathering so-called wild horses with helicopters not only is the most humane way, but also is by far the least costly. The necessity of increased gathering of these horses is very important as they are increasing at an alarming rate.

With ever increasing numbers of people starving throughout the world it is absolutely essential that cattle be allowed to play their most important role of converting this forage to food.

JIM SET.

TESTIMONY OF ANDREW CUNNINGHAM

Senator Packwood, Ladies and Gentlemen, I am Andrew Cunningham and I am speaking for the ranchers that operate in the Three Finger Allotment, Mahogany Grazing Unit, Malheur County. We are in full support of Senator Packwood's bill to permit the use of helicopters to round up excess horses and the transfer of ownership of them.

We all know of the population explosion of these horses and the harm they are doing to the rangelands and the pressure they are putting on the wildlife and domestic livestock in these areas. I think it has been agreed that there must be some control and gathering of these horses. So I thought I would talk on two subjects that might be overlooked: the humane aspect and the economics of gathering horses.

We live in an area where there has always been horses. After the second World War professional horse wranglers came in and gathered the horses down to a very few. Then by the early sixties they had multiplied until they were taking over again. It fell upon the ranchers to keep them under control.

We ran them from then until the Wild Horse Act became law. We ran them in every way possible: horseback to traps or lassing, straight wing aircraft and helicopter. Now I'm here to tell you there is no comparison as to the ease and humane way of handling horses . . . a helicopter's maneuverability can move horses with less stress and harm than any way we know.

When you run horses horseback you have to stay right after them, hell bent for leather, so they won't have a chance to stop and come back over you. You know you also have to be a little nuts so that if they turn wrong and there is a rock pile and a wash between you and turning them you go through the rock pile and over the wash to turn them. This is mighty hard on saddle horses and sometimes men. We were lucky—we never killed anyone but there were many spills and crippled saddle horses.

In a tight area you show up on horseback and these range horses will sometimes do anything—like running through fences and things like that. They won't do this with a helicopter. You can start them far enough away that they can all get started together and after the first spurt will settle down and move easy. You can maneuver them where you want. For instance the last year we ran was in the spring and we brought a bunch of horses out of the Yellow Jackets and across Shadscale Flot towards our Three Finger trap. We crossed Shadscale and one little colt wasn't keeping up so we pulled back and the old mare turned around and came back to the colt. Then we just took the rest of the horses on to the trap. You couldn't begin to do something like this running them any other way. I have heard stories about shooting horses with buckshot from straight wing aircraft because they couldn't move them or they were kegged up somewhere. You don't need to do this with a helicopter because you can go right down to them. You move in on them on their level with all that noise, wind and dust they're going to go somewhere!

To conclude: we know from experience that there is no more humane way to handle horses than with a helicopter.

The economics of running these horses is ridiculous. It is costing the B.L.M. 5 to 8 hundred dollars a horse to gather them under the present bill. We figured the other night that at 500 times the 1300 excess horses in Malheur County it would take $650,000.00 to gather them. You take this times the counties that have horses and it runs into the millions! I know this isn't far off because the B.L.M. has mentioned this millions figure. Not only that but the B.L.M. has to keep track of all the horses that they give away and take care of any that are given back to them. So this figure could spiral up and up over the years.

Some people think that this is fine . . . The Federal Government has an unexhaustible amount of money, but that is wrong. You and I, the taxpayers, know that the more the government spends the more it is going to cost us.

I know that these horses can maintain themselves. With the right management and execution we can have our horses, our wildlife, our cattle business and protect the valuable range resources without this tremendous cost.

The last year we ran horses we hired a helicopter, rode with it to help in the knowledge of horse handling and lay of the land. In 8 days we gathered 238 head, 10% of these were branded horses that we turned over to their owners. I can't think of a horse we hurt and we had many observers, including the Malheur County Sheriff. Then we sold the rest of the horses and paid off $4,000.00 for the helicopter bill and had $1,500.00 to pay the rest of the expenses. I know that expenses have gone up but so has the value of horses.

We can see nothing wrong with taking these horses to a sale yard and auctioning them off to whomever wants them, of course, with the restriction of non-abuse or experimental use.

We harvest the deer, antelope and even the bighorn sheep so why not the excess horses.

No country, not even this great land, can go on with this extravagant, giveaway, deficit spending and not collapse. There has to be a change and a new start and this is a way to start.

MALHEUR COUNTY LIVESTOCK ASSOCIATION.

Hon. SENATOR PACKWOOD: My name is Bob Skinner. I am a rancher from Jordan Valley, Oregon, and chairman of the Public Lands Committee of the Malheur County Livestock Association. We appreciate the opportunity you are providing for us to present some of our views and concerns regarding the Wild Horse and Burro Act, and also, to comment on Senator Packwood's proposed bill that would make certain amendments to this Act.

The Malheur County Livestock Association at a meeting in Vale, Oregon (Aug. 1973) made recommendations to maintain wild and free-roaming horse and burro numbers at the December 1971 level, which was the inventory on the date of the enactment of the bill. Later, at the November 1974 annual meeting in Ontario, Oregon, a resolution was passed that would, in effect, allow use of motorized vehicles in the round-up of these animals and also allow for their sale or transfer of ownership. We feel both of these actions are basically in support of Senator Packwood's bill, and we strongly endorse his efforts.

As livestock men, we agree whole-heartedly with the provision made for the humane treatment of the animals, but realize that in handling any type of wild animals, accidents are a definite possibility, both to horses and men. This is one of our reasons for requesting the privilege of using helicopters for wild horse round-ups. The other factors, or course, being (1) cost, and (2) effectiveness.

Furthermore, we think that the feature of the bill eliminating trespass fees is vital. Where a considerable number of these animals are branded and/or privately owned, this would provide an opportunity to reclaim animals that owners were unable to gather due to restrictions imposed by Federal law and regulations.

It is not our goal or purpose to eliminate completely the use of Federal range by wild horses and burros, but a policy that allows numbers to grow at the present alarming yearly rate of approximately 28% is certainly inconsistent with the intent of the Vale Project which encompasses Malheur County. The Vale Project is, to my knowledge, the largest and most intensive range improvement project in the world. As you well know, it is considered one of the best, if not *the* best, illustration of what can be done to rehabilitate a badly denuded desert area. It is being used world-wide as an example by many range managers to show what can be done to improve forage and water for livestock and wildlife, as well as to create a stable or improving soil condition. Many millions of dollars of public funds have been expended to show what progress can be made by various range improvement practices and treatment methods. The results of the Vale Project have exceeded our highest hopes, but these expenditures will now be a total loss to the degree to which we allow horses to over-populate, over-graze, and destroy forage needed by our wildlife and livestock. The damage to soil conditions and water shed, caused by year long use by too many horses, would also be one of the most important considerations.

In our county alone, horse numbers have grown from just over 900 head in early 1972, to over 2400 head in 1975 and at the present time, consume over 29,000 AUM's (Animal Unit Months) of forage per year. At a reasonable daily gain rate of 1.25 lbs. per day, this converts to over one million lbs. of cattle (live weight) that will not go into America's meat supplies. Another four years of horse population increases at this same rate, and we could conceivably have about 6500 wild horses in Malheur County consuming approximately 78,000 AUM's of forage. This would convert to approximately 3 million lbs. of cattle. And amidst all this, we hear rumblings of famine and increasing costs of meat for our consuming public.

To be realistic, such sudden and drastic increases in horse population are very unlikely because, if we don't manage numbers to a reasonable level, Mother Nature will, and hundreds of starving horses during the winter season is not what we consider to be humane treatment.

We feel very strongly that a properly managed and controlled wild horse herd is a definite possibility in Malheur County, provided adequate and proper control measures are implemented in the near future. Judging from past years of experience with large herds of horses in this particular area, we are certain that disaster awaits us if we are not provided with adequate control methods.

ROBERT H. SKINNER,
Chairman, Public Lands Committee.

JORDAN VALLEY, OREG.

TESTIMONY BEFORE SENATOR BOB PACKWOOD ON THE USE OF HELICOPTERS TO HERD WILD HORSES AND BURROS

Suppose legislation was passed to turn the great plains into a huge buffalo preserve and make a requirement that all visitors wear a loin cloth and a single white turkey feather. Sounds silly doesn't it but then to a degree that is what happened when congress passed the wild horse and burro act. It has been estimated that 40,000 plus head of horses and burros are now on the public domain in the western states. They are reproducing at a rate of 20% a year and that is 8,000 new mouths to feed each year. At the rate they are reproducing in a few more years all the range improvements made over the past 40 years, since the passage of the Taylor Grazing Act, will be destroyed.

We can't stand by and let irresponsible leigslation destroy what we have worked so hard to develop over the years. Nobody knows horses better than we ranchers since they are a vital part of our ranching business. We know that even a small bunch of ranch horses can destroy the pastures they use if they aren't watched. When we find that we have too many horses we say that we are "horse poor" and get rid of the excess.

I have had the opportunity to run horses only once and that was an experience I'll never forget. It was my grandfathers stud bunch that hadn't been corraled for several years. I was riding a hardmouthed white horse and had orders to turn the horses away from a fence if they came my way. I saw them coming and started down a steep lava strewn hill trying to cut them off. The horse ran away and I was scared as hell that he'd fall but he didn't. When I hit the bottom of the hill I came in behind the horses and they hit the fence. One colt got his neck in between the top wire and the fence posts. He ran for about 100 feet with his neck between the wire and posts popping the clips off as he went. When he finally stopped his neck was nearly cut off. Another young horse tried to jump the fence, bashed into another, and fell on top of a fence post. He was lucky because the post only cut him in the side but it could have impaled him just as easily.

In Africa game preserve managers have had similar bad experiences herding animals with saddle horses, automobiles and fixed wing aircraft. They have found the ideal management tool in the helicopter and now use it in herding everything from zebras to elephants. The helicopter is capable of hovering, darting about and in general out maneuvering the animals. They claim that the helicopter is the most humane tool for herding animals and safest for the handlers.

If the helicopter is good enough to herd zebras in Africa I feel it the best thing to use in herding horses and burros in the Western United States.

MIKE HANLEY.

TESTIMONY TO SENATOR BOB PACKWOOD

For the amendment to the Act entitled, "An act to require the protection, management, and control of wild free-roaming horses and burros on public lands."

My name is Sally Fryer. I live at 280 18th St. N.E. in Salem, Oregon. I am testifying on behalf of the Central Cascades Conservation Council, a Salem based group of Conservationists. While our main objective is the preservation of wild lands in the Central Cascades of Oregon, and principally the Congressional designation of our own proposed "Hidden Wilderness," our members have taken numerous trips into the desert and they feel that the control of wild free-roaming horses and burros is important enough to warrant our special attention. We are very grateful to you, Senator Packwood, for the concern you have shown in this area, and, therefore, the work you have done on SB #1923.

I have reviewed the Bill, and find it to be very reasonable and acceptable. I do, however, question the use of the words, "food production" at the end of section (a) on page one of the Bill. The meaning of these words could be easily misconstrued, and over-grazing could take place. "Managing and conserving the Western rangelands as a resource for other wildlife preservation" should be given particular emphasis. Perhaps the words "in a way that is consistent with present management objectives" should be substituted for "as a resource for food production and other wildlife preservation." Mention should then be made of maintaining adequate watershed, adequate wildlife habitat, and appropriate recreational opportunities, as well as sound grazing practices.

I have also reviewed the Oregon High Desert Study Group's statement on SB #1923 and am in complete agreement with their comments. I would like to emphasize that we qualify our endorsement of BLM's use of helicopters for removal of excess wild horses and burros to the use of these methods in Oregon only. We have been in support of the Oregon BLM's management policies, but are not familiar with the administrative practices of the BLM from the other states.

PAISLEY UNIT OF BLM

BLM RANGE SURVEY

The changing capacity on the desert to the North East of Paisley the ZX Ranch was allotted an available supply of feed on federal lands for 4000 animal unit months, excluding wild game, at that time ZX entered into a cooperative agreement with the BLM to build certain water holes and fence a certain area that would supply water and control of these 4000 AUM's.

In 1966 when adjudication proceedings were under way there were 68 head of horses in this area of use or an equivalent of 816 AUM's.

The past three years even with amplifying existing water holes putting in several new water holes, drilling 3 new wells, all at the cost of several thousand dollars to ZX and other cattlemen plus, building many miles of new fence to control the grazing and livestock movement, ZX finds the feed for 4000 AUM's is not available because the horse population has increased from 68 to 228 head since 1966 or an increase from 816 AUM's to 2736 AUM's taken by the horses.

This means a reduction in forage available to cattle, a reduction in red meat production and additional inflation in the price of red meat available to the American public say nothing of the deterioration of the range from over grazing and more specifically curtailing of feed and water available to antelope herds in this area. We request that this amendment S. 1923 to Public Law 92–195 be put into effect as soon as possible wherein the wild horse population may be curtailed or the ranges will soon be in worse shape than they were 15 years ago when there were no fences for livestock movement control.

Livestock simply cannot be gathered effectively under current Public Law S. 1923. The amendment to Public Law 92–195 (1971) will allow the use of equipment necessary to gather the horses in a manner that will limit the possibility of injury both to the horses and the personnel gathering them.

TESTIMONY OF JOAN BOLSINGER, VICE PRESIDENT, INTERNATIONAL SOCIETY FOR THE PROTECTION OF MUSTANGS AND BURROS

Gentlemen: My name is Miss Joan Bolsinger. I live in Roseburg, Oregon, and am a teacher at Eastwood Elementary School. Since January, 1971, I have been deeply involved in efforts which led to passage of PL 92–195 for the protection, management and control of wild horses and burros on public lands.

PL 92–195 received overwhelming support from the public and was passed without a single dissenting vote in Congress, making it a virtual mandate of the people to eliminate the traffic in equine flesh.

A recent letter from Mrs. Velma B. Johnston, President of ISPMB, states as follows:

"Enactment of legislation as proposed in S–1923 would negate PL 92–195 insofar as the intent of the 92nd Congress is concerned, and nullify PL 86–234, passed in 1959, which prohibits the use of aircraft and mechanized vehicles. Emasculating the two laws as proposed, by restoring the expedience of aircraft capture and opening the door to commercial slaughter by transfer of title without restrictions, will lead to a repetition of that abhorrent era that resulted in the removal of hundreds of thousands of wild horses and burros from our public lands, this time with the "blessing" of Congress.

It is an injustice to the vast numbers of Americans who supported both the 1959 Act and the 1971 Act to take a narrowly restricted view of what is said to be the Act's limiting provisions, namely inability to effectively control without use of aircraft and inability to effectively dispose of animals unless title is conveyed without restrictions."

Section 1 of S 1923 states the reason for the proposed amendments: "That the Congress hereby finds that the population of wild free-roaming horses and burros have increased dramatically and that such increases in equine populations have resulted, in part, in overgrazing and damage to the ecological balance of the public lands. The Congress further finds that, if such horses and burros are allowed to continue to increase, such damage will become more severe.

Neither ISPMB nor I, oppose reductions in wild horse and burro populations where range is found to be in poor condition, but we do ask that proportionate reduction be made in domestic livestock use.

Using figures from the Department of Interior's book, Public Land Statistics, it has been determined that wild horses account for only 2.9% of grazing pressure in the ten western states where they are found, while domestic livestock account for the remaining 97.1%. In the state of Oregon this ratio has been quoted at 6% wild horse use and 94% domestic livestock. Is it not ridiculous, then, to expect the public to believe that "increases in equine populations" are to blame for overgrazing and damages to the ecological balance of the public lands?

Again quoting from Mrs. Johnston's letter:

"In further support of our position as to the real cause of public land deterioration is the Bureau of Land Management's Task Force Report on "Effects of Livestock Grazing on Wildlife, Watershed, Recreation and Other Resource Values in Nevada—April 1974" released late last summer. While it deals with the situation in Nevada, BLM Director Curt Berklund pointed out that information from similar evaluation reports from other Western States indicates that findings in the Nevada report are not unique to our state. Among other charges made by the Bureau's own task force were that generally, the objectives (of the BLM) were dominated by, and oriented toward, satisfying the wishes, even dreams, of the livestock operators; that severe overgrazing and other aspects of poor range management on public lands have led to loss of wildlife habitat, destruction of cultural sites, and damaging erosion; that stream riparian habitat where livestock grazing is occurring has been grazed out of existence or is in severely deteriorated condition.

"Too short a time has elapsed since passage of the Wild Horse and Burro Act of 1971 for wild horses and burros to be responsible for the severe damage we see all about us. Decades of over-use and abuse by domestic livestock operators brought the condition to a near-crisis, and co-incidentally, in terms of timing, passage of the Act has provided range users with something else to blame in lieu of their own mis-management . . . to be the scapegoats.

"This is not to indicate in any way that we condone habitat damage by any species, including wild horses and burros, but we believe the present situation should be brought into proper perspective."

In regard to the use of helicopters in the capture of wild horses, ISPMB, and I, stand firmly opposed to any such expediency. In discussions with numerous old timers familiar with wild horses, they unanimously condemn exposing the animals to the inadvertent stresses and possible injuries inherent in such an operation.

Concerning the comparative costs of helicopters vs. horseback roundups, horses are currently being gathered under contract with a private individual in Nevada at $26.50 per head, with little, if any stress on the animals.

With the letting of contracts to gather outside the land managements agencies it is assumed that this practice would continue. It is wondered, then, with the current shortage of personnel and funds, who would monitor every phase of that type of gathering?

If wild horses and burros are sold to private individuals or organizations without restrictions, what, then is to prevent "killer-buyers" from eventually obtaining them for pet-food slaughter? How is the Secretary of Interior to determine that the animals are, indeed, receiving "humane treatment"? In my opinion, it is pure fallacy to even suppose that this would be possible.

Finally, it is to be wondered if there can be Congressional action to amend PL 92–195 when it is in jeopardy through the declaration of the unconstitutionality by the federal judges in New Mexico and the subsequent appeal to the Supreme Court?

On Feb. 28, 1975, a 3 judge federal panel in Albuquerque, N.M., declared the Wild Horse and Burro Act of 1971 "unconstitutional" and permanently enjoined the government from enforcing it. This ruling was appealed by the U.S. Dept. of Interior and the suit is now pending in the U.S. Supreme Court.

On July 28, 1975, the Nevada Dept. of Agriculture impounded 75 wild horses which had been rounded up in Stone Cabin Valley as the first of a 400-head removal project by BLM under provisions of PL 92–195. Homes had been found for all the animals, but when recipients arrived, they were informed the law was "unconstitutional" and the horses belonged to the state. There will doubtless be suits brought in this case. (Meanwhile, the 75 horses were released for humane reasons.)

In yet another case, the American Horse Protection Ass'n. of Va. sought an injunction against BLM in the Nevada round-up, from U.S. District Court Judge John J. Sirica, who then granted a government request to shift the case to the Federal court in Reno, Nev.

In view of these facts, any proposal at this time for amendment of PL 92-195 seems an exercise in futility, as well as a great waste of time and money. Would we not be better advised to await the outcome of these various litigations before taking any further action in this matter?

Respectfully submitted,

JOAN BOLSINGER.

NEIGHBORHOOD HOUSING SERVICES

Mr. PERCY. Mr. President, in 1967, together with every Republican then a Member of the Senate, I introduced housing legislation providing for home ownership for lower income American families. Simultaneously, 100 Republican Members of the House, led by William Widnall, introduced legislation patterned after my bill. Through a period of 2 years of negotiations and markup, the principle of this legislation was enacted into the 1968 Housing Act, though severe compromises were made, in order to gain support, in the implementation of the program. Despite serious shortcomings in the program, almost half a million American families of lower income level own their own home today, housing well over 2 million people.

Unfortunately the full ramifications of the plan originally introduced were never implemented. The principles have been adopted, however, by a group in Pittsburgh called Neighborhood Housing Services. The success of this program is apparent and has been incorporated into an article in the November 18, 1975 issue of Planning magazine.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEIGHBORHOOD HOUSING SERVICES: EVERYBODY'S GETTING SOMETHING OUT OF IT

(By Robert Cassidy)

Neighborhood Housing Services of Pittsburgh is one of the most innovative, important, and successful housing programs in operation today. It's so successful that cities across the country are scrambling to duplicate what Pittsburgh has done in its Central North Side, the target area for the NHS program. But before I get too detailed, let me describe two cases that underscore the human side of NHS.

A few years ago Mr. Smith (a pseudonym), a Central North Side homeowner, got hurt on his job. He was laid up in the hospital for months, his doctors fearful that he might never walk again. Smith had to sue his employer for damages; meanwhile, he had no income and could not make the payments on his house and a car he had bought before the accident. Through NHS he got a loan to cover his debts and didn't have to pay anything until he settled his claim against his employer two years later.

Mrs. Johnson (a pseudonym), a 71-year-old cancer victim, was living on welfare and social security. By the time she paid her mortgage and other expenses, her food budget was only $12 a month—not enough to buy food stamps. She wrote President Nixon for help; he replied that there was nothing the government could do. Then NHS stepped in, refinanced her home with a no-interest mortgage, paid off the back taxes, and got her mortgage payments down to $35 a month. This left her with $92 a month with which to buy food stamps.

Without Neighborhood Housing Services, neither Mr. Smith nor Mrs. Johnson would have had anyone to turn to for help.

NHS was started in 1968 by a group of Central North Side residents, most of them women, who were fed up with dilapidated houses (90 per cent of them built before 1940), rats, rotten treatment by slumlords, and the refusal of banks to make loans and mortgages in the neighborhood. Since then, NHS has been one of the key components in an overall action plan that has "turned around" the Central North Side from an area where the overwhelming majority of the houses had serious code violations to one where most of the houses have been brought up to code. The Federal Home Loan Bank Board, which regulates mortgage lenders, and HUD have been so impressed with Pittsburgh's NHS that they are using it as a prototype for programs in 28 other cities.

NHS is built on a partnership composed of citizens, city officials, and lending institutions. The citizens provide broad public support for the upgrading of the neighborhood and agree to work cooperatively with the city and the lenders. In Pittsburgh, eight of the 15 board members of the NHS's nonprofit corporation (which runs the organization) are local residents, many of them associated with block clubs and other civic groups, assuring a firm grassroots base for the program. City involvement includes a comprehensive housing inspection program that is "sensitive" to the needs of the individual homeowners; the complete renovation of nearby West Park (at a cost of $1 million); two new schools (the first new schools built in the city in 40 years); new mercury-vapor street lights, repaved streets, and street trees; and the demolition of many dilapidated houses.

Lender involvement means 23 institutions donating some $230,000 (as of last December) to cover the NHS's administrative costs. All of the institutions must be committed to making "bankable" (normal-risk) loans in the neighborhood, although four of the lenders—the ones represented on the NHS board—have been making most of the loans in the Central North Side.

One other group is involved: foundations and corporations, which make grants to the NHS toward a high-risk revolving loan fund, so that NHS can make low-interest (zero to six per cent), low-monthly-payment loans to "unbankable" people like Mr. Smith and Mrs. Johnson. The fund has reached the $850,000 level, most of it from the Sarah Mellon Scaife Foundation.

"It all got started because of one block club," said Dorothy Richardson, a community leader with experience in school reform and the Community Action Program, and now NHS president. "We planned to clean up 24 houses in a courtyard near where I live. We got the landlord to agree to the plan, and he gave us the spray and stuff to kill the rats and cockroaches. We got through five houses and ran out of the stuff, and he reneged on his promise.

"A blind lady was living in one house, and all the roaches wound up in there—more roaches than I have ever seen. We called the police, and they called the health department, and they called the media. The landlord retaliated by trying to evict the blind lady." Outraged by the landlord's action, the residents got together to form CASH, Citizens Against Slum Housing.

The problems faced by the CASH members were really part of a much larger set of problems afflicting the Central North Side. A rundown area of equal parts black and white population about two miles from downtown, the Central North Side in the late 1960s was surrounded by massive demolition. "They tore out 5,000 houses in this valley for I-279," said Thomas Jones, NHS executive director, as we drove down the right-of-way for the still-to-be-started highway. Other demolition was going on for a neighborhood development project and for Allegheny Center, an urban renewal project built by the Aluminum Center, an urban renewal project built by the Aluminum Company of America. Altogether, Jones said, some 8,000 housing units were taken off the market in the area surrounding the Central North Side. Within the area, Allegheny Hospital was taking up land and housing for expansion. The result was severe overcrowding and competition for existing housing, with landlords taking advantage of the demand to convert already crowded units to still higher densities. At the same time individual homeowners found that their area had been red-lined by local lending institutions, so that they couldn't borrow money to make home improvements. And, Jones said, "There was a breakdown of public services. It was difficult to get the city to put in services and capital improvements."

CASH took their case to then-Mayor Joseph Barr. "Mayor Barr told us that there was no slum housing in Pittsburgh," said Richardson. "So we held six months of public hearings on slum conditions. Before we knew it, we were fighting for more health inspectors, stricter code enforcement, and so on." They also harassed the landlord who wouldn't give them the roach spray, picketing his house until he sold the 24 houses to a nonprofit group, which rehabilitated them.

Richardson and the CASH people knew that money was the key to success. "We wanted to get to the banks. They had the money. They just didn't want to give it to us," said Richardson. "We met with the bankers in the mayor's conference room. We met regularly for a year, until they began to understand our problems and we began to understand theirs." Out of that year of meetings came the basic idea for the NHS program.

Through last December, NHS had made 339 loans and 25 direct grants to homeowners from its high-risk fund, at zero to six per cent interest. Often, said Tom Jones, these loans were made on the worst properties on a block, thus stimulating adjacent homeowners to fix up their homes. And NHS has been able to encourage home ownership. "We had a lot of families who had been tenants for years," said Jones. "We got the landlords to sell to us cheap; then we packaged the mortgage with a home improvement loan, and now the tenants are homeowners."

NHS also employs "sensitive code enforcement," or what Jones calls a "housing deficiency analysis," to avoid the bad connotations of code enforcement. The city and Allegheny County inspectors try to be reasonable about what to expect in the way of enforcement. For example, if an elderly widow has been living in her house for 40 years with an outdated electrical system, the inspectors will not make her put in a new system—unless there is an immediate danger to her.

NHS is service oriented, too. They will help the homeowner with budget counseling, assist him with information on his construction needs, refer him to a reputable building company, and inspect the work during and after construction. For the past few years, the Pittsburgh NHS has taken on the role of general contractor for each job. To make sure that the builders do a good job, NHS withholds 10 per cent of the total cost in an escrow fund, which is returned one year later—provided there are no reasonable complaints from the homeowner. (Jones said, "The builders didn't like it at first, but now they look at this as a forced savings account.") NHS also has a "lending library" of $6,000 worth of tools that any North Side resident can borrow to fix up his home.

The newest service is the home maintenance program. For $96 a year, NHS will service some 104 items on a home, give one free emergency call a year (on such things as broken water lines), and repaint the exterior trim once every three years. The pilot program is being funded by a $125,000 grant from the Ford Foundation.

With such a success story, it is no wonder that federal officials in Washington looked upon Pittsburgh's NHS as a model to be spread around the nation—especially after the Nixon administration cut off all categorical grant housing programs in 1973. The Federal Home Loan Bank Board, which regulates mortgages lenders, first sponsored pilot programs in five cities. All were successful. In 1974, HUD joined up, and the two agencies formed the Urban Reinvestment Task Force. The task force performs two major functions. It provides staff to help get a program on its feet, and it offers a one-time matching grant of $50,000 to $100,000 to kick off the revolving fund for each new NHS.

Cities hoping for an NHS program must meet certain requirements, according to David Elliot, a task force staff member. The target neighborhood must have 1,000 to 2,000 housing units (most of them in buildings with fewer than four units), a high degree (50 per cent or more) of home ownership, and strong citizen organizations. The neighborhood can't be so badly deteriorated that it is beyond saving. The city's lenders must agree to make all bankable loans in the neighborhood and must contribute to the operating expenses of the NHS. The city government must improve services and capital improvements. A high-risk revolving loan fund must be set up. "The program is not a panacea, and we're not suggesting it offers all the answers to urban housing problems," said Elliot. His boss, William Whiteside, adds that neighborhood improvement in NHS-type areas "really takes a coordinated strategy. The city has to improve service levels, do a good code enforcement job, and take care of public amenities. Individual homeowners have to believe that the neighborhood can be saved. Banks have to make loans. There's a lot of debate about how 'disinvestment' "—the code word for red-lining—"gets started. But if you're going to reverse it, it takes a massive approach." Besides Pittsburgh, there are 14 cities with NHS programs in operation and another 14 cities that have programs in the pipeline, Whiteside said.

The 14 with operational programs are: Baltimore, Boston, Chicago, Cincinnati, Cleveland, Dallas, Jamaica (New York), Kansas City (Missouri), Nashville, Omaha, Philadelphia, Plainfield (New Jersey), San Antonio, and Washington, D.C. The 14 in the pipeline are: Albuquerque, Atlanta, Birmingham, Bridgeport, Buffalo, Fort Worth, Hartford, Indianapolis, Ithaca (New York), Minneapolis-St. Paul, Phoenix, Racine (Wisconsin), St. Louis, and Tampa.

A nationwide study of NHS programs reveals that it is "a helluva good program," according to Roger Ahlbrandt, Jr., research director of ACTION-Housing, Inc., of Pittsburgh, which conducted the study for HUD. Ahlbrandt said there are two key elements to NHS's success: "First, you've got everybody involved. Second, the program wouldn't have worked if it had been a HUD or federally run program. The only reason the lending institutions got involved was because it was local, with citizen involvement."

Ahlbrandt also did an evaluation of the Pittsburgh NHS for HUD, along with staff member Paul Brophy. They concluded, "The effects of NHS extend beyond the initial actions of the citizens who spawned the code enforcement program and the direct loans made by the corporation. The presence of NHS in the community provided both financial and psychological support which played a role in the changing attitudes that were observed in the optimism expressed by residents toward the neighborhood." The ACTION-Housing study points out that NHS had its biggest effect in one particular section of the Central North Side where most of the high-risk loans were made. "It also had a definite effect on the bankers who were directly involved," said Ahlbrandt. "There's more awareness and interest on their part."

It should be emphasized, however, that NHS was not the only program serving the Central North Side during this period. The spinoff effects of nearby urban renewal projects—the $100 million Allegheny Center and the $63 million Three Rivers Stadium project—cannot be underestimated. The Pittsburgh History and Landmarks Foundation kicked in $325,000 in grants for the restoration of historic buildings, particularly in one section known as the Mexican War streets (named after battles of the Mexican War). AHRCO, a nonprofit housing corporation, pumped in another $3.4 million for residential rehabilitation on the North Side. Allegheny Hospital went through a major renovation program. A new community college was built in the area, and numerous other capital improvements were made by the city and Allegheny County. "There was a lot of activity occurring at the time," said Ahlbrandt. "It's very difficult to say which program was the most influential in making the changes that occurred." He added, "In the areas where NHS concentrated its activity, there is evidence that it did contribute to improvement."

Some of the original euphroia about the program may be wearing off, however. The Pittsburgh NHS is having trouble getting money for its high-risk fund. "The foundations tell us, 'You're the best program we've ever funded, but now it's up to someone else to get involved'," said NHS Director Jones. Dorothy Richardson is not overly concerned, though, pointing out that the fund is already up to $850,000, close to the $1 million target, and is "revolving" some $100,000 a year in repayments.

They're also having trouble "selling" the home maintenance plan. Only 75 families have signed up, Jones said, and he needs a thousand to make it economically feasible. And rehabilitation costs on recent projects have doubled, from about $3,000 a house in 1969 to $6,000 a house today, both because of inflation and "because we're in tougher areas," Jones said.

The program also has been criticized because of defaults in its high-risk loans. NHS has had to write off about $35,000 as uncollectable (out of more than $800,000 loaned). Fifteen per cent of the borrowers are also late in their payments. "I really don't get too concerned about that," said Dorothy Richardson. "I would expect that it will go down. The bankers had no idea what kind of deliquency rate to expect when we started out." NHS has hired a staff person to enforce collections, and they are no longer making debt-consolidation loans—the ones where most of the defaults were occurring. "We feel deep responsibility about getting our money back. It's not a giveaway program," said Richardson.

But somebody up there likes NHS. Recently, the city of Pittsburgh decided to devote $4.3 million of its $16 million in community development funds to a housing rehabilitation program similar to NHS's. NHS will administer the program in two of the three target areas. Half the money will be used to make direct high-risk loans in target neighborhoods. The other half will be used to subsidize the interest on short-term loans (less than eight years' term). It works this way: The banks will make the loan at, say, 12 per cent. The fund will subsidize the interest rate down to three per cent. In this way, the money can be spread around to make more loans—what the money boys call "leveraging."

Perhaps the biggest thing in NHS's favor is the psychological boost it has given everybody. Tom Jones says that "there's a change of attitude. When we first started, people wanted to move out. Now we have people who want to move in." A similar effect is being reported in other cities with NHS programs. Jeanne Davis, assistant director of the Cincinnati NHS, says, "We're particularly pleased that the program is having a ripple effect in the neighborhood. It's sort of like a happy disease. Ladders go up on one building, and then they go up on another building across the street." Syd Kennedy, an NHS board member in Dallas, reports that "we've reversed the deterioration and now we're on the upswing.

"What nice about NHS is that everybody feels it's their program," says Jones. "Everybody's getting something out of it."

THE NUCLEAR ARMS RACE

Mr. KENNEDY. Mr. President, last week our distinguished colleague from California (Mr. CRANSTON) addressed a meeting of the Arms Control Association. In it, he addressed frankly and concisely, many of the serious issues now at stake in the efforts to control the spiraling nuclear arms race. As he noted:

> We are mesmerized by technology. We are way beyond considerations of defense and deterrence into the wild blue yonder of quantitative and qualitative arms race worthy of two nuclear alcoholics.

Mr. President, I ask unanimous consent that the full text of Senator CRANSTON's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR ALAN CRANSTON

I first became concerned about the issues of peace when I watched the League of Nations fail and falter in 1935—40 years ago this fall—when Mussolini invaded Ethiopia. The cause of peace and the reduction of weapons are my primary public passion and gravest concern. I hope to help do something significant about this paramount issue of our times before I depart the Senate.

The fact that nuclear weapons are on the loose in the world is the most important issue confronting mankind—although it is not receiving the attention that it should. If we resolve that problem, we will have time to resolve many other problems that confront us. I think we have the time and the talent to resolve those other problems. But if we prove not to have the talent to deal with the nuclear threat in the limited time left to us, we can forget about the rest of the problems. So nothing could be more timely or more important for us to discuss on this occasion.

What happens, let me ask, to the comfortable superiority the United States and the Soviet Union enjoy over other nations when we are compelled to look beyond the differences, the disputes and the dangers of the moment and are forced to consider the nuclear probabilities—not possibilities—over the long term?

What happens when our narrow bi-polar

"realism" runs up against the inescapable realities of a multi-polar world—as it surely will, and soon?

Let me begin by providing a definition, asserting an assumption, stating a conclusion, and posing some other troubling questions.

The definition: National security means survival in the world of nuclear proliferation in the late 20th and early 21st centuries—by means consistent not only with the preservation of our lives, but of our liberties and of our pursuit of happiness.

The assumption: The use of nuclear weapons anywhere in the world can lead to a holocaust for all mankind.

The conclusion: Survival depends in good part, of course, upon whatever restraint the United States and the Soviet Union and other present nuclear powers can practice generally in avoiding war and specifically in avoiding the use of nuclear weapons if war breaks out.

It depends in equal measure upon what we do now and in the next few years, first, to check vertical and horizontal proliferation of nuclear weapons, and second, to reduce and finally to end all stockpiles of nuclear weapons.

The question: (I address each of these to each of you, individually) Do you believe with Harvard's Thomas Schelling that "We will not be able to regulate nuclear weapons around the world in 1999 any better than we can control the Saturday Night Special, heroin, or pornography today"?

Do you believe along with Schelling and your other experts quoted in a recent article in Harvard magazine, that some nuclear wars (plural) are likely to occur before this century's end?

Do you believe with George Kistiakowsky that nuclear war is more likely in the next 25 years than a disaster with a nuclear-power reactor blow-up?

These men and others who share their views are reacting, of course, to the spread of nuclear bombs like an epidemic disease—with expectations that by the end of the century there will be several thousand reactors around the world, each producing enough material to build a bomb a week.

And they fear that a harsh and dictatorial world government—restorting to brutal methods and obliterating many of our most precious democratic values—may be mankind's solution to the nuclear threat.

Two more questions:

Do you believe that no nation can deliver what might be intended as a massive preemptive strike without automatic and catastrophic radiation and other environmental consequences to itself?

Do you believe that no nation, anywhere, can safely assume that it could, somehow, benefit from a large-scale nuclear exchange between other powers—or at the least escape unscathed?

The President of the National Academy of Sciences, Phil Handler, reaches these negative conclusions as a result of a recent report entitled "The Long-Term Worldwide Effects of Multiple Detonations of Nuclear Weapons".

If your answer is "yes" to any or all of these questions, then it is time for you and all of us to go out into the streets and to the summit, time for us to stand on the corners and walk the byways of the world, to grapple with the greatest threat that exists to human survival.

Surely we cannot accept what Tom Halsted recently suggested for the sole purpose of arousing us—I know he didn't mean this seriously—and what others, perhaps half-seriously, have proposed:

"Maybe the only thing is to wait for the accident or small war, and hope that it will generate world-wide interest in really trying to do something."

In the name of God, there need not be, there must not be, another Hiroshima, another Nagasaki, to remind us of the surrealistic power of the nuclear genie!

If we are not very, very careful, the arms control community and the citizenry generally will reach the point where we begin to accept as plausible and inevitable what so many military experts are already planning—how to fight "limited" nuclear wars, how to protect the United States against "brushfire" nuclear wars, and how to "win" strategic wars.

Once we capitulate to this course, once we start thinking in these terms, once we cross this threshold, we will have small hope indeed of averting nuclear catastrophe.

If we are to avoid the ashes of cataclysm, we must assert out of the ashes of cynicism our faith in our ability to shape our destiny.

Alfred North Whitehead stated the moral imperative: "Duty arises from our potential control over the course of events."

So what is the task before us?

Well, there is SALT with its present rather unexciting prospects.

In talks with the Soviet Union, we are so caught up with socalled "practical problems"—such as whether we get this weapon system or deny the Soviets that one—that we are losing sight of our original purpose.

We engage in what Representative Les Aspin recently called "rear-guard actions" when he urged us to keep our larger purposes in mind lest our actions become utterly meaningless.

Would we be better off with a SALT-free diet for a while?

Should we skip the ceilings—scrap SALT II—and take a new look way down the road?

SALT is on a 5 to 10 years basis, after all.

Here we are in the last quarter of this century—we have survived that long. But we are still nibbling away on an ever-bigger piece of cheese.

The U.S. and the U.S.S.R. today have about 40–50,000 nuclear weapons each. Most of these are larger than the Hihoshima bomb, which killed 66,000 people at once and many more after radiation sickness set in.

We don't know exactly how many we've got today, or what their effects would be—beyond deadly.

Consider the facts, with which all of you are familiar:

1. In delivery systems, the United States presently has 1,054 ICBM's, 656 SLBM tubes, and 533 "heavy" bombers. The Defense Department hopes to add at least 10 Trident submarines to our ballistic missile forces. With each carrying 24 SLBM's, this would add a total of 240.

This country now has 966 MIRV launchers. Present programs and long-range plans could increase this figure to 1,286.

The Soviet Union presently has 1,576 ICBM's, 772 SLBM tubes, and 160 "heavy" bombers. It is estimated that the Soviets now have 60 MIRV launchers with programs that will provide a large increase in this number.

2. In warheads, the United States now has 6,794 missile warheads, 5,810 of which are MIRV. Our present programs and long-range plans will lead to an estimated 11,674 missile warheads, 10,690 of which will be MIRV's.

The Soviet Union presently has more than 2,628 missile warheads, 340 of which are MIRV warheads. The Soviets plan a vast expansion in the number of their MIRV warheads.

So much for statistics.

With staggering figures like these, of what relevance are the dizzy heights of the Vladivostok ceilings: 2,400 for the total launchers and 1,320 for MIRV launchers?

We could forego much of this and still possess a forbidding retaliatory force capable of destroying just about everybody.

As George Rathjens has pointed out—and this is a valid criticism of one part of a resolution I've introduced with Senators Brock and Mathias—a 20 percent mutual reduction in nuclear weapons could be offset in less than a year as a result of accuracy improvements by us and the Soviets!

In short, both of us have fogotten why we possess our costly defense structures, and why we are negotiating in regard to them.

We are mesmerized by technology.

We are way beyond considerations of defense and deterrence into the wild blue yonder of a quantitative-qualitative arms race worthy of two nuclear alcoholics.

There are political, diplomatic and purely military reasons to question the Vladivostok ceilings and the defense arsenals that will be maintained under them.

We and the Soviets agreed to set the numerical limits very high—so that our planned procurements are not affected, and their procurements remain as planned. Nice symmetry there.

The MIRV launcher limits are too high to decrease in any significant way whatever threat MIRV deployment may appear to pose for the strategic balance.

There are no restraints for qualitative improvements—so the arms competition can continue unabated in spite of Vladivostok.

Actually, the high limits may provide both sides an unfortunate license and justification to build up to higher limits than they might otherwise have contemplated.

More troubling are the arms control issues raised by the structure of the arsenals and the psychology of the arms race itself.

In defining "equivalence" between the U.S. and Soviet defense machines, it is difficult to determine whose judgments are important, and what affects those judgments.

As a recent Office of Technology Assessment study put it:

"This confusion could lead to attempts by both sides to match what it fears the other side might deploy for both military and political reasons. Weapons purchased for 'political' purposes might undermine the stability of the military balance. For example, if either side develops a silo-killing capability to enhance the 'perceived' capabilities of its force, it could cause the other side to fear the military capability which this force had for a pre-emptive attack."

Here lies, I believe, the flawed reasoning behind former Secretary of Defense Schlesinger's political arguments for a larger defense budget.

Mirror images are created by all this.

Currently, neither side has a credible capability to destroy a large fraction of the other's fixed, hard ICBM silos. But if we—under Vladivostok—can develop a force with a credible capability to destroy some significant part of the Soviet ICBM force for the alleged purpose of increasing the flexibility of our strategic forces—that's the reason advanced for the latest effort here—this force may be perceived as an important first step towards the development of a first strike force conceivably capable of destroying all opposing ICBM's.

Such a program would thus invite the same Soviet response as would a major U.S. counterforce program.

This, I submit, is the fatal flaw in Schlesinger's "counterforce" strategy.

It is tragically true that the recent history of SALT has primarily been one of ratification rather than restriction of the accumulation of strategic arms.

Despite this, I believe there are solid reasons for trying to get a SALT II agreement—reasons that transcend any doubt about the obvious holes in the Vladivostok ceilings.

There is value simply in keeping the process of SALT alive because the negotiations are a symbol, or an example, of both powers trying to do something about vertical proliferation.

They provide an opportunity for us and the Soviets to exercise self-restraint.

Secondly, there are some significant arms control benefits that may attend SALT II if it is close to the original Vladivostok accord.

Simple principles and measures of strategic equality were established.

They placed an upper limit on worst case projections of the number of strategic delivery vehicles which the Soviet might deploy.

Our present and planned defense structure was certainly protected under the original concepts of the accord.

And it set the framework for reductions, because a ceiling does not have to be a floor.

It should be noted that with no SALT II in 1976, and the expiration of SALT I in October, 1977, each side at the present pace of the arms race may have heightened the other's fear of a "first strike" capability against land-based missile forces with ensuing instability and consequent greater waste of resources.

And, difficult as they are now, the differences over Backfire and cruise missiles would be infinitely more difficult to resolve in 1977, after testing has occurred and substantial numbers of the latter are deployed.

Finally, a convicing reason for moving ahead on SALT II is that our present on-again-off-again, semi-negotiation posture—I think that's all we can call it—encourages proliferation.

Perhaps SALT II is a necessary way station on the road to a SALT II embodying reductions in nuclear weaponry.

If so, we should get on with it, because steady state agreements over time encourage cheating and new interpretations, while qualitative advances undermine quantitative limits.

Unless any halt or ceiling is only an interim matter, it is worth very little—if anything.

I question the advisability of reaching any further arms agreements with the Russians unless they embody standstills or reductions, rather than ceilings higher than the stance at the time of the negotiations.

Of course, SALT II is in doubt at this point.

What can be done about the deadlock?

I'll make a few suggestions:

1. The Soviet Backfire bomber should not be counted as a strategic bomber, but—contrary to the Soviet position—we should not accept that either Backfire or refueling tankers be deployed in such a way as to threaten the continental United States.

2. The United States should delay the testing of long-range cruise missiles, thereby providing an opportunity for meaningful negotiations leading to a ban on their deployment and production applicable to both sides.

Both sides should agree to stop development and deployment of the short-range cruise missiles both of us have embarked upon. Air-launched cruise missiles mounted on bombers could be counted as mirved launchers under the 1320 limit. Backfire and cruise missiles tie together—one need only contemplate Backfires carrying cruise missiles.

These weapons must be dealt with under SALT II, not put off until later.

Once the tests have gone forward, it will, of course, be too late.

And that is reason enough for Henry Kissinger to go to Moscow, and for us to proceed with SALT II.

As Richard Burt has written in the Washington Post: "The central problem is not what SALT will do to the cruise missile, but what weaponry like the cruise missile will ultimately do to SALT."

In Senator McGovern's apt phrase, cruise missiles can "turn a triad into a centipede."

Conventionally-armed cruise missiles, as well as nuclear-tipped ones, could be used in strategic attacks against the United States and the Soviet Union.

While perhaps raising the nuclear threshold, weapons like the cruise missile could lower the overall inhibition to use force.

Beyond the immediate concerns of SALT II, we must move on to the pursuit of reductions under SALT III—and thereby set an example in controlling vertical proliferation among the two superpowers.

This idea is embodied in Senate Concurrent Resolution 69, the resolution Senators Brock, Mathias and I introduced in October.

I urge you to give it your critical attention and to give us your advice, as some of you already have.

It attempts to develop a Congressional position on both vertical and horizontal proliferation.

For what will SALT between the U.S. and U.S.S.R. really mean if the two of us are confronted by the pepper of a growing list of nuclear powers in the world?

Moscow and Washington's security depend upon both bilateral restraint and curbs on multi-lateral spread.

We must convince the world we don't want a nuclear war. And I don't think we've convinced the world, yet.

We must end this hypocritical pose before other nations: "Do as we say, not as we do."

Every time we raise the spectre of actually using nuclear weapons, we lose credibility in the eyes of the non-nuclear states.

Briefly, our resolution, after addressing SALT, urges a comprehensive agreement between the U.S. and U.S.S.R. ending all underground nuclear explosions under adequate verification; urges a halt on further transfers of nuclear technology to countries not accepting IAEA safeguards; urges an agreement among suppliers to reprocess plutonium in secure regional centers—as Henry Kissinger recently suggested; and urges a halt in the production of weapons grade material for weapons use under a verification system, followed by the sharing of the products of the nuclear enrichment facilities of the major powers with those nations who accept IAEA safeguards.

Our resolution thus provides incentives for non-nuclear states by offering nuclear energy in return for abstaining from nuclear weapons.

We recognize, of course, that Congressional resolutions have little impact unless they articulate a policy that is grounded on practical possibilities.

We are presently working with Senator Symington, the Chairman of the Arms Control Subcommittee of the Foreign Relations Committee, in a search for some further and more concrete proposals designed to place reliable restraints on nuclear proliferation.

Here are a few suggestions:

1. The supplier nations, who have been meeting in London, must get a grip on the process of proliferation while they still have the opportunity.

All the suppliers must join together to induce importing nations to accept strict safeguards.

Is this country pressing hard enough to get other suppliers to set high standards?

Why should the talks be so secret that we cannot even begin to answer this question?

We have to lead in putting the long-term survival interests of our nation and the world ahead of short-term commercial deals, ahead of short-term political-diplomatic considerations, and ahead of short-term security factors which fade into relative insignificance when placed in a more thoughtful perspective.

The suppliers must encourage those countries that believe they need nuclear energy to develop and accept national policies that will greatly reduce—if possible eliminate—the threat that peaceful technology will become weapons technology.

There should be a firm agreement among all suppliers that there will be no nuclear exports to countries that won't accept appropriate safeguards over all their nuclear facilities.

2. The recycling and enrichment processes have to be internationalized.

Perhaps the International Atomic Energy Agency should own, manage, and control them.

I'm well aware of the weaknesses of the IAEA. But I gather it does very well, considering what it was created to do and what it was expected to do.

It needs strengthening, however—more manpower, more technical skills, more whistle-blowing authority.

The IAEA could be given a strong role in the designing of nuclear facilities to be sold to other countries, from the point of view of facilitating international inspection. URENCO (the German, Dutch, and British consortium) is setting a valuable example. While designing the proprietary part of its facilities to exclude inspection, it has made all the input and output areas accessible to IAEA inspection.

The United States will be in a unique position to set a good example for other suppliers when, in February, our government begins negotiations to open up unclassified non-military facilities to the IAEA following up on "the President's offer" of 1967.

The United Kingdom and Euratom have agreed to do the same.

And Japan is close behind, seemingly ready to follow our example.

It seems to me that inspection may well be a key to really significant progress towards a solution to our problem—either inspection by national means or by international inspectors.

There was a report in the New York Times that gave a hint that the Soviet Union may be changing its position on inspection. The Times reported, in July, 1975, after Kissinger and Gromyko met in Geneva, that the Soviet Union had accepted the principle of an on-site inspection of nuclear explosions in connection with a U.S.-U.S.S.R. underground threshold treaty. I've been unable to obtain either verification of this report or any further details—but perhaps there is reason for slight hope here.

Actually, I don't anticipate any early breakthrough on on-site inspection, but perhaps it can come in good time. Inspection need not imply any use of force if violations are discovered. Inspection need not imply any violation of the sovereignity of nations in terms of enforceable international law. Inspection merely provides an opportunity to verify that international agreements are being observed. If a nation finds, through inspection, that international agreements are being violated, it can initiate matching violations.

Let me say that I believe the most reliable answer to the problem of international conflict of a nuclear nature lies in effective world law. But I see no present prospect of world law and the necessary institutions to enforce it emerging on the world scene in time to deal with the immediate dangers we all face.

I believe part of the long-range answer lies in strengthening the International Court of Justice and I've been working on that front with Senator Robert Taft of Ohio. Several measures we proposed have been adopted, and await implementation. And another international institution that often leads to despair—presently a lot of despair—but which I still believe holds much hope for mankind is the United Nations. With its related agencies such as the IAEA, the UN provides the framework and the foundation for the effective worldwide institutions we need.

When I get gloomy about the UN, I like to talk to a man there—Deputy Under Secretary Robert Muller—of great hope and faith. He said recently: "The UN is the first universal, global instrument mankind has ever had, created at the precise moment when the world is becoming one unit in so many respects. Its 16 specialized agencies now cover almost every field of human concern. It is the central meeting ground for all the aspirations of man. It is an incipient brain of the human species—registering global dangers and tendencies, keeping world conditions and phenomena under constant review, fostering a better knowledge of our planet's resources and constraints. It has provided a talking place and a meeting ground during the worst periods of the Cold War. It has offered a covering lid for hot conflicts, a standstill for fighting, a separation of belligerents and a talking ground between them."

So let us keep on working to make the UN what it was intended to be, or better still, what it should be.

There are other ways—safe in terms of national security—in which we can provide leadership, and set a sound example.

Presently, this country and the Soviet Union, and several others, are scattering conventional "powder and gasoline" all over the world.

We aggravate local and regional conflicts through indiscriminate arms sales. Congress should apply our own national brakes on this. But, of course, it is an international problem requiring an international solution.

Let me mention one initiative in self restraint that I am working on, and hope to introduce soon. The Federation of American Scientists has proposed it, and your own board of directors has endorsed the general idea.

Essentially, I will be proposing a mechanism for involving Congress—through a super committee—in any decision to make any first use of nuclear weapons in the absence of an irrevocable launch by an adversary.

This legislation will be based on the assumption that the introduction of nuclear weapons into a non-nuclear conflict would, for all practical purposes, produce an entirely new war that would be enormously more dangerous to the United States and could result in the total destruction of the Republic.

I think that we, the first nation to develop and use nuclear power, have a particular responsibility to know what we are about in the nuclear decision-making process. I don't think we should leave the whole decision-making process finally in the lap of the President.

I look forward to receiving comments from you on the details of this proposal.

Let me go into one other matter that is a particular concern of mine.

I've been concerned about other aspects of our control over the use of nuclear weapons. When we ponder who possesses such weapons now—and who will probably possess them in the not-too-distant future—we can see the need for our setting an example of appropriate controls.

When Richard Nixon was inviting members of the House down to the White House, as impeachment was closing in on him, an event occurred that greatly alarmed two Congressmen who were present.

Nixon told this group of House members of his great efforts with Henry Kissinger to work for peace and he pointed out that his work for peace was far more important than any "little burglary" at Watergate. He got very emotional and then said, according to one House member there: "I can go into my office and pick up the telephone, and in 25 minutes 70 million people will be dead."

That may have been an exaggeration of the President's power. But when I heard about this episode and discussed it with two House members who were present, we wondered whether our controls over the President's power to "push the button" are adequate. I've done my best to find out. I've asked for briefings and they have somewhat reassured me. But given my own lack of total expertise—I should say any expertise—in the matter, I am still not completely certain that we have adequate controls.

To equip myself to deal more effectively with such problems, I've been spending a lot of time trying to learn how our nation made the decision to bomb Hiroshima and Nagasaki. From what I've learned thus far, I'm convinced that there was never serious consideration by any President of all the issues involved—no full, careful discussion of the moral considerations such as whether or not we should bomb innocent civilians, no adequate weighing of alternatives to dropping the bomb. I'm convinced that the issue was never really addressed by Franklin Roosevelt, who was sliding into death, and who indeed died before work on the bomb was completed and any final decision had to be reached. And I'm convinced that the new and inexperienced President Truman simply accepted the legacy he thought he had received from his predecessor.

Later Truman said: "The atomic bomb was no great decision—not any decision that you had to worry about."

The fact is that before that bomb was dropped, each of the Joint Chiefs of Staff advised that Japan could be forced to surrender unconditionally without using the bomb and without our invading Japan.

Among those who took this position were Admiral Leahy and Generals Marshall, Arnold, Eisenhower, and Lemay. That's Curtis Lemay, who afterwards said: "The atomic bomb had nothing to do with the end of the war."

General MacArthur, the supreme commander of the allied forces in Pacific, was not even consulted. He was simply informed that the bomb was going to be dropped. He, too, later declared its use was militarily unnecessary.

Well, then, why was the bomb dropped?

I've come to the unhappy conclusion that we bombed Hiroshima and Nagasaki far more for political diplomatic reasons than for military reasons.

I think our reasons were as follows, in this order:

1. To have maximum impact on the Soviet Union, to put them on the defensive and give us the upper hand in the post-war era.
2. To speed the end of the war, not primarily to save American lives but to limit Russia's growing role in the Far East if she entered the war against Japan.
3. Because some people had the feeling—and this gets back to Tom Halsted's non-suggestion—that it was necessary to drop the bomb for its shock value. They believed that demonstrating its horrible effects would reduce the possibility of its further use and impress us and the world with the need for controls.
4. Finally, (a lesser consideration, but nonetheless a factor) after the secret, furtive expenditure of more than $2 billion to produce this bomb, it was feared by those who had been responsible to one degree or another, that there might be a very unpleasant Congressional investigation. And unless we had used the bomb in an exceedingly dramatic and effective way, it was felt that it might be very difficult to justify the whole expensive venture!

With that kind of an historical record, we clearly must institute better controls and decision-making processes before another bomb—tactical or strategic—is ever again used by our country. We must do so, I believe, not only for our own safety but also to set an example that others may follow.

It would be of great help in regard to this decision-making process specifically, as well as to many other matters I've discussed, if we had effective funding of the Arms Control and Disarmament Agency—provided it, with your assistance, could develop the imagination and the creativity to devise new and innovative approaches to some of the problems we face, and practical refinements of some of the proposals presently under consideration.

Clearly, we must tame the arms race before it destroys us.

A GOOD RICE CROP

Mr. BELLMON. Mr. President, current reports of a good rice crop in Bangladesh are welcome news. For that fledgling country to be blessed with good weather and a favorable growing season helps the people of Bangladesh get on their feet and at least temporarily avert the threat of famine which has hung over that land since it won its independence. As one of the most densely populated countries in the world—and with one of the highest birth rates—Bangladesh can make use of this reprieve as a time to begin developing permanent solutions to its food problem.

The same reports of a good crop in Bangladesh carry information that the United States is dumping unwanted grain into that country through the Public Law 480 program bringing about a disastrous break in local grain prices. This serves as a major disincentive for future food production and thus increases the danger of famine next year and in the years that follow. Any action which reduces the incentive to produce must be looked upon as a serious threat to Bangladesh's capacity to feed its population in the future. Our Nation's policy should be to encourage, not hamper, food production in the third world.

The Public Law 480 program was intended to help countries that need food in time of difficulty. It was never intended to dump unwanted grain into a country that has an adequate supply.

For this reason, I have written letters to the Secretary of Agriculture and the Director of the Agency for International Development asking for an explanation. Mr. President, I ask unanimous consent that a copy of this correspondence and the newspaper article from the December 18, 1975, issue of the Washington Post be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Washington, D.C.,
December 18, 1975.

Hon. Earl Butz,
Secretary, U.S. Department of Agriculture, Washington, D.C.

Dear Mr. Secretary: Attached is a copy of a newspaper article which appeared in the Washington Post on December 18, 1975. The article points out that the United States is currently sending "huge amounts" of grain into Bangladesh even though that country is harvesting its biggest crop in its history. According to the article, the American grain is seriously depressing prices received by

Bengali farmers. This will serve as a disincentive for future production and will have the effect of reducing future crops and exacerbating famine in years to come.

The PL 480 program is intended to provide food to countries where a food shortage exists. It was never intended to be used to depress domestic grain prices in developing nations. I would appreciate a full explanation of the rationale for continued shipments of American grain to Bangladesh.

Sincerely,

HENRY BELLMON.

WASHINGTON, D.C.,
December 18, 1975.

Mr. DANIEL PARKER,
Administrator, Agency for International Development, U.S. Department of State,
Washington, D.C.

DEAR MR. PARKER: Attached is a copy of a newspaper article which appeared in the Washington Post on December 18, 1975. The article points out that the United States is currently sending "huge amounts" of grain into Bangladesh even though that country is harvesting its biggest crop in its history. According to the article, the American grain is seriously depressing prices received by Bengali farmers. This will serve as a disincentive for future production and will have the effect of reducing future crops and exacerbating famine in years to come.

The PL 480 program is intended to provide food to countries where a food shortage exists. It was never intended to be used to depress domestic grain prices in developing nations. I would appreciate a full explanation of the rationale for continue shipments of American grain to Bangladesh.

Sincerely,

HENRY BELLMON.

DACCA'S GOOD RICE CROP: NO ROOM

(By Lewis M. Simons)

DACCA.—There is some good news from Bangladesh for a change. Farmers in this poorest of Asian nations have begun harvesting a bumper rice crop, perhaps the biggest in history.

The overwhelmingly rural population should have enough to both eat and sell for the first time in years. City people already are paying less for rice than at any time since Bangladesh broke away from Pakistan four years ago.

Last year thousands starved to death in widespread famine. This year very few Bengalis need die of hunger.

But as is all too often the case in this land of misery, even news as good as this has its unhappy side.

First, there isn't enough warehouse space in the country to store both the big new crop and the continuing heavy flow of imported grain.

Second, low prices will undoubtedly discourage farmers and make them unlikely to plant adequate rice crops next year.

The United States has also had a bumper grain crop, and U.S. officials in Dacca and in Washington are at odds over whether the United States is doing Bangladesh a favor, by selling huge amounts of surplus grain here.

Within the Bangladesh government, Ministry of Food officials favor high import levels while Ministry of Agriculture officials do not.

"Bangladesh is a country of problems," Food Secretary Abdul Momen Khan lamented in a recent interview. "This is just one more problem for us."

Unless the month-old military government can somehow come up with emergency storage space or cut back the grain imports, hundreds of thousands of tons of rice will rot, be attacked by vermin or be smuggled out to India and Burma.

Air Vice Marshal M. G. Tawab, one of the three military rulers and also Minister of Agriculture, has appealed to the United States to rush in prefabricated warehouses. "We would give them space on airport tarmacs to set the buildings up," Tawab said recently.

U.S. agricultural experts consider the proposal too costly and impractical. "We'll put it to Washington," one specialist said, "but I'm sure the answer will be negative."

AID also favors slowing down the massive stream of American grain, even though AID sources privately concede that this would be against the interests of American farmers.

Prevalent thinking in the AID mission here is that American food imports should be used only for humanitarian and disaster relief. While Bangladesh is most certainly not going to be able to feed itself entirely, despite this year's fine crop, it needs less food than in recent years.

But the U.S. Agriculture Department and American congressmen representing farm interests want to continue pouring surplus American wheat and rice into Bangladesh, sources said. During the current fiscal year, Bangladesh is to receive 2.2 million tons of imported grain, about what it has received in each of the last four years. About 300,000 tons of this is scheduled to arrive in January alone. The United States supplies about half the country's food imports through Food for Peace sales.

These imports have sustained hundreds of thousands of Bengalis who would otherwise have starved. Bangladesh has also been a boon for U.S. grain farmers, brokers and exporters.

For example, according to U.S. sources in Dacca, when Bangladesh requested 400,000 tons of wheat this year, the United States insisted that 100,000 tons of that be rice, which sells for twice the price of wheat.

Since last spring, much of that rice has been shipped to Bangladesh by one of the most costly methods possible—aboard so-called "lighter-aboard-ship" vessels. Rice costs $105 a ton shipped aboard these ships, while the cost on conventional freighters is $25 a ton. Bangladesh pays for the shipping out of an $11 million U.N. emergency operations fund.

According to a highly informed source in Dacca, the Bangladesh embassy in Washington agreed to use this expensive shipping on the advice of the St. John shipping brokerage company. According to this source, who is intimately involved in Bangladesh food imports, the link between St. John and the Bangladesh embassy was Democratic Rep. Otto Passman, from rice-growing Louisiana, and a powerful proponent of Food for Peace sales.

The interests of American farmers in unloading their surpluses through concessional sales abroad coincides with those of the Bangladesh Food Ministry, which is in charge of distributing grain through ration shops.

The imports quickly make their way into the rationing network, while increased domestic production either creates gluts or leads to smuggling, according to Western specialists.

Domestic output has been high this year because of good weather and because farmers planted more after last year's widespread famine and resultant high prices.

A number of donor nations are appealing to Bangladesh to curb its rationing system and to raise the low ration price so that new domestic grain can move into the system more easily. They complain that at its traditional annual grain import rate of about 2 million tons, worth some $550 million, Bangladesh is a constant drain on world food supplies.

These donors also reason that large food imports discourage local farmers from producing more. If the ration price were increased, they claim, farmers would grow more rice.

GAO REPORTS PROBLEMS WITH TEMPORARY STUDY COMMISSIONS

Mr. PERCY. Mr. President, this past Friday, December 12, the Senate approved a bill (S. 2498) which would, among other things establish a National Commission on Small Business in America to study the competitive posture of small business and report back to the Congress within 2 years on recommendations to improve that posture.

The creation of such temporary study commissions has become fairly common in recent years. As a vehicle for indepth study on topics the Congress believes require further action, such commissions have been viewed as an effective means for laying the necessary factual and analytical groundwork for followup legislative action.

However, the General Accounting Office has recently issued a troubling report, titled "Better Followup System Needed To Deal With Recommendations by Study Commissions in the Federal Government," questioning the ultimate effectiveness of these study commissions. While the GAO does not question the quality of the work of these commissions, it does emphasize the fact that, once a report has been issued, more often than not that report receives little or no action on its specific recommendations. The problem, according to the GAO, is the lack of adequate followup procedures, both in the Congress and in the executive branch.

Because of the growing tendency of the Congress to create such study commissions ever more frequently, I believe it is time for us to begin to seriously explore the nature and consequences of this species of governmental institution. The GAO report is an important first step in this direction. For this reason, I ask unanimous consent that the short summary digest of this GAO report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS—BETTER FOLLOWUP SYSTEM NEEDED ON RECOMMENDATIONS BY STUDY COMMISSIONS IN THE FEDERAL GOVERNMENT

DIGEST

The Federal Government often uses special study commissions to examine problems or issues of national concern and to recommend action by the executive branch and the Congress.

In spite of the extensive study efforts and expenditure of large amounts of money, benefits expected from some of these studies are not being achieved because their recommendations are not being acted upon by the responsible Federal agencies.

This condition has been largely attributable to the absence of an effective followup system under which the executive branch would promptly take a position on the merits of commission recommendations and develop and execute a plan for adopting those which merit action. Also, because study reports sometimes take positions which members of the appropriate congressional committees do not find readily acceptable, they do not always receive strong backing and interest in the Congress.

GAO recognizes that not all study commission recommendations merit implementation but believes such studies call for careful executive and legislative branch consideration.

GAO recommends that the Office of Management and Budget provide the necessary leadership in the executive branch to establish effective followup systems on study commission recommendations. (See p. 29.)

GAO also recommends that the Congress consider the following actions:

Legislation creating future study commissions specify as clearly as possible a commission's study objectives and an action program by the executive branch to evaluate recommendations and carry out those meriting implementation.

The Federal Advisory Committee Act be strengthened by requiring that the executive branch periodically report to the Congress on the status of action taken. This would be similar to the requirement in the December 1974 act creating the Commission on Federal Paperwork.

The appropriate House and Senate committees having jurisdiction in the area covered by a study commission hold hearings about the commission's findings and recommendations to provide oversight over the executive branch action program and development of necessary legislative changes. (See p. 29.)

GAO discusses two important study reports issued during the last 5 years which did not receive adequate consideration. These reports were issued by the Public Land Law Review Commission in June 1970 and by the National Water Commission in June 1973. (See chapters 2 and 3.)

Other similar examples, cited in this report, are the report by the National Commission on Urban Problems issued December 12, 1968, and the report by the National Commission on Materials Policy issued June 27, 1973. (See pp. 14 and 16.)

By contrast, effective procedures have been instituted to evaluate and implement the recommendations in the December 1972 report by the Commission on Government Procurement. A satisfactory followup system evolved with participation by both the legislative and the executive branch and GAO performing a monitoring role. This system could well serve as a model for taking action on similar future studies. (See p. 18.)

The Office of Management and Budget concurs with this report's purpose and goal and the need for increased efforts by all branches and levels of government to consider study commission recommendations. The Office, however, does not agree with GAO's recommendations for new legislation to require more formal followup systems. (See p. 32.)

The Department of the Interior also agrees with the general thrust of the report and recommendations but cautions that study commissions are only advisory and the merits of their recommendations should not be presumed. The Department claims it has made use of appropriate commission recommendations although such actions may not have been documented in the manner contemplated by GAO. (See p. 36.)

FOOD AND DRUG LAW IN THE UNITED STATES: A 200-YEAR PERSPECTIVE

Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues the speech given in October by Alexander M. Schmidt, Commissioner of the Food and Drug Administration, to the Symposium of the Centenary of the United Kingdom Food and Drug Act of 1875. The Commissioner's speech is a synopsis of food and drug laws in the United States for the past 200 years.

I ask unanimous consent that Dr. Schmidt's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FOOD AND DRUG LAW IN THE UNITED STATES: A 200-YEAR PERSPECTIVE

(By Alexander M. Schmidt, M.D.)

Thank you for inviting me to this celebration of the first century of effective national food and drug legislation in the United Kingdom. This is a meaningful occasion for the world, as well as your own country. First things always have a special significance, and this is why we celebrate anniversaries.

In the United States, we are looking forward to another anniversary—the 200th since our Declaration of Independence as a nation on July 4, 1776. And if my presentation today were to have an additional subtitle, it could well be, "From Independence to Interdependence." For we are living in a world of change which affects us all, and makes it necesary that we collaborate, rather than to go our separate ways. In that spirit, I am honored to be here, representing the United States Food and Drug Administration.

That our food and drug laws relate directly to yours is obvious; there is a distinct familiar resemblance. Soon after the colonists arrived in New England, they were enacting and enforcing bread laws similar to the "assizes" known in Britain since the days of King John and the Magna Charta. And in 1630, the Massachusetts Bay Colony prosecuted a newcomer from Holland, one Nicholas Knopp, ". . . for taking upon him to cure the scurvy by a water of noe worth nor value, which he solde att a very deare note." Not only was Knopp fined 5 pounds in this early drug misbranding case, he was also declared liable for suit by anyone who had paid money for the "said water."

Some of the laws enacted by the colonists were patterned after those of the home land, but very early the colonists were asserting their right as British subjects to enact their own laws aimed at specific local problems. Especially significant were rather numerous ordinances assuring the integrity of exports of food and other products. As a result of the concern for safe arrival of exported goods, it appears that consumers in Britain had more protection from the colonial food laws than did the producers in America. So we find the New York General Assembly in 1773, reacting to complaints about the poor quality of bread in New York City by requiring local bakers to use only flour that had passed the export inspection.

Colonial food laws, from the beginning, were quite diverse, largely indigenous, and while reflecting the heritage from English law, responded principally to the needs of producers and consumers in the 13 separate colonies. The resulting diversity in colonial laws was perhaps more apparent to the authorities of the mother country than to the colonists. Probably the first attempt to secure uniformity in these early colonial laws, including food laws, was a compilation made by the authority of the Duke of York in the reign of Charles II, and intended to be a model for all the colonies. It was not very successful.

After independence was achieved, our States individually continued enacting food, drug and other laws to suit their own conditions. One of the first was a food adulteration law passed by Massachusetts in 1785, which provided for the prosecution of "evilly disposed persons" who, "from motives of avarice and filthy lucre, have been induced to sell diseased, corrupted, contagious or unwholesome provisions to the great nuisance of public health and peace." This forthright and comprehensive food adulteration law was seriously weakened, however, by the phrase, "knowing the same without making it known to the buyer," thus joining the concept of willful intent to liability—something we are still struggling to straighten out.

The first national food and drug law for the United States was passed many years after (1906) the United Kingdom's laws of 1860 and 1875. The principal reason was "states' rights." Many Americans, including members of Congress, thought that food and drug protection, if needed at all, was a function for the States, and most States already had laws dealing with such matters. But other Americans, as early as 1875, saw the rapid industrial development and expanding transportation and marketing systems of the country, and knew it was necessary that the central government regulate interstate commerce in foods and drugs. Only a few years after the United Kingdom adopted its first food and drug laws, Federal legislation was being proposed and seriously considered in the United States. One of these bills had an interesting history.

Then, as now, there were critical reports in the press on both sides of the Atlantic about the quality and safety of food. In America, as in Britain, the reaction of industry could be summed up as a "qualified admission"—i.e., that certainly here was some contamination, but it was not nearly so bad as it was portrayed, and no hazard to health, else people would be sick or dying in the streets. At the same time, some in industry agreed that a Federal law to stop adulteration would be a good thing for business, as well as its customers. Reporting these sentiments, a dignified trade journal of the period, known as *"The Plumber and Sanitary Engineer,"* announced a competition "for the best Act, accompanied by an Essay, designed to prevent injurious adulteration and to regulate the sale of food without imposing unnecessary burdens upon commerce . . ." Prizes totaling $1,000 were offered by the National Board of Trade, a predecessor of the U.S. Chamber of Commerce.

The winner of the first prize announced by the trade journal in a supplement to its December issue of 1880, was G. W. Wigner, not an American at all but one of Britain's leading public analytical chemists, and then Honorary Secretary of the Society of Public Analysts. Mr. Wigner had written extensive critiques of the 1875 Sale of Food and Drugs Act in his own country, and he embodied in his proposed law for the United States some of the improvements he thought should be made. The Wigner bill was introduced in Congress and became one of the early ancestors of the U.S. Food and Drugs Act of 1906. A similar bill was actually enacted in the State of Wisconsin.

A distinctive feature of the Wigner bill was the appointment of public analysts by boards of health, similar to the system adopted in your Act of 1875. Two reasons probably accounted for the failure to accept such a system in the United States—a lack of independent chemists, and the fact that the function was already being performed by the individual State laboratories.

From 1880 to 1900, more than 100 bills were introduced in the U.S. Congress to regulate foods and drugs. While special interests managed the passage of a number of minor laws: for example, to inspect tea, and to set standards for oleomargarine and butter, not until 1906 was a comprehensive law enacted. Why did it take so long?

The opposition was tremendous. The doctrine of State rights, still powerful in 1875; has already been mentioned as an obstacle. "Rugged individualism" was another. Many typical Americans considered themselves "too smart" to be fooled by hucksters of spurious products. The times were not yet right. They became so only with the turn-of-the-century leadership of Theodore Roosevelt.

Dr. Harvey W. Wiley, chief food chemist in the U.S. Department of Agriculture and the leader of the pure food and drug crusade in the United States, was aware of all this when, in 1902, he asked Congress for funds to finance a unique experiment. Its purpose was to determine and demonstrate the effects of food preservatives on the "digestion and health" of human volunteers. Intended as a serious, scientific study in toxicology, the novelty of the project nevertheless captured public interest and tremendous publicity, which Wiley turned to his advantage. His "Poison Squad" became a major factor in getting public support for the Act of 1906.

Wiley fed his volunteers massive doses of borax, formaldehyde, salicylic acid, copper sulfate, and even sulfurous acid! The general pattern was to begin with a 5-day period to secure data on the subject's normal condition, followed by 10 days of increasing dosage with the chemical, and 5 days of convalescence. The object was to give enough to produce overt symptoms. The case records were startling and at times amusing. The male human animal was seen to vary widely in tolerance to the various chemicals, including the effects of such accompaniments as whiskey before dinner, or cigars afterward.

Nothing could better illustrate the changes which have taken place in determining food safety than to compare Dr. Wiley's feeding huge doses to humans, with today's dosing of 50,000 mice with a few parts per billion.

The law of 1906 provided regulatory definitions of "foods" and "drugs," and prohibited their introduction into interstate commerce if misbranded or adulterated. It stopped the use of many harmful chemicals and brought great improvements in sanitation and labeling, but the next quarter century of change made it obsolete. The great depression of the 1930's aggravated the weaknesses of the 1906 law, and there were many. Debased foods and spurious drugs again became the target of public criticism. A book titled, "100,000,000 Guinea Pigs," became a best seller.

In 1933, the Commissioner of Food and Drugs sought the cooperation of Franklin Roosevelt's "New Deal" administration to sponsor a new and stronger law. Again, strong opposition was expressed by business interests, particularly to the possibility that FDA, rather than the more lenient Federal Trade Commission, would regulate the advertising of food and drugs. Finally, after a 5-year struggle, the Federal Food, Drug and Cosmetic Act was passed, in 1938. Reacting to a drug manufacturing error that cost over 100 lives, Congress required in the new law that the safety of new drugs be established by scientific studies performed prior to, and as a condition of, FDA approval for marketing. In addition, cosmetics and therapeutic devices were, for the first time, placed under FDA jurisdiction.

The 1938 law is still the bedrock of our regulatory system. It provided, among other things, that the FDA could set standards of composition for foods—known formally as standards of identity and quality. The law prescribed ingredient labeling for those foods not standardized. It prohibited the addition of poisons to food, but if addition to food of a "poisonous or deleterious substance" was necessary or could not be avoided, FDA could set safe limitations on the permissable amount of the substance.

The 1938 law did not remain unembellished for long. Unforeseen loopholes needed to be plugged, and new scientific discoveries mandated new approaches to the control of "poisonous substances." Particularly, there was still no requirement that the safety of pesticides or food additives be demonstrated before marketing. Any chemical could be used until the government proved in court that it was harmful. Toxic chemicals were turning up in foods with disturbing regularity, and hundreds of widely used substances lacked scientific evidence of their safety. The burden of proof was entirely on the government. Again, the FDA brought a bad situation to the attention of Congress; and, in 1949, a Select Committee of the House of Representatives, the "Delaney Committee," was appointed to investigate the use of chemicals in food and cosmetics. Out of their deliberations came three major amendments to the 1938 Act: the pesticide amendment of 1954, the food additive amendment of 1958, and a color additive amendment in 1960. Patterned after the new drug approval section of the 1938 Act, all three amendments applied the principle that the safety of ingredients and products should be determined before the public is exposed to them.

This fundamental change was one of the most important advances in social legislation during the past century. It made the manufacturer responsible for establishing the safety of his product and the government responsible for evaluating the evidence submitted. The burden of proof was shifted from the government to the manufacturer.

Mandatory pre-marketing clearance is today the dominant feature of the U.S. food and drug law, and we expect before long it will be applied to medical devices and cosmetics as well.

Tremendous benefits have resulted from pre-market testing. It prevented the drug thalidomide from becoming a major disaster in the United States. It stopped the use of overtly toxic and untested chemicals in foods, such as thiourea, monochloracetic acid or lithium chloride—to name three of the "horrors" exhibited in the 1950–51 Delaney Committee hearings previously mentioned. The requirement that effectiveness, as well as safety, be shown, added to the law in 1962, made it possible to clear the market of hundreds of questionable or worthless products, and to improve the label claims of thousands of others.

And although some critics disagree, premarket control seems to have had little adverse effect on the progress of technology. Thousands of new compounds and products have reached the market after passing the required safety examination. In fact, there is evidence that pre-marketing regulations have been a stimulant to technological progress. But there is also abundant evidence that technological developments continue to generate regulatory problems.

Just 15 years ago, you were commemorating the 100th anniversary of the United Kingdom's first general food law, the "Act for Preventing the Adulteration of Food or Drink." At that anniversary meeting, Commissioner George Larrick reviewed the FDA's effort to remove from the American market cranberries contaminated by an improperly used herbicide which had been found to cause cancer in laboratory rats.

The cranberry caper was but the first in a series of actions stemming from a proviso in the 1958 Food Additive Amendment. This proviso is the section which declares that "no (food) additive shall be deemed safe if it is found to induce cancer when ingested by man or animal." Now known as the "Delaney Clause," this section was initially opposed by the FDA and by scientists who argued that a food additive used at low levels need not be banned automatically simply because it had caused cancer when very great amounts were fed to test animals. Proponents of the section justified it on the basis that cancer experts have not determined how much or how little of a carcinogen will trigger the cancer process in a susceptible individual. Thus, they argued that no amount of such a substance could be judged safe for human use.

In 1962, the U.S. Congress amended the Delaney Clause to allow the use of carcinogenic substances, such as diethylstilbestrol (DES), in livestock feed if no drug residue could be detected by analysis of edible tissues from the treated livestock. The method of analysis used was to be approved by the government.

The original Delaney Clause prevented any exercise of scientific or regulatory judgment, which was precisely its intent. But in adding the 1962 proviso, Congress obviously intended to allow the economically important use of chemicals in livestock feed, even carcinogens such as DES if the safety of humans could be assured.

As the years went by, however, our analytical methods improved greatly. For example, the ability to detect DES advanced to the degree that one could measure parts per million, and then parts per billion. Thus, in 1973, the FDA banned the use of DES in cattle production because of the detection of trace amounts in some beef livers. That ban was set aside by a court because of an alleged procedural error on the part of the Agency.

DES is again being added to animal feed in the United States, and is occasionally being detected, in very small amounts, in beef livers. Seeking to carry out the intent of the amended Delaney Clause, the FDA is struggling to perfect a regulation stating how sensitive the approved analytical method used to detect chemical residues must be to insure safe use of a carcinogen in livestock feed. The proposal has resulted in substantial scientific discussion and disagreement. It is one of the most important, as well as complex, proposals ever issued by the FDA.

The use of DES as a growth promotant in animal feed presents a classic case in which the benefits of more cheaply abundant food need to be weighed against an indefinite risk. DES is, at present, perhaps the most interesting food regulatory problem we are now facing in the United States, and how we resolve the outstanding issues will predict how we will deal with the many similar regulatory problems yet to come.

The complications are increasing. The United States Senate has recently taken the unusual step of passing legislation that would ban the use of DES in animal feed. This is a fascinating regulatory development, which poses a number of questions and alternatives. First, the legislation could make things easy for everyone. No one has to think, or to exercise scientific judgment. The substance is simply prohibited. But what of all the other known carcinogens—and suspected carcinogens, mutagens and teratogens in food? Were we able to detect only a few molecules of exogenous DES in beef liver, would its use still be prohibited? Would any substance, found to be cancer-producing when fed at any amount to any animal species, be prohibited if we could find any trace of it in edible tissue? Can the benefit derived from a food additive be measured at all against the risk of its use? Is a 2 percent, 5 percent, or 10 percent gain in the efficiency of food production to be measured against the possibility of cancer being produced in one of a million persons eating the food? One in a hundred million? Five hundred million?

Clearly, balancing benefit and risk is a somewhat arbitrary and, therefore, judgmental practice. In the United States, we are trying to determine whether or not this judgment can be exercised and, if so, by whom. The FDA would like to find some means by which, in a publicly accountable manner, we could decide certain important risk-benefit questions. We have invited comment on this subject from the public, from scientists and from Congress. The answers we get are important and are, by and large, that most people are not willing to assume any known risk of cancer, however small, from eating food. Part of this reaction may stem from the current general distrust of the government to act in the best interest of the public, and part from the large amount of public attention being given to the problem of environmental carcinogens. But for whatever reason, the current trend in the United States is to say "no known risk is acceptable," and to back it with legislation. The practical result is, of course, to prevent the exercise of judgment. One need not think, to implement legislation that absolutely forbids the use of a chemical.

This is obviously important to food regulation in our country, and, I would suppose, may well impact on other countries as well. The DES question is only one of a dozen or more in recent years in which definite benefits are confronted by indefinite or theoretical risks. Another we are now struggling with is whether or not bacon, because of nitrosamine formation, is an acceptable product for the American market. Far more certain, of course, is the risk of cancer from cigarette smoking, but it is an optional risk. It may well be, however, that simply the act of breathing subjects one to greater health hazards than does consumption of today's food additives.

Of one thing I'm certain. The only sure way out of the quandary is to be able to state with quantitative finality the risk posed by the use of DES, or nitrites, or by naturally occurring substances such as aflatoxins in peanuts. From quantification of risk can come a workable definition of the word "safe," with some type of quantitative measures that will allow an obvious and therefore acceptable benefit-risk evaluation to be made. We fly in airplanes because they are "safe" but "safe" is defined by the low number of deaths per million passenger-miles, not the total absence of risk.

Today the abundance of our food supply permits the luxury of trying to avoid any and all risk. We can afford to seek the ideal of absolute safety. In this anniversary meeting, we are celebrating the great progress made during the past 100 years in improving food safety. We have only to look back to the days before modern food science and food law, to see the progress made. But will our successors, looking back, 50, 75, or 100 years from now, be able to see any accommodation, or compromise, with that concept of absolute safety?

My purpose to now has been to review the evolution of food laws in the United States, giving a 200-year perspective. Now we should look ahead, for one of the purposes in reviewing history, and celebrating progress, is to anticipate the future.

Forty percent of all meals now eaten by Americans, whether consumed in restaurants, fas food service stations, or at home, have been prepared outside the home; and that percentage is rapidly increasing. Assuming this trend continues, we predict that in 10 years, 70 percent of all meals will be eaten away from home, or brought home ready to eat. A major fraction of the food consumed will consist of reconstituted substances, or be manufactured totally from raw materials such as fish, vegetable, or bacterial protein or amino acids. Totally synthesized food analogs will be commonplace. Raw materials may come from one country, be shipped to another for processing, and then be returned for consumption. International boundaries to commerce will be obscured, and a greater fraction of the food industry will be multinational.

Meanwhile, scientists will be discovering toxic reactions at the molecular level. Environmental scientists will prove that chemical pollution has reached everywhere. The need to conserve limited resources will have resulted in recycling within food chains, with the attendant dangers of toxic concentrations.

These are glimpses of the next few years that came from our planning process. Our next step was to think about what the FDA would have to do, in order to deal with the future as we see it.

As a result of this effort we have identified six broad areas of hazard, and believe their future priority order will remain about as they now are.

The first of these hazards is that of *food borne infection*. This hazard ranks where it does because of its continuing widespread incidence, and because of the high risk in some instances, such as botulism. We even predict the hazards of food borne infection will increase, as foods are synthesized, as they are manufactured in one place, consumed in others, and stored and moved repeatedly.

Further, it may be that contaminating organisms will become more and more resistant to available antibiotics, thus increasing the hazard of sepsis. New types of toxins will be discovered—we are just now beginning to evaluate the effects in man associated with the mycotoxins. In short, we see no alternative but to continue our remitting pressure against contamination of food by microorganisms.

The second class of hazards in terms of present importance, and perhaps one of even greater importance in the future, is *malnutrition*. Malnutrition at present is poorly measured and poorly understood. Biochemically provable nutritional deficiencies do occur in numbers sufficient to be of concern now, and when a larger part of our food supply is manufactured, the problems may increase. It is often not readily appreciated that we really do not know everything that should be included in artificially constituted foods, and in what amounts, if the analogs are to be nutritionally equal to traditional foods. We will need to know much more about trace minerals, to give one example, before we can wisely tell someone how much of each he has to put into his artificial meat.

We would consider the *environmental contaminants* next most important. These may or may not be from industrial sources. Mercury poisoning has been both industrial and natural. But the increasing pollution of our world, the recycling of valuable resources such as animal wastes, and the new uses of previously discarded products such as sewage, will increase still further the risk of serious hazard from environmental sources.

Naturally occurring toxicants are also likely to be concentrated, as we process and manufacture foods, and likely to survive future manufacturing processes that ignore the potential of this hazard. We all know, for instance, that many commonly consumed legumes contain toxic materials (which have, on occasion, been fatal) as part of their normal makeup. An example is the anticholinesterase found in potatoes. These foods are now safe for consumption only because the toxic materials are destroyed in cooking. At present, our best safeguard against this class of hazard is to adhere to traditional methods of food preparation and consumption, rather than to experiment too boldly with novel methds of preparation.

Pesticide residues might be made part of the earlier category of industrial environmental contaminants; but we distinguish them because of their toxicity, and because they are subject to their own regulatory scheme. Our principal concern here is not with our present regulatory methods, but with the fact that in many parts of the world pesticides are poorly controlled, if controlled at all. If all pesticides become ubiquitous, as did DDT, and if raw materials and finished foods are to move easily across borders, then the hazards from pesticides may increase dramatically.

Finally, we must list the hazards of *food additives*. Our priority ranking puts additives sixth—mostly because so much is known about many of them, and all are now, and surely will continue to be, well regulated.

These hazards, then, illustrate important food safety problems facing all nations. I suspect that to deal with the underlying issues effectively, our laws and procedures will have to be flexible. They will and should be modified from time to time, as they have been during the century we celebrate today.

As administrators of food and drug law, we are irrevocably and deeply involved in the dilemma of civilized man, who must have the technology to sustain both his lifestyle and his life, while at the same time he is concerned over unwanted consequences of the same technology.

Our laws may not cross international boundaries, but problems do, science does, and scientific solutions to problems must. New information moves instantly by satellite around the world. People move around the world at twice the speed of sound.

In such a world, independence must be replaced by a greater interdependence, as we all work together for the common good of the human condition.

RESOLUTION OF THE ARIZONA BREAKFAST CLUB

Mr. FANNIN. Mr. President, the following statement is a resolution passed unanimously by the Arizona Breakfast Club of Phoenix, Ariz. It calls for the United States to withdraw from the United Nations.

This resolution is not unusual; it is indicative of the feelings of many Arizonans that the United States is not getting a fair deal within the United Nations General Assembly. The United States pays the bills to support the U.N. and its programs; we house the U.N. and its diplomats; use our single General Assembly vote independently of political pressure and we receive little but contempt and derision from the large majority of our comembers in the General Assembly.

Obviously, this is not a situation which Americans can feel comfortable with and unless we observe more reasonable and responsible actions at the United Nations, we will draw closer and closer to total withdrawal from that organization.

Mr. President, I ask unanimous consent that the resolution of the Arizona Breakfast Club be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

The Arizona Breakfast Club unanimously passed the following resolution on December 6, 1975:

Whereas, none of the people in the United Nations are elected from their respective countries and;

Whereas, the United Nations headquarters in New York City are known to be also headquarters for Communist espionage and;

Whereas, a two-thirds voting majority of the General Assembly can be formed out of Nations which all together, pay only 5% of the United Nations Budget and;

Whereas, only two dozen Nations out of the total United Nations can be called Democratic Countries and;

Whereas, over 100 of these so-called Nations have a population of less than New York City and 21 have a population of less than Maricopa County, each with voting power equal to the United States.

Therefore be it resolved, that the Arizona Breakfast Club instruct the Arizona Congressional Delegation to work for immediate United States withdrawal from the United Nations Organization.

COMMENTS ON ENACTMENT OF COMPREHENSIVE ENERGY BILL S. 622

Mr. PERCY. Mr. President, I have mixed feelings about passage of the comprehensive energy bill, S. 622. This legislation represents a compromise that is far from perfect, but in my judgment it is the best bill we could have passed under current conditions.

When my Republican colleagues and I met with the President in the Cabinet room on November 13, I suggested that he consider signing this compromise so we can end the long period of indecision on energy policy that has caused confusion and uncertainty for both consumers and the oil industry. I believe the oil price-rollback provision of this bill is unwise, but I am willing to accept it because the bill also provides for gradual decontrol of oil prices and a return to the free market.

Public disbelief about the energy crisis stems from Washington, where the deadlock over oil pricing and conservation has prevented agreement on a comprehensive energy policy. Incredibly, over 2 years after the Arab oil embargo was imposed we have done almost nothing to make ourselves and other oil consuming nations less vulnerable to blackmail by the oil-producing nations. We have done little in the area of energy conservation aside from the imposition of a national 55-mile-per-hour speed limit. Even more important, we have not formulated a vigorous policy on the development of new energy sources. In short, we have been drifting in a sea of uncertainty, hoping against hope that our energy problems will simply go away and that the good old days of readily available fuel will return.

Action on energy legislation requires an end to confrontation within the Congress and between the Congress and the President. Perhaps compromise is too much to ask from a Republican President and a Democratic Congress on the eve of an election year, but there is a lot more at stake than victory at the polls. Nothing less than the Nation's security and independence depends on creation of a comprehensive energy policy. Our course of action is clear.

First, I hope the President will sign S. 622. It is the best energy policy compromise achieved between Congress and the administration since the oil embargo 2 years ago.

The deadline for action on domestic oil prices is fast approaching. If this bill is not enacted, the price of domestic oil would be totally decontrolled. This could mean a sudden increase in fuel prices, thus causing a dangerous jolt to the uncertain economic recovery that is now underway, and even a stronger public reaction against the oil industry.

Furthermore, if this compromise bill fails to become law, we will have no energy price and conservation policy in this country. The President and Congressional leaders have been urging compromise on energy policy for months. We should grasp this opportunity.

This energy legislation calls for:

Gradual decontrol of all domestic oil prices over the next 40 months, with a temporary rollback in the average price.

Mandatory gas mileage standards for all cars, beginning with the 1978 model year, to encourage the auto industry to produce more fuel-efficient cars.

Energy-information labeling and efficiency standards for household appliances to spur a 20-percent increase in efficiency.

Creation of a strategic oil reserve to be used to meet national energy needs in the event of another embargo by oil-producing nations.

Second, the President should lift the $2 per barrel tariff on imported crude oil to meet the provisions of the new energy legislation. There is no evidence that this measure has either spurred conservation or made us less dependent on imported oil. We still import nearly 50 percent of the oil used every day in America. Statistics show that we are using nearly as much oil today as we used before the Arab embargo and the ensuing fivefold price increase in OPEC oil.

The tariff has been made obsolete by the most recent OPEC price increase that raised the price of imported oil about 10 percent. And the tariff only makes inflation worse because it affects the prices of all petroleum products. In addition, there is a serious question about the legality of the tariff. The Supreme Court has agreed to consider the question during its current session.

Third, we should take other actions to provide mandatory fuel conservation. I see no reason to continue the deductibility of State and local gasoline taxes on Federal income taxes. This is nothing more than a Federal subsidy for driving at a time when energy conservation is a national priority. If this provision is not considered now because of the rush of business, it should be enacted into law early next year. Furthermore, we should pass a 10 cents a gallon increase in the Federal gasoline tax with a rebate for essential driving. Such a tax increase, while it would certainly be painful, would have a significant impact on nonessential driving.

We also should require enforcement of the 55 mile per hour speed limit on the nation's highways. This speed limit is the law of the land and the Congress should not tolerate failure by any State to enforce it. Federal highway funds should be withheld from any State which fails to vigorously enforce this statute. It is estimated that this national speed limit saved over 26 million barrels of oil last year, not to mention the nearly 10,000 lives that were not lost because Americans were driving at slower speeds.

Mr. President, the time has come for the Nation to act on energy policy. Some will say we are making the wrong decision because of the temporary oil price rollback section of S. 662. But nearly everyone endorses certain of the conservation provisions of the bill and recognize that this legislation could lead to eventual decontrol of domestic petroleum prices.

As I have indicated, I am not in accord with the oil pricing provisions of this legislation. But I do believe that in the spirit of compromise and out of concern for the need for a national energy policy that we should act favorably on the comprehensive energy bill. I have written to the President to urge him to sign it into law.

TOWARD CLOSER COOPERATION WITH OUR EUROPEAN ALLIES

Mr. McINTYRE. Mr. President, I am seriously concerned about the future capability of NATO to continue as a credible deterrent to Warsaw Pact forces. My apprehension is growing as I have observed the accelerating erosion of our military posture vis-a-vis the Soviets.

In its simplest terms, Mr. President, while the Soviet Union is moving deliberately to modernize and expand its land, sea and air forces, the NATO alliance is bogged down with a diversity and multiplicity of national weapon systems, equipments and munitions. We, in the United States, are as much at fault as our European allies in tolerating this situation. This is primarily a reflection of the overriding pressures of national, protectionist policies for industry and labor, faltering economies, growing unemployment, as well as adverse political developments in several NATO countries.

I will not belabor this problem now, Mr. President, but we must all give it our most serious and continuing attention if improvements are to be made and if we are to reduce the estimated $10 to $15 billion wasted annually by ourselves and our allies because of these wasteful practices.

My purpose in speaking today is to bring to the attention of my colleagues in the Senate, in the House, to the Department of Defense and the American people the important results of the third annual trip made at my direction by Mr. Hyman Fine, a member of the staff of the Armed Services Committee, to our European allies to continue to promote the principles of cooperation, interoperability and standardization in the design, development and production of weapons and other military equipment and supplies.

Following the practice of the past 2 years, a copy of his report dated October 31, 1975, has been cleared by the Department of Defense for security and is available for general publication.

I ask unanimous consent that my letter of transmittal and the report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McINTYRE. Mr. President, when the Department of Defense's reply to this report is received, I will insert it in the

Record so that comments and actions resulting from the report will be made known.

In closing, Mr. President, I would encourage my colleagues to become more familiar with the importance of closer cooperation with our allies so that their support of this concept will lead to positive legislative actions to make this relationship more productive.

Exhibit 1

Committee on Armed Services,
Washington, D.C., November 21, 1975.
Hon. Donald Rumsfeld,
Secretary of Defense, Department of Defense, The Pentagon, Washington, D.C.

Dear Mr. Secretary: Mr. Hyman Fine, Professional Staff Member, has submitted a report on his trip to Europe relating to cooperative research and development, standardization and interoperability of equipment between the U.S. and our European allies.

The report, copy of which is attached, is comprehensive and includes numerous items of direct interest to the Department of Defense. Certain items require action to be taken by your office.

I request that the report and attachments be reviewed and cleared for security by December 12, 1975, so that it may be released by the Armed Services Committee. I would also appreciate your early comments on specific paragraphs, as applicable, including statements of actions planned to be taken.

A complete reply should be provided by January 31, 1976, to enable the committee to consider these matters during the review of the FY 1977 budget.

Sincerely,

Thomas J. McIntyre,
Chairman, Subcommittee on Research and Development.

October 31, 1975.

Report on European Trip Relating to Interoperability, Standardization, Cooperative Research and Development, and Production of Military Equipment

1. This was the third annual trip made to follow up on the results of previous trips, to visit several major defense contractors for the first time to explore opportunities for further cooperative efforts, and to visit military organizations and test facilities involved in military research and development. A major purpose involved a review of the industrial and organizational arrangements for U.S. Army adaptation of the French/German developed Roland II Short Range Air Defense Missile.

2. The visit included the following foreign government organizations:

Netherlands Ministry of Economic Affairs
Federal Republic of Germany Ministry of Defense
French Ministry of Defense
British Ministry of Defense

3. Visits were made to or meetings were held with the following foreign companies:

N.V. Optische Industrie (Netherlands),
VFW-Fokker (Germany),
Lüerssenwerft Shipyard (Germany),
Messerschmidt-Boelkow-Blohm (Germany),
Zeiss Optics (Germany),
AEG-Telefunken (Germany),
Mauser (Germany),
Aerospatiale (France),
Snecma (France),
Sagem (France),
Dassault (France),
CGE (France),
Redifon (England),
Link-Miles (England),
Hawker-Siddeley (England),
British Aircraft Corporation (England),
Rolls-Royce (England).

4. Visits were made to the French Naval R&D Facility at St. Tropez, and to ONERA, the French Aeronautical Research establishment. I also visited with U.S. and Allied NATO personnel and with the U.S. Ambassador to NATO.

5. My general observations resulting from the trip are as follows:

a. Without exception, the economic situation in the countries visited has become more serious since last year, to the extent that future commitments to the procurement of a number of U.S. weapon systems are now questionable. Continued inflation, increased unemployment, and internal political pressures are the major causes of this trend.

b. The expression "two-way street" is being widely used to emphasize the attitude of our allies that the U.S. must provide increased offsets or a greater share of manufacturing to Europe. It is clear that this will be the basis for any major interest on their part in weapon systems requiring compensation by the United States in the form of joint development, co-production or straight procurement. I was advised that a list of about 10 European developed items is being prepared by the Euro-group Ministers which will be submitted to test United States sincerity in accepting the philosophy of a "two-way street."

c. There is a very strong conviction about the need for greater efforts towards achieving the important benefits of interoperability and standardization including weapon system modular concepts. It was generally emphasized that the primary areas of concern are ammunition and guns. Other areas of major importance stressed, involving wide use and/or high consumption rates, include bomb-racks, ground and in-flight refueling receptacles, all forms of inter-communications equipment, and deck and aircraft cargo handling equipment.

d. As an alternative to the existing proliferation of Defense industry throughout Western Europe, there should be a concentration of effort by each country in those areas where it has the greatest technical expertise and manufacturing capability. This would have the effect of conserving very critical resources.

e. The different political, economic and social structures of the various European countries impose a set of constraints, including substantial immobility of their labor force, which results in the production of national military equipment some of which is not competitive either in performance or cost. This is also influenced by the overriding importance to each country of export sales.

f. There is a basic conflict, generally recognized, between the attainment of standardization and interoperability goals on the one hand, and the process by which the military planners of each country arrive at different hardware requirements. The basic cause is the historic process through which each country arrives at differing concepts and doctrines in the areas of strategy, tactics and logistics. Until the Alliance countries succeed in arriving at common concepts and doctrines, solutions to the interoperability and standardization problems can only be found on a piecemeal basis. The establishment of Eurogroup, an organization of the Alliance Defense Ministers, could help solve this basic problem because it is elevated to the highest level of political decision.

g. Our European allies are moving towards closer cooperation among themselves, which promises to improve their cohesiveness in political, economic and industrial terms. Joint development programs, such as MRCA and Alpha-Jet, can be expected to increase. This trend will lead towards greater unity among these countries which in turn will help the alliance in a number of ways. Interoperability and standardization will be achieved earlier and on a broader scale. European industry should improve its technological base and become competitive with U.S. industry, leading to an alliance development philosophy of competitive prototyping and competitive design. This will be a slow evolutionary process which may take many years.

h. As a matter of interest, the Europeans are concerned with the U.S. political system which finds the Congress frequently in disagreement with the Executive Branch of the Government. Under our system the Administration, in dealing with our allies, cannot guarantee that the Congress will support legislation or programs involving the authorization and appropriation of funds. Unlike Europe, where the party in power normally can speak for the legislature, in the United States, the Congress can elect not to support specific programs of the Administration relating to international agreements or commitments. This complicates the ability of our representatives to the Alliance to negotiate as readily as their European counterparts.

6. The following paragraphs address the various significant subjects which were discussed during the trip, some of which will require actions or commentary by the Department of Defense.

a. NATO Headquarters—U.S. Staff:

(1) Discussion of importance to Europeans of Section 814 of FY 1976 military procurement bill as reported by the conferees. This was emphasized as it affects standardization and the exceptions to "Buy American" provision of earlier legislation. I explained that these actions did not preclude programs with our allies provided the Secretary of Defense approves.

(2) The U.S. Nationals mentioned privately that the NATO European members have attached great significance to the Callahan report and consider it a statement of U.S. policy (despite denials by DOD and others that it is anything but a report by a contractor of the results of his study for the State Department). They consider it a basis for expecting the U.S. to buy military products made in Europe to offset their larger purchases from the U.S. I emphasized that the Callahan report should not in any way be considered a U.S. Government position.

(3) Mention was made by U.S. personnel of the UK/FRG program for a new tank (TANK 80) which is being studied as the planned replacement in Europe for Leonard II. Fundamental to the U.K. and German interest is an effort to reconcile their basic concepts of tank employment doctrine which may be very difficult.

(4) The U.S. personnel emphasized the importance that the Europeans attach to maintaining two sources within Europe for any major system or subsystem as a hedge against the loss of one source due to political or other factors.

b. NATO Headquarters—International Staff:

(1) The view was expressed that Europe should be encouraged to solve its own standardization/interoperability problems first. Otherwise, if we have free competitions based on cost-effectiveness, the U.S. will win, and this will be self-defeating in terms of solving European labor and balance of trade problems.

(2) It was stated that the use of the term "standardization" has become too widespread and hackneyed, and that identification and solution of specific problems on an individual case-by-case basis is the real approach to meaningful progress.

(3) Interoperability and operational compatibility are considered now to be more important than standardization which may or may not be affordable or desirable across the board.

(4) There was general agreement that if we could agree on a common, basic model of equipment, even with reduced performance, and then let each country produce it, we

would move a long way towards the recognized goal. In some cases, competition may force a less capable country to go its own way anyway, in order to save money by adopting a simpler piece of equipment.

(5) It was emphasized that there is a need for a system to establish common NATO requirements and a common solution to such requirements for specific items of equipment.

c. Netherlands Ministry of Economics:

(1) The Netherlands buy all of their major weapon systems, except for ships, from other countries. They build ships themselves.

(2) They have bought [deleted] Armored Infantry Fighting Vehicles from FMC Corporation. These are product improved M113s.

(3) They currently buy tanks from Germany, cannons from Switzerland, and jeeps and trucks from the U.K.

(4) Foreign companies based in the Netherlands are treated in the same manner as Netherlands companies because they provide employment to Netherlands workers.

(5) Unemployment is at 5 percent and is a very serious problem, particularly because their socialistic system enables people to stay idle and receive up to 90 percent of their wage.

(6) Companies in the Netherlands must compete for work. The Government does not directly subsidize industry and supports the concept of free trade.

(7) The Defense Ministry policy is to buy the best equipment at the lowest price. However, there must be some form of compensation by other countries including co-production, buying Netherlands military or civilian products, or any other means which would equalize the Netherlands balance of payments. One element in the formula for determining compensation is what has been bought from the Netherlands in the past. Compensation is a matter of specific negotiation which is complicated by the difficulty in determining the formula and basis for computation. The purchase of steel and medicine are illustrations of commercial transactions. The F–16 is an example of military indirect compensation through co-production.

(8) The Netherlands is considering the purchase of P–3 aircraft from the U.S., which is dependent upon compensation negotiations.

d. Netherlands-N.V. Optische Industrie "De Oude Delft"

(1) This is a privately owned company which is the largest manufacturer of image intensifier tubes in Europe. They employ about 1600 people at the facility visited in the Hague; have annual sales of about $50 million of which half is military.

(2) Fifteen percent of their sales is spent annually for research and development. Their military product line includes aerial reconnaissance, night vision devices (primarily passive), and laser rangefinders for artillery and tank use.

(3) Mention was made of a folding mirror concept which they have developed which may be of interest to the U.S.

(4) Passive night vision binoculars have been developed which would replace the periscope sights. They recommend that the U.S. Army consider this for evaluation.

(5) Orpheus Aerial Reconnaissance System. Proposal made to U.S. Navy by Lockheed to buy three sets of equipment for evaluation as an offset to Netherlands purchase of P–3C aircraft. A decision on this was pending at the time of the visit. It was mentioned that LTV has a pod in development which may be competitive.

e. Federal Republic of Germany Ministry of Defense. Mr. Hans Eberhard, Head of the Department of Armament, Dr. Trienes, Mr. Demm.

(1) The meeting was very cordial and informal and was followed in the evening by an informal reception at the home of Mr. Eberhard. The exchange of views was quite candid and emphasizes the excellent rapport which has evolved during the past three years of association and cooperation based on the common dedication to the Alliance objectives of interoperability, interdependence and standardization. Specific subjects discussed are indicated below.

(2) Cooperative Efforts—The difference in cooperating in areas of research, development and production were reviewed. Specifically, the difference between buying a weapon system and participating jointly in the development of a future program was pointed out by Mr. Eberhard. This distinction is important and the need for greater efforts in cooperative development as well as adopting competitive European developed hardware was emphasized. I was impressed by his statement that in the interest of achieving interoperability performance requirements could be reduced up to 15 percent. In discussing the two-way street, now popular in Europe and the Euro-group, Dr. Trienes made the point that one of the major obstacles is that the U.S. is united whereas Europe is not. There must be a political willingness for European countries to come closer together in order for them to be able to cooperate with the U.S. on a more equitable basis.

(3) XM–1/Leopard 2—Discussion covered both programs and confirmed the FRG expectation of providing a Leopard 2 automotive test rig by [deleted] for the comparative test with XM–1. I asked if Germany would agree to an approach which established a joint U.S./FRG program based on the following:

1. Joint establishment of test criteria.
2. Joint test of XM–1/L–2.
3. Joint evaluation or test results.
4. Agreement by both U.S. and FRG at the outset that both countries would adopt whichever tank won the competition. This could include combining certain major subsystems where practical (e.g. the turret).

Mr. Eberhard agreed that such an approach could be acceptable. [Deleted.] This issue is still unresolved.

(4) [Deleted.]

(5) SES/Deep Water Navy—In reponse to a question concerning any interest in participating in the Surface Effect Ship development, Mr. Eberhard explained that Germany doesn't have a policy or requirement for a deep water Navy. He felt that they wouldn't need ships that large in any event, in view of their shallow water coastal mission requirements. Since each Navy in Europe has a different concept of their roles and needs, this whole area is one which the NATO Defense Planning Committee should look at with the view of obtaining a coordinated or joint doctrine, rather than the relatively diverse uncoordinated current activities by each country.

(6) PHM—Mr. Eberhard said that the FRG was not fully decided on the Patrol Hydrofoil. It appears that the German Navy is split as to whether or not they want it. FRG also has budgeting problems which may affect this program. He said that in the October/November timeframe, discussions would be held on the need for the frigate and the PHM.

(7) Pershing II—I reviewed recent correspondence between the committee and Undersecretary Augustine with Mr. Eberhard. He was aware of current developments.

(8) AWACS—[Deleted.] It is understood that France has looked at it and shown some interest. Talks are to be held in December to attempt to reach a decision and to determine how to finance procurement. FRG would prefer that it be funded as a NATO program rather than attempt to fund it by individual country. [Deleted.] He asked if there were a possibility that if initial orders were made, but not finally approved, the U.S. could pick up the components as spares. He stated that the U.K. was working in this area. Mr. Eberhard has also asked Dr. Mann to direct the three FRG services to prepare joint requirements for AWACS. I asked if there could be significance, either in interest or in savings, if another aircraft were used in a NATO platform for AWACS. Mr. Eberhard did not feel that this was really feasible, nor would it save money because of the additional redesign and testing that would be required.

(9) LOFAADS—This Army program, now called ARGADS—Army Radar Gun Air Defense system—was discussed as being a prototype competition between 25 mm Bushmaster, GAU–8/30 mm, and Oerliken 35 mm Flakpanzer.

(10) ROLAND—The Roland missile program was discussed in detail including the tri-country negotiations underway.

(11) Hi-Energy Laser—I asked if the FRG had any interest in ongoing activities in this area, or if they would be interested in contributing funds to the program. (It was suggested that since Dr. Currie had not discussed this with Mr. Eberhard, a review of our program would be inappropriate at that time).

(12) Armbrust—Mr. Eberhard stated his understanding that Boeing had arranged for demonstration firings for the U. S. Army and Marine Corps. (This occurred in October, 1975.) The possibility of U.S. interest is unknown at this time.

(13) Smartroc—This was identified for possible FRG interest. FRG will consider for possible use on small ships.

(14) SAM–D—This was discussed, as on previous visits, for possible future adoption by FRG depending upon the results of current studies of the need for follow-on to the Improved Hawk system. I again stressed the complementary effect that European adoption of a SAM–D derivative would have on this program. The Germans continue to have a strong interest in a SAM–D type of system.

(15) Standardization of Ammunition—Mr. Eberhard strongly emphasized the importance of attaining this objective. This was a subject of common discussion and common concern throughout the entire European trip.

(16) Other programs briefly discussed include the Rocket Assisted Projectile,: Vulcan Phalanx with Redeye, and conventional submarines.

f. Germany—VFW-Fokker, Bremen:

(1) This is a trans-national aerospace organization with major plants in the Netherlands and Germany. Employs about 18,000 people with total annual sales of 1.4 billion Deutschmarks (about $400 million). The company is highly diversified in military and civilian aviation as well as in space programs. Produces short haul airliners, VFW–614, A–300 airbus, CH–53G helicopter, light aircraft, VAK–191B V/STOL aircraft, and participates in MRCA, and also a number of missile and space programs.

(2) U.S. Coast Guard has an ongoing competition for a medium range surveillance airplane (HX–XX). VFW has strong interest in this competition with the VFW 614 as a candidate. Rockwell is competing with the Sabreliner, and Grumman with the Gulfstream and Jetstar. The S–3A was mentioned as a possible offset if the VFW 614 wins. Lockheed is associated with VFW to modify, final outfit, and support the 614. USCG has $63 million available. (The USCG has cancelled the competition because the Rockwell proposal was not responsive and this left only one proposal, VFW, which does not provide required competition. There is concern that a revised RFP could reflect changed requirements (specifications) which could prejudice one or more competitive candidates.)

(3) If Sikorsky wins the UTTAS competition, VFW could be interested in participating as a candidate for the German attack helicopter in competition with MBB's BO–105/115.

(4) Work is being done on a supercritical wing, but VFW is unable to obtain detailed information from NASA on U.S. program.

(5) Work is being done on sandwich structures for airplane fuselage. U.S. Air Force may be interested in investigating this.

(6) VAK-191B—This VTOL airplane is no longer to be operated. As a last resort, the U.S. Navy and Army should consider acceptance as a research vehicle for tilt rotor (Army) or lift-lift-cruise technology.

(7) Remotely Piloted Vehicles (RPVs)—Germany only has interest in air-to-ground missions. VFW in the lead role, has joined with Dornier and MBB to pursue critical technologies now in Phase 1 which will take [Deleted.] Phase 2 will begin as soon as the German MOD is interested.

(8) MP 331 Woodenhull 450 ton mine hunters. This is a VFW conversion program involving 10 German ships (which are 10 years old) for use against bottom laid mines in coastal waters.

g. Germany—Lüerssenwerft, Bremen:

(1) This is an old, family-owned shipyard which has a long record of successful, profitable operation building private, commercial, and military craft of all sizes. The company has no indebtedness. The facilities are very modern, the work force is highly experienced and highly motivated.

(2) The company has capacity and experience to build aluminum hull boats up to sizes of the NATO PHM, the PF, or larger, as well as wooden hull boats such as torpedo boats and minesweepers. They could participate in any offset program involving Germany and the U.S. as well as other NATO allies.

(3) Boeing contacted the company some time ago in connection with participation in the NATO PHM program. Boeing was considering a proposal from Lüerssenwerft but had not responded at the time of my visit.

h. Germany—MBB Nabern:

(1) Roland Short Range Air Defense Missile—

(a) The facility is the German contractor in the French (Aerospatiale)-German joint program for development and production of Roland, which is being adapted for the U.S. Army under licensing arrangements with Hughes as prime contractor and Boeing as principal subcontractor.

(b) I emphasized how important the success of this program is to future U.S.-European cooperative development and production.

(c) I explained that my primary task during this European trip was to visit with French and German government and industry leaders concerned with this program; to determie the current status of cooperative program efforts; to determine the status of the government and contractor efforts to establish and maintain effective coordinating organizations, consistent with country-to-country agreements, so that problems encountered could be quickly recognized, surfaced and solved before they got out of control; and to impress on all participants Senator McIntyre's interest in this program.

(d) I offered to help in any way possible to resolve any problems which would be brought to my attention.

(e) I was satisfied with what I saw and heard, considering this is the early phase of the program, and I commented on the enthusiasm and motivation which Mr. Kuhlo and his people demonstrated during my visit. Mr. Kuhlo joined me in Paris later when I visited the Euromissile group which is the contractor organization combining the efforts of Aerospatiale and MBB.

(2) Other missile systems built by MBB Nabern include HOT and Cobra anti-tank missiles, the Milan weapon system, and the soldier fired Armbrust anti-tank missile.

(3) Ordnance being developed or produced include a General Support Rocket system, Light Accuracy Rocket Anti-Personnel (LARAP) random timing pop-up munition, Jumbo shaped charge warhead for bridge cutting and similar applications, and Strebo BD-1 Dispersion munition.

(4) Data Exchange Agreement (DEA) is now being developed with the U.S. Air Force for munitions. This will be followed up to determine the status.

i. Germany—MBB Schrobenhausen:

The visit to this ordnance test facility provided an opportunity to observe test firing of some high velocity, armor piercing, and shaped charged munitions which were very impressive. This activity should be of interest to DOD to keep up with new development tests which may have potential application to U.S. or perhaps joint NATO/U.S. requirements.

j. Germany—Carl Zeiss, Oberkochen:

(1) The plant and equipment were impressive, being modern in all respects and the technical competence of the contractor's people appeared to be of the highest caliber.

(2) Annual sales run about 500 million Deutschmarks (about $190–$200 million) of which about 10 to 15 percent is military. This involves about 7000 people. The company has two factories in the U.S. These are Schott in Duryea, Pennsylvania, which produces optical glass, and Titmus in Petersburg, Virginia, which is engaged in optics.

(3) Military products include instruments, periscopes for land vehicles and submarines, range measuring equipment including optical stereo lasers, day-night stabilized sights, servo electronics, aerial reconnaissance cameras and related equipment.

(4) Zeiss indicated an interest in competing for the XM-1 stabilized sight and range measuring equipment but stated that they were unable to obtain necessary information concerning characteristics. The U.S. Army should indicate what the situation is regarding the possibility of permitting Zeiss to participate and take appropriate steps to accommodate this interest.

(5) Zeiss is developing a [deleted].

(6) A unique approach has been developed for aerial reconnaissance which combines mechanics, electronics and optics. No U.S. company builds such equipment for aerodynamic photogrammetry. This may be of interest to our military services.

(7) Reconnaissance camera has been developed by Zeiss which includes 3 lenses that perform both the day and night function, and eliminate the distortion inherent in panoramic cameras used by the U.S. This should be looked into by DOD for potential mission requirements.

k. Germany—AEG, Telefunken Radio and Radar Systems Division:

(1) The plant and personnel were very impressive and compared well with comparable U.S. companies. Military sales of this Division approximate 80 percent of total sales. Programs involved with include NADGE, Fire Control Radar for F-105, and navigation radar (TRSN) for German Navy.

(2) Telefunken Mobile Search Radar (TRMS) is being developed for the German Navy and has potential tactical application for Army and Air Force use. It is a mobile, phased array, 3 dimensional air surveillance radar with digital processing. It has the potential for integration into existing and future information and command and control systems. There are other radar developments in Germany and in the U.S. which are competitive made by Sanders Associates, and Siemans (Germany).

(3) Improved Hawk—Telefunken has built up to 60 percent of the basic Hawk missile and has a small part of the Raytheon contract for Improved Hawk.

(4) Roland (European version)—Telefunken has contracts for command transmitter and receiver on-ground equipment, and the antenna and transmitter on the missile. These are common to Roland 1 and 2 and now are in pre-production.

(5) Advanced Point Defense System-Telefunken has teamed with Raytheon in proposing this to both the U.S. and German navies.

(6) Dual Mode Redeye or Stinger—Telefunken has made a joint proposal with General Dynamics.

(7) Electronic Fuzes—Telefunken is working with Motorola on the Light Artillery Rocket (ARTRAC).

(a) DM-55 anti-personnel fuze now in production is a first generation fuze. U.S. Army Harry Diamond Laboratory has kept up on this development by visits to Telefunken who claim that this has been a one way flow of German technology to the U.S. Lt. Colonel Brownfield (MAAG) said there is a Data Exchange Agreement being processed in DDR & E which will, when signed, make this a two-way exchange.

(b) MAZ Fuze for 76 mm Otomelora gun. Dual purpose, both mechanical and proximity. Useful against aircraft or ships. May be used with 35 mm weapon as follow-on for Flakpanzer.

l. Germany—Mauser, Karlsruhe:

(1) This company is part of the IWKA group of companies. Annual sales are 200 to 300 million Deutschmarks ($80 to 120 million). There are 5 divisions which employ 2,500 people.

(2) Products include weapons and ammunition, guns, land mines, turrets and machine gun mounts. Use modern tape operated manufacturing equipment.

(3) 27 mm gun for MRCA—[Deleted.] If successful, the gun will be used on British, French and Italian MRCA aircraft.

(4) RH-202 20 mm gun adopted by the Germans two years ago and will fit existing mounts.

(5) Caseless ammunition is being developed for the German Army.

(6) Mauser has been cooperating closely with General Dynamics Pomona Division for two years. They have a licensing agreement for 30 mm anti-aircraft machine guns and 25–30 mm weapons including the 27 mm gun for the MRCA. General Dynamics will manufacture the weapons and have rights for sales to third countries except in Europe.

(7) Close in Weapon System (CIWS)—[Deleted.]

(8) 7.62 rifle ammunition already adopted by NATO is an example of how standardization can work.

(9) Germany wants to standardize ammunition among its own Army, Navy and Air Force.

(10) Germany has no in-house laboratories to develop guns and ammunition as in the United States.

(11) There is a new program which the U.S. is supporting for a new standardized rifle. The size must be agreed upon by the U.S. and other NATO countries.

m. French Ministry of Defense—Mr. Laurens Delpech, Minister Delegate for Armament:

(1) General Impressions—[Deleted.]

(4) Torpedoes—I suggested that relatively small quantity production requirements made this a good candidate for cooperative production with obvious economies. Mr. Delpech agreed but said the French were unable to obtain data on the MM-48 from the U.S. and were being forced to develop their own wire guided torpedo with less capability. This is a prime candidate for standardization. The U.S. may be able to work out an arrangement for direct sale or co-production. This also would enable the French to use their R&D funds and people on other projects.

(5) Roland—I stated that a Congressional reduction in funds could be anticipated but this would not be a reflection on Congressional support of this program. I also explained that partial if not full restoration was possible in final Congressional action on the appropriation.

Mr. Delpech was concerned that the U.S. might depart too far from the European design. I mentioned that there was great sensitivity to the importance of minimizing design changes and that this was being stressed by the Army, OSD, and the Congress.

[Deleted.] He concluded with the observation that the future success of standardization could depend in large measure on the success of the cooperative Roland program.

(6) AWACS—He acknowledged the capability of this system, having flown in the aircraft, but commented on the very high cost. France is conducting feasibility studies relating to possible requirements but has not considered this as yet for budgetary purposes. France is following the development of the Britain/German interest closely. In my view, a British commitment, followed by Germany, could be very significant to a French interest. This is especially true because of the employment concept in the Alliance defense planning.

(7) Artillery Ammunition—He emphasized as first priority, interoperability of ammunition followed by standardization of future artillery calibre. He complained that while France had modified their 155 mm field howitzer to use U.S. manufactured ammunition, the U.S. has not reciprocated. This was stressed as only one example of which there are many, and it explains his skepticism about U.S. intentions. He didn't feel that U.S. adoption of Roland was sufficient to convince him that we would change our previous attitude. But he appreciates the significance of Roland.

(8) Javelot—He mentioned a recent agreement with the U.S. for a joint 2 year development program at an estimated cost of $12 million to be shared equally. Thompson CSF is the French company. [Deleted.] This will compete with fast firing guns and will now require coupling with new technology radars and proximity fuzes for longer range capabilities.

(9) CBW—France is interested in discussions and possible data exchange agreements for defensive equipment.

(10) Armbrust—There is no real interest. Concern was expressed about the possibility of such weapons being stolen or otherwise obtained by terrorists. France has its own light anti-tank weapon.

(11) SAM-D [Deleted.] SAM-D is interesting but too costly and not an urgent requirement.

(12) Surface Effect Ships—France is following the U.S. program but has no specific direct interest. Would like to keep informed and exchange data.

(13) NATO PHM—France has no interest. Patrol and ASW missions on the two French coasts can be accomplished with aircraft and helicopters.

(14) Advanced Medium STOL Transport—I asked if France was interested in this development considering that the French Snecma CFM-56 engines could be used. There was no indication of specific interest, although there was no definite answer either way.

n. **France—Aerospatiale Helicopter Division**, Marignane:

(1) This main design, test and manufacturing facility and the facility at La Courneuve, which specializes in helicopter blades, constitute the Aerospatiale Helicopter Division. Next to Bell Helicopter in the U.S., it is the largest producer of helicopters in the free world. It employs about 8,200 people, has very modern facilities including computer and tape operated machinery, and produces a complete range of military and civilian helicopters including the Lama, Gazelle, Alouette 2 and 3, and Dauphin light helicopters, the Lynx and Puma medium helicopters, and the Super Frelon heavy helicopter.

(2) Aerospatiale Helicopter has international agreements with Sikorski (CH-53), Westland (Lynx) and MBB (glass fibre blades). It also has a number of licensing agreements with other countries for manufacture of Aerospatiale helicopters and components. It owns Vought Helicopters Corp., Dallas, Texas, which is primarily a marketing subsidiary.

(3) The company places great emphasis on maintaining a strong and flexible worldwide product support organization. This is consistent with the fact that the majority of its total sales is to other countries. Annual sales both domestic and export totaled 1.2 billion francs ($270 million) in 1974. They consider themselves equal to U.S. firms in servicing of foreign customers and ahead of other French or European industries.

(4) CH-53E—U.S. Navy heavy lift helicopter could be of interest to Aerospatiale for production in France and possibly in partnership with Westland if a military requirement develops in the future.

(5) Aerospatiale total export sales of helicopters equals the combined export sales of U.S. helicopter industry, but the balance is shifting toward the U.S.

o. France—Research and Development Flight Test Center, Istres:

(1) This is one of three annexes to the main Flight Test Center at Bretigny. These combined activities are manned by some 2,700 people and have 200 airplanes assigned. This is the counterpart of the U.S. Air Force Flight Test Center, Edward Air Force Base, California, and the Navy Flight Test Center at Patuxent River, Maryland.

(2) The annex at Istres employs 573 people and conducts tests on airplanes and engines, arresting systems, and simulation training as well as a test crew school.

(3) The French and German versions of the Alpha-Jet airplane were on display with the potential suit of ordnance laid out on the ground beneath each airplane. These aircraft were impressive and are to be used both in training and combat roles.

(4) A test cell demonstration was made of the GE/Snecma CFM-56 engine which is performing very well. Presentations were made by representatives of Dassault and Snecma of the Alpha-Jet, Larzac and CFM-56 engine.

p. France—Naval Ordnance Facility, Saint-Tropez (Torpedoes):

(1) is the research and development and production facility which designs, develops, tests and produces torpedoes for the French Navy and for export. It also includes a facility located at La Londe.

(2) Employs some 1300 people including only 14 military. Produces an average of [deleted] torpedoes of all types annually. Major torpedo components and subsystems are built by various French companies including Thomson CSF (homing heads), CIT-Alcatel (vehicles and whole torpedoes), Alsthom (electric motors, fuel cells), Saft-Sogea (electrometchanical elements), and Sagem and ECA (gyroscopes).

(3) Types of torpedoes under development or test include the [deleted] and various modifications to existing torpedoes. Studies are being conducted on anti-submarine torpedoes.

(4) In my opinion, as mentioned earlier in my report on the meeting with Mr. Delpech, France is substantially behind the United States in the development of torpedoes as well as mines. Because their quantity requirements are comparatively small, they do not approach the United States in production capability nor efficiency. In the U.S., industry largely develops and produces torpedoes and mines.

(5) A Data Exchange Agreement with the U.S. covers 12 categories of data on torpedoes. The French have been unable to obtain data on transducers due to classification involving countermeasures. The DEA does not cover complete torpedoes such as the MK 46 or MK 48.

(6) There are some relations with Germany and England but each country produces its own.

(7) France has no requirement for the U.S. Advanced Lightweight Torpedo, but is interested in the technology. This could be a candidate for a cooperative program.

(8) [Deleted.]

(9) Except for the need to work on torpedoes as a national program, the French efforts could make greater use of U.S. capability and save manpower and money. This is an area of technology, as well as mine warfare, where closer coordination between the U.S., France, Germany and England, and perhaps Italy, Norway and the Netherlands, could result in savings of resources while realizing the objectives of standardization, cooperative development and production, and interoperability.

(10) France is working with fuel cells as a means for torpedo propulsion. They believe it offers great promise over other propulsion means.

q. France—Naval Ordnance Facility, Brest (Mine Warfare):

(1) Representative from the Brest facility presented this program during the visit to the torpedo facility at Saint Tropez. Employ 150 people including 10 military and 10 civilian engineers.

(2) France, Netherlands and Belgium have joined in a new program to convert 5 mine sweepers to mine hunters. All will be involved in construction with France having technical direction responsibility.

(3) Mine Hunting—PAP 104 television wire guided system built by ECA to destroy mines. Has been bought by England, Germany and Norway. French consider this to be a highly advanced system.

(4) The French question the feasibility of the U.S. Captor mine.

(5) France has no requirement for helicopter mine sweeping.

(6) Mines—New offensive types are being developed for 1980 availability for the Augusta.

(7) Mines—Defensive are used against surface ships to protect French coast. Studies are being conducted on anti-sweeping and on more effective mines. France cooperates with Germany and has Data Exchange Agreement with the U.S. on defensive mines and minesweeping. France is satisfied with the operation of the DEA.

(8) Mines are only built under contract, in contrast to torpedoes.

r. France—Snecma. This engine company discussed the possibility of their M53 engine on the F-111 airplane as well as on the MRCA. This was planned to be discussed with General Dynamics during a forthcoming trip to the United States. This also could be an alternative for the future French AFC aircraft.

s. France—Euromissile. This is a bilateral trust formed jointly by Aerospatiale (France) and MB (Germany) for the purpose of contracting with Hughes as prime and Boeing as subcontractor for the U.S. Roland program:

(1) The entire time was spent in reviewing the program including the agreements between countries and companies, the organizations and procedures established to conduct the program including coordinating groups at all governmental and contractor levels. I was advised that the program was making good progress and that there were no major problems. (This story changed when I returned from the trip.)

(2) I impressed upon everyone present the importance of the success of this program to the future possibility of joint cooperative developments between the U.S. and Europe.

(3) I emphasized the need for all participants, government and industry, to dedicate themselves to the success of this program. I stated that Roland was the single major reason for my trip.

(4) I offered to continue to use all of my capabilities to make this program succeed.

(5) I also asked that I be advised of any significant problems as soon as they became known.

(6) The Euromissile team, with Mr. Striegel of MBB at its head, were impressive in their presentations as well as in their attitude concerning the future of Roland.

t. France—Compagnie General Electricite (CGE) Laboratory Center, Marcoussis:

(1) This is a very modern, well equipped research laboratory whose main R&D activity includes lasers, electronics and optics, materials, electrotechnics, and electrochemistry. This is publicly owned, on a world-wide basis, does $4 billion business annually (civilian and military), and employs 130,000 people including 9,000 engineers.

(2) The R&D laboratory visited employs 6,000 people and does $150 million annual business.

(3) The primary purpose is product orientation to promote sales.

(4) The Directorate of Research, Development and Testing is engaged in [deleted]. The French Government representative suggested identification of specific areas for the U.S. and France to pursue, and later to jointly pursue applications.

(5) [Deleted.]

u. France—Onera, Chatillon-sous-Bagneux:

(1) This is the French Aircraft Research Laboratory. Employs 1,880 people. Cooperative agreements cover relationships with the U. S. Air Force in the following areas:

(a) Wind tunnel techniques and testing methods.

(b) Correlation of aerodynamic parameters in transonic flow.

(c) Supersonic ramjet propulsion.

(d) Boundary layer control technology.

(e) Heat transfer to high mach number aircraft and missiles.

(f) Structures—Flight vehicle flutter and aeroelasticity.

(g) Flight vehicle structural tests.

(h) Propulsion testing and measuring techniques for air breathing engines.

(i) Diagnostic and measurement techniques of high enthalpy flows.

(j) V/STOL and STOL aircraft technology.

(k) Study of engine noise.

(2) Memorandum of Understanding established with U.S. Army on helicopter dynamics,

(3) Cooperative agreement reached with NASA on tilt rotors.

(4) Integrated ramjet Data Exchange Agreement recently signed covers technology but not specific programs. U.S. Air Force should explain how this agreement relates to the ASALM program. OSD should compare and provide comments on how French developments in supersonic rocket ramjet missiles compare with U.S. programs.

(5) Onera has test facilities for full scale testing of RPVs powered up to Mach 1. I was advised that the U.S. Air Force is interested and that this could lead to a DEA on RPVs.

v. British Ministry of Defense:

(1) Mr. G. H. Green, Deputy Under Secretary of State (Policy), Defense Procurement Executive, and Mr. G. C. B. Dodds, Assistant Under Secretary of State, International and Industrial Policy.

(a) Mr. Green defines broad policies for the procurement executive and works with Service Comptrollers for Sea, Air, Land, R&D. He has a counterpart Under Secretary for Requirements. In formulation of policy on budget, their Treasury representative sits in on deliberations to help set total dollar requirements.

(b) Mr. Green stated that within NATO, standardization is in fact now a "two-way street", e.g. MRCA with England, Germany and Italy. A major problem involves balance of payments when large dollar value items make it difficult to provide compensating offsets to purchases from the U.S.

(c) In development of the European Community, there is a need for a strong production base/employment. CNAD charter is to be limited to approach such problems. Issues such as these must be faced by NATO as a whole. Where problems are uniquely European, these must be solved by the European nations.

(d) [Deleted.]

(e) F–16—This was discussed relative to British interest. Mr. Green was doubtful. It would aggravate the balance of payment problems unless there was a licensing arrangement. England must have alternative measures of supply instead of buying the entire requirement from U.S. There is a need to preserve the technical/design capability in Europe. It is necessary to achieve agreements on requirements within NATO—then share design, development and production.

(f) There is no real British interest at this time in the XM–1, although they are following the program.

(2) Major General Knutton, Deputy Master General (Ordnance). [Deleted.]

(d) I asked if there was interest in Armbrust and in Flakpanzer. All missiles are in the Air Defense policy which they are rethinking.

(3) Mr. Reggie Anderson—Assistant Under Secretary of State (Sales). Responsible for U.S. sales. There was general discussion including AWACS and offsets needed. He was noncommittal on any interest in the NATO PHM.

(4) Sir Hermann Bondi, Chief Scientific Advisor (S.H.) and Mr. V. H. B. Macklen, Deputy Chief Advisor.

(a) [Deleted.]

(b) NATO PHM—Willingness and ability to get involved is relatively limited. Small numbers become questionable. Priorities are a problem. The PHM would be too low.

(c) Tank 80/XM–1/Leopard 2—He is keeping track of these. [Deleted.]

(d) AWACS—NATO effort—If U. K. is to contribute $200 to $300 million, there must be offsets. These could be Harriers, simulator work, or others. I suggested that British participation should not be as a unilateral national British program but as part of a NATO or Alliance program. A commitment but no funding by FRG to consider participation in the program at a future but undetermined time would be complementary. Even modest funding by FRG would make this a still stronger basis for acceptability by Britain.

(5) Rear Admiral Bridle—Assistant Comptroller of the Navy.

(a) PHM—No funds at present but will want to watch operations in the North Sea to learn from our experience.

(b) Discussed Harrier as an offset and the Sea Spray (Ferranti) [deleted] Radar for Lynx helicopter.

(6) Mr. A. R. M. Jaffray—Deputy Under Secretary of State (Air Systems). We discussed alternates to AWACS. He agreed that AWACS is the preferred solution, but they need to look at premiums and offsets. NATO cost-sharing is needed. They don't want a one or two nation buy. NATO Ministers will meet in December and will certainly discuss it. Offset candidates are simulator programs for the F–111, AWACS, B–52, and the A–10. This totals some $2 billion worth of effort. AWACS will have to be sold to U. K. Ministers.

w. England—Rolls Royce.

(1) Pegasus 11 Engine—Discussion of recent decision by British Government to buy 25 Harrier (AV–8A) marinized aircraft for the three thru-deck cruisers being built for the Royal Navy. This provides for program continuity and will facilitate the accommodation of U. S. requirements for an improved Harrier (AV–8B) or Advanced Harrier if and when they are approved, possibly for FY 1978. The British are aggressively promoting foreign sales of Harrier, and some of these appear to be materializing.

(2) Rolls is holding discussions with General Motors about a possible collaborative program on marine engines in the 10–15,000 and 27,000 shaft horsepower class. Possible engines include a derivative of TF–51, RB–244 and LM–2500. U.S. Navy is conducting a complete review of possible applications including hydrofoils and surface effect ships.

(3) RB–199 engine for MRCA was discussed. Program is making good progress with 4 airplanes flying. Over 5000 hours have been accumulated. Some problems were identified [deleted]. Discussions being held with various U. S. airplane manufacturers for possible interest.

(4) [Deleted.]

x. England—British Aircraft Corporation:

(1) Discussed various missile programs including Skua lightweight helicopter borne anti-ship missile, cruise missiles, and RPVs.

(2) Advanced Strategic Air Launched [deleted] Missile (ASALM)—The potential of this application to future requirements was discussed. BAC indicated that they would explore the possibility of joining with a U.S. company in this program.

y. England—Redifon Flight Simulation, Ltd., Crawley:

(1) This company and Link-Miles, covered in the next paragraph, are two leading companies involved in the growing flight simulator industry. Greater use is being made of simulators for training because of the high cost of flight training. Redifon has an agreement with American Airlines, who represents them in the United States.

(2) Greater efforts are needed to achieve standardization of simulator subsystems, and to minimize simulator costs without degrading performance.

(3) United Airlines are making increasing use of flight simulators but are behind American Airlines who have optimized this approach.

(4) Initial U.S. military interest was triggered by the high quality of Redifon's visual displays.

(5) Direct sales to U.S. Government was not considered possible because of the Buy America Act. Subcontract to Boeing provided the opportunity to consider accommodating military specifications. The need for offsets by the British also encouraged Redifon interest in the U.S. market.

(6) [Deleted.]

(7) They have a non-exclusive agreement with Singer to market Redifon products to U.S. military, so Redifon may bid directly.

(8) Redifon is bidding on the B–52 training simulator under an offset arrangement. They said that the RFP stipulates that all metals have to be melted in the United States. DOD should explain the reason for this requirement.

(9) A–10 Simulator—This is a pending Air Force procurement which is classified NOFORN and precludes foreign companies from bidding. This was discussed as to the need for this restriction and, in the interest of competition, of the possibility of removing it. One approach could be to subcontract to a U.S. company. Another would be to break out as a separate package, classified equipment comprising the NOFORN element, and make the remainder of the simulator available to domestic and foreign bidders.

(10) Redifon plans to subcontract parts of any future U.S. simulator contract to U.S. companies.

(11) Other future simulator programs anticipated as candidates for sales include AWACS, KC–135, B–52 Part Tasks (refueling), C–130 and F–5E (Saudi Arabia).

(12) Redifon facilities, organization and management personnel were very impressive. The company is modern in its appearance,

aggressive in attitude and highly motivated to realize a major segment of a rapidly growing world-wide market.

z. England—The Singer Company, Link-Miles Division, Lancing:

(1) Employs about 900 people, and had sales of $21 million this year, up from $18 million the previous year.

(2) Simulator subsystems, like motion simulators, are built in Binghampton, New York. This offsets subsystems built in England so that there is no effect on balance of payments between the two countries.

(3) CAE Montreal is the third major simulator company, developed by Link as a separate company and now has become independent.

(4) Link stepped into the U.K. picture and acquired Miles after Miles began to build up to provide competition for Redifon with British Government stimulation.

(5) For the KC–135, C–130, and B–52 simulator competitions, Link has the advantage of going through the Binghampton, New York plant if the Buy America Act governs these procurements instead of being subject to the Memorandum of Understanding pending between the U.S. and U.K. regarding offsets.

(6) Simulators can be built at lower cost in England than in the U.S.

(7) The facilities, organization and caliber of managing personnel at Link-Miles were equal to Redifon. Link-Miles also is very aggressive and highly motivated.

aa. England—Hawker Siddeley:

(1) I discussed the Harrier program in detail as previously explained in my meeting with Rolls Royce, paragraph w.

(2) Sale of Harriers total approximately 250 of which about half are to the British Air Force and Navy, and 114 to the U.S. Marine Corps. Approximately 60 remain to be delivered against the 250 total. Production now is 2 to 3 per month. Production lead time is about 30 months. The Royal Navy buy of 25 Harriers should take up the production slack beginning in mid-1976.

(3) Ten of the U.S. Marine Corps Harriers have stood unused at Cherry Point for over a year. The reason was not known and should be provided to the committee.

(4) Agreement between Hawker Siddeley and McDonnell Douglas on Harrier production was amended several months ago to cover the improved version, AV–8B.

7. Summary—

a. Significant progress has been made during the past three years in closer and more productive cooperation with our European Allies towards the goals of standardization, cooperative research and development, coproduction and interoperability. However, this early momentum is slow and must be accelerated. No single country or group of countries within the Alliance can achieve this. It requires the concerted efforts of all member nations.

b. In the United States, there is a visible and growing awareness and participation by industry in European cooperation which is responding to this need. Industry, labor and the taxpayer all will benefit from the avoidance of unnecessary U.S. Government spending on development of new equipment which our European partners already have developed. The adoption of European developed hardware by the United States is accompanied by licensing to U.S. companies and provides U.S. industry with sales and U.S. labor with work. Such European equipment can be selected only in open competition with U.S. developed equipment.

There is a need for greater understanding by U.S. companies, by labor, and by the public that these arrangements are advantageous to the United States. Many do not realize this and innocently oppose such cooperation.

The Senate Armed Services Committee has been very constructive in its actions, in its hearings, and its reports on legislation in publicizing the importance of this approach. Moreover, the Senate and the House have supported this concept and have authorized and appropriated funds for such programs as the European (French-German) developed Short Range Air Defense Missile, Roland, to make this a reality. However, much more has to be done to educate many members of the Congress who have not been fully informed about the advantages to the U.S. of cooperation with Europe.

c. The importance of making Roland a successful program cannot be overemphasized. This program involves two European companies, Aerospatiale (France) and MBB (Germany) and two U.S. companies, Hughes (prime) and Boeing (major subcontractor), and has the benefit of the highest level of government support in France and Germany. Our own Department of Defense provides strong support and the Congress has reacted positively by providing necessary funds. This is the prime opportunity, in real terms, for the entire European community to be convinced of the willingness, sincerity, and capability of the United States to adopt a European developed weapon system for U.S. forces. In this respect, every effort must be made to insure success. Failure would be a serious setback to future cooperation with our allies and, in my opinion, could weaken the alliance.

d. To contribute to the success of this program, I have met separately, since my return, with top representatives of both European companies, both U.S. companies, French and German Embassy representatives, and U.S. Army civilian and military leaders. I have also communicated with DDR & E. I have impressed them all with my readiness to assist them within the area of my responsibility, to elicit full cooperation from all parties having an active part in this program. Their collective attitudes have been positive and favorable. I will continue to follow the Roland program very closely and strive in every way possible to further the concept of cooperation with our Allies. This is one positive way to help maintain an effective future combat capability for ourselves and our allies in Europe by making more effective use of our limited resources.

NATIONAL CONSUMER COOPERATIVE BANK LEGISLATION ATTRACTS MUCH SUPPORT

Mr. McINTYRE. Mr. President, earlier this session it was my privilege to introduce S. 2631, a bill to create a National Consumer Cooperative Bank.

To date this measure and its counterpart in the House have attracted the bipartisan cosponsorship of 67 Members of Congress, as well as enthusiastic support from throughout the country.

Endorsements of the proposal have come from a wide range of consumer, credit union, and cooperative organizations, and to illustrate the dimensions of that support, I would like unanimous consent to have reprinted at the conclusion of my remarks accounts that have appeared in the newspapers and journals of such organizations.

Mr. President, the National Consumer Cooperative Bank that would be created by this legislation would be modeled after the Farm Credit System, that eminently successful institution established under the Federal Farm Credit Act of 1933.

The National Consumer Cooperative Bank would provide a loan source for new, as well as existing and expanding, cooperatives in order to help such co-ops "provide quality goods and services at a reasonable cost."

The aid would cover co-ops in consumer goods, housing, health credit and other fields, and would include programs of technical assistance and financing.

It would be launched with Government investment and would provide loans to cooperatives not now eligible to borrow from similar existing institutions.

Though the Government would supply the original capital, borrowing co-ops would gradually replace the Government-owned capital with their own and would thus acquire ownership of the bank as they build equity in it.

The bank would get its loan funds by selling securities to investors.

A Board of Directors appointed by the President with the advice and consent of the Senate will provide policy guidance for the bank. Initially, 7 of the 13 directors would be drawn from the Government—Cabinet members or other officers from departments involved in financial, cooperative and consumer-related affairs. Six of the initial directors would be from cooperatives.

But as the Government capital is retired, an increasing number of directors would be elected by co-ops using the bank. Eventually, the bank would be completely borrower-controlled.

Will it work, this system?

Mr. President, if the Farm Credit System upon which it is modeled is a valid example, it will, indeed, work. Every dollar of Government capital in the Farm Credit System has been repaid, and the system is now owned by farmers and their co-ops. Moreover, the Farm Credit System is now providing nearly $30 billion in credit every year.

What will a National Consumer Cooperative Bank mean to people? What will it mean to the Nation?

To answer those questions let me quote, in part, from one of the statements I would like to have reprinted in entirety at the close of my remarks. This statement is by Shelby Southard, a member of the board of the Consumer Federation of America, and it reads:

> It is anticipated that with the establishment of a consumer cooperative-oriented bank, we, as consumers, can and will build an increasing number of strong cooperatives to solve many of our own problems. We will not only have a voice in running our own bank, but also have the advantage of having the availability of highly essential technical assistance. Through competition, we can start having a real impact on the economy and the world around us. We can improve the quality of the goods and services and facilities we see in everyday life. We can reduce the price spreads between producers and consumers. As a result, we will have less need to turn to government to set up costly and in most cases ineffective, regulatory agencies and government services.
>
> Practical involvement in successful consumer cooperatives will increase our level of economic education and business know-how. Wide membership in successful consumer cooperatives in such fields as consumer goods, service, health, and possibly even new sources

of energy, can and will lessen our frustrations of feeling that we are the victims of big organizations and the high concentration of economic power.

Mr. President, I sincerely hope that the enthusiasm for S. 2631 expressed in this statement and in the other accounts that follow will encourage early hearings on this important measure when we reconvene in the next session. I ask unanimous consent that the articles be printed in the RECORD.

LEADERSHIP NEWSLETTER, CREDIT UNION NATIONAL ASSOCIATION, INC., MADISON, WIS.

Bills to create a National Consumer Cooperative Bank have been introduced in the House and the Senate with 66 bipartisan cosponsors. The bills are endorsed by the Cooperative League of the USA and its members.

Sen. Thomas McIntyre (D-NH), one of the principal sponsors, said thousands of individuals and hundreds of groups have renewed interest in developing food, health, housing and other types of cooperatives.

Included in the bills are provisions to stimulate the development of cooperatives. A self-help development fund would be created to provide capital for new cooperatives serving low-income people.

Seed capital would at first be in the form of preferred U.S. stock. Later, capital would be replaced with private funds. Most loan funds are expected to come from private sources.

The Senate and the House referred the cooperative bank bills to their respective banking committees. Hearings are not yet scheduled, but the Cooperative League is optimistic hearings will begin next year.

The proposed cooperative bank is an entirely different thing from the once-proposed National Credit Union Bank. Conceivably, though, as a type of cooperative, CUs could participate in some of its services.

WISCONSIN PEC NEWS, WISCONSIN ELECTRIC COOPERATIVE ASSOCIATION, MADISON, WIS.

Official support for a national consumer co-op bank is coming from the rural electrification program at both state and national levels.

A bill to do for urban co-ops what the Farm Credit System, the Rural Electrification Administration and other loan programs have done for rural areas, was expected to be introduced shortly after Oct. 20 by Sen. Thomas McIntyre of New Hampshire. Here's an excerpt from a letter on the subject by Walter Seaborg, acting general manager of WECA, the state association of electric co-ops:

"There are many cooperatives, especially in urban areas which do not have access to adequate capital resources. We know from our own experience that getting adequate credit either short term or long term, is a major factor in the growth of cooperatives."

The letter was addressed to the chairman of the Senate Banking Committee, Senator William Proxmire.

Robert Partridge, general manager of the National Rural Electric Co-op Association, has pointed out in similar communications that "this would strengthen the cooperative movement and anything that strengthens co-ops is of great interest to NRECA and its members."

The Co-op League emphasizes that "support for this bill will help bring about a strong mutually beneficial alliance between farmers and consumers."

MIDLAND COOPERATOR, MIDLAND COOPERATIVES, INC., MINNEAPOLIS, MINN.

A bill that would establish a National Consumer Cooperative Bank was introduced into both houses of congress this month.

The consumer cooperative bank concept was formulated by the Cooperative League of the USA after contributions to the proposal were sought from cooperatives throughout the country.

Midland Cooperatives and some of its member cooperatives were surveyed to add input to the bill.

The National Consumer Cooperative Bank would be patterned after the Farm Credit System, which was designed only for agricultural producers. To qualify to borrow from the Bank for Cooperatives, a part of the Farm Credit System, a cooperative must have at least 80 percent agricultural producers as members.

Therefore, some of Midland's member cooperatives cannot qualify for Bank Cooperatives loans.

It is these cooperatives and other types of cooperatives, such as housing and health care, that are seeking establishment of the National Consumer Cooperative Bank.

The purpose of the bank would be to provide a loan source for new, existing and expanding co-ops on a sound business basis. Dollars for lending would be borrowed from investors through the sale of bonds, debentures and notes. Initial government capitalization would be replaced steadily as borrower co-ops repaid their loans. This is the same manner in which the Farm Credit System originally was financed.

"The Federal Farm Credit Act of 1933 provided finances needed to stimulate cooperative development in rural communities. The success of the program speaks for itself," says Sigved Sampson, Midland's president and general manager.

"The government has been fully reimbursed for the advanced funds provided and the system is now completely owned by American farmers. We believe similar results can be achieved for the non-agricultural sector of our economy through the National Consumer Cooperative Bank."

SENIOR CITIZENS NEWS, NATIONAL COUNCIL OF SENIOR CITIZENS, INC., WASHINGTON, D.C.

The Executive Board of the National Council of Senior Citizens at its meeting Sept. 29 unanimously endorsed a resolution calling for passage of legislation creating a National Consumer Cooperative Bank.

The resolution followed a talk by a representative of the Cooperative League of the USA on the need for financial support from the federal government to enable the development of consumer co-ops "to provide quality goods and services at reasonable cost."

Such aid would cover cooperatives in consumer goods, housing, health, credit and many other fields, and would include programs of technical assistance and financing.

CO-OP CONSUMER, GREENBELT CONSUMER SERVICES, SILVER SPRING, MD.

A farmer-producer cooperator from the pork-raising region of Ohio told the urban-consumer members of a big Washington area cooperative recently, "You need a national consumer cooperative bank."

Speaking before the annual meeting of the 34,000-member Greenbelt Consumer Services, Frank Sollars told his city listeners that farm marketing and supply co-ops succeeded in great measure because of "strong financing through the Farm Credit System." He observed that consumer cooperatives do not have this advantage and probably will not really get off the ground as an important part of the economy until they do.

Sollars urged the consumer cooperative audience to support a bill now being prepared for introduction in Congress which would establish a national consumer cooperative bank patterned closely after the half-century old Farm Credit System. The bank would be launched with government investment and would provide loans to cooperative not eligible to borrow from similar existing institutions. Over the years, the government equity would be retired as cooperatives achieve ownership of their lending organization, as farmers and their co-ops finally did with their own.

"Co-ops should have no disadvantages," he said—"not in transportation, not in supply, not in financing. Urban co-ops have not had the help rural co-ops have had."

Sollars, chairman of the board of Nationwide Mutual Insurance Company, fifth largest auto insurer in the United States, has owned and operated a Fayette County, Ohio, farm for 33 years. He has served on the boards of several farm cooperative organizations, including Landmark, Inc., a large Ohio-based farm marketing and supply cooperative. He also is a member of the board of the Cooperative League of the USA.

The consumer co-op listeners liked what they heard, and adopted a resolution endorsing the bank legislation.

COOPERATIVE OIL FOR TROUBLED WATERS

(By Eugene R. Clifford, director, information/education, Cooperative League of the USA)

American enterprise is the world's best demonstration of private enterprise—when competition is vigorous and uninhibited, and so widespread as to be an effective built-in regulator of supply and quality and price.

When such competition is lacking in any sector of the economy, both the consuming public and the rest of the business community are pushed out of balance by the muscle of monopoly—the muscle that forces unilateral, self-serving standards for quality and supply, and provides freedom to ignore usual market pressures in matters of pricing.

This is the bald fact of life describing the oil industry in this country today.

Two groups of U.S. senators have urged legislation "to restore and promote competition in the petroleum industry," because three-fourths of it is tightly held by 16 large oil corporations. They propose that major firms must divest themselves of related operations that give them interlocking grips on every major aspect of the industry. Corporate owners have "a free hand to raise prices whenever they want," the senators claim.

Others point to massive reserves of crude oil identified on federally-owned lands, and urge that government should develop these basins and force down prices by demonstrating true costs of production and by adding substantially to available supplies.

There is still another way to free the corporate grip on oil.

All of the advantages of government development can be realized without fattening the government's role in our business and private lives. The appealing democratic concept of control in the hands of the people is not served exclusively by casting them in a political role and responding to their needs through government. It may be served even better by encouraging an economic role in which they respond to their own needs by joining together to serve themselves through cooperatives.

A cooperative is beautifully suited to the job of insuring fairness and honest treatment for those who use its services. It must be, because the users are the owners—the sole owners. Together, they decide about such things as quality and variety of services. Together, they decide about dollar matters, such as budgeting and investment for expansion. This is the fundamental control in business, and in a cooperative the members share it equally.

People all around the world—fifty million in the United States—use their cooperatives to provide things they need, such as farm marketing, processing and supply services; consumer goods with emphasis on quality and fair pricing; housing that often centers a variety of community services; health services that underscore prevention of illness rather than costly efforts to cure it; rural electric and telephone services; preschool child care; memorial societies whose purpose is to put sense and economy into the funeral business; credit unions which encourage thrift and pooled savings so that members can borrow from themselves at reasonable rates. Co-ops provide all of these and many other essentials of modern life.

Some major cooperatives have found a solid road to savings for members in the petroleum business, too. Several substantial farmer cooperatives are veterans in the ownership and operation of oil wells, refineries, pipelines and retail level distribution systems. Their *only* concern has been to guarantee adequate supplies of petroleum products for their members at the lowest possible cost. They have not raised alarms about artificial shortages, nor have they boosted prices to users unduly in order to inflate margins. They have no need to do this, because the users are the owners and have nothing to gain from misleading themselves or overcharging themselves.

Could this pattern work for consumers as well as farmer producers? Of course it could. It *is* working that way right now in one sense, as many of these major farm co-ops serve the *consumer* as well as the producer needs of their members, providing such basic as automobile gas and oil and fuel oil for home heating.

Nineteen of these people-owned organizations have joined together to form the International Energy Cooperative, which now serves as their collective approach to foreign oil producers. Their aim is to assure a supply of crude oil that will keep their refineries at work and their pipelines full to provide the end products their members must have.

Here is the successful cooperative pattern in the oil business. It is working right now, serving both consumer and producer needs. It can be adapted to broad consumer use, IF . . .

It can be adapted *IF* consumers can find access to the kind of financing needed to provide the facilities and equipment necessary to this kind of operation.

That's a big IF, but it's not an impossible IF . . . .

The Cooperative League of the USA and many supporting organizations, co-ops and others, are now urging passage of legislation (S. 2631) to establish a National Consumer Cooperative Bank. The bank would be tailored after the Farm Credit System and its Bank for Cooperatives which has financed farmer co-ops for a half century. Initial government capitalization would be gradually retired by users of the bank's services. and the final result would be consumer cooperative ownership of their own financial institution.

Impossible? Nonsense. This is exactly what happened in the case of the Farm Credit System. Every dollar of government capital has been repaid, and the system is now owned by farmers and their cooperatives. Does it work? Well, it is now providing credit at the level of $30-billion a year, free of dependence on government and borrowing its funds entirely from private investors.

Clearly, there is a solid resource of cooperative experience and expertise in the oil business. Patterns for successful operation are available. If the co-op bank legislation is passed, funds will be available too.

Then it will be up to the American consumers to decide if they finally must take a hand in managing the fair distribution of a natural resource which is dramatically enriching the few at a time when it remains unavailable on reasonable terms to the many.

CONSUMER FEDERATION NEWS, CONSUMER FEDERATION OF AMERICA, WASHINGTON, D.C.

(By Shelby Southard, CFA board member)

After testing the waters, and wading into the rapids in our fight to keep our heads above water midst rising prices, we consumers are finally ready to take the big plunge. The impetus was sparked by a comment from Ralph Nader at this year's Consumer Assembly, when conferees at the annual meeting of the Consumer Federation of America adopted a resolution favoring the establishment of a National Consumer Cooperative Bank. This Bank would be patterned after and would draw upon the experience and principles that have made the nearly 60-year-old user-owned Cooperative Farm Credit System so successful. That organization now lends $27 billion a year, and there's no reason to doubt we can do just as well.

At the meeting Nader pointed out that attempts to regulate business in our inflation and depression ridden economy usually end up with those to be regulated doing the regulating. It is a frustrating experience. He suggests that if consumers really want to have an effect on the economy they should build strong cooperatives to serve themselves the way they want to be served. He says what we need is a bank for consumer cooperatives to provide the necessary financing for such enterprises. How true.

We of the Cooperative League of the USA are proud that the Co-op League, in consultation with CFA and many other groups, is drafting such a proposal which it expects to be introduced in Congress soon. The proposed bill would establish the National Consumer Cooperative Bank to close the gaps between existing cooperative sources of credit for cooperatives.

How would this Bank work? It would not compete with existing cooperative scurces of credit. The Government would supply the original capital. Borrowing cooperatives would gradually replace the government-owned capital with their own and would thereby acquire ownership of this Bank as they build up equity in it. The Bank would obtain its loan funds by selling securities to investors. It would be under the policy guidance of a Board of Directors. At the outset, the Board would be appointed by the President with the advice and consent of the Senate. In recognition of the Government's major investment in the Bank, seven of these directors would be Cabinet or other from departments involved in financial, cooperative, and consumer-related affairs. Six appointees would be from cooperatives. As the Government capital is retired, an increasing number of directors would be elected by cooperatives using the Bank until it was completely borrower-controlled.

The Bank would be supervised by a small independent agency which would report to Congress and the public on the progress of its operations and how it meets the broad policy guidelines established by Congress. This agency would also supply much needed technical assistance such as feasibility studies, co-op board orientation, management and financial training—especially for small and new co-ops—to make sure the cooperatives use their credit wisely and operate on a sound business basis.

Any business needs to have a sufficient supply of risk or equity capital, usually supplied by the owners, to warrant creditors making loans to them. The Agency will, therefore, be responsible for the operation of a self-help revolving development fund that will be used largely to supplement member investments in the equity capital for new cooperatives and for those organized by or serving low income people. Such investments would only be made to cooperatives that have a workable plan to gradually repay the Government capital as members build up their investments in them.

It is anticipated that with the establishment of a consumer cooperative-oriented bank, we, as consumers, can and will build an increasing number of strong cooperatives to solve many of our own problems. We will not only have a voice in running our own bank, but also have the advantage of having the availability of highly essential technical assistance. Through competition, we can start having a real impact on the economy and the world around us. We can improve the quality of the goods and services and facilities we use in everyday life. We can reduce the price spreads between producers and consumers. As a result we will have less need to turn to government to set up costly and in many cases ineffective, regulatory agencies and government services.

Practical involvement in successful consumer cooperatives will increase our level of economic education and business know-how. Wide membership in successful consumer cooperatives in such fields as consumer goods, service, health, and possibly even new sources of energy, can and will lessen our frustrations of feeling that we are the victims of big organizations and the high concentration of economic power. We can develop our own consumer power!

PEOPLE POWER

America is grounded in the tradition of individual ownership of land, farms and businesses. With skyrocketing costs and the huge investments needed to get into business, widespread individual ownership is impossible. But people can and do still have the opportunity to own, control and operate businesses together through the proven mechanism of cooperatives. Together we can own and control much more of the businesses that serve us, if we but have the will to organize, to invest our time and money and have an adequate source of borrowed capital. A National Consumers Cooperative Bank, sensitive to our cooperative needs, can provide such loan financing if we show our representatives in Washington the need for it and explain to them how we can use it to solve many of our own problems without continuing to need huge outlays of taxpayer dollars.

WASHINGTON MEMORANDUM, NATIONAL CATHOLIC RURAL LIFE CONFERENCE, DES MOINES, IOWA

One of the finest examples of government support for self-help enterprises is the Cooperative Farm Credit System. That 60-year old program started with government financing which has been totally repaid and the system is now owned by the cooperatives which use it as a source of credit.

A proposal is now being developed which could create a similar system for consumer cooperatives. It would establish a National Consumer Cooperative Bank which would initially be funded by government loans. This capital would eventually be replaced as consumer co-ops repay their borrowings. It would be supervised by a new Cooperative Bank and Assistance Adminstration, which would also administer a $250-million Self-Help Deveopment Fund for new and low-income co-ops.

Bills to establish this National Consumer Cooperative Bank have been introduced in the congress. More information is available from the Cooperative League of the USA, 1828 L Street, N.W., Washington, D.C. 20036.

CAROLINA COUNTRY, NORTH CAROLINA ELECTRIC MEMBERSHIP CORP., RALEIGH, N.C.

Legislation to establish a National Consumer Cooperative Bank is envisioned as closing the gaps between existing sources of credit. The government would provide the original capital, but borrowing co-ops would gradually replace the federal capital with their own. Thus, the borrowers can acquire ownership in the bank as they build up equity.

Establishment of the bank would eliminate one of the major hurdles which must be cleared whenever consumer groups try to organize co-ops as a means of reducing the cost of goods and services—finding a source of financing. Setting up a cooperative can be a costly proposition, and most consumer groups have no source of credit for such operations.

Cost-conscious Americans are eager to organize co-ops in such diverse areas as food purchasing, auto repair, child care and health services. But only a few more than 200 consumer co-ops are now operating in the U.S. and their combined membership comprises less than one-fourth of one percent of the nation's population.

The National Consumer Cooperative Bank would provide the impetus needed to channel this widespread interest into functioning consumer-owned cooperative enterprises.

We hope congress will move swiftly to establish this important new source of financing for consumer cooperatives.

UNIVERSAL BUYER-MERCHANDISER, UNIVERSAL COOPERATIVES, INC., ALLIANCE, OHIO

(By F. L. Lair, executive vice president)

The main thrust of the National Consumer Cooperative Bank bill is to provide a source of financing for those cooperatives (nonfarm, urban, suburban) not eligible to borrow from the Farm Credit System's Bank for Cooperatives. It would provide the same services for consumer cooperatives as the Rural Electrification Administration and the Farm Credit Administration provide for farm and rural groups. The success of farmer cooperatives is due, in no small part, to the availability of sound financing through the cooperative Farm Credit System, and it is the aim of the proposed bill to achieve the same degree of success for producer-consumer cooperatives.

More and more people recognize the contributions of farmer cooperatives to rural America. The farmers, through their cooperatives, have improved their economic welfare and at the same time have created certain consumer benefits through improved quality standards and reasonable prices. Access to sources of sound financing and technical assistance from the cooperative Farm Credit System were keys to that achievement.

The American consumer needs every available tool to meet the challenges of today's spiraling inflation. By acting jointly through cooperatives, he can effect savings and benefits not otherwise available to him. The availability of a source for sound financing, solid counsel and careful monitoring of borrowers' operations will permit greater development of non-farm and urban cooperatives designed to provide the consumer his needed goods at a reasonable price.

Undoubtedly, passage of the National Consumer Cooperative Bank bill would add strength to the cooperative movement, since development of effective, financially sound consumer cooperatives with direct links to farmer cooperatives would provide an important asset in providing goods and services to rural and urban America.

TELEVISION VIOLENCE

Mr. MAGNUSON. Mr. President, today I received a Christmas card from a close friend that wished for "Peace on Earth." Last week I turned on my television and what I saw was not peace on Earth but murder, mayhem, and gratuitous violence. As we in the Senate and the rest of the Nation approach the Christmas season, the time of year for the joy of children and the gathering of families, I think it is useful to reflect on the impact of the single most important purveyor of violence in our society today—television programing.

Different people have different ideas about television in the United States. I personally think there is a lot of good programing nowadays. I certainly think programing has steadily improved over the years. But I also recognize that commercial television is a business. It is organized and designed to make profits. It does that very effectively. Advertisers today see television as the best selling tool that has ever been created by the hand of man. So advertisers clamor for the available space on television and pay dearly for that space when they can get it. In return, the television industry attempts to deliver as many viewers as possible to receive the advertisers' message. The vehicle for viewer acquisition is programing.

It is not surprising that there is great pressure within the television community to produce programs that attract and hold viewer attention as inexpensively as possible. Nor is it surprising that there is great pressure to hold down production costs of commercial television programing. This combination of influences, which is no one's fault, can carry the blame for most of what is bad today on television. In particular, I am thinking of the large number of violent actions portrayed every day in the Nation's living rooms. It is cheaper and more profitable to run shows that are low on dramatic content, high on physical action, and present stereotyped cliches.

There is too much violence on television today. The gratuitous use of violence for the sole purpose of attracting and maintaining audience attention is common programing practice. Violence is portrayed without showing the human consequences is cheap. But this kind of violent portrayal degrades the viewer and the perpetrator. I am not surprised, and I hope that the television industry is not surprised, that 70 percent of the American people, according to a Television Guide survey published December 1, agree that there is far too much violence on television today.

The Nation and the Senate owe a debt of great gratitude to Senator JOHN O. PASTORE of Rhode Island for the role he has played over the years in focusing the violence on television. In March of 1969, a major milestone in television programing occurred when Senator PASTORE wrote a most important letter. He told then Secretary of the Department of Health, Education, and Welfare, Robert H. Finch, that there was an obvious lack of research into the issue of possible connections between antisocial behavior and television violence. That correspondence led directly to the study conducted by a committee appointed by the U.S. Surgeon General. The Surgeon General's committee filed its report on January 19, 1972. Its basic conclusion was that—

> The causal relationship between televised violence and anti-social behavior is sufficient to warrant appropriate and immediate remedial action.

Senator PASTORE has continued his efforts to focus the debate. So today there is a growing consensus that gratuitous violence on television is no longer an acceptable norm. The last 2 years have seen credible moves made both inside and outside the television industry to find some alternatives to historical violent programing patterns. I wish to commend Senator PASTORE for his leadership and devoted work in this regard. A generation of children will be forever in his debt.

What do we know today about the connection of television violence to harmful social effects? Recently, Dr. Michael B. Rothenberg, M.D., a child psychiatrist on the faculty of the University of Washington in Seattle published an article in the Journal of the American Medical Association. His article summarized 146 papers representing 50 studies involving 10,000 children and adolescents from every conceivable background. Each of those studies shows, according to Dr. Rothenberg, that violence on television produces increased aggressive behavior in the young, and that immediate remedial action in terms of television programing is warranted.

In his summary of the research findings of the studies he reviewed, Dr. Rothenberg concludes:

First. Novel, aggressive behavior sequences are learned by children from aggressive actions shown on television or in films.

Second. There is a decreased emotional insensitivity to media violence as a result of the repetition of violence in the mass media.

Third. There is no evidence that televised violence has an "aggression catharsis"—a draining off of aggressive energy.

Fourth. Aggression can be inhibited by a televised reminder that the action was morally wrong in terms of the viewer's own ethical principles and by a portrayed awareness of the bloody, painful aftermath of the televised aggression.

Dr. Rothenberg points out that the 146 published papers he reviewed represent 50 separate scientific studies of all kinds—laboratory studies, correlational field studies and naturalistic experiments. And all show that viewing violence produces increased aggressive behavior in the young.

These results are not too surprising since television claims to its advertisers that it is a very persuasive medium for selling products. It seems a natural conclusion that television programing similarly influences viewers to engage in actions which are favorably or neutrally portrayed. That is what is so disturbing about studies such as L. Ormiston's "A Pilot Study of the Presentation of Constructive and Destructive Behaviors on Children's Cartoon Programing Entered on San Francisco Television." This unpublished paper, written in 1973, analyzed cartoon violence for the Committee on Children's Television in San Francisco. The researcher found that the average rate of destructive interaction in cartoons was one act per minute. She also found that 79 percent of the destructive interactions were rewarded. One can only conclude that children watching these programs are learning that destructive ways of interacting with others are not only appropriate but profitable.

A similar study in 1972 by Dr. George Gerbner, dean of the Annenberg School of Communications at the University of Pennsylvania, indicated that most television violence is performed not by criminals but by ordinary citizens and law officers and that these two latter groups rarely encounter due process of law as a consequence of this violence. A comparable study pointed out that violence depicted on television is rarely realistic and is rarely accompanied by the usually painful and grievous consequences of such actions in real life.

The evidence is there that children are influenced by violent portrayals on television. Violence perpetrated by strong role models is imitated. Violence which yields unfavorable results, such as punishment or victim injury, discourages imitation. Children do learn and remember aggressive behavior which is demonstrated on television. The relationship appears to be causal between television violence and subsequent aggressive behavior.

On the other hand, television can be very constructive. Children respond to positive behavior portrayed on television. Several studies now have demonstrated that children exposed to demonstrating positive human interactions programing show higher levels of rule obedience, tolerance of delay, and persistence than children who watch aggressive programs. Young children have frankly admitted that they act out many of the behavioral sequences that they observe on television.

These results lead to disturbing conclusions if one looks at the current programing fare available to children on commercial television channels. Maturation is a long, hard course for every human being. Children are trying to get in touch with reality. Their perception of fantasy and reality is indistinct. They are trying hard to understand their emotions and their feelings. They are trying hard to relate to and understand the world into which they are thrust. In a word, children are complete human beings who have not yet acquired all of the tools of survival. To suggest that television, the most persuasive tool available to advertisers for sophisticated and mature human beings, is not affecting children who do not have the experience to distinguish truth from falsehood or exaggeration from understatement is ludicrous.

In the words of one researcher, "It is not a healthy environment if your outer world corroborates all of the worst and most fearful parts of your inner world." This reenforcement of the child's innerfears, doubts, and confusions is the devastating effect of violence on television.

The researchers claim that children who view television heavily can be desensitized to violence in real life. Their normal emotional responses to human suffering become blunted and this desensitization can actually cause increased acts of personal aggression. It also causes indifference and nonconcern for the fate of victims of real life violence. The more violence and aggression a youngster sees on television, regardless of his age, sex, or social background, the more aggressive he is likely to be in his own attitudes and behavior.

It is not my purpose to engage in a debate with the television industry or other persons about the accuracy of the findings of this research. Any reasonable person would have to conclude that there is substantial evidence currently available to support these conclusions. The risks of continuing the current course of TV fare is frightening. The industry has responded to the complaints with family viewing time, and tightened provisions in the NAB code. People who criticize these self-regulation efforts by the industry must be forthcoming with realistic solutions consistent with the constitutional framework protecting free speech.

The goal is neither undefinable nor unachieveable. One eloquent statement on the obligation of the industry with regard to the portrayal of violence particularly appeals to me:

> The presentation of techniques of crime in such detail so as to invite imitations shall be avoided. . . . Violence shall not be presented in an attractive manner, nor to an extent such as will lead a child to believe they play a greater part in life than they do. . . .
>
> No considerations of expediency should be permitted to impinge upon the vital responsibility towards children and adolescents which is inherent in television. . . .

That language comes from the National Association of Broadcasters Code of Conduct.

The NAB standard is the place to begin. The industry, the program producers, the advertisers, and the viewers can get gratuitous violence off the air. This Christmas season is the appropriate time to renew our efforts.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, the time to be taken out of the time of the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MUSKIE). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield back the remainder of my time. It resulted from an error. I wanted it to be tomorrow.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after Mr. CLARK is recognized under the ordered entered, Mr. JAVITS be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—

The PRESIDING OFFICER. Under the order previously entered, the Senate will now resume consideration of H.R. 9861, which the clerk will state by title.

The legislative clerk read as follows:

> Amendment No. 75 in disagreement on H.R. 9861, an Act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

CLOSED SESSION

The PRESIDING OFFICER (Mr. MUSKIE). Under the previous order, the Senate will now go into closed session.

The Chair, pursuant to rule XXXV, now directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

(At 10:49 a.m. the doors of the Chamber were closed.)

LEGISLATIVE SESSION

(At 12:47 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.)

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Michigan. Under the previous order, there is a time limitation of 40 minutes on the amendment, to be equally divided between the Senator from Michigan (Mr. GRIFFIN) and the Senator from California (Mr. TUNNEY). Who yields time?

Mr. CLARK. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call be equally divided.

Mr. McCLURE. Mr. President, reserving the right to object, what was the request?

The PRESIDING OFFICER. Just to divide the time on the quorum call equally.

Mr. McCLURE. No objective.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield myself time on the time reserved on my amendment, which is to follow the Griffin amendment, and I would like to yield myself 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, the situation which will be presented to us shortly in the Senate will represent action on the Griffin amendment—I will analyze in a moment exactly what that will do—and then whether or not the Griffin amendment succeeds on my amendment.

The thrust of the Griffin amendment is to prevent from going into Angola any U.S. military or civilian forces involved in hostilities in or over or from off the shores of Angola, unless Congress specifically authorizes it.

The thrust of the Tunney amendment, as it would be amended by my amendment, which will either be added onto the Griffin amendment or will be a separate amendment fully qualified, once the Griffin amendment is acted upon, is that only intelligence gathering will be permitted as an activity in respect of Angola, under the Defense Appropriation Act, which is the subject of the conference report.

The difference between my amendment and the present Tunney amendment is that the Tunney amendment proposes to reduce by $33 million one of the items of appropriation in the conference report. I omit any such reduction and simply keep the sum as it is.

The reason for my action is this: Obviously, it is important to get the greatest consensus here, and there are Members who feel that the funds programmed under the Defense Appropriation Act, which would have to be reprogrammed if they wanted to do something about Angola, still does not change the various military necessities.

We may decide, if the House and the Senate agree on this conference report, that we are going to tighten our belt on program A, B, C, or D and cut $33 million out of it. We may and we may not.

My amendment will make that unnecessary. It will facilitate an agreement between the House and the Senate, as there may be great difference of opinion on that score, and it will get the matter down to its essentials. To argue about a $33 million provision in a $90 billion bill seems to be unnecessarily throwing a monkey wrench into the works. We know what we want to do. If we decide to do it, let us not complicate it with a money equation.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. YOUNG. I think this is a good amendment. I do not think it is the intention of the sponsors to delete money in the bill. I think some Senators, though, assume that the $28 million has already been approved, which it has not.

Mr. JAVITS. Of course. It leaves the conference agreement in balance, because the two sides have agreed—the House and the Senate—and we do not disturb that agreement.

However, we have a new problem, just arisen, and nobody's feathers can be ruffled if we try to deal with it in a substantive way rather than trying to disturb what may have been the give and take on the money side in the conference.

Mr. CRANSTON. I say to both Senators who have spoken that I believe that the principal sponsors of the Tunney amendment—and I am one of them—are totally prepared to support the Javits approach, because we recognize that our principal objective, which is to cut off funds used for paramilitary, covert, and other purposes in Angola and around Angola, will be served by the amendment that they change in the dollar figure. It is my hope that members of the Appropriations Committee who are concerned about a change will look with greater benevolence upon our amendment.

Mr. JAVITS. May I say, in fairness to the authors of the amendment, that they were told that in the parilamentary situation, they had to move to reduce the amount; otherwise, their amendment would not be in order.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 2 additional minutes.

Whereas, my amendment is only in order because theirs already has been in order. So that everybody's role is secure.

Mr. President, I hope the Senate will realize that we have achieved our objective. Whatever decision we make, even if it is on the negative side, will be a national policy decision. The House and the Senate will have passed on this particular question. I hope very much that we will make it positive and that we will start anew, as we should have started when this sum got to be $25 million and we began to put military materiel into the situation.

I do not believe that the transition will be harmful to the executive department, because it probably takes some time to absorb this kind of military aid in the area, anyhow, and it will give us an opportunity for a more deliberate judgment as to what must be done and how much.

In the Foreign Relations Subcommittee—I am confident the committee will take it—we have materially accelerated the procedure by which the administration can act and Congress must act if it wishes to stop.

So I think this is a plan which holds together. I am very hopeful that we will get the Defense appropriation on its way and will have dealt effectively with our problems respecting Angola.

Mr. President, I say to the acting majority leader that it will be my purpose now to seek advice from the leadership as to whether they will accept a recess until 1:45, because Senator GRIFFIN has asked our indulgence, as he has necessarily had to see the President.

Mr. CRANSTON. Certainly.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time may be charged to both amendments and both sides of both amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:50 P.M.; AND UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 10 minutes to 2, and that beginning at that time there be a limitation of 10 minutes on the pending amendment to be equally divided between the Senator from Michigan (Mr. GRIFFIN), the sponsor of the amendment, and the Senator from California (Mr. TUNNEY), and that the vote on the amendment occur at 2 o'clock.

There being no objection, the Senate, at 1:15 p.m., recessed until 1:50 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CRANSTON).

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. Who yields time?

The Chair, in his capacity as the Senator from California, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. HASKELL). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Samantha Senger and John Cevette, of Senator HASKELL's staff, be granted the privilege of the floor during the consideration of and voting on all tariff bills today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PACKWOOD). Without objection, it is so ordered.

Under the previous order, the Senate will proceed to vote on the amendment of the Senator from Michigan.

Mr. CLARK. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), is necessarily absent.

The result was announced—yeas 26, nays 72, as follows:

[Rollcall Vote No. 605 Leg.]

YEAS—26

Baker
Bartlett
Bellmon
Buckley
Byrd, Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hruska
Laxalt
Long
McClellan
McClure
Morgan
Scott, Hugh
Stennis
Thurmond
Tower
Young

NAYS—72

Abourezk
Allen
Beall
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—2

Bayh
Goldwater

So Mr. GRIFFIN's amendment was rejected.

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from New York is recognized to call up his amendment.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I yield for that purpose.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I yield half a minute of my time to Senator CURTIS for a unanimous-consent request.

The PRESIDING OFFICER. Will the Senator withhold for just a moment. Will those in the aisles please remove themselves from the aisles. The Senate is not in order.

I believe the Senator from New York said half a minute to the Senator from Nebraska.

SUBSTITUTION OF SENATOR BROCK FOR SENATOR FANNIN AS A CONFEREE—H.R. 10727

Mr. CURTIS. Mr. President, I ask unanimous consent that the Senator from Tennessee (Mr. BROCK) be named a conferee on H.R. 10727, and the Senator from Arizona (Mr. FANNIN) be removed as a conferee on that bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I thank the Senator.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. JAVITS. I call up my amendment and send it to the desk to be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits) proposes an amendment No. 1312 to amendment No. 1303.

The amendment is as follows:

Strike "205,600,000" and in lieu of the language proposed to be inserted by amendment 1303 insert the following: "$205,600,000, none of which, nor any other funds appropriated in this Act may be used for any activities involving Angola other than intelligence gathering, and which funds are".

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment proposes only to eliminate the figures from the Tunney amendment which reduced the amount of $205,600,000 down to $172,600,000.

My amendment contains the same figure agreed upon in conference, $205,600,000, and it includes the Tunney language.

Mr. President, may we have order. I will be through very quickly.

The PRESIDING OFFICER. Will the Senator withhold? The Senate will please be in order.

Mr. JAVITS. The reason for my amendment is simply to strip this controversy, which we have debated at such length, of any question about the amounts involved. The amount will remain exactly as the conferees agreed on, but we do include the injunction against spending any money appropriated in this act or any part of that $205 million for any activities involving Angola other than intelligence gathering. That is the whole sum of it.

The reason for it is we have been told that the way in which money would be available if we did nothing for the Angola operation will be by reprograming other funds for various purposes contained in this act, and it was my feeling as the debate developed that as the conferees had arrived at a balance of their respective views on money—that is what the essence of this bill is all about—and as it was made clear to us there was no sum of money here for Angola, it would have to come from cutting down other programs on which they had agreed, whichever ones they were, which they called reprograming, it seemed to me the proponents of the fundamental proposition put before us by Senator TUNNEY, by Senator CLARK, and others, really would only embarrass their cause by seeking to reduce the money. There was no point to it once we got the basic prohibition established, and that is what this will do.

May I say for my colleague, Senator TUNNEY, and others on that side that they could not have gotten into this situation in a parliamentary sense unless they had done something about the money. But having opened the door, we should now walk through it, and I hope the Senate will carry this as the substitute language for the Tunney language without renegotiating the dollars involved.

My final point, Mr. President, that it will save a lot of time with the other body if they are in any mood to do anything about Angola. It will certainly be a lot easier to get them to do it if they do not have to retrade all their deals on the defense appropriations.

For those reasons, Mr. President, I hope every one of the parties interested, except on a straight division of whether we will or will not go the Tunney route, will agree that this amendment is the right course to follow and that, as this amendment replaces the whole of the Tunney amendment, this will be the final action on that proposition.

Mr. President, I yield to the Senator from California 2 minutes.

Mr. TUNNEY. Mr. President, the Senator from New York and I have had a chance to discuss his substitute at some length, and the way he described the impact of his substitute is, in my mind, correct.

I think the substitute offered is a good one. I point out the reason that the $33 million as placed originally in my amendment was that it would have been out of order if we had not referred to a dollar figure in the amendment in disagreement No. 75 that came over from the House.

We no longer need that dollar figure. The dollar figure did represent our best estimate of the moneys that had been spent or were being programed to be spent in Angola.

Therefore, I am prepared to yield back the remainder of my time, and let us have a vote on the Senator's amendment. I think it is a good one.

The PRESIDING OFFICER. The Senate will be in order. Again will those conversing in the well please go someplace else. Will those conversing in the well please leave the Chamber.

Mr. JAVITS. Mr. President, in yielding, I would appreciate it if the Chair would inform me so that I do not use the last 2 minutes of my time.

I yield.

Mr. BUMPERS. Just one short question. One thing that did not come up yesterday and did not come up this morning that I was curious about, and that is whether or not this amendment or the Tunney amendment as it was originally written, would be other than an expression of the sentiment of the Senate and would it have any more than possibly an inhibiting effect on the possible use of any other funds the CIA has which could be used for covert activities?

Mr. JAVITS. I am not so young in this body as to believe that in a budget running into several hundred billions of dollars that the administration could not find money to do this. It would obviously bar them from using money in the $90 billion.

But I really believe with such a precision of expression by the Senate and the House on such a major bill as the defense appropriations bill, I would not believe the administration would move in that direction and, if it did, I assure the Senator there are lots of other ways in which a body as large as that majority which turned down the Griffin amendment could see that they rue the day. So I do not believe we are acting other than very substantively and decisively if we adopt the amendment I have sent to the desk.

May I say, Mr. President, that amendment is for myself and Senator HUMPHREY of Minnesota.

Mr. McCLURE. Mr. President, will the Senator yield for one question?

Mr. JAVITS. Yes.

Mr. McCLURE. Mr. President, the Senator from California a moment ago referred to the dollar amount figure in his amendment which the Senator from New York seeks to eliminate as being the best estimate of the amount of money that had been spent or would be reprogramed.

Am I not correct in remembering the statements made by the Senator from North Dakota and the Senator from Arkansas that a request for reprograming in this dollar amount had been made but, as a matter of fact, no reprograming has occurred and, I think, the Senator from Arkansas indicated that before the committees were about to grant such an authorization, there would be hearings and further inquiry by the committee?

Mr. JAVITS. That is my recollection, and I hope we are both correct, because whatever happens to this conference report——

Mr. YOUNG. Will the Senator yield?

Mr. JAVITS. Of course I yield.

Mr. YOUNG. The amount is to be programed, it is $28 million. I think the Tunney amendment deletion of claim money is not necessary to accomplish his objection.

Mr. JAVITS. I thank my colleague.

Mr. McCLURE. Would the Senator from North Dakota not agree with the Senator from New York and myself that although that request have been made, no sum of money has been reprogramed?

Mr. YOUNG. In fact, Chairman MCCLELLAN notified the CIA he would not be taking up the reprograming until Congress convenes in January.

Mr. McCLURE. I thank the Senator.

Mr. JAVITS. I might say to Senator YOUNG, the chairman's trusted minority senior member, I would hope that whatever happens to the conference report, we hear rumors there are intentions to debate it until we quit, and things like that, that is up to all those involved, but I would hope with the clear expression of view by the whole Senate that at the very least it is intended by this reprograming method to let them use the money, that the matter would be submitted to the Senate, and if it felt we cannot wait the 20-odd days involved, I would hope it would be submitted today, tomorrow, or Saturday.

I think that is the least due us, having gone through the enormous exercise, and at long last trying to join the Congress and those major policy decisions on foreign policy, and being, as Arthur Vandenberg, for one of the first times in modern times, in at the takeoff instead of just at the landing, so many of which will crash.

Mr. TUNNEY. Will the Senator yield?

Mr. JAVITS. Yes.

Mr. TUNNEY. I feel so strongly that this amendment offers the Senate an opportunity to express its opinion on the basic principle that no moneys under this defense appropriation bill ought to go to Angola for military purposes that I ask to be a cosponsor of this amendment because it is directly on point, the language is exactly the same as the amendment that has been introduced by me.

The PRESIDING OFFICER. The Senator from New York asked to be advised when he had 2 minutes remaining. He has 2 minutes remaining.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator TUNNEY may be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I am prepared to vote now, but I do not see anyone from the Appropriations Committee who could speak for them, so I reserve the remainder of my time.

Mr. TUNNEY. I think that I control the other half of the time. I am happy to yield the floor to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from California.

Mr. President, I rise because he stated that a vote in favor of the Javits amendment would constitute a vote in approval of the principles underlying the Tunney amendment.

I just want the RECORD to make it clear that a vote to improve an undesirable amendment does not constitute a vote of approval for that same amendment.

So I do not want my vote that will be forthcoming to be confused with approval of the Tunney proposal.

Mr. TUNNEY. I am prepared to yield back my time unless another Senator wishes to speak.

Mr. YOUNG. Will the Senator yield me 1 minute?

The PRESIDING OFFICER. On whose time?

Is this on the time of the Senator from California?

Mr. TUNNEY. Yes.

Mr. YOUNG. I ask the Senator from New York, does his amendment embody the language of the Tunney amendment?

What I am trying to determine is does your amendment restore money, and also encompass the Tunney language?

Mr. JAVITS. It does.

Mr. YOUNG. I support that.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator CASE may be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. The pending amendment is an amendment to the Tunney amendment?

The PRESIDING OFFICER. An amendment in the nature of a substitute for the Tunney amendment.

Mr. McCLURE. And if this amendment is adopted, it would require a further vote upon the Tunney amendment as amended?

The PRESIDING OFFICER. That is correct.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. I am prepared to yield back my time unless there is any Senator that wants to have my time.

Does any Senator request time?

Mr. FANNIN. Mr. President, could we clarify whether the Javits amendment does include the Tunney amendment?

Mr. TUNNEY. The Javits amendment includes the language in the Tunney amendment with one exception. The $33 million is eliminated.

Mr. FANNIN. But not on the——

Mr. TUNNEY. The only way the Tunney amendment can be adopted is to have a vote. This represents a substitute for my amendment.

Mr. FANNIN. That is what I wanted to know.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Will the Senator from Idaho agree to yield back the time or does he want to use my time?

Mr. McCLURE. There is a little confusion, will the Senator yield for a moment?

Mr. TUNNEY. Certainly.

Mr. McCLURE. So we can qualify the situation so that everybody may know exactly what is involved here.

The Javits amendment is an amendment in the nature of a substitute for the Tunney amendment, but a vote for the Javits amendment does not adopt the Tunney amendment.

If the Javits amendment is adopted, there would still be a vote on the Tunney amendment as amended by the Senator from New York.

Mr. TUNNEY. That is correct.

Mr. McCLURE. So that I, for one, although not necessarily in support of the Tunney amendment, would support the Javits amendment as being an improvement.

I think the Senator from California has indicated he thinks so, also.

Mr. TUNNEY. I would just like to say that I think if the Javits amendment is accepted, it is going to make it very clear what the sentiment of the Senate is in respect to cutting off funds to Angola.

It would then be my view, if the Javits amendment carries, it would then be clear that a majority of this body wants to cut off funds under this defense appropriations bill.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. I am prepared to yield back, but the Senator from New York desires to speak.

Mr. BUCKLEY. Mr. President, I went to some pains just now——

The PRESIDING OFFICER. There will be order, please.

Mr. BUCKLEY. I went to some pains just now to rebut the presumption just stated by the Senator from California.

My vote in favor of the Javits amendment must not be construed as a vote in favor of cutting off these funds for covert affairs in Angola.

Mr. TUNNEY. Then I suggest the Senator vote against it.

Mr. BUCKLEY. The Senator from California has no right to instruct me how to vote or determine the reasons for my vote.

Mr. TUNNEY. I have no right, but I make the suggestion.

Mr. JACKSON. Will the Senator yield for a unanimous-consent request?

Mr. TUNNEY. I yield to the Senator.

Mr. JACKSON. Mr. President, I ask unanimous consent that Dan Dreyfus and Ben Yamagato be granted privilege of the floor in connection with H.R. 3474.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren of my staff, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TUNNEY. Yes, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Frank DuBois, of my staff, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York. The yeas and nays——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Washington (Mr. JACKSON) may proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3474.

The PRESIDING OFFICER (Mr. PACKWOOD) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

(The amendment of the House is printed in the RECORD of December 11, 1975, beginning at page 40170.)

Mr. JACKSON. Mr. President, I move to concur with the House amendments to the Senate amendments to the House bill.

Mr. President, this amendment which came over from the House was a part of the original conference report on ERDA. The House deleted certain loan guarantee provisions and in situ oil shale lease provisions from the bill and other than that they sent the bill back as the Senate had adopted it.

I have cleared this matter with Senator PASTORE, who handles the nuclear part of it, with Senator FANNIN and Senator BAKER.

We are all in agreement that in view of the margin of vote in the House, there is no point trying to go back to conference or sending it back with an amendment, despite the fact the Senate passed the bill 80 to 10.

Mr. President, the conferees had adopted the provisions of the Senate version of the bill which would authorize the Administrator of ERDA to guarantee loans for the construction of one-of-a-kind facilities to demonstrate new energy technologies. Among the technologies which were eligible for such assistance were energy production from solid wastes, solar energy applications, geothermal energy, conversion of coal to synthetic fuels, and production of oil from shale.

Another Senate provision adopted by the conferees would have authorized the Administrator to carry out, in cooperation with industry, a carefully controlled experiment in commercial production of oil from shale using in situ methods. The in situ method, if successful, would eliminate most of the extreme environmental consequences which will otherwise result from mining and above ground retorting of shale. It would greatly reduce water use, water quality degradation, and the production of solid wastes for disposal.

On December 11, in an unprecedented action, the House of Representatives bowed to the demands of some of its Members and voted separately upon these two provisions of the Senate-approved conference report. The provisions were rejected and the remainder of the conference report is now before us as an amended bill.

I intend to move that the Senate accept the decision of the House and approve the bill without amendment. I will do so not because I agree with the decision but because it is important for the other provisions of the bill to become law. I am not encouraged to believe that the House will accept any reasonable alternatives to the two provisions I have mentioned at this time.

Mr. President, the House debate on these provisions was remarkable. The loan guarantee provision was opposed by some Members as a $6 billion "ripoff" by the energy industries. It was just as vehemently opposed by others as the first step in nationalizing the oil industry. Editorials in major national newspapers supported both arguments.

I assure the Senate that the provision would have neither of the alleged results. It seems self-evident that it could not have both.

The debate includes contentions that this is a gift to major oil companies and testimonials that it is opposed by major oil companies. It includes contentions that these kinds of facilities will be constructed immediately by industry without

Federal assistance and contentions that they are impossible dreams and that the guaranteed loans will default.

The history of discussions about synthetic fuels policy is dramatically reflected in the House debate. This Nation is no longer self-sufficient in petroleum resources, but it has vast resources of coal and oil shale. We consume energy primarily in three forms—gas for industrial and domestic heating, liquid fuels for transportation, and electricity. All of these demands could be supplied from coal, oil shale, and more advanced systems if socially, environmentally, and economically acceptable conversion technologies could be realized.

There are those who remain complacent that industry will bring about the technologies when the market dictates, and there are those who believe the technical or economic problems are insurmountable. Industry has been alleged to be on the verge of demonstrating shale oil and coal gasification production for years, but action is never forthcoming.

Meanwhile, fundamental national policy decisions are being made based upon gross assumptions about our energy future. The viability of domestic energy self-sufficiency is critical to our international posture, even if we do not choose the course of energy self-sufficiency.

Real changes in life style and severe energy conservation decisions are being deferred because of complacency that technological solutions to the energy crisis are possible. Our energy-based economy continues to face the uncertainties of increasing prices and shortages.

The provisions stricken by the House were intended to encourage early demonstrations of available, but unproven, technologies—to assess the real technological, environmental, economic, and social consequences of synthetic fuel production. They were not intended—and could not—commit us to a synthetic fuels future, but they would provide the basis for reasoned and rational decisions.

The House action seems likely to result in one more costly deferral of action; to extend for at least another year any real initiative to find out if synthetics are a solution to our problems.

At best, our continued ambivalence on research and demonstration of energy alternatives will condemn us to taking expedient and blind action on synthetic fuels at some future date. It will condemn us to crisis commitments without the safeguards, without deliberate analysis, and without knowledge of the consequences. At worst, it will condemn the American public to greater dependence upon Arab oil and greater expansion of the nuclear alternative. And it will result not in energy conservation, but in economic deprivation.

I hope that the opponents of this measure in the House and the critics in the media will spend some time during the forthcoming holiday season reflecting on the options we have for the future. If they remain convinced that there is some way that new energy technologies will materialize without energy industry involvement, without government assistance, or without experimentation I hope that they will advance their own proposals for our consideration early next year.

If they have no alternative proposals, I hope that they can constructively support a program of the kind which has been deleted from this conference report before more crucial years of leadtime are wasted in inaction.

Mr. President, I think we are in complete agreement on the part of the participants in the conference on both sides of the aisle.

I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I concur with what the distinguished Senator from Washington has said.

It is unfortunate the House did take out a very important facet of the bill, which was the loan guarantee program. It is going to be very damaging to the program.

At the same time, we do not have sufficient time to go into that matter with the House. It was such an overwhelming vote. I do not think it would be wise to try at this time to place that particular item back in the bill.

Mr. BUMPERS. Will the Senator yield?

Mr. JACKSON. I yield to the Senator.

Mr. FANNIN. There were two items. The other was on the old mine involvement, and the $750 million.

Mr. JACKSON. That was the other bill.

Mr. FANNIN. That is right.

Mr. JACKSON. This involved the situation of the loan guarantee provision.

Mr. BUMPERS. I think that answers my question.

The House dropped the $6 million loan guarantee and the oil shale project, those are the only two things?

Mr. JACKSON. That is correct.

Mr. DOMENICI. Mr. President, I reluctantly support H.R. 3474 the ERDA authorization bill, as amended by the House. I am disappointed the House struck the provisions which would have provided a loan guarantee program for synthetic fuels development. I feel there is an urgency to bring about the commercialization of synthetic fuels. However, I do not feel that we can delay on approving the authorization of funds for the Energy Research and Development Administration, because the rest of the provisions in the bill are extremely important to the Nation as we strive for energy independence.

I am hopeful that the members of the Senate Interior Committee who spent long hours developing the legislative language contained in section 103 will make every possible effort to assure that similar legislation is considered separately early in the second session.

I cannot stress enough the importance of a loan guaranteed program to insure the development of our synfuels program in the United States. It is important to the State of New Mexico because we have several coal gasification plants proposed for the northwest corner of the State. These plants offer an option to continued excessive dependence on foreign sources of energy. We cannot allow the millions of tons of coal in the United States to lie for another 3 million years, unused and unattended to while the Nation's energy needs go unmet.

Intelligent, resourceful, and environmentally sound development of these valuable resources, which offer so much to America's desire to be energy independent, must proceed. But, it cannot proceed without an aggressive program of Government aid in what is an enormously expensive proposition.

The technology for producing pipeline quality synthane—synthetic methane or natural gas—has been demonstrated in Scotland in a coal gasification plant using a combination lurgi and methanation process to create 25 million cubic feet of gas per day. While this plant is 100 times smaller than the commercial size synthane plants proposed by companies in this country, the fundamental process is known well enough to minimize the technical risk that these larger plants will not function properly.

The synthetic fuels project can involve both mining and manufacturing facilities requiring huge investments in resource assessment, resource acquisition, and development of necessary infrastructures and community facilities. Protection of the environment also can require costly environmental analysis and safeguards. The financial community will in all probability seek more conservative investments unless the Federal Government is willing to participate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I voted to approve the legislation authorizing funds for the Energy Research and Development Administration, as modified by action of the House of Representatives. Our R. & D. programs in energy are an essential element in our national effort to achieve greater independence from unreliable foreign sources of petroleum.

I favor the House position as compared to the Senate proposal and support the changes made by the House of Representatives.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New York to the amendment of the Senator from California. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 606 Leg.]

YEAS—93

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—4

Curtis
Griffin
Scott, William L.
Stennis

NOT VOTING—3

Bayh
Goldwater
Long

So the Javits amendment (amendment No. 1312) to the Tunney amendment (amendment No. 1303) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY), as amended.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I yield to the Republican leader, without losing my right to the floor.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Pennsylvania may proceed.

TEMPORARY CONTINUATION OF CURRENT TAX WITHHOLDING TABLES—S. 2815

Mr. HUGH SCOTT. Mr. President, I send to the desk a bill providing that the current tax withholding tables remain in effect until March 15, 1976.

It is obvious that an impasse has been reached between the President and Congress. The purpose of my bill is to allow negotiations to proceed on the spending ceiling issue while keeping the withholding tax rates at current levels for a short period of time.

Mr. President, I would ask for immediate consideration of my bill but I realize that an objection would be raised. Therefore, I ask unanimous consent that my bill be considered as having been read twice and be placed on the calendar until such time as the Democratic Leadership decides to bring this matter before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The text of the bill is as follows:

S. 2815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source), as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and on or before March 15, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(b) Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out "before January 1, 1976" and inserting in lieu thereof "on or before March 15, 1976".

ANIMAL WELFARE AMENDMENTS OF 1975

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1941, which was reported from the Committee on Commerce today.

The PRESIDING OFFICER. Is there objection to proceeding to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1941) to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes, which has been reported from the Committee on Commerce with an amendment.

The amendment was agreed to.

The bill, was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Animal Welfare Amendments of 1975".

Sec. 2. Section 1 of the Act of August 24, 1966, as amended (7 U.S.C. 2131), is amended to read as follows:

SHORT TITLE AND DECLARATION OF POLICY

Section 1. (a) This Act may be cited as the "Animal Welfare Act".

(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affected such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

(2) to assure the humane treatment of animals during transportation in commerce; and

(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

Sec. 3. Section 2 of such Act (7 U.S.C. 2132) is amended—

(1) by striking out subsections (c) and (d) thereof and inserting in lieu the following:

"(c) The term 'commerce' means trade, traffic, transportation, or other commerce—

"(1) between a place in a State and any place outside of such State; or

"(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

"(d) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;".

(2) by striking out the term "affecting commerce" in subsections (e) and (f) and inserting in lieu thereof "in commerce"; (3) by amending subsection (g) thereof to read as follows:

"(g) The term 'animal' means any dog, cat, monkey, guinea pig, hamster, rabbit, bird, horse, or any other animal, which the Secretary determines is intended for use for research, testing, experimentation, or exhibition purposes, or which is used or intended for use as a pet. With respect to a dog, the term also includes a dog used for hunting, security, or breeding purposes. The term does not include farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food of fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency.".

(3) by amending subsection (f) thereof by inserting after "or sells" and before "any" the following: ", or offers for sale.",

(4) by further amending subsection (f) by inserting a semicolon after the word "pets" and by striking ", but such term excludes any retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer,";

(5) by amending subsection (h) thereof by striking out ", which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce," and inserting in lieu thereof "in commerce"; and

(6) adding at the end thereof the following new subsection:

"(i) The term 'carrier' means any person subject to regulation by the Interstate Commerce Commission, the Civil Aeronautics Board, or the Federal Maritime Commission, or any other person or class of persons engaged in the business of transporting animals for hire or providing services incidental to such transportation, as designated by the Secretary of Transportation.".

Sec. 4. Section 3 of such Act (7 U.S.C. 2133) is amended by inserting after "his facilities" and before "comply" in the first proviso thereof the following: ", including any terminal facilities used by such person,".

Sec. 5. Sections 4, 11, and 12 of such Act (7 U.S.C. 2134, 2141, and 2142) are amended by striking out "affecting commerce" and inserting in lieu thereof "in commerce".

Sec. 6. Section 6 of such Act (7 U.S.C. 136) is amended by striking out "Every research facility and every" and inserting in lieu thereof "Every research facility, carrier, and".

SEC. 7. Section 9 of such Act (7 U.S.C. 2139), is amended by inserting after "dealer," the first time it appears the term "a carrier,", and the second time it appears the term "carrier".

SEC. 8. Section 10 of such Act (7 U.S.C. 2140) is amended by deleting "upon forms supplied by the Secretary" in the first sentence thereof and by adding after the second sentence thereof the following two new sentences: "Carriers shall keep such records as are necessary to carry out this Act, with respect to the transportation, receiving, handling, and delivering of animals, as the Secretary may prescribe: *Provided*, That in the case of those carriers required to maintain records under requirements of other Federal agencies, if the Secretary determines that any additional records are needed for the purposes of this Act, and proposes to require such records, such requirements shall not become effective until they have been approved by such other agencies. Any such records shall be made available at all reasonable times for inspection and copying by the Secretary.".

SEC. 9. Section 13 of such Act (7 U.S.C. 2143), is amended—

(1) by amending the title thereof to read as follows: "HUMANE STANDARDS FOR ANIMALS";

(2) by inserting "(a)" immediately before the first sentence thereof;

(3) by amending the second sentence thereof by inserting after "Such standards" and before "shall include" the following: "shall apply with respect to the facilities of any person licensed or registered pursuant to this Act and with respect to any terminal facilities used by a carrier subject to this Act and"; and

(4) by adding at the end thereof the following two new subsections:

"(b) The Secretary shall promulgate standards in accordance with this subsection to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by carriers, of animals consigned by any dealer, research facility, owner of a pet, exhibitor, operator of an auction sale, department, agency, or instrumentality of the Federal Government or of any State or local government, or other person. Such standards shall include, but need not be limited to, minimum requirements with respect to containers, feed, water, rest, ventilation, temperature, handling, veterinary care, and other factors determined by the Secretary to be relevant to assuring the humane treatment of animals in the course of their transportation in commerce. Such standards shall be designed to assure the safe transportation in commerce of all animals received in healthy condition and to safeguard such animals against disease, injury, and death in the course thereof. The Secretary may revise such standards to the extent necessary or appropriate. Such standards may include a requirement that no animal of a designated kind shall be—

"(1) delivered by a dealer, research facility, exhibitor, operator of an auction sale, owner of a pet, or by a department, agency, or instrumentality of the Federal Government or of any State or local government, to a carrier, for transportation in commerce; or

"(2) received by a carrier, for transportation in commerce, from any person or government entity described in paragraph (1);

unless it is accompanied by a certificate issued with respect to such animal by an accredited (as defined by the Secretary) veterinarian. Each such certificate shall attest that such veteriarian inspected such animal within a time interval which shall be specified and that, when so inspected, such animal appeared to be free of any infectious disease or physical abnormality which might endanger such animal or other animals during transportation in commerce. Any such certificate shall be issued at a time interval, and shall be retained by the receiving carrier for a reasonable period of time in accordance with regulations of the Secretary.

"(c) No carrier involved in the transportation of any animal in commerce shall participate in any arrangement, or engage in any practice, under which the cost of the transportation of such animal, or any other charges (including the purchase price of any such animal), is required to be paid and collected upon the delivery of such animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges, including, where necessary, both the return transportation charges and an amount sufficient to reimburse such carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of any such animal in the event that such animal is not claimed upon delivery. Such transportation shall be permitted by the carriers after a period of twenty-four hours.".

SEC. 10. Section 15 of such Act (7 U.S.C. 2145) is amended by adding at the end thereof the following new subsection:

"(c) In addition to other applicable requirements, the Secretary shall consult and cooperate with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, the Chairman of the Civil Aeronautics Board, the Chairman of the Interstate Commerce Commission, and the Chairman of the Federal Maritime Commission with respect to the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation. Before promulgating any standard governing air transportation and related handling of animals, the Secretary shall consult with the Secretary of Transportation, and the Administrator of the Federal Aviation Administration who shall have the authority to disapprove any such standard if he notifies the Secretary, within thirty days after such consultation, that changes are necessary in the interest of safety flight including the safety of the aircraft, its environment, or its equipment. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any determination by the Secretary with respect to a person subject to regulation by it.".

SEC. 11. Section 16(a) of such Act (7 U.S.C. 2146(a)) is amended—

(1) by inserting "carrier," in the first sentence thereof after the term "exhibitor", each time such term appears in such sentence;

(2) by striking out "or" before "(4)" in the third sentence thereof;

(3) by inserting before the period at the end of the third sentence thereof the following: ", or (5) such animal is held by a carrier"; and

(4) by adding the following new sentence at the end thereof: "The United States attorneys are authorized to prosecute all criminal violations of this Act reported by the Secretary and to invite civil actions to enforce orders of and to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means.".

SEC. 12. Section 19 of such Act, as amended (7 U.S.C. 2149), is amended—

(1) by inserting after "exhibitor," each time the term appears the following: "carrier,";

(2) by striking out "one year" in subsection (c) thereof and inserting in lieu thereof "six months";

(3) by amending subsection (a) thereof by striking "violation, and if" and inserting in lieu thereof the following: "violation. The district courts of the United States shall have jurisdiction to enforce any such order by appropriate means. If";

(4) by amending subsection (c) thereof by inserting "knowingly" after "who" and before "violates"; and

(5) by adding at the end thereof of the following two new subsections:

"(d) Any dealer, exhibitor, carrier, or operator of an auction sale subject to this Act who is determined by the Secretary, after notice and an opportunity for a hearing, to have violated a provision of this Act or of a standard or regulation prescribed pursuant to this Act, shall be liable to the United States for a civil penalty. The amount of such penalty shall be not more than $2,000 for each violation, and if any violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(e) Any action under this section may be brought before a United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action.".

SEC. 13. Section 21 of such Act (7 U.S.C. 2151) is amended by adding at the end thereof the following two new sentences: "Recordkeeping requirements prescribed pursuant to section 8, and standards promulgated pursuant to subsections (a) and (b) of section 10, shall be prescribed or promulgated in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentation.".

SEC. 14. (a) Section 23 of such Act (7 U.S.C. 2153) is amended by striking out the last sentence.

(b) Such Act is amended by adding at the end thereof the following new section:

"SEC. 26. There is authorized to be appropriated to the Secretary to carry out the provisions of this Act not to exceed $4,000,000 for the fiscal year ending June 30, 1976, not to exceed $1,000,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed $4,000,000 for the fiscal year ending September 30, 1977, and not to exceed $4,000,000 for the fiscal year ending September 30, 1978.".

SEC. 15. Section 24 of such Act (7 U.S.C. 2154) is amended—

(1) by inserting "and carriers" after the term "dealers" in the third sentence thereof, and

(2) by adding after "of this Act" and before the period at the end of the first sentence the following: ", except that the regulations relating to carriers shall be prescribed not later than nine months after the date of enactment of the 'Animal Welfare Amendments of 1975.' ".

SEC. 16. Section 25 of such Act (7 U.S.C. 2155) is amended—

(1) by striking out "and" at the end of paragraph (2) thereof;

(2) by redesignating paragraph (3) thereof as paragraph (4) thereof; and

(3) by inserting therein the following new paragraph:

"(3) recommendations and conclusions approved by the Secretary of Transportation, the Administrator of the Federal Aviation Administration and the Chairman of the Civil Aeronautics Board, concerning flight safety, including the aircraft, its environment, or equipment as they relate to the carriage of live animals in air transportation; and".

SEC. 17. Section 16(c) of such Act (7 U.S.C. 2146c) is amended by striking ", and the provisions of title II of the Organized Crime Control Act of 1970 (62 Stat. 856; 18 U.S.C. 6001 et seq.),".

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

ADDITIONAL STATEMENTS ON ANGOLA

Mr. KENNEDY. Mr. President, I rise to support the amendment offered by the Senator from California, Mr. TUNNEY, which I have cosponsored, to halt covert U.S. involvement in the civil war in Angola.

It is evident from the secret session recently concluded that the Senate as a body has neither been informed of the details of our military aid to one of the factions in Angola, advised of the policies being pursued nor been given an opportunity to express its view on this matter.

We are faced with a secret operation that may reach an expenditure of $60 million. Those are taxpayer dollars being used in a way that promotes an escalation of the civil war and massive and tragic loss of life and property that inevitably will result.

We all deplore the intervention by the Soviet Union and Cuba in that newly independent nation of Africa. Yet we neither promote our own interests nor those of a peaceful solution by responding with a CIA-financing covert operation, apparently conducted in concert with the Union of South Africa.

The Congress has an equal role in foreign policymaking with the administration. Our obligations cannot be fulfilled if we are kept in the dark or if we are confronted with an opportunity to act only after the fact. And that is what we are faced with in Angola. A major covert operation has been conducted without full public explanation of the policy being pursued or the interests, objectives, and goals that policy is designed to promote.

Until Congress is given that opportunity and makes that determination, I do not believe we should permit the continued expenditure of tax dollars by the CIA in the Angolan civil war.

And I believe that even were the question before us today as a request for authorization for such action, the risks of that policy clearly outweigh any fleeting short-term benefits.

First, we know that covert involvement of U.S. money and U.S. personnel—whether CIA employees or mercenaries hired by the CIA—in a foreign civil war can ensnare this Nation in growing and undesired commitments. Although we are told that there is no intention of producing another Vietnam on the continent of Africa, the dangers of step-by-step increments of U.S. money, manpower and prestige are clear.

Santayana's warning seems never so apt as today that those who will not learn from history are destined to repeat it.

If we have learned anything from Vietnam, it is that the United States cannot police the world. Any effort to do so in Angola without full public and congressional acceptance of the need for the expenditure of U.S. resources in a foreign civil war cannot be sustained—and should not be sustained.

Second, if we look at the continued statements of the Council of the Organization of African Unity in opposition to foreign intervention in Angola, it is clear that our actions—however frequently we identify them as a reaction to Soviet and Cuban initiatives—will be condemned as foreign intervention. We cannot hope but antagonize many of the African nations with whom we desire improved relations.

Third, it is unchallengeable that throughout black Africa, our involvement on the side of the white supremacist regime of the Union of South Africa and increasing reports of our acting in concert with that government, will be cause for attack. Ultimately, we could well find ourselves isolated from the dominant forces on that continent—a result which clearly is not in our interests.

Finally, the actions we are taking to finance covert operations which prolong the bloody civil war yield tragic humanitarian consequences: loss of life, creation of new populations of refugees, disruption of food supply and resulting malnutrition and hunger. Those covert operations have involved already some $33 million with up to $60 million authorization. Yet our support for humanitarian relief has been limited to $200,000. This juxtaposition of priorities is not in the interests of the people of Angola nor in the interests of the United States.

Let us look at the long story behind our current involvement in Angola.

Angola, as a colony of Portugal, gained its independence on November 11. Yet, because of the abundant natural resources spread throughout that territory, both internal and outside forces have spent months and years vying for full control of this land. To some observers, the conflict and internal strife were inevitable. For, the end of colonialism in African countries has too often been followed by a scramble among warring factions that seek to enjoy the spoils, even before the local residents have a chance to begin guiding their own fate.

Too much of what is happening in Angola today has been repeated time and time again throughout the colonial world. Thus, after years of colonial rule, an African nation emerges with its own internal struggle for powers already drawn upon ethnic, tribal and historical lines.

Adding to that, is the awesome might of the superpowers in the Soviet Union, the United States, and China.

Our Government reluctantly admits involvement for the sake of protecting our interests—particularly our interest in Angola's potential oil supply. And for years, along with the Russians and the Chinese, our Government has been a supporter of at least one liberation faction in Angola.

Zaire, Zambia, and other black African states are also deeply involved in Angola, and for their part, the people of Angola are forced to question this deep involvement in Angolan affairs by so many foreign governments. Yet, a third faction poses one of the most imponderable aspects of this entire conflict. For, the Republic of South Africa has also committed troops, munitions and other resources to the Angolan struggle. Our debate today on this serious matter must focus upon the real dangers posed by the U.S. involvement in that troubled land. As long ago as 1969, the administration decided that black Angolans would not obtain majority rule in the land of their birth. And so, our Government chose to support the Portugese governments of Caetano and Salazar.

But, for at least 13 years, it has been reported, the CIA has funneled assistance to the FNLA—one of the three Angolan liberation parties. When Portugal's government collapsed in 1974, independence for Angola and all of the Portugese colonies became the hallmark of the new Portugese government's democratic experiment.

After that event, the world's attention cautiously turned to the anticipated buildup by interests outside of Angola—interests that have been nurtured by a continuing search for power, but interests that bore no compassion or empathy for self-determination. In 1974, Portugal, after 500 years of colonialism, surrendered her claim to that land, far from the shores of Lisbon.

And now, in 1975, the mighty nations of the world have reached out to pull apart any hope for Angolans to determine for themselves how that newly formed state ought to be directed.

I fully support and have cosponsored the amendment to prohibit military funds for use in Angola, because I agree with those who feel that a continued U.S. buildup can only provide fuel for the warring factions to blaze away at each other.

And the victims of continued fighting will be not only the soldiers of MPLA, UNITA and FNLA—but the women and children and those who are too old to fight who will be the tragic, helpless targets of the rockets, bullets, and missiles that are "Made in the USA."

There are clearly no easy answers to the problems posed by the conflict in Angola. Yet, the issues considered by the administration have too often been surrounded in secrecy. So that even now, as the Senate comes out of a closed briefing and debate on this grave matter, there still remains the difficult issue of where should this country place its resources, its public policy and its moral commitment.

For me, that question has a plain and direct response. The United States should not be militarily involved in Angola. Not only should we get out, but our doing so should be a signal for South Africa, for China, for the Soviet Union, for Zaire and for every foreign government to extricate themselves from Angola's civil war.

Indeed, if our Government insists on being involved, then we should seek ways not only to encourage the ouster of all foreign governments, but we should make it clear that this Nation is prepared to assist any and every effort to negotiate a settlement between the forces of liberation in Angola.

Next year as Americans around the world celebrate an independence that has such precedents throughout civilization, at least we should be prepared to support and assist those efforts designed to insure that peace may prevail in the new nation of Angola.

Last October I listed at least five distinct steps that the United States can and must take in order to serve the causes of peace and justice in Angola.

First, the United States should respect the territorial integrity of Angola, as urged for that country by the three Angolan parties and the Organization of African Unity. All efforts to partition the country or separate Cabinda must be vigorously opposed.

Second, we must do what we can to halt all foreign involvement and intervention—including our own—so that the future of Angola can be decided upon by Angolans themselves.

Third, we should support efforts both within Angola, and on the part of third parties, to mediate between the rival groups to Angola, to halt the bloodshed, and to seize opportunity for a peaceful transition to independence. In particular, we should support the Conciliation Committee of the OAU in its attempt to bring a solution to the Angola crisis.

Fourth, we should demonstrate a willingness to work with any Angolan government that emerges as the people of that nation work out their own plans for self-development.

Finally, governments and international organizations should offer humanitarian assistance to victims of the fighting, wherever they are found, and thereafter, give financial and technical assistance to Angola to help rebuild the country.

We have in this instance a good opportunity for the United States to develop a policy regarding an African nation that has been designed by the Africans themselves. For too long our Government has taken its cue on African policy from other nations in Europe. In this case we know that the OAU has consistently urged all foreign interests to leave Angola. It is clear that our Government deserves to take its lead from those in Africa who want Angolans to decide for themselves the fate of their great land.

I urge my colleagues to support the pending amendment to the Defense Department appropriation so that peace and reason can replace the fire of war that is now consuming the new state of Angola.

Mr. GARN. Mr. President, the debate we are engaged in today is a momentous one, a historic one. Far more is at stake than the fate of Angola. Both sides of the debate over the strategic importance of Angola are correct: we can live without a non-Communist, non-Sovietized Angola, and at the same time, Angola is of enormous importance in today's geopolitics. That is true because the fate of Angola will help to answer the question, "Whom does America protect?" So far, the answer to that question appears to be, "Nobody." Angola is important because of its effect on the perception of American strength by both friend and foe.

Just incidentally, the failure of Soviet action in Angola would preserve a measure of freedom to the people there, but the larger significance is its effect on the fate of other non-Communist nations throughout the world.

I have been concerned about the secrecy involved in the U.S. contribution to the anti-Communist resistance in Angola. Concerned because action of this kind tends to be ineffective, unless it is coupled with some sort of national resolve, which expresses itself in diplomatic terms. It was the lack of such a resolve that led to our defeat in Vietnam, which in turn has contributed to our paralysis in Angola. As an editorial in the London *Daily Telegraph* noted yesterday, "America's self-imposed defeat" in Vietnam has been the best weapon the Communists have had. Of course, in the case of Vietnam, our leaders failed miserably to develop a natonal resolve. They failed on the one hand because they were themselves unsure about our objectives there, and on the other because they proceeded in secret. It is the secrecy of our action in Angola which is also troubling today. In my view, we ought to strip away the mask of secrecy, move openly, and communicate with our constituents the true importance of standing firm in Africa.

For instance, Mr. President, suppose we were to continue our present level of aid, send in the $25 million or so we are talking about today, using the Governments of Zaire and Zambia as conduits, and that we were at the same time to say to the Soviet Union that if a single Mig-21 leaves the runway in Angola, we will simply break off all arms limitation talks, indefinitely. I am willing to bet that the Migs would never take off.

Suppose we were to couple our economic aid with notice to Fidel Castro that his action in Angola constitutes a clear violation of the agreements reached with the United States in 1962. Cuba agreed at that time that there would be no export of the revolution, and we agreed to forego any further attempts to liberate the unhappy people of that island. Suppose we were to tell Castro that since he has violated the agreement, we no longer consider ourselves bound by it, and that we are going to resume active naval operations in the Carribean, for the purpose of preventing any further shipment of Cuban soldiers to Angola. Again, I am willing to bet that we would see some serious action towards a decrease in Cuban activity in Africa.

In short, Mr. President, if we are unwilling to intervene directly in Angola, we should immediately raise the diplomatic costs to the nations that do intervene. Such a course of action should be obvious, and would be if we were not blinded by the rhetoric about the benevolent nature of the Neto movement in Angola. Listening to some of the descriptions of this movement is very reminiscent of the descriptions we heard in the late 1950s of Fidel Castro, or the earlier descriptions of the "agrarian reformers" in China.

However, it is only fair to note that such a policy is incompatible with the policy of détente as recently practiced in the United States. In that respect, Secretary Kissinger's angry comments about foreign involvement in Africa are somewhat startling. Secretary Kissinger has shown an almost amazing tolerance for offensive and insulting action by the Soviet Union and her client states. Now, all of a sudden, he is upset about Soviet intervention in Angola. Well, Mr. President, a number of us have been upset about Soviet actions for a long time. My constituents have never understood the passion for accommodation which has characterized the State Department, and American foreign policy in general. My constituents are strongly opposed to treating the Soviets as good buddies, because they feel in their bones that Angola-style action is what we can always expect from them. And they are correct.

Some observers, more sophisticated than the Senator from Utah, are now coming to the same conclusion. Victor Zorza, in this morning's Washington Post, claims that there has been a shift in Soviet policy, away from accommodation and in the direction of confrontation. The increasing willingness of the Soviets to confront us is explained as follows:

> The military buildup is increasingly giving it the confidence—and the hardware—with which to intervene in far-off places, and to disregard calls for moderation.

With all due respect to Mr. Zorza, I do not, myself, see any shift in policy, but I am glad to see that he now joins me in questioning the intentions of the Kremlin.

I return to a point hinted at earlier, and one which I have made many times on the floor of the Senate: psychological relations are important in geopolitics. Very often the amount of our contribution, or the degree of our involvement is less important than the will we show in acting at all. What I am asking us to do in Angola, Mr. President, is to stand up for the principle of self-determination, and to act to minimize the interference by Communist nations in the affairs of a small, but strategically located country. To do so, we will have to free ourselves from the constraints imposed on us by our blind adherence to the policy of détente.

If we do not Angola will be dominated by the Soviet Union, as Somalia is already, as Guinea is already, and as several other nations of Africa threaten to become. Angola's fall will further validate the good old domino theory, which was restricted to Southeast Asia only by its attackers.

Mr. BROOKE. Mr. President, during the past several days the Senate has attempted a substantive discussion of the

Angolan crisis. We have met in secret session twice. We have debated several amendments, one of which I am a cosponsor, and a resolution setting forth certain policy perspectives on the matter. The decisions we have made or will make by our votes are important ones for which the Congress, in exercising its power, must bear a major share of the responsibility for the events that result therefrom.

Before I detail why I believe the proper policy choice for the Congress is to legislate a cessation of covert support for any of the Angolan factions, it is necessary to set forth certain basic considerations. First, the Angolan conflict is not another Vietnam in any meaningful analytical sense. This is the case even though there are certain generic similarities in that both can be viewed as primarily internal conflicts while at the same time being situations wherein the Soviet Union has attempted to expand its influence by massive support of one of the contending parties. Our reaction in both cases, however unwise it may have been or is, has been predicated on a belief that our interests demand some form of support for elements opposing the Soviet-backed groups. But, I emphasize that these are generic similarities endemic to any so-called liberation struggle in which Soviet expansionism and U.S. interests collide. These similarities do not provide an adequate basis to judge the specific case of Angola.

Far too often in our discussions in the Congress and in performing our educational responsibilities to the American people, the Vietnam tragedy is being used as an emotive rationale for certain actions when what is needed is sober, responsible analysis of a unique situation and its relevance to U.S. interests. It is wisdom to learn from past errors. It is folly to be the prisoner of them.

Second, our limited involvement to date in the Angolan conflict is not another example of Executive malfeasance, nor an indication that the Executive has tried to cover up its actions by ignoring the congressional channels set up for the processing of highly sensitive information. There are designated individuals in this chamber who have been or should have been aware that the United States has been interested in certain Angolan groups for a number of years. The exact nature of that interest may not have been widely known, but the fact that we have had an active interest in the Angolan situation for some time certainly should not have come as a great surprise to many individuals in the Congress. Nor would it have been impossible for other Members, through study of the situation there, to attain a general understanding of how we have sought to promote our interests.

On this matter the Executive has reached certain conclusions based upon its interpretation of information available to it and U.S. interests. We may reach different conclusions at this point in time. If we do, they should be based upon our own best judgments on the substantive issues involved in the Angolan situation, not on any shallow attempt to argue the matter as a congressional-executive confrontation.

Third, contrary to what some have argued, I do not believe that Angola is unimportant to us. The plight of the Angolan peoples should be of great concern to our country. Angola is stategically located close to important sea lanes. Angola is richly endowed with natural resources and will become one of the more important countries of Africa in the years ahead. It is ludicrous to claim that we have no interest in Angola's future in light of these factors; just as ludicrous, in fact, as the claim that our interests inevitably compel us to intercede further in the present conflict.

Finally, the Angolan conflict, while mainly a war between competing groups in Angola, is not without its international implications. The relatively massive involvement of the Soviet Union and Cuba in the conflict, the abhorrent presence of South African forces in Angola, and our own comparatively modest involvement to date have made the conflict more than just a civil war. We obscure the complex nature of the problem by categorizing it as such.

Having examined the Angolan question with these considerations in mind, I have concluded that long-term U.S. interests will not be served by continued covert support of any of the contending factions. No convincing case has been made for such continued support under existing conditions. The factions that we have helped cannot hope to attain effective control of Angola. Our continued covert involvement serves to increase rather than decrease Soviet influence over elements that may come out of the conflict in the strongest position. Our involvement runs counter to the expressed desire of OAU countries for a cessation of all foreign intervention in Angola. Our present policies threaten to create an association, at least in the minds of many Africans, of ourselves with the South African forces who have intervened in Angola. Any such association with a country whose government continues to advocate racial separation is anathema to most Americans and will ill serve our interests in Africa for years to come. For these and other reasons, continued U.S. covert support for any of the factions in Angola is not the proper course of action for the United States.

I am naturally concerned with the willingness of the Soviet Union and its client state, Cuba, to intervene in the Angolan conflict. Such intervention, I believe, is one indication that détente, as practiced by the Kremlin, could be used as a cover for Soviet expansionism. While one must hope that such will not be the case, it is impossible to ignore the contradiction posed by the Soviet intervention in Angola.

The Soviet Union may gain certain advantages if the faction it is supporting wins uncontested control of Angola. One such advantage would be Soviet access to and possible control of certain port facilities in Angola. This would provide Moscow with an opportunity to project a very strong naval presence in the South Atlantic and along shipping lanes of great importance to Western Europe and the United States. Soviet control of Angolan resources would also be very disturbing. Yet, I am firmly convinced that such advantages, if they materialize, will be shortlived. African states, whatever their expressed ideologies, will not long tolerate dominance by any outside power. They have struggled too long for independence to forfeit it to the Soviet Union or anyone else. Indeed, I venture to predict that the Soviet Union will be astonished at the depth of ingratitude the MPLA will manifest in the aftermath of the current struggle should it emerge as the victor.

The need now is for the United States to fashion its policies so that it will be in a position to provide any party that ultimately gains control in Angola the option to establish good relations with our country. In doing so we will give an Angolan regime the opportunity to avoid dependence on the Soviet Union or some other power. It is a proper objective of U.S. foreign policy to provide such an option. To be in a position to do so we must indicate our willingness to abide by the desire of the majority of African states for nonintervention in Angola by any outside power.

Mr. CASE. Mr. President, I believe we have come to a watershed in our relationship to black Africa. If we approve stepped up covert military assistance to Angola today the American position in black Africa will be damaged severely and, increasingly, we will find ourselves isolated on that continent.

While we were involved in helping one of the factions in Angola as early as last March, the first Presidential decision to give some limited military aid came in the middle of July. That was after at least one other black African country decided it had to resume military assistance to the non-Soviet factions—the FNLA and UNITA. It was at a time when the People's Republic of China was backing the non-Soviet factions in Angola.

At that time the President's decision to provide limited military aid was understandable. The Soviets were involved with MPLA; the opposing factions in Angola had the backing of several black African countries and the Chinese.

Conditions have now changed dramatically. The People's Republic of China has pulled out. At the same time the increasing presence of South African soldiers has put the United States in an unhappy position. The Soviets will be quick to paint us an ally of white South Africa, anathema to most black Africans, in the hope of isolating us from black Africa as a whole. Our supporters in black Africa will fall by the wayside if we fall into this trap.

The signs of deterioration have already set in. At the beginning of this week no less than 15 African nations—two of them Moslem Arab states—had decided to recognize the Soviet-backed MPLA as the legitimate Government of Angola. This increasing support for the MPLA will not be ignored by the Organization of African Unity. So far the OAU has remained neutral and has tried to bring the warring factions in Angola together.

The danger is that the OAU's policy will change to support for the Soviet-backed MPLA as African politics polarize on this issue.

At the early stage American support for the FNLA and UNITA was shielded somewhat by the backing for those factions given by other black African countries. It is unclear how long other African countries can afford politically to continue their support if the United States steps up its military aid.

To pursue the course we are on is self-defeating in the context of African politics. We cannot win in the long run. Nor, can we win in the short run. According to the CIA, if the United States were able to give Soviet-style support—and if we could provide military advisors and pay for mercenaries to fight in Angola—then the FNLA and UNITA might have a chance to hang on. Because the Soviets are likely to match us in the delivery of arms and the commitment of foreign soldiers to the conflict, it is clear that at best, we too, can only "hang on."

Now is the time to call a halt. The termination of military aid is essential I believe, if we want to preserve for ourselves a meaningful role in black Africa and to protect our long run strategic interests in the region. It is essential too for the creation of conditions in which the African nations can settle the problem and at the same time preserve their independence from outside domination.

AN ASSESSMENT OF CUBA'S INVOLVEMENT IN ANGOLA—CASTRO'S CONSISTENT FOREIGN POLICY

Mr. STONE. Mr. President, for the past several days we have been debating a course of action with regard to the current situation in Angola. It is no secret that Cuba has sent thousands of armed soldiers to join combat for the Soviets in Angola. Finally this body and the entire world is beginning to understand how Fidel Castro operates and what he stands for.

Our official State Department position of encouraging relations with Castro seems to have been silenced. Perhaps those who have been proponents of relaxed relations, who have called for unilateral concessions to Castro, are now beginning to realize what they would be getting into.

The December 22, 1975, edition of U.S. News & World Report contains an editorial by Howard Fleiger entitled "Fidel's Fidelity." It is an article which provides a revealing analysis of Castro's tactics in seeking our favors. It aptly points out that Castro has not altered his policies that separated the United States and Cuba 15 years ago and has never shown a willingness to change these policies of international subversion in return for improved relations with us. It warns that the only policy-changing to occur will be submission on our part to Castro's game. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FIDEL'S FIDELTY

(By Howard Flieger)

One thing you should not forget about Fidel Castro: whatever else he may be, he is very consistent.

Cuba's latest joint venture with the Soviet Union of intervention in Angola re-emphasizes the point.

Those in the U.S. who have been in favor of easing the American embargo and of encouraging renewed contacts between Washington and Havana would do well to keep this fundamental fact in mind:

If any concessions are made, Castro expects the United States to make them. He isn't going to. He has made it perfectly clear from the beginning that his system is untouchable and there is to be no softening of his Government's anti-U.S. foreign policy at any price.

In all fairness to Castro, he has never promised to change his basic policies in return for improved relations with the U.S., or even hinted at a willingness to do so.

Those in America who feel he might change are indulging in wishful thinking. They get no encouragement from Castro now. They never have from the day he seized Cuba.

All one needs to do is look at the record. Castro has never kept it secret.

During the 1960s, Communist Cuba backed revolution throughout Latin America, and its propagandists and agents encouraged anti-Vietnam War demonstrations in the U.S.

Young Americans were welcomed to Cuba—in fact, invited in with all expenses paid—to cut sugar cane and study Marxism.

When it became apparent during the early 1970s that revolutions in this Hemisphere were not a fertile field for Communism, Castro shifted tactics. He did not shift goals.

Now he is interested in forming commodity exporting associations among Latin American nations as a type of economic warfare against the United States. Cuba is a member of the new Latin American Economic System comprising the countries of Latin America and the Caribbean. The U.S. is not a member. As a matter of fact, it was not asked to join.

Last August, it began to appear in Congress and elsewhere that sentiment was on the increase in this country to break the ice with Castro and get the two Governments on more accommodating terms. How did Fidel Castro receive the news? By making it emphatically clear that, come what may, he had no intention of altering his anti-U.S. ways.

The Cuban dictator reacted by holding a conference in Havana on Puerto Rican independence. He made one of his typical speeches on that occasion. He declared that, if he were faced with a choice between a resumption of Cuban-American relations or backing Puerto Rican independence from the U.S., he would choose the latter without hesitation. It makes no difference to him that only a relative handful of Puerto Ricans actively agitate for independence.

Now Castro has sent thousands of his soldiers into Angola in Africa to join forces with troops from the Soviet Union. These are not mercenaries or soldiers of fortune. They are Cuban army regulars.

As pointed out in a news story in this magazine recently, the Angola force is only one of the detachments of Cuban troops that have been deployed in 10 countries—not to act in Havana's interest but against the interests of the United States, which opposes armed intervention by outsiders in the affairs of newly independent nations.

What it adds up to is this:

If the U.S. if willing to deal with a dictator who has no intention of altering the policies that separated Washington and Havana 15 years ago, then there is a possibility of resumed contacts between the two.

But nobody can say the signals from Havana are obscure. They couldn't be clearer. If relations improve, it will be the U.S. that has changed—not Fidel Castro.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY) as amended by the amendment of the Senator from New York (Mr. JAVITS).

Mr. MANSFIELD. Are we prepared to vote?

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield briefly to the Senator from New York.

Mr. BUCKLEY. Mr. President, I have an amendment that I am prepared to offer in due course, an amendment to the amendment as amended.

The PRESIDING OFFICER. The amendment is not in order.

The question is on agreeing to the amendment of the Senator from California, as amended.

Mr. MANSFIELD. Mr. President, I wonder if I could get some indication from the Senate as to whether or not it is prepared at this time to vote on the amendment of the Senator from California, as amended by the amendment of the Senator from New York.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. McCLURE. I would hope we could have some time for debate in open session on this matter. I do not know that Senators are ready to set a time limitation on it.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending question, that is, the Tunney amendment as amended by the Javits amendment, occur at 4 p.m. today.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I make the request for 5 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I make the request for 7 o'clock.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I make the request for 9 o'clock.

Mr. GRIFFIN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Well, I better go through all the way. I make the request for 11 o'clock tonight.

Mr. WILLIAM L. SCOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I ask unanimous consent that the vote on the pending amendment occur at the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I object for the time being.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, it is very apparent that there is a filibuster in progress against the Tunney amendment as amended by the Javits amendment. I hope that the Senate will be aware of the possibilities inherent therein.

We had held out a faint hope that we could adjourn sine die tonight. That is an impossibility.

We still have some hope that we will be able to adjourn sine die tomorrow; but if we do not, we can anticipate being in on Sunday; I hope not next week, but perhaps. I hope that those who have had to scrounge for airplane reservations will not be too inconvenienced by what has developed in the consideration of this most important amendment, affecting our participation in the affairs of two of the three factions struggling for control in Angola.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Taft). Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that Bruce Thompson, of my staff, be permitted the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILK PRICE SUPPORT ADJUSTMENTS—CONFERENCE REPORT

Mr. HUMPHREY. Mr. President, I submit a report of the committee of conference on Senate Joint Resolution 121, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Taft). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S.J. Res. 121) to provide for quarterly adjustments in the support price of milk, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the Record of December 12, 1975, at page 40243.)

Mr. HUMPHREY. Mr. President, I am gratified that the House has passed legislation yesterday which I introduced, Senate Joint Resolution 121, by a 307–111 vote, designed to help deal with one of the most pressing problems facing our Nation.

This bill establishes the quarterly adjustment of the price support level for milk to assure dairy farmers that the price assurance provided through the dairy price support program will be more nearly attuned to the cost of milk production. As amended by the House of Representatives, the support level for milk would be increased to 85 percent of parity.

The Senate has twice passed legislation embodying these features—and by substantial margins—in the last year.

For the past several years, dairy farmers have been caught in one of the tightest cost-price squeezes ever encountered. Production costs have skyrocketed but milk prices have not kept pace.

In 1972, we produced almost 120 billion pounds of milk in the United States. That year the milk supply was in very close balance with the demand for milk and dairy products. During late 1972 and early 1973, prices for milk and dairy products began to rise seasonally. Unfortunately, rather than permit market forces to operate so as to bring forth the additional production needed, the administration ordered repeated expansions of dairy product imports for the express purpose of depressing prices.

While these actions were not immediately successful, the ultimate result was the accumulation of inventories of dairy products in this country and a decline in the farm price for milk of almost 25 percent from March to July of 1974.

While dairy prices have recovered recently, producers are still not meeting production costs, and some of the improvement has been due to reduced feed costs. And the outlook at this point is uncertain as to what will happen to feed costs in the future.

In Minnesota, we have always been proud of our dairy industry. In spite of the Flanigan report, I would not concede that our dairy farmers are less efficient than producers in any other country.

But today that industry is threatened. During the last 2 years, 5,000 Minnesota dairy farmers quit. Right now, the number of dairy farms in the State is at an all time low.

In the past, declining numbers of dairy farmers and dairy cows has been made up for by larger units and higher production per cow.

We are not certain how fast dairy farmers can respond to the need for increased production. And we need to face the cold, hard fact that despite the willingness to put in 7-day weeks, 52 weeks a year, the dairy farmer just is not receiving enough return to provide the living needed for his family.

We all know what inflation has done to our economy. On the farm it has been even sharper. Fertilizer, fuel, feed, equipment, taxes, interest rates—every item the producer faces has increased in cost in the last few years. In some cases, these increases have been as much as 200 to 300 percent. Only recently have these trends slowed down with the recession.

The dairy farmer has witnessed the erosion of his investment. In August 1973, the average dairy cow in Minnesota was worth $590. The total value of the State's milk cow inventory was $537.7 million. Two years later, the average dairy cow in Minnesota was only worth $355 and the value of the State's dairy herd had eroded to $310.6 million.

Faced with this situation, the dairy farmer has had little alternative. He has been forced to cut back. For some, this has taken the form of culling herds more closely. For others it has meant reductions in rates of feeding. For all too many others, the choice has been to leave the business entirely.

As this has been done, we have seen milk production fall. From the balanced situation we saw in 1972, when production was almost 120 billion pounds, we saw it drop to 115.4 billion pounds in 1973; 1974 production was almost identical with the 1973 level.

While milk production has gone up by 1.9 percent in November over the same month in 1974, total production for the first 11 months of 1975 was down 0.1 percent over the same period last year.

November milk production in Minnesota was a modest 1 million gallon increase over the previous month, but was 3.2 million gallons or 6 percent lower than for November 1974.

Minnesota's milk production for the first 11 months of 1975 was 706.9 million gallons which is down 35.4 million gallons or 5 percent below the same period last year.

Unfortunately, the Department of Agriculture has again resorted to scare tactics as to what this bill might cost consumers. They claim that this bill could lead to price increases of 3 cents per half gallon of milk, 7 cents per pound of butter, and 4¾ cents per pound of cheese.

But we have learned to discount the USDA cost estimates. And we also know that reduced milk prices paid to farmers result in little benefit to our consumers.

In early 1974, prices paid to dairy farmers declined by almost 25 percent, but there was almost no change whatsoever in prices paid for milk at the supermarket.

Our urban consumers have seen that the Nixon-Ford-Butz roller coaster farm prices do not serve their interests. It is far better to assure farmers a reliable income so that they at least have the opportunity to make a fair income.

This bill would not result in any purchases at present since market prices are well above the 85-percent support level. And while some purchases may be required during the spring flush period, this is a small price to maintain some stability and keep our producers in business.

I would like to share the projections prepared by the National Milk Producers Federation which indicate two things: First, a support level of 85 percent is needed to induce enough production to meet our needs; and second, the Government cost of these programs will be minimal.

The following is the production-consumption data on which this conclusion is based:

	In billions of pounds		Estimated	
	1974 actual	1975 projected	1976	1977
Production	115.4	115.0	116.0	117.0
Imports	2.9	1.4	1.7	1.7
Beginning inventory	5.2	5.8	3.7	3.0
Total supply	123.5	122.2	121.4	121.7
Ending inventory	5.8	3.7	3.0	3.4
Total use	117.7	118.5	118.4	118.3
Exports	1.2	1.0	1.0	1.0
Fed to calves	1.6	1.4	1.3	1.2
Military	1.1	1.1	1.1	1.1
Civilian use	113.8	115.0	115.0	115.0

The assumptions on which these projections and estimates are made are reasonable and conservative. Imports are projected at the norm which has prevailed for several years, somewhat higher than those for 1975. The "fed to calves" figure is declining, because there are fewer cows—and calves—on farms.

Civilian use, which has shown an increase in recent years, is projected as stabilizing with the slight per capita decline in consumption offset by the increased population total.

There have been extensive hearings on this bill both in the House and the Senate which have detailed the problems of dairying and particularly the ever increasing production costs.

The consensus of the recently held field hearings by the House Agriculture Committee supported the two provisions of this bill as being essential to restore stability in dairy production and reverse the present trends which could lead to shortages in dairy products.

For our Nation's best long-term interests, imports are not the answer. Instead, the answer is to encourage our dairly farmers to maintain a production sufficient to meet our needs.

Even at 85 percent of parity, these figures paint a grim picture which I hope proves to be too conservative. It shows that in the current year and in 1976 we will be using more dairy products than are available to us through production and imports. Because dairying requires several years to redevelop production, these figures show that setting supports at 85 percent of parity now will barely correct this situation by 1977.

That is why, if we are to maintain adequate dairy supplies, it is necessary for us to make this adjustment now—to give dairy farmers assurances through an 85 percent of parity support level that it will pay them to stay in dairying and to produce our needed dairy supplies. The longer we wait, the longer it will take for this situation to correct itself.

Mr. President, as originally passed by the Senate, the joint resolution provided that—effective for the period beginning on the date of enactment and ending on March 31, 1979—the Secretary of Agriculture would be required to adjust upward the support price of manufacturing milk at the beginning of each quarter to reflect any estimated increase during the immediately preceding quarter in the index of prices paid by farmers for production items, interest, taxes, and farm wage rates.

As passed by the House, the resolution provided that the date for the termination of the quarterly adjustment would be March 31, 1978, instead of March 31, 1979, in order that this legislation would again be considered when new farm legislation involving other major commodities is considered.

The House also added an amendment which required that the support price for milk be established at 85 per centum of the parity price therefor.

The Senate conferees were readily agreeable to the termination date change and found the House persuasive in respect to the 85 per centum support price for milk. As a result, the Senate receded to both amendments.

Mr. President, there has been some controversy regarding the cost of the conference report on Senate Joint Resolution 121.

As usual, the Department of Agriculture has estimated a cost figure which I feel is unjustified.

As a result, I had a cost estimate prepared.

That cost figure is substantially less than that as determined by the Department.

Based on an assumed production of 116 billion pounds of milk in 1976–77, and 117 billion pounds in 1977–78, and civilian consumption estimated at 115 billion pounds in each marketing year, the net increases in costs above the 1975–76 costs amount to $27.9 million during the first year of the new program and $44.2 million in the second year of the program.

Mr. President, I ask unanimous consent that these cost determinations be made a part of the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	1975–76	1976–77	1977–78
Milk production (billion pounds)	115	116	117
CCC purchases:			
Nonfat dry milk (net removals; million pounds)	330	330	330
Additional milk (butterfat and nonfat solids; billion pounds)	0	0	0
CCC cost, 85 percent parity with quarterly adjustment (millions):			
Nonfat dry milk	$200.0	$220.1	$231.6
Butter and cheese for program use	63.0	70.8	75.6
Total	263.0	290.9	307.2
Use for Government distribution at cost (millions)	103.6	114.2	121.3
Net price support cost (millions)	159.4	176.7	185.9
Increase in CCC cost from 1975–76 (millions)		27.9	44.2
Increase in CCC cost less cost for Government distribution		17.3	26.5

The National Milk Producers Federation contends that increased population and need to rebuild commercial stocks will require 1 billion pounds additional milk for 1976–77 and another 1 billion pounds for 1977–78.

It is assumed that CCC will purchase the same amount of nonfat dry milk for which no butterfat purchases will be made for each year.

Government program use will not be less than for the 1975–76 marketing year.

Program costs estimates based on USDA projections of price support levels at 85% parity with quarterly adjustment.

Mr. BELLMON. Mr. President, Senate Joint Resolution 121, which involves the milk price support program is a good example of legislation which creates great trouble for the budget. It was just last week that Congress fixed budget ceilings—ceilings which totaled $408 billion in budget authority, $374.9 billion in outlays resulting in a deficit of $74.1 billion. Most of us did not like that deficit of $74.1 billion but we recognized that it was the product of current law and current economic conditions. So, by an overwhelming Senate vote of 69 to 23, we approved this budget. Now, only a week later, we are faced with a piece of proposed legislation which would add to that huge deficit of $74.1 billion.

The budget we approved such a short time ago included in function 350—the agriculture function—total budget authority of $4.1 billion and outlays of $2.6 billion. Existing programs based either on enactment this session or in prior years—including the existing milk price support level of 80 percent parity—cause the totals in this function of the budget to reach the ceilings. We have no room in this function for increased Government support levels.

Yet, Senate Joint Resolution 121 would ask us to increase the milk support price level from 80 to 85 percent of parity. The actual cost to the budget of this change in support price will depend on future market prices and thus we are forced to use historical patterns and future expectations regarding market prices; nevertheless, according to the latest USDA estimates, the budget cost of the changes will approximate $90 million for fiscal year 1976, $35 million for the transition quarter, $290 million for fiscal year 1977, and $120 million for fiscal year 1978.

These numbers total $535 million—extra dollars to be spent over the level to be spent if the price support level is left at 80 percent. And these extra dollars are dollars we do not have—they will breach the targets set in the agriculture function. This resolution itself is not subject to a point of order but it will break the agriculture budget and the increased cost of milk support prices will simply crowd out of the budget something else which was anticipated. This crowding out will possibly occur next spring and it might involve agriculture or it could involve some totally unrelated item.

Support price payment items are no small part of the agriculture budget. In fact, the agriculture budget targets set last spring had to be moved up by $583 million this fall due to increased commodity payments. Such payments are part of the so-called "uncontrollable mandatory entitlement programs" which have been discussed on this floor so many times this year. These are the programs which create automatic expenditures to anyone who meets the qualifications mandated by the law. By expanding these kinds of programs or expanding benefit levels in existing programs, we are insuring that more and more of the budget will be "uncontrollable," and less and less of the budget will be available in future years to meet the priorities deemed most important at that time.

I urge my colleagues to return this resolution to conference so that the support level can be put at 80 percent of parity, a level which the marketplace is used to and a level which our budget can afford.

Mr. HUMPHREY. Mr. President, I move that the Senate agree to the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS FISCAL YEAR 1976

The Senate continued with consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Schneider and Mr. Bates be permitted the privilege of the floor during the consideration of the Tunney amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Bob Jerome, of my staff, be permitted the privilege of the floor during the debate and vote on this subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the majority leader has indicated that, in his judgment, a filibuster has been initiated. I do not know whether a filibuster will be maintained or not, but I think that some serious questions should be asked and answered in open session.

We have had the opportunity to discuss some of the issues in closed session; and I shared the opinion yesterday in our closed session that we spent far too much of the time in the closed session talking about things that were not directly pertinent to the question of aid to Angola. This morning, we were able to confine the discussion to the question of Angola, but we oftentimes had comments that were not pertinent to classified information but were general discussion matters relative to a policy decision on our foreign policy in support of an element struggling in Angola.

It was my feeling then, and it is my feeling now, that the public is entitled to have a clear and public expression of Members of this body of their concerns and their view of the issues that are at stake with respect to U.S. policy. I think we need to do that on the record. We need to do it out in front of the public. That will be my purpose now—to try to raise some of the questions now that were raised in the closed session.

Let me say, parenthetically, that after having spent 3 hours yesterday and 2 hours plus today in closed session, seeking to determine what classified or secret information was available to us that bears on this subject, I have to conclude that the decisions being reached are being reached on the basis of matters that already have been almost fully reported in the press and that there is very little that bears upon our decision that has not been reported fully in the press already. I do not know whether that is a matter of comfort to the people of this country or whether that is a matter that might shock them.

I had hoped that we would discover in the closed sessions some factual information concerning our policy and the ramifications and the aims of our policy that was not already reported. I had hoped that we would find in the closed sessions some information that deals with or bears upon the motives, the aspirations, the involvement, and the goals of the Soviet Union in their involvement in Angola. I find that, again, all or virtually all of the information available to the Senate in making our decision has already been discussed fully in the public press.

I had hoped that we would find out something in the secret sessions about the involvement of South Africa in the struggle that is now going on in Angola. Yet, the discussions that we have had in these closed sessions indicate to me that the Senate has no information and that no information can be made available to the Senate in regard to the involvement of South Africa in the ongoing event in Angola, save those things which already have been discussed in public print.

I make that statement as a background, simply so that no one will be misled as to the reason why I asked at the time for the closed sessions. Not being on any of the committees which received these briefings or this information, as a matter of course, I had hoped to be informed by Members of the Senate who are thus privy to the information presented to them in those closed sessions, and I had hoped that I might be better informed and better able to make a decision with regard to our policy.

Having said that, let us look at what our policy decisions might be. Let us take a look at where we are, and let us determine, if we can, the effect of the Tunney amendment upon our involvement in Angola or, as a matter of fact, upon the general flow of our foreign policy. I think it is fair to state, from all the information—at least it is my conclusion from the information—that we did not start it; that, as Portugal granted independence to the native peoples in Angola and withdrew that remnant of colonial rule in Africa, there emerged within Angola three different groups, each of whom was seeking to control the flow of government after independence was granted to them.

I think it is also fair to state that the record will indicate that each of these three movements has some popular support and that we have responded to the flow by joining others in support of two of three factions and, in effect, in so doing, against the third of the three factions, that faction being backed by the Soviet Union and supported, also, by some outside elements.

Those who argue that we should not be involved have pointed out that we should not be involved because the Soviet-backed element is the strongest, most well organized, and most dedicated, and therefore the most likely to win of the three elements involved; and, conversely, that we should not be involved in backing the two elements with whom we have chosen to affiliate our efforts because, being less strongly motivated and less dedicated and presumably weaker, they are bound to lose.

I asked one of the Members who had indicated that we ought not to continue our effort because it is bound to lose, and some of us who had said it makes no difference to the United States which one of the factions wins, that then it would seem to me obvious we ought to join the Soviet Union in backing the one element that is going to win because then we would be on the side of the winner, and it does not matter who wins.

If that is the kind of logic that impels us to a decision, I am distressed for the policy of this country and, incidentally, when I made that suggestion the people who said we ought not back losers because they are losers, said, "Well, but that is not the reason."

I simply suggested that certainly they must think we were joining the other side simply because the Soviet Union was involved on one side and we automatically took the other, and that seemed to me to be a very unwise policy, and the kind of a kneejerk reaction that does not bear upon the logical analysis of the situation that there are choices.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. McCLURE. I would be happy to yield without losing my right to the floor.

Mr. DOMENICI. My reason for interrupting the Senator from Idaho is that I have to leave the floor for a moment and I wanted to ask the Senator one question before I left.

Based upon everything you have heard, would you agree that if we adopt the Tunney amendment that we are effecting a major change in American foreign policy by adopting such an amendment?

Mr. McCLURE. I would say to the Senator from New Mexico I agree with him, although there are some people who support the Tunney amendment who are trying to persuade us that it is neutral in regard to the future course of American foreign policy.

I cannot view it as such, and I do not think the rest of the world would view it as such.

Mr. DOMENICI. I would say to the Senator that I am sure if we spend a little time on the floor in open discussion and if we had expressions from both sides to supplement what was said in the secret sessions, then the public can judge as to whether we are changing America's foreign policy or not.

Let me ask the Senator one further question. It is my understanding, based upon everything we have heard to this point in time, that there have been no discussions, private or otherwise, Senate committees involved or the Senate leadership with the President of the United States. Does the Senator understand that to be the state of the facts?

Mr. McCLURE. I understand it.

Mr. DOMENICI. I would also ask whether or not there have been discussions directly with the Secretary of State on this issue prior to the presentation of the Tunney amendment.

Mr. McCLURE. I would say from all the discussions we have had for the last 2 days on the floor and from some rather detailed inquiry of the proponents of the amendment and those who are deeply involved in the appropriate committees in the development of policy, that they never presented any evidence of any statement by the President of the United States, that there was no hint that the Secretary of State of the United States made any statement to them nor had they sought that information from the Secretary of State.

Mr. DOMENICI. In all fairness, it is true a number of committees have inquired of various CIA officials and various State Department officials. However, my specific question is: To this point in time has there been any direct communication with the President of the United States, or with the Secretary of State, in reference to the effect of this amendment on the foreign policy of the United States?

Mr. McCLURE. I would have to say to the Senator there is no evidence of any such direct contact or direct input into the deliberations.

I think, in fairness, however, we should indicate that there are people within the CIA and within the State Department, including Assistant Secretaries of State, who have made such statements and, I assume, the proponents would urge that the positions articulated by these men are imputed both to the Secretary of State or the President. But there was no direct statement by the President, no direct statement or involvement in the statements by the Secretary of State.

Mr. DOMENICI. I say this to the distinguished Senator from Idaho and to my Senate colleagues because I am not one who usually participates in lengthy dialogs on the floor of the Senate. I am one who has said the Senate ought to be more involved in foreign policy, and I am one who has said the American people ought to be more informed on what we are doing.

It does appear to me if those who propose this amendment thought that it was a rather insignificant act, that there was another option that would still be open. That, as a matter of fact, we ought not to get in on the ground floor of a budding Vietnam. That in reality, with the Russian massive buildup in Angola, and with Cuban mercenaries approaching between 3,000 and 5,000 in number already there, that what the world perceives and what the Soviet Union perceives to be the existing American policy may very well have seemed to change to then as a result of this particular amendment, whether or not the administration has another option yet to come down the line in a few weeks. That this amendment can be perceived as a major change in American foreign policy with reference to that part of the world and the activities of the Soviet Union.

I say that because it appears to me if that is the case, then regardless of what we think we are doing in terms of technical changes in the way we fund this kind of activity, it may indeed be perceived as far more than that and may, indeed, be far more than that because perception may be reality in foreign affairs.

Mr. McCLURE. May I say to the Senator from New Mexico that he has put his finger on the problem, the crux of the problem, that confronts many of us.

In spite of the urging of some who support the Tunney amendment, who say it merely leaves our options open or, putting it in another way, it gives the Congress of the United States an opportunity to express its will prior to the adoption of a foreign policy, that it is not going to be perceived that way by other people in the world who see that we do now have, as a matter of fact, a policy in Angola which will be, as a matter of fact, changed by the adoption of this amendment. I think the Senator from New Mexico is exactly correct.

Mr. DOMENICI. Just one last comment. I appreciate the Senator giving me this opportunity while he has the floor.

It appears to me that the issue that we are discussing is so intimately tied into the major issue of détente and our relationships with the Soviet Union that they cannot be separated. We do not purport in this amendment to be addressing the relationships with the Soviet Union as they exist today under the guise of détente. It appears to me that the long-term solution to the Soviet Union involvement in Angola and an ever-escalating effort on their part to take over that part of the world is ultimately going to be tied to détente.

Does America, indeed, change its policies with reference to détente and the Soviet Union or not? Is this the time that we should? If it is not, are we ever going to?

Are the economics between the Soviet Union and America, including the sale of technology, trade relationships, cultural exchanges, SALT II, and all those kinds of negotiations—could they not be the leveraging mechanism for just this kind of activity? And are we not throwing that leverage out the window when we completely change our policy on this one without exercising that kind of leverage?

That is what concerns me. I think that is clearly a prerogative of the executive. It ought to be explored with the executive. In fact, I believe that a sense of the Senate proposition telling the executive that we want him to exercise whatever leverage there is in that relationship, to make it clear that we do not want the Russians nor American equipment, nor other foreign powers, in that part of the world, would be a proper role for the Senate. Such a sense of the Senate resolution could say that we want to explore this kind of use of American leverage since neither the Russians nor Americans can win in Angola. Maybe they will all get out if indeed we exercise the type of maximum leverage that is unrelated to sending materials into Angola.

I leave with that and thank the Senator from Idaho for yielding.

Mr. McCLURE. I thank the Senator from New Mexico for making that statement, because it focuses on something I should have said at the outset that motivates the Senator from Idaho. That is that I wish the people of Angola were free to make their own decision about their own destiny without the outside interference of anyone. I do not want to see the United States interfering in their internal affairs. I do not want to see the South Africans or Soviets interfering in their affairs. I would prefer that the neighboring African states did not interfere in the internal affairs of Angola. I would prefer that these people be allowed to work out their own destiny in their own way, without the interference of anyone.

The fact of the matter is that other forces are involved, that the United States has responded, over a period of time, in a way which is perceived in the world, partly as a result of the discussions here in the Senate of the United States, as a direct involvement and that we cannot subtract that without signaling to the world that the Senate of the United States has directed a change in foreign policy of the United States.

I think the Senator from New Mexico is exactly correct.

Mr. DOMENICI. Just one final comment. I think that certainly, the Senator from Idaho and others will discuss the pros and cons of the actual strategic value of this piece of the world to the United States. There will be a very serious split of opinion as to whether it is valuable or is not. I wish to make it clear that to this point, I have not been talking about the fact that the Soviet Union may very well be changing its policy with reference to the direct intervention in another major country and, perhaps, in another major continent. That, in and of itself, becomes a matter of grave national concern to America. If that is a change in policy or an elaboration or an extension of a policy, then we have to look at it in terms of what options are available to us to make sure that it does not reach its final fruition or goal without any limitation placed upon it.

It is my opinion that the Tunney amendment sets no limit on the Russian policy and does not perceive its potential as a kind of openended change in Soviet policy with massive support and mercenaries taking over another country. It is in that context that I have discussed it with the Senator to this point.

Mr. McCLURE. I say to the Senator from New Mexico, in response to that question, that I agree with his statement and I agree with the implications that will be read into actions by the Senate. That is one of the dilemmas that I think we face. When we discover a policy, whether we agree with it or not, we cannot directly move to stop that application of that policy without that, in itself, being a policy. We have never had the opportunity to adopt a policy. We in the Senate of the United States or in the Congress of the United States have not, until this time, congressionally adopted a policy or articulated a policy for the United States to follow with regard to Angola. That is a tragedy.

Mr. DOMENICI. I thank the Senator.

Mr. McCLURE. I agree with some of my friends, the Senator from New York (Mr. JAVITS), the Senator from New Jersey (Mr. CASE), the Senator from Minnesota (Mr. HUMPHREY). They have all most eloquently stated the need for Congress to be involved in the application of foreign policy, particularly with respect to what we may or may not be doing in Angola, now or in the future. But I wish that we had been involved in the development of the policy. I hope that we will be involved in the development of the policy. But I do not think we can, in this context, adopt an amendment without that, in itself, being the adoption of a policy.

The Senators, some of whom I have mentioned, and others, have said this is too serious a matter to be decided by the Senate of the United States without any extended debate and without some hearings and without some very serious consideration of the implications of the policy. Yet, they would have us adopt the amendment which, in itself, is an adoption of a policy.

Mr. BUCKLEY. Mr. President, will the Senator yield for a moment?

Mr. McCLURE. Mr. President, I shall yield to the Senator from New York if I may yield without losing my right to the floor, without the resumption being considered a second speech.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. McCLURE. I yield.

Mr BUCKLEY. Mr. President, I thank my friend from Idaho. I should like to dispose of some pending business.

EXECUTIVE PROTECTIVE SERVICE

Mr. BUCKLEY. I ask the Chair to lay before the Senate a message from the House on H.R. 11184.

The PRESIDING OFFICER The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 11184) to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. CRANSTON. Reserving the right to object, will the Senator explain the request?

Mr. BUCKLEY. This is similar to legislation that was adopted by the Congress 2 months ago, but which the President vetoed.

It had been adopted in both Houses by a very substantial majority. Since the veto we have negotiated a tighter bill. It provides for reimbursement under special circumstances, controlled by the Secretary of the Treasury, for any extraordinary expenses incurred in the protection of foreign diplomats coming to this country.

Mr. CRANSTON. Has action been cleared by Senator Randolph?

Mr. BUCKLEY. It has been cleared. In fact, an identical bill was reported out by the Public Works Committee yesterday. In addition, the chairman of the subcommittee (Mr. MORGAN) has authorized me to go ahead and call up this matter at this time.

Mr. CRANSTON. I have no objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. BUCKLEY. Mr. President, as I have stated, I introduced a companion bill, S. 2796, on Tuesday. The Committee on Public Works, yesterday, considered the bill and reported it by unanimous vote to the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-573), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2796, as reported, is to increase by 350 the authorized number of Executive Protective Service officers and to direct the Service to provide, under certain conditions for extraordinary protective needs at foreign missions in cities where 20 or more such facilities exist. The Executive Protective Service would be authorized and encouraged to delegate this special protective service, under limited circumstances, to local police officials in those cities outside Washington, D.C., with reimbursement.

BACKGROUND AND NEED FOR LEGISLATION

Public Law 91-217 changed the name of the White House Police to the Executive Protective Service and expanded its responsibilities to include the regular protection of foreign embassies in the Washington, D.C., area and diplomatic missions outside Washington as the President may direct on a case-by-case basis. The authorized strength of the Service was set at 850 officers. Public Law 91-217 was written in recognition of the nation's obligations under international law and practice to take all reasonable precautions in assuring the safety of foreign diplomatic missions and their personnel. The Executive Protective Service also retained its responsibility to protect the buildings and grounds of the White House and Executive Office Buildings.

Since 1970, however, incidents of political terrorism have increased, along with the demands for protective services. A strong national interest exists in assuring the safety of foreign officials visiting the United States, whether those visits are to Washington, D.C., or other areas of the United States. Developments since the passage of P.L. 91-217 demonstrate the need for protective services wherever a substantial number of foreign missions exist. As this need has increased—and it could increase still further—local communities should no longer be forced to bear the full cost of what is essentially a national obligation.

This in no way affects the day-to-day protection of foreign diplomatic missions, which remains the responsibility of local police departments outside Washington, D.C. But S. 2796 recognizes that there are instances of extraordinary protective need when Federal assistance is wise and justified. This legislation facilitates such assistance.

The validity of this assistance can be shown by the fact that the permanent and observer missions associated with the United Nations pay no property or other taxes or payments in lieu of taxes under Article 23 of the Vienna Convention and the Convention on the United Nations. Nor do those employees of the United Nations who are aliens pay local income taxes to help offset any costs that their presence in the city imposes on local government. About 4,000 of the 5,000 United Nations employees stationed in New York City are foreign nationals and thus exempt from all local taxes. To a lesser extent, a similar burden is carried by many cities.

PROVISIONS OF LEGISLATION

In addition to raising the personnel ceiling of the Executive Protective Service to 1200 officers from 850 officers, S. 2796 directs the Secretary of the Treasury to provide uniformed police protection at foreign missions in cases of extraordinary protective need in cities where 20 or more such missions are located. The following cities, according to State Department figures, have 20 or more foreign consular offices: Chicago, Houston, Los Angeles, Miami, New Orleans, New York City, and San Francisco.

To provide this protection, the Secretary must also find that the protective need was associated with the visit by a dignitary who, at some point during his visit to the United States, participated in the activities of an international organization of which the United States is a member, such as the United Nations. Or the Secretary must find that the protective need will occur at or outside either a permanent mission to such an international organization or an observer mission that has been invited to participate in the work of such an organization. Permanent missions are maintained by member states. Observer missions may be maintained by organizations such as the government of Switzerland or the Palestine Liberation Organization.

The authority for such protection is extended in the case of the cities with 20 or more missions to those places where the visiting dignitary may be staying, not simply the official mission site. Representatives of foreign governments and others who may create a situation leading to protection under this bill generally reside at a hotel, rather than at what might be defined under the strictest interpretation as a foreign mission, when visiting outside Washington, D.C.

This was the case during the visit to New York City in November 1974 of Yasir Arafat, the leader of the Palestine Liberation Organization. The extraordinary protection for that one-day Arafat visit cost the taxpayers of New York City in excess of $700,000. To assure equitable treatment in such situations, this legislation covers the extraordinary protective needs provided at hotels or other facilities utilized by the visitor.

This bill offers two approaches to the actual extension of protection. The Secretary may dispatch the necessary complement of EPS officers from Washington. But S. 2796 provides the Secretary with new flexibility to utilize the services, personnel, equipment, and facilities of State and local governments, with their consent and on a reimbursable basis, to meet such extraordinary protective needs.

Following any decision that an extraordinary protective need exists under the terms of S. 2796, the Secretary should first consult with local officials to give them the option of providing the necessary protection, and receiving Federal reimbursement for such services, instead of dispatching a contingent of Executive Protective Service personnel.

Whenever possible the Executive Protective Service should utilize local police agencies in fulfilling the duties outlined in this bill. Local police are more knowledgeable about local conditions than officers sent from Washington. And the cost savings from the use of local officers could prove substantial. The cost in salary, transportation, and benefits of sending one Executive Protective Service officer to New York City for one week is estimated by the Treasury Department at $700, or an annual rate of about $35,000. That is approximately twice the cost, in salary and benefits, of using one New York City policeman. The cost savings would be proportionally greater at locations more distant from Washington.

This legislation, of course, does not preclude the President, on a case-by-case basis, from directing that the Executive Protective Service provide protection in a particular city as the need may arise.

The bill grants the President the authority to transfer the administration of the reimbursement provision to the Secretary of State, if that appears to be a more effective approach in view of the State Department's closer relationship with the demands of visits of foreign dignitaries or the potential problems at a mission associated with an international organization.

These amendments, further defining the activities of the Executive Protective Service, are retroactive to July 1, 1974, when these added burdens and dangers became particularly acute.

The bill authorizes an appropriation of $3,500,000 to be available under the reimbursement provision for expenses related to each of the fiscal years 1975, 1976, 1977, and thereafter.

Section 2 of the bill provides permanent job rankings at levels IV and V of the Executive Schedule for the Director and the Deputy Director of the Secret Service. The Executive Protective Service is administered through the Secret Service.

HEARINGS

The Subcommittee on Buildings and Grounds conducted a hearing on similar legislation, H.R. 12, on June 9, 1975. Testimony was presented by an official of the Treasury Department, Members of Congress, and representatives of the International Conference of Police Associations.

AGENCY VIEWS

The following communication was received on the legislation:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Hon. JAMES L. BUCKLEY,
U.S. Senate, Washington, D.C.

DEAR JIM: This is to confirm that substitute draft legislation for H.R. 12 has been developed by your staff with the assistance of my staff.

That draft bill meets the basic objections to H.R. 12 set forth in the President's veto message, and the Administration would have no objection to its enactment.

Sincerely yours,
JAMES T LYNN,
Director.

ROLLCALL VOTES

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Public Works require that any rollcall vote be announced in this report. S. 2796 was ordered reported by unanimous voice vote.

COST OF THE LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in this report of the Committee's estimate of the cost of reported legislation, together with estimates prepared by any Federal agency.

The cost of subsection (c) is estimated by the Treasury Department as follows:

Fiscal year:

1977	$4,450,000
1978	3,500,000
1979	3,600,000
1980	3,700,000
1981	3,750,000

The estimate is based upon plans to hire 166 new officers, out of the 350 authorized by this subsection. Should the Department hire the full complement of 350 officers, the cost of this subsection would be approximately twice the above figures.

The cost of the reimbursement provision, subsection (d), is limited to a maximum of $3,500,000 for each fiscal year.

Mr. BUCKLEY. Mr. President, this legislation narrows the focus of an earlier act, H.R. 12, which President Ford vetoed. I am pleased that we have been able to work out a compromise with the administration, and that they now have no objection to the passage of this bill. In fact, I have been assured that Mr. Lynn, director of the Office of Management and Budget, will ask that the President include in his forthcoming budget an appropriation request for $2,000,000 for the reimbursement provision of this bill during fiscal 1977.

This new bill seeks to assure cities where major concentrations of foreign diplomatic missions exist that they will receive some assistance from the Executive Protective Service. It makes clear that these communities no longer will be forced to bear the full and total cost of what is essentially a Federal obligation.

The bill applies to cities which have 20 or more foreign missions. This list now includes: Chicago, Houston, Los Angeles, Miami, New Orleans, New York City, and San Francisco. It applies when an extraordinary protective need related to a mission develops as a result of two occurrences: the visit in one of those cities by a dignitary who is in the United States in connection with an international organization of which the United States is a member, such as the United Nations. Or the provision takes effect when an incident of extraordinary protective need arises in association with either a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the activities of that international organization.

Occurrences of this description can be determined with precision. It is this clarification that was of primary interest to the White House.

It must be noted that the United Nations has two basic designations for missions. Permanent missions are maintained by member states. Possibly the more difficult group involves those such as the Palestine Liberation Organization, which have been invited by the United Nations to participate in its deliberations, even though it has no standing as a government. For the purposes of this bill, the Palestine Liberation Organization and national representatives, such as the Swiss and North Koreans, would be covered within the observer mission category.

The bill also brings within its scope a hotel or other place of temporary domicile used by someone who would otherwise qualify if he were staying at the mission itself.

Mr. President, I am confident that this is legislation that resolves the President's concern over what he termed "the proper distinctions between Federal and local law enforcement responsibilities."

The bill also carries with it an important provision allowing the Federal Government to delegate this circumscribed protective responsibility on a reimbursable basis to local officials. This will enable the Executive Protective Service to ask a qualifying city to take on this extraordinary burden when the city can handle it. This would save the national taxpayers money, as it would relieve the Secretary of the cost of dispatching the necessary officers from Washington and maintaining them at a remote location.

Local officials should be consulted and given the option of providing the necessary protection and receiving Federal reimbursement for such services whenever possible. Local police are more knowledgeable about local conditions than officers sent from Washington.

The bill sets a ceiling of $3,500,000 on the funds that can be reimbursed for fiscal 1975 and for each fiscal year thereafter.

As I indicated, I have been assured that the administration will support funding beginning in fiscal 1977 on a prospective basis. I should also point out that this bill is retroactive to July 1, 1974, when the added burdens and dangers became particularly acute. For example, Yasir Arafat, the leader of the Palestine Liberation Organization, visited New York City in November 1974. The extraordinary protection for that 1-day Arafat visit cost the taxpayers of New York City in excess of $700,000. While the administration is likely to oppose any appropriation to provide retroactive payments, I believe the merits of this retroactive provision will be demonstrated to the satisfaction of the Congress and the administration and eventually funded.

Mr. President, in closing I want to say a word about the cooperative effort that has led to this bill. Congresswoman ABZUG and I have worked together on this bill for many months. While an Abzug-Buckley approach may seem unusual to some, I want to commend her on the hard and diligent effort she has made in working toward passage of this bill. It is a good and needed bill.

Mr. President, I move that the bill be passed.

As I mentioned earlier, the chairman of the subcommittee has no objection to calling this matter up now. He did wish me to state for the record that, as in the past, he does not support the bill, but having lost in a fair fight, he sees no purpose in seeking to delay this matter.

Mr. President, I submit this matter for a vote.

The **PRESIDING OFFICER.** The Senator from West Virginia.

Mr. RANDOLPH. Does my colleague from New York yield?

Mr. BUCKLEY. Yes, gladly.

Mr. RANDOLPH. The statement just made by a member of the Senate Public Works Committee and the author of this measure (Mr. BUCKLEY) is correct in every degree.

The chairman of our subcommittee, the able Senator from North Carolina (Mr. MORGAN), did consider the general subject matter of this legislation. Members of the full committee, in discussion of the legislation when it was presented earlier this week by the Senator from New York, had the opportunity to assess the language and to understand the implications in connection with expenditures that the city of New York is called upon to make in reference to the United Nations and visits of foreign dignitaries and heads of state.

We can understand the problem that New York City has with security measures that must be undertaken. They are undertaken for the United States of America. But this is a situation that centers in New York City, and from time to time in other areas of the country.

Only one question: What is the applicability of the measure to other cities in the country?

I have been asked this, so I think for the RECORD we might want the Senator to respond to the question.

Mr. BUCKLEY. It covers cities which have 20 or more diplomatic missions, consulates, and so forth. There are seven such cities: Houston, Los Angeles, New York, Chicago, New Orleans, Miami, and San Francisco.

The bill, however, is carefully conditioned to the visits of persons associated with groups such as the United Nations and incidents at missions connected with the United Nations.

Mr. RANDOLPH. It is not open ended?

Mr. BUCKLEY. No.

Mr. RANDOLPH. In any sense.

I want the record to so indicate.

I supported in committee the legislation and I want to express for the record my approval of the measure as it is brought to the floor by our able colleague, the Senator from New York.

Mr. BUCKLEY. Mr. President, I want to thank the chairman of the full committee for his typical courtesy and help during the consideration of this measure and for helping expedite it during recent days.

Mr. President. I move its immediate adoption.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 11184) was ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Will the Senator yield briefly without losing his right to the floor?

Mr. BUCKLEY. Gladly—I am sorry.

Mr. McCLURE addressed the Chair.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that S. 2796 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I move to reconsider the vote by which the bill (H.R. 11184) was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JANA HLAVATY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 10792, a bill for the relief of Jana Hlavaty, which was reported unanimously today from the Committee on the Judiciary.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 10792) for the relief of Jana Hlavaty.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Nebraska wish to say anything in regard to the bill?

Mr. HRUSKA. Mr. President, this bill was sponsored by the senior Senator from Illinois. It has been cleared on this side and has been reported unanimously by the Committee on the Judiciary.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. McCLURE. I am happy to yield to the majority leader under the same conditions I had previously yielded.

Mr. MANSFIELD. I thank the distinguished Senator.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendars Nos. 547, 548, and 551.

The PRESIDING OFFICER. Without objection, it is so ordered.

DOCUMENTATION OF THE VESSEL "BRUJA MAR"

The Senate proceeded to consider the bill (S. 1187) to authorize the documentation of the vessel *Bruja Mar*, as a vessel of the United States for coastwise privileges, which had been reported from the Committee on Commerce with amendments, as follows:

On page 1, in line 3, strike out "4123" and insert "4132".

On page 1, in line 5, strike out "the" and insert "any other".

On page 1, in line 5, strike out "provisions" and insert "provision".

On page 1, beginning with line 6, strike out "section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883)" and insert "law".

On page 1, in line 7, strike out "under" and insert "in".

On page 1, in line 8, strike out "United States".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 4132 of the Revised Statutes of the United States, as amended (46 U.S.C. 11), or any other provision of law, the Secretary of the department in which the Coast Guard is operating, shall cause the vessel, *Bruja Mar* (vessel number 546133), present owned by Greenwood Marine, Incorporated, to be documented as a vessel of the United States with the privileges of engaging in coastwise trade, upon compliance with the usual requirements, so long as the vessel is owned by a citizen of the United States.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

The Senate proceeded to consider the bill (S. 1689) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578), as amended, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended, 40 U.S.C. 871), is amended further as follows:

By striking out section 17 and inserting in lieu thereof the following:

"SEC. 17. (a) There are hereby authorized to be appropriated for operating and administrative expenses of the Corporation sums not to exceed $1,300,000 for the fiscal year ending June 30, 1976; $325,000 for the period July 1 through September 30, 1976; $1,500,000 for the fiscal year ending September 30, 1977; and $1,600,000, each, for the next three succeeding fiscal years.

"(b) To carry out public development activities and projects in accordance with the development plan approved under section 5 of this Act; there are also authorized to be appropriated to the Corporation through September 30, 1990, sums not to exceed $130,000,000, to remain available without fiscal limitation.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CONVEYANCE OF CERTAIN LANDS TO VALLEY COUNTY, IDAHO

The bill (S. 726) to direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to Valley County, Idaho, subject to the provisions of section 2 of this Act, all right, title, and interest of the United States, in and to the following described lands:

The northwest quarter of the southwest quarter of section 3, township 15 north, range 4 east, Boise meridian, Valley County, Idaho.

SEC. 2. The conveyance authorized by the first section of this Act shall be made upon payment by Valley County, Idaho, to the Secretary of the Interior of an amount equal to the fair mraket value of such land, as determined by the Secretary after appraisal.

APPOINTMENT OF ADDITIONAL CONFEREE—S. 2718

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that the Senator from Kansas (Mr. PEARSON) be named as an additional conferee on the part of the Senate on S. 2718.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Virginia for a question.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's yielding and compliment him on the statements he has made about the amendment that has been proposed by the Senator from California.

The Senator commenced his remarks by reference to the majority leader's comments about a filibuster on this amendment.

I was one who objected to a vote at a definite time, but the reason for my objection was that it was 10 o'clock in the evening and I do not think that is the time to vote on such matters.

I am ready to vote right now, so I am not participating in a filibuster in any way.

In fact, I may vote in favor of the Tunney amendment. I am inclined to do that. I do have a concern.

Perhaps the distinguished Senator from Idaho may be in possession of information that I do not have. I, like him, did not receive a great deal of enlightenment during the closed session of the Senate, either yesterday or today.

Mr. McCLURE. Might I say to the Senator parenthetically at that point, I believe we had some good debate in the closed session today, but the debate was not really bearing upon matters that were classified or secret and that could not have been debated in full public view.

Mr. WILLIAM L. SCOTT. I agree with the Senator. That, in effect, is my thought also. I am interested in what the administration and what the Department of State may or may not have done in this situation that might relate to this concept of détente, and whether or not we can compartmentalize détente; whether we can say, "We will sign agreements with you and we would like to get your signature on almost any agreement. We feel we have accomplished something because you signed a piece of paper." Then be friends with the Soviet Union, normalize relations with Cuba, and attempt in some manner to combat the activities of Cuba or Russia in Angola.

It seems to me that when we talk about friendship we have to be a friend worldwide. We cannot be a friend in one part of the world and be conducting some type of antagonistic effort in another part of the world. It seems to me through diplomatic channels the President of the United States and the Secretary of State should indicate to the Soviet Union and to Cuba that we would like to normalize relationships; that we would like for all of the nations within the family of nations to be friends, one with another.

I do not think there is any doubt that one has to be a friend to have a friend. This means that one does not go around in various parts of the world and attempt to establish bases, attempt to take over a newly formed independent nation.

It seems to me that Russia is badly in need of grain. I am advised that Russia does have problems with regard to feeding its population. I am not opposed to assisting a friendly, needy nation anywhere in the world.

I understand we have been helping Russia with regard to some truck factories, with regard to computers; that we have been trying to help them develop their oil resources.

I am opposed to doing that sort of thing when Russia is acting as a friend as long as we are doing this but then goes into another part of the world and does not act in a friendly fashion.

As the distinguished Senator knows, as a lawyer, there is such a thing as mutuality in every valid contract. There is consideration that flows in both directions.

It just appears to this Senator that most of the consideration in our contact with the Soviet Union is flowing out of this country and into the Soviet Union. I do not see the mutuality in these agreements.

I wonder if the Senator has heard any mention made in our discussions here in the Chamber about diplomatic efforts having been made by the State Department, in effect, to say to the Soviet Union: "If you want the friendship of this country, if you want our assistance in the way that you feel you need our assistance, are you going to be a friend and show your friendship throughout the world by your actions as well as any words which you might utter?"

Would the distinguished Senator have any comment on that?

Mr. McCLURE. Let me respond to the distinguished Senator from Virginia in this manner, if I may.

First of all with respect to whether or not in the closed sessions we developed any information concerning State Department or diplomatic initiatives with regard to the Soviet involvement in Angola—and I think there was nothing of a classified nature stated there and I think, as a matter of fact, the only information——

Mr. WILLIAM L. SCOTT. I would not ask the Senator to disclose any classified information.

Mr. McCLURE. I am aware of that.

The only information that was disclosed or discussed was that the State Department has sent a perfunctory note, or at least they sent a note and received a perfunctory reply, and they may have followed that up with a perfunctory response to the perfunctory reply. In other words, practically no diplomatic initiative directly bearing upon this issue, so far as the Soviet Union is concerned.

Let me state further that I do not regard the policy of détente, as I understand it to have been articulated by Secretary Kissinger, by President Nixon and President Ford, as being a statement of friendship between the United States and the Soviet Union. It is, instead, a policy under which the opposing forces in the world may live together without immediate armed conflict and with a lessening of tensions which lessens the likelihood of the outbreak of armed conflict.

I do not believe the policy of détente ought to be confused with the statement of friendship that we would all desire occur.

Mr. WILLIAM L. SCOTT. The distinguished Senator will recall that statements have been made after conferences with the Soviet Union and other Communist nations that while we have a different type of government, and while we may not agree as to all matters, we do want to live together in peace and settle our disagreements by negotiation rather than settle the differences through any type of armed conflict.

I believe such statements as this have been made in general from time to time.

I submit that the Soviet action in Angola, as I understand that action to be, is not in the broad, general spirit of détente as it is generally understood to be, whether we call it friendship between nations, toleration of nations, or living together in the absence of any armed conflict.

Would not the distinguished Senator from Idaho agree that the executive branch of the Government should, in some way, convey to those who have either military personnel or military advisers in Angola that this Nation views with concern their presence there, and that it might very well jeopardize this spirit that we have been trying to accomplish over the past several years?

Mr. McCLURE. Mr. President, I would reply to the Senator's question in this fashion: I believe there are a number of things which can be done. I agree totally with the sentiment expressed by the distinguished Senator from Virginia, that we should use diplomatic channels to indicate to the Soviet Union, and to other external participants in the internal affairs of Angola, that we believe the Angolans ought to be able to make up their own minds without outside interference.

We should express our concern to the Soviet Union about their involvement in attempting to back a less than one-third segment of the society in Angola in order to subvert and to impose their will upon two-thirds of the people of Angola. I would hope that we would also utilize the diplomatic channels that we can utilize to put pressure upon Cuba, which is the indirect pawn of the Soviet Union and a direct participant in Angola to the extent of 4,000 to 5,000 troops actively involved in combat operations, using the Soviet Union equipment supplied to that one section in Angola in an attempt to extend Soviet administration and dominance over the lives of the people in Angola.

Mr. WILLIAM L. SCOTT. Is it not a fact that this country has had an express foreign policy over the years of self-determination for all the nations of the world? This has been our expressed foreign policy; and would it not be consistent with the expressed foreign policy of this Nation to call that to the attention of the Soviet Union or other nations that have troops or military advisers in the African nation, and urge them, in the general overall spirit of détente, that they should withdraw from Angola?

The real thrust of my thought is that any foreign policy such as détente not be compartmentalized. In my opinion, it is not realistic to practice détente in one part of the world and not have it apply in other areas of the world. Would the distinguished Senator agree with that?

Mr. McCLURE. I would agree with most portions of the statement of the Senator from Virginia, particularly one point, in regard to the expression of the opinion to the Soviet Union that détente is indeed threatened by their continued intervention in Angola; and second, that it is the policy of the United States and it ought to be the policy of the United States to support the right of self-determination of all people in all countries.

We have for many years supported a declaration in the captive nations treaty wherein we have said to the people of the world that we still look back with abhorrence at the dominance of the lives of the people in Latvia, Lithuania, and Estonia by the Soviet Union; that we do not like the interference in the lives of the people of Finland; that we abhor the interference in Hungary, when the Soviets sought to change the lives of the people there; that we have never liked the interposition of the Soviet Union in Czechoslovakia.

We believe the people of Czechoslovakia should have the privilege of making up their own minds what kind of government they should have. We support and applaud the efforts of the people of Poland to free themselves from the dominance of their massive neighbor to the east.

But we should be no less concerned about the rights of the people of Angola, simply because they are a small and less developed country. As a matter of fact, perhaps we should be more sensitive to their right to make their own determination in their own way, simply because they are small and less developed than some of these other nations.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's yielding. Of course, I would like for our country to be concerned about the welfare of the small nations of the world, for self-determination by all of the nations of the world; but I also have a concern that we not become involved in the affairs of another nation without Congress having complete information, without Congress participating in the policymaking decision. Although some individual Members of Congress may have been consulted, I am not aware of the Congress as a body being involved in the situation in Angola. I certainly do not want this to develop into any type of affair that would involve the use of American troops.

The distinguished junior Senator from Illinois (Mr. STEVENSON) has a sense of the Senate resolution which, in effect, calls upon the executive branch of the Government to endeavor, through diplomatic channels, to encourage the Soviet Union and other nations, without naming them, other nations involved in the Angola affair, to withdraw and to permit that nation to determine its own internal affairs, to govern itself.

I intend to support that sense of Congress resolution in the event that it comes before the Senate for consideration. I understand it is cosponsored by the distingiushed Democratic whip, and I believe other Senators have cosponsored it also. I believe it is a good resolution. I would amend it somewhat to indicate that this Nation will, to an extent, govern its future relationship with the Soviet Union by the actions that the Soviet Union takes in Angola and other countries, so as to say that détente is worldwide, that if it is going to work at all it has to work all over the world, and that it cannot work in one nation without working in the others.

I have infringed upon the Senator's time, but I thank him for yielding.

Mr. McCLURE. I thank the Senator for his contribution to the discussion and the questions that he has raised.

The latter subject that he referred to, the resolution of the Senator from Illinois (Mr. STEVENSON), appears at page 41210 of the CONGRESSIONAL RECORD, being the record of the proceedings in open session yesterday. I am told that the Senator from South Carolina (Mr. THURMOND) also has a resolution in slightly different terms, but directed toward the Senate amendment, I am told that at least two other Senators are sponsors of a third resolution with something of a similar aim, directing the Executive to become involved in very positive diplomatic efforts to bring pressure to bear on those who would subvert the internal processes of Angola to their own ends.

I am perfectly willing, as one Member of the Senate, to support appropriate efforts directed toward that end.

I would hope that we would change our policy that now eixsts until we have a quid pro quo for the change, and I think that is the very importance of the question we are involved in.

I yield to the Senator from Oregon under the previously stated conditions.

Mr. PACKWOOD. Mr. President, I think the Senator from Idaho has put his finger on it, and I would like to engage in some colloquy with the Senator from California.

We are talking about three different things here, really. We are talking about the resolution of the Senator from Illinois, which is almost an embargo theory because it does not relate just to the Soviet Union; it relates to any nation, as I recall his words, that persists in involving itself in Angola. That could be Zaire, South Africa, France, or any nation that persists in involving itself.

That could be worthy of consideration, although not hasty consideration, by the Senate.

Then we are talking about détente, our relations with the Soviet Union, specifically whether we should require a quid pro quo; should we send them Ford Motor Co. machinery if they do not get out of Angola?

Then third, as I understand the amendment of the Senator from California he is, in essence, saying what our unilateral policy should be toward Angola regardless of détente, regardless of whether or not we adopt the Stevenson resolution.

Is that a fair statement?

Mr. TUNNEY. The question as to what we ought to do with Angola irrespective of what the Russians do is one that we could spend a good deal of time on. I am happy to offer some thoughts to the Senator from Oregon if he cares to listen to my opinions on the subject.

Mr. PACKWOOD. I wish to hear them. As I understand the specific amendment, and I shall be fair, I think the world as well as this country is going to read it, and the headlines are going to be "Senate Rejects Angola," or words to that effect; they are not going to get into the niceties. This is one bill and one appropriation. I think that it is a philosophically fair conclusion to draw from the debate that this is going to be our policy, if it passes, toward Angola and may be correctly a harbinger of what our policy ought to be toward involvement in Africa at all.

Mr. TUNNEY. What the amendment does is to make it very clear that the United States cannot send military equipment to Angola, nor can it send money to another country which in turn will then make the purchases of military equipment for use in Angola, but there is nothing in my amendment that prevents economic aid from being given to Angola. There is no reason why we could not participate in giving assistance to all sides. We could give humanitarian aid.

Mr. PACKWOOD. I stand corrected on that because the amendment of the Senator is clear in that respect. In addition, we could gather intelligence in Angola if we wanted to because the amendment has exempted intelligence gathering.

Mr. TUNNEY. Yes.

I wish to point out to my friend that we now know that the Gulf Oil Co. has made a very large payment of money, approximately $100 million, that has been placed in the bank in Luanda of which the MPLA has now control since the Portuguese pulled out on November 11. In effect what has happened is that we have the Gulf Oil Co., an American corporation, with a subsidiary in Angola, drilling for oil, having made a very substantial $100 million payment to the side that is being backed by the Russians, and our Government apparently did nothing to prevent that payment from being made. It is my understanding that another substantial payment is due in the very near future, and that there was an agreement that $500 million would be paid in the form of royalties by Gulf to the bank in Luanda, which would then be available to the government that was in control and that government which happens now to be the MPLA.

Initially there was that provisional government that was made up of all three factions, UNITA, the FNLA, and the MPLA. But the other two factions withdrew and so now the MPLA has total control over these funds.

I only say to my friend that, if we have a policy which on its face is operating at such cross purposes as to allow, on the one hand, an American corporation to make those kind of payments to the faction that we are now supplying arms against, it really deserves some very special attention on the part of Congress before we make any arms available.

I say to my friend that, if we are going to make arms available, it ought to be done through the route of the Foreign Military Assistance Act, and we ought to have the Committe on Foreign Relations go into it, as the Senator suggested earlier. We ought to have a clear definition of what American policy is, what America's interests are in Angola and other parts of Africa. We ought to have a clear understanding of what our State Department and CIA perceive to be the Soviet goals in Angola and in other parts of Africa and then make a decision based upon those facts.

What very deeply concerns me from my own private investigation—and these are conversations that I have had with members of the CIA and State Department officials, and conversations that my staff has had—is that there really does not seem to be any centrally controlling objective of American policy in Angola. That is what I consider to be so dangerous.

Mr. PACKWOOD. I think we are making a central policy, and I am inclined to agree with it, but when we vote on the amendment of the Senator from California I think we are making a central policy in this Congress for better or for worse.

What we are saying is that no matter what happens, no matter what happens in Angola, it cannot be worth the risk of American involvement, with American troops and American military equipment.

Earlier today, and I cannot remember whether it was in closed or open session, but the information was not classified, we tried to determine if we knew what the Russian intentions are. We do not know. We have no idea what the Russian intentions are.

We do not know if they plan to go in and wipe out the entire politic as they practically did in the Baltic countries and make it a Russian puppet populated by Russians. We do not know if they plan to put in half a million troops and hold the country by force against the will of the people or whether they are going to try to influence the government through economic and military aid and keep their own personnel out.

We have to operate under the assumption they might do the worst, but we do not know. That is one.

Second, we are saying if Russia wants to make the mistake, in our judgment, the mistake of holding Angola by force of sending in a half-million troops, and probably Russia could hold Angola with a half-million troops, if Russia wants to make that mistake, Russia is probably writing off the rest of black Africa, probably writing off most of any chance to subvert South America, because every nation would very clearly see what Russia had in mind and would have no truck with them, would have no dealing with them, and would probably make our job in terms of gaining allies infinitely easier.

If Russia chooses not to do that, if Russia comes up with a hope and prayer and some material in hopes they can get a government that will be a Soviet-leaning government on every occasion, then I think they are mistaken. Nationalism is rampant. Angola is going to go the way it wants unless it is subjected and held down by literally Russian military personnel. If that is the case, if this even ends up being a Communist government but an independent Communist government we can deal with them.

We dealt with Yugoslavia. We are dealing with China. We learned to deal with Communist governments around the world, including some of the Eastern European ones. Where Soviet troops have occupied them, the countries have endeavored toward the West. That we can deal with.

I would be surprised if Russia were to put massive troops into Angola and try to hold Angola on the basis of sheer brute force. But they might.

It seems to me, therefore, that our policy wisely says for better or for worse we are going to leave Angola to the Angolans. If Russia chooses to intervene, because we think our best interest cannot be served in any event by either trying to fight to keep the Russians out or involving ourselves, we think that whatever Russia does in that case we will come out the winners.

Is that a fair statement of where we are headed?

Mr. TUNNEY. I think that is a fair statement as to where we are headed assuming that the Foreign Relations Committee in their consideration to the Foreign Military Assistance Act takes the same kind of action on that bill as we are taking on this bill.

I cannot see any justification for an intervention by the United States in Angola. One of the things I should like to point out to the Senator from Oregon is that reports that have come to me indicate that in black Africa there are many leaders who are wondering why the United States is so quick to intervene in Africa, when we did not participate in the U.N. debate and the various attempts to get resolutions through, condemning the racist policies of South Africa, Southwest Africa, and Southern Rhodesia.

There is no doubt that the reason why we did not participate in those debates in a meaningful way was that the United States has had a very special relationship with South Africa. We have many economic interests in South Africa. We have done a great deal of trade with South Africa. Much of our mineral supply in this country comes from South Africa in an unprocessed form or processed form as it is brought to this country to maintain our high technology society.

Yet, the leaders in black Africa are wondering why the United States is so quick to put up $60 million for war in Angola, when we would not participate in these U.N. resolutions and debates in connection with condemning racism in South Africa.

Another point that I think is important is that for 2 years we have been cutting back on our economic aid to Africa—not just Africa, but other parts of the world as well. When we look at the kind of commitment we have made in the form of economic aid to black Africa and then look at the kind of money we would be willing to put in for military equipment in Angola—after the Russians came in or in a contemporaneous fashion with our own efforts to supply our military equipment—it is made clear to many Africans that the United States really has no interest in their economic development, in the kind of society they are trying to restructure for themselves, the quality of life that they are going to have in the future, but that the United States is only interested in Africa as it relates to a defensive ploy to counteract any maneuvers that the Soviet Union has undertaken in Africa.

It is of particular importance to look at this in the context of one statement that was made to me by a man who had spent many years in Nigeria. In the late 1960's, he was particularly friendly with one minister in the Nigerian Government, and this minister said—

> The only way we could interest the United States in Nigeria, to give us aid, is apparently to invent a Communist party.

In other words, at that particular point in time we were giving much more aid to Ghana, which looked as though it might slip into the Communist fold. So we were prepared to put money into Ghana, but we were not willing to do anything for Nigeria, which was considered our friend and safe.

So this rather pathetic statement was made by a minister in Nigeria:

> The only way we can get aid from the United States, apparently, is to invent a Communist party, and then maybe they will give us some aid.

Mr. PACKWOOD. Mr. President, I think there is a consequence to Russia's actions, and it is negative to them. Today we heard how Russia, with brute force, tramped into Hungary and Czechoslovakia and did not care about world opinion. What that probably cost them was control over all of the Communist parties in Western Europe. Today, if the Communists were to win an election in Italy, it would not be a Russian Communist party, because they have seen the brutality of Russia. Russia knew that when they chose to choke off Czechoslovakia and Hungary, and that is a decision they made. If they choose to go into Angola with force, they are going to lose more than they will ever gain. They will be able to hold Angola, but they will lose the rest of the area.

Assuming that this amendment is adopted and similar language out of the Foreign Relations Committee, our policy will be that, henceforth, American policy toward Africa will be nonmilitary involvement, regardless of détente, regardless of the actions of other nations.

Mr. TUNNEY. I concur with the Senator's conclusion. That is about as succinct an expression of what this amendment is as I have heard on the floor.

Mr. PACKWOOD. I thank the Senator.

Mr. McCLURE. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina without losing my right to the floor, that any resumption by me not be considered a second speech, and that under no circumstances I lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the distinguished Senator from Idaho. Mr. President, the Tunney amendment presents us with an unacceptable choice. On the one hand the distinguished Senator from California is asking us to stop the executive branch from giving any military assistance directly, or indirectly, to strife-torn Angola; while on the other hand the executive branch proposes to use funds in this appropriation bill to provide Angola with at least $60 million in military aid. We are asked to vote for either one or the other. It is clear that the Soviet Union has made a major thrust in Angola, providing top-quality weapons and an undetermined number of Soviet personnel to assist the MPLA. It is also clear that Castro has sent 4,000 trained Cuban troops to fight on the Communist side.

Thus, on the one hand, if we vote with the distinguished Senator from California, we seem to be saying that the executive branch has no authority whatsoever to respond to threats of violence outside the United States, no authority to take steps to throw up barriers to the spread of communism through force, unless approved in advance by the Congress of the United States. But on the other hand, if we vote against the Tunney amendment, we seem to be giving a vote of approval to the way in which the executive branch is conducting its policies. If the issue had not been forced here today, there would have been no implication that the Senate had participated in approving or disapproving our policies in Angola.

Unfortunately, the issue has been forced. It is within the purview of the executive branch to conduct foreign policy on a day-to-day basis. We have traditionally given the executive branch discretionary funds for the conduct of foreign policy, and they have been used in the conduct of policies such as have been followed in Angola. Let it be clear that the United States has not entered into a war in Angola. We have supplied arms, but we have not put troops or advisers into Angola. The scope of the war powers is not under consideration here. What is happening here is an effort to force the issue of covert action before the Senate Select Committee on Intelligence has completed its work and made its recommendations, and before any consensus has been reached in this body about the nature and purpose of that kind of activity.

But now that the issue has been forced, there is no way to run away from it. It is a very difficult choice to make for someone who believes that this Nation desperately needs to resume a world leadership position, and to defend our traditional values of human rights, private property, and spiritual freedom against the advance of communism. When communism uses naked force and internal subversion to conquer an increasing proportion of the earth's territory and subjugate the people who are unfortunate enough to live in the conquered territories, it is our proper role to work to restore freedom to those areas. Frankly, we cannot say that it is none of our concern. As the proportion of the global scope of activity is narrowed, the choices that we, as a Nation, can make grow fewer and fewer, and eventually we will be so restricted that our independence as a nation—and the freedom that independence guarantees us—will be in jeopardy.

But is the choice as simple as it seems? Must we abandon our role as the leader of the free nations—as is implied in the amendment of the Senator from California? Are we voting here for a choice between freedom and communism for Angola? By no means.

If we adopt the amendment of the distinguished Senator, we force the executive branch to do nothing at all. But by doing so, do we deliver Angola into the hands of the Communists? Given the measure of Soviet determination displayed here, it is most likely that Angola will fall into the hands of the Communists, with all that such a collapse implies: The deliverance of the Angolan peoples into a Stalinist terror, the loss of mineral resources that can help sustain the freedom of the West, a base from which Soviet forces can threaten South Atlantic shipping lanes and project guerrillas over the border into the territory of South West Africa.

But if we reject the Tunney amendment, what do we get? The word is out. The millions of dollars which the administration is throwing into Angola are not for the deliverance of the people there or for the securing of the territory from Communist domination. The millions of dollars are for securing another "negotiated settlement." The State Department has, in effect, admitted that this is the case. Indeed, it appears that some spokesmen for this point of view thought that they were putting forth a strong card in bidding for a "negotiated settlement."

The Senator from North Carolina wishes to say that he will never be part of any negotiated settlement. We have seen these negotiated settlements stalemated in Korea, imposed with indifference in Laos, and thrust brutally upon Vietnam. Is there anyone in this Chamber or in the cloakrooms or in the offices in the Dirksen or Russell building who does not believe that a "negotiated settlement" is negotiated surrender? Have we not learned the lesson of what happened in Vietnam? Do we not realize that the negotiating process for the Communists is simply a method to entrench their positions more firmly? Do we not recall how the Vietnam settlement left the Communist troops firmly in control of their enclaves in South Vietnam, and left them loopholes for resupply of those troops? Do we not remember what a demoralizing effect the "settlement" had upon South Vietnam as a nation?

I ask whether any Senator thinks that the Cuban troops would be removed from Angola under such a negotiated settlement, and whether the Soviets would withdraw their supplies and personnel? After the experience which this Nation has had under the negotiations conducted by Dr. Kissinger in the past, no one could say with assurance that the Soviets would withdraw, or would give up any of the advantages they now hold. Indeed, I can say right now that to press for such key concessions would bring charges that such firmness would threaten the "delicate state of détente. I can hear it now. I can hear the wails that we might even endanger the SALT II negotiation. I say, Mr. President, "So what?"

Mr. President, the sad fact is that it is better to pull out at once, than to enter into a protracted negotiation leading to the ultimate takeover of Angola by the Communists in any case. The Tunney amendments—which I do not like; I wish it had never been submitted—is nevertheless offering us the choice of outright abandonment of our responsibilities or a negotiated abandonment of our responsibilities. That has been made clear in the closed sessions of the Senate, yesterday and today. The first is quick and cheap; that is the Tunney amendment. The second is long, protracted, painful, and expensive. Both arrive at the same ultimate end.

The comparison of Angola to Vietnam is valid only because we are deliberately making it another Vietnam. What makes it a Vietnam are the restrictions, the obstructionism, and painful trap of negotiations. Do we not remember that in both Korea and in Vietnam we had more casualty losses after the negotiations began than before? Vietnamization is a state of mind which presents us with immoral choices. Those are the choices offered us here today by the Tunney amendment.

The Senator from North Carolina will not be taken down that path. I am presently inclined—oh, so reluctantly, Mr. President—to vote for the Tunney amendment in order to let it be known that I have no part of wasting money when the goal is to negotiate a settlement of the type which has always left the Communists in place, and given them a base for imperialistic expansion.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. HELMS. I am delighted to yield.

Mr. PACKWOOD. The Senator mentioned our responsibility in Angola. What is our obligation? What are our responsibilities to Angola?

Mr. HELMS. I am going to address myself to that if the Senator will allow me to complete my remarks. Then I shall be delighted to discuss it further with him.

Mr. President, the administration does not need to sit on its hands. There is a very simple way to get the Communists out of Angola without getting us involved there at all. The best way is to go to where the decisions are made. The decisions are not made in Angola; they are made in Moscow. The Soviet thrust is a major new policy decision of the Central Committee of the Communist Party of the Soviet Union. Never before have the Soviets shipped new armaments of a high quality to client groups outside of the Soviet empire, or its traditional area of influence. Arms were sent for cash to the Middle East, and technicians, but the thrust in the Middle East has been a traditional goal of Soviet policy. More often, the arms sent to client states have been used junk of no particular value. But the arms sent to Angola with no payment asked, and the presence of hundreds of Soviet personnel, are an entirely new development, based upon a new worldwide strategy on the part of the Communists. It is also indicative of the Soviet military effort that for the first time their arms production is sufficient to support such shipments. No one can claim that the Soviet presence in Angola is accidental, or a spur of the moment decision. It is a long, calculated plan which has been in operation for a long time, and which threatens the peace and stability of every free nation on earth.

But does our administration see this? I think not. The Secretary of State is still inflexibly committed to détente and, to this date, I know of no one who can satisfactorily define the word "détente." The President is committed to détente, and the President recently got rid of the single voice for reason and prudence in his Cabinet in this regard, Secretary Schlesinger. The President and the Secretary of State go to China for no apparent purpose and with no apparent result. They are planning to go to the Soviet Union as soon as the SALT II details are worked out, and we are told that we must not disturb such delicate negotiations.

More and more it is becoming evident that détente is nothing other than a name for a protracted period filled with negotiated settlements of many kinds. The overall impact of détente is the same as the individual impact of each negotiation process, and that is, to put it bluntly, surrender. Détente is the rationalization of surrender just as our negotiations have been a protracted process of confirming the Communists in positions of strength in various places around the world.

So I say, Mr. President, let us go to Moscow not to Angola. This Senator says no more wheat deals with the Communists, no more trade agreements, no more tax concessions of the kind we approved just the other day until the Soviets make some concessions. We do not have to finance and supply the deficiencies of the Communist system. We do not have to allow them to divert consumer production into tanks, and farm machinery production into weapons manufacture.

Why is it that the Communists do not have tractors to get in their harvest when, at the very same time, they are able to produce guns and rockets for this Angolan adventure? That is where you get down to the nitty-gritty.

If we want the Cuban Communist troops out of Angola, Mr. President—and here I will begin to comment on the question raised by my friend from Oregon—if we want the Communist troops out of Angola, let us go to Moscow and have Moscow send a message to Havana. Better yet, let us send a message to Havana ourselves. Let Havana order the Cuban troops home and, while we are at it, tell Havana to send back to the Soviet Union those Echo class nuclear submarines based in Cuban ports and armed with 500-mile nuclear cruise missiles.

Why on earth should the captive Cuban people fight in Angola at the Soviet whim? Why should the Cuban people allow themselves to be used as shock troops for what is clearly the Soviet grand design in Angola?

I think, Mr. President, the United States should call upon the people of Cuba to rise up against the Soviets' cynical use of their young sons in this grand design and to throw off the dictator who has handed over the Cuban youth for such purposes.

But, do we do so? No. Our policy has been to encourage the resumption of normal relations, so-called, with the Communist tyrant in Cuba, and there you go. This is the fault of this whole question that is before us today. Are we really against communism? Do we really consider it a threat to liberty in the world? How much longer, how many more times, will we surrender to it in the name of détente or in the name of "negotiated settlements"?

With reference to normalized relations with Cuba that we hear so much about, our diplomats worked hard at the Organization of American States meeting last July to give the air of legitimacy to the Castro regime. It bordered on the nauseating, Mr. President, to observe what went on. In the name of détente we worked against the interests of our sister American States such as Uruguay, Chile, and Argentina, whose internal order has been disrupted by the export of Cuban-trained revolutionaries throughout South America.

What is our answer? Détente. I will wager that not one citizen out of a hundred in America can give a serious and secure definition of the word.

Even our own security is threatened in the major cities of this land by the Castro-backed Puerto Rican terrorist movement while anti-Castro leaders are assassinated right here in the United States itself.

So that is why, Mr. President, I am fed up with negotiated settlements. I am fed up with the United States never quite saying what it means about communism, stalemates, coalition governments, and I think the American people are tired of salami-sliced surrender carrying the inevitable enormous price tag.

I think the taxpayers are sick of subsidizing Secretary Kissinger's mistakes. If the United States is not seeking to win then I think we should not enter into a protected conflict where there is no intent to win.

I suggest again that the Tunney amendment, bad as it is, at least has the virtue of giving the administration a striking opportunity to reject mistaken policies of surrender and adopt a clear anti-Communist stance in the world.

Sooner or later we are going to have to do it, unless later or sooner we decide to surrender, period.

Now, the way to peace in Angola is to get the Soviets and the Cubans out of there. The way to do that is to get tough with this thing called détente—whatever it is.

No negotiation, not even a SALT negotiation, is important if it allows the Soviets to take the world, piece by piece. I do not think there is a Senator in this body who will deny that that is precisely what has been going on.

I hope that whatever else the Senate may do at this time and in connection with this matter, we will at least endeavor to make sure that the American people understand what is at stake.

In that sense, Angola, aside from its mineral value, the shipping lanes question and all the rest, is a symbol and it is an opportunity.

I promised to yield to the Senator for a question.

Mr. PACKWOOD. No more than the Senator from North Carolina do I trust the Russians. I think they lie, cheat, and steal and that their sole foreign policy is based upon what is in their interest, not that they like us or love us. I would like to think our foreign policy would be based upon what is good for us.

Mr. HELMS. Does the Senator believe that is the case?

Mr. PACKWOOD. I think we delude ourselves on occasion.

I am not a great supporter of détente. I think from time to time there can be things Russia and the United States agree on, that happen to be in our mutual interest. But we should realize then that each nation agrees upon it and we should not think it is because we love each other.

But as for Angola, forgetting détente for a moment because I am not sure it is ever going to work, what should be our obligation toward Angola?

Mr. HELMS. I will answer the Senator, as I tried to say in my statement, my concern is for the interest of the United States.

Mr. PACKWOOD. Right.

Mr. THURMOND. I wish to thank the able, distinguished Senator from North Carolina.

Some people have criticized the United States' role in Africa, but, as a matter of fact, the United States does not have any bases in Africa, does it?

Mr. HELMS. No.

Mr. THURMOND. Is it not true the Soviets have a naval and air base in Berbera and Somalia with about 1,000 military personnel there?

Mr. HELMS. That is my understanding.

Mr. THURMOND. On the east coast of Africa?

Mr. HELMS. That is my understanding.

Mr. THURMOND. Is it not true also, that the Soviets are in Mozambique by giving arms and seeking bases there on the east coast of Africa?

Mr. HELMS. That is correct.

Mr. THURMOND. Is it not true the Soviets are aware their naval facilities on Guinea on the west coast of Africa patrol the sea lanes off the west coast, of ships and planes?

Mr. HELMS. That is the understanding of the Senator from North Carolina.

Mr. THURMOND. Is it not true that the Soviets have assigned about 2,000 military advisors to African nations seeking influence, bases or both?

Mr. HELMS. My understanding is identical to that of the Senator from South Carolina.

I would ask the Senator if he would estimate what percentage of the American people understand the facts he is so eloquently bringing out by his questions?

Mr. THURMOND. I am not too sure that the American people understand these things because for some unknown reason, so much of the press do not bring out these facts when it seems to affect the Soviet Union.

I have never understood why some of the media take the position they do. With anything against the United States, it seems they are right there, Johnny on the spot.

Now, is it not true that the Soviets and their socialist allies in Africa were instrumental in getting only 16 of the 46 states in the Organization for African Unity to recognize the pro-Soviet MPLA faction?

Mr. HELMS. That is my understanding.

Mr. THURMOND. Showing that out of 46 countries in Africa, only 16, through prodded by the Soviets, were only able to induce 16 to recognize the MPLA faction as the government in Angola?

Mr. HELMS. That is factually in accordance with my understanding.

Mr. THURMOND. Is it not true that the Soviets were behind the U.S. expulsion from the Tripoli Air Base in Libya a few years ago?

Mr. HELMS. The Senator is correct.

Mr. THURMOND. Is it not true that the Soviets armed and urged Egypt to launch an attack to regain the Sinai?

Mr. HELMS. No question about that.

Mr. THURMOND. Is it not also true that the Soviets have sent in the past 10 years about $400 million worth of military equipment to 10 black African countries, including Migs and tanks?

Mr. HELMS. The Senator is absolutely correct, and that raises a question, the inescapable question of why.

So they could take over the continent.

Mr. THURMOND. Is it not true that since 1974, Soviet military aid has gone to Nigeria, Congo, Uganda, Mali, Tanzania, Zambia, Equatorial Guinea, and the Central African Republic?

Mr. HELMS. The Senator did say military aid, did he not?

Mr. THURMOND. That is right.

Mr. HELMS. I draw the distinction because that is the kind of aid the Soviet Union gives in an effort to line up and take over, and that is exactly, as the Senator so eloquently emphasizes, what they have in mind in this case.

Mr. THURMOND. Is it not true that the Soviets and Cubans have been training MPLA military representatives, estimated to be about 2,000, in Cuba and Russia since the late 1960's?

Mr. HELMS. That is my understanding. I would say to the Senator that earlier this year I visited some South American countries and Castro-trained terrorists are all over. They are being sent out not only in South America, but, as is so demonstrable in this case, in Angola. It will happen throughout the world in increasing intensity.

The Senator is exactly right.

Mr. THURMOND. Is it not true the Soviets have transported between 5,000 and 6,000 Cuban soldiers, mostly blacks, to fight with the MPLA and provided them with heavy equipment, much more deadly than the light equipment provided by the United States to the other side?

Mr. HELMS. That information has been completely verified. I would say to the Senator.

Mr. THURMOND. Is it not true the Soviets have sent about 400 military advisers to assist the MPLA?

Mr. HELMS. That, too, is correct.

Mr. THURMOND. Is it not true that only limited aid from the United States, mainly some small arms, has been sent in response to the heavy Soviet military aid?

Mr. HELMS. That is the understanding of the Senator from North Carolina, yes.

Mr. THURMOND. Is it not further true that the United States aid has not been direct, but transported mostly in commercial carriers through third countries such as Zaire and Zambia?

Mr. HELMS. That is correct.

Mr. THURMOND. In other words, we have not sent planes over there, we have not sent tankers over there, we have not sent tanks and heavy equipment, such as the Soviets have sent to the MPLA.

Is it true that intelligence believes the Soviet interest in Angola is to acquire use of the deepwater ports, the airfields, and to monitor the passing ships?

Mr. HELMS. That is correct, as a prelude to taking over the entire country.

Mr. THURMOND. Is it the policy of the United States to favor a negotiated settlement between all three factions in the hope that what we have sent, or the little aid that we may send, will create a deadlock, thus forcing a negotiated settlement? Is that the real purpose of our Government so far?

Mr. HELMS. Here is where it gets sticky in the understanding of the Senator from North Carolina. It depends on where we go with our negotiated settlements. If we settle on the Communist terms, we are repeating the folly of the past. I am hopeful, as the Senator has stated, that if a negotiated settlement is achieved, it will be done sensibly and in the best interest of containing and restraining the advance of communism in Africa.

Mr. THURMOND. Someone says that we are getting involved over there. It has been clearly stated by the administration, even on November 23 by Dr. Kissinger, Secretary of State, that the United States will not intervene militarily in Angola, has it not?

Mr. HELMS. I understand that is what Dr. Kissinger said.

Mr. THURMOND. Is it true that, by taking the position it has with regard to Angola, the Soviets have proven again that they are ready to foster violence in pursuit of their aims?

Mr. HELMS. I believe that is correct.

Mr. THURMOND. Is it true that the use of Cuban troops, Soviet advisers and heavy military equipment far exceeds any U.S. aid to the Angolan faction?

Mr. HELMS. There is no question about that.

Mr. THURMOND. Is is true that continued U.S. aid, tied to a prohibition on any U.S. personnel involvement, might force the Soviets to back off long enough to bring about a negotiated settlement? I realize on that question there is a difference of opinion, but that is the hope of our Government in the matter, I believe.

Mr. HELMS. It is a hope, I say to the distinguished Senator, that I am afraid is tissue thin.

As I said in my earlier remarks, it is my hope that there will be an understanding on the part of our leaders that we have to deal with the Communists in a fashion that will preclude a continuation of our giving them everything they want and their proceeding to do whatever they want to do. That is the way détente has worked up to now, insofar as the Senator from North Carolina is concerned.

Mr. THURMOND. Does the Senator feel that détente is not worth the paper on which it is written unless one has the power to back it?

Mr. HELMS. And the will and the courage, I would say.

Mr. THURMOND. One has to have the power and the will to use the power.

Mr. HELMS. Exactly.

Mr. THURMOND. Otherwise, détente is of no value.

Mr. HELMS. Détente can be equated to surrender without the qualities which the Senator has stated.

Mr. THURMOND. Does the Senator feel that the time has come in this time of history, in this time in which we are living, that the United States should take the stand with regard to the Soviet Union that, "If you do not get out of Angola, and if you do not quit intervening in the affairs of other countries of the world, we are going to quit trading with you. We are not going to sell you grain, even though it might be to the advantage of the farmers of America. We are not going to sell you many other things which would be of benefit to your people in the way of comforts or even luxuries. In other words, unless you abandon your goal of world aggression and intent to take over other countries, we will not carry on business with you."

Furthermore, would it even be wise to cancel diplomatic relations if they cannot work with us on an equal basis?

Mr. HELMS. I say to the Senator that

it is the impression of the Senator from North Carolina that it is dangerous to pat a rattlesnake on the head. That is precisely what we have been doing. We have been acceding to the Communists and the Soviet Union for all of these years. We have protracted the negotiations. We have, in the end without fail, yielded on their terms. I say that is a bad way to conduct foreign policy, if indeed it can be called foreign policy.

Mr. THURMOND. Is it true that as long as we attempt to placate and appease the Communists, the more they are going to ask, the more they are going to demand, and the harder it is going to be for us to live in the same world with them?

Mr. HELMS. Not only that, I would say to the Senator, but in the meantime they are growing stronger. They are growing stronger with material assists from us, as in the case of wheat, in the case of the truck factories, in the case of all sorts of arrangements which have been made through the years which, in the judgment of the Senator from North Carolina, were totally unwise and unjustified.

Mr. THURMOND. Does the Senator, for instance, go back to 1962 when President Kennedy agreed to sell the Soviets wheat? We not only sold them wheat which would enable them to keep more men in their missile factories and gun plants, but also we guaranteed repayment to the bankers that loaned the Soviets the money to buy the wheat.

Mr. HELMS. The Senator is correct.

Mr. THURMOND. Does that make sense? Is that helping to build up the Soviet Government and keep its 200 million people under their control?

Mr. HELMS. The Senator is absolutely correct.

Mr. THURMOND. If people got hungry over there, they would rise up in a revolt, would they not?

Mr. HELMS. Or they would start growing their own wheat and building their own appliances.

Mr. THURMOND. And they would not be building munitions to such an extent.

Mr. HELMS. That is correct. That is all the Senator from North Carolina has ever contended. Nobody would more welcome peace in the world and complete accord with everybody than the Senator from North Carolina. But that is not what we are moving to. We are moving toward absolute totalitarianism in the world, and it is being done under the screen of détente and negotiated settlements, and, I might add, complete misrepresentation of so many situations.

I daresay to the Senator that only a small percentage of the American people understand really what happened in Vietnam, the no-win war that the Senator is so familiar with, and all of the tragedies that grew out of that. But I think we have to confront the inevitable: are we opposed to tyranny? Are we opposed to communism? Do we really understand what it is? And then the question, Do we have the courage to stand up to it? That is the question I believe which is raised by the Tunney amendment.

Mr. THURMOND. Is it true that if this country had enforced the Paris agreement with regard to Vietnam, which we probably could have done by using the Air Force for 1 or 2 days to let them know we meant business, South Vietnam would be a free nation today?

Mr. HELMS. I do not believe there is any question about it. I have talked with so many friends who were in Vietnam, as I know the Senator has—and he, far more than I, as a matter of fact—who have told me of the frustration they felt in not being allowed to win a war they could have won. Yet the American people have been given an impression of Vietnam that is just not accurate.

They ought to ask some of the people who were there. We should have won it. Communism could have been contained and restrained, but it was not done.

Mr. THURMOND. And is it not true we could have won the war in Korea, but had a stalemate?

Mr. HELMS. No question about it.

Mr. THURMOND. That was the first war this country never won.

Mr. HELMS. No question about it.

Mr. THURMOND. And is not not true that we had the Vietnam war as a consequence?

Mr. HELMS. The Senator is absolutely correct.

Mr. THURMOND. And there we spent over $150 billion, had 50,000 men killed and over 300,000 wounded, and then turned tail and ran, so to speak?

Mr. HELMS. And we departed from Vietnam with all of the concessions in favor of the Communists. Their troops were allowed to stay in the South, and it is no wonder that Vietnam fell. All of the concessions were given to the Communists, and none to the people of South Vietnam.

Mr. THURMOND. Is not the Senator of the opinion that the United States should not go to war unless we have to, but once we go to a war we ought to put all the power we have into it, air power, sea power, ground power, artillery power, all the power we have, to win it, get out, and get through; and we stayed in Vietnam 10 years and never did that, did we?

Mr. HELMS. The Senator is correct; we did not.

Mr. THURMOND. And does the Senator not think that is one reason the people of this country now feel as they do toward the whole situation existing throughout the world?

Mr. HELMS. The people of this country have lost faith in so many of their institutions because they have seen principles eroded and even destroyed.

Mr. THURMOND. They have seen expediency control instead of principle, have they not?

Mr. HELMS. I am sad to say the Senator is correct.

Mr. THURMOND. I commend the able Senator from North Carolina. I just wish we had a whole Congress, Senate and House of Representatives, who had the vision, the ability, and the integrity that he does, who could understand this world situation and would be willing to grapple with it as he does.

Mr. HELMS. I thank the Senator for his generous remarks, and I assure him they are reciprocated threefold.

Mr. President, is the Senator from North Carolina correct in his impression that he holds the floor as a result of a unanimous-consent agreement obtained by the distinguished Senator from Idaho, which stipulated that under no circumstances would the Senator from Idaho lose his right to the floor by yielding to me? Is that correct?

The PRESIDING OFFICER (Mr. HUDDLESTON). The Chair is advised the Senator is correct.

Mr. HELMS. I thank the Chair. I ask unanimous consent that, with the right of the Senator from Idaho protected as stipulated in that unanimous-consent agreement, I be permitted to yield to my distinguished colleague from North Carolina (Mr. MORGAN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. I thank my distinguished colleague from North Carolina.

Mr. President, I wanted to take this opportunity to make some observations concerning the matter that is before the Senate, and also to repeat some observations that I had made recently concerning our foreign policy.

While I think sometimes we are attempting to conduct the foreign policy of this country for and on behalf of the President rather than by consulting and advising with the President, I do believe that the debate today has been as informative and helpful as any debate that I have heard on foreign policy since I have been in the Senate.

I was especially pleased this morning to hear the very enlightened discussion by the distinguished Senator from Illinois (Mr. STEVENSON), and I think perhaps his point of view might be a satisfactory solution to the question that is before us.

Mr. President, I believe this: Notwithstanding all of the oratory and the debate, the problem facing us when we turn to foreign policy is, in my opinion, very easy to define. There are only a small number of alternatives involved.

We can take up the call of isolationism, pull back our initiatives, and ignore the world. As the distinguished Senator from South Dakota (Mr. McGOVERN) pointed out with a quotation from a news columnist this morning, if we lost Angola "We still have the Atlantic Ocean between us."

As he read that quotation to the Senate, I thought it rather ironic that I had in my pocket at that time a quotation from the January 22, 1939, CONGRESSIONAL RECORD, that I had copied this morning. It was a similar statement by a very distinguished and able former U.S. Senator.

It referred, of course, to the debate then involving our rendering of aid and assistance to our European allies after Hitler had taken several countries in Europe. So it, too, involved a debate on foreign policy.

In essence, this is what that distinguished Senator had to say:

> The United States need not and shall not be involved. We have an isolated location, and it is still isolated in spite of all of the improvements in air transportation.

That was as late as January 22, 1939. But, Mr. President we found later that we were not as isolated as that distinguished Senator had thought on that day in 1939. And I would suggest that we are not as isolated today as the quotation by the distinguished Senator from South Dakota this morning would tend to indicate.

In other words, if we take up the call of isolationism, we can turn the world over to the Communists, for both the Soviet Union and China are expansionist nations. Each wants to expand as far as possible its sphere of influence. Russia's domination of Eastern Europe and China's domination of eastern Asia are today almost accomplished facts. Only a pitiful few nations in both parts of the world have been able to maintain their independence, and even they are in constant jeopardy.

The Soviet Union and China have no compunction about aiding Communist movements throughout the world. And original although my remarks were prepared 2 or 3 months ago, Mr. President, I thought it interesting to note that in the debate this morning it was pointed out that when the Belgians granted independence to the Congo, the Russians were just as quick to move in then as they have been in Angola now.

It was pointed out this morning by the distinguished Senator from New York (Mr. JAVITS), a very able man, that the Russians were kicked out of the Congo. If my knowledge of history and my recollection of recent events and investigations by the Church committee serve me correctly, I rather suspect that the reason why the Russians were kicked out of the Congo was largely the covert action of our Government in the support and encouragement given to that government.

So I am not so sure that, if the Soviet Union decides to maintain its position in Angola and we do abandon it, the people of that nation will be able to rid themselves of the Soviet influence alone.

I doubt that any nation in Africa has removed that influence without some encouragement and assistance from those who stand and resist the expansionist programs of the Communist nations.

If we should choose in this country to abandon democratic movements in the third world, the Communist movements are sure to succeed. As a matter of fact, these Communist countries are always ready to oppose any movement in the world that seems sympathetic to the Western ideals of freedom.

Angola is now the most obvious example. There we already have heard what the Soviet Union has done to foment strife and trouble and to dominate at least 30 percent of the population of that country as the Portuguese have moved out.

Communists are indeed persistent adversaries and, if we should choose isolationism as a policy, these adversaries will quickly move into any vacuum our isolationism creates.

Of course, isolationism is an extreme position. Its other extreme is antagonism. At times we Americans have also adopted this policy. We did it at the coldest part of the cold war. We opposed almost every move or every initiative of the Soviet Union and the Chinese. In large part our efforts were mostly and highly successful. Our efforts maintained the freedom of Greece, Italy, Turkey, West Berlin, and South Korea, among others.

We heard discussed in the secret session ways in which we helped these countries maintain their freedom.

I suggest to the Senate and to my colleagues everywhere that had our actions in Italy after World War II been made public before they took place they would have been totally ineffective and that country would have succumbed to communism shortly after World War II.

But this policy also got us into two land wars in Asia. As we all know, one was fought to an inconclusive result and the other was lost entirely.

It was this extreme position and the difficulties we were having making it work that has led, I believe, to the strained isolationism that we now find in our society today. Unfortunately, one failure seems to erase all of our successes. Having been bitten by one dog, so to speak, we now refuse to approach any other.

We seem willing to abandon even longstanding commitments. Our opponents are not so shallow. Defeats do not deter their initiatives. To them any opportunity is an opportunity for success. That they have often failed is not a deterrent. Failure to them is but a temporary setback. To us it seems to be the end.

It is inconceivable to me that we should withdraw so completely. It seems inconceivable to me that we should have so little faith in the ability of our ideas. We made this Nation into a model of freedom and prosperity. Do we now feel that our position is too weak to propagate? Do we now feel that others cannot benefit from the freedoms which have been ours to enjoy? Why are we willing to surrender them to Communist totalitarianism?

It seems to me that some in our society may be panicking. I suggest, Mr. President, our pride in this country has suffered more than our position.

We are still the most powerful Nation in the world. Whether we want it or not, the position of leadership in the world has been thrust upon this Nation.

I have heard today in the Chamber of this Senate the suggestion that, if the freedom of Angola is so important, why do we not call upon our NATO allies to carry the burden of maintaining and bringing freedom there?

I say, Mr. President, I would feel much better about it if our good friends in Western Europe were to assume more of a role of leadership in protecting freedom around the world. But because they fail to carry their part of the burden, are we also going to fail in the role of leadership that has been thrust upon us by the high ideas that we believe in and the success that has been ours?

How I remember, Mr. President, the words of that young dynamic new President, John F. Kennedy, as I stood here in the snow in 1961 and listened to his inaugural address and heard him say words to this effect. I do not remember them verbatim and I do not have them here, but it was something to this effect:

> Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty.

Have we in this country forgotten those great principles to which we committed ourselves on that cold January day here in 1961?

Because we badly handled our last confrontation in Vietnam, are we now to say that we no longer will offer encouragement and aid to those who have the courage and the stamina to stand up and resist Communist aggression and expansionism wherever it is to be found in the world?

I say that there is no reason for freedom-loving Americans to abandon the Third World totalitarianism, for if we do we are not only isolationists, we shall find ourselves isolated.

So what alternative remains? If we are to be neither isolationists nor all-out antagonist, where can we stand? The answer obviously is somewhere between the two. The trouble with being all-out antagonist is that each confrontation brings the world to the brink of a nuclear war, and no person in his right mind can countenance that possibility.

So I think, Mr. President, that détente with great powers seems inevitable. I like to think of détente as meaning the improvement of our relations with other nations, with Russia. I believe we should have approached it more cautiously than we did. But if we are to avoid this kind of confrontation, I do not believe we can rule out the question of détente.

I heard earlier in the debate that we simply should cut off all aid to the African nation of Angola and say to the Soviet Union, "If you don't get out, we will have no more SALT talks. We will sell you no more wheat." We will rebuild, in effect, the Iron Curtain.

I suggest, Mr. President, that rekindling the hostilities that formerly existed between the Soviet Union and this country may very well generate and create more dangers for our Nation than the matter we are considering now. We simply cannot go to war with the Soviet Union or with Communist China. The destruction that would result is simply too horrible to contemplate. I think that no one in his right mind can advocate such a position. But this does not mean that we should become isolationists.

I suggest that we are turning inward at this point, although I am sure that many of my colleagues will disagree with me. But we cannot become isolationist in this country. The Third World is fertile ground for the growth of freedom and democracy, and both overt and covert forms of influence are available to us. There is no reason in the world why we should not use our influence to direct the course of history in the Third World. To me, it seems immoral not to do so.

If we truly believe that if men are born with an inalienable right, we must believe that Africans and Asians are born with it, and we cannot agree to any attempt to alienate them. Freedom is too precious to abandon. It is precious here; it is precious there; it is precious everywhere.

Recent criticisms of our attempt to steer the course of history in the third world has led many to think that we should abandon this meaningful alternative. Some are arguing that we should only involve ourselves in the internal affairs of another country when it is essential to our national interests. From this premise they argue that since the affairs of the Congo—Zaire—are not essential to our national interests, we should not have become involved in the early 1960's in the Congo; that since the affairs of Chile are not essential to our national interests, we should not have become involved in Chile; and that since the affairs of Portugal and Angola are not essential to our national interest, we should not have become involved in Angola.

So far as the Third World countries are concerned, it is perhaps also possible to argue that any particular nation's affairs are not essential to our Nation's interest. Of course, what goes on in the Congo, taken by itself, has little, if any, effect on our national interest; and the same can be said of Chile, Portugal, Angola, and any of the other Third World nations. But I suggest that we cannot consider each nation by itself when considering what is and what is not in our national interest; for when dealing with the Communist world, we have to deal with it collectively. Although the Congo—or Zaire, as it is now called—Chile, Portugal, and Angola individually have little, if any, bearing on our national interest, if we permit each Third World nation to go Communist, the result indeed will be detrimental to our national interest. For the result would be an isolated America, buffeted by the winds of a united Communist world, maintaining its freedom only by the threat of nuclear war, cut off from natural resources and trading partners—in short, one free nation surrounded by a totalitarian world.

How long does one think we can survive in that kind of situation? The answer is obvious enough. The freedom of men will have been relegated to history.

But, believe me, freedom is much too precious to be lost by default. Foreign policy is an important ingredient in our overall national program. It is a defense not only for our shores, but also the shores of other democratic Third World nations. We must do what we can to preserve the freedom of the world; for we shall find that one free country in the world—ours—cannot survive alone. An isolated country is sure to be only a temporary bastion of freedom. It is our one sure road to destruction, and I sincerely hope that we do not follow it.

Mr. President, the debate before this body now, in my opinion, is a debate on more than the question of whether or not we shall give another $25 million or $30 million of military aid and assistance to Angola.

I conclude my remarks by saying, Mr. President, that the remarks I made, essentially, were prepared a long time ago. I thought of making them several times. But it is a question that has bothered me. I do not understand how the President can carry out his constitutional obligations and duties of conducting foreign policy in a fishbowl. Of course, the American people have a right to know. But, Mr. President, many of the things that are going on in Government we in Congress must hold in trust for the American people.

The present crisis was not handled by the President in a vacuum. Appropriate committees of Congress were kept informed. I was informed as a member of one of the committees. Nevertheless, I think it is well that the question has been debated.

I am not sure, at this moment, how I would vote on the Tunney amendment, as amended by the distinguished Senator from New York. I have mixed emotions. I think it would be catastrophic in a way if we say to the President of the United States, "You cannot do anything else for the preservation of freedom in Angola." It would say to those brave individuals—and I am sure there are thousands of them—who thought they were going to have freedom, "You cannot look to your friends across the way for any more help."

It would also serve notice, in my opinion, to others seeking freedom and seeking to maintain their freedom around the world that they possibly could not look to this great Nation for assistance in preservation of their freedom.

No one would argue or contend for one moment that we should even commit one troop to that conflict. The President has made that clear, and I voted for the Griffin amendment this afternoon for the purpose of reiterating that.

But where do we draw the line? I am sure that is the same question that many of those who have been looking to us are asking tonight. I have detected, in recent weeks, a definite crumbling away of support for our courageous and brave friends in Israel. Without our support, that free nation cannot survive.

On the other hand, I have agonized over the thought that maybe it is best to adopt this amendment in this particular debate, for if it is not adopted, it will surely be a political issue in next year's campaign to stir the emotions of the American people—much as the debate in the last campaign involved a question of our foreign policy.

So, I may very well vote for it; I do not know, realizing the dangerous consequences of it.

I was particularly impressed this morning with the very calm and deliberate—and I might say one of the few calm and deliberate discussions of this issue before the Senate—of the distinguished Senator from Illinois (Mr. STEVENSON). It seems to me that he has approached it in a logical manner, considering the consequences both ways. I have joined with Senator STEVENSON in sponsoring his resolution, although it may never come to a vote because of the rules. But it seems to me that if we really do believe in the United Nations, this might be the proper route for us to follow.

It involved more than immediately calling on the United Nations to condemn, not just one nation for becoming involved, but all nations that are involved. As I recall the resolution, it called for a cessation of assistance while this matter was brought to the attention of the United Nations and while our leaders begin to work and negotiate with the leaders of the Soviet Union. It seems to me that this is an honorable and perhaps the most effective way out of the dilemma in which we find ourselves.

Finally, it has been suggested that we ought not to assist the two factions in Angola because they are also being assisted by other nations whose ideologies do not agree with ours, other nations who violate human rights.

But I mention also that the African nations did not condemn that nation, although I do not understand and I do not think anyone does, just how much involvement there is. But is there a nation on the face of the Earth that has violated human rights and dignity more than the Soviet Union? We know of the indignities and the persecution that are being endured by the Soviet Jews.

I had a Jewish lady in my office last week who had emigrated from Russia to Israel with her little girl, bringing me information of her husband, who is confined in prison in the Soviet Union. That was information which indicated beyond any doubt, to me, that her husband is enduring the most trying hardships that any human being can endure. So I say, Mr. President, that no nation has infringed upon the rights of its citizens more than the Soviet Union and, notwithstanding the Helsinki Agreement, we know that the document which guaranteed to the citizens of Europe the right to travel freely was nothing more to the Soviet Union than empty promise and a worthless piece of paper.

Even the great winner of the Nobel prize was unable to leave that country.

So, Mr. President, I suggest this is, perhaps, the most serious matter or certainly one of the most serious matters that has been before this body during the 11 months I have been privileged to serve in this body. It is one that this body should not approach emotionally and uncompromisingly. It is one we should try to resolve together for the best interests of America and the best interests of free men and women everywhere.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STONE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that James Lucier of my staff be granted privilege of the floor during the consideration of this amendment and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask it be in order for me to ask for a quorum call protecting the previously stated rights of the Senator from Idaho.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I thank the Senator from North Carolina for protecting my right to the floor under the unanimous consent that we had previously agreed upon.

As I think most Members of the Senate are aware, there has been for the last hour and 45 minutes a meeting, attempting to find a resolution of the problem we are now confronted with.

That meeting has not been completed and discussions are continuing.

While those Members are involved in that meeting and further discuss the possible solution that might be applied to the question that has been pending before the Senate at this time and also the parliamentary problem which confronts the Senate in dealing with this possible solution, I think it might be useful to discuss for a few minutes some of the arguments that have been raised and have only been partially discussed thus far in the open sessions.

There have been a number of Senators who have remarked that they are afraid that this involvement in Angola and its progression portended another Vietnam, that somehow we will be sucked into another Vietnam. Yet the Senator from New York (Mr. JAVITS) very properly remarked yesterday that the Griffin amendment was unnecessary. The Griffin amendment today was defeated, because of the arguments that it was unnecessary because of the passage of the War Powers Act which makes it impossible for us to get sucked into another Vietnam in the same way that we escalated through assistance, through advisers, through military advisers and then directly into troop involvement; that is not possible any longer under the War Powers Act.

I think the fears which have been expressed, and I think legitimate fears expressed by a number of the Members of the Senate, that we might thus be progressing into another Vietnam is an inaccurate reflection of a very real fear, not in technical terms of being sucked into another Vietnam, but in the way of an escalation of involvement.

I think that is possible under what we are talking about. I think if we confine it to those terms we will understand the concerns that people are expressing when they use that terminology.

We not only have the War Powers Act, but we also have on the record the statement of the President of the United States and of the Secretary of State very clearly saying that no troops will be committed; that that is absolutely impossible.

So we are not talking about precisely following the escalation of involvement in Angola in the same way we did in Vietnam.

It has been suggested by some that we should not be involved as we are with the factions that we are simply because South Africa is also involved. Well, I think that is an equal paranoia with those who charge others with wanting to be involved on the opposite side of the Soviet Union no matter where they are or why. I think just to be uninvolved because South Africa is involved is equally blind as to be involved simply because the Soviet Union is.

I am concerned, Mr. President, that in the consideration of our policy here we have not adequately reflected on the problems that deal with Soviet aims, goals, and penetration in Africa. Earlier in closed session I made reference to the situation that exists on the other side of Africa, on the Indian Ocean side, in Somalia.

It has been suggested here that we do not need to fear Soviet presence in Angola, because they are fiercely nationalistic: that the black African countries are so nationalistic that Soviet presence is an impossibility.

Yet, what is the fact in Somalia? Are they less nationalistic than other African countries? Is there anyone who really believes that the leadership in Somalia is less inclined to be concerned about the maintenance of their independence than other black African nations are? The fact is that there is a Russian military base in Somalia, at Berbera.

In July of this last year I had the privilege of participating with several other Members of the Senate in a delegation meeting in Moscow with the leaders of the Soviet Union. That delegation was led by the distinguished Senator from Minnesota (Mr. HUMPHREY) and the distinguished Senator from New York (Mr. JAVITS). Others, including Senator MORGAN, were present in that delegation.

As I recall, on the second day of July we sat across the table from some of our counterparts in the Supreme Soviet, the leaders of that country in fact as well as in name. The question was directly asked about the allegations of a Soviet military presence and base in Somalia.

They just ridiculed that. They were sitting less than 5 feet away from me when they did, right across the table. They laughed at the suggestion that they were involved. All they were doing at Berbera was helping the Somalia Government build a port facility for commercial port reasons.

Three or 4 days later the distinguished Senator from Oklahoma (Mr. BARTLETT) was present in that country with a group from our Government inspecting the facilities on the ground and from the air in Berbera.

Our delegation happened at that time to have moved on to Leningrad, in the Soviet Union.

The Senator from Oklahoma has reported to the Senate and to the country by written report that their inspection revealed not only the presence of Soviet military personnel in Berbera, but the construction of what is obviously a missile-handling facility in Somalia.

The President of that country had assured our delegation that they could have access to anything they wanted to see. There were no areas in his country that were off limits. The delegation could go anywhere they wanted and look at anything they wanted to look at in Berbera to satisfy themselves.

The Senator from Oklahoma reported to the Senate and to the country that as they followed his charge to look, and the guarantee of the President of that country that they could look at anything, they were denied access to certain areas in Berbera; that they went to the gates of the barbed wire enclosures and were met with soldiers with guns leveled at them from behind sandbags who said, "You will not enter here."

The Senator's response was, "The President told us we could see anything we wanted to see. Why can we not enter here?"

They said, "You cannot enter here, because this is a Soviet base."

Yet, 3 or 4 days before I had been sitting across the table from the leaders of the Soviet Union in Moscow and they had told us there was nothing to those rumors or charges.

So I do not think we can just brush aside the consideration of whether or not there will be expanded Soviet military operations based in Angola simply on the basis that these countries are fiercely nationalistic or that we have no proof they want to build a military base in Angola.

I believe it is a possibility. I believe it is a consideration that ought to be included in the evaluation of our policy concerning Angola. From our discussions, both in open session and in closed session, I believe it is fair to say that, based upon the evidence, we have not even considered that fact. We should have considered that fact.

The committees and those individuals who have suggested to us we should terminate involvement in Angola ought to be able to tell the Senate, and ought to be able to tell the people of this country, they have considered that fact, and they have decided after mature consideration of that possibility further involvement in Angola is not justified.

They cannot make that statement. In fairness, I would think they would agree with me they have not tried to make that statement to us, because they have not considered that possibility.

I am concerned, too, that the suggestion is made that we shall confine our new programing money and covert activity to intelligence gathering alone. I assume that if we are going to do that, if we are going to be consistent, we are going to say that is true wherever we are involved; we are not going to enter into covert military assistance to any country.

Maybe the Members of this body who have been suggesting that will make a distinction. Maybe they will make the distinction that we should confine the reprogramed or covert activities to intelligence gathering and intelligence information activities, and that only in the event of a positive action of Congress shall we engage in military supply anywhere in the world.

I think that kind of a policy might be very wisely adopted by Congress. I believe that is a policy which I could support. But it has not been presented to us as a general policy for the Congress of the United States or the Government of the United States. It has been presented to us as a policy which applies only to Angola.

I have to ask myself, why? What rational distinction has been made which says that in this instance this shall be our policy, but in other instances it is not our policy?

I think we must be concerned about the implications that that will have if, indeed, the distinction I have suggested is not the reason why they are making that policy statement. If, without that distinction, it is to be our policy that we will supply money to acquire information to guide our own decisions, then I would suggest that that same kind of decisionmaking process will apply also in the Middle East. And what does that do to the commitments that we have undertaken with respect to Israel as well as to other countries in the Middle East? Are we, by that application of policy pursued on a broader scale, then, to confine ourselves to intelligence gathering and informational processes, and are we going to say, then, to other countries in the Middle East, "There will be no military assistance from henceforth from the Congress of the United States and the people of the United States?"

If that is to be our policy, or that is the implication of those who seek in this instance to initiate that policy, then I think we had better know it now. And if it is not, then I suggest we had better know what the rational distinction is that keeps that from being the policy that would be applied in the Middle East as well as in Africa.

Mr. President, I am concerned, too, when we get into the question of how our policy and our involvement in Africa may affect the relationships between national groups in Africa. It is suggested by some, if I understand their arguments correctly, that we must not be involved in Angola because to do so will inflame the racial tensions in Southern Africa. Yet it seems to me that a hasty application of the Tunney amendment to this bill and the signal that that would be to the Soviet Union to increase its penetration in Angola and in Southwest Africa could very well lead to a worsening of racial relations, not because of the action we took there, but because of the action we take here.

Why do I say that? Mr. President, I think it is obvious from the statements that have been made by the people who are involved in this debate in Angola—not in the arguments made here, not in the arguments made in NATO councils, but in arguments made by people within Angola itself—that the institution of rule by the segment of society being backed by the Soviet Union could lead to the extinction of terrorist activities aimed at a change of internal political policies in Southwest Africa, in Rhodesia, and in South Africa, and we would see across those borders the beginning of the flow of terrorist activities in much the same way we have seen it across the borders of Israel, which has exacerbated the very difficult situation that exists there, and that has made it almost impossible for us to reach a resolution of the political or military situation in the Middle East, and we would see across the borders of these countries the beginning of a guerrilla warfare which is directed toward a change of racial balance, and therefore becomes a very real addition to racial tensions in the entire region of Southwestern Africa.

I think, Mr. President, that rather than contributing to the easing of racial tensions, we might very well, by this action, exacerbate the racial tensions that exist already in that area of the world.

And when we start looking at the question of, "Well, will the United States be alined itself against black African countries if we continue the policy which is the policy of the United States today," I think it is well that we look toward the best evidence of what may occur in the minds of Africans by looking at their statements.

I think the Senate ought to look at the content of the debate that occurred in the United Nations on December 10, just a week ago yesterday. That debate, which took place over a resolution which had originally been devised to condemn the policies of racial separation in South Africa, had been changed suddenly in its character by a resolution offered by the Soviet Union as an amendment to that resolution, which would have condemned South Africa's intervention in the internal affairs of Angola.

One difference, though, from the statements that have been made here on the floor of the Senate in the last 2 days, is that that would have had automatic unquestioning support of all black African nations, who condemn South Africa for their intervention in Angola. But what was the fact? What did actually happen?

The Soviet Union did not succeed in their condemnation of South Africa in that instance, because other black African nations very quickly pointed out that South Africa was not the only country, even the major offender, in the intervention in internal affairs in Angola, that the Soviet Union itself was the major offender in the intervention, and the black African nations presented an amendment to that resolution which would have condemned all foreign intervention in Angola; and in the debate on that amendment it was clear that they were talking about the intervention of the Soviet Union.

The debate raged. I have transcripts of the debate that took place at that time.

The arguments were raised by various of the black African nations in support of and in opposition to the amendment which was offered by the representative of the Government of Zaire, condemning all foreign intervention in Angola, to exclude that resolution which the Soviet Union had offered which would have condemned only South Africa but to include the condemnation of the Soviet Union's activities in Angola, and that debate makes very interesting reading for those who are concerned about black Africans' reactions to foreign intervention in Angola.

The upshot or the final result of that debate was that both of the amendments were withdrawn. They were withdrawn after the Soviet Union amendment was rejected on a vote of 42 to 43 with 43 abstentions.

If those who believe that the black African reaction to the intervention in Angola must be so uniformly adverse to the position that we have taken, I invite them to look at that action taken in the United Nations and to take a look at the debate that took place and to consider the vote that occurred only a week ago yesterday in the United Nations in New York, because I think it begins to paint a very different picture of black Africans' reactions to foreign intervention in Angola.

For those who wish a little bit more background about that debate and the meaning of that debate, I invite the attention of Members to an article that appeared in the New York Times on the 11th of December which is entitled "Moynihan Accused in U.N. on Angola." But the point which I refer occurs in the third paragraph in that article by John F. Burns. I read from that article this portion:

> Diplomats in touch with the sponsors of the amendment which was supported by the Soviet Union and opposed by the United States said that it had been withdrawn when it became apparent it could not win a majority of votes in the assembly.

I also call attention of the Senate to the article that appeared in the Washington Post on Thursday, December 11, just 1 week ago today, a bylined article by Victor Zorza, entitled "A New Wave of Soviet Expansionism." He points to a couple of matters which are of particular interest in our discussion of policy in Angola, and let me read briefly from that article:

> The relaxation of international tensions, Pravda says, has been a powerful force behind the new upsurge in the struggle for the total liberation of peoples, and Communist Soviet Foreign Minister Andrei Gromyko explains that that support of national liberation forces is an extremely important sector of our foreign policy work.

At another point in the same article, Mr. Zorza makes this comment:

> But if the Kremlin is allowed to get away with it, Angola may prove to be only the beginning of a new drive to expand Soviet power under the cover of detente and not just in the third world.

If Members wish further material and editorial comment in regard to this situation, I suggest that they read the editorial that appeared in the Washington Post on the 15th of December in which, among other things, the editorial had this to say:

> In the United Nations the other day, for instance, the Russians suffered a smart setback, one of their first of this sort in years, when the bottom fell out from under a proposed amendment that would have ignored Soviet intervention and condemned only the Angolan role of South Africa whose intervention is at once much smaller than Moscow's and more justified.

Mr. President, I think it is important for us to note this course of events and the commentary on the events by people who have been much closer to it and I hope more informed by it than has been the case for many Members of the Senate of the United States.

There is another factor that needs to be considered as we look at the motivations of the emerging countries.

I agree with the statement that has been made in the Chamber of this Senate that no foreign power is going to have great success in penetrating the governments of any of the African countries if they do not use force. But if they are willing to use force or if they are willing to use enough economic aid to buy their way in, they can, in some instances, be successful in either subverting the government or turning that government's interests toward their own interests.

Why is it that the Soviet Union has failed in many of its overtures to emerging countries in the past? I think it can be rather clearly stated because these countries that are throwing off the yoke of colonialism are not willing to substitute one colonial master for another. I think, as the colonial empires grew starting late in the 17th century and through the 18th and 19th centuries and were used for economic exploitation of the colonized areas of the world, these people threw off that yoke in order to seek not only political freedom but economic opportunity for their people.

Their experience when they have fallen within the Soviet orb has been that they get neither political freedom nor economic progress.

To the extent that they are within the Soviet orb, they find themselves exploited in exactly the same way that they felt themselves exploited under the colonial empires of the preceding century.

The new colonialism of the Soviet expansionism has been all too evident to the people who have lived under it.

Witness the course of events in country after country where the Soviet Union moved in as colonial powers moved out. We will find that those countries got only one thing from the Soviet Union: military support, military goods, and they paid for them. They paid for them in whatever resources they had at prices which were very favorable to the Soviet Union.

Analyze case after case after case of countries that have gone that route, tasted that cup, and discarded it because they found that, although they could get military supplies to fight against colonial oppression, they could get military supplies to fight over who should control the new country, and they could get military supplies to subvert the governments of adjacent areas or to disrupt the political stability in the region in which these countries are located, they could not get any meaningful economic assistance, and no real economic growth occurred for them.

So country after country after country, having gone through that evolution, has turned away from the help of the Soviet Union and toward a greater and freer economic coordination with the Western powers. They do not seek to substitute for the Soviet Union a different master in any Western power or Western alliance, but they seek opportunity of economic growth and social betterment for their own people. That is their motivation and a very proper motivation.

So I am in agreement with Members of this body who have suggested that the Soviet Union might well be walking into a morass in Angola, a morass from which they would find it difficult to extricate themselves with any great gain, and they might very well fail in their efforts to subvert either Angola for a very long period of time or larger areas of Africa for any substantial period of time. But we have not yet decided, and I do not think we can decide, how much the Soviet Union is willing to invest in that effort, how much they are willing to invest economically, how much they are willing to invest from the standpoint of prestige, how much they are willing to invest in terms of military involvement.

They can, if they desire, make great penetration and great inroads into the political independence of various areas of this world, as they have shown a willingness to invest. We may not be talking about evolution in which a government, having tasted from the cup of economic cooperation with the Soviet Union, discards it. We may be seeing the kind of situation in which the Soviet Union feels it is worthwhile to them to invest militarily a sufficient force to gain a relatively long-term political-military dominance of an area, as they did in Eastern Europe.

We know the sad litany of the countries that have been subverted by the strength of Soviet military might in an area where the Soviet Union felt that it was worthwhile to make that investment. And they have done so.

I was interested earlier this afternoon as the very able Senator from Oregon (Mr. PACKWOOD) was talking about the price they paid for their involvement in Hungary and Czechoslovakia, and they have indeed paid a price, in terms of the reaction of peoples in other countries of Europe. But that was a price, presumably, that they were willing to pay, in exchange for the gains they made in those countries during that period of time and during the period of time since the revolution in Hungary and the attempts by the people of Czechoslovakia to gain independence over their own internal political processes.

Mr. President, I think there are a number of reasons why we must be concerned about the evolution of a policy in Angola that may have long-lasting and far-reaching effects upon not just one small black African country.

I was interested in some of the comments that were made in the debate in the United Nations to which I made reference earlier that touched on the question of the reactions of black peoples to domination by foreign countries which are not black. I should like to read from the remarks by the representative of the Government of Zaire at that time, because I believe they shed light on the attitudes of black nations.

I make this reservation as I read from those remarks: They are translations, obviously, and I apologize for any inaccuracy in the translation. I hope the translation is accurate enough to reflect the truth of the statements made by the representative of the Government of Zaire in those debates. He said this:

> In certain quarters it is believed that Zaire is against the MPLA. We are not. The first shot fired against the Portuguese colonial administration did not come from the Soviet Union but from Zairean national territory, and in the first hours of the MPLA, where was NATO?
>
> Is there a desire deliberately to ignore the history of the national liberation movements in Angola? The Soviet Union believes itself to be the champion and the savior of Angola. At a time when the Portuguese colonial administration was rampaging in Angola, where were the armored cars, the tanks, and the sophisticated weaponry with which the Soviet Union is now flooding Angola? No doubt Soviet weapons could not be seen to be used against the Portuguese rights.
>
> This is racism stood on its head. And now they are dividing Angolan brothers, providing them with murderous weapons and helping them to kill each other. They are black, so they can kill each other. But when the white Portuguese were there, we did not see such weapons coming into Angola. Whom are they trying to deceive? Why play hide and seek?

At another point, later, he said:

> And if the Soviet Union, that great friend of independent Africa, were really as friendly as all that, it could take into account the decisions of our heads of state on the African continent.

I think it is very clear, Mr. President, that the black African nations, themselves, do not share the same fears about our involvement in Angola as has been stated and do not see our involvement in the same light as some of the Members of the U.S. Senate see it in terms of their own statements here today.

Let me make just one additional reference to the pending resolution of the Senator from Illinois (Mr. STEVENSON). I made reference to that resolution earlier today and pointed out to the Members that it can be found on page 41209 of the RECORD of yesterday. I have two concerns with the resolution as presented by the able Senator from Illinois.

First, it has a number of preamble clauses, and then in the resolution portion there are six paragraphs. The first five paragraphs refer to a number of items that can be found in sequence, and the sixth item is the one to which I want to refer, because it says:

> The President should suspend further assistance to any faction in Angola pending efforts to seek an end to all foreign intervention in Angola.

I think that has an inversion in the language of the resolution, an inversion that I hope the Senator from Illinois will correct. If that and a couple of other items in the resolution are changed, it would make it possible for me to support the resolution, because I think the Senator from Illinois did not intend that we do nothing, awaiting this kind of action on the part of the withdrawal of those people who are now involved in Angola. He did not intend, I should think, to say that we will do nothing until we say that they have withdrawn.

Instead, I think it would be more constructive to say that as they withdraw, we will react; and if they do not withdraw, we will apply these sanctions. But, pending that period of time, we will not unilaterally stop our own assistance, at least to the extent that assistance is being put into the civil war within Angola by other outside forces.

As I said at the beginning of my remarks today, in open session, I believe that the policy of the United States should very clearly say that we believe that the people of Angola should be free to make their own decisions about what kind of government they want. They should be free to state, without any intervention on the part of any other country, which one of the groups of people or leaders within their own country they would select to be their leaders; and that we would hope that not only we would refrain from intervening in their internal political processes but that we have the right to insist that all other countries likewise refrain from interfering in the internal political affairs of the nation of Angola.

Unfortunately, that is not the situation that exists today in Angola. We have foreign intervention in the internal political affairs of that country. Unfortunately, they are not free to make their own decisions today and we would hope that we can apply our diplomatic and economic pressures in a way which is constructive enough to lead to the time that the people of Angola will again be free from the intervention and interference of foreign countries in their internal affairs. Until that time comes, there is, I think, a need for caution in terms of our precipitate withdrawal of our assistance to one or two or three factions that exist and the almost predictable course of events that would follow from our withdrawal without any quid pro quo, without any paralleling or corresponding reduction in the efforts of the Soviet Union to bend the events in that country to their own desire.

One of the other concerns that I have with the resolution of the Senator from Illinois is the rather broad and inflexible application that is called for in paragraph 4 of the resolution, because that paragraph reads as follows:

> The President, pursuant to his authority under the Export Administration Act of 1969, should curtail exports to countries which persist in intervening in the conflict in Angola.

Mr. President, I think it would be understood almost from the beginning of any discussion of that provision of the resolution that any Senator representing a farm State is going to be concerned about the application of that language. It has very little standing except to say to the President of the United States, "If other countries are persisting, you shall apply the sanctions of the act." That would mean, under the Export Administration Act of 1969, that the President has the authority, and, under this resolution, would be directed to use it, to cut off all trade with countries that are intervening in Angola. I think we would have an opportunity to adjust to that so far as farm commodities are concerned. But we could not adjust to it immediately.

The farmers in this country are the most efficient producers in the history of the world when it comes to turning out a greater and greater flow of agricultural commodities. Since the Korean war, and up until 1973, our policies in the United States have been geared to cope with the surpluses created by that tremendous ability to produce.

Mr. LONG. Will the Senator yield for a unanimous-consent request?

Mr. McCLURE. I shall be glad to yield to the Senator from Louisiana for a unanimous-consent request without losing my right to the floor and without the resumption being considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSPENSION OF DUTIES OF CERTAIN SILK—H.R. 7727

AMENDMENT NO. 1322

Mr. LONG. Mr. President, I introduce an amendment to H.R. 7727. This amendment is known as the deadwood bill. It deals with the so-called deadwood provisions which simplify the tax laws by removing from the Internal Revenue Code those provisions which are obsolete or no longer important and rarely used.

The provisions, which have been developed over a number of years, would repeal almost 150 sections of the Internal Revenue Code and would amend more than 850 other sections of the Code. The bill also would make other simplifying changes such as the substitution of the term "ordinary income" for phrases in present law which obtain this result by referring to the income as "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231."

The deleted provisions would include those which deal only with past years, situations which were narrowly defined and are unlikely to recur, as well as provisions which have largely outlived their usefulness. In some situations, provisions would be added to preserve the right of persons to continue to receive benefits under Code provisions which generally would be repealed.

The deadwood provisions do not attempt to achieve simplification through substantive changes in existing law. Therefore, the provisions do not deal with policy issues or with substantive changes in generally applicable provisions.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. McCLURE. Since the Korean war and up until 1973, our policies had to be directed toward what to do with the ability of the farmers of the United States to produce more food than we could consume in the markets in our own country. So we had an elaborate system built up—jerrybuilt, some say—over the years to deal with the twin problems of too much production and how to reduce production. So we had farmers paid not to produce; we had programs to encourage and to pay farmers for withholding land from production. We had commodity purchase programs in which the Government bought the commodities off the market, removed them from the market; we had storage programs to pay people to store commodities that were excess to our needs. We had all these programs and we had Public Law 480, which is not a very euphonious title for a bill which then became known, with more artistic fervor, as the food-for-peace program. Through this, we used our surpluses to try to feed hungry people in this world. All of this was evidence of the tremendous ability of the farmers of this country to produce more than we could consume in this country.

In 1973, for the first time, because of the demand for food and because of the ability of various foreign countries to purchase that food, we were able to export enough of our surpluses that we began to reach the point that our agricultural commodities could find a free market price. Since 1973, those prices have moved to a price that is established by a market and not by a governmental program. That, I believe, Mr. President, has been progress.

I think not just the farmers of the United States have benefited greatly from that, but so have the communities in which they live—the automobile dealers, the implement dealers, the warehousemen, the people in Peoria have benefitted from that because they manufacture the machinery that has been sold to those farmers.

I might, incidentally, note that in the very brief period of time following the initial massive purchase of wheat by the government of Russia, when the price of wheat moved up very rapidly in my area of the country from an average of about $1.85 a bushel to better than $5 a bushel, it took less than 6 months for the price of a tractor to double.

I do not think it cost more to produce a tractor in that period; it was just a reflection of the old supply and demand law again. Farmers had a little bit more money and they were willing to spend it to update some of their older equipment and replace some of it and the demand on the market exceeded the supply and the price went up.

The price doubled, literally doubled. A large, four-wheel-drive tractor that is used in the wheat-growing areas of my State, that had sold for about $20,000, went to $43,000 in 6 months. A self-propelled combine of the type that is much in use in that same area, in that same period of time, went from about $28,000 to $48,000.

I might add that the price of wheat may have peaked out at around $6 a bushel. Certainly, a great many farmers got better than $5 a bushel. The price went back down to $3 a bushel, but I did not see the price of a tractor go down, following the price of wheat going back down.

But the farmers of this country have been able to survive and they will survive on the market condition, which is the situation which I think we should all support. They can do so only if they have access to world markets for the sale of the produce that cannot be consumed in this country. If we are going, under a resolution like this and for other reasons than the management of our agricultural surplus, to limit the sale of agricultural products, as they would be limited under this resolution, then, Mr. President, we must be prepared to pay the price of going back into a regulated agriculture and pay the price of the kinds of agricultural programs that we had in the late 1950's and through the 1960's; a price that is, I think, not an inconsiderable one.

If you will compare it to the cost of the continuation of the program we are talking about here it is very disproportionate. I have heard it said that because we are talking about committing an additional $28 million to a program in Angola, we must change our foreign policy. I am suggesting if that $28 million is the reason for us to change that foreign policy, let us look at the hundreds of millions of dollars and probably billions of dollars that will be required to adjust our agricultural programs to the realities of a foreign policy that turns in the way that is suggested by the resolution of the Senator from Illinois.

The Senator from South Carolina (Mr. THURMOND) has circulated a resolution which has slightly different wording, and I would commend that to the consideration of the Senate. I certainly hope that, perhaps, if we get to the consideration of the resolution of the Senator from Illinois, we may also consider the possibility of modifying the language more along the lines of the resolution suggested by the Senator from South Carolina.

That resolution, as I recall—and I do not seem to have a copy of it at the moment—states that the President shall explore the possibility of economic sanctions while instituting diplomatic pressures, and shall report back to the Congress of the United States within 60 days specific economic sanctions that he thinks should be applied.

I think that formulation rather than the more rigid formulation in the Stevenson resolution may be the kind of action the Senate could responsibly take today in trying to resolve the question of how to respond to the changes in Angola and the changes of the political situation brought about by the Soviet Union's intervention.

I have been handed a copy of the resolution, and section 2 of that resolution states as follows:

> The Senate requests the President to submit to the Congress such recommendation as he deems appropriate regarding the reduction, prohibition, suspension or termination of trade with the Soviet Union in the event he is unable to successfully negotiate an agreement referred to in the first section of this resolution within 90 days after the adoption of this resolution.

That, I think, is the kind of flexibility necessary so that we might avoid the consequences that seem to me to flow from the language that is in the Stevenson resolution.

These are several of the reasons why I think we must be concerned not only about the policy implications within Angola and foreign policy but the impact of our response upon domestic political policy. The domestic political policy is not unrelated to what we may decide is right to do in Angola.

It has been suggested by some that we should not be involved in Angola because the United States does not have that much at stake in Angola. That implies to me, at least, that we will never be involved in providing the means by which people can fight for their own independence, if they desire to do so, against foreign subversion or subversion within their own country supported by foreign powers unless the United States has a direct security interest in it.

I would ask the Senate if that is the same standard we are applying in the Middle East as we approach the multibillion dollar aid to the nation of Israel. I am not suggesting that we should not provide military assistance to Israel but I am saying we are applying that military assistance to Israel because we believe it is right that they ought to have the opportunity to fight for their own survival.

Are we willing to make that moral judgment and to commit ourselves and our resources to the support of the people in Israel because they happen to be more like us and are unwilling to do so in Angola because they happen to be black? Is that the kind of policy this Senate is about to adopt? Is that the kind of motivation we would be proud to have ascribed to the action that is taken by us?

I happen to believe we are right in saying to the world that Israel has a right to exist and that we underscore that by providing them with whatever assistance is necessary for them to fight for their survival.

Mr. BARTLETT. Mr. President, will the Senator yield for a question?

Mr. McCLURE. In just a moment.

I think we also ought to, in the same spirit that motivated the President in enunciating what has become known as the Guam doctrine, say that we will provide the means to people who desire to fight for their own survival when they are threatened by subversion that is being supported from external forces.

I think the President was also right in that policy enunciation when he said we are not going to try to fight everyone's battles for them. But I believe if we are going to say we are not going to be the policemen of the world, we also ought to recognize there are struggles going on within this world—there have been and will continue to be—where it is sought to subjugate people against their will to satisfy the ambitions of large powers outside their countries, and the United States cannot morally ignore what happens in those instances.

I would be happy to yield to the Senator from Oklahoma for a question.

Mr. BARTLETT. I would like to point out to the Senator from Idaho there are those who advocate passage of the Tunney amendment, and then also apparently advocate the Congress overtly passing the necessary legislation to provide for military support in Angola, and to do this openly either on regular legislation or with special consideration.

It seems to me this creates a hiatus that would be very dangerous, and I just wonder if the Senator from Idaho would comment on this to give me his opinion of the danger of a hiatus that would exist during that period even if Congress did adopt later on an amount of military help equivalent to that which is contemplated now with the readjustment of the funds.

Mr. McCLURE. Well, let me say to the Senator from Oklahoma that has to be one of the major concerns that confront us now.

Certainly I agree with those Members of the Senate who say the kind of involvement we are engaged in now, that we are apparently engaged in, where we started out with a few thousand dollars and now we are up to $25 million spent and $7 million programed, and $28 million requested, is the kind of decision in which Congress should be involved; that it cannot be a covert operation, it should be an overt decision.

It is my feeling that it is already an overt policy. If it was ever a secret policy it no longer is. So the decision we are making now is not whether to get involved to that extent, it is a question of whether we are going to stop being involved to that extent because we already are.

The President of the United States, through the activities of the State Department and the CIA and, to some degree, pursuant to the involvement of appropriate committees of this Congress that have approved at least portions of this action in the past, has already brought us to the point where the world sees us as being involved in Angola.

If we adopt the Tunney amendment now we stop that involvement, and the signal is not whether we may decide at some future date to get involved again, but the signal is we have stopped being involved and, I think, that has immediate consequences in the perception of peoples around the world as to the will of the United States, the direction of the United States, and it simply is not something that will not affect other people's beliefs concerning the United States, and they will start making policy decisions of their own based upon that decision as they see it and not await a further determination by Congress as to whether we wish again to program moneys to put in at some time in the future.

It is not a neutral step.

Mr. BARTLETT. If the Senator will yield further, the Senator makes a very good point about the whole matter being overtly known and discussed by the people of this country.

The reason I mentioned the hiatus is that presumably the funds can be reassigned within a matter of several weeks after the first of the year, and on the other hand, new legislation for Angola would take several months at the earliest.

So a hiatus would be created if we passed the Tunney amendment and then waited until later congressional action.

On the other hand, if we would proceed with further aid now, there would still be the opportunity for the Congress to decide what future action it would want to take and there would be the chance for a more orderly transition from the covert actions that have been sanctioned and established as options for the executive branch by the legislative branch, there would be more time for transition from those options that are now being exercised by the executive branch to whatever was decided later on by the joint decision of the Congress and the executive branch, would that not be the case?

Mr. McCLURE. The Senator is correct.

I might add to that, it seems to me that one of the options that is available to us at this time to avoid that hiatus might be, for the time being, to operate under the continuing resolution which has already passed, rather than seek to get final action on this legislation at this time.

I say that because whether we like it or not, some kind of signal is going to come out of any kind of action we take on this bill. Some kind of signal is going to be flashed to the participants in the struggle and others who are not participating in the struggle if we adopt the Tunney amendment or if we defeat the Tunney amendment.

The situation that would occur if we operate under the continuing resolution, as I understand it, would be this, the Senator from Arkansas, the chairman of the Appropriations Committee (Mr. McCLELLAN), has indicated that the request for reprograming of funds will not be granted until the committee has had an opportunity for a hearing and a briefing and a discussion and a determination by the committee, which means that the funds which they seek to reprogram would not be available until some time after Congress convened again in January.

The Congress, in the meantime, would not have said that they cannot continue to use the money which is in the pipeline now, and it would not have said they could not reprogram other moneys which might be available. I think there is a discretionary pool that exists that does not require reprograming, and that would be available in the absence of the Tunney amendment, although a very much smaller sum of money.

It might be possible for us just to hold this matter in abeyance until we come back in January and operate, meanwhile, under the much more constricted ability to use additional funds in Angola and make the determination at that time after the committees have had the opportunity to be briefed and to discuss and make their own decision.

Mr. HASKELL addressed the Chair.

Mr. BARTLETT. Will the Senator yield to me for one more question?

Mr. HASKELL. I just wonder if the Senator from Idaho will yield without losing his right to the floor while I offer an amendment to S. 1469 which involves the Alaska Claims Act. It should not take long.

Mr. McCLURE. Mr. President, I ask unanimous consent that I may yield to the Senator from Colorado for that purpose without losing my right to the floor and without my resumption being considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS

Mr. HASKELL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1469.

The PRESIDING OFFICER (Mr. STONE) laid before the Senate the amendment of the House of Representatives to the bill (S. 1469) to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes.

(The amendments of the House are printed in the RECORD of December 16, 1975, beginning at page 40815.)

Mr. HASKELL. I wish to thank the Senator from Idaho.

Mr. President, I would like to preface this by stating that I am informed that the amendments I am about to ask the Chair to lay before the Senate have been cleared with both Senators from Alaska, Senator GRAVEL being here. It has been cleared with Senator FANNIN and, as a matter of fact, has been cleared with the Department of the Interior and has satisfied all concerned.

Mr. President, I send to the desk several amendments and minor substantive amendments, and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc. The clerk will state the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. HASKELL. I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

1. On page 1, line 3, strike "authorized" and insert in lieu thereof "directed".

2. On page 2, line 22 strike "village corporations" and insert in lieu thereof "Village Corporations".

3. On page 2, line 23, strike "Alaska Native Claims" and insert in lieu thereof "the".

4. On page 2, line 24, strike "who" and insert in lieu thereof "the Village Corporation or Corporations of which".

5. On page 2, line 25, strike "receive surface and subsurface entitlement" and insert in lieu thereof "acquire title to the surface and subsurface estates of said reserves".

6. On page 3, line 12, strike "the minimum number" and insert in lieu thereof "a sufficient number".

7. On page 4, line 24, strike "reexamination" and insert in lieu thereof "redetermination".

8. On page 5, lines 6 and 7, strike ", issued pursuant to section 14(g) of the Settlement Act, pertaining to land" and insert in lieu thereof "pertaining to lands".

9. On page 5, lines 14 and 15, strike "the proceeds which" and insert in lieu thereof "the proceeds, together with interest, which".

10. On page 5, line 16, strike "pertaining to lands" and insert in lieu thereof "pertaining to such lands".

11. On page 5, line 18, strike "together with interest".

12. On page 5, line 24, and page 6, line 1, strike "deposited in the Treasury of the United States or".

13. On page 6, lines 7 and 8, strike "deposit, such deposit to bear simple interest at a rate determined by the Secretary of the Treasury" and insert in lieu thereof: "deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment".

14. On page 6, line 12, strike "(25 U.S.C. 162 a)" and insert in lieu thereof "(52 Stat. 1037)".

15. On page 6, line 18, strike "subsection" and insert in lieu thereof "section".

16. On page 7, between lines 5 and 6, insert "Temporary exemption from certain securities laws".

17. On page 7, line 17, between "all" and "information" insert "the".

18. On page 7, between lines 21 and 22, insert "Relation to other programs".

19. On page 8, line 4, after "1964" insert "(78 Stat. 703), as amended".

20. On page 8, between lines 21 and 22, insert "Merger of Native corporations".

21. On page 10, line 4, between "corporations and shareholders which" and "participated", insert "and who".

22. On page 11, line 1, strike "consolidations" and insert in lieu thereof "consolidation".

23. On page 12, line 14, strike "Alaska Natives" and insert in lieu thereof "Natives".

24. On page 12, lines 18 and 19, strike "Alaska Native Regional Corporations or by Alaska Native" and insert in lieu thereof" Regional Corporations in Alaska or by".

25. On page 13, lines 1 and 2, and lines 5 and 6, strike "Alaska Regional Corporation" and insert in lieu thereof "Regional Corporation in Alaska" in both places.

26. On page 13, lines 7, 8, and 9, strike "In the event section 5(a) of the Settlement Act is amended to reopen the Alaska Native Roll for additional enrollment," and insert in lieu thereof "Whenever additional enrollment under the Settlement Act is permitted pursuant to this Act or any other provision of law,".

27. On page 13, line 11, strike "such Act" and insert in lieu thereof "the Settlement Act".

28. On page 13, line 12, between "enrollment" and "elect" insert a comma.

29. On page 13, line 14, strike "the Settlement" and insert in lieu thereof "such".

30. On page 13, line 15, strike "Natives'" and insert in lieu thereof "Native's".

31. On page 13, lines 18 and 22, strike "Alaska" in both places.

32. On page 13, lines 23 and 24, strike "regional or village corporation" and insert in lieu thereof "Regional or Village Corporation".

33. On pages 15 and 16 amend section 11 to read as follows:

"SEC. 11. The boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided*, That the Regional

Corporation for the Chugach region shall accord to the Natives enrolled to the Village of Yakutat the same rights and privileges to use any lands which may be conveyed to the Regional Corporation in the vicinity of Icy Bay for such purposes as such Natives have traditionally made thereof, including, but not limited to, subsistence hunting, fishing and gathering, as the Regional Corporation accords to its own shareholders, and shall take no unreasonable or arbitrary action relative to such lands for the primary purpose and having the effect, of impairing or curtailing such rights and privileges.".

34. On page 16, line 12, strike "COOK INLET SETTLEMENT.—".

35. On page 16, lines 15 and 16, strike " 'region' hereinafter" and insert in lieu thereof "hereinafter in this section referred to as the 'Region' ".

36. On page 17, line 6, strike "Alaska Native Claims".

37. On page 17, line 21, strike "set forth therein" and insert in lieu thereof "and the Region, as a matter of Federal law".

38. On page 17, line 22, page 18, lines 5, 7, 12 and 17, between "(1)" and "approximately", "(3)" and "Federal", "(4)" and "township", "(5)" and "twenty-nine", and "(6)" and "lands", in each case, insert "title to".

39. On page 18, line 5, strike "townships 10 south" and insert in lieu thereof "township 10 south".

40. On page 18, line 21, strike "Alaska Native Claims".

41. On page 19, line 10, strike "owner" and insert in lieu thereof "Region so long as the Region owns such lands".

42. On page 19, line 11, strike "Alaska Native Claims".

43. On page 19, line 15, between "land" and "without restriction" insert "conveyed".

44. On page 19, line 18 and lines 23 and 24, strike "Cook Inlet Region, Incorporated," and in both places insert in lieu thereof "the Region".

45. On page 19, line 23, between "11(a) (1)" and the comma insert "of the Settlement Act".

46. On page 19, line 24, strike "the Region" and insert in lieu thereof "the Regional Corporation".

47. On page 20, line 2, between "11(a)(3)" and "as" insert "of the Settlement Act".

48. On page 20, lines 3 and 4 and line 20, strike "Cook Inlet Region, Incorporated," in both places and insert in lieu thereof "the Region".

49. On page 20, line 17, strike "the Region" and insert in lieu thereof "the affected Regional Corporation".

50. On page 20, line 10, between "any section 11(a)(1)" and the period insert "withdrawal".

51. On page 20, line 17, strike "affected Region" and insert in lieu thereof "affected Regional Corporation".

52. On page 21, lines 5, 7, and 8, 16, and 21, strike "Alaska Native Claims" in each of the four places it appears.

53. On page 21, lines 8 and 9, strike "3.5 townships of subsurface" and insert in lieu thereof "3.58 townships of oil and gas and coal".

54. On page 21, lines 19 and 20, strike "regional corporation or village corporation" and insert in lieu thereof "Regional Corporation or Village Corporation".

55. On page 22, line 2, strike "Alaska Native Claims".

56. On page 23, lines 9 through 11, strike ": *Provided*, That if the land is not used for the above purposes it shall revert to the United States".

57. On page 23, line 16, strike "Act:" and insert in lieu thereof "Act, and the conveyance of such lands shall also contain a provision that, if the lands cease to be used for the purposes for which they were conveyed, the lands and title thereto shall revert to the United States:".

58. On page 24, line 9, after "Act." insert "This conveyance shall be considered and treated as a conveyance under the Settlement Act.".

59. On page 24, lines 15 and 16, strike "Alaska Native Claims".

60. On page 25, line 1, strike "corporations" and insert in lieu thereof "Corporations".

61. Page , line , strike "Alaska Native Claims".

62. On page 25, lines 17 and 18, strike "Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), is hereby" and insert in lieu thereof "Settlement Act is".

63. On page 26, line 2, between "2033" and "of" insert ", or any successor provisions,".

64. On pages 27 and 28, strike each of the periods between and including line 6 on page 27 and line 6 on page 28 and insert in lieu of each such period a semicolon.

65. On page 28, line 6, directly after the number "13" and the semicolon provided for in amendment no. 65 above insert "S.M., Alaska, notwithstanding" and delete "Notwithstanding" on line 7.

66. On page 28, line 21, between "assigns," and "and" insert "such".

67. On page 29, line 23, and page 30, line 1, strike "Alaska Native Claims Settlement Act (85 Stat. 688)." and insert in lieu thereof "Settlement Act".

68. On page 29, line 8, strike "national forests system" and insert in lieu thereof "National Forest System".

69. On page 29, lines 11 and 12 and line 13, strike "Alaska Native Claims" in both places.

70. On page 29, line 18, strike "Group Corporations" and insert in lieu thereof "corporations organized by Native groups".

71. On page 29, lines 19 and 20, strike "the Native Corporations for the cities of" and insert in lieu thereof "and the corporations organized by Natives residing in".

72. On page 30, line 20, after "Kenai," and before "other" insert "all as defined on this Act, and".

73. On page 31, line 4, between "the" and "Secretary" insert "appropriate".

Mr. McCLURE. Will the Senator yield for one question?

Mr. HASKELL. I yield to the Senator.

Mr. McCLURE. I want to make certain I understood the Senator, I was talking at the time he made the statement.

My understanding is that these are technical amendments which have been discussed wtih the Senator from Arizona (Mr. FANNIN)?

Mr. HASKELL. Yes. I am informed that they have been cleared with Senator FANNIN, that they are satisfactory to Senator GRAVEL, that they are satisfactory to Senator STEVENS, and furthermore, I am informed they are satisfactory to the Secretary of the Interior.

As the Senator knows, I can only go on what I am informed.

Mr. HASKELL. S. 1469 makes certain amendments to the Alaska Native Claims Settlement Act in order to resolve various difficulties which have arisen during the implementation of that act. S. 1469 was passed by the Senate on August 2, 1975, and was passed by the House on December 16, 1975, with an amendment in the nature of a substitute. With but a few exceptions, the House-passed bill is the same in substance as that passed by the Senate.

Mr. President, the House has added certain provisions which, while they were not in the Senate-passed bill, have been the subject of hearings and consideration by the Senate Interior Committee. I will briefly describe those new sections which should be accepted by the Senate with certain changes.

Section 8 of S. 1469, as added by the House, relates to the establishment of a 13th region and the incorporation of a 13th Regional Corporation for the benefit of enrolled Natives who were not permanent residents of the State of Alaska.

When the Secretary of the Interior certified the final Native roll on December 18, 1973, he also declared that less than a majority of the nonresident Natives voted for the 13th and the 13th region issue had failed. All nonresidents were, accordingly, enrolled in the appropriate region in Alaska. Two organizations—the Alaska Federation of Natives International, Inc. and the Alaska Native Association of Oregon—representing the interests of nonresidents and the concept of the 13th region, separately, brought suit against the Secretary in the U.S. District Court for the District of Columbia requesting that the declaration of the Secretary be declared invalid and that the 13th region be established. On October 6, 1975, the district court entered an order implementing an earlier order in 1974, directing the Secretary to ceate the 13th region, enroll therein all nonresident Natives who had indicated, on their last formal communication with the Secretary, their desire to enroll in a 13th region, and to provide for the incorporation of the 13th Regional Corporation.

Section 8 is necessary to supplement the court's order. The amendment provides that no change in enrollment to either the 13th region or to one of the 12 regions in Alaska which is required or permitted by the court's order shall affect any land entitlements of an Alaska Native Regional or Village Corporation existing at the time of the creation of the 13th region. Also, it provides that, in furtherance of the court's order, any cancellation of stock of a Native shall be without liability to either the corporation or the individual. Finally, it provides that in the event the Native roll is reopened for new enrollment, eligible Natives who are permanent nonresidents of Alaska are to elect whether they wish to enroll in the 13th region or the appropriate Alaska region at the time of their enrollment.

Section 10, as added by the House, relates to a certain land selection problem in the southeastern region of Alaska concerning which the committee has twice received testimony. This section provides that Sealaska, Inc., may select its approximately 200,000-acre entitlement from lands which were withdrawn in the national forest for selection by village corporations of the southeastern region, but which were not so selected. The section provides that Sealaska, Inc., may not select any lands on Admiralty Island in the withdrawal for the village of Angoon. In addition, no selections can be made in the withdrawal for the villages of Yakutat and Saxman, unless the Governor of the State of Alaska or his delegate consents to such selection. This section is necessary to fulfill Sealaska's selection rights under the Settlement Act.

Section 11 as added by the House resolves a boundary dispute between Sealaska and the Chugach region. The amendment is supported by both affected regions.

Section 12 as added by the House relates to a settlement of a land selection problem in the Cook Inlet Region. On two occasions this year, the Senate Interior Committee received testimony on the Cook Inlet problem. During the hearings, the various interested parties were urged to amicably settle their disagreement among themselves. The Cook Inlet Regional Corporation, the Department of the Interior, the State of Alaska, and various interested environmental groups have agreed upon settlement terms. These terms are published in the House report (Report No. 94–729). The provisions of section 12 simply provide the necessary statutory authority to implement the settlement.

Section 15, as added by the House, relates to land selection problems in Koniag Region. The Senate Interior Committee has also received testimony on this matter. Section 15 would provide the Koniag Regional Corporation with carefully circumscribed rights to oil and gas within certain lands set aside under section 17(d)(2) of the Settlement Act for possible designation as the Aniakchak Caldera National Monument.

Section 16 as added by the House is intended to prevent the village of Tatitlek from losing part of its land entitlement as a result of a misunderstanding. Tatitlek relied on advice and the apparent approval of the Interior Department in selecting two townships of its five township entitlement in an area withdrawn by the Secretary pursuant to section 17(d)(2) of the Settlement Act. Subsequently, however, the Bureau of Land Management disapproved the selection of the two townships. Because Tatitlek assumed that its selection had Departmental approval, it did not overselect other lands to provide alternate lands for selection in case its first selections were not approved. The deadline for village selections has passed and the department had advised Tatitlek that no administrative remedy exists to allow reselection of the two townships elsewhere. This amendment provides that Tatitlek can select the remainder of its entitlement—40,000 acres—from within the village deficiency area originally withdrawn for its selection.

Mr. President, I have a few additional amendments of a minor substantive nature and several technical amendments.

Section 2 as passed by both bodies provides for an escrow fund for proceeds derived from lands selected by Native entities. I propose a further amendment to insure that the interest paid the Natives on that escrow fund would be the same as the prevailing rate on short-term government obligations, unless the Secretary of the Interior exercises his right to reinvest the proceeds to obtain a higher rate of return. The House had inserted in the subsection a proviso which states that nothing in section 2 is to be construed as creating or terminating any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act. This clause does of course reflect the intent of the Senate, as well. However, the additional language will insure that these funds will be treated just as other Indian trust funds. The proviso, then, refers to any other trust relationship which might be construed as being impaired or created.

Mr. President, I also offer several amendments of a technical nature which will conform the House-passed version to that passed by the Senate, or to correct and improve provisions added by the House.

During the two hearings we have held on matters pertaining to the Alaska Native Claims Settlement Act, we have heard numerous points of view concerning the case of *Edwardsen* v. *Morton* (369 F. Supp. 1359, 1973). Formally pending before the committee, has been one legislative proposal relating to that case: Section 15 of S. 1824. The fact that the committee has failed to report a bill which contains, or that the amendments I submit today do not include, section 15 or any other provision relating to the Edwardsen case should not be construed as either committee endorsement or disagreement with the Edwardsen decision. The committee may wish to further consider the problem in light of future judicial events.

Mr. President, I have asked that these amendments be considered en bloc.

The PRESIDING OFFICER. The Chair understands that the Senator from Alaska is recognized under the same unanimous-consent agreement on which the Senator from Idaho retains his right to the floor.

The Senator from Alaska.

Mr. GRAVEL. I appreciate that initiative of the Chair.

I thank the Senator from Idaho.

Mr. President, section 8 of the bill as passed by the House deals with the 13th Regional Corporation. That issue has been the subject of prolonged consideration by the Congress and the U.S. District Court for the District of Columbia. The House bill would follow the disposition made by the court and would made certain amendments to permit fulfillment of the court's orders without creating inequities.

Under the court's orders, Natives enrolled in the 13th Region will be given one final opportunity to decide whether to enroll in the 13th or one of the 12 regional corporations. I understand that the court has not yet considered whether adjustments to Future Alaska Native Fund distributions should be made to reflect such reenrollments and in order to insure that every Native has the same interest in the Alaska Native Fund as does every other Native, regardless of his regional enrollment. Neither the House nor the Senate has considered this issue and accordingly the bill does not deal with this issue. Nothing in this bill is intended to interfere in any way with the court's resolution of this issue and the court should feel free to do whatever is necessary to carry out its orders and to insure justice to resident and nonresident Alaskan Natives alike.

Mr. President, I would like to yield to my senior colleague, who is an attorney, and ask him if he would have any views to present to the Senate.

The PRESIDING OFFICER. Under the same unanimous-consent agreement?

Mr. GRAVEL. Yes.

Mr. STEVENS. I thank the Chair and my colleague for acting so promptly on this bill. It does mean a great deal to our Native people.

I would state that I concur with the statement made by Senator GRAVEL concerning the problem of the courts not having reached the question of adjustment to future Alaskan Native fund distributions with regard to reenrollments. I think it ought to be very clear to everyone that not having considered the matter in court, and since we have not considered the matter in either House, this bill does not dispose of that question and should not be interpreted in any way to have reflected a judgment by the Congress on the matter.

I believe the record should be very plain in that regard, because the matter is still pending before the Federal courts.

Mr. President, I am pleased that the Senate is able to consider this quickly on the amendments proposed by the House to the Alaska Native Claims Settlement Act. Neither the House nor the Senate adopted amendments resolving the issues raised by the Edwardsen versus Morton case. I was a member of the conference when the Alaska Native Claims Settlement Act was passed and the intent of the act was to extinguish all aboriginal title in Alaska and claims based upon aboriginal title, including trespass claims. However, this issue has not been resolved because of recent litigation brought in Alaska involving the State of Alaska and over 100 defendants and I have agreed with the committee chairman to withhold any further legislative action on this issue until we can see whether the matter can be quickly resolved in the Federal District Court in Anchorage. If this issue is not quickly dismissed by the court, I know that the committee will want to again consider resolving this important issue by legislation.

Mr. President, the omnibus amendments to the Alaska Native Claims Settlement Act have finally progressed to this stage. I remember first introducing the Native enrollment extension amendment in the Senate and am aware of the desperate need for many of these amendments now before the Senate to be enacted into law.

The Senate has already passed most of these amendments and we are now reconsidering them to hopefully avoid a conference on these measures.

There are three major amendments now before the Senate for the first time. The first sets forth a fair land settlement for Cook Inlet Region. Cook Inlet was originally asked to accept land selections from glaciers and mountaintops. Pretty country, but hardly the type of land for Cook Inlet to build an economic base upon. After 2 years of intense negotiation between the State of Alaska, the Department of the Interior, Cook Inlet Region, and initially the affected local governments, a positive land settlement has been agreed upon by all these parties.

I believe it is a fair settlement which provides a much-needed economic base for the Cook Inlet Region, simplifies the management scheme for Lake Clark and will provide for a logical land management system in the Cook Inlet area.

There is also a new section, already acted favorably upon by the House, which allows Koniag Regional Corporation to select land within a proposed national monument. This provision would legislate an agreement between the Department of the Interior and the Koniag Regional Corporation concerning the lands withdrawn under section 17(d)(2)(e) of the Claims Act in the area proposed by the Interior Department for establishment as the Aniakchak Caldera National Monument in the National Park System.

The third new amendment would allow Sealaska Regional Corporation an equitable land settlement. Basically the language would allow the selection within the Tongass National Forest of approximately 200,000 acres. I feel that this measure is necessary since the only land in southeast Alaska not presently in the national forest or other Federal reserves is either proposed to become part of the Wrangell-St. Elias National Park or are mountaintops.

All of these measures have received adequate hearings in the Senate Interior Committee, as well as the House Subcommittee on Indian Affairs. As I stated before, all three proposals have already received favorable House consideration.

I urge that my colleagues favorably consider S. 1479. It is one of the final steps toward perfecting the Alaska Native Claims Settlement Act.

Mr. President, I believe in terms of this bill, we should call the attention of the Senate to the fact that these are adjustments to a very major bill, the Alaska Native Claims Settlement Act, in order to carry out the original intents of Congress in that act. There are other matters that are pending both before the House Interior Committee and the Senate Interior and Insular Affairs Committee which involve serious controversy. I believe the Senator from Colorado and my colleague from Alaska would agree that these were the items that were capable of being brought to the floor of the House under suspension and here in terms of noncontroversy. Therefore, our failure to act on the other matters that are before both Interior committees should not be deemed at this time a rejection of those, but, rather, an indication that all the remaining suggested amendments to the Alaskan Native Land Claims Act to require further study. We are hopeful that Congress will indeed address some of the controversial matters in future sessions of Congress.

Mr. GRAVEL. I thank my colleague.

Mr. President, I just want to be sure about the statement made that not only is this an extension of the Native Land Claims Act which the Congress saw fit to enact to bring equity to the needs of the Alaskan Natives, but today is the fourth anniversary. It was on this very day 4 years ago that the Native Land Claims Act was approved by the Congress. It is interesting that from that prime legislation we have seen develop certain problems that needed correction. This legislation has been in the mill for a number of years.

I want to take this opportunity to thank those members of the Interior Committee, particularly Chairman HASKELL, who has labored hard on this particular subject.

We are extremely grateful, because this is work he has done far afield from his interests in his fine State of Colorado. So it is a true testimonial to an individual's dedication in this body that he would labor so hard on what essentially would be an internal problem to another State. He has done this with dedication and with objectivity. I believe we are fortunate to have a person of his caliber in the very important position he has to help us in the interest we have in the Alaskan Native land claims.

I would like to also thank his staff assistant, Steve Quarles, who has similarly accredited himself with a very high degree of professional standing.

Mr. HASKELL. Mr. President, I move that the Senate concur in the amendment of the House with the amendments which I have proposed.

The PRESIDING OFFICER. The question is on the motion of the Senator from Colorado.

The motion was agreed to.

LEGISLATIVE ACCOMPLISHMENTS, 1975

Mr. MANSFIELD. Mr. President, when the 94th Congress convened last January, we faced two issues of critical proportions—the worst recession in 40 years and an ominous threat of a shortage of energy. The administration advocated a policy regarding these two issues—a policy which would have hit hardest at those living at a marginal level of existence. In February, under the leadership of Senator PASTORE, the Democratic majority in the Congress came up with a comprehensive program of economic recovery and energy sufficiency. Its thrust centered on cutting individual and business taxes and on increasing employment. Its proposals on energy dealt with conservation while at the same time seeking to reduce substantially foreign import dependence and to expand domestic supply.

By March, the Congress had enacted a $22.8 billion tax cut which provided cash rebates of up to $200 per taxpayer, increased low-income exemptions, and repealed the depletion allowance for major oil producers. This act, which the President signed with admitted reluctance, has been, in large part, responsible for whatever improvement in the economy there has been. Congress has now asked the President to extend these tax cut provisions for another year. The President, however, has seen fit to veto this extension.

Further impetus to economic recovery was contained in special appropriations passed in May to increase employment through the funding of projects which stimulate the creation of jobs. The President vetoed this bill which would have appropriated $5.3 billion. Persisting, the Congress sent him two other bills which appropriated over $3 billion to ease the severe unemployment in the country.

Congress has had to do a double act on another essential element of economic recovery—a comprehensive housing program aimed at stimulating construction, increasing employment, and providing critically needed shelter for families priced out of the housing market. The President vetoed a first measure in this connection and Congress came back for a second round with another less inclusive bill authorizing loans to homeowners threatened with foreclosure during the recession.

The major provisions of the proposals regarding energy set forth by the congressional majority in February are contained in the Energy Policy and Conservation Act. Many of the items covered in this act passed the Senate earlier this year. Three bills concerning oil pricing were vetoed as was a strip mining bill. The comprehensive approach which was sent to the President this week rolls back oil prices to $7.66 a barrel while requiring strong conservation measures including mandatory standards for the efficient consumption of fuel by automobiles, energy efficiency standards for household appliances, and voluntary energy-efficiency targets for the 10 industries that use the most energy.

The act also provides for the creation of a national oil reserve as a protection against another embargo, and standby authority to the President to ration gasoline and to order powerplants to switch to coal or oil from natural gas.

I might add that it has not been easy for the legislative branch to make its will prevail. As of today, December 18, the President has vetoed 41 bills since taking office less than a year and a half ago. He has vetoed 14 bills this year, 3 of which have been overridden—health revenue sharing, nurse training, education appropriations, and the School Lunch Act. I might add further that even after overriding a veto and a bill has become public law, the Congress may not be through with the matter. In recent months, this administration has sent us rescission or deferral requests for amounts appropriated above the administration request which causes considerable delay in funding and requires additional time and attention of the Congress. This practice, I hope, will not become habitual.

With regard to other major achievements this session, there are many including: implementation of the new budget process, a change in the Senate cloture rule from two-thirds present and voting to a constitutional three-fifths of the membership or 60, a 7-year extension of the Voting Rights Act, reform of stock exchange operations, extension of unemployment benefits, Federal loans to New York City, common situs picketing, and a prohibition on the President's proposal to increase the price of food stamps.

A report prepared by the staff of the Democratic Policy Committee summarizing legislation which the Senate has passed this year details our legislative accomplishments. I ask unanimous consent to have this report and other related material inserted in the Record at the conclusion of my remarks. I also ask unanimous consent that this report be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. As this session of the 94th Congress approaches adjournment, I wish to express my gratitude to the assistant majority leader for the time and effort he spends to make the Senate function in an orderly and efficient manner. I also want to thank the Republican leadership for its readiness to work with the Democratic leadership in facilitating the work of the Senate. To all Senators, I offer my personal appreciation for your cooperation and accommodation and your dedication to the Nation as expressed by your service in the Senate. I look forward to an equally productive second session of the 94th Congress.

The material ordered to be printed in the Record is as follows:

Important Public Laws as of Dec. 17, 1975

Food Stamp Price Increase, Disapproval of, Public Law 94–4.

Rail Reorganization and Services, Public Laws 94–5, 94–25.

Tax Reduction, Public Law 94–12.

Budget Rescissions, Public Laws 94–14, 94–15.

Securities Act Amendments, Public Law 94–29.

Federal Highways Programs, Public Laws 94–30.

Livestock Credit, Public Law 94–35.

Summer Youth Employment Appropriations, Public Law 94–36.

Unemployment Compensation Benefits, Public Law 94–45.

Emergency Housing, Public Law 94–50.

Federal Railroad Safety—Hazardous Materials, Public Law 94–56.

Health Services—Nurse Training, Public Law 94–63.

Veterans Disability Compensation and Survivors' Benefits, Public Law 94–71.

Voting Rights Act Extension, Public Law 94–73.

Federal Cost of Living Increase—Postal Service OSHA Compliance Public Law 94–82.

Child Support Payments, Public Law 94–88.

Railroad Unemployment and Sickness Benefits, Public Law 94–92.

Education Appropriation, Public Law 94–94.

Developmentally Disabled Persons Assistance, Public Law 94–103.

School Lunch Programs, Public Law 94–105.

Oil Price Controls Extensions, Public Laws 94–99, 94–133.

Federal Insecticide, Fungicide and Rodenticide Program, Public Law 94–140.

Education of Handicapped Children, Public Law 94–142.

New York City Assistance, Public Law 94–143.

Fair Trade—Price Fixing, Public Law 94–145.

Measures Which Have Been Cleared for the President (and May Be Subject to Pocket Veto)

1. Labor-HEW Appropriations, H.R. 8069. Delivered December 8.
2. Arts and Artifacts Indemnity, S. 1800. Delivered December 9.
3. Foreign Aid Disaster Assistance, H.R. 9005. Delivered December 10.
4. Interior Appropriations, H.R. 8773. Delivered December 12.
5. LBJ Memorial, H.R. 9883. Delivered December 12.
6. National Women's Conf., H.R. 9924. Delivered December 12.
7. Continuing Appropriation, H.J. 733. Delivered December 15.
8. Public Works Appropriation, H.R. 8122. Delivered December 15.
9. Metric Conversion, H.R. 8674. Delivered December 15.
10. Common Situs Picketing, H.R. 5900. Cleared December 15.
11. Franking Privileges, H.R. 4865. Delivered December 16.
12. Civil Service Annuities, H.R. 6642. Delivered December 16.
13. Federal Employees, H.R. 7976. Delivered December 16.
14. Wiretap Commission, S. 2757. Delivered December 16.
15. Mobile Home Loans, S. 848. Cleared December 16.
16. Small Reclamation Projects, H.R. 6874. Cleared December 16.
17. Farm Credit, H.R. 7862. Cleared December 17.
18. Energy Policy and Conservation, S. 622. Cleared December 17.
19. National Security Council Membership, S. 2350. Cleared December 17.
20. Nuclear Incidents Remuneration, H.R. 8631. Cleared December 17.
21. Appalachian Regional Development, H.R. 4073. Cleared December 17.
22. Public Broadcasting Funding, H.R. 6461. Cleared December 17.
23. Small Business, S. 2498. Cleared December 17.
24. Lighthouse Services Benefits and Retirement Increase, H.R. 1535 and H.R. 6851. Cleared December 17.
25. ERDA Authorization, H.R. 3474. Cleared December 18.
26. Overseas Citizens Voting Rights S. 95. Cleared December 18.
27. Executive Protective Service, H.R. 11184. Cleared December 18.
28. Home Mortgage Disclosure, S. 1281. Cleared December 18.
29. Maritime Commission, H.R. 11172. Cleared December 18.
30. Milk Price Supports, S.J. Res. 121. Cleared December 18.
31. Civil Service Retirement Benefits, H.R. 4573. Cleared December 18.

MEASURES IN CONFERENCE

Naval Petroleum Reserves, H.R. 49.

Indian Claims Commission, H.R. 3979.

Parole Commission, H.R. 5727.

Small Business Emergency Relief, H.R. 5541.

Public Works Development and Employment, H.R. 5247 S. adopted 12/17.

Drug Abuse, S. 2017.

Beef Research, H.R. 7656 House recommitted to conf.

Consumer Product Safety, S. 644.

Real Estate Settlement Costs, S. 2327.

Bankruptcy Act amendments, H.R. 10624.

Heart and Lung Institute Programs, H.R. 7988.

Sports Broadcasting, S. 2554.

Social Security Appeals, H.R. 10727.

Social Security—Medicare Regulations, H.R. 10284.

Status of Presidential Vetoes

(94th Congress—1st Session)

VETOES OVERRIDDEN

1. H.R. 5901, Education Appropriations. Vetoed July 25. House overrode September 9. Senate overrode September 10. Became Public Law 94–94.

2. S. 66, Health Services—Nurse Training. Vetoed July 26. Senate overrode July 26. House overrode July 29. Became Public Law 94–63.

3. H.R. 4222. School Lunch Program. Vetoed October 3. House and Senate overrode October 7. Became Public Law 94–105.

VETOES FOR WHICH MODIFIED VERSIONS HAVE BEEN REPASSED

4. H.R. 25, Strip Mining. Vetoed May 20. House sustained veto on June 10. (Comparable provisions passed Senate in S. 391 on July 31.)

5. H.R. 4481, Emergency Employment Appropriations. Vetoed May 28. House sustained veto on June 4. (Comparable measure, H.J. Res. 492, became Public Law 94–36. Public Law 94–41 contained funds for this purpose.)

6. H.R. 4485, Emergency-Middle Income Housing. Vetoed June 25. House sustained veto on June 25. (Comparable measure, H.R. 5398, became Public Law 94–50.)

7. H.R. 1767, Oil Import Fees, President's authority to impose. Vetoed March 4. Referred to Ways and Means. (Relevant provisions contained in H.R. 4035 which was also vetoed and S. 622 which has been cleared for the President.)

8. H.R. 4035, Oil Policy. Vetoed July 21. Referred to House Interstate and Foreign Commerce Committee. (Related provisions in S. 622 which has been cleared for the President.)

9. S. 1849, Oil Price Controls. Vetoed September 9. Senate sustained veto on September 10. (H.R. 9524 extending controls to November 15 became Public Law 94–99 and S. 2667 extending controls to December 15 became Public Law 94–133. Comparable provisions are contained in S. 622 which has been cleared for the Preisdent.)

10. H.R. 5357, Tourist Promotion. Vetoed May 28. Referred to House Interstate and Foreign Commerce Committee. Similar measure S. 2003 became Public Law 94–55.

11. H.R. 12, Executive Protective Service. Vetoed November 29. Similar provisions are contained in H.R. 11184 which has been cleared for the President.

OTHER VETOES

12. H.R. 4926, Agriculture Price Supports. Vetoed May 1. House sustained veto on May

13. (Secretary of Agriculture will hold quarterly oversight meetings with Agriculture Committees on subject.)

13. H.R. 9497, Tobacco Price Supports. Vetoed September 30. Referred to House Agriculture Committee.

14. H.R. 5559, Tax Reduction. Vetoed December 17. House failed to override December 18.

STATUS OF CONGRESSIONAL ENERGY LEGISLATION

1. Personal and Corporate Tax Reduction, Public Law 94-12.

2. Disapproval of Oil Excise Tax, H.R. 1767. Vetoed March 4, 1975.

3. Repeal of Oil Depletion Allowance, Public Law 94-12.

4. Oil Price Control Extension, H.R. 4035 and S. 1849 both vetoed. H.R. 9524 became Public Law 94-99 with extension to November 15, 1975 and S. 2667 became Public Law 94-133 with extension to December 15, 1975. Relevant provisions in S. 622 which has been cleared for the President.

5. Strip Mining, H.R. 25. Vetoed May 20, 1975. Similar provisions in S. 391, P/S July 31, 1975.

6. Coal leasing—Strip Mining, S. 391, P/S July 31, 1975.

7. Standby Energy Authorities Act, included in S. 622 which has been cleared for the President.

8. Appliance Labeling Act, included in S. 622 which has been cleared for President.

9. Automobile Fuel Economy, included in S. 622 which has been cleared for the President.

10. Strategic Energy Reserves, included in S. 622 which has been cleared for the President.

11. Mandatory State Conservation Program, Title II of S. 622 which has been cleared for the President.

12. National Petroleum Reserves (Naval & Interior), H.R. 49; In conference.

13. Coal Conversion Act Extension, vetoed in H.R. 1767, H.R. 4035, and S. 1869, included in S. 622 which has been cleared for the President.

14. Mandatory Coal Conversion, S. 1777. Hearing held.

15. Coastal Zone Amendments for Energy Facilities Siting, S. 586. P/S July 16, 1975; H.R. 3981; Markup underway.

16. Outer Continental Shelf Drilling, S. 521. P/S July 30, 1975.

17. Natural Gas Prices—Emergency and Permanent Provisions, S. 2310. P/S October 22, 1975.

18. ERDA Authorization, H.R. 3474. Cleared for the President.

19. National Energy Production Board, S. 740. Markup underway.

20. Industrial Conservation Act, included in S. 622 which has been cleared for the President.

21. Energy Taxes, H.R. 6860. Markup underway by Senate Finance.

NOTE.—All but two of these proposals have passed the Senate. Twelve have been enacted or have been cleared for the President.

THREE-YEAR COMPARISON OF SENATE LEGISLATIVE ACTIVITY

	Jan. 3, 1973 to Dec. 22, 1973 (93d–1st)	Jan. 21, 1974 to Dec. 20, 1974 (93d–2d)	Jan 14, 1975 to Dec. 18, 1975 (94th–1st)*
Days in session	184	168	177
Hours in session	1, 084:13	1, 068:09	1, 167:38
Total measures passed	726	838	664
Private laws	50	73	20
Public laws	245	404	156
Treaties	22	9	15
Confirmations	66, 817	64, 437	64, 470
Record votes	594	544	606
Vetoes	10	29	14

*Session not yet completed.

Note: Hours in session during 1975 exceed previous years as does number of record votes.

Reductions by Congress below administration budget requests

	Billions
91st–1st (1969)	$8. 269
91st–2d (1970)	3, 505
92d–1st (1971)	2. 743
92d–2d (1972)	6. 548
93d–1st (1973)	3, 262
93d–2d (1974)	7, 947
94th–1st (1975)	7. 372
Total	39. 646

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 94TH CONG., 1ST SESS.,[1] REVISED TO DEC. 12, 1975

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and trust) available without further action by Congress; amounts in dollars]

Bill and fiscal year	House			Senate			Congress	
	Budget requests considered	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
A. BILLS FOR FISCAL 1976								
1. Education (P.L. 94–94)[2]	6, 134, 339, 000	7, 332, 995, 000	+1, 198, 656, 000	6, 134, 339, 000	7, 682, 511, 852	+1, 548, 172, 852	7, 480, 312, 952	+1, 345, 973, 952
2. Legislative (P.L. 94–59)	708, 624, 440	698, 076, 800	−10, 547, 640	838, 265, 425	825, 302, 485	−12, 962, 940	827, 546, 570	−10, 718, 855
3. Continuing Appropriations, 1976 (P.L. 94–41)		2, 004, 800, 000	+2, 004, 800, 000		2, 379, 800, 000	+2, 379, 800, 000	2, 379, 800, 000	+2, 379, 800, 000
4. HUD-Independent Agencies (P.L. 94–116)	42, 366, 070, 000	[2]42, 366, 024, 000	−46, 000	[3] 48, 779, 570, 000	[3] 50, 275, 314 000	+1, 495, 744, 000	[3] 49, 344, 914, 000	+565, 344, 000
5. Public Works (H.R. 8122)	7, 057, 462, 000	7, 225, 401, 500	+167, 939, 500	7, 300, 162, 000	7, 489, 660, 500	+189, 498, 500	7, 440, 912, 500	+140, 750, 500
6. State-Justice-Commerce-Judiciary (P.L. 94–121)	5, 601, 907, 400	5, 671, 669, 000	+69, 761, 600	5, 721, 747, 400	6, 188, 253, 000	+466, 505, 600	5, 958, 676, 000	+236, 928, 600
7. Labor-HEW (H.R. 8069)	35, 153, 357, 000	35, 979, 641, 000	+826, 284, 000	35, 157, 909, 000	36, 272, 522, 318	+1, 114, 613, 318	36, 073, 748, 318	+915, 839, 318
8. Transportation[2] (H.R. 8365)	3, 964, 974, 775	3, 744, 413, 775	−220, 561, 000	4, 069, 994, 775	4, 194, 482, 775	+124, 488, 000	3, 978, 924, 775	−91, 070, 000
9. Agriculture and Related Agencies (P.L. 94–122)	11, 076, 869, 000	11, 047, 263, 000	−29, 606, 000	11, 084, 514, 000	11, 092, 283, 000	+7, 769, 000	11, 061, 282, 000	−23, 232, 000
10. Treasury-Postal Service-General Government P.L. 94–91)	6, 330, 463, 000	6, 265, 532, 152	−64, 930, 848	6, 330, 463, 000	6, 338, 985, 000	+8, 522, 000	6, 314, 070, 000	−16, 393, 000
11. Interior (H.R. 8773)	4, 034, 942, 000	4, 101, 962, 000	+67, 020, 000	4, 307, 158, 000	4, 304, 340, 000	−2, 818, 000	4, 234, 621, 000	−72, 537, 000
12. Defense (H.R. 9861)	97, 857, 849, 000	90, 219, 045, 000	−7, 638, 804, 000	97, 857, 849, 000	90, 721, 789, 000	−7, 136, 060, 000	[4]90, 466, 961, 000	−7, 390, 888, 000
13. Military Construction (P.L. 94-138)	4, 109, 020, 000	3, 518, 723, 000	−590, 297, 000	4, 109, 020, 000	3, 660, 295, 000	−448, 725, 000	3, 585, 014, 000	−524, 006, 000
14. Supplemental Appropriations, 1976 (H.R. 10647)	8, 928, 526, 861	7, 820, 606, 201	−1, 107, 920, 660	11, 304, 210, 377	10, 334, 997, 777	−969, 212, 600	10, 299, 533, 117	−1, 004, 677, 260
Subtotal, bills approved by House	233, 324, 404, 476	227, 996, 152, 428	−5, 328, 252, 048	242, 995, 201, 977	241, 760, 536, 707	−1, 234, 665, 270	239, 446, 316, 232	−3, 548, 885, 745
15. District of Columbia	(507, 841, 000)							
16. Foreign Operations	(5, 694, 340, 909)							
Total, bills for fiscal 1976	(239, 526, 586, 385)	227, 996, 152, 428	−5, 328, 252, 048	242, 995, 201, 977	241, 760, 536, 707	−1, 234, 665, 270	239, 446, 316, 232	−3, 548, 885, 745

Bill and fiscal year	House			Senate			Congress	
	Budget requests considered	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
B. BILLS FOR FISCAL 1975								
1. Foreign Assistance (P.L. 94-11)	5,946,460,909	3,498,420,000	−2,448,040,909	5,946,460,909	3,946,096,982	−2,000,363,927	3,674,346,982	−2,272,113,927
2. Further Urgent Supplemental (P.L. 94-6)	142,175,000	142,175,000		143,175,000	143,175,000		143,175,000	
3. Emergency Employment (H.R. 4481) (Vetoed) [5]	(130,000,000)	(5,373,474,000)	(+5,243,474,000)	(2,042,700,000)	(5,504,535,000)	(+3,461,835,000)	(4,729,146,000)	(+2,686,446,000)
Temporary Employment Assistance [6]	125,000,000		−125,000,000	1,625,000,000		−1,625,000,000		−1,625,000,000
4. Urgent Supplemental, Summer Youth Employment (P.L. 94-36)	412,700,000	473,350,000	+60,650,000	412,700,000	473,350,000	+60,650,000	473,350,000	+60,650,000
5. 2d Supplemental (P.L. 94-32) [7]	11,540,647,646	11,397,042,586	−143,605,060	14,956,698,548	15,964,662,998	+1,007,964,450	15,071,595,998	+114,897,450
6. Additional Appropriation, Veterans (P.L. 94-17)	638,038,000	638,038,000		638,538,000	638,538,000		638,538,000	
. Vietnam Refugee Assistance (P.L. 94-24)	507,000,000	405,000,000	−102,000,000	507,000,000	405,000,000	−102,000,000	405,000,000	−102,000,000
Total, bills for fiscal 1975	19,312,021,555	16,554,025,586	−2,757,995,969	24,229,572,457	21,570,822,980	−2,658,749,477	20,406,005,980	−3,823,566,477
C. CUMULATIVE TOTALS[1] FOR THE SESSION TO DATE								
1. House	252,636,426,031	244,550,178,014	−8,086,248,017					
2. Senate				267,224,774,434	263,331,359,687	−3,893,414,747		
3. Enacted							259,852,322,212	−7,372,452,222

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[1] Additionally, the Congress has taken action to rescind budget authority during this period as follows:

[Amounts in dollars]

Bills	Proposed rescissions considered	Approved by House	Approved by Senate	Approved by Congress	Compared with proposed rescissions
Budget Rescission (P.L. 94-14)	929,420,272	222,550,000	300,456,470	223,336,470	−706,083,802
3d Budget Rescission (P.L. 94-15)	1,248,674,954	16,454,704	10,955,000	16,454,704	−1,232,220,250
4th Budget Rescission (H.R. 6573)	238,323,000	17,873,000	1,623,000		
Budget Rescission (P.L. 94-111)	188,888,000	47,500,000	47,500,000	47,500,000	−141,388,000
Total	2,605,306,226	304,377,704	360,534,470	287,291,194	−2,079,692,052

[2] Includes advance appropriations for 1977.

[3] Originally, the fiscal year 1976 budget request estimated $26,100,000,000 over a 40-yr period for assisted housing annual contract authority. The House and Senate agreed to the administration's request, but more recent estimates indicate that $17,000,000,000 is the amount necessary for runout costs of the new commitments. All requests and approved amounts for annual contrac authority have been adjusted to reflect the reestimate.

[4] Conference agreement.

[5] Vetoed on May 28, 1975; sustained by House of Representatives on June 4, 1975.

[6] The Budget for fiscal year 1976 requested $125,000,000 of fiscal year 1975 budget authority previously transferred to the Economic Development Administration to be restored to the temporary employment assistance program, Department of Labor. Subsequently in H. Doc. No. 94-74, the President requested an additional $1,500,000,000 for temporary employment assistance to be included in a proposed supplemental appropriation for fiscal year 1975. Although the latter request arrived too late to be considered in the House of Representatives, the House Committee on Appropriations did recommend $1,625,000,000 in the Emergency Employment bill. The Senate considered both requests and then approved the same funding as recommended by the House. After the veto of H.R. 4481 was sustained, funding for the program was included in the Continuing Appropriations Act (Public Law 94-41), but for fiscal 1976. To be consistent in tabulating actions on budget requests, therefore, the requests only are tabulated as applicable under B. Bills for fiscal 1975. The enactment of the funding is included with the totals for Public Law 94-41 under A. Bills for fiscal 1976.

[7] Includes advance appropriations for 1976.

Note: The budget for 1976, as submitted Feb. 3, 1975, tentatively estimated total new budget authority for 1976 at $435,233,000,000 gross ($385,848,000,000 net of some $49,385,000,000 in intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget purposes only). Of this total, an estimated $181,100,000,000 does not require current action by Congress; it involves permanent appropriations such as interest and various trust funds already provided in basic law. Virtually all of the remaining $254,100,000,000 is for consideration at this session in the appropriation bills. About $12,300,000,000 of the $254,100,000,000 was shown in the February budget as being "for later transmittal" for supplemental requirements under present law, new legislation, allowances and for contingencies and civilian pay raises. Parentheses indicate that amounts are not included in "C. Cumulative totals for the session to date."

Source: House Committee on Appropriations, Dec. 12, 1975.

SENATE LEGISLATIVE ACTIVITY INDEX

(94th Congress—1st Session)

(By Senate Democratic Policy Committee)

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Alexander P. Butterfield to Retired List U.S.A.F. (S. 182).
Stanley K. Hathaway to be Secretary of Interior.
Carla Anderson Hills to be Secretary of HUD.
Thomas J. Meskill to be U.S. Circuit Judge.
Donald Rumsfeld to be Secretary of Defense.
Earl J. Silbert to be U.S. Attorney for D.C.
Alton D. Slay to Lieutenant General, U.S.A.F.

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Car Care Month (S.J. Res. 57).
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Historic Preservation Week (H.J. Res. 242, P.L. 94–21).
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Newspaper Week (S.J. Res. 46).
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"Bruja Mar" (S. 1187).
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Lighthouse Service Survivors Benefits Increase (H.R. 1535, P.L. 94-—).
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SENATE LEGISLATIVE ACTIVITY

(94th Congress, 1st Session)

(By Senate Democratic Policy Committee)

Days in session	177
Hours in session	1167:38
Total measures passed	664
Private laws	20
Public laws	156
Treaties	15
Confirmations	64, 470
Record votes	606
Vetoes	14

Symbols: P/H—Passed House; P/S—Passed Senate; *—Vetoed in 1975; (VV)—Passed by Voice Vote; numbers in parenthesis indicate number of record vote on pasage, conference report, or reconsideration.

AGRICULTURE

African/Brazilian honeybee control.—Amends the Act of 1922 regarding honeybees by prohibiting the importation of honeybees in all of their life stages (from germ plasm to adult) except under certain specified conditions and authorizing the Secretary of Agriculture to cooperate with State governments, organizations, individuals, and the governments of Mexico, Canada and the Central American countries to eradicate and control the spread of undesirable species of honeybees, including all forms of the African (or Brazilian) honeybee. S. 18. P/S June 16, 1975. (VV)

Agricultural pest control.—Broadens and strengthens the authority of the Secretary of Agriculture to control and eradicate agricultural pests by (1) permitting the Secretary to carry out eradication and control programs with respect to plant pests not now covered by the Organic Act of 1944 including spider mites, slugs, and snails; (2) extending the Secretary's authority to cooperate with all governments of countries in the Western Hemisphere in carrying out eradication and control programs; (3) making discretionary the Secretary's authority to provide phytosanitary inspection and certification service for domestic plants and plant products for export, and extending such authority to inspection and certification of any plants or plant products offered for export or transiting the United States; (4) repealing provisions of the Act of October 6, 1917, for cooperation with Mexico and adjacent States in the extermination of pink bollworm infestations in Mexico which authority is now contained in the Organic Act; and (5) clarifying the Secretary's authority to cooperate with certain Western Hemisphere countries with respect to animal disease control and the carriers of animal diseases. S. 1617. P/S Sept. 16, 1975; P/H amended Nov. 4, 1975. (VV)

Beef research and information.—Authorizes the Secretary of Agriculture to issue a national order providing for the establishment of a Beef Board consisting of not more than 68 members, and alternatives therefor, who are to be appointed by the Secretary from qualified nominees representing cattle producers from each beef-producing area; provides that the Beef Board is to develop, subject to the Secretary's approval, a program of research, producer and consumer information, and promotion designed to strengthen the cattle and beef industry which is to be financed from assessments paid by cattle producers;

Requires approval by referendum among cattle producers before the national order may become effective, with approval requiring a two-thirds majority of the producers voting or a majority produced not less than two-thirds of the cattle owned by producers voting in the referendum;

Authorizes the Secretary to terminate or suspend the order if he finds it does not effectuate the purposes of the bill or to hold a referendum at any time, and provides that a referendum shall be held if requested by 10 percent or more of the number of producers voting in the referendum approving the order;

Provides for funding of the program through an assessment system where each buyer of cattle would collect an assessment from the producer-seller based on the value of the cattle involved, and pass it on to the next buyer, with the slaughter required to remit the assessment to the Beef Board; sets the maximum amount which may be assessed at 0.5 percent of the value; exempts cattle produced and slaughtered for home consumption;

And contains other provisions. H.R. 7656. P/H Oct. 2, 1975; P/S amended Dec. 2, 1975; House rejected and recommitted conference report December 15, 1975. (539)

Brucellosis.—States as the sense of the Senate that the Secretary of Agriculture should within 90 days formulate and submit to the Committee on Agriculture and Forestry a plan for the complete eradication of the animal disease brucellosis over a 5-year period, and provide a feasibility study of the plan and the estmated costs. S. Res. 216. Senate adopted Sept. 29, 1975. (VV)

DES.—Prohibits the administration of the drug diethylstilbestrol (DES) to animals intended for use as food or whose products are used as food pending completion of current studies of the health effects on humans resulting from such use of DES and separate and concurrent reports by the Secretaries of Health, Education, and Welfare and of Agriculture to the Congress recommending the course of action which should be followed concerning this use of this drug;

Amends the Food, Drug, and Cosmetic Act to require that any drug composed wholly or partly of DES carry a label stating that the drug may cause cancer, may not be used as a contraceptive after sexual intercourse except in cases of rape or incest or a comparable medical emergency, and that the drug may not be taken without the patient or patient's legal guardian being fully informed and giving written consent;

Provides in title II, the "Food and Drug Administration Act," for a statutory Food and Drug Administration within the Department of Health, Education, and Welfare; authorizes the appointment by the President of a Commissioner of Food and Drugs, a Deputy Commissioner, and a General Counsel by the President with the advice and consent of the Senate; and contains other provisions. S. 963. P/S Sept. 9, 1975. (387)

Disaster loan program.—Amends the Consolidated Farm and Rural Development Act to simplify the procedures under which loans are made to victims of natural and major disasters or emergencies and make additional credit assistance available to them; eliminates the requirement that there be a general need for agricultural credit; clarifies the authority of the Secretary to delegate authority to State directors of the Farmers Home Administration to make emergency loans to an area if the director finds that a natural disaster has substantially affected twenty-five or less farming, ranching, or aquaculture operations in the area; provides that loans would be made only to victims of a disaster who are unable to obtain sufficient credit elsewhere at reasonable rates and terms with respect to loan applications filed after July 9, 1975; makes emergency loans available for livestock (as well as crop) changes deemed desirable by the applicant as a result of shifts in market demand occurring after a disaster; authorizes loans in excess of the actual loss caused by the disaster provided that a rate of interest is charged for the amount in excess which is equal to the commercial rate charged for similar loans; requires that an applicant seeking an emergency loan based on production losses show that his operation sustained at least a 20 percent loss as a result of the disaster; requires the Secretary to accept as security for repayment of emergency loans collateral which has depreciated in value because of the disaster if the Secretary has confidence in the repayment ability of the applicant with such loans repayable at a time deemed justifiable by the needs of the applicant; provides annual subsequent loans for a period of up to 5 years when the borrowers need the credit to continue their operations and cannot obtain financing from other sources with interest rates for such loans at the commercial rate; authorizes the Secretary—for any disaster occurring after January 1, 1975—to make an emergency loan for an operating-type purpose for 20 years if it is determined that the applicant's financial need justified a longer payment term than that normally extended for operating loans in order to afford needed relief to victims of such severe disasters as the January 1975 blizzard in the Midwest; provides that loans made by the Small Business Administration in connection with disasters occurring after enactment of this act shall bear an interest rate not more than the average annual interest rate on all interest-bearing obligations of the United States; and requires the Secretary to testify before the House and Senate committees on Agriculture before February 15 of each year to provide justification in detail of amounts requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Consolidated Farm and Rural Development Act, and of the amounts estimated to be utilized during such fiscal year from the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund. S. 555. Public Law 94–68, approved August 5, 1975. (VV)

Farm credit eligibility standards.—Lowers from 80 to 70 percent the amount of voting control which must be held by a cooperative of farmers, producers, or harvesters of aquatic, or in the case of a federated cooperative by eligible cooperative associations, in order to be eligible for loans from the Banks for Cooperatives of the Farm Credit System; and eliminates the provision which prohibits production credit associations from suing or being sued in Federal district courts. H.R. 7862. Public Law 94– , approved 1975. (VV)

Food stamp increase.—Suspends until December 30, 1975, the proposed administrative increase in the costs of coupons to food stamp recipients published in the Federal Register on January 22, 1975, (which would have the effect of increasing food stamp purchase requirements to 30 percent of net income for nearly all food stamp recipients by March 1, 1975), in order to give Congress an opportunity to pass on the merit of such an increase. H.R. 1589. Public Law 94–4, without approval Feb. 20, 1975. (8)

Food stamp program study.—States the sense of the Senate that the Secretary of Agriculture should conduct a study of the food stamp program and report to Congress by June 30, 1975, recommendations for legislative changes which will (1) disqualify families who have adequate incomes; (2) reduce administrative complexities; (3) tighten accountability for procurement, shipping, and handling of food stamps; and (4) increase penalties for those who abuse the program, as well as any other recommendations he deems desirable. S. Res. 58. Senate adopted Feb. 5, 1975. (6)

Food stamps—SSI recipient eligibility.—Continues through June 30, 1976, the provisions of law under which the Secretary of Agriculture issued his regulations governing the eligibility of SSI recipients (aged, blind and disabled) to receive food stamps and participate, where applicable, in the family commodity distribution program; permits eligible SSI food stamp recipients to use the stamps, where a need exists, to purchase meals prepared and delivered to them by private nonprofit organizations ("meals on wheels"); and directs the Secretary to provide certification procedures to allow a food stamp aid applicant to receive temporary certification and authorization to purchase food stamps on the same day the person applies. S. 1662. P/S June 10, 1975. (VV)

Forest pest control.—Provides that funds appropriated for fiscal year 1975 to carry out the program of eradication and control of forest insect pests and diseases shall remain available until expended. S. 441. Public Law 94–40, approved June 20, 1975. (VV)

Forest Service cooperative agreements.—Authorizes the Secretary of Agriculture to enter into cooperative agreements between the Forest Service and public and private agencies, organizations, institutions, and persons, and to reimburse such cooperators for the performance of work by them which benefits Forest programs. H.R. 10027. Public Law 94–149, approved December 12, 1975. (VV)

Forestry research.—Amends the McIntyre-Stennis Act of 1962 to make privately endowed colleges eligible for the cooperative program of forest research under this act. S. 1307. P/S Mar. 24, 1975. (VV)

Amends the McIntyre-Stennis Act of 1962 to authorize the Secretary of Agriculture to make matching grants to private colleges and universities (that are ineligible under present law) which carried out a forestry and research program prior to enactment; authorizes such additional funds as necessary; and authorizes the Secretary to appoint officials of participating colleges and universities to the advisory committee. S. 1529. P/S Apr. 29, 1975. Note: (This bill is intended to clarify the purpose of S. 1307 which passed the Senate on Mar. 25, 1975.) (VV)

Grain standards.—Grants the Secretary of Agriculture 1-year emergency powers to enable him to take immediate action to strengthen the system for the inspection, handling, and export of grain; requires the Secretary to review the designation of all official inspection agencies to determine if they are in compliance with the provisions of the United States Grain Standards Act; makes several changes in the Act and the U.S. Criminal Code to increase the sanctions for violations of the Act; protects Department of Agriculture personnel assigned to inspecting, grading or weighing functions from asault and death, and makes clear that bribery of licensed inspectors is punishable as a felony; directs the Comptroller General to make a 1-year study concerning compliance of the Act by major grain exporters; requires the registration of any person engaged in the business of buying grain for sale in interstate or foreign commerce or in the handling, weighing, or transporting of grain for sale in interstate or foreign commerce; requires the Secretary to notify the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry of complaints made by foreign purchasers regarding faulty grain deliveries and cancellation of any contract for the export of more than 100,000 metric tons of grain; requires the Secretary to make studies regarding the adequacy of the curent grain standards established under the Act and the contamination, transportation, and handling of U.S. agricultural products; and requires the Secretary to make periodic reports during the 1-year period concerning the steps taken to improve the inspection system for grain and any legislative recommendations. S.J. Res. 88. P/S Sept. 25, 1975. (VV)

Horse protection.—Amends the Horse Protection Act of 1970 (Public Law 91–54) in order to stop the practice of altering the gait of horses by injury ("soring") to assure that the horse has a distinctive high-stepping gait; prohibits the movement of "sore" horses in commerce, the showing of horses with "unsound" limbs, and the sale at a public auction or the showing of horses that have been sored or are wearing devices banned by the Secretary of Agriculture because they are usually used to make a horse sore or unsound; requires the management of horse shows and auctions to keep records subject to inspection by agents of the Department of Agriculture; imposes penalties for violations of the Act; and grants the Secretary of Agriculture the necessary authority to enforce the Act. S. 811. P/S Oct. 9, 1975. (VV)

Insecticides.—Extends the Federal Insecticide, Fungicide, and Rodenticide Act from July 1, 1975, until September 30, 1975, and authorizes therefor $11,967,000. H.R. 6387. Public Law 94–51, approved July 2, 1975. (VV)

Extends the Federal Insecticide, Fungicide, and Rodenticide Act from October 1, 1975, until November 15, 1975, and authorizes therefor $5,983,500. S. 2375. Public Law 94–109, approved Oct. 10, 1975. (VV)

Insecticides (FIFRA).—Extends for 1½ years the authorization for the Environmental Protection Agency (EPA) to carry out the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) at a total authorization of $47,868,000 for the period October 1, 1975, through September 30, 1976, and $23,600,000 for the period October 1, 1976 through March 31, 1977;

Requires the Administrator of EPA to provide the Secretary of Agriculture with copies of proposed changes in pesticide classification or cancellation actions 60 days prior to publication, except in the case of suspension actions when an imminent hazard has been determined; requires that all such data be published in the Federal Register;

Requires EPA to give the House and Senate Agriculture Committees advance copies of proposed and final regulations;

Authorizes the completion of a certification form as fulfillment of the private applicator certification provision that an applicant has completed an EPA approved training program and that pesticide dealers are licensed under an approved State program with the State to have the option of submitting a different plan for certification;

Requires EPA to assess the impact of proposed changes in classification or cancellation on production and prices of agricultural commodities, retail food prices, or other effects on the agricultural economy and to submit a report thereon to the Secretary of Agriculture; requires publication of the report in the Federal Register;

Establishes a scientific advisory panel consisting of 7 members appointed by the Administrator from a list of 12 nominees submitted by the National Institutes of Health and the National Science Foundation; requires EPA to submit proposed changes in classification, cancellations, and regulations to the panel for comment as to the impact on health and environment; requires that the panel's comment and the Administrator's response be published in the Federal Register;

Requires EPA, in exempting any Federal or State agency from any provision of FIFRA because of emergency conditions, to consult the Secretary in determining whether such conditions exist;

Adds a new provision requiring EPA and the States to develop materials on integrated pest management techniques and advise interested individuals of their availability;

Provides that experimental use permits may be issued to agricultural research institutions for cancelled pesticides; and

Extends for 1 year the time for implementation of certain provisions of the act. H.R. 8841. Public Law 94–140, approved November 28, 1975. (482)

Livestock credit.—Amends the Emergency Livestock Credit Act of 1974 to (1) extend financial assistance to a farmer or rancher primarily involved in the breeding, raising, fattening, or marketing of livestock including dairy cattle; (2) permit secondary financing of the guaranteed portion of livestock loans through the Federal Financing Bank; (3) provide that contracts of guarantee shall not require the Secretary of Agriculture to guarantee more than 90 percent of principal and interest on such loan; (4) provide that guaranteed loans shall be for the period reasonably required by the needs of the borrower but not to exceed 7 years and may be renewed for not more than 3 years; (5) increase the guarantee of a line credit from $250,000 to $350,000 and limits the total outstanding loan guarantees to $1.5 billion; (6) authorize the payment of administrative expenses from any funds available including the Agriculture Credit Insurance Fund; (7) extend the act from July 25, 1975, until December 31, 1976; (8) require that action by the Department of Agriculture on each loan application be completed within 30 days; (9) require collateral adequate to protect the government's interest but allows collateral which has depreciated in value owing to temporary economic conditions; and (10) require an annual report on the effectiveness of the Act; and also amends the Consolidated Farm and Rural Development Act to provide that contracts of guarantee under that Act shall not require the Secretary to guarantee more than 90 percent of the principal and interest on such loans. S. 1236. Public Law 94–35, approved June 16, 1975. (VV)

Milk price supports.—Establishes the support price for milk at 85 percent of the parity price effective on the date of enactment and ending on March 31, 1978, S.J. Res. 121. Publim Law 94– , approved 1975. (VV)

Peanut allotments.—Authorizes the Secretary of Agriculture to permit the transfer of all or part of the peanut acreage allotments for any farm located in an area having suffered a natural disaster which would prevent the planting of peanuts on a timely basis to another farm engaged in the production of peanuts. S. 1545. P/S Nov. 12, 1975. (VV)

Peanut distribution.—Expresses the sense of the Senate that the Secretary of Agriculture immediately take steps to distribute excess peanut stocks in useful edible forms to needy persons at home and abroad under the domestic food assistance programs and the Public Law 480 program. S. Res. 101. Senate adopted Mar. 24, 1975. (VV)

Plum Island Animal Disease Center.—States the sense of the Senate that the Office of Management and Budget should expedite its consideration of the supplemental budget request of the Department of Agriculture for $9.45 million for the expansion of animal quarantine facilities and diagnostic laboratories and for the construction of a pilot vaccine plant at the Plum Island, New York, Animal Disease Center, and forward this request to Congress for its consideration. S. Res. 190. Senate adopted June 19, 1975. (VV)

Potato stocks.—States the sense of the Senate that the Secretary of Agriculture immediately take steps to distribute potato stocks, which are now in abundant supply, in useful edible forms to needy persons at home and abroad under the domestic food assistance programs and the Public Law 480 program to supplemental protein deficiencies, the basic cause of malnutrition. S. Res. 122. Senate adopted May 16, 1975. (VV)

* Price supports.—Establishes an emergency price support program for the 1975 crop or commodity year for upland cotton, wheat, feed grains, soybeans and milk; increases the target price on cotton from 38 cents to 45 cents a pound, on corn from $1.38 a bushel to $2.25 and on other feed grains at comparable levels, on wheat from $2.05 a bushel to $3.41; increases the production loan levels on cotton from 34 to 38 cents per pound, on corn and feed grains from $1.10 a bushel to $1.87, and on wheat from $1.37 a bushel to $2.50; sets the support price of milk at no less than 85 percent of the parity price on the date of enactment and provides that the milk support price shall be adjusted quarterly thereafter, with this provision to remain in effect until April 1, 1976; and contains other provisions. H.R. 4296. Vetoed May 1, 1975. House sustained veto May 13, 1975. (116).

Rural electrification loan program.—Amends the Rural Electrification Act (REA) of 1936, as amended, to authorize assignment of REA-guaranteed loans; clarifies the Act by providing that a person's vulnerability to the defense of fraud or misrepresentation arises only if he had actual knowledge of the fraud or misrepresentation at the time he became a holder of an REA guarantee; and requires the Secretary of Agriculture to appear annually before the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry and provide justification for the amount requested to be appropriated in the President's budget for necessary administrative expenses in carrying out the Act. H.R. 4799. Public Law 94–124, approved Nov. 4, 1975. (VV)

Timber sale road costs.—Authorizes the Secretary of Agriculture to provide for the transfer of unused effective purchaser credit for road construction from one timber sale contract to another timber sale contract held by the same purchaser within the same National Forest, thus allowing an operator to ease his cash flow and commence timber operations in a new area sooner. S. 364. Public Law 94–154, approved December 16, 1975. (VV)

**Tobacco price supports.*—Amends the Agricultural Act of 1949, as amended, to increase the price support level for the 1975 crop of flue-cured tobacco from 93.2 cents per pound to 99.9 cents per pound. H.R. 9497. Vetoed Sept. 30, 1975. (VV)

Watershed projects.—Amends the Watershed Protection and Flood Prevention Act to require congressional approval of watershed projects where the estimated Federal contribution is in excess of $750,000 instead of $250,000 as under existing law. S. 1230. P/S June 21, 1975. (VV)

Wheat referendum.—Amends the Agricultural Adjustment Act to change the marketing year for wheat from July 1–June 30, to June 1–May 31. S. 435. Public Law 94–61, approved July 25, 1975. (VV)

White corn.—Expresses the sense of the Senate that the Department of Agriculture should continue the white corn survey, which provides the white corn industry with critical data for orderly production, marketing and processing, and make the survey reliable by obtaining data from all the significant white corn producing States. S. Res. 155. Senate adopted May 21, 1975. (VV)

APPROPRIATIONS

1975

Continuing.—Extends the continuing resolution, which expires on February 28, 1975, to provide obligational authority for foreign assistance programs through March 25, 1975, and funding of activities under title IX of the Public Health Service Act through June 30, 1975, for the following programs within HEW and the Community Services Administration which did not achieve final enactment during the 93d Congress: Health Revenue Sharing and Services; Nurse Training; Health Manpower; Developmental Disabilities Services and Construction; and the Regional Medical program. H.J. Res. 219. Public Law 94–7, approved Mar. 14, 1975. (VV)

* Emergency employment.—Appropriates a total of $5,306,508,000 in new budget authority, $485 million in loan authority and $92,362,000 in liquidation of contract authority for the acceleration of existing Federal programs and projects in order to increase immediately employment throughout the nation; provides two approaches to the unemployment problems: (1) $2,318,150,000 indirect creation of jobs as follows: $1.625 billion in public service jobs, $458,050,000 for summer youth employment and transportation, $30 million in jobs for older Americans, $119.8 milion in work-study grants for college students, $70 million in the work incentive program to provide jobs, training and related child care for welfare recipients, and $15.3 million for the summer youth recreation program to be administered by the Community Services Administration which together with funds previously appropriated or available total about $3.5 billion; and (2) $2,988,358,000 for funding of projects which would stimulate jobs through acceleration of on-going public works projects, increase of rural water and sewer grants, improvement and modernization of existing veterans' hospitals, increased maintenance of the national cemeteries, reforestation and timber stand improvement, expansion and upgrading of facilities in national parks, forests and other Federal lands, increased assistance to small businesses, major repairs and renovations of existing buildings, and purchase of automobiles used by Federal agencies H.R. 4481. Vetoed May 28, 1975. House sustained veto June 4, 1976. (151)

Foreign assistance.—Appropriates a total of $3,674,346,982 in new obligational authority, which is $175,926,982 more than the amount allowed by the House and $271,750,000 less than that allowed by the Senate, $272,113,927 less than the fiscal year 1975 amended budget estimate, and $193,637,982 more than the 1974 appropriations; and includes:

Appropriations for Foreign Assistance Act activities of $854,800,000 in new obligational authority for economic assistance, which includes $300 million for food and nutrition development assistance; $125 million for population planning and health development assistance; $125 million for international organizations and programs; $5 million for the United Nations Environment Fund; $500,000 earmarked for the National Association of the Partners of the Alliance skill exchange program among peoples of the Americas; $17.5 million for international narcotics control; $35 million for famine or disaster relief assistance; $25 million for assistance to Portugal and Portuguese colonies in Africa gaining independence; $440 million for Indochina Postwar Reconstruction Assistance; $100 million for the Middle East Special Requirements Funds; and $660 million for Security Supporting Assistance and Middle East peace programs;

Appropriations for military assistance of $450 million in new obligational authority, which equals the 1974 appropriation, and is $757 million below the budget estimate of $1,207,000,000 in new obligational authority, which, when added to other available funds, would support a proposed fiscal year 1975 program of $1,246,000,000;

Appropriations for foreign military credit sales of $300 million, which is $255 million less than the budget estimate of $555 million and, combined with outside credits, will support a total military credit sales program of up to $872.5 million, the ceiling established in the authorization bill;

Appropriations for other foreign assistance of $844,546,982, which is $355,813,927 less than the budget estimate of $1,200,360,909, and includes $77 million for the Peace Corps, $90 million for the Cuban Refugee Program, $8,420,000 for migration and refugee assistance, $40 million for Soviet Jewish immigrants to Israel, $10 million for assistance to Palestinian refugees, funds to the President for international financial institutions (Asian Development Bank, Inter-American Development Bank, and the International Development Association) of $619,126,982; and

Sets a limitation on use of corporate funds for the Export-Import Bank of $6,413,328,000 which is the same as the House amount and the budget estimate. H.R. 4592. Public Law 94–11, approved Mar. 26, 1975. (77)

Summer youth employment and recreation.—Appropriates a total of $473,350,000 for the summer youth employment and recreation programs of which $15,300,000 is to be used for the recreation program. H.J. Res. 492. Public Law 94–36, approved June 16, 1975. (VV)

Supplemental.—Appropriates a total of $143,175,000 in new budget authority for fiscal year 1975 of which $17,175,000 is for alteration, maintenance, furnishing, and protection of House office space, $1 million is for temporary parking facilities for the Senate and additional costs in acquiring the site for a Senate garage, and the remaining $125 million is for operating assistance for the Penn Central and other railroads in reorganization under the Regional Rail Reorganization Act of 1973, and contains an increase of $150 million in loan guarantees for these railroads upon which no appropriations action is required; and repeals the provisions of Public Law 93–554 which, in effect, amounted to a blanket 5 percent reduction in Government travel. H.J. Res. 210. Public Law 94–6, approved Feb. 28, 1975. (31)

Appropriates in title I, a total of $15,066,595,998 in new obligational authority for general program supplemental appropriations for fiscal year 1975, advance funding for fiscal 1976, and one small item for fiscal 1974; in addition, also provides $206,407,375 in transfer authority, $274,306,000 in increased limitations and $53,714,000 for liquidation of contract authority; in title II, provides for increased pay costs; and in title III, prohibits use of funds under this Act to force the busing of students in schools or school districts which are desegregated as defined in title IV of the Civil Rights Act of 1964, to abolish a desegrated school, or to force the transfer of students in desegregated schools, and prohibits the use of funds under this Act for busing of students or teachers in order to overcome racial imbalance in any school or school system or carry out a plan of racial desegregation of any school or school system; and contains other provisions. H.R. 5899. Public Law 94–32, approved June 12, 1975. (192, 194)

Veterans' supplemental.—Appropriates an additional $638,038,000 for Veterans Administration readjustment benefits to fund the authorized increases contained in Public Law 93–337 which increased to 10 years the 8-year delimiting period for post-Korean veterans; in Public Law 93–358 which increased from $2,800 to $3,300 the maximum grant for specially equipped automobiles for disabled veterans and extended eligibility for training and adaptive equipment; in Public Law 93–356 which increased from $17,500 to $25,000 to the housing grant for certain disabled veterans; and in Public Law 93–602 which increased from 18.2 percent to 22.7 percent the monthly allowance for vocational rehabilitation trainee programs makes a total VA appropriation of $4,125,738,000 for fiscal year 1975; and appropriates $500,000 for salaries and expenses of the Federal Election Commission. H.J. Res. 375. Public Law 94–17, approved Apr. 25, 1975. (140)

Vietnamese refugee aid.—Appropriates $405 million to aid refugees from Cambodia and Vietnam—$305 million to the Department of State for relocation and resettlement costs and $100 million to the Department of Health, Education, and Welfare for income, medical and education assistance to refugees in the United States—and prohibits aid to the government of Vietnam. H.R. 6894. Public Law 94–24, approved May 24, 1975.

1976 and transition period

Agriculture.—Appropriates a total of $11,061,282,000 for fiscal year 1976 and $2,052,922,000 for the transition period July 1–September 30, 1976 for the Department of Agriculture and related agencies programs. H.R. 8561. Public Law 94–122, approved Oct. 21, 1975. (333)

Continuing.—Makes continuing appropriations for fiscal year 1976 which shall be available from July 1, 1975, and until enactment of the individual appropriation act or the sine die adjournment of the first session of this Congress, whichever occurs first. H.J. Res. 499. Public Law 94–41, approved June 27, 1975. (230)

Extends the continuing resolution (Public Law 94–41) which expires with the sine die adjournment of the 1st session of the 94th Congress until March 31, 1976, to provide obligational authority for programs funded under the Foreign Assistance and District of Columbia Appropriations Acts which have not yet been considered by the House, as well as interim funding for programs funded under the Labor–HEW, Defense, Public Works and Interior Appropriations Acts which have not yet been enacted. H.J. Res. 733. Public Law 94– , approved 1975. (VV)

Defense.—Makes appropriations for fiscal year 1976 and the transition period July 1–September 30, 1976 for the military functions of the Department of Defense including pay, operations and maintenance, procurement, research and development, intelligence functions and funds for the Central Intelligence Agency. H.R. 9861. P/H October 2, 1975; P/S amended November 18, 1975; House agreed to conference report December 12, 1975. Senate agreed to conference report December 17, 1975 with amendments remaining in disagreement. (505, 602)

*Education.—Appropriates $7,480,312,952 for fiscal year 1976 and $464,683,000 for the transition period July 1–September 30, 1976, for education programs, including support to local school districts, aid to individuals attending institutions of higher learning, and special assistance to the needy and the handicapped. H.R. 5901. Vetoed July 25, 1975. House overrode Sept. 9, 1975; Senate overrode Sept. 10, 1975. Public Law 94–94, without approval Sept. 10, 1975. (258, 293, 389)

HUD.—Appropriates $49,344,914,000 for fiscal year 1976 and $5,648,914,000 for the transition period July 1–September 30, 1976 for the Department of Housing and Urban Development and various independent agencies. H.R. 8070. Public Law 94–116, approved Oct. 17, 1975. (338)

Interior.—Appropriates $4,234,631,000 for fiscal year 1976 and $1,155,538,900 for the transition period July 1–September 30, 1976 for the Department of the Interior and related agencies. H.R. 8773. Public Law 94– , approved 1975. (528)

Labor-HEW.—Appropriates $36,073,748,318 for fiscal year 1976 and $8,953,070,000 for the transition period July 1–September 30, 1976 for the Departments of Labor, and Health, Education, and Welfare (HEW), and related agencies; includes programs for comprehensive manpower assistance and public service employment, occupational health and safety (OSHA), maternal and child health, emergency medical services, Public Health Service hospitals, National Institutes of Health (NIH) research, alcohol, drug abuse, and mental health programs, public assistance, human development, and community services programs;

Increases funds for OSHA to provide 333 additional compliance inspectors; directs the Department of Labor to take the following actions in the area of occupational safety and health: (1) upgrade the skills of OSHA inspectors through intensive retraining, (2) review and simplify existing OSHA standards and eliminate standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State departments of public health; (4) redirect inspection efforts away from industries with good worker health and safety records so as to permit increased inspection in industries with the greatest health and safety problems; and (5) develop fine-free on-site consultation programs to advise employers of the application of OSHA standards in their workplace; requires the Secretary of Labor to report to the Senate and House Appropriations Committees, 30 days prior to the first day of a scheduled hearing, what actions have been taken to comply with these directives; and

Prohibits the use of funds contained in the Act to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home and which offers the courses of study pursued by the student, in order to comply with title VI of the Civil Rights Act of 1964. H.R. 8069. Public Law 94– , approved , 1975. (423)

Legislative.—Appropriates $827,546,570 for the legislative branch for fiscal year 1976 and $207,391,365 for the transition period July 1–September 30, 1976, which includes funds for the Architect of the Capitol to prepare studies and develop a master plan for future development within the Capitol grounds and to remove architectural barriers to the handicapped on Capitol Hill, funds for increases in salaries for top Senate officials and staff employees ($40,000 for the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Legislative Counsel, $39,500 for the party Secretaries, and $38,000 for administrative assistants and top committee staff), and moneys for a full telecommunications network to bring a comprehensive legislative information system into each Senator's office; freezes the salaries of Senate and House pages at their present level; and directs the Architect of the Capitol to recommend within 3 months a plan to reduce by at least 50 percent the number of elevator operators in the Capitol complex. H.R. 6950. Public Law 94–59, approved July 25, 1975. Note: (See S. Res. 239 on legislative salary increases.) (266)

Military construction.—Appropriates $3,585,014,000 for fiscal year 1976 and $359,100,000 for the transition period July 1–September 30, 1976, for military construction for the Department of Defense including bachelor and family housing, hospital programs, the Uniformed Services University of Health Sciences, maintenance facilities, construction backlog, pollution abatement, Trident submarine support site, and NATO infrastructure; directs the Department of Defense to evaluate the problem posed by the debris and obsolete buildings remaining as a result of World War II in the Aleutian Islands in Alaska, including an analysis of the methods and costs for their removal, and a study on plans for utilizing and the feasibility of clearing the island of Kahooawe, in Hawaii, of unexploded ordnance; prohibits the use of funds appropriated under this act prior to April 15, 1976, for construction on the island of Diego Garcia except that $250,000 may be used to procure, construct and install aircraft arresting gear; and contains other provisions. H.R. 10029. Public Law 94–138, approved November 28, 1975. (474)

Public Works—ERDA.—Appropriates $4,310,156,500 for fiscal year 1976 and $1,173,526,000 for the transition period July 1–September 30, 1976 for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of Interior, the Appalachian Regional Development Commission, the Federal Power Commission, the Nuclear Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and related independent agencies and commissions; and

Appropriates $3,130,756,000 for fiscal year 1976 and $941,507,000 for the transition period July 1–September 30, 1976 for the programs of the Energy Research and Development Administration (ERDA). H.R. 8122. Public Law 94– , approved 1975. (565)

State-Justice-Commerce. — Appropriates $5,958,676,000 for fiscal year 1976 and $1,551,256,000 for the transition period July 1–September 30, 1976, for the Departments of State, Justice, and Commerce, the Judiciary, and various related agencies, and states as the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Canal. H.R. 8121. Public Law 94–121, approved Oct. 21, 1975. (378)

Supplemental.—Appropriates $10,298,833,117 in supplemental appropriations for fiscal year 1976, $133,813,695 for the transition period July 1–September 30, 1976 and includes $300,000 for fiscal year 1974 and $350,000 for fiscal year 1975; contains $2.3 billion for New York City assistance, $1.75 billion for food stamps and the special milk program, $5 billion for unemployment compensation, and $450 million for health services, including funding for the new hypertension programs, migrant health centers, rat control, community mental health centers and nurses' training; authorizes under the provisions pertaining to the Legislative Branch, a contemplated leasing of the North Capital Plaza Building at 400 North Capitol Street for Senate office space subject to approval by Senate Resolution; provides that the pay of Senate pages shall not exceed $9,063 per annum; permits the Secretary of the Senate and the Clerk of the House to make deductions from employees' salaries for payment to banks, credit unions and savings and loan associations; and authorizes 193 positions and an appropriation of $4,736,340 for the Congressional Budget Office. H.R. 10647. Public Law 94– , approved 1975. (572)

Transportation.—Appropriates $3,978,924,775 for fiscal year 1976 and $970,721,939 for the transition period July 1–September 30, 1976 for the Department of Transportation and related agencies; includes $300,000 for the Civil Aeronautics Board for analytical research to effect necessary regulatory reform of the airlines industry, $10 million for the Coast Guard Pollution Control Fund to insure immediate clean up of oil spills, $6 million for a bikeway demonstration program, $66,850,000 for the National Highway Traffic Safety Administration, including funds for demonstration projects for emergency medical services, $1.5 million for rail passenger and terminal facilities at Baltimore Washington International Airport, and $90,059,000 advance funding for the Washington Metropolitan Area Transit Authority; limits obligation of appropriated Federal-aid highway funds to $9 billion through September 30, 1976; and contains other provisions. H.R. 8365. Public Law 94–134, approved November 24, 1975. (232)

Treasury-Postal Service.—Appropriates $6,314,070,000 for fiscal year 1976 and $1,275,352,000 for the transition period July 1–September 30, 1976, for the Treasury Department, the Postal Service, the Executive Office of the President, and certain other independent agencies. H.R. 8597. Public Law 94–91, approved August 9, 1975. (334)

ATOMIC ENERGY

International agreements:

Atomic energy cooperation agreement with Israel.—Approves the proposed two year extension of the Agreement for Cooperation Between the United States and Israel which concerns peaceful research applications in the field of atomic energy. S. Con. Res. 15. Senate adopted Feb. 19, 1975; House adopted Mar. 11, 1975. (VV)

Enriched uranium distribution to EURATOM.—Approves the proposed increase (from the present 35,000 megawatt ceiling to 55,000 megawatts) in the amount of enriched uranium which may be distributed by the United States to EURATOM under Section 54 of the Atomic Energy Act of 1954, as amended, to support the fuel cycle of power reactors in the Community, such transfers to be subject to the additional Agreement for Cooperation with EURATOM (which among other things, contains provisions for safeguards against the diversion of special nuclear material to military applications) and in accordance with our Non-Proliferation Treaty obligations. S. Con. Res. 14. Senate adopted Feb. 19, 1975; House tabled Mar. 17, 1975. (VV)

Enriched uranium distribution to the International Atomic Energy Agency.—Approves the proposed increase in the amount of enriched uranium which may be distributed by the United States to the IAEA under Section 54 of the Atomic Energy Act of 1954, as amended, to allow for the support of fuel cycle of power reactors, to be purchased from U.S. manufacturers, located in member states of IAEA (2 in Mexico, 1 in Yugoslavia) having a total installed capacity of 2,015 megawatts of electrical energy. S. Con. Res. 13. Senate adopted Feb. 19, 1975; House tabled Mar. 17, 1975. (VV)

Nuclear accident indemnity.—Provides for the phase-out of government indemnity under the Price-Anderson Act, which was enacted in 1957 to protect the public and the emerging nuclear industry by assuring the availability of funds up to $560 million for the payment of claims and by protecting the nuclear industry against unlimited liability in the unlikely event of a catastrophic nuclear accident; requires participation by licensees in an insurance retrospective rating plan under which, in case of accident, each licensee would be assessed a deferred premium which would be a prorated share of the damages over the amount of Government indemnity and eliminates Government indemnity at the point where the total of primary insurance and the number of licensees paying the deferred premiums is sufficient to provide $560 million for claims payment without using Government funds; provides that the $560 million limit on liability shall rise thereafter to correspond with the increasing total level of primary insurance and deferred premium funds as more licenses are issued; extends indemnity coverage outside the territorial limits of the United States for certain activities conducted by Energy Research and Development Administration (ERDA) contractors or involving licensed nuclear facilities or licensed activities, none of which involve indemnity for any shipment of nuclear technology abroad under an agreement for cooperation with nations or groups of nations; extends the Act, which is scheduled to expire on August 1, 1977, for a period of 10 years, and contains other provisions. H.R. 8631. Public Law 94– , approved , 1975. (600)

Nuclear Regulatory Commission authorizations.—Authorizes supplemental appropriations of $50.2 million to the Nuclear Regulatory Commission for fiscal year 1975 which is in addition to the $90,765,000 fiscal year 1975 authorization for the Atomic Energy Commission (Public Law 93–276) and transferred to the Commission on January 19, 1975, when the Atomic Energy Commission was abolished pursuant to the Energy Reorganization Act of 1974 (Public Law 93–438) and its functions transferred to the Nuclear Regulatory Commission and Energy Research and Development Administration. S. 994. Public Law 94–18, approved Apr. 25, 1975. (VV)

Authorizes $222,935,000 for fiscal year 1976 and $52,750,000 for the transition period July 1–September 30, 1976, for the Nuclear Regulatory Commission; authorizes an additional 131 employees for nuclear safety inspection and enforcement; prohibits the shipment, by air transport, of any form of plutonium (except if it is contained in a medical device designed for individual human application) until the Commission has certified to the Joint Committee on Atomic Energy that a safe container has been developed which will not rupture under crash and explosion of a high-flying aircraft; and clarifies the commencing date for the terms of the members of the Commission. S. 1716. Public Law 94–79, approved August 9, 1975. (VV)

BUDGET

Budget levels.—Declares the commitment of the Senate to comply with the Budget Act, reduce spending, and to seek to counterbalance future tax reductions enacted by the Congress by restricting the growth of spending. S. Con. Res. 79. Senate adopted December 17, 1975. (VV)

Deferrals—1975:

Energy Research and Development Administration.—Rescinds $66.5 million and disapproves $46.1 million of the $112.6 million deferral recommended by the President in his message of November 26, 1974, provided under the 1975 Public Works-AEC Appropriations Act (P.L. 93–393) for various programs within the Energy Research and Development Administration. By this action, deferral of budget authority was disapproved for the following programs: Biomedical and Environmental Research—Artificial Heart Research, $4 million (S. Res. 32); Nuclear Materials, $12 million (S. Res. 75); Laser Fusion Program, $4.7 million (S. Res. 76); Controlled Thermonuclear Research—Fusion Program, $8 million (S. Res. 77); Physical Research, $2.7 million (S. Res. 78); Gas Cool Fast Reactor Program, $6.7 million (S. Res.

79); and LMFBR Technology, $8 million (S. Res. 80). S. Res. 32, S. Res. 75, S. Res. 76, S. Res. 77, S. Res. 78, S. Res. 79, S. Res. 80 Senate adopted May 7, 1975. (VV)

HUD—Comprehensive planning grants.—Disapproves the $50 million deferral for the HUD Comprehensive Planning Grant Program recommended by the President in his message of November 26, 1974. S. Res. 23. Senate adopted Mar. 13, 1975. (VV)

Transportation—Highway funds.—Disapproves the $9,136,590,427 deferral for Federal highway funds to the States recommended by the President in his message of September 20, 1974. S. Res. 69. Senate adopted Apr. 24, 1975. (149)

Youth Conservation Corps.—Disapproves the $10 milion deferral for the Forest Service Youth Conservation Corps program recommended by the President and reported by the Comptroller General in his letter of July 9, 1975. S. Res. 205. Senate adopted July 10, 1975. (VV)

Deferrals—1976:

Columbia Basin irrigation project.—Disapproves the proposed deferral of $1,030,000 for the Second Basin Siphon and Tunnel, Columbia Basin Irrigation Project, Washington which was recommended by the President in his message of July 1, 1975 and modified by his message of July 26, 1975. S. Res. 226. Senate adopted December 5, 1975. (VV)

Emergency energy conservation services.—Disapproves the proposed deferral of $16.5 million for the Emergency Energy Conservation Services program recommended by the President in his message of July 26, 1975. S. Res. 267. Senate adopted Oct. 3, 1975. (VV)

Fleming Key Animal Import Center.—Disapproves the proposed deferral of $6,314,000 for the Fleming Key Animal Import Center which was recommended by the President in his message of November 26, 1975. S. Res. 324. Senate adopted December 10, 1975. (VV)

Fruit crop laboratory.—Disapproves the proposed deferral of $7,570,000 which was contained in the 1976 Agriculture Appropriation Act (P.L. 94–122) for the construction of the Northeastern Appalachian Regional Fruit Crop Laboratory, Kearneysville, West Virginia and recommended by the President in his message of December 1, 1975. S. Res. 313. Senate adopted December 4, 1975. (VV)

Rescissions—1975:

Agriculture, Commerce, Consumer Product Safety, DOD, HEW, Labor.—Rescinds $16,454,704 ($10 million for Forestry Incentive Programs, $955,000 for Defense special foreign currency programs, $500,000 for the Consumer Product Safety Commission, and $4,999,704 for the Latin-American Cultural and Trade Center within the Department of Commerce) and disapproves $1,243,939,250 of the rescission of $1,260,393,954 recommended by the President in his message of January 30, 1975, and the communications of the Comptroller General of February 7 and 14, 1975, as follows: Department of Agriculture—$191,690,000; Consumer Product Safety Commission—$1,209,000; Community Service Employment for Older Americans in the Department of Labor—$12 million; Department of HEW—$936,030,250; and Department of Commerce—$125 million which is for the Job Opportunities Program which had been submitted as a deferral and reclassified by the Comptroller General as a rescission. H.R. 4075. Public Law 94–15, approved Apr. 8, 1975. (VV)

Agriculture, Commerce, DOD, Executive Office, General Services, Justice, HEW, State, Treasury.—Approves rescission of budget authority in the amount of $243,359,370, and disapproves $706,083,802 of the amounts proposed for rescission by the President, for the following departments:

Department of Agriculture: Approves a partial rescission of $7,856,470 for the Agriculture Stabilization and Conservation Service Water Programs, leaving available $13,356,470 for the wetlands and marshlands conservation program; disapproves rescissions of $14,921,000 for the Forest Service;

Department of Defense: Approves rescission of $60,300,000 for operations and real property maintenance; disapproves rescission of 5,700,000 for Army UH–IH utility helicopters procurement because rescission would result in no procurement of needed helicopters in fiscal year 1975; approves rescission of $122,900,000 for Air Force F–111F fighter aircraft; disapproves rescission of $29,600,000 for Air Force A–7D attack aircraft as being necessary for modernization of the Air National Guard;

Department of Health, Education and Welfare: Disapproves rescission of $284,719,000 for Hill-Burton hospital bed construction;

Department of State: Approves rescissions of $2.1 million in savings;

Department of Justice: Disapproves rescission of $5,350,000, $1.3 million, and $2.4 milion respectively for salaries and expenses of the FBI, Immigration and Naturalization Service, and the Drug Enforcement Administration on the basis that the rescission would adversely affect accomplishment of the purposes of these agencies; approves rescission of $7 million for the Bureau of Prisons in view of a lower than expected prison population and the possibility of acquiring a new facility at no cost;

Department of Commerce: Approves rescissions totaling $2.25 million for Social and Economic Statistics Administration, Trade Adjustment Assistance, U.S. Travel Service, the Patent Office and the marine data buoy project of the National Oceanic and Atmospheric Administration; disapproves rescission of $2 million for Economic Development Administration assistance programs which affect planning for areas of chronic, high unemployment; disapproves rescissions of $1.3 milion, $500,000, and $500,000 respectively for National Oceanic and Atmospheric Administration, Salmon and steelhead rearing ponds, three regional fisheries commissions under the National Fisheries Policy, and the marine ecosystems project in Puget Sound;

Department of the Treasury: Approves rescissions of $1.53 million affecting the Office of the Secretary, the Federal Law Enforcement Training Center, the Bureau of Accounts, and the Internal Revenue Service; disapproves rescission of $9,230,000 and $10,240,000 respectively, for accounts, collection, and taxpayer service and compliance in the Internal Revenue Service; disapproves rescission of $3 million for the Customs Service on the basis of adverse impact on its functions;

Executive Office of the President: Approves rescission of $2,240,000 for the Special Action Office for Drug Abuse Prevention as legislative authority for this office expires June 30, 1975 and other funding available is considered sufficient;

General Services Administration: Approves rescission of $20,022,900 for the Federal Buildings Fund which will be withdrawn from programmed low-priority work which has not been started. H.R. 3260. Public Law 94–14, approved Apr. 8, 1975. (68)

HEW—health and medical service programs.—Disapproves $264,700,000 of the proposed rescission of $266,323,000 recommended by the President in his messages of April 8 and May 8, 1975, for the following programs of the Department of Health, Education and Welfare: Alcohol, Drug Abuse and Mental Health; D.C. medical facilities; Nurse training, allied and public health, and funding for medical facilities and construction; and emergency food and medical services, and summer youth sports; and approves the rescission of $1,623,000 for health services. H.R. 6573. P/H May 12, 1975; P/S amended June 10, 1975; House disagreed to Senate amendment June 12, 1975. (VV)

HUD—Homeownership assistance.—Disapproves the $264,117,000 rescission for the HUD Homeownership Assistance Program recommended by the President in his message of October 4, 1974. S. Res. 61. Senate adopted Mar. 13, 1975. (VV)

Rescissions—1976:

Agriculture, HEW, Interior, Transportation, Treasury.—Rescinds $47.5 million for the Department of Interior, Bureau of Mines helium fund and disapproves $184,337,334 of the rescission of $188,888,000 recommended by the President in his message of July 26, 1975 as follows: HEW, Headstart services to handicapped children—$7 million; HEW, Community Services Administration—$9 million; Agriculture, Forest Service roads and trails—$25,723,000; Transportation, scenic highways—$90 million; and Treasury, construction of Federal Law Enforcement Training Center—$8,665,000. H.R. 9600. Public Law 94–111, approved Oct. 13, 1975. (VV)

Resolutions:

First budget resolutions.—Recommends budget outlays of $367 billion, estimated revenues of $298.18 billion and an estimated deficit of $68.82 billion as compared to the President's budget estimates of $355.6 billion in outlays adjusted as of April 4, estimated revenues of $297.5 billion, and a proposed deficit level of $60 billion; recommends, in order to achieve the revenue level suggested that revenues should be decreased by $3.4 billion; and, in making the revenue recommendations (1) assumes that major provisions of the Tax Reduction Act scheduled to expire December 31, 1975 will be extended by the Congress and thus lower revenues by $4.4 billion, (2) takes the position that additional revenues should be raised through enactment of tax reform legislation in the amount of $1 billion in fiscal year 1976, and (3) assumes that, as a result of recent tax collection experience, an additional $2 billion in revenues will be received during fiscal year 1976; does not contain the function-by-function allocations which will be reported in later years but is based on recommended outlays for budget programs by function for fiscal year 1976 as compared with the President's proposed budget outlays as follows:

National Defense: $91.2 billion in budget outlays as compared to $93.9;

International Affairs (conduct of foreign affairs, foreign information and exchange activities, the Peace Corps, Food for Peace, and foreign assistance except for military assistance): $4.9 billion as compared to an estimated $5.1 to $6.4 billion;

General Science, Space, and Technology: $4.6 billion, which is the same as that proposed in the President's budget;

Natural Resources, Environment, and Energy: $11.6 billion as compared to $10.2 billion;

Agriculture: $1.8 billion, which is the same as that in the President's budget;

Commerce and Transportation: $17.5 billion as compared to $14.7 billion;

Community and Regional Development: $8.65 billion as compared to $6 billion;

Educaton, Manpower, and Social Services: $19.85 billion as compared to $16.6 billion;

Health: $30.7 billion as compared to $28.4 billion;

Income Security (Social Security and unemployment insurance, retirement systems for Federal and railroad employees and assistance programs for the needy): $125.3 billion as compared to $120.9 billion;

Veterans Benefits and Services: $17.5 billion as compared to $16.2 billion;

Law Enforcement and Justice: $3.4 billion as compared to $3.3 billion;

General Government: $3.3 billion as compared to $3.2 billion;

Revenue Sharing and General Purpose Fiscal Assistance: $7.2 billion, which is the same as that in the President's budget;

Interest: $35.3 billion as compared to $34.4 billion;

Allowances (includes energy tax equalization payments, civilian agency pay raises, and contingencies): $1.2 billion as compared to $8.1 billion, caused mainly by the deduction of $7 billion included in the President's budget to equalize the impact of his original energy tax proposals based on the assumption that the President's program will not be approved by the Congress; and

Undistributed Offsetting Receipts (includes Federal Government contributions to the employee retirement funds, interest earned on trust funds and revenue from oil leases on the Outer Continental Shelf): Deduction of $16.2 billion in undistributed offsetting receipts from the budget total in 1976 as compared to $20.2 billion in the President's budget, in the Congressional budget difference being due to an estimate of $4 billion in receipts by the Committee from the sale of leases for offshore oil drilling and an estimate of $8 billion in such receipts in the President's budget. H. Con. Res. 218. House adopted May 1, 1975; Senate adopted amended May 5, 1975; House and Senate agreed to conference report May 14, 1975. (157)

Second budget resolution.—Revises the First Budget Resolution (H. Con. Res. 218) and limits Congressional actions on spending and revenues for the balance of the fiscal year by setting a floor for revenues and a ceiling on new budget authority and outlays so that it will not be in order for either House to consider legislation which would have the effect of lowering the revenue floor or increasing the budget authority and outlay ceilings;

Provides, for fiscal year 1976, for outlays of $374.9 billion, new budget authority of $408 billion, a deficit level of $74.1 billion, revenues of $300.8 billion, and a public debt level of $622.6 billion; directs the Ways and Means Committee of the House and Finance Committee of the Senate to reduce revenues by $6.4 billion in order to extend the tax cuts of the Tax Reduction Act of 1975;

Establishes targets for the transition quarter July 1–September 30, 1976, which will be established as ceilings, with such revisions as necessary, as part of a Third Budget Resolution for fiscal year 1976 or as part of the First Budget Resolution for fiscal year 1977, to be adopted in the spring of 1976, whichever occurs earlier; and sets targets for outlays of $101.7 billion, new budget authority of $91.1 billion, a deficit level of $15.7 billion, revenues of $86 billion, and a public debt level of $641 billion. H. Con. Res. 466. House adopted November 12, 1975; Senate adopted amended November 20, 1975; Senate agreed to conference report December 11, 1975; House agreed to conference report December 12, 1975. (526, 579)

CONGRESS

August recess.—Provides for the adjournment of the Congress from Friday, August 1 until noon, Wednesday, September 3, unless reassembled by the House or Senate leadership, and authorizes the Secretary of the Senate and the Clerk of the House to receive messages, including veto messages, from the President during this time. S. Con. Res. 54. Senate adopted July 22, 1975; House adopted July 28, 1975. (307)

Congressional paycheck disbursements.—Amends section 3620 of the Revised Statutes relating to payroll disbursements to give Congressional employees the same option as other Federal employees of having their pay sent to two or three different financial institutions of their choice effective when the Secretary of the Senate and the Clerk of the House respectively determines the feasibility of compliance for their employees but no later than July 1, 1976. H.R. 7405. Public Law 94–57, approved July 19, 1975. (VV)

Convening of 94th Congress, 2d session.—Provides for the convening of the second session of the 94th Congress at noon on Monday, January 19, 1976; also provides that, prior to this time, the Speaker of the House and the President pro tempore of the Senate shall notify Members to reassemble whenever in their opinion the public interest shall warrant it or if the majority leaders or the minority leaders of the House and Senate request that Congress reassemble for the consideration of legislation, and that the Congress shall reassemble at 12:00 noon on the second day after its Members are so notified; and extends the filing date of the Joint Economic Committee's report on the President's Economic Report until March 19, 1976. H.J. Res. 749. P/H December 16, 1975; P/S amended December 17, 1975. (VV)

Franking privileges of former Members.—Amends title 39, U.S.C., to limit the use of the congressional franking privilege by former Members of Congress, and certain other officers of the Congress authorized by law to use the frank, to mail matter relating to the closing of their office by changing the time limit during which the franking privilege is authorized from the 1st day of April following the expiration of their respective terms of office to a 90-day period following the date on which a Member or other individual ceases to serve in a position. H.R. 4865. Public Law 94– , approved 1975. (VV)

Guam and Virgin Islands delegate allowance.—Provides that the clerk hire allowance and the transportation expenses subject to reimbursement under Federal law of the Delegates from Guam and the Virgin Islands shall be the same as allowed for Members of the House of Representatives. H.R. 4269. Public Law 94–26, approved May 27, 1975. (VV)

Joint Committee on the Bicentennial.—Establishes a Joint Committee on Arrangements for the Commemoration of the Bicentennial, to be composed of 12 members (the majority and minority leaders of the Senate and House, the members of Congress who are members of the American Revolution Bicentennial Board, 2 members appointed by the President of the Senate, and 2 members appointed by the Speaker of the House) to coordinate the planning and implementation of Bicentennial activities and events of the Congress with those of other groups; to consult with the Speaker of the House and President of the Senate to provide for congressional representation at appropriate Bicentennial events; and to develop and implement programs to inform and emphasize to the Nation the role of the Congress, as the representative of the people, over the past 200 years. S. Con. Res. 44. Senate adopted June 13, 1975; House adopted amended June 23, 1975; Senate agreed to House amendment with amendment July 30, 1975. (VV)

Supreme Court chamber.—Declares officially open the Chamber of the Supreme Court which is located in the Capitol and extends congratulations and appreciation to the various people who contributed to the restoration of this Chamber. S. Res. 164. Senate adopted May 21, 1975. (VV)

CONSUMER AFFAIRS

Consumer Fraud: Protects consumers and reduces the instances of consumer fraud by amending the United States Code in order to make the knowing commission of the following consumer frauds subject to criminal penalties: (1) offering or advertising of goods or services with the knowledge that they will not be sold as so offered or advertised; (2) utilization of false or misleading statements or advertising with respect to goods and services; (3) false description of goods; (4) refusal to return a price or deposit when goods have not been and will not be delivered or when services contracted for have not or will not be performed; and (5) use of physical force, threats, harassment or similar misconduct in the course of a sale or in an attempt to collect the purchase price of goods and services from a customer; imposes a maximum fine of $1,000 and/or 1 year imprisonment for first offenses and a $10,000 fine and/or 3 years imprisonment for second and subsequent offenses; allows a consumer to cancel any contract or agreement resulting from a transaction involving a proscribed unfair consumer practice; and authorizes the Attorney General of the United States and the attorney general of any State to seek an injunction to enjoin the commission of such unfair consumer practices. S. 670. P/S July 10, 1975. (VV)

Consumer product safety.—Authorizes $51 million for fiscal year 1976, $14 million for the transition period July 1–September 30, 1976, and $55 million for fiscal year 1977 to implement the Consumer Product Safety Act; contains provisions concerning the jurisdiction of the Consumer Product Safety Commission which:

(1) eliminates pesticides from the Commission's jurisdiction under the Poison Prevention Packaging Act of 1970 as being duplicative of the Environmental Protection Agency's authority under the Federal Environmental Pesticide Control Act of 1972 to enforce pesticide-related packaging standards for the purpose of child protection;

(2) provides that the Commission has no jurisdiction to regulate tobacco or tobacco products as being a "hazardous substance" under the Federal Hazardous Substances Act, but provides that the Commission may regulate tobacco and tobacco products under the Consumer Product Safety Act to the extent that such products present an unreasonable risk of injury as a source of ignition;

(3) provides that the Commission, under the Hazardous Substances Act, may not regulate ammunition as a "hazardous substance" but may continue to establish and enforce cautionary labeling requirements relative to storage in a household, and may continue to regulate fireworks as a "hazardous substance"; prohibits political clearance by the Executive Office of the President, the Office of Management and Budget, or other executive agency of any employee whose principal duties would involve significant participation in the determination of major Commission policies or who would serve as a personal assistant or adviser to any Commissioner; requires, in order to facilitate the identification of potential product hazards, that a product liability insurer or an independent testing laboratory which discovers a substantial product hazard in the course of its business must report that finding to its insured or its client and inform him of his obligations, if any, under the law; enlarges the enforcement authority of the Commission; provides a uniform Federal preemption clause for the Federal Hazardous Substances Act, the Flammable Fabrics Act and the Consumer Product Safety Act which provides that if the Commission has requirements in effect for a product, State or local requirements must conform to the Federal standards unless the State requirement does not cause the product to be in violation of the Federal standard and provides a significantly higher degree of protection without unduly burdening the manufacture or distribution of products in interstate commerce; gives courts the discretion to award attorney's fees to persons involved in obtaining judicial review under the Consumer Product Safety Act; and contains other provisions. S. 644. P/S July 18, 1975; P/H amended Oct. 22, 1975; In conference. (297)

Consumer protection.—Protects the interests of consumers and promotes consumer protection in the United States; creates an independent Agency for Consumer Advocacy (ACA) to represent and advocate the interests of consumers before other Federal agencies and Federal courts; authorizes the ACA to receive and transmit complaints from consumers and develop and disseminate information concerning interests of consumers;

Exempts from the jurisdiction of the ACA the following: the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the national security and intelligence functions of the Departments of State and Defense and the military weapons program of the Energy Research and Development Administration, as well as any Federal Communications Commission proceeding relating to renewals of radio or television broadcasting licenses, or any labor-management case before the National Labor Relations Board; prohibits intervention or participation by the ACA in any proceeding or activity directly affecting producers of livestock, poultry, agricultural crops or raw fish products; prohibits such intervention with respect to the granting or enforcement of any right-of-way or other authorization relating to the Alaska pipeline system of oil or natural gas; prohibits such intervention in proceedings relating to limiting the manufacture or sale of firearms or ammunition;

Requires the General Accounting Office to review all of ACA's activities and report to Congress thereon within 3 years; makes the provisions of the Freedom of Information Act applicable to the ACA; provides for the preparation of cost and benefit assessment statements by Federal agencies issuing rules or proposing legislation which have a substantial economic impact; and contains other provisions. S. 200. P/S May 15, 1975: P/H amended Nov. 6, 1975. (184)

Motor vehicle information and cost savings.—Amends the Motor Vehicle Information and Cost Savings Act to authorize additional appropriations to implement four titles of the bill for fiscal year 1976, the fiscal year transition period July 1–September 30, 1976, and fiscal year 1977 respectively, as follows: Title I, which requires the Secretary of Transportation to promulgate bumper standards applicable to all passenger motor vehicles: $500,000, $125,000 and $500,000; Title II, which provides for an automobile consumer information program: $2 million, $650,000 and $4 million; Title III, which provides for diagnostic inspection demonstration projects: $5 million, $1.5 million, $7.5 million; and Title IV, which sets odometer requirements: $450,000, $100,000 and $650,000; redefines the special motor vehicle diagnostic inspection demonstration project under title III to assure that the project will be designed for use by States for high volume inspection facilities to evaluate conditions of parts, components and repairs required to comply with State and Federal safety, noise and emission standards and to assist the owner in achieving the optimum fuel and maintenance economy and authorizes an additional $7.5 million for fiscal year 1978 to implement this program; provides the Secretary with additional authority to enforce the odometer anti-tampering provisions; and imposes a civil penalty of not to exceed $10,000 for each violation and criminal penalties of not more than $50,000 and/or 1 year in prison. S. 1518. P/S June 5, 1975. (VV)

CRIME-JUDICIARY

Alien children.—Grants a child adopted by a single U.S. citizen the same immediate relative status for immigration purposes as a child adopted by a U.S. citizen and his spouse jointly; requires that an unmarried adoptive parent be 25 years old; and grants the Attorney General the discretionary authority to withhold or refuse approval of a petition unless he is satisfied that proper care will be furnished to the child if admitted to the U.S. H.R. 568. Public Law 94–155, approved December 16, 1975. (VV)

Antitrust enforcement.—Authorizes increased appropriations over a 3-year period to the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice to provide an additional 25 antitrust positions each, to support effective and expeditious enforcement of the antitrust laws as follows: 1976—$25 million, transition period July 1–September 30, 1976—$6.25 million, 1977—$35 million, and 1978—$45 million; and authorizes a 3-year program of assistance and grants to States to improve their antitrust capabilities as follows: $10 million annually for fiscal years 1976, 1977, and 1978 and $2.5 million for the transition period July 1–September 30, 1976. S. 1136. P/S December 12, 1975. (VV)

Bilingual court proceedings.—Amends title 28, U.S.C., by adding a new section specifying the circumstances when an interpreter must be furnished to translate all or part of the court proceedings for the benefit of a non-English-speaking party or when a witness does not speak English and imposes administrative duties upon the Administrative Office of the U.S. Courts in relation to certification and use of interpreters. S. 565. P/S July 14, 1975 (VV)

Fair trade laws.—Repeals the Miller-Tydings Act which enables States to enact fair trade laws and the McGuire Act which permits States to enact nonsigner provisions in order to permit competing retailers to sell an item at whatever price he determines. H.R. 6971. Public Law 94–145, approved December 12, 1975. (VV)

Federal Rules of Criminal Procedure.—Approves and amends certain amendments to the Federal Rules of Criminal Procedure as proposed by the Supreme Court in its order of April 22, 1974, pursuant to statutes known as "rules enabling acts", to become effective on December 1, 1975. H.R. 6799. Public Law 94–64, approved July 31, 1975 (VV)

Federal Rules of Evidence.—Amends the Federal Rules of Evidence to make clear that nonsuggestive lineup, photographic and other identifications, made in compliance with the Constitution, are admissible in evidence. S. 1549. Public Law 94–113, approved Oct. 16, 1975. (VV)

Federal Rules of Evidence and Criminal Procedure.—Makes technical amendments to the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and to related provisions of titles 18 and 28 of the United States Code. H.R. 9915. Public Law 94–149, approved December 12, 1975. (VV)

Florida judicial district.—Transfers Madison County from the middle judicial district to the northern district of Florida to reduce the average travel time for Madison County residents. S. 723. P/S June 19, 1975. (VV)

Judgeships for the U.S. courts of appeals.—Authorizes the President to appoint, with the advice and consent of the Senate, one additional circuit judgeship each for the first, third, fourth, sixth, seventh, eighth and tenth circuits. S. 286. P/S Oct. 2, 1975. (VV)

Jurors fees.—Amends the Jury Selection and Service Act of 1968, as amended, to increase from $20 to $25 per day the jury attendance fee and establish minimal criteria for judicial certification of additional fees for extended petit and grand jury service; authorizes new procedures for determining amounts to be expended for juror travel allowances and expenses including tolls and parking charges and new procedures for determining the amounts to be expended for juror subsistence allowances necessitated by long travel distances or sequestration;

Requires that any employee, other than a temporary worker, applying for reemployment within 15 days after completing his or her jury service, be rehired at his or her former seniority, status, and pay; requires that any employee so restord be classified as having been on furlough or leave-of-absence for purposes of insurance and other employment benefits; prohibits such employee from being discharged without cause for at least 1 year after returning to work; confers upon the district courts original jurisdiction to grant money damages regardless of the amount in controversy; requires U.S. Attorneys to act as attorneys for any person claiming a violation of his or her reemployment rights; and prohibits the assessment of attorney fees or court costs against any person who brings such an action in good faith. S. 539. P/S Sept. 30, 1975. (VV)

Parole Commission.—Reorganizes the Federal paroling structure by abolishing the present U.S. Board of Parole and replacing it with an independent U.S. Parole Commission attached to the Department of Justice; increases the Parole Board from 8 to 9 Commissioners (one to serve as Chairman, three to serve as members of a National Appeals Board, and five to serve in the five regions around the country); provides for panels of hearing examiners, operating under guidelines adopted by the full Commision, to conduct parole hearings and recommend decisions subject to review by regional commissioners and the National Appeals Board before becoming final; provides an internal process by which the Attorney General or the offender may trigger a review by the National Appeals Board of any decision made by a regional commisioner; gives the Chairman the necessary administrative powers to keep the decision-making machinery of the Parole Commision operating on a timely basis; provides a procedure to insure better opportunities for decision-making and fairness in parole interview; requires that the revocation process whereby a parolee is returned to prison for violating the conditions of his parole must contain certain procedural safeguards set out by the Supreme Court in Morrissey v. Brewer, 408 U.S. 471 (1972) and Gagnon v. Scarpelli, 411 U.S. 778 (1973); and provides that an offender who has demonstrated by his conduct that he has rehabilitated himself could be discharged from supervision by the Parole Commission. H.R. 5727. P/H May 21, 1975; P/S amended Sept. 16, 1975; in conference. (VV)

Pyramid sales.—Prohibits the use of any means or instrumentality of transportation or communication in interstate commerce or of the mails for sales, offers, or attempts to sell a participation or rights to participate in a "pyramid sales scheme" which is defined as an investment program based on inducing people to buy the right to sell similar rights to other people. S. 1509. P/S May 14, 1975. (VV)

Robert E. Lee.—Restores posthumously full rights of citizenship to General Robert E. Lee, effective June 13, 1865, which were forfeited by him as General of the Army of Northern Virginia in the war between the States. S.J. Res. 23. Public Law 94–67, approved August 5, 1975. (VV)

Three-judge courts.—Eliminates the requirement for special three-judge courts in cases seeking to enjoin the enforcement of State or Federal laws on the grounds of unconstitutionality except when specifically required by act of Congress or in any case involving congressional reapportionment or the reapportionment of any statewide legislative body and clarifies the composition and procedure of three-judge courts in those cases where they are required. S. 537. P/S June 20, 1975. (VV)

Wiretop Commission.—Extends from January 31, 1976 to April 30, 1976, the authority of the National Commission for Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance in order to enable the Commission to complete its final report and submit its findings and recommendations to the President and Congress. S. 2757. Public Law 94– , approved 1975. (VV)

DEFENSE

Assistant Commandant of the Marine Corps.—Authorizes the Assistant Commandant of the Marine Corps to have the permanent grade of General, at the discretion of the President, with the advice and consent of the Senate, without regard to the overall strength of the Marine Corps instead of, as provided in present law, if the overall strength of the Marine Corps exceeds 200,000; and provides that the Secretary of Defense rather than the Service Secretary must determine the disability retirement of general officers and medical officers. S. 2117. P/S December 17, 1975. (VV)

Coast Guard authorization.—Authorizes $149,676,000 for fiscal year 1976 and the transition period July 1–September 30, 1976 to the Coast Guard for the procurement of vessels and aircraft, construction of shore and offshore establishments including the Valdez, Alaska, vessel traffic control system and the Sitka, Alaska, Air Station to assure that the stations are operational upon the completion of the Trans-Alaska pipeline, and payment to bridge owners for the cost of alterations of railroad bridges and public highway bridges across the navigable waters of the United States; authorizes the year-end strength for active duty personnel and provides additional personnel for fishery surveillance and enforcement by helicopter; and authorizes the military training student loads. H.R. 5217. Public Law 94–54, approved July 7, 1975. (VV)

Defense production—Commission on Productivity and Work Quality.—Extends the expiration date of the Defense Production Act of 1950 and funding for the National Commission on Productivity and Work Quality for 90 days, through September 30, 1975. S. J. Res. 94. Public Law 94–42, approved June 28, 1975. (VV)

Extends the expiration date of the Defense Production Act of 1950 and funding for the National Commission on Productivity and Work Quality for 60 days, through November 30, 1975. H. J. Res. 672. Public Law 94–100, approved Oct. 1, 1975. (VV)

Defense production—National Commission on Supplies and Shortages.—Extends the Defense Production Act until September 30, 1977, to coincide with the new fiscal year established in the Congressional Budget Act of 1974. (P.L. 93–344) except for title III authority relating to loan guarantees which must be authorized yearly.

Contains separate more restrictive authority relating to the President's authority to grant antitrust immunity to voluntary agreements developed in support of the national defense effort or the Executive Agreement on an International Energy Program (IEP) signed by the United States on November 18, 1974, which includes: approval by the Attorney General before any agreement is authorized, assurance that the provisions of the Federal Advisory Committee Act will apply to advisory committees established pursuant to this act, and assurance that the public will have recourse through the Freedom of Information Act when seeking information concerning voluntary agreements; makes clear that the authority granted under this provison shall not be construed as any form of congressional approval of specific terms of the IEP Agreement;

Removes the $15 per diem limitation on travel expenses for members of the National Defense Executive Reserve (NDER) while serving without pay and traveling for the purpose of participating in the NDER training program and permits them to be reimbursed in accordance with applicable statutes authorizing such allowances for other individuals serving the U.S. without pay;

Provides that the Cost Accounting Standards Board shall take into account and report to the Congress on the probable effects, if any, compared to the probable benefits, including advantages and improvements in the pricing, administration and settlement of contracts in promulgating standards and major rules and regulations;

Removes the 40 cent per 100 words limitation on the cost of stenographic services to report hearings of the Joint Committee on Defense Production and the $100,000 limitation on expenses for the Joint Committee; and

Extends from March 31, 1976 to December 31, 1976, the time in which the National Commission on Supplies and Shortages must submit its report to the President and Congress with respect to institutional adjustments; extends from October 31, 1976 to March 31, 1977, the time for the Commission to prepare, and transmit such other reports it deems appropriate; increases from $75,000 to $150,000 the authorization for the advisory committee; and increases to $1,484,000 the authorization for the Commission. S. 1537. Public Law 94–152, approved December 16, 1975. (VV)

Defense production extension.—Amends the Defense Production Act Amendments of 1975 to change from "the date of enactment" to "close of November 30, 1975" the effective date of section 9 of the Act which removes the $100,000 limitation on expenses for the Joint Committee on Defense Production to be paid from the contingent fund of the House. H.R. 11027. Public Law 94–153, approved December 16, 1975. (VV)

Diego Garcia.—Disapproves the proposed construction project on the island of Diego Garcia, the need for which was certified by the President in a document received by the Senate on May 12, 1975. S. Res. 160. Senate rejected July 18, 1975. (340)

Military construction authorization.—Authorizes a total of $3,853,705,000 for fiscal year 1976 and the transition period July 1–September 30, 1976, to provide construction and other related authority for the military departments, and the office of the Secretary of Defense, within and outside the United States, and authority for construction of facilities for the Reserve Components; includes $13.8 million for construction and expansion of the naval base at Diego Garcia in the Indian Ocean and $52,738,000 for aircraft shelters for in-place aircraft in the United Kingdom with the assurance by the Department of Defense that NATO recoupment would be requested prior to expending any of the funds; contains language to reduce the number of deficiency authorizations; directs the Defense Department to make certain changes in the organization of future requests; and contains other provisions. S. 1247. Public Law 94–107, approved Oct. 7, 1975. (425)

Military procurement authorization.—Authorizes $25,513,383,000 for fiscal year 1976 and $5,354,723,000 for the transition period July 1–September 30, 1976 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces; authorizes $380.5 million for six airborne warning and control system—AWACS—aircraft and $7.362 million for the B–1 bomber; authorizes the personnel strength for military active duty components of the Armed Forces and makes a total reduction of 9,000 in the requested strengths, to be made as directed by the Secretary of Defense; authorizes the annual average military training student load for each of the active and reserve components and the personnel strengths for the Selected Reserve of each of the Reserve components; provides a 23,000 total reduction of the requested end strengths for civilian personnel for the Department of Defense, with civilian personnel to be allocated among the military departments and Defense agencies by the Secretary of Defense; contains provisions regarding discrimination in supplying petroleum products for the Armed Forces; provides that no service members who retired after January 1, 1971 may receive less retired or retainer pay than they would have received at an earlier date on or after January 1, 1971; reduces the number of enlisted service personnel who may be assigned as servants to officers; approves the admission of women to the service academies for the class beginning in 1976; extends until December 31, 1977 the President's authority to transfer aircraft and related equipment by sale, credit, or guarantee in order to maintain the military balance in the Middle East; and contains other provisions. H.R. 6674. Public Law 94–106, approved Oct. 7, 1975. (214,374,424)

Naval museum.—Expresses the approval of Congress with respect to the establishment by the State of South Carolina of the Naval and Maritime Museum in the city of Charleston. S. Con. Res. 9. Senate adopted Feb. 28, 1975. (VV)

Nonregular armed services survivors benefits.—Makes the provisions of the Retired Serviceman's Family Protection Plan (RSFPP) retroactive to November 1, 1953 in order to make survivor benefits payable to survivors of retired non-Regular personnel who had elected benefits under that plan and died before 1968 after they become eligible for retirement but before the first day of the month following the date of eligibility on which they would have become entitled to retired pay. S. 2090. P/S December 17, 1975. (VV)

Nuclear-trained naval officers pay bonus extension.—Extends through fiscal year 1977, the authority under Public Law 92–581 to pay a $15,000 bonus to any nuclear-trained naval officer who prior to completion of 10 years of active service, agrees to remain on active duty for 4 years in addition to any other period of obligated active service. S. 2114. P/S July 26, 1975; P/H amended Nov. 17, 1975. (VV)

Officer graduate school appointees.—Eliminates any period during which an officer was listed in a missing status for the purpose of computing the 6-year period in considering eligibility of appointees to officer graduate school. S. 1767. P/S May 21, 1975. (VV)

DISTRICT OF COLUMBIA

D.C. bonds.—Disapproves the act of the District of Columbia Council authorizing the issuance of $50 million in general obligation bonds which was passed by the Council on October 21, 1975, signed by the Mayor on October 22, 1975, and transmitted to the Congress on October 24, 1975. S. Con. Res. 78. Senate adopted December 5, 1975. (567)

Judicial conference.—Directs the Chief Judge of the District of Columbia Court of Appeals to summon annually the active judges of the D.C. Court of Appeals and of the Supreme Court, as well as the appellate and trial court judges for a judicial conference; directs the Court of Appeals to provide by its rules for the representation and active participation by members of the D.C. Bar and other persons active in the legal profession including private practioners, law professors, the U.S. Attorney, the Public Defender and the Corporation Counsel; and amends the Education Amendments of 1974 (P.L. 93–380) to make the District of Columbia eligible for funding under title IV of the Act. H.R. 10035. P/H November 10, 1975; P/S amended December 12, 1975. (VV)

Law clerks.—Amends the District of Columbia Code to authorize an additional law clerk for each of the nine judges of the D.C. Court of Appeals in order to increase the analysis and research capability of the Court to provide for more efficient case disposition. H.R. 4287. P/H November 10, 1975; P/S amended December 15, 1975. (VV)

Pennsylvania Avenue Development Corporation.—Authorizes $1.3 million for fiscal year 1976, $325,000 for the transition period, $1.5 million for fiscal year 1977 and $1.6 million for the next 3 succeeding fiscal years to carry out public development activities and projects of the approved plan. S. 1686. P/S December 18, 1975.

Southeastern University.—Insures the continued eligibility of Southeastern University for the benefits of the several acts providing for aid to higher education and amends its Charter to make possible the continued operation of the University as a nonprofit, tax-exempt educational institution under the provisions of section 501(c)(3) of the Internal Revenue Code. S. 611. P/S June 19, 1975; P/H amended Nov. 3, 1975. (VV)

ECONOMY—FINANCE

Appalachian regional development.—Extends the Appalachian Regional Development Act to October 1, 1979, authorizes therefor $340 million for the period July 1, 1975 through September 30, 1977 and $300 million for the two fiscal year period ending September 30, 1979 for essential health, education, and other public services; provides new demonstration authority to address the social, economic and environmental effects of expanded energy production and indigenous arts and crafts of the region;

Extends the highway portion of the program until September 30, 1981 to facilitate completion of the Appalachian Development Highway System and authorizes therefor $1.02 billion;

Gives the Regional Commissions authorized by Title V of the Public Works and Economic Development Act of 1965 statutory status comparable to that enjoyed for the past decade by the Appalachian Regional Commission;

Extends Title V of the Public Works and Economic Development Act for one year beyond its present expiration date of June 30, 1976 and authorizes a total of $500 million for fiscal year 1976, the transition period and 1977 to be allocated to regional commissions established for more than two fiscal years; authorizes an additional $5 million for fiscal year 1976, $1,250,000 for the transition period and $5 million for fiscal year 1977 for new commission; and contains other provisions. H.R. 4073. Public Law 94- , approved 1975. (295)

Bank acquisitions.—Amends the Bank Holding Company Act of 1956, as amended, to allow the Federal Reserve Board to shorten the time requirements for notice to the respective primary bank supervisory authority from 30 days to 10 days if it finds that an emergency exists requiring expeditious action to prevent a probable failure of a bank or bank holding company, and shortens from 30 days to 5 days the Justice Department's period for comment on such acquisitions except that all notice requirements may be dispensed with if the Board needs to act immediately. S. 2209. P/S July 30, 1975. (VV)

Bankruptcy of major municipalities.—Amends the Bankruptcy Act by adding a new chapter to change the procedure by which the debts of municipalities and other governmental units are adjusted to enable a city to continue to function in an orderly manner while an adjustment or extension of its debts is negotiated with its creditors; provides that a municipality file a petition stating its eligibility to file, its inability to pay its debts as they mature, and its desire to effect a plan of composition or extension of its debts; provides that the filing of the petition would operate as a stay of the commencement or continuation of any court or other proceeding against the debtor; provides that while the city is negotiating with its creditors so as to work out a suitable plan, the city would remain under the management of whatever form of government is provided by State law; authorizes the city to issue certificates of indebtedness to supplement available funds on a short-term basis for essential governmental services; and provides that a final proposed plan be sent to all creditors for their vote of approval or disapproval. H.R. 10624. P/H December 9, 1975; P/S amended December 10, 1975; In conference. (575)

Commodity futures.—Extends for 90 days the following provisions of the Commodity Futures Trading Act of 1974 (Public Law 93-463) which becomes effective April 21, 1975: provisional designation as a contract market to any board of trade for commodities traded thereon; required Commission approval of contract market bylaws and rules; provisions and eventual permanent registration of any futures commission merchant, floor broker, associated person, commodity trading advisor, or commodity pool operator; and amends the Act to provide that the Commission will have 9 months instead of 6 months to determine whether trading by floor brokers and future commission merchants for their own accounts and for their customers at the same time is permitted; provides the Commission 180 days instead of 90 days to define bona fide heging transactions or positions; and delays the effective date to 15 months instead of 1 year of the provisions for handling customers' complaints. H.J. Res. 335. Public Law 94-16, approved Apr. 16, 1975. (VV)

Council on International Economic Policy.—Authorizes $400,000 for the period July 1–September 30, 1975, for the Council on International Economic Policy which as part of the Executive Office, brings the views of the various Federal agencies on international economic policy to the attention of the President and represents the Administration on these issues with Congress and the public. S.J. Res. 97. P/S June 21, 1975. (VV)

Authorizes $1,657,000 for fiscal year 1976 and $1,670,000 for fiscal year 1977 for the Council on International Economic Policy and provides that the staff of the Council shall be appointed without regard to provisions of law relating to employment and compensation of persons in Government service with supergrade positions limited to 8. H.R. 5884. Public Law 94-87, approved August 9, 1975. (VV)

Council on Wage And Price Stability.—Extends from August 15, 1975 to September 30, 1977 the expiration date of the Council on Wage and Price Stability, which was established on August 24, 1974 to monitor wage and price developments in the private economy, to review the inflationary impact of governmental programs and policies, and to recommend measures for containing inflation;

Provides for Senate confirmation of persons appointed as director of the Council in the future;

Gives the Council authority to require periodic information reports and subpena power regarding witnesses and the production of relevant books and other documents relating to wages, prices, costs, profits, and productivity by product line or by such other categories as the Council may prescribe; and contains other provisions. S. 409. Public Law 94-78, approved August 9, 1975. (167)

Duty suspensions:

Dyeing and tanning materials.—Extends from September 30, 1975 to June 30, 1978 the existing suspension of duties on certain dyeing and tanning materials entered or withdrawn from warehouse for consumption after September 30, 1975. H.R. 7715. Public Law 94-108, approved Oct. 8, 1975. (VV)

Graphite—child care staffing—alcoholism and narcotic treatment.—Suspends the duty on natural graphite until June 30, 1978; delays until January 31, 1976, enforcement of the child care staffing requirements of the Social Services Amendments of 1974 which became effective October 1, 1975, insofar as they apply to children between the ages of 6 weeks and 6 years; and amends title XX of the Social Security Act of 1974 to insure the observance of the confidentiality requirements of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; to insure that the entire alcohol rehabilitation program be considered as one unit in determining whether medical costs or room and board costs are a subordinate part of the total cost of service funded; and to exempt, until January 31, 1976, the initial detoxification process up to a period of 7 days if such process is deemed to be an integral part to the provision of further service. H.R. 7706. Public Law 94-120, approved Oct. 21, 1975. (VV)

Hopper cars.—Suspends until June 30, 1975, the column 1 rate of duty on open-top hopper cars exported for repairs or alterations and provides that, upon appropriate application, entries of such articles made after Setember 1, 1974, and before the date of enactment could be liquidated or reliquidated on a duty free basis. H.R. 7731. Public Law 94-76, approved August 8, 1975. (VV)

Istle fiber—Child support funding.—Extends from September 5, 1975 to June 30, 1978 the existing suspension of duty on processed istle fiber; and amends Public Law 93-647 to extend from July 1 to August 1, 1975 the effective date of the act in order to enable some 11 States to comply with the statutory child support regulations in order to receive Federal matching grants for their child support activities. H.R. 7709. Public Law 94-46, approved June 30, 1975. (VV)

Platinum and carbon.—Suspends until October 31, 1975, the column 1 and column 2 rates of duty on catalysts of platinum and carbon imported for use in producing caprolactam; applies the suspension to imports of such catalysts entered or withdrawn from warehouse for consumption on or after the date of enactment; and provides for retroactive duty suspension on entries or withdrawals after October 1, 1973, upon appropriate request filed with the customs officer concerned within 120 days after the date of enactment. H.R. 7728. Public Law 94-75, approved August 8, 1975. (VV)

Watches—child support funding.—Suspends the duty on watches and watch movements manufactured in any insular possession of the United States by increasing to 70 percent the value of foreign materials contained in such watches and watch movements effective with articles entered or withdrawn from warehouse after the date of enactment; and amends the child support law which becomes effective August 1, 1975 to protect States whose legislatures have not yet had time to meet the new requirements in order to receive Federal matching grants for their child support activities and to protect assistance recipients from a reduction in income. H.R. 7710. Public Law 94-88, approved August 9, 1975. (VV)

Zinc—copper.—Suspends until June 30, 1978 the column 1 rates of duty on certain forms of zinc entered or withdrawn from warehouse for consumption on or after the date of enactment; and continues until June 30, 1978, the suspension of duties on copper waste and scrap, articles of copper and other metal waste and scrap. H.R. 7716. Public Law 94-89, approved August 9, 1975. (VV)

Federal Reserve Banks purchase of U.S. obligations.—Extends until October 31, 1976, the authority of Federal Reserve banks to purchase directly from the Treasury public debt obligations up to a limit of $5 billion outstanding at any one time. S.J. Res. 134. Public Law 94-125, approved Nov. 12, 1975. (VV)

Financial institutions.—Seeks to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit by: (1) eliminating interest rate ceilings on time and savings deposits which prevent depository institutions from effectively competing for funds when interest rates rise in the open market, effective January 1, 1978, or not later than January 1, 1980, if so determined by the Federal Reserve Board; (2) expanding the asset and liability powers of all depository institutions so they can compete more effectively in a ceiling-free environment; (3) establishing a uniform system of taxes and a uniform system of reserves against third-party payment accounts so that all depository institutions offering similar types of financial services will be competing fairly; and (4) establishing a uniform system of direct tax incentives to encourage investment in housing for all depository institutions. S. 1267. P/S December 11, 1975. (577)

Library of Congress trust funds.—Increases the amount of interest paid on the trust funds deposited with the United States Treasury by the Library of Congress Trust Fund Board from the statutory 4 percent per annum to a rate which is .25 percent less than a rate to be determined by the Secretary of the Treasury based on the current average market yield on the outstanding marketable obligations of the United States having the longest periods of maturity adjusted to the nearest ⅛th of 1 percent thus making it equal to that of similarly situated trust funds such as the Railroad Retirement Fund and the Civil Service Retirement Fund, and protects the return on the permanent loan funds from falling below the 4 percent level of return provided in present law by continuing that rate of interest if the formula rate should be less than 4 percent in any year. S. 2619. P/S December 1, 1975. (VV)

Increases the amount of interest paid on the Library of Congress Trust Fund deposited with the United States Treasury under the Act of August 20, 1912 (Bequest of Gertrude M. Hubbard, a perpetual trust, for the purpose of adding to the Gardiner Greene Hubbard collection of engravings) from the statutory 4 percent per annum to a rate which is .25 percent less than a rate to be determined by the Secretary of the Treasury based on the current average market yield on the outstanding marketable obligations of the United States having the longest periods adjusted to the nearest ⅛th of 1 percent, and protects the return on the permanent loan funds from falling below the 4 percent level of return provided in present law by continuing that rate of interest if the formula rate should be less than 4 percent in any year. S. 2620. P/S December 1, 1975. (VV)

Lower interest rates.—States the sense of the Congress that the Federal Reserve Board and the Federal Open Market Committee (1) pursue policies in the first half of 1975 so as to encourage lower long term interest rates and expansion in the monetary and credit aggregates appropriate to facilitating prompt economic recovery and (2) maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long-run potential to increase production so as to promote effectively the goals of maximum employment, stable prices and moderate long-term interest rates; and provides for semiannual oversight hearings by the House and Senate Banking committees wherein the Board of Governors of the Federal Reserve System and the Open Market Committee will consult with Congress with respect to the ranges of growth or dimunition of monetary and credit aggregates in the upcoming 12 months. H. Con. Res. 133. House adopted Mar. 4, 1975; Senate adopted amended Mar. 17, 1975; Senate agreed to conference report Mar. 20, 1975; House agreed to conference report Mar. 24, 1975. (65)

National Commission on Supplies and Shortages.—Amends section 720 of the Defense Production Act which created a National Commission on Supplies and Shortages to assure that certain conflict of interest provisions shall not apply to members appointed to the Commission from the private sector; extends from March 1, 1975, to June 30, 1975, the time in which the Commission must submit its report to the President and Congress with respect to institutional adjustments and from June 30, 1975, to December 31, 1975, the time for the Commission to prepare, publish and transmit such other reports it deems appropriate; provides that the $75,000 authorization for the advisory committee shall remain available until December 31, 1975; and extends the $500,000 authorization for the Commission from June 30, 1975, until December 31, 1975. S.J. Res. 27. P/S Feb. 5, 1975. (VV)

Amends section 720 of the Defense Production Act which created a National Commission on Supplies and Shortages to extend from March 1, 1975, to June 30, 1975, the time in which the Commission must submit its report to the President and Congress with respect to institutional adjustments and from June 30, 1975, to December 31, 1975, the time for the Commission to prepare, publish and transmit such other reports it deems appropriate: provides that the $75,000 authorization for the advisory committee shall remain available until December 31, 1975; and extends the $500,000 authorization for the Commission from June 30, 1975, until December 31, 1975. S.J. Res. 48. Public Law 94-9, approved March 21, 1975. *Note:* (See S. 1537, the Defense Production Act Amendments, which further extended the Commission.) (VV)

Amends section 720 of the Defense Production Act which created a National Commission on Supplies and Shortages to extend to March 31, 1976, the time in which the Commission must submit its report to the President and Congress with respect to institutional adjustments and to October 1, 1976, the time for the Commission to prepare, publish and transmit such other reports it deems appropriate; provides that the $75,000 authorization for the advisory committee shall remain available until October 1, 1976; and extends the $500,000 authorization for the Commission until October 1, 1976. H.J. Res. 560. Public Law 94-72, approved August 5, 1975. (VV)

National Insurance Development Program.—Extends the National Insurance Development Program, which would expire on April 30, for an additional 2 years so as to maintain the Federal Riot Reinsurance Program which reinsures the general property insurance business against the peril of riot and the Federal Crime Insurance Program which provides basic crime insurance coverage in States where it is needed. H.R. 2783. Public Law 94-13, approved April 8, 1975. (VV)

New York City assistance.—Provides for Federal short term loans to the city of New York, or any agency authorized by the State to act for the city, in an aggregate outstanding amount not to exceed $2.3 billion; provides that such loans will have a maturity date not later than the last day of the fiscal year in which the loan was issued; specifies that such loans will bear interest at a rate 1 percent higher than the Treasury borrowing rate; provides that no loan will be provided unless all matured loans have been repaid in accordance with their terms and there is compliance with the terms of any outstanding loans; provides that a loan may be made only if the Secretary determines that there is a reasonable prospect of repayment; authorizes the Secretary to require security as he deems appropriate and withhold Federal payments to the city, either directly or through the State, which may be due under any law to offset any claim under the act; authorizes the General Accounting Office to make audits of all accounts, books, records, and transactions of the State or political subdivision as deemed appropriate by either the Secretary or the General Accounting Office; and terminates the authority of the Secretary to make new loans on June 30, 1978. H.R. 10481. Public Law 94-143, approved December 9, 1975. (566)

Public debt limit extensions.—Increases the debt limit by $131 billion for a total temporary and permanent debt limit of $531 billion until June 30, 1975. H.R. 2634. Public Law 94-3, approved Feb. 19, 1975. (10)

Increases the debt limit by $46 billion for a total temporary and permanent debt limit of $577 billion until November 15, 1975. H.R. 8030. Public Law 94-47, approved June 30, 1975. (256)

Increases the temporary debt limit from $177 billion to $195 billion for a total temporary and public debt limit of $595 billion until March 15, 1976. H.R. 10585. Public Law 94-132, approved Nov. 14, 1975. (VV)

Repatriated U.S. citizens—SSI recipient food stamp eligibility.—Makes permanent the authority under section 1113 of the Social Security Act permitting the Secretary of Health, Education, and Welfare to provide temporary assistance to American citizens and their dependents who have been repatriated from foreign countries and limits the authorization to $8 million through September 30, 1976, and $300,000 for each subsequent fiscal year; and amends Public Law 93-233 to extend for an additional 12 month period, through June 30, 1976, the provision which makes needy, aged, blind and disabled people qualifying for benefits under the SSI program eligible to participate in the Food Stamp program. H.R. 6698. Public Law 94-44, approved June 28, 1975. (VV)

Savings and loan associations.—Amends the Homeowners' Loan Act of 1933, as amended, to clarify section 5(c) of the Act to provide that Federally chartered saving and loan associations may act as custodians for Individual Retirement Accounts (IRA's) authorized pursuant to Public Law 93-406, the Employee Retirement Income Security Act of 1974. S.J. Res. 102. Public Law 94-60, approved July 25, 1975. (VV)

Securities acts amendments.—Amends the Exchange Act, Securities Investor Protection Act, Investment Advisers Act, and Investment Company Act to make changes in the structure and regulation of the securities industry as follows:

National securities market system.—Grants the Securities and Exchange Commission (SEC) broad, discretionary powers to oversee the development of a national market system encompassing all segments of the corporate securities markets including common and preferred stocks, bonds, debentures, warrants and options in order to provide greater investor protection and maintain a strong capital raising and allocating system; encourages maximum reliance on communication and data processing equipment consistent with justifiable costs and grants the SEC broad authority over the processing and distribution of market information; sets as a goal the establishment of trading rules and procedures for auction trading, trading in unlisted securities, and third market trading;

Self-regulation and SEC oversight.—Consolidates and expands SEC oversight powers with respect to the self-regulatory exchange organizations, their members, and officers; confers upon the District courts the jurisdiction to command compliance with the act; clarifies the rulemaking powers of SEC; and provides for judicial review of SEC actions in an appropriate court of appeals;

Municipal securities.—Extends Federal regulation to brokers and dealers trading exclusively in tax-exempt State and local bonds thus removing their exemption from the provisions of the Exchange Act; vests the ultimate authority and responsibility for the regulation of the municipal securities industry in SEC with the rulemaking responsibilities vested in a new self-regulatory agency, the Municipal Securities Rulemaking Board;

Clearing agencies and transfer agents.—Establishes a system for the development of an integrated national system for clearance and settlement of stock transactions in interstate commerce; centralizes in the SEC the authority and responsibility to regulate, coordinate and direct the operations of all persons involved in the securities handling process, and requires registration and reporting by clearing agencies and transfer agents; and empowers the SEC to review and amend the rules of such entities;

Securities trading by members of a National Securities Exchange.—Prohibits stock exchange members from effecting any transaction on the exchange for its own account, the account of an associated person, or an account with respect to which the member or an associated person exercised investment discretion; provides exemptions from this prohibition for certain types of transactions which contribute to the fairness and orderliness of exchange markets or which have not given rise to serious problems, such as transactions by market makers, including specialists and block positions, bona fide arbitrage transactions, transactions for a member's own account and transactions for the account or estate of a natural person or a trust created by a natural person for himself or another person; authorizes the SEC to exempt any other transaction which is consistent with the purposes of these provisions and also to regulate or prohibit the exchange transactions which are specifically exempted; authorizes the SEC to extend the broad prohibition against the combination of money management and brokerage to the over-the-counter market to maintain fair and orderly markets, assure equal regulation or to protect investors; and provides for a 3-year phase in of these provisions following the date of enactment for exchange members who were members on May 1, 1975;

Commission rates.—Prohibits fixed commission rates after the date of enactment except that rates charged by members acting as brokers on the floor of an exchange for other members or as an odd-lot dealer may be fixed until May 1, 1976; permits the SEC to reimpose fixed rates, by rule, prior to November 1, 1976, and provides a procedure for continuing or reimposing fixed rates after that date;

Institutional disclosure.—Authorizes the Commission to require the disclosure of certain institutional portfolio holdings and transactions;

And contains other provisions. S. 249. Public Law 94–29, approved June 4, 1975. (VV)

Social security appeals.—Permits the Social Security Administration to use existing SSI (supplemental security income) hearing examiners to also hear social security and medicare cases between now and the end of 1978 in order to help reduce the huge backlog of those cases; increases the time in which a person may request a hearing after a claim is disallowed from 30 days to 60 days for SSI claims, effective immediately, and reduces from 6 months to 60 days the time for social security claims effective March 1, 1976; requires the Secretary of Health, Education and Welfare to give 18 months advance notice to the States of proposed changes in the way in which social security contributions are paid by State and local governments; authorizes, in order to reduce the tax reporting burdens of the nation's employers, the Secretaries of the Treasury and Health, Education, and Welfare to exchange information so that social security reports of individual earnings may be made once each year rather than quarterly; and contains other provisions. H.R. 10727. P/H December 1, 1975; P/S amended December 17, 1975. (VV)

Social security—medicaid.—Makes permanent the temporary provision of law authorizing disregard of the 1972 Social Security increase in regard to medicaid eligibility, thus protecting the medicaid eligibility of those who would otherwise lose their eligibility because of the 1972 increases; and gives Puerto Rico, the Virgin Islands, and Guam, which deliver care to medically indigent people through their public health care systems, a permanent exemption from the freedom of choice requirement for obtaining medical services in order to alleviate the costs connected with private services. H.R. 8109. Public Law 94–48, approved July 1, 1975. (VV)

Social security—medicare.—Contains provisions to avoid any rollback in medicare payments for physicians fees incurred in 1976; extends the authority of the Secretary of Health, Education, and Welfare to waive 24-hour nursing service requirements for certain rural hospitals without which many rural hospitals would loose their medicare accreditation; makes optional a new regulatory requirement that States deduct the price of food stamps from AFDC (Aid to Families with Dependent Children) checks and send the stamps with the check; provides for the continuation of the present relationship between medicare and the Federal employee's health program under which medicare is the primary payer of benefits; corrects an omission in earlier law to authorize annual changes in the part B medicare premium corresponding to changes in the social security cash benefit program in order to permit premium increases corresponding with increases in program costs; eliminates the present distinction for payment eligibility between occupational therapy and other therapy groups under medicare; allows reimbursement of VA hospitals by medicare under certain situations of good faith error in treating non-eligible patients, and contains other provisions. H.R. 10284. P/H November 17, 1975; P/S amended December 17, 1975. (VV)

State taxation of depositories.—Extends from January 1, 1976 to September 12, 1976, the moratorium on interest taxation of depositories to allow Congress a full year to consider the recomendations of the Advisory Commission on Intergovernmental Relations whose report was not submitted to the Congress until September 12, 1975; adds Connecticut, Rhode Island, Maine and Vermont to the list of States allowed NOW accounts; and amends the Truth in Lending Act to provide that discounts offered by merchandisers for cash purchases would not, for truth in lending disclosure purposes, constitute interest or a finance charge under the State usury or time-price differential laws. S. 2672. P/S December 8, 1975; P/H amended December 16, 1975. (VV)

Stock transfer taxes.—Amends section 28 (d) of the Securities Act of 1934 to restore to a State or political subdivision the ability to impose a transfer tax where the basis of the tax is the transfer and issuance of a new certificate by a registered transfer agent, and makes clear that such taxes cannot be imposed on transfer agents that transfer record ownership of securities by bookkeeping entry without physical issuance of securities certificates. S. 2136. P/S July 30, 1975. (VV)

Tax rebate—State taxation.—Clarifies the intent of the Senate that the tax rebates provided under the Tax Reduction act of 1975 (Public Law 94–12) are not subject to State income tax. S. Res. 158. Senate adopted June 9, 1975. (VV)

Tax reduction.—Amends the Internal Revenue Code of 1954 for a $22.8 billion net tax reduction as follows:

Individual taxes

1974 Tax Rebate.—Provides a refund on 1974 tax liability to be paid in one installment within 45 to 60 days equal to 10 percent, ranging from $100 (or the amount of taxes paid if less than $100) to a maximum of $200 on an adjusted gross income of $20,000 which is scaled down to $100 when income reaches $30,000 and over;

1975 standard deduction.—Increases the low income allowance on minimum standard deductions from $1,300 for single and joint returns to $1,600 for single and $1,900 for joint returns; increases the regular standard deduction to 16 percent of adjusted gross income up to a maximum of $2,300 for single and $2,600 for joint returns;

1975 personal exemption credit.—Provides a $30 tax credit for each member of the family in addition to the $750 personal exemptions;

1975 earned income credit or work bonus.—Provides a refundable credit of 10 percent of earned income up to a maximum of $400 to families with dependent children with a phase-out to zero when income rises from $4,000 to $8,000;

1975 home purchase tax credit.—Provides a 5 percent credit against tax liability up to a maximum of $2,000 for individuals purchasing a newly constructed home including a mobile home, provided it was built or under construction by March 25, 1975;

Cash payment to social security recipients.—Provides a one-time $50 cash payment from the Treasury at the earliest practicable date to each recipient of social security, railroad retirement, or Supplemental Security Income benefits;

Business taxes:

1975–76 investment tax credit.—Increases the investment tax credit rate to 10 percent for taxpayers, including public utilities; provides an additional 1 percent and requires companies with investments of $10 million or more to use the 1 percent savings for an employee stock ownership plan; increases from $50,000 to $100,000 the cost of used property qualifying for the credit; for public utilities increases the amount of tax liability that may be offset in a year to 100 percent for a two year period which is reduced back to 50 percent over the next 5 years;

Depletion allowance.—Repeals the 22 percent depletion allowance for major oil and natural gas producers; retains the 22 percent depletion allowance for independent companies, who do not have retail outlets, on a daily maximum of 2,000 barrels of oil or 12 million cubic feet of natural gas which is phased down to 1,000 barrels or 6 million cubic feet of gas by 1980 and to a 15 percent depletion allowance on the first 1,000 barrels or 6 million cubic feet by 1984;

Foreign source income.—Provides that the foreign tax credit for foreign oil and gas extraction income is limited to 10 percent above the normal U.S. tax rate for 1975, 5 percent for 1976 and 2 percent for 1977; provides that excess credits cannot be claimed as a credit only against foreign oil related income including interest and dividends; eliminates tax deferral for certain specified types of "tax-haven" income of multinational corporations provided it exceeds 10 percent of gross income; limits tax deferral for shipping income received by a foreign subsidiary to reinvestment in shipping operations only; ends the deferral for certain income earned abroad but reinvested in a less-developed country; repeals the "per-country" limitation for oil and gas related income; eliminates foreign tax credit for payments made to a sovereign government for the purchase of oil where the taxpayer has no economic interest in oil in place and buys or sells such oil at other than the market price; denies DISC (Domestic International Sales Corporation) benefits for the export of natural resources for scarce commodities; denies investment tax credit for drilling rigs used in international and territorial waters of the Southern Hemisphere;

1975 corporate surtax exemption.—Increases the present $25,000 surtax exemption to $50,000; provides a tax rate of 20 percent on the first $25,000, 22 percent on the next $25,000 and 48 percent on income over $50,000; increases the accumulated earnings tax from $100,000 to $150,000;

Federal welfare recipients employment incentive (W.I.N.) tax credit.—Allows employers to hire a Federal welfare recipient for more than 30 days and obtain a tax credit equal to 20 percent of wages not to exceed $1,000 per individual, until July 1, 1976;

Miscellaneous:

Extends unemployment compensation for those eligible under the 1974 Emergency Unemployment Act for an additional 3 months to June 30 1975; allows a maximum of $4,800 in child care expenses to be deducted by families with an income up to $35,000 and phases out to zero such a deduction when income reaches $44,000; extends the tax deferment period for reinvestment in residences from the current 12 months to 18 months; and contains other provisions. H.R. 2166. Public Law 94–12, approved Mar. 29, 1975. (112,117)

Tax reduction extension.—Extends the tax cuts provided by the Tax Reduction Act of 1975 for the first half of 1976 in order to prevent a $16.8 billion annual tax increase on January 1, 1976; provides specific tax cuts by: increasing the minimum standard deduction (or low-income allowance) from $1,300 to $1,700 for single persons and to $2,100 for joint returns; increasing the percentage standard deduction from 15 percent or a maximum of $2,000 to 16 percent or a maximum of $2,400 for single persons or $2,800 for joint returns; providing a tax credit of $35 for each taxpayer and dependent or an alternative refundable earned income credit equal to 2 percent of taxable income up to $9,000 with the provision that the canned income credit should be disregarded in determining eligibility for Aid to Families with Dependent Children benefits; increasing the corporate surtax exemption from $25,000 to $50,000; and reducing the corporate tax rate on the first $25,000 of income from 22 percent to 20 percent with the next $25,000 taxed at 22 percent and all corporate income over $50,000 at 48 percent; and

Authorizes a reciprocal exemption for earnings derived from payments by a common carrier for the use on a temporary basis of railroad rolling stock which is owned by a corporation of a foreign country such as Canada, which grants an equivalent exemption to U.S. corporations. H.R. 5559. Vetoed December 17, 1975. House sustained veto December 18, 1975. (595)

EDUCATION

College work-study program funds.—Permits the intrastate reallocation of funds appropriated for the College Work-Study program in cases where funds originally obligated to institutions are not needed and permits such funds to be expended in the succeeding fiscal year; extends the termination date of the National Advisory Council on Equality of Educational Opportunity from June 30, 1975, through the end of fiscal year 1976 to make it coterminous with its related program, the Emergency School Aid program; and authorizes the Commissioner to carry over into fiscal year 1976 Basic Educational Opportunity Grant funds for fiscal year 1975 which have not been paid to students entitled to such grants. H.R. 4221. Public Law 94–43, approved June 28, 1975 (VV)

Handicapped children.—Amends and extends the Education of the Handicapped Act to aid in making an appropriate education available to all handicapped children; extends the present entitlement formula for payments to States through fiscal year 1977; establishes a new entitlement formula for payments effective for fiscal year 1978 which provides that the maximum amount to which a State is entitled shall be equal to the number of handicapped children, aged 3 to 21, who are receiving special education and related services in the State multiplied by 5 percent of the average per pupil, expenditure in public elementary and secondary schools in the United States by 10 percent for fiscal year 1979, by 20 percent for fiscal year 1980, by 30 percent for fiscal year 1981, and by 40 percent for fiscal year 1982 and each fiscal year thereafter; assures each State a minimum base payment in each fiscal year equal to the amount it received in the fiscal year ending September 30, 1977; provides that a State, in order to be eligible for funding, must have a "right to education" policy for all handicapped children and requires that a free appropriate public education must be made available to all handicapped children aged 3 to 18 by September 1, 1978, and to all handicapped children aged 3 to 21 by September 1, 1980, unless the application of this requirement would be inconsistent with State law or practice, or a court order; further extends the protections afforded under present law assuring handicapped children and their parents of procedural safeguards in any decisions affecting the education of the children; provides for an individualized planning conference which is to be held with the parents, an education agency representative, the teacher, and when appropriate, the child, to be present for the purposes of developing a written statement of the educational program for the child which is to be reviewed at least annually; includes provisions designed to strengthen the administration and evaluation process provided by the Office of Education; requires the Secretary of Health, Education, and Welfare to insure all recipients of funds under this act take affirmative action to employ handicapped individuals; gives new authority to the Commissioner of Education to make grants to State and local educational agencies for the removal of architectural barriers; and contains other provisions. S. 6. Public Law 94–142, approved November 29, 1975. (227,513)

Indochinese refugees educational assistance.—Authorizes $125.5 million to reimburse (on a 100 percent basis the first year and a 50 percent basis the second year) local education agencies for costs incurred in the educating of Indochina refugee children through a basic cost of education grant plus a $300 per refugee child payment for supplementary assistance; and amends the Adult Education Act to direct the Commissioner to operate a program of grants to State and local governments for adult education programs for refugees with such funds to be appropriated from existing authorizations. S. 2145. P/S Oct. 29, 1975. (VV)

Lister Hill Scholarships.—Amends the Public Health Service Act to require the Seccretary of Health, Education and Welfare to make grants to ten individuals a year, to be known as Lister Hill Scholars, who agree to enter into the family practice of medicine in shortage areas upon completion of their educational program, and authorizes therefor $60,000 for fiscal year 1975, $120,000 for fiscal year 1977, and $240,000 for fiscal year 1978. S. 1191. P/S June 13, 1975. (VV)

Reading program.—Continues funding of the right-to-read program; authorizes $22 million over 3 years for a new reading motivation program under which local community agencies will contribute an estimated 21 million additional inexpensive books to over 4 million school children; and makes available Federal matching assistance of 50 percent of the cost of conducting the reading motivational programs by local sponsors. H.R. 8304. P/S December 15, 1975; P/S amended December 17, 1975. (VV)

ELECTIONS

Federal Election Commission.—Extends the Federal Election Commission through December 31, 1976, and increases the authorization therefor from $10 million to $15 million. S. 1434. P/S June 18, 1975; P/H amended June 19, 1975. (VV)

Federal Election Commission regulations.—Disapproves the two regulations proposed by the Federal Election Commission and transmitted to the Senate on July 30 and September 30, 1975, relating to the use of office accounts and franking privileges of Federal officeholders prior to an election in which they are a candidate. S. Res. 275. Senate adopted Oct. 8, 1975. (VV)

Overseas citizens voting rights.—Guarantees the right of otherwise qualified private U.S. citizens residing outside the United States to vote in Federal elections in the State of their last voting domicile; provides that a citizen may register and vote under the Act only if he complies with all applicable State or district qualifications, is not voting in any other State, territory or possession of the United States and has a valid passport or cord of identity and registration issued by the Secretary of State; adopts a uniform absentee registration and voting procedure including the requirement that election officials mail out balloting material as promptly as possible after receipt of a properly completed application; and imposes a $5,000 fine and 5 years imprisonment for wilfully giving false information when registering or voting absentee. S. 95. Public Law 94– , approved 1975. (VV)

Voting rights.—Amends the Voting Rights Act to provide that States or political subdivisions which the Attorney General has determined have, in 1964 or 1968 (1) maintained a literacy or other test or device as a prerequisite for voting and (2) also had a record of less than 50 percent of the voting-age population registered or less than 50 percent voting, shall be covered for an additional 7 years through August 1982 (making the total period 17 years instead of 10 years) by the special provisions which require such a state or subdivision to preclear any voting changes it wishes to make with the U.S. District Court for the District of Columbia or the Attorney General of the United States, and which authorize the appointment of Federal examiners and of Federal observers to assure nondiscrimination on account of race or color in regard to voting rights; adds provisions which apply these special provisions to States or subdivisions which the Attorney General determines are covered because of conditions existing in 1972, with a coverage period of 10 years;

Makes the temporary ban which was placed by the 1970 amendments to the Voting Rights Act of 1965 on the use of literacy tests and other similar devices a permanent prohibition applicable to all States and political subdivisions;

Expands the coverage of the act to certain jurisdictions in which language minorities reside; provides in title II, which is designed to identify areas with the most serious problems of voting rights discrimination against language minorities such as the use of various forms of intimidation to prevent their participation in voting, that (1) a jurisdiction is deemed to employ a test or device as a prerequisite to voting if it provided election materials or assistance only in English and it had more than a 5-percent citizen population of any one language group, such as American Indians, Alaskan Natives, Asian Americans, or persons of Spanish heritage, and (2) that coverage of the act will apply if that jurisdiction also had less than 50 percent of the voting-age population registered or voting; mandates bilingual elections for covered areas for a 10-year period; requires preclearance of voting changes, and authorizes the appointment of Federal examiners and of Federal observers to oversee elections; provides a bailout process which operates in the same manner as the current provision in the act whereby a State or political subdivision may exempt itself by obtaining a declaratory judgment that English-only elections or any other "test or device" has not in fact been used in a discriminatory fashion against language minorities and other racial and ethnic groups for the 10 years preceding the filing of action; addresses in title III the problems of language minority groups in participating in the voting process which are caused by the lack of equal educational opportunities and illiteracy; brings a State or political subdivision under coverage of title III if a single language minority comprises 5 percent of the voting-age population and if the illiteracy rate of that group is greater than the national average; defines illiteracy for the purposes of this title as failing to complete the fifth primary grade, which is the level at which a minimum comprehension in English ordinarily would be achieved; provides a limited remedy for protected classes by requiring that the covered jurisdiction provide bilingual election materials and information in the language of the applicable minority group or groups; provides that a jurisdiction may be removed from coverage if it shows that the illiteracy rate of the language minority which triggered coverage has dropped below the national average, which it may do either by using Census Bureau data or by any reliable or valid survey;

Amends the act to permit private persons as well as the Attorney General to bring suit under the act and to allow a court to grant relief to private parties by suspending the use of literacy and other tests and devices, to impose preclearance restrictions and to appoint Federal examiners as it now may do in cases brought by the Attorney General; authorizes payment of attorney's fees to prevailing parties; and contains other provisions. H.R. 6219. Public Law 94–73, approved August 6, 1975. (329)

EMPLOYMENT

Public works employment.—Authorizes the Secretary of Commerce to make grants to State and local governments for the total cost of construction, renovation, repair or other improvement of public works projects, to make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the cost of public works projects authorized by any other Federal law where the Federal assistance is available and construction has not started, and to make grants for all or any portion of the State or of the local share cost of any public works project authorized by any state or local law where construction has not yet started;

Assures that at least ½ of 1 percent but not more than 10 percent of funds approprited will be granted within any one State and groups Guam, the Virgin Islands and American Samoa together for this purpose; requires the Secretary, as long as the national unemployment rate is 6½ percent or more, to give priority to applications from areas in excess of the national rate and thereafter to give priority to areas in excess of 6½ percent but less than the national unemployment rate; requires that 70 percent of the funds must be used for the first priority category; authorizes up to $2.5 billion to carry out this title for the period ending September 30, 1977;

Authorizes, in title II, funds for financial assistance to State and local governments for each of 5 succeeding calendar quarters (beginning April 1, 1976) of $125 million when the national seasonally adjusted unemployment rate reaches 6 percent plus an additional $62.5 million for each one-half percentage point over 6 percent, which on an annual basis, means $500 million would be authorized when the national rate reaches 6 percent and an additional $250 million would be authorized for each percentage point that the rate rises over 6 percent; authorizes assistance from these amounts to States and local governments based upon their unemployment rate and level of tax revenue, as measures of recessionary impact and the level of services provided;

Amends, in title III, section 201(c) of the Public Works and Development Act of 1965 to increase the authorization for fiscal year 1976 from $75 million to $200 million, and authorizes under this section payment during the calendar year ending December 31, 1976, of interest supplements sufficient to reduce the interest up to 4 percentage points on loans guaranteed by the Secretary in order to aid firms needing financial assistance to continue current operations;

Authorizes the Secretary to designate as a redevelopment area cities of 50,000 or more and to make grants to cities with approved development programs; authorizes $50 million for fiscal year 1976 and $50 million for the transition period for this purpose;

Authorizes $500 million for fiscal year 1976 and makes the funds available for obligation until September 30, 1976, for supplementing existing programs; also authorizes $1,417,968,050 for the fiscal year ending September 30, 1977, for grants for the construction of publicly-owned wastewater treatment works pursuant to title II of the Federal Water Pollution Control Act;

And contains other provisions. H.R. 5247. P/H May 20, 1975; P/S amended July 29, 1975; Senate agreed to conference report December 17, 1975. (348)

Railroad improvement and employment.—Creates a supplemental public service employment program to accelerate the repair and rehabilitation of railroad roadbed and facilities which are essential to national transportation needs; authorizes $600 million to the Secretary of Transportation to make grants to States, local transportation authorities railroads, regional commissions and similar bodies to enable them to hire persons for approved railroad roadbed and facility repair on rehabilitation projects; authorizes an additional $100 million to enable the Secretary to assist grant recipients to purchase materials or equipment for the approved projects if the recipient is financially unable to acquire materials without assistance; provides $100 million for loan guarantees for assistance in purchasing materials and equipment; and contains other provisions. S. 1730. P/S May 16, 1975. (189)

Unemployment compensation.—Extends the time for payment for the additional 13 weeks of unemployment compensation authorized by the Tax Reduction Act of 1975 for the Federal Supplemental Benefits (FSB) program established by the Emergency Unemployment Compensation Act of 1974, which authorized 26 weeks, thus making a total of up to 39 weeks of benefits payable in addition to regular unemployment compensation benefits (which averages 26 weeks) through March 1, 1977;

Changes, effective January 1, 1976, the rate of insured unemployment (which is about 2 percentage points less than the actual unemployment rate) which must be reached for payment so that, instead of payment when the rate is 4 percent or more nationally or in the State for all additional weeks, payment for benefits after the first 39 weeks (26 regular weeks and 13 additional weeks) will be made for the 39th to 52nd weeks when the insured unemployment rate is between 5 and 6 percent in an individual State and payment for the 53rd to 65th week may be made when the insured unemployment rate is 6 percent or over in the individual State;

Extends the Supplemental Unemployment Assistance (SUA) benefits program (payable to unemployed people who do not qualify for unemployment compensation) established by the Emergency Jobs and Unemployment Assistance Act of 1974 to permit payments through March 31, 1977, and increases the number of benefit weeks from 26 to 39; entitles the Virgin Islands to borrow money from Federal general revenues as necessary to continue its unemployment insurance program; and contains other provisions. H.R. 6900. Public Law 94–45, approved June 30, 1975. (240,257)

Virgin Islands unemployment compensation funds—Railroad retirement.—Provides that certain unemployment compensation funds may be used for repayable loans not to exceed $5 million to the Virgin Islands; amends the railroad tax act so that wages will be considered to be earned as of when they are paid unless the employee requests that they be treated on the basis of when they were actually earned. H.R. 9091. Public Law 94–93, approved August 9, 1975. (VV)

ENERGY

Automobile fuel economy.—Establishes, in title I, a mandatory fuel economy standards program within the Department of Transportation; directs the Secretary of Transportation to establish yearly minimum standards applicable to each manufacturer's average production of new automobiles or new light-duty trucks, as appropriate, which are to apply to model years 1977 through 1985; provides that the standards are to be set to achieve a 50-percent improvement in fuel economy for automobiles by model year 1980 over that of 1974 models, or 21 miles per gallon as opposed to 14 miles per gallon for the 1974 model average, and a 100-percent improvement for at least 28 miles per gallon by model year 1985, and authorizes the Secretary to modify these goals if necessary; provides that the Secretary set standards separately for light-duty trucks, which are not placed under the 50- and 100-percent improvement goals for automobiles; provides civil penalties for violations; requires that each new automoblie and light-duty truck have attached a manufacturer-prepared energy guide setting forth information on fuel economy and estimated annual fuel costs, and that dealers disclose estimated annual fuel costs to prospective purchasers prior to the completion of any purchase of an automobile or light-duty truck; directs the Secretary to conduct a study regarding the use of electric vehicles, including whether they should be included under this title;

Contains, in title II, provisions for an automotive research and development program within the Department of Transportation, in coordination with the Energy Research and Development Administration (ERDA), to develop production prototyes of advanced automobiles which represent the maximum practicable fuel efficiency attainable consistent with environmental, safety, and dameageability requirements; in title III, establishes not more than three motor vehicle diagnostic inspection demonstration projects;

And contains other provisions. S. 1883. P/S July 15, 1975. Note: (Similar provisions are contained in S. 622, Standby Energy Authority.) (285)

Coal leasing—Strip mining.—Makes basic changes in the Mineral Leasing Act of 1920 governing leasing of Federally owned coal which constitutes almost 50 percent of the recoverable coal reserves in the United States; provides that all leasing shall be done under a 5-year program to be developed by the Secretary of the Interior and designed to meet national needs for Federal coal in a manner consistent with (a) timely and orderly development of Federal coal resources, (b) environmental protection, and (c) receipt of fair market value for public resources; provides that leases may be issued only by competitive bidding on either a royalty or bonus bidding basis in order to permit a wider opportunity for competition for Federal coal leases;

Requires the preparation of land use plans where the United States owns both the surface and subsurface prior to sale of leases, and provides that, in cases where the surface is not Federally owned, no lease sale shall be held if the Secretary determines that development of such coal deposits would be inconsistent with any applicable State or local land use plan except where the Secretary finds that such development would be in the national interest;

Eliminates prospecting permits and preference right leases to prospectors as no longer appropriate or necessary since considerable information has been accumulated since 1920 about Federal coal resources which provides an adequate basis for leasing decisions; provides that coal leases shall be for a specified term of 20 years and so long thereafter as coal is produced instead of for indeterminant periods dependent upon diligent production as at present; requires a lessee, within 3 years after obtaining a coal lease and before significant environmental disturbance, to formulate and submit for approval a development plan which must show the work to be done, the manner of extraction, how applicable environmental and health and safety standards are to be met as well as reclamation standards set out in title II;

Increases by 22½ percent (from 37½ to 60 percent) the share of lease revenues to the State in which the lease is located and specifies that the additional 22½ percent amount shall be used for planning, construction and maintenance of public facilities, and provision of public services in those areas suffering impact problems as a result of energy development;

In title II, the Federal Lands Surface Mining Control and Reclamation Act of 1975, applies to Federal lands and Federal coal the basic surface coal mining and reclamation standards of the recently-vetoed strip mining bill (H.R. 25); requires the Secretary to issue regulations for a Federal program implementing this Act; requires after enactment of this Act that persons wishing to conduct any surface mining operations on Federal lands must obtain a permit from the Secretary; specifies the permit application information that must be given to demonstrate that the environmental protection provisions of this Act can be met, which includes submission of a reclamation plan; provides for the giving of public notice and the holding of public hearings in regard to an application; and contains other provisions. S. 391. P/S July 31, 1975. (364)

Coastal Zone Management.—Amends the Coastal Zone Management Act to assist States facing Outer Continental Shelf (OCS) oil and gas development or other energy-related developments and facilities affecting the coastal zone; provides assistance in the form of grants or loans to coastal States from a new coastal energy facility impact fund, which is to be available to States receiving or anticipating impacts in their coastal zones from the exploration, development, and production of energy resources, or from the location, construction, expansion or operation of any energy facility requiring a Federal license or permit; authorizes moneys for the fund at $250 million per year for 3 fiscal years and the 1976 transition period; provides that up to 20 percent of the moneys may be used for planning grants with the balance to be used for efforts to reduce or ameliorate adverse impacts from energy exploration and development or to provide public facilities and services necessitated by such activity; requires as a condition of eligibility to provide public facilities and services necessitated by such activity; requires as a condition of eligibility for assistance from the fund that the State must participate in a coastal zone management program and must experience or anticipate a temporary or net adverse impact or have experienced an adverse impact within the 3 years prior to enactment; authorizes automatic grants payable from the General Treasury to any State where OCS oil or natural gas is being directly landed (brought ashore); provides a Federal guarantee for State or local government bonds issued to pay for measures needed to reduce adverse coastal impacts; contains provisions to clarify that Federal leases must be consistent with approved coastal zone management programs of the affected States; raises the Federal share for coastal zone management funding from 66⅔ percent to 80 percent; amends the Mineral Leasing Act of 1920 to increase from 37½ percent to 60 percent the amounts returned to the States as reclamation funds from royalties paid to the Federal Government by mining companies extracting federally-owned minerals; and contains other provisions. S. 586. P/S July 16, 1975. NOTE: (Impact fund provisions also contained in S. 521, Outer Continental Shelf Management.) (291)

*Emergency petroleum allocation.—Extends the Emergency Petroleum Allocation Act, which contains the only presently existing authority for allocation and price control of oil, from August 31, 1975 to March 1, 1976; extends the authority of the Federal Energy Administration (FEA) under the Energy Supply and Environmental Coordination Act to require electric powerplants and major industrial facilities with the capability to utilize coal to convert from oil and natural gas to coal from June 30, 1975 to December 31, 1975; and requires the FEA to include in its quarterly energy information reports information on pricing and related developments in the coal industry and any other major energy industries not subject to Federal price regulation. S. 1849. Vetoed Sept. 9, 1975. Senate sustained Sept. 10, 1975. *NOTE:* (Provisions contained in H.R. 4035, Oil Pricing, which was vetoed on July 21, 1975.) (281,388)

Extends the Emergency Petroleum Allocation Act (containing price control and allocation authority) until November 15 and suspends the President's authority under section 4(g)(2) to send Congress a plan which would institute a major change in the petroleum pricing policy until November 1. H.R. 9524. Public Law 94–99, approved Sept. 29, 1975. (421)

Extends the Emergency Petroleum Allocation Act of 1973 for an additional 30 day period, until December 15, 1975. S. 2667. Public Law 94–133, approved Nov. 14, 1975. (VV)

Energy labeling and disclosure.—Amends the Federal Trade Commission Act to require that the energy characteristics and estimated annual operating costs of major energy-consuming household products and automobiles be disclosed to consumers prior to purchase so that consumers can readily compare and avoid buying products which unnecessarily waste energy;

Requires each manufacturer or importer of major energy-consuming household products and automobiles to include the estimated annual operating cost data and an appliance energy guide or an automobile energy guide as part of the material shipped with each product or automobile to suppliers; prohibits car dealers from selling any new automobile without disclosing the estimated annual operating cost to the buyer prior to sale; contains provisions regarding advertising; authorizes the Administrator of the Federal Energy Administration and the Federal Trade Commission to carry out a consumer education program with respect to annual operating costs, appliance and automobile energy guides, and the need for energy conservation; and contains other provisions. S. 349. P/S July 11, 1975. Note: (Similar provisions are contained in S. 622, Standby Energy Authority.) (275)

Energy policy and conservation.—Extends in title I, domestic supply availability, the authority of the Federal Energy Administration (FEA) to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal; increases competition in the oil industry by limiting joint venture bidding by major oil companies in the development of crude oil or natural gas on the Outer Continental Shelf; authorizes the President to restrict exports of energy supplies and energy-related materials under certain circumstances, and authorizes the President to require the production of crude oil and natural gas from designated fields at the maximum efficient rate of production or the temporary emergency production rate; creates a Strategic Petroleum Reserve of up to one billion barrels of crude oil, residual fuel oil and refined petroleum products to insulate the domestic economy from future supply interruptions; provides that the plan for the Reserve, which is subject to review and disapproval by either House, must be submitted to Congress not later than December 15, 1976; requires that the plan include provision for the creation of regional petroleum product reserves in regions where more than 20 percent of demand for such products is met by imports; authorizes the FEA to require importers and refiners to store as reserves up to 3 percent of their imports as throughputs for the previous calendar year; creates also an Early Storage Reserve consisting of not less than 150 million barrels of crude oil, residual fuel oil and refined petroleum products, to be stored within 3 years of the date of enactment;

Authorizes in title II, standby energy authorities, the President to prescribe energy conservation plans, including rationing plans and to authorize actions necessary to carry out U.S. obligations under the International Energy Program, if a contingency plan for implementing this authority has been approved by concurrent resolution of the House and Senate, and the President has determined that exercise of the plan is required by a severe energy supply interruption or the International Energy Program; and gives the President authority to authorize persons in the oil industry to develop and carry out voluntary agreements for international oil allocation under a grant of limited antitrust immunity and to transmit information to the International Energy Agency;

Establishes in title III, energy conservation programs, mandatory average fuel economy performance standards for passenger automobiles and other light duty highway vehicles, which are applicable in model year 1978 and thereafter; requires energy labeling of automobiles and major home appliances and authorizes energy efficiency standards for major appliances; authorizes block grants-in-aid for States to assist in the development and implementation of state-administered energy conservation programs; and establishes programs to encourage increased efficiency of energy use by industry, for energy conservation within the Federal Government, and to promote the use of recycled oil;

Amends in title IV, oil pricing policy, the Emergency Petroleum Allocation Act of 1973 to establish a pricing formula for domestically-produced crude oil which provides for initial crude oil price roll back and authorizes gradual increases in the prices received by domestic producers over a 40-month period as follows:

Establishes a domestic composite price of $7.66 per barrel, which represents a rollback of $1.09 from the current domestic average estimated by FEA at $8.75 per barrel, which in combination with the removal of the $2 per barrel import tariff will result in a significant reduction in the price of the crude oil run in domestic oil refineries; requires that these reductions in crude oil costs be reflected in the price of refined petroleum products paid by consumers; grants the President broad flexibility to set prices for various categories of oil production as long as the average domestic price does not exceed the $7.66 composite price; permits upward adjustment of the domestic composite price for inflation, and allows a 3 percent price increase per year as an incentive for the development of high-cost production, to maintain production from marginally profitable properties, or to encourage the application of enhanced recovery techniques, with the sum of these adjustments limited to 10 percent per year unless further authority for upward adjustment is obtained from Congress; allows the President to submit proposals to modify the 3 percent and 10 percent ceiling to Congress at 3 month intervals, which will take effect unless disapproved by either House; directs the President to submit to Congress on February 15, 1977, an analysis of energy supply, demand and import relationships which have evolved under the act; requires the President to submit to Congress on April 15, 1977, a report on the impact of anticipated Alaskan oil production levels and prices on domestic oil prices and on incentives to increase and maintain production in the lower 48 States, and authorizes the President to then propose, subject to Congressional review, the exclusion of up to 2 million barrels per day of Alaskan production from the composite price ceiling and the establishment of a separate ceiling for this production not to exceed the highest price granted to significant volumes within the composite;

Extends the basic petroleum allocation authority presently contained in the Emergency Petroleum Allocation Act for 40 months; converts this allocation authority and the oil pricing provisions in this act to an optional standby status at the end of the 40 month period, and terminates the authority 5 years after enactment;

Sets forth in title V, general provisions, provisions of general applicability relating to procedural requirements for agency actions, judicial review, and enforcement. S. 622. Public Law 94- , approved , 1975. (138, 604)

Energy supply—Clean air.—Extends from June 30, 1975, until December 31, 1975, the Federal coal conversion programs under the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93-319). S. 2337. P/S Sept. 19, 1975. (VV)

ERDA authorization.—Authorizes $5,014,133,000 for fiscal year 1976 and $1,347,283,000 for the transition period July 1-September 30, 1976, for the Energy Research and Development Administration (ERDA) which was established by the Energy Reorganization Act of 1974 and is responsible for the nuclear programs formerly administered by the Atomic Energy Commission and which also has the leadership role in implementing nonnuclear energy research programs; includes, among the nuclear programs funded: basic physical research; fusion research; fission research, including the development of advanced reactors which will permit increased utilization of nuclear fuel resources—uranium and thorium; a nuclear materials program to assure a sufficient supply of enriched uranium to fuel civilian power reactors; a national security program to enable continued maintenance of a nuclear weapons capability; and environmental and safety research, which also includes work on the artificial heart and nuclear medicine; and includes among the nonnuclear programs, fossil energy development programs in coal, oil and gas, fusion, solar and geothermal energy programs, and advanced energy systems research programs. H.R. 3474. Public Law 94- , approved 1975. (371,568)

International Petroleum Exposition.—Authorizes the President to invite the several States and foreign nations to participate in the International Petroleum Exposition at Tulsa, Oklahoma, from May 16 through May 22, 1976, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products. S.J. Res. 59. P/S May 13, 1975. (VV)

Natural gas decontrol.—States in title I, temporary provisions, the finding of Congress that severe gas shortages will occur during the heating season from November 1975 through March 1976; sets an expiration date for the temporary provisions of midnight April 4, 1976;

Directs the Federal Power Commission, which administers Federal regulations and price control over natural gas companies in the interstate market, to provide exemptions for periods up to 180 days for interstate pipelines which do not have a sufficient supply of natural gas to meet the needs of their high-priority consumers; places a price ceiling on first sales of natural gas interstate and intrastate based on the highest wellhead price, as determined by the Federal Power Commission, at which natural gas was sold during the period June 1 through August 1, 1975, in the unregulated intrastate market in the State where the sale is made;

Grants the Federal Energy Administration authority to prohibit the use of natural gas as boiler fuel; continues the existing propane allocation program through the emergency period; permits the direct purchase by high-priority users of intrastate gas at the unregulated intrastate price by enabling them to arrange for the transportation of such gas by interstate pipelines when the interstate pipeline is unable to secure the needed gas; and contains other provisions.

Contains in title II, permanent provisions effective as of midnight April 4, 1976, which remove price controls on the wellhead price of "new" onshore natural gas, provide for a phaseout of controls on "new" offshore Outer Continental gas by 1980, and continue price control on "old" onshore and offshore Outer Continental gas under a new national price ceiling as follows:

Includes in the category of "new" natural gas (1) gas "dedicated" for the first time into interstate commerce by a producer's entrance into a contract of sale with a purchaser on or after January 1, 1975, and (2) gas produced from a reservoir discovered on or after January 1, 1975, or from wells initiated and completed in an extension of a previously discovered reservoir on or after that date; includes in the category of "old" natural gas that gas which is under a contract in interstate commerce which was entered into prior to January 1, 1975, or which is continued in interstate commerce after a contract entered into prior to that date expires;

"New" onshore natural gas: Decontrols the wellhead price as of midnight, April 4, 1976;

"New" offshore Outer Continental natural gas: Provides for the phasing out of Federal price regulation by December 31, 1980, by directing the FPC to establish a new national price ceiling, which may be modified from time to time, for gas produced from January 1, 1975, through December 31, 1980, and removes all price regulation on this offshore gas effective January 1, 1980: sets new criteria to be used by the Commission in setting this ceiling based on present and prospective costs instead of historical costs as under present law;

"Old" onshore and offshore Outer Continental natural gas: Continues Federal price regulation under a national price ceiling to be established by the FPC and modified every 2 years using new criteria set by this act which are based on present and prospective costs instead of historical costs;

Provides that priority in obtaining supplies of natural gas shall be given, first, to residential users, small users, and services vital to the public health and safety, second, to essential agricultural purposes, and third, to essential industrial purposes where natural gas is used as a raw material in making products such as synthetic fibers, plastics, pharmaceuticals, petrochemicals, and fertilizers; gives the FPC jurisdiction over synthetic gas plants to the same extent as if it were a natural gas company;

Authorizes the FPC to prohibit the use of natural gas as boiler fuel by powerplants; directs the Federal Energy Administration to issue regulations governing the ornamental and decorative use of natural gas;

Requires all pipelines to file separate tariffs with respect to "new" natural gas and "old" natural gas, and to give first priority on the lower priced regulated "old" gas to companies serving residential users and small commercial agricultural users;

Provides for the sale of offshore royalty gas belonging to the Federal Government: and contains other provisions. S. 2310. P/S Oct. 22, 1975. (452)

Naval petroleum and strategic energy reserves.—Amends chapter 64, title 10 United States Code to provide for the full exploration and development of the naval petroleum reserves and to permit limited production of Naval Petroleum Reserves 1—Elk Hills, No. 2—Buena Vista, and No. 3—Teapot Dome under the authority of the Secretary of the Navy;

Defines "national defense" for the purposes of permitting such production in terms broad enough to permit production to partially offset a situation such as the Arab embargo of 1973; provides that production will not exceed the maximum efficient rate determined in accordance with sound oilfield engineering practices or 350,000 barrels per day whichever is less; limits production to 5 years; makes production at Elk Hills contingent upon the Secretary reaching a binding agreement with Standard Oil Company of California, which owns approximately 20 percent of Elk Hills field, that would protect the public interest; authorizes the President to direct that oil produced under the provisions of this act be placed in a strategic reserve as authorized by law;

Waives, for the period of production, the requirement that the Secretary consult with the Congress on every contract; retains the requirement that the sale of all production be by competitive bidding; establishes a special account in the Treasury to permit an accurate accounting for accomplishment of the purposes of this legislation, which includes operation of the naval reserves on a self-sustaining basis; requires the Administrator of the Federal Energy Administration to submit a written report within 180 days after enactment recommending procedures for the exploration, development and production of Reserve No. 4 in Alaska;

Contains provisions identical to the Strategic Energy Reserves Act of 1975 which the Senate passed on July 8, 1975 and which provides for the establishment of national federally owned oil reserves, regional petroleum reserves, and interim industry reserves under the management of the Federal Energy Administration; and contains other provisions. H.R. 49 (S. 2173). P/H July 8, 1975; P/S amended July 29, 1975; In Conference. (342)

*Oil import fees.—Suspends for the 90-day period beginning on the date of enactment any authority the President might have to adjust imports of petroleum and petroleum products; negates any Presidential action to adjust petroleum imports taken after January 15, 1975, and before the date of enactment, and also provides for the rebate of any duties or import fees or taxes levied and collected pursuant to any such action; provides that the suspension of this authority will cease if at any time during the 90-day period war is declared, a national emergency occurs, or certain situations involving the commitment of U.S. Armed Forces arise; and provides that the import license fee system on petroleum and petroleum products which the provisions of this bill provide shall not affect the import license fee system on petroleum and petroleum products which was in effect on January 15, 1975. H.R. 1767. Vetoed Mar. 4, 1975. House referred to Ways and Means Committee Mar. 11, 1975. (13)

*Oil pricing.—Makes more effective the mechanism in existing law for congressional review and right of disapproval of Presidential proposals to exempt petroleum products from the allocation or pricing controls currently in effect under the Emergency Petroleum Allocation Act of 1973;

Expands the time for congressional review from 5 to 20 days and contains procedures for expediting review to assure that the question of approval or disapproval can be brought to the floor of either House within the 20-day review period;

Requires the President to administratively establish price controls for presently noncontrolled "new oil" (oil produced at levels above the 1972 volumes) with price ceilings no higher than the January 31, 1975 prevailing prices (which averaged $11.28 per barrel on a national basis); does not make this authority subject to congressional review unless the proposal would bring the price over this maximum ceiling;

Provides for congressional review of any proposal to permit the price of presently controlled "old oil" (oil from properties producing at, or less than, their 1972 production levels) to increase substantially above its national average price of $5.25; grants specific authority to alter present price controls to allow a price incentive to take account of natural declines in field production and to encourage the most costly use of secondary and tertiary recovery methods where the costs are significantly greater than the regular methods; requires congressional review only where the total incentives are of such a magnitude as to cause an increase in excess of 50 cents per barrel in the national average price of "old" crude oil;

Extends the Emergency Petroleum Allocation Act, which contains the only presently existing authority for price control and allocation of crude oil and petroleum products, from August 31 to December 31, 1975; extends the authority under the Energy Supply and Coordination Act of the Federal Energy Administration to issue coal conversion orders requiring facilities using oil or gas to convert to coal and the authority under that act to gather energy data from June 30 to December 31, 1975;

Provides a limited exemption for small refiners from the crude oil entitlements program in effect under current Federal Energy Administration regulations;

And contains other provisions. H.R. 4035. Vetoed July 21, 1975. House referred to Interstate and Foreign Commerce Committee July 23, 1975. (161,287)

Oil shale revenues.—Amends the Mineral Leasing Act of 1920 to permit each State, after January 1, 1974, to use its share of oil shale revenues for planning, construction and maintenance of public facilities, and provision of public services. S. 834. P/S Apr. 22, 1975. (VV)

Outer Continental Shelf Management.—Amends the Outer Continental Shelf Lands Act of 1953 for the purpose of increasing production of oil and gas from the Outer Continental Shelf (OCS) in a manner which assures orderly resource development, protection of the environment, and receipt of fair market return for public resources and encourages development of new technology to increase human safety and eliminate or reduce environmental damage;

Directs the Secretary of the Interior to prepare a comprehensive advance planning program for leasing which would indicate the size, timing, and location of leasing activity which the Secretary believes would meet national energy needs over the next 5 years;

Contains provisions giving States and local governments and the general public a significant opportunity to participate in and comment on Federal OCS planning and policy decisions which include authorization for the Governors of coastal States to establish a regional OCS advisory board which would advise the Secretary on all matters related to OCS oil;

Contains provisions identical to the new coastal zone impact fund provisions contained in the Coastal Zone Management Act Amendments which passed the Senate on July 16, 1975, which amend the Act and establish a new coastal zone impact fund to assist coastal States in ameliorating adverse environmental impacts and controlling secondary economic and social impacts associated with OCS oil and gas development;

Requires a Federal lessee who finds oil and gas to prepare and submit to the Secretary, the Governors of affected coastal States and any regional OCS advisory board a development and production plan in order to give them an opportunity for review and to permit the coastal states to assess the potential impacts of the development and to resolve any problems with the Secretary and the lessee before they occur;

Directs the Secretary to conduct a survey of oil and gas resources of the OCS; authorizes the Secretary to conduct or contract for exploratory activities in order to obtain more information about the oil and gas resources on the OCS and for exploratory drilling on an experimental basis when needed for national security, environmental reasons, or to expedite development in frontier areas;

Puts into law the existing rule, established by Departmental regulation, that an OCS lessee is liable for the total cost of control and removal of spilled oil; creates a new strict liability rule for damages from OCS oil spills which imposes damage liability, except for acts of war, without regard to fault or to the ownership of the land or resource damaged if the land or resource is relied on for subsistence or economic purposes; makes the lessee or holder of a right of way liable for the first $22 million and the Offshore Oil Pollution Settlement Fund, created by the Act, liable for the balance; finances the fund by placing a fee of 2½ cents per barrel on oil produced from the OCS;

Requires any person holding a geological or geophysical exploration permit to submit to the government the data and information, including interpretive data, obtained during exploration, which would be kept confidential unless the Secretary determined that public availability of the data would not damage the competitive position of the permittee or lessee; directs the Secretary to establish safety and performance standards for all pieces of equipment pertinent to public health, safety or environmental protection;

Authorizes a wide variety of new bidding systems in addition to the cash bonus fixed royalty system which has been the historical method of OCS bidding; provides clear authority for the Federal government to take oil or natural gas royalties in kind and dispose of them in a manner to alleviate shortages; requires environmental baseline and monitoring studies before oil and gas drilling can begin on any OCS area not previously leased; increases criminal penalties for certain willful violations of the Act and imposes civil liability for violations; contains provisions designed to promote Federal interagency coordination and directs coordination with State and local government agencies;

Increases to 60 percent the amount given to States from Federal mineral revenues derived under the Mineral Leasing Act of 1920 from coal, oil shale, oil and gas, and other public land mineral development, and provides that this additional amount shall be used by States socially or economically impacted by this development for planning, construction and maintenance of public facilities, and provision of public services; and contains other provisions. S. 521. P/S July 30, 1975. (362)

Petroleum products fair marketing.—Prohibits the termination, cancellation, or nonrenewal of a petroleum products franchise unless the affected franchise failed to comply substantially with any essential and reasonable requirement of the franchise, failed to act in good faith in carrying out the terms of the franchise, or the supplier withdraws entirely from the sale of petroleum products in commerce; provides that a civil action may be brought against a distributor or refiner who is in violation of the act within 3 years of the date a termination or cancellation notice is rendered; and limits, on an equal basis, marketing activities of all major oil companies to restrict the expansion of distribution and retaining operations with personnel under their direct control. S. 323. P/S June 20, 1975. (VV)

Strategic energy reserves.—Provides for the creation and maintenance over a 7-year period of strategic energy reserves equal to 90 days of imports, which would place an average total of 594 million barrels in reserve and would compensate, based on the amount by which imports were reduced under the 1973–74 oil embargo, for import reduction for a period of 237 days;

Provides for the establishment and maintenance of a Strategic Energy Reserve system by the Federal Energy Administration (FEA) acting through a Strategic Energy Reserve Office within the FEA and: (1) requires the FEA to establish a national Federally owned crude oil storage program which could include storage of crude oil from Federal lands, including the naval petroleum reserves, if authorized by Congress; (2) authorizes the creation of Federally owned regional petroleum product reserves of refined petroleum products and requires that a reserve be established for any fuel in any district where more than 25 percent of the demand for that fuel has been met by imports during the preceding 24 months, which presently covers residual fuel oil, and for No. 2 fuel—home heating oil—where more than 10 percent of the demand is met by imports, these fuels being a particular supply problem in eastern coast States; (3) authorizes the FEA to require interim industry storage reserves consisting of up to 3 percent of imports or refinery throughput of the previous calendar year until the total level under the 7-year national and regional programs is reached and, thereafter, to require industry to maintain stocks in an amount equal to the average readily available inventories for the corresponding month of the 3 preceding years; (4) provides for the inclusion of such other components as Congress may authorize;

Exempts materials in the interim industry reserves from any tariff or import license fee; authorizes the use of the reserves if petroleum imports have fallen or are within 30 days expected to fall by 10 percent or if required to do so under international agreement; provides that the Administrator is to establish price levels and allocation procedures for the oil withdrawn that are consistent with the objectives enumerated in the Emergency Petroleum Allocation Act; authorizes the FEA to adjust the processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of the Emergency Petroleum Allocation Act in the case of an embargo; and contains other provisions. S. 677. P/S July 8,1975.

Note.—(Similar provisions are contained in S. 622, Standby Energy Authority.) (263)

*Strip mining.—Establishes a program for the regulation of coal surface mining activities and the reclamation of coal mined lands in order to assure that surface coal mining operations—including exploration activities and the surface effects of underground mining—are conducted so as to prevent or minimize degradation to the environment, and that surface mining operations are not conducted where reclamation is not feasible according to the terms and conditions of the act;

Establishes the Office of Surface Mining Reclamation and Enforcement in the Department of the Interior to administer the programs for controlling surface coal mining operations, including the State programs which must be submitted for approval;

Requires the Corps of Engineers to approve the basic standards regulating mine waste disposal and review plans but with no responsibility for on-the-ground supervision and enforcement;

Establishes a fund and a program for the reclamation of abandoned mined lands and for relief of impacted areas; provides funding for such activities from reclamation fees collected at 35 cents per ton for surface mined coal, 15 cents per ton for all coal mined by underground methods or 10 percent of the value of the coal at the mine, whichever is less except that the fee will not exceed 5 percent of the value of lignite; provides that 50 percent of fees collected in any one State are to be expended in that State for reclamation or alleviating the impact of coal development in the area; provides that, in areas where there is relatively little damage from past coal mining, the States' share of the fees may be used for other purposes;

Sets a series of minimum uniform requirements for all coal surface mining operations on both Federal and State lands which deal with four basic issues—pre-planning, mining practices, post-mining reclamation and the protection of water resources; specifies that lands which cannot be reclaimed under the standards of the act and lands within the National Park, Wildlife Refuge, Wilderness and Wild and Scenic Rivers systems, National Recreation Areas, National Forests, and certain other areas may not be strip-mined; makes special provision for mining which affect alluvial valley farming land; provides for certain limited variances to the prescribed standards where such variances provide equal or better protection to the environment and result in a higher post-mining use;

Provides, in regard to rights of private surface owners, for obtaining consent as a condition of issuing a new Federal coal lease, and requires payment of all damages, including lost income, and payment of limited additional compensation to the surface owner;

Establishes a grant program to fund mining and mineral resources and research institutes in public colleges and universities to train qualified personnel in mine-related fields and to conduct research related to mining technology;

Provides for a study, to be completed by 1976, to determine the appropriate program for regulating surface coal mines on Indian lands and requires, in the interim, that all leases on Indian lands include certain performance standards at least as stringent as those in the Act; and contains enforcement and other provisions. S. 7. P/S March 12, 1975. (62) H.R. 25. Vetoed May 20, 1975. House sustained veto June 10, 1975. Note.—(Comparable provisions are contained in S. 391, Coal Leasing—Strip Mining.)

TVA bonding authority.—Amends the Tennessee Valley Authority Act of 1933 to increase from $5 billion to $15 billion the amount of revenue bonds which the Tennessee Valley Authority may have outstanding to finance additions to its power system and allow for annual payments to the Treasury for earlier appropriated investments as is the case for other Federal corporations. H.R. 9472. Public Law 94–139, approved November 28, 1975. (VV)

ENVIRONMENT

Council on Environmental Quality.—Environmental policy.—Authorizes $2 million for fiscal year 1976 and $500,000 for the transition period (July 1–September 30, 1976) for the Council on Environmental Quality and amends the National Environmental Policy Act of 1969 to permit the Council to accept certain reimbursements for domestic and international travel, and to make use of volunteer and uncompensated services. H.R. 6054. Public Law 94–52, approved July 3, 1975. (VV)

Environmental impact statements.—Amends the Environmental Policy Act of 1969 to establish a single uniform procedure for environmental impact statements (EIS) prepared after January 1, 1970 on major projects funded under a program of Federal grants to States including, the Federal-aid highway program; permits State preparation of an EIS so long as the responsible Federal official guides and participates in the EIS preparation and independently evaluates the product before approving and adopting it; and requires the Federal official to prepare independently for the EIS the analysis of the impacts and alternatives of major interstate significance associated with the project or action which is the subject of the EIS. H.R. 3130. Public Law 94–83, approved August 9, 1975. (VV)

National Advisory Committee on Oceans and Atmosphere.—Authorizes $445,000 for fiscal year 1976, $111,250 for the transition period July 1–September 30, 1976, and $445,000 for fiscal year 1977 for the National Advisory Committee on Oceans and Atmosphere. H.R. 5447. Public Law 94–69, approved August 5, 1975. (VV)

Noise control.—Extends from June 30, 1975 to September 30, 1976, the monetary authorizations under the Noise Control Act of 1972 to provide the necessary authorization for funds appropriated under the Continuing Resolution (P.L. 94–41) and the HUD Appropriation bill (P.L. 94–116). H.R. 5272. P/H July 29, 1975; P/S amended December 1, 1975. (VV)

Ocean dumping.—Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for fiscal year 1976 and the transition period July 1–September 30, 1976 as follows: Title I, Ocean dumping permit program—$5.3 million for fiscal year 1976 and $1.325 million for the transition period; title II, research program on the effects of ocean dumping on the marine environment—$6 million for fiscal year 1976 and $1.5 million for the transition period; and title III, marine sanctuaries areas—$6.2 million for fiscal year 1976 and $1.55 for the transition period; and changes from January to March, the month in which the Secretary of Commerce must file his annual report on the effects of ocean dumping on the marine environment. H.R. 5701. Public Law 94–62, approved July 25, 1975. (VV)

Scrimshaw art preservation.—Permits the Secretary of Commerce, who administers the Endangered Species Act with respect to whales, to grant exemptions for a limited period of time for the sale of finished scrimshaw (etched designs and carvings from whale bone) products in interstate commerce. S. 229. P/S Apr. 10, 1975. (VV)

Solid waste disposal.—Extends from June 30, 1975 to September 30, 1976, the monetary authorizations under the Solid Waste Disposal Act, as amended, to provide the necessary authorization for funds appropriated under the Continuing Resolution (P.L. 94–41) and the HUD Appropriations bill (P.L. 94–116). S. 2709. P/S December 1, 1975. (VV)

Water pollution control.—Extends from June 30, 1975 to September 30, 1976, certain monetary authorizations under the Water Pollution Control Act, as amended, to provide the necessary authorization for funds appropriated under the Continuing Resolution (P.L. 94–41) and the HUD Appropriation bill (P.L. 94–116). S. 2710. P/S December 1, 1975. (VV)

GENERAL GOVERNMENT

Alaskan Natives.—Reopens for one year the roll of Alaska Natives to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline and provides for the adjustment of distributions of money thereunder; requires the Secretary of the Interior to redetermine the place of residence of Natives who had enrolled in Native "villages" or "groups" which were subsequently found ineligible, for purposes of receiving benefits; authorizes the Secretary to place revenues received by the Interior Department from Federal lands which will be patented to the Natives in an escrow account to receive interest until the time of patenting and then to pay the account funds to the Natives; establishes the rights of easement holders on such lands to revenues arising directly from the easement; permits mergers of Native Village Corporations which are too small to be economically viable with other Village Corporations or the Regional Corporation; removes Native corporations from the purview of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934 until December 31, 1991; insures that Settlement Act benefits would not be counted against eligibility for the food stamp or other Federal programs; extends the authority of the Joint Federal-State and Land Use Planning Commission for Alaska until June 30, 1979; authorizes $250,000 to pay four Native corporations in cities where Native populations were once in the majority but are now in the minority and which have land selection rights but received no funds under the Settlement Act with which to do the necessary organizing and inventorying to make the selections; authorizes the payment of $100,000 to each of six villages which elected to obtain fee title to reservation lands rather than receive land and monetary benefits; and permits Natives who chose to accept ownership of reservation land to enroll either in the Village Corporation or on an at-large basis with the Regional Corporation receiving benefits. S. 1469. P/S August 1, 1975; P/H amended December 16, 1975. (VV)

American Folklife Center.—Establishes within the Library of Congress under the supervision of the Librarian an American Folklife Center to develop, promote and implement a program to preserve and present American folklife; provides that the Center would be directed by a 17-member board of trustees composed of the Librarian of Congress, the Secretary of the Smithsonian, the Chairman of the National Endowment for the Arts and Humanities, the Director of the Center who shall be appointed by the Librarian, and 4 members each to be appointed by the President, the President pro tempore of the Senate and the Speaker of the House; and contains other provisions. H.R. 6673. P/H September 8, 1975; P/S amended December 11, 1975. (VV)

American Legion Badges—Patent renewals:

American Legion.—Renews and extends for 14 years design patent No. 54,296 for the protection of the emblem and insignia of the American Legion. S. 720. P/S May 13, 1975. (VV)

American Legion Auxiliary.—Renews and extends for 14 years design patent No. 55,398 for the protection of the emblem and insignia of the American Legion Auxiliary. S. 721. P/S May 13, 1975. (VV)

Sons of the American Legion.—Renews and extends for 14 years design patent No. 92,187 for the protection of the emblem and insignia of the Sons of the American Legion. S. 719. P/S May 13, 1975. (VV)

Assistant Secretary of Commerce.—Authorizes an additional Assistant Secretary of Commerce who shall be appointed by the President with the advice and consent of the Senate. S. 1622. P/S June 27, 1975. (VV)

Attorney General's salary.—Repeals Section 1 of Public Law 93-178 (enacted to remove the question concerning the impact of Article I, Section 6, Clause 2 of the Constitution on the President's nomination of Senator William B. Saxbe to be Attorney General of the United States) to restore to the Office of the Attorney General the annual rate of basic pay of $60,000 (Level I of the Executive Schedule) and provides that the act shall take effect February 4, 1975, following the February 3, 1975, resignation date of Attorney General William Saxbe. S. 58. Public Law 94-2, approved Feb. 18, 1975. (VV)

Barrier-free environment for disabled.—Declares the sense of the Congress that there shall be a national policy to recognize the inherent right of all citizens, regardless of their physical disability, to the full development of their economic, social, and personal potential through the free use of the man-made environment, and that the adoption and implementation of this policy requires the mobilization of the resources of the private and public sectors to integrate handicapped people into their communities. S. Con. Res. 11. Senate adopted May 20, 1975. (VV)

Bikini Atoll.—Provides a $3 million ex gratia payment to the people of Bikini Atoll who were relocated to Kili Island in 1946 in order to provide a nuclear test site on the Atoll. H.R. 5158. Public Law 94-34, approved June 13, 1975. (VV)

Census data in administration of Federal laws.—Amends title 13, U.S.C., to require the annual compilation of data on total population for each State, county, and local unit of general purpose government with a population of 50,000 or more, and to produce such data biennially for other local units of general purpose government; requires the President, acting through the Director of the Office of Management and Budget (OMB), to ensure that such data are used by the appropriate departments and agencies in the administration of any law where population or other population characteristics are used to determine the amount of benefit to be received by the various units of non-Federal government; instructs the Diretcor of OMB to initiate the development of uniform methods and procedures for producing the data required under this Act; requires the Director to report annually to Congress on the inability to produce data for any particular government; and requires the Director to submit a report, within 1 year of enactment, regarding current interim data on total population for State, county and local units of general purpose governments. S. 1009. P/S December 15, 1975. (VV)

Census tabulation for State apportionment on districting.—Directs the Secretary of Commerce to enter into agreements with the authorized officials or bodies of the several States responsible for legislative redistricting and apportionment to ensure that the census data collected by the Bureau of the Census can be made readily available to those officials or bodies in a form that is useful in the execution of their responsibilities. H.R. 1753. Public Law 94- , approved 1975. (VV)

Executive Protective Service.—Increases from 850 to 1200 the number of Executive Protective Service officers in order to provide protective service for foreign diplomatic missions in cities where 20 or more such facilities exist if there is a basis for extraordinary protective needs and upon request; authorizes the Secretary of the Treasury to delegate this protective service to local police officials outside Washington, D.C.; and authorizes therefor $3.5 million to reimburse State and local governments. H.R. 12. Vetoed November 29, 1975. House to consider January 20, 1975. (VV)

Increases from 850 to 1200 the number of Executive Protective Service officers in order to provide protective service for foreign diplomatic missions located in metropolitan areas where 20 or more of such facilities exist if (a) there is a basis of extraordinary protective need, (b) such service is requested by the affected metropolitan area or (c) the protective need arises in association with a visit to a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of the organization; authorizes the Secretary of Treasury to delegate this protective service to local police officials outside Washington, D.C.; and authorizes therefor $3.5 million to reimburse State and local governments. H.R. 11184. Public Law 94- , approved 1975. (VV)

FBI Director, ten-year term for.—Amends the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a ten-year term of service for the Director of the Federal Bureau of Investigation: limits the appointment of a Director to one 10-year term; and provides that the law regarding Federal mandatory retirement at age 70 shall apply to this appointment. S. 1172. P/S Mar. 17, 1975. (64)

Federal Metal and Nonmetallic Mine Safety Board abolishment.—Abolishes the Federal Mine and Nonmetallic Mine Safety Board of Review which reviews appeals by non-coal mine operators from closure orders issued by the Department of Interior's Mining Enforcement and Safety Administration and transfers such functions to the Secretary of Interior. S. 1774. P/S June 24, 1975. (VV)

Federal Trade Commission.—Changes certain Federal Trade Commission Act procedures to insure that FTC actions are disposed of expeditiously, including making orders of the Commission effective 60 days after issuance subject to a stay issued by the Commission, the appropriate court of appeals, or the Supreme Court when an applicable petition of certiorari is pending, requiring that the Commission grant or deny petitions for issuance, amendment, or repeal of rules within 120 days of receipt, and imposing penalties for failure to reply in a timely manner with the Commission's processes; provides, in order to insulate the FTC from political clearances in the legislative, budgetary, and personnel areas, that no officer or agency of the United States, other than the Civil Service Commission for the purpose of evaluating professional qualifications, shall have any authority to require the FTC to seek approval of the appointment, employment, or promotion of any individual, that the FTC shall simultaneously submit budgetary information and legislative recommendations jointly to the Office of Management and Budget (OMB) and the Congress, and that any legislative recommendations be submitted concurrently to the Congress; removes an impediment in the Textile Fibre Products Identification Act which precludes the FTC from issuing care labeling regulations with respect to outer coverings of furniture, and contains other provisions. S. 642. P/S December 17, 1975. (VV)

Fiscal year adjustment.—Amends existing law to change the dates of various provisions of law which require the submission of reports and other actions based on the present fiscal year system to conform to the new fiscal year dates of October 1–September 30 pursuant to the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344). S. 2445. P/S December 1, 1975. (VV)

Fiscal year transition.—Amends existing law to insure the continuation of Federal programs and activities, based by statute on the present fiscal year, through the fiscal transition period of July 1–September 30, 1976. S. 2444. P/S December 1, 1975. (VV)

Fiscal year transition—General authorizations.—Provides a general authorization for the fiscal year transition period July 1–September 30, 1976, for all Federal programs and activities for which funding was authorized on June 30, 1976. H.R. 6692. Public Law 94-144, approved December 9, 1975. (VV)

General Federation of Women's Clubs.—Amends the Act granting a charter to the General Federation of Women's Clubs to delete the $1.5 million figure on real estate the Federation may hold under the charter, thus allowing the value of its real or personal property to be determined by current market value which has increased due to inflation; and adds the General Federation of Women's Clubs to the list of private corporations established under Federal Law (P.L. 88-504) so that the corporation will be subject to the requirements concerning an annual audit and report of that audit to Congress. S. 240. Public Law 94-151, approved December 15, 1975. (VV)

Government in sunshine.—Provides that meetings of congressional committees and multiheaded Federal agencies shall be open to the public, and establishes for the first time a clear, statutory prohibition against private exparte communications between agencies and outside parties on matters being adjudicated by the agency:

Amends the rules of the House and Senate governing committee meetings by requiring such meetings to be open; requires the Senate and the House to hold mark-ups and other committee meetings in public unless the majority of the committee or subcommittee votes to close the meeting on certain specified grounds, which cover matters such as national defense and foreign policy, personnel matters, criminal or civil investigations, personal privacy, and trade secrets; imposes the same requirements on the meetings of joint committees; does not affect the rules governing hearings which are already required by law to be open unless committees close them on certain specified grounds; requires that all meetings of conference committees be open unless either the House or Senate managers determine by a majority vote that the meeting should be closed; specifies that these provisions are enacted pursuant to the rulemaking authority of both Houses, thus recognizing the right of either House to alter the rules as they apply to such House, or to enact other rules;

Requires meetings between heads of Federal agencies headed by two or more Commissioners or similar officers to be open to the public; defines the term "meeting" to include agency deliberations where at least a quorum of the agency's members meet to conduct or dispose of official agency business; provides that meetings can be closed by the agency only by a majority vote of all agency members on certain specified grounds which are based in most respects on the exceptions contained in the Freedom of Information Act; requires advance notice of each meeting to the public, and the release to the public after the meeting of every major portion of the meeting that did not in fact involve sensitive matters;

Establishes an across-the-board statutory prohibition of exparte contacts between agency decisionmakers and all persons outside the agency where the purpose of the contact is to discuss the merits of any matter being formally adjudicated by the agency in order to prevent secret communications between the agency and an outside person interested in the outcome of a proceeding; applies this provision to formal agency adjudications and rulemaking proceedings which are adjudicative in nature (so-called formal "on the record" rulemaking);

And contains other provisions. S. 5 P/S Nov. 6, 1975. *NOTE:* (Provisions amending the Senate Rules to require open committee meetings are contained in S. Res. 9 which the Senate adopted on November 5, 1975.) (472)

GPO employees.—Authorizes the Public Printer to designate employees to administer and certify the oath of affirmation of office required by section 3331, title 5, U.S.C., and other oaths or affirmations that may be required by law or regulation with respect to the operation of the Government Printing Office. S. 2264. P/S Sept. 18, 1975. (VV)

GSA leases.—Amends section 111 of the Federal Property and Administrative Services Act of 1949 to permit the Administrator of the General Services Administration (GSA) to enter into multiyear leases (not to exceed 10 years) of automatic data processing equipment including collateral maintenance, software and other kinds of supplies and services associated with such equipment, at amounts in excess of what is available in the fund, provided the amount of unfunded obligations authorized is not needed and the balances of the fund are maintained in such amounts as are necessary at any time for cash disbursements. S. 1260. P/S July 14, 1975 (VV)

John F. Kennedy Center authorization.—Authorizes $2.8 million for fiscal year 1976, $741,000 for the transition period July 1–September 30, 1976, and $3.1 million for fiscal year 1977 for the non-performing arts functions of the John F. Kennedy Center and directs the General Accounting Office to perform a regular audit of the accounts of the Kennedy Center. H.R. 6151. Public Law 94–119, approved Oct. 21, 1975. (VV)

Metric conversion.—Provides a national program to facilitate conversion to the international metric system of measurement, on a voluntary basis, within 10 years; establishes a 17-member Metric Board to be appointed by the President with the advice and consent of the Senate which will have no compulsory powers but is directed to develop a broad program of planning and coordination, conduct research and submit recommendations to Congress, and conduct a program of public education in the metric system at all levels to familiarize Americans with the meaning and use of metric terminology in their daily lives; and authorizes such funds as necessary to carry out the provisions of this Act. .R. 8674. Public Law 94– , approved 1975. (VV)

NASA, authorization.—Authorizes to the National Aeronautics and Space Administration $3,562,310,000 for fiscal year 1976 and $925,150,000 for the transition period July 1–September 30, 1976, for research and development, construction of facilities and research and program management including continued development of the space station and shuttle program. H.R. 4700. Public Law 94–39, approved June 19, 1975. (VV)

National Arboretum.—Authorizes the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the National Arboretum which was established for purposes of research and education concerning tree and plant life. S. 1649. Public Law 94–129, approved Nov. 13, 1975. (VV)

National Center for Productivity and Quality of Working Life.—Repeals Public Laws 92–210 and 93–311 which created a National Commission on Productivity and Work Quality and replaces the Commission with an independent National Center for Productivity and Quality of Working Life to be composed of a 27-member board of directors headed by a Chairman to be appointed by the President with the advice and consent of the Senate;

Directs the Center to develop and establish, in consultation with the appropriate committees of Congress and departments and agencies of the executive branch, a national policy for productivity growth in public and private sectors and to encourage the maximum active participation of the private sector as well as State and local governments to improve the rate of productivity growth in all sectors of the Nation's economy consistent with the needs of the economy, the natural environment, and the best interests of management, the work force and consumers; empowers the Center to enter into contracts and other funding arrangements to carry out the purposes of this act;

Requires the Center to submit a report to the President and Congress by December 31 of each year detailing its activities and any recommendations; requires the Comptroller General, within 36 months of enactment, to submit a report evaluating the effectiveness of the Center along with any recommendations; and authorizes therefor $6.25 million, for fiscal year 1976, and $5 million for each of fiscal years 1977 and 1978. S. 2195. Public Law 94–136, approved November 28, 1975. (379)

National Guard technicians' retirement.—Amends title 5, U.S.C., to grant full retirement credit for National Guard technician service performed before 1969 to all former technicians serving in any position subject to the retirement law on or after January 1, 1969, including those who have retired and whose annuities therefor would be subject to recomputation; allows credit for 100 percent of pre-1969 technician service for annuity computation purposes; and permits eligible technicians to pay the full amount rather than 55 percent otherwise owed as a deposit for pre-1969 technician service. S. 584. Public Law 94–126, approved Nov. 12, 1975. (VV)

National Portrait Gallery.—Amends the National Portrait Gallery Act of 1962 to redefine the term "portraiture" to permit the National Portrait Gallery to acquire photographs and other portrayals of individuals in addition to "painted or sculpted likenesses". S. 1657. P/S July 25, 1975; P/H amended Oct. 28, 1975. (VV)

National Science Foundation authorization.—Authorizes $787,000,000 to the National Science Foundation for fiscal year 1976 and an additional $4 million in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States. H.R. 4723. Public Law 94–86, approved August 9, 1975. (VV)

National Security Council.—Amends the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council. S. 2350. Public Law 94– , approved 1975. (VV)

National Women's Conference.—Directs the National Commission on the Observance of International Women's Year 1975, created by Executive Order 11832, to organize and convene a National Women's Conference during 1976 in conjunction with the National Bicentennial year and International Women's Year; requires that the Conference be preceded by meetings at the State or regional levels to identify and focus upon specific issues for consideration by and to designate representatives to the Conference; sets forth criteria for selecting representatives to the Conference; establishes the goals for the Conference including assessment of the progress to date in promoting women's equality, the role of women in economic, social, cultural and political development; directs the Conference to identify the barriers that prevent women from participating fully in our society, establish a timetable for removal of these barriers, and establish a committee to plan a second women's conference; specifies the powers of the Commission in setting up the Conference; provides for the administration of the Commission's functions as well as for the organization and conduct of State meetings held in preparation of the Conference; requires the Commission to submit a report of the findings and recommendations of the Conference to the President and Congress within 120 days after the close of the Conference; and authorizes not to exceed $10 million to carry out this Act. H.R. 9924. Public Law 94– , approved 1975. (VV)

Nixon tapes.—Disapproves the regulations proposed by the Administrator of General Services in his report to the Senate submitted on March 19, 1975, pursuant to title I of Public Law 93–526, regarding public access to materials and tape recordings of former President Nixon. S. Res. 244. Senate adopted Sept. 11, 1975. (VV)

Patents.—Amends certain sections of title 35, U.S.C. to implement the Patent Cooperation Treaty (Ex. S, 92d–2d) which enables U.S. and foreign nationals to file international applications with the Patent Office which would act as a Receiving Office and process such applications and provides applicants filing applications for patents only in the U.S. with the same flexibility afforded to applicants filing under the treaty. S. 24. Public Law 94–131, approved Nov. 14, 1975. (VV)

Public buildings.—Broadens the policy of the Federal Government in the acquisition and use of public office buildings; encourages the purchase of older buildings and their recycling into new office space for Federal agencies; and provides for the multiple use of Federal buildings by allowing rental to commercial and other tenants of a limited amount of space in Federal office buildings. S. 865. P/S August 1, 1975. (VV)

Renegotiation Act.—Extends the Renegotiation Act for 9 months from December 31, 1975 to September 30, 1976. H.R. 11016. P/H December 15, 1975; P/S amended December 17, 1975. (VV)

Small Business Amendments.—Increases from $725 million to $825 million the subceiling for the Small Business Investment Company loan and guarantee program; increases from $450 million to $525 million the subceiling for economic opportunity loan programs; increases from $35 million to $45 million the authorization for the Surety Bond Guarantee Fund and allows additional appropriations up to $15 million for the program; and clarifies the language in Public Law 93–501 to allow Small Business Investment Companies to charge an interest rate, in certain cases, that is in excess of the State usury law. S. 1839. P/S June 4, 1975. (VV)

Establishes an Office of Export Development in the Small Business Administration (SBA) to provide information and assistance to small businesses which have an export potential; increases the funds available for the lease guarantee program from $10 million to $25 million and establishes a program to allow small businesses to finance the leasing of pollution control equipment through the sale of tax-exempt industrial revenue bonds; increases the amount which regular small business investment companies (SBIC's) may borrow from the government from 200 to 300 percent of private capital and increases the amount "venture capital" SBIC's may borrow from the government from 300 to 400 percent of private capital; extends leverage increase to certain SBIC's and eliminates the maximum leverage ceiling for all SBIC's; permits SBIC's to guarantee 100 percent of the borrowings of small business concerns; allows SBIC's to be unincorporated entities; permits banks to own 100 percent of SBIC's voting common stock; permits SBA loans to local development companies for the acquisition of existing plant facilities and increases the maturity on such acquisitions and construction SBA loans from 15 to 20 years; increases the maximum amount of economic opportunity loans from $50,000 to $100,000; increases the maximum amount of local development company loans from $350,000 to $500,000; increases the maximum amount of regular SBA loans from $350,000 to $500,000; extends SBA loans to farmers and ranchers; authorizes a comprehensive review of all Federal disaster loan authorities by April 30, 1976; establishes a National Commission on Small Business in America to make a comprehensive and coordinated study of all the factors affecting small businesses and to make reports and legislative recommendations to the Congress; and authorizes the President to appoint its 11 members, the Chairperson and Executive Director of which shal be confirmed by the Senate. S. 2498. P/S December 12, 1975. (589)

Small Business Emergency Relief.—Provides relief to small business concerns caught in the economic squeeze between fixed-price Federal contract commitments and rising costs of material, supplies and energy;

Grants executive agencies the latitude to terminate or, in certain cases modify, for the convenience of the Government, any fixed-price contract between that agency and a small business concern upon a finding that (1) during the performance of the contract the concern has experienced or is experiencing significant unanticipated cost increases directly related to the contract, and (2) the conditions which have caused or are causing such cost increases were, or are being, experienced generally by other small business concerns in the market at the same time and are not caused by negligence, underbidding, or other special management factors peculiar to that small business concern; and contains other provisions. H.R. 5541. Public Law 94– , approved 1975. (462)

Smithsonian Institution Museum support facilities.—Authorizes the Regents of the Smithsonian Institution to undertake planning of museum support facilities on federally owned land within the District of Columbia metropolitan area for the conservation, preparation, and study of the national collection of scientific, historical, and artistic objects and artifacts, their documentation, and the training of museum conservators. S. 907. Public Law 94–98, approved Sept. 19, 1975. (VV)

Smithsonian Institution site.—Reserves for future public use of the Smithsonian Institution that portion of the Mall bounded by Third Street, Maryland Avenue, Fourth Street, and Jefferson Drive in the District of Columbia. H.R. 5327. Public Law 94–74, approved August 8, 1975. (VV)

Standard reference data program.—Authorizes to the Department of Commerce $2.8 million for fiscal year 1976, $750,000 for the transition period July 1–September 30, 1976, $3 million for fiscal year 1977, and $3 million for fiscal year 1978 to carry out the purposes of the Standard Reference Data Act which provides the scientific community with accurate and accessible quantitative data needed in the physical sciences, together with critical evaluations thereof. H.R. 37. Public Law 94–48, approved July 2, 1975. (VV)

*Tourism promotion.—Amends the International Travel Act to authorize funding for the United States Travel Service, Department of Commerce, which is charged with promoting travel and tourism to and within the United States as follows: for international tourism promotion—$5 million for the transition period July 1–September 30, 1976, $25 million for fiscal 1977, and $30 million in each fiscal 1978 and 1979; for domestic tourism promotion—$625,000 for the transition period July 1–September 30, 1976, and $2.5 million for each fiscal 1977 through 1979. H.R. 5357. Vetoed May 28, 1975. House referred to Committee on Interstate and Foreign Commerce July 20, 1975. (VV)

Amends the International Travel Act to authorize funding for the U.S. Travel Service, Department of Commerce, which is charged with promoting travel and tourism to and within the United States as follows: for international tourism promotion—$5 million for the transition period July 1–September 30, 1976, $25 million for fiscal 1977, and $30 million for each fiscal 1978 and 1979; for domestic tourism promotion—$2.5 million for fiscal 1976, $625,000 for the transition period July 1–September 30, 1976, and $2.5 million for each fiscal 1977 and 1978; and directs the Secretary of Commerce to promote travel within the United States and its possessions through activities that are in the public interest and which do not compete with those of any State, city or private agency. S. 2003. Public Law 94–55, approved July 9, 1975. (VV).

Trust Territory of the Pacific.—Increases the fiscal year 1975 authorization for the activities of the civil government of the Trust Territory of the Pacific Islands from $60 to $75 million and authorizes an additional $1.5 million to fund the transition of the Mariana Islands District from the Trust Territory Government to a new commonwealth status as a territory of the United States, pursaunt to an agreement signed on February 15, 1975, by the U.S. and the Marianas, if approved by Congress. S. 326. Public Law 94–27, approved May 28, 1975. (VV)

War risk insurance.—Amends the Federal Aviation Act of 1958 to extend the present authority of the Secretary of Transportation to issue war risk insurance until May 7, 1976; authorizes the investment of the aviation war risk insurance revolving fund in the interest-bearing securities of the United States; and requires a study by the President of the possible expansion of the program to include losses and damage resulting from riots, civil disorder, hijacking or other similar acts and to report the results of the study together with his recommendations to Congress 90 days after enactment. H.R. 8564. Public Law 94–90, approved August 9, 1975. (VV)

White House Conference on Handicapped.—Extends from 2 to 3 years the period during which the President is authorized to call a White House Conference on Handicapped Individuals pursuant to Public Law 94–516. S.J. Res. 154. P/S December 17, 1975. (VV)

GOVERNMENT EMPLOYEES

Civil service retirement annuity assignments.—Permits recipients of Federal civil service annuities to make allotments or assignments from their annuity checks for purposes approved by the Civil Service Commission which include charitable contributions, dues to labor unions, employee associations or family support and savings. H.R. 6642. Public Law 94– , approved 1975. (VV)

Civil service retirement benefits statute of limitation.—Amends title 5, U.S.C., to provide that no benefit would be paid from the Civil Service Retirement and Disability Fund unless the application for benefits based on the service of an employee or member was received in the Civil Service Commission before the 115th birthday of the employee or member and that no benefit based on the service of an employee would be paid from the Fund after his death unless application was received in the Commission within 30 years from the date of death thus allowing the Commission to destroy retirement records when no claim for a benefit has been received during the periods specified under this Act. H.R. 4573. P/H July 21, 1975; P/S amended December 15, 1975. (VV)

Cost-of-living increase—Postal Service OSHA compliance.—Authorizes an annual minimal salary adjustment for top executive, legislative and judicial officers and employees of the United States who last received an increase in compensation in March 1969, including each level of the Executive Schedule, the salary of the Vice President, rates of pay for members of Congress and officials of the legislative branch, and salaries in the judicial branch; provides that the adjustment is to become effective whenever a comparability adjustment is made in the rates of pay under the General Schedule (normally in October of each year) and shall equal the percentage of the comparability adjustment, rounded to the nearest $100;

Makes the Occupational Safety and Health Act of 1970 applicable by statute to the Postal Service, which is presently bound by its July 1973 collective bargaining agreement with the National Postal Unions. H.R. 2559. Public Law 94–82, approved August 9, 1975. (352)

Federal employees annual leave.—Provides that an employee who has been restored to duty following an unjustified or unwarranted personnel action shall be credited with all the annual leave he would have earned during the period of separation instead of only up to 30 days as under present law. H.R. 7976. Public Law 94– , approved 1975. (VV)

Federal employees pay increase.—Disapproves the alternative pay plan submitted to Congress by the President on August 29, 1975, providing for a 5-percent increase in pay for Federal employees in lieu of 8.66 as determined under the comparability procedures set forth in the Federal Pay Comparability Act of 1970. S. Res. 239. Senate rejected Sept. 18, 1975. (398)

Part-time Government employees.—Declares as policy that a certain regulated proportion of all positions in the General Schedule (except positions in grades GS–16, GS–17, and GS–18) shall be made available on a part-time career employment basis (16 to 30 hours per week) for persons who are unable or do not wish to work full time; covers, with certain exceptions, executive and regulatory agencies subject to the rules of the Civil Service Commission; provides for a gradual phase-in of part-time career employment, with at least 2 percent of all positions in each grade in each agency to become available yearly until the 10 percent limit placed on part-time positions is reached; authorizes waivers of the percentage minimum by the Civil Service Commission in cases of need; prohibits the forcing of an employee to accept part-time employment as a condition of new or continued employment; gives part-time employees entitlement to the same proportionate fringe benefits as those vested in regular hour employees; and contains other provisions. S. 792. P/S June 23, 1975. (VV)

Travel expenses.—Increases the per diem allowance (from $25 to a maximum of $35) and the actual daily expense reimbursement (from $40 to a maximum of $50) which may be paid to regular employees of the Federal Government, and to consultants and experts employed intermittently, who are traveling on official business within the continental United States; authorizes the President to establish the per diem allowance for travel outside the continental United States and authorizes the Administrator of General Services to prescribe the conditions under which an employee may be reimbursed for actual and necessary expenses (not to exceed $21 per day) in addition to the maximum per diem established for that locality; provides commensurate increases, under regulations established by the Senate Committee on Rules and Administration, in the per diem allowances and actual expense reimbursement for Senators and Senate employees and members of a Senator's personnel staff traveling to and from the Senator's home State on official business; prohibits reimbursement for travel to or from a home State 120 days prior to a primary or general election in which the Senator is a candidate; increases the mileage rates for the use of privately owned vehicles used while traveling on official business (automobiles—from 12 cents to 15 cents; airplanes—from 12 cents to 18 cents; and motorcycles from 8 cents to 11 cents); requires the Administrator of General Services to make a determination with respect to the cost of travel and the operation of privately-owned vehicles and adjust the rates at least once a year; and provides that the agency or branch of Government concerned must absorb expenses incurred during fiscal year 1975 as a result of increases in per diem and mileage allowances out of its existing funds. S. 172. Public Law 94-22, approved May 19, 1975. (VV)

HEALTH

Communicable disease control—consumer health education: Revises and extends expiring communicable and other disease control programs and the venereal disease prevention and control programs; and authorizes consumer health education and promotion programs through the establishment of an Office of Consumer Health Education and Promotion within HEW. S. 1466. P/S July 30, 1975. (VV)

Developmentally disabled persons assistance.—Provides a 3-year extension and revision, through 1978, of programs under the Developmental Disabilities Services and Facilities Construction Act; authorizes a total of $2.87 million for these programs; expands the definition of a "developmental disability" to include autism as well as mental retardation, cerebral palsy, or epilepsy, or any condition related to mental retardation or dyslexia; continues the University-Affiliated Facilities (UAF's) clinical facilities program and system of demonstration and training grants for professional personnel, with emphasis directed to accomplishing the provision of services to adults and children in programs of community care as an alternative to providing such services in institutionalized settings; proposes the establishment of UAF Satellite Centers which would be primarily concerned with the delivery of clinical services; revises the organizational structure for administration of the act and continues formula grants to the States for planning, services and facilities; mandates the establishment of an evaluation system by the Secretary and a time-phased plan for each State's implementation of an evaluation system; contains a "Bill of Rights" for the developmentally disabled which establishes a clear Federal policy that the mentally retarded have a right to appropriate treatment, services, and habilitation and to assure that public funds are not provided to institutions or other residential programs for the mentally retarded that do not provide adequate treatment, service or habilitation or which do not meet minimum standards; requires an individual written habitation plan for each person being served in the program; requires a system in each State to protect and advocate the rights of persons with developmental disabilities; and contains other provisions. H.R. 4005. Public Law 94-103, approved Oct. 4, 1975. (VV)

Drug Abuse Office and Treatment.—Continues the current authorization of $45 million through fiscal year 1979 for drug abuse prevention and treatment programs; increases from $100 million to $200 million the figure used to determine the minimum formula grant to any State (currently $66,666 which would increase to $1333,333 if there is no change in the ratio of actual to authorized appropriations); recognizes narcotic addiction and drug abuse as a serious, long-term problem requiring continuous effort; redesignates the Special Action Office for Drug Abuse Prevention as the Office of Drug Abuse Prevention Policy, and redefines its role as strictly that of coordination and policy direction; confirms and clarifies the programatic role of the National Institute of Drug Abuse; broadens the prohibition on discrimination against drug abusers in hospital admissions to include all admissions instead of emergency admissions only; and contains other provisions. S. 2017. P/S June 26, 1975; P/H amended Sept. 11, 1975; In conference. (VV)

**Health Services—Nurse Training.*—Amends title VII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training until fiscal year 1978 and to revise and extend programs of health revenue sharing and health services until fiscal year 1977;

Authorizes a total of $1.422 billion for health services and health revenue sharing programs for 2 years, including $15 million for each year for detection and treatment of hypertension (high blood pressure); extends the authorizations in title X regarding Family Planning Programs and specifies that population research shall be conducted under the authorities of that title and requires an annual report on family planning programs; extends the Community Health Centers program for 2 years and authorizes grants for the planning, development and operation of community health centers, including existing neighborhood health centers; extends the Migrant Health Centers Program and authorizes planning, development and operation grants to such centers which offer a broad range of health services in an area in which not less than 6,000 migrants reside; includes a separate authorization to cover the reasonable costs of inpatient and outpatient hospital services for migrants; extends the Community Mental Health Centers programs to continue progress toward the goal of establishing a center in each of the approximately 1,500 catchment areas across the Nation and to assure continued support of the 500 centers already begun; provides authorization to expand the types of disease control programs to include programs for diseases borne by rodents; establishes a demonstration program of start up grants to home health agencies and grants for training personnel to provide home health services; establishes a Committee on Mental Health and Illness of the Elderly for a one year period to review the mental health needs of the elderly and recommend policy for the care and treatment of mentally ill aged persons; establishes a Rape Prevention and Control Center within the National Institute for Mental Health to study the causes, control and treatment of rape and to establish a clearinghouse of information and provides support for demonstration projects in the prevention and control of rape; establishes a temporary Commission on Epilepsy to devise a national plan for the control of epilepsy and its consequences, the State and Federal role in research on epilepsy and on the identification, treatment and rehabilitation of persons with epilepsy; establishes a temporary Commission on Huntington's Disease to devise a comprehensive national plan similar to the one outlined for epilepsy; establishes a new Hemophilia Diagnosis and Treatment program and provides grants to establish treatment centers; sets a $1,000 fine and/or 1 year imprisonment for intimidating or coercing a person who has requested or is receiving welfare benefits to undergo an abortion or sterilization as a condition of receiving such benefits;

Extends through 1977 the nurse training authorities of title VIII at levels of $156 million in 1976, $181 million in 1977 and $201 million in 1978; includes authorization for: construction grants with priority funding to schools expanding their capacity to enroll nurses in advanced training programs; "capitation" grants to schools based on the number of nursing students enrolled but designating different amounts for different types of nursing schools to reflect more accurately the differential in costs between baccalaureate degree, associate degree, and diploma schools of nursing; special assistance to nursing schools that are in serious financial straits to meet operational costs for maintaining quality programs or their accreditation requirements; special project grants to assist schools in trying out better methods of teaching, better utilization of faculty, expanded enrollments and recruiting and retraining students from disadvantaged backgrounds; graduate and other advanced training programs for professional nurses to teach, serve as administrators or practice in nursing specialties; the nursing loan, scholarship and traineeship program to meet current demands and needs; and grants for programs for training nurse practitioners with specific emphasis on geriatrics and the care of nursing home patients; and contains other provisions. S. 66. Vetoed July 26, 1975. Senate overrode veto July 26, 1975; House overrode veto July 29, 1975. Public Law 94-63, without approval July 29, 1975. (132, 337)

Heart and lung research.—Extends for 2 fiscal years the authority of the Department of Health, Education, and Welfare, to conduct research, experiments and demonstration programs regarding heart, lung, blood and blood vessel diseases and the program of National Research Service Awards; authorizes a total for fiscal years 1976 and 1977 of $1,046,000 for these purposes;

Amends the Federal Food, Drug and Cosmetic Act to prohibit regulation of vitamin and mineral supplements solely on the basis of potency, to permit sale of any combination of vitamins and minerals and other foods, and to authorize the Federal Drug Administration to regulate vitamin and mineral products marketed for pregnant and lactating women and for children to age 12;

And contains other provisions. H.R. 7988. P/H October 20, 1975; P/S amended December 11, 1975. (578)

Medical device safety.—Authorizes the Food and Drug Administration to regulate the devolopment and marketing of medical devices; requires that medical devices used in life-supporting situations, including all implanted medical devices such as a heart valve, pacemaker or interuterine device (IUD), shall be subject to premarket scientific testing; authorizes the Secretary of Health, Education, and Welfare to establish protocols for testing medical devices and requires that test data be submitted to HEW when a manufacturer seeks approval of a life-supporting medical device for marketing; provides that medical devices for which experts agree standard-setting is sufficient to protect the public health and safety need only meet performance standards; provides that the third classification of devices which are generally safe when used in accordance with their instructions, such as a tongue depressor, is exempted from either procedure; and contains other provisions. S. 510. P/S Apr. 17, 1975. (139)

Older Americans.—Continues authorizations for programs concerning the elderly through fiscal year 1978; continues authorizations for the R.S.V.P., Foster Grandparents, and Senior Companions programs and for special programs for the aging under the Adult Education Act, the Higher Education Act, the Older Americans Comprehensive Service Amendments of 1973, and the Vocational Education Act; provides that a State shall not commit less than 20 percent of its State plan funds for the following four categories of services for the elderly: transportation, home care, legal services, and residential renovation and repair; authorizes the Secretary of Labor to establish an Older American Community Service Employment program to promote part-time work opportunities for unemployed low-income persons aged 55 or older; authorizes direct grants to Indian tribal organizations for the provision of services to elderly Indians; requires that the Secretary of Labor reserve funds sufficient to maintain the fiscal year 1975 level of activities as conducted by national contractors under the Older Americans Community Service Employment Program and that the remainder of the funds is to be distributed based on a formula which takes into account the number of persons aged 55 or over and the per capita income in each State, with a minimum guaranteed to each; prohibits discrimination based on age; and contains other provisions. H.R. 3922. Public Law 94–135, approved November 28, 1975. (527)

School lunch and child nutrition program.—Amends section 13 of the National School Lunch Act to continue the Special Food Service Program for children, which expires June 30, 1975, through September 30, 1975; authorizes 1975 summer meal reimbursement rates to be adjusted to account for increase in food costs this past year; and requires USDA, within 10 days following enactment, to issue its regulations pertaining to the option of this year's summer feeding program. S. 1310. Public Law 94–20, approved May 2, 1975. (VV)

*School lunch program.—Makes permanent the authorization for the school breakfast program; extends through September 30, 1977, the authority of the Secretary of Agriculture to purchase agricultural commodities for donation to the child nutrition programs when acquisitions under other agricultural authorities are not available, and permits States which phased out their commodity distribution facilities prior to June 30, 1974, to elect to receive cash in lieu of donated foods; revises the year-round phase of the special food service prgram for children to establish a child care food program for children in nonresidential child care institutions for the period through September 30, 1978;

Extends the special supplemental food program for women, infants and children (WIC) through September 30, 1978; expands the definition of "school" under the school lunch program and the school breakfast program to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded;

Deletes the State's option to serve reduced price lunches and provides that State educational agencies are to establish income guidelines for reduced price lunches at levels which are 95 percent above those in the income poverty guidelines prescribed by the Secretary;

Provides that any child whose parent or guardian is providing the child's principal support and is unemployed shall be served a free or reduced price lunch if the existing family income eligibility guidelines for free or reduced price lunches are met;

And contains other provisions. H.R. 4222. Vetoed Oct. 3, 1975. House overrode veto Oct. 7, 1975; Senate overrode veto Oct. 7, 1975. Became Public Law 94–105, without approval Oct. 7, 1975. (274, 383, 429)

Supplemental food programs.—Extends through September 30, 1975, the special supplemental food program for women, infants, and children. H.R. 7136. Public Law 94–28, approved May 28, 1975. (VV)

HOUSING

Emergency housing.—Contains provisions for mortgage foreclosure relief to homeowners who cannot meet their mortgage payment because of recession conditions; authorizes the Department of Housing and Urban Development (HUD) to co-insure mortgages in default or to make monthly payments of up to $250 for as long as 24 months when lenders are unwilling or unable to forebear on their loans; and authorizes $1.5 billion for coinsurance contracts and a maximum of $500 million for mortgage relief loans;

Provides for home purchase assistance which expands the President's authority to make mortgage credit available when housing starts are low; extends the existing Home Purchase Assistance Act to June 30, 1976; permits financing of condominiums and apartments, sets a maximum rate of interest at 7 and ½ percent, and provides for additional housing financing by the Federal Finance Bank; and authorizes an additional $10 billion in mortgage credit;

Includes provisions for housing rehabilitation and repair; continues the section 312 rehabilitation loan program through August 1976 at an authorized level of $100 million; and

Extends by 7 months, the time period during which certain purchasers of older inner-city housing insured by FHA can apply for compensation for correcting serious defects that were not detected at the time of purchase. H.R. 5398. Public Law 94–50, approved July 2, 1975. (255)

Emergency middle-income housing.—Authorizes emergency Federal assistance to stimulate housing construction, to increase employment and to provide critically needed housing for families now priced out of the housing market;

In title I, establishes a temporary emergency program in order to increase the present low level of housing starts and create jobs; gives homebuyers whose family income does not exceed 120 percent of the median income of their area three options to assist them in buying a home: (1) a 6 percent mortgage loan which will gradually increase to the market rate after 3 years; (2) a 7 percent mortgage for the life of the contract; or (3) a $1,000 cash grant to be used to defray the downpayment expenses on a newly constructed house; provides that no new commitment or contract for assistance can be entered into after June 30, 1976;

In title II, authorizes $500 million to the Secretary of Housing and Urban Development to make repayable, emergency mortgage relief payments up to $250 per month for a period of no longer than 2 years on behalf of homeowners who are delinquent in their mortgage payments as a result of a substantially reduced income because of involuntary unemployment or underemployment;

In title III, contains miscellaneous provisions extending the section 312 rehabilitation loan program until August 22, 1977 and authorizing therefore $35 million for each of the two years; increasing the setaside of contract authority for projects to be owned by public housing agencies from $150 million to $300 million; extending the section 235 homeownership assistance program until July 1, 1977; extending by seven months the period during which owners of FHA-insured houses which have serious structural defects can request assistance from HUD to repair defects; extending until January 1, 1976 the date after which Federal financial assistance will be denied to flood-prone areas unless the community is participating in the National Flood Insurance Program; and contains other provisions. H.R. 4485. Vetoed June 24, 1975. House sustained veto June 25, 1975. (144, 221)

Home mortgage disclosure.—Extends until March 1, 1977, Regulation Q which term refers to the authority by which Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions; provides that any lessening of the interest rate differential for deposits in various thrift institutions must be approved by concurrent resolution of the House and Senate;

Contains provisions, effective for 3 years, to enable consumers to compare the lending record of different banks and thrift institutions in local communities and to create greater awareness by municipal governments of the effects of local lending patterns on homeownership and neighborhood preservation, and possibly to encourage reinvestment in areas formerly "red-lined" (areas marked as less desirable for investment because of their age, racial or ethnic make-up or income level);

Requires mortgage lenders to disclose by census tract where readily available or by ZIP code area the number and dollar amounts of mortgage loans originated by that institution during the previous fiscal year, as well as the total number and dollar amount of all such loans outstanding as of the close of the fiscal year; requires that the disclosure statement also disclose the breakdown between loans to owner-occupied versus absentee-owned housing and the number and dollar amount of home improvement loans; applies these requirements only to lenders within standard metropolitan statistical areas (SMSA) but requires lenders within an SMSA to disclose any loans outside that SMSA; exempts lending institutions with assets of $10 million or less;

Provides that the Federal Reserve Board shall write the overall regulations for implementation of the act, and that each bank supervisory agency shall regulate institutions under its usual jurisdiction; requires the Board to carry out a 3-year study of the legislation and to provide recommendations for additional disclosure, if any; and provides that the Board shall exempt any State-chartered institution located within a State that has adopted similar or more stringent disclosure requirements. S. 1281. Public Law 94– , approved 1975. (382)

Mobile-home loans.—Increases the ceiling for mobile-home loans which the Secretary of Housing and Urban Development is authorized to insure under title I of the National Housing Act from $10,000 to $12,500 for a new mobile home and from $15,000 to $20,000 for a mobile home composed of two or more modules;

Authorizes special capital grant assistance for the Kendall Square Urban Renewal Project in Cambridge, Massachusetts, in excess of the two-thirds project costs limit under the Housing Act of 1949, as amended, because of certain extraordinary circumstances which have delayed completion of the project;

Extends the emergency implementation provisions of the National Flood Insurance Act of 1968, as amended, for 1 year, from December 31, 1975, to December 31, 1976, to insure the continued availabilty of federally subsidized flood insurance to communities who have not yet completed their required eligibility studies;

Authorizes the Secretary of Housing and Urban Development to deal with insurance of mortgages in FHA programs on a 75 percent basis instead of the present 45 percent except for the section 8 program which deals with cost limits on a prototype basis; and

Makes technical amendments to section 221(f) of the National Housing Act by striking certain occupancy limitations. S. 848. Public Law 94– , approved 1975. (390)

Real estate settlement procedures.—Amends the Real Estate Settlement Procedures Act (P.L. 93–533) to require a 1 day instead of a 12 day advanced disclosure of settlement costs by lenders; repeals the requirement for disclosure of the previous selling price of real property, and amends section 121(c) of the Truth in Lending Act to require disclosure of costs at or before the time a lender makes a written commitment with respect to a consumer credit transaction involving real property to be used as the principal residence of the buyer. S. 2327. P/S Oct. 9, 1975; P/H amended Nov. 17, 1975; Senate agreed to House amendment with amendment December 8, 1975; in conference. (VV)

Variable interest rate mortgages.—States the sense of the Congress that the Federal Home Loan Bank Board shall refrain from authorizing, by rule, regulation, or otherwise, a Federal savings and loan association to offer loans with variable interest rates and secured by one-to-four family homes or dwelling units unless Congress specifically, by law, authorizes such variable interest rates. S. Con. Res. 45. Senate adopted June 16, 1975. (VV)

INDIANS

American Indian Policy Review Commission.—Authorizes the American Indian Policy Review Commission to accept and use donations of money, property, and uncompensated services from Government and private sources and to procure the temporary or intermittent services of experts and consultants at a rate of compensation not in excess of that paid to employees of the Senate; authorizes the reimbursement for travel, subsistence, and other necessary expenses incurred by a person providing voluntary and uncompensated services in the performance of their service; and permits the Commission to use the frank of any member of Congress who is serving as Chairman of the Commission for mailing materials. S. 2073. Public Law 94–80, approved August 9, 1975. (VV)

Indian Claims Commission.—Authorizes $1,550,000 for fiscal year 1976 for the Indian Claims Commission; extends the life of the Commission for an additional 3 years, from April 10, 1977 to April 10, 1980; and provides that cases still pending upon the expiration date of the Commission shall be turned over to the Court of Claims for final adjudication. H.R. 3979. P/H June 16, 1976; P/S amended August 1, 1975; In conference. (VV)

Indian health care.—Provides the direction and financial resources to overcome the inadequacies in the existing Federal Indian health care program and invite the greatest possible participation of Indians and Alaska Natives in directing and managing that program;

Establishes, in title I, the Indian Health Manpower Program and authorizes: a grant program to recruit and aid Indians in pursuing health careers; a preparatory scholarship program for the final two academic years of any pre-professional health education curriculum; a health professions scholarship program; a program to facilitate employment by the Indian Health Service (IHS) of medical students to further expand their opportunities for training; education and training programs in environmental health, health education, and nutrition; and a continuing education allowances program, for the purpose of assuring an adequate health manpower base for proper Indian health services and a sufficient cadre of Indian professional and health workers to permit Indian communities to have a maximum voice in shaping those services;

Provides, in title II, for a planned growth of the Indian Health Service's delivery system and facilities and authorizes funds to remove the backlogs in direct patient care and dental care, improve field health services, mental health care and a services, treatment centers for the children, and other unmet health needs;

Authorizes, in title III, funds for construction of modern, efficient hospitals and other health care facilities serving Indians where none exist and to renovate existing facilities, most of which are in a state of general deterioration and to remedy the lack of safe water and sanitary waste disposal facilities in the Indian environment;

Meets, in title IV, the problem of limited access by Indians to services supported by Medicare or Medicaid due to most Indians living on remote reservation lands, by authorizing payments under the two programs to be made to qualified Indian Health Service hospitals and long-term care facilities for services rendered to Medicare and Medicaid patients, and provides 100 percent Federal Medicaid matching funds for services provided to any eligible Indian in an IHS facility;

Establishes, in title V, programs in urban areas to make health services more accessible to the urban Indian population and assist them in making the difficult transition from traditional reservation life to the urban world;

Authorizes a total of $1.6 billion for fiscal years 1977 through 1983; and changes the various Secretarial reporting requirements to assist Congress in undertaking a thorough review of all expenditures at the end of the third fiscal year in order to revise authorization levels if appropriate. S. 522. P/S May 16, 1975. (VV)

Klamath Indian land—Colonial Williamsburg.—Gives tribal members receiving moneys from gains from the sale of lands in trust the same exclusion from Federal taxation as was afforded to tribal members who withdrew from the tribe in 1959 and received tax free cash payments for their interests; and amends the Internal Revenue Code to add a provision affecting the situation of Colonial Williamsburg, a tax-exempt foundation, which provides the same treatment regarding depreciation recapture to a tax-exempt organization as to a taxable organization where assets are received through liquidation of a subsidiary and are used in an unrelated taxable trade or business. H.R. 83. Public Law 94–81, approved August 9, 1975. (VV)

Pueblo of Laguna.—Declares that 480 acres of land used for cattle grazing by the Pueblo of Laguna Indians be held in trust for the tribe by the United States, and provides for the trust transfer of 39.9 acres of land which was omitted from other lands transferred to the Pueblo pursuant to the Act of August 13, 1949. S. 557. Public Law 94–115, approved Oct. 17, 1975. (VV)

Pueblo Tribe, New Mexico.—Repeals a 1926 statute which subjects Pueblo tribal lands to condemnation pursuant to State law. S. 217 P/S May 21, 1975. (VV)

Submarginal lands.—Provides for the trust transfer of submarginal lands in certain specified projects, including all surface and subsurface mineral interests, to the affected Indian tribes or communities. S. 1327. Public Law 94–114, approved Oct. 17, 1975. (VV)

INTERNATIONAL

Agricultural commodity trade negotiations.—States the sense of the Senate that the Secretary of Agriculture shall serve as a principal representative of the United States Government with respect to all negotiations with foreign governments concerning the exportation or importation of agricultural commodities, and that any agreements or understandings with foreign governments regarding such exports or imports shall be submitted to the Senate Committee on Agriculture and Forestry. S. Res. 285. Senate adopted Oct. 20, 1975. (VV)

Arts and artifacts indemnity.—Allows the Federal Council on the Arts and the Humanities to make indemnity agreements against loss or damage of specified art works and artifacts brought into this country for exhibitions which are certified by the Department of State to be in the national interest; sets a ceiling of $250 million on the aggregate loss or damage covered by such agreements at any one time; and limits the indemnity, on any one exhibition to $50 million with the first $15,000 deductible. S. 1800. Public Law 94– , approved 1975. (VV)

Cambodia—food aid.—States as the sense of the Senate that 50 percent of the food commodities which the President has budgeted for Cambodia under title I of the Agricultural Trade Development and Assistance Act of 1954 which is delivered after the date this resolution is agreed to and prior to July 1, 1975, be made available for humanitarian purposes under Public Law 480 title II humanitarian grant assistance and be administered by voluntary agencies already established in Cambodia. S. Res. 94. Senate adopted Mar. 10, 1975. (VV)

Foreign aid authorization.—Authorizes $1,592,507,000 for fiscal year 1976 and $1,313 million for fiscal year 1977 for international disaster assistance, food aid to poor countries and development assistance;

Consolidates, under title I, disaster relief authorities in recognition of the need for improved coordination of response to natural disasters, and provides for a Presidentially appointed Special Coordinator whose responsibilities would include research, contingency planning and the coordination of disaster relief; includes an authorization of $5 million for the African Sahel to assist in recovering from the recent drought;

Amends, in title II and II, the Agricultural Trade Development and Assistance Act, the Public Law 480 food for peace program; provides new guidelines for overseas operation to help meet urgent food needs abroad and to promote agricultural production in poor countries, which includes the giving of priority consideration to the requirements of countries most seriously affected by food shortages and which are unable to meet those requirements through normal commercial purchases; authorizes the President to credit, or grant back, up to 15 percent of all title I loan repayment obligations if the proceeds from sales by the recipient government are used for certain self-help purposes; provides more general authority for the President to waive the prohibition of title I sales to countries trading with Cuba or North Vietnam; establishes, to assure continuity, a minimum volume of food assistance to be distributed under the Public Law 480 title II donation program of 1.3 million metric tons, of which a minimum of 1 million metric tons would be distributed through nonprofit voluntary agencies and the World Food program; adds new provisions to increase the participation of the land-grant colleges and other universities and colleges in solving the food, agriculture, and nutrition problems of the developing world;

Updates the fiscal year 1975 congressional directive allocating Public Law 480 title I food aid sales between humanitarian and political purposes to require that a minimum of 75 percent of the aid must be allocated to countries most seriously affected by food problems, using a $300 or less per capita gross national product under World Bank figures as a standard unless the President certifies, and neither House of Congress disapproves, that the food is otherwise needed for humanitarian purposes; authorizes the President to seek international agreement, subject to congressional approval, for a system of food reserves to meet food shortage emergencies and provide insurance against unexpected shortfalls in food production; and requires a report from the President on the implementation of the recommendations of the World Food Conference;

Continues, in title III, emphasis upon efforts focused on critical functional problems in the less developed countries such as food production, nutrition and rural development, population planning and health, and education, public administration and human resource development; supports various assistance activities in the food and nutrition field, including an authorization of $200 million for the proposed International Fund for Agricultural Development, assistance to famine areas, agricultural research and others; and

Contains other provisions, including the prohibition of development aid to a country with a pattern of violating human rights unless it is determined that the aid will benefit needy peoples, and the requirement of congressional approval of any settlement of a debt owed the United States in an amount less than its face value. H.R. 9005. Public Law 94– , approved 1975. (467)

Israel.—Expresses the displeasure of the Senate with respect to the attempts by some of the nonaligned Third World nations to expel Israel from membership in the United Nations and states the Senate's intent to review all present United States commitments to the Third World nations involved in the event of Israel's expulsion as well as its continued membership in the United Nations. S. Res. 214. Senate adopted June 18, 1975. (VV)

Japan-United States Friendship Trust Fund.—Creates a Japan-U.S. Friendship Trust Fund to support a variety of mutual educational and cultural studies, facilities, exchanges, and other activities between Japan and the U.S.; authorizes therefor the transfer of 7.5 percent of the proceeds of the Okinawa Reversion Agreement and those funds available in U.S. accounts in Japan pursuant to the agreement with Japan regarding the Settlement of Postwar Economic Assistance to Japan including the interest accruing to the G.A.R.I.O.A. (Government and Relief in Occupied Areas) account; and establishes a Commission to administer the program. S. 824. Public Law 94–118, approved Oct. 20, 1975. (VV)

Lebanese conflict.—Deplores the current violence taking place in Lebanon; states as the sense of the Senate that any unilateral, uninvited intervention of any nation or armed force in the current conflict is viewed with disfavor; deplores the shipment of arms and continued encouragement of the conflict by external forces; states U.S. support for all efforts to resolve the internal conflict and achieve a return to normalcy through peaceful negotiations and the Lebanese political process; and states that the United States should provide, through the United Nations, on request from the Government of Lebanon to further the cause of peace, humanity and stability in the area. S. Res. 293. Senate adopted Nov. 4, 1975. (VV)

Magna Carta.—Expresses appreciation to the United Kingdom for the loan to the United States of the Magna Carta for the Bicentennial celebration and directs the Architect of the Capitol to make the necessary arrangements for display of the document in the rotunda of the Capitol. H. Con. Res. 458. House adopted Oct. 22, 1976; Senate adopted Oct. 23, 1975 (VV)

MIA's in Southeast Asia.—States as the sense of the Senate that the President, when he visits China, should request that appropriate Chinese officials use their good offices to obtain a full and complete accounting of members of the United States Armed Forces and civilians missing in action or held as prisoners of war in Southeast Asia. S. Res. 251. Senate adopted Nov. 19, 1975. (VV)

Middle East dispute.—Endorses the efforts of and commends the Secretary of State and the President in trying to achieve a peaceful resolution of the Middle East disputes and urges the Secretary to continue to use his good auspices to help the parties in dispute abandon intransigence and see the wisdom of these objectives. S. Res. 119. Senate adopted Mar. 24, 1975. (VV)

Nuclear materials safeguards.—States the sense of the Senate that the President should seek (1) international consideration to strengthen the effectiveness of the International Atomic Energy Agency's safeguards on peaceful nuclear activities as well as cooperation with other nuclear suppliers to insure that safeguards are applied to the transfer of nuclear equipment and technology to prevent the proliferation of nuclear explosive capability; (2) a cooperative international effort to strengthen and improve the scope, comprehensiveness, and effectiveness of the safeguards to reduce the risk of diversion or theft of plutonium and other special nuclear materials to military or other uses that would jeopardize world peace and security; and (3) restraint in the transfer of nuclear technology by assuring that such equipment and technology are only transferred to other nations under safeguarded conditions so that the technology itself is not employed for the production of nuclear explosives. S. Res. 221. Senate adopted December 12, 1975. (VV)

Nuclear nonproliferation.—Endorses the purpose of the conference of parties in Geneva reviewing the operation of the Nuclear Nonproliferation Treaty to assure that its purposes and provisions are being realized and commends the President for his commitment to furthering the objectives of this Treaty. S. Res. 146. Senate adopted May 6, 1975. (VV)

Peace Corps authorization.—Authorizes $88,468,000 for fiscal year 1976 and $27,887,800 for the transition period July 1-September 30, 1976, to finance the operations of the Peace Corps plus an additional amount up to $1 million to cover increases in salary or other employee benefits authorized during this period; authorizes the transfer of $315,000 from Peace Corps funds to ACTION's readjustment allowance account in order to rectify an existing imbalance in that account for the period March 1, 1961 to February 28, 1973; prohibits sex discrimination with respect to enrollment, terms and conditions of service of volunteers; increases the readjustment allowance for all regular Peace Corps volunteers from $75 to $125 per month of service; and increases the stipend of the regular VISTA volunteer from $50 to $75 per month. H.R. 6334. Public Law 94–130, approved Nov. 14, 1975.

Romania—most favored nation status.—States the sense of the Senate that the President should certify to Congress that he will use his authority under the Trade Act of 1974 to terminate by Executive order most favored nation status to Romania if Romania engages in discriminatory emigration practices as detailed in sections 402 and 409 of the Trade Act. S. Res. 219. Senate adopted July 25, 1975. (VV)

Approves the extension of non-discriminatory treatment with respect to the products of the Social Republic Romania transmitted by the President to the Congress on April 25, 1975. S. Con. Res. 35. Senate adopted July 25, 1975; House adopted July 28, 1975. (330)

Sinai agreement.—Authorizes the President to implement the "United States proposal for the early-warning system in Sinai" provided that the U.S. civilian personnel to be assigned to the Sinai under the proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that their safety is jeopardized or that continuation of their role is no longer necessary;

Specifies that the U.S. civilian personnel participating in the system shall include only persons who have volunteered to participate;

Provides that so long as participation of U.S. civilian personnel continues the President shall submit written reports to the Congress periodically, but no less frequently than once every 6 months; and

States that the authority given by this joint resolution to the President does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch. H.J. Res. 683. Public Law 94–110, approved Oct. 13, 1975. (441)

Spanish-American relations.—States the sense of the Senate that His Majesty Juan Carlos I and the people of Spain should be assured that the United States desires political and economic progress in Spain under conditions of stability and justice and hopes for the early achievements of those goals. S. Res. 323. Senate adopted December 10, 1975. (VV)

State Department authorization.—Authorizes $869,931,000 for fiscal year 1976 for the State Department, for international organizations, conferences and commissions, for information and cultural exchange and other purposes; authorizes the establishment and maintenance of a $25 million Emergency Refugee and Migration Assistance Fund; declares the sense of Congress concerning criteria for the selection and confirmation of U.S. Ambassadors; amends the basic legislation of the Arms Control and Disarmament Agency to strengthen its role in U.S. Government arms control policymaking and negotiations; establishes a Foreign Service grievance system; requires the President to direct the U.S. Ambassador to the United Nations to insist that the U.N. take steps to obtain an accounting of members of the U.S. Armed Forces and U.S. civilians missing in action in Southeast Asia and requires the President to report to Congress within 6 months on the action taken by the U.N.; and contains other provisions. S. 1517. Public Law 94–141, approved November 29, 1975. (394)

Trade Protection.—States the sense of the Senate that the President's Special Representative for Trade Negotiations together with the appropriate officials of the Departments of State, Commerce, Treasury and Justice and in consultation with the Chairman of the Finance Committee and the congressional delegates for trade agreements should initiate negotiations within the framework of the current multilateral trade negotiations in Geneva and other negotiations pursuant to the Trade Act of 1974 to develop a code of international conduct together with specific trading obligations and suitable procedures for settling disputes, including sanctions for problems caused by nonparticipating nations, to eliminate the illegal and unethical practices which burden international trade; and states that the code of conduct and other obligation should become part of the international system of rules and obligations under the framework of the General Agreement on Tariffs and Trade and other international trade agreements negotiated under authority of the Trade Act of 1974. S. Res. 265. Senate adopted Nov. 12, 1975. (479)

TREATIES

Anti-Ballistic-Missile Protocol.—Amends the Anti-Ballistic-Missile (ABM) Treaty (Ex. L, 92d-2d) to limit to one the ABM deployment complexes that each side may have at any one time; provides that either side may exchange one deployment area for another after notifying the other side prior to starting construction with the provision that this right to exchange sites may be exercised only once; and provides that such notification may be given only during the year beginning October 3, 1977, or during any year which commences at 5-year intervals after October 3, 1977. Ex. I, 93d-2d. Resolution of ratification agreed to Nov. 10, 1975. (475)

Brazilian shrimp agreement.—Replaces the existing Agreement with Brazil Concerning Shrimp (Ex. P, 92d–2d); reduces from 160 to 120 the number of U.S.-flag vessels which may fish within a designated fishing area; increases from $200,000 to $361,000 per year the amount the U.S. must pay Brazil to exercise its enforcement responsibilities; increases from $100 to $500 the amount that the U.S. will be required to compensate Brazil for each day a U.S. shrimp vessel is under control of Brazilian enforcement authorities for a violation of the Agreement and imposes an additional charge of $200 for each day such vessels are so detained; limits the size of U.S. shrimp vessels to approximately 85 feet in length; provides for joint cooperation in the development of fishing industries and expansion of international trade of fishery products; and requires duly appointed scientists to meet at least once a year for the purpose of exchanging scientific knowledge on shrimp stocks and fishing effort in the area of the Agreement. Ex. D. 94th-1st. Resolution of ratification agreed to Oct. 28, 1975. (457)

Extradition treaty with Australia.—Provides for the extradition of fugitives who have been charged with any of 29 specified offenses as well as other offenses extraditable under the extradition laws of Australia and which are felonies under laws of the United States; enables extradition to be granted in the case of a conspiracy to commit any of the specified or incorporated offenses; includes, in territorial jurisdiction, registered aircraft in flight (as defined in the 1963 Tokoyo Convention) and offenses committed outside the territory of either party if the offense would be punishable under the laws of both parties; specifies conditions under which extradition would not be granted such as if the offense has been barred by the lapse of time or is of a political nature; provides that if extradition is granted for an offense which is punishable by death in the requesting State but is not in the requested State, the latter may recommend imposition of a less severe punishment; provides a procedure where a person could be tried for a lessor offense than the one for which the request for extradition was based; specifies procedures to be followed in extradition proceedings; and contains other provisions. Ex. F, 93d–2d. Resolution of ratification agreed to December 1, 1975. (529)

Extradition Treaty with Canada.—Provides for the extradition of fugitives who have been charged with specified offenses including those relating to narcotics and aircraft hijacking; includes provisions for extradition for an attempt to commit, conspiracy to commit, or being party to any of the listed offenses; includes offenses committed outside the territory of either party if the offense would be punishable under the laws of both parties; specifies conditions under which extradition would not be granted such as if the offense has been barred by the lapse of time or is of a political nature; provides that extradition may be refused for an offense punishable by death in the requesting State but not in the requested State unless there is adequate assurance that such punishment will not be imposed; specifies procedures to be followed in extradition proceedings; and contains other provisions. Ex. G, 93d–2d. Resolution of ratification agreed to December 1, 1975. (530)

Intergovernmental Maritime Consultative Organization.—Amends the Convention on the Intergovernmental Maritime Consultative Organization to open participation on the Maritime Safety Committee to all members of the Intergovernmental Maritime Consultative Organization (IMCO); increases the membership on the Council from 18 to 24 members with the 6 additional members to be representative of states not elected under navigation; and alters the number of members required for a quorum to reflect the increased size of the Council. Ex. F, 94th–1st. Resolution of ratification agreed to Oct. 28, 1975. (458)

International Coffee Agreement.—Extends the International Coffee Organization through September 30, 1976, or up to 12 months beyond that date if a new coffee agreement has by then been negotiated and signed but has not yet entered into force because of the interval needed for ratification. Ex. B, 94th–1st. Resolution of ratification agreed to Oct. 28, 1975. (456)

International Office of Epizootics.—Established an International Information Office of Epizootics to report on the outbreak of animal diseases, provide an exchange of technical information on the control of animal diseases and provide uniform sanitary codes for the movement of livestock and other animals in international trade. Ex. M, 93d–2d. Resolution of ratification agreed to May 5, 1975. (162)

International Wheat Agreement.—Extends until June 30, 1976, the International Wheat Agreement consisting of (1) the Wheat Trade Convention an administrative body established to provide a mechanism for international cooperation in matters relating to the production and sale of wheat, and (2) the Food Aid Convention which commits its parties to provide minimum annual quantities of food aid to developing countries. Ex. C, 94th–1st. Resolution of ratification agreed to December 1, 1975. (531)

Prevention and punishment of crimes against internationally protected persons.—Creates a legal mechanism whereby persons alleged to have committed serious crimes against heads of state, ministers of foreign affairs, diplomats, an official of an international organization, or any member of their family will be prosecuted or extradited; and establishes a framework for international cooperation in the prevention and punishment of such crimes. Ex. L, 93d–2d. Resolution of ratification agreed to Oct. 28, 1975. (455)

Regulations for preventing collisions at sea.—Revises the 1960 regulations for preventing collisions at sea including the rules governing vessels in sight of one another, the conduct of vessels in restricted visibility, and sound and light signals; sets forth criteria for determining the appropriate safe speed which vessels must observe and prescribes the actions to be taken and the rules to be followed to foresee and avoid collisions with other vessels; specifies certain requirements for navigation in narrow channels; requires vessels to observe traffic separation schemes adopted by the Inter-Governmental Maritime Consultative Organization (IMCO); specifies the color, intensity, and configuration of lights or shapes to be displayed by the different types of vessels when engaged in various kinds of maneuvers or modes of operation; and prescribes certain sound or light signals to be transmitted by vessels which are in potentially hazardous circumstances or sailing maneuvers. Ex. W, 93d–1st. Resolution of ratification agreed to Oct. 28, 1975. (453)

Safety of life at sea.—Amends seven regulations contained in chapters II, III, IV, and V of the International Convention for the Safety of Life at Sea as follows: Redefines "incombustible materials" for fire protection to allow uniformity in the acceptance or rejection of construction materials; amends the regulation concerned with lifeboat construction and permits the government of the country in which a sign is registered discretion to approve a lifeboat design if it is satisfied that the craft has sufficient stability and freeboard when fully loaded; requires inflatable rafts to be drop tested from expected stowage heights and requires "float free" storage of such rafts; permits the placement of lifesaving appliances in the bow of the ship if placed in a sheltered position and meeting suitable design and placement precautions; permits the radio officer to interrupt the listening watch on the radiotelegraph distress frequency to carry out repairs on important ships' telecommunications equipment; contains more detailed requirements for the construction and operation of pilot ladders and mechanical pilot hoists; and replaces chapter VI dealing with the "carriage of grain" to provide safer methods of transporting grain in ships which have marginal stability while allowing ships more than adequate stability to carry grain without installation of unnecessary fittings. Ex. K, 93d–2d. Resolution of ratification agreed to Oct. 28, 1975. (454)

Tax Convention with Iceland.—Assures consistent tax treatment of foreign investment and follows the model tax convention of the Organization for Economic Cooperation and Development and other U.S. Tax Conventions (including those with Japan and Norway); includes the continental shelves for purposes of taxing income arising from the exploration and exploitation of natural resources; extends the reciprocal exemption for income from transportation by ship and aircraft to gains arising from their sale and to income derived from the use of containers; allows a deduction for dividends paid with respect to the income of a United States permanent establishment in Iceland; exempts income from interest, industrial and artistic royalties, and equipment rentals from tax unless connected with a permanent establishment in the source country; and contains other provisions, Ex. E, 94th-1st. Resolution of ratification agreed to Nov. 18, 1975.

Tax Convention with Poland.—Assures consistent tax treatment of foreign investment between the United States and Poland and follows the model tax convention of the Organization for Economic Cooperation and Development and other U.S. Tax Conventions (including those with Japan and Norway); includes the continental shelves for purposes of taxing income arising from the exploration and exploitation of natural resources; extends the reciprocal exemption for income from transportation by ship and aircraft to gains arising from their sale and to income derived from the use of containers; limits the tax on dividend income from direct investments to 5 percent and the tax on any other dividends to 15 percent; exempts interest income from tax unless it is connected with a permanent establishment in the country from which the interest is paid; limits income from royalties, including cultural and industrial royalties, to 10 percent; and contains other provisions. Ex. A, 94th-1st. Resolution of ratification agreed to Nov. 18, 1975. (502)

Tax Convention with Romania.—Assures consistent tax treatment of foreign investment between the United States and Romania and follows the model tax convention of the Organization for Economic Cooperation and Development and other U.S. Tax Conventions (including those with Japan and Norway); includes the continental shelves for purposes of taxing income arising from the exploration and exploitation of natural resources; extends the reciprocal exemption for income from transportation by ship and aircraft to gains arising from their sale and to income derived from the use of containers; limits to 10 percent the tax on income from dividends and on interest income except that interest paid in connection with indebtedness guaranteed, insured, or indirectly financed by one of the countries is exempt; limits the tax on income from cultural royalties (including films) to 10 percent and the tax on income from industrial royalties to 15 percent; provides that income from equipment rentals is subject to tax only if connected with a permanent establishment in the source country; exempts insurance or reinsurance premiums from any tax unless the premium is connected with a permanent establishment; and contains other provisions. Ex. B, 93d-2d. Resolution of ratification agreed to Nov. 18, 1975. (503)

Tax Convention with the Soviet Union.—Assures consistent tax treatment of foreign investment between the U.S. and the Soviet Union; exempts from tax in the source country income which a resident of one country derives from commercial activities in the country unless it is attributable to an office or other place of business that the resident has in the source country except for the following: (1) rentals or royalties for the use of patents, copyrights and equipment; (2) payment for engineering, architectural and other technical services; (3) interest on indebtedness in connection with the financing of trade between the two countries; (4) reinsurance premiums; and (5) income from the sale of goods or services through a commission agent of independent status; includes the continental shelfs for purposes of taxing income arising from the exploration and exploitation of natural resources; exempts income and gains from shipping and air transportation and income from personal services if the individual is present in the host country for 183 days or less and will be exempt for longer periods if the individual falls into a specified category such as a teacher or student; prohibits one country from subjecting a citizen of the other country who is residing in the host country with a more burdensome tax than that imposed on residents of the host country; and contains other provisions. Ex. T, 93d-1st. Resolution of ratification agreed to December 12, 1975. (590)

Turkey—Military assistance.—Amends the Foreign Assistance Act of 1961—and related continuing resolutions (the terms of which have expired)—to make possible on a contingent basis the resumption of United States military assistance to Turkey, and to provide that the President shall make monthly reports to the Congress on progress toward the conclusion of a negotiated solution of the Cyprus conflict. S. 846. P/S May 19, 1975; House rejected July 23, 1975. (190)

Turkey—Military assistance; Board for International Broadcasting.—Authorizes the delivery to Turkey of approximately $185 million in defense articles which Turkey contracted for under the Foreign Military Sales Act prior to the start of the arms embargo on February 5, 1975; permits the issuance of licenses in connection with commercial sales; defers additional sales under the military sales program until enactment of authorizing legislation; requests the President to initiate discussions with Greece to determine the most urgent needs of Greece for economic and military assistance and requires a report by him to Congress within 60 days after enactment of this act on such discussions together with his recommendations for such assistance; requires a report from the President within 60 days on the progress made during this period toward the conclusion of a negotiated solution of the Cyprus conflict; requests the President to initiate discussion with Turkey concerning effective means of preventing the diversion of opium poppy into illicit channels; and

Authorizes $65,640,000 plus necessary amounts for statutory employee salary and benefits increases for the Board for International Broadcasting (Radio Free Europe and Radio Liberty) for fiscal year 1976. S. 2230. Public Law 94–104, approved Oct. 6, 1975. (373)

United Nations Peacekeeping Forces in Middle East.—Authorizes such appropriations as may be necessary for the payment of the United Nations peacekeeping forces in the Middle East for the period beginning October 25, 1974, and $5.7 million in supplemental payments for the period prior to October 25, 1974, to meet the U.S. share of peacekeeping expenses in excess of those originally anticipated. S. 818. Public Law 94–37, approved June 19, 1975. (VV)

United Nations Zionism Resolution.—Condemns the resolution adopted by the Third Committee of the United Nations General Assembly on October 17, 1975, which associates and equates Zionism with racism and racial discrimination and urges the United Nations General Assembly to disapprove the resolution when it is presented for a vote. S. Res. 288. Senate adopted Oct. 28, 1975. (VV)

Condemns the resolution adopted by the United Nations General Assembly on November 10, 1975 which encourages anti-Semitism by wrongly associating and equating Zionism with racism and racial discrimination thereby contradicting a fundamental purpose in its Charter; states Congressional opposition to any participation by the United States in the U.N. "Decade for Action to Combat Racism and Racial Discrimination" so long as that decade and program remain compromised by the resolution naming Zionism as one of the targets of that struggle; calls upon those concerned with the adherence of the United Nations to the purposes stated in its Charter to obtain reconsideration of the resolution to remove the subject of Zionism from the context of any programs or discussions focusing on racism or racial discrimination; and asks the Senate Committee on Foreign Relations and the House Committee on International Relations to begin hearings immediately for the purpose of reassessing further U.S. participation in the U.N. General Assembly. S. Con. Res. 73. Senate adopted Nov. 11, 1975. (VV)

United States-Soviet trade.—States the sense of the Senate that the President, during the negotiations on a multiyear agreement with the Soviet Union on the purchase of American grain, should attempt to negotiate an agreement whereby the Soviet Union would sell oil to the United States and that United States negotiators shall negotiate the purchase price for Soviet oil at a level which reflects the high value which it attaches to its grain resources. S. Res. 269. Senate adopted Oct. 2, 1975. (VV)

Vietnam and Cambodia—Humanitarian assistance.—Authorizes the President to use any noncommitted funds available for military assistance for South Vietnam and Cambodia for humanitarian assistance for South Vietnamese and Cambodian refugees. S. 1696. P/S May 8, 1975. (VV)

Vietnam—Assistance and evacuation.—Authorizes (1) the use of the armed forces, if the President determines such use is necessary, in the expeditious withdrawal of the remaining American citizens and dependents from South Vietnam and the withdrawal of such foreign nationals as may be brought out along with U.S. citizens and their dependents; (2) $177 mililon in unappropriated balances of previous authorizations for economic aid to Indochina which will be available for humanitarian assistance to and evacuation programs from South Vietnam; and (3) additional humanitarian assistance in South Vietnam in the amount of $150 million to be dispersed through international organizations and voluntary relief agencies to the extent feasible; requires a quarterly report from the President to the Congress regarding the amount and nature of assistance, the expected recipients, the organizations involved in the distribution and the means of distribution; and contains other provisions. H.R. 6096 (S. 1484). P/H Apr. 24, 1975; P/S amended Apr. 24, 1975; Senate agreed to conference report Apr. 25, 1975; House rejected conference report May 1, 1975. Note: (The conference report was rejected by the House because American evacuation of South Vietnam had been completed.) (145,152)

Vietnam—Peace negotiations.—Calls upon the President to request all Vietnamese parties to reopen discussion toward the implementation of the Agreement on Ending the War and Restoring Peace in Vietnam, to encourage those elements seeking a political settlement, and to make known that American assistance to all Vietnamese will depend on the degree of good faith efforts made by them to obtain a cease-fire and political solution to the conflict; and directs the President to report to the Senate, within 30 days on the steps he has taken. S. Res. 133. Senate adopted Apr. 21, 1975. (VV)

Vietnamese refugee aid authorization.—Authorizes $455 million, without fiscal year limitation, for assistance to and behalf of Cambodian and Vietnamese refugees utilizing procedures and administrative machinery established under the Migration and Refugee Assistance Act of 1962; requires the President to keep the appropriate committees of Congress fully and currently informed regarding the use of funds and the exercise of activities carried out pursuant to this act and requires submission of a plan for their resettlement or return, and further requires the President to submit periodic reports on the status of his efforts to retrieve all amounts previously authorized for assistance to South Vietnam and Cambodia excluding the $98 million allocated to the State Department for the movement of refugees. H.R. 6755. Public Law 94–23, approved May 23, 1975. (186)

Vietnamese refugees.—States as the sense of the Senate that State and local governments, with the assistance of voluntary and civic organizations, should join with the Federal Government in assuming responsibility for the sponsorship, resettlement and assimilation of Indochinese refugees into American communities. S. Res. 187. Senate adopted June 18, 1975. (VV)

Vietnamese refugees welcome.—Welcomes on behalf of the Senate the latest exiles to American shores—the refugees from South Vietnam and Cambodia. S. Res. 148. Senate adopted May 8, 1975. (168)

World Food Conference.—Endorses the World Food Conference of 1976 to be held in Ames, Iowa from June 27 through July 1, 1976, and commends the Iowa State University of Science and Technology for a humanitarian undertaking of international significance. S. Con. Res. 19. Senate adopted Apr. 25, 1975; House adopted June 17, 1975. (VV)

LABOR

Common situs picketing—Collective bargaining.—Amends the National Labor Relations Act to authorize common situs picketing at commercial and some residential construction sites of employers primarily engaged in the construction industry on the site; excludes from the scope of the bill work involving residential structures of three stories or less by employers who alone or with others, in the preceding year engaged in construction activity at a gross volume of up to $9.5 million, adjusted annually to reflect cost changes; excludes also work where State law requires the awarding of separate contracts for portions of the project; delays for one year the effective date of the act for construction projects valued at $5 million or less on which work had actively started on November 15, 1975, and for two years for projects valued over $5 million; requires at least 10 days advance notice by a labor organization of intent to engage in common situs picketing, which must be given to the unions, and employers at the site, to the national or international organization with which it is affiliated and to the National Construction Industry Collective Bargaining Committee, and requires an advance authorization of the intended picketing by the national or international union; authorizes expedited organizational elections by providing a maximum 14-day period for holding and certifying an election; does not make lawful any conduct which previously would have been an unfair labor practice by reasons other than the secondary boycott provisions of the prior law;

Creates a national framework to stabilize and improve the fragmented conditions of collective bargaining in the construction industry;

Establishes a Construction Industry Collective Bargaining Committee which is to be composed of 10 management representatives, 10 labor representatives, and up to 3 neutral members appointed by the President after consultation with the Director of the Federal Mediation and Conciliation Service as nonvoting ex officio members;

Requires a 60 day notice to the Committee before the termination or modification of collective bargaining agreements, including those modifications permitted by any reopener provisions in an agreement; provides that the Committee may then take jurisdiction over the labor negotiations for the 60 day period plus a 30 day cooling off period if it determines that such action will meet one or more of the following criteria: facilitating collective bargaining, promoting construction industry stability, encouraging bargaining agreements with more appropriate expiration dates and geographic coverage, promoting practices consistent with apprentice training skill level differentials, and promoting voluntary procedures for dispute settlement; authorizes the Committee to take jurisdiction on its own initiative or at the request of an interested party;

Authorizes the Committee to assist the parties by referring the labor matter to a national craft board or to the national dispute procedures established by the appropriate branch of the construction industry, to meet with the parties, and to take other appropriate assistance action;

Provides that during the 90 day period no party to the agreement will be allowed to initiate or continue any work stoppage unless the Committee disaffirms its prior assertion of jurisdiction; requires, when the Committee has requested the participation of the appropriate national organization, that the national union approve agreements entered into or intended to be effective during or after the 90 day jurisdictional period unless the Committee waives this requirement;

And contains other provisions. H.R. 5900. Public Law 94- , approved 1975. (523, 591)

MEMORIALS, TRIBUTES, AND MEDALS

Aleksandr I. Solzhenitsyn.—Authorizes the President to declare by proclamation that Aleksandr I. Solzhenitsyn shall be an honorary citizen of the United States. S.J. Res. 36. P/S Mar 20, 1975. (VV)

American Revolution Bicentennial commemorative medals.—Authorizes the Secretary of the Treasury to strike and furnish to the American Revolution Bicentennial Administration a maximum of 25,000 medals commemorating up to 21 ethnic heroes of the American Revolution to be selected by the Bicentennial Administration. S. 371. P/S June 6, 1975. (VV)

Apollo-Soyuz test project.—Congratulates the National Aeronautics and Space Administration and the Soviet Academy of Sciences on the joint Apollo-Soyuz Test Project. S. Res. 222. Senate adopted July 26, 1975. (VV)

Armed Forces Bicentennial medals.—Authorizes the striking of medals in commemoration of the bicentennials of the U.S. Army, the U.S. Navy and the U.S. Marine Corps. H.R. 5708. Public Law 94–117, approved Oct. 17, 1975. (VV)

Bess Truman's birthday.—Extends best wishes to Elizabeth Wallace Truman on the occasion of her ninetieth birthday. S. Res. 65. Senate adopted Feb. 7, 1975. (VV)

Bob Hope.—Cites Bob Hope for distinguished and meritorious service to his Nation and to the cause of freedom upon the occasion of his 25th anniversary in television. S. Res. 282. Senate adopted Oct. 9, 1975. (VV)

Boy Scouts of America.—Pays tribute to the Boy Scouts of America on the occasion of its 65th anniversary. S. Con. Res. 6. Senate adopted Jan. 28, 1975. (VV)

Brig. Gen. Charles E. Yeager.—Authorizes the President to present, on behalf of the Congress, to Brigadier General Charles E. Yeager, U.S.A.F., an appropriate silver medal, equivalent to a noncombat Medal of Honor, for his contribution to aerospace science in piloting the XS–1 research airplane faster than the speed of sound on October 14, 1947. H.R. 8151. Public Law 94- , approved 1975. (VV)

Clinton P. Anderson, death of.—Expresses the sorrow of the Senate on the death of Clinton P. Anderson, a former Senator from the State of New Mexico. S. Res. 300. Senate adopted Nov. 12, 1975. (VV)

Emperor and Empress of Japan.—Extends to Their Majesties, the Emperor and Empress of Japan, a warm welcome and sincere good wishes from the American people on the occasion of their historic first visit to the United States. H. Con. Res. 402. House adopted Sept. 26, 1975; Senate adopted Sept. 29, 1975. (VV)

Father Marquette Memorial.—Provides for the establishment of the Father Marquette National Memorial at Saint Ignace, Michigan which is the site of a mission he established and the place of his burial in 1678, and authorizes therefor not to exceed $1 million. H.R. 2724. Public Law 94- , approved 1975. (VV)

George W. Andrews Forestry Sciences Laboratory presently under construction on the campus of Auburn University, Auburn, Alabama, as the "George W. Andrews Forestry Sciences Laboratory". H.R. 2343. Public Law 94–137, approved November 28, 1975. (VV)

Girl Scouts of America.—Pays tribute to the Girl Scouts of America on the occasion of the 63d anniversary of its founding. S. Con. Res. 22. Senate adopted Mar. 6, 1975. (VV)

International Ladies Garment Workers Union.—Commends the International Ladies Garment Workers on its 75th anniversary. S. Res. 194. Senate adopted June 25, 1975. (VV)

James R. Schlesinger.—Commends former Secretary of Defense James R. Schlesinger for his excellence in office, his intellectual honesty and personal integrity, and for his courage and independence. S. Res. 303. Senate adopted Nov. 18, 1975. (VV)

John C. Kluczynski Federal Building.—Designates a Federal office building in Chicago, Illinois as the "John C. Kluczynski Federal Building". H.R. 4241. Public Law 94–84, approved August 9, 1975. (VV)

Johnny Wooden.—Commends Johnny Wooden for his contribution to the youth of the U.S. during his years of coaching basketball. S. Res. 315. Senate adopted December 4, 1975. (VV)

King Faisal, death of.—Expresses the sorrow of the Senate upon the death of King Faisal of Saudi Arabia. S. Res. 120. Senate adopted Mar. 26, 1975. (VV)

Lester S. Jayson.—Expresses gratitude and appreciation to Lester S. Jayson for the long and outstanding service by him to the members and committees of the Senate in his capacity as Director of the Congressional Research Service, Library of Congress, and extends best wishes upon his retirement. S. Res. 284. Senate adopted Oct. 9, 1975. (VV)

Lyndon B. Johnson Memorial Grove.—Authorizes not to exceed $1 million to provide for pedestrian and vehicular access to the Lyndon Baines Johnson Memorial Grove located on the Potomac River in Washington, D.C. H.R 9883. Public Law 94- , approved —— 1975. (VV)

Martin Luther King.—Commemorates the forty-sixth anniversary of the birth of the Reverend Doctor Martin Luther King, Jr., on January 15, 1929, and honors his contributions to the cause of social progress and economic justice for all Americans. S. Res. 14. Senate adopted Jan. 16, 1975. (VV)

Michigan and Kentucky Universities' football teams.—Commends the teams and coaches of the Northern Michigan University and the Western Kentucky University football teams and wishes them well in the national championship game. S. Res. 327. Senate adopted December 11, 1975. (VV)

101st Airborne Memorial.—Authorizes the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia in honor of the "Screaming Eagles" of the 101st Airborne Division, United States Army and requires approval of the Mayor if the selected site is under his jurisdiction. S. 1847. P/S December 1, 1975. (VV)

R. E. "Bob" Woodruff Lake.—Designates the Jones Bluff Lock and Dam on the Alabama River as the R. E. "Bob" Woodruff Lock and Dam. S. 2533. P/S December 1, 1975. (VV)

Rabbi Menachem Schneerson.—Congratulates Rabbi Menachem Schneerson on the observance of his twenty-fifth anniversary, January 22, 1975, as leader of the Movement of Lubavitch. S. Res. 22. Senate adopted Jan. 21, 1975. (VV)

Roy Wilkins.—Honors Roy Wilkins, Executive Director of the NAACP, on the occasion of his being named "American of the Year" by the American Religious Town Hall Meeting, Inc., in Dallas, Texas. S. Res. 35. Senate adopted Jan. 27, 1975. (VV)

Senator Morse's Home.—Expresses the sense of the Senate that the Secretary of the Interior assist the State of Oregon in the preservation and protection of the home of Senator Wayne Morse (a 26-acre ranch located in Eugene, Oregon) by making available to the State such assistance as may be available through programs under the administration of the Secretary. S. Res. 266. Senate adopted Sept. 26, 1975. (VV)

Tom Steed Reservoir.—Designates the Mountain Park Reservoir, Oklahoma, as the Tom Steed Reservoir. S. 1531. Public Law 94–77, approved August 9, 1975. (VV)

U.S. Flag display.—Provides that the American flag may be flown for 24 hours of each day in Valley Forge State Park, Valley Forge, Pa. S. J. Res. 98. Public Law 94–53, approved July 3, 1975. (VV)

Vietnam veterans.—Commends those Americans, living and dead, who participated in the Southeast Asian conflict and extends graditude to them and their families. S. Res. 171. Senate adopted May 22, 1975. (VV)

William James Durant.—Commemorates the 90th anniversary on November 5, 1975, of the birth of William James Durant and honors his contributions to the knowledge and understanding of mankind through history. S. Res. 294. Senate adopted Nov. 5, 1975. (VV)

World Series.—Wishes both the Boston Red Sox and Cincinnati Reds well in the forthcoming World Series. S. Res. 283. Senate adopted Oct. 9, 1975. (VV)

NATURAL RESOURCES—NATIONAL HISTORICAL SITES

American Falls Dam replacement.—Amends the Act authorizing the replacement of the American Falls dam through the use of non-Federal financing by the American Falls Reservoir District, Idaho to provide that the dam and related facilities constitute solely water facilities for purposes of section 103 of the Internal Revenue Code thus assuring that bonds issued by the reservoir district to finance such construction are tax exempt. S. 1152. P/S July 7, 1975. (VV)

Arkansas Post National Memorial Park.—Raises the authorization ceiling for the Arkansas Post National Memorial Park from $550,000 to $2,725,000. S. 1516. P/S Oct. 21, 1975. (VV)

Assateague Island National Seashore.—Amends the 1965 law which provided for the establishment of Assateague Island National Seashore in the States of Maryland and Virginia to repeal sections 7 and 9 mandating the construction of roads and overnight and other public accommodations on the island and authorizes the Secretary of the Interior to hold hearings and make payments to the County of Worcester, Maryland, on claims for compensation for damages or other losses incurred by the county as a result of the repeal of these sections. S. 82. P/S June 4, 1975. (VV)

Dickenson Dam.—Authorizes the Secretary of the Interior to modify the spillway of the Dickinson Dam, Dickinson Unit, Pick-Sloan Missouri Basin program, North Dakota, to increase conservation storage and authorizes the construction of a new spillway to assure the safety of the dam from floods. S. 2089. P/S December 16, 1975. (VV)

Franklin D. Roosevelt National Historic Site.—Authorizes the acceptance of additional lands for the home of the Franklin D. Roosevelt National Historic Site in Hyde Park, New York and authorizes an additional amount, not to exceed $104,000, for development purposes. H.R. 2808. Public Law 94–19, approved Apr. 30, 1975. (VV)

Grand Canyon National Park.—Provides for a study of the enlarged Grand Canyon National Park for possible inclusion in the wilderness system pursuant to the provisions of the Wilderness Act. H.R. 4109. Public Law 94–31, approved June 10, 1975. (VV)

Guadalupe Mountains National Park.—Authorizes the exchange of certain lands within the Guadalupe Mountains National Park, Texas for other lands which will provide an improved access road to the McKittrick Canyon portion of the park. S. 313. Public Law 94– , approved 1975. (VV)

Hells Canyon National Recreation Area.—Establishes the Hells Canyon National Recreation Area in the States of Idaho, Oregon, and Washington to be comprised of an approximate 100 mile area with specified parts designated as recreational, scenic and wild; and deauthorizes the Asotin Dam which was authorized under the provisions of the Flood Control Act of 1962. S. 322. P/S June 2, 1975. (VV)

Indian Trails.—Provides for the study of the Indian Nations Trail in Oklahoma for possible designation as a National Trail under the National Trails System Act. S. 1123. P/S May 21, 1975. (VV)

Indoor recreation facilities.—Amends the Land and Water Conservation Fund Act by adding new authority which permits a State to use not more than 25 percent of its total annual allocation from the Fund for the planning and development of sheltered recreation facilities within specified areas thus permitting the enclosure of swimming pools, ice skating rinks, tennis courts, and similar outdoor facilities for year-round use where climate now controls the season or where there is a shortage of available land. S. 288. P/S May 21, 1975. (VV)

Klondike Gold Rush National Historic Park.—Authorizes the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park, an area of approximately 13,271 acres consisting of the following four units: Pioneer Square, Seattle, Washington and the Skagway, Chilkoot Trail, and White Pass units in Alaska. S. 98. P/S June 4, 1975. (VV)

Land and Water Conservation Fund—National Historic Preservation—Oil shale revenues.—Amends the Land and Water Conservation Fund Act to increase from $300 million to $1 billion the minimum annual level of the Fund; raises from 7 to 10 percent the maximum percentage of allocated grant funds to which a State is entitled in any one year; changes the formula for land acquisition grant monies from 50–50 to 70–30; requires States to submit their Statewide plans to the areawide clearing house created under the Intergovernmental Cooperation Act for comment; provides that not to exceed 25 percent of a State's annual allocation shall be available for sheltered facilities; requires States to account for funds received on a project-by-project basis; clarifies the extent to which Land and Water Funds can be used to acquire land for endangered species or wildlife refuges;

Amends the National Historic Preservation Act of 1966 to change the formula for matching grants for planning, nationally significant properties, demonstration projects, and meeting houses from 50–50 to 70–30; repeals the 50 percent limit on planning; establishes a National Historic Preservation Fund and authorizes therefor $150 million per year over a 5-year period to carry out the purposes of the act;

Provides for Senate confirmation of future appointments to the office of: Director of the Bureau of Land Management, Director of the National Park Service, Director of the Bureau of Outdoor Recreation, Commissioner of Reclamation and Governor of American Samoa; and

Amends section 35 of the Mineral Leasing Act of 1920 to permit each State to use its share of oil shale revenues for planning, construction, and maintenance of public facilities and provisions of public services. S. 327. P/S Oct. 29, 1975 (VV)

McKay Dam.—Authorizes the Secretary of the Interior to increase the capacity of the spillway at the existing McKay Dam in north central Oregon as required for the safety of the structure and reauthorizes the project so as to include flood control, fish and wildlife and recreation as project functions. S. 2361. P/S December 16, 1975. (VV)

Nantucket Islands Trust.—Sets up a Federal-State-local partnership for land use planning, preservation, and conservation of the resources of the Nantucket Sounds Islands through a program of Federal grants; directs the Commonwealth of Massachusetts to establish the following three Commissions to protect and regulate the development of the islands: the Nantucket Trust Commission (Nantucket Islands—38,000 acres), the Martha's Vineyard Trust Commission (Martha's Vineyard—67,200 acres), and Elizabeth Island Trus Commission (Elizabteth Islands—8,300 acres); provides the Commission with guidelines and objectives for drawing up plans for the respective trust areas with land to be classified into the following three categories: (1) "Forever Wild"—land is to remain open, (2) "Resource Management Lands"—intensity of development is to be regulated by the Commission, and (3) "Town Zoned Lands"—lands remain subject to the local township zoning with Commission comment on local ordinances; requires approval by the Secretary of the Interior prior to providing any implementation grants; directs the Secretary to make implementation grants of up to $10 million to the Commissions upon verification that the plan will meet the objectives of the act, that there has been adequate opportunity for public comment, and that the local units of government designated in the plan to implement its provisions have the necessary authority and are willing to do so; authorizes the Secretary to seek injunctive relief against any public entity which violates the plan; and confers Federal recognition and extends Federal services to the Wamponoag Tribe of Gay Head Indians and confirms title to the Indian Common Lands on Martha's Vineyard. S. 67. P/S December 8, 1975. (VV)

National Trails studies

Dominguez-Escalante Trail.—Provides for the study of the Dominguez-Escalante Trail, which extends approximately 2,000 miles through the States of New Mexico, Colorado, Utah and Arizona, for possible designation as a National Trail under the National Trails System Act. S. 805. P/S Oct. 21, 1975. (VV)

Pacific Northwest Trail.—Provides for the study of the Pacific Northwest Trail, which extends approximately 1,000 miles through the States of Washington, Idaho and Montana, for possible designation as a National Trail under the National Trails System Act. S. 1390. P/S Oct. 21, 1975. (VV)

Polecat Bench area, Pick-Sloan Missouri Basin program.—Authorizes the construction, operation, and maintenance of the Polecat Bench area of the Shoshone extensions unit of the Pick-Sloan Missouri Basin program in northwest Wyoming. S. 151. P/S August 1, 1975. (VV)

Reclamation feasibility studies.—Authorizes the Secretary of the Interior to undertake feasibility investigations of twelve water and/or resource projects to permit the orderly continuation of the Bureau of Reclamation's program of investigations leading to recommendation for authorization of water and related development projects. H.R. 6669. Public Law 94–156, approved December 16, 1975. (VV)

Reclamation loan projects.—Amends the Rehabilitation and Betterment Act of 1949 to provide that organizations concerned with projects constructed under the terms of the Small Reclamation Projects Act, as amended, may be eligible and apply for loans in accordance with the Rehabilitation and Betterment Act of 1949 with repayment subject to the terms of the Small Reclamation Projects Act. H.R. 543. Public Law 94–102, approved Oct. 3, 1975. (VV)

Reclamation projects: Amends the Small Reclamation Projects Act of 1956, as amended, to increase the authorizations to meet increased construction costs due to inflation and authorizes the use of program funds for the purchase of existing project related facilities. H.R. 6874. Public Law 94– , approved 1975. (VV)

River basin monetary authorizations: Provides increased monetary authorizations of $186 million for fiscal year 1976 and the transition period July 1–September 30, 1976 for continuation of activities on four river basin plans (Arkansas River Basin—$4 million, Mississippi River Branch—$158 million, North Branch Susquehanna River Basin—$22 million, and Santa Ana River Basin—$2 million) for flood control, navigation, power, and related purposes under the jurisdiction of the Secretary of the Army and the Chief of Engineers. S. 2270. Public Law 94–101, approved Oct. 2, 1975. (VV)

Saline water authorization: Authorizes $4.1 million for fiscal year 1976 for the Federal saline water conversion program conducted by the Secretary of the Interior including $250,000 for completion of research on the freeze crystallization process of water purification which was developed as an advanced water desalinization process. H.R. 3109. Public Law 94–38, approved June 19, 1975. (VV)

Touchet Division, Walla Walla project.—Authorizes $22,774,000 plus such additional amounts as may be necessary to operate and maintain the Touchet Division, Walla Walla project, in the States of Oregon and Washington. S. 1922. P/S October 9, 1975; P/H amended December 16, 1975. (VV)

Volunteers in the parks.—Increases the annual authorization for the Volunteers in the Parks Program from $100,000 to $250,000. S. 896. Public Law 94–128, approved Nov. 13, 1975. (VV)

Water resources planning.—Amends the Water Resources Planning Act to extend the authority for financial grants to States for water resources planning; increases the rate of compensation for experts and consultants to the Water Resources Council and River Basin Commissions; provides authorizations for preparation of a national assessment and for regional and river basin plans; and revises the membership of the Water Resources Council. H.R. 5952. Public Law 94–112, approved Oct. 16, 1975. (VV)

Wild and scenic rivers

Missouri River.—Designates a 149 mile segment of the Missouri River in the State of Montana as a component of the National Wild and Scenic Rivers System. S. 1506. P/S December 4, 1975. (VV)

Wild and scenic rivers studies

Allegheny River.—Designates a 128 mile segment of the Allegheny River in the State of Pennsylvania for study for possible inclusion in the National Wild and Scenic Rivers System. S. 1004. P/S August 1, 1975 (VV)

Housatonic River.—Designates a segment of the Housatonic River in the State of Connecticut for study for possible inclusion in the National Wild and Scenic Rivers System. S. 10. P/S August 1, 1975. (VV)

Wilderness areas

Bristol Cliffs wilderness.—Modifies the boundaries of the Bristol Cliffs Wilderness Area, located in the Green Mountain National Forest, Vermont, by eliminating all privately owned lands and approximately 720 acres of noncontiguous National Forest lands thus reducing the size of the area from 6,500 acres to 3,775 acres. S. 2308. P/S Oct. 8, 1975. (VV)

Eagles Nest wilderness.—Designates a 128,084 acre area in the Arapaho and White River National Forests, Colorado as the Eagles Nest Wilderness. S. 268. P/S June 5, 1975. (VV)

Flat Tops wilderness.—Designates a 235,230 acre area in the Routt and White River National Forests, Colorado, as the Flat Tops Wilderness. S. 267. Public Law 94–146, approved December 12, 1975. (VV)

Sheep Mountain wilderness.—Designates a 52,000 acre area in the Angeles and San Bernardino National Forests as the Sheep Mountain Wilderness. S. 74. P/S August 1, 1975. (VV)

Wilderness areas studies

Great Bear wilderness.—Designates an approximate 378,000 acre area in the Flathead and Lewis and Clark National Forest in Montana known as the "Great Bear Wilderness" for study for possible inclusion in the National Wilderness Preservation System; directs the Forest Service to make resource data available to the Blackfeet Indian tribe which holds Treaty rights to approximately 20,000 of the acres included in the study; and directs the Secretary of Agriculture, in consultation with the Secretary of the Interior, to pursue a program to permit the Tribe to obtain rights of concomitant value on land outside the study area or to otherwise release the 20,000 acres of land from these asserted rights in a manner satisfactory to the Tribe. S. 392. P/S December 17, 1975. (VV)

Snow Mountain defacto wilderness.—Designates an approximate 37,000 acre area in the Mendocino National Forest, California, known as the "Snow Mountain Defacto Wilderness Area" for study for possible inclusion in the National Wilderness Preservation System. S. 1391. P/S August 1, 1975. (VV)

NOMINATIONS

(Action by rollcall vote)

Alexander P. Butterfield to retired list U.S.A.F.—Authorizes the President to appoint Alexander P. Butterfield (formerly a retired colonel, United States Air Force, until he resigned his commission in order to meet the eligibility requirements that the Administrator of the Federal Aviation Administration be a civilian at the time of his nomination) to the grade of colonel on the retired list of the Regular Air Force with pay and other benefits based on a retirement date of February 1, 1969. S. 182. Senate rejected May 20, 1975. (193)

Stanley K. Hathaway, of Wyoming, to be Secretary of Interior.—Nomination confirmed June 11, 1975. (220)

Carla Anderson Hills, of California, to be Secretary of Housing and Urban Development.—Nomination confirmed Mar. 5, 1975. (44)

Thomas J. Meskill, of Connecticut, to be U.S. Circuit Judge for the Second Circuit.—Nomination confirmed Apr. 22, 1975. (141)

Donald Rumsfeld, of Illinois, to be Secretary of Defense.—Nomination confirmed Nov. 18, 1975. (497)

Earl J. Silbert, of the District of Columbia, to be U.S. Attorney for the District of Columbia.—Nomination confirmed Oct. 8, 1975. (430)

Major General Alton D. Slay to be Lieutenant General, U.S.A.F.—Nomination confirmed Oct. 28, 1975. (459)

John Paul Stevens, of Illinois, to be an Associate Justice of the Supreme Court.—Nomination confirmed December 17, 1975. (603)

PROCLAMATIONS

American Business Day.—Designates May 13 of each year as "American Business Day". S.J. Res. 15. P/S Mar. 20, 1975. (VV)

American Institute of Banking Week.—Proclaims the week of May 25 to 31, 1975, as "National American Institute of Banking Week". S.J. Res. 58. P/S Apr. 18, 1975. (VV)

Buchenwald Concentration Camp.—Proclaims April 6, 1975, as a day of observance of the liberation of the survivors of the Buchenwald concentration camp. S.J. Res. 56. P/S Mar. 20, 1975. (VV)

Proclaims April 6, 1975, as a day of observance of the liberation of the survivors of the Buchenwald concentration camp. S. Res. 123. Senate adopted Mar. 26, 1975. (VV)

Car Care Month.—Designates May 1975 as "National Car Care Month". S.J. Res. 57. P/S Mar. 20, 1975. (VV)

Child Abuse Awareness Week.—Designates the period of January 9 through January 15, 1975, as "National Child Abuse Awareness Week". S. Res. 43. Senate adopted Feb. 3, 1975.(VV)

Earth Day.—Designates March 21, 1975, as "Earth Day". H.J. Res. 258. Public Law 99. P/S Oct. 9, 1975. (VV)

Energy Conservation Month.—Declares the period from February 16 to March 15, 1975, as "Energy Conservation Month"; requests the President to report to Congress by March 31, 1975, on the steps taken to promote energy conservation and their results and on any recommendations for legislation necessary to implement a continuing program of energy conservation; and requests the President to report monthly to the American people and Congress on the status of energy conservation initiatives and their effectiveness, domestic energy supplies and shortages, energy imports and the impact of available supplies or shortages on the economy of and employment in the United States. S. Res. 59. Senate adopted Feb. 5, 1975. (VV)

Family Week.—Designates the fourth week in November containing the Thanksgiving Holiday as "National Family Week". S.J. Res. 101. P/S Oct. 20, 1975. (VV)

Good Neighbor Day.—Designates the fourth Sunday in September of each year as "Good Neighbor Day". S.J. Res. 128. P/S Sept. 17, 1975.

Haym Salomon Day.—Designates January 4, 1976, as "Haym Salomon Day". S.J. Res. 99. P/S Oct. 9, 1975. (VV)

Historic Preservation Week.—Designates the week beginning May 12, 1975, as "National Historic Preservation Week." H.J. Res. 242. Public Law 94–21, approved May 9, 1975. (VV)

Hobby Month.—Designates October 1975 as "Hobby Month." S.J. Res. 84. P/S June 19, 1975. (VV)

Honor America.—Declares the 21 days from Flag Day through Independence Day as a period to honor America. S.J. Res. 92. Public Law 94–33, approved June 13, 1975. (VV)

Hunting and Fishing Day.—Designates the fourth Saturday of September 1975, as "National Hunting and Fishing Day." S.J. Res. 34. Public Law 94-96, approved Sept. 18, 1975. (VV)

Indian Day.—Designates September 28, 1975, as "National Indian Day." S.J. Res. 44. P/S May 8, 1975. (VV)

Japan-U.S. Friendship Days.—Designates September 30 to October 13, 1975, as "Japan-United States Friendship Days." S. Res. 270. Senate adopted Sept. 29, 1975. (VV)

Marine Corps birthday.—Designates November 10, 1975 in commemoration of the 200th anniversary of the founding of the U.S. Marine Corps. S.J. Res. 144. P/S Nov. 10, 1975. (VV)

Music in our Schools Day.—Designates March 13, 1975, as "Music in Our Schools Day." S.J. Res. 18. P/S Feb. 19, 1975. (VV)

Newspaper Week.—Designates October 5 through 11, 1975, as "Newspaper Week." S.J. Res. 46. P/S May 8, 1975. (VV)

Newspaper Carrier Day.—Designates October 11, 1975, as "Newspaper Carrier Day." S.J. Res. 46. P/S May 8, 1975. (VV)

Norwegian-American Day.—Designates October 9, 1975, as "Norwegian-American Day". S. Res. 135. Senate adopted June 19, 1975. (VV)

Saint Elizabeth Seton Day.—Designates Sunday, September 14, 1975, as "National Saint Elizabeth Seton Day". S.J. Res. 125. Public Law 94–95, approved Sept. 11, 1975. (VV)

Shut-In Day.—Designates the first Sunday in June 1975, as "National Shut-In Day". S.J. Res. 79. P/S May 8, 1975. (VV)

Ski Week.—Designates the first Tuesday in January of every year as "National Ski Week." S.J. Res. 90. P/S Sept. 25, 1975. (VV)

Space observance.—Designates the period of July 16 through the 22 as "United States Space Observance". S. Con. Res. 47. Senate adopted July 11, 1975. (VV)

Youth Art Month.—Designates March 1975 as "Youth Art Month". S.J. Res. 8. P/S Feb. 19, 1975. (VV)

SENATE

Cloture rule.—Amends rule XXII (cloture) of the Standing Rules of the Senate to change from two-thirds present and voting to a constitutional three-fifths of the membership (or 60 Senators) the number of Senators required to vote for ending debate except on a measure or motion to amend the Senate rules, which shall require an affirmative vote by two-thirds of the Senators present and voting. S. Res. 4. Senate adopted Mar. 7, 1975. (55)

Commission on the Operation of the Senate.—Establishes a Commission to make an independent, impartial overall study of the organization and operation of the Senate including (1) the functioning of Members, officers, and employees in the light of the responsibilities of the Senate in the area of law-making, representation, and over-sight, (2) conflicts in the programming of business, (3) office accommodations and facilities, (4) information resources, and (5) internal management administrative support structure; does not include within the purview of the Commission an examination of the question of the jurisdictions of the committees over subject matter; provides for the appointment of 9 Commissioners from private life and 2 *ex officio* non-voting Commissioners who are presently officers or employees of the Senate; requires an interim report by March 31, 1976 and a final report, together with its findings and recommendations, by September 30, 1976. S. Res. 277. Senate adopted July 29, 1975. (VV)

Provides that any member of the Commission on the Operation of the Senate who is an officer or employee of the United States shall serve without additional compensation but shall be entitled to reimbursement for travel expenses and to receive a per diem in lieu of subsistence, at the same rate as other members of the Commission. S. Res. 286. Senate adopted Oct. 20, 1975. (VV)

Committee expenses.—Continues through May 31, 1975, the authority of Senate Committees to pay employees and make expenditures for inquiries and investigations. S. Res. 111. Senate adopted Mar. 17, 1975. (VV)

Continues through July 31, 1975, the authority of the Senate committees to pay employees and make expenditures for inquiries and investigations. S. Res. 191. Senate adopted June 23, 1975. (VV)

Continues through July 31, 1975, the authority of the Senate Committees to pay employees and make expenditures for inquiries and investigations. S. Res. 207. Senate adopted July 15, 1975. (VV)

Committee staffing.—Amends Senate Rule XXV to authorize each Senator to employ personal staff persons to assist in committee duties; allows funds for this purpose in an amount equivalent to that for three professional positions—two for all standing committees except for the District of Columbia, Post Office and Civil Service, Rules and Administration and Veterans' Affairs Committees, and allows one position for these four standing committees and select, special, and joint committees; provides that a Senator who serves on three of the standing committees in the category for which two positions are provided and who does not serve on any of the other standing committees for which one position is provided may use all three positions for his standing committees; and offsets the number of positions allowed by the number of present employees allocated to a Senator. S. Res. 60. Senate adopted June 12, 1975. (225)

Amends S. Res. 60, to direct the Secretary of the Senate to make available for public inspection names and total aggregate compensation of any professional staff appointed to assist Senators in connection with their committee responsibilities. S. Res. 182. Senate adopted June 13, 1975. (VV)

Floor privileges.—Amends rule XXXIII of the Standing Rules of the Senate to extend privileges of the Senate floor to the Parliamentarian Emeritus of the Senate. S. Res. 196. Senate adopted July 10, 1975. (VV)

Government intelligence.—States as the sense of the Senate that the Senate should consider, after proper committee review, all legislative proposals to study government operations with respect to intelligence activities, improve existing or create additional mechanisms to provide continuing congressional oversight of the such activities, and act upon any proposals by March 1, 1976; and further states that the Senate should pass by June 1, 1976 such necessary legislation to assure that the intelligence activities of the Federal Government are consistent with the Constitution of the United States. S. Res. 231. Senate adopted July 31, 1975. (VV)

New Hampshire Senate debate—TV/Radio coverage.—Suspends Rule IV of the Rules for regulation of the Senate wing of the United States Capitol to permit radio, television and photographic coverage of all proceedings of the Senate in open session with respect to the determination of the contested New Hampshire Senate seat contingent upon prior agreements limiting debate thereon; provides that such broadcasting shall be in conformity with procedures agreed upon by the joint leadership; and requires the leadership to assure that the most advanced technology is employed in televising these proceedings especially with respect to the selection of cameras that require no additional lighting in the Senate Chamber. S. Res. 177. Senate adopted June 9, 1975. *NOTE*: (Agreement could not be reached between the networks and the joint leadership as to lighting requirements.) (VV)

New Hampshire Senate seat—candidate reimbursement.—Authorizes the Secretary of the Senate to reimburse John A. Durkin and Louis C. Wyman out of the contingent fund of the Senate for personal expenses incurred by them as a result of the consideration by the Committee on Rules and Administration and by the Senate of the New Hampshire contested Senate election held on November 5, 1974. S. Res. 247. Senate adopted December 11, 1975. (VV)

New Hampshire Senate vacancy.—Declares the New Hampshire Senate seat vacant immediately. S. Res. 202. Senate rejected July 9, 1975. (269)

New Hampshire Senate vacancy—Committee funding.—Declares a vacancy in the contested New Hampshire Senate seat as of August 8, 1975, so that New Hampshire may hold another election; authorizes the Select Committee on Nutrition and Human Needs to expend not to exceed $485,000 during the 1975 investigative year for increase in investigations. S. Res. 54. Senate adopted July 30, 1975. (VV)

Open committee meetings—Amends rule XXV of the Standing Rules of the Senate to require that each meeting of a standing, select or special committee of the Senate or any subcommittee, including hearings, be open to the public.

Provides that a meeting to determine whether the subject matter to be discussed requires a closed session may be closed upon a motion made and seconded to go into closed session; requires a record vote in open session by a majority of the members if it is determined to close the meeting; allows meetings on the same subject to be closed for a period of up to 14 days;

Specifies that a meeting may be closed only for action on the following: (1) national security; (2) committee staff personnel or internal staff management or procedure; (3) the professional standing of an individual which could lead to possible criminal or misconduct charges or an unwarranted invasion of privacy; (4) the identity of an informer or law enforcement agent or the disclosure of information relating to the investigation or prosecution of a criminal offense; (5) information relating to trade secrets or financial or commercial information of a specific person required by law to be kept confidential or obtained by the Government on a confidential basis; or (6) disclosure of a matter required to be kept confidential under other provisions of law;

Allows a Chairman to clear a committee meeting of spectators when a disorder or a demonstration by the audience occurs and go into closed session;

Requires that a complete transcript or electronic recording be kept of the proceedings of a meeting unless a majority of the members vote not to do so;

Permits radio and television coverage of an open meeting under rules adopted by the committee;

Amends rule XXVII of the Standing Rules of the Senate to require that House-Senate conference committee meetings be open to the public except when a majority of the managers of either the House or Senate, in open session, with a roll call vote, determine that all or part of the meeting on that day be closed; provides that this provision shall not take effect until a similar rule is adopted by the House; and

Makes the provisions of this resolution applicable to all committees by repealing section 133(b) of the Legislative Reorganization Act of 1946, section 133A(b) of the Legislative Reorganization Act of 1970 and sections 102(d) and (e) of the Congressional Budget Act of 1974 which relate to open and closed committee meetings. S. Res. 9. Senate adopted Nov. 5, 1975.

NOTE.—(Provisions requiring open meetings of Government agencies and Congressional committees are contained in S. 5, Government in Sunshine.) (470)

Select Committee on Intelligence.—Authorizes $750,000 for the establishment of an 11-member select committee composed of six Democrats and five Republicans to investigate and study governmental operations with respect to intelligence activities and the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons, acting individually or in combination with others, on behalf of the Federal Government; empowers the committee to require by subpena the attendance of witnesses and the production of evidence; directs an investigation of the following matters among others: (1) whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation; (2) the conduct of domestic intelligence or counterintelligence operations against citizens by the FBI or any other Federal agency; (3) the origin and disposition of the so-called Huston Plan to apply intelligence agency capabilities against individuals or organizations within the U.S.; (4) the extent to which the FBI, the CIA and others coordinate their respective activities; (5) the extent to which domestic intelligence or counterintelligence activities within the United States by the CIA conforms to its legislative charter; (6) past and present interpretation by the Director of Intelligence of the responsibility to protect intelligence sources; (7) the extent and nature of executive branch oversight as well as congressional oversight of all intelligence activities; (8) the need for specific legislative authority to govern the operation of any intelligence agencies of the Federal Government without explicit statutory authority, such as the Defense Intelligence Agency and the National Security Agency; (9) the extent to which intelligence agencies are governed by Executive orders, rules or regulations either published or secret and the extent to which these Executive orders, rules or regulations interpret, expand, or conflict with specific legislative authority; (10) violation or suspected violation of any State or Federal statute by any intelligence agency or person on its behalf, including surreptitious entries, surveillance, and illegal opening or monitoring of U.S. mail; (11) whether any of the existing laws are inadequate to safeguard the rights of American citizens, to improve control of intelligence activities and to resolve uncertainties as to the authority of U.S. intelligence and related agencies; (12) whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by agencies; and (13) the extent and necessity of overt and covert intelligence activities in the United States and abroad; authorizes the committee to recommend new legislation with regard to its findings and to make a final report of the results of the investigation; provides that the committee shall prevent disclosure of information relating to CIA or other intelligence activities which would adversely affect intelligence activities in foreign countries; prohibits committee personnel from accepting any honorarium, royalty or other payment for a speaking engagement, article, or book in connection with the investigation; and requires security clearance for employees who have access to classified information. S. Res. 21. Senate adopted Jan. 27, 1975. (1)

Authorizes the Select Committee to obtain data contained in tax returns provided that names, addresses, and personal identifications are presented in such a form as not to identify the individual tax returns from which the data is derived. S. Res. 167. Senate adopted May 22, 1975. (VV)

Amends S. Res. 21 to increase the authorization for the Select Committee from $750,000 to $1.1 million of which not to exceed $300,000 shall be for the procurement of consultants. S. Res. 165. Senate adopted June 6, 1975. (VV)

Amends S. Res. 21 to increase the authorization for the Select Committee through February 29, 1976 from $1.15 million to $2.25 million of which not to exceed $600,000 shall be for the procurement of consultants. S. Res. 218. Senate adopted July 31, 1975. (VV)

Senate photograph.—Provides for a temporary suspension of rule IV of the Rules for the Regulation of the Senate Wing of the Capitol (which prohibits the taking of pictures in the Senate Chamber) for the purpose of permitting the United States Capitol Historical Society to photograph the Senate in actual session and authorizes the Sergeant at Arms to make the necessary arrangements with a minimum of disruption to Senate proceedings. S. Res. 217. Senate adopted July 25, 1975. (VV)

Southwest Pacific.—Authorizes the President of the Senate to appoint a special delegation of Members of the Senate to visit certain countries in the Southwest Pacific to conduct a study on U.S. security and foreign policy interest in that area and to designate the co-chairman of the delegation and authorizes for this purpose not to exceed $35,000 to be paid from the contingent fund of the Senate. S. Res. 331. Senate adopted December 16, 1975. (VV)

Witness fees.—Increases the limitations with regard to daily witness fees and transportation expenses payable to witnesses summoned to appear before the Senate or any of its committees as follows: Witness fees—from $25 to $35 a day; transportation expenses for not more than 600 miles—from 20 cents to 35 cents per mile; and transportation expenses for more than 600 miles—from 12 cents to 20 cents per mile. S. Res. 17. Senate adopted June 4, 1975. (VV)

TRANSPORTATION—COMMUNICATIONS

Airport and airway development.—Extends to September 30, 1975, the authorization for airport development grants contained in the Airport and Airway Development Act of 1970, as amended. S. 1972. P/S June 24, 1975. (VV)

Alaska Highway right-of-way.—Amends the Federal-Aid Highway Act of 1973 to delete that portion of section 218(a)(1) which provides that the rights-of-way granted by the Canadian Government for the reconstruction of that segment of the Alaska Highway running through Canada "shall forever be held inviolate as a part of such highways for public use". S. 1245. Public Law 94–147, approved December 12, 1975. (VV)

Amtrak—Penn Central.—Authorizes an additional $347 million to insure the continuation of essential rail services in the Northeast and Midwest under the Regional Rail Reorganization Act (Public Law 93–236); increases from $85 million to $282 million Federal grants to bankrupt railroads in the Northeast and Midwest to keep them in operation until a plan being developed by the U.S. Rail Association becomes effective after its submission to Congress by March 28, 1975; increases from $150 million to $300 million loan guarantees to bankrupt railroads to maintain and improve rail facilities until the new system is in operation and gives the Secretary of Transportation more flexibility in deciding how and when the guarantees will be used; provides a mechanism for allowing a Federal district court overseeing a reorganization to reconsider the decision that a bankrupt railroad was capable of reorganization on an income basis and thus outside of many parts of the Regional Rail Reorganization Act as in the case of the Erie-Lackawanna; clarifies the position of the Interstate Commerce Commission's Rail Services Planning Office during the reorganization period by making it explicit that they are to continue representing the interests of the small communities and users during the whole reorganizing process and authorizes the Office to hold public hearings on any supplement to the preliminary system plan; provides that no railroad in reorganization shall withhold from a State or subdivision any tax collected from a tenant of its property and imposes a maximum fine of $10,000 for violations; and contains other provisions. S. 281. Public Law 94–5, approved Feb. 2, 1975. (5,28)

Amtrak supplemental authorization.—Provides a $63 million supplemental authorization for fiscal year 1975 to meet increased costs identified as (a) railroad performance incentive contract payments of an additional $21.5 million; (b) settlement of the Amtrak/Penn Central contractual dispute, which has resulted in an additional expense of $22.9 million; (c) additional expenses in Amtrak's car overhaul program of $5 million; and (d) increased operating costs primarily due to inflation of $49.7 million; and provides that the salary of the president of Amtrak may be as high as $85,000 instead of $60,000—the present salary ceiling. H.R. 4975. Public Law 94–25, approved May 26, 1975. (173)

"Bruja Mar".—Authorizes the documentation of the vessel "Bruja Mar" as a vessel of the United States with coastwise privileges. S. 1187. P/S December 18, 1973 (VV)

Cargo vessel passengers.—Amends section 26 of the Merchant Marine Act of 1920, as amended, to authorize the Coast Guard in an emergency situation to permit cargo vessels engaged in domestic trade to carry more than the 16 passengers currently authorized by law. H.R. 5405. Public Law 94–85, approved August 9, 1975. (VV)

Federal-Aid highway apportionments.—Directs the Secretary of Transportation to apportion the $3.25 billion, previously authorized under the Federal-Aid Highway Act of 1970 for fiscal year 1977, for the Interstate Highway System and approves the 1975 cost estimate which contains apportionment factors for the several States. S. Con. Res. 62. Senate adopted September 8, 1975; House adopted December 16, 1975. (VV)

Federal-Aid highway authorization.—Extends highway programs through fiscal year 1978; continues the Primary system which, as defined in present law consists of routes important to statewide, regional and interstate transportation; places the Secondary and Urban systems under heading of the Community Service system; renames them as the Nonurbanized and Urbanized systems, and changes the division between communities eligible for these funds from 5,000 in population to 50,000 in population; provides that no State shall receive less than one-half of one percent of funds apportioned for the Urbanized systems and that the funds may be used in small areas having a population between 5,000 and 50,000 as well as in urbanized areas;

Provides that beginning July 1, 1976, State and local officials may designate as part of the Nonurbanized system any public road which is considered to be of local importance and which is not on another Federal-aid system, and repeals the separate Off-System Roads program;

Authorizes a single sum of money to be appropriated to States for use at their discretion for regular Primary projects in urban or rural areas or for projects on the Priority Primary system in order to give the States more effective control in setting priorities for work to be done anywhere on the Primary system; changes the apportionment formula for Primary system funds to one weighted two-thirds on the existing formula for rural Primary apportionments and one-third on the existing formula for apportionment for extensions of Primary routes into urban areas, which closely approximates the distribution of funds for all Primary system projects under existing law, and changes formulas for the new Nonurbanized category to reflect the new population figures used to divide the categories and bases the Urbanized system formulas on the ratio of urbanized population in each State to that in all States;

Changes the definition of construction to include rehabilitation and restoration of existing roadways in order to allow maximum flexibility in the use of funds to meet priority needs; allows local officials to select routes and projects on the urban highway system without State concurrence when the locality puts up 50 percent or more in matching funds; modifies present law to provide that if an Interstate segment is withdrawn in an urban area the State's apportionment of funds shall be reduced only by the ratio that the cost of the segment bears to the total cost of completing the interstate system in that State;

Changes the Interstate apportionment formula, which is based on the ratio that the cost of uncompleted work in a State bears to that in all the States, to provide that funds shall be apportioned three-fourths in the ratio which the estimated Federal share of the cost of completing the Interstate system work in each State bears to the total cost in all States and one-fourth in the ratio that each State's estimated cost to complete nationally significant routes bears to the total cost of such routes nationwide;

Consolidates all provisions for highway-related safety activity under the jurisdiction of the Federal Highway Administration and the responsibility for the driver-oriented and data collection standards in the National Highway Traffic Safety Administration;

And contains other provisions. S. 2711. P/S December 13, 1975. (585)

Federal-Aid highway projects: Increases the Federal matching share for Federal-aid highways and certain mass transportation projects to provide States unable to meet the matching requirements for Federal-aid highway funds with moneys to cover Federal Highway Administration apportionments up to 100 percent. H.R. 3786. Public Law 94–30, approved June 4, 1975. (VV)

Federal Communications Commission satellite regulations: States the sense of the Senate that the Federal Communications Commission should take such action pursuant to law as is necessary to provide that the advent of domestic communications satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern. S. Res. 318. Senate adopted December 11, 1975. (VV)

Lighthouse service retirement increase: Increases from $240 to $270 the amount of monthly retirement pay received by a person under section 6 of the Act of June 20, 1918, as amended, who retired on or before October 1, 1972, and provides that the increase shall become effective on the first day of the calendar month following enactment. H.R. 6851. Public Law 94– , approved 1975. (VV)

Lighthouse service survivors benefits increase: Increase from $174 to $200 the monthly benefits payable to widows of certain former employees of the Lighthouse Service. H.R. 1535. Public Law 94– , approved 1975. (VV)

Maritime authorizations: Authorizes $562,933,000 for the following six categories of programs of the Maritime Administration for fiscal year 1975: (1) acquisition, construction, or reconstruction of vessels and construction-differential subsidies; (2) ship operating-differential subsidies; (3) research and development; (4) reserve fleet; (5) maritime training at the Merchant Marine Academy at Kings Point, N.Y.; and (6) financial assistance to State marine schools; authorizes additional supplemental appropriations for increases in salaries, pay, retirement, or other employee benefits authorized by law; and requires that at least one regional office of the Maritime Administration be maintained for each of the four major seacoasts (Atlantic, Gulf, Great Lakes, Pacific). S. 332. Public Law 94–10, approved Mar. 23, 1975. (VV)

Authorizes $543,618,000 for the following six categories of programs of the Maritime Administration for fiscal year 1976: (1) acquisition, construction, or reconstruction of vessels and construction-differential subsidies; (2) ship operating-differential subsidies; (3) research and development; (4) reserve fleet; (5) maritime training at the Merchant Marine Academy at Kings Point, N.Y.; and (6) financial assistance to State marine schools; authorizes additional supplemental amounts for increases in pay, retirement, or other employee benefits authorized by law and in operating expenses of the

Merchant Marine Academy; requires that not less than 10 percent of appropriated funds be allocated for construction and operating differential subsidies to serve the foreign trade requirements of the ports of each of the four seacoasts of the United States (Atlantic, Pacific, Gulf, and Great Lakes); and increases from $5 billion to $7 billion the limitation on the aggregate unpaid principal on obligations guaranteed by Title XI Federal ship mortgage guarantee program. S. 1542. Public Law 94–127, approved Nov. 13, 1975. (VV)

Maritime Commission: Provides that the compensation and emoluments of the office of Commissioner which was vacated by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and contains other provisions. H.R. 11172. Public Law 93– , approved 1975. (VV)

Mission 66 bypass: Amends the Act of 1963 to raise the ceiling on development funding from $2,050,000 to $3,850,000 in order to reimburse the city of Vicksburg in Mississippi for the construction costs of the Mission 66 Bypass over the park tour road in the Vicksburg National Military Park for use of local city traffic. S. 2150. P/S December 1, 1975. (VV)

Public broadcasting authorization: Provides a 5-year authorization for the operation of Corporation for Public Broadcasting (CPB) for the period July 1, 1975 through September 30, 1980, which is equal to 40 percent of the amount of the non-Federal financial support received by public broadcasting entities in the second year preceding each such fiscal year but not to exceed the following limitations in each fiscal year; 1976—$88 million; transition period—$22 million; 1977—$103 million; 1978—$121 million; 1979—$140 million; and 1980—$160 million;

Requires that a certain portion of Federal funds be distributed directly to local noncommercial educational radio and television broadcast stations; and

Authorizes CPB to engage in the development and use of non-broadcast communications satellites for the distribution and dissemination of educational radio and television programs. H.R. 6461. Public Law 94– , approved 1975. (495)

Railroad safety—hazardous materials transportation authorizations: Authorizes $35 million for fiscal year 1976 and $8,750,000 for the transition period July 1, 1976 through September 30, 1976, to carry out the purposes of the Federal Railroad Safety Act of 1970 which prescribes regulations to ensure the safety of the Nation's railroads; includes: $18 million for safety inspection and enforcement activities and increases the number of inspectors from 350 to 500, $10 million for safety research and development, and $3.5 million for State participation programs; amends the act to require the Secretary of Transportation to supply more information on the transport of radioactive materials by rail; and authorizes $7 million for fiscal year 1976 and $1,750,000 for the transition period July 1–September 30, 1976, to carry out the purposes of the Hazardous Materials Transportation Act which regulates the transport of hazardous materials by rail. S. 1462. Public Law 94–56, approved July 19, 1975. (VV)

Railroad temporary operating authority (Rock Island): Amends the Interstate Commerce Act to authorize the Interstate Commerce Commission to grant temporary operating authority to a carrier by railroad pending a final determination by the Commission as in the case of the Chicago Rock Island and Pacific Railroad Company which has entered reorganization under section 77 of the Bankruptcy Act; authorizes the Commission to grant temporary approval of the operation of a railroad by another railroad applying to conduct such operations if failure to do so would result in the destruction of railroad properties or limit future usefulness with no direct cost to the Federal government; directs the Commission to report bimonthly to Congress on the effects of any such orders issued; permits the Commission to extend service orders for not to exceed an aggregate of 240 days instead of the present 180 day period; and provides for repayment, within 30 days, to carriers ordered to so operate. S. 917. P/S Apr. 28, 1975; P/H amended June 23, 1975. (VV)

Railroad unemployment and sickness benefits.—Amends the Railroad Unemployment Act to raise the maximum daily benefit for unemployment or sickness from $12.70 to $24 a day for the period July 1, 1975 through June 30, 1976, and to $25 a day thereafter; retains the basic benefit standards of replacement of 60 percent of most recent wages; provides a program of extended unemployment compensation benefits during periods of high unemployment for railroad employees with less than 10 years service so that they are protected as railroad employees with more service now are; changes the formula for employer contributions to increase the amount carriers pay into the railroad unemployment insurance fund; provides statutory authority for the Railroad Retirement Board to borrow funds from the Railroad Retirement Account if it finds that the unemployment insurance account is insufficient to meet its obligations for benefits; and contains other provisions. H.R. 8714. Public Law 94–92, approved August 9, 1975. (VV)

Rail services: Implements the reorganization of the bankrupt railroads in the Midwest and Northeast through amendment of the Regional Rail Reorganization Act (RRRA), which established the United States Railway Association to plan and finance the acquisition, rehabilitation and modernization of these railroads and created a private, State-chartered corporation called the Consolidated Rail Corporation (ConRail) as the principal new rail carrier in the region to operate the new system; authorizes a total of $8,610,832,000 for this purpose, of which $7.3 milllon is effectively loan authority and incorporates, with some modifications, the recommendations in the Railway Association's final system plan;

Creates a rail trust fund for the improvement and modernization of rail facilities and authorizes appropriations for loans from the fund of $4.4 billion; requires the Secretary of Transportation to formulate a recommendation within 2 years for further funding of the trust fund or for another funding mechanism;

Authorizes the financing from the trust fund of the capital needs of ConRail, which will be made up most of the Penn Central, Lehigh Valley, CNJ, Ann Arbor, the L. & R.H. and parts of the Reading and Erie Lackawanna railroads in the amount of up to $3 billion from appropriated funds; authorizes ConRail to obtain this capital from the Railway Association, which will administer the trust fund, by sale to the Railway Association of $1 billion in 7½ percent debentures maturing in 35 years and $2 billion in series A preferred stock carrying a 7½ percent cumulative dividend with the payment of interest and dividends deferred until ConRail shows retained profits of $500 million, which is projected to occur in 1982;

Provides that, in exchange for the transfer of the rail properties of the bankrupt railroads to ConRail, ConRail will issue equal numbers of shares of common stock, series B preferred stock, and Certificates of Value, which will be guaranteed by the Federal Government for the purpose of underwriting or guaranteeing the creditors that they will receive the constitutional minimum value of their interests, which shall be determined by the special court established by the Rail Reorganization Act; provides that the Certificates of Value may not be exercised for at least 2 years and that the current value at that time of the series B preferred stock and the common stock would be deducted from the amounts owed by the bankrupt railroads;

Permits the Railway Association either on its own motion or upon petition of the Department of Transportation or upon petition of a State, local, or regional transportation authority with regard to light-density branch lines, to revise or supplement the designations made in the final system plan of transfers to or from ConRail if it finds that the goals of this Act would be better achieved;

Implements an improved high speed rail passenger service project for the Northeast corridor from Washington to New York and Boston, which would: (1) decrease running time by 45 minutes on the New York-Boston segment, by 30 minutes on the Washington-New York segment, and by 1 hour on each segment for nonstop trains, (2) upgrade the right-of-way, (3) renovate or rebuild stations and passenger handling facilities, and (4) develop and acquire new rolling stock; authorizes the appropriation of up to $3 billion to the Railway Association for making noninterest bearing 30-year loans for carrying out the project and a total of $175,832,956 to the Northeast Corridor Improvement Corporation for system management and development, acquisition of control and of properties, development and utilization of radio-telephone service, and interim operating losses; and $20 million to the National Railroad Passenger Corporation for purchase and improvement by AMTRAK of certain properties outside the corridor where such purchase would result in continued or improved intercity rail passenger service; and provides for the continuance of $25 million in funds already appropriated for emergency maintenance;

Makes changes in railroad regulation under the Interstate Commerce Commission, including provisions to speed up and simplify the adjustment of territorial division disputes and to modernize rate regulation in a less restrictive regulatory framework; requires the Secretary of Transportation to make studies of past and present financial assistance for all modes of transportation and to make a report with recommendations on transportation needs and changes in financial assistance; creates a national rail branch line policy designed to minimize disruptions in local rail service, creates a program to assist minority enterprise participation in the reorganization and other railroad rehabilitation projects;

And contains other provisions. S. 2718. P/S December 4, 1975; P/H amended December 17, 1975; House requested conference December 17, 1975. (552)

"Seafreeze Atlantic": Exempts the vessel SEAFREEZE ATLANTIC from the provisions of the United States Fishing Fleet Improvement Act which prohibits the employment of persons other than U.S. citizens or legally domiciled aliens on fishing vessels built with construction subsidies provided under that act by allowing the employment of foreign citizens on the vessel as fishermen and fish processors for a 4-year period subject to certain conditions and authorizes the Secretary of Commerce to renew the exemption if the owner demonstrates that the conditions have been satisfactorily carried out. H.R. 5197. Public Law 94–150, approved December 15, 1975. (VV)

Shrimp fisheries: Amends the Offshore Shrimp Fisheries Act to implement amendments to the shrimp fishing agreement between the United States and Brazil (Ex. D, 94th–1st) by making technical amendments to the Act regarding the life of the agreement, the permissible number of vessels allowed to fish in a defined area at any particular time, the fees for licenses, and other changes needed to conform the Act with the new agreement. H.R. 5709. Public Law 94–58, approved July 24, 1975. (VV)

Tuna fisheries: Implements the agreement between the United States and other fishing nations on the management and conservation of Atlantic tunas (Ex. H, 89th–2d); authorizes the Secretary of Commerce to administer the conservation program as it relates to fishing by U.S. citizens and vessels; directs the Secretary to implement conservation recommendations of the governing body created by the Convention, the International Commission for the Conservation of Atlantic Tunas; authorizes the use of the Coast Guard, the U.S. Customs Service, and where appropriate, those of coastal States to enforce the act; authorizes the President to appoint Commissioners and alternate Commissioners to represent the U.S. on the International Commission; establishes an advisory committee to the U.S. Commissioners; designates the Secretary of State as the U.S. agency to receive reports, requests and other communications of the Commission and respond thereto with the decisions to accept or object to recommendations of the Commission to be made jointly with the Secretary of Commerce, and the Secretary of Transportation to make such decisions in matters pertaining to enforcement; and contains other provisions. H.R. 5522. Public Law 94–70, approved August 5, 1975. (VV)

TV blackout—professional sports.—Extends for 3 years, to December 31, 1978, the sports blackout law contained in the Communications Act of 1934, as amended (P.L. 93–107), which provides for televised coverage of any game of a professional sports club in the area in which the game is played if it is sold out 72 hours (3 days) in advance; provides a 24 hour sellout cutoff for televising a post season championship series game of professional baseball, basketball, and hockey; and changes from April 15 to June 15 the annual Federal Communications Commission reporting date. S. 2554. P/S December 8, 1975; P/H amended December 15, 1975; In conference. (VV)

Urban mass transportation.—Authorizes the Secretary of Transportation to use the $500 million (set aside out of the section 3 capital grant program under provisions contained in P.L. 93–503) for operating as well as capital assistance costs of public mass transportation service in rural and small urban areas (population less than 50,000) under terms and conditions similar to those now governing section 5 grants to urbanized areas; increases the number of transit managerial training fellowships available; expands the definition of "construction" in the capital grants program to include preliminary engineering; requires the Secretary to promulgate standards governing transportation planning and equipment and facilities design for all new rapid rail systems as well as for other vehicles integrated into the system including buses to assure that elderly and handicapped persons have the same rights as other persons to utilize mass transportation facilities and services; requires the Secretary to convert the two outstanding capital loans under the Mass Transit Loan Program, which is no longer in existence, into capital grants; and requires the Secretary to provide by February 1, 1976, a detailed estimate of major capital grants to be made in fiscal years 1977–1981 under the section 3 program. S. 662. P/S Sept. 15, 1975 (VV)

VETERANS

Disability compensation and survivors benefits: Provides a 12 percent cost-of-living increase in the rates of disability compensation for those veterans rated 50 percent disabled or less and a 14 percent increase for more severely disabled veterans rated 60 percent to totally and permanently disabled; provides a 12 percent cost-of-living increase in the rates of additional compensation for dependents of veterans whose disability is rated 50 percent or more; increases from $150 to $175 the annual clothing allowance for a veteran who because of his compensable disability wears or uses a prosthetic or orthopedic appliance, including a wheelchair, which tends to wear out his clothing; makes the effective date of an award of increased compensation the earliest date that it is ascertainable that an increase in disability occurred if the application is received within a year of such date; provides a 14 percent cost-of-living increase in the rates payable for dependency and indemnity compensation (DIC) for widows and children, as well as for additional allowances for those in receipt of DIC and death compensation in need of aid and attendance; and provides that the survivors of a veteran who was rated totally disabled and permanently service-connected disabled at the time of death would be automatically entitled to dependency and indemnity compensation. H.R. 7767. Public Law 94–71, approved August 5, 1975. (VV)

Veterans' day: Redesignate effective January 1, 1978, November 11 of each year as Veteran's Day and make such day a legal public holiday. S. 331. Public Law 94–97, approved Sept. 18, 1975. (VV)

Veterans interim pension adjustment.—Provides, in order to allow adequate time to consider the new veterans pension system passed in S. 2635 and to prevent scheduled pension reductions on January 1, 1976, for an average 8 percent increase in the pension rates and a $300 increase in the maximum annual income limitations in the present program effective from January 1, 1976; and contains other provisions. H.R. 10355. P/H November 4, 1975; P/S amended December 17, 1975. (VV)

Veterans pension reform.—Creates a new pension system applicable to all veterans, widows, or dependent parents who, subsequent to October 1, 1976, the effective date of the new program, are or become eligible for a VA non-service-connected pension, for the purpose of assuring a level of income above minimum subsistence, preventing veterans and widows having to return to welfare assistance, treating similarly circumstanced pensioners equally, providing the greatest pension for those with the greatest needs, and guaranteeing regular increases in pensions which fully account for increases in the cost of living; adopts a system of establishing a basic minimum level of income for all eligible veterans and dependents, which is $2,700 for all single pensioners and $3,900 for all pensioners with dependents to replace the current basic rate which is reduced by a formula system as outside income increases; adds an additional $1,596 to that level for those in need of aid and attendance and an additional $636 for pensioners who are housebound; equalizes the rates payable to widows with those for veterans; provides automatic annual cost-of-living adjustments to the minimum level of support so that cost-of-living increases in social security benefits will no longer result in a decrease in VA pension payments; authorizes for the period prior to implementation of the new program an 8 percent increase in the rate payable to currently eligible persons and a $300 increase in the maximum annual income limitations effective January 1, 1976; establishes a new pension program based on identical principles for parents receiving dependent and indemnity compensation; and contains other provisions. S. 2635. P/S December 15, 1975. (VV)

Veterans pension reform—budget waiver: Waives section 303(a) of the Congressional Budget Act of 1974 (which limits consideration by the full Senate of any bill or resolution providing new budget authority for a fiscal year until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301 of the Act) to provide for Senate consideration of S. 2635, the Veterans Pension Reform Act, in order to prevent a reduction or loss in benefits received by veterans and survivors on January 1, 1976; to assure uniformity and continuity with respect to the Veterans' Administration pension program; to provide veterans, survivors and their families an opportunity for prudent fiscal planning in consideration of the amount of pension they will be entitled to during the calendar year 1976; and to allow Congress to complete, in a timely manner, the work regarding veterans and survivors pension reform which the Committee on Veterans' Affairs has carried on throughout the preceding two years. S. Res. 322. Senate adopted December 12, 1975. (VV)

Veteran's physician pay: Amends title 38, U.S.C. to provide special pay and other improvements designed to enhance the recruitment and retention of physicians, dentists, nursing personnel and other health care personnel in the Department of Medicine and Surgery of the Veterans' Administration thereby giving VA physicians and dentists salary comparability with those in the military and Public Health Service who are eligible for special pay benefits above $36,000 under Public Law 93–274, the Uniformed Services Physicians Bonus Act. H.R. 8240. Public Law 94–123, approved Oct. 22, 1975. (376)

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. After the two leaders have been recognized under the standing order, Mr. CLARK will be recognized for not to exceed 15 minutes, and Mr. JAVITS will be recognized for not to exceed 15 minutes. Mr. ROBERT C. BYRD will be recognized for not to exceed 15 minutes, by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will then be a period for the transaction of routine morning business, by unanimous consent, of not to exceed 15 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the Senate will resume consideration of the defense appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Rollcall votes are anticipated tomorrow, and it could very well be a long day. As to whether or not there will be a Saturday session remains to be seen.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 9 a.m. tomorrow morning.

The motion was agreed to; and at 7:16 p.m. the Senate recessed until Friday, December 19, 1975, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1975:

DEPARTMENT OF JUSTICE

Frederick M. Coleman, of Ohio, to be U.S. attorney for the northern district of Ohio for the term of 4 years.

Thomas A. Olson, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Thursday, December 18, 1975*

The House met at 10 o'clock a.m.

Rev. James E. Duncan, Jr., Dale City Baptist Church, Woodbridge, Va., offered the following prayer:

Almighty God, our Heavenly Father, we thank Thee that once again we can commemorate the birth of Thy Son, our Saviour Jesus Christ. We are grateful for His love and grace provisions that allow us to be alive and to function in Thy plan today.

We thank Thee that no problem or adversity is too great for Thee, and that Thou canst stabilize us in every confrontation, as we relax mentally into Thy control. Grant that we become aware of Thy living presence; that we be Thy yielded instruments; and that we remember what we know about Thee as we face the responsibilities and the decisions of this day. This we pray in the name of Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts;

H.R. 10555. An act for the relief of Mrika Mrnacaj; and

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5541) entitled "An act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 313. An act to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Tex., and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the Senate amendment to the House amendment to a bill of the Senate of the following title:

S. 622. An act to provide standby authority to assure that the essential energy needs of the United States are met, to reduce reliance on oil imported from insecure sources at high prices, to implement United States obligations under international agreements to deal with shortage conditions, and to authorize and direct the implementation of Federal and State conservation programs consistent with economic recovery."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 11016. An act to extend the Renegotiation Act of 1951 for 6 months;

H.R. 10727. An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles;

H.R. 10284. An act to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for three years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums; and

H.J. Res. 749. Joint Resolution to provide for the beginning of the second session of the 94th Congress and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10284) entitled "An act to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums, "requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. CURTIS, and Mr. FANNIN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10727) entitled "An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. CURTIS, and Mr. FANNIN to be the conferees on the part of the Senate.

THE REAL PURPOSE OF CHRISTMAS

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, soon each of us as Members of the House of Representatives will go our separate ways for the celebration of Christmas. With all the commercialization and secular emphasis upon Christmas this year, I ask my colleagues to join with me in pausing to emphasize that the current celebration is actually for the birthday of Jesus Christ.

I consider it proper and important that in view of the fact that we are to recess for Christmas in order to honor the birthday of Jesus Christ, that we consider once again, the simple, well-known and ancient words of the Christmas story found in Luke 2:4–11 in the Holy Bible; and these words are:

4. And Joseph also went up from Galilee out of the city of Nazareth into Judea unto the city of David which is called Bethlehem; (because he was of the house and lineage of David:)

5. To be taxed with Mary his espoused wife, being great with child.

6. And so it was, that, while they were there, the days were accomplished that she should be delivered.

7. And she brought forth her firstborn son, and wrapped him in swaddling clothes, and laid him in a manger; because there was no room for them in the inn.

8. And there were in the same country shepherds abiding in the field, keeping watch over their flock by night.

9. And, lo, the angel of the Lord came upon them, and the glory of the Lord shone round about them: and they were sore afraid.

10. And the angel said unto them, Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people.

11. For unto you is born this day in the city of David a Saviour, which is Christ the Lord.

EXCELLENT BRIEFING BY DEPUTY SECRETARY OF STATE SISCO ON ANGOLA

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, this morning a goodly number of our colleagues are over in room 2170 of the Rayburn Building concluding a very interesting 1-hour briefing by Deputy Secretary of State Joseph Sisco and others, regarding our involvement in Angola.

The affair was arranged by the chairman of our international affairs, the gentleman from Pennsylvania (Mr. MORGAN). I want to congratulate the gentleman from Pennsylvania and the Secretary and the staff of the Secretary on this session. The briefing from which I have just come was very informative and a learning process for all of us.

I think it behooves us to familiarize ourselves with what is going on in southwest Africa, one of the sensitive spots in our troubled world today.

CALL OF THE HOUSE

Mr. RONCALIO. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 807]

Ambro
Armstrong
AuCoin
Brinkley
Brown, Mich.
Burke, Fla.
Chisholm
Conyers
Daniels, N.J.
Davis
Diggs
Eshleman
Foley
Ford, Mich.
Fraser
Gaydos
Gude
Hébert
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Jarman
LaFalce
McCormack
McEwen
McKinney
Matsunaga
Morgan
Obey
Peyser
Pressler
Risenhoover
Scheuer
Sullivan
Teague
Udall
Waxman
Wilson, Tex.
Young, Ga.

The SPEAKER. On this rollcall 394 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder whether the gentleman from Florida (Mr. PEPPER) will ask specific permission to file whichever reports he wants rather than asking for blanket permission.

Mr. PEPPER. Mr. Speaker, the resolution that we propose to file is House Resolution 868. We have no other rules at the present time that we know of, which we contemplate filing.

Mr. BAUMAN. It is a resolution of the House?

Mr. PEPPER. It is House Resolution 868.

Mr. BAUMAN. Mr. Speaker, can the gentleman explain what it is?

Mr. PEPPER. Yes. It is a resolution dealing with a procedural matter of the House requiring 2 hours before the reports are filed.

Mr. BAUMAN. I cannot hear the gentleman's answer.

Mr. PEPPER. It is a privileged resolution requiring copies of reports to be available to Members for 2 hours before matters may be taken up on the floor, so that reports may be filed, either printed or in reproduced form, so that Members may see the report.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONSIDERATION OF H.R. 5559, REVENUE ADJUSTMENT ACT OF 1975—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The unfinished business is the further consideration of the veto message of the President on the bill, H.R. 5559, an act to make changes in certain income tax revisions of the Internal Revenue Code of 1954, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN) for 1 hour.

Mr. ULLMAN. Mr. Speaker, I yield 20 minutes to the gentleman from Pennsylvania (Mr. SCHNEEBELI) and at this time I yield myself 4 minutes.

Mr. Speaker, we have come now to the final disposition of this matter for this session of the Congress. I hope no one is laboring under the illusion that there may be another opportunity before we adjourn to vote on this matter. We have voted on it time and time again.

The proposal that we have before us is the compromise proposal that is intended to tide this matter over until we can consider it again after the budget resolution has been determined, then in the tax reform bill when it comes back from the other body, and the assurance has been given us that that will be prior to midyear of next year, we can take up the issue as to whether the spending limit and the economy is such that the tax reductions should be continued.

So this is our final action on this important matter.

What is the effect of failing to override the veto? Unless the House overrides the President's veto, the annual tax burden of individuals and small businessmen will rise by over $16 billion. On New Year's Day a family of four with a salary of $140 per week will face an increase in weekly withholding taxes of $5. This massive tax increase will come at a time when over 7 million people are unemployed and when industry is operating well below its capacity. To permit such a tax increase at this time would be to risk economic disaster. That is the issue that faces the House today. The economy is in serious trouble. The statistics on housing starts and industrial production published this week suggest that economic recovery may be weakening even though it is a mere 6 months old.

I think every Member here in going home to their constituencies during this recess should be fully aware of the seriousness of the economic situation in this country. I talked to a leading economist yesterday who predicted a major financial crisis during the early part of next year. There is every indication that the unemployment figures that come out in early January will show a very decided increase in unemployment. That is the issue that we have to face up to.

Let me again say to the Members of this House, and I want to refer to my friends on the minority side, most of you helped us set up the budget procedure, you were supporters. It is built into the structure of the House so that now procedurally we can responsibly handle our budget in this Congress.

What a tremendous reform that is. All over the country the editors are beginning to realize it. They know that the proper way to handle an expenditure ceiling is through the budget process. I think we know it, too. That is the way to do it. That is the only way it can be done. There is no other way.

On January 19 the President will send up his budget, and, hopefully, he will then in detail tell us the size of the budget that he needs.

The SPEAKER. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Speaker, I yield myself 2 additional minutes.

Then we will have the responsibility of putting on a ceiling. We have a ceiling now. We did it by concurrent resolution. We bound ourselves by that ceiling. We will do it again when the President sends up his budget. Let us follow the orderly procedure.

Every ounce of reason would dictate that this tax reduction must stay in effect from an economic point of view and from a procedural point of view. That is the sound way to go. This is our final vote. We are not going to have another opportunity. We are going to go home after this vote either with a tax reduction in place or without a tax reduction. God only knows we have tried.

The Committee on Ways and Means, the leadership, and everybody have tried to accommodate the problem in every possible way that is consistent with the procedures, the sound procedures of the House. The minority has tried. Time and time again we have had a vote on the issue. We have had more than one vote on the issue. So for God's sake let us face up now to the real problem, the real issue of whether we are going to do what is economically and procedurally sound, and override this veto today.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the chairman has reminded us of the great importance of this vote. This is a vote that the public is going to remember next November. This is the vote that will have great significance. It is probably one of the two or three most important votes we are going to cast this session of Congress.

We have at this time an opportunity to recoup some of the lost prestige that Congress has suffered. As I recall, Congress now has less than 20 percent of the approval of the country, and the two main reasons that they give for disapproval of congressional conduct is too much bureaucracy and too much deficit spending. That is the subject to which we are addressing ourselves this morning—too much Federal spending and two back-to-back deficits of $70 billion a year with a resultant $100 million a day interest on our debt, and further inflation.

I think the request we are making is very reasonable. All we are asking is that we limit our increase to 6 percent over our current spending. Tell me what is the matter with that. We are asking New York City to cut back. As I reminded the Members before, the new popular Governors, Democratic Governors, of Massachusetts, New York, Colorado, and California are reducing expenditures. All we are asking is that we restrain our increases to 6 percent. I think it is a very reasonable request. We have done this before, as recently as 1973.

In 1973 we effected a $250 billion spending ceiling—$250 billion. What we are talking about now if we do not restrain our spending is a $423 billion spending.

I would like also to assure my colleagues that regardless of what we do today, there is total assurance that the taxpayer will get his income tax cut that we have been discussing here for several days. He will get it during 1976. It may be deferred for a month or two in the current year, the income tax cut made effective until May. The longer we defer, the more the cut will be for each month.

The Members have heard me talk a lot about these same subjects.

Members must be getting tired of the reemphasis but I think it is well to realize that this is a vote that is going to be remembered for a long time.

I ask that the President's proper action be upheld.

Mr. ULLMAN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Georgia (Mr. LANDRUM), a member of the committee.

Mr. LANDRUM. Mr. Speaker, the President's position that we set a spending ceiling now—1 month before we will receive his budget, 4 months before the new Budget Committee can formulate a resolution and present it to this body for its approval or disapproval, 10 months before the fiscal year to which it will apply—is a direct assault on the new budget process.

The Budget Committees established in the respective Houses of Congress have been plowing new ground, difficult ground all year to establish status. We have had trial runs and many Members, including this one, a member of the Budget Committee, had some skepticism about whether we could succeed or not, but with a very able staff, with very competent expert people in this field, and the energetic and superb leadership of the gentleman from Washington, the chairman of the Budget Committee, BROCK ADAMS, we have been able to establish some status. We are beginning to be a useful arm of this body.

Three hundred ninety-five billion dollars may be an ideal figure. No one can question the motives or the desires of those who want to put a spending ceiling on. But all of us can question how it is done. Who wants to be put into a box now from which he cannot escape next April when we come here with the first concurrent budget resolution?

This Member does not have to use rhetoric to demonstrate his support of fiscal sanity in this body. My voting record on fiscal matters will stand against that of any Member of this body. This Member does not have to employ rhetoric to demonstrate his support of the President—President Ford specifically on veto messages. I suspect that there is no Member who has a record of more sustained support of the President's veto positions than this Member.

But here is a time when the President is asking us to give a little psychiatric treatment to the emotional charges of spending; asking us to scrap the responsibility of a new committee that is beginning, as I said, to be a very useful arm of the Congress for a cup of psychiatric porridge, something to satisfy the emotions of the people, to tell them we are putting on restraint.

Sure, we want restraint. Sure, we must curb the expenditures of this Federal Government. Sure, we must set an example. But in order for us to be responsible to our constituents, to do the honorable and the honest thing with them, we have got to level with ourselves first, and we cannot put ourselves in a position today of setting a ceiling expenditure when we do not know yet whether it is a correct amount, we do not know yet what agency is going to put in this and take out the other, we have no opportunity to examine potential revenues, we do not know whether we are going to take something away from Defense and put it in somewhere else. We just do not know. We do not have the information that we ought to have to act upon a question of this magnitude.

I might say that $395 billion could be a high figure.

Mr. Speaker, I hope we can, and I believe we can, if the other side lets us have the opportunity, come within a smaller figure than $395 billion. Perhaps as low as $380 billion.

I think we ought to face up to the fact that if we take away the budget process that is moving so successfully today, we will reduce membership on that committee to an honorary vacuum; and return to spending with no restraint; spending with no central studies by this body; just harum-scarum authorizing, spending to satisfy whims instead of need, which in my judgment is tantamount to permanent deficit spending.

Mr. SCHNEEBELI. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. DU PONT).

Mr. DU PONT. Mr. Speaker, the President has asked the Congress to take a stand on the direction of our economic policy today. We can sustain the President's veto of this tax bill, or we can override the veto and continue on a course that has brought us to a $75 billion deficit. If Congress chooses the latter, it will have succeeded, again, in postponing the hard choices on tax reform and spending. It would be easy to go home this Christmas season and say to our constituents, "We cut your taxes by $7 billion." But what about limiting spending? Does the Congress really believe that limiting spending and cutting taxes are unrelated? Are we going to offer something for nothing, again, and expect not to have our sleight of hand detected? The President proposes a $28 billion tax cut, linked to a $28 billion spending reduction. It makes sense. It is sound economics. Cutting taxes alone is not.

Why? Because we have no money to give back to the taxpayers. If we cut taxes without matching those cuts with spending cuts, we will, in effect, be borrowing money to pay for the tax cuts. When we borrow money and increase the deficit, we compound inflation and that means the price of everyone's food, shelter, and clothing goes up. If the Congress chooses to override the President's veto, what it really chooses is to give money back to the taxpayers on the one hand, and take it away again through higher prices on the other. That is a deceptive and irresponsible fiscal policy, and one which I urge my colleagues not to support.

And what of tax reform? Does the Congress want to junk those reforms we made less than a month ago? They have been stripped from this bill. I supported those reforms and I do not want to see them put off until later. Having served in Congress for some years, I am suspicious that opting for "later" actually means "never."

The time to face up to tax reform is now. The time to begin to limit spending is now. The time not to increase the $75 billion deficit is now. I contend that the American people will see through a vote for tax reform that means cutting and stalling and maneuvering. They are not so unconcerned as to take a tax cut from Congress today and not wonder how they will be asked to pay for it tomorrow.

If we override the President's veto today, can we expect the public to believe we will cut spending later? Will the Congress cut spending in an election year? Not likely. Will this Congress enact tax reform when all the special interest groups are hard at work to prevent it? Not very likely either.

Our only choice then, if we are sincere in our effort to hold down Federal spending, is to support the President's veto of this tax cut. And if that veto is sustained, we should then promptly pass the tax cut with a spending ceiling to achieve the purposes we originally had in mind: Help for the hard-pressed taxpayer, and a reduction in Federal deficit spending.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I admire the sincerity of my friend, the gentleman from Georgia and honor his position. I wish the gentleman reflected the majority position of this House. I say to my friend from Georgia, if we approach the budget process realistically, we will understand that we are never going to get fiscal discipline approaching it piecemeal and that we must give instruction to the Budget Committee as to the limits within which they must operate to achieve fiscal policy that makes sense to this country. If we wait until later on, the effort becomes an arithmetical one.

Mr. Speaker, both sides in this dispute favor a tax cut. The issue on this veto is expenditure limitation, not tax cut extension. If the veto is sustained, we will have both. When the veto is sustained, I say to my friends from the Republican Party, the majority party, will not permit taxes to go up through failure to adopt an expenditure limitation. The immediate result of a sustained veto will be an effort to work out expenditure limitation language which can be quickly adopted, rhetoric to the contrary notwithstanding.

I say also to my friends on the minority side, the only way we can prove taxes will not go up is to sustain this veto. If our side loses this confrontation, the charge can always be made that higher taxes would have resulted, and that is not in our interest.

Now, do not forget, the President has advocated a tax cut twice as large as the one being here extended. Given a choice of a tax cut without expenditure limitation, or a tax cut with expenditure limitation, the public will choose the latter. The public is way ahead of this body in its understanding of what is wrong with this country and what dangers we face unless we are able to achieve some discipline. The people want a spending limitation.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA), a member of the committee.

Mr. MIKVA. Mr. Speaker, as I listened to my colleague on the committee, the gentleman from New York (Mr. CONABLE) and others, I hear everybody say they are for a tax cut. What we are hearing then is that this tax cut is being held hostage to a procedural position that some Members of the minority party want the Congress to take. I think time is going to separate these issues, as they ought to be separated. Comes January, when most Americans' paychecks are going to go down, because their withholding tax is going to go up, I do not think they are going to be interested in procedural positions—or how we run the budgetary process for 1977. Comes next year when the economy suffers, when we have had a tax increase, contrary to what every economist worth his salt says we need, I do not think the people are going to put these two issues together. I think what they will remember and what they should remember, is that the President failed to provide a continuation of the tax cut so desperately necessary to the economy and so agreed upon by everybody.

Mr. Speaker, I have not heard anybody say, "I am opposed to a tax cut." There are no differences on this issue. Contrary to what the gentleman from New York says, we either decide now that there will be a continuation of the tax cut in January or there will not be. There is no other position this Congress can take on this issue, not this month, not next month or the month thereafter. Once and for all the House has to decide, do we want to continue the tax cut we put into effect in 1975, or do we think that taxes are too low and we ought to increase them?

Mr. SCHNEEBELI. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, to those on my side of the aisle, I fully recognize the dilemma in which this kind of issue places us. It would perhaps be easier politically to go home and say, "Yes; I voted for a tax cut."

I will say to this House in all honesty, I think that is wrong politically, as well as wrong economically. I think all of us would make a serious error if that is the posture we adopt this morning on the issue the President has brought to us.

The gentleman from New York (Mr. CONABLE), I will say to my friend, the gentleman from Georgia (Mr. LANDRUM), is right. The issue is not the question of whether we will have a tax cut. As a matter of fact, I think the tax cut ought to be deeper; but the issue is whether or not this Congress is willing to face up to its obligation to establish some kind of ceiling that will both allow us to have a meaningful tax cut for the American people and to impose some discipline on ourselves.

The President has raised a fundamental issue that everybody in this Chamber can no longer ignore, which is whether or not we can continue to allow the Federal Government to be the single biggest beneficiary of inflation. If the American people's dollars go up in an inflationary spiral, they go into a higher tax bracket. The Federal Government gets more money. The American people come out less well off, because they have less money in real earning power; so if we want to assume today that it is simply easier to duck the issue, then I suppose those who wish to override may do so; but I think this Congress would be ill-served by that kind of action. My hope is that the veto will be sustained. My hope is that all of us will recognize our obligations to ourselves, as well as to the future of this country.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, let me advise the House of one other problem that will come up if we permit the tax reduction to lapse on January 1. In addition to the economic problems which have been discussed by my colleagues, we will be shifting gears in withholding accounts of 86 million American workers.

At this critical point at year's end nearly 5 million employers will have to change their withholding accounts and more than 7 million other individuals will have to adjust their estimated tax accounts. Now, this kind of accounting procedure, along with the increased withholding levels after January 1, will create a nightmare of confusion and public indignation which I think will demean everyone in this Congress and in the Government who has had a part in it, so I just want to call that to the attention of this body, the aspect of shifting gears at this critical point.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, there was some inference in the paper that the President might have some authority to continue withholding rates. I want to set the record absolutely straight. That can only be done by the Congress. If we fail to act here over the tax increase, we are not voting on a tax reduction, really. We are voting on whether millions of Americans are going to have a tax increase in January. If we fail to override, there will be a tax increase. There is nothing the President can do about that.

Mr. VANIK. Mr. Speaker, the chairman is absolutely correct. Withholding rates go up January 1, and that is the law, absolutely.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, my colleagues of the House, I am opposed to a tax reduction until I have some reason to believe that we are going to be able to compensate for this loss of revenue. It can best be done with a spending limitation.

Just a few days ago, when we in the House considered the tax reform proposal, Member after Member of this body stood right here where I stand and said, "We have to have additional revenue; we have to do something to reduce the deficits and Government spending." But what do we say now? Where is that bill now? Earlier this year, we were less than honest with the American people and with ourselves because we said that the tax reductions which were earlier enacted were temporary in nature and they would expire at the end of this year. But now we are told that if we do not now continue these reductions that the net effect will be that the taxpayer will have a tax increase.

Mr. Speaker, we cannot afford to do this, we are further told, with the Christmas season coming, the Members going home, and the election year in the offing we politically must cut taxes.

If this Congress does not have the courage now to face up to fiscal responsibility, who is led to believe that that courage will be gained 6 months later, closer to an election? Who would believe that we would then find the courage to finance the expenditures that we propose with program after program. Who of you would vote then to raise taxes? The situation would then be even more political.

There are two things that the people of this country demand. There are two things that we and the people of this country must do if we are going to right, to the limited extent that we can, the problems we have with the Government. First, we have to reduce the bureaucracy. There is not a Member of this House here who has not been told, "The faceless bureaucrat is destroying me and my business." The faceless bureaucrat who makes arbitrary decisions is the greatest enemy the Government has. The people of this country want something done about spending. Bureaucracy feeds on spending. They go hand in hand. If we are going to reduce the bureaucracy, we have to do something at least to limit spending. We have to control spending, and we can control spending that the bureaucracy feeds on by doing something about the spending ceiling.

Why now? Where do you think the economy of this country would be if we waited until next year when we consider the first budget resolution? This issue has to be met. It has to be understood. It has to be understood by the Members of this body, as well as the people of this country. This is the reason we must insist now, on spending ceiling. The Budget Committee must get the word.

The SPEAKER. The time of the gentleman from Louisiana has expired.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 additional minutes to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, we must meet this issue now. We cannot wait until the Budget Committee is ready to report this first resolution to tackle the question of a spending limit.

The only thing we are talking about is slowing down the rate of growth of Federal expenditures. We are in trouble financially in this country. We have exceeded our ability to pay for government at every level, at the national level, at the State and local level, and we have done so because of the past abuses to our economy. New York City is only the tip of the iceberg. Government must be reduced and spending must be controlled.

Mr. Speaker, this country existed for 186 years before we had a budget that exceeded $100 billion. Nine years later, we had a budget that exceeded $200 billion. Four years later, we produced a budget that exceeded $300 billion. And unless we do something about our spending ceiling, 2 years later we are going to have a budget that exceeds $400 billion. All of this has happened since I have been here.

We cannot continue blindly down that road if you are interested, as I am, in preserving the greatest system of government that God ever let exist under his blue canopy of heaven.

What have we been doing? We have been indulging increasing deficits and this year to the extent of about $74 billion. The effect of these deficits is what is destroying our economy. That is what is destroying the free enterprise system in this country. That is the reason—because the Government is doing this—that we have unemployment to the extent that we have. Government spending does not produce anything. Government spending in the consumption sector does not produce anything for the economy. Spending by the private and productive sector produces something for the economy.

My friends, we better get on with it if we do not want to take the blame for the destruction of the economy of this country. I will vote to sustain the veto and would only urge that you do what your heart tells you is right, whatever that might be.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL), a member of the committee.

Mr. WHALEN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. WHALEN. Mr. Speaker, I thank the gentleman from Minnesota for yielding.

Mr. Speaker, I rise in support of H.R. 5559 notwithstanding the veto of the President.

Mr. Speaker, the issue which confronts us today is a simple one: Should present tax rates be extended or should they be allowed to rise as of January 1.

More specifically, if the President's veto of the Revenue Adjustment Act of 1975 is sustained, total disposable income next year will be reduced $16.8 billion—or $8.4 billion for the first 6 months. The resultant ripple effect—assuming a "multiplier" of 2.5—would lead to a $42.0 billion annual contraction of consumer purchasing power. This comes at a time when the American economy shows signs of slackening its pace of recovery from its most serious recession in four decades. In November, for example, the industrial production index showed its lowest growth rate—0.2 percent—in 6 months. Further dampening of the public's "ability to buy" certainly is not a sound prescription for continued economic revival. Rather, it is sure to lead to higher levels of unemployment in 1976.

Any discussion of the veto of H.R. 5559 also must deal with the President's rationale for refusing to approve this measure. The administration argues that any extension of the 1975 tax cut must be accompanied by a $395 billion spending ceiling for fiscal year 1977. I endorse the concept of an annual expenditure limitation. Too, I approve of efforts to restrain the rate of growth of Federal outlays. But to impose a ceiling prematurely is unsound—unsound economic policy; unsound legislative procedure.

1. UNSOUND ECONOMIC POLICY

The Congress is being asked to establish a spending level 9 months before its implementation and 21 months prior to its termination. To attempt to project governmental needs this far in advance poses serious risks. Can we, for instance, predict the percentage of the work force which will be unemployed in July 1977? Can we foretell whether, by mid-1977, the economy will need further stimulation or, having rebounded sufficiently, require more fiscal restraint? Do we know now whether in the next 21 months an international crisis might erupt, necessitating substantial increases in defense or security assistance appropriations?

Thus, prudence dictates that, to avoid error and to achieve desired goals, policymakers should reach economic decisions as close as possible to the time of augmentation. Congress should adhere to this principle by deferring until September 1976 its commitment to a final spending figure for fiscal year 1977.

2. UNSOUND LEGISLATIVE PROCEDURE

A specific expenditure level is difficult to justify when the budget which it affects has not yet been drawn up or presented to Congress. While cuts should, and can, be made for fiscal year 1977, they should be accomplished within a framework of established budget priorities. In my opinion, blind cutting is just as fiscally irresponsible as uncontrolled and unplanned spending.

Further, by adopting now a fiscal year 1977 expenditure ceiling, Congress would erode its own fiscal decisionmaking apparatus provided by the Budget and Impoundment Control Act of 1974. As Mr. J. W. McSwiney, chairman of the board of the Mead Corp., recently wrote me:

> But to insist on incorporating spending cuts in the tax bill, circumventing the new Congressional budgeting process and the very credible and encouraging efforts of the budgeting committees seems to me impractical and ill-advised.

In the light of these reasons, Mr. Speaker, I intend to vote affirmatively for H.R. 5559, notwithstanding the veto of the President.

Mr. FRENZEL. Mr. Speaker, we are at the moment of truth.

The vote on this veto is probably the last chance to gain control over runaway spending. And make no mistake, the spending ceiling is the issue here. It is the overriding issue; it is the only issue. If we sustain this veto, we can get both a spending ceiling and a tax cut.

When we sustain this veto, this Congress will have to add a spending ceiling. We can do it before Christmas if the Congress is cooperative. Or, we can do it after the recess, and then cut taxes retroactively, just as we did in the Tax Reduction Act of 1975. It would be better to do it now. Otherwise perhaps the President would have to call us back to do it.

The President believes that the people want a tax cut and a spending ceiling. He offered a deeper and a better tax cut than the Congress would give, despite the rhetoric on the other side.

I believe the people want a spending ceiling, and I think they want it now.

The simple truth of the tax cut bill before us now is that the majority Democratic Party in Congress wants to spread the "goodies" of a tax cut without giving up its perquisites of spreading out another layer of "goodies" through uncontrolled spending.

The majority group will never support a spending ceiling unless it is forced upon it. If we wait for a spending ceiling to be developed here, we will die of old age.

The budget process is wonderful. We love it. We want to improve it, but it cannot of itself limit spending effectively.

Consider what those friendly folks at the Budget Committee have done for us so far. They accumulated all the spending wants of our several committees. Acting with tight-fisted determination, and parsimonious discrimination, they "reduced" the $50 billion deficit in the President's budget all the way up to a $75 billion deficit.

The committee needs our direction. Only by sustaining this veto can we set a spending limit, and only by a limit can we establish law and order in the spending process.

Mr. Speaker, we are trying to help the Committee on the Budget. It will make the priority spending decisions, but the whole House will have to accept responsibility for setting the total limit.

We can, therefore, enhance the budget process, establish control of spending, and give the people a tax cut, all in one easy vote.

Let us not pass up the opportunity. A "no" vote will preserve our last possible chance to control spending." Vote "no" now, and give the people a vote!

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. KARTH).

Mr. KARTH. Mr. Speaker, there is a way that we can guarantee there will be no future tax increase, and there is really only one way to do that. That way is to make sure that America gets back to work.

Instead of having 8 million, 9 million, or 10 million people unemployed, we should have them gainfully employed and have them paying taxes instead of absorbing them in the economy, and that is when, and only when, we can guarantee that in the future we will not need a tax increase. We must establish a vibrant, stimulated economy so that that objective can be achieved.

Mr. Speaker, there has been some talk about our being out of this recession. Well, most of the economists in this country disagree with that conclusion, and the fact of the matter is there are many of them who feel very strongly that we may very well at the beginning of 1976 slide back into the trough of a deeper recession still. I do not want to opt for that chance.

There has been some talk about the bureaucracy, Mr. Speaker. Well, let me tell the Members something about that. This Congress does not hire a single one of these so-called faceless bureaucrats. The man downtown hires those folks, and if the bureaucracy is to be reduced, I think they can start downtown. I would certainly support that move.

Mr. Speaker, in conclusion let me say that first of all I want to congratulate the gentleman from Georgia. I wish I would have said what he did. I certainly would not have been able to say it as well as he did. He gave us the results of a sustained veto.

Let me point out a few of the specifics, Mr. Speaker, in the event we do sustain this veto. A married worker with two children earning $7,000 a year will have his taxes increased $270 in 1976.

A married worker with two children, earning $10,000 a year, will have his taxes increased by $292 in 1976.

A married worker with the same family, earning $15,000 a year, will have his taxes increased by $246 in 1976.

A single worker earning $5,000 a year will have his taxes increased by $137 in 1976.

A single worker earning $7,000 a year will have his taxes increased by $175 per year, and a single worker earning $10,000 will have his taxes raised by $226 next year.

Mr. Speaker, I hope that the veto is not sustained.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I am not a member of the Committee on Ways and Means, but I imagine that those persons who serve on that committee are terribly frustrated.

I say that for this reason, and there are twice as many on that side as there are on the Republican side. They have gone about this country screaming about tax reform, about closing the tax loopholes, which we should, and that we should think about soaking the rich and hitting those persons who do not pay income tax, which we should. They have kept saying that we should tighten up tax reform, which would be the greatest thing in the world.

They worked hard and long, day and night.

What have they produced? What do we have here today? A mouse. A simple 6-month extension of a temporary tax cut.

We just cannot have it both ways. If we are going to have a tax cut, we are going to have to reduce spending. If we want to increase taxes, we can increase spending. It is just that simple.

Mr. Speaker, I would ask my colleagues here in the House to look at the public interest rather than at the ballot box, because if you want to keep on spending and do not care about the economy and if you want a tax cut at the same time, we are going to get ourselves into the same shape that New York City is in at present.

Therefore, Mr. Speaker, this is our opportunity to put a cap on the bottle before everything runs out. I would recommend that we vote to sustain the veto of the President.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of overriding this veto.

It is unfortunate that this issue has been polarized by too much political rhetoric.

The issue is very simple, in my judgment. There is no disagreement between the President and the majority of Congress that a tax cut ought to be extended into 1976. There is no disagreement between the President and the majority of the Congress that there ought to be a spending ceiling. The only disagreement that I see is one of length of time. The President wants a tax cut for 1 year, and he wants a spending ceiling that would go into another year and 10 months. The Congress wants a tax cut extension and a spending ceiling, which we have already adopted, for a period of 6 months.

In my judgment, the Congress is right on this issue because we can fairly well project economic conditions for 6 months; and we cannot in any way accurately project economic conditions for the next year and 10 months.

The gentleman from Pennsylvania said that this is going to be a vote which will be long remembered. I suggest that there are going to be two votes that will be long remembered.

One of them is the vote we take today, because this vote will have serious economic implications. If we vote to sustain the veto; and on January 1, when people are beginning to pay their Christmas bills, they are confronted with an increase in taxes also, I think the psychological effect on this Nation will be one to reduce consumer spending and to reverse the economic recovery that we are now on.

That is going to be one important political issue that we are going to have to face in November, for we are responsible for reversing the economic recovery if we sustain the veto.

The second vote which this body is going to have to face will come next spring when the issue of extending the tax cut further will come up simultaneously with the issue of putting a spending ceiling on fiscal year 1977.

There, Mr. Speaker, are two important votes. I think we ought override this veto.

Mr. SCHNEEBELI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Speaker, this Nation was formed on the basis of "We the people." It is not that way any more, it is "I the people." Each group rips off for itself what it wants. That is why we are in the mess we are in. We bought people with their own money.

I cannot say that voting to sustain the veto is a smart move politically. Probably it is not too smart. But how about fighting for the things we believe in? If we are going to lose as an individual or a party, we have to stand for something. This is the one shot we have to hopefully hold down the rate of spending which is killing our country. In the 7 years since I have been here, the spending has gone from under $200 billion a year to $420 billion. The national debt is over $600 billion. If you like it the way it is, if you take the rate of inflation play the same game. But if you want to change, if you want to stand for something, this is the one shot that we have to hold down spending. Let us vote "no." We will get our tax cut anyway, let us do what is right for the Nation, rather than what is smart and expedient politically.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, it seems to me that we are in this situation: Most of us agree on the need to continue the tax cut and most of us agree on the need for a spending limit. The problem arises over the timing, the linking up of these two. The main issue before the House is whether or not to continue the tax reduction. That is what is going to happen January 1 or it is not going to happen. Then next spring, in the orderly course of things, will be the time for addressing the fiscal year 1977 spending limitation, along with the revenue ceiling, the debt and the deficit.

We already have voted a $375 billion ceiling for the fiscal year 1976 and that is linked with the tax reduction and the revenue estimates of the 1976 revenue. An orderly budget, of course, requires that the President present his 1977 budget in January and for the Congress to vote on expenditures and revenue ceilings in May, to take effect in October. That is the way we ought to do it.

The economy needs a continued stimulus from the tax reduction. The business outlook is precarious. It appears that some forces for recovery are moving but there is doubt as to whether the recovery will be sustained. The country needs a continuation of the tax stimulus to bring this economy up to where it ought to be.

Not to continue the tax reduction and not to permit the orderly budgeting according to the new procedures, I think is too high a cost to ask the American people to pay for the President's effort to head Ronald Reagan off at the pass.

I strongly urge that an orderly sequence be followed: first to permit the tax reduction to be continued and then, in the normal prospective course of events next spring, to take up the matter of the ceiling. I urge the Members to vote today to override the veto.

Mr. SCHNEEBELI. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I thank the gentleman for yielding me this time and I rise in opposition to this bill.

Mr. Speaker, this tax cut is an illusion. It will put a few more dollars in everybody's pockets. But it will reduce your purchasing power because of the resulting inflation.

I will vote to sustain the President's veto.

Let me also say how amusing it is to hear some of my conservative colleagues on the other side of the aisle defend the honor and integrity and success of the new congressional process for budget control. I will say to you that if you regard two back-to-back deficits of $75 billion as being the responsible way to control extravagant spending appetites—and that is the dismal record of the Budget Control Committee so far—if that is your measure of success, then there is no way to persuade you of the necessity for this effort to decide now to limit spending.

If we cannot get the majority of Congress to use this opportunity to accept a spending cut in order to justify a tax cut, then what chance will there be to even dent spending trends in 6 months, at a time just before an election? No chance, Mr. Speaker.

Mr. SCHNEEBELI. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, this talk about not passing a spending ceiling because of the need to follow the timetable of the budgetary processes and procedures is sheer gobbledygook.

Elementary economic arithmetic clearly tells us that if you spend you must pay for it. If you cut taxes you must cut spending. But if you do not, you increase deficit spending and inflict inflation on the American people, particularly on those least able to bear the pain—our senior citizens and those on fixed incomes. Even worse, you saddle our children with the future burden of paying for our present gratifications.

I urge the House to sustain the President's veto and I shall vigorously support a tax cut coupled with a spending ceiling.

If there is no tax cut, it will be because the majority refused to couple a spending ceiling with that tax cut.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas (Ms. KEYS), a member of the committee.

Ms. KEYS. Mr. Speaker, I have sat for weeks and months on the committee working and studying the economy, and I am astonished to come in here and sit in this body and listen to the talk of politics today. I cannot believe that seriously we are sitting here talking about a political ball game. There surely must be a majority number here who are concerned about the basic issues we are facing. It seems to me those are very clear.

Can we possibly stand to lose more than a billion dollars from the spending stream of our economy come January 1? I think not. Can we possibly stand for individuals to face a tax increase of almost 8 percent per paycheck? I think not. Can we possibly stand, at a time when all of our employers are fussing about paperwork and the tremendous expenditures imposed upon them by Government requirements, to force those employers to recompute all of the withholding rates on January 1 because of some political ball game we seem to be playing here?

I think it was quite wise that our forefathers gave the responsibility for taxing and for spending to the House of Representatives. In this Bicentennial year I would suggest that it is rather strange that we have a President who wants to usurp a Congress who for the first time, through its own budget capacity, is trying to exercise that responsibilty.

We are voting on a tax cut extension that covers a period of time in which we have already set a budget ceiling of $20 billion less than that as requested in this political ball game.

Let us override this veto, taking this issue in hand responsibly and deal with the issue of a prudent budget at the proper time, just as we exercise the responsibility we have here.

Mr. SCHNEEBELI. Mr. Speaker, I yield 3 minutes to our distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, one of our colleagues said to me the other day, "Why do we always have to do this at Christmastime?" I do not quite know the answer, but it seems that we do. Perhaps we do it because the majority of this Congress has failed to recognize the fact that the American people want two things, and want them very badly.

The first thing they want is a limitation on the expenditures of the Federal Government. They are sick and tired of big Government. They want us to cut it down. They want us to cut it down now.

Of course, the next thing they want is a good economy and I think most people will agree, as we have said here, that in order to have a good economy, we should extend the tax cut we gave the American people last March. We can do both of those things, Mr. Speaker. All we need to do is to put an expenditure limitation on this bill.

People say, "Why now?" I say, "Why not now?" We should do it right now because we must establish how much money this Government is going to spend. We need to be certain that unbridled Federal spending will not further fan inflation and Government borrowing dry up private credit markets.

We certainly can adopt a spending ceiling. The President is not asking us for something impossible. Three hundred ninety-five billion dollars is not a miserly sum of money. It is some $20 billion more than we will spend in fiscal year 1976. We are merely cutting back from the projected increase of some $423 billion, which is what we would have if we went ahead with all of the existing programs. This cut is necessary in order to stop the burgeoning growth of Government and Federal spending.

People say, "Why do it now? Why not wait until the Budget Committee has acted?" There are two reasons: One is that the Budget Committee has not exactly covered itself with glory insofar as its first few months of existence are concerned. The second, of course, is that the President is only asking us now to limit the size of the bolt of cloth that we are going to cut. He is asking us to say right now how much money we will spend—on an overall basis. Congress will divide it, determining the precise programs and funding levels within its overall total. We will divide it in accordance with the priorities which Congress will set, as it always has. But it is imperative that we first establish our spending ceiling for fiscal year 1977.

There is nothing wrong with a spending limitation. It is a good idea.

Much has been said about what will happen to the economy if this veto is sustained. Of course I firmly believe that this Congress wants a tax cut, that the President wants a tax cut, and that there will be a tax cut.

It has been said it is necessary for us to override this veto so that the rates of withholding for individuals and businesses will not go up in January. I say that is not so. We can sustain this veto and then we can pass a little bill I introduced last night, H.R. 11227, which mandates that the existing withholding rates be maintained until March 15. By maintaining current withholding rates until March 15, we can protect individuals from any unnecessary fluctuation in their take-home pay, and at the same time not withdraw needed stimulation to the economy which this additional take-home money provides.

H.R. 11227, or some similar approach, will give the House and the Senate a chance to look at this whole matter again with time to dispose of it properly and efficiently without the threat of being called back into special session after Christmas. It will maintain the status quo. It puts a net under the economy while we deliberate as to what we should do.

People say: "How do we do it?" It is very easy. If the veto is sustained I will ask unanimous consent to bring H.R. 11227 up now. I am under no illusion as to what the outcome will be. The unanimous consent will not be given.

But the Senate has two tax bills they are going to send back to the House anyway, and with the rules of the Senate there will be no problem in having them put on some type of simple extension of the withholding rates. There are several avenues open to the majority, and with a little imagination we could have an extension to avoid the situation we now face.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I commend the gentleman from Arizona on the statement he just made.

I wonder if the gentleman would agree with this statement? I have listened carefully to this debate this morning. It seems to me all Members on the Democrat side of the aisle agree that they would like to have a spending ceiling. All the Republicans on the Republican side of the aisle want a tax cut. I wonder if the gentleman would agree that what seems to be keeping us apart is that the Democrat majority in this Congress simply does not want a joinder of those two issues in the minds of the American public, that simultaneously with the tax cut there ought to be a reduction in spending?

Mr. RHODES. I certainly agree with the gentleman from Illinois.

Mr. Speaker, I commented briefly yesterday on the fact that the bill comes back to us totally devoid of the tax reform provisions over which the Ways and Means labored so faithfully for so many months. Is tax reform only an issue to be discussed in election years and abandoned in nonelection years? This is our Bicentennial year. Our Nation was literally founded because of cries for relief from inequitable and oppressive taxation. It is quite literally our national birthright. And yet this 94th Congress—200 years later—is so hungry to provide the American people with a Christmas package that it has lost its earlier resolve to couple tax reduction with reform.

I am reminded of the ancient story of Jacob and Esau:

> And Esau said to Jacob, Feed me I pray thee with that same red pottage, for I am faint; therefore was his name called Edom.
>
> And Jacob said, Sell me this day thy birthright!
>
> And Esau said, Behold I am at the point to die, and what profit shall this birthright do to me?
>
> And Jacob said, Swear to me this day; and he swore unto him, and he sold his birthright unto Jacob. (Genesis 25 :30–33)

Mr. Speaker, I believe that if we override the President's veto of this legislation we are, in effect, selling our birthright to a more equitable system of taxation for a mere mess of pottage.

We should have both tax reform and tax relief, and we should have it now. Although the chairman of the Ways and Means Committee believes he has the assurance that the House-enacted package of tax reforms will come back to us by July of next year. However, he cannot assure us that they will not be returned to us in emaciated, if not skeletal form. The haste and ease with which the House Ways and Means Committee conferees from the majority side of the aisle retreated and bowed to the will of the Senate on a delay in the enactment of any tax reform provisions leaves me with deep foreboding.

Mr. Speaker. I urge support of the veto.

Mr. ULLMAN. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill).

Mr. O'NEILL. Mr. Speaker, this year alone this Congress has appropriated $7.5 billion less than the President has asked us to appropriate. In 5 out of the last 7 years, we cut the President's budget $30 billion. Five times out of 7 we have been below the President's budget.

We could debate high Government spending. Actually, in a period of 10 years we have had a change in budget accounting. Social security is now included as are highway funds. I do not know how many additional programs have been brought under the budget. But the Federal budget has grown by only 2 percent of the gross national product, while at the same time local government, county and municipal, and the city budgets have grown 300 percent. I do not condone that either.

I hope we can be under the $395 billion ceiling for 1977. We have set a budget of $375 billion this year. The average inflation rate for the last 3 years has been 7.8 percent. If we add the 7.8 percent inflation rate to the $375 billion this year, and with just the normal increase and nothing whatsoever added, it brings the budget to $403 billion or $405 billion.

With just a normal increase, nothing unusual whatever, just with spending at the current rate the budget will be around $403 billion or $405 billion. What do we know of what will happen 9 months from now? The budget will not be set until October 1st of this year.

The gentleman said the tax decrease was a one-shot deal. I had hoped it was a one-shot deal. Did it accomplish anything? Yes; I think it bottomed out a depression. Unemployment was 9.7 percent. It came down to 8.3. It is now 8.5 percent.

What do the economists say will happen if we do away with the tax cut at the first of the year? It will mean that within a period of 6 months 300,000 or 500,000 more Americans will be unemployed. Perhaps the depression that we hope has bottomed out will go through the roof. I do not think we can take a chance on that.

Let me just tell this House the complete facts of life as they are right now, Mr. Minority Leader and Members on that side. I had an idea that this was going to be a friendly veto, and I think many on the minority side did. I am kind of surprised at the opposition from the minority side to this. Let me just say this to the minority leader. There is no capitulation. This is it. And I am not yielding to the gentleman, I am just going to state the facts as they are.

Think of the first of the year when the father of a little family of four making $8,000 has $217 more taken out of his salary and in the first week he comes home and finds that $4 more has been taken out of his salary—the $4 he had budgeted for a little toy to make a happy Christmas for his child. I hear many on the minority side laughing—well, sure, they are the party of wealth; they do not have concern for the little fellow.

Mr. Speaker, I just want to say this. There is no capitulation on our side. This is it and the responsibility as to whether or not we have increased unemployment of 300,000 or 500,000 falls on the individuals here.

Mr. Speaker, only the Congress of the United States sets taxes. Only the Congress of the United States says whether when the first paycheck comes, whether there is a tax reduction or there is not.

Mr. Speaker, I hope for the best interest of this Nation that we override the President's veto.

Mr. ROSTENKOWSKI. Mr. Speaker, in the many years that I have been privileged to serve in the House of Representatives, I have participated in the discussion of many veto messages and participated on both sides of many votes to override. In my opinion, none have reached the very high level of debate that has existed in this chamber today. The issues have been clearly spelled out on both sides of the subject and the attendance during our deliberations has shown the high degree of concern that the House of Representatives has for this matter.

While I will not restate the arguments that have been made today, I would like to point out that a failure to override this veto will not only result in a technical nightmare for the Internal Revenue Service and employers throughout thsi Nation, but will cast a shadow of uncertainty over our continued economic recovery.

Mr. Speaker, those who choose to sustain this veto will not only be playing politics with the concept of tax reduction, they will be doing a severe injustice to the budget system that the vast majority of them helped to install such a short time ago. I only hope that if this veto is sustained those who choose to sustain it will be able to explain to the American people why their economic well-being has become a political football to be tossed from one end of Pennsylvania Avenue to the other.

Mr. MILLER of Ohio. Mr. Speaker, once again the majority here in the House is not facing up to the fact that this Congress is going to have to take the difficult steps necessary to control Federal spending. Instead, they choose to continue the giveaway programs without regard for a source of revenue. I, too, feel that the taxpayers of this country deserve a thorough reform of the Tax Code and an equitable tax system. But any reductions in taxes must be accompanied by an equal reduction in the level of Federal spending for fiscal year 1977. If this is not accomplished then we shall soon see a rate of inflation that will quickly consume any benefits that the taxpayer may receive.

There has been a hue and cry in this Chamber over the past several days that imposing a spending ceiling at this time is impossible; that we must wait. We have seen this same dedication to a lack of fiscal restraint for over four decades. The Democratic Party has controlled the House for 40 of the last 44 years. During that time the Nation has run a deficit during 36 of those years. The public debt has skyrocketed to $600 billion. Given these past habits, what reason do we have to believe that the 2-to-1 Democratic majority will exercise any more restraint 6 months from now than they have shown thus far in the 94th Congress.

Mr. Speaker, the distinguished minority leader, Mr. Rhodes, will offer a compromise measure if the President's veto is sustained. It will provide for a simple extension of the 1975 tax reduction provisions through March 15. This will insure that the taxpayers do not suffer an increase when the present law expires on January 1. At the same time it will provide an opportunity to work out a compromise on the final shape of tax reform, together with a ceiling on spending for fiscal year 1977. This seems to me to be an entirely reasonable procedure. I hope that the Members of the majority will take the opportunity to reflect upon the absolute necessity of establishing a spending ceiling to control Government spending.

Mr. SARASIN. Mr. Speaker, I favor a significant tax cut for America's working men and women and a spending ceiling to return fiscal sanity to the Federal Government. That left no choice but to vote to sustain the President's veto of the irresponsible effort to cut taxes without limiting spending passed by those unable to accept self-discipline.

We can afford to give the taxpayers a larger and more equitable reduction, but only if we also enact a policy of spending limitations to control the unreasonable deficits the spendthrift congressional majority seems determined to force upon the American public. I think the voters know, even if some in Congress forget, that there is inevitably a day of accounting for spending money you don't have. New York City has demonstrated that.

What Congress should do now is go back and immediately pass responsible tax cut legislation coupled with a spending limit. We could do it today if the Democratic majority would cooperate, instead of playing politics with the economic future of America. If they refuse to do this, and instead pursue their usual rush to adjourn for a recess, I think the voters will know where to place the blame.

The argument being put forth by opponents of a spending limit, that we cannot decide now that we will act in a fiscally responsible manner as we develop the budget for the next fiscal year is ridiculous on the face of it. In fact, if we are serious about putting the brakes on the inflationary growth of Government waste and spendthrift ways, we must take a stand now.

I also believe that the people of Connecticut and the Nation are ahead of the congressional spenders on this issue. In response to a recent single question poll I took, in which I asked "Would you support efforts to lower taxes and Government spending even if this means holding down expenditures on some popular Government programs?" Well over 90 percent of those responding said "yes." My vote on the override was in keeping with that desire on the part of my constituents.

Mr. GUDE. Mr. Speaker, in theory this question today ought to give us the best of both worlds—a tax cut on economic grounds and a spending limit on the grounds of fiscal responsibility. Everyone favors both objectives in the abstract, and on the surface, therefore, the President's proposal has considerable merit. Looking at it more thoroughly however, I have concluded that the President's insistence on a spending limit at this time is both bad economics and bad legislative practice.

It is bad economics because the Congress is being asked to set a firm spending ceiling for a time period which does not even begin for 9 months. In a period of rapidly changing economic conditions such as we have been experiencing, no one can responsibly predict what our situation will be next October—what spending may be needed, what crises will exist. The President is asking that the Congress lock itself into a spending limit this early, without providing any details as to what programs he wants limited. While I would like to see a $395 billion ceiling as much as the President, I am also quite sure my choices for spending cuts could well be different from his. Before cutting itself to a ceiling, I think it vital that the Congress know specifically what proposals the President has to make on spending, as listed in the fiscal 1977 budget due out in several months. It is irresponsible to call for spending cuts in general without specifying where they will occur, and without taking into account the fact that economic conditions 9 months from now may be very different than they are now. The certain result of trying to lock the Government into this kind of spending limit will be a spending resolution either forgotten, ignored, or amended by next October. To pass such a resolution now would be unwise.

The President's suggestion is also bad legislative practice. After considerable effort the Congress finally developed and has begun to implement strict procedures for controlling the budget. The Budget Control and Impoundment Act offer the best hope we have—perhaps our only hope—of getting a firm handle on spending. Its carefully constructed provisions and precisely timed resolutions are a far sounder approach than one resolution 9 months in advance.

I cannot emphasize how important it is that we make this process work from the beginning, that we institutionalize it and make it a part of our regular procedure. It is because of my deep belief in the importance of making this process work that I have consistently supported the budget resolutions, despite my disagreement with certain of their parts. I am pleased that the Senate has successfully adopted this same bipartisan commitment to the budget process and has regularly adopted the resolutions by healthy margins. The House, I am sorry to say, has been more partisan in its approach, fighting the process every step of the way. The ironic result of those efforts, if successful, would be to destroy the only effective mechanism we have for controlling spending—the very concept the resolutions' opponents claim to seek to preserve.

Passage of a spending ceiling now would bypass and short circuit these budget procedures to the detriment of all concerned. The shortrun result would be, as indicated above, a resolution that would serve no useful purpose and would probably be put aside next October. The longrun result would be to jeopardize the effective procedures we are now implementing, which would seriously set back our efforts to stop the growth in spending.

As a result, I call on my colleagues to once again display their confidence in the budget system we have developed—and which will set a firm spending ceiling—and override this veto.

Mr. GOLDWATER. Mr. Speaker, there is not one Member of the Congress who opposes giving the American taxpayer some long overdue relief. There is not one Member of the Congress that opposes extending the Tax Reduction Act. It is equally true that the American public would be grateful for a Christmas present from the Congress in the form of some relief of their tax burdens. All political considerations aside, this Congress owes the American taxpayer some relief because it has been this Congress that has refused so far to control its spending habits by setting a limit on spending.

And that is just the point. Unless the Congress, this Democrat-controlled Congress, gets serious about fiscal responsibility and limits spending, it will not make any difference whether a tax rebate bill passes or not. It will not make any difference because inflation will continue to rage on and the few dollars the taxpayer gets back will not add one iota to his real buying power.

It is fiscally irresponsible to pass a bill authorizing a tax rebate or tax reduction for individuals and not cut Federal spending by an equal amount. To refuse to cut spending by an amount equal to the tax reduction will increase the deficit by an equal amount. It is as simple as that. If you want to be guilty of adding to the Federal deficit, to inflation, to continued economic misery and disruption, then pass a tax reduction without cutting Federal spending by an identical amount.

My constituents and the citizens of California have sent a loud and clear message to Washington. They want deficit spending, inflation, political games and charades stopped. This bill as it comes before us fails to do that and I cannot support it.

Mr. ROBINSON. Mr. Speaker, I am conscious of the fact that voting to sustain the President's veto of this bill (H.R. 5559) is susceptible of the impression that one is playing Scrooge at Christmastime by denying the hard-pressed taxpayer in the coming year the modest relief which has been available this year.

I do not presume to speak for all of my colleagues who share my support of the President's action, but I do believe that most of them recognize a need to continue the economic stimulus provided by the temporary tax concessions—and to ease the Federal tax impact on the family and on small business over the long term.

We deceive ourselves, and all taxpayers, however, if we insist on ignoring the projections of a potentially disastrous widening of the deficit gap in the next fiscal year. That is precisely what we do if we extend present tax relief provisions without a concurrent establishment of a realistic spending limit.

There are those who contend that we should not deal with a spending ceiling until we see the President's new budget. I say we do not need that information in order to act responsibly today. We have the data, grim though it may be, which sets before us the magnitude of the existing and expanding fiscal crisis. The only right course is to make the commitment now to an overall reduction in projected spending sufficient to at least offset the revenue loss represented by extension of the tax reductions now in effect.

The American taxpayer, whether dealing with a family budget or a business budget, recognizes the dangers of trying to spend money one does not have, and of exceeding prudent limits in borrowing.

I believe the American taxpayer will recognize the commonsense of sustaining the veto, if it is followed—as it can be—by prompt action to combine a tax relief extension with a firm undertaking to fix a fiscally honest spending limit for the next fiscal year.

Mr. MOTTL. Mr. Speaker, I would like to commend our colleagues in the Senate for exercising good judgment in modifying the tax cut extension which the House approved last week.

The House version included two provisions which caused me to vote against the bill. One would have extended the tax cut for a full year and the other would have given all Congressmen a backdoor raise of almost $2,500 a year.

This raise would have been enacted via the backdoor with an increase in tax deductions for living expenses for Congressmen. Now we are entitled to a flat $3,000 a year. Under the House version, Congressmen would be allowed $44 in living expense deductions for each day the Senate or House is in session. This year each body will be in session about 175 days, which would result in deductions of $7,700, an increase of $4,700. Congressmen in the 50-percent tax bracket would benefit to the tune of $2,350 for the 1975 taxable year.

The time has come for Congress to stop feathering its own nest under the guise of providing a tax reduction to the American public.

The Senate Finance Committee, at my suggestion, eliminated the congressional raise loophole of the House bill. I commend Chairman RUSSELL LONG and committee members for that action.

Furthermore, the Senate version calls for the tax cut extension to run for 6 months, instead of 1 year. The inclusion of that provision allows the Senate and the House to take another look at the economy and the possible inflationary aspects of this legislation in mid-1976 before determining whether the tax cut should be retained or eliminated.

Because of the Senate's foresight in eliminating the congressional raise and in reducing the length of time of the tax cut, I am now supporting the bill. It gives me great pleasure to vote to extend the tax reduction for the American public and at the same time eliminate the distasteful, feather-our-own-nest, congressional pay raise.

Mr. KEMP. Mr. Speaker, I want tax relief and tax reform as much as anyone in this country and in this Congress. Taxes are destroying incentives and individual freedom and are eroding the investment capital needed to create and upgrade jobs and to stimulate production. But, the economically sound and politically honest way to cut taxes is to also cut Government spending. Anything else is disastrously counterproductive and, indeed, dishonest.

It is dishonest to cut taxes for American consumers without cutting Federal spending a like amount. To cut taxes without cutting spending simply fuels inflation. Government's spending and deficits must be financed, and if tax revenue is inadequate, the Government must borrow to raise money to cover the deficit. Borrowed money is drained away from the savers and their investments in the private sector, less is left for construction of homes and industrial plants, or purchases of major equipment, et cetera. That means prolonging the recession and a loss of jobs. If the Federal Reserve System finances the deficit, it expands the supply of money without a commensurate expansion in productivity, and that means the supply of money rises in relation to the supply of goods. This is inflation. Inflation is the worst tax and most dishonest tax of all.

To do less than cutting spending when we cut taxes is, therefore, to erode further the purchasing power of the paycheck, of a pension, and of a grocery check. Furthermore, each consumer is a taxpayer, and the inflation caused by spending more than is raised in taxes is pushing taxpayers into higher tax brackets without them having more purchasing power in real dollar terms. This results in higher taxes paid—to the extent that last year alone total taxes at all levels of Government rose 25 percent and at almost twice the rate of increase in food and fuel.

My opposition to high taxes and excessive spending has been consistent. I voted against this Tax Reform Act legislation when it came before the House and when it came from the joint House-Senate conference committee. I voted against the Tax Reduction Act of 1975, passed last spring, for the very same reason. And, I have consistently voted to cut spending and have also offered an innovative program, the Fiscal Integrity Act, to require balanced budgets and to place an absolute ceiling on how much Government can take from the people's earnings, measured in terms of a percentage of aggregate national income.

The Nation is waking up to the consequences of excessive spending and runaway debt. New York City is the most obvious example of what this leads to. Yet, there are many here today who, while arguing for balanced budgets in New York City to avoid economic collapse there, are nonetheless insistent upon not imposing such a requirement upon the Federal Government. I suppose it is easier to require officials in New York City and in Albany to balance their budgets, bring their fiscal houses in order, and get their economic conditions restabilized than it is to exercise self-restraint at this—the Federal—level of Government.

The President has vetoed this bill, and I applaud him. He should have, as well, vetoed the Tax Reduction Act of 1975 earlier this year, for in all candor the two measures rest upon the same premise—that is, pushing economic recovery through stimulating consumption rather than increasing production. Britain is learning this economic truth the hard way.

This task—of restoring the fiscal integrity of this Government, and of our dollar—is the most overriding issue in the Congress today and we must regard it as our solemn obligation to the people.

Mr. YOUNG of Florida. Mr. Speaker, I rise to support the President's veto of H.R. 5559, a bill to extend the 1975 tax cuts for an additional 6 months, at a cost of $16 billion to the Treasury.

The President vetoed this bill because it did not contain a commitment to a spending ceiling on the fiscal 1977 budget for which he has repeatedly asked the Congress. I agree completely with him that extended costly tax cuts without imposing a corresponding reduction in Federal spending is a fiscally dangerous act.

Our national debt is fast approaching $600 billion—over one-third of our annual gross national product. We pay out more than $100 million a day in interest alone on that debt. The combined deficit for fiscal years 1975–76 stands at close to $150 billion, and even with a spending ceiling we will face a deficit in fiscal year 1977. The Nation as a whole is fast approaching the same fate as New York City because Congress refused to draw the line on Federal spending. We cannot ignore what we have learned from the situation in New York City—these truths will just not go away. Unless we make some attempt to balance revenues and expenditures, the financial situation and the economy of the Nation will continue to go from bad to worse.

The United States is beginning to edge out of a recessionary period, and inflation is once more rearing its ugly head. Interest rates are beginning to creep upward again, and major manufacturers are announcing new price increases. A chief source of blame continues to be Federal overspending. The Congress continues to pump into the economy vast sums of money which we really do not have—$74.1 billion deficit is targeted for fiscal 1976 alone. As if this inflationary pressure is not bad enough, the Federal Government is forced to borrow huge sums to finance the ever-growing national debt. By continually borrowing billions of dollars from the private sector, the Federal Government "crowds out" corporate and private investors and borrowers. The resultant shortage of investment capital stops building and expansion projects, thereby threatening a return of the recessionary cycle.

This vicious inflation-recession pattern will continue to plague the Nation until the Congress takes effective action to halt it. The most effective action we can take at this point is a firm commitment to limit Federal spending.

I believe the Congress should make a commitment to a spending ceiling and thereby signal to the American people its determination to bring the Federal Government back under fiscal control—to stop its runaway growth, excessive spending, and exorbitant debt increases.

A tax cut is perhaps the most politically popular item to come before any Member of Congress for a vote. My votes on spending issues establish that I support reductions in Federal taxes and the overwhelming burden on individual taxpayers. It would have been easier for me to vote for this tax cut—with or without a spending limit—but the popular vote is not always the right vote. Any Congressman who considers our present financial situation honestly and responsibly can only support revenue reductions if they are accompanied by corresponding reductions in expenditures. I hope my colleagues will join me in sustaining the President's veto so that we may enact responsible legislation providing for a tax cut with a realistic commitment to a spending ceiling. Such legislation is truly in the interest of the Nation and of the American people.

Mr. MILFORD. Mr. Speaker, it is never popular to vote against a tax cut.

But as a matter of good conscience in serving my constituents and, I believe, this Nation, I had to vote to sustain the President's veto of the tax cut. To do otherwise would constitute a dishonest vote on behalf of my constituents.

However, my reasons and the President's are not the same.

President Ford vetoed the measure saying he wanted Congress to set the budget ceiling. And he knows full well—for he admits voting for the measure—that the House has established a Budget Committee to determine a budget ceiling, and to monitor all bills so that that ceiling is viable.

This sounds to me as if he wants to usurp congressional responsibility, and impose Executive decree. I do not buy that. We have had enough of administrative decree in the last several years.

I voted to sustain the veto for one overriding and basic reason: This Nation cannot continue spending more money than it takes in through taxes.

We must either raise taxes or cut spending.

We in the Congress have a responsibility to the people of this country to preserve and protect this Union. In the past, we have taken that to mean that we will keep our armies mighty and our Navy afloat, and the continental boundaries will be defended staunchly.

However, in today's crisis, the danger is as much economic as military. We must keep our Treasury strong and our ability to pay sound.

That means we must bite the bullet now. We must not wait until our Nation's Treasury teeters on the brink of bankruptcy. It will only get harder to bite the bullet the longer we wait.

Biting the bullet now means defeating this election-oriented legislation.

Biting the bullet now means being responsible and not adding another $18 billion to our national deficit. Certainly Congress has not succeeded in trimming Federal spending, so it seems ludicrous to trim national income.

The citizens of this country were not born yesterday. Time and again they have watched while their elected officials passed some election-geared bills to "help them."

Well, my friends, "helping them" by adding to the burdens of this Nation's economy is not much help. And I frankly do not think the people of the 24th District of Texas, or the people of the United States as a whole are stupid enough to buy such an asinine scheme.

I know my people are not. They will see through a cut in their taxes this year. They know that after the election the Nation will need more money, and will have to either raise taxes much higher than proposed today, or increase the national deficit.

Besides the political fallacy here, I have enough confidence in the people to know that they are aware it is easier to pay the $8 or $10 more a month per person now, than see a new surge of inflation, recession, and a further weakening of the total U.S. economy. At that point, we would all have to pay more. Inflation is a vicious tax. Our Federal deficit is the primary cause of inflation.

That, ladies and gentlemen, is precisely why I hope that the tax cut veto will be sustained, and I am confident that the people of my district will understand the reasoning, rather than react to the emotional exhortation.

Mr. JACOBS. Mr. Speaker, people stealing from the poor box by getting food stamps without genuine need.

Politicians being heroes on other people's time and money, by committing war without genuine defense need.

This is the stuff of which national debt of more than half a trillion is made.

Baptized by revolution, confirmed by civil war, yet learning nothing from history except that we do not learn from history, my country, with nearly everyone in it cheering, marched our young to defend freedom in Southeast Asia where there was no freedom to defend.

By and by flags tattered. Feet fatigued. Blood stained the earth. And even the sunshine soldiers in Congress shuddered in the winter of discontent.

So we flew away salvaging nothing but unbearable grief.

This is the stuff of which national debt of more than half a trillion is made.

And so it goes. Deficit becomes habit, debt nothing more than a common noun. Cry tomorrow, for we are young and tomorrow may never come.

Crime encroaches. Genuine welfare need swells. Little children of the very poor and the very ignorant while away their precious formative years without the miracle of preschool to bend the twig so the tree grows straight.

Early this year, in the depths of whatever euphemism one chooses to call depression, with painful national debt already racking the body politic, the President and the Congress rolled the dice and gave back to the taxpayers money that did not exist in the hope that bootstraps would hold long enough for the economy to take hold.

It was temporary. A quick burst of pump priming with artificial water.

And if it worked—even a little—the patient would revive and we could return to the central reality that the war piper and the domestic waste piper and even the pump-priming piper must be paid.

But no. Not now. Not December 1975. Christmas Eve and the eve of the big one, the Presidential election year. Why, even to pay the pump-priming piper and to allow the temporary tax cut to be just that and not to extend it, would change withholding rates and cost a taxpayer about $3 per week.

And if the "temporary tax cut" and the weekly withholding rates are renewed for 1976, what do we citizens get besides 43 pennies a day? What do we get? Another day older, and $16 billion deeper in national debt by the end of our 200th birthday year. And we get to pay more than 43 cents per day in higher prices.

Mr. Speaker, though the White House seems to be outbidding the Congress in how much nonexistent money it wants to give away in an impossible tax cut for the election year—the Congress sets it at $16 billion along with a track record of having cut five of the last seven White House budgets. The White House wants a cut of $28 billion with a promise that it will raise its budget next year but will raise it $28 billion less than it could raise it, the basic position of both the White House and the House of Representatives favors a tax cut while there is still a deficit in the budget. And thoughtful citizens might well say, a plague on both the Houses.

A responsible individual pays his or her debts. A nation should, too, before borrowing more to live on. Piper, Piper go away, for we are young and tomorrow may never come.

Mr. CONYERS. Mr. Speaker, I am disappointed by the House's failure to override President Ford's veto of the tax cut extension, and deeply regret that unavoidable circumstances prevented me from reaching the floor in time to cast my "yea" vote.

With the President again exercising a tyranny of the minority, as he did in killing vitally needed jobs bills, both citizens and the economy are dealt another unnecessary blow from the White House. To insist on a fiscal year 1977 spending ceiling before an examination of fiscal year 1977 budget proposals is not only political trickery of an obvious sort but a violation of the congressional budgeting procedures as well.

Ms. ABZUG. Mr. Speaker, passage of this legislation is essential as a continued stimulus to our failing economy. Our country continues to experience the highest rate of unemployment since the depression of the 1930's. Any small gains we may have made toward economic recovery will be wiped out if taxes are permitted to rise, which they will, if we do not act today to override the President's veto of this critical legislation.

While a ceiling on spending appears to be a method for curbing inflation, such a ceiling cannot be imposed in a vacuum. The Congress must examine each spending program in light of the services it is providing, the need for such services and their cost. We should not merely accept an arbitrary figure proposed by the Executive at this time, but rather should calculate a reasonable ceiling based on our own assessment of the spending programs. If the President were to commit himself to cuts in defense spending, this would make his proposal more realistic and practical. It is patently counterproductive to request a ceiling on social expenditures when unemployment lingers at an unacceptable 8.5 percent rate and no effort is made to substitute job-generating programs for nonproductive military expenditures.

If the Congress fails to act to override the veto, the withholding taxes of all our citizens will rise on January 1, 1976. The alleviation of the tax burden which this Congress has proposed for low- and middle-income individuals will be lost as will the economic stimulation which this reduction generates, and the only group who will derive any benefit from our tax laws will once again be those who need it the least—the rich. In these dire economic times our Federal tax system must respond by stimulating the economy and providing relief to low-income workers. Therefore, I urge passage of this bill today.

Mr. ULLMAN. Mr. Speaker, I want to commend the Members who have participated in the debate. It has been a high level debate. This is a very critical moment in the history of our country. Remember, when we are talking about a budget, we are talking about two concerns: We are talking about revenues and we are talking about expenditures.

The times when we have the big deficits are the times when revenues drop off, because we have gone into recession. Unless we can get this economy moving again, we can never hope to balance the budget because that can only be done by a growth economy producing revenue, and this economy today is not a growth economy.

If we have a tax increase in January, we are taking a grave chance. We are playing Russian roulette with the economics of this country and our times, and it could produce disastrous results.

Mr. Speaker, failure to enact this legislation will have a major economic impact. Let no one doubt that. We have consulted the leading economists in the country, and every one of them agreed that this tax reduction needs to be extended. Chase Econometrics has predicted with their model of the economy that failure to extend this tax cut means $25 billion less in gross national product and 500,000 jobs. That is what we are talking about at a very crucial time in the history of this country.

The budget procedure is here. This coming year is the first year of full implementation. Let us give it a chance. Let us do the right thing, and let us not second guess now what the Budget Committee and the budget procedure have to produce. The issue is not whether we favor spending cuts or do not favor spending cuts. God only knows that every person in this room favors expenditure reduction, but the way to do it is in the system that we have finally adopted, which is a major reform of the budget procedure. We have it now. Let us use it and use it responsibly.

Mr. Speaker, let me conclude by saying that I would not ask anyone to vote for this because it is an election year. The time is too grave to consider whether it is an election year or whether it is not an election year. The only basis on which we should consider this matter is whether it is right or whether it is wrong. Now, every shred of evidence that we have says that it is right for the economy and it is right procedurally to put into place this continuation of the tax reduction.

I ask the Members to vote the right thing for their country at a critical time, and vote to override this veto.

Mr. FORSYTHE. Mr. Speaker, today the House of Representatives will consider whether or not to override the President's veto of H.R. 5559, the Revenue Adjustment Act, a bill which passed the House by a voice vote yesterday afternoon. I will vote to sustain the veto.

Earlier this month, I also voted in favor of H.R. 10612, a broader tax reform bill which included a tax reduction similar to that of the vetoed bill. These two votes reflect my sincere belief that we need a tax reduction but that a responsible tax reduction should also include a corresponding effort to control Federal spending.

During the voting on H.R. 10612, I strongly supported the two unsuccessful attempts to attach a ceiling on spending to the tax reform package. I supported reasonable efforts to strengthen the bill and provide more revenue, and at the same time to continue those tax incentives which would logically contribute to the recovery of the economy. I then voted, somewhat reluctantly, in favor of the bill. I cast that vote in full knowledge of the President's intention to veto any tax bill which did not contain a ceiling on spending for fiscal year 1977. I felt that my favorable vote, however, in spite of the lack of a spending ceiling in the bill, would register my strong support for both the necessity for general tax reform and for an extension of present tax reductions.

But now the tax reduction extension bill is coming before us today—minus any attempt at general tax reform, minus any effort to compensate for revenue loss. It is a travesty, after the month of debate and rhetoric by the majority over the need for "tax reform."

Thus, today I will vote to sustain the President's veto. This Congress simply must take the initiative to control Federal spending. If it does not, inflation will steamroll once again. Our money's value will continue to be degraded. It is time to stand up and clearly vote for a responsible tax-spending policy.

The Congress, upon returning in January, will have an opportunity to reconsider tax legislation and still provide a tax reduction and the necessary corresponding ceiling on Federal spending, an approach which I will support. Overriding the President's veto and thereby providing a simple 6-month extension of the tax reduction will allow the Nation to once more avoid facing the issue central to this debate. At a time when the Nation's economy is making a precarious but apparently steady recovery, Congress has a definite responsibility to face the issue of the effect of continued Government spending on inflation. True, tax withholding levels of individual taxpayers will increase in January to last year's level. But continuing high inflation is a much more cruel tax and one much more difficult to control than withholding rates.

When final tax reduction legislation is enacted in 1976, withholding rates will go down once again, perhaps to a level even lower than they are now. That extra money put in the hands of the taxpayers at that time, however, will be worth more if we can also provide some control of inflation. One major step in this direction is to impose a realistic spending ceiling.

It is to everyone's benefit to control government spending. We have learned a bitter lesson in the New York experience about blind spending without regard to income.

It is a lesson that must be taken to heart by our National Government, by our State governments, by our local governments, and by every family in this Nation. It is a very simple fact, if you take in less money, you have less to spend. The more money the Government borrows to pay its debts, the less money is available to the people. The more difficult it becomes to borrow, the more costly goods become.

I support a tax reduction—a larger tax reduction than was proposed by the majority. But I will vote to sustain the President's veto to insure that reduced taxes also bring reduced spending. To do otherwise is to simply fool ourselves and the people.

Mr. ROYBAL. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 5559, the Revenue Adjustment Act of 1975.

There is little doubt that the continued economic well-being of this country hinges on the passage of this bill. It is generally agreed that the single most effective action in halting the economy's downward spiral was the passage of the Tax Reduction Act in March of this year.

The theory underlying that act was that if taxes were reduced, individuals would have more disposable income. When consumers spent this additional sum, it would create new jobs, stimulate the economy, and ultimately lead us out of the recession.

However, in order to insure that the stimulus to the economy did not lead us back into another round of double-digit inflation, the tax cuts embodied in the Tax Reduction Act were to expire on December 31, 1975. The theory was that if the economy needed a continued stimulus, the tax cuts could be extended.

When we passed the act, unemployment was over 9 percent, the gross national product was in a steep decline, and we were being engulfed by the worst economic downturn since the Great Depression. Today, unemployment, although still too high, has moderated to 8.5 percent, and we are experiencing a moderate and sluggish economic recovery.

Obviously, a continued stimulus is needed if even this slow-paced economic upturn is to continue. The bill before us would provide that stimulus by extending the Tax Reduction Act until June 30, 1976.

Economists of all persuasions agree that if we fail to extend the tax cuts embodied in the Tax Reduction Act, $1 billion a month will be drained from consumer spending, 300,000 to 500,000 people will lose their jobs, and the fragile economic recovery will be shattered. I do not believe the people of this country want us to embark upon a course of action that would be so destructive to the fabric of our economy.

Mr. Speaker, the President has vetoed this bill because the Congress refused to attach a spending ceiling. The idea of a budget ceiling at this time is a bankrupt one. Congress will not receive the

President's proposed budget for another month. The President is asking us to legislate in the dark, without any idea or notion of where the cuts will be made. Until we know the President's intentions, we must not abrogate our responsibility under the Constitution by placing an artificial limitation on our power to control the purse.

The issue is clearly drawn. We must pass this bill to insure that consumers will have sufficient spending power. Our failure to override the veto will result in a tax increase for every individual on January 1, and will drain the vitality from the economic recovery.

The SPEAKER. The time of the gentleman from Oregon has expired.

Mr. ULLMAN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 265, nays 157, answered "present" 2, not voting 10, as follows:

[Roll No. 808]

YEAS—265

Abzug
Adams
Addabbo
Alexander
Allen
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Fountain
Fraser
Fuqua
Giaimo
Gibbons
Ginn
Gonzalez
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Holland
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Landrum
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
McCormack
McDade
McFall
McHugh
McKay
Macdonald
Madden
Madigan
Maguire
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Wilson, C. H.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—157

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Biester
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
English
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Flowers
Flynt
Forsythe
Frenzel
Frey
Gilman
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Hastings
Hechler, W. Va.
Hightower
Hillis
Holt
Hutchinson
Hyde
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Lent
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKinney
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Nichols
O'Brien
Pettis
Poage
Pritchard
Quie
Quillen
Rhodes
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—2

Hungate
Jacobs

NOT VOTING—10

Ambro
Conyers
Daniels, N.J.
Ford, Mich.
Gaydos
Hébert
Hinshaw
Randall
Sullivan
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Ford of Michigan and Mr. Gaydos for, with Mr. Hungate against.

Mrs. Sullivan and Mr. Dominick V. Daniels for, with Mr. Jacobs against.

Mr. Ambro and Mr. Conyers for, with Mr. Hébert against.

Until further notice:

Mr. Randall with Mr. Charles Wilson of Texas.

Mr. BROWN of Ohio changed his vote from "yea" to "nay."

Mr. HUNGATE. Mr. Speaker, I have a live pair with the gentleman from Michigan (Mr. Ford). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. JACOBS. Mr. Speaker, I have a live pair with the gentlewoman from Missouri (Mrs. Sullivan) and the gentleman from New Jersey (Mr. Dominick V. Daniels). If they had been present, they would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill are referred to the Committee on Ways and Means.

The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 5559) just rejected.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

REQUEST FOR IMMEDIATE CONSIDERATION OF H.R. 11227, MAINTAINING EXISTING WITHHOLDING TAX RATES UNTIL MARCH 15, 1976

Mr. RHODES. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11227), which mandates that the existing withholding tax rates be maintained until March 15, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. ULLMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8304. An act to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes; and

H.R. 10355. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2718) entitled

"An act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes," agrees to the conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARTKE, Mr. MOSS, Mr. PASTORE, Mr. FORD, Mr. STEVENSON, Mr. INOUYE, Mr. MAGNUSON, Mr. BEALL, Mr. BAKER, and Mr. WEICKER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 642. An act to amend the Federal Trade Commission Act, and for other purposes;

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953;

S. 2117. An act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps; and

S. Con. Res. 79. Concurrent resolution declaring the commitment of the Senate to comply with the Congressional Budget and Impoundment Control Act of 1974 and to reduce spending levels.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that he will accept unanimous-consent requests at this time but not for speeches.

ESTABLISHING TIME LIMITATIONS IN APPLYING FOR CIVIL SERVICE RETIREMENT BENEFITS

Mr. WHITE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4573), an act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, strike out ""(g)" and insert "(h)".

Page 2, after line 9, insert:

(2) In section 552a(g)(5) strike out "to the effective date of this section" and insert in lieu thereof "to September 27, 1975";

Page 2, line 10, strike out "(2)" and insert "(3)".

Page 2, line 12, strike out "(3)" and insert "(4)".

Page 2, line 14, strike out "(4)" and insert "(5)".

Page 2, line 16, strike out "(5)" and insert "(6)".

Page 2, line 17, strike out "(6)" and insert "(7)".

Page 2, line 19, strike out "(7)" and insert "(8)".

Page 2, line 22, strike out "(8)" and insert "(9)".

Page 2, line 24, strike out "(9)" and insert "(10)".

Page 3, line 3, strike out "(10)" and insert "(11)".

Page 3, line 5, strike out "(11)" and insert "(12)".

Page 3, line 8, strike out "(12)" and insert "(13)".

Page 3, after line 9, insert:

(14) In section 5108(c)(11) strike out "twenty two" and insert in lieu thereof "twenty-five";

Page 3, after line 9, insert:

(15) In section 5108(c) redesignate paragraphs (11) through (15) as paragraphs (11) through (16), respectively;

Page 3, line 10, strike out "(13)" and insert "(16)".

Page 3, after line 11, insert:

(17) In section 5314 redesignate paragraphs (53) through (61) as paragraphs (53) through (63), respectively;

Page 3, after line 11, insert:

(18) In section 5315 redesignate paragraphs (91) through (104) as paragraphs (91) through (107), respectively;

Page 3, after line 11, insert:

(19) In section 5316 redesignate paragraphs (131) through (136) as paragraphs (131) through (139), respectively;

Page 3, line 12, strike out "(14)" and insert "(20)".

Page 3, line 13, strike out "(15)" and insert "(21)".

Page 3, line 16, strike out "(16)" and insert "(22)".

Page 3, line 19, strike out "(17)" and insert "(23)".

Page 3, line 21, strike out "(18)" and insert "(24)".

Page 3, line 23, strike out "(19)" and insert "(25)".

Page 4, line 1, strike out "(20)" and insert "(26)".

Page 4, line 2, strike out "(21)" and insert "(27)".

Page 4, line 4, strike out "(22)" and insert "(28)".

Page 4, line 7, strike out "(23)" and insert "(29)".

Page 4, line 10, strike out "(24)" and insert "(30)".

Page 4, after line 12, insert:

(31) In section 8193 redesignate subsection (e), the second time it appears, as subsection (f);

Page 4, line 13, strike out "(25)" and insert "(32)".

Page 4, line 18, strike out "(26)" and insert "(33)".

Page 4, line 20, strike out "(27)" and insert "(34)".

Page 5, line 1, strike out "(28)" and insert "(35)".

Page 5, line 6, strike out "(29)" and insert "(36)".

Page 5, line 8, strike out "(30)" and insert "(37)".

Page 5, line 9, strike out "thereof," and insert "thereof;"

Page 5, line 10, strike out "(31)" and insert "(38)".

Page 5, line 19, strike out "(32)" and insert "(39)".

Page 5, lines 19 and 20, strike out "(U.S.C.)" and insert "(— U.S.C. —)".

Page 5, line 21, strike out "(33)" and insert "(40)".

Page 5, line 23, strike out "(34)" and insert "(41)".

Page 5, line 24, strike out "and".

Page 5, after line 24, insert:

(42) In the analysis of chapter 85 strike out item 8524 and insert in lieu thereof the following:

"8524. Repealed.

; and

Page 6, line 1, strike out "(35)" and insert "(43)".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, will the gentleman from Texas kindly explain what the amendments are?

Mr. WHITE. I will be glad to do so.

Mr. Speaker, as passed by the House, the first section of H.R. 4573 establishes time limitations on filing applications for civil service retirement benefits.

Except for the correction of a subsection designation, the Senate did not alter the provisions of this section of the bill.

Section 2 of the House bill consists of 35 amendments to the text of title 5 of the United States Code.

These amendments remove obsolete references or make other technical corrections in the text of title 5.

The Senate amendments to section 2 of the House-passed bill merely add eight more technical amendments to the text of title 5, and make various other technical corrections in the language of the House bill.

None of these amendments affects the substance of the provisions of title 5 or the provisions of the House bill.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

EXTENDING THE RENEGOTIATION ACT OF 1951

Mr. MINISH. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11016) to extend the Renegotiation Act of 1951 for 6 months, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, strike out "June 30, 1976" and insert: "September 30, 1976".

Amend the title so as to read: "An act to extend the Renegotiation Act of 1951 for nine months."

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I would like to inquire of the gentleman on the subcommittee if he will explain what this entails.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from New Jersey.

Mr. MINISH. I thank the gentleman for yielding.

When the bill passed the House this past Monday, it called for a 6-month extension. What the Senate did was add on an additional 3 months, changing the termination date from June 30, 1976, to September 30, 1976.

Mr. HANSEN. Mr. Speaker, I concur in this.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the gentleman will assure us that we will continue to have hearings and further discussions on this legislation?

Mr. MINISH. If the gentleman will yield, it is the intention of the chairman of the subcommittee to bring up H.R. 10680, the bill that passed the Committee on Banking, Currency and Housing on December 9, early in the coming session.

Mr. ROUSSELOT. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO INTERVENE IN ASHLAND OIL CORP., AGAINST FEDERAL TRADE COMMISSION

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 899) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 899

Resolved, That the chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce is authorized to intervene and appear in the pending action entitled "Ashland Oil Incorporated, plaintiff, against Federal Trade Commission, et al., defendant," Civil Action 75-1956, United States District Court for the District of Columbia, on behalf of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce in order to secure information relating to natural gas reserves now in the possession of the Federal Trade Commission for the use of the subcommittee and the House.

SEC. 2. The chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce is authorized to appoint with the approval of the Speaker a special counsel to represent the subcommittee in all judicial proceedings relating to Ashland Oil Incorporated against Federal Trade Commission.

SEC. 3. Such special counsel shall hold office at the pleasure of said chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce and shall be paid from the contingent fund at a rate to be determined by said chairman.

Mr. HAYS of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

I will explain the resolution briefly.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the following committee amendment:

H. RES. 899

Resolved, That the chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce is authorized to intervene and appear in the pending action entitled "Ashland Oil Incorporated, plaintiff, against Federal Trade Commission, et al., defendant," Civil Action 75-1956, United States District Court for the District of Columbia, on behalf of the Committee on Interstate and Foreign Commerce in order to secure information relating to natural gas reserves now in the possession of the Federal Trade Commission for the use of the committee and the House.

SEC. 2. To carry out the purposes of this resolution, the chairman of the Committee on Interstate and Foreign Commerce is authorized to employ with the approval of the Speaker a special counsel to represent the committee in all judicial proceedings relating to said Civil Action 75-1956.

SEC. 3. Such expenses to employ a special counsel not to exceed $50,000 shall be paid from the contingent fund of the House on vouchers signed by the chairman of the Committee on Interstate and Foreign Commerce and approved by the Speaker.

SEC. 4. The Committee on Interstate and Foreign Commerce is authorized and directed to report to the House with respect to the matters covered by this resolution as soon as practicable.

SEC. 5. The authority granted herein shall expire three months after the filing of the report with the House of Representatives, but in no case later than January 3, 1977.

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. I only want to take about a minute to explain what this is all about.

Mr. Speaker, this resolution provides for the appointment of special counsel to represent the House of Representatives in the Committee on Interstate and Foreign Commerce in certain judicial proceedings that infringe upon the rights of the House of Representatives or that could infringe upon the rights of the House of Representatives.

I ask that the resolution be agreed to.

The committee amendment was agreed to.

The resolution was agreed to.

The title was amended so as to read: "Resolution providing for the appointment of a special counsel to represent the House and the Committee on Interstate and Foreign Commerce in certain judicial proceedings."

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 894, ELECTION CONTEST IN 10TH CONGRESSIONAL DISTRICT OF ILLINOIS

Mr. HAYS of Ohio, from the Committee on House Administration, reported the following privileged resolution (H. Res. 894, Rept. No. 94-759) which was referred to the House Calendar and ordered to be printed.

Mr. HAYS of Ohio. Mr. Speaker, I might say I have four other resolutions to file which all terminate these election contest cases, and they are, incidentally, all in favor of the incumbent.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DICKINSON. I did not hear the colloquy or the ruling of the Chair on the first request. Was that passed?

The SPEAKER. House Resolution 899 was agreed to.

Mr. DICKINSON. Is this a unanimous-consent request pending now?

Mr. HAYS of Ohio. No. I am filing privileged reports on the election contests one by one. I have to do that before we can bring them up.

Mr. DICKINSON. I understood that, but I would like to establish at some point what we have just done for the membership, because I was listening.

Mr. HAYS of Ohio. It was not a unanimous-consent request. It was also a privileged resolution.

Mr. DICKINSON. The first one was?

Mr. HAYS of Ohio. Yes.

Mr. DICKINSON. I thank the gentleman.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 895, ELECTION CONTEST IN 1ST CONGRESSIONAL DISTRICT OF MAINE

Mr. HAYS of Ohio, from the Committee on House Administration, reported the following privileged resolution (H. Res. 895, Rept. No. 94-760) which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 896, ELECTION CONTEST IN 40TH CONGRESSIONAL DISTRICT OF CALIFORNIA

Mr. HAYS of Ohio, from the Committee on House Administration, reported the following privileged resolution (H. Res. 896, Rept. No. 94-761) which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 897, ELECTION CONTEST IN 21ST CONGRESSIONAL DISTRICT OF OHIO

Mr. HAYS of Ohio, from the Committee on House Administration, reported the following privileged resolution (H. Res. 897, Rept. No. 94-762), which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 898, ELECTION CONTEST IN THIRD CONGRESSIONAL DISTRICT OF NEBRASKA

Mr. HAYS of Ohio, from the Committee on House Administration, reported the following privileged resolution (H. Res. 898, Rept. No. 94-763), which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. AMBRO. Mr. Speaker, I was unavoidably detained because the elevator stalled. Had I been present, I would have voted to override the veto on H.R. 5559, Revenue Adjustment Act of 1975.

I would like to have my statement appear in the RECORD.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORTS ON SAME DAY REPORTED AND FOR SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND RULES AT ANY TIME DURING REMAINDER OF 1ST SESSION OF 94TH CONGRESS

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 938 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 938

Resolved, That during the remainder of the first session of the Ninety-fourth Congress it shall be in order to consider conference reports on the same day reported or any day thereafter, notwithstanding the provisions of clause 2, rule XXVIII; that it shall also be in order during the remainder of the first session of the Ninety-fourth Congress for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII: *Provided,* That copies of any measure or matter to be considered under the provisions of this resolution have been made available to Members prior to the consideration of such measure or matter. Notwithstanding this prior availability requirement, it shall nevertheless be in order for the House to proceed with consideration of any measure or matter under the provisions of this resolution if the House, by unanimous-consent request or majority vote, agrees to proceed with such consideration.

The SPEAKER. The gentleman from Hawaii is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA. Mr. Speaker, I offer a technical corrective amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUNAGA: On page 1, line three, following the word "reports" insert the following: "and amendments reported from conference in disagreement".

The SPEAKER. The question is on the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

The amendment was agreed to.

Mr. MATSUNAGA. Mr. Speaker, this is the usual end-of-the-session resolution which provides that during the remainder of the first session of the 94th Congress it shall be in order to consider conference reports on the same day as they are reported and it shall also be in order for the Speaker to entertain motions to suspend the rules at any time provided that copies of any such measures have been available to Members prior to consideration. However, it shall be in order to proceed with consideration of any such measure, even if copies are not available, if the House, by unanimous consent request or majority vote, agrees to proceed with such consideration.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the very able gentleman from Hawaii has explained the purpose of this resolution. It does provide for a suspension of the rules in order to bring up conference reports, even those that are now in disagreement, if there are such, and any others that may be necessary for the action of the House in the closing days of the session.

Mr. Speaker, while I feel it might have been better on our part to have provided for a time certain to adjourn and have the 6-day rule under the regular rules of the House be placed in order; nevertheless, at this point perhaps this resolution should be considered by the House and determine whether or not we want to waive the rules.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to ask the gentleman from Hawaii a question. I do understand the need to consider conference reports immediately, but I heard the majority leader say a day or so ago that there were no more bills to be brought up under suspension. The Speaker wrote to the gentleman from West Virginia (Mr. STAGGERS) saying that the Speaker knew of no more matters to be brought up under suspension.

Does the gentleman from Hawaii know what legislation we are talking about bringing up other than that which was announced earlier this week?

Secondly, when do we adjourn, so that we know when this authority granted by the resolution will terminate?

Mr. MATSUNAGA. Mr. Speaker, as the gentleman knows from his long experience as a Member of the House and even before the gentleman was a Member when the gentleman was a page, this is the usual resolution at the end of the session to provide for emergencies.

Certainly the gentleman is of such wisdom as to agree to make provision for any and all emergencies.

Mr. BAUMAN. Mr. Speaker, the gentleman is very kind at this yuletide season, but the gentleman still has not answered my questions.

Does the gentleman know what bills are to be considered and when we may adjourn?

Mr. MATSUNAGA. Mr. Speaker, right now I have no such exact knowledge. I do not know what other resolutions are pending, but it is anticipated that adjournment will be on the 19th of December. That is tomorrow.

Mr. BAUMAN. I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I heard a very definitive statement the other day on the floor by the majority leader. I agree with my colleague, the gentleman from Maryland. What is the necessity for the suspension concept in this resolution? I thought we were finished with our suspension bills. This is not like the end of a 2-year term, where it is understood in the last day or two that it may be necessary to bring up bills directly by the suspension calendar method. But both the majority leader and the Speaker have indicated there is no necessity for any suspension calendar. What is the purpose of this portion of the rule before us?

Mr. MATSUNAGA. Mr. Speaker, if the gentleman will yield, as the gentleman heard me explain to the gentleman from Maryland, this is simply the usual end of the session resolution to provide for any emergency which may come up.

Mr. ROUSSELOT. Mr. Speaker, usually such procedure is normally reserved for the end of a 2-year term where we may be in the last moments before sine die adjournment. But I have not seen it used before a first session adjournment. I just wonder why we need the suspension provision.

Mr. MATSUNAGA. To provide for any emergency; I hope the gentleman will accept it as such.

Mr. DEL CLAWSON. Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1281, HOME MORTGAGE DISCLOSURE ACT

Mr. ST GERMAIN. Mr. Speaker, I call up the conference report on the Senate bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain briefly what happened in the conference?

Mr. ST GERMAIN. Mr. Speaker, this legislation, which passed the House in October 31, after full floor debate, provided for, as the Members know, a 2-year extension of regulation Q which authorizes the Federal regulatory agencies to set a ceiling on interest which may be paid by commercial banks and thrift institutions. The legislation also required that the existing one-fourth percent interest rate differential maintained between thrift institutions and commercial banks not be lessened or eliminated unless the Federal financial regulatory agencies make a finding of a competitive disadvantage. Upon making such a finding, the Federal Reserve was required to give the House and Senate Banking Committee 45 days prior notification, and provided neither committee disapproves, only then could the differential be eliminated. In such instances, commercial banks would be permitted to pay up to the highest rate authorized under regulation Q.

Mr. Speaker, I believe we are all familiar with the continued need to maintain flexible rate control authority—regulation Q—if we are to be assured of stability in the volume of funds for home mortgage financing during this period of soaring inflation, accompanied by the inevitable increase in interest rates. As you will recall, under Public Law 93–495, approved October 28, 1974, we extended regulation Q until December 31, 1975. To permit the present authority to expire or to further diminish its effectiveness by eliminating or lessening the existing one-fourth percent interest rate differential, without providing a permanent, more equitable manner of dealing with our financial institutions and the consuming public, would place enormous upward pressure on the savings rates paid by thrift institutions beyond their ability to pay such rates.

In view of this situation and in recognition of the comprehensive review of our financial institutions now well underway by the Congress, the conferees agreed upon a 14-month extension of rate control authority during which time the Federal financial regulatory agencies may not take any action to further lessen or eliminate the existing differential unless such action is approved by both the House and Senate by concurrent resolution.

Mr. Speaker, the bill as passed by the House also extended the life of the National Commission on Electronic Fund Transfers to permit 2 full years in which to operate, as was intended by the Congress when it established the Commission under Public Law 93—495. The conferees, recognizing the importance of the work to be undertaken by the National Commission, agreed to the House provision providing for an extension in the submission of the interim and final reports of the Commission.

Now, Mr. Speaker, I turn to, in my opinion, one of the most significant portions of this legislation—the home mortgage disclosure provisions—which, as you will recall, was the subject of intense debate on the floor of the House when we last considered this bill. By requiring financial institutions to publicly disclose by geographic area the number and dollar amount of home mortgage loans we will enable citizens and public officials—by arming them with the facts—to combat what has come to be known as "redlining"; that is, when certain institutions refuse to lend mortgage money in our Nation's older urban and ethnic neighborhoods.

While the provisions of the Home Mortgage Disclosure Act are only a modest first step in combating what has come to symbolize the "facts of failure" in this Nation, despite a full decade—and even longer — of good-faith efforts by both parties, under three Presidents, to insure the realization of the American dream: "A decent home in a suitable living environment for every American family" the Congress, at long last, has given recognition to the problem and has begun to take the essential steps to deal with it.

Mr. Speaker, the House and Senate versions of this portion of the legislation were quite similar and the conferees agreed, for the most part, on the House language. The key provisions agreed upon by the conferees were: To require financial institutions to disclose mortgage lending information by census tract where available at reasonable cost, as determined by the Federal Reserve, otherwise by ZIP code; to maintain and make public the information at the main office of the institution and at least one branch; to provide a waiver from this act for State-chartered institutions in States with mortgage disclosure laws which provide for equal or greater disclosure; to exempt institutions with assets of $10 million or less from the requirements imposed under this act; and to provide an expiration date of 4 years from the effective date. Mr. Speaker, all these provisions were contained in the bill as originally passed by the House.

Mr. Speaker, in essence the conference report before us today contains few modifications from the bill when last considered by the House.

Mr. Speaker, the statement of managers on the conference report on S. 1281 contains a clerical error. Inadvertently, a page of the joint statement was omitted upon filing. That page—which should follow the words "standard metropolitan", on page 9 of House Report 94–726, fourth full paragraph, second line—reads as follows:

> statistical area. The House amendment required information to be available at the institution's home office and at least one branch office. The conference report incorporates the House provision.
>
> The House amendment required the information indicating the number and dollar amount of mortgage loans to be disclosed by census tract where census tract maps are readily available at a reasonable cost as determined by the Board, and in other cases to be disclosed by United States Postal zip codes. The Senate provision required disclosure by zip codes in all cases. The Conference report adopts the House language.
>
> The Senate bill requires such information to be maintained and made available for five years. There is no comparable provision in the House amendment, and the conference report includes the Senate provision.
>
> ENFORCEMENT
>
> Both versions provide that compliance shall be enforced by the usual regulatory agency with jurisdiction: the Comptroller in the case of national banks; the Federal Home Loan Bank Board in the case of Federally chartered or insured savings and loan associations, the FDIC in the case of banks normally examined by FDIC, and the Federal Reserve in the case of member state chartered banks. In the case of non-Federally insured mutual savings banks, the House amendment provided for supervision by the FDIC. The Senate bill provided for enforcement by the Federal Trade Commission in the case of all non-Federally insured or chartered institutions making

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 15, 1975.)

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, S. 1281, the Home Mortgage Disclosure Act, contains three titles. Title I provides for an extension of regulation Q through March 1, 1977, a period which should provide ample time for the consideration of proposals for comprehensive reform of financial institutions contained in the Senate-passed Financial Institutions Act and in the FINE study, which is currently being conducted by the Financial Institutions Subcommittee of the Committee on Banking, Currency, and Housing.

Title II provides that the time for the National Commission on Electronic Fund Transfers to submit its reports be reckoned from the date of confirmation of the Chairperson, rather than from the date of enactment of Public Law 93–100, which created the Commission. This is an eminently sensible provision with which no one should quarrel, in view of the extended period of time which did in fact elapse between the dates of enactment and confirmation.

I would like to take this occasion to explain two particular provisions of title III of this bill.

Section 304(a)(1) of the bill reflects my amendment, which was adopted by the committee, providing that mortgage disclosure data shall be provided "at the home office, and at least one branch office within each standard metropolitan statistical area in which the depository institution has an office." It is my hope, and that of those Members who supported the amendment in committee, that this provision will enable data to be accessible to all who would feel the need to examine it but, at the same time, would relieve depository institutions of the undue paperwork burden which would have been imposed if the original requirement that data be available at each branch office had stood.

The other provision to which I would like to call the attention of my colleagues is section 306(b), which provides that State-chartered depository institutions which are subject to substantially similar requirements under State law may be exempted by the Federal Reserve Board from having to comply as well with the provisions of this title. It is important to note that the explanation of the conference report includes the statement that:

> The conferees understand that for the purposes of exemption authority granted to the Board, the term State law shall include State regulations which carry the force of law.

The purpose of this language is to clarify the fact that the implementation of State mortgage disclosure regulations shall give rise to the exemption under this section. The purpose of section 306 as a whole is to prevent both State and federally chartered institutions from being subjected to conflicting and duplicative mortgage disclosure provisions.

Mr. ST GERMAIN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on the Senate bill (S. 1281) just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS ON H.R. 6673, PROVIDING FOR ESTABLISHMENT OF AMERICAN FOLKLIFE CENTER IN THE LIBRARY OF CONGRESS

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6673) to provide for the establishment of an American Folklike Center in the Library of Congress, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, lines 20 and 21, strike out "develop, promote, and implement a program of support for" and insert "preserve and present".

Page 2, strike out all after line 24 over to and including line 10 on page 3 and insert:

(1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

Page 7, line 8, strike out all after "Center." down to and including "Act." in line 11 and insert: "Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center."

Page 7, line 18, strike out "The Center and its Director are" and insert: "(a) The Librarian is".

Page 7, lines 20 and 21, strike out "with, make grants and loans to, and award scholarships to" and insert: "with".

Page 8, line 7, after "displays," insert: "publications,".

Page 8, line 22, after "facts," insert: "manuscripts, publications,".

Page 9, line 10, strike out "contracts, loans, and grants" and insert: "contracts".

Page 9, line 16, after "institutions" insert: ", and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965,".

Page 9, after line 22, insert:

"(b) The Librarian shall carry out his functions under this Act through the Center."

Page 9, line 23, strike out "GRANTS" and insert: "CONTRACTS".

Page 10, lines 9 and 10, strike out "GRANT OR OTHER".

Page 11, lines 22 and 23, strike out "Code, at rates for individuals not to exceed $100 per diem" and insert: *"Code"*.

Page 12, lines 3 and 4, strike out "contracts, grants, or other arrangements, or modifications thereof, to" and insert: *"contracts to"*.

Page 12, lines 5 and 6, strike out "or modifications thereof".

Page 12, line 14, strike out "The Center and its Director" and insert: *"The Director"*.

Page 12, line 16, strike out "its" and insert: *"the"*.

Page 12, line 16, after "operations" insert: *"of the Center"*.

Page 13, line 3, strike out all after "Act" down to and including "1978." in line 6 and insert: "$133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, and $349,000 for the fiscal year 1978.".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FEDERAL-AID HIGHWAY ACT OF 1975

Mr. JONES of Alabama. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8235) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama (Mr. JONES).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8235, with Mr. NEDZI in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to the rule, general debate will continue for not to exceed 3 hours, 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Under the rule, the gentleman from Alabama (Mr. JONES) will be recognized for 1 hour, and the gentleman from Ohio (Mr. HARSHA) will be recognized for 1 hour. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. SCHNEEBELI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 8235, the Federal-Aid Highway Act of 1975, a far reaching piece of legislation which will move forward in years ahead a meaningful transportation program for the United States.

This legislation is the result of intensive hearings that were held by the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation during a period of some 2½ months. At these public hearings the views and recommendations of public officials and private citizens, Federal representatives, State, county, and local organizations were heard. All of these views were weighed most thoroughly by the subcommittee before it met and reported out the legislation which is before this body today.

I should like at this time to commend all the members of the subcommittee for their diligent work. In particular, may I compliment the subcommittee chairman, my good friend and colleague from New Jersey, the Honorable JAMES J. HOWARD, and his counterpart and equally able, the ranking minority member of the subcommittee, the Honorable E. G. "BUD" SHUSTER, for their effective and untiring efforts in this field.

Enactment of this legislation, Mr. Chairman, will expedite the completion of the Interstate Highway System at a savings of many hundreds of millions of dollars for the American taxpayer. It will continue to fund and authorize the money needed for other segments of our Federal-aid highway system—ranging in category from the primary priority system down through and including the systems we now provide for under this legislation for off-system roads.

May I further point out that this will continue to fund at the necessary level the very effective highway safety program that was enacted into legislation back in 1966 by this same Committee on Public Works.

One of the most important aspects of the overall features of this legislation is that we now believe that the long desired flexibility in the transfer of funds within various categories of highways within States, by both State and local officials, can now come into being as a result of provisions contained in the legislation.

All in all, this act continues the tradition of the long series of Federal-Aid Highway Acts that have been presented to this body by the former Committee on Public Works—now the Committee on Public Works and Transportation. It takes a broad view of overall highway needs. It places the emphasis not only on completion of the interstate, but it gives proper Federal-aid funding to our rural, urban, and suburban areas.

And may I repeat—because I think it is so essential—it reemphasizes the committee's desire, and that of the Congress, to provide for all of our American citizens who use our many roads a safe means of travel. I strongly urge the enactment of this legislation.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I find myself in a very uncomfortable position where I, as ranking minority member of the Committee on Public Works and Transportation and longstanding supporter of the Federal-aid highway program, am in serious disagreement with the bill reported by my colleagues. The committee has reported a bill authorizing almost $9 billion a year for the highway program. Authorizations out of the highway trust fund for fiscal years 1977 and 1978 exceed $8 billion annually. Therefore, I am offering a number of amendments to the proposed 1975 Highway Act aimed at restoring fiscal integrity to the program.

I know as well as any Member of this body that the Nation has extensive highway needs requiring the continuation of a significant Federal-aid highway program. However, it is essential that our responsibility to meet these highway needs be balanced with our responsibility to the Nation's taxpayers to control Federal spending.

Since 1956, the highway program has been financed out of the highway trust fund. In 1977 and 1978, the trust fund will be generating between $6.5 and $7 billion in revenues each year. The bill before us would authorize trust fund expenditures in excess of $8 billion in each of these 2 years. For years the Congress has authorized highway programs at levels consistent with highway trust fund revenues.

Now, I find the Congress considering a bill which would authorize expenditures approximately $1.5 billion a year over trust fund income. Therefore, I am offering amendments today which would reduce authorizations in the bill by more than $1 billion per year. These reductions would place the program once more on a responsible footing and bring authorizations into balance with anticipated trust fund revenues.

Specifically, I am offering amendments which would: First, eliminate a new $750 million annual interstate discretionary grant program, second, reduce funding for a new traffic signalization demonstration program by $50 million per year, third, delete the annual $200 million authorization for off-system roads and permit the expenditure of up to 10 percent of each State's primary, secondary, urban extensions, and urban system apportionments for those purposes, and fourth, reduce funding for bridge replacement from the $250 million authorization to the current 1976 level of $125 million per year.

The first of these amendments is aimed at both reducing the authorization level provided in the bill and eliminating a major new discretionary grant category in a program that has operated for years based upon congressionally established statutory apportionment formulas. The bill reported would authorize $750 million per year to be disbursed by the Secretary at his descretion for projects on the interstate system. My amendment would still result in a $250 million increase in the interstate authorization from the $3 billion authorized for 1976 while withholding from the Secretary the unwarranted discretion provided in this bill.

Second, I would reduce authorizations from $75 million per year to $25 million per year for the newly established traffic signalization demonstration program. This is a new demonstration program and while it might, in the future, merit significant funding, it should be allowed to operate for the first few years at a relatively modest level until we have some evidence that it is worth continuing permanently.

Third, I would delete the annual $200 million authorization for off-system roads and instead permit States to use up to 10 percent of their regular Federal-aid, noninterstate apportionments, or up to $240 million each year, for off-systems roads. In this instance, I have no problems with activities authorized, but I believe that it makes far more sense to include this activity within the overall Federal-aid program as a means of both holding authorizations to responsible levels and increasing flexibility in the program by the elimination of a categorical grant program.

Finally, I am recommending that the funding level for bridge replacement be maintained at its present 1976 level of $125 million per year. As you know, there is no stronger advocate of highway safety than I, but I believe we can meet our safety responsibilities without drastically increasing funding.

The Congress is struggling to contain Federal spending. The Budget Control Act provides a means for coming to grips with overall spending and replaces the piece-meal approach of prior years. While I continue to support a strong highway program, I for one cannot believe that fiscal responsibility allows us to exempt our own favorite programs from the discipline imposed by the new budget process. Congressional budget discipline must affect all programs equitably. The highway program cannot be exempted from our efforts to enact a responsible budget.

These are important amendments which merit the support of all members regardless of party. With their enactment, the authorizations contained in this bill would still be the highest in history. While I believe it essential to continue our vital highway programs, I am convinced that this can be accomplished without turning our backs on our responsibility to the taxpayers to gain control of Federal spending.

Mr. Chairman, I would remind my colleagues that the President has just vetoed, and that veto has been sustained, a very politically attractive tax cut.

I can assure the Members that if the funding levels are continued in this bill in their present sums, the President will have no hesitancy whatsoever in vetoing this bill. Therefore, if we really want to continue with a viable and very vital highway program, then we should at least exercise some fiscal responsibility so that we can get a bill that the President will sign into law.

Mr. JONES of Alabama. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD), the distinguished chairman of the subcommittee.

Mr. HOWARD. Mr. Chairman, the Committee on Public Works and Transportation presents to the House H.R. 8235, the Federal-Aid Highway Act of 1975. And I urge every Member of this body to weigh most carefully the consequences of the vote we will cast today—the bearing our decision will have on the lives, the safety, the jobs, and the well-being of the constituents we represent.

The legislation before the House today is the end product of months of public hearings and discussion, in the course of which the Committee on Public Works and Transportation examined thoroughly the varied and complex transportation problems of our urban and rural populations.

More than 160 expert witnesses from public and private life appeared before the Surface Transportation Subcommittee, which I have the honor to chair, to offer their views and recommendations on this wide-ranging measure.

Differences of opinion inevitably arose, among both witnesses and committee members. That is the nature of the legislative process. But in the end we arrived at what I believe to be reasonable and workable solutions to the major issues that confronted us.

From the outset, we sought to frame this legislation against the background of an emerging national transportation policy that embraces all the modes of transportation that move the people and the commerce of this continental society from place to place.

In our studies, it became apparent that the questions involved in urban mass transportation were of such major importance as to demand separate and exhaustive investigation. Consequently, it was agreed within the committee to separate the mass transportation provisions from the highway bill and to make them the subject of full legislative hearings at the earliest possible date.

The bill as now reported consists of three titles: The first deals with highway construction and related issues; the second with safety on our highways, and the third, which originated in the Ways and Means Committee, treats the extension of the highway trust fund and related provisions.

A major concern of title I is to speed up work on the Interstate Highway System which has been underway for more than 20 years, suffering most of that time from the steady and destructive erosion of inflation. The cost, originally estimated at $25 billion, has climbed steadily over the years because of mileage increases, design changes, and inflation to today's completion estimate of $103 billion Federal share.

We have sought in this bill to establish a level of authorizations, $4 billion a year from the trust fund, that would enable completion of the entire system in fiscal year 1988 and thereby hold the erosion of the construction dollar to a viable level. In addition, the committee built into the annual authorizations an inflation factor of 7 percent a year to take care of anticipated construction cost increases.

The committee bill further gives the Secretary of Transportation discretionary authority over $750 million of the interstate funds for fiscal years 1977 and 1978 to eliminate gaps in the system and to fund interstate projects that may be hindered by unusually high costs and long construction periods. As an incentive for the Secretary to make use of this provision, the bill stipulates that this discretionary authority expires at the end of the fiscal year for which it is authorized and any unused funds revert to the normal interstate process.

At the urging of many State and local authorities, the committee bill gives greater flexibility than ever before in the exercise of the interstate substitute provisions permitting the withdrawal of an interstate segment and substitution of a mass transit project or another eligible highway section.

Supporting the Nation's vast investment in the Interstate System is the network of primary arterial and secondary roads in urban and rural sections of the country. The act before the House today authorizes annual funding of $1.2 billion each for the urban and rural systems, restoring the 50–50 balance that existed prior to 1974.

I would call to the particular attention of the House the steps taken by the Public Works and Transportation Committee in this bill to strengthen and expand our highway safety programs. Title II of H.R. 8235 authorizes significant and absolutely essential increases in funding for highway safety research, for replacement of dangerous bridges, for elimination of roadside hazards, for elimination of railroad grade crossings, and for pavement marking programs—all of life and death importance in our efforts to halt the slaughter on our highways.

The existing highway law which is codified as title 23 United States Code, contains a section which is section 113—prevailing rate of wage—Interstate System. This section assures that the Davis-Bacon Act applies to existing highway programs and will apply to this bill if it becomes law.

Mr. Chairman, it has been said that this bill carries too costly a price tag. I submit that the cost is more than justified by the savings of lives and human suffering it will achieve, by the irreplaceable service it will render to the commerce of the Nation, to the residents of our cities, and to the families of countryside America. I urge the passage of H.R. 8235.

I include the following extraneous matter:

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., December 11, 1975.
Hon. ROBERT E. JONES,
Chairman, Committee on Public Works and Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with our understanding, involving the matter of Committee jurisdiction, the purpose of this letter is to advise you that the Committee on Ways and Means has taken action with respect to its portion of the highway legislation pending before your Committee.

I am enclosing, at the direction of the Committee on Ways and Means, draft language for Title III of the bill to be reported by the Committee on Public Works and Transportation. We will also forward report language, along with any separate or minority views, for inclusion in the Committee report, which language will relate to Title III of the bill, the portion which is within the jurisdiction of the Committee on Ways and Means.

In further accordance with the respective jurisdictions involved, the Committee on Ways and Means will handle Title III before the Committee on Rules and on the floor of the House.

Further, in accordance with our understanding, it is requested that this letter be included in the Committee report on your bill, along with the report language which we will forward to you.

Sincerely,

AL ULLMAN,
Chairman.

STATE OF NEW YORK,
Albany, N.Y., December 16, 1975.
Hon. JAMES J. HOWARD,
Chairman, Surface Transportation Subcommittee, Washington, D.C.

DEAR MR. CHAIRMAN: I am advised by Mayor Beame of his recent letter to you concerning the City's intention to proceed with the construction of the Interstate Highway facility on the west side of Manhattan. I join with the Mayor in stressing the importance of this project. As he points out, the implementation of the Westway project is important to the future economic, social and environmental well-being of the City, the State and region. Construction of this facility is a key element in the transportation plan for the region.

The development of the Westway project has been sensitive to the State Environmental Action Plan which sets forth procedures for ensuring community participation in the planning of large scale transportation projects such as these. An overwhelming number of City and State planning agencies and representative community civic and labor groups support the implementation of this project. Any delay will of course result in further inflation of an already high cost to the Federal government, the State and the City.

I am, however, prepared to reexamine the State's position with respect to Westway if changes in Federal law and policies provide for transfer of amounts proportionately equal and in the same value as the Westway proposal would make available.

Sincerely,

HUGH L. CAREY.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, N.Y., December 15, 1975.
Cong. JAMES HOWARD,
Chairman, Subcommittee on Surface Transportation, Washington, D.C.

DEAR CONGRESSMAN HOWARD: This letter is in response to your inquiry about the official position of the City of New York on the West Side Highway as a part of the Interstate Highway System.

We have been working in close cooperation with the New York State Department of Transportation and the Federal Highway Administration for more than three years to plan and design a replacement for the derelict West Side Highway. The existing elevated highway has been closed to traffic since early 1974: a section collapsed and the remainder is seriously deteriorated. It is urgent that a replacement be approved and constructed as soon as possible.

The City continues to favor constructing a replacement West Side Highway as a part of the Interstate System. We support the Westway plan which is drawn from earlier plans presented at public hearings.

The City has carefully evaluated the alternatives available to us at present, and has concluded that constructing Westway remains in the best public interest from a financial, developmental and transportation standpoint. However, if Federal law and procedures are changed so that an equal amount of Federal funds is available for an acceptable traffic and mass transit solution to the West Side corridor, we will re-evaluate our position, taking into account the financial implications both for the City and the State.

I sincerely appreciate your personal call to me and your interest in being of assistance to the City of New York in the development of the Highway Act of 1975. Most importantly, I appreciate your interest and willingness to continue as part of the Urban Mass Transportation Assistance Act of 1964 the section which permits us to utilize transit funds to stabilize transit fares in the City. This is exceedingly important to the City during this temporary period of fiscal difficulty.

If I can be of any assistance to you, please let me know.

Sincerely,

ABRAHAM D. BEAME,
Mayor.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I would like to ask the gentleman from New Jersey, the manager of the bill, a question concerning the implementation of the interstate highway program. I certainly agree with the committee that this important system should be completed as soon as possible.

I have in mind a section of the Interstate System in the city of Chicago known as the Chicago Crosstown Route which I am sure the gentleman has heard of in the past.

In the 1973 Highway Act, a section of title 23 was amended which is now known as section 103(h) which states that any time a city enters into an agreement with the Secretary of Transportation to pay all of the non-Federal costs of construction of a segment which lies entirely within that city, then that segment shall be constructed.

The city of Chicago has entered into such an agreement with the Department of Transportation for the crosstown route.

My question is how do we get the segment built? The State does not want to comply with the law and is dragging its feet. Last year the State of Illinois had the largest highway program in the country, yet they refused to move on the crosstown.

Should the Secretary of Transportation move in and force the State to move on this project?

Mr. HOWARD. The gentleman from Illinois has stated the law correctly. There is no question that the intent is clear—that having signed the necessary agreement, the city of Chicago has acted in good faith with the Federal Government. It is now up to the Federal Government to act in good faith in return. It would certainly be my opinion that the Secretary should do all in his power to see that the route in question is constructed.

Mr. ROSTENKOWSKI. I thank the gentleman.

Mr. ANDERSON of California. Mr. Chairman, some Members of this body appear to believe that we can rewrite history. I refer to a colloquy which just took place during the present debate regarding the so-called crosstown rider which was enacted as section 110(b) of the Federal-Aid Highway Act of 1973. Now it is claimed that that provision empowered the city of Chicago to insist that the State of Illinois build the so-called crosstown expressway.

Let me say to the Members of the House that I participated in the 1973 debates on this controversial provision and I had no such understanding of that measure or else I would not have voted for it. Nor, I suspect, would many other Members of this House on both sides of the aisle.

Moreover, the views which have been expressed about the crosstown rider in this debate are very cleary contrary to the views of those Senators who were interested enough to discuss the measure when it came before that body in 1973.

Mr. Chairman, it was my understanding that section 103(h) would empower a city to pay the non-Federal costs of a segment of interstate highway that was wholly within its borders, even though the State refused to do so. It was definitely not my understanding that a city's willingness to do that would bind the hands of the State and Federal Governments and force them to construct the highway at the beck and call of the city. The House and Senate debates clearly show that it was not the understanding of the Congress that we were altering the traditional legal responsibilities of the States and of the U.S. Department of Transportation under title 23 of the United States Code.

It is worth pointing out that the crosstown rider was not considered by either the House or the Senate committees which reported the Federal-Aid Highway Act of 1973, but was added in conference. It would have been subject to procedural objection, and I certainly would have made such an objection if the view of that provision now asserted had been one that I shared at the time. No doubt some Members of this House may have disagreed with my view, but in the Senate those who spoke on the subject for the most part shared my understanding. All that was clearly intended by our 1973 action was to allow a city to finance the non-Federal share of the costs of an Interstate System segment which was wholly within its borders. Whether that segment should be constructed, how it should be designed, where it should be located—these were all matters left to the agreement of the State and Federal Governments as is true of all other segments of the Interstate System.

Mr. FARY. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Illinois.

Mr. FARY. Mr. Chairman, I rise in support of the comments of the gentleman from Illinois concerning the building of the crosstown expressway in Chicago. My predecessor, the late John C. Kluczynski, was perhaps the single greatest proponent of the need for an increase in local government control over Federal aid urban systems funds.

During the consideration of the Federal-Aid Highway Act of 1973 Congressman Kluczynski, speaking on behalf of the conference committee, said:

> It is quite clear that the intent of this subsection and the intent of the conferees is the following: that in any case where a particular portion of an Interstate System lies wholly within the boundaries of an incorporated city, that portion of the Interstate System may be constructed under this subsection, on the condition further contained in this subsection that the incorporated city agrees to pay all non-Federal costs of construction. The Chicago Crosstown is taken as a prime example of the use of this section and it is a good one.

I believe that the crosstown is a realistic solution based on the total transportation needs of metropolitan Chicago. The corridor has no rapid transit for commuters and no north-south expressway for cars and trucks. The completed crosstown will provide a 22-mile mass transit system and relieve congestion on all our overburdened streets.

The crosstown will also, and this I think is particularly important, provide the necessary incentives to bring back industry and jobs to where they are needed.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

Mr. Chairman, I rise in enthusiastic support of this legislation. I want to pay particular tribute to the gentleman from New Jersey in the well, Mr. Howard, for his diligent efforts and his sound leadership, to his subcommittee, to the committee, and to the committee staff, for the fine work that has gone into the development of this bill.

Mr. HOWARD. I thank the gentleman for his comments.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I would like to ask what the revenues of the Trust Fund are. Did I understand correctly that this bill as written will exceed those revenues? What are the revenues?

Mr. HOWARD. The revenues are 4 cents per gallon on gasoline. Of course, it fluctuates up and down, depending on the use of it and the different times of the year. In certain years it fluctuates. There was a drop in the first 6 months of 1974 because of a gasoline shortage. There is also an excise tax on vehicles, and an excise tax on parts for these vehicles. So that, of course, makes it never an exact amount each year.

However, we do have a great deal of backlog on paper of revenue because we have had impoundments for so many years. We have just been out of that for a few months, so we feel that this bill is in some way perhaps a catch-up. We do have a 2-year extension of the trust fund which is 2 years beyond its present termination date of October 1977.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEVITAS. Mr. Chairman, I yield 5 additional minutes to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman.

Of course, this money will be coming in. There is not at any time the actual money in the trust fund, in the bank, for projects which are obligated or which are approved for construction, but to cover that sensibly, we do have a provision that the Secretary of Transportation must certify that the money will be available under these means by the time the money comes due.

Mrs. FENWICK. If the gentleman will yield further, there is no danger that any of this will come out of general taxation?

Mr. HOWARD. No. There is a small amount for some safety programs, but this is one program in this country over the years that has arranged to pay every penny when it has come due, and not to add to the deficit in this Nation. That is one of the great things about this program. I would like to see something similar to this for the other necessary means of surface transportation so they can plan ahead as well as we have been able to do in the highway program. This program not only fights inflation, but it puts people to work. It provides an incentive for people to pay. It also has the added benefit at this time of being a Federal spending program that fights inflation effectively, because, believe it or not, during this year the cost of highway construction has actually gone down, not in relation to inflation. But it has actually gone down. This is one program we can take home for the people that is a winner from every angle.

Mrs. FENWICK. If the gentleman will yield further, this is good news. When the gentleman says a small amount will be taken from general taxation, how much is that small amount?

Mr. HOWARD. I do not have that figure.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio. Perhaps he has the figure.

Mr. HARSHA. I thank the gentleman for yielding.

For the fiscal year 1977, the amount out of the general fund for highway purposes and related purposes of this bill is $769,770,000; for fiscal year 1978, it is $772,670,000.

Mr. HOWARD. This is concerning an authorization in the bill now of approximately $8.9 billion per year for the next 2 years, and a comparable 25 percent for the interim quarter. Much of it, I believe, was added for the several safety programs.

Mrs. FENWICK. If the gentleman will yield further, I am a little confused. This sum is not insignificant; it is almost $1 billion that will come out of the taxation.

Mr. HOWARD. Yes, and it will come out of programs authorized in the past.

Mrs. FENWICK. If the gentleman will yield further, will it add to the deficit?

Mr. HOWARD. That part will add to the deficit; yes.

In the overall view we are talking about $700 million per year in an authorization of $19.9 billion.

Mrs. FENWICK. As I understand, the yearly cost is some $4 billion, and $1 billion really will come out of the General Treasury?

Mr. HOWARD. A small amount will come out of general revenues. They are the programs that are needed and probably the most popular with the people most concerned with saving lives on the highway and improving driving conditions.

Mrs. FENWICK. Why do we not take that out of the trust fund? Why do we go into the General Treasury for any funds?

Mr. HOWARD. It is to assure the stability of the program, to which the gentlewoman directed her first question.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, is it not true that the major portion of the general revenue funds, which are included in the total, which the gentleman from Ohio stated relate to Federal domain roads are roads which are part of the Federal projects themselves, such as forest development roads, public land development roads and trails, park roads and trails, Indian reservations, and such items which are Federal projects in and of themselves?

Mrs. FENWICK. Then they are not safety items? They are mostly forest lanes and so on. This sum is for the development of areas of Federal lands. Is that correct? I am trying to find out what we are doing.

Mr. HOWARD. It is a perfect bill as it is, I would say to the gentlewoman and needs no changes or amendments.

Mrs. FENWICK. I thank the gentleman.

Mr. HARSHA. I yield myself such time as I may consume.

Mr. Chairman, I want to elaborate a little on the colloquy between the distinguished chairman of the subcommittee and the gentlewoman from New Jersey.

The trust fund builds up revenues of approximately $6.5 to $7 billion a year. This bill has expenditures authorizing $8.9 billion a year. The revenues from the trust fund go into the general processes under our unified budget system, so any deficit or any expenditure whether it comes out of the trust fund or general fund is accounted for in that budgetary process. As of the first of October there was approximately $9 billion in the trust fund that was unexpended, but against that $9 billion are unpaid authorizations of $18 billion. So there is not in fact any surplus.

It is just like a personal checking account. In 1 month a person may have $500 in the checking account but at the end of the month when the rent and life insurance and doctors' bills come in checks will be written in excess of that, hopefully some will be added to it. It is just a bookkeeping process.

So there is no balance upon which to draw for the additional money.

Mrs. FENWICK. It is $1.9 billion over.

Mr. HARSHA It is approximately that much over what the administration has budgeted.

Mrs. FENWICK. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member of the Subcommittee on Surface Transportation.

Mr. SHUSTER. Mr. Chairman, the Federal-Aid Highway Act of 1975 is the product of several months of extensive and exhaustive public hearings in our Subcommittee on Surface Transportation. As ranking minority member of that subcommittee, I can attest to the fact that ample opportunity was given to every group, every interest, every individual, to air their views. Discussion was not limited to highways, as some would have you believe, but a wealth of testimony was received on safety, mass transportation programs, and national transportation policy.

When we readied a bill for subcommittee markup, we carefully studied and analyzed every spoken and written word that was in the possession of the subcommittee, and the document that resulted was a conscientious effort to maximize the usefulness of the evidence in our possession while minimizing the debilitating impact some so-called "progressive" ideas would have on our existing transportation programs.

The bill was a good one—a composite of new ideas blended in with proven programs to form a solid foundation for the mobility of generations of Americans. But it was also realistic. It was a salable product which did not offend the senses of any rational person, be he an advocate of highway, mass transit, or another yet to be discovered mode.

But then a strange thing happened. It was viewed by some members during markup as a vehicle to write into law language that would have very specific application to projects and programs that are ineligible under existing law and highly questionable on their merits under any law. These amendments, which were adopted in markup and are now part of the bill we are considering, so distort the thrust of our original bill that they undermine the conscientious efforts of many of us to write a piece of legislation that was designed to promote the cause of sound transportation policy in our Nation.

These items concern me greatly, and I shall support several amendments to correct these serious defects in an otherwise thoughtful and acceptable bill.

But I believe that as we work toward cleaning up this bill, we should carefully consider the urgency of passing a highway bill at this time and the desperate situation facing the State highway departments in many States around the country.

These are the facts. If we fail in our efforts here today, badly needed highway construction and safety projects will come to a standstill and unemployment in the industry will skyrocket. Time is running short for many States, Mr. Chairman, and unless we act now, they will not only run out of time, but they will run out of money. This is a particular problem for the interstate program according to the Federal Highway Administration's program progress reports.

They indicate that 36 States have already exhausted their entire fiscal 1975 interstate apportionments, and 32 States have used up more than 50 percent of their fiscal 1976 apportionments.

As of October 31, barely one third into the fiscal year, 24 States had obligated 70 percent or more of their fiscal 1976 interstate apportionments, and of those 24, 17 had obligated 83 percent or more. And that is with 8 months to go in the fiscal year.

The States are not in quite that bad shape in the noninterstate categories, but time and money are running out there, too. In rural primary and secondary, the programs that are the biggest lifesavers when you consider that the chances of being killed are three times greater on a two-lane rural road than a four-lane superhighway, 34 States are already into their fiscal year 1976 apportionments, and 23 States had already obligated half their fiscal year 1976 apportionments by October 31. Fifteen have used up 70 percent or more of their fiscal year 1976 apportionments.

The clock is running out, Mr. Chairman. Despite the serious problems with the bill, which, I might add, are not irreconcilable, can we risk the consequences that would result from doing nothing? Can we afford massive unemployment in the construction industry, already suffering from the effects of inflation, or can we allow desperately needed highway safety programs, aimed at saving lives, to come to a grinding halt?

I say we cannot. I say we must act now to keep these vital programs going, or we will have to answer and atone for our mistakes later through more public service programs—an alternative that no one really wants to see come to pass. I urge support for several amendments to clean up this bill, and support for final passage of this vital legislation.

Mr. HOWARD. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Chairman, first I want to extend my thanks to the chairman of the subcommittee, the chairman of the full committee and to the distinguished members of committee in general for the many courtesies they extended to me during the course of the marking up of this bill and for permitting me to testify in support of my rollback of truck weight amendment.

I believe everyone on this floor is familiar with the issues involved, because the Members on the floor are mostly the committee members, but I think also that the Members of Congress at this point have been educated by both sides on this issue and they are familiar with the issue.

Let me try just for the RECORD at this point to state why I hope the Myers-Koch amendment, which would provide a rollback to the 73,280 pounds which existed up until December of last year, will be supported by the Members when they vote.

The issues have not changed. The facts have gotten worse. Let me explain what I mean by that. We have talked about safety. The basic reason why a truck of 80,000 pounds should not be permitted on the highways and we should go back to the 1973 weight through 1980, is safety.

Now, there were some who said that when we imposed the 55-mile-an-hour limit on the highways that that would compensate for the increase in truck weights. Indeed, Secretary Coleman said that was the tradeoff.

But what are the facts with respect to that single issue? One, the fact is, that the National Highway Transportation Safety Administration in a report issued December 8 of this year—that is this very month—said that there is no evidence that the 55-mile-per-hour speed limit significantly lowered the death rate for the large truck-car crashes in 1974. They did say that as between car and car there is a reduction, but as between a heavy truck and a car, there was no reduction. Would the Members like to know why? Let me just speculate why that is so. The trucks do not obey the speed law. We all know that. We know that the trucks use the citizen band radio. We have heard all about it. There are articles in the newspapers day after day how they alert one another that the cops are on the road. That is one reason.

Second, did you know that there is at least one State or section thereof and I suggest that there are more, who because they technically want to obey the law, that is the law that the Congress enacted which said that they place their highway money in jeopardy if they do not enforce the 55-mile-per-hour speed limit, has done? In one State, I have been informed by a Member, they have a $1 fine if trucks go above the 55-mile-per-hour speed limit. So if they catch them in that State, they get charged $1. Surely it is worth it to the truck drivers to violate the speed limit.

Let me take up another point of safety. It is alleged that the new brake standards will make a big difference, the 121 brake standards. First, they only apply to the new trucks. The old trucks do not have to conform to them; but let me tell this House, those new brake standards do not work and this committee recognizing that provides for a study to look at those brake standards and to report back; but in the meanwhile, those trucks are allowed on the road. What happens with those new brake standards? They are electronically operated and the brakes often lock; so we have a second very grave safety factor.

Let me take the highway and bridge situation. First, highway damage, $100 million a year, based on last year's standards, in which the increased cost is to the localities which are not reimbursed for those losses.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HOWARD. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. KOCH. Mr. Chairman, I thank the gentleman. The gentleman is a gracious subcommittee chairman and opponent.

Mr. Chairman, let me refer again to the bridge damage and the highway damage. I have already told about the $100 million which is unreimbursed that the cities, counties, and States will have to pay.

Let me talk about the bridges. There are now, according to a GAO report, 7,000 structurally deficient bridges and 25,000 obsolete ones in the Federal system. By agreement with the Federal highway system, they say there are 23 of those on Federal interstate highways and, interestingly, they do not know where they are. Think of that, they do not know where they are. I have asked them. They do not know. Does that make any sense?

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I am always delighted to yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, if they do not know where they are, how do they know they are deficient or what system they are on?

Mr. KOCH. Mr. Chairman, the gentleman is absolutely right. How is it possible we could have such an inept Federal Highway Administration that says there are—and they have said it—that there are 23 unsafe bridges. At one time, they thought there were as many as 105 structurally deficient and 720 functionally obsolete.

They now say they think there are 23. But they do not know where they are. These figures are based on reports that have come in from the States, and they are still checking them out. What an outrage, that the FHWA does not know where the unsafe bridges are.

The gentleman agrees, does he not, that it is an outrage that the Federal Highway Administration allows those roads to be used by 80,000-pound trucks when they do not know where those structurally deficient bridges are. Does the gentleman agree with that?

Mr. HARSHA. I agree that the figures should not be accepted until they are verified.

Mr. KOCH. It is the gentleman's administration, not mine that is in charge.

Now, let me get to the other aspect which is important to the railroads. There is a diversion here of cargo so that instead of having the energy savings, together with encouraging people to use the railroads, we are now engaging in a diversion of volume of traffic from rail to road. About 75 percent of the traffic carried by the railroads can now be diverted, be subject to diversion, to these trucks. I am saying that is not energy saving. I am saying that is going to impose an additional multibillion dollar burden on the Federal Government to further subsidize the railroads, because we are taking away about $500 million in net revenues as a result of the diversion of freight to the trucks because of the increased truck weight.

Let me conclude, because I see that my time is running out. I am urging the Members, urging them that when the Myers amendment is brought to the floor, that they vote for the people. I know that the Members have been lobbied by the truckers in this country. The largest lobby in the country today is the trucking lobby, and they have got to be stopped, and stopped on this floor.

Mr. Chairman, let me now provide the details of why I rise to speak on the Federal Aid Highway Act. My particular concern is on the truck weights allowed on the Interstate Highway System. The House defeated an attempt to increase the limit from 73,280 pounds on August 20, 1974, by a vote of 252 to 159. An increase to 80,000 pounds was included in the conference report in the last moments of the 93d Congress, and the House was not allowed to vote separately on this issue. I hope we will get that chance today. I would like to discuss this issue fully, refuting the arguments raised against lowering the truck weights and advancing the arguments in favor of the 73,280 pound limitation. There is growing national support for repeal of the higher truck weight limit among both individuals and professional organizations.

Opponents of repeal have stated that provisions in the present law are supported by the Department of Transportation, its Federal Highway Administration, and AASHTO, the American Association of State Highway and Transportation Officials. However, Secretary of Transportation Coleman's explanation of the Department's support of the new weights is disturbing. In a letter of June 16, the Secretary wrote:

> The Department of Transportation is well aware of the trade-offs involved in this issue—the attempt to strike the balance between fuel savings and consumer economics on the one hand, the additional highway maintenance costs and safety-related factors on the other.

The fact is that this was a terrible tradeoff. The National Highway Safety Advisory Committee, chartered by Congress to advise the Department of Transportation on highway safety matters, has testified:

> We strongly favor Congressional repeal of the heavier truck legislation and respectfully urge DOT to reconsider its position in light of both the increasingly available evidence on truck safety matters and the still incomplete truck safety studies. As a minimum, we urge the Department to call for a moratorium in the States on further action permitting heavier trucks pending completion of truck safety studies and/or an overall high level DOT review of truck safety matters. Finally, we urge the development of a national standard on truck sizes and weights applicable for all the Nation's highways, and at least to all Federal-aid highways.

In response to a request for information concerning any studies it may have conducted to determine the impact of the new weights on braking capacity. DOT's National Highway Traffic Safety Administration responded that—

> It has not made any such studies because of the absence of a requirement for their conduct in support of our motor vehicle rule making program.

On December 2 and 13, 1974, DOT issued two contract proposals for studies, one on "Accident Topology of Larger Trucks," the other relating to "The Effect of Larger Trucks on Traffic and Their Relationship to Highway Safety." On March 10, 1975, DOT told the House Appropriations Transportation Subcommittee that "these submissions are in a contracting process and have not yet been let."

In the absence of such information, it was ill conceived of DOT to support heavier truck legislation.

The American Association of State Highway and Transportation Officials' support for the heavier weights is highly tempered. In testimony before the Senate Public Works Committee on February 21, 1974, AASHTO stated that a 2,000-pound increase in single and tandem axle loads, as now permitted in Public Law 93-643, brings about "an average loss of the remaining loss of a facility—highway—of between 25 to 40 percent," attributable to the movement of heavier trucks.

Supporters of repeal of the higher weights, for safety, cost, and procedural reasons, includes, among many others:

The AFL-CIO.

The National Society of Professional Engineers.

The American Society of Civil Engineers.

The National Association of Counties (State, county and local governments, not the federal government, must pay the increased highway maintenance costs.)

The National Highway Safety Advisory Committee (chartered by Congress).

The American Automobile Association.

The Professional Drivers' Council for Safety and Health.

The Association of American Railroads.

The Brotherhood of Railway, Airline, and Steamship Clerks.

The Railway Labor Executives' Association.

The Oil, Chemical, and Atomic Workers International Union.

Common Cause.

The General Federation of Women's Clubs.

In addition, there have been over 200 newspaper editorials, from virtually every State in the country, supporting repeal of the new weights.

As I have stated, on August 20, 1974, the House by a vote of 252 to 159 removed from the pending Federal Mass Transportation Assistance Act a gross weight increase from 73,280 pounds to 90,000 pounds and a 2,000-pound single- and tandem-axle weight increase. The Federal Aid Highway Act amendments, enacted under suspension, thereby precluding amendments, 4 months later in the closing days of the 93d Congress, effectively undid that decisive vote. The new law allowed the same 2,000-pound axle increases as rejected earlier and a gross weight increase to 80,000 pounds.

Let me enumerate and refute the arguments raised against repeal:

First. Some key opponents of repeal of the heavier truck law have said that "all the law did was say that the bigger trucks could go on the interstate roads in those States where they are permitted on the intrastate highways," and that the bill has not "encouraged the construction of heavier trucks that place a bigger strain on the Nation's highways."

These are great misconceptions or misstatements of fact. Public Law 93-643 allows all States to increase gross weights on the Interstate System to 80,000 pounds, and single- and tandem-axle weights to 20,000 and 34,000 pounds, regardless of the State's local highway limits. In fact, State legislatures will now more likely be faced with pressure from shippers and truck owners to increase not only the interstate limit, but the intrastate limit as well in order to match it. In spite of Federal Highway Administrator Norbert Tiemann's assurance to the Senate Public Works Committee in February 1974, that he did not "think the States will be under a great deal of pressure to increase weights," the American Trucking Association and its State affiliates have been working in numerous States seeking larger and heavier trucks.

In addition, it is unrealistic to assume that an 80,000-pound truck will never leave the Interstate System in a State for eating, sleeping, loading, unloading, or some other purpose. When the gross limits were raised to 80,000 pounds and the axle limits by 2,000 pounds, the leapfrog, two-tiered system of truck weights was further perpetuated.

Ironically, one of the reasons given to the Congress by DOT and others in support of the increase was to seek uniformity among the States that permitted heavier weights on their own highways. But in all of the State legislatures that have been presented with truck weight increase proposals, not one bill would limit the increased weights to Interstate highway systems only.

Second. Opponents have argued that repeal would force a majority of States to change State laws.

This is not true. At the present time, according to the Library of Congress, 26 States have administratively or legislatively increased the weights allowable; 14 States have rejected such legislation, and most of the remainder are expected to complete their legislative sessions without enacting higher weight limits. The fact is that this amendment is absolutely necessary now in order to avoid a situation where State legislatures under the pressures of the truck lobby which, believe me, you and I know are enormous, pass legislation increasing the States' weight limits. We cannot wait any longer to offer an amendment restoring the old limit. The pleas made today that States have already implemented the weight increases will only be louder tomorrow. In short, if we wait, we will find ourselves in the position of the magistrate confronted by the defendant who has killed his parents and pleads, "Have mercy, your honor, I am an orphan." In other words, we want to avoid a situation where the plea is made at a later time that most of the States have already taken irrevocable action and therefore, require a merciful response by the Congress.

Third. Opponents have argued that repeal would require 37 of the States to enact lower and more restrictive weight limits on their very best highways—their sections of the interstate—than those States legally allow on their lesser highways.

This is not true. According to the American Trucking Association's own figures, even before the enactment of the higher interstate limits in December, only 19 States allowed higher weights on their own noninterstate, primary highways, and 7 of the 19 allowed the heavier weights by special permits. The fact is that some of those highways pay for themselves, not out of the Public Treasury. The more basic fact is that as is the case in so many areas, State legislatures are not able to resist the lobbying pressure that the Congress has resisted on so many occasions and should on this occasion as well.

Fourth. Opponents have argued that in my own State of New York loads of up to 105,000 pounds are legally permitted on certain highways, and that repeal would require them to reduce this by about 30 percent—to 73,280 pounds on every segment of the interstate.

This is not true. I wish it were because then I could have the additional argument that I was asserting a point of view which, not withstanding its adverse impact of my own State, is worthwhile asserting because of the national interest. However, the fact is that the State of New York has not adopted legislation permitting an increase in weight on the interstate highway over the current 71,000-pound limitation. It is true that the primary noninterstate system is under a temporary permit granted by the prior Governor allowing increased truck weights. But again, this does not apply to the interstate system.

Fifth. Opponents have argued that repeal would have absolutely no beneficial effect on highway safety. They say it would not result in smaller trucks. They say it would result in more trucks on the road, since it would force many thousands of trucks to run part empty. They say if adopted, it would require eight trucks to carry the cargo which presently can be transported by seven in most of the country.

These points are not valid. The most damaging statement made by the Department of Transportation, actually helpful to this cause, is that of Director James B. Gregory, Administrator of the National Highway Traffic Safety Administration, who testified before the Transportation Appropriations Subcommittee on March 21, 1975. In response to a question I posed, Mr. Gregory said,

> From the standpoint of the chances of fatality, I was dead wrong, referring to his earlier view that the fatality rate for automobile passengers involved in truck-car collisions would be similar "whether it (the truck) weighs 70,000 pounds or 80,000 pounds."

Also the Bureau of Motor Carrier Safety of DOT has provided a chart which shows that there is a linear increase in the death rate for persons other than truck occupants in car/truck crashes. To illustrate:

Truck weight, 70,000–75,000 pounds: Number of accidents, 1,982; persons other than truck occupants killed, 281.

Truck weight over 75,000 pounds: Number of accidents, 371; persons other than truck occupants killed, 70.

Figures are for 1973.

The basic premise for the DOT's supporting the increase in truck weights was affirmed to us in a letter of June 16, 1975 from Secretary William T. Coleman, Jr. Secretary Coleman said:

> The 55 miles per hour speed limit, while conserving fuel and thus lowering that aspect of trucking costs, results in decreased productivity for the trucking industry.

In fact, even if that were true, every other sector of our economy has had to bear some impact of our having to conserve fuel. But the fact is that the 55-mile-per-hour speed limit is only temporary and probably will change as our energy situation changes. However, once the law allows each State to increase its truck weights on the Federal highway system, it will be irreversible.

The argument that repeal would force eight trucks to carry the current load of seven trucks is both exaggerated and specious. Even if every truck were filled to capacity, the weight decrease from 80,000 to 73,280 pounds would at most, depending on the type of freight, require one extra truck per nine for those loads carried at the highest weights. More importantly in the current time of high unemployment, a reduction in the weights, in addition to improved safety and decreased highway damage, will provide a significant saving of jobs of the Teamsters and other truck drivers. Finally, because there is no Federal length limit, and with some States permitting up to 102 feet with special permits, the heavier weights of Public Law 93-643 will force longer trucks on the road. If a rig "cubes out," using up its trailer space, before it "weighs out," operators will attach extra trailers where permissible, creating double or triple bottoms—trailers—to carry the higher weights allowed. Even in States with lesser length limits, the new weights could intensify the ever-present pressures for increased length.

Sixth. Opponents of repeal have argued that repeal "would force a needless waste of productive capacity, a needless waste of fuel, and a needless increase in transportation costs which undoubtedly would be passed on to the consumers of every transported commodity including food."

This is not true. Not true because of the pejorative language, to wit, "needless waste." There is a need to limit the weight and size of trucks. Indeed, if the trucking industry had its way, not only would weights be increased but the size, including widths, would be increased as the trucking lobby has tried to legislate in the past. Let us talk of the real waste and the cost to the public. According to conservative estimates of the DOT, the annual cost increase for highway maintenance due to higher permissible weight limitations is $34 million to the States, $30 million to the counties, and $24 million to the cities, all unreimbursed. Furthermore, we have railroads for large loads and they should be put to great use for such purposes.

Seventh. Opponents have argued that nothing in the present law requires any State to allow any limit above 73,280 pounds. They say that every State may enact as low a limit as it deems prudent and necessary for its own roads. They rationalize that highway, density, weather, and topography vary widely throughout the country. They say that the States clearly deserve a greater flexibility than repeal would permit them.

These arguments are not true. The special conditions the repeal opponents cite call for lower limits, not higher limits. It becomes nearly impossible to resist the trucking lobby, particularly when adjacent States have succumbed to pressures for higher limits. I repeat that the truckers and almost every other lobby have had greater success with the State legislatures than with the Congress and it is the Congress that the people must depend upon in this case, too.

Eighth. The Federal Highway Administration told the House Appropriations Transportation Subcommittee on May 5, 1975, that the former truck weight law—23 U.S.C. 127—allowed "an up to 10 percent administrative tolerance." However, the word "tolerance" did not even appear in the old law, and the gross vehicle weight was established inclusive of any tolerance which a State chose to allow. A table of State weight limits in the American Trucking Association's own magazine, Transport Topics of October 14, 1974, clearly indicates that only seven States permitted a tolerance factor, which when added to the allowable weight in those States did not exceed the national limit of 73,280 pounds in six of the seven States. Only one State, Ohio, was slightly above, and this was permitted because of "grandfathering" in the 1956 law.

While the Federal Highway Administration's testimony referred ony to gross weight tolerances, even if the separate issue of axle tolerances is considered, only 12 of the 50 States allowed such axle weight tolerances to exceed the old law's limits, permissible only because the 1956 law allowed a State's rules in effect at that time to remain in effect. Yet Public Law 93-643 permitted increases in all 50 States. Our legislation would simply return the weights, tolerances, and grandfathering to the limits that the House confirmed on August 20, 1974.

I would now like to summarize some of the main arguments concerning the need for lower truck weights.

First, there is the matter of safety.

Testimony of Dr. James B. Gregory, Administrator of the National Highway Traffic Safety Administration, before the House Appropriations Transportation Subcommittee on March 21, 1975, revealed:

> As you build up the weight of the trucks, you find the fatality probability continues to increase with the weight of the trucks. The probability of a fatality occurring in a collision between an automobile and a large truck, defined roughly as a truck in excess of a 10,000 lb. gross vehicle is 10 to 1 compared with lighter vehicles.

While trucks are involved in fewer accidents than cars, the fatality rate, especially for the heaviest trucks, is far greater. Dr. Gregory admitted that "from the standpoint of the chances of fatality, I was dead wrong," in his earlier view that the fatality rate for automobile passengers involved in truck-car collisions would be similar "whether the truck weighs 70,000 pounds or 80,000 pounds." In a March 11, 1975, study, the National Highway Traffic Safety Administration concluded—

> The number of nontruck fatalities per 100 car-truck accidents, based on a sample of 13,176 accidents, increases at the rate of 1.1 for each 10,000 pound increase in the loaded weight of the truck.

According to 1971 and 1972 Department of Transportation and Bureau of Motor Carrier Safety reports, large trucks have a fatal accident involvement rate of almost twice that for all motor vehicles. The fatality rate in accidents involving large trucks, class I and class II intercity carriers of property, in 1972 was 8.15 fatalities per 100 million vehicle miles of travel.

NHTSA testimony on March 24, 1974, before the Senate Public Works Committee, revealed that the 10-percent weight increase permitted by the law as passed would reduce the speed of the best performing trucks to 26-28 miles per hour on hills where cars can easily maintain 55 miles per hour—almost a 30-mile-per-hour differential in speeds. According to reports by DOT, such wide differences in speed greatly increase the likelihood of accidents. The accident rate jumps 200 times—from 50 per 100 million vehicle miles where traffic speed is uniform, to 10,000 per 100 million vehicle miles where a 30-mile-per-hour speed differential exists. This danger from the heavier weights increases even more when poor visibility weather conditions prevent early recognition of the speed differential of slower trucks, or when the normal passing lane is not available for use, as in going around a curve.

According to the same NHTSA testimony, the chance of collision when trucks overtake cars on two-lane roads is four or five times greater than when cars pass trucks. Under the national 55 miles-per-hour speed limit, the likelihood that the overtaking vehicle will be a truck—now, a dangerously heavier truck—is considerably higher than when truck speed limits were held to 5 or 10 miles per hour below passenger cars.

The latest findings of the NHTSA are even more distressing. The fact is that heavier trucks are more dangerous, and there should now be no doubt about it. Let me read from the "NHTSA update of information on heavy truck accidents," handout for presentation before a joint meeting at the Highway Environment and Vehicle Subcommittees, National Highway Safety Advisory Committee, December 8, 1975, by Donald F. Mela, Mathematical Analysis Division, Office of Statistics and Analysis, Research and Development, National Highway Traffic Safety Administration:

Conclusions:

> The death rate for non-truck occupants increases with truck weight in car-truck crashes.
>
> There is no evidence that this death rate "levels off" at 70,000-80,000 pounds loaded weight.
>
> There is no evidence that the 55-mph speed limit significantly lowered the death rate for large-truck-car crashes in 1974, although the severity of car-car crashes did decrease.
>
> The following preliminary conclusions are considered to apply to travel and accident experience on U.S. Toll Roads, but are also likely indicative of experience on the general limited access type of road (including interstates) where vehicle exposure factors are similar.
>
> 1. The probability of being involved in an accident, as a function of miles traveled, is markedly higher for large trucks than for passenger cars.
>
> 2. Among those two-vehicle accidents involving some combination of a passenger car and a large truck (i.e., car-car, car-truck/truck-car, of truck-truck), car-car collisions occur less frequently than would be expected; car-truck or truck-car collisions occur more frequently than would be expected; and truck-truck collisions occur considerably more often than would be expected. These statements are based on the relative proportion of miles traveled by each type of vehicle.
>
> It is believed that these improvement probabilities are related to the "Combined size effects" of the two types of vehicles.
>
> 3. Passenger car travel declined considerably from 1973 to 1974 while truck travel remained relatively unchanged.
>
> 4. Compared with 1973, mean speeds in 1974 for passenger cars declined more than did mean speeds for trucks. For some roads, truck speeds did not change. The primary reason for this is that the original speed limit for trucks on these roads was 55 mph.

How much more information do we need about the dangers of heavier trucks before we decide to act to safeguard our citizenry on the highways?

The second issue is that of brake standards. "The stopping distance will be longer if you use the same brakes with a heavier weight," according to NHTSA testimony before the House Appropriations Transportation Subcommittee on March 21, 1975. NHTSA elaborated, "everything being equal, the heavier truck will experience a greater fade problem than one of lighter weight."

Particularly disturbing is the fact that the heavier truck weights are allowed on both new trucks with the new, safer "121" brake standards, and pre-"121" vehicles. The "121" brake standards apply only to new trucks, but old ones are still allowed on the roads carrying the new weights. And the trucking industry is lobbying fiercely to put off the "121" brake standards on new trucks for at least another year.

Driver safety organizations also point to blowouts, steering, acceleration, maneuverability, and other factors as far more difficult and dangerous when driving the heavier trucks.

The third issue is that of highway damage, as cited earlier, the American Association of State Highway and Transportation Officials testified before the Senate Public Works Committee on February 21, 1974 that a 2,000-pound, single- and tandem-axle weight increase, as provided in Public Law 93-643, could mean "an average loss of the remaining life of a facility of between 25 to 40 percent."

Subsequent to passage of Public Law 93-643, Federal Highway Administrator Norbett Tiemann stated in a speech that the highways in this country are wearing out at a rate of 50 percent faster than they can be rebuilt. Where then, is the logic of further accelerating their deterioration by permitting these increases in axle loads?

The fourth issue is that of bridge damage.

The American Society of Civil Engineers' National Board of Directors on October 20, 1974 recommended:

> From an engineering point of view, no increase in vehicle size should be permitted until existing structures are put in order and the true effects of increased vehicle size and weights on bridges, pavements, and underground utilities are evaluated.

According to an ASCE position paper "80,000 of the Nation's 563,000 bridges are in critical condition," with "24,000 of the 80,000 on the Federal Highway System." Of the total of 563,000, ASCE reports, "407,000 bridges were built prior to 1935" at a lighter design load than currently required.

The National Society of Professional Engineers adopted a similar proposal recommending that Congress reconsider its action when its board of directors met in January 1975.

These two societies represent essentially all of the civil and structural engineers in this country. Yet DOT Secretary Coleman testified before the House Appropriations Transportation Subcommittee on March 10 that most bridges "are capable of routine handling of the new weights."

NSPE and ASCE have pointed to examples like the Silver Bridge over the Ohio River at Point Pleasant, W. Va., where an increase in pulsating live load, coupled with the steady dead load, caused a sudden collapse and the death of 46 people. Though sudden in its tragic culmination, the process took 30 years. The National Society of Professional Engineers argues that this may occur "even more frequently with the heavier axle loads in trucks allowed" in Public Law 93-643.

Recent data further demonstrates the increased danger to bridges from the heavier weights.

A July 2, 1975, report by the General Accounting Office is entitled "Unsafe Bridges on Federal-Aid Highways Need More Attention." GAO cites bridge inventory and condition data of the Federal Highway Administration showing that—

> About 7,000 bridges on Federal-aid highways are structurally unsound, and 25,000 are considered functionally obsolete because they are narrow, have low overhead clearance, and are poorly aligned.

GAO emphasized that the "estimated cost of $10.4 billion to replace those identified, plus additional costs as others become unsafe, could not be met within this century except by a massive increase in the annual funding level." GAO points out that while some of the bridges have lower load limits than their highways, this very fact "reduces the safety of the highways." The higher highway weight allowances of last year's law cannot help.

GAO also found evidence that—

> Drivers apparently disregarded bridge posting limitations, rather than incur the extra cost associated with rerouting or carrying less than capacity loads.

Acting upon this report, I asked the GAO to ascertain which deficient and obsolete bridges were on the Interstate System. The Federal Highway Administration provided the information that 105 "structurally deficient" and 741 "functionally obsolete" bridges were part of the Interstate System. When I tried to learn which specific bridges may be unsafe, especially for the heavier trucks, I was more than surprised to learn that FHWA did not know which bridges on which highways were the unsafe ones.

FHWA later reported that its data was wrong and that less bridges were in the "structurally deficient" category than previously stated. They are still checking on which specific bridges may be unsafe. Especially with this pending situation, I think it important to make sure that we not put any great stress on these bridges.

The fifth is that of cost. On April 8, 1975, DOT provided the Appropriations Transportation Subcommittee with what the Department called a very conservative estimate of an up to $100 million annual cost increase for maintenance due to the new weights. This figure was broken down into $34 million for State-administered highways, $30 million for counties, and $24 million for cities.

Even more staggering is DOT's cost projection for providing a complete road system capable of accommodating the higher weights to $2.4 billion. This figure, presented to the Senate Public Works Committee on February 20, 1974, represents: "the increase in investment required to build a road system designed to accept maximum single and tandem axle gross loads of 20 anl 34,000 pounds, respectively (as in Public Law 93-643) for 20 years, instead of one designed to accept existing gross axle loads of 18 and 32,000 pounds."

The effect of heavier trucks on railroad freight is the argument I wish to bring to your attention.

An Association of American Railroads study May 16, 1975 reports that approximately 75 percent of rail traffic is truck-competitive. That is, approximately 75 percent of their $16 billion freight market is subject to truck diversion. Because of the higher truck weights, AAR projects an average reduction of 3 to 4 percent in what railroads could otherwise charge on $12 billion of business, a reduction in their net revenue of $400 to $500 million per year.

It is generally recognized that the Nation's railroads are already in serious difficulty. AAR estimates that to replace the railroads' capital and improve their maintenance, more than $4 billion is needed. The truck weight legislation, by taking perhaps another half billion out of their incoming net revenue, will make their nearly untenable situation significantly worse.

The Congress must be concerned with a strong, balanced transportation system, and rail freight is a major part of this system.

Mr. HARSHA. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Pennsylvania (Mr. MYERS), a member of the committee.

Mr. MYERS of Pennsylvania. Mr. Chairman, today I will be offering an amendment to H.R. 8235 to return gross vehicle weights and axle weights to the levels at which these weights stood prior to January 1975. I offer this amendment for two reasons: First, lower truck weights mean greater highway safety and less road deterioration; second, I believe that it is essential to good representative government for controversial and important decisions—the results of which will be felt throughout the country—to be decided with an open recorded vote in this body.

Mr. Chairman, the vehicle weight issue has been debated extensively in this body, and many Members are aware of the arguments for higher or lower weight levels. Those who are familiar with this issue realize that there is no abolutely right or absolutely wrong level at which truck weights should be maintained. Rather, we must assess the relevant variables in this complex equation to arrive at the most appropriate configuration for this time and for our current needs. Many other Members and I believe that the preponderance of evidence points toward a reduction in gross vehicle weights as the most appropriate policy.

Proponents of higher vehicle weights have claimed that the entire weight issue is based on emotionalism, and that a review of the facts supports higher weights. Mr. Chairman, I believe, on the contrary, that the facts support the amendment I am offering today.

Much data supporting moderate truck weights has been placed in the RECORD in the past several years. I would like to briefly summarize some of the major arguments supporting a return to last year's weights.

First and foremost, I believe highway safety would be best served by lower truck weights. I believe it is an inescapable fact that higher truck weights mean longer stopping distances, regardless of the type of braking system employed. The new 121 braking requirements, designed to reduce stopping distances, will apply only to new trucks, and not to vehicles carrying 80,000 built before this year. This means—taking the average road life of a truck—according to the American Trucking Association—that we are facing 7.5 years before all the large trucks have these new brakes installed.

Another way in which heavier trucks mean more dangerous highways is by increasing the speed differential between cars and trucks. The National Highway Traffic Safety Administration has testified—March 24, 1974, before Senate Public Works Committee—that a 10-percent increase in truck weight could significantly reduce the speeds of trucks—26 to 28 miles per hour—on grades where cars could easily maintain 55 miles per hour.

Finally, Mr. Chairman, there is increasing evidence that the combination of loading heavier weights and the tandem axle weight restrictions result in more weight being thrown onto the front or "steering" axles of trucks. Both the teamsters and the Professional Drivers Council for Safety and Health—PROD—have been supporting front axle weight limitations, because these organizations—organizations that represent the men and women who drive these big loads—believe that increased front axle loading means more difficulty in handling these vehicles. In this respect, it is important to remember that we are not only discussing a 10-percent increase on paper, but an added 3½ tons traveling at 55 miles per hour. The Public Works and Transportation Committee has in fact noted this problem by including in this bill the amendment offered by the distinguished gentleman from Ohio, calling for an investigation of the relationship between front axle loading and safety.

Mr. Chairman, the facts also speak for a decrease in truck weights when one looks at road deterioration. The American Association of State Highway and Transportation Officials—AASHTO—has testified—February 2, 1974, before the Senate Transportation Subcommittee—that significant additional wear and tear is caused by increasing axle weights to the levels authorized in the 1974 legislation. The altered definition of "construction" in section 106 of this bill to include "resurfacing" is ample evidence of the increasing difficulty States are having in maintaining the highways we have built. It is shortsighted to add further to these maintenance costs. The same can be said for our bridges: I do not intend to raise the specter of our bridges collapsing into rivers or gorges. However, what we are doing by permitting higher weights is accelerating the deterioration of our bridges, when bridge replacement needs are critical at this time.

Mr. Chairman, no one is claiming that the proponents of higher truck weights do not have some reason for their proposals. There is legitimate concern by many distinguished Members for the higher fuel costs the trucking industry is facing. And, there is hope on the part of some Members that consumers may save money due to lower transportation costs resulting from loading efficiencies. I believe it is evident, however, that these legitimate concerns are greatly outweighed by the potential costs of the higher weights. Potential consumer savings and some fuel savings for the trucking industry versus decreased highway safety and increased road deterioration: the decision on truck weights must be made with these factors in mind.

A final point I wish to raise concerns the implications of this issue for the Federal-State relationship. Much has been made of the fact that some States allow higher vehicle weights off the Interstate Highways. This is, incomprehendably, used as an argument for raising the weights on the Interstates. Personally, I would prefer to see truck weights moderated on the non-Interstate Highways also, but I do defend the States' prerogatives in this regard. However, on the Interstates, built with 90 percent Federal funding, I believe every effort should be made to establish procedures that are models of safety and proper maintenance.

Mr. Chairman, I would like to make one other observation in relation to bridge replacement in this bill. We are saying that the problem is so overburdening for the States that we are now authorizing the Federal share to be increased from 75 percent to 90 percent. I think that is indicative of the fact that the States now cannot maintain the bridges with the previous truck weight limits.

Mr. Chairman, another argument is that decreasing truck weights decreases the efficiency of the trucking industry. I do not believe anything has been built in the last 20 years that would increase the efficiency of the trucking industry more than the Interstate System. It allows thousands of miles to be traveled without encountering one stop for a stoplight and without encountering problems in traffic, greatly increasing efficiency.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not want to belabor this point about the so-called weight measures on the interstate, but I want to make a few brief remarks to get the record straight.

The gentleman who just left the well, the gentleman from Pennsylvania (Mr. MYERS), said he recognizes the rights of States in determining what weights should be used on highways other than interstate. The trucks are used on Federal-aid highways also, and the Federal Government has a 70-percent investment in those highways, as contrasted with the interstates where they have a 99-percent investment.

So if we recognize the jurisdiction of States on the one type of Federal-aid highways, surely it seems just as logical to recognize the States jurisdiction on the Interstate System.

But let me point out, as most of the Members know, that this weight law is only permissive. It in effect recognizes the States' jurisdiction, and it just grants to the States the right to make those changes if they so desire. It does not dictate their rights to them.

Mr. Chairman, the gentleman from New York alluded to the fact that we were causing the railroad industry to lose large sums of money by permitting the trucks to increase their weights. The newer truck rates will have no significant impact on railroad freight. The newer rates will only enable the trucks to efficiently carry the freight they are moving today. The railroads have publicly stated that they no longer significantly compete with for-hire motor common carriers of general freight. I want the Members to get that. They no longer compete with for-hire motor common carriers of general freight.

The primary reason for this is that the general freight carrier obtains more than 65 percent of his revenues from shipments weighing under 1,600 pounds with a length of haul of 495 miles. This type of traffic the railroads long ago gave up as being uneconomical to handle. When we add to this the considerable tonnage of motor carrier freight involving special commodities, we have as much as 85 percent of 64 percent of regulated motor carrier traffic no longer competitive with the rails.

In 1974, 64 percent of rail car loadings came from heavy, bulk commodities moving long distances. This is traffic not susceptible to motor truck competition, particularly at a gross weight of 80,000 pounds.

So I respectfully submit, Mr. Chairman, that that is not an issue in this case.

Both gentlemen alluded to the alleged depreciation of the highways and the cost for deterioration brought about by the use of highways by these trucks. They obviously referred to the AASHTO Illinois road test and erroneously made their assumptions from that. The AASHTO road test was a pavement break-up experiment in which pavement test sections were designed to fail. The Interstate System is not designed to fail; it is designed to succeed, and it is designed under the law and under the regulations adopted by AASHTO from the Federal highway legislation to carry traffic of certain types and volumes in the future for the next 20 years.

Under the AASHTO interim design guide for determining thicknesses of highway, that guide utilizes different AASHTO road test results, and the concrete pavement design procedure is based on road test thickness requirements for a 24,000-pound single-axle load, not 18,000 pounds or 20,000 pounds.

Thus there is no question about that here; there is no question here about deterioration of roads. That is a fallacious assumption, and it is not proven by these tests or by the facts.

They have raised a question about the bridges. In this permissive legislation is drafted a formula to be used to apply to trucks that cross bridges. In the first place, the safest bridges in the country are on the Interstate System. If we take them off the Interstate System, then they will have to travel on the primary or the secondary roads where there are a fantastic number of insufficient bridges.

It makes little sense to take them off the safe bridges and put them on the unsafe bridges. Furthermore, this bridge formula was not drafted by the trucking industry. It was drafted by engineers, by safety engineers, highway engineers, safety technicians, who knew what they were doing and designed it to protect the bridges, not to destroy them.

Therefore, I think we can lay aside once and for all this argument that the increased weight of the trucks is going to tear down the bridges on the Interstate System.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for yielding.

I would like to compliment the gentleman for his leadership in the area of highway safety.

I rise to ask the gentleman just this question about the weight limits.

In talking about weight on a single axle, I wonder whether the gentleman could give me some information as to the maximum weight on the front steering axle that he feels comfortable with as being within the limitations of safety?

Mr. HARSHA. Mr. Chairman, I thank the gentleman for his comments about my activity with regard to highway safety, but I am not an expert in that field.

I realize that there is a difference of opinion as to what the weight on a front axle should be. Recognizing that issue, we have provided in this bill for a study by the DOT and by representatives of the industry and the manufacturing industry and representatives of labor to try to find out just what would be the safe weight limit on the front axle. I would withhold any judgment until we had the results of that test or study.

Mr. EDGAR. Mr. Chairman, I appreciate the fact that the study is in the bill, because I think it is very critical at this juncture to determine the safe front axle weight.

I think there is a different question involved in terms of the weight limitation on the axle that carries the big weight of the truck and that axle which carries not only weight, but also the steering mechanism.

I know of large truck carriers which carry heavy cars, particularly large-model Cadillacs and Lincolns, riding on top of the cab. The cab itself weighs a certain number of pounds. The car on top of that truck or cab weighs a certain number of pounds. The pressure on the road is increased, and the pressure on the axle is over 13,000 pounds.

I am interested in the results of that safety study because I am wondering exactly what is the limit in weight that can be put on a front axle with maximum safety.

Mr. HARSHA. I think we are all interested in that. I am hopeful that as a result of that study, we will have the answer.

Mr. EDGAR. Mr. Chairman, I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, as a cosponsor of the bill before us today, I am pleased that the committee has kept intact the provisions of the bill essentially as we originally drafted it and introduced it. We spent a good deal of time working in or on this measure in preparation for its submission to the House.

I believe the Committee on Public Works and Transportation can take great pride in the number of constructive legislative proposals that it has developed.

For example, just this week the House will be considering the comprehensive revision of the airport-airways program we developed in addition to this major highway legislation.

Last year, on the basis of the initiative taken by this committee, we wrote the $11.8 billion mass transit bill that was approved by the Congress.

I say this to place clearly on the record the fact that our committee has moved positively and effectively toward the construction of a coordinated, integrated, and balanced transportation system. All of the members of the committee have had an opportunity to provide input into this legislation, and the result has been a significant advancement toward that balanced transportation system.

Now that we have clear-cut jurisdiction over these issues as a result of the Congressional Reorganization Act, I can already see a strengthening of commitment and interest in this concept of a balanced, coordinated, and integrated transportation system.

There is a great deal of emphasis at the present time on rail mass transportation.

Quite candidly there is much to be learned as a result of the problems that have been developed in the area of mass transit. Many, however, do feel that it is the way to solve our transportation problems. All of the evidence, however, points to buses as the most effective means of mass transportation.

The limitations on rail mass transit are so great that we must continue to work on highway-related programs both to enhance rail systems through feeder routes and parking facilities and to provide alternatives in the vast majority of areas where rail has proven to be impracticable both economically and factually.

In order to complete the system for improved transportation and increased safety, we need to balance funding for meeting urban and rural transportation system needs, and we must complete to safer standards the Nation's primary and secondary highway networks.

We must rebuild, restructure, and/or rehabilitate portions of the urban highway system to enhance the ability of cities to provide for the automobile, bus, and truck traffic that is so basic to the economic vitality of these areas.

We need to permit highway engineers to design more efficient traffic-flow plans to meet these same needs.

The legislation before us today is geared to meet these goals.

In addition, we have expanded on some of the provisions of the 1973 highway bill.

We have built quite substantially on the bicycle trails provision that we included in the 1973 act. This is important to me personally because it recognizes bicycles for the legitimate and important contribution they can make as transportation alternatives and because it recognizes the need to explore every possible transportation alternative and explore their potential.

Another important provision of this measure is the section dealing with highways in relation to our National Park System.

As a member of the Parks and Recreation Subcommittee of the House Interior and Insular Affairs Committee, I have realized the importance of the provisions of law relating to parklands preservation. Therefore, I strongly endorse section 138 which will enhance our statutory ability to preserve the natural beauty of these areas.

Mr. Chairman, I see on the floor the very distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN). I have discussed the question of trust funds and funding mechanisms with the gentleman over the past few months as I have with other Members of the Congress. The chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD) alluded earlier to the fact that we need to address ourselves to the question of funding mechanisms. If we are going to complete the kind of coordinated and integrated transportation systems that we are capable of legislating and the engineering fields of traffic and transportation are capable of advancing, we must provide the positive methods of finance for each mode of transportation.

In my view it would be helpful if we could get together. I would suggest that the Committee on Ways and Means, who has jurisdiction over two of the established trust funds, namely the airport-airways and the highway trust funds, during the next 2 years, give serious consideration to the holding of hearings to determine what is needed to fund what I think is the missing link in our positive funding mechanisms. I believe we should be looking to establish an urban mass transportation trust fund, which added to our established highway and airport-airways trust funds, could give us the desired balance in funding that will ultimately lead to the desired balance in our total transportation system.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, I commend the gentleman from California upon his diligence in this matter of transporation financing. I have conferred with the gentleman from California from time to time as well as with the gentleman from New Jersey (Mr. HOWARD) and others on the subcommittee. We are going to have to make some very important decisions during the next 2-year period, but those decisions I think must begin to be reviewed even in this coming year.

I want to assure the gentleman from California that the Committee on Ways and Means does expect to work cooperatively with the Committee on Public Works and Transportation on this very important matter. We do expect to go into the highway trust fund and related areas in more detail, and to hold comprehensive public hearings prior to the end of the 2-year extension.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman.

Mr. McFALL. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from California.

Mr. McFALL. Mr. Chairman, I thank the gentleman from California for yielding to me and I wonder if the gentleman would mind if we took this funding matter further than mass transit? I know the gentleman from California is well aware of the problems we are having in our State with our State highway fund. Since the people of our State saw fit to allow some of the money to go to mass transit, which I think is proper, and because of the increased costs of operation and maintenance, and the increased costs of the highway construction itself, we are running very short of highway money in our State highway fund.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARSHA. Mr. Chairman, I yield 2 aditional minutes to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman for yielding me the additional time and I continue to yield to my colleague, the gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Chairman, we need more money in the State highway fund in California. I was hoping that in this bill we might be able to reduce the Federal share by 1 cent and allow the States to pick that up. I understand now that that is not really possible because it is necessary to keep the Federal 4 cents going into the Federal-aid highway fund, and that is what the consensus of opinion is on the gentleman's committee. Also, if we reduce that 1 cent, there are 35 States that would lose by this, even though our State is one of 15 that might gain, but we would find ourselves with heavy opposition from 35 other States. What do we do then? How do we advise the States?

As the gentleman knows, our State senate has passed a 2-cent gas tax increase. The assembly can take it up when they start again in January. What do we tell our State legislators concerning whether or not they are going to get more funds and from where? Would the gentleman have an opinion on this? I know that the people at home would be interested in his opinion.

I would also ask the gentleman from New Jersey (Mr. Howard) and perhaps the gentleman from Oregon (Mr. Ullman) to tell us something about how we finance the States in this highway fund.

Mr. DON H. CLAUSEN. I believe the gentleman has almost answered his own question. I believe he should tell his State legislators to pass the legislation that has cleared the California State Senate so as to permit them to provide the matching funds needed to complete their interstate, urban, primary and secondary highway system requirements.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

In response to that question, the gentleman from California (Mr. Don H. Clausen) himself raised that among the members of the committee, particularly with me, on a number of occasions, because California is one of the donor States, and they contribute to this fund much more than they get back. He has expressed considerable concern in that area a number of times, and even raised the suggestion that maybe we ought to do away with some of this trust fund money and let the States keep it and do what they want to do with it on highways.

The problem is we are trying to design and complete a national highway system. Unfortunately, some States, simply because of a smaller population, cannot raise enough money to adequately finance a national integrated highway system.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARSHA. I yield 2 additional minutes to the gentleman from California.

If the gentleman will yield further, it would serve no point or any purpose—not even in California—if we could build a road only up to the State border and there was nothing to carry it on from there to the rest of the country. That is the underlying principle for the unified trust fund or the tax, where some States have to pay more than others because they ultimately benefit by being able to travel across the country.

Mr. DON H. CLAUSEN. I might further state to the gentleman that our principal objective is to maintain the integrity of this Federal highway trust fund for what are obviously the increasing needs, to complete a national system of highways, to complete the interstate, and also to permit us to accelerate the construction timetable of the primary and secondary road systems, as well as the added urban highway system.

So any thought of backing off on the 1 cent and giving this back to the States, I think, is going to be counterproductive because we provide 70 percent of the money for all of the noninterstate highway systems. It is up to them to come forward with the kind of funding requirements in their own States. According to the functional classification and needs study report of the Department of Transportaton, there is a need, conservatively, for $300 billion to complete a safe and efficient system of highways in the Nation. Therefore, additional funds will be necessary to keep pace with rising costs, not less.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. DON H. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I think, though, it is true that our committee, due to the pressure of time and to the limitations of our discussions, really did not move to the matter of the administration's one-cent turnback. I would just like to have on the record the fact that we really did not get into the dialogue on the one-cent turnback to the States and its impact. We did really consider testimony that many of the States, because of the reduction in their highway funds, would have liked to have had some of that 1-cent turnback.

Mr. DON H. CLAUSEN. I say to the gentleman that as far as California is concerned, the chairman of the Senate Committee on Transportation of the California Legislature has provided the leadership, and as my friend, the gentleman from California (Mr. McFall) knows, Senator Collier and Senator Mills from the southern part of the State are moving around the State and asking that they increase the amount of gas tax in the State to provide the additional matching money for the State.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, under the rule the Ways and Means Committee is allotted an hour of time on title III of the bill. I yield myself such time as I may consume.

Mr. Chairman, under present law, revenues from a series of highway user excise taxes go into the Highway Trust Fund: the manufacturers' taxes on gasoline for highway use, lubricating oil, trucks and buses, truck and bus parts, and tires, tubes and tread rubber; the tax on use of heavy highway motor vehicles; and the retailers' tax on diesel and special fuels for highway use. These taxes in the fiscal year 1977 are expected to raise approximately $6.3 billion in revenue for the trust fund and are expected to increase to $6.5 billion in fiscal year 1978 and $6.7 billion in fiscal 1979.

The trust fund is presently scheduled to expire after September 30, 1977. However, taxes collected after September 30, 1977, on account of pre-October 1977 liabilities, will continue to be paid into the trust fund for 9 months or until June 30, 1978.

In addition, Mr. Chairman, all of the highway user taxes—except the tax on lubricating oil—are presently scheduled to be reduced or eliminated as of October 1, 1977. The taxes on tread rubber and on the use of heavy highway motor vehicles are to expire on that date; the remaining taxes are to be retained at lower rates which, in the aggregate, are expected to produce about 40 percent as much revenue as the taxes would produce at their present rates. As of October 1, 1977, revenues from these reduced highway taxes are presently scheduled to go into the general fund.

Mr. Chairman, it has become evident to the Committee on Ways and Means that the Interstate Highway System cannot be completed by the present expiration date of the Highway Trust Fund. We understand the likely completion date of the Interstate System will be about 1988. At the same time, the Committee on Ways and Means realizes that many would like to see substantial modifications made in the trust fund. However, the committee has not as yet had time to study and reach conclusions as to what these modifications should be.

The termination of the trust fund in 1977 already is a matter of concern for Congress because of the timing involved in the authorization and apportionment processes. At the present time, consideration is being given to the authorizations for appropriations for the fiscal years 1977 and 1978. Right now the Federal Highway Administration is awaiting these authorizations in order to make the apportionment among the States for fiscal year 1977. As a result, the Highway Trust Fund needs to be extended for 2 years to provide the funding for the 2-year highway authorization in titles I and II of this bill. This is needed so that trust fund receipts will be available to finance these obligations as the actual payments come due.

As a result, Mr. Chairman, it is clear that if the current construction and safety programs of the States are not to be interrupted, a decision needs to be made now to extend the Highway Trust Fund beyond the 1977 date. However, since there has not yet been an opportunity to study and reach conclusions as to modifications which are needed, the Committee on Ways and Means believes that only a temporary extension of short duration should be provided. Because of these considerations, title III extend the Highway Trust Fund only for a 2-year period.

The revenues of the Highway Trust Fund are also extended for another 2 years at the present tax rates to provide funding for the additional 2-year period. The extension of the trust fund taxes from October 1, 1977, through September 30, 1979, are estimated to yield additional revenue of about $13.3 billion for the trust fund. Approximately 40 percent of this amount, or $5.4 billion, would be general fund revenues in the absence of this title.

Mr. Chairman, the Committee on Ways and Means intends to make a thorough review of the Highway Trust Fund and the highway user taxes well in advance of the expiration of this 2-year extension so that all the alternative proposals may be considered. I urge the adoption of title III of this bill.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New Jersey, the chairman of the Subcommittee on Surface Transportation.

Mr. HOWARD. Mr. Chairman, I would say what the gentleman has said is exactly correct. We do recognize our problem in this area. That is why we are so grateful to the committee for giving us a 2-year extension so we will have the time in the 2d session of this Congress next year to work actively on this problem.

Mr. ULLMAN. I thank the gentleman.

I want to say the Ways and Means Committee will continue to work cooperatively with the subcommittee chaired by the gentleman from New Jersey and the Committee on Public Works to accomplish the necessary changes we are going to have to accomplish in the years immediately ahead in order to get this program turned in the direction that is best for America.

There are some major decisions to make. The administration has some recommendations. We will be holding hearings, but we will be working cooperatively with the Committee on Public Works and Transportation. I hope Members will support the measure. Title III comes under a close rule and will not be subject to amendment.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my desire to be brief and I will limit my remarks to that portion of this legislation which falls within the jurisdiction of the Committee on Ways and Means.

I support enactment of title III of this measure as adopted by the Committee on Ways and Means.

Title III is straightforward and in accord with the request which we received from the Committee on Public Works and Transportation. It provides a simple 2-year extension of the Highway Trust Fund now scheduled to expire on the first of October of 1977. Title III would extend that date until October 1979 and I urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield back the balance of my time.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I congratulate the chairman and the committee for the work they have done in reporting this bill. I rise in support of the bill, as I have in the past, but there is a particular section, a particular concern I have with relation to New York City and the West Way that is so essential for movement of vehicles as well as providing for improvement of the economy for the next 10 years and for the tens of thousands of employees who are currently unemployed by virtue of the recession. My concern is whether or not this interstate section will in fact be constructed and whether or not there is a possibility of it not being pursued and moneys being divided to the areas. This highway is essential to housing-business and development of the west-side of New York. The labor leaders of the bodies of the construction industry are vitally interested in the certainty of the construction of the highway. The principal purpose for these colloquy is to confirm the commitment of the Governor and Mayor of New York.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I am glad my colleague brought up the question of some particular language in this bill at this time as it refers to a specific project, particularly the west-way. Westway, of course, is the West Side Highway, which is an abandoned road at the present time in the most densely populated area of America. It is vital that this highway proceed. Of course, it is located in communities, not only in my district, but in the communities of two other Members; but to proceed is vital, because of the communications that are absolutely necessary into the district.

Mr. Chairman, this particular part of our district is probably the most dynamic in New York with the communication that is going on.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HOWARD. Mr. Chairman, I yield 3 additional minutes to the gentleman.

Mr. MURPHY of New York. Mr. Chairman, it is important, not only to housing, but in the development of office buildings, the development in the area of tourism. It is replacing an area with piers and related to another aspect of the transportation industry.

I think it is important that we clarify just what the language is and what the mayor of the city of New York and the Governor of the State of New York have to say about this issue.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I would state that this is a provision that has been in the highway legislation since the 1973 act. It is not a particular provision for any particular city. This is a national aspect of the highway program. What it states in the interstate transfer provision is that should there be an agreement by a mayor and by a Governor and by a State or city that they wish to take some of the Interstate System, a portion of the interstate within their jurisdiction, that they may do so; however, the amount of money does not go out of the trust fund. It stays in the highway trust fund. That area then may draw on general revenue. This is how the act was in 1973 and they can use that money for mass transportation facilities.

In this year's act, there are two differences; first, this is an update in the amount of money that may be taken from the General Treasury, not from the highway trust fund and it had the provision that the money that is taken from the general revenues may be used, not only for mass transit needs in that area, but also for other highway needs in that area.

However, I would like to state that this is not a Federal decision. This is a State and local decision.

Mr. Chairman, I do have information, both from the mayor of the city of New York and the Governor of the State of New York on this one particular aspect throughout the Nation in which this provision may be used.

This is a statement from Mayor Beame of New York:

> We have been working in close cooperation with the New York State Department of Transportation and the Federal Highway Administration for more than three years to plan and design a replacement for the derelict West Side Highway.
>
> The City continues to favor constructing a replacement West Side Highway as a part of the interstate system.

The Governor states:

> I am advised by Mayor Beame of his recent letter to you concerning the City's intention to proceed with the construction of the

Interstate Highway facility on the West Side of Manhattan.

I would also like to state that both the mayor and the Governor of New York State do favor this option. They do favor the right of having the option.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOWARD. Mr. Chairman, I yield myself an additional 2 minutes.

Mr. Chairman, to be able to have the option to utilize this money to help in New York, so if the mayor and the Governor of New York want to have that completed as the West Side Highway of the Westway Interstate, they may do so. If in the interest of their city and State they would like to declare they want to take this other option, not trust fund money, but general revenue money, and use it for mass transportation in the city or for additional road needs in the city, they may do that also.

This is one of the main parts we have been establishing in giving flexibility to the State and the city; but I did want to get into the RECORD what I have been told is the present indication of the mayor and the Governor; but I state also they do favor this national program of an option.

Mr. BIAGGI. Do these letters repeat the reaffirmation of the original intent to construct the Westway?

Mr. HOWARD. These letters come from the mayor of the city of New York, which is dated December 15 of this year, and the other from the Governor is dated December 16.

Mr. BIAGGI. Is it not a fact that in the event they choose to exercise their option to go to the general revenues, it would be necessitating action on the part of the Appropriations Committee?

Mr. HOWARD. Yes. That would require action by the Appropriations Committee.

Mr. MURPHY of New York. Mr. Chairman, would the chairman of the subcommittee place the letters in question from the mayor and the Governor in the RECORD at this point?

Mr. HOWARD. I do not believe I can at this point, but I will place these letters in the RECORD when we go back into the House.

Mr. MURPHY of New York. The Federal Highway Trust Fund is a 90–10 fund; is that correct?

Mr. HOWARD. That is correct. It is a 90–10 fund on the interstate and 70–30 fund on noninterstate roads.

Mr. MURPHY of New York. And on the UMTA?

Mr. HOWARD. That is an 80–20.

Mr. MURPHY of New York. If a like amount of the funds were allocated from this project to the urban mass transit under present law, the city would stand to lose this, or the difference in these fundings?

Mr. HOWARD. I do not know whether they would lose, because they are going into a program that they wish to. Of course, they take this money out of general revenue which is not available if they were to continue with the West Side Highway, and put it in on an 80–20 matching basis for mass transit. If they use it on a noninterstate, then it would be 70–30, which is the funding level for noninterstate programs.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HOWARD. Mr. Chairman, I yield the gentleman an additional 3 minutes.

Mr. MURPHY of New York. What the gentleman is saying, then, is that under the Federal Highway Fund we get an allocation that cannot be taken away from the State, because of the State's payments to the funds.

Mr. HOWARD. If we elect mass transit, we then have to go through the appropriating process, and, of course, it is questionable whether, in the depth of the fiscal problems of not only that city, whether they could come up with 20-percent matching, and also on the Federal level whether we can get that 80-percent matching fund.

I would like to state concerning the loss of funding, that would not be involved, because an equal amount would be available under the other formulas, 70–30 or 80–20.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HARSHA. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Chairman, I believe I have a copy of the letter from Governor Carey, and I would ask the gentleman from New Jersey (Mr. HOWARD) if I am correctly reading the last paragraph. The Governor speaks about his support for the West Side Highway, but then he goes on—and this is the last paragraph—and I would like the gentleman to correct me if I am reading incorrectly:

> I am, however, prepared to reexamine the State's position with respect to Westway if changes in Federal law and policies provide for transfer of amounts proportionately equal and in the same value the Westway proposal would make available.

Mr. HOWARD. Mr. Chairman, I would state that if the gentleman from New Hampshire had been listening to the gentleman from New Jersey, he would know that I said at least three times that both the mayor and the Governor said that they wanted those options open, and wanted to be able to continue to look at it. It will be in the letters which will be in the record, and I think that is the responsible thing for the Governor and mayor of New York to do, to say, "I am certainly going to look at other possibilities and options."

Mr. CLEVELAND. The gentleman did not quite answer my question. My question was very simple. Was that last paragraph I read correct? I just got a copy of the letter here.

Mr. HOWARD. As a former sixth grade schoolteacher, I would say the gentleman read that sentence perfectly.

Mr. CLEVELAND. I thank the gentleman. If the gentleman from New York will yield further—and I appreciate the gentleman yielding and I think we can get him additional time, because this is an important point which I am glad he has taken an interest in—my interest, of course, although I do not come from New York, arises because a large number of labor unions and contractors in New York sent me a telegram. That telegram is in the RECORD for last Tuesday at page 40857, December 16.

My interest as I said is because a large number of labor unions and contractors sent me that telegram, and expressed their concern. They asked for help. Please save us, they said. The factual situation, as I understand it—and the gentleman from New Jersey can contradict me if I am wrong—goes something like this: Under section 108, which we feel should be amended or taken out of the bill, they can redesign the Westway at greatly increased cost. Then they can take it out of the interstate system, and they will have a lot of money on their hands.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HARSHA. Mr. Chairman, I yield 4 additional minutes to the gentleman from New York (Mr. BIAGGI).

Mr. CLEVELAND. Mr. Chairman, then they will have a lot of money on their hands, and this is the scenario that is not only possible, but there is some evidence they believe that this is the scenario period. They will use some of that money to patch up the Westway and make it safer in the next couple of years with a cut-and-paste job, and then they will take the rest of that money and put it into subway construction or other roads. But if I understand what is happening in New York, and if I understand the concerns of the unions that have contacted me and the contractors that have contacted me, that will not mean additional jobs; that will not be new construction. It will let Mayor Beame use some of his State and city construction money for operating expenses.

Mr. Chairman, I understand this is one of the things the city has been doing that has gotten them in such trouble. That is why these people sent me a telegram, and they said, "Save us. Save us from this dilemma."

Mr. BIAGGI. Mr. Chairman, I would congratulate the gentleman for making that point. That is the precise reason I am standing here trying to clarify it. If the option is exercised and they deal with UMTA matching funds and formulas, the net result will be the point that the gentleman from New York (Mr. MURPHY) raised, which is that it will be an additional cost on the city of New York.

What is essential to us, I would like to emphasize, is that it is vital to the Westside system that the highway be rebuilt. Patchwork would be criminal. There is no alternative, but to build a new highway.

Mr. CLEVELAND. If the gentleman will yield further, if the gentleman feels as he does—and I am glad he feels as he does because this telegram I received from the contractors and the unions impress me very deeply—then the gentleman will have an opportunity to help right here on the floor, under the 5-minute rule, when we have the Harsha amendment. The Harsha amendment will be introduced by the gentleman from Ohio to correct the situation. So then the gentleman can inform the people of his district, and the gentleman from New York (Mr. MURPHY) can do the same, and the gentlemen will be able to go back home and say, "We have saved you, we have saved jobs, we have assured the Westway." But the gentlemen will have to support the Harsha amendments, and give us some help from that side of the aisle.

Mr. BIAGGI. Mr. Chairman, I am aware of what the Harsha amendment contends. I am not so sure whether it protects the situation in position but we will be listening to the arguments.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I will yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. I thank the gentleman for yielding. Mr. Chairman, in response to the interpretation of the gentleman from New Hampshire (Mr. CLEVELAND) of the labor industry and the contractor industry telegrams, I would say that the facts are well framed but the conclusions are incorrect. The Federal highway is a 90–10 fund, 90 percent Federal, 10 percent State, and the city puts nothing in and gets a road only in proportion to the funds that have been paid in by the State. Those funds are allocated for New York or California or New Hampshire. Under the UMTA formula the city would have to pay at least 20, perhaps more, depending on whether it is 80–100, or whatever formula is used. The highway would be strictly 90–10 with no city participation, the 10 being by the State.

Mr. HOWARD. Mr. Chairman, if the gentleman will yield, I would just like to say to him that there is no better chance the people from New York State and New York City and all around this country will have than by having us approve this legislation as is. I feel that will be best for the laboring people and the working people of this country.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Chairman, I appreciate the gentleman's yielding this time to me.

I had intended to offer an amendment to this bill, but because this is the day before we are about to adjourn for the end of this session and because the thrust of my amendment is in the bill as it comes from the Senate, I will refrain from that, having talked with the chairman of the full committee, the chairman of the subcommittee, who is handling the bill, and also to my colleague, the gentleman from Ohio (Mr. HARSHA).

My concern is, of course, for those small States where they are closing off the construction of the interstate highway system.

My amendment would have been to page 36, line 5 of the bill. It would have struck out the word, "notwithstanding," the balance of line 6, and lines 7, 8, and 9, and the following would have been inserted:

> Whenever amounts made available under this subsection for interstate systems in any State exceed the cost of completing that State's portion of its interstate system, the excess amount shall be transferred to such State under paragraphs (1) or (2) of section 104(b) of Title 23 U.S.C. in the ratio which these respective amounts bear to each other in that State.

Mr. Chairman, obviously there is a need for finishing the Interstate System, but unless we have secondary and priority primary and other routes leading into the Interstate System, the Interstate System does not do any good. We have bridges in our State that will not take 4-ton loads. There are people in the city who ask, "Why are farm costs so high?" It is because we cannot get grain to the market, we cannot get fertilizer to the fields, and we do not have enough good roads.

I would appreciate hearing any comment the chairman of the subcommittee might have on that matter.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I would like to thank the gentleman for bringing up this subject.

We certainly are interested, as the gentleman knows, in completing our interstate highway program. We are grateful to the States that have moved along in this direction.

As I understand it, the interest of the gentleman from North Dakota is represented in the legislation just passed by the other body some time ago. This matter will certainly be a topic of conversation in the conference that we will have with the other body. The fact that it is not specifically written into this legislation should lead the gentleman to no conclusion concerning that issue.

Mr. ANDREWS of North Dakota. Mr. Chairman, I appreciate the gentleman's statement, but my concern goes specifically to this one-half of 1 percent minimum funding that when the interstate highway program is completed which would be able to be used for either the priority primary system or the primary system and secondary road system so that traffic can be fed into this interstate system.

In my district we have people living 150 miles away from the interstate system, and we have inadequate bridges and a host of other things that preclude the movement of grain and fertilizer. In a rural farm State grain does not always grow near the interstate highways, and we need this type of broad highway transportation ability to reach the goal of a national system of transportation in this country, which I understand is the goal of the gentleman.

Mr. HOWARD. Mr. Chairman, I thank the gentleman for his comments. If the gentleman will yield further, I will say that is one of the main reasons we included the primary priority system in our Federal-aid highway program.

The gentleman has made it very clear that he is interested in that certain amount of money, whether it happens to be particularly interstate funds or noninterstate funds. The interstate highway program must be completed so that it will be able to serve the people better.

Mr. ANDREWS of North Dakota. Mr. Chairman, the gentleman's committee did the work in the last Congress of setting out this priority primary concept to take on where the interstate system left off. If this one-half of 1 percent could be available, it would be of great benefit to States where the number of people are few and the distances are great.

Mr. Chairman, I appreciate the gentleman from New Jersey's comment, and wish to thank him for it.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, it is important to understand some of the colloquy that went on just a while ago. The section of the bill before us concerning interstate transfers is not a new provision. Much of the debate that took place concerning this was erroneously premised. It is not a new provision; it is a provision that was placed in the act in 1973.

It was done so consistent with a desire on the part of the Committee on Public Works and Transportation to meet national needs to provide a flexibility in the choice of modalities of transportation. Indeed, I dare say that at some point between now and the future upwards of 20 different jurisdictions will have an interest in this interstate transfer provision.

I think that false debate is taking place here on the floor today. This provision, for example, has already been used in this country by the State of Massachusetts, by the city of Philadelphia, and I think by Washington, D.C. Certain other cities have requests for a transfer pending, including Hartford and Portland. There are other cities throughout the Nation that are considering transfer; having dealt with the question of their particular transportation needs, they came to a conclusion that in order to serve the needs of the people, it is not the interstate highway that is the answer. It may originally have been a satisfactory way to meet the needs, but due to growth and economic development, a different and changed modality of transportation is preferred.

The CHAIRMAN. The time of the gentlewoman from New York (Ms. ABZUG) has expired.

Mr. HOWARD. Mr. Chairman, I yield 3 additional minutes to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. To continue, Mr. Chairman, we are today a much broader committtee. We now have a jurisdiction which covers most areas of transportation: roads, mass transit, aviation, and waterways. We have a responsibility in fulfilling our jurisdictional mandate to create the flexibility or a combination of flexibilities in transportation means that will be reflective of the needs of every area of the country.

It is quite true that in New York there is a pending proposal to build an interstate, and there are plans proposed by the mayor of the city of New York and the Governor of the State to build what is known as the Westway project there.

It is also true, as happens in many communities and jurisdictions, that there are many people in New York, not only the persons who are directly, but even those who are indirectly affected by this Westway, who feel that because of the particular transportation modalities in New York and the need, it might be more appropriate to withdraw that segment of the interstate, to transfer the funds under this existing provision which has existed since 1973, and to put those funds into mass transportation to provide more effective transportation. It is no secret that I am of that view. Most of my constituents are of that view as are many public officials in New York. I might say, incidentally that the Westway Highway is in my district.

Two letters were written by the mayor and the Governor. I have seen a copy of each of those letters, and the mayor and the Governor have both stated that they wish to continue with the building of the interstate. That is true. They also both say that if there is a change in the Federal law, and equal funds made available which could make more acceptable or more possible a more effective way of handling both the traffic and mass transit solutions with respect to the West Side corridor, they will reevaluate their position.

This is also the condition which exists in other places in the country, in the jurisdictions which I mentioned. This is the kind of debate and discussion that it along places in those jurisdictions.

These include Cleveland, Baltimore, Denver, Detroit, Honolulu, New Orleans, Seattle, Allentown, the Triangle Cities area in North Carolina, as well as other cities throughout the country. This kind of debate is taking place—this kind of evaluation and reevaluation is being considered. Is it best to build an interstate in a particular area to serve the needs of the traffic and the transportation of the people in that area, or should there be a transfer of the funds into mass transit which will more effectively move the people in that particular area.

I want to make clear that there is, of course, a strong effort in New York on the part of a large number of people, including myself, and including some of the constituents of Members who have spoken here today, to transfer those funds.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. HOWARD. I yield 2 additional minutes to the gentlewoman from New York.

Ms. ABZUG. There is no question but that is their right under the law. They are continuing the struggle in New York, and they differ with the mayor and the Governor. There are many important transportation forces that believe this would be the better way to handle our particular transportation problems.

Some of the provisions which are sought to be stricken here have really nothing to do with that issue but merely are intended to weaken these provisions and to deprive those who need mass transportation, of some kind of flexibility to aid the residents in New York with both highways and mass transportation.

All the provision ultimately does is to provide first that there is the need for some flexibility, so that if there is a transfer of funds into mass transit there may still be the need to take care of automobile traffic in some form either widening existing arterials or correcting them.

It provides for the first time that some of these funds could be used for roads and road improvements.

Now as to the statement that anyone is seeking to take away jobs from anyone, I personnally find it reprehensible to suggest that, building an interstate is the only way to provide jobs in New York. It is not. Everyone of the members on the Committee on Public Works and Transportation, including myself, have been involved in creating jobs for construction workers in New York. I just served on the conference committee for our major public works bill, H.R. 5247, where we are providing countless jobs for workers in New York and workers all over the country.

I believe that if we provide both for mass transit, as well as for the need to improve our roadway to handle the traffic, that there will immediately be more jobs made available; as a matter of fact, jobs will be generated more quickly, than a long-range investment plan so that we can provide for their needs. There is simply no question of anyone seeking to take away jobs.

The CHAIRMAN. The time of the gentlewoman has again expired.

Ms. ABZUG. Mr. Chairman, I would ask the gentleman from New Jersey (Mr. HOWARD) if I could have an additional minute so that I might yield to the gentleman from New York (Mr. KOCH).

Mr. HOWARD. Mr. Chairman, I yield 1 additional minute to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I thank the gentleman for yielding me the additional time and I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I thank the gentlewoman from New York for yielding to me.

I would ask the gentlewoman if it is not a fact that there are groups who are opposed to this, because of what this amendment does? And I am asking this question of the gentlewoman: Does this amendment enlarge the amount of money that could be converted or transferred not solely for mass transit but also for highway use? And there are people who believe that the increased amounts that would be made available would make it possible to rebuild the West Side Highway in a manner in which a number of groups are opposed.

Could the gentlewoman discuss this, because that is a matter of great concern in her area.

Ms. ABZUG. I would say to the gentleman from New York (Mr. KOCH) that what the provisions does is provide simply that there is a flexible use of transferred funds. Under the present law, transferred funds are only used for mass transit. Under the existing bill there would be the possibility of using some of the transferred funds to do what is necessary for handling the traffic that now goes on the West Side Highway. Until now the mayor and the Governor have claimed insufficient funds of their own to fix the roadway for the traffic from the West Side Highway. This provision removes this argument. It is nonsense to argue this provision as a means for rebuilding the highway. It will make more feasible the transfer by providing some small amount to handle what thoroughfare the community believes is appropriate for handling the traffic.

The argument that the real aim of supporters of the revised transfer provision is to use these highway funds as operating subsidies for the mass transit operations. This is patently false and, in fact, not permitted under either existing law or the provision in this bill.

The purpose of the interstate transfer provision, when it was enacted in 1973, was to permit areas to use highway money for capital improvements for public transportation. That would still be the only allowable purpose for these moneys if they are transferred under the new language.

There is also a misunderstanding regarding the amount of Federal funds which an area actually receives when it makes a transfer. This stems from the fact that an area puts up 10 percent of the total amount of the grant for an interstate highway, and puts up 20 percent of the total if the transfer is made. Although the percentage of the local match changes, the amount of Federal dollars actually received does not.

For example, an area may originally wish to construct an interstate segment that will cost $100 million. The Federal Government will put up 90 percent of the cost of that project, or $90 million. The local area will have to put up 10 percent or $10 million. If the local area elects to transfer that segment for mass transit, the Federal Government will still put up $90 million; however, the local area will now have to put up 20 percent of the total cost of the new mass transit, or mass transit and road project. Since the Federal contribution of $90 million can only represent 80 percent of the project undertaken after the transfer, the local area will have to increase its contribution from $10 million to $22.5 million, or 20 percent of the value of the project for which the $90 million of Federal money now represents 80 percent.

I personally favor the 90 percent Federal contribution but in either case this argument is no reason to oppose the present provisions.

Another point which has not really been discussed appropriately relates to the real reason for changing the cost estimate upon which the amount of the transferred funds is based from the 1972 cost estimate, "which is now in the law, to the latest cost estimate," which is the change made by the provision in this bill.

The "1972 cost estimates" were submitted by States throughout the country in January of 1971, and were calculated based upon 1970 designs. These designs were drawn without reference to many recent regulations issued under the National Environmental Policy Act, as well as additional requirements which the Federal Highway Administration has since promulgated. These additional requirements have necessitated design changes in many of the planned interstates; the changes have resulted in increased costs of those projects and are included in the amount of the post-1972 cost estimate. If an area chooses to build an interstate, it will receive the full amount of this later cost estimate. Not permitting areas to receive the full value of this later cost estimate if they elect to make a transfer is therefore biased against transit projects. This bias was not intended to be built into the transfer provision when it was drafted in 1973. Not being able to utilize an equal amount for transit projects as could be utilized for highway projects will discourage many areas from making a transfer which they would otherwise elect. The amount going to an area that transfers was meant to be equal to the amount which an area would receive if it built an interstate highway. This aim can only be accomplished if the amount provided in either highway or transit projects is the same. Thus, the basis for this amount must be the same cost estimate.

As author of the interstate transfer provision presently being argued I wish to explain the content and intent of the revisions.

First, the committee bill has expanded the transfer provision to enable urban highway projects as well as mass transit projects to be substituted for the canceled interstate segments. This will benefit many areas that do not want to build a controversial interstate route, but may want to implement a substitute busway or urban arterial street rather than a rail transit alternative.

The interstate transfer amendment contains language which I offered during markup in the Surface Transportation Subcommittee which would expand the type of eligible substitute projects to include highway projects. Concern has been expressed that such language would limit the use of public transportation as the substitute project. A closer perusal of the interstate transfer mechanism shows that this should not happen.

First and foremost it must be realized that the entire interstate transfer mechanism rests upon the assumption that construction of a new highway in the affected urban corridor is inappropriate. Patently, those factors which led the community to reject the interstate highway would lead them to reject a "highway" substitute which requires the type of construction normally required for interstates.

By choosing the interstate transfer provision an urbanized area is acting on the dominance of its mass transit needs. The intent of the amendment is not to provide for a road with a new or expanded right-of-way beyond existing rights-of-way, but only to facilitate, if necessary, existing traffic flow within the location corridor in conjunction with the development of the full potential of mass transit in the corridor. The intent is to fund other kinds of roadways using interstate funds but exempted from interstate standards. It is an accommodation to the recognized difficulty a locality may face from an abrupt change in transportation planning caused by the choice of transfer.

What is called a highway project in title 23, often entails construction of mass transit related highway facilities such as preferential bus lanes, and fringe and corridor parking facilities to serve mass transit facilities.

In other cases, many interstate highways now "dead end" near the borders of urbanized areas because the extensions of those interstate through the urbanized areas are controversial. Should that interstate segment be transferred there would undoubtedly need to be an alternation of existing street facilities to alleviate any traffic flow problems that arise. Furthermore it should be noted that substitute projects are processed in the same manner as other public transportation and highway projects. Thus the substitute projects must be subjected to close scrutiny to determine that they are the appropriate answer to the given transportation problem.

Finally, in urbanized areas, substitute projects, both highway type and public transportation, must be developed in accordance with the Department of Transportation's "major urban mass transportation investments," policy regulation—Federal Regulations, volume 40 No. 149, part III. In part that regulation provides that—

> An analysis of alternatives should be undertaken in the development of the long-range plan and in the determination of the increment of the plan to be implemented. This analysis should include an assessment of the alternatives' impact on local and regional accessibility, air quality, energy consumption, neighborhood environment, community and regional development patterns, corridor traffic flows and model choice, and other factors considered important by the area's residents.

Second, one of the most significant changes is to call for a proportional reduction in interstate apportionments when a State withdraws interstate segments. Under current law, the State receives general funds for substitute projects, but also suffers a reduction in its interstate apportionments each time it programs a substitute project. Moreover, the reduction is in the full amount of the approved substitute.

This dollar-for-dollar reduction in interstate apportionments can cause great hardships for States which want to withdraw certain segments but which also want to construct other, quite acceptable interstate projects as rapidly as possible. Indeed, as indicated in the committee report, the drain on apportionments can be so serious as to prevent a State from having apportionments sufficient to undertake either the substitute projects or remaining interstate segments.

The committee has moved to correct this problem by requiring a proportional reduction in interstate apportionments for States which transfer following enactment of the 1975 Federal Highway Act. The amendment which I am proposing today clarifies that this procedure also applies to States such as Massachusetts, Pennsylvania, as well as the District of Columbia, which undertook transfers and suffered the dollar-for-dollar reductions called for under the old law.

Specifically, the amendment clarifies the intent of Congress in the eighth sentence of section 103(e)(4) of title 23, United States Code, that a pre-1975 act withdrawing State shall suffer a proportional reduction comparable to that applied to a State withdrawing after the 1975 act, but that the States which withdrew before the 1975 act should not be penalized by suffering both the dollar-for-dollar reductions under the old rules, and then a proportional reduction under the new rules.

To this end, it is specified in the amendment that after calculating the proportional reduction in the unobligated balance of interstate apportionments on the date of enactment of the 1975 act, these States would receive a credit against that reduction for the dollar amount of reductions in apportionments already taken as a result of substitute projects approved prior to the act.

Third, there is an urgent need to correct a basic problem with the transfer statute which is preventing many areas from using the new procedure. The problem is the toll that inflation is taking on the real value of transfer funds made available for substitute transportation projects.

Last year, the Congress recognized this problem to the extent that increases in the amount of the sum transferred were permitted, in accordance with the rate of inflation in construction costs of the withdrawn segments, up to the date of withdrawal. Nevertheless, there remains a strong fiscal incentive for States to try, even though they are experiencing serious controversies over the merits of a particular interstate segment, to keep that segment on the Interstate System. The reason that States play this game of going forward with the disputed segments is that escalation in the sum transferred due to inflation stops the minute that the withdrawal of segments is approved by the Secretary of Transportation. The result is that States are tying up interstate highway funds for segments that will likely never be built, which only serves to delay the implementation of more suitable transportation substitute projects and to distort the flow of interstate apportionments to those States that could well use them.

To correct this problem, included in the revised interstate transfer provision is language which permits the sum transferred under the statute to be increased or decreased in accordance with changes in construction costs of the withdrawn segments from the date of the relevant cost estimate to the date of enactment of the 1975 Federal Highway Act, or to the date of approval of each substitute project, whichever is later for a given State. This provision also means that for those States which seek to implement more than one substitute urban highway or transit project with transferred funds, the balance of the transfer account after approval of a substitute will continue to be subject to cost escalation under the amendment until such time as the account is fully utilized.

A key benefit for all States under the amended provision is that they may use the transfer procedure to delete controversial segments from the system without facing drastic cuts in the real value of the transfer account while substitute projects are reviewed and approved by the DOT.

The corollary of the provision that we are offering here is that the DOT will have an incentive with us to move quickly on the approval of substitute projects, lest delays cost them substantial Federal funds which otherwise would be made available under the inflation provision.

Fourth, and related to the provision which I have just described, is language changing the second sentence of section 103(e)(4), which would base the transfer sum on the "latest cost estimate approved by Congress" prior to the withdrawal of segments.

This amendment seeks to implement fully the original intent of Congress, which was that all urban area segments on the Interstate System should be eligible for withdrawal and transfer of funds if the State Governor and concerned local governments joined together to use the transfer provision. To place arbitrary restrictions on the applicable cost estimate would be to countervene the effort of Congress to eliminate from the system bogus interstate segments that are tying up much needed interstate apportionments while thwarting the effort of officials in urban areas to implement substitute projects more suitable to their needs.

Fifth, a major stumbling block to the use of the interstate transfer provision has been the threat of the U.S. Department of Transportation to require a substantial repayment of Federal funds earlier received in good faith by a State for interstate segments which are withdrawn under interstate transfer. This threat has recently been made tangible in the form of proposed DOT regulations which call for substantial repayment by transferring States. The effect of this is to apply a Federal administrative policy which only serves to thwart the Federal policy, articulated by Congress in the existing interstate transfer statute, to enable States to settle their divisive and costly disputes over interstate highways without Federal financial penalties in the form of lost Federal transportation aid. The provision makes clear the intent of Congress that no such penalty should be exacted and that withdrawing States should suffer no repayment demands by the executive branch.

Sixth, the existing interstate transfer law contains a provision which states that transit transfer funds shall be supplementary to and not in substitution for transit funds which might otherwise be received under the 1964 Urban Mass Transportation Act, as amended. The intent of Congress in 1963 was to mandate that the U.S. Secretary of Transportation not cause a reduction in an urban area's funding under the regular UMTA capital grant program after a transfer is approved in that area. If such a reduction were countenanced by Congress, the transfer policy and the options which we have worked to create would effectively be destroyed.

Consequently, the provision is intended to affirm and clarify the congressional mandate that no such reduction in UMTA grant allocations shall be made because of the use of the transfer provision.

Finally, included in the last sentence of this revised transfer provision is language which clarifies the intent of Congress that the benefits of the amended transfer statute shall apply equally to States which have already undertaken transfers, such as Massachusetts and Pennsylvania, as well as to States which transfer following enactment of the 1975 Federal Highway Act.

When viewed together, the provision will serve to promote the implementation of urban highway and mass transit projects that truly serve the transportation needs of our urban areas, while also aiding in the redistribution of interstate highway apportionments to urban and rural areas which can use the funds to build needed interstate highway projects.

Mr. HARSHA. Mr. Chairman, I will yield to the gentleman from Arkansas (Mr. HAMMERSCHMIDT), but first could I inquire as to how much time I have remaining?

The CHAIRMAN. The Chair will state that the gentleman from Ohio has 17 minutes remaining and the gentleman from New Jersey (Mr. HOWARD) has 16 minutes remaining.

Mr. HARSHA. I thank the Chairman.

Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise to support H.R. 8235, the Federal Aid to Highway Act of 1975. As a member of the full Committee on Public Works and Transportation I have listened to the debate surrounding this bill and although, I like a number of my colleagues, have reservations about some of the provisions of this bill, I believe that the highway needs require swift action by the Congress and I hope that the major defects in this bill can be corrected by the full House.

New authorizing legislation is badly needed so that highway construction and improvement can continue. Increased inflation costs and the past rate of obligation have proven the present authorizations to be inadequate. This bill provides authorizations to complete the interstate highway system and to continue funds for further development of primary, secondary, and urban roads throughout the country.

There is still a critical need for additional roadbuilding and improvement in much of rural America. As you know, Arkansas is one of our rural States and I can personally attest to the fact that a more adequate transportation system is necessary in rural areas. A viable transportation system is necessary to encourage economic development, to move basic goods to the marketplace and to enable people in rural communities to reach educational and health facilities.

This bill contains several key provisions which are important to the further development of rural roads and highways and toward completion of the interstate system, A guarantee is provided that each State will receive a minimum of one-half of 1 percent of the total interstate apportionment for the transition quarter and fiscal years 1977 and 1978. This will be of particular benefit to States which are nearing completion of their interstate system. It will insure these States of the funds necessary for the completion of the system, without providing them with funds beyond those required to complete the system which can be funneled into another pot, ultimately driving the cost of the interstate system higher. I am pleased that Arkansas will be one of the first States to complete its interstate system and I believe that this one-half percent minimum will accelerate its completion.

This bill continues a priority primary authorization to improve primary routes throughout the country. This recognizes the needs for improvement on many primary roads which supply the vital links to the interstate system. In addition, the offsystem authorization to provide for the construction of roads not on the Federal aid system is important to many of our rural areas. This offsystem emphasizes the necessity to meet changes that have been made in the Federal aid to secondary system. In the past I have introduced legislation to provide new authorizations for both the priority primary and offsystem funding, because I feel these programs will provide a more comprehensive highway network to serve urban and rural communities. I am disappointed that additional and separate funds have not been allocated in the past for the priority primary construction. However, I hope that the new provision in this bill with regard to this matter will show the continuing need for funds for construction and upgrading of primary roads and routes that join interstate highways in many parts of the country.

I want to comment on the increased emphasis on transportation safety of this measure and voice my support of its attempt to increase the scope of existing safety programs and encourage the adoption of new safety devices, such as pavement markings with reflective center and edge lines. I am particularly appreciative that one of these safety programs involves providing additional authorizations for demonstration projects for railroad highway crossings and that one such project will be in Pine Bluff, Ark. Also an increase in authorization for emergency expenditures for bridges on Federal dams, including $3 million for Lock and Dam 13, near Fort Smith, Ark. is contained in this bill.

The job of improving our transportation system and stepping up the Federal-aid highway construction is not yet complete. This bill continues our commitment to providing an adequate highway system to serve rural and urban communities.

Mr. THORNTON. Mr. Chairman, continuation of the development of our highway system is a goal which I strongly support, and I want to commend my colleague from Arkansas, Mr. HAMMERSCHMIDT, and especially the distinguished chairman of the committee, the gentleman from Alabama (Mr. JONES) and the fine chairman of the subcommittee, the gentleman from New Jersey (Mr. HOWARD) for their effort in bringing this good legislation to the floor.

I urge its adoption by the House.

I am especially pleased that the bill includes recognition of the national interest in increased highway safety, and provides needed help in eliminating some truly hazardous problems such as exist in Pine Bluff, Ark. Today in Pine Bluff, there are 104 street/rail crossings with only one highway overpass and no railroad overpasses. This not only severely affects traffic circulation but creates a very serious hazard for public safety. Too often, property is damaged, and lives are lost because of the more than 40 trains a day that travel through the residential, commercial and industrial areas of Pine Bluff. It is not uncommon for a train or series of trains to block traffic in the central business district or residential areas for 30 minutes at a time, prohibiting ambulances and fire fighting equipment from responding quickly to emergency calls.

A good example of this type situation is one which occurred in February 1974. On that occasion, an ambulance which was summoned for a man who had been wounded during an armed robbery was delayed by a train. Upon learning of the delay, the police decided to take the injured man to the only hospital in Pine Bluff in a patrol car which happened to be on the right side of the tracks. During the ride, the victim stopped breathing but was revived by a patrolman trained in first aid techniques. Fortunately, after arriving at the hospital and being treated, the man survived.

The attending physician said that if the man had arrived at the hospital a few minutes later, he would not have lived. The most striking part of this incident is that, at the time the police car reached the hospital, the ambulance was still held motionless by the train.

The 104 rail/street crossings have also been the location of a large number of traffic accidents. According to the chief of police in Pine Bluff, a total of 72 accidents have occurred at these crossings since 1968, with the largest number—19—occurring in 1973.

A hazard rating formula for street/rail crossings has been prepared by the Arkansas State Highway Department. They applied the formula to the 40 crossings of the Missouri-Pacific and found that 14 had a hazard rating of at least 25 percent. The same formula was applied to the 61 crossings of the Cotton Belt, and they found that 21 had a hazard rating of more than 25 percent. According to the Arkansas State Highway Department, anything above 25 percent is considered unacceptable unless there is a grade separation.

The Railroad Relocation Committee of the Pine Bluff Chamber of Commerce has spent a great deal of time and effort in studying this situation. After much research, they have developed a proposed relocation of both the Missouri-Pacific and the Cotton Belt tracks. In simple terms, this proposal advocates relocating the Missouri-Pacific north of town, between Lake Pine Bluff and the main channel of the Arkansas River to rejoin the existing lines south of the Pine Bluff Arsenal. The proposal calls for the relocation of the Cotton Belt lines south from the electronic classification yard paralleling Highway 81 south to a point several miles south of the city and then continuing in a southwesterly direction until it joins the existing lines at the Rone Crossing. This proposal would reduce the street/rail crossings from 104 to less than 20 and would therefore, much improve rail/highway safety.

Furthermore, by relocating away from the developed area of Pine Bluff, right-of-way purchase and construction could probably be accomplished at a reasonable cost. The work and study which has gone into this community effort reflects the great interest and concern of the people of Pine Bluff in finding a solution to their problem, and this bill reflects the recognition of the Public Works and Transportation Committee that a relocation project can and should be carried out. I commend the members of the committee for their work, and strongly support the adoption of H.R. 8235.

Mr. HARSHA. Mr. Chairman, I reserve the remainder of my time.

Mr. HOWARD. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman from New Jersey for yielding this time to me.

I would like to take this opportunity to commend him for the outstanding job that he did in shaping this legislation now before us.

I rise in support of this bill. It is a good bill. It is a needed bill which merits the support of the Members of this House.

There are some features that are not included in this legislation that I would like to have seen included. There are some innovative concepts that I would like to have seen written in to make this bill truly a multimodel transportation blueprint. However, I am confident that as a result of the extensive hearings which occurred on this bill, and as a result of the points that were made in the markup sessions, that during the next session of this Congress these new proposals and these innovative concepts will be studied in greater detail and will eventually be made part of a modern, flexible and broad multimodel transportation program and policy for the United States.

Mr. Chairman, I would like to address myself specifically to title II of the act before us.

Title II of the act before us deals with highway safety and may be called the Highway Safety Act of 1975. This title includes a number of provisions, all aimed at reducing the tragic toll of dead and injured that we suffer on the streets and highways of the Nation every year.

We have every reason to be proud of our excellent motor vehicle transportation system. It is unsurpassed anywhere in the world. But there are some undesirable by-products that result from the operation of this system and, in recent years, the Congress more and more has had to direct its attention to these problem areas. I refer, of course, to such things as environmental damage, family dislocations, noise, congestion, and highway accidents.

There are an estimated 16 million traffic accidents in the United States annually. They range from minor, but irritating, "fender benders" in shopping center parking lots to those sickening freeway crashes that sometimes wipe out entire families.

We can do a great deal to reduce this human carnage. The Congress made a commitment to the Nation in 1966 in the passage of the Motor Vehicle and Highway Safety Acts. Although the most recent improvements in highway safety are attributable to the 55 miles per hour speed limit and reduced travel, there can be little doubt of the importance of our highway safety programs in reducing the tragic toll of dead and injured on our highways.

Title II of the Federal-Aid Highway Act before us would reassert this vital highway safety commitment. How many of the 45,000 Americans faced with death on our streets and highways this year, and next year, and the year after, can live because of the action of this Congress in this very humane expenditure of tax funds?

For carrying out section 402 of title 23 by the National Highway Traffic Safety Administration—that is the section that makes funds available to the States for highway safety programs—$37.5 million would be authorized out of the highway trust fund for the transition quarter and $150 million for the fiscal year 1977 and 1978.

Section 402 money is disbursed by the National Highway Traffic Safety Administration to help the States comply with 18 highway safety program standards. The standards relate to such areas as motor vehicle inspection, driver education, accident investigation, police traffic services, the problem of drinking drivers, and the provision of emergency care once an accident has occurred.

Also included in title II is the authorization for the safety research and development carried out by the Safety Administration. The amount for these section 403 expenditures is $16.25 million for the transition quarter and $65 million for each of the fiscal years 1977 and 1978. This money, too, all comes out of the highway trust fund.

There is one more category of general safety expenditures in title II. That is the authorization for the Federal Highway Administration's activities related to implementation of three safety standards issued under section 402 of the 1966 Safety Act. The three deal with the identification of high accident locations, highway design, construction and maintenance, and the provision of traffic engineering services. The Federal Highway Administration shares responsibility for a fourth standard, on pedestrian safety, with the National Highway Traffic Safety Administration.

The bill authorizes $8.75 million for the transition quarter and $35 million for each of fiscal years 1977 and 1978 for these safety-related programs of the Highway Administration. All of the money comes out of the highway trust fund.

Also included in the measure now before us are authorizations for sections 307(a) and 403 of title 23. These sections provide for research and development, including safety research and development, by the Federal Highway Administration. The act calls for spending $2.5 million in the transition quarter and $10 million for each of the fiscal years 1977 and 1978.

For the sake of those whose limbs and lives we can protect, I urge your support for this highway safety program.

Mr. HARSHA. Mr. Chairman, I have no further request for time.

Mr. HOWARD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, when we get into the 5-minute rule, an amendment reducing truck weights on interstate highways will be offered by our colleague, the gentleman from Pennsylvania (Mr. MYERS). I would like simply to return to that issue not on the merits but to review the history of the efforts to reduce weights of trucks on interstate highways.

A broad-based bipartisan coalition representing all sections of the country has endeavored to set a ceiling on the weights of trucks at 73,280 pounds rather than at the 80,000-pound limit which was set in December 1974. Mr. Chairman, the last time the House of Representatives had a clear-cut opportunity to express its will on this issue, on the 20th of August 1974, that House by a very clear majority vote of 252 to 159 firmly rejected any increase in gross truck weights. I think it is very, very important, because this issue is a controversial one and the eyes of the Nation are on the Congress, that we have a clear-cut recorded vote.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. Mr. Chairman, I will yield to my friend, the gentleman from New Hampshire, if he will get me some additional time.

Mr. CLEVELAND. Mr. Chairman, I will see if I can arrange to have the ranking minority member yield additional time. He is an extraordinarily generous person except when it comes to the money of the taxpayers.

Mr. HECHLER of West Virginia. I yield to my friend, the gentleman from New Hampshire.

Mr. CLEVELAND. The gentleman from Ohio can refute the statement if he wishes to.

Mr. HARSHA. No.

Mr. CLEVELAND. Mr. Chairman, am I correct in saying that the clear-cut vote that the gentleman from West Virginia refers to involved the increase from the then limit of 73,280 to 90,000 pounds?

Mr. HECHLER of West Virginia. I said, from 73,280 pounds.

Mr. CLEVELAND. To 90,000 pounds?

Mr. HECHLER of West Virginia. Yes.

Mr. CLEVELAND. And it was that increase to 90,000 pounds which was rejected by the vote the gentleman referred?

Mr. HECHLER of West Virginia. I would concede that point.

Mr. CLEVELAND. I thank the gentleman very much because I was with him in rejecting that increase to 90,000 pounds. The weight limit we are talking about now is really a horse of a different color than the one we were talking about in voting against an increase to 90,000 pounds.

Mr. HECHLER of West Virginia. Will the gentleman assist me in getting a recorded vote on the decrease, whether it is 80,000 or 90,000? Will the gentleman assist me in getting a vote on this issue so the Congress can express itself very clearly on this issue?

Mr. CLEVELAND. I will be delighted to and I am already recorded in the committee on a number of occasions.

I just want to remind the gentleman that since that vote which he is talking about took place, a couple of things have happened. One thing is we have had the Arab oil embargo. Additional evidence has come in that, in an effort to conserve diesel fuel and other petroleum products, it makes little sense to further reduce the modest increase to 80,000 which we agreed on a year or two ago.

Another thing that has happened is we have imposed a national speed limit. Many people think that is unfair to further decrease the weight limit when we have the lower speed limit.

Mr. HECHLER of West Virginia. Mr. Chairman, I appreciate the gentleman's remarks.

I had announced that I was not going to get into the merits of this issue on general debate. I think that should be reserved for the 5-minute rule.

I merely point out that the gentleman from Pennsylvania (Mr. EDGAR), the gentleman from Pennsylvania (Mr. MYERS), the gentleman from Maryland (Mr. GUDE), the gentleman from California (Mr. MINETA), and the gentleman from New York (Mr. KOCH), among others, are part of this bipartisan coalition. We are attempting to set a limit on those big behemoth trucks that now push millions of motorists off the highways. I hope all Members will support the amendment to be offered by the gentleman from Pennsylvania (Mr. MYERS) during the 5-minute rule.

Mr. HOWARD. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 8235.

Mr. Chairman, an important feature of the administration's proposed highway bill is a reduction in the number of categories of highway assistance. When the Committee on Public Works and Transportation set about in the early stages to develop the bill, there was general agreement that we would attempt to reduce the number of categories in the program. We struggled with this problem for several months, and the more we examined the issue and the proposals for reducing the categories, the more we became convinced that the whole question of categories was basically a false issue.

I would be the first to admit to my colleagues that there are far too many burdensome restrictions in present law. But problems can be solved in more than one way.

As the committee examined proposals to eliminate or consolidate the various categories, several points became very clear. First, many of the categories which Congress had established in prior acts would be replaced by provisions giving the Secretary of Transportation authority to spend money in these categories if he saw fit. Naturally this was publicized by the administration as a reduction of categories, when in fact, it was nothing more than executive usurpation of congressional prerogatives. For those of you who have read the administration's bill carefully, you know what I am talking about.

Second, as we studied the issue further, we discovered that there are not really 38 categories of assistance in existing law as the administration contends, but some 150 categories, some active and some inactive. Congress, over the years, has seen fit to enact certain laws to solve certain problems, rather than relinquish its decisionmaking authority to the executive branch. This is the gut issue we face today. Which branch of government sets the policy, the Congress or the executive branch?

The real issue is—how should we go about eliminating some of the unnecessary restrictions in existing law. Rather than reducing the number of categories as the administration proposes, the committee bill accomplishes the same purpose by providing for greater flexibility and transferability between categories of highway assistance.

For the basic noninterstate programs, existing law permits a State to transfer up to 40 percent from rural primary to rural secondary and vice versa, and 40 percent from urban extensions of the primary system to the urban system and vice versa. Transfer of urban system funds from its allocation to urbanized areas over 200,000 population is permitted only if local officials consent to such a transfer.

The committee bill would continue the same flexibility in existing law, while permitting additional transfers between rural primary and primary extensions in urban areas, between rural primary and priority primary, and between priority primary and urban extensions of the primary system. To prevent excessive reductions in funding for certain categories and to prevent merely the recycling of funds, the bill provides that no category may be increased or decreased by more than 40 percent and no category increased by a transfer from another category may then be reduced by a transfer to another category.

The committee bill also increases the transferability permitted between the various categories of highway safety construction—those being bridge replacement, elimination of hazards at railway-highway crossings, elimination of high hazard locations and removal of roadside obstacles. Under existing law, 30 percent transferability between categories is permitted, provided that the purposes of the program from which funds are transferred have been met. Under the bill, 40 percent transferability between categories would be permitted if requested by the State and approved by the Secretary as being in the public interest. No longer would there be a requirement that the needs of a category must be met before 40 percent could be transferred out. And 100 percent could be transferred in those cases where the purposes of the program from which funds transferred have been met.

The committee bill also provides increased flexibility in the exercise of the interstate substitution provisions enacted in the 1973 act by permitting the withdrawal of an interstate segment and the substitution of not only a mass transit project but also other noninterstate highway projects. Some communities have found that their needs require a mix of transit and highway improvements, rather than just mass transit.

Mr. Chairman, ample flexibility is permitted in all of the major categories in the bill—in interstate, primary, priority primary, secondary, urban extensions, urban system, and in all of the safety construction categories. Authorizations for these programs total $7.25 billion annually, or some 86 percent of the authorizations for construction.

Mr. Chairman, the committee bill is a good bill. Rather than doing a "hatchet job" on the categories, we have taken a more reasoned and reasonable approach to the problem by providing greater flexibility and transferability within and among the categories of highway assistance.

Mr. Chairman, I urge House approval of the committee bill.

Mr. HOWARD. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania (Mr. EDGAR), a member of the subcommittee and a member of the full committee.

Mr. EDGAR. Mr. Chairman, I come before the House today, not willing or able to say that this particular bill is the most creative transportation bill that I have ever seen come before the House. I do think that there are some good provisions of the bill. The committee and the subcommittee have worked very diligently on it. There were some very honest differences of opinion in the committee. I and some of my colleagues raised some important questions to attempt to resolve these differences and, perhaps, reach a compromise as we approach the discussion, the amendments, and the passage of this legislation.

Mr. Chairman, frankly, this legislation has been somewhat of a disappointment to me personally. A number of committee members who shared the concern that the Nation needs a balanced transportation policy met in small groups in June and then started meeting in the committee hearings in July. I anticipated that we could look at a broader balanced transportation approach. It was my hope that we could be responsive to the changing social values, and needs, of the American people. The jurisdiction over transportation legislation had been only recently consolidated under one umbrella, except for the railroads, and I dreamed that this committee would meet its responsibility by endorsing a more balanced transportation approach.

Mr. Chairman, three bills were introduced; one of the committee, one by the administration, and one by the gentleman from New York (Mr. AMBRO), with several new Members as cosponsors. These three bills represented several different perspectives and philosophies of how we should order our transportation priorities. The committee print was basically what we have before us, with some changes. It is basically a simple extension of the existing law, an extension of the 38 categories of funding, and an extension of the Highway Trust Fund.

The administration bill, on the other hand, partially sought to do away with the trust fund concept. But it did have some major progressive renovations in philosophy. It entailed a reduction of categories and some more flexibility. The Ambro bill that was introduced was to attempt a compromise between the administration and the committee to deal more thoroughly with the Federal aid to transportation bill. I think even in that title we ought to take just a moment to stop and think about what we are doing. It is 1975, soon to be 1976. Since 1956, we have had the highway trust fund and the highway funding has come basically out of that trust fund concept. Because the trust fund was scheduled to expire in a year, the committee had the opportunity to change its transportation philosophy, not away from highways, but toward a balanced and integrated transportation system. A distinguished Member from the other body said that the United States has one of the best highway systems in the industrialized world, but one of the worst transportation systems.

I think before us today should be the Federal-aid to Transportation Act of 1975. It is unfortunate that a majority of the committee chose to report a Federal Aid Highway Act of 1975.

The bill being considered should have included some reduction of categories from the labyrinth of 38 categories down to as few as 4. I think we need to end the debate between the rural and urban Members of this body and deal realistically with the amount of money we invest in transportation, both in highways and in public transit.

We ought to have maximum flexibility between and within categories. It is true that the bill does encourage flexibility. It is better than existing law, but it is my hope that in the future we can improve on the flexibility of our transportation bills. I think we also ought to have transferability of the moneys on the interstate and 15 percent of the interstate is uncompleted. Some of that interstate is priority, but some of it may not be as necessary as was once thought. We ought to have a way of evaluating how much of this remaining interstate needs to be passed.

We ought to have a bill before us which deals with the question of direct passthrough from the Federal Government to local government. We have large metropolitan areas in this country that ought to have some true responsibility and input in how moneys are used; whether they are used for mass transit, whether they are used for rail, or whether they are used for highways. There needs to be the flexibility to develop those vehicles that move people and goods as efficiently and economically as possible.

Mr. Chairman, I think we have before us a bill that has several demonstration projects, some of which are clearly questionable, some of which clearly could be labeled as boondoggles, others which may have some merit.

Mr. Chairman, let me conclude by saying that, although I reluctantly support this legislation, I would hope that our committee and the Members of this body would help us to make progress in the future toward a more balanced transportation system that is more sensitive to the values of 1976, not 1956 when the trust fund was established; which takes into consideration the need for conservation of our energy resources; which focuses upon consolidating the jurisdictions in this body for transportation so that one committee can deal with both railroads and all other forms of surface transportation; which ends the destructive rural and urban debate that has been going on for several years; which deals with the funding issue, particularly with the Ways and Means Committee, and also deals with the issue of truck safety as we review the studies that are indicated in this bill; and then finally looks to a balanced national transportation policy that makes sense for all the American people.

Mr. HANLEY. Mr. Chairman, I will be supporting final passage of this highway measure. Its consideration provides me the opportunity to discuss an important highway measure which I will be introducing at the beginning of the second session of this Congress.

The bill will provide for reimbursement to States which operate toll roads as part of the Federal Interstate System. This is something that I have been working on for a number of years, and I strongly believe that my bill can and should be approved. The time has come to put an end to the subtle "highway robbery" of the toll roads and to prevent further curtailment of the free movement of people and goods.

Ever since the concept of Federal aid for the construction of highways originated, the Federal Government has committed itself to toll free highways only. The Federal Aid Road Act of 1916 established the policy of forbidding the use of Federal funds for any project on which tolls were levied, and this policy has continued to be expressed in all subsequent legislation. The Federal Aid Highway Act of 1956, which established the Interstate Highway System, declared it to be the intent of Congress that the system be toll free, and there certainly can be no doubt that free highways best serve the public by promoting economic development and assuring national security. However, there presently exist over 2,000 miles of toll roads on the Interstate System, and a reimbursement plan has yet to be established. It is the purpose of this bill to establish such a plan.

H.R. 8235, the measure now before us, extends for a number of years the period for construction of the Interstate System. Obviously, if the construction continues, the system will never be completed. If it is not completed, Congress really does not have to face the question about what to do with the existing toll roads. I believe that we should stop pretending that they are not a problem and move promptly to develop a reimbursement program.

Although commonsense dictated the incorporation of toll roads into the Interstate System in order to avoid unnecessary duplication of facilities, most highway experts agree that toll roads are inequitable and uneconomic. The continued existence of toll roads on the Interstate System means double taxation for the user, higher costs, and stunted economic development.

The diseconomy involved in the existence of toll roads stems from a number of causes, not the least of which is the fact that toll revenue bonds constitute an inefficient means of financing highway construction. A 1967 report by the Subcommittee on Roads for the House Public Works Committee stated that the costs of financing are approximately 1.5 times greater if toll revenue rather than State-guaranteed bonds are used. This constitutes an exorbitant user tax when one considers that the State could have used its gasoline tax revenues to finance its 10 percent share of the construction costs under the 1956 act.

Another uneconomic and unnecessary cost of toll roads is the cost of toll collection itself. The price of toll collection, on the average, consumes over 3 percent of revenues, and, when compared to the approximately 3 mills out of every dollar spent to collect the gasoline tax, the cost of toll collection is over 10 times higher. However, the worst cost of toll roads is undoubtedly the inestimable loss in economic development. Aside from the effects on shipping and interstate commerce, the limited access to the facility likewise limits the ability of local jurisdictions to reap concessionary benefits. For example, on the entire 241 miles of the Ohio Turnpike, there are only 15 exists, which severely limits the number of gas stations, motels, and so on which can successfully operate near it. A free highway through the same area would undoubtedly have more interchanges, thereby vastly increasing the benefits of the road to local citizens and promoting economic development, particularly in rural areas.

This loss in economic development inflicted on the local citizenry is just one of the inequities involved in the existence of toll roads on the Interstate Highway System. Aside from this, there is the fact that the motorists who use toll facilities are taxed twice for their use of the road. The toll road user is not only paying for the construction and operation of that road with his tolls, but he is also paying through the gasoline tax for the construction of similar toll-free roads in other States which are toll free. In actual fact, the toll road user is paying approximately three times what motorists in other States pay to use comparable facilities, and there does not seem to be any end in sight.

The situation in New York State serves as a good illustration of the gravity of the situation. As of January 1, 1975, the New York Thruway Authority had paid off $303,000,000 of the original $1,260,000,000 cost of construction—a mere 20 percent. At this rate, even though tolls continue to rise—13.5 percent in New York this year alone—the debt on the facility will not be liquidated until 1977, and even that is an optimistic prediction. It does not take into account the increased costs of refinancing, which is a very real possibility over so long a period of time, and it also excludes the possible future use of toll revenues for special purposes or for general revenue. It should, therefore, be obvious that a great inequity has been visited upon the people of New York, along with the citizens of the other 17 States with toll facilities which have been incorporated into the Interstate System. If the Federal Government does not move to correct this situation, the enormity of this injustice will only increase.

If the Federal Government acted right now to reimburse the State of New York, it would have to pay $669,000,000 for 501 miles of excellent interstate highway. This is approximately 63 percent of the original construction cost, as opposed to the 90 percent it would have to pay if New York State had not had the foresight to construct this much needed facility before the passage of the Federal Aid Highway Act of 1956. However, this is not the point. The point is that this inequity exists, not only in New York but in the other 17 States also, and it is the responsibility of the Federal Government to correct this. We cannot allow this injustice to compound itself with each new year. It is time to act, and my bill will provide the basis for this action.

My bill would establish a 5-year plan for the reimbursement of those States with toll roads which have been incorporated into the Interstate System. It would also make it clear that it is the intent of Congress that all portions of the National System of Interstate and Defense Highways, excepting urban crossings, shall be free from tolls by the time the final payment is made, which in no case shall be later than fiscal year 1982.

I am excluding urban crossings, which would be defined as a tunnel or bridge within an urban area, because they, along with the revenues which they generate, perform important functions in contemporary urban life. These crossings not only provide much needed revenue for urban mass transportation and other services, but they also play an important role in shaping traffic patterns and relieving urban congestion. Therefore, because of these considerations, and the equally important financial and sociopolitical complexities, I believe that to mandate the removal of tolls on these crossings would be infeasible and foolish.

The mechanism for reimbursement would be put in motion upon the application of the State involved. Upon approval, the Secretary would be authorized to pay, out of the highway trust fund, 90 percent of the depreciated original construction costs plus all improvements, minus the principal already paid on its bonded indebtedness—provided that the facility becomes toll free upon completion of the payments. The term construction costs would include costs unique to toll facilities, such as toll booths, plazas, and so on, and also included in the Federal share would be the costs of removing those booths, plazas, and other appurtenances necessary for the collection of tolls. The States would pay the remaining 10 percent, as is now done under the interstate program, plus any other costs of retiring the bonds.

It is possible that some States might not want to relinquish their hold on these profitable facilities, even though it may be in the public interest, and I have, therefore, included within the bill a penalty for those States that decide against freeing their facilities. The bill provides that any State not freeing its toll facilities on the Interstate Highway System will have deducted from its highway trust fund allocation the estimated amount of Federal gasoline tax paid by the users of the facility since 1956. This would constitute a considerable sum, and should provide inducement enough for reluctant States to free their toll roads.

I am sure that people will argue that the costs of reimbursement will be too high, particularly at the present time, when the Federal Government is running a $60 billion deficit, but I must point out that the reimbursed money would come from existing user taxes and the healthy highway trust fund. Therefore, reimbursement will impose no new burdens on the motorist—in fact it would relieve him of paying the inflated costs toll roads now impose on him—and it would not overburden the budget deficit either, since the money will come from a separate fund. I am well aware that the President is trying to cut into the revenues set aside for the highway trust fund, but to me this means that we have to act with that much more haste to insure that the subtle "highway robbery" of toll roads on the Interstate Highway System is done away with once and for all.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the bill H.R. 8235, Federal-Aid Highway Act of 1975.

This legislation has been worked out through long and serious deliberations in the Committee on Public Works.

Thanks to the able leadership of

Chairman Bob Jones, Subcommittee Chairman James J. Howard, and the other diligent members of the committee, we have before us today a measure which will provide the vitally needed funds for our Nation's transportation system.

I support the bill, not only for the benefits that will accrue to the public with an improved surface transportation system, but also for the continuation of job opportunities for those in the construction and supply industries across the country.

I am particularly pleased that the bill will continue funding for the completion of the Century Freeway in Los Angeles County, a project of major importance to anyone who lives in or visits Southern California.

I urge my colleagues to take this opportunity to vote "yea" on this major Public Works bill, the Federal-Aid Highway Act.

Mr. MIKVA. Mr. Chairman, consideration of the Federal-Aid Highway Act is particularly appropriate during this Bicentennial year, because the Federal highway program is an affirmation of the dream cherished by so many immigrants who have come to our shores—the streets of America are truly paved with gold.

In the less than 20 years since the heart of the Federal highway program—the highway trust fund—was created, $55 billion has been spent to pave over the landscape with 36,000 miles of interstate highways. During the same period, an additional $30 billion was spent for constructing 270,000 miles of Federal-aid primary and secondary highway systems and their urban extensions. This comes to a total expenditure of $85 billion for highway construction in less than 20 years. But, this extraordinary sum represents only a part of the total cost of the highway program. The $85 billion does not include the incalculable environmental burden caused by our reliance on the automobile as our only means of surface transportation. The $85 billion does not include the cost of energy dependence caused by our reliance on Arab oil to run the cars that fill those highways. No one knows the value of these costs, but there is good reason to believe that it may exceed even $85 billion.

The highway trust fund is particularly unresponsive to the transportation needs of the Nation. The administration of the fund is dominated by the vested interests of the highway construction industry. During the years of its existence, the trust fund has become an obstacle standing in the way of a flexible transportation policy. The disproportionate sums of money poured into highways have drastically curtailed other alternatives of surface transportation which are environmentally superior and have the potential to conserve more of our energy resources.

Moreover, the highway trust fund is unresponsive to the demands of the congressional budget process. The trust fund procedure protects the highway program from the normal scrutiny which other domestic programs must undergo. The trust fund permits vast expenditures to occur without any congressional evaluation. The 2-year extension of the trust fund contained in the Federal-Aid Highway Act guarantees this method of unsupervised spending until October of 1979.

The existence of the trust fund is due in large part to the myth that failure to encourage the maximum amount of highway construction is tantamount to favoring unemployment as a national policy. It is time for Congress to dispel that myth. I am opposed to the continuation of the trust fund precisely because I want to create more jobs. According to a study conducted by the University of Illinois, a shift of $5 billion from highways to rapid transit would not only cut energy consumption but would substantially increase employment. Therefore, a reduction in the size and duration of the trust fund will simultaneously increase the number of jobs and reduce the hidden environmental and energy costs contained in highway construction. The reality behind the job myth is that it only helps to employ highway, cement and asphalt contractors; tire, auto, and trucking company executives; and State and Federal highway bureaucrats.

It is time for Congress to forcefully state that the Federal highway programs will no longer be treated as sacred cows. The 2-year extension of the highway trust fund contained in title II of the Federal-Aid Highway Act is unnecessary and irresponsible. The trust fund is due to expire in October 1977. Termination of the trust fund does not require stopping in the middle of all highway construction. Congress can insure the continuation of those programs which are necessary and important by utilizing short term funding, as occurred in 1973. The trust fund's existence makes meaningful transportation policy reform impossible, because it substantially reduces the financial resources available for alternative transportation modes. In recent months, Congress has attempted to exercise oversight responsibiities in the areas of foreign policy, energy, and the Federal bureaucracy. Congress should exercise the same degree of responsibility in the area of transportation.

I urge the Members of Congress to vote against the Federal-Aid Highway Act, and to demonstrate to the American people that we are committed to developing transportation methods which do not endanger our environment or deplete our energy resources. A vote against the Federal-Aid Highway Act is a vote for congressional assertion of authority over the expenditure of Federal moneys.

Mr. CONYERS. Mr. Chairman, I voted in opposition to the amendment to H.R. 8235, the interstate highway bill, which would have deleted the discretionary authority of the Secretary of Transportation to use $750 million for interstate highway projects. I should have voted in favor of that amendment.

Mr. HOWARD. Mr. Chairman, I have no further requests for time.

Mr. HARSHA. Mr. Chairman, I have no further requests for time .

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

Mr. COCHRAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 809]

Addabbo
Allen
Anderson, Ill.
Andrews, N.C.
Archer
Badillo
Bingham
Bolling
Burton, Phillip
Butler
Chappell
Chisholm
Conyers
Coughlin
Crane
Daniels, N.J.
Diggs
Drinan
Edwards, Calif.
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Foley
Ford, Mich.
Gaydos
Gibbons
Hanley
Hastings
Hébert
Heinz
Hillis
Hinshaw
Ichord
Jarman
Kastenmeier
Leggett
McCloskey
McDade
McEwen
Melcher
Mikva
Moorhead, Pa.
Pepper
Pike
Pritchard
Railsback
Randall
Rees
Rosenthal
Scheuer
Sebelius
Stanton, James V.
Stokes
Stuckey
Sullivan
Udall
Waxman
Wilson, C. H.
Wilson, Tex.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Nedzi, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 8235, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 374 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. Under the rule, title III of the substitute committee amendment shall be considered as having been read for amendment.

No amendment to title III of said substitute, including an amendment in the nature of a substitute for said Committee amendment which would change title III, shall be in order in the House or in the Committee of the Whole except amendments offered by direction of the Committee on Ways and Means, which may be offered in the Committee of the Whole, and said amendments shall not be subject to amendment.

It shall be in order to consider without the intervention of any point of order the text of an amendment by Representative Edgar of Pennsylvania, printed in the Congressional Record of December 15, 1975, if offered as an amendment in the nature of a substitute for the committee amendment in the nature of a substitute.

The Clerk will read.

The Clerk read as follows:

H.R. 8235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

Sec. 101. This title may be cited as the "Federal-Aid Highway Act of 1975".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

Sec. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, and the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979.", and by inserting in lieu thereof the following: "the additional sum of $1,000,000,000 for the three-month period ending September 30, 1976, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1977, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1978, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1979, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1980, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1981, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1982, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, and the additional sum of $840,000,000 for the fiscal year ending September 30, 1988.".

(b) $3,250,000,000 of the sum authorized for the fiscal year ending September 30, 1977, by the amendment made by subsection (a) of this section, shall be apportioned on or before January 1, 1976, in accordance with the applicable provisions of chapter 1, of title 23, United States Code. $750,000,000 of such authorized sum shall be available for obligation on July 1, 1976, in the same manner and to the same extent as the sums apportioned on or before January 1, 1976, except that (A) the obligation of such $750,000,000 shall be at the discretion of the Secretary of Transportation, (B) $500,000,000 of such $750,000,00 shall be obligated only for projects necessary for the completion of continuous sections of the National System of Interstate and Defense Highways, (C) $250,000,000 shall be obligated only for projects of unusually high cost, which require long periods of time for their construction, and (D) any part of such $750,000,000 not obligated by such Secretary before October 1, 1977, shall be immediately apportioned in the same manner as the $3,250,000,000 apportioned on or before January 1, 1976, and available for obligation for the same period as the apportionment of such $3,250,000,000. Any project which has received Federal financial assistance from such $750,000,000 shall not be eligible for withdrawal of approval by such Secretary under section 103(e)(2) or (4) of title 23, United States Code.

(c) $3,250,000,000 of the sum authorized for the fiscal year ending September 30, 1978, by the amendment made by subsection (a) of this section, shall be apportioned on or before January 1, 1977, in accordance with the applicable provisions of chapter 1 of title 23, United States Code. $750,000,000 of such authorized sum shall be available for obligation on the date of such apportionment, in the same manner and to the same extent as the sums apportioned on such date, except that (A) the obligation of such $750,000,000 shall be at the discretion of the Secretary of Transportation, (B) $500,000,000 of such $750,000,000 shall be obligated only for projects necessary for the completion of continuous sections of the National System of Interstate and Defense Highways, (C) $250,000,000 of such $750,000,000 shall be obligated only for projects of unusually high cost, which require long periods of time for their construction, and (D) any part of such $750,000,000 not obligated by such Secretary before October 1, 1978, shall be immediately apportioned in the same manner as the $3,250,000,000 apportioned on or before January 1, 1977, and available for obligation for the same period as the apportionment of such $3,250,000,000. Any project which has received Federal financial assistance from such $750,000,000 shall not be eligible for withdrawal of approval by such Secretary under section 103(e)(2) or (4) of title 23, United States Code.

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the three-month period ending September 30, 1976, and for the fiscal year ending September 30, 1977, the sums authorized to be appropriated for such periods for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, of House Public Works and Transportation Committee Print Numbered 94–14, as revised in House Report Numbered 94–716.

HIGHWAY AUTHORIZATIONS

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, $200,000,000 for the three-month period ending September 30, 1976, $800,000,000 for the fiscal year during September 30, 1977, and $800,000,000 for the fiscal year ending September 30, 1978. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $100,000,000 for the three-month period ending September 30, 1976, $400,000,000 for the fiscal year ending September 30, 1977, and $400,000,000 for the fiscal year ending September 30, 1978.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $200,000,000 for the three-month period ending September 30, 1976, $800,000,000 for the fiscal year ending September 30, 1977, and $800,000,000 for the fiscal year ending September 30, 1978. For the extensions of the Federal-aid primary system in urban areas, out of the Highway Trust Fund, $100,000,000 for the three-month period ending September 30, 1976, $400,000,000 for the fiscal year ending September 30, 1977, and $400,000,000 for the fiscal year ending September 30, 1978.

(3) For forest highways, out of the Highway Trust Fund, $8,250,000 for the three-month period ending September 30, 1976, $33,000,000 for the fiscal year ending September 30, 1977, and $33,000,000 for the fiscal year ending September 30, 1978.

(4) For public lands highways, out of the Highway Trust Fund, $4,000,000 for the three-month period ending September 30, 1976, $16,000,000 for the fiscal year ending September 30, 1977, and $16,000,000 for the fiscal year ending September 30, 1973.

(5) For forest development roads and trails, $35,000,000 for the three-month period ending September 30, 1976, $140,000,000 for the fiscal year ending September 30, 1977, and $140,000,000 for the fiscal year ending September 30, 1978.

(6) For public lands development and roads and trails, $2,500,000 for the three-month period ending September 30, 1976, $10,000,000 for the fiscal year ending September 30, 1977, and $10,000,000 for the fiscal year ending September 30, 1978.

(7) For park roads and trails, $7,500,000 for the three-month period ending September 30, 1976, $30,000,000 for the fiscal year ending September 30, 1977, and $30,000,000 for the fiscal year ending September 30, 1978.

(8) For parkways, $11,250,000 for the three-month period ending September 30, 1976, $45,000,000 for the fiscal year ending September 30, 1977, and $45,000,000 for the fiscal year ending September 30, 1978, except that the entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $20,750,000 for the three-month period ending September 30, 1976, $83,000,000 for the fiscal year ending September 30, 1977, and $83,000,000 for the fiscal year ending September 30, 1978.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $25,000,000 for the three-month period ending September 30, 1976, $100,000,000 for the fiscal year ending September 30, 1977, and $100,000,000 for the fiscal year ending September 30, 1978.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $375,000 for the three-month period ending September 30, 1976, $1,500,000 for the fiscal year ending September 30, 1977, and $1,500,000 for the fiscal year ending September 30, 1978.

(12) For carrying out section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $1,250,000 for the three-month period ending September 30, 1976, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and not to exceed $5,000,000 for the fiscal year ending September 30, 1978.

(B) for Guam, not to exceed $1,250,000 for the three-month period ending September 30, 1976, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and not to exceed $5,000,000 for the fiscal year ending September 30, 1978.

(C) for American Samoa, not to exceed $250,000 for the three-month period ending September 30, 1976, not to exceed $1,000,000 for the fiscal year ending September 30, 1977, and not to exceed $1,000,000 for the fiscal year ending September 30, 1978.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(13) For priority primary routes, out of the Highway Trust Fund, $75,000,000 for the three-month period ending September 30, 1976, $300,000,000 for the fiscal year ending September 30, 1977, and $300,000,000 for the fiscal year ending September 30, 1978.

(14) For the Great River Road, $2,500,000 for the three-month period ending September 30, 1976, $10,000,000 for the fiscal year ending September 30, 1977, and $10,000,000 for the fiscal year ending September 30, 1978, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $6,250,000 for the three-month period ending September 30, 1976, $25,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending September 30, 1978, for construction or reconstruction of roads on a Federal-aid highway system.

(15) For control of outdoor advertising under section 131 of title 23, United States Code, $12,500,000 for the three-month period ending September 30, 1976, $50,000,000 for the fiscal year ending September 30, 1977, and $50,000,000 for the fiscal year ending September 30, 1978.

(16) For control of junkyards under section 136 of title 23, United States Code, $3,750,000 for the three-month period ending September 30, 1976, $15,000,000 for the fiscal year ending September 30, 1977, and $15,000,000 for the fiscal year ending September 30, 1978.

(17) For off-system roads under section 219 of title 23, United States Code, $50,000,000 for the three-month period ending September 30, 1976, $200,000,000 for the fiscal year ending September 30, 1977, and $200,000,000 for the fiscal year ending September 30, 1978.

(18) For access highways under section 155 of title 23, United States Code, $6,250,000 for the three-month period ending Septem-

ber 30, 1976, $25,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending Sepetmber 30, 1978.

(19) Nothing in the first ten paragraphs or in paragraph (12), (13), (14), (17), or (18) of this section shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or chapter 4 of title 23, United States Code.

(b) No State shall receive less than one-half of 1 per centum of the total apportionment for the period July 1, 1976, to September 30, 1976, and for each of the fiscal years 1977 and 1978 under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. In addition to all other authorizations for the Interstate System for the period July 1, 1976, to September 30, 1976, and for the two fiscal years ending September 30, 1977, and September 30, 1978, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $18,900,000 for such period and $41,400,000 for the fiscal year ending September 30, 1977, and $28,800,000 for the fiscal year ending September 30, 1978, for such System. Such authorization shall be apportioned to each of the States receiving apportionments under section 103 of this Act of less than one-half of 1 per centum for each such fiscal year, so as to insure that each such State will receive for each such fiscal year an amount equal to one-half of 1 per centum of the total apportionment for each such fiscal year under section 103 of this Act, as required by the first sentence of this subsection. Notwithstanding any other provision of this subsection, no State shall receive any amount for the Interstate System under this subsection in excess of the cost of completing that State's portion of the Interstate System.

(c)(1) In the case of priority primary routes, $50,000,000 of the sum authorized for fiscal year ending September 30, 1977, by the amendment made by subsection (a)(13) of this section, shall not be apportioned. Such $50,000,000 shall be available for obligation on July 1, 1976, in the same manner and to the same extent as sums apportioned for such routes for fiscal year 1977 except that such $50,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost which require long periods of time for their construction. Any part of such $50,000,000 not obligated by such Secretary before October 1, 1977, shall be immediately apportioned in the same manner as the $250,000,000 apportioned on or before January 1, 1976, and available for obligation for the same period as the apportionment of such $250,000,000.

(2) In the case of priority primary routes, $250,000,000 of the sum authorized for the fiscal year ending September 30, 1978, by the amendment made by subsection (a)(13) of this section, shall be apportioned on or before January 1, 1977, in accordance with the applicable provisions of chapter 1 of title 23, United States Code, $50,000,000 of such authorized sum shall be available for obligation on the date of such apportionment, in the same manner and to the same extent as the sums apportioned on such date, except that such $50,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost which require long periods of time for their construction. Any part of such $50,000,000 not obligated by such Secretary before October 1, 1978, shall be immediately apportioned in the same manner as the $250,000,000 apportioned on or before January 1, 1977, and available for obligation for the same period as the apportionment of such $250,000,000.

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 105. (a) The second sentence of the second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "twenty-three years" and inserting in lieu thereof "thirty-two years" and by striking out "June 30, 1979", and inserting in lieu thereof "September 30, 1988".

(b)(1) The introductory phase and the second and third sentences of section 104(b)(5) of title 23, United States Code, are amended by striking out "1979" each place it appears and inserting in lieu thereof at each such place "1988".

(2) The last four sentences of such section 104(b)(5) are amended to read as follows: "Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the three-month period ending September 30, 1976, and for the fiscal year ending September 30, 1977. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to July 1, 1976. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year ending September 30, 1978. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 20, 1988. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives.".

DEFINITIONS

SEC. 106. Subsection (a) of section 101 of title 23, United States Code, is amended as follows:

(1) The definition of the term "construction" is amended by inserting immediately after "Commerce)," the following "resurfacing,".

(2) The definition of the term "urban area" is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "except in the case of cities in the State of New Hampshire.".

ELIGIBILITY FOR WITHDRAWAL

SEC. 107. The second sentence of paragraph (2) of subsection (e) of section 103 of title 23, United States Code, is amended by striking out "prior to the enactment of this paragraph,".

INTERSTATE SYSTEM

SEC. 108. (a) Section 103(e)(4) of title 23, United States Code, is amended to read as follows:

"(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1975 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the urbanized area from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the highway program of which the substitute project is a part, except that in the case of mass transit projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1975, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1975 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of said Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1975, shall be effective as of August 13, 1973.".

(b) Section 103(e)(4) of title 23, United States Code, is further amended by adding the following sentence at the end thereof:

"In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transportation project permissible under this title.".

ROUTE WITHDRAWALS

SEC. 109. (a) The existing fourth sentence of paragraph (2) of subsection (e) of section 103 of title 23, United States Code, is amended by striking out "increased or decreased," and all that follows down through and including the period at the end thereof and inserting in lieu thereof the following: "or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate. the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1975, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of 1975, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate.".

(b) The amendment made by subsection (a) of this section shall be applicable to each route on the Interstate System approval of which was withdrawn or is hereafter withdrawn by the Secretary of Transportation in accordance with the provisions of section 103(e)(2) of title 23, United States Code, including any route on the Interstate System approval of which was withdrawn by the Secretary of Transportation in accordance with the provisions of title 23, United States Code, on August 30, 1965, for the purpose of designating an alternative route.

MINIMUM APPORTIONMENT

SEC. 110. Paragraph (3) of subsection (b) of section 104 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "No State shall receive les than one-half of 1 per centum of each year's apportionment.".

TRANSFERABILITY

SEC. 111 (a) Subsections (c) and (d) of section 104 of title 23, United States Code, are amended to read as follows:

"(c)(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be one paragraph to the apportionment under transferred from the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

"(2) Subject to subsection (d) the amount apportioned in any fiscal year to each State in accordance with paragraph (3) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area.

"(3) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (3) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

"(4) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraphs (1) and (3) of subsection (b) of this section, and in accordance with section 147, may be transferred from the apportionment under either or both such paragraphs to the apportionment made in accordance with such section 147 and may be transferred from the apportionment made in accordance with section 147 to the apportionment made under either or both such paragraphs if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

"(d) Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions—

"(1) The total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 40 per centum.

"(2) Not more than 40 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

"(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

"(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment.".

(b) The amendment made by subsection (a) of this section shall take effect on July 1, 1976, and shall be applicable with respect to funds authorized for the period July 1, 1976, through September 30, 1976, and for subsequent fiscal years. With respect to the fiscal year 1976 and earlier fiscal years, the provisions of subsections (c) and (d) of section 104 of title 23, United States Code, as in effect on June 30, 1976, shall remain applicable to funds authorized for such years.

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 112. Paragraph (2) of subsection (c) of section 108 of title 23, United States Code, is amended by striking out "made pursuant to section 133 of chapter 5 of this title".

CERTIFICATION ACCEPTANCE

SEC. 113. (a) Subsection (a) of section 117 of title 23, United States Code, is amended by striking out "establishing requirements at least equivalent to those contained in, or issued pursuant to, this title." and inserting in lieu thereof "which will accomplish the policies and objectives contained in or issued pursuant to this title.".

(b) Section 117 of title 23 of the United States Code is amended by adding at the end thereof the following new subsection:

"(f)(1) In the case of the Federal-aid secondary system, in lieu of discharging his responsibilities in accordance with subsections (a) through (d) of this section, the Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (A) were adopted by such State highway department, (B) were applicable to projects in this category, and (C) were approved by him.

"(2) The Secretary shall not approve such standards and procedures unless they are in accordance with the provisions of subsection (b) of section 105, subsection (b) of section 106, and subsection (c) of section 109, of this title.

"(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction.".

EMERGENCY RELIEF

SEC. 114. (a) Section 125(a) of title 23, United States Code, is amended—

(1) by striking out "June 30, 1972," inserting in lieu thereof "June 30, 1972, and ending before June 1, 1976,";

(2) by striking out "June 30, 1973," and

inserting in lieu thereof "June 30, 1973, to carry out the provisions of this section, and not more than $37,500,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than $150,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976,"; and

(3) by adding before the last sentence the following new sentence: "For the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977.".

(b) The second sentence of section 125(b) of such title is amended by striking out the period and inserting in lieu thereof the following: ", except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.".

BUS WIDTHS

SEC. 115. Section 127 of title 23, United States Code is amended by adding at the end thereof the following new sentence: "Notwithstanding any limitation relating to vehicle widths contained in this section, a State may permit any bus having a width of 102 inches or less to operate on any lane of 12 feet or more in width on the Interstate System.".

FERRY OPERATIONS

SEC. 116. The first sentence of paragraph (5) of subsection (g) of section 129 of title 23, United States Code, is amended by inserting after "Hawaii" the following: "and the islands which comprise the Commonwealth of Puerto Rico". The second sentence of such paragraph (5) is amended by inserting after "Hawaii" the following: "and operations between the islands which comprise the Commonwealth of Puerto Rico".

CONTROL OF OUTDOOR ADVERTISING

SEC. 117. (a) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices may include, but not be limited to, signs and notices pertaining to information in the specific interest of the traveling public, such as, but not limited to, signs and notices pertaining to rest stops, camping grounds, food services, gas and automotive services, lodging, and natively produced handicraft goods, and shall include signs and notices pertaining to natural-wonders scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs and such other requirements as may be appropriate to implement this clause (except that not more than three directional signs facing the same direction of travel shall be permitted in any one mile along the interstate or primary system outside commercial and industrial areas), (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, and (3) signs, displays and devices advertising activities conducted on the property on which they are located.".

(b) Subsection (d) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting, and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary.".

(c) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year it becomes nonconforming, except as determined by the Secretary.".

(d) Subsection (f) of section 313 of title 23, United States Code, is amended by inserting the following after the first sentence: "The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained: *Provided*, That such signs on the interstate and primary shall not be erected in suburban or in urban areas or in lieu of signs permitted under subsection (d) of this section.".

(e) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(o) No directional sign, display, or device lawfully in existence on June 1, 1972, giving specific information in the interest of the traveling public shall be required to be removed until December 31, 1977, or until the State in which the sign, display, or device is located certifies that the directional information about the service or activity advertised on such sign, display, or device may reasonably be available to motorists by some other method or methods, whichever shall occur first. A State shall give preference, with due regard to the orderly scheduling of the removal of signs, displays, and devices and to highway safety, to the purchase and removal of any nonconforming sign, display, or device voluntarily offered by the owner thereof to the State for removal if funds are available to such State for such purpose.

"(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 percentum of the just compensation for such removal (including all relocation costs).

"(q) (1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c) (1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

"(2) For purposes of this subsection, signs providing directional information about facilities providing goods and services in the interest of the traveling public are defined to be those giving directional information about gas and automotive services, food, lodging, natively produced handicraft goods, campgrounds, truckstops, resorts, recreational areas, tourist attractions, historic sites, and such other facilities as a State, with the approval of the Secretary, may deem appropriate.

"(3) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

"(4) The owner or operator of any facility providing goods and services in the interest of the traveling public shall have the right to continue using no more than one nonconforming sign in each direction on any highway subject to controls under a State law enacted to comply with this section, which sign is providing directional information about such facility, and which had been providing directional information as of June 1, 1972, and which is within seventy-five miles, or such other distance as the State in which the sign is located may determine, until the Secretary determines directional information about such facility is being adequately provided to motorists traveling in that direction on such controlled highway by conforming signs authorized by subsection 131(d) of this title, by signs advertising activities conducted on the property on which they are located, by signs authorized by subsection 131(c) (1) or 131(f) of this title, by any other nonconforming signs, or by such other means as the State in which the sign is located deems to be adequate.".

PRESERVATION OF PARKLANDS

SEC. 118. Section 138 of title 23, United States Code, is amended by adding a new sentence at the end thereof to read as follows: "In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas."

TRAINING PROGRAMS

SEC. 119. The second sentence of subsection (b) of section 140 of title 23, United States Code, is amended to read as follows: "Whenever an apportionment is made under subsection 104 (b) (1), (b) (2), (b) (3), (b) (5), or (b) (6) of this title for the fiscal years 1972, 1973, 1974, 1975, 1976, the three-month period ending September 30, 1976, and the fiscal years 1977 and 1978, the Secretary shall deduct from the total of all such apportionments such sums as he may deem necessary, not to exceed $5,000,000 per fiscal year for the fiscal years 1972 and 1973, $10,000,000 per fiscal year for the fiscal years 1974, 1975, and 1976, $2,500,000 for the three-month period ending September 30, 1976, and $10,000,000 per fiscal year for the fiscal years 1977 and 1978, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems.".

PUBLIC TRANSPORTATION

SEC. 120. (a) Section 142(a) (1) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility).".

(b) Section 142(e)(3) of title 23, United States Code, is amended by striking out "section." and inserting in lieu thereof "title.".

SPECIAL BRIDGE REPLACEMENT PROGRAM

SEC. 121. Section 144(d) of title 23, United States Code, is amended by striking out "shall not exceed 75 per centum" and inserting in lieu thereof "shall be 90 per centum".

DEFINING STATE

SEC. 122. Section 152 and section 153 of title 23, United States Code, are amended by adding at the end of each such section the following new subsection:

"(f) For the purposes of this section the term 'State' shall have the meaning given it in section 401 of this title.".

HIGHWAYS CROSSING FEDERAL PROJECTS

SEC. 123. (a) Chapter I of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 156. Highways crossing Federal projects

"(a) The Secretary is authorized to construct and to reconstruct any public highway or highway bridge across any Federal public works project, notwithstanding any other provision of law, where there has been a substantial change in the requirements and costs of such highway or bridge since the public works project was authorized, and where such increased costs would work an undue hardship upon any one State.

"(b) There is hereby authorized to be appropriated not to exceed $100,000,000 for fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.".

(b) The analysis of chapter I of title 23 of the United States Code is amended by adding at the end thereof the following:

"156. Highways crossing Federal projects.".

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

SEC. 124. Section 217(e) of title 23, United States Code, is amended by striking out "$40,000,000" and inserting in lieu thereof "$45,000,000", and by striking out "$2,000,000" and inserting in lieu thereof "$2,500,000".

LANDSCAPING AND SCENIC ENHANCEMENT

SEC. 125. (a) Section 319 of title 23, United States Code, is amended to read as follows:

"§ 319. Landscaping and scenic enhancement

"The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.".

(b) All sums authorized to be appropriated to carry out section 319(b) of title 23, United States Code, as in effect immediately before the date of enactment of this section shall continue to be available for appropriation, obligation, and expenditure in accordance with such section 319(b), notwithstanding the amendment made by the first section of this Act.

BRIDGES ON FEDERAL DAMS

SEC. 126. (a) Section 320(d) of title 23, United States Code, is amended by striking out "$27,761,000" and inserting in lieu thereof "$50,000,000".

(b) Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund.

OVERSEAS HIGHWAY

SEC. 127. Subsection (b) of section 118 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is amended—

(1) by striking out "1975, and" and inserting in lieu thereof "1975,"; and

(2) by striking out "can be obligated." and inserting in lieu thereof "$8,750,000 for the three-month period ending September 30, 1976, $35,000,000 for the fiscal year ending September 30, 1977, and $35,000,000 for the fiscal year ending September 30, 1978, can be obligated.".

TECHNICAL AMENDMENTS

SEC. 128. (a) The analysis of chapter I of title 23, United States Code, is amended by striking out

"111. Use of and access to rights-of-way—Interstate System.".

and inserting in lieu thereof the following:

"111. Agreements relating to use of and access to rights-of-way—Interstate System.".

(b) The analysis of chapter I of title 23, United States Code, is amended by striking out

"119. Administration of Federal-aid for highways in Alaska."

and inserting in lieu thereof the following:

"119. Repealed.".

(c) The analysis of chapter I of title 23, United States Code, is amended by striking out

"133. Relocation assistance."

and inserting in lieu thereof the following:

"133. Repealed.".

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 129. (a) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by inserting immediately after subsection (h) the following new subsections:

"(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines, whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

"(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.

"(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.".

"(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road.".

(b) Existing subsections (i), (j), (k), and (l) of section 163 of the Federal-Aid Highway Act of 1973 are relettered as (m), (n), (o), and (p), respectively, including any references to such subsections.

(c) Subsection (o) (as relettered by subsection (b) of this section) of section 163 of the Federal-Aid Highway Act of 1973 is amended by striking out "1976, except that" and inserting in lieu thereof the following: "1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for the fiscal year ending September 30, 1978, except that not more than".

(d) Section 302 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is amended by striking out "$14,000,000, except that" and inserting in lieu thereof "$14,000,000, except that not more than".

ACCELERATION OF PROJECTS

SEC. 130. The Secretary of Transportation shall carry out a project to demonstrate the feasibility of reducing the time required from the time of request for project approval through the completion of construction of highway projects in areas that, as a result of recent or imminent change, including but not limited to change in population or traffic flow resulting from the construction of Federal projects, show a need to construct such projects to relieve such areas from the impact of such change. There is authorized to be appropriated out of the Highway Trust Fund to carry out such project not to exceed $25,000,000.

MULTIMODAL CONCEPT

SEC. 131. Secion 134 of the Fedeal Aid Highway Act of 1973 is amended by inserting "(a)" immediately following "SEC. 143." and by adding the following new subsection at the end thereof:

"(b) The Secretary of Transportation is authorized and directed to study the feasibility of developing a multimodal concept along the route described in paragraph (1) of subsection (a) of this section, which study shall include an analysis of the environmental impact of such multimodal concept. The Secretary shall report to Congress the results of such a study not later than July 1, 1977.".

RIDE-SHARING PROGRAMS

SEC. 132. (a) For the purposes of this section—

(1) the term "ride-sharing" means the use of a motor vehicle with a seating capacity designed to transport at least eight and no more than fifteen individuals, for the transportation of a group of individuals on a regularly scheduled basis;

(2) the term "recipient" means a municipality or other local government; and

(3) the term "Secretary" means the Secretary of Transportation.

(b) There are authorized to be appropriated, out of the Highway Trust Fund, $20,000,000 for the fiscal year ending September 30, 1977, $25,000,000 for the fiscal year ending September 30, 1978, and $30,000,000 for the fiscal year ending September 30, 1979, for the purpose of carrying out this section.

(c) The Secretary shall apportion the funds authorized to be appropriated for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, the sums authorized to be appropriated for such periods for expenditures for ride-sharing projects, using the following formula: three-quarters of such funds apportioned in the ratio which the population of each State bears to the population of all of the States as shown by the latest available Federal census, and one-quarter of such funds apportioned in the ratio which the public road mileage in each State bears to the total public road mileage in all of the States. No State shall receive less than one-half of 1 per centum of the total amount apportioned each fiscal year.

(d) On or before January 1 preceding the commencement of each fiscal year, the Secretary shall certify to each State highway department the sums which he has apportioned hereunder to such State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (h) of this section.

(e) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each pursuant to an authorization under this section, such sums shall be available for expenditure under the provisions of this section.

(f) Sums apportioned to a State shall continue to be available for expenditure in that State for the appropriate ride-sharing program for a period of two years after the close of the fiscal year for which such sums are authorized, and any amounts so apportioned remaining unexpended at the end of such period shall be reapportioned among the other States in accordance with the provisions of subsection (c) of this section. Such sums for any fiscal year shall be deemed to be expended if an amount equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is covered by formal project agreements providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for ride-sharing programs. Any ride-sharing program funds released by the payment of the final voucher or by the modification of the formal program agreement shall be credited to the same class of funds previously apportioned to the State and be immediately available for expenditure.

(g) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with subsection (c) of this section for such fiscal year and all preceding fiscal years.

(h) Whenever an apportionment is made of sums authorized to be appropriated for expenditure for a ride-sharing program, the Secretary shall deduct a sum, in such amount not to exceed 2 per centum of all sums so authorized, as the Secretary may deem necessary for administering the provisions of this section.

(i) As soon as practicable after the apportionments for ride-sharing projects have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this section shall submit to the Secretary for his approval a program or programs of proposed projects for ride-sharing for senior citizens and handicapped persons, workers, and developmental projects to encourage ride-sharing in rural and in urban areas. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part. The Secretary shall require that such a project be selected by the State highway department and the recipient of the grant in cooperation with each other.

(j) The State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such estimates of both acquisition and operating costs for each project included in an approved program as the Secretary may require. The Secretary shall act upon such estimates as soon as practicable after they have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its Federal share for such project.

(k) The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section, except that any motor vehicle acquired by a recipient of a grant shall be publicly owned during its useful life.

(l) The Federal share of any project receiving Federal financial assistance under this section shall not exceed 80 per centum of the cost of such project, except that the Federal share of operating costs shall not exceed 50 per centum.

CAR POOLS

SEC. 133. The last sentence of subsection (d) of section 3 of the Emergency Highway Energy Conservation Act (Public Law 93-239) is hereby repealed.

EFFECTIVE DATE OF AMENDMENTS

SEC. 134. Section 125 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is amended by adding at the end thereof the following new subsection:

"(c) The amendments made by subsections (a) and (b) of this section shall take effect August 13, 1973.".

USE OF TOLL RECEIPTS FOR HIGHWAY AND RAIL CROSSINGS

SEC. 135. Section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended as follows:

(1) Subsection (a) is amended by striking out "heretofore enacted." and inserting in lieu thereof a period.

(2) The first sentence in subsection (b) is amended by striking out "of not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches." and inserting in lieu thereof "(1) not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches, and (2) any public transportation system in the vicinity of any toll bridge in the San Francisco Bay Area.".

(3) The third sentence in subsection (b) is repealed.

EXTENSION OF REPAYMENT

SEC. 136. The first sentence of section 2 of Public Law 94-30 is amended by striking out "before January 1, 1977." and inserting in lieu thereof "January 1, 1979, at a rate of 20 per centum by January 1, 1977, 30 per centum by January 1, 1978, and 50 per centum by January 1, 1979. If a State fails to make any repayment in accordance with the preceding sentence, the entire unpaid balance shall immediately become due and payable.".

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS

SEC. 137. (a) The Secretary of Transportation is authorized to carry out traffic control signalization demonstration projects designed to demonstrate the increased capacity of existing highways, the conservation of fuel, the decrease in traffic congestion, the improvement in air and noise quality, and the furtherance of highway safety, giving priority to those projects providing coordinated signalization of two or more intersections. Such projects can be carried out on any highway whether on or off a Federal-aid system.

(b) There is authorized to be appropriated to carry out this section out of the Highway Trust Fund, not to exceed $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

(c) Each participating State shall report to the Secretary of Transportation not later than September 30, 1977, and not later than September 30 of each year thereafter, on the progress being made in implementing this section and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the benefits resulting from such projects comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such traffic control signalization. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1978, on the progress being made in implementing this section and an evaluation of the benefits resulting therefrom.

CONGRESSIONAL INTENT

SEC. 138. It is the intent of Congress that in any case where a bridge is constructed, reconstructed, replaced, repaired, or otherwise altered under authority of title 23 of the United States Code or any other provision of law, such construction, reconstruction, replacement, repair, or other alteration shall, to the extent feasible, provide for reasonable access to the water traversed by such bridge. Such access shall be provided at or in the vicinity of such bridge and shall be for the purpose of permitting the public to use such water for recreation purposes.

DEMONSTRATION PROJECT

SEC. 139. The Secretary of Transportation, acting pursuant to his authority under section 6 of the Urban Mass Transportation Act of 1964, shall conduct a demonstration project in urban mass transportation for design, improvement, modification, and urban deployment of the Automated Guideway Transit system now in operation at the Dallas/Fort Worth Regional Airport. There is authorized to be appropriated to carry out this section $1,500,000 for the three-month period ending September 30, 1976, and $5,500,000 for the fiscal year ending September 30, 1977.

URBAN SYSTEM STUDY

SEC. 104. The Secretary of Transportation is authorized and directed to conduct a study of the various factors involved in the planning, selection, programing, and implementation of Federal-aid urban system routes which shall include but not be limited to the following:

(1) An analysis of the various types of organizations now in being which carry out the planning process required by section 134 of title 23, United States Code. Such analysis shall include but not be limited to the degree of representation of various governmental units within the urbanized area, the organizational structure, size and calibre of staff, authority provided to the organization under State and local law, and relation to State governmental entities.

(2) The status of jurisdiction over roads on the Federal-aid urban system (State, county, city, or other local body having control).

(3) Programing responsibilities under local and State laws with respect to the Federal-aid urban system.

(4) The authority for and capability of local units of government to carry out the necessary steps to process a highway project through and including the plan, specification, and estimate requirement of section 106 of title 23, United States Code, and final construction.

Such study shall be carried out in cooperation with State, county, city, and other local organizations which the Secretary deems appropriate. The study shall be submitted to the Congress within six months of enactment of this section.

LIMITATIONS

SEC. 141. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts. None of the funds authorized in this title for the three-month period ending September 30, 1976, and for the fiscal year ending September 30, 1977, may be obligated prior to July 1, 1976, except the following: (1) for projects on the Interstate System, $583,000,000 for the three-month period ending September 30, 1976, and $3,300,000,000 for the fiscal year ending September 30, 1977, and (2) all other sums (other than for the Interstate System) which are authorized out of the Highway Trust for the three-month period ending September 30, 1976.

Mr. HOWARD. Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: Page 26, line 14, strike out "(a)".

Page 26, lines 23 and 24, strike out "$4,000,000,000" each place it appears and insert in lieu thereof at each place "$3,250,000,000".

Page 27, strike out line 16, and all that follows down through and including line 15 on page 29.

Mr. HARSHA. Mr. Chairman, the purpose of this amendment is simple and straightforward. First, it would eliminate the separate discretionary category of unapportioned Interstate System funds in the amount of $750 million a year for use by the Secretary. In funding projects to complete gaps in the system or those characterized by high cost and extended construction time.

Second, it would accordingly reduce the annual level of authorization in the bill by three-quarters of a billion dollars for fiscal years 1977 and 1978.

There is no question in my mind that the overall funding level in this bill is excessive. This is one way to reduce authorizations substantially without severely hampering the progress of the Interstate System construction program. My amendment would still leave $3.25 billion in interstate authorizations for each of the 2 years covered by this bill, representing an increase of a quarter of a billion dollars a year over the $3 billion fiscal year 1976 authorization provided in existing law.

At the same time, it would avoid creating a new, unneeded and unwanted category subject to the discretion of the incumbent Secretary or any other Secretary of Transportation.

This would be unwise in my judgment, vesting excessive discretionary authority in a Federal official over this vital program. My principal objection in this connection has to do with principle and the precedent we would be setting here. To his credit, Secretary Coleman has joined in expressing his opposition to this provision at a time when the main thrust of the administration's efforts is directed toward consolidating and reducing—not adding—categories in the administration of the Federal highway program.

As a matter of fact, the discretionary fund provision in the bill before us represents a modification of an administration proposal which would have set up a mechanism through the apportionment system giving greater weight to routes most essential to a unified, connecting, nationwide system. The Committee on Public Works and Transportation declined to accept this recommendation and substituted its own approach to the same problem. But in so doing, it provided for discretionary assistance to projects which may not be essential for completion of the Interstate System nationwide. As I noted in minority views, both high cost and protracted periods of construction characterized many controversial urban routes not necessary to the highest national objective of nationwide connectivity. If enacted, the committee's version could have the result of increasing pressure to construct routes which otherwise might be considered for withdrawal.

This bill, in the main, extends the basic ABCD program at current levels. The Congress has adopted a policy objective of giving greater weight to noninterstate systems. This bill does not reflect that policy objective, presumably because of funding concerns. Therefore, it makes no sense to me to increase the interstate authorization and thus going far toward increasing the total in the bill beyond reason.

I urge acceptance of my amendment.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the attempt to strike $750 million from this bill for the Interstate authorization.

There is a crying need at this time to fund the Interstate System as expeditiously as possible so we can complete construction of the system as soon as possible. The Interstate System was authorized in 1944 and funded initially in the Federal Aid Highway Act of 1956. The original target date for completion was 1972. This bill would make the completion date of the Interstate System between 1988 and 1989.

We cannot continue to drag out what is a vitally needed link-up of our major cities and is the main arterial highway for the United States. The $4 billion a year level in this particular bill is essential funding. The states, and a majority of them, are in crying need of money now—and as much as possible. The funding of the Interstate System at the $4 billion level is an attempt to meet part of the answer, the rest of which is contained in the other highway authorizations in this bill to assist the states as rapidly as possible.

As for the part discretionary authority of the Secretary of Transportation, the original proposal of the Department of Transportation and the Administration in this matter was on a 50/50 split. The committee attempted to compromise by authorizing $3,250,000,000 to be funded under the normal existing authorizational procedure for the interstate program, and the remaining $750 million to be funded at the discretion of the Secretary of Transportation—with the following proviso, however, that within the $750 million the committee has written further restrictions—$500 million to be obligated only for projects necessary for the completion of continuous sections of the national system of defense highways, and the remaining $250 million to be obligated only for projects of unusually high costs which require long periods of time for their construction.

In addition, any part of this $750 million which is not obligated by October 1, 1978, immediately is directed to be apportioned in the same normal manner for the Interstate System as the $3,250,000,000 which is also authorized for the system under this bill.

We have therefore written careful safeguards into the discretionary authority of the Secretary, while at the same time attempting to meet as best we could the requests of the administration.

For the reasons stated above, I oppose the amendment and hope it will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HARSHA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 309, not voting 22, as follows:

[Roll No. 810]

AYES—103

Adams
Anderson, Ill.
Armstrong
Ashbrook
Aspin
AuCoin
Bauman
Beard, Tenn.
Bedell
Bell
Bennett
Biester
Brown, Mich.
Brown, Ohio
Burgener
Carter
Cederberg
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Devine
Dickinson
Downey, N.Y.
Duncan, Tenn.
du Pont
Edgar
Emery
Erlenborn
Evans, Ind.
Fenwick
Findley
Fisher
Forsythe
Frenzel
Gilman
Goldwater
Goodling
Gradison
Guyer
Hall
Hammerschmidt
Harsha
Horton
Hughes
Hutchinson
Jacobs
Johnson, Colo.
Johnson, Pa.
Kasten
Kemp
Kindness
Lagomarsino
Latta
Long, Md.
McEwen
McKinney
Macdonald
Madigan
Maguire
Michel
Mikva
Miller, Ohio
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Pa.
O'Brien
Passman
Pettis
Quillen
Regula
Rhodes
Rousselot
Ruppe
Russo
Satterfield
Schneebeli
Schulze
Shuster
Simon
Snyder
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Taylor, Mo.
Treen
Vander Jagt
Vanik
Walsh
Wiggins
Wilson, Bob
Wydler
Wylie
Young, Alaska

NOES—309

Abdnor
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Badillo
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Casey
Chappell
Chisholm
Clausen, Don H.
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Esch
Evans, Colo.
Fary
Fascell
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fraser
Frey
Fuqua
Giaimo
Gibbons
Ginn
Gonzalez
Grassley
Green
Gude
Hagedorn
Haley
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe

Hubbard
Hungate
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kelly
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McFall
McHugh
McKay
Madden
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steelman
Stephens
Stratton
Stuckey
Studds
Symington
Symms
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vigorito
Waggonner
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—22

Abzug
Allen
Bolling
Daniels, N.J.
Eshleman
Evins, Tenn.
Fish
Ford, Mich.
Fountain
Gaydos
Hastings
Hébert
Heinz
Hinshaw
McCloskey
McCormack
Pike
Randall
Stanton, James V.
Stokes
Sullivan
Wilson, Tex.

Messrs. KOCH, McDONALD of Georgia, MARTIN, BOLAND, and KELLY changed their votes from "aye" to "no."

Mr. DOWNEY of New York, Mrs. PETTIS, and Mr. RUSSO changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: Page 42, strike out lines 1 and 2 and insert in lieu thereof: "cluded in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print numbered 92-29, as revised in House report numbered 92-1443, increased or decreased, as the case may be, as determined".

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) is recognized for 5 minutes in support of his amendment.

Mr. HARSHA. Mr. Chairman, I have two other amendments to offer. These amendments all deal with the same section, the interstate transfer section.

In order to expedite the proceedings here, if the distinguished gentleman from New Jersey (Mr. HOWARD) will bear with me, I ask unanimous consent that these amendments be considered en bloc so that we may consider them all at the same time. The amendments all deal with the same subject matter, the interstate transfer.

The CHAIRMAN. The Clerk will report the remaining amendments.

The Clerk read as follows:

Amendments offered by Mr. HARSHA: Page 41, line 22, after the period insert the following: "The mileage of the route or portion thereof approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection."

Page 41, line 11, strike out "(a)".

Page 44, strike out line 17 and all that follows down through and including line 25.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) is recognized in support of his amendments.

Mr. HARSHA. Mr. Chairman, the purpose of the amendments is to clean up the language in the bill, or more particularly the section sponsored by the gentlelady from New York, so as to remove the most objectionable features.

I refer to her rewrite of the interstate withdrawal and transit substitution section in existing law, which I described in some detail in minority vews accompanying H.R. 8235 and a "Dear Colleague" letter circulated to Members' offices Monday night. If you have not read them, I urge you to scan them as debate on this issue proceeds.

You will note that my amendments are not motions to strike. If Members feel that, in addition to transit, highway projects ought to be substituted for withdrawn segments of Interstate Highways, so be it. I think it a violation of the integrity of a nationwide Interstate System, but flexibility seems to be the name of the game this season.

But I am unalterably opposed to the shell-game aspects of section 108 in the reported bill, which would allow a State to fatten up the turkey for the kill—as the minority views expressed it—redesigning an Interstate Highway project for the sole purpose of increasing the cost, then withdrawing the segment, and walking away with an artificially escalated Federal share of the substituted transit or highway project. This could easily be done. For example, by abandoning an overland route on a waterfront alinement and designing a project to rest on piers along the shoreline. Or you could take a route at grade and elevate it—and elevate its cost—or you could opt for a tunnel—and go even deeper in the hole.

It is no secret that the intention of the sponsor of this language, the gentlelady from New York, is to see the so-called West Way—West Side Highway—project in New York redesigned and then knocked off the system with substitution of the transit project.

A memorandum from her office to the Committee on Public Works and Transportation makes no bones about it: The expectation is for a project ballooned from some $450 million to nearly a billion dollars, which would be scrapped. The West Side Highway, which is in miserable shape, would be rebuilt to less than interstate standards for something in the range of $300 million, with the remainder—$700 million—skimmed off for transit.

The gentlelady's opposition to the West Side project is well known to even the casual reader of the New York Times, which cited it last March in reporting an agreement between Mayor Beame and Governor Carey that the project should proceed as interstate.

On the matter of that agreement, I understand that efforts were made on behalf of the roadbuilding industry—contractors and construction workers alike—in New York this week to obtain an ironclad reaffirmation of intent to proceed with the West Side project as an interstate project.

The distinguished chairman of the subcommittee read from that letter today and has agreed to submit it in the RECORD, but I contend there is nothing in that letter to commit either the mayor or the Governor to the ultimate construction of that project.

The industry asked that such commitments be sent to the committee. I should like to ask the distinguished chairman of the subcommittee on whether either is aware of that effort and what result is produced. If the Governor and the mayor want the highway project, as they would have you believe, you do not need the Abzug amendment. If they do not want it, then that further confirms my interpretation of the Abzug amendment's intent.

I wish to point out that I received a telegram from the General Contractors Association of the city of New York and 12 unions or union locals in construction and allied trades opposing the Westway write-off, to put it gently.

My amendments would simply restore the provision of existing law requiring that the design and cost of the interstate project being withdrawn, for purposes of determining the Federal share of substituted projects, be that design and cost which served as the basis for the cost included in the 1972 Interstate System cost estimate, adjusted for escalation in construction costs since. But no redesign.

They would also restore that provision in existing law providing that interstate mileage withdrawn in any one State be available for redesignation only in another State. Finally, they would strike the "payback" prohibition in the Abzug amendment, which, as written, would allow States to convert right-of-way purchased with 90-10 trust fund to nontransportation uses or sell it outright with no obligation to reimburse the trust fund.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) has expired.

(By unanimous consent, Mr. HARSHA

was allowed to proceed for 2 additional minutes.)

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Is there any way either under this legislation or under existing law that a year or so later they could come back with the newly designed, ballooned-up Westway and reapply for that under the Interstate System?

Mr. HARSHA. Under present law, if there is a withdrawal of a segment of the Interstate System, then that mileage is available for redesignation in other States only. Under this provision it is not. The State does not lose it.

That is why I say they can have it both ways. They can retain that interstate and build it at a later time and in the same place, so they get their cake both ways.

That is why this is so objectionable.

I urge the adoption of my amendments, Mr. Chairman.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, there are three separate parts, as the gentleman from Ohio has indicated, to these amendments. Each of them, on its own right, should be defeated.

A majority of the members of the Committee on Public Works and Transportation supported this provision in the bill before us in its entirety.

Mr. Chairman, the first item in the amendments of the gentleman from Ohio would restore the provision in existing law requiring that the design and cost of the interstate project being withdrawn, for the purpose of determining amounts available for substitute projects, be the design and cost reflected in the 1972 interstate cost estimate adjusted for changes in construction costs. The provision in the bill provides that amounts available for substitute projects shall be based upon the latest cost estimate approved by Congress, adjusted for changes in construction costs.

Mr. Chairman, funding for the entire Interstate Highway program is based on the latest cost estimate which Congress approves. In the interest of fairness, equal treatment should be extended in the operation of this provision to all substitute projects which a community decides best meet its needs.

Existing law is discriminatory in this regard. It should be changed, as in the bill, but not as in the amendment.

Mr. Chairman, this amendment is a bad amendment. It takes the heart out of the entire substitution process.

Mr. Chairman, the second part concerns where the mileage goes. The mileage does not go particularly to the same State.

It goes back in the national pool and is available for redesignation by the Secretary of Transportation. The Secretary of Transportation has general authority to designate the Interstate System under existing law.

So, in fairness, the second portion should be defeated.

In the final portion, Mr. Chairman, this amendment would completely undermine the operation of the Interstate transfer provision which this House and this Congress passed in 1973 and which we are updating in this bill. The gentleman's amendment would leave it up to the Secretary of Transportation to determine how much the States would have to pay back of Federal funds expended on withdrawn projects.

Under proposed regulations appearing in the Federal Register of November 17, 1975, when a State withdraws an Interstate segment, it would be required to pay back all Federal funds expended on the project after January 1, 1971. This even includes expenditures for planning and preliminary engineering, for example. With regard to Federal expenditures prior to January 1, 1971, repayment would be required only when the item purchased with Federal funds is tangible and had a recoverable cost at the time of the withdrawal action. Expenditures involving nontangible items would be forgiven.

The proposed regulations are completely unacceptable and were unacceptable to the Committee on Public Works and Transportation. If the gentleman's amendment passes, no doubt the proposed regulations will be forced down our throats. If the amendment fails, then we here in the Congress will be deciding the issue.

Section 108(b) of the committee bill provides that a State shall not be required to pay back any sums expended on the withdrawn route, so long as the sums were devoted to transportation purposes. This provides a safeguard to prevent, for example, the purchase of right-of-way for an interstate highway and subsequently converting the right-of-way into parkland or some other unrelated purpose when the segment is withdrawn. In this case, the State would be required to pay back all Federal funds expended for that right-of-way.

The amendment requires the payback of substantial sums of cash at the time when the States can ill afford to do so. This is for all States, it is not just for one city or one State but it is a proposal to cover comparable places all over the country. The gentleman's amendment does require the payback at a time when the States cannot afford to. It undermines the operation of the Interstate transfer provision, and restricts States and local communities in the exercise of their options under this authority. We got them into this general arrangement back in 1973 and in all fairness this package should be defeated. I hope the committee will do so.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Is it not a fact that under the Abzug amendment they can redesign the project?

Mr. HOWARD. Yes, that is correct.

Mr. HARSHA. And that would have the effect of ballooning the cost; is that correct?

Mr. HOWARD. Whatever is the current cost, rather than tie the cost down to 1972.

Mr. HARSHA. We include the cost for 1972 design, but provided for increased cost, for escalation.

I would like to ask the gentleman whether under existing law, the mileage of a route or portion thereof which is withdrawn under this program shall be available for resignation on the Interstate System only in States other than the State in which it is withdrawn?

That language has been withdrawn by this amendment. Therefore, the money, whatever is available for the mileage, is not apportioned to other States; is that correct?

Mr. HOWARD. That is correct.

Mr. HARSHA. Therefore, a State that took its project off could retain the mileage, get the money that it got out of that for some other project, and then come back and rebuild the interstate because it still has the mileage available. Is that correct?

Mr. HOWARD. Is the gentleman talking about existing designated mileage, or talking about additional mileage that might be designated by the Secretary?

Mr. HARSHA. I am talking about existing designated mileage.

Mr. HOWARD. The gentleman is correct, but that does not make the amendment any better in my opinion. They could obtain the mileage if the Secretary of Transportation redesignates the mileage in that State.

Mr. CLEVELAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, there were some Members on the floor who were not here during general debate, and for that reason I am taking a few minutes to rise in support of the Harsha amendments and to explain to the Members why the purpose of the Harsha amendments that should have the support of this House.

First of all, just let me read from a telegram that I received from contractors and 10 or 12 labor unions in New York City. I will take the time to read this only in part. It was placed in the RECORD last Tuesday, H.R. 12666 and I hope that some of the Members had an opportunity to read it.

They speak about the desperate situation of the construction industry in New York. They say that, "We are currently experiencing unemployment of 40 to 90 percent and disastrous bankruptcies on behalf of employers."

This is essentially a plea by these people to have the West Side or the Westway, as it is now called, Highway reconstructed. They have been advised, and I believe properly so, through officials in New York City, through newspaper articles, and in other manner, that if Section 108 (the Abzug section) is not amended, then the Westway Highway will not be built as an interstate highway. It is just that simple.

The gentleman from Ohio pointed out the purposes of his amendments, and he did so very correctly and forcefully. But my purpose in taking this time in support of the amendment is to remind the Members of the human side of this problem and basically what is going to happen if we do not amend the Abzug amendment.

Basically what is going to happen is that we are going to really be giving New York City what amounts to a backdoor bailout. I think the House of Representatives and Congress have already been quite generous to New York City. I think it would be a great mistake and a travesty on our legislative procedures if we were to allow ourselves, in spite of the fact that it is the Christmas season, to give Mayor Beame another big bailout, even if it is done through the back door by the techniques of section 108 that we are addressing with those amendments.

What I have been told and what I believe to be the facts of the situation is this: If the Westway is redesigned, it will be redesigned so that some billion dollars can then be transferred. Some will be used to patch up the Westside Highway or for other construction projects and the rest for mass transit capital costs. But then that will release State and city construction funds that will simply be used for operating expenses, a device that got New York City into trouble. Even worse no net increase in capital construction will result, and no new jobs.

I believe that is why the contractors and the labor unions sent to the gentleman from Ohio (Mr. HARSHA) and to me their desperate plea: Please save us. They said, "Please save us."

That is why I am taking this extra time to urge the House to support those amendments.

Mr. JONES of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the proposition has arisen that this is entirely a New York or a provincial problem. This is not a new approach to the proposition. In the amendment adopted in 1973, we provided for this kind of situation. We have some 20 communities throughout the country, urban areas, that are considering the transfer provisions. Of course, these are areas where a proposed interstate project has been subject to debate for several years, so, consequently, let us dispose in our minds of the fact that this is an internal fight in the confines of the metropolitan area of the city of New York.

I hope the amendment is not agreed to.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, I want to reiterate what the chairman has said. I think it is absolutely critical that this committee understand that, contrary to what we have heard from the proponents of this amendment, what is at stake here is not simply a special provision for the city of New York. What is at stake here in the gentleman's amendment is the very flexibility which this Congress at long last 2 years ago put into the interstate highway program, the provision that those States that wished to may take advantage of the transfer provisions of interstate highway funds for mass transit or to other highway programs. The requirement under that particular procedure that the States pay back in cash all sums already expended on interstate highway segment to be withdrawn would vitiate the intent of the Congress and that entire program.

I thank the gentleman for yielding.

Mr. JONES of Alabama. I would say in conclusion that if we take this amendment we are going to be destroying the program for the next decade. Let us kep what we already have and continue to prosper and flourish with the highway program.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for yielding.

I would say, as one who did not support the loan assistance to New York because I did not think it was proper at the time, that I stand today opposed to the amendment offered by the gentleman from Ohio. This is not a bail-out of New York in any way. This bill allows all States to have the flexibility they need to best serve their people. It merely allows New York and other States to use the program in a more flexible manner to serve their people. I oppose the amendment.

Mr. PRITCHARD. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

I want to say this is not just a proposal which would affect New York. It would affect many other communities. This is essential for Seattle. It comes right back to this basic proposition: Are we going to give more basic judgment and flexibility to the local communities? If we are, we should vote against this amendment.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection the gentleman will be recognized for 5 minutes. The gentleman has already spoken.

There was no objection.

Mr. HARSHA. Mr. Chairman, this provision in the bill now eliminates any requirement for payback. In other words the State could get its Federal money, buy the right-of-way for an Interstate System, and then take that system off the line and take the right-of-way and use it for other things. They could sell the land or do anything they wanted to do with it and they would get the money and still not have to repay the Federal Government for the money the State had used to buy the right-of-way for a supposed Interstate System. That is not right.

This is not a provision solely for the State of New York. It is nationwide. But it should not be done in New York or any other area in those circumstances. At least they should have to pay the Federal Government back the money which they used for purposes the funds were never intended to be used.

The author of the amendment was asked in committee what was the purpose of that amendment. Her staff provided the committee staff with a memorandum. It said it was to make funds available for multiple uses, available for maybe highways or other projects. They were thinking of New York needs, a highway solution on the West Side corridor. If the value of the transfer was in the neighborhood of $1 million, which is permitted under this amendment—as redesigned—it could be ballooned up to get it to $1 billion, and we—meaning the city of New York—could have enough, maybe $300 million, available to build the highway on the West Side, the rest of the money available for mass transit. That is the way to balloon it up and they want to have it both ways. That is not the proper procedure for building the Interstate System in this country.

Mr. JAMES V. STANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we ought not to try to make it appear that this is a parochial issue when it is really an issue which is national in scope. The gentlewoman from New York should be commended for the fact that she is attempting by her amendment in the bill to aid and assist nationally a great number of urban areas that are in trouble. If they do not have this flexibility they are going to continue to be in trouble. Those cities are Boston, Philadelphia, Washington, D.C., Hartford, Portland, Oreg., Cleveland, Baltimore, Denver, Detroit, Honolulu, Minneapolis-St. Paul, New Orleans, Seattle, Allentown, Pa., and the Triangle Park area of North Carolina.

Those are the areas that are under consideration. Those are the areas that are going to be affected. Those are the areas that are going to be damaged. I ask the Members not to be beguiled into the thought that this is a New York issue. This is a national issue. I urge defeat of the amendment.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the present law restricts the amount of funds that can be transferred to the amount approved by the 1972 interstate cost estimate. This was meant to be the most current cost estimate at the time of passage of the 1973 act.

I do not think the debate, which has excellently answered all the arguments of the runover of these amendments is clear on the design point.

My amendment provides that the most recent estimate be the basis for determining the transferred funds.

There are more than 20 urban areas in the country considering the use of the interstate transfer provision. All of these are areas where proposed interstate projects have been subject to debate for several years. When under debate, work stops on the proposed project. Designs conceived several years ago and long outdated are presently included in the cost estimate. These are designs that were conceived before Federal law and regulations that mandate design changes for clean air, noise and safety reasons were established. This is the case of New York, but also several other urban areas.

It is only fair that the value of the interstate project that law requires to be built, be the value that is made available for transfer. If we shortchange the transfer option, we will eliminate it.

It is also unfair to say that this provision applies only to New York City. Interstate projects in Detroit, Los Angeles, Memphis, Seattle, Tucson, and others have been in controversy for 5 to 7 years. All will require updated designs before they can be built as interstate projects that comply with clean air, noise and safety standards. If the decision is made not to build the interstate project, the amount of funds made available for transfer should be allowed to reflect these mandated changes. Moreover, it should be kept in mind that all design changes must be first approved by the Federal Highway Administration, so the "ballooning" Mr. HARSHA fears can be prevented.

Finally, the purpose of the interstate transfer provision adopted in 1973 was to end the bias in favor of interstate highways in urban areas whereby localities were forced to choose unnecessary and controversial interstate segments or forfeit large amounts of Federal assistance. That was decided and is not the issue here. But if we limit transfers to 1972 cost estimates and their designs, we are restoring that bias and we are imposing Federal decisions on matters of local choice, which choice the Congress in 1973 chose to extend to States and municipalities.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. HARSHA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HARSHA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 294, not voting 18, as follows:

[Roll No. 811]

AYES—122

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Breckinridge
Broomfield
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Cornell
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Fenwick
Findley
Flynt
Forsythe
Frey
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hammerschmidt
Hansen
Harkin
Harsha
Hastings
Hillis
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Lott
Lujan
McCollister
McDade
McDonald
McEwen
Mann
Martin
Michel
Milford
Miller, Ohio
Montgomery
Moorhead, Calif.
Mosher
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Obey
O'Brien
Pettis
Poage
Pressler
Quie
Quillen
Railsback
Regula
Robinson
Rousselot
Runnels
Ruppe
Satterfield
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Teague
Thone
Vander Jagt
Wampler
Whitehurst
Wiggins
Wylie
Young, Fla.

NOES—294

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Casey
Chisholm
Clay
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Green
Gude
Haley
Hall
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McClory
McCormack
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
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Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steed
Steelman
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Thompson
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—18

Conyers
Daniels, N.J.
Eshleman
Evins, Tenn.
Fish
Ford, Mich.
Gaydos
Hébert
Heinz
Hinshaw
Horton
McCloskey
Macdonald
Randall
Schneebeli
Sullivan
Udall
Wilson, Tex.

Mr. STAGGERS and Mrs. HOLT changed their votes from "aye" to "no."

Messrs. FINDLEY and CHAPPELL, changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 71, strike out lines 13 through 21.

Renumber succeeding sections accordingly.

Mr. SHUSTER. Mr. Chairman, earlier this year the Congress passed and the President signed into law Public Law 94-30 which provided for a temporary 100-percent financing of Federal-aid highway projects. It was an emergency measure, as the Members might recall, to permit States to utilize the $2 billion in highway funds released from impoundment by the President last February.

A central feature of the legislation was that a normal State's share, which was generally around 30 percent, must be repaid to the Federal Government by the States not later than January 1, 1977. Considerable debate arose, both in the committee and on the floor of the House, concerning the budgetary impact in the event of forgiveness or extension of the payback feature. A fundamental argument at that time proposed by both the majority and the minority leadership to allay the fears of those concerned was the fact that the bill mandated repayment of the normal States' share with non-Federal funds by January 1, 1977, thus retaining complete control over this feature by the 94th Congress and the present makeup of the Committee on Public Works and Transportation. Every possible assurance was given by the majority and the minority leadership on the committee that forgiveness or an extension would not be forthcoming from this committee, and that the control feature would remain with the present committee.

Members of the House, no less than 10 times on the floor of this House did both the majority and the minority leadership stand and give assurances that there would be no extension of the January 1, 1977 date. I refer the Members to the CONGRESSIONAL RECORD of April 10.

As the ranking minority member of the Subcommittee on Surface Transportation and as a cosponsor of that bill, I joined in giving those assurances.

The provision in H.R. 8235 before us, extending repayment time for 2 additional years, not only disregards the ironclad assurances given to the Congress by the Committee on Public Works and Transportation just a few short months ago, but also relinquishes all control over this law by the present committee and the present Congress.

Who among us can explain to those States which did not come forward and did not disapprove of the 100-percent clause because they were not able to pay back the money by January 1, 1977, why we are extending this and letting the States which did come forward become the beneficiaries of this change?

There are only 13 States which are beneficiaries of over $277 million; and if we pass this 2-year extension, we are being unfair to the other 37 States which did not come forward because they took us at our word and assumed that we would not be extending this date beyond the present date.

Mr. Chairman, let me share with the Members the names of the States which do benefit. There are only 13: Arkansas, California, Idaho, Illinois, Maryland, Michigan, Mississippi, Wisconsin, Nebraska, North Carolina, Pennsylvania—I ask the Members to note that my own State will be a beneficiary of this—South Carolina, and Tennessee.

Thirteen States become beneficiaries. Only four of those States are beneficiaries of over $10 million: Illinois, Maryland, Michigan, and my own State of Pennsylvania.

Nevertheless, when we passed this bill, we said we would not extend this beyond the present Congress, beyond January 1, 1977. I suggest that for us to come now to this floor today to extend that payback provision for another 2 years, to give this windfall benefit to 13 States at the expense of 37 States is grossly unfair. I urge the adoption of this amendment to strike this unfair language in the bill.

Mr. HOWARD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, earlier this year, the Congress passed and the President signed into law Public Law 94–30.

This law provided temporary 100 percent financing of Federal-aid highway projects. It was an emergency measure whose purpose was to fully utilize the $2 billion in highway funds released from impoundment by the President last February 12 to stimulate the sagging construction industry.

The law requires that the State share must be repaid not later than January 1, 1977.

The committee fully intended at that time that in every case the State share could and should be paid back by January 1, 1977. However, circumstances do alter cases, Mr. Chairman. The committee has discovered over the last 3 months that more than one-half of all the States are running out of funding for their highway program. In many cases, States are having difficulty meeting the required matching funds of 10 percent for the Interstate System, and, of course, are having even more difficulty in reaching the 30 percent for the other matching formula, which is 70–30 on the remaining Federal-aid system.

As a result, the committee, after due deliberation, with proper safeguards, has amended the requirement under the 100-percent Federal financing provision that funds must be paid back by January 1, 1977. It has added a section to this bill, the section which the gentleman would attempt to strike, section 136.

Section 136 would now require full payment by the States by January 1, 1979, at a rate of 2 percent by January 1, 1977, an additional 30 percent by January 1, 1978, and 50 percent by January 1, 1979. If any State fails to make a repayment at any time when it is due either in 1977, 1978, or 1979, the entire unpaid balance becomes immediately due and payable.

The committee feels that this is strong language that will require the States to act to pay off the money due under the emergency law that was enacted. There is no forgiveness to the State of 1 penny of the money advanced to the State. However, since we passed the legislation we have found that the economy has not rebounded as we were told it would do and we find the States are in difficulty.

All we do is stretch out for 2 years the time of the repayment but we do not forgive 1 penny of the money owed by the States. We think we owe it to the States to give them a chance to use what little funds they have to keep people working and to put additional people to work. Therefore I oppose the amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. I yield to my very good friend, the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding.

I understood the gentleman to say that because the States are running out of highway money there is a great need for these funds. I agree with the gentleman. The States are running out of highway money. Is that not an argument for prompt passage of this highway bill and not an argument for bestowing this favoritism upon 13 States at the expense of 37 other States?

Mr. HOWARD. I agree that it is a good argument for both things, to pass the bill and also to defeat the gentleman's amendment.

Mr. DERWINSKI. Mr. Speaker, I move to strike the last word and I rise in opposition to the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. Chairman, I think it is clear from the debate that we have just heard that our views on this may well reflect what the effect of the amendment has on our particular State. My understanding is that the passage of this amendment would cost the State of Illinois approximately $52 million.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield on that point?

Mr. DERWINSKI. I will yield to the gentleman in just a second.

The gentleman from New Jersey (Mr. HOWARD) promptly pointed out that this is not a forgiveness feature. All this amounts to is a 2-year stretchout. All payments will be made. That will make it possible for my State of Illinois hopefully to effectively fund their highway program and also continue to provide the State funds that are needed to match the Federal funds.

Now I will yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, on that point, the gentleman was quite modest in his estimate of how much Illinois would benefit. The figures provided to me by the Federal Highway Administration show that out of the $212 million, Illinois alone will be the beneficiary of $126 million. This is an Illinois amendment. And I suppose if I were from Illinois I might be constrained to oppose the amendment.

Mr. DERWINSKI. Mr. Chairman, just so that we use the proper phraseology, this is not an Illinois amendment, the amendment would gut the Illinois highway program. I submit that with the needs of my State of Illinois, with its distinguished Governor, with the great financial problems he faces, that this amendment would be a disservice to the people of Illinois.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I would like to say that it in no way will, nor does the gentleman from Illinois intend to have it, save any money for the State of Illinois. Illinois will pay its debt.

Mr. DERWINSKI. That is right.

Mr. HOWARD. Illinois will pay it back. It merely extends the time for the repayment into three payments.

Mr. DERWINSKI. When the two years are over it will have properly repaid the money, it will not have saved the State that money.

Mr. SHUSTER. Mr. Chairman, if the gentleman will yield on that point that it will not save money, is it not true that if Illinois is able to keep $126 million for 2 years longer than they otherwise could, they would certainly benefit by whatever the interest rate happens to be, and the other States of America would of course not get 1 cent.

Mr. DERWINSKI. If it is the gentleman's understanding that they will not touch this money, the gentleman is wrong. This is money that basically, at this moment, they do not have because of the State's financial problems. All we are doing is providing for an additional 2 years for the repayment. There is not a penny lost to the Federal taxpayer in this. It is a legitimate adjustment to the needs of some of our States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania: on page 52, after line 4, add the following new section: Section 115(a) Section 127 of Title 23 of the United States Code is amended by striking out the following: "twenty thousand pounds carried on any one axle, including all enforcement tolerances: or with a tandem axle weight in excess of thirty-four thousand pounds, including all enforcement tolerances: or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500(LN/N-1+12N+36)$$

where W=overall gross on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances",

and inserting in lieu thereof the following: "eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500(LN/N-1+12N+32)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 32,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed seventy-three thousand two hundred and eighty pounds".

(b) The first sentence of section 127 of title 23, United States Code, is amended by striking out "Federal-Aid Highway Amendments of 1974", and inserting in lieu thereof the following: "Federal-Aid Highway Act of 1975". The third sentence of such section is amended by striking out "Federal-Aid Highway Amendments of 1974", and inserting in lieu thereof the following: "Federal-Aid Highway Act of 1975".

(c) Nothing in the amendments made by subsections (a) and (b) of this section shall be construed to deny apportionment to any State allowing the operation within such State during the period from January 4, 1975, and ending on the day the amendments made by subsections (a) and (b) of this section take effect in such State, of any vehicles or combinations thereof that could lawfully be operated within such State in accordance with section 127 of title 23, United States Code, as in effect during such period.

(d) The amendments made by subsections (a) and (b) of this section shall take effect in each State on the 30th day after the first day of a regular session of the legislature of that State which session begins after the date of enactment of this Act.

Renumber succeeding sections accordingly.

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer this amendment today which will simply roll back the increase in truck weights which was permitted on the eve of the closing of the 93d Congress without a direct vote by this House. It does not include the front axle provision; it simply rolls back the weight limits as to where they were. The front axle limit is a separate issue which may be addressed here today. I do so because I think it is important to recognize that this House has not on an open vote ever approved of increases in truck weights and axle weights, which we now are permitting to be run over the interstate highways. It is my opinion that the increases were achieved in a rather mischievous procedural manner where a conference report with the other body included the increase of weights, and that particular piece of legislation was brought up under suspension. There was never allowed a direct vote.

I am hopeful today that because of the ramifications that increased truck weights have on safety and on general maintenance costs to the States, we will achieve a direct vote on this issue as to whether or not the House of Representatives actually wants to approve increases in weights in trucks traveling on the interstate highways.

I think those of us who may be interested in the issue of truck weights have to recognize the fact that there are considerable trade-offs that are reached in increasing truck weights. One of them, and probably the most important to us, is the fact that we do trade off the safety of the general public in large measure as we increase the truck weights without substantial evidence of the fact that that can be justified. I submit to the Members that probably the trucking industry is the single industry that has the greatest exposure on a day-to-day basis to the general public.

We have enacted in this Congress and previous Congresses rather substantial health and safety regulations for those people who are exposed to hazards in commerce and industry. I think it is somewhat ironic that we are willing to expose the general public to greater hazards without even taking a direct vote in this House.

There are other considerations, of course, and some of them we have been debating here today. Almost no one will argue the fact that increases in truck weights will not have a significant impact on increasing maintenance costs of our highways. Today we are dealing with situations where we are claiming the States do not have enough money. The fact of the matter is the Shuster amendment which was just soundly defeated by a voice vote is given on the premise that we should not require the States to pay back that commitment because they do not have money to meet their needs now in their Departments of Transportation.

I submit to the Members that that is evidence enough the roads are deteriorating, and rapidly deteriorating, without our haggling further over truck weights.

Other evidence at the Federal and State level is included in this bill under the bridge system. We now under this particular bill are requiring the Federal Government to increase its share of bridge repair from 75 to 90 percent. The only justification for that is because the States cannot meet their financial obligations to repair the bridges that they see in disrepair at this time.

Arguments are made that increasing truck weights on the interstate have simply been a permissive act by this House and that the States really do not have to do anything if they do not want to. But it is clear that this body and the Federal Government have a leadership role in this area. If we permit the weight standards to be raised, it allows the States on a single basis to be fragmented by the trucking lobby, and it is a rather weak argument to say that our action here will have no effect on the abusive forces to which we submit the interstates.

We as a Federal body have taken the responsibility of designing a Federal Highway System, the Interstate System. It should be in our best interests not only to complete that system but also to see it has as long-lived capabilities as possible. We shared the responsibilities for building it for better than 90 percent. That certainly indicates our interest in it.

I want to make clear the fact I do not think that decreasing the truck weights back to where they were prior to this year will in any way seriously damage the trucking industry. That is not the objective of this amendment. The reason for this amendment is simply the fact that I think this Congress acted without adequate information to increase the safety hazards and maintenance costs which the general public now shoulders.

There are other trade-offs. Perhaps maybe someday through sufficient studies we will know accurately what increased truck weights effects are.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. MYERS of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Pennsylvania. Mr. Chairman, there is also the argument that decreasing truck weights will significantly decrease efficiency of the trucking industry. I would like to submit probably, as I mentioned in my earlier remarks, nothing has been done by Congress which more significantly affected increased efficiency of the truck system than to build the Interstate System itself. It provides thousands of miles of uninterrupted traffic flow for truckers to use. I think that in itself is a sufficient commitment to the efficiency of that industry.

There is one final question we ought to ask ourselves, those who may be contacted by the trucking industry. We should ask ourselves: How high should truck weights ultimately go? Is this the end? Do we have any evidence that 80,000 pounds is the limit? The answer is: Sure, we may be back for other increases in truck weights.

Are they going to come back again and again and have us sit passively by and allow the States to increase their weights? I do not think we should be acting that way. I think we should have our Members on record as to whether or not we want a rapid deterioration of the Interstate System and whether we want to increase the exposure to greater hazards as we are asking our friends and neighbors and families to drive smaller and smaller cars, and asking them to compete with larger trucks on the highways.

We have to address the issue. Otherwise we will see it eroded away, or perhaps we may get to those exceedingly high weights the trucking industry still has in the back of its mind.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have come to the moment of truth. We are at the amendment which would roll back the 80,000 pounds to 73,280 pounds, that weight which was in effect as of December 31 last year.

I am not going to recount all of the reasons why we should do that. We discussed all of the issues in general debate, but I do want to reiterate one concern and that relates to safety, and to give the Members some additional information that was not available when we voted on this issue several months ago.

The Members should know the National Highway Traffic Safety Administration released a report on December 8 which reported the following:

First. The death rate for nontruck occupants increases with truck weight in car-truck crashes.

Second. The death rate does not level off between 70,000 pounds and 80,000 pounds. It continues to increase.

Third. The 55-mile-per-hour speed limit has not made trucks safer. The death rate in truck-car crashes did not fall significantly in 1974 although it did with car-car crashes.

Those are the reasons, the basic reasons that relate to safety, all requiring a rollback.

I know, and the Members know, we have been lobbied to death in this Congress by the truck lobby. In the judgment of some, it is at least as big as, and perhaps bigger, than the military-industrial lobby.

It is a lobby that we cannot miss because they are in the Members' offices every day. I say to my colleagues that it is in the interest of the people of this country that we roll back those weights, and resist that lobby.

Now, more important than anything else is that whatever is done on this floor should not be done in the dead of night, so to speak; that if we are going to be run over by a truck in this Chamber, let us know the name of the truckdriver. By that I am saying let us have a vote. I know that there are people in this Chamber who would avoid a vote if they could, but I know their conscience will not permit that, that they believe as I do, that each of us is responsible for the actions taken on this floor and that in major matters the people in our constituencies are entitled to know how we voted.

So all I am asking is that you stand up and give us a record vote and once we have provided for a record vote, let conscience be your guide.

Mr. SEIBERLING. Mr. Speaker, I rise in support of the Myers amendment. I do not do this lightly. The Akron metropolitan area, which I represent, is one of the largest trucking centers in the country and is the headquarters for some of the Nation's largest interstate truck corporations. As you might suppose, they favor the higher truck weights.

However, I do not consider this simply an economic question. It is also a public safety question. Interestingly enough, I have discussed the question of truck weights with a number of the drivers themselves, and found all of them to be opposed to the increased weight limits. In every case, they stated that they felt that the higher weights reduced the safety of the truck operation and increased the risk to themselves while on the road.

I am sorry to say that the national 55-mile-an-hour speed limit seems to have little effect in reducing truck speeds. I drive back and forth to Ohio several times a year on the Interstate Highway System and the Pennsylvania and Ohio Turnpikes. During each 7-hour trip, I am passed hundreds of times by huge trucks barreling along at speeds that are obviously 70 miles an hour or more. Quite frankly, it frightens me. I practically never see a truck stopped by the police, even though I frequently see motorists stopped for exceeding the speed limit. Recently, I asked a Pennsylvania State trooper why this was so, and he stated that most large trucks are equipped with citizen band radios, and the drivers tip each other off by radio as to the location of police cars, so that the police are almost completely frustrated in their efforts to enforce the speed limits against the truckdrivers. The fact that such misuse of citizen band radios is illegal, simply underscores the anarchic situation on our highways.

The most compelling reason of all, in my opinion, for returning to the pre-1975 weight level is that both the Federal Highway Administration and the National Highway Traffic Agency are still engaged in studying the safety aspects of increased size and weight of heavy vehicles. The study program is costing several millions of dollars and, in the case of the Federal Highway Administration, the studies are not expected to be completed for another year. It is irresponsible, in my opinion, for the Congress to permit increased truck weights before we know the results of these studies.

Mr. GUDE. Mr. Chairman, I rise in support of this amendment. I believe the existing truck weight limits are extremely dangerous for various reasons. I shall discuss only two of my reasons at this time.

My primary concern is the danger to the average highway user as a result of the heavier trucks that are presently allowed on the Nation's highways. Studies by the Department of Transportation indicate that fatalities among automobile occupants increase at least proportionally when the trucks involved in auto-truck accidents weigh more than 75,000 pounds. This increase in fatalities, estimated by others to be a third greater, occurs regardless of whether the automobile is a Cadillac or a Pinto. Whenever an automobile is struck by a truck, or vice versa, the occupants' lives are in greater danger as the weight of the truck increases.

Directly related to the increase in truck weights is an increase in the stopping distance of a given truck. When a truck is equipped with brakes designed for a 75,000 pound gross weight and the gross weight is increased to 80,000 pounds, the stopping distance for that truck increases. Whether this increase is geometric or simply proportional makes little difference. The driver cannot stop his truck as quickly with greater weight and the same brakes.

I have received many letters from trailer truck manufacturers complaining about the slow sales of their products and advising me that many trucking companies are using their equipment beyond its anticipated life. This is of direct concern when discussing higher weights because the higher weight limits will allow truckers to put heavier loads in existing equipment and will not necessarily cause a definite increase in the sales of new equipment. Therefore, again, equipment designed for 75,000 pound loads will be carrying heavier loads and putting undue strain on all parts of the equipment. This added strain will make the equipment more dangerous to operate. Failure of the equipment could occur at a greater rate than presently exists. These truck failures will directly affect the safety of other highway users.

My second major concern about the higher truck weights has to do with the construction of the Nation's highway system. The Interstate System was designed by the various States and Federal agencies involved to accommodate anticipated weight limits in those States. Some States had limits above the Federal limits and the roads were constructed with these weights in mind. However, when a State, such as Alabama, had weight limits at or below the Federal limits, the highways were designed and constructed accordingly. This means that the roadbed, bridges, and related structures were all designed for trucks weighing not more than 75,000 pounds. When a truck weighing 80,000 pounds is put on that same highway, as Alabama has recently legislated to permit, the entire system is strained beyond its design capacity.

This additional strain will cause the roadway to deteriorate significantly more rapidly than under design conditions. Maintenance costs, which are paid entirely by the States, will rise significantly. Bridges that are designed for the lighter weights will deteriorate more rapidly, perhaps causing complete failure when it is not anticipated or at least causing major repair and maintenance costs to be incurred far in advance of previously anticipated schedules.

These deteriorated highways and bridges impact upon the automobile driver by creating poorly surfaced roadways and dangerous bridges, perhaps to the extent that loss of control of the automobile could result.

We cannot alow our constituents to be faced with dangers such as those I have suggested are likely with the higher truck weights presently permitted. We must serve them properly by repealing the higher weight authorization passed a year ago without due consideration by the House. The weights of a year ago are those around which highways and trucks are designed and must be, for everyone's safety, retained.

I request the support of all my colleagues to protect the health and welfare of their constituents by approving the amendment presently being debated.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I would like to commend the gentleman from New York for his courage and persistence in keeping alive this issue. I join with the gentleman in asking my colleagues to stand up for a record vote.

Mr. Chairman, the previous Congress gave the trucking industry a Christmas present a year ago when it voted to increase the allowable weight of trucks traveling interstate highways from 73,280 pounds to 80,000 pounds.

I would like this Congress to give the public interest a comparable Christmas present now by reducing the allowable weight from 80,000 pounds back to 73,280 pounds.

The American motorist is entitled to a degree of safety and peace-of-mind on the highways. He is more likely to receive both if the allowable truck weight were reduced to the previous limit.

The larger the truck, the slower its ascent on the hills and the longer its stopping distance. A study by the National Highway Traffic Safety Administration in March 1975 showed that "the number of nontruck fatalities per 100 car-truck accidents increases at the rate of 1.1 for each 10,000-pound increase in the loaded weight of the truck."

Our motoring public is entitled to freedom from these 40-ton monsters.

Let us vote for the public interest and against the vested interest and restore the allowable weight to a more reasonable limit.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MYERS).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and eleven Members are present, a quorum.

RECORDED VOTE

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 139, noes 275, answered "present" 2, not voting 18, as follows:

[Roll No. 812]

AYES—139

Abzug
Adams
Addabbo
Allen
Ambro
Aspin
Badillo
Bafalis
Bennett
Biester
Bingham
Boland
Brademas
Brodhead
Brown, Calif.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chisholm
Clancy
Clay
Conable
Conte
Conyers
Cornell
Coughlin
D'Amours
Delaney
Dellums
Derrick
Devine
Diggs
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Fenwick
Fish
Ford, Tenn.
Fraser
Frey
Gilman
Gradison
Green
Gude
Hamilton
Harrington
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Holtzman
Jacobs
Jeffords
Jones, Tenn.
Kastenmeier
Koch
Krebs
Latta
Leggett
Lent
Lloyd, Tenn.
Long, Md.
McClory
McEwen
McHugh
McKinney
Maguire
Mazzoli
Metcalfe
Mikva
Miller, Calif.
Mineta
Mink
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mosher
Moss
Mottl
Murtha
Myers, Pa.
Nedzi
O'Neill
Ottinger
Peyser
Pike
Rangel
Regula
Reuss
Richmond
Rogers
Rosenthal
Roush
Roybal
Russo
Ryan
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Simon
Solarz
Spellman
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Studds
Thompson
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Waxman
Weaver
Wirth
Wolff
Wydler
Wylie
Yates
Young, Fla.
Zeferetti

NOES—275

Abdnor
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
AuCoin
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Corman
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Derwinski
Dickinson
Dingell
Downing, Va.
Duncan, Oreg.
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Findley
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Forsythe
Fountain
Frenzel
Fuqua
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hastings
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krueger
LaFalce
Lagomarsino
Landrum
Lehman
Levitas
Litton
Lloyd, Calif.
Long, La.
Lott
Lujan
McCloskey
McCollister
McCormack
McDade
McDonald
McFall
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Meeds
Melcher
Meyner
Mezvinsky
Michel
Milford
Miller, Ohio
Mills
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Rhodes
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Runnels
Ruppe
St Germain
Santini
Sarasin
Satterfield
Schneebeli
Sebelius
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Spence
Staggers
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wright
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki

ANSWERED "PRESENT"—2

Beard, Tenn.
Snyder

NOT VOTING—18

Casey
Daniels, N.J.
Eshleman
Evins, Tenn.
Ford, Mich.
Gaydos
Giaimo
Hawkins
Hébert
Heinz
Hinshaw
Horton
Macdonald
Patman, Tex.
Randall
Sullivan
Ullman
Wilson, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Sullivan for, with Mr. Dominick V. Daniels against.

Mr. Hawkins for, with Mr. Hébert against.

Messrs. ALLEN, BAFALIS, and STARK, Mrs. LLOYD of Tennessee, and Messrs. FORD of Tennessee and JONES of Tennessee changed their votes from "no" to "aye."

Mr. ROSTENKOWSKI changed his vote from "aye" to "no."

Mr. DE LA GARZA changed his vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JAMES V. STANTON

Mr. JAMES V. STANTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JAMES V. STANTON: Page 49, after line 14, insert the following new section:

SEC. 112. (a) Subsection (d) of section 105 of title 23, United States Code, is amended to read as follows:

"(d) In approving programs for projects in an urbanized area of 200,000 population or more on the federal-aid urban system, the Secretary shall require that when a State government did not pay 50 or more per centum of the non-federal share of the approved program of projects in such urbanized area for the preceding fiscal year, such projects for the current fiscal year shall be selected by the appropriate local officials of such urbanized area, and that when a State government did pay 50 or more per centum of the non-federal share of the approved program of projects in such urbanized area for the preceding fiscal year, such projects for the current fiscal year shall be selected by the appropriate local officials of such urbanized area with the concurrence of the State highway department of each State, and in all urbanized areas, in accordance with the planning process required pursuant to section 134 of this title. In approving programs for projects on the federal aid urban system in areas other than urbanized areas having a population of 200,000 or more, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State."

(b) Subsection (a) of section 106 of title 23, United States Code, is amended by inserting after the first sentence the following new sentence:

"If the State highway department fails to submit to the Secretary for his approval such surveys, plans, specifications, and estimates for a project selected solely by the appropriate local officials in an urbanized area of 200,000 population or more pursuant to section 105(d) of this title and included in an approved program of projects within one year after approval of such program of projects pursuant to section 105 of this title, the submission of such surveys, plans, specifications, and estimates may be made by the appropriate local officials who selected such project pursuant to section 105(d) of this title. Local officials shall not submit any surveys, plans, specifications, or estimates for any project, approval of which would incur obligations in excess of the amounts allocated to an urbanized area for the fiscal year for which program approval has been given."

Renumber succeeding sections accordingly.

Mr. JAMES V. STANTON. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. JAMES V. STANTON. Mr. Chairman and members of the committee, this is one of the major amendments that was considered by the Subcommittee on Transportation.

This amendment affects every urbanized area of the United States.

Mr. Chairman, I would like the Members' attention for just a moment, if I could, because in 2 or 3 minutes I can make an explanation of a rather complicated amendment.

In 1973 in the Highway Act we adopted the urban systems, the Federal highway urban systems program. It was a far-reaching piece of legislation to help urban areas. In urban areas in excess of 200,000 we had tried to develop a program where the local officials would get the project, select the project, submit it to the State Department of Transportation, and with their concurrence, get it approved by the Department of Transportation.

Since 1973 we have found that the large percentage of money under this program has not gotten through to build the projects. As a consequence, it has caused money that was apportioned and earmraked for the urban areas to lie idle. That idleness has caused unemployment. As a result of the redtape, we have not had an effective urban systems program.

My amendment would merely allow after one year the local officials, after they submit their program and their plans and specifications, to go to the Federal Department of Transportation if they could not get a concurrence of their State department of of transportation.

This is a very simple amendment. It enables the urban systems to stop these logjams of debate that have existed between the State people and the local people concerning the urbanized systems program.

Let me cite a couple of examples.

In the State of Texas 92 percent of the money in seven of the eight major areas in Texas has not gotten through under the urban systems program.

In the State of Ohio the same condition exists.

In the State of California 75 percent of the money has not gotten through to the local communities.

In the State of Pennsylvania, the same situation exists.

So that urbanized areas throughout the United States are not now getting the funds of the enlightened legislation that was adopted by this House in 1973. This amendment would merely free up this money. It would help the job situation. It would help the economy because money that is earmarked would be put into productive use. The Department of Transportation and the administration have no objection to the amendment. The amendment was approved in the subcommittee. They had no objection to it. It was taken out by the full committee. Very frankly it was taken out because the State highway people are opposed to it.

The fact of the matter is that we have this confrontation between the local officials and the State highway people and unless such an amendment of this type is adopted, we are not going to be able to resolve this issue.

I urge the Members to support and adopt my amendment.

Mr. JONES of Alabama. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I cannot think of anything that would do greater violence to this bill than the amendment that has been proposed by the gentleman from Ohio (Mr. JAMES V. STANTON).

I say that for this reason, there is not a doubt that a single member of this committee here today can tell us about the arrangements that are made in their respective States as to the legal distribution of the funds the recipient States receive, and how they will dispense the money into the various categories of roads and highways.

That means that if this amendment were to prevail it would require in almost all of our States a rewriting of the State statutes to conform to the Stanton amendment.

In a State which has a biennial session of the State legislature that would mean that the total highway program in urban areas would be disturbed until that legislature complied with the Stanton amendment.

I am quite sure that there is no intention of the committee going along as the gentleman from Ohio states that the position of the full committee was subservient to the State highway departments. As chairman of the full committee I have not, up until this moment, ever received a request from the State highway departments for or against the Stanton proposition.

If we go along with this it pretty much reminds me of the story that is told frequently in the community where I live which is in a mountainous area.

This Bible salesman came up to a remote shack in a mountainous area and rapped on the door. The lady came to the door. He said, "Madam, I want to sell you a Bible."

She said, "Well, I do not need a Bible. I have one."

He said, "Let me see it."

She went and searched for the Bible but in fact she could not find the Bible. She called the children and she said, "Look in every nook and cranny of this house and get me the Bible." So they finally located the Bible and brought it out and gave it to their mother. It was almost completely gone with the exception of a few sheets. He said to her, "Madam, you certainly need a new Bible." She said, "Oh, no, I do not. I have saved the best part of the Holy Writ."

So now let us stay with the Holy Writ and vote down this amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment, which would have the effect of permitting local officials in certain urbanized areas of over 200,000 population to submit highway plans, specifications, and estimates directly to the Secretary for approval.

I sympathize with the objectives of the sponsor, my colleague from Ohio, where the Governor has given the rural areas of the State about the same treatment with respect to highways as he has the city of Cleveland in the matter of urban system funds.

But I say to the gentleman that this alone is no excuse for radically altering the structure of Federal-State relations envisioned by his amendment, and certainly not in a bill loaded with the flexibility we are hearing so much about.

So, much as I sympathize with the gentleman, I am in greater sympathy with the concerns of the American Association of State Highway and Transportation Officials, which can be highlighted as follows:

It is still too early to evaluate the changes in 1970 and 1973 amendments creating new urban systems and the procedures developed to put them into effect. Just as the 1962 Supreme Court apportionment decision in Baker against Carr has yet to remove all urban-rural strife in State government to the point where the lion lies down with the lamb.

Elimination of the State role would create needless duplication of administrative capacity, with requirements that local government maintain staff capability equal to that of the State in the development and evaluation of projects.

Conceivably, local officials might have difficulty in producing environmental impact statements qualifying for acceptance under the terms of H.R. 3130, which provided that Federal officials may, under certain prescribed circumstances, accept an EIS prepared by State officials.

Elimination of State involvement in urban system project development could serve as an incentive for States to reduce or eliminate their financial participation. It also could enhance the propensity of some local officials to ignore statewide or regional priorities—such as truck routes—in favor of projects more politically popular in the narrowest of local perspectives.

Let me quote just a small portion of a letter from Harry E. Kinney, mayor of the city of Albuquerque, to the city's

Washington office under date of October 29, 1975, on this question:

> The highway department, although it is not financially involved, has shown a great desire to make this program—

And that refers to the urban system program—

> A viable one in New Mexico. They have furnished the expertise in many areas in which the city was not staffed, such as right-of-way appraisals and procurement, testing labs, environmentalists and especially the knowledge of Federal procedures.

Recently, the Deputy Administrator of FHWA, J. R. Coupal, Jr., had occasion to inquire into the issue in response to testimony critical of State administration of the program, presented by the national league of cities in the other body.

The gentleman's language was adopted in subcommittee and for good and sufficient reason removed in full committee, whose action I hope this body will find it appropriate to concur in.

Before such far-reaching changes are enacted, the Congress should have the benefit of the urban system study called for in section 140 of this bill. It would be broad enough to cover all the issues raised by this amendment, including the authority for and capability of local units of government to carry out the necessary steps to process a highway project through and including the plan, specification, and estimate requirements of section 106 of title 23, United States Code, and final construction.

I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. JAMES V. STANTON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. JAMES V. STANTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 290, not voting 23, as follows:

[Roll No. 813]

AYES—121

Abzug
Adams
Ambro
Annunzio
Ashley
Aspin
AuCoin
Badillo
Barrett
Baucus
Beard, R.I.
Bennett
Biester
Bingham
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clancy
Clay
Collins, Ill.
Coughlin
Dellums
Dent
Derwinski
Diggs
Dodd
Downey, N.Y.
Drinan
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fary
Fish
Fisher
Florio
Fraser
Gilman
Green
Gude
Hanley
Harrington
Harris
Hastings
Hawkins
Hays, Ohio
Hechler, W. Va.
Heinz
Helstoski
Holtzman
Hyde
Jacobs
Jordan
Keys
Koch
Leggett
Lehman
Lujan
McKinney
Maguire
Mazzoli
Meeds
Metcalfe
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mosher
Mottl
Murphy, Ill.
Nix
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pepper
Peyser
Price
Rangel
Rees
Richmond
Riegle
Rinaldo
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Russo
Scheuer
Schroeder
Seiberling
Simon
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Stokes
Studds
Symington
Tsongas
Udall
Vanik
Vigorito
Waxman
Weaver
Whalen
Wolff
Yates
Young, Ga.

NOES—290

Abdnor
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bell
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Devine
Dickinson
Dingell
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fascell
Findley
Fithian
Flood
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frey
Fuqua
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hannaford
Hansen
Harkin
Harsha
Hayes, Ind.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Ohio
Mills
Mink
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Regula
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rose
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Van Deerlin
Vander Jagt
Vander Veen
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Winn
Wirth
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—23

Addabbo
Bonker
Brademas
D'Amours
Daniels, N.J.
Eshleman
Evins, Tenn.
Fenwick
Ford, Mich.
Gaydos
Giaimo
Hébert
Hinshaw
Horton
Macdonald
Moss
O'Brien
Randall
Sullivan
Talcott
Ullman
Wilson, C. H.
Wilson, Tex.

Messrs. PRICE, DODD, HELSTOSKI, and WOLFF changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. EDGAR: On page 52, after line 4, insert the following:
>
> "SEC. 115. Section 127 of title 23, United States Code, is amended by inserting after the language, "twenty thousand pounds carried on any one axle" the following words, "(except front, steering axles of truck tractors)", by adding the following new proviso at the end of the first sentence, changing the period to a semicolon, "*Provided, further,* That no front, steering axle of a truck tractor shall carry a weight in excess of ten thousand pounds, including all enforcement tolerances", and by adding the following language at the end of the third sentence, changing the period to a comma, "except however that this exemption shall also not apply to front, steering axles of truck tractors." This section shall become effective in each state on the thirtieth calendar day after the commencement of the first scheduled session of the state's legislature following enactment of this Act and shall automatically expire on January 1, 1978.
>
> No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any state within the boundaries of which the Interstate System may lawfully be used by vehicles with more than ten thousand pounds on the front, steering axle of a truck tractor after the effective date and until January 1, 1978.
>
> Renumber the succeeding sections accordingly.

Mr. EDGAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EDGAR. Mr. Chairman, this amendment would close a glaring loophole in the truck weight law. Every time the Congress has addressed the subject of truck weights and has prescribed maximum weights for single axles, it has always been for the standard four-wheel axle. Under current law, single axles can carry up to 20,000 pounds which translates into only 5,000 pounds per tire. The Congress has overlooked to distinguish, however, between such axles and the all-important, front steering axle which only has two tires to bear its load. Yet, this particular axle is the most important single axle in the entire tractor-trailer combination from a standpoint of safety since it controls the directional movement of the vehicle. Since the current law is silent on the subject of front, steering axle weights, the trucking industry is theoretically free to place up to 20,000 pounds on those two, absolutely vital wheels.

This amendment would simply close this dangerous loophole by imposing a 10,000-pound weight limit on the front axles of truck tractors. The result would be that the front tires of truck tractors would also carry no more than 5,000 pounds each, the maximum presently allowed by law for tires on all other axles. This amendment would resolve in large part the safety concerns so many of us share, and would terminate a dangerous practice of overloading steering axles which the 80,000 pound gross vehicle weight limit enacted last year has exacerbated.

The reason the problem has become completely intolerable under the new weight limits is because it is impossible to load a tractor-semitrailer combination with the new 80,000-pound limit without asking the front axle to carry at least 12,000 pounds. This is so because the current tandem axle limit is 34,000 pounds. If the rear tandem axles of the tractor carry the full limit, and the trailer tandem axles also carry the limit, these two sets of axles are carrying only 68,000 pounds, or 12,000 pounds less than the gross vehicle limit. In fact, since it is practically impossible to load a trailer so perfectly as to apportion the weight exactly, the practice is to load the trailer more heavily in the front. The excess weight is then shifted to the front axle by moving the fifth wheel forward on the tractor. The fifth wheel is, of course, the coupling device which resembles a large, greasy, horseshoe-shaped plate on which the front of the trailer rests. What we observe, therefore, in light of the weight increase enacted last year, is that the Congress has actually provided the incentive to impose extraordinary and dangerous loads on tractor steering axles. Certainly, we should recognize our responsibility in this regard and take the necessary action to remedy the problem.

In fact, the current bill as reported by the Public Works Committee actually acknowledges this problem and provides for a study to be conducted by the Department of Transportation to determine the exact nature and extent of the problem and perhaps ascertain the proper weight limit which may safely be borne by front axles. I strongly support this provision as I suspect the vast majority of you do as well. The problem is simply this: Why should we impose tremendous, although as yet unqualified, risks upon the public and the operators of large trucks in the meantime. I admit that to do so is contrary to the public interest and irresponsible.

While there are a large number of reasons why 10,000 pounds is the proper limit to impose on front axles permanently, it is of course possible that the DOT study will conclude that a different figure should be set, either higher or lower, in the interests of safety. For this reason, I have drafted the amendment so that it would automatically expire on the first of January, 1978, roughly 2 years from now. This would provide the DOT with ample time to complete their study and to forward the results to the Congress. And, the Congress would then be forced to consider that study and to make necessary revisions in the front axle weight limit at the earliest opportunity. I sincerely believe that this amendment would provide a reasonable accommodation to those who argue against any front axle weight limit without compromising public safety or shirking our duty to the public.

Mr. Chairman, I will conclude my remarks in just a moment; however, I would like to mention just briefly the more salient considerations which impel me to offer a front axle weight limit.

The U.S. Department of Transportation's Bureau of Motor Carrier Safety recently found that tire failures to be the second leading cause of mechanical defect related truck accidents. And in excess of two-thirds of these accidents were the result of front tire failures. This same report stated that overloaded front tires was a major factor in these accidents and that approximately 12 percent of the trucks sampled had front axle loads exceeding 10,000 pounds.

Second, as I have already mentioned, the way the added weight is placed on the steering axle is by sliding the fifth wheel forward of the rear drive axles. This forward location of the fifth wheel creates a whole set of handling characteristics which are highly unsafe. Very simply, it transfers a substantial portion of the enormous centrifugal force created by the trailer weight off the rear drive axles which have so many tires in contact with the pavement and which can pull the weight around a curve and shifts this centrifugal force up forward on to the two steering wheels. The effect is that the vehicle tends to understeer unpredictably as the front tires crawl sidewise on the pavement. This tire crawl is the result of the tire wall flexing constantly and this flex creates heat in the tire which is a precurser of a tire failure. In addition, should the front tires encounter a slippery road surface, there is a dramatically increased risk that they will lose traction due to this centrifugal force. The result is that the tractor straightens out in a direct line with the trailer when attempting to negotiate a turn and the vehicle simply leaves the roadway.

Yet another effect of heavy front axles has yet to be quantified. We do know that roads deteriorate at an accelerated rate as weights increase. What causes the damage, however, is not the overall gross weight as such, but rather the pressure each tire places on the surface of the pavement. The more tires that bear the weight, the less demage will be done. We have heard extensive testimony concerning the geometrically accelerated rate our highway system will deteriorate as a result of a single axle weight increase from 18,000 to 20,000 pounds, or from 4,500 to 5,000 pounds per tire. However, no one has actually calculated the untold damage which will result as a result of front tires carrying as much as 6,500 pounds—an astounding leap in weight from the 4,500-pound starting point.

The DOT has recently taken action to prohibit carriers from overloading or underinflating tires at their rated capacities. While this new rule should presumably reduce tire failures, it does not go nearly far enough to eliminate the other problems. It would do nothing to change the unsafe handling characteristics caused by the centrifugal force which in turn results from the forward fifth wheel. It will not prevent the destruction of our highways. The amendment I have offered would solve both of these problems.

The amendment would necessitate that carriers which have mounted their fifth wheels in an excessively forward position to relocate those coupling devices in some instances up to 18 inches. Many fifth wheels are on sliding tracks and relocation would require only a few minutes. Those carriers which have permanently mounted fifth wheels, would have to remount them, a task which would require just several hours according to estimates provided by mechanics to the Professional Drivers Council. The Teamsters have also indicated that it would require no more than 4 hours.

By moving fifth wheels rearward to comply with a front axle weight limit, some carriers might in certain instances find that the overall length of the tractor and trailer exceeds the length restrictions in a few States by a few inches. With the proper legislative history, however, this problem can easily be overcome. That is, in those States in which the refitting would be the sole cause of a length variation as a result of our action, we would permit a variance.

Mr. Chairman, I strongly urge my colleagues to support this very important proposal to protect public safety, to close a loophole in the law, to make an adjustment necessitated by our action last year. I think it is particularly worthy of note that this amendment is strongly favored by the men and women who are closest to the problem we have created—the drivers of tractor-trailers.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, I strongly support the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR). I hope this amendment will receive an affirmative vote in the committee.

I am certain that if the people of this country had a direct vote on the issue, they would have voted overwhelmingly to reduce the weight limit on trucks. It is unfortunate that the Myers amendment did not prevail.

The pending amendment is related to the same issue, and it also directly affects the safety of truckdrivers. I certainly hope that the Edgar amendment succeeds, and at a later date we may apply the results of the study and not only limit front axle weights but also the total weight and size of these terrors of the highways. The average motorist deserves primary and priority consideration.

Mr. JAMES V. STANTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to commend the gentleman from Pennsylvania

(Mr. EDGAR) for offering his amendment. I have studied and offered and debated that issue in the committee. I originally had the idea of a limitation of 10,000 pounds suggested to me by the drivers and the Teamsters Union, who are deeply concerned about the impact on the safety factor. But after a discussion between the drivers and the management people who run the trucks we came to the conclusion that it is not a question of the 10,000 pounds on the front axle. There is a question of where the fifth wheel is located in the truck.

There are some trucks that could stand the 10,000-pound limitation, but there are others that cannot.

The fact of the matter is that we do not know at this time, any of us, exactly where the limitation should be placed, whether it should be at 10,000, 11,000, 12,000, or 13,000. Even the safety experts in the Department of Transportation cannot tell us.

So what we did was this: There was an amendment which was offered by the gentleman from Ohio (Mr. HARSHA) that I supported in the committee, and that would cause a study to be made of this particular question that is being addressed by the gentleman from Pennsylvania (Mr. EDGAR). They would report back on this study within a year to our committee, and then we could make a reasonable and a rational judgment as to the impact of this weight limitation on the front steering column.

Mr. Chairman, I urge the defeat of this amendment at this time, recognizing the contribution that the gentleman from Pennsylvania (Mr. EDGAR) has made.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Edgar amendment, No. 1, because I think it is a good amendment, and, No. 2, because even though the probabilities are that it will not carry, it was because of that amendment, in my judgment, that the provision causing the study to be made was put into the bill.

This matter has been pending for quite some time, and even if the Edgar amendment is not accepted as such under his name, ultimately his having initiated it will cause the Commission to come in and make the necessary recommendations. So I want to commend the gentleman from Pennsylvania (Mr. EDGAR) for his effort in this area.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. KOCH I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, would it not make sense to adopt the Edgar amendment, thereby setting the 10,000-pound front axle limit pending the outcome of the study? It would seem to me that would serve the purpose the gentleman from Ohio (Mr. JAMES V. STANTON) has indicated should be met.

Mr. KOCH. Mr. Chairman, there are so many things that have made sense and should have been accepted by the Congress and were not that rejection of the Edgar amendment does not surprise me.

Mr. JAMES V. STANTON. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Ohio.

Mr. JAMES V. STANTON. Mr. Chairman, we do not know what the economic impact of that would be. If we just put a flat limitation of 10,000 pounds on the front axle, we may have to scrap 85 percent of the trucks in the United States. The economic impact of that is such that we do not think that is reasonable or rational.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to respond to that last point, because I think it is an important point.

There have been some studies done on how much it would take to move the fifth wheel and to change it so the 10,000-pound pressure would not be there. I am told that on some of the trucks it is as much as 18 inches. Some of them are on movable tracks, and that could be moved back. On some trucks it would take maybe a day to move them back, using some more sophisticated kinds of equipment.

But we are only talking about a certain number of trucks on the highway. Not all the trucks are pulling the same kind of weight. If we take a Cadillac or a Lincoln and put it up on the top of a car carrier, we not only have the weight of that automobile but we have the weight of the cab and the equipment on the truck setting up on top of the driver. As a result, he is really driving a pile driver, and the pressure that is involved on that steering column is really intense.

Mr. JAMES V. STANTON. Mr. Chairman, will the gentleman yield further?

Mr. KOCH. I yield to the gentleman from Ohio.

Mr. JAMES V. STANTON. Mr. Chairman, the fact of the matter is that until the study is completed, we have had since 1952 and we presently have the motor carrier safety regulation No. 392.70, which requires that the fifth wheel be located so that regardless of the condition of the load, the relationship between the kingpin and the rear axle and the front axle of the truck will be such that they can properly distribute the gross weight of both the towed vehicle and the towing vehicle relative to the axles of those vehicles.

The fact of the matter is there is a safety regulation. It is in effect, but we do not know how many dollars would have to be spent on this. We do know that a large percentage of the trucks would have to be changed. Most people would concede reasonably and rationally that we ought to have the study completed before we implement the regulation.

Mr. EDGAR. Mr. Chairman, will the gentleman yield further?

Mr. KOCH. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would just like to ask the gentleman from Ohio (Mr. JAMES V. STANTON) this one question: Is the gentleman willing, if the study is returned to us on July 1 of 1977, and indicates that such a move has to be made, to support changes in present, existing law, to make the changes which will cost as much and more than the cost at this present time?

Mr. JAMES V. STANTON. If the gentleman will yield further, I would like to say that if the recommendation of the experts is that we need the change in regulations, I will join the gentleman and I am sure the House will likewise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ESCH

Mr. ESCH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ESCH: On page 61 following line 2, add new section 124 and renumber following sections:

VEHICLE LOADS

SEC. 124. (a) Chapter I of title 23, United States Code, is amended by adding at the end thereof the following new section:

"157. Vehicle loads.

"(a) The Secretary of Transportation shall not approve a project under section 106 in any State which he determines does not have effective control of use of the highways on the Federal-aid systems by motor vehicles hauling dirt, sand, lime, rock, gravel, silica, or similar aggregate trash, garbage, and other similar material.

"(b) For the purpose of this section, effective control means that after October 1, 1978, motor vehicles hauling such materials on such highways shall be required to have such materials secured by appropriate covering so as to prevent such materials from falling, blowing or in any other way escaping from such vehicle while it is hauling such materials on such highways.

"(c) This section shall not apply to any motor vehicle which is publicly owned or controlled while such vehicle is servicing or maintaining any highway, street or public way, but shall apply to any such vehicle travelling to or from a service or maintenance site.

"(d) As used in this section the term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by inserting at the end thereof:

"157. Vehicle loads."

Mr. ESCH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ESCH. Mr. Chairman, each year the American public is forced to foot the bill—over a quarter of a billion dollars—for automobile damage, landscape destruction, serious injury, and even death caused by uncovered trucks spewing great quantities of debris onto our Nation's highways.

Because trucks are allowed to continue in this manner, roadways are littered, vehicle windshields are broken, and the finish is damaged on thousands of cars.

A comprehensive survey by the Michigan Auto Club—which has been a leader in the fight against this road hazard—estimates that it costs Michigan residents alone about $5.5 million a year to replace 50,000 windshields broken by debris from uncovered trucks. Nationwide, this could cost about $250 million per year.

No statistics are available, but it is estimated that the costs in punctured tires, broken headlights, chipped paint, and hood damage are at least equal to the windshield damage. Even more serious have been reports of serious and fatal accidents resulting from rocks piercing windshields to hit passengers and drivers and from drivers swerving to the side to avoid large falling debris.

In my view, it is absolutely outrageous that the American driving public is forced to bear the costs of carelessness on the part of truck owners. There is no excuse for allowing trucks to continue to spew junk all over our highways and passing motorists simply because it is "inconvenient" and time consuming to cover loads.

There have been campaigns in a number of States for the passage of laws requiring trucks to cover all loads. Unfortunately, to date, few strong laws have been passed. Throughout the remainder of the Nation, motorists still travel at their own risk while overloaded, uncovered trucks continue to endanger their property and their lives.

I therefore offer this amendment which would require covers on all trucks using interstate or other federally assisted highways. Adoption of this amendment would not only insure that our highways are safer places, it would have a major impact on our environment. The Department of Transportation prepared a study in 1974 on the content of highway litter. They concluded, "Spillage from uncovered trucks is a significant solid waste generator on the roadway." A study by Keep America Beautiful, a nonprofit environmental group, found that while motorists and pedestrians are frequently blamed for our Nation's highway litter, they are a relatively small percentage of the problem, causing no more than 20 percent in most areas. By far the most frequent "litterer" is the uncovered truck, either hauling goods between cities, or hauling construction trash to local dumpyards.

Michigan spends more than $1 billion each year in cleaning up litter along its highways. A very high percentage of that litter is generated by uncovered trucks. The costs to the taxpayers in terms of dollars is high. The cost in terms of blighted landscape is equally high. A nation which prides itself on its beautiful vistas and tourist attractions cannot afford the destruction of its environment by careless truck owners who refuse to be responsible for their debris.

Opponents of my amendment may argue that covering trucks would be expensive and time consuming. Yet the Michigan Department of Highways has recently developed a roll-on, roll-back tarpaulin cover which is operated by turning a crank located on the passenger side, away from traffic. The cover can be placed in position in less than 15 seconds and the estimated production cost of the unit is less than $100 per truck.

In my view, this is a small cost to protect our motorists and preserve our environment. It puts the cost where it belongs—with those who do the damage, not the innocent bystander and the beleaguered taxpayer.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I thank the gentleman for yielding.

I think he brings up a point that concerns all of us. However, the responsibility for this has been and is now within the State police powers and with State and local jurisdictions.

Mr. Chairman, I believe that this is something that should be handled on those levels. It should not be a part of this bill, although I do commend the gentleman from Michigan (Mr. ESCH) for bringing this up.

I certainly would join him in any effort to try to get the proper local people to make decisions in this area because it is not only a frustrating, but a very expensive item to the taxpayer and to the motorist.

So I wish to thank the gentleman for bringing this up. But I do not believe it properly belongs within this bill and I do urge defeat of the amendment; at the same time I congratulate the gentleman for his suggestion.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I would like to pose a question to the gentleman from Michigan. The gentleman is stating in his amendment that if the trucks are not covered then Federal highway funds will be withheld?

Mr. ESCH. The purpose of the amendment is to give the States 2 years to enact effective covered truck legislation. If they do not do so, then the Federal highway funds would be withheld.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield further?

Mr. ESCH. I will be happy to yield further to the gentleman.

Mr. KETCHUM. Mr. Chairman, what the gentleman is implying is the same thing we have just gone through in connection with the matter of the motorcycle helmet legislation. I think this is a State responsibility. I would encourage the gentleman to encourage his State legislature to take care of the problem.

Mr. ESCH. I would agree with the gentleman, it certainly is a State responsibility, and I think that the only encouragement that we in the House can present to the States is through legislation such as this. I agree that the action would have to take place at the State level.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I just want to associate myself with the members of the Committee and others who have expressed the view that this is a State issue and should be left to the States alone to handle.

I do want to add, though, that the gentleman in his amendment would require that all materials that are hauled by trucks be covered by appropriate covers. You can obviously haul a lot of materials without having to have any cover on the truck at all. You could load the truck less than completely full, or you could only have a half a load, or a very small load. But under this amendment, one would have to have a cover on the truck in every instance. I would submit that this would cause a lot of complications, and it would affect all of the projects approvals. Under the gentleman's amendment the Federal Highway Administrator could not approve applications for a project unless all of these things were done. I think that this is unnecessary Federal interference in a purely local matter.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. ESCH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. COHEN

Mr. COHEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COHEN: Page 41, line 4, strike out "State of New Hampshire" and insert in lieu thereof "State of Maine and in the State of New Hampshire".

Mr. COHEN. Mr. Chairman, I rise to offer an amendment which will grant the State of Maine that same exemption with respect to the definition of "urban area" as is now accorded the State of New Hampshire.

As determined by the Census Bureau, an "urban area" applies to the geographic limits of a city as opposed to its compact or "built-up" area. The State of Maine is incorporated in such a manner that sparsely populated areas are included within the geographic boundaries of its urban areas. The good citizens of these urban areas have a prime interest in upgrading roads within the compact area of the city. Since current law prohibits States from using primary funds in so-called urban areas, this has resulted in the deterioration of many outlying roads simply because they lie within the corporate boundaries of a city, even though they bear no resemblance to an urban area.

This amendment will allow the State Commissioner of Transportation to use primary funds for roads subject to these conditions.

I appreciate the cooperation of the Committee in accepting this amendment.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, as I understand this particular situation, it involves both the State of Maine and the State of New Hampshire in the urban, rural, towns and city areas. The information that had been supplied by the Department of Transportation when this was inserted into the bill was that only the State of New Hampshire was in any way involved. We were told that was the only State. That was the information we had at that tme. Since then, we have been informed, and I would like to inform the gentleman from Maine (Mr. COHEN) that the State of Maine has been verified to have this same New Hampshire-type situation.

Do I understand that that is what this amendment would propose to do?

Mr. COHEN. Exactly.

Mr. HOWARD. Then, Mr. Chairman, we certainly, in all fairness, accept the amendment and thank the gentleman from Maine for calling it to our attention.

Mr. COHEN. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, we too are happy to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. COHEN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1975".

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $37,500,000 for the three-month period ending September 30, 1976, $150,000,000 for the fiscal year ending September 30, 1977, and $150,000,000 for the fiscal year ending September 30, 1978.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $16,250,000 for the three-month period ending September 30, 1976, $65,000,000 for the fiscal year ending September 30, 1977, and $65,000,000 for the fiscal year ending September 30, 1973.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $8,750,000 for the three-month period ending September 30, 1976, $35,000,000 for the fiscal year ending September 30, 1977, and $35,000,000 for the fiscal year ending September 30, 1978.

(4) For carrying out sections 307(a) and 403 of ttile 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $2,500,000 for the three-month period ending September 30, 1976, $10,000,000 for the fiscal year ending September 30, 1977, and $10,000,000 for the fiscal year ending September 30, 1978.

(5) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of the Highway Trust Fund, $62,500,000 for the three-month period ending September 30, 1976, $250,000,000 for the fiscal year ending September 30, 1977, and $25,000,00 for the fiscal year ending September 3, 1978.

(6) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

(7) For projects for high-hazard locations under section 152 of title 23, United States Code, out of the Highway Trust Funds, $18,750,000 for the three-month period ending September 30, 1976, $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

(8) For the elimination of roadside obstacles under section 153 of title 23, United States Code, out of the Highway Trust Fund, $18,750,000 for the three-month period ending September 30, 1976, $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

(9) For carrying out subsection (j) (1) of section 402 of title 23, United States Code (relating to incentives for the enactment of seat belt laws), out of the Highway Trust Fund, $7,500,000 for the three-month period ending September 30, 1976, $30,000,000 for the fiscal year ending September 30, 1977, and $30,000,000 for the fiscal year ending September 30, 1978.

(10) For carrying out (j) (2) of section 402 of title 23, United States Code (relating to incentives for the reduction of the rate of traffice), out of the Highway Trust Fund, $1,875,000 for the three-month period ending September 30, 1976, $7,500,000 for the fiscal year ending September 30, 1977, and $7,500,000 for the fiscal year ending September 3, 1978.

(11) For carrying out (j) (3) of section 402 of title 23, United States Code (relating for incentives for reduction of actual traffic fatalities), out of the Highway Trust Fund, $1,875,000 for the three-month period ending September 30, 1976, $7,500,000 for the fiscal year ending September 30, 1977, and $7,500,000 for the fiscal year ending September 30, 1978.

(12) For school bus driver training under section 406 of title 23, United States Code, out of the Highway Trust Fund, $1,875,000 for the three-month period ending September 30, 1976, $7,500,000 for the fiscal year ending September 30, 1977, and $7,500,000 for the fiscal year ending September 30, 1978.

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) Subsections (b) and (c) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87) are hereby amended to read as follows:

"(b) (1) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund for projects for the elimination of hazards of railway-highway crossings, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $37,500,000 for the three-month period ending September 30, 1976, $150,000,000 for the fiscal year ending September 30, 1977, and $150,000,000 for the fiscal year ending September 30, 1978. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under Chapter 1 of title 23, United States Code.

"(2) Funds authorized by this subsection shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System).

"(c) There is authorized to be appropriated for projects for the elimination of hazards of railway-highway crossings on roads other than those on any Federal-aid system $18,750,000 for the three-month period ending September 30, 1976, $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978. Sums apportioned under this section for projects under this subsection shall be subject to all of the provisions of chapter 1 of title 23, United States Code, applicable to highways on the Federal-aid system, except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this section.".

(b) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended by adding immediately before the first sentence thereof the following new sentence: "50 per centum of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a) (1) of section 104 of the Federal-Aid Highway Act of 1973 and 50 per centum of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a) (2) of section 104 of the Federal-Aid Highway Act of 1973.".

INCENTIVE SAFETY GRANTS

SEC. 204. Subsection (j) (3) of section 402 of title 23, United States Code, is hereby amended to read as follows:

"(3) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have significantly reduced the actual number of traffic fatalities during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compared to the average of the actual number of traffic fatalities for the four calendar year period preceding such calendar year. Such incentive grants shall be made in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section.

"(4) No State shall receive from funds authorized for any fiscal year or period by this subsection incentive grants under paragraph (1) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (2) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (3) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period.

"(5) Notwithstanding subsection (c) of this section, no part of the sums authorized by this subsection shall be apportioned as provided in such subsection. Sums authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under subsection (c) of this section.".

SCHOOL BUS DRIVER TRAINING

SEC. 205. The second subsection (b) of section 406 of title 23, United States Code (relating to authorizations), is relettered as subsection (c), including all references thereto, and the second sentence of such relettered subsection (c) is amended to read as follows: "All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under such subsection (c).".

TRANSFERABILITY

SEC. 206. (a) The first sentence of subsection (g) of section 104 of title 23, United

States Code, is amended by striking out "30 per centum" and inserting in lieu thereof "40 per centum".

(b) The second sentence of such subsection (g) is amended to read as follows: "The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met.".

PAVEMENT MARKING PROGRAM

SEC. 207. (a) Subsection (c) of section 151 of title 23, United States Code, is amended by striking out "and which are" and all that follows down through and including "Federal-aid system".

(b) Subsection (g) of such section 151 is amended by adding at the end thereof the following: "No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State, and the Secretary shall not submit any such report to Congress after the first year following the completion of the pavement marking program in all States.".

HIGHWAY SAFETY PROGRAMS

SEC. 208. (a) The last three sentences of subsection (c) of section 402 of title 23, United States Code, are amended to read as follows: "For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State. Any amount which is withheld from appointment to any State under this section shall be reapportioned to the other States in accordance with the applicable provisions of law.".

(b) The Secretary of Transportation shall, in cooperation with the States, conduct an evaluation of the adequacy and appropriateness of all uniform safety standards established under section 402 of title 23 of the United States Code which are in effect on the date of enactment of this Act. The Secretary shall report his findings, together with his recommendations, including but not limited to, the need for revision or consolidation of existing standards and the establishment of new standards, to Congress on or before December 31, 1976. Until such report is submitted, the Secretary shall not, pursuant to subsection (c) of section 402 of title 23, United States Code, withhold funds apportioned to any State because such State is failing to implement a highway safety program approved by the Secretary in accordance with such section 402.

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

SEC. 209. Section 404(a)(1) of title 23, United States Code, is amended by deleting "who shall be Chairman," from the first sentence thereof, and by adding immediately after such first sentence the following: "The Secretary shall select the Chairman of the Committee from among the Committee members.".

LIMITATION ON OBLIGATION

SEC. 210. Notwithstanding any other provision of this title, none of the funds authorized by any provision of this title, including any amendment made by any such provision, for the fiscal year ending September 30, 1977, shall be obligated prior to July 1, 1976.

STEERING AXLE STUDY

SEC. 211. The Secretary of Transportation is directed to conduct an investigation into the relationship between the gross load on front steering axles of truck tractors and the safety of operation of vehicle combinations of which such truck tractors are a part. Such investigation shall be conducted in cooperation with representatives of (A) manufacturers of truck tractors and related equipment, (B) labor, and (C) users of such equipment. The Secretary shall report the results of such study to the Congress not later than July 1, 1977.

LIMITATIONS

SEC. 212. To the extent that any section of this title provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts. All authorizations in this title out of the Highway Trust Fund for the interim period ending September 30, 1976, shall be apportioned as if such authorizations were for the fiscal year ending September 30, 1977.

Mr. HOWARD (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 78 and 79, by striking all of lines 6 through 12 on page 78 and renumbering subsection 10, 11, and 12 as 9, 10, and 11 respectively.

Mr. ICHORD. Mr. Chairman, this is an amendment which can truly be termed a libertarian amendment, one on which I truly believe that an overwhelming majority of the Members of this body can agree. In fact it follows a policy decisively established by this body a few months ago when it overwhelmingly rejected funding for this program in an appropriations bill.

The amendment would strike the authorizations in the total amount of $67,500,000 for the program relating to incentives for the enactment of seat belt laws. In other words we would have a program to bribe State legislatures to pass a law making it a crime not to wear your seat belt to protect yourself.

Mr. Chairman, it is one proposition to make it a crime to drive an automobile under the influence of drugs or alcohol. It is a completely different proposition to pass a law making it a crime not to fasten your seat belt. In the first case you are endangering the life of a third person. In the latter case, you can only endanger your own safety.

It appears that once one of these programs is conceived, it will never, never die. I submit Mr. Chairman, that our country faced with a very serious fiscal situation, with a national debt soon to exceed $600 billions, with an interest bill on that debt anticipated to be in the neighborhood of $36 billions annually, just cannot afford such nonsensical programs. It appears to me that there are some people in this country who insist upon protecting the public even if it kills the public. If we insist upon pursuing such foolish programs as this bribery program we could very well legislate and regulate our country into financial oblivion. I urge the adoption of my amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

We will be happy to accept the gentleman's amendment on this side.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

I will tell the gentleman we have no objection on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments to title II, under the rule, title III of the committee amendment in the nature of a substitute shall be considered as read, printed in the RECORD.

TITLE III—EXTENSION OF HIGHWAY TRUST FUND AND CERTAIN RELATED PROVISIONS

SEC. 301. HIGHWAY TRUST FUND.

(a) Subsections (c) and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1977" each place it appears and inserting in lieu thereof "1979"; and

(2) by striking out "1978" each place it appears and inserting in lieu thereof "1980".

(b) Subsection (e)(1) of section 209 of such Act is amended by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1980".

SEC. 302. TRANSFER FROM LAND AND WATER CONSERVATION FUND.

Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11) is amended—

(1) by striking out "1977" and inserting in lieu thereof "1979"; and

(2) by striking out "1978" each place it appears and inserting in lieu thereof "1980".

SEC. 303. POSTPONEMENT OF CERTAIN EXCISE TAX REDUCTIONS.

(a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1977" each place it appears and inserting in lieu thereof "1979":

(1) Section 4041(c)(3) (relating to rate of tax on fuel for noncommercial aviation).

(2) Section 4041(e) (relating to rate reduction).

(3) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(4) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

(5) Section 4071(d) (relating to imposition of tax on tires and tubes).

(6) Section 4081(b) (relating to imposition of tax on gasoline).

(7) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(8) Section 4481(e) (relating to period tax in effect).

(9) Section 4482(c)(4) (defining taxable period).

(10) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

(11) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) Section 6412(a)(2) of such Code (relating to floor stocks refunds) is amended—

(1) by striking out "1977" each place it appears and inserting in lieu thereof "1979"; and

(2) by striking out "1978" each place it appears and inserting in lieu thereof "1980".

The CHAIRMAN. Are there any committee amendments to title III? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8235) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, pursuant to House Resolution 329, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. HARSHA. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. HARSHA moves to recommit the bill H.R. 8235 to the Committee on Public Works and Transportation.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. HOWARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 7, not voting 17, as follows:

[Roll No. 814]

YEAS—410

Abdnor
Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—7

Blanchard
Brodhead
Cleveland
Harsha
Mikva
Mottl
Steiger, Wis.

NOT VOTING—17

Allen
Casey
Clausen, Don H.
Daniels, N.J.
Eshleman
Evins, Tenn.
Ford, Mich.
Gaydos
Hébert
Hinshaw
Horton
Macdonald
Mollohan
Randall
Sullivan
Talcott
Wilson, Tex.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Allen.

Mr. Dominick V. Daniels with Mr. Casey.

Mr. Ford of Michigan with Mr. Eshleman.

Mrs. Sullivan with Mr. Hinshaw.

Mr. Macdonald of Massachusetts with Mr. Don H. Clausen.

Mr. Evins of Tennessee with Mr. Horton.

Mr. Mollohan with Mr. Randall.

Mr. Charles Wilson of Texas with Mr. Talcott.

Mr. HARSHA changed his vote from "yea" to "nay."

Mrs. SCHROEDER and Mr. NIX changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that in my remarks in the general debate on the bill just passed I be permitted to include three letters, one letter from the chairman of the Committee on Ways and Means, one letter from the mayor of the city of New York, and one letter from the Governor of the State of New York, and that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to Senate Joint Resolution 121, entitled "Joint resolution to provide for quarterly adjustments in the support price for milk."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 3474. An act to authorize appropriations to the Energy Research and Devlopment Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 209. An act for the relief of Willard H. Allen, Jr., and Nicole J. Allen; and

S. 392. An act to study certain lands in the Flathead and Lewis and Clark National Forests, Montana, for possible inclusion in the National Wilderness Preservation System.

The message also announced that Mr. Pearson be a conferee, on the part of the Senate, on the bill (S. 2718) entitled "An act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes."

The message also announced that Mr. Brock be a conferee, on the part of the Senate, on the bill (H.R. 10727) entitled "An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVII, and XVIII by establishing uniform review procedures under such titles," vice Mr. Fannin, excused.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 939, CONSIDERATION OF REPORTS FROM COMMITTEE ON RULES

Mr. MATSUNAGA, from the Committee on Rules, submitted a privileged report (Rept. No. 94–765), on the resolution (H. Res. 939) consideration of reports from Committee on Rules, which was referred to the House Calendar and ordered to be printed:

H. Res. 939

Resolved, That it shall be in order at any time during the balance of this week to consider reports from the Committee on Rules as provided in clause 4(b), Rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the balance of this week.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1975

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10355) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Veterans and Survivors Pension Interim Adjustment Act of 1975".

TITLE I—INTERIM ADJUSTMENTS IN CURRENT STATUTORY PENSION PROVISIONS

Sec. 101. Effective January 1, 1976, title 38, United States Code, is amended as follows:

(1) chapter 1 of title 38, United States Code, is amended—

(A) by striking out in paragraph (3) of section 101 "widow", "woman", "wife", "his", "him", "man", and "herself" each time they appear and inserting in lieu thereof "surviving spouse", "person of the opposite sex", "spouse", "the veteran's", "the veteran", "person", and "himself or herself", respectively;

(B) by striking out in the second sentence of paragraph (4) of section 101 "his support" and "his spouse" and inserting in lieu thereof "the person's support" and "the veteran's spouse", respectively;

(C) by striking out in paragraph (5) of section 101 "his" and inserting in lieu thereof "the veteran's";

(D) by striking out in paragraph (13) of section 101 "widow" and inserting in lieu thereof "surviving spouse";

(E) by striking out in paragraph (14) of section 101 "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(F) by striking out in paragraph (15) of section 101 "widow" and inserting in lieu thereof "surviving spouse"; and

(G) by adding at the end of section 101 the following new paragraph:

"(31) The term 'spouse' means a person of the opposite sex who is a wife or husband and the term 'surviving spouse' means a person of the opposite sex who is a widow or widower."; and

(2) chapter 15 of title 38, United States Code, is amended—

(A) by inserting in subsection (a) of section 503 "and" after the semicolon at the end of clause (16) of such subsection;

(B) by striking out in subsection (a) of section 541 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(C) by striking out in subsection (e) of section 541 the language preceding clause (1) of such subsection and inserting in lieu thereof "No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—" and by amending subclause (D) of clause (1) of such subsection, to read as follows: "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veterans; or";

(D) by striking out in section 542 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(E) by striking out in section 543 "widow" and inserting in lieu thereof "surviving spose";

(F) by repealing sections 510 and 53';

(G) by striking out in the heading of subchapter III "Widows" and inserting in lieu thereof "Surviving Spouses";

(H) by striking out in the catchline of section 541 "Widows" and inserting in lieu thereof "Surviving Spouses";

(I) by striking out in the subheading of subchapter III immediately following section 543 "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES"; and

(J) by amending the table of sections at the beginning of such chapter 15—

(i) by striking out

"510. Confederate forces veterans.";

(ii) by striking out

"SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN"

and inserting in lieu thereof

"SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN";

(iii) by striking out

"531. Widows of Mexican War veterans.";

(iv) by striking out

"541. Widows of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."

and inserting in lieu thereof

"541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."; and

(v) by striking out

"Widows of Veterans of All Periods of War"

and inserting in lieu thereof

"Surviving Spouses of Veterans of All Periods of War".

Sec. 102. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	1,200
.06	1,200	1,700
.07	1,700	2,000
.08	2,000	3,300

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,300.

"(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension for a veteran shall be— $186 if such veteran has one such dependent; $191 if such veteran has two such dependents; and $196 if such veteran has three or more such dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,300
.04	1,300	2,800
.05	2,800	3,200
.06	3,200	3,800
.08	3,800	4,500

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,500.";

(2) by striking out in subsection (d) "him" and "$123" and inserting in lieu thereof "such veteran" and "$133", respectively; and

(3) by striking out in subsection (e) "his", "him", and "$49" and inserting in lieu thereof "such veteran's", "such veteran", and "$53", respectively.

Sec. 103. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 541 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $117 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,500
.05	1,500	2,700
.06	2,700	3,300

"(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,300.

"(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $139 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,800
.03	1,800	2,700
.04	2,700	3,500
.05	3,500	4,500

"(2) In no case may pension be paid under this subsection to any surviving spouse if the anual income of such surviving spouse exceeds $4,500.

"(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate."; and

(2) by striking out in subsection (d) "widow" and "$20" and inserting in lieu thereof "surviving spouse" and "$22", respectively.

Sec. 104. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 542 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$49" and "$20" and inserting in lieu thereof "$53" and "$22", respectively; and

(2) by striking out in subsection (c) "$2,400" and inserting in lieu thereof "$2,700".

Sec. 105. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $69.".

Sec. 106. Effective January 1, 1976, chapter 15 of title 38, United States Code, is amended—

(1) by striking out in section 501(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in subsections (a), (b), and (c) of section 502 "he" and "his" each time they appear and inserting in lieu thereof "such person" and "such veteran's", respectively;

(3) by striking out in section 503(a)(7) "wife", "his", and "widow" and inserting in lieu thereof "spouse", "such veteran's", and "surviving spouse", respectively.

(4) by striking out in subclauses (A), (B), and (C) of section 503(a)(7) "his" each time it appears and inserting in lieu thereof "such veteran's";

(5) by striking out in subclauses (A) and (B) of section 503(a)(9) "his", "widow", and "wife" each time they appear and inserting in lieu thereof "such veteran's", "surviving spouse", and "spouse", respectively;

(6) by striking out in section 503(a)(14) "his widow" and inserting in lieu thereof "such veteran's surviving spouse";

(7) by striking out in section 503(a)(16) "his" and inserting in lieu thereof "such employee's";

(8) by striking out in section 503(c) "widow" and inserting in lieu thereof "surviving spouse";

(9) by striking out in section 505(a) "his" each time it appears and inserting in lieu thereof "such individual's";

(10) by striking out in section 505(b) "his wife" and inserting in lieu thereof "such veteran's spouse";

(11) by striking out in section 505(c), including clauses (1) and (2), "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(12) by striking out in section 506(a)(1) "he" and inserting in lieu thereof "the Administrator";

(13) by striking out in section 506(a)(2) "him", "he", and "his" each time they appear and inserting in lieu thereof "the Administrator", "such person", and "such person's", respectively;

(14) by striking out in section 506(a)(3) "his" each time it appears and inserting in lieu thereof "such person's";

(15) by striking out in section 507 ", in his discretion,"; by striking out in such section "his wife" and inserting in lieu thereof "such veteran's spouse"; and by striking out in such section "wife" the second time it appears and inserting in lieu thereof "spouse";

(16) by striking out in subsection (b) and (c) of section 511 "he" each time it appears and inserting in lieu thereof "such veteran";

(17) by striking out in subsection (a) and (b) of section 512 "he" each time it appears and inserting in lieu thereof "such veteran";

(18) by striking out in section 521(g) "he" and inserting in lieu thereof "such veteran";

(19) by striking out in section 523(b) "him" and inserting in lieu thereof "such veteran";

(20) by striking out in section 532(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(21) by striking out in subsections (b) and (c) of section 532 "widow" and "he" each time they appear and inserting in lieu thereof "surviving spouse" and "such veteran", respectively;

(22) by striking out in section 532(d) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(23) by striking out in the catchline of section 532 "Widows" and inserting in lieu thereof "Surviving spouses";

(24) by striking out in the table of sections at the beginning of such chapter 15

"532. Widows of Civil War veterans."

and inserting in lieu thereof

"532. Surviving spouses of Civil War veterans.";

(25) by striking out in section 533 "widow" and inserting in lieu thereof "surviving spouse";

(26) by striking out in section 534(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(27) by striking out in section 534(b) "widow" and inserting in lieu thereof "surviving spouse";

(28) by striking out in section 534(c) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(29) by striking out in the catchline of section 534 "Widows" and inserting in lieu thereof "Surviving spouses";

(30) by striking out in the table of sections at the beginning of such chapter 15

"534. Widows of Indian War veterans."

and inserting in lieu thereof

"534. Surviving spouses of Indian War veterans.";

(31) by striking out in section 535 "widow" and inserting in lieu thereof "surviving spouse";

(32) by striking out in section 536(a) "widow", "she", "wife", and "his" and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(33) by striking out in subsections (b) and (c) of section 536 "widow", "she", and "him" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(34) by striking out in section 536(d)(1) "widow", "she", and "widows" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "surviving spouses", respectively;

(35) by striking out in section 546(d)(2) "widow" and inserting in lieu thereof "surviving spouse";

(36) by striking out in clauses (A) and (B) of section 536(d)(2) "her" and "widow" each time they appear and inserting in lieu thereof "such surviving spouse" and "surviving spouse", respectively;

(37) by striking out in the catchline of section 536 "Widows" and inserting in lieu thereof "Surviving spouses";

(38) by striking out in the table of sections at the beginning of such chapter 15

"536. Widows of Spanish-American War veterans."

and inserting in lieu thereof

"536. Surviving spouses of Spanish-American War veterans.";

(39) by striking out in section 537 "widow" and inserting in lieu thereof "surviving spouse";

(40) by striking out in subclauses (A), (B), and (C) of section 541(e)(1) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(41) by striking out in section 560(b) "himself" and "his" and inserting in lieu thereof "such person" and "such person's", respectively;

(42) by striking out in subsections (a) and (b) of section 561 "his", "him", and "he" each time they appear and inserting in lieu thereof "such person's", "such person", and "such person", respectively;

(43) by striking out in section 561(c) "by him";

(44) by striking out in section 562(a) "him" and inserting in lieu thereof "the Administrator"; and

(45) by striking out in subsections (b) and (d) of section 562 "he" each time it

appears and inserting in lieu thereof "such person".

SEC. 107. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,900 and $4,200, instead of $2,600 and $3,900, respectively.".

TITLE II—INTERIM ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 415 of title 38, United States Code, is amended—

(1) by redesignating paragraph (2) of subsection (b) as paragraph (4) of subsection (b) and by striking out in the redesignated paragraph (4) of subsection (b) "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(b) (1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,500
.06	1,500	1,700
.08	1,700	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.";

(3) by amending subsections (c) and (d) to read as follows:

"(c) (1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1.100
.04	1,100	1,600
.05	1,600	2,400
.06	2,400	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.

"(d) (1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $90 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,300
.03	2,300	3,300
.04	3,300	4,500

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,500.";

(4) by striking out in subsection (e) "him" each time it appears and inserting in lieu thereof "the Administrator";

(5) by striking out in subsection (f) "he" and inserting in lieu thereof "the Administrator";

(6) by striking out in subsection (g)(1)(J)(ii) "his" and inserting in lieu thereof "such veteran's"; and

(7) by striking out in subsection (h) "$64" and inserting in lieu thereof "$69".

SEC. 202. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 322 of title 38, United States Code, is amended by striking out in subsection (b) "$64" and inserting in lieu thereof "$69".

Mr. ROBERTS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I shall not object, I support the gentleman's unanimous-consent request to concur in the Senate amendment to H.R. 10355.

This measure passed the House of Representatives on November 4 by a record vote of 400 to 0. I strongly supported the bill at that time and continue to do so.

The Senate amendment makes no substantive changes in the House passed bill. The cost of the measure remains the same.

The effect of the Senate amendment is to limit the increase authorized by the bill to a 9-month period ending September 30 and to eliminate all reference to gender with respect to veterans, spouses, and survivors.

Inasmuch as the other body has held this measure since November 4, Mr. Speaker, and we are rapidly running out of time before the adverse effect of the most recent social security increase will be reflected in pension checks, it is extremely important that we move this bill as expeditiously as possible. I, therefore, urge that we concur in the Senate amendment thus clearing the bill for the President.

Mr. ROBERTS. Mr. Speaker, on November 4, the House passed H.R. 10355 by a vote of 400 to 0. It provided an 8-percent increase in pension rates effective January 1, 1976, and it increased the maximum annual income limits for pension purposes by $300. The proposed increases would compensate for the cost-of-living increase this calendar year.

Mr. Speaker, the bill as amended by the Senate is substantially the same as the bill we passed last month. The other body made no substantive changes. The changes brought about by the Senate amendment are as follows:

First. The 8 percent cost-of-living increase in the pension and DIC rates and the $300 increase in maximum income limits would be effective from January 1, 1976, through September 30, 1976.

We are not going to object to the time limitation imposed by the other body although we think it serves no useful purpose. We are accepting the time limitation because we feel it is imperative that Congress get a bill to the President without further delay.

Although the increases provided in this bill have been labeled an interim measure, should the time constraints imposed by the other body require that adjustments be made in pension and DIC rates during the next calendar year, such adjustments may be made by the Veterans' Administration based on income reported at the time such rates are adjusted for benefits effective January 1, 1976. In other words, Mr. Speaker, the Veterans' Administration will not be required to send out new income questionnaires in making such adjustments should it become necessary.

Second. The amendment would make adjustments in current statutory pension provisions of title 38, eliminating or removing various gender references. These are technical not substantive changes.

The proposed Senate amendment does not alter in any way the cost of the House-passed bill. It remains at about $100 million in fiscal year 1976.

Mr. Speaker, the proposed bill provides pension for low income war veterans and their widows. Many are elderly. Most of them rely upon their pension benefits as a major source of income. Unless the bill is passed, many now receiving pension benefits will be terminated from the pension rolls after January 1, 1976.

I urge that H.R. 10355, as amended, be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

MEDICARE DEADLINE AMENDMENTS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums with Senate amendments thereto, and concur in the Senate amendments with a House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SEC. 101. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the prevailing charge level for the fiscal year beginning July 1, 1975, as determined under clause (ii) of the third sentence of this paragraph and with application of the fourth sentence of this paragraph, with respect to any particular physician service performed in any particular locality, is, by reason of the application of such fourth sentence, lower than the prevailing charge level for such service performed in such locality for the fiscal year ending June 30, 1975, as determined pursuant to such clause (ii), then, such prevailing charge level for the fiscal year beginning July 1, 1975, shall be deemed to be equal to the prevailing charge level so determined for the fiscal year ending June 30, 1975.".

(b) The fourth sentence of section 1842 (b)(3) of such Act is amended—

(1) by inserting "(including, to the extent feasible, data with respect to premiums for medical malpractice insurance)" immediately after "index data",

(2) by inserting "in any region" immediately after "physician services", and

(3) by inserting immediately before the period at the end of such sentence the following: "in the region".

(c)(1) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title VIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of the amendment made by subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1.

(2) The amendments made by subsection (b) of this section shall be effective only with respect to determinations of prevailing charge levels under the third and fourth sentences of section 1842(b)(3) of the Social Security Act for fiscal years beginning after June 30, 1976.

(d) The fourth sentence of section 1842 (b)(3) of the Social Security Act is amended—

(1) by striking out "fiscal" each place it appears therein, and

(2) by inserting immediately before the period at the end thereof the following: "(and, for purposes of this sentence, the term 'year' means a period which begins on July 1 of any calendar year and ends on June 30 of the succeeding calendar year)".

(e) Not later than 90 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report explaining the reasons why, in the administration of so much of the provisions of section 1842(b)(3) of the Social Security Act as relate to the establishment of indices to determine the prevailing charge level for physician's services, there was a failure to carry out the congressional intent that indices be established on a regional basis, and, instead, there was established a single national index applicable to physicians practicing in all areas of the Nation. Such report shall include any recommendations which the Secretary may have as to any legislative action which might be necessary to further implement the congressional intent with respect to the establishment of such indices.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 102. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1977".

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 103. Section 1862(c) of the Social Security Act is repealed.

TECHNICAL AMENDMENT RELATING TO PART B PREMIUM DETERMINATIONS

SEC. 104. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

(b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

SEC. 105. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?'. If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

"(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this Act, the Secretary has entered into an agreement with an organization designating it as the Professional Standards Review Organization for any area in the State.".

UTILIZATION REVIEW ACTIVITIES

SEC. 106. (a)(1) Section 1861(w) of such Act is amended—

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.".

(2) Section 1815 of such Act is amended—

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.".

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.".

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

CERTAIN EMERGENCY HOSPITAL SERVICES FURNISHED BY VETERANS' ADMINISTRATION HOSPITALS

SEC. 107. (a) Section 1814(c) of the Social Security Act is amended by inserting "or subsection (j)" immediately after "subsection (d)".

(b) Section 1814 of such Act is further amended by adding at the end thereof the following new subsection:

"Payment for Certain Hospital Services Provided in Veterans' Administration Hospitals

"(j)(1) Payments shall also be made to any hospital operated by the Veterans' Administration for inpatient hospital services furnished in a calendar year by the hospital or under arrangements (as defined in section

1861(w)) with it, to an individual entitled to hospital benefits under section 226 even though such hospital is a Federal provider of services if (A) such individual was not entitled to have such services furnished to him free of charge by such hospital, (B) such individual was admitted to such hospital in the reasonable belief on the part of the admitting authorities that such individual was a person who was entitled to have such services furnished to him free of charge, (C) the authorities of such hospital, in admitting such individual, and the individual, acted in good faith, and (D) such services were furnished during a period ending with the close of the day on which the authorities operating such hospital first became aware of the fact that such individual was not entitled to have such services furnished to him by such hospital free of charge, or (if later) ending with the first day on which it was medically feasible to remove such individual from such hospital by discharging him therefrom or transferring him to a hospital which has in effect an agreement under this title.

"(2) Payment for services described in paragraph (1) shall be in an amount equal to the charge imposed by the Veterans' Administration of such services, or (if less) the reasonable costs for such services (as estimated by the Secretary). Any such payment shall be made to the entity to which payment for the services involved would have been payable, if payment for such services had been made by the individual receiving the services involved (or by another private person acting on behalf of such individual).".

(c) The amendments made by this section shall be applicable in the case of inpatient hospital services furnished on and after July 1, 1974.

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO NURSING HOMES

SEC. 108. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".

(b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861 (j)(13), as it is amended by subsection (a) of this section.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 109. Nothing contained in section 222 (a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3)

OCCUPATIONAL THERAPY UNDER MEDICARE

SEC. 110. (a) Section 1814(a)(2)(D) of the Social Security Act is amended by inserting ", occupational," immediately after "physical".

(b) Section 1835(a)(2)(A)(i) of such Act is amended by inserting ", occupational," immediately after "physical".

(c) Section 1835(a)(2) of such Act is amended—

(1) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and", and

(2) by adding after clause (D) the following new clause:

"(E) in the case of outpatient occupational therapy services, (i) such services are or were required because the individual needed occupational therapy services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(d) The last sentence of section 1861(p) of such Act is amended by inserting "and occupational therapy services" after "speech pathology services".

(e) The amendment made by the preceding provisions of this section shall be applicable in the case of services furnished on and after the first day of the first month which begins not less than thirty days after the date of enactment of this Act.

PAYMENT TO PROVIDERS OF SERVICES

SEC. 111. Section 1815 of the Social Security Act is amended by deleting the parenthesis after "monthly" and inserting: "with no greater lag in payment to the provider than occurs in the providers' payments for the products and services it purchases."

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 112. (a) Subsections (c)(1) and (f)(1) of Section 1152 of the Social Security Act are amended by changing the date "January 1, 1976," in each to "January 1, 1978,".

(b) The amendments made by the above subsection shall not be applicable in any area designated in accordance with Section 1152(a)(1) of the Act where—

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located, if different, has adopted by resolution or other official procedure a formal policy position of opposition to or non-cooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under Section 1152 has been negatively voted upon in accordance with the provisions of Section 1152 (f)(2).

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 113. (a) Section 1167(b) of the Social Security Act (42 U.S.C. 1320c-16(b) is amended to read as follows:

"(b) In any civil suit, action, or proceeding brought against a Professional Standards Review Organization, a member, director, trustee, employee, or official thereof, or a person who is requested by, and who furnishes professional counsel or services to, such organization—

"(1) such organization, individual, or person shall not be held liable for the negligent performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person was grossly negligent in such performance;

"(2) such organization, individual, or person shall not be held liable for defamation in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part, unless such organization, individual, or person acted wth malice or with gross negligence in connection wth such performance; and

"(3) the Secretary shall make payment to such organization, individual, or person equal to the reasonable amount of the expenses of legal counsel actually and necessarily incurred, as determined by the Secretary, in connection with the defense of the portion of such suit, action, or proceeding in connection with the performance of any duty, function, or activity of Professional Standards Review Organizations authorized under this part.".

(b) The amendments made by this Act shall take effect on the date of this Act, but shall not apply with respect to any civil action, suit, or proceeding brought prior to the date of enactment of this Act.

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 114. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

UTILIZATION REVIEW UNDER MEDICAID

SEC. 115. (a) Section 1903(g)(1)(C) of the Social Security is amended to read as follows:

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel and (i) the information developed from such review or screening, and (ii) the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, who are not themselves directly responsible for the care of the patient involved and who do not have a significant financial interest in any such institution and who are not, except in the case of a hospital, employed by the institution providing the care involved; and, any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (iii) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (iv) subjecting admissions to early or more extensive review where information indicated that such consideration is warranted; and".

(b) The amendment made by subsection (a) shall take effect the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

HEALTH INSURANCE BENEFITS UNDER SECTION 202

SEC. 116. (a) Title XVIII of the Social Security Act is amended by adding after section 1818 the following new section:

"HOSPITAL INSURANCE FOR INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HEALTH INSURANCE

"SEC. 1819. (a) Every individual who—

"(1) has attained the age of 60, but has not attained the age of 65; and

"(2) is either—

"(A) an individual entitled to monthly insurance benefits under section 202 or benefits under the Railroad Retirement Act of 1937, or

"(B) the wife or husband of a person entitled to benefits under this part, or

"(C) an individual entitled to benefits under—

"(i) section 223(a), or

"(ii) subsection (e), (f), (g), or (h), of section 202 based on disability,

but who has not met the conditions of section 226 (b)(2); and

"(3) is enrolled under part B of this title shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll only once under this section and only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) In the case of an individual who satisfies paragraph (1) of subsection (a) of this section and either subparagraph (A) or (C) of paragraph (2) of such subsection, his enrollment period shall begin with whichever of the following is the latest:

"(A) April 1, 1976, or

"(B) the date such individual first meets the conditions in such paragraph (2), or

"(C) the date the Secretary sends notice to such individual that he is entitled to any monthly insurance benefits as specified in subparagraph (a) or (C) of such paragraph (2),

and shall end at the close of the—

"(D) 90th day thereafter, if such enrollment period begins on the date specified in subparagraph (B) or (C) of this paragraph, or

"(E) the 180th day thereafter, if such enrollment period begins on April 1, 1976.

"(3) In the case of an individual satisfying paragraph (1) and paragraph (2)(B) of subsection (a) of this section, his enrollment period shall begin on whichever of the following is the later: (A) April 1, 1976, or (B) the date such individual first meets the conditions specified in such paragraphs, and shall end at the close of the (C) 90th day thereafter, if such enrollment period begins on the date specified in clause (B) of this paragraph or (D) the 180th day thereafter, if such enrollment period begins on April 1, 1976.

"(c)(1) In the case of an individual who enrolls pursuant to the provisions of this section, the coverage period during which he is entitled to benefits under this part shall begin on the first day of the second month after the month in which he enrolls, or July 1, 1976, whichever is later.

"(2) An individual's coverage period shall terminate at the earlier of the following—

"(A) for failure to make timely premium payments, at such time as may be prescribed in regulations which may include a grace period in which overdue premiums may be paid and coverage continued, but such grace period shall not exceed 30 days; except that it may be extended to not to exceed 60 days in any case where the Secretary determines that there was good cause for failure to pay overdue premiums within such 30-day period; or

"(B) at the close of the month following the month in which an individual files a notice with the Secretary that he no longer desires to be enrolled under this section; or

"(C) with the month before the month he no longer meets the conditions specified in subsection (a).

Notwithstanding the preceding provisions of this paragraph, an individual's coverage period shall terminate at such time as such individual becomes eligible for hospital insurance benefits under section 226 of this Act or section 103 of the Social Security Amendments of 1965; and upon such termination such individual shall be deemed, solely for purposes of hospital insurance entitlement, to have filed in such month the application required to establish such entitlement.

"(d)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1977 shall be $40.

"(2) The Secretary shall, during the last calendar quarter of each year beginning in 1976, determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums chargeable to individuals for months occurring in the 12-month period commencing July 1 of the next succeeding year. Such amount shall be actuarily adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period; and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1, or if midway between multiples of $1, to the next higher multiple of $1.

"(e) Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or other arrangement is administratively feasible.

"(f)(1) The provisions of section 1840 shall apply to individuals enrolled under this section if such individuals are entitled to monthly insurance benefits under section 202 or 223. The provisions of subsections (e), (f), (g), and (h) of such section 1840 shall apply to any other individual so enrolled.

"(2) Where an individual enrolled under this section meets the provisions of paragraph (2)(B) of subsection (a) (but does not meet the provisions of paragraph (2)(A) or (2)(C) of such subsection) and the person referred to in such paragraph (2)(B) is entitled to monthly insurance benefits under section 202 or section 223, the provisions of section 1840(a)(1) shall apply to such benefits as though such husband or wife were entitled to such benefits, unless such person files a notice with the Secretary that the deductions provisions of such section 1840 (a)(1) shall not apply.

"(g) The term 'wife', or 'husband' as used in this section shall have the meaning assigned to those terms by subsection (b) and subsection (f) of section 216, as the case may be, except that the provisions of clause (2) of such subsection (b) and clause (2) of such subsection (f) shall not apply.".

(b) Title XVIII of such Act is further amended by adding after section 1844 the following new section:

"ELIGIBILITY OF INDIVIDUALS, AGE 60 THROUGH 64, WHO ARE ENTITLED TO BENEFITS UNDER SECTION 202 OR WHO ARE SPOUSES OF INDIVIDUALS ENTITLED TO HOSPITAL INSURANCE

"SEC. 1845. (a) Any individual who meets the conditions of paragraph (1) and paragraph (2) of section 1819(a) shall be eligible to enroll in the insurance program established by this part. The provisions of subsections (b), (c), (e), (f), and (g) of section 1819 shall apply to individuals authorized to enroll under this section.

"(b) An individual's coverage period shall also terminate when (A) he no longer meets the conditions specified in paragraphs (1) and (2) of section 1819(a) or (B) his enrollment under section 1819 is terminated. Where termination occurs pursuant to this subsection, the coverage period shall terminate with the close of whichever of the following months is the earliest: (C) the month before the month the individual attains the age of 65 or (D) the month following the month in which such individual no longer meets the conditions of paragraph (2) of section 1819(a) or (E) the month in which his enrollment under section 1819 terminates.

"(c)(1) The monthly premium of each individual under this section for each month in his coverage period before July 1976 shall be 200 per centum of the premium payable by an individual who has attained age 65 for such month.

"(2) The Secretary shall, during December of each year beginning in 1976 determine and promulgate the dollar amount (whether or not such dollar amount was applicable for premiums for any prior month) which shall be applicable for premiums for months occurring in the 12-month period commencing July 1 of the next year. Such amount shall be actuarially adequate on a per capita basis to meet the estimated amounts of incurred claims and administrative expenses for individuals enrolled under this section during such period, and such amount shall take into consideration underwriting losses or gains incurred during prior years. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest $1 or if midway between multiples of $1, to the next higher multiple of $1.

"(d) All premiums collected from individuals enrolled pursuant to this section shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.".

COVERING UNDER PART B OF MEDICARE OF DURABLE MEDICAL EQUIPMENT PROVIDED TO CERTAIN INSTITUTIONALIZED PATIENTS

SEC. 117. (a) Section 1861(s)(6) of the Social Security Act is amended by inserting "and which is used as the patient's home during a period for which the patient is entitled to have payment made under part A for the inpatient hospital or post-hospital extended care services furnished to him by such institution" immediately after "of this section".

(b) The amendment made by this section shall be effective only with respect to services furnished on and after the first day of the first calendar month which begins not less than thirty days after the date of enactment of this Act.

TECHNICAL AMENDMENT RELATING TO JUDICIAL REVIEW AVAILABLE TO PROVIDERS OF SERVICES

SEC. 118. Section 3 of Public Law 93-484 is amended by redesignating subsection (b) thereof as subsection (c), and inserting the following new subsection:

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

SEC. 201. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"FOOD STAMP DISTRIBUTION

"SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

"(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

"(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).".

(b) Administrative costs incurred by a State plan for aid and services to needy families with children, approved under part A of title IV of the Social Security Act, in conducting procedures (described in section 410 of such Act, as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended.

TITLE III—INTERNAL REVENUE CODE AMENDMENT

CERTAIN IRRIGATION DAMS

SEC. 301. Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

SEC. 302. The amendments made by section 301 of this Act shall apply to obligations issued after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend title XVIII of the Social Security Act, and for other purposes.".

The SPEAKER. The Clerk will report the House amendment to the Senate amendments.

The Clerk read the House amendment to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SECTION 101. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.".

(b) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 102. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1979".

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 103. Section 1862(c) of the Social Security Act is repealed.

TECHNICAL AMENDMENT RELATING TO PART B PREMIUM DETERMINATIONS

SEC. 104. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

(b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

SEC. 105. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?'. If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

"(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this subsection, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designated it as the Professional Standards Review Organization for any area in the State.".

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO NURSING HOMES

SEC. 106. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".

(b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 107. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able

to continue in operation and carry out the project described in clause (3).

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 108. (a) Subsections (c) (1) and (f) (1) of section 1152 of the Social Security Act are each amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) The amendments made by subsection (a) shall not apply in any area designated in accordance with section 1152(a) (1) of the Social Security Act where—

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or non-cooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 109. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

UTILIZATION REVIEW UNDER MEDICAID

SEC. 110. (a) Section 1903(g) (1) (C) of the Social Security Act is amended to read as follows:

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a) (30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved; and the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and".

(b) The amendment made by subsection (a) shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

CONSENT BY STATES TO CERTAIN SUITS

SEC. 111. (a) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this title, a State plan for medical assistance must include a consent by the State to the exercise of the judicial power of the United States in any suit brought against the State or a State officer by or on behalf of any provider of services (as defined in section 1861(u)) with respect to the application of subsection (a) (13) (D) to services furnished under such plan after June 30, 1975, and a waiver by the State of any immunity from such a suit conferred by the Eleventh Amendment to the Constitution or otherwise."

(b) Section 1903 of such Act is amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding any other provision of this section, the amount payable to any State under this section with respect to any quarter beginning after December 31, 1975, shall be reduced by 10 per centum of the amount determined with respect to such quarter under the preceding provisions of this section if such State is found by the Secretary not to be in compliance with section 1902(g)."

(c) The amendments made by this section shall (except as otherwise provided therein) become effective January 1, 1976.

UTILIZATION REVIEW ACTIVITIES

SEC. 112. (a) (1) Section 1861(w) of the Social Security Act is amended—

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.".

(2) Section 1815 of such Act is amended—

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w) (2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w) (2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.".

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.".

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

SEC. 201. Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(a) (7) of the Food Stamp Act of 1964, as amended, may be extended until October 1, 1976.

TITLE III—INTERNAL REVENUE CODE AMENDMENT

CERTAIN IRRIGATION DAMS

SEC. 301. (a) Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon that the House concur in the Senate amendments with a House amendment?

Mr. DUNCAN of Tennessee. Mr. Speaker, reserving the right to object—and I shall not object—I would like to ask the chairman of the committee to explain each of the amendments as they apply and tell us how they would be implemented.

I might also say that I do not like this procedure that was worked out this afternoon.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, I hope that the gentleman from Tennessee will yield to the chairman of the subcommittee, the gentleman from Illinois (Mr. ROSTENKOWSKI), to explain the amendment in particular.

I may say to the gentleman that I do not like the procedure either, except that I can say that the amendments that are included here are soundly conceived amendments. We stripped off those that are controversial, and we think that this, all in all, is a very constructive package.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I reserve my right to object.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I am pleased to yield to the chairman of the subcommittee, the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to outline for my colleagues the rationale underlying my motion. On November 17, 1975, the House of Representatives passed H.R. 10284, a bill to make four changes in the medicare program. The four items included in this bill were singled out by the Committee on Ways and Means for prompt attention because they all involved deadline issues which required immediate congressional action before the end of this calendar year.

In considering this House-passed bill, the Finance Committee and last evening the full Senate added numerous amendments to it. In order to facilitate final enactment of the deadline amendments originally passed by the House, I have moved that the House accept only those Senate amendments that are either similarly affected by the constraints of time or those that are completely noncontroversial in nature and which do not affect the costs and savings under the House-passed bill.

In recommending that the House reject certain Senate amendments as either not critical at this time or as too controversial in nature, I would like to point out to my colleagues that this fall the Subcommittee on Health of the Committee on Ways and Means held hearings on many of the subjects addressed in the Senate amendments. It is my intention, early in the next session, to draft a medicare reform bill which would include many of the nondeadline issues and more controversial matters that were addressed by the Senate.

The motion that I have made would treat each of the Senate amendments as follows—

Prevailing charge levels for fiscal year 1976:

Section 101 of the Senate bill has the same intent as the House provision which provides that no prevailing charge for a physician's service in fiscal year 1976 will be less than it was in fiscal year 1975 due to application of the economic index required by the 1972 Social Security Amendments. A committee amendment requires that, in calculating the index by which prevailing charges may increase, the Department should include, to the extent feasible, factors related to any increase in malpractice premiums and that the index calculations should be on a regional basis rather than a national basis. The committee amendment also requires the Secretary of HEW to submit a report explaining why he failed to carry out congressional intent that the index be established on a regional basis and to recommend any additional legislation which may be necessary to assure that the index can be established as intended. An additional committee amendment provides that customary and prevailing charges will continue to be updated each July 1.

The Social Security Administration has made it clear that it cannot have available the types of data the Senate amendment would require to be used in the computation of the index by July 1, 1976. In view of the fact that the Subcommittee on Health has already held public hearings on the economic index provisions, including testimony from DHEW on why a national index was used, little would be gained by requiring a report. In addition, the subcommittee has already indicated that it will undertake a basic review of the physician payment provisions under medicare early next year.

I, therefore, recommend that the House retain the language in the House-passed bill. The subcommittee will continue to work early next year to make basic improvements in these provisions.

Waiver of 24-hour nursing service requirement in rural hospitals:

Section 102 of the Senate bill would extend for 1 year, rather than 3 years as contained in the House-passed bill, the Secretary of HEW's authority to waive the requirement for certain rural hospitals that a registered nurse be on duty at all times.

There has been a favorable trend during the operation of the existing waiver provision whereby most access hospitals have come into compliance with the statutory requirement. It is likely that this trend will continue. Extending the provision for an additional 3 years will provide the necessary time to consider in-depth not only a permanent solution to the nursing personnel issue but the problems posed for rural hospitals in meeting all of the conditions of participation. During the interim, medicare beneficiaries will be assured access to needed inpatient hospital care close to their homes. In view of these considerations, I recommend that the House language be retained.

Relationship between medicare and Federal employees health benefits program:

Section 103 of the Senate bill is identical to the House-approved provision that would continue the existing method for coordination between medicare and the Federal employees health benefits program in the case of persons who are entitled under both programs. There is no dispute between House and Senate regarding this provision.

Technical amendment to part B premiums determination:

Section 104 of the Senate bill is identical to the House-approved provision designed to correct a technical error in existing law that prevents medicare part B premiums from being increased annually in accordance with congressional intent. There is no dispute between House and Senate regarding this provision.

Professional Standards Review Organization, PSRO, area designation:

Section 105 of the Senate bill adds a provision to the House-passed bill that would require the Secretary to poll physicians in those States that have multiple PSRO areas and in which no PSRO currently exists on the question of whether they would prefer a statewide PSRO area. If a majority of the physicians in each PSRO area favor a statewide PSRO, the Secretary would redesignate that State as a PSRO area.

The development of PSRO's in several multiple area States has been inhibited because of physician sentiment in favor of a statewide PSRO area. By providing an opportunity for physicians to formally express their preference, this amendment would help to expedite the development of PSRO's in areas where they do not now exist before the time allotted for giving preference to physician organizations expires. Therefore, I recommend that the House accept this Senate amendment.

PSRO direct utilization review activities:

Section 106 of the Senate bill adds a provision to the House-passed bill that would provide for reimbursement of PSRO's through the medicare trust fund for costs they incur in performing utilization review on behalf of hospitals. The amendment provides for hospital payments to the PSRO with the hospital in turn receiving reimbursement for these payments from medicare.

It is recognized that the funds appropriated for the PSRO program may have been inadequate for the most rapid implementation of the program and that some assured source of funding on a continuing basis is necessary. I recommend that the House accept this Senate amendment.

Certain hospital services of VA hospitals:

Section 107 of the Senate bill would authorize the medicare program to pay for care rendered to a medicare eligible patient in a Veterans' Administration hospital if the patient had entered the hospital, and the hospital had accepted the patient, under the belief that he was eligible for veterans' benefits, but it turned out later that he was not eligible.

While a case can be made for affording relief in situations encompassed by the amendment, it is not clear why the medicare program should be used to do so. It might be appropriate to afford relief, as part of veterans' legislation, for all such persons found not to be VA eligible—not just those who are eligible for medicare. In addition, it would seem more appropriate for the VA to administer such a provision rather than complicating the medicare law and its administration. I therefore recommend that the House not accept that section of the Senate amendment.

Updating of the life safety requirements applicable to nursing homes:

Section 108 of the Senate bill is a committee amendment which would replace the current medicare and medicaid requirement that skilled nursing facilities meet the provisions of the 1967 Life Safety Code with a requirement that they meet the provisions of the updated 1973 edition of the code. Facilities already in compliance with the 1967 Code could remain qualified on that basis. The updated 1973 code, reflecting improvements based on research and experience, has been adopted for use by many States and local governments. Failure to adopt it for medicare and medicaid would subject facilities to the necessity of complying with the differing requirements of the two code editions. Therefore, I recommend that the House accept this Senate amendment.

Grants to demonstrate appropriate mechanism for capitation payments:

Section 109 of the Senate bill adds a provision to the House-passed bill that would permit the Secretary to approve a grant designed to enable the Sacremento Medical Care Foundation—or an organization with similar characteristics—to participate in a demonstration project to obtain data on HMO reimbursement mechanisms. The amendment would permit the grant to reimburse the foundation for health services prior to the beginning of the project.

Providing authority for the payment of retroactive costs in this case is necessary to assure that the foundation, which is a unique and well established type of group practice plan, will be able to participate in an important project, scheduled for implementation early in January 1976, aimed at developing a ratesetting methodology of HMO's. Therefore, I recommend that the House accept this Senate amendment.

Occupational therapy under medicare:

Section 110 of the Senate bill is a committee amendment that would: First, add occupational therapy to the medicare outpatient physical therapy and speech pathology benefit; and second, provide that a need for occupational therapy alone can qualify a home-bound patient for home health services. Because no deadline situation is involved, and because careful consideration of this benefit expansion costing millions of dollars is merited, I recommend that the House not accept this Senate amendment at this time.

Avoidance of delay in medicare payment to hospitals:

Section 111 of the Senate bill would amend a provision of the medicare law that now requires that providers of services be paid "not less often than monthly" by further requiring that there be "no greater lag in payment to the provider than occurs in the providers' payments for the products and services it purchases." Because the Subcommittee on Health of the Ways and Means Committee intends in the next few months to consider carefully all aspects of hospital reimbursement under medicare, I recommend that this issue of promptness of medicare payment be deferred for consideration in that context and that the Senate amendment not be accepted at this time.

Change in termination of date giving absolute priority to physician groups as PSRO's:

Section 112 of the Senate bill adds a provision to the House-passed bill that would extend the limitation on the Secretary's authority to recognize any organization other than a physicians' association as a PSRO from January 1, 1976, to January 1, 1978. The limitation imposed by this amendment would not apply, however, in any area where the physicians have formally indicated that they will not establish a PSRO.

The purpose of this amendment is to allow additional time, beyond the time limit contained in present law, for PSRO development by physicians' organizations in view of the administrative delays that have occurred in implementing the program. Therefore, I recommend that the House accept this amendment.

Modification of Professional Standards Review Organization, PSRO, liability in conducting review:

Section 113 of the Senate bill adds a provision to the House-passed bill that would substitute a different test of liability for PSRO's—"gross negligence" instead of "due care"—and provide Federal payment for the costs of legal counsel in civil actions against PSRO's.

Many PSRO's have experienced difficulty in obtaining reasonably priced liability insurance. Some people believe that a way of stimulating the development of private liability insurance is to provide a greater degree of immunity for PSRO's from civil actions and to have the Government assume the costs of legal counsel in such actions. However, there is no evidence or assurance that this amendment will have the intended effect. Moreover, raising the standard of liability and thus impairing the ability to obtain judgments where actual negligence occurs may be too high a price to pay. The problem of protecting PSRO's against frivolous actions and potentially costly judgments is a serious one for which a more effective and reliable solution is required and the Committee on Ways and Means will be examining this issue in depth. Therefore, I recommend that the House not accept this amendment.

Coverage of diagnostic services by optometrists:

Section 114 of the Senate bill would direct the Secretary of HEW to conduct a 4-month study of the appropriateness of reimbursement under medicare for diagnostic professional services—other than refractive services—performed by optometrists on patients whose natural lenses of the eye have been removed. This question merits careful study, and I recommend that the House accept the Senate amendment providing for such study.

Medicaid 100-percent hospital review requirement:

Section 115 of the Senate bill adds a provision to the House-passed bill that would permit up to 100-percent review or review on an appropriately designed sample basis of medicaid hospital admissions in place of what has been interpreted at a present requirement of 100-percent review of all patients.

The provision in the medicaid law amended by the Senate bill is one that has been erroneously interpreted as requiring 100-percent review of admissions and has given rise to widespread professional complaint about its costly and unproductive effects. The intent of the original provision, as in the PSRO provision, was to permit utilization review to be carried out in such a manner as to permit identification of problem cases and patterns of care. The amendment would provide the flexibility that is urgently needed to produce an effective utilization review system. Therefore, I recommend that the House accept this amendment.

Medicare coverage for certain persons aged 60 to 64:

Section 116 of the Senate bill would provide optional coverage under medicare part A, which would be self-financed through premiums paid by enrollees, for spouses aged 60 to 64 of medicare beneficiaries and for other persons aged 60 to 64 who are entitled to social security cash benefits. Because the provision would tend to put medicare into competition with private health insurance carriers with respect to this group, because it raises the question of why social security beneficiaries below age 60 should not also be included, and because it is not a provision involving a time deadline, I recommend that the House not accept this Senate amendment.

Medicare coverage of durable equipment for residents of institutions:

Section 117 of the Senate bill would extend coverage of durable medical equipment to situations in which coverage is currently precluded because the patient is in an institution such as a hospital or skilled nursing facility rather than in a place of residence used as his home. Because this amendment does not involve a time deadline situation, I recommend that the House not accept the Senate amendment.

Technical amendment relating to judicial review available to providers of services:

Section 118 of the Senate bill modifies medicare provisions relating to the Provider Reimbursement Review Board—to which providers may appeal certain reimbursement determinations—to specify that the existing provisions establishing the Board shall not be construed as effecting any right to judicial review which may otherwise be available under law to providers with respect to cost reports for accounting periods ending prior to June 30, 1973. This is essentially an effective date provision which has previously been considered and rejected in the House as part of the consideration of the bill that became Public Law 93-484. Consistent with the previous rejection of this provision by the House, I recommend that the House not accept this Senate amendment.

Consent by States to certain suits:

In addition to the above-noted changes, the House amendment to the Senate amendment adds a section to the bill which would require that any State plan for medical assistance under title XIX of the Social Security Act include a consent by the State to suit in the Federal courts in actions brought against the State by providers of certain medicaid services. This provision would insure that providers would have access to the Federal courts in certain suits relating to the payment of the reasonable cost of inpatient hospital services provided under the State plan. This provision would remedy the problem where providers find themselves unable to meet the conflicting time constraints required for admission to State proceedings and yet are unable to bring their dispute into the Federal court. It seems only proper that disputes with States over the operation of particular aspects of the federally initiated medicaid program should be allowed to be considered in Federal courts.

Food stamp provision for welfare recipients:

Section 201 of the Senate bill amends title IV of the Social Security Act to give States the option of withholding the food stamp purchase price from an AFDC grant for those recipients who wish to purchase food stamps. Under present regulations of the U.S. Department of Agriculture, States—under Public Law 93–86—are required to give all AFDC recipients the option effective January 1, 1976. Although many States do use the withholding method successfully, some States have found the mandatory provisions in present law extremely difficult to implement for a variety of administrative reasons. I recommend that the House adopt a provision extending the existing optional system until October 1, 1976. This will give the Congress ample time to review these provisions as well as more basic changes in the food stamp law.

Tax-exempt status of obligations used to provide certain irrigation facilities:

Section 301 of the Senate bill adds language identical to that contained in H.R. 9968, a bill to amend the Internal Revenue Code, which passed the House on October 6, 1975.

This amendment adds a new exception to industrial development bond treatment to specifically allow tax-exempt status for bonds issued for a dam which furnishes water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water.

Specifically, the Senate amendment deals with the tax-exempt status of obligations the proceeds of which are to be used to reconstruct the American Falls Dam in Idaho. Since this legislation has already been approved once by the House this year, I recommend that the House accept this amendment.

Mr. Speaker, without taking any more of my colleagues' valuable time on this matter, I would only reiterate that adoption of this motion will allow for speedy enactment of the deadline provisions that are so important. And in doing so, I want to point out the fine cooperation I have had from my colleague, the gentleman from Florida (Mr. ROGERS) on this matter. Since some of these issues relate to medicaid which in in his committee's jurisdiction, his assistance in developing this compromise has been essential. It demonstrates that we can work together to develop sound health legislation. I urge my colleagues to accept the Senate amendment to H.R. 10284 with an amendment as I have outlined it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Maryland.

Mr. BAUMAN. I would like to ask the gentleman from Illinois if the last provision regarding the American Falls Dam that he described in his long recitation of the various amendments was the original bill the House passed?

Mr. ROSTENKOWSKI. No.

Mr. BAUMAN. All of the other provisions that he has mentioned have been added by the other body; is that correct?

Mr. ROSTENKOWSKI. No. What the Senate did was they struck out all of our legislation and amended it with these provisions and others.

Mr. BAUMAN. But, in other words, the Christmas tree was the Americans Falls Dam bill and all the baubles that have been hung on it, completely extraneous and nongermane, many of them—are not within the jurisdiction of the gentleman's committee?

Mr. ROSTENKOWSKI. What they did really is they took our legislation, a medicare bill that was passed here about 2 months ago, and they in the Finance Committee amended it with several of these amendments.

Mr. BAUMAN. If the gentleman would yield further, is there any reason why the House could not consider these fundamental changes in various sections of law, for instance, regarding food stamps, on their own merits, in the rest of this session which I am now told is going to extend right to the end of the year?

Mr. ROSTENKOWSKI. It is my understanding that in the food stamp provisions which I recommended the House accept, I am in agreement with the chairman of the Committee on Agriculture. I consulted with him earlier with regard to this legislation. I think the chairman of the Committee on Agriculture would like to make an observation.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

If I can respond to the gentleman from Maryland, the distinguished chairman of the subcommittee consulted fully with me and with the gentleman from Virginia (Mr. WAMPLER) the ranking minority member of the committee, with respect to the food stamp changes. I will tell the gentleman I had some objection to the action of the Senate in repealing the section of law that has been on the books for 2½ years and has only recently been implemented by the Department. But the amendment suggested by the gentleman from Illinois will give the Congress the remainder of the fiscal year in the transition quarter to consider those changes and to act upon them.

I think it is just and probably will be acted upon in a way pretty similar to the Senate amendment but after an opportunity to have notice of hearing and judgment by the committee of jurisdiction.

I want to say the suggested amendment of the gentleman from Illinois has my full concurrence and the concurrence of the gentleman from Virginia (Mr. WAMPLER), the ranking minority member on the committee.

Mr. DUNCAN of Tennessee. What does it do?

Mr. FOLEY. In 1973, in amending the Food Stamp Act, the Congress mandated all States must permit public assistance recipients to have the purchase price of food stamps deducted from their public assistance checks. The Department has twice postponed during the past 2 years the final implementation of this regulation. There are 21 States which have fully implemented the law, eight States have partially implemented the law and 21 States have not. Because of a threat of lawsuit, the Department has set January 1, 1976, as the date when all States must come into compliance with respect to this act.

Many of the States suggest that the implementation of the act increases the likelihood of fraud since, under the act, in many cases where the welfare checks have been sent by mail and food stamps are included with the check in the mailing, they feel there is greater likelihood of mail theft. Also there are computer difficulties which are involved and expensive.

What the Senate is proposing in the amendment is to postpone until October 1, 1976, the implementation. This enables us in the Committee on Agriculture to consider a recommendation of the Department that there be a permanent repeal of this section as a mandatory requirement and a substitution therefore of an optional standard for the States to follow.

So the effect of adopting the suggested amendment mentioned by the gentleman from Illinois will be to prevent the mandatory requirement going into effect January 1, postponing until October 1, that requirement, and giving the Committee on Agriculture and the Committee on Ways and Means and other interested committees an opportunity to consider changes in the legislation.

I hope the amendment recommended by the gentleman from Illinois will be adopted. I think this would solve the problem of avoiding any disruption on January 1 by those States that feel it has been very difficult to carry out this mandatory requirement and at the same time it will preserve the appropriate legislative process so that the legislative committee of jurisdiction will have an opportunity to consider these proposed changes and not have them incorporated into the bill.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to clarify the questions the gentleman from Maryland (Mr. BAUMAN) raised. What the Senate did was take our medicare bill and amend all of our language out and put in amendments that included the American Falls Dam tax legislation. This is actually an amendment to a medicare bill we sent to the other body.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, is the gentleman saying the House considered these legislative matters in some omnibus bill that came before the gentleman's committee?

Mr. ROSTENKOWSKI. We have considered four of them: The part B premium, the rollback of the prevailing charge, the rural hospital provision, and the Federal employee health insurance issue. I am sure the ranking minority Member can attest to this. We based the basic bill unanimously on the Suspension Calendar.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I just want to say, first, that this has become the usual procedure at the end of the session. We are confronted with a Christmas tree bill which no one understands. Even after my good friend, the gentleman from Illinois (Mr. ROSTENKOWSKI) has explained it, how many people in this House know what is in this bill? If they do, would they please raise their hands? I see one hand.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, this situation that we find ourselves in is not entirely of our doing, I might point out.

Mr. CARTER. I want to say, this is not a good way to legislate. We must find a better way. This is absolutely senseless.

Now, I have to take the word of my staff member and the majority staff member and that is about it. Then always in this legislation there is a little hooker in every one of them. They all have it and that is why they are brought up when we want to go back home every time. I regret that such actions are taken at this time.

I would ask my good friend, what are we giving money to the Sacramento Medical Care Foundation for? Why are we doing that? That is in this legislation. How much money are we giving them?

Mr. ROSTENKOWSKI. This is a demonstration project.

Mr. CARTER. It is?

Mr. ROSTENKOWSKI. Yes, sir. It is a demonstration project that is being done to explore HMO reimbursement mechanisms.

Mr. CARTER. How much are we including for this?

Mr. ROSTENKOWSKI. Whatever HEW allots to the project.

Mr. CARTER. Whatever they want to spend?

Mr. ROSTENKOWSKI. Not completely.

Mr. CARTER. The sky is the limit; is that right?

Mr. ROSTENKOWSKI. Under the demonstration projects provisions, the sky is not the limit.

Mr. CARTER. It could very well be.

Mr. ROSTENKOWSKI. I would like to reiterate to my friend, the gentleman from Kentucky, that I would have preferred to bring this legislation up in the regular time schedule.

Mr. CARTER. Such actions as this are usually brought up under the Hill-Burton Act. Grants and loans are given under that or under the present HMO Act; but here we have this Christmas tree effect. However, I am not going to object at this time.

Mr. ROSTENKOWSKI. I appreciate that.

Mr. CARTER. Because I feel we have gone over it and depending upon my good assistant, we can accept part of it; but there are so many things that are not right. I object to such procedure and next year, if the good Lord is willing, and such a Christmas tree is brought up before this House, I am going to object.

Mr. Speaker, I thank the distinguished gentleman for his patience.

Mr. MILFORD. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I am not so sure that I can agree with my colleague, the gentleman from Kentucky.

I, for one, feel absolutely irresponsible voting for a complex bill of this nature, not knowing what is in it, other than what the gentleman says at this microphone.

As I understand, there are some must items that have to be dealt with before the first of the year; is that correct?

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. MILFORD. I understand there are some other items that do not necessarily have to be dealt with before the first of the year.

Mr. ROSTENKOWSKI. That is correct; although what we tried to do was to delete those items that were budget-breaking and those things that were controversial. We tried to take all those things out.

Mr. MILFORD. What might be controversial with the gentleman might not be controversial with others, and vice versa.

Do I understand we are disagreeing with something the Senate is sending over; therefore, there still has to be Senate action?

Mr. ROSTENKOWSKI. Yes.

Mr. MILFORD. I would suggest we disagree only with those must items that have to be passed by the first of the year and send them back for action Then nobody is hurt and that allows us to act in a half-way responsible manner.

Mr. ROSTENKOWSKI. I do not agree with that, because I do not think I can hold the Senate hostage.

Mr. MILFORD. It appears to me they are holding us hostage.

Mr. ROSTENKOWSKI. I want to point out, this legislation was passed, at least our original bill was passed under the suspension calendar with no objection. In addition, I have tried to consult on the new medicaid provisions where the jurisdiction is no longer ours, with my good friend, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding to me.

I want to say that I share some of the concerns expressed by my colleague on the Committee on Interstate and Foreign Commerce and the Subcommittee on Health and the Environment. I think we do need more notice. However, I must say that we have had cooperation from the Committee on Ways and Means.

We would have liked more time, as the gentleman from Kentucky has said, to go into these problems to be more fully conversant with them. However, I think that what has been agreed to is acceptable to us at this time.

Mr. Speaker, I rise in support of H.R. 10284, as amended in the second degree.

H.R. 10284 contains a number of much needed amendments which affect both the medicare and the medicaid programs. I share the objections of many of the Members to consideration of complex bills such as this on short notice under unanimous consent. It inhibits appropriate debate and consideration. When this bill was originally reported by the Ways and Means Committee, my own committee agreed to forgo hearings and formal consideration of the parts of the bill which affected programs in our jurisdiction—most particularly medicaid—because of the noncontroversial nature of the provisions and the urgent nature of several of them. I had hoped that after Senate consideration of the bill, we would have time for careful consideration of any amendments of theirs, and full discussion of them in conference. Again, I was disappointed. Nevertheless, working with the full cooperation of Mr. ROSTENKOWSKI and the Ways and Means Committee staff, I believe we have together called this bill down to one that is supportable and which we can pass under these unfortunate conditions with, in general, reasonable assurance that we have acted prudently and responsibly.

I would like to take a moment to describe the provisions of the bill which are either wholely or jointly in the jurisdiction of the Interstate and Foreign Commerce Committee.

We have agreed to the original House version of H.R. 10284 relating to the 3-year waiver of the round-the-clock nursing requirement in small rural hospitals under medicaid and medicare where a good faith effort is being made to comply with the nurse staffing requirements. Similarly, we support the original House provision assuring that the limitations on increases in prevailing charges under part B of medicare do not result in a decrease in fiscal year 1976 from what was paid in fiscal year 1975, and the technical amendment which allows the continuation of the tie between part B premium and social security benefit increases.

In addition, we have reviewed the Senate amendments which affect medicaid. We have found several that are acceptable and necessary. First, three amendments relating to PSRO's: First, a provision which allows a State to have a statewide PSRO, regardless of the size of the State and its physician population, if a majority of physicians in each designated local area indicates a preference for a statewide PSRO, and no local conditional PSRO has already been designated; second, a 2-year extension of the period in which HEW must give preference to physician groups in establishing PSRO's; and, third, a provision which is designed to equalize reimbursement for utilization review activities whether carried out directly by a PSRO or delegated by them to an effectively functioning hospital utilization review committee.

Second, we support revising the life safety code requirements for medicaid and medicare hospitals so that the applicable code is the 1973 Life Safety Code. Hospitals which are currently qualified under the 1967 code, or State codes approved by the Secretary, would not lose their eligibility under the two programs because of the code change.

Senator TALMADGE's floor amendment clarifies original Congressional intent concerning utilization review activities under medicaid; 100 percent review by professional personnel is neither necessary nor cost effective; this was never the intent of the Congress. We agree to an amendment which specifies that. There is one amendment which is of real concern to me. The Senate added to the House bill a provision to allow retroactive payments for services delivered to medicaid patients by a well-known California medical care foundation.

In general, I do not approve of this. It is my understanding however that these funds, estimated not to exceed $700,000 are part of a study already initiated by HEW to determine how we can better set rates in HMO's serving high-risk medicaid populations. The need for this study is demonstrated by the very situation that necessitates using some of the grant funds to make up the losses already suffered by the Foundation in serving medicaid enrollees. The Foundation simply could not provide high-quality services needed by the ill population they enrolled within the rates established by the State before they had sufficient experience with the program. The HEW study could not proceed with this payment because the General Counsel ruled they could not subsidize the Foundation for the services already delivered without a clearer legislative authority. This amendment provides it. The Senate Finance Committee examined this carefully in their deliberations on the bill and they added it. We have accepted it, albeit reluctantly, and only on the assurance that this situation is unique and an isolated one, and in no way forms a precedent for similar action in the future.

My colleague, Mr. ROSTENKOWSKI, requested an addition to the Senate version of H.R. 10284 to provide hospitals with a recourse in cases where State medicaid programs adopt alternate payment systems to reasonable cost without receiving approval from the Secretary of HEW as is required by law. He recognizes this is in our committee's jurisdiction, and has discussed with me the urgent nature of the problem. I have, therefore, agreed to accept it.

Several other Senate amendments, which are worth serious consideration, were not included because adequate time was not available for their careful examination. I am particularly concerned, however, that in future legislation we find an adequate response to the problem faced by many PSRO's in securing adequate liability insurance. While I had serious misgivings about the approach and language of the amendment adopted by the Senate, I would hope that HEW would provide to the Congress within the next 3 months a careful analysis of the problem and possible solutions, and some recommendations for legislative action.

I have appreciated the cooperative spirit in which my colleagues on the Ways and Means Committee and on my own committee have been able to work to bring this bill before the House in workable form under these very difficult conditions. I join Mr. ROSTENKOWSKI in urging the Congress to accept H.R. 10284 as amended in the second degree.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman from Tennessee will yield further, I certainly appreciate the fact that my good friend from Florida has really done a service to the Subcommittee on Health of the Ways and Means Committee, and to the House in cooperating with us in this matter.

Mr. CARTER. If the distinguished gentleman from Tennessee will yield further, I would like to ask my good friend, the chairman of the Subcommittee on Health and Environment, a question. Do we know how much money is to be appropriated for the HMO in Sacramento, and in what form? Why is this?

Mr. ROGERS. I might say that that would be, I am sure, done under the medicaid on a strictly experimental one-time basis.

Mr. CARTER. Does the present bill have enough money in it for this? We have under construction some 100 of them, or have built that many.

Mr. ROGERS. The maximum which would be spent on this is $700,000. As the gentleman knows, here is an area over which we feel that we have jurisdiction.

Mr. CARTER. What good Senator is this for? Who is going to give the city of Sacramento this great gift?

Mr. ROGERS. This is for the Sacramento Medical Foundation. It should be checked into, and certainly in our hearings and oversight we will go into this.

Mr. CARTER. Of course, we have regular channels to help these people, and here we come with the traditional Christmas tree with trimmings for, as it happens, Sacramento, and I hope it is helpful.

Mr. ROGERS. I share the gentleman's concern.

Mr. YOUNG of FLORIDA. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman explain again very clearly why it is that we are using this procedure to bring important legislation to the floor?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, it is because of the deadlines that are provided for in the bill. As I explained earlier, what the Senate did was to amend the legislation we sent over and send it back to us now at this late hour.

Mr. YOUNG of Florida. Will the gentleman tell us again what the deadlines are? I am just wondering whether it is a matter of days, a week, or two weeks?

Mr. ROSTENKOWSKI. The deadlines in these programs are January 1.

Mr. YOUNG of Florida. I find something difficult to believe. I do not think that the leadership would propose this type of solution to some political problems, but I have heard buzzing around on the floor all afternoon that the House is not going to adjourn anyway; that it is going to have a series of phony pro forma sessions every third day. I am wondering if that would leave us time in one of those sessions to handle this bill in the appropriate fashion.

Mr. ROSTENKOWSKI. I cannot personally explain what the situation in the House will be.

But pro forma sessions, or sessions without legislation, are not very well attended.

The gentleman has the understanding that we are somewhat the victims of circumstances. What we really tried to do was put together a package that would be acceptable to the Members of the House. As chairman of the Subcommittee on Health, I did try to check with everyone who would be affected by this legislation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman has raised a very important point and one that is of interest to all of the Members. It seems to me that without any explanation from the majority leadership as to exactly what the program is for the remainder of the session, and without any explanation as to whether we are to have legislation considered tomorrow or next week, or whether we are going to adjourn until the 19th of January, some of us might feel compelled to explore fully our rights as individual Members in every instance, in every request that is going to be made. Perhaps to forestall that possibility there might be some statement made now by the appropriate majority leadership on the other side as to exactly what the plans are. Otherwise, perhaps it would be better put off any of these legislative matters until we find out what the plans may be. Quite frankly, Mr. Speaker, the gentleman from Maryand is going to object to this request unless we have some guidance as to what the majority's plans are.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, I will be happy to explain the schedule.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, with the completion of the legislation that is pending, we have 11 deferrals that we intend to take up this evening. Following the 11 deferrals, we will take up the Airport and Airway Development Act. There is an open rule, with 2 hours of general debate. It is expected that we would run until about 10 o'clock, and then we would adjourn to meet at 10 'oclock tomorrow and possibly complete the airport bill tomorrow if we have not completed it today, and we would take up the rail bill conference report and perhaps some other matters.

I am sure that the gentleman is aware of the fact that there is pending on the President's desk the HEW appropriations bill and the rumor is that he is going to veto it. He has until midnight tomorrow night to veto that bill. Consequently, I talked to the leadership on the other side of the aisle, with the view in mind that the President send the veto down so that we would be able to consider it in the morning.

Mr. Speaker, it had been our plan that we will also have several unanimous-consent requests that would be brought up tonight. When the House adjourns to meet tomorrow, we would plan to adjourn to meet the Monday following, and every Tuesday and Friday until January 3.

I cannot say what the business will be then. There is no way or manner in which the leadership on either side of the aisle can protect the Members. I appreciate the fact that this will be in Christmas week and the week before New Year, and people have made plans. But there is no way the leadership can protect the Members. If the gentleman from Florida on Monday calls a quorum call, then every Member is subject to his own conscience as to whether he wants to be here or not.

We could very possibly have some vetoes that the President could send up and we would try to work out with the leadership on the other side a program by which we could transfer those or postpone those until January 3.

I mentioned the date of January 3 when we would be returning because under the Constitution we must return on January 3 or pass a resolution through the House, through the Senate, and signed by the President of the United States.

Although I do not see the minority leader, the gentleman from Arizona (Mr. RHODES) on the floor at this particular time, I talked to him about this: that instead of going into 3-day intervals until the date of January 3, we agree to a resolution saying that the House would be in session 2 days a week and that instead of coming back on January 3, we would come back on January 5. He said he was willing to talk with the White House to see if that was agreeable with the President, because we do not know whether the President intends to call the House back or not on account of the veto of the tax bill.

That is the situation as I see it at the present time. I am only trying to explain it for the Members. If the Members of the House want to go along with that, that is fine. On the other hand, if any of the Members want to cause havoc around here and embarrass his fellow Congressmen and Congresswomen by calling rollcalls on Monday or Tuesday, then those gentlemen can live with their own consciences.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would say that the gentleman from Maryland is perfectly willing to live with his conscience. Can the gentleman from Massachusetts give us some reason for this fundamental change in the schedule? I ask that because the gentleman announced to the House a few days ago there would be an adjournment tomorrow until January 19, 1976.

Mr. O'NEILL. Yes, Mr. Speaker, the gentleman knows the veto of the President was not overridden. There is no action contemplated by the majority on this side of the aisle, so apparently the action that took place today, resulting from the President's vetoing the bill, sets up a new tax rise in the first week of the year.

We have had talks with the members of the leadership on the other side, some of whom have spoken with the President of the United States, and it is undetermined whether the President really wants a tax cut or whether he is satisfied with the conditions as they now stand, and we would go back to the old scale as of the first of the year.

I would have to say that it is the judgment of the majority and the leadership on both sides of the Capitol that there is a possibility that the President may call the House back in special session if we were out on recess because of this tax matter. We spoke to one of the Members who had been down to see the President. We do not know whether we are going to be called back or not.

I see that the minority leader is here at the present time, and may I just say for his benefit that I was mentioning the discussion the minority leader and I had as to whether we would come back on January 3 or January 5. I would hope, along with the minority leader, that we could agree to a resolution providing that we can meet 2 days a week and come back on January 5 rather than on January 3.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I would like to ask a question.

Mr. O'NEILL. Mr. Speaker, I have not asked unanimous consent.

Mr. BAUMAN. There is a unanimous-consent request pending.

Mr. Speaker, reserving the right to object, the gentleman from Massachusetts (Mr. O'NEILL) still fails to present us with a reason for the extraordinary program that he has announced. The gentleman said there was a veto. We knew that.

What is the reason for the change in the month-long recess?

Mr. O'NEILL. Mr. Speaker, the reason for that is that the President could possibly call us back if we were on recess. That would mean calling all the House Members back, and the gentleman knows that if we called all the Members of the House back, that would mean an added expense at the time they were called back. We would have to pay the air fares of all the Members coming from all over the country. With that in mind, we thought it best to keep the House in session.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I think the gentleman from Massachusetts (Mr. O'NEILL) has been affected by the Christmas spirit, since has never seemed to be concerned about Federal spending before, on any occasion. It will also cost the taxpayers plently to have these phony pro forma sessions.

Mr. O'NEILL. With me, it is a question of priorities.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield to the gentleman from Arizona, the distinguished minority leader.

Mr. RHODES. Mr. Speaker, surely the majority leader has just stated what I understand to be the agreement of the majority leadership. They have the votes, and I certainly have objection to what they decided to do.

There is a certain amount of peril in an adjournment sine die because there is some possibility that the President might then decide to call the House and Senate back into session.

I do not know that that would happen, but he has made it very clear that this is one alternative he has reserved.

Mr. Speaker, it would be my hope that before too many hours have elapsed, it would be possible for some agreement to be reached on some expenditure limitation.

Mr. O'NEILL. If the gentleman will yield further, we must face the facts as they are.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have the floor. I have yielded to the distinguished minority leader.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield for a question?

Mr. RHODES. May I just finish. Then I will be glad to have the majority leader yielded to so as to resume his comment.

Mr. Speaker, it does seem to me that the best way for the House to work out the situation is to try to come to some agreement on some sort of expenditure limitation which would meet with the approval of the President of the United States and the majority Members of this body. I do not think that would be too difficult. I stand ready to help to do it and to pass this tax cut legislation which the people of the country want.

At that point, Mr. Speaker, I think that we could all go to our various homes with a clear conscience during this blessed Christmas season.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, I am not trying to get into any question of politics.

The gentleman from Arizona (Mr.

RHODES) and I talked earlier about the program and about whether we would come back on January 3 or January 5.

In order not to come back on the 5th, we would have to have a resolution which would have to be signed by the President.

I do not want to go into the politics of the matter. We are not going to go into any ceiling until such time as our budget process works.

The fact remains that the gentleman from Arizona was going to find out whether the President would sign a resolution to bring us back the 5th or not. If not, we come back the 3d.

Otherwise, as I say, as it stands right now, when the House adjourns, it will adjourn until tomorrow, when it will adjourn to meet on Monday. If Members are not here, it will be at their own peril.

Mr. RHODES. If the gentleman will yield further, the majority leader and I have discussed the possibility of some sine die resolution. I have to say to the majority leader that I have not yet been able to make the necessary contact, but I still think it is possible that this might be accomplished.

I wonder why the majority leadership decided it was necessary to come back the 3d of January. Is it necessary? Under the Constitution, it would be necessary to do this, as I understand.

Mr. O'NEILL. Under the Constitution, we must be back on the 3d. The only way we can get around it is by a resolution that has to be signed by the President.

We had intended to make it until the 19th of January, but we understand from a conversation with certain Members of Congress that the President may possibly call us back into session.

For that reason, there is no sense in preparing and sending out a resolution.

Mr. Speaker, may I say this to the minority leader: I have already talked with the gentleman from Illinois (Mr. MICHEL), the minority whip. It is our understanding that the HEW appropriations bill will be vetoed. Tomorrow is the 10th day. Certainly, if it is going to be vetoed, it must be vetoed by now. The President has until midnight tomorrow night to send it in. If it would come in at a reasonable hour, we could vote on it or vote to postpone it.

If it does not come in at a reasonable hour, there would have to be a Monday session, and in the Monday session we would have to dispose of the veto one way or the other.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I might say that I have just been advised that the bill that is expected to be vetoed went into the President's office about 5 or 10 minutes ago but that they do not know whether or not the veto message will be in such a shape as to be here the first thing in the morning. But there is a likelihood that it could come some time tomorrow, a reasonable time tomorrow.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, if we could have an agreement from both sides of the aisle when it does come up that we could postpone it until January 3, say, or sometime in January then I am sure that those who are worried about their airplane reservations and their other communications would be able to feel a little easier.

Mr. MICHEL. Mr. Speaker, I certainly subscribe to that suggestion.

Mr. O'NEILL. If we can work it out I will be very grateful and thank the gentleman.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, I just want to say for the edification of the Members that I have been through the business of the 2-day week sessions, recessing for 3 days, and it all depends on who is in the chair whether or not anybody can be mean enough to call a quorum. I do not want to come back, but I will volunteer to come back for a couple of those times and sit in the chair. And it is easy, you know who is going to move to adjourn and if anyone tries to be mean as was suggested then that Member can move to adjourn and the one who is sitting in the chair can rap the gavel and that is all there is to it. The fact of the matter is, I will bet that I can beat the record of the Senate in getting out in 9 seconds, because, it can be done and nobody can call a quorum because if they start to do so, you just have your man move to adjourn, make that motion, bang the gavel, and that is the end of the ball game.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

The reason I raised the issue in the first place is very simple. And that is that although what the distinguished gentleman from Ohio (Mr. HAYS) has said is fine, and everybody is so happy to hear it, and we can applaud and we can stand up here and make one liners all day long. But, while we can do that, and while some can go on junkets, and some can be relaxing or can be back home doing their work, the truth is this is nothing more than an attempt to fool the American people into believing that the House is in session through these phony 2-day-a-week pro forma sessions when in fact the House is not in session.

My position is simply this, that if we are going to tell the American people that we are working, then let us be at work. If we are going to meet here every third day, then let us have some work to do. I will volunteer with the gentleman from Ohio (Mr. HAYS) to be here. I'm willing to be here every third day and I would hope that we could get down to doing some legislative work that is still pending, and to do it through regular procedures rather than having pro forma sessions.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, after thinking over the various amendments agreed to in conference, I feel that they were reasonable. There were some that I wish we had had more time to discuss, but I will withdraw my objection to it.

Mr. DUNCAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Mr. Speaker, reserving the right to object.

I can only comment in response to what the gentleman from Ohio (Mr. HAYS) had to say concerning the highly irregular procedure he would follow next week in the House for these phony sessions that I for one suggest that this is a fair example of the reason why the Congress of the United States is held in such low estate by the people of this country. I can assure the House we will have a chance to test our procedures next week.

It is the responsibility of the majority party to conduct the business of this House in an orderly manner. Right now we have a unanimous-consent request pending for a multifaceted piece of legislation dealing with everything from physicians' services to medicare payments to PSRO's, including benefits of the food stamp program. We are totally in the dark as to what this bill contains except for a brief explanation the gentleman from Illinois (Mr. ROSTENKOWSKI) has given us.

I for one value my oath of office too much to be a party to this irresponsible parliamentary procedure. I think if we are going to stay in session next week then we ought to proceed in an orderly manner. Therefore I object.

The SPEAKER. Objection is heard.

REQUEST TO CONSIDER HOUSE RESOLUTION 920, DISAPPROVING DEFERRAL OF BUDGET AUTHORITY

Mr. ROUSH. Mr. Speaker, I call up the resolution (H. Res. 920) to express the disapproval of the House of Representatives to the deferral of certain budget authority (D76–79) relating to the Environmental Protection Agency, and ask unanimous consent that the resolution be considered in the House as in the Committee of the Whole, and that House Resolutions 921, 922, 923, and 924, disapproving the deferrals of certain budget authority may also be considered in the House as in the Committee of the Whole.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. HAYS of Ohio. Reserving the right to object, Mr. Speaker, quite a few, including my distinguished friend, the gentleman from Maryland, have been playing this reserving-the-right-to-object game, and then when they have their say, they object, and that is the end of the ball game.

As far as the gentleman is concerned about the Congress being held in disrepute, that is what some of the press say. I think the Members on this side know what the score is. I got 70 percent of the vote the last time, although the poll takers in my district said only 23 percent approved of Congress. So I have to assume that it is people like the gentleman from Maryland they do not approve of, because I got enough votes to get me back here.

The President vetoed the bill. Now what the gentleman's dilemma is he does not want to let him hang. I want him to go skiing out in Colorado and worry about it. He wants to spoil everybody else's Christmas holiday, but he wants us to take him off the hook before he goes out to Colorado. As far as I am concerned, he put himself on the hook. I like him and all that, but he can stay on the hook. I did not put him there, and I do not really intend to spoil my Christmas holiday. I am going home for Christmas.

I understand the President does not have a home in Michigan any more. I do have one in Ohio. I have always had one in Ohio, and I am going home for Christmas, and not even the President of the United States is going to spoil my holiday.

I got fooled, and came back here once on Christmas Eve, by Lyndon Johnson and wound up driving in the snow and got home at midnight on the 25th.

I do not care how many sessions the President calls. He can call one on Christmas Day if he wants to, and I will send him a polite note and say, "I am not going to be there; just make the decisions yourself."

But for political reasons is the only thing that this game is being played—political reasons. The whole truth of the matter is the President, God bless him, vetoed the tax bill, because he is afraid of Ronald Reagan. I am not.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. ROUSH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROUSH. Was objection made to the consideration of the resolutions which I presented? I would hope that the gentleman might not object.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

RESOLUTIONS EXPRESSING DISAPPROVAL OF CERTAIN BUDGET AUTHORITY

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. I had hoped, Mr. Speaker, to explain what is involved here so the Members would realize its importance. I think it is highly important, and I would hope they would not make the objection until after they understand what they will be objecting to.

We have pending at the present time a number of proposed deferral resolutions and our committee has acted in accordance with the Impoundment Control Act of 1974. The act was the result of actions by the Congress and was signed by the President. The act provides for handling those matters where rescissions and deferrals have been recommended by the President. The President sent down a message making these recommendations. The Appropriations Committee has acted. I have here the resolutions which are the result of the actions taken by our committee under the provisions of the act.

Mr. Speaker, as you know, our committee reduced the budget request of the Department of Agriculture by $2,085,375,000. Notwithstanding this reduction, the following programs were proposed for deferral:

Water and sewer grants, $50,000,000.

Agricultural conservation program, $90,000,000.

Watershed and flood prevention, $22,500,000.

Resource conservation and development, $4,960,000.

Appalachian Fruit Crop Laboratory, $7,570,000.

Fleming Key Animal Import Center, $6,314,000.

I would like to bring up the disapproval resolutions that would make funds immediately available for these important programs.

I respectfully suggest it would be in the interest of all those here who want to do business to get on with the consideration of these resolutions.

Mr. Speaker, I ask unanimous consent that there be considered at this time resolutions numbered House Resolution 911, House Resolution 912, House Resolution 913, House Resolution 914, House Resolution 915, and House Resolution 916, disapproving deferrals of certain budgetary authorities.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, since we are going to be here the rest of the year, I object.

The SPEAKER. Objection is heard.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 815]

Addabbo
Anderson, Ill.
Ashley
Badillo
Bingham
Brown, Mich.
Burke, Calif.
Burton, John
Carney
Chappell
Collins, Ill.
Conyers
Coughlin
Daniels, N.J.
Dingell
Downing, Va.
Duncan, Oreg.
Eckhardt
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Fraser
Gaydos
Giaimo
Harrington
Harsha
Hastings
Hébert
Hefner
Helstoski
Hinshaw
Horton
Howard
Ichord
Jarman
Jones, N.C.
Karth
Landrum
Leggett
Macdonald
Moffett
Moorhead, Pa.
Moss
Murphy, N.Y.
Nolan
Patman, Tex.
Pike
Pressler
Randall
Rangel
Rees
Riegle
Roe
St Germain
Scheuer
Shuster
Sikes
Sisk
Sullivan
Talcott
Teague
Thompson
Udall
Ullman
Wiggins
Wilson, Tex.
Wright

The SPEAKER. On this rollcall 366 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON S. 2718

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Intestate and Foreign Commerce may have until midnight tonight to file a report on S. 2718.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not object, I wish to inquire of the distinguished chairman of the Committee on Interstate and Foreign Commerce whether or not that conference report will be in printed form sufficiently in advance of our considering it on the floor here, so that those who are not altogether familiar with the intricacies of it will have at least an hour or an hour and a half to read that report?

Mr. STAGGERS. If the gentleman will yield, in response to the gentleman from Illinois (Mr. MICHEL), I would say that that would be the intention of the chairman. I would hope that if there is other business to take up in the morning, perhaps it could be taken up before the conference report. But I am hoping the report will be in hand by 9 o'clock, or even 8 o'clock, to be available to the Members.

Mr. MICHEL. Mr. Speaker, I appreciate the gentleman's assurance, because I think, in the long run, we expedite the business of the House if we have 1 or 2 hours to become familiar with the report.

Mr. STAGGERS. If the gentleman will yield further, I can assure the gentleman that that would be my intent.

Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1975

Mr. JONES of Alabama. Mr Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9771) to amend the Airport and Airway Development Act of 1970.

The SPEAKER. The question is on the

motion offered by the gentleman from Alabama.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 9771, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to the rule, the general debate will continue for not to exceed 2 hours, 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Under the rule, the gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. SCHNEEBELI) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Airport and Airway Development Act which comes before the House today is a major legislative step toward modernizing our civil aviation services and making them safer, more efficient, and more convenient for the traveling public.

H.R. 9771 is a realistic and responsible effort by the Committee on Public Works and Transportation to correct serious deficiencies in existing law so that we can better meet the Nation's aviation needs, protect the Federal interest in the development of a national airport and airway system, and remove some of the barriers that have impeded progress in the past.

While safety remains our paramount objective, this legislation recognizes that Federal funding is sorely needed to modernize the terminals and terminal facilities where congestion, delays in baggage handling, and other unnecessary inconveniences are more the rule than the exception. All too often, the air traveler spends more time in the terminal than in the air, because of the antiquated condition of our ground facilities today.

Chairman GLENN M. ANDERSON of our Subcommittee on Aviation, ranking minority member GENE SNYDER, and all their subcommittee colleagues have worked long and hard to produce a bill that meets the pressing needs of our aviation system without breaching the budgetary restraints necessarily imposed upon us.

Mr. Chairman, I urge passage of this essential legislation.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of the pending bill, H.R. 9771, the Airport and Airway Development Act Amendments of 1975. As ranking minority member of the Aviation Subcommittee, I wish to emphasize that this legislation is the product of close cooperation between the majority and minority sides of both the subcommittee and the full committee. We have worked long and hard on this bill. It represents our best considered judgment as to what is needed in the aviation arena.

H.R. 9771, as reported, does not satisfy everyone. But it does strike a balance among competing proposals which all of us can support. The bill provides for airport and airway development programs which all can live with—and which will engender substantial improvements in our national airport and airway systems. Well over $1.3 billion will become available for the development of air carrier airports during the next 3 fiscal years. In addition, over $225 million is earmarked for general aviation airport development during the same period—including at least $25 million each year for reliever and commuter airports. Also, some $800 million is authorized for air traffic control facilities during the 3 years.

All of the various aviation organizations—and there are many, I can tell you—provided their input during our deliberations. We believe we have developed a bill which will meet the requirements of aviation—while not "busting the budget." By every measure, this is the most thoroughly researched, the most carefully considered airport and airway bill in history. We have tried to make it the best bill which can be produced.

Mr. Chairman, I would like to take just a moment to recognize the fine spirit of cooperation which prevailed on our committee throughout the consideration of this legislation. Our chairman, BOB JONES, and the chairman of our Aviation Subcommittee, GLENN ANDERSON, were most considerate at all times of those of us on the minority side. Their positive approach in this regard is a major reason that we come before this House united on the merits of the bill. We trust and believe that this relationship can and will continue as we proceed on other legislative pursuits.

Mr. Chairman, in addition to H.R. 9771 being a bill which is supported on both sides of the aisle, it also is likely to prove acceptable to the administration. Rather than repeat Chairman ANDERSON's recitation of the provisions of the bill, I will concentrate on the major areas of compromise which involved the basic issues of authorization levels, as well as certain of the programs proposed to be authorized.

First, with respect to funding levels, it is no secret that the version marked up in subcommittee was excessive. It was well above the administration's request for the airport development assistance program. Moreover, it carried average annual authorizations well above the level contained in the Budget Committee's first budget resolution, a level also above a higher figure which we then were given to understand the Budget Committee would find acceptable for fiscal year 1976.

Therefore, I was gratified that the full committee accepted the amendment offered by the ranking minority member of the full committee, Hon. WILLIAM H. HARSHA, to reduce the ADAP program to $2,612,500,000 over the 5-year authorization, with a total of $450 million for fiscal year 1976. I also want to note that the Budget Committee, in its report to accompany House Concurrent Resolution 466, the second concurrent resolution on the budget, fiscal year 1976, increased its earlier figure of $350 million by an additional $100 million, so that the bill conforms to the budget process.

I want to emphasize here that this represented a substantial compromise on the part of the committee leadership, including Chairman BOB JONES, BILL HARSHA, and GLENN ANDERSON, as well as the membership of the committee at large. Equally entitled to credit is Secretary Coleman of the Department of Transportation who has indicated he will recommend to the President acceptance of a considerable increase over the budget request in terms of the ADAP authorizations for fiscal 1976.

Aside from funding levels, there was another essential element in reaching agreement on this legislation. I refer to a provision that would again make trust funds available—within strictly prescribed limits—for the servicing of navigation and landing aids essential to the safe and efficient functioning of the airport and airway system. This has proven a controversial issue with some, but I feel that some elaboration will amply justify this provision. For one thing, funds would be used only to pay for servicing of the electronics and communications systems, and such items as tower and other landing control systems. The systems being served are owned by the Federal Government, were paid for with airport and airway trust fund revenues, and are serviced by Federal employees. The activities funded are limited to servicing as distinct from operation of the system. Therefore, it is altogether logical to me that these activities be funded by the trust fund. While I personally do not favor this provision, I will support it as part of the compromise we have reached.

There are two basic areas of controversy here. One arises from the fact that the administration went overboard under previous legislation in tapping the trust fund for these and related purposes until the Congress called a halt. I am convinced that a fair reading of the restrictions built into this authorizing legislation makes it evident that these abuses can not recur.

Another source of objection has arisen among those who see a parallel between servicing in the ADAP program and maintenance in the highway program. I can assure you on a basis of considerable familiarity with the highway program, and my consistent support for the integrity of the highway trust fund, that this parallel does not exist. And again, I think a fair reading of the bill before you in report language should dispel any concerns you may have in that regard.

If we are going to be realistic in talking about levels of authorization and use of trust fund revenues, we have to take a look at the needs we are trying to meet. Unquestionably, the needs are out there. Virtually every segment of the industry has argued for higher spending levels than provided in this bill. That's understandable. And although the administration's budget request was considerably lower, the Department of Transportation's own estimates identify greater needs for funding than provided in this bill.

Of paramount importance to me, and I suspect to others who share with me a vital concern for fiscal responsibility, is the fact that our authorizations under this bill are considerably less than the revenue generated into the trust fund.

Fiscal integrity—to me—means several things—and one of these is using trust funds for the purposes for which they are collected and not to finance other deficit spending for social experiments not related to the purpose for which the money was collected.

Based upon anticipated tax collections for the trust fund and the expenditure levels of this bill, the surplus will be—in total—as follows:

[In millions]

1976	$1,069.7
Interim	1,190.7
1977	1,446.6
1978	1,754.0
1979	2,099.7
1980	2,510.4

There is another problem and I refer to the present lack of data sufficiently refined and reliable to permit apportionments on the basis of need and cost such as we do in the interstate program. We have therefore directed the Secretary to secure that data. This is an additional reason for my feeling that we are justified in holding spending levels to modest increases, and at the same time mandating a significant upgrading of the national airport system plan—NASP—as a basis for future legislation.

I do not mean to suggest for a moment that we are legislating in the dark. As I said before, this is a good bill that strikes a balance between the needs of civil aviation and the overriding needs of the economy.

Mr. Chairman, I urge my colleagues to recognize the merits of this bill and to support its passage by an overwhelming vote.

Mr. JONES of Alabama. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, the bill H.R. 9771, as reported, represents a constructive, progressive approach which is designed to first, continue the original act of 1970, and second, to meet those problem areas which have risen since its enactment.

After hearings and much study, we found that the Airport and Airway Development Act of 1970 was a sound measure, but that expansion, and refinement were necessary in order to more adequately meet the needs of the public.

We certainly recognize that safety is and will remain the top priority, but we also recognize that other factors must be given more consideration—factors such as delay and inconvenience, noise and its effect on both aviation and the communities adjacent to airports, a more efficient utilization of existing facilities, and a more systematic, assured method of financing necessary projects.

As a result, we have attempted to redirect the program in these directions, without sacrificing the paramount concern—the safety of the traveling public.

First: Effective utilization of facilities: As you know, under the 1970 act, Federal aid for airport development extends only to safety and security items and construction on the airfield—this means, taxiways, aprons, runways, runway extensions and the like. Federal airport aid does not extend to the terminal area, nor does it permit the purchase of land or easements to create noise buffer zones.

In our hearings we found that our country has developed outstanding airfields—but we found that the terminals at many of these fields could not accommodate the people. We found airports that could accommodate many more aircraft in a safe and efficient manner, but the terminal could not handle the people. As a result, airfield capacity is being wasted—not effectively utilized—because the terminal is too crowded, too congested to handle additional people.

Therefore, to more adequately and effectively utilize our existing airports—to get the most out of what we have—our committee agrees that the entire airport should be considered as a single entity, that each part of that airport could affect the other, and that coordinated development was necessary. Thus, H.R. 9771, as reported, approved Federal aid for the nonrevenue producing public use portions of the terminal—such as:

Baggage claim delivery areas; corridors, foyers, and entryways; central waiting rooms, customs clearing areas, restrooms, and holding areas; vehicles to move passengers between terminals or to the aircraft.

But, in keeping with our utmost concern for safety, the bill has the following restrictions:

It only applies to air carrier airports;

All safety and security requirements must have been met;

The Federal share of project costs is 50 percent, not 75 percent or 82 percent as are other eligible items;

None of the funds that are strictly at the Secretary's discretion may be used;

No more than 30 percent of the money that is apportioned by formula can be spent for this purpose—or a total of $439.8 million out of a total of $2.2 billion for air carrier airports over the 5-year period.

Under the current funding system, Mr. Chairman, assured Federal funding of a project is only on a year-by-year basis, and the level of Federal participation for those longtime projects is unknown from one year to the next. Thus, an airport sponsor cannot properly plan his financing of a project, and, all too often, the Federal grant is a "windfall," in that the sponsor did not really count on receiving the aid. This, obviously, has not resulted in the most effective use of limited local and Federal money.

H.R. 9771, as reported, addresses this problem first by permitting the Secretary to approve multiyear projects and to commit Federal funding for periods exceeding 1 year; and, second, by apportioning a larger percentage of the funds in order to give airport sponsors a more precise estimate of the aid they can expect to receive. In addition to more effectively using moneys available and, therefore, permitting better planning, this should also reduce some of the redtape that has tended to encumber the program; third, aircraft noise.

Mr. Chairman, noise emanating from operations around the airport is a serious problem that has led to an underutilization of existing facilities through curfews and the like; to law suits by residents surrounding the airports; and to operating procedures which some consider unsafe.

To combat this, H.R. 9771 would permit airport sponsors to use Federal airport development aid for the purchase of land or easements to insure that the property adjacent to the airport is used for purposes compatible with airport operations. In addition, acoustical devices—to muffle the noise on the airport—would become eligible for Federal aid.

In addition to these problem areas, Mr. Chairman, our committee addressed other parts of the program which were found to be less than satisfactory.

First, in 1970, the act required the Secretary to develop a national airport system plan in order to provide a planning tool for future development. This plan has not been satisfactory, largely because it has been encumbered with too much detail. For example, every project—whether it is a new runway, or simply a new fence—had to be included in the plan in order to qualify for Federal aid. This produced a document of such bulk—with unnecessary information—to be a useful tool for future planning. In addition, the national airport system plan became more of a catalog, a directory of airports, than a planning document.

H.R. 9771 addresses this problem by requiring the airport to be in the plan, and for the Secretary to determine the future role—in terms of number of passengers and flights, and types of aircraft, and the development necessary to meet that role—in order to qualify for aid. This should produce a meaningful plan that would give the Congress a more accurate estimate of needs and a more accurate assessment of future development necessary to meet the requirements of the traveling public.

Second, in recognition of the fact that commuter service and reliever airports are playing an ever-increasing and important role in the aviation system, H.R. 9771 gives these type airports a special priority in funding. There is a $25 million floor that is "earmarked" for these airports, and they are eligible for additional funding out of the general aviation category.

Third, to encourage greater State government participation in the program, grants could be made to the States to pay for 75 percent of the cost of a State developing construction standards for general aviation airports. These standards, if approved by the Secretary, would replace the Federal standards while by no means replacing the Federal Government's responsibility for safety.

In addition, a demonstration program is established to allow the Secretary to permit up to 11 States to handle the general aviation portion of the airport development program.

Fourth, to more evenly distribute the air carrier airport funds and to give sponsors a more accurate estimate of future funds to be apportioned to the airport, a new method of distributing funds is established under H.R. 9771.

In the past, one-third of the air carrier airport funds was "earmarked" based on the number of enplanements—passengers embarking from that airport—in relation to all enplanements in the country; one-third was "earmarked" based on the State's area and population in relation to the entire area and population in the country; and one-third was at the Secretary's discretion. This system was not adequate in that the first one-third—enplanements—was earmarked largely for the biggest airports. Some 68 percent of the one-third enplanement funds went to only 23 large hub areas. The remaining 32 percent of the enplanement fund was distributed among some 400 air carrier airports. The other two-thirds of the money was allocated almost entirely at the Secretary's discretion.

H.R. 9771 devises a new formula in which no more than 66 percent of the air carrier airport development funds are distributed based on a "weighted" enplanement formula—thus, shifting a larger percentage of the money to medium, small, and nonhub airports. Under this provision, no air carrier airport, receiving aircraft with a maximum certificated gross takeoff weight of 12,500 pounds or more, would receive less than $150,000 per year or more than $10 million per year. Airports could, however, receive more than the maximum $10 million from the Secretary's discretionary fund.

The act divides airports into two basic categories, air carrier airports and general aviation airports. Air carrier airports are those which are, or will be served by air carriers certified by the Civil Aeronautics Board. The term "air carrier airport" includes airports at which CAB has authorized a certificated carrier to suspend its service, so long as a commuter carrier provides replacement service. The legislative history of the 1970 act clearly established that airports serviced under these replacement arrangements were air carrier airports and the bill now before us is intended to continue this classification.

Under CAB-approved replacement arrangements, a city is guaranteed continuing air service, as would be the case if service was provided directly by a certificated carrier. The Board's orders on replacement arrangements provide that the certificated carrier retains responsibility for insuring that service is provided. If the replacement service by a commuter is terminated, the certificated carrier is obligated to resume service. Thus, there is no logical basis for distinguishing, for airport development purposes, between an airport at which a certificated carrier guarantees replacement service and an airport at which a certificated carrier provides service in its own behalf.

Fifth, the Federal share of project costs and of planning costs is increased to 75 percent. In the past, the Federal share for development at large hub airports was 50 percent, and the Federal share of planning costs was 66 percent.

Sixth, the authorization to use trust fund revenues for servicing the airway system is restored, but with a ceiling on the amount that could be used. In 1970, operating and maintaining the system was authorized, but it was abused by the administration. H.R. 9771 restores "servicing" the system but with a ceiling of no more than $512.5 million over the 5-year period.

Finally, Mr. Chairman, I would like to address the funding levels in H.R. 9771, as reported. These levels are acceptable to the Department of Transportation and are consistent with the most recent resolution from the Budget Committee.

Over the 5-year period, $4.76 billion is authorized, of which $4.688 would be from the trust fund. Of the total, $2.2 billion would be for air carrier airport development and $391 million for general aviation airport development. $1.36 billion is available for facilities and equipment; $78.5 million for the planning grant program; and $512.5 million for servicing the airway system. In addition, $9.75 million is authorized to reimburse our international carriers for security that they are required to provide, but cannot collect in additional fares to remain competitive with foreign carriers. It is our intent, also, that the $188 million which was authorized—but not obligated during the first 5 years of the program—remain available for obligation.

For research and development, which is under the jurisdiction of the Committee on Science and Technology, $85.4 million is authorized for fiscal year 1976, and $23.95 million for the interim period.

Mr. Chairman, overall, this proposal is a progressive proposal that enjoys broad support among the aviation community, except for some compromises that were necessary to gain the support of the administration. We recognize that some provisions are controversial and like all major bills, there is not universal support for every line.

As you will note in the committee report, there were additional views, but not minority views. This reflects, I believe, the agreement among the committee members that H.R. 9771 is a measure that is worthy of consideration and support.

Finally, Mr. Chairman, I would point out that a subparagraph in title III—added by the Ways and Means Committee—prohibits the use of trust funds for terminal development and, therefore, conflicts with title I which permits terminal development.

At the appropriate time, we will offer an amendment to strike section 301(b) and thereby permit the use of trust funds for terminal development.

Those who oppose terminal development allege that this would divert funds from safety. Actually, nothing could be further from the truth. Safety is and will remain the top priority. Safety will remain unaffected by terminal development. Under the bill H.R. 9771, safety cannot and will not be allowed to slip at the expense of terminal development. There are protections in the bill which require safety. First, the Secretary must certify that the airport is safe and that all safety requirements are met.

To repeat, before one dime can be spent for terminal development, the Secretary must certify that the airport is as safe as is humanly possible and that all safety requirements have been met—then, and only then, can he approve terminal development.

We feel that safety is the top priority and we feel that elimination of section 301(b) would continue that priority and allow us to more effectively utilize our Nation's airports.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chaiman, will the gentleman be willing to tell the committee what the Committee on Public Works expects will be spent for terminal development to pay for those terminals already constructed under the provisions of the public works bill that are retroactive?

Mr. ANDERSON of California. I do not believe we can. We are not sure how many airport sponsors will make application, if any. At the time the terminal development issue came up the need for this legislation was demonstrated. Many local areas had just completed their projects and it would have been unfair to exclude them after they had gone ahead and developed their terminals at great local cost. That was the reason behind it.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield further?

Mr. ANDERSON of California. Yes, I yield to the gentleman.

Mr. STEIGER of Wisconsin. I am surprised to see my neighbors across the way and other people in California that do not know they will be eligible.

Mr. ANDERSON of California. This question will be up to the airports' sponsors themselves and the Secretary.

The gentleman does not understand the program. This is a grant program—not revenue sharing.

Under a grant program, such as this, the sponsor must apply for funds from the Secretary. Some sponsors may elect not to request terminal development—some may not qualify—because their safety requirements have not been met—others may qualify, may request them, but be denied by the Secretary because it is not a high priority item in the national interest.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SNYDER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, first, I would like to express my satisfaction to the gentleman in the well for the excellent job the gentleman has done on this piece of legislation. The gentleman's subcommittee has had this under consideration for many months.

I do have a couple of questions that I would like to ask and ask the gentleman's response and indulgence, so that the record can be cleared on one point, which concerns an airport in my district. In my hometown I happen to have an airport which has what is called substitute service, which is served by aircraft weighing less than 12,500 pounds.

The first question I would like to propose is how does this legislation affect such an airport which is receiving substitute service by an aircraft weighing less than 12,500 pounds?

Mr. ANDERSON of California. Could the gentleman give me the next question, too, because I would like to answer both at the same time.

Mr. HILLIS. Well, actually, the situation here does not only affect my own airport. I understand there are about 49 of them that are in the same situation and they have accepted replacement service. Certainly in the light of the energy crisis, I wonder if they will be subject to funding discrimination under the act?

Mr. ANDERSON of California. First, I am very happy to answer the gentleman's question that Kokomo, Ind., Airport has service on a commuter which has gone into that airport when the scheduled CAB carrier pulled out.

First, in those cases where the CAB has required adequate service by a replacement carrier as a condition for the CAB carrier to withdraw from that market, that airport is an air carrier airport, and would draw money from the air carrier category.

Second, for the airport to be eligible for the $150,000 minimum allocation, the airport must be served by aircraft with a maximum certificated gross takeoff weight in excess of 12,500 pounds. If the airport meets that criteria, it qualifies for the $150,000 minimum allocation.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentleman from California.

Mr. ANDERSON of California. To continue my answer to the gentleman from Indiana, if the airport does not meet the criteria, then the airport is eligible, like all other air carrier airports, to apply for funds, $128 million, which are at the Secretary's discretion. The question of whether to assure these airports with service by less than 12,500 pound aircraft will be addressed in conference, and I think I can assure the gentleman that it will be worked out in a fair manner which will recognize the situation of places such as Kokomo.

The Senate bill goes a little farther than we are going in our bill. This issue came before our committee, and we decided that the best way was to keep it as is. When we go into conference with the other body for a final version on this legislation, I want to assure the gentleman that we are going to work out some type of agreement which is satisfactory and fair to this type of airport.

Mr. HILLIS. As I understand it, the Senate version with respect to airports receiving this will be a part of this bill, so that it will be a topic that will be handled in conference, will it not?

Mr. ANDERSON of California. Yes, it will be one of the key items.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. JONES of Alabama. Mr. Chairman, I yield 4 additional minutes to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I would like to ask a question about this NAS plan. As I understand it, according to this bill, FAA is to present a revised plan by January 1, 1977.

Mr. ANDERSON of California. That is correct.

Mr. GOLDWATER. For the record, how does the gentleman envision this revised plan? Today's plan is a catalog. What is the format the gentleman sees this revised plan in?

Mr. ANDERSON of California. We have instructed the Secretary to go into this matter on a rather detailed basis and to come up with a plan of action for the airports throughout the country so that we will have a more complete analysis of the whole problem. He has 1 year to do that and report back to our committee.

Mr. GOLDWATER. Does the gentleman envision this also as a listing of specific airports?

Mr. ANDERSON of California. I would assume the list would be very similar, but hopefully smaller than it is at the present time. It is too long now. I would assume that he would eliminate some airports from the plan, but he would have to justify them and identify where they are needed in the national airport system plan.

Mr. GOLDWATER. For instance, there is now included in the NAS plan the Spirit of St. Louis Airport, which is a major privately owned but publicly used airport. Does this revised plan exclude the potential inclusion of privately owned airports that may be essential to the system?

Mr. ANDERSON of California. We have discussed this in committee. I would think that, when the secretary draws up his plan, he will obviously have to recognize the private airports as well as the public airports, but, as the gentleman is aware, under the present law and under this bill, we cannot make any funds available for a private airport. This is an issue that we are going to be confronted with one of these days, whether or not we do give any assistance to private airports. But, in the present law and in this bill, we do not, and I assume the Secretary has to follow those directions.

Mr. GOLDWATER. If the gentleman will yield further, would the fact that privately owned airports are not now eligible preclude them from being included?

Mr. ANDERSON of California. As I said earlier, I would assume the Secretary would recognize that in the overall airport system, but he would have to show they are separate from public airports.

Mr. GOLDWATER. If the gentleman will yield further, so they may be, if they are essential, included in an overall plan, recognizing they are not eligible today.

Mr. ANDERSON of California. I think in the gentleman's own area there is the Burbank Airport which is privately owned, and everybody knows it is one of the important airports in California; yet it is not eligible for any Federal airport development money, just money for airway facilities.

Mr. GOLDWATER. I thank the gentleman.

Mr. SNYDER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, this is a good piece of legislation—one which gives us justification for saying we have done a good piece of work as we have moved into a new area of jurisdiction for the Committee on Public Works and Transportation.

I doubt that anybody is going to tell you it is perfect, or that everybody on the subcommittee or full committee is sailing his hat in the air over each and every provision. Not in 30 printed pages of legislative language that took a 93-page report to explain. But that is to be expected in a bill that took a fair amount of compromising to get one we can all support and one which we think is acceptable to the administration.

When I talk about compromise, I do not mean out-and-out horse trading, though that's an honorable enough pursuit in some parts of the country. I do mean that we have tried to recognize one overriding fact: aviation today is important to all of us in this country wherever we live or whatever we do. And just as there are great differences in the characteristics of the areas we represent and the interests of the people we serve, there are differences in the needs of aviation.

Those needs differ as between a rural area, a medium-size city, or a major metropolitan area. Their airports serve business and industry, agriculture, recreational travel, and personal needs. The needs may be on the airside capacity to handle more planes, or on the landside in terms of the ability to handle huge numbers of people. Needs vary among domestic and international commercial carriers, and between commercial and recreational use. Our communities and the States also vary in size, population, density and degree to which they depend on civil aviation.

I do not want to overdo this compromise bit, because there is not all that much real controversy. At least a fair amount of the pulling and hauling over this bill is a result of the fact that we are winding up one 5-year authorization and legislating another. A lot of folks want to get their licks in.

Basically, we have built on the framework of the 1970 act, which was good as far at it went. We can say that now on the basis of 5 years of operating experience and our own hearings which we held with no preconceived notions or pride of authorship in the original basic legislation. It should be continued and expanded.

At the same time, we have found the need for changes which also go right to the basic objectives of the program, the safe and efficient operation of the airport and airway system. There is a consistent approach in this bill, and that is to recognize the need to add, expand, and improve airport facilities, while making the best use of what we have already got.

So in addition to expanded funding, we have made a number of changes. We adjust the allocation mechanism for air carrier airports by a weighted enplanement formula to shift emphasis away from the largest, high-volume facilities in the country and give a better break to intermediate-size airports. We also singled out commuter and reliever airports in the general aviation category with their own earmarked share of funding.

These are all consistent with the basic objectives of the program, the safe and efficient operation of the system. The same is true of the changes in eligibilities we have made. Congestion caused by inadequate terminal development represents an inconvenience to the public, a constraint on development of civil aviation, and the use of airside facilities. So we have made that eligible, within limits.

Noise is an increasing problem which can make it difficult to use existing runway capacity safely and effectively, much less expand that capacity because of development surrounding many of our airports. So we have increased eligibility in this area for acquisition of interests in land and for noise-suppression measures.

Redtape and leadtime in getting a project approved are continued problems for public works projects. We have therefore provided for multiyear funding in the bill. The State demonstration program for general aviation should help out with this problem and save a little money in the process.

Another problem we are trying to deal with is the lack of enough information to make us feel really comfortable with the knowledge that we are right on target when we legislate changes. This is why we have called for real refinements in the National Airport System plan. Personally, I would like to see the NASP refined to the point where it gives us information on the order of the highway needs studies, which are so useful in making a case for that program.

Mr. Chairman, I ask my colleagues to weigh the many benefits which this legislation offers—and to support its enactment.

Mr. SNYDER. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I consider it especially important to emphasize that H.R. 9771, as reported, includes several provisions which are designed to increase the role of our States in the administration of the airport development aid program—ADAP. I hasten to add that I am speaking only of the general aviation airport portion of the ADAP program.

First, pursuant to section 4, the Secretary would be required to consult with the appropriate State officials in developing the national airport system plan.

Second, section 8 authorizes the Secretary to make grants not to exceed $25,000 per State for developing standards—other than standards for safety of approaches—for airport development at general aviation airports.

Third, section 13 authorizes the Secretary, upon determining that a State is capable of managing a demonstration program for general aviation airports in that State, to grant to such State funds apportioned to it under the State area and population formula contained in section 15(a)(4)(A) and any part of the discretionary funds available for general aviation airport development (section 15 (a)(4)(c)).

The State officials, in turn, would then make grants to airport sponsors in the same manner, and subject to the same conditions applying to grants made by the Secretary. The Federal interest would be protected, since the conditions enumerated in sections such as sections 16 and 18 of the Airport and Airway Development Act of 1970 would have to be met by the airport sponsors.

The Secretary would select up to 11 States for the demonstration. He may not initiate any such program after January 1, 1977. The Secretary shall report the results of the demonstration program to Congress by March 31, 1978.

All funds received by a State under this section would go to general aviation airport development, and none of the money could be used to pay costs incurred by the State in administering the program.

Thank you, Mr. Chairman.

Mr. SNYDER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, it is with considerable pride that I cite the care which has characterized our consideration of H.R. 9771 during the past several months. I believe that our report reflects the extent to which we explored the pros and cons of every provision.

H.R. 9771 includes the basic programs which were authorized by the 1970 Airport and Airway Development Act—with most authorizations established at somewhat higher levels in recognition of the impact of inflation on construction and other activities.

We also made some additional items eligible for Federal grants under the airport development aid program—ADAP—including snow removal equipment, noise suppressing equipment, physical barriers and landscaping to diminish aircraft noise, acquisition of land to insure uses compatible with airport noise levels, at the 75 percent funding ratio level and terminal development strictly limited to specified public use areas with a Federal matching share of 50 percent.

After careful study, the Committee concluded that it would be appropriate at this time to authorize funding of airway facility servicing costs at a modest level—$50 million for fiscal year 1976. The use of trust fund moneys for this purpose was permitted by the 1970 Act, but excessive administration emphasis on maintenance and operation of the system during fiscal years 1971 and 1972, at the expense of airport development, resulted in the enactment of legislation to prohibit the practice. However, the legislative history clearly indicates that the prohibition was never intended to be permanent.

So, Mr. Chairman, we believe we have drafted a well-considered bill, a sound bill. We hope that our House colleagues will concur.

Mr. Chairman, many of us consider the provision in H.R. 9771 requiring a revised national airport system plan—NASP—as perhaps potentially the most important provision of the bill. It was generally agreed during our hearings that the NASP mandated by the 1970 Airport and Airway Act is not as useful a document as it might be. It is unwieldly—comprising some 11 separate booklets which altogether are nearly 4 inches thick. In addition, the present NASP does not provide an adequate measure of airport system needs, nor does it set forth meaningful priorities for future airport development.

To give the Secretary better guidance in preparing the plan, section 8(a) of H.R. 9771, as reported, lists those types of airports which should be included. These types of airports are as follows: One, air carrier airports; two, commuter service airports; three, reliever airports; and four, general aviation airports, which are regularly served by aircraft transporting U.S. mail; or which are regularly used by aircraft of a unit of the Air National Guard or of a Reserve component of the Armed Forces; or which are regularly used by aircraft engaged in significant business operations; or which are of significant importance to the economic development of a State or region; or which the Secretary determines meet the needs of civil aeronautics.

To correct the problem of excessive detail, section 8 of H.R. 9771, as reported, would require that only the airport, not each specific project, be in the NASP to be eligible for Federal airport development grants.

However, the role of each airport, based upon the levels of public service and the uses made of such airport, would still be identified in the NASP. Prior to approving airport development projects the Secretary would ascertain whether a proposed project is consistent with the airport's role as described in the NASP.

The revised NASP would contain estimated costs of needed development sufficiently accurate to be used as a basis for future year apportionments, and to identify the levels of public service and the uses to be made of each public airport in the plan.

Mr. Chairman, these three provisions are designed to produce a national airport system plan that would provide greater guidance and direction for future development at the Nation's airports.

Mr. SNYDER. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise to support this piece of legislation and, while I may have some basic differences with some of my committee colleagues on this bill, in the main I think we have fashioned a bill that will meet the future needs of civil aviation.

Mr. Chairman, this bill ventures into some new areas, some new problem areas, that warrant, I believe, some very close attention and scrutiny by both the aviation community and the Congress.

For instance, we have increased the Federal share of airport development project costs for the major airport sponsors to 75 percent, and we have increased the Federal share of planning grants to 75 percent. Aviation groups all over this country agreed that in order to properly plan for future aviation growth, these percentage increases are absolutely necessary.

We have also addressed a number of other critical areas, such as the purchase of land in order to establish buffer zones for airport noise, and a section that would allow for the purchase of noise suppression equipment within the confines of the airport.

It is also worthy of attention that for the first time commuter-service airports will be given a higher profile. Frankly, I am disappointed that the dollar figure for reliever and commuter-service airports is not higher. I am also concerned that the committee decided to transfer reliever airports from the air carrier to the general aviation apportionment. Most aviation groups feel that relievers and commuter-service airports should be in the air carrier funding class.

Mr. Chairman, one of the most controversial sections of this bill deals with ADAP funds to pay for the maintenance and operations of the FAA. I opposed this language in the committee markup, and I still oppose it. The Senate has also opposed this language, so I will not introduce an amendment to strike the language from the bill before us today. Nevertheless, I hope that if the House passes the bill, our conferees will see fit to accept the Senate's exclusion of FAA maintenance and operations moneys from the trust fund.

Mr. Chairman, our subcommittee and the full committee have worked long and hard on this bill. I believe it will improve the Nation's airport and airways system, and I, therefore, urge that it be passed.

Mr. Chairman, I would like for a moment to call the attention of the Members to a potentially disastrous situation. It is one that we in the Congress should address ourselves to, for it could jeopardize the future of aviation. This is the case of privately owned airports which are open to the public.

There are presently over 6,000 U.S. airports that are open to the public today. According to the FAA figures of January 1 last year, about 2,600 of these are privately owned airports. In 1974, according to FAA statistics, there were approximately 286 of these private airports that were abandoned. They were plowed under and no longer available for aviation, no matter for what purpose.

If this continues, we no longer will have the potential use of these privately owned airports. It is important to point out that once an airport is abandoned, it is impossible to ever resurrect. As aviation begins to play a greater role in today's transportation and the future transportation needs of the American people, we are going to be looking for those once-abandoned airports in and amongst the small communities and even large communities of this Nation. Once they are plowed under, we can no longer resurrect them.

I think therein lies the problem we must seriously address ourselves to. What is going to happen to these airports? Do we feel they are important to our system?

That is the reason I asked the chairman of our subcommittee whether these types of airports should be included and studied by the FAA and raised to a level of importance as airports in and of themselves. It seems to me we should start thinking about including some private airports in the ADAP program. The users of these airports pay users' taxes.

For instance, I have mentioned the Spirit of St. Louis Airport, which is a very important reliever airport in the St. Louis area. It is a privately owned airport, but it is open to the public. At that airport alone, users paid over $200,000 into the trust fund last year. It also pays property taxes and it pays sales taxes, but not one dime is ever returned to this privately owned airport to enhance the safety of the runways, the lighting systems, and other safety features.

So I think it is important, if we are concerned about safety and the flying public, that we must likewise be concerned about the safety element involved in these privately owned airports.

In the future we may look back when the need is the greatest, and obviously it is going to be great because of continued growth, only to find out that we no longer have the available runways that we once had.

Therefore, I would only hope, Mr. Chairman, that the FAA will heed these words, will begin to analyze, to make recommendations, and to work with the subcommittee.

I would say to the gentleman from California (Mr. ANDERSON), that the subcommittee should hold hearings in the near future to examine this whole question of the private airport and what its future may be.

Mr. Chairman, I know that under the leadership of the gentleman from California (Mr. ANDERSON) that the question of the private airport will be addressed, that we will examine very carefully whether it should be eligible or should not be eligible. This is the time to begin talking about it. It is the time to be concerned about it.

Mr. Chairman, I only bring this point up, because it was brought up in committee. I offered an amendment to this effect, but it was rejected. I think the point is still valid.

Unless we begin addressing ourselves to the fate of these privately owned, but publicly used, airports now, tomorrow may be too late.

Nevertheless, Mr. Chairman, I do support this bill. I think it represents a bipartisan effort on the part of the leadership on the minority side, as well as on the part of our chairman and the other members of the committee.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I have two questions.

One is that I noticed in earlier remarks and now that the gentleman from California (Mr. GOLDWATER) is very much against using the funds developed through the licenses and various other fees for the maintenance of airports.

Why does the gentleman oppose that?

Mr. GOLDWATER. As I pointed out in the committee report we are setting a dangerous precedent by opening up the trust fund moneys for what they call operation and maintenance of airway facilities.

Mrs. FENWICK. Is that not money necessarily spent?

Mr. GOLDWATER. I would have to say there is nothing basically wrong with it. In fact, in the original draft of the ADAP program, operation and maintenance were to be included only after—and it is essential that we underscore that "after"—we have increased, enhanced, and provided for the safety features of an airport. Up to this point we have not reached that level of safety where we can begin spending these moneys for operation and maintenance.

Mrs. FENWICK. If the gentleman will yield further, the thing that puzzles me is that we had a subcommittee hearing of the Committee on Small Business, and the FAA came before us. I was startled to discover that the trust fund income for 1973 was $831 million; for 1974, $868 million; for 1975, $1,034 million, of which $94 million alone came from interest on FAA investments.

It seems to me that we are building up a very large fund, over $1 billion. If they cannot find safety measures that need to be paid for, I see absolutely no reason for the taxpayers of this country to take money out of general funds while this is being built up.

The CHAIRMAN. The time of the gentleman from California (Mr. GOLDWATER) has expired.

Mr. SNYDER. I yield 2 additional minutes to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, let me respond to the gentlewoman from New Jersey (Mrs. FENWICK). I feel concern also. We should either use those moneys, or we should reduce the taxes or the moneys flowing in, it seems to me. However, because the trust fund moneys and our expenditures are included in part of the budget, the level of appropriations is important to notice. We can only authorize and appropriate at a certain level because it is included as part of the total budget within that appropriated amount.

What we have to decide is where we are going to split that money up and where we are going to spend it. It is important that until we provide for the safety features, in my opinion, we should not begin paying for maintenance and operation.

Mrs. FENWICK. Is the gentleman from California talking about the money that is being appropriated or is the gentleman talking about the money in this trust fund that is being built up? If they are not spending it for safety why are we then contemplating in this bill putting it into terminals? It does not seem to hang together as a logical explanation of what this money is all for.

If safety is the primary thing, are there not enough safety moneys in here to spend? We have $1 billion here, why do we have to appropriate from the general fund? Why if safety is the main point are we prepared to take terminal construction items out of this trust fund if safety is not yet taken care of?

Mr. GOLDWATER. Again I believe the gentlewoman has raised a good point, but there is a safety factor in the funding of terminals, because if we do not have proper facilities to handle aircraft that are coming in to land, then they will simply sit above the airport in a congested state and cause a potential safety problem. That is one reason it is used for terminals. But I think it is recognized by the committee that this question is a lower priority, because the bill only provides 50 percent and only after the safety features of the airport, such as runways, fire trucks, crash trucks, and so forth, have been taken care of.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SNYDER. I yield 2 additional minutes to the gentleman from California.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield 2 additional minutes to the gentleman from California.

Mr. GOLDWATER. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding me time.

The gentlewoman from New Jersey (Mrs. FENWICK) raises a good point but I do not really think that perhaps she may have read all of the bill.

Let us talk about safety. All safety investigation moneys come out of ADAP, whether they are investigating a new collision system, a new microwave landing system, that is all being paid for by ADAP.

Furthermore, as chairman of the Subcommittee on Aviation and Transportation R. & D., which has jurisdiction over this area, I can assure the gentlewoman that there are no aeronautic areas that we are not processing diligently and putting every dollar into that can reasonably be spent to find any new safety device. If it is not on landing safety, or on equipment, but a problem with navigation equipment, the funds are paid for out of ADAP.

Now in the area of operation and maintenance, we are trying to find a reasonable balance. Remember there are many millions of dollars that are paid for as a result of aviation that are paid for to protect the public. In other words, it does not make the airplane fly any better and it does not assist the owner of the aircraft, if he is a general aviation owner, we simply say that he or the factory must prove his product is safe, that the pilots are safe. These are public protective measures.

Mr. GOLDWATER. If the gentleman will yield, I would like to point out the reason I am opposed to operation and maintenance is that it has been estimated there are from $200 to $300 million worth of backlog of requests for ADAP that will improve and enhance safety in airports, and until we take care of those needs, we should not be spending this on operation and maintenance.

Mrs. FENWICK. If the gentleman will yield, it is building up such a big fund, $1 billion. You have $200 or $300 million for safety, that reduces it to $700 million, they still have $700 million.

Mr. GOLDWATER. But that amount is not appropriated, there is only so many million dollars appropriated.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MILFORD. Will the gentleman yield?

Mr. SNYDER. I yield 1 minute to the gentleman from Texas.

Mr. MILFORD. I thank the gentleman for yielding.

Mr. Chairman, one of the reasons that no more money is being spent is because we were held in hostage, believe me. I introduced a bill to try to do what the gentleman from California was talking about but I am afraid I have to say that the gentleman's administration says, "This is it." Otherwise we lose on this bill.

I agree with the gentlewoman. We have airports that still need to be built. We have money in the bank that was collected from taxes on the users of the airports. No general funds go into ADAP. It is charged against those who use the airways system.

Mrs. FENWICK. If the gentleman will yield, how much is being taken out of the general funds for the maintenance that the gentleman from California referred to?

Mr. MILFORD. I cannot answer the exact figure. I am saying that a reasonable formula has been established to where that part that simply protects the public, the public pays for. That comes out of general funds. The rest of it is paid for by the users, and that is the airports, the airway systems, and the like.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SNYDER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would just like to respond a little further to the gentlewoman from New Jersey to say that back in the late sixties Lyndon Johnson—and this is no reflection on any administration because all Presidents like it—gave us what we know as a unified budget. Before that we had two budgets. We had one for general revenues, and we had one for trust funds. So now, of course, they have put all of the income, whether it be trust fund income or general revenue, on one side of the ledger, and all of the outgo over on the other side of the ledger. So this administration—and those before it—likes to keep that trust fund there so that they can finance some social experiments out of it without making the deficit look as bad as it is.

I personally think it is immoral, and when trust fund moneys are collected for trust fund purposes, be it airports or highways or whatever it is, we have a moral obligation to the people we collect it from to use it for that purpose. But unfortunately I am in the minority.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SNYDER. Mr. Chairman, I have no further requests for time. I reserve the balance of my time.

Mr. ANDERSON of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, may I add further to the remarks of the eminent gentleman from Kentucky. About 4 years ago funds from the trust fund—and this is for the benefit of the gentlewoman from New Jersey also—were taken after the first year of the establishment of the trust fund, in which users' fees were paid, and was used for the general administrative expenses of FAA. That was stopped by regulation and by action of Congress the next year, and it has not taken place since. These funds stay at least earmarked and used for the purposes for which they were intended. Safety, airport, and airways improvement and development.

Mr. Chairman, I rise in support of this bill, H.R. 9771, as reported by the Committee on Public Works and Transportation, which includes provision for the use of Federal assistance for terminal development.

This is the first year that this committee, on which I sit and have the honor to serve, is fulfilling its function as a transportation arm of the Congress regarding the air space over the United States of America, which is jointly used by the military and the civilian sector, under single FAA jurisdiction.

Mr. Chairman, as a pilot, and as a representative from a Western State with great distances to be traveled, I hope that H.R. 9771 meets the needs of areas, such as mine, where small air carrier airports and general aviation serve as the backbone of our transportation network.

Wyoming is a large, sparsely populated State, where aviation serves to connect the people with hospitals, schools, business, and industry—where often small aircraft is the only quick and convenient means of getting the businessman to his meetings, getting the sick to a hospital for emergency treatment, getting the traveler to an airport for a connecting flight to a large urban center. It serves the rancher in tending his stock, the forest ranger in fighting fires, and the law enforcement official in his duties.

Thus, aviation—like no other form of transportation—serves our State in a unique, vital, and irreplaceable way. And H.R. 9771 is designed to accommodate our needs in developing a safe, efficient network, serving the explosive industrial growth of Casper, Douglas, Gillette, Rock Springs, and other cities, and linking the rancher, the contractor, the sportsman, and other varied and important segments of our area.

First, regarding air carrier airports, H.R. 9771 provides more money, with a greater assurance, for more varied and necessary items of eligibility than under the program initiated in 1970. For example, Casper—our most active airport—would be allocated $371,929 for fiscal year 1976—under the formula devised by H.R. 9771. This compares with an allocation of $30,600 in fiscal year 1975.

And, under H.R. 9771, the airport can apply for a portion of the fund which is at the Secretary's discretion that totals $128.3 million in fiscal year 1976. This compares to a discretionary amount totaling $91.6 million in fiscal year 1975, under the old program.

In addition to the uses to which these funds could be used in the past—runways, taxiings, land for clear zones, and the like—the term "airport development" has been expanded to include snow removal equipment and the public use, nonrevenue producing areas of the terminal. This gives the local airport officials more latitude in using Federal assistance to meet their particular needs. In Wyoming and other snowy climates this is vital.

Second, for general aviation, H.R. 9771 provides $422,669 for fiscal year 1976 for general aviation airport development in Wyoming. This compares to $362,439 in fiscal year 1975, under the old program. In addition to the amount which is allocated to Wyoming for this purpose, State and local officials can apply for a part of the $25 million that is made available for commuter service and reliever airports, and for a part of the $9.6 million that is at the Secretary's discretion for general aviation airport development throughout the Nation. This total of $34.6 million at the Secretary's discretion compares to $8.75 million that was available at his discretion in fiscal year 1975 under the law enacted in 1970.

All in all, H.R. 9771, as reported by the Public Works and Transportation Committee, is a progressive measure, designed to meet the needs of big and small States, urban and rural, air carriers and general aviation. I urge support for title I as reported, and to reject that part in title III—written by Ways and Means—which subverts the intent of title I.

Mr. Chairman, I am going to philosophize a little bit at this time. First, Newsweek and Time magazine this week each has an exclusive and serious article in depth upon the problems of midair collisions or near-miss incidents in the airspace over the United States today. I recommend those articles to any Member who has an interest in this legislation, which affects profoundly what we are talking about when we talk about airways, or third generation en route computerized radar-scope facilities, or sophisticated radar equipment, to monitor the movement of aircraft by air traffic controllers between terminals.

Second, it is my opinion that we are not best served in America when men of capability in the profession and of the dedication of Jim Dow, Acting Administrator of FAA for, lo, these many, many months, is passed over, and officers however worthy from the military are given charge of the FAA. I do not think that is in the best interests of general aviation. I dare to make that observation, perhaps unfair to the new Administrator who deserves to be given a fair opportunity, but, nevertheless, I think that professionalism ought to be rewarded. It is regrettable at this time of peace on Earth among men of good will that we quarrel over taxes, over vetoes, over partisan action, over glaringly transparent acts of politics; but I would imagine that most members of this committee, Democrats and Republicans, would like to see the FAA run by professionals. I think we have unanimous agreement on that.

I also believe that the FAA should be removed from the Department of Transportation, and perhaps those Members who are younger than I will be here long enough to do something about that goal when we come back in the new year.

We abhor bureaucratic proliferation, and I have on occasion seen as many as four FAA personnel at small fields around the country, with darn little to do.

Scottsbluff, Nebr., is a case in point when not too many years ago, four FAA officials spent hours there to see if a pilot was coming in without his flying credentials, or coming in in marginal weather, or to hassle him generally. We wondered if FAA could not get along with a third less office personnel and perhaps concentrate more on alleviating the midair collisions and doing something to assist the air traffic controller, and spare the fixed base operators and general aviation pilots.

The air traffic controller is a man who at 40 or 45 often is developing ulcers trying to control the traffic without suffering the pangs of error, and its horrifying consequences.

I think this is a good bill. This committee has about six members on it who do fly and who know something of the problems.

We have visited many large airfields in America. We have studied their terminal problems and tried to be of direct immediate response to problems. This may not be as good a bill to some people as the Senate is bringing out. Many fixed base operators would prefer the Senate version. I am sure we can work out something in conference tomorrow to meet the needs of the Nation and carry on the general aviation improvement program.

Mr. HOWE. Mr. Chairman, I rise in support of H.R. 9771, the Airport and Airway Development Act Amendments of 1975 and urge my colleagues in the House to join in passing this vital piece of legislation today. I have the privilege of serving on the Aviation Subcommittee which drafted this measure. We have a few real experts in the field of aviation on our subcommittee, but as you know, the subject was new to the subcommittee this year and most of us are new to the subject area. Consequently, we devoted a considerable amount of time to hearings and markup on the bill, and I am convinced we have come up with a sound framework for the continuation and expansion of our Nation's air transportation system.

H.R. 9771 as reported by the committee authorizes increased funding for airport development for the next 5 years, although it requires the committee to look at the program again in 3 years and make such changes as may be needed at that time. We will then have the results of a new and revised National Airport System Plan, which this bill requires the Secretary to compile in consultation with the States. The new plan will update our information on air transportation needs and enable us to determine whether the allocation formulas in the bill best respond to those needs. Although the $4.68 billion total contained in the bill represents an increase in airport and airway funding, the committee has held the spending levels to a bare minimum in the interests of fiscal restraint and the importance of avoiding a veto.

While H.R. 9771 represents a basic extension of the 1970 Airport and Airway Development Act, it includes some positive new reforms in response to concerns raised during the hearings and expands the categories of projects eligible for funding under the act. Perhaps the most significant improvements are in the areas of the application process and State involvement in general aviation.

In the application process, redtape and time lags have posed a problem for airport sponsors who are trying to complete urgently needed facilities for their community. H.R. 9771 simplifies the grant application process as far as practicable by allowing sponsors to combine a number of projects for which funds are being sought into one application. In addition, the committee notes FAA intentions to streamline the internal administration of ADAP and will follow this closely to determine whether future legislation can speed up our airport development.

Another sponsor complaint was the inability to undertake any long-term projects for airport improvements or construction because funding could not be guaranteed from year to year. H.R. 9771 removes this concern by authorizing the Secretary to approve multiyear projects for the first time. In other words, the Government will be committed to providing funds for subsequent years, subject to their availability, and sponsors can plan more effectively.

The committee recognizes that general aviation is most frequently utilized on an intrastate basis and makes a vital contribution to the economic development of a State. Moreover, testimony submitted to the subcommittee overwhelmingly supported the contention that States can achieve the same quality of general aviation development more quickly and at a lower cost than the federally-administered program. The bill therefore opens a new partnership role for the States and the Federal Government in the area of general aviation. It allows the States to set their own construction standards, subject to FAA approval, with the exception of standards for safety of approaches. In addition I had the pleasure to author an amendment in committee to H.R. 9771 which authorizes a demonstration program in 11 States, whereby they will receive their normal allocation for general aviation from the trust funds, but will then manage their own general aviation airport development and administer the grants. If the demonstration program proves successful, and we are convinced it will, State administration of general aviation will be extended to all capable States in the future.

In terms of eligibility, H.R. 9771 expands the definition of airport development to include two new areas. First, it will allow airport sponsors to purchase adjoining land for the purpose of minimizing the impact of takeoff and landing noise in the neighborhood of the airport. Second, it authorizes the expenditure of up to 30 percent of an air carrier airport's allocation for the improvement of the publicly used portions of terminal facilities. Opposition has been raised to the utilization of moneys from the trust fund for terminal development, but I would urge you to support the committee's decision that the relief of the terminal congestion confronting many air passengers and their airline employees attempting to serve them is a significant factor in upgrading the Nation's air transportation. Safety will in no way be jeopardized by this provision, since a sponsor must certify that the airport has met all safety and security equipment requirements before any funds can be spent on terminal improvements. There is clear need for funding in this area and I hope my colleagues will join us in support of it.

H.R. 9771 is a sound bill although not perfect. It represents a thoughtful compromise designed to meet the most urgent needs of our air transportation system and alleviate the most pressing concerns of many interest groups. But, it is a good compromise and will enable us to advance the safety and quality of air travel in America. I urge its passage.

Mr. ANDERSON of California. Mr. Chairman, I have no further request for time and I reserve the balance of my time.

The CHAIRMAN. Under the rule the gentleman from Oregon (Mr. ULLMAN) is entitled to 1 hour. The Chair recognizes the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, at the instruction of the Committee on Ways and Means, I am going to offer an amendment to add a new title—title III—to the bill now before us. That amendment will expand the purposes for which the airport and airway trust fund money may be used. In order to see what this amendment will do—and what it will not do—it is necessary to take a moment to examine the 1970 trust fund provisions.

Mr. Chairman, the Airport and Airway Revenue Act of 1970 imposed some new aviation user taxes and increased some existing user taxes, created the airport and airway trust fund, provided that the aviation user taxes are to be transferred into the trust fund, and made trust fund moneys available to meet specified obligations of the United States.

Title II of the 1970 act—the trust fund language under the jurisdiction of the Committee on Ways and Means—provided that trust fund moneys are to be available to meet obligations incurred under title I of that act—the Airport and Airway Development Act of 1970—as in effect on the date of the enactment of that act. Because of this limitation, the trust fund language would need amending in order to add new expenditure items out of the trust fund.

Mr. Chairman, H.R. 9771 as reported by the Committee on Public Works and Transportation, would modify the provisions of title I of the 1970 act to permit the Federal Government to incur certain obligations that are not permitted under present law. As the Committee on Ways and Means made clear in its report on the 1970 act, the 1970 act was so drafted as to assure that any additions to the categories of obligations funded out of trust fund revenues would be subject to review by those committees of Congress concerned with raising those trust fund revenues.

In conducting its review of the proposed new categories of trust fund expenditures, the Committee on Ways and Means divided the additional obligation categories into three types. The first of these categories relates to relatively minor expenditures for: First, developing State construction standards for general aviation airports—$1.275 million for fiscal 1976; second, certain international security charges—$3 million per year for fiscal years 1976, 1977, and 1978; third, national airport system plan—$2 million for 1976; and fourth, expansion of the definition of airport development to include snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control—expected to average $20 to $25 million per year for the remaining period of the trust fund. As to these items, which do not add major expenditure items to the trust fund, the committee concluded that it was appropriate to provide financing out of the trust fund.

The second category deals with the servicing of airway facilities, which includes: First, servicing of navigation aids, landing systems, towers, and radars, but excluding cost of engineering support and planning, direction and evaluation; second, airway facility leased communications; and third, supplies and parts related to facility maintenance. The amount authorized is initially set at $50 million for fiscal year 1976 and is to increase by $25 million a year for each subsequent fiscal year. It appears to the Committee on Ways and Means that these expenditures could have been financed from the trust fund as originally enacted in 1970; therefore this would not involve any further amendment to the trust fund provisions. Also, it was noted that these expenditures were already being made from Federal funds and that permission to make these expenditures out of the trust fund would not involve additional Federal expenditures and would not involve an additional category of Federal expenditures.

The major controversy relates to the proposal to permit expenditures for "public" portions of terminal buildings. This category could involve expenditures ranging from $77 million for fiscal year 1976 to $93 million for fiscal year 1980. Except to the extent that the 1970 act permits construction, alteration, or repair of buildings intended to house facilities or activities directly related to safety of persons at the airport, this represents a distinct departure from the standards set forth in the 1970 act. Permitting the use of trust fund moneys for this purpose would require an amendment to the trust fund provisions. The Committee on Ways and Means concluded that such an expansion of the trust fund provisions is not appropriate at this time. It is to be noted that, up to now, such construction has no been paid for out of Federal tax funds, as it has been paid for out of private funds or by local or State governments. If this new category of expenditures was going to be authorized, the Ways and Means Committee concluded that it should not be authorized out of trust fund moneys.

However, Mr. Chairman, since the Committee on Ways and Means recognized that in this one respect it departed from the requests of the Public Works Committee, we requested that the House be given the opportunity to work its will on the question of whether the Airport and Airway Trust Fund should be expanded so as to become available to fund obligations to construct public portions of new terminal buildings or to pay for such construction that has already taken place.

Mr. Chairman, I have no further request for time, and I reserve the balance of my time.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the gentleman from Wyoming (Mr. RONCALIO) who just left the well prior to the presentation of the distinguished chairman of the Committee on Ways and Means referred to the articles that had appeared both in Time and Newsweek. That perhaps more clearly brings home the issue that I think is involved in the disagreement between the distinguished Committee on Public Works and Transportation and the Committee on Ways and Means.

Mr. Chairman, I must say, it is not easy for me, at least, to find myself in this position. I recognize that the Committee on Public Works and Transportation has over the years in this House had a unique role as being perhaps more successful than any other committee in insuring that its way was gotten by spreading goodies around more successfully than any other committee can ever do.

I also find myself in a difficult position, because most of the airport people and most of the airline people—I do not know about the Machinists' Union and the United Airlines—seem to like the idea of expanding the Federal role in terminal development; but I think this body ought to consider fairly prudently its judgment that it will make on the argument that will be offered as to whether or not we want to embark upon what is a wholly new program of Federal expenditures, albeit, the use of the trust fund, when there are pressing needs in so many other areas.

Mr. Chairman, I am delighted to see the gentlewoman from New Jersey back here, because I especially want to raise this issue with the gentlewoman.

Newsweek in its story said this:

> Only 400 of the more than 1,800 runways in the U.S. handling commercial aviation are equipped with instrument-landing systems that tell pilots the correct angle at which to bring in their planes; among the uninstrumented runways is No. 12 at Dulles airport, the final destination of the TWA jet that crashed a year ago. The veteran pilots also charge that many of the runways that are instrumented are too short—including Runway 22–L at Kennedy International Airport which is 1,600 feet shy of the 10,000 foot minimum recommended by pilots for many planes.

Newsweek went to so say:

> Though Dulles, Kennedy and O'Hare airports have been much in the headlines, they are not at the top of the airline pilots' list of the nation's most dangerous. As the pilots rate them, the five most dangerous airports—for a variety of local reasons—are Los Angeles; Charlotte, N.C.; Akron-Canton, Ohio; Washington National and San Diego. By far the safest, according to the pilots, is the new Dallas/Fort Worth airport.
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> Improvements are on the way. Under FAA order, airlines are equipping all their planes with an automatic-warning system that alerts pilots when their planes come dangerously close to the ground. Experts think that such a system, which has already been installed on 90 per cent of all U.S. airliners, could have prevented the Dulles airport disaster last year—although pilots complain that the system tends to produce false alarms. Following the epidemic of recent near misses, the FAA is speeding up a program to install "conflict alert systems" in the twenty air-traffic-control centers across the country. These systems, which are already operating in Memphis, Kansas City, Denver and Fort Worth, flash a warning on controllers' radar scopes and sound a buzzer when two planes fly into the same airspace; the system would probably have prevented two of the near collisions of the past month, but would not protect planes flying below 18,000 feet.

It seems to me, Mr. Chairman, when the Committee on Public Works makes the argument that it will and that it has, that, "Oh, please understand, safety is still our No. 1 priority," because they do not get any terminal development unless they have done all these things, and then they list them, including making sure we are all safe, well, that is a fallacy and the House ought to know it.

Dulles Airport, I suppose, is one of the most safe in this country. It clearly is the most palatial. It has every kind of equipment going.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, all the terminal grant money in the world at Dulles would not have prevented the crash of the TWA plane on top of Little Bald Mountain about 23 miles from Dulles. It had nothing to do with terminal radar. It was clearly a case of one word "approach" had one meaning to the controller who transmitted the clearance, and meant something else to the pilot, who received the instruction, and acknowledged it.

Mr. STEIGER of Wisconsin. Mr. Chairman, I will say to my friend, the gentleman from Wyoming, it also has to do with the fact they do not have their full system yet developed, including Dulles.

Beyond that, the fundamental point is that whether or not we begin now to divert money, when we have all the unmet needs in safety, to build buildings, including going back to 1970, to pay for terminals that were built with State and local funds and suddenly we are opening up this bonanza that will provide money for—well, I will not name the fields; perhaps Whitman Field at Oshkosh is in there, I do not know; but going back and diverting money when we have all these other priorities, when we have not yet done everything that I think everybody recognizes we must do in developing the safest, most effective airports to bring people back to land safely.

Mr. STEIGER of Wisconsin. Mr. Chairman, I oppose further expansion of the uses of airport and airway trust fund revenues beyond those which would be permitted under title III as offered by Ways and Means.

The Committee on Public Works and Transportation would significantly expand the permissible uses for airport and airway trust fund moneys, to include among other things, non-revenue-producing terminal development. The Committee on Ways and Means agrees with all of the proposed expanded uses except for terminal development.

Recent news reports, unfortunately, are replete with accounts of near misses and severe accidents. Just this past weekend we learned of another near tragedy in our airways—an Eastern Airlines jet on the way to Florida and an Air Force fighter-bomber came within 20 to 50 feet of colliding in the sky near Richmond, Va. This was the fifth near miss involving commercial airliners since November 26. Two hundred seven near misses have been reported in the first 10 months of this year.

Less than 3 weeks ago, disaster was narrowly averted in the Detroit area when the pilot of a DC–10 with 190 passengers aboard was forced to dive 2,000 feet to avoid collision with another jetliner carrying 113 persons. More than 20 persons were injured.

A week ago two airliners came within 100 feet of a midair collision as they crossed Lake Michigan.

I have no objection to expanding the uses of these trust fund revenues and support the safety-related provisions of the Public Works and Transportation bill, but with airline safety at its present level, it seems preferable to avoid palatial terminals in favor of wider safety margins.

Let me emphasize that as written the Ways and Means amendment significantly expands the permissible uses of these trust fund revenues to permit:

Developing State construction standards for general aviation airports;

The purchase of snow removal equipment;

The purchase of noise suppression equipment;

Construction of physical barriers and land acquisition for noise control; and

Servicing of navigation aids, landing systems, towers and radars.

I support these additional expenditures. At the same time I am concerned about the safety of airline travelers and would not like to see us embark on an extravagant course of terminal construction.

Last year 467 passengers and crew members were killed in accidents involving U.S. airline planes, more than twice as many as the year before. The incident which took the largest toll occurred in December 1974, just outside of Dulles International Airport, just miles from the Capitol. That incident, adjacent to a fine, well-developed terminal facility, helped to push U.S. airline fatalities to a 14-year high and accident frequency to a 9-year high. Clearly, there is a need for improved safety.

In closing, let me stress that the Internal Revenue Code already provides a mechanism for governmental units desiring to construct or expand air terminal facilities. Section 103 of the Internal Revenue Code provides for the issuance of industrial revenue bonds to finance the construction of, among other things, airports. Interest on these obligations is excluded from gross income and therefore is not taxable. Utilizing this device, numerous localities have been able to finance the construction of adequate terminals. This successful approach to this public need should not be altered.

I urge your support in rejecting the amendment to overturn the Ways and Means Committee action. The flying public will appreciate your concern.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield further?

Mr. STEIGER of Wisconsin. Certainly, I yield to the gentleman.

Mr. RONCALIO. Mr. Chairman, we should also develop the proper use of the King's English. There is an example of the tyranny of words: When a word of art means one thing to a controller in the control tower and another to the pilot in the plane, then the cause of the crash is not the fault of facilities.

It is an inability to use the same language and have the precise meaning. These things will happen; they are inevitable. That is what caused the TWA crash at Dulles.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield myself 5 additional minutes.

Mr. HAYS of Ohio. Mr. Chairman, the gentleman states that he finds himself in a difficult position. I find myself in a difficult position, sitting here at 8 o'clock at night listening to this.

Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from California, the chairman of the subcommittee.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentleman for yielding.

The gentleman was talking about how concerned the pilots were and I want to read to him a portion of a letter and have him comment on it. This letter is from the Air Line Pilots Association; it is from Capt. J. J. O'Donnell, the president of that association. This association represents the vast majority of this Nation's air carrier pilots. He says as follows:

> As President of the Air Line Pilots Association, I would like to assure you that we have no reservations about the provisions in H.R. 9771—the Airport and Airway Development Act—which authorize the use of aviation Trust Fund monies for airport terminal development.
>
> The bill, as reported by the House Public Works and Transportation Committee, allows terminal development to be funded only if certain stringent conditions (Sec. 12) are met, i.e., the Secretary of Transportation must certify that the airport is safe and that all safety requirements have been met. While many argue that terminal development will serve to divert funds from air safety programs, we believe that the restrictions contained in H.R. 9771 will protect the American public, U.S. interests, and most especially the safety of our air transportation system.
>
> The pilots of the nation have always considered air safety to be paramount; however, we believe that safety and terminal development can be compatible. We are confident that the limitations on terminal development provided in H.R. 9771 will ensure that air safety retains the highest priority.

Mr. STEIGER of Wisconsin. Mr. Chairman, may I say to my friend, the gentleman from California, that I am fascinated about that letter. It does not surprise me. Clearly we have a coalition developed around this bill.

There are many parts of this bill that are very good. I think the subcommittee of the Committee on Public Works and Transportation and the full committee have done by and large a good job on this one issue. We simply have a fundamental disagreement.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

I would like very much once and for all to set this air safety business aside by stating that in no instance are we slighting air safety. For example, I challenge the gentleman from Wisconsin (Mr. STEIGER) or any other Member of this body to step up and mention a single project that we should be funding at this time that we are not already funding with maximum responsible spending.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the comments of the gentleman from Texas.

I do have a magazine now that was just returned to me by the gentleman from Louisiana (Mr. BREAUX), and I will refer to that.

There are two projects that have come along. I am not an expert on what they are called. One is the one that tells us how to keep apart that have already been placed in Memphis, Kansas City, Denver, and Fort Worth. There are three systems, and I believe this is the conflict alert system.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I believe the gentleman is perhaps referring to the collision avoidance system. I would inform the gentleman that we are right now, with the maximum effort that we can responsibly pursue, conducting experiments on not only an air collision avoidance system but also a ground proximity warning system.

At the very instant that one reliable system is developed, I can assure the gentleman from Wisconsin (Mr. STEIGER) that the FAA is prepared to order that on any commercial aircraft.

Mr. STEIGER of Wisconsin. I will say to my friend, the gentleman from Texas (Mr. MILFORD), that my problem with his answer and with this whole thing, frankly, is that we can say we are doing it. My judgment is that we are not going to continue the pressure if we begin to drain off the money, as this bill clearly is going to do, for terminal development.

The other one recommended, the airborne-collision avoidance system device, is being funded, but not on a priority basis, that is, the one in the plane, not on the ground.

Mr. Chairman, there is but one other thing that I will say, and then I will reserve the balance of my time.

One is the issue that is not dealt with in this whole bill, but, in my view, must be dealt with. That is the whole size of the trust fund.

We did not in the Committee on Ways and Means have an opportunity to deal with the issue of taxes that are imposed on airplane travelers and all of the other taxes that are used to finance the trust fund. The reason was because the chairman said this is not the time to do that, and he has promised that we will get to that issue. I hope we will soon.

However, let us understand one of the things that has happened, and the gentlewoman from New Jersey (Mrs. FENWICK) brought up the issue. We are getting more money in the trust fund now than we ever have before because we are getting the same tax on a higher-priced ticket.

Mr. Chairman, I think this issue has to be dealt with.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I speak in support of the amendment. The Aviation Subcommittee, of which I am a member, has compiled an in-depth record on the question of adding terminal development to the list of eligible projects under the airport development aid program—ADAP. All aviation groups which testified before us favored the inclusion of this item.

Mr. Chairman, I am disturbed by the tone of this desire. I am hearing suggestions to the effect that our authorization of terminal development somehow compromises safety. This simply is not true.

One of the most safety-conscious groups in aviation is the Airline Pilots Association—ALPA. They support the terminal development provision in H.R. 9771. The pilots recognize that congestion in the terminal area can back up to the airside of the airport. If aircraft are stacked up over an airport waiting for gate positions, this can be a safety hazard. We say that terminal development will enhance safety in such circumstances.

Mr. Chairman, we are not proposing the use of airport and airway trust fund moneys for lavish terminal facilities. We are advocating a very limited program of development in the terminal area comprising specified non-revenue-producing public-use facilities. In addition, airport sponsors may not apply for terminal development grants totaling more than 30 percent of the funds to which they are entitled under the apportionment formula—and the Federal matching formula for terminal grants is 50 percent instead of 75 and 82 percent for other eligible airport development projects. And before any terminal development grant can be authorized, all safety requirements at the airport must have been met.

Mr. Chairman, our colleagues from the other committee have raised a false issue. There is no derogation of safety under our proposal.

On Tuesday of this week, Mr. Chairman, the FAA Administrator was testifying on the near-miss situation which our colleagues have mentioned. Among other things, Dr. McLucas stated that FAA is emphasizing four program areas in coping with the problem as follows:

First. Upgrading air traffic control facility equipment.

Second. Improving airspace management.

Third. Upgrading personnel education and training.

Fourth. Improving information gathering.

Mr. Chairman, I point out to my colleagues that only one of these program areas—air traffic control equipment—comes within the purview of the legislation we are considering—but it does not fall within the category of airport development. Rather, the air traffic control equipment program is included in the facilities and equipment portion of the programs funded from the trust fund—and our colleagues are not challenging that part of the bill. In other words, Mr. Chairman, the ADAP program bears no relationship to current efforts designed to resolve the near-miss problem—so the argument advanced by our colleagues is not applicable to the matter we are considering.

Mr. Chairman, I urge my colleagues to support the amendment.

Mr. GIBBONS. Mr. Chairman, there are two major reasons I want to support the position of the gentleman from Wisconsin (Mr. STEIGER).

Let me say that the Committee on Ways and Means, put in this bill a prohibition against building terminals and that only a motion to strike will take it out. I understand the gentleman from Alabama (Mr. JONES), the chairman of the committee, is going to move to strike it out. Therefore, we would ask for a no vote.

There are two major reasons that the Members should vote no when the motion to strike is made.

The first major reason is addressed to the argument that the gentleman from Wisconsin (Mr. STEIGER) has just made. We are not doing enough about safety.

In 1974 there were 175 near-misses classified by the FAA. In the first 10 months of this year there were over 200 near-misses.

As we debated this last week in the Committee on Ways and Means, Eastern Airlines flight 185, going from Washington National Airport to Tampa, Fla.—it is a flight I am very familiar with because I often take it—was going along and an F-105 headed from Louisville to some place came within 50 feet of that plane carrying 110 people at 19,000 feet.

Mr. Chairman, I will challenge anybody in this room to say that we are doing enough about safety. We know we are not doing it when we have 175 near-misses last year and over 200 of them in the first 10 months of this year.

Mr. JONES of Alabama. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Chairman, does not the gentleman see in the bill itself what we are trying to do about it? The gentleman is totally indifferent to the proposition. We are trying to accomplish something and he is finding fault with our efforts.

Mr. GIBBONS. Yes, sir, I do; very clearly I do find fault.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I thank the gentleman for yielding.

I think the challenge is fair, and I would like to answer it.

I would ask the gentleman whether he has heard of the discrete airborne beacon system? Has the gentleman heard of the next generation of air traffic control equipment, under research and development right now?

I would ask the gentleman to show me where we can responsibly spend one additional dollar to gain needed new technology and safety equipment we need, other than what we are doing right now.

Mr. GIBBONS. If we have 175 near-misses in transport aircraft in 1974 and in the first 10 months of this year we have had over 200 near-misses, we are not doing enough. That alone condemns what has been done so far.

It says that the FAA has done a sloppy job and they are not doing enough for safety. We are not doing enough about air safety.

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, if you are wondering why the FAA is doing a sloppy job, just look at who the last administrator was.

Mr. GIBBONS. I agree with the gentleman.

Mr. HAYS of Ohio. I blew the whistle on him. He did not know enough to handle the police force over at the National Airport let alone the FAA.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. Please let me finish and then I will try to yield if I have time.

As I say, we are not doing enough about air safety and that is one reason why we should not strike the prohibition against air terminals. The other reason is what we have heard so much about on the floor of the House today, that the Federal Government is spending too much money. This is a brand new program, this is not a continuation of an old program, this is a brand new program. How many air terminals do you think we will build in these United States on a 50-50 matching basis?

We have heard all this talk about the economy today. Do the Members really want economy? Do the Members really want to hold down the lid, or do they want to start in on a brand new spending program?

Mr. RONCALIO. Mr. Chairman, if the gentleman will yield, is it not because of the proliferation of traffic around the airport areas and the congestion that is involved around places such as O'Hare Airport that mandates the need for three or four more terminals that would help alleviate the situation along with better ground control and so forth, does that not affect safety?

Mr. GIBBONS. But that is not the only way to solve the problem.

All we will have out of this terminal money is interminable building, erecting new buildings, erecting marble monuments around the country. That is what will happen.

If the Members are for economy, if they believe we ought to stop Federal spending, then we ought to cut off this program before it gets started.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. I yield 2 minutes to the gentleman from Florida.

Mr. GIBBONS. If the Members think we ought to save money, then we ought not to start any new federally funded programs on a 50-50 matching basis, because that will mean this will be an endless program, it will grow and grow.

This will not help us with air safety, it will take money out of the safety trust fund. There is no end to the amount of money the Government can spend on building air terminals in all of the places in the United States that want air terminals and can qualify under this bill.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I want to make this point that much of what the gentleman from Florida has to say I agree with, but the ADAP proposition or program from which some limited terminal funding would be funded if we follow the recommendation of the Committee on Public Works and Transportation is a different program.

Mr. GIBBONS. I know, it starts out real small, only $440 million. Most new Federal programs start out as small—but grow.

Mr. SNYDER. It comes out of a different program.

Mr. GIBBONS. Listen, it all comes out of the tax that we levy for air safety.

Mr. SNYDER. That is right.

Mr. GIBBONS. It all comes out of that airways trust fund that we put on in 1971 when we were trying to do something about air safety. And in 1971 the Committee on Interstate and Foreign Commerce that decided then that they could not go into the airport terminal building program.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Chairman, I think I am in favor of the position of the gentleman in the well but I would like to clarify it.

The Committee on Interstate and Foreign Commerce had jurisdiction of this before congressional reform and we felt that terminal construction and terminal operation were matters for the local communities and that the funds for airports should be devoted to safety, aircraft, navigational devices and things of that nature and that the terminal construction money should come from some other source. Is that what the gentleman is referring to?

Mr. GIBBONS. The gentleman is exactly right. The committee report of the House and the Senate that year shows that, and it shows that this debate went on then. The trouble is that we have a new committee handling it.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, we have just heard what the issue really is. Are the people who fly in airplanes and use the airports going to pay for them, or are real-property taxpayers who live in cities going to pay for them? It is my own view that those of us who ride in airplanes and have to have terminals ought to pay for them. Of course, we need them, and, of course, they are going to cost money. We are not going to take money away from safety. We are just going to make the decision that people who fly in airplanes have to pay for their own airports, and the people who have to pay ad valorem taxes in every city to finance schools, police departments, and fire departments, ought not to have to pay for those airports.

Mr. Chairman, I yield back the remainder of my time.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the argument that has just been made, I think, fails to take cognizance of the fact that the Federal Government already makes it advantageous to build airport terminals. We did it in the airport terminal provisions of the Internal Revenue Code, and that is by and large how most of the terminals of the United States have been built. It has been exceedingly advantageous for the development of terminals at the local level.

One last point, Mr. Chairman: All of us remember when we debated the Tax Reform Act of 1975. There was a great hue and cry about a retroactive amendment that applied to certain individuals who had losses that they could carry back for previous years. I must say I find it difficult to understand how we can have yet another Perot amendment, only it does not affect Perot, to go retroactively back to pay for terminals that were built when there was no anticipation of Federal funds. That is yet another reason to vote "no" when the amendment is offered by the gentleman from California.

Mr. Chairman, I yield back the remainder of my time.

Mr. PRICE. Mr. Chairman, I rise in support of the amendment to strike section 21 of H.R. 9771.

Section 21 provides that an airport development project for a new air carrier airport to serve the greater St. Louis area cannot be approved by the Secretary of Transportation prior to September 30, 1978, unless the Governors of Missouri and Illinois certify that such project is reasonably consistent with local, regional, and statewide plans for the region surrounding the airport. This section would interfere with the existing administrative process.

Section 21 purports to assure that the airport development project is reasonably consistent with planning for the area. However, section 16(c) of the Airport and Airway Development Act already provides that no airport project can be approved unless the Secretary is satisfied that it is reasonably consistent with planning for the area. Nor by giving a Governor the power to veto an airport project involving two States does section 21 provide for means to arbitrate a potential disagreement as to the location of an airport. In contrast, the existing provisions of the original act—section 16f—already set forth a framework and procedure for resolving such disagreements.

To understand the real thrust of section 21, the facts regarding the St. Louis airport matter must be reviewed. An application for a new airport to serve the St. Louis region has been pending before the Department of Transportation since early 1971. The new airport is proposed to be located near Columbia/Waterloo, Ill. The Department has committed itself to deciding this difficult issue early next year.

Section 21 establishes a dangerous precedent for interfering with the administrative process in all types of Federal projects, whether they involve airports, schools or energy issues. Under this particular provision, the Secretary's hands are tied for at least 3 years, thus preserving the status quo if one Governor chooses to veto the project. It would establish a dangerous precedent for Congressional interference with all types of administrative actions.

Finally, section 21 raises serious constitutional questions. By providing the Governor of one State with a veto over Federal actions affecting citizens of another State, difficult issues involving due process and interstate relations are raised. Further, section 21 may also raise issues concerning Congress power to delegate to a State the power to interfere with interstate commerce.

In sum, section 21 unjustifiably interferes with existing legislative and administrative procedures.

I commend the committee for acting to remove section 21 in light of the fact that the Secretary of Transportation will be holding yet another hearing on this important matter in St. Louis on December 23, 1975, and will make his decision shortly thereafter.

I urge my colleagues to vote for the amendment to strike section 21.

Mr. RANDALL. Mr. Chairman, I make these comments today on a matter on which I have had some little experience in the past few months. As chairman of the Government Operations Subcommittee on Government Activities and Transportation, I have presided over several hearings which have delved into the procedures by which the Department of Transportation has evaluated the supersonic transport aircraft for purposes of permitting the operations of such aircraft into the United States.

At the outset I would like to make very clear upon the record that I am not an opponent of civil supersonic air travel—quite the contrary is true. I supported and voted for the building of such a plane in 1971. I am convinced that the day will come when supersonic travel is not a novelty but a fact of routine air travel.

I will support any supersonic transport built by any country at any time—provided that it does not visit unshirted pandemonium upon the communities surrounding our major airports. There are some such communities which are already so impacted by noise that the Department of Housing and Urban Development has designated such areas as unsuitable for new construction of homes.

Our hearings have developed facts which indicate that political and foreign policy considerations were, at one time, being given precedence over the expanding of noise corridors for several miles into areas not now presently impacted by subsonic airport clamor. Only last Friday we were able to produce letters and telegrams from former President Nixon to the Heads of State in other countries to the effect that their SST would be permitted to enter this country on a regular basis regardless of the noise levels generated by their operations.

It now comes down to the Secretary of Transportation to make a decision on this matter. Frankly, it should never have come to that. I do not doubt the integrity of Mr. Coleman. I am sure that he is in for a true test of his mettle. But, in my opinion, Mr. Coleman should not have to make such a decision—to me the issue is clear. Data submitted by the Environmental Protection Agency and culled from the files of the Department of Transportation show clearly that many hundreds of thousands of American citizens will be exposed to noise levels which exceed the levels determined to be acceptable for airports. Such a situation is not only unfair, it is in violation of our sense of decency and compassion.

Some of my colleagues will accuse me of being "against progress" or of being possessed of prejudice against one nation or another, this is not the case. I support this amendment because I am against the concept of "progress for progress' sake." In my 17 years of service here in the Congress I have never voted against safe and sane technological advances—rather, I have welcomed them and supported them. But to say that hundreds of thousands of citizens are going to have to learn to live with unacceptable noise because that's the price of progress, well that is going further than I can go.

I urge all my colleagues to support this amendment. It is not discriminatory against anyone. It is clearly an expression of our position vis-a-vis excessive noise. It simply provides that we are not going to permit excess noise levels for any reason that we can avoid. We can avoid the effect of extremely loud aircraft by denying them a permit to operate. The way to assure ourselves relief from noise in excess of our present subsonic aircraft is to support this amendment.

Mr. ULLMAN. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

Under the rule, it shall be in order to consider without the intervention of any point of order an amendment inserted in the CONGRESSIONAL RECORD of December 15, 1975, by the chairman of the Committee on Ways and Means if offered as a new title 3 to the committee amendment in the nature of a substitute, and said amendment shall not be subject to amendment in the House or in the Committee of the Whole except, in the Committee of the Whole amendments offered by direction of the Committee on Ways and Means and an amendment inserted in the CONGRESSIONAL RECORD of December 15, 1975, by the chairman of the Committee on Ways and Means. If said amendment inserting a new title 3 is agreed to in Committee of the Whole, it shall not then be in order in the House or in the Committee of the Whole to offer an amendment which would change title 3.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Airway Development Act Amendments of 1975".

DECLARATION OF POLICY

Sec. 2. Section 2 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701) is amended by striking out "June 30, 1980," the first place it appears and inserting in lieu thereof "September 30, 1980," and by striking out everything after "$250,000,000.".

DEFINITIONS

Sec. 3. (a) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended as follows:

(1) Paragraph (2) is amended by—

(A) striking out "and (B)" and inserting in lieu thereof "and including snow removal equipment, and including the purchase of noise suppressing equipment, the construction of physical barriers, and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public airport, (B)";

(B) striking out the period at the end thereof and inserting in lieu thereof ", and (C) any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport.".

(2) Paragraph (4) is amended by adding after "feasibility studies," the following: "including the potential use and development of land surrounding an actual or potential airport site,".

(3) Before paragraph (1), add the following new paragraph:

"(1) 'Air carrier airport' means an existing public airport regularly served, or a new public ariport which the Secretary determines will be regularly served by an air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (other than a supplemental air carrier).".

(4) After paragraph (5), add the following new paragraphs:

"(6) 'Commuter service airport' means a general aviation airport which is served by one or more air carriers operating under exemption granted by the Civil Aeronautics Board from section 401(a) of the Federal Aviation Act of 1958 at which not less than one thousand five hundred passengers were enplaned in the aggregate by all such air carriers from such airport during the preceding calendar year.

"(7) 'General aviation airport' means a public airport which is not an air carrier airport.".

(5) After paragraph (12), add the following new paragraph.

"(13) 'Reliever airport' means a general aviation airport designated by the Secretary as having the primary function of relieving congestion at an air carrier airport by diverting from such airport general aviation traffic.".

(b) Section 11 of the Airport and Airway Development Act of 1970 is amended by renumbering the paragraphs of such section as paragraphs (1) through (21), respectively, and renumbering all references to such paragraphs accordingly.

REVISED NATIONAL AIRPORT SYSTEM PLAN

Sec. 4. Section 12 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712) is amended by adding at the end thereof the following new subsection:

"(i) Revised System Plan and Report.—

"(1) No later than January 1, 1977, the Secretary shall consult with each State and airport sponsor, and, in accordance with this section, prepare and publish a revised national airport system plan for the development of public airports in the United States. Estimated costs contained in such revised plan shall be sufficiently accurate so as to be capable of being used for future year apportionments. In addition to the information required by subsection (a), the revised plan shall include—

"(A) an identification of the levels of public service and the uses made of each public airport in the plan, and the projected airport development which the Secretary deems necessary to fulfill the levels of service and use of such airports during the succeeding ten-year period; and

"(B) a listing of the amount of funds expended in each of the fiscal years 1971 through 1975 for terminal area development at each air carrier, commuter, and reliever airport showing separately the amounts expended for nonrevenue producing public use areas of the types specified in section 20(b)(1) of this title, and for other areas.

"(2) There is authorized to be appropriated out of the Airport and Airway Trust Fund not to exceed $2,000,000 to carry out this subsection.".

PLANNING GRANTS

Sec. 5. Section 13(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended as follows:

(1) The side heading is amended by striking out "Apportionment" and inserting in lieu thereof "Limitation".

(2) Paragraph (1) is amended by—

(A) striking out "$75,000,000 and" and inserting in lieu thereof "$153,750,000,"; and

(B) striking out the period and inserting in lieu thereof ", and the amount obligated during the period July 1, 1976, through September 30, 1976, may not exceed $3,750,000.".

(3) Paragraph (2) is amended by striking out "two-thirds" and inserting in lieu thereof "75 per centum".

(4) Paragraph (3) is amended by striking out "7.5" and inserting in lieu thereof "10".

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

Sec. 6. (a) Section 14(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by adding at the end thereof the following new paragraghs:

"(3) For the purpose of developing in the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands air carrier airports, $385,000,000 for fiscal year 1976, $96,250,000 for the period July 1, 1976, through September 30, 1976, $405,000,000 for fiscal year 1977, $425,000,000 for fiscal year 1978, $445,000,00 for fiscal year 1979, and $465,000,000 for fiscal year 1980.

"(4) For the purpose of developing in the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands general aviation airports, $65,000,000 for fiscal year 1976, $16,250,000 for the period July 1, 1976, through September 30, 1976, $70,000,000 for the fiscal year 1977, $75,000,000 for fiscal year 1978, $80,000,000 for fiscal year 1979 and $85,000,000 for fiscal year 1980.".

(b)(1) Section 14(b) of such Act is amended—

(A) by inserting "(1)" immediately before the first sentence; and

(B) in the second, third, and fourth sentences, by striking out "subsection" and inserting in lieu thereof "paragraph".

(2) Section 14(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(2) The Secretary is authorized to incur obligations to make grants for airport development from funds made available under paragraphs (3) and (4) of subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 15(a) of this title. No obligation shall be incurred under this paragraph after September 30, 1980. The Secretary shall not incur more than one obligation under this paragraph with respect to any single project for airport development.".

(c) Section 14(c) of such Act is amended by striking out "1975." and inserting in lieu thereof "1978, not less than $62,500,000 for the period July 1, 1976, through September 30, 1976, and not less than $275,000,000 for each of the fiscal years 1979 and 1980.".

(d) Section 14(e) of such Act is redesignated as section 14(f) and the following is inserted in section 14 as a new subsection (e):

"(e) Other Expenses.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) the necessary administrative expenses of the Secretary incident to the administration of programs for which funds are authorized in subsections (a), (b), (c), and (d) of this section, (2) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (3) the direct costs and administrative expenses of the Secretary incident to servicing airway facilities referred to in subsection (c) of this section, excluding the cost of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (2) and (3) may not exceed $50,000,000 for fiscal year 1976, $12,500,000 for the period July 1, 1976, through September 30, 1976, $75,000,000 for fiscal year 1977, $100,000,000 for fiscal year 1978, $125,000,000 for fiscal year 1979, and $150,000,000 for fiscal year 1980.".

(e) Paragraph (1) of subsection (f) (as redesignated by this section) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "subsections (c) and (d) of this section, as amended" and by inserting in lieu thereof "this section".

(f) Paragraph (2) of subsection (f) (as redesignated by this section) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsections (a), (c), (d) and the second sentence of subsection (e)".

(g) Paragraph (3) of subsection (f) (as redesignated by this section) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "subsection (d)." and inserting "subsection (e).".

DISTRIBUTION OF FUNDS

Sec. 7. (a) Section 15(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715) is amended by renumbering paragraphs (3) and (4) as (5) and (6), respectively, and by inserting immediately following paragraph (2) the following new paragraphs:

"(3) As soon as possible after July 1, 1975, and on or before July 1, 1976 (for the interim period), and on or before the first day of each fiscal year which begins on or after October 1, 1976, for which any amount is authorized to be obligated for the purposes of paragraph (3) of section 14(a) of this part, the amount made available for that period or year shall be apportioned by the Secretary as follows:

"(A) To each sponsor of an air carrier airport served by air carrier aircraft heavier than twelve thousand five hundred pounds maximum certificated gross takeoff weights as follows:

"(i) $6.00 for each of the first fifty thousand passengers enplaned at that airport.

"(ii) $4.00 for each of the next fifty thousand passengers enplaned at that airport.

"(iii) $2.00 for each of the next four hundred thousand passengers enplaned at that airport.

"(iv) $0.50 for each passenger enplaned at that airport over five hundred thousand.

No air carrier airport shall receive less than $150,000 or more than $10,000,000 for any fiscal year, or less than $37,500 or more than $2,500,000 for the period July 1, 1976, through September 30, 1976, under this subparagraph (A). In no event shall the total amount of all apportionments under this subparagraph (A) for any fiscal year or period exceed two-thirds of the amount authorized to be obligated for the purposes of paragraph (3) of section 14(a) of this part for such fiscal year or period. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year or period reduce the apportionment to each sponsor of an air carrier airport proportionately so that such two-thirds amount is achieved.

"(B) Any such amount not apportioned under subparagraph (A) shall be distributed at the discretion of the Secretary.

"(4) As soon as possible after July 1, 1975, and on or before July 1, 1976 (for the interim period), and on or before the first day of each fiscal year which begins on or after October 1, 1976, for which any amount is authorized to be obligated for the purposes of paragraph (4) of section 14(a) of this part, the amount made available for that period or year minus in the case of that period $6,250,000, and minus in the case of that year $25,000,000, shall be apportioned by the Secretary as follows:

"(A) 75 per centum for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States.

"(B) 1 per centum for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands to be distributed at the discretion of the Secretary.

"(C) 24 per centum to be distributed at the discretion of the Secretary to general aviation airports.

$6,250,000 of the amount made available for that period or $25,000,000 of the amount made available for that year, as the case may be, shall be distributed at the discretion of the Secretary to commuter service airports and to reliever airports.".

(b) Paragraph (5) of such section 15(a) (as renumbered by this section) is amended by inserting after "(2)(A)" the following "or (4)(A)", and by inserting after "(1)(B)" the following "or (3)(A)".

(c) Section 15(b)(2) of the Airport and Airway Development Act of 1970 is amended by striking out "(3)" and inserting in lieu thereof "(5)".

(d) The first sentence of subsection (c) of section 15 of the Airport and Airway Development Act of 1970 is amended to read as follows: "The Secretary shall inform each sponsor and the Governor of each State, or the chief executive officer of the equivalent jurisdiction, as the case may be, on or before April 1 of each year of the amount of the apportionment to be made on or before October 1 of that year.".

PROJECT APPROVAL

SEC. 8. (a) The first sentence of subsection (a) of section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716) is amended by inserting after "project application" the following "for one or more projects". The second sentence of subsection (a) of section 16 of the Airport and Airway Development Act of 1970 is amended by striking out "No" and inserting in lieu thereof "Until July 1, 1975, no". Such section 16 (a) is further amended by adding at the end thereof the following new sentences: "After June 30, 1975, no project application shall propose airport development except in connection with the following airports included in the current revision of the national airport system plan formulated by the Secretary under section 12 of this Act: (1) air carrier airports, (2) commuter service airports, (3) reliever airports, and (4) general aviation airports (A) which are regularly served by aircraft transporting United States mail, or (B) which are regularly used by aircraft of a unit of the Air National Guard or of a Reserve component of the Armed Forces of the United States, or (C) which are regularly used by aircraft engaged in significant business operations, or (D) which are of significant importance to the economic development of a State or region, or (E) which the Secretary determines meet the needs of civil aeronautics. Except as provided in subsection (g), all such proposed development shall be in accordance with standards established by the Secretary, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches.".

(b) Section 16 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new subsection:

"(g) STATE STANDARDS.—

"(1) The Secretary is authorized to make grants to any State, upon application therefor, for not to exceed 75 per centum of the cost of developing standards for airport development at general aviation airports in such State, other than standards for safety of approaches. The aggregate of all grants made to any State under this paragraph shall not exceed $25,000.

"(2) The Secretary is authorized to approve standards established by a State for airport development at general aviation airports in such State, other than standards for safety of approaches, and upon such approval such State standards shall be the standards applicable to such general aviation airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised, from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

"(3) There is authorized to be appropriated out of the Airport and Airway Trust Fund not to exceed $1,275,000 to carry out this subsection.".

(c) Section 12(a) of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: "After June 30, 1975, the Secretary shall not include in the national airport system plan any airport which is not eligible for airport development grants under the last two sentences of section 16(a) of this title, except that nothing in this sentence shall require the Secretary to remove from the national airport system plan any airport in such plan on June 30, 1975.".

FEDERAL SHARE

SEC. 9. (a) Section 17(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) is amended by striking out everything after "section 16" and inserting in lieu thereof the following:

"of this part—

"(1) may not exceed 50 per centum of the allowable project costs in the case of grants made from funds for fiscal years 1971, 1972, and 1973, and may not exceed 50 per centum for sponsors whose airports enplane not less than 1 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board, and may not exceed 75 per centum for sponsors whose airports enplane less than 1 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board and for sponsors of general aviation or reliever airports, in the case of grants made from funds for fiscal years 1974 and 1975; and

"(2) shall be 75 per centum, in the case of grants made from funds for fiscal year 1976, the interim period, and subsequent fiscal years.".

(b) Section 17(c) is amended by striking out "The" and inserting in lieu thereof "For fiscal years 1971 through 1975, the".

(c) Section 17(d) of such Act is amended by striking out everything after "share" and inserting in lieu thereof "(A) shall be not to exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into before July 1, 1975, (B) shall be 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into on or after July 1, 1975, and before October 1, 1977, and (C) shall be 75 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into on or after October 1, 1977.".

(d) Section 17(e) of such Act is amended—

(1) in the first paragraph thereof, by striking out everything after "share" and inserting in lieu thereof "(A) may not exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into after May 10, 1971, and before July 1, 1975, (B) shall be 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into on or after July 1, 1975, and before October 1, 1977, and (C) shall be 75 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into on or after October 1, 1977."; and

(2) in the second paragraph thereof, by striking out everything after "share" and inserting in lieu thereof "(A) may not exceed 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into after September 28, 1971, and before July 1, 1975, (B) shall be 82 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into on or after July 1, 1975, and before October 1, 1977, and (C) shall be 75 per centum of the allowable cost thereof with respect to airport development project grant agreements entered into on or after October 1, 1977.".

PROJECT SPONSORSHIP

SEC. 10. (a) Section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718) is amended by inserting "(a) SPONSORSHIP.—" immediately before "As a condition precedent", by striking out "section." at the end of such section and inserting in lieu thereof "subsection.", and by adding at the end thereof the following new subsection:

"(b) CONSULTATION.—In making decisions to undertake projects under this title, sponsors shall consult with air carriers and fixed-base operators using the airport at which such airport development projects are proposed.".

(b) Paragraph (8) of subsection (a) of section 18 of the Airport and Airway Development Act of 1970 (as redesignated by subsection (a) of this section) is amended by striking out the semicolon and inserting in lieu thereof the following: ", except that (A) no part of the Federal share of an airport development project for which a grant is made under this title or under the Federal Airport Act (49 U.S.C. 1101 et seq.) shall be included in the rate base in establishing fees, rates, and charges for users of that airport, and (B) each civil aeronautics enterprise using such airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other civil aeronautics enterprises which make the same or similar uses of such airport utilizing the same or similar facilities;".

MULTIYEAR PROJECTS

SEC. 11. Section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is amended by inserting immediately after the third sentence the following new sentence: "In any case where the Secretary approves an application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 15(a)(3)(A) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project.".

TERMINAL DEVELOPMENT PROJECT COSTS

SEC. 12. (a) Section 20 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

"(b) TERMINAL DEVELOPMENT.—

"(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any air carrier airport that such airport has, on the date of submittal of the project application, all the safety and security equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958, the Secretary may approve as allowable project costs of a project for airport development at such airport, terminal development in the following nonrevenue producing public use areas:

"(A) Baggage claim delivery areas and automated baggage handling equipment

"(B) Corridors connecting boarding areas and vehicles for the movement of passengers between terminal buildings or between terminal buildings and aircraft

"(C) Central waiting rooms, restrooms, and holding areas.

"(D) Foyers and entryways.

"(2) Only sums apportioned under section 15(a)(3)(A) to the sponsor of an air carrier airport shall be obligated for project costs allowable under paragraph (1) of this subsection in connection with airport development at such airport, and no more than 30 per centum of such sums apportioned for any fiscal year shall be obligated for such costs.

"(3) If the sponsor of an air carrier airport at which terminal development was carried out on or after July 1, 1970, and before the date of enactment of this paragraph, submits the certification required under paragraph (1) of this subsection, sums apportioned under section 15(a)(3)(A) to the sponsor of such airport shall only be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development the cost of which is allowable under subsection (1) of this subsection.

"(4) Notwithstanding section 71, the United States share of project costs allowable under paragraph (1) of this subsection shall be 50 per centum.

"(5) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.".

(b) Subsection (c) of such section 20 (as relettered by this section) is amended by striking out "The" and inserting in lieu thereof the following: "Except as provided in subsection (b) of this section, the".

STATE DEMONSTRATION PROGRAMS

SEC. 13. The Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by inserting immediately after section 27 the following new section:

"SEC. 28. STATE DEMONSTRATION PROGRAMS.

"(a) DEMONSTRATION PROGRAMS.—If the Secretary determines that a State is capable of managing a demonstration program for general aviation airports in that State, he is authorized to grant to such State funds apportioned to it under section 15(a)(4)(A) and any part of the discretionary funds available under section 15(a)(4)(C). Such a grant shall be made on the condition that such State will grant such funds to airport sponsors in the same manner and subject to the same conditions as would grants made to such sponsors by the Secretary under this title.

"(b) RESTRICTIONS.—The Secretary shall not, pursuant to this section—

"(1) make grants to more than eleven States;

"(2) initiate any demonstration program after January 1, 1977; and

"(3) make a grant to any State after September 30, 1978.

"(c) REPORT.—The Secretary shall report to Congress the results of demonstration programs under this section not later than March 31, 1978.".

AIR CARRIER AIRPORT DESIGNATION AND FUTURE OBLIGATION RESTRICTION

SEC. 14. The Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by inserting immediately after section 28 (as added by the preceding section of this Act) the following new sections:

'SEC. 29. AIR CARRIER AIRPORT DESIGNATION.

"Notwithstanding any other provision of this title, in the case of any airport at which (A) an air carrier is certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) to serve a city served through such airport, and (B) service to such city by all such certificated air carriers has been suspended as authorized by the Civil Aeronautics Board, and (C) such airport is served by an intrastate air carrier operating in intrastate air transportation within the meaning of sections 101(22) and 101(23) of the Federal Aviation Act of 1958 (49 U.S.C. 1301), such airport shall be deemed to be an air carrier airport for the purposes of this title.

"SEC. 30. RESTRICTION ON FUTURE OBLIGATIONS.

"Notwithstanding any other provision of this title, no part of any of the funds authorized, or authorized to be obligated, for the fiscal years 1979 and 1980 shall be obligated or otherwise expended except in accordance with a statute enacted after the date of enactment of this section.".

PURCHASE REPORTS

SEC. 15. Section 303(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1344) is amended by striking out "Interstate and Foreign Commerce" and inserting in lieu thereof "Public Works and Transportation".

AIRPORT STUDY

SEC. 16. The Secretary of Transportation shall conduct a study of airports in areas where land requirements, local taxes, or a low revenue return per acre may close such airports. This study, the results of which shall be reported to Congress by January 1, 1977, shall include the identification of those locations which may be converted to nonaviation uses and recommendations concerning methods for preserving those airports which in the Secretary's judgment should be preserved in the public interest.

CIVIL AVIATION INFORMATION DISTRIBUTION PROGRAM

SEC. 17. In furtherance of his mandate to promote civil aviation, the Secretary of Transportation acting through the Administrator of the Federal Aviation Administration shall take such action as he may deem necessary, within available resources, to establish a civil aviation information distribution program within each region of the Federal Aviation Administration. Such program shall be designed so as to provide State and local school administrators, college and university officials, and officers of civic and other interested organizations, upon request, with informational materials and expertise on various aspects of civil aviation.

PROHIBITION OF FLIGHT SERVICE STATION CLOSURES

SEC. 18. The Secretary of Transportation shall not close or operate by remote control any existing flight service station operated by the Federal Aviation Administration, except (A) for part-time operation by remote control during low-activity periods, and (B) in not more than one air route traffic control center area, at the discretion of the Secretary, not more than five flight service stations may be closed or operated by remote control from such air route traffic control center for the purpose of demonstrating the quality and effectiveness of service at a consolidated flight service station facility. Nothing in this section shall preclude the physical separation of a combined flight service station at another site within the same flight service area if such flight service station continues to provide the same service to airmen without interruption.

DEMONSTRATION PROJECT

SEC. 19. (a) The Secretary of Transportation is authorized to undertake a demonstration project related to ground transportation services to the Oakland International Airport, California, which he determines (1) will assist the improvement of the Nation's airport and airway system by improving ground access to such airport, and (2) will be consistent with the objectives of section 6 of the Urban Mass Transportation Act of 1964. The Secretary may undertake such project independently or by grant or contract (including working agreements with other Federal departments and agencies).

(b) The Federal share of any project under this section shall not exceed 80 per centum of the cost of such project.

(c) There is authorized to be appropriated not to exceed $72,000,000 to carry out this section.

LOGAN INTERNATIONAL AIRPORT

SEC. 20. (a) No airport layout plan or airport development project for Logan International Airport at Boston, Massachusetts, may be approved by the Secretary of Transportation under the Airport and Airway Development Act of 1970, on or before September 30, 1978, unless the Governor of the Commonwealth of Massachusetts has certified that such layout plan or development project is reasonably consistent with local, regional, and statewide planning for the area surrounding such airport.

(b) This section shall take effect as of January 1, 1975.

NEW AIRPORT DEVELOPMENT FOR THE GREATER ST. LOUIS, MISSOURI, AREA

SEC. 21. (a) No airport layout plan or airport development project for any new air carrier airport to serve the greater St. Louis, Missouri, area may be approved by the Secretary of Transportation under the Airport and Airway Development Act of 1970, on or before September 30, 1978, unless the Governors of the States of Illinois and Missouri have certified that such layout plan or development project is reasonably consistent with local, regional, and statewide planning for the area surrounding such airport.

(b) The terms used in this section which are defined in the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) shall have the same meaning as such terms have in such Act.

COMPENSATION FOR REQUIRED SECURITY MEASURES IN FOREIGN AIR TRANSPORTATION

SEC. 22. (a) The Secretary of Transportation shall compensate any air carrier certificated by the Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) which requests such compensation for that portion of the amount expended by such air carrier for security screening facilities and procedures as required by section 315(a) of such Act (49 U.S.C. 1356(a)), and any regulation issued pursuant thereto, which is attributable to the screening of passengers moving in foreign air transportation. An air carrier shall have any compensation authorized to be paid it under this section reduced by the amount (if any) by which the revenue of such carrier which is attributable to the cost of security screening facilities and procedures used in intrastate, interstate, and overseas air transportation exceeds the actual cost to such carrier of such facilities. The Secretary may issue such regulations as he deems necessary to carry out the purpose of this section.

(b) The terms used in this section which are defined in the Federal Aviation Act of 1958 shall have the same meaning as such terms have in such Act.

(c) There is authorized to be appropriated out of the Airport and Airway Trust Fund to carry out this section not to exceed $3,000,000 for fiscal year 1976, $750,000 for the period July 1, 1976, through September 30, 1976, and $3,000,000 per fiscal year for the fiscal years 1977 and 1978.

TITLE II—RESEARCH DEVELOPMENT AND DEMONSTRATION ACTIVITIES

AUTHORIZATION

SEC. 201. Subsection (d) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended to read as follows:

"(d) RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 such demonstration projects as he determines necessary in connection with research and development activities under such section 312(c). For research, development, and demonstration projects and activities under such section 312(c), there is authorized to be appropriated from the trust fund the amount of $85,400,000 for the fiscal year 1976 and the amount of $23,950,000 for the interim period beginning July 1, 1976, and ending September 30, 1976, to remain available until expended. The initial $50,000,000 of any sums appropriated to the trust fund pursuant to subsection (d) of section 208 of the Airport and Airway Revenue Act of 1970 shall be allocated to such research, development, and demonstration activities.".

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ULLMAN

Mr. ULLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ULLMAN: Page 49, after line 9, insert the following new title:

TITLE III—AIRPORT AND AIRWAY TRUST FUND

SEC. 301. AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND.

(a) AMENDMENT OF 1970 ACT.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

"(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of enactment of the Airport and Airway Development Act Amendments of 1975);".

(b) AMOUNTS NOT TO BE USED FOR TERMINAL DEVELOPMENT.—Section 208(f)(1) of such Act is amended by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to obligations incurred on or after the date of the enactment of this Act.

Mr. ULLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Chairman, I will not use my 5 minutes, but this amendment is the Committee on Ways and Means' part of the bill setting up title III which extends the trust fund to correspond with the additional types of expenditures in the bill of the Committee on Public Works and Transportation. As I indicated before, it does leave out one aspect that was recommended by the committee having to do with the terminal provision.

The Members have heard the arguments on that point. We think that title III should be adopted as it is. Unless it is adopted, of course, the rest of the bill will not be affected because there is no way to use trust fund moneys unless title III is adopted.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA TO THE AMENDMENT OFFERED BY ULLMAN

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California to the amendment offered by Mr. ULLMAN: In proposed section 301, strike out subsections (b) and (c) and insert in lieu thereof the following:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations incurred on or after the date of the enactment of this Act.

Mr. ANDERSON of California. Mr. Chairman, this amendment would eliminate the part in title III which prohibits the use of trust fund moneys for terminal development. This amendment—if adopted—would permit the use of these user taxes to be utilized for a limited terminal development program.

Currently, under present law, Federal airport development funds cannot be used for terminal development.

After conducting weeks of hearings, after listening to mayors, county officials, airport operators, and virtually every segment of the aviation community, our committee unanimously agreed that terminal development was necessary in order to efficiently utilize existing facilities, and to meet the needs of the traveling public. We found that because of inadequate, antiquated terminals, aircraft could not efficiently use the landing fields to their potential. And as a result, landing areas, which were funded by Federal moneys, were not being used to their fullest capacity.

In addition, we found that airport congestion was being caused—to a large degree—by the lack of terminal facilities adequate to handle the passengers. As a result, aircraft operations have been delayed—aircraft circle the field, aircraft are jammed into limited areas—all of which reduce the level of safety throughout the aviation system.

As a result of these findings, the Public Works and Transportation Committee agreed to fund terminal development, but only with the following conditions:

Only after the Secretary certified that the airport is safe and after all safety requirements have been met;

Only at air carrier airports;

Only the nonrevenue producing, public use areas could be funded;

Only with a limited amount of money. At the maximum, less than 10 percent—or $439 million—of the funds could be used for terminal development, and

No funds exclusively at the Secretary's discretion could be used for terminal development.

These limitations would protect the public, the interest of the United States, and the air passenger—and especially the safety of the system.

Let us talk for a moment about safety: Who would be for safety, above all other considerations? The pilots. And the pilots support H.R. 9771 and terminal development. The mayors, the county officials, the State officials, Governors, airport operators, the airlines, the list goes on and on—and these are the people who support terminal development and who support title I. Our committee studied this matter in great depth—we, too, believe that safety is paramount.

We, too, believe that safety and terminal development are compatible—that actually, crowded terminals can cause hazardous safety conditions.

We ask for an "aye" vote to knock out the provision in title III which prevents the use of trust fund moneys for terminal development. An "aye" vote would allow the development of needed terminal areas—but only after safety requirements were met.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I was wondering, and probably I should ask the gentleman from Oregon (Mr. ULLMAN) this question, but what was the circumstance that brought about this objection to a Public Works Transportation bill which, after months and weeks and hours of work and development, was presented to the Congress? I mean, what form did this objection take? Were hearings held by the Ways and Means Committee?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, the matter is clearly under the jurisdiction of the Ways and Means Committee as to whether the trust fund may be used in this matter. There is not any question about that.

The committee, no, did not hold extensive hearings on this matter but did have a very heated debate on the subject of expanding the trust fund for the use of building terminals. The committee was sharply divided on it. There was a record vote. It was a fairly close vote but by a close vote the committee voted to eliminate that provision as far as trust fund use is concerned.

We went to the Rules Committee however and asked that an amendment be in order, which now has been submitted by the chairman of the subcommittee, putting that back in.

Mr. GOLDWATER. Mr. Chairman, if the gentleman will yield further, I am wondering, did the Committee on Ways and Means have consultation? Did any of the staff have expertise in this area? Did the committee consult the FAA or terminal operators or get the opinion of other outside interested groups? Did the committee get their opinion in one way or another?

I am wondering what brought about, I would say, this knowledgeable position on the part of the Ways and Means Committee that would justify the overriding of hours and days of testimony and effort put in by this committee?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, there is no question but what the Committee on Ways and Means has the responsibility for looking over these expenditures. We did not question most of the new expenditures that were recommended by the committee and that are in the first title of the bill; but we also have to look at the potential expenditures of large amounts of money.

I think the main objection on the part of the committee was that once we get into the business of building terminals, there could be an almost insatiable demand for funds and that before we entered into any major new expenditure programs that we should back up a bit and look at it.

I must say to the gentleman that I did not support the amendment that was voted out by the committee, so I did not take the majority position at that time; but I represent the committee and I am presenting the committee's point of view at this time. The House now has an opportunity to work its will on this matter.

Mr. GOLDWATER. Mr. Chairman, if the gentleman will yield further, I appreciate the candor on the part of the chairman of the Committee on Ways and Means that the gentleman, in fact, did not support the amendment. It becomes, I think, increasingly more apparent to the committee that there were no adequate hearings on this issue. Clearly, the Committee on Ways and Means does have authority to review this, but it is clear there were no hearings held.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be brief. I have made my talk already.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, it occurs to me from the statement of the gentleman from California (Mr. GOLDWATER) that maybe the Committee on Ways and Means heard the President's plea to cut down on expenditures.

Now, this is only half a million dollars for some more monstrosities, like those at the Dulles Airport. We ought to take a look at those $600,000 mobile lounges. People cannot walk anymore. They have to ride. It is just money.

Mr. Chairman, I thought the gentleman was a fiscal conservative, but there must be an airport in the gentleman's district in California that is prevailing upon the gentleman.

Mr. GIBBONS. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. Chairman, I will yield later to the gentleman from Wisconsin (Mr. STEIGER). I commend the gentleman from Wisconsin for the gentleman's very vigorous and effective opposition to this amendment.

Mr. Chairman, the Committee on Ways and Means has had extensive hearings on this subject. We had them in 1971. The air safety situation has not gotten any better. We set up this trust fund for air safety, not to build terminals. We have not yet gotten the air safety we sought. There has been no adequate emphasis on air safety. What emphasis there has been has been ineffective. All we have to do is read about the near misses last week and a couple the week before in Detroit, a couple more in the Chicago area.

As I said in the direct debate, there were 175 near misses last year. In the first 10 months of this year, there have been over 200 near misses. We are just not doing enough. There is not enough money in the United States right now, considering the problems we have got, to build all the air terminals that will be started if we adopt this amendment. If we are going to cut off a program before it gets started and while we can still control it, we had better cut off this one now, because if we do not cut it off now, in the year 2000 we will still be building terminals and we will be building more Taj Mahals than terminals and many more than we can afford.

Mr. Chairman, I would urge us to vote no on the amendment of the gentleman from California.

Mr. STEIGER of Wisconsin. Mr. Chairman, I will simply say "amen." The gentleman is correct, and I hope the House will vote "no" on the Anderson amendment.

Mr. BELL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California.

Mr. CORMAN. Mr. Chairman, I reserve a point of order.

I will not make the objection, but I only reserve a point of order to get a ruling from the Chair, because I want some time also.

PARLIAMENTARY INQUIRY

Mr. GIBBONS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GIBBONS. Mr. Chairman, as I understood the rule granted by the Ways and Means Committee, there was only one amendment, and the time under the rule was limited to 5 minutes on each side, and that pro forma amendments or any other amendments are out of order. That is the way I understand the rule.

The CHAIRMAN. The rule is a rather complex rule, and if the gentleman will permit the Chair to review this matter, the Chair will respond.

Without objection, the gentleman from California (Mr. BELL) is recognized for 5 minutes.

There was no objection.

Mr. BELL. Mr. Chairman, I rise in support of the amendment to the amendment proposed by the gentleman from California (Mr. ANDERSON).

This amendment would strike that part of title III which prohibits the use of Federal assistance in developing the terminal areas of our Nation's air carrier airports.

This proposal which the amendment proposes to strike was brought forward without any hearings, testimony, or adequate study.

It nullifies the work of the Public Works Committee which—after in-depth study, after hearings from the public, from elected officials, and other interested parties—authorized the use of user taxes for terminal development.

And let me emphasize—these funds that would be used for terminal development come from those who use the aviation system, primarily the airline passengers.

The user taxes would pay for these projects, and rightly so, since the user—the airline passenger—would benefit.

We need to improve terminal areas in order to effectively utilize our existing facilities.

Right now, we have about 475 air carrier airports in this country.

At the larger airports—those in metropolitan areas, such as Atlanta, Boston, Chicago, Los Angeles, Denver, and Miami—many have landing areas which can accommodate the present and projected levels of aircraft traffic.

They can accommodate the planes—but they cannot accommodate the people.

The terminals do not have the gates, the baggage equipment, or the space to accommodate the people.

For example, Los Angeles International Airport can accommodate enough aircraft to handle almost 50 million persons per year—yet, in the terminal area, they can only accommodate 25 to 30 million passengers.

As a result, we are wasting the existing facilities, and these airports—because of a lack of terminal facilities—cannot meet the future needs of our aviation system.

In addition, because of the inadequacy of the airports' ability to handle the passengers, aircraft become stacked up both on the ground and in the air—wasting energy, and causing unsafe conditions.

For the following three reasons, if for no other, we must authorize user taxes for needed terminal development:

First, waste of existing facilities, second, waste of energy, and third, safety hazards.

I urge a vote for the amendment which would strike that part of title III which bans the use of the trust fund for terminal development.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend him for his statement.

It is true that our committee spent very little time—we had very little time on either this or the Highway Trust Fund. The thing that confuses me about those who oppose this particular provision is that at one moment they say that we do not have enough money for safety, and the next moment they say that we ought to cut the air fare tax. They cannot have it both ways.

The truth of the matter is that there are more funds in the trust fund that are being used for safety. Everyone wants all the safety we can buy, but having adequate terminals is a part of that safety program. It ought to be paid for by those who use the airlines, not by those people who have homes around those airports.

Mr. BELL. I would say further that when we have airplanes stacked up circling outside an airport in bad weather, that is a hazard. That certainly is a safety factor in terminal use.

Mr. GIBBONS. Mr. Chairman, I insist on regular order.

The CHAIRMAN. Regular order is demanded.

The question is on the amendment offered by the gentleman from California (Mr. ANDERSON) to the amendment offered by the gentleman from Oregon (Mr. ULLMAN).

The question was taken; and on a division (demanded by Mr. GIBBONS) there were—ayes 41, noes 21.

Mr. STEIGER of Wisconsin. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. STEIGER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 138, answered "present" 1, not voting 49, as follows:

[Roll No. 816]

AYES—246

Abdnor
Adams
Allen
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Aspin
AuCoin
Bafalis
Barrett
Baucus
Beard, R.I.
Beard, Tenn.
Bell
Bergland
Bevill
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brown, Calif.
Burgener
Burke, Calif.
Burke, Mass.
Burton, Phillip
Carney
Carter
Casey
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Ill.
Collins, Tex.
Conlan
Conte
Corman
D'Amours
Danielson
Davis
de la Garza
Dellums
Dent
Derwinski
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Flood
Flowers
Ford, Tenn.
Fountain
Fraser
Fuqua
Giaimo
Ginn
Goldwater
Goodling
Grassley
Green
Gude
Guyer
Hall
Hammerschmidt
Hanley
Hannaford
Harkin
Harsha
Hawkins
Hechler, W. Va.
Hefner
Heinz
Henderson
Hicks
Hightower
Holland
Holt
Howard
Howe
Hubbard
Hughes
Hungate
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
Madigan
Martin
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Milford
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Pickle
Pressler
Preyer
Price
Pritchard
Quillen
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Rodino
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Roybal
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Schroeder
Shipley
Shriver
Shuster
Sikes
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Stratton
Stuckey
Studds
Symington
Taylor, Mo.
Taylor, N.C.
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wright
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki

NOES—138

Abzug
Addabbo
Ambro
Anderson, Ill.
Archer
Ashbrook
Baldus
Bauman
Bedell
Bennett
Biaggi
Biester
Blanchard
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carr
Chisholm
Clancy
Clay
Cohen
Conable
Cornell
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Delaney
Derrick
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
du Pont
Early
Edgar
Emery
Erlenborn
Findley
Fisher
Fithian
Florio
Forsythe
Frenzel
Frey
Gibbons
Gilman
Gradison
Hagedorn
Haley
Hamilton
Hansen
Harris
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Helstoski
Hillis
Holtzman
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jones, Okla.
Kasten
Keys
Kindness
Koch
Lehman
Lent
Long, Md.
McDonald
McEwen
McHugh
McKinney
Madden
Maguire
Mahon
Mann
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mollohan
Mottl
Murphy, N.Y.
Myers, Ind.
Nedzi
O'Hara
Ottinger
Pattison, N.Y.
Peyser
Pike
Poage
Quie
Railsback
Rangel
Richmond
Robinson
Rogers
Rosenthal
Roush
Runnels
Satterfield
Scheuer
Schneebeli
Schulze
Seiberling
Sharp
Skubitz
Solarz
Spellman
Staggers
Stark
Steiger, Wis.
Stokes
Symms
Thone
Treen
Ullman
Vanik
Wampler
Winn
Wolff
Wydler
Wylie
Young, Fla.
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—49

Alexander
Annunzio
Ashley
Badillo
Bingham
Boland
Burke, Fla.
Burton, John
Conyers
Coughlin
Daniels, N.J.
Diggs
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flynt
Foley
Ford, Mich.
Gaydos
Harrington
Hastings
Hébert
Hinshaw
Horton
Karth
Landrum
Macdonald
Meyner
Mills
Montgomery
Mosher
Moss
Patman, Tex.
Randall
Rees
Riegle
Roe
Sebelius
Sisk
Sullivan
Talcott
Teague
Thornton
Vander Jagt
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Ford of Michigan against.

Mr. Hébert for, with Mr. Badillo against.

Mr. Dominick V. Daniels for, with Mr. Bingham against.

Mr. Boland for, with Mr. Conyers against.

Mr. Teague for, with Mr. Diggs against.

Messrs. FARY, ROSTENKOWSKI, WIGGINS, BRADEMAS, MURPHY of Illinois, QUILLEN, PRESSLER, BREAUX, YATES, SARASIN, LOTT, GUDE, MOFFETT, HALL, and McCLORY changed their votes from "no" to "aye".

Messrs. RICHMOND, SCHULZE, Ms. HOLTZMAN, Messrs. BROWN of Ohio, SCHEUER, FORSYTHE, and FREY changed their votes from "aye" to "no".

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Oregon (Mr. ULLMAN), as amended.

The amendment, as amended, was agreed to.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the Mercer County Airport in Trenton, N.J., is an airport operating under CAB certification. It does not now accommodate aircraft that weigh more than 12,500 pounds. However, it is my understanding that it is entitled to air carrier discretionary funding under this bill. On July 9, 1976, Allegheny Airlines will begin flying into the airport DC–9 aircraft which exceed 12,500 pounds.

Am I correct in concluding that the airport would be eligible for funding under the formula grant program after July 9; and further, am I correct in concluding that the grant would be no less than $150,000 a year?

Mr. ANDERSON of California. Mr. Chairman, the gentleman is correct. Any airport that is an air carrier airport that has aircraft flying to it that weighs more than 12,500 pounds would receive formula grant funds based upon enplanements; and that such an airport would receive no less than $150,000 a year. Any airport that becomes so qualified in the middle of the year would, upon qualification, become automatically eligible for formula grant funds upon notification to the Secretary.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. JAMES V. STANTON

Mr. JAMES V. STANTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JAMES V. STANTON:

Page 39, immediately after line 14, add the following:

GRANT AGREEMENT CONDITIONS

SEC. 12. Section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is further amended by—

(1) inserting "(a) Offer and Acceptance.—" immediately before the first sentence;

(2) striking out the second sentence and inserting in lieu thereof the following: "An offer shall include a condition that the sponsor or sponsors of the airport at which such airport development is to be accomplished shall not permit the landing, except for emergency purposes, during the one-year period beginning on the date of enactment of the ADAA of 1975 of any civil supersonic aircraft engaged in commercial service which aircraft generates noise at a level in excess of the level prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R., part 36), as such regulations are in effect on October 1, 1975. In addition to the condition set forth in the preceding sentence, an offer shall be made on such other terms and conditions as the Secretary considers necessary to meet the requirements of this part and the regulations prescribed thereunder,"; and

(3) adding at the end thereof the following new subsection:

"(b) VIOLATION OF GRANT AGREEMENT CONDITION.—If any sponsor permits any aircraft to land at any airport at which such sponsor has expended funds received pursuant to a grant agreement containing the condition set forth in the second sentence of subsection (a) of this section in violation of such condition, then (1) such sponsor shall immediately repay to the United States all funds received pursuant to such grant agreement, and (2) the Secretary shall not make any other grant to either (A) such sponsor for any project for airport development at the airport at which such aircraft landed or at any other airport, or (B) any other sponsor for any project for airport development at the airport at which such aircraft landed."

Renumber the succeeding sections of this Act and all references thereto accordingly.

Mr. JAMES V. STANTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. JAMES V. STANTON. Mr. Chairman, we have had the question of the previously offered Yates amendment before this House. This is a compilation of the Yates amendment which would, in effect, indicate that supersonic aircraft engaged in commercial service which generate noise at a level in excess of the level prescribed by the new supersonic aircraft regulations issued by the Secretary acting through the Administrator for the Federal Aviation Administration be banned for a period of 1 year.

The import of it is to ban it until we have a final determination as to the question of health and safety.

Mr. Chairman, I think that the subcommittee chairman and the minority side have agreed to the amendment on the basis of 1 year.

I would appreciate acceptance of the amendment.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from Virginia.

Mr. FISHER. Mr. Chairman, I want to support the one-year ban that the gentleman is offering in his amendment. I would like to ask the gentleman a question. I understand that the two Federal airports, Dulles and Washington National, would not be included in this bill because, after careful study, the committee determined that a valid point of order could be raised against including them in this bill.

Mr. JAMES V. STANTON. That is correct.

Mr. FISHER. At the same time, I would think that it would be most unlikey and unwise for the administrator of this program to permit the Concorde to land and take-off at Dulles while at the same time to ban it from all other airports in the country.

Mr. JAMES V. STANTON. I would agree that such an action would be a lack of judgment if he were to allow that. I do not think he would under the circumstances where we are banning it for a year's period from the rest of the country.

Mr. FISHER. I gather further that the committee and its staff did look into this matter very closely, and would have liked to include Dulles and National airports in the bill.

Mr. JAMES V. STANTON. That is correct.

Mr. FISHER. I thank the gentleman.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of this amendment. I think that it is long overdue that we should take the steps that are necessary in order to protect the American people from the Concorde and keep it from landing in the United States, because actually our own aircraft are prohibited from engaging in the type of practices which the Concorde would engage in.

Therefore, I rise in enthusiastic support of the amendment offered by the gentleman.

As a Member who represents Kennedy Airport and its surrounding area, I want to congratulate the gentleman for his fine leadership in this matter.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I support the Stanton amendment to ban the Concorde from landing in American airports. I offered the same amendment when the Department of Transportation appropriations bill was on the floor some months ago. To my mind the reasons for my amendment at that time were most persuasive. Since that time the hearings before other congressional committees have disclosed additional information which to my mind makes incontrovertible the reasons for a ban on SST flights for the time being.

Mr. Chairman, I attach to my remarks the views I offered to the report on that appropriations bill:

The FAA is determined that supersonic jets shall operate in the United States. In March, 1971, the House killed the American SST program for many reasons. Now the FAA has given tentative approval for the operation of the British-French Concorde-SST into this country by allowing four flights daily from Paris and London into Kennedy International Airport in New York and two flights daily into Dulles.

We oppose that approval and offered an amendment in subcommittee which would preclude commercial regularly scheduled Concorde flights into the United States. We do so for two reasons: The outrageous noise generated by the Concorde at take-off—not the sonic boom because that is already prohibited, but the sideline noise.

Second, amazing as it seems, the most distinguished scientists in the field in this country have given validity to the contention which was asserted but unproven when the House acted in 1971, that flights of fleets of SSTs in the atmosphere would disturb and inpair the ozone, increasing the incidence of skin cancer on earth. (Department of Transportation—Climatic Impact Assessment Program.)

It will be argued that barring the Concorde will disrupt our agreements with France and Great Britain for our mutual use of each others' airports. We find this a cogent argument, but not persuasive because we cannot believe that agreements contemplated that any of the countries could employ aircraft that were unduly disturbing to the people of the other countries. We have already indicated we would not permit the aircraft to fly at speeds which would generate a sonic boom over land. The Concorde's sideline noise, if not as shocking as the boom, is almost equally disturbing and objectionable.

It will also be argued that we are unduly fearful of the effect of only a few flights on the people who live near Dulles and Kennedy Airports. Even the FAA conceded the Concorde's noise would invade the house near JFK "and rattle the windows and dishes." If six flights are authorized, why not 60? If Air France and British Airways are authorized to fly Concordes, why not the airlines of other countries?

By passage of Public Law 90-411 in 1968, Congress committed itself to the reduction of aircraft noise in this country. Pursuant to that direction, under FAR regulation 36 the FAA is requiring American subsonic aircraft to meet a noise standard of 108 PNdB. Most American aircraft are moving toward that standard. Should that standard be broken by supersonic aircraft noise? We don't think so.

The inadequacy of the FAA case is shown by the response to its Environmental Impact Statement as submitted to the Council on Environmental Quality. We are attaching that response. It speaks for itself.

Executive Office of the President,
Council of Environmental Quality,
Washington, D.C., May 22, 1975.

Hon. Benjamin O. Davis, Jr.,
Assistant Secretary for Environment, Safety and Consumer Affairs, Department of Transportation, Washington, D.C.

Dear General Davis: The Council has reviewed the draft environmental impact statement (EIS) prepared by the Federal Aviation Administration (FAA) for the proposed amendment to British Airways and Air France operations specifications to permit these carriers to conduct limited commercial service with the Concorde aircraft. As proposed, service would be limited to four daily flights to John F. Kennedy International Airport in New York and two to Dulles International in Virginia. The draft EIS focuses on the potential stratospheric and noise impacts of the Concorde. Our comments cover both of these issues; the noise comments are more detailed because of the more immediate and measurable impact.

Regarding the stratospheric impacts, it is clear that there would be a serious danger of increased incidence of skin cancer in humans if a large fleet of Concordes were to cause a depletion in the protective ozone layer. This potential risk has been the subject of a detailed report by the Climatic Impact Assessment. Program (CIAP) of the Department of Transportation. It should be noted that the Executive Summary of the CIAP report has been severely criticized by the academic community for not reflecting the text of the report. The final EIS, therefore, should cite the full text, not the Executive Summary, when relying upon the report.

Regarding the noise impacts of the Concorde, we believe that the final EIS should clearly state the relative and absolute increases in noise levels caused by the Concorde. This is not done to our satisfaction in the draft EIS, although it appears that the Concorde is at least twice as loud as most present subsonic aircraft. The final EIS must give more information on this point, as well as other issues involving the comparative noise impacts of other aircraft under various noise retrofit options, curfews and night noise, and alternate airport use. Detailed comments on each of these isues are attached.

Please let me know if you have questions regarding our comments. I also hope that you will feel free to consult with the Council on any procedural questions that might arise during the remainder of the environmental impact statement process.

Sincerely,

Steven D. Jellinek,
Staff Director.

Comments on Noise Impacts: FAA Draft EIS, Concorde SST

1. The Concorde is a very noisy airplane. We question whether the draft EIS is fully descriptive of the noise created. The following points are illustrative of this concern.

(*a*) Concorde low frequency noise will be five times greater than that produced by conventional airplanes (p. 41). Various charts, specifically those on pp. 38-40 and 106-108 of the draft EIS use EPNdB as a measurement of airport noise. The EIS should state the extent to which this scale is adequate to reflect the Concorde's low frequency noise; to the extent it does not, other impact estimates should be used.

(*b*) The draft EIS (p. 41) states that building vibration could occur as the result of Concorde's low frequency noise. It appears that this will be heard as a low rumble similar to distant thunder. It is, of course, relevant whether the vibrations will damage structures, but the statement should also address the extent to which the low frequency noise will cause indoor or outdoor discomfort and annoyance.

(c) On page 42, the draft EIS states that noise differences between the Concorde and subsonic aircraft measured indoors were as much as 4 dB greater than the difference measured outdoors. "However, this difference is barely discernable." What is not stated is that when the outdoor noise difference between Concorde and conventional airplanes is added to the indoor noise difference, the Concorde is approximately twice as noisy as a conventional airplane to the indoor listener For example, the EPA document "Recommended Notice of Proposed Rulemaking on Aircraft Noise Requirements: Civil Supersonic Airplanes", page 18 (February, 1975), states that the indoor noise levels for the Concorde were greater by more than 6 dB on landing and more than 11 dB on takeoff.

(d) The presentation on pages 34 through 39 of the draft EIS is confusing. On page 36 the Concorde is compared to the B/707-300, the DC-8-60 and the 747-100. It appears that the sideline noise of the Concorde is more than twice as loud as the other planes. But, on page 39, "Sideline Noise", the impression is given that the Concorde is not much louder than other aircraft. Of the airplanes listed on page 36 only the 747-100 is included on page 39. Further, the airplanes shown on page 39 as being nearly as noisy as the Concorde are planes which do not comply with FAR 36. The comparison is relevant if these models constitute a large part of the current jet fleet, but it should be carefully explained how many of each type are presently in operation, what percent of the existing fleet is of each type, and the frequency with which each type presently lands at JFK or Dulles. In addition, comparison should be in this section with those models listed on page 36.

(e) On page 35, Figure 10, there is a graph showing the effect of reduced engine thrust within the 3.5 nautical mile measurement zone. It is not clear from the draft EIS whether this is a voluntary operational procedure or one that is compulsory. If the thrust cutback is voluntary, the sound measurement at the 3.5 nautical mile station without engine thrust should be included.

(f) Illustrations on pp. 106-08 of the draft EIS compare Concorde noise levels to those required by FAR part 36, which will presumably be met by the existing jet fleet after 1980. This difference as perceived by a listener in terms of dB (a) should be specified; it appears that the Concorde will be perceived as being twice as noisy as a DC-10-30 with retrofit.

2. The draft EIS shows the projected noise impact of the Concorde on the population and the land adjacent to JFK and Dulles in terms of NEF (Noise Exposure Forecast) 30 and NEF 40. Although this standard of measurement is meaningful and necessary, it does not fully address the impact of the Concorde upon public health and welfare. EPA has developed various documents related to noise levels pursuant to the Congressional mandate of the Noise Control Act. Chief among these is "Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety" (March, 1974). This document states noise exposure levels in terms of Leq and Ldn (equivalent sound level and day-night level) setting a level of Leq 70 as necessary to protect hearing and a level of Ldn 55 as a desirable outdoor residential level. To make meaningful comparisons between the EPA levels document and the Concorde draft EIS, one should know the relationship of NEF to Leq and Ldn, and how the NEF 30 and 40 areas shown in the EIS would overlay upon comparably constructed Ldn 55 areas. If the entire area is already impacted to this extent, then the amount of sound generated by the airport, independent of other sources, should be shown. To fully treat these concerns, similar diagrams to those presented on pages 109-13 should be presented showing Ldn or an equivalent NEF:

(*a*) With SAM (sound absorbing materials) retrofit and without Concorde;

(*b*) With SAM retrofit and with Concorde flights as proposed;

(*c*) With SAM retrofit and with expanded Concorde fleet;

(*d*) Without SAM retrofit and without Concorde;

(*e*) Without SAM retrofit and with Concorde flights as proposed;

(*f*) Without SAM retrofit and with expanded Concorde fleet.

Information should also be presented showing any population which is now exposed to Leq 70 dB or equivalent NEF that will be affected by Concorde flights. This information should be given to show the effect of the proposed Concorde flights and any enlarged Concorde fleet upon this population.

3. It is assumed that no curfew limitations need to be imposed on Concorde flights. There is no discussion to support this. If the airlines have tendered flight schedules they should be set forth in the EIS. Since nighttime noise is considered more bothersome than daytime noise there should be a complete discussion of nighttime noise effects if there are no curfew restrictions.

4. There is no discussion of the number of times per year the Concorde will have to land at alternate airports. The names of some proposed alternate landing sites are listed in the appendix. The EIS should discuss the contemplated frequency of use of each airport likely to be used as an alternate and the contemplated impact upon the population and land around each.

The amendment should be approved.

Mr. JAMES V. STANTON. Mr. Chairman, I would like to indicate that I have indicated to the minority side that I would accept the amendment cutting the period down to 6 months, because the Secretary of Transportation has indicated that within 6 months he will be able to issue his report for that purpose.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, when I get the floor I do intend to offer an amendment to the amendment cutting it to 6 months, and will speak to that amendment at that time.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I rise in support of the amendment offered by Representative STANTON to prohibit, for a 1-year period, all landings by SST's. We must erect a permanent legislative barrier against these monstrous aircraft and this amendment is a step in the right direction.

Congress slammed the front door on the American SST program in 1971, but events in the past few months indicate that the British-French Concorde is still trying to roar in through the back door.

When I testified at the FAA hearings at Flushing Meadow Park, N.Y., last April, I said that we did not know as much as we should about the SST, and that the unanswered questions about the Concorde were the same that went unanswered about the American SST program when Congress killed it in 1971.

With the release of the FAA's final environmental impact statement on the Concorde SST, we now have those answers. And they are frightening.

There is not very much I can add to those findings. I am not a scientist, but I am a reasonable man, and I do not believe that any reasonable person can read that environmental impact statement and not adjudge the Concorde to be a clear and active menace. The document is overwhelmingly persuasive; the phrase in the law is res ipsa loquitur: the thing speaks for itself, and what it tells us is clear. Keep the SST out.

If the damage to the environment and public health that will be caused by the Concorde SST were the probable result of some food or drug, the Federal Government would yank the product off the market and forbid its distribution. For the same reason, the Concorde SST must not be permitted to land in this Nation.

This final environmental impact statement ends a tortuous progression of conflicting positions on the SST by Government agencies. Additional hearings will be convened by the Secretary of Transportation on January 5, and I hope that the action of this Chamber will render those proceedings moot. The pusillanimous behavior of the FAA and EPA in this matter borders on anarchy.

For example, it was revealed earlier this fall that the Federal Aviation Administration's eastern regional office in New York admitted that the FAA was "not completely accurate" in claiming last March that the British-French Concorde needs no "unique air traffic procedures" to land at Dulles Airport and JFK Airport in New York. The truth is that the SST landings will require special procedures bordering on a constant state of emergency.

The Concorde takes off and lands at speeds much higher than conventional turbojets, making spacing between the SST and normal airliners more difficult. Still more critical, the SST will carry far less than the fuel reserves usually required, and delays of 30 minutes or more in landing would require additional "special procedures." It does not take much imagination to speculate on what happens when a plane with a range of 3,800 miles attempts to fly the 3,838 miles between Paris and Washington without additional fuel reserves. And what is there to be gained from all these "unique" and "special" procedures?

First, supersonic booms shattering and polluting the night along its approach and takeoff paths—for the FAA conceded last spring that the Concorde's emission levels are "significantly higher than the Environmental Protection Agency's proposed standards," and second, special air traffic control procedures to prevent this flying leviathan from dropping out of the sky when it runs out of fuel at 15,000 feet, or flying in a holding pattern waiting for clearance to land, or running into a plane ahead of it while taking off or landing.

I was delighted to learn that the Environmental Protection Agency—EPA—has reversed its previous stand and has announced that because of excessive noise, Concorde SST landings at Kennedy Airport would be "undesirable." Twice as noisy as the loudest conventional jet aircraft, the Concorde SST would assault the eardrums of human beings over an area of hundreds of square miles.

On top of this, deterioration of the ozone layer would have been accelerated by the Concorde's exhaust and the reduced protection of the Earth from deadly ultraviolet rays would result in at least 200 additional cases of skin cancer every year in the United States.

Mr. Chairman, forbidding the Concorde permission to land will breed a snake pit of diplomatic problems, and I recognize that the international repercussions will not be easily quieted. I am advised that such an act would run counter to several international agreements and conventions on exchanging air worthiness certifications with other nations. A nation like ours, from which one of the most important exports is aircraft, cannot approach the likelihood of foreign retaliation lightly. But, I do not believe that the environmental impact statement offers frivolous insights, and I believe that our foreign policy must reflect our national interest, and not vice-versa.

As we work against the SST, we are in large part redefining "progress." The American people are coming to grips with the realities of environmental rhetoric; no longer will bigger, better, faster, and taller be the comparatives of merit.

Recognition that planet Earth is, indeed, a fragile craft, to which nothing can be added nor from which anything can be taken away, is a sobering and revitalizing experience. Sobering, because it forces us to realize the finite nature of our world, that we cannot have everything, that we must choose what we need and know that something else must be sacrificed. Revitalizing, because it shows us the path of life, and the way to survival. For this reason, I regard it a duty to yet unborn generations to oppose the SST. This can now be done by supporting the Stanton amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. JAMES V. STANTON. I yield to my colleague from Ohio.

Mr. HARSHA. Mr. Chairman, I want to commend the gentleman for his position on this issue. I know of his very sincere position and the concern he has regarding this matter, along with many other Members of the House. I want to congratulate and commend him for his concern, and congratulate those on this side who have gone into this problem and have made considered judgments on the whole issue.

I support the gentleman's amendment.

Mr. JAMES V. STANTON. I thank the gentleman.

Mr. OTTINGER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio (Mr. STANTON). I have long been opposed to the use of any supersonic aircraft—American or foreign—in civilian aviation in the United States.

The noise levels of the supersonic transport exceed the limits we have established in this country for subsonic aircraft; I see no reason why the American public should be subjected to such colossal noise levels.

Coming from the greater New York metropolitan area as I do, I have long been concerned about noise pollution generally, and about aircraft noise specifically. Just as we have succeeded in the past few years to take noise pollution seriously, we find ourselves pressured to make a gigantic exception for the Anglo-French Concorde. I do sympathize with those two nations in their current plight resulting from their large investment in the Concorde project—an investment I feel was unfortunate—but I do not see why our citizens should be subjected to the resultant noise levels of the plane. Ozone depletion and related additional cancer cases, energy consumption and high cost are other reasons for my abhorrence of the supersonic transport.

By passing this amendment the Congress will be declaring its unwillingness to allow foreign aircraft to subject Americans to noise levels which we do not now allow for American aircraft. I am convinced that the French and British will come to understand that our decision was taken for the protection of the American people and not for any retaliatory reasons against their own nations.

AMENDMENT OFFERED BY MR. SNYDER TO THE AMENDMENT OFFERED BY MR. JAMES V. STANTON

Mr. SNYDER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. SNYDER to the amendment offered by Mr. JAMES V. STANTON: In paragraph (1) strike out the words "one year period" and insert in lieu thereof "six months period".

Mr. ANDERSON of California. Mr. Chairman, I rise in support of this amendment which would prohibit the landing of an SST at any airport which receives a Federal airport development grant under this program. This prohibition is for a 6-month period, beginning on the date of enactment of this act. It will provide a further period of time necessary to assure that the needs of the health and welfare of U.S. citizens come first.

Mr. Chairman, I support the amendment.

Mr. JAMES V. STANTON. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Ohio (Mr. JAMES V. STANTON).

Mr. JAMES V. STANTON. I thank the gentleman for yielding.

I would like to explain to the other Members of the House, and for the purpose of explanation I would ask at this point that the gentleman yield to the gentleman from Washington (Mr. McCORMACK).

Mr. SNYDER. The gentleman is accepting the 6 months?

Mr. JAMES V. STANTON. If the gentleman will yield, yes.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I will yield to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. I thank the gentleman for yielding.

Mr. Chairman, I want to clear up one point. The wording of the amendment is "* * * except for emergency purposes, of any civil supersonic aircraft engaged in commercial service. * * *"

There is a question about the test flights of supersonic airplanes. Most people do not know, for instance, that when the Concorde was doing icing tests, it flew out of Washington State. Concorde test pilots had to find a place to get icing conditions so they operated out of Grant County Air Base at Moses Lake in Washington State, which is a testing center for commercial jet airliners. Many commercial jets do their testing there, and many of the foreign airlines. The Grant County Airport is a former SAC base located in the desert in eastern Washington.

I would like to ask the gentleman this question: Would the gentleman interpret the wording of his amendment as preventing such tests from this base?

Mr. JAMES V. STANTON. If the gentleman will yield, I would say that because the limitation is only for 6 months it would ban such test flights in every appointed airport. I originally discussed it with the gentleman, answering the testing question. That was when there was a flat prohibition for an indefinite period of the whole bill, which is 5 years. I think the flat prohibition for 6 months is a reasonable position because the Department of Transportation would then report back to us on what their findings are.

Mr. McCORMACK. If the gentleman will yield further, the question I would ask the gentleman is: Is the gentleman saying the test flights will be commercial service, under the bill? This is a question of interpretation. If I may pursue this matter, icing and similar tests must be conducted some place. Do such test flights constitute commercial service? If we are considering test flights, do they fall within the category of commercial service, as provided in the amendment?

Mr. JAMES V. STANTON. If the gentleman will yield, the amendment applies to commercial service.

Mr. MILFORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment offered by the gentleman from Ohio and to the amendment offered by the gentleman from Kentucky (Mr. SNYDER).

Mr. Chairman, these amendments are designed to protect two airports in this country. There are other airports that would welcome the Concorde flights and are actively trying to get these flights. For example, the Dallas-Fort Worth Regional Airport, in Texas, is actively seeking Concorde flights at this time. Why deprive all airports, simply because New York does not want the flights?

Furthermore, this issue was discussed in committee and was voted down. This agreement to the amendments, offered by the floor managers, does not represent the will of the Public Works and Transportation Committee.

When this issue was discussed in committee hearings and markup, it was voted down.

Over the past several months, the Concorde issue has become an emotional tidal wave, sweeping facts and reason before it. This is fine for those who do not wish to be bothered with the facts. However, we as responsible public officials, cannot afford such a luxury. We must carefully weigh facts, not hypotheses in the balance. We must consider the facts surrounding the advantages of progress and the facts surrounding the disadvantages. Almost any type of progress carries with it some type of environmental consideration. But we must guard against inflating these considerations through emotionalism.

Let me give you an example. Nearly 150 years ago, Martin Van Buren, then Governor of New York, wrote President Andrew Jackson, stating:

> As you may know, Mr. President, "railroad" carriages are pulled at the enormous speed of 15 miles per hour by "engines," which in addition to endangering life and limb of passengers, rear and snort their way through the countryside, setting fire to the crops, scaring the livestock and frightening women and children. The Almighty certainly never intended that people should travel at such breakneck speed.

I believe it is safe to say that Van Buren's emotional concept of progress has been proven to be in error.

Now we have a similar hysteria surrounding the whole concept of commercial supersonic flight. It is obscuring a rather narrow but very important issue—should we as lawmakers bypass the very regulatory process which we have legislated into existence? Should we in all fairness preempt the executive's right to proffer a decision on this matter? Unless there are very compelling reasons, I cannot imagine any legislator succumbing to such a temptation.

In the present instance there is absolutely no compelling reason to leapfrog the established administrative process. On January 5, the Secretary of Transportation will hold hearings concerning the Concorde and has announced an intent to submit a decision on this matter shortly thereafter. This is less than 3 weeks away. Where is the urgency for Congress to act? Our underlying constitutional process should be honored, and, until administrative remedies are exhausted, Congress should not intervene in this question.

For those who still feel that this is an issue that Congress presently has the right to address, let me state a few facts about the Concorde.

First the noise issue.

It is true that the Concorde does not meet the newly promulgated FAA noise standards, the so-called FAR 36. But these standards were intended for subsonic, not supersonic jets. This is true because U.S. law requires environmental regulations to be "technically feasible, economically reasonable and appropriate to the type." And in 1969, when FAR 36 was written, not enough was known about supersonic noise abatement to permit sensible rules to be written. So FAR 36 was put forward for subsonic aircraft only.

Since then the EPA has proposed noise regulations to the FAA for the supersonics as well. If approved, these could extend the FAR 36 noise requirements to future Concorde production runs. But the first 16 airplanes, now committed to manufacture, would not be required to comply retroactively with standards that did not exist when the plane first flew.

The Concorde has achieved, through a $100 million program, noise levels that are similar to those of the Boeing 707 and McDonnell-Douglas DC-8. In so doing, it met the only statement regarding noise that existed when the airplane was designed—the 1962 resolution of the International Civil Aviation Organization. In fairness, the British and French must be given the same considerations of technical feasibility and economic reasonableness, if tougher standards are imposed, just as the FAA is doing for the older American aircraft that do not meet the FAR 36.

As for the special noise requirements of the Port Authority at Kennedy, the Concorde has demonstrated repeatedly that it can comply with these regulations by employing noise abatement procedures similar to those used by all types of jet aircraft at JFK and other airports such as Washington National. Accordingly, no waivers have been requested by Air France or British Airways.

Depletion of the Earth's protective ozone layer by jets operating in the stratosphere is another issue. The Department of Transportation's climatic impact assessment, after a 3-year study, concluded that the presently planned SST fleet of 30 Concordes and Russian Tupolev 144's will produce no detectable changes in the ozone layer and that it would take a very large fleet to create and significant change.

In the future, if the large scale use of SST's becomes a reality, the study recommends regulatory measures to provide safeguards for preserving the natural ozone level. Among these would be more stringent emission standards to reduce nitrogen oxide and development of low-sulfur aviation fuels. For now, the dangers are so small as to be almost nonexistent. In any event, the same risks will arise when the Concorde is flown elsewhere, whether or not it lands in this country.

For the near term, it is extremely important to gain a thorough understanding of the impact of aircraft emissions, as well as pollutants from other sources, on the upper atmosphere. By carrying appropriate instruments, the Concorde can provide much needed statistical data at the critical altitudes between 50,000 and 60,000 feet. It is the only free world airplane that can gather such data on a regular basis. With this in mind, NASA and British Aircraft Corp. have begun consideration of the technical feasibility of installing atmospheric sampling instruments aboard the Concorde. I am hopeful that this will lead to a significant expansion of NASA's effort to monitor on a day-by-day basis the local changes that are occurring in the atmosphere.

Furthermore, there has been substantial progress in solving the problems that were so prominent in the 1971 debate over the American SST. Recently I visited several of NASA's research centers and saw for myself the basic research work that is being done there on supersonic technology. Major breakthroughs have been achieved in jet nozzle design and variable-cycle engine technology, which will result in greatly reduced fuel consumption and environmental effects. These developments will assure that future SST's, if a market for them emerges, will be very good neighbors. Allowing limited Concorde landings is not tantamount, as some have suggested, to opening the floodgates.

Another issue recently, has been the question of fuel reserves. To me, it is absurd to think that the owner of an airplane would risk its loss and the lives of its passengers because of inadequate fuel reserves. The facts are that the Concorde has ample reserves to account for contingencies that may be encountered en route, plus the necessary fuel to divert to an alternate airport if that also becomes necessary.

My final point is related to the U.S. economic position. Although we are not now faced with the economic feasibility of building our own SST, we are faced with serious economic implications if Britain and France decide to boycott American aviation products. Such action could have disastrous consequences. U.S. manufacturers have been supplying approximately 90 percent of the free world's aircraft. This has created thousands of jobs for Americans and has been one of the very few positive items in our international balance of trade.

The British and French Governments have invested heavily in the Concorde project. To refuse to accept a plane that meets internationally agreed upon standards, would invite retaliation. For example, they might decide to bar U.S. airlines from landing DC–8's and 707's in their countries—an action which Pan American and Trans World Airlines can ill afford at this time.

The Concorde was built with the aid of $2.5 billion collected from taxpayers in Britain and France. It as been on the drawing board since the late 1950's. Careful investigation has shown that there are no serious environmental impacts associated with the proposed limited operations. And, now that it is about to enter commercial service, there is absolutely no reason for American politicians to undermine its chances for success. To the contrary, Congress should not even be acting at all on this question at this point in time. As I indicated previously, basic constitutional precepts should be respected and the administrative process should be allowed to run its course.

In closing, I would just like to note that the Russian SST, the TU–144, will begin commercial operations on Christmas Day. Its routes will eventually cover the Asian land mass and stretch down into the continent of Africa. At the same time, in spite of any action we take here today, Concorde will be flying in Europe, South America, and the Pacific. Only one pocket of the world will be without supersonic service—the United States of America.

But perhaps Martin Van Buren was right. Perhaps people never were intended to travel at such breakneck speed in a vehicle that snorts fire and frightens women and children. And if he had his way, we could all climb into our horse and buggies and head over the river and through the woods to our destinations in the North, South, Midwest, and west of the Rockies for Christmas recess.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment because I think it is going to result in our airlines being barred from landing in France and Great Britain and stir up a lot of trouble.

This business of not knowing whether this is a hazard to health or not is a bag of baloney, because I will give you my word that there are at least 500 supersonic flights in this country. It happens every day. They run them out of Lockbourne Air Force Base in Ohio, and in the summertime in my district you can hear a sonic boom every 5 minutes.

They are military craft. If a supersonic airplane is a hazard to health, it makes no difference whether it is commercial or whether it is military; it is still a health hazard.

The whole problem here is this: We are talking about four flights a day, if the Department of Transportation clears it, if they meet the requirements. We are talking about two at Dulles and two at Kennedy. I do not care anything about those at Kennedy. There is no way I am going to fly there anyway.

As far as Dulles is concerned, we are told we have got to protect those people out at Dulles. That was a cow pasture for 30 miles in every direction. That is why the airport went out there. Judge Smith would not let them put it in the place where they were going to put it. I was going to say that was Chantilly, but I believe that used to be the name of Dulles. It was some other town down there, probably Langley. They did not put it there because there were too many people out there, so they put it out at Dulles where there were not very many people.

But the minute they build the airport a lot of people went out there and developers built houses. A lot of people who work at Dulles live out there, and they say they do not want the noise. I think you make a choice of whether you want the noise or whether you want the job.

The whole thing is a can of worms. We are debating the point here tonight that it is a hazard to health. A hazard to health? Why, the whole flight is going to be over the Atlantic Ocean.

We have military flights by the hundreds over this country every day, and they fly at supersonic speeds.

Mr. Chairman, I think this is just crazy. I think it would be a slap in the face to the British and the French. I think they will bring retaliation. I know one thing, that if I were the Prime Minister of Great Britain and I had the power he does, I would issue an edict that Pan Am and TWA would not land there any more. That would be no great loss with Pan Am, considering my last experience with Pan Am, but it might be a financial loss.

I do not think we ought to buy this kind of an argument this late at night. I presume that is why it was brought up this late, hoping that a good many Members would go home and forget about it.

Mr. Chairman, I have listened to the debate all evening, and I say to the Members this is a real sack of baloney.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I recognize, just as the gentleman from Ohio (Mr. Hays) who preceded me, that this is probably not the best hour of the day for reasoned debate. I strongly oppose the amendment, and I think the gentleman from Ohio (Mr. Hays) has expressed the precise reasons why this is a bad amendment.

There are 2 major arguments presumably against the Concorde. One is that it makes too much noise.

Mr. Chairman, I was at the Paris Air Show last July, and the Concorde flew about 200 feet off the ground right past the stands. It made hardly any noise at all. There was no smoke whatsoever, and it sounded completely like any other aircraft. It may make a little bit more noise when it takes off, but as the gentleman from Ohio (Mr. Hays) has said, this is not going to be a serious cause of harm to our Nation if it takes place out in the cow pastures around Dulles Airport.

Maybe it will be an inconvenience, but there are only two flights a day. In fact the Concorde flight is probably going to be more of a matter of interest at Dulles and elsewhere than it is a matter of harm. In fact, we may not realize it, but this plane has already been flying in this country.

There were some press demonstration flights a few months ago. It flew in and out of Dulles a couple of times, and I do not recall that the heavens fell down or that anything serious happened.

Yet, now, suddenly, we are being told that this noise is going to destroy the ears of everybody within miles around.

The second argument has been that this plane is going to destroy the ozone because it is a supersonic transport, and we will all end up getting skin cancer.

But again, as the gentleman from Ohio (Mr. Hays) has already indicated, we have had—I do not know whether it is 500 flights a day—but we have had a lot of supersonic planes flying around this country and over the ocean for a long time.

The F–4's, the F–111's, the SR–71, the F–15 which Israel desperately wants to buy—they are apparently not worried about skin cancer; they want the F–15 in the worst possible way—we have had all these flying for a long time. Yet the ozone is still intact. As a matter of fact, scientists at the General Electric Co. research laboratory in Schenectady, which is in my district, were studying this whole question of the destruction of the ozone before we eliminated our own American SST. The fact is that the evidence suggests the ozone has the ability to reproduce itself. Why have the supersonic flights we have already had not destroyed the ozone? Because somehow it gets replaced, it reproduces itself apparently.

In any event, Mr. Chairman, we have been able to survive these flights these past few years without serious impairment. Certainly we ought to be able to survive a couple of flights a day out at Dulles Airport for the next few months. Why should we legislate the SST out of existence now? Let us leave it up to the Secretary of Transportation to hold his hearings. Let us let the Concorde operate in this country for a little while and see whether it is really going to be as destructive and as troublesome as we think. Isn't that sensible and fair?

Certainly, as the gentleman from Ohio (Mr. Hays) pointed out, international air travel is an international thing. It takes two to tango; and if we zero in on the British-French Concorde plane, operated by our French and our British friends, then they are likely to retaliate against us. They are going to believe that our action is taken just because we were not the first to operate an SST.

Mr. Chairman, I think this amendment is a serious mistake. We ought to allow this new plane to operate here.

The hour may be late tonight, and maybe we do not want to think too deeply about the issues. Perhaps opposition to the Concorde is a popular stand back home. But I think if we allow this amendment to pass tonight, we are going to regret it in days to come.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I heard the gentleman mention the F–4. I was one of the first people who ever flew the F–4, probably the only one that has ever flown the F–4.

Mr. STRATTON. There are many others here who have flown the F–4.

Mr. HARKIN. Not as much as this Member has.

Anyway the gentleman in the well and the gentleman from Ohio (Mr. Hays), who preceded him—and I am not taking any position one way or the other—I think missed the question.

The CHAIRMAN. The time of the gentleman from New York (Mr. Stratton) has expired.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. Stratton) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. RHODES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WRIGHT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I recognize the probable futility of attempting to inject an element of calm, rationality and caution at this hour. I simply ask my colleagues to think seriously about what it is they are getting ready to do.

This amendment was offered in committee. It was carefully considered, and it was rejected.

Mr. Chairman, I do not see any reason that we have to take this action tonight. Sometimes we make serious mistakes by spontaneous, unreasoned reactions to emotional initiatives which we think might strike a popular chord with certain well-meaning groups back home. Occasionally, in the late hours of the evening, we may do something that we ourselves might question later on.

We do not need to pass this amendment tonight. There are adequate safeguards in existing law.

I believe we need to think very seriously about what might happen to our agreements with Great Britain or France. We need to consider quite carefully what retaliatory measures we might unthinkingly set in motion. Conceivably they could feel pressed to retaliate by banning the 747.

I do not know all of the finite capacities nor the precise decibel levels involved in this technology and I do not think any of the other Members of the House do either. Really, face it, we do not.

But I have seen this plane land and I have seen it take off, and I have heard it land and take off in the United States at the Dallas-Fort Worth Airport. It was not as noisy as some of the military jets that land on the other side of my district at the Carswell Air Force Base.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I wonder why the gentleman from Texas is pleading the cause of foreign air carriers when we in the United States cannot fly the same aircraft, when we in the United States must abide by certain regulations; when we in the United States must see to it that we do not disturb the people who are beneath the airplanes in a takeoff pattern. Why is it that we plead the cause of the British and the French and, yes, the Soviet Union with their TU–144, who are about to land in this country? Why is it that there is such great clamor for the landing of this type of aircraft when our companies cannot fly this aircraft in this country?

Mr. WRIGHT. The gentleman from New York asks that as a serious question, I am sure, and I shall try to respond to it as a serious question. The answer is that I am not in any sense trying to plead the cause of any foreign producers of aircraft. I am trying to plead the cause of international comity and understanding.

I would further say to the gentleman from New York that if these planes are ultimately permitted to land by agreement, they will have to abide by all of the laws and rules and regulations that apply to local domestic carriers. There is absolutely nothing in this bill which would waive those laws with respect to this aircraft.

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, let me say to the gentleman from Texas and to the gentleman from New York that there are some other things involved. Every country, including France and Britain, that flies the Atlantic route needs us and uses American-built aircraft. They have purchased literally billions of dollars worth of our airplanes, the 707 and 747's. And I presume if we do not alienate them too much, they will continue to do that.

They are not going to sell very many Concordes. This is a luxury aircraft for a certain class of people who are in a hurry.

I do not think that we are making a very sound judgment when we take the chance of losing this future business. They have been good customers for a long time.

Mr. WRIGHT. Mr. Chairman, I would just urge that we not be carried away on the spur of the moment by an emotional stampede. Let us be calm and reasoned. There is not any need for us to do this tonight. If there is any doubt in anyone's mind, then resolve it in behalf of permitting the authorities presently vested with this responsibility to make this judgment after they have made the applicable tests.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I oppose this amendment and associate myself with the remarks of my friend from Texas (Mr. Wright).

In opposing it, I do not belittle the intentions of those who seek to limit supersonic aircraft in general and the Concorde in particular because of noise and pollution. Nor for a moment do I overlook the data on damage to the ozone and the possible injurious effects on the health of our people. While these are all valid considerations, in this case we should not make any decisions based on environmental factors alone, the decision should be made in a less emotional climate. After all the facts are in.

As Secretary Coleman pointed out in his comments on the environmental impact statement in November, we must reconcile environmental disadvantages with technological advances and not for a moment overlook international relationships. And I would go a step further by saying that to determine the destiny of this achievement for Great Britain and France on emotional or political issues would be doing our two allies an enormous wrong as well as to invite retaliation.

British Airways and Air France have requested approval for these few flights from the Federal Aviation Administration, as the law requires. They want to operate the Concorde on the transatlantic run from London and Paris to New York and Washington. These are routes they presently service with subsonic jet aircraft. We are dealing, therefore, with only two cities in the entire United States. And, I emphasize, the number of flights per day is very limited; only up to four into JFK and up to two into Dulles.

There is data suggesting that a fleet of several hundred SST's flying 4 or more hours per day would deplete the protective ozone layer that surrounds the Earth's atmosphere. Such effect on the ozone, would, it is true, remove our only protection from ultra violet radiation. But the Concorde operation, as I just mentioned, is so very limited that any threat of this kind is virtually nonexistent. We are considering six flights per day, no more. There are indeed, literally hundreds of military supersonic flights every day as the gentleman from Ohio, Mr. HAYS pointed out.

Many will say, "six is only the beginning," and will emotionally argue that our skies will soon be filled with a fleet of SST's. But let's be reasonable. The Concorde costs $59 million to produce, as compared to about $22 million for a DC-10. Its seating capacity is only 100, as compared to the 275 maximum passenger load of a DC-10, and it uses two or three times as much fuel per passenger.

Practically speaking the chances of large scale production of such an airplane are nil. It simply is not economically viable. And, if any increase in the number of daily flights was proposed, such a proposal would again be subject to FAA approval. At present we must merely give Concorde the opportunity to go through the procedures.

In regard to the noise factor let us bear in mind that it is against the law for a plane to fly at supersonic speeds over the U.S. landmass. The sonic boom would be restricted to the Atlantic. The Concorde is not ever going to fly over us supersonically.

Bear in mind, further, that it is nothing less than discrimination against our foreign allies to make them meet a noise standard that was never intended to apply to supersonic aircraft. And it is especially discriminatory considering that most of our own subsonic planes do not meet this standard.

Remember that the Concorde was designed in the early 1960's and was manufactured and flying prior to the FAR 36 noise standard established by the FAA. Remember, also, that the standard is not a sacrosanct noise level. It is a level agreed upon by scientists, the aviation industry, and our Government after Congress mandated noise standards for subsonic airplane engines. When we issued the mandate we specifically told the FAA to set the lowest attainable noise level for subsonic aircraft. In other words, we did not want a standard that would prohibit jet airplane travel.

While I share the concern of my fellow Members who want the maximum reduction in airport noise, we must take an honest look at our own record. Seventy percent of all American-made subsonic jets now flying are noisier than the FAR 36 standard.

Although our new aircraft meet this standard, our older ones do not. But we still fly these older models and we still sell our used aircraft to many small countries. Our own noisy subsonic planes are polluting the skies by not meeting the test of FAR 36. Knowing this, how can we arbitrarily legislate the Concorde out of existence?

Is it right? Can Congress prohibit the granting of Federal airport development funds to any facility which permits the operation of foreign aircraft that exceeds the FAR 36 noise level, while allowing these same facilities to admit noisy domestic planes without loss of funds? Such an action would be a great affront to our major trading partners.

The United States has had a consistent policy of welcoming new technology. This new SST will transport people between distant cities at twice the speed possible by any subsonic aircraft. Just stop to think for a moment what enormous benefit it will be to commerce and how it will strengthen our international relations.

A ban on Concorde, on the other hand, would place a terrible burden on international relations. It would do enormous economic harm to Britain and France who between them have invested $3½ billion developing the plane. They would not take it lightly as I said earlier.

How can we afford to discriminate? And what barriers will the French and English set up in retaliation?

I oppose this amendment as an attack on the international aircraft industry and consumer.

Mr. ANDERSON of California. Mr. Chairman, I move that all debate on this amendment and all amendments thereto be limited to 5 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from California (Mr. ANDERSON).

The question was taken; and on a division (demanded by Mr. STRATTON) there were—ayes 157, noes 25.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for 20 seconds each.

The Chair recognizes the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, it seems to me that the 6-month limitation is reasonable. By the time the Secretary makes a determination 30 days after January 5, we will be well into conference, and if we have to make adjustments at that time, then we can do it. I think this is fair and reasonable.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I think this is a compromise amendment. I think it should be adopted.

(By unanimous consent, Mr. LEVITAS yielded his time to Mr. HARKIN.)

Mr. HARKIN. Mr. Chairman, the only point I was trying to make earlier is that the compression wave laid down by an SST going at mach 1.5 is more than the compression wave laid down by an F-4 going at mach 1.1.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, the Congress has vested regulatory authority in the DOT and FAA, and that authority is being administered in accordance with the mandates of Congress. Accordingly, I think it would be premature for the Congress to take action at a time when the DOT is diligently performing a task assigned to it.

Mr. Chairman, I oppose this amendment. I oppose this kind of intervention by Congress in this very important decision.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. STANTON.

In the first place, Congress has already rejected an attempt this year to ban the Concorde when we considered the Department of Transportation appropriations bill. Second, I fail to see where this amendment is germane to the bill before us.

We have plowed this ground before. The debate earlier this year, and the debate in 1972 during consideration of the Noise Control Act was quite lengthy, and all sides had ample opportunity to be heard. How many times are we going to beat this horse?

On January 5, 1976, the Secretary of Transportation will hold a public session on the Concorde matter here in Washington. Everyone, including Members of Congress, are invited to either testify or submit a statement.

In addition, the Federal Aviation Administration held 5 days of public hearings this spring on the environmental consequences of allowing the Concorde to land in the United States.

During committee markup on ADAP an amendment was offered to ban the Concorde, and it was soundly rejected. The majority of the committee felt—justifiably, I might add—that the ADAP bill was not the proper vehicle for such an amendment.

Mr. Chairman, there are some dire foreign policy considerations here also. The Concorde represents a $2 billion investment by two of our oldest and most trusted allies. About 13 years of research and development have gone into the Concorde program.

If we just arbitrarily cut off the U.S. market for the Concorde, we are in effect telling our European allies that the U.S. House of Representatives is reverting to the discredited idea of protectionism that existed in some of this Nation's darkest economic periods.

Too often we fail to remember that this country is the world's leader in aviation despite efforts by antiscience, antitechnology groups to make it otherwise. Our aircraft have enjoyed landing rights at foreign airports, and the United States was an original signatory to the Convention on International Civil Aviation of 1944.

If we get in the business of telling our allies that they can not land the Concorde at U.S. airports, our allies can reciprocate by not granting us landing rights or by not purchasing our jet transport aircraft, for that matter. I do not have to remind my colleagues what kind of effect this would have on American jobs and our balance of payments.

Mr. Chairman, since the Concorde controversy has centered around environmental questions, I think we should attempt to briefly examine a few misconceptions in this regard.

It is said that transoceanic flights of the Concorde will severely damage marine life. I have seen no scientific evidence to back up such a charge.

On the question of noise, the FAA will not waive the restrictions that now exist on flights at speeds which create a sonic boom at the ground.

Already, the British and French have spent in excess of $100 million on noise reduction for the Concorde project, and significant progress has been made despite the fact that research and development of the Concorde preceded the public debate on noise by 8 or 9 years.

While it is debatable whether the Concorde would adversely affect the stratosphere, the Department of Transportation and the National Academy of Science have compiled research showing that the current fleet of 2,000 subsonic jets is already having a significantly greater impact on the ozone layer than the Concordes now flying or those being constructed for the fleet.

Mr. Chairman, our continued position of world leadership is contingent upon a policy of fostering aviation technology. We must not abandon this effort. The supersonic transport aircraft represents the very culmination of years and years of research both in this country and abroad. It is, indeed, unfortunate that Congress decided to abandon America's entry into supersonic aircraft development, but it would be another mistake of both technological and international implications if we turned our backs on the Concorde.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, our Subcommittee on Government Operations which the gentleman from Missouri (Mr. RANDALL) chairs, has been holding hearings on this matter, and we have already found that Russell Train and others in the Government recognize that there is a noise level not previously admitted to.

Mr. Chairman, I rise in support of this amendment which I am proud to coauthor. There has been much debate in the past concerning the possible harmful impact that the Concorde SST, the only aircraft now in existence which would be immediately affected by this amendment, could have upon the environment. Through the investigations of the Government Operations Subcommittee on Government Activities and Transportation, on which I serve, it has become clear that the situation is even more serious than originally anticipated and that Congress must take action now to protect the health of our citizens.

Now, we find that noise on takeoff and landings from only four SST flights flying into JFK Airport in New York City alone would place an additional 2,500 people under conditions which a Department of Housing and Urban Development report has described as unacceptable. What is contemplated however, are 25 daily flights. Although the draft environmental impact statement released in March 1975 by the Department of Transportation stated that—

> The resultant noice levels of the Concorde are not substantially higher than those of transoceanic subsonic aircraft such as the older Boeing 707 and McDonnell Douglas DC-8 types—

An information brief issued previously by the DOT on December 11, 1973, had previously concluded that—

> The Concorde and TU-144 aircraft are significantly noisier than civil subsonic aircraft now in commercial operation.

This 1973 report also showed that with the introduction of the Concorde at JFK, 525,000 people, or an increase of 275,000 over the present number, would be residing in areas of 100 decibel noise levels. A level of 90 is considered the maximum acceptable noise level.

The FAA has ignored these facts by not even promulgating noise standards for SST's. The Congress must therefore take action to protect our citizens from such environmental damage. Unfortunately, it appears that commitments previously made by the administration will prevent the executive branch from doing so. The wording of a January 1973, letter released on December 12, 1975, by Secretary Coleman to the House Committee on Government Operations, as a direct result of my revealing its existence at our subcommittee hearings, former President Nixon promised then French President Pompidou that his "administration will assure equitable treatment for the Concorde. In keeping with this policy, the Federal Aviation Administration will issue its proposed fleet noise rule in a form which will make it inapplicable to the Concorde." In making such promises, former President Nixon went beyond the powers granted to him. I am afraid that if we do not act by adding this amendment, the health and welfare of the American people will be jeopardized by this commitment. Making it clear that Congress will not allow Federal funds to be used at any airport which permits supersonic aircraft that exceed existing noise limits will overcome the negative impact of any such unauthorized commitment.

Noise pollution is not the only problem associated with this aircraft. The emissions from the planes themselves will have a deleterious effect on our atmosphere. The depletion of the ozone layer by the oxides of nitrogen from the planes would remove our only protection from ultraviolet radiation. According to the National Academy of Sciences report on the Environmental Impact of Stratospheric Flight, which was also discussed at the subcommittee hearings:

> The production of 16 Concorde supersonic airliners having present emission indices might lead in the long run to several thousand additional cases of skin cancer per year in the world, of which perhaps a thousand would be in the United States.

Not only is there the danger of producing cancer but climatic changes may also be brought about by the alteration of the ozone layer. The effects of these changes are still being studied and are only vaguely understood; yet with these threats to the environment, the FAA is apparently prepared to allow flights. It is therefore up to the Congress to prevent these damaging results.

Aside from these safety and environmental questions, energy considerations would also argue against permitting the operation of these aircraft. The Concorde SST, because of its small 100-125 seat capacity, would use two to three times as much fuel per passenger as the jumbo jet carrying 200 to 400 people. I hardly think that we should aggravate our energy shortage by allowing the use of this luxury aircraft.

We must seriously ask ourselves if the few hours gained in flight time by the few people who can afford supersonic travel are worth the harm to our atmosphere, the noise discomfort to thousands of our citizens, and the waste of energy caused by the SST. We now in Congress have a rare opportunity to put a halt to blind, senseless technology which is applied at the expense of the general public. It is for these reasons, I urge you to adopt this amendment.

The CHAIRMAN. The time of the gentlewoman has expired.

The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, I rise to support this amendment which rectifies the flaw in last summer's effort because it speaks to the heart of the matter in a straightforward manner. The local airport operators themselves are the ones liable under the noise laws of our Nation, and it is to Kennedy Airport that the British and French have applied for New York City rights—not to the FAA.

Therefore, it is only proper that this amendment should seek to place responsibility for accepting SST's which cannot meet Federal Aviation Regulation part 36, on noise. If they decide to ignore the rights and the peace and the welfare of their local citizens then they can opt to pay the penalty in the form of lost Federal expansion funds. I can see no reason why we should subsidize irresponsibility just because the State Department wants us to.

To those who object to the timing of this amendment, and this action by the House, I say that Secretary Coleman's scheduled January 5 hearing should never have been necessary in the first place. We now know via the Nixon letters of 1973 and this year's outstanding investigations by the Randall Subcommittee that my charges of a pattern of executive branch commitments for Concorde since 1971 are true.

We know the actual language President Nixon used in his vain effort to defy the will of Congress and the American people as expressed in the National Environmental Policy Act when he wrote the leaders of Britain and France, and I quote:

> The Federal Aviation Administration will issue its proposed noise rule in a form which will make it inapplicable to the Concorde.

Further, we now have the direct testimony of Secretary Coleman and Mr. Train of the EPA proving that Concorde is indeed, as I said months ago, at least twice as noisy as the Boeing 707.

To those who say we still need more facts I say nonsense, the final environmental impact statement has been filed, as required by act of Congress, and Secretary Coleman has publically stated his interpretation of it, and has been seconded by Mr. Train. No more needs to be said.

Diplomatic considerations? Secretary Coleman as much as said these arguments are so much hot air when he repeatedly stated that so long as the French and British people have it clearly explained why we are saying "No," they will not feel as though we are acting either arbitrarily or discriminatorily.

Let me conclude by saying that the 6-month compromise now being debated will stand as a significant victory for those determined to place the House clearly on record against the Concorde because it cannot meet noise levels being applied to American aircraft to protect the American people.

A vote in favor of the amendment will put the British and French governments, and our State Department on notice, that the American people will not be pushed, shoved or otherwise cajoled into accepting an aircraft which will spread unacceptable noise levels into the homes of a half-million of my friends, neighbors, and constituents on Long Island. And, it will serve as a safeguard against getting Concorde's nose in the door in hopes of future landing sites in other American cities such as Boston, Orlando, Los Angeles, and San Francisco.

Thank you, Mr. Chairman, and I again urge adoption of the amendment.

Mr. JAMES V. STANTON. Mr. Chairman, I would like to point out that this amendment is a compromise for 6 months. It does not apply to Dulles.

(By unanimous consent, Mr. WOLFF yielded his time to Mr. JAMES V. STANTON).

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Chairman, I represent the San Francisco International Airport. If Members have followed the news regarding lawsuits brought in Los Angeles against the Los Angeles International Airport for noise abatement problems they will realize those suits are running into hundreds of millions of dollars spent by that airport in trying to get out of the mess it is in now and the Members will know that the SST will be too expensive no matter where it flies.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Chairman, I yield to the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Chairman, I hope the amendment offered by the gentleman from Kentucky prevails and that we can carry the day.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, just to finish my point, if one was standing on the ground and a supersonic transport flew over at 60,000 feet altitude and at mach 1.5 and later an F-4 airplane flew over at mach 1.1, the one standing on the ground would surely know the difference.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

PREFERENTIAL MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. CONTE moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) is recognized for 5 minutes in support of his amendment.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment to prevent the British-French Concorde SST from landing scheduled flights in the continental United States. Before I continue, I should like to qualify my position stating that I am not taking a position for or against the future of the service of this airplane to this country. Rather, I am basing my position on the statutory manner in which this issue must be handled. It was this Congress that created the Federal Aviation Administration to exercise a necessary expertise and to review a question such as this in a quasi-judicial manner under the authority of the Administrative Procedure Act. Only in that manner can all aspects of the issue be resolved. That proceeding is not yet final—there has been no report submitted to this Congress for our review of this matter.

This amendment is clearly in the nature of an ex parte proceeding. There are many persuasive statistics which have been enumerated in support of this amendment. However, we must realize that they are but one side of the story. The fact remains that an issue such as this is not properly handled with 30 minutes or an hour of debate on the floor and then a vote.

DOT has received comments from over 2,700 individuals. They have compiled over 1,000 pages of testimony. Extensive hearings were held in New York City and in the Washington metropolitan area.

An affirmative vote on this amendment would render all these review efforts useless.

We have too many conflicting factors before us today. On the one hand we learn of the danger caused by the SST minimizing the Earth's ozone layer resulting in a higher incidence of skin cancer. However, on the other hand, we learn that we would need 4,000 SST's flying above a particular area for 4 hours per day to have an effect on the ozone layer.

On the one hand, we hear that the plane has a deafening noise. On the other hand, we hear it can be retrofited and without retrofit is comparable to several American-made aircraft. We do not know what to be guided by. This is the very reason we must have a definitive judgment and evaluation by an agency who has the required expertise and the regulatory authority to handle such matters.

I received a communication from Secretary Coleman on July 7, 1975, regarding this very issue. I should like to read an excerpt of that letter which falls in line with my position on this matter:

> The Congress has vested regulatory authority in the DOT/FAA. Accordingly, I think it would be premature for the Congress to take action prior to allowing the administrative process to run its course.
>
> The Congress should permit the executive branch of the Government to follow the mandated environmental procedures, consider all other pertinent factors, and make its determination; the process leaves ample time for further legislation if Congress deems it necessary. I do not believe it would be in our best interest to arbitrarily shut off full consideration of this vital issue by the proposed amendment.

The SST is not in service at this time in the United States. There is no question of immediate or urgent action by this Congress to act.

I should like to point out the possible international ramifications from this unwise amendment by citing to you an excerpt from a letter by Deputy Secretary of State Robert Ingersoll:

> British and French governments have on several occasions expressed to the United States Government their concern about possible discriminatory treatment of the Concorde. We have assured them at the highest levels that the Concorde would be treated fairly in all aspects of U.S. Government regulation. For the Congress to suspend existing procedures even now in progress without an administrative, judicial, or congressional hearing and to ban the Concorde summarily would certainly provoke claims on the part of the British and French governments that the Concorde, a project in which they have invested nearly $3 billion and which is of enormous significance to them, was being excluded discriminatorily and contrary to U.S. treaty obligations.

It is clear that there is a definite cause for alarm if we act in the ex parte manner and I emphasize ex parte. It seems clear that if the Congress moves in this "one-sided" manner, commerce and working relations between the United States and these countries will suffer. It is alarming to consider some possible retaliatory measures that might be thrust upon us. I should like to quote Secretary Ingersoll on this point as well:

> From time to time, protectionist moves have been proposed in Britain and France to keep American aircraft out so that British and French aircraft industries could be maintained. The continued support of free trade elements in these countries would be threatened should the United States deny the Concorde access on a non-discriminatory basis.

Notice that I emphasize the point that Secretary Ingersoll, on behalf of the State Department advises against banning only in this ex parte manner. There is every reason to wait for an administrative ruling from the FAA before we consider such an amendment as we have here today. In the same manner there is every reason to believe that too much will be jeopardized should we adopt this premature and unwise amendment.

I strongly urge my colleagues to defeat this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to the gentleman's motion and yield back the balance of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Massachusetts (Mr. Conte).

The preferential motion was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Wydler).

Mr. WYDLER. Mr. Chairman, I rise in support of this amendment. The time is long past when this Congress should act legislatively to help protect the people from noise that is controllable. I hope we will all vote for this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Addabbo).

Mr. ADDABBO. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, to my colleague, the gentleman from Massachusetts, I would say that all reports so far, and even without reports, have proved that the SST, the Concorde, cannot comply with the regulations. For the gentleman's information, all the New York Members are on the floor now.

Mr. Chairman, as I said, I rise in support of the Stanton amendment, which would ban the landing of the SST until further studies are completed that the SST can comply with existing noise level regulations.

The existing SST, or Concorde, have to date been proven not to comply with our regulations.

I believe it is time that we look to the protection of the people living in and around the airport, rather than the airline industry or manufacturers—especially foreign countries, where flying hours are limited to protect their people by night curfews.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Koch).

Mr. KOCH. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. James V. Stanton).

Mr. JAMES V. STANTON. Mr. Chairman, we have had enough debate. I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Stratton).

Mr. STRATTON. Mr. Chairman, not all the Members from New York come from New York City. I come from New York, and I am opposed to the amendment. I do hope we can act responsibly tonight and not be stampeded. Let us not damage our international aviation industry by voting to ground the Concorde.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment. It is an antiprogress kind of amendment. If we had this kind of thing a few years ago, we would still be flying around in spruce propeller airplanes. I see no reason to oppose the SST, because we were stupid enough to get out of the business ourselves and it has cost ourselves some 16,000 jobs at a time we could ill-afford to lose them. The SST does have a future.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. Mr. Chairman, when the British and the French were on the drawing boards in 1969 when the FAA published FAR standard 36 and set our maximum noise limits, they knew exactly what our limits were and figured that they could go ahead and stonewall us. I am sorry they did. Now it is time for them to go back to the drawing boards and produce a plane that will meet our standards.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Anderson) to close debate.

Mr. ANDERSON of California. Mr. Chairman, I support the amendment, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Snyder) to the amendment offered by the gentleman from Ohio (Mr. James V. Stanton).

The question was taken; and the Chairman announced that the ayes appear to have it.

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. A recorded vote has been demanded.

Mr. STRATTON. Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. James V. Stanton), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. YATES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 188, not voting 47, as follows:

[Roll No. 817]

AYES—199

Abzug
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boggs
Bonker
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Carter
Chisholm
Clay
Collins, Ill.
Cornell
Coughlin
D'Amours
Delaney
Dellums
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Tenn.
Early
Edgar
Eilberg
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Ford, Tenn.
Forsythe
Fraser
Fuqua
Grassley
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jeffords
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Karth
Keys
Koch
Krebs
LaFalce
Lehman
Lent
Levitas
Litton
Lloyd, Tenn.
Long, Md.
Lujan
McCloskey
McDade
McHugh
Madden
Maguire
Mann
Mathis
Matsunaga
Mazzoli
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Pressler
Reuss
Richmond
Rinaldo
Rodino
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skubitz
Snyder
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stokes
Studds
Thompson
Traxler
Tsongas
Udall
Vander Jagt
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Wolff
Wydler
Yates
Yatron
Young, Fla.
Young, Ga.
Zeferetti

NOES—188

Abdnor
Adams
Andrews, N.C.
Armstrong
Ashbrook
Ashley
Bafalis
Barrett
Bauman
Bell
Biester
Boland
Bolling
Bowen
Breckinridge
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Burleson, Tex.
Butler
Byron
Casey
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Dent
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Findley
Flood
Flowers
Foley
Fountain
Frenzel
Frey
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Hays, Ohio
Hefner
Henderson
Hicks
Hightower
Holt
Howe
Hutchinson
Ichord
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Latta
Leggett
Lloyd, Calif.
Long, La.
Lott
McClory
McCollister
McCormack
McDonald
McEwen
McFall
McKay
McKinney
Madigan
Mahon
Martin
Meeds
Michel
Milford
Mollohan
Moore
Moorhead, Calif.
Morgan
Murphy, N.Y.
Murtha
Myers, Ind.
Neal
Nichols
Nix
O'Brien
Passman
Pettis
Pickle
Poage
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rose
Rousselot
Runnels
Ruppe
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Shipley
Shriver
Shuster
Smith, Iowa
Smith, Nebr.
Spence
Stanton, J. William
Steed
Steiger, Ariz.
Stephens
Stratton
Stuckey
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Ullman
Van Deerlin
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Winn
Wright
Wylie
Young, Alaska
Young, Tex.
Zablocki

NOT VOTING—47

Alexander
Annunzio
Badillo
Beard, Tenn.
Bingham
Burke, Fla.
Burton, John
Conyers
Daniels, N.J.
Diggs
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flynt
Ford, Mich.
Gaydos
Gilman
Harrington
Hastings
Hébert
Hinshaw
Horton
Landrum
Macdonald
Meyner
Mills
Montgomery
Mosher
Moss
Patman, Tex.
Randall
Rangel
Riegle
Roe
Sebelius
Sikes
Sisk
Slack
Sullivan
Talcott
Teague
Thornton
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth

The Clerk announced the following pairs:

On this vote:

Mr. Dominick V. Daniels for, with Mr. Hébert against.

Mr. Rangel for, with Mr. Annunzio against.

Mr. Bingham for, with Mr. Teague against.

Mr. Badillo for, with Mr. Sikes against.

Mr. Ford of Michigan for, with Mr. Landrum against.

Mr. Riegle for, with Mr. Flynt against.

Messrs. **HUGHES, PRESSLER, McCLOSKEY, DERRICK,** and **PATTEN** changed their votes from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Page 46, strike out line 5 and all that follows down through and including line 6 on page 47.

Renumber succeeding sections accordingly.

Mr. ANDERSON of California. Mr. Chairman, I am offering an amendment which would delete section 20 and section 21 of the bill. Section 20 is the provision which affects the Logan Airport in Boston. Section 21 is the provision which deals with a new air carrier airport in the St. Louis area. It is my understanding that the authors and chief sponsors of these proposals agree to this amendment.

Mr. TAYLOR of Missouri. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the opportunity to place on the record my views concerning the proposal to replace Lambert Field, St. Louis, Mo., with a remote airport located in the State of Illinois.

Despite the atmosphere of controversy which has arisen over the divergent efforts of Missouri and Illinois, this is not a matter of pitting the interests and equities of one State against those of another. On the contrary, the objective of both States must necessarily focus on the needs of the people of the St. Louis metropolitan area which translates into the fact that almost 80 percent of the people and 90 percent of the area's air travelers live on the Missouri side of the Mississippi River. Moreover, three-fourths of all area air travelers live in the suburban counties to the north and west of St. Louis where Lambert Field is located.

The ultimate question posed, therefore, is how these people, basically and substantially Missourians, can best be served. The answer, I believe, cannot be found in moving the site to a different State.

I would also like to add my opposition to what I consider to be the ill-advised proposal that land banking be authorized at the Illinois site. Should this plan be agreed to it would result in an almost immediate halt to the future development of Lambert Field. Let us not forget that Lambert has been deemed adequate for the foresseable future.

What airline, or other interest, would invest further in their facilities knowing that they would become useless within the next 10 or 15 years? How would it be possible to finance needed improvements to the airport proper if the facility was scheduled for abandonment within a few years?

Along the same line of thought I believe that it is very important to take note of the tremendous investment already made in Lambert Field with special notice going to the construction now underway.

Should we, at a time of high inflation, fuel shortages, and high energy costs, plan to invest in a new facility that may or may not live up to its promise, and in all probability have an eventual cost considerably above original estimates, when an airport, easily accessible to those who use it most and more than adequate for its requirements, already exists. I think not. I urge that the proposal be set aside.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ANDERSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: Page 45, strike out lines 14 through 24, inclusive, and insert in lieu thereof the following:

SEC. 19. (a) The Secretary of Transportation is authorized to undertake demonstration projects related to ground transportation services to airports which he determines will assist the improvement of the Nation's airport and airway system, and consistent regional airport system plans funded pursuant to section 13(b) of the Airport and Airway Development Act of 1970, by improving ground access to air carrier airport terminals. He may undertake such projects independently or by grant or contract (including working agreements with other Federal departments and agencies).

(b) In determining projects to be undertaken under this section, the Secretary of Transportation shall give priority to those projects which (1) affect airports in areas with operating regional rapid transit systems with existing facilities within reasonable proximity to such airports, (2) include connection of the airport terminal facilities to such systems, (3) are consistent with and supportive of a regional airport system plan adopted by the palnning agency for the region and submitted to the Secretary, and (4) will improve access for all persons residing or working within the region to air transport through the encouragement of an optimum balance of use of airports in the region.

Reletter the succeeding subsections accordingly.

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HARSHA. Mr. Chairman, this is a very simple amendment. The provision in the bill on page 45 provides for a demonstration project. It provides for that project for a very specific area. My amendment changes that to make the language general to all areas in the country. Instead of being specific language to a specific project it makes the language in the amendment general to all areas and avoids a point of order and this is an amendment dealing with specific legislation. I would hope the majority of the Members would accept this amendment. It is a perfecting amendment, really.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Chairman, I rise in support of this amendment which make the provisions of section 19—a demonstration project linking ground transportation to the airport at Oakland, Calif.—applicable on a general basis. This amendment would permit the Secretary to undertake a demonstration of this purpose at any area which he finds meet the criteria spelled out in the amendment.

While I do not represent the Oakland area, I am familiar with it—as are other members of the committee—and I feel that such a demonstration in the Oakland area would prove the feasibility of linking ground transportation systems to airports in order to relieve congestion. However, I agree that the Secretary should have the flexibility to select another area—should he find that it would demonstrate this important concept. And, therefore, I support the amendment to make the demonstration at an area of his selection.

Presently, one of the greatest problems facing aviation is ground access to the airport. Because the access to the facility is limited, we are not utilizing our existing airport facilities to their fullest capacity; people are not able to get to the airport quickly and conveniently; energy is being wasted—both by automobiles chugging to the airport and by aircraft waiting for other aircraft to clear the area. Thus, traffic congestion—limited ground access—has a dampening effect on the entire aviation system.

Since this committee—Public Works and Transportation—has jurisdiction over both ground and air transportation, we felt that it would be in the national interest to coordinate these two important modes, to demonstrate the feasibility of funding the connection of both air and ground transportation. The committee, after investigating the situation in Oakland, found that this was an ideal location for such a demonstration. However, should the Secretary, in his wisdom, find a site which is even more suited for this project, he has that latitude under the amendment.

In determining the acceptability of a project to be undertaken under this section—as amended—the Secretary shall give priority to projects which meet the following criteria:

First, affect airports in areas with operating regional rapid transit systems with existing facilities within reasonable proximity to such airports;

Second, include connection of the airport terminal facilities to such systems;

Third, consistent with and supportive of a regional airport systems plan adopted by the planning agency for the region and submitted to the Secretary; and

Fourth, will improve access for all persons residing or working within the region to air transport through the encouragement of an optimum balance of use of airports in the region. Projects qualifying under this section are eligible for joint funding under section 6 of the Urban Mass Transportation Act of 1964.

We feel that this is a necessary demonstration, and I have no objections to allowing the Secretary to use his discretion in selecting a site for this project.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Chairman, I am willing to accept the amendment.

PARLIAMENTARY INQUIRY

Mr. EDGAR. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. EDGAR. Mr. Chairman, if we accept this amendment to delete from the bill the specific language relating to the Oakland International Airport, would a subsequent amendment be in order to delete on page 46, lines 1 through 4, which provide for an authorization of $72 million, which is a duplication of existing law?

The CHAIRMAN. A subsequent amendment to that portion of the bill would still be in order.

The question is on the amendment offered by the gentleman from Ohio (Mr. Harsha).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dellums: Page 43, line 17, strike out the final quotation mark and the final period.

Page 43, immediately after line 17, insert the following new section:

"Sec. 31. Civil Rights.

"The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964."

Mr. ANDERSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, this is a technical amendment designed to assure minority participation in program activities under this act. The language of the amendment is similar to—and based upon—comparable provisions enacted by Congress for other major programs, such as the Trans-Alaska Pipeline.

The need for this amendment came to my attention through a series of meetings held within the last 45 days and conducted by my colleague from Maryland (Mr. Mitchell) and myself with representatives of the Federal Aviation Administration, the Office of Minority Business Enterprise, the Small Business Administration and minority businessmen. Those meetings centered on existing ADAP regulations, agreements and effectiveness, and it became apparent to me in those discussions that minority entrepreneurs had had little share in projects funded under ADAP. This amendment stipulates that the Secretary of Transportation develop regulations to provide the affirmative action needed to remedy that problem.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the distinguished ranking minority member.

Mr. SNYDER. I thank the gentleman for yielding.

Mr. Chairman, I have looked over the amendment, and I have no objection to the gentleman's amendment. I think that it is a situation which already exists with the Department of Transportation, but to put it into law would not bother me at all. I am willing to accept it, as are the Members with whom I have discussed it.

Mr. ANDERSON of California. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. ANDERSON of California. I thank the gentleman for yielding.

Mr. Chairman, I accept the gentleman's amendment, and I feel it is a useful addition to the program.

Mr. DELLUMS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Dellums).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Edgar: On page 46, strike out lines 1 through 4.

Mr. EDGAR. Mr. Chairman, I hastily offer the amendment to delete that part of section 19 of the bill which allocates a $72 million figure for demonstration projects to demonstrate whether we can move people and goods efficiently and effectively from urban areas to the airport. I do not rise to oppose that as a national transportation policy, but I do rise to oppose in a general authorization bill for airport development something that already exists under existing law.

I wrote a letter to Secretary Coleman asking him the question of whether section 19 should remain in the bill. The Members will remember that before we accepted one of the last amendments which deleted the specific reference to Oakland International Airport, that the demonstration project was for a specific demonstration project.

Although the language has become general, many Members would assume that this is something that is not covered in existing law. I received a letter from the Secretary which indicates that not only is the specific project unnecessary but also it is inappropriate in that under existing law projects similar to that proposed at Oakland can be and have been funded under section 3 of the Urban Mass Transportation Act of 1964.

A project undertaken several years ago leading to the Cleveland Airport of the local mass transportation system was financed by one-third local funding and two-thirds Federal under UMTA, the section 3 program.

It is my feeling there should not be any funds in this airport development bill that are earmarked as they were before we accepted an amendment, to a specific airport or offering moneys for something already covered under the Urban Mass Transportation Act of 1964.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Chairman, I rise in support of the gentleman's amendment.

Is it not correct that this amendment which was put in for $72 million was in the bill and was justified by a demonstration project at the Oakland International Airport?

Mr. EDGAR. That is correct.

Mr. MILLER of California. Now we have $72 million in the bill without a project.

Mr. EDGAR. That is correct.

Mr. MILLER of California. And there is no legislative history to tell why we should spend this $72 million or what project it might be deemed useful for.

Mr. EDGAR. That is correct.

Mr. MILLER of California. I rise in support of the gentleman's amendment. I think it makes very good fiscal sense.

What we have now told people is the Federal Government was going to put out $72 million and anybody who wants to come hunting for it can do so. As a matter of fact in the committee hearings there was talk about a hunting license worth $72 million. That is what this bill does. It was originally to fund a project at the Oakland International Airport for $94 million to move people 3.5 miles so they would not have to change their luggage from one means of conveyance to another.

The legislative analyst in the State of California is opposed to this project. Some of the board of directors are opposed to it. They have never discussed this matter in an open hearing. The

Metropolitan Transit Commission of the nine Bay area counties are opposed to the project on the basis it will be detrimental to BART. It will wreck the computer capacity and it cannot be justified.

Now we have accepted an amendment to take Oakland out, so we have $72 million remaining in the bill and anybody who wants to demonstrate anything can try to get this money.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. Rousselot, and by unanimous consent, Mr. Edgar was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, can the gentleman state that Allen Post, who is the financial officer of the State of California, has said this was unnecessary?

Mr. MILLER of California. Mr. Chairman, he has said for several reasons this project should not be funded. It has not been subjected to any of the regional planning operations in the San Francisco Bay area and the computer capacity of the BART system, which Members may or may not know, has problems of breaking down every so often. As far as the hardware problems, BART now has those problems and the system is not adequate to satisfy the manner in which it is running now. It is his suggestion BART get the existing system on line before they talk about fixed rail extension.

Mr. ROUSSELOT. I thank the gentleman. This sounds like the old eucalyptus bill we had some time ago.

Mr. EDGAR. I thank the gentleman. This does not say Oakland International Airport cannot receive funding.

The Secretary goes on to say that we are not in a position to say what priority Oakland would be, but considering the much greater volume of passengers in some other airports, some of those airports get priority, but it says Oakland can so far receive funds under section 3.

Mr. JOHNSON of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, our Committeee on Public Works, who has jurisdiction of overall transportation at the airports or urban mass transit or highways have made studies throughouut the United States and held field hearings. We have met with people all over the United States. There is a definite need for this type of operation on the part of the Secretary. The legislation has been amended.

Out at the Oakland International Airport it is a general approach, as far as the legislation is concerned. There are many of these projects underway at the present time. They are being funded out of general funds. They have to be studied and put together.

There is one here in Philadelphia. There is one at O'Hare Airport in Chicago and the gentleman from Pennsylvania (Mr. Edgar) mentioned another one here. There is a need for this type of project around all of our airports. There is hardly one that does not have a bottleneck. It is a problem getting people to and from the airport and when we are building these mass transit projects I think this has a very important part to play.

Mr. Chairman, I just hope the House will vote down the amendment offered by the gentleman from Pennsylvania. We discussed this in the committee—in the subcommittee and in the full committee.

I believe there is a need for this type of activity. I am merely asking to allow the Secretary to make his finding and go to work on the problems of mass transportation in the overall. That is what this Congress is trying to do, handle our mass transportation problems on an overall basis.

Again, this money would have to come from the general fund. They would have to seek their appropriations from the Committee on Appropriations.

Mr. MYERS of Pennsylvania. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the question has been clearly answered by the gentleman who spoke previous to me, that we are not speaking about significantly demonstration projects. The gentleman indicated there are a number of projects. I think we should wait until the chickens come home to roost before we pass anything here.

Mr. Chairman, we are talking about $72 million. By striking out this one authorization of a very special project we will save the tax bill for approximately 36,000 American families next year. I think it is significant to think of it in that respect. We should not have these isolated demonstration projects when they do not, in fact, have any track record of coming back and offering any new or innovative methods to attack the long-range problems we face in transportation.

Mr. Chairman, I think the amendment should be adopted.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wish to point out that my district includes this Oakland International Airport. If I thought the extension would bring ten more passengers to the Oakland Airport, I would say do it, because we have too many people coming in to the San Francisco Airport.

Mr. Chairman, does anybody know of any international flights that land at Oakland? They do land at the San Francisco Airport, not at Oakland. That is our problem. They are trying to get people to go to an airport that nobody wants to use and here we are trying to spend $72 million just to get an easier ride maybe. It will not happen. If we want the BART extension, we ought to put it at San Francisco, 20 miles away. There is no reason on earth to put $72 million into this airport when it will not be convenient to anybody, except for the Port of Oakland that runs the International Airport.

Mr. ANDERSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. The amendment that is now before us does not mention Oakland. Oakland is not mentioned. It is no longer binding. It is a nationwide demonstration project. It must go through the appropriation process. It does not come from the airport fund. It is a general fund operation. Presently ground access to the airport is a serious problem.

This is a general authorization designed to find a solution. I urge a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Edgar).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the committee rose; and the Speaker having resumed the Chair, Mr. Brown of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9771) to amend the Airport and Airway Development Act of 1970, pursuant to House Resolution 930, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GIBBONS. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 16, not voting 50, as follows:

[Roll No. 818]

YEAS—368

Abdnor
Abzug
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conlan
Conte

Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fuqua
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hastings
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
St Germain
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steelman
Steiger, Ariz.
Stephens
Stokes
Stratton
Stuckey
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—16

Brodhead
Conable
Erlenborn
Gibbons
Hays, Ohio
Hicks
Kelly
Long, Md.
McDonald
Mikva
Mottl
Myers, Ind.
Russo
Schneebeli
Steiger, Wis.
Young, Fla.

NOT VOTING—50

Adams
Alexander
Annunzio
Badillo
Beard, Tenn.
Bingham
Burke, Fla.
Burton, John
Conyers
Daniels, N.J.
Diggs
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Flynt
Ford, Mich.
Gaydos
Gilman
Harrington
Hébert
Hinshaw
Horton
Landrum
McCloskey
Macdonald
Meyner
Mills
Montgomery
Mosher
Moss
Ottinger
Patman, Tex.
Randall
Rangel
Riegle
Roe
Sarbanes
Sebelius
Sikes
Sisk
Slack
Sullivan
Talcott
Teague
Thornton
Whitten
Wilson, C. H.
Wilson, Tex.
Wirth

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Montgomery.
Mr. Hébert with Mr. Beard of Tennessee.
Mr. Bingham with Mr. Eshleman.
Mr. Badillo with Mr. Whitten.
Mr. Ford of Michigan with Mr. Ottinger.
Mr. Rangel with Mr. Burke of Florida.
Mr. Riegle with Mr. Horton.
Mr. Teague with Mr. Charles H. Wilson of California.
Mr. Sikes with Mr. Esch.
Mr. Landrum with Mr. Wirth.
Mr. Flynt with Mr. Evins of Tennessee.
Mr. Alexander with Mr. Charles Wilson of Texas.
Mr. Conyers with Mr. Evans of Colorado.
Mr. Patman with Mr. Gilman.
Mr. Macdonald of Massachusetts with Mr. McCloskey.
Mr. Diggs with Mr. Randall.
Mr. Mills with Mr. Sisk.
Mr. Moss with Mr. Harrington.
Mr. Dominick V. Daniels with Mr. Talcott.
Mrs. Sullivan with Mr. Sebelius.
Mr. Adams with Mr. Slack.
Mr. Thornton with Mr. Roe.
Mr. Sarbanes with Mrs. Meyner.

Messrs. CLEVELAND and DEVINE changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRIVILEGES OF THE HOUSE—SUBPENA TO TESTIFY BEFORE A GRAND JURY

The SPEAKER. The Chair recognizes the gentleman from New Jersey (Mr. HELSTOSKI).

Mr. HELSTOSKI. Mr. Speaker, I rise to a question of the privileges of the House.

Mr. Speaker, on the 13th of October, 1975 I was subpenaed to appear and testify before a grand jury of the U.S. District Court for the District of New Jersey. I have responded to that subpena but an additional appearance on Friday, December 19, 1975, a day on which the House will be in session, is now required.

Under the precedents of the House, I am unable to comply with this subpena without the consent of the House, the privileges of the House being involved. I therefore, submit the matter for the consideration of this body.

Mr. Speaker, I send the subpena to the desk.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

SUBPENA TO TESTIFY BEFORE GRAND JURY

[In the U.S. District Court for the District of New Jersey]

To Congressman Henry Helstoski, 666 Paterson Avenue, East Rutherford, New Jersey

You are hereby commanded to appear in the United States District Court for the District of New Jersey at the United States Post Office & Courthouse Building, in the city of Newark on the 14th day of October 1975 at 9:30 o'clock A.M. to testify before the Grand Jury and bring with you any and all books, records, documents and memorandum listed on the attached Schedule A for the period stated therein.

SCHEDULE A

1. Any and all memoranda, reports, correspondence and documents relating to the introduction of private immigration bills by Congressman Helstoski on behalf of individuals seeking permanent residence in the United States, including:

a. Any and all memoranda, reports, correspondence and documents between the House Judiciary Committee and Congressman Helstoski in support of or in connection with the submission of the aforesaid bills;

b. Any and all memoranda, reports, correspondence and documents between Congressman Helstoski, applicants for permanent resident status and sponsors of said applicants, and persons interested in the aforesaid applicants for permanent residence applications;

c. Any and all memoranda, reports, correspondence and documents between Congressman Helstoski and the Immigration and Naturalization Service relating to the aforesaid individuals who sought permanent residence in the United States through the submission of private bills;

d. Any and all memoranda, reports, correspondence and documents relating to the subject matter of private Congressional legislation on behalf of individuals seeking permanent residence in the United States.

2. Any and all lists of individuals provided by and/or created as a result of information furnished to Congressman Helstoski by Asvaldo Aguirre, Albert DeFalco and any other sponsors acting on behalf of individuals who sought the introduction of private immigration bills.

3. Bank statements, cancelled checks, and deposit items relating to Congressman Helstoski's Sergeant-at-Arms account for the period January 1, 1969 through December 31, 1970, including cashiers' check issued March 5, 1973 in the amount of $5,550.00 drawn on the Sergeant-at-Arms account.

4. A chronological statement of all loans made to Congressman Helstoski during the period January 1, 1969 to date, including the name and address of the lender, the date

and amount of the loan, whether the loan was made by check or by cash and the date and means by which the loan was repaid, including any and all records, notations, memoranda and correspondence relating to the aforesaid loans.

5. Any and all accountings of congressional allowances received by Congressman Helstoski during the period January 1, 1969 to date including allowances for travel, stationery, district office telephones and office expenses.

6. Any and all documentation relating to the source of funds used to purchase a 1969 Chrysler and a 1970 Cadillac.

7. A list of all campaign accounts held for Congressman Helstoski's benefit during the period January 1, 1968 through December 31, 1971, including, but not limited to all Legislative Dinner Accounts, Legislative Luncheon Accounts, and Legislative Ad Journals; and a list of all Citizen's Committee Accounts supporting Helstoski for Congress and/or Helstoski for Governor during the period January 1, 1969 to date.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 940) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 940

Whereas, Representative Henry Helstoski, a Member of this House, has been served with a subpena duces tecum to appear as a witness before the Grand Jury of the United States District Court for the District of New Jersey, to testify on the 14th day of October, which date has been continued and his further appearance is now requested on the 19th of December, 1975, and to bring with him certain and sundry papers in the possession and under the control of the House of Representatives; and

Whereas, by the privileges of the House no Member is authorized to appear and testify, but by order of the House: Therefore be it

Resolved, That Representative Henry Helstoski is authorized to appear in response to the subpena duces tecum of the United States District Court for the District of New Jersey at such time when the House is not sitting in session, but he shall not take with him any of the papers and documents requested in said subpena which are under the possession and in the control of this House; be it further

Resolved, That as a respectful answer to the subpena a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to ask of the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill) if the gentleman is in position to inform the House as to the program for tomorrow?

Mr. O'NEILL. Mr. Speaker, if the minority leader will be kind enough to yield, I will be happy to respond.

Mr. RHODES. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, when we adjourn tonight we will adjourn to meet at 10 o'clock tomorrow morning.

There will be consideration of two suspensions: H.R. 10284, medicare amendments, and H.R. 10727, social security hearings.

There will be 11 deferrals.

There is the railroad revitalization and regulatory reform conference report.

Then there is possible consideration of H.R. 8069, the Labor-HEW appropriations for fiscal year 1976 because of a veto. I understand that the chairman of the committee would ask that that be put over until January 27, 1976.

Any further program would be announced on tomorrow. The only thing we could think of that could possibly come up would be a conference report or if some bill were attached to something that would be sent over from the Senate.

Mr. RHODES. May I ask of the majority leader if it is his intention on tomorrow to ask to adjourn until Monday next?

Mr. O'NEILL. It is our present plan that when we adjourn on tomorrow, we will adjourn until Monday.

Mr. RHODES. But there will be no Saturday session?

Mr. O'NEILL. There will be no Saturday session.

Mr. RHODES. I thank the gentleman.

REQUEST FOR IMMEDIATE CONSIDERATION OF H.R. 11227, MAINTAINING EXISTING WITHHOLDING TAX RATES UNTIL MARCH 15, 1976

Mr. MILLER of Ohio. Mr. Speaker, I ask unanimous consent to bring before the House the bill H.R. 11227 to amend the Internal Revenue Code of 1954 to provide that current withholding tables will remain in effect until March 15 of 1976.

The SPEAKER pro tempore (Mr. McFall). The Chair will state to the gentleman from Ohio that we cannot entertain that request at this time.

LEGISLATION TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF INTERIOR FOR INDIAN AFFAIRS

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, I am introducing today a bill to establish within the Department of the Interior the position of Assistant Secretary of Interior for Indian Affairs.

The purpose of this proposal is to upgrade the position of the Commissioner of Indian Affairs to that of an Assistant Secretary, and to eliminate the position of Commissioner.

It is my belief that the Commissioner should enjoy a status commensurate with his duties and responsibility. The Bureau of Indian Affairs which he heads has an annual budget in excess of $500 million and more than 12,000 employees. They administer a wide range of programs which vitally affect the lives of more than 550,000 American Indians and Alaska Natives. In addition to his administrative tasks, the Commissioner serves as chief policy spokesman and advocate within the Department for Indian interests. As such, he should occupy a policy level status equal to the six other Assistant Secretaries in the Department.

This is not a new proposal, nor is it to my knowledge controversial. It was first proposed by the administration in 1970 as part of a legislative program designed to implement a policy of self-determination for American Native people. The 91st and 92d Congresses did not act on the measure. In the 93d Congress, the House passed an Assistant Secretary bill by a wide margin. Unfortunately, the Senate saddled it with a nongermane amendment that eventually led to its death when the House rejected the conference report.

Congress has tarried far too long in enacting this legislation. The 94th Congress should take the opportunity to give special recognition to our first citizens by upgrading the official status of their chief spokesman in the Federal Government. I think it would be only fitting to do so during our Nation's Bicentennial.

GEORGE W. FOWLER, A BORN TEACHER

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, it has been said that the influence of good teachers is limitless. Like pebbles dropped into a still pond causing ripples to go out on all sides touch every every shore, such teachers stir the interest and curiosity of students who thence expand their inquiry and development for the rest of their lives. What a great opportunity and challenge for the lively mind of an educator.

George W. Fowler, a man, a teacher, and an administrator is to be honored by his community and his friends for 40 years of dedicated service to the young people of the city of Syracuse. Appropriately, the city's newest and most modern school complex will be dedicated in his honor on January 9, coincidentally his 95th birthday.

A recent feature article in the Syracuse Herald-Journal by reporter Dale Rice, caught much of the flavor of this remarkable man. It showed him to be a man of compassion and good humor; a man who knew that discipline was the key to any success that a student would earn in the classroom or in the world beyond the schoolyard. It showed him to have a keen appreciation for the written word, for books as the basic tools of knowledge and eventual wisdom.

George Fowler went beyond himself and shared his special spark of enlightment with eager young people and probably even with a few less enthusiastic students of chemistry and physics. He also wrote textbooks and New York State regents exams and thereby spread his knowledge and exacting standards for quality and excellence even further.

Born in the last century, George Fowler brings to us the perspective of another time and temperament. Coming from the farm life of rural Wayne County to the campus of Syracuse University and then onto the hustings of academe, he exhibits a simplicity and self-consciousness about him which one cannot help admire in a world where self-promotion excuses so much that is crass.

There is a motto inscribed in the front of the Supreme Court in Washington which reads "What Is Past Is Prologue." I think this typifies the outlook of most educators when they sense that the future is the reward for the past.

The structure of the new school reflects in a material way the thanks which is extended to all teachers and educators in the person of George Fowler. But it must be felt by them and by all who serve our community in education that the true monument and best remembrance is the quality of the students produced by the institution.

The best physical plant and equipment cannot substitute for the dynamics of competent training and evocative instruction. This is the role of the creative teacher; this is the example which we hope is remembered when the ceremonials of the dedication are forgotten. For only as long as there is growth of the mind and the spirit of our youth can we have hope that the future will be safe, sure and ascendant.

A newspaper article follows:

GEORGE W. FOWLER A BORN TEACHER

(By Dale Rice)

George W. Fowler was born in 1881 in a little house on a drumlin in Wayne County.

"By the way," he asked, "do you know what a drumlin is? There are over 7,000 in Wayne County."

George Fowler is still a teacher. Drumlins, he explained, are small hills left by the glaciers. Although he's almost 95 and has been retired nearly 30 years, the science teacher in George Fowler still shines through.

On Jan. 9—Fowler's 95th birthday—the City School District will recognize his 40 years of outstanding service to the district with the official dedication of the district's newest high school, the George W. Fowler Senior High School.

Fowler grew up in Wayne County. "I lived there until I was 20," he said recently, relaxing in his room at the Plaza Extended Care Facility. He worked on the farm, he said, until he went to college.

In 1904, Fowler graduated from Syracuse University. He went to Little Falls, where he taught for nearly three years. In 1907, he began teaching in the City School District.

Fowler taught physics and chemistry for 18 years at Central High School. After teaching for 18 years, he was made head of the science department at Central High. "I got quite a thrill out of that," he said.

He recalled that then-Principal G. Carl Alverson called him down to his office one day. "Fowler," Alverson said, "I don't want you to do any more teaching. I want you to spend your time supervising."

When Alverson became superintendent of schools in 1928, he took Fowler with him to supervise all sciences in the city.

Fowler said there was no science in the elementary classrooms when he came into the system. And there was just one movie projector in the district then, he noted. There was much opposition to putting science in the elementary schools, he said.

Principals and teachers insisted they had no business teaching about volts and molecules, Fowler said. But he succeeded in convincing them that science had a place in the elementary school and he worked with teachers who were not equipped at all to teach science. Most of the teachers were sure they'd get a shock if they hooked a wire to a small battery, he said with a laugh.

Discussing the changes in education over the last 50 years, Fowler said, "There's no similarity at all. Everything's different, the attitude of the kids, the attitude of the teachers. It's not the same.

"I came up under a regime where you respected supervisors in every way. I really stood in awe of the superintendent and the Board of Education," he said.

Disciplining the pupils has changed, too, Fowler said. "If I could handle him, I did," he declared. If not, he said he sent the child to the office until he could go down and deal with him there.

"I remember one boy I sent to the office," he recalled. "I took my time about getting there to give him a chance to sit and worry about the consequences. When I did go into the office, I went in good naturedly and talked to him," he said.

The next day, Fowler said, the boy walked into his classroom and the teacher called him over and asked him to sit down for a minute. "I can't," the child replied. When asked why, the kid responded that his father had "licked" him so hard when he found out he had been sent to the office that he couldn't sit down.

"That was characteristic of discipline in those days," Fowler said. "In fact, parents backed you up in whatever you did."

Most of the emphasis in teaching during the first part of the century, Fowler said, was placed on the textbooks. "It was strictly textbooks in my day," he said, noting that teachers worked to have their children pass the Regents exams.

Fowler, who co-authored science textbooks and helped write several Regents exams, said he had a technique for children to pass the Regents. He told them to go through the test and pick out what they were sure they knew. The children then concentrated on their areas of knowledge.

"I tried to get everyone through, regardless," he said. "I had a record of no failures, because they knew how to take examinations."

Fowler is looking forward to the dedication of the new high school named after him. "It's an honor. There's no question about that. A great honor," he said. He modestly added, "And yet there were others more capable than I."

The dedication of Fowler Senior High School will be at 8 p.m. Jan. 9. Board President Constance Timberlake will preside at the ceremonies and Mayor Lee Alexander will present the keys of the school to the district.

WIDOWS CAN COPE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts, Mrs. HECKLER, is recognized for 10 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I have the pleasure of bringing to the attention of my colleagues a handbook entitled "Widows Can Cope," published earlier this month by Edna Dube of Fall River, Mass., an outstanding constituent of mine.

Mrs. Dube, herself a widow, has developed a very practical guide for those women who suddenly find themselves without their husbands and unable to cope with the hundreds of small things which had been done for them.

While there is no adequate remedy for the loss of a loved one, such as a husband, and time serves only to heal the hurt, women must prepare to carry on their day-to-day lives and continue to function as vital members of the society.

Additionally, Mrs. Dube has been the moving force and founder of the Widows Exchange, a group which seeks to ease the burdens inflicted on women following the deaths of their husbands. A vital and understanding person, Mrs. Dube recognizes the need to expand her local group and establish a counterpart for widowers.

Reporter Pat McGowan of the Sunday Standard-Times of New Bedford, Mass., recently wrote an excellent article describing the events which led to Mrs. Dube's publishing the handbook and outling its contents.

I commend the article to my colleagues and insert it here in my remarks:

SHE TELLS WIDOWS THEY CAN COPE

(By Pat McGowan)

Edna Dube is not a lady who sits around and waits for things to happen.

When she thought Notre Dame parish in Fall River needed a women's guild, she organized one. When she joined the Fall River Catholic Nurses' Guild, she promptly became its president. And when, with devastating suddenness she became a widow, it did not take her long to realize that for many women widowhood was a truly terrifying state, not only because of the loss of a spouse but because of its unfamiliar decisions and responsibilities.

Typically, having assessed the situation and taken some time to recover from her private grief, she began wondering what she could do about it. On a trip to Florida she had heard of a widow and widowers' group. When she returned home, she spoke to Roberta Kevelson of the Women's Center of Bristol Community College about the possibility of such an organization in Fall River.

"Why don't you start one?" was Mrs. Kevelson's response, and thus the Widows' Exchange, which now has a flourishing membership of over 150 women, was born.

Through meetings and individual discussions with widows, Mrs. Dube realized that just-bereaved often need a handbook of practical information, and last week she published a 42-page, soft-bound handbook entitled, "Widows Can Cope."

It discusses such nitty-gritties as veterans' benefits, insurance, investments and bank accounts, but only after a no-nonsense introduction designed to pull a window out of despondency and point her towards an active life.

"You no longer have a breadwinner or someone who will take the car for repairs, or tell you that the house needs a new roof, or that a faucet needs to be fixed. Automatically if you say to yourself, 'I'll think about the future tomorrow.' Well today is that tomorrow, and now you must decide where you go from here."

The book is long on practical suggestions, such as keeping a notebook to record transactions and putting oneself on a schedule to avoid lapsing into apathy on days when there is nothing that needs to be done.

"I reasoned," writes Mrs. Dube, "that if I had to go to work each day, it would be necessary for me to get up, dress at once, and leave the house, I did just that and instead of going to work, I attended Mass every day at 8 a.m. . . . It seemed to me that my despair would lighten and I would come away feeling a little better after spending the time in church."

The last chapter of her book is devoted to the Widows' Exchange and she notes that after 1½ years of existence, more people are aware of it, and some widows are joining within one month of bereavement. "These widows adjust at a much more rapid rate than the one who comes in later," she said.

Although statistically there are more widows than widowers, Mrs. Dube feels there's need for a men's group, "but it's much harder to organize men." She cited the case of one widower, however, who had been limiting himself to TV dinners simply because he didn't know that he could also get a wide variety of separately frozen vegetables and meats.

"He was also having trouble doing his laundry. He didn't know how to iron and didn't know about wash-and-wear clothes."

Mrs. Dube said this widower's chief sorrow was that his family "never asked how he was doing. Their attitude was 'if you have trouble, call on us,' but many men are too proud to ask for help."

The new author will appear on television later this month to promote her book. It is available at area bookstores and by mail order from her.

THE GROWING DANGERS OF FOOD POWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

Mr. McKINNEY. Mr. Speaker, I was recently invited to deliver my view of the present world food situation and its impending developments before the Greater Bridgeport Hunger Action Committee of Bridgeport, Conn. At this time I would again like to address this issue for the benefit and general consideration of my colleagues.

Mr. Speaker, there is a new prefix in today's world that is gaining unmatched significance in the areas of international finance and politics and which will undoubtedly levy more influence on the course of international affairs than the prefix "petro" has in recent years. The prefix I refer to is "agri". It is becoming more obvious to anyone with even a limited preception of future international developments that the terms "petro-dollar" and "petro-power" are rapidly becoming overshadowed by the significance of the terms "agri-dollar" and "agri-power."

The essential characteristics of a full blown world food crisis exists today in increasing measure. The food deficit regions of Africa, Latin America and Eastern Europe are already dominated by North America's monopolistic control of exportable grain. If this situation is allowed to continue to grow, strengthen, and spread to other regions throughout the world; the U.S. and Canada will find themselves in the unenviable position of operating a global food rationing program. The moral complications arising from this circumstance will be devastating; however, a more immediate consideration is the capability of North America to feed the world.

The United States, which already supplies nearly three-fourths of the world's net grain exports, has the largest continuous mass of fertile land, good growing climate and adequate rainfall of any place on Earth. After the American farmers finish feeding their own countrymen, they have remaining exportable supplies of nearly 60 percent of their wheat and rice, nearly half of their soybeans, one-fourth of their grain sorghum, and more than one-fourth of their corn. When you consider these statistics along with the continuing advances in agricultural technology and the favorable size of Canadian food production capabilities, the prospects of North American supplies balancing the world food needs appears very possible. However, Mr. Speaker, when considering the severe decline in food production in the rest of the world, coupled with an increase in affluence of the Western nations and the exponential growth in world population, particularly in the undeveloped countries, the scale of supply and demand takes an unfavorable dip.

Consider, Mr. Speaker, that the Soviet Union has turned, in the span of one decade, from a major grain exporting nation to a major importer of grain, that the Peoples Republic of China has, in the same time span, entered the world market as a major importer of grain, that the increased affluence of Western nations has placed an unprecedented demand for meat products which in turn has greatly increased the need for livestock feed, and that there is an annual 2 percent increase in the world population, four-fifths of which can be found in undeveloped nations. Notwithstanding the astronomical costs of grain storage, estimated by one source at $10 per ton, the probability of one or a few countries providing the grain for the entire world is extremely dim.

Further complications, of a political nature, arise from the shortage and make more obvious the need for the United States to expedite the resolution of this crisis. Mr. Speaker, the controversy has already begun as to whether the U.S. control over the world food needs should be used to gain various concessions from recipient nations. If future U.S. foreign policy were to include the potential of a food embargo such a move would make agri-power the ultimate political weapon and far more deadly than a potential oil embargo. At first glance the possibilities are limitless. However, the wielding of food as a political tool should not be too closely compared to the use of other resources, such as oil, for the same purpose. For instance, while an oil embargo can shut down a nation's entire industry, people in developed countries, whose diets generally range from adequate to more than adequate, can always tighten their belts a few notches if necessary. It has been done before. In the developing countries where people's diet are inadequate at best, the application of political pressure with the implicit threat of withholding food would be counter-productive. It would certainly lead to severe criticism of the United States on moral grounds, thereby extinguishing any possibility of political gain. Moreover, sporadic curtailment of food resources, to foreign nations would seriously disrupt our own domestic market.

Should this entire scenario fail to convince any one of us as to the need to reach a well designed and stable resolution to this crisis in the near future, then perhaps consideration of the serious moral implications involved can serve that purpose. If allowed to continue, the world food crisis will place upon the United States the inescapable burden of deciding which nations shall eat and which shall starve. I submit, Mr. Speaker, that no nation has or ever will be qualified to undertake the divine task of determining who shall live and who shall die.

In recognition of the responsibility of the United States to lead the fight against famine, I have co-sponsored House Concurrent Resolution 393 as a first step toward this purpose. Only a multi-national effort to establish international grain reserves, agricultural independence for developing nations and to educate those nations as to the most advanced means of population planning, will ward off the most devastating crisis of our time. The right to food resolution dedicates the United States to this fight and an attack on hunger everywhere. It is my hope, Mr. Speaker, that all of my colleagues will soon recognize both the full impact and the immediacy of the danger we face and will join me in supporting measures which will assist in the recognition and solution of this crisis.

NEW YORK CITY INVESTIGATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 5 minutes.

Mr. ROUSSELOT. Mr. Speaker, some individuals in the news media have suggested that there is not much difference between the eight officials of Franklin National Bank who now face charges in Federal court for fraud and the actions of the public officials of the city of New York who have engaged in most questionable practices.

A recent editorial in the Wall Street Journal suggests that the city fathers of New York perhaps should not be let off the hook so easily; that their inept handling of city budget and fiscal matters amounted to more than just poor judgment and irresponsibility, but rather evidence suggests that their actions and decisions as they related to budget matters raise serious questions about possible fraudulent action on their part.

While the editorial questions the propriety of actually bringing charges of fraud against present and past elected officials of the city, it does strongly recommend that a thorough investigation be made into New York City fiscal matters to adequately assess responsibility for any flagrant wrongdoing on the part of city officials.

Such an audit of New York City's books is, in my estimation, necessary in order to set the record straight concerning their financial fiasco as well as to learn from their mistakes.

The Wall Street Journal editorial appeared in the December 18 edition of the paper and follows in its entirety:

A CASE OF FRAUD?

"Should these men go to jail?" New York magazine recently asked about Abraham Beame, John Lindsay, David Rockefeller, Nelson Rockefeller and quite a few others. Its question was not entirely frivolous. The magazine's specialist in city politics, Ken Auletta, presents a damaging case to the effect that what went on in each year's round of budget-making was not far different from the activities that have landed eight officials of the Franklin National Bank, for instance, in federal court on fraud charges.

The Franklin National officials were charged, among other things, with issuing false financial statements to obtain a $35 million extension of credit. But New York City, according to a state audit, has issued

$1.15 billion in short-term notes ostensibly backed by future revenues which were in fact uncollectible. It counted untaxable publicly owned property, including a park and a high school, as part of the backing for its tax anticipation notes.

There's even been an element of coercion. One of Mayor Beame's main concerns when he was City Comptroller two years ago was the low credit rating that Standard & Poor's and Moody's were giving the city. He attempted to upgrade it by brow-beating the bond rating agencies with a vociferous public campaign, including the threat of federal regulation and supervision contained in legislation introduced by New York Democratic Congressmen Bertram Podell and John Murphy.

Even so, a criminal proceeding is unlikely, and probably unwise. Any such action would contain a disturbingly large element of *ex post facto* morality. It would be hard to say who was truly culpable. Yet some effort should be made to assign blame, if only to clarify how the New York budget got so out of hand.

Fortunately, New York State does have a legal device uniquely suited for this task, the so-called Moreland Act Commission. This temporary investigating body was pioneered in 1907 under Governor Charles Evans Hughes and his State Senate floor leader Sherman Moreland. The more than 50 commissions which have come into being since have compiled an impressive record of nonpartisan fact-finding on complicated and technical subjects. Their recommendations have helped shape the present systems of banking and insurance, and the excellent work of a current commission on the Urban Development Corporation may well do the same for the widely-used "moral make-up" bond.

New York City's fiscal affairs practically cry out for this sort of scrutiny. This realization appears to underlie Senator Proxmire's request that the General Accounting Office audit New York's books. If this gargantuan task were done well, it would save other investigators an immense amount of time. But the real need is for the impartial review of past mistakes that can best be done by a well-led Moreland Act Commission.

It may be that the present law must be amended to bring municipal finance within this sort of jurisdiction. (There have been several attempts in the past to do just that usually because of New York City problems.) But Governor Carey would do a great service for municipal finance and not incidentally, the New York City atmosphere if he set such a commission in motion. It might not satisfy New York magazine's instinct for retribution, but it would help to illuminate what went wrong.

JOE BARTLETT—FEDERAL EXECUTIVE INSTITUTE FIRST LEGISLATIVE BRANCH PARTICIPANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Miller), is recognized for 10 minutes.

Mr. MILLER of Ohio. Mr. Speaker, conspicuously absent from the House Chamber for the last 7 weeks has been our Minority Clerk, Joe Bartlett.

Joe has been down in Charlottesville attending the Federal Executive Institute. Nominated by the Speaker and our distinguished minority leader, Mr. Rhodes, Joe Bartlett is the first person from the legislative branch to ever participate in the FEI. This is a great tribute to Joe and a wise choice by the leadership. Joe's service and dedication to the House have earned him its confidence to represent the legislative branch and contribute to the FEI's proceedings.

The Federal Executive Institute created in 1968 as an interagency facility of the Civil Service Commission serves the training and development requirements of high-level Federal executives, primarily at the grade levels of GS–16 and above. The Institute works primarily with the individual executives who number only one-half of 1 percent of civil servants at the top of a civilian work force of 2.7 million. As the "admirals" and "generals" of the civil service, these executives fill responsible leadership positions in a multitude of specialized and general fields of governmental activity.

Most have been promoted to high leadership positions after successful service in highly specialized career fields, and over 80 percent are responsible for program management. All are successful individuals, faced with heavy responsibilities for the future of effective, democratic government in an age of high technology, rapid change, and social complexity.

Certainly, no "back to the drawing board" concept is permissible here. These men and women are highly competent, well informed, and responsible; they are people with flexible, active minds. They do not require training in the ordinary sense.

During the institute's first 5 years, it met much of the difficult challenge of executive education through an 8-week residential program that focused attention on national needs and priorities, the totality of the governmental system, and managerial processes. This experience provided opportunities for some breadth and depth in study by executives.

Joe has attended a 7-week senior executive program which is specially designed to meet varied educational development needs of senior Federal executives. The program provides an outstanding forum for exchange of ideas and diverse experiences, an opportunity for individual self assessment, and study of specific concerns of Government operation such as management systems, processes, and skills.

Indicative of the high esteem and respect those attending this current session have had for Joe, he was elected by them to give the graduation address yesterday. Truly this is yet another accolade for Joe—one which the Congress should also be proud. Nice going, Joe. We look forward to your return.

NATURAL GAS SUPPLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Ruppe) is recognized for 10 minutes.

Mr. RUPPE. Mr. Speaker, natural gas supply continues to be a source of special concern to the Members of Congress and to the American people. The FPC has recently estimated that, given current conditions, large shortfalls of natural gas supply can be expected in various regions of the country during the coming years.

This situation simply cannot be tolerated. Natural gas, which has now become our largest single source of domestically produced energy, must be made available in sufficient quantities to provide for the comfort of our citizens and the critical needs of American industry.

Fortunately, a large new supply of natural gas does exist in the Prudhoe Bay area. Approximately 26 trillion cubic feet of natural gas is known to exist in this region with the possibility that the actual reserve may be even higher. This reserve alone, however, will double our existing supply of domestic natural gas.

The question then becomes one of how best to retrieve, transport, and market this known reserve in a manner which is speedy, efficient, economical, and environmentally sound. Provided Congress does not intervene, regulatory proceedings in this regard will take several years. This is precious time we simply cannot afford to lose in meeting the Nation's energy commitment.

Presently, two competing proposals are before the Federal Power Commission and the Department of the Interior, seeking the proper authority, permits, and licenses to transport the Prudhoe Bay gas. One proposal, by the El Paso Natural Gas Co., is to build a pipeline through Alaska, liquefy the gas, and transport the gas by LNG tanker to the west coast of the United States. The gas would then be regasified and transported through new and existing pipelines to Western and Southwestern States.

The second proposal, the Arctic Gas project, consists of a buried pipeline across Canada to the lower 48 States. Beginning at Prudhoe Bay the pipeline will connect with producing areas in the Mackenzie Delta and run southward to Caroline, Alberta. There the line will divide with one branch entering the United States in Idaho and the other in Montana. From these points the gas will be carried by pipeline directly to markets in the West, Midwest, and eastern regions of the United States.

Mr. Speaker, I firmly believe that it is in the national interest to construct the Arctic Gas Pipeline as soon as possible. I am, therefore, today introducing legislation, known as the Alaskan Natural Gas Pipeline Authorization Act of 1976, to speed up the regulatory process and mandate the issuance of the proper permits and licenses.

I include for the Record a brief section-by-section analysis of the bill I am introducing:

Section-by-Section Analysis

Section 1 cites the Act as the "Alaskan Natural Gas Pipeline Authorization Act of 1976."

Section 2 contains Congressional findings which stress the need for the gas and the desirability of the proposed pipeline system.

Section 3 declares that the purpose of the Act is to insure that the Alaskan Natural Gas Pipeline be constructed promptly without further administrative or judicial delay.

Section 4 defines the Alaskan Natural Gas Pipeline system.

Section 5 directs the Secretary of the Interior and other Federal authorities to issue a right-of-way permit over Federal land.

Section 6 directs the Federal Power Commission to issue necessary authorizations within 60 days after the date of enactment.

Section 7 mandates that all authorizations issued by Federal agencies pursuant to the Act shall include the terms and conditions required by law and may include those terms and conditions permitted by law which are consistent with the purposes of the Act.

Section 8 shortens the period for, and grounds for, judicial review of the Act and authorizations issued pursuant to the Act, using the basic language enacted as part of the Trans-Alaska Oil Pipeline Authorization Act.

Section 9 states that authorization grants pursuant to the Act shall grant no immunity from the Federal antitrust laws.

Section 10 is a standard separability clause.

The Arctic gas pipeline has several advantages which I believe mandates its selection by the Congress as the more appropriate method of providing the Nation with critical natural gas supplies. In my view, the overland pipeline system is more energy efficient in comparison to the other proposal. The pipeline, in eventually providing 4.5 billion cubic feet per day upon completion, will consume 78 percent less energy in transporting the gas when compared to the LNG tanker system proposed by El Paso.

Furthermore, the Arctic gas pipeline is environmentally sound. The Arctic Gas Consortium has already spent over $13 million for direct biological research, $10 million in geotechnical and engineering research, and several million additional dollars in socioeconomic research in an effort to assess the environmental impact of the project. Also, the Department of the Interior has prepared and received public comment on a 17-volume draft environmental impact statement addressing all of the important features of the proposal. I am confident that, as a result of this extensive effort, the project can be operated without significant adverse environmental impact.

In addition, the Arctic Gas proposal offers the possibility of a significant cost advantage to the consumer. Because the Arctic Gas approach is more energy efficient than its competitor, and at the same time will deliver supplies directly to market without the use of a circuitous sea route, significant savings in terms of transportation costs can be passed on to the consumer. For example, private studies have indicated that over a 10-year period, the Arctic Gas project could very well result in an annual savings in excess of $600 million.

Mr. Speaker, much has been made by those advocating a sea route—LNG system—about the role of Canada in this matter. Statements have been made intimating lack of faith in the Canadians in regard to such a proposal. Such comments are totally without foundation and run completely contrary to the history of our relations with Canada.

Furthermore, it is clear to me that, in an effort to deal with growing natural gas supply problems, it is in the mutual interest of both the United States and Canada to construct the pipeline. I would also add that negotiations between the State Department and the Canadian Government are progressing toward the signing of an agreement in the near future which will guarantee the security of such a pipeline.

I have also read comments recently that a Canadian decision on such a pipeline proposal is more than 3 years away. This, of course, is nonsense and simply another example of efforts to exploit public fears in an effort to push a particular project. Actually, the Canadians have indicated that a preliminary decision can be made by the National Energy Board and the appropriate Federal Ministries by next fall.

Based upon all of these considerations, it is apparent that the national interest is best served by rapid approval and construction of the Arctic gas pipeline.

I would ask that the Congress give this matter its most serious attention, and I would hope that we can move ahead with this legislation as soon as possible.

WORLD COUNCIL OF CHURCHES—A CASE OF PINKEYE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, on December 10 of this month the World Council of Churches—WCC—ended its 18-day assembly in Nairobi, Kenya, adopting a diluted verision of a resolution which originally called for the Council to register concern over "restrictions to religious freedom, especially in the U.S.S.R." As if to signal the Soviets that they did not mean to be offensive and divisive, the Council elected as one of its six presidents the Soviets' celebrated ecclesiastical marionette, Russian Orthodox Metropolitan Nikodim, archbishop of Leningrad. Not that anybody who has had knowledge of the organization gives it any credibility or prestige anyway, but there are still a few people in the country who think that the WCC stands for something and perhaps will finally be touched by reality. We do not have to go over the whole distressing history of the WCC to appreciate how morally bankrupt this international interdenominational organization has degenerated on a top-priority moral issue, religious freedom, especially as it pertains to Communist-dominated lands.

Cynicism with the WCC is understandable when when one considers their manipulation of the human rights issue on a double-standard basis. The long silence by the WCC on the religious freedom aspect of human rights as violated by Communist regimes is but another explanation for the increasing spread of Communist tyranny among the forces of freedom in our time.

The WCC does, however, attack other current policies and issues, as noted by the Wall Street Journal of December 16. The Journal stated that—

> The recent council assembly "also had the usual denunciations of "white racism" and Western colonialism, multinational corporations, educational systems which in the rich nations supposedly breed anti-Christian competitiveness and selfishness, and of Argentina, Brazil and Chile for violating human rights.

It is a case of pinkeye, literally and figuratively. Back in 1938 one international religious leader called atheistic communism a "satanic scourge." To judge from the actions of the WCC and some other religious leaders and congregations today, the devil has been exorcised from communism and its philosophy is no longer evil.

If the WCC wants to be sincere in its defense of religious freedom, it might pattern its future policies on the example of the American Federation of Labor which, since the late 1940's has denounced the slave labor conditions in the Soviet Union and its satellites at the United Nations.

The Soviets entered the WCC in 1961, and now, after 14 years, have one of their religious puppets as a WCC president. With such progress between the WCC and the U.S.S.R., it might not be a bad idea if the WCC moves its headquarters to Moscow, thereby placing the WCC operation under the religious liberty provisions of the Soviet Constitution. The implementation of Soviet religious liberties as practiced on a day-by-day basis might be the only means of bringing the World Council of Churches back to reality. But then, they probably would not notice it. Their eyes would still be only on South Africa and the terrible excesses practiced in the United States.

THOSE WHO WOULD REPEAL THE ROBINSON-PATMAN ACT IN EFFECT CLAIM THAT CONGRESS DID NOT KNOW WHAT IT WAS DOING IN ENACTING THAT LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, on December 4, 1975, I addressed the House—see RECORD, page 38738—and accused certain Justice Department officials of trying to repeal antitrust laws under a coverup described as deregulation.

Since that time, some of those officials have held a "hearing" which was said to be a hearing to determine the need for "regulatory reform." The panel holding the hearing was composed of attorneys from the Antitrust Division of the Department of Justice and some staff members of the Domestic Council and covered the period from December 8 through December 10, 1975.

Throughout the testimony of the witnesses who had been selected by that panel to appear and testify against the Robinson-Patman Act, one finds the claim that the Robinson-Patman Act was rushed through the Congress in the winter of 1935–36 without adequate hearings or consideration. One witness contended that the law itself, therefore, rests on false premises. One official from the Antitrust Division of the Department of Justice has stated that:

> Very few public officials, particularly Members of Congress, have had any incentive to inquire into the actual economic impact of the Act on both large and small businesses and upon the consumer in today's economy.

Mr. Speaker, in other words, that attorney from the Antitrust Division of the U.S. Department of Justice is accusing the Congress of having had no incentive to inquire into the actual economic impact of the Robinson-Patman Act upon business and upon the consumer in today's economy. Also, that official has said:

> The Robinson-Patnam Act was based on a highly erroneous assumption about the process by which businesses set their prices.

Mr. Speaker, those who contend that the Congress has not carefully considered the economic significance of price discriminations and the possible impact upon such practices resulting from the enactment of the Robinson-Patman Act and, in turn, the impact of that law upon the economy of this country apparently are woefully uninformed. Numerous investigations, studies, hearings and reports have been conducted and made by both the Congress and the Federal Trade Commission over the years regarding those matters.

For example, pursuant to Senate Resolution 224 of the 70th Congress, the Federal Trade Commission on December 14, 1934, in Senate Document No. 4 of the 74th Congress reported on an intensive and exhaustive investigation regarding the economic significance of acts and practices of price discrimination and the effects of such acts and practices on the economy and our free and competitive enterprise system.

In that connection, the Federal Trade Commission concluded that the then existing section 2 of the Clayton Act was insufficient to deal with such acts and practices, and recommended the strengthening of the anti-price-discrimination law. Thereafter, the Congress, through a special investigating committee of the House of Representatives made an extensive investigation of price-discrimination acts and practices, following which extensive hearings were held by the Committees on the Judiciary of the House of Representatives and of the U.S. Senate on proposals on the Robinson and the Patman bills proposing to strengthen the laws against destructive price discriminations. Out of those proposals, the Congress enacted the Robinson-Patman Act.

Since that time, committees of both the House and the Senate have held hearings and made prolonged studies of the economic significance of price discrimination and of the impact of the Robinson-Patman Act and the proposals for amendments of that law.

For example, the House Small Business Committee in 1955, 1956, 1958, and 1959 directly and through a number of its subcommittees held many hearings dealing with these matters and made reports to the House of Representatives about them. These were followed by numerous hearings during 1969 and 1970 by further hearings on the Robinson-Patman Act by a special subcommittee of the House Small Business Committee on the basis of which a report was made to the House of Representatives.

Currently, as I have said, a special Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters, is holding hearings and making a thorough study anew of these matters.

Mr. Speaker, in view of all these circumstances, it is clear that those who are criticizing Congress of not having studied these matters, either are uninformed or are deliberately undertaking to mislead the public concerning our antitrust laws and the Robinson-Patman Act in particular.

STOP BANK CONCENTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 15 minutes.

Mr. PATMAN. Mr. Speaker, it is with a great feeling of unease that I note changes in the banking laws of the State of New York will allow statewide bank branching as of January 1, 1976.

Surely our Nation deserves a better 200th birthday present than the inevitable further concentration of money and power that will result from this change.

It means that the large banks in Manhattan—Citibank, Chase, Morgan Guaranty, Chemical, Irving, Manufacturers Hanover, and Marine Midland—can inundate the State of New York with branches from Niagara Falls to Montauk Point, Long Island. What chance does a small bank in Niagara Falls or Montauk have to compete with these giants? The local bankers in these towns who own small banks will shortly be liquidated as the owners of small corner grocery stores were by the A. & P., Safeway, Acme, and Kroger.

The most recent figures on bank concentration are now nearly 1 year old and they present a very grim picture. Nationally, this concentration is demonstrated by the fact that 47.95 percent of the country's total bank deposits, or nearly $1 out of every $2, is deposited in 1 of 5 States, specifically, New York, California, Illinois, Pennsylvania, and Texas.

The 10 largest banks in New York now control 87.7 percent of the deposits in the State. What will they control tomorrow? Inasmuch as deposits in New York total 17.87 percent of the national total, these 10 banks control over 15 percent of the deposits in the Nation's 12,410 banks.

Moreover, as of December 31, 1974, the largest bank organization in each of the following States controls over 20 percent of the deposits:

State:	*Percent of deposits held*
Nevada	56.6
Rhode Island	44.0
Arizona	42.2
Oregon	39.0
California	38.7
Hawaii	35.9
Idaho	35.7
Washington	35.4
District of Columbia	34.4
Alaska	33.4
Delaware	32.2
Utah	28.5
Minnesota	28.2
Massachusetts	28.0
Montana	26.8
New Mexico	25.2
South Dakota	23.1
Connecticut	22.2
North Carolina	20.9
South Carolina	20.8

At the beginning of this year 10 largest banks in each State held deposits of $478 billion—64.5 percent of the Nation's total. In Illinois, which has 1,180 banking organizations, the 10 largest hold 49.7 percent of deposits. In Minnesota the four largest of 616 banking organizations control 56.6 percent of the State's $13.4 billion deposits.

Far from being alarmed by this increase in bank concentration, the Comptroller of the Currency is asking Congress to permit interstate banking. This would permit Bank of America, Citibank, Chase, Morgan Guaranty, so forth, to branch from Manhattan to San Francisco, and from St. Paul to New Orleans.

As Ralph Nader points out, major bank holding companies already have a network of nonbanking offices:

Bank:	*In billions*	offices	States
Bank of America	$62.4	336	32
Citicorp	56.9	284	34
Manufacturers Hanover	28.3	151	15
Chemical	24.1	121	15
First National of Boston	8.1	33	12

Moreover, the Comptroller recently ruled that a bank can use Customer Bank Communication Terminals—CBCTS—free from the McFadden Act, both intrastate and interstate. To date four U.S. district courts have ruled that the Comptroller is wrong, but he persists in his opinion, and it will take a decision by the Supreme Court of the United States to stop him.

Were the Comptroller to have his way by turning a switch these big banks could sweep the country, in the words of Ralph Nader, "like McDonald's golden arches."

About the only small business we have left in this country is the small independent bank. The rest of the economy has gone the way of the roses—three companies make our cars, two our cans, one our computers, and one our copying machines.

Mr. Speaker, let us keep our small independent locally owned banks and not allow chain banks to liquidate them in the same way chain stores did yesterday.

REVENUE SHARING REFORM ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 15 minutes.

Mr. METCALFE. Mr. Speaker, in 1972, I supported legislation creating the general revenue sharing program. At that time, high hopes were held for the principles of "new federalism" which was to return the power of community improvement allocation to the communities themselves. At that time, we hoped that local officials, acting in close coordination with the citizens of their communities, would use the more than $30 billion available through the 5-year program for innovative and relevant programs which would help solve those problems unique to their cities, States, and counties.

We have seen, in the 4 years since the creation of the revenue sharing program, far less than we had hoped for.

Instead of being given back to the people, government was taken away from the bureaucrats in Washington and given to local bureaucrats, many of whom were as indifferent to the real needs of the people as those in Washington.

Indeed, on a number of occasions, local governments have used revenue sharing funds to pay for projects which were previously voted down in bond referendums.

In many parts of the country, meaningful community input was slim or nonexistent. Public officials too often used these funds to satisfy an "edifice complex" by building new city halls or hiring new bureaucrats without any consideration for improving the quality of life in their communities.

It has been clear to me that the major deficiency in the program was its lack of guarantees for community participation. As a result, the largest domestic money bill in history failed to live up to its potential.

A General Accounting Office survey, issued earlier this year, noted that:

> With few exceptions, the revenue sharing program did not measurably increase the amount of public participation in the budgetary process.

In fact, some studies have indicated that revenue sharing has actually decreased citizen participation in local government.

In Chicago, where my district is located, we have seen perhaps the Nation's most dismal failure in the revenue sharing program.

Funds that were to be used to improve the quality of life in Chicago were misused on ill-conceived and possibly illegal programs.

While our neighborhoods have continued to deteriorate, while our elderly have struggled for survival, and while our unemployed have vainly sought work, over 99 percent of Chicago revenue sharing funds for fiscal year 1975 were allocated for the police and fire departments.

It was this same police department whose hiring and promotion practices have been declared discriminatory by the Federal Courts. As a result, most of this money was prohibited from being spent at all.

A General Accounting Office report which I initiated earlier this year showed that more than $500,000 of Chicago's revenue sharing funds were used to pay salaries of the infamous police department intelligence division—that same division which, according to a Cook County Grand Jury, perpetuated "outrageous violations of individual rights guaranteed by our Constitution" on the citizens of Chicago.

Citizen participation was practically nonexistent in Chicago's revenue sharing program. Notices of the use of revenue sharing funds, which were required by law, were limited to notices in the classified ad sections of the daily newspapers. No effort was ever made to fully and accurately inform the people of Chicago of their right to meaningful input into the decisionmaking processes of the revenue sharing program.

The goal of revenue sharing was to improve the quality of life in our communities. However, in Chicago, it has been little more than a vehicle to perpetuate racism, police brutality, and political patronage.

As a result, a program that could have brought more than $260 million in Federal assistance to Chicago was wasted.

While improper and inefficient use of these funds was carried to its extreme in Chicago, many other cities, counties, and States suffered similar problems.

It is clear, then, that revenue sharing has a number of deficiencies and that these deficiencies are working to the advantage of local bureaucrats and against the people.

Nonetheless, the underlying principles behind the program are good ones. If proper guarantees for community participation are written into the bill and if these guarantees are enforced, revenue sharing can become an important vehicle for improving the quality of life in this country.

Next year, we in Congress will have to decide whether or not to renew the general revenue sharing program.

I instructed my staff earlier this year to research the problems which I have outlined and, as a result of that work, I have introduced legislation, H.R. 11167, the Revenue Sharing Reform Act of 1975, designed to eliminate many of the abuses which have occurred in this program in the past.

Most importantly, H.R. 11167 would require that local public hearings be held each year before that year's use of revenue sharing funds is decided upon. In addition, it would establish local citizens' advisory committees and local citizens' advocates to monitor the planning and use of revenue sharing funds on a continuing basis.

To prevent the overuse of these funds on one program to the detriment of all others, H.R. 11167 would limit the amount of revenue sharing funds that could be spent on any one general category to 45 percent. It would guarantee that no longer would over 99 percent of all revenue sharing funds be spent on only one category, as it was by Chicago on its police department.

H.R. 11167 would also establish strong guidelines against discriminatory usage of these funds. It would prohibit the kind of discriminatory hiring practices that have been practiced by the Chicago Police Department by requiring that the Office of Revenue Sharing automatically withhold funds in cases where discrimination is found.

Finally, H.R. 11167 would reserve 5 percent of total revenue sharing funds appropriated each entitlement period in order to make supplemental entitlements to low-income communities. Units of local government in which 15 percent of the population is at or below the poverty level would be eligible for these supplemental entitlements.

I believe that H.R. 11167 will greatly strengthen the general revenue-sharing program. It will guarantee the principles and goals which were originally enacted in this program. It will guarantee that those people who are to be served by this program have the direct access to it that they deserve.

Mr. Speaker, the following is a section-by-section analysis of H.R. 11167:

Section 2—Priority Expenditure Categories. Section 2(a) (2) stipulates that no more than 45 percent of General Revenue Sharing (GRS) funds for an entitlement period can be used in any one of the priority expenditure categories by any unit of local government. This is in response to the trend of recipients to use most of their funds in one category.

Section 3—Allocations to Recipients. Under this section, 5% of total GRS funds appropriated for each entitlement period would be reserved and used to make a special allocation to units of local government, excluding countries, in which 15% of the population is at or below the poverty level, as determined by the Bureau of the Census. Such units' allocations would be proportionate to the ratio of the number of persons over 15% who are at or below the poverty level to the total number of persons in such units.

Section 4—Actual Use and Planned Use Reports. Section 4(1) stipulates that the actual use reports constitute a complete line-itemized accounting of the ways and programs in which GRS funds were put to use. This would insure the complete traceability of GRS funds, the non-traceable nature of which being one of the major flaws of the program.

Section 4(2) provides that the planned use reports contain nondiscrimination compliance assurances for each use of GRS funds. The Secretary of the Treasury (Secretary) is directed to determine whether such assurances are acceptable. In cases where the Secretary finds that such assurances are unacceptable, he is required to withhold funds for that entitlement period until such time as acceptable assurances are submitted by the recipient and approved by the Secretary. All funds for that entitlement period would be restored to the recipient upon approval of the assurances by the Secretary.

Section 5—Citizen Participation and Non-Discrimination Procedures. Creates a new section 121A regarding citizen participation and extensively revises section 122 regarding nondiscrimination procedures. Section 121A(a) (2) provides for the holding of public hearings by units of local government at least 30 days prior to the adoption of a planned use report each entitlement period. In units of local government with populations over 50,000, public hearings would be required to be held at various locations. Section 121(a) (3) would establish local citizens' advisory committees in units of local government. These committees would represent a broad cross-section of the population and oversee the expenditure of GRS funds and formulate proposals for the spending of such funds. Also, it would provide for the appointment of local citizens' advocates in units of local government which receive more than $1 million per entitlement period. This person would be responsible to the citizens' advisory committee and would collect and analyze data, conduct investigations and audits, and formulate proposals for the expenditure of GRS funds, among other duties. It would also establish a State Office of Citizen Advocacy, which would perform the functions of the local citizens' advocates for units of local government which receive less than $1 million per entitlement period. Such an office would perform its functions at the request and direction of the various citizens' advisory committees.

Section 122 delineates procedures to be followed in cases of discrimination in the use of GRS funds. It stipulates that recipients shall not discriminate in any program or activity which receives, or which during the current or immediately preceding entitlement period received, GRS funds. This change from the current law would insure that the transference of GRS funds from a program or activity under investigation would not cause the halt of a civil rights compliance investigation and resultant possible sanctions. It also stipulates that in cases where the Secretary believes that there has been civil rights non-compliance, the Secretary is required to notify such recipient that it has 60 days in which to submit and have approved a written compliance agreement. If after this 60 day grace period to allow for voluntary compliance such agreement has not been secured, the Secretary is required to withhold all GRS funds until the recipient has complied. The Secretary is required to hold hearings within 30 days of a hearing request from the recipient. If after a hearing the Secretary still finds discrimination or if the recipient refuses to comply, or if a hearing is not requested within 120 days of the initial withholding of payments, the Secretary is required to withhold funds indefinitely, refer the matter to the Attorney General with a recommendation for appropriate civil action, may request repayment of funds, and should take any other action available to him to achieve compliance.

Section 6—Receipt of GRS Funds. This section stipulates that recipients will not commingle funds from any other source with those in the GRS trust fund.

CURB PLUTONIUM SALES, U.S. STUDY RECOMMENDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 10 minutes.

Mr. HARKIN. Mr. Speaker, on August 6, 1975, the 30th anniversary of Hiroshima, 2,300 members of the American technical community submitted a declaration to the President and to the Members of Congress, calling for a "drastic reduction" in the number of new nuclear powerplant construction starts. Their reasons included the failure of industry and Government to solve the problems of radioactive waste disposal, the special health and national security hazards of a plutonium economy, and the many questions remaining about nuclear safety.

Their concerns appear to have received some unexpected support from the Energy Research and Development Administration—ERDA—which has recently published a study, "LDC [less developed countries], Nuclear Power Prospects, 1975–1990: Commercial, Economic, and Security Implications," ERDA–52, that recommends against the continued sales of American reactors to the less developed countries. The recommendations of ERDA–52 were made because of the potential dangers of plutonium and because the international controls governing the security, operation, and construction of reactors are inadequate. The report also stated that it would be economically detrimental to the LDC's to purchase available reactors from the United States because of their unreliability, inappropriate size, capital costs, and other reasons.

Although the report discussed the implications of nuclear power programs for LDC's, much of the data used in the discussion was based on American experience. In many ways, therefore, the conclusions of the ERDA report are applicable to our own programs.

The study was done for ERDA by an independent consulting firm and completed in February 1975. According to an Associated Press news article on August 20, 1975, ERDA omitted any reference to the report during testimony before the Senate Government Operations Committee in April. The reason:

> The study's conclusions in February that international controls were weak differed sharply from that offered by ERDA.

In fact, ERDA did not make the report available to the public for almost 6 months after its completion until a specific request was made and until its existence was made known by the press. Perhaps ERDA chose to ignore the findings of the report because it did not agree with ERDA's own policies concerning export of reactor technology or because of the striking parallels between the economic burdens that the LDC's and the United States would have to maintain with massive investments in nuclear powerplants.

Regardless of reason, the failure to release this information, whether it was due to oversight or whether it was the intent of ERDA to keep the report on a low profile, its delay in publication and availability to Congress and the public suggests that officials in ERDA may be so committed to promoting nuclear development that they fail to recognize that problems do exist with fission technology and that these concerns are not simply being raised by a small minority of nervous nellies or obstructionists, but by an increasing number of persons who have expertise and who understand the complexities of nuclear technology such as the 2,300 scientists that I previously mentioned.

I encourage my colleagues to study this matter in detail. I think you will find the conclusions of this independent analysis of nuclear powerplant proliferation in the LDC's to be insightful and will find its conclusions to be disturbing regarding our own nuclear power program.

Mr. Speaker, for the benefit of my colleagues and members of the public, I insert the text of the August 20, 1975, newsstory concerning the release of the ERDA–52 and excerpts from the report itself after my remarks:

CURB PLUTONIUM SALES, U.S. STUDY RECOMMENDS

The widespread use of nuclear reactors in the world's less developed countries would lead to the production of enough plutonium for these countries to make 3,000 small atomic bombs each year, according to a study done for the Energy Research and Development Administration.

Because of the great potential dangers of plutonium, and because of a second finding that existing international controls are inadequate and unlikely to grow stronger, the study recommended that the federal government not encourage the sale of American reactors to the less developed countries.

The study also concluded that it would not be in the economic self-interest of many of the less developed nations to buy the presently available reactors from vendors in the United States because of the reactors' unreliability, inappropriate size and other reasons.

The question of what steps the United States should take in attempting to impose safeguards on the exported nuclear equipment has become a subject of debate in Congress and the Ford administration. On the basis of the reactors now operating or on order, four United States companies now have 70 percent of the world market, with Westinghouse and General Electric heavily dominant.

But American industry and its supporters are worried that if the United States adopts too tough a stance on what steps have to be taken to make sure reactor plutonium is not turned into bombs, companies in Europe, Japan and Canada will start winning a larger share of the market.

The $96,000, 350-page study on the commercial, economic and security implications of selling reactors to approximately 100 less developed nations in South America, Africa, the Middle East and Asia, was made by Richard J. Barber Associates, Inc., a Washington consulting firm.

The study was completed six months ago but not made public at that time by ERDA, a new federal agency formed this year after the breakup of the Atomic Energy Commission. In response to a request, however, the agency made the report available.

The study's conclusion in February that international controls were weak differed sharply from that offered by the research administration's officials during hearings held by the Senate Government Operations Committee in April.

Abraham Friedman, the agency's director of international participation, testified that the International Atomic Energy Agency—a United Nations-affiliated agency with over 100 members—had "a large well-trained staff and we have no reason to feel they are not doing an effective job on safeguarding from the point of view of identifying possibilities for national diversion."

Later testimony showed that the international agency had a staff of 69 inspectors responsible for reactors in 30 countries.

The study done for ERDA said that based on the output from just half the reactors that the International Atomic Energy Agency had projected would be sold to the less developed nations in the next 15 years, "the annual production of plutonimum in terms of minimum bomb equivalents is truly staggering."

EXCERPTS FROM THE SUMMARY OF ERDA–52 LDC NUCLEAR POWER PROSPECTS, 1975–1990: COMMERCIAL, ECONOMIC AND SECURITY IMPLICATIONS

(A report prepared for ERDA by Richard J. Barber Associates)

Page v—Energy Projections and Economic Change.

Published assessments of the size of the nuclear power market in less developed countries are suspect because they are usually contingent on overly-simplistic assumptions regarding the statistical relationship between the behavior of aggregate economic indicators and overall demand for electric power. Inter-country comparisons are especially vulnerable and even single country analysis must be done with great care. It can be shown empirically that in the past the alleged "correlation" between electricity consumption and gross national product has been tenuous at best, especially for LDC's.

Page vii—The commitment to new development strategies is beginning to take place against the somewhat traumatic realization by scholars, planners and governments alike that the "trickle down" development theories of the 1950's and 1960 have failed. One obvious antidote—pursuit of fuller employment goals—usually means a shift away from capital intensiveness to labor intensiveness. While emphasis on full employment and agricultural production need not cause a decline in overall economic output, these trends do support reduced rates of growth in electrical power demand.

Page viii—The spectacular growth in LDC electrical consumption over the last decade occurred during a time when the price of electricity was falling, in both current and real terms. Almost no serious attention has been given to the price factor in energy forecasting; however, new research in the U.S. suggests strongly that as the price of energy increases, consumption levels decline, though not necessarily to the detriment of economic growth. Given the rapid and major increases in actual energy costs since late 1973, it is reasonable to anticipate a definite restraining effect on energy consumption in LDC's.

Page ix—The Comparative Costs of Nuclear and Conventional Power.

Publicly available information on the costs of nuclear power vs. other alternatives tends strongly to overstate the case for nuclear power and understate the case for the alternatives.

Page x—In particular nuclear capital costs have been increasing incessantly due to inflation and escalation in the cost of capital, a fact that IAEA tends to ignore and AEC has only recently begun to acknowledge. The AEC WASH-1345 (October 1974) estimates show a constantly increasing gap between nuclear and fossil station capital costs. If these trends materialize, then time is actually working against the competitive position of nuclear power.

Page xiii—The Broader Policy Environment.

Prestige and the desire to get on the nuclear "learning curve" will continue to prompt some LDC's to select nuclear power despite negative (or marginal) cost comparisons, although these factors appear to be less forceful than in the past. The desire to obtain plutonium for national security purposes is related to prestige and may serve in some countries as sufficient reason to select nuclear power units over conventional competitors; however, patient countries apparently can obtain plutonium from research reactors or a single nuclear power station. In any event, sales motivated by such considerations are not a strong base from which to forecast a commercial "market."

Page xiv—Food shortages are serious, given exhaustion of world food reserves and little prospect for recreating them quickly; hence a substantial amount of the energies, capital and foreign exchange of the LDC's will be devoted to coping with this problem over the next two decades. Huge capital intensive investments such as nuclear power stations will not thrive in this environment.

Page xvi—The continuing inability to operate commercial reprocessing facilities, settle on a technically convincing approach to waste management issues, and establish a policy on plutonium (recycle, handling and transport, etc.) will all contribute to LDC doubts about the wisdom of investing in nuclear power.

Page xvii—International and Domestic Implications of Expanding U.S. Nuclear Exports to LDC's.

Page xviii—For illustrative purposes, a conservative adaptation of IAEA's expansive projection of the LDC nuclear power market would, if it materialized, result in an annual output from power stations in 46 LDC's of 15,010 kg of unreprocessed plutonium by 1990, or enough plutonium to produce about 3,000 small nuclear explosive devices. The necessary steps that must be taken to transform plutonium in spent fuel rods into explosives are admittedly quite difficult. Nonetheless, they are not impossible, and the principal point in the above hypothetical calculation is that diversion or theft of enough plutonium to produce one bomb would require only .033 percent of the annual production of this group of LDC's, i.e., 33/100,000 of a year's output.

Credible LDC national government diversion and terrorist theft scenarios exist. Both must be addressed in deciding whether to export nuclear products to LDC's. Such possibilities, with particular reference to terrorist threats, are not limited to construction of explosive devices, but include such scenarios as scattering of plutonium dust and power plant seizure and sabotage.

Page xix—Neither the structure of international safeguards nor the general organization of the worldwide nuclear industry are well suited to the management of a greatly expanded LDC nuclear market. The IAEA/NPT structure is of recent origin, has numerous weaknesses, has thus far dealt with a relatively small total nuclear market, and has very little experience vis-a-vis safeguarding LDC nuclear power systems. It appears doubtful that this international structure would be supported, financially and politically, at a level sufficient to provide full safeguards for LDC nuclear programs even approaching the scope of those commonly projected.

Neither responsible governments nor the nuclear industry in general have fully addressed many of the critical issues of industrial organization that are directly related to future safeguards adequacy, particularly with reference to potential impact on a diverse LDC market. These issues include the "hows," "wheres" and "under what conditions" parameters of enrichment, plutonium recycle, transport and handling, reprocessing, fuel element storage, and waste management.

Page xx—Given the immense energy-related problems faced by LDC's, the Energy Research and Development Administration and the Agency for International Development could perform an invaluable service by jointly developing techniques for conducting truly comprehensive energy sector analyses—for use within individual countries—stressing careful examination of both internal supply and demand conditions—and promoting the notion of finding solutions not necessarily tied to any single energy technology. This service is not now being provided by any international organization nor should it be left to them by default.

CONGRESSMAN MIKE McCORMACK ELECTED TO BOARD OF DIRECTORS OF AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, the American Association for the Advancement of Science, the largest, and one of the most prestigious scientific organizations in the world, has just announced that Congressman Mike McCormack has been elected to its national board of directors. This honor for Congressman McCormack is of special significance:

The election was conducted among 120,000 scientists of every discipline from all across the country.

McCormack was one of two candidates elected from a field of four.

All of the other candidates are scientists of national or world renown.

The other person elected to the board of directors, in addition to McCormack, was Prof. Chen Ning Yang, Albert Einstein professor of physics at the State University of New York at Stony Brook, a recipient of the Nobel Prize for physics.

Congressman McCormack replaces Dr. Edward E. David, Jr., former Presidential Science Adviser, on the board. Other members of the board include former Congressman Emilio Mim Daddario, president of the association; Dr. Richard Bolt of Cambridge, Mass.; Dr. Chauncey Starr of the Electric Power Research Institute; Dr. Margaret Mead, world famous anthropologist; and Dr. William McElroy of the University of California.

We in the House know Congressman McCormack as an expert on all forms of energy conservation and production, but we may not be aware of his continued efforts to involve the expertise of the vast scientific community more fully in the world of politics and government, to provide those of us here in Congress with a fuller understanding of the technical, scientific, and engineering aspects of the many issues with which we deal.

Along with being a member of the American Association for the Advancement of Science, McCormack is a member of the American Nuclear Society, the American Chemical Society, the New York Academy of Science's Committee on Public Understanding of Science, and the Energy Council of the American Energy Standards Institute. This summer he was named "Solar Energy Man of the Year" by the Solar Energy Industries Association. McCormack has delivered almost 100 major addresses this year in the United States, Canada, Europe, and Japan on energy and science and on the need for the scientific community to participate more fully in the political decisions involving technical problems.

I know my colleagues join me in congratulating Mike McCormack on being elected to this prestigious position by the members of such a distinguished organization.

THE ECONOMIC WAR POWERS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, the Subcommittee on International Trade and Commerce, which I have the honor to chair, has devoted considerable time and effort in the past year to examining and reviewing the use by the United States of total economic embargoes. The subcommittee conducted the first comprehensive hearings on the U.S. embargo of Cuba since that embargo was instituted more than two decades ago. Similarly, the subcommittee held hearings and acted favorably on legislation concerning the U.S. embargo of Vietnam which has existed for years with respect to North Vietnam, but which was extended to South Vietnam and Cambodia earlier this year when the Saigon government fell and the war in Vietnam ended.

As I have noted in previous statements, embargoes are one of the least understood of American foreign policy options.

The basis for embargoes and the means by which they are carried out are not widely known even in the Congress.

The executive branch generally cites the Trading With the Enemy Act and the Export Administration Act of 1969 as the statutory authority for embargoes. Controls on assets of foreign nations and foreign nationals are based upon the Trading With the Enemy Act, while controls on exports of goods and services from the United States are based upon the Export Administration Act of 1969. The executive branch, however, has indicated it considers each of these statutes to provide sufficient authority to impose total trade embargoes.

There is reason to doubt that claim. The Trading With the Enemy Act was passed in 1917 for purposes quite different from its present uses, and it has not been reviewed since. In the case of the Export Administration Act of 1969, the legislative history suggests that it was not Congress intent in enacting that statute to authorize total embargoes. Quite to the contrary, floor managers of the bill described it as an effort to liberalize controls on trade.

In the next session of the 94th Congress, the Subcommittee on International Trade and Commerce hopes to review the Trading With the Enemy Act and to examine possible changes in the Export Administration Act in preparation for consideration by the International Relations Committee of the Export Administration Act's extension. In both cases, greater congressional participation in the making of decisions to impose total trade embargoes on particular foreign nations is likely to be a major consideration.

With that in mind, I am today introducing the Economic War Powers Act—a bill that would provide clear opportunity for congressional approval or disapproval of any boycott against another nation except boycotts to which we might become a party by virtue of action by an international organization in which we participate with congressional authorization, such as the United Nations.

I have called this bill the Economic War Powers Act because embargoes constitute economic warfare and the procedures spelled out in the bill for congressional approval or disapproval of embargoes parallel the procedures set down in the War Powers Act. Any embargo implemented by the executive branch would terminate after 60 days unless approved within that period by concurrent resolution of the Congress. At any time within or after the 60 days the Congress could, by concurrent resolution, disapprove an embargo, whereupon it would be terminated.

Neither the Trading with the Enemy Act nor the Export Administration Act provide opportunity for Congressional review or participation in embargo decisions. It seems surprising and unlikely that the Congress would intentionally turn over authority completely to the executive branch to take such serious actions. Yet that is exactly the case if the executive branch contention is accepted that these statutes give it complete embargo authority without congressional involvement.

Mr. Speaker, imposition of a total embargo on a foreign nation borders on war. Many nations and international legal experts regard embargoes as acts of war. Historically, most embargoes have been imposed in conjunction with warfare. Like the commitment of troops into hostilities, embargoes place hardship both upon the embargoed nation and the nation imposing the embargo.

Mr. Speaker, I believe on the basis of the International Trade and Commerce Subcommittee's examination of existing U.S. embargoes that legislation of this kind is both appropriate and necessary. The Congress in recent years has reasserted its rightful role in the making of major foreign and national security policy decisions. It has established procedures for congressional approval or disapproval of nuclear agreements, major arms sales, and introduction of American troops into situations of hostility abroad. Certainly the Congress should extend its procedures for approval or disapproval to total trade embargoes against foreign nations in view of the serious implications of such actions both for the foreign nations that might be the target of embargoes and for American workers and American businesses that are directly affected by the closing off of foreign markets.

One criticism that has been made of efforts in the Congress to adopt measures to counter the Arab embargo of Israel is that the United States itself engages in boycotts. The Arab boycott, of course, is a secondary boycott as it applies to the United States, and we engage in no secondary trade boycotts. In any case, however, the Economic War Powers Act would give the Congress an opportunity and a clear mandate to restrict and oppose the use of boycotts in U.S. foreign policy if that is Congress view, just as we oppose the use of boycotts by other countries that impinge upon us.

I urge my colleagues to give this proposal their serious consideration and support.

CHRISTMAS LAMENT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Wolff) is recognized for 5 minutes.

Mr. **WOLFF**. Mr. Speaker, upon completion of today's action on President Ford's veto of the tax cut continuation, I was moved to utter the following rhymed lamnent, with apologies to the author of the original "Night Before Christmas":

Christmas Lament

Twas the week before Christmas
When all through the House
All the Members were stirring
A tax hike to douse.

Taxpayers stockings awaited their share
In hopes that Old Jerry just would not dare.
The taxpayers were snuggled all safe in their beds
While visions of tax cuts danced in their heads.
But Tip in his kerchief and Rhodes in his cap
Had not settled in, awaiting the flap.
For from the White House there arose such a clatter
We knew that something must be the matter.
Away to the aisles we flew in a dash
To open the fight for our constituent's cash.

For what to our wondering eyes should appear
But an eight percent tax hike for all near and dear.
With a near-sighted driver neither lively nor quick,
We thought for a moment 'twas the ghost of Old Dick.

More rapid than eagles his veto it came,
And he whistled and shouted and called out some names.
"Now Albert, now Rhodes, now O'Neill and Ullman,
On Rodino, on Chisholm, on Abzug and Holtzman."

"From the twisting of arms to the pork barrel roll,
You'll cut away, cut away, cut away all.
The Navy needs carriers, Airmen the B-1,
But relief for taxpayers just can't be done."

So up to the House the leaders they flew,
On their backs a tax hike and Old Jerry too.
Then in a twinkling we heard from across the land
The anguished cries of the Forgotten Man.

But as we drew in our heads and were turning around
Down the chimney Old Jerry came with a bound.
He was dressed all in ski clothes from his head to his toe,
Saying "You stay and explain, to Vail I must go."

A bundle of vetoes he had flung from his pack,
In fear that Old Ronnie was close to his back.
His eyes how they shifted, his nose how it scrunched,
As Reagan and Callaway met with a crunch.

His ink-dripping pen had just finished its work,
And a tax hike for all brought us up with a jerk.
The stump of a pipe he held tight in his teeth,
And the smoke of it blinded his eyes to our grief.

He had on his face a self-conscious grin
As he said to us all "To overspend is to sin."
And we were dour and grim as his budgetary whim
Meant that our tax cut would not begin.

The glare of his eye, the tilt of his head,
Soon gave us to know we had plenty to dread.
He spoke not a word but went straight to his work,
Approved the tax hike, then turned with a jerk.

And, laying his thumb aside of his nose,
He waved five fingers at the taxpayers woes.
He sprang to his jet, to his team gave a whistle,
And flew on to Vail like a misguided missile.

But I heard him exclaim on this day in December,
"Happy Christmas to all, and good luck next November!"

(Final apologies.)

PEACE HAWK V REPRESENTS SERIOUS THREAT TO BALANCE OF POWER IN MIDDLE EAST

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Rosenthal) is recognized for 10 minutes.

Mr. ROSENTHAL. Mr. Speaker, the administration has notified the Congress of its plans to sign contracts for the $1.8 billion latest phase of a multibillion-dollar program to moderinze the Saudi Arabian Air Force.

This project, known as Peace Hawk V, will provide for maintenance and logistics support, including support facility construction and training for the Royal Saudi Air Force—RSAF. It covers 79 major construction programs at three major air bases, one near the Persian Gulf and two in the west and southwest, near the Red Sea.

It is part of a program to build an infrastructure for the RSAF, covering every facet from the ground up, including mechanical and technical skills, English language training, photo labs, firing ranges, supply facilities, support and logistic operations, refueling tanks, an aircraft hangar, flight simulators, missile buildup and checkout facilities, crash-rescue facilities, and administration buildings—as an example of the extent of U.S. involvement in development of the RSAF, the Congress was notified at the same time of a $52.6 billion contract for the Department of Defense to design, produce and deliver RSAF uniforms, right down to the insignia.

Under the Peace Hawk program, but not included in this phase, is the purchase by RSAF of 110 F–5 fighter-interceptors. Nearly half of these planes already are in Saudi Arabia and the remainder, with their support equipment, will be delivered by January 1978. Northrop is the prime contractor for the entire Peace Hawk program.

This sale brings to nearly $3.5 billion the military purchases by the Saudis from the United States over an 82-day period this fall. At that rate, this could well be another record year. The State Department projects at least another billion, but if experience is any indication, that is a conservative estimate.

Total U.S. foreign military sales in fiscal year 1975 were $9 billion, half of that going to the oil-rich States of the Persian Gulf. Of that latter portion, one out of every $3, or $1.4 billion, was spent by the Saudis.

Mr. Speaker, this administration appears to be trying to pump arms into the Persian Gulf about as quickly as its inhabitants can pump their oil out of the ground. Now some may say that is good for our balance of payments, but I would caution that there are more important considerations than petrodollars.

Although Saudi Arabia has not been technically considered a "confrontation state" in the Arab-Israeli conflict, it may well be moving in that direction, thanks to programs like Peace Hawk V. Moreover, the Saudis are bankrolling the armed forces of the confrontation states, Egypt, Syria, Jordan, and Lebanon.

Members will recall that it was Saudi Arabia that just deposited $350 million to buy King Hussein a highly-sophisticated U.S.-built missile air defense system, including 14 batteries of Hawk anti-aircraft missiles. The Saudis also just purchased 38 advanced Mirage 3 fighters plus 200 new British Jaguar fighters for Egypt. Aviation Week reports Saudi Arabia is providing Egypt with about $2.4 billion to purchase arms this year.

Since 1973, Saudi Arabia reportedly has contributed between $4 and $8 billion to the purchase of war materials for other Arab states.

Saudi Arabia sent one of its Army brigades to Syria during the Yom Kippur war of 1973 and it has remained there ever since. Another Saudi brigade is stationed in Jordan. Just last month, the Saudis sent at least 15 of their F–5s to participate in joint military exercises in Syria; the planes were based in Jordan during the maneuvers.

The Saudi Defense Minister recently indicated his country would use the sophisticated armaments it is purchasing from the United States, Britain, and France for any new Arab war with Israel.

Already this year, Saudi purchases from the United States under the Foreign Military Sales Act have reached nearly $3.5 billion:

September 18, ammunition	$26, 500, 000
September 19, Al Batain cantonment	1, 450, 000,000
October 23, National Guard Headquarters	158, 700, 000
December 9, RSAF uniforms	52, 600, 000
December 9, Peace Hawk V	1, 800, 000, 000
Total	3, 487, 800, 000

This does not include sales under $25 million each, which are not required to be reported to the Congress under section 36(b) of the Foreign Military Sales Act.

I am deeply concerned about the vast expansion of the Saudi armed forces and the threat they pose to peace and stability in the Middle East. This threat must be viewed in light of Saudi Arabia's role as a major source of funding for the major Arab military forces.

While Israel, whose economic situation stands in sad contrast to the wealth of its Arab neighbors, is seeking to modernize its vastly outnumbered and outgunned defense forces, the Arab States have undertaken a vast military expansion program.

The 11 Arab States that have been most directly involved in fighting or providing the material for war against Israel currently enjoy a balance of power advantage over Israel of at least 3 to 1. Here is how it breaks down:

Combat aircraft	3:1
Tanks	9:1
Artillery	9:1
Armed forces (divisions)	5:1
SAM batteries (surface-to-air missiles)	12:1

And the gap is widening. Even if the United States continues to provide military assistance at the level called for in the Security Assistance Act now before the International Relation Committee, Israel will continue falling farther and farther behind. Intelligence estimates say that by 1980 the balance of power will look like this:

Combat aircraft	38:1
Tanks	36:1
Artillery	9:1
Armed forces (divisions)	6:1
SAM batteries	20:1

Mr. Speaker, let us not forget that these Arab States enjoy unlimited financial resources—if they need more money to buy more arms, they will simply raise oil prices again, and again and again—and they have unlimited access to the world's arms markets. There is not a weapons-producing country in the world that is not selling its wares to one or more of the Arab States.

And let us not also forget that there is effectively unlimited transfer of these arms among all the Arab States, regardless of where they came from or of restrictions in purchase contracts.

Just a few months ago, Libya violated the no-transfer clause in its contracts with the United States and sent its U.S.-built F–5 fighters to Turkey. Our State Department's response was to "make a formal complaint" and Libya continues to purchase spare parts in this country for its U.S.-made Lockheed C–130 aircraft. If the State Department is unwilling to do anything about transfers by a regime with which we have admittedly poor relations, it would be ludicrous to expect it to act on transfers by a regime like Saudi Arabia with which the administration claims a "mutuality of interest."

On the other side stands Israel. Alone. Only the United States among the major nations is willing to sell Israel weapons for her defense. An ally since her creation 27 years ago, Israel has been a close and true friend of the United States. As part of the modernization of her air force, Israel is now seeking to purchase F–15 advanced fighters to replace her aging F–4s.

My colleague on the International Relations Committee, Mr. ZABLOCKI, has introduced a resolution to disapprove this sale to Israel; he ties his move to my resolution to disapprove the $1.8 billion Peace Hawk V sale to Saudi Arabia.

My colleague's logic escapes me. Each sale must stand on its own. To oppose a multibillion-dollar deal for the vast expansion of military forces of Saudi Arabia is not by any stretch of the imagination comparable to helping Israel modernize its defense forces.

Israel is surrounded by a dozen nations of virtually unlimited financial and military resources who have threatened her extinction from 1948 to this very date. The rhetoric may have changed, but the goal has not.

At this moment, the U.S. Army Corps of Engineers is working on the construction of a Saudi Air Base near Tabuk about 150 miles from the Israeli port city of Eilat. There can be only one reason for the Saudis to construct an air base so close to Israel. It will put not only Eilat but nearly all of Israel within range of the F–5s the United States is now supplying the Saudis—the F–5 has a combat radius in excess of 700 miles plus a refueling capacity with KC–130s which we are also supplying the Saudis.

In light of its extensive military construction and supply programs, Mr. Speaker, it appears that Saudi Arabia is moving into the category of confrontation state.

There is another aspect to this Saudi deal that deeply concerns me. Nations which seek our technical assistance should not be permitted to force us to tolerate discrimination against our own citizens. Yet that is exactly what is happening today.

Saudi Arabia has a long-standing, oft-repeated policy of denying visas to anyone it considers "Zionist." In practice that means all Jews. That country also historically has discriminated against blacks and women, although recently it has been allowing in token numbers of both groups in an attempt to isolate its critics.

It is certainly immoral and probably illegal for our own Government to acquiesce in such discrimination against our own citizens. Objection to Saudi policy is not a question of the United States attempting to extend its sovereignty over Saudi Arabia but of the incompatibility of Saudi practice with U.S. laws prohibiting discrimination. For any U.S. Government agency or firm to cooperate in this repugnant policy is, in effect, to violate U.S. antidiscrimination laws.

On November 20, President Ford signed Executive Order 11478 in an effort to protect U.S. citizens and businesses against discrimination resulting from foreign boycott practices.

Unfortunately, this action does not prohibit any American firm from complying with the Arab boycott against Israel; but it does forbid taking into account any exclusivity policy by a host country based on religion, race or other personal factors when making overseas assignments. This covers commercial and government-to-government military sales, including Peace Hawk V.

A deputy White House counsel, in publicly explaining the President's action, said the new rules would prohibit any Federal agency from complying with a request from Saudi Arabia not to assign Jewish personnel there. The rules would also apply to requests that there be no Jewish bidders or employees on contracts for Saudi Arabia.

The Senate has approved the Case amendment prohibiting aid under the military assistance program to countries which discriminate against Americans working on contracts there. I would hope that the House will follow this example.

The Defense Department has apparently adopted an ostrich-like policy. It claims that—

> Obtaining guarantees from the Saudi Arabian Government for nondiscriminatory treatment of American companies lies beyond the authority and influence of the Department of Defense.

That is absurd. The Department of Defense has immense influence in Saudi Arabia and its failure to exercise that influence to combat discrimination against American citizens is unconscionable.

Mr. Speaker, I do not believe that nations which actively discriminate against American citizens and seek to force others, including our own Government and businesses, to act in that manner should be permitted to obtain American technology, regardless of their wealth. Accordingly, I will continue to oppose all such sales under the Foreign Military Sales Act until these discriminatory policies are changed.

This alone would be sufficient reason to oppose the $1.8-billion Peace Hawk V. But there is more. Much more. This program represents a serious threat to the balance of power in the Middle East as it moves Saudi Arabia from its role as a rear lines antagonist to that of front line confrontation state.

THE RECORD OF THE FIRST SESSION OF THE 94TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, as we approach the end of the first session of the 94th Congress, we of the majority can point to a solid record of accomplishments this year. I would like to take this time to make a few observations about that record.

Mr. Speaker, this first session was distinguished by an assertiveness that went a long way toward restoring the legislative branch of Government to its constitutional position of equality with the executive.

After decades in which it occupied a subordinate role to the executive and approved Presidential proposals with only relatively minor modifications, Congress in 1975 showed a dynamism that reflected the election results of 1974.

An analysis of activity in the House of Representatives shows that virtually every major piece of legislation approved was opposed initially by the President and was accepted by him only after his strenuous efforts against the proposals were rejected by Congress.

Another significant aspect of 1975 was the impressive number and breadth of nonlegislative hearings that fulfilled the oversight functions of the House. A preliminary count, as of December 1, indicates that some 235 series of hearings were held which focused on program administration by the various departments and agencies of the executive branch.

While these facets of the legislative year have not been recognized generally, they are drawing the attention of political scientists. Walter Dean Burnham, professor of political science at the Massachusetts Institute of Technology, points to "a swing in the institutional balance between President and Congress toward the latter, the first such swing in many decades."

"For some time to come," Professor Burnham writes in the fall 1975 "Political Science Quarterly," "the autonomous policy importance of the legislative branch will probably be enhanced to a degree scarcely imagined by political analysts of even a few years ago."

Mr. Speaker, a look at some of the major activities of the year bears out Professor Burnham's perceptive comments.

TAX CUTS

The year began with President Ford belatedly agreeing with congressional Democrats that the distressing economic picture required an attack on recession and thus a tax reduction. House Democrats voted a temporary tax reduction in February that provided benefits for taxpayers then filing their 1974 returns as well as reduced taxes for 1975.

While House passage came with a majority of both parties, it is worth noting that a majority of Republicans twice voted to kill the bill when it came to the floor on February 27. In signing the bill on March 29, President Ford told a national television audience that he was doing so reluctantly. That tax bill generally is conceded to have been the major reason the recession did not become a full scale depression.

By late summer, as the beneficial effects of the tax cut became apparent, it became equally clear to the House majority and to an array of economists that these tax reductions would have to be extended into 1976 if recovery from the recession was not to be aborted. The President took the opposite view until early October when, in one of the sudden about faces that have characterized his administration, he announced his proposal for a deeper tax cut to be effective January 1 and an equivalent reduction in Federal spending to take effect after the election.

This hastily conceived plan was almost universally condemned by economists, editorial writers, political leaders and the public as a politically motivated move that would tend to inflate the economy during the Presidential election campaign and sharply depress it immediately following the election. Our Republican colleague from Arizona, Mr. STEIGER, expressed the sentiments of many with his comment that it "has the awful ring of a used car merchandising program."

Mr. Speaker, despite the President's threats to veto any tax bill that did not include his ceiling on Federal spending for the fiscal year beginning in October 1976, House Democrats on December 4 approved a bill extending those 1975 tax reductions into 1976.

A second part of the tax cut bill would inaugurate what House Democrats plan as a three-stage program of tax reform. A majority of House Republicans voted, as they also voted against reform amendments that would raise close to a billion dollars in revenue by closing tax loopholes that benefit the wealthy.

A decision by the Senate to postpone the reform provisions until 1976 coupled with an effort to meet President Ford's objections caused both chambers to vote to extend the tax cut provisions for only 6 months, and the measure was sent to the President for his signature on December 17. Mr. Ford, however, vetoed the tax reduction bill. The attempt to override the veto the next day failed when 125 Members of the President's party voted against the tax cut. A total of 125 Democrats and only 19 Republicans voted to override, 17 votes short of the necessary number.

ENERGY POLICY

Mr. Speaker, a somewhat similar, but longer lasting, conflict between the opposing philosophies of the executive and legislative branches characterized the shaping of energy policy in 1975.

The Presidential response to higher prices by overseas petroleum suppliers was to remove price controls on domestic supplies so that consumers would be forced to pay more for all petroleum products and their derivatives. This approach, he maintained, would decrease consumption—never mind the effect it would have on the individual pocketbook or the national economy. The Democratic response was to maintain price controls on oil and pursue a policy of decreased consumption through conservation efforts abetted by legislation.

Two Ford proposals that would have

decontrolled oil prices were rejected by the House Democratic majority and twice Congress extended oil price controls. Now, apparently recognizing that Congress will not allow his program to take effect, the President has indicated he will sign, albeit reluctantly, the omnibus energy legislation developed by Congress. And again, a majority of House Republicans opposed the legislation.

The President also ran into the new mood of congressional assertiveness in his unsuccessful fight against legislation to help create jobs. Congress refused as well to accept his attempt to decrease and delay benefits for social security recipients, retired veterans and their survivors, disabled veterans, and food stamp recipients.

The President's vetoes of funds for health revenue sharing, nurses' training, education and the school lunch program were overridden. His veto of housing legislation was negated by congressional Democrats when legislation was passed offering mortgage assistance to out-of-work homeowners and continuing the home purchase program. His opposition to legislation establishing a Federal program to provide for the education of handicapped children was rejected when Congress passed, by an overwhelming margin, a landmark measure to provide Federal funds to States and local school districts to help them pay for educating handicapped children.

The intensity of the struggle between Congress and Mr. Ford over the collapse of South Vietnam earlier this year seems like a page from ancient history, but it is another instance of congressional refusal to accept a Presidential policy. The President sought funds and authority to continue the war, only reluctantly accepting the refusal of Congress to allow more men and money to be sacrificed there.

On no issue was Gerald Ford more adamant than in his oppositon to any form of assistance to prevent the bankruptcy of New York City. His change of mind was accompanied by his proposal for direct loans from the U.S. Treasury to the city, instead of the loan guarantees approved by House and Senate committees. Although their own would not have required any Federal funds, House Republicans continued to vote no. In the interests of speeding action before the bankruptcy deadline, House Democrats accepted his proposal.

BUDGET CEILING

Mr. Speaker, the refusal of Congress during a recession to commit itself to a spending ceiling for a fiscal year that does not begin until October 1976 led to some bizarre actions on the part of the President and his advisers in the House. Congressional attempts, for example, to get some idea from the administration on the kind of program cuts it had in mind were met with silence. The budget for fiscal 1977, the President's spokesmen said, would not be ready until January and they could provide no guidance. You just do it, they said to Congress, and do not worry about the consequences.

A majority of the President's advocates in the House, meanwhile, irresponsibly voted against the budget resolution, which sets limits on spending in this fiscal year, and against legislation to increase the debt limit temporarily. The temporary debt limit increase, requested by Mr. Ford, was necessary to enable the Government to meet obligations previously entered into. The debt limit has nothing to do with spending ceilings or current expenditures. Its rejection, which House Republicans twice sought, would have meant, for example, that the Government would not have been able to send checks to social security recipients.

The budget resolution, which in time may be looked upon as the single most significant act of the 94th Congress, was a successful first test of the new procedures for handling the Federal budget. The procedures, approved with bipartisan support in 1974, established House and Senate Budget Committees and a Congressional Budget Office. Their aim is the development of a process enabling Congress to exercise greater fiscal responsibility by providing it with the means to measure the cost of programs both individually and as part of a comprehensive framework. The effort by the President to tie a tax extension to a budget ceiling at this time would have subverted this process.

The committees and the Budget Office were given until 1976 before they would have to function. Instead they began to operate immediately and this year are estimated to have saved the taxpayer about $10 billion at the same time that Congress was able to provide more money for Presidentially opposed domestic programs that brought the Nation from the deepest recession since the Great Depression to the brink of recovery.

OVERSIGHT HEARINGS

Mr. Speaker, of unusual interest and importance in 1975 in the House were hearings by committees and subcommittees carrying out oversight responsibilities—evaluating programs and practices of various executive branch agencies and individuals. This function of Congress first took statutory form in 1946. Subsequent statutes in 1968, 1970, 1972, and 1974 strengthened this aspect of congressional activity.

This year, mindful of the excesses of the executive branch uncovered in 1973 and 1974 and desirous of seeing that the bureaucracy is accountable to the people it is supposed to serve, House committees vigorously set out to ascertain and evaluate what was, is, and will be going on in the rest of the Government.

Most of the 235 hearings identified as oversight and not legislative or financial were not limited to one session of a committee. Many stretched over 3 or 4 days and a few occupied as many as 9 or 10 sessions.

Two of these hearings led two House panels to vote contempt citations against two Cabinet officers, the first time this ever has occurred. The actions by the Select Committee on Intelligence against Secretary of State Henry A. Kissinger and the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations against Secretary of Commerce Rogers C. B. Morton for their refusal to cooperate with the committees were clear examples of congressional refusal to allow the executive branch to dictate what the public should be told. Before the House would have had to act on the citations, Secretary Morton provided the information the subcommittee sought and a similar resolution of the dispute with Secretary Kissinger followed.

Oversight hearings in 1975 ranged widely from Agriculture's hearings on beef grading standards to the Ways and Means Committee's hearings on Internal Revenue Service regulations. They included hearings on CIA domestic activities, financial support for military commissaries, national growth, general revenue sharing, Government data banks, ingredient labeling on alcoholic beverages, reading achievement, sex discrimination, child labor, nuclear energy, arms sales in the Persian Gulf, children's health programs, marine mammal protection, the FBI, civil service retirement, water pollution control, solar energy, minority enterprise, veterans' hospital care, programs for the elderly, and the operation of the intelligent establishment.

MAJOR ACTIONS

Mr. Speaker, the following compilation of major congressional actions this year is grouped in seven categories—economy, general welfare, energy and environment, law and justice, international affairs, other activity, and oversight.

ECONOMY

Contrary to a Presidential policy that sought to meet the problems of the economic recession primarily through exhortation and cutbacks in Federal programs, the House mounted what essentially became a two-pronged attack—tax cuts of general applicability but concentrated among lower income people hardest hit by the recession and a series of measures targeted to encourage employment and relieve hardship.

The Tax Reduction Act of 1975, approved March 29, reduced taxes by $22.8 billion, the largest net reduction in the Nation's history. It reduced individual income taxes by about $18 billion through a rebate on 1974 taxes, an increase in the standard deduction and new credits against taxes owed in 1975 income. While repealing the depletion allowance for the oil industry, it raised the investment tax credit for most businesses, sought to stimulate home buying by allowing a tax credit for the purchase of new homes, extended emergency unemployment benefits and granted bonus payments to railroad retirees and social security recipients.

The Tax Reform Act, passed on December 4 by the House, would have made permanent the individual tax reductions approved in the spring and would have extended the 10-percent investment tax credit through 1980. The House measure also would have revised many sections of the Tax Code to close loopholes and bring in about $1.5 billion in additional revenue in 1976, rising to about $2.5 billion by 1981. The reform sections of the bill tightened tax shelter opportunities and otherwise limited deductions available for high-income taxpayers. Child care deductions were revised to enable poor and low-income persons to take advantage of the provision. Individual tax cuts included in the bill would have amounted to $13.4 billion; business tax cuts to about $2 billion.

In direct action aimed at putting people to work, Congress approved an Emergency Employment Appropriations Act of $5.3 billion to create 900,000 more public service jobs and to fund public works construction. After it was vetoed, Congress passed a smaller bill extending the existing public service job program for about 310,000 persons and earmarking $375 million to accelerate public works programs already authorized.

Later Congress provided $473.4 million for summer youth employment. This legislation, allowing about 840,000 jobs, was identical to a provision in the vetoed jobs bill.

Mr. Speaker, as this session neared an end, House and Senate conferees agreed on the provisions of a major package of antirecession aid to local governments combined with public works projects designed to create more jobs and alleviate an unemployment rate that hovered at 8.3 percent in November. The new measure provides special countercyclical grants to local governments according to a formula that takes into account the unemployment rate. The bill also authorizes $2.5 billion for such projects as new schools, courthouses, and streets, and $125 million for loans to medium-sized businesses facing the prospects of discharging workers.

A temporary increase in the Federal share of matching funds for highway and mass transit projects to accelerate construction also was designed by Congress to increase jobs.

To alleviate the hardships of the unemployed while they sought new jobs, Congress expanded and extended unemployment compensation benefits, approved a temporary loan program to assist jobless workers to meet home mortgage payments and voted a program for mortgage interest rate subsidies for 400,000 middle-income families. This last legislation, which also was an effort to revive the lagging housing industry and provide more jobs, was vetoed.

A program of emergency loans to cattlemen and other livestock producers facing economic hardship was enacted, but a congressional attempt to increase farm price supports for 1 year to offset rising production costs and declining income was vetoed. Congress refused to allow the President to put into effect a program that would have raised the price of food stamps in 1975.

A resolution was adopted calling on the Federal Reserve Board to increase the money supply and lower interest rates and the House blocked an attempt to allow Federal savings and loan associations to make mortage loans at rates that would float with the market over the life of the loan.

Mr. Speaker, even as tax cuts and expanded programs mitigated the effects of recession, House and Senate put into effect new budgetary control procedures that were approved in 1974, but not made wholly effective until 1976. Both House and Senate Budget Committees proposed spending ceilings that were adopted by the respective chambers to serve as initial guidelines for the year. Later, in accord with the procedure contemplated by the law establishing it, the committees revised these figures to provide for a spending ceiling of $374.9 billion and a revenue floor of $300.8 billion. In its initial year of operation, the two Budget Committees are estimated to have saved the taxpayers some $10 billion by monitoring legislation and evaluating its impact on the entire fiscal framework of the Government.

As of December 10, 14 appropriations bills considered by the House this year for fiscal 1976 resulted in budget authority of about $5.3 billion below the amounts requested by President Ford. The House voted budget authority in excess of Presidential requests for six bills—Education; Interior and related agencies; Labor, Health, Education and Welfare and related agencies; State, Justice, Commerce, Judiciary and related agencies; Public Works, Energy; and a continuing resolution. Decreases in Presidential requests were voted by the House for eight bills—Housing, Urban Development, Space, Science and Veterans; legislative branch; Agriculture and related agencies; Transportation and related agencies; Defense Department; military construction; Treasury, Postal Service, and General Government; and a supplemental bill.

GENERAL WELFARE

Mr. Speaker, actions by Congress in 1975 in the broad category of welfare affected many specific groups of citizens as well as the public as a whole. Despite the opposition of a President who announced at the beginning of the year that he would veto any new programs, House Democrats adopted a wide array of beneficial legislation and prevented the diminution of many Federal programs that came under attack from the executive.

The President's attempt to limit previously enacted cost-of-living raises for social security recipients, civil service annuitants, and retired military personnel and their survivors to 5 percent instead of 8 percent was rejected. Later the House approved a bill to do away with a backlog of 100,000 cases by expediting the holding of hearings for social security claimants whose applications for benefits have been denied.

Legislation extending major health services and nurse training programs and authorizing funds for various State public health programs and community mental health centers was adopted over a veto. Both Chambers also approved an expanded Federal program to assist the mentally retarded and other persons suffering from such disabling health problems as cerebral palsy and epilepsy. The House voted to extend the programs of assistance for the training of health care professional persons, but added provisions designed to require persons accepting such aid to practice for a time in areas that have a short supply of physicians, including rural and inner city areas. Another House bill authorized $1.2 billion to extend the program of biomedical research into genetic disorders and diseases of the heart, lung, and blood.

Faced with a finding that more than half the Nation's estimated 8 million handicapped children are denied an equal educational opportunity, Congress adopted legislation, opposed by the President, that will help make public education available within 5 years to all handicapped children between the ages of 3 and 21. Two vetoes by Mr. Ford of legislation expanding school lunch and child nutrition programs and providing educational funds were overridden. Expanded work and educational grant opportunities for college students were advanced. The House approved a bill to improve protection for children in summer camps by establishing camp safety standards.

Congress also sent to the President legislation, initiated in the House, to provide Federal indemnification of the cost of insuring exhibitions of art and other artifacts from foreign countries, a measure that will help museums, large and small, throughout the country.

Mr. Speaker, new Federal help for the elderly would result from a House initiated bill to authorize $2.6 billion for fiscal 1976–79 for programs under the Older Americans Act and for senior volunteer programs under ACTION. New programs under the legislation would offer home, counseling, housing, transportation, and employment assistance. The comprehensive older Americans services amendments also provide, starting in 1979, protections against discrimination on account of age in federally assisted programs or activities.

On the other end of the age scale, another House bill would help states comply with a 1974 law designed to speed the collection of child support payments from a parent who deserts a family.

Both the House and Senate voted to modify the emergency disaster loan program for farmers and ranchers to make them eligible for loans up to the amount of an actual loss, at a maximum interest rate of 5 percent, when the Secretary of Agriculture designates an emergency area.

Construction workers won congressional approval of a bill affording equal picketing rights at a common building site. A companion proposal designed to facilitate collective bargaining and bring about more communication between labor and management in the industry in order to reduce the number of strikes also was approved.

An 8-percent cost-of-living adjustment was voted by the House in the pensions received by needy veterans, widows of veterans and children who survive them. Compensation increases of 10 to 12 percent for veterans with service-connected disabilities and for their widows and surviving children were enacted. The House voted to terminate veterans' education benefits for persons entering the Armed Forces after December 31, 1975, an action that could save up to $1.6 billion a year between fiscal 1976 and fiscal 1980. Congress approved special pay and incentives for physicians and dentists working in veterans' hospitals to assist in the recruitment and retention of qualified personnel.

Presidential opposition to an Agency for Consumer Advocacy did not prevent action by both House and Senate as they approved different versions of legislation that would establish an independent, nonregulatory agency to advocate the interests of the consumer before Federal departments and agencies. The Consumer Product Safety Commission, meanwhile, would receive, by legislation now in conference, enhanced authority against hazardous products. A Truth in Leasing Act that has passed the House would provide consumers the same kind of protection from misleading statements as does the Truth in Lending Act. Also approved by Congress was a bill to repeal State fair trade laws that prevent price competition.

ENERGY AND ENVIRONMENT

Mr. Speaker, the yearlong dispute between congressional Democrats and President Ford over energy policy appeared near an end in the last days of 1975 as House and Senate conferees agreed on an omnibus bill that administration spokesmen indicated would be signed. The lengthy struggle clearly brought a major victory for a Congress that twice saw legislation to extend price controls vetoed, but yet kept those controls in force during the year and included them in the final legislation.

The argument between President and Congress was essentially over what consumers would be required to pay for gasoline, fuel oil, natural gas and, by extension, the wide array of products either manufactured from petroleum derivatives or dependent upon them. Both sides agreed that petroleum consumption had to be reduced. The President sought that reduction through price hikes that would discourage consumption. Congress, while recognizing that prices would rise eventually, favored efforts to restrict the price rise of a commodity as basic to the economy as petroleum during a time of both recession and inflation. Consumption should be reduced, said Congress, by an array of conservation measures it voted to encourage.

Mr. Speaker, let me here summarize the major provisions of the Energy Conservation and Oil Policy Act:

Establish a domestic composite price of $7.66 a barrel for domestic crude oil—a reduction of $1.09 from the current price—and provide guidelines that permit this price to be raised gradually by the President over a period of 40 months if he finds it necessary to meet increased supplier costs or encourage production;

Extend the authority of the executive to direct major fuel burning installations to convert to the use of domestic coal;

Authorize Government guaranteed loans to increase coal production;

Limit joint venture bidding by major oil companies in Outer Continental Shelf development as part of an effort to increase competition within the petroleum industry;

Authorize the President to restrict exports of energy supplies and related materials;

Authorize the President to require oil and natural gas production from designated fields at a maximum efficient rate or a temporary emergency rate;

Establish a $3.3 billion strategic national petroleum reserve of 500 million to 1 billion barrels over 7 years;

Establish mandatory average fuel economy performance standards for new passenger cars and light duty trucks;

Require energy labeling of major home appliances and other consumer products and authorize energy efficiency standards for appliances;

Authorize grants to States to assist them to develop and implement energy conservation programs;

Require all Federal agencies to develop a 10-year plan for energy conservation;

Set energy efficiency targets for the 10 most energy-intensive industries and require annual reports on progress toward the goals;

Provide the President with standby energy authority, subject to congressional approval in some instances, to develop and implement energy conservation programs, including rationing;

Require the disclosure of financial interest in oil, natural gas, or coal by all employees of the Federal Energy Administration and the Interior Department involved in regulatory or policymaking functions under the legislation;

Authorize the Comptroller General to examine energy and financial reports filed with Federal agencies to insure their accuracy;

Limit the passing on of refinery costs to reduce the potential for price gouging of the consumer.

OTHER ENERGY MEASURES

Mr. Speaker, other energy measures approved by the House this year include a conservation act that would offer excise tax exemptions and personal tax credits to encourage the purchase of energy efficient products, a bill to assist low income home owners to insulate their homes and to require the Government to establish insulation efficiency standards for commercial and residential buildings, a bill permitting production from Naval petroleum reserves, legislation authorizing $5.9 billion for research into other sources of energy and a bill for research on electric powered vehicles.

The House voted to extend for another 10 years a Nuclear Indemnity Act to encourage development of the private nuclear energy industry. Remaining to be considered is legislation designed to ease a threatened shortage of natural gas by temporarily lifting Federal price controls on the fuel.

The major environmental legislation approved this year was the bill to establish Federal regulations over strip mining. For the second time in 2 years, the bill was vetoed. The effort to override in the House failed by three votes, and attempts are being made to revive the legislation in 1976.

Congress also extended the saline water conservation program. The House has authorized $356 million for research and development programs of the Environmental Protection Agency and passed a comprehensive fishing conservation management program to regulate fishing within an area 200 miles offshore. In response to concern over the long-term effects of pesticides on health, legislation was enacted requiring the Environmental Protection Agency to seek the views of a scientific advisory board and the Department of Agriculture during a 60-day period before issuing regulations governing the use of a pesticide.

LAW AND JUSTICE

Mr. Speaker, action in the general area of law, justice and constitutional rights included enactment of legislation extending for another 7 years and broadening the protections afforded voters by the Voting Rights Act. Among added protections were those for citizens of minority groups who may not be fluent in the English language.

The House approved a bill permitting Federal employees to engage in political activity and strengthening their protection against coercion by any official authority that might attempt to influence the political activity of an employee.

The House also voted to authorize a program of aid to State and local agencies to assist them in developing drug abuse prevention programs and to establish a White House Office of Drug Abuse Policy. It sought to help paroled convicts return to a productive role in society by legislation to establish an independent Parole Commission within the Justice Department and to set equitable standards for parole procedures. Another bill enacted at the behest of the U.S. Judicial Conference was designed to speed trials and set standards applicable to pretrial, trial, and post-trial situations.

Amendments to the 1974 Equal Credit Opportunity Act approved by the House this year would prohibit credit discrimination on the basis of race, color, religion, national origin, and age. Last year's law prohibited credit discrimination on the basis of sex or marital status.

INTERNATIONAL AFFAIRS

Mr. Speaker, the spring collapse of anti-Communist forces in Indochina brought calls from President Ford for Congress to approve major additional financial aid programs and the use of American troops. Congressional Democrats, refusing to allow the reentry of American men or the squandering of more money, agreed only to provide some $400 million to help South Vietnamese and Cambodian refugees to relocate in the United States.

After twice rejecting Presidential requests for the lifting of the embargo placed against the shipment of arms to Turkey, the House agreed with the Senate on a resumption of shipments for arms contracted for by Turkey before the effective date, February 5, 1975, of the embargo.

Congress approved the stationing of 200 American civilians in the Sinai Peninsula between the forces of Israel and Egypt after receiving executive branch assurances that this would not lead to the involvement of U.S. Forces in the Middle East dispute. The American civilian volunteers, Congress said, must be removed immediately in the event of hostilities or if Congress decided their safety was in jeopardy. The House, within 24 hours after a United Nations vote equating Zionism with racism, approved a resolution condemning the U.N. vote.

The House, considering the economic aspects of foreign aid separately from military aid for the first time, voted a 2-year authorization of $2.9 billion in economic aid. Emphasizing self-help programs and food for the poor rather than construction and industrial development, Congress barred aid to any nation engaging in a consistent pattern of human rights violations. Peace Corps programs were continued, with the renewed congressional authorization including a ban on sex discrimination in the selection, training, and placement of volunteers.

OTHER ACTIVITY

Mr. Speaker, a variety of other legislative measures acted upon by the House and Senate this year would affect New York City, Federal pay, the stock exchanges, the railroads and the safety of workers.

Congressional approval of the President's proposal for direct loans from the Treasury for New York City came after months of White House intransigence toward any legislation that would forestall bankruptcy by the city. House Democratic leaders supported a plan developed by the Banking, Currency and Housing Committee that would have guaranteed non-Government loans to the city under stringent restrictions and requirements. The sudden switch in policy by the President, virtually on the eve of the deadline for the city's default, led Democrats to accept the Ford loan proposal in the interest of expediting the legislation and of removing the chance that uncertainty surrounding the city's finances might bring national fiscal turmoil.

Following a 4-year study of competitive and economic issues affecting the securities markets, Congress enacted legislation strengthening the oversight powers of the Securities and Exchange Commission over stock exchanges and brokers and revising rules and practices that restricted investor access to the securities markets.

Salaries of upper level Federal employees, including Members of Congress, were raised after having been frozen since 1969. Although a Presidential pay board recommended an 8-percent increase, Congress agreed with a Ford recommendation to hold the raise to 5 percent. It was the first raise for Congress since 1969.

Emergency grants and loans were approved early in the year to keep the bankrupt Northeast rail lines functioning, $1 billion was authorized for Amtrak for improved railroad passenger service and legislation was enacted to assure greater compliance with Federal railroad safety regulations. Comprehensive legislation to carry out a major restructuring of the Northeast railroads and other troubled lines also was approved.

To assist businessmen and their employees, the House approved a procedure enabling employers to receive advice from the Labor Department as to whether they are in violation of safety standards before an order might be issued forcing the firm to shut down if it could not comply immediately with required changes.

A long-range program of funding for public broadcasting was approved by the House. It voted to establish an independent board to devise and implement a program for conversion to the metric system. In authorizing funds for the National Science Foundation, Congress devised a plan to strengthen training and research programs for student scientists.

In response to a congressional finding that $17 million in public funds were spent on President Nixon's three private properties, the House voted to limit the amount and nature of future such expenditures.

OVERSIGHT

Mr. SPEAKER, oversight hearings of unusual number and significance were held by Congress this year. Covering a broad spectrum of subjects these hearings provided invaluable information to Congress, the Executive and the public on both successes and problems in program administration. As of November 21, 235 series of oversight hearings had been held. Following, grouped by committee are listed briefly the major topics under study in some of those sessions:

Major Topics Under Study

Agriculture.—9 hearings. Emergency livestock credit, beef grading standards, rural development, perishable commodities, dairy products, disaster aid.

Appropriations.—6 hearings. CIA domestic activities, consumer product safety, reprogramming proposals, onshore mineral leasing management, concessions in National Parks.

Armed Services.—4 hearings. Financial support for military commissaries, problems in Reserve training programs, thefts of military weapons.

Banking, Currency and Housing.—11 hearings. Consumer information, Federal Reserve, Renegotiation Board, housing assistance payments, national growth, new communities, real estate procedures, flood insurance, community block grants.

Budget.—4 hearings. Budget and the economy, Congressional Budget Office, Air Force structure and projection, general revenue sharing.

District of Columbia.—5 hearings. St. Elizabeth's Hospital, criminal justice administration, Bicentennial planning, Metro police and operations.

Education and Labor.—25 hearings. Impact aid, elementary and secondary education, Indian education, reading achievement, NLRB, child labor, employee retirement, emergency jobs, occupational safety and health, mine safety, youth conservation corps, sex discrimination regulations, federal contract compliance, ACTION, Community Services, enforcement of equal employment opportunities, job discrimination, child labor, farm labor contractors, migrant education.

Government Operations.—36 hearings. Privacy act exemptions, FAA procedures, federal agency environmental activities, HEW fraud detection and prevention procedures, computer procurement, motor carrier regulation, IRS operations, government data banks, personnel abuses, National Park concession management, service secretaries access to military information, federal agency interception of nonverbal communications, use of advisory committees, ingredient labeling on alcohol beverages, enforcement of policy opposing restrictive trade practices.

House Administration.—1 hearing. GSA regulations on public access to Nixon Presidential materials.

Interior and Insular Affairs.—10 hearings. Outdoor recreation, Bureau of Mines, Geological Survey, Trans-Alaska pipeline, nuclear energy, public land withdrawal, railroad leasing of federal coal lands, access to minerals on federal lands.

International Relations.—8 hearings. U.S. position in U.N., U.S. buildings abroad, compliance with war powers, arms sales in Persian Gulf, Panama Canal negotiations, U.S.-Soviet oil and grain agreements, Corps of Engineers contracts in Saudi Arabia.

Interstate and Foreign Commerce.—16 hearings. Office of Telecommunications, FCC, public broadcasting, domestic common carrier regulation, President's energy policies, NIH, implementation of railroad reorganization, U.S. Railway Association final system plan, FEA enforcement policies, electric utility problems, natural gas deliverability, effects and availability to Congress of information about the Arab boycott, adequacy of HEW children's health programs.

Judiciary.—14 hearings. Watergate special prosecutor's report, FBI, Indochina refugees, Criminal Justice Division of the Department of Justice, federal charters, immigration waivers, foreign student problems, Bureau of Prisons, general revenue sharing civil rights aspects, delay in the administrative process.

Merchant Marine and Fisheries.—6 hearings. Coast Guard organization, Canal Zone personnel policies, defense aspects of U.S. flag merchant marine, National Environmental Policy Act of 1969, endangered species, marine mammal protection.

Post Office and Civil Service.—9 hearings. Merit principle abuses, employees' group life insurance, U.S. Postal Inspection Service, federal employees' health benefits, Bicentennial celebration, closing of small post offices, civil service retirement, health insurance rate increase and level of services.

Public Works and Transportation.—6 hearings. Implementation of the Water Pollution Control Act, implementation of job opportunities program, Corps of Engineer regulations for dredge material disposal, implementation of laws to make public buildings accessible to physically handicapped, aviation safety.

Science and Technology.—21 hearings. NSF, nonnuclear energy, coal combustion, future space program, science education, agricultural research, NSF peer review system, federal research and development programs, information dissemination, U.S.–U.S.S.R. cooperative agreements, solar heating and cooling, Solar Energy Research Institute, environmental research and development, NOAA, ocean dumping, meteorological research facilities.

Small Business.—12 hearings. National Park service planning and concession operation, SBA certificate of competency, minority enterprise, disaster relief to victims of Hurricane Eloise, surety bonds, FAA, CAB, Antitrust Division, FTC, ICC.

Veterans' Affairs.—5 hearings. Hospital care and professional medical personnel, National Cemetery system, service-connected compensation, dependency and indemnity compensation, housing, quality care study.

Ways and Means.—10 hearings. IRS, supplemental security income, renal disease, administration of tax laws, delay in social security appeals, aid for dependent children quality control, customs administration, IRS report form 5500 required under pension act, IRS regulations for individual retirement accounts.

Select Committee on Aging.—7 hearings. HUD's response to elderly housing needs, HEW proposed regulations on participation of for-profit home health agencies in Medicaid, government programs for the elderly, railroad retirement, implementation of White House Conference on Aging, adequacy of social security benefits.

Select Committee on Intelligence.—10 hearings. Intelligence agencies budget, Middle East war, failure to foresee Cyprus invasion, extension of non-compliance to unclassified information, illegal electronic surveillance, National Security Council and the 40 Committee, CIA involvement with the media, drug enforcement, FBI surveillance.

Mr. Speaker, 1975 has been a constructive and productive year for Congress.

Clearly, important work remains to be done in the second session. But a careful examination of the record of the House and Senate in the year now drawing to a close will show the great diligence and the many achievements of the Congress in the session now concluding.

THE 7-YEAR ECONOMIC DISASTER: NEED FOR WAGE-PRICE CONTROLS NOW, DECEMBER 18, 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 30 minutes.

Mr. LEGGETT. Mr. Speaker, today I am going to take a bit of time for a rather broad review of the state of our national economy: Where we are, where we are going, what are the major problems facing us, and what we can do about them.

Where we are can be stated simply: We are weathering the worst recession since the Great Depression, and prospects for full recovery are not good.

This statement may startle some of us who have been reading news reports that the recession is over. While I am not particularly interested in semantic quibbling, I think it is important that we define a recession as what it really is: A trough in our gross national product, involving at least two consecutive declining quarters. In my view, recession can be compared to a cancer: If treatment causes the cancer to shrink, that is most salutary, and is certainly to be preferred to allowing the cancer to grow. But the patient is not cured until the cancer is gone—all gone. Similarly, it is good that we have experienced two expanding quarters—but we are not yet back to our 1973 economic peak of $839 billion in 1958 dollars annual GNP. With GNP currently running at $810 billion, we are not out of the woods.

GROSS NATIONAL PRODUCT OR EXPENDITURE

Billions of dollars; quarterly data at seasonally adjusted annual rates

Period	Total gross national product in 1958 dollars	Total gross national product	Personal consumption expenditures	Gross private domestic investment	Net exports of goods and services	Government purchases of goods and services					Implicit price deflator for total GN P 1958=100 [2]
							Federal				
						Total	Total	National defense [1]	Other	State and local	
1965	617.8	684.9	432.8	108.1	6.9	137.0	66.9	50.1	16.8	70.1	110.86
1966	658.1	749.9	466.3	121.4	5.3	156.8	77.8	60.7	17.1	79.0	113.94
1967	675.2	793.9	492.1	116.6	5.2	180.1	90.7	72.4	18.4	89.4	117.59
1968	706.6	864.2	536.2	126.0	2.5	199.6	98.8	78.3	20.5	100.8	122.30
1969	725.6	930.3	579.5	139.0	1.9	210.0	98.8	78.4	20.4	111.2	128.20
1970	722.5	977.1	617.6	136.3	3.6	219.5	96.2	74.6	21.6	123.3	135.24
1971	746.3	1,054.9	667.1	153.7	−.2	234.2	97.6	71.2	26.5	136.6	141.35
1972	792.5	1,158.0	729.0	179.3	−6.0	255.7	104.9	74.8	30.1	150.8	146.12
1973	839.2	1,294.9	805.2	209.4	3.9	276.4	106.6	74.4	32.2	169.8	154.31
1974	821.2	1,397.4	876.7	209.4	2.1	309.2	116.9	78.7	38.2	192.3	170.18
1974:											
I	830.5	1,358.8	840.6	210.5	11.3	296.3	111.5	75.8	35.7	184.8	163.61
II	827.1	1,383.8	869.1	211.8	−1.5	304.4	114.3	76.6	37.7	190.1	167.31
III	823.1	1,416.3	901.3	205.8	−3.1	312.3	117.2	78.4	38.8	195.1	172.07
IV	804.0	1,430.9	895.8	209.4	1.9	323.8	124.5	84.0	40.6	199.3	177.97
1975:											
I	780.0	1,416.6	913.2	163.1	8.8	331.6	126.5	84.7	41.8	205.1	181.62
II	783.6	1,440.9	938.6	148.1	16.2	338.1	128.4	84.8	43.6	209.7	183.88
III	808.3	1,503.6	968.8	179.1	12.2	343.5	130.5	86.1	44.4	233.0	186.02

[1] This category corresponds closely with budget outlays for national defense, shown on p. 36.

[2] Gross national product in current dollars divided by gross national product in 1958 dollars.

Source: Department of Commerce, Bureau of Economic Analysis.

Where are we going? The prognoses are mixed, but on balance our present course gives more cause for gloom than joy.

We have, to be sure, just enjoyed a spectacularly good third quarter, with adjusted annualized real growth of 13.2 percent. But this apparent growth resulted in large extent from liquidation of inventories accumulated during the recession. Now that liquidation is completed, we can expect a much slower fourth quarter, and by the first quarter of next year I believe we may well be heading downward once more.

Already we have seen shades of a downturn. In September, the Commerce Department's Composite Index of Leading Indicators declined 0.9 percent, which is an annualized rate of 10.8 percent. October saw a further decline of 0.5 percent, as 6 percent annualized. It is particularly disturbing to note the decline in new orders for consumer products and materials. In addition, the 1.8-percent increase in wholesale prices for October—equivalent to a 21.6-percent annualized inflation rate—suggests that the economic storm over the horizon may be closer to a hurricane than a squall. While the fact that wholesale prices remained stable in November is encouraging, it is also deceptive. It stems from a 2.6-percent decline in farm prices, and farm prices are the least stable and least trendsetting of all wholesale prices. Industrial commodities, which are far more significant predictors of future economic behavior, rose 0.6 percent which is 7.2 percent on an annualized basis. Here is the zoom-to-the-moon saga of our wholesale price structure.

WHOLESALE PRICES

[1967=100]

Period	All commodities	Farm products and processed foods and feeds			Industrial commodities	Special groupings				
		Total	Farm products	Processed foods and feeds		Crude materials [1]	Intermediate materials [2]	Producer finished goods	Consumer finished goods excluding foods	
									Durable	Nondurable
1966	99.8	103.5	105.9	101.2	98.5	104.5	98.9	96.8	98.5	97.8
1967	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1968	102.5	102.4	102.5	102.2	102.5	102.0	102.6	103.5	102.2	102.2
1969	106.5	108.0	109.1	107.3	106.0	110.6	106.1	106.9	104.0	105.0
1970	110.4	111.7	111.0	112.1	110.0	118.8	110.0	111.9	107.0	108.3
1971	113.9	113.8	112.9	114.3	114.0	122.7	114.3	116.6	110.9	111.3
1972	119.1	122.4	125.0	120.8	117.9	131.1	118.9	119.5	113.2	113.6
1973	134.7	159.1	176.3	148.1	125.9	155.2	128.1	123.5	115.8	120.5
1974	160.1	177.4	187.7	170.9	153.8	219.1	159.5	141.0	126.3	146.8
1974:										
September	167.2	179.1	182.7	176.8	162.9	229.8	170.6	148.0	128.4	154.2
October	170.2	185.1	187.5	183.5	164.8	229.0	172.1	151.9	133.1	155.7
November	171.9	189.0	187.8	189.7	165.8	228.7	173.0	154.1	133.8	156.2
December	171.5	186.5	183.7	188.2	166.1	221.2	173.2	155.3	135.3	156.9
1975:										
January	171.8	183.8	179.7	186.4	167.5	219.4	175.0	157.4	135.9	158.2
February	171.3	179.5	174.6	182.6	168.4	221.0	175.9	158.3	136.3	158.8
March	170.4	174.9	171.1	177.3	168.9	218.4	176.4	159.7	136.9	158.9
April	172.1	178.8	177.7	179.4	169.7	222.7	177.3	160.7	137.0	159.5
May	173.2	181.2	184.5	179.0	170.3	225.8	177.7	161.2	137.0	160.4
June	173.7	182.3	186.2	179.7	170.7	226.3	177.8	161.7	137.3	161.6
July	175.7	188.2	193.7	184.6	171.2	223.4	178.3	162.4	137.4	163.2
August	176.7	189.0	193.2	186.3	172.2	225.8	179.3	163.0	137.4	165.1
September	177.7	190.4	197.1	186.1	173.1	231.5	179.9	164.0	137.7	166.1
October	178.9	190.5	197.3	186.2	174.7	228.6	181.4	166.5	141.1	167.2

[1] Excludes crude foodstuffs and feedstuffs, plant and animal fibers, oilseeds, and leaf tobacco.

[2] Excludes intermediate materials for food manufacturing and manufactured animal feeds.

Source: Department of Labor, Bureau of Labor Statistics.

The hurricane is still on its way.

This grim forecast is emphasized by Thomas J. Holt, the phenomenally successful Wall Street investment counselor whose portfolio has risen 173 percent since December 1971, while the New York Stock Exchange composite index fell 15 percent. As Mr. Holt sees it, the brief upturn we have recently enjoyed was created by Government pump-priming earlier in the year. But that is now exhausted, consumer demand is drying up, and Holt predicts manufacturers will start cutting output. Cutbacks in State and local government spending, demanded by the voters around the country in the November elections, will accelerate the new downturn. Housing starts will remain low, due to high long-term mortgage interest rates. As a result, Holt predicts a market slide down to the 450 Dow-Jones region. Extreme? Yes. Unwarranted? Maybe. Everybody is wrong sooner or later. But Holt they say has not been wrong on a single major market turn since he set up shop in 1967. Adjusted for C.P.I. over the past 20 years the Dow-Jones today is no more than 450.

But even if we focus on the brighter side of the current predictions—a practice which appears rather unsound in light of recent economic history—the picture is still dismal. Say we enjoy steady recovery at an annual rate of 7 percent. Where will we be in a year? Unemployment will still be near 8 percent, which is worse than the worst level at the bottom of the worst recession since the Great Depression. Excess capacity will still be at levels comparable to those of our previous recessions: Perhaps unused manufacturing capacity will fall all the way to 25 percent. Having become accustomed to the economic lake of fire and brimstone, purgatory may feel pleasant to us; but we should not forget that there are better ways of life, and that in fact we enjoyed 8 recession-free years under the present administration's predecessor.

I recall writing an economic analysis on Nixon's 22-month economic disaster in 1970. Unemployment had escalated from 2½ million to 4¼ million unemployed; today well over 8 million persons cannot find work.

Even comparison with the Eisenhower and Truman administrations provides dramatic illustration of how far we have deteriorated. For example, until recently, the worst inflation year in our history was 1951, in which year the dollar inflated 5.9 percent—a dismally high rate, although well under the 8.2 percent sustained over the past year and the 21.6 percent sustained over the past month. But while 1951 saw high inflation, it also saw very low unemployment: About 3.3 percent compared with 8.6 percent for this October. And despite inflation, workers' real earnings rose 1 percent, whereas over the past 2½ years real earnings have fallen 4.6 percent.

Until recently, the worst post-depression unemployment years were 1958 and 1961, in which we averaged 6.8 percent and 6.7 percent respectively. These were bad figures—but nothing like the 8.6 percent currently unemployed. But during those previous periods, inflation was minimal: 1.8 percent in 1958 and 0.7 percent in 1961, and in 1961, real earnings actually outstripped inflation by 1.1 percent. This is not the case today when worker real wages are little better than a decade ago, as indicated below.

AVERAGE HOURLY AND WEEKLY EARNINGS—SELECTED INDUSTRIES

[For production workers or nonsupervisory employees]

Period	Average hourly earnings—current dollars				Average weekly earnings—current dollars				Manufacturing industries	
	Total nonagricultural private [1]	Manufacturing	Contract construction	Retail trade [2]	Total nonagricultural private [1]	Manufacturing	Contract construction	Retail trade [2]	Adjusted hourly earnings, 1967=100 [3]	Average weekly earnings, 1967 dollars [4]
1966	$2.56	$2.72	$3.89	$1.91	$98.82	$112.34	$146.26	$68.57	95.6	$115.58
1967	2.68	2.83	4.11	2.01	101.84	114.90	154.95	70.95	100.0	114.90
1968	2.85	3.01	4.41	2.16	107.73	122.51	164.49	74.95	106.1	117.57
1969	3.04	3.19	4.79	2.30	114.61	129.51	181.54	78.66	112.4	117.95
1970	3.22	3.36	5.24	2.44	119.46	133.73	195.45	82.47	119.4	114.99
1971	3.44	3.57	5.69	2.57	127.28	142.44	211.67	86.61	127.3	117.43
1972	3.67	3.81	6.03	2.70	136.16	154.69	222.51	90.99	135.1	123.46
1973	3.92	4.08	6.37	2.87	145.43	166.06	235.69	95.57	143.6	124.76
1974	4.22	4.41	6.75	3.09	154.45	176.40	249.08	101.04	156.0	119.43
1974:										
September	4.35	4.54	7.01	3.16	159.65	182.96	263.58	103.02	159.7	120.61
October	4.37	4.57	6.99	3.18	159.51	183.26	265.62	102.40	161.0	119.78
November	4.36	4.59	7.00	3.18	157.40	182.22	255.50	102.08	162.3	118.09
December	4.38	4.66	7.05	3.18	159.43	185.93	259.44	104.30	164.3	119.65
1975:										
January	4.40	4.67	7.07	3.24	157.08	180.73	250.99	103.03	165.5	115.78
February	4.42	4.68	6.99	3.27	157.79	180.18	247.45	103.99	166.5	114.62
March	4.44	4.72	7.14	3.27	158.06	182.66	247.76	104.64	167.9	115.75
April	4.46	4.73	7.12	3.29	159.22	184.00	259.17	104.95	168.7	116.02
May	4.48	4.75	7.12	3.31	160.38	185.25	262.73	106.25	169.7	116.29
June	4.51	4.78	7.18	3.33	163.71	188.81	262.07	109.22	170.7	117.57
July	4.53	4.81	7.24	3.33	164.89	188.55	270.05	110.89	171.7	116.17
August	4.56	4.82	7.27	3.35	166.90	191.35	274.81	111.89	172.8	117.54
September	4.64	4.89	7.39	3.39	168.43	196.58	277.13	109.16	174.5	120.16
October	4.65	4.91	7.48	3.41	168.33	195.91	279.75	109.12	176.0	119.02

[1] Also includes other private industry groups shown on p. 13.

[2] Includes eating and drinking places.

[3] Adjusted to exclude the effects of overtime and interindustry shifts.

[4] Earnings in current dollars divided by the consumer price index.

Source: Department of Labor, Bureau of Labor Statistics.

This maze of numbers presents a stunningly dismal picture. In the past, we have had occasional high unemployment—but always accompanied by economic stability. We have had occasional periods of high inflation—but always accompanied by low unemployment and real growth. But in the current period we have higher unemployment than in any post-Depression year, and higher inflation than in any post-Depression year at the same time. Moreover, these dismal numbers are combined with the longest and deepest trough in our GNP since the Great Depression.

As a further indicator of our deteriorated state, consider that it took the Nation 191 years to reach a total national debt of $323 billion, but in the past 11 years we have virtually doubled that debt, adding another $294 billion for a total of $617 billion expected by the end of the current fiscal year. The debt is now increasing at about $74 billion per year, which means it will double yet again in about 8 years if present performance continues. While I have never been among those who have regarded a balanced national budget as one of the primary virtues, there must be a limit to all things. If a small deficit will encourage expansion, promote employment, and generally keep the economy on an even keel, I along with almost all contemporary economists am for it. But current debt explosion figures are even more nightmarish than the population explosion figures emanating from the underdeveloped countries.

[Billions of dollars]

Period	Receipts	Outlays	Surplus or deficit (−)	Federal debt (end of period): Total [1]	Federal debt (end of period): Held by the public
Fiscal year:					
1965	116.8	118.4	−1.6	323.2	261.6
1966	130.9	134.7	−3.8	329.5	264.7
1967	149.6	158.3	−8.7	341.3	267.5
1968	153.7	178.8	−25.2	369.8	290.6
1969	187.8	184.5	3.2	367.1	279.5
1970	193.7	196.6	−2.8	382.6	284.9
1971	188.4	211.4	−23.0	409.5	304.3
1972	208.6	231.9	−23.2	437.3	323.8
1973	232.2	246.5	−14.3	468.4	343.0
1974	264.9	268.4	−3.5	486.2	346.1
1975	281.0	324.6	−43.6	544.1	396.9
1976 [2]	299.0	358.9	−59.9	617.5	470.9
Cumulative totals for 1st 3 mos: Fiscal year:					
1975	72.8	74.4	−1.6	493.1	350.5
1976	72.3	90.8	−18.5	564.6	420.4

[1] Excludes non-interest-bearing public debt securities held by IMF.

[2] Estimates as of May 30, 1975.

Sources: Department of the Treasury and Office of Management and Budget.

To reiterate: If we allow ourselves to be satisfied to bring inflation or unemployment or economic growth to so-called acceptable levels, we will merely be tolerating an economic state of health which in any previous time would have been called disastrous. Our objective must be to bring the Nation's economy back to its ideal state of low unemployment and modest inflation well exceeded by solid growth. Given the advanced state of our technology, the immense resources of our agriculture, and the ability of our people, there is no rational reason why this should not be possible.

What are the major problems facing us? In a word, our most basic and far-reaching problem is the total lack of constructive economic leadership on the part of the executive branch.

That fact is, we are in effect operating without a President for domestic affairs. In some other respects, we have developed a reasonably coherent national policy nevertheless. While I do not agree with many of the policies established by Secretary Kissinger and former Secretary Schlesinger, it is nevertheless undeniable that they have had, acting in effect as special-purpose Presidents, reasonably clear ideas of what our foreign policy and military policy should be, and they have acted efficiently to mobilize the executive branch behind these policies. In contrast, in the absence of a strong-willed and knowledgeable economic chief, the conduct of economic policy appears to have fallen back on President Ford, with the result that we have no economic national plan.

This is not just the carping of a liberal Democrat over the conduct of a conservative Republican President. Consider the following statement:

> The old four C's—communication, conciliation, compromise and cooperation are replaced by a new set: confusion, contradiction, confrontation and can't do. Press Secretary Nessen's frequent attempts to harmonize all this (economic) cacophony only contribute to the impression that the orchestra is out of control and the maestro can't find the baton. This confusing pattern has undermined the credibility of Mr. Ford's economic advisers and spokesmen, and has cast doubt on the President's consistency and control. It is worth nothing that, since the beginning of his administration, Mr. Ford has displayed a curious penchant for proposing economic programs with fanfare, and then abandoning them. In the past few weeks, the development and articulation of White House policy on basic economic matters appear to have grown unusually confused and contentious, if not downright chaotic. The White House is emitting such conflicting signals that even some administration economists are baffled, Congress is suspicious, and the public must wonder if anyone is in charge.

This is not John Kenneth Galbraith talking. It is James P. Gannon, economic correspondent for that well-known radiclib rag, the Wall Street Journal.

Consider, for example, the primary budget controversy in the headlines at the present time: President Ford has proposed a $28 billion cut in taxes for 1976 and he has correspondingly proposed a cut in Federal expenditures in the same amount.

How do we approach an economic plan of recovery? We must abandon the simplistic notion that unemployment will curb inflation. True, this sometimes happens but it is equally true that unemployment and recession in themselves lead to inflation because they decrease tax revenues which exacerbates deficit spending. Alternatively stated, pump priming, then jobs and public works may not be inflationary.

Now let us consider the President's proposal.

There are three legitimate methods of arriving at a tax cut:

First, you can remove or reduce a specific tax because you feel it is unjust, and replace it with another tax considered more just. This is not claimed to be the purpose of the Ford proposal.

Second, you can effect a tax cut, unaccompanied by a spending cut, for anti-recessionary or countercyclical purposes. This was the rationale of the tax cut this year and we have had some success. But it is not part of the current proposal, which calls for equal reduction of taxation and spending.

Third, you can decide that government is too big, and that certain programs can and should be eliminated and reduce taxes accordingly.

Mr. Ford has not followed this course either. Instead, he has proposed a massive tax cut with the rigid requirement that it must be matched by a spending cut, but he admits he has made no attempt to determine what should be cut.

Economically, this is nonsense but it provides good political mileage.

If Congress does as he asks, the President gets credit for the idea: The tax cut will come in early 1976, well before the election, giving everyone more money in his pocket and a rosy outlook on the economy before the spending cuts hit after the election. If Congress refuses and passes a smaller antirecessionary tax cut unaccompanied by a spending cut, he can veto it, blame congressional spendthrifts and then blame Congress for the increased tax levels when the 1975 temporary cut expires.

In any case, the economy would be a disaster and we would plunge headlong into another recession in 1977—but Mr. Ford would claim a political plus for Election Day.

Fortunately for the medium-term future of the Nation, the tactic has not worked. You cannot fool all of the people all of the time, and one of the benefits of the Watergate experience is that the American people have received a massive inoculation against gullibility. Moreover, the American people realize there is no such thing as a nonspecific spending cut, and that you cannot take $28 billion out of the Government budget without hurting a lot of people very seriously.

My mail in favor of the Ford proposal has been essentially nonexistent. Moreover, even card-carrying members of the conservative wing of Mr. Ford's own party have denounced the proposal as dishonest politics when the Nation needs honest economics.

The denouncers have included Senator BOB DOLE, Congressman SAM STEIGER and Senator HENRY BELLMON—the senior Republican on the Senate Budget Committee. It appears clear that the tax and spending cut, like the WIN program and other nonpolicies, will shortly fall by the wayside never to be heard from again.

So, what is the problem?

The classic supply-and-demand free market is not working any more. With demand low, with unused capacity high, we would expect prices to fall as manufacturers sought to stimulate demand. As we all know, this has not happened. Almost without exception, basic industries from automobiles to zinc have raised prices at a pace which would have seemed incredible 10 years ago even during a period of expansion.

Wholesale prices of producer finished goods have risen 10.8 percent during the last year, which in turn built upon a 14.2 percent increase the previous year. Most remarkably, these price increases occurred while total industrial production was falling 7.5 percent during the past year and 0.6 percent the previous year. Automobile sales are up over the past few weeks as is the stock market, but this progress is clearly short term.

It is clear that we do not have a free market economy, and that our concentrated major industries can and do use their massive power to maintain and even raise prices in the face of market down-pressures theoretically arising from weak demand. According to a study by former OMB Director Charles Schultze, over the past 2 years the rise in wholesale prices has been about 2½ percent more than can be accounted for by increases in labor, fuel, and farm prices. So it is not simply a case of business responding to increased costs; on the contrary, there is a substantial element of active price administration.

Labor is guilty of similar sins. In the face of monumental unemployment, which has exceeded 8 percent every month of 1975 on both adjusted and unadjusted bases, wage rates have moved steadily upward. The annual rise of 6.2 percent we have just sustained for all nonagricultural private wages seems modest, and indeed it is in comparison with the 7.9 percent increase of the previous year. But if market mechanisms were operating properly, wages would be falling as unemployment was rising.

It is not my purpose here today to place blame on labor, business, or any other sector of society. Rather, it seems clear to me that no sector can be held responsible because nobody is in control. Moreover, it is obvious that all sectors are being hurt, and being hurt badly. Despite wage increases, real average weekly earnings have fallen 4.6 percent over the past 2 years. And real after-tax corporate profits have fallen 24 percent in the last year.

A major future problem is the mushrooming nature of Federal income support payments. Here is a summary of these, prepared by "Nation's Business" magazine:

INCOME-SUPPORT PROGRAMS

	Cost	
	Fiscal 1954–55	Fiscal 1975–76
Social security retirement	$4, 400, 000, 000	$65, 500, 000, 000
Unemployment compensation	2, 300, 000, 000	18, 000, 000, 000
Medicare		16, 300, 000, 000
Veterans' benefits	3, 600, 000, 000	15, 600, 000, 000
Civil service pensions	430, 000, 000	10, 000, 000, 000
Welfare (cash payments)	1, 400, 000, 000	10, 600, 000, 000
Welfare (medical care)		7, 800, 000, 000
Social security disability		9, 200, 000, 000
Military pensions	440, 000, 000	6, 900, 000, 000
Food stamps		5, 800, 000, 000
Railroad workers' pensions	585, 000, 000	3, 400, 000, 000
Public housing	68, 000, 000	2, 600, 000, 000
Total	13, 200, 000, 000	172, 000, 000, 000

A small portion of these expenditures stems from the depressed state of the economy: In a prosperous economy we could reduce substantially the $18 billion unemployment compensation and the $10.6 billion welfare. But this still leaves $144 billion: 11 times the total of all income support payments 20 years ago.

Let us face the facts about these payments. Many of them serve worthwhile humanitarian and moral purposes. A small proportion—the unemployment compensation, food stamps, and public housing—in the long run help people to survive in a better America. But the majority of these payments are money given in return for no goods or services.

The strain is severe enough when we consider the demographic changes we will undergo as our population gets older. But if we add to this a prediction of inflation continuing at the current rate, we are setting the stage for a banana-republic economy—in other words, for the end of the United States as a major power and as an effectively functioning society.

Most disturbing of all, economic defeatism appears to be creeping like strontium-90 into the bones of the American people, where it will have equally disastrous effects. A recent survey by the New York Times shows that for the first time since the survey began 16 years ago, the economic expectations of the American people are declining rather than rising. It shows, for the first time, the average American rating himself as lower on the economic ladder today than the previous year. It shows a majority not expecting the quality of their lives to improve over the next 5 years.

In short, we are in a very bad way, with no improvement in sight. So much for the problem. Now what can we do about it?

There are a number of significant and obvious steps we should have taken long ago, and which we should take today to improve the general health of our economy.

We can eliminate the idiotic regulatory fetters which bind our productivity for no defensible reason. For example, when more than one out of four trucks on the highways is running empty because ICC regulations will not allow it to carry cargo from point A to point B, we can hardly expect to have an efficient economy or an effective energy conservation program. Similar abuses exist in numerous other aspects of our commercial life.

We can establish a Federal yardstick energy corporation.

We can enforce the antitrust laws to break up the excessive concentrations of economic power which now exist.

We can have Government play an aggressive role in helping to match labor supply with labor demand. We can convert the Department of Labor from a Department of Unemployment to a Department of Employment.

All these steps will help; they should be taken. They can help a healthy economy become healthier.

But they will not cure our present crisis. They will not cure an inflationary psychology in which interest rates are raised to the sky in anticipation of inflation, whereupon interest rates become self-fulfilling prophecies by creating inflation. These steps alone will not cure the inflationary psychology which led New York to its present sad state, and which psychology leads the Federal Government to spend more than $6 for every $5 it takes in because to do less would accelerate the economic disaster.

Today it is as if we are encased in a huge bubble of gum; we can push in one direction and the bubble will yield, but it will only close up tighter behind us from the other directions. We can, for example, cut government spending and reduce inflation, but only at the expense of increased unemployment, and ultimately of lower revenues and renewed inflation. What we need is a sword, a veritable Excalibur, to slice through the bubble so that we can climb out and return to the economic path we need never have left.

That sword, colleagues, is full-fledged Federal control of wages, prices, rents, and interest.

We have been there before, you say, and it has not worked? On the contrary, an econometric analysis presented to the 1973 meeting of the American Economic Association by Robert F. Lanzillotti and Blaine Roberts demonstrates that phase II controls in 1972 had reduced overall inflation about 2 percent, thus contributing $15 to $22 billion to the real GNP. I concede, however, that the present situation is significantly different from that which we faced 4 years ago.

An effective wage-price control system must have the following characteristics:

First. While it is not necessary to control every price and wage, controls must be reasonably comprehensive, relate to rational obtainable targets. It would be a U.S. disaster to adopt an incomes policy and simultaneously allow a 10 to 12 percent escalation as is provided in the current Canadian plan.

Second. The controls must be fair to labor and management. There is no question that phase II controlled wages more effectively than prices. During phase II, wholesale prices rose 6.9 percent while the cost of services rose only 3.5 percent. Clearly, this was not fair.

Third. Controls must be long term. We will not break the inflationary psychology with a control system everyone regards as a temporary phenomenon; wages and prices would be simply pawing at the gate waiting to take off the minute barriers were lifted. Once the inflationary psychology has drained out of our system, which may take years, we can then consider lifting controls.

Fourth. Profits should be reasonably controlled also to create capital and jobs on the one hand or be subjected to an excess profits tax.

Fifth. Controls should not be equated with an absolute freeze, except possibly during a short initial period. A small amount of inflation is probably indispensable for pump-priming, and should be permitted as required by economic—as opposed to psychological—factors.

What positive accomplishments can be expected from controls? There is little controversy on this point. By applying a brake on inflation, controls will enable us to concentrate on economic recovery and expansion and break the stagflation stronghold that has gripped the country for 7 years.

Problems will be created by controls:

Problem 1: With interest rates lowered by fiat, profit on lending will be too low, and loans will not be available.

Solution: I can recall Arthur Burns sitting before the Democratic Study Group just a few months ago, puffing on his pipe as he explained this objection to interest controls.

Dr. Burns is correct—but only as long as we remain inextricably mired in the conventional.

If low interest rates discourage loans, how is it that, throughout our Nation's history, loans have been plentifully available at 3 percent or 4 percent, and bankers have been as prosperous as they are today? How is it that, when I came to Washington less than 15 years ago, I had no trouble obtaining a home mortgage at 5½ percent?

The value of the use of money has a certain intrinsic worth that I would place closer to 5 percent than 10 percent per annum.

Once we lock on a tough and enduring system of controls, it will become evident that future inflation is going to be closer to our traditional levels than to the catastrophes we have sustained over the past few years, and low-interest loans will once again have obvious profit potential.

It is true that lending institutions tend to be notoriously unimaginative and conservative; their realization of and acceptance of the new economic order will probably lag several months behind the reality—perhaps even longer. In order to bridge this gap, the Government must be prepared to offer loans perhaps in the 6 percent range and through planning and regulation, the money changers must be brought back under control.

Problem 2: Decreased production due to noninflating prices.

Solution: We should be careful that this problem is not exaggerated. We have decreased production today because of inflation-recession stagflation. Better than 30 percent of our industrial capacity is idle. Moreover, according to the old school of economics, decreased production and low prices are supposed to accompany each other. Today we have the worst of both worlds, with low production and high prices. Production should not be hampered by price restrictions. Adjustments should be allowed for recovery of costs but there should be plenty of incentive to bargain for lower costs.

Finally, much of the noise about potential production cutbacks is based on the assumption that controls would soon expire and prices would rise. Once this expectation is eliminated, manufacturers and labor will adjust to profits and productivity within the framework of stability.

Problem 3: Farmers holding livestock off the market, thus creating meat shortages.

Solution: Prices on the farm should not be controlled because this is one area where supply and demand works.

Problem 4: Quality decreased at fixed prices having essentially the same effect as price increased at fixed quality.

Solution: This is a serious problem, which plagues us already in a wide range of products from candy bars to house framing. The truth in packaging and other consumer legislation passed by Congress will then be of assistance.

Problem 5: American goods will tend to flow to foreign markets where prices are uncontrolled, thus creating shortages at home.

Solution: In many cases, increased exports would not be such a bad thing; we could benefit from the increased balance of payments. But it is true that we cannot allow serious or crippling shortages to develop at home. In order to prevent these shortages, the executive branch would need the power to add and remove export taxes with a high degree of flexibility. An allocation program between foreign and domestic markets would be essential.

Those who have a particular interest in defense spending, as I do, should also have a particular interest in applying wage price controls to the military budget. When Gordon Rule, the Navy's chief of procurement, said defense contractors "laugh" at attempts to hold down cost, and when he said defense industries are in a state of perpetual double digit inflation, he was not kidding. In fact, he was understating. Consider the following table of unit costs. If it does not shock you, it should.

EXAMPLES OF UNIT COST INCREASES

[In millions of dollars]

Item	Unit cost in fiscal year 1975 budget	Unit cost in fiscal year 1976 budget	Percent increase
A-6E Intruder	$10.78	$13.17	22
UH-IN Iroquois	.80	1.22	52
SSN-688 Nuclear Submarine	193.50	245.50	27
PF Patrol Frigate	62.36	95.55	53
M60 Tank	.35	.59	69
F-15 Eagle	10.09	13.25	31
E-3A	41.83	72.97	74
Minuteman II	4.79	5.51	15
SLBM phased array radar	37.90	42.90	13
Hawk	.08	.10	25
M113 armored personnel carrier	.05	.08	60

This is not double digit inflation; it is double-double digit inflation, averaging 22 percent over the whole procurement budget. How long can we afford to have fighter aircraft inflating 31 percent per year? At this rate an F-15 will cost $145 million per copy in 10 years.

It is true that the defense industry has some unique problems: the Government permits practices among its suppliers which a cost-conscious commercial buyer would never tolerate. Many of us have fought these practices, and shall continue to do so. But we know from experience that our success will be limited. The only way to control defense costs on a comprehensive basis is to establish a clear-cut system of wage and price controls in defense industries, and the only political feasible way to do this is to impose controls on our entire economy.

Mr. Speaker, the sword in the stone is standing there before us. I do not say its golden handle glints in the morning sun; on the contrary, the handle is covered with thorns. But it is there, and it can be drawn and used to slay the dragons of recession and inflation by a Congress and a President willing to grasp it.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Maguire) is recognized for 5 minutes.

Mr. MAGUIRE. Mr. Speaker, because of commitments in my district yesterday evening I missed roll call votes 802 through 806. Had I been present I would have voted "no" on roll calls 802, 803, and 804 during the consideration of H.R. 10979, the Railroad Revitalization and Regulatory Reform Act of 1975. I fully supported the bill, opposed weakening amendments, and voted for the final version of the bill when it was favorably reported out by the full Interstate and Foreign Commerce Committee on which I serve.

To protect consumers from higher prices, I would have voted "no" on Senate Joint Resolution 121, Quarterly Adjustments in the Support Price of Milk, which included an increase in milk price support levels.

Although I fully support public broadcasting and voted for the bill when it left the House, I would have voted "no" on H.R. 6461, the Public Broadcasting and Financing Act of 1975, because the important civil rights provision of the House bill was deleted in conference.

THE NEED TO REDUCE EXCESSIVE EXPOSURE TO MEDICAL X-RADIATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record, and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today the Subcommittee on Public Health and the Environment is having hearings on H.R. 559, legislation which I introduced in 1972 as the House sponsor of legislation authored in the other Chamber by Senator Jennings Randolph.

This legislation provides that the Secretary of HEW develop and issue to the States criteria and minimum standards for the accrediation of educational institutions conducting programs for the training of radiologic technologists and develop and issue to the States criteria and minimum standards for the licensure of radiologic technologists.

These standards would be the national minimums required in these fields. The bill would make it unlawful for an educational institution not accredited to conduct such training and would make it unlawful for an individual to apply radiation to a patient for diagnosis or treatment unless he or she is a licensed medical practitioner, a licensed dentist, a licensed dental hygienist, or a licensed radiologic technologist or technologist-in-training. State standards consistent with the Federal criteria and minimum standards under this act will be the standards that will apply in that State.

The New York City Bureau for Radiation Control estimated that New York City usually has about 10 percent of any national radiation problem. And, I feel that the State of New York has come closest of any State to finding a solution. To my knowledge, New York State is one of only three States in the Nation that license radiologic technologists. The other States are California and New Jersey. Puerto Rico also has a licensing requirement. The following nine States have enabling legislation or an attorney general's opinion to initiate standards for licensure of X-ray technologists: Hawaii, Kentucky, Vermont, Montana, Michigan, Minnesota, Oregon, Delaware, and Georgia. However, the standards of the States are not uniform. The New York State licensing requirement was established in 1964. The State now has almost 12,000 licensed technologists. There is no shortage of qualified radiologic technologists in the State.

Saul J. Harris, former director of the Bureau of Radiation Control of the New York City Department of Health stated in congressional testimony last year that:

> It is our experience that the State radiologic technologist licensing program has been producing technologists who are more career oriented, who remain in the field longer, who are increasingly interested in patient care and radiation safety, and who are providing higher quality radiographs.

There are probably up to 160,000 X-ray technologists in the United States. The

American Registry of Radiologic Technologists has certified 91,000 of them. Most of the rest have no formal training. Obviously, there is a need to insure that radiologic technologists have reached a degree of proficiency and thus can perform competently. However, in my judgment a voluntary certification program is not sufficient and will not work. It is only voluntary and cannot require more than the most minimum standards. At the present time, no more than half of the radiologic technologists in the Nation have registered with the voluntary certification program.

Of course, there are safeguards that should be included in any licensing program. Such safeguards have been spelled out by Dr. Claire Nader. She said in congressional testimony last year:

> At least six goals of an effective licensing system should be stated:
>
> 1. Competence in treating patients;
>
> 2. Care in not exposing the practitioner or operator;
>
> 3. Openness and recurrent evaluation and consumer representation of state licensing boards . . .
>
> 4. Licensing should also, when possible, stimulate not diminish competition;
>
> 5. Licensing should provide a stimulus for better machinery, prudent use of X-rays, and a record system for patients . . .
>
> 6. Licensing should provide standards of responsibility and accountability.

The problem of not having competent personnel operating X-ray equipment is most serious to the patient. So often, the operator of X-ray equipment is not qualified to handle the equipment. Sometimes a physician will train his receptionist, secretary, medical assistant, part-time student, or person with no professional background to operate the X-ray equipment. Yet, as Dr. Richard Chamberlain of the American College of Radiology stated at the 1966 congressional hearings, that every physician has, on an average, only 4.4 hours of his entire medical training devoted to lectures on radiological protection and techniques. He has probably relied on the salesman for basic knowledge about the working of the X-ray equipment. Often, too, the physician will not supervise the number of X-rays the incompetent operator might be giving the patient in order to get a better quality image, thus exposing the patient to unnecessary X-radiation. It is also true that the physician is interested in the immediate results of the X-ray—not so much in the long-term somatic and genetic effects of continued exposure to X-radiation which is cumulative in its effect to the patient as well as to generations yet unborn.

A safe level of X-radiation has not been established and people are being subjected to unnecessary radiation exposure. The U.S. Public Health Service found that X-radiation levels lower than previously realized can cause genetic damage. X-rays do harm to a fetus in early pregnancy. Small amounts of radiation can also cause birth defects, damage to the reproductive organs, and cell damage to adults.

A study undertaken by the Committee on the Biological Effects of Ionizing Radiation—BEIR Committee—of the National Academy of Sciences/National Research Council, was released in November 1972, entitled "The Effects on Populations of Exposure to Low Levels of Ionizing Radiation." The conclusions reached in this study were that 1,300 to 6,000 cancer deaths annually are caused by exposure of the American public to present levels of diagnostic X-rays. In addition, ill health results from genetic damage caused by the exposure. The NAS–NRC study further shows that present exposure of the population to X-rays and the associated toll in lives can be significantly reduced, through simple improvements in X-ray techniques.

For example, the BEIR Committee concluded that present genetic damage from X-rays can be reduced by up to 50 percent through educational methods and improved techniques—as restricting the size of the X-ray beam to the area of clinical interest. This is especially important during those X-ray procedures in which the reproductive organs are in the direct X-ray beam, as during examinations of the lower back, lower abdomen, and hip.

In view of the known leukemogenic effect of X-rays, avoiding needless exposure of the bone marrow is also of special significance. Because of the increased radiosensitivity of embryonic tissue, special prudence should be exercised in prescribing X-ray examinations for pregant or potentially pregnant women.

I was pleased to see that the Food and Drug Administration this fall proposed guidelines for the use of specific area gonad shielding on patients during medical diagnostic X-ray procedures. Such shielding will reduce the patients exposure to unnecessary ionizing radiation which, studies have indicated, can cause mutations in germinal tissue possibly affecting future generations. Since 1971 I have sponsored legislation providing for the establishment of procedures for shielding of patients (H.R. 558). I am pleased to see the FDA propose by regulation what I have been urging be adopted. I wonder, however, what took them so long. I hope that recommendations regarding the shielding of other radiation-sensitive tissues and organs as thyroid, bone marrow, and developing fetus will be quickly forthcoming. In the Federal Register of December 15, the FDA announced that guidelines are to be developed for medical radiation exposure of women of childbearing age. Comments are to be submitted by February 13, 1976.

Joel Griffiths and Richard Ballantine state in their book "Silent Slaughter," that a child exposed to X-rays during the first 3 months of pregnancy is 10 times more likely to develop cancer than a child not exposed. One study conducted by Dr. Brian MacMahon of the Harvard School of Public Health in 1962 indicated that there is a 40 percent higher cancer mortality rate among children X-rayed in the womb. A study published in May 1973 in the American Journal of Epidemiology found that the total mortality experience of the white children during the first 10 years of life who had been exposed to intrauterine X-rays was almost twice that of children not exposed. The death rate from leukemia was about three times higher for the exposed population than for the controls. The International Commission on Radiological Protection has indicated that present medical X-ray exposure is causing 3,000 deaths per year in the United States from various forms of cancer and genetic damage and may be introducing each year into future generations approximately 30,000 deaths from malignancies, stillbirths, and spontaneous abortions because of genetic damage. Thus, it has been found that exposure to varying amounts of X-radiation can statistically increase the likelihood of cancer, leukemia, cataracts and damage to reproductive cells.

Untrained, unqualified personnel cannot be permitted to handle X-ray procedures that have the potential for inflicting harm on so many people. We must assure that the personnel be trained as well as possible, and that only those licensed to practice be permitted to practice. Dr. John Cameron has recently found that a person could receive as much as 100 times more radiation during a particular diagnostic X-ray procedure in one medical facility as compared to another.

The most sophisticated and modern of X-ray systems cannot protect the health and safety of patients unless the technicians operating the equipment are adequately trained and licensed. In some States, we license car mechanics and TV repairmen. Does it not make sense that we license X-ray technologists who handle the most sophisticated of equipment—equipment which can provide extended life if properly used or shorten life when improperly used.

It is a fact that 95 percent of the radiation to which the American public is exposed comes from medical X-ray exposure. Only 2 percent of man's exposure comes from the nuclear power industry which is stringently regulated, while strangely medical and dental X-ray usage is not, in most cases, subject to control.

The HEW Bureau of Radiological Health stated in their January 1975 staff report that 130 million people received in 1970 212 million medical and dental diagnostic radiological examinations. Of course, some medical X-rays are unavoidable. Medical X-rays are often necessary and have been responsible for the successful diagnostic and treatment of many ailments. However, unnecessary X-radiation is causing death and suffering to untold numbers of unsuspecting persons, as reported by the International Commission on Radiological Protection. We must do what we can now to control the X-ray machine and license the persons who use them.

Last year the Senate passed legislation calling for the licensure of radiologic technologists, but the provision was dropped in conference by the House. The need for this legislation is still as great.

Enactment of H.R. 559 will not serve to create a situation resulting in economic gain to a few by limiting the number of technologists in the field. Rather, it will encourage and attract competent personnel who can be confident in the integrity and responsible outlook of the profession. It certainly will encourage radiation safety for the protection of both the patient and the user of the equipment.

FEDERAL ELECTION COMMISSION OPINION UNDERMINES SPIRIT OF CAMPAIGN FINANCING REFORM

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, one of the primary objectives underlying the efforts to achieve meaningful campaign financing reform over the years has been to remove the excessive influence of money on the electoral process and the significant degree to which monied special interests expect and receive special treatment as a result. For far too long candidates have had to depend upon certain special interests and persons of wealth in order to finance their campaigns and inevitably they are beholden to those interests thereafter. Thus, the new limitations on amounts, sources, and forms of contributions imposed by the Federal Election Campaign Act Amendments of 1974 were hailed as a major development in ending abuses in campaign financing.

Unfortunately, the Federal Election Commission, which this measure created, has recently undermined the very spirit of this law and the movement to reform campaign financing. In an advisory opinion involving the Sun Oil Co.—No. 1975-23—the FEC cleared the way for corporations to invest millions of dollars in contributions from their stockholders and employees in the political campaigns of candidates who they regard as friendly.

This opinion held that—

> It is lawful for Sun Oil to expend general treasury funds to defray expenses incurred in establishing, administering, and soliciting contributions to SUN PAC so long as it is maintained as a separate segregated fund and it is lawful for Sun Oil to control and direct the disbursements and expenditures from SUN PAC.

Although this advisory opinion pertained only to Sun Oil, it has the effect of enabling hundreds of other corporations and business associations to collect "voluntary" contributions from their shareholders and employees and distribute the money among candidates as they see fit.

More importantly, however, this ill-conceived opinion virtually hands the political process to the major corporations of this country. Instead of relieving the electoral process of the overwhelming influence of money and well-financed individuals and groups, the Federal Election Commission has virtually abrogated the campaign spending laws by permitting an even greater flow of special interest money into campaign coffers. This is certainly not reform and represents not only an affront to those of us who have endeavored to remove the influence of money from elections but, I am afraid, will also be interpreted as a major setback to the cause of campaign financing reform. There is little question that this decision will have far-reaching ramifications on the entire electoral process.

Furthermore, contributions can now be made by firms which have government contracts and while they are to be filtered through supposedly nonpartisan committees, I fear that a very unhealthy relationship could develop between contractors and candidates whom they view with favor.

Finally, there is the very important question of the manner in which stockholders and corporate employees will be solicited for campaign funds. A very timely article on this particular issue and the FEC's ruling appeared in last Sunday's New York Times. This piece describes the manner in which corporations will employ various loopholes to "encourage" employees to make political contributions—presumably, in some cases, on a sliding scale according to their status in the corporate structure—and notes that the possibility of coercion was not really dealt with by the Commission. The author, Michael Jensen, also raises the question as to where corporate committee money will actually be going. The far-reaching effects of the FEC's opinion are outlined in this well-written article and I commend it to our colleagues' attention.

Also, Mr. Speaker, there is the very troublesome fact that there is no provision for any congressional review of FEC advisory opinions. It would appear that the most practical manner of rejecting the thrust of their poorly considered determination would be legislation amending section 610 of title 18, United States Code. This view is supported by a legal memorandum, prepared at my request, by the Library of Congress. I present a copy of this memorandum herewith for inclusion in the RECORD.

We cannot stand idly by and permit the FEC to destroy the effort to achieve substantive reforms in the financing of House and Senate election—as well as those for President. The Sun Oil opinion strikes at the very heart of these reform efforts and must not be allowed to stand. The Commission has noted that the ruling is interim in nature and I would respectfully suggest that those who share my concerns make their views known to that body as well as to the appropriate congressional committees.

The material follows:

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OVERTURNING THE FEDERAL ELECTION COMMISSION'S ADVISORY OPINION WITH RESPECT TO SUN OIL CO. (AO 1975-23)

This memorandum concerns the most practical way of overturning the Federal Election Commission's advisory opinion with respect to Sun Oil Co. (AO 1975-23). The opinion was published in *Federal Register*, Vol. 40, No. 233 (December 3, 1975), beginning at page 56584. The text of the opinion, including a dissent, is appended to this memorandum. Under AO 1975-23, the Commission held, as follows:

(1) ". . . it is lawful for Sun Oil to expend general treasury funds to defray expenses incurred in establishing, administering, and soliciting contributions to SUN PAC so long as it is maintained as a separate segregated fund."

(2) ". . . it is lawful for Sun Oil to make any political contributions and expenditures it sees fit in connection with any Federal election so long as the moneys used for such purposes are expended from SUN PAC and the fund consists of voluntary contributions."

(3) ". . . it is lawful for Sun Oil to control and direct the disbursement of contributions and expenditures from SUN PAC."

(4) "It is the opinion of the Commission that Sun Oil may spend general treasury funds for the solicitation of contributions to SUN PAC from stockholders and employees of the corporation."

(5) "It is the opinion of the Commission that SUN PAC generally can accept any contribution from any donor, whether or not it is lawful for Sun Oil to solicit a contribution from that donor."

(6) ". . . under 2 U.S.C. 432, SUN PAC, just as any other political committee, would be required to have a chairman and treasurer in order to accept or make any political contributions. Beyond these requirements, there are no other formal organization requirements applicable to SUN PAC under Federal law."

(7) "It is the opinion of the Commission that the expenditure of general treasury funds by Sun Oil for the ordinary and necessary administrative costs of implementing SUN EPA is not prohibited by section 610."

This memorandum discusses the most practical way a Member of Congress who disagrees with all or part of AO 1975-23 might seek to overturn the same.

The statutory provision which authorizes the Federal Election Commission to render advisory opinions in response to specific written requests is codified as 2 U.S.C. Sec. 437f. No provision is made for congressional review of advisory opinions rendered by the Commission. [Note: in the case of rules and regulations, proposals of the Commission are subject to congressional disapproval.] Furthermore, since advisory opinions are rendered only in response to specific written requests, a particular advisory opinon presumably only applies directly to the particular party who requested it. Advisory Opinion 1975-23 reflects such a premise when it provides, as follows:

"This advisory opinion is issued on an interim basis only, pending the promulgation by the Commission of rules and regulations or policy statements of general applicability." [Emphasis added.]

Consequently, it may be difficult for a Member of Congress not directly affected by AO 1975-23 to establish the "standing" necessary to bring a court challenge to the opinion. Hence, it would appear that the most practical way of overturning the substance of AO 1975-23 would be the introduction, and ultimate enactment, of legislation appropriately amending 18 U.S.C. 610.

ROBERT B. BURDETTE,
Legislative Attorney.

THE NEW CORPORATE PRESENCE IN POLITICS—THE RUSH IS ON TO DEVELOP IN-HOUSE SOLICITING UNITS

(By Michael C. Jensen)

The Sun Oil Company is putting up $100,000 for political purposes—not for contributions, let it be hastily noted, but rather as expense money for its "responsible citizenship program" an in-house committee set up to solicit contributions from Sun's employees and shareholders.

At the Dow Chemical Corporation, seven such political action committees have been set up, which could conceivably provide a total of $70,000 in contributions to a single Presidential candidate next year.

Deere & Company has collected more than $18,000 from its executives since March, all earmarked for political distribution.

For those three companies—and for the more than 300 political action committees that had been established at the end of October by both corporations and business associations—last month was a major turning point.

It was then that the Federal Election Commission—set up in the wake of the Watergate scandals with a mandate to rationalize election law—ruled that Sun Oil could pay the expenses incurred by its political action committee in soliciting political contributions. And it was then that the commission advised Sun Oil that corporate management could decide which candidates would receive financial support.

The ruling, by extension, significantly increased the legal authority for all companies and industry associations to use their own funds and resources to influence the elective process.

For many, it signified the extension to the executive suite of political rights long enjoyed by labor in soliciting member funds and leaving the choice of recipient to union leadership.

At the same time, the ruling set off a sometimes bitter debate on the wisdom of allowing such activity, and of the possibilities of abuse in the form of either coercion on the part of the employer or weighting the contributory balance toward conservative candidates.

"Your decision subjects thousands [of company employees] to the pressures of corporate managers to contribute to the party or causes that management deems important," wrote Raymond C. Christie, a middle management executive with Baker Perkins Inc., in Saginaw, Mich. "An employee is expected to go along with management decisions. To refuse means that one is not part of the team, and this is a major factor when the company considers salary increases and promotions."

In another letter to the commission, Anthony Arcomone, president of Local 8–901 of the Oil, Chemical and Atomic Workers International Union at Sun Oil's Marcus Hook, Pa., refinery, wrote:

"Sun Oil has offered to provide money to pay for all operating expenses [of the political action committee]. In doing this, the company takes financial control of the independent committee."

Furthermore, he said, the company financing means a "violation of the company claim that the committee is independent of all political parties, candidates or organizations. The company pursues a political line."

Some companies argue back that the destination of the collected money will be decided by an independent committee, but at various meetings of businessmen it appeared that "independence" can mean various things.

For example, an attorney at a recent seminar on the funding programs—one of many sprouting up across the nation—was asked by an executive whether it wouldn't be a problem if a committee gave money to candidates not sympathetic to the company's problems. "Management," was the reply, "appoints the committee."

In general, enthusiasm for the Sun Oil ruling is strong on the management side.

Among the comments received by the commission was one from William E. Duke, the Atlantic Richfield Company's director of Federal Governmental affairs, who, in a "Dear Tom" letter to Thomas Curtis, chairman of the commission, said, "It seems that you and I are always on the same side fighting uphill battles."

He was "heartened" to learn of Mr. Curtis' "support of the proposition that corporations should be allowed to provide their employees with an opportunity to contribute to political campaigns," Mr. Duke wrote.

Richard D. Godown, general counsel of the National Association of Manufacturers recently praised the commission as laying the groundwork for a "quiet revolution."

It is now possible, he said, "to recite a litany of permissible activity on the part of corporations in the political arena, which would not have been possible only four years ago."

Perhaps, but in several important areas the Federal Election Commission has either left things unclear, or attempted to build safeguards into the plan that apparently will not be generally observed.

For example, the commission in the Sun Oil ruling also approved a trusteeship method of collecting and distributing money called the "employee political account." Under this system, employees wishing to designate their own recipients put money into an individual company-sponsored bank account, to be withdrawn at the employee's initiative.

Concern about the potential for coercion caused the commission to rule that, while Sun could receive reports on the totals of employees with such accounts, of funds in the accounts and of contributions to candidates, the "receipt and publication of any report" on the individual sources or recipients of funds "may constitute the exercise of direction and control over future contributions"—and as such be a violation of the law.

Nevertheless, Kenneth R. Burton Jr., a senior attorney for Sun Oil and architect of the company plan, said recently that Sun did indeed intend to obtain a list of the recipients of employee funds.

"Many times I've gone into their [Congressmen's and Senators'] Offices and met a hostile reception," he explained at a recent seminar sponsored by the Chamber of Commerce of the United States on Long Island. "I'd like to be able to go in and say, 'In your district, you have 50 Sun employees who contributed to your campaign.' He may kick you out, but he'll be a little nicer about it."

In another, particularly sensitive, area, the Federal Election Commission has not ruled out the setting of quotas or guidelines by management for employee contribution levels.

Some companies, Sun Oil among them, say they intend to avoid setting either, for fear it might be considered coercion. Others, however, the guideline approach.

Deere & Company records filed with the Federal Election Commission, for example, indicate that the size of individual executive's contribution in the company's $18,000 total so far was roughly proportionate to his position with the company.

William A. Hewitt, the chairman, donated $1,000. Ellwood Curtis, the president, gave $750. Robert A. Hanson, the executive vice president, gave $700. Three senior vice presidents gave $650 each, and 10 vice presidents, $400 each.

R. W. Weeks, Deere's general counsel, said the company indicated to its executives "a level that they might consider," but that "some do and some don't." Some, he said, don't contribute at all.

Mr. Weeks added that his secretary served as treasurer of the company's political fund, and sent out notices to the executives which said essentially, "we'd appreciate it if you'd make your contributions now—if you're going to make one."

The commission has "recommended" that solicitation by superiors be avoided. And attorneys well versed in the new election law suggest that to be on the safe side, soliciting should be done either "laterally" or from below—not, in other words, by an employee's supervisor or by executives.

But here again, critics say the possibility of coercion has not been really dealt with. Soliciting by a superior has not been ruled out, and in any case, is an employee being solicited by a superior if the request comes from the boss's secretary?

Still another point at issue is where the corporate committee money will actually be going. It will be months before there is a clear indication, but some liberals and Democrats argue that much of it will be given to conservatives and Republicans—and there is scattered evidence that they may be right.

Of the money distributed by the Deere committee since last February, for instance, $6,150 went to Republican candidates and groups while $1,050 went to Democrats.

On the other hand, labor money has always tended to go to liberals and Democrats.

In addition to keeping an eye out for evidence of coercion, the Government also is watching to see whether multiple funds organized by a single company or association appear to be centrally controlled.

Although the Federal Election Commission has not yet ruled on the legality of multiple funds, it appears that they will be allowed as long as they operate independently.

Dow Chemical's seven funds were set up on a geographic basis. Still, conceivably, if each of Dow's regional committees decided to support one of the 1976 Presidential candidates, that candidate could receive the legal maximum of $5,000 for a Federal candidate from each committee before the convention and another $5,000 after the convention, for a total of $70,000.

Furthermore, an unlimited amount of money may be funneled from a company's political action committee into collection campaigns in general.

A company committee may contribute as much as it wants, for example, to other committees—such as those maintained by associations that serve the company's industry. Such contributions may not be earmarked for a specific recipient.

In addition, a political committee may contribute an unlimited amount of money to party organizations supporting Federal candidates. However, the party organizations are limited by a variety of regulations in the amounts they may then pass on to individual candidates.

Despite the existence of heavy criticism, the employment of political action committees by companies as a means of exerting political influence appears to be the wave of the future.

"It's just starting, but I think it's going to grow by leaps and bounds," Thomas W. Wallace, executive director of New York State's Board of Elections, says.

Even before the landmark ruling on Sun Oil, corporate political action committees had been proliferating, and in the last month, Government officials say, the pace has accelerated.

Special teams from the Chamber of Commerce of the United States have fanned out across the country from Nashua, N.H., to Seattle, Wash., to advise businessmen on political committees. And corporate executives have stepped up their requests for political fund-raising information from such organizations as the N.A.M., as well as the Federal Election Commission itself.

Among the numerous other companies that have formed political action committees and registered them with the commission are Coors, Crocker National Bank, American Express, Metropolitan Life Insurance, R. J. Reynolds Industries, Anaconda, General Electric, Lockheed Aircraft, Pullman and United States Steel.

Others include Merrill Lynch, Pierce, Fenner & Smith; Citicorp; Harrah's Club and Hughes Aircraft.

Altogether, more than 200 such committees have been formed by business, financial and professional associations, and another 120 have been initiated by corporations. About 50 inquiries for information and Government forms have arrived at the Federal Election Commission since the Sun Oil ruling, officials estimate.

Although some programs—like Sun Oil's—are just getting started, others are in full swing. The LTV Corporation, for example, has a comprehensive Active Citizenship Program which sponsors political activities ranging from rallies and fund-raising to "getting out the vote."

Like many other companies, LTV clearly is sensitive about the use of cash for political purposes. In a tabloid newspaper produced for LTV's program, a story is headlined "No Cash—Please."

"Neither the company nor the ACC [Active Citizenship Campaign] solicitors want to handle any bundles of cash donated by employees for political purposes. No way!" the story says.

Much of the enthusiasm for the new method of employing corporate funds to generate political activity seems to come from a feeling among businessmen that they need to match union activity. Federal Election Commissioner Joan D. Aikens clearly shares that feeling.

"We did a great deal of work on the Sun Oil request to make sure that corporations would have the same advantage unions have," she told an audience of businessmen recently. "At this point, it's smooth sailing for political action committee plans."

Two other members of the commission were not so sure that a balance had been struck. Robert O. Tiernan and Thomas E. Harris, both Democrats, said in a dissenting opinion in the Sun Oil ruling that they thought the commission's decision "destroys" the balance between union and corporate political power.

"Unions are presumably limited to communicating with and soliciting their members," they said, "while corporations may solicit not only their stockholders, but all employees, whether union members or not."

Campaign experts say the dispute will not be resolved until contribution totals are finally listed. The proof, they say, will be in the dollar totals.

THE PROPOSED KALAUPAPA NATIONAL HISTORIC PARK IN HAWAII

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, as you know, I have for many years favored establishment of a national historic park in a portion of my State of Hawaii especially worthy of such a designation. The area is Kalaupapa on the northern shore of the island of Molokai which was set aside in the last century as a settlement for persons suffering from leprosy. It is my strong feeling that this peninsula should be protected and preserved as a national park, and my legislation, House Joint Resolution 220 and H.R. 11180 would accomplish this purpose.

Recently a reporter for the Greensboro, N.C., Daily News, Mr. Joe Knox, visited Kalaupapa. His report on what he learned of this historic area was published in the November 30, 1975, edition of the Daily News, and I commend his observations to the attention of my colleagues.

I ask that the article appear in the Record at this point so that Members of the House may be fully acquainted with the significance of the Kalaupapa area and the people who have lived and worked there, and who remain there today:

Once a Horror Scene, Now Tropical Paradise

Island of Molokai, Hawaii—As the small commuter airplane of Royal Hawaiian Air Service flew along the north coast of Molokai, sheer walls of volcanic rock rising nearly 2,000 feet straight up from the Pacific Ocean, the pilot turned and banked the machine a number of times to point out to his passengers, of whom I was one, various sights of particular scenic and historic interest.

At intervals, deep valleys, lush with vegetation, split the mountains open, and into the depths splashed waterfalls from spectacular heights, making for scenes of incredible wild beauty, breathtaking grandeur.

Later, I was to visit Halawa Valley on the far northeastern corner of Molokai, a veritable Garden Of Eden now discovered and inhabited by a number of young people, bearded, barefooted and bikinied, who seemingly have gone back to nature in a most literal way.

You can drive to the mouth of Halawa Valley, but the other valleys are accessible only by hiking down from the mountain tops or by small boat through the high pounding surf.

For a country boy from the hills of Western North Carolina, all of this was pretty heady stuff, as though I had been transported to another world. Before this memorable day of adventuring was done, I was to find that to be quite true.

Somewhere deep in memory I knew Molokai was the island where a colony of lepers had been established in the 19th Century, and suddenly, it seemed, the pilot was talking about that very colony, banking the airplane to the left so we could have a good view of the Kalaupapa Peninsula, abruptly jutting out into the sea from the precipitous cliffs.

He pointed out the village where victims of the dread disease now live, and the airstrip which serves as their principal lifeline to the outside world. Later I was to learn that a barge brings heavy supplies to the peninsula once a year. The isolation of the colony was starkly revealed by the view from the airplane.

In the beginning, many victims of what is now called Hansen's Disease were thrown overboard from ships standing offshore. Those who made it to land with bare necessities for survival, became the first to inhabit the peninsula in modern times. It is roughly squared-shaped and about two miles on edge.

During his commentary, the pilot mentioned one other access—a narrow path carved out of the face of the mountain. Gazing on that imposing volcanic formation overshadowing the peninsula, I thought any such trail was just impossible, and I leaned over to say this in the pilot's ear.

He insisted the path was there, and said it had originally, perhaps 100 years ago, been formed by wild goats which abound on Molokai. In more recent years, it had been improved for hiking adventurers, and just in the past year, a passenger-carrying mule train had been using the path.

It suddenly dawned on me that this was the very mule train I and several companions had been programmed to join. From there on to the Molokai Airport just beyond the mountain, I kept thinking there was no way a mule could get up and down the face of that 2,000-foot cliff.

But within an hour—and this still seems pretty wild—I was mounted on a mule named Tyrone at a point called Kalaupapa Lookout, just at the edge of the escarpment from where the view was at once beautiful, thrilling and just a bit terrifying. Looking straight down for nearly a half-mile, you could see the sea boiling up on the rocky shoreline.

Off to the right was the peninsula and the leprosy settlement in bold view.

The chief mule skinner and leader of the train was a big native Hawaiian, Clarence, who personally saw each of us—there were three men and four women in the party—properly mounted with stirrups adjusted.

He told us not to worry if we had never before ridden a mule: We would, after a few hairpin hair-raising switchback turns, learn how, In practical terms, this meant we should leave the mules alone to pick their own ways along the path, ranging roughly between one and two feet wide, and enjoy the ride and scenery, if possible.

My own experience was that after several of the initial turns where I looked over Tyrone's head and saw absolutely nothing but vast void, I began to appreciate Clarence's advice. Tyrone was phenomenally sure-footed, even though his feet were frequently only inches from the precipice and a calamitous spill.

Part of the trail near the top had a flimsy fence staked along the outer edge, and in other places there appeared to be enough scrub growth to stop a fall or slow it down. But small comfort these were. Simply getting used to hanging in space on the back of a mule, in my mind's eye a flirtation with eternity, was the secret of relaxing and enjoying the adventure.

I was to learn later that not everyone in the party thought this was the kind of adventure that could be enjoyed, though I personally got a charge out of it. You should know that before we mounted the mules, each of us had to sign a waiver relating to death or injury on the trip.

Lei, our hostess for the day, a husky and handsome woman born to parents who migrated to Molokai from the continental United States in the 1930s, assured me this was only a formality. Her company, Tropical Rent-A-Mule, had never lost a customer. The goat trail, she related, had been used as early as 1887.

It took us well over an hour to ride the three miles down to the sea, and I think each of us must have gained a full appreciation of just how remote and inaccessible the leper colony was in earlier times. There was no escape, certainly for crippled victims of the disease. It was the perfect natural prison.

As we moved out from the face of the mountain and looked back up to the spot from where we started, it all seemed wildly impossible. One of our group said it for all: "I don't believe it!"

Bringing up the rear, leading two spare mules was Buzzy, Clarence's first lieutenant, also a native of this beautiful lonely island. He assured me several times that going back up was a lot easier and more fun.

Buzzy was much delighted to learn that I hailed from North Carolina, because when he served in the Army, he was stationed for a while at Fort Bragg.

Our guide on the peninsula was Richard Marks, a highly articulate and informed member of the colony. His vehicle was a pick-up with a wooden bench built around the edge of the body, shielded from the hot Hawaiian sun by a canvas top. He called it a sampan bus. It somewhat resembled the mules in terms of comfort.

Richard was not as severely afflicted by Hansen's Disease as others in the settlement. His face was slightly disfigured, his eyes had been affected, and he had lost feeling in some parts of his body. His feet were the worst problem, he said. He wore conventional shoes and seemed to get around all right.

As we neared the end of the peninsula tour, we were to see one man so grotesquely mutilated it was painful to look on him.

There were members of the party who turned away in horror.

Oddly, the village, where 138 victims of leprosy and 38 members of the state-operated hospital medical staff, appeared deserted.

People could have been peeping at us from behind shades and around corners, though Richard said they were not afraid of tourists.

In fact, he related, if a tourist ventured into the bar where beer is served and consumed in immense quantities, was hard to break away from gregarious, if tipsy, residents.

But I caught sight of no one around the bar—we didn't go in—at the post office, general store or around the hospital. Kalaupapa was like a ghost town.

The simple frame houses, neatly kept and set in well-groomed yards, appeared large enough for two or possibly three bedrooms. There was an old automobile parked at most of the houses. Richard said they were essential because many of the residents were unable to walk to the store for supplies or to the hospital for the daily dose of medicine which keeps Hansen's Disease in abeyance.

Sulfone drugs, discovered in the 1940s and since improved, are the controlling agent, killing leprosy bacteria and preventing it from spreading. These days there is no reason to fear contagion from those undergoing treatment, and for the past six years, many Kalaupapa patients have been free to leave their isolated community and go live where they choose.

As it has turned out, all of them choose to live among their own kind where they are accepted as human beings. Richard talked about his own experience.

He is now 46 and has been in the colony for all of his adult life. Several years ago, after the liberalized rule went into effect, he tried life on the outside—I believe he said in the Honolulu area where his two children live—and found it unbearably cruel. He was shunned in the same way lepers were in earlier times, and he came back home to Kalaupapa.

Richard said this had essentially been the experience of others who tried to leave. They found out they were different, terribly different, and they soon returned.

Their fondest hope is that they will be allowed to live out their lives at Kalaupapa. If they do, it is estimated the colony will be all but extinguished in 10 to 15 years. The average age is 59. The youngest is 30. No new patients have been accepted since 1970. Hawaii's Rep. Patsy T. Mink has introduced a bill in the Congress which would turn the peninsula into a National Historic Park. Her bill is strongly endorsed by residents of the village who have some very real fears that their peaceful hideaway will be taken over by builders of hotels and resorts, and they will be forced to leave.

Babies born to couples with leprosy have little chance of contracting the disease if they are taken away at birth. This has historically been the practice at Kalaupapa. Infants are commonly sent to live and grow up with relatives on the outside.

The State of Hawaii provides each of the leprosy victims with a cash allowance of $12 a week, and also housing, utilities and medical services.

What interests the people? Television and twice-a-week movies at an assembly hall keep their minds occupied. Richard said the most popular shows were "Kojak," "Mannix," and "Hawaii Five-O." All kinds of sports events are eagerly followed.

The present village is on the west side of the peninsula, but the original colony was established—euphemism for throwing people overboard—on the east shore in 1866 by Hawaii's King Kamekameha IV when the disease was raging throughout the Islands.

Richard drove us to the site where we brought out a picnic lunch at a comfort station of sorts built by the state. I wandered down to the high shoreline to munch my sandwich, and I thought this surely was one of the most peaceful picturesque idyllic places I had ever seen.

Mountains rise sharply from the sea and high waves crash incessantly on the rocky coast. Two huge sentinal rocks, one a mound and the other a pyramid, stand several hundred yards offshore.

It was a fairyland forlorn, and I felt a strangeness at being on the spot once considered the most dread place on earth. I remembered, as a boy, reading horror stories about the leper colony in Hawaii, and I tried to visualize how it was 100 years ago when as many as 1,100 helpless and deformed victims of the disease lived and died here.

There was little evidence of the community of 300 buildings eventually built. At one time, just when I'm not sure, the Hawaiian government undertook to erase all evidence of this shameful chapter in the island's history, and brought in bulldozers to reduce all buildings and installations to rubble. Lush vegetation now covers most of the area of the original settlement.

The only building left is the little church, St. Philomena, built by Father Damien de Veuster, a Belgian priest, with his own hands. Father Damien left his parish on the "Big Island," Hawaii, in 1873, and came to Kalaupapa where, until he died 16 years later, he worked tirelessly among these mutilated foresaken people, not only as priest, but as physician, friend, carpenter and builder of churches.

Eventually he fell victim to the disease and was buried in the churchyard on Kalaupapa. His body was removed to Antwerp, Belgium, in 1936. For many years, the work Father Damien started was carried on by Mother Marianne, a nun to whom a monument was erected on the peninsula.

The mule ride up the mountain served to jolt me back into the role of bug-eyed tourist, and as Buzzy had predicted, it was easier going. As we mounted higher and higher through 26 switchback turns, the views became increasingly more spectacular and breathtaking.

At the top, each of us was presented with a certificate testifying to the "obstacles, precipices and hazards of this treacherous trail," and acknowledging our membership in the renowned "Order Of The Alii Mule Skinners Of Molokai." It was signed by Clarence and Buzzy.

And Lei gave each of us a bumper sticker that says, "Wouldn't You Rather Be Riding A Mule On Molokai?"

THE SCHOOL LUNCH PROGRAM

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Speaker, obviously there is enormous congressional interest in a strong school lunch program, as evidenced by the overwhelming support of the override of the President's veto, 397 to 18, in the House of Representatives on October 7. Because of this widespread interest and support, I must advise my colleagues of a problem that is developing in the State administration of the program.

The bill, H.R. 4222, now Public Law 94–105, tremendously increased the scope of the child nutrition programs. The benefits of the school lunch program will be extended to thousands of residential type nonprofit child care institutions. In like manner, residential summer camps, as well as a number of new categories of child day care and preschool centers will be eligible to participate in the child nutrition programs. Other provisions of the bill make mandatory the offering of reduced-price lunches in all schools, and require many changes in program administration.

As a result, Congress, in approving this legislation, has placed very great additional administrative burdens on State educational agencies which administer and supervise program operations under the School Lunch and Child Nutrition Acts. If these new provisions of law are to be effectively implemented, the State agencies must have an increase in Federal funds to hire and train additional personnel.

However, the Congress has not recognized this vital need. The agriculture appropriations bill provides $4.6 million for State administrative expenses for the period July through January, and the Congress has added only $2.05 million in the recently passed supplemental appropriation bill. These two amounts total slightly less than the $6.7 million provided to the States for administrative purposes in the fiscal year 1975.

Thus far, the administration has not seen fit to ask the Congress for additional State administrative expense funds for this fiscal year. Accordingly, I have written to the chairman of the Committee on Appropriations, requesting that the next supplemental appropriation bill contain additional funds for State administrative expenses in order to carry out the additional obligations under the recently enacted School Lunch and Child Nutrition Act amendments. As a bare minimum figure, I recommend that the presently available amount be increased to $11 million. Such amount would include funds for the interim July to September 1976 period before the start of the new fiscal year.

CAREER EDUCATION

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, on December 4, I introduced for discussion purposes the Elementary and Secondary Career Education Act of 1976, H.R. 11023.

The prime reason I introduced that bill is to encourage greater Federal assistance for States and local school districts in implementing career education programs. I believe that enough research has been done on career education to prove its value and now is the time to make career education part of the regular education program in every school in the country.

Since 1972, $190 million of Federal funds has been provided for research and demonstration programs in career education under the Vocational Education Act, the Education Professions Development Act, the Experimental and Demonstration Career Education Act and several other laws. No funds, however, have ever been provided for a broad scale implementation of career education in the schools.

The bill I introduced would provide those funds, and it would provide them through State educational agencies which can give the leadership necessary to make career education an intrinsic part of elementary and secondary education.

My second reason in introducing the bill is to help clarify the distinction between career education and vocational education. Vocational education, as we all know, is specific job training provided through our schools. Career education, on the other hand, is a comprehensive approach to education from the early elementary grades into the adult years, providing people with an idea of the types of jobs available in society, with guidance and counseling to determine what jobs they are most suited for, with assistance in securing these jobs, as well as with specific job training.

Unfortunately though, in the public's mind, these two ideas often become confused. Furthermore, the Federal Government has helped to foster that confusion by providing most of the funding for career education since 1972 through the Vocational Education Act. Now, for the sake of both ideas, it is best to divide the two by providing separate implementing legislation for career education. The bill I introduced seeks to achieve that objective.

My third reason in introducing the bill is to make clear my belief that the Federal commitment to assisting in the implementation of career education ought to be of a limited nature and ought to decline over time. To achieve that end, my bill proposes that $100 million be made available for program grants in fiscal 1978, $75 million in fiscal 1979, $50 million in fiscal 1980, and $25 million in fiscal 1981. It also provides that States and local school districts must increase their matching funds for this program over those 4 years.

If the concept of career education has any validity—and I believe it does, it ought to be adopted as part of the regular curriculum by school districts within that period of time. The Federal Government does not have the resources to continue to fund those programs endlessly.

I would like to acknowledge at this time the usefulness of the report recently submitted to Congress by the National Advisory Council on Career Education. That report, which urged the creation of a career education program somewhat similar to the one my bill proposes, served to provide me with many sound recommendations and worthwhile ideas while I was preparing this bill. The Advisory Council's work has been very helpful; and I would like to thank the members of the Council and especially its chairman, former U.S. Commissioner of Education, Sidney Marland, for their work.

I would now like to mention several other features of the Elementary and Secondary Career Education Act. A more detailed section-by-section description of the bill follows my prepared remarks.

The bill provides for programs only in elementary and secondary schools. No funds are provided for programs in community colleges or 4-year colleges or for programs for adults out of school.

The reason for this focus on elementary and secondary school education is that the bulk of the Federal funds spent since 1972 on career education have been concentrated on developing means to bring career education into elementary and secondary education. Little has been done in other areas.

Now, I believe it is time to implement these experiments in elementary and secondary education. It is not time, however, to shut off experimentation in these other areas. Therefore, my bill provides that funds under the experimental and demonstration Career Education Act can continue to be used for research and demonstration programs in postsecondary education and for adults.

The bill requires that at least 15 percent of the funds under the act must be used for guidance and counseling activities in local school districts. Presently, a good guidance and counseling program is sadly lacking in many of our schools; but its presence is absolutely essential to a successful career education program.

Another feature of the bill is that these funds must be provided in set amounts. In other words, if this bill is to be implemented, the Congress must appropriate the exact authorizations provided. Otherwise, there will be no broad program to implement career education in elementary and secondary schools; and, instead, experimentation will continue under the Career Education Act. These funds must also be provided 1 year in advance of actual obligation in order to allow States and school districts sufficient time to properly implement the programs.

I have included these two features, because I believe that certainty in funding is essential to operating a good education program. Administrators and school boards must know that the funds are going to be there if they are to be expected to make real changes in the schools dependent on this funding. Too often, the results of Federal education programs are minimal due to uncertainty of funding.

The bill also requires States to hire State coordinators of career education and permits States to provide for properly staffed offices to assist these coordinators. The use of these funds for the hiring of local coordinators of career education is also permitted. I have included these provisions, because I have come to believe that there must be people working on a daily basis to achieve a particular goal if real change is to be implemented in education.

The last major feature of the bill is that the States are given the responsibility to develop what they perceive to be the proper objectives in implementing career education in the States. However, once the States have developed these objectives, they will be held accountable to them by the Federal Government. In other words, Federal administrators will not tell States what they must do to implement career education; but the States will be held accountable to what they themselves say they are going to do.

I introduced this bill in order to put on public record my thoughts on where the Federal Government ought to go with career education. I hope that the introduction of this bill will further stimulate the national discussion on the value of career education and will also serve to focus attention on finding the best means to advance the adoption of career education by States and school districts.

I would be most appreciative of receiving comments from individuals and organizations throughout the country on the ideas contained in my bill. I want to make it clear at the beginning that I am open to suggestions on better ways to achieve the furtherance of career education. I am not wedded to every feature of this bill.

I do want to reaffirm my belief, however, that we, on the Federal level, must encourage States and local school districts to adopt career education much more vigorously than we have in the past. Youths and adults throughout the country must be given the opportunity to learn about the jobs available in our society and must be given professional help in choosing their occupations and in finding the best training available. Otherwise, I believe that we will continue to have an enormous waste of human talent which we can ill afford.

Mr. Speaker, I would like to insert at this point in the Record a section-by-section description of the bill:

SECTION-BY-SECTION DESCRIPTION OF H.R. 11023

Section 1. The bill is cited as the "Elementary and Secondary Career Education Act of 1976".

Section 2. The purpose of the bill is to assist States and local educational agencies in increasing job awareness, exploration, decisionmaking, and planning activities in elementary and secondary schools.

Section 3. For fiscal year 1977, no more and no less than $5 million is authorized for the purpose of planning. For fiscal year 1978, no more and no less than $100 million; for fiscal year 1979, $75 million; for fiscal year 1980, $50 million; and for fiscal year 1981, $25 million, is authorized for carrying out career education programs.

None of the program funds, however, are authorized unless the $5 million for planning has been appropriated for fiscal year 1977. Furthermore, no funds are authorized for either planning during fiscal 1977 or for programs in the other fiscal years unless these funds are appropriated a year ahead of time.

If funds are appropriated for programs in fiscal years 1978 through 1981, no grants can be made with local educational agencies under the experimental and demonstration Career Education Act.

Section 4. The funds appropriated under the Act are distributed among the States on the basis of school age population.

Section 5. Every State desiring planning funds during fiscal year 1977 must submit an application assuring that these funds will be administered by the State educational agency, that the State board of education has adopted or will adopt a statement of policy concerning the importance of career education, and that the State legislature and the governor have been notified of the State's application.

The State's funds during fiscal 1977 can only be used for the employment of a State coordinator of career education and staff to assist such coordinator, including at least one professional trained in guidance and counseling, for the preparation of a State career education plan, and for local planning.

Section 6. Every State which desires to receive program money for fiscal years 1978–1981 must submit to the Commissioner of Education by September 30, 1977 a State plan assuring that the State educational agency will operate the program and that the State coordinator of career education will be directly responsible to the chief State school officer and will be the chief administering officer for the program.

This State plan must also set out explicitly the objectives the State will seek to achieve in career education by September 30, 1981, and must set out how the funds under the Act will be used to achieve those objectives. These funds may only be used for the employment of a State coordinator of career education and for the coordinator's staff, for providing services to local educational agencies, and for providing grants to local educational agencies for career education programs.

At least 15 percent of each State's grant must be used for guidance and counseling and for job placement in local educational agencies.

Grants to local educational agencies must be made in proportion to the enrollments of these agencies, with allowance being made for greater tax effort and for large numbers of poor children. Services must be provided to children in private non-profit schools.

Section 7. For fiscal years 1977, 1978, and 1979, the Commissioner must pay the States their entitlements if they comply with the assurances of the Act. For fiscal years 1980 and 1981, the Commissioner must pay the States their entitlements only if they have achieved the objectives of their State plans.

Any State may reserve 5 percent of its grant for State administration and an additional 5 percent for services for local educational agencies.

For fiscal year 1977, the entire cost of employing the State coordinator and staff may be paid for from Federal funds. For fiscal year 1978, only 75 percent of such costs may be paid; and in the succeeding fiscal years, only 50 percent of such costs may be paid.

Section 8. The Office of Career Education must be the administering agency within the Office of Education for this program, and this office must provide technical assistance to the States. Career education curriculum materials and projects funded under other Federal laws must be used in the programs under this act, to the extent practicable.

The National Advisory Council on Career Education must evaluate the programs under this Act, and the National Institute of Education must continue its complimentary efforts in career education.

Section 9. No later than December 30, each State must submit a report to the Commissioner evaluating its career education program. The Commissioner must analyze these reports and submit these analyses to the States within three months.

The National Advisory Council on Career Education must submit a report to the Congress by April 30 of each year evaluating the program. The Commissioner must conduct a comprehensive review of the programs and submit a report to the Congress by no later than September 30, 1980.

Section 10. For purposes of the Act, "career education" is limited to those activities carried out by State and local educational agencies involving job awareness, exploration, decisionmaking and planning. "States" are defined as being the 50 States, the District of Columbia, and Puerto Rico.

OIL SHALE

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, the recent debate over H.R. 3474 and the conference report thereon brought up a number of issues relating to oil shale development. A brilliant and perceptive analysis of these issues was presented during the field hearings of the Subcommittee on Energy Research, Development and Demonstration—fossil fuels—of the House Committee on Science and Technology, held at Boulder, Colo., on October 27, 1975, by Dr. Michael S. March. Dr. March served for 33 years with eight different Federal agencies, including approximately 28 years with the U.S. Bureau of the Budget and Office of Management and Budget.

His excellent testimony follows:

Statement of Michael S. March Regarding Oil Shale Development and Management Issues Before the House Subcommittee On Fossil Fuels of the Committee On Science and Technology At Boulder, Colo., October 27, 1975

I wish to thank you for giving the people of this area an opportunity to testify on the immensely important issues relating to the impending development of oil shale as a source of energy for our country. As an economist and public administrator who has previously spent some twenty eight years struggling with public policy issues in the U.S. Bureau of the Budget and Office of Management and Budget, I welcome the opportunity to testify briefly on three major public policy issues that are raised by the Federal government's handling of oil shale. My statements are strictly my own and do not in any way reflect the views of any organization for which I now work or for which I have worked.

My testimony deals with issues which overshadow the question of oil shale industry development. I have come to urge a major Congressional investigation of the Department of Interior's mishandling of oil shale lands. Huge blocks of oil shale lands or rights to land have been literally given by the Department to private individuals and oil companies under very loose procedures and on the basis of questionable premises and administrative or legal determinations. Even larger acreages are threatened with reckless outright disposal at an 1872 price of $2.50 an acre or leasing for bonuses of 3 cents or so a barrel equivalent.

I urge that the Congress immediately ask the Executive Branch to embargo such disposals or leasing of oil shale lands until the Congress can review the past record and report to the American people on what has happened to *their* oil shale lands. As part of this, I especially urge that the Congress lay out remedies on behalf of the people with regard to oil shale lands disposed of for $2.50 an acre illegally or erroneously without the authority of law in the years 1920–1960.

I am prepared to tell where the Congress can find the records which illuminate these problems. One place to start is the 5-volume "post-hearing brief" in 1968 by the Department of Interior in Colorado Contests No. 359 and No. 360 in *U.S. v. Winegar* (Shell Oil) and *U.S. v. D. A. Shale, Inc.* The Department made a fine start in these papers, but has not applied the resources in manpower and money to follow through in cleaning up the mess.

My analysis of oil shale issues is heavily colored by six points:

(1) The oil shale lands of Colorado, Utah, and Wyoming contain immense amounts of energy. Published figures indicate potential recoverable shale oil totaling between 1 trillion and 2.0 *trillion* barrels—compared to some 30 *billion* barrels of presently proved crude petroleum reserves in the U.S.

(2) These vast oil shale riches are still predominantly a national government resource. An estimated 85% of the shale oil is still in federal domain holdings. However, private holdings, largely by major oil companies, contain somewhere between 100 and 300 billion barrels of potential oil.

(3) Published reports suggest that if oil shale were properly developed as a public resource, over the years it could pay off our national debt and in addition leave many thousands of dollars of proceeds for each person in the United States.

(4) As my testimony will show, the United States government, particularly the Department of Interior, has grossly mismanaged development of oil production from shale. Worse yet, it has grievously failed in discharging its public trusteeship of the oil shale lands and has recklessly permitted the so-called "user" interests to enrich themselves to the detriment of the public interest. This failure has involved both Republican and Democratic administrations during the last fifty years. The Congress has also neglected to get on top of this mess.

(5) The focus of oil shale land activity through the years has been almost entirely *speculative*—to get rich quickly by euchering the land out of the public domain or by trading in the raw land or getting suckers to "invest" in it. The multinational oil corporations have also worked through their front organizations to "lock up" the oil shale lands—before the people appreciated the true value of the riches buried in the oil shale. It is significant that despite all the hullabaloo and the several hundreds of billions of barrels of oil in oil shale already owned by major oil companies, there is still no economically producing oil shale industry in the U.S. Yet the big oil companies are still pressing hard to get more of the oil shale away from the Federal government and under their own control.

(6) The U.S. people need oil from oil shale and it is inevitable that an oil shale industry will come in Colorado. However, past policies followed by the Federal establishment, and those proposed now by the Ford Administration, simply play into the hands of the oil monopolies. We need a new set of rules which will put the peoples' interests first—policies which will demand performance in development of an oil shale industry without giving valuable public rights away blindly and prematurely.

I should like to qualify the foregoing generalization in two respects: First, any figures in my testimony must be treated as approximations, and even guesses, because it is impossible to get any firm, documented figures from the U.S. government. The Department of Interior's figures are notoriously unfirm. Second, I wish to indicate that my generalizations are grounded on some years of rather significant professional experience in public program analysis. I do not hold myself out as an expert on mining laws and/or on the technical or legal aspects of oil shale, but I have confidence in my ability to diagnose a gross failure in public policy.

In the light of the foregoing points I would like to give your Subcommittee and the Congress of the United States my views on three major points with respect to national policy with respect to oil shale lands and their development as a producing source of oil:

First, I conclude that the Congress would be on sound ground if it rejected——or very drastically tightened up—certain pending proposals for multi-billion dollar loan guarantees or loan assistance to the oil companies for the development of oil shale and other synthetic fuels. I have reference here to the $6 billion loan guarantee proposal included in the Senate ERDA authorization now pending in the Congress and the $100 billion Energy Independence Authority proposed by the Ford administration.

These proposals would make the taxpayers bear the risks and give the profits to the oil industry. They appear to be a "no-win" proposition for taxpayers. As these proposals are now drawn, the taxpayers could be hooked for billions and end up without a producing, economically-viable oil shale industry.

The need for public financing of oil shale development has not been established, because the oil companies are reaping multi-billion dollar profits from oil each year and are still benefiting from special tax provisions. The oil business is not a depressed industry. There is no assurance that the ladling out of additional huge public handouts to the oil companies would indeed create a properly developed oil shale industry. Further, I do not believe that the fragile Western environment should be entrusted to the administration of the oil industry with its record of oil spills and environmental destruction. The West cannot afford to turn its water over to the oil companies for oil-shale development and dry up its agriculture and its cities.

As a budget and fiscal analyst with many years of experience, I urge the Congress to turn down any proposal for "back door" or "off budget" financing of assistance for oil shale and energy development of the sort that is now being proposed by the administration and the oil interests. I am concerned about the runaway federal budget. One of the more serious aspects of this problem is in the present huge "off budget" credit programs which are running between $25–30 billion per year and have, according to Secretary Simon of the Treasury, amounted to $150 billion in the last decade. These programs almost invariably represent poor priorities and are a source of inflation because they sidestep proper budget scrutiny by the OMB and by the Congress. The OMB seems to have lost its senses in supporting such "off budget gimmicks" for oil shale.

I urge that every dollar for energy development be authorized through the substantive committees and in addition be subject to the regular appropriations process of the Congress. This is especially important when the proposed beneficiaries represent the powerful oil companies which have enormous lobbying capabilities. The resort to "back door" budgeting, such as the Ford administration proposes for energy programs, raises a major risk of wrecking the financial base of the American economy because ordinary rules of budgetary prudence and normal procedures of budgetary review will be disregarded. Look at what happened to New York City because it gimmicked its budgets.

I do not believe that public funds or public guarantees should be provided to oil companies for development of an oil shale industry without bearing any risks. How can anyone justify turning over shale oil in publicly-owned land for pennies per barrel, then providing government capital for development at public risk, and then letting the oil companies sell any oil which may be produced to the taxpayers at a profit to the oil companies? This must indeed be a form of socialism for the benefit of corporations.

If the United States government is really serious about oil shale development, it should create a Federal Oil Shale Corporation so that public risk-taking will be accompanied by public profit-making if the enterprise is successful. We need a properly-planned regional undertaking, not hit-or-miss checkerboarding of public lands by various corporations whose principal objective is to preempt. Permit me to point out that when it came to development of a new atomic technology, the United States launched the Manhattan District project and got the job done expeditiously. The oil companies do not really want to mine oil shale, they want to milk the treasury.

If the Federal government is to subsidize private oil shale industry development, the subsidies should be completely out in the open, their purpose should be set out fully and explicitly to the Congress, the oil companies should by contract stipulate what they are going to invest and achieve, and the subsidies should be included in the Federal budget and be reviewed regularly by the Congress and the OMB. The oil companies should bear the top part of the risk if they are to get the profits.

Second, I wish respectfully to suggest that the development and management of oil shale as a major energy resource requires the adoption in the Executive Branch of a completely new attitude toward management and utilization of public oil shale lands. The Department of Interior has mismanaged these lands for fifty years or more to the detriment of the public interest. The mismanagement is still continuing at the top levels even though drastic changes in the nation's energy situation call for complete reversals of policies toward public oil shale lands. The Congress must lead in the direction of better policies.

Permit me to sketch the problem in a few words.

From a superficial viewpoint, it would seem that pubic ownership of the oil shale lands now in the federal domain is firmly established. The Mineral Leasing Act of 1920 established the fundamental national policy that public lands containing oil, oil shale, and certain other minerals should not be disposed of outright, but should be leased. The Act withdrew oil shale lands from location of new mining claims—and permitted only leasing, subject to payment of bonuses and royalties. Moreover, in 1930, when the Oklahoma and Texas oil fields flooded the country with cheap oil, the oil shale lands were even withdrawn from leasing by a Presidential Executive Order (although it is being set aside for the recent "prototype" leases).

But, notwithstanding the 1920 law and the 1930 Executive Order, a large part of the oil shale lands in the public domain is still in danger of being "sold" to the oil companies and to speculators for $2.50 per acre, when such land is probably selling for $2,000-$10,000 per acre in the private market. The risk arises because a high proportion of oil shale lands in the Green River Formation in Colorado and in other states was plastered with so called "placer" mining claims in the years before 1920—and many of these claims are still being pressed by oil interests to get the oil shale lands away from the American people.

Fifty-five years after they were filed, these claims are only pretexts. Department of Interior files will show that many of these claims were filed solely for speculative purposes; many were not properly located and perfected to meet the discovery and other requirements of the mining law which obtain before 1920; practically all of them were probably abandoned in the 1930's and 1940's; necessary annual assessment work was not done; or they did not conform to the prudent man rule relating to mining claims in which the mining claimant is expected to be motivated by the prospect of a reasonable profit from mineral production. There was no *bona fide* oil shale producing industry. There still is no producing oil shale industry in the economic sense of being profitable. Only the gross failure of the Department of Interior to do its assigned job of serving as the steward of the public domain has kept these phony claims alive for 55 years—and they now still loom as a major threat to the public ownership of immensely large stores of energy.

The explanation of this riddle is that the Mineral Leasing Act of 1920 included a "savings clause" which reserved whatever valid rights there were in the preexisting oil shale mining claims.

When interest in oil shale claims dropped to a very low ebb with the discovery of the large petroleum producing fields in Oklahoma and Texas in the 1920's and the 1930's, many of the pre-1920 mining claims were simply abandoned. Rights to them could be bought in the 1930's and into the 1950's for a few cents an acre—because most of them really were simply "paper" claims initially and they became even more phony through abandonment in the years that followed.

As the energy picture started to tighten up after World War II many speculators and oil company "front men" acquired many of these "paper" claims. They began to breathe propaganda life into dead oil shale claims. The Department of Interior in those years did not care about oil shale land administration in accordance with law. The prevailing philosophy, promoted actively by certain members of Congress and their special interest supporters, was "to get the lands out into private ownership." Large blocks of oil shale lands were patented—that is title passed from the government to private ownership based on essentially fictitious mining claims—some of which were not only phony from the standpoint of a proper application of the mining laws but also may have involved fraud in location of the claims or in subsequent manipulations. Old General Land Office records will confirm what I am saying.

During the late 1920's and early 1930's the Interior Department staff had investigated many of the claims, contested them, and decisions were rendered declaring them "null and void" in whole or in part. However in the 1940's and 1950's the Department of Interior disregarded these earlier decisions—which should have been treated as final decisions—and actually patented tens of thousands of acres of such lands for $2.50 per acre. The giveaway forces triumphed in the Hoover administration when investigator Kelly was run out of the Interior Department, and they scored considerably throughout the 1940's and 1950's.

In the 1960's a major battle raged in the Interior Department, the Justice Department, and the Bureau of the Budget, and the White House on whether the pre-1920 claims were valid, and over whether erroneously disposed lands should be recovered. At stake were not only the recovery of past erroneous disposals of oil shale lands, but the potential disposal of many hundreds of thousands of additional acres of oil shale lands at the giveaway price of $2.50 per acre.

The outcome has never been firmly resolved, leaving a major blot on the record of the Federal government's handling of natural resources. Officials in those years behaved, in my opinion, as if they were hired by the oil companies rather than by the people of the U.S. My conclusion is that several Secretaries of Interior and their principal assistants failed to discharge their sworn obligations as public trustees of the public domain—in this case perhaps the richest domain that the United States has ever owned. Today this failure of administration still threatens large blocks of federal oil shale domain in Colorado which has a market value of up to $10,000 per acre or more with disposal at $2.50 per acre—and the creation of many instant millionaires.

Land giveaways are particularly hurtful to the citizens of Colorado because under proper Federal leasing or development programs the State of Colorado would receive 37½% of the proceeds and an additional 52½% would go into the Reclamation Fund, a part of which would also redound to the benefit of

Colorado. If the land is disposed to private oil companies at $2.50 per acre they will be the beneficiaries of all the profits, and the citizens of Colorado will hold a largely empty bag—and maybe even have to pay taxes to subsidize the development of the oil shale industry.

I have come here today to urge that the Congress of the United States forthwith launch a *thorough oversight investigation* of the Federal government's stewardship of the oil shale lands during the period 1920 to 1975. The purpose of this investigation would be to lay out the true story of what happened and to develop recommendations for a new national oil shale land policy which would be in consonance with the protection of the public interest. I believe the time is long past when the function of the Department of the Interior should be to shovel out public lands to private ownership. In an energy-short world the citizens of Colorado and the people of the United States as a whole should retain ownership and be the beneficiaries of whatever oil shale lands still remain in the public domain. The Department of Interior should honor valid rights in oil shale claims but it should be stopped from giving away any more oil shale lands based on phony pre-1920 claims and the Department of Justice should be ordered to recover oil shale lands erroneously disposed in the past.

This is a complex matter with a long history and big financial stakes, so the facts are not easy to nail down. I believe that a thorough, well-staffed investigation by the Congress would find that:

1. Pre-1920 mining claims, many of which were phony or even fraudulent, and a large part of which would be questioned if proper interpretation were placed on the pre-1920 mining laws, threaten a very large part of the rich oil shale lands in Colorado which remain in the public domain. Such claims could lead to the disposal of oil shale lands for a meager $2.50 per acre when such lands would sell for $10,000 per acre or more once patented. In short, of the 600–700 thousand acres of rich oil shale land in Colorado still owned by the Federal government, 300–400 thousand acres remain subject to this threat because claims filed 55 years ago have not been contested and declared invalid.

2. Some 300–400 thousand acres of rich oil shale land in Colorado have been converted to private or State ownership, including an estimated 264 thousand acres which were patented on the basis of mining claims. Of this latter total, somewhere between 30–100 thousand acres were patented in disregard of earlier Department of Interior decisions declaring the mining claims "null and void" in whole or in part. It should be noted that where fraud is involved and the statute of limitations does not run until the discovery of the fraud, and the government may yet have legal remedies to recover the lands or their values. In any event, the Congress needs to hold hearings to spur action on clearing up the clouds on oil shale titles and to determine what remedies should be sought by Justice and Interior on behalf of the people of the U.S. where lands were improperly disposed.

Let me make it clear that I do not recommend a governmental waiver of the rights to recover, because the interests which received the patents were unlikely, given the history of oil shale claims, to have clean hands.

Neither should the Federal government overlook the possibility of bringing action against Interior Department officials who failed to live up to their public trusteeship responsibilities. I think such action would instill a much higher sense of ethics in future servants of the people. The simple test is this: what right did these officials have to give away public property without the authority of law? I believe an investigating Committee will find that high officials were clearly warned about the existence of improper disposals.

3. The Department of Interior, particularly starting in the 1930's and up to the present time, has seriously mismanaged the public oil shale domain. It has failed to establish proper procedures for review of oil shale mining claims on which patent applications are filed; failed to check into the investigation reports and decisions of the 1920's and 1930's which were available in the Department and which showed that many mining claims were located for speculative reasons or even fraudulently and had been declared "null and void"; has written bad administrative and legal decisions which were politically pressured by the "user" interests or their representatives.

4. Department of Interior employees and officials in the Rocky Mountain region and in Washington, D.C., clear up to Secretaries of Interior, tended to disregard their clear statutory duties as stewards of the public domain and instead repeatedly approved specific mining claims, or established procedures for approval of such claims, or made legal decisions relating to such claims, which favored the claimants and hurt the general public interest.

5. Some Department of Interior officials and employees, soon after leaving Federal employment, were employed by oil companies or law firms which were engaged in sneaking the oil shale lands out of the public domain—and that some such employees or officials themselves entered into the business of buying the "paper" claims and attempting to convert them into patents at $2.50 per acre—actions which at a minimum had the appearance of conflict of interest.

6. Officials of the government, in the field and even in the Secretarial suites or in the Executive Office of the President, took actions and adopted policies which thwarted efforts by other government employees to stop the disposal of oil shale lands or to initiate recoveries of prior erroneous or illegal disposals—and that such actions were taken by means that were punitive and very likely fraudulent in some instances. A strong odor of coverup permeated the whole situation.

7. The Department of Interior, the Department of Justice, and the Executive Office of the President are still giving a very low priority to defending the public domain against oil shale mining claims which are more than fifty-five years old and in reality are only pretexts for getting the land out of the public domain. Multi-billion dollar issues and contests are being handled part time by a few people, with inadequate top level support. The public interest still has no real champion in the upper echelons of the Department of Interior on oil shale.

The foregoing points have been made in a spirit of public conscience in the hope that the Congress will mount a thorough investigation despite the almost certain violent pressures against it from the oil industry, the claimants, and the Federal agencies which have never revealed the scope of their default to the public. It should be noted that the files of the government in the Department of Interior (BLM and Solicitor), the Department of Justice (Division of Lands and Natural Resources), and the Executive Office of the President (OMB) contain much information on this seamy chapter in the mismanagement of this vital natural resource.

Third, I wish quickly to touch on a more recent stage in the disposal of rights to public oil shale lands. This is the so called "prototype oil shale leasing program" initiated by former Secretary Stewart Udall and being run by the Nixon-Ford administrations.

Under this program four very rich 5,000 acre tracts of oil shale land, two in Colorado and two in Utah, have been put out on long term leases. Additional tracts for "in situ" extraction have been "nominated" by private oil companies and are currently in process of being processed for "leasing."

Inasmuch as the first lease in Colorado brought more than $210 million or $41,320 per acre in possible future bonus payments, the people of Colorado may think that this was a "good deal."

I question the wisdom of the new "leases." The Colorado tract C–a contains between 4 billion and 6 billion barrels of potential shale oil, depending on how the calculation is made. This means that the seemingly enormous bid by Standard Oil and Gulf Oil amounts to only 3½ cents to 5¼ cents per barrel for potential oil which would be worth $11.00 or so a barrel if it could be gotten out of the ground at the present time—and which is certainly likely to increase in value as the years go by.

Tract C-a contains potential oil which would have a gross value of as much as $44 billion or even $66 billion. Against these figures the possible bonus payment of $210 million is picayunish—between 3/10 and 5/10 of one percent. It is no wonder that Congressman John Dingell in 1974 circulated estimates that the rights to this tract might already be worth $1.5 billion. The Department of Interior had originally estimated $9 million—a horrible underestimate.

The "prototype leasing program" is questionable from several standpoints:

1. The government is "leasing" rights to many 5,000 acre tracts of its very rich oil shale land before a commercial and economic process has been developed and before the true value of the oil is known. Every oil company will demand a tract the way things are going.

2. The 300–400 thousand acres of oil shale land now in private ownership probably contain somewhere between 100–300 billion barrels of potential oil—equal to from three to nine times all the oil in known U.S. liquid petroleum reserves. While I can understand the desire of the major oil companies to hog the richest oil shale reserves in the public domain, from a public point of view it would seem that the 214,000 acres which they already own, even assuming 100,000 acres might be recovered by the U.S., should provide them enough opportunity for developing extractive processes and demonstrating the viability of the oil shale industry.

3. There is the shocking example of an Occidental Oil Company lobbyist pressuring President Ford last summer at Vail to visit the Company's diggings in the area and then coming out of the meeting with the President at the site with word that the President was going to expedite leasing of additional tracts of oil shale lands, according to reports in Colorado newspapers. Inasmuch as Occidental's bids in earlier competitions had been only a fraction of the winners' bids on the two tracts on which the company had competed, this suggests a corporate request for a government "handout" of oil shale land. It is shocking to consider that the President engaged in "instant decision making" and went along with such a request—which the Department of Interior is now processing. Nominations were closed in September.

In the context of this situation I strongly urge that the Congress, at the earliest time, investigate the "prototype leasing program" as well as the earlier "sodium" leasing program that covers oil shale lands. Otherwise, the people of the United States will find that for a billion dollars or so the oil companies will have locked up the richest oil shale lands in the U.S. containing oil potentially worth trillions of dollars with the full cooperation of an Executive Branch which does not seem to know what it is doing. Clearly, it cares not for the next generation.

Fragmentation of the Federal government's organizational responsibility for oil shale lands and their development has become a real problem in the last four years. It affects all three issues discussed above. In the Executive Branch the Federal Energy Administration and the Energy Research and Development Administration (neither of which existed a few years ago), push for development, probably without knowing the oil shale lands mess created earlier by the Department of Interior. The OMB is also involved. In the Congress there is even greater fragmentation. Effective protection of the public interest becomes a challenge, since the oil companies came close to ranking as the fourth branch of the government.

In closing let me again thank you for creating an opportunity for citizens of Colorado to express their views on vital energy matters which will affect Colorado and this whole nation for decades. You have taken a good step in bringing government closer to the people in the best sense.

I hope, also, that environmental and public interest research groups will follow the leads I have given. Under the Freedom of Information Act they can search the files of the agencies and uncover additional facets of this story of incredible mismanagement.

MICHAEL S. MARCH

Vitae

Michael S. March was born in 1916 and reared on his father's homestead in Kiowa County, Colorado.

His higher education includes a B.A. degree in Economics from the University of Colorado; study at the University of Illinois and at American University in Washington, D.C.; and a Ph.D. in Political Economy and Government from Harvard University. From 1969–70 he was a Federal Executive Fellow at the Brookings Institution, doing research on national priorities and the Federal budget.

Dr. March served for 33 years with 8 different Federal agencies, including approximately 28 years with the U.S. Bureau of the Budget and the Office of Management and Budget in the Executive Office of the President. In 1967 he was awarded the Bureau of the Budget's Award for Exceptional Service, its highest distinction for professional service. He retired from Federal service in 1973.

Dr. March has engaged in legislative and program analysis in a wide range of fields, including national defense, international aid, education, labor and manpower, science, and income maintenance and retirement programs. He is the author of numerous articles in professional journals on subjects such as budgeting, poverty, human resources development, and service delivery systems. He has contributed to more than 20 Presidential Budget Messages and directed or written many other governmental reports and publications.

During 1973–74 he was Assistant Vice President (Budget and Planning) at the University of Colorado Medical Center. Since September 1974 he has served full-time as Professor of Public Affairs in the Graduate School of Public Affairs of the University of Colorado at Boulder.

His address is 2605 Stanford Avenue, Boulder, Colorado 80303. His telephone is 303-494-4871.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Ottinger, for December 19 and 20, 1975, on account of official trip of Select Committee on Missing Persons in Southeast Asia to pick up three MIA remains and negotiate with the Vietnamese.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Abdnor) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 1 hour, today.

Mrs. Heckler of Massachusetts, for 10 minutes, today.

Mr. McKinney, for 5 minutes, today.

Mr. Rousselot, for 5 minutes, today.

Mr. Miller of Ohio, for 10 minutes, today.

Mr. Ruppe, for 10 minutes, today.

Mr. Ashbrook, for 15 minutes, today.

(The following Members (at the request of Mr. Levitas) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Patman, for 15 minutes, today.

Mr. Metcalfe, for 15 minutes, today.

Mr. Harkin, for 10 minutes, today.

Mr. O'Neill, for 5 minutes, today.

Mr. Smith of Iowa, for 5 minutes, today.

Mr. Bingham, for 10 minutes, today.

Mr. Wolff, for 10 minutes, today.

Mr. Rosenthal, for 10 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Leggett, for 30 minutes, today.

Mr. Maguire, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hechler of West Virginia and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $786.50.

Mr. Thornton immediately following the remarks of Mr. Hammerschmidt on the highway aid bill in the Committee of the Whole today.

Mr. Anderson of Illinois, extended his remarks following the colloquy between the gentleman from Illinois (Mr. Rostenkowski) and the gentleman from New Jersey (Mr. Howard) on H.R. 8235.

Mr. Jones of Alabama, and to include extraneous matter in his remarks in the Committee of the Whole today.

Mr. Seiberling, on the Myers of Pennsylvania amendment on H.R. 8235 today.

Mr. Gude, to revise and extend prior to the vote today on the amendment of Mr. Myers of Pennsylvania in the Committee of the Whole today on H.R. 9771.

(The following Members (at the request of Mr. Abdnor) and to include extraneous matter:)

Mr. Bell.

Mr. Crane.

Mr. Kemp in five instances.

Mr. Young of Alaska.

Mrs. Heckler of Massachusetts in two instances.

Mrs. Holt.

Mr. Broomfield in two instances.

Mr. Sarasin.

Mr. Forsythe in two instances.

Mr. Rousselot in two instances.

Mr. Hagedorn.

Mr. Gude.

Mr. Cohen in two instances.

Mr. Derwinski.

Mr. Findley.

Mr. Burgener.

Mr. Whalen.

Mr. Archer.

Mr. Michel in two instances.

Mr. Anderson of Illinois in five instances.

Mr. Pressler.

(The following Members (at the request of Mr. Levitas) and to include extraneous matter:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Rosenthal.

Mr. Harris.

Mr. Teague.

Mr. Stephens.

Mr. Downey of New York.

Mr. de Lugo in two instances.

Mrs. Burke of California in two instances.

Mr. Ford of Michigan in two instances.

Mr. Bowen in two instances.

Mrs. Mink.

Mr. Pickle in 10 instances.

Mr. Mikva.

Mr. Moffett.

Mrs. Chisholm.

Mr. Mottl.

Mr. McDonald of Georgia in five instances.

Mr. Wolff.

Mr. Won Pat in three instances.

Mr. Solarz in two instances.

Mr. Reuss in two instances.

Mr. Blanchard in three instances.

Mr. Fary.

Mr. Byron.

Mr. Nix.

Mr. Carney.

Mr. Dodd.

Mr. Traxler.

Mr. Waxman in two instances.

Mr. McFall.

Mr. Roybal.

Mr. Moorhead of Pennsylvania.

Mr. Alexander in 10 instances.

Mr. Badillo.

Mr. Ginn.

Mr. Rogers in five instances.

Mr. Harkin in four instances.

Ms. Holtzman.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 209. An act for the relief of Willard H. Allen, Jr., and Nicole J. Allen; to the Committee on the Judiciary.

S. 392. An act to study certain lands in the Flathead and Lewis and Clark National Forests, Montana, for possible inclusion in the National Wilderness Preservation System; to the Committee on Interior and Insular Affairs.

S. 642. An act to amend the Federal Trade Commission Act, and for other purposes; to the Committees on Interstate and Foreign Commerce and the Judiciary.

S. 2090. An act to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953; to the Committee on Armed Services.

S. 2117. An act to amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps; to the Committee on Armed Services.

S.J. Res. 154. Joint resolution to extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended; to the Committee on Eucation and Labor.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 313. An act to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Tex., and for other purposes;

S. 622. An act to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes;

S. 1281. An act to extend the authority for the flexible regulation of interest rates on deposits and share accounts in depository institutions, to extend the National Commission on Electronic Fund Transfers, and to provide for home mortgage disclosure.

S. 2350. An act to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council; and

S.J. Res. 121. A joint resolution to provide for quarterly adjustments in the support price for milk, and for other purposes.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3474. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes;

H.R. 4073. An act to extend the Appalachian Regional Development Act of 1965, to increase the authorizations for the title V Action Planning Commission, and for other purposes;

H.R. 5541. An act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts;

H.R. 6461. An act to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes;

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts;

H.R. 8631. An act to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes;

H.R. 10555. An act for the relief of Mrika Mrnacaj; and

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

ADJOURNMENT

Mr. LEVITAS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 19, 1975 at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2218. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–75, "To revise the rates of insurance on motor vehicles for hire in the District of Columbia," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2219. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting the ninth annual report of the Commission, covering fiscal year 1974, pursuant to section 705(d) of the Civil Rights Act of 1964 (H. Doc. No. 94–287); to the Committee on Education and Labor and ordered to be printed with illustrations.

2220. A letter from the Chairman, National Commission for Manpower Policy, transmitting the first annual report of the Commission, entitled "Toward a National Manpower Policy," pursuant to section 505 of Public Law 93–203; to the Committee on Education and Labor.

2221. A letter from the Secretary of Housing and Urban Development, transmitting notice of a proposed change in the Department's system of personal records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2222. A letter from the Chairman, Little League Baseball, transmitting the annual report and audit of the organization for the fiscal year ended September 30, 1975, pursuant to section 14(b) of Public Law 88–378, as amended; to the Committee on the Judiciary.

2223. A letter from the Secretary of Transportation, transmitting the fifth annual report on the special bridge replacement program, pursuant to 23 U.S.C. 144; to the Committee on Public Works and Transportation.

2224. A letter from the Chairman, U.S. International Trade Commission, transmitting a draft of proposed legislation to amend section 608(e) of the Trade Act of 1974; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

2225. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during November 1975, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 894. Resolution relating to an election contest in the 10th Congressional District of the State of Illinois (Rept. No. 94–759). Referred to the House Calendar.

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 895. Resolution relating to an election contest in the First Congressional District of the State of Maine (Rept. No. 94–760). Referred to the House Calendar.

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 896. Resolution relating to an election contest in the 40th Congressional District of the State of California (Rept. No. 94–761). Referred to the House Calendar.

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 897. Resolution relating to an election contest in the 21st Congressional District of the State of Ohio (Rept. No. 94–762). Referred to the House Calendar.

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 898. Resolution relating to an election contest in the Third Congressional District of the State of Nebraska (Rept. No. 94–763). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 10807. A bill to amend the Motor Vehicle Information and Cost Savings Act to authorize appropriations, to provide authority for enforcing prohibitions against motor vehicle odometer tampering, and for other purposes (Rept. No. 94–764). Referred to the Committee of the Whole House on the State of the Union.

Mr. MADDEN: Committee on Rules. House Resolution 939. Resolution providing for the consideration of reports from the Committee on Rules (Rept. 94–765). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 868. Resolution to amend the Rules of the House of Representatives to provide that the House may not consider any report of a committee, bill, resolution, or a report of a committee of conference unless copies or reproductions have been available to Members on the floor at least 2 hours before such consideration; with amendment (Rept. No. 94–766). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SCHNEEBELI (for himself, Mr. Conable, Mr. Duncan of Tennessee, Mr. Vander Jagt, Mr. Steiger of Wisconsin, Mr. Frenzel, and Mr. Martin):

H.R. 11231. A bill to provide for an extension of the existing withholding rates to adjust the revenues, and to impose an expenditure ceiling; jointly to the Committees on Ways and Means, and the Budget.

By Mr. BENITEZ:

H.R. 11232. A bill to authorize the payment of oil import license fees collected for imports into Puerto Rico; to the Committee on Appropriations.

By Mr. BRADEMAS (for himself, Mr. Perkins, Mr. Quie, Ms. Mink, Mr. Bell, Mr. Meeds, Mr. Peyser, Mrs. Chisholm, Mr. Jeffords, Mr. Lehman, Mr. Pressler, Mr. Cornell, Mr. Sarasin, Mr. Beard of Rhode Island, Mr. Buchanan, Mr. Zeferetti, Mr. Miller of California, Mr. Hall, Mr. Thompson, Mr. Dent, Mr. Dominick V. Daniels, Mr. O'Hara, Mr. Hawkins, Mr. Ford of Michigan, and Mr. Biaggi):

H.R. 11233. A bill to amend the Library Services and Construction Act to extend the authorizations of appropriations contained in such act, and for other purposes; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. Perkins, Mr. Quie, Mr. Bell, Mr. Andrews of North Carolina, Mr. Blouin, Mr. Risenhoover, Mr. Simon, and Mr. Mottl):

H.R. 11234. A bill to amend the Library Services and Construction Act to extend the authorizations of appropriations contained in such act, and for other purposes; to the Committee on Education and Labor.

By Mr. BRINKLEY:

H.R. 11235. A bill to require the provision of certain commissary, post exchange, and medical care privileges to veterans having service-connected disabilities rated at 30 percent or more; to the Committee on Veterans' Affairs.

By Mr. CARR (for himself, Ms. ABZUG, Mr. BLANCHARD, Mrs. BURKE of California, Mr. CONYERS, Mr. DOWNEY of New York, Mr. EDGAR, Mr. HARKIN, Mr. HARRINGTON, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mr. MOTTL, Mr. OTTINGER, Mr. STUDDS, Mr. WAXMAN, and Mr. WIRTH):

H.R. 11236. A bill to amend the Internal Revenue Code of 1954 to deny the business deduction for amounts paid or incurred for lobbying before Congress or other legislative bodies; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 11237. A bill to designate certain lands for inclusion in the National Wilderness Preservation System; to the Committee on Interior and Insular Affairs.

By Mr. HUBBARD:

H.R. 11238. A bill to amend title 38 of the United States Code in order to eliminate the time limitation on the provision of educational assistance to veterans who served on active duty at any time during the Vietnam era or thereafter; to the Committee on Veterans' Affairs.

By Mr. MEEDS:

H.R. 11239. A bill to provide for increases in appropriation ceilings in certain units of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. NIX:

H.R. 11240. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. PATTERSON of California:

H.R. 11241. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the act of October 15, 1966, to establish a program for the preservation of additional historic properties throughout the Nation, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 11242. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide authority for enforcing prohibitions against motor vehicle odometer tampering, to authorize appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11243. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. STEELMAN (for himself and Mr. MATSUNAGA):

H.R. 11244. A bill to amend section 552 of title 5 of the United States Code to clarify certain exemptions from its disclosure requirements to provide guidelines and limitations for classifying official information; to the Committee on Government Operations.

By Mr. TAYLOR of Missouri (for himself, Mr. MCFALL, and Mr. WHITE):

H.R. 11245. A bill to amend title 5, United States Code, to provide for the payment of overtime to certain personnel employed in the Department of Agriculture, Animal and Plant Health Inspection Service; to the Committee on Post Office and Civil Service.

By Mr. TREEN (for himself, Mr. VANDER JAGT, Mr. GRASSLEY, Mr. MCDONALD of Georgia, Mr. CRANE, Mr. WAGGONNER, Mr. FRENZEL, Mr. FLORIO, Mr. DUNCAN of Tennessee, Mr. SPENCE, and Mr. HÉBERT):

H.R. 11246. A bill to extend from February 1, 1976, to October 1, 1977, the period during which payment may be made for cer-

H.R. 11250. A bill to amend the Controlled Substances Act and the Controlled Sub-regard to certain new staffing standards imposed by or under such title XX; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 11247. A bill to amend the Internal Revenue Code of 1954 to allow a credit for the amount of certain employment placement fees paid or incurred to an employment agency; to the Committee on Ways and Means.

By Mr. BAFALIS:

H.R. 11248. A bill to amend the act entitled "An act to establish the Big Cypress National Preserve in the State of Florida," and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BINGHAM:

H.R. 11249. A bill to limit the imposition of trade embargoes; jointly to the Committees on International Relations, and Ways and Means.

By Mr. BLANCHARD:

H.R. 11250. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to provide for mandatory minimum sentences for persons convicted of certain offenses involving narcotic drugs, for postconviction release of such persons under certain conditions, for forfeiture of moneys used for trafficking in narcotic drugs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11251. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to States and major units of general local government to accelerate the disposition of criminal cases in such jurisdictions, and for other purposes; to the Committee on the Judiciary.

H.R. 11252. A bill to strengthen the penalty provisions of the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 11253. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require as a condition of assistance under such act that law enforcement agencies have in effect a binding law enforcement officer's bill of rights; to the Committee on the Judiciary.

H.R. 11254. A bill to amend title 18, United States Code, to provide that persons convicted of certain violent crimes shall, except in limited circumstances, be denied postconviction bail while awaiting sentencing or disposition of appeals; to the Committee on the Judiciary.

H.R. 11255. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for payment of such compensation, and for other purposes; to the Committee on the Judiciary.

By Mr. BLANCHARD (for himself, Mr. DINGELL, and Mr. PATTERSON of California):

H.R. 11256. A bill to prohibit the sale of "Saturday night special" handguns in the United States; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 11257. A bill to amend the Service Contract Act of 1965 to prohibit contractors from replacing certain employees participating in a strike, and for other purposes; to the Committee on Education and Labor.

By Mr. DON H. CLAUSEN:

H.R. 11258. A bill to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CORMAN (for himself and Mr. STARK):

H.R. 11259. A bill to lower the duty on levulose until the close of December 31, 1977; to the Committee on Ways and Means.

By Mr. DU PONT (for himself, Mr. STEIGER of Wisconsin, Mr. WINN, Mr. RODINO, Mr. STARK, Mr. OTTINGER, Mr. DOWNEY of New York, Mr. BOLAND, Mr. TREEN, Mr. DOMINICK V. DANIELS, Mr. BAUCUS, Mr. PATTISON of New York, Mr. PREYER, Mr. COCHRAN, Mr. RIEGLE, Mr. COUGHLIN, Mr. BADILLO, Mr. EDGAR, and Mr. ROE):

H.R. 11260. A bill to establish a commission to develop measures for improving the method of collecting and analyzing national employment and unemployment information and statistics; to the Committee on Education and Labor.

By Mr. EILBERG:

H.R. 11261. A bill to establish procedures for the granting of permanent residence to certain nonimmigrant aliens in the Virgin Islands of the United States; to the Committee on the Judiciary.

By Mr. GUDE (for himself, Mr. AUCOIN, Mr. BOWEN, Mr. BAUCUS, Mr. CHAPPELL, Mr. PATTISON of New York, Mr. HELSTOSKI, and Mr. SCHEUER):

H.R. 11262. A bill to require the payment of interest by Federal agencies on overdue contract payments, to amend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

By Mr. KEMP:

H.R. 11263. A bill to reform programs administered under the Comprehensive Employment and Training Act; to the Committee on Education and Labor.

H.R. 11264. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide that certain private employers participating in manpower programs may be reimbursed in amounts not exceeding 50 percent of the salaries paid to low-income persons by such employers, and for other purposes; to the Committee on Education and Labor.

By Mr. KRUEGER (for himself, Mr. ANDERSON of Illinois, Mr. ABDNOR, Mr. BURLESON of Texas, Mr. CASEY, Mr. CHAPPELL, Mr. DICKINSON, Mr. DUNCAN of Tennessee, Mr. FORSYTHE, Mr. GUYER, Mr. HIGHTOWER, Mr. HYDE, Mr. JONES, of Oklahoma, M.r KETCHUM, Mr. MCCLORY, Mr. MCCOLLISTER, Mr. MARTIN, Mr. MOLLOHAN, Mr. MOORHEAD of California, Mrs. PETTIS, Mr. PICKLE, Mr. ROBERTS, Mr. ROBINSON, Mr. SCHNEEBELI, and Mr. J. WILLIAM STANTON):

H.R. 11265. A bill to provide authority to institute emergency measures to minimize the adverse effects of natural gas shortages, to provide authority to allocate propane, to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LENT:

H.R. 11266. A bill to amend the Internal Revenue Code of 1954 to provide that the current withholding tables will remain in effect until March 15, 1976; to the Committee on Ways and Means.

By Mr. LONG of Maryland (for himself, Mr. KOCH, Mr. MOAKLEY, Mr. SCHEUER, Mrs. MEYNER, Mr. FOUNTAIN, and Mr. ALLEN):

H.R. 11267. A bill to amend the Internal Revenue Code of 1954 to provide for the payment of interest at a rate of 5 percent on excess amounts withheld from individuals' wages; to the Committee on Ways and Means.

By Mr. MATSUNAGA (for himself, Mr. CONTE, and Mr. BARRETT):

H.R. 11268. A bill to authorize grants and loans for the development, construction, and operation of an exhibition of Polynesian culture as part of the commemoration of the American Revolution Bicentennial in the city of Philadelphia; jointly, to the Committees on Interior and Insular Affairs, and Post Office and Civil Service.

By Mr. MOORHEAD of Pennsylvania:

H.R. 11269. A bill to regulate commerce and protect health and the environment by requiring testing and necessary restrictions on certain chemical substances and mixtures, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NOLAN (for himself, Mr. Hechler of West Virginia, Mr. Stuckey, Mr. Madigan, Mr. Downey of New York, Mr. Steiger of Wisconsin, Mr. Pressler, Mr. Blouin, Mr. Santini, Mr. Mann, Mr. Long of Maryland, Mr. Hughes, Mr. Abdnor, Mr. Derwinski, Mr. Badillo, Mr. Kindness, Mr. du Pont, Mr. Lagomarsino, Mr. Cleveland, Mr. Charles Wilson of Texas, Mr. Patman, Mr. Bedell, Mr. Evans of Colorado, Mr. Henderson, and Mr. Bergland):

H.R. 11270. A bill to amend title 13, United States Code, to require the Secretary of Commerce to use sampling methods in taking agricultural censuses; to the Committee on Post Office and Civil Service.

By Mr. NOLAN (for himself, Mr. Kasten, Mr. Fountain, Mr. McCollister, Mr. Brown of Ohio, and Mr. AuCoin):

H.R. 11271. A bill to amend title 13, United States Code, to require the Secretary of Commerce to use sampling methods in taking agricultural censuses; to the Committee on Post Office and Civil Service.

By Mr. RINALDO:

H.R. 11272. A bill to require the Director of the Office of Management and Budget to certify each expenditure for film making by Federal agencies and for other purposes; to the Committee on Government Operations.

By Mr. RUPPE (for himself and Mr. Bergland):

H.R. 11273. A bill to authorize the construction and operation of a natural gas pipeline from the North Slope of Alaska across Canada to domestic markets, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs, and Public Works and Transportation.

By Mr. SOLARZ:

H.R. 11274. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for the prevention of crimes against the elderly; to the Committee on the Judiciary.

By Mr. FRASER:

H.R. 11275. A bill to amend the State and Local Fiscal Assistance Act of 1972; to the Committee on Government Operations.

By Mr. LEGGETT:

H.R. 11276. A bill to amend the Foreign Assistance Act of 1961 to prohibit all direct and indirect assistance for Angola; to the Committee on International Relations.

By Mr. LITTON (for himself, Mr. Eilberg, Mr. Bedell, Mr. Pattison of New York, and Mr. Matsunaga):

H.R. 11277. A bill to require the President to transmit to Congress copies of each Presidential proclamation and Executive order; to the Committee on Government Operations.

By Mr. MIKVA (for himself, Mr. Baucus, Mr. Bedell, Mr. Bergland, Ms. Chisholm, Ms. Collins of Illinois, Mr. Derwinski, Mr. Edgar, Mr. Evans of Indiana, Ms. Fenwick, Mr. Fithian, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Lehman, Mr. Mazzoli, Mr. Metcalfe, Mr. Miller of California, Mr. Neal, Mr. Pattison of New York, Mr. Santini, Mr. Scheuer, Mr. Stark, Mr. Symington, Mr. Whitehurst, and Mr. Charles Wilson of Texas):

H.R. 11278. A bill to abolish certain Federal regulatory agencies and to cause the self-destruct of certain Federal regulatory agencies or their successor agencies after a specified period of time, and for other purposes; to the Committee on Government Operations, and Rules.

By Mr. MIKVA (for himself, Mr. Baucus, Mr. Bedell, Ms. Chisholm, Ms. Collins of Illinois, Mr. Edgar, Mr. Evans of Indiana, Mr. Fithian, Mr. Harrington, Mr. Metcalfe, Mr. Ottinger, Mr. Pattison of New York, Mr. Scheuer, Mr. Stark, Mr. Symington, and Mr. Charles Wilson of Texas).

H.R. 11279. A bill to reform the appointment process by which commissioners of Federal regulatory agencies are selected, to establish a bipartisan nominating board composed of distinguished individuals which will recommend to the President persons well qualified to be appointed as regulatory agency commissioners, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce; Public Works and Transportation; Agriculture; Banking, Currency and Housing; Merchant Marine and Fisheries; and the Joint Committee on Atomic Energy.

By Mr. MIKVA (for himself, Mr. Anderson of Illinois, Mr. Baucus, Mr. Cornell, Mr. Morgan, Mr. Murphy of Illinois, Mr. Rees, Mr. Riegle, Mr. St Germain, Mr. Symington, Mr. Udall, Mr. Hall, Mr. Nix, Mr. Miller of California, Mr. Sarbanes, Mr. McKay, and Mr. Evans of Colorado):

H.R. 11280. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with even-handed protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open-market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PRESSLER (for himself, Mr. Badillo, Mr. Baucus, Mr. Brown of California, Mr. Mazzoli, Mr. Nolan, Mr. Ottinger, Mr. Pattison of New York, Mrs. Pettis, and Mr. Wirth):

H.R. 11281. A bill to provide primarily for the reduction of soil blowing; and to control snow deposition and conserve moisture; to protect crops, orchards, and livestock; to provide food and cover for wildlife; to conserve energy; to increase the natural beauty of the landscape; and for other purposes; to the Committee on Agriculture.

By Mr. FOUNTAIN:

H.J. Res. 756. Joint resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. GUDE (for himself, Mr. Rinaldo, Mr. Walsh, and Mr. Yatron):

H.J. Res. 757. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

By Mr. KEMP (for himself, Mr. Burgener, Mr. Crane, Mr. Goldwater, Mr. Grassley, Mr. Guyer, Mr. Kasten, Mr. Kindness, Mr. Ketchum, Mr. Mann, Mr. Nowak, Mr. Sarasin, Mr. Satterfield, Mr. Treen, and Mr. Charles Wilson of Texas):

H.J. Res. 758. Joint resolution to clarify and reaffirm Government purchasing policies; to the Committee on Government Operations.

By Mr. TSONGAS (by request):

H.J. Res. 759. Joint resolution to designate a National Day of Atonement; to the Committee on Post Office and Civil Service.

By Mr. WINN (for himself, Mr. Breaux, Mr. Martin, and Mr. Conte):

H.J. Res. 760. Joint resolution authorizing and requesting the President to issue a proclamation designating the 7 calendar days commencing on April 30 of each year as National Beta Sigma Phi Week; to the Committee on Post Office and Civil Service.

By Mr. JONES of Oklahoma:

H. Res. 941. Resolution to protect the ability of the United States to trade abroad; to the Committee on Ways and Means.

By Mr. WOLFF (for himself, Mr. Montgomery, Ms. Abzug, Mrs. Chisholm, Mr. Edgar, Mr. Fish, Mr. Hawkins, Mr. Hillis, Ms. Holtzman, Mr. Murphy of New York, and Mr. Stark):

H. Res. 942. Resolution to establish the Vietnam veteran congressional intern program in the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DAN DANIEL:

H.R. 11282. A bill for the relief of John W. Wilson; to the Committee on the Judicairy.

By Mr. UDALL:

H.R. 11283. A bill for the relief of Ernest L. Green; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 11284. A bill for the relief of James Anthony O'Shea; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

350. The SPEAKER presented a petition of James C. Wells, Mexico City, Mexico, and others, relative to voting rights of American citizens abroad; to the Committee on House Administration.

EXTENSIONS OF REMARKS

MOELLER HIGH SCHOOL AND URSULINE ACADEMY: STATE CHAMPIONS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. GRADISON. Mr. Speaker, I would like to recognize the accomplishments of two groups of high school athletes from the First Congressional District of Ohio who have achieved excellence in their respective sports. Both the Moeller Crusader football team and the Ursuline Academy women's volleyball team brought back State championships to Cincinnati for the first time in those sports.

Moeller High School's Crusaders capped an undefeated season by defeating Lakewood St. Edwards in the championship game November 21, after defeating Findlay 28–16 in the semifinals. The final game was truly for the State championship as St. Edwards and Moeller had been ranked 1–2 in the State polls before the tournament. It was a hard fought game, with Moeller stopping St. Edwards on their 20 yard line with only a minute to play. After two previous efforts in the State tournament, Moeller found the third time to be a charm in winning its first State football title.

Led by Coach Gerry Faust, who had directed Moeller to six consecutive city titles, and his veteran coaching staff, the Crusader players are:

Kevin McCormick, Ken Naber, Tim Tepe, Bill Long, Mark Dinkel, Dave Orth, Tim Koegel, Mike Staun.

Steve Behm, Don Rohlfs, Terry Elmlinger, Bob Massong, Jim Riesenberg, Pat White, John Cianciola, Byron Patterson,

Win Giancols, Kirby Clark, Rick Hubbard, Steve Puthoff, Gary Curry, Tom Quick, Bill Fitspatrick, Bob Crable.

Dave MacArthur, Steve Givens, Tom Huiet, John Williams, Karl Woods, Kevin Yoad, Tom McManus, Jim Wagner, Jim Gross, Jim Schipper, Rob Wirthlin, Chip Fry, Gary Cooper, John Tappal.

Bob Lockwood, Jim Cunningham, Dave Naber, Herb Behm, Bob Cavellier, Ralph Perdrix, John Bauer.

John Crone, Joe Humphrey, Mike Helgeson, Dan Donnelly, John Budde, Jim Brown, Matt Walchle, Gary Cornett.

Terry Brenner, Carl Rahe, Jim Pierce, Dave Condeni, Dave Burns, Ric Flauding, Ron Klein, Mike Holtman, Ric Oaks, George Willis, John Davis, Joe Jogoditz.

Head Coach: Gerry Faust.

Assistant Coaches: Mike Cameron, Jim Doherty, Phil Gigliotti, Ted Hall, Jim Higgins, Tom Hummel, Ted Bacigalupo, Jeff Liebert, John Parker, Paul Smith, Bill Straub.

Head Statistician: Bill Clark.

Managers: Dick Pohlman, Tim Zimmer, Jim Lotz, Paul Sayer, Mike Owerber, Ron Russell, Dan Imbronyev, Brian Barnhorn, Mike Buenger, Bob Berlier, Tom Selzer, Matt Luchaupt, Paul Luehrmen.

Ursuline Academy was a surprise victor in Ohio's first women's high school state volleyball tournament. Taking a 12–4 record into the State competition, Ursuline upset the favorites in district and regional finals to earn a birth in the championship bracket. "The Big Green Machine" defeated Akron St. Vincent-St. Mary November 21 by a score of 15–4, in an exciting tournament finale.

Linda Nienhaus in her first year is coach at Ursuline and did a tremendous job in leading her team to a State title. Members of the team include:

Sue Adrian, Barb Browe, Molly Cronin, Julie Garbin, Marianne Hess, Sue Mackey, Barb Massa, Tracy McCafferty, Marianne Pater, Pat Reno, Betsy Shadley, Janet Staun.

Athletic Director: Mrs. Mary Ellen Francis.

Ursuline has been a leader in high school athletics for women. Their Girls Athletic Association, organized in 1967 was one of the first in the city. Many of its graduates have gone on to distinguish themselves in college athletics and as coaches and physical educators in their own right.

Our community is proud of the accomplishments of these two groups of young people, their coaches, athletic directors and supporting school personnel.

FUTURE PARTICIPATION IN THE U.N.

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. BELL. Mr. Speaker, the recent U.N. General Assembly vote equating Zionism with racism has caused many Americans to very legitimately question the future role of the United States in that world body.

An interesting editorial on the subject, which I call to the attention of my colleagues, was recently broadcast by KNXT in Los Angeles.

The text of that broadcast follows:

THE UNITED NATIONS GENERAL ASSEMBLY VOTE ON ZIONISM

The uproar over the United Nations General Assembly vote which called Zionism a form of racism was fully justified.

The resolution made no sense. Zionism is not racism. In the simplest terms, it is a claim to a place which Jews can call home. It could probably be compared with nationalism on the part of any people. It is no more racist than love of home and country.

The resolution was part of the Arab nations' campaign to deny Israel the right to exist. It also caused real fears among Jews in many countries that persecution would follow, with world opinion behind it.

After President Ford and Congress and many others blasted the Arab resolution, some people began to ask whether we would just talk, or would we DO something?

Secretary of State Kissinger urged caution, and rightly so. We won't drop out of the U.N. to express anger over the resolution. The United Nations is an important tool in the continuing effort to promote peace in the Middle East—something which is still a long way off.

The United Nations was formed to bring countries together in a search for peace. If the U.N. did not exist, the nations of the world would be looking to form another organization for the same reason.

The General Assembly vote was not a sign of total failure, but merely proof that in 30 years of existence the United Nations has not yet achieved its high purpose. Someday we hope it will, but this is no time to pull out.

HOW TO OVERCOME CONGRESS FAILURE TO REFORM

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. JEFFORDS. Mr. Speaker, I have just come across a very interesting article written by our distinguished colleague from South Dakota (Mr. PRESSLER). It appeared in the Los Angeles Times on December 16, 1975.

I would recommend its reading to all Members, especially to those who are concerned, as I am, over the need for reform in Congress. Although we may not agree with all of his suggestions, it is a well-thought-out article and worthy of attention.

For these reasons I am setting forth the article in full:

[From the Los Angeles Times, Dec. 16, 1975]

HOW TO OVERCOME CONGRESS' FAILURE TO REFORM

(By LARRY PRESSLER)

The most painful and significant conflict of the 94th Congress has not come over energy, executive privilege or tax policy. Rather, it emerged when the reform impulses of the present "freshman class"—to which I belong—confronted those vested interests which oppose change within Congress.

We frosh have learned that even the most progressive of our senior colleagues will sometimes vote against fundamental reforms because "the system," flawed as it may be, works to their benefit. No better example of this is available than the total disregard for the excellent reform suggestions produced by the Select Committee on Committees, chaired by Rep. Richard Bolling (D-Mo.). As a result, many reform-minded freshmen have simply given up and fallen into step with the status quo.

But what are the characteristics of the legislative system to which they have accommodated themselves? These hard realities include:

A wasteful labyrinth of overlapping committee and subcommittee fiefdoms.

A propensity for calling the same witness, often a federal department head, 12 times in a single month to give the same testimony on the same subjects.

An inability to implement even the most elementary principles of planning, programming and budgeting.

And, most recently, a refusal to approve the first regulations issued by the new Federal Election Commission, thus insuring that the agency will be little more than a clerk's office, subject to congressional whims.

It is particularly useful to consider the willful inefficiency of Congress in the context of the growing malaise which seems to grip nations of the free world, including the United States. In the last few years, we have witnessed a perceptible erosion in both the authority of democratic governments and the confidence of their citizens.

Indeed, it has been suggested that, except when confronting a war crisis, an opportunity for national expansion or some other overwhelming obstacle, a democratic society slips inevitably into decline. In other words, democracies require a sense of purpose that derives from facing challenge.

If, then, one accepts the obvious conclusions that Congress will not reform itself and that the American people need a visible challenge to which they can rise, a way out becomes apparent: calling a constitutional convention on congressional reform.

Such a convention need not even be approved by Congress. The Constitution provides for amendment by a convention called "on the application of the legislatures of two-thirds of the several states." Any amendments drafted by that convention, of course, would be subject to the same process of ratification as those offered by Congress itself.

What sort of amendments might such a convention propose? Let me suggest a few:

Limiting terms for congressmen and senators. No one should be able to serve more than eight consecutive years in the House or 12 in the Senate—nothing would do more to refresh the spirit of Congress. Limits on service would effectively end the seniority system, bring a greater number of women and men into public service and, most important, break up the self-serving Washington power establishment.

Reducing and streamlining congressional committees. Congress will never undertake this particular reform on its own because too many committee and subcommittee chairmanships—and the power and staffs that go along with them—are at stake. The Hoover commissions on reform of the federal bureaucracy were most helpful in improving executive branch efficiency, but Congress has never submitted to such outside scrutiny.

Requiring full financial disclosure by members of both houses. More than any other, this move would restore confidence in government and respect for Congress, and make possible genuine tax reform. While the right of privacy for private citizens is sacrosanct, those public officials who make tax law for their fellow citizens should be willing to forgo it—at least in their financial affairs. Full disclosure of personal interests is the key to a representative's credibility in tax matters.

Permitting congressional debates to be televised. This would do more to improve the quality of debate and level of attendance than any other reform. The conduct of members was never higher than during the televised hearings on impeachment by the House Judiciary Committee.

Authorizing and appropriating monies for domestic expenditures two or three years in advance. A planning, programming and budgeting system will be needed to achieve this goal—a system that state and local officials could adapt to plan wisely and thriftily.

These and other amendments might be proposed, or the convention might decide to leave things pretty much as they are. Whatever the outcome, congressional reform would, at the very least, have been given a fighting chance, which is not the case now.

After 200 years this republic is clearly in need of recharging. The sluggish performance of the 94th Congress and the declining confidence of citizens in our government demonstrate how great the need is. It is hard to imagine a better bicentennial bonus than a constitutional convention, called to examine the basic institutions of our representative system.

The effect of such a convention would not be merely cosmetic. Restructuring and modernizing Congress would initiate a new era of reform-minded government and renewed commitment to public service. The concept of a constitutional convention on congressional reform deserves serious consideration for the fate of that body is simply too important to be left to its own members.

ENERGY POLICY ACT CONFERENCE REPORT, S. 622

HON. JAMES C. CLEVELAND

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. CLEVELAND. Mr. Speaker, yesterday, December 15, the House of Representatives voted on the conference report on the Energy Conservation and Policy Act, S. 622. As one who voted against this legislation on initial passage, I would like to take this opportunity to explain my reasons for casting my vote—albeit reluctantly—for passage of the conference report.

My primary reason for doing so is that in the 2 years in which Congress has been attempting to deal with the energy dilemma, there have been so many false starts and contradictory, confusing, emotionally charged, and meaningless attempts to legislate in this area that I have come to the conclusion that the bill before us late last night represented the best that this Congress can come up with. It is my belief that President Ford may draw the same conclusion about this legislation and thus reluctantly permit its enactment into law.

While the conference report does contain improvements over the energy bill, H.R. 7014, passed by the House in September and which I voted against, it is still not a particularly good measure. Indeed, many segments of the media agree and have editorialized on its weaknesses, referring to the bill as "slippery," "a step backward," "flawed," and so forth.

Major problems with the policies established in this bill include a blatantly political gimmick, that is, a temporary rollback of oil and gasoline prices—until after the 1976 election. After this provision has outlived its political usefulness, a program of gradual decontrol could be implemented with higher prices beginning to take effect.

The continuation of a tiered pricing structure for domestic oil mandated by the bill will not only be needlessly complex and difficult to administer but also maintains the disparity between regions of the country, such as New England, which are heavily dependent on higher priced imported oil products and those areas of the country with local supplies of lower priced energy.

While it was generally agreed, and I concurred in this opinion, that immediate and full decontrol of oil prices could have had severe economic repercussions, the pricing mechanism in S. 622 could result in slowing down domestic production of energy and lead to increased dependence upon foreign sources of oil. At the same time, this Congress has been pursuing a contrary goal of stimulating domestic development of alternative resources in other legislation.

In addition, S. 622 is primarily an "oil" bill, not a comprehensive energy program aimed at encouraging full development and use of U.S. resources. Our long-range energy needs will be met primarily by resources other than oil, a problem which is not adequately addressed in this legislation.

True, there are positive aspects of the bill. My reasons for discussing its negative provisions at greater length stem from my frustration that the Congress has so repeatedly exhibited its failure to work out a cohesive and comprehensive solution to a problem which has been prominently evident for several years now.

However, as I said earlier, the conference report is an improvement over the earlier version. And the legislation does include such worthwhile provisions as coal conversion, which I strongly support; strategic petroleum reserves; conservation goals; auditing powers; standby authorities; and international energy efforts. It also recognizes, in a reluctant fashion, the need for upward adjustment in the pricing of domestic crude oil to stimulate future resource development and allow market conditions to work.

In conclusion, Mr. Speaker, my vote in favor of this conference report reflects my grudging acceptance of the fact that it is indeed time to compromise and accept what appears to be the best first step toward meeting Congress responsibilities in building a national energy policy.

UNICEF: ACTIONS CONTRADICT GOALS—SO WHAT IS NEW?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. ASHBROOK. Mr. Speaker, on a number of occasions I have discussed the great division between the lofty goals of UNICEF and the actual expenditure of UNICEF funds that are supposedly raised to further those lofty goals.

I have pointed out how India, which has been a major recipient of U.S. aid and also UNICEF money, has seen fit to develop an atomic bomb instead of feeding its starving millions. Other highly questionable gifts from UNICEF abound. Both North Vietnam and Cuba continue to receive UNICEF funds.

The people of this country have awakened to the many injustices and hypocrisies committed by the U.N. and its agencies. This Congress should also come to its senses in this area. At the minimum, U.S. contributions to the United Nations and its agencies should be severely reduced. With this in mind I have introduced legislation, H.R. 10667, to do just that.

At this point I would like to include in the RECORD a recent letter that appeared in the New York Times of November 27, 1975:

ON AIDING UNICEF

To the Editor: Helenka Pantaleoni, president of the U.S. Committee for UNICEF, wrote in her Nov. 22 letter that a decrease in contributions to UNICEF will harm only "the children."

India has been one of the chief beneficiaries of UNICEF funds. While the children of that country continue to starve in the streets of their cities and villages, India uses its meager resources to develop and build an atomic arsenal. Another nation receiving UNICEF funds, Cuba, prefers to use its resources to export revolution to Angola, where it has sent a 3,000-man force in support of a Soviet-backed army. This was reported in The Times of Nov. 21. North Vietnam continues to be one of the chief beneficiaries of UNICEF funds. However, that nation has always put such restrictions on the monitoring of how the funds are spent that no one outside of that country really knows if the children there benefit at all. Mrs. Pantaleoni says in her letter that Arab countries also receive UNICEF funds. It seems somewhat strange to ask Americans to contribute their money to a group of nations that are extorting billions of dollars from America each year for oil.

From the evidence it would seem that those who contribute to UNICEF actually allow many of the receiving states to divert their resources from helping their own children to military and aggressive ends.

HARRIET B. RUBIN.

AMERICAN AIRLINES—10 YEARS OF SAFETY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. ANDERSON of California. Mr. Speaker, the aviation industry has long been justly proud of the safety record it has achieved since its inception. Recently, American Airlines completed one of the most remarkable records in aviation safety history. In the past 10 years, American has logged 6 million hours of safe flying without losing either a life or an aircraft.

This is truly one of the outstanding achievements in the history of commercial aviation. During that 10-year period, American has carried more than 190 million passengers on 4 million departures. That covers a distance of 177 billion revenue passenger miles—a total almost beyond conception.

A safety record as outstanding as American's is obviously the result of hard work and extra effort in safety research and planning, areas in which the airline has long been considered a leader, so important in maintaining a high standard of performance, which have obviously been hallmarks of American Airlines' operations.

Maintaining a standard of safety as high as that achieved by American is the result of teamwork—it just does not happen. Each of the airline's more than 35,000 employees—management, flight crews, ground support, and maintenance—are justly proud of the part they played in establishing this remarkable safety record.

The cooperation of the various labor organizations also played an important role in establishing this safe performance record. The Allied Pilots' Association, the Flight Engineers International Association—AFL–CIO—and the Air Transport Workers Union—AFL–CIO—all deserve praise for their part in this outstanding accomplishment.

Hopefully, American Airlines' long record of accident-free flights will continue indefinitely, and provide a standard of excellence throughout the world to make commercial aviation an even safer method of transportation.

It is a pleasure for me to congratulate American Airlines on their excellent record.

OPPOSING FOREIGN BOYCOTTS

HON. WILLIAM PROXMIRE

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Wednesday, December 17, 1975

Mr. PROXMIRE. Mr. President, all Americans are deeply concerned about foreign boycott practices which discriminate against American citizens and businesses on the basis of race, color, religion, sex, or national origin either directly or through boycotts of foreign nationals and business firms trading with them. The President recently—November 20—announced several actions in response to foreign boycotts. Today the Board of Governors of the Federal Reserve System released a letter expressing its support of actions against the involvement of American banks in foreign boycotts. The Board stated that letters of credit, even though originated at the direction of foreign importers, which require exporters to attest that they do not do business with boycotted countries, firms or persons, cannot be justified and "may constitute a direct violation of the Federal antitrust laws." The Board is to be commended for its stand. I ask unanimous consent to have the Board's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., December 12, 1975.

On November 20, 1975, the President announced a number of actions intended to provide a comprehensive response on the part of the Federal Government to any discrimination against American citizens or firms that might arise from foreign boycott practices. Two elements of the President's announcement relate to the possible involvement of commercial banks in such practices:

First, the President has directed the Secretary of Commerce to amend regulations under the Export Administration Act to prohibit U. S. exporters and "related service organizations" from answering or complying in any way with boycott requests that would cause discrimination against U. S. citizens or firms on the basis of race, color, religion, sex or national origin. The term "related service organizations" is defined to include banks. Accordingly, banks that become involved in a boycott request related to an export transaction from the U.S. will be required to report any such involvement directly to the Department of Commerce.

Second, the President has encouraged the Board of Governors and the other Federal financial regulatory agencies to issue statements to financial institutions within their respective jurisdictions emphasizing that discriminatory banking practices or policies based upon race or religious belief of any customer, stockholder, employee, officer or director are incompatible with the public service function of banking institutions in this country.

The Board of Governors strongly supports the President's statement in this regard. Banking is clearly a business affected with a public interest. Banking institutions operate under public franchises, they enjoy a measure of governmental protection from competition, and they are the recipients of important Government benefits. The participation of a U.S. bank, even passively, in efforts by foreign nationals to effect boycotts against other foreign countries friendly to the United States—particularly where such boycott efforts may cause discrimination against United States citizens or businesses—is, in the Board's view, a misuse of the privileges and benefits conferred upon banking institutions.

One specific abuse that has been called to the attention of the Board of Governors is the practice of certain U.S. banks of participating in the issuance of letters of credit containing provisions intended to further a boycott against a foreign country friendly to the U.S. The practice appears to have arisen in commercial transactions between U.S. exporters and foreign importers, in which the importer has arranged for the issuance of a bank letter of credit as a means of making payment to the exporter for the goods he has shipped. In some cases the importer has required, as one of the conditions that must be satisfied before payment can be made by the U.S. bank to the exporter, that the exporter provide a certificate attesting that it is not connected in any way with a country or firm being boycotted by the importer's home country, or is otherwise in compliance with the terms of such a boycott. Such provisions go well beyond the normal commercial conditions of letters of credit, and cannot be justified as a means of protecting the exported goods from seizure by a belligerent country. Moreover, by creating a discriminatory impact upon U.S. citizens or firms who are not themselves the object of the boycott such provisions may be highly objectionable as a "secondary" boycott.

While such discriminatory conditions originate with and are imposed at the direction of the foreign importer who arranges for the letter of credit, U.S. banks that agree to honor such conditions may be viewed as giving effect to, and thereby becoming participants in, the boycott. The Board believes that even this limited participation by U.S. banks in a boycott contravenes the policy of the United States, as announced by the President and as set forth by Congress in the following declaration in the Export Administration Act of 1969 (50 U.S.C. App. § 2402 (5)):

"It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States, and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States."

The Board also notes that the agreement by a U.S. bank to observe such discriminatory conditions in a letter of credit may constitute a direct violation of the Federal antitrust laws or of applicable State anti-boycott laws.

You are requested to inform member banks in your District of the Board's views on this matter, and, in particular, to encourage them to refuse participation in letters of credit that embody conditions the enforcement of which may give effect to a boycott against a friendly foreign nation or may cause discrimination against U.S. citizens or firms.

Very truly yours,
THEODORE E. ALLISON,
Secretary.

DR. HUGO WALL, POLITICAL SCIENTIST

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SHRIVER. Mr. Speaker, on December 7, 1975, Dr. Hugo Wall, a friend and former college professor of mine, passed away in Wichita, Kans. Dr. Wall was a nationally recognized political scientist. He was 74. He guided and inspired many of his students into successful careers ranging from politics to public administration to teaching.

In his service to Wichita State University, he also held the positions of summer school director, dean of the graduate school, vice president, and director of the university's center for urban studies.

Even though we were on different sides of the political fence, I held Hugo Wall in high esteem. He contributed significantly to my interest in government.

He will be sorely missed. But he has left a heavy imprint on local, State, and national governments which will serve as a lasting memorial to him.

Mrs. Shriver and I extend our heartfelt sympathy to Mrs. Wall and to his two children.

Under leave to extend my remarks in the RECORD, I include the following editorial tribute from the Wichita, Kans., Eagle-Beacon:

DR. HUGO WALL

Dr. Hugo Wall, who died Sunday, left an imprint upon Wichita that is rarely equalled by a single individual.

Dr. Wall, professor of political science at Wichita State University and once vice president of that school, believed in practicing what he preached. And so, in a consulting capacity, he helped Wichita to create what he believed to be the best form of government it could have.

Particularly in the purchasing, personnel and public works departments are his influence to be seen. But in many other places and in many ways his wise advice was accepted and put to use.

Nor was his activity restricted to the campus and to this city. He was active in many ways throughout the state and his reputation as a political scientist was national.

He wrote a widely accepted textbook in political science and put together many manuals for the city of Wichita. Apart from his expertise, he was widely liked for his kindliness and his sense of humor and his unfailing willingness to give help wherever it was needed.

Few persons combine the academic and practical as successfully as did Hugo Wall. And many monuments to his memory will endure in Wichita and elsewhere in the daily activities of municipal governments.

CONGRESSMAN O'HARA SALUTES NORTHERN MICHIGAN UNIVERSITY ON CAMELLIA BOWL VICTORY

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. O'HARA. Mr. Speaker, last Saturday, while the eyes of million of sporting fans were focused on the cities of Dallas, Tex., and Pittsburgh, Pa., a much-less-heralded sporting event was taking place in Sacramento, Calif.

It is understandable that football fans from Dallas and Pittsburgh, and from Washington, D.C., and Cincinnati, Ohio, were emotionally involved in the professional football contests which saw the Dallas Cowboys clinch the wildcard spot in the National Football Conference, and Pittsburgh clinch the Central Division title in the American Conference.

It should also be understandable to the fans in those four great American cities if the attention of many Michigan sports fans was centered on Sacramento, scene of the annual Camellia Bowl—where the Wildcats of Northern Michigan University managed a come-from-behind victory over the Hilltoppers of Western Kentucky to win the NCAA Division II football championship.

There is something particularly exciting in a closely fought contest, Mr. Speaker, and Northern Michigan and Western Kentucky provided that kind of excitement in the Camellia Bowl. And there is something particularly gratifying to a team's supporters when it can rally in the late going and snatch victory from the jaws of defeat. This is what the Northern Michigan Wildcats did on Saturday.

As a resident of the State of Michigan, Mr. Speaker, I am proud that Northern Michigan has won this title. It would have been a significant victory under any circumstances; it becomes all the more remarkable when one considers that a year ago, the Wildcats had a winless season—and now they are the champions of their NCAA division.

I want all of my colleagues in the House to know the enormous pride that we, in the State of Michigan, have in the knowledge that, in the ranks of the smaller universities in our State, we have the same winning spirit that year after year marks the athletic endeavors of our two great State universities—the University of Michigan, which is my alma mater and from which my oldest son will graduate next May, and Michigan State University, where two other sons of mine are undergraduates.

Mr. Speaker, I extend my heartiest congratulations to the Wildcats of Northern Michigan.

PUBLIC VICTIMIZED WHEN MD'S STRIKE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. DERWINSKI. Mr. Speaker, the Chicago area recently suffered through a strike of doctors at the Cook County Hospital. There have been other isolated cases of that kind in the country as well as doctors' strikes abroad where medicine is far more socialized. A very pertinent commentary on the economics of medicine and the major issues involved therein is given by columnist Jack Mabley in the Chicago Tribune of December 16:

PUBLIC VICTIMIZED WHEN MD'S STRIKE

(By Jack Mabley)

The public is the victim when doctors strike.

You'll find this phrase increasingly in commentaries about the chaotic economic conditions in medicine.

A baby died in Britain because of curtailed emergency care during a doctors' slowdown.

Our County Hospital still is racked by the consequences of a strike of residents and interns.

California is on the brink of a walkout of 18,000 physicians who are unwilling to pay a 500 per cent boost in malpractice premiums.

Almost every week I hear of another doctor, usually in his late 50s or 60s, who is quitting practice because he is unwilling to face the cost and the mental strain of the threat of malpractice suits. We're talking about premiums of $20,000 to $40,000 a year.

Little attention is given outside the profession to a factor that troubles doctors probably more than the financial cost. That is the stigma of being sued. It can't be sloughed off.

Unless he is mentally tougher than most I know—and than I am—the suit preys relentlessly on his mind, and certainly affects his work. [I was proud that I was never sued for libel—until I was sued for libel. The suit was thrown out of court, but it still hurt. And was very expensive to defend.]

The senior editor of Medical Economics tells of the case of Dr. R. Pierce Foster, an Alexandria, La., surgeon described by colleagues as "a fellow who takes on the tough ones—the procedures that other surgeons shy away from." Dr. Foster was a navigator in the 8th Air Force in World War II. He was shot down over Berlin and was a prisoner of war.

He was sued for malpractice. "That got to me more than anything I've ever endured," Dr. Foster said. "I suffered, my wife suffered, our children suffered."

Dr. Foster was walking out of surgery one morning and was stopped in the hospital corridor by another doctor, who said, "Well, I see you made the papers." That's how he learned he was being sued.

The article, picked up by newspapers around the state, told of the charge that he had left a sponge in the abdomen of a patient, who asked $172,000 damages.

He didn't even remember the patient. He went into his records, and found she had had a routine gall bladder removal. She had returned to his office complaining of a "burning, sort of an aching hurt." The doctor found a nodule in the scar. With a local anesthetic he removed it. He recalls telling the patient, "Well I'll be durned. It's a suture, a cotton stitch. That's what caused the trouble."

The lady's lawyer wrote into her suit the charge that "a sponge" was left in her. "Everywhere I went," Dr. Foster said, "people came up to me and stuck that damned story under my nose.

"Some folks seemed to enjoy it. In the hospital one day a doctor called out to me, 'I see where they're going to sue the hell out of you!' I kept trying to explain that it was all a mistake, that I hadn't done anything wrong, that I'd removed only a cotton suture, not a sponge. But I just couldn't seem to get through to some folks. I felt frustrated and angry and embarrassed beyond words."

His income also dropped as surgery referrals dwindled.

The trial lasted one day. The judge remarked that he couldn't understand why the case had ever been brought to trial, and he dismissed the claim.

Now for the kicker. Honor is a big thing in Louisiana. Dr. Foster didn't drop the matter. He sued the woman and her lawyers for libel. It took seven years in the courts before he won his case and $33,000 in damages. The case went to appeal and I don't know the final outcome. In any event, Dr. Foster was vindicated.

But at what a price.

With malpractice suits proliferating, more doctors are going into retirement, or industrial medicine, or teaching, or the military, rather than grapple with this kind of agony.

It's true the public pays when doctors strike. It might also be noted that it's the public that is bringing the malpractice suits.

The newest problem may come in the Chicago area hospital emergency rooms. Most of them are staffed partly by residents. Until recently these young doctors could get malpractice protection for several hundred dollars. Now their premium cost is going over $2,000. Their incomes run $10,000 to $12,000, and most have families to support.

There is danger that emergency rooms will have to curtail services because of inability to get sufficient staff because of the malpractice chaos. And the public will suffer—until the state wakes up and takes action to alleviate this growing crisis.

ANNOUNCEMENT OF HEARINGS ON PROPOSED CONSTITUTIONAL AMENDMENTS ON ABORTION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. EDWARDS of California. Mr. Speaker, because the House will not be returning from its Christmas recess until mid-January, the hearings on the proposed constitutional amendments on

abortion, originally scheduled by the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary for the 7th and 8th of January 1976, have been rescheduled. The hearings will now be held on the 4th and 5th of February 1976.

B'NAI B'RITH WOMEN RESOLUTIONS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. KOCH. Mr. Speaker, B'nai B'rith Women, in their national executive board meeting in November, passed resolutions on several important current issues which I believe merit the consideration of my colleagues. B'nai B'rith Women maintain an active interest and role in public affairs, and support a number of social and humanitarian programs each year. I commend the positions adopted on these issues by B'nai B'rith Women to my colleagues which I am appending, for their consideration.

RESOLUTIONS PASSED BY EXECUTIVE BOARD

U.N. RESOLUTION

B'nai B'rith Women's membership throughout the world deplores the shocking action taken by the United Nations General Assembly on November 10, 1975 in voting to approve a resolution classifying Zionism with racism and racial discrimination.

In light of our affiliation as a nongovernmental organization with the United Nations, we are incredulous that such an abhorrent statement could be approved by that body, thus giving implicit sanction to international immorality and barbaric motives. We shudder at its potential consequences in invoking the hateful spectre of anti-Semitism.

We urge the General Assembly of the United Nations, therefore, to take such steps as may be necessary to obtain reconsideration of this resolution, in order to remove this shameful action from its record.

We commend the government of the United States for refusing to recognize this abominable resolution and for declining to participate in the United Nations Decade for Action to Combat Racism and Racial Discrimination, which has now become a mockery. We also commend the Congress of the United States for its forthright denouncement of this infamous act, and support Congressional efforts to re-assess United States participation in the United Nations General Assembly.

POLITICAL PRISONER AMNESTY

B'nai B'rith Women commends the United States delegation to the United Nations for its introduction of a draft resolution on November 12, 1975 in the General Assembly regarding unconditional amnesty for political prisoners.

We have for long years been sorrowed and distressed by the treatment certain governments have accorded those who disagree with their political views—noting, in particular, our Jewish brethren in the Soviet Union, Syria and Iraq—and publicly voicing our protests as individuals and as an organization.

A number of governments have detained or imprisoned—indeed, in many cases, tortured—members of national parliaments, writers and publishers, and persons who have sought through peaceful means to express views at variance with those held by their governments or to oppose racial discrimination. Arbitrary arrests, detentions, secret trials and unfair procedures which have been conducted are flagrant violations of the Universal Declaration of Human Rights.

We support, therefore, this resolution by the United States Delegation which appeals to all governments to proclaim an unconditional amnesty by releasing all political prisoners who have sought peaceful expression of beliefs and held opinions at variance with their governments—or who have sought to provide legal or other forms of nonviolent assistance to such persons.

We urge the United Nations Subcommittee on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities to strengthen their efforts on behalf of political prisoners; including the establishment of working groups to conduct studies and visits to determine the facts relevant to the rights of political prisoners and evaluate the response of the government of the nation involved. We also urge all governments to cooperate with the Commission on Human Rights in its efforts on behalf of political prisoners.

We take note, ironically, that some of those very nations which recently voted in support of the outrageous resolution passed by the United Nations General Assembly equating Zionism with "racism and racial discrimination" have been among the most blatant violators in this area. Their demonstrated insensitivity to human and civil rights and their inexcusable encroachments on individual liberties of their citizens have shocked the world community for too many years.

HELVI SEPILA

B'nai B'rith Women wishes to extend its commendations and gratitude to the Honorable Helvi Sepila of Finland, Assistant Secretary-General of the United Nations for Social Development and Humanitarian Affairs, for the outstanding role she has played as Secretary-General for the United Nations' historic International Women's Year 1975.

As the preamble of the United Nations Declaration on the Elimination of Discrimination Against Women states, "discrimination against women is incompatible with human dignity and with the welfare . . . of society . . . The full and complete development of a country, the welfare of the world, and the cause of peace require the maximum participation of women as well as men in all fields."

As a non-governmental organization affiliated with the United Nations and as a longstanding proponent of human rights, B'nai B'rith Women applauded the inception of International Women's Year; and our membership has participated throughout the United States in observances to commemorate the event and to raise the consciousness of local communities to the needs and rights of women.

Ms. Sepila, through her position as leader of the United Nations' observance of International Women's Year has made a memorable contribution to women in nations throughout the world. The stated objectives of International Women's Year—peace, equality and development—have been advanced significantly under her excellent and far-sighted direction. We congratulate her for her creative and inspiring leadership in awakening the governments of the world to the basic rights of all women; thus setting processes into motion which should ultimately further enhance their status, participation and roles in their respective societies.

U.S. CENTER FOR IWY

B'nai B'rith Women has traditionally been associated with equality for women and enhancement of their status and role in society throughout the world. In keeping with these positions, our membership has this year been observing the historic International Women's Year 1975 as decreed by the United Nations.

We have been pleased to have been associated, on the national level, with the United States Center for International Women's Year. Under the able and creative direction of Dr. Ruth Bacon, this organization has directed its efforts to promulgate the observance of International Women's Year by organizations throughout the United States—through educational and programmatic materials, suggestions for action and organized efforts. As a resource and informational center and as a guide for programming its work has been most valuable to all organizations concerned in promoting the concepts of expanding women's roles and rights in the United States.

We wish to commend Dr. Bacon, in particular, for her talent and inspiration in directing the work of the Center, which will conclude its activities at the end of this year.

We further urge, since the Decade for Women and Development as adopted in the World Plan of Action in Mexico City will still be in effect, that provisions may be made for another such agency or organization to continue the important role of the United States Center in furthering the stated goals of equality, peace and development as they relate to women in the United States, and that such group maintain its function throughout said Decade.

JUSTICE DOUGLAS

Throughout his thirty-six and one-half years of distinguished service on the bench of the Supreme Court of the United States, William O. Douglas devoted himself to the ideals of basic humanity—fearlessly dissenting for causes involving individual rights which he held sacred, and for the integrity of the Constitution of the United States.

Mr. Dougles has now, because of failing health, found it necessary to resign from his seat. But he will be remembered in the pages of American judicial history as a giant figure, not only for his adamant convictions, but for the impact of his far-reaching views on our nation's body of law.

B'nai B'rith Women will miss Mr. Douglas on the Supreme Court. His concerns were human concerns, as are B'nai B'rith Women's. We are grateful that he so frequently defended and fought for issues with which we, as an organization, agreed.

We wish Mr. Douglas peace, contentment and improved health in his retirement, and express our gratitude for his priceless contributions to the citizens of this nation.

PERINATAL CARE

B'nai B'rith Women has consistently supported efforts to provide better services for perinatal (prenatal and postnatal) and infant care through our Operation Stork program, our endorsement of federal food programs for women, infants and children and other efforts directed toward the betterment of conditions for mothers and children in our society.

Recently, we presented testimony to a subcommittee of the U.S. House of Representatives in support of the need for inclusion of maternal and newborn care in any national health insurance program which the Congress may adopt.

We are acutely aware that the United States ranks high on the list of nations with substantial infant mortality rates—which seems paradoxical for a nation as advanced as ours. We are also aware of the shocking statistic that over half of the women who die in childbirth are between the ages of thirteen and nineteen. At the same time, we know that the provision of quality medical care throughout pregnancy and thereafter could reduce this rate enormously.

Many health insurance plans have been

inadequate, because they fail to provide maternity coverage. Some do not cover female dependents, and discriminate against single women. Also, benefits rarely cover fully the high costs of hospitalization and physician care.

In the care of the newborn, some private companies have been reluctant to provide coverage for the early weeks of an infant's life, which could have tragic results even later when problems arise which are considered previous conditions.

It has been documented that maternity care represents the largest category of inpatient hospitalization in hospitals today. Studies also show that infant mortality and premature births are significantly reduced by early and proper care—and that premature births often produce retarded or otherwise chronically handicapped children, resulting in treatments which may cover a lifetime—far exceeding the costs of preventative treatment. A recent study in a metropolitan city indicated that early delivery of health services and care could have reduced infant mortality by one-third. Such an opportunity should not be neglected or dismissed.

We urge the Congress of the United States, therefore, in considering the various proposals for national health insurance, to include provisions for full prenatal and newborn infant care—of the mother and fetus during pregnancy and of the newborn during delivery and thereafter in infancy—without deductibles or co-insurance.

We further urge that the individual states, in their jurisdictions, enact legislation for comprehensive maternal and child health insurance, including provisions for newborn infant care for the first thirty days of life.

HATCH ACT REVISION

Although B'nai B'rith Women has been sympathetic to the original intent of the Hatch Act of 1939, which restricts participation by governmental workers, as private citizens, in political activities, we recognize that this legislation today places an unfair burden on millions of citizens who wish to participate in their government.

Although many local and state employees were recently freed from Hatch Act restrictions, for thirty-five years, 2.8 million federal civilian and postal workers have been prohibited from speaking out and fully participating in the democratic process. Their rights of free speech and association, therefore, have been restricted. We feel that with the proper safeguards, these rights should be restored—particularly in light of the forthcoming Bicentennial celebration, which will underscore the value of our participatory system.

We urge the United States Congress to restore these voluntary rights to our federal workers, through passage of pending legislation which would amend Title V of the U.S. Code so as to permit federal employees and officers to participate in politics, thus replacing the Hatch Act with legislation that contains adequate safeguards for abuses while granting federal employees their rights to participate as private citizens in American political life.

With the important proviso that federal employees would continue to be carefully protected from political coercion and influence by their supervisors (which was the original intent of the legislation), we now support the active efforts in the United States Congress to permit these citizens to voluntarily participate in partisan political meetings, to belong to political organizations, to run for office, volunteer for political campaigns and to engage in other specified activities—so long as they are not held during normal working hours and do not involve the employee's official job-related authority or influence.

TAX CREDITS FOR CHILD CARE

B'nai B'rith Women has long been identified with proposals to reform the income tax system in the United States, to rectify inconsistencies and ease the burdens on those deserving segments of our society who are unduly restricted by various aspects of the present system.

Under Title V of the pending tax reform proposal currently in the U.S. House of Representatives (H.R. 10612), provision has been made for credits of up to $800 against the income taxes of a single parent or married couple for child care (or incapacitated adult care), including full or part-time employment of the parents as eligibility for such credits.

We strongly endorse this long-overdue reform of our tax system, which would answer a very real problem besetting working parents and assist them to participate in the work force and earn their livelihoods. We urge the inclusion of the provision in the final tax reform legislation which will emerge from the Congress.

SINGLE TAX

B'nai B'rith Women, as a consistent proponent of equal rights for all segments of our society, urges the adoption by the United States Congress of a long-needed proposal which seeks to remove the tax inequities between single and married persons.

Approximately fifty-four million Americans are discriminated against when they pay their taxes solely on the basis of their marital status. Tax inequities for unmarried persons and married persons where both the husband and wife work are unfair, and create unnecessary economic hardships on these groups by taxing them more heavily.

We urge adoption of legislation to correct this inequity and relieve the burdens from these groups of our citizens.

CLEVELAND PLAIN DEALER CITED FOR EDITORIAL EXCELLENCE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. STOKES. Mr. Speaker, as many of my colleagues may well know, the city of Cleveland is currently in the midst of court procedures on public school desegregation. The outcome of the NAACP against The City of Cleveland may well render that city's school system in violation of the Supreme Court ruling on segregated education facilities.

In other cities, such as Boston and Louisville, a paucity of leadership has caused confusion, violence and disrespect for the law when faced with court order busing to achieve racial balance in the schools.

Mr. Speaker, I am very pleased to report to my colleagues that one of Cleveland's largest and most influential newspapers has courageously taken a leadership role in urging calm and compliance with the impending Federal court decision. The Cleveland Plain Dealer, in a Sunday, December 14th editorial, has taken a clear and concise position on public school desegregation.

Soon, the eyes of the Nation will be riveted on Cleveland. Where others have resorted to negativism and sickening violence, we have the opportunity to comply with the decision of the courts in a thoughtful and peaceful manner.

I laud the Cleveland Plain Dealer for taking this responsible and enlightened editorial policy and would like to take this opportunity to bring this excellent editorial to the attention of my colleagues:

THE BUSING CONTROVERSY

A major purpose of the Louisville (Ky.) conference on alternatives to busing for school desegregation was to give legitimacy and respectability to opponents of busing.

Much of that opposition has been expressed in the streets in protests that have been ugly and violent.

However, very few alternatives were presented in Louisville, and many of those who supported them seemed prepared to dismiss the constitutional questions that are raised by the existence of racially segregated schools.

Some speakers argued that desegregation is achieved simply by forbidding the practices that created past segregation, the most blatant being the dual school system, and that attempts to remedy past injustices are unnecessary or even harmful.

Louisville and Boston are undergoing community traumas over busing. In Cleveland, the NAACP and the Cleveland Board of Education are in federal court over charges that the board (and other government agencies) by official acts created a school system that both sides agree is racially segregated.

If the Cleveland school system is found to have committed those acts, Judge Frank J. Battisti is expected to require a remedy. That remedy most likely would be busing to balance school racial enrollments to reflect the composition of the whole student population.

Because of the prevalence of disruption and violence that has accompanied the start of busing in most cities where it has been ordered, The Plain Dealer has reservations about a remedy that requires busing. If the court sees no other remedy, however, we say that the court's order should be carried out, and we do not believe that violence must be regarded as inevitable.

Those who would dismiss the responsibility to right the constitutional wrong are, in effect, saying that the cure is worse than the disease. We cannot accept that viewpoint.

Busing involves a dislocation from familiar surroundings for students, and some tension usually accompanies any such dislocation for a child or parents of either race. But it must be noted that busing for school desegregation is working in some places, including Pontiac, Mich., where five years ago school buses were burned.

A more constructive approach to the busing controversy than the attempt to legitimize opposition would be a thoughtful study of the reasons for the opposition. Getting to school by bus, after all, is a common experience all over the country.

If the white opposition is based on fears that the quality of education is inferior in black inner city schools, then the problem is to improve the quality. If opposition is based on racism, then the problem is to change those attitudes. If opposition is based on fears for children's physical safety, protection must be assured.

Overcoming the isolation of whites and blacks from each other, and the suspicion and fear that isolation engenders, is among the most important items on this country's domestic agenda.

If there is an alternative to busing that is fair and comprehensive, it would be welcomed by those on both sides of the busing issue. Such an immediate alternative has not been suggested.

The moving van, not the bus, ultimately is the best vehicle for achieving racial integration. Discrimination against blacks in housing has been a major factor in creating the segregated school systems of the North.

Desegregation of the schools is a step toward breaking down those barriers, and it would be wrong to allow mob rule to force a step backward from the goal of integration.

PENTAGON REFUSES TO RELEASE NEW DATA ON THE WEAKNESSES OF THE AWACS RADAR PLANE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. DOWNEY of New York. Mr. Speaker, the Pentagon is refusing to release a recently completed study which reportedly shows that the Grumman E-2C surveillance plane does the same radar job as the Air Force AWACS plane—but at about one-fifth of the price. Both planes are designed to track hostile targets and direct friendly aircraft over a large area. The Air Force wants Congress to provide about $4 billion for the purchase of 34 AWACS—at a cose of about $118 million per plane. This makes the AWACS the most expensive aircraft ever constructed.

By comparison the E-2C, which has been in use since the early 1960's, costs about $25 million each—about one-fifth the cost of AWACS.

This refusal comes on top of reports about a GAO study of the plane which raises new questions about the AWACS' performance. The results of the GAO study were confirmed in a staff memorandum on the House Committee on Armed Services made public this month by Representative PATRICIA SCHROEDER.

As a result of the field tests conducted last May, the Department of Defense has confirmed some "limitations" in the performance of AWACS, such as susceptibility to jamming by enemy aircraft and inability to prevent detection by the enemy when the plane's surveillance equipment is operating.

At the same time, the Pentagon has not yet given up trying to push its $120 million radar plane on our European allies. Earlier this year, the Pentagon offered to sell AWACS to NATO at a price roughly half of what it costs the American taxpayer to build. Now it appears that the Pentagon is willing to further sweeten the deal by offering to purchase a British-developed vertical take-off fighter if our European allies will help them out.

If I were a European defense minister, however, I would be quite concerned about these recent tests that show that the AWACS does not work quite as well in combat situations as the Pentagon has been claiming.

Moreover, I would also like to take a look at this new data comparing the AWACS and the E-2C before I spent my money on AWACS.

And yesterday, it was reported that the Pentagon has offered to sell the AWACS to Iran at a price of $178 million per plane. This price, however, includes such additional items as training and support equipment. At this price, the Pentagon will recoup about half of the research and development costs of the AWACS.

At this time, Mr. Speaker, I include several recent newspaper articles from Newsday, the New York Times and Aerospace Daily in the RECORD:

[From the New York Times, Dec. 4, 1975]

U.S. STUDIES DEAL FOR BRITISH PLANE

Plans Sale of Radar Aircraft and Purchase of a Fighter

(By John W. Finney)

WASHINGTON, Dec. 3—Pentagon officials are working on a multibillion-dollar British-American aircraft deal in which the United States would buy a British-developed fighter in return for a British purchase of some American radar-surveillance planes.

At least outwardly, the project is a productive example of the "two-way street" in arms purchases that British officials have been demanding and American defense officials have been promising.

To some high-ranking Pentagon officials the transaction is becoming of critical importance in sustaining the Air Force's controversial and expensive program for the production of a radar plane that would serve as an airborne command post, tracking enemy aircraft and directing fighter planes on defensive missions.

The Air Force had planned to build 34 of the aircraft at a cost of about $4 billion. About 20 of them were earmarked for use in Western Europe, and there is growing sentiment in Congress favoring the idea that the European allies bear the cost of those planes.

Defense officials acknowledge that without some definite Western European expression of interest in the radar plane, it will become increasingly difficult to keep the production line open and to convince Congress to provide more funds for it.

Thus far, European members of the North Atlantic Treaty Organization, including Britain, have endorsed the conceptual need for such a plane, but they have been reluctant to make an immediate commitment to buy it, partly because of its cost and partly because of the continuing debate in the United States about whether it could function effectively in a hostile environment.

New questions about the plane's performance were raised in a staff memorandum of the House Armed Services Committee made public this week by Representative Patricia Schroeder, Democrat of Colorado.

As a result of field tests last May, the memorandum said, the Defense Department had "confirmed" some "limitations in the performance of the radar planes, such as difficulties, when subjected to jamming, in precisely determining the range and altitude of enemy aircraft. The memorandum also said the radar planes would be unable to prevent enemy detection when their surveillance equipment was operating.

During the secret tests, according to military sources, some Air Force F-106 interceptors, screened by Navy jamming planes, were able to penetrate to within shooting distance of the radar planes without being detected.

In recent weeks, high-ranking Defense officials, including Malcolm R. Currie, the Director of Defense Research and Engineering, have been suggesting that the United States offer to buy an advanced version of the British v/stol (vertical or short take-off and landing) fighter known as Harrier as a means of winning a British commitment to buy some of the radar planes.

The suggestion, according to Pentagon sources, was that with such a commitment the Defense Department would be prepared to buy up to 350 Harriers costing $3.5 billion.

One difficulty, however, was that no official military requirement has been established for the advanced version of the Harrier, which has the designation of AV-8B.

The Marine Corps, which has had an unsatisfactory experience with the 110 earlier versions of the Harrier purchased from Britain, was prevailed upon late in October to establish such a requirement.

The Harriers would be used by the Marines, either aboard small carriers or from landing strips, to provide air support for amphibious landings.

The Navy then determined that the British AV-8B would meet the Marine Corps requirement. The Defense Department is expected to confirm the Navy's decision this month or in January.

[From the Aerospace Daily, Dec. 8, 1975]

DOD CONFIRMS SOME GAO FINDINGS OF AWACS LIMITATIONS

A congressional staff committee report on the Air Force Airborne Warning and Control System (AWACS) made public last week shows that the Defense Department has confirmed some system limitations cited by General Accounting Office but contends that they can be overcome.

A summary report by staff members of the House Armed Services Committee, released by committee member Rep. Patricia Schroeder (D-Colo.), discusses results of further DOD tests of the AWACS Systems Integration Demonstration (SID) conducted in May at the committee's request.

DOD had considered the SID flight testing to be complete as of last December, but carried out the further flights after Armed Services Chairman Melvin Price (D-Ill.) informed then Defense Secretary James R. Schlesinger of committee concerns as to whether AWACS could perform its intended mission.

Although the facts developed were kept classified until last week, they were presented to the cognizant congressional committees prior to action on the military authorization and appropriations bills. Eventually, the House appropriations bill cut AWACS funding back to provide only two of the six Boeing E-3A aircraft requested. The Senate bill would restore money for all six, and the difference is a major issue to be resolved in the House-Senate DOD appropriations conference.

As a result of the additional tests, according to the staff report, DOD confirmed that there were "limitations" in AWACS "precise determination of target altitude; range resolution of jamming targets under certain conditions; automatic accurate tracking data of targets under certain conditions; and prevention of enemy detection and location of AWACS when the AWACS radar is transmitting."

DOD said, however, that it believed that the shortcomings could be solved through various revisions or techniques—for example, that the automatic accurate tracking limitation could be overcome through operator intervention as well as by revising the AWACS hardware package.

Both Defense Research and Engineering Director Malcolm R. Currie and GAO provided the committee with comments on the test results, and the committee staff noted that their respective views "are not in full agreement with regard to AWACS capabilities-limitations and their impact upon the final outcome of an air battle."

For example, the report said, GAO doubted that the tracking problem could be met "simply by operator intervention . . . They believe that the NATO scenario will consist of hundreds of sorties per hour and that operator intervention is not practical or possible in such a dense environment." Further, it continued, GAO believes that AWACS "susceptibility to jamming presents a more serious limitation" than DOD claims.

"Finally, GAO questions the DOD contention that AWACS is survivable because it can operate in a passive mode, because it can maneuver at jet speeds and because it can provide the position of would-be attackers to friendly interceptors and missile systems. GAO contends that AWACS operation in a passive mode is of little, if any, utility. They further contend that it is difficult, at best, to provide the position of would-be attackers to friendly interceptors in the absence of data that provides altitude, size of raid, etc."

DOWNEY SEES "COVER-UP" ON PLANE

(By Charles Rabb)

Rep. Thomas J. Downey (D-West Islip) is trying to pry loose from the Pentagon a report that shows, according to a source there, that the Grumman E-2C does the same radar warning job as the Air Force AWACS plane—but at about one-fifth the price.

The chances are, an aide to the congressman acknowledged, that Downey won't get it—at least in the complete version that he is requesting. The aide also said he doubted that Downey would get even an incomplete version before President Ford sends his budget to Congress, which he is expected to do next month.

A Pentagon source in the Office of Defense Research and Engineering said that the information is in "some staff papers" that won't be put in report form for about a month. And, even then, the source said, the data probably would be classified. Downey made his request Friday under the federal Freedom of Information Act.

The Air Force disagrees with the Pentagon report and says that AWACS is better than the E-2C. It also would be reluctant to see funding for the aircraft diverted to the E-2C, a plane developed for another branch of the service, the Navy, even if the E-2C can do the job more cheaply.

The Navy probably would like to see the Pentagon report made public because the White House Office of Management and Budget has proposed to President Ford that E-2C money be eliminated from the next defense budget. The recommendation was made despite the fact that the sum spent in the E-2C program is much less than the amount that is being sought for AWACS.

An AWACS (Airborne Warning and Control System) plane is basically a Boeing 707 equipped with complex radar, computer and communications equipment. According to the Air Force, such aircraft can track hostile targets and direct friendly aircraft over a large area. The Air Force wants Congress to provide about $4 billion for the purchase of 34 planes. Each AWACS will cost about $118 million.

The E-2C has been in use since the early 1960s. The current defense budget requested $154 million to buy six of the aircraft, each of which costs about $25 million.

The Pentagon documents comparing the two reportedly conclude that the E-2C is a better buy for the United States and for North Atlantic Treaty Organization nations because it can provide the same airborne early warning services at a much lower price than could AWACS.

The study reportedly says the Grumman system has only one third the range of the AWACS, although air-to-air refueling could make up the difference.

Downey called the Pentagon's refusal to release the information a "cover-up" and said "it's obviously an embarrassment to them." Downey said the release of the report would damage the case for AWACS because it would show the great difference in cost, probably discourage NATO nations from purchasing it and make clear that money spent on AWACS research and development had been wasted. A major selling point for AWACS is the prospect of sales to NATO nations, but so far none has been made. Boeing Aircraft of Seattle is the AWACS prime contractor. Hazeltine of Greenlawn is a subcontractor.

[From the New York Times, Dec. 16, 1975]

U.S. OFFERS IRAN 10 OF ITS COSTLIEST RADAR PLANES

(By John W. Finney)

WASHINGTON, Dec. 15.—The United States has offered to sell 10 of its most sophisticated radar-surveillance planes to Iran at a price of $178 million each, Pentagon officials said today.

The sales argument being advanced by the Pentagon is that the plane—known as AWACS for Airborne Warning and Control System—would greatly enhance the ability of tne Iranian Air Force to track intruding aircraft and to control the movement of defending planes.

One reason the Pentagon is interested in making the sale to Iran is to keep the aircraft's production line open until the European members of the North Atlantic Treaty Organization can decide whether to purchase the plane. To the disappointment of the Defense Department, the NATO defense ministers, at a recent meeting in Brussels, declined to make an immediate commitment to purchase the surveillance plane, which is one of the more controversial and most expensive ever developed by the Air Force.

The plane is basically a Boeing 707 transport equipped with an elaborate package of radar and communications equipment that permits it to monitor and control an air battle over a wide area. Without the assurance of new orders, Boeing plans to shut down the 707 production line.

PRICE IS HIGHER

The price being quoted to Iran is much higher than that to allies if they purchase the plane. The Air Force estimates that each plane costs $118 million, but the Defense Department has offered to sell the plane to the NATO allies for about $60 million.

The $187 million price being quoted to the Iranians, according to Pentagon officials, included such additional items as training and support equipment. In addition, on each plane, the Defense Department is proposing to recoup about $20 million of the research costs involved in their development.

In aerospace industry circles, there is speculation that the high price may induce Iran to look for a less expensive radar control plane, such as the E-2C Hawkeye produced for the Navy by Grumman. In its carrier version, the E-2C costs the Navy about $26 million per plane.

The Grumman plane has basically the same purpose as the Boeing plane, but has a smaller flying range and radar capacity. Thus far, the Defense Department has discouraged Grumman from trying to sell its plane to Iran or to the European allies in an attempt to protect those potential markets for the Boeing plane.

Grumman has been relatively successful in selling its plane in other markets that it was permitted to enter by the Defense Department.

Israel is expected to purchase four of the Grumman planes, with a contract option to buy two more. Japan, in its defense budget, has earmarked funds to purchase 15 of them over a three-year period.

The foreign sales of the Grumman planes, whose production now accounts for 2,000 jobs on Long Island, probably depend upon continuing purchase of the plane by the United States Navy.

THE 33d BIRTHDAY OF CAPT. THOMAS WARING BENNETT, JR.

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. COCHRAN. Mr. Speaker, December 22 will mark the 33d birthday of Capt. Thomas Waring Bennett, Jr., of Natchez, Miss. December 22d will also mark the third anniversary of Captain Bennett's disappearance over North Vietnam, and his listing as missing in action.

Captain Bennett's family, friends and I hope all Americans will be praying that Captain Bennett is alive and well on his birthday. I also hope that all Americans will join together to push for an accounting of Captain Bennett and the more than 800 other Americans who are still unaccounted for in Southeast Asia, so that Captain Bennett's next birthday will not pass without our knowing the true fate of all our missing in action.

INSULTS TO OUR VETERANS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. DOWNEY of New York. Mr. Speaker, the December 1975 edition of the Veterans of Foreign Wars magazine carries a truly astounding declaration written by Thomas C. Walker, VFW Commander in Chief, entitled simply, "President Versus Veterans." The article lists example after example of this administration's less-than-sympathetic attitude toward our Nation's veterans and the issues of importance to the Veterans of Foreign Wars. While I do not agree with the VFW on every item of criticism, I surely believe that these things are important views which must receive the attention of public officials in the administration as well as the Congress. No matter how little an administration intends to do for those who served their country, it surely has an obligation to listen and hear them out. Therefore, Mr. Speaker, I ask that Commander Walker's statement be printed for the RECORD, and I urge the President to treat the issues concerning our organized veterans seriously:

PRESIDENT VERSUS VETERANS

(The V.F.W. has requested an audience with President Ford to discuss the issues cited here and others equally important. The V.F.W. has been refused the courtesty of presenting the mandates of the delegates to the National Convention. The President's aides have either ignored or failed to be receptive to the V.F.W.'s efforts. Recently, the V.F.W. declined an invitation issued on two days' notice to 16 other veterans' organizations to meet with the President. Participating in such a mass gathering would have been a disservice to the 1.8 million members of the V.F.W. President Ford is the first Chief Executive in more than 40 years who has not met on a one-to-one basis with the V.F.W. Commander-in-Chief to discuss veterans' problems. He also has failed to invite the Buddy Poppy girl to the White House. We believe we speak for not only our membership, but also the great majority of the 29 million living veterans, their widows and orphans.)

(By Thomas C. Walker)

Recently, it has become evident that advice given the President of the United States has been causing the loss of veterans programs and rights.

It is time each veteran knows what is happending. To do less—to sit quietly by and watch our programs be eroded, cut and lost would be an injustice to the veteran and his widow.

Item: The President requested that compensation payments for service-connected disabilities be held to 5%. In view of the increase in the cost-of-living, this was a slap in the face to the man who fought for his country, was wounded and disabled.

Item: The President is attempting to hold proposals to increase a veterans pension to 5%. The 8% Social Security increase of July would cut or eliminate hundreds of thousands of veterans and widows from the rolls if this proposal is passed.

Item: A recent survey showed that pensioners over age 72 were not getting along on their present pension. The President's Veterans Administration attempted to "whitewash" this report by saying that the program was in good shape.

Item: There is a crying need for a revision in the present pension program. Veterans need an income that will allow them to live above the poverty level and with dignity. The President's Director of the Office of Management and Budget tells us there will be a cut in veterans programs next year.

Item: Veterans need a place for an honorable burial in a National Cemetery if they so desire. The President's Veterans Administration has had the cemetery program for two years and has not opened one new gravesite during that time.

Item: It took this President months to read and act on the Survey of VA hospitals. An attempt to patch up the flaws is being made. Pray it is not too late.

Item: The 76th National V.F.W. Convention was the first in many years at which neither the President nor Vice President appeared to address the delegates.

Item: The President vetoed the GI Bill education assistance increase which would primarily benefit Vietnam veterans. It brings much more back to the country in taxes alone than it costs.

Item: The President vetoed an increase in travel payments for disabled veterans. He approved the increase for other government people. Apparently, it costs them more to travel than a wounded veteran.

Item: The President expresses concern for the unemployed and handicapped veteran, yet many of the federal agencies have not implemented regulations to employ these veterans.

Item: The President established a "clemency board." Four members of that board charge that full Presidential "pardons" were given. This makes a deserter or repeated AWOL offender eligible to buy a gun, hold political office or be a member of the V.F.W.

Item: Detente has been a policy disaster for America, confusing and dividing our allies and our own people. We have traded U.S. technology and agricultural products for televised news pictures of the President and his Secretary of State toasting "peace." We, today, are the second strongest power in the world in a contest where our very survival is at stake.

Item: The United States Canal, located on the Isthmus of Panama, is being recklessly offered up to a leftwing dictatorship incapable of either protecting or operating our strategic jugular vein in the Western Hemisphere. A part of America, as American as Alaska, Hawaii, or Grand Rapids, Mich., is being put on the block simply because an authoritarian Panamanian brigadier general seeks to hold power by grasping something he never created or owned. And the national Administration is the giveaway artists. The Soviets haven't even asked us to do this.

Item: An Administration that apparently knows the price of everything and the value of nothing is seeking to end the armed forces' commissary stores, the Defense Department-funded GI educational benefits as a recruiting inducement and the civilian medical program, but still unrealistically hopes to assure the success of an all volunteer military force. The draft has ended, but now the Administration will not give our armed forces the tools needed to succeed.

Item: Equipment badly needed by our own forces soon will be furnished to both sides of the Arab-Israeli dispute. This is cynical blank check payouts in the foolish hope of buying peace.

Item: "Normalization" of relations with Communist China and Castro's Cuba takes clear policy precedence over a sturdy assertion of American interests and unapologetic support for allies who have stood with us in the past.

The Soviet Union respects only power. The Soviets call it "objective correlation of forces." Before this global challenge, this Administration offers only transparent words and business-as-usual.

In short, it appears not only is our beloved country being hurt, but so is the man who answered its call.

These and other matters are the things we had hoped to discuss with the President. We feel that they are sufficiently important to the nation and those who fought for their beloved country.

There is a move to cut and eliminate veterans programs and rights.

The V.F.W. is mandated to fight these injustices. Let no one—President or veteran—fail us in our time of need.

As a former President said, "The nation which forgets its veterans, will itself be forgotten."

CONSUMER COOPERATIVE BANK

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. KASTENMEIER. Mr. Speaker, producer cooperatives have existed for quite some time in this country but the idea of consumer cooperatives has never gained equal recognition. Recently, H.R. 10873 was introduced to establish a national consumer cooperative bank to help finance consumer cooperatives.

I would like to call to the attention of my colleagues, the following commentary from the Madison Wisconsin Capital Times, supporting this bill:

HELLO WISCONSIN

(By Miles McMillin)

Marshall Erdman recently returned from Europe with a report that inflation has ravaged the economy of most countries there. Sweden, he reports, is the best off of any of them. I have made subsequent inquiries of returning travelers who confirm Marshall's finding. I have asked some of my friends who know more about economics than I do why Sweden would be so much better off. I am told that it is due to its strong Swedish consumer cooperative movement, which has softened the impact of the inflationary spiral.

I have often wondered what the American economy would be like if its consumer cooperative movement had the economic clout the production cooperatives have. Perhaps some of the peaks and valleys in our economy would be lessened and perhaps we could do a lot more toward parrying the savage blows we have been taking from inflation. But for some reason this country has done little to encourage consumer coperatives—far less than it has done for production coops.

Some consumer coops have prospered and demonstrate what they can do for consumers. One of the most successful is right here in Wisconsin—the coop at Eau Claire. It provides far-ranging services to its members, including a supermarket where virtually anything can be purchased that can be purchased these days in major shopping centers. There are around 200 consumer coops operating in this country, but their membership falls short of ¼ of 1% of the U.S. population. One of the big problems of getting a cooperative underway is financing, of course. And many of those that are in existence can't get the financing to expand their benefits so that they can be of greater service to their members.

The farmers' production coops faced similar problems years ago when they were being established and were seeking to enlarge their enterprise. The federal government intervened and came to their assistance, establishing a network of farm credit agencies which is known today as the Farmers' Credit System. Federal money provided the original capital, but as time went on the public money was replaced by the capital generated by the enterprise itself. Today the system is owned by nearly one million American farmers and by the thousands of their supply, marketing and service coops.

Some of the people in the Cooperative League of the USA, which is a national federation of cooperatives, have hit upon the idea of doing for the consumer cooperatives what was done for the farm cooperatives to help finance cooperative enterprises for the millions of urban area residents being strangled by inflation. A bill has been introduced in Congress to provide a national consumer cooperative bank. Its purpose would be to obtain loan funds from private investors to encourage coops not eligible for aid from other government sources. It would be supervised by an independent government agency, which would lay down firm guidelines for the intelligent use of credit by the coop borrowers. It would have supervisory authority over a self-help loan fund designed to help small coops serving low income groups.

Ralph Nader has written a letter to the members of Congress in which he makes this statement in support of the legislation:

"What makes consumer cooperatives so attractive is that, without costing the taxpayer, they recycle the consumers' money in a framework of self-determination and self-help. When you consider economics policy and consumer interests, give consumer cooperatives some thought."

The Capital Times, of course, will do what it can to get favorable consideration for this legislation. This paper has long supported the cooperative movement as a very effective protective device against the kind of tremors that are upsetting our economy at the present time. We will urge the members of Congress from Wisconsin to support the bill and will do our best to inform the public about its merits.

BILL HUNGATE RECEIVES AWARD

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. RUSSO. Mr. Speaker, on Monday, December 15, BILL HUNGATE's Subcommittee on Criminal Justice conducted hearings in Chicago on legislation to provide compensation for victims of crime. At the end of the morning session, while I had the privilege of presiding, Melvin Lewis rose and addressed the subcommittee. Mr. Lewis is a professor of law at the John Marshall Law School, and this year is serving as associate dean of the National College of Criminal Defense Lawyers and Public Defenders in Houston, Tex. He is also the legislative chairman of the National Association of Criminal Defense Lawyers, and it was in this capacity that he addressed the subcommittee.

Mr. Lewis asked permission to present an award to BILL HUNGATE, Mr. Lewis' remarks were very stirring and generous in their praise of our esteemed colleague, BILL HUNGATE. I am having Mr. Lewis' remarks printed here so that BILL's friends and colleagues can read them.

Mr. CHAIRMAN. This nation has entered into a year-long celebration of honor to those men and women who 200 years ago embarked on History's most meaningful political experiment: The institution of a form of government whose central concern was the preservation of individual freedom.

Even as we honor them, we frequently hear suggestions that their principles, while worthy of historical veneration, must be relaxed as a concession to the problems of modern society.

We believe that the opposite is true, in several very insightful works, the recently deceased writer Hannah Arendt makes the compelling point that it is only the modern techniques of communication, control and systemic development within government which make possible a fully-developed autocracy. It is possible, therefore, that men such as those who formed our nation, and the principles embraced by such men, are immensely more important today than was the case in 1776.

On behalf of the National Association of Criminal Defense Lawyers, I rise to honor one such man today. We have observed with admiration his insightful approach to such legislative challenges as the Federal Rules of Evidence and the proposed Amendments to the Federal Rules of Criminal Procedure. We do not suggest that he acted alone, but he was a leader, and his announced and imminent departure from government leaves a painful void. It also provides an occasion to formally announce our respect and our pride that such persons still exist.

Mr. Chairman, may I have the honor of being joined here by the Honorable WILLIAM HUNGATE, U.S. Congressman from the State of Missouri.

At the conclusion of these remarks, Mr. Lewis presented BILL with a handsomely engraved plaque. The plaque is inscribed as follows:

The Board of Directors of the National Association of Criminal Defense Lawyers on the recommendation of its Committee on Legislation, and having reviewed with respect and admiration the uniquely distinguished career of Honorable William L. Hungate, United States Congressman from Missouri and Chairman of the Subcommittee on Criminal Justice of the House of Representatives Judiciary Committee, is honored to salute his achievements in the defense of individual liberties through the presentation of this Certificate of Appreciation and Recognition of Merit.

The Association celebrates the approaching bicentennial of history's most meaningful affirmation of human dignity by expressing its profound gratitude for the decade of brilliant public service contributed by this worthy inheritor of the spirit of the authors of our Constitution. His scholarly insight, dedication, courage and leadership in the service of the principles of freedom will continue to serve as an inspiration to those of us engaged in the unending struggle, in which he has played so magnificent a part, for the defense of those principles.

JAMES M. SHELLOW,
President.
MELVIN B. LEWIS,
Legislative Chairman.

DECEMBER 15, 1975.

SECRETARY SIMON'S SIMPLIFICATION SPEECH

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. STEIGER of Wisconsin. Mr. Speaker, on December 3, Secretary of the Treasury, Bill Simon, gave a provocative and insightful speech to the Tax Foundation in New York City.

Because the Secretary's remarks are worth our fullest consideration I am including them with my remarks with the hope they will be read carefully:

STATEMENT BY THE HONORABLE
WILLIAM E. SIMON

Since history has a habit of repeating itself, I'm sure I'm not the first Secretary of the Treasury who has reached the conclusions I want to discuss with you tonight. And no doubt, I will not be the last. But the time has come for a little plain talk about a subject that is important to all of us: our taxes.

The system of Federal taxation which has evolved since the early days of the Republic is in trouble today.

And after several years of seeking to reform the system, I am increasingly persuaded that tinkering may no longer be the answer.

Let me elaborate for a moment about the difficulties of the tax system.

First, it is readily apparent that the Federal tax system is poorly structured for a period of rampant inflation. Millions of taxpayers now legitimately complain that the extraordinary high rates of inflation we have experienced recently have hit them with a double whammy: at the same time that inflation is eroding their real purchasing power, it is also pushing them into higher tax brackets.

Secondly, because of the rapid growth in the size of government at all levels since the early 1960's, the portion of personal income that must be paid into Federal, state, and local tax coffers is rising steadily. Many of you are familiar with the Conference Board study published this spring showing that the item which rose the fastest in the American family budget during the last six years was taxes. While the general cost of living climbed about 40 percent during that period, the total bill for taxes—Federal, state, and local—jumped by 65 percent.

Thirdly, it is becoming more widely recognized now that the Federal tax system is discouraging savings and investment when we need three times as much investment in the next decade as the last decade. By taxing corporate profits twice—once at the corporate level and then at the level of the shareholder—the United States is imposing a heavier tax burden on its business enterprises than in most other major industrialized nations of the Free World. And by allowing corporations to deduct interest payments on their debt but refusing to allow deductions for their dividends, the tax system is encouraging businesses to rely too heavily upon the debt markets, so that the corporate financial structure is increasingly unbalanced. Economists are properly cautious in saying that the way we collect taxes may not totally determine how much we save and invest. But the fact is that the share of our GNP devoted to capital investment over the last 15 years has been lower than in the economies of any of our major competitors. We have also had one of the poorest records in terms of productivity gains and in terms of real income growth. Furthermore, our recent unhappy experience in terms of high inflation is in part attributable to past inadequate capital formation. The Federal tax system has been a major influence on all of these developments.

Finally, it has become painfully obvious to most taxpayers that the present tax system is so riddled with exceptions and complexities that it almost defies human understanding. No one can adequately assess its basic fairness. The complexities have reached a point where I'm not even sure the IRS experts fully understand the system anymore. How can they when they are dealing with a tax code and regulations that now exceeds 6,000 pages of fine print? You may remember the informal survey conducted a few years ago by an executive in Atlanta, working in conjunction with *The Wall Street Journal*. This executive visited five different IRS centers around the country, presenting to each of them the same set of facts about his income and possible deductions and then asking how much tax he should pay. The result? Five different answers, varying by as much as $300 in how much he owed. The offices could not even agree on how many forms he should fill out.

In these circumstances, it is hardly surprising that two taxpayers out of every five now seek outside assistance, usually at some expense, to complete their tax forms. It is even less surprising that more than three quarters of the American people now want the tax code changed, and some 50 percent want major changes. There is a widespread feeling that the system favors the rich at the expense of working families.

As everyone in this chamber knows, the success of our tax system rests upon the voluntary compliance of our taxpayers. If there were widespread abuses of the system, we could not possibly police them. Yet, when people lose faith in the basic fairness of the system, it almost inevitably follows that the system itself will falter. In fact, the rate of compliance has begun to drop in recent years. We are faced, as former Treasury Secretary Joseph Barr first observed almost 10 years ago, with an incipient taxpayers revolt.

The fear of a revolt has not been lost upon Washington, but so far, I'm afraid, attempts to reform the tax system have fallen far short of the mark. I say this with full appreciation of the herculean labors performed by the House Ways and Means Committee under Wilbur Mills and by the Administration in securing passage of the 1969 Tax Reform Act. That act did help to simplify the tax system: some 8 million low-income taxpayers (poverty level or below) were removed from the tax rolls altogether, and another 11 million taxpayers were offered greater incentives to use the standard deduction, avoiding the time and trouble of itemizing their deductions. Nonetheless, considering all the labors that went into that bill, it was a great disappointment to those who were seriously interested in tax reform. If anything, the 1969 act, like the Revenue Act of 1971, was really more of a lawyers' and accountants' relief bill. There is still a decisive need to overhaul the code. I speak with some feeling on this because nearly three years have passed since the Executive Branch proposed a comprehensive series of changes, and most of them are still awaiting final Congressional action. I know that many Members of the Congress have shared my frustrations this year as they have watched the House Ways and Means Committee spend literally thousands of man-hours on a complex series of changes in the code, only to have their efforts watered down at the last minute. As of tonight, there is a strong possibility that serious attempts to change the system will be put off until 1976, and possibly until after the election.

Given these circumstances, I would suggest three major steps must be considered.

First and foremost, it is now incumbent upon elected leaders at every level of government to halt the relentless upward spiral in public spending. By cutting back on the growth in spending, we can also cut back on the growth in taxes and thus do as much to alleviate the distress of the taxpayer as any single reform could ever accomplish. We do not have financial resources to afford all of the bold new programs that have traditionally gotten people elected, and a large portion of our body politic now believes that government has already assumed too much responsibility within our society. Clearly, as the government has become more pervasive, the vitality of the private sector has diminished. In an illuminating article published this fall, the President of Stanford University argues that the Government has pre-empted so many responsibilities in education that it is now forcing many private universities and colleges to the wall. That same trend prevails elsewhere, and it is the taxpayer—victimized by the very system that supposedly represents him—who is forced to pay the bill, either through higher taxes, higher inflation, or both.

Restraining the growth of public spending is essential if we are to defuse the taxpayers discontent. Equally important, by holding down spending, we will begin to return to the taxpayer the ability to control more of the economic decisions that affects his life. The choice about how to spend his earnings will not be made so often in Washington but in his own home. That is the essence of economic freedom, and in a very real sense it is also at the heart of our political and social freedom.

The proposal that President Ford has made to the Congress to cut projected spending for next year's budget by $28 billion and to return the savings dollar-for-dollar to the American taxpayer is a clear recognition of the linkage between spending and taxes. We have tried every other techniques to restrain spending, and the Congress has turned a deaf ear. This one, the President believes, may be our last best hope. Moreover, by lowering taxes, it would help most taxpayers overcome the effects of past inflation on their tax liability.

Some economists are arguing that the President should sign tax cut legislation re gardless of what the Congress does about spending. I am not persuaded by their argument. Whether or not we enact another tax cut immediately may not have a significant impact upon our immediate economic hopes; however, whether or not we bring spending under control and work our way out of horrendous budget deficits will most assuredly have a significant impact upon our hopes for the future. We must finally say no to the apologists for big spending, rejecting their misguided notions that the Government can identify, analyze and solve every problem by throwing more money at it.

A second step that I believe essential is to achieve fundamental reforms in the way we tax business profits—reforms that will provide a stronger bulwark against future economic contractions; reforms that will help to redress the imbalances in corporate balance sheets and broaden equity ownership; and reforms that will encourage the levels of savings and capital investment that are so vitally needed for our future.

Toward these ends, the Administration this summer proposed to the Congress a "Tax Program for Increased National Saving." This proposal would eliminate the double taxation of corporate earnings which I mentioned earlier. I strongly believe that this proposal—which has already been adopted in one form or another in most of the other major industrialized countries—would make a significant contribution toward financing our capital investment needs of the future. Moreover, it is the only major tax proposal of which I am aware that comes to grips with the growing imbalance between corporate debt and equity.

Some observers have asked whether the President's subsequent request for a cut in taxes, linked to a cut in projected spending, means that the Administration has shelved its tax integration proposal. Let me set the record straight: the Administration stands four-square behind both measures. We regard the tax cut/spending cut as an item on the immediate agenda, and we remain hopeful that the Congress will act favorably on it this year. The tax integration measure is much more complicated and will require extensive hearings and debates so that, while we would like to have it passed quickly, we recognize that in reality it will require more time to enact. But both proposals still have our whole-hearted support.

Let me turn now to the third and final step that I personally believe we should begin considering with regard to our tax system. This is a concept that has been suggested from time to time but it has rarely been given serious consideration. It is simply this: to wipe the slate clean of personal tax preferences, special deductions and credits, exclusions from income, and the like, imposing instead a single, progressive tax on all individuals.

I am increasingly attracted to the idea because of its simple elegance and its basic equity toward all taxpayers.

For years, politicians have been telling us that the tax system should be used to promote certain economic and social goals. But should it really? Isn't this precisely the kind of social engineering that lies behind so many of our troubles today? What has caused more disillusionment with government than the failure of government to deliver on so many of its promises? What has caused more bewilderment and distrust among taxpayers than the myriad of so-called loopholes which now litter our tax code?

There has been many studies by responsible organizations which indicate that if the special deductions and credits, exclusions from income, etc. are eliminated or drastically curtailed, we could revise the individual tax rates substantially downwards and keep our total income tax revenue at present levels. Generally, it is suggested that rates could be set at 10-12 percent at the low end and 35-40 percent at the high end. Thus a family of four with income of $15,000 might have an annual Federal tax bill of $1,200; the lowest income families would continue to pay no Federal income taxes at all; and wealthier individuals would pay a tax of 35 percent on their income over $50,000—no ifs, ands, or buts. Everyone would pay his or her fair share.

Looking at it another way, if every taxpayer was allowed the standard deductions under the 1975 law but all other deductions were disallowed and capital gains and tax preferences were taxed as ordinary income, revenues from the personal income tax would increase by about $50 billion. Thus, even under this partial step, personal income tax rates could be cut across the board by about 30 percent without any loss of revenue.

Obviously, the wealthy taxpayer with income of $100,000 or more who is presently able to "shelter" his income will stand to lose from this proposal. As noted before, *all* of this income would be subjected to taxation at some significant rate rising to 35-40 percent. On the other hand, the working men and women of the country—families who earn $10,000 and $20,000 per year—should benefit through reduced tax burdens. And let us not overlook the fact that all citizens will benefit through increased public confidence in the tax system.

Developing the precise details of such a program would clearly involve hard work. Significant political decisions would also have to be made in establishing the tax rate schedules which would be applied to the broadened tax base. But innovation should be encouraged. For example, the idea of a consumption-type income tax discussed by Assistant Secretary Walker here today clearly merits further examination.

If we imposed a single, progressive tax on individual taxpayers, what should be done with corporate taxes? There are, of course, several alternatives that could be considered. My own predilection would be to press forward with the tax integration plan I mentioned earlier, and then to simplify the corporate tax itself in much the same way as we would the individual tax. By eliminating preferences and closing loopholes—that is, by broadening the corporate tax base—we should be able to effect a meaningful cut in corporate income tax rates without any loss in post-integration revenues from this source. Regardless of what form the corporate tax may take, we must bear in mind that ultimately corporations do not pay taxes: people do. It is axiomatic that corporations are simply legal entities. The revenues they turn over to the IRS come either from their customers in the form of higher prices or from their employees and shareholders in the form of lower salaries and lower dividends. In the end, the corporate tax always comes out of somebody's personal pocket. It never ceases to surprise me how often that point is misunderstood.

For years we have been talking about tax reform, and the Executive Branch continually sends up ad hoc measures that predictably draw the fire of special interest groups and are eventually overrun or changed beyond recognition by political opponents. If we truly want tax reform, I say that here's a place to start.

Let me emphasize that I am not trying to float a trial balloon for the Administration. I am speaking here tonight strictly as a Secretary of the Treasury who shares the frustrations of so many Americans who want to bring greater equity and rationality to our tax system and who believe that we must now begin giving much more serious consideration to a tax system that rests upon the twin pillars of fairness and simplicity.

And I must say that I think I am also speaking for millions of Americans who are fed up with the current tax system and want it replaced by one that they can both understand and trust. Indeed, I doubt there is anyone in this audience who believes that if we could start over again, we would build a tax structure similar to the one we have today. As they say, if we didn't have it already, nobody would ever invent it.

Americans have habitually complained about taxes. Tax rebellions extend far back in our history. But during most of our history, the majority of our people have agreed with Justice Holmes that "Taxes are what we pay for civilized society."

Let me reemphasize: The success of the American tax system—and we should always remember that it has been one of the most successful in the world—is that our citizens voluntarily comply with its requirements. They pay their taxes because they believe that others are also paying their worth.

Over the years, as one new wrinkle has been placed on top of another, the Federal tax system has come under increasing jeopardy.

We are threatening to erode basic faith in the fairness of the system because many people feel that taxes are being imposed upon them without their consent, that too many of their fellow-taxpayers are escaping their responsibilities through dozens of loopholes, and that the code itself has become a labyrinth of legal double-talk. In short, for the average taxpayers, the New Deal has given way to the Raw Deal, and they don't like it one bit.

I think the time has come for some fundamental changes and far more imagination about what we can accomplish as a nation if we only overcome our hesitations and fears. Some critics will tell you that what I am suggesting should be dismissed as pure politics. The charge of politics is a poor substitute for thinking. We have been talking and talking about tax reform for years, but we have yet to act in a comprehensive way. The question I leave with you tonight is this: Do we or do we not have the courage to act on our convictions? It's that simple.

Thank you.

COOKING WITH GAS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues the splendid editorial appearing in today's New York Times. This editorial argues that the Congress should not act hastily on permanent deregulation of natural gas.

As the editorial points out, "it is precisely because the arguments—(on this question)—have been so intense and contradictory over the years that this is legislation which should not be passed in a hurry."

And yet that is what the Rules Committee did yesterday in permitting House consideration of the Krueger amendment on which no hearings have been held and on which there has been no opportunity for consideration of alternatives or amendments.

We are faced again, by virtue of the rule granted, with a situation similar to that we faced last week on the $6 billion synthetic fuels loan guarantee program: with considering substitute amendments—for deregulation—which have never been considered in the standard legislative fashion of the House. No legislation comparable to the Krueger or (Clarence) Brown amendments has ever been heard, considered, marked up, or voted on by any committee of this House.

I ask that the New York Times editorial appear at this point in the RECORD, for the benefit of my colleagues:

COOKING WITH GAS

Without fully realizing what is happening, the House of Representatives is in danger of plunging headlong into the long-term deregulation of natural gas.

A short-term emergency bill to secure more plentiful natural gas supplies for New England and the Middle Atlantic states this winter has been duly reported out of committee; when it reaches the House floor this week an attempt is expected to tack on an over-all deregulation measure—just the tactic that succeeded so cleverly in the Senate last October.

To hear the gas industry lobbyists talk, it is not necessary to hold hearings or follow the usual parliamentary procedures for a policy change of this magnitude, since all the arguments have been hashed over many times before. It is precisely because the arguments have been so intense and contradictory over the years that this is legislation which should not be passed in a hurry.

An unlikely coalition of Congressional liberals and conservatives managed to shoot down last week an Administration program to give the synthetic fuel industry $6 billion in loan guarantees, when all the lobbyists thought they had it in the bag. Instead of caving in to contrived momentum on the natural gas issue, the House can show itself capable of straight-thinking; the natural gas deregulation proposal deserves far closer scrutiny than it has been given up to now.

UNEMPLOYMENT AND THE TRADE REFORM ACT

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SLACK. Mr. Speaker, December is the first anniversary month of congressional action on the 1974 Trade Reform Act. President Ford signed it into law in January 1975. It was passed with high expectations. It has been a disappointment.

The Department of State and the Department of Commerce each has a measure of responsibility in the formation and execution of American foreign trade policy. Their efforts to date have not generated the new vigor in trade policy for which the new law was designed. Two particular areas of inadequacy are noticeable. One is tardiness in emphasizing through GATT negotiations with countries the necessity of eliminating invisible barriers to trade. The other is extreme reluctance to safeguard American workmen in American industries from unemployment due to an excess of imports.

Like the United States, many foreign countries have been experiencing a recession that causes loss of jobs. Unlike the United States, those countries—particularly well-developed European countries and Japan—have been easing their recession and creating jobs by accelerating the flow of exports to the United States. I favor a liberal policy in trade, but liberalism should include fairness, and it is not fair to win jobs overseas at the cost of jobs in America.

It is regrettable that the executive branch seems not to understand the usefulness of the new trade law as a tool to slow the rate of job-loss. I wish it would use the tool. I am sensitive to the failure to use it because of economic conditions in West Virginia. My State has carbon steel mills, and one of the encouraging features of the trade reform law is that it could ease tensions in worldwide steel trade if the executive branch pressed the matter with GATT. And my State is the residence of many workers in specialty steel plants in Pennsylvania, across the Ohio River. I regret that an increasing number of those workers are on layoff. They are losing their jobs to specialty steel workers in Europe and Japan as a result of imports.

There is a remedy for preventing that unemployment in section 201 of the Trade Reform Act, which empowers the Government to limit imports that are injuring an industry. The International Trade Commission has considered section 201 petitions from three import-injured industries and rejected them all. In the most recent case, that of the fastener industry, the commissioners opposed to the kind of relief provided by the law contended that the injury to American makers of steel and iron nuts, bolts and screws is due to recession, not to imports—ITC case TA201021 decision November 24, 1975.

Such logic is an invitation to foreign producers of all kinds of goods to take advantage of the American recession and ship the unemployment from France and Britain and Japan to West Virginia and Maryland, Ohio, Pennsylvania, Connecticut and other States. That kind of unexpected distortion of the principles of fair trade only prolongs the recession in our country.

One import-injured industry I have in mind—stainless steel—is one of the specialty steels which is considered essential to the national defense, as determined by the Senate Armed Services Committee after hearings involving Defense Department witnesses. West Virginians work in stainless plants. West Virginians are on layoff because of stainless imports. The labor force of the stainless industry is very highly trained, and if it is riddled by unemployment, America is weakened in consequence.

On a national basis, layoffs have reduced employment by 25 percent in two of the most important of the specialty steel industries—tool steel and stainless steel. That 25 percent is three times the national average of all unemployment. Only excessive imports can explain the high percentage. The specialty makers can survive an economic recession and hold job-loss to a minimum; but they cannot function at much over 50 percent of capacity when imports are seizing their American market, and at that level the jobs become layoffs. A Pennsylvania firm has 1,100 persons on adjustment assistance because they were laid off. A Maryland company has 1,200 on adjustment assistance.

More jobless workers are certified for adjustment assistance in New York State. This assistance is authorized in the trade law for persons who lose jobs due to imports. Why do not we save the jobs by limiting the imports? The trade law permits us to save those jobs, and our adjustment assistance program was conceived as a temporary cushion for conditions which might develop at intervals, not as a permanent form of internationalized unemployment compensation.

The specialty steel plants are mostly in small communities where the banks and the bakers and the department stores and the auto dealers and everybody else in the economic network of the communities depend in good measure on the employees of those specialty steel plants to provide the financial lubrication for the area. It is a problem for communities all over the Nation, from New Britain, Connecticut, to Fullerton, Calif.

Look at the effects beyond the statistics. In layoffs, it is last in, first out. The brunt of unemployment is on the men and women who have been on the job 4 or 5 years, low on the seniority list. They are probably 22 to 25 years old. They have a baby or two. They probably have a house with a mortgage. They married and set up housekeeping because they have faith in the American system and the alertness of the Government to protect the system. Many of them were on the job too short a time to draw adequate layoff benefits; so they are scrimping on their unemployment compensation, going on short rations so the babies can eat, wondering desperately how to keep up the mortgage payments. They are the victims of the imports. They are the victims the executive branch ignores in rejecting petition after petition for protection that the law was enacted to provide.

The stainless steel industry and the tool steel industry and the United Steelworkers of America AFL–CIO have joined together in petitioning the International Trade Commission for relief under section 201. At a Commission hearing in October, the spokesmen for the foreign countries exporting to the United States argued that the troubles of the American specialty steel companies are wholly attributable to recession and not to imports.

But the distinction between imported unemployment and recession unemployment is not hard to make. The jobless man or woman knows the difference. In finding that the laid-off employees of two firms—Latrobe Steel and Armco Steel—are eligible for adjustment assistance, the Labor Department, putting into effect a provision of the Trade Reform Act, readily made the distinction. Other evidence that the specialty steel layoffs are due to imports is provided by the scope of the imports, particularly in these three respects:

First. The imports of essential stainless steel and tool steel in 1975 have taken a larger share of the American market than ever in history—for many of the products which provide the largest share of employment in specialty steel, imports are exceeding 25 percent of the market.

Second. The absolute quantities of imports as well as the market-share are at a record high. In 1975 they exceed the imports in the boom year of 1974.

Third. Studies of individual countries by the Organization for Economic Cooperation and Development show that the rate of specialty steel export to the United States is increasing while the overall rate of export is decreasing.

The foregoing add up to concerted effort to take advantage of the United States in its weakened economic position.

Obviously the executive branch, aside from the Department of Labor, must be urged to a clearer understanding that it has the power to halt growing import-induced unemployment. If the executive branch doubts that imports cause unemployment, I recommend that a special census of unemployment be taken in 1976, with specific provision for enumeration of the unemployed who attribute job loss to imports. Meanwhile it should halt the job-loss by safeguarding our essential industries.

In this connection, Chairman Will E. Leonard of the United States International Trade Commission has made cogent remarks. In an address on December 8 to the annual United States-Mexico conference, he said:

> If the United States is to be what we so often proclaim, a nation of laws, each of those laws must be administered promptly and impartially.

The impartial administration of the Trade Reform Act requires understanding that the trade law is a tool for safeguarding jobs and the industries which provide jobs.

"COP HAS PROBLEMS, TOO"

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. WIGGINS. Mr. Speaker, the Honorable William Martin, of West Covina, Calif., sits as a judge of the municipal court serving that area. In California, municipal court judges are on the front line of our criminal justice system. They have an opportunity, unshared by the rest of us, to observe on a daily basis police conduct.

Judge Martin has written in the San Gabriel Valley Tribune an article entitled "Cop Has Problems, Too." His understanding of the difficult task which we commit to our law enforcement officers, is worthy of the attention of all Members of the House.

I insert the text of his article in the RECORD at this point:

COP HAS PROBLEMS, TOO

(By Judge William Martin)

A football referee is a policeman, prosecutor, and sentencing judge. He accuses a player, finds him guilty, and penalizes him, all at the same time. There is no right of appeal.

A regular policeman has no such extraordinary powers. We hire him to point out to the district attorney, or the courts, those instances where he believes a crime may have been committed.

All he can do is accuse and arrest; and he usually must make a spot decision in doing so.

A judge or a jury has the advantage of many hours or days of evidence carefully prepared by attorneys on both sides. They usually have seen and heard all the witnesses practically available, and the case argued by both parties in the calm, detached atmosphere of the courtroom. The danger, disorder, emotion, and confusion with which the cop was confronted has long disappeared.

Unlike a trial, however, where proof must be beyond a reasonable doubt, the policeman has the duty to make an arrest whenever there is only reasonable grounds to believe the accused may have violated a particular law.

From the very fact that the arrest is made upon contemporaneous appearances, the case is frequently dismissed or reduced after further investigation by the police detective division, the District Attorney, or in pre-trial proceedings in court.

The fact that it was dismissed, however, does not usually mean that the officer made an error. It only means what, at first, seemed to be an offense, turned out, upon further look, not to be.

When this, the true role of a policeman, is explained, most people readily understand that such innocent error is built into the system, and accept it. What they cannot understand or agree with, however, is the intentional error (abuse of authority) made by a small percentage of policemen.

I am convinced, from long observation, that those policemen who take advantage of, or abuse, their authority are no more proportionately prevalent than those who do so amongst lawyers, doctors, dentists, real estate brokers, auto salesmen, TV repairmen, plumbers, and so on.

One difference, that makes the abusive policeman more unpalatable than the others, is that we don't usually seek him;—he seeks us, uninvited, because of our suspicious behavior (abusive judges fall in this same class). Also his abuse, is from the nature of his job, usually more physical or traumatic (doctors excepted).

The basic explanation, of course, is that we cannot fill any of these positions with any other species than human beings. We should know that all men are "rotten" in some things at some times; some more so and in more things than others.

We must undergo with our policemen, judges, lawyers, doctors, and all other positions of responsibility, a continuous scrutiny, and a continuous corrective re-selection, pruning and remodeling.

It is a problem that is as perennial as our lawngrass. We will continue to mow it, and to weed it forever.

Beware, however, if you do recognize that there are a given number in blue or brown uniforms that are throwing their weight around. For you must, then, also recognize that for every one of these, there are scores of us not in such uniforms, who are throwing our weight around daily, in the form of murders, rapes, robberies, burglaries, aggravated and violent assaults, and many other crimes.

The police officer is in the front-line, home army against those of us engaged in such growing criminal violence.

Coping with these criminals is not a game that can always be played with the white glove treatment of a fencing match in a college gymnasium.

Do we really, then, considering the nature and importance of what he is doing, have grounds to like or dislike policemen any more than a football player does his referees?

SYMPOSIUM ON THE WORLD FOOD CRISIS, XV—FINAL STATEMENT

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. BRECKINRIDGE. Mr. Speaker, the problem of world hunger has been with us for so long that it makes only sporadic headlines. Most often, starvation occurs either far away or out of sight, making it all too easy for well-fed Americans to put it out of their minds.

However, we understate this problem at our peril, because our survival is at stake—not just survival for the poor, the hungry and the starving—but survival for ourselves and our civilization. The hunger pangs of 1 billion undernourished people in the world today could lead to desperate action, even to nuclear holocaust.

Therefore, we must elevate the problem of world hunger to a higher level of appreciation in the United States and throughout the developed world. We made an effort to do this April 1 and 2 at the World Food Crisis Symposium at the University of Kentucky when we brought together under one roof more nationally renowned authorities to focus on a broad problem than I am generally privileged to witness; they placed perspective and balance into the many-faceted problem of world hunger. At the conclusion of the symposium, I resolved that their knowledge and insights should reach beyond the confines of the University of Kentucky campus. Over the past 5 months I have placed the symposium's penetrating discussions in the CONGRESSIONAL RECORD for the benefit of my colleagues, our libraries' readers throughout the Nation and other professionals who receive the publication.

A number of symposium participants clarified the problems of world hunger and population explosion. Other participants suggested approaches that could contribute to solutions.

A startling fact to me that emerged from the discussions is that the worldwide margin of subsistence is so thin that a 3 percent downward shift in food production in the United States can result in the death of 10 million people plus untold additional millions who would be permanently stunted, both mentally and physically. This situation places a tremendous responsibility on our Nation's farmers, now constituting only 5 percent of our population; on research people in our departments of agriculture and universities and on their extension services.

The great land grant universities, including the University of Kentucky, do research that helps improve U.S. food productivity, but they also offer technical assistance to farmers in developing nations. The efforts of the University of Kentucky in Thailand were explored at the symposium. These activities were carried out under the leadership of Dr. Charles Barnhart, dean of the College of Agriculture and director of extension at the University of Kentucky, whose active cooperation helped make the symposium so successful.

Our Nation's Land Grant College system, which was established under President Abraham Lincoln, deserves much of the credit for the highly developed agricultural science and technology of the United States. The system is probably the best example of Federal, State and local cooperation anywhere in government. The experiment stations that are part of the system have led the way in increasing corn yields per acre from 21.9 bushels in 1887 to 87.4 bushels in 1975, and in increasing the wheat yield per acre from 13.3 bushels in 1887 to 31.1 bushels in 1975. The experiment stations have developed hybrid corn, introduced and improved the soybean and increased use of fertilizer and farm mechanization among other accomplishments.

The basic work that gave rise to the phrase "green revolution," which describes the results of new high-yielding varieties of rice, wheat and feed grains, was performed by international research centers, drawing on the sources both of governments and private foundations. The "green revolution" in the past few years has significantly helped the world's food supply to keep pace with population growth, but it should be emphasized that it represents progress, not a panacea, for the world food problem.

Advance in agricultural productivity must continue in view of projections that show the world's population will almost double by the end of the century from 4 billion to 7 to 8 billion. To meet that challenge, the world requires more science and education—more agricultural colleges and experiment stations and extensions services, here and abroad.

It is heartening that Congress this year has taken action to strengthen the role of the Nation's land grant and similar universities in the effort to increase agricultural production in the developing countries. Congress incorporated the provisions of Congressman PAUL FINDLEY's bill, the Famine Prevention Act of which I am a cosponsor, into H.R. 9005, the International Development and Food Assistance Act of 1975, which passed the House September 10 and is now in conference.

Increasing food production is just one prong in the effort to prevent hunger in the world and the hazards it poses for international stability and peace. The second prong is to abate the population explosion, a subject that I have already alluded to. Unless the present rate of population growth can be slowed down, the starvation "solution" is inevitable.

Although world population is increasing at the seemingly modest rate of 2 percent annually, the results of such growth are staggering. The world contained 250 million people at the time of Christ. World population had increased to 1 billion by 1830. It took only 100 years until 1930 to add a second billion—30 years, 1960, to add a third billion—and only 15 more, according to 1975 estimates, to add a fourth billion. If this trend continues, the world's population will be 7 to 8 billion in 2000.

The population problem is compounded, because the growth—far from being spread evenly over the Earth—is most rapid in those areas which have the least food and other economic resources. While the world population is doubling every 35 years, the population of some of the less developed countries is doubling in 18 years or less. Almost invariably, the poorer the Nation the higher the birth rate.

The outlook is, therefore, for dangerous extremes between the well-fed and the hungry in the world. The fabric of society cannot survive the starvation that would result in the poorer nations from a continuation of present trends.

The solution lies in development and production of more food, on the one hand, and in achieving a more representative balance between productive and procreative capacity, on the other hand.

In 1798, the noted English economist, Thomas Malthus, predicted that starvation was the only way to achieve balance between burgeoning population and inadequate food supplies:

> Famine seems to be the last, the most dreadful resource of nature. The power of population is so superior to the power of the earth to provide subsistence . . . that premature death must in some shape or other visit the human race.

On September 1, 1975, Secretary of State Henry Kissinger controverted Malthus in an address prepared for the United Nations General Assembly, saying:

> For some time the technical capacity has existed to provide a tolerable standard of life for the world's four billion people . . . we—the world community—must shape the political will to do so.

Earlier, in November 1974, Secretary Kissinger at the World Food Conference in Rome, committed all nations to the proposition that:

> No child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition.

Malthus was also refuted this year by former Secretary of Agriculture Clifford M. Hardin, who, as chairman of the National Commission for the Observance of World Population Year, reported to the President:

> As the Commission concludes its work, it is my personal conviction that there are sufficient food-producing resources and technology in the world today to provide for the feeding of whatever number of people may live in the world in the year 2000 better than mankind has ever been fed.

Refuting Malthus, however, will take more than words. It will require cooperation by the industrialized nations, with a focus on those less developed nations that are willing to take actions to help themselves raise food production and execute family planning programs.

The United States must continue to provide food aid when needed, without making the recipient nations dependent on us. During the past 10 years, the United States supplied 80 percent of the world's food aid.

This Nation must continue our programs of technical assistance to the developing nations on agricultural production, administered through the Agency for International Development, as well as programs of research and education, better crop and livestock reporting and an early warning system to identify upcoming food problems.

Implicit in these endeavors is greater cooperation among the industrialized nations in helping the developing countries build their economies, closing the gap between the rich and the poor.

The World Food Conference in Rome in 1974, which was attended by the representatives of 130 nations, produced many promising initiatives and some significant new institutional arrangements. A World Food Council, charged with overall followup in all food policy areas, was established. A Committee on World Food Security was set up to review supply, demand, and stock data, as well as steps taken by governments to implement the proposed international undertaking on world food security. And an Agricultural Development Fund, proposed originally by the Organization of Petroleum Exporting, OPEC, countries and later sponsored by several industrialized countries, was organized to receive voluntary contributions and resources to be dispensed through existing international and regional lending institutions.

Besides these accomplishments, the World Food Conference greatly increased public awareness of the precarious food-population balance. However, because of recent improvements in the world food picture, public interest has waned.

Sustained attention and action are necessary if the world is to cope with these enormous problems. We cannot afford to move in fits and starts.

At the World Food Crisis Symposium at the University of Kentucky we gave these problems the attention they must have if we are to avoid Malthus's starvation "solution."

The dialog must continue throughout the United States and the world so that the gravity of the problems will take a firm hold on people. The problems must be comprehended and pursued and resolved.

The stakes are as high as they could possibly be; civilization as we know it.

VETO THE ENERGY BILL

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SHRIVER. Mr. Speaker, once again the Congress has passed a so-called energy policy and conservation bill and sent it to the President. In my opinion, we have failed to produce legislation which will lessen our reliance on foreign oil. Instead, this bill will discourage domestic exploration and production by the small independents who are the backbone of our domestic industry. And, it provides for more bureaucratic control and regulation which can only lead to confusion and chaos.

The difficult decision whether or not to make such legislation law now rests with the President. An excellent editorial which appeared in The Wichita Eagle on December 12 points up the strengths and weaknesses of this energy legislation. The editorial concludes:

> But we believe the bad outweighs the good in this bill. President Ford should veto it and send it back to Congress with the admonition to try again.

Under leave to extend my remarks in the RECORD, I include the full text of the Eagle editorial:

> VETO THE ENERGY BILL
>
> We are no more enthusiastic than anyone else at the prospect that the price of gasoline may increase at the pumps. But we believe it is in the best long-range interests of the nation that President Ford veto the omnibus energy bill.
>
> The energy bill appears to have only one real advantage for anyone—it is politically attractive at a time when many members of Congress already are anticipating their next campaign.
>
> Otherwise, it is full of defects.
>
> Many of its provisions are complex and difficult for the individual who is unversed in the mechanics of oil production to grasp. But a look at some of the provisions of the bill suggests that some of the results of it would be:
>
> To reduce domestic exploration and production of oil because prices on either old or new oil would have to come down, thus decreasing incentive among the independents, who do most of the exploration and production from the small wells, which in sum account for a great deal of the oil produced,
>
> To increase our dependence upon foreign oil, thus adversely affecting our balance of payments and increasing our reliance upon suppliers who would more and more be in a position to dictate foreign policy to us;
>
> To provide no long-term energy policy for the nation. It is based on the faulty premise that the problem is high energy costs and that the solution lies in price controls. The emphasis should be on inciting increased domestic production of oil and gas, and promoting the development of alternate sources of energy.
>
> To create a wilderness of regulations and controls that would be costly, confusing, difficult to administer and might quite possibly become political in their application.
>
> There are, to be sure, good provisions of the energy bill, requiring the more efficient use of energy, promoting conservation, providing for petroleum reserves, and imposing certain limits upon export of domestic oil or gas.
>
> But we believe the bad outweighs the good in this bill. President Ford should veto it and send it back to Congress with the admonition to try again. It would be helpful, too, if in the meantime he and his administration could arrive at some clearer idea of what is desirable in a comprehensive energy policy.

AURORA BEACON NEWS ON FOOD STAMP REFORM

HON. TIM L. HALL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. HALL. Mr. Speaker, food stamp reform is one of the most important issues facing the second session of this Congress. There are a number of bills now before us and hearings are underway. I have introduced a measure identical to the Dole-McGovern bill since I believe that represents the best starting place to reform the present program.

The food stamp program remains a very important means of assisting families who otherwise could not obtain nutritious meals. Much of the recent large increases in cost and participation in the program could be eliminated by reducing unemployment and returning our economy to a healthy state.

Mr. Speaker, there are inequities in this program, a program which has had serious problems in administration. Taking the best features of the various proposals now being considered, I think we can improve upon the food stamp program.

Mr. Speaker, the Aurora Beacon News ran an excellent editorial on this subject. The paper has performed a notable public service in placing this issue into proper perspective and I commend the editorial to the attention of our colleagues:

> PROGRAMS NEED MORE BALANCE
>
> There is an appealing symmetry about the food stamp reform plan sent to Congress by President Ford.
>
> By revising eligibility standards and formulas, about one-million families whose income exceeds a reasonable definition of poverty would be trimmed from the food stamp lists. As a result, about 1. million families—"The poorest of the poor," in the words of Agriculture Secretary Butz—would have their food stamp benefits increased.
>
> Benefits would remain substantially the same for about half of the individuals and families receiving the food subsidy. The net result would be to reduce the annual cost, now heading toward $6 billion a year, by $1.2 billion.
>
> Cutting away at abuse and excesses at the high end of the spectrum, and applying part of the savings at the lower end, is the kind of balancing that the food stamp program and other welfare programs need. The principle that taxpayers will help support the genuinely needy in their communities is not at issue, nor should it be, what has gone wrong is that the intricacies of defining need and eligibility for assistance programs like food stamps have overcome the concept of charity that brought them into being.
>
> Agriculture Department studies have shown that six per cent of the households receiving food stamps have incomes above $9,000. Another 11 per cent have incomes between $6,200 and $9,000. It is this 17 per cent that would forego food stamps under the administration proposals. Those in Congress who would defend the present eligibility requirements have the burden of justifying a government food subsidy to Americans in those income brackets.
>
> Congress should find it hard to argue with Mr. Ford's proposal that college students be ineligible for food stamps unless their families meet the eligibility requirements, or that food stamps be provided to strikers only if they are seeking other jobs. Those changes would strike at two of the most visible food stamp abuses.
>
> Waste and abuse in the food stamp program have become so notorious it is hard to see how Congress can face the voters next year without some offering of reform. At the same time, however, it is hardly cynical to admit that the 18.8 million Americans relying to a major or minor degree on food stamp benefits represent a constituency whose interests Congress will heed.
>
> How far Congress will go in curtailing the food stamp program may be a primary question for 1976, but a more basic question apparently must wait for 1977. That is the issue of the existence of the program itself, which has grown up outside the framework of the welfare system where it obviously belongs. Food stamps cannot be separated from the bigger picture of welfare reform, which Congress and the administration are still keeping on the back-burner.

EBONY MAGAZINE PRAISED ON THEIR 30TH ANNIVERSARY ISSUE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. STOKES. Mr. Speaker, for 30 years, Ebony magazine has been at the forefront of the black man's struggle for political and social equality in this great Nation.

Under the able pen of Mr. John H. Johnson, publisher of Ebony and president of Johnson Publishing Co., this magazine has provided a window into the experiences of black America, a close-up view of our triumphs and tragedies.

When our black soldiers came home battle-worn from World War II to a hostile America, Ebony was there. When Rosa Parks stood up to the racist southern establishment and refused to move from her bus seat, Ebony was there. When the Supreme Court blasted the doctrine of "separate but equal" and allowed Linda Brown to enter the school door, Ebony walked with her. Ebony followed the steps of our great leaders, Martin Luther King and Malcolm X, both on the road to freedom and the road to the grave.

Ebony stood in the riot torn streets in the line of the tear gas canisters and armed troops when black America's discontent overflowed into a towering rage at the injustices heaped upon their heads. And when the rage subsided and reformed itself into a viable political and economic movement, Ebony was there all the way.

Mr. Speaker, I would like to call to the attention of my colleagues in the House the merits of this pioneering publication and the exemplary contributions of its publisher. I am submitting Mr. Johnson's 30th anniversary editorial which appeared in the commemorative issue this November and which was reprinted in the Washington Post on Friday, Nov. 21, 1975.

Let us joint in honoring Ebony's first 30 years by offering our thanks, best wishes, and sincere hope that this outstanding magazine will have many more years of meritorious service.

The article follows:

EBONY MAGAZINE: ON TURNING 30

By John H. Johnson

When the first issue of Ebony Magazine appeared in November, 1945, there were no blacks in organized baseball and football and "colored" and "white" signs blanketed the South. There were no signs then in the North, but there were unwritten rules and blacks were not welcome in many restaurants and hotels in downtown areas. Nor were they welcome in the halls and columns of mass media. In that month, in that year, which is so far away and yet so near, blacks were objects of scorn and ridicule in movies and mass media. Few magazines dealt with blacks as human beings with human needs. Fewer magazines dealt with the whole spectrum of black life. It was, for example, rare for radio, newspapers or magazines to take note of the fact that blacks fell in love, got married and participated in organized community activities.

We mention these facts, not to gloat or to cast stones, but to remind ourselves of the climate and the mandate of our birth. Ebony was founded to provide positive images for blacks in a world of negative images and non-images. It was founded to project all dimensions of the black personality in a world saturated with stereotypes. We wanted to give blacks a new sense of somebodiness, a new sense of self-respect. We wanted to tell them who they were and what they could do. We believed then—and we believe now—that blacks needed positive images to fulfill their potentialities. We believed then—and we believe now—that image power is a prerequisite of economic and political power.

Since that time, the world has changed and black people have changed. Some people have been kind enough to say that Ebony played some small part in that change. However that might be, it is gratifying to note that so many of the issues we raised are now part of the image landscape. There are black faces in advertisements and on the covers of magazines. From time to time, we read human interest stories on black families; and there are occasional stories which recognize that we are people, and not "problems". . .

It is encouraging to note that so many things have changed. But it is alarming to note that so many things remain the same. (The first editorial in our first issue called for full employment, and full employment is still the No. 1 issue in the black community.) Largely because of the work of black activists and the persistent hammering of the black press and black civil rights organizations, the boundaries of the black world have widened. Despite that fact, or perhaps because of it, the black image is threatened today almost everywhere. There is an increasing tendency in white media to identify blackness with crime, disorder, and dependency. There is an increasing tendency in academic circles to identify blacks as cultural and biological inferiors. To make matters worse, the economic situation has created a climate which intensifies the difficult identity problems of black youths. For all these reasons, and for others as well, there has never been a greater need for black-oriented media dedicated to a continuous and accurate projection of all facets of the black experience. We felt in 1945—and we feel now—that our story, the story of our hopes and hurts, the story of our dreams and triumphs, is one of the most eloquent and important stories in the world. We felt in 1945—and we feel now—that that story is central to the meaning and the redemption of America. Our mission today, as in 1945, is to tell that story. Our mission is to tell black America, and the world, what black America is thinking, doing, saying, feeling, and demanding. Our mission is to tell it not only like it is but also like it was and like it must be.

Some magazines have different missions and different formats. Some magazines speak primarily to women; some speak primarily to businessmen; some speak primarily to teen-agers. We have the difficult task, and the high honor, of speaking to, for, and about all. This is by no means an easy task. Black America is a many-splendored panorama of swirling and sometimes contradictory forces. It is composed of laborers, professionals, militants, moderates, merchants and street people. And we speak to, for, and about all of them. For all of them are part of that great and pulsating nation within a nation that we call the black community.

Some people and some media tell part of the story of that community some of the time. We are committed to telling all of the story—the good and the bad, the trials and the triumphs—all of the time. We are a magazine of record and a magazine of the whole. If it happens in the black community, if it happens to the black community, it happens to us and it matters to us.

For 30 years, for 360 months, for 10,950 days, we have been a part of that community. And we believe that despite the adversities of the moment the next 30 years will carry that community to new and unparalleled heights. We face the future with hope. We believe today, as we believed 30 years ago, that truth and freedom are mighty above all things and will prevail.

"911" HOTLINE FOR EMERGENCIES

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. ROUSH. Mr. Speaker, two more States are today added to the list of those with communities which have adopted the "911" emergency telephone number or which plan to do so in the near future:

Systems location	Date: In service	Date: Scheduled	Population served (thousands)
AMERICAN TELEPHONE & TELEGRAPH			
Kansas:			
Colby		August 1975	6.4
Dodge City	March 1971		15.0
El Dorado	April 1971		13.0
Elwood	July 1972		1.3
Garden City		January 1976	30.0
Independence		February 1975	11.8
Herington		March 1975	4.5
Lawrence	November 1969		34.0
Manhattan		November 1975	30.1
Neodesha	February 1972		4.0
Salina	August 1973		42.0
Kentucky:			
Danville	March 1974		18.0
Frankfort	March 1970		21.0
Hopkinsville	October 1973		24.0
Mayfield	April 1970		11.0
Paris	June 1970		17.0
INDEPENDENT TELEPHONE COMPANIES			
Kentucky:			
Lexington		December 1975	180.0

SECRETARY WILLIAM E. SIMON ON REAL TAX REFORM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. KEMP. Mr. Speaker, on December 3, our very outstanding Secretary of the Treasury, William E. Simon, addressed the Tax Foundation's 27th national conference in New York City. His subject was tax reform, real tax reform.

The Secretary's remarks could not have been better timed. What he proposed ought to be the guiding principles for reform of our tax laws.

Mr. Simon talked about the difficulties of the present tax system—its built-in inequities—especially during periods of inflation, its inability to keep pace with government expenditures—which produces more of that inflation, its bias against savings and investment—which thereby robs us of our potential for increasing both productivity and jobs, and also its rigid complexities.

The Secretary's remarks are "must" reading for everyone in this Chamber, and I commend those remarks to my Colleagues:

STATEMENT BY THE HONORABLE WILLIAM E. SIMON

Since history has a habit of repeating itself, I'm sure I'm not the first Secretary of the Treasury who has reached the conclusions I want to discuss with you tonight. And no doubt, I will not be the last. But the time has come for a little plain talk about a subject that is important to all of us: our taxes.

The system of Federal taxation which has evolved since the early days of the Republic is in trouble today.

And after several years of seeking to reform the system, I am increasingly persuaded that tinkering may no longer be the answer.

Let me elaborate for a moment about the difficulties of the tax system.

First, it is readily apparent that the Federal tax system is poorly structured for a period of rampant inflation. Millions of taxpayers now legitimately complain that the extraordinarily high rates of inflation we have experienced recently have hit them with a double whammy: at the same time that inflation is eroding their real purchasing power, it is also pushing them into higher tax brackets.

Secondly, because of the rapid growth in the size of government at all levels since the early 1960's, the portion of personal income that must be paid into Federal, state, and local tax coffers is rising steadily. Many of you are familiar with the Conference Board study published this spring showing that the item which rose the fastest in the American family budget during the last six years was taxes. While the general cost of living climbed about 40 percent during that period, the total bill for taxes—Federal, state, and local—jumped by 65 percent.

Thirdly, it is becoming more widely recognized now that the Federal tax system is discouraging savings and investment when we need three times as much investment in the next decade as the last decade. By taxing corporate profits twice—once at the corporate level and then at the level of the shareholder—the United States is imposing a heavier tax burden on its business enterprises than in most other major industrialized nations of the Free World. And by allowing corporations to deduct interest payments on their debt but refusing to allow deductions for their dividends, the tax system is encouraging businesses to rely too heavily upon the debt markets, so that the corporate financial structure is increasingly unbalanced. Economists are properly cautious in saying that the way we collect taxes may not totally determine how much we save and invest. But the fact is that the share of our GNP devoted to capital investment over the last 15 years has been lower than in the economies of any of our major competitors. We have also had one of the poorest records in terms of productivity gains and in terms of real income growth. Furthermore, our recent unhappy experience in terms of high inflation is in part attributable to past inadequate capital formation. The Federal tax system has been a major influence on all of these developments.

Finally, it has become painfully obvious to most taxpayers that the present tax system is so riddled with exceptions and complexities that it almost defies human understanding. No one can adequately assess its basic fairness. The complexities have reached a point where I'm not even sure the IRS experts fully understand the system anymore. How can they when they are dealing with a tax code and regulations that now exceeds 6,000 pages of fine print? You may remember the informal survey conducted a few years ago by an executive in Atlanta, working in conjunction with *The Wall Street Journal*. This executive visited five different IRS centers around the country, presenting to each of them the same set of facts about his income and possible deductions and then asking how much tax he should pay. The result? Five different answers, varying by as much as $300 in how much he owed. The offices could not even agree on how many forms he should fill out.

In these circumstances, it is hardly surprising that two taxpayers out of every five now seek outside assistance, usually at some expense, to complete their tax forms. It is even less surprising that more than three quarters of the American people now want the tax code changed, and some 50 percent want major changes. There is a widespread feeling that the system favors the rich at the expense of working families.

As everyone in this chamber knows, the success of our tax system rests upon the voluntary compliance of our taxpayers. If there were widespread abuses of the system, we could not possibly police them. Yet, when people lose faith in the basic fairness of the system, it almost inevitably follows that the system itself will falter. In fact, the rate of compliance has begun to drop in recent years. We are faced, as former Treasury Secretary Joseph Barr first observed almost 10 years ago, with an incipient taxpayers revolt.

The fear of a revolt has not been lost upon Washington, but so far, I'm afraid, attempts to reform the tax system have fallen far short of the mark. I say this with full appreciation of the herculean labors performed by the House Ways and Means Committee under Wilbur Mills and by the Administration in securing passage of the 1969 Tax Reform Act. That act did help to simplify the tax system: some 8 million low-income taxpayers (poverty level or below) were removed from the tax rolls altogether, and another 11 million taxpayers were offered greater incentives to use the standard deduction, avoiding the time and trouble of itemizing their deductions. Nonetheless, considering all the labors that went into that bill, it was a great disappointment to those who were seriously interested in tax reform. If anything, the 1969 act, like the Revenue Act of 1971, was really more of a lawyers' and accountants' relief bill. There is still a decisive need to overhaul the code. I speak with some feeling on this because nearly three years have passed since the Executive Branch proposed a comprehensive series of changes, and most of them are still awaiting final Congressional action. I know that many Members of the Congress have shared my frustrations this year as they have watched the House Ways and Means Committee spend literally thousands of man-hours on a complex series of changes in the Code, only to have their efforts watered down at the last minute. As of tonight, there is a strong possibility that serious attempts to change the system will be put off until 1976, and possibly until after the election.

Given these circumstances, I would suggest three major steps must be considered.

First and foremost, it is now incumbent upon elected leaders at every level of government to halt the relentless upward spiral in public spending. By cutting back on the growth in spending, we can also cut back on the growth in taxes and thus do as much to alleviate the distress of the taxpayer as any single reform could ever accomplish. We do not have financial resources to afford all of the bold new programs that have traditionally gotton people elected, and a large portion of our body politic now believes that government has already assumed too much responsibility within our society. Clearly, as the government has become more pervasive, the vitality of the private sector has diminished. In an illuminating article published this fall, the President of Stanford University argues that the Government has preempted so many responsibilities in education that it is now forcing many private universities and colleges to the wall. That same trend prevails elsewhere, and it is the taxpayer—victimized by the very system that supposedly represents him—who is forced to pay the bill, either through higher taxes, higher inflation, or both.

Restraining the growth of public spending is essential if we are to defuse the taxpayers' discontent. Equally important, by holding down spending, we will begin to return to the taxpayer the ability to control more of the economic decisions that affect his life. The choice about how to spend his earnings will not be made so often in Washington but in his own home. That is the essence of economic freedom, and in a very real sense it is also at the heart of our political and social freedom.

The proposal that President Ford has made to the Congress to cut projected spending for next year's budget by $28 billion and to return the savings dollar-for-dollar to the American taxpayer is a clear recognition of the linkage between spending and taxes. We have tried every other technique to restrain spending, and the Congress has turned a deaf ear. This one, the President believes, may be our last best hope. Moreover, by lowering taxes, it would help most taxpayers overcome the effects of past inflation on their tax liability.

Some economists are arguing that the President should sign tax cut legislation regardless of what the Congress does about spending. I am not persuaded by their argument. Whether or not we enact another tax cut immediately may not have a significant impact upon our immediate economic hopes; however, whether or not we bring spending under control and work our way out of horrendous budget deficits will most assuredly have a significant impact upon our hopes for the future. We must finally say no to the apologists for big spending, rejecting their misguided notions that the Government can identify, analyze and solve every problem by throwing more money at it.

A second step that I believe essential is to achieve fundamental reforms in the way we tax business profits—reforms that will provide a stronger bulwark against future economic contractions; reforms that will help to redress the imbalances in corporate balance sheets and broaden equity ownership; and reforms that will encourage the levels of savings and capital investment that are so vitally needed for our future.

Toward these ends, the Administration this summer proposed to the Congress a "Tax Program for Increased National Saving." This proposal would eliminate the double taxation of corporate earnings which I mentioned earlier. I strongly believe that this proposal—which has already been adopted in one form or another in most of the other major industrialized countries—would make a significant contribution toward financing our capital investment needs of the future. Moreover, it is the only major tax proposal of which I am aware that comes to grips with the growing imbalance between corporate debt and equity.

Some observers have asked whether the President's subsequent request for a cut in taxes, linked to a cut in projected spending, means that the Administration has shelved its tax integration proposal. Let me set the record straight: the Administration stands four-square behind both measures. We regard the tax cut/spending cut as an item on the immediate agenda, and we remain hopeful that the Congress will act favorably on it this year. The tax integration measure is much more complicated and will require extensive hearings and debates so that, while we would like to have it passed quickly, we recognize that in reality it will require more time to enact. But both proposals still have our whole-hearted support.

Let me turn now to the third and final step that I personally believe we should begin considering with regard to our tax system. This is a concept that has been suggested from time to time but it has rarely been given serious consideration. It is simply this: to wipe the slate clean of personal tax preferences, special deductions and credits, exclusions from income, and the like, imposing instead a single, progressive tax on all individuals.

I am increasingly attracted to the idea because of its simple elegance and its basic equity toward all taxpayers.

For years, politicians have been telling us that the tax system should be used to promote certain economic and social goals. But should it really? Isn't this precisely the kind of social engineering that lies behind so many of our troubles today? What has caused more disillusionment with government than the failure of government to deliver on so many of its promises? What has caused more bewilderment and distrust among taxpayers than the myriad of so-called loopholes which now litter our tax code?

There have been many studies by responsible organizations which indicate that if the special deductions and credits, exclusions from income, etc. are eliminated or drastically curtailed, we could revise the individual tax rates substantially downwards and keep our total income tax revenues at present levels. Generally, it is suggested that rates could be set at 10–12 percent at the low end and 35–40 percent at the high end. Thus a family of four with income of $15,000 might have an annual Federal tax bill of $1,200; the lowest income families would continue to pay no Federal income taxes at all; and wealthier individuals would pay a tax of 35 percent on their income over $50,000—no ifs, ands, or buts. Everyone would pay his or her fair share.

Looking at it another way, if every taxpayer was allowed the standard deduction under the 1975 law but all other deductions were disallowed and capital gains and tax preferences were taxed as ordinary income, revenues from the personal income tax would increase by about $50 billion. Thus, even under this partial step, personal income tax rates could be cut across the board by about 30 percent without any loss of revenue.

Obviously, the wealthy taxpayer with income of $100,000 or more who is presently able to "shelter" his income will stand to lose from this proposal. As noted before, *all* of this income would be subjected to taxation at some significant rate rising to 35–40 percent. On the other hand, the working men and women of the country—families who earn $10,000 and $20,000 per year—should benefit through reduced tax burdens. And let us not overlook the fact that all citizens will benefit through increased public confidence in the tax system.

Developing the precise details of such a program would clearly involve hard work. Significant political decisions would also have to be made in establishing the tax rate schedules which would be applied to the broadened tax base. But innovation should be encouraged. For example, the idea of a consumption-type income tax discussed by Assistant Secretary Walker here today clearly merits further examination.

If we imposed a single, progressive tax on individual taxpayers, what should be done with corporate taxes? There are, of course, several alternatives that could be considered. My own predilection would be to press forward with the tax integration plan I mentioned earlier, and then to simplify the corporate tax itself in much the same way as we would the individual tax. By eliminating preferences and closing loopholes—that is, by broadening the corporate tax base—we should be able to effect a meaningful cut in corporate income tax rates without any loss in post-integration revenues from this source. Regardless of what form the corporate tax may take, we must bear in mind that ultimately corporations do not pay taxes: people do. It is axiomatic that corporations are simply legal entities. The revenues they turn over to the IRS come either from their customers in the form of higher prices or from their employees and shareholders in the form of lower salaries and lower dividends. In the end, the corporate tax always comes out of somebody's personal pocket. It never ceases to surprise me how often that point is misunderstood.

For years we have been talking about tax reform, and the Executive Branch continually sends up ad hoc measures that predictably draw the fire of special interest groups and are eventually overrun or changed beyond recognition by political opponents. If we truly want tax reform, I say that here's a place to start.

Let me emphasize that I am not trying to float a trial balloon for the Administration. I am speaking here tonight strictly as a Secretary of the Treasury who shares the frustrations of so many Americans who want to bring greater equity and rationality to our tax system and who believe that we must now begin giving much more serious consideration to a tax system that rests upon the twin pillars of fairness and simplicity.

And I must say that I think I am also speaking for millions of Americans who are fed up with the current tax system and want it replaced by one that they can both understand and trust. Indeed, I doubt there is anyone in this audience who believes that if we could start over again, we would build a tax structure similar to the one we have today. As they say, if we didn't have it already, nobody would ever invent it.

Americans have habitually complained about taxes. Tax rebellions extend far back in our history. But during most of our history, the majority of our people have agreed with Justice Holmes that "Taxes are what we pay for civilized society."

Let me reemphasize: The success of the American tax system—and we should always remember that it has been one of the most successful in the world—is that our citizens voluntarily comply with its requirements. They pay their taxes because they believe that others are also paying their fair share, and because they are getting their money's worth.

Over the years, as one new wrinkle has been placed on top of another, the Federal tax system has come under increasing jeopardy.

We are threatening to erode basic faith in the fairness of the system because many people feel that taxes are being imposed upon them without their consent, that too many of their fellow-taxpayers are escaping their responsibilities through dozens of loopholes, and that the code itself has become a labyrinth of legal double-talk. In short, for the average taxpayers, the New Deal has given way to the Raw Deal, and they don't like it one bit.

I think the time has come for some fundamental changes and far more imagination about what we can accomplish as a nation if we only overcome our hesitations and fears. Some critics will tell you that what I am suggesting should be dismissed as pure politics. The charge of politics is a poor substitute for thinking. We have been talking and talking about tax reform for years, but we have yet to act in a comprehensive way. The question I leave with you tonight is this: Do we or do we not have the courage to act on our convictions? It's that simple.

Thank you.

SALUTE TO PAUL GILBERT

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. BRADEMAS. Mr. Speaker, I take this time to pay tribute to one of the outstanding citizens of my home community of South Bend, Ind., Paul D. Gilbert.

Paul Gilbert has been selling clothes in South Bend for 57 years and has been very successful at it.

But Paul Gilbert is known in South Bend not only for his success as a businessman but also for the leading role he has played in community affairs.

I recall the bleak days of 1963 and 1964 in South Bend after the Studebaker Corp. shut down its automotive plant there and when many citizens were predicting that our community would become a ghost town.

Paul Gilbert's optimism and energy and leadership played an important role in the comeback South Bend made from those difficult times, and our city now enjoys economic health and an unemployment rate well below the national average.

Mr. Speaker, Paul Gilbert has been a leader in an extraordinary number of civic endeavors at the local and national level. He has for many years been the national chairman of the National Father's Day Council, and his close association with the University of Notre Dame is symbolized by the establishment of the Paul D. Gilbert Marketing Lecture Series at the College of Business Administration at Notre Dame.

Paul Gilbert is a model of a businessman with a keen sense of responsibility for the well-being of his community. I am proud to call him my friend and I insert at this point in the record excerpts from an article by Phil Ault, "Paul D. Gilbert, of South Bend (Not Studebaker), Indiana, U.S.A.!", published in the South Bend (Indiana) Tribune of December 7, 1975.

The excerpt follows:

Paul D. Gilbert, Of South Bend (Not Studebaker), Indiana, U.S.A.!

(By Phil Ault)

When Paul D. Gilbert began selling clothing to South Bend residents, spats still were defined as little button-on garments to keep men's ankles warm, not as husbands' quarrels with their wives.

Men's shirts came without collars. Separate collars of cloth or celluloid were attached to the collarband of a shirt by a brass button. When the collar became dirty, the man replaced it with a clean one and kept on wearing the shirt. The degree of his sensitivity to the laundering process determined whether he was a two-collar-per-shirt or a three-collar man.

Nobody had yet conceived those obnoxious "ring-around-the-collar" detergent commercials on television. In fact, television itself hadn't been developed. Neither had detergents.

All this seems a long time ago, and indeed it is. Gilbert has been selling clothing to South Bend for 57 years, since 1918, and he has been selling South Bend to the world for a large portion of that remarkable career.

More than that, he has been selling South Bend on itself—not merely with pep talks, but with the hard, those are the things of which civic leadership is made. They are the things that take time, too. If Gilbert could add up the hours he has spent on voluntary efforts for his city during the last half century, they would represent a substantial chunk of his life.

The spectacular growth of his business and the growth of his city have been so intermingled during the five decades, plus, that Gilbert himself would have trouble separating them.

* * * * *

Things were not always easy. At the height of the Depression, when trade was badly hurt, the store found itself $5,000 in debt to The Tribune for unpaid advertising bills. Paul considered continuation of his advertising program essential to the store's recovery. He remembers with deep gratitude that Franklin D. Schurz Sr. worked out an arrangement under which the store paid off the debt at the rate of $100 a month, plus its current month's bill. This enabled Gilbert's to maintain its advertising campaign and to bring about a steady improvement in its trade.

Gilbert and Schurz have been thrown together in numerous civic enterprises as well as in their business relationship. They are close friends.

Another crisis in the store's growth, this one more evident to the public, occurred in 1937 when fire swept through the S. Michigan building and almost wiped the store out of business. The staff moved everything that could be salvaged into a former bird store next door. An emergency supply of clothing was ordered. Business went on under severe handicaps until a new building could be constructed on the burned-out site.

Residents turned out in such throngs for the reopening ceremonies in the new building in September, 1938, that police were brought in to help maintain control.

The Gilbert family always has been a close one. Their business remained a family enterprise as it flourished. Sam, the original "Son" in M. Gilbert and Son, concentrated his efforts in the Mishawaka store until his death at 72 in 1954. Another brother, Oscar, worked with Paul as vice-president at the South Bend store until his death in 1968. Sam's son Stanley, who was educated as an attorney and practiced law in South Bend, joined the family business after World War II and became a familiar figure to thousands of customers whom he greeted as they entered the store.

That was another part of the store's personal touch: having a host say hello to the customer when he stepped through the front door and directing him to the department he sought.

Busy as he was in building the business as a youthful store manager back in the 1920s, Paul quickly became involved in local affairs. He credits two business leaders of the time, L. O. Gates and Joseph Donahue, with getting him started and pushing him into civic participation.

In 1927 The Tribune published a series of sketches about "Dynamic Men of South Bend." Although he was only 26 at the time, with shiny dark hair and a dapper moustache, Paul was included in the series. The sketch about him began, "When it comes to boosting South Bend there is one man who bats 1,000 percent. Loyalty to his city is his keynote."

Nearly 50 years later, that description still is apt.

Half a century of participation in civic work is difficult to capsule without producing a dull list of statistics, but for a sample, here are some examples of Paul's involvement:

At various times he has been president of the South Bend Community Chest, the Committee of 100, the Better Business Bureau and Sinai Synagogue; a director of the Indiana State Chamber of Commerce, a lay trustee of St. Mary's College, a director of Memorial Hospital, cochairman of a hospital drive that raised $5.5 million, and a member of the Morris Civic Auditorium board.

Paralleling all this, he became involved in national clothing trade organizations, serving as president of the National Association of Retail Clothiers and Furnishers and national chairman of the Father's Day Council.

He has won national recognition, too, as a guest lecturer at the New York University School of Business.

When it appeared that South Bend needed a special organization to attract new businesses to the city, a number of businessmen including Gilbert and Schurz went to Birmingham, Ala., to see how that city organized its Committee of 100. On the way back, they elected Schurz the first president of South Bend's Committee of 100.

One of their first objectives was to sell Indiana University President Herman B. Wells on the idea of building an Indiana University campus at South Bend, to replace the limited number of I. U. extension classes then being taught at Central High School. On his desk Gilbert still has as a memento a miniature gold shovel recalling the groundbreaking for the first IUSB building in June, 1959.

Perhaps the peak of Gilbert's civic service—certainly his most crucial role in the well-being of South Bend—came in the crisis atmosphere that surrounded the shutdown of the studebaker automobile plant in December, 1963.

Mayor Frank Bruggner appointed an emergency civic committee to find ways for dealing with the mass unemployment, ecoomic upset and general despair that resulted from the shutdown. He invited the two long-time friends and civic leaders, Gilbert and Schurz, to serve as cochairmen.

At a public meeting called to discuss the situation, the atmosphere was so gloomy and negative that Gilbert became irritated.

He took the microphone and told the crowd, "This is not Studebaker, Indiana, this is South Bend, Indiana." The comment became a widely quoted slogan during the ensuing recovery period. The NBC Huntley-Brinkley evening television news show sent a team to interview him about his comment and the committee's efforts.

As Gilbert looks back now, his outward show of confidence was considerably stronger than the way he felt. "I talked bravely, but I felt terrible here while I was doing it," he said, rubbing his stomach.

Well he might have felt worried. Gilbert's had just completed a $500,000 expansion project based on the assumption that its booming business would continue to grow. Much of that trade came from the nearby Studebaker administration building and factory. Hundreds of Studebaker employes, suddenly out of work, had charge accounts at Gilbert's.

As part of his contribution to helping South Bend's economy during the crisis, Gilbert pledged that every Studebaker worker with a charge account at Gilbert's would be permitted to keep it.

The charge account holders responded in a gratifying manner. Over a 25-year period Gilbert's had a record of charging off as bad debt less than 1 per cent of their sales volume, an excellent performance. During the Studebaker crisis, that figure rose to only 2 per cent. Gilbert's trade that distressing Christmas was up 1 per cent from the previous year, encouraging under the circumstances but not precisely what a store should anticipate just after committing itself to a half-million dollar expansion.

Paul the busy merchant didn't marry until 1946, when he was 45, and then not to a local girl. Ina Brenner of Portland, Ore., came to South Bend to visit friends and happened to meet Paul. That was it, in a hurry. The long-time bachelor soon was happily saying the marriage vows.

Mr. and Mrs. Gilbert have two children. Neil, a graduate of George Washington University with a master's degree in psychology from Notre Dame, is a counselor at the Family and Children's Center. Their daughter Roslyn Sue, whom the family calls R. Sue, teaches at Cambridge, Mass.

In 1969, Gilbert's Men's Store was sold by the family owners to Genesco, Inc. of Nashville, Tenn., a large national manufacturer and retailer in the apparel field.

Paul still serves as chairman of the board of Gilbert's and is at his desk in the store virtually every day. He no longer concerns himself with the details of daily store operation, however. His concern with civic affairs remains strong.

His particular interest is the Paul D. Gilbert Lecture Series at Notre Dame and IUSB. These series bring nationally prominent business leaders to the campuses to speak to members of the schools' marketing clubs.

In his own talks to students, Gilbert emphasizes the fact that a businessman has an obligation to get involved in his community's affairs, that a business cannot thrive if its owner doesn't do his part. He estimates that on occasion he has spent half his time outside the business, getting involved.

"This may sound a little corny," he said recently, "but you not only take, you also put back in. That should be part of every businessman's life."

Paul Gilbert will go down in South Bend history as a man who practiced what he preached, to the benefit of a city for which he has fought proudly for nearly three quarters of a century.

EDITORIALS OPPOSE U.S. INVOLVEMENT IN ANGOLA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. BONKER. Mr. Speaker, the Angolan situation is finally getting the attention it deserves. In an unprecedented action, the Senate is demanding to know what CIA aid it is being asked to approve. CBS has pledged to devote enough coverage to Angola that the media will not again be accused of defaulting to a semi-secret executive policy that eventuates in another catastrophe like Vietnam. And, fortunately, our major newspapers are not only digging into the story, but also taking informed editorial positions on it. It is impressive that the Washington Post, The Washington Star, and the New York Times all seem to be of one mind that American involvement in Angola is, at the least, dangerously precipitous—and most probably just plain wrong.

I want to commend these editorials to my colleagues and ask that they be reprinted.

Also, I want to remind my colleagues that for the last month I have been sponsoring legislation to prevent our growing involvement in Angola. This takes the form of an amendment to the security assistance package currently in markup in the House International Relations Committee. The amendment has two parts: one would end our direct aid through covert CIA channels to factions engaged in the fighting; the other would prohibit aid to Zaire insofar as it may be passed along to Angola. The second part should be emphasized. I do not think it's as clear as it should be that the danger of American involvement in Angola lies not only in the CIA aid everyone's talking about, but also in the misuse of regularly authorized military aid that theoretically we're extending just to Zaire.

The editorials follow:

[From the Washington Post, Dec. 15, 1975]

FIFTY MILLION DOLLARS

The Soviet Union's intervention in Angola is reprehensible and alarming and bound to erode further the crumbling ground of "detente." But is the proper American response to sponsor a counter-intervention? A counter-intervention, moreover, which—far from being a lame response to an admittedly greater Soviet effort—has already reportedly cost $50 million, with no end yet in sight? The answer is, No. The foreseeable costs in dollars and in political credit abroad are simply too large for the benefits likely to be gained. If the Russians are so perverse as to proceed, let them then harvest the scorn of much of the international community, the burden of carrying Angola if their client prevails, and the embarrassment of "losing" Angola if their client's gratitude subsequently falters, as usually happens in these situations.

Zaire, the administration's favorite black African state, is the channel for most of the American aid going to Angola. The president of Zaire is directing the aid to the Angolan faction led by his brother-in-law, himself long known for his CIA associations. But what does this have to do with the welfare of the people of Angola or of the people of Zaire? It is a tribal power struggle, which probably will end in partition. Washington could live with that. The real reason the United States is playing the game is because the Russians are backing another horse and the administration, viewing Africa as usual through its great-power lens, does not wish the contest to be lost to Moscow by default. We would have thought the United States had learned from Vietnam that it is not wise or necessary to match the Communist competition everywhere—least of all by an automatic military response. If Zaire and its implicit partner in this struggle, South Africa, feel otherwise, that is their business. They live there. Americans don't. Americans should not be panicked by talk of a Soviet "foothold" in Angola (we've been around that track with Fidel Castro) or by the specter of the Soviet navy "commanding" the sea lanes off the African coast.

It is indeed disturbing that the Soviet Union, manipulating Cuba, is taking a plunge into Angola. The enterprise bespeaks a policy fundamentally inconsistent with a stable and improving Soviet-American relationship. But there are other ways for that point to be registered. In the United Nations the other day, for instance, the Russians suffered a smart setback—one of their first of this sort in years—when the bottom fell out from under a proposed amendment that would have ignored Soviet intervention and condemned only the Angolan role of South Africa, whose intervention is at once much smaller than Moscow's and more justified. Also, as we mentioned in a recent editorial, Soviet access to extra American grain might well be conditioned on Soviet performance in Angola and other political trouble spots. In any event, secret or semi-secret sponsorship of one side's fight in a savage and prolonged civil war is wrong and should be halted now. That will be the outcome, we confidently predict, if the question is opened up to close scrutiny and thoughtful public debate.

[From the Washington Star, Dec. 15, 1975]

ANGOLA—CAN OF WORMS

It is time to blow the whistle on the growing American involvement in the civil war in Angola. There is no conceivable American interest that would justify a commitment to one or another of the contending nationalist factions in the former Portuguese colony. There is every reason to limit the scope of an international intervention that threatens to reach the proportions of the Spanish Civil War of the 1930s.

The American involvement so far has been discreetly limited. The well-publicized "covert" operation of the Central Intelligence Agency appears to have been confined to the shipment of some $25 million in small arms for the more pro-Western (or more anti-Russian) of the three nationalist factions, with another $25 million worth supposedly on the way. This American aid, sent indirectly through Zaire, is small potatoes compared to the massive shipments of heavy armaments and rockets supplied by the Soviet Union to its proteges in the Popular Movement for the Liberation of Angola (MPLA) and the presence in the country of some 200 Soviet advisers and more than 4,000 Cuban combat troops.

But this is only the beginning of foreign involvement in the civil conflict in Angola. In one way or another, China, Western Europe, South Africa, former Portuguese colonists and troops from Zaire are lined up in support of the anti-Russian elements, represented by the National Front for the Liberation of Angola (FNLA) and the National Union for the Total Independence of Angola (UNITA). Most recently, there have been reports that the Congress of Racial Equality is recruiting black American volunteer Vietnam veterans for service in Angola as a neutral "police force" under the direction of the Organization of African Unity, which has been trying to mediate the conflict.

Meanwhile, Secretary of State Henry Kissinger has been making ominous pronouncements about the situation. The Soviet intervention in the war in Angola, he told the NATO meeting in Brussels, represents a potential shift in the world balance of power to which the United States cannot remain indifferent. The possibility of the Soviet Union's establishing a foothold in southern Africa, he says, is "inadmissible" so far as the United States is concerned. Other officials have said that the Russians are out to "win all of Angola," suggesting that this amounts to a challenge to the United States on a global scale.

For our part, the situation in Angola strikes us as a classic can of worms that the United States would do well to steer clear of. We do not see what American interests are served by any of the factions contending for power there. We are doubtful that, even if it should "win" there, the Soviet Union would find Angola much of a long-range asset. A modest contribution of money and arms in the hope of achieving a stalemate in the civil war and a negotiated solution of the conflict may still be justified. Anything more than that, in our view, would not.

[From the New York Times, Dec. 16, 1975]

COMING CLEAN ON ANGOLA

One thing ought to be beyond debate about United States policy toward the catastrophic civil war in Angola: If there is a case for American help for the forces resisting the Soviet-aided Popular Movement for the Liberation of Angola (MPLA), it should be made openly before the Congress and the country.

With the Indochina disaster still fresh in American consciousness, it should hardly be necessary to cite the perils of intervention in an African civil war at least as complicated as the ones that despoiled Vietnam, Laos and Cambodia. Yet, without public debate or Congressional sanction, the Administration has undertaken a program of indirect military aid to two Angolan factions that could easily slide into open American involvement.

Secretary of State Kissinger has pledged that the United States will "not intervene militarily" in Angola; but it was evidently on his insistence—and against other State Department advice—that President Ford last summer authorized the start of substantial arms shipments via Zaire to the National Front for the Liberation of Angola (FNLA) and the National Union for the Total Independence of Angola (UNITA), which are fighting against the MPLA and have teamed up to form a rival Government.

American arms, along with arrival of some white mercenaries from Portugal and South Africa, undoubtedly helped the recipients stabilize their fronts and recover important territory. Yet, instead of bringing an enduring stalemate that might have given diplomacy a chance, these successes simply provoked a massive escalation of Soviet arms shipments and arrival at the fronts of Cuban combat soldiers, now believed to number about 4,000.

In light of recent tragic experience, Americans are entitled to ask: Where will Washington's side of the escalation end and what will happen to Mr. Kissinger's pledge if—in spite of American aid to its rivals—MPLA begins to advance toward total victory in Angola? Mr. Kissinger was reported yesterday by a "senior United States official" in Paris to believe American support for FNLA and UNITA will eventually persuade the Soviet Union to back off in Angola, provided the Administration's policy gains public support.

But the policy will have no chance to gain that support unless the Administration promptly goes public with a clearer explanation than any offered thus far about what American interests are at stake in Angola. In any case, the President and Mr. Kissinger have a clear obligation to seek the approval of Congress for the actions they propose to take in defense of this country's interests.

Moscow's evident determination to bring about a complete MPLA victory in Angola is indeed cause for concern, even as the establishment on the other side of Africa of Soviet bases in Somalia presents a worry for the West. But the Kremlin has fallen on its face more than once in efforts to penetrate Africa; and many African Governments have no relish for its effort in Angola.

In that connection, two of Africa's leading statesmen—Presidents Kaunda of Zambia and Kenyatta of Kenya—provided a smidgin of hope in a statement issued yesterday after talks in Nairobi. They appealed again for a cease-fire in Angola and a fresh effort by the leaders of the three movements to come together in a government of national unity.

It would take a near-miracle to bring this about; but it is encouraging that Messrs. Kaunda and Kenyatta have not given up. Their statement also serves notice that, despite Nigeria's untimely decision to recognize only the MPLA regime, other moderate African Governments are not yet ready to join the bandwagon which the Soviet Union has tried so desperately to get rolling.

SANTA'S LAST JOURNEY

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. CONLAN. Mr Speaker, from the Americanism Educational League, I am enclosing in the CONGRESSIONAL RECORD "Santa's Last Journey" which was submitted by my distinguished colleague from Idaho, the Honorable STEVEN D. SYMMS.

Congressman SYMMS put this in the CONGRESSIONAL RECORD last year and it was picked up by the Americanism Educational League—Freedom Center, P.O. Box 5986, Buena Park, Calif.

Since it seems that the only thing that has happened in the last year with respect to Government and business is that the Government has gotten bigger and bigger making it even more difficult for small buisness to operate, I find this humorous commentary more appropos this year than when it was commended to the RECORD last year:

SANTA'S LAST JOURNEY

(By the Honorable STEVEN D. SYMMS)

(Congressman Steve Symms has represented Idaho's 1st District since January, 1973. Previously, he graduated from the University of Idaho, and served in the U.S. Marine Corps for 3 years. He was a rancher and small businessman in Idaho for some 10 years before his election to Congress.)

Rumors are flying around Washington to the effect that this may be Santa Claus' last year of operation. Sources within the Federal bureaucracy are privately indicating that the jolly old man is in big, big trouble!

Apparently, from the Federal government's point of view, Santa has been "getting away with murder" for years now, "breaking every law in the book," as they put it. And indeed, the time has come to crack down on this "unconscionable situation."

Here is the inside scoop on Santa's long list of infractions:

1. Operating a flying sleigh in absence of certification by the CAB, a clear violation of the Civil Aeronautics Act of 1938.
2. Unlawfully competing with the U.S. Postal Service on air mail deliveries.
3. Violating EPA requirements for emissions control devices on his reindeer.
4. Defying the Sherman Anti-Trust Act by maintaining a strict monopoly in his profession.
5. Violating the Fair Labor Standards Act by failing to pay his elves the minimum wage or proper overtime benefits.
6. Engaging in unfair promotional advertising, designed to prey on the defenseless minds of children, a violation of Federal Trade Commission regulations.
7. Failing to secure an ICC permit and an assignment of certified routes by the Interstate Commerce Commission.
8. Violating numerous Occupational Safety and Health Administration (OSHA) regulations by operating an "unsafe workplace."
9. Passing out candy canes and goodies not approved by the Food and Drug Administration.
10. Ignoring the edicts of the Equal Employment Opportunity Commission and the Civil Rights Act of 1964 by failing to institute a quota system in his workshop based on race, religion, sex and size (too many elves, not enough giants).
11. Making toys which have not been approved by the Consumer Product Safety Commission.
12. Failing to declare the cookies and milk that are put out for him as taxable income with the IRS.
13. Transporting firearms across state lines as Christmas presents.
14. Avoiding state and federal taxes on his sleigh, not to mention licensing, registration, and having an operator's permit.
15. Violating various National Labor Relations Board regulations, including the maintenance of a non-union shop and unfairly competing with the chimney sweeps' union.

It is said that these are but a sampling of Santa's more serious Federal offenses, which taken in total will almost certainly put the man in red out of business for good. At present, we are told Saint Nick is frantically searching for a lawyer, but that no one as yet is willing to come to his defense. Apparently, it is an open and shut case!

Meanwhile, there is another Santa Claus of sorts in this country which operates the whole year 'round. It has served us all well for many, many years but is presently in the same predicament as Saint Nick. As a result, it is being pushed to the brink of extinction. It's called the American Free Enterprise system. Will anyone come to its defense?

ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA AND TRANSMITTED TO THE SPEAKER—SEPTEMBER 6 TO DECEMBER 1

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. DIGGS. Mr. Speaker, the Council of the District of Columbia has adopted a number of acts since last I reported to the House in the CONGRESSIONAL RECORD of September 9, 1975.

The House Committee on the District of Columbia has in its files Council committee reports and copies of acts, if Members desire further information.

The Council acts are listed below:

ACTS ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND WHERE NECESSARY, TRANSMITTED TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES BETWEEN SEPTEMBER 6 AND DECEMBER 1, 1975

ACT 1–51

The Voter Registration Act of 1975 amending the D.C. election law (D.C. Code Title 1, Chapter 11) to permit voter registration by post-card. Adopted by the Council on September 9, 1975. Signed by the Mayor, October 6, 1975. Bill 1–69. Transmitted to the Speaker October 14, 1975.

ACT 1–52

Changes the Boundary of service areas to conform with the boundaries of the eight wards. Adopted by the Council September 9, 1975. Signed by the Mayor, October 6, 1975. Bill 1–78. Transmitted to the Speaker, October 14, 1975.

ACT 1–53

Emergency Act in effect for 90 days to establish the date February 3, 1976 as the date for Advisory Neighborhood Commission Elections. Adopted by the Council September 23, 1975. Signed by the Mayor, October 8, 1975.

ACT 1–54

D.C. Community Development Act of 1975. Adopted the request of the Mayor to provide statutory authority to enable the District of Columbia to participate fully in a community development program under the Housing and Community Development act of 1974 (PL 93–383). Adopted by the Council September 9, 1975, signed by the Mayor October 9, 1975. Bill 1–135. Transmitted to the Speaker October 17, 1975.

ACT 1–55

Emergency 90-day Act to extend for five and a half months the time for appeal from real property tax assessments to the Superior Court of the District of Columbia. Amends D.C. Code 47–646(1), Supp. II, 1973 addition. Adopted by the Council October 7, 1975. Signed by the Mayor, October 10, 1975.

ACT 1–56

Extends moratorium on conversions to condominiums until April 30, 1976. Adopted by the Council October 21, 1975. Signed by the Mayor October 22, 1975. Bill 1–191. Transmitted to the Speaker, October 23, 1975.

ACT 1–57

To authorize the issuance of $50,000,000.00 general obligation bonds of the District of Columbia to refinance certain loans made to the District from the United States Treasury. Adopted by the Council on October 21, 1975. Signed by the Mayor October 22, 1975. Bill 1–162. Transmitted to the Speaker, October 24, 1975.

ACT 1–58

Emergency 90 day Act to keep rent control in effect until Act 1–46, the Rent Stabilization Act, became effective about October 30, 1975. Adopted by the Council October 21, 1975. Signed by the Mayor October 24, 1975.

ACT 1–59

"The Revenue Funds Availability Act of 1975" amends several sections of the D.C. Code in order to abolish the Highway Fund, the Sanitary Sewage Works Fund and several other special funds. Adopted by the Council on October 7, 1975. Signed by the Mayor October 24, 1975. Bill 1–161. Transmitted to the Speaker, October 31, 1975.

ACT 1–60

Emergency Act in effect for 90 days to implement the District of Columbia flood insurance program in a timely manner in order to assure city's eligibility for participation in the Federal assistance program for flood insurance. Adopted by the City Council October 28, 1975. Signed by the Mayor October 29, 1975.

ACT 1–61

Amends the D.C. Professional Corporation Act of 1971 (D.C. Code, Section 29–1101 et seq) to make unincorporated business tax apply to professional corporation. Adopted by the Council October 7, 1975, signed by the Mayor October 29, 1975. Bill 1–170. Transmitted to the Speaker November 3, 1975.

ACT 1–62

Second amendment to the District of Columbia unincorporated business tax. Increases the maximum that may be deducted for services rendered by the individual owners or members actively engaged in the business to 70% of the net income. Adopted by the Council, October 21, 1975, signed by the Mayor November 5, 1975. Bill 1–188. Transmitted to the Speaker November 12, 1975.

ACT 1–63

Emergency 90 day Act to facilitate reporting suspected cases of Child Abuse. Adopted by the Council November 4, 1975. Signed by the Mayor November 7, 1975.

ACT 1–64

The "access to psychologists and optometrists act". Amends D.C. Code 35–712 to remove requirement of referral by a medical practitioner. Adopted by Council October 21, 1975. Signed by the Mayor November 7, 1975. Bill 1–86. Transmitted to the Speaker November 20, 1975.

ACT 1–65

Removes the requirement of publication of a sample ballot in the case of Advisory Neighborhood Commission Elections. Adopted by the Council October 21, 1975. Signed by the Mayor November 7, 1975. Bill 1–184. Transmitted to the Speaker November 17, 1975.

ACT 1–66

Emergency 90 day act postponing the effectiveness of a provision of Act 1–31 which will be repealed when Act 1–70 takes effect. A rider on undertakers licenses had been included in Act 1–31 and will be repealed in Act 1–70. Passed by the Council on October 21, 1975. Signed by the Mayor on November 10, 1075.

ACT 1–67

Authorizes advanced emergency leave for certain teachers. Amends D.C. Code Section 31–694. Passed by the Council October 21, 1975. Signed by the Mayor November 13, 1975. Bill 1–50. Transmitted to the Speaker November 20, 1975.

ACT 1–68

Regulates security deposits collected from tenants for rentals in the District of Columbia. Adopted by the Council October 21, 1975. Signed by the Mayor November 14, 1975. Bill

1-100. Transmitted to the Speaker November 20, 1975.

JUSTICE DEPARTMENT HONOR FOR HENRY DOGIN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. RANGEL. Mr. Speaker, as you know, the Drug Enforcement Administration has been without a Director since the head of that Agency was removed from the position some 6 months ago for reasons yet to be substantiated. Be that as it may, Henry S. Dogin, the person selected to lead the Agency in an acting capacity has done so in a highly satisfactory manner and has earned the respect of the Agency's work force for his demonstrated leadership and ability. Mr. Dogin was just recently recognized for his contribution by being selected to receive the highest award of the Department of Justice, the Attorney General's Award for Exceptional Service. It is an honor well deserved and it is with a good deal of pleasure that I provide for the RECORD a statement which cites Mr. Dogin's accomplishments along with other Justice Department honorees:

PRESS RELEASE OF DEPARTMENT OF JUSTICE

Henry S. Dogin, the Acting Administrator of the Drug Enforcement Administration, will receive the highest award of the Department of Justice, Attorney General Edward H. Levi announced today.

The Attorney General's Award for Exceptional Service will be presented to Mr. Dogin tomorrow when some 140 employees are honored at the Department's 26th annual awards ceremony. It will begin at 3 p.m. in the Great Hall.

Mr. Dogin was selected for the Award, according to the citation, for "outstanding contributions to the Department's objectives and to the interests of the public. . . ."

It added: "Mr. Dogin assumed the leadership of DEA and reestablished public confidence and trust during a period of great crisis and controversy. Through his example and ability, he restored confidence and pride of accomplishment to an agency troubled by internal conflict."

The Department's second highest honor, the Attorney General's Award for Distinguished Service, will go to eight persons:

Kenneth V. Cayce, a Border Patrol Agent, who displayed "extraordinary courage and judgment" in assisting victims of a gas explosion in Eagle Pass, Texas, last April despite his own serious burns.

Michael A. DeFeo, Attorney-in-Charge of the Kansas City Strike Force, who was cited for excellence in development of evidence and imaginative prosecutions of organized crime leaders.

Richard G. Held, Special Agent-in-Charge of the Chicago Field Office of the Federal Bureau of Investigation, honored for "selfless and devoted service to the FBI, Department of Justice, and the American people."

Melvin L. Jeter, Special Agent, FBI, of Philadelphia, who was cited for his "dedicated service and significant contributions to the American people . . . ."

Robert G. Lisenbee, Supervisory Deputy U.S. Marshal, District of Kansas, who was cited for "selfless acts of personal bravery" that resulted in the recapture of armed, dangerous convicts on two occasions and the release of a wounded hostage.

Jeffrey M. Miller, Assistant U.S. Attorney, Philadelphia, honored for being "an inspirational and dedicated leader, an incisive and skilled administrator, and a trial lawyer of exceptional ability and judgment."

Hugh P. Morrison, Jr., Chief of the Special Trial Section, Antitrust Division. "His analytical skills, his fairmindedness, and his ability to encourage the best efforts from others have set a high standard for younger lawyers and have contributed significantly to the overall performance of the Antitrust Division."

Andrew P. Vance, Chief of the Customs Section, Civil Division, cited for his general efforts in his Section "and for his singular contributions in the development and enactment of the landmark legislation known as the Customs Court Act of 1970."

Another major honor, the John Marshall Award, went to five attorneys in these categories:

Trial of Litigation—Charles J. Muller, Trial Attorney, Tax Division, for excellence in "litigation involving lengthy and complex criminal tax prosecutions."

Preparation of Litigation—Victor C. Woerheide, Staff Assistant, Criminal Division, for "unsurpassed performance" in career dedicated to major criminal cases.

Support of Litigation—A. Donald Mileur, Chief, Indian Claims Section, Land and Natural Resources Division, for "constant attention to the defense of the public interest in novel and difficult legal areas while ensuring fairness to the Indian claimants."

Handling of Appeals—Andrew L. Frey, Deputy Solicitor General, for his major role and great skill in "a substantial number of major criminal cases in the Supreme Court involving significant constitutional, statutory, and evidentiary issues."

Providing Legal Advice or Preparing Legislation—Russell Chapin, Chief, General Claims Section, Civil Division, for outstanding leadership as chief of the section and "excellence in the preparation of legislation for the government."

Mr. Dogin, 41, is only the eighth person to receive the Exceptional Service Award, which carries a cash stipend of $1,500. He was named Acting Administrator of DEA last May 30 after serving since November, 1973, as a Deputy Assistant Attorney General in the Criminal Division. Prior to that, he was a Deputy Regional Administrator in New York City for the Law Enforcement Assistance Administration. He has resigned his DEA post effective December 31.

Each recipient of the Distinguished Service Award will receive $750.

WIPING OUT REGULATION RESTRAINTS ON FREIGHT FORWARDERS IS NOT THE ANSWER

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SANTINI. Mr. Speaker, today I spoke on the House floor in support of the Collins amendment to delete section 309 of H.R. 10979. The following statement is offered in the Extension of Remarks and in further support of my opposition to section 309. In my judgment, the House acted in a well-considered manner in its adoption of the Collins amendment.

I am a cosponsor of H.R. 10979 and privileged to serve on the subcommittee and full committee which handled this important legislation. It was a complicated bill and one which I believe should be passed.

Nevertheless, I am troubled by section 309 in the bill. I doubt that as much discussion at the committee level existed for those who may have wished to testify for or against this section of the bill.

As to the legislative history of the language which will benefit freight forwarders, bills have been introduced for many years with similar language as exists in section 309 of the bill before us. However, up to now, the Congress has not enacted the legislation into law.

In the 90th Congress, H.R. 10831 and S. 3714 were introduced and hearings were held. Again in the 92d Congress, S. 1816 and three bills in the House, H.R. 7986, H.R. 6242 and H.R. 3822 were introduced with hearings again being held. None of these measures were adopted.

This year, the Interstate Commerce Commission recommended several pieces of legislation. Among these recommendations was S. 2083, legislation to amend section 409 of the Interstate Commerce Act to authorize contracts between freight forwarders and railroads on an experimental basis and for other purposes. This bill went through 2 days of hearings in the Senate Commerce Committee. No similar bill was introduced in the House.

In the opening hearing statement made by Senator VANCE HARTKE, chairman of the subcommittee, he stated:

> First, the bills raise issues about the basic nature of the common carrier system. Is the system designed to benefit individual carriers and individual modes, or is it designed to provide the best possible transportation service to all shippers in like circumstances? I think the answer is the latter.

The Senate full Committee on Commerce did not act upon S. 2083. It is not a part of the comparable bill, the Rail Services Act of 1975—S. 2718. It is my understanding the subcommittee in the Senate did not take action as the need for the legislation was inconclusive. It is also my understanding the Interstate Commerce Commission could take action upon its own to consider such recommendations if it so desired.

As I stated earlier, although this proposal has been around for many years, Congress has not yet acted. I fully support my distinguished colleague, the gentleman from Texas, and his amendment to strike the language.

I do so with full respect to the distinguished chairman of the House Interstate and Foreign Commerce Committee, Congressman HARLEY STAGGERS and the distinguished chairman of the Subcommittee on Transportation and Commerce, Congressman FRED ROONEY. Both of these gentlemen, as you know, serve their Nation and its highest ideals.

Nevertheless, I believe this section deserves several days hearings before the subcommittee with proper notice given to all shippers, some of who I believe will be put to a disadvantage should section 309 remain in the bill.

When the Senate subcommittee held hearings in July of this year on similar legislation, small independent shippers from all over the Nation opposed the legislation. Many large shippers believe they will also be put to a disadvantage. Shipper associations or so-called co-ops will suffer a disadvantage.

The section 309, as I understand the language, will give the freight forwarders an opportunity to solicit and contract for lower rates with the rail industry. What that rate will be is anyone's guess; but we all know, when large amounts of freight tonnage is involved, the rate will be downward and lower than rates available to other shippers. If we had assurance the freight forwarding industry would pass this savings along to the individual shipper, this section might have merit; but we do not have this assurance.

Section 309 is discriminatory. It does not belong in this bill. We are already authorizing enormous sums of money to assist the beleaguered rail industry.

If the freight forwarder is permitted to contract with the railroads for lower rates, where will the railroad industry make up its losses or concessions. The industry, I believe, will have to request higher rates from other shippers.

No longer would all shippers be accorded equal treatment—from a practical standpoint the forwarders are shippers with respect to rail transportation regardless of any legal argument which may be made to the contrary.

The freight forwarders compete with other shippers for the same traffic.

Section 309, in my opinion, will undermine the basic concept by according preferential treatment to a special interest group—the freight forwarders.

If section 309 is left in the bill, the results would have to be a reduction to the railroads in freight revenues. We all know the financial problems of the railroads, so we must assume volume rates to independent merchant associations would have to be increased considerably.

Finally, if the regulated freight forwarders get this special consideration or privilege, I firmly believe an already troubled and financially depressed rail industry will have to turn to higher rates for other shippers or continue to request subsidies from the Federal Government in one form or another.

One witness before the Senate subcommittee testified aptly when he stated:

> If this bill were passed, there is nothing stated that would guarantee that the freight forwarders would reduce their rates to the American public. In essence, this bill is nothing more than a glorified rate increase on the already financially troubled American public.

Language in section 309 can be related to Senate bill 2083. The section should be removed from H.R. 10979.

OBJECTION TO CROSS WABASH VALLEY WATERWAY APPROPRIATION

HON. PHILIP H. HAYES

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. HAYES of Indiana. Mr. Speaker, I wish to express to my colleagues and to constituents in the Eighth District of Indiana the issues which were involved in my vote in favor of the conference report making appropriations for public works fiscal year 1976.

While it is true that I cast my vote in favor of the conference report making appropriations for public works, I would like to make public my strong objections to a specific item in that bill.

There is included in the appropriations for fiscal year 1976 funding for a study to be conducted by the Corps of Engineers concerning the proposed Cross Wabash Valley Waterway. The purpose of this study in previous years has been directed toward reviewing reports to determine the feasibility of constructing a waterway for barge traffic from the Ohio River to Lakes Erie and Michigan via the Wabash River and adjacent streams, with consideration of various routes.

In fiscal year 1968 a phase I study was initiated to identify waterway routes having potential for economic justification sufficient to warrant detailed survey scope study.

An interim reconnaissance report on the lower Wabash River in 1971 recommended further studies on the lower segment from the Ohio River to Mt. Carmel, Ill. In addition, a negative reconnaissance report on the upper Wabash River—all routes—was completed in August of 1972.

Thus, when the President's budget itemized a study by the Corps of Engineers on the navigability of the Wabash River at a cost of $225,000 for fiscal year 1976 and $40,000 for the transition quarter, the Corps was undertaking further study of the channel from the Ohio River to Mt. Carmel, for which possible economic justification had been suggested.

I would like to make it clear for the record and for the residents of the Eighth District of Indiana that while I support the President in his decision that this project may hold potential which bears further investigation, the appropriation of the amount he and the Corps agreed upon for the purpose of further exploring the development of that particular section of waterway does not now seem sufficiently justified.

It was, therefore, a matter of even greater concern to me when I learned that the House Appropriations Committee had voted to add $100,000 to the budget request for fiscal year 1976 and $35,000 to the request for the transition period for the continuation of the study which the Corps had initiated. In light of the shortened section of waterway on which the study had focused, this seemed to be an unwarranted expenditure.

This expanded budget item was then "justified" when the Senate Public Works Committee approved a resolution to increase the study to include that portion of the waterway which would extend to Terre Haute, Ind. However, the Senate committee did not follow the example of the House and increase the budget request figures.

The final conference report—upon which we voted Friday, December 12—resolved these differences by settling on the higher House figures and accepting the Senate's decision to study a route all the way to Terre Haute.

The conference report also included $19,150,000 for other work by the Corps of Engineers in the Eighth District of Indiana, such as the work which is so urgently needed to restore the stability of the banks of the Ohio River in the community of Newburgh. Because of these provisions, I could not vote against the conference report as a whole.

It seems most unfortunate to me that at a time when it is incumbent upon each and every one of us to examine all Federal expenditures with the most critical of questions, we did not have a chance to analyze this item.

I intend to ask them to do so in the future.

FRED H. HILTON, JR., RETIRES FROM TEACHING AT THE CAPITOL PAGE SCHOOL

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. BAUMAN. Mr. Speaker, I have learned that within the next few days Fred H. Hilton, Jr., will retire from the teaching staff of the Capitol Page School at the Library of Congress. After 27 years of unselfish giving of himself to thousands of young people, "Mr. Hilton" as his students call him, will step down.

I have been asked by a group of present pages to insert as part of my remarks today a statement they have prepared regarding Mr. Hilton's retirement. But before I do that, I want to add my own congratulations and appreciation for a remarkable man who has inspired many young people, including myself, to go beyond the simple requirements of books and homework and learn to love knowledge and its pursuit.

When I became a House page in 1953, I found it a difficult chore to get out of bed at 5 in the morning, as I still do. But one of the pleasures of those early morning school hours, even before the sun rose over the Capitol Dome, was the stimulating teaching of Fred Hilton. As often as not I would be arguing the opposite viewpoint from my teacher, but Mr. Hilton always seemed to take the Devil's advocate position in order to bring out the best in a student. For those few pages foolish enough to fall asleep in his classes he had a simple but effective expedient—a heavy book slammed on the desk adjacent to a sleeping page's head does wonders for producing wakefulness.

As editor of the 1955 Congressional, the yearbook of the pages, I had the honor of dubbing one of our student activities groups "The Hiltonian Society." I did so without Mr. Hilton's knowledge until he read it upon publication. It seemed an appropriate title for a stimulating group which met to play chess, talk politics and philosophies about our young world under the tutelage of a good friend and a stern but fair educational taskmaster.

Mr. Speaker, in an age when the teaching profession has become to many not a profession but a job, I am pleased to join in saluting a great professional teacher in every sense—Fred Hilton. We all wish him well.

At this point, I include a statement drafted by current pages who, I am glad to know, share my respect and affection for our Mr. Hilton:

STATEMENT BY PAGES

We would like to review the career and share the dedication of a teacher who has shared so much of himself with House and Senate pages over the years. Mr. Fred H. Hilton, Jr. announced his retirement as a teacher at the Capitol Page School on December 12, 1975 effective at the start of the Christmas recess. Mr. Hilton's story is worth telling as a tribute to his service in the field of education.

Mr. Hilton attended the University of Pittsburgh, where he received his Bachelor of Arts and Master of Arts degrees. In 1960, he served a one year fellowship with Yale University. He began his teaching career in 1936 and for the past 27 years has been a member of the faculty of the Capitol Page School. He has taught American history, medieval history, economics, government, business law and music appreciation. He was an informal guidance counselor in helping seniors through the hectic process of applying to colleges and seeking financial aid. In addition, he found time to be the financial adviser for the school yearbook and organized the graduation exercises for many years.

However, it was perhaps what he has done beyond his assigned duties which makes him a special brand of educator. With a few rare exceptions, Mr. Hilton arrived at school at 4:30 a.m., well before school starts at 6:15 a.m. He was always available to talk to students, loan personal books, teach golf, instruct individuals on the piano and even how to master the stock market. As a measure of the high regard in which he is held, the 1975–76 Congressional, the school yearbook, is dedicated to Fred H. Hilton, Jr. in appreciation for what he has done for us.

His enthusiasm, dedication and ability to teach well will be sorely missed. We wish him the best in the years to come and close by simply saying "Thank you!"

HENRY KISSINGER IN THE EYES OF CONGRESS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SYMMS. Mr. Speaker, after several years the magic of Henry Kissinger in the eyes of the Congress and most Americans is finally giving way to reality. It is finally becoming apparent to many that the Kissinger policies have, on many instances, not been in the best interest of the security and sovereignty of the United States. I would like to read a column by Allan Brownfeld which discussed Kissinger's loss of credibility:

[From the Phoenix Gazette, Dec. 10, 1975]

CONGRESS, KISSINGER EYEBALL-TO-EYEBALL

(By Allan C. Brownfeld)

After the removal of Secretary of Defense James Schlesinger, a hard-line critic of the Kissinger-Nixon-Ford policy of "detente" and accommodation with the Soviet Union, it was widely believed that Secretary Kissinger's power would be virtually total. This view was held in spite of the fact that Dr. Kissinger was forced to give up his role as national security adviser to the President. Sen. Henry Jackson, D-Wash., for example, declared that "The last vestige of dissent may be wiped out. Dissent to Dr. Kissinger, I mean."

Yet, Kissinger's current position is neither as safe nor as secure—nor as dominant—as many believe. The secretary is in real trouble with both the Congress and much of the press, and many believe that in the long run it will lead to his undoing.

Early in November, the House Intelligence Committee voted to cite Kissinger for "contempt of Congress" because three subpoenas for executive department papers were not acted upon to its satisfaction. The House committee is charged with reviewing America's past and present intelligence apparatus, and with recommending changes it believes may be needed. For this, Chairman Otis Pike, D-N.Y., says he needs State Department documents from 1961 to the present in which the department asked that covert operations be inflated. Rep. Pike says that this may prove that other departments, rather than the CIA, are to blame for some controversial actions that have damaged the reputation of the CIA.

Kissinger, at the direction of the White House, refused to surrender the requested material on the grounds of "executive privilege." The fact is, however, that his trouble with the Congress is far more complex than the contempt citation, which relates to a specific refusal to provide information. Sen. Jesse Helms, R-N.C., contends that the secretary of state's "ability to cope with reality has run its course . . . his usefulness as a negotiator is ended . . . It is clear that a fresh start must be made by someone who can have the confidence of all sides. . ." Similarly, Sen. Adlai Stevenson, D-Ill., claims that the country needs a senior diplomat who "could restore confidence at home, and abroad in the conduct of the nation's most vital affairs—its foreign affairs." He doubts Henry Kissinger is up to the task.

Senators Helms and Stevenson are rarely in agreement. Their agreement on this subject is indicative of the fact that Kissinger's star is falling—with liberals and conservatives equally, although for different reasons. Important lawmakers contend that Kissinger has deceived them on such diverse matters as military aid for Turkey, Jewish emigration from the Soviet Union, and nuclear arms control.

The erosion of Kissinger's standing on Capitol Hill has been gradual—but cumulative. Among the major elements: the National Security Council wiretapping controversy, the "destabilization" of the Allende regime in Chile, disputes over U.S. arms aid to Turkey in the wake of the Cyprus crisis, the foreign trade bill and influence upon free emigration from the Soviet Union, the refusal to meet with Soviet author Alexander Solzhenitsyn, and the avoidance of any discussion of possible Soviet violations of the SALT agreement—the list is a long one.

Perhaps the harshest criticisms have come from conservatives. The American Enterprise Institute, a highly regarded conservative think-tank in Washington, D.C., recently published a study, "Kissinger's Grand Design," by Warren G. Nutter, formerly assistant secretary of defense for international security affairs. Of Kissinger's policy, Dr. Nutter states: ". . . the West has been resisting Soviet expansion, not just to preserve the legitimacy of international relations, but to save Western civilization. The Soviet system menaces a cherished way of life, and the problem has been to find a course of resistance that works—that preserves Western civilization—while avoiding catastrophic war. Kissinger's grand design, by ignoring this moral dilemma, cannot provide a relevant solution to the problem."

Conservatives and liberals surprisingly seem to agree on one thing: Secretary Kissinger's "realpolitik" is without principle—a dramatic departure from the traditional moralism of American foreign policy. Richard Holbrooke, managing editor of Foreign Policy, writes that the secretary of state operates without the limits of principle or conviction. In the Vietnam negotiations, Holbrooke notes, he was "wholly free of any constraint based on a set of moral beliefs."

The ascendancy of U.S. Ambassador to the U.N. Daniel Moynihan, a hardliner who harks back to something of a Wilsonian moralism in his approach to foreign policy, may be of particular interest. His popularity on Capitol Hill far exceeds that of Dr. Kissinger, and his recent endorsement by the President is widely viewed as a lessening of Kissinger's authority in foreign policy matters.

The American people do not seem to want a policy that mandates their silence in the face of human suffering and persecution in the name of what is politically appropriate. Kissinger has said that any criticism of Soviet inhumanity, for example, is not in the "spirit of detente." Perhaps the Congress and the American people wish to replace that spirit with an older American spirit.

GOOD ADVICE FOR SPENDERS

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SHRIVER. Mr. Speaker, in the closing days of this first session of the 94th Congress I want to bring to the attention of my colleagues in the House a thought-provoking editorial from the Newton Kansan which discusses a subject that should be close to the heart of many in the Congress—deficit spending. I personally believe it is essential that we put an end to the record red-ink deficits which have become the rule. That is why it is so important to equate spending with tax actions if we are to end the inflationary spiral which threatens every family pocketbook.

The editorial from the Newton Kansan follows:

GOOD ADVICE FOR SPENDERS

"The credit of the family depends chiefly on whether that family is living within its income. And that is equally true of the nation. If the nation is living within its income, its credit is good.

"If, in some crises, it lives beyond its income for a year or two, it can usually borrow temporarily at reasonable rates.

"But if, like a spendthrift, it throws discretion to the winds and is willing to make no sacrifice at all in spending; if it extends its taxing to the limit of people's power to pay and continues to pile up deficits, then it is on the road to bankruptcy."

Members of Congress should take to heart this advice when they are considering the budget of the United States government. So should state and local government officials.

And so should the federal, state and local administrations.

At the present time government spending at all levels amounts to a third of the Gross National Product. A quarter of a century from now, if present trends continue, it could raise to 60 per cent of the GNP.

Oh, yes, who did that advice come from?

It came from Franklin Delano Roosevelt when he was campaigning for president against Herbert Hoover in 1932. He was deploring the fact that the Hoover administration had let the national debt increase by more than $3 billion.

THE GHOST OF FREEDOMS PAST

HON. JOHN JARMAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. JARMAN. Mr. Speaker, Dr. Rex Kenyon is an outstanding leader in Oklahoma City. He is concerned about our Government and he backs his concern with action. He has written the following poem, which expresses the sentiments of the great majority of us in this country, and which deserves being read and considered by everyone:

THE GHOST OF FREEDOMS PAST

As a first class citizen, I'd rate
I've paid my taxes, pulled my weight,
Kept my conscience free from sin
Gone to church . . . least now and then.
With little leagues, I've learned to play
I've suffered hours of PTA,
I've paid my bills, observed the laws
And given to many a deserving cause.
But politics was not my dish
I'd rather golf, or hunt, or fish,
When I was asked by Mr. Pate
Would I support his candidate?
I said I'd sent a prior check
'Twas all a lie . . . but what the heck,
When called to work for Senator White
I said my schedule was too tight.
When precinct meetings rolled around
I said that I was leaving town,
When Party help was needed now
I said, "They're all crooks, anyhow".
Then when it came the time to vote
I spent the day out in my boat,
And life rolled on, day in day out
About my future, I'd no doubt.
Then one night while dreaming fast
I met the Ghost of Freedoms Past,
He led me from my snug, warm bed
To show me things that lay ahead.
He showed me faces, thin and bleak
On folk who toiled through endless week,
Meetings quotas, reaching goals
Living under strict controls.
He showed me children reared by State
Whose aim was to indoctrinate,
Empty churches stood forlorn
Worship outlawed, buildings torn.
The Halls of Congress sealed by rust
Ballot boxes collecting dust,
He showed me life where fear was norm
And all were clad in uniform.
He said when scientific tests were made
My kids had been assigned a trade,
Their lives a drudge, a menial chore
They could aspire to nothing more.
I'd been assigned . . . he then decreed
To clinics where there was a need,
I'd have a bed and board and clothes
With coupons to exchange for those.
For such I'd file a six-part claim
But sign my number, not my name,
And serve each day without complaint
The State had now become my Saint.
I pleaded then, "It can't be true
There must be something I can do,"
He sadly paused, and then he said
"My friend, Democracy is dead.
There's just no way for legal fights
The Courts are closed, and you've no rights,
You had a chance in seventy-five
To keep that marvelous thing alive.
You simply said 'The job's not mine'
Now this is nineteen-eighty-nine,
For all the world, you didn't care
While there were others waiting there.
To call your life style to a halt
You lost your freedoms by default,
You gave it up just inch by inch
Those activists . . . they had a cinch.
So here it is, no hope no joy
Don't cry on me . . . you blew it, boy!"
And just then, I awoke in sweat
But I recall that nightmare yet.
Of life, with which I could not cope
Devoid of dreams, devoid of hope,
Devoid of warmth, devoid of love,
Devoid of guidance from above.
I saw the error of my ways
And I will spend my lasting days,
Preserving all that we can be
A nation proud and strong and free.
And like my forbears in the strife
I'll pledge my honor, fortune, life,
I'll pledge my right to vote most dear
And with it, keep your future clear.
I'll work and give . . . support, oppose
This land won't fall to some of those,
Who want the things I saw that night
Who feel that socialism's right.
This was my lesson. It will last.
Learned from the Ghost of Freedoms Past.

REX KENYON, M.D.,
AMPAC Board of Directors.

INDEPENDENT COMMISSION NEEDED TO IMPROVE STATISTICS USED FOR MEASURING EMPLOYMENT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. COUGHLIN. Mr. Speaker, the inaccurate and misleading figures used as the basis for determining employment and unemployment in the Nation do a disservice to millions of Americans and thousands of our communities.

The need for an independent, national commission to improve the methods for gathering these statistics and for interpreting the figures correctly is obvious. As presently compiled, the Bureau of Labor Statistics' measurements add to the confusion rather than contributing to a realistic assessment of our employment picture.

I am a sponsor of a bill introduced by the distinguished Representative from Delaware, PIERRE S. "PETE" DU PONT, which would provide for a competent commission to reform and improve these statistics. The case for such a commission is clearly made by Congressman DU PONT in an article which appeared in the Philadelphia Inquirer on December 7, 1975. I insert it in the CONGRESSIONAL RECORD and hope my colleagues find it as compelling as I did:

MISLEADING MEASUREMENTS: UNEMPLOYMENT STATISTICS GIVE A DISTORTED PICTURE

(By Representative PIERRE S. DU PONT)

Last Friday, at 10 a.m., the Bureau of Labor Statistics (BLS) in the Department of Labor held its monthly press conference to release the figures explaining what is happening in the working lives of 94 million Americans.

News stories filed minutes later by the wire services summarized the briefing in a few lines saying the national unemployment rate had gone down .5 percent from the previous month.

It has happened this way, usually on the first Friday of each month, for years and few would question the integrity of the BLS officials or the accuracy of the reporters. Yet the facts they bring forward each time are sufficiently inadequate to be, in the words of Don Quixote. the enemy of truth.

This is a frightening proposition. As former Secretary of Labor Willard Wirtz and manpower statistician Harold Goldstein point out in their recently published study of employment and unemployment statistics, "What we do is significantly affected by what we measure."

And, as they show in their report, A Critical Look at the Measuring of Work, what we do is based on misleading, often over-simplified, sometimes inaccurate, and always incomplete data—deficiencies all worth closer examination.

To begin with, jobless statistics—which are thought to mirror the health of the economy—do not reflect employment in unemployment as they really are. For example, it has happened that as many as one-fifth of those Americans listed as "unemployed" have been seeking only part-time work. Conversely "employed" people have included those who hold part-time positions but are unsuccessfully looking for full-time work.

These same compilations also give a false picture of the well-being of Americans. A parent of three children, constantly looking for work but managing to find only one day of it during the entire month, will (if that day falls in the measurement week) be included in the count of the "employed." By any reasonable scale however, such people are not enjoying the security and standard of living of those "employed" each day, every week.

The press contributes to our hazy impressions of unemployment too—but in a different way. In an effort to simplify, their news stories are usually too brief to relate all the dimensions of the monthly BLS report's 20-result, the details of the labor force mosaic—the relatively good circumstances for white adult males, 6½ percent of whom were jobless in October, and the contrasting bad ones for teenage black families, roughly 40 percent of whom are out of work—are blurred for the average newspaper reader.

In addition to being misleading and oversimplified, the accuracy of the BLS figures is open to profound questioning.

Until very recently, a direct measurement of unemployment in 193 of the 223 standard metropolitan statistical areas and 31 of the 50 states (including my state, Delaware) have been available only once every 10 years when the population census was taken. This, in turn, has necessitated estimating unemployment in these areas by constructing rates from, among other incomplete lists, the count of people receiving unemployment insurance benefits.

These indirect tabulations can be seriously in error. In fact, the 1970 census showed that unemployment estimates had been off by 20 percent or more in 13 states and even more in counties and cities.

The BLS, to its credit, has recently tapped special funds so that it could begin to make direct measurements in all 50 states. But this is only a beginning. For until the Congress and the President act, the funds needed to underwrite these improved measurements will not be available on a regular basis.

Since monthly unemployment figures are the basis for so many government programs, it is certainly important that we consider ways to improve them. Indeed, a fraction of a percent in an area's unemployment rate can determine whether a city:

Gets federal funds to retain or employ its jobless citizens,

Is eligible for moneys to improve its sewers or access roads,

Gets preferential treatment for its local vendors bidding on government contracts, or,

Is entitled to special loans to create private employment.

From another point of view, BLS accounting is faulty for what it doesn't measure. As it is practiced, the record keeping concentrates on the current condition of the work place without paying much attention to its future.

Take the nation's training force—the roughly 20 million people undergoing some schooling—which is treated as if education has nothing to do with work. The truth is that it does. But by not thinking of learning and earning as interrelated, the BLS contributes to the problem that occurs each year at graduation time: young people find themselves trained for jobs that do not exist.

Our children should receive much better career guidance and our tax dollars should be spent much more wisely on educational facilities. And, this would be possible if the BLS compiled comprehensive annual reports on who is being trained for what and kept statistics on employment by occupation so that future manpower needs could be forecast.

One way to begin improving the clarity, accuracy and completeness of the unemployment figures and at the same time draw the press' attention to their more subtle aspects; undertake a full scale reevaluation of the methods for establishing and reporting unemployment rates. Consequently, I have recently submitted a bill calling for a presidentially appointed commission of experts to independently study jobless record keeping in the BLS.

Clearly, this is something that must begin soon. For until we know exactly what is meant and where we are headed when the BLS and the press reports that 8 million Americans are unemployed, monthly jobless reports will affect what we do in ways that can only delude us.

THE BELL MOVES AT MIDNIGHT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. EILBERG. Mr. Speaker, with prayers, fireworks, martial music, and the tolling of bells, America's most hallowed patriotic symbol, the Liberty Bell, will inaugurate the Bicentennial year at midnight on January 1 by being moved to a new home where it will greet millions of visitors during 1976 and beyond.

Thousands of New Year's Eve spectators are expected to view the ceremony, which was planned jointly by the city of Philadelphia, the National Park Service's Independence National Historical Park, and Philadelphia '76, Inc., the city's official Bicentennial agency.

The move itself will be simple. The Bell, presently housed within Independence Hall, will be placed upon a steel cart sheathed in plastic and secured in a bed of cement to keep the crack from spreading.

It will be carefully wheeled down a ramp leading down the six steps on the Chestnut Street entrance of Independence Hall, where it has hung except for brief periods ever since it was brought from England in 1752.

A procession will form behind the venerable Bell as it moves slowly across Chestnut Street to the permanent new glass and steel structure which has been erected one block to the north on Independence Mall. Here, millions will be able to see and touch the historic Bell and its famous crack during 1976 and for many years to come.

Colonial churches in the Independence Hall area are planning special evening services to mark the opening of the Bicentennial year. A concert will be held beginning at 11 p.m. with the All Philadelphia Boys Choir, U.S. Army Chorus from Washington, D.C., and the Orange Glen High School Band of Escondido, Calif.

The Liberty Bell ceremony will begin a minute before 12 o'clock when the ringing of bells and fireworks usher in the new year. Just after midnight the Bell, with an official escort by the 3d U.S. Infantry Old Guard Fife and Drum Corps, of Fort Myers, Va., will be moved to its newly constructed pavaiion north of Chestnut Street. The ceremony is expected to last about a half hour.

A two-part fireworks display is planned. The first, at exactly midnight from the roof of the Penn Mutual Building will herald in the new year, and signal the start of the Bicentennial observance. The second phase will conclude the official ceremony and will be from the roof of the Philadelphia National Bank.

Moving the Bell is the first of more than 200 wide-ranging special programs and projects that will make Philadelphia the focal point of the Nation's Bicentennial Celebration.

Designed by the Philadelphia architectural firm of Mitchell and Giurgola, and built by the Philadelphia firm of J. J. White the new structure on Independence Mall will allow visitors to see the Liberty Bell at any time of the day or night. During normal daytime visiting hours, the story of the Bell will be related by National Park Service guides. After normal hours visitors will be able to push a button on the outside of the structure and hear a taped version of its fascinating history in several languages.

Enormous crowds expected for the Bicentennial Celebration—estimated at between 14 and 20 million—necessitate the move. The Bell's present display area, on the ground floor of Independence Hall, has proved inadequate for the past several years as greater and greater numbers of people have sought to view it. The reopening in 1972 of the second floor of Independence Hall has added to the congestion.

The ceremony will mark the first time the Bell has been removed from Independence Hall in 56 years. It left the hall on 10 other occasions between July 8, 1776, when it rang to announce the first reading of the Declaration of Independence and the day it was placed in front of the hall for the parade welcoming the 28th Infantry Division home from World War I in 1919.

The history of the Liberty Bell is as follows:

HISTORY OF THE LIBERTY BELL

The Liberty Bell was ordered Nov. 1, 1751, to mark the 50th year of the founding of Pennsylvania under the Charter of Privileges of 1701. It was cast by Thomas Lester, of Whitechapel, London, and arrived here in Aug., 1752. Cracked during its testing, it was recast by Pass & Stow of Philadelphia, who added a considerable amount of copper to remedy the brittleness. This bell was hung in April, 1753, but was found to contain too much copper, which injured the tone. Pass & Stow again recast the bell, adding silver, and it was finally hung in the State House tower in June of the same year.

Throughout these operations, the original inscription from Leviticus XXV, 10: "Proclaim liberty throughout all the land unto all the inhabitants thereof"—afterward to achieve so great significance—was retained.

On July 8, 1776, the Bell (which was then hanging on the third story of the brick tower) was rung at the first public reading of the Declaration of Independence in Independence Square.

In 1777, when the American forces were about to leave Philadelphia, the bell was taken to Allentown to prevent its falling into the hands of the British, then at the city's gate. After the departure of the enemy, it was brought back. On July 8, 1835, according to tradition, exactly 59 years after it had pealed forth glad tidings of independence, it was cracked while tolling for the funeral procession of Chief Justice John Marshall, who had died in Philadelphia two days before.

The bell was permitted to remain in dignified retirement in the tower of the State House until 1846 when an attempt was made to restore the sound. The crack was widened to prevent its faces from rubbing together, and bolts and washers were inserted at each end of the crack. On Feb. 23, 1846, it was rung to celebrate the anniversary of the birth of Washington, but an extension of the old crack appeared, and the bell was silenced forever.

The bell has been accorded chief place among the historic relics of America. As such it was featured during the Centennial Exposition, and since that time it has inspired patriotic fervor at the World's Industrial and Cotton Exposition in New Orleans in 1885; at the World's Columbian Exposition, Chicago, 1893; the Cotton States Exposition, Atlanta, 1895; the Interstate and West India Exposition, Charleston, S.C., 1902; the Bunker Hill celebration at Boston, June 15, 1903; the Louisiana Purchase Exposition, St. Louis, 1904; and the Panama-Pacific Exposition, San Francisco, 1915. On two other occasions it has been drawn through the streets of Philadelphia—Oct. 9, 1908 (Founder's Week Historical Parade) and Oct. 25, 1917, in the Second Liberty Loan Parade.

WHEN THE BELL TOLLED

1755—Meeting of Provincial Assembly in State House.

1764—Protest against Sugar Act.

1765—Resolutions against Stamp Act.

1766—Repeal of Stamp Act.

1773—Resolutions against landing tea.

1774—Closing of port of Boston.

1775—First hostilities of Revolution.

1776—Public reading of Declaration (July 8).

—End of Proprietary Government in Pennsylvania.

1781—Surrender of Cornwallis.

1783—Proclamation of Peace.

1788—Establishment of Constitution.

1799—Death of Washington.

1824—Visit of Lafayette to Philadelphia.

1826—Deaths of Jefferson and John Adams.

1834—Death of Lafayette.

1835—Death of Chief Justice Marshall. Bell cracked.

1846—Birthday anniversary of Washington. Bell rung for last time. Crack extended.

GOVERNMENT REGULATION

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. DON H. CLAUSEN. Mr. Speaker, we have all become increasingly concerned about the role of Government with respect to regulation of private industry. Do we have too much or too little? Listening to the critics, one surmises we have too much of the wrong kind and too little of the right.

Mr. Edward E. Carlson, chairman of the Board of United Airlines has made some very interesting observations concerning regulation, deregulation, and the airline industry. All of us interested in providing the American people with an integrated, coordinated, and balanced transportation system will find his remarks instructive, perceptive, and rewarding:

REMARKS BY EDWARD E. CARLSON

I'm going to talk about a topic that is vital to all of us—as businessmen and women and as users of the air transport system. That is the critical issue of the future of government economic regulation.

Let's go back to September a year ago when the summit conference on inflation was held in Washington. As one who attended the conference, I heard much that was self-serving along with many worthwhile proposals. Almost everyone was impressed by economists who said that the government regulatory agencies held down productivity, increased the consumer's cost and contributed to inflation.

Subsequently, there were reports from Washington that the regulatory agencies would be thoroughly overhauled. Surface transportation was to be given top priority because of the desperate condition of the Penn Central and other railroads.

And then we began to hear that deregulation was in store for the civil aeronautics board, the agency that exercises economic control over the air transportation industry. Critics of economic regulation of all kinds of almost all Federal agencies ran from the Wall Street Journal to the Washington Post, from conservative economists to liberal economists, from Senator Kennedy to President Ford. The suggestions for change were completely nonpartisan and almost completely self-serving.

The first reaction of the airline industry was defensive, which is quite understandable. Cab regulation began in 1938 and over the years the world's finest air transportation system developed in the United States. The U.S. airlines led all others in service innovations and the introduction of new technology. Fares were lower than those paid for flying comparable distances in other countries, where in most cases the carriers were part or wholly owned by their respective governments. In short, the U.S. air system stands out as a prime example of what private enterprise could accomplish within a regulatory framework.

Many in the airline industry were concerned with changes which could adversely affect a complex system. That system—and we are talking about an airline transportation system—had been carefully built, segment by segment, to the point of providing 13,000 daily flights, serving 58,000 pairs of cities and accounting for 77 per cent of all intercity traffic by public carriers. It is an excellent system, involving 300,000 employees and more than 2,000 jet aircraft—An airline transportation system that binds the Nation together as no other form of transport can. It is the best system in the world.

Most critics argue for so-called reform in the name of lower prices. This is strange because we cannot see how a change in the law will produce lower fuel costs, material costs or even labor costs. United Airlines agrees that change is necessary. But it must benefit efficient carriers, allow for proper and prompt pricing and insure the exercise of managerial freedom.

The administration recently proposed a bill which it calls legislation on regulatory reform, which would make sweeping changes in the system and alter economic regulation as we know it. Unfortunately, in our view, the bill would produce *more* rather than less regulation.

The argument for change in economic regulation of air transportation has a basis in fact. Cab proceedings are long and often unnecessary. Political influences bear on economic decisions. Managerial prerogatives are often pre-empted by individuals who have no management responsibility and no financial accountability to customers, employees or shareholders.

That responsibility must rest with management and ultimately the boards of directors of all airlines which have a stewardship for all shareholders. Shareholders are composed of individuals, pension funds, mutual funds and insurance companies which have a concerned and vital interest in the financial well-being of these companies.

I sympathize with members of the CAB. They've been unjustly accused of being overly protective of airline interests, while ignoring consumer interests. They've been sharply criticized by other government agencies. In recent months, I think it's fair to say that the CAB has been the subject of more attacks than any other regulatory group. And that's rather strange, considering that its actions affect a smaller portion of the population than some of the other agencies. But whatever the problems or pressures applied, the CAB does have to recognize its responsibility in maintaining the economic vitality of a national asset—the U.S. Air Transport System.

Yet, the sad truth is that the airlines have not done well as a group in terms of profits. With a handful—or less—of exceptions, the airlines have gone from cycle to cycle of boom or bust. And the booms have been more like puffs, while the busts have been more like calamities. The airline system has not produced sustained, reasonable earnings. As a result, the airlines are poor market buys and poor credit risks. Last year, a "boom" year, the carriers had their best year in history—profits of $350 million. But, well over half was earned by just three carriers (United, Delta, and Northwest). This year will be disappointing, and the Air Transport Association has predicted an industry loss of $250 million. Only once in the last 20 years has the industry reached the rate of return of 12 percent set as a target for it by the CAB. In these circumstances, we think there's obviously something wrong! We think part of what's wrong is economic regulation.

The industry has about run out the technological string that has allowed the airlines to lower costs, keep service levels high and keep prices reasonable. We're now beginning to suffer financially from sharply increased fuel and labor costs, without any fare relief to pass these horrendous increases on to the consumer. The critics argue that a change is necessary—United agrees. Regulation as interpreted currently has not kept up with the times.

In truth, United would welcome complete deregulation. We would do well in a free market. We believe in competition. United is not a blind, stubborn defender of the status quo. We welcome the current debate and recognize the need to improve what we have. But very few critics are really talking about economic freedom. They're arguing for a different *kind* of regulation.

We are opposed to ill-advised programs that increasingly constrict economic freedom. When we set out to reform the regulatory apparatus, we have to be certain that we're not going to do irreparable injury to the system and the public.

The possibilities range from no change to total deregulation. Also, there's some danger we could end up half free and half regulated, lacking the advantages of either and with the disadvantages of both. We could, for example, be saddled with a zone-of-reasonableness pricing concept that would have a tight ceiling for increases, but no floor. In fact, Senator Kennedy's subcommittee has recommended just that—a free market with price controls!

Let's briefly examine the administration's bill. First, the question of free entry into markets and free exit. In the first five years, the bill would eliminate restrictions on carrier certificates and allow airlines to provide direct service between any two cities on their systems. After five years, there would be discretionary entry into markets of the carriers' choosing, within limited degrees, without CAB approval.

Exit provisions of the administration's bill would allow carriers to leave competitive markets at will, but if there were no other service, there would be strict standards for exit under CAB control. The CAB would require service to continue if the state or particular community agreed to provide financial support for the carrier's service.

Second, the all-important question of pricing. The bill would prohibit carriers from raising fares more than 10 per cent during any 12-month period. However, fares could be lowered 20 per cent during the first 12 months, and another 20 per cent in the second 12-month period. In the third year, an airline—if it chose to do so—could drop its fares down to the level of direct costs. What we have here, then, is price control.

Third, the bill would drastically change the CAB's power over mergers and agreements, while increasing the powers of two other branches of government—the Department of Justice and the Department of Transportation.

These are some of the key provisions. The end result would seem to be more, rather than less, regulation. United's belief is that those who drafted the legislation were well motivated, but we think they have produced a bill that will benefit neither the public nor the airlines. In short, it's a move in the right direction, but it falls because it doesn't go far enough. For example, with the kind of new entry which the bill provides, it should also allow for free exit. With virtual free entry, there should be free pricing. If the economists and drafters mean what they say, they should provide for economic freedom. unfortunately, the bill doesn't do that.

The debate will continue for many months. We think it's necessary to search for better answers. The air transportation industry is simply too close to going the way of the railroad passenger system. Better answers have got to be developed or the Nation will find itself with financially distressed airlines and deteriorating service to its cities. The railroad situation in the northeast is a sobering thought that must be kept in mind.

The main issue gets down to this: Are airlines doing to move from crisis to crisis year after year because of regulatory policies designed to appease those who want fares held at levels that don't adequately cover costs or compensate the carriers? That road could lead to nationalization, and it should be avoided. Parenthetically, we must say that every spokesman for every group has indicated a strong desire to have the airline industry remain in the private sector. We applaud that position, but together all who support this philosophy must make certain that changes in the system enhance that position. Candidly, some carriers are having serious trouble.

To sum up, United thinks that the current debate should examine these possibilities:

1. Total economic deregulation should be studied carefully and completely.

2. Short of total deregulation, everyone agrees that procedural reforms are needed. These may include specific deadlines for the CAB in the handling of rate, route and other procedural matters. A special advisory group is currently exploring these points, and we support the project.

3. Beyond procedural change, substantive changes should be considered. Entry could be eased provided exit also is eased. Procedures could be devised which will permit carriers to modify their route systems on an expedited basis. The administration proposal has too many restrictions and does not go far enough.

4. Free pricing—upward and downward—should be allowed. We're certain that there are many other actions which will be identified providing for necessary and constructive reform however, it is our view that the reforms should be approached with caution and that evolution makes much more sense than revolution. Constructive moves are far more likely to be achieved gradually with due emphasis on needs of customers, employees and shareholders. Finally, and most important, maps of uncharted territory can never be very exact. In this context, we are concerned that hasty action will generate new problems and that the perceived "solutions" will really be more regulation. That would benefit no one.

When we consider the alternatives, there's no question which course to take. We want free enterprise. It's the system I've known all my working life. In the last five years with united, I've practiced its principles as far as possible in a regulated industry. I know its opportunities, risks and rewards. And I'm still awed by its ability to produce—to provide the most for the greatest number—as our history testifies.

Insofar as the proper blend between government regulation and free enterprise and the necessity in the national interest of maintaining a strong air transportation system, I think Harding Lawrence, chairman and chief executive officer of Braniff, said it well at the National Aviation Club in Washington recently. "I think knowledge, experience and common sense will prevail in Washington, and what will result is what most airlines, airports, lenders, suppliers and, most importantly, air travelers want and need—change, which will mean less regulation and better regulation, greater competition—not monopoly—and a constantly improving system of air service." And to that I would add an awareness by decision makers in Washington that it is essential that well managed companies be allowed the opportunity to make an adequate, continuous return on their investments.

DR. MAYNARD M. MILLER LEAVES FACULTY OF MICHIGAN STATE

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. O'HARA. Mr. Speaker, one of the outstanding educators in the State of Michigan recently was chosen to be dean of the College of Mines and Geology, and chief of the Bureau of Mines and Geology, at the University of Idaho. This deserved advancement in his profession has gone to Dr. Maynard M. Miller, who has distinguished himself as a professor of geology at Michigan State University.

Dr. Miller has had a most illustrious career, and he came to that career after receiving his B.S. degree in geological sciences from Harvard University, his M.A. degree in geology from Columbia University, and his Ph. D. in geomorphology and geophysics from Cambridge University. He began his career as an assistant professor of naval science and tactics at Princeton University at the end of World War II, and in the years that followed he was associated with the American Geographical Society, the Swiss Federal Institute for Snow and Avalanche Research, the Lamont Geological Observatory, and the staff of Columbia University.

Between 1968 and 1970, Dr. Miller served as chairman of the World Center for Exploration Foundation in New York City—a foundation supported by some 100 major corporations in the United States—where he developed national programs to stimulate and direct young people into careers in the field and exploration sciences. It was in 1970, that Dr. Miller joined the faculty of Michigan State University, a position which he has just left to take up his challenging new duties with the University of Idaho.

Over the years, Mr. Speaker, Dr. Miller has been director of the Glaciological and Arctic Sciences Institute; president of the Foundation for Glacier and Environmental Research, Pacific Science Center, Seattle, Wash.; was geologist on the American Mount Everest expedition in 1963; leader of a 23-man team of scientists on the Mount Kennedy-Yukon photogrammetric and geological expedition in 1965; a geological consultant for the U.S. Forest Service, the National Park Service, the State of Alaska, the U.S. Navy Oceanographic Office, the Army Quartermaster Corps, the National Aeronautics and Space Agency, the National Geographic Society, and the Federal Office of Water Resources; and a hydrological adviser to the Museo Argentino de Ciencias Naturales and to the Instituto Geologico del Peru.

Dr. Miller's honors, fellowships and awards would fill a page, Mr. Speaker—honors from academia, from the U.S. Navy for his service in World War II, from foundations and societies, and from civic clubs which have recognized the unique character of his work.

I know that Dr. Miller will be missed by his many friends and associates at Michigan State University, and I join his good friends in wishing him continued success in his new assignment.

HOUSE OF REPRESENTATIVES—*Friday, December 19, 1975*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Glory to God in the highest and on Earth peace, good will among men.—Luke 2: 14.

O God, to whom glory is sung in the highest, while on Earth peace is proclaimed to men of good will; grant that good will to us, Thy children, cleansing us from our sins and leading us to a new life in Thee. May Thy spirit be born anew in us reminding us to live by love, to forget failures, to forgive wrongs done, and to face the future with faith and hope assured that Thou art with us always and all the way.

Before the altar of Thy presence we pray for a greatness of spirit, a purity of heart, and a will to serve Thee and our country with all our being.

May the Lord bless us and keep us; the Lord make His face to shine upon us and be gracious unto us; the Lord lift up the light of His countenance upon us and give us peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 10792. An act for the relief of Jana Hlavaty; and

H.R. 11184. An act to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 95. An act to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

The message also announced that the Senate agrees to the amendments of the

House with amendments to bills of the Senate of the following titles:

S. 1469. An act to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such act, and for other purposes.

MAINTAINING EXISTING WITHHOLDING TAX RATES UNTIL MARCH 15

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, last evening at the time when the House was ready to adjourn I requested immediate consideration of H.R. 11227, maintaining existing withholding tax rates until March 15, 1976. At that time the Chair stated that he could not entertain that request at that time.

This is a bill that has been on the floor twice now, or the attempt has been made to bring it on the floor twice, and at this time I again ask unanimous consent that H.R. 11227 be brought to the floor for immediate consideration.

The SPEAKER. The Chair will not entertain that request.

Mr. MILLER of Ohio. Mr. Speaker, is there an objection heard?

The SPEAKER. No one needs to object. The Chair has control over that matter.

REQUEST TO CONSIDER H.R. 8304, AMENDING NATIONAL READING IMPROVEMENT PROGRAM

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8304) to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes, with Senate amendments thereto and concur in the Senate amendments.

I would add Mr. Speaker, last Monday the House unanimously passed H.R. 8304 under a suspension of the rules. That bill contains several relatively minor amendments to the National Reading Improvement Program Act. The Senate yesterday adopted the bill as adopted by the House. with amendments.

CALL OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 819]

Adams
Ambro
Andrews, N.C.
Archer
AuCoin
Badillo
Bell
Bergland
Bingham
Blanchard
Boggs
Breaux
Brodhead
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Fla.
Burton, John
Butler
Byron
Casey
Chappell
Chisholm
Clausen, Don H.
Clay
Conyers
Crane
D'Amours
Daniels, N.J.
Danielson
Davis
Dent
Diggs
Dingell
Dodd
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Emery
Erlenborn
Esch
Eshleman
Evins, Tenn.
Fish
Flynt
Foley
Ford, Mich.
Fuqua
Gaydos
Gibbons
Gilman
Goldwater
Gradison
Gude
Hammerschmidt
Harkin
Harrington
Harsha
Hastings
Hawkins
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Hillis
Hinshaw
Holt
Horton
Howard
Hungate
Hutchinson
Ichord
Jarman
Jones, Ala.
Kastenmeier
Kazen
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Litton
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Macdonald
Madigan
Mahon
Matsunaga
Mitchell, Md.
Moakley
Montgomery
Moss
Neal
Nedzi
Obey
O'Hara
Ottinger
Passman
Pattison, N.Y.
Pepper
Randall
Riegle
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Runnels
Ryan
Sarbanes
Scheuer
Seiberling
Spellman
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Sullivan
Talcott
Udall
Vander Jagt
Vigorito
Waggonner
Waxman
Wiggins
Wilson, Tex.
Winn
Wright
Young, Alaska

The SPEAKER. On this rollcall 296 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 8304, AMENDING NATIONAL READING IMPROVEMENT PROGRAM

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8304) to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded and for other purposes, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. QUIE. Mr. Speaker, reserving the right to object, and I will not object, I support H.R. 8304 and urge that the House concur in the Senate amendments. They are good amendments, and I hope and know they will be helpful to the program.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, after "SECTION 1." insert "(a)".

Page 1, line 10, after "graph" insert: "during the fiscal year 1976 and the period beginning July 1, 1976 through September 30, 1976,".

Page 2, line 12, strike out "any" and insert: "the".

Page 2, line 13, after "year" insert: "1976, and for the period from July 1, 1976 through September 30, 1976,".

Page 2, after line 13, insert:

(b)(1) Part C of such Act is amended by adding after section 723 the following new section:

"STATE LEADERSHIP AND TRAINING PROJECTS

"SEC. 724. The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading deficiencies. The activities authorized by this section shall be limited to—

"(1) assessments of need, including personnel needs, relating to reading problems in the State,

"(2) inservice training for local reading program administrators and instructional personnel, and

"(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on October 1, 1976.

(3) Section 705(a)(3) of the Education Amendments of 1974 as added by subsection (a) of this section is repealed effective September 30, 1976.

(c) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated to carry out the provisions of section 724, relating to State leadership and training projects, $6,400,000 each for the fiscal year ending September 30, 1977, and for the succeeding fiscal year.".

Page 3, line 20, strike out "3" and insert: "1".

Page 4, after line 7, insert:

"NATIONAL IMPACT READING PROGRAMS"

Page 4, line 8, after "SEC. 6." insert: "(a)".

Page 4, line 9, strike out "723" and insert: "724".

Page 4, line 11, strike out "724" and insert: "725".

Page 4, line 20, strike out "any" and insert: "the".

Page 4, line 21, after "year" insert "1976, and for the period from July 1, 1976 through September 30, 1976,".

Page 4, after line 21, insert:

(b)(1) Section 725 of the Education Amendments of 1974 as added by subsection (a) of this section is amended by striking out "(a)" after the section designation and by striking out subsection (b) of such section.

(2) The amendment made by paragraph (1) of this subsection shall take effect on September 30, 1976.

(c) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(f) There are authorized to be appropriated to carry out the provisions of section 725, relating to national impact reading programs, $800,000 each for the fiscal year ending September 30, 1977, and for the succeeding fiscal year.".

Page 5, line 19, strike out "725" and insert: "726".

Page 8, line 6, strike out "(e)" and insert: "(g)".

Page 8, line 7, strike out "725" and insert: "726".

Page 8, line 14, strike out "725" and insert: "726".

Page 8, line 16, strike out "725" and insert: "726".

Page 8, after line 16, insert:

SPECIAL EMPHASIS PROJECTS

Sec. 10. Section 721(b)(1) of such Act is amended by inserting "and (c)" after "section 705(b)".

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last Monday, the House unanimously passed H.R. 8304 under suspension of the rules. That bill contains several relatively minor amendments to the National Reading Improvement Act. The Senate yesterday adopted the bill as passed by the House, with several technical amendments and with two substantive amendments.

The first substantive amendment added by the Senate creates separate authorizations of appropriations for the State leadership grants and for the national impact programs for fiscal years 1977 and 1978. The House-passed bill had permitted use of funds under the general authorization of the act for these purposes.

The second substantive amendment reduces from 3 to 1 percent the amount of funds a State can receive for administration and for operation of the advisory councils.

Mr. Speaker, I believe that the House can accept these two amendments added by the Senate without diminishing the thrust of the House-passed bill.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, I rise in support of H.R. 8304 and urge that the House concur in the Senate amendments.

The Senate has provided separate authorizations for both the State leadership and national impact programs in contrast to the House bill which would have taken funds "off the top" of any appropriation for the National Reading Improvement Act. I have no objection to that change.

In addition, the Senate has provided appropriation authority for the transition quarter of next year and has reduced the percentage set-aside for the operation of the State reading council from 3 percent of the grants a State receives to 1 percent. I have no objection to that change at this time. I do feel that we need more information on the actual costs involved. When that information is available, we may wish to reassess our position on this matter.

The House bill amends several sections of the National Reading Improvement Act, title VII of the 1974 education amendments. First, it amends section 705 to provide some flexibility in the 14 requirements for applications under the reading improvement program. Applicants would not be required to include preservice and inservice training programs for teachers, or the involvement of cultural and other educational institutions as conditions of application. These two elements of any program would be required to be undertaken only to the extent practicable.

I wish to make clear that by providing this flexibility neither I nor the original sponsors of the legislation are deemphasizing the need for preservice or inservice training of teachers. It is intended that every project of sufficient size have such training programs as an important element of its program. If, however, a small project finds it impracticable to undertake such a training program, the requirement could be waived.

The House bill amends title VII of the Education Amendments of 1974 to allow the Commissioner to accept gifts of services, money, or property. It is my understanding that by amending title VII to take care of the issue of gifts to the reading program, rather than by amending the Commissioner's basic authority as contained in the General Education Provisions Act, there is no intention on the part of any of the legislation's sponsors to call into question any such authority he may have under the latter act.

Finally, H.R. 8304 amends the reading academies section of title VII to make the services of such academies available to in-school youth as well as to those youth who have left the educational system. It seems to me that there may be many hard-to-reach youth still enrolled in school who might profit from the types of services which a reading academy can offer. However, I would caution the Office of Education that there is no intention in this amendment to set up a school system duplicating that already in existence under the new title of "reading academy." This authority should be used only in situations where it is specifically warranted.

I am quite pleased that the Senate has agreed to the House provision authorizing a program for the distribution of inexpensive books to promote reading motivation. I am a great believer in the reading is fundamental program, which will receive assistance under this act and am pleased to have been able to assist that very worthwhile program. I urge my colleagues on the Appropriations Committee to provide the dollars needed.

I again thank the chairman of the committee, the gentleman from Kentucky (Mr. Perkins), for all of his fine work in expediting the passage of this legislation. Nearly 50 State right-to-read programs would have terminated in the next few months without this legislation. He is to be commended for his prompt action and his great concern for the genuine educational needs of the children of this Nation.

I insert at this point in the Record a letter from HEW Secretary David Mathews to the minority leader stating the administration views on H.R. 8304. This letter was not available when the bill was considered on Monday. The letter follows:

The Secretary of Health,
Education, and Welfare,
Washington, D.C., December 15, 1975.

Hon. John J. Rhodes,
Minority Leader, House of Representatives,
Washington, D.C.

Dear Mr. Rhodes: As the House prepares to vote on H.R. 8304, a bill "to amend the National Reading Improvement program", I would like to share with you the Administration's position on this measure.

This proposal is very similar to the version of H.R. 8304 proposed by the Administration to extend two reading programs for which authority expired June 30, 1975. However, the bill approved by the Education and Labor Committee also authorizes a new program of Federal assistance for the distribution of inexpensive books to children. Were this additional program, which will authorize new spending authority, to be deleted from the bill, the Department would have no difficulty supporting H.R. 8304.

With the passage of the new title VII in the Education Amendments of 1974, activities which account for 33.3 percent of the Right-to-Read's FY 75 obligations could not continue to be Federally funded for lack of authorization. Further, the State grant program which extends assistance to 49 States could not be continued because FY 76 appropriations were insufficient to trigger the part B State grant program. Thus, in effect, activities which accounted for 77.1 percent of FY 75 obligations could not be continued in FY 76. It was for this reason that the Administration originally proposed H.R. 8304.

It is our understanding that the Congress did not intend to terminate these activities when P.L. 93–380 was adopted. However, the new reading program was designed with the anticipation of much higher appropriations for reading activities. Because greatly increased appropriations have not been forthcoming, it is necessary to provide for continuation of activities more appropriate to current appropriation levels.

We feel that the activities we proposed and which are authorized by these amendments will encourage the most effective use of existing Federal reading funds. The State Leadership Program which would be continued is seed money for the States to develop their own reading effort to overcome illiteracy. Most of the funds proposed to be spent on this activity will be used for assessment of children's reading needs and inservice training for local reading administrators and instructors. The bill would also give the Office of Education authority to continue activities we feel have an impact on all reading programs being carried out across the Nation, such as the development of television programs to teach reading, the dissemination of information about exemplary reading projects, and assessments of functional illiteracy in the U.S.

The bill also contains new authority to subsidize the purchase and distribution of inexpensive books to children. While book distribution has achieved considerable success in motivating children to be interested in reading, we see no need for the Federal government to assume support for a program that has achieved substantial support from the private sector. The Reading Is Fundamental program has been supported in the past by over 80 private foundations and other interested community organizations. Thus, while we will continue to urge private support for this authority, we would find it difficult to justify a budget request from the Department for this program.

We hope these comments are useful to you when H.R. 8304 comes to the floor of the House.

Cordially,

David Mathews,
Secretary.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

DISMISSAL OF ELECTION CONTEST OF SAMUEL H. YOUNG

Mr. HAYS of Ohio. Mr, Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 894), and ask unanimous consent for its immediate consideration.

H. Res. 894

Resolved, That the election contest of Samuel H. Young, contestant, against Abner J. Mikva, contestee, Tenth Congressional District of the State of Illinois, be dismissed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISMISSAL OF ELECTION CONTEST OF PETER N. KYROS

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 895), and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 895

Resolved, That the election contest of Peter N. Kyros, contestant, against David F. Emery, contestee, First Congressional District of the State of Maine, be dismissed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISMISSAL OF ELECTION CONTEST OF RODERICK J. WILSON

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 896), and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 896

Resolved, That the election contest of Roderick J. Wilson, contestant, against Andrew J. Hinshaw, contestee, Fortieth Congressional District of the State of California, be dismissed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISMISSAL OF ELECTION CONTEST OF WILLIAM (BILL) MACK

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 897) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 897

Resolved, That the election contest of William (Bill) Mack, contestant, against Louis A. Stokes, contestee, Twenty-first Congressional District of the State of Ohio, be dismissed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISMISSAL OF ELECTION CONTEST OF WAYNE ZIEBARTH

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration I call up a privileged resolution (H. Res. 898), and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 898

Resolved, That the election contest of Wayne Ziebarth, contestant, against Virginia H. Smith, contestee, Third Congressional District of the State of Nebraska, be dismissed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will take unanimous-consent requests from individual Members but not for speeches.

MEDICARE DEADLINE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 943) providing for concurrence in Senate amendments to the bill H.R. 10284, with an amendment.

The Clerk read the resolution as follows:

H. Res. 943

Resolved, That upon the adoption of this resolution, the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for three years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums, with the Senate amendments thereto, be and the same hereby is taken from the Speaker's table to the end that the Senate amendments are concurred in with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

Sec. 101. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975.".

(b) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than $1.

EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

Sec. 102. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1979".

COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

Sec. 103. Section 1862(c) of the Social Security Act is repealed.

TECHNICAL AMENDMENT RELATING TO PART B PREMIUM DETERMINATIONS

Sec. 104. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".

(b) The amendments made by subsection (a) shall apply with respect to determinations made under section 1839(c)(3) of the Social Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

Sec. 105. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(9)(1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?'. If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.

"(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this subsection, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designating it as the Professional Standards Review Organization for any area in the State.".

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO NURSING HOMES

Sec. 106. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23rd edition, 1973)".

(b) Subject to subsection (c), the amendment made by subsection (a) shall be effective on the first day of the sixth month which begins after the date of enactment of this Act.

(c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.

GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 107. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 108. (a) Subsections (c)(1) and (f)(1) of section 1152 of the Social Security Act are each amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) The amendments made by subsection (a) shall not apply in any area designated in accordance with section 1152(a)(1) of the Social Security Act where—

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or non-cooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 109. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

UTILIZATION REVIEW UNDER MEDICAID

SEC. 110. (a) Section 1903(g)(1)(C) of the Social Security Act is amended to read as follows:

"(C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the situation providing the care involved; and the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and".

(b) The amendment made by subsection (a) shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.

CONSENT BY STATES TO CERTAIN SUITS

SEC. 111. (a) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this title, a State plan for medical assistance must include a consent by the State to the exercise of the judicial power of the United States in any suit brought against the State or a State officer by or on behalf of any provider of services (as defined in section 1861(u)) with respect to the application of subsection (a)(13)(D) to services furnished under such plan after June 30, 1975, and a waiver by the State of any immunity from such suit conferred by the Eleventh Amendment to the Constitution or otherwise."

(b) Section 1903 of such Act is amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding any other provision of this section, the amount payable to any State under this section with respect to any quarter beginning after December 31, 1975, shall be reduced by 10 per centum of the amount determined with respect to such quarter under the preceding provisions of this sectiton if such State is found by the Secretary not to be in compliance with section 1902(g)."

(c) The amendments made by this section shall (except as otherwise provided therein) become effective January 1, 1976.

UTILIZATION REVIEW ACTIVITIES

SEC. 112. (a)(1) Section 1861(w) of the Social Security Act is amended—

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX, by a Professional Standard Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients.".

(2) Section 1815 of such Act is amended—

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.".

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses.".

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

SEC. 201. Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(e)(7) of the Food Stamp Act of 1964, as amended, may be extended until October 1, 1976.

TITLE III—INTERNAL REVENUE CODE AMENDMENT

CERTAIN IRRIGATION DAMS

SEC. 301. (a) Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Irrigation Dams.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Illinois (Mr. ROSTENKOWSKI) and the gentleman from Tennessee (Mr. DUNCAN) will ge recognized for 20 minutes each.

The Chair now recognizes the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last evening the House devoted considerable time to the discussion of the motion that has just been made in a somewhat modified form. At that time, I reviewed in some detail for my colleagues the provisions in H.R. 10284 that would be affected by this motion.

Rather than take further time of the House at this late date, let me only briefly review the issues that are at stake here. Failure to pass these amendments by January 1, will not only terminate the medicare eligibility for more than 70 rural hospitals who no longer would be able to meet the minimum nursing requirements, but failure to pass this bill by January 1 would cause an unnecessary additional increase in the cost of health insurance for almost all civil service employees.

I will now describe briefly each of the amendments involved in this motion in order to refresh the memories of my colleagues.

Section 101 has the same intent as the House provision which provides that no prevailing charge for a physician's service in fiscal year 1976 will be less than it was in fiscal year 1975 due to application of the economic index required by the 1972 Social Security Amendments. The Senate added what we believe are unnecessary amendments and I, therefore, recommend that the House retain the language in the House-passed bill.

Section 102 of the Senate bill would extend for 1 year, rather than 3 years as contained in the House-passed bill, the Secretary of HEW's authority to waive the requirement for certain rural hospitals that a registered nurse be on duty at all times. I recommend that the House language be retained.

Section 103 of the Senate bill is identical to the House-approved provision.

And section 104 of the Senate bill is identical to the House-approved provision.

Section 105 of the Senate bill adds a provision to the House-passed bill that would require the Secretary to poll physicians in those States that have multiple PSRO areas, and in which no PSRO currently exists, on the question of whether they would prefer a statewide PSRO area. If a majority of the physicians in each PSRO area favor a statewide PSRO, the Secretary would redesignate that State as a PSRO area.

Section 106 adds a provision to the House-passed bill that would provide for reimbursement of PSRO's for costs they incur in performing utilization review on behalf of hospitals. The amendment provides for hospital payments to the PSRO with the hospital in turn receiving reimbursement for these payments from medicare.

Section 108 would replace the current medicare and medicaid requirement that skilled nursing facilities meet the provisions of the 1967 Life Safety Code with a requirement that they meet the provisions of the updated 1973 edition of the Code. Facilities already in compliance with the 1967 Code could remain qualified on that basis.

Section 109 would permit the Secretary to approve a grant designed to enable the Sacramento Medical Care Foundation—or an organization with similar characteristics—to participate in a demonstration project to obtain data on HMO reimbursement mechanisms. The amendment would permit the grant to reimburse the foundation for health services prior to the beginning of the project.

Section 112 would extend the limitation on the Secretary's authority to recognize any organization other than a physicians' association as a PSRO from January 1, 1976, to January 1, 1978.

Section 114 would direct the Secretary of HEW to conduct a 4-month study of the appropriateness of reimbursement under medicare for diagnostic professional services—other than refractive services—performed by optometrists on patients whose natural lenses of the eye have been removed.

Section 115 would permit up to 100-percent review, or review on an appropriately designed sample basis, of medicaid hospital admissions in place of what has been interpreted as a present requirement of 100-percent review of all patients.

The House amendment would require that any State plan for medical assistance under title XIX of the Social Security Act include a consent by the State to suit in the Federal courts in actions brought against the State by providers of certain medicaid services.

Section 201 gives States the option of withholding the food stamp purchase price from an AFDC grant for those recipients who wish to purchase food stamps. Under present regulations of the Department of Agriculture States—under Public Law 93-86—are required to give all AFDC recipients the option effective January 1, 1976. The amendment would extend the existing optional system until October 1, 1976.

Section 301 adds language identical to that contained in H.R. 9968, a bill to amend the Internal Revenue Code, which passed the House on October 6, 1975.

This amendment adds a new exception to industrial development bond treatment to specifically allow tax-exempt status for bonds issued for a dam which furnishes water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water.

I understand that some concern has developed over the PSRO provisions in the amendments, and I would like to go over those and dispel any confusion that may exist on what they are and why they are in the amendment.

First, the amendment would require the Secretary to poll physicians in those States that have more than one PSRO to see if the physicians in the State would prefer the whole State to be one PSRO. If more than 50 percent of the physicians in each area want a single statewide PSRO. then the Secretary of HEW must, and I emphasize must, designate the State as a single PSRO area.

Second, the amendment would extend for 2 years the period during which the Secretary must recognize physician organizations which want to be designated as a PSRO. Under present law this provision expires on January 1, 1976.

Since this provision involves a deadline, and since we could detect no opposition to the amendment, it was included. The third amendment would build more fiscal responsibility into the PSRO provisions in two ways. But first let me describe the present situation and then how the amendment would improve it.

First, when an operating PSRO delegates to a hospital the function of reviewing utilization in that hospital the cost of performing those delegated functions is claimed by the hospital as one of costs which the medicare intermediary will reimburse the hospital fee. But the hospital does not have to separate those costs out and report them together. They can be spread out over the whole cost report of the hospital. Therefore, without a change we will be unable to properly evaluate and consider total RSPO costs.

Second, under the present situation cases arise where a PSRO does not delegate the review function to the hospital, either because the hospital does not wish to do the review, or because the physicians in the PSRO believe that the hospital is not yet capable of carrying out the review. In that case, however, the PSRO must assume the costs of carrying on the review activities for such a hospital out of its operating funds. This situation obviously provides an incentive for the PSRO to delegate review functions to a hospital even though the delegation may not be warranted.

The amendment addresses these problems in two ways. First, hospitals will be required to place all their PSRO utilization review costs in one cost center thus enabling us to know the full and complete cost of performing this function. Second, the amendment provides that where the PSRO performs the utilization review functions for a hospital the PSRO will bill the hospital for the costs and the hospital will then include the costs in its utilization review cost center. Thus the amendment will remove the inappropriate fiscal incentive for delegation of review functions to a hospital.

I believe there is enough urgency to the amendment to justify action now. First, there are very few operating PSRO's today and releatively few hospitals conducting PSRO review functions. If we are to be sure that we will know the full costs of the PSRO program, we need to move now to make sure that data will be available to us.

Second, to be sure that we are getting the most for our money we need to remove now the fiscal incentive to delegate review functions to inadequately prepared hospitals.

I hope this further statement will remove any lingering confusion about the effects and desirability of these amendments.

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I would like to inquire of the chairman of the subcommittee about the Senate provision relative to the study of reimbursing optometric services under title XVIII.

Is it the chairman's understanding and intention that the study would be conducted by the Assistant Secretary for Health and that he would utilize, in his investgation, the information in the Health Resources Administration dealing with present optometric curriculum and optometric manpower distribution?

Mr. ROSTENKOWSKI. That is correct.

Mr. DUNCAN of Tennessee. Mr. Speaker, I would also inquire of the gentleman from Illinois, is it also the intention that the Secretary would utilize the expertise of optometrists who are not employed directly or indirectly in governmental agencies, that the investigation would focus on those professional maintenance services provided the cataract patient, including aphakic services after surgery, and that the Secretary would report to the Congress those services which should be reimbursable for purposes of title XVIII?

Mr. ROSTENKOWSKI. That is correct.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that my colleagues will recall that when this bill passed in the House, it passed by unanimous consent, but those Members would hardly recognize it today from what it was when it left the House due to changes in the Senate.

I think that our fine subcommittee chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI) would also agree that because so many things have been added to this that I could not be responsible if I were to agree that we should go along with this legislation after the many things that the Senate has placed in this legislation.

Mr. Speaker, I would like to take this opportunity to express my views on this legislation to my colleagues.

In the first place, it is necessary for us to bear in mind that this House passed the original bill in order to make certain amendments to the Medicare Act that would prevent time limitations in the legislation from creating serious problems. Those provisions of that original bill are contained in the amended legislation that is before you at this time as well, and would provide for the fair and proper coordination of medicare and the Federal employees health benefits plan; enable certain rural access hospitals to continue for 3 years to receive medicare payments; prevent the charges of physicians from being rolled back in fiscal year 1976 to levels below those of fiscal year 1975; and correct a technical error concerning the part B premium.

The Senate returned this bill to us with a host of amendments, and created a situation in which many of you understandably are concerned about the effects of any legislation we may adopt. Let me state that I share such concern, and cannot condone the entire process by which the amended Senate bill, which is before you now, has arisen. However, we should and must look critically at the merits of the amendments for which my distinguished colleague from Illinois has expressed support.

In this regard, it must be noted that the Senate amendments which were deemed to effect significant changes in the law, or which would lead to unacceptable increases in costs to the Federal Government, were rejected and are not part of this amended legislation.

Let me, then, very briefly attempt to explain what the amendments made by the Senate which have been supported and are contained in this bill would accomplish:

The four sections of the original House-passed bill need no further explanation. Attempts to change some of those provisions by the Senate were unacceptable.

One amendment enables certain States to allow physicians to vote as to their preference for either Statewide PSRO or several local PSRO's. This would not result in destroying existing PSRO's; it would simply allow physicians to express their sentiments in States where no PSRO's have as yet been established.

Another of the Senate amendments would simply allow skilled nursing facilities to comply with the 1973 updated edition of the Life Safety Code, but would not cause those facilities currently in compliance with the 1967 code or State codes approved by the Secretary to lose their eligibilty to participate in the programs.

The amendment permitting the Secretary to approve a grant to the Sacramento Medical Care Foundation pertains to a program that is not within the jurisdiction of the Ways and Means Health Subcommittee, but is one which has received support here from the distinguished chairman of the Interstate and Foreign Commerce Committee's Subcommittee on Health and the Environment. It will cost over $1 million and I do not believe we should go forward with this without further information.

Under another Senate amendment that has been approved, the Secretary of HEW would not be authorized for 2 additional years to select organizations as PSRO's which are not broadly representative of physicians in an area. This priority period for physician-approved groups is still thought to be necessary, and it would seem very desirable not to allow the Secretary to take away such priority at this time.

Another of the Senate amendments authorizes only a study, to determine whether optometrists should be reimbursed under medicare for certain diagnostic services performed on patients whose natural lenses have been removed. This is a matter of major interest to many patients today, and such a study would seem to be important and worthwhile.

Also approved are certain Senate amendments that pertain to medicaid, the food stamp program, and the tax status of obligations for reconstruction of American Falls Dam. All are beyond the immediate concerns of the medicare program, but I am informed they have been approved by those of my colleagues who serve on committees which have jurisdiction over them. The medicaid amendment would allow screening of medicaid hospital admissions in place of what has been interpreted as a 100-percent requirement. The food stamp amendment is intended to change present law to give those States having trouble implementing the present mandatory provisions, because of mail theft and other reasons, the option—instead of requiring those States—to offer AFDC families the choice of having their food stamp purchase price deducted from the AFDC grant. The American Falls Dam amendment would clarify an existing ambiguity by qualifying certain industrial revenue bonds used to build dams for tax exempt status, even if some water is used to generate electricity.

Finally, one of the Senate amendments would require a hospital to reimburse a PSRO for the reasonable cost of performing utilization review activities with respect to that hospital's activities. The hospital would include such payments to the PSRO in its patient care costs chargeable to medicare and medicaid.

I regret that I am unable to agree with the thrust of this amendment, as it may lead to a complex and confusing reimbursement process, in which either hospitals will lose the incentive to provide review of patients other than medicare or medicaid patients, or medicare may end up paying for reviews of nonmedicare patients. It would seem wiser to take up this amendment, which alone seems to be potentially costly and controversial, at some future time.

In the last analysis, while some may believe it necessary to support this bill in order to protect the interests of the many medicare beneficiaries who might be harmed if the bill should not be enacted into law, and I therefore would ask my colleagues to defeat the legislation.

I would ask that my colleagues defeat this resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, I have tried to explain what the parliamentary situation was. As I explained last night, we are necessarily in a situation that is out of the control of the subcommittee chairman, as well as the ranking Republican Member. The amendment procedure that has been used by the Senate is something that we have little control over.

I would prefer, as would my colleague, the gentleman from Tennessee (Mr. DUNCAN), to make a further in-depth study of some of these things, but there are deadlines on all of the provisions of the bill that was sent to the Senate.

Mr. DUNCAN of Tennessee. Mr. Speaker, let me say that we do have some control over legislation that is reported back by the Senate. If it has been a custom for us not to get into consideration of the amendments they send over here, then the House is not meeting its obligation.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman from Tennessee for yielding.

I will say, after going over the amendments, that there are really not too many things to which I object, other than to the "Christmas tree" effect. To this bill, of course, have been added really nongermane amendments.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman from Tennessee will yield further, I want to say to my good friend, the gentleman from Kentucky, that with respect to the part where the Senate did amend the medicare bill with a tax provision, that provision had been passed by the House of Representatives in October under suspension of the rules. They simply used this bill as a vehicle to send these provisions back.

Mr. CARTER. Mr. Speaker, I will say to my distinguished friend, the very able gentleman from Illinois (Mr. ROSTENKOWSKI), that he himself has done an excellent job, but I think that we do not legislate properly when we wait until the end of the session to consider such bills or to consider such legislation as this.

I am in agreement with one of my friends, the gentleman from Oklahoma, who said that perhaps the best thing to do would be to abolish the last 5 days of a session, but I do not know how that could be done.

Mr. ROSTENKOWSKI. Mr. Speaker, I agree with my colleague wholeheartedly. I would prefer that we had had the legislation available early, so that we could have done a more thorough study of all the Senate provisions. Indeed there may be some very worthy amendments which we are not accepting.

Mr. CARTER. Mr. Speaker, I certainly will not object to the passage of this bill since many parts of it are quite good. However, I still do not think that it should be a "Christmas tree." Also, Mr. Speaker, I would like to commend Mr. DUNCAN, of Tennessee, for his work on this bill. He has been extremely helpful. He agrees that we should not pass "Christmas tree" legislation, but since so many of the provisions of this bill will be helpful to the people and to the providers of medical care, I have decided to support the legislation.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman very much for yielding.

I am very concerned about voting on these amendments when we have had no opportunity to really understand them.

For example, I see 2½ columns of fine print concerning changing the utilization review process. This is absolutely absurd out in Nebraska. We do not have enough doctors to take care of sick people now, much less having committees running around running herd on those we do have.

I want to know exactly what this is and what the ramifications of it are before I vote on it.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman from Tennessee will yield further, under one of the provisions affecting medicaid, we have attempted to cut out a good bit of the redtape with respect to utilization review under the medicaid program. That is one of the provisions added by the Senate.

Mrs. SMITH of Nebraska. Mr. Speaker, if the gentleman from Tennessee will yield further, I appreciate the gentleman's answer.

I would like to ask one more question. I see that this is changing the safety requirements for nursing homes. We want our nursing homes safe, but we do not want to go too far overboard on that, because these nursing homes are important in our small communities. I have not yet had time to analyze those features of it.

Mr. ROSTENKOWSKI. What this provision has done is simply update the regulations with respect to the life safety code. Of course, any nursing home which is already in compliance with the earlier code version would remain eligible to continue under medicaid.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I thank the gentleman for yielding.

An important change has been made by the Senate, one which I fully support. What that does is to apply the safety program for 1973 to be adopted for HEW as a standard, as opposed to that of 1967. What it does is that it updates the quality of protection for nursing homes and makes it more flexible than it was under the 1967 code. The emphasis was placed on fireproof materials, whereas in fact under the 1973 code they place more emphasis on sprinkler systems and detection systems, but it allows greater flexibility and it will help actually the nursing homes and other institutions. It is actually a much better proposal.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, could my colleague, the gentleman from Illinois, explain section 105 of the Senate portion of the bill, that is the professional services review organizations provisions areas as compared to the House-passed provision? Those Senate provisions would require the Secretary to hold a poll in those States that have multiple professional service review areas and in which no PSRO currently exists on the questions of whether they would prefer a statewide PSRO. The Secretary is to ask a question whether they would prefer a local or regional election to the single statewide PSRO area election. Is this clearly covered or acceptable?

Mr. ROSTENKOWSKI. As I explained this yesterday, the provision would allow physicians to indicate a preference for statewide PSRO's and would require the Secretary to designate the State as a single area if the physicians vote for it. I interpret this as a relaxation of the present provisions of law since the Secretary would be required to take physician sentiment into account in designating PSRO areas in those States where this provision would be applicable.

I felt this was not going to be too unpalatable to my colleague, the gentleman from California.

Mr. ROUSSELOT. My concern is: Has that subject been fully discussed so we know the ramifications of what that kind of procedure will be? Would my friend, the gentleman from Kentucky, comment?

Mr. CARTER. Mr. Speaker, if the gentleman will yield, I really feel it would be quite helpful in this case. It would give physicians a chance to form, one, statewide PSRO or two or several according to their preference.

There is another advantageous part of the bill which affects nursing homes serving medicare patients. The bill would allow physicians, instead of having the PSRO to check on each and every patient, to sample those patients, and it makes it much less complicated. In this way it is easier and it can be helpful to those physicians.

Mr. ROUSSELOT. If my colleague will yield further, would they be mandated in any way to go statewide?

Mr. CARTER. No, it is voluntary.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I would say in response to the inquiry, the provision now providing for States voluntarily to have a statewide plan is very laudable. We had a very serious problem in my home State in which we were foreclosed from having the option. This is a very positive and recommended change.

There are several other things with respect to medicare. For instance the premium adjustment provision is very desirable. There are things on which some of us are not 100 percent in favor. The gentleman from Illinois feels, after reading the complete explanation which the gentleman from Illinois (Mr. ROSTENKOWSKI) was kind enough to place in the RECORD in total yesterday, that the explanation is adequate to get my vote for the changes that have been made.

Mr. BURLESON of Texas. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Texas.

Mr. BURLESON of Texas. Mr. Speaker, I commend the gentleman from Illinois for bringing this legislation to the floor. In all candor I am not fully conversant with the details in the Senate amendments but this committee, the subcommittee, is not writing its name in blood from here on out. The gentleman from Illinois has a very active subcommittee which will keep a close review on this legislation and will be in a position to make such changes needed as experience directs.

The gentleman from Illinois has been very active and diligent in continuing a study of some of these matters and particularly where the relaxation, as the chairman has said of the PSRO requirements in the States. The nursing requirements for small hospitals is absolutely impossible for many at the present time. There is simply no way they can provide a registered nurse around the clock and they need time to find answers.

This measure provides a better arrangement for the application of PSRO. Local medical authorities know best how to provide peer review than the bureaucracy here. This is in the major portions of the bill and is very much needed as a practical matter. As I said, I am not familiar enough with other Senate amendments to comment. The report on the conference agreement has just been received. Time has not been sufficient to give the entire report a careful study but these two sections mentioned are of utmost importance and should be approved. You can be assured these other features will have a continuous scrutiny as their effect as time will prove.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Texas. There are many of us on this floor that are unalterably opposed to PSRO. I do not think it does authorize PSRO, but it does liberalize it and gives the doctors a chance to have a voice in their own affairs.

Mr. Speaker, I commend the gentleman for bringing this up. There are parts in this bill that none of us like, but that is no surprise in working out legislation of this kind.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I would like to commend the Committee for their efforts with regard to H.R. 10284. In particular, I would like to draw attention to the provision affecting implementation of the 1973 life safety code, which has a tremendous impact on this country's small, home-like nursing home facilities.

This provision assures that facilities currently qualified under the 1967 and 1973 life safety codes, or State codes which are approved by the Secretary of Health, Education, and Welfare, will not lose their eligibility for participation in medicare and medicaid programs.

Many of Vermont's intermediate care facilities are located in buildings that at one time were family residences or were used for other purposes but have since been converted into nursing homes. The home-like atmosphere of these buildings as well as their proximity to family and friends is as much a contribution to the well-being of our older citizens as the actual facility. Often these Vermont nursing homes provide services to local citizens or those of surrounding communities. Research has documented that older citizens are most comfortable and maintain better emotional health if they are able to approximate their previous life style.

Most of these homes are well-constructed wooden facilities in which modern fire protection systems have been installed. However, they do not comply with rigid life safety codes. It is unfortunate in our attempts to protect our older citizens from unsafe living conditions, we instead create a bureaucratic monster which not only threatens the extinction of fine nursing homes but also promises to create emotional havoc with our older citizens who would have no choice but to live in cold, sterile institutions.

I am pleased that commonsense has prevailed in this case. I am sure this will be comforting news to many of our small nursing home residents.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise in strong support of H.R. 10284, that amends title XVIII of the Social Security Act. The bill has several important features we must enact. The bill would do the following things:

First. Assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975;

Second. Extends for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas;

Third. Maintains the present system of coordination of the medicare and Federal employees' health benefit programs;

Fourth. Corrects a technical error in the law that prevents increases in the medicare part B premiums;

Fifth. Provides that in any State where the Secretary has established within a State, two or more appropriate areas for which professional standards review organizations may be designated, that if a poll shows that more than 50 percent of the medical doctors and doctors of osteopathy prefer a single statewide area designation, then the Secretary shall establish the entire State as a single professional standards review organization area; and

Sixth. Changes the startup from January 1, 1976, to January 1, 1978, for the professional standards review organizations; and provides for a study regarding coverage under part B of medicare for certain services provided by optometrists and certain other provisions.

The provision for a single statewide PSRO will be particularly appreciated in Texas, where in 1973, in response to the enactment of the PSRO law, the Texas Institute of Medical Assessment—TIMA—was established. TIMA was created with the cooperation of almost every professional medical organization in Texas. By August they had a statewide plan ready to submit to the Regional HEW office. It has been estimated by TIMA that splitting Texas into nine costly administrative areas, with duplication of staff, computer systems, and other costs would run at least $300 million annually. In addition, the University of Texas has medical schools in Galveston, Dallas, San Antonio, and Houston that have working agreements with hospitals for training students all over the State. Clearly coordination will be better achieved and will receive cooperation of the professionals if one statewide unit can be had for planning purposes.

I would also like to add a word about another part of the bill that would postpone the nursing staff requirements for small hospitals in rural areas another 3 years. My district has a number of these small hospitals that are having a struggle serving the communities where they are vitally needed. There is still a shortage of nurses in these areas, and if the standards were enforced, they would simply have to close down. This extension will be most helpful to them. Of course, we want well-staffed hospitals, but let us not destroy hospitals while trying to make them better.

In closing, let me say that the conference committee has presented us with a good bill. I urge the members to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I rise to ask a question or two. I heard the subject mentioned when I was not here; but what does this do to the premiums which people on social security have to pay to maintain their medicare?

Mr. ROSTENKOWSKI. Mr. Speaker, the bill as amended by the Senate contains the same part B premium provision as the original House bill did. There is no change in that provision at all. It was a technical error that we wished to correct in the operation of the part B premium provisions.

Mr. ALLEN. Does it increase it or decrease it, the bill itself?

Mr. ROSTENKOWSKI. It allows the Secretary to increase it in the same manner as was intended by the law and as has been the case since the beginning of the medicare program.

Mr. ALLEN. It allows him to increase it, but the bill itself does not?

Mr. ROSTENKOWSKI. The gentleman is correct.

Mr. ALLEN. Does it increase the benefits in any way?

Mr. ROSTENKOWSKI. It does not.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Speaker, the subject of PSRO's is very much in the minds of the Members of the House. Many Members are not in sympathy with the PSRO principles. However, to the extent that PSRO's are established—there are 63 PSRO's actually in operation throughout the country and another 57 in various planning stages—the members of those peer review organizations as well as the boards as a whole ought to have liability protection. Robert Lindley, executive director of the Chicago Foundation for Medical Care which serves the gentleman's district, has expressed strong and continuing concern with regard to PSRO liability. Mr. Lindley specifically cites high awards and fewer available insurance sources. An amendment that was rejected in the closed door consultations last evening is one that would assist these PSRO's in obtaining adequate liability insurance. This amendment has been left out of the amendments which we have before us today—an amendment which was introduced by Senator BEALL and adopted by the Senate just 2 days ago. I know that Senator RIBICOFF, for one, who is certainly not a conservative in this area, supported this amendment as did the chairman of the Finance Committee, Senator LONG, who spoke for the amendment on the floor.

I regret that this was one of the amendments that was dropped.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to explain, I did consult with the chairman of the Committee on Health and the Environment, the gentleman from Florida (Mr. ROGERS) and the gentleman, too, felt we should not take this amendment, because it would involve a deep study on our part before we could legislate in this area. That is one of the reasons we felt this amendment was not acceptable. I am afraid it would be very controversial, as well.

Mr. GUDE. Mr. Speaker, if the gentleman will yield further, the situation we are confronted with is that being unable to obtain insurance protection after a year-long search, some of the PSRO's will have no alternative but to cease operations, unless Congress does provide adequate protection. The Montgomery County Medical Care Foundation which is the PSRO group in my district is officially ceasing its peer review activities as of December 31, 1975.

I know that some of the Members are going to be disappointed if PSRO's which are helping to provide review of health services by health professionals to assure that such services are medically necessary, and provided at the appropriate level of care are forced to go out of business.

Mr. ROSTENKOWSKI. I want to assure the gentleman that if next year we can legislate in this area, we certainly will.

I agree that the problem of liability for PSRO review actions and the difficulties PSROs are having in obtaining private liability insurance are issues that require serious attention. But they are complex questions involving significant legal issues, such as the implications of the liability standards used in the amendment like "gross negligence" and "defamation with malice," that the Subcommittee on Health needs to examine carefully and in depth. Moreover, since PSRO also affects medicaid, I have consulted with Chairman ROGERS of the Commerce Committee's subcommittee which agrees that the amendment raises issues requiring further study and should not be enacted now. Our subcommittee will be examining these issues and I expect that we will legislate on this matter as soon as possible next year.

In the meantime, I believe one part of the problem, payment for the reasonable and necessary costs of legal counsel required by PSRO's in civil actions arising from their statutorily mandated review activities, can be handled now by the Secretary without further legislation. Since such costs are part of operating costs, the Secretary is authorized under present law to make payment for them where they are reasonable and necessary.

Mr. GUDE. It certainly is going to require priority attention, and I would urge this a first order of business in January.

I thank the gentleman for yielding to me.

Mr. ROGERS. Mr. Speaker, I rise in support of the House amendment to the Senate amendment to H.R. 10284.

As most of my colleagues know this is a bill which the House wrote months ago in order to correct problems arising from certain deadlines in the Social Security Act some of which need to be taken care of the first of January. At that time the Committee on Interstate and Foreign Commerce, having had a chance to examine legislation, felt it appropriate, since the amendments were relatively noncontroversial and needed to be handled in a hurry, to allow the Committee on Ways and Means to consider the matter. However, after consideration in the other body it was returned to the House with amendments to medicaid and other programs in the jurisdiction of the Committee on Interstate and Foreign Commerce. I have, therefore, worked with my colleagues from the Committee on Ways and Means, particularly Mr. ROSTENKOWSKI, the chairman of its Subcommittee on Health, in preparing the House amendment to the Senate amendment which is now before us. I, therefore, rise in support of the bill and to assure the members that those parts of it which are in our jurisdiction and which we wrote are noncontroversial in nature, necessary at this time, without additional cost, and otherwise reasonable.

As my colleagues also know, this provision was brought to the floor yesterday and fully explained at that time. I will not review again all of the details of my explanation. I expressed yesterday some reservations about the procedure which we were using then, and I would like to indicate again today that I have reservations about the need to speed this bill through the House without the usual orderly consideration that is provided by a conference. However, this is necessary legislation responding to deadlines in the act, and while it is regrettable I feel that some expediting procedure such as that attempted yesterday and that being tried today is necessary.

My colleague, the chairman of the Subcommittee on Health of the Ways and Means Committee, has explained this bill at great length and detailed explanations of its provisions are available here on the floor for the Members who may have further questions. While I will happily answer any questions, I, therefore, take this opportunity to assure my colleagues that our committee feels that this is reasonable legislation and to urge support for its passage.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this resolution under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and agree to the resolution (H. Res. 943).

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 16, not voting 47, as follows:

[Roll No. 820]

YEAS—371

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W
Danielson
Davis

de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Hansen
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—16

Archer
Armstrong
Bauman
Clancy
Crane
Duncan, Tenn.
Hammerschmidt
Kelly
McCollister
McDonald
Miller, Ohio
Rousselot
Satterfield
Traxler
Treen
Young, Fla.

NOT VOTING—47

Badillo
Beard, Tenn.
Bell
Bingham
Burke, Fla.
Clay
Conyers
Daniels, N.J.
Dingell
du Pont
Eshleman
Evins, Tenn.
Ford, Mich.
Fuqua
Gaydos
Gilman
Harkin
Harrington
Harsha
Hastings
Hawkins
Hébert
Hinshaw
Horton
Howard
Ichord
Johnson, Calif.
Jones, Ala.
Landrum
McCloskey
Macdonald
Montgomery
Moss
Ottinger
Randall
Roe
Ryan
Stark
Steelman
Steiger, Ariz.
Stephens
Sullivan
Talcott
Wilson, Tex.
Winn
Yates
Young, Alaska

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.

Mr. Dominick V. Daniels with Mr. Eshleman.

Mr. Ford of Michigan with Mr. Evins of Tennessee.

Mrs. Sullivan with Mr. Harsha.

Mr. Yates with Mr. Burke of Florida.

Mr. Macdonald of Massachusetts with Mr. Gilman.

Mr. Jones of Alabama with Mr. Hinshaw.

Mr. Johnson of California with Mr. Winn.

Mr. Howard with Mr. Randall.

Mr. Hawkins with Mr. Beard of Tennessee.

Mr. Badillo with Mr. Ryan.

Mr. Bingham with Mr. Hastings.

Mr. Conyers with Mr. Steelman.

Mr. Dingell with Mr. du Pont.

Mr. Fuqua with Mr. Horton.

Mr. Harkin with Mr. Stephens.

Mr. Ottinger with Mr. Talcott.

Mr. Moss with Mr. Landrum.

Mr. Harrington with Mr. McCloskey.

Mr. Ichord with Mr. Charles Wilson of Texas.

Mr. Clay with Mr. Steiger of Arizona.

Mr. Stark with Mr. Montgomery.

Mr. Roe with Mr. Young of Alaska.

Messrs. McCOLLISTER, CRANE, BAUMAN, SATTERFIELD, ROUSSELOT, ARCHER, and HAMMERSCHMIDT changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 10727, AMENDING THE SOCIAL SECURITY ACT

Mr. BURKE of Massachusetts. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 944), providing for consideration of the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, XVIII by establishing uniform review procedures under such titles, with Senate amendments thereto.

The Clerk read as follows:

H. RES. 944

Resolved, That upon the adoption of this resolution, the bill (H.R. 10727) entitled "An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles", with the Senate amendments thereto, be and the same hereby is taken from the Speaker's table to the end that the House—

(1) concurs in the Senate amendments numbered 1, 2, and 3;

(2) concurs in the Senate amendment numbered 4 with the following amendments:

In section 8(c), strike out "1976" and insert in lieu thereof "1977";

In section 8(h)(2), strike out "1977" and "1978" and insert in lieu thereof "1978" and "1979", respectively; and

In section 8(i)(2), strike out "1977" and "1978" and insert in lieu thereof "1978" and "1979", respectively;

(3) disagrees to the Senate amendment numbered 5;

(4) concurs in the Senate amendment numbered 6 with an amendment redesignating the proposed new section as section 9;

(5) disagrees to the Senate amendment numbered 7;

(6) concurs in the Senate amendment numbered 8 with an amendment redesignating the proposed new section as section 10; and

(7) concurs in the Senate amendment to the title of the bill.

The SPEAKER. Is a second demanded?

Mr. ARCHER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10727 as passed by the House of Representatives was emergency legislation designed to help clear up the backlog of social security appeals cases which now number over 102,000 cases. It is extremely important that this legislation be enacted without delay. This is the reason why we are recommending that the House take final action on the bill now even though this includes agreeing to certain amendments added to the bill in the Senate. We are always reluctant to take action on Senate amendments in this manner. However, we have gone over all of the Senate amendments and we feel that many of them are meritorious or noncontroversial, while others involve changes in the law which are too important to be acted upon under the procedures we are now using. Certain of the Senate amendments are, therefore, included in the legislation under the resolution, while others are modified or excluded.

I would like to describe each of the Senate amendments under the resolution. First, I will describe the Senate amendments that are modified or eliminated from the bill under the resolution.

The first of these amendments relates to the subject matter of adopting a system of annual reporting of social security wage credits. The Senate amendment provides the Secretary of the Treasury and the Secretary of Health, Education, and Welfare with authority to exchange information that would make it possible to eliminate the present quarterly reporting of social security earnings and combine them with the reporting of earnings for income tax purposes. Thus, employers would have to file only one report of earnings for social security purposes and income tax purposes, rather than five separate reports which they are required to submit under present procedures.

There is widespread support for the general purpose of the Senate amendment. There is, however, some disagreement as to the best manner in which this could be accomplished. The subject matter also is an extremely technical one and should receive thorough consideration by the Committee on Ways and Means and by the House of Representatives. For this reason, we have amended the Senate bill to delay the effective date of this provision so that we can fully examine it next year in our comprehensive examination of the social security program.

The next of these Senate amendments, which is not included in the bill under the resolution, relates to the aid to families with dependent children program. This amendment provides for a mandatory job search by employable applicants and recipients for AFDC welfare payments. It also deals with the counting of income in computing AFDC benefits when that income is earned by a recipient participating in a WIN public service employment program. These provisions raise a number of issues which should be carefully considered. For this reason they are eliminated under the resolution.

The last Senate amendment that is not included under the resolution concerns the tax-exempt status of bonds of reconstruction of the American Falls Dam. This amendment was omitted since it was included in H.R. 10284, the bill which we have just acted on.

The remaining Senate amendments which are all included under the resolution are:

First. A postponement of the effective date of the provision of H.R. 10727 as it passed the House which would reduce the time for filing a request for hearings under title II of the Social Security Act from 6 months to 60 days. This amendment as it passed the House of Representatives would have been effective with respect to notifications of denial received after the effective date of the bill. The Senate amendment postpones the effective date of this change until March 1, 1976.

Second. An extension through 1977 of the period in which the State of West Virginia would be allowed to amend its social security agreement to cover certain policemen and firemen.

Third. A requirement that the Secretary of Health, Education, and Welfare give notice of at least 18 months in advance of any changes he proposes to make in the way in which social security contributions are deposited by state and local governments.

Fourth. Authority to permit the exclusion from income in determining supplemental security income eligibility of monthly benefits paid by the State of Alaska to aged persons who have lived in that State for more than 25 years. This makes permanent an exclusion already being granted under temporary waiver until June 30, 1976, by the Department of Health, Education, and Welfare.

While we feel this could be a bad precedent, we understand that approximately a thousand recipients in Alaska would lose considerable benefits next July if it is not included and therefore feel that in this limited circumstance we are justified in accepting the Senate amendment.

Fifth. Authority under the Internal Revenue Code to provide for quarterly payment, rather than annual payment to the government of the Virgin Islands of amounts equal to Internal Revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States—passed House as H.R. 9432.

Mr. Speaker, I believe that the provisions of the bill as modified by the resolution is the best resolution of the issues raised by the Senate amendments under the existing circumstances and that the Senate will find them acceptable. I therefore urge that the resolution be adopted.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I would be happy to yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I commend the gentleman from Massachusetts (Mr. BURKE) and his colleagues for their leadership in this highly important piece of legislation.

Mr. Speaker, this legislation, to help clear up the backlog in the Bureau of Hearings and Appeals, is greatly needed, and should be acted on as quickly as possible. The many thousands of claimants, who have requested hearings on their disability, black lung, and SSI claims, deserve to have their claims considered as soon as possible after requesting a hearing.

My constituents, as well as most other people throughout the country, have waited up to 9 months to a year before their claim is scheduled for a hearing. In most cases, these people have no other income, but they do have monthly obligations to meet, and a family to support. If they are entitled to these benefits, is it fair to make them wait this long for a review of the claim? Why should they be disgraced further by having to "put off" the bill collectors, by having to apply for welfare, by having to send their children to school without lunch money, or by keeping the children out of school completely? This is not the true American spirit, and it should not be the way the Bureau of Hearings and Appeals and the Social Security Administration operate.

The Senate amendments which are included under the resolution should be agreed to, so that this bill can be acted on by the President. I believe he will completely agree with the Congress that this piece of legislation is worthwhile and long past due.

Recently, our colleague from Ohio (Mr. MOSHER) and I asked for an investigation by the General Accounting Office. Our public statement of November 11, 1975, follows:

CONGRESSMEN PROBE SOCIAL SECURITY APPEAL DELAYS

There was a backlog of 107,000 claims cases awaiting hearings before Social Security Administrative law judges, as of September 1975. Nationwide, there is an average delay of seven months between the time a hearing is requested and the time it begins.

In the four year period just ended, the number of disability claims cases that are backlogged has more than tripled, from 21,000 to 67,000. This is in spite of a 50% increase in the number of hearings judges. Continually, the number of new appeals filed exceeds the number of old cases that are resolved.

These are some of the disturbing facts told to Congressman Charles A. Mosher (R-Ohio) and Ken Hechler (D-WVa) by the General Accounting Office. At the Representatives' request, the GAO, the investigative arm of the Congress, has been conducting an extensive study of the reasons behind the lengthy delays encountered by people seeking hearings on disability or black lung benefits claims. Last week, the Congressmen received an interim report on the investigation, which is still in progress.

Among the most troubling news reported to Hechler and Mosher was the fact that there is presently a backlog of 17,000 claims for Supplemental Security Income (SSI) benefits. This program is less than two years old and the demand for hearings on appeals is expected to continue growing at a rapid rate.

Congressman Mosher expresses special concern over the alarming growth in the number of disability claims cases awaiting hearings as well as the mushrooming number of SSI appeals that are backlogged. "These are two categories where it is especially important that citizens get swift action," says the Ohio Republican. He notes that SSI has replaced a variety of programs that aid aged, blind and disabled citizens who cannot get other forms of income assistance.

"Many of these people are living the barest existence, hanging on in incomeless poverty while they wait for Social Security to hold hearings on their claims." Mosher also observes that a case does not even reach the stage where a hearing may be requested until after it has been in the system at lower levels for several months at least.

Representative Hechler calls attention to the finding that of the 17,000 black lung cases awaiting hearings by Social Security administrative law judges, over 80% have been pending for more than six months. "It is bad enough that of all disability claims, half must wait six months at least," says Hechler, "but it is particularly disturbing to see the percentage so much higher in the black lung cases." The West Virginia Congressman's district includes more black lung claimants than does any other in the U.S.

A point that is of great interest to both Congressmen is the apparent discrepancies in productivity between the different hearings offices and judges. The General Accounting Office's investigative team notes that in some offices the average waiting period for a hearing is 80 to 90 days, while in others it is over 300 days. Similarly, the backlog of cases awaiting hearing by an administrative law judge varies from a low of 68 cases for one judge in New York to a high of 500 cases for a judge in Michigan.

In the state of Ohio, the GAO reports that as of October 11, there was a total of 5,345 appeals cases awaiting hearings before administrative judges. The average processing time is 333 days. In West Virginia there is a statewide backlog of 5,261 cases, with the average processing time being 396 days—over one year. (The West Virginia processing time figures do not include black lung cases appeals heard in Charleston.)

To help alleviate the backlog problem, the Social Security Administration is in the process of assigning 1500 additional people to the handling of claims appeals. It is not clear, however, whether these people are being assigned in any special fashion or if they are just being added wholesale to the bureaucracy. The GAO investigators indicate they suspect these new people are not being assigned and used as efficiently as they might be.

After receiving the interim report, Mosher and Hechler directed the GAO investigators to focus their further inquiries on these issues:

(1) Can better management practices be imposed upon the administrative law judges and their support staffs?

(2) What can be done to bring all hearings and appeals offices up to a standard level of productivity?

(3) Can delays in hearings be avoided or reduced by better communication between the state agencies, which initially review claims, and the federal agencies that hear the appeals?

This GAO study was first announced by Mr. Mosher in March of this year; it has been under way since early summer. A final report from the Comptroller General, with recommendations and conclusions plus comments by the Social Security Administration, will not be finished and ready for presentation until June of next year.

The investigative agency already has sent teams to the Philadelphia and New York regional offices of Social Security, as well as to its national headquarters in Baltimore. Field inspections have been made at several offices in West Virginia and soon will be made in Ohio and elsewhere.

The two Congressmen say that as soon as they receive the GAO's final report, it will be turned over to the House Committee on Ways and Means, which has jurisdiction over the Social Security Administration. Two representatives of the Committee's Social Security Subcommittee were present during the briefing last week.

Afterwards, they indicated they felt the GAO study requested by the Congressman would be very helpful to the Subcommittee as it reviews the policies and operations of the Administration.

I also issued the following statement on November 7, 1975:

STATEMENT BY REPRESENTATIVE KEN HECHLER

WASHINGTON.—"I predict that the Social Security Administration will take early action to speed up its handling of black lung claims," Rep. Ken Hechler said today in announcing the results of a GAO investigation he had ordered into the cause of the long processing delays.

"I requested the General Accounting Office to make this investigation because of the hardship people needing help are suffering from these long delays. From the time a claim is filed, it has been taking an average of four years to get a hearing decision, and from the time the hearing request is filed it has been taking an average of a year and a half for a decision," Congressman Hechler stated. "This is simply too long to ask people to wait."

"At the beginning of 1975 the Social Security Administration had a backlog of over 32,000 black lung claims at the hearing level. Now it expects to have the backlog taken care of by February or March, 1976," Congressman Hechler said.

The GAO told Rep. Hechler that the number of black lung hearing requests is lessening and in Fiscal 1976 only about 1,000 hearing requests are expected. The Black Lung Development Center, which held the average claim for about a year, is closing, and the hearing requests are being sent directly to the hearing offices. Additional support staff has been added to the hearing offices to develop the needed information about claims and this should permit hearings to be held quicker and to speed up decisions issued by the Administrative Law Judges.

Mr. BURKE of Massachusetts. Mr. Speaker, I thank the gentleman from West Virginia (Mr. HECHLER) and commend the gentleman for the work that he has done in this effort.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the proposal of the chairman of my subcommittee with respect to H.R. 10727 as amended by the other body.

The basic bill, which would expedite the handling of cases in the social security hearings and appeals process, was passed by the House 17 days ago by a vote of 370 to 0. There are an estimated 103,000 claims now pending, involving both supplemental security income—SSI—and old age, survivors and disability insurance beneficiaries. H.R. 10727 would enable the Bureau of Hearings and Appeals to reduce this enormous backlog substantially over the next 18 months, and I submit that this is a goal which should be achieved expeditiously.

The other body added several amendments, some of which it is proposed that we accept.

One of these amendments relates to the dates on which social security contributions, collected by State and local governments from their employees, must be paid to the Federal Government. The Department of Health, Education, and Welfare had indicated it was considering regulations to shorten the period of time in which these contributions had to be paid. Many States objected, pointing out this would be costly to them. Informational data is now being collected on the matter, and the administration has agreed not to take further action until this process has been completed. But in order to give absolute assurance to the States that they would have ample lead time to implement any changes, and to give the Congress enough opportunity to review any proposed changes, the amendment would require the Secretary or HEW to notify all parties of any proposed changes at least 18 months in advance.

Another amendment proposed for acceptance by the House would give the State of West Virginia an extension of time, through 1977, in which to work out an agreement with the Department of Health, Education, and Welfare on the social security coverage of its policemen and firemen.

A further amendment would permit the exclusion from income, for the purpose of determining supplemental security income—SSI—eligibility, of monthly benefits which are paid by the State of Alaska to elderly people who have lived there for more than 25 years. This would make permanent an exclusion already granted under temporary waiver by the Department of HEW.

Another amendment proposed for acceptance is identical to H.R. 9432, which passed the House earlier. It would permit the quarterly payment, rather than annual payment, to the Virgin Islands of amounts equal to Internal Revenue collections made with respect to articles produced in the islands and sent to the United States.

The final amendment, Mr. Speaker, is one in which I am particularly interested. It would provide for annualized reporting of social security taxes withheld. The primary aim is to reduce the administrative burden on employers who must file reports on payroll taxes. The amendment would not affect the fundamental responsibility of employers to collect and pay these taxes, but it would ease the reporting burden they bear, with a saving of $200 million a year to employers in paperwork costs. Under the amendment, the Secretaries of the Treasury and Health, Education, and Welfare would be given the authority to exchange information so that reports of individual earnings could be made each year rather than each quarter.

In concept, Mr. Speaker, this amendment has great merit. However, the House has not had an opportunity to examine it in detail to make certain it offers the best possible answer to the recognized problem it addresses: The heavy paperwork burden of wage reporting on the Nation's employers. Therefore, it is proposed that the effective dates of the provision be extended so that before it becomes operative we will be able to take a careful and thorough look at it and make any necessary improvements in it.

In summary, Mr. Speaker, I believe the proposal before the House is a good one, and I urge my colleagues to join me in supporting it.

Mr. Speaker, with respect to the one amendment which I think is highly desirable, providing for annual wage reporting, which was mentioned by the gentleman from Massachusetts (Mr. BURKE) I would like to engage in a colloquy with the gentleman for the purpose of legislative history.

The language of the Senate amendment authorizes the Secretary to determine what information is to be filed in this annual report on a quarterly basis. Although the Senate Finance Committee Report indicates that detailed dollar amounts should be filed quarterly in this annual report, I would like to ask the chairman of the subcommittee if it is not true that under the language in the amendment itself the Secretary does have the discretion to require a more simplified version which might only necessitate a quarterly checkoff for employees earning $50 or more in that quarter without filing a detailed dollar amount for each quarter.

Does the chairman understand that to be correct?

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. The gentleman is correct. The language of this amendment is general in nature. That is one of the reasons why we have postponed the effective date of this amendment for 1 year so that the Committee on Social Security can work out any problems they might have during the coming year. This will also afford us an opportunity to consider the recommendations of the Departments of Treasury and Health, Education, and Welfare concerning this matter and public reaction to these proposals.

Mr. ARCHER. I thank the chairman.

Mr. Speaker, I reserve the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BURKE) that the House suspend the rules and agree to the resolution (H. Res. 944).

The question was taken.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 390, nays 0, not voting 44, as follows:

[Roll No. 821]

YEAS—390

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Giaimo
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—44

Badillo
Bell
Bingham
Brown, Calif.
Conyers
Daniels, N.J.
du Pont
Eshleman
Evins, Tenn.
Ford, Mich.
Fuqua
Gaydos
Gilman
Gonzalez
Harrington
Harsha
Hastings
Hawkins
Hébert
Hinshaw
Horton
Howard
Johnson, Calif.
Jones, Ala.
Landrum
Leggett
McCloskey
Macdonald
Montgomery
Mosher
Moss
Ottinger
Perkins
Randall
Roe
Simon
Stark
Steiger, Ariz.
Stephens
Sullivan
Talcott
Wilson, Tex.
Winn
Yates

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.
Mr. Dominick V. Daniels with Mr. du Pont.
Mr. Bingham with Mr. Gilman.
Mr. Badillo with Mr. Harrington.
Mrs. Sullivan with Mr. Jones of Alabama.
Mr. Montgomery with Mr. Gonzalez.
Mr. Johnson of California with Mr. Mosher.
Mr. Howard with Mr. Brown of California.
Mr. Ford of Michigan with Mr. Eshleman.
Mr. Fuqua with Mr. Harsha.
Mr. Leggett with Mr. Conyers.
Mr. Macdonald of Massachusetts with Mr. McCloskey.
Mr. Yates with Mr. Randall.
Mr. Stephens with Mr. Hastings.
Mr. Stark with Mr. Roe.
Mr. Ottinger with Mr. Talcott.
Mr. Moss with Mr. Horton.
Mr. Hawkins with Mr. Winn.
Mr. Landrum with Mr. Perkins.
Mr. Evins of Tennessee with Mr. Simon.
Mr. Charles Wilson of Texas with Mr. Steiger of Arizona.

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BURKE of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution (H. Res. 944) just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On December 12, 1975:

H.R. 6971. An act to amend the Sherman Antitrust Act to provide lower prices for consumers.

H.R. 9915. An act to make technical amendments to the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, and to related provisions of titles 18 and 28 of the United States Code; and

H.R. 10027. An act to authorize the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs and to advance or reimburse funds to cooperators for work performed, and for other purposes.

On December 15, 1975:

H.R. 5197. An act to authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official Number 517242.

On December 16, 1975:

H.R. 568. An act to grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse.

H.R. 6669. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments, and

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

On December 18, 1975:

H.R. 10647. An act making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

PROVIDING FOR ESTABLISHMENT OF AMERICAN FOLKLIFE CENTER IN LIBRARY OF CONGRESS

Mr. NEDZI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6673) to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate amendments as follows:

Page 2, lines 20 and 21, strike out "develop, promote, and implement a program of support for" and insert: "preserve and present".

Page 2, strike out all after line 24 over to and including line 10 on page 3 and insert:

(1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

Page 7, line 8, strike out all after "Center." down to and including "Act." in line 11 and insert: "Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center."

Page 7, line 18, strike out "The Center and its Director are" and insert: "(a) The Librarian is".

Page 7, lines 20 and 21, strike out "with, make grants and loans to, and award scholarships to" and insert: "with".

Page 8, line 7, after "displays," insert: "publications,".

Page 8, line 22, after "facts," insert: "manuscripts, publications,".

Page 9, line 10, strike out "contracts, loans, and grants" and insert: "contracts".

Page 9, line 16, after "institutions" insert: ", and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965.".

Page 9, after line 22, insert:

(b) The Librarian shall carry out his functions under this Act through the Center.

Page 9, line 23, strike out "GRANTS" and insert: "CONTRACTS".

Page 10, lines 9 and 10, strike out "grant or other".

Page 11, lines 22 and 23, strike out "Code, at rates for individuals not to exceed $100 per diem" and insert: "Code".

Page 12, lines 3 and 4, strike out "contracts, grants, or other arrangements, or modifications thereof, to" and insert: "contracts to".

Page 12, lines 5 and 6, strike out "or modifications thereof".

Page 12, line 14, strike out "The Center and its Director" and insert: "The Director".

Page 12, line 16, strike out "its" and insert: "the".

Page 12, line 16, after "operations" insert: "of the Center".

Page 13, line 3, strike out all after "Act" down to and including "1978." in line 6 and insert: $133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, and $349,000 for the fiscal year 1978."

Mr. NEDZI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, will the distinguished gentleman from Michigan describe the Senate amendments?

Mr. NEDZI. I will be very pleased to do so.

The Senate, in effect, has diluted the bill. As the gentleman knows, the bill passed here by a vote of 272 to 117. The two major changes made by the Senate were to take out of the bill the authority to make grants which the House had included in the bill.

So that there is no authorization to make grants. Instead all that the Librarian is authorized to do in this regard is to enter into contracts. Also, the authorization has been decreased to approximately one-third of what the House had authorized, and I am sure that those opposed to the bill will be pleased with what the Senate has done.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, will the gentleman tell us the total amount of authorization?

Mr. NEDZI. If the gentleman will yield, the total amount of authorization for 1976, 1977, and 1978 is $777,500.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

LABOR–HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1976—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–326)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I return without my approval H.R. 8069, the Departments of Labor and Health, Education, and Welfare Appropriation Act, 1976.

As you know, I have just vetoed H.R. 5559, which would have extended for six months the temporary tax cut due to expire on New Year's Eve, because it was not accompanied by a limit on Federal spending for the next fiscal year. H.R. 8069 is a classic example of the unchecked spending which I referred to in my earlier veto message.

H.R. 8069 would provide nearly $1 billion more in spending authority than I had requested. Not only would the $45 billion total in this bill add significantly to the already burdensome Federal deficits expected this year and next, but the individual increases themselves are unjustified, unnecessary, and unwise. This bill is, therefore, inconsistent with fiscal discipline and with effective restraint on the growth of government.

I am not impressed by the argument that H.R. 8069 is in line with the Congress' second concurrent resolution on the budget and is, therefore, in some sense proper. What this argument does not say is that the resolution, which expresses the Congress' view of appropriate budget restraint, approved a $50 billion, or 15 percent, increase in Federal spending in one year. Such an increase is not appropriate budget restraint.

Effective restraint on the growth of the Federal Government requires effective limits on the growth of Federal spending. This bill provides an opportunity for such limitation. By itself, this bill would add $382 million to this year's deficit and would make next year's deficit $372 million more than if my recommendations had been adopted. In addition, the increases provided for this year would raise expectations for next year's budget and make the job of restraining spending that much more difficult. Thus, this bill would contribute to excessive deficits and needless inflationary pressures.

Furthermore, if this bill became law, it would increase permanent Federal employment by 8,000 people. I find it most difficult to believe the majority of the American people favor increasing the number of employees on the Federal payroll, whether by Congressional direction or by other means. On the contrary, I believe the overwhelming majority agree with my view that there are already too many employees in the Federal Government.

I am returning this bill without my signature and renewing my request to the Congress to approve a ceiling on Federal spending as the best possible Christmas present for the American people.

GERALD R. FORD.

THE WHITE HOUSE, *December 19, 1975.*

The SPEAKER. The objections of the President will be spread at large upon the Journal and the message and bill will be printed as a House document.

POSTPONING CONSIDERATION OF VETO MESSAGE UNTIL TUESDAY, JANUARY 27, 1976

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that further consideration of the veto message of the President of the United States on the bill H.R. 8069 be postponed until Tuesday, January 27, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, I object. Objection is heard.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I move that further consideration of the veto message of the President of the United States on the bill H.R. 8069 be postponed until Tuesday, January 27, 1976.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, of all the appropriation bills we consider I know of no appropriation bill which touches the daily lives of as many people in this Nation to the extent this one does. Listen to the names in the title: Health, welfare, labor, education.

Every man, woman, and child in this Nation today is touched daily by the provisions of this bill.

Unfortunately, this bill has a recurrent tendency to become the object of controversy between the executive and the legislative. That cannot be avoided. I certainly wish this were not the case, but it happens to be true.

As the Members know, our committee has worked very, very hard to keep spending down on these bills. We have done this year after year after year. We have done it again. We have worked hard to achieve that end.

Unfortunately, the President's budget request is not acceptable to the overwhelming majority of the Members of this House. The cutbacks he has proposed are not acceptable in any way to the majority of the Members of the House.

In view of the complexity of this bill, Mr. Speaker, and in view of the lateness of the hour of this session of Congress, I think that the consideration of the veto of this bill should be deferred so that the Members will have time to study it more carefully.

Mr. Speaker, I move the previous question.

Mr. BAUMAN. Mr. Speaker, I demand that the motion be reduced to writing.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. FLOOD moves that further consideration of the veto message of the President on the bill H.R. 8069 be postponed until Tuesday, January 27, 1976.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 71, not voting 44, as follows:

[Roll No. 822]

YEAS—319

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clay
Cleveland
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derwinski
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Gradison
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Ichord
Jarman
Jenrette
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Latta
Lehman
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steelman
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, Mo.
Taylor, N.C.
Thompson
Thornton
Traxler
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wirth
Wright
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—71

Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Brown, Ohio
Burgener
Carr
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Derrick
Devine
Dickinson
du Pont
Emery
Erlenborn
Findley
Frey
Goodling
Grassley
Hyde
Jacobs
Jeffords
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Lent
Levitas
McDonald
Mann
Martin
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
O'Brien
Pettis
Quie
Quillen
Rousselot
Satterfield
Schneebeli
Schulze
Sebelius
Shuster
Skubitz
Spence
Steiger, Wis.
Symms
Teague
Thone
Treen
Wampler
Wilson, Bob
Wolff
Wydler
Wylie
Young, Fla.

NOT VOTING—44

Adams
Badillo
Bell
Bingham
Brown, Calif.
Conyers
Daniels, N.J.
Diggs
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Fuqua
Gaydos
Gilman
Harsha
Hastings
Hawkins
Hébert
Hinshaw
Horton
Howe
Johnson, Calif.
Jones, Ala.
Landrum
Leggett
McCloskey
Macdonald
Montgomery
Moss
Ottinger
Randall
Rees
Roe
Stark
Steiger, Ariz.
Stephens
Sullivan
Talcott
Udall
Ullman
Wilson, Tex.
Winn
Yates

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER CONSIDERATION OF REPORTS FROM COMMITTEE ON RULES

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 939 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 939

Resolved, That it shall be in order at any time during the balance of this week to consider reports from the Committee on Rules as provided in clause 4(b), Rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the balance of this week.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON). Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like not only to explain this resolution but the resolution that I believe I will be recognized to file and bring up after this resolution is disposed of, and I think the Members might be interested in the explanation.

This resolution was reported by the Committee on Rules on yesterday, and it provides that reports from the Committee on Rules shall be considered the same day and voted on by a majority. A majority vote will carry a resolution from the Committee on Rules the same day under the provision of this resolution. Members will remember that normally a resolution from the Committee on Rules must lie over for 1 day.

When this resolution is passed, and I expect it to be by a majority vote, since it was filed yesterday, a second resolution, which provides for a number of things, which I will file at the conclusion of this resolution will be considered. That resolution provides that during the remainder of this session the House meet on Tuesday and Friday. It provides that notwithstanding any adjournments of the House during the remainder of this session the Clerk is authorized to receive messages from the Senate and from the President of the United States and the Speaker is authorized to sign bills and joint resolutions duly passed by the two Houses and found truly enrolled. And it provides that the Speaker can declare recesses during the remainder of this session subject to the call of the Chair. And it provides that the provisions of the resolution that I am now talking about and that I hope the House will pass, which suspends the requirement of a 1-day layover for reports from the Committee on Rules during the balance of this week, is suspended during the remainder of this session.

And when we get to that resolution I will explain in more detail why those matters are necessary.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, what matter do we have before us that requires the use of this rule? It would seem to me the ones the gentleman from Missouri describes could themselves easily get a two-thirds vote. Does the gentleman from Missouri think they could not?

Mr. BOLLING. The gentleman from Missouri would like to tell the gentleman he thinks it makes reasonable sense not to have that necessity at a time when one is not sure from hour to hour who will be here.

Mr. ECKHARDT. Mr. Speaker, if the gentleman will yield further, it is the understanding of the gentleman from Texas that there is presently a bill in the Senate to which may be added language which is considered to be some manner of compromise respecting the tax cut matter. Now if this provision were put on a House bill in the Senate and that bill were to be sent to the Rules Committee under the present situation the Rules Committee would have to act on a two-thirds vote in the Rules Committee. Is that correct?

Mr. BOLLING. No. Majority vote in the Rules Committee.

Mr. ECKHARDT. Majority vote in the Rules Committee, but it could not bring the matter to the floor today without a two-thirds vote. Is that right?

Mr. BOLLING. That is correct.

Mr. ECKHARDT. But if this resolution is passed it might be brought to the floor and voted on by a majority vote?

Mr. BOLLING. That is correct.

Mr. ECKHARDT. So this does have some significance with respect to the proposed compromise respecting the question of the tax cut that has been floating around the floor in the last moments?

Mr. BOLLING. It could have significance if the Committee on Rules chose to report out that compromise.

The gentleman is as always helpful. This gentleman is today opposed to that compromise and would hope that it would not be voted out by the Committee on Rules, but this gentleman also thinks that this House and its Members should have the opportunity to work its will in an orderly fashion. That does not mean that I expect that compromise to come before the Committee on Rules.

It does mean that I see no objection to that possibility, if this or another compromise could be worked out. I cannot conceive of one that I personally would favor.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield further?

Mr. BOLLING. I would be delighted to yield to the helpful gentleman from Texas.

Mr. ECKHARDT. The gentleman always speaks in most Delphian terms. I understand the gentleman to say the gentleman would be opposed to compromise, but I assume from what the gentleman said that the gentleman wants the House to work its will and therefore the gentleman would be in favor of the rule.

Mr. BOLLING. No; the gentleman is in error.

Mr. ECKHARDT. I am glad to hear that.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose the resolution which is now before us, which would permit consideration on the same day of reports coming from the Committee on Rules by a majority, rather than a two-thirds vote, for the remainder of this week.

Mr. Speaker, I want to take just a minute or two to explain why I opposed it in the Committee on Rules and, indeed, why all the Members serving on my side of the aisle feel likewise. We simply did not feel there was any justification or explanation for that waiver of our rules. We were simply told yesterday this was something that the leadership wants. Whereas Members on my right may feel constrained to give the leadership a blank check in that regard, I do not think there is any reason why I should do so.

Let me read for a moment what clause 4(b), rule XI says:

> It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business, except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session.

Now, it could be argued, I suppose, that House Resolution 939, the one before us, is not all that unusual because, in effect, it simply provides the same thing that our House Rules now provide with respect to the last 3 days of the session.

Presumably we were at the time I think that we considered this matter, we thought today would represent the final legislative day of this first session of the 94th Congress.

Mr. Speaker, let me point out a couple reasons why I believe we should think twice before we vote for this resolution. First of all, if we adopt it, it would permit the Committee on Rules next week, if we go on to adopt the resolution that the gentleman from Missouri has already promised that he is going to present immediately as soon as he gets a majority on House Resolution 939, the gentleman is going to present a resolution that will mean the House will meet each Tuesday and each Friday between now and the 3rd of January.

In other words, if that resolution is adopted, the Committee on Rules could meet next week on one of those days and adopt a rule making a completely unexpected and unscheduled matter in order for floor consideration the same day, even though many Members may have already left town. I think when I looked at the electronic totalizer on the first quorum, we have already seen a goodly number of our brethren and sisters answered on the last quorum depart; something like 296 Members.

Let us assume we do meet next Tuesday or meet next Friday. It is going to be very difficult, I am sure, to get even a bare quorum and it may take the Sergeant at Arms to accomplish that. We have a bare quorum of 218 Members. Then we come with 110 Members, a majority of that bare quorum, and go on and pass whatever bill that the rules make in order.

I think this is a deceptively dangerous rule for this House to adopt this morning.

If we are going to be conducting the business of the U.S. Government, and more particularly this House of Representatives, on that kind of basis between now and the 3d of January, I have no desire at all to enter into an agreement with the majority side of the aisle where we are simply going to bring rules down here on the same day they are reported and pass them by a majority vote.

Of course, if we had adopted yesterday, or would adopt today, a sine die adjournment resolution—as I think we should—then we could have same day consideration of rules under the existing rules of the House of Representatives.

I do not recall any other precedent in the 15 years that I have served in this body where we have adopted a resolution of this kind. There was an attempt which some Members may recall, an attempt that was made on the 16th of December of last year to include an identical provision as House Resolution 939 in a resolution that was called up at that time on suspension by the majority leader. The resolution also provided for a waiver of the 3-day requirement, 3-day rule, that deals with conference reports. It was brought up, as I said, under suspension. It had not been reported from the Rules Committee and had not been scheduled in advance for floor consideration, and it failed to get the two-thirds vote that was necessary under those procedures.

When it went to the Rules Committee, the Rules Committee sent back a revised resolution which gave the majority leader his 3-day suspension on conference reports, the waiver in that respect, but we dropped in the Rules Committee the same day consideration provision that had been contained in the resolution brought up on the floor. In other words, we did not adopt this kind of provision in the last Congress. As I said, in all the years that I have been in this body we have not seen fit to change our rules and to authorize that kind of procedure.

I asked my staff to check with the Parliamentarian's office after our meeting in the Committee on Rules yesterday to find, if I could, what the last recorded instance was. They came up with one way back in 1948. So obviously, it is not an unprecedented thing, but it is certainly something that we have not chosen to do lightly, and we have been very sparing, apparently, in using that particular device to try to change the rules of the House.

I do not think we should expose, as I said a moment ago, the Members of this body to the possible hazard that might exist of having what I would describe as quickly rules come out of the Rules Committee and then brought very quickly to the floor of the House.

Mr. H. R. Gross, whom some Members remember, our former beloved colleague from Iowa, when he was confronted with this rule last December 16 when a similar effort was made, as I indicated, and an attempt was made to suspend the rules, said this:

> I do not accuse the gentleman from Massachusetts or anyone else of indulging in trickeries. If the gentleman brings in a conference report, or the Chairman of the Committee on Rules reports a rule, and we are suckers enough in this House to give them the authority to consider it immediately, then they have not pulled any tricks on us. The House has permitted itself to be suckered into a situation from which it cannot extricate itself in the interest of orderly procedure.

I think we might remember the advice that the former gentleman from Iowa gave us on that occasion. He apparently at that time succeeded at least in defeating that attempt when it was brought up under suspension of the rules, and I would hope we would defeat the resolution today.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I now yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, if the able gentleman from Illinois had his staff look up the precedent, I would merely like to point out that the precedent—apparently the most recent precedent—is, curiously enough, the precedent from a Congress controlled by the current minority, the then majority, the Republican Congress that sat in 1948.

I would like to say as gently as I can that all we seek to do with these resolutions is to provide in the most unusual circumstances that the House of Representatives be able to function effectively with a majority.

I am sympathetic to the fact and aware of the fact that, based on the experience of last year, some of my friends on the other side may have concluded that the way to go always is the two-thirds required to override a veto. But I do think that the majority of us in the House—and I do not mean by that the majority Members, but the majority of us in the House—believe that we should adhere to the rules and only use exceptions in exceptional circumstances. I think all of us, Republicans and Democrats alike, finally believe that a majority should rule.

That is all that these two resolutions intend to achieve. I hope that nobody is of the opinion that the Speaker of the House of Representatives and all of the Democratic members of the Committee on Rules have suddenly been overcome by a total sense of unfairness and propose to use bare majorities to put through things that, if they are more than resolutions, ultimately will be subjected to the requirement of two-thirds.

In other words, there is no possibility that the House will be passing serious matters by 110-vote majorities.

While I have great respect for my friend, the gentleman from Illinois (Mr. ANDERSON), I have the feeling that he is building up, rather painfully, straw men and then proceeding not to knock them over but to burn them.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman. I, of course, recognize the gentleman as a very eminent and distinguished Member of this body, and I would not for one moment question the very solemn assurance that he has just given me, that of course the Committee on Rules would not ever think of meeting during this interim 2-week period and reporting out a rule that would involve a controversial matter that might be subject to a veto. I do suggest, however, that a decent regard for the precedents of this body and for the orderly procedures that are contained in the rules that govern our deliberations mean that we should not lightly abandon those procedures, particularly in view of the highly unusual—and the gentleman will have to concede it is highly unusual—type of resolution that he obviously intends to offer as soon as he succeeds in getting passage of this particular bill.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I hope I am not taking advantage of the gentleman's well-known reputation for candor, but I was struck by his comments about the difficult circumstances in which we find ourselves. I will ask the gentleman for his candid opinion as to why he thinks that we are not adjourning sine die as we normally do at this time of year.

Mr. ANDERSON of Illinois. I think the gentleman has the answer to that question as well as anybody in this body. The gentleman is far too intelligent not to be deceived by what I believe are obvious facts.

This Congress has put itself in the posture of confrontation with the President on the issue of coupling a spending limit on the tax reduction bill. But we have gone over that argument. I would see no point in going into that in great detail this morning.

Mr. MIKVA. If the gentleman will yield further, it seems to me in this regard that, given a Congress that wants to accommodate itself within each House and a President who recognizes that sometimes no action for a period may be the best thing of all, I am sure if the gentleman stood up on the floor and said he has the assurance the President agreed we should go home for awhile and stew about this, probably the problems would decrease.

Does the gentleman think he can get that assurance from the President?

Mr. ANDERSON of Illinois. I think the assurance can be gotten very quickly if this House would do what I have consistently urged it to do, to adopt some sensible language that would indicate to the American people that, while we are going to reduce taxes, we are also going to reduce spending.

Mr. Speaker, let me just go on for a minute. I am very distressed by what I heard the gentleman from Missouri (Mr. BOLLING) say a few minutes ago. I understood he said that he has seen some of the compromise language and he finds it totally offensive—I believe that was the import of his statement—and he indicated we may see this same kind of unyielding attitude that may cause this Congress to continue in session under this rather unusual procedure without adjourning sine die.

Unless we have a change in the spirit and the temper and the attitude on that score, there is not much I can do to effect any change in the situation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I certainly compliment the gentleman from Illinois on his very intelligent assessment of the situation that faces us.

The assurances that were just given the House by the gentleman from Missouri (Mr. BOLLING) fly in the face of the statement made by the Speaker of the House yesterday, and which this morning was being broadcast over the Nation. The Speaker said that the majority of this House and the leaders of the majority party stood ready at a moment's notice for the next Congress to come back into session from wherever they might be and take action on the tax cut bill. This was the Speaker's statement yesterday, that they stood ready to stay here and work.

The gentleman from Missouri (Mr. BOLLING) has assured us that nothing serious will happen. He says, "Trust us." But we already have the guarantee that almost anything could very well happen, and the legislative process we are about to adopt in these two resolutions gives not to the majority but to a small number of Members on the majority side—as the gentleman has pointed out, as little as one-quarter of the House membership—the power to act on matters ranging from taxes and the budget to energy and situs picketing. We do not know what form all this legislation is going to take, but under this extraordinary procedure it would be a majority of the Committee on Rules and as few as one-quarter of the Members of this body that could bring before the House very important measures, waiving all of the traditional rules and the protections afforded not just to Republican minorities but to southern minorities, oil State minorities, conservative minorities, or black minorities—it does not matter what group it is, all could be endangered.

The rest of the Congress may be scattered all over the world, as it probably will be, and they will have no protection as to what will be brought up in their absence.

Mr. Speaker, frankly this is a very dangerous procedure, not just considering the parliamentary situation but considering the constitutional situation. Indeed it is almost unprecedented.

Mr. Speaker, I hope that both of these resolutions are defeated.

Mr. ANDERSON of Illinois. Mr. Speaker, I agree with the gentleman's concern to this extent—that when we talk about pro forma holiday sessions, we are indeed charting what is rather unusual territory. I do not think we should, therefore, be so quick to dispense with the rules that ordinarily govern our deliberations during that period since we are not used to operating in that environment and in that context.

I think it behooves us then more than ever to be circumspect and to be sure we do follow the rules which we adopted at the beginning of this Congress.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I think that keeping a disorderly house is a misdemeanor in almost every jurisdiction. Certainly we are bordering on that in what we are doing, and as the gentleman from Illinois has pointed out in his statement, there is no good reason for it.

I suggest that if the present intransigence would melt away on both sides of the aisle in this House, we could agree to the resolution embodying the language the gentleman is suggesting—and that, I understand, is already being worked on—and then we could adjourn until January 19. That would be the solution. Then the American people would have the protection of a tax cut, and they would also have a ceiling on spending, the twin goal we have all been seeking.

I suggest that we can accomplish this. It is within our grasp. It would take only a few hours to do this. Instead we see this kind of parliamentary chicanery during the last few days of this session. This is the kind of reasonable solution the people are asking for, and if they do not get it the blame will be placed where it properly belongs.

Mr. ANDERSON of Illinois. Mr. Speaker, I would hope very much that the majority side of the aisle will withhold the consideration of both of these resolutions pending the efforts I know are going on right now on the other side of the Capitol to come up with an acceptable compromise solution that all of us can vote on, and then we can adopt a sine die resolution as the gentleman suggested.

However, I obviously have no control over the programing of the business in this House.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I will ask the gentleman this:

Is the gentleman from Illinois aware of any pressing legislation for which such a very unusual and strong rule might be needed?

Mr. ANDERSON of Illinois. No. I asked that very same question yesterday when this matter was first before us. I also raised the question today as to why we should adopt this type of procedure, and again I received no satisfactory answer.

Mr. FRENZEL. Mr. Speaker, it seems to me we have given the Committee on Rules or, if we agree to this resolution, we will have given the Committee on Rules a loaded weapon, a high-capacity weapon, for which there are no defined targets. It also seems to me that a loaded weapon in the hands of petulant Members who are obviously sulking because of a defeat yesterday is likely to be a most dangerous weapon.

We are likely to find friends or other targets by using these loaded weapons.

I think it is a terrible rule, and I congratulate the gentleman from Illinois (Mr. ANDERSON) for his statement.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I would like to compliment the gentleman from Illinois (Mr. ANDERSON) on his statement and on the position he has taken.

I am appalled at what I have heard on the floor from the majority side concerning an unreasoned attitude about the proposed language which would give us a tax bill with a tax cut for the American people an expenditure limitation, allowing this Congress to adjourn sine die with a clear conscience.

It would certainly be my hope that upon sober reflection, the Members of the majority would agree to this language. I am prepared to state that the President of the United States has indicated that he will approve a tax cut such as was in the bill which we had yesterday on the floor under veto, if it has the language which the gentleman from Illinois (Mr. ANDERSON) has referred to.

It seems to me that it would be wise for the House of Representatives to act promptly on this measure. I understand that the other body is considering it at this very moment and that it will be messaged over here probably within the hour or at least within 2 hours. It would be my hope that when it does happen we would take it up promptly, that we would adopt it, that we would complete whatever other business we have and go home.

Mr. ANDERSON of Illinois. I thank the minority leader for his contribution.

In closing, Mr. Speaker, my friend, the gentleman from Minnesota (Mr. FRENZEL), referred to this type of rule or this type of resolution as a loaded pistol. I think that, in effect, he has used a practical analogy and that we are operating with a kind of loaded Saturday-night special rule. If we adopt it, we could well wake up on Sunday morning with a very serious and embarrassing self-inflicted wound.

Mr. Speaker, I urge the defeat of the resolution.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding.

As I understand the resolution—and I am not too sure as to how I am going to vote on it, because the distinguished gentleman from Illinois (Mr. ANDERSON) is always so convincing—all we are talking about is waiting a day.

In other words, 110 people, without this resolution, if they are a majority or have a quorum, could declare war Saturday instead of Friday, so that is no big deal.

I think it is a big deal that I get out of the ticker tape that the President was considering asking the Congress to postpone Christmas because of its inflationary impact on the economy and because it encourages people to expect gifts instead of getting things through hard work and labor.

Therefore, Mr. Speaker, I really do not know what the resolution will do except let us vote today instead of tomorrow, on, as I understand it, a couple of procedural matters.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am for the resolution, and I am for it for this reason: The only way we can safely posture ourselves during a period of time like Christmas is not to adjourn for a period longer than 3 days. As long as we do not adjourn for a period longer than 3 days, a pocket veto is not possible.

This resolution does not necessarily directly affect that. I mean, we do not need the second resolution. We could come here; the Speaker could sit in the Chair; we could go through a lot of inconveniences to keep this body going in order to prevent a pocket veto; and of course, we would. However, the second resolution will permit this to be done simply and conveniently, and it is most desirable.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Arizona.

Mr. RHODES. The gentleman from Texas (Mr. ECKHARDT) mentioned the pocket veto. I am also authorized to say that the President has no plans to exercise his constitutional right of pocket veto.

Mr. ECKHARDT. I am glad to hear that.

Mr. RHODES. If the gentleman will yield further, let me say that, in fact, he has told me that when legislation is sent down to him, he will either sign it or veto it in the ordinary way, which would preserve the right of this House and of the other body to either sustain or override those vetoes when we come back after the sine die adjournment.

Mr. ECKHARDT. Mr. Speaker, I thank the distinguished minority leader for pointing that out. I am merely stating why we ordinarily follow this process and I think it is the proper procedural process for Congress to follow because I think Congress should protect itself without relying on arrangements or promises. It ought to be in a position to exercise its prerogatives without asking the accommodation of the President. That is what we have done.

The first resolution will only call for a majority vote. The first resolution permits the second resolution to be handled on a majority vote. If we did not pass the first resolution, then the second resolution would require a two-thirds vote.

So I submit to the Members that the majority of this House ought to that extent rely on the leadership of the House and on the Committee on Rules to properly administer the functions of the House during this period of time between sessions. Therefore, I shall vote for the resolution. I hope that others would do likewise.

I heartily favor the resolution without reservation.

Mr. BOLLING. Mr. Speaker, I am not going to further comment on the various words that were put in my mouth that I did not use. I think the situation is very clear. I think the House is trying to proceed in an orderly fashion in a difficult situation.

I urge the passage of this resolution.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 247, nays 142, not voting 45, as follows:

[Roll No. 823]

YEAS—247

Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Casey
Chappell
Chisholm
Clay
Collins, Ill.
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Fraser
Giaimo
Gibbons
Ginn
Green
Haley
Hall
Hamilton
Hanley
Hannaford
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holtzman
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Lehman
Litton
Lloyd, Calif.
Long, La.
Long, Md.
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Preyer
Price
Rangel
Reuss
Richmond
Riegle
Risenhoover
Roberts
Rodino
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Steed
Stokes
Stratton
Stuckey
Studds
Symington
Taylor, N.C.
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Whitten
Wirth
Wolff
Wright
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—142

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Biester
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
Erlenborn
Esch
Fenwick
Findley
Fish
Forsythe
Frenzel
Frey
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hammerschmidt
Hansen
Harkin
Heckler, Mass.
Heinz
Hillis
Holland
Holt
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
Myers, Pa.
O'Brien
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rousselot
Ruppe
Sarasin
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Wis.
Symms
Taylor, Mo.
Teague
Thone
Treen
Vander Jagt
Walsh
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—45

Adams
Badillo
Bell
Bingham
Brown, Calif.
Conyers
Daniels, N.J.
Eshleman
Evins, Tenn.
Ford, Mich.
Fuqua
Gaydos
Gilman
Harsha
Hastings
Hawkins
Hébert
Hinshaw
Horton
Howe
Johnson, Calif.
Landrum
Leggett
McCloskey
McCormack
Macdonald
Montgomery
Mosher
Moss
Ottinger
Randall
Rees
Roe
Rosenthal
Stark
Steiger, Ariz.
Stephens
Sullivan
Talcott
Thornton
Ullman
Wilson, C. H.
Wilson, Tex.
Winn
Yates

Messrs. DERWINSKI and FISH changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR MEETINGS TUESDAYS AND FRIDAYS DURING REMAINDER OF SESSION, AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND FROM PRESIDENT OF THE UNITED STATES, AUTHORIZING SPEAKER TO SIGN BILLS AND JOINT RESOLUTIONS, AUTHORIZING SPEAKER TO DECLARE RECESSES DURING REMAINDER OF THIS SESSION, MAKING IN ORDER CONSIDERATION OF REPORTS FROM COMMITTEE ON RULES

Mr. BOLLING, from the Committee on Rules, submitted a privileged resolution (H. Res. 945, Rept. No. 94–767), providing for meeting Tuesdays and Fridays during remainder of session, authorizing Clerk to receive messages from Senate and from President of the United States, authorizing Speaker to sign bills and joint resolutions, authorizing Speaker to declare recesses during remainder of this session, making in order consideration of reports from Committee on Rules which was referred to the House Calendar and ordered to be printed.

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 945 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 945

Resolved, That from and after this day during the remainder of this Session the House shall meet only on Tuesdays and Fridays of each week until the further order of the House.

Sec. 2. That notwithstanding any adjournments of the House during the remainder of this Session the Clerk be authorized to receive messages from the Senate (and from the President of the United States) and the Speaker be authorized to sign any bills and joint resolutions duly passed by the two Houses and found truly enrolled.

Sec. 3. That the Speaker be authorized to declare recesses during the remainder of this Session subject to the call of the Chair.

Sec. 4. That it shall be in order at any time during the remainder of this Session to consider reports from the Committee on Rules as provided in clause 4(b), Rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this Session.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON) pending which I yield myself such time as I may consume.

Mr. Speaker, the rule has just been read. I explained it a few minutes ago in the time on the earlier rule. It provides for certain procedural steps to deal with this most remarkable situation that faces us.

It provides that the House will meet on Tuesdays and Fridays during the next 2 weeks. It provides that during the remainder of this session, the Clerk is authorized to receive messages from the Senate and from the President of the United States. The Speaker is authorized to sign bills and joint resolutions duly passed by the two Houses and found truly enrolled. It authorizes the Speaker to declare recesses during the remainder of the session, and makes in order that reports from the Committee on Rules be in order and adoptable by a majority vote on the same day that they are reported.

Mr. STEIGER of Wisconsin. Mr. Speaker, will my colleague yield to me?

Mr. BOLLING. I am happy to yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I thank my friend from Missouri for yielding to me. I wonder if, setting aside the gentleman's personal views on any proposed compromise on taxes and spending, what happens if the other body passes a proposal, sends it over here, it is agreed to here and goes to the President to sign, thus ending, at least for the moment, what appears to be an impasse? Is this procedure that the gentleman is bringing to us in this most interesting rule then necessary?

Mr. BOLLING. Is it necessary?

Mr. STEIGER of Wisconsin. Is it necessary?

Mr. BOLLING. No, it would not be necessary if that were to eventuate. The gentleman now speaking does not desire the impasse to continue. I do not want to leave the House with that notion, but the problem that we face is that we do not know who will be here an hour from now, and it is therefore necessary to proceed with this particular process at this stage. That is in the minds of the management, and I am not part of the management—I just sometimes work with the management.

Mr. STEIGER of Wisconsin. Will my colleague yield further?

Mr. BOLLING. I will be glad to.

Mr. STEIGER of Wisconsin. Would it be a surprise to the able and perceptive gentleman from Missouri if, in fact, what I just outlined did happen? Are we then going to anticipate that the Rules Committee will go back and repeal this really incredible operation that the gentleman is bringing to us?

Mr. BOLLING. No, I would have to tell the gentleman that I do not think that the incredible operation is this one we are involved with on the procedure of the House for the rest of the session. I have tried very hard to avoid debating the real issue from my point of view, and I intend to continue to try, but I think the incredible nature of the situation occurred a good deal earlier and in a different place than in the House of Representatives. I hope the gentleman will just allow me to leave it at that. I am deeply concerned about the situation, but I think what we are doing now is relatively credible related to other things that have been done in other places.

Mr. STEIGER of Wisconsin. I thank my friend from Missouri for his honest comment. I must say that I concur with his use of the words "relatively credible." It is still a sham, and I will let it go at that.

Mr. BOLLING. I do not believe it is a sham, but I will leave the gentleman with the word.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding. I will say to the gentleman that one of the jobs as chairman of the Committee on House Administration is to certify that a bill has been truly enrolled. I found out yesterday, to my horror, that they have been certifying them with a stamp signature. I ordered it stopped. I want to scrutinize them. The Speaker will not have any problem about signing bills, because I am not going to be here to scrutinize them any more until the 5th of January. So there will not be any certified.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when I read this resolution I can think of only one thing, really: that this 94th Congress, which began with such a cataclysmic bang, is ending with a faint whimper. And now we are apparently destined, when we adopt this resolution, to run out the clock on the first session of the 94th Congress in stillness and in the ghostly silence of pro forma sessions.

I tried to get an estimate from the Architect of the Capitol yesterday afternoon what the cost of heat and light for this Chamber would be during this 2-week period or more that we would be meeting in so-called pro forma sessions, and the salaries of the various House employees who will be detained here as a result of the decision on the part of the Democratic leadership. But I think rather than take a great deal of time to excoriate the majority side of the aisle for what I think really is a charade, since the spirit of Christmas is upon us I would simply content myself by saying I made it quite clear in my earlier remarks that I see no need for a resolution of this kind.

Mr. Speaker, I think this Congress ought to demonstrate its capability of solving the current impasse over taxation and legislation in that area and then simply adopt the sine die resolution, and it would still be my hope that even though the House goes on and passes this resolution, as I am sure the last vote indicated it has the power to do, that this would be the last resolution of this session.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, in keeping with the Christmas spirit, as the distinguished gentleman from Illinois indicated, we should observe that this resolution does have wider significance than the legislative tyranny which it embodies. This resolution will give to the individual Members, who are so inclined, a very nice Christmas present. It will allow the global junkets that have been planned to go on. World travelers need not return to answer quorum calls or live up to their oath of office or their obligations to their constituents. It will permit a free ride for all of those who, at the taxpayers' expense, want to explore that kind of international activity, and remaining here will be a corporal's guard to cover up for missing colleagues. After this parliamentary farce, few people will believe the proclamation by the majority that the Congress is willing to stay here and solve the problem of the tax extension because there will be no real House sessions, only phony ones. There will be as the gentleman graphically suggested, a ghostly silence witnessed by a skeleton crew. I think the American people will realize once again what the Congress of the United States is doing to them and not for them.

Mr. ANDERSON of Illinois. Mr. Speaker, I want to say to the gentleman that I am comforted and sustained by the thought that the American people will scarcely be deceived, that this resolution scarcely represents anything for the working Congress for the balance of this session.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Speaker, as I told the press this morning, I have been down to the Oval Office both during the terms of his predecessors and this President. And it is an oval office. I find it difficult to believe that someone who works in an oval office can paint themselves in the corner as many times as the President has recently.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I am sure that I am not the only Member of this House who is very much concerned about the situation in which we find ourselves. I think the American people are going to be very much disappointed in their President and in their Congress if we cannot somehow find a meeting of the minds, if not in respect to taxation, at least in respect to adjournment and the time to reconvene the Congress.

I think all of us are aware that this resolution as now proposed is designed to provide the machinery by which we may operate, not really as a Congress but technically as a Congress, perhaps to avoid the possibility that the President might call us back during the Christmas vacation period.

The American people are too deeply concerned about their own situation at the present time to tolerate politics on the part of either the President or the Congress. The only ones who are going to profit if we cannot resolve this conflict, these questions either of taxation or of convening the Congress again, are going to be those candidates for President who are not connected with the Congress or the Government—Ronald Reagan and George Wallace and some others in similar positions.

It would seem to me a reasonable thing for the President and the leadership of this Congress to get together on a joint resolution as to when we will come back. We had previously intended to come back on the 19th of January, as I understand it. Now it is not going to be possible for us to have this reasonable time at home among our people. Under the Constitution we will have to come back on the 3d of January, and at that time we will be faced with the question of whether we are going to resume as a working Congress or whether we are going to adopt some other facade of a Congress by agreeing to a resolution similar to the one that is pending before the House at the present time.

The American people cannot look with favor or approbation upon political tactics, political juggling or political infighting on the part of the two top representatives of the Government of this country, the President of the United States and the Congress of the United States.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the able gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I want to compliment the distinguished gentleman from Florida (Mr. PEPPER) for his remarks. I think that the House needs the moderation and the temperance of such a great man. I think the gentleman made a wonderful statement.

I am in thorough agreement, and I want to compliment the gentleman from Florida on it.

Mr. PEPPER. Mr. Speaker, I thank the gentleman.

I hope at least before it is too late we will have a meeting of the minds of the President and the Congress and that we will resolve these conflicts. At least if we cannot resolve the taxation conflict, it seems to me we should have a simple understanding and agreement about when the Congress of the United States will reconvene.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I, too, want to commend the gentleman, as I did in the Committee on Rules, for making the statement he just made.

I feel we are reasonable individuals, and that we can reason together and resolve the problem that faces us. I have reference to the tax matter.

It is my understanding that a proposal has been made that has been agreed upon by the President and by the Budget Committee of the Senate and by the Finance Committee. It is going to be before the Senate momentarily, and at this very hour our majority members of the Committee on the Budget and the Committee on Ways and Means are supposed to be meeting. At least I was so informed, that we would have such a meeting; then I was later informed, within 5 minutes thereafter, that it would be only the majority members who would be meeting on this question.

I would hope, even though we are being excluded from the meeting between these two important committees—and I am a member of the Committee on the Budget, as the gentleman knows—there will be a meeting of the minds. I would hope that if the Senate can agree on something, certainly the House could agree with the Senate and with the President and we can adjourn this session of Congress.

Mr. PEPPER. Mr. Speaker, at this season of the year, when good will is uppermost in the minds and hearts of our people, I hope we can exhibit that good will between the President and the Congress which will receive the approbation of our people.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time to close debate.

Mr. Speaker, I had not truly intended to get into this, but I have heard so much piety that I find it necessary to discuss the issue, briefly, which underlies our situation.

I happen to be one of the very few Democrats who testified for Jerry Ford when he was up for confirmation as Vice President. I did so at his request. He and I have had a great many dealings with each other over the years.

I described him as an honorable public servant. I still feel he is an honorable public servant. I am not ashamed of having testified for him. I infinitely prefer him to his predecessor, but I find it impossible to listen to the comments of my pious brothers on this side.

We are here in a difficult situation because the President of the United States, with the assistance of many of the members of the minority party, not all, decided that he would be willful in insisting that a nongermane matter which interferes with a process that he himself helped originate must be added to a tax bill that everybody in this Chamber knows must be passed at some time. He has persisted in that view, and he has never suggested a compromise.

Everything that has floated around this floor, everything that has been suggested requires a capitulation on the part of the majority party.

We are here in this difficulty because the President of the United States, for whatever reason, has decided to be willful about the exercise of a veto.

Mr. Speaker, I urge the adoption of this resolution.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 255, nays 139, not voting 40, as follows:

[Roll No. 824]

YEAS—255

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Casey
Chappell
Chisholm
Clay
Collins, Ill.
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Fountain
Fraser
Giaimo
Ginn
Gonzalez
Green
Haley
Hall
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Poage
Preyer
Price
Rangel
Reuss
Richmond
Riegle
Risenhoover
Roberts
Rodino
Rogers
Roncalio
Rose
Rostenkowski
Roush
Roybal
Runnels
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Steed
Stokes
Stratton
Studds
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Whitten
Wirth
Wolff
Wright
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—139

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Biester
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, R. W.
Derwinski
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
Erlenborn
Fenwick
Findley
Fish
Forsythe
Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hammerschmidt
Hansen
Harkin
Heckler, Mass.
Heinz
Hillis
Holt
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
O'Brien
Pettis
Peyser
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rooney
Rousselot
Ruppe
Russo
Sarasin
Schneebeli
Schulze
Sebelius
Shriver
Shuster

Skubitz
Smith, Nebr.
Snyder
Spence
Stanton,
J. William
Steelman
Steiger, Wis.
Stuckey
Symms
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—40

Badillo
Bell
Bingham
Conyers
Daniels, N.J.
Esch
Eshleman
Evins, Tenn.
Ford, Mich.
Fuqua
Gaydos
Gibbons
Gilman
Harsha
Hastings
Hébert
Hinshaw
Horton
Howe
Johnson, Calif.
Landrum
Leggett
McCloskey
Macdonald
Montgomery
Moss
Ottinger
Randall
Rees
Roe
Rosenthal
Stark
Steiger, Ariz.
Stephens
Sullivan
Talcott
Wilson, C. H.
Wilson, Tex.
Winn
Yates

Mr. **BYRON** changed his vote from "nay" to "yea."

Messrs. **HAGEDORN**, **MICHEL**, and **PEYSER** changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

CONFERENCE REPORT ON S. 2718, RAIL SERVICES ACT OF 1975

Mr. **STAGGERS** submitted the following conference report and statement on the Senate bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, which was referred to the House Calendar and ordered printed:

CONFERENCE REPORT (H. REPT. No. 94–768)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the text of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Railroad Revitalization and Regulatory Reform Act of 1975":

TITLE I—GENERAL PROVISIONS

DECLARATION OF POLICY

SEC. 101. It is the purpose of the Congress in this Act to provide for rehabilitating and maintaining the physical facilities, rationalizing the operations and structure, and restoring the financial stability, of the railway system of the United States, and to promote the revitalization of such railway system, so that this mode of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient, ecologicaly compatible transportation services with greater efficiency, effectiveness, and economy, through—

(1) ratemaking and regulatory reform;

(2) the encouragement of efforts to restructure the system on a more economically justified basis, including planning authority in the Secretary of Transportation, an expedited procedure for determining whether merger and consolidation applications are in the public interest, and continuing reorganization authority;

(3) financing mechanisms that will assure adequate rehabilitation and improvement of facilities and equipment, implementation of the final system plan, and implementation of the Northeast Corridor project;

(4) transitional continuation of service on light-density rail lines that are necessary to continued employment and community well-being throughout the United States;

(5) auditing, accounting, reporting and other requirements to protect public funds and to assure repayment of loans, and financial responsibility; and

(6) necessary studies

It is further declared to be the policy of the Congress in this Act to—

(A) balance the needs of carriers, shippers, and the public;

(B) foster competition among all carriers by railroad and other modes of transportation, to promote more adequate and efficient transportation services and to increase the attractiveness of investing in railroads and rail-service-related enterprises;

(C) permit railroads greater freedom to price their services in competitive markets;

(D) promote the establishment of rate structures which are more sensitive to changes in the level of seasonal, regional, and shipper demand;

(E) promote separate pricing of distinct rail and rail-related services;

(F) formulate standards and guidelines for determining adequate revenue levels; and

(G) modernize and clarify the functions of rate bureaus.

DEFINITIONS

SEC. 102. As used in this Act, unless otherwise specified, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "final system plan" means the final system plan issued by the United States Railway Association on July 26, 1975, under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717);

(5) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(6) "Office" means the Transportation Services Planning Office of the Commission;

(7) "railroad" means a common carrier by railroad or express, as defined in section 1 (3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation and The Alaska Railroad; and

(8) "Secretary" means the Secretary of Transportation.

TITLE II—RAILROAD RATES

EXPEDITIOUS DIVISIONS OF REVENUES

SEC. 201. Section 15(6) of the Interstate Commerce Act (49 U.S.C. 15(6)) is amended by (1) inserting after "(6)" and before the first sentence thereof the following two new subparagraphs:

"(b) Notwithstanding any other provision of law, the Commission shall, within 180 days after the date of enactment of this subparagraph, by rule, establish standards and procedures for the conduct of proceedings for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise) in accordance with the provisions of this paragraph. The Commission shall issue a final order in all such proceedings within 270 days after the submission to the Commission of a case. If the Commission is unable to issue such a final order within such time, it shall issue a report to the Congress setting forth the reasons for such inability. All evidentiary proceedings conducted pursuant to this paragraph shall be completed, in a case brought upon a complaint, within 1 year following the filing of the complaint, or, in a case brought upon the Commission's initiative, within 2 years following the commencement of such proceeding unless the Commission finds that such a proceeding must be extended to permit a fair and expeditious completion of the proceeding. The Commission shall file a written report with the Congress of any such finding and the reasons therefor. Upon receipt of a notice of intent to file a complaint pursuant to this paragraph, the Commission shall accord, to the party filing such notice, the same right to discovery that would be accorded to a party filing a complaint pursuant to this paragraph.

"(C) Whenever a proceeding for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise established) is commenced by the filing of a complaint with the Commission, the complaining carrier or carriers (i) shall attach thereto all of the evidence in support of their position, and (ii) shall, during the course of such proceeding, file only rebuttal or reply evidence unless otherwise directed by order of the Commission.".

RAILROAD RATEMAKING

SEC. 202. (a) Section 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)) is amended to read as follows:

"(5) (a) Each rate for any service rendered or to be rendered in the transportation of persons or property by any carrier subject to this part shall be just and reasonable. A rate that is unjust or unreasonable is prohibited and unlawful. No rate which contributes or which would contribute to the going concern value of a carrier shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate is below a just or reasonable minimum for the service rendered or to be rendered. A rate which equals or exceeds the variable costs (as determined through formulas prescribed by the Commission) of providing a service shall be presumed, unless such presumption is rebutted by clear and convincing evidence, to contribute to the going concern value of the carrier or carriers proposing (hereafter referred to as the "proponent carrier") such rate. Notwithstanding any other provisions of this part, no rate shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate exceeds a just or reasonable maximum for the service rendered or to be rendered unless the Commission has first found that the proponent carrier has market dominance over such service. A finding that a carrier has market dominance over a service shall not create a presumption that the rate or rates for such service exceeds a just and reasonable maximum. Nothing in this paragraph shall prohibit a rate increase from a level which reduces the going concern value of the proponent carrier to a level which contributes to such going concern value and is otherwise just and reasonable; for the purposes of this sentence a rate increase which does not raise a rate above the incremental costs (as determined through formulas prescribed by the Commission) of rendering the service to which such rate applies shall be presumed to be just and reasonable.

"(b) As used in this paragraph, the term—

"(i) 'market dominance' refers to an absence of effective competition for the traffic or movement to which a rate applies from other carriers or modes of transportation; and

"(ii) 'rate' means any rate or charge for the transportation of persons or property.

"(c) Within 240 days after the date of enactment of this subparagraph, the Commission shall establish, by rule, standards and procedures for determining, in accordance with section 15(8) of this part, whether and when a carrier possesses market dominance over a service rendered or to be rendered at a particular rate or rates. Such rules shall be designed to provide for a practical determination without administrative delay. The Commission shall solicit and consider the recommendations of the Attorney General and of the Federal Trade Commission in the course of establishing such rules.".

(b) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by renumbering paragraphs (8) through (14) thereof as paragraphs (9) through (15) thereof, respectively, and by inserting therein a new paragraph (8) as follows:

"(8) Whenever a rate is challenged as being unreasonably high, the Commission shall, upon complaint or upon its own initiative and within 90 days after the commencement of a proceeding to investigate the lawfulness of such rate, determine whether the carrier proposing such rate has market dominance, within the meaning of section 1(5)(b)(i) of this part, over the service to which such rate applies. If the Commission finds that a carrier does not have such market dominance, such finding shall be determinative in all additional or other proceedings concerning such rate or service, unless (a) such finding is modified or set aside by the Commission, or (b) such finding is set aside by a court of competent jurisdiction. Nothing in this paragraph limits the Commission's power to suspend a rate pursuant to paragraph (7) of this section, except that if the Commission has found that a carrier does not have such market dominance over the service to which a rate applies, the Commission may not suspend any increases in such rate on the ground that such rate as increased exceeds a just or reasonable maximum for such service, unless the Commission specifically modifies or sets aside its prior determination concerning market dominance over the service to which such rate applies.".

"(6) In any hearing under this section, the burden of proof is on the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation, or practice will have a significantly adverse effect on the competitive posture of shippers or consignees to be affected by such change.". The Commission shall give such hearing and decision preference over all other matters pending before the Commission and shall make its decision at the earliest practicable time.

(c) The last sentence of section 15a(3) of the Interstate Commerce Act (49 U.S.C. 15a(3)) is amended to read as follows: "No rate of a carrier shall be held up to a particular level to protect the traffic of any other carrier or mode of transportation, unless the Commission finds that such rate reduces or would reduce the going concern value of the carrier charging the rate.".

(d) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by adding at the end thereof the following two new paragraphs:

"(16) Within 1 year after the date of enactment of this paragraph, the Commission shall establish, by rule, standards and expeditious procedures for the establishment of railroad rates based on seasonal, regional, or peak-period demand for railroad services. Such standards and procedures shall be designed to (a) provide sufficient incentives to shippers to reduce peak-period shipment through rescheduling and advance planning; (b) generate additional revenues for the railroads; and (c) improve (i) the utilization of the national supply of freight cars, (ii) the movement of goods by rail, (iii) levels of employment by railroads, and (iv) the financial stability of markets served by railroads. Following the establishment of such standards and procedures, the Commission shall prepare and submit to the Congress annual reports on the implementation of such rates, including recommendations with respect to the need, if any, for additional legislation to facilitate the establishment of such demand-sensitive rates.

"(17) In order to encourage competition, to promote increased reinvestment by railroads, and to encourage and facilitate increased nonrailroad investment in the production of rail services, a carrier by railroad subject to this part may, upon its own initiative or upon the request of any shipper or receiver of freight, file separate rates for distinct services. Within 1 year after the date of enactment of this paragraph, the Commission shall establish, by rule, expeditious procedures for permitting publication of separate rates for distinct railroad services in order to (a) encourage the pricing of such services and the demand therefor, and (b) enable shippers and receivers to evaluate all transportation and related charges and alternatives.".

(e) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended—

(A) by adding at the end of paragraph (7) thereof the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to this part."; and

(B) by redesignating paragraphs (8) through (14) as paragraphs (9) through (15), respectively, and by inserting immediately after paragraph (7) the following new paragraph:

"(9)(a) Whenever a schedule is filed with the Commission by a common carrier by railroad stating a new individual or joint rate, fare, or charge, or a new individual or joint classification, regulation, or practice affecting a rate, fare, or charge, the Commission may, upon the complaint of an interested party or upon its own motion, order a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice. The hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Such hearing shall be completed and a final decision rendered by the Commisison not later than 7 months after such rate, fare, charge, classification, regulation, or practice was scheduled to become effective, unless, prior to the expiration of such 7-month period, the Commission reports in writing to the Congress that it is unable to render a decision within such period, together with a full explanation of the reason for the delay. If such a report is made to the Congress, the final decision shall be made not later than 10 months after the date of the filing of such schedule. If the final decision of the Commission is not made within the applicable time period, the rate, fare, charge, classification, regulation, or practice shall go into effect immediately at the expiration of such time period, or shall remain in effect if it has already become effective. Such rate, fare, charge, classification, regulation, or practice may be set aside thereafter by the Commission if, upon complaint of an interested party, the Commission finds it to be unlawful.

"(b) Pending a hearing pursuant to subdivision (a), the schedule may be suspended for 7 months beyond the time when it would otherwise go into effect or for 10 months if the Commission files a report to Congress pursuant to subdivision (a), except under the following conditions:

"(i) in the case of a rate increase, a rate may not be suspended on the ground that it exceeds a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act or, following promulgation of standards and procedures in accordance with section 15(8) of this part, if the carrier is found to have market dominance within the meaning of section 1(5)(B)(i) of this part, over the service to which such rate increase applies; or

"(ii) in the case of a rate decrease, a rate may not be suspended on the ground that it is below a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act or for the purposes of investigating such rate change on a complaint pursuant to subparagraph (d) of this paragraph that such rate change constitutes a competitive practice which is unfair, destructive, predatory or otherwise undermines competition which is necessary in the public interest.

"(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b) (i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only to rate changes in which—

"(i) the rate increase or decrease is filed within 2 years of the date of the enactment of this subparagraph;

(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subparagraph;

"(iii) the increase or decrease in any rate filed within the first calendar year following such date on enactment is not more than 7 per centum of the rate in effect on January 1, 1976; and

"(iv) effect on January 1, 1977;

"(d) The Commission may not suspend a rate under this paragraph unless it appears from specific facts shown by the verified complaint of an interested party that—

"(i) without suspension the proposed rate change will cause injury to the complainant; and

"(ii) there is reasonable grounds for presuming that the rate is in violation of this part."

Nothing in this paragraph shall be construed as establishing a presumption that any rate increase or decrease in excess of the limits set forth in subdivision (c) is unlawful or should be suspended.

"(e) If a hearing of a proposed increased rate, fare, or charge is initiated and the schedule is not suspended pending hearing, the Commission shall require the common carrier by railroad to keep an account of all amounts received because of the increase from the date of such rate, fare, or charge became effetcive until an order issues or until 7 months elapse, whichever first occurs, or, if the hearings are extended pursuant to subdivision (a), until an order issues or until 10 months elapse, whichever first occurs. The account shall specify by whom and in whose behalf the amounts are paid. In its final order, the Commission shall require the common carrier by railroad to refund to the person in whose behalf the amounts were paid that portion of such increased rate, fare, or charge found to be not justified, plus interest at a rate which is equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. With respect to any proposed decreased rate, fare, or charge which is suspended, if the decrease or any part of it is ultimately found to be unlawful, the common carrier by railroad may refund any part of the portion of such decreased rate, fare, or charge found justified if such carrier makes such a refund available on an equal basis to all shippers who participated in such rate, fare, or charge, according to the relative amounts of traffic shipped at such rate, fare, or charge.

"(f) In any hearing under this section, the burden of proof is on the common carrier by railroad to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall give such hearing and decision preference over all other matters relating to railroads pending before the Commission and shall make its decision at the earliest practicable time."

(f) Nothing in this section shall be construed to—

(1) modify the application of section 2, 3, or 4 of the Interstate Commerce Act (49 U.S.C. 2, 3, and 4) in determining the lawfulness of any rate or practice;

(2) to make lawful any competitive practice which is unfair, destrutcive, predatory, or otherwise undermines competition which is necessary in the public interest;

(3) to affect the existing law or the authority of the Commission with respect to rate relationships between ports; or

(4) to affect the authority and responsibility of the Commission to guarantee the equalization of rates within the same port.

(g) The Secretary and the Commission shall separately study the effect of the amendments made by this section on the development of an efficient and financially stable railway system in the United States. Such studies shall include (1) an analysis of the effects of such provisions upon shippers and upon carrier in all modes of transportation, and (2) proposals for further regulatory and legislative changes, if necessary. The Commission shall gather all data relating to such studies as requested by the Secretary, and shall make such data available to the Secretary. The Secretary and the Commission shall transmit the results of their respective studies to each House of the Congress within 30 months after the date of the enactment of this Act.

TARRIFF MODIFICATIONS

SEC. 203. (a) Section 15(3) of the Interstate Commerce Act (49 U.S.C. 15(3)) is amended by adding at the end thereof the following new sentence: "In determining whether any such cancellation or proposed cancellation is consistent with the public interest, the Commission shall, to the extent applicable, (a) compare the distance traversed and the average transportation time and expense required using the through route and the distance traversed and the average transportation time and expense required using alternative routes between the points served by such through route; (b) consider any reduction in energy consumption which may result from such cancellation; and (C) take into account the overall impact of such cancellation on the shippers and carriers who are affected thereby."

(b) Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall, in any proceeding which involves a proposed increase or decrease in railroad rates specifically consider allegations that such increase or decrease would change the rate relationships between commodities, ports, points, regions, territories, or other particular descriptions of traffic (whether or not such relationships were previously considered or approved by the Commission) and allegations that such increase or decrease would have a significantly adverse effect on the competitive posture of the shippers or consignees who would be affected thereby. If the Commission finds that such allegations as to change or effect are substantially supported on the record, it shall take such steps as are necessary, either before or after such proposed increase or decrease becomes effective and either within or outside such proceeding, to investigate the lawfulness of such change or effect."

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR THE TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

SEC. 204. (a) INVESTIGATION.—The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

(1) conduct an investigation of (A) the rate structure for the transportation, by carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for such common carriers by railroad. The Commission shall, after a public hearing during which the burden of proof shall be upon such common carriers by railroad to show that the rate structure as affected by rate increases applicable to the transportation of such competing materials is just, reasonable, and nondiscriminatory, determine whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;

(2) in all cases in which such transportation rate structure is determined to be, in whole or in part, unjustly discriminatory or unreasonable, issue orders requiring the removal from such rate structure of such unreasonableness or unjust discrimination; and

(3) report to the President and the Congress, in the annual report of the Commission for each of the 3 years following the date of enactment of this Act, and in such other reports as may be appropriate, all actions commenced or completed under this section to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable or recycled materials.

(b) ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY TO PARTICIPATE.—The Administrator of the Environmental Protection Agency shall take such steps, in proceedings before the Commission, as are necessary to assure that the directives set forth in subsection (a) of this section are carried out as expeditiously as possible. Such Administrator may participate as party in the investigation to be commenced by the Commission under such subsection (a).

(c) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—The Secretary, in cooperation with the Commission, shall establish a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods for the purpose of facilitating the competitive and efficient transportation of recyclable materials by common carriers by railroad subject to part I of the Interstate Commerce Act.

(d) REVIEW.—Orders issued by the Commission pursuant to this section shall be subject to judicial review or enforcement in the same manner as other orders issued by the Commission under the Interstate Commerce Act. In all proceedings under this section, the Commission shall comply fully with the requirements of the National Environmental Policy Act.

(e) DEFINITIONS.—As used in this section, the term—

(1) "recyclable material" means any material which has been collected or recovered from waste for a commercial or industrial use, whether or not such collection or recovery follows end usage as a product; and

(2) "virgin natural resource material" and "virgin material" mean any raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource which is, or which will become (through the application of technology) a source of raw material for commercial or industrial use.

ADEQUATE REVENUE LEVELS

SEC. 205. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended—

(1) by adding at the end of paragraph (2) and at the end of paragraph (3) the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to the part."; and

(2) by redesignating paragraph (4) as paragraph (5), and by inserting immediately after paragraph (3) the following new paragraph:

"(4) With respect to common carriers by railroad, the Commission shall, within 24 months after the date of enactment of this paragraph, after notice and an opportunity for a hearing, develop and promulgate (and thereafter revise to the extent appropriate and maintain) reasonable standards and procedures for the establishment of revenue levels adequate under honest, economical, and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable, and economic profit and/or return on capital employed in the business, which revenue levels should provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation. Such revenue levels should insure retention and attraction of capital in amounts adequate to provide a sound transporation system in the United States. The Commission shall make an adequate and continuing effort to assist such carriers in attaining such revenue levels.".

RATE INCENTIVES FOR CAPITAL INVESTMENT

SEC. 206. Section 15 of the Interstate Commerce Act (49 U.S.C. 15), as amended by section 202 of this Act, is amended by adding at the end thereof the following new paragraph:

"(18) Notwithstanding any other provision of law, a common carrier by railroad subject to this part may file with the Commission a notice of intention to file a schedule stating a new rate, fare, charge, classification, regulation, or practice whenever the implementation of the proposed schedule would require a total capital investment of $1,000,000 or more, individually or collectively, by such carrier, or by a shipper, receiver, or agent thereof, or an interested third party. The filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such filing is based. Any interested person may request the Commission to investigate the schedule proposed to be filed, and upon such request the Commission shall hold a hearing with respect to such schedule. Such hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Unless prior to the 180-day period following the filing of the notice of intention the Commission has determined, after a hearing, that the proposed schedule, or any part thereof, would be unlawful, such carrier may file the schedule at any time thereafter to become effective after 30 days notice. The schedule may not, for a period of 5 years after its effective date, be suspended or set aside as being unlawful under section 1, 2, 3, or 4 of this Act, except that the Commission may order such schedule to be revised to a compensatory level after such date if the rate stated therein is found to be not compensatory.".

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

SEC. 207. Paragraph (1) of section 12 of the Interstate Commerce Act (49 U.S.C. 12 (1)) is amended by inserting "(a)" immediately before "The Commission" and by adding at the end thereof the following new subdivision:

"(b) Whenever the Commission determines, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for hearing, that the application of any provision of this part to any person or class of persons or to any services or transactions by reason of the limited scope of such services or transactions is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall by order exempt such persons or class of persons or services or transactions from such provision to the extent and for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it finds, after notice and reasonable opportunity for hearing, that the subjugation of the exempted person or class of persons or exempted services or transactions to the provisions of this part, to the extent specified in the order, is necessary to effectuate the national transportation policy declared in this Act and to achieve effective regulation by the Commission, and would serve a useful public purpose."

RATE BUREAUS

SEC. 208. (a) Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended in paragraph (1) thereof by striking out "part I, II," and inserting in lieu thereof "part II".

(b) Part I of the Interstate Commerce Act is amended by inserting after section 5a thereof a new section 5b as follows:

"AGREEMENTS BETWEEN CARRIERS SUBJECT TO PART I

"SEC. 5b. (1) As used in this section, the term—

"(a) 'affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person. As used in this subparagraph, the term (i) 'control' has the same meaning as in section 1(3)(b) of this part; and (ii) 'ownership' refers to equity holdings of 5 percent or more in any business entity;

"(b) 'antitrust laws' means the Act of July 2, 1890, as amended (15 U.S.C. 1, et seq.), the Act of October 15, 1914, as amended (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Act of August 27, 1894, as amended (15 U.S.C. 8 and 9), and chapter 592 of the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a); and

"(c) 'carrier' means any common carrier subject to part I of this Act.

"(2) Any carrier which is a party to an agreement, between or among two more carriers, relating to rates, fares, classification, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, shall, under such rules and regulations as the Commission shall prescribe, apply to the Commission for approval of such agreement. The Commission shall, by order, approve any such agreement if approval thereof is not prohibited by paragraph (4), (5), or (6), if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (9) should apply with respect to the making and carrying out of such agreement: otherwise the application shall be denied. No such approval shall be granted or continued (a) if any of the terms and conditions which are prescribed under the last sentence of this paragraph are violated or not complied with, or (b) unless the Commission receives a verified written statement (and, upon request by the Commission, a written supplement or addendum thereto) setting forth, with respect to each carrier which is a party to such agreement (i) its name; (ii) the mailing address and telephone number of its headquarter's office; (iii) the names of each of its affiliates; (iv) the names, addresses, and affiliations of each of its officers and directors and of each person who, together with any affiliate, either owns or controls any debt, equity, or security interest in it having a value of $1,000,000 or more; and (v) such other information as the Commission directs to be included. The approval of the Commission shall be granted only upon such terms and conditions as the Commission shall prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

"(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission. All such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives. The Commission may conduct investigations, make reports, issue subpenas, conduct hearings, require the production of relevant documents, records, and property, copy and verify the correctness of information subject to inspection, and take deposition (a) to determine whether any such conference, bureau, committee, or other organization, or any carrier which is a party to any such agreement, has acted or is acting in compliance with the provisions of this section, regulations issued under this section, and the public interest; (b) to determine whether any such organization or carrier is inhibiting an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation; and (c) for such other purposes as the Commission deems appropriate.

"(4) The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is, by its terms and in practice and effect as implemented, of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes. For purposes of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipeline companies are carriers of one class; carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; and freight forwarders are carriers of one class.

"(5) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction, to which section 5 of this Act is applicable.

"(6) (a) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action, without fear of any sanction or retaliatory action, at any time before or after any determination arrived at through such procedure. In no event shall any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section—

"(i) permit participation in discussions or agreements with respect to, or any voting on, single-line rates, allowances, or charges established by any carrier;

"(ii) permit any carrier to participate in discussions or agreements with respect to, or to vote on, rates, allowances, or charges relating to any particular interline movement, unless such carrier can practicably participate in such movement; or

"(iii) permit, provide for, or establish any procedure for joint consideration or any joint action to protest or otherwise seek the suspension of any rate or classification filed by a carrier of the same mode pursuant to section 15(7) of this part where such rate or classification is established by independent action.

As used in clause (i) of this subdivision, a single-line rate, fare, classification, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

"(b) The limitations set forth in subdivision (a) shall not be applicable (i) to general rate increases or decreases, if the agreements accord the shipping public, under specified procedures, adequate notice of at least 15 days of such proposals and an opportunity to present representations thereon, in writing or otherwise, prior to the filing with the Commission of the tariffs containing such increases or decreases, or (ii) to broad tariff changes where such changes are of general application or substantially general application throughout a territory or territories with which such changes are to be applicable. In any proceeding in which it is alleged that a carrier discussed, voted, or agreed upon a rate, allowance, or change, contrary to the provisions of this section, the party alleging such violation shall have the burden of showing such discussion, vote, or agreement; a showing of parallel behavior is not, by itself, sufficient to satisfy such burden.

"(7) (a) The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in paragraph (2) and with the public interest and whether any such terms and conditions are not necessary or whether any additional or modified such terms and conditions are necessary for purposes of conformity with such standard. After any such investigation the Commission shall by order terminate or modify its approval of such an agrement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

"(b) The Commission shall periodically, but not less than once every 3 years, review each agreement which the Commission has by order approved under this section to determine whether such agreement, or any conference, bureau, committee, or other organization established or continued pursuant to such agreement, still conforms with the standard set forth in paragraph (2) and the public interest and to evaluate the success and effect upon the consuming public and the national rail freight transportation system of such agreement and organization. The Commission shall report to the President and to the Congress on the results of such reviews, as part of its annual report pursuant to section 21. If the Commission makes a determination that any such agreement or organization is no longer in conformity with such standard, the Commission shall by order terminate or suspend immediately its approval thereof.

"(8) No order shall be entered under this section except after interested parties have been afforded a reasonable opportunity for hearing.

"(9) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4), (5), or (6), hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with the provisions and in conformity with the terms and conditions prescribed by the Commission.

"(10) Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying the approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (9).

"(11) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall periodically prepare an assessment of, and shall report to the Commsision on (a) any possible anticompetitive features of (i) any agreement approved or submitted for approval under this section, and (ii) any conferences, bureaus, committees, or other organizations operating under such agreements, and (b) possible ways to eliminate or alleviate any such anticompetitive features, effects, or aspects in a manner that will further the goals of the National Transportation Policy and this Act. The Commission shall make such reports available to the public.

"(12) Any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under this section shall make a final disposition with respect to any rule, rate, or charge docketed with such organization within 120 days after such proposal is docketed.".

FILING PROCEDURES

SEC. 209. Section 6(6) of the Interstate Commerce Act (49 U.S.C. 6(6)) is amended by deleting "shall prescribe; and the" and inserting in lieu thereof the following: "shall prescribe. The Commission shall, beginning 2 years after the date of enactment of this sentence, require (a) that all rates shall be incorporated into the individual tariffs of each carrier or ratemaking association within 2 years after the initial publication of the rate, or within 2 years after a change in any rate is approved by the Commission, whichever is later, and (b) that any rate shall be null and void with respect to any carrier or association which does not so incorporate such rate into its individual tariff: Provided, That the Commission may, upon good cause shown, extend such period of time; a notice of any such extension and a statement of the reasons therefor shall be promptly transmitted to the Congress. The".

INTRASTATE RAILROAD RATE PROCEEDINGS

SEC. 210. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by striking out ": Provided, that" and all that follows through "notwithstanding" in paragraphs (4) thereof, and by adding at the end thereof the following new paragraph:

"(5) The Commission shall have exclusive authority, upon application to it, to determine and prescribe intrastate rates if—

"(a) a carrier has filed with an appropriate administrative or regulatory body of a State a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing such a rate, fare, or charge, for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and

"(b) the State administrative or regulatory body has not, within 120 days after the date of such filing, acted finally on such change. Notice of the application to the Commission shall be served on the appropriate State administrative or regulatory body. Upon the filing of such an application, the Commission shall determine and prescribe the rate thereafter to be charged according to the standard set forth in paragraph (4) of this section. The provisions of this paragraph shall apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.".

DEMURRAGE CHARGES

SEC. 211. (a) Section 1(6) of the Interstate Commerce Act (49 U.S.C. 1(6)) is amended by inserting at the end thereof the following: "Demurrage charges shall be computed, and rules and regulations relating to such charges shall be established, in such a manner as to fulfill the national needs (a) of freight car utilization and distribution, and (b) of maintenance of an adequate freight car supply available for transportation of property.".

CAR COMPENSATION

SEC. 212. (a) Section 1(14)(a) of the Interstate Commerce Act (49 U.S.C. 1(14)(a)) is amended to read as follows:

"(14)(a) It is the intent of the Congress to encourage the purchase, acquisition, and efficient utilization of freight cars. In order to carry out such intent, the Commission may, upon complaint of an interested party or upon its own initiative without complaint, and after notice and an opportunity for a hearing, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including the compensation to be paid for the use of any locomotive, freight car, or other vehicle; the other terms of any contract, agreement, or arrangement for the use of any locomotive or other vehicle (other than a freight car) not owned by the carrier by which it is used (and whether or not owned by another carrier); and the penalties or other sanctions for nonobservance of such rules, regulations, or practices. The Commission shall, at least once every 2 years, determine the rates of compensation tc be paid for the use of each type of freight car owned or controlled by a railroad. In determining such compensation, the Commission shall give consideration to the national level of ownership of each such type of freight car and to other factors affecting the adequacy of the national freight car supply. Such compensation shall be fixed on the basis of elements of ownership expense involved in owning and maintaining each such type of freight car, including a fair return on the cost of such type of freight car (giving due consideration to current costs of capital, repairs, materials, parts, and labor). Such compensation may be increased by any incentive element which will, in the judgment of the Commission, provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. The Commission shall not make any incentive element applicable to any type of freight car if the Commission finds that the supply of such type of freight car is adequate. The Commission may exempt from the compensation to be paid by any group of carriers such incentive element or elements if the Commission finds such exemption to be in the national interest.".

(b) The Commission shall, within 18 months after the date of enactment of this Act, revise its rules, regulations, and practices with respect to car service, in accordance with the amendment made by subsection (a).

TITLE III—REFORM OF THE INTERSTATE COMMERCE COMMISSION

ACCESS TO INFORMATION BY CONGRESSIONAL COMMITTEES

SEC. 301. Section 17 of the Interstate Commerce Act (49 U.S.C. 17), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(14) Whenever the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce of the Senate makes a written request for documents which are in the possession or under the control of the Commission and which relate to any matter involving a common carrier by railroad subject to this part, the Commission shall, within 10 days after the receipt of such request, submit such documents (or copies thereof) to such committee, or submit a report in writing to such committee stating the reason that such documents have not been so submitted, and the anticipated date on which they will be submitted. If the Commission transfers any document in its possession or under its control to any other agency or to any person, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission for purposes of complying with the preceding sentence. This paragraph shall not apply to documents which have been obtained by the Commission from persons subject to regulation by the Commission, and which contain trade secrets or commercial or financial information of a privileged or confidential nature. This paragraph shall not be deemed to restrict any other authority of either House of Congress or any committee or subcommittee thereof to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.".

EFFECTIVE DATE OF ORDERS OF THE COMMISSION

SEC. 302. Section 15(2) of the Interstate Commerce Act (49 U.S.C. 15(2)), is amended by deleting ", not less than thirty days,", and inserting in lieu thereof "as the Commission may prescribe".

COMMISSION HEARING AND APPELLATE PROCEDURE

SEC. 303. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively, and by inserting immediately after paragraph (8) the following new paragraph:

"(9)(a) Whenever the term 'hearing' is used in this part, such term shall be construed to include an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties, such conferences to be chaired by a division, an individual Commissioner, an administrative law judge, an employee board, or any other designated employee of the Commission.".

"(b) Whenever the Commission assigns the initial disposition of any matter before the Commission to an administrative law judge, individual Commissioner, employee board, or division or panel of the Commission, such judge, Commissioner, board, division, or panel shall—

"(i) complete all evidentiary proceedings with respect to such matter within 180 days after its assignment; and

"(ii) with respect to any matter so assigned which involves written submissions or the taking of testimony at a public hearing, submit in writing within 120 days after the completion of all evidentiary proceedings an initial decision, report, or order containing—

"(A) specific findings of fact;

"(B) specific and separate conclusions of law;

"(C) a recommended order; and

"(D) any justification in support of such findings of fact, conclusions of law, or order.

The Commission, or a duly designated division thereof, may, in its discretion, void any requirement for an initial decision, report, or order, and, in appropriate cases, may direct that any matter shall be considered forthwith by the Commission or such division, if it concludes that the matter involves a question of agency policy, a new or novel issue of law, or an issue of general transportation importance, or if the due and timely execution of its functions so requires. Whenever an initial decision, report or order is submitted, copies thereof shall be served upon interested parties. Any such party may file an appeal with the Commission, with respect to such initial decision or report. If no such appeal is filed within 20 days after such service, or within such further period as the Commission or a duly designated division thereof may authorize, the order set forth in such initial decision or report shall become the order of the Commission and shall become effective unless, within such period, the order shall have been stayed or postponed by the Commission or by a duly designated division thereof.

The Commission or a duly designated division thereof may, upon its own initiative, and shall, in any case in which such an appeal is filed, review the matter, upon the same record or upon the basis of a further hearing. Any such appeal shall be considered and acted upon by the Commission or a duly designated division thereof within 180 days after the date on which such appeal is filed. Any such decision, report or order shall be stayed pending the determination of such appeal. Such a review shall be conducted in accordance with section 557 of title 5, United States Code, and such rules (limiting and defining the issues and pleadings upon review) as the Commission may adopt in conformance with section 557(b) of such title 5. With respect to this paragraph, the Commission may, in its discretion, authorize duly designated employee boards to perform, on such terms and conditions as it prescribes, functions of the same character as those which may be performed by a duly designated division of the Commission. If the initial review of any appeal under this paragraph is performed by such an employee board, the decision of such board may be appealed to the Commission or to a duly designated division thereof, in accordance with this paragraph.".

"(c) Any decision, order, or requirement of the Commission, or of a duly designated division thereof shall become effective within 30 days after it is served on the parties thereto, unless the Commission provides for such decision, order, or requirement, or any applicable rule, to become effective at an earlier date. Any interested party to a decision, order, or requirement of a duly designated division of the Commission may petition the Commission for rehearing, reargument, or reconsideration, subject to such rules and limitations as the Commission may establish. If the Commission finds that a matter of general transportation importance is presented, the Commission may reconsider the decision, order, or requirement, and it may, in its discretion, stay the effective date of such decision, order, or requirement.".

If the Commission reviews a decision, order, or requirement of the Commission or a duly designated division, it must complete the review process and issue its final order not more than 120 days after the date it granted the application for review.

(d) The Commission may, in its discretion, extend any time period set forth in sections (5) or (6) for a period of not more than 90 days if a majority of the Commissioners, by public vote, agree to such extension. The Commission shall submit an annual report in writing to each House of the Congress setting forth each extension granted pursuant to this subdivision, classified by the type of proceeding involved, and stating the reasons for each such extension and the duration thereof.

(e) In extraordinary situations in which an extension granted pursuant to subdivision (d) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

"(i) not less than 7 of the Commissioners, by public vote, agree to such further extension; and

"(ii) not less than 15 days prior to expiration of the extension granted pursuant to subdivision (d), the Commission reports in writing to the Congress that such further extension has been granted, together with—

"(A) a full explanation of the reasons for such further extension;

"(B) the anticipated duration of such further extension;

"(C) the issues involved in the matter before the Commission; and

"(D) the names of personnel of the Commission working on such matter.

"(d) The Committee may at any time upon its own motion—

"(i) reopen any proceeding;

"(ii) grant rehearing, reargument, or reconsideration with respect to any decision, order, or requirement; and

"(iii) reverse, modify, or change any decision, order, or requirement.

The Commission may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.

"(f) Any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall be final on the date on which it is served. A civil action to enforce, enjoin, suspend, or set aside such a decision, order, or requirement, in whole or in part, may be brought after such date in a court of the United States pursuant to the provisions of law which are applicable to suits to enforce, enjoin, suspend, or set aside orders of the Commission.".

"(g) Notwithstanding the provisions of paragraphs (5), (6), (7), and (8), the provisions of this paragraph shall govern the disposition of any matter before the Commission which involves a common carrier by railroad subject to this part.

"(h) Reports in writing and other written statements (including, but not limited to, any report, order, decision and order, vote, notice, letter, policy statement, rule, or regulation) of any official action of the Commission (whether such action is taken by the Commission, a division thereof, any other group of Commissioners, a single Commissioner, an employee board, an administrative law judge, or any other individual or group of individuals who are authorized to take any official action on behalf of the Commission) shall indicate the official designation of the individual or group taking such action; the same of each individual taking, or participating in taking, such action; and the vote or position of each such participating individual. If any individual, who is officially designated as a member of a group which takes any such action, does not participate in such action, the written statement of such action shall indicate that such individual did not participate. Each individual who participates in taking any such action shall have the right to express his individual views as part of the written statement of such action. The written statement of any such action shall be made available to the public in accordance with Federal law.".

PUBLIC PARTICIPATION AND REPRESENTATION

SEC. 304. (a) Part I of the Interstate Commerce Act, as amended by this Act, is further amended by inserting after section 23 thereof, a new section 24, as follows:

"OFFICE OF RAIL PUBLIC COUNSEL

"SEC. 24. (a) There shall be established, within 60 days after the date of enactment of this section, a new independent Office affiliated with the Commission to be known as the Office of Rail Public Counsel. The Office of Rail Public Counsel shall function continuously pursuant to this section and other applicable Federal laws.

"(b) The Office of Rail Public Counsel shall be administered by a Director. [The Director, shall be appointed by the Commission.] The Director shall be appointed for a term of 4 years. He shall be responsible for the discharge of the functions and duties of the Office of Public Counsel, unless removed for cause. He shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title.

"(c) The Director is authorized to appoint, fix the compensation, and assign the duties of employees of such Office and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office of Rail Public Counsel with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties. The Director shall submit a monthly report on the activities of the Office of Rail Public Counsel to the Chairman of the Commission, and the Commission, in its annual report to the Congress, shall evaluate and make recommendations with respect to such Office and its activities, accomplishments, and shortcomings.

"(d) In addition to any other duties and responsibilities prescribed by law, the Office of Rail Public Counsel—

"(i) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves a common carrier by railroad subject to this part;

"(ii) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves a common carrier by railroad subject to this part;

"(iii) may seek judicial review of any Commission action on any matter involving a common carrier by railroad subject to this part, to the extent such review is authorized by law for any person and on the same basis;

"(iv) shall solicit, study, evaluate, and present before the Commission, in any proceeding, formal or informal, the views of those communities and users of rail service affected by proceedings initiated by or pending before the Commission, whenever the Director determines, for whatever reason (such as size or location), such community or user of rail service might not otherwise be adequately represented before the Commission in the course of such proceedings; and

"(v) shall evaluate and represent, before the Commission and other Federal agencies whose policies and activities affect rail transportation matters subject to the jurisdiction of the Commission, and shall by other means assist the constructive representation of, the public interest in safe, efficient, reliable and economical rail transportation services.

In the performance of its duties under this paragraph, the Office shall assist the Commission in the development of a public interest record in proceedings before the Commission.

"(e) The budget requests and budget estimates of the Office of Rail Public Counsel shall be submitted concurrently to the Congress and to the President, and the provisions of section 11(e) of this part are applicable to the Office.

"(f) There are authorized to be appropriated to the Office of Rail Public Counsel for the purpose of carrying out the provisions of this section not to exceed $500,000 for the fiscal year ending June 30, 1976, not to exceed $500,000 for the fiscal year transition period ending September 30, 1976, and not to exceed $2,000,000 for the fiscal year ending September 30, 1977.".

(b) Section 13 of the Interstate Commerce Act (49 U.S.C. 13) as amended in this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(a) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a government entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation relating to common carriers by railroads under this Act, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(b) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period established by subdivision (a)), the petitioner may commence a civil action in an appropriate court of appeals of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(c) If such a petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court, that the action requested in such petition to the Commission is necessary and that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with the public interest or in accord with this Act, such court shall order the Commission to initiate such action.

"(d) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act.

"(e) The term 'Commission', as used in this paragraph, includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under this Act relating to common carriers by railroad.".

REFORM OF RULES OF PRACTICE BEFORE THE COMMISSION

Sec. 305. (a) Within 360 days after the date of enactment of this Act, the Commission shall study, develop, and submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives an initial proposal setting forth rules of practice under which the Commission proposes to conduct all adjudicatory and rulemaking proceedings with respect to any matter involving a common carrier by railroad subject to this part. Such rules of practice before the Commission shall be consistent with existing law, shall take into consideration the varying nature of proceedings before the Commission, and shall include—

(1) specific time limits imposed upon the filing and disposition of all complaints, petitions, pleading, motions, appeals, and rulemaking procedures before an administrative law judge, individual Commissioner, review board, division or panel of the Commission, or the full Commission;

(2) specific methods of taking testimony, receiving evidence, hearing cross-examination, and the modification of such procedures so as to facilitate the timely execution of the functions of the Commission;

(3) utilization of additional administrative law judges or the assignment of employees of the Rail Services Planning Office in complex adjudicatory or rulemaking procedures so as to facilitate proper focus and timely resolution of the issues within the required time limits; and

(4) specific remedies in any case of failure to observe required time limits.

(b) Within 210 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit to the Congress and to the Commission its comments on the rules of practice before the Commission proposed pursuant to subsection (a), together with such recommendations as it may deem appropriate.

(c) Within 30 days after receipt of comments submitted by the Administrative Conference of the United States, the Commission shall consider such comments and shall submit to the Congress a final proposal setting forth the rules of practice before the Commission. Such rules of practice shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of the submission of such final proposal, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such final proposal. If no resolution is adopted as provided in the preceding sentence, the Commission shall adopt such proposed rules of practice. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

PROHIBITING DISCRIMINATORY TAX TREATMENT OF TRANSPORTATION PROPERTY

Sec. 306. Part 1 of the Interstate Commerce Act is amended by redesignating section 27 thereof as section 28 thereof and by inserting after section 26 thereof a new section 27, as follows:

"Sec. 27. (1) Notwithstanding the provisions of section 202(b), any action described in this subsection is declared to constitute an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce. It is unlawful for a State, a political subdivision of a State, or a governmental entity or person acting on behalf of such State or subdivision to commit any of the following prohibited acts:

"(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property.

"(b) The levy or collection of any tax on an assessment which is unlawful under paragraph (a).

"(c) The levy or collection of any ad valorem property tax on transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction.

"(d) The imposition of any other tax which results in discriminatory treatment of a common or contract carrier subject to this part I, part II, part III, or part IV of this Act.

"(2) Notwithstanding any provision of section 1341 of title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this section, except that (a) such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this subsection; (b) the provisions of this section shall not become effective until 3 years after the date of enactment of this section; (c) no relief may be granted under this section unless the ratio of assessed value to true market value, with respect to transportation property, exceeds by, at least 5 percent the ratio of assessed value to true market value, with respect to all other commercial and industrial property in the same assessment jurisdiction; (d) the burden of proof with respect to the determination of assessed value and true market value shall be that declared by the applicable State law; and (e) in the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study, conducted in accordance with statistical principles applicable to such studies, to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then the court shall hold unlawful an assessment of such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property, and the collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(3) As used in this section, the term—

"(a) 'transportation property' means transportation property, tax levied by any taxing district;

"(b) 'assessment jurisdiction' means a geographical area, such as a State or a county, city, township, or special purpose district within such State which is a unit for purposes of determining the assessed value of property for ad valorem taxation;

"(c) 'commercial and industrial property' or 'all other commercial and industrial property' means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber, which is devoted to a commercial or industrial use and which is subject to a property tax levy; and

"(d) 'transportation property' means transportation property, as defined in regulations of the Commission, which is owned or used by a common carrier by railroad subject to economic regulation under this part or which is owned by the National Railroad Passenger Corporation.".

UNIFORM COST AND REVENUE ACCOUNTING SYSTEM

SEC. 307. Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall, not later than June 30, 1977, issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all common carriers by railroad subject to this part. Such regulations and procedures shall become effective not later than January 1, 1978. Before promulgating such regulations and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government representatives of carriers, shippers, and their employees, and the general public.

"(b) In order to assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, information required in establishing fair and reasonable rates, and other regulatory areas of responsibility, the Commission shall identify and define the following items as they pertain to each facet of rail operations:

"(i) operating and nonoperating revenue accounts;

"(ii) direct cost accounts for determining fixed and variable costs for materials, labor, and overhead components of operating expenses and the assignment of such costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

"(iii) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of such costs to various functions, services, or activities.

"(c) The accounting system established pursuant to this paragraph shall be in accordance with generally accepted accounting principles uniformly applied to all common carriers by railroad subject to this part, and all reports shall include any disclosure considered appropriate under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. Other provisions of this section notwithstanding, the Commission should, to the extent possible, devise the system of accounts to be cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and to give due consideration to appropriate economic principles. The Commission should attempt, to the extent possible, to require that such data be reported or otherwise disclosed only for essential regulatory purposes, including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

"(d) In order that the accounting system established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such accounting system and revise it as necessary.

"(e) For purposes of carrying out the provisions of this paragraph, the Commission is authorized 2 additional systems accountant positions at GS–14 level and 2 additional systems accountant positions at the GS–13 level of the General Schedule under subchapter III of chapter 53 of title 5, United States Code.

"(f) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed $1,000,000, to be available for—

"(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

SECURITIES

SEC. 308. (a)(1) Paragraph (6) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 77(c)(6)) is amended to read as follows:

"(6) Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any interest in a railroad equipment trust. For purposes of this paragraph 'interest in a railroad equipment trust' means any interest in an equipment trust, lease, conditional sales contract, or other similar arrangement entered into, issued, assumed, guaranteed by, or for the benefit of, a common carrier to finance the acquisition of rolling stock, including motive power. Notwithstanding this paragraph, the provisions of subsection (e) of this section shall not apply to the issuance of securities of the Corporation to the Association as the initial holder of such securities, to the issuance of securities of the Corporation in connection with the conveyance under this Act of rail properties to the Corporation, or any subsidiary or affiliate thereof, or to the distribution of such securities by the Special Court pursuant to Section 303(c)(4) hereof."

(2) The second sentence of section 19(a) of such Act (15 U.S.C. 77s(a)) is amended by striking out "; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20".

(3) Section 214 of the Interstate Commerce Act (49 U.S.C. 314) is amended by striking out "That the exemption" and all that follows through "And provided further,".

(b) Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by striking out ", and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act" and all that follows in such subsection, and inserting in lieu thereof "(except that such rules and regulations of the Commission may be inconsistent with such regulations to the extent that the Commission determines that the public interest or the protection of investors so requires).".

(c) Paragraph (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(7)) is amended to read as follows:

"(7) Any company (A) which is subject to regulation under section 214 of the Interstate Commerce Act, except that this exception shall not apply to a company which the Commission finds and by order declares to be primarily engaged, directly or indirectly, in the business of investing, reinvesting, owning, holding, or trading in securities; or (B) whose entire outstanding stock is owned or controlled by a company excepted under clause (A) hereof, if the assets of the controlled company consist substantially of securities issued by companies which are subject to regulation under section 214 of the Interstate Commerce Act.".

(d)(1) The amendments made by subsection (a) of this section shall take effect on the sixtieth day after the date of enactment of this Act, but shall not apply to any security with respect to which a bona fide offering was made by the issuer or by or through an underwriter before such sixtieth day.

(2) The amendment made by subsection (c) of this section shall not apply to any report by any person with respect to a fiscal year of such person which began before the date of enactment of this Act.

(3) The amendment made by subsection (c) of this section shall take effect on the sixtieth day after the date of enactment of this Act.

RAIL SERVICES PLANNING OFFICE

SEC. 309. (a) Section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended to read as follows:

"RAIL SERVICES PLANNING OFFICE

"SEC. 205. (a) ESTABLISHMENT.—The Rail Service Planning Office is established as an office in the Commission. The Office shall function continuously pursuant to the provisions of this Act, and shall be administered by a director.

"(b) DIRECTOR.—The Director of the Office shall be appointed for a term of 6 years by the Chairman of the Commission with the concurrence of 5 members of the Commission. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

"(c) POWERS.—The Director of the Office is subject to the direction of, and shall report to, such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or (in the case of disagreement) the Chairman of the Commission, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office with any person (including a Government entity). Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

"(d) DUTIES.—In addition to its duties and responsibilities under other provisions of this Act, the Office shall—

"(1) assist the Commission in studying and evaluating proposals for merger, consolidation, control, coordination projects, joint use of tracks or other facilities, and acquisition or sale of assets, as authorized by section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2));

"(2) assist the Commission in developing with respect to economic regulation of transportation, policies which are likely to result in a more competitive, energy-efficient and coordinated transportation system which utilizes each mode of transportation to its maximum advantage to meet the transportation service needs of the Nation.

"(3) assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies, with such criteria to include the following considerations: rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation; the cost to the gross national product in terms of reduced output of goods and services; the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby; and the cost to the environment measured by damage caused by increased pollution;

"(4) conduct an ongoing analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of such analysis, and advise the Commission of the results of such evaluation; and

"(5) within 180 days after the effective date of the final system plan, issue additional regulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code, which contain—

"(A) standards for the computation of subsidies for commuter rail passenger service, as provided in section 304(c)(2)(A), assuring compensation to the Corporation at the level of avoidable cost of providing service, plus a reasonable management fee and an allowance for depreciation of equipment and

"(B) standards for the determination of emergency commuter rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964."

"(e) ADDITIONAL DUTIES.—(1) Within 270 days after the effective date of the final system plan, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall (A) develop an accounting system which will permit the collection and publication, by the Corporation or by profitable railroads providing service over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units, and (B) determine the 'avoidable cost of providing rail freight service', as that phrase is used in section 1a(f)(1)(B) of the Interstate Commerce Act. The Office may, at any time, revise and republish the standards and regulations required by this section to incorporate changes made necessary by this accounting system.

"(2) Upon the request of a State in the region, within 90 days after the date of enactment of the Rail Services Act of 1975, the Office shall prepare and publish an evaluation of the economic viability of any or all light density lines within such State which are not designated for inclusion in the final system plan. Such an evaluation shall include an analysis of the actions which may be necessary to make the operation of rail services over any such line economical. The results of each such evaluation shall be transmitted to the requesting State and published in the Federal Register, not later than 1 year after the date such request is received by the Office."

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

SEC. 310. Section 1(2) of the Interstate Commerce Act (49 U.S.C. 1(12)), is amended by adding at the end thereof: "In applying the provisions of the paragraph, unit-train service and non-unit-train service shall be considered separate and distinct classes of service, and a distinction shall be made between these two classes of service and between the cars used in each class of service; questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any other provision of sections 1, 2, and 3 of this Act (49 U.S.C. 1, 2, and 3), and of sections 1, 2, and 3 of the Elkins Act (49 U.S.C. 41, 42, and 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. As used in this paragraph, the term 'unit-train service', means the movement of a single shipment of coal of not less than 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one day and destined to one consignee, at one plant at one destiation, via one route."

APPROPRIATIONS REQUEST

SEC. 311. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsection:

"(j) Whenever the Interstate Commerce Commission submits any budget estimate or request, other budget information (including manpower needs), legislative recommendations, prepared testimony for congressional hearings, or comments on legislation, to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No office or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by the Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.".

LAW REVISION

SEC. 312. The Commission shall prepare, or shall cause to be prepared in whole or in part by consultants, a proposed modernization and revision of the Act of February 4, 1887 as amended (the Interstate Commerce Act), and a proposed codification of all Acts supplementary to the Interstate Commerce Act, and shall submit the final draft thereof to the Congress within 2 years after the enactment of this Act. This final draft shall include comments on each proposed provision, significant alternative provisions considered but not rceommended, and such other information as may be useful to the Congress. The final draft shall be designed to simplify the present law and to harmonize regulation among the several modes of transportation.

TITLE IV—MERGERS AND CONSOLIDATIONS

RESPONSIBILITIES OF THE SECRETARY

SEC. 401. The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended by inserting after section 4 thereof the following new section 5:

"RAIL SERVICES

"SEC. 5. (a) The Secretary may develop and make available to interested persons feasible plans, proposals, and recommendations for mergers, consolidations, and other unification or coordination projects for rail services (including, but not limited to, arrangements for joint use of tracks or other facilities and any acquisition or sale of assets) which the Secretary believes would result in a rail system which is more efficient, consistent with the public interest.

"(b)(1) In order to achieve a more efficient, economical, and viable rail system in the private sector, the Secretary may, upon the request of any railroad and in accordance with this subsection, assist in planning, negotiating, and effecting a unification or coordination of operations and facilities with respect to two or more railroads.

"(2) As part of such assistance, the Secretary may conduct such studies as are deemed advisable (in addition to the study required under subsection (c) of this section) to determine the potential cost savings and possible improvements in the quality of rail services which are likely to result from such unification or coordination, through the elimination of duplicative or overlapping operations and facilities; the reduction of switching operations; utilization of the shortest, or the most efficient, and economical routes; the exchange of traffic rights; the combining of traffic and of terminal or other facilities; the upgrading of tracks and other facilities used by two or more railroads; reduction of administrative and other expenses, and any other measures likely to reduce costs and improve services. For purposes fo such studies and of the study described in subsection (c) of this section, each railroad shall provide such information as may be requested by the Secretary in connection with the performance of functions under this section. In furtherance of any of the functions or responsibilities of the Secretary under this section, any officer or employee duly designated by the Secretary may obtain, from any railroad, information regarding the nature kind, quality, origin, destination, consignor, consignee, and routing of property, without the consent of the consignor or consignee involved, notwithstanding the provisions of section 15(11) of the Interstate Commerce Act (49 U.S.C. 15(11)) and may, to the extent necessary or appropriate, exercise, with respect to any railroad, any of the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 713(c)), as provided therein, except that subpenas shall be issued under the signature of the Secretary.

"(3) When requested by one or more railroads, the Secretary may also hold conferences with respect to any proposed unification or coordination project. The Secretary may invite officers and directors of all affected railroads; representatives of employees of such railroads who may be affected; the Commission; appropriate State and local government officials, shippers, and consumer representatives; and representatives of the Federal Trade Commission and of the Attorney General to one or more such conferences with respect to such a proposal. The Secretary may mediate any dispute which may arise in connection with any proposed unification or coordination project. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference and as to any agreements reached at such conference which are entered into with the approval of the Secretary, in order to achieve or determine a plan of action to implement any such unification or coordination project.

"(c) The Secretary shall conduct a comprehensive study of the American railway system. Such study shall commence not later than 45, and shall end not more than 360, days after the date of enactment of this section. Such study shall include—

"(1) a showing of the potential cost savings and of possible improvements in service quality which could result from restructuring the railroads in the United States through the means developed under or described in subsection (a) or (b) of this section;

"(2) an identification of the potential economies and improvements in performance which could result from the improvement of local and terminal operations;

"(3) an estimate of the potential net savings in the expense of rehabilitating railroads which are possible through improvement of traffic flows;

"(4) an assessment of the extent to which common or public ownership of fixed facilities could improve the national rail transportation system;

"(5) an assessment of the potential effects of alternative rail corporate structures upon the national rail transportation system;

"(6) a listing, in order of descending priority, of the rail properties which should be improved to the extent necessary to permit high-speed rail passenger or freight service over such properties, in terms of the costs and benefits of such improvements and the reasons therefor; and

"(7) a survey and analysis of the financial and physical condition of the facilities, rolling stock and equipment of the various railroads in the United States.

This study may be used by the Secretary as a basis for developing plans, proposals, or recommendations under subsection (a) of this section and, to the extent appropriate under subsection (b) of this scetion.

"(d) Whenever any railroad submits a proposal for a mergrer or other action the approval of which is subject to the jurisdiction of the Interstate Commerce Commission under section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)), the Secretary may, if he has not already done so, conduct a study of such proposal in order to determine whether or not, in his judgment, such proposal is in accordance with the standards set forth in section 5(2)(c) of such Act (49 U.S.C. 5(2)(c)). Whenever such proposal is the subject of an application and a proceeding before such Commission, the Secretary is authorized to appear before the Commission in any proceeding held with respect to such application.

"(e) As a condition of his approval under this section of any project involving a carrier or carriers by railroad subject to the provisions of part I of the Interstate Commerce Act, the Secretary shall require a fair and equitable arrangement to protect the interests of the railroad employees effected. In its order of approval the Commission shall include terms and conditions providing that during the period of 4 years from the effective date of such order such transaction will not result in employees of the carrier or carriers by railroad affected by such order being in a worse position with respect to their employment, except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period, following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order. Notwithstanding any other provisions of this Act, an agreement pertaining to the protection of the interests of said employees may hereafter be entered into by any carrier or carriers by railroad and the duly authorized representative or representatives of its or their employees. Such fair and equitable arrangements shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subsection and those established pursuant to section 405 of the Rail Passenger Service Act.".

MERGER PROCEDURE

SEC. 402. (a) Section 5(2) of the Interstate Commerce Act (40 U.S.C. 5(2)) is amended by adding at the end thereof the following new subparagraph:

"(g) In all cases arising under this paragraph and involving any carriers by railroad, the Commission shall—

"(i) within 30 days after the date on which an application is filed with the Commission and a certified copy of such application is furnished to the United States Railway Association, publish notice thereof in the Federal Register or, if such application is incomplete, reject the application by order, which order shall be deemed to be final under the provisions of section 17 of this part;

"(ii) provide that written comments on an application, as to which such notice is published, may be filed within 45 days after the publication of such notice in the Federal Register;

"(iii) require that copies of any such comments shall be served upon the Secretary of Transportation, the Chairman of the United States Railway Association, and the Attorney General, each of whom shall be afforded 15 days following the date of receipt thereof to inform the Commission whether he will intervene as a party to the proceeding, and if so, to submit preliminary views on such application;

"(iv) require that all other applications, which are inconsistent, in whole or in part, with such application, and all petitions for inclusion in the transaction, must be filed with the Commission and with the Association, within 90 days of the publication of notice of the application in the Federal Register;

"(v) conclude any evidentiary proceedings within 240 days following the date upon which notice of the application was published in the Federal Register, except that in the case of an application involving the merger or control of two or more class I railroads, as defined by the Commission, the Commission shall conclude any evidentiary proceedings not more than 24 months following the date upon which notice of the application was published in the Federal Register; and

"(vi) issue a final decision within 180 days following the date upon which the evidentiary proceeding is concluded. If the Commission fails to issue a decision which is final within the meaning of section 17 of this part within such 180-day period, it shall notify the Congress in writing of such failure and the reasons therefor. If the Commission determines that the due and timely execution of its functions under this paragraph so requires or that an application brought under this paragraph is of major transportation importance, it may order that the case be referred directly without an initial decision by a division, individual Commissioner, board, or administrative law judge to the full Commission for a decision which is final within the meaning of section 17 of this part.".

(b) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through 16) thereof as paragraphs (4) through (17) thereof, respectively, and by inserting immediately after paragraph (2) thereof the following new paragraph:

"(3) Any modification of any transaction governed by paragraph (2) of this section, which involves a carrier by railroad may be proposed by the Secretary of Transportation, who shall have standing to appear before the Commission in support of such proposed modifications.".

EXPEDITED RAILROAD MERGER PROCEDURE

SEC. 403. Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) as paragraphs (4) through (17), respectively, and by inserting immediately after paragraph (2) the following new paragraph:

"(3)(a) In any merger, consolidation, coordination project, joint use of tracks or other facilities, or acquistion, or sale of assets which involves any common carrier by railroad subject to this part is proposed by the Secretary or by a common carrier by railroad subject to this part during the period beginning January 1, 1976, and ending December 31, 1981, the party seeking authority may utilize the procedure set forth in this paragraph or paragraph (2).

"(b) Any transaction referred to in subdivision (a) may be proposed by—

"(i) the Secretary, with the consent of the common carriers by railroad subject to this part which are parties to the proposed transaction; or

"(ii) any common carrier by railroad subject to this part, but only if such carrier first submits such proposed transaction to the Secretary, for evaluation pursuant to subdivision (f), not less than 6 months prior to proposing such transaction pursuant to this paragraph.

"(c) Whenever a transaction is proposed under subdivision (a) utilizing the procedure set forth in this paragraph, the proposing party shall submit an application to the Commission with respect to such proposed transaction. Within 10 days after the receipt of such application, the Commission shall notify—

"(i) the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(ii) the Attorney General;

"(iii) the Secretary of Labor; and

"(iv) the Secretary (with respect to any such application not submitted by the Secretary).

The Commission shall accompany its notice to the Secretary with a request for the report of the Secretary pursuant to subdivision (f)(v).

"(d) The Commission shall hold a public hearing on each application submitted pursuant to subdivision (c) within 90 days after the receipt of such application. Such public hearing shall be held before a panel of the Commission, and such panel may utilize administrative law judges of the Rail Services Planning Office in such manner as such panel considers appropriate for the timely and effective resolution of the issues. The panel shall, in a manner it considers necessary for the expedition of the hearing, complete such hearing within 180 days after the commencement of such hearing, and render an initial decision and certify the record to the entire Commission for a final decision within 90 days after the termination of such hearing. The entire Commission shall allow oral argument on the matter so certified and shall render a final decision within 120 days after the receipt of the certified record and initial decision of the panel. The Commission may, in its discretion, extend any time period set forth in this subdivision, execpt that the aggregate of all such time periods shall in no case exceed 2 years.

"(e) In making its initial decision with respect to any transaction proposed under this paragraph, the panel of the Commission shall—

"(i) request the views of the Secretary with respect to the effect of such proposed transaction on the National Transportation Policy;

"(ii) request the views of the Attorney General with respect to the competitive or anticompetitive effects of such proposed transaction; and

"(iii) request the views of the Secretary of Labor with respect to the effect of such proposed transaction on railroad employees, particularly as to whether such proposal contains adequate employee protection provisions.

"(f) Whenever a proposed transaction is submitted to the Secretary by a common carrier by railroad pursuant to subdivision (b)(ii), and whenever the Secretary develops a proposed transaction for submission to the Commission pursuant to subdivision (c), the Secretary shall—

"(i) publish the contents of such proposed transaction in the Federal Register in order to provide reasonable notice to interested parties of such proposed transaction;

"(ii) give notice to the Attorney General and to the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(iii) conduct an informal public hearing with respect to such proposed transaction and provide an opportunity for all interested parties to submit written comments;

"(iv) study each such proposed transaction with respect to—

"(A) the needs of rail transportation in the geographical area affected;

"(B) the effect on the retention and promotion of competition in the provision of rail and other transportation services in the geographical area affected;

"(C) the environmental impact of such proposed transaction and of alternative choices of action;

"(D) the effect on employment and the communities in the geographical areas affected;

"(E) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

"(F) the rationalization of the rail system;

"(G) the impact on shippers, consumers, and railroad employees;

"(H) the effect on the geographical areas contiguous to the geographical areas affected by such proposed transaction; and

"(I) whether such proposed transaction will improve rail service; and

"(v) submit a report to the Commission setting forth the results of each study conducted pursuant to clause (iv). Such report shall be submitted to the Commission within 10 days after an application is submitted, pursuant to subdivision (c), with respect to the proposed transaction which is the subject of such study. The Commission shall give due weight and consideration to such report in making its determinations under this paragraph.

"(g) The Commission may—

"(i) approve a transaction proposed under this paragraph if the Commission determines that such proposed transaction is in the public interest; and

"(ii) modify any such proposed transaction, with the consent of the common carriers by railroad involved, if the Commission determines such modification is in the public interest.

"(h) As used in this paragraph, the term 'Secretary' means the Secretary of Transportation.".

(c) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended—

(1) in paragraph (2)(a) thereof, by inserting "or paragraph (3)" immediately after "subdivision (b)";

(2) in paragraph (2)(f) thereof, by inserting immediately after "(2)" the following: "or paragraph (3)";

(3) in paragraph (5) thereof, as redesignated by this Act, by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)", and by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(4) in paragraph (8) thereof, as redesignated by this Act, by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)", and by striking out "(12)" and inserting in lieu thereof "(13)";

(5) in paragraph (10) thereof, as redesignated by this Act, by striking out "(7)" and inserting in lieu thereof "(8)";

(6) in paragraph (14) thereof, as redesignated by this Act, by striking out "(12)" and inserting in lieu thereof "(13)";

(7) in paragraph (16), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)"; and

(8) in paragraph (17), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

DEFINITIONS

SEC. 501. As used in this title, the term—

(1) "applicant" means any railroad, or other person, including a governmental entity, which submits an application to the Secretary for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation;

(2) "equipment" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Secretary may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act.

(3) "facilities" means all—

(A) track, roadbed, and related structures, including but not limited to, rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, and office buildings used for operating purposes only, repair shops, enginehouses, and construction of public improvements;

(B) communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(C) signals, including signals and interlockers;

(D) terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of rolling stock by water; or

(E) shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of rolling stock;

(4) "Fund" means the Railroad Rehabilitation and Improvement Fund;

(5) "holder" means the obligee or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee or creditor, the term refers to such bank or trust company;

(6) "obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement; and

(7) "obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Secretary.

THE RAIL FUND

SEC. 502. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States the Railroad Rehabilitation and Improvement Fund. The Fund shall be administered by the Secretary, without the requirement of annual authorizations, in order (1) to secure the payment, when due, of the principal of, any redemption premium on, and any interest on, all fund anticipation notes and fund bonds, by a first pledge of and a lien on all revenues payable to and assets held in the Fund; and (2) to carry out the purposes, functions, and powers authorized in this title.

(b) PURPOSE.—The purpose of the Fund is to provide capital which is necessary to—

(1) enable the Association to furnish financial assistance to the Corporation, at such times and in such amounts as it requires or requests, in accordance with section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), as amended; and

(2) furnish financial assistance to other railroads, to the extent of appropriated funds, for working capital, facilities, rehabilitation and improvements, and such other financing as the Secretary approves, in accordance with this title.

(c) GENERAL POWERS.—In order to achieve the objectives and to carry out the purposes of this title, the Secretary may—

(1) issue and sell securities, including fund anticipation notes and fund bonds, as provided for in sections 507 and 508 of this title;

(2) make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary or appropriate to carry out the purposes or provisions of this title;

(3) prescribe and impose fees and charges for services by the Secretary, pursuant to this title;

(4) settle, adjust, and compromise, and, with or without consideration or benefit to the Fund, release or waive, in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Secretary or the Fund;

(5) sue and be sued, complain, and defend, in any State, Federal, or other court;

(6) acquire, take, hold, and own, deal with, and dispose of, any property, including carrier redeemable preferenec shares, as provided for in section 505(d) of this title;

(7) determine, in accordance with congressional appropriations, the amounts to be withdrawn from the Fund and the manner in which such withdrawal shall be effected; and

(8) appoint, employ, fix, and provide for the compensation and benefits of such employees, attorneys, and agent as are necessary or appropriate in furtherance of the Secretary's direction and control of the Fund, without regard to any other law, except as may hereafter be provided by any Federal law which expressly limits any authority under this subsection.

(d) ASSISTANCE FROM OTHER AGENCIES.—The Secretary, with the consent of any department, establishment, or corporate or other instrumentality of the Federal Government, may utilize and act through any such department, establishment, or instrumentality. The Secretary may, with such consent, utilize the information, services, facilities, and personnel of any such department, establishment, or instrumentality, on a reimbursable basis. Each such department, establishment, and instrumentality is authorized to furnish any such assistance to the Secretary upon written request from the Secretary.

(e) JURISDICTION.—Whenever the Secretary or the Fund is a party to any civil action under this title, such action shall be deemed to arise under the laws of the United States. Except as otherwise provided in section 209 of the Regional Rail Reorganization Act of 1973, the district courts of the United States shall have original and removal jurisdiction of any action in which the Secretary or the Fund is a party, without regard to the amount in controversy. No attachment or execution may be issued against the Secretary, the Fund, or any property thereof prior to the entry of final judgment to such effect in any State, Federal, or other court.

(f) CONTENTS OF FUND.—There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

(1) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale by the Secretary to the Secretary of the Treasury of fund anticipation notes, as provided in sections 507 and 508 of this title;

(2) funds as may be hereafter appropriated to the Fund by Act of Congress, following the submission to the Congress of the Secretary's report, under section 504 of this title, with respect to the perceived needs of the rail industry for facilities rehabilitation and improvement, projected cash shortfalls within the rail industry, and the scope and sources of long-term public sector funding for the Fund;

(3) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale of fund

bonds, as provided in section 508 of this title;

(4) debentures and series A preferred stock issued by the Corporation and purchased by the Association on behalf of the Fund together with all funds received by the Fund, representing interest, dividends and redemption payments, if any, with respect to such securities;

(5) carrier redeemable preference shares purchased by the Secretary on behalf of the Fund and funds received by the Fund representing dividends and redemption payments on such shares, as provided in sections 505(d) and 506 (a) and (b) of this title;

(6) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments; and

(7) any other receipts of the Fund.

(g) EXCESS FUNDS INVESTMENT.—If the Secretary determines that the amount of money in the Fund exceeds the amount required for current needs, the Secretary may, subject to sections 508 (g) and (h) of this title, direct the Secretary of the Treasury to invest such amounts as the Secretary deems advisable, for such periods as the Secretary directs, in obligations of, or obligations guaranteed by, the Government of the United States, or in such other governmental or agency obligations or other securities of the United States as the Secretary of the Treasury deems appropriate.

(h) DEPOSITARY.—The Secretary may deposit moneys of the Fund with any Federal Reserve bank, any depositary for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(i) USES.—Moneys in the Fund shall be utilized (1) to provide capital to the Secretary for the purpose of providing financial assistance to the Corporation at such times and in such amounts as may be required and requested by the Corporation, in accordance with section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), as amended by this Act, (2) to provide financial assistance to railroads other than the Corporation for working capital, facilities rehabilitation and improvement projects, and for such other financial needs as may be approved by the Secretary pursuant to section 505 of this title, (3) to effect the payment, when due, of the principal of, and interest, if any, on, fund anticipation notes and fund bonds issued by the Secretary pursuant to sections 507 and 508 of this title, (4) to make payment of all expenses incurred by the Secretary in carrying out his functions under this title, (5) to redeem, as contemplated by section 507(c) and section 508(g) of this title, fund anticipation notes and fund bonds, and (6) to make transfers to the general funds of the United States.

(j) EXEMPTION FROM APPORTIONMENT.—Neither the Fund, nor any of the funds credited to it, shall be subject to apportionment under the provisions of section 7 of the Act of July 12, 1870 (31 U.S.C. 665).

CLASSIFICATION AND DESIGNATION OF RAIL LINES

SEC. 503. (a) TRAFFIC DENSITY ANALYSIS.—Within 180 days after the date of enactment of this Act, each railroad shall analyze its rail system and submit to the Secretary a full and complete analysis of such system. Each such analysis shall indicate the traffic density for the preceding 5 calendar years on each of the main and branch rail lines of the railroad submitting such analysis. The requirements of the preceding sentence shall not apply to (1) the Corporation; or (2) any railroad in reorganization in the region, as defined in the Regional Rail Reorganization Act of 1973, which has elected, pursuant to section 207(b) of such Act, to be reorganized pursuant to the provisions of such Act.

(b) PRELIMINARY STANDARDS AND DESIGNATIONS.—Within 270 days after the date of enactment of this Act, the Secretary shall develop and publish—

(1) the preliminary standards for classifying both main and branch rail lines according to the degree to which they are essential to the rail transportation system, in at least three categories. Such classification shall be based on the level of usage measured in gross-ton-miles, the contribution to the economic viability of the railroad which controls such lines, and the contribution of such lines to the probable economic viability of any other railroads which participate in the traffic originating on such lines; and

(2) the preliminary designations with respect to each main and branch rail line, in accordance with such classifications.

In determining "level of usage" and "probable economic viability", for purposes of such classification, the Secretary shall take into account operational service and other appropriate factors, and he may make reasonable allowance for differences in operation among individual railroads or groups of railroads.

(c) PUBLIC HEARINGS.—Commencing 30 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall hold public hearings (in the District of Columbia and in other parts of the country) on the preliminary standards for classification and on the preliminary designations. The Office shall give notice of the date, time, and place of each such hearing, and such notices shall be designed and placed in such manner that all interested parties will have a full and fair opportunity to be heard.

(d) REPORT BY OFFICE.—Within 120 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall release and report to the Secretary its conclusions and recommendations with respect to such preliminary standards for classification and such preliminary designations. This report shall be based on the record which was developed by the Office during the hearings under subsection (c) of this section, as supplemented by such studies as may be undertaken by the Office.

(e) FINAL STANDARDS AND DESIGNATIONS.—Within 60 days after the date of receipt of the report required under subsection (d) of this section, the Secretary shall, after giving due consideration thereto, and with the cooperation and assistance of the Office, prepare and publish—

(1) the final standards for classification of main and branch rail lines; and

(2) the final designations with respect to each main and branch rail line, in accordance with these classifications. The Secretary shall include findings in support of any material change which is made in a designation from the preliminary designation under subsection (b) of this section.

CAPITAL NEEDS STUDY

SEC. 504. (a) DEFERRED MAINTENANCE SCHEDULE.—Within 180 days after the date of enactment of this Act, each railroad shall prepare and submit to the Secretary a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures, as of December 31, 1975; and (2) of the projected amounts of desired maintenance to be performed and capital expenditures to be made for such railroad's facilities, during each of the years from 1976 through 1985. Each railroad shall submit such additional information as may be required from it by the Secretary in connection with his duties under section 503 and this section prior to July 1, 1977, including the projected sources of and uses for the funds required by such railroad for such projected program.

(b) PRELIMINARY FINANCING RECOMMENDATIONS.—Within 360 days after the date of enactment of this Act, the Secretary shall, after giving due consideration to (1) the final designations under section 503(e) of this title, (2) the information furnished under subsection (a) of this section, and (3) any other relevant information, develop, publish, and transmit—

(A) to the Congress, his preliminary recommendation as to the amount of carrier equity financing to be effected through the Fund or through any other funding mechanism recommended by the Secretary, based upon his view of the rail industry's facilities rehabilitation and improvement needs, as projected through December 31, 1985; and

(B) to the Secretary of the Treasury, his preliminary recommendation as to the means (consistent with his recommendations under section 301 of this Act) by which the Federal share, if any, or such equity financing should be provided. The Secretary shall specifically consider the public benefits and costs which would result from public ownership of railroad rights-of-way.

(c) EVALUATION.—Within 90 days after the date of publication of the Secretary's preliminary recommendations under subsection (b) of this section, the Secretary of the Treasury shall publish and transmit to the Secretary and to the Congress his evaluation thereof and any recommendations with respect to the matters referred to in clause (B) of subsection (b).

(d) FINAL RECOMMENDATIONS.—Within 90 days after the date of receipt of the evaluation transmitted under subsection (c) of this section, the Secretary shall, after giving due consideration to such recommendations, prepare and transmit to the Congress his final recommendations with respect to the matters referred to in subsection (b) of this section.

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 505. (a) ELIGIBILITY.—Following the date of enactment of this Act, any railroad, other than the Corporation, may apply to the Secretary, in accordance with regulations promulgated by the Secretary, for financial assistance for working capital and such other financial needs as may be approved by the Secretary. Following the final classification and designation of rail lines under section 503(e) of this title, any such railroad may apply to the Secretary, in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement.

(b) APPLICATION AND DETERMINATION.—Each application for facilities rehabilitation and improvement financing shall be set forth—

(1) a description of such carrier's proposed facilities rehabilitation and improvement program and of the current physical condition of such facilities;

(2) the essentiality classification of each main and branch rail line included in such program as determined in accordance with the final standards and designation under section 503(e) of this title;

(3) the track standards to which each such line is then being operated and the reasons therefor and the safety standards and signal requirements necessary to prevent loss of life and serious accident or injury at grade crossings;

(4) the track standards necessary, in the judgment of the applicant railroad, to provide reliable and competitive freight service (and passenger service, where applicable) over such line, together with such railroad's recommendations as to the most economical method of improving the physical condition of such line to meet the desired track standard and the cost of providing adequate safety standards and signals together with an economic analysis of the cost of such improvements in safety standards and signals;

(5) Such railroad's estimated cost of labor and materials and completion time, and its opinion as to the priority to be accorded such portions of the proposed project as are reasonably divisible; and

(6) such other information as the Secre-

tary shall by regulation require to assist him in evaluating such application in accordance with this section.

Applications for financial assistance, other than for facilities rehabilitation and improvement, shall contain such information as the Secretary shall by regulation require. The Secretary shall act upon each application for any financial assistance within 6 months after the date on which it is received. The Secretary may approve any such application if he determines that providing the requested financial assistance is in the public interest. When making such a determination, the Secretary shall consider (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed; (B) the interest of the public in supplementing such other available funds, if any, in order to increase the total amount of funds available for railroad financing; and (C) the public benefits to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify public costs. The Secretary, in the granting of financial assistance to any applicant, shall assign the highest priority to applications for assistance for providing safety improvements and signals including underpasses or overpasses at railroad crossings wherein injury or loss of life has frequently occurred or is likely to occur.

(c) FINANCING AGREEMENT.—Upon the approval of an application for financial assistance, the Secretary shall promptly enter into an agreement with such applicant railroad to provide financing in such amounts and at such times as is sufficient, in the judgment of the Secretary, to meet the reasonable cost, in whole or in part, of such railroad's financing program as is approved, in whole or in part. Each such agreement shall include such terms and conditions as are necessary or appropriate, in the judgment of the Secretary, to assure that the financing will be used only in the manner, and for the purposes, approved by the Secretary.

(d) RAILROADS OTHER THAN THE CORPORATION.—(1) In the case of a railroad other than the Corporation, financing shall be in the form of purchase, by the Secretary, at par, of redeemable preference shares of a railroad's stock. Such shares shall be specifically issued, in accordance with the terms and conditions set forth in section 506 of this title, for this purpose.

(2) The total par value of the redeemable preference shares which the Secretary may purchase, from the proceeds received by it from the issuance and sale of fund anticipation notes, shall not exceed $600,000,000.

(e) FUTURE PURCHASES OF REDEEMABLE PREFERENCE SHARES.—The total par value of the redeemable preference shares which the Secretary may purchase under this Act after December 31, 1977, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 504 of this title, except that, (1) the amount of the Secretary's investment in redeemable preference shares in any fiscal year (out of proceeds other than those derived through the issuance and sale of trust fund anticipation notes) shall not, when added to the amount of his prior investment in such shares, exceed 200 percent of the aggregate principal amount of the trust fund bonds which (A) have been issued by the Secretary prior to such fiscal year, and (B) are projected to be issued by the Secretary through the end of such fiscal year; and (2) neither redemptions of trust fund bonds nor their payment at scheduled maturity shall have any bearing on the limitation in paragraph (1).

REDEEMABLE PREFERENCE SHARES

SEC. 506. (a) CHARACTERISTICS.—The redeemable preference shares acquired by the Secretary pursuant to section 505(d) of this title are securities which are issued by a railroad other than the Corporation for the purpose of obtaining financing under this title. Each such redeemable preference share—

(1) shall be nonvoting and shall have a par value of $10,000;

(2) shall be senior in right to all common stock of the issuing railroad, whenever issued, and to any subsequently issued preferred stock, with respect to dividend and redemption payments and in case of liquidation or dissolution of such railroad, but shall be subordinate in such matters to any of such railroad's previously issued and outstanding shares which rank ahead of its common stock and shall be subordinate to all securities received in exchange as a part of a court approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205) for previously incurred senior debt or previously issued and outstanding shares which ranked ahead of its common stock; except that, redeemable preference shares issued in exchange for the debentures and series A preferred stock of the Corporation, in accordance with section 507 (d) of this title, shall have priority, in case of liquidation or dissolution over the series B preferred stock of the Corporation, with respect to dividends, if any, and redemption payments;

(3) shall accrue dividends commencing on the tenth anniversary date of the date of its original issuance. After such 10-year period, such shares shall bear dividends at such rate as shall be fixed by the Secretary for each issuance prior to the issuance thereof and which, when added to the amount of the mandatory redemption payments under subparagraph (4) of this paragraph, shall return to the Fund not less than 150 percent of the aggregate par value thereof, over the scheduled life of the issue and in annual payments which shall be as nearly equal as practicable; and

(4) shall be subject to mandatory redemption, at par, commencing not earlier than the 6th and not later than the 11th as determined by the Secretary for each issuance anniversary date of the date of its original issuance, in annual amounts which shall, over the period ending, as determined by the Secretary for each issuance, not later than the thirtieth anniversary date of the date of its original issuance, aggregate the total par value of such share.

(b) DEPOSIT.—All redeemable preference shares which are acquired by the Secretary, pursuant to section 505(d) of this title shall, upon such acquisition, be deposited in the Fund.

(c) WHEN PAYMENTS IN ARREARS.—Whenever the dividend or redemption payments on redeemable preference shares, which are issued by any railroad, are in arrears for a period of 4 months, the Secretary shall be entitled to appoint two members to the Board of Directors of such railroad. The term of office of such directors shall not extend beyond the period during which such dividend or redemption payments are in arrears.

FUND ANTICIPATION NOTES

SEC. 507. (a) IN GENERAL.—The Secretary shall, until December 31, 1977, issue and sell and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase fund anticipation notes, in an aggregate principal amount of not more than $600,000,000, in order to provide financial assistance to other railroads for such financing needs as the Secretary approves.

(b) TERMS OF ISSUE.—Fund anticipation notes shall be issued in denominations of $100,000 (or any integral multiple thereof), upon such terms and conditions, with such maturities, such rates of interest, if any, and such redemption premiums, if any, as the Secretary in his sole discretion may determine. The date of maturity of each fund anticipation note may not exceed 7 years from the date of its issuance.

(c) REDEMPTION.—If the Congress, following its receipt of the recommendations of the Secretary, pursuant to section 504(d) of this title, with respect to the amount of facilities rehabilitation and improvement financing which should be effected through the Fund and the method of long-term public sector funding therefor, and, in such context, authorizes the issuance of fund bonds, the Secretary shall redeem the fund anticipation notes then outstanding, in such manner, and over such period of time, as the Secretary shall determine, from the proceeds of the sale of such fund bonds and from such other public sector moneys as have been appropriated to the Fund: *Provided*, That the amount of fund anticipation notes so redeemed shall be reduced by an amount equal to the sum of the aggregate principal amount of debentures of the Corporation and the aggregate par value of the series A preferred stock of the Corporation which have not been exchanged for redeemable preference shares, pursuant to subsection (d) of this section.

(d) REMITTANCE AND TERMINATION.—If the Congress does not, on or before January 1, 1978, enact legislation of the type contemplated by subsection (c) of this section, the Secretary shall hold in trust all redeemable preference shares issued by railroads which are held in the Fund, and the Fund shall thereupon terminate.

FUND BONDS

SEC. 508. (a) ISSUANCE.—The Secretary may, following enactment of the legislation contemplated by section 504 of this title, issue fund bonds in denominations of $100,000 (or any integral multiple thereof), in such total amounts as may be authorized by the Congress. No fund bonds—

(1) shall be issued which mature in less than 8, or more than 15, years from the date of original issuance thereof;

(2) shall be issued later than the tenth anniversary of the date of publication of the final standards and designations under section 503(e) of this title; and

(3) shall be subject to redemption (at the option of the Secretary) (A) at any time prior to the tenth anniversary of the date of original issuance thereof, and (B) at any time thereafter, except as contemplated by subsections (d)(5) and (g) of this subsection.

(b) PLEDGE AND LIEN.—The Secretary, subject to sections 502 and 508(g) of this title, shall impose a first pledge of, and a first lien on, all revenues payable to, and assets held in, the Fund, and appropriated for the use of the Secretary pursuant to this title. The Secretary may impose such a pledge of and lien on all other revenues or property of the Fund. The purpose of any such pledge and lien shall be to secure the payment, when due, of the principal of, any redemption premiums on, and any interest on, all fund anticipation notes and fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Secretary deems necessary or desirable. Any pledge made by the Secretary shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, against the Secretary or the Fund, without regard to whether such parties have notice thereof.

No instrument by which a pledge is created need be recorded or filed to protect such pledge.

(c) Enhancement of Marketability.—The Secretary may enter into binding covenants with the holders of fund bonds, and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to (1) the establishment of reserves, and other funds; (2) stipulations concerning the subsequent issuance of obligations; and (3) such other matters as the Secretary deems necessary or desirable to enhance the marketability of fund bonds.

(d) Specific Determination.—Subject to subsection (a) of this section, the Secretary may determine, with respect to fund bonds—

(1) the form and denominations in which they shall be issued;

(2) the time when they shall be sold, and in what amounts;

(3) the time when they shall mature;

(4) the price thereof at sale;

(5) the rate of interest thereon;

(6) whether, and in what manner, they may be redeemed prior to the date when they mature; and

(7) whether they shall be negotiable or nonnegotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) Characteristics.—Fund bonds issued by the Secretary under this section shall—

(1) contain a recital that they are issued under this section. Such a recital shall be conclusive evidence of the validity, and of the regularity of issuance and sale of such fund bonds;

(2) be subject to such other terms and conditions as the Secretary may, by the resolution authorizing their issuance, determine;

(3) be lawful investments and may be accepted as security for all fiduciary, trust; and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States. The Secretary of the Treasury or any other officer or agency having authority over, or control of, any such fiduciary, trust, or public funds may at any time sell any of the obligations of the Corporation acquired under this section;

(4) not be exempted from Federal, State, and local taxation; and

(5) not be debts or enforceable general obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States. Neither the full faith and credit, nor the general taxing power, of the Federal Government shall be pledged to the payment of the principal of, any premium on, or interest on, such fund bonds.

(f) No Personal Liability.—Neither the Secretary, nor any other individual, who executes any fund anticipation notes or fund bonds, shall be subject to any personal liability or accountability by reason of the issuance of any such notes or bonds.

(g) Redemption and Transfer.—If, from and after the tenth anniversary date of the original issuance of the initial series of fund bonds, the amount in the Fund, exclusive of the value of any redeemable preference shares held by the Fund, exceeds 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of fund bonds, the Secretary may use such excess to redeem fund bonds in accordance with their terms or may withdraw all or part of such excess from the Fund and transfer it to the general fund of the United States. When all fund bonds have been redeemed, all amounts remaining in the Fund or thereafter accruing to it shall be transferred to the general fund of the United States, except to the extent necessary to cover such expenses of the Secretary or the Fund as may be required to carry on and complete their remaining responsibilities.

(h) Purchase by Secretary.—The Secretary, subject to such agreements with holders of fund bonds as may then eixst, shall have the power (out of any funds available) to purchase fund anticipation notes or fund bonds. Upon any purchase, such notes and bonds shall be canceled.

AUTHORIZATIONS

Sec. 509. There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed $600,000,000, and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to January 1, 1978, from the Secretary, out of such moneys in the Treasury as are appropriated under the authorization of this sentence, fund anticipation notes in such aggregate principal amounts, subject to the aforesaid limitation, as the Secretary may so offer for sale. There is authorized to be appropriated to the Fund or, upon termination of the Fund, to the Secretary, such additional sums as may be required to permit the Secretary to carry out his obligations under this title, for the fiscal year ending June 30, 1976, and the transitional quarter ending September 30, 1976, not to exceed $1,000,000; and for the fiscal year ending September 30, 1977, not to exceed $1,000,000. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after January 1, 1978, without prior approval thereto in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 401(d) of the Congressional Budget and Impoundment Control Act of 1974.

EXEMPTION

Sec. 510. Neither the provisions of section 20a of the Interstate Commerce Act, as amended (49 U.S.C. 20a), nor the registration and prospectus delivery requirements of the Securities Act of 1933, as amended, shall be applicable to the issuance and sale of redeemable preference shares by railroads, to the extent authorized, as provided by this title.

GUARANTEE OF OBLIGATIONS

Sec. 511. (a) In General.—The Secretary may, in accordance with the provisions of this section, guarantee and make commitments to guarantee the payment of interest on and the principal balance of an obligation prior to, on, or after the date of execution or the date of disbursement of such obligation the proceeds of which shall be or have been used to acquire or rehabilitate and improve facilities or equipment. Each guarantee of an obligation shall be made in accordance with the provisions of sections 511 through 513 of this title and such rules as the Secretary may prescribe to protect reasonably the interests of the United States. Each application for the guarantee of an obligation or for a commitment to guarantee an obligation shall be made in writing to the Secretary in such form and with such content as the Secretary prescribes. Such application shall be granted if the Secretary determines that the proposed, negotiated, or executed obligation is eligible for such guarantee. Each such guarantee or commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate, consistent with the purposes of this title. Such a guarantee or commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment to guarantee applies. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the equipment or facilities, exceeds the actual loss of such holder.

(b) Fund.—An obligation guarantee fund shall be established and administered by the Secretary as a revolving fund to carry out the provisions of sections 511 through 513 of this title. Moneys in the obligation guarantee fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) Valuation.—Before granting any application for a guarantee or a commitment to guarantee any obligation, the Secretary shall make a determination of the value of the facilities or equipment which are or will be financed or refinanced by such obligation. Such determination of values shall be conclusive and not subject to review in any court.

(d) Modifications.—The Secretary may approve any modification of any provision of a guarantee, or of a commitment to guarantee an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, if the Secretary makes a finding in writing that such modification is equitable and not prejudiced to the interests of the United States under this title, and that the holder of such obligation consents to such modification.

(e) Maximum Obligational Authority.—The aggregate unpaid principal amounts of obligations, including interest thereon, which may be guaranteed by the Secretary under this title shall not exceed $800,000,000 at any one time.

(f) Rate of Interest.—The rate of interest (exclusive of premium charges for a guarantee and service fees) which shall be paid on the unpaid principal balance of each obligation guaranteed by the Secretary, shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market.

(g) Notice.—Upon receipt of an application for the guarantee of an obligation, the Secretary shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a procedeing to commence after reasonable notice. Notice of such proceedings shall be published in the Federal Register. Such notice shall include (1) a statement of the time, place, and nature of the proceeding; and (2) a description of the subjects and issues involved.

(h) Prerequisites for Guarantees.—No obligation shall be guaranteed and no commitment shall be made to guarantee any obligation under this section, unless and until the Secretary makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured by the particular equipment which is to be financed or refinanced by such obligation;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refinancing is justified by the present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, or improved with the obligation will be economically and efficiently utilized;

(5) the probable value of any equipment to be improved, rehabilitated, or acquired, and of any facilities to be acquired, is sufficient to provide the United States with rea-

sonable security and protection in the event of default by the obligor in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Secretary; and

(6) the transaction will result in an improvement in the ability of any affected railroad to transport passengers or freight.

(i) GENERAL OBLIGATION.—The recipients of any guarantees of, or of any commitments to guarantee, an obligation under this section, shall, consistent with their capital resources, maintain their facilities, on a continuing basis, in accordance with standards promulgated under this subsection. The Secretary shall assure compliance with this obligation by regular periodic inspection.

(j) CONDITIONS OF GUARANTEES.—No guarantee of, and no commitment to guarantee, an obligation may be granted, approved, or extended under this section, unless the obligor first agrees in writing that so long as any interest or principal is due and payable on such obligation—

(A) there will be no increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the 5 years preceding such proposed increase, without prior approval of such increase by the Secretary. Such approval may only be granted after a public hearing with an opportunity for interested persons to submit comments and a written finding by the Secretary that such increase in dividends will not materially affect the ability of the obligor to comply with the requirements of subparagraph (C) of this paragraph;

(B) the obligor will not use assets or revenues (other than cash) related to or derived from railroad operations in nonrailroad enterprises, without prior approval in writing from the Secretary. Such approval may only be granted after a public hearing with an opportunity for interested persons to submit comments and a written finding by the Secretary that such use of assets or revenues will not materially affect the ability of the obligor to comply with the requirements of subparagraph (C) of this paragraph; and

(C) the obligor shall take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service.

(k) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in any appropriate district court of the United States to enjoin any activity which the Secretary finds is in violation of any condition specified in subsection (i) or (j) of this section, and to secure any other appropriate relief, including termination, suspension, and punitive damages.

(l) INVESTIGATION CHARGE.—The Secretary shall charge and collect from each applicant such amounts as he deems reasonable for the investigation of any application submitted for appraisal of the value of the equipment or facilities involved, and for making the necessary determinations and findings. Such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation with respect to which the applicant seeks a guarantee or commitment to guarantee.

(m) PREMIUM CHARGE.—The Secretary shall levy and collect from the obligor an annual premium charge on each obligation guaranteed under this section. The amount of such premium may not exceed an annual rate of 1 percent on the unpaid principal balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed by the Secretary, and, thereafter, on the anniversary date of such guarantee.

(n) ADMINISTRATIVE COSTS.—All moneys received by the Secretary under this section shall be deposited in the obligation guarantee fund. An amount, which shall not exceed 5 percent of the total annual premium charges authorized to be collected under subsection (m) of this section, may be used by the Secretary to pay administrative costs and expenses incurred by him pursuant to this section.

ISSUANCE OF NOTES OR OBLIGATIONS

SEC. 512. (a) AUTHORIZATION.—The Secretary may issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary may prescribe. Such obligations may be issued whenever the moneys in the obligation guarantee fund are not sufficient to pay any amount which the Secretary is required to pay under section 513 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury shall purchase any such obligations and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Bond Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States. Moneys obtained under this subsection shall be deposited in the obligation guarantee fund, and redemptions of any such obligations shall be made by the Secretary from such fund.

(b) DISPOSITION AND PROPERTY.—Notwithstanding any other provision of law, the Secretary may, in his discretion, perform any acts which he considers necessary or appropriate to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell, or otherwise dispose of any property or other interests acquired by him pursuant to sections 511 through 513 of this title.

(c) VALIDITY.—No guarantee by the Secretary, and no commitment by him to guarantee an obligation, under sections 511 through 513 of this title may be terminated, suspended, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Secretary. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of such sections of this title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment to guarantee shall be valid and incontestable in the hands of the holder thereof, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

DEFAULT ON GUARANTEED OBLIGATIONS

SEC. 513. (a) IN GENERAL.—If there is a default by the obligor in any payment of principal or interest due under an obligation guaranteed under sections 511 through 513 of this title, which has continued for 30 days, the holder of such obligation or his agent has the right to demand payment by the Secretary of the unpaid interest on, and the unpaid principal of, such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such specified period, but not later than 60 days from the date of such demand, the Secretary shall pay to such holder the unpaid interest on, and the unpaid principal of, such obligation; except that the Secretary shall not be required to make any such payment if he finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) RIGHTS OF SECRETARY.—If the Secretary makes a payment to a holder, under subsection (a) of this section, he shall thereupon have all the rights granted to him by law or security agreements between him and the obligor, at such time. The Secretary shall also be subrogated to all of the rights which such holder had by law, assignment, or security agreements between such holder and the obligor. Notwithstanding any other provision of law, the Secretary may, in his discretion, complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property obtained by him pursuant to this section. The terms of any such sale or other disposition shall be as approved by the Secretary.

(c) FORM OF PAYMENT.—Any amount required to be paid by the Secretary pursuant to subsection (a) of this section shall be paid in cash.

(d) ACTION AGAINST OBLIGOR.—If there is a default by the obligor in any payment due under an obligation guaranteed under sections 511 through 513 of this title the Secretary shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Secretary all records and evidence necessary to prosecute any such suit. The Secretary may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him, if the value of such property is not greater than the total of the unpaid interest, charges, and principal of such obligation. If the Secretary receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under subsection (a) of this section, he shall pay such excess to the obligor.

AUDIT OF TRANSACTIONS

SEC. 514. (a) IN GENERAL.—The Comptroller General of the United States is authorized to audit the operations of the Fund and of the obligation guarantee fund in accordance with such rules and regulations as he may prescribe. Any such audit shall be conducted at the place or places where accounts of the Fund or of the obligation guarantee fund are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Fund, the obligation guarantee fund, or the Secretary which pertain to the financial transactions of the Fund or the obligation guarantee fund and which are necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, things, and property shall remain in the possession and custody of the Fund, the obligation guarantee fund, or the Secretary, as the case may be.

(b) ACCESS TO INFORMATION.— The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any person or entity which has entered into a financial transaction, with or involving the

Fund, the obligation guarantee fund, the Secretary, under this title, to the extent deemed necessary by the Comptroller General to facilitate any audit of financial transactions pursuant to subsection (a) of this section. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such person or entity shall remain in the possession and custody of such person or entity, to the extent practicable.

(c) REPORT.—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the obligation guarantee fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority or which is inconsistent with the purposes and provisions of this title. A copy of such report shall be furnished to the President, the Secretary, and the Commission, at the time it is submitted to the Congress.

ANNUAL REPORT

SEC. 515. The Secretary shall report to the Congress within 90 days following the end of each fiscal year on the financial condition and operations of the Fund and of the obligation guarantee fund during such fiscal year, and on the anticipated condition and operations of the Fund and of the obligation guarantee fund during the next fiscal year.

EMPLOYEE PROTECTION

SEC. 516. (a) IN GENERAL.—Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 510) who may be affected.

(b) TERMS.—The arrangements required by subsection (a) of this section shall apply to individual employees having an employment relationship with the particular railroad employer involved, on the date on which the applicable financial assistance under this title is first sought. Such arrangements shall include such provisions as may be necessary—

(1) to provide for notice, negotiation, and execution of agreements providing for the manner in which the protective arrangements shall be applied, which agreements shall be executed prior to implementation of work funded from assistance obtained under this title, except that (A) if such agreements have not been reached within 30 days after the date such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration and the decision on any such arbitration shall be rendered within 30 days after such submission; and (B) the arbitration decision (i) shall in no ways modify the protection afforded in the protective arrangements established pursuant to this section, (ii) shall be final and binding on the parties, and (iii) shall become a part of the agreement;

(2) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(3) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(4) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this title, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(5) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this title.

(c) SUBCONTRACTING.—The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, purusant to subsections (a) and (b) of this section shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this title V.

SEC. 517. (a) GRANTS.—The Secretary is authorized to provide grants to any railroad, in such form as he deems advisable, so as to improve intercity passenger service on the lines of such railroad outside the Northeast Corridor.

(b) AUTHORIZATION.—There are authorized to be appropriated to carry out the purposes of this section such sums as are necessary not to exceed $200,000,000.

TITLE VI—IMPLEMENTATION OF THE FINAL SYSTEM PLAN

REFERENCES TO ACT

SEC. 600. (a) Unless otherwise specified, whenever, in this title, an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or provision of "such Act", the section or other provision amended or repealed is a section of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) The table of contents of such Act is amended to read as follows:

"TABLE OF CONTENTS

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Declaration of policy.
"Sec. 102. Definitions.

"TITLE II—UNITED STATES RAILWAY ASSOCIATION

"Sec. 201. Formation and structure.
"Sec. 202. General powers and duties of the Association.
"Sec. 203. Access to information.
"Sec. 204. Report.
"Sec. 205. Rail Service Planning Office.
"Sec. 206. Final system plan.
"Sec. 207. Adoption of final system plan.
"Sec. 208. Review by Congress.
"Sec. 209. Judicial review.
"Sec. 210. Obligations of the Association.
"Sec. 211. Loans.
"Sec. 212. Records, audit, and examination.
"Sec. 213. Emergency assistance pending implementation.
"Sec. 214. Authorization for appropriations.
"Sec. 215. Maintenance and improvement of plant.
"Sec. 216. Purchase of debentures and series A preferred stock.

"TITLE III—CONSOLIDATED RAIL CORPORATION

"Sec. 301. Formation and structure.
"Sec. 302. Powers and duties of the Corporation.
"Sec. 303. Valuation and convenyance of rail properties.
"Sec. 304. Termination and continuation of rail services.
"Sec. 305. Continuing reorganization.
"Sec. 306. Certificates of value.
"Sec. 307. Supplementary assistance.
"Sec. 308. Protection of Government funds.

"TITLE IV—LOCAL RAIL SERVICES

"Sec. 401. Findings and purposes.
"Sec. 402. Rail service continuation assistance.
"Sec. 403. Acquisition and modernization loans.

"TITLE V—EMPLOYEE PROTECTION

"Sec. 501. Definitions.
"Sec. 502. Employment offers.
"Sec. 503. Assignment of work.
"Sec. 504. Collective-bargaining agreements.
"Sec. 505. Employee protection.
"Sec. 506. Contracting out.
"Sec. 507. Arbitration.
"Sec. 508. Duties of acquiring and selling railroads.
"Sec. 509. Payment of benefits.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Relationship to other laws.
"Sec. 602. Annual evaluation by the Secretary.
"Sec. 603. Freight rates for recyclables.
"Sec. 604. Separability.
"Sec. 605. Duty of transferee.".

GENERAL

SEC. 601. (a) Section 202(a)(2) of such Act (45 U.S.C. 712(a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all of the rights, privileges, and powers of a holder of any such securities; and issue certificates of value under section 306 of this Act;":

(b) Section 303 of such Act (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFER AND OTHER TAXES AND RECORDING FEES.—All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this section in accordance with designations in the final system plan, or which are made in accordance with a continuing reorganization, pursuant to section 305 of this title, shall be exempt from any taxes, imposts, or levies now or hereafter imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, or other insrtuments and, consistent with the designations and applicable principles in the final system plan, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the services performed.".

(c) Section 208 of such Act (45 U.S.C. 718) is amended by adding at the end thereof the following new subsections:

"(d) The provisions of the Association's official errata supplement, dated December 1, 1975, to the final system plan, including all designations made therein, shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress. The final system plan shall, for all purposes, be deemed to be approved as modified and amended by such supplement.

"(e) Notwithstanding any other provision of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations (1) are likely to result in improved rail service to users on such lines and connecting lines, and (2) would not materially impair the profitability of the Corporation. Such designations, including designations of such rail lines and properties to a State, a profitable railroad or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209(c) of this Act. Such further designations shall be treated for all purposes as if they had been included in the final system adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes to be deemed to be approved as modified by such designations. Any action of the Association with respect to any such petition shall not be subject to review by any court.".

SPECIAL COURT

SEC. 602. (a) Section 209(b) of such Act (45 U.S.C. 719) is amended by striking out the sixth sentence thereof and inserting in lieu thereof the following new sentence: "The special court may issue rules for the conduct of its functions, incuding rules with respect to the time within which motions may be filed, and with respect to appropriate representations of interests not otherwise represented.".

(b) Section 209 of such Act (45 U.S.C. 719) is amended by adding at the end thereof the following four new subsections:

"(e) ORIGINAL AND EXCLUSIVE JURISDICTION.—(1) Notwithstanding any other provision of law, any civil action—

"(A) for injunctive or other relief from the enforcement, operation, or execution of this Act or any provision thereof, or from any action taken pursuant to authority purportedly conferred under this Act;

"(B) challenging the constitutionality of this Act or any provision thereof;

"(C) challenging the illegality of any action or any failure to take any action pursuant to authority conferred or purportedly conferred under this Act;

"(D) to enforce or declare any rights under this Act;

"(E) to obtain, inspect, copy, or review any document in the possession or control of the Association that would be discoverable in litigation pursuant to section 303 (c) of this Act; or

"(F) brought after a conveyance, pursuant to section 303(b) of this Act, to set aside or annul such conveyance or to secure in any way the reconveyance of any rail properties so conveyed.

shall be within the original and exclusive jurisdiction of the special court. The special court shall not hear or determine any such action prior to the date of conveyance pursuant to section 303(b)(1) of this Act, except as the Constitution may require. Relief shall not be granted in any action referred to in subparagraph (A), (C), (D), or (F) unless the person seeking such relief establishes that the Association acted in reckless or deliberate disregard of applicable law.

"(2) The original and exclusive jurisdiction of the special court shall include any action, whether filed by any interested person or initiated by the special court itself, to interpret, alter, amend, modify, or implement any of the orders entered by such court pursuant to section 303(b) of this Act in order to effect the purposes of this Act or the goals of the final system plan. During the pendency of proceedings, the special court may enter such orders as it determines to be appropriate, including orders which enjoin, restrain, condition, or limit any conveyance, transfer, or use of any asset or right which is subject to such an order or which is at issue in such a proceeding, or which involves the enforcement of any liens or encumbrances upon such assets or rights. Any orders pursuant to this subsection which interpret, alter, amend, modify, or implement orders entered by the special court shall be final and shall not be restrained or enjoined by any court.

"(3) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of this Act, in whole or in part, or of any action taken under this Act, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code: *Provided*, That such an appeal is exclusive and shall be filed not more than 20 days after entry of such order or judgment.".

"(f) CONTINUING REORGANIZATION REVIEW.—(1) Within 180 days after the filing of a petition under section 305(e) of this Act, the special court shall decide, after a hearing, whether the proposed continuing reorganization transfers, considered in their entirety, are (A) in the public interest, as defined by the purposes of this Act and the goals of the final system plan, and (B) fair and equitable. If the special court determines that such transfers, considered in their entirety, are in the public interest and fair and equitable, it shall, upon the making of such a determination, issue such orders as may be necessary to consummate, implement, or execute such transfers. If the special court determines that such transfers, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusions and reasons therefor, and in such a case the Association or the Secretary may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of such proposed supplementary transfers have been modified consistent with the opinion of the special court and are acceptable to each proposed transferor and transferee, and may petition the special court for reconsideration of the proposal as so modified. With respect to any proposed transfer under section 305(d) of this Act, the Association shall certify to the special court that the terms and conditions of the proposed supplementary transfer have been modified consistent with the opinion of the special court and shall petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal, as modified in the manner attested to by the certification of the Association or of the Secretary is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(2) The special court is authorized to exercise the powers of a district judge in any judicial district with respect to any proceeding under this subsection, and such powers shall include those of a reorganization court.

"(3) Any evaluation or determination of the Association, the Secretary, or the Commission under this section or under section 305 of this Act shall not be reviewable in any court except the special court in accordance with the provisions of this section. No supplementary transfer shall be restrained or enjoined or otherwise reviewed by any court other than the special court, as provided in this subsection.

"(4) Notwithstanding any other provision of this Act, no findings, determination, or proceedings (whether administrative or judicial) shall be required with respect to any proposed supplementary transfers except as expressly set forth in this section and in section 305 of this Act.

"(5) Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplementary transfer are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by holders of all classes of securities except that the special court shall not assign to the series B preferred stock and common stock of the Corporation any values which have been added to such securities by reason of the Association's investment in the debentures and series A preferred stock issued by the Corporation in excess of any values required by constitutional principles applicable to a reorganization process.

"(6) A final order or judgment of the special court entering or denying an order pursuant to this subsection shall be reviewable in the same manner as provided in subsection (e)(3) of this section.

"(g) DISPOSITION OF CASH DEPOSITS.—Whenever the compensation which is deposited with the special court under section 303(a) of this Act is in the form of cash, such cash shall be invested and reinvested upon such terms and conditions as the special court shall determine, pending the making of the findings referred to in paragraphs (1), (2), and (3) of section 303(c) of this Act. Notwithstanding section 303(c)(4) of this Act, the special court may order (1) the income from such investments, (2) the dividends or interest, if any, received on any securities or obligations deposited with the special court under such section 303(a), and (3) the income, if any, received with respect to any other form of compensation so deposited, to be distributed to the trustee or trustees of each railroad in reorganization and to any person leased, operated or controlled by such a railroad which conveyed right, title, and interest in the rail properties with respect to which such cash, securities, obligations, or other compensation have been so deposited with the special court. Notwithstanding section 303(c)(4) of this Act, the special court may also order, within 90 days after the date of its order of conveyance of rail properties pursuant to section 303(b) of this Act, up to 25 percent of any cash (including investments made with cash) and other compensation so deposited to be distributed to each such transferor and, on petition of the applicable such transferors, it may order such additional distributions as it finds reasonable and appropriate, to be made prior to the making of the findings referred to in paragraphs (1), (2), and (3) of such section 303(c).

"(h) STAY OF COURT PROCEEDINGS.—The special court may stay or enjoin any civil action or proceeding in any State court or in any court of the United States other than the Supreme Court if such action or proceeding is contrary to any provision of this Act, impairs the effective implementation of this Act, or interferes with the execution of any order of the special court pursuant to this Act.".

OBLIGATIONS OF THE ASSOCIATION

SEC. 603. Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows:

"(b) The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed $400,000,000. After the date on which the Association first makes a purchase of securities of the Corporation under section 216 of this title, no additional obligations or proceeds thereof shall be issued or made available to the Corporation.".

DEBENTURES AND SERIES A PREFERRED STOCK

SEC. 604. Title II of such Act is amended by adding at the end thereof the following new section:

"DEBENTURES AND SERIES A PREFERRED STOCK

"SEC. 216. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to $1,000,000,000 principal amount of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to $1,100,000,000 principal amount of the series A preferred stock of the Corporation.

"(b) PURPOSES AND PROCEDURE FOR INVESTMENT.—

"(1) The Association is authorized to purchase debentures and, thereafter, series A preferred stock of the Corporation at such times and in such amounts as may be required and requested by the Corporation in accordance with the terms and conditions governing such purchases (which shall be prescribed by the Association), to provide—

"(A) for the modernization, rehabilitation and maintenance of rail properties of the Corporation;

"(B) for the acquisition of equipment and other capital needs;

"(C) for the refinancing of indebtedness which was incurred by the Corporation under section 211 of this title or which was incurred under section 215 of this title and assumed by the Corporation;

or

"(D) working capital as contemplated by the final system plan.

"(2) Purchases of up to $1,000,000,000 of debentures and thereafter of up to $1,100,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation unless the Association makes an affirmative finding that (A) the Corporation has failed in any material respect to comply with any covenants or undertakings made to the Association and such failure remains uncorrected, (b) the Corporation has failed substantially (as determined by performance within margins prescribed by the Board of Directors of the Association to obtain the overall operating and financial results projected in the final system plan, as they may be modified by the Board of Directors, or (C) taking into consideration all relevant factors, including its overall operating and financial results, it is not reasonably likely that the Corporation will be able to become financially self-sustaining without requiring Government funds substantially in excess of the amount authorized in this section.

"(c) FINDINGS AND ELECTION.—If the Association decides not to purchase securities of the Corporation in accordance with subsection (b) of this section, it may elect (1) not to purchase debentures or series A preferred stock of the Corporation after the date of such determination, or (2) notwithstanding subsection (e)(1) of this section to purchase debentures or series A preferred stock of the Corporation after the date of such determination only in such amounts, at such times, and on such terms and conditions as the Association determines to be appropriate to its role as an investor in the debentures and series A preferred stock of the Corporation.

"(d) TERMS AND CONDITIONS.—Notwithstanding any other provision of State or Federal law, the debentures and the series A preferred stock of the Corporation shall have such terms and conditions, not inconsistent with the final system plan, as may be prescribed by the Board of Directors of the Association, except that interest on such debentures, and dividends on such series A preferred stock, shall not be cumulative and shall be payable only at such times as the earned surplus of the Corporation exceeds $500,000,000, and only out of such earned surplus which exceeds $500,000,000.

"(e) MODIFICATIONS AND WAIVERS.—(1) The Association may agree with the Corporation to modify any of the terms and conditions governing the purchase of the securities of the Corporation, upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan.

"(2) The Association may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan, waive compliance with any term, conditions, provision, or covenant of the securities of the Corporation held by the Association, including any provision of such securities with respect to redemption of principal or issuance price, payment of interest or dividends, or any term or condition governing the purchase of such securities.

"(f) APPROPRIATION.—There is authorized to be appropriated to the Association the sum of $2,100,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

LOANS

SEC. 605. Section 211 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsections:

"(g) PRE-CONVEYANCE LOANS TO THE CORPORATION.—It is the further intent of Congress that in the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 303(b) of this Act, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation subject to the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and subject to the further condition that any loan to the Corporation under this subsection shall be refinanced by the issuance of debentures under section 216 of this title. In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors.

"(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1) Notwithstanding any other provisions of this Act, the Association is authorized, subject to the limitations set forth in section 210(b), to make loans, in amounts not to exceed $200,000,000 in the aggregate, to the Corporation, the National Railroad Passenger Corporation, and to any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, for the purpose of meeting existing or prospective obligations of the railroads in reorganization which the Association determines should be paid, in accordance with procedures established by the Association, by the Corporation, the National Railroad Passenger Corporation or profitable railroad on behalf of the transferors in order to permit continued, orderly operations. Such obligations shall be limited to amounts claimed by suppliers, including private car lines, of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline account, claims of employees arising under the collective bargaining agreements of the railroads in reorganization and subject to section 3 of the Railway Labor Act, and claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Acts. The Association shall not make such a loan unless it first finds that—

"(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

"(B) such obligations arose from rail operations prior to the date of conveyance of rail properties pursuant to section 301(b)(1) and are, under other applicable law, the responsibility of a railroad in reorganization;

"(C) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligations by the Corporation, the National Railroad Passenger Corporation or profitable railroad is necessary to permit continued, orderly operations; and

"(D) the transferor is unable to pay such obligations, under procedures established by the Association, within a reasonable period of time.

"(2) To assist in the establishment of procedures, the Association may, not less than thirty (30) days prior to conveyance pursuant to section 303(b)(1), petition each of the United States district courts having jurisdiction over the reorganization of a railroad in reorganization for an order, which shall be entered prior to such conveyance, and which—

"(A) identifies both cash and other current assets of the estate of the railroad in reorganization arising from rail operations which shall be utilized to satisfy obligations of the estates identified in paragraph (1) of this subsection; and

"(B) provides for the application by the Trustees of such railroads and their agents, consistent with the principles of reorganization under Section 77 of the Bankruptcy Act, all current assets, including cash, arising from rail operations available as of or subsequent to the date of conveyance, the payment in the post-conveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

"(3) Any obligation of a railroad in reorganization paid with assistance provided pursuant to paragraph (1) of this subsection shall be processed on behalf of the railroad in reorganization by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be. Any such obligation that the Corporation, the National Railroad Passenger Corporation or a profitable railroad deems to have been outstanding on the date of conveyance pursuant to section 303(b)(1), or which accrues thereafter because of rail operations prior to such date and which said transferor acknowledges to have been its obligation or which the United States district court having jurisdiction over the reorganization proceeding of the transferor approves as a valid administrative claim against such transferor, and which cannot be paid within a reasonable period of time under the procedures established pursuant to paragraph (2) of this subsection, shall be paid on behalf of such transferor by the Corporation, the National Railroad Passenger Corporation or a profitable railroad to the extent funds are available under paragraph (1) of this subsection.

The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization. The Corporation, the National Railroad Passenger Corporation or the profitable railroad shall be entitled to reimbursement directly, as a current expense of administration, from the estate of the railroad in reorganization on behalf of whom the obligation was paid, for direct costs, including attorneys' fees and court costs, incurred by them in reimbursement therefor, together with interest thereon at the rate of interest charged by the Association for the loan from which the funds for such payment were provided.

"(4) If at any time the Government Banking Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of the railroad in reorganization for any obligation of the estate paid pursuant to this subsection could adversely affect the fairness and equity of the transfers and conveyances pursuant to section 303(b)(1) of this Act, or that failure of the National Railroad Passenger Corporation to receive such full reimbursement with interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Committee. The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization, equal to the amount by which loans of the Corporation or the National Railroad Passenger Corporation, plus interest, have been forgiven, and such claim shall be prior to all other administrative claims of the estate. Such direct claim shall not be subject to any reduction by way of set-off, cross-claim or counterclaim which the estate of the railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association or the United States of America.".

"(g) ELECTRIFICATION.—Upon application by the Corporation, the Secretary shall, pursuant to but without regard to the limitations contained in sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1975, guarantee obligations of the Corporation for up to $200,000,000 for the purpose of electrifying high-density mainline routes where such electrification will return operating and financial benefits to the Corporation and will facilitate compatibility with existing or renewed electrification systems.".

MISCELLANEOUS AMENDMENTS TO TITLE II

SEC. 606. (a) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended to read as follows:

"(h) EXECUTIVE COMMITTEE.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of the Board, the Secretary or his duly authorized representative, the Chairman of the Commission or his duly authorized representative, and two other members who shall be selected by the members of the Board.".

(b) Section 202(e) of such Act (45 U.S.C. 712(e)) is amended by inserting after "obligations issued" and before "and loans" in clause (4) thereof the following: ", certificates of value issued, securities purchased.".

(c) Section 202(f) of such Act (45 U.S.C. 712(f)) is amended by inserting after "section" and before ")" in the first sentence thereof the following: "and receipts and disbursements under section 216 of this title and section 306 of this Act.".

(d) Section 203(a) of such Act (45 U.S.C. 713(a)) is amended by striking out the last sentence thereof.

(e) Section 206(d)(3) of such Act (45 U.S.C. 716(d)(3)) is amended by inserting after the first sentence thereof the following three new sentences: "All determinations made by the Association in the correction to the preliminary system plan published on April 11, 1975 (40 Fed. Reg. 16377) shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to such correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to acquisitions by profitable railroads referred to in any supplement to the preliminary system plan published under section 207(b)(2) of this title shall be deemed to be timely if made prior to the adoption of the final system plan under seciton 207(c) of this title.".

(f) Section 206(c)(1)(B) of such Act (45 U.S.C. 716(c)(1)(B)) is amended by inserting after "paragraph" and before "in the event" the following: "and what alternative designations shall be made under this paragraph.".

(g) Section 206(c)(1)(A) of such Act (45 U.S.C. 716(c)(1)(A)) is amended by deleting the semicolon and inserting in lieu thereof the following: ": *Provided*, That the Corporation shall within 60 days after the effective date of the final system plan, give notice to the Association of which such rail properties, if any, are to be transferred to a subsidiary or affiliate of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan;".

(h) Section 206(c)(2) of such Act (45 U.S.C. 716(c)(2)) is amended by adding at the end thereof the following new sentence: "Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary or affiliate of the Corporation.".

(i) Sections 206(d)(1), 209 (c) and (d), 215(d), 304(e), and 501 (1) and (2) of such Act (45 U.S.C. 716(d)(1), 719 (c) and (d), 744(e), and 711 (1) and (2)) are amended by inserting after "Corporation" each time it appears the following: "or any subisdiary or affiliate thereof".

(j) Section 206(c)(1)(D) of such Act (45 U.S.C. 716(c)(1)(D)) is amended by—

(1) inserting after "by" the designation "(i)"; and

(2) striking "; and" at the end thereof and adding the following: "or (ii) the National Railroad Passenger Corporation to meet the needs of improved passenger serving over intercity routes, other than the Northeast Corridor, identified by the Association pursuant to the final system plan; and".

(k) Section 210(c) of such Act (45 U.S.C. 720(c)) is amended by adding at the end thereof the following new sentence: "All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States for the payment of which its full faith and credit are pledged.".

(m)(1) Subsection (b) of section 214 of such Act (45 U.S.C. 724(b)) is amended by deleting "$5,000,000" and inserting in lieu thereof "$7,000,000".

(2) Section 214(c) of such Act is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to the Association for administrative expenses incurred under this Act and under the Rail Services Act of 1975 such sums as are necessary not to exceed $5,000,000 for the fiscal year ending June 30, 1976; not to exceed $3,000,000 for the transitional fiscal period ending September 3, 1976; and not to exceed $9,000,000 for the fiscal year ending September 30, 1977.".

(n) Section 214(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(a)) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the United States arising under section 303(c)(5) of this Act.".

(o) Paragraph (4) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 206(d)(4)) is amended—

(1) in the first sentence thereof, by striking out "30 days after the effective date of the final system plan" and inserting in lieu thereof "5 days (exclusive of weekends and holidays) after the date of the enactment of the Railroad Revitalization and Regulatory Reform Act of 1975"; and

(2) by inserting immediately after the first sentence thereof the following new sentence: "Such offer may be modified until date of acceptance to the extent that such modification does not result in an offer for sale less than the net liquidation value of the property to be sold.".

(p) Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any statement to the contrary in the final system plan, a State (or a local regional transportation authority) shall not be required to deliver to the Corporation a firm commitment to acquire rail properties designated to such State or authority prior to January 9, 1976, or 5 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, whichever is later.".

(q) Section 206 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(c)) is amended by adding at the end thereof the following new section:

"(j) Any line of railroad or segment of a line of railroad on which rail service was being provided as of the effective date of this Act, and which was recommended in the preliminary system plan for transfer to the Corporation, shall be deemed to be designated in the final system plan for transfer to the Corporation under subsection (c)(1)(A) of this section. Any designation in the final system plan, pursuant to subsection (c)(1)(B) of this section, of overhead trackage rights to be acquired by a profitable railroad operating in the region over specified rail properties to be acquired by the Corportation, where such designation does not (1) include the right for such profitable railroad to interchange traffic with at least one railroad, or (2) provide for the connection of portions of such profitable railroad's rail properties, and where the transfer of ownership of such rail properties or trackage thereover to such profitable railroad was recommended in the preliminary system plan, and the Commission has made a determination with respect thereto, in accordance with subsection (d)(3) of this section, shall be deemed to include the right for such profitable railroad to interchange traffic with the Corporation and any other profitable railroad connecting with such specified rail properties."

(r) Section 207 of such Act is amended by adding at the end thereof the following new subsection:

"(e) TIME EXTENSION.—The time prescribed in subsections (c) and (d) of this section for the delivery of certified copies of the final system plan may be extended to a date, not later than March 11, 1976, prescribed in a notice filed by the Association not later than February 1, 1976, with the special court, the President of the Senate, the Speaker of the House of Representatives, and each court referred to in subsection (d) of this section. Such notice shall contain the certification of the Association that an orderly conveyance of rail properties cannot reasonably be effected before the date for conveyance determined with respect to such notice. The time prescribed in section 303(a) of this Act shall be determined with respect to the date prescribed in such notice.".

CAPITALIZATION OF CORPORATION

SEC. 607. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out the first 2 sentences of subsection (e) thereof and inserting in lieu thereof the following: "In order to carry out the final system plan, the Corporation is authorized to issue debentures, series A preferred stock, series B preferred stock, common stock, and other securities. Debentures and series A preferred stock shall be issued initially to the Association, pursuant to section 216 of this Act. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, or controlled by railroads in reorganization in the region, and to other transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. All securities of the Corporation issued to the Association as the initial holder of such securities, or issued in connection with the transfer to the Corporation or any subsidiary or affiliate thereof of rail properties under this Act, shall be deemed for all purposes to have been authorized pursuant to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).".

B preferred stock, common stock, redeemable preference shares, and other securities. Debentures and series A preferred stock shall be issued initially to the Association. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, and controlled by railroads in reorganization in the region and to other persons leased, operated or controlled by a railroad in reorganization who are transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. The series B preferred stock shall have terms and conditions not inconsistent with the final system plan: *Provided*, That as a condition of its investment in the Corporation, the Association may prescribe limitations on the circumstances under which dividends on the series B preferred stock and common stock are payable so long as any of the debentures are outstanding and any of the series A preferred stock has not been redeemed.

PROTECTION OF GOVERNMENT FUNDS

SEC. 308. (a) AUDIT BY COMPTROLLER GENERAL.—(1) The Comp- (45 U.S.C. 791 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"PROTECTION OF GOVERNMENT FUNDS

"SEC. 308. (a) AUDIT BY COMPTROLLER GENERAL.—(1) The Comptroller General of the United States is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (A) Federal funds are being used to finance any portion of its operations, (B) Federal funds have been invested therein, or (C) the Corporation has outstanding obligations guaranteed by the United States. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the status of the Corporation, and to make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations.

"(2) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a designated representative of the Comptroller General, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by the Corporation.".

"(b) REPORT.—The Association shall prepare and submit an annual report to Congress on the performance of the Corporation. Such report shall be submitted within 90 days of the close of the fiscal years of the Corporation. Such report shall include an evaluation of—

"(1) the degree to which the goals of section 206(a) of this Act are being met;

"(2) the amounts and causes of deviations, if any, from the financial projections of the fiscal system plan;

"(3) the amount of Federal funds made available to the Corporation and a clear description of the uses of such funds;

"(4) the projected financial needs of the Corporation;

"(5) the projected sources of meeting the financial needs of the Corporation; and

"(6) the ability of the Corporation to become financially self-sustaining without requiring government funds in excess of those projected in the fiscal system plan."

CONTINUING REORGANIZATION

SEC. 609. (a) Section 102 of such Act (45 U.S.C. 702), as amended by this Act, is amended—

(1) in paragraph (14) thereof, by striking out "and";

(2) in paragraph (15) thereof, by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(16) 'Supplemental transaction' means any transaction proposed under section 305 of this Act as supplemental to the final system plan within 6 years after the date on which the special court orders conveyance of rail properties to the Corporation under section 303(b) of this Act, under which the Corporation (which for purposes of supplemental transactions shall be deemed to include any subsidiary or affiliate thereof) would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary or affiliate of the Corporation or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or, for rail use, to any other responsible person, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services."

(b) Title III of such Act is amended by adding at the end thereof the following new sections;

CONTINUING REORGANIZATION; SUPPLEMENTAL TRANSACTIONS

"SEC. 305. (a) PROPOSALS.—If the Secretary or the Association determines that further restructuring of rail properties in the region through transactions supplemented to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary or the Association, as the case may be, may develop proposals for such supplemental transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 206(c)(1)(A) of this Act but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the efficient operations of the Corporation, and (2) transfers, consistent with the final system plan, of rail properties from the Corporation to a subsidiary or affiliate thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state the rail properties involved, the parties to any transactions, the financial and other terms of any transactions, the purposes of the Act or goals of the final system plan intended to be effectuated by any transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary or the Commission, and upon the development of a proposal developed by the Association, the Association shall publish a summary of such proposal in the Federal Register, and shall afford interested persons an opportunity to comment thereon.

"(b) EVALUATION BY ASSOCIATION.—The Association shall analyze each proposal for a supplemental transaction, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may have been held, and shall, within 120 days after the publication required by subsection (a), publish in the Federal Register a report evaluating the proposal. Such evaluation shall state whatever the proposal for supplemental transactions is (1) in the public interest as defined by the purposes of the Act and the goals of the final system plan, and (2) fair and equitable. Within 30 days after the Association publishes its report, each proposed transferor or transferee shall notify the Association in writing as to whether the proposed supplemental transaction is acceptable to such proposed transferor or transferee. If any such proposed transferor or transferee fails to notify the Association that the proposed supplemental transaction is acceptable to it, no further administrative or judicial proceedings shall be conducted wtih respect to such proposed supplemental transaction. In such supplemental transactions, the transferor and transferee shall be subject to the provisions of title V of this Act, except that the term 'effective date of this Act' as contained in such title V shall be applied to such supplemental transactions as if such term read 'effective date of the supplemental transaction'.

"(c) REVIEW BY THE COMMISSION.—Within 90 days after the publication in the Federal Register of each report referred to in subsection (a) of this section, the Commission shall determine whether the supplementary transfer would be in full accord and comply with the provisions and standards of section 5 and other applicable provisions of the Interstate Commerce Act (49 U.S.C. 1) considering, inter alia, any substantial impairment of the Corporation's ability to meet the purposes of this Act and the goals of the final system plan, and any possible increase in the public costs involved. The Commission may condition its approval of any such supplementary transfer on such reasonable terms and conditions as it may deem necessary in the public interest. Subject to the determination of the special court under 209(f) of this Act, no such supplementary transfer shall be made without the approval of the Commission, except that if the Commission fails to act within the time period provided in this subsection, the supplementary transfer involved shall be deemed to have been so approved. The Commission may prescribe such regulations as may be necessary for the administration of this section.

"(c) FINAL REVISED DESIGNATIONS.—Within 30 days after the Commission makes a determination or is deemed to have given its approval under subsection (b) of this section, each proposed transferor or transferee shall notify the Association in writing whether the proposed supplementary transfer is acceptable to it. If any such proposed transferor or transferee fails to notify the Association that the proposed supplementary transfer is acceptable to it (other than the Corporation, where it is a proposed transferor, if the Association has determined that such transfer is likely to result in achievement of the goals specified in section 206(a) of this Act is a manner less costly to the public than that specified in the final system plan), no further administrative or judicial proceedings shall be conducted with respect to such proposed supplementary transfer, except that when the Corporation is the proposed transferor and the Association has made the aforementioned determination, further proceedings shall be conducted in accordance with subsection (e) of this section.

"(d) SPECIAL COURT PROCEEDINGS.—If the Association makes the determination that a proposal for supplemental transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, the Association shall, within 40 days after the date of the Commission's determination under subsection (c) of this section, or the expiration of the 90-day period referred to in such subsection (c), whichever is applicable, petition the special court for an order of such court finding that such proposal for supplemental transaction is in the public interest as defined by the purposes of this Act and the goals of the final system plan and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal. If the Association determines that a proposal made by the Secretary is not in the public interest or is not fair and equitable, the Secretary may, if he determines that such proposal is in the public interest and is fair and equitable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal.

"(2) Within 180 days after the filing of a petition under paragraph (1) of this subsection the special court shall decide, after a hearing, whether any proposed supplemental transactions, considered in their entirety, are in the public interest as defined by the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that any such proposed supplemental transactions, considered in their entirety, are in the public interest and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines either that any such proposed supplemental transactions, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusion and the reasons therefor. In such event the Association, the Secretary, or the carriers involved may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor or transferee, and may petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal as modified by the certification is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(3) The special court shall make such rules for the conduct of proceedings under this subsection, including any necessary provisions for the representation of interests not otherwise represented, as it deems necessary or appropriate.

"(4) In proceedings under this subsection, the special court is authorized to exercise the powers of a judge of a United States district court with respect to such proceedings and such powers shall include those of a reorganization court.

"(5) Any evaluation of the Association or the Secretary shall not be reviewable in any court except the special court in accordance with the provisions of this section. The supplemental transactions shall not be restrained or enjoined by any court nor shall they be otherwise reviewable by any court other than by the special court to the extent provided in this section.

"(6) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings shall be required with respect to any proposal for supplemental transactions other than as expressly set forth in this section.

"(7) Revised or supplemental designations under this section shall subject the transferor and transferee, under such supplementary transferee, to the requirements and other provisions of title V of this Act, except that the time "effective date of this Act" contained in title V shall be applied to such revised or supplemental designations as if it read "effective date of the supplemental transfer."

"(d) DEFINITION.—For purposes of this section, the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), to (1) the estates of railroads in reorganization, and railroads leased, operated, or controlled by railroads in reorganization, or other transferors who have conveyed rail properties under section 303(b) of this title in exchange for the securities of the Corporation, the securities of the Association and other profitable railroads and the other benefits provided by the Act, and to any subsequent holders of such securities at the time of such supplemental transactions; and (2) to the holders of other securities of the Corporation. Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplemental transaction are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by all classes of security holders except that the special court shall not assign to the Series B Preferred Stock and common stock any values added to those securities by reason of the investment by the Corporation in excess of any value required by constitutional principles applicable to a reorganization process.

"CERTIFICATE OF VALUE

"SEC. 306. (a) GENERAL.—On the date when a certified copy of the final system plan is delivered to the special court, pursuant to section 209(c) of this Act, the Association shall deliver to the Corporation, for deposit with the special court pursuant to section 303(a)(1) of this title, the certificates of value of the Association required by this title. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this title. All guarantees entered by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to mutual mistake of fact or as to fraud or material misrepresentation by the hold of such certificates.

"(b) NUMBER AND DISTRIBUTION.—The number of certificates of value to be deposited pursuant to section 303(a)(1) of this title shall be equal to the number of shares of series B preferred stock of the Corporation which are required to be deposited by the Corporation with the special court, pursuant to section 303(a)(1) of this title. Certificates of value shall be distributed by the special court, pursuant to section 303(c)(4) of this title, at the same time, to the same transferors, and in the same numbers of units as shares of such series B preferred stock are distributed.

"(c) REDEMPTION.—(1) Certificates of value shall be redeemed by the Association on December 31, 1987, or on such earlier date as the Association may determine and specify.

"(2) Each certificate of value shall be redeemable for an amount, payable in cash, equal to its base value on the redemption date, minus (A) the sum of the fair market value of the series B preferred stock applicable to such certificate and the fair market value of the common stock applicable to such certificate and all cash dividends theretofore paid on any such series B preferred stock and on any such common stock (B) any sums paid to a transferor of rail properties resulting from sales or leases by the Corporation of properties transferred to it by such transferor. The number of shares of series B preferred stock and common stock so applicable to each certificate of value shall be, respectively, one share of series B preferred stock and the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiving such certificate of value by the total number of certificates of value so distributed to such transferor.

"(3) The base value of each certificate of value shall be the value obtained by taking the net liquidation value, as determined by the special court, to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1) to the Corporation and any subsidiary or affiliate thereof, subtracting the value of other benefits provided by this Act, as determined by the special court, adding interest from the transfer date to the redemption date to be compounded at a rate of 8 per centum per annum, and dividing the resulting value by the number of certificates of value distributed to such transferor. In making such determination, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1).

"(4) The fair market value of series B preferred stock and of common stock shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the two first selected.

"(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.".

"(3) the applicant has offered such security as the Secretary deems necessary to protect reasonably the interests of the United States.".

CORPORATION DIRECTORS AND OFFICERS

SEC. 610. (a) Section 301(c) of such Act (45 U.S.C. 741(c)) is amended by deleting the second sentence thereof and inserting in lieu thereof the following two new sentences: "Notwithstanding any provision of State law, the members of the executive committee of the Association (including delegates of members who are authorized by this Act to have delegates) and the chief executive officer of the Corporation shall also adopt the initial bylaws of the Corporation and serve as the Board of Directors of the Corporation until at least five members of the Board of Directors of the Corporation shall have been selected in accordance with subsection (d) of this section. The chief executive officer shall serve as chairman of such Board until a chairman thereof is selected pursuant to subsection (d) of this section, after which time such chairman shall serve at the pleasure of such Board."

(b) Section 301(d) of such Act (45 U.S.C. 741(d)) is amended to read as follows:

"(d) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall consist of 13 qualified individuals selected in accordance with the articles and bylaws of the Corporation as follows: 6 individuals selected by the holders or holders in trust of the Corporation's debentures and series A preferred stock or redeemable preference shares, voting as one class, as soon as any debentures are issued; 3 individuals selected by the holders of the Corporation's series B preferred stock; and 2 individuals selected by the holders of the Corporation's common stock. Notwithstanding any provision of State law, the chief executive officer of the Corporation and the chief operating officer of the Corporation shall also serve on the Board and shall represent the holders of all classes of securities rather than the holders of any particular class or classes. The chief executive officer and chief operating officer of the Corporation shall not be entitled to vote on any questions subject only to class vote, and neither shall be entitled to vote on his selection. Two members of the Board selected by the holder of the Corporation's debentures and series A preferred stock or redeemable preference shares shall resign when less than $1,500,000,000 of the securities of the Corporation are issued and outstanding; two additional members of the Board selected by the holder of the corporation's debentures and series A preferred stock shall resign when less than $1,000,000,000 of the securities of the Corporation are issued and outstanding; the two remaining members of the Board selected by the holder of the Corporation's debentures and series A preferred stock or redeemable preference shares shall resign when less than $500,000,000 of the securities of the Corporation are issued and outstanding. As directors resign in accordance with diminished Association investment in the Corporation, the election of corporate directors to fill the vacancies created by their resignations shall be governed by applicable State law and the articles and bylaws of the Corporation. For the purposes of this subsection includes a holder in trust."

(c) Section 301 of such Act (45 U.S.C. 741) is amended by (1) striking out subsection (f) thereof; (2) redesignating subsection (g) thereof as subsection (h); and (3) inserting the following two new subsections:

"(f) OFFICERS.—The officers of the Corporation shall include a chief executive officer and a chief operating officer, who shall be elected by the Board of Directors and who shall serve at the pleasure of the Board: and such other officers as shall be provided for in the bylaws of the Corporation.

"(g) VOTING TRUSTEES.—For and during the period between the deposit of securities of the Corporation with the special court, in accordance with section 303(a) of this title and the distribution of such securities, in accordance with section 303(c) of this title, the special court may appoint one or more voting trustees for each class of securities which is so deposited. Such voting trustees shall, on behalf of the distributees, exercise the rights of the holders of such securities as their interests may appear.".

MISCELLANEOUS AMENDMENTS TO TITLE III

SEC. 611. (a) Section 303(b)(3) of such Act (45 U.S.C. 743(b)(3)) is amended to read as follows:

"(3) Notwithstanding any other provision of this Act, if an interest in railroad rolling stock (defined as assets which could be carried in Interstate Commerce Commission account numbers 52, 53, 54, and 57) is included in the rail properties to be conveyed, the conveyance of such properties shall be deemed an assignment relieving the assignor of liability for any breach occurring after the date of such assignment, except that such assignor shall remain liable for any breach, event of default, or violation of covenant which occurred, and any changes or obligations which accrued, prior to the date on which such properties are conveyed regardless of any assumption thereof by the assignee and, in the event such liabilities, charges or obligations are paid by or on behalf of any person or entity other than the assignor, such person or entity shall have a claim to reimbursement directly from such assignor as a current expense of administration together with interest thereon. Such a conveyance may only be effected. (A) If the profitable railroad operating in the region, or the Corporation to whom the conveyance is made, assumes all of the obligations, under any conditional sale agreement, equipment trust agreement, or lease with respect to such rolling stock, including any obligations which accrued prior to the date on which such properties are conveyed, and (B) such conveyance is made subject to such obligations. Subject to the provisions of this subparagraph 3, the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale agreement, equipment trust agreement, or lease under section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)). A profitable railroad operating in the region or the Corporation, to whom such a conveyance is made as assignee or as lessee, shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such a profitable railroad or the Corporation shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease."

(b) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by (1) inserting "and" after the comma at the end of subsection (7) thereof; and (2) deleting ", and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganization Act of 1973." and inserting in lieu thereof ".".

(c)(1) Section 303(a)(1) of such Act (45 U.S.C. 743(a)(1)) is amended by inserting after "Corporation", the second time it appears "or any subsidiary or affiliate thereof".

(2) Paragraphs (1) and (2) of section 303 (b) of such Act (45 U.S.C. 743(b) (1) and (2)) is amended by inserting after "Corporation" each time it appears therein (except the first time) "or any subsidiary or affiliate thereof".

(3) Section 303(c)(1)(A)(i) of such Act (45 U.S.C. 743(c)(1)(A)(i) and 744(3)) is amended by inserting after "Corporation" each time it appears or any subsidiary or affiliate thereof";

(4) Paragraph (2)(A) of section 303(c) of such Act (45 U.S.C. 743(c)(2)(A)) is amended by striking "Corporation" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof".

(d) Section 303(c)(2) of such Act (45 U.S.C. 743(c)(2)) is amended by (1) deleting "shall" in the clause preceding subparagraph (A) thereof and inserting "may" in lieu thereof; (2) deleting the semicolon at the end of subparagraph (A) thereof and inserting in lieu thereof ", except that at least one share of series B preferred stock and one certificate of value shall be allocated to each such railroad:"; and (3) amending subparagraph (C) thereof to read as follows:

"(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation."

(e) Section 303(c) of such Act (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Whenever the special court orders, pursuant to section 303(b)(1) of this title, the transfer or conveyance to the Corporation or any subsidiary or affiliate thereof of rail properties designated under section 206 (c)(1) (C) or (D) of this Act, or to a profitable railroad, the United States of America shall pay any judgment entered against the Corporation with respect to the conveyance of any such rail properties or against such profitable railroad, plus interest thereon at such rate as is constitutionally required. The United States of America may, in its discretion, represent the Corporation or such profitable railroad in any proceedings before the special court that could result in such a judgment against the Corporation under paragraph (2) of this subsection or such profitable railroad under paragraph (3) of this subsection. The Corporation or any profitable railroad which is represented by the United States of America shall cooperate diligently in whatever manner the United States of America shall reasonably request of it in connection with such proceedings. Neither the Corporation, its subsidiaries or affiliates, nor any profitable railroad shall be obligated to reimburse the United States of America for any moneys paid by the United States pursuant to this section.".

(f) Section 303(d) of such Act (45 U.S.C. 743(d)) is amended by (1) striking out "5" and inserting in lieu thereof "20".

(g) Section 303(c)(4) of such Act (45 U.S.C. 743(c)(4)) is amended by (1) striking "subsection (b)" therefrom and inserting "subsection (a)" in lieu thereof; and (2) inserting after "region" the following: "and to persons leased, operated, or controlled by such railroads who so transferred or conveyed rail properties".

(h) Section 303 of such Act (45 U.S.C. 743) is amended by (1) adding ", certificates of value" after "securities" in subsection (c) (1)(A)(i) thereof, in the preamble of subsection (c)(2) and in subsection (c)(2) thereof, and in subsection (c)(3) thereof; (2) adding "and certificates of value" after "of the Corporation" in subsection (c)(2)(A) thereof and after "Corporation's securities" in subsection (c)(2)(B) thereof; (3) deleting "obligations of the Association" at each place where the phrase appears and inserting in lieu thereof "certificates of value issued by the Association"; and (4) deleting "obligations" at each place where it appears other than as part of such phrase and inserting in lieu thereof "certificates of value".

(i)(1)(A) Section 301(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(a)) is amended by inserting immediately after "Corporation" the following: "or such other corporate name as may be duly adopted by the Corporation".

(B) Section 201(j) of such Act (45 U.S.C. 711(j)) is amended by striking out the second sentence.

(2) Section 301(b) of such Act (45 U.S.C. 741(b)) is amended by inserting in the third sentence thereof after "of the Corporation" and before "shall be" the following: "or of its principal railroad operating subsidiary".

(j) Section 303(b)(4) of such Act (45 U.S.C. 743(b)(4)) is amended by inserting after "is made assumes" and before "all of the terms and conditions" the following: "all future liability under such lease and".;

(k) Section 303(b) of such Act (45 U.S.C. 743(b)) is amended by inserting at the end thereof the following new subparagraph:

"(5) Notwithstanding any contrary covenant, undertaking, condition, or provision of any sort in any lease, agreement, or contract, the conveyance of such lease, agreement, or contract or of any interest therein, or the assumption by the Corporation or a profitable railroad of obligations thereunder, shall not be deemed a breach, an event of default, or a violation of any covenant of such lease, agreement, or contract."

(e) Section 301 of such Act (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(h) No director of the Corporation shall be subject to suit in any court or made a party to any threatened, pending or completed action, suit or proceeding, whether civil, administrative, or investigative (including an action by or in the right of the Corporation), nor shall any such person be liable for money damages or otherwise to any party by reason of the fact that such person is or was, a director, if with respect to the subject matter of such action, suit, or proceeding, such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Corporation. The United States shall indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any such action, suit, or proceeding in which such person is determined to have met such standard of conduct. The United States shall also indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any action, suit, or proceeding in which such person is claimed to have taken action in conflict with the best interests of the Corporation, if such person, at the time such action was taken, was fulfilling a duty which he in good faith reasonably believed to be required by law or vested in him in his capacity as director of the Association or his capacity as an officer of the United States. This subsection shall not be construed to grant any immunity from any criminal law of the United States.

"(i) CORPORATE SIMPLIFICATION.—In the interests of corporate simplification, the Corporation, in implementing the final system plan, shall undertake, as soon as possible and pursuant to financial assistance provided pursuant to section 802(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1975, to acquire all interests in rail lines and related rail property otherwise conveyed to the Corporation, upon the tender of such interests to it, so as to eliminate any remaining intermediate layers of ownership or interest, such as leaseholds, owned or held by persons who are neither a railroad, a railroad in reorganization nor controlled by a railroad in reorganization. Any option conditions regarding the purchase price for such interests, in existence since prior to January 2, 1974, shall be deemed to be conclusive of fair and equitable value.".

(m) Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended by adding a new subsection reading as follows:

"(g) No railroad in reorganization and no person leased, operated or controlled by such a railroad shall sell, transfer, encumber or otherwise dispose of rail property or any right or interest therein designated for transfer to the Corporation or conveyance to a profitable railroad in the final system plan, except pursuant to section 303(b) of this title: *Provided*, That this section shall not apply to any such sale, transfer, encumbrance, or other disposition—

"(1) as to which the Association generally or specifically consents in writing:

"(2) which, prior to enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, had been specifically approved by a United States district court having jurisdiction over the reorganization of a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); or

"(3) following certification to the special court pursuant to section 209(c) of the Regional Rail Reorganization Act of 1973 of any such rail property not so certified."

DEFINITION

SEC. 612. Section 501 of such Act (45 U.S.C. 771(1)) is amended by (1) inserting after "Corporation" at each place where such term is used the words "or any subsidiary or affiliate thereof", and insert after "Corporation or any subsidiary or affiliate thereof", as so amended, in paragraph (2) thereof the following: ", to the National Railroad Passenger Corporation,"; (2) amending paragraph (2) thereof by adding after the phrase "or operated by the railroad in reorganization", and before the phrase "except a president", the following: ", except a class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but which is controlled by a railroad in reorganization, and"; (3) amending paragraph (3) thereof to read as follows:

"(3) 'protected employee' means any employee of—

"(A) an acquiring or selling railroad who is adversely affected by a transaction;

"(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who is adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under section 206(c)(2) of this Act;

"(C) a railroad in reorganization; and

"(D) a railroad who is adversely affected by a supplementary transfer under section 305 of this Act or by a project recommended under section 206(g) of this Act;

who, in any such case, has not reached age 65 on the effective date of this Act or;

(4) amending paragraph (8) thereof by (A) striking "this Act or" and inserting in lieu thereof "this Act, including section 305 thereof, or ", and (B) striking "and" at the end of such paragraph; (5) striking the period at the end of paragraph (9) thereof and inserting in lieu thereof "; and "; and (6) adding at the end thereof the following new paragraph:

"(10) 'selling railroad' means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act; and".

EMPLOYMENT OFFERS

SEC. 613. (a) Section 502(b) of such Act (45 U.S.C. 772(b)) is amended to read as follows:

"(b) MANDATORY OFFER.—The Corporation shall offer employment, to be effective as of the date of a conveyance or discontinuance of service under the provisions of this Act, to each employee of railroad in reorganization who has not already accepted an offer of employment by the Association (where applicable), an acquiring railroad, or the Corporation. Such offers of employment to employees represented by labor organizations will be confined to their same craft and class. The Corporation shall apply to said employees the protective provisions of this title.".

(b) Section 502(a) of such Act (45 U.S.C. 772(2)) is amended by adding at the end thereof the following new sentence: "As used in this subsection, the term 'where applicable' refers to the relation of the Association, as an employer (A) to employees of the Association who, before the date of conveyance under section 303(b)(1) of this Act, had creditable service under the relevant statute and who were offered and accepted coverage under such statute; and (B) to former employees of railroads in reorganization after the date of such conveyance.".

COLLECTIVE BARGAINING AGREEMENTS

SEC. 614. Section 504 of such Act (45 U.S.C. 774) is amended by adding the following three new subsections:

"(e) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance and shall be entitled to direct reimbursement as a current expense of administration from the estates of the railroads in reorganization which were the employers at the time such claims arose: *Provided*, That in those cases in which claims for employees were sustained or settled prior to the date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of their former employers.".

"(f) TRANSFER OF EMPLOYEES TO THE NATIONAL RAILROAD PASSENGER CORPORATION OR ACQUIRING RAILROADS.—Notwithstanding any otherwise applicable provisions of this title, protected employees to whom the Corporation has made offers of employment may be transferred to the National Railroad Passenger Corporation in accordance with the following procedure:

"(1) Not later than 90 days after the date of completion of the transaction required by section 206(c) of this Act, implementing agreement negotiations between representatives of the various crafts or classes of employees associated with the involved properties, the Corporation, and the National Railroad Passenger Corporation shall commence. These negotiations shall—

"(A) identify the specific employees of the Corporation to whom the National Railroad Passenger Corporation offers employment;

"(B) the procedure by which those employees of the Corporation may elect to accept employment with the National Railroad Passenger Corporation;

"(C) the procedure for acceptance of such employees into the National Railroad Passenger Corporation's employment; and

"(D) the procedure for determining the seniority of such employees in their respective crafts or classes on the National Railroad Passenger Corporation's system which shall to the extent possible, preserve their prior seniority rights.

If no agreement regarding the matters referred to in this subsection is reached by the end of 60 days after the date of commencement of negotiations (which shall also be a date which is at least 90 days after the transaction contemplated by section 601(d) of the Act) upon notice of any party, all parties shall within an additional 10 days select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall promptly appoint a referee. Hearings thereon shall commence not later than 30 days after the date of selection or appointment of such referee, and a decision shall be rendered by such referee within 60 days after the date of commencement of the hearings. The referee shall resolve and decide all matters in dispute regarding the negotiation of the implementing agreement or agreements. All parties may participate, but the referee shall have the only vote. The referee's decision shall be final and binding and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railroad Labor Act.

"(2) Prior to implementation of the agreement or agreements pursuant to the preceding paragraph, the representatives of the various crafts or classes of employees designated to be transferred to the National Railroad Passenger Corporation shall meet with representatives of the National Railroad Passenger Corporation for the purposes of negotiating agreements regarding rates of pay, rules and working conditions. If, 60 days after the date of commencement of such negotiations, no agreement has been reached, the bargaining agreement in existence on the property from which the employees are to be transferred and which is applicable to the craft or class of employees being transferred will apply and the implementing agreement will be put into effect.

"(3) An employee of the Corporation entitled to protection and transferred as a result of an acquisition pursuant to this Act shall carry with him his protected status upon transfer to the National Railroad Passenger Corporation or to an acquiring carrier. The National Railroad Passenger Corportation or an acquiring carrier, as new employers, shall be responsible for payment of protective benefits and shall be entitled to reimbursement pursuant to section 509 of this title.

"(4) The National Railroad Passenger Corporation may offer employment to any noncontract employee prior to completion of any of the agreements referred to in this section. Noncontract employees accepting employment with the National Railroad Passenger Corporation shall carry with them all rights and benefits accorded to them under this title.

"(g) All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization arising prior to the date of conveyance of rail properties pursuant to section 303 of this Act shall be assumed by the Corporation or an acquiring carrier, as the case may be, and the Corporation or the acquiring carrier shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 216(b)(5) of this Act.".

EMPLOYEE PROTECTION

Sec. 614. (a) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(a)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: " ' including, without limitation, all accrued pension benefits under any employee pension benefit plan in effect on December 1, 1975, until such time as a replacement employee pension benefit plan, establishing a fair and equitable overall program covering all such employees, shall have become effective.

(b) Section 505(b)(1) of such Act (45 U.S.C. 775(b)(1)) is amended by striking "the last 12 months immediately prior to his being adversely affected" and inserting in lieu thereof "the 12 full calendar months immediately preceding February 26, 1975".

(c) Section 505(b)(3) of such Act (45 U.S.C. 775(b)(3)) is amended by deleting "his being adversely affected" and inserting in lieu thereof "February 26, 1975,".

(d) Section 505(b) of such Act (45 U.S.C. 775) is amended by (1) redesignating paragraph (4) thereof as paragraph (5) and (2) inserting a new paragraph (4) therein as follows:

"(4) If a noncontract employee exercises seniority rights in a craft or class of employees protected under this Act, then, during the period such seniority is exercised, such noncontract employee shall be entitled to the same protection, offered under this Act to employees in the craft or class in which such seniority is exercised. However, in computing the monthly displacement allowance, the last 12 months in which such noncontract employee performed service under a collective-bargaining agreement prior to February 26, 1975, shall be used.".

(e) Section 505(f) of such Act (45 U.S.C. 775(f)) is amended to read as follows:

"(f) Termination Allowance.—The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than 3 years' service as of the effective date of this Act. The Corporation's right to terminate an employee must be exercised within a period of 1 year from the date of conveyance. Upon notification to the employee of the Corporation's intent to terminate his services, the employee shall have the option of accepting the termination allowance or of accepting a voluntary furlough without pay: *Provided*, That in the event the employee entitled to receive a lump sum separation allowance accepts such an allowance, the amount shall be determined as follows:

2 to 30 years' service	18 days' pay at the rate of the position last held.
1 to 2 years' service	90 days' pay at the rate of the position last held.
Less than 1 year's service	5 days' pay at the rate of the position last held for each month of service.".

(f) Section 505(h) of such Act (45 U.S.C. 775(h)) is amended by adding at the end thereof the following sentence: "Provisions of this title shall also be applied, upon a conveyance or discontinuance of service, to employees who are otherwise entitled to protective benefits and who were placed in furlough status on or after February 26, 1975.".

(g) Section 505 of such Act (45 U.S.C. 775) is amended by adding at the end thereof the following new subsection:

"(i) Noncontract Employees.—Compensation, severance, termination, and moving expense benefits for employees not governed by a collective-bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section.

"(1) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsection (e) or (f) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

"(2) If any dispute arises between the Corporation and a noncontract employee regarding the interpretation or application of the provisions of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. Either party may request arbitration and the cost and expenses of such arbitration shall be shared equally by the parties.

"(j) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (a)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", including, without limitation, all accrued pension benefits under any employee pension benefit plan in effect on December 1, 1975, until such time as a replacement employee pension benefit plan, establishing a fair and equitable overall program covering all such employees, shall have become effective.".

(h) Section 509 of such Act (45 U.S.C. 779) is amended to read as follows:

"Sec. 509. The Corporation, the Association (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title, not to exceed the aggregate such of $250,000,000, by the Railroad Retirement Board, upon certification to such Board, by the Corporation, the Association (where applicable), and acquiring railroads, of the amounts paid such employees. Such reimbursement shall be made from a separate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. Neither the Regional Rail Transportation Protective Account nor the Corporation nor an acquiring carrier shall be charged for any amounts of benefits paid to a protected employee under the provisions of the Railroad Unemployment Insurance Act or any other income protection law or regulation. There is authorized to be appropriated to such protective account annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $250,000,000. There is further authorized to be appropriated to the Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by the Board in the performance of its functions under this section.".

DUTIES OF ACQUIRING AND SELLING RAILROADS

Sec. 615. Section 508 of such Act (45 U.S.C. 778) is amended by (1) inserting after "Sec. 508." and before the first sentence thereof the following: "(a) Acquiring Railroads.—(1)"; (2) inserting after "railroad from which it acquires properties or facilities" the following: "(including operating rights)"; (3) deleting "303" in the last clause thereof and inserting in lieu thereof "206 (d)(4)"; (4) adding at the end thereof the following new sentence: "For purposes of this subsection, the National Railroad Passenger Corporation shall be deemed to be an acquiring railroad with respect to employees described in clause (3) of section 501(3) of this title."; and (5) inserting at the end thereof the following new paragraph and the following new subsection:

"(2) National Railroad Passenger Corporation.—In the event the National Railroad Passenger Corporation acquires rail properties of a railroad in reorganization, prior to conveyance of rail properties to the Corporation under section 303 of this Act but after the adoption of the preliminary system plan, it shall offer such employment and afford such employment protection to employees of a railroad from which it acquires rail properties and shall further protect its own employees who may be adversely affected by such acquisition, as shall be agreed upon between the National Railroad Passenger Corporation and the representatives of such employees prior to said acquisitions: *Provided*, That the protection and benefits provided for employees in such agreements shall be the same as those specified in section 505 of this title, except that such agreements shall supersede conflicting provisions in any previously applicable job stabilization agreements or agreements implementing said stabilization agreements, and the National Railroad Passenger Corporation shall be reimbursed for expenses incurred as a result of any such acquisition as provided in section 509.

"(b) Selling Railroads.—A selling railroad shall offer such employment and shall provide such employment protection to each of its employees who are adversely affected by such sale, pursuant to agreements to be entered into between it and the representatives of such employees prior to said sale: *Provided,* That (1) the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 505; and (2) unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act.".

EXEMPTIONS

Sec. 616. (a) Section 601(a)(2) of such Act (45 U.S.C. 791(a)(2)) is amended by adding immediately before the period at the end thereof the following: "and with respect to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act".

(b) Section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)) is amended—

(1) by striking out "to the extent necessary" and inserting in lieu thereof "taken"; and

(2) by striking out "whenever" and all that follows through "this Act" and inserting in lieu thereof of the following: "where such action was in compliance with the requirements of such plan, or to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act"; and

(3) adding at the end thereof the following two new paragraphs:

"(2) All securities of the Corporation which are issued to the Association as the initial holder, or which are issued in connection with the transfer to the Corporation of rail properties under this Act, shall be deemed for all purposes to have been issued subject to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).

"(3) The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205), with respect to a railroad in reorganization which conveys all or substantially all of its designated rail properties to the Corporation or to any subsidiary or affiliate thereof, or to profitable railroads in the region, pursuant to the final system plan, and the duty of the trustee or trustees of such a railroad to file a reorganization plan with the Commission, shall cease upon the date of such conveyance. The powers and duties of the Commission under Section 77 of the Bankruptcy Act shall also similarly terminate as of the date of enactment of the Rail Services Act of 1975 with respect to any railroad in reorganization under Section 77, but not subject to this Act, which (1) does not operate any line of railroad and (2) has transferred all or substantially all of its rail properties to a railroad in reorganization which is subject to this Act prior to the effective date of this Act. Thereafter, such powers and duties of the Commission shall be vested in the United States district court which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance. Such court shall proceed to reorganize or liquidate such railroad in reorganization pursuant to (A) such section 77 on such terms as the court deems just and reasonable, or (B) any other provisions of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate: *Provided,* That this paragraph does not affect any obligation of any carrier by railroad subject to regulation under the Interstate Commerce Act. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall continue in effect (1) if the railroad in reorganization continues to operate any line of railroad, [or (2) if a plan of reorganization has been approved, in whole or in part, by the Commission as of the date of enactment of the Rail Services Act of 1975.".]

(c) Section 601(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(c)) is amended to read as follows:

"(c) Environment.—The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to any action taken under authority of this Act before, and including, the conveyance of rail properties ordered by the special court under section 303(b)(1) of this Act, and shall not apply thereafter to any action taken in compliance with the requirements of the final system plan.".

NATIONAL RAILROAD PASSENGER CORPORATION

Sec. 701. (a) In General.—To carry out the purposes of this title, the Rail Passenger Service Act, and the Regional Rail Reorganization Act of 1973, the National Railroad Passenger Corporation is authorized to—

(1) acquire by purchase, lease, exchange, gift, or otherwise, and to hold, maintain, sell, lease or otherwise dispose of, any real or personal property or interest therein which is necessary or useful in establishing and maintaining improved high-speed rail services, as specified in section 703 of this title;

(2) enter into and implement such contracts and agreements as are necessary or appropriate in the conduct of its functions;

(3) provide for the continuous operation and maintenance of rail freight, intercity rail passenger, and commuter rail passenger service over the properties acquired pursuant to this section;

(4) improve railroad rights-of-way between Boston, Massachusetts, and Washington, District of Columbia, to the extent necessary (including, at its option, the route through Springfield, Massachusetts) and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast corridor to enable improved high-speed rail passenger service to be provided between Boston, Massachusetts, and Washington, District of Columbia, and intermediate intercity markets, in accordance with the goals set forth in section 703 of this title;

(5) acquire, construct, improve, and install passenger stations; communications, electric power, and other facilities and equipment; public and private highway and pedestrian crossings; other safety facilities or equipment; and any other facilities or equipment which it determines are necessary to enable improved high-speed rail passenger service to be provided over the railroad rights-of-way acquired under paragraph (1) of this subsection and as improved under paragraph (4) of this subsection;

(6) enter into agreements with other railroads, other carriers, and commuter agencies, for the purpose of granting, acquiring, or entering into trackage rights, contract services, and other appropriate arrangements for freight and commuter services over the rights-of-way acquired under this title. Any such agreement shall be on such terms and conditions as are necessary to reimbursement for costs on an equitable and fair basis, except that cross subsidization among intercity, commuter, or rail freight services is prohibited;

(7) appoint a qualified individual to serve as the General Manager of the Northeast Corridor improvement project; and

(8) enter into agreements with telecommunications common carriers on a basis which is consistent with, and subject to, the Communications Act of 1934, for the purpose of continuing existing, and creating new and improved, rail passenger radio mobile telephone service in the high-speed rail passenger service area specified in section 703(1) of this title.

(b) Transfer of Rail Properties.—The Corporation, on the date of conveyance under section 303 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 743), shall by purchase or lease, transfer to the National Railroad Passenger Corporation all rail properties designated pursuant to sections 206(c)(1)(C) and 601(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and 701(d)), and it shall, within 180 days after the date of enactment of this title, execute agreements providing for the National Railroad Passenger Corporation to assume (1) all operational responsibility for intercity services with respect to such properties, and (2) control and maintenance of the properties transferred. Such parties may agree to retaining or transferring, in whole or in part, operational responsibility for freight or commuter rail services in the area specified.

OPERATIONS REVIEW PANEL

Sec. 702. (a) Establishment.—There is established an entity which shall be representative of the various users of Northeast Corridor facilities, to be known as the Operations Review Panel (hereafter in this section referred to as the "Panel"). The Panel shall have the authority to take such actions as are necessary to resolve differences of opinion concerning operations (among or between the National Railroad Passenger Corporation, other railroads, and State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 705 of this title.

(b) Membership.—The Panel shall consist of 5 members, as follows:

(1) one member who shall be selected by the chief executive officer of the National Railroad Passenger Corporation;

(2) one member who shall be selected by majority vote of the commuter rail authorities which are subject to the jurisdiction of the Operations Review Panel;

(3) one member who shall be selected by the chief executive officer of the Consolidated Rail Corporation; and

(4) two neutral members who shall be selected by the Chairman of the National Mediation Board.

The members shall each serve a term of 4 years from the date of such selection, or until a successor has been selected. If, within 45 days after the date of enactment of this Act, the National Railroad Passenger Corporation, the consumer authorities, or the Consolidated Rail Corporation fails to select the member who it is authorized to select under this subsection, the Chairman of the National Mediation Board shall, within 30 days after the expiration of such 45-day period, appoint a member on behalf of such party. Any member so appointed shall serve until such time as the party so represented selects a successor.

(c) Decisions and Review.—All decisions of the Panel shall be final and binding on the parties. All costs and expenses of the Panel shall be paid by (1) the National Railroad Passenger Corporation, (2) the commuter rail authorities which are subject to such Panel, and (3) the Consolidated Rail Corporation, each of which shall pay one-third of such costs and expenses, unless otherwise determined by a majority of the members of such Panel. The Panel may adopt such rules of procedure and may employ such resources as it deems appropriate. It may issue preliminary and final orders, which shall have the force and effect of law, with respect to any difference of opinion concerning any operational matter which is the subject of such an order. No order of the Panel shall be subject to review by any court. Upon petition by any party subject to the Panel, the United States District Court for the District of Columbia shall enforce any final order issued by the Panel.

REQUIRED GOALS

Sec. 703. The Northeast Corridor improvement project shall be implemented with a view to achieving the following goals:

(1) Intercity Passenger Services.—Within 4 years after the date of enactment of this Act, the establishment of regularly scheduled and dependable intercity rail passenger serv-

ice between Boston, Massachusetts, and New York, New York, operating on a 3-hour schedule, including appropriate intermediate stops; regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2½-hour schedule, including appropriate intermediate stops. The National Railroad Passenger Corporation and the Corporation shall, in accordance with route criteria approved by the Congress, make improvements in service on routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line, and from Springfield, Massachusetts, to Boston, Massachusetts, and New Haven, Connecticut in order to facilitate compatibility with improved high-speed rail service operated on the Northeast Corridor main line.

(2) COMMUTER SERVICES, RAPID RAIL TRANSIT, AND LOCAL TRANSPORTATION.—To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rapid rail transit, and local public transportation.

(3) FREIGHT SERVICES.—The maintenance and improvement of rail freight service to all users of rail freight service located on or adjacent to the Northeast Corridor and the maintenance and improvement of all through freight services that remain on the Northeast Corridor, to the extent compatible with the goals contained in paragraphs (1) and (2) of this section.

(4) PASSENGER RADIO TELEPHONE SERVICE.—To the extent compatible with the goals contained in paragraph (1) of this section, the continuation of and improvement in passenger radio telephone service aboard trains operated in high-speed rail service between Washington, District of Columbia, and Boston, Massachusetts. The President and relevant Government agencies, including the Federal Communications Commission, shall take whatever actions are necessary to meet this goal, including authorization for the utilization of the necessary Government radio frequencies by common carriers in a manner which minimizes interference with competing governmental uses, subject to the provisions of the Communications Act of 1934, including necessary licensing, construction, operation, and maintenance standards for the radio service, as determined by the Federal Communications Commission to be in the public interest, convenience, and necessity.

FUNDING

SEC. 704. (a) AUTHORIZATION OF APPROPRIATIONS FOR LOANS.—There is authorized to be appropriated to the Association $2,400,000,000 to remain available until expended to permit the Association to make available non-interest-bearing 30-year loans to the National Railroad Passenger Corporation for the use of the Northeast Corridor improvement project, to other railroads, or to State, local, or regional agencies responsible for the provision of commuter rail service, rapid rail, or rail freight service, in order to effectuate the goals specified in section 703 of this title. If the improvements mandated by this title result in greater profits, to the National Railroad Passenger Corporation, than anticipated, the Association may accelerate appropriately the schedule for repayment of such loans.

(b) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—(1) There is authorized to be appropriated to the National Railroad Passenger Corporation, for system management and development costs connected with the Northeast Corridor improvement project, an amount not to exceed $50,000,000 to remain available until expended; an amount not to exceed $25,000,000, to remain available until expended, for nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor; an amount not to exceed $85,182,956 to acquire the properties of the Northeast Corridor; an amount not to exceed $650,000 to remain available until expended, for the development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service; an amount not to exceed $75,000,000 to remain available until expended, for interim operating losses of intercity rail passenger services; an amount not to exceed $20,000,000, to remain available until expended, for acquiring and improving properties designated pursuant to section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c)(1)(D)).

(2) No funds appropriated under this section or pursuant to section 601 of the Rail Passenger Service Act may be used to subsidize any operating losses of commuter or rail freight services.

(c) COORDINATION.—The Secretary shall coordinate all transportation programs related to the Northeast Corridor so that all such programs are integrated and consistent with implementation of the Northeast Corridor improvement project. If the Secretary finds any significant noncompliance with the implementation of the goals of section 703 of this title, he may deny funding to any noncomplying program until such noncompliance is corrected.

(d) EMERGENCY MAINTENANCE CONTINUATION.—After the conveyance of rail properties, pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 702(b) of this title, not to exceed $25,000,000 of the funds appropriated pursuant to Public Law 94–6 (89 Stat. 11) shall remain available to be utilized by the Secretary, for the purpose of performing emergency maintenance on the rail properties designated in the final system plan, in accordance with section 206(c)(1)(C) of such Act (45 U.S.C. 716(c)(1)(C)).

CONFORMING AMENDMENTS

SEC. 705. (a) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by adding at the end thereof the following three new sentences: "Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973, as amended, and the Railroad Revitalization and Regulatory Reform Act of 1975. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services.".

(b) Section 601(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 (d)(1)) is amended to read as follows:

"(d) NORTHEAST CORRIDOR.—(1) Rail properties designated in accordance with section 206(a)(1)(C) of this Act shall be purchased or leased with an option to purchase by the National Railroad Passenger Corporation. The Corporation shall negotiate an appropriate sale or lease with an option to purchase agreement with the National Railroad Passenger Corporation for the properties designated for transfer pursuant to section 206 (c)(1)(C) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 716 (c)(1)(C)), which shall take effect on the date of conveyance of such properties to the Corporation.".

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended by inserting "(1)" immediately after "(b)" and before the first sentence thereof; and (2) deleting the second sentence thereof and inserting in lieu thereof the following: "The Corporation shall institute such service under an agreement if the State, regional, or local agency agrees to reimburse the Corporation for 50 percent of total operating losses and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

"(A) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section; and

"(B) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service.

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

"(2) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system shall be given preference.

"(3) The Board of Directors shall establish the basis for determining the total costs and the total revenue of the service provided pursuant to this subsection.".

(d) Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(i) The provisions of section 361 of the Public Health Service Act (42 U.S.C. 264) shall not apply to railroad conveyances operated in intercity rail passenger service".

(e) Section 303(a)(5) of the Rail Passenger Service Act (45 U.S.C. 543(a)(5)) is amended by (1) deleting "for each meeting of the board he attends." and inserting in lieu thereof "per diem when engaged in the actual performance of duties.", and (2) inserting ", secretarial or professional staff support which is reasonably required after "necessary travel."

(f) Section 305(d)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 545(d)(1)(B)) is amended by deleting "for the construction of tracks or other facilities necessary to provide".

(g) Section 402(d)(1) of the Rail Passenger Service Act (45 U.S.C. 562(d)(1)) is amended by deleting "the construction of tracks or other facilities necessary to provide".

(h) Section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) is amended by adding the following sentence at the end thereof: "After January 1, 1977, all route additions shall be in accordance with the Criteria and Procedures for Making Route and Service Decisions approved by the Congress pursuant to section 404(c)(2) (45 U.S.C. 564(c)(2)), and this subsection shall no longer apply to route additions."

FACILITIES WITH HISTORICAL OR ARCHITECTURAL SIGNIFICANCE

SEC. 706. Section 4(i) of the Department of Transportation Act (49 U.S.C. 1653) is amended by (1) redesignating paragraph (1) (C) thereof and all references thereto as paragraph (D) thereof; (2) inserting after paragraph (1)(B) thereof and before "and" thereof the following new clause: "(C) acquiring and utilizing space in suitable buildings of historic or architectural significance, unless the use of such space would not prove feasible and prudent compared with available alternatives;"; (3) redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) thereof as paragraphs (5), (6), (7), (8), (9), (10), and (11) thereof, respectively; (4) inserting after paragraph (3) thereof the following new paragraph:

"(4) Acquisitions made for the purpose set forth in paragraph (1)(C) of this subsection shall be made only after consultation with the chairman of the National Endowment for the Arts and the Advisory Council on Historic Preservation."; and (5) amending paragraph (9) thereof, as redesignated by this section, to read as follows:

"(9)(A) There is authorized to be appropriated for the purpose set forth—

"(i) in paragraphs (1)(A) and (1)(C) of this subsection not to exceed $15,000,000;

"(ii) in paragraph (1)(B) of this subsection not to exceed $5,000,000; and

"(iii) in paragraph (1)(D) of this subsection not to exceed $5,000,000.

"(B) Of the sums available under clauses (ii) and (iii) of subparagraph (A) of this paragraph, there shall be available to the National Endowment for the Arts not to exceed $2,500,000 for planning under paragraph (1)(D) of this subsection and not to exceed $2,500,000 for interim maintenance under paragraph (1)(B) of this subsection.

"(C) Sums appropriated for the purposes of this subsection shall remain available until expended.".

TITLE VIII—LOCAL RAIL SERVICE CONTINUATION

EXTENSION OF SERVICE

SEC. 801. (a) Section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended to read as follows:

"(18)(A) No carrier by railroad subject to this part shall—

"(i) undertake the extension of any of its lines of railroad or the construction of any additional line of railroad;

"(ii) acquire or operate any such extension or any such additional line; or

"(iii) engage in transportation over, or by means of, any such extended or additional line of railroad,

unless such extension or additional line of railroad is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or will be enhanced by the construction and operation of such extended or additional line of railroad. Upon receipt of an application for such a certificate, the Commission shall (I) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of such extended or additional line; (II) send an accurate and understandable summary of such application to a newspaper of general circulation in such affected area of areas with a request that such information be made available to the general public; (III) cause a copy of such summary to be published in the Federal Register; (IV) take such other steps as it deems reasonable and effective to publicize such application; and (V) indicate in such transmissions and publications that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(B) The Commission shall establish and may from time to time amend rules and regulations (as to hearings and other matters) to govern applications for, and the issuance of, any certificate required by subparagraph (A). An application for such a certificate shall be submitted to the Commission in such form and manner and with such documentation as the Commission shall prescribe. The Commission may—

"(1) issue such a certificate in the form requested by the applicant;

"(ii) issue such a certificate with modifications in such form and subject to such terms and conditions as are necessary in the public interest; or

"(iii) refuse to issue such a certificate.

"(C) Upon petition or upon its own initiative, the Commission may authorize any carrier by railroad subject to this part to extend any of its lines of railroad or to take any other action necessary for the provision of adequate, efficient, and safe facilities for the performance of such carrier's obligations under this part. No authorization shall be made unless the Commission finds that the expense thereof will not impair such carrier's ability to perform its obligations to the public.

"(D) Carriers by railroad subject to this part may, notwithstanding this paragraph and section 5 of this part, and without the approval of the Commission, enter into contracts, agreements, or other arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The authority granted to the Commission under this paragraph shall not extend to the construction, acquisition, or operation of spur, industrial, team, switching, or side tracks if such tracks are located or intended to be located entirely within one State and shall not apply to any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.

"(E) Any construction or operation which is contrary to any provision of this paragraph, of any regulations promulgated under this paragraph, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this paragraph or of the conditions of a certificate issued under this paragraph.".

(b) Sections 1(19), 1(20), 1(21), and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(19) through 1(22)) are repealed.

DISCONTINUANCE OR ABANDONMENT

SEC. 802. The Interstate Commerce Act is amended by inserting after section 1 thereof the following new section:

"DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

"SEC. 1a. (a) No carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line (hereafter referred to as 'discontinuance'), unless such abandonment or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, and notwithstanding any decision, order, or procedure of any State administrative or judicial body.

"(b)(1) Whenever a carrier submits to the Commission a notice of intent to abandon or discontinue, pursuant to subsection (a), such carrier shall attach thereto an affidavit certifying that a copy of such notice (A) has been sent by certified mail to the chief executive officer of each State that would be directly affected by such abandonment or discontinuance; (B) has been posted in each terminal and station on any line of railroad proposed to be so abandoned or discontinued; (C) has been published for 3 consecutive weeks in a newspaper of general circulation in each county in which all or any part of such line of railroad is located; and (D) has been mailed, to the extent practicable, to all shippers who have made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12 months preceding such submission.

"(2) The notice required under paragraph (1) shall include (A) an accurate and understandable summary of the carrier's application for a certificate of abandonment or discontinuance together with the reasons therefor, and (B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

(c) During the 60-day period between the submission of completed application for a certificate of abandonment or discontinuance pursuant to subsection (a) and the proposed effective date of an abandonment or discontinuance, the Commission shall, upon petition, or may, upon its own initiative, cause an investigation to be conducted to assist it in determining what disposition to make of such applicaiton. An order of the Commission to implement the preceding sentence must be issued and served upon any affected carrier not less than 5 days prior to the end of such 60-day period. If no such investigation is ordered, the Commission shall issue such a certificate, in accordance with this section, at the end of such 60-day period. If such an investigation is ordered, the Commission shall order a postponement, in whole or in part, in the proposed effective date of the abandonment or discontinuance. Such postponement shall be for such reasonable period of time as is necessary to complete such investigation. Such an investigation may include, but need not be limited to, public hearings at any location reasonably adjacent to the line of railroad involved in the abandonment or discontinuance application, pursuant to rules and regulations of the Commission. Such a hearing may be held upon the request of any interested party or upon the Commission's own initiative. The burden of proof as to public convenience and necessity shall be upon the applicant for a certificate of abandonment or discontinuance.

"(d) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

"(1) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience and necessity. In determining whether the proposed abandonment is consistent with the public convenience and necessity, the Commission shall consider whether there will be a serious adverse impact on rural and community development by such abandonment or discontinuance;

"(2) issue such certificate with modifications in such form and subject to such terms and conditions as are required, in the judgment of the Commission, by the public convenience and necessity; or

"(3) refuse to issue such certifiate.

Each such certificate which is issued by the Commission shall contain provisions for the protection of the interests of employees; such provisions shall be at least as beneficial to such interests as provisions established pursuant to section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) and pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565). If such a certificate is issued, actual abandonment or discontinuance shall take effect, in accordance with such certificate, 120 days after the date of issuance thereof.

"(e)(1) Each carrier by railroad subject to this part shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish, a full and complete diagram of the transportation system operated, directly or indirectly, by such carrier. Each such diagram shall include a detailed description of each line of railroad which is 'potentially subject to abandonment', as such term is defined by the Commission. Such term shall be defined by the Commission by rules and such rules may include standards which vary by region of the Nation and by railroad or group of railroads. Each such diagram shall also identify any line of railroad as to which such carrier plans to submit an application for a certificate of abandonment or discontinuance in accordance with this section. Each such carrier shall submit to the Commission and publish, in accordance with regulation of the Commission, such amendments to such diagram as are necessary to maintain the accuracy of such diagram.

"(2) The Commission shall not issue a certificate of abandonment or discontinuance with respect to a line of railroad if such abandonment or discontinuance is opposed by—

"(A) a shipper or any other person who has made significant use of such line of railroad during the 12-month period preceding the submission of an applicable application under subsection (a); or

"(B) a State, or any political subdivision of a State, if such line of railroad is located, in whole or in part, witihn such State or political subdivision;

unless such line or railroad has been identified and described in a diagram or in an amended diagram which was submitted to the Commission under paragraph (1) at least 4 months prior to the date of submission of an application for such certificate.

"(f)(1) Whenever the Commission makes a finding, in accordance with this section, that the public convenience and necessity permit the abandonment or discontinuance of a line of roalroad, it shall cause such finding to be published in the Federal Register. If, within 30 days of such publication, the Commission further finds that—

"(A) a financially responsible person or a government entity has offered financial assistance to enable the rail service involved to be continued; and

"(B) it is likely that such proffered assistance would—

"(i) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line together with a reasonable rate of return on the value of such line; or

"(ii) cover the acquisition cost of all or any portion of such line of railroad;

the Commission shall postpone the issuance of a certificate of abandonment or discontinuance for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment or discontinuance, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to it of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

"(2) A carrier by railroad subject to this part shall promptly make available, to any party considering offering financial assistance in accordance with paragraph (1), its most recent reports on the physical condition of any line of railroad with respect to which it seeks a certificate of abandonment or discontinuance together with such traffic, revenue, and other data as is necessary to determine the amount of assistance that would be required to continue rail service.

"(g) Whenever the Commission finds, under subsection (f) of this section, that an offer of financial assistance has been made, the Commission shall determine the extent to which the avoidable cost of providing rail service plus a reasonable return on the value of the rail properties involved exceed the revenues attributable to the line of railroad or the rail service involved.

"(h) Petitions for abandonment or discontinuance, which were filed and pending before the Commission as of the date of enactment of this section or prior to the promulgation by the Commission of regulations required under this section shall be governed by the provisions of section 1 of this Act which were in effect on such date of enactment, except that subsections (f) and (g) of this section shall be applicable to such petitions.

"(i) Any abandonment or discontinuance which is contrary to any provision of this section, or any regulation promulgated under this section, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this section or of any regulation under this section.

"(j) As used in this section, the terms—(1) 'avoidable cost' means all expenses which would be incurred by a carrier in providing a service which would not be incurred, in the case of discontinuance, if such service were discontinued or, in the case of abandonment, if the line over which such service was provided were abandoned. Such expenses shall include, but not be limited to, all cash inflows which are foregone and all cash outflows which are incurred by the carrier as a result of not continuing or not abandoning such service. These foregone cash inflows and incurred outflows shall, where foregone or incurred, include, but are not limited to a reasonable rate of return on the salvage value of the properties, the foregone tax benefits from not retiring of the properties from rail service, working capital; required capital expenditures; expenditures to eliminate deferred maintenance; and the current cost of freight cars, locomotives and other equipment; and the effect of applicable Federal and State income taxes; (2) 'reasonable rate of return' means the applicant's cost of capital.

LOCAL RAIL SERVICE ASSISTANCE

SEC. 803. Section 4 of the Department of Transportation Act, as amended by this Act (49 U.S.C. 1654), is amended by adding at the end thereof the following 10 new subsections:

"(1) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

"(1) the cost of rail service continuation payments;

"(2) the cost of purchasing a line of railroad or other rail properties for future rail service;

"(3) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line;

"(4) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service.

"(m) The Federal share of the costs of any rail service assistance program shall be as follows: (1) 100 percent for the period from July 1, 1976 to June 30, 1977; (2) 90 percent for the period from July 1, 1977 to June 30, 1978; (3) 80 percent for the period from July 1, 1978 to June 30, 1979; and (4) 70 percent from the period July 1, 1979 to June 30, 1981. For the period from July 1, 1979 to June 30, 1981, the Secretary may make such adjustments in the percentage level of the Federal share as may be necessary and appropriate so as not to exceed the maximum amount of funds authorized under subsection (u) of this section.

The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(n) Each State which is, pursuant to subsection (i) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this section and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this section during such periods. Notwithstanding the provision of the preceding sentence the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in the first sentence of this subsection.

"(o) Rail service assistance to which a State is entitled under this section may be allocated by such State to meet the cost of establishing and implementing the State rail plan required by subsection (1) of this section or section 402(c)(1) of the Regional Rail Rrorganization Act of 1973, as amended (45 U.S.C. 762(c)(1)). Such grants shall be made available by the Secretary during the course of the State rail planning process, and shall be distributed by the Secretary as needed by the States. The amount of State rail planning grants to which each State (including each State referred to in subsection (t)(1) of this section) is entitled shall be proportionate to the amount of rail service assistance to which such State is entitled under this Act.

"(p) A State is eligible to receive rail service assistance from the Secretary if—

"(1) such State has established an adequate plan for rail services in such State as part of an adequate plan for all transportation services in such State, including a suitable process for updating, revising, and amending such plan;

"(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources;

"(3) such State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient transportation services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation; and is designated and directed to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution;

"(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of Federal funds; and

"(5) such State complies with regulations of the Secretary issued under this section and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

"(q) A project is eligible in any year for financial assistance from the applicable rail service assistance program only, if—

"(1)(A) the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project, or (B) the line of railroad, or related project, was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and

"(2) such line, or related projects, has not previously been the subject of Federal rail service assistance under this section for more than 5 fiscal years.

"(r) The Secretary shall pay to each eligible State an amount equal to its entitlement under subsection (i) of this section to be expended or committed to one or more projects which are eligible, pursuant to subsection (j) of this section.

"(s)(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of each assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

"(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

"(A) a financial audit, in accordance with generally accepted auditing standards; and

"(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

"(t) As used in this section, the term 'State' means—

"(1) during the period from the date of enactment of this subsection through the second anniversary of the date on which rail properties are conveyed pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(1)), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad, except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

"(2) during the period following the second anniversary of the date on which rail properties are conveyed pursuant to such section 303(b)(1), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad.

"(u) There are authorized to be appropriated to the Secretary for the purposes of this section an amount not to exceed $400,000,000 without fiscal year limitation. Of the foregoing sums, not to exceed $5,000,000 shall be made available for planning grants during each of the 3 fiscal years ending June 30, 1976; September 30, 1977; and September 30, 1978. Such sums as are appropriated shall remain available until expended.".

TERMINATION AND CONTINUATION OF RAIL SERVICES

SEC. 604. Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended to read as follows:

"TERMINATION AND CONTINUATION OF RAIL SERVICES

"SEC. 304. (a) DISCONTINUANCE.—(1) Except as provided in subsections (c) and (f) of this section, (A) rail service on rail properties of a railroad in reorganization in the region which transfers to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and (B) rail service on rail properties of a profitable railroad operating in the region which transfers substantially all of its rail properties to the Corporation or to other railroads pursuant to the final system plan, may be discontinued to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) of this title if—

"(i) the final system plan does not designate rail service to be operated over such rail properties;

"(ii) not sooner than 30 days following the effective date of the final system plan, the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not less than 60 days after the date of such notice or on the date of any conveyance ordered by the special court pursuant to section 303(b)(1) of this title, whichever is later; and

"(iii) the notice required by paragraph (B) of this subsection is sent by certified mail to the chief executive officer and to the Commission, the transportation agencies of each State, to the government of each political subdivision of each State in which such rail properties are located, and to each shipper who has used such rail service during the previous 12 months.

"(2)(A) If rail properties are not, in accordance with the designations in the system plan, required to be operated, as a consequence of a recommended arrangement for joint use or operation of rail properties (under section 206(g) of this Act) or as part of a coordination project (under section 206(c)(1)(B) of this Act), rail service on such properties may be discontinued, subsequent to the date of conveyance of properties pursuant to such section 303(b)(1) if the Commission determines that such rail service on such rail properties is not compensatory and if—

"(i) the petitioner and any other railroad involved in such arrangement or coordination project have, prior to filing an application for such discontinuance, entered into a binding agreement (effective on or before the effective date of such discontinuance) to carry out such arrangement or project;

"(ii) such application is filed with the Commission not later than 1 year after the effective date of the final system plan; and

"(iii) such discontinuance is not precluded by the terms of the leases and agreements referred to in such section 303(b)(2).

"(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 205(d)(3) of this Act.

"(C) The Commission shall make its final determination, with respect to any discontinuance requested under this paragraph, not later than 120 days after the date of filing of an application therefor. The applicant shall have the burden of proving that the service involved is not compensatory. If the Commission fails to make a final determination within such time, the application shall be deemed to be granted.

"(D) The Commission may issue such rules, regulations, and procedures as it deems necessary for the conduct of its functions under this paragraph.

"(b) ABANDONMENT.—(1) Except as provided in subsections (c) and (f) of this section, rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 120 days after the effective date of the discontinuance. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days' notice in writing to any person (including a government entity) required to receive notice under subsection (a)(1)(iii) of this section.

"(2) In any case in which rail properties proposed to be abandoned under this section are designated by the final system plan as rail properties which are suitable for use for other public purposes (including roads or highways, other forms of mass transportation, conservation, and recreation), such rail properties shall not be sold, leased exchanged, or otherwise disposed of during the 240-day period beginning on the date of notice of proposed abandonment under this section unless such rail properties have first been offered, upon reasonable terms, for acquistion for public purposes.

"(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of the Interstate Commerce Act or the constitution or law of any State or the decision of any court or administrative agency of the United States or of any State.

"(c) CONTINUATION OF RAIL SERVICES.—No rail service may be discontinued and no rail properties may be abandoned, pursuant to this section—

"(1) in the case of service and properties referred to in subsections (a)(1) and (b)(1) of this section, after 2 years from the effective date of the final system plan or more than 2 years after the date on which the final rail service continuation payment is received, whichever is later; or

"(2) if a financially responsible person (including a government entity) offers—

"(A) to provide a rail service continuation payment which is designed to cover the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such properties: *Provided*, That if a rail service continuation payment is offered for both freight and passenger service on the same rail property, the owner of such property may not be entitled to more than one payment of a reasonable return on the value of such property;

"(B) to provide a rail service continuation payment which is payable pursuant to a lease or agreement with a State or with a local or regional transportation authority under which financial support was being provided on January 2, 1974 for the continuation of rail passenger service; or

"(C) to purchase, pursuant to subsection (f) of this section, such rail properties in order to operate rail services thereon.

"(d) FREIGHT SERVICE AGREEMENTS.—(1) If a rail service continuation payment is offered, pursuant to subsection (c)(2)(A) of this section, for rail freight service, the person offering such payment shall designate the operator of such service and enter into an operating agreement with such operator. The person offering such payment shall designate as the operator (A) the corporation or the other railroad which connects to the line of railroad involved, or (B) any responsible person (including a government entity) which is willing to operate rail service on such rail properties. A designated railroad may refuse to enter into such an operating agreement only if the Commission determines, on petition by any affected party, that the agreement would substantially impair such railroad's ability to serve adequately its own patrons or to meet its outstanding common carrier obligations. The designated operator shall, pursuant to each such operating agreement, (i) be obligated to operate rail freight service on such rail properties, and (ii) be entitled to receive, from the person offering such payment, the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties together with a reasonable management fee, as determined by the Office.

"(2) The trustees of a railroad in reorganization shall permit rail-service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable rate of return on the value of such properties, as determined in accordance with the provisions of section 205(d)(3) of this Act.

"(3) If necessary to prevent any delay in, or loss of, rail service, at any time after the date of concurrence pursuant to section 303(b)(1) of this title, the Commission—

"(A) shall take such action as may be appropriate under this existing authority (including the enforcement of common carrier requirements applicable to railroads in reorganization in the region) to ensure compliance with obligations imposed under this subsection; and

"(B) shall have authority, in accordance with the provisions of section 1(16)(b) of the Interstate Commerce Act (49 U.S.C. 1(16)(b)), to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the provision of section 205(d)(3) of this Act. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.

"(e) PASSENGER SERVICE AGREEMENTS.—The Corporation shall provide rail passenger service, for a period of 180 days after the date of conveyance, under section 303(b)(1) of this title, of the rail properties over which such service was being provided by railroads in reorganization immediately prior to such date of conveyance. Such service shall be provided on such properties regardless of whether or not such properties are designated in the final system plan as rail properties over which rail service is required to be operated, except with respect to rail properties over which such service is provided by the National Railroad Passenger Corporation. If a State (or a local or regional transportation authority) was providing financial support for the continuation of rail passenger service pursuant to a lease or agreement which was in effect immediately prior to such date of conveyance, the Corporation shall be bound by such lease or agreement for the duration of such 180-day period. If no such financial support was being provided, or if no such lease or agreement was in effect immediately prior to such date of conveyance, the Corporation shall provide, during such 180-day period, the same level of service as was being provided by the railroads in reorganization immediately prior to such date. In any case in which a State (or a local or regional transportation authority) was providing financial support for the continuation of rail passenger service immediately prior to such date of conveyance, such State (or local or regional transportation authority) shall maintain the same level of such financial support during such 180-day period. If such financial support is not provided, or if, at the end of the 180-day period, a State (or a local or regional transportation authority) has not offered a rail passenger service continuation payment pursuant to subsection (c)(2)(A) of this subsection or if such a rail passenger service continuation payment is not paid when due, or if any payment payable under a section 303(b)(2) or a section 304(c)(2)(B) lease or agreement is not paid when due, the Corporation, the National Railroad Passenger Corporation, and, where applicable, the trustee or trustees of the railroads in reorganization may discontinue such service, and, in the case of rail properties not designated for inclusion in the final system plan, abandon such properties, pursuant to subsections (a) and (b) of this section. Nothing in this subsection shall affect the obligation of the Corporation, or of the trustee or trustees of the railroads in reorganization, to provide rail passenger service pursuant to section 303(b)(2) or 304(c)(2)(B) of this title. If, at the end of such 180-day period, a State (or a local or regional transportation authority) has offered a rail passenger service continuation payment, pursuant to subsection (c)(2)(A) of this section, and compensation for operations conducted at a loss during such 180-day mandatory operation period pursuant to this subsection, the Corporation shall continue to provide such service, except as otherwise provided in this subsection. If a State (or a local or regional transportation authority) has not offered such a payment and such compensation, the Secretary shall reimburse the Corporation for all of the 180-day mandatory operation period operating loss, as determined pursuant to section 17(a)(1) of the Urban Mass Transportation Act of 1964, as amended, and under regulations issued by the office under section 205(e) of this Act. In the event of a dispute with respect to the application of any regulations promulgated pursuant to section 808 of the Rail Services Act of 1975, the parties thereto may agree to arbitration by a third party; if the parties cannot agree to an arbitrator, the Chairman of the Commission shall serve in that capacity, except as to those matters to be decided by the Commission pursuant to section 706 of that Act. The Corporation shall be relieved of any obligation under this subsection to provide rail passenger service on rail properties in which a State (or a local or regional transportation authority) contracts with an operator other than the Corporation to provide rail passenger service on such rail properties. The Corporation shall, subject to reimbursement, provide access to such rail properties for such service.

"(f) PURCHASE.—If an offer to purchase is made under subsection (c)(2)(C) of this section, such offer shall be accompanied by an offer of a rail service continuation payment. Such payment shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties of its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make an offer to purchase or to provide a rail service continuation payment, promptly make available its most recent reports on the physical condition of such property together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data as are necessary to ascertain the avoidable costs of providing service over such rail properties.

"(g) ABANDONMENT BY CORPORATION.—After the rail system to be operated by the Corporation or any subsidiary or affiliate thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or any subsidiary or affiliate thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or any subsidiary or affiliate thereof can demonstrate that no State (or local or regional transportation authority) is willing to order a rail service continuation payment pursuant to subsection (c) of this section. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of the Interstate Commerce Act.

"(h) INTERIM ABANDONMENT.—After the date of enactment of this section, no railroad in reorganization may discontinue service or abandon any time of railroad other than in accordance with the provisions of this Act, unless it is authorized to do so by the Association and unless no affected State (or local or regional transportation authority) reasonably opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or the decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.".

CONTINUATION ASSISTANCE

SEC. 305. (a) Section 402 of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"RAIL SERVICE CONTINUATION ASSISTANCE

"SEC. 402. (a) IN GENERAL.—(1) The Secretary shall provide financial assistance in accordance with this section to assist in the provision of rail service continuation payments, the acquisition or modernization of rail properties, including the preservation of rigths-of-way for future rail service, the construction or improvement of facilities necessary to accommodate the transportation of freight previously moved by rail service, and the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service. The Federal share of the costs of any such assistance shall be as follows: (1) 100 percent of the 12-month period following the date that rail properties are conveyed pursuant to section 303(b)(1) of this Act; and (2) 90 percent for the succeeding 12-month period.

"(2) The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes. trackage rights, and facilities which would not otherwise be provided.

"(3) The Secretary, in cooperation with the Secretary of Labor, the Association, and the Commission, shall assist States and local or regional transportation authorities in negotiating initial operating or lease agreements and shall report to the Congress not later than February 1, 1976, on the progress of such negotiations. The Secretary may, with the concurrence of a State, enter directly into operating or lease agreements with railroads designated to provide service under section 304(d) of the Act, and with the trustees of railroads in reorganization in the region over whose rail properties such service will be provided, to assure the uninterrupted continuation of rail service after such date of conveyance. Such agreements may be entered into only during the period when the Federal share is 100 percent. Payments shall be made from the funds to which a State would otherwise be entitled under this section.

"(b) ENTITLEMENT.—(1) Each State in the region which is, pursuant to subsection (c) of this section, eligible to receive rail service continuation assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service continuation assistance under this section and whose denominator is the rail mileage in all of the eligible States in the region which is eligible for rail service continuation assistance under this section. Notwithstanding the preceding sentence, the entitlement of each State shall not be less than 3 percent of the funds appropriated. Not more than 5 percent of a State's entitlement may be used for rail planning activities. For purposes of this subsection, rail mileage shall be measured by the Secretary in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in this subsection. In addition to the amounts provided pursuant to such rail mileage formula, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail services and which are also contained in each State's rail plan. Any Federal assistance provided for purposes of the preceding sentence shall extend only 1 calendar year beyond the date of conveyance. During the period of such extension the Secretary, not later than 90 days prior to the termination of Federal participation in the support of rail facilities continuance, shall prepare a report to the Congress in conjunction with a designated State agency, recommending future action with respect to rail facilities referred to in this subsection. Notwithstanding the providing of any funds for the operation and maintenance of rail service facilities pursuant to this subsection, the Consolidated Rail Corporation, or any other solvent carrier, shall not be required to operate such facilities.

"(2) For a period of not more than 1 year following the date rail properties are conveyed pursuant to section 303(b)(1) of this Act, the Secretary is authorized to provide financial assistance from the funds to which a State would otherwise be entitled under this section for the continuation of local rail services to any person determined by the Secretary to be financially responsible who will enter into operating and lease agreements with railroads designated to provide service under section 304(d) of this Act, regardless of the eligibility of the State within which are located the rail properties over which such services are to be performed to receive rail service continuation subsidies under subsection (c) of this section. In any case in which a State is eligible to receive rail service continuation subsidies under subsection (c) of his section, State and local and regional transportation authorities shall have priority to receive such payments over any other person eligible under this paragraph and no other person eligible under this paragraph shall receive such payments unless his application therefor has been approved by the State agency designated under subsection (c) to administer the State plan.".

(f) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763(b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title.

"(c) ELIGIBILITY.—(1) A State in the region is eligible to receive financial assistance pursuant to subsection (b) of this section if, in any fiscal year—

"(A) the State has established a State plan for rail transportation and local rail services (herein referred as to the "State rail plan") which is administered or coordinated by a designated State agency and such plan includes a suitable process for updating, revising, and amending such plan and provides for the equitable distribution of such financial assistance among State, local, and regional transportation authorities;

"(B) the State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion and development with provision for public participation;

"(C) the State provides satisfactory assurance that such, fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State; and

"(D) the State complies with the regulations of the Secretary issued under this section.

"(2) The rail freight services which are eligible for rail service continuation assistance pursuant to subsection (b) of this section are—

"(A) those rail services of railroads in reorganization in the region which the final system plan does not designate to be continued;

"(B) those rail services of profitable railroads in the region referred to in section 304(a)(2) of this Act;

"(C) those rail services in the region which have been, at any time during the 5-year period prior to the date of enactment of this Act, or which are subsequent to the date of enactment of this Act, owned, leased, or operated by a State agency or by a local or regional transportation authority, or with respect to which a State, a political subdivision thereof, or a local or regional transportation authority has invested (at any time during the 5-year period prior to the date of enactment of this Act), or invests (subsequent to the date of enactment of this Act), substantial sums for improvement or maintenance of rail service; or

"(D) those rail services in the region with respect to which the Commission authorizes the discontinuance of rail services or the abandonment of rail properties, effective on or after the date of enactment of this Act.

"(3) The rail freight properties which are eligible to be acquired or modernized with financial assistance pursuant to subsection (b) of this section are those rail properties which are used for services eligible for rail service continuation assistance, pursuant to paragraph (2) of this subsection, including those properties which are identified, in the applicable State rail plan as having potential for future use for rail freight service.

"(4) The facilities which are eligible to be constructed or improved with financial assistance pursuant to subsection (b) of this section are those facilities in the region (including intermodal terminals and highways or bridges) which are needed in order to provide rail freight service which will no longer be available because of the discontinuance of rail freight service under section 304 of this Act or other lawful authority. No funds provided under this paragraph may be used to pay the State share of any highway projects under title 23, United States Code.

"(5) Rail properties are eligible to be acquired with financial assistance pursuant to subection (b) of this section if (A) they are to be used for intercity or commuter rail passenger service; and (B) they pertain to a line in the region (other than rail properties designated in accordance with section 200(1)(c)(C) of this Act) which, if so acquired, (i) would enable the National Railroad Passenger Corporation to serve, more efficiently, a route which it operated on November 1, 1975, (ii) would provide intercity rail passenger service designated by the Secretary under title II of the Rail Passenger Service Act, (iii) would provide such service over a route designated for service pursuant to section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) or (iv) would enable a State (or a local or regional transportation authority) to provide rail commuter service more efficiently.

"(d) REGULATIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall issue, and may from time to time amend, regulations with respect to the provision of financial assistance under this title.

"(e) PAYMENT.—The Secretary shall pay to each eligible State in the region an amount equal to its entitlement under subsection (b).

"(f) RECORDS, AUDIT, AND EXAMINATION.—(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the

Secretary or the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in such paragraph.

"(g) WITHHOLDING.—If the Secretary, after reasonable notice and an opportunity for a hearing to any State agency, finds that a State is not eligible for financial assistance under subsections (c) and (d) of this section, payment to such State shall not be made until there is no longer any failure to comply.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the purposes of this section an amount not to exceed $180,000,000 without fiscal year limitation. Such sums are as appropriated shall remain available until expended, without regard to the provisions of section 806 of the Rail Services Act of 1975.

"(i) DEFINITION.—As used in this section, the term 'rail service continuation assistance' includes expenditures made by a State (or a local or regional transportation authority), at any time during the 5-year period preceding the date of enactment of this Act, or subsequent to the enactment of this Act, for acquisition, rehabilitation, or modernization of rail facilities on which rail services would have been curtailed or abandoned but for such expenditures.".

(b) Section 403 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 763), is amended (1) by striking the colon and the proviso in subsection (a) thereof and inserting in lieu thereof a period; and (2) by striking the last sentence of subsection (b) thereof.

REPEAL

SEC. 806. Effective on the date of the second anniversary of the date on which rail properties are conveyed, pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973; as amended (45 U.S.C. 743), title IV of such Act is repealed.

RAIL PASSENGER SERVICE

SEC. 807. (a) Within 180 days after the effective date of the final system plan, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall contain—

(A) standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Interstate Commerce Commission under section 706 of this Act), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight services; and

(B) standards for the determination of emergency rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964.

(b) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716) is amended to read as follows:

"(5) All properties—

"(A) transferred by the Corporation pursuant ot sections 206(c)(1)(C) and 601(d) of this Act;

"(B) transferred by the Corporation to any State (or local or regional transportation authority), pursuant to subsection (c)(1)(D) of this section, or

"(C) transferred by the Corporation to any State, local or regional transportation authority, or the National Railroad Passenger Corporation within 900 days after the date of conveyance to meet the needs of commuter or intercity rail passenger service,

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) and (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements), and the cost to the Corporation of transferring such properties.".

EMERGENCY OPERATING ASSISTANCE

SEC. 808. The Urban Mass Transportation Act of 1964, as amended, is amended by adding at the end thereof the following new section:

"EMERGENCY COMMUTER RAIL SERVICE OPERATING PAYMENTS

SEC. 17. (a) The Secretary shall provide financial assistance for the purpose of reimbursing—

"(1) the Consolidated Rail Corporation, the National Railroad Passenger Corporation, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) for rail passenger service operations conducted at a loss during the 180-day mandatory operation period as required under section 304(e) of such Act (45 U.S.C. 744(e)). Such reimbursement shall cover all costs not otherwise paid by a State or a local or regional transportation authority which would have been payable by such State or authority, pursuant to regulations promulgated by the Commission under section 808 of the Rail Services Act of 1975, if such regulations had been in effect on the date of conveyance of rail properties under section 303(b)(1) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 743(b)(1)); and

"(2) States and local bodies and agencies thereof for additional costs incurred by such States, bodies, and agencies with respect to rail passenger service, for the payment of rail passenger service continuation payments authorized by section 304 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744).".

"(b) Such assistance shall not apply to intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation which was in effect immediately prior to the date of conveyance.

"(c)(1) Such assistance shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate with such reasonable exceptions to requirements, and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of the assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

"(2) The Federal share of assistance made available for payment of operations required by section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) shall be 100 percent of the cost eligible under subsection (a)(1) of this section.

"(3) The Federal share of such assistance which is made available from the end of the 180-day period to the end of an additional 180-day period shall be 100 percent.

"(4) The Federal share of such assistance, which is made available for an additional 1-year period beyond the time specified in subsection (a)(3) of this section, shall not exceed 90 percent.

"(5) The Federal share of such assistance, which is made available for an additional 180 days following the time specified in subsection (a)(4) of this section shall not exceed 50 percent. No assistance may be provided beyond the time specified in subsection (a)(4) of this section, unless the applicant or other responsible agency provides satisfactory assurances to the Secretary that the service for which such assistance is sought will be continued after the termination of the assistance authorized by this section. The terms and provisions applied by the Secretary, for assistance provided pursuant to this subsection shall be consistent, insofar as is practicable, with the terms and provisions which are applicable to operating assistance under section 5 of this Act.

"(d) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $125,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 for the transitional fiscal period ending eptember 30, 1976, $95,000,000 for the fiscal year ending September 30, 1977, and $125,000,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended."

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 810. (a) STUDY. The Secretary shall, within 360 days after the date of enactment of this Act, and in consultation with the Secretary of the Interior, the Transportation Services Planning Office of the Commission, the Association, the Environmental Protection Agency, any other appropriate Federal agency, any appropriate State and regional transportation agency, any other appropriate State, and local governmental entities, and any appropriate private groups and individuals, shall prepare and submit to the Congress and the President a report on the conversion of railroad rights-of-way. This report shall evaluate, and make suggestions concerning potential alternate uses of, and public policy with respect to the conversion of railroad rights-of-way on which service has been discontinued. The report shall include but need not be limited to—

(1) an inventory statement as to all abandoned railroad rights-of-way and significant segments of such rights-of-way which retain their linear characteristics, including, as to each, identification of the owner of record and an evaluation of its topography, characteristics, condition, approximate value, and alternate use suitability;

(2) an evaluation of the advantages of establishing a "bank" consisting of selected such rights-of-way, as a means of assuring their availability for potential railroad use in the future, a discussion of interim uses for such rights-of-way, the development of conveyancing and leasing forms, conditions, and practices to assure such availability, a projection as to the costs of such a program, and recommendations regarding the administration of such a program;

(3) a survey of existing Federal, State, and local programs utilizing or attempting to utilize abandoned railroad rights-of-way for public purposes, including an assessment of the benefits and costs of each; and

(4) an assessment and evaluation of suggestions for more effective public utilization of abandoned railroad rights-of-way, including recommendations for legislative, administrative, and for regulatory action, if any, and proposals as to the optimum level of funding therefor.

(b) INFORMATION AND FUNDING.—The Secretary of the Interior, after consultation with the Secretary, shall, in accordance with this subsection, provide financial, educational, and technical assistance to local, State, and Federal governmental entities for programs involving the conversion of abandoned railroad rights-of-way to recreational and conservational uses, in such manner as to coordinate and accelerate such conversion, where appropriate. Such assistance shall include, but is not limited to—

(1) encouraging and facilitating exchanges of information dealing with the availability of railroad rights-of-way, the technology in-

volved in converting such properties to such public purposes, and related matters;

(2) making grants, in consultation with the Bureau of Outdoor Recreation of the Department of the Interior, to State and local governmental entities to enable them to plan, acquire, and develop recreational or conservational facilities on abandoned railroad rights-of-way. Such grants shall cover not more than 90 percent of the cost of the planning, acquisition, or development activity of the particular project for which funds are sought;

(3) allocating funds to other Federal programs concerned with recreation or conservation in order to enable abandoned railroad rights-of-way, where appropriate, to be included in or made into national parks, national trails, national recreational areas, wildlife refuges, or other national areas dedicated to recreational or conservational uses; and

(4) providing technical assistance to other Federal agencies, to States, local agencies, and private groups for the purpose of enhancing conversion projects. To increase the available information and expertise, the Secretary may contract for special studies or projects and may otherwise collect, evaluate, and disseminate information dealing with the utilization of such rights-of-way.

(c) Conforming Amendment.—Section 1a of the Interstate Commerce Act, as inserted by this Act is amended by adding at the end thereof the following new subsection:

"(j) In any instance in which the Commission finds that the present or future public convenience and necessity permit the abandonment of any railroad properties, the Commission shall make a further finding whether such properties are suitable for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the properties proposed to be abandoned are suitable for other public purposes, it shall order that such rail properties not be sold, leased, exchanged, or otherwise disposed of except in accordance with such reasonable terms and conditions as are prescribed by the Commission, including, but not limited to, a prohibition on any such disposal, for a period not to exceed 180 days after the effective date of the order permitting abandonment unless such properties have first been offered, upon reasonable terms, for acquisition for public purposes.".

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out the provisions of this section, not to exceed $25,000,000 for the fiscal year and the transitional fiscal period ending September 30, 1976, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and not to exceed $25,000,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended. Of the funds appropriated, at least four-fifths are to be made available to the Secretary of the Interior to carry out subsection (a) of this section.

EMERGENCY FOSSIL FUEL RAIL BANK

Sec. 811. (a) The Secretary shall, within 180 days after the date of enactment of this Act, and after consultation with the Secretary of the Interior and the Secretary of Commerce, in accordance with this section, establish a fossil fuel rail bank to consist of rail trackage and other rail properties eligible under subsection (d), for purposes of preserving existing service in certain areas of the United States in which fossil fuel natural resources or agricultural production is located.

(b) The Secretary may include in the fossil fuel rail bank established under this section any railroad trackage or other rail properties which are recommended for inclusion in a rail bank under part III, section C, of the final system plan.

(c) The Secretary may acquire, by lease, purchase, or in such other manner as he deems appropriate, rail properties or any interests therein eligible for inclusion in the fossil fuel rail bank or agricultural production bank established under this section.

(d)(1) Except as provided in paragraph (2), the Secretary may hold rail properties acquired for the fossil ful rail bank, and may sell, lease, grant rights over, or otherwise dispose of interests or rights in connection with such rail properties.

(2) The Secretary may not engage in the disposition of any such rail property pursuant to paragraph (1) if he determines, after consultation with the Secretary of the Interior and the Secretary of Commerce, that such disposition would adversely affect the availability of such properties for any continued necessary access to, and egress by rail from, facilitie in which fossil fuels are being or can be extracted or processed.

(e) There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this section such sums as are necesary, not to exceed $6,000,000. Sum appropriated pursuant to this section are authorized to remain available until expended.

TITLE IX—MISCELLANEOUS PROVISIONS

STUDY OF GOVERNMENT AID TO TRANSPORTATION

Sec. 901. The Secretary shall conduct a comprehensive study and analysis of the policy, past and present, of providing Federal, State, and local government aid and other assistance, and of the methods employed pursuant to such policy (including tax benefits and the replacement of potential capital costs through the subsidization of Federal projects, user charges, and other nondebt financing mechanisms), for the construction, improvement, operation, and maintenance of transportation facilities and services utilized by entities involved in any mode of transportaton, including transportaton by air, railroad, highway and waterway, whether or not such transportation is private or for hire. Such study and analysis shall compute and total the outlays made by all Federal, State, and local governmental entities for transportation services (including capital, maintenance, operating, and administrative and other overhead expenses) during the period from 1930 through 1975, by mode. As part of such study and analysis, the Secretary shall examine alternative means and processes for determining and developing policy with respect to Federal aid to transportation, so as to encourage the establishment and maintenance of an open and competitive market (1) in which the various transportation modes are likely to compete on equal terms, and (2) in which the respective market shares of each will be governed by customer preference and full financial and economic costs. The Commission and the Secretary of the Army shall cooperate fully with the Secretary in carrying out the purposes of this section, and shall submit to the Secretary such independent and separate reports, comments and recommendations as each deems appropriate. In carrying out the purposes of this section, the Secretary may require by request, subpena, or other order all transportation carriers, other than carriers by water not subject to regulation under the Interstate Commerce Act (including (A) those operating under exemptions pursuant to section 203(b) the Interstate Commerce Act (49 U.S.C. 303(b)) and (B) the owners and operators of private or proprietary carriers) to file such reports containing such data and other information and any documentation thereof as the Secretary finds necessary to enable him to comply with the provisions of this section. Within 1 year after the date of enactment of this Act, the Secretary shall complete the study and analysis herein authorized and directed, and shall transmit a report by the Congress containing his findings and conclusions together with his recommendations for a policy respecting government aid to transportation.

STUDY OF RAILROAD ELECTRIFICATION

Sec. 902. The Secretary shall conduct a study of the potential benefits of railroad electrification for high density rail lines in the United States, and shall report the findings of such study to the Congress not later than 6 months after the date of enactment of this Act. The study shall evaluate the costs and benefits of electrifying rail lines in the United States with a high density of traffic, including—

(1) the capital costs of such electrification and the oil fuel economies which would be derived therefrom, the ability of existing power facilities to supply the additional power required, and the amount of coal or other fossil fuels required to generate the power necessary for railroad electrification; and

(2) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution, and the disadvantages to the environment from increased use of fuels such as coal.

STUDY OF CONGLOMERATES

Sec. 903. The Commission shall undertake a study of conglomerates and of such other corporate structures as are presently found within the rail transportation industry. The Commission shall determine what effects, if any, such diverse structures have on effective transportation, on intermodal competition, on revenue levels, and on such other aspects of national transportation as the Commission shall deem to be legitimate subjects of study. The Commission shall prepare a report with appropriate recommendations and shall submit its report to the Congress within 1 year after the date of enactment of the Act.

NATIONAL TRANSPORTATION PROGRAM

Sec. 904. (a) Program.—Within 720 days after the date of enactment of this Act, the Secretary shall study, formulate, publish, and submit to the Congress and the President (1) a national transportation program and (2) the criteria, standards, and data upon which this program is based and formulated. The Secretary shall consider all relevant factors, including (1) the need for coordinated development and improvement, with respect to all modes of transportation, and (2) the priority which should be assigned to the development and improvement of each such mode. In developing such program, the Secretary shall consider the studies conducted by the Association pursuant to section 202 of the Regional Rail Reorganization Act of 1973, as amended by this Act (45 U.S.C. 712). Such program shall include (A) a survey of existing transportation services and an analysis of the effectiveness of each in meeting the Nation's immediate and long-term transportation needs; (B) a plan (including an estimate of the costs of, and realistic plans for, financing the implementation of such plan on a continuing basis) to meet short-term and long-term transportation needs in each geographic area of the Nation; (C) a survey of the problems which the Secretary anticipates in the implementation of such program; and (D) a proposal for coordinating existing Federal laws relating to transportation. Copies of such program and materials shall be made available by the Secretary to interested persons upon request. There are authorized to be appropriated to the Secretary not to exceed $5,000,000 for the purpose of carrying out the provisions of this section, such sums to remain available until expended.

(b) Rail Abandonment Report.—In addition to the national transportation program required in the previous subsection, the Secretary shall submit to the Congress within 90 days after the enactment of this Act a comprehensive report on the anticipated effect, including the environment impact, of rail abandonments in States not previously studied by the Association pursuant to the Regional Rail Reorganization Act of 1973.

NONDISCRIMINATION

SEC. 905. (a) IN GENERAL.—No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project, program, or activity funded in whole or in part with funds made available under this Act.

(b) COMPLIANCE.—(1) Whenever the Secretary determines that any person receiving financial assistance under this Act has failed to comply with subsection (a) of this section, or with any applicable Federal civil rights statute or regulation issued thereunder, the Secretary shall notify such person of such determination and shall direct such person to take such action as may be necessary to assure compliance with subsection (a).

(2) If, within a reasonable period of time after receiving notification pursuant to paragraph (1), such person fails or refuses to comply with subsection (a), the Secretary shall—

(A) provide, no further financial assistance to such person under this Act;

(B) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(C) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(D) take such other actions as may be provided by law.

(c) CIVIL ACTION.—Whenever a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section.

(e) JUDICIAL REVIEW.—Any determinations made or actions taken by the Secretary pursuant to this section shall be subject to judicial review.

(f) DEFINITION.—For purposes of this section, the term "financial assistance" includes loan guarantees made by the Secretary of the Treasury.

And the House agree to the same.

HARLEY O. STAGGERS,
FRED B. ROONEY,
BROCK ADAMS,
RALPH H. METCALFE,
BILL HEFNER,
JIM SANTINI,
JAMES J. FLORIO,
J. F. HASTINGS,
Managers on the Part of the House.
VANCE HARTKE,
FRANK E. MOSS,
JOHN O. PASTORE,
WENDELL H. FORD,
ADLAI STEVENSON,
DANIEL K. INOUYE,
WARREN G. MAGNUSON,
J. GLENN BEALL, JR.,
LOWELL WEICKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT TO THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the text of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text, and the Senate disagreed to the House amendment.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment.

The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

Unless otherwise indicated, references to provisions of existing law refer to provisions of the Regional Rail Reorganization Act of 1973.

EXPEDITIOUS DIVISIONS OF REVENUES

Senate bill

The Senate bill added two new subparagraphs to section 15(6) of the Interstate Commerce Act: New subparagraph (B) provided that the Commission must establish standards and procedures for the conduct of proceedings for the adjustment of divisions of joint rates or fares. In addition, the Commission was directed to issue a final order in such proceedings within 270 days after the submission of a complete evidentiary case unless a report was made to Congress setting forth the reasons for the Commission's inability to issue such a final order within that time. Evidentiary proceedings were to be completed within 1 year following the filing of the complaint and within 2 years when the Commission initiated the proceeding unless the Commission found that more time was necessary and so reported to Congress.

Subparagraph (C) provided that all supporting evidence must be filed with the complaint whenever a proceeding for the adjustment of divisions of joint rates or fares is filed with the Commission. During the course of the proceeding only rebuttal or reply evidence could be filed unless otherwise directed by order of the Commission.

House amendment

No provision.

Conference substitute

The conference substitute follows the Senate bill.

FAIR, EQUITABLE, AND COMPETITIVE RATES

Senate bill

The Senate bill amended the Interstate Commerce Act to provide new standards and procedures for the regulation of railroad rates subject to the jurisdiction of the Interstate Commerce Commission.

Section 1(5) of the Act was amended to provide new standards for determining the justness and reasonableness of rates subject to regulation by the Commission. New section 1(5) of the Act was amended to provide that no rate may be found to be too low if it contributed to the going concern value of the proponent carrier, and a rate which equalled or exceeded variable costs, as defined by the Commission, was presumed to contribute to going concern value. No rate could be found too high unless the Commission found that the proponent carrier had market dominance over the service involved. A finding of market dominance did not, however, create a presumption that the rate was unjust or unreasonable. Market dominance was defined as an absence of effective competition which insured that rates did not exceed a just and reasonable level. Market dominance was to be presumed to exist if no competing carrier had participated in the traffic in the 12 months prior to the Commission proceeding. The market dominance determination was to be made in accordance with standards and procedures adopted by the Commission after consideration of the recommendations of the Attorney General and the Federal Trade Commission. Such standards and procedures were to be designed to provide for a practical determination without administrative delay.

Section 15 of the Interstate Commerce Act was amended to provide a process for determining whether the Commission had jurisdiction to determine the justness and reasonableness of a rate which was alleged to be too high. The Senate bill would require the Commission to make a market dominance determination within 90 days after a rate is challenged as being unreasonably high. If the Commission found no market dominance, this finding would be determinative in subsequent proceedings unless set aside by the Commission or by a court of competent jurisdiction. The Commission's power to suspend a rate for being unreasonably high was not limited, except that when the Commission found a lack of market dominance the power to suspend for being unreasonably high lapsed until the Commission specifically modified or set aside its prior determination.

The last sentence of section 15a(3) of the Interstate Commerce Act was amended to provide that no rate of a carrier could be held up to a particular level to protect the traffic of any other carrier or mode of transportation unless the Commission found that such rate reduced or would reduce the going concern value of the carrier charging the rate.

The Senate bill added new paragraph (16) to section 15 of the Interstate Commerce Act. New paragraph (16) provided for the establishment by the Commission of procedures for the establishment of railroad rates based on seasonal regional peak period demand for railroad services.

The Senate bill added a new paragraph (17) to section 15 of the Interstate Commerce Act. This new paragraph required the Commission to establish procedures for the establishment of separate rates for distinct rail services by railroads.

The Senate bill provided that nothing in this section was to be construed to—

(1) nullify the application of the National Transportation Policy declared in the Interstate Commerce Act to each of the provisions of that Act;

(2) modify the application of section 2, 3, or 4 of the Interstate Commerce Act in determining the lawfulness of any rate or practice; or

(3) make lawful any competitive practice which was unfair, destructive, predatory, or otherwise undermined competition which is necessary in the public interest.

House amendment

This section stated that pipelines, which are within the jurisdiction of the Committee on Public Works and Transportation, were not included in any changes under this section.

The House amendment provided that the Commission may not find a rate unjust or unreasonable on the basis that the rate is too low, if the rate is compensatory. A compensatory rate was defined as one which equalled or exceeded the variable cost to the carrier of providing the specific transportation service. Variable cost was defined in Sec. 103 as defined by the Commission which could not disallow a carrier's proposed rate increase, where the increase would not raise the rate above variable cost plus 10 percent.

The House amendment introduced the market dominance concept into price regulation for common carriers by rail. If a carrier has dominance in an area or over a commodity, it is subject to rate regulation. If the carrier has no market dominance, i.e., there is effective competition, then any rate must be considered just and reasonable.

The House amendment also contained provisions relating to rate zone freedom. The House amendment stated that, upon the filing of any nongeneral increase or decrease, the Commission may order a hearing upon complaint on the lawfulness of the rate. The hearing must be concluded within several months, unless the Commission, in writing, stated its reasons to the Congress why it could not finish the hearing in seven months. The Commission would then be given an additional three months in which to finish the hearing. The Commission could suspend the rate if it deemed it unlawful, either because it was unjust or unreasonable or discriminatory. However, the Commission could not suspend the rate on grounds that it was unjust or unreasonable if the rate was no greater than 7-percent increase or decrease over the rate that existed January 1 of the year in which a rate change was sought.

The Commission retained authority to suspend a general rate increase or decrease at any time.

The Commission was not permitted to suspend a rate under this section unless the complainant alleged, and the Commission found, that the proposed rate increase would cause injury to the complainant, that the complainant was likely to prevail on the merits, and that the suspension would further the national transportation policy.

If the rate was not suspended, but the Commission was conducting a hearing as to the lawfulness of such rate, it could require that the carrier keep records for a 7- or 10-month period, and if the rate was eventually found unlawful, then the carrier must refund, with interest, the money collected that was in excess of a just rate. The carrier must attempt to distribute the money in an equal proportion to those who paid the excess rate. This section specifically stated that in all cases except one, the burden of proof was on the carrier, to prove that the rate was just and reasonable. The one exception was when the rate increase or decrease was within 7 percent of the rate in effect as of January 1 of that year.

Suspension did not apply where port equalization (rates of goods to and from ports) was involved.

The House amendment stated that the rate zone of freedom was only in effect for 3 years and mandated that during that time the Secretary along with the Chairman of the Commission must study the effects of such rate zone freedom.

Conference substitute

The conference substitute follows the Senate bill except that—

(1) the conferees eliminated the provisions relating to a presumption of market dominance;

(2) the conferees adopted a modified version of the House provision on rate zone freedom. The conference substitute provides that a rate may be increased or decreased up to 7 percent (for 2 years) without being suspended unless the rate is unlawful or predatory or the carrier has market dominance over the vote.

(3) the conferees adopted a modified version of the House provision which requires any person seeking suspension to file an affidavit from which, on its face, it appears that the complainant will be injured, and there are reasonable grounds for presuming that the rate will be found unlawful.

CONTRACTS

Senate bill

No provision.

House amendment

Paragraph 5½ of the Interstate Commerce Act, as amended, presently permits common carriers to enter into contracts with telephone, telegraph, and cable companies for the exchange of services. The House amendment added permission for rail common carriers to enter into contracts with freight forwarders and would require that the terms of such contracts be just and reasonable. The Commission was authorized to prescribe such terms.

Conference substitute

The conference substitute follows the Senate bill.

TARIFF MODIFICATIONS

Senate bill

The Senate bill amended section 15(3) of the Interstate Commerce Act to specify factors which the Commission must take into account in its consideration of the public interest when deciding whether to cancel joint rates and through routes under section 15(3) of that act. The bill required the Commission to consider (1) the distance traversed and the average transportation time and expense required using the through route compared with the alternative route; (2) potential reduction in energy consumption; and (3) the impact of such cancellation on affected shippers and carriers.

The Senate bill amended section 15(a) of the Interstate Commerce Act by adding a new paragraph which provided that the Commission must investigate all allegations that rate increases or decreases would change the rate relationships between commodities, ports, points, regions, territories and other particular descriptions of traffic as well as allegations that such increase or decrease would have a significantly adverse effect on the competitive posture of shippers or consignees affected by the increase or decrease.

House amendment

The House bill provided that the authority and responsibility of the Commission to guarantee the equalization of rates between ports would remain intact.

Conference substitute

The conference substitute follows the Senate bill and in addition provides that nothing in this section shall not be construed to affect the existing law or the authority of the Commission with respect to rate relationships between ports or its authority and responsibility to guarantee the equalization within the same port.

RATES FOR THE TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

Senate bill

The Senate bill directed the Commission to conduct an expedited investigation of the rate structure for the transportation of recyclable or recycled materials and competing virgin natural resource materials and the manner in which that rate structure has been affected by general rate increases approved by the Commission.

The Administrator of the Environmental Protection Agency was authorized to take such steps as are necessary to insure that the Commission undertook this investigation as expeditiously as possible by authorizing the Administrator to participate as a party in the Commission proceedings.

The Senate bill also called for a research, development, and demonstration program to improve transportation methods, equipment operations and terminal facilities for the movement of recyclable materials. The program was to be undertaken by the Secretary of Transportation in cooperation with the Interstate Commerce Commission and the Federal Maritime Commission.

Commission orders pursuant to this section were made reviewable in the courts in the same manner as other Commission orders. In all proceedings under this section, the Commission was directed to comply fully with the requirements of the National Environmental Policy Act.

House amendment

The House amendment is the same as the Senate bill.

Conference substitute

The conference substitute follows the House amendment.

ADEQUATE REVENUE LEVELS

Senate bill

The Senate bill amended section 15(a) of the Interstate Commerce Act by requiring the Commission to develop and promulgate reasonable standards and procedures for the establishment of revenue levels adequate under honest, economical, and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable and economic profit and/or return on capital employed in the business. Such revenue levels were to provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation. Finally, such revenue levels were required to insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States.

House amendment

The House amendment mandated the Interstate Commerce Commission to establish standards for the establishment and maintenance of revenue levels for railroads. Such revenue levels were to be considered by the Commission in its ratemaking duties. In general, the levels must take into account rail costs given honest, economical and efficient management.

Conference substitute

The Conference substitute follows the Senate bill but limits the provisions to railroads at the request of the Committee on Public Works and Transportation of the House.

RATE INCENTIVES FOR CAPITAL INVESTMENT

Senate bill

The Senate bill added a new paragraph to section 15(7) of the Interstate Commerce Act by providing that a carrier may prepare a proposed schedule setting forth a new rate, classification, regulation or practice, if implementation of the schedule is contingent upon a total capital investment of $1 million or more. Upon the request of any interested person, the Commission was directed to investigate the lawfulness of the new schedule. If the Commission did not find, within 180 days after filing, the proposed schedule unlawful, the carrier could put the rate into effect upon 30 days notice. Thereafter, for a period of 5 years, the rate could not be suspended or set aside as unlawful under section 1, 2, 3, or 4 of the act, except that the Commission could order the rate increased to a compensatory level if the rate embraced in the schedule were found to reduce the going concern value of the carrier.

House amendment

The House amendment permitted anyone to file notice of intent to file a new rate whenever the implementation of such proposed rate would require a total capital investment of $1 million or more. When the rate was filed, and an affidavit was presented stating that the carrier would be making a capital investment of over $1 million, the Commission was required to hold a hearing, and if, within 180 days after the filing of such proposed rates, the Commission did not find that the rate is unlawful, then the rate would go into effect, and may not be suspended under any section of the ICC Act, unless the Commission found at a later date that the rate in effect was not compensatory.

Conference substitute

The conference substitute follows the House amendment.

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

Senate bill

The Senate bill directed the Commission to exempt any person or services or transportation performed under this Act from all or part of the regulations under the Interstate Commerce Act if such regulation was found necessary to effectuate the goals of the National Transportation Policy, and when such regulation would serve little or no useful public purpose. Under such circumstances, the Commission could order that a regulation be withdrawn in whole or in part for such period of time as it might prescribe. Such an exemption may be revoked after notice and a hearing upon a finding that the conditions giving rise to the exemption no longer exist or that the continuance of the exemption is not consistent with the National Transportation Policy.

House amendment

The House amendment permitted the Commission, upon application or upon its own motion, to grant exemptions from Part I of the Interstate Commerce Act where regulation under that Act was not necessary to effectuate the National Transportation Policy, and the Commission found that regulation would serve little or no purpose. The Commission, after a hearing, could reinstate any regulation it has revoked.

Conference substitute

The conference substitute follows the Senate bill except that the exemptions are limited pursuant to the jurisdictional objections of the Committee on Public Works and Transportation of the House.

RATE BUREAUS

Senate bill

The Senate bill amended part I of the Interstate Commerce Act by exempting railroads from the provisions of section 5(a) regarding agreements between carriers to establish rate bureaus and by adding a new section 5(b) to regulate rate bureau agreements between carriers subject to Part I. New section 5(b) is similar to section 5(a) except as noted below.

The bill added a definition of the term "affiliate" and redefined the terms "antitrust laws" and "carrier." The definition of the term "carrier" made the provisions of section 5(b) applicable only to carriers subject to part I of the act.

The Senate bill required the Commission to prescribe rules and regulations, and terms and conditions, for the approval of the types of agreements between carriers described in that subsection. Carriers were required to submit these agreements for approval, and new provisions were added governing the criteria for approval or disapproval of such agreements.

The Senate bill granted the Commission additional investigatory powers into the operations of the rate bureaus, and more clearly defined the type of agreement which must be approved.

The Senate bill provided that no carrier organization shall (1) permit participation in discussions or agreements with respect to, or any voting on, single line rates, allowances, or charges established by any carrier, (2) permit any carrier to participate in discussions or agreements with respect to, or to vote on rates, allowances, or charges relating to any particular interline movement, unless the carrier could practically participate in the movement, or (3) permit joint action to protest a rate established by independent action.

The Senate bill permitted agreements which contain provisions calling for prenotification through the bureau of independent action and provided that the prohibitions in subparagraph (a) shall not apply in certain instances, including general rate increases or decreases. Provisions relating to the burden of proof were also included.

The Senate bill expanded the Commission's authority to investigate and make certain determinations about these agreements. Subparagraph (b) required the Commission to review agreements at least every 3 years for their conformity with this section and their effectiveness in terms of serving the needs of the public. These studies were to be included in the Commission's annual report to Congress. If the Commission made a determination that any of these agreements were no longer in conformity with the standards, it was required to terminate or suspend its approval.

The Senate bill directed the Federal Trade Commission, in consultation with the Department of Justice, to furnish assessments to the Interstate Commerce Commission with respect to the competitive effects of rate bureau agreements. These reports were required to be made available to the public.

The Senate bill provided that rate bureaus must make a final disposition of proposed rules, rates, or charges docketed before a bureau within 120 days after the proposal was docketed.

House amendment

The House amendment required that railroad rate bureaus dispose of all rules, rates, or charges docketed with them within 120 days from the initial filing of such rules, rates or charges with such bureaus.

With respect to joint and single line rates, the House amendment prohibited any agreement or voting among the carriers within a rate bureau involving single line movements or joint line movements when a carrier was not a participant in such joint line movement.

The definition of a single line rate was provided. The House amendment prohibited the Commission from entering an order terminating or modifying its approval of any agreement by reason of this section earlier than 6 months after the date of enactment of the bill.

The House amendment also directed the Interstate Commerce Commission to conduct a study of rate bureaus for all modes, and to make a report and recommendation to Congress within 12 months from the date of enactment of the bill.

Conference substitute

The conference substitute follows the Senate bill except that—

(1) the conferees accepted the House language prohibiting the Commission from entering an order or terminating or modifying its approval of any agreement earlier than 6 months after the date of the enactment of the bill;

(2) the House definition of single line rates was adopted;

(3) discussions are permitted with respect to joint line rates as provided in the House bill.

FILING PROCEDURES

Senate bill

The Senate bill amended section 6(6), section 217(a), and section 306(b) of the Interstate Commerce Act to require the Commission, beginning 2 years after the date of enactment, to require that all rates be incorporated into individual carrier or ratemaking association tariff publications within 2 years of the initial publication of the rate or within 2 years after a change in any rate is approved by the Commission. Failure on the part of carriers to incorporate such rate into its individual tariff would result in nullification of the rate.

House amendment

No provision.

Conference substitute

The Conference substitute follows the Senate bill, except that these procedures were limited in response to some jurisdictional objections of the House Committee on Public Works and Transportation.

INTRASTATE RATES

Senate bill

The Senate bill amended section 13 of the Interstate Commerce Act by adding a new paragraph which granted the Commission exclusive authority to determine and prescribe rates, regulations or practices for traffic moving in intrastate commerce if the carrier filed with the appropriate State administrative agency or regulatory body a change in such rates for the purpose of adjusting the rates to accord with rates for similar traffic moving in interstate or foreign commerce, and the State agency has not acted within 120 days of such filing. Notice of an application to the Commission under this paragraph must be served on the appropriate State body.

House amendment

The House amendment amended the Interstate Commerce Act (49 U.S.C. 13) so that State regulatory bodies would be assured of getting at least 120 days' exclusive jurisdiction over an intrastate rate case before the ICC could take it over.

Conference substitute

The bill reported by the conference committee amends Section 13 of the Interstate Commerce Act (49 U.S.C., Sec. 13) to require a railroad to exhaust its State remedy for a change in intrastate rates, but also to provide that if a State fails to finally act on the railroad's application for rate change within 120 days, the application may then be acted upon by the ICC. The purpose of the amendment is to achieve the prompt and final regulatory disposition of intrastate rate cases in a State forum convenient for local consumers to express their views.

DEMURRAGE CHARGES

Senate bill

No provision.

House amendment

The House amendment required that rules and regulations be established for the computation of demurrage charges so that freight car utilization was maximized.

Conference substitute

The conference substitute follows the House amendment, but insures the Commission will consider the transportation use the car and provide a fair return on investment in freight cars.

CAR COMPENSATION

Senate bill

No provision.

House amendment

The House amendment enabled the Commission upon complaint or on its own motion to conduct hearings and establish rules and regulations relating to car service including car per diem. Such per diem charges were to be based upon the goal of generating incentive for carriers to acquire and maintain a car fleet adequate for their needs. Per diem charges would be fixed according to a just and reasonable standard.

The House amendment gave the Commission 18 months in which to revise its rules to implement this provision.

Conference substitute

The conference substitute follows the Senate bill.

ACCESS TO INFORMATION BY CONGRESSIONAL COMMITTEES

Senate bill

No provision.

House amendment

This section added a new paragraph to section 17 of the Interstate Commerce Act which permitted the Committee on Interstate and Foreign Commerce of the House of Representatives and the Commitee on Commerce of the Senate to make written requests for documents which are in the possession or under the control of the Commission, and which relate to matters involving the common carrier by railroad. When such request was made by either committee, the Commission must, within 10 days after receiving such request, submit such documents to the committee or report in writing to the committee, stating the reasons why such documents cannot be submitted and the anticipated date in which they will be submitted. This paragraph does not apply to documents which have been obtained by the Commission which contain trade secrets or commercial or financial information of a privileged or confidential nature. Further, this new paragraph does not restrict any other authority of either House of Congress from obtaining documents by any other means.

Conference substitute

The conference substitute follows the House amendment.

ADMINISTRATION AND ACCOUNTABILITY TO CONGRESS

Senate bill

The Senate bill amended section 11 of the Interstate Commerce Act to provide that the Commission would be composed of 11 Commissioners appointed by the President with the advice and consent of the Senate for terms of 7 years, except that a person chosen to fill a vacancy would be appointed for the unexpired term of the Commissioner whom he or she succeeded. A Commissioner could be removed by the President for inefficiency, neglect of duty, or malfeasance. Upon the expiration of his or her term of office, a Commissioner could serve until a successor was appointed and qualified. The Senate bill also provided that not more than 6 commissioners could be appointed from the same political party, and that a Commissioner was prohibited from having any relationship with a common carrier subject to the provisions of the act.

The Senate bill provided that the President must appoint a Commissioner to serve as Chairman, with the advice and consent of the Senate, and that the Chairman would serve at the pleasure of the President.

The Commission was directed to appoint such employees as it deemed necessary or appropriate; such appointments were not subject to approval by any office or agency other than the Commission or the Civil Service Commission.

The Senate bill provided that the Chairman was the chief executive officer of the Commission and could set the policies of the Commission and exercise the executive and administrative functions. The Chairman was required to allocate to each of the other Commissioners funds determined by the Commission to be sufficient to assure that each Commissioner could obtain an adequate professional staff. Each Commissioner could appoint a staff without approval of the Chairman, and such staff would serve at the pleasure of the appointing Commissioner.

The Senate bill provided that if the Commission notified and undertook to consult with the Attorney General before commencing, defending, or intervening in any civil action involving this Act which the Commission or Attorney General is authorized to bring, and the Attorney General does not act within 45 days, the Commission may conduct the investigation in its own name and by its own attorneys.

The Commission was given exclusive authority to commence, defend, and supervise the litigation in its own name and through any of its attorneys of any civil action relating to (1) injunctive relief, (2) consumer redress, (3) judicial review of a rule, regulation, or order issued by the Commission, (4) enforcement of a subpena, or Commission's exercise of its authority would not preclude the Attorney General from intervening in any action or appeal on behalf of the United States.

House amendment

The House amendment provided for the direct submission of the ICC budget to the Congress and President concurrently.

Conference substitute

The conference substitute adopted provisions requiring submission of ICC information concurrently to the President and Congress. No other provisions were adopted due to the jurisdictional objection of the Committee on Public Works and Transportation of the House

RAIL SERVICES PLANNING OFFICE

Senate bill

The Senate bill amended section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) by redesignating the Rail Services Planning Office as the Transportation Services Planning Office, and established that office as a permanent planning and policy unit in the Commission.

In addition to its existing duties, the Office was directed to assist the Commission in studying and evaluating any transaction proposed under section 5(2) of the Interstate Commerce Act with respect to any merger, consolidation, control, coordination, joint use of tracks or other facilities, acquisition or sale of assets, or other such project; and to assist the Commission in developing, with respect to economic regulation of transportation, policies which are likely to result in a more competitive, energy-efficient and coordinated transportation system which utilizes each mode of transportation to its maximum advantage to meet the transportation service needs of the Nation.

The Senate bill gave the Planning Office the responsibility to issue regulations for the development of a new accounting system to determine specified costs and revenues associated with rail lines. The Planning Office also had the responsibility to determine the avoidable cost standard as used in the provisions on discontinuance or abandonment. Also, the Planning Office must prepare an evaluation of the economic viability of any light density line not included in the final system plan when requested to do so by a State.

House amendment

The House amendment established a permanent Office of Rail Services Planning, within the Commission. Such office was to be administered by a Director.

The Director was to be appointed with the concurrence of 5 members of the Commission for a term of 6 years, and the Director was to discharge the duties and functions of the Office.

The Director was required to report to the Chairman of the Commission, or to such person as the Chairman designated. The Director could enter into such contracts as are necessary to conduct the functions and duties of the Office, and each agency of the Federal Government was authorized to give consideration to a written request to furnish the Director, on a reimbursable basis or otherwise, such assistance as the Director deemed necessary to carry out his functions.

In addition to any duties the Office may have under any other law, the Office was required to:

(i) assist the Commission in studying and evaluating proposals for mergers, consolidations, joint use of tracks or other facilities;

(ii) assist the Commission in developing a national and efficient rail economic regulatory policy;

(iii) assist the States and local regional transportation agencies in making determinations of whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether such properties are suitable for the continuation of service with such subsidies;

(iv) conduct an ongoing analysis of national rail transportation needs.

Such sums as are necessary were authorized to be appropriated and they remained available until expended.

Section 205 of the Regional Rail Reorganization Act of 1973 was repealed.

Conference substitute

The conference substitute follows the Senate bill except that the term transportation is changed to "rail" the request of the Committee on Public Works and Transportation of the House to kill the bill within the jurisdiction of the House Committee on Interstate and Foreign Commerce.

REPRESENTATION

Senate bill

The Senate bill added a new paragraph (13) to section 17 of the Interstate Commerce Act. Subparagraph (13)(A) provided that except as otherwise provided in subparagraph (B) or (C), the Commission could commence, defend, or intervene in, and supervise the litigation of, any civil action or appeal involving the Interstate Commerce Act in its own name and through its own attorneys, if, before commencing, defending, or intervening in such action, the Commission gave written notice and undertook to consult with the Attorney General concerning such action, and the Attorney General failed, within 45 days after receipt of notification to commence, defend, or intervene in such action.

New subparagraph (13)(B) provided that except as otherwise provided in subparagraph (C), the Commission would have exclusive authority to commence, defend, and supervise the litigation, in its own name and through its attorneys, of any civil action relating to injunctive relief; consumer redress; obtaining judicial review of a rule, regulation, or order issued by the Commission; enforcement of a subpena pursuant to or relating to compliance with an order under the Interstate Commerce Act; or brought pursuant to section 222(b)(1) of the Interstate Commerce Act. The Commission was required to inform the Attorney General of the exercise of such authority, and could authorize the Attorney General to act for the Commission. The Commission's exercise of its authority to control its own litigation under this section would not preclude the Attorney General from intervening in any such action or appeal on behalf of the United States.

New subparagraph (C) provided that if the Commission made a written request to the Attorney General, within 30 days of the date of entry of a judgment in a civil action where the Commission had represented itself, to represent itself in the Supreme Court, it may do so if the Attorney General concurred with the request or if within 60 days from entry of judgment, the Attorney General refused to appeal or to file a petition for a writ of certiorari or failed to take any action with respect to the Commission's request. If the Attorney General did represent the Commission before the Supreme Court in such a civil action, he could not agree to any settlement, compromise, or dismissal of such action, or confess error in the Supreme Court unless the Commission concurred.

Under new subparagraph (D), if any applicable right of the Commission could be extinguished due to any procedural requirement of a court prior to the expiration of the 45-day period in subparagraph (13)(A) or the 60-day period in subparagraph (13)(C), the Attorney General would have one-half of the time prescribed in these subparagraphs to take the actions specified in subparagraphs (A) and (C). Such rights of the Commission could be extinguished notwithstanding the provisions of chapter 31 of title 38, United States Code, or any other provision of law.

The Senate bill required that whenever the Commission had reason to believe a person was liable for a criminal penalty under the act, it shall certify the facts to the Attorney General who has the duty to cause appropriate criminal proceedings to be brought.

The Senate bill struck the first and fourth paragraphs of 28 U.S.C. 2323. The Senate bill also removed the Commission from the parties authorized by section 2323 of title 28, United States Code, to appear in any action involving the validity of a Commission order. The Commission's rights in this regard were covered by new section 17(13) (see supra.).

House amendment

No provision.

Conference substitute

No provisions were adopted due to the jurisdictional objection of the Committee on Public Works and Transportation of the House.

EFFECTIVE DATE OF ORDERS OF THE COMMISSION

Senate bill

The Senate bill amended section 15(2), section 221(b), section 315(d) and section 416(c) by removing the requirement that orders of the Commission, except orders for the payment of money, can take effect only after a 30-day waiting period.

House amendment

No provision.

Conference substitute

The conference substitute follows the Senate bill as to section 15(2). The other provisions of the Senate bill were not adopted due to the jurisdictional objection of the Committee on Public Works and Transportation of the House.

CONDUCT OF PROCEEDINGS

Senate bill

The Senate bill added a new sentence to section 17(3) of the Interstate Commerce Act so that the term "hearing" would include an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements or conferences.

Section 17(5) of the Act was amended by adding a provision that the Commission or a duly designated division thereof could omit the recommended decision required by this section if it found that the case involved a question of agency policy, a new or novel issue of law, or an issue of general transportation importance, or if the due and timely execution of its functions so required.

The Senate bill modified section 17(6) by providing that any decision, order, or requirement of the Commission, or of a duly designated division shall become effective within 30 days after service, unless the Commission provided that it should become effective at an earlier date. The bill further provided that any interested party may, subject to rules promulgated by the Commission, petition the Commission for rehearing, reargument, or reconsideration of a decision, order, or requirement of a duly designated division, and if the Commission found that a matter of general transportation importance was presented, the Commission may reconsider said decision and may, in its discretion, stay its effective date.

Section 17(7) of the Act was amended to provide that any decision, order, or requirement of the Commission or a duly designated division would be final on the date on which it is served and that a civil action against such order may be brought after such date in a court of the United States pursuant to the provisions of law applicable to such suits.

The Senate bill modified section 17(8) of the Act to provide specifically that the Commission may at any time, on its own motion, reopen any proceeding and may grant rehearing, reargument, or reconsideration with respect to any of its decisions, orders, or requirements and may reverse, modify, or change any decisions, orders, or requirements. In addition, it may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.

The Senate bill repealed section 17(9) of the act, a section which dealt with the initiation of court suits against Commission orders. This subject was covered under new subsection 17(7) of the act.

The Senate bill made technical amendments and added a new paragraph 17(12) which provided that except as otherwise provided by the act, whenever a proceeding that required affirmative authorization or approval had been pending before the Commission for more than 2 years following its commencement, it would be presumed, as of such date, that such authorization was warranted and lawful. Such presumption was subject to rebuttal only by clear and convincing evidence to the contrary. Such a presumption would be conclusive on the third anniversary of the initiation of the proceeding, and as of that date, the Commission was required to issue such an order.

House amendment

The House amendment added new paragraph 9a to the Interstate Commerce Act. The new paragraph stated that the initial disposition of any matter before the Commission which involved a common carrier by railroad, and was assigned to an administrative law judge, commissioner, employee board, or division or panel of the Commission, such body must—

(i) complete its assignment within 180 days,

(ii) submit in writing within 120 days after the completion of the proceedings the initial decision, report, or order containing—

(A) specified findings of fact,

(B) specific and separate conclusions of law,

(C) a recommended order, and

(D) any justification in support of such findings of fact, conclusions of law, or order.

The initial decision, report, or order was to be served upon interested parties within 5 days after it was submitted to the Commission and such order should become final unless an appeal was filed with the Commission by a party to the proceeding within 30 days after such order was submitted to the Commission. If such appeal was filed then it should be acted upon either by the Commission or a designated division of the Commission within 180 days after it was filed.

The designated division of the Commission was required to make its decision within 180 days after referral to the division. No Commissioner who participated in the initial decision could participate on the panel hearing the appeal.

Review of the initial decision, report or order was to be considered in accordance with section 557, of title V, United States Code.

The mandate of the designated division was to take effect within 30 days after it was entered by such division, unless—

(i) the Commission required that it become effective at an earlier date; or

(ii) within such 30-day period, the entire Commission, in its discretion decided to review the matter and stay the effective date of the appellate decision until the final disposition of such matter. However, the Commission could, in its discretion, review the decision without staying the effects of the initial decision, it must complete the review process within 120 days of the date it granted the application for review.

The Commission, in its discretion, could extend the time period pursuant to this paragraph for not more than 90 days if a majority of the Commissioners, by public rollcall vote, agreed to such extension, and the Commission was directed to submit in its annual report to the Congress, each such extension, classified by type and stating the reasons.

In extraordinary situations, in which the Commission believed that even the 90-day extension was not sufficient, it could grant a further extension if—

(i) not less than seven Commissioners, by public rollcall vote, agreed to such further extension, and

(ii) not less than 15 days prior to the expiration of the granted extension, the Commission reported in writing to the Congress that a further extension was needed together with—

(A) a full explanation of the reasons for the further extension,

(B) the anticipated duration of the extension,

(C) the issues involved, and

(D) the personnel of the Commission working on such matter.

The Commission could, at any time and upon its own motion, reopen any proceeding based upon new evidence or changed circumstances.

Notwithstanding any other provision of law, the foregoing sections governed those procedures regarding common carriers by railroad.

Conference substitute

The conference substitute combines provisions of the Senate bill and the House amendment, particularly the House limitations on time.

These procedural changes were limited to railroad matters before the Commission.

OFFICE OF PUBLIC COUNSEL

Senate bill

The Senate bill provided for the establishment, within 60 days of enactment, of an independent office affiliated with the Commission to be known as the Office of the Public Counsel. The bill provided that the office was to be administered by a Director, appointed by the President from among persons recommended by the Commission, with the advice and consent of the Senate. The Director was to be appointed to a 4-year term and could be removed for a cause. The Senate bill authorized the Director to appoint, fix the compensation, assign the duties of employees of the Office, and procure temporary and intermittent services pursuant to 5 U.S.C. 3109. As for its powers and duties, the office:

(1) was given standing to become a party to Commission proceedings;

(2) could petition the Commission for the initiation of proceedings;

(3) could seek judicial review of Commission action; and

(4) was directed to evaluate and represent, before the Commission and other Federal agencies, the public interest in safe, efficient, reliable, and economical transportation services.

The budget requests and estimates of the office were to be submitted concurrently to the Congress and to the President. The Senate bill also provided the Office with appropriations through the fiscal year ending September 30, 1977.

The Senate bill amended section 13 of the Interstate Commerce Act by adding a new paragraph providing that any person could petition the Commission to commence a proceeding for the issuance, amendment, or revocation of an order, rule, or regulation, and requiring that the Commission either grant or deny the petition within 60 days. Any grant or denial or failure of denial or failure to act would be deemed a final order within the meaning of section 706 of title 5, United States Code, and would be subject to review by the appropriate court. In any action under this section, the courts would have no authority to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of any order, rule, or regulation.

The Senate bill provided that, whenever pursuant to 5 U.S.C. 553(e), an interested person petitioned the Commission to commence a proceeding for the issuance, amendment, or repeal of an order, or regulation, the Commission must either grant or deny the petition within 120 days. If the petition was granted, the Commission must commence an appropriate proceeding as soon as practicable, and if denied, the Commission must publish its reasons in the Federal Register.

The Senate bill authorized a petitioner to commence a civil action for an order directing the Commission to take the petition action if the Commission denied the petition or failed to act within the time prescribed.

Such action was to be commenced within 60 days of the date of denial or where appropriate, the expiration of the 120-day period.

The Senate bill further provided that the court must order the Commission to initiate the action if the petitioner could demonstrate that the action was necessary and that failure of the Commission to take such action would result in the continuation of practices which are inconsistent with the public interest or not in accord with the Interstate Commerce Act.

House amendment

The House amendment added a new section to the Interstate Commerce Act entitled the Office of Rail Public Counsel.

The Commission was directed to establish the Office within 60 days of the bill's enactment. The Office was to be administered by a Director appointed by the Commission; the Commission was to give consideration exclusively to the qualifications of the nominee. The appointment was for a term of 6 years and the Director could be reappointed, unless removed for malfeasance. The Director must be compensated at a rate not in excess of GS–18 of the General Schedule.

The Director was to coordinate the administrative functions of the Office with the Commission, and appoint, fix the compensation, and assign the duties of the employees of the Office. Each federal agency was authorized to provide the Office such information and data as it requests in writing, and the Director was authorized to enter into such contracts as are necessary to conduct the functions of the Office. The Director was required to submit a monthly report of Office activities to the Chairman of the Commission, and the Commission, in its annual report to the Congress, was to summarize and make recommendations with respect to the activities of the Rail Public Counsel.

In addition to the duties specified by other laws, the Rail Public Counsel, in regard to matters that concern railroad was:

(i) authorized to become a party to any proceeding formal or informal, before the Commission;

(ii) authorized to petition for the initiation of proceedings within the jurisdiction of the Commission;

(iii) authorized judicial review of any Commission action regarding railroads;

(iv) authorized to solicit, study, and evaluate the views of communities and users of rail service affected by proceedings before the Commission.

The budget requests and budget estimates of the Office were to be submitted to the Congress by the Commission without modification and the moneys appropriated to the Office were not to be used by the Commission for any other purpose.

Not more than $2 million was authorized for the Office.

Conference substitute

The conference substitute follows the Senate bill except that the Public Counsel is to be appointed by the Commission rather than by the President, and a procedure for joint approval of the appointment by both Houses of Congress was substituted for Senate confirmation.

REFORM OF RULES OF PRACTICE BEFORE THE COMMISSION

Senate bill

No provision.

House amendment

The Commission was required, within 180 days, to study, develop, and submit to the respective committees of Congress, rules of practice under which the Commission proposes all adjudicatory, rulemaking proceedings with respect to any matter involving a common carrier by railroad. Such rules and practices must take into consideration the nature of the proceedings, and must include—

(i) Specific time limits for the filing of all pleadings before the Commission;

(ii) Specific methods of taking and receiving testimony, and modification of such procedures to facilitate the timely execution of the functions of the Commission;

(iii) Utilization of administrative law judges and the Rail Services Planning Office in complex adjudicatory or rulemaking procedures so as to facilitate proper focus and timely resolution of the issues; and

(iv) Remedies in the case of failure to observe time limits.

Within 210 days after the bill's enactment, the Administrative Law Conference of the United States was required to submit to the Congress and the Commission its comments on the proposed rules of practice drafted by the Commission.

Within 30 days after the receipt of comments from the Administrative Law Conference, the Commission was required to consider such comments and to submit to the Congress a final proposal setting forth the rules of practice before the Commission. The Congress was given 60 calendar days of continuous session in which to disapprove the final proposal. If either House of Congress did not disapprove such proposal, then it would become effective.

If either House of Congress passed a resolution of disapproval, then the Commission was to develop a revised proposal setting forth the rules of practice before the Commission. Both Houses of Congress would again have 60 days in which to disapprove such resolution; if they did not disapprove, it would go into effect. If either House disapproved, the proposal was to be revised by the Commission and again submitted to the Congress.

The Commission was required, periodically, but not less than once every 3 years, to review the rules of practice, adopted pursuant to this section.

Conference substitute

The conference substitute follows the House amendment.

PROHIBITING DISCRIMINATORY TAX TREATMENT OF TRANSPORTATION PROPERTY

Senate bill

The Senate bill amended Part 1 of the Interstate Commerce Act by adding a new section 27 declaring certain taxation activities to be an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce.

The Senate bill made it unlawful for any State, political division, or entity acting on behalf of the State or subdivision to commit any of the following acts: (1) the assessment of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property bears to the true market value of such property in the same assessment jurisdiction; (2) the levy or collection of the tax on an assessment unlawful pursuant to (1); (3) the levy or collection of an ad valorem property tax on transportation property at a rate higher than that generally applicable to commercial and industrial property in the same assessment jurisdiction; and (4) the imposition of any other tax which results in the discriminatory treatment of any common or contract carrier subject to the Interstate Commerce Act.

The Senate bill gave the District Courts of the United States jurisdiction to grant mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to remedy any acts in violation of this section. The jurisdiction provided for by this section was not made exclusive of the jurisdiction which any Federal or State court may have, and, in order for relief to be granted under the section, the transportation property must be assessed at a ratio of at least 5 percent above that applied to all other commercial and industrial property. The burden of proof with respect to determination of assessed value and true market value was to be determined by State law, and where the ratios could not be established to the satisfaction of the court through a sales assessment ratio study, the court was directed to hold certain assessments unlawful.

The Senate bill made this section inapplicable to any State which, on the date of enactment, had in effect a constitutional provision for the reasonable classification of property for State purposes.

House amendment

Part I of the Interstate Commerce Act was amended to include a new section making unlawful ad valorem State or State subdivision taxation activities. Such prohibited tax practices included (1) overvaluation; (2) collection of an unlawful tax; (3) collection of any ad valorem property tax at a higher tax rate than the tax rate generally applicable to commercial and industrial property in the taxing district; or (4) the imposition of a discriminatory "in-lieu tax".

The House amendment outlined methods by which true marked value could be established and gave the courts guidelines for determination of whether a tax was unlawful.

A new remedy was established for carriers who wished to challenge discriminatory taxes by permitting an action in Federal district court.

The provisions of this section were not to become effective until 3 years after the date of this bill's enactment.

Transfer taxes and recording fees exempted ConRail from transfer taxes both at conveyance, February 26, 1976, and upon any subsequent supplementary transaction authorized by law. ConRail and any other party to a transaction will pay filing fees.

Conference substitute

The conference substitute follows the Senate bill except that the conferees deleted the provision making this section inapplicable to any State which had, on the date of enactment, a constitutional provision for the reasonable classification of property for State purposes.

UNIFORM EXPENSE AND REVENUE REPORTING SYSTEM

Senate bill

The Senate bill directed the Commission to establish, within 3 years, standards and procedures for the presentation by rail carriers of expense and revenue data required in Commission proceedings. The Commission was to consult with certain persons in the development of these standards, and was directed to consider the expenses which the new standards would impose on carriers in relation to their benefits. The standards were to be designed to promote fairness, uniformity, consistency, and compatibility.

The Senate bill provided that the Commission must, in developing these standards and procedures, develop financial reporting methodologies and procedures with the intent of furthering the art of railroad financial management and reporting. The Commission was further directed to identify the types of financial information which it should consider in making particular determinations and to develop criteria for applying the information to the determinations.

The Senate bill directed the Commission to consider, in conjunction with the development of these revenue standards, whether there should be any modification in the uniform system of accounts. Any modification must be in conformity with generally accepted accounting principles. The Commission was directed to implement changes which are cost-effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and which protect the confidentiality of competitive information.

The Senate bill directed the Commission to review the uniform system of accounts at least every 5 years and to make any necessary revisions. The Commission was authorized to prescribe certain uniform accounting rules prior to the establishment of the uniform expense and revenue data standards.

The Senate bill directed the Office of Management and Budget, within 180 days of enactment, to establish a rate at which, and a period within which, transportation revenues and expenses should be discounted to best reflect the opportunity costs of the capital resources available for transportation needs.

The Senate bill authorized an appropriation of $1 million to the Commission for certain specific purposes in carrying out this section.

House amendment

The House amendment directed the Interstate Commerce Commission to issue regulations prescribing a uniform cost and revenue accounting and reporting system for rail carriers by June 30, 1977. Such regulations were to be effective by January 1, 1978.

The Commission was required to consult with and solicit the views of other agencies of the Federal Government and the representatives of the carriers, their employees, shippers, and the public.

Minimum standards for inclusion in the system were set forth—

(i) Operating and nonoperating revenue;

(ii) Direct costs for determining fixed and variable costs; and

(iii) Indirect costs for determining fixed, common, joint and constant costs.

The system was required to be in accordance with generally accepted accounting principles, and was to be cost-effective, nonduplicative, and compatible with rail carriers' present and desired managerial and responsibility accounting requirements.

The House amendment required the ICC to review and revise the new system, if necessary, periodically, but not less than once every 5 years.

Additional staffing for two systems accounts was authorized to carry out this requirement.

An amount not to exceed $1 million was authorized for procuring temporary and/or contractual assistance to carry out the provisions of this section.

Conference substitute

The conference substitute follows the House amendment.

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

Senate bill

The Senate bill amended section 1(12) of the Interstate Commerce Act by adding that in applying the provisions of paragraph (12), unit-train service and non-unit-train service must be considered separate and distinct classes of service and a distinction must be made between these two classes of service and between the cars used in each class of service. Questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars was to be determined within each such class and not between them.

The Senate bill provided that cars supplied by shippers or receivers must not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. "Unit-train service" was defined to mean the movement of a single shipment of coal of not less than 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on 1 day and destined to one consignee, at one plant, at one destination, via one route.

House amendment

The House amendment was identical to the Senate bill.

Conference substitute

The conference substitute follows the House amendment.

SECURITIES

Senate bill

No provision.

House amendment

The House amendment removed the exemption for railroad securities under the Securities Act of 1933 except for securities of a motor carrier subject to the provisions of section 214 of the Interstate Commerce Act; repealed the provision under the Securities Act of 1933 stating that Securities and Exchange Commission (SEC) rules on accounts which are inconsistent with those of the ICC shall not apply to railroads subject to section 20 of the Interstate Commerce Act. The responsibility of the ICC for the approval of securities issuances under sections 20a and 214 of the Interstate Commerce Act would remain unchanged.

By modification of section 3(a)(6) of the Securities Act of 1933, the provisions of the Trust Indenture Act of 1939 would now be applicable to the appropriate debt securities of rail carriers.

The provision under the Securities Exchange Act of 1934 permitting carriers to file ICC reports with SEC in lieu of reports otherwise required was repealed.

The House amendment eliminated the automatic exemption from provisions of the Investment Company Act of 1940 for railroad investment companies which the SEC found to be engaged principally in the business of investing, reinvesting, owning, holding, or trading in securities. The SEC would continue to exercise its authority under section 3(b)(2) of the Investment Company Act of 1940 to exempt any rail carrier which the Commission finds and, by order, declares to be primarily engaged in a business other than of an investment company.

Conference substitute

The conference substitute follows the House amendment, except for the provision for the exemption of the initial issuances of ConRail securities under the final system plan from the registration requirements of the Securities Act of 1933.

NATIONAL TRANSPORTATION PROGRAM

Senate bill

The Senate bill required the Secretary to study and formulate a national transportation program to be submitted to the Congress and the President. The report was to include the criteria, standards, and data utilized in formulating the program, and to consider all relevant factors including the need for coordinated development improvement of all modes, and the priority which should be set for the development and improvement of each mode.

The Secretary was also required to submit to Congress a report on the anticipated effect of rail abandonments in States not previously studied by the Association.

House amendment

The House amendment required the United States Railway Association to conduct an evaluation of the present condition and projected future (for each of the next 15 years) of the rail system of the United States.

Conference substitute

The conference report contains the Senate provision relating to the report on the effect of rail abandonments, but the other provisions of the Senate bill were not adopted due to the jurisdictional objection of the Committee on Public Works and Transportation of the House.

STUDY OF CONGLOMERATES

Senate bill

No provision.

House amendment

The Commission was directed to study conglomerates and other such corporate structures as are presently found in the rail transportation industry and to determine what effects, if any, such diverse structures have on effective transportation, on intermodal competition, on revenue levels, and on such other aspects of national transportation as the Commission deemed to be legitimate subjects of study.

The Interstate Commerce Commission was required to conduct a study of rate bureaus for all modes, and make a report and recommendation to Congress within 12 months from the date of enactment of this section.

The Secretary was directed to study the potential benefits of railroad electrification for high-density rail lines and report his findings to the Congress within 6 months of the bill's enactment.

Conference substitute

No provision.

LAW REVISION

Senate bill

The Senate bill directed the Commission, either with its own staff or through consultants, to prepare a proposed modernization and revision of the Interstate Commerce Act, as amended, as well as a proposed codification of all acts supplementary to the Interstate Commerce Act. The report was to be submitted to Congress within 2 years after enactment of the legislation, and must include comments on each proposed provision and the alternatives considered but not recommended. The objective of the modernization and revision process was to simplify present laws and harmonize regulations among the modes of transportation.

House amendment

The Commission shall prepare a proposed modernization and revision of the Interstate Commerce Act and, if feasible, a proposed codification of all Federal laws relating to rail surface transportation and submit the final draft to Congress within 500 days of this bill's enactment.

Conference substitute

The conference substitute follows the Senate bill.

MERGERS AND CONSOLIDATIONS

Senate bill

The Senate bill amended the Department of Transportation Act by adding a new section 5, authorizing the Secretary to plan and develop proposals for mergers and similar arrangements intended to achieve a more efficient or adequate rail system. The bill authorized the Secretary to conduct studies, to assist any railroad, and to hold conferences for the purposes of planning and proposing mergers and other unification or coordination projects which the Secretary believes would result in a more efficient or adequate rail system.

The Senate bill required the Secretary to conduct a comprehensive study of the American railway system, to determine the potential cost savings and improvements in service quality which could result from restructuring the railroads; the potential economies and improvement of local and terminal operations; the potential savings in the expense of rehabilitating railroads which are possible through improvement of traffic flows; the extent to which common or public ownership of fixed facilities could improve the national rail transportation system; the potential effects of alternative rail corporate structures upon the national rail transportation system; the rail properties which should be improved to permit high-speed rail passenger or freight service; and the financial and physical condition of the facilities, rolling stock, and equipment of the various railroads in the United States.

For purposes of such studies, each railroad was required to provide information requested by the Secretary in connection with performance of his functions under this section, and the Secretary was authorized to obtain from any railroad information concerning the nature, kind, quality, origin, destination, consignors, consignees, and routing of property with or without the consent of the consignor or consignee.

The Senate bill also provided an expedited merger procedure that set specific time limits for each procedural step in processing a merger application.

House amendment

This section added a new paragraph 3a to the Interstate Commerce Act. Any merger, consolidation, coordination project, joint use of tracks or other facilities, or acquisition of or sale of assets involving a common carrier by railroad that was proposed by the Secretary or by a common carrier between January 1, 1976, and December 31, 1981, was made subject to this paragraph if the carriers involved in such merger or consolidation project petitioned the Commission pursuant to this paragraph.

Any transaction for such consolidation or merger could be proposed either by the Secretary or by a railroad, provided that such proposal was submitted to the Secretary 6 months prior to proposing such transaction to the Commission.

Once the carrier submitted an application for such proposed merger or consolidation pursuant to this new paragraph, the Commission, within 10 days after receiving such application, was required to notify:

(i) The Governor of each State in which the involved transactions were situated;

(ii) The Attorney General;

(iii) The Secretary of Labor; and

(iv) The Secretary, in cases in which the Secretary was not the party proposing such merger or consolidation.

The Commission was required to hold a public hearing on each application submitted, and within 90 days after its receipt, a panel of the Commission could utilize administrative law judges and the Rail Services Planning Office to resolve the issues in a timely and effective manner. The panel was required to complete the hearing within 180 days after the hearing began and to render an initial decision and certify the record to the Commission within 90 days after the termination of such hearing. The Commission must allow oral argument on the certified matters and must render a decision within 120 days after receiving the certified record. The Commission could extend the time period allotted to the panel and to the full Commission but for no more than 2 years.

In making the initial decision, the panel of the Commission was to request the use of the Secretary, the Attorney General, and the Secretary of Labor.

Whenever a proposed transaction was submitted by the Secretary or by a common carrier, the Secretary was directed to—

(i) publish it in the Federal Register;

(ii) give notice to the Attorney General, and the Governor of each State in which the proposed transaction is situated;

(iii) conduct informal public hearings, and provide all interested parties an opportunity to submit written comments;

(iv) study each proposed transaction with respect to the needs of rail transportation in the area affected, competition, environmental impact, employment, the cost of rehabilitation, the rationization of the rail system, impact on shippers, consumers and railroad employees, and the effect on the geographical area affected;

(v) submit a report to the Commission setting forth results of each study conducted pursuant to this paragraph, and the Commission shall consider this study.

The Commission was authorized to approve or modify such proposed transaction with consent of the carrier if it deemed such modification in the public interest.

This section amended existing merger procedures with the Commission by requiring that all applications for inclusion within a merger proposed by other carriers that were inconsistent in whole or in part with the original application for a merger, must be filed within 90 days after the first application for a merger was perfected.

Conference substitute

The conference substitute follows the Senate bill except that—

(1) the provisions requiring certification by the Secretary are deleted; and

(2) the House provision on expedited merger procedures is adopted;

(3) Labor protection is provided for consolidations and coordination projects mediated by the Secretary.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

Senate bill

The Rail Fund

The Senate bill established in the Treasury of the United States (for a period of 2 years) the Railroad Rehabilitation and Improvement Fund, called the Fund, under the direction and control of the U.S. Railway Association. The Fund was to serve as the Federal vehicle to render a new form of financial assistance to rehabilitate and improve the Nation's fixed rail plant. The Association was enabled and authorized to secure a first pledge of and lien on all revenues payable to, and assets held in the Fund.

The Senate bill stated that the purposes of the Fund were to provide capital to the U.S. Railway Association so as to provide specific financial assistance to the Consolidated Rail Corporation (hereinafter "ConRail") and to provide financial assistance to railroads throughout the Nation.

The bill set forth the duties and powers of the Association with respect to the administration of the fund.

The Association was authorized, with appropriate consent, to utilize any governmental department, agency, or instrumentality.

Original jurisdiction was established in the district courts of the United States for all civil actions in which the Association or the Fund was a party.

The Senate bill specified the contents of the Fund which include: (1) Proceeds from the sale of Fund Anticipation Notes described in section (7); (2) moneys to be appropriated by Congress to the Fund; (3) proceeds from the issuance and sale of Fund bonds when later authorized by Congress; (4) ConRail debentures and series A preferred stock purchased by the Association; and (5) redeemable preference shares, described in section 506, to be issued by rail carriers other than ConRail and purchased by the Association; (6) income and gains realized from the investment of excess moneys held by the Fund.

The bill provided that excess moneys provided in the Fund could be invested by the Secretary of the Treasury.

Certain depositories for moneys of the Fund were authorized.

The Senate bill set forth the uses to which the Fund's moneys could be put. These included: (1) Providing financial assistance to ConRail through the purchase by the Association of debentures or series A preferred stock in accordance with section 604; (2) providing financial assistance to carriers other than ConRail for working capital, facility rehabilitation and other financial needs through the purchase of redeemable preference shares of stock pursuant to sections 505 and 506; (3) payment of principal and interest on fund anticipation notes as described in section 507, and Fund bonds when issuance is authorized by Congress; (4) payment of the association's expenses in carrying out its functions under title 5; and (5) redemption of fund anticipation notes and fund bonds if issuance is later authorized by Congress.

The Senate bill exempted the Fund from apportionment under the provisions of the act of July 12, 1870.

Classification and Designation of Rail Lines

The Senate bill established the procedures for establishment by the Secretary of Transportation of a classification of rail lines on the basis of the essentiality of each line to the rail transportation system and economic viability of each line.

The Senate bill directed each of the Nation's railroads (except ConRail and those railroads which have elected to be reorganized pursuant to the provisions of the Regional Rail Reorganization Act of 1973) to prepare and submit to the Secretary of Transportation and the Interstate Commerce Commission within 180 days a traffic density schedule on each main and branch line for each of the preceding 5 calendar years.

The Secretary of Transportation was directed to develop and publish within 270 days a set of preliminary standards for classifying main and branch rail lines according to the degree to which they are essential to the rail transportation system. This classification was to be based on the level of usage, the contribution to the economic viability of the railroad controlling the line, and contribution to the probable economic viability of any other railroads which participate in traffic originating on such lines. The Secretary was then to make preliminary designations in accordance with the classifications.

The Senate bill directed the Transportation Services Planning Office of the Interstate Commerce Commission to hold public hearings on the Secretary's preliminary standards and designations. Following hearings, the Office was to report to the Secretary its conclusions and recommendations on the Secretary's standards for classification and preliminary designations within 120 days after initial publication.

The Senate provided that the Secretary was to prepare and publish the final standards for classification of main and branch lines and the final designations with respect to each main and branch line within 60 days after the date of receipt of the Office's report. Any material changes from the preliminary standards and designations required specific findings.

CAPITAL NEEDS STUDY

Each railroad was directed to prepare and submit to the Secretary of Transportation and the U.S. Railway Association, within 180 days, a full and complete schedule of its deferred maintenance and delayed capital expenditures as of December 31, 1975, with a 10-year projection of desired maintenance and capital expenditures.

The Secretary of Transportation was directed to develop and publish preliminary financing recommendations to meet the railroad's capital needs, consisting of two elements. First there was required to be transmitted to the association and to Congress a preliminary recommendation of the amount of railroad equity financing that needed to be affected through the capital fund or other funding mechanism which the Secretary found to be appropriate.

Second, there was required to be transmitted to the Association and the Secretary of the Treasury, a preliminary recommendation of the means by which Federal participation in the equity financing of the railroad industry should be provided, consistent with the Secretary's recommendations on the future policy for Federal aid to transportation developed under Section 301. In preparing these preliminary financing recommendations, the Secretary was directed to consider specifically the public benefits and costs, if any, which would result from public ownership of railroad rights-of-way.

The Association was directed to evaluate the Secretary's preliminary financial recommendations, and the Secretary of the Treasury was directed to evaluate the means by which Federal share equity financing should be provided. These evaluations were to be published and transmitted to the Secretary of Transportation and to Congress within 90 days of the date of publication of the Secretary's preliminary recommendations.

The Secretary was to make his final recommendation regarding railroad financing within 90 days after receipt of the evaluations by the Association and the Secretary of the Treasury.

Rehabilitation and Improvement Financing

The Senate bill set forth the mechanism for railroads (other than ConRail) to receive financial assistance for facilities rehabilitation improvement, working capital, and other financial needs.

The Senate bill provided that any railroad other than ConRail may apply to the Association for working capital and such other financial needs as may be approved by the Association in accordance with regulations that were promulgated by the Association. An application to the Association for financial assistance for facilities and rehabilitation improvement were to await the final classification and designation of rail lines by the Secretary under section 503(e).

The Senate bill set forth the requirements of an application by a railroad for facilities rehabilitation and improvement financing, including the essentiality classification of each main and branch line as determined by the Secretary. The Association was required to act on any railroad application within 6 months and the Association could approve an application if the Association determined that the rendering of the requested financial assistance was in the public interest. In evaluating each application, the Association was to consider (1) the availability of funds from other sources at reasonable costs considering principles of prudent management in light of the projected rate of return on investment for each proposed project, (2) the interest of the public in increasing the total funds (private and public) available for railroad financing, and (3) the public benefits in relation to public costs and whether there will be adequate public benefits to justify public costs.

The Association was directed to enter into a financing agreement with a railroad when an application for financial assistance was approved to provide financing sufficient to meet the reasonable cost of the railroad's financing program.

The Senate bill provided that the financing by the Association of railroads other than the Consolidated Rail Corporation was to be provided through the purchase by the Association of redeemable preference shares of railroad stock. These redeemable preference shares were to be purchased at par value and the total amount of such purchases by the Association was not to exceed $1.4 billion.

The Senate bill further limited the total par value of the redeemable preference shares which the Association could purchase after December 31, 1977, to an amount to be determined by Congress following receipt by the Congress of the Secretary's financing recommendation. This section further limited the amount of the Association's investment in redeemable preference shares in any fiscal year out of proceeds other than those from the issuance and sale of Fund Anticipation Notes. This later limitation applied to Fund proceeds when such bonds were authorized by Congress.

Redeemable Preference Shares

The Senate bill described the redeemable preference shares which the Association was to purchase from a railroad, other than the Consolidated Rail Corporation, for the purposes of obtaining working capital or facility rehabilitation financing. The redeemable preference shares were designed to repay the Fund not less than 150% of the total equity investment made by the Association and were to include features specified in the bill.

The Senate bill required that all redeemable preference shares acquired by the Association be deposited in the Fund upon acquisition.

The Senate bill gave the Association the right to place two members on the Board of Directors of a railroad which had a continuing default in respect of dividend or mandatory redemption payments for a period in excess of one year.

Fund Anticipation Notes

The Association was authorized, until December 31, 1977, to issue and sell to the Secretary of the Treasury, fund anticipation notes in an aggregate principal amount not to exceed $4.4 billion, in order to provide financial assistance to (1) ConRail pursuant to the Regional Rail Reorganization Act of 1973, as amended, and (2) to other railroads for working capital and such other financing needs as the Association approves.

The Senate bill established fund anticipation notes which were to be issued in denominations of $100,000, or any integral multiple thereof with such terms and conditions as the Association determined in its discretion, except that the date of maturity could not exceed 7 years from the date of issuance.

The Senate bill provided for the redemption of fund anticipation notes if Congress later authorized the issuance of fund bonds. The redemption must utilize the proceeds of the sale of fund bonds and other moneys appropriated to the rail Fund. The amount of fund anticipation notes to be redeemed was to be reduced by that amount of debentures and series A preferred stock in ConRail which had not been exchanged for redeemable preference shares.

The Senate bill provided that if Congress later authorized the Association to issue Fund bonds, the Association was directed to either exchange all debentures and series A preferred stock issue by ConRail held in the Fund for redeemable preference shares or to transfer from the Fund to the Secretary of the Treasury all debentures and series A preferred stock of the corporation held by the Fund.

The Senate bill provided for termination of the Fund if Congress did not, on or before January 1, 1978, enact the legislation to authorize the issuance of Fund bonds at which time the Association was to hold for the Secretary of the Treasury all debentures and series A preferred stock issued by ConRail and all redeemable preference shares issued by railroads other than the Corporation, which were held in the Fund. If Congress did not take affirmative action, the Fund was to thereupon terminate.

Fund Bonds

The Association was authorized to issue trust fund bonds in the event that Congress enacted further legislation authorizing such bonds. All fund bonds were to be in denominations of $100,000 or any integral multiple thereof. No fund bond was to mature in less than 8 years or more than 15 years from the date of original issuance. Each fund bond was to be subject to redemption at the option of the Association at any time on or after the 10th anniversary date of the original issue.

The Senate bill provided that the Association was to impose a first pledge of and lien on all revenues payable to, and assets held in, the Fund to secure any payments of principal or interest on fund notes or bonds.

The Senate bill stated that in order to enhance the marketability of fund bonds, the Association was authorized to enter into certain binding covenants with the holders.

The Association was authorized to determine the forms and denominations, the timing of sale, the maturities, the price, the rate of interest, the redemption features of the bonds, and whether they were to be negotiable or nonnegotiable and whether they were to be bearer or registered instruments.

The characteristics of the Fund bonds were set forth, including a requirement that they be considered lawful investments and not exempt from any Federal, State, and local taxation. The bonds were not to constitute an enforceable obligation or debt of the Federal Government was pledged to the payment of the principal or interest.

Any officer of the Association or other individual who executed any fund anticipation note or fund bond was exempted from personal liability.

The Senate bill provided that, if after the 10th anniversary date of the original issuance of the fund bonds, the amount in the Fund, exclusive of the value of any redeemable preference shares held by the rail Fund, exceeded 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of the Fund bonds, the Association was authorized to use the excess amounts to amounts due in the succeeding fiscal year on account of the Fund redeem fund bonds, or if the Secretary of Transportation so recommended, the Association could withdraw all or part of such excess from the Fund and transfer it to the General Fund of the United States. Following redemption of all fund bonds, the amount remaining in the Fund was to be transferred to the General Fund of the United States except to the extent necessary to cover the expenses of the Association or the Fund to carry out and complete and remaining responsibilities.

The Association was authorized, subject to the agreements which the holders of fund bonds as existed at the time, to purchase fund anticipation notes or fund bonds out of any funds available and upon such purchases of the bonds would be canceled.

Authorizations

The Senate bill authorized appropriations to a maximum of $4.4 billion to the Fund. The Secretary of the Treasury was authorized and directed to purchase prior to January 1, 1978, from the Association, any fund anticipation note that the Association offered for sale. Such additional funds as may be required to permit the Association to carry out its obligations under Title V were also authorized to be appropriated to the Fund, not to exceed $2 million in any fiscal year.

Exemption

The Senate bill exempted from the provisions of section 20a of the Interstate Commerce Act, and the registration and prospective delivery requirements of the Securities Act of 1933, the issuance and sale of redeemable preference shares by railroads.

Guarantee of Obligations

The Senate bill—

(1) Authorized the Association to guarantee and make commitments to guarantee the payment of interest on the principal balance of a facility or equipment obligation;

(2) Established an obligation guarantee fund to be administered by the Association as a revolving fund;

(3) Required the Association to make a determination of the value of the equipment which would be financed or refinanced by an obligation before granting any application for a guarantee or commitment to guarantee such obligations;

(4) Provided that the Association could permit a modification of any provision of the guarantee of, or a commitment to guarantee, any obligations;

(5) Provided that the aggregate unpaid principal amounts of obligations including interest, which may be guaranteed by the Association at any one time, shall not exceed $1 billion;

(6) Stated that interest would be payable on the unpaid principal balance of any obligation guaranteed by the Association and that the rate of such interest was to be limited to an annual percentage rate which

the Association determined to be reasonable, considering prevailing interest rates for similar obligations in the private market;

(7) Provided for the publication of notice of any applications for guarantees under this section in the Federal Register;

(8) Required the Association to make the following findings in writing before providing any guarantee: (i) the obligation is secured by the equipment to be financed or refinanced by such obligation (ii) the payment of the obligation is to be required within 25 years from its execution (iii) the financing and refinancing of the equipment is justified by the present and probable future demands for rail services to be rendered by the applicant and will serve to meet those needs and provide shippers with improved service (iv) there is reasonable assurance that the facilities or equipment to be acquired and modernized or improved will be economically and efficiently utilized (v) the probable value of such facilities or equipment is sufficient to provide the United States with reasonable protection in case of default and repossession by the holder of the equipment obligation or the possession or purchase by the Association, and (vi) the transaction will result in an improvement in the capability of any railroad to improve freight or passenger services;

(9) Required the recipients of any guarantee or commitment to guarantee to maintain the facilities or equipment on a continuing basis, consistent with their capital resources and in accordance with standards promulgated by the Association. The association was to assure compliance with this obligation by regular periodic inspection;

(10) Required that no guarantee could be issued unless the obligor first agreed that (i) there will be no increase in the discretionary dividend payments in excess of the past 5-year average, except where the Association approves after a public hearing and finding that the increased dividends will not materially impair the ability of the obligor to comply with item three below (ii) there will be no use of assets or revenues—other than cash—for no railroad operations except where the Association approves after public hearings, and make the findings that such diversion of assets will not impair the ability of the obligor to comply with item three below, and (iii) the obligor takes reasonable steps to improve use of all equipment and facilities;

(11) provided that upon breach of any conclusion of paragraph (9) or (10) above, the Association may seek to enjoin the activity in violation of the condition. Any person violating a condition may be subject to a civil penalty.

(12) provided for an investigation charge which the Association was to collect from each applicant;

(13) provided for a guaranteed obligation premium charge which could not exceed an annual rate of 1 percent of the unpaid principal balance;

(14) provided that all administrative costs could be paid from the proceeds collected as an annual premium charge, up to 5 percent of that amount.

Issuance of Notes or Obligations

The Association was authorized to provide notes or obligations to finance activities under section 513 and to dispose of property it acquired. Revocation of such guarantees, except in accordance with lawful terms and conditions prescribed by the Association, was prohibited.

Default on Guaranteed Obligations

The rights of parties under the guaranteed obligation, including rights under any security agreements, were established and the Association was given a right of action against the defaulting obligors.

Audit of transactions

The Comptroller General was authorized to audit transactions of the Assocation and if necesary in such audits, was given access to the records of companies for whom obligations were guaranteed. The Comptroller General was required to make a report on each such audit to the Congress.

Annual report

The Association was required to report to the Congress within 90 days following the end of each fiscal year on the financial conditions and operations of the fund during each fiscal year and on the anticipated condition and operation of the fund during the next fiscal year.

Employee protection

The Senate bill required that fair and equitable arrangements be provided to protect the interests of employees who may be affected by actions under this title.

House amendment

Rail transit fund

The Secretary was directed to establish within the Department of Transportation a Rail Transportation Fund, made up of appropriated funds and obligation authority, and consisting of the following accounts:

(i) the improvement of facilities account,

(ii) the rail passenger service account, and

(iii) the loan guarantee for rail improvement and service account.

All expenditures were limited by specific appropriations, acts, or obligational authority limits.

The Secretary was directed to prepare and transmit to the Congress a business-type budget for the funds in accordance with the Government Corporation Control Act.

Improvement of Facilities and Service Account

There was authorized over a 6-year period, or until September 30, 1981, $1.5 billion for railroad rehabilitation. Not more than $350 million in this account could be used to develop an integrated computer system for train control and car utilization.

Any of the funds could be used to:

(i) construct, rehabilitate, improve or modernize track, roadbed or related structures, electrical transmission systems, signal system, terminal or yard facilities, shop or other repair facilities;

(ii) provide supplemental assistance for funding supplemental transaction;

(iii) develop an integrated computer system (limited to $350 million).

The Secretary could only expend funds on projects which the Secretary determined

(i) were in the public interest;

(ii) furthered the goals of this act and national transportation policy;

(iii) that the financial assistance is necessary if the subject is to be undertaken.

(d) Before the Secretary expended funds he was directed to develop criteria for the most effective utilization of the funds authorized for rail rehabilitation and the furtherance of this act's goals. The development of criteria was to be in the following manner:

(i) within 90 days each common carrier by railroad was to analyze its rail system and file with the Secretary a complete schedule, showing the traffic density on each of its main and branch lines for the preceding 5 years. The Consolidated Rail Corporation was exempt from this section;

(ii) within 180 days of this bill's enactment, the Secretary was to develop and publish preliminary standards for classifying main lines and branch lines according to their level of usage, measured in ton/miles and probable economic viability. A preliminary designation based on such classifications was required to be made;

(iii) within 30 days after the publication by the Secretary of preliminary standards for classification, the Rail Services Planning Office was required to hold public hearings on such classifications;

(iv) within 120 days after the publication by the Secretary of such classifications, the Office of Rail Services Planning was directed to report to the Secretary its conclusions and recommendations with respect to such standards and designations;

(v) within 60 days after the receipt of such conclusions and recommendations of the Office, the Secretary was required to prepare and publish the final standards for main and branch line classifications.

Any common carrier by railroad was authorized to apply to the Secretary, in accordance with the regulations promulgated by him, for financial assistance authorized under the improvement of service account.

The Secretatry was directed to act upon each application within 6 months after it is submitted. In considering such applications the Secretary was required to give first priority for rehabilitation to the highest classification of main line, unless he determined that there were compelling reasons for giving such priority to an application for rehabilitation of main lines classified otherwise.

Financial assistance could be in the form of grants, partial grants, matching grants, direct loans in which the Secretary either deferred or forgave all or a portion of the interest subsidies, loan guarantees or any combination of the above.

Each State was encouraged to contribute a portion of the cost of any project that was approved by the Secretary and that was to be undertaken in such State. The State portion could consist of contributions from State governments, local governments, the railroad, shippers, or other interested parties.

Loan guarantee for rail improvement and service account

The Secretary was authorized with the approval of the Secretary of the Treasury, to guarantee any lender against loss of principal and interest on securities obligations or loans issued to finance the acquisition, construction, maintenance or development of specified railroad facilities and equipment.

These guarantees were to be general obligations of the United States and any guarantee made by the Secretary was not revokable.

The authorized guarantees were to be utilized for the purpose of financing, merger, consolidation, coordination project, joint use of tracks, or other facilities or sale of assets, as well as the acquisition, construction, maintenance or development of: tracks and roadbeds subject to traffic usage of at least 5 million gross ton-miles per mile of road per year; electrical, communication, and power transmission systems; signals, terminal facility modernization and consolidation; new and rebuilt rolling stock, tugs and related marine equipment used in connection with common carrier by railroad; computer based data systems; and abandoned lines where potential buyer is a transportation authority or a shipper or receiver on such lines.

The Secretary was required to consider whether the prospective several findings designed to assure adequate protection to the United States in the event of default, and to assure that the improvements would contribute to a more rational, efficient, and economical rail transportation system. Different findings must be made with respect to guarantees for rolling stock.

The Secretary was required, prior to making a guarantee, to make obligee was responsible and whether adequate provision would be made for servicing the obligation. The prospective obligee was also required to have an equity interest in the asset to be financed—or in case of a lease, a beneficial interest. In addition, the Secretary was required to find that:

(1) Managerial policies of the obligee are designed to upgrade and develop plant facilities and operations to fulfill its duties as a common carrier;

(2) The financial stability of the carrier is such that there is reasonable assurance the loan will be prepaid on schedule—and the value of the security pledged, will afford

protection for the United States in event of default;

(3) The project for which the loan is used will enhance the efficiency of the rail operations;

(4) That credit on reasonable terms is not otherwise available to the prospective borrower for the specific project envisaged;

(5) The interest rate on the loan is not unreasonable in the context of the rates prevailing on the private market for similar loans;

(6) The interests of employees who may be adversely affected by a project funded by the loan program will be protected. The Secretary was required to find that the employee protection arrangement already exists, or will be provided for, and that such arrangements will at least be equal to those established pursuant to section 5(a)(f) of the Interstate Commerce Act, and section 405(5)(f) of the Interstate Commerce Act, and section 405(5) of the Rail Passenger Service Act of 1970.

The Secretary must make a finding in regard to any rolling stock loan that (A) the acquisition or rebuilding of the rolling stock is justified, and (B) the probable value of the rolling stock will provide reasonable protection to the United States in event of default. The Secretary must make a finding in regard to the data system loans that the data system is consistent with intent of section 803(b)(3) of this act.

As a criterion for deciding whether applicants for the loans under this program are to be approved, the Secretary was to consider the return on investment for which the guarantee is sought; the potential for intermodal connections and substitutions, the improvement of utilization of freight cars, the relationship of proposed improvement to other improvement plans of the railroad, the improvement of service both for passenger and for shippers, and the contribution to the efficiency of the railroad.

The Secretary was authorized to prescribe rules and regulations for administration of this section.

Section 804 (g) authorized the Secretary to enter into agreements with the Federal Financing Bank which may purchase obligations issued by the borrower and guaranteed by the Secretary.

A revolving fund within the Department of Treasury was created to be available to the Secretary without fiscal year limitation, for purposes of this act. Total of guarantees from this fund were not to exceed limitations in appropriations acts.

The bill provided for authorization of periodic appropriations to provide capital for the fund.

The Secretary was to issue to the Secretary of the Treasury notes or other obligations in an amount to cover any deficiency in the fund in order to enable the Secretary to discharge his responsibilities under guarantees under this act.

The Secretary was authorized to guarantee under this section an aggregate unpaid principal amount of securities, obligations and loans, outstanding at any one time not to exceed $2 billion.

The Secretary was prohibited from guaranteeing any security, obligation, or loan the interest of which is exempt from Federal income taxes.

Conference substitute

The conference substitute follows the Senate bill except that—

(1) the Rail Fund is to be administered by the Secretary of Transportation rather than the United States Railway Association;

(2) the United States Railway Association is given access to money to finance ConRail;

(3) $600 million is authorized to be appropriated for flexible loans pursuant to this title;

(4) the amount of loan guarantees is reduced to $800 million, and the purposes for guarantees is broadened to conform to the House bill; and

(5) $200 million in grants is provided for assistance to intercity passenger services operated by Amtrak or other railroads outside the Northeast corridor.

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Senate amendment

The Senate amendment—

(1) amended section 202(a)(2) of existing law to specifically authorize the United States Railway Association (hereinafter in this statement referred to as the "Association") to acquire debentures and Series A preferred stock of the Consolidated Rail Corporation (hereafter in this statement referred to as the "Corporation") up to the amount specified in section 216 and to issue certificates of value under section 306;

(2) amended section 303 of existing law by adding a new subsection (e), which specified that all transfers or conveyances of rail properties made pursuant to the final system plan or pursuant to a supplementary transfer under section 305 would be exempted from any taxes, imposts, or levies now or hereafter imposed by the United States or by any State or political subdivision thereof on such transfers or conveyances or on the recording of documents incident thereto;

(3) amended section 208 of existing law by adding new subsection (d), which provided that the provisions and designations of the Association's Official Errata Supplement, dated December 1, 1975, would be treated for all purposes as if included in the final system plan as approved;

(4) amended section 208 of existing law by adding new subsection (e), which authorized the Association, upon the petition of any State, to modify the final system plan to make further designations—prior to delivery of the final system plan to the special court—with respect to lines and rail properties to be transferred to the Corporation if such designations were likely to result in improved rail service and would not materially impair the profitability of the Corporation;

(5) amended section 209(b) of existing law to expressly vest the special court with authority to prescribe appropriate rules for the conduct of its functions;

(6) amended section 209 of existing law by adding new subsection (e), which provided that civil actions brought to challenge or to enforce or declare rights under or pursuant to the Regional Rail Reorganization Act of 1973 are within the original and exclusive jurisdiction of the special court and which also clarified the post-conveyance jurisdiction of the special court by making it clear that the special court would have exclusive jurisdiction to resolve disputes concerning the meaning and implementation of its conveyance orders under section 303(b), subject to judicial review as specified;

(7) amended section 209 of existing law by adding new subsection (f), which provided that the special court would have exclusive judicial review authority with respect to supplementary transfers under section 305;

(8) amended section 209 of existing law by adding new subsection (g), which made it clear that the special court had authority to make interim investments of securities and cash deposited with it and to make interim distribution of such assets to entities transferring rail properties pursuant to the final system plan;

(9) amended section 209 of existing law by adding new subsection (h), which made explicit the power of the special court as it relates to the stay of proceedings in other courts that would have an adverse effect on the reorganization process;

(10) amended section 210(b) of existing law by reducing by $1 billion the aggregate amount of Association obligations which may be outstanding at any one time;

(11) amended existing law by adding a new section 216, "Debentures and Series A Preferred Stock," under which the Association was authorized to invest up to $1 billion in debentures of the Corporation and up to an additional $2 billion in series A preferred stock of the Corporation, in accordance with specified procedures, and criteria, and under such terms and conditions as may be prescribed by the Board of Directors of the Association (except that interest and dividends thereon would not be cumulative and would be payable only at such times as the Corporation had an earned surplus, after such payment, in excess of $500 million). The new section also authorized the Association to utilize up to $3 billion of the funds realized from the sale to the Treasury of fund anticipation notes for the purchase of such securities of the Corporation; required the Association to make available to the Corporation upon application up to an additional $200 million for the purposes of electrification of high-density mainline routes where such improvements would return benefits and be compatible; and required the Association to prepare an annual report to Congress on the performance of the Corporation;

(12) amended section 201(h) of existing law to permit the Chairman of the Interstate Commerce Commission (hereafter in this statement referred to as the "ICC") to appoint a representative to serve for him on the executive committee of the Board of Directors of the Association;

(13) amended section 202(e) of existing law to make a technical correction to accommodate certificates of value;

(14) amended section 202(f) of existing law to require receipts and disbursements with respect to Association investments in debentures and series A preferred stock of the Coporation and in certificates of value to be included in, and made subject to the limitations on, the annual budget of the U.S. Government;

(15) amended section 203(a) of existing law to eliminate a time limitation on access to information;

(16) amended section 206(d)(3) of existing law to deal with consideration by the ICC of the corrections made by the Association in the preliminary system plan covering specific acquisitions by profitable railroads;

(17) amended section 206(c)(1)(B) of existing law to authorize the Association to designate an alternative profitable railroad to which properties could be transferred if the first profitable railroad offered such properties did not accept the offer;

(18) amended various provisions of existing law to make it possible for certain rail properties, which are designated in the final system plan to be transferred to the Corporation, to be transferred instead to a subsidiary or affiliate of the Corporation;

(19) amended section 206(c)(1)(D) of existing law to permit the designation in the final system plan of rail properties of railroads in reorganization in the region which may be purchased or leased from the Corporation by the National Railroad Passenger Corporation (hereafter in this statement referred to as "Amtrak") in order to meet the needs of improved passenger service over intercity routes other than those in the Northeast corridor;

(20) amended section 210(c) of existing law to clarify that all obligations made by the Secretary of Transportation (hereafter in this statement referred to as "DOT") will be considered as general obligations of the United States backed by the full faith and credit of the Federal Government;

(21) amended section 213 of existing law by adding a new subsection (c), which prohibited a trustee of a railroad in reorganization from making any payment on account of interline balances due and owing

on the date of enactment of existing law if such trustee had received financial assistance under section 213 within 90 days of the proposed such payment or if the applicable court found that such trustee was likely to need such assistance within 90 days after such payment;

(22) amended section 214 (b) and (c) of existing law to increase the authorization of appropriations for the Rail (redesignated as "Transportation" in the Senate bill) Services Planning Office of the ICC (hereafter in this statement referred to as the "Office") and for the Association;

(23) amended section 214(a) of existing law to authorize the appropriation of funds which may be required to pay judgments which the United States of America might become obligated to pay under section 303 (c);

(24) amended section 301(e) of existing law to add references to, and to prescribe characteristics of, the specific classes of securities of the Corporation which are contemplated by the final system plan (debentures and series A preferred stock, which are to be initially issued to the Association; and series B preferred stock and common stock, which are to be initially issued to the estates of railroads in reorganization in the region, to railroads leased, operated, or controlled by any such railroad in reorganization, and to other persons who transfer rail properties to the Corporation pursuant to the final system plan). The new sentences further provided that the series B preferred stock was required to have terms and conditions not inconsistent with the final system plan and that, until the debentures and series A preferred stock are retired and redeemed, dividends could only be paid on the series B preferred stock and on the common stock under such circumstances and at such times as the Association prescribes;

(25) amended existing law by adding a new section 307, "Supplementary Assistance", which authorized the association to provide financial assistance through title V of the Senate bill to facilitate the implementation of supplementary transfers. Such financial assistance could be in the form of the guarantee of obligations (or in the form of loans);

(26) amended section 301(c) of existing law to permit a reconstituted Board of Directors for the Corporation to take office as soon as possible after it becomes an operating railroad;

(27) amended section 301(d) of existing law by replacing it with a substitute subsection, which provides that the Corporation would have a 13 member Board of Directors, consisting of 6 individuals representing the holders of the Corporation's debentures and series A preferred stock, 3 individuals selected by the series B preferred stockholders, 2 individuals selected by the holders of the common stock of the Corporation, plus the chief executive officer and the chief operating officer of the Corporation as representatives of all classes of security holders;

(28) amended section 301 of existing law by repealing subsection (f) thereof and adding new subsections (f) and (g) which provide that the Board of the Corporation will elect the officers of the Corporation (including a chief executive officer and a chief operating officer) who shall serve at the pleasure of the Board, and which authorizes the special court to appoint one or more voting trustees for each class of securities deposited with this court until the distribution of such securities;

(29) amended section 303(b)(3) of existing law to treat transfers of rolling stock as an assignment under which the assignor is discharged from ongoing liability under any conditional sale agreement, equipment trust agreement, or lease covering such rolling stock, while remaining liable for any breach, event of default, or violation of covenant occurring prior to the conveyance;

(30) amended section 201 of the Government Corporation Control Act by removing the Corporation from the list of entities subject to that provision;

(31) amended sections 303 (a), (b), and (c) of existing law to permit transfers to subsidiaries or affiliates of the Corporation.

(32) amended section 303(c)(2) of existing law to assure that each transferor railroad is allocated at least one share of series B preferred stock and one certificate of value, and to authorize the special court in the event of an inadequate exchange to enter a judgment against the Corporation "if the judgment would not endanger the viability or solvency of the Corporation";

(33) amended section 303(c) of existing law by adding a new paragraph (5), which provided that the United States of America would indemnify the Corporation with respect to certain kinds of deficiency judgments;

(34) amended section 303(d) of existing law to increase the amount of time within which appeals may be taken from a finding or determination of the special court and by deleting the unessential second sentence;

(35) amended section 303(c)(4) of existing law to provide for distribution of securities deposited with the special court directly to persons leased, operated, or controlled by railroads in reorganization, where such persons transferred rail properties in accordance with the final system plan;

(36) made a variety of amendments to conform various provisions to reflect the addition of certificates of value;

(37) amended section 301(b) to permit the Corporation to incorporate in other jurisdictions so long as its principal railroad operating subsidiary maintains its principal office in Philadelphia, Pa;

(38) amended section 303(b)(4) of existing law to provide that the transfer of a lease would not be deemed a breach, an event of default, or a violation of covenant of any lease so conveyed;

(39) amended section 501 of existing law to include any subsidiary or affiliate of the Corporation in the definition of purposes of the employee protection provisions of title V, by changing the definitions of "employee of a railroad in reorganization" and "protected employee" and adding a definition of "selling railroad" to conform to other amendments, including the new provision for supplementary transfers;

(40) amended section 502(b) of existing law by allowing the Corporation or any acquiring carrier, for their convenience during the period of transition, to make offers of employment to employees of (a) railroad in reorganization, prior to the date of conveyance, and allowing such employees to retain their protected status so long as they do not die, resign, or retire and provided they are not dismissed for cause prior to the date of conveyance.

(41) amended section 504 of existing law by adding a new subsection (e), which provided that in all employee claims arising under section 3 of the Railway Labor Act in which awards, judgments, or carrier suspensions have been rendered prior to the date of conveyance in accordance with the final system plan, the employees would have an enforceable action against the estates of their former employers, and that the Corporation would assume the responsibility for processing and adjudicating any such claims which arose before and were pending on the date of conveyance, subject to the Corporation being reimbursed therefor by such estates.

(42) amended section 504 of existing law by adding a new subsection (f), which provided the mechanism for transferring protected employees from the Corporation to Amtrak without the loss of any title V protection to which they would otherwise have been entitled;

(43) amended section 504 of existing law by adding a new subsection (g), which required the Corporation or an acquiring carrier, as the case may be, to assume all cases or claims by employees (or their representatives) for personal injury or death against a railroad in reorganization which arose prior to the date of conveyance and to process and pay such claims, subject to reimbursement from the Association pursuant to section 216(b)(5);

(44) amended section 505(b) (1) and (3) of existing law to clarify the commencement date for purposes of computing the monthly displacement allowances;

(45) amended section 505(b) of existing law by adding a paragraph with respect to the entitlements of a noncontract employee in a craft or class of employees protected under this Act;

(46) amended section 505(f) of existing law by replacing it with a substitute which permitted an employee with less than 3 years service, as of January 2, 1974, to choose voluntary furlough in lieu of being paid a termination allowance and which required the Corporation to exercise its right to terminate an employee within a period of 1 year from the date of conveyance;

(47) amended section 505(h) of existing law by adding a provision under which the Corporation will offer active employment to employees of railroads in reorganization who were furloughed on or after the date of publication of the preliminary system plan (February 26, 1975);

(48) amended section 505 of existing law by adding a new subsection (i), which clarified how the protection of title V could be applied to employees who are not governed by collective bargaining agreements;

(49) amended section 509 of existing law ("Payment of Benefits") by replacing it with a substitute which made the Corporation, the Association (where applicable), and acquiring railroads, as the case may be, responsible for the actual payment of all allowances, expenses, and costs to which protected employees are entitled under title V, subject to reimbursement (to an aggregate sum of $250 million) by the Railroad Retirement Board from a separate account in the U.S. Treasury to be known as the Regional Rail Transportation Protective Account;

(50) amended section 508 of existing law by adding a provision which makes Amtrak an "acquiring railroad" with respect to employees who are protected employees within the meaning of this Act and which required Amtrak to provide employee protection, and by adding a new subsection which provided that selling railroads shall offer such employment and shall provide such employment protection to each employee adversely affected by a sale of rail properties as is provided for agreements to be entered into between such railroads and the representatives of such employees prior to such sale;

(51) amend sections 601(a)(2) and 601(b) of existing law to expand those provisions to include any action taken to formulate or implement a supplementary transfer;

(52) amend section 601(b) by adding new paragraphs which provided that securities issued by the Corporation to the Association or in connection with the transfer of rail properties to the Corporation shall be deemed to have been issued in compliance with section 20a of the Interstate Commerce Act, and which provided that the ICC's powers and duties under section 77 of the Bankruptcy Act shall cease as of the date of conveyance, with respect to a railroad in reorganization which conveys all or substantially all of its designated rail properties to the Corporation or any subsidiary or affiliate thereof. Thereafter, such pow-

ers and duties vest in the appropriate U.S. district court which is required to proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77 (on such terms as such court deems just and reasonable) or pursuant to any other provisions of the Bankruptcy Act if such court finds that such action would be in the best interest of the estate of the railroad in reorganization;

(53) amended section 601(c) of existing law to extend the exemption therein provided from the requirements of the National Environmental Policy Act of 1969 to include any action taken to implement the final system plan or to formulate or implement any supplementary transaction;

(54) amended existing law by adding a new section 605, "Duty of Transferee," which required that whenever the transfer, sale, or acquisition of a rail line results in a significant increase in rail traffic which reasonably poses a potential hazard to public health, safety, or welfare, the transferee is required to take such action as DOT requires to alleviate such hazard. The Association may provide financial assistance for this purpose.

House amendment

The House amendment—

(1) amended section 201(h) to provide for an executive committee of the Board of Directors of the Association;

(2) amended section 202(e) of existing law by inserting immediately after "obligations issued" in paragraph (4) the following: ", certificates of value issued, securities purchased,";

(3) amended section 202(f) of existing law by inserting immediately after "section" in the first sentence the following: "and receipts and disbursements under section 216 of this title and section 305 of this Act."

(4) amended section 203(a) by striking out the last sentence thereof;

(5) amended paragraph (3) of section 206(d) regarding determinations made by the Association with respect to the preliminary and final system plans;

(6) amended paragraph (1)(B) of section 206(c) by inserting immediately after "paragraph" the following: ", and what alternative designations shall be made under this paragraph";

(7) amended section 214(a) by adding that there was authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the U.S. arising under section 303(c)(5).

(8) amended section 202(a) of the Regional Rail Reorganization Act of 1973 (which gives the USRA the power to issue obligations and to make loans to ConRail and others to carry out the purposes of the act) by authorizing additional powers to USRA to purchase securities issued by ConRail under section 216 and to issue a new type of obligation called a "Certificate of Value." The Certificates of Value were defined and created in a new section 305 of the RRR Act;

(9) amended section 210(b) of the RRR Act by reducing the aggregate amount of USRA obligations which could be outstanding at any one time from $1.5 billion to $235 million. Further after USRA made its first purchase of ConRail securities no further section 210 financing was to be available except for loans under section 211(h).

(10) amended Title II of the RRR Act by adding a new section 216, which provides for purchases of debentures and preferred stock of ConRail by USRA. The amendment—

Authorized the USRA to invest up to $1 billion in debentures and $1.1 billion in series A preferred stock issued by ConRail;

Established the purposes and procedures for the investment in ConRail's securities. At the outset, the USRA Board and the Government Banking Committee would jointly prescribe the terms and conditions for any such purchase, including an agreed margin of deviance from the overall results projected for ConRail in the final system plan. The proceeds of these investments could be used by ConRail to modernize, rehabilitate, and maintain its rail properties, acquire capital items such as equipment, refinance debt incurred under sections 211 and 215, and provide working capital. Purchases of up to $1 billion of debentures and $1.1 billion of prefered stock were to be made as required and requested by ConRail unless the Committee found that (1) ConRail committed and left uncorrected a material violation of any covenant or undertaking made to USRA, (2) ConRail failed substantially (i.e., within margins jointly prescribed by USRA's Board and the Committee) to obtain the overall business and financial results projected in the final system plan, as modified by the Board and the Committee, or (3) ConRail was not reasonably likely to become financially self-sustaining without Government funds substantially in excess of the $2.1 billion authorized. If such a finding were made, the Committee could direct that USRA purchase no more ConRail securities or that it purchase such additional securities only on such terms and conditions as the Committee determined to be appropriate to USRA's role as an investor.

Provided that the debentures and the series A prefered stock would have such terms and conditions not inconsistent with the final system plan or title IX of this act except that—

"(1) The Corporation shall not pay the Association additional preferred A stock in lieu of interest or dividends;

"(2) The interest on such debentures and the dividends on such stock shall not be cumulative and such interest or dividends shall be paid only out of the net profits of the corporation; and

"(3) Any terms and conditions which prescribe covenants or undertakings with ConRail shall be jointly prescribed by such Board of Directors and the Government Banking Committee.

authorized the USRA Board and the Committee jointly to reach agreements with ConRail modifying the terms and conditions governing the purchase of any securities held by USRA. The terms and conditions of ConRail's securities acquired by USRA could be modified by agreement of USRA and ConRail subject to the Committee's concurrence with respect to certain kinds of terms and conditions. The Committee alone could waive compliance by ConRail with any "term, condition, provision, or covenant" of any security or with any term and condition governing their purchase. This power to waive included the power to forgive payment of interest dividends, payment of principal on the debentures, and the redemption of the series A preferred stock;

authorized $2.1 billion to be appropriated to the Association to be used for the purchase of securities in accordance with this section;

amended subsection 202(f) of the RRR Act which presently provides that only the administrative expenses of USRA should be included in the annual Federal budget, and that its receipts and disbursements not be included in the budget.

The amendment would require receipts and disbursements with respect to investments in ConRail securities under section 216 and the certificates of value authorized by section 306 to be included in the Federal budget and deficit ceilings;

(11) amended 301(e) of the Regional Rail Reorganization Act of 1973 (which presently provides for the capital structure of ConRail) by adding references to the specific classes of securities contemplated by the Final System Plan. The debentures and series A preferred stock were to be initially issued to USRA, and the series B preferred stock and the common stock were to be initially issued to: (*a*) The northeast railroads presently in reorganization, (*b*) the leased lines of those reorganizing railroads, which are for the most part affiliates of the reorganizing railroads, and (*c*) other transferors of rail properties to ConRail pursuant to the final system plan. All securities issued to the association or in connection with the transfer to the corporation or subsidiary thereof, were deemed to have been authorized pursuant to section 20a of the Interstate Commerce Act;

(12) Provided that members of the executive committee of the association must also adopt the initial bylaws of the corporation and serve as the board of directors until at least seven members of the board of directors have been selected. The Board of Directors was required to consist of 11 individuals:

(i) The president of the corporation,

(ii) Chairman and chief executive officer of the corporation,

(iii) President and chief operating officer of the corporation,

(iv) Two individuals appointed by the President with the advice and consent of the Senate,

(v) Two individuals selected by holders of the debentures and series A preferred stock,

(vi) Two individuals selected by holders of series B preferred stock in the corporation, and

(vii) Two individuals selected by holders of common stock of the corporation.

On the sixth anniversary of the special court order, one director, appointed by the President, must resign when the U.S. interest in ConRail declines below $1.7 billion, another when below $1.2 billion. Another, selected by the series A preferred stock and debentures holders must resign below $700 million. Another must resign when the amount is below $200 million. The president of the Association was required to resign from the board of directors of the corporation when the United States no longer held any ConRail securities;

(13) added a new subsection to section 301 of existing law. The new subsection directed the special court to appoint one or more voting trustees to exercise the rights of the holders of the series B preferred stock and common stock of the corporation during the period between deposit of the securities with the special court and the distribution of such securities, or the special court in its discretion could appoint directors to represent the series B preferred and common stockholders of the corporation;

(14) amended section 214(a) of existing law to authorize appropriations to the Secretary as may be necessary to discharge the obligations of the United States arising under section 303(c)5 of that act;

(15) amended section 303(c) of existing law to allow the United States, in its discretion, to represent any profitable railroad to which rail properties were conveyed pursuant to the final system plan in any proceedings before the special court which could result in a judgment against such profitable railroad under section 303(c)3 of that act. Any railroad so represented was required to cooperate in whatever manner the United States reasonably requested. Without regard to whether the United States represented such profitable railroad, the United States had the obligation to pay the amount by which any judgment entered against such railroad under section 303(c)3 exceeded the net liquidation value of rail properties subject to such judgment, plus interest at a rate determined by the special court. Such obligation to pay was guaranteed by the full faith and credit of the United States;

(16) amended section 501 of existing law by defining a "protected employee" as any employee (1) of an acquiring or selling railroad adversely affected by a transaction, (2) of the corporation, who immediately preceding employment by the corporation, was employed by a selling railroad and was

adversely affected by the sale of property to the corporation; and (3) of a railroad in reorganization who has not reached age 65 on the effective date of that act;

(17) amended section 508 of existing law by designating the corporation as an acquiring railroad, and by requiring a selling railroad to offer employment and employment protection to employees adversely affected by such sale as shall be agreed upon by the selling railroad and representatives of such employees prior to sale, except that protection and benefits provided were to be the same as those of section 505 of that act.

(17a) until such employee protection agreements were reached, the selling railroad was not to enter into such selling agreements;

(18) amended section 501(2) of existing law which defines an "employee of a railroad in reorganization" and covers "rail properties" found in section 102(10). The amended language reflected the exclusion of certain class I rail subsidiaries and their employees from the provisions of the act;

(19) amended section 502(b) of existing law by allowing ConRail or an acquiring carrier, for their convenience during the period of transition, to make offers of employment to employees of railroads in reorganization prior to the effective date of conveyance, and allowing those individuals to retain their protected status provided they do not die, resign, or retire or are not dismissed for cause prior to the date of conveyance;

(20) amended section 504 of existing law by adding a new subsection (e). This subsection concerned liability for employee claims arising under section 3 of the Railway Labor Act, involving the interpretation or application of collective bargaining agreements. In all section 3 claims in which awards, judgments, or carrier suspensions were rendered prior to the date of conveyance, ConRail was required to assume the responsibility for continued processing, settling, and/or adjudicating such claims. Any of the claims which were sustained were to be paid by ConRail, which would then be entitled to direct reimbursement from the estates;

(21) amended section 504 of existing law by adding new subsection (f) providing the mechanism for transferring protected employees from ConRail to Amtrak or acquiring carrier. Tripartite negotiations for implementing agreements are intended in order that protected employees be given opportunities with Amtrak.

Collective bargaining agreements covering those crafts or classes of employees transferred were, in the absence of agreements between Amtrak and the representatives of the employees, to be the agreements in existence on the properties from which the employees were transferred;

A transferred protected employee would not lose any title V protection to which he would have been otherwise entitled:

(21(a)) amended section 505(a) of existing law to provide that a protected employee will not be placed in a worse position with respect to accrued pension benefits.

(22) amended sections 505(b)(1) and (3) of the Regional Rail Reorganization Act of 1973 and clarified the commencement date for computation of monthly displacement allowances. February 26, 1975 was made the publication date of the preliminary system plan, and 12 full calendar months before that date was made the uniform computation test period;

(23) amended section 505(f) of the Act by permitting an employee with less than 3 years service as of the effective date of the Act, January 2, 1974, to choose voluntary furlough status in lieu of being paid a termination allowance. The section was further amended by requiring ConRail to exercise its right to terminate an employee within a period of 1 year from the date of conveyance;

(24) amended section 505(h) of existing law by adding a provision under which ConRail would offer active employment to employees of railroads in reorganization who were furloughed on or after the date of publication of the preliminary system plan, February 26, 1975. This clarifying language provided monetary protection to those employees who may have been furloughed prior to the date of conveyance and who (1) assumed such status on or after February 26, 1975, and (2) qualified for monetary payments as employees of railroads in reorganization prior to the effective date of the act, January 2, 1974;

(25) added a new subsection, 505(1) to existing law to clarify how the protection of title V could be applied to employees not governed by collective bargaining agreements. These employees were not subject to seniority rules or craft or class jurisdictional barriers, and thus it was made clear that certain of section 505's protective conditions cannot be applied to this group;

(26) amended title VI of existing law by providing that except with respect to laws and regulations pertaining to safety, representation of employees for collective bargaining, handling of disputes between carriers and their employees, employment retirement, annuity and unemployment systems and other employer-employee dealings, no local public body, as defined in the Urban Mass Transit Act, was subject to ICC rules, regulations and orders;

(27) amended section 206(c)(1)(D) of existing law to permit designation in the final system plan of properties of railroads in reorganization that may be purchased or leased from ConRail by Amtrak to meet the needs of improved passenger service over intercity routes other than the Northeast corridor;

(28) established an executive committee for the USRA Board comprised of the Secretary, the chairman of the Commission and the chairman of USRA, or a duly authorized representative and two other members selected by the USRA Board;

(29) struck the last sentence of section 203(a) of existing law which prevented information requests after the effective date of the final system plan;

(30) stated that all corrections made by USRA of the preliminary system plan were to be deemed to have been made upon adoption and release of such plan. Determinations made by the Commission with respect to such corrections are treated as if made within 90 days after release of the plan;

(31) amended section 206(d) of existing law by extending to 5 days the date by which commitments to purchase must be made after the bill's enactment. Modification of offers of sale were permitted until date of acceptance unless the modification results in an offer less than net liquidation value;

(32) amended section 207(c) of existing law by providing that any railroad line which was recommended in the preliminary system plan for transfer to ConRail must be so designated in the final system plan. This section also provided that if a profitable railroad was designated overhead trackage rights in the preliminary system plan such designation was to be made in the final system plan under certain conditions;

(33) added a new subsection to section 208 of existing law treating the association's official errata supplement to the final system plan as though it had been included in the final system plan;

(34) added subsection (e) to section 209 of existing law. New subsection (e) provided that any legal action brought to stop the operation of the act, or any part or amendment of the act, to obtain a declaratory judgment of unconstitutionality, to enforce or declare rights, or to obtain or inspect records of the Association, could be brought only in the special court set up under the act, and not in any other Federal or State court. This jurisdiction was not to be exercised until after the conveyances under section 303(b). Any appeal was made directly reviewable by the Supreme Court;

(35) added new subsection (f) to section 207 to existing law by placing the enforcement of rights under this act within exclusive jurisdiction of the special court, extending the period for delivery of the final system plan to the court to March 11, 1976, provided that the association, not later than February 1, 1976, notified the special court and the Congress;

(36) struck the first sentence of section 301(f) of existing law which made ConRail subject to Government audits under the Government Corporation Control Act;

(37) amended section 303(c)(2) of existing law to increase the flexibility of the special court's authority to fashion remedies as part of its valuation proceedings. No deficiency judgment could be entered that would endanger ConRail's viability or solvency;

(37)(a) amended section 303(c)(3) of existing law by requiring the return of deposited compensation to any profitable railroad not previously reimbursed for payments made under section 211(h);

(38) amended section 303(c)(4) of existing law to provide for distribution of the securities deposited with the special court not only to the estates of the railroads in reorganization as presently provided, but also to the other transferors of rail properties (which may include entities that, considered alone, are not "railroads") in accordance with the final system plan;

(38)(a) amended section 303 of existing law by adding a new subsection (e) to place restraints on the disposition of rail properties designated for transfer under the final system plan;

(39) amended section 303(d) of existing law by increasing the amount of time for filing appeals from the special court by 15 days;

(40) amended section 403(b) of existing law to remove the authority to guarantee loans for modernization purposes;

(41) amended section 201 of the Government Corporations Act by removing ConRail from the list of "mixed ownership government corporations" contained in that act;

(42) amended section 206(c)(1)(B) of existing law to authorize USRA to designate an alternative profitable railroad to which properties can be transferred if the first profitable railroad offered the properties does not accept the offer;

(43) amended section 214(c) of existing law by eliminating the $40 million limit on appropriations to the United States Railway Association for administrative expenses;

(44) amended existing law by making clear that all appropriate references to ConRail will be understood to be references to its subsidiaries or affiliates as well;

(45) amended section 402(a) of existing law whereby the Federal phase of financial assistance for rail service continuation subsidies is increased from 70 percent for a 2-year period to 100 percent for the first 6 months; 90 percent for the next year; 70 percent for the next year; 50 percent for the next year; and 30 percent for the next year, a total of 4½ years. In addition, the amendment provided that to be eligible for the 100-percent Federal share for the first 6 months the State or responsible person must certify to the Secretary its intention and capability to provide its required share of the subsidy during the subsequent 4 years;

(46) amended section 402(b) of existing law by adding a new paragraph providing

that regardless of whether a State satisfied the eligibility requirements for service continuation subsidies, the Secretary may provide such subsidies to any financially responsible person for a period of 1 year. Also, if a State satisfied the eligibility requirements for subsidies, the State would have priority to receive the subsidies over any financially responsible person. Thus, rail service could be continued on light-density branch lines by shippers for a minimal payment if a State did not have a plan for rail transportation and local rail services or did not have the finances available to implement its plan during the first year of the program;

(47) amended section 403(b) of existing law to provide that a State may use funds received from both its entitlement and the Secretary's discretionary assistance to acquire or modernize a light-density branch line. A formula was also provided for computing the amount of entitlement funds based on the operational losses incurred during the year preceding the effective date of the final system plan;

(48) amended section 304(a)(2)(B) of existing law to preclude the possibility of bankrupt railroads discontinuing any rail service over properties excluded from the final system plan before date of conveyance;

(49) amended section 304(c) of existing law to assure continuation of rail service when a subsidy is offered by providing that the party offering the subsidy must tender a contract on reasonable terms and conditions and the operator of the service must accept such contract. The operator of the service was to receive the difference between the revenue received and the avoidable costs of such service plus a reasonable management fee, and the trustees of a bankrupt railroad were to receive a reasonable rate of return on the value of its property;

(50) amended section 601(b) of existing law by further providing that the powers and duties of the ICC under section 77 of the Bankruptcy Act, with respect to a bankrupt railroad's duty to file a reorganization plan with the ICC, shall terminate upon (1) conveyance of its rail properties in accordance with designations included in the final system plan, or (2) the discontinuance of service over lines not designated for conveyance in the final system plan, whichever is later. The amendment further provided that after termination of the ICC's powers and duties, such responsibilities would reside with the applicable U.S. district court;

(51) amended section 303 of existing law by adding a new subsection (e) providing that the cash deposited with the special court was to be invested on terms and conditions determined by the special court. The income received from the cash investments, securities, obligations, or other compensation could be distributed by the special court to the trustees of the bankrupt railroads or to any person leased, operated, or controlled by such railroad. In addition, within 90 days of conveyance of rail properties the special court was authorized to distribute up to 25 percent of deposits to the transferor or upon petition, such additional amount of it found reasonable and appropriate;

(52) amended section 206(d) of existing law to provide that a State, local, or regional transportation authority shall not be required to file a firm commitment to acquire rail properties prior to January 9, 1976, or 5 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, whichever is later;

(53) amended section 301 of existing law by adding a new subsection (h) which protects directors, officers, employees, or agents of the Corporation from court suits and actions for damages, but provides indemnification by the United States in certain circumstances;

(54) amended section 601(c) to provide that the provision of section 102(2)(C) of the National Environmental Policy Act of 1969 does not apply with respect to any action taken under authority of the Regional Rail Reorganization Act of 1973 or in compliance with the requirements of the final system plan;

(55) amended title VI of existing law to authorize the Comptroller General to audit the programs, activities, and financial operations of the Corporation in certain circumstances;

(56) amended section 601(a)(2) of existing law to provide that the antitrust laws are inapplicable with respect to any action taken to formulate or implement any supplemental transaction under the Regional Rail Reorganization Act of 1973;

(57) amended section 601(b) of existing law to provide that the Interstate Commerce Act and the Bankruptcy Act are inapplicable to transactions under this Act taken to implement the final system plan where the action was taken to implement the plan or a supplemental transaction; and

(58) amended section 211 of existing law by adding a new subsection (h) to provide for loans to transferees of rail properties for the purpose of paying, on behalf of railroads in reorganization, certain kinds of obligations that the Association determined should be paid. Before such loans could be made the Association had to make specified findings concerning the obligations, the necessity of providing for their payment, and the transferor's inability to pay them within a reasonable period of time. The Association was required to petition the reorganization court of the transferor for a series of determinations in implementing the new subsection. The transferee paying the obligation on behalf of the railroad in reorganization was entitled to direct reimbursement as an expense of administration of the estate on whose behalf the claim was paid. The Government Banking Committee was authorized to provide for the forgiveness of all or portions of any loans under this subsection to the Corporation or the National Railroad Passenger Corporation. To provide full assurance for recovery by United States of all amounts so forgiven the Association was given a direct claim, as an administrative claim prior to all other administrative claims, against the estate of the railroad in reorganization in the amount of all forgiven indebtedness, plus interest. This highest priority claim was not to be subject to reduction for any reason.

Conference substitute

The conferees approved, for inclusion in the conference substitute, a series of amendments to the Regional Rail Reorganization Act of 1973 in order to implement the final system plan, in order to refine and extend the reorganization process, in order to provide for the financing necessary to the reorganization process, and in order to clarify ambiguities and unsettled questions. The amendments so included are the same in substance as—

(a) The provisions synopsized in the following numbered paragraphs of the foregoing statement of the Senate bill: (1), (2), (3), (4), (5), (6), (8), (9), (18), (19), (20), (22), (23), (25), (29), (30), (31), (32), (33), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46), (47), (48), (49), (50), and (52).

(b) The provisions synopsized in the following numbered paragraphs of the foregoing statement of the House amendment (11), (17a), (21a), (31), (32), (35), (39), (52), (53), (54), (55), (56), and (57).

The amendment to section 214(b) (Senate paragraph No. 22 above) is to provide $2,000,000 additional appropriation authority for the Office to carry out its functions under the Regional Rail Reorganization Act. Section 202 of this Act establishes the Office as a permanent office of the Commission. As such, the funding for the Office's permanent functions will be covered by the Commission's general authority to seek appropriations for its activities. Consequently, no new authorization for appropriations for functions outside the Regional Rail Reorganization Act are necessary.

The conference substitute also provides—

(1) an authorization for appropriations for assistance to ConRail in the amount of $2,100,000,000;

(2) an authorization for appropriations for electrification of main lines in the amount of $200,000,000;

(3) for continuing reorganization pursuant to the provisions of the House bill;

(4) certificates of value as provided for in the House bill;

(5) the composition of the Corporation's Board of Directors as set forth in the House bill, with appropriate technical changes;

(6) a "freeze" on the disposition of rail properties designated in the final system plan so that such properties may not be disposed of before their conveyance under section 303(b); and

(7) that various legal actions that might be brought with respect to the Act or the final system plan may be brought only in the special court and may not be heard or determined until after conveyance. The amendment also establishes a very limited standard of judicial review for such actions which reflects, among other things, the fact that the Congress has affirmatively approved the final system plan.

SUPPLEMENTAL TRANSFERS

Senate amendment

The Senate amendment amended existing law by adding a new section 305, "Supplementary Transfers" and added a definition of "supplementary transfer" to the general definitions section (sec. 102) of existing law. New section 305—

Authorized DOT or the Association to propose any transfer, within 4 years after the date of conveyance, which is supplemental to the final system plan, and which involved (i) the Corporation or any subsidiary or affiliate thereof acquiring additional rail properties not designated in the final system plan; (ii) the Corporation or any subsidiary or affiliate thereof conveying any of its rail properties to a profitable railroad, to one of its subsidiaries or affiliates, to Amtrak, to a State (or a local or regional transportation authority), or to any other responsible person, for use in providing rail services; or (iii) the Corporation or any subsidiary or affiliate thereof entering into arrangements for the joint use of rail properties or for the coordination or separation of rail operations or services;

Required the Association to make a finding that the goals of existing law would be better achieved by such transfer; to give notice of any proposal for such a revised or supplemental designation in the Federal Register; to provide a 60-day period for the receipt of public comment thereon by the Association and the ICC; to analyze such comments and any exhibits submitted by the Office; and to publish (within 120 days after the notice) a report evaluating each proposal stating whether it is in the public interest as defined by the purposes of the act and the goals of the final system plan and whether it is fair and equitable;

Required the ICC to review each such evaluative report of the Association within 90 days after it is published to determine whether the proposed supplementary transfer is in accord with section 5 and other applicable provisions of the Interstate Commerce Act and considering whether such transfer would impair the Corporation and involve any increase in public costs; no supplementary transfer may be made without the approval of the Commission; the ICC was also authorized to condition its approval of any such transfer on such reasonable terms and conditions as it deemed necessary in the public interest.

Required the Association to submit each proposed supplementary transfer to the transferor or transferee involved for its approval, within 30 days after ICC approval; the consent of the Corporation would not be required in any case in which the Association determined that the transfer would be likely to achieve the specified goals in a less costly manner than the final system plan;

Provided that all supplementary transfers would be subject to judicial review by the special court, within a specified time period;

Defined "fair and equitable" for these purposes and provided that revised and supplementary transfers would subject the transferor and the transferee involved to the requirements of title V (employee protection) of the Regional Rail Reorganization Act of 1973.

House amendment

The House amendment added a new section 306 to the Regional Rail Reorganization Act of 1973. Section 306(a) authorized the Association to include additional branch lines in ConRail under defined circumstances prior to delivery of the final system plan to the special court.

The House amendment also amended the definitions in section 102 of the Regional Rail Reorganization Act of 1973 to add a definition of "supplemental transactions." The balance of section 306 dealt with these transactions, which must be proposed within 6 years after ConRail begins to operate, involve property acquisitions or conveyances by ConRail (or a subsidiary or affiliate) not originally designated in the final system plan and contracts between ConRail and another person for either the joint use of rail properties or the coordination or separation of rail operations and services.

Under section 306(b) the Secretary, USRA, or the ICC could propose a supplemental transaction. The proposal must be submitted to USRA in detail, and within 10 days after receiving it USRA must publish a notice of the proposal in the Federal Register and afford interested persons the chance to comment on it.

Under section 306(c), USRA was to evaluate the proposal, consider the comments, hold hearings if necessary, and within 120 days of the notice publication, publish in the Federal Register its evaluation. The standard for evaluation was to be whether the proposal was in the public interest as defined by the purposes and goals of this act and the final system plan and is fair and equitable as determined by the special court. After the USRA evaluation was published, each proposed transferor or transferee, including ConRail, was given 30 days to accept the proposal by notifying USRA. No transaction could take place unless it was accepted by the proposed transferor and transferee if the transaction met the statutory standards.

Section 306(d) of the Regional Rail Reorganization Act would establish the special court proceedings for review of the supplemental transactions as being in the public interest, fair, and equitable in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205). The procedures before the special court for such transactions were:

(i) If the Association approved the proposal, and the parties consent, it must petition the special court within 40 days for an order directing ConRail to carry out the supplemental transactions. The special court was to so order, if it found the transactions to be in the public interest as defined by the purposes of this act, and the goals of the final system plan and were fair and equitable. If USRA disapproved a proposal made by the Secretary, he could petition the special court for a finding that the supplemental transactions, considered in their entirety, were fair and equitable and in the public interest and an order directing ConRail to carry out the transactions;

(ii) The special court could decide the question of whether the supplemental transactions, considered in their entirety, were in the public interest and fair and equitable within 180 days after a petition by USRA or the Secretary was filed. If it found that the supplemental transactions were in the public interest and were fair and equitable it was to enter an order directing consummation of the transactions. If it found the supplemental transactions, considered in their entirety, were not fair and equitable, it was to enter an opinion explaining its reasons. The Secretary then could use expedited procedures to adjust the proposal, correct deficiencies found by the special court, and re-petition the special court for approval;

(iii) The special court was given power to establish its own rules of proceeding to insure that it heard all interested parties;

(iv) In reviewing the supplemental transactions, the special court was to have all of the powers of a judge of a U.S. district court, including those of a reorganization court judge;

(v) The special court was to be the only court with jurisdiction to review the proposed supplemental transactions;

(vi) Only the requirements for findings, determinations, and proceedings specifically set forth in this section were applicable to supplemental transactions.

Section 306(e) of the Regional Rail Reorganization Act set forth a definition of the term "fair and equitable" to be used each time that phrase appears in section 306.

Section 306(f) of the Regional Rail Reorganization Act provided that appeals from the special court were to go directly and exclusively to the Supreme Court whose jurisdiction, which must be invoked within 20 days, would be the same as in appeals from injunctions by three-judge courts in constitutional cases.

The second new section added to the Regional Rail Reorganization Act by section 906 (b) of this act, numbered 307 and entitled "Supplemental Assistance," authorized (a) the Secretary to provide supplemental assistance in the form of grants or loans to, or for acquisition of securities—including equity securities—of ConRail or other railroads, State, local, or regional transportation authorities, or other responsible persons. These funds were to be utilized to provide supplementary assistance to ConRail and to facilitate "supplemental transactions."

Section 307(b) provided that in implementing the final system plan ConRail should eliminate leaseholds owned by persons who are not a railroad by acquiring such leaseholds under terms agreed upon prior to January 2, 1974.

The House amendment extended immunity from the antitrust laws to supplemental transactions. The Bankruptcy Act was made inapplicable to transactions taken to implement the final system plan whenever such provisions are inconsistent with the provisions of this act. The House amendment exempted from the National Environmental Policy Act actions taken by the USRA in implementing the final system plan, or in completing the conveyance of the rail properties between the bankrupts and ConRail and other profitable railroads.

Conference substitute

The conference substitute follows the House amendment on supplemental transactions except supplemental assistance is now provided through title V, and the Senate provision for expedited review by the Interstate Commerce Commission is adopted.

CERTIFICATES OF VALUE

Senate bill

The Senate bill amended existing law by adding a new section 306, "Certificates of Value." New Section 306—

Created a new Association security, the certificate of value, which would be guaranteed by the Secretary of Transportation and backed by the full faith and credit of the United States;

Provided that such certificates would be issued and deposited with the special court, in a number equal to the number of series B preferred shares of the Corporation deposited with the special court, for distribution to the railroads in reorganization and other persons transferring rail properties to the Corporation pursuant to the final system plan;

Provided for redemption of the certificates of value on December 31, 1987, and provided that the redemption price would be the special court's determination of the constitutional minimum value, with such interest as may be constitutionally required, of the rail properties transferred pursuant to section 303(b)(1) of existing law less adjustments for such items as the market value of series B preferred stock and common stock of the Corporation and any cash dividends paid thereon, and the amount of any judgment under section 303(c)(2)(C) against the Corporation;

Provided a method for the valuation of the series B preferred stock and the common stock of the Corporation, and authorized the appropriation of such funds as are necessary to redeem the certificates of value.

House amendment

The House amendment amended section 303 of the Regional Rail Reorganization Act of 1973, adding a new section 305 which permits the Association to issue certificates of value. and amended section 210 to make the certificates a full faith and credit obligation of the United States.

Certificates of value were to be issued to transferors of rail property to ConRail along with the ConRail series B preferred stock and common stock. The House amendment replaced the term "obligations of the Association" with the term "Certificates of Value." A new section 305 was added to the Act creating the certificates of value which were to be issued by the Association to the transferors of rail property to ConRail.

Under the new subsection 305(a) of the Regional Rail Reorganization Act of 1973, the certificates of value were to be deposited with ConRail securities. They would be guaranteed by the Secretary, and such guarantee constituted a full faith and credit obligation of the United States.

The values of the series B preferred stock and of the common stock were to be determined by one of two alternative methods, one of which utilized a trading market should one exist in the securities, the other of which provided for valuation by experts if no market existed.

The new subsection (d) of the Regional Rail Reorganization Act authorized the appropriation of whatever funds were necessary to redeem the certificates.

The new subsection (e) of the Regional Rail Reorganization Act required that any recipient of a certificate of value would be considered to have waived any available remedies under the Tucker Act.

Section 210(e) of the Regional Rail Reorganization Act was amended to permit the Secretary to back his guarantee of the certificates of value issued under section 306(a) by the same mechanism now available to him for his guarantee of the Association's section 210 obligations.

Under the new subsection 305(b) the certificates of value were to be issued and deposited in a number equal to the number of series B preferred shares deposited by ConRail with the special court for distribution to the transferors, and were to be distributed to the transferors in the same numbers of units as were the shares of such series B preferred stock so distributed. The final system plan contemplates that 21 million series B preferred shares will be issued by ConRail.

Subsection (c) of the new section 305 required that all certificates of value must be redeemed by December 31, 1985, but could be redeemed before that time as the Association may determine.

The value of each certificate when redeemed was an amount payable in cash equal to its base value on redemption date minus the fair market value of the applicable series B preferred stock and common stock, all paid cash dividends on such securities and any sums paid a transferor of rail properties resulting from sales or leases by ConRail of properties transferred to it by such transferor.

The base value of such certificate was determined by taking the net liquidation value, as determined by the special court, with interest if required, divided by the number of certificates of value distributed to such transferor.

Conference substitute

The conference substitute follows the House amendment except that—

(1) all certificates of value must be redeemed by December 31, 1987; and

(2) interest is to be compounded in conformance with the final system plan.

NORTHEAST CORRIDOR PROJECT

Existing law explicitly recognizes the Northeast corridor project as a key element in the reorganization of insolvent railroads in such a way as to "authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States." Section 206(a) of existing law provides that one of the goals of the final system plan is "the establishment of improved high speed rail passenger service, consonant with the recommendations of the Secretary in his report of September 1971, entitled 'Recommendations for Northeast Corridor Transportation' "; section 206 (c) (1) (C) requires the final system plan to designate which rail properties of railroads in reorganization in the region or of railroads leased, operated, or controlled thereby should be acquired by Amtrak for improvement to achieve this goal; and section 601(d) requires the DOT to begin the necessary engineering studies and improvements upon enactment (January 2, 1974). Both the Senate bill and the House amendment provide for implementation of the Northeast Corridor project, as follows:

Senate bill

The Senate bill established a wholly owned subsidiary of Amtrak, to be known as the Northeast Corridor Improvement Corporation (hereafter in this statement referred to as the "NCI Corporation"). The NCI Corporation would be subject to the supervision of its own Board of Directors, consisting of 6 members of the Board of Amtrak selected in accordance with its bylaws, the president of Amtrak, and 4 individuals to be appointed by the President from lists of qualified individuals recommended by the Governors of the States located in the corridor, by and with the advice and consent of the Senate, for a term of 4 years each. The Board was directed to appoint a qualified individual to serve as the general manager of the NCI Corporation, to serve at the pleasure of the board and to report directly to the president of Amtrak. The NCI Corporation was authorized to acquire property, enter into contracts, provide for rail service over properties acquired, improve railroad rights-of-way between Boston and Washington, D.C., to enable improved high-speed rail passenger service to be provided in the corridor; acquire and provide improvements; and enter into agreements with other railroads and commuter agencies and carriers and with telecommunications carriers to the extent specified.

The Senate bill required the Corporation, on the date on which rail properties are transferred to it under section 303 of existing law, to transfer to the NCI Corporation all rail properties designated pursuant to sections 206(c) (1) (C) and 601(d) of existing law. The Senate bill further established an "Operations Review Panel" to resolve differences of opinion concerning Corridor operations between the NCI Corporation, the Corporation, Amtrak, other railroads, and State, local, and regional agencies responsible for providing commuter and other rail services. The following goals were set for the Northeast Corridor improvement project: (1) Within 4 years after enactment, the establishment of regularly scheduled and dependable intercity rail passenger service between Boston and New York City operating an a 3-hour schedule with appropriate intermediate stops, and similar service between New York City and Washington, D.C., operating on a 2½-hour schedule with appropriate intermediate stops, together with line improvements on connecting lines from Harrisburg, Pa., Albany, N.Y., and Springfield, Mass., through Boston, and New Haven, Conn., to facilitate compatibility with improved high-speed rail service on the corridor main line; (2) to the extent compatible with the foregoing goal, the facilitation of improvements in and usage of rail commuter services, rapid rail transit, and local public transportation; (3) the maintenance and improvement of rail freight service to all users thereof located in or adjacent to the corridor to the extent compatible with the foregoing goals; and (4) to the extent compatible with the first goal, the continuation and improvement in passenger radio telephone service aboard trains operated in high-speed rail service.

The Senate bill authorized $3 billion to be appropriated to the association to permit the association to make available non-interest-bearing 30-year loans to Amtrak for the use of the NCI Corporation and other entities to effectuate the foregoing goals. The bill also authorized a total of $235,732,956 to be appropriated to the NCI Corporation in the form of grants and $20 million to be appropriated to Amtrak for use on specified routes. The Senate bill also made conforming amendments to the Rail Passenger Service Act and a conforming amendment to section 601(d) (1) of existing law.

House amendment

The House amendment authorized $1.6 billion for rail passenger service over a period of 6 years. The funds remained available until expended.

The Secretary was directed to expend $200 million of the total funds authorized pursuant to this section in areas and on projects other than in the Northeast corridor.

The $1.4 billion was to be expended on the Northeast corridor for upgrading rail passenger service between Boston, Massachusetts, and Washington, D.C.

(i) by eliminating deferred maintenance within the Northeast corridor system,

(ii) the extension of electrification from New Haven, Conn., to Boston,

(iii) by making a significant improvement to the signaling and control systems needed to improve the safety of rail passenger operations on the corridor,

(iv) rehabilitating and upgrading numerous deteriorated bridges on the corridor.

The Secretary was authorized to enter into agreements and to make payment to any railroad including the National Railroad Passenger Corp., or to any other person including a Federal or State agency to assist in financing the improvements to rail facilities and equipment which were necessary to permit in accordance with safety, speed and comfort the provisions of improved intercity rail passenger service between Boston, Mass., and Washington, D.C.

The House amendment provided that eligible activities for financial assistance were to include:

(i) the improvement of railroad rights-of-way and bridges, tunnels and related structures,

(ii) improvement of signals control and communications facilities,

(iii) extension and modernization of electrification systems,

(iv) improvement of facilities and equipment used for maintenance and repair of intercity rail passenger facilities,

(v) improvement of station and station platforms essential to the operation of intercity trains and stations.

(vi) planning and design of the above mentioned activities,

(vii) design and development of rolling stock suitable for use of intercity trail passenger service.

In carrying out his duties, the Secretary was to provide for the accomplishment of improvements to railroad facilities and equipment—

(A) in a manner compatible with the establishment of future service levels.

(B) affording due regard to the impact of disruptions of intercity, freight and commuter operations,

(C) to use such funds to the maximum labor benefit in terms of hiring persons who are presently unemployed.

The Secretary was directed to obtain assurances that railroad facilities and equipment improved with financial assistance provided by this act would be properly maintained.

The Secretary was required to take appropriate action to encourage prompt and just settlements of any dispute with respect to the use of railroad rights-of-way during the period on which improvements are being made to the rights-of-way under this section.

Conference substitute

The Conference substitute follows the Senate bill, except that—

(1) The appropriation for loans was reduced by $600 million;

(2) the project is to be implemented "with a view" to achieving the goals in order to permit initial improvement to the "metroliner II plus" service proposed by the Department of Transportation to OMB in September of 1975;

(3) the implementation time was stretched 2 additional years;

(4) authority for Amtrak to lease the corridors as well as purchase it was adopted in response to a suggestion of DOT;

(5) Amtrak is permitted to form a corporate subsidiary for corridor operations of its own choosing;

(6) the compensation principles for operations in the corridor were modified to make clear all services are to be treated fairly and equitably; and

(7) the provisions relating to Union Station in Washington, D.C. were deleted in response to jurisdictional objections from the House Public Works Committee.

ABANDONMENT OF LINES OF RAILROAD AND DISCONTINUANCE OF RAIL SERVICE

Senate bill

The Senate bill included amendments in the nature of a substitute to the Interstate Commerce Act's provisions dealing with abandonments of lines of railroad, together with technical conforming amendments to that act's provisions dealing with extensions. The Senate bill added a new section 1a to the Interstate Commerce Act. New section 1a—

prohibited the discontinuance of rail service over, or the abadonment of, any line of railroad unless it is described in and covered by a certificate issued by the ICC declaring that the present or future public convenience and necessary require or permit such discontinuance or abandonment;

provided that notices of proposed abandonments and discontinuances must be submitted to the ICC at least 60 days before the proposed effective date and required railroads submitting such a notice to the ICC to certify that a similar notice has been sent to all interested parties (including the Governors of affected States, shippers, and newspapers in the affected areas);

required the ICC, if a petition is filed, and authorized it in other cases, to conduct an investigation of not longer than 3 months with regard to any application submitted under this section (including public hearings if necessary). The burden in any such investigation was placed on the applicant for a certificate of abandonment or discontinuance;

required the ICC to issue, modify, or reject each requested certificate of discontinuance or abandonment in light of its determination of the public convenience and necessity. Once a certificate is issued, actual discontinuance or abandonment could take place within 60 days thereafter;

required each railroad, within 180 days after the ICC promulgated regulations, to submit to the ICC a full diagram of its transportation system, including a detailed description of each "low density line";

required the ICC to publish each finding that the public convenience and necessity permit an abandonment or discontinuance, and required it, in the event that a responsible person or government entity (within 30 days after such publication) offered financial assistance to enable the rail service involved to be continued and such assistance was adequate to cover the avoidable cost of providing rail service plus a reasonable rate of return or was sufficient to cover the acquisition cost of such line of railroad, to postpone the issuance of the certificate of abandonment or discontinuance for such reasonable time as is necessary for a binding agreement to be entered into for the continued operation of such line with such assistance;

required the ICC to make a determination of the extent to which the avoidable cost of providing rail service plus a reasonable return exceed the revenues attributable to the line of railroad or the rail service involved, whenever it finds that an offer of financial assistance has been made under the preceding provision;

empowered the U.S. district courts to enjoin any abandonment or discontinuance which is contrary to any provision of this section, regulations thereunder, or certificate terms and conditions.

House amendment

The House amendment was similar to the Senate bill except that the ICC must give primary weight (1) to the needs of those served by the line of railroad involved, and (2) the financial effect of the continued operation of the line upon the carrier seeking abandonment.

Conference substitute

The conference substitute follows the Senate bill.

LOCAL RAIL SERVICE ASSISTANCE

Senate bill

The Senate bill amended the Department of Transportation Act by adding 10 new subsections at the end of section 4. The new subsections—

(1) directed the Secretary of Transportation to provide assistance to the States for rail freight assistance programs;

(2) stated that the Federal share of such program costs was 100 percent for the first year and 90 percent for each succeeding year under standards to be formulated by the Secretary. The standards must include a method through which a State contribution can be provided through in-kind benefits;

(3) entitled each State eligible to receive rail service assistance grants to an amount equal to the percentage of the total mileage eligible for assistance located in such State;

(4) permitted use of entitlement funds for costs of establishing and implementing a State rail plan;

(5) required States to have an adequate rail plan in order to be eligible to receive rail service assistance grants;

(6) established the eligibility of projects for rail service assistance grants;

(7) required the Secretary to pay each State its entitlement funds;

(8) required recipients of funds under the section to keep records as required by the Secretary. Such records must be available to the Secretary and the Comptroller General for auditing purposes;

(9) exempted the 17-State Northeast/Midwest Region as defined by the Regional Rail Reorganization Act of 1973 from provisions of this section for 2 years;

(10)contained authorizations for the program for fiscal years 1976 through 1983.

House amendment

The House amendment was similar to the Senate bill, however, it provides for a 4½ year program with the Federal share to be 100 percent for the first six months; 90 percent for the succeeding12 months and the Federal share to be reduced by 20 percent for each succeeding 12 month period.

Conference substitute

The Confernce substitute follows the Senate bill, except that the program is limited to 5 years with a total authorization of $400 million. The Federal share of the cost of the program is 100 percent for the first year, 90 percent for the second year, 80 percent for the third year and 70 percent for the fourth and fifth years; however the Secretary has the authority to adjust the Federal share for the fourth and fifth years in light of the over all authorization limit of $400 million.

NORTHEAST/MIDWEST REGION RAIL SERVICE CONTINUATION ASSISTANCE PROGRAM TERMINATION OF SERVICES AND CONTINUATION OF RAIL SERVICES

Senate bill

The Senate bill amended section 304 of the Regional Rail Reorganization Act of 1973. The revised section 304 would provide that:

(1) service could be discontinued on all lines excluded from the Final System Plan on date of conveyance unless prohibited by terms of leases or agreements under section 303(b)(2);

(2) during the first year after the effective date of the Final System Plan, rail service on properties recommended for abandonment as part of a Final System Plan joint use or coordination project could be discontinued if the ICC found the service was not compensatory and if binding contracts for the implementation of such projects had been agreed upon, and if such discontinuance was not prohibited by leases and agreements protected by section 303(b)(2). The service was compensatory if the revenues attributable to the line equaled or exceeded the avoidable costs of serving the line plus a reasonable rate of return on the value of the line as determined under RSPO standards. The ICC was required to dispose of any applications under this subsection within 120 days or they were deemed to be approved;

(3) unless prohibited, rail properties on which service was discontinued could not be abandoned sooner than 120 days after the effective date of discontinuance. Rail projects designated in the final system plan as suitable for alternative public use could not be disposed of during a 240-day period after a notice of discontinuance was issued unless such properties were offered on reasonable terms and conditions for acquisition for public purposes;

(4) discontinuation or abandonment of rail properties was prohibited if (1) a rail service continuation payment, covering the difference between the revenue attributable to the line and the avoidable costs of providing service along with a reasonable return on the value of the property was offered; however, only one payment on the return of the value of the property could be made if both freight and passenger payments were made on any one line; (2) service was presently being provided under the terms and conditions of a lease or agreement with a state or local body in effect on January 2, 1974; (3) an offer pursuant to this section was made to purchase the line; or (4) if no payment was needed under this section on any line for a period of 2 consecutive years;

(5) If a rail freight service continuation payment was offered, such offer must designate the operator of the service—ConRail, any railroad connecting with the line or any responsible person. Designated operators were required to provide service unless the ICC found that in so doing the operator's ability to serve its own patrons or to meet its common carrier obligations would be impaired. Operators must receive the difference between the revenue attributable to the line and the avoidable cost of providing service plus a management fee. Owners of rail property on which such service was to be provided must permit such service and would receive a reasonable rate of return on the value of such properties. The ICC was empowered to take certain specified actions to implement the provisions of this section, including directed service. U.S. district courts were empowered to force the various parties to comply with the provisions of this section;

(6) ConRail was obligated to provide commuter service for 180 days after conveyance regardless of whether such properties were included in the final system plan. The level of service existing on date of conveyance and the level of State or local assistance provided on such date for such service was required to be maintained. If no lease was in effect on such date, ConRail must continue the existing level of service. If the existing level of financial support was not maintained, or if subsequent to the 180-day period a rail passenger service payment has not been offered, service could be discontinued. The Secretary was to reimburse ConRail for any losses incurred during the 180-day mandatory service period if no subsequent payment was offered. Provision was made for the mediation of disputes arising from the provisions of this subsection. Nothing in the subsection altered the obligations of ConRail or the trustees to provide service as required by section 303(b)(2);

(7) If an offer to purchase a line was made, it must also contain an offer of a service continuation payment;

(8) ConRail was required to provide service on all final system plan lines for 2 years, after which ConRail was subject to normal ICC abandonment and discontinuance procedures;

(9) Restated interim abandonment procedures in place during the USRA planning process now found in section 304(f) of the Regional Rail Reorganization Act.

House amendment

The House amendment contained several changes in the form of amendments to the existing section 304. Section 304(a)(2) of the act was amended to insure that service on light density lines was excluded from the final system plan until date of conveyance.

Section 304 of the act was amended by adding a new subsection (e) "Passenger Agreements" that is similar to a provision in the Senate bill requiring ConRail to provide passenger service for 180 days after the date of conveyance of all properties where such service was provided immediately before conveyance.

The House amendment contained a new subsection (d) of section 304 of the Regional Rail Reorganization Act entitled "Freight

Agreements". The government or responsible person offering the subsidy would tender a contract on reasonable terms and conditions to ConRail, a profitable railroad, or any responsible party for the provision of subsidized service. ConRail or any profitable railroad was required, and any other responsible party was permitted, to accept such a contract providing the service specified therein. The party providing service must receive the difference between the revenue attributable to the line and the avoidable cost of serving the line and a reasonable management fee. The owners of the rail property to be kept in service under this section must make that property available for such use and receive a reasonable rate of return on the value of that property.

Conference Substitute

The Conference Substitute follows the Senate bill.

CONTINUATION ASSISTANCE

Senate bill

The Senate bill revised section 402 of the Regional Rail Reorganization Act by providing that—

(1) the Secretary of Transportation must provide financial assistance for rail service continuation payments acquisition or modernization payments and must finance rail banking and the construction and improvement of facilities needed as the result of loss of freight rail services. Federal share for the first year was 100 percent for service and projects designated in a State rail plan and 90 percent thereafter. The State share could be provided through in-kind benefits under regulations issued by the Secretary. In cooperation with the ICC, and USRA the Secretary was required to assist the States in negotiating initial operating and lease agreements, and to report to Congress on February 1, 1976, on the progress of such negotiations. The Secretary was permitted, with the concurrence of the States and for a period of 1 year, to enter directly into operating and lease agreements to provide for uninterrupted service.

(2) Each State would receive assistance funds based on the percentage of total lines available for subsidy located in that State, but no State was to receive less than 3 percent of the funds appropriated. Certain facilities excluded from the final system plan were made eligible for service continuation payments if designated in a State rail plan. Neither ConRail nor any other railroad is required to operate such facilities.

(3) In order to receive financial assistance under this section, a State must establish a State rail plan. Eligible rail freight services included those lines owned or operated by a State agency for 5 years prior to enactment and lines abandoned by solvent carriers in the Region since January 2, 1974. Lines designated in a State rail plan could be acquired or modernized or "rail banked" for future use. Certain facilities were eligible for improvement or construction assistance if needed as the result loss of freight rail service. Intercity rail passenger lines that could be acquired with funds under this section were those used by Amtrak to serve routes in operation as of November 1, 1975.

(4) The Secretary of Transportation was required to issue regulations for the provision of assistance under this section and to pay eligible States funds under the entitlement section of the Act. However after notice and a hearing, the Secretary could withhold payments from a State for failure to comply with the provisions of this section.

(5) Recipients of assistance were required to maintain records for up to 3 years under regulations the Secretary may prescribe. Such records must be available to the Secretary and the Comptroller General.

(6) The following amounts were authorized: $45 million for fiscal year 1976; $22.5 million for the transitional quarter; $90 million for fiscal year 1977; and $45 million for fiscal year 1978.

(7) The term "rail service continuation assistance" was stated to include expenditures made by a State during 5 years prior to January 2, 1974, or subsequent thereto on rail services which would be abandoned but for such assistance.

The Senate bill amended section 402 of the act by removing the prohibition against the use of rail service continuation payments on lines which may be acquired by a State under this section. Also removed was the need for the concurrence of the Secretary to use entitlement funds for acquisition and modernization of branch lines.

House amendment

The House amendment amended section 402 to provide that:

(1) the Secretary shall provide financial assistance for rail service continuation subsidies and for specified facilities excluded from each year following during the time the plan is in continuous operation;

(2) the Secretary must issue regulations under which a State contribution as may be required under this section can be provided through in-kind benefits;

(3) States are entitled to receive 50% of the funds appropriated for this section with the remainder to constitute a discretionary fund for the Secretary. States would receive entitlement funds equal to the percentage of the total discontinued rail lines in the Region located in each State, except no State could receive less than 3%. Discontinued lines were those excluded from the Final System Plan and those for which the ICC had issued a certificate of abandonment on or after the date of enactment of the Act;

(4) certain rail facilities excluded from the Final System Plan are eligible to receive funds under this section if so designated in a State Rail Plan, except neither ConRail nor any solvent railroad is required to operate such facilities;

(5) "financially responsible persons" as determined by the Secretary can offer a subsidy for a period of 1 year if the State involved is not eligible to participate in the subsidy program;

(6) the length of the subsidy program will be 4½ years. The needed authorizations were provided.

The House amendment modified section 403 of the Act to provide that States were permitted to utilize both entitlement and discretionary funds for the acquisition and modernization of rail lines or for any projects designated in a State rail plan; and that if a State acquired a line it was entitled to receive a lump sum equal to the subsidy required for the line for 1 year. A State may also use such funds for the reimbursement of State or local expenditures made during the 5 years preceding enactment for acquisition or modernization of rail facilities that would have been abandoned except for such expenditure.

Conference Substitute

The Conference Substitute follows the Senate bill, except that the authorization limit is $180 million without fiscal year limitation and the House provision with respect to assistance for financially responsible persons is retained with respect to the limitations on assistance specifically authorized for rail service facilities under section 402 (b), the conferees wish to clarify that these limitations do not apply if such facilities are also eligible for assistance under sections 402(c)(2)–(5). For example, the rail car ferries operated across Lake Michigan and other parts of the region would be eligible for assistance to the same extent as any other line of railroad which is eligible for a rail service continuation payment or other assistance under section 402(c)(2)–(5).

REPEAL OF TITLE IV OF REGIONAL RAIL REORGANIZATION ACT

Senate bill

Section 806 of the Senate bill repealed Title IV of the Regional Rail Reorganization Act 2 years after the date of conveyance of rail properties under the Act. At such time the Region would become subject to the national assistance program provided by the act.

House amendment

The House amendment contained no national program, and extended the Regional program to 4½ years.

Conference substitute

The conference substitute follows the Senate bill.

RAIL PASSENGER SERVICE

Senate bill

The Senate bill set up certain procedures under which the rail passenger service continuation assistance program would operate. The Senate bill provided—

(1) that the ICC within 180 days of the effective date of the Final System Plan, must issue regulations containing the standards for the computation of rail passenger service payments to be made by commuter authorities to operating railroads for commuter services. The standards must be consistent with the compensation principles established in the Final System Plan and must avoid cross-subsidization.

(2) that section 205(d)(5) of the Regional Rail Reorganization Act was amended to allow States or commuter authorities to acquire properties for rail passenger service from ConRail at a reasonable value at any time within 900 days after conveyance of those properties to the Corporation.

House amendment

The House amendment gave the responsibility for setting the rail passenger subsidy standards to the Rail Service Planning Office and stated that the standards must provide for the return of avoidable costs, a management fee and an allowance for the depreciation of equipment. In all other respects the House amendments closely paralleled section 808 of the bill.

Conference substitute

The Conference Substitute follows the Senate bill except that RSPO rather than ICC is given the responsibility to set the assistance standards for the computation of rail passenger payments and is similar to the proposals made by Senator Harrison Williams and Congressmen James Howard and James Florio.

EMERGENCY OPERATING ASSISTANCE

Senate bill

The Urban Mass Transportation Act was amended by the addition of new section 17. That section would provide—

(*a*) that the Secretary must provide financial assistance to ConRail or other operators of rail passenger service for the provision of such service during the 180-day mandatory service period if State and local transportation bodies did not offer payments for service after that 180-day period and to states and local commuter authorities for service during that 180-day period and thereafter if a continuation payment is offered;

(*b*) the assistance provided in this section did not apply to Amtrak operations;

(*c*) the assistance was to be provided on terms and conditions as may be set by the Secretary in view of the emergency nature of this program. The Federal share for the initial 180-day mandatory period and the succeeding 180 days was 100 percent. During the next year the Federal share was to be 90 percent, and for an additional 6 months the Federal share was to be 50 percent on lines where service was guaranteed following that 180-day period;

(*d*) $125 million beginning in fiscal year 1976 through fiscal year 1978.

House amendment

The House amendment was similar to the Senate bill except that the Federal share was 100 percent for six months; 75 percent for the next 13 months and 50% for the following 12 months if assurance was given that service receiving such assistance would be continued when such assistance was ended.

Conference substitute

The Conference substitute follows the Senate bill.

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY AND FOSSIL FUEL RAIL BANK

Senate bill

The Senate bill provided a new program for the conversion of abandoned railroad rights-of-way to public use.

(1) stated that careful consideration was to be given to future public use of abandoned railroad rights-of-way and that, where appropriate, adequate funds were to be provided for their conversion to such use;

(2) directed the Secretary of Transportation, in consultation with other specified Government agencies, to prepare a study for Congress on the conversion to public use of abandoned rail rights-of-way;

(3) provided for an accelerated program for converting abandoned railroad rights-of-way to recreational and conservation uses. The Secretary of Interior, after consulting with the Secretary of Transportation, was authorized to provide financial, educational and technical assistance;

(4) required the ICC to make a finding as to whether properties approved for abandonment were suitable for alternative public use;

(5) authorized $25 million for each of fiscal years 1976, 1977, and 1978.

House amendment

The House amendment required the Secretary of Transportation to identify abandoned railroad rights-of-way that are suitable for national parks, recreation areas, wildlife refuges, bikeways and the like. The Secretary was to provide assistance to other Federal agencies, States, local agencies and to private groups to plan, develop, and operate programs for the converison of abandoned rights-of-way. $5 million was authorized to carry out the purposes of this section. The House amendment also directed the Secretary of Transportation in conjunction with the Secretary of Commerce and the Secretary of Interior to complete a study of those lines excluded from the final system plan to determine which of those lines should be included in a fossil fuel or agricultural production bank.

Conference substitute

The conference substitute follows the provisions of the Senate bill with regard to the program for the conversion of abandoned railroad rights-of-way. It follows the provisions of the House amendment concerning fossil fuel and agricultural production banks.

NONDISCRIMINATION

Senate bill

The Senate bill required the United States Railway Association to establish a National Railroad Minority Resource Center. The Center was to—

(1) establish and operate a national clearing house for minority enterprises and businesses which would develop and assimulate information, conduct project feasibility studies and other business material concerning the reorganization, rehabilitation, and revitalization of the Northeast railroads;

(2) develop sources of investment capital and debt financing from public and private sources to support minority firms;

(3) conduct all necessary research, analysis, studies, and planning to define the opportunities available to minority firms;

(4) contract with capable, competent minority firms to perform work;

(5) authorize the Center to conduct a liaison function in the public and private sectors to develop a cooperative institutional relationship between the minority businesses and other public and private organizations in support of minority participation programs;

(6) develop legal, corporate entities to provide venture capital, security bonds and technical assistance services to minority firms; and

(7) participate in Federal programs designed to provide financial and other forms of support and assistance to minority firms.

The Senate bill authorized $175,000 for fiscal year 1976; $50,000 for the transitional quarter ending September 30, 1976; $500,000 for each of the fiscal years 1977 and 1978.

House amendment

The House amendment prohibited the use of any funds under the Rail Revitalization and Regulatory Reform Act of 1975 from being used to discriminate on the ground of race, color, national origin, or sex.

If the Secretary determined that funds from this act have been used to discriminate, he was required to notify and direct the parties discriminating to comply with this section. If the party refused or failed to comply, the Secretary was prohibited from providing further financial assistance under this act, and was required to refer the matter to the Attorney General for civil litigation.

Whenever a matter was referred to the Attorney General, or whenever he believed actions taken with the use of funds pursuant to this act were being used for a discriminatory purpose, then he could bring a civil action for relief in any district court.

The Secretary was authorized to prescribe such regulations as are necessary to carry out this section.

All determinations made by the Secretary were subject to judicial review.

Conference substitute

The conference substitute follows the House amendment.

HARLEY O. STAGGERS,
FRED B. ROONEY,
BROCK ADAMS,
RALPH H. METCALFE,
BILL HEFNER,
JIM SANTINI,
JAMES J. FLORIO,
J. F. HASTINGS,
Manager on the Part of the House.

VANCE HARTKE,
FRANK E. MOSS,
JOHN O. PASTORE,
WENDELL H. FORD,
ADLAI STEVENSON,
DANIEL K. INOUYE,
WARREN G. MAGNUSON,
J. GLENN BEALL, JR.,
LOWELL WEICKER.
Managers on the Part of the Senate.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY TO DEPARTMENT OF AGRICULTURE, AGRICULTURAL RESEARCH SERVICE

Mr. WHITTEN. Mr. Speaker, I call up House Resolution 910, disapproving deferral of budget authority, and ask unanimous consent that it be considered in the House and that House Resolutions 911, 912, 913, 914, 915, and 916, resolutions disapproving deferral of budget authority, may also be considered in the House.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 910

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D76-68, relating to the Department of Agriculture, Agricultural Research Service, as set forth in the message of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we all know, under the Impoundment Control Act of 1974 there is a provision that in the event that the executive branch proposes to rescind appropriations that are contained in a bill that has been enacted into law, and Congress does not formally act one way or the other, the rescission shall fail and the funds shall be released.

That act also provides with regard to deferrals that upon affirmative action by either body of the Congress, the funds deferred and the programs for which they were appropriated shall continue and the matter shall not be held up further.

May I say that the Committee on Appropriations on the bill dealing with the Department of Agriculture, the Food and Drug Administration and Related Agencies, had reduced by approximately $2 billion the budget request. Notwithstanding the fact that there had been a very substantial reduction by the Congress, a number of items were proposed for rescission. Such an action has the effect of delaying for 30 days the amount to be spent by the Department. It has the effect of delaying these programs 30 days by waiting for executive action. Then the law gives 45 days to Congress to act after the proposal is submitted. We did disagree with the rescissions by action of the Committee on Appropriations; which should cause the Department of Agriculture to release those funds immediately which are listed in the rescission.

Now, those matters that are officially before us today, are resolutions whereby we recommend to the House that we disagree with the actions of the President and the Department of Agriculture in withholding these funds.

Now, on these actions, it is necessary that we formally act.

As I said earlier, the Committee on Appropriations, the Congress, and the President all acted on the bill, We reduced the appropriations for this Department by some $2 billion dollars. The matters that are held up are water and sewer grants, agricultural conservation program, watershed and flood prevention, resource conservation and development, Appalachian Fruit Crop Laboratory, and Fleming Key Animal Import Center.

APPALACHIAN FRUIT CROP LABORATORY

I shall not go into each item at this time except to mention out two or three points. The laboratory for which funds are held up is in the heart of Appalachia. It is in an area where they hope to do research that will enable the hillsides and the type of soil and type of topography we have there to be upgraded to the condition where much of Europe is, where the area is very economically sound. The hills of West Virginia have much to offer in that regard. This also was sponsored by the Appropriations Committee, approved by the Congress, and signed by the President.

FLEMING KEY ANIMAL IMPORT CENTER

There is another facility off the tip of Florida for which the Congress provided funds. This too was approved by the Congress and signed by the President. The need for this facility is that, for many years, this subcommittee has been prevailed upon by the people of New Jersey to move out a facility located there, where incoming animals from foreign countries are quarantined until they meet the requirements allowing them to enter this country. The present facility is an overcrowded and industrialized area. The only reason the quarantine facility has not been moved so far is because we have not been able to find a new location that is acceptable. So, based on that showing, the Congress provided for the new import center and the President signed the law.

AGRICULTURAL CONSERVATION PROGRAM

So far as the agricultural conservation program is concerned, I think all the Members are familiar with the fact that Congress has had to restore this program—I believe this makes 21 times in the period I have been here. Under this program, the landholder or landowner puts up about two-thirds of the cost. Over 1 million Americans have put up two-thirds of the cost to save the land for future generations and to preserve it for production for the present generation. Now that we do not have anything behind our money except our land and our country; no gold and no silver; now that everybody holds our money, and now that we are having all these fiscal problems, it is no time to give up on taking care of the land. It is time to preserve the land upon which everything else depends.

So, we have restored this program for the 21st time.

RURAL WATER AND WASTE DISPOSAL GRANTS

House Resolution 914 would disapprove the $50,000,000 proposed deferral for rural water and waste disposal grants. This program provides water and waste disposal development grants that are made to public or quasi-public agencies for the development, storage, treatment, purification, and distribution of domestic water; and for the treatment or disposal of waste in rural areas. Grants may not exceed 50 percent of the development cost of the projects. The proposed deferral, along with a similar proposed rescission, would reduce this important program by more than two-thirds.

WATERSHED AND FLOOD PREVENTION OPERATIONS

House Resolution 915 would disapprove the $22,500,000 proposed deferral for watershed and flood prevention operations. This program provides for cooperation between the Federal Government and the States and their political subdivisions in a program to prevent erosion, floodwater, and sediment damages in the watersheds or rivers and streams and to further the conservation, development, utilization, and disposal of water. Of the total amount proposed for deferral, $12,500,000 is for emergency work, such as runoff retardation and soil erosion prevention, necessitated by natural disasters. These funds were recently provided on a project-by-project basis by Congress. The other $10,000,000 proposed for deferral is for new construction starts. In the report accompanying the fiscal year 1976 annual apropriations bill, the Department was directed to initiate the maximum number of new starts with the $10,000,000. The proposed deferral would provide for no new starts.

RESOURCE CONSERVATION AND DEVELOPMENT

House Resolution 916 would disapprove the $4,960,000 proposed deferral for Resource Conservation and Development. The purpose of this program is to assist qualified local sponsoring organizations in developing and improving the economic use of natural resources. The program aids local sponsoring organizations in developing natural resource project plans and provides technical assistance in the field, as the plans are implemented. The amount proposed for deferral was to initiate new projects. In the report accompanying the fiscal year 1976 annual appropriations bill, the Department was directed to initiate the maximum number of new starts with the funds provided. The proposed deferral would provide for no new starts.

Mr. Speaker, the Committee on Appropriations recommends that these resolutions be favorably acted upon so that the funds recently provided by Congress may be obligated and these necessary programs continue.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Speaker, as our chairman has said so well, these are items that are not only investments in our land and agricultural production, but investments in the environment of this country. As the Members look down the list, they will see the way it is protecting our animals from disease that might be imported into this country by using a surplus base facility in Key West. There are sums for agricultural conservation programs to keep our soil in place and keep mud, dirt and silt out of the rivers and prevent floods.

We have money for water and waste disposal grants so that streams can run clear and people can have clean water to drink. These are not only basic funds needed for agricultural production, but to maintain the healthy environment we want to stimulate in this country.

I certainly back the remarks of our chairman and urge the House to go along with the action of our committee.

Mr. CEDERBERG. Mr. Speaker, do I understand that under this exchange the gentleman from Mississippi controls all the time?

The SPEAKER. That is correct.

Mr. CEDERBERG. Will the gentleman yield some time to me?

Mr. WHITTEN. I certainly will be glad to yield such time as the gentleman may require to the distinguished ranking minority member.

Mr. CEDERBERG. Mr. Speaker, I thought that this might be a good time when we could just make a little recapitulation of what the House has been doing on the matter of rescissions and deferrals as requested by the President under the new Budget Control Act.

Mr. Speaker, there has been a strange myth around, and I have seen it printed in the newspapers, that somehow the President of the United States is the big spender and the Congress of the United States has been holding down on spending. If that is not the greatest myth that has come before us this holiday season, I will never know of another one, because the President for years has been submitting in the budget things that have been mandated by this Congress, and there are formulas over which he has no control. It is in the law of the authorizing legislation. But in his attempt to recognize the necessity for holding down spending, with all of the insidious impacts overspending has on our economy, as we run deficit after deficit, increasing the national debt year after year, month after month. The President of the United States has realized that the time is now that we have to do something about it. And so under the Budget Control Act, which is the authority the Congress gave to him, he sends up rescissions.

Mr. Speaker, let me tell the Members what Congress has done with rescissions. I am not saying the Congress of the United States has to agree with all of the rescissions the President sends up. In fiscal years 1975 and 1976, he has sent up rescissions in the amount of $6,624,000,000. The House has enacted $454 million out of that $6,624,000,000. I should say that this does not include the $99 million, the rescission that we approved in the Committee on Appropriations, and I think if the gentleman from Illinois can get some time I am sure he will want to discuss that.

As to the question of deferrals which have been requested by the President, what is a deferral? It is not saying the money is not going to be spent. He would just like to defer it at this time, for many reasons. It may be a wise thing to defer activity for a little while. He requested $29 billion in deferrals. Congress disapproved $9 billion and made available for obligation without congressional action $16 billion. So the congressional record is not very good on that.

We have a rescission bill that is pending now. We passed it out of the Committee on Appropriations. The President requested to rescind $2,128,000,000. Do the Members know how much the Congress agreed to in the request? Two million dollars, if we take out this $99 million amendment I referred to earlier.

Mr. Speaker, the time has come for us to take some hard action here in the House, and I predict that the House of Representatives is going to have that opportunity this afternoon because as I understand it the other body has passed by a vote of 82 to nothing the compromise that has been referred on this matter of the tax bill.

And what is the compromise? The Members probably heard it read. If there was ever a time when it ought to be reasonable to have a dollar reduction in spending for a dollar reduction in taxes, this ought to be it.

It says simply this: Congress shares the President's determination to reduce spending levels in order to reduce the national deficit. Congress affirms its commitment to the procedures established by the Congressional Budget and Impoundment Act of 1974. If the Congress recommendation is otherwise for the tax reduction provided by this Act for the remainder of the calendar year 1976, Congress shall provide for reductions in the level of spending which would otherwise occur for one dollar of each one dollar of tax reduction from the 1974 tax rate levels provided in fiscal year 1977, provided, however, that nothing shall preclude the right of the Congress to pass a resolution containing a higher or lower level expenditure figure if the Congress concludes that this is warranted by changing economic conditions or other unforeseen circumstances.

What is wrong with that? If the people of this country do not have this tax bill enacted this afternoon so that the action can be taken by January 1st, do you know where the fault will be? It will be right here, no place else. So the decision will be made right here.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I am happy the gentleman has yielded to me.

When the gentleman asks, "What is wrong with that?" I will tell him. We all know what is wrong with that. This is without a doubt the largest coverup that a long-suffering public has been offered in a long time. We have not heard so much hogwash as this since Mr. Nixon said he knew nothing about Watergate.

Mr. CEDERBERG. Then the gentleman should vote against it.

Will the gentleman just tell me why we should not have a dollar reduction in spending for a dollar reduction in taxes?

Mr. RONCALIO. Mr. Speaker, I wish the gentleman would just let me finish my point. He asked what is wrong with it, and I will just refer to this article.

Mr. CEDERBERG. What paper is the gentleman referring to?

Mr. RONCALIO. I am referring to the New York Times.

Mr. CEDERBERG. That does not mean anything. What does the New York Times have to do with it?

Mr. RONCALIO. Mr. Speaker, I asked the gentleman to yield and I hoped in the spirit of Christmas he might allow me time.

Mr. CEDERBERG. I am just saying this: We are here now considering this proposal.

Mr. RONCALIO. I will let the gentleman read this, Tom Wickers' column in today's New York Times.

Mr. CEDERBERG. We are here right now, and this proposal is that we shall have a dollar reduction in spending for a dollar reduction in taxes. That is eminently reasonable regardless of what the New York Times says.

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield, may I respond? It takes your President off the hook. That is what it does.

Mr. CEDERBERG. Mr. Speaker, it does not take the President off the hook. The President has said clearly that this is what he wants.

I will tell the Members why it does not take the President off the hook. If we follow the President's proposal, we should remember that the President wanted a $395 billion spending ceiling and not an $18 billion tax reduction; he wanted a $28 billion tax reduction, and most of that tax reduction would then have gone to our middle income taxpayers, those earning between $10,000 and $18,000 That is what the President wanted.

Mr. RONCALIO. Speaking of a dollar to be saved, has there ever been a computation made of what the taxpayers' losses were from aviation fuel from the use of Air Force One for President Ford's many trips for the purposes of Republican fund raising? How much money would that come to?

Mr. CEDERBERG. Oh, I have no idea. I do not even know what the gentleman is talking about. Let us not cloud the issue.

The issue here right now is whether this body is going to agree to a tax reduction bill that says, as a result of this $18 billion tax reduction, for each $1 of tax reduction there will be $1 in reduced spending.

It is that simple. You cannot cover it up. The ball is in your park.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Appropriations.

Mr. MAHON. Mr. Speaker, I ask unanimous consent to place in the RECORD at this point certain comments in regard to the actions of the Congress in this session with respect to appropriation bills.

We have made net reductions in appropriation bills totaling $3.5 billion. I shall lay out in a nonpartisan way the various actions which have been taken by the Congress with respect to spending.

Therefore, I ask unanimous consent to insert appropriate tables along with those comments.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONGRESSIONAL ACTION ON THE FEDERAL BUDGET DURING THE 94TH CONGRESS, 1ST SESSION

Mr. MAHON. Mr. Speaker, it is customary at adjournment time for the Committee on Appropriations to report to the House on the appropriations business of the session. Overall the House has taken action on some 21 appropriation bills during the first session of the 94th Congress appropriating $260 billion plus additional amounts for the transition quarter. One of these bills, the emergency employment appropriations, was vetoed and that veto was sustained by the House of Representatives. Many of the important job-creating programs that would have been funded in that bill, however, have been funded in subsequent appropriations actions during the session. In addition, there have been three rescission bills approved during this session. Through this legislation, the Congress has rescinded over $287 million in budget authority that would ordinarily have been avaliable for obligation in fiscal year 1976.

APPROPRIATIONS BILLS REDUCED IN EXCESS OF $7.4 BILLION

Mr. Speaker, in its overall actions on the 14 regular appropriation bills for fiscal year 1976, Congress has reduced budget requests in excess of $3.5 billion. Furthermore, in action on six appropriation bills enacted during this session for fiscal year 1975. Congress reduced the administration's budget requests by over $3.8 billion. Thus, the Congress has reduced budget requests during the first session of the 94th Congress by almost $7.4 billion.

The $3.5 billion congressional reduction of the budget in fiscal year 1976 appropriation bills excludes the foreign assistance and the District of Columbia appropriation bills which will not be reported until the second session. Late action on these bills is a result of the budget requests being received by the Congress only a few weeks ago.

With the action this year, Congress has reduced the requested budget through the appropriation process in each of the last 23 years.

HOUSE AND SENATE ACTION ON FISCAL YEAR 1976 APPROPRIATION BILLS

Overall, House-approved appropriation bills for fiscal year 1976 were under the budget by $5.3 billion. Senate-approved appropriation bills for fiscal 1976 were under the budget by $1.2 billion. In final congressional action, 8 bills were reduced by $9.1 billion and 6 bills were increased by $5.6 billion. The largest reduction was made in the Defense appropriation bill in the amount of $7.4 billion. The largest items of increase were contained in job-creating programs funded by the continuing resolution—Public Law 94-41—in the amount of $2.4 billion and $1.3 billion for various education programs contained in the Education Division appropriation bill—Public Law 94-94. The pending reductions that will occur because of the reductions in the appropriation bills have been estimated at $2.6 billion. At the end of this report I shall include a table showing certain comparisons by bill.

PRIORITY SETTING IN APPROPRIATION BILLS

The total figures on congressional action on appropriation bills reflect literally thousands of changes in the budget, both increases and decreases. Thus, it is easy to see that the Congress did set priorities through the appropriations process. Moreover, this year we have undertaken a partial implementation of the new congressional budget process. The Committees on Appropriations and the Committees on the Budget of both Houses have cooperated fully and have begun to implement these new budget control procedures in such a way that the Congress is placing increased emphasis on establishing overall revenue and spending objectives. Thus, our efforts during this session have produced a more highly integrated congressional budget process than in years past. I am hopeful these reforms will help restore a balance to the Federal budget and reverse the trend toward more uncontrollable spending.

TOTAL SPENDING FOR FISCAL YEAR 1976

The President's original February 3 estimate of $349.4 billion in spending was revised upwards to $358.8 billion on May 30, and further increased to $366.6 billion on November 10, in the "Current Services Estimates for Fiscal Year 1977" (H. Doc. 94–306).

[In billions]

1976 budget outlay estimates as transmitted in budget message of February 3, 1975		$349.4
Budget revisions reflected in midsession review of May 30, 1975—Unemployment benefits:		
Reestimate	−1.4	
Proposed benefit extension	+1.2	
Food stamp program:		
Reestimate (due to increased participation)	+2.3	
Congressional action rejection price increase	+.6	
Highway programs:		
Administrative release of funds	+1.0	
Congressional action disapproving deferral	+.4	
Veterans benefits, reestimates	+1.5	
Revisions in legislative proposals:		
Energy equalization tax payments	−1.2	
Special petrodollar financing facility	−1.0	
Effect of inaction on proposed limit on cost of living increase for social security and other beneficiaries	+2.2	
Other	+3.9	
1976 budget estimates as revised May 30, 1975		358.9
Budget revisions reflected in November 10, 1975, current services estimates:		
Mid-session review estimate less: Energy tax equalization payments	−5.8	
Midsession review estimate, excluding energy		353.1
Congressional action and inaction:		
Inaction on reduction proposals	3.2	
(5% cap on civilian and military retirement)	(0.8)	
(Military wage board pay cap)	(0.4)	
(Medicare and medicaid)	(0.7)	
(Veterans' GI bill benefits)	(0.3)	
(GSA stockpile disposal)	(0.2)	
(Naval petroleum reserve)	(0.2)	
(Other)	(0.6)	
Appropriations added to continuing resolution	0.5	
Education appropriations veto override	0.4	
Overturn of rescissions and deferrals		0.4
Override of vetoed child nutrition legislation		0.9
Defense—action on authorizations and appropriations		−2.4
Other		1.7
Total congressional action and inaction		4.6
Other changes		
Unemployment assistance		3.6
(Unemployment trust fund)		(2.7)
(Federally-funded unemployment benefits and manpower assistance)		(0.9)
Interest in the public debt		1.5
Earned income credit		1.2
Medicare and medicaid		1.1
Amendments for Middle East and other nations		0.6
Veterans benefits		0.4
Public assistance		0.7
CCC: Price support and related programs		0.4
Tennessee Valley Authority		0.4
Increase in Treasury interest receipts from the Federal Financing Bank		−0.9
Proposed changes in food stamp eligibility		−0.4
Outer Continental Shelf receipts		2.0
All other changes		−1.8
Total other changes		8.9
1976 Revised budget outlay estimates of November 10, 1975		366.6

REESTIMATES OF UNIFIED BUDGET DEFICIT

The November 10 reestimates made by the administration for fiscal year 1976 project revenues at $299 billion and spending at $366.6 billion. The fiscal year 1976 deficit in the unified budget is now projected to be $67.6 billion. This is an increase of $15.7 billion over the original estimate of $51.8 billion made when the fiscal year 1976 budget was submitted this past February. The increase in the debt this fiscal year will be $89.4 billion. A table showing the surplus/deficit situation in more detail follows my remarks.

The second concurrent resolution on the budget for fiscal year 1976 estimates revenues at $300.8 billion and spending at $374.9 billion. The fiscal year 1976 deficit is projected at $74.1 billion with a higher increase in the public debt.

A WORD OF CAUTION

It is clear from the figures I have cited that the budget is subject to constant, sometimes sharp change, even without considering the actions of Congress. For example, it is easily conceivable that Outer Continental Shelf receipts may be at least a billion dollars or more lower than now estimated. The estimate of the interest that will be paid on the public debt has increased by $1.5 billion since the midsession review and is subject to further revision as interest rates on Government borrowings are affected by changes in the economy. Undoubtedly, there will be other changes that will cause the estimates that I have herein cited to be adjusted again.

Mr. Speaker, at this time I include the comparative table I referred to earlier together with a table reflecting the budget surplus and deficit situation since fiscal year 1969:

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 94TH CONG., 1ST SESS[1].—REVISED TO DECEMBER 16, 1975

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and Trust) available without further action by Congress]

	House				Senate			Congress	
Bill and fiscal year	Budget requests considered	Reported by committee	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
A. Bills for fiscal 1976:									
1. Education (P.L. 94–94)[2]	$6,134,339,000	$6,845,495,000	$7,332,995,000	+$1,198,656,000	$6,134,339,000	$7,682,511,852	+$1,548,172,852	$7,480,312,952	+$1,345,973,952
2. Legislative (P.L. 94–59)	708,624,440	698,076,800	698,076,800	−10,547,640	838,265,425	825,302,485	−12,962,940	827,546,570	−10,718,855
3. Continuing Appropriations, 1976 (P.L. 94–41)		2,004,800,000	2,004,800,000	+2,004,800,000		2,379,800,000	+2,379,800,000	2,379,800,000	+2,379,800,000
4. HUD-Independent Agencies (P.L. 94–116)	[6] 42,366,070,000	[6] 42,366,024,000	[6] 42,366,024,000	−46,000	[6] 48,779,570,000	[6] 50,275,314,000	+1,495,744,000	[6] 49,344,914,000	+565,344,000
5. Public Works (H.R. 8122)	7,057,462,000	7,211,401,500	7,225,401,500	+167,939,500	7,300,162,000	7,489,660,500	+189,498,500	7,440,912,500	+140,750,500
6. State-Justice-Commerce-Judiciary (P.L. 94–121)	5,601,907,400	5,675,330,000	5,671,669,000	+69,761,600	5,721,747,400	6,188,253,000	+466,505,600	5,958,676,000	+236,928,600
7. Labor-HEW (H.R. 8069)	35,153,357,000	35,873,492,000	35,979,641,000	+826,284,000	35,157,909,000	36,272,522,318	+1,114,613,318	36,073,748,318	+915,839,318
8. Transportation[3] (P.L. 94–134)	3,964,974,775	3,744,413,775	3,744,413,775	−220,561,000	4,069,994,775	4,194,482,775	+124,488,000	3,978,924,775	−91,070,000
9. Agriculture and Related Agencies (P.L. 94–122)	11,076,869,000	11,047,263,000	11,047,263,000	−29,606,000	11,084,514,000	11,092,283,000	+7,769,000	11,061,282,000	−23,232,000
10. Treasury-Postal Service-General Government (P.L. 94–91)	6,330,463,000	6,265,532,152	6,265,532,152	−64,930,848	6,330,463,000	6,338,985,000	+8,522,000	6,314,070,000	−16,393,000
11. Interior (H.R. 8773)	4,034,942,000	4,090,302,000	4,101,962,000	+67,020,000	4,307,158,000	4,304,340,000	−2,818,000	4,234,621,000	−72,537,000
12. Defense (H.R. 9861)	97,857,849,000	90,219,278,000	90,219,045,000	−7,638,804,000	97,857,849,000	90,721,789,000	−7,136,060,000	[7] 90,466,961,000	−7,390,888,000
13. Military Construction (P.L. 94–138)	4,109,020,000	3,518,723,000	3,518,723,000	−590,297,000	4,109,020,000	3,660,295,000	−448,725,000	3,585,014,000	−524,006,000

Footnotes at end of table.

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 94TH CONG., 1ST SESS[1].—REVISED TO DECEMBER 15, 1975—Continued

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and Trust) available without further action by Congress]

	House				Senate			Congress	
Bill and fiscal year	Budget requests considered	Reported by committee	Approved by House	Compared with budget requests considered by House	Budget requests considered	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
14. Supplemental Appropriations, 1976 (H.R. 10647)	8, 928, 526, 861	7, 820, 606, 201	7, 820, 606, 201	−1, 107, 920, 660	11, 304, 210, 377	10, 334, 997, 777	−969, 212, 600	10, 299, 533, 117	−1, 004, 677, 260
Subtotal, bills approved by House	233, 324, 404, 476	227, 380, 737, 428	227, 996, 152, 428	−5, 328, 252, 048	242, 995, 201, 977	241, 760, 536, 707	−1, 234, 665, 270	239, 446, 316, 232	−3, 548, 885, 745
15. District of Columbia	(507, 841, 000)								
16. Foreign Operations	(5, 694, 340, 909)								
Total, bills for fiscal 1976	(239, 526, 586, 385)	227, 380, 737, 428	227, 996, 152, 428	−5, 328, 252, 048	242, 995, 201, 977	241, 760, 536, 707	−1, 234, 665, 270	239, 446, 316, 232	−3, 548, 885, 745
B. Bills for fiscal 1975:									
1. Foreign Assistance (P.L. 94–11)	5, 946, 460, 909	3, 498, 420, 000	3, 498, 420, 000	−2, 448, 040, 909	5, 946, 460, 909	3, 946, 096, 982	−2, 000, 363, 927	3, 674, 346, 982	−2, 272, 113, 927
2. Further Urgent Supplemental (P.L. 94–6)	142, 175, 000	117, 175, 000	142, 175, 000		143, 175, 000	143, 175, 000		143, 175, 000	
3. Emergency Employment (H.R. 4481) (Vetoed)[3]	(130, 000, 000)	(5, 368, 474, 000)	(5, 373, 474, 000)	(+5,243,474,000)	(2, 042, 700, 000)	(5, 504, 535, 000)	(+3,461,835,000)	(4, 729, 146, 000)	(+2, 686, 446, 000)
Temporary Employment Assistance[4]	125, 000, 000			−125, 000, 000	1, 625, 000, 000		−1, 625, 000, 000		−1, 625, 000, 000
4. Urgent Supplemental, Summer Youth Employment (P.L. 94–36)	412, 700, 000	473, 350, 000	473, 350, 000	+60, 650, 000	412, 700, 000	473, 350, 000	+60, 650, 000	473, 350, 000	+60, 650, 000
5. 2d Supplemental (P.L. 94–32)[5]	11, 540, 647, 646	11, 297, 417, 586	11, 397, 042, 586	−143, 605, 060	14, 956, 698, 548	15, 964, 662, 998	+1, 007, 964, 450	15, 071, 595, 998	+114, 897, 450
6. Additional Appropriation, Veterans (P.L. 94–17)	638, 038, 000	638, 038, 000	638, 038, 000		638, 538, 000	638, 538, 000		638, 538, 000	
7. Vietnam Refugee Assistance (P.L. 94–24)	507, 000, 000	405, 000, 000	405, 000, 000	−102, 000, 000	507, 000, 000	405, 000, 000	−102, 000, 000	405, 000, 000	−102, 000, 000
Total, bills for fiscal 1975	19, 312, 021, 555	16, 429, 400, 586	16, 554, 025, 586	−2, 757, 995, 969	24, 229, 572, 457	21, 570, 822, 980	−2, 658, 749, 477	20, 406, 005, 980	−3, 823, 566, 477
Cumulative totals for the session to date:									
1. House	252, 636, 426, 031	243, 810, 138, 014	244, 550, 178, 014	−8, 086, 248, 017					
2. Senate					267, 224, 774, 434	263, 331, 359, 687	−3, 893, 414, 747		
3. Enacted								259, 852, 322, 212	−7, 372, 452, 222

Additionally, the Congress has taken action to rescind budget authority during this period, as follows:

Bills	Proposed rescissions considered	Approved by House	Approved By Senate	Approved by Congress	Compared with proposed rescissions
Budget Rescission (P.L. 94–14)	$929, 420, 272	$222, 550, 000	$300, 456, 470	$223, 336, 470	−$706, 083, 802
3d Budget Rescission (P.L. 94–15)	1, 248, 674, 954	16, 454, 704	10, 955, 000	16, 454, 704	−1, 232, 220, 250
4th Budget Rescission (H.R. 6573)	238, 323, 000	17, 873, 000	1, 623, 000		
Budget Rescission (P.L. 94–111)	188, 888, 000	47, 500, 000	47, 500, 000	47, 500, 000	−141, 388, 000
Total	2, 605, 306, 226	304, 377, 704	360, 534, 470	287. 291, 174	−2, 079, 692, 052

[2] Includes advance appropriations for 1977.

[3] Vetoed on May 28, 1975; sustained by House of Representatives on June 4, 1975.

[4] The Budget for Fiscal Year 1976 requested $125 million of fiscal year 1975 budget authority previously transferred to the Economic Development Administration to be restored to the Temporary Employment Assistance program, Department of Labor. Subsequently in House Doc. No. 94–74, the President requested an additional $1.5 billion for Temporary Employment Assistance to be included in a proposed supplemental appropriation for fiscal year 1975. Although the latter request arrived too late to be considered in the House of Representatives, the House Committee on Appropriations did recommend $1.625 billion in the Emergency Employment bill. The Senate considered both requests and then approved the same funding as recommended by the House. After the veto of H.R. 4481 was sustained, funding for the program was included in the Continuing Appropriations Act (Public Law 94–41), but for fiscal 1976. To be consistent in tabulating actions on budget requests, therefore, the requests only are tabulated as applicable under B. Bills for fiscal 1975. The enactment of the funding is included with the totals for Public Law 94–41 under A. Bills for fiscal 1976.

[5] Includes advance appropriations for 1976.

[6] Originally, the Fiscal Year 1976 budget request estimated $26.1 billion over a 40-year period for assisted housing annual contract authority. The House and Senate agreed to the Administration's request, but more recent estimates indicate that $17 billion is the amount necessary for runout costs of the new commitments. All requests and approved amounts for annual contract authority have been adjusted to reflect the reestimate.

[7] Conference agreement.

Note.—The Budget for 1976, as submitted Feb. 3, 1975, tentatively estimated total new budget authority for 1976 at $435,233,000,000 gross ($385,848,000,000 net of some $49,385,000,000 in intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget purposes only). Of this total, an estimated $181.1 billion does not require current action by Congress; it involves permanent appropriations such as interest and various trust funds already provided in basic law. Virtually all of the remaining $254.1 billion is for consideration at this Session in the appropriation bills. About $12.3 billion of the $254.1 billion was shown in the February budget as being "for later transmittal" for supplemental requirements under present law, new legislation, allowances and for contingencies and civilian pay raises.

Parentheses indicate that amounts are not included in "C. Cumulative totals for the session to date."

Prepared by House Committee on Appropriations, Dec. 16, 1975.

THE BUDGET SURPLUS AND DEFICIT SITUATION, FISCAL YEARS 1969–76

[In millions of dollars, may not add due to rounding]

	Federal funds	Trust funds	Total of the 2	Less intragovernmental transactions that wash out	(Unified budget)
Fiscal 1969:					
Budget receipts	$143, 321	$52, 009	$195, 330	−$7, 547	$187, 784
Budget outlays	148, 811	43, 284	192, 095	−7, 547	184, 548
Surplus (+) or deficit (−)	−5, 490	+8, 725	+3, 236		+3, 236
Fiscal 1970:					
Budget receipts	143, 158	59, 362	202, 520	−8, 778	193, 743
Budget outlays	156, 301	49, 065	205, 366	−8, 778	196, 588
Surplus (+) or deficit (−)	−13, 143	+10, 297	−2, 845		−2, 845

	Federal funds	Trust funds	Total of the 2	Less intragovernmental transactions that wash out	(Unified budget)
Fiscal 1971:					
Budget receipts	133, 785	66, 193	199, 978	−11, 586	188, 392
Budget outlays	163, 651	59, 361	223, 012	−11, 586	211, 425
Surplus (+) or deficit (−)	−29, 866	+6, 832	−23, 033		−23, 033
Fiscal 1972:					
Budget receipts	148, 846	72, 959	221, 805	−13, 156	208, 649
Budget outlays	177, 959	67, 073	245, 032	−13, 156	231, 876
Surplus (+) or deficit (−)	−29, 113	+5, 886	−23, 227		−23, 227
Fiscal 1973:					
Budget receipts	161, 357	92, 193	253, 550	−21, 325	232, 225
Budget outlays	186, 403	81, 447	267, 850	−21, 325	246, 526
Surplus (+) or deficit (−)	−25, 046	+10, 746	−14, 301		−14, 301
Fiscal 1974:					
Budget receipts	181, 219	104, 846	286, 065	−21, 133	264, 932
Budget outlays	198, 692	90, 833	289, 525	−21, 133	268, 392
Surplus (+) or deficit (−)	−17, 473	+14, 013	−3, 460		−3, 460
Fiscal 1975:					
Budget receipts (est.)	187, 496	119, 562	307, 058	−26, 061	280, 997
Budget outlays (est.)	238, 507	112, 154	350, 661	−26, 061	324, 600
Surplus (+) or deficit (−) [1]	−51, 011	+7, 408	−43, 603		−43, 603
Fiscal 1976 (Revised est., Nov. 1975):					
Budget receipts (est.)	199, 869	134, 989	334, 858	−35, 815	299, 043
Budget outlays (est.)	270, 709	131, 713	402, 422	−35, 815	366, 608
Surplus (+) or deficit (−), (est.) [2]	−70, 840	+3, 276	−67, 565		−67, 565
Eight Year Outlook:					
Surplus (+) or deficit (−), 1969–1976, on above basis	−241, 982	+67, 183	−174, 799		−174, 799

[1] As compared to previous fiscal 1975 estimates, as follows (millions):

	Federal funds deficit	Trust funds surplus	Unified budget deficit
Original estimate, February 1974	17, 878	8, 433	9, 445
Revised estimate, May 1974	19, 891	8, 491	11, 400
Revised estimate, November 1974	18, 700	9, 500	9, 200
Revised estimate, February 1975	43, 039	8, 343	34, 690
Revised estimate, May 1975	48, 700	6, 100	42, 600

[2] As compared to previous fiscal 1976 estimates, as follows (millions):

	Federal funds deficit	Trust funds surplus	Unified budget deficit
Original estimate, February 1975	54, 937	3, 085	51, 852
Revised estimate, May 1975	57, 900	−2, 000	59, 900

Prepared by House Committee on Appropriations, Dec. 16, 1975.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I understand the chairman of the committee has included this material, but I believe that all this carrying on we are doing here is on the wrong subject and in the wrong place.

I started out to say that the Committee on Appropriations had recommended a reduction and the Congress had reduced the Agriculture and related agencies appropriation bill by $2 billion.

I pointed out that the President did not have one word of criticism when he signed the bill. So all of the things we have been listening to in the last few minutes do not apply here.

May I say that there is one thing we are united on in our committee, and that our disapproval of limitations of personnel to perform the functions essential to carry out these programs.

We intend in this House that that be stopped, and here is the reason why: Let us take the Farmers Home Loan Administration. They have handled billions and billions of dollars in American credit, most of it in the loan program. If they have too few people, not only are they unable to properly see that an application is in proper shape but with too few people we are going to find they will not be able to collect all this money the Nation so badly needs.

So I want to say here that our committee was unanimous in the defeat of these deferrals of people provided by the Congress. We want to get the maximum value for the money that was appropriated.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, this is, of course, a deferral action; and as the chairman indicated in his opening remarks, we have no rescissions before us today.

Even if there were to be rescissions considered with these deferrals, their amount would be $2 million out of a total requested rescission of $2 billion.

I had offered in the committee an amendment that was passed 18 to 15, having to do with a limitation on impacted-aid funds, $39 million of which was in the education appropriation bill, for which there are now updated estimates that would indicate we simply do not need that additional $39 million.

The other part of my amendment had to do with $57.8 million that we had in the education appropriation bill for the first time to fund on the basis of Category C public housing units.

The form of my amendment, we found out after passage by the committee, was defective, with a technicality that our parliamentarian says would not escape a point of order here on the floor.

That is a debatable item insofar as the interpretation of the law downtown and in the Executive Branch is concerned, for what I sought to do was to simply foreclose our embarking for the first time on the funding of impacted aid for public housing units. In no way was my intention to detract from those authorized payments to A and B category students.

Under the new authorizing legislation, we have tiers 1, 2, and 3, and also category A, B, and C students. It is a kind of complicated formula, but the folks downtown in the Executive Branch maintain that it is possible to eliminate payments for public housing units and still fully fund under the authorized level those B and C students.

Mr. Speaker, I know that Members have been circulated, widely circulated, with a letter signed by a number of our colleagues; and there is a difference in interpretation as to how the law reads.

However, I do know, on checking again just this morning, that it was the Administration's intention that if my amendment were adopted, to simply cut off or not begin funding impacted aid to public housing units and go forward with the full entitlement to A and B students, which I think is appropriate and proper, and which I intended to do had my amendment been perfectly in order.

I am pleased to have the opportunity to be on my feet to speak about this. On that subject I think we really have to give serious thought to that in the future, because if we do not, that $57 million really reflects only a 25 percent entitlement for public housing funds. If we would then go to an entitlement of 100 percent, we would multiply it times four, and we would be up to nearly a quarter billion dollars in a program that generally is accepted in this House when we are debating it as just the wrong approach to a discredited program, one that gives far too much for wealthy school districts at the expense of those needy school districts.

Consequently, Mr. Speaker, here we were at a point where I thought we could make an adjustment without anybody's being denied what he already had coming to him, but we are foreclosed on a technicality.

Mr. Speaker, I hope that in the new session we will have an opportunity to make a constructive approach to this matter.

Mr. Speaker, I appreciate the fact that my former subcommittee chairman has yielded to me for these observations.

Mr. WHITTEN. Mr. Speaker, I thank my colleague, who has been one of the outstanding members of this subcommittee for many years.

I would point out that the point he has raised is not in the resolutions we have before us pertaining to agriculture and related agencies. It has to do with appropriations under the HEW section, althought I appreciate the gentleman's remarks on this subject.

Mr. Speaker, I shall discuss in detail one more item here at this point solely in the hope that we may pass this resolution without further discussion.

One of the items here, and I mention it so that all the Members might be informed, has to do with grants for rural water and sewer systems. It may appear to many of the Members that as long as you have a loan for this, it is not necessary to have a grant. However, to use a rather simple example to illustrate what I mean, I would point out that most any street that does not have water and sewer is not going to grow. However, if you have a grant so as to enable that road or that street that is undeveloped to have water and sewer, you enable them to grow and then a loan becomes feasible. If you do not have a grant program you cannot have the loan because you cannot meet the requirement.

Mr. Speaker, I have mentioned various things having to do with these resolutions which, under the rules, have to be brought up one at a time, as I understand. With that understanding, I hope that we may go through these other matters without further discussion.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY TO DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Mr. WHITTEN. Mr. Speaker, I call up House Resolution 911 disapproving the deferral of certain budget authority (D76–69), and ask unanimous consent that it be considered in the House.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 911

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D76–69, relating to the Department of Agriculture, Animal and Plant Health Inspection Service, as set forth in the message of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY RELATING TO DEPARTMENT OF AGRICULTURE AGRICULTURAL CONSERVATION PROGRAM

Mr. WHITTEN. Mr. Speaker, I call up House Resolution 912 disapproving the deferral of certain budget authority (D76–70) relating to the Department of Agriculture, Agricultural Stabilization and Conservation Service, and ask unanimous consent that it be considered in the House.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 912

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D76–70, relating to the Department of Agriculture, Agricultural Conservation Program, as set forth in the message of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 1 hour.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I am wondering about the size of this deferral. As I understand, it is $90 million. Is that correct?

Mr. WHITTEN. That is correct.

Mrs. FENWICK. This is for conservation and agricultural stabilization?

Mr. WHITTEN. That is correct.

Mrs. FENWICK. What exactly is done with the money? Is it used to buy land and try to hold it in flood plains? Is that what is being done?

Mr. WHITTEN. No. Under this conservation program if the landowner will put up an equal amount of money plus his labor, the Government will contribute about an average of one-third of the total cost. Most of the payments under this program are rather small.

The money is used for such things as to try to prevent the land from eroding away and to prevent it from becoming the type of soil that is found in India. The program operates throughout all sectors of the United States. The number of people who put up two-thirds of the cost usually exceed 1 million people per year who are trying to save their land. I would guess that the average payment by the Government would be about $300 to $500 in each case, but the individual puts up twice that much in labor and material. But the individual puts up twice that much in his labor and his own money, so I think it has proven to be probably the real reason that our country is not worn out today.

Mrs. FENWICK. Does the money go for machinery to terrace? Is that the sort of thing?

Mr. WHITTEN. No. It is not for machinery, but the cost of labor and the cost of using machinery.

Mrs. FENWICK. That is what I meant.

Mr. WHITTEN. It could go to the cost of all of these things that go into the necessary conservation work. But I want to repeat again that the landowner has to put up about two-thirds of the cost.

Mrs. FENWICK. If the gentleman will yield further, what was expended last year for this program?

Mr. WHITTEN. I appreciate the gentlewoman's questions. I will explain briefly, and if it were not for time, I would like to go into this in more detail. These programs start at the rural level where they select what the community needs.

I might point out that we have, through this program, planted 6.7 billion trees in reforestation and erosion control.

Mrs. FENWICK. If the gentleman will yield further, what was spent last year?

Mr. WHITTEN. Last year we provided for a $190 million program about the same as this year.

Mrs. FENWICK. Does the gentleman mean it was $90 million also for last year?

Mr. WHITTEN. It was $190 million, and it is $175 million this year, except that they froze the $90 million.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

The resolutions, of which there are 11 here pending before the House, in each case express the disapproval of the House to the deferrals recommended in each case; do they not? This represents a re-

jection of the request of the President to defer the spending; does it not?

Mr. WHITTEN. It does represent a rejection. May I say, however, that no complaint was made when the President signed the bill. I have tried to point out here, and we all know it, that many things in agriculture will not wait because the weather will not wait. May I say that through the years on 21 occasions Congress has insisted on the need for this program. If this program is deferred beyond the time that the funds can be used, in effect we have killed it.

Mr. WIGGINS. Will the gentleman yield further?

Mr. WHITTEN. I yield to the gentleman.

Mr. WIGGINS. Mr. Speaker, these are going to be approved apparently by voice vote. It is not my intention to request a recorded vote on any one of them, but I do want to indicate in the RECORD that I do not agree at all with the action recommended by the gentleman's committee. I do agree that these sums should be deferred, and from my point of view even greater sums should be deferred, from these programs and from many others.

I do not wish to get in an argument with the gentleman. I realize he does not agree with me, but I simply want to reflect in the RECORD my opposition to the action.

Mr. WHITTEN. May I say to my colleague, for whom I have the highest regard for his ability and efforts here in the Congress, that if I had not thought this was basic to the well-being of our own economy of our country, I would be chairman of the Subcommittee on Defense instead of chairman of the Subcommittee on Agriculture since I was on Defense first. But I say the more urban we get, the better lawyers we become, the greater professional people we become, then the more we realize that all comes back to the land. I think that our country would be 100 times poorer if we had not had this program. I say that having held hearings about 3 months each year for a number of years.

I think that if my colleague has the time to study the subject as I have—and I am a lawyer, too, not a farmer—he would find that this is the best investment in the present and in the future. It is a matter of opinion, and that is mine.

Mr. WIGGINS. I simply want to indicate my disagreement with the gentleman.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Florida.

Mr. SIKES. I thank the gentleman for yielding.

Mr. Speaker, as the distinguished gentleman from Mississippi has well stated it, the farmer must know what he is going to be able to do. He must make plans. He must know what programs he can take advantage of, and some of those programs would be very adversely affected under the proposal that has been submitted by the administration.

For instance, while it is not directly in the bill, the gentleman is in a position to comment on it. I am thinking of the forestry incentives, which is a tree-planting program, and in which the Federal Government participates to improve tree planting and stand improvement. If a man is going to plant trees, he has to plant them soon. This is one of the programs which apparently is being delayed through administrative procedure, and perhaps the program would be almost ineffective for the current year.

Will the gentleman please tell the House what the situation is on forestry incentives?

Mr. WHITTEN. I would be glad to. On those items which were proposed to be rescinded, of which this is one, the committee unanimously disagreed. It is not necessary to formally bring up a resolution or motion. My colleague, the gentleman from Illinois, indicated a while ago that the rescission proposals are not brought up here. However, the matter was taken up and it is a matter of record in the minutes of the committee.

Mr. SIKES. But the formal action will be taken?

Mr. WHITTEN. Certainly it will be and it is in the law.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, I want to support the comments of the gentleman from California (Mr. WIGGINS) and the gentlewoman from New Jersey (Mrs. FENWICK) in at least giving some attention to these specific items. Admittedly we are caught in the closing hours of a session and I do not think it would serve any useful purpose running through a whole series of rollcall votes on each of these, but this is not to suggest there are not some serious reservations on the part of some of us who through the years have raised serious objections to some of these programs and on this particular item.

As we go in for keeps on these in the coming year in the rescission/deferral aspect of it, I hope we will not be faced in future years with rescissions proposed within the last week of a session of Congress. I just do not think we are in a position to do justice to what is expected of us under these kinds of restrictions, and so the record is clear I want to show we are not just wildly going along, but it is more in the interest of time.

Mr. WHITTEN. My colleague, the gentleman from Illinois, and I have talked together on this and worked together for many years. I have always thought if I could have the fertile soil in my district that the gentleman has in his I might feel the same way as the gentleman does. I might not need this program as much as I think I do now.

Might I point out here that the President did not make a single criticism when he signed this bill, and he did not send up a deferral notice until he used up the full 30 days. Had he sent it up at the time the bill was signed into law we could have acted on this 60 days ago, so the delay comes not at our instance. We acted on it as soon as we could.

The gentleman and I could talk over this for many days. We have had our different views throughout the years since we have different backgrounds and we have had our discussions on these matters through the years.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, DEPARTMENT OF AGRICULTURE, RURAL WATER AND WASTE DISPOSAL GRANTS

Mr. WHITTEN. Mr. Speaker, I call up House Resolution 914 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 914

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D76–72, relating to the Department of Agriculture, Rural Water and Waste Disposal Grants, as set forth in the message of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, DEPARTMENT OF AGRICULTURE, WATERSHED AND FLOOD PREVENTION OPERATIONS

Mr. WHITTEN. Mr. Speaker, I call up House Resolution 915 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 915

Resolved, That the House of Representatives expresses its disapproval of proposed deferral D76–73, relating to the Department of Agriculture, Watershed and Flood Prevention Operations, as set forth in the message of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, DEPARTMENT OF AGRICULTURE, RESOURCE CONSERVATION AND DEVELOPMENT

Mr. WHITTEN. Mr. Speaker, I call up House Resolution 916 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 916

Resolved, That the House of Representatives express its disapproval of proposed deferral D76–74, relating to the Department of Agriculture, Resource Conservation and Development, as set forth in the message of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The resolution was agreed to.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the resolutions just agreed to.

The **SPEAKER**. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, ENVIRONMENTAL PROTECTION AGENCY, RESEARCH AND DEVELOPMENT

Mr. **ROUSH**. Mr. Speaker, I call up House Resolution 920, disapproving deferral of budget authority, and ask unanimous consent that it be considered in the House and that House Resolutions 921, 922, 923 and 924, resolutions disapproving deferral of budget authority, may also be considered in the House.

The **SPEAKER**. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The **SPEAKER**. The clerk will report the first resolution.

The Clerk read the resolution, as follows:

H. RES. 920

Resolved, That the House of Representatives expresses its disapproval of the proposed deferral of $2,000,000 for the Environmental Protection Agency, Research and Development, as set forth in the deferral message D76–79 of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The **SPEAKER**. The gentleman from Indiana is recognized for 1 hour.

Mr. **ROUSH**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I propose to follow the same procedure followed by the gentleman from Mississippi (Mr. WHITTEN) concerning the resolutions which were just agreed to by the House for the Department of Agriculture.

In this instance, Mr. Speaker, the five resolutions before the House are resolutions of deferral involving the Environmental Protection Agency. They fall in two categories; the first category being that of research and development, and the second category being that of abatement and control.

Permit me, Mr. Speaker, to briefly tell the House what is involved. In the instance of House Resolution 920, we have a $2 million deferral for air research and development.

In the instance of House Resolution 921, we have under research and development a deferral of $4,600,000, which involves water quality research.

In the instance of House Resolution 922, we have a $3,750,000 item involving air control agency grants.

In the instance of House Resolution 923, we have a proposed deferral of $10 million. That involves water quality control agency grants.

In the instance of House Resolution 924, we have a $15 million deferral which relates to the Clean Lakes grants.

The total amount seeking to be deferred, and this includes all five deferrals, is $35,350,000.

In the instance of the first two deferrals for research and development, the $2 million for air and $4,600,000 for water, the committee believes these funds should be restored in order to maintain the research and development activities at the same level as 1975.

An appropriation of $170,674,000 was provided in the Department of Housing and Urban Development-Independent Agencies Appropriation Act for environmental protection R. & D. in 1976. This is in Public Law 94–116, which was approved by the President on October 17.

These funds are to continue funding of ongoing programs at essentially the same level as 1975. Even the restoration of the $2 million in the proposed deferral will require substantial inflationary costs to be absorbed. The agency testified that these funds are extremely important and after carefully examining all aspects of the deferral, the committee has recommended that it be disapproved.

The agency has also advised the committee that the proposed reduction of $4,600,000 in water quality research would delay the initiation or completion of some research projects for up to 11 months. It would also require considerable reprograming of funds.

The committee is therefore constrained to recommend that this deferral of funding for water quality research and development be disapproved.

In the other three resolutions relating to abatement and control, the committee added $3,750,000 for air control agency grants to restore the 1976 level to that provided in fiscal year 1974. Another $10 million is provided for water quality control agency grants, again to maintain the 1974 level of $50 million.

I would point out that EPA initially requested $60 million from OMB for this activity in 1976. We believe that the level of $40 million, which was finally asked for by the agency, is simply not enough to assist properly the States and local agencies carry out their environmental protection responsibility.

Finally, in the last resolution, the committee recommends that the $15 million deferral proposed for clean lakes grants be disapproved. Only $4 million was made available in fiscal year 1975 for this activity. The total amount authorized for appropriation is $300 million.

The subcommittee believes that it is time to get the clean lakes program underway. A deferral of the $15 million, which is really a minimal amount to conduct those efforts, can only result in further delay.

Mr. Speaker, these are all sound resolutions to provide necessary funding for vital environmental protection programs. I urge that they be adopted.

Mr. **MAHON**. Mr. Speaker, will the gentleman yield?

Mr. **ROUSH**. I yield to the distinguished chairman of the Appropriations Committee.

Mr. **MAHON**. Mr. Speaker, I rise in support of the proposal which has been presented by the gentleman from Indiana.

Mr. Speaker, I rise also to advise the House that a very distinguished member of the Appropriations Committee, the gentleman from Texas, a stalwart citizen of our State, will not be with us when we resume this Congress in January. I refer to my distinguished friend, BOB CASEY of the 22d District of Texas.

BOB came to this body 17 years ago, the first and only person to represent the 22d District. He has made a place for himself and for his area in Congress. He has served well. He goes now to become a Commissioner of the Maritime Commission of the United States, having been confirmed by the Senate for that appointment.

BOB as a member of the Appropriations Committee, has served on various subcommittees. He serves now on the Agriculture Subcommittee and on the vital Labor-HEW Subcommittee, where he has given balance and assistance in that committee. He is the chairman of the very important Legislature Subcommittee of the Appropriations Committee.

I feel that he is entitled to a special salute from his colleagues here on both sides of the aisle with whom he has worked through the years, and who hold him in high esteem and who have for him a great deal of admiration and affection.

Mr. **MICHEL**. Mr. Speaker, will the gentleman yield?

Mr. **MAHON**. I yield to the gentleman from Illinois.

Mr. **MICHEL**. Mr. Speaker, I appreciate my chairman yielding to me, and notwithstanding the unanimous-consent request he just made, I think it very appropriate that at least one Member on the minority side join in the accolade and salute given to a Member before he actually leaves this body.

Serving so closely as I have with BOB CASEY on that very important Subcommittee on Labor-HEW, I know that as a family man with 10 children he had a great amount of input into those deliberations in the area of education.

With respect to welfare, the more conservative nature of the Member came out with probing, prying questions. In the health area, particularly, a few years ago we joined in an effort with respect to cystic fibrosis. I personally am going to miss the fact that BOB CASEY will be there every day, as he was one of the most diligent members of the subcommittee. We are going to wish him well on his new responsibilities which he will assume as soon as he can arrange, as I understand, a few technical matters with respect to pay scales and so forth.

Mr. **MAHON**. I am pleased to state that the gentleman from Texas (Mr. CASEY) does leave here a great record in connection with many legislative matters, a heritage which he and his lovely family can always cherish.

Mr. **FLOOD**. Mr. Speaker, will the gentleman yield?

Mr. **MAHON**. I yield to the distinguished gentleman, the chairman of the Subcommittee on Labor-Health, Education, and Welfare.

Mr. **FLOOD**. I thank the gentleman for yielding.

Mr. Speaker, I am glad that I just did that last 100 yards in about nothing flat. I did not know the gentleman from Texas (Mr. MAHON) was on the floor this minute. I knew he was going to be. So if I am out of breath, it is because I wanted to rush here and use whatever breath of life I have at this minute to extol our friend, the gentleman from Texas (Mr. Casey).

Mr. Speaker, I remember reciting years and years ago "Casey at the Bat." The Members will remember that, "Casey at the Bat." If there was ever a man that must have been written for, it was our friend Casey from Texas.

Mr. Speaker, as the Members know, I have been serving as chairman of the subcommittee on which he has been serving, and year after year, whenever we needed him, Casey was there. I always say to my staff, "Where is Casey?" Casey is here.

Mr. MAHON. If the gentleman will permit, Casey has been at the bat for 17 years and he has never struck out.

Mr. FLOOD. That is right. I have come to know Bob Casey very well, because he has been a key member of the Labor-HEW Appropriations Subcommittee for as long as I have been its chairman. During these past 9 years our subcommittee has put in thousands of hours hearing testimony and debating the difficult issues which are inherent in dealing with the Federal Government's human resources programs. During the current session of Congress alone, our subcommittee has already handled a series of appropriations measures for fiscal year 1976 which, in the aggregate, provide more than $50 billion in budget authority for hundreds of separate and distinct labor, health, education, and welfare programs.

I know of no member of the subcommittee whose contribution to the decisionmaking process has been greater than Bob Casey's. We have always been able to rely on him for deliberate and thoughtful analysis of the many difficult problems which we must face. His penetrating questions have helped us to get to the bottom of the matter on countless occasions. Bob Casey is a man who does not waste words or tolerate fools gladly. I congratulate the President on having the wisdom to appoint Bob to the Federal Maritime Commission, but I deeply regret that the House of Representatives and the Appropriations Committee are losing one of our most experienced and most respected members.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I will yield to the gentleman from Mississippi, the ranking majority member of the committee.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Speaker, I do want to join in the discussion about the gentleman from Texas (Mr. Casey). Incidentally, he is a very distinguished and able member of the subcommittee that handled these matters we just brought here. In the years I have been here I have never heard anyone say anything but kind things about Bob Casey. I have never heard any Member question any statement he has made or take issue with any stand he has taken—and he always took a stand.

Certainly in losing Bob Casey we are losing an outstanding Member, and the record he has left in Congress will be one of outstanding service and a challenge to those who serve here now and who will come after.

Mr. WRIGHT. Mr. Speaker, it is a pleasure to join my colleagues in this well-deserved verbal salute to our friend Bob Casey. As always is the case when one of our cherished associates decides to leave the Congress, it evokes mixed emotions.

Bob Casey's many productive contributions to the business of the Congress will be sorely missed, along with his never-failing quiet commonsense and good humor. In Bob's case, however, we who have so thoroughly enjoyed our service with him may have the comfort to know that he will still labor in the vineyards of Government as Federal Maritime Commissioner, and still will be very much a part of the Washington scene.

In fact, Bob has given notice privately that such other former Members as the redoubtable Carter Menasco can move over and make room for him as he fully expects to be spending some time here on Capitol Hill.

Bob Casey is known to many of us as one of the most delightful companions, and one of the most understanding, and one of the sagest in the ways of people and of politicians. Understanding the foibles of the system and the eccentricities of its practitioners, Bob has brought a benign spirit of an understanding nature to help us frequently make sense out of legislative chaos.

As he leaves our ranks, we all most certainly will join in wishing for Bob and Hazel and their marvelous family of more children and grandchildren than I can count, the joys, and happiness which they so richly and truly deserve.

Mr. KRUEGER. Mr. Chairman, as a new Member of Congress, I have not had the privilege of knowing and working with my friend and colleague, Bob Casey, as long as have many others in the House. But all who have worked with him know him as a man who works hard, thinks clearly, and proceeds fairly with his colleagues. It is always tempting to come to this body and stand for nothing, or to speak only for things that it is comfortable to speak for. Bob Casey has been tougher than that. He has stood his ground, spoken forthrightly for his values and those of the people he represents, and has not yielded his convictions to convenience.

Those who knew him long will miss his presence here as he goes to assume duties in the Federal Maritime Commission. Those of us who knew him a shorter time will miss what we would have known, and will appreciate the time we shared with him. And we will all, old friends or new, wish him well in his new duties.

Mr. de la GARZA. Mr. Speaker, when we say "adios" on the Texas border it has more meaning than "goodby" because it is with a prayer that we send somebody on his way—even though it is only a short distance.

And it is with this feeling that I say "adios" to Bob Casey—an illustrious Member of the House of Representatives who has served his State and his Nation with honor and distinction—who has been a stabilizing factor in his delegation—who has been an inspiration to the many who have known him as the father of a large family—a substantial factor in his own constituency of Houston where he served as county judge of Harris County before coming to the House of Representatives—and here in Washington where he has been a vital part of the Nation's business.

We hate to see Bob Casey leave us—but maybe the Maritime Commission forum will offer a new challenge to a man who has already conquered so many so excellently.

With gratitude for having had the privilege of serving with him and with pleasure at having known Bob and his lovely wife, Hazel, I say "adios".

Mr. BOLAND. Mr. Speaker, I want to add my best wishes to Bob Casey as he leaves the Congress to become a Commissioner of the U.S. Maritime Commission.

Bob has been in the Congress for 17 years, and I have come to know him well during the 9 years that he has served on the Appropriations Committee. He is a diligent, effective, and hardworking Member. His service on the Labor-HEW Subcommittee involves some of the most complicated and complex legislation faced by Congress. We owe much to his insight and understanding. They have been an asset in finding workable solutions to the problems faced by that subcommittee.

But Bob's talents have been put to especially good use as chairman of the Legislative Subcommittee. I do not believe there is a Member in this Chamber who would question his basic fairness in handling the hundreds of detailed items in the legislative budget.

Others here today have made reference to Bob's family. He has 10 children—5 boys and 5 girls. I cannot help but feel that his large family is an important part of his success. He likes people and he knows how to deal with them. We will all miss his special blend of warmth and ability, but our loss is the Maritime Commission's gain. He will be a major plus in their work, and along with his constituents, his colleagues and his friends everywhere, I want to wish Bob Godspeed and success in the years ahead.

Mr. BROOKS. Mr. Speaker, for the past 17 years, it has been a privilege to serve in this body with the distinguished gentleman from Texas, and my good friend of many years, Bob Casey.

Our friendship goes back a long time to when we served together in the Texas State Legislature. He has been an outstanding Representative for his constituents, in the State legislature, during his tenure as Harris County judge and then in the U.S. House of Representatives. His diligence on the Appropriations Committee has earned him the respect of all of his colleagues in Congress.

I owe Mr. Casey a personal debt of gratitude for when he came to Washington he had the good judgment to hire a beautiful young lady from Cameron, Tex.—that young lady is now my wife, Charlotte.

Charlotte and I have the warmest affection for Bob and Hazel and their fine family. Bob's presence will be deeply missed here in Congress, but I am delighted that he and Hazel are staying in Washington and I wish him every success in his work on the Federal Maritime Commission. He certainly deserves the honor inherent in the appointment.

Mr. SIKES. Mr. Speaker, on November 13, President Ford appointed our distinguished friend and colleague, Bob Casey, to the Federal Maritime Commission. While this appointment in itself is a great honor and will provide Bob with a new opportunity to serve his great State and the Nation, I regret very much that the House of Representatives will lose one of its most capable and effective leaders.

Bob Casey is my good friend and it has been both a privilege and a pleasure to work with him during the 17 years since he came to Congress to represent the 22d District of Texas. I have particularly enjoyed our close working relationship since he became a member of the Appropriations Committee in 1967. His service in the Congress has placed him among the more powerful House Members. He is a ranking member of the Appropriations Committee and is chairman of the Legislative Branch Subcommittee which handles funding of the complete operations of Congress and its related agencies. He also serves on the Labor-HEW Subcommittee, and the Agriculture and Related Agencies Subcommittee.

Bob is well qualified for the job to which he has been appointed. The Maritime Commission is charged with regulating the Nation's shipping industry and Bob Casey has a strong background in maritime affairs. The Port of Houston, which is in his congressional district, is third in the Nation in cargo tonnage. For many years he worked closely with the Port of Houston and the shipping industry. He served on the House Merchant Marine Committee from the time he was elected to Congress until he was appointed to the Appropriations Committee in 1967. He has continued to take an active part in the Nation's development of port and waterway improvement programs.

I commend the President for his choice of Bob Casey to fill a vacancy on the Maritime Commission, but we will miss him and his outstanding work in the Congress. His calm and able counsel has been invaluable. His contributions will constitute a great monument to his dedication.

Mr. BURLESON of Texas. Mr. Speaker, I have mixed emotions on the occasion of our colleague Bob Casey leaving the Congress.

I regret to see him leave this House of Representatives by reason of his great contribution to its deliberations, and particularly in that part of the Appropriations Committee over which he so ably presides.

It is, of course, gratifying that he is assuming another highly responsible position as a member of the Maritime Commission, where I know he will continue to render able and dedicated service in this new capacity. The legislative branch is, of course, one where history is made and which can mean so much to the people of this Nation. Bob Casey has rendered that sort of service for more than a decade and his record here will be a livng monument to him.

Needless to say, I wish him the very best in his new position and hope that he will find satisfaction in his new governmental duties and responsibilities.

Mr. COLLINS of Texas. Mr. Speaker, All of his colleagues here in the House wish Bob Casey a great future in his new challenge on the Maritime Commission. Bob has been a strong Member of Congress. As a fellow Texan, I will especially miss his commonsense and leadership on the Appropriations Committee.

With his home city of Houston being one of the greatest ports in America, Bob will add much wisdom in the deliberations of maritime matters, and I appreciate Bob's dedication. With a safe seat in Congress and permanent congressional tenure assured, he took a $6,000 salary cut to serve as a Commissioner. It is great to have Americans like Bob Casey who still consider service to country as a cause of dedication.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in regard to our colleague, the gentleman from Texas (Mr. Casey) who is retiring.

The SPEAKER pro tempore (Mr. Sisk). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. ROUSH. I yield to the gentleman from California (Mr. Wiggins).

Mr. WIGGINS. I thank the gentleman for yielding.

Once again, the only purpose in making my request is to indicate my personal opposition to the recommendation of the gentleman from Indiana that Congress disapprove these deferrals. Again, it is not my purpose to ask for a record vote on each one of them, but I do want to indicate that I support the deferrals. There has been a lot of talk in the last week or two about a subject that has little substance to it; namely, spending ceilings. But deferrals represent a concrete request to defer spending of a specific sum of money. There is nothing illusory about that. It is very real, and I for one would support these deferrals.

Mr. ROUSH. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, ENVIRONMENTAL PROTECTION AGENCY, RESEARCH AND DEVELOPMENT

Mr. ROUSH. Mr. Speaker, I call up House Resolution 921, recommending that the House of Representatives express its disapproval of proposed deferral D76–80 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 921

Resolved, That the House of Representatives expresses its disapproval of the proposed deferral of $4,600,000 for the Environmental Protection Agency, Research and Development, as set forth in the deferral message D76–80 of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

Mr. ROUSH. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, ENVIRONMENTAL PROTECTION AGENCY, ABATEMENT AND CONTROL

Mr. ROUSH. Mr. Speaker, I call up House Resolution 922, recommending that the House of Representatives express its disapproval of proposed deferral D76–81 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. Res. 922

Resolved, That the House of Representatives expresses its disapproval of the proposed deferral of $3,750,000 for the Environmental Protection Agency, Abatement and Control, as set forth in the deferral message D76–81 of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. Roush).

Mr. ROUSH. Mr. Speaker, I would hope that this House Resolution 922 might also receive the approval of the House.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY, ENVIRONMENTAL PROTECTION AGENCY, ABATEMENT AND CONTROL

Mr. ROUSH. Mr. Speaker, I call up House Resolution 923, recommending that the House of Representatives express its disapproval of proposed deferral D76–82 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 923

Resolved, That the House of Representatives expresses its disapproval of the proposed deferral of $10,000,000 for the Environmental Protection Agency, Abatement and Control, as set forth in the deferral message D76–82 of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. Roush).

Mr. ROUSH. Mr. Speaker, I would hope again that the House would express its approval of this particular resolution.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY RELATING TO ENVIRONMENTAL PROTECTION AGENCY, ABATEMENT AND CONTROL

Mr. ROUSH. Mr. Speaker, I call up House Resolution 924, recommending that the House of Representatives express its disapproval of proposed deferral D76-83 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 294

Resolved, That the House of Representatives expresses its disapproval of the proposed deferral of $15,000,000 for the Environmental Protection Agency, Abatement and Control, as set forth in the deferral message D76-83 of November 29, 1975, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. ROUSH).

Mr. ROUSH. Mr. Speaker, once again I would hope that the House will vote affirmatively upon the resolution which is before it.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

GENERAL LEAVE TO EXTEND

Mr. ROUSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the deferral resolutions just agreed to by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ESTABLISHING HELLS CANYON NATIONAL RECREATION AREA IN OREGON AND IDAHO

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 322) to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 3, of the House engrossed amendments, strike out all after line 22 over to and including line 2 on page 4 and insert: boundaries of the Snake River segments thereof in accordance with subsection 3(b) of that Act: *Provided,* That the Secretary shall establish a corridor along the segments of the Rapid River and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further,* That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906).

Amend the amendment of the House to the title so as to read: "An Act to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes.".

The SPEAKER pro tempore (Mr. SISK). Is there objection to the request of the gentleman from North Carolina?

Mr. SEBELIUS. Mr. Speaker, I reserve the right to object.

I do so, Mr. Speaker, to ask the gentleman from North Carolina (Mr. TAYLOR) to explain the two Senate amendments.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, two amendments were added by the Senate.

The first amendment would make a wording change with regard to the detailed boundary along the Rapid River. I understand there is no acreage change. There is no cost involved. The boundary is made more specific.

The Senate also made a technical correction in the bill, reinserting the word "National" before the phrase "Recreation Area," as it appeared in the title of the bill. This makes the title conform to the language in the body of the bill.

Mr. SEBELIUS. Mr. Speaker, I thank the gentleman for that explanation; and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF INTERIOR TO ENROLL CERTAIN ALASKA NATIVES FOR BENEFITS UNDER ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1469) to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such act, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 1, line 3, strike out "authorized" and insert: "directed".

Page 2, line 22, strike out "village corporations" and insert: "Village Corporations".

Page 2, line 23, strike out "Alaska Native Claims" and insert: "the".

Page 2, line 24, strike out "who" and insert: "the Village Corporation or Corporations of which".

Page 2, line 25, strike out "receive surface and subsurface entitlement" and insert: "acquire title to the surface and subsurface estates of said reserves".

Page 3, line 12, strike out "the minimum number" and insert: "a sufficient number".

Page 4, line 24, strike out "reexamination" and insert: "redetermination".

Page 5, lines 6 and 7, strike out ", issued pursuant to section 14(g) of the Settlement Act, pertaining to land" and insert: "pertaining to lands".

Page 5, lines 14 and 15, strike out "the proceeds which" and insert: "the proceeds, together with interest, which".

Page 5, line 16, after "to" insert: "such".

Page 5, line 18, strike out "together with interest".

Page 5, line 24, strike out all after "be" over to and including "or" in line 1 on page 6.

Page 6, lines 7 and 8, strike out "deposit, such deposit to bear simple interest at a rate determined by the Secretary of the Treasury" and insert: "deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment".

Page 6, line 12, strike out "(25 U.S.C. 162a)" and insert: "(52 Stat. 1037)".

Page 6, line 18, strike out "subsection" and insert: "section".

Page 7, after line 5, insert:

"TEMPORARY EXEMPTION FROM CERTAIN SECURITIES LAWS

Page 7, line 17, after "all" insert: "the".

Page 7, after line 21, insert:

"RELATION TO OTHER PROGRAMS"

Page 8, line 4, after "1964" insert: "(78 Stat. 703), as amended".

Page 8, after line 21, insert:

"MERGER OF NATIVE CORPORATIONS"

Page 10, line 4, after "which" insert: "and who".

Page 11, line 1, strike out "consolidations" and insert: "consolidation".

Page 12, line 14, strike out "Alaska".

Page 12, lines 18 and 19, strike out "Alaska Native Regional Corporations or by Alaska Native" and insert: "Regional Corporations in Alaska or by".

Page 13, lines 1 and 2, strike out "Alaska Regional Corporation" and insert: "Regional Corporation in Alaska".

Page 13, lines 5 and 6, strike out "Alaska Regional Corporation" and insert: "Regional Corporation of Alaska".

Page 13, line 7, strike out all after "(c)" down to and including "enrollment," in line 9 and insert: "Whenever additional enrollment under the Settlement Act is permitted pursuant to this Act or any other provision of law.".

Page 13, line 11, strike out "such Act" and insert: "the Settlement Act".

Page 13, line 12, strike out "enrollment" and insert: "enrollment,".

Page 13, line 14, strike out "the Settlement" and insert: "such".

Page 13, line 15, strike out "Natives" and insert: "Native's".

Page 13, line 18, strike out "Alaska".

Page 13, line 22, strike out "Alaska".

Page 13, lines 22 and 23, strike out "regional or village corporation" and insert: 'Regional or Village Corporation".

Page 15, strike out all after line 22 over to and including line 11 on page 16 and insert:

"SEC. 11. The boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided,* That the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the Village of Yakutat the same rights and privileges to use any lands which may be conveyed to the Regional Corporation in the vicinity of Icy Bay for such purposes as such Natives have traditionally made thereof, including, but not limited to, subsistence hunting, fishing and gathering, as the Regional Corporation accords to its own shareholders, and shall take no unreasonable or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges."

Page 16, line 12, strike out "Cook Inlet Settlement.—".

Page 16, lines 15 and 16, strike out "("Region" hereinafter" and insert: "(hereinafter in this section referred to as the "Region")".

Page 17, line 6, strike out "Alaska Native Claims".

Page 17, line 21, strike out "set forth therein" and insert: "and the Region, as a matter of Federal law".

Page 17, line 22, after "(1)" insert: "title to".

Page 18, line 5, after "(3)" insert: "title to".

Page 18, line 5, strike out "township" and insert: "township".

Page 18, line 7, after "(4)" insert: "title to".

Page 18, line 12, after "(5)" insert: "title to".

Page 18, line 17, after "(6)" insert: "title to".

Page 18, line 21, strike out "Alaska Native Claims".

Page 19, line 10, strike out "owner" and insert: "Region so long as the Region owns such lands".

Page 19, line 11, strike out "Alaska Native Claims".

Page 19, line 15, after "any land" insert: "conveyed".

Page 19, line 18, strike out "Cook Inlet Region, Incorporated," and insert: "the Region".

Page 19, line 23, after "11(a)(1)" insert: "of the Settlement Act".

Page 19, lines 23 and 24, strike out "Cook Inlet Region, Incorporated," and insert: "the Region".

Page 19, line 24, strike out "Region" and insert: "Regional Corporation".

Page 20, line 2 after "11(a)(3)" insert: "of the Settlement Act".

Page 20, lines 3 and 4, strike out "Cook Inlet Region, Incorporated," and insert: "the Region".

Page 20, line 10, after "11(a)(1)" insert: "withdrawal".

Page 20, line 17, strike out "Region" and insert: "Regional Corporation".

Page 20, line 20, strike out "Cook Inlet Region, Incorporated," and insert: "the Region".

Page 21, line 5, strike out "Alaska Native Claims".

Page 21, lines 7 and 8, strike out "Alaska Native Claims".

Page 21, lines 8 and 9, strike out "3.5 townships of subsurface" and insert: "3.58 townships of oil and gas and coal".

Page 21, line 16, strike out "Alaska Native Claims".

Page 21, lines 19 and 20, strike out "regional corporation or village corporation" and insert: "Regional Corporation or Village Corporation".

Page 21, line 21, strike out "Alaska Native Claims".

Page 22, line 2, strike out "Alaska Native Claims".

Page 23, line 9, strike out all after "1974" down to and including "States" in line 11.

Page 23, line 16, strike out "Act:" and insert: "Act, and the conveyance of such lands shall also contain a provision that, if the lands cease to be used for the purposes for which they were conveyed, the lands and title thereto shall revert to the United States:

Page 24, line 9, after "Act." insert: "This conveyance shall be considered and treated as a conveyance under the Settlement Act."

Page 24, lines 15 and 16, strike out "Alaska Native Claims".

Page 25, line 1, strike out "corporations" and insert: "Corporations".

Page 25, line 3, strike out "Alaska Native Claims".

Page 25, lines 17 and 18, strike out "Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), is hereby" and insert: "Settlement Act is".

Page 26, line 2, after "2033" insert: ", or any successor provision,".

Page 27, line 6, strike out "west." and insert: "west;".

Page 27, line 7, strike out "west." and insert: "west;".

Page 27, line 8, strike out "west." and insert: "west;".

Page 27, line 10, strike out "25–28." and insert: "25–28;".

Page 27, line 12, strike out "25." and insert: "25;".

Page 27, line 13, strike out "1–35." and insert: "1–35;".

Page 27, line 15, strike out "36." and insert: "36;".

Page 27, line 17, strike out "28–33." and insert: "28–33;".

Page 27, line 19, strike out "21–24." and insert: "21–24;".

Page 27, line 21, strike out "33–36." and insert: "33–36;".

Page 27, line 23, strike out "27–36." and insert: "27–36;".

Page 27, line 25, strike out "29–33." and insert: "29–33;".

Page 28, line 2, strike out "36." and insert: "36;".

Page 28, line 3, strike out "8–15." and insert: "8–15;".

Page 28, line 4, strike out "3." and insert: "3;".

Page 28, line 6, strike out "13." and insert: "13;".

Page 28, line 6, after "13" insert: "S.M., Alaska, notwithstanding".

Page 28, line 7, strike out "Notwithstanding".

Page 28, line 21, after "assigns," insert: "such".

Page 29, line 23, strike out all after "the" over to and including "688)" in line 1 of page 30, and insert: "Settlement Act".

Page 30, line 8, strike out "national forests system" and insert: "National Forest System".

Page 30, lines 11 and 12, strike out "Alaska Native Claims".

Page 30, line 13, strike out "Alaska Native Claims".

Page 30, line 18, strike out "Group Corporations" and insert: "corporations organized by Native groups".

Page 30, lines 19 and 20, strike out "the Native Corporations for the cities of" and insert: "and the corporations organized by Natives residing in".

Page 30, line 20, after "Kenai," insert: "all as defined in this Act, and".

Page 31, line 4, after "the" insert: "appropriate".

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, there are absolutely no substantive amendments here. There are a number of technical and conforming amendments only.

I urge that the House concur in the Senate amendments.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, as the author of the original bill (H.R. 6644), I concur with the subcommittee chairman and urge concurrence in the Senate amendments as presented to this body.

The Senate amendments to the House amendments were concurred in.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. ALLEN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 825]

Abzug
Addabbo
Archer
Beard, R.I.
Beard, Tenn.
Bell
Biaggi
Bingham
Burton, John
Carney
Cederberg
Clay
Cochran
Conyers
Crane
Daniels, N.J.
Davis
Derwinski
Dickinson
Diggs
Dingell
Dodd
Drinan
Eckhardt
Erlenborn
Esch
Eshleman
Evins, Tenn.
Foley
Ford, Mich.
Fuqua
Gaydos
Gibbons
Gilman
Gude
Hagedorn
Harrington
Harsha
Hastings
Hébert
Heinz
Hillis
Hinshaw
Holland
Horton
Howe
Jarman
Johnson, Calif.
Jones, Ala.
Kemp
Krueger
LaFalce
Landrum
Leggett
McCloskey
McEwen
Macdonald
Madden
Martin
Mathis
Mink
Montgomery
Mosher
Moss
Mottl
Murphy, N.Y.
Myers, Ind.
Neal
Ottinger
Passman
Patterson, Calif.
Pepper
Pike
Poage
Quie
Randall
Rees
Reuss
Riegle
Risenhoover
Roe
Rostenkowski
St Germain
Santini
Schneebeli
Seiberling
Shuster
Sikes
Stark
Steelman
Steiger, Ariz.
Stephens
Sullivan
Talcott
Teague
Thompson
Thornton
Udall
Ullman
Waxman
Wilson, C. H.
Wilson, Tex.
Winn
Yates

The SPEAKER pro tempore (Mr. SISK). On this rollcall 330 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PROGRESS REPORT ON BICENTENNIAL SEED PROGRAM

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I know that the Members are about to go home for the Christmas vacation, and I have been beseiged by many telephone calls wanting to know the status of my Bicentennial seed program. I know many Members will be reluctant to take the planes back home until they have full knowledge of what the status is.

We had a hearing held by the Agricultural Subcommittee, headed by that great tribune of the people, the Honorable Joseph Vigorito, who served as chairman, and accompanying me at that hearing were two outstanding Members of Congress, the Honorable George Brown of California and the Honorable Charles Carney of Ohio.

For those who do not know about the activities of George Brown, he put in his newsletter last year the fact that there were available seeds for home gardening for his constituents. He thought that he might get a few thousand requests, and it developed that he had 20,000 people in his district who were interested in starting home gardens. It was the biggest response that any Member of Congress has ever had on any newsletter that has ever been sent out in the history of the Congress.

George Brown has a program out there. He has got high schools involved; he has got agricultural schools involved; he has got the students involved, the elderly, middle-aged people involved. He has got all kinds of programs going.

Charles Carney of Ohio has done an outstanding job in the lid bill. He held hearings last year, and now I understand lids are available to the public and that people are buying them up and are going to be ready for canning their homegrown vegetables for the coming spring. I am hopeful that the subcommittee will report on our bill favorably to the full Committee on Agriculture before the spring planting season starts.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I am happy to yield to the home gardener from New York.

Mr. WOLFF. Mr. Speaker, I want to congratulate the gentleman for the magnificent job he has done. I would ask the gentleman if, by this speech, he infers that the Congress has gone to seed?

Mr. BURKE of Massachusetts. I would not say that, no. Congress is always making progress on both sides of the aisle.

The SPEAKER pro tempore. The Chair will remind the gentleman that he only has 10 seconds left.

Mr. BURKE of Massachusetts. Mr. Speaker, I yield 1 second to my colleague from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's generosity in time allocation. Could the gentleman tell us, as a result of his vigorous efforts, how many new gardens were started in the country this year?

Mr. BURKE of Massachusetts. Mr. Speaker, this is one of the most alert Members of the House. One can tell that he is paying attention to this subject matter, because last year there were 6 million new home gardeners, and if my bill is passed, the projections we have are that there will be an additional 15 million home gardeners.

ANGOLA, CUBA, AND THE UNITED STATES FOREIGN POLICY—DO WE KNOW WHAT WE ARE DOING?

(Mr. McDONALD of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remark.)

Mr. McDONALD of Georgia. Mr. Speaker, it seems that nothing changes. The administration announces that we have become involved in Angola in order to achieve a stalemate—so that no one will dominate the area. Is that not incredible. Sounds like the same folks that brought you Vietnam. We achieved a wonderful stalemate there, did we not?

We are treated to the wonderful spectacle of the administration trying to keep funds to subsidize two groups in Angola against the Soviet faction there. Then for the wrong reason the other body declares we shall not become involved and cuts off funds. The action is correct that we should not be involved if we do not intend to win the struggle. Meanwhile, with Cuban mercenaries pouring into Angola, the Commerce Department rushes ahead with yet another concession to Castro in relaxing trade restrictions against Communist Cuba. Is it any wonder why the administration has difficulty in selling its foreign policy on Capitol Hill? Our foreign policy is not logical. Could it be that our Socialist one-worlder policymarkers have learned nothing? I think this is the case and until we begin to act in the interest of America and in the interest of freedom and victory over communism we will continue to stumble from defeat to defeat.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I do not know who might be on the other side who could respond, but I think we are at that juncture here that Members would like to have some idea of how we might proceed.

Mr. Speaker, I understand that the ConRail bill passed the Senate a few moments ago by a vote of 51 to 29. The Members seem to be here to take up the conference report, and I think we should know if we are trying to kill time or if we are trying to expedite the work of the Congress, to get this completed, so that we can get to other items.

The SPEAKER pro tempore. If the gentleman will permit the Chair to make a brief statement, the Chair understands the statement of the gentleman is correct, and the matter is supposed to be en route to the House floor. The Chair is simply at this moment attempting to protect the House and the Speaker, who is engaged at the moment, and we expect him momentarily.

As I understand it, the gentleman from West Virginia (Mr. Staggers) desires to make a statement.

Mr. STAGGERS. Mr. Speaker, all I can tell the Members is the same information that the Speaker indicated to the gentleman from Illinois: That it has passed the Senate and it is on the way, and it should be here momentarily. I am watching the door, hoping someone will come through the door with the papers. Just as soon as they do come, we will ask for recognition and try to pass the bill as expeditiously as possible.

PERSONAL EXPLANATION

(Mr. du PONT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. du PONT. Mr. Speaker, I hesitate to take this time to simply advise the House as to how I would have voted this morning on rollcall 820 and 821. If I had been here. I would have voted "aye." But I thought some of the Members who are about to vote on the railroad bill would like to know why I was not here.

I had a breakfast engagement at home this morning, and I got up and took the Metroliner cut of Washington. It got on the bridge at the Susquehanna River, and it stopped. We stopped there for an hour or an hour and a half, and they sent up another train from Baltimore. So we all walked out and climbed on the new train, and I got home in time to catch the 9 o'clock, which was 2 hours late. I got here too late to make the rollcalls.

I would like to say to those Members who are worried about the conference report to please vote for it. It would be helpful to those of us who want to get home for the holidays.

HON. LEWIS DESCHLER

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, this month is notable in the history of the House of Representatives. It marks the 50th anniversary of one of the employees of the House. I do not intend at this time to say much further than that, because the Speaker wants to take part in a recognition moment and, of course, he is not available at this time. But later on, the service of Lew Deschler, who began working for the House of Representatives 50 years ago this month, will be recognized, and I hope many Members will be here and will see fit to take part in recognition of his long and distinguished career.

CALL OF THE HOUSE

Mr. NEDZI. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 826]

Addabbo
Badillo
Beard, Tenn.
Bell
Bingham
Bonker
Brown, Calif.
Burton, John
Carney
Chappell
Clay
Conyers
Daniels, N.J.
Davis
Diggs
Dingell
Drinan
Edwards, Calif.
Erlenborn
Esch
Eshleman
Evins, Tenn.
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Gibbons
Gilman
Hanley
Harrington
Harsha
Hastings
Hébert
Heckler, Mass.
Hinshaw
Holland
Horton
Jarman
Johnson, Calif.
Jones, Okla.
Karth
Kindness
Landrum
Leggett
McCloskey
Macdonald
Melcher
Mikva
Mineta
Montgomery
Mosher
Moss
Mottl
Murphy, N.Y.
Myers, Ind.
Nichols
Ottinger
Patman, Tex.
Pepper
Poage
Preyer
Pritchard
Randall
Reuss
Rhodes
Risenhoover
Roe
Rosenthal
Rostenkowski
Runnels
St Germain
Scheuer
Schroeder
Shuster
Sikes
Skubitz
Stark
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Talcott
Teague
Thompson
Udall
Vander Veen
Waxman
Wilson, C. H.
Wilson, Tex.
Winn
Yates
Yatron
Young, Alaska

The SPEAKER. On this rollcall 338 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2718) entitled "An act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 9968. An act to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 726. An act to direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho;

S. 1187. An act to authorize the documentation of the vessel, *Bruja Mar*, as a vessel of the United States with coastwise privileges;

S. 1689. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended; and

S. 1941. An act to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes.

PERSONAL STATEMENT

Mr. PATMAN. Mr. Speaker, I desire to have my presence recorded on the last two quorum calls. I was here and recorded my presence, but I am recorded on only one of them.

SENATE AMENDMENTS ON H.R. 9968, AMENDING SECTION 103 OF INTERNAL REVENUE CODE

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and take from the Speaker's desk the bill (H.R. 9968) to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities, with the Senate amendments thereto, and concur in the Senate amendments with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert: Page 1, strike out all after line 4, over to and including line 10 on page 2 of the Senate engrossed amendments, and insert:

SEC. 1A. DECLARATION OF POLICY.

(a) Congress is determined to continue the tax reduction for the first 6 months of 1976 in order to assure continued economic recovery.

(b) Congress is also determined to continue to control spending levels in order to reduce the national deficit.

(c) Congress reaffirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974 under which it has already established a binding spending ceiling for the fiscal year 1976.

(d) If the Congress adopts a continuation of the tax reduction provided by this Act beyond June 30, 1976, and if economic conditions warrant doing so, Congress shall provide, through the procedures in the Budget Act, for reductions in the level of spending in the fiscal year 1977 below what would otherwise occur, equal to any additional reduction in taxes (from the 1974 tax rate levels) provided for the fiscal year 1977: *Provided, however*, That nothing shall preclude the right of the Congress to pass a budget resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by economic conditions or unforeseen circumstances.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

The Clerk read the title of the bill.

The SPEAKER. Is a second demanded?

Mr. STEIGER of Wisconsin. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Oregon is recognized for 40 minutes.

Mr. ULLMAN. Mr. Speaker, let me explain briefly what the situation is. As the Members know, we passed the tax reduction, and it was vetoed, and we failed to override the veto.

The Senate took exactly the same bill we passed, with no changes whatsoever insofar as the tax features are concerned, and added a very short amendment that gives some assurance that we would attempt to offset future tax reductions with expenditure reductions.

We have carefully examined that amendment. We have found that it would not meet, as it was written, with the approval of the members of the committee on this side in the House. We did however agree to the basic substance, and so we have redrafted the Senate amendment after consultation with the leadership, extensive consultation, I might say, and after extensive consultation with the majority members of both the Ways and Means Committee and Budget Committee and with the Speaker being in touch with the President by telephone. We were also in touch with Senator LONG and the people on the Senate side.

We have come up with substitute language which, according to our best tax people, makes no substantive changes in what the Senate has passed and sent over here and which the President had agreed to.

At the present moment I must say that the President has been given this full information. He has the text. He is studying it. I cannot conceive that he would not approve of it because substantively it does the same thing as the amendment he had previously agreed to.

But let me read it to the Members, and I know the Members all have copies. It begins:

> Congress is determined to continue the tax reduction for the first 6 months of 1976 in order to assure continued economic recovery.

I do not think anybody here can contest that. That is the most important reason we are passing the bill, and it is just a statement of the purpose as to why we are passing the bill. I cannot see anything that would cause anybody to be concerned about that language.

The second paragraph says:

> Congress is also determined to continue to control spending levels in order to reduce the national deficit.

I do not think anybody here would object to that language. I think everybody here would want to be associated with that language.

Then the third paragraph says:

> Congress reaffirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974 under which it has already established a binding spending ceiling for the fiscal year 1976.

I do not think anybody here could object to that in any manner, shape, or form. That is exactly what we have done. We have established our spending ceiling under the act.

The next paragraph goes on, and this is the one that contains the same basic procedural formula that was adopted by the Senate and agreed to by the President. Substantively, we think we made no changes in it; but there have been slight adjustments in phraseology. It reads:

> If the Congress adopts a continuation of the tax reduction provided by this Act beyond June 30, 1976, and if economic conditions warrant doing so, Congress shall provide, through the procedures in the Budget Act, for reductions in the level of spending in the fiscal year 1977 below what would otherwise occur, equal to any additional reduction in taxes (from the 1974 tax rate levels) provided for the fiscal year 1977.

Then the final proviso:

> *Provided, however*, That nothing shall preclude the right of the Congress to pass a budget resolution containing a higher or

lower expenditure figure if the Congress concludes that this is warranted by economic conditions or unforeseen circumstances.

That proviso was lifted almost entirely, with one minor change, from the language in the Senate bill that was approved by the President.

Now, Mr. Speaker, we have had this matter before us for a long, long time. I had been prepared to go home, having done all that we could possibly do, and tell the people that Congress simply had exhausted its remedies and there was no way to keep in place the tax reductions in January. I think most of the Members on this side were resigned to that same attitude and ready to go home and take that position.

Mr. Speaker, last night there was a movement over on the Senate side following a meeting, a leadership meeting. The Speaker and Senator MANSFIELD and the Senate leaders came over. They started a movement to try and work out some kind of compromise language that the President would accept. That resulted then this morning that the Senate confirmed that action and passed the bill with the amendment and sent it over here.

So I say that this language that we have worked out does not violate in any way the basic principles and purposes and procedures that were set forth in the Senate language that was approved by the President.

Mr. Speaker, I strongly urge that all of us vote overwhelmingly, both Democrats and Republicans, and accept this language, send the bill down. I cannot conceive that the President would not sign it.

Before I conclude, I want to say that I understand that both the Senate and the President have had trouble with some of the changes that we have made in the Senate language in our policy statement. I want to say that the changes are not intended to be substantive, and I do not believe they are. Let me go through some of them with you.

For example, I understand that some object to adding the language "and if economic conditions warrant doing so" at the beginning of the third paragraph. I would like to point out that this phrase is almost the same as that provided in the proviso at the end of the third paragraph. There, it is indicated that nothing would preclude the right of Congress to change the expenditure figure if this is warranted by economic conditions. As far as I am concerned—and I speak as chairman of the committee—this means nothing more by adding that material at the beginning of the paragraph. Therefore, it really is simply a redundant statement. However, some of the House Members felt that it was important to have this phrase appear up above to be sure that no one misunderstood that there was a condition that if economic conditions change, the commitment specified might have to be modified.

I know, also, that there are some that think that the omission of this word "changing" in front of economic conditions at the end of the third paragraph had some significance. I do not believe that there is any substantive effect occurring from this omission. I believe that it is clear that the economic conditions existing today do not warrant departing from the commitments specified, and I believe that it is only if economic conditions were to change that this would be true.

Also, I know of no other circumstances at this time which would require a change from this commitment. Of course other circumstances which are unforeseen at the present time may ultimately require such change.

I understand, also, that some question has arisen where we made reference to "additional reduction in taxes." It was the intention of all of us to refer to any reduction in taxes which occurs after June 30, 1976, even though it is the same amount of reduction which is already provided for in the period up to June 30, 1976. In other words, an extension of the existing tax reduction beyond June 30, 1976, would give rise to the requirement of an equal reduction in spending to offset a tax reduction.

The determination to control spending is, in my opinion, a determination which the Congress shares with the President. I know of his interest in reducing the national deficit, and I can assure him that Congress shares this determination with him, and that the statements we are making in this tax bill reinforce that determination.

Mr. Speaker, I yield to my distinguished colleague in this effort, the chairman of the Budget Committee, the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to state that I support the remarks of the chairman of the Committee on Ways and Means and to indicate that during the course of this day the President has indicated that he wanted to compromise his differences that he had stated in the past and the Senate had done so. We are trying to reach such an accommodation. I think in doing this, we have done so.

Mr. Speaker, the Senate amendment has been redrafted to meet the procedures of the Budget Control Act. The House under the Budget Control Act will be examining any stimulus by tax reduction, the terms of the stimulus, with the economic programs that require spending. We have done this in the past, but we have affirmed it in this particular language, so the President and the Nation know we will be doing it in the future.

Please notice that the Senate had sent over and had requested that there be no flat money ceiling figure there. I agree with that, because we have established a ceiling already for the fiscal year 1976 and we will establish a ceiling for fiscal year 1977, as provided under the Budget Act and as affirmed in this resolution.

So that I hope the Members, both Republicans and Democrats, will vote for the amendment as introduced by the chairman of the Ways and Means Committee so that we may send this to the President, and I am very hopeful that we will have this matter behind us.

Mr. ULLMAN. Mr. Speaker, I reserve the balance of my time.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I would like to add my voice in strong support of the tax reduction-spending limitation compromise reached this afternoon.

The agreement reached is highly responsible, taking, as it does, the best of both sides of this lengthy dispute. Taxes will continue to be collected at reduced levels as a stimulant to bring us out of an unpleasant recession, yet the spending limitation being put into effect will prevent the reduction in revenue from fueling another round of cruel inflation. This is sound policy, and is a policy that will benefit both individuals and the Nation as a whole.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FREY).

Mr. FREY. Mr. Speaker, today is an important day in the history of our Nation. For the first time in years we have recognized the principle that you cannot have it all; that if we are to cut taxes, we must reduce spending on a dollar-for-dollar basis. For the first time there is hope that our Nation will not go the way of New York City. There is also hope because a small but effective group of Congressmen, both Republican and Democratic, put what is right in front of what is politically wise.

Hopefully, people will no longer be bought with their own money. Hopefully, we can move towards a balanced budget and fiscal sanity. Hopefully, the country will return to a philosophy of "We the people" recognizing both rights and responsibilities. It is long overdue.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. Mr. Speaker, the Members on this side much prefer the Senate version of this approach to the problem. It is a lot more specific and has fewer conditions. We like some of the phrases in it; for example, the dollar-for-dollar cuts in tax and spending.

We do not turn our backs on the House version, but we indicate at this time that we have discussed this matter with the White House, and the White House much prefers the Senate version of this legislation. We are in the process of trying to develop some agreement and some comity with the White House with regard to its position on the House version.

Let me emphasize, however, that the critical issue here is putting into law the principle of relating cuts in taxes to cuts in spending. We must balance our income and outgo. The public endorses this concept and we Republicans are delighted that the Democrats finally have decided to go along with it.

Our minority leader just came from talking with the White House. I have indicated where we stand, and I think since the minority leader has just come into the Chamber, and may have a later version of this than I have, I will yield to him.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding. I have heard his version of what went on in my office, and it is absolutely accurate. The President does prefer the Senate language. As far as I personally am concerned—and I have studied both versions—I find no great fault and no great virtue with either one of them. I think that they are just about equal insofar as the quantification of their virtues, or faults, is concerned.

However, since the President does prefer the Senate version and since the other body adopted the language by a vote of 89 to 0, and passed the bill by a vote of 82 to 7, it seems to me that since they are so similar, it might be a more logical act on our part, to take the Senate language and send it to the President.

Mr. SCHNEEBELI. I thank the minority leader. I do agree that with either version we have come to a point where we do recognize the direct correlation and the means of trying to balance our income with our expenditures. We have come to that point.

I am glad that we have recognized this economic necessity insofar as our national fiscal policy is concerned. I would suggest that the Members on our side are on their own in the vote on this. The minority leader has indicated his position; I also would like to express myself—that we will go along and I personally will go along—with the language of the House, although we do prefer the Senate language. I think that the House leadership and the Ways and Means Committee, of course, will have to argue that out with the Senate and find out which version will prevail.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would observe to the gentleman from Pennsylvania that the recommendation which the gentleman from Oregon has made for spending ceiling language is eminently fair, and certainly a major concession to the President on the part of the majority side of the aisle. What this proposed amendment says is that the Congress, if it recommends a tax reduction next year, shall provide—for reductions in the level of spending equal to any reduction in taxes.

That creates a statutory obligation on the part of this body and the other body to match income with spending and place a ceiling on the spending. That the leaders of the Democratic party in the House have recommended this is a major concession to sound economics and the President's position. It is new ground for them. And we can hold them to it. They have finally got religion.

I honestly believe that the language of either body is acceptable because of this historic joinder of tax reductions and spending limits. But since the gentleman from Oregon and his party have made this concession, and suggested this language in this great Christmas spirit we have heard about, I think we ought to accept. I am sure the other body would go along with that. The ultimate result will be the economic well-being of the American people.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. SCHNEEBELI. I yield to the gentleman from New York (Mr. Conable).

Mr. CONABLE. I thank the gentleman for yielding. I regret we have a procedure here in which we are not going to have a chance to express our preference for the Senate or House version. I do not see a great deal of difference between the two, but I would like to ask the author of the House version, if he wishes to disclose himself, what he thinks has been accomplished in the change.

Mr. Speaker, it seems to me there is a very little difference, and if there is a difference on the interpretation to be made between the two I would like to know what it is so that I can understand the choice that I am being denied.

The SPEAKER. The time of the gentleman from Pennsylvania (Mr. Schneebeli) has expired.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York (Mr. Conable).

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I will yield to the gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. I thank the gentleman for yielding. Mr. Speaker, I have looked around to try to find the collective authors, and there are many of them on the floor, so I cannot hope to speak as the author. But we feel that this language expresses the views of the Congress in fiscal matters in the Budget Committee and in the budget procedures in a very proper way. Of course in this regard I intend to include the clarifications I previously made. I do not believe there are substantial differences from the Senate version.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I will yield to the gentleman from Ohio (Mr. Ashley).

Mr. ASHLEY. I thank the gentleman for yielding. Mr. Speaker. let me say that the order of the first three programs is entirely deliberate on the part of those of us who had a hand in the drafting, because we start with the Congress is concerned with the economy and is determined to continue the tax cut in order to assure the continued recovery from a recession. We start with that for a good reason, because we believe that very deeply, that it is that order of essentiality. Then we say in effect to the President, "Yes, we can understand your concern, as you have often expressed it, for reduced Federal expenditures."

So we address ourselves to that in the second paragraph and that, too, we say with conviction, that Congress is determined to continue—because we have set spending ceilings—to control spending in order to reduce the national deficit.

Then we say, as we did yesterday during the debate, that Congress is going to stand by its commitments to the procedures established by the Congressional Budget Impoundment Control Act. That was the heart of the debate, as the gentleman from New York will agree, I am sure. So we set these programs out very deliberately.

The SPEAKER pro tempore. The time of the gentleman from New York has again expired.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 3 additional minutes to the gentleman from New York (Mr. Conable).

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his explanation.

I can see some change has been made with respect to the reference to economic conditions. I am wondering if there was anything deliberate in that or if it was simply a change in wording.

Mr. ULLMAN. If the gentleman will yield further, I think the gentleman will surely agree that we are in a situation where there is no way that we can predict what the economic conditions are going to change. It depends upon many different factors. If the economy is going well we will find one answer, and if it is not going well we will find another answer. But I agree it will require a change in economic conditions for there to be a change in the commitment in our policy statement.

Mr. ANDERSON of Illinois, Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. I thank the gentleman for yielding. I believe the language of this proposed amendment is clear to me, but I have had a number of Members on the floor ask me about the phrase that appears five lines from the bottom of the copy which was made available to me, the phrase, "equal to any additional reduction in taxes."

Mr. Speaker, this conference report would continue the $17 billion tax cut for 6 months. I am sure that all of us expect that at the end of 6 months it would be continued further. Some Members have raised the question thereby: Are we implying with that word, "additional," that only in the event that some tax reduction above and beyond this $17 billion were put in place would the Congress be under the responsibility of reducing dollar for dollar the spending?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the chairman of the committee.

Mr. ULLMAN. Mr. Speaker, I think my friend, the gentleman from Illinois, understands the situation, but he is attempting to clarify it for the benefit of all the Members.

This relates very clearly to any increase above the 1974 levels. In other words, if we are to extend the reduction beyond July 1, then this provision does apply because we are relating it to any additions above the 1974 level after July 1.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman. I think that makes it perfectly clear.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. Waggonner).

Mr. WAGGONNER. Mr. Speaker, the gentleman from New York (Mr. Conable) raised the question about whether or not there was any significance to the additional reference having to do with changing economic conditions.

I sat in on both of these sessions, and I can assure the gentleman that there is not. To prove the point, I suggest the gentleman look at the initial language we ourselves made reference to, and that is: "warranted by changing economic conditions."

It may be redundant, but it is meant to reflect exactly that.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, the distinguished chairman of the Committee on Ways and Means said a few moments ago that we now have the clearly expressed intent of Congress to move toward fiscal responsibility as a result of this wording. The clearly expressed collective intent of Congress for the last 15 years has been to move toward fiscal responsibility, and yet we are winding up with a $75 billion deficit today.

Are these words to be worth more than the collective words that have been spoken for the last 15 years? And if they are, what economic conditions are we talking about that will warrant a reduction in expenditure to coincide with the reduction in taxes?

Are we talking about barometers such as unemployment? Are we talking about a gross national product increase? Are we talking about inflation?

What subjective decision will be made, and who will be the determiner as to whether economic conditions warrant a reduction in expenditures?

I would like to ask the distinguished chairman of the Committee on Ways and Means just exactly what is involved here that is so different from the collective expressed intent to move toward fiscal responsibility that we have heard from the Congress for the last 15 years?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, he knows very well that when the Committee on Ways and Means acts and when the Committee on the Budget acts, we confer with many, many people. We may or may not have public hearings.

We talked with many economists in this last instance. We had the opinions of more than a dozen leading economists around the country. We considered the indicators, which are obvious and which are there for everybody to see. We considered the view of the executive branch of Government, the Department of Commerce and the Department of Labor.

It has to be a combined effort. I think as we move along, there is a general consensus as to where the economy is. There certainly is a consensus now that we need this tax cut. I do not know what that consensus will be in July, and that is why we have to put this language in the bill.

Mr. ARCHER. Mr. Speaker, is the chairman of the committee then saying that what we will be doing is taking a majority vote of the leading economists as a basis for the decision as to whether economic conditions warrant a spending reduction?

Mr. ULLMAN. No, I did not say that at all.

Mr. Speaker, if the gentleman will yield further, I said that we get our views from a broad spectrum of opinion. We consider all of the indicators, and we get some of our views, yes, from economists, and also from business leaders and labor leaders, and we consult unemployment statistics.

I think that we have sufficient science in this area now so that we can determine it with some scientific correctness.

Mr. ARCHER. This, then, could be a majority determination on a subjective basis, based on whatever economic indicators the majority wants to draw on; is that correct?

Mr. ULLMAN. That is a factor in the decisionmaking process.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I am happy to yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, we have here precisely what will occur next year.

The SPEAKER. The time of the gentleman from Texas (Mr. ARCHER) has expired.

Mr. ULLMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, we have here precisely what will occur under the act that has been passed by this Congress. Next spring there will be a series of hearings. We will come on the floor with over 10 hours of debate.

There will be a decision made as to what economic conditions are, and there will be a balancing off of what kind of stimulus this Congress wants to put into the economy or does not want to put into the economy. We will consider the proper balance of tax cuts and spending programs to determine which should be used, if either, to stimulate the economy. We are not enacting a tax cut which will contibute beyond the point where we already have a spending ceiling.

Therefore, Mr. Speaker, we are trying to meet the President's goals which he has set out and as well as the goals this Congress has set out of controlling expenditures and revenues and balancing them properly.

Mr. ARCHER. I take it, then, from what the gentleman said, that basically we will be in the same situation as the one we would be in if we had not put this language in the bill at all; is that a fair statement?

Mr. ADAMS. I would not exactly say that.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding.

I think it is not inappropriate for me to say that I think we can all be proud of our Congress, of our President, and of our system. I think we are working in the public interest, and this is what we should be doing.

I think all of us were moved yesterday by the remarks of the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN), and by the remarks of the gentleman from Pennsylvania (Mr. SCHNEEBELI).

We are trying here to do some public good, and I congratulate Congress.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. Yes, I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I rise in support of this motion.

Mr. Speaker, I support this compromise proposal to extend tax cuts into 1976 and, at the same time, to put Congress on record as acknowledging the imperative to act to curtail the rise of Federal deficits.

This year, the deficit in the Federal budget will be $73 billion and the total national debt will be $620 billion. Prices will have risen by 24 percent in 2 years, thus stealing away the purchasing power of the average wage-earner and robbing the savings of most middle-income and low-income Americans, especially the elderly.

This bill is a valuable compromise because, under its terms, the taxpayer is relieved of a tax increase and the Congress has been forced to recognize the importance of budgetary responsibility for the future.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Michigan.

The SPEAKER. The time of the gentleman from Washington (Mr. ADAMS) has expired.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the spending ceiling we are adding to the tax cut is surely no real limitation on spending. But then neither is any resolution we might pass today. The Congress can undo anything we do today. Whether we pass a strong statement or a flabbly one, it can always be repealed or ignored in the future.

But what is important today, is that Congress will finally be speaking on the need for a spending limit. The senior Senator from Louisiana has done a fine job in creating and promoting this spending limit language. The distinguished gentleman from Oregon is also to be congratulated.

Because the resolution is not strong enough, the President will not be getting exactly what he wants, but the Presidetn is getting his principle.

That is the main point. The President courageously vetoed a bill without a spending limit. Many of us here were accused of being hardhearted for being willing to sustain that veto, and for fighting for that spending ceiling.

Now we have a ceiling. Whether its a strong statement or a weak one, I am pleased to declare it a victory for the spending ceiling. If anyone else wants to claim victory for it, or for any other principle, that person has my blessing, but no such declaration can dim the victory of the spending ceiling.

I believe the people understand that this is a limit—that it is a moral commitment. The Congress can easily escape from its commitment through the loopholes in this language. But it will be more difficult to escape from the judgment of the people if we avail ourselves of the loopholes.

I believe we on the Republican side

should accept this language and accept it with alacrity. We have achieved that which we have strived for. It can be taken away from us, and it may be, but the majority will be stuck with its commitment. It cannot escape its obligation. I urge the passage of the motion.

Mr. STEIGER of Wisconsin. Mr. Speaker, I simply want to compliment the gentleman from Minnesota (Mr. FRENZEL) and agree with his statement.

Mr. Speaker, at this time I yield 1 minute to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I just want to make two very brief observations. In the first place, we would not be here with this kind of a discussion today, or have any kind of a commitment made on the part of all of us unless we would have first sustained that veto. That brought us to this juncture.

Second, I know that the language is very laudable, and might suggest to many that it will lead toward really preserving the budgetary process that we have desired in our House reform movement but, Mr. Speaker, all these words will not mean a thing so far as the future of our country is concerned until we get each and every one of the spending bills in the coming session and go right down the line on them and say do we agree, yes or not on the issue of controlling spending? That is where we will make the record of this Congress. And I will remind each and every one of the Members that upon those two factors our good faith rests.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield two minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I have really enjoyed the intrigue of all of the political posturing of the last several days.

But Mr. Speaker, I am glad it is over—not for me or for you or for our colleagues as individuals—but for the Congress itself as an institution of our Government. There are those who believe the Democrats gained political advantage by powering through an extension of the tax reduction without any commitment to a spending limit. There are also those who believe the President and the Republicans won for making a valiant effort to achieve a commitment to a spending limit. The truth is, Mr. Speaker, that the people of our country are applauding neither of us, they are wondering how Congress expects to effectively run the business of the country when we have such a hard time managing the affairs of the Congress itself.

However, Mr. Speaker, now that the political posturing is at an end, at least for now, the people have been served once again.

Mr. Speaker, while I will support this extension of the tax reduction this afternoon, including the language which refers to spending controls—in all honesty, I must say to our colleagues that neither this compromise language offered by the Democrats nor the language so strongly supported by the Republicans will bring about the fiscal reforms our country so desperately needs. The truth is there are only two ways to balance our budget or establish a real spending ceiling. One way is to write the requirements into the Constitution of the United States.

The other, Mr. Speaker, is for this Congress to apply the spirit of the language we adopt today to each and every spending bill which comes before the House in this coming year. And that is the only way we are ever going to get our fiscal house in order.

Mr. Speaker, in closing, I want to wish you and everyone of our colleagues a very sincere Merry Christmas.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, does not the gentleman from Florida think that there has been significant progress made when the majority party commits itself straight out to the principle of a balance between taxes and spending? This is certainly one of the most remarkable things I have ever heard of. It is unique. I do not think I remember having ever seen it done before. They are to be commended, for a change, for their momentary lapse into fiscal wisdom.

Mr. YOUNG of Florida. Mr. Speaker, it does appear there is still hope for the fiscal well-being of our great country.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding and I rise in support of the resolution. I hope all of the Members can catch their airplanes. Let us go home.

Mr. ULLMAN. Mr. Speaker, I would inquire of the gentleman from Wisconsin whether the gentleman yields back his time?

Mr. STEIGER of Wisconsin. Yes, Mr. Speaker, I yield back my remaining 1 minute.

Mr. ULLMAN. Mr. Speaker, I recognize the distinguished majority leader the gentleman from Massachusetts (Mr. O'NEILL) for the final 3 minutes.

Mr. O'NEILL. Mr. Speaker, I direct my remarks to my side of the aisle, in particular. Some of the Members on my side of the aisle recall that I was determined yesterday that the vote on the veto would be the final vote. But it was not. I do appreciate the situation and ask all of you to bear with us. The fact is that the President of the United States has painted himself into a corner. He has endangered the economy of this country. Compromise has been the art of Government through the years.

Let us have no tax bill. What happens then? There are those who would be affected in the first part of the year. Our economists tell us that it would take one and a quarter billion dollars out of the economy each month and ultimately cost 500,000 jobs.

The actions we have taken have bottomed out the depression.

We cannot accept the Senate's version of the tax cut extension. It was written, as I understand, by Members on the other side of the aisle, by Members of the Senate sitting with the President of the United States. We feel that we, with the benefit of advice from our experts should have an input into writing the language. Maybe it is only a matter of semantics, but we feel as though we should have an input.

I want to congratulate the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN). I want to congratulate the gentleman from Washington (Mr. ADAMS). I want to congratulate all the members of both the Committee on the Budget and the Committee on Ways and Means who sat down to draft this language. I think it is in the best interests of the Nation. I feel as though we do have to go along because of what it means to the economy of our country.

I ask the Members on my side of the aisle to follow the chairman.

Mr. LAGOMARSINO. Mr. Speaker, I support H.R. 9968. It is essential that this Congress not adjourn without settling the issue of extending the tax cuts and the corresponding issue of the need to establish a responsible spending limitation. Both issues are critical: The tax cuts, which I voted for earlier this year, must be extended in order to keep the economy moving, to continue to bring us out of the recession. On the other hand, I believe that the majority of my constituents, as well as the majority of all Americans, agree with me that Government spending must be controlled. They know, as we do, that deficit spending is a primary cause of inflation—the cruelest form of taxation.

I do not believe the House amendments to H.R. 9968 are as good as the Senate version. However, this proposal does, for the first time, put the Congress squarely on record as being committed to reducing spending by the same rate by which tax rates go down.

This is what the veto was all about. This is why I voted to sustain the veto. Tax cuts must be considered in relation to spending reductions. H.R. 9968 will, if passed, do just that.

Both sides, I suppose, can claim victory—perhaps both would concede they have not gained all they wanted.

The point is, however, that the real winners, if this bill is passed, would be the people. I urge an "aye" vote.

Mr. ULLMAN. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and concur in the Senate amendments with an amendment.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 10, answered "present" 2, not voting 50, as follows:

[Roll No. 827]

YEAS—372

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.

Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Frey
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harris
Hastings
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Stratton
Stuckey
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—10

Archer
Brown, Mich.
Collins, Tex.
Crane
Giaimo
Jacobs
Johnson, Colo.
McDonald
Rousselot
Steelman

ANSWERED "PRESENT"—2

Burton, John
Harkin

NOT VOTING—50

Bell
Bingham
Carney
Conyers
Daniels, N.J.
Diggs
Eshleman
Evins, Tenn.
Ford, Mich.
Fuqua
Gaydos
Gibbons
Gilman
Harrington
Harsha
Hays, Ohio
Hébert
Hicks
Hinshaw
Horton
Johnson, Calif.
Jones, Okla.
Landrum
Leggett
McCloskey
Macdonald
Melcher
Montgomery
Moss
Mottl
Murphy, N.Y.
Nichols
Ottinger
Pepper
Poage
Randall
Roe
Rostenkowski
Ruppe
Sebelius
Smith, Nebr.
Stark
Steiger, Ariz.
Stephens
Sullivan
Talcott
Teague
Wilson, Tex.
Winn
Yates

The Clerk announced the following pairs:

Mr. Teague with Mr. Bell.

Mr. Hébert with Mr. Gibbons.

Mr. Dominick V. Daniels with Mr. Harsha.

Mr. Ford of Michigan with Mr. McCloskey.

Mr. Harrington with Mr. Jones of Oklahoma.

Mr. Pepper with Mr. Eshleman.

Mr. Hays of Ohio with Mr. Melcher.

Mr. Ottinger with Mr. Conyers.

Mr. Montgomery with Mr. Randall.

Mr. Murphy of New York with Mr. Horton.

Mr. Stark with Mr. Yates.

Mrs. Sullivan with Mr. Evins of Tennessee.

Mr. Rostenkowski with Mr. Landrum.

Mr. Roe with Mr. Gilman.

Mr. Fuqua with Mr. Winn.

Mr. Carney with Mr. Johnson of California.

Mr. Bingham with Mr. Talcott.

Mr. Diggs with Mr. Hinshaw.

Mr. Mottl with Mr. Ruppe.

Mr. Moss with Mr. Charles Wilson of Texas.

Mr. Nichols with Mr. Stephens.

Mr. Leggett with Mrs. Smith of Nebraska.

Mr. Macdonald of Massachusetts with Mr. Sebelius.

Mr. Hicks with Mr. Steiger of Arigona.

Mr. D'AMOURS changed his vote from "nay" to "yea."

Mr. HARKIN changed his vote from "nay" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CONFERENCE REPORT ON S. 2718, RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1975

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 18, 1975.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS) for 30 minutes.

Mr. STAGGERS. Mr. Speaker, this bill has to do with the revitalization and reorganization of the railroad system in the United States and mainly for the Northeast corridor of the United States, which affects seven railroads.

Mr. Speaker, the House has acted upon this bill and with a very convincing vote. We went to conference. There were some changes made. I might say that in a hurry to get it expedited and back to the floor, the staff worked until 3 o'clock this morning trying to complete the report and inadvertently left out a few provisions that should have been in the bill.

Mr. Speaker, I understand the Senate is sending over a concurrent resolution to correct these errors. We will vote on them after we vote on the bill.

Mr. YOUNG of Texas. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas (Mr. YOUNG).

Mr. YOUNG of Texas. Mr. Speaker, the language that was adopted by the subcommittee and by the full committee and agreed to in conference should read as follows:

> Notwithstanding any other provisions of this act the authority and responsibility of the Commission to guarantee the equalization of rates between ports and within ports where outstanding orders of the Commission have been issued shall remain intact.

Mr. STAGGERS. Mr. Speaker, I would agree wtih the gentleman, and I will say that we hope to attach that to the Senate resolution when it comes out.

Mr. YOUNG of Texas. Mr. Speaker, will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman from Texas (Mr. YOUNG).

Mr. YOUNG of Texas. I thank the gentleman for yielding.

Mr. Speaker, the text of the conference report, on page 123, in the middle of the page, "Conference substitute," should read as follows:

> Conference Substitute
>
> The conference substitute follows the Senate bill and in addition provides that nothing in this section shall be construed to affect the existing law or the authority of the Commission with respect to rate relationships between parts or its authority and responsibility to guarantee rate equalization between ports or within the same port.

That is the corrected version.

Mr. STAGGERS. I thank the gentleman for his statement. That is what was in the bill as it came out of the committee.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. I thank the distinguished chairman for yielding.

Mr. Speaker, I have one or two questions about some things that were left out of the report.

The first question is this: As I understand it, the House had incorporated the provisions of title VI, an affirmative action program for this railroad rejuvenization bill.

Am I correct in assuming that the title VI provisions have been eliminated in the House-Senate conference report?

Mr. STAGGERS. No, I am sure they are not.

Mr. MITCHELL of Maryland. Mr. Speaker, I would like to be very sure on this point, and I want to explain why.

We have a situation in this regard, and that is that these agencies continue to receive Federal funds and then purport to be private agencies once they get the Federal moneys, and then the moneys become private. This happened in public broadcasting, and it was reported to me that that is what happened on this in the Senate-House conference.

Mr. STAGGERS. Mr. Speaker, if the gentleman will look at page 117 of the report, he will find all the language is there.

Mr. Speaker, I thank the gentleman for his assurance.

Mr. Speaker, if the gentleman will yield further, I have one other question to ask the distinguished committee chairman. This question relates to the original Senate legislation in which there was contained a title IX.

Mr. STAGGERS. Mr. Speaker, I might say, since the gentleman mentioned this Senate provision, that the Senate on its own receded from its position. There was not a thing the House could do about it. We have the original House provision in the House bill. I think it is very plain and very explicit, and I think the language is made as clear as it possibly can be.

Mr. MITCHELL of Maryland. Mr. Speaker, I had not yet even had a chance to phrase my question about title IX.

The original Senate version contained title IX which established a National Railroad Minority Resource Center.

The only way minorities are going to get locked into these spending programs of Congress is through the legislation. As I understand it, title IX is not included in the conference report that has come back here; is that correct?

Mr. STAGGERS. The gentleman is correct. That was because the Senate itself receded without any discussion with us. The Senate receded from its position, and there was nothing we could do about it.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for being so kind to me and for yielding.

My last question is this: The gentleman indicated there would be some changes made by the Senate and they would be sent over. Does the gentleman anticipate that the title IX decision is one of these items that may be considered later by this body?

Mr. STAGGERS. Mr. Speaker, I do not see how we can. The gentleman from Illinois (Mr. METCALF) came to me, and as I understood it, the entire provision we had in the House bill had been left out, but when I had a chance, I checked every word, word for word, and I found everything we had in the House bill was left in. By the action of the Senate in asking to recede and concur in the House version, I think that locked the law in.

I thought from the gentleman's discussion with me that the whole section had been left out, but I find that every word is in here.

Mr. MITCHELL of Maryland. Does the gentleman mean every word of title IX?

Mr. STAGGERS. No, every word of the House bill.

Mr. MITCHELL of Maryland. Every word of the House bill. I thank the chairman of the committee.

Mr. Speaker, I want to go on record as being in support of revitalizing our railroads, but from this point on in the Congress I will cast a vote against any one of these conference reports which does not deal with the matter of exclusion of minorities participating in this kind of enterprise.

Mr. Speaker, I shall vote "no" against the conference report.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for bringing this to our attention, but I will say to him in explanation that every word that was contained in the bill is still in the bill as it passed the House. I think we have a strong nondiscrimination section in the bill, as we have in every bill that goes through this House.

I would have to disagree with the gentleman in his inference that we have not lived up to our duty, because there was nothing we could do when the Senate voted to recede. We did keep the amendments and the House language as they were contained in the bill.

Mr. SKUBITZ. Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. DEVINE), the ranking member of the Committee on Interstate and Foreign Commerce.

Mr. DEVINE. Mr. Speaker, I rise in opposition to the conference report on the Rail Revitalization Act.

Wednesday afternoon, the House considered the comprehensive, complicated omnibus rail bill which came from Interstate and Foreign Commerce Committee. It had taken that committee many months to put together a bill which would have a chance to improve the lot of railroads in this country without completely nationalizing the system.

The House spent over 6 hours debating and amending that bill to make it into the product which they were willing to stand behind. The bill contained provisions on regulatory reform, ratemaking, mergers, abandonments, and necessary changes and additions to the ConRail Act. Many amendments were considered; 30 were adopted.

Less than 16 hours later, the conferees were sitting down to reconcile that bill with the Senate bill. There had not even been time to integrate the 30 amendments into the House version, let alone analyze the vast differences between that final product and the drastically different Senate bill. But there we were to a great extent dominated by conferees of the other body. It was obvious that the only possible way to crank out a bill in a matter of hours would be to plug any agreements into the Senate bill. The comparative print, based not upon our final bill, but upon the committee bill, filled 296 pages.

After 7 hours of discussion, the staffs retired to try and patch together the many very hazy agreements reached. The amendments agreed upon in the House the day before were barely mentioned. I do not pretend to know all that is in this final bill but having sat in the conference, I know enough to say with certainty that it is not the bill that the House agreed upon or anything like it. There are many parts of the conference bill which I find unacceptable. There really has been no time to analyze it to sort them out. I will therefore confine my remarks to the things which were loud and clear from the conference meeting.

In discussing regulatory reform and ratemaking, it was obvious that the other body had no desire to free the railroad industry from any of the onerous procedures of the Interstate Commerce Commission. At every turn, they were given greater, not less, control over railroad matters.

The money contained in the bill was jiggered and juggled and pushed around to get an overall figure which would sound acceptable and well within the intentions of the House and Administration as well. It was a masterful effort and ended with the figure of $6.5 billion. That was somewhat more than came out of this body but about the same as it came out of the committee. But that is not the whole story. It is what was done with the funds—how they were allocated—which ruins the whole effort.

The prime example of the drastic changes made by the conference and the 180-degree switch in philosophy is best illustrated by the fund for the Northeast corridor. This is the money which would upgrade the passenger service from here to Boston. The House bill contained $1.2 billion for that project. It would upgrade existing track to the 1968 standards. Those standards call for trackage to accommodate approximately 105-mile-per-hour trains. It would result in excellent service within the corridor and cut the running time dramatically. The other body, however, has an entirely different approach to the whole Northeast corridor problem. They want and insist upon a project to build a completely new, super high-speed passenger-only line from here to Boston. They equate it to the famous Japanese high-speed line which loses money hand over fist and now needs to be rebuilt at a price of over $5 billion. There is a direct philosophical confrontation between us on this issue. However, the conference bill accepts the objectives of the Senate bill and shifts money from other parts of the bill to double the amount we agreed upon for that project, bringing it to $2.4 billion. In addition to taking money away from other House approved objectives, it acts as merely a downpayment on a project which will admittedly require $7 billion or more to complete. So, we no longer have a $5.8 billion piece of legislation, but a $13 or $14 billion bill. We cannot justify such a change and the House should reject it.

Another major change from the House bill is in the area of branch line subsidies. The House bill recognizes the desirability of assisting industry and local governments in maintaining uneconomic lines which have a value peculiar to their needs. The House bill even recognized the problems of transition by providing 100-percent Federal subsidy for the first 6 months. Thereafter, the subsidies would gradually decrease through the next 4 years at percentages of 90, 70, 50, 30 percent, and then cease. The conference bill not only extends the time during which subsidies will be paid, but raises the percentages to 100 percent for a year, 90 percent for the second year, 80 percent for the third, and then 70 percent for the fourth and fifth years. Now I have never been naive enough to think that we really would stop paying subsidies at the end of the time designated in the bill. I remember the staffing grants given to community mental health centers. We justified them as startup funds to pay for hard-to-get professional help. We extended them in time and in coverage until even the janitors were federally supported. And 10 years later, what started off as startup money is still being given out. I expect much the same to happen here despite any protestations to the contrary. But if it is going to happen, we should not set up a schedule which ends up after 5 years still saddling the Federal Government with 70 percent of the cost. Even 30 percent was generous after 4 years, but the schedule included in the conference bill is a joke. We might better just acknowledge that we intend to keep every branch line in operation in perpetuity and at Federal expense.

I am sure that if we had several more days to study this revised Senate bill posing as a House-Senate compromise that I could list for you many, many more major divergencies from the bill you approved.

It is not pleasant for me to ask you to reject this bill because the committee and the House worked so diligently to produce a workable bill. Over the years, the fate of omnibus transportation bills has been uniformly dismal. In fact, four have gone down the tube in the last 10 years. Here, at least, one dealing with railroads only made it all the way through the House and was a bill to which we could point with pride. Its basic objectives were commendable. But that bill bears so little resemblance to this conference product that I cannot begin to tell you it is the same bill or that it is even a reasonable compromise. It is not. Let us reject the conference report and perhaps when we return we can try again and then come to grips with the issues and bring you back a bill.

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield 2 minutes to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, we have been on this bill for 2 years. We have been working on this bill in the interest of the public respecting the situation of the railroads in the northeastern part of the United States, and especially northeastern Pennsylvania. From what I have heard here today, we have a very, very serious confrontation, let us not kid the troops, and I mean that seriously.

No matter what everybody has done for the past couple of years, what is important is what happens here. I understand that this bill may be vetoed. I would like the Members to know that if the President does so then every bankrupt railroad is going to go to the nearest U.S. district court and get an injunction against the revitalization that we have been paying for, and if they do so then we will have lost everything that we have done for the last 2 years, it will all go down the drain. I am telling you this. Does anyone want to tell me I am wrong? That is the way it is.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, I would like to inform the gentleman that if this bill is vetoed by the President of the United States that the Chessie Railroad will not purchase a single part of the private system plan.

Without this bill there will be no funds for ConRail. The courts, as the gentleman says, will enjoin every piece of property from the bankrupt railroad economy and we will have no rail service in the Northeast.

Mr. FLOOD. That is right.

Mr. ROONEY. Eventually it is going to affect the entire country and we will end up with no rail service in the country.

Also every day that ConRail does not operate costs the taxpayers of this country $2.5 million.

Mr. FLOOD. That is exactly the reason why I took the well of the House today.

We talk about the tax situation and the tax bill, and that is serious and everybody is concerned about the tax bill, but now I am talking about the railroads in the northeastern part of the United States, the industrial and economic center of this Nation right now.

I know what is involved economically. I have been working with the committee, their staff, my good friend the gentleman from Pennsylvania (Mr. McDADE) for years on this thing, and now, in the last 5 minutes everything we have worked for and done is headed for disaster for the entire northeast railroad system. It is going to go down the drain, and we will be faced with injunctions by the bankrupt railroads in the first Federal courts of bankruptcy that they come to. If all that is going to come out of this bill is a veto, then we had better do something.

Mr. SKUBITZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona.

Mr. RHODES. Mr. Speaker, the conference report which we have before us is the result of much work and much effort. I am very sorry to announce to the House that the President has already looked at it and found that it provides much too much money, and that he will be constrained to veto it when the bill gets to him. I am sorry about this because I recognize fully the time constraints under which the House is working and under which the railroads are working. I wish that my announcement could be entirely different.

It would be my suggestion that the conference report be voted down and that the conferees be reappointed, reconvened, go into session immediately, and bring out a bill yet tonight that the President could and would sign. I think that would be in the best interests of the country, the best interests of the people of the territory involved, and also in the best interest of the railroads and certainly the taxpayers.

So it would be my hope that when the vote comes, we would vote "no," and then that this bill could be taken back to conference and readied for the signature of the President.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman for yielding.

I would like to ask the distinguished minority leader whether or not he thinks $80 million a year is too much to salvage the northeast railroads and the rail system in this country? Eighty million dollars. That is the difference between the House bill and what the President and the administration want. If the gentleman thinks $80 million is a lot of money, then vote against the bill.

Mr. RHODES. The gentleman from Pennsylvania has me at a disadvantage, because he is obviously an expert on the bill and I am not. I merely took the floor to report the President's position.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

When this bill left the House, it carried a figure of $5.9 billion. It is up to $7.2 billion.

Mr. RHODES. It seems to me that if that is the situation, the President's veto would be a good veto and should be sustained.

Mr. Speaker, I yield back the remainder of my time.

Mr. SKUBITZ. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. HASTINGS).

Mr. HASTINGS. Mr. Speaker, I am the only member of the minority who signed this conference report, and I, unfortunately, stand here today having to suggest that we follow the suggestion of the minority leader in rejecting this conference report.

I understand confrontation, and the gentleman from Pennsylvania (Mr. FLOOD) is absolutely right. We are at a position of confrontation. I might say to the minority leader that the money was not, indeed, the most important issue. There were a couple of other major issues in this bill that the President has seriously objected to, and they could have been worked out. As a matter of fact, the President asked both the Senator in charge of the committee in the Senate and the Congressman in charge of the committee in the House whether or not they could not get back together and work this matter out.

I think there are two significant matters that can be taken care of in a half hour.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

No one has contacted me.

Mr. HASTINGS. I will say to the chairman that a half hour in conference with the Senate again could work this out.

Mr. STAGGERS. No one contacted me. If anyone said the President contacted me, he was wrong because no one did, nor did his representative.

Mr. HASTINGS. I will say to the chairman that he can take my word for it. A half hour in conference again would work this matter out. But, no, we shall not go to conference. I will tell the Members what concerns me. It concerns my district. I might say to each and every one of the Members here this is the last time that this bill will be on the floor of this House. I could have walked away from here today and let the rest of the Members worry about it.

I will say to the gentleman from Pennsylvania I happen to worry about the railroads in the Northeast. I do not want to see February 26 come without legislation when every branch line in the Northeast will be out of business.

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. I thank the gentleman for yielding.

If this is so, if this thing goes down the drain and this bill is vetoed, and we see the collapse and the disintegration of the northeastern railroad systems carte blanche like that, and they go down the drain, what is going to happen? Then somebody will have to have a special session of this Congress next week.

Mr. HASTINGS. The Members shall do it, I will say to the gentleman, because I shall not be here.

I am saying that there is room to sit down and discuss this matter, and there was yesterday. At this point we cannot.

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank the gentleman for yielding.

I want to express my appreciation to my colleague, the gentleman from New York, for taking the well.

We all of us worked long and hard on this bill and no one worked harder than the gentleman from New York in trying to get this bill worked out. It is essential to so many people in the United States.

What I intend to do is to sharpen the issue that the gentleman says apparently divides the House and the Senate, the differences which the gentleman says can be resolved in 30 minutes. Can the gentleman say what those differences are so we can get this resolved? We have to have this bill.

Mr. HASTINGS. I understand from the Secretary and the White House that some provisions in the Northeast corridor were written out. There are some people who have a personality conflict with the Secretary, but that should not be the consideration here.

I think we could mitigate the differences in many respects.

Mr. McDADE. The gentleman is saying the differences are not so much with respect to the dollars authorized?

Mr. HASTINGS. In my judgment they are not.

Mr. McDADE. Then the gentleman thinks the crucial issues are the administrative functions by which we hope to achieve the results?

Mr. HASTINGS. Two of the most important issues are exactly those.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I commend the gentleman from New York. I know he is vitally affected by this legislation. I think he has courage in coming up here and opposing a bill that would be of inestimable value to the area he represents. Let me commend the gentleman and say he is a man of great courage.

Mr. HASTINGS. I thank the gentleman from Kentucky.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Speaker, I know I bespeak the feelings of everyone here and it is not just because it is the Christmas season. We are all indebted to the gentleman in the well for all the tremendous work he has done on this legislation.

I remind all of my colleagues the gentleman does not have to be here today. He could leave. He is going to be in one of the most important jobs in the State of New York. He knows what this means to his people.

I would say to the chairman, the gentleman from Pennsylvania (Mr. FLOOD), this is devastating to all of us in the Northeast. The interest the gentleman is taking is accompanied by the work of the gentleman from Pennsylvania and others who have worked on the legislation and it is a terribly important bill.

I want to be sure I understand the minority leader who referred to dollars. This is, is it not, subject to the appropriation process?

Mr. HASTINGS. Indeed it is.

I believe the gentleman from California (Mr. McFALL) can help us on that subject, and I believe he will.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from California.

Mr. McFALL. Mr. Speaker, with reference to the matter which has been discussed by the gentleman from New York (Mr. HASTINGS), first of all I would like to say I am sorry that the gentleman from New York is leaving this body. He has been a very fine Member of the body and he has done a remarkably good job on this bill. I know all of us will miss him. We all wish him good fortune in his new occupation. We are sorry we are losing him but we wish him good luck in whatever he will be doing.

Mr. HASTINGS. I thank the gentleman from California.

Mr. McFALL. I know the gentleman feels very deeply on this legislation and he has been working hard to get good legislation.

I wonder if the gentleman from Pennsylvania, the chairman of the subcommittee, would say for the House just what is the difference between the House bill and the conference bill in this regard and what the significance of it is, and perhaps we could discuss what the situation would be with the Appropriations Committee and how we can have control over this money. It is not just going to go out the window today? It is going to be controlled by the committee and the Congress in later years, is it not?

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, I told the distinguished minority leader we are about $80 million a year over what the House passed last week.

We passed a House bill of $6 billion. The Senate bill was $9.2 billion and the conference report that we are going to vote on today is $6.5 billion.

Mr. Speaker, let me tell the gentleman from California, we have spent $7 billion to put a subway in the District of Columbia and I think we can spend an additional $80 million a year to keep the railroads going, because if we leave this Chamber today without passing this and having the President sign it, we are going to see a shutdown of every railroad in the country.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Speaker, I yield the gentleman from California 2 additional minutes.

Mr. McFALL. Mr. Speaker, the House had $1.2 billion. The Senate had $3.6 billion. This conference had $2.4 billion. They are all subject to the appropriation process. The committees will look at it and I am sure the gentleman's committee will be looking at it to see whether these funds are properly expended. Certainly this House will have another chance in the appropriation bill to see to it the expenditures are correct.

Mr. ROONEY. Mr. Speaker, the gentleman is correct. The administration has asked for $2.8 billion in grants. This legislation we are going to vote on today calls for $600 million in grants and the rest are loans.

Mr. McFALL. Mr. Speaker, I would hope that the House would accept the conference report, because it is important to the country that we have this railroad system. Certainly if what we have said here today is correct, and I know it is, this House will have an opportunity to monitor this situation and see that the funds are wisely spent.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must oppose the report of the conferees. I must oppose it for a number of reasons.

First, when we went to conference—we went with a bill I think the administration would have signed, one having meaningful regulatory reform and providing sufficient funds for the initiation of ConRail—the rehabilitation of our Nation's railroads—and upgrading the passenger service in the Northeast corridor.

When we left conference our bill had been swallowed up by a hodgepodge of untested economic regulatory theory, which was contained in the Senate bill, and extravagant spending proposals, which in size and scope were second only to the Apollo program.

Now the chairman tells you we cut the Senate request from $8.3 billion to $6.9 billion. What he did not tell you was that we upped the House figure from $5.9 billion to $7.2 billion, an increase of $1.3 billion, or 20 percent. Why, this body would not stand for a moment and let a conference on the defense budget or HEW authorization raise the total by 20 percent.

Is any person in this body so naive that he does not realize that the other body for years has used the old bureaucrat game of asking for 25 percent more than it expects, and then it graciously accepts cuts.

Mr. ROONEY. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Mr. Speaker, that additional money was already authorized back in 1973.

Mr. SKUBITZ. That is exactly right, but we carried that into our $5.9 billion. We kept it in this bill, so any way we cut it, comparing the bill that left the House, $5.9 billion, this bill is $7.2 billion. How does it compare?

Mr. Speaker, money contained in the bill reported by conference flies in the face of the fact that we have a $71 billion budget deficit this year, and another deficit of that or more the following year.

Mr. Speaker, the bill reported by the conference contained over $7.2 billion, and of that $7.2 billion, over $6.2 billion represents direct expenditures which are on-budget items—$1 billion represents loan guarantees—which is an off-budget item.

How does this compare with the bill that the House conferees carried to conference? Let me repeat—we authorized $5.9 billion. In other words—let me repeat again—the House authorization was increased by $1.3 billion, an increase of over 20 percent.

Your conferees gave in to the Senate's proposal—to develop a fast passenger train operation in the Northeast corridor—capable of speeds up to 150 miles per hour.

Quite frankly, we totally capitulated into a position of supporting the Senate's extravagant demands for a super fancy train between Washington and New York and Boston.

In the bill reported by conference, $2.4 billion is provided for development of the Northeast corridor.

In many ways this should be called the Northeast corridor bill, because that is where most of the money goes.

I might add that the Senate conferees made it clear that this money for the corridor was just the beginning. The bill contains specific goals for achieving even faster speeds in the corridor.

These statutorily spelled-out goals will cost future Congresses another $4 to $8 billion and more depending on inflation. The fact that the Senate Members appeared to be adamant on this point is not sufficient grounds for our conferees to cave in.

The fourth point I want to make, concerning the bill reported by conference, is that carefully worked out regulatory reform contained in the House bill became a victim of untested economic theory which in many respects is designed to change the names of various provisions in the Interstate Commerce Act while making absolutely certain that none of the competitive relationships between the various modes are changed. The water carriers did well under the Senate bill. They do well under the bill reported from conference.

Mr. Speaker, the administration recommended $1.08 billion to upgrade the passenger service in the Northeast corridor.

It advised the Congress that with $1.08 billion it could provide safe, comfortable passenger service that would meet the passenger train standards of 1968.

Do you know what the 1968 standards are? If you do you are more knowledgable on that subject than some of the conferees were.

Everyone just assumed that 1968 standards were obsolete, and judging by the train service today, it must be pretty bad.

I called the ICC and was advised the 1968 standards would provide speeds of 85 to 105 miles an hour.

With highway law limiting traffic to 55 miles an hour that seems pretty good to me.

The administration proposal was to upgrade the passenger service now and at a future date if a faster service was technologically and economically feasible, then move forward.

When we provided $1.1 billion for passenger service, I assumed, as a conferee, that was the intent of this body. But what did your conferees do?

First, we agreed to raise the amount of the authorization from $1.1 billion to $2.4 billion, an increase of $1.3 billion.

Mr. Speaker, I offered a compromise proposal that would have provided $1.4 billion, now, for corridor improvements with this additional proviso. Let me read it for you:

> In addition, at such time in the future as the USRA shall determine that it is both technologically and commercially feasible, including the requirement that the government's investment be repaid in full, the Secretary shall request additional funding to establish regularly scheduled and dependable intercity rail passenger service between Boston and New York, operating on a 3-hour schedule, including appropriate, intermediate stops and regularly scheduled and dependable intercity rail passenger service between New York and Washington, D.C., operating on a 2½ hour schedule, including appropriate intermediate stops.

And that was turned down with no discussion, just a straight vote by the Senate conferees regarding it.

Hence, the question each Member of this body must answer before voting is this:

First, do I want to increase the House proposal from $5.9 billion to $7.2 billion—a 20-percent increase?

Second, do I want to commit this Government to a fast train system that will cost $4 to $9 billion with no assurance that it is technologically sound; it is economically viable; and the taxpayers will get their money back?

Now you will probably be told that all legislation is a matter of compromise, and it is. But there was no compromise here. We know the Senate had jacked its figures up to $3.2 billion.

What the Senate wanted, and got, was a commitment: No strings attached, and $1.3 billion over your recommendation and the administration recommendation.

Mr. Speaker, at the appropriate time I shall request that this body disagree with that portion of the report relating to the increased expenditures and the commitment that has been made with regard to a fast rail system.

You will no doubt be told that on February 26 Penn Central will cease operation unless ConRail takes over. Time is of the essence. That ConRail must be ready to surrender the stocks and certificates of value on February 26.

In response may I say—

Yes, time is important, but this bill as it stands invites a Presidential veto;

That February 26 is over 2 months away;

That since the conferees have agreed on the kinds of stocks and the certificates of value, the printing press can get rolling, and that is all we are turning over on February 26 anyway;

That I am certain the organization plan is already near completion;

That when the conference report is accepted and the President signs, the Congress can provide the fund in 1 day; and

Last, what happens if the President vetoes?

If worse comes to worse the Congress can provide $1 million a day for 10 days or whatever time it takes, and let Penn Central keep operating.

In the matter of general funding, the House bill had provided within the Department of Transportation carefully constructed accounts to make sure that the general revenue put in them was properly spent.

The House accepted the Senate funding provision which, among other things, include another, and I might add, pretty clever and pretty fancy trust fund scheme.

That trust fund scheme, commonly known as the Union Pacific trust fund proposal, begins another era of locking into place a program designed more to help rich railroads than poor railroads.

In exchange for special preferred stock railroads can be given loans which can be repaid after the first 10 years over a 30-year period.

This amounts to about 2 percent loan money, but more important, it creates at this point in time something that resembles a trust fund but in fact would have few of the advantages of the Highway Trust Fund. And where does the fund come from? You guessed it—Uncle Sam. I refused to introduce this amendment in committee because I thought it was a request to develop a fund where the borrowers were also contributors.

I am fearful that this provision alone will make it next to impossible to ever have a single transportation trust fund so as to adequately support railroads.

Finally, Mr. Speaker, what was done with respect to ConRail? It is the creation of ConRail which is creating most of the pressure for this legislation.

First, the money level going to ConRail was kept at about the same amount as it was in the House bill—$2.1 billion.

However, in the House bill, we required a payback over a period of 30 years of an amount not to exceed $4.2 billion. The conference report eliminates that provision, so that unless ConRail makes a booming profit, which no studies indicate that it will, there will be no payback of the $2.1 billion.

Second, the House bill contained a carefully worked out provision to assure that the Government of the United States, representing the taxpayers, could watch ConRail's development so as to be able to cut off the allocation of additional funds through ConRail if that new Corporation was misusing the money it had already received.

Here our bill had a Government Banking Committee that provided for joint oversight by the Secretary of the Treasury, the Secretary of Transportation, and the Chairman of the Board of USRA.

Your conferees receded to the Senate on this issue, and now the only one which will determine when to cut off funds for ConRail, or whether such a cutoff is necessary, will be USRA, an independent agency that has no responsibility to the taxpayer.

Third, during the transition period between now and February 26 there are certain preconveyance payments, or claim settlements, which need to be made.

Your House bill contained a provision to permit the use of $235 million of money contained in section 210 of the 1973 act for this purpose. That amount was negotiated between the administration, USRA, and Labor.

During one of the many moments of conference confusion this amount was increased to $400 million.

The seven public members who had been on the Board of Directors of ConRail under the House bill were removed completely by the conferees.

The ConRail Board is now made up of 15 people representing the creditors and stockholders of the Penn Central.

As you will recall, Mr. Speaker, the administration had requested that 11 of the 15 be public members.

Mr. ROONEY and I had changed that in our original bill so that only 7 of the 15 would be public members.

Mr. MAGUIRE, in full committee, offered an amendment to make sure that at least one of the members represented consumers, and that amendment was adopted.

What we now have is a ConRail Board representing the First National City Bank of New York and the other creditors of the Penn Central.

Mr. Speaker, we set out when we first considered this legislation to have genuine regulatory reform. Your conference report falls far short, in my judgment, because the reform is a theoretical reform based on theoretical principles that will create litigation, but very little effective regulation.

We started out to create a regulatory framework that would, quite frankly, favor railroads.

We have now increased their regulation with particular emphasis on regulation which prevents them from effective competition.

We originally set out to provide a comprehensive package of economic incentives and assistance to all the railroads in the Nation so as to improve their efficiency and rehabilitate their systems. Your conference report contains very little money for anyone except ConRail and the Northeast corridor project.

Mr. Speaker, I recommend that this body reject the conference report on H.R. 10979.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding.

This Control Board the gentleman is talking of will be composed of what people?

Mr. SKUBITZ. As it is set up now, it will be made up of representatives of the bankrupt estates and creditors. One might say it is going to be made up of the National City Bank of New York and other creditors of the bankrupt railroad.

Mr. CARTER. Representatives of bankrupt estates and creditors of the railroad; is that correct?

Mr. SKUBITZ. That is correct.

Mr. CARTER. I would like to ask the distinguished gentleman further, is it true that the cost was escalated by the Senate to $7.2 billion from $5.9 billion?

Mr. SKUBITZ. That is exactly right.

Mr. CARTER. According to that, contrary to what the distinguished chairman of the subcommittee has said, the increased cost is approximately $2.5 million a day, by the agreement which was entered into by the conference report; is that not correct?

Mr. SKUBITZ. That is correct.

Mr. CARTER. Mr. Speaker, I want to compliment the distinguished gentleman from Kansas (Mr. SKUBITZ) for his work. I have watched him throughout the development of this bill, and I want to say that the State of Kansas should be proud of his work. The gentleman has worked long and hard, and he has explained his position well.

Mr. SKUBITZ. Mr. Speaker, I thank the gentleman for his remarks.

I, too, want to see ConRail go through. I, too, want to see a decent transportation system set up for passenger service in the Northeast. I, too, want a fast train operation.

However, in a country that has a deficit of $71 billion at the close of this fiscal year and is faced with another one of over $70 billion, I doubt very much that we should set up a fast rail program or an expedited program that is going to cost $4 to $9 billion until we have such a program declared technologically and economically feasible.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I am concerned about the situation we face here. Let us suppose we agree to this conference report tonight and the President vetoes the bill. Then we will come back here on the 19th of January.

Let us assume that we override the veto by the end of the month. What are the critical dates that we face, after which the catastrophe which is predicted by the distinguished subcommittee chairman will occur? When will this catastrophe occur?

Mr. SKUBITZ. Mr. Speaker, I do not know when it is going to occur. I think this is just a lot of scare talk, but February 28 is the date they hold up as the date when there must be a change.

Mr. SHUSTER. Mr. Speaker, I will tell the gentleman that I am informed the largest railroad shop in the world, which is located in Altoona, will be shut down in 30 days if this bill is not passed. So I am deeply concerned about the economy of central Pennsylvania.

Mr. SKUBITZ. If we could get together, there are only about three items to be concerned about.

Mr. SHUSTER. But we did not. With all due respect to the gentleman, that is water over the dam. I like everything the gentleman from Kansas says, except the final conclusion we come to, which is that we should proceed to let this be vetoed.

Mr. SKUBITZ. Mr. Speaker, the gentleman from Kansas feels this way: That if this House rejects this conference report and a new conference gets together, we would give a clear signal to the Members of the Senate that the House means business for a change.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, from what the gentleman is saying here and from what I understand, the President has already made his mind up that he will veto this bill if we adopt the conference report in its present form?

Mr. SKUBITZ. That is exactly right.

Mr. MYERS of Indiana. Mr. Speaker, it seems to me at this late hour it is rather foolish for us to go ahead and agree to this conference report when we know there is going to be a veto of this bill. I say that to the Members because the rumor around this Chamber now is that no bills will be sent down to the White House. I have heard that we can go ahead and adjourn sine die later this afternoon as was originally intended, but we will not send any more bills down to the President this year for fear of a pocket veto.

If that is the case and this will not be sent down until the middle of January so that it would not be subject to a pocket veto, then this time schedule the gentleman has mentioned really is not relevant as far as we are concerned tonight.

Mr. SKUBITZ. Mr. Speaker, I have a feeling that if we reject this conference report, it can be worked out. I am willing to go in this afternoon to try to work it out. We can vote on it when we come back after the holidays.

Mr. STAGGERS. Mr. Speaker, I yield 8 minutes to my good friend, the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, in the many years I have served in this House I have never been as emotional about any one issue as I am about this.

The seniority system, one might say, backed into me, because I was here for 12 years and never had any responsibility as a chairman of any committee, but last February, when my distinguished colleague decided he would like to join the Republican side of the aisle, the seniority system backed into me and I became chairman.

I want to tell the Members in this Chamber that I have worked day and night on this because it was a new challenge to me to do something about the railroad system in this country. This country is the only first-rate nation in the world that has a second-class transportation system.

What about the Northeast? Yes, some of the Members, when they are going to vote this afternoon, might ask, "What do the 17 States in the Northeast mean to me?"

Let me tell all the Members that this is not a parochial issue because if the Northeast shuts down, in 30 days every railroad in this country will collapse.

At the present time there are 21 railroads near bankruptcy. There are seven in the Northeast that are bankrupt, as the Rock Island is in the Midwest.

This committee has done everything possible to come up with some kind of compromise. When my distinguished colleague, the gentleman from Kansas (Mr. SKUBITZ), tries to dispute moneys, there is some misunderstanding between the two of us, because as far as the Senate bill is concerned, it called for $8.4 billions. It is clearly spelled out in the Senate bill.

The administration has asked for $5.68 billion, and our committee came up with a bill containing $6.4 billions.

Mr. Speaker, as I said to the distinguished minority, we are $80 million a year off for the next 6 years, and this is what this bill calls for.

The real problem with this bill right now, in my opinion, is that there is a personality contest between the Senate and the Secretary of the Department of Transportation.

What does the Secretary of the Department of Transportation want to do? He wants total control of the corporation. He wants to control the stock of the ConRail Corporation. He wants total power to liquidate the corporation without anyone's consent. This is a taking; and in my opinion, this is nationalizing the rail system in this country.

Mr. Speaker, we have developed a bill to set up ConRail as a nonprofit organization, with the Secretary of the Treasury serving on that board, with the Secretary of Transportation serving on that board, and with the Chairman of the USRA Board serving on that board with the 11 members.

Mr. Speaker, I do not think that this Congress once again wants to take into consideration the threat of a veto because every time we pass a bill, every time we have passed a bill in the first session of the 94th Congress, all I have heard, time and time again, is that the President is going to veto it. He said he was going to veto this bill 6 weeks ago before it ever came out of committee.

What this bill does, Mr. Speaker, is that it provides a viable transportation system in this country. What are the advantages of the Northeast Corridor? We have to build a new airport or a new highway to move traffic in this country. Why not upgrade the railroad transportation system that is already there? It is a separate entity.

Every environmentalist in the country—and we often talk about environmentalists these days—is supporting this bill. Who else is supporting the bill? The USRA Board, the Interstate Commerce Commission, labor, and management, all of whom worked diligently and hard to get some kind of compromise. As I said, we have worked on this for 7 solid months, day in and day out; and we have agreed in committee on every issue. Now, however, as I stand before you, we are $80 million a year apart from the passage of this bill.

We have $7 billion to build a subway system in this city and only $6.4 billions to save the rail industry in this country.

Yes, the hour is getting late. Mr. Speaker, when the Members are going to be voting this afternoon, I ask them to just remember whether or not we want that viable rail system in this country because that is what we are going to be voting on.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, I would like to raise a question that has been brought up before on this time situation.

Does the chairman have a feeling as to how much time we really have to pass a successful bill in order to prevent any of the bankruptcies and the collapse of the railroads? Are we talking in terms of 3 weeks or 4 weeks? What are we dealing with?

Mr. ROONEY. We have to pass this bill today. It has to go before the President. It has to be signed into law before Christmas if we want to save the rail system in this country.

The time that is left is the time that the gentleman from West Virginia (Mr. STAGGERS) has and the time that the gentleman from Kansas (Mr. SKUBITZ) has. Of course, we could go back into conference this afternoon.

Mr. PEYSER. Mr. Speaker, if the gentleman will yield further, I would like to say that coming from the northeast area of this country that I am well aware of what is at stake here. I do not think we can afford not to pass this conference report. I think we have the obligation to do that. I think that the dollars evidently are in discrepancy, and I am not prepared to argue one way or another on the figures, but regardless of the figures we are talking about the total and entire impact of this on the people and I think this is too great a risk to take at this time.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, is it not true that the date facing us as far as keeping the railroads functioning is the February 28 date?

Mr. ROONEY. February 26.

Mr. SHUSTER. February 26. Therefore, is it not true that should we pass this today and the President vetoes it and we override the veto, which would occur before February 26, that we would not be working any hardship on the railroads if we override the veto?

Mr. ROONEY. That is correct; but I do not think it is possible. I do not think this Congress can possibly override a Presidential veto.

Unfortunately, this has become a political issue. It is really a nonpolitical issue that affects every person in this Chamber and in this country.

Mr. SHUSTER. If the gentleman will yield further, if that fails, if we cannot override the veto and if we are faced with the fact that we will have to go back to conference, we still would have the month of February and the conferees could work out a compromise.

Mr. ROONEY. I think the C. & O. and the B. & O. are just not satisfied with the manner in which Congress is acting. We have had 7 months to pass this legislation. As the distinguished gentleman from Kansas said, we could have had this bill before this Chamber months ago but there was innumerable problems.

The SPEAKER. The time of the gentleman has expired.

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield 1 minute to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Speaker, let me tell the Members what the situation is. Let me tell them the disaster they are facing. As a member of the Committee on Appropriations, I certainly will not be a party to an administrative banking committee, the Secretary of Transportation, the Secretary of the Treasury, and USRA deciding what money is going to be spent—not the Committee on Appropriations, not the Congress, nobody but just these three kings.

There is some prima donna in this who desires control, he desires control of the money, he wants to control the stock, and he wants to control the money from the stock and if he wants to dispose of the railroads then he will dispose of them. That means the nationalization of the railroads. That is what you are facing. Make no mistake about it. There is nothing more important for this day, for this Nation, including the tax bill, that we get all excited about. But it is late, it is 10 minutes after 5, everybody wants to go. We are facing disaster to the Nation's railroads in the Northeast, and if that disaster occurs to the railroads in the Northeast, then it will occur, the same disaster across our Nation, and that means that the Nation's railroads within 30 days could be destroyed.

I want to repeat for the purpose of emphasis, just in case some of the Members did not hear me state what the situation is. And that is that downtown the Secretary of Transportation, this minor deity, he will decide, along with the Secretary of the Treasury and the Banking Board, with USRA. They will decide what to do, not the Congress, not the Committee on Appropriations. They will decide about the disposition of the taxpayers' funds, no one else. They will decide this. They will spend the money or they will not spend it. They will buy the stock or they will not buy it. They will dispose of the railroads or they will not. Do the Members realize that? This is not a question of a dispute between my friends from Kansas and Pennsylvania, that is not the question. The problem here is the matter of who will act in this matter, the Congress or these three people?

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. I thank the distinguished Chairman for yielding.

Mr. Speaker, let me say this, that we have just passed a tax bill which pledged a reduction in expenditures, and here we have before us a bill increasing the amount that was proposed to be spent by this House on yesterday by over $1 billion.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from West Virginia.

Mr. STAGGERS. The administration sent up a bill which I put into the hopper, with my colleague on the other side, that asked for $7,200,000,000. This is way below that.

Mr. ALLEN. What reason, then, does the President give for threatening to veto the bill?

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Kansas.

Mr. SKUBITZ. The gentleman from West Virginia is in error.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS), a member of the subcommittee and a member of the conference committee.

Mr. ADAMS. Mr. Speaker, I am very hopeful that the House will agree to this conference report today on this bill. We have been trying during the course of the day to discuss the matter with the White House. I know the gentleman from Kansas and the gentleman from Ohio had the same difficulty that I have had, both in discussing the matter with the Department of Transportation and with the White House, in that the bill has only now been ready so that it could be completely examined. We have not had the opportunity to know what particular points they may object to. But I would say this, that this bill represents weeks and months of work by the very able subcommittee chairman, the gentleman from Pennsylvania (Mr. ROONEY), and it actually represents several years of work by the Congress. It is absolutely necessary that we have the funding available for the ConRail operation, which is supposed to start in the month of February. That was the reason for bringing this bill to the House at this late date. That is the reason the President said he wanted a bill to be finished before we ended this session.

This is what we have attempted to have done.

I do not think the money is excessive. We tried to agree on the various amounts. In examining it, this is a 10-year program, and it can be appropriated, and those appropriations can be vetoed by the President if he thinks the money is moving too quickly under the total program.

Most of them are loans controlled directly by the administration, in terms of whether or not they grant them.

Finally, there were several points in the bill that I know the gentleman from Kansas and I did not agree on as to what happened in conference. We were kind of run over by the fact that the Senate wanted to do this, and a majority of the House conferees. But I think in this business the House should understand that we tried. We won a number of the points we wanted to win, and there were some of them that they wanted.

I want to have an opportunity, and I know the other Members of the House do, to discuss this with the Secretary and show him that we have tried. I hope we will approve it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, we have come now to the end of the road. We have spent a lot of time on this bill. I think it is essential to America that they have a bill. I think it would be bad if the President does veto this bill.

I would, in turn, like to compliment the gentleman from New York (Mr. HASTINGS) who has been a member of the committee. He has, I think, been a gentleman at all times and a very valuable member of that committee. I am one who is sorry he is leaving the committee and leaving the House, because I think he is a good member.

As for Secretary Coleman, I think that Secretary Coleman has always been fair with me. He has tried to do the things that are right. He has always acted in a way he believes is best for the country. I would like to say that I think he has the best of intentions always. We have had differences, and most of those differences have been matters of details and implementation—not principle. I disagree with the allegation made a few minutes ago that he is trying to be part of a small diety. Rather, he wants to do what is best. This is just another matter where we disagree. The area of disagreement, however, is not so great that we both cannot have pride in our convictions and come together again.

The bill is for $6.5 billion plus $580 million in old funds.

This amount is larger than the bill passed by the House, but not as much as the first bill that we did put into the hopper that the administration sent up here. So I am hopeful we will pass the bill.

The Appropriations Committee, if we have any faith in them, will have a final look before any money is appropriated. This is not the final say. Some Members think we will just give away the money. We do not have the authority to do that. The only thing we can do is to give them the authority to request it, and the members of the Appropriations Committee will take the final look and make the final decision.

I say again this is close to what we passed out of the House before and urge its passage.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

Mr. ALLEN. Mr. Speaker, I make the point of order a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Mr. ALLEN. Mr. Speaker, I withdraw the point of order.

The SPEAKER pro tempore. The gentleman withdraws his point of order.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ALLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 205, nays 150, not voting 79, as follows:

[Roll No. 828]

YEAS—205

Abzug
Adams
Addabbo
Alexander
Ambro
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Bauman
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Burke, Mass.
Byron
Carr
Cochran
Cohen
Collins, Ill.
Conte
Cornell
Coughlin
D'Amours
Davis
Delaney
Dent
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Eilberg
Emery
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Forsythe
Fraser
Giaimo
Ginn
Gonzalez
Goodling
Green
Gude
Hall
Hamilton
Hanley
Hannaford
Harris
Hayes, Ind.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hightower
Hillis
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Jeffords
Johnson, Pa.
Jones, Ala.
Jordan
Karth
Kastenmeier
Kemp
Keys
Koch
Krueger
Lloyd, Calif.
Long, La.
Long, Md.
Lott
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Maguire
Matsunaga
Meeds
Metcalfe
Meyner
Mezvinsky
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oberstar
O'Hara
O'Neill
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Preyer
Price
Railsback
Rees
Reuss
Riegle
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Roush
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schulze
Seiberling
Sharp
Shuster
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stratton
Studds
Thompson
Traxler
Tsongas
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wirth
Wright
Yatron
Young, Alaska
Young, Tex.
Zablocki

NAYS—150

Abdnor
Allen
Anderson, Ill.
Andrews, N.C.
Archer
Armstrong
Ashbrook
Bafalis
Beard, Tenn.
Bennett
Brooks
Broomfield
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, John
Butler
Carter
Casey
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Findley
Flowers
Flynt
Fountain
Frenzel
Frey
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Hammerschmidt
Hansen
Harkin
Harsha
Hastings
Hechler, W. Va.
Henderson
Holland
Hutchinson
Hyde
Jacobs
Jarman
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kasten
Kazen
Kelly
Kindness
Krebs
Lagomarsino
Latta
Lent
Levitas
Litton
Lloyd, Tenn.
Lujan
McClory
McCollister
McDonald
McEwen
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mitchell, Md.
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Obey
O'Brien
Pettis
Pressler
Pritchard
Quie
Rangel
Regula
Rhodes
Richmond
Roberts
Robinson
Rousselot
Runnels
Satterfield
Schroeder
Shriver
Skubitz
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Wis.
Stokes
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Waggonner
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wydler
Wylie
Young, Fla.
Young, Ga.

NOT VOTING—79

Anderson, Calif.
Andrews, N. Dak.
Bell
Bevill
Bingham
Boland
Burke, Calif.
Burton, Phillip
Carney
Cleveland
Conyers
Corman
Cotter
Daniels, N.J.
Danielson
Edwards, Calif.
Eshleman
Evins, Tenn.
Ford, Mich.
Ford, Tenn.
Fuqua
Gaydos
Gibbons
Gilman
Haley
Harrington
Hawkins
Hays, Ohio
Hébert
Hicks
Hinshaw
Horton
Hungate
Ichord
Johnson, Calif.
Jones, Okla.
Ketchum
LaFalce
Landrum
Leggett
Lehman
McCloskey
Macdonald
Melcher
Michel
Montgomery
Moss
Mottl
Murtha
Nichols
Nix
Ottinger
Poage
Quillen
Randall
Risenhoover
Rostenkowski
Roybal
Ruppe
Sebelius
Shipley
Sikes
Smith, Nebr.
Stark
Steiger, Ariz.
Stephens
Sullivan
Symington
Talcott
Teague
Udall
Ullman
Vander Jagt
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Yates
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Dominick V. Daniels for, with Mr. Hébert against.

Mr. Ford of Michigan for, with Mr. Teague against.

Mr. Wolff for, with Mr. Sikes against.

Mr. Zeferetti for, with Mr. Nichols against

Mr. Leggett for, with Mr. Bevill against.

Mr. Johnson of California for, with Mr. Conyers against.

Mr. Nix for, with Mr. Mottl against.

Mr. LaFalce for, with Mr. Montgomery against.

Until further notice:

Mr. Anderson of California with Mr. Risenhoover.

Mr. Hicks with Mr. Randall.

Mr. Shipley with Mr. Symington.

Mr. Rostenkowski with Mr. Phillip Burton.

Mrs. Sullivan with Mr. Eshleman.

Mr. Landrum with Mr. Danielson.

Mr. Hawkins with Mr. Evins of Tennessee.

Mr. Harrington with Mr. Ullman.

Mr. Andrews of North Dakota with Mr. Edwards of California.

Mr. Cotter with Mr. Steiger of Arizona.

Mr. Quillen with Mr. Gibbons.

Mr. Carney with Mr. McCloskey.

Mr. Cleveland with Mr. Ford of Tennessee.

Mr. Fuqua with Mr. Talcott.

Mr. Corman with Mr. Ruppe.

Mr. Gilman with Mr. Bell.

Mrs. Burke of California with Mr. Sebelius.

Mr. Boland with Mr. Vander Jagt.

Mr. Winn with Mr. Haley.

Mr. Bingham with Mr. Hungate.

Mr. Hays of Ohio with Mr. Ichord.

Mr. Horton with Mr. Jones of Oklahoma.

Mr. Lehman with Mr. Macdonald of Massachusetts.

Mr. Melcher with Mr. Moss.

Mr. Yates with Mr. Udall.

Mr. Charles H. Wilson of California with Mr. Murtha.

Mr. Ottinger with Mr. Roybal.

Mr. Stark with Mrs. Smith of Nebraska.

Mr. DINGELL changed his vote from "nay" to "yea."

Mr. DELLUMS changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2327) entitled "An act to suspend sections 4, 6, and 7 of the 'Real Estate Settlement Procedures Act of 1974'."

The message also announced that the Senate agrees to House amendment to the Senate amendment numbered 75 with an amendment to a bill of the House of the following title:

H.R. 9861. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

The message also announced that the Senate had passed concurrent and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 82. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2718;

S. Con. Res. 83. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2718; and

S.J. Res. 157. Joint resolution to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by Federally-related financial institutions for property located in communities not participating in the national flood insurance program.

CONFERENCE REPORT ON S. 2327, REAL ESTATE SETTLEMENT PROCEDURES ACT

Mr. BARRETT submitted the following conference report and statement on the Senate bill (S. 2327) Real Estate Settlement Procedures Act:

CONFERENCE REPORT (H. REPT. NO. 94–769)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House bill (S. 2327) entitled "An Act to suspend sections 4, 6, and 7 of the 'Real Estate Settlement Procedures Act of 1974'", having met, after full and free conferences, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with amendments as follows:

Strike out the matter proposed to be inserted by the Senate amendment and restore the matter proposed to be struck out by the Senate amendment.

On page 3, line 17, of the House engrossed amendments, insert the following immediately after the first period: "Upon the request of the borrower to inspect the form prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such persons during such proceding day.

And the Senate agree to the same.

HENRY S. REUSS,
WILLIAM A. BARRETT,
WILLIAM S. MOORHEAD,
ROBERT G. STEPHENS, Jr.,
FERNAND J. ST GERMAIN,
GARRY BROWN,
JOHN H. ROUSSELOT,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
JAKE GARN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2327) entitled "An Act to suspend sections 4, 6, and 7 of the 'Real Estate Settlement Procedures Act of 1974' ", submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

AMENDMENT NO. 1

Completion and inspection of settlement form in advance

The Senate bill contained a provision not in the House amendments which would require the settlement agent to complete the uniform settlement form one business day prior to the day of settlement and to make it available for inspection by the borrower.

The conference report contains the Senate provision in amended form. The provision as revised makes clear that the obligation of the settlement agent to make the settlement form available prior to settlement is to be triggered by the request of the borrower and that the agent's sole obligation is to make available only that information which is known to him at the time of disclosure. The amended language also makes clear that the information is only required to be made available sometime during the business day immediately preceding the settlement day.

AMENDMENT NO. 2

Truth-in-landing disclosures

The Senate bill contained a provision not in the House amendments which would authorize the Federal Reserve Board to require the disclosure of all or a part of the information required in the Truth-In-Lending Act at or prior to the time a written commitment to make a real estate loan was issued. The conference report does not contain the Senate provision.

The conferees believe that the advance disclosure of truth-in-lending information, which has been provided as page three of the RESPA statement, has been useful to consumers. With the repeal of section 6 of RES PA, there is doubt whether the Federal Reserve Board of Governors retains the authority to require advance disclosure of truth-in-lending information. The conferees believe that continuation of some form of advance truth-in-lending disclosure in consumer real estate transactions has merit. However, this question was not treated in hearings and neither of the banking committees has had an opportunity to consider the details of such disclosure. The conferees believe that rather than include a truth-in-lending provision in this Act, the appropriate committees should consider the question early in 1976, and recommend legislation at the earliest feasible time.

HENRY S. REUSS,
WILLIAM A. BARRETT,
WILLIAM S. MOORHEAD,
ROBERT G. STEPHENS, Jr.,
FERNAND J. ST GERMAIN,
GARRY BROWN,
JOHN H. ROUSSELOT,
Managers on the Part of the House.
WILLIAM PROXMIRE,
JOHN SPARKMAN,
JAKE GARN,
Managers on the Part of the Senate.

DIRECTING SECRETARY OF THE SENATE TO CORRECT ENROLLMENT OF S. 2718

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 83), to direct the Secretary of the Senate to correct the enrollment of S. 2718, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the Senate is directed to make corrections in the enrollment of S. 2718, a bill to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes as follows:

SEC. 2. In section 306 of the Regional Rail Reorganization Act (as added by section 609 (b) of the bill) strike the bracket at the beginning of the section.

SEC. 3. In title VI of the bill redesignate the second section 614 as 615, and redesignate sections 615 and 616 as 616 and 617 respectively.

SEC. 4. In section 601(b)(3) of the Regional Rail Reorganization Act of 1973, as added by 617 of the bill as redesignated is amended by—

(a) striking "(1)" the second time it appears; and

(b) striking the brackets and the material therein except the quotation mark and the final period.

SEC. 5. Before the section heading of section 701 of the bill insert the following:

"TITLE VII—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION"

SEC. 6. Section 4(m) of the Department of Transportation Act (as added by section 803 of the bill) is amended by inserting the last sentence immediately after the period of the sentence preceding it.

SEC. 7. Section 4(n) of the Department of Transportation Act (as added by section 803 of the bill) is amended by striking "(i)" and inserting in lieu thereof "(p)".

SEC. 8. Section 4(o) of the Department of Transportation Act (as added by section 803 of the bill) is amended by striking "(i)" and inserting in lieu thereof "(p)".

SEC. 9. Subdivision (e) of section 20(3) of the Interstate Commerce Act, as amended by section 307 of the bill, is deleted and subdivision (f) is redesignated as subdivision (e).

SEC. 10. Section 4(r) of the Department of Transportation Act (as added by section 803 of the bill) is amended by striking "(i)" and "(j)" and inserting in lieu thereof "(p)" and "(q)" respectively.

SEC. 11. Insert a period after "(6) necessary studies" in section 101 of the bill.

SEC. 12. In section 15(6) of the Interstate Commerce Act (as amended by section 201 of the bill) strike "(C)" and insert in lieu thereof "(c)".

SEC. 13. In section 202(b) of the bill strike out all of the matter starting with " '(6) In any hearing under" and ending with "at the earliest practicable time".

SEC. 14. In the matter inserted into the Interstate Commerce Act by section 202(e) (B) of the bill—

(1) strike " '(9) (a)"

and insert in lieu thereof " '(8) (a)";

(2) strike "section 1(5) (B) (i) of this part" in new subdivision (b) thereof and insert in lieu thereof "section 1(5) (b) (i) of this part" and in such new subdivision (b) strike "subparagraph (d) of this paragraph. That" and insert in lieu thereof "subdivision (d) alleging that";

(3) strike in its entirety clause (iv) of new subdivision (c) thereof and insert in lieu thereof the following new such clause (iv):

" '(iv) the increase or decrease for any rate filed within the second year following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1977;";

(4) in new subdivision (d) thereof—

(A) after "interested party" and before "that—" insert the following: "or of the Office of Rail Public Counsel";

(B) after "injury to the complainant" and before "; and" insert the following "or, in the case of the complaint of such Office, injury to a member of the public or the public generally";

(5) in new subdivision (f) thereof after the first sentence thereof and before the last sentence thereof insert the following two new sentences: "In any hearing under this section, the burden of proof is on the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation, or practice will have a significantly adverse effect on the competitive posture of shippers or consignees to be affected by such change."

SEC. 15. In section 202(f) of the bill in the clause preceding paragraph (1) thereof strike "to" and in paragraph (1), thereof immediately before "modify" insert "to".

SEC. 16. In section 15(3) of the Interstate Commerce Act (as amended by section 203(a) of the bill) (1) strike "In determining" in the first sentence of the new matter and insert in lieu thereof "With respect to carriers by railroad, in determining"; and (2) strike "(C)" and insert in lieu thereof "(c)".

SEC. 17. In new section 5b of the Interstate Commerce Act (as inserted in section 208(b)) of the bill—

(1) in paragraph (6)(a)(i) thereof strike "discussions or";

(2) in paragraph (6)(a)(ii) thereof strike "discussions or".

SEC. 18. In new section 24 of the Interstate Commerce Act (as inserted by section 304 of the bill)—

(1) strike out the brackets and the second sentence in subsection (b) thereof and insert in lieu thereof the following: "The Director shall be appointed by the Commission and shall be qualified and take office upon the approval of such appointment by a concurrent resolution of the Senate and of the House of Representatives.";

(2) in subsection (c) thereof strike "recommendations" and insert in lieu thereof "recommendations";

(3) in subsection (e) thereof strike the comma after President and all that follows through the end of such subsection and insert in lieu thereof a period.

Sec. 19. In section 306 of the Regional Rail Reorganization Act of 1973 (as inserted in section 609(b) of the bill) strike out the bracket immediately before "Sec. 306.".

Sec. 20. In section 403 of the bill—

(1) insert "(a)" immediately after "403.";

(2) Strike "(c) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is" and insert in lieu thereof "(b) Section 5 of such Act (49 U.S.C. 5) is further".

Sec. 21. In section 404 of the bill, strike the bracket before "Sec.".

Sec. 22. Amend the first six printed lines on page 69 of the Conference Report to read as follows:

"PROTECTION OF GOVERNMENT FUNDS

"Sec. 608. Title III of the Regional Rail Reorganization Act of 1973, as amended by section 609 of this Act, is further amended by inserting the following new section:

" 'PROTECTION OF GOVERNMENT FUNDS

" 'Sec. 307. (a) Audit.—(1) The Comp-'."

Sec. 23. In section 27(1)(d) of the Interstate Commerce Act as added by section 306 of the bill, strike "or contract carrier subject to this part I, part II, part III, or part IV of this Act" and insert in lieu thereof "carrier by railroad subject to this part".

Sec. 24. In section 15(3) of the Interstate Commerce Act as amended by section 203(a) of the bill is amended by inserting after "proposed cancellation" the words "involving any common carrier by railroad."

Sec. 25. The amendment to section 6(6) of the Interstate Commerce Act by section 209 of the bill is amended by

(A) striking "each carrier or" and inserting in lieu thereof "each common carrier by railroad subject to this part or rail" and

(B) striking "any carrier" and inserting "any such carrier."

Sec. 26. Paragraph 9(b) of section 17 of the Interstate Commerce Act as added by section 303(a) of the bill is amended by inserting after "any matter" the following "involving a common carrier by railroad subject to this part which is".

Sec. 27. The first subdivision (d) of paragraph (3) of section 27 of the Interstate Commerce Act, as added by section 306 is amended to read as follows: "(a) 'assessment' means valuation for purposes of a property tax levied by any taxing district."

Sec. 28. The second subsection (e) of section 611 of the bill is redesignated as subesction (1).

Sec. 29. Section 301 (i) of the Regional Rail Reorganization Act of 1973, as added by redesignated section 611(1), is amended by striking out "financial assistance provided pursuant to section 802(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1975," and inserting "section 305 of this Act".

Sec. 30. Title VI of the bill is amended by adding at the end thereof the following new section:

"APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

"Sec. 617. Nothing in this title shall effect the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) to actions of the Commission.".

Sec. 31. The table of contents of the Regional Rail Reorganization Act of 1973, as amended by section 600(b) of the bill, is amended by (A) striking out "Section 305. Continuing reorganization; supplemental transactions", (B) striking out "Sec. 307. Supplementary assistance", and (C) striking out "Sec. 308" and inserting in lieu thereof "Sec. 307".

Sec. 32. Strike out in its entirety section 901 of the bill and redesignate sections 902 through 905 of the bill as sections 901 through 904 thereof.

Sec. 33. Amend section 903 of the bill, as redesignated by this resolution, to read as follows:

"RAIL ABANDONMENT REPORT

"Sec. 903. The Secretary shall submit to the Congress, within 90 days after the date of enactment of this Act, a comprehensive report on the anticipated effect, including the environmental impact, of any abandonments of lines of railroad and any discontinuances of rail service in States outside the region, as defined in section 102 of the Regional Rail Reorganization Act of 1973."

Sec. 34. In section 616(b) of the bill amend paragraph (1) thereof to read as follows:

"(1) by (A) striking out "—The" and insert in lieu thereof "—(1) The", and by striking out "to the extent necessary" and inserting in lieu thereof "taken";

Sec. 35. In section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (as inserted in section 605 of the bill) strike "$200,000,000" and insert in lieu thereof "$400,000,000".

Sec. 36. In section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (as inserted in section 605 of the bill) (A) strike "Government Banking Committee of the"; (B) strike "." at the end thereof and in the next line of the bill strike "(g)" and insert in lieu thereof "(i)".

Sec. 37. Section 305(b) of the Regional Rail Reorganization Act of 1973, as amended by section 609(b) of the bill, is amended by striking "whatever" and inserting "whether".

Sec. 38. Section 305(a) of the Regional Rail Reorganization Act of 1973 as amended by section 609(b) of the bill by striking "(other than the Corporation, where it is a proposed transfer, if the Association has determined that such transfer is likely to result in the achievement of the goals specified in section 206(a) of the Act in a manner less costly to the public than that specified in the final system plan)".

Sec. 39. Section 305(d)(5) of the Regional Rail Reorganization Act of 1973, as amended by section 609(b) of the bill is amended by striking "or" following "Association" and inserting "or the Commission" following "the Secretary".

Sec. 40. Section 306(d) of the Regional Rail Reorganization Act of 1973, as amended by section 609(b) of the bill, is amended by striking "(3) the applicant has offered such security as the Secretary deems necessary to protect reasonably the interests of the United States."

Sec. 41. Section 216(b)(2) of the Regional Rail Reorganization Act of 1973, as amended by section 604 of the bill, is amended by inserting ")" following "the Board of Directors of the Association."

Sec. 42. Section 301(d) of the Regional Rail Reorganization Act of 1973, as amended by section 610(b) of the bill by (1) striking "his selection" in the third sentence and inserting "their elections" and (2) inserting " 'holder' " following "subsection" in the last sentence.

Sec. 43. Section 301(c) of the Regional Rail Reorganization Act of 1973, as amended by section 610(a) of the bill is amended by striking "also" and "initial".

Sec. 44. Section 504(g) of the Regional Rail Reorganization Act of 1973, as amended by section 614 of the bill is amended by striking "216(b)(5)" and inserting "211(h)".

Sec. 45. Section 216(c) of the Regional Rail Reorganization Act of 1973 as added by section 604 of the bill is amended by inserting "any" between "purchase" and "debentures", in clause (1) thereof.

Sec. 46. Section 211(h) of the Regional Rail Act of 1973 as added by section 605 of the bill is amended as follows:

(i) In clause (B) of paragraph (2) insert "of" before "all current assets." and insert "to" before "the payment".

(ii) In paragraph (3) change the phrase "paragraph (2)" to "paragraphs (1) and (2)".

(iii) In paragraph (4) strike the phrase "the Government Banking Committee of" and change the word "committee" to "association".

Sec. 47. In the final newly created subsection to section 211 of the Regional Reorganization Rail Act of 1973 as added by section 605 of the bill change "(g)" to "(1)".

Sec. 48. In subsection (r) of section 606 of the bill change "207" to "209" and change the "(e)" before "Time Extension" to "(i)".

Sec. 49. Section 301(e) of the Regional Rail Reorganization Act of 1973 as amended by section 607 by the bill is amended by striking at the beginning of the second paragraph "B preferred stock" through the first"."

Sec. 50. Section 308(b) of the Regional Rail Reorganization Act of 1973 as added by section 607 of the bill is amended by changing "90" to "150".

Sec. 51. Section 209(f) of the Regional Rail Reorganization Act of 1973 as added by section 602 of the bill is amended by deleting the fourth sentence thereof.

Sec. 52. Section 202(c) of the bill is deleted, and subsections (d) (e) (f) and (g) are redesignated as (e) (f) (g) and (h).

Sec. 53. Paragraph (4) of section 15a of the Interstate Commerce Act, as amended by section 205 of the bill, is amended by adding at the end thereof: "No rate of carrier shall be held up to a particular level to protect the traffic of any other carrier or mode of transportation, unless the Commission finds that such rate reduces or would reduce the going concern value of the carrier charging the rate.".

Sec. 54. Section 304 (e) of the Regional Rail Reorganization Act, as amended by Section 804 of the bill, is amended by striking "section 808 of the Rail Services Act of 1975," and inserting in lieu thereof: "section 807 of the Railroad Revitalization and Regulatory Reform Act of 1975,".

Sec. 55. Section 402(b)(2) of the Regional Rail Reorganization Act as amended by Section 805 of the bill is amended by striking "subsidies" where it appears and inserting in lieu thereof "assistance".

Sec. 56. Section 205(d)(5) of the Regional Rail Reorganization Act as amended by Section 309 of the bill is amended by striking out subsection (a) and inserting in lieu thereof:

(A) "standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Interstate Commerce Commission under Section 705 of this Act), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight services; and"

Sec. 57. Section 807(c)(A) of the bill is amended by striking "706" and inserting "705".

Sec. 58. Section 402(h) of the Regional Rail Reorganization Act as amended by Section 805 of the bill is amended by striking "Rail Services Act of 1975," and inserting in lieu thereof "Railroad Revitalization and Regulatory Reform Act of 1975."

Sec. 59. In section 202(6), lines 12 and 13 of new section 15(8) amended by inserting "this" after "pursuant to" in line 12 and striking "(7) of this section" in line 13.

Sec. 60. In section 206, the numeral at the beginning of the new section is changed from (18) to (17).

Sec. 61. In section 303, quotation marks are added immediately before "(d)" on page 18, line 25. On page 19, line 22, "this" is added immediately after "set forth in" the word "sections" is amended to "section" and "(5) or (6)" is deleted.

SEC. 62. On page 19, line 29, quotation marks are added before "(e)".

SEC. 63. On page 19, line 46, the letter (d) is changed to (f) and quotation marks are added before said letter.

SEC. 64. On page 20, line 1, the letter (f) is changed to (g) and quotation marks are added before it.

SEC. 65. On page 20, line 8, the letter (g) is changed to (h) and quotations are added before it.

SEC. 66. On page 20, line 13, (h) is changed to (i) and quotations are added before it.

SEC. 67. On page 10, line 11, after the word "part" add "and shall apply only to such matters."

SEC. 68. Section 808 of the bill is amended by striking "section 808 of the Rail Services Act of 1975," and inserting in lieu thereof "section 807 of the Railroad Revitalization and Regulatory Reform Act of 1975."

SEC. 69. Subsection (f) of section 805 of the bill is deleted.

SEC. 70. Section 805 of the bill is amended by adding at the end thereof the following new subsection:

"(c) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763 (b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title for acquisition and modernization pursuant to this section, or for any project designated pursuant to a State rail plan.".

SEC. 71. In section 611(m) of the bill, strike "reading" after "adding a new subsection".

SEC. 72. In section 303 (b) of the Regional Rail Reorganization Act of 1973 (as amended by section 611(k) of the bill) strike out "an" after "shall not be deemed a breach," and insert in lieu thereof "in".

SEC. 73. In paragraph (3) of section 501 of the Regional Rail Reorganization Act (as amended by section 612(3) of the bill) strike "1" after "has not reached age 65 on the effective date of this Act or;".

SEC. 74. In section 403 (c)(C) of the Regional Rail Reorganization Act, as amended by section 805 (b) of the bill as amended by these amendments, delete ", fiscal" and insert in lieu thereof "fiscal".

SEC. 75. In section 301(i) of the Regional Rail Reorganization Act of 1973 (as amended by section 611(1) of the bill insert """ before "(i)".

SEC. 76. In section 611(e) of the bill the second time it appears strike out "(e)" and insert in lieu thereof "(1)".

SEC. 77. Delete "SEC. 616." of the bill and insert in lieu thereof "SEC. 617.".

SEC. 78. Delete "SEC. 615." of the bill and insert in lieu thereof "SEC. 616.".

SEC. 79. Delete "SEC. 614." of the bill the second time it appears and insert in lieu thereof "SEC. 615.".

SEC. 80. In the last sentence of section 402 (a)(1) of the Regional Rail Reorganization Act of 1973, as amended by section 805(a) of the bill, delete "(1)" and "(2)" and insert in lieu thereof "(A)" and "(B)".

SEC. 81. Delete "(f)" of section 805 and "(b)" of section 805 and insert in lieu thereof "(b)" and "(c)", respectively.

SEC. 82. In section 611(1) of the bill as amended by amendment ( ), strike "new subsection:" after "at the end thereof the following" and insert in lieu thereof "2 new subsections:".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2327, REAL ESTATE SETTLEMENT PROCEDURES ACT AMENDMENTS OF 1974

Mr. BARRETT. Mr. Speaker, I call up the conference report on the Senate bill (S. 2327) to suspend sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974," and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of today.)

Mr. BARRETT (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania (Mr. BARRETT).

Mr. BARRETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring up the conference report on S. 2327, the Real Estate Settlement Procedures Act Amendments of 1975. Both the House and the Senate passed almost identical bills to make numerous amendments to RESPA to correct serious defects in the original act.

The Senate added two provisions not in the House bill which gave the House conferees considerable problems. The resolution reached in conference is completely acceptable to the House conferees. The Senate receded on one provision and the language of the second provision was substantially modified to remove our objections.

The first provision would have required advance disclosure of truth-in-lending information in connection with real estate loans. This provision raised numerous problems and it was agreed to drop it from this bill and give the matter separate consideration early next year.

The second Senate provision would have required 1-day advance disclosure of settlement costs. The conference report merely requires information known to the settlement agent during the business day before settlement to be made accessible to the borrower if he requests it. The settlement agent, or any other party, has no obligation to obtain information on settlement costs under the language in the conference report.

This is very important legislation which has widespread support on both sides of the aisle.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to commend the gentleman from Pennsylvania (Mr. BARRETT), the chairman of the subcommittee, for the expeditious way in which he has handled this, making it possible for us to bring this conference report before the House.

In short, the House provisions that were passed overwhelmingly have been adopted in the conference report, with slight change.

Mr. Speaker, I recommend that the conference report be adopted.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, we can assure our colleagues on the basis of the substantial amount of mail they have had on this subject relating to real estate settlement that the 12-day provision has been eliminated, and we have prevailed in favor of the House position.

Mr. BROWN of Michigan. Yes, I think we can say that. I think this is a fine piece of legislation. It has almost a consensus of support, if not a complete consensus of support.

Mrs. SULLIVAN. Mr. Speaker, the conference report on amendments to the Real Estate Settlement Procedures Act completes the process of converting the 1974 act, known as RESPA, into the Real Estate Speculators Protective Act.

As the original sponsor in the Housing Subcommittee in 1971–72 of the legislation which became the framework for the 1974 act—an act not nearly as strong as it should have been in protecting the purchasers of homes in this country—I regard the 1975 amendments as a crippling blow to the consumer. The average home buyer usually fails to employ his or her own lawyer when signing papers in connection with buying a home, and is at the mercy of professionals in the field, although usually being required to pay legal fees for the lender's lawyer at the time of closing.

RESPA since June 20 of this year has at least provided the home buyer with advance disclosure of all the settlement charges and an opportunity to shop around for the best terms on those closing costs which are negotiable. Now, under this so-called compromise bill, the home buyer is only entitled to such advance disclosure, on request, no more than 24 hours ahead of closing, and then only to the extent that the settlement official has been given those figures 24 hours in advance. There is no compulsion on anyone to have exact figures provided in advance—not even 1 day in advance.

REPEAL OF PREVIOUS SELLING PRICE DISCLOSURE BY SPECULATORS

The worst thing about the 1975 amendments is the repeal of section 7 of the act requiring disclosure of the previous selling price of a home purchased from a real estate speculator who acquired the home within 2 years of the sale and has never lived in it as his own residence. Anyone interested in researching the background of that provision need only read the hearings on home financing practices and procedures held in 1969 by an ad hoc Subcommittee of the House Committee on Banking and Currency investigating fraudulent and unconscionable real estate speculative abuses in Washington, D.C. and elsewhere, and the report of that subcommittee printed in the CONGRESSIONAL RECORD on July 31, 1970, at pages 26881–26889 of the RECORD. These were not FHA 235 mortgages but conventional mortgages which were the subject of our 1969 hearings. The 235 scandals were uncovered later.

But now, after a brief 6 months of protecting unsophisticated moderate income home buyers from this kind of abuse in the artificial kiting of home prices by real estate speculators, this part of the new law is being repealed. I think the Members supporting repeal of section 7 will soon find that they allowed their concern over alleged inconveniences to the real estate industry to overshadow their obligation to protect the moderate income home buyer.

A LOBBYING TRIUMPH FOR REAL ESTATE INDUSTRY

This bill is now an out-and-out real estate industry triumph over the home buying public. Apparently, all it took to accomplish this goal was a couple of dozen letters, telegrams, or telephone calls from real estate dealers and lenders in each congressional district. Students of the lobbying process would do well to include in their research the 1975 amendments to the Real Estate Settlement Procedures Act as a classic example of effective industry lobbying.

I was overwhelmingly out voted on these amendments in the subcommittee, in the full committee, and on the House floor earlier in this session, and although I am the ranking majority member of the Housing Subcommittee, was not invited to be a conferee. True, it would not have made any difference in the final result, I am sure. This dismantling of the 1974 act was cut and dried from the moment the real estate industry started to complain this fall about the allegedly onerous burdens of telling home buyers in advance what their settlement costs would be, and disclosing the previous selling price of a home sold by a professional real estate speculator.

Mr. BARRETT. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXTENDING THE FLOOD DISASTER PROTECTION ACT OF 1973

Mr. BARRETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 157) extending the Flood Disaster Protection Act of 1973 and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 157

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(b) of the Flood Disaster Protection Act of 1973 is amended by striking out "January 1, 1976" and inserting in lieu thereof "March 1, 1976".

Mr. BARRETT (during the reading). Mr. Speaker, I ask unanimous consent that the Senate joint resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BARRETT. Mr. Speaker, Senate Joint Resolution 157 extends the date from January 1, 1976, to March 1, 1976, the exemption from the prohibition contained in the Flood Disaster Protection Act of 1973 permitting the making of loans by federally supervised lending institutions to finance the acquisition of previously occupied residential dwellings. Mr. Speaker, the reason for this 60-day extension is to permit the conferees on the bill (H.R. 9852) to conclude consideration on that bill and the matters concerning the Federal flood insurance program. Unless we provide this temporary extension residential properties located in flood prone areas of nonparticipating communities will be denied financing by federally supervised lending institutions.

Mr. Speaker, this I am sure, satisfies the complaints raised by some of the Members last Monday when we passed the bill (S. 848) which would extend the emergency flood insurance program.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. BARRETT. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I just wish to say that I think this is a good piece of legislation, in view of the present status of the flood insurance legislation. I think we can, if we pass this, go home with the satisfaction that we have extended the exemption for 2 months.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BARRETT. Mr. Speaker, I ask that all Members may have 5 legislative days in which to extend their remarks in the Record on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ESTABLISHING THE JUDICIAL CONFERENCE OF THE DISTRICT OF COLUMBIA

Mr. DIGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10035) to establish the Judicial Conference of the District of Columbia, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after the line following line 14 insert:

(c) The portion of section 801 of the Elementary and Secondary Education Act of 1965 which precedes subsection (a), is amended by striking out "As used in titles II, III, V, VI, and VII," and inserting in lieu thereof, "As used in titles II, III, IV, V, VI, and VII".

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, the purpose of H.R. 10035 as passed by the House on November 10, 1975, by a vote of 370 to 0, is to authorize the chief judge of the D.C. Court of Appeals to convene an annual conference designed to improve the operation of the civil and criminal justice system in the District of Columbia.

AMENDMENT OF THE SENATE

The Senate added a new subsection—subsection (c)—to correct an error in the final version of the Education Amendments of 1974, enacted August 21, 1974. The District of Columbia was omitted from eligibility for funding under title IV of the Education Amendments of 1974—consolidation of education programs. This oversight in the law has made it imposible to allocate the $454,780 scheduled to support programs under this title in the District.

The Senate amendment restores the District of Columbia and the Commonwealth of Puerto Rico to eligibility for these funds.

Without this legislation, these jurisdictions will be without such funds after December 31.

The District Committee concurs in this amendment.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR ADDITIONAL LAW CLERKS FOR JUDGES OF DISTRICT OF COLUMBIA COURT OF APPEALS

Mr. DIGGS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4287) to provide for additional law clerks for the judges of the District of Columbia Court of Appeals, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 3, insert:

Sec. 2. That the District of Columbia Law Revision Commission Act, approved August 21, 1974, is amended as follows:

Section 2(i) of such Act (D.C. Code, sec. 49-401(i)), is amended to read as follows:

"The Commission may appoint and fix the compensation of such personnel as it deems advisable. Such personnel shall be appointed without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service. The Commission may appoint a Director. Such appointment shall be made without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service. The Director shall serve at the pleasure of the Commission and shall be entitled to receive compensation at the maximum rate as may be established from time to time for grade 16 of the General Schedule in section 5332 of title 5 of the United States Code. The Commission may also appoint a General Counsel without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, to serve at the pleasure of the Commission. The General Counsel shall be entitled to receive compensation at the same rate as the Director and shall be responsible solely to the Commission.

"Persons appointed to the staff of the Commission shall be appointed solely on the basis of their ability to perform the duties of the Commission without regard to political party affiliation. Employees of the Commission shall be regarded as employees of the District of Columbia Government.".

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, the purpose of H.R. 4287, as passed by the House on November 10, 1975, by a vote of 310 to 21, is to authorize an additional law clerk for each of the 9 judges of the District of Columbia Court of Appeals.

AMENDMENT OF THE SENATE

The Senate added a new section—section 2—to the bill, which amends the District of Columbia Law Revision Commission Act, which was passed in the last Congress—Public Law 93-379, approved August 21, 1974—by a vote of 220 to 119.

This act created a 15-member Commission to examine the District laws and recommend changes and reforms to the Congress and to the Council of the District of Columbia. The act authorized the Commission to appoint and fix the compensation of personnel therefor.

The Senate amendment authorizes the Commission to appoint a Director and a General Counsel, to serve at the pleasure of the Commission, and to be paid at the maximum rate established for grade 16 of the General Schedule in section 5332 of the United States Code—this maximum rate is presently $46,026; however, the maximum salary level for General Schedule personnel is presently $37,800, so that is the top limit that the Director and the General Counsel, under the Senate amendment, could be paid.

Also, the Senate amendment authorizes the Commission to appoint personnel without regard to the United States Code—title 5—provisions governing appointments in the competitive service.

The District Committee concurs in this amendment.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE—SUBPENA IN CASE OF UNITED STATES AGAINST A. MICHAEL STAGG, ET AL.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., November 28, 1975.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives.

DEAR MR. SPEAKER: On this date I have been served with a subpoena duces tecum by a representative of the U.S. Department of Justice, that was issued by the United States District Court for the Southern District of New York.

The subpoena commands me or my designated representative to appear before the Court on December 24, 1975, and requests certain House records pertaining to the campaign reports of Ernest A. Kassab, as outlined in the subpoena itself, which is attached hereto.

House Resolution No. 9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am
Sincerely,
EDMUND L. HENSHAW, JR.,
Clerk, U.S. House of Representatives.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

SUBPENA DUCES TECUM

[In the U.S. District Court, Southern District of New York]

To: Clerk, U.S. House of Representatives, Washington, D.C., Greeting:

We command you that all and singular business and excuses being laid aside you and each of you appear and attend before the Judge of the District Court of the United States for the Southern District of New York, at a District Court to be held in Court room No. 519 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, in and for the said Southern District of New York, on the 24th day of December, 1975, at o'clock in the fore noon, to testify and give evidence in a certain cause now pending undetermined in the said District Court of the United States for the Southern District of New York, between the UNITED STATES OF AMERICA, Plaintiff, and A. Michael Stagg, Gene L. Simms, Ernest Kassab and Robert Geffen, 75 Cr. 971 Defendants, on the part of the United States, and not depart the Court without leave thereof or of the District Attorney, and that you bring with you and produce at the time and place aforesaid the following: Any and all registration forms and reports of receipts or expenditures submitted by or in behalf of Ernest A. Kassab, or any committee supporting the nomination or election of Ernest A. Kassab, as the Democratic candidate for the United States House of Representatives from the 23rd District of Pennsylvania, filed in the year 1972 or 1973 for the November 1972 election and all other deeds, evidence, and writings which you have in your custody or power concerning the premises. And failure to attend and produce said documents, you will be deemed guilty of a contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggrieved, and forfeit Two Hundred and Fifty Dollars in addition thereto and to other penalties of the Law.

Dated: New York, N.Y. November 19, 1975.
RAYMOND F. BURGHARDT,
Clerk.
THOMAS J. CAHILL,
U.S. Attorney for the Southern District of New York.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 946) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 946

Whereas, in the case of United States against A. Michael Stagg et al., (Criminal Case No. 75-971), pending in the United States District Court for the Southern District of New York, a subpena duces tecum was issued by the said court and addressed to Edmund L. Henshaw, Jr., Clerk of the House of Representatives, directing him to appear as a witness before said court on the morning of the 24th day of December, 1975, and to bring with him certain and sundry papers in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice, or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding, and then always at any place under the orders and control of this House, and take copies of any documents or papers; and the Clerk is authorized to supply certified copies of such documents and papers in possession or control of said Clerk that the court has found to be material and relevant, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under said Clerk; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena aforementioned.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—BALTIMORE CONTRACTORS, INC. AGAINST THE UNITED STATES

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I rise to a question of the privileges of the House.

Mr. Speaker, the U.S. Court of Claims, on June 17, 1975, entered an order in the case of Baltimore Contractors, Inc., against the United States (Ct. Cl. No. 272-70) requiring the production of certain Government documents. Certain of those documents covered by the said order of the court are documents of the House Building Commission and as such they are documents which are within the control and possession of the House of Representatives. The order of the court requiring their production, therefore, gives rise to a question of the privileges of the House.

Mr. Speaker, as a member of the House Building Commission I send to the desk a privileged resolution (H. Res. 947) in response to the said order of the court.

The SPEAKER. The Clerk will read the resolution.

The Clerk read the resolution, as follows:

H. RES. 947

Whereas in the case of Baltimore Contractors, Inc. against the United States (Case No. 272–70) pending in the United States Court of Claims, an order was issued by the said court on June 17, 1975 granting the plaintiff's motion for the production of certain documents in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That a copy of this resolution be submitted to the said court as a respectful answer to the order aforementioned.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR SINE DIE ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 518) and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 518

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Friday, December 19, 1975, they shall stand adjourned sine die or until 12:00 noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it, or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for consideration of legislation.

SEC. 3. During the adjournment of both Houses of Congress as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. O'NEILL. Mr. Speaker, I would like to have dialog with the minority leader, the gentleman from Arizona (Mr. RHODES). Regarding the sine die resolution, the Senate some time ago passed a similar resolution, but they have not sent it over to us. The situation is this at the present time with our concurrent resolution. It will go to the Senate. If the Senate adopts it, the two Houses can adjourn sine die. If we then agree to Senate amendments to House Joint Resolution 947 and it is signed by the President of the United States, then we will be back here on the 19th day of January. If it is vetoed or not signed by the President of the United States, we will be back on January 3.

If for some reason or other the Senate does not see fit to agree to our concurrent resolution, then we cannot adjourn sine die.

By the action that we took earlier in the day on the gentleman from Missouri's, Mr. BOLLING's, resolution on behalf of the Committee on Rules, when we adjourn tonight, we will adjourn to meet on Tuesday next, and when we adjourn on Tuesday next, we will adjourn to meet on Friday, and so forth, until January 3.

Under the rules of the Constitution, the Congress of the United States must meet on January 3 of each year.

At the organization meeting, we must establish a quorum and notify the President of the United States and the Senate of the United States that a quorum has been established and that the Congress is ready to meet.

On January 3, if the President does not sign the joint resolution, it would be our intent to meet on the same basis as we would meet for the next 2 weeks, and I will urge that subject to the call of the Chair we meet every third day until the 19th.

With the conclusion of the dialog between myself and the minority leader—a monolog up to this moment—we will ask to go into recess for a period of 15 to 20 minutes to see if there is action on the tax bill that would concern us. Other than that, we would pass a resolution to inform the President of the United States and wish him a merry Christmas and tell him we are going home ourselves.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I am happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I take it from the remarks of the distinguished majority leader that all business for this session is now completed as far as the House is concerned unless there is some business that might become necessary because of some action on the part of the other body, and I cannot now foresee what that will be, so can we say business has been pretty well concluded?

Mr. O'NEILL. We will recess for 15 minutes.

Mr. RHODES. Mr. Speaker, in the event that only the gentleman from Massachusetts and the Speaker and the gentleman from Arizona are here when we reconvene, I think I would like right now, if I may, to wish the Speaker of the House and the distinguished majority leader and all Members of the House a very merry Christmas, a profitable vacation, and happy landings and happy returns.

Mr. O'NEILL. Mr. Speaker, may I say to the minority leader and all my colleagues in the House on both sides and the Speaker and employees of the House what a pleasure it has been to be here.

I think we have had a very fruitful and successful year, as the record will show, so I say to all: a merry Christmas and happy New Year, and I think I can say now Members can go to the airports.

APPOINTMENT OF COMMITTEE TO INFORM THE PRESIDENT OF THE READINESS OF CONGRESS TO ADJOURN

Mr. Speaker, I offer a resolution (H. Res. 948) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 948

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as Members on the part of the House to the committee to notify the President the gentleman from Massachusetts (Mr. O'NEILL) and the gentleman from Arizona (Mr. RHODES).

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to take this time to thank all Members of the House for their humorous courtesy and for the manner in which they have tolerated my own shortcomings and for the great manifestations they have always shown of friendship to me as a person as well as Presiding Officer of this body.

I hope the Members and their families and their staff and their families and all will have a very merry Christmas and a happy New Year.

TRIBUTE TO PARLIAMENTARIAN LEWIS DESCHLER ON 50 YEARS WITH THE HOUSE

(Mr. ALBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBERT. Mr. Speaker, I take this time because this month is the golden anniversary of service of one of the greatest men that has ever served as an employee or official of the House of Representatives. Fifty years ago this month Lew Deschler took up his job as an appointee of Speaker Longworth as timekeeper of the House of Representatives. He rose to be the greatest Parliamentarian in the history of the world.

More than anybody in my congressional lifetime, he has been my watchdog, my helper, and my friend. I wish him many, many years of successful work as a retired employee of the House who is finishing his precedents. I hope for him and his family a very happy Christmas and New Year.

Mr. RHODES. Mr. Speaker, will the distinguished Speaker yield?

Mr. ALBERT. I yield to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I associate myself with great pleasure with the remarks that our distinguished Speaker just made concerning Lew Deschler who is, indeed, one of the greatest parliamentarians of our time.

The Speaker mentioned the friendship he has had with Lew and the many bits of advice and aid which he has received.

I, too, as a Member and also the minority leader, can say that I have been well treated always by Lew Deschler. He was always fair. He certainly carried in his heart the tenets of any good Parliamentarian, of which there are two; one is that a parliamentary body must be able to do its duty and do its job and that the Parliamentarian must find a way for that to be done.

Second is that the rights of the minority must always be protected. To me, his career and his activities as Parliamentarian are in the best traditions of a long line of professional Parliamentarians that have served this House so well.

I join with the Speaker also in wishing Lew Deschler many more years. I am looking forward to completion of his works and to many years of association with him.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I thank the Speaker very much for this timely and appropriate recognition of the service of Lew Deschler.

I am no historian of the House, but it is my belief he is the first person to serve 50 continuous years without interruption to this body.

Ernest Petinaud completed his 50th year, but it was interrupted by several years elsewhere.

This, I believe, is a historical occasion in many ways in terms of service, but also in terms of character of service.

Like the minority leader, I do look forward to the day when the Deschler precedents will be completed. They will be a great tool for the Speaker and for the Members of this body.

I wish Lew Deschler many years of happiness.

Mr. ALBERT. Mr. Speaker, I also want to thank Lew's distinguished successor, who has filled Lew's shoes well. Bill Brown is a pillar in this House.

TRIBUTE TO HOUSE LEADERSHIP, MEMBERS, AND STAFF

Congressional leadership is inherently collegial in nature. Many persons, and not just the Members and staff of the House of Representatives, have contributed to the impressive legislative accomplishments of the 1st session of the 94th Congress.

Here, I would like to express my appreciation for the assistance and cooperation rendered by the majority leadership, the committee chairmen, the Members on both sides of the aisle, the officers of the House, and the many staff members, all of whom gave so willingly of their time and efforts to the collective good.

The distinguished majority leader, THOMAS P. "TIP" O'NEILL, Jr., has my deepest regard and appreciation. Throughout this year, as was the case in the 93d Congress, few decisions as to the scheduling and implementation of legislation were made without his valued advice and assistance.

The leadership has also relied heavily upon its efficient whip system, ably led by JOHN MCFALL and assisted by chief deputy whip JOHN BRADEMAS and deputy whips RICHARD FULTON—replaced by JAMES R. JONES in August 1975—SPARK MATSUNAGA and JAMES C. WRIGHT, JR. The dedication of these men, as well as the attention to detail provided by the assistant whips, has been reflected not only in the high degree of floor involvement by most Members, but also the overall quality of the legislative outputs for this session.

The core of the legislative process is, of course, the committee system. Many chairmen and subcommittee chairmen have demonstrated their substantive knowledge and parliamentary skills, first, in the arenas where most legislation gets drafted and perfected, the subcommittee and committee hearings and markup sessions, but also in the floor debates. These committee leaders and many Members of the Democratic Party have given our party's programs strong support on most issues.

Since I first arrived in the House of Representatives in 1947, and especially since I became Speaker in 1971, I have enjoyed the friendship and steadfast loyalty of many colleagues. To all of you, I express my deep gratitude.

But I look for friends and valued legislative assistance not alone to my side of the aisle. The Republican leadership and many of their Members have also cooperated with me on numerous occasions. Of course, our relationships have also featured numerous partisan conflicts. This is at it should be in our system based upon the viability and efficacy of the two-party system.

However, even in the most heightened partisan debate—and we have had our share in this Congress—the fine working relationships between the Republican leadership and the Democratic leadership have seldom been strained. To JOHN RHODES, the distinguished minority leader, and ROBERT MICHEL, the able minority whip, I extend my thanks for your cooperation and renewed spirit of comity.

The Members of the House, its officers, the employees of the House, our leadership, personal and committee staffs have all contributed long hours and sustained involvement in the legislative tasks which we have accomplished. And as I indicated earlier, the assistance of our newly appointed House Parliamentarian, William H. Brown, has been especially valuable.

This Congress, during its first year, has worked harder and met for more hours than any session of the House since World War II. Still, there is much that remains to be done.

GENERAL LEAVE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the 50th anniversary of the service and tenure of Lew Deschler.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

RECESS

The SPEAKER. The Chair declares the House in recess until 6:25 p.m.

Accordingly (at 6 o'clock and 10 minutes p.m.), the House stood in recess untill 6 o'clock and 25 minutes p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 25 minutes p.m.

FURTHER RECESS

The SPEAKER. The House will stand in recess for 10 more minutes, subject to the call of the Chair.

Accordingly (at 6 o'clock and 25 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 35 minutes p.m.

FURTHER RECESS

The SPEAKER. The House will again stand in recess for a few minutes, subject to the immediate call of the Chair.

Accordingly (at 6 o'clock and 36 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 2 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 518. Concurrent resolution providing for the sine die adjournment of the 1st session of the 94th Congress.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 749. Joint resolution to provide for the beginning of the second session of the 94th Congress and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 9968. An act to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities.

COMMUNICATION FROM COMMISSION ON INFORMATION AND FACILITIES

The SPEAKER laid before the House the following communication from the Commission on Information and Facilities which was ordered to be printed as H. Doc. 94–327:

DECEMBER 15, 1975.

Hon. CARL ALBERT,
Speaker of the House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: The Report of the House Commission on Information and Facilities on the Office of the House Legislative Counsel and "The Staff Required to Fully Meet the Needs of the House" is hereto attached.

This report is in compliance with the provisions of House Resolution 988 of the 93rd Congress, which provided that the Commission report its findings to the Speaker no later than January 1, 1976.

All nine Members of the Commission voted to approve this report and the recommendations it contains.

Sincerely,

JACK BROOKS.

REPORT OF THE COMMITTEE TO NOTIFY THE PRESIDENT

The SPEAKER. The Chair will receive a report.

Mr. O'NEILL. Mr. Speaker, as chairman of the Committee to Notify the President, I am happy to say that the honorable minority leader and myself talked at some length to the President of the United States and I have informed him of the action of this body, that our sine die resolution has passed this Congress and has been sent to the Senate and we are ready to adjourn.

He informed us as to what some of his plans were concerning the tax bill, which I believe now he will sign, and also that he will sign the sine die resolution.

He wished to you, Mr. Speaker, and to all the Members of Congress the merriest of Christmases and a happy New Year.

PROVIDING FOR THE BEGINNING OF SECOND SESSION OF THE 94TH CONGRESS

Mr. O'NEILL. Mr. Speaker, I call up from the Speaker's desk the joint resolution (H.J. Res. 749) to provide for the beginning of the 2d session of the 94th Congress, and for other purposes, with a Senate amendment thereto, and move to concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Page 2, line 3, strike out "Report." and insert: "Report, and (c) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1976 Economic Report with the Senate and the House of Representatives not later than March 19, 1976.

"SEC. 3. That prior to the convening of the second regular session of the Ninety-fourth Congress on January 19, 1976, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 4 of this resolution.

"SEC. 4. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever in their opinion the public interest shall warrant it or whenever the majority leader of the House and the majority leader of the Senate, acting jointly, or the minority leader of the House and the minority leader of the Senate, acting jointly, file a written request with the Clerk of the House and the Secretary of the Senate that the Congress reassemble for the consideration of legislation."

The amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the 1st session of the 94th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING CLERK TO PRINT AS REPORTS OF THE 93D CONGRESS REPORTS FILED WITH CLERK BY COMMITTEES AUTHORIZED TO CONDUCT INVESTIGATIONS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that reports filed with the Clerk following the sine die adjournment by committees authorized by the House to conduct investigations may be printed by the Clerk as reports of the 93d Congress.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GENERAL LEAVE TO EXTEND UNTIL LAST EDITION AUTHORIZED BY JOINT COMMITTEE ON PRINTING IS PUBLISHED

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks; but this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress. Remarks submitted under this request are to be delivered to room H132 between the hours of 10 a.m. and 3 p.m., Monday through Wednesday signed by the Member submitting.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR SPEAKER AND MAJORITY LEADER TO EXTEND THEIR REMARKS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the majority leader and the Speaker of the House may have the privilege of extending their remarks up to and including the publication of the last RECORD and to include a summary of the work of the Congress.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I assume that the majority leader is in a position, at this time, to inform the House as to the probable program beginning January 19 of next year and the week following.

Mr. O'NEILL. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, I will be happy to respond to the minority leader.

Mr. Speaker, I take this time to announce the program for the week when we return on January 19, 1976.

sent Calendar, followed by suspension
sent Calendar, followed by suspension
bills.

We will then consider H.R 7897, the Indo-Chinese education bill, which has an open rule with 1 hour of debate.

We also expect to hear President Ford deliver his state of the Union address on that evening.

We will announce the program for the balance of the week on Monday, January 19.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JANUARY 21, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday, January 21, 1976, be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. RHODES. Mr. Speaker, reserving the right to object, and I shall not, does the majority leader have any suspensions bills in mind for January 19, 1976, or just to announce that that is the suspension week?

Mr. O'NEILL. The majority leader has the right to bring them up, but we will let the minority leader know a week in advance.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection?

WE SHOULD BE OUT OF ANGOLA AND NOW

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, the ever-increasing military involvement of the United States in Angola is distressing to the people in our country and that involvement should be ended immediately. The administration tells us that there are three different groups of Africans in contest with one another for supremacy in the State of Angola. They are the MPLA, the FNLA and the UNITA. The MPLA is supported by the Soviet Union with arms and by Cuba with troops. The FNLA is supported by arms from Zaire and China and some Zaire troops; and UNITA is furnished arms by the United States as well as Zaire and China troops in South Africa. The United States is providing arms but no men.

The administration argues that the Soviet Union has transported massive arms to the MPLA since March of this year and that there are between 3,500 to 4,000 Cuban troops helping those forces. When the administration is asked why the United States is involved, it says basically that when a superior power, such as the U.S.S.R. injects itself in a massive way in an area in which it has had little prior involvement, the United States must respond. When asked if the forces which the United States are supporting are democratic and in opposition to nondemocratic forces, the answer candidly given is that there are no democratic forces in that state. When the question is asked what the United States vital interest is, the response again is candid—and it is that we do not have a vital interest there.

It becomes clear that the fundamental concern of the administration is machismo. Apparently, our policy is guided by the Soviet Union—which is if the U.S.S.R. intervenes even if there are not democratic interests to be protected, or the United States own national security is not involved, we must react. Based upon the administration's own evaluation, I can only conclude that our intervention in Angola is the beginning of another Vietnam. In Vietnam we were not supporting a democratic force—just the contrary. It was a corrupt totalitarian government locked in battle with another totalitarian regime and we had no vital national interest to defend but it was again rather machismo on our part.

I condemn the Soviet Union's intervention in Angola in what is clearly a civil war. The United States should make its position loud and clear in every international forum. The most important of which on this question would be the Organization of African States. And if the United States believes that it should take action in response to the Soviet Union's intervention in the Angolan civil war, it can do that without military involvement. All we need do is to end the sale of grain to the Soviet Union which is so important to it. It is interesting that the administration claims it consulted with appropriate House committee members and advised them each step of the way. The White House may indeed have consulted with some senior members of those committees but many Members know nothing of what is taking place and even more important several of the statements by both the Speaker of the House and the majority leader that they were in no way consulted by the administration when the administration decided to intervene in a military way, refutes that claim.

The time to get out is now and this Congress can stop our involvement by accepting the Tunney amendment now attached to the $112.3 billion defense funding bill for the 15-month period ending next October 1, which would forbid weapons aid to Angola. There are some who would limit our involvement in Angola. No, Mr. Speaker, that is not enough. We must end it.

I will do what I can to end our involvement now.

TESTIMONY TO THE EFFECT THAT REPEAL OF ANTITRUST WOULD EQUAL HIGHER DRUG COSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, on December 11, 1975, certain witnesses who appeared before a panel of attorneys from the Antitrust Division of the Department of Justice and staff of the Domestic Council holding a hearing on regulatory reform testified that repeal of the Robinson-Patman amendment to the Clayton Antitrust Act would result in the consumer paying higher prices for drugs.

Mr. Speaker, in that connection, on December 4, as is shown on page 38738 of the Congressional Record, I addressed the House and pointed out how Justice Department officials are trying to repeal antitrust laws under a cover-up described as deregulation. In that connection, I referred to the so-called hearings that were expected to be held before attorneys of the Department of Justice and some staff members of the Domestic Council commencing December 8, 1975. In that connection, it has been stated:

> It seems strange indeed that these (Antitrust) officials of an important government agency . . . are now attempting to conjure up some sort of a record which they apparently believe would support them in the propaganda they have heretofore spread around against provisions of our antitrust laws, including the Robinson-Patman Act.

Mr. Speaker, I include in the Record some of the testimony which was received by the panel of Department of Justice attorneys and the staff of the Domestic Council. The testimony is as follows:

Statement of the National Association of Retail Druggists Before the Domestic Council Review Group on Regulatory Reform, December 10, 1975

I am William E. Woods, Washington Representative of the National Association of Retail Druggists, which was established almost a century ago and represents some 35,000 independently owned retail drug stores. In these stores, approximately two-thirds of the nation's pharmacists practice their profession and dispense about two-thirds of the nation's prescriptions. These pharmacists are both health care professionals and small businessmen.

NARD and its members vigorously support the American free enterprise system and strongly endorse the Robinson-Patman Act. We oppose repeal of the Act. The problem is not with the Act, but with the agencies who refuse to enforce the Act. FTC annual reports to Congress clearly document this non-enforcement record.

Repeal or continued non-enforcement of the Robinson-Patman Act will make it impossible for many of the sick, poor and aged to obtain life saving drugs where and when they are needed. It will create havoc in the availability of retail pharmacy services to members of the community.

If the large corporate chains are encouraged by repeal or continued non-enforcement to use their national buying power to obtain unwarranted price favors, the effect will be retail prescription monopolies in many communities. The predatory habits used by large corporate nonpharmacist-owned chains today make this forecast easy. They demonstrate daily that their concern is store traffic—not service.

While we support the Administration's position with respect to less government regulation and increased anti-trust enforcement, we believe those who support repeal are confused if they feel their proposal is consistent with those goals. Those goals are not satisfied by the proposals to repeal one of the basic antitrust laws—the Robinson-Patman Act. Supporters of repeal seem to forget that all antitrust laws are a form of regulation of business.

If the retail drug field is characteristic of the effect of the repeal of this Act the result will be the wholesale demise of independent businessmen and the rapid demise of the independent retail pharmacies, in both urban and rural areas. The end result in many areas will be a monopoly situation controlled by some large out-of-state corporate chain drug store, little concerned with serving the community except to the extent that it has a positive effect on its corporate ledger.

NARD urges this group to demand factual evidence that the theory and social policy expressed in the Robinson-Patman Act is no longer valid. Theoretical economic analysis which attempts to create a perfect economic model has little relationship to the real world of economic power, and its abuse, or to the social policies, other than economic theory, embodied in the antitrust laws. The repeal proposals are simply special interest legislation to allow large organizations to get larger until the consumer is left not only without freedom of choice but without vital health services.

When the monopoly is complete and the independent service-oriented drug store is driven out of business, you may be sure that the consumer will start paying higher prices.

The critics of the Robinson-Patman Act who support the present proposals for repeal include many of the interest groups most likely to benefit from the repeal. Thus, it is not surprising to see that the corporate chain drug stores support repeal. With their increased economic power, you can be sure they would be gleeful if the Act were repealed. You can also be sure that they would use their economic power to coerce preferential pricing from their suppliers.

While the interest of large corporate purchasers in repeal is clear, the interest of academic economists and certain lawyers is not as readily apparent. The economist with his model of the perfect economic order worked out in the quietude of his study declares with seeming authority that the Act does not make economic sense. I am not prepared to argue whether the Act makes theoretical economic sense. I would point out, however, that all of the antitrust laws are subject to the same critcism. The antitrust laws laws were not enacted solely to express economic theory. The antitrust laws embody and were motivated by certain important social considerations. While monopoly or oligopoly control of various industries might make "economic" sense, Congress has long held that such a situation is not in the public interest. I do not feel that this is a principle that we should now abandon.

The overwhelming support for the Robinson-Patman Act by representatives of small business results from their understanding of real world "economies". Absent the existence of the Robinson-Patman Act, and its vigorous enforcement, the small businessman knows that he will face real economic facts. Large corporate interests engaged in the retail field will use brute economic power to extract preferential prices from their suppliers. The result will be unfair competition between large and small retailers with the eventual demise of the latter.

These are the real facts, not ecnomic theories. An equal opportunity enhances competition and thereby encourages the social policy embodied in the antitrust laws. The supporters of repeal should be required to address these facts and discuss the social policy embodied in the antitrust laws rather than theoretical economic considerations.

When the large nonpharmacist-owned chain drug corporations become the monopolists, I ask this group whether supposed cost savings will be distributed to the consumer or to the stockholders. I ask this group whether the chain drug store which has already so clearly demonstrated its concept of insensitivity to community service by stocking only the most frequently prescribed prescription products, eliminating emergency service and home delivery, and by isolating the pharmacist from the patient, all in the interest of profit—dollar profit—will not also exact the monopoly profit which history teaches us is the reward of the successful monopolist.

It seems totally inconsistent, or insincere, to argue for increased antitrust enforcement on the one hand, while taking action which will generate the conditions requiring increased enforcement in the years ahead. The Robinson-Patman Act like the other antitrust laws assist all businesses to compete freely and fairly in the marketplace.

The Robinson-Patman Act is not a handout to small business. It does not provide a subsidy or guarantee of success. The Act merely provides a method to insure the continuation of competition by the prevention of the abuse of economic power in the hands of large organizations.

One final note: the Federal Trade Commission, the principle government enforcement agency for this Act, is not only refusing to enforce the statute, but is actively seeking its repeal. We find this situation intolerable and a mockery of duly enacted federal legislation. We request whatever assistance this group can provide the small independent businessman by insisting on enforcement of this important statute.

REAFFIRMING U.S. SUPPORT FOR REPUBLIC OF KOREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 15 minutes.

Mr. MARTIN. Mr. Speaker, it is with great pleasure that I join my colleagues in reaffirming this Nation's support for the Republic of Korea. Allies these days are not exactly plentiful, as we were reminded the other day when in the United Nations General Assembly only Israel and Nicaragua stuck with us on a key vote. Were the Republic of Korea a U.N. member, the number of our supporters would have increased by an amazing 50 percent.

Here in America today, stung by events of earlier this year in Indochina and also by the recurring events at that funny farm on the East River, we are in danger of drifting off into isolationism, thinking there is no world, and no danger, beyond our borders. Isolationism is that sorry aspect of our character that keeps coming back to haunt us, making us disregard the rest of this planet until we face events such as the unwatched British burning Washington, or Bolshevism consolidating power in Russia a few months after we withdrew our forces from the virtual gates of Moscow, or Pearl Harbor, or the Communist invasion of Korea in 1950, or Tet, or the OPEC price gouge, and others ad seriatim.

In the rosy glow of détente—and I suggest that glow results from a popular, but dangerously inept translation of the word, détente—we ignore at our peril what is happening abroad. In obscure Angola there are 6,000 Cuban troops consolidating Communist control over a vast area which not only has substantial oil but sits alongside the route tankers from the Persian Gulf must follow en route here. In Oman, on that same vital artery, Communist weapons endanger stability. The situation in Portugal remains unstable. Huge sheets of canvas cover Soviet roads, hanging over what travels them, en route, we can surmise, to missile installations. Laos is gone. Other nations hang by a thread. We sleep.

The world's vital natural resources are endangered. Our trading partners are endangered. Should we sleep until we face a crisis like that of December 7, 1941, with the free world reduced to us and a few islands?

Where does Korea fit in? Does it fit in at all?

In 1950, after a few diplomatic blunders on America's part, North Korea invaded South Korea and the cold war flamed. We went in, lost 40,000 lives, stabilized the military situation, and pretty much got out. If it were not for "MASH" few Americans today would remember much about the Korean war. Our objective must be to insure that there be no phase II of that conflict.

Back in 1950 when I must admit to having had considerable inexperience with burning issues, there was graphic talk of the Korean Peninsula being a dagger pointed at Japan. That is accurate enough and the map has not changed. Japan has throughout its history had the same feeling about hostile forces in Korea as Britain has had about hostile forces in the Low Countries, and for the same justified reason.

There is in Korea today, as there has been since 1945, a danger of war. It has been the same danger from the North: a Communist regime, lately a family dynasty, bent on forceful reunification of the Korean Peninsula under a Communist government. That regime's divisions are within a few miles of being able to pound to rubble the South's capital, Seoul, a city twice the size of Los Angeles. Talk about a powder keg. It would be like having Ontario, Canada, being populated by 200 million militant Maoists armed to the teeth, with our Capital being located just outside Detroit.

Given the recent propensity for Soviet adventurism in Africa and the Middle East, and given the omnipresent danger of Red Chinese expansionism in South and Southeast Asia, and given both Soviet and Red Chinese probes throughout the Third World—including in the Americas—we would be fools to assume the Communist superpowers would restrain Kim Il-sung's North Korean family dynasty's ambitions—or even assume they would not participate in Kim's attempt to fulfill that ambition.

The danger in Korea is obvious, as my colleagues document. What that danger translates into is the threat of Red Chinese hegemony over all of northern Asia, with Japan either isolated into renewed militarism or reduced to the status of an unoccupied satellite. Either would be unacceptable—and would be on top of the unacceptability of all of Korea being conquered.

Our support of the Republic of Korea must remain steadfast. Our alliance has maintained the peace in northeastern Asia for nearly a quarter century. That peace, and the vitality of the Koreans themselves, have allowed a once-bankrupt nation and a war-ravaged people create the economic miracle of our lifetime, with Korea now pushing into the ranks of the world's developed countries.

That peace we have insured has led to fantastic economic progress for Korea, and has permitted a halting movement toward political progress. Our ally is no democracy, as we use the word, but it is a lot more free than most nations of the world. It is the closest there is to a democracy on the Asian mainland east of Israel. If one doubts that, I suggest for comparison a study of what the local papers say by way of covering the opposition's political activities. Comparing political news in the English language press of New Delhi and Seoul would be particularly instructive.

While we hope—and must work—toward the maximization of democracy, we must keep our heads about us. If we question Korea, and we should just as we should question ourselves, we should do so only while bearing in mind the status of democracy in the nations frequently lionized by Korea's detractors: Cuba, Iraq, Algeria, Yugoslavia, India, and assorted states of Latin America and Africa—in none of which is there a functioning parliamentary opposition as there is in the Republic of Korea. And, of course, the easiest ways to put an end to civil and political liberties would be either to withdraw our support or to invite a Communist conquest.

In standing by our ally, Korea, we stand by a nation that has demonstrated its friendship, demonstrated its ability to help itself, and demonstrated its capacity to carry the lion's share of its own defense.

LEGISLATION TO ESTABLISH MINNESOTA RIVER VALLEY NATIONAL WILDLIFE RECREATION AREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. **FRENZEL**) is recognized for 20 minutes.

Mr. FRENZEL. Mr. Speaker, today Congressman TOM HAGEDORN and I have introduced H.R. 11323, a bill to provide for the establishment of the Minnesota River Valley National Wildlife Recreation Area.

It stems from, and is the inspiration of, the Lower Minnesota River Valley Citizens Committee, a group of interested citizens residing in the affected area. H.R. 11323 represents the MRVCC's work, but it has been changed to reflect some of its concerns. We are not sure whether the charges we have made are in every case good, nor are we sure that they answer all our concerns exactly.

We are introducing this bill, not to annunicate our position, but only to give all interested parties a chance to help us improve it. It is our intention that the refuge legislation, insofar as possible, represents a consensus of the people and groups who live in, and use, the area.

The changes from the original proposal includes a form of bridge and utility easements, a provision for future highway improvements, payment to municipalities for land acquisition, a change in law on revenue-sharing distribution to municipalities and townships, an acknowledgment of role of local authorities, the Minnesota trail system, preservation of navigation interests, et cetera.

We want to restate that we are not sure our proposals are the right ones. We welcome comments on specific ideas on how to improve them.

In addition, we have more concerns which are not addressed in this bill. Chief among them is our fear of what may be in the Clean Air Amendments of 1976. We are concerned that those amendments could foreclose industrial activity, either present or proposed, in the lower Minnesota River Valley. At this time there is no way to tell how these amendments will affect the area.

We are not satisfied either that local authorities, especially the Lower Minnesota River Watershed District, has sufficient status under the bill. Obviously, extraordinary cooperation is required between Federal agencies, local authorities, and State agencies. Experience teaches that each, especially Federal agencies, tends to go its own way. We probably need tighter rules to delineate the responsibilities of each interested agency.

We repeat our commitment to urge passage of legislation creating a refuge in the Minnesota River Valley. We hope this working proposal will be helpful to that end. We seek a balanced bill which will not have adverse affects on any individuals or groups.

WE MUST CURB CONGRESSIONAL SPENDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. **BURKE**) is recognized for 20 minutes.

Mr. BURKE of Florida. Mr. Speaker, the action taken December 18 by 157 Members of the House in sustaining President Ford's veto of H.R. 5559 was a responsible one. It reflects an awareness that this country cannot continue the reckless spending policies of the past.

I hope that this vote might presage a reversal of the general trend of this Congress toward bigger spending, bigger deficits, and the deadly inflation that follows both.

Mr. Speaker, I am concerned about this country and its economic future and well-being. Much of my life has been devoted to public service and I must vote for what I think is the proper way. It is our duty to protect the long-term best interests of the people, however differently we may construe those interests. For myself, I believe, as have most Americans since the founding of our Republic, that our system of government is designed to protect the individual's freedom to pursue his own goals, and to realize his own potential so long as he does not infringe on his neighbor's rights.

The other side of the coin, of course, is that Government has to be kept within proper bounds. Many people, in their desire to secure short-term "benefits" from Washington, forget that the result of their efforts is the expansion of Government power over their daily lives. This is directly counter to what the Founding Fathers intended when they wrote the greatest charter of human libery ever devised: The American Constitution.

There is a thread of fiscal irresponsibility that has run through this Congress, and it is doing great damage to this country. Congress voted this year to increase the national debt ceiling to a new record high of $595 billion. Congress voted this year to authorize $2.3 billion to rescue the city of New York from the consequences of some 20 years of wasteful spending. The House voted to pass the tax reform bill, H.R. 10612, despite the fact that it includes no limitation on Government spending. And Congress voted to pass H.R. 5559, which would have extended the Tax Reduction Act but, again, without limiting Government spending.

I think the President acted wisely and courageously in this case. It is never popular to veto a bill that would keep our tax rates lower, but in this case it was the best public policy given the circumstances. I think that, in the long run, the people will realize the paramount need for fiscal restraint in Government, if only because of the recent example of New York City.

We should all stop to consider one simple truth. We cannot go on indefinitely spending more than we make. Individuals cannot do it. Cities cannot do it. States cannot do it. And make no mistake about it; the Federal Government cannot do it.

We were all concerned about the fiscal crisis of New York City, and we all, I am sure, received a great deal of mail on the issue of Federal aid. There is no denying that default on New York's municipal bond obligations could have had—or could have, because I am by no means certain this crisis will not arise again—serious effects in other areas of the country, but there is also no denying that possible default was not forced on New York City. It was the inevitable result of many years of profligate spending and constantly accumulating deficits, all the while accompanied by an ever shrinking tax base.

We were subjected to a barrage of propaganda about how a default by New York would cause the so-called "little guy" to lose. We were told that if New York defaulted our economy would suffer disastrous reverses. One would almost have thought that default by New York City was the precise equivalent of the crash of 1929.

This was and is the purest and rankest demagoguery.

Likewise, when the House voted to increase the Federal debt ceiling by $18 billion to a staggering total of $595 billion, we were told that to vote against the increase would be irresponsible. We were told that without the increase the Federal Government would be unable to meet its obligations, that it would, in effect, grind to a halt. I have heard this argument each year since coming to the Congress in 1967.

We were reminded by the distinguished chairman of the Ways and Means Committee that—

> The time to think about the economy is when you are looking at the menu and not when you are presented with the bill.

That is fine, except that so many Members who seemed to agree with the Ways and Means Committee chairman seem never to be capable of looking at the menu in the first place.

I voted against the debt ceiling increase, against the Federal bail out of New York City, and in favor of sustaining the President's veto of H.R. 5559, because I am convinced that the very sort of disaster that has finally overtaken New York City can and will overtake us at the national level—unless we start looking at the menu first.

There are probably countless people in this country who believe this is impossible. They probably think the Federal Government cannot become insolvent because the Federal Government has the power to print and control the supply of currency. No argument could be more dangerously false.

We cannot—let me emphasize this again and again—continue forever borrowing against the future and recklessly spending ourselves into greater and greater debt. Sooner or later, someone has to pay the bill.

If we try to solve the problem by drastically increasing the money supply, we will turn inflation, currently a problem of serious proportions, into a problem of truly nightmarish proportions. We should never forget that such governmentally induced increases in the supply of money in relation to available goods and services is, by definition, inflation, and that inflation is the mortal economic enemy of every American—especially the "little guy" for whom the big spenders profess to weep so copiously.

Fortunately, there is a mechanism available to us, but the majority of the 94th Congress apparently does not want to use it. What is so wrong with a limitation on Government spending? Is it not far preferable to the policies of the liberal spenders who for years have been so generous with other people's money that our largest city was brought to the very brink of default while our already bloated national debt was increased to a whopping—and inexcusably inflationary—$595 billion?

No, Mr. Speaker, those of us who voted to hold down spending, to hold down the national debt, and to sustain the President's veto are not the irresponsible ones. The irresponsibles are those who continue to promote our budget deficits year after year as inflation climbs and the strength of our middle class is sapped.

Mr. Speaker, our fiscal problems are the responsibility of both the Executive and the Congress. They are not ascribable to any one political party. As a Republican, I say that Republicans have acted to increase inflation and the national debt just as Democrats have. That, as much as I regret having to say it, is a fact that cannot be denied.

With all due respect to both sides, there is a strong odor of raw politics that permeates this entire issue, and I feel strongly that it is high time we put politics aside and thought only of the economic well being of this country and its citizens who have to pay the bills.

The time has come for serious retrenchment. Congress must set a limit on spending. We must bring our national budget into real balance. We must stop always increasing the debt ceiling to allow for more and more borrowing against the future. As I said before, sooner or later someone has to pay the bill.

That is why I voted to sustain the President's veto. I do not want to see taxes go up any more than anyone else does, but I also realize that we have to pay for the Government programs that we are told the people want.

Those of us who voted to sustain the veto have taken a good first step. Let us now move ahead and fight for a spending limitation that will help stem the tide of inflation and debt that threatens us all. I felt a new bill—a compromise—would follow if we sustained the President's veto. As I predicted, we are today getting the chance to pass the Senate amendments. I will vote for the bill with these amendments. My only hope is that the other Members of this and other Congresses will keep its word and reduce its spending, before it is too late for us all.

DISARMING THE INTERNAL SECURITY FORCES OF THE UNITED STATES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, we now see the result of the liberal attack on our internal security apparatus in this country. Suddenly, they are the enemy—not the terrorists, radicals, Communists they keep check on. Programs at all levels, Federal, State, and local, have been battered by the liberal press and liberals in and out of Congress. Local police intelligence units no longer can adequately keep check on known potential dynamiters, terrorists, and radicals. The good people of this country should not give up this fight even though our adversaries are slick and have been successful. We cannot ignore the security of our Nation and allow this unbalanced, one-sided attack to succeed. If a police intelligence unit is clobbered for keeping files on civilians, fairness to the public demands that the extreme and radical nature of some of these civilians be exposed to public view and let the public be the judge. If the CIA and the FBI are pilloried day after day, these agencies should be given equal time to tell American citizens about the Soviet KGB's intelligence activities both here and abroad, domestic subversive activities, the rising rate of crime and radical terrorists who roam our streets.

On January 14 of this year, the U.S. House of Representatives abolished the House Committee on Internal Security, the committee which, under various names, investigated the Fascists, Nazis, and Communists, the Black Panthers and the KKK, SDS and SLA and other entities over a 40-year span.

The House Democratic leadership destroyed the House Internal Security Committee—HISC—by an indirect, sleight-of-hand trick which supposedly continued the function of HISC by transferring its function to the Judiciary Committee. This ploy was successful in destroying HISC, but it should be noted that with the passage of this entire year, nothing has been done by any Judiciary Committee actions in this area. This comes as no surprise since HISC was to have a quiet death. Consequently, I now feel that it is necessary to mount a drive to reestablish the internal security function in Congress as it existed in former years. To this end, the legislative vehicles are already available in House Joint Resolution 67, reestablishing the House Committee on Internal Security and House Joint Resolution 518, which would establish a joint Senate-House committee on internal security. A discharge petition will be submitted in the case of the joint committee bill to bring it to the floor of the House.

On the Senate side citizen support must be forthcoming for preserving, with adequate funding, the Senate Subcommittee on Internal Security. This subcommittee has been crippled with budget cuts and even worse, discussion of an attempt to eliminate its budget altogether has appeared in the press.

In January I intend to take the petition route to see that more of the public is informed and are given an opportunity to express their will to the Congress. Specifically, I hope thousands of citizens throughout this country will write their Congressman and urge him to support the discharge petition which will be filed in January. Even those members who support internal security work must admit they erred in killing HISC. It is obvious that we must bring this matter to a vote and it can only be done by having 219 Members sign this discharge.

GUN CONTROL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. DON H. CLAUSEN) is recognized for 15 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, the subject of gun control evokes strong reactions and intense emotions. This is one subject that most Americans feel strongly about—either they are all for it or absolutely against it.

The logic of expecting that a potential murderer or armed robber will comply with gun control regulations escapes me. I have always felt that the law-abiding would comply and the criminals would ignore gun control laws. But there are other practical considerations which raise questions relating to the desirability of gun control.

Mr. Jim Yarbrough, editor of the Del Norte Triplicate in Crescent City, Calif., has written a very responsible and interesting analysis of some points made by the California Attorney General. The article suggests that law-abiding citizens own handguns because they have lost confidence in their government's ability to protect them from criminals. I feel my colleagues will find this article both interesting and informative. I hope you will study its content and respect its conclusions:

THE ATTORNEY GENERAL TALKS ABOUT GUN CONTROL

Only one proposal—provided it would be effectively enforced—would make any significant difference in preventing assassinations of political leaders or in reducing the number of gun-related homicides in this country.

That proposal is to ban private ownership of handguns and to confiscate all existing handguns in the United States.

This conclusion was stated recently by California Attorney General Evelle J. Younger before the State Senate judiciary committee.

Younger points out that Lynette Fromme and Sara Jane Moore probably couldn't have gotten close enough to be a threat to President Ford if they were using rifles. The same situation probably would have prevailed in the assassination of Robert Kennedy. Assassinations could still be carried out with rifles, bombs, poison or other weapons but it is a fact that eliminating handguns would make it more difficult to commit murder.

Even as he does not support legislation to ban and confiscate handguns, Younger thinks even less good would be accomplished through the various schemes for licensing shooters and registering handguns. Prohibiting the sale of the cheap, "Saturday night special" handguns might slow up sales but it would still not change the odds, Younger says, of a person's chances of being robbed or killed. You would probably just get killed with a weapon of better quality.

The Attorney General doesn't disapprove banning handguns because of the legality. He says there is no legal problem.

The fact is, he says, that most citizens who own handguns have them because they don't believe the State can adequately protect them.

Crime statistics support their fears. The chances of being murdered are about three times what they were 20 years ago. In 1955, Younger says the rate of homicides was 3.2 per 100,000 people. Today it is 9.4. The rate of armed robberies jumped from 70 to 251 per 100,000; aggravated assaults went up from 87 to 307.

The perfect solution, Younger says, would:

1—Ensure that anyone charged with cold-blooded, premeditated murder be given a speedy, fair, public trial and appeal and, if sentenced to death, be promptly executed.

2—Ensure that anyone charged with using

a firearm to commit a serious crime be given a speedy, fair, public trial and appeal and, if found guilty, be promptly sent to prison for a substantial period.

3—Then, having demonstrated that the state can protect its citizens from violent crime, ban all private ownership and possession of handguns.

Today, Younger says, we can give no such assurances. The government does not promptly execute even a few murderers, let alone all. Furthermore, all armed robbers are not sent to prison.

"Given the facts of life in the United States today," Younger said, "There is no way we can get the people (and I'm not even talking about the determined lawbreakers) to give up their handguns."

Younger is right. The government cannot, as a practical matter, ban private ownership of handguns. Confiscating handguns wouldn't work any better than Prohibition of liquor did. And despite marijuana laws, people still use it, possess it, and sell it.

Before Americans will accept a ban on handguns, Younger believes, the law abiding citizen must be convinced that the government is doing something about the escalation of crime and that he can depend upon it for protection.

Younger is right on this. But there would still be a lot of people who believe they have a right to own a handgun. Some will be sportsmen who use them for that purpose only. Many people today don't own handguns because they believe they have no need for them. Many others own rifles and shotguns—some perhaps for protection purposes—mostly for sport and game hunting. Younger does not say that these guns should be banned.

Even with Younger's conditions that the government can protect the people and that criminals will be punished, our own view is that banning handguns even under these ideal conditions would not be the reason crime is reduced—if that should be the result. People bent on crime will find other weapons than handguns or use them illegally. The most important factor would be to catch criminals, bring them quickly to trial and appeals, and when they are found guilty mete swift, severe, and irreversible punishment. If that is done we won't have to worry about banning handguns.—JY

THE STRATEGIC ARMS LIMITATION TALKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, I have viewed with interest the increasing pressures from some quarters for the United States to enter into a Second Round Strategic Arms Limitation Agreement with the Soviet Union.

It is important for the Congress—which must formulate a defense policy around arms limitation agreements—to examine carefully the entire subject of strategic arms limitation. Now is an appropriate time to begin to do just that.

Those who argue for the prompt negotiation of a Second Round Strategic Arms Limitation Agreement usually argue that:

First, it is urgent that the agreement in principle that emerged as a consequence of the 1974 Vladivostok Accords between Secretary Brezhnev and President Ford be spelled out in detail so that the process of the negotiation of the Strategic Arms Limitation Agreements can be continued.

And, second, that maintaining the momentum of Strategic Arms Limitation Agreements is an essential component of détente; and failure to reach agreement on a Second Round Strategic Arms Limitation Agreement could jeopardize the policy of Soviet-American détente.

I would like to take this opportunity to evaluate the assertions in some detail.

A great deal is made of the notion that SALT II is essential to détente. Indeed, SALT has been described as the "jewel" in the crown of the policy of détente. Such assertion, of course, relates to the notion that the highest priority of the current or any other administration is to reduce the possibility of nuclear war to the lowest level possible consistent with the maintenance of our Nation's freedom.

To gain some insights as to the relevance of the current Strategic Arms Limitation discussions to our defense and foreign policy posture, it is useful to review briefly the history of the current Strategic Arms Limitation effort, the character of the agreements made to date, Soviet compliance with those agreements, and finally some of the major issues facing the strategic arms limitation negotiators today.

THE RECENT HISTORICAL ORIGINS OF THE STRATEGIC ARMS LIMITATION TALKS

Following the conclusion of the partial Test Ban Treaty in 1963 which was the most important agreement—until the 1972 SALT accords—made in the nuclear era with respect to controlling the expansion of the nuclear arms competition, both as between the super powers, and other nations which may eventually become motivated to acquire nuclear weapons and to develop them through the process of atmospheric nuclear testing.

Many in the arms control community believed that the next fruitful area for United States-Soviet understanding was to attempt to arrive at a mutual agreement on constraints on the deployment of strategic forces. It was argued that both the United States and the Soviet Union had a mutual interest in constraining the competition between themselves in the development of strategic arms because of the perceived notion within the arms control community that future generations of nuclear weapons would be at best redundant because both of the competitors were already deterred from initiating nuclear war to, at worst, a far more dangerous world because of the sheer presence of large numbers of nuclear weapons.

As a result, in the last year of the Johnson administration, 2 days after the Congress voted to appropriate funds for the construction of the Sentinel Anti-Ballistic Missile System, the Soviet Union agreed to participate in discussions leading to the limitation of strategic arms. The negotiations never got started in 1968 because of the Soviet invasion of Czechoslovakia. Negotiations did not get underway until the first year of the Nixon administration—beginning in November of 1969. The negotiations proved difficult, indeed far more difficult than many individuals within the arms control community had anticipated because of the very important differences in the manner in which the United States and the Soviet Union viewed the problem of nuclear war. Nevertheless, agreement was ultimately reached in a marathon negotiating session between President Nixon, his then National Security Affairs Assistant, Dr. Henry Kissinger, and their Soviet counterparts.

The course of the SALT negotiations were shrouded in secrecy, and as a consequence, the results came as a shock to many concerned with U.S. defense policy. For rather than seeking a mutual limitation on strategic arms, a starkly asymmetric agreement was reached. The technologically far advanced U.S. antiballistic missile system was to be controlled by permitting little more than a token deployment of 100 ABM interceptors and 18 radars at a strategic missile site and a second site around the National Capital. The Soviets with much more primative antiballistic missile technology were similarly constrained, but had less to loose. The ABM accords were embodied in a treaty which was ratified by the Congress in September of 1972.

The subject of limitations on offensive delivery systems, however, was made the subject of an executive agreement rather than a treaty. As a consequence, the executive agreement had to be ratified by both Houses because of the provisions of article XXXIII of the Arms Control Act of 1961 which requires a majority vote in both Houses of the Congress to any executive agreement which limits U.S. arms.

The structure of the 1972 Strategic Arms Limitation Agreement of Offensive Arms, was bizarre by standards of international negotiations between the United States and the Soviet Union. The rights and obligations of the parties under the executive agreement as ratified by the Congress had essentially four components. One was the explicit Interim Offensive Agreement itself which limited the parties from constructing any new fixed silos to house ballistic missiles of intercontinental range after July 1, 1972.

There were so many ambiguities in the language of the explicit agreement, however, that additional documents were required. One such document known as "agreed interpretations" reflected a consensus between the United States and Soviet negotiators as to how the terms of the agreement would be defined. Even here, further ambiguities emerged, and as a consequence the United States appended a document that became known as "unilateral declarations" which expressed the specific position of the United States with regard to the manner in which the specific terms would be implemented. Finally, there was the issue of the legislative history of the ratification process for the SALT Accords. Despite the mass of documentation, there were so many ambiguities about the detail of the agreement that administration witnesses provided further details as to what constituted the rights and obligations of the parties under the agreement.

The resulting agreement permitted the Soviet Union to deploy 1,518 land-based intercontinental ballistic missiles, as well as 2 modern nuclear-powered ballistic missile launching submarines built after 1964. In addition, they were permitted to deploy 22 of their diesel powered "G" Class" submarines capable of launching three missiles per submarine. The Soviets were thus able to deploy a maximum of 1,016 submarine launched ballistic missiles. The United States on the other hand was only permitted to deploy a maximum of 1,054 land-based ICBM's, and a maximum of 710 submarine launched ballistic missiles and here, only if it demobilized the 54 older Titan missiles, otherwise the ceiling is 656 SLBM's for the United States.

The 3-to-2 asymmetry in the number of strategic delivery vehicles was shocking enough, but the differences in missile volume deployed by the two sides is at the heart of the asymmetry. As of the time of ratification of the SALT accords, the Soviets had a four to one advantage in the payload capacity or "throw weight." What this implies is that if the Soviets were to match the mid-1960s vintage technology of currently deployed U.S. warheads, they could now install four times as many warheads on their ICBM's as could we.

The vast asymmetry in strategic forces, particularty in throw weight permitted under the agreement was defended primarily in the following terms: The executive agreement in question is designed to have a finite life of at most five years to permit negotiations of a permanent agreement. During this 5-year period, it was preceived as most unlikely that the Soviet Union would be capable of acquiring the advanced level of technology to fully exploit the throw weight advantage that the SALT accords gave them. Thus, the U.S. technological lead was to carry the United States through this period for negotiating SALT II.

The Congress, however, was not fully satisfied with this arrangement, and consequently amended the instrument of ratification of the Interim Offensive Agreement to require that any future agreement be made on the basis of parity, meaning parity in throw weight, the only reliable long-term parameter of the capability of a strategic force.

Following the ratification of the Accords in 1972, work began in earnest to negotiate a Second Round Agreement. This attempt to negotiate a Second Round Agreement has culminated thus far in an agreement in principle to have symmetric limits on the number of strategic delivery vehicles of 2,400 for each side and including a sublimitation of 1,320 multiple warheads—MIRV—ballistic missiles. The agreement in principle, reached in November, 1974 at Vladivostok is designed to include manned bombers as well as submarine launched ballistic missiles and ICBMs.There was further ambiguity in the Vladivostok Accords with respect to cruise missiles.

Negotiations have proceeded since 1974 to attempt to reach specific and detailed agreements as to the terms under which both sides would agree to a ten-year extension of the interim offensive agreement under the umbrella of the general principles negotiated at Vladivostok.

SOVIET COMPLIANCE WITH SALT II

The interim agreement on offensive arms was to rely entirely upon so-called national technical means of verification for monitoring compliance with the terms of the agreement. The terms of the agreement were relatively straightforward, and consequently it was believed that the level of sophistication in national technical means of verification were sufficient to provide us with a high-confidence ability to monitor Soviet compliance.

The extent to which we are dependent on these national technical means of verification made it necessary to have an explicit agreement (article XII of the ABM Treaty) to the effect that neither the United States or the Soviet Union would take more rigorous steps at concealment of their activities than they were taking at the time the SALT Agreements were made in 1972. The purpose of such an agreement is obvious; it would do us little good to make an agreement which depended on national technical means of verification if the Soviets proceeded to frustrate our ability to monitor Soviet compliance.

To an extent that few could have predicted in 1972, the Soviets have engaged in a vast scheme of violating the terms of the Strategic Arms Limitation Accords of 1972 as ratified by the Congress. The Soviet violations have, by now, been well documented in the press, but it is useful to review their general character.

The Soviet SALT violations are of two kinds.

One is related to Soviet attempts to frustrate U.S. national technical means of verification. It has been done through an elaborate process of camouflage, concealment, flight test procedures designed to prevent monitoring of Soviet missile performance, and other efforts on their behalf which have torn to shreds, the scrap of paper which was supposed to prevent this sort of behavior.

The second form of violations involves Soviet attempts to increase their strategic nuclear capability beyond that which they were permitted in 1972. The Soviet Union has engaged in a clandestine program to upgrade its air defense system for the anti-ballistic-missile role. The United States was able to observe over 50 illegal ABM oriented experiments conducted by the Soviet Union over an 18-month period. In addition, radars with a power-aperture product longer than was permitted by the ABM Treaty have been used. Illegal mobile radars have been tested. The Soviets lately have agreed to cease these experiments after the United States protested, but it is now likely that the Soviets have a usable nationwide ABM system. It should be remembered that the Soviets have 1,100 high altitude SA-5 interceptors which are connected to a modern radar and data processing system; this system could be quite effective in an ABM role, particularly if these interceptors were required to defend the Soviet Union from a retaliatory strike by the United States where that retaliatory strike is somewhat ragged and uncoordinated because of losses suffered from a Soviet first strike.

Similar efforts were made by the Soviet Union to deploy a larger replacement missile for the SS-11 than was permitted under the terms of the 1972 accords. The missiles deployed, the SS-17 and the SS-19 are approximately 50 percent larger than the SS-11 they replaced, a step which is clearly illegal under the terms that Congress ratified.

I am further informed that these violations with the exception of the anti-ballistic-missile system experiment, are continuing. Thus, it is fair to summarize that the Soviet Union has not complied with the terms of the 1972 accords as these accords were understood by the Congress.

MAJOR CURRENT ISSUES RELATING TO THE STRATEGIC ARMS LIMITATION TALKS

The major issue with respect to strategic arms limitation discussions is one that is often unnoticed in the press, because of the attention brought to other issues, but one that is of vital importance. That is, the issue of resolving the unfinished business of SALT I, namely the unequal payload capacity limitations between the United States and the Soviet Union.

For the period during which the expected Second Round SALT Agreement is to run, from 1975 to 1985, the primary source of instability between the United States and the Soviet Union will be the consequence of the vast superiority granted the Soviet Union in ballistic missile payload capacity under the terms of a Second Round SALT Agreement that the United States is apparently seeking to negotiate with the Soviets. An unnoticed but crucial element of the Vladivostok accords of November 1974 was the fact that the manner in which land-based ballistic missiles were constrained in size with respect to the volume of the silos housing them were carried over from the First Round SALT accords despite an expression of congressional intent in the Jackson amendment to the contrary.

The first round SALT agreements were perceived of by the administration as a "freeze" on existing ICBM deployment levels. Thus, the Soviets with their already larger aggregate deployment of over 1,500 land-based missiles including 313 such missiles which were vastly larger than those of the United States, made it a consequence of such an agreement that the Soviets would have a four-to-one superiority in payload in their land-based ballistic missile force as of 1972. This asymmetry in strategic force capability was not of intense concern because its consequence were not immediate. In order for the Soviets to exploit this advantage in payload capacity, they had to undertake a development program to produce a usable multiple independently targetable reentry vehicle system—MIRV. Because the Soviets did not have such a system when the first round SALT Agreement were concluded, it was believed that the U.S. technological superiority in MIRV would offset the Soviet advantage in payload capacity during the 5-year life of the agreement.

It was precisely this asymmetry in payload capacity to which the legislative history of the congressional ratification of the 1972 SALT Accords were directed. The Congress, in attaching the "Jackson amendment" to the first round SALT Accords could not permit such an asymmetry to continue for a long period of time. Indeed, the legislative history of the "Jackson amendment" which was approved by both houses of the Congress indicated that the Congress insisted upon parity in this parameter of the capability of a strategic force be negotiated in any long-term agreement with the Soviets. By proposing for the Second-Round SALT Accords that the unequal constraints of the First-Round SALT Agreements which, after all, were intended only to be "temporary" be carried over into a 10-year agreement flies in the face of the intent of Congress. When one examines these matters in detail, the circumstances for the United States are likely to be even worse under the Second-Round SALT Agreement than they were in the First. During the negotiations of the First-Round SALT Agreements, the United States attempted to develop a distinction between a "light" and a "heavy" missile. This distinction was to enable the United States to have a verifiable distinction between the 313 Soviet heavy missiles, the SS–9 and its followon, the SS–18, and the much smaller SS–11, and its derivatives. Because the United States has sanctioned the deployment of a second-generation Soviet "light missile," the SS–19 which has a payload capacity which is nearly as large as some of the "heavy" missiles of the First-Round Accords in 1972, their Soviet payload advantage has grown during the period since the ratification of the First-Round SALT Accords. It is now possible to predict that if the Soviets continue their deployment of the SS–19 as a replacement for the SS–11, and replace their SS–9 with SS–18s, and further the United States does not seek to deploy a new heavier payload land-based ICBM, the Soviet advantage of 4-to-1 in payload capacity in 1972 will grow to a 10-to-1 disparity by the early 1980's when the Soviet deployment is completed. If the Soviets were likely to remain scientific and engineering primitives in this realm of multiple warhead missiles, the new Soviet deployment would not be particularly more threatening than their 1972 deployment. However, the Soviet Union is already capable of deploying multiple warhead systems. Their SS–17, SS–19, and SS–18s are all so equipped. Moreover, preparations are underway for replacement of their single warhead submarine launched ballistic missiles with multiple warhead ballistic missiles. Thus, the character of the existing Soviet deployment is extremely threatening.

Thus, the failure of our current SALT efforts to satisfy the intent of Congress in their negotiation will almost certainly jeopardize the long-term security interest of the United States by placing the United States at such a staggering disadvantage, and potential with respect to the Soviet Union.

Two other issues have arisen in the context of the post-Vladivostok negotiations which are especially important for the manner in which they illustrate the way we have attempted to negotiate a Strategic Arms Limitation Agreement with the Soviet Union. The first of these secondary issues relates to the issue of establishing controls over the Soviet BACKFIRE—TU-26—bomber. As of November, 1974, when the Vladivostok Accords were signed, the U.S. position strongly reflected our own engineering analysis of the capabilities of the BACKFIRE–B bomber. This bomber, operating from the well-developed network of Arctic staging bases along the Northern periphery of the Soviet Union equipped with the new AS–6 air to surface missile—with an 800 kilometer range—can be used effectively in conducting attacks against the United States. Thus, the BACKFIRE–B was to be considered an intercontinental bomber subject to the ceiling on the number of strategic delivery vehicles the Soviets could deploy, 2,400. With each meeting the Secretary of State heldl with his Soviet counterpart, Mr. Gromyko, our negotiating position eroded. Earlier this year, a proposal was made that would have permitted the Soviets to deploy some 200 BACKFIRE bombers that would not count against the Soviet strategic delivery vehicle ceiling. When the Soviets rejected this, the entire U.S. negotiating position on BACKFIRE collapsed. In extraordinary haste to reach a Second-Round SALT Agreement, a new option has been prepared with respect to BACKFIRE. This proposal will accept the Soviet position that BACKFIRE is not an intercontinental bomber, and thus should not be subject to SALT constraints unless it is deployed from Arctic staging bases. The transparent character of this agreement is evident. So long as the Soviets deployed the BACKFIRE at other bases under peace-time conditions, they could produce as many BACKFIRES as they desired. When a period of hostilities arose, however, it would be a simple matter to redeploy the BACKFIRE bomber to the Arctic staging bases on a few hours notice, refuel them and send them on their way to North American targets. The BACKFIRE bomber is already in serial production in the Soviet Union, and as a consequence, the Soviets are likely to deploy these aircraft in large numbers. If oe examines recent Soviet deployment, the TU–16 BADGER, and TU–22 BLINDER bombers have been deployed in large numbers, and well over 1,000 of these aircraft are currently in service.

The controversy over the Backfire bomber has, in fact, tended to obscure the ongoing controversy over the TU–16 and TU–22. These aircraft are also capable of reaching the United States. The administration has not taken this issue seriously because of the observation that is often made that these aircraft cannot make an unrefueled return trip to the Soviet Union. It should be noted, however, that some of the most successful strategic attacks in U.S. military history have been made on so-called one-way-plus missions. Take for example, the well-known raid by Colonel Doolittle against Tokyo in 1942. The aircraft used in this raid were designed as a land-based aircraft, but were modified to take off from a carrier. It was not capable of landing on a carrier so after delivery of its bomb loads on Tokyo the aircraft proceeded to areas where they might find sanctuary on the Asian mainland.

Similarly, it is easy to imagine that a nation which has killed 30 million of its own citizens to maintain itself in power over the past 60 years would consider directing the pilots of its air force to attempt to seek refuge in nations such as Cuba or the Bahamas following an attack on the United States rather than attempting to return to the Soviet Union. Despite the fact that the Soviet Union has approximately 1,200 of these aircraft in service, the issue has been totally ignored by the administration.

Another area of importance is with respect to the so-called cruise missile. The cruise missile is much like an aircraft since it uses a jet engine for power, and flies through the atmosphere rather than space. Cruise missiles, because they are unmanned, can be launched from many different delivery systems including ships, aircraft, submarines, and from land. They can make maneuvers to avoid air defenses that a manned aircraft could not do. The United States is a relative latecomer to the development of sophisticated cruise missiles. The Soviet Union has deployed cruise missiles in large numbers aboard their ships, aircraft and submarines for many years. Heretofore, because of the margin of strategic superiority the United States possessed, it was never sufficiently important for the United States to deploy large numbers of cruise missiles.

The only important use of cruise missiles by the United States had been on board B–52 bombers where cruise missiles were designed to facilitate penetration of hostile air defenses by the bomber itself. The rapid buildup of Soviet strategic forces, and the unwillingness of the administration to take steps to offset that buildup by the United States since 1969 has made it important that the United States seek to develop the cruise missile to augment its existing strategic forces. The United States has a special set of problems with regard to cruise missiles that the Soviet Union does not have. Virtually all of the important targets in the Soviet Union are located far inland.

Thus, for the United States to be able to launch these cruise missiles at a safe distance from Soviet shore based defenses, and still reach Soviet targets, the range required by U.S. cruise missiles is very great by standards of the technology we know to be available. Ranging in access of 1,000 miles are a minimum necessity. Second, because the Soviet Union has very dense air defenses, the U.S. cruise missiles must fly at a very low altitude, an altitude at which they are least efficient. They are forced to fly at low altitudes to avoid detection by the long-range radar which would otherwise facilitate their being shot down. Flying at very low altitudes makes it necessary that the range of the missile be vastly reduced because of the high fuel consumption occasioned by low-altitude flying.

The Soviet Union does not share a similar burden. Virtually all the important U.S. targets are either coastal targets or located not very far from the coast. Moreover, the United States has virtually no air defense save for a few antiquated Air National Guard squadrons. Our last surface-to-air missile units were phased out on June 30 of this year. This means that the Soviet Union would not be required to fly its cruise missiles at very low altitudes. It could instead, fly the cruise missiles at an altitude where the engines are most efficient, and would thus have the greatest range. Thus to illustrate the significance of this advantage the Soviets have with respect to cruise missiles, on one type of cruise missile, the United States estimates that its range at low altitudes is approximately 400 miles. If this missile were flown at an optimum cruise altitude, its range could be made to be as much as 2,500 miles. This would insure that a missile launched either from a Soviet surface ship or the submarine, or aircraft could remain far offshore and virtually reach all targets within the United States.

Since the Vladivostok accords were signed, an attempt has been made to negotiate limits on cruise missiles. The limits being proposed by the United States; namely, to limit deployment of cruise missiles whose range exceeds some given numbers, such as 600 kilometers represents a further example of how our negotiating position has collapsed. At the time the Vladivostok accords were signed, only air-launched-ballistic missiles were to be covered. Mysteriously, the subject of cruise missiles was introduced.

As a result, the United States has gone from a position of opposing the introduction of cruise missiles into these SALT discussions, to a position where we are about to propose a limitation on criuse missiles which is wholely unverifiable, but with respect to the United States will work to our severe disadvantage. Because of the peculiar properties of cruise missiles that they can be launched from so many different delivery systems, and that their properties are so flexible in terms of its range, payload, guidance equipment, and so forth, that there is no way of accurately determining the total number of cruise missiles deployed, or any of their qualitative characteristics.

Thus, when Secretary Kissinger seeks to propose a limitation on the deployment of cruise missiles whose range exceeds 600 kilometers, the question immediately arises, 600 kilometers range at what altitude? This kind of restriction would work no disadvantage on the Soviet Union because it could easily live within such restraints. Existing Soviet cruise missiles now deployed on submarines have a range of 600 kilometers at very low altitudes. Because the United States has no serious air defense capability, the cruise missile could be flown at optimum cruise altitude extending their range several fold. The United States on the other hand which is just beginning to develop a hghly sophisticated cruise missile that could travel as much as 1,500 miles at very low altitudes would be prohibited by the terms of this agreement because the United States does not have the option of flying at high altitudes.

Thus, the cruise missile limitation to be proposed by Secretary Kissinger, will not be verifiable by any means known to man, much less national technical means of verification, but will essentially terminate a very promising cruise missile program by the United States. It should be noted that the development of cruise missiles provides the first opportunity since the dawn of the nuclear age to develop a delivery system for both tactical and strategic use that may permit the substitution of nonnuclear warheads where only nuclear warheads have been used in the past. This is due to the pinpoint accuracy that is likely to be attainable with modern generation U.S. cruise missile design.

In short, Mr. Speaker, I am persuaded that the United States may be being lead into a grave situation by the process by which our Strategic Arms Limitation Accords are negotiated, as well as the subject matter which is being negotiated. It has never been clearer that we cannot afford to make agreements for agreement sake than it is now. Nor has it ever been more clear that a bad agreement is not superior to no agreement at all.

The time has come for a fundamental rethinking of our overall military posture, and our strategic nuclear posture in particular. To this end, it would be in our interest to defer any further negotiations on strategic nuclear arms until the Soviets have shown substantially improved compliance with SALT I. This would permit time for a reevaluation of our strategic posture, and also time for a better definition of where our strategic interests lie.

THE COVERUP AT THE FEDERAL RESERVE CONTINUES—A BLACK MARK FOR THE 94TH CONGESS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 15 minutes.

Mr. PATMAN. Mr. Speaker, we are coming to the end of the first session of the 94th Congress and, as is traditional, we are hearing many speeches about the accomplishments of the past 12 months.

However, Mr. Speaker, there is one thing that has not been done in the first session of this reform Congress. We have not made the Federal Government's biggest economic agency—the Federal Reserve System—accountable.

Legislation which would require an audit of this mammoth agency remains buried in the recesses of the Rules Committee of the House of Representatives. It has been there since July and we will go into the new year leaving the American people and their Congress totally in the dark about how this agency operates—despite the fact that it affects the lives of every single citizen and the future of this Nation.

In my opinion, this is irresponsible.

Without question, it is the responsibility of the Legislative Committee, with the jurisdiction, to see that its legislation gets to the floor and is voted on. The Banking Committee has brought it to the Rules Committee and members of that committee have maneuvered in an effort to keep the 435 Members of the House from voting on whether or not the American people have the right to know what goes on inside their Government. These Members—and the Federal Reserve and its allies—hope that this is a permanent burial. I do not believe they are correct.

Mr. Speaker, I have been in the House for 47 years and I know that there are many ways in which legislation can be freed from recalcitrant committees. It takes an extra effort on the part of everyone and I hope sincerely that the people who are in various positions of leadership will employ their maximum energies and imagination to freeing this bill for a vote.

Once again, I want to commend my colleagues who have cosponsored this legislation—some 120 Members of the House. I also want to commend the members of the Banking, Currency and Housing Committee and, particularly, the Domestic Monetary Policy Subcommittee who have worked so long and hard on this audit bill. I sincerely hope that the cosponsors will start demanding their rights—the right to have legislation which they have sponsored—and which has been reported by a legislative committee—voted on by the House of Representatives.

Mr. Speaker, we are not talking about some isolated agency—we are talking about an agency which is right at the nerve center of our Federal Government—an agency with tremendous powers. To leave such an agency unaudited is dangerous and is a clear abdication of the constitutional responsibilities which have been given the Congress of the United States.

The Federal Reserve System handles transactions amounting to more than $30 trillion annually—dwarfing anything else in the Federal Government. It employs 28,000 people and it has access to more than $6 billion each year of tax funds which are unappropriated, unaudited and unchecked. It is an agency which has more than $83 billion in its portfolio of Government securities in the Federal Open Market Committee in the New York Federal Reserve Bank. These are bonds which have been paid for once and which should be retired and subtracted from the national debt. The Federal Reserve has fantastic regulatory powers over the banking industry and much of the business community. Virtually all of the consumer credit regulations—including the Truth-in-Lending and the Equal Credit Opportunity Acts—are administered by the Federal Reserve. In addition, the Federal Reserve operates as its own State Department with broad powers to deal with entities of foreign governments.

Yet, all of this activity is cloaked in secrecy. Mr. Speaker, I do not believe that the American people are in agreement with those in the Congress who are helping Dr. Arthur Burns to keep this Agency in the darkness of Government secrecy. The day of Government by secrecy is past and surely we have learned enough from the Watergate investigation and from the inquiries into the Central Intelligence Agency and the Federal Bureau of Investigation to know the evils of secrecy in a democratic society.

Mr. Speaker, those Members in the House who have embarked on this course—this effort to lock the American people out of the Federal Reserve—are playing a dangerous game. I trust and hope that the wiser voices—those who support open government—will make themselves heard and that they will not long tolerate a handful of Members dictating what the House may or may not vote on.

Mr. Speaker, every Member of this House has a responsibility on this issue. I have filed a discharge petition on a resolution—House Resolution 746—which would free the audit bill, H.R. 7590, from the Rules Committee and allow the House to vote. This resolution is alive and it is at the Clerk's desk here in the House Chamber. Every Member of this House can sign this discharge petition. So no one can dodge responsibility. The vehicle is before us to bring this legislation to a vote.

Mr. Speaker, I assume that there is no Member of this House—of either party—who wants to give away their powers—as a duly-elected representative—to a handful of Members. But that is what has happened on this audit legislation contrary to the very democratic principles on which this House rests.

Mr. Speaker, it will be an everlasting disgrace for this 94th Congress if we do not vote on a bill to require accountability by this huge Federal Reserve System.

WORLD'S LEADERS SHOULD GIVE GOVERNMENT OF LEBANON THEIR FULL SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, we are now witnessing what may well be the lingering death of a nation, a nation which has been and continues to be pro-Western, and a nation to whose assistance we have come in the past. And shockingly, our country, and other nations of the world, are standing by, largely in silence, as the very fabric of this nation is being torn apart. I am, of course, referring to the tragic explosions of violence in Lebanon, and the resultant loss of life and property which is so extensive that as yet no accurate estimates of the carnage exist.

I find it hard to understand how the world can stand silently by and watch the ancient Christian community of Lebanon be reduced and violated in such a cruel and callous manner.

I understand that like most catastrophes, it is difficult for one, miles away to fully comprehend the extent of the tragedy. Chaos reigns, as frequent cease-fires are routinely ended by violent bursts of automatic rifle and mortar fire almost as soon as they are declared. Bodies lie in streets and doorways, and no governmental authority has been able to protect the population and bring stability to the situation. The eyewitness account of one journalist recently in Beirut described the city—the home of approximately one-third of the nation's people—this way:

> No street is safe. Any block may see kidnappings, looting and murders. Mail is undelivered. Telephone service is breaking down. Garbage goes uncollected. Sections of the city lack water. Food shops open briefly, if at all. Banks are closed. Bills go unpaid. Pay of most workers has stopped. Most bureaucrats are absent from offices and welfare services have collapsed. Hospitals are jammed. Morgues are overloaded. Old personal scores are being settled with guns under cover of civil strife.

And since that bleak report was filed, the situation has worsened, not improved.

And this is a country which has in recent years been one of the most prosperous in the Middle East; a country known as the center of business, trade, banking, and commerce in the Middle East; a country long popular as a resort; a nation known for its modern and attractive capital city, which hosts businessmen from throughout the world; a nation respected for its progress and development. Now all this is being reduced to rubble. The hopes of a once optimistic people are as broken and fragmented as their modern showcase capital city.

It is no secret that stability in Lebanon has depended on a delicate balance between the Christians, and the Moslems. Although the history of this balance has not been one of unbroken serenity, it has been a functional relationship allowing numerous different sects to live together in a bireligious community and to grow and develop together. Although at the outset of the recent violence Moslems and Christians were still searching for a truly compatible political accommodation, it was by no means a hopeless situation. Indeed, most agree that whatever problems that existed could be worked out. But then radical leftwing Palestinian terrorists united with radical Moslem elements seeking a radical restructuring of the country along Socialist lines, with the result that there has been a total disruption of the delicate balance that has sustained political life in Lebanon. The intrusion of radical Palestinian elements into the internal politics of Lebanon is of such seriousness that it is doubtful that any form of normalcy will ever be restored to that country until the Palestinian terrorists have been brought under control.

But that is now an optimistic scenario. Many concerned observers, and I am one, fear that the situation has deteriorated to such a point that as each day passes it becomes increasingly more unlikely that the status quo ante will ever be restored. Each new day of violence and bloodshed increases the probability that Lebanon will never again exist as a functioning bireligious political community. The leftwing Moslems have already taken significant sections of Beirut and Tripoli. They are being supplied with expensive and sophisticated arms, much of the fundng for these weapons coming from Libya and other radical Arab States.

If Lebanon falls under the control of radical leftist elements, it is certain that the socialism they advocate will drastically alter a nation that was the commercial center of the Middle East. A successful bireligious state will be transformed into another radical Moslem state. It also does not take much imagination to picture the fate of the Christians throughout the country if radical leftist Moslems gain control of the government. They will be an oppressed people. And even worse than that could happen. If the fighting continues, if the bloodletting continues, it may not be a question of who will gain control of the country, because these could be no more country. It is very possible that this fighting could ignite a major Middle East war; no one needs to be told the terrible consequences of such an occurrence.

Mr. Speaker, if there is to be a workable resolution of this conflict, if Lebanon is to survive, it is essential that all outside intervention by terrorists must cease. Economic support of terrorists and leftists from other nations must cease. For, if this situation continues unabated, it is apparent it will only fan flames which will eventually engulf and destroy Lebanon.

Mr. Speaker, given the seriousness of the situation, given the human tragedy involved, given the worldwide repercussions possible, I find it disheartening that the world, particularly the Western World, has largely ignored this conflict. To be sure, there have been some voices raised in support. The other body has passed a sense of the Senate resolution deploring the bloodshed and viewing with disfavor intervention uninvited by the government. And I understand that just the other day the President of France, Giscard d'Estaing, said that should Lebanon seek outside help in reaching a solution, France would not hestiate to participate.

Mr. Speaker, it is indeed distressing that these few voices speak out virtually alone. There should be a chorus. The voices of national leaders throughout the world should be raised in protest at the attempt forcibly to remove the Christian community's place in government, to threaten its very existence, and to undermine the integrity and independence of Lebanon by outside forces seeking selfish and self-destructive ends.

Whatever one feels about the internal political question or the whole Middle East situation, one cannot help but feel that world support should unite solidly behind the basic principle of allowing the government of a nation to settle its own internal political difficulties and not be forced to capitulate at the hands of political extremists. Mr. Speaker, if the world's leaders do not take note of this deteriorating situation very soon, and give the Government of Lebanon their full support, it may be too late. I pray that this will not be the case.

IRS ACTS TO IMPROVE ADMINISTRATION OF ERISA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, as the 1st session of the 94th Congress comes to a close, I want to take this opportunity to express my pleasure over certain announcements with respect to the Employee Retirement Income Security Act of 1974, made on December 9, 1975, by Commissioner Alexander before the Subcommittee on Oversight of the Committee on Ways and Means and the Labor Standards Subcommittee of the Committee on Education and Labor.

The Commissioner announced: First, that a simplified annual report form 5500C for small plans is being developed;

second, that a simplified 5500K report form is also being developed for Keogh plans; third, that the IRS filing date for these forms will be postponed by several months; fourth, that the IRS will not require the filing of the Schedule A insurance information; fifth, that the IRS will not be requiring an accountant's opinion in connection with annual reports of small plans; sixth, that the tests for discrimination against rank and file employees under Revenue Procedure 75–49 are being reevaluated; seventh, that Revenue Procedure 75–480 containing actuarial assumption rules with respect to social security offset plans is being reconsidered; eighth, that the previously announced special reliance procedure which freezes applicable law for a defined period is in effect; and ninth, that interagency policies with respect to prohibited transactions exemptions are being intensively reviewed.

The so-called turnover test of Revenue Procedure 75–49 has been of particular concern to me. The problem here is that substantial numbers of employers whose labor turnover experience is not unusual are not able to satisfy either the 6 percent or the 200 percent comparative turnover standards. Consequently, these employers would be required to abandon the vesting options intended to be available to the substantial majority of plans, and adopt the more stringent "4–40" schedule. In addition, many employers lack the information and resources necessary to even attempt to apply the inadequately defined test. Finally, it was made immediately effective on November 3, 1975, without prior public notice and opportunity for comment.

After my concerns and those of my colleagues and interested persons were made known to the Commissioner, he reconsidered his position and announced the issuance of TIR 1424 at our hearing of December 9, 1975. The effect of this latter document is that plans may go ahead without regard to the existing turnover test and adopt one of the three general vesting options. Plans which do not pass the existing test may be granted caveated advance determinations and will be subject to a new test which is now being developed.

The concrete developments listed above evidence the willingness of the Commissioner to respond to the concerns of members of the Ways and Means Oversight Subcommittee and of my colleague from the Education and Labor Subcommittee on Labor Standards, the Honorable **JOHN ERLENBORN**, expressed in the course of the Oversight Subcommittee hearing of November 20, 1975. Commissioner Alexander and his able employee plans, technical, and Chief Counsel staffs have labored long and hard to make pension reform work for the working people of the Nation.

The complexity and scope of the pension law have made it necessary for the responsible Federal agencies, several committees and many interested Members of the Congress, and interested members of the public, to search together for answers. Much remains to be accomplished, and some things, such as the unfortunate practice of issuing final rules and forms without prior public notice and comment, need to be changed. However, the Commissioner's demonstrated willingness to modify burdensome requirements makes me confident that a most important program is in good hands, and that the promise of retirement security will become a reality for many millions of Americans.

RECORD STATEMENT ON ANGOLA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, it is increasingly apparent that the United States is directly involved in the military operations in Angola. The Ford administration has embarked upon this dangerous path without consultation with Congress or with the American people. It is clear, moreover, from the vote in the Senate today on the Tunney amendment, that the overwhelming majority of the Congress is opposed to the introduction of American aid in Angola, and would not have permitted the actions the American Government has already taken covertly if it had been consulted.

The involvement of the United States in the Angolan fighting is dangerous on several grounds:

First, it creates a superpower confrontation between the United States and the Soviet Union in a region where no vital American interests exist. Edward Mulcahy, Assistant Secretary of State for African Affairs, admitted to Members of Congress yesterday in a briefing on Angola that the United States finds no special moral or ethical or political superiority in the UNITA or FNLA groups we support; we could as easily have supported the MPLA. Yet our response, according to Mulcahy, was made entirely because—we reflexively supported those whom the Soviets opposed. This is cynical cold war politics, and is both dangerous and mindless.

Second, it demonstrates that we have learned nothing from Vietnam and the debacle that occurred there. Again we are being asked to slowly escalate our commitment into a war far from our shores and in which America's vital interests are peripheral at best. We have no reason to believe that those whom we support will further the ideals of democracy and liberty for which this Nation should stand. We are continuing to funnel arms through third parties. We are using mercenary soldiers in our behalf, and white soldiers from openly racist South Africa. Thereby, we incite the resentment of all black Africa and of all the world.

If the position of the United States were openly calculated to lose us friends in the world, it could not have been more advantageous to that dismal cause. Already, we are hearing phony economic justifications for American involvement: Angola is rich in oil, diamonds, coffee. She is needed to provide port facilities for oil tankers. We are hearing tales of a new "domino" effect—if Angola falls, then Latin America is next. But these are false justifications of an already decided policy of military intervention.

Third, the U.S. administration has attempted to silence those in our Government who disagree and has deliberately opted against a diplomatic solution to the problems of Angola. The resignation of Assistant Secretary of State Davis this week is merely the tip of the iceberg of protest within the State Department against Secretary Kissinger's interventionist policies. A diplomatic alternative exists. The Organization of African Unity will meet in mid-January to consider the Angola fighting. The United Nations Security Council stands ready to assist. Perhaps multilateral discussions which involve all parties to the Angolan fighting are the answer. Perhaps other international mediation efforts will succeed. But the U.S. Government has used none of these techniques of helping to bring international disputes to resolution without bloodshed. It has instead used its considerable influence in world politics toward the option of interventionist warfare.

While we talk, the war goes on. We are reading reports today of South African mobilization, of further escalation of fighting, of the introduction of thousands of troops who have crossed the border from Zaire. The American escalation of its participation in this war goes on unabated. In this kind of conflict, it is necessary for Congress to act now to force the Ford administration to get American aid out of Angola, to move for a diplomatic and not a military solution to the Angolan question, before further escalation makes it almost impossible to extricate ourselves from Angola, as we found it impossible to extricate ourselves from Indochina without a humiliating military defeat.

CONSUMER VETO COVERUP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, in April of this year the President directed the executive branch departments and agencies to develop consumer representation plans.

Thesse plans had the supposed good intention of providing the consumer with greater access to the decisionmaking processes of those agencies. However, recently the plans have become available and I have a few thoughts on what I consider to be a public relations ploy to cover the President should he keep his promise to veto one of the most important pieces of consumer advocacy legislation to come out of the 94th Congress—The Consumer Protection Agency Act.

One of the strongest indications that these plans are not more than a window dressing is that none of the regulatory agencies are involved. This is an interesting fact when one considers the effect on consumers' lives such agencies as the Federal Trade Commission, the Federal Communications Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, and the Consumer Product Safety Commission have via their power to interpret and enforce the laws passed by Congress.

The consumer has been clamoring for representation on the policymaking boards of these agencies for years and it is particularly insulting to him that those departments which perhaps matter most to his health, safety and pocketbook were not required to submit consumer representation plans.

The call to write the plans came after the release of a study by the Consumer Affairs Office of HEW which showed that the agencies were doing an unsatisfactory job of encouraging and using consumer input. The report listed several shortcomings such as inadequacy in dealing with telephone complaints, little or no policy analysis, and lack of public awareness as key reasons why consumers are not able to make an impact.

A followup phase of this study, which was to include more specific examples of the inadequacies encountered in the agencies, has conveniently been held up for months by a combination of late OMB approval and lack of funding.

As I read the consumer representation plans, I did not see a new determination on the part of these agencies to involve the consumer in policymaking decisions, but rather 17 dissertations on the rationale of old systems long proved inadequate. In only a few cases did an agency admit shortcomings and go as far as to propose changed programs; the others simply described and then added to existing plans.

Another reservation I have with these plans is the total absence of dollar figures in the reports. If the agencies were serious about change and actually planned to install the programs outlined, surely there would be some estimate of how much all this would cost. If no consideration to this has been given, then the length of time it will take to develop cost-effectiveness studies will again put the consumer off for months.

My feeling is that the President has trapped himself in his own argument that the proposed Consumer Protection Agency is too expensive, by proposing a series of plans which would cost so much OMB had to cleanse all dollar amounts from the report before it could be issued.

Surely the establishment of 1 bureaucracy would be more efficient that establishing 17 different ones. From my reading of these plans, I can say with certainty that a significant amount of bureaucracy will have to be added to that already existing if these plans are ever going to become reality.

A final point I would like to make regarding these plans is that, by nature, they cannot be as effective representatives of consumer interests as an independent agency could. Such a consumer protection agency would be disassociated from the other agencies, except when resolving consumer complaints and making recommendations for keeping the same problems from cropping up again.

Since the consumer affairs offices in each department must ultimately answer to the director of that body, I would like to know what assurance we have that the consumer's best interest would have priority over the best interest of the agency? Of course the answer to that question is that no such assurance can exist. Each agency is going to look out for itself first, and unless consumers are given agency authority of their own, their needs are going to continue to take a back seat to administration delay, bad management, and inept regulatory performance.

A very telling example of the hypocritical nature of the administration's consumer policy occurred at the unveiling of the consumer representation plans by Virginia Knauer, the President's Special Assistant on Consumer Affairs. One in a list of recommendations made by her to increase consumer representation in Government read: "Better coordination with national, State, and local consumer groups and other special interest groups." But when the Consumer Federation of America and Ralph Nader's Congress Watch requested permission to attend, it was denied. According to Carol Tucker Foreman at CFA:

> This exclusion was a fairly good indication of just how responsive the consumer representation plans will be.

Now, a series of workshops have been announced in connection with the consumer representation plans to be held in various parts of the country to invite consumer participation. These conferences have the appearance of giving the consumer opportunities to provide input. But since the material gathered in these sessions has no guarantee at all of ever being put to use, I see these hearings as a very costly attempt to costume the President and the administration as consumer-involved.

However, to the extent that the agency representatives are forced to answer the difficult questions relating to why consumer complaints have traditionally been lost in the policy shuffle, these workshops can be valuable. To this end, I encourage all consumer advocacy groups—especially Consumer's Union, CFA and Congress Watch—to actively participate in pressing for these answers. Hopefully this time, they will be allowed in.

Clearly, the structural and legal changes necessary to guarantee consumers enough policymaking power to offset the political and industry pressure in these agencies do not appear to be a realistic goal at this time. Still, earnest attempts to participate in policy formulation are met with belittling appointments to "advisory boards" and continued establishment of meaningless consumer offices.

Consumers do not want this kind of evasion; they want input at the top levels before—not after—decisions are made.

The President has promised to veto the Consumer Protection Agency bill (H.R. 7575) but it is my hope that changing political winds will eventually change his mind.

As for now, the consumer representation plans are a transparent indication that the President is not as interested in the consumer's welfare as he is in the political effects of vetoing the bill.

SPENDING AND THE TAX CUT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. Harris) is recognized for 10 minutes.

Mr. HARRIS. Mr. Speaker, the American people will not be confused about who is responsible for higher withholding taxes in January. I joined yesterday with 264 of my House colleagues who voted to speed economic recovery by keeping lower withholding rates during the next 6 months. I am proud to mention at this point that 73 of the 79 new Members on the Democratic side were on the right side of this issue. That Congress fell short of the two-thirds majority needed to override this veto is a tragic fact, but there is only one person to blame for this tragedy.

By vetoing the extension of the tax cut the President has shown a careless disregard for the jobs of average Americans. President Ford is literally playing Russian roulette with the future and the security of working families.

This veto confirms my very frank suspicion that Mr. Ford never wanted a tax cut in the first place. His attempts to appease the Republican far-right make it clear that he is willing to sacrifice the jobs of other Americans in order to save his own. He will never get away with it in my opinion.

The tide of recovery legislation which has streamed from this Congress has met a similar fate. Just like he did with the jobs bill, the housing bill, and with energy price legislation, the President has cracked the whip and strong-armed 125 Republican Congressmen into joining his program for higher taxes and unemployment. The so-called spending ceiling for fiscal year 1977 is a phony issue. The Congress has held this year's budget to $20 billion below the President's recommendation for 1977. Congress has worked to stay within its budget limitation agreement, and has appropriated $10 billion less than Ford requested to run the Government this year. It is Mr. Ford who has created the staggering deficit this year with his acceptance of unemployment and his vetoes of recovery legislation.

If sustaining the veto is the "victory" that the President and his advisers claim, then the President is the victor, and the average taxpaying citizen in this country is the victim.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. Mazzoli) is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, I am not recorded as having voted on December 16 when rollcall No. 794 was taken on the Breaux amendment to H.R. 8429, the Rice Production Act.

Since I was present on the floor at the time of the vote, I am puzzled by my apparent failure to record my vote.

I wish to indicate at this time that I would have voted "no" on rollcall No. 794, which was offered in the form of a substitute to the committee bill.

EXPLANATION OF VOTE ON THE ENERGY POLICY AND CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of **the House, the gentle-**

man from Montana (Mr. BAUCUS) is recognized for 5 minutes.

Mr. BAUCUS. Mr. Speaker, Monday evening I voted for the conference report on the Energy Policy and Conservation Act (S. 622). Today I would like to clarify my reasons for doing so.

Few can argue with the conservation and emergency provisions of the bill: Expanded Federal authority to compel the switch to coal in place of oil or natural gas for generating electrical power; loan guarantees to encourage development of new underground mines; mandatory fuel economy standards for new automobiles; a Federal testing and labeling program for major consumer products. These are all laudable measures.

The Energy Policy and Conservation Act will increase Presidential power to restrict energy export, to allocate scarce energy supplies, to require increased oil and gas production, and to order national energy conservation measures. I believe in the importance of a coherent and rational energy front in the face of a possible oil embargo.

An important aspect of S. 622 is implementing a national strategic petroleum reserve of 1 billion barrels of oil, an amount equal to 3 months' worth of oil imports. This measure will provide increased insulation from interruption of foreign energy supplies.

The section of the bill most difficult for me to support was its title IV, the crude oil pricing measures. Federal price controls on domestic oil are extended into 1979. Price control authority is slated for eventual conversion to a standby power. Oil prices are rolled back to an average per barrel price of no more than $7.66. Title IV permits increases in this new price ceiling, however, of 10 percent per year to compensate for inflation, to stimulate exploration, and to maximize production from hard-to-get oil.

Opponents of oil price controls have argued that title IV will end any hope of U.S. energy independence. Only unregulated prices, they say, can sufficiently reduce domestic demand and provide the incentive for increased production. They say that only the unrestricted play of market forces, free of price distortions caused by clumsy governmental meddling, can enable the oil industry to meet America's energy needs. While these arguments undoubtedly have considerable merit, it is my judgment that they are not strong enough to warrant a vote against the conference report.

First, there is some doubt whether truly meaningful conservation or demand reduction will result from price increases. In June of 1973, the average selling price for regular gasoline was reported to be approximately 38.8 cents per gallon, including tax. By June of 1974, that price had increased to 55.1 cents per gallon, an addition in excess of 42 percent. Yet in the same period, gasoline demand went from 6.8 million barrels per day to 7.0 million barrels per day. In other words, gasoline demand actually increased by 2.9 percent even though prices had jumped by over 42 percent. The Data Resources, Inc., econometric model projects that unregulated energy prices would reduce the long-term growth of energy consumption by a yearly average of only 0.5 percent below the historical average of 3.4 to 2.9 percent. The study attributed this meager reduction to "consumer awareness of energy scarceness" which would cause consumers to make fewer unnecessary car trips, lower their thermostats and turn off unneeded lights. Enactment of the efficiency standards for automobiles, home appliances, and industry will result in comparable energy savings without forcing the consumer to swallow the bitter bill of price deregulation.

The argument that higher oil prices will increase domestic supplies is a bit misleading. Recent history shows that while the price received by producers for new oil rose some 340 percent between 1972 and 1975—from $3.50 to $12 per barrel—domestic production actually declined from 10.6 million barrels per day to 9.5 million barrels per day. While oil companies certainly tried to increase domestic production—drilling was up 23 percent in 1974 over 1973—it is fair to question whether the American consumer got his money's worth in newly discovered oil.

The argument that the free market mechanism constitutes the most efficient and equitable allocator of resources, while certainly true as a general economic theory, does not account for existing circumstances in the oil industry. We are currently confronted by a strong and effective cartel of oil-producing nations. Neither the world nor our domestic market is "free." The market price is not a function of consumer bargaining but a matter of agreement among the OPEC nations. Better that a government chosen by and accountable to the American people regulates oil prices than one controlled by foreigners and major oil companies.

While decontrol would not significantly reduce consumer demand or vastly increase domestic production, it would have a severe impact on our Nation's already weak economy. Testimony before the House Energy and Power Subcommittee presented estimates that abrupt decontrol coupled with even higher OPEC prices could immediately increase the Consumer Price Index by at least 2 percent, would produce an additional half million unemployed, and would devastate our hopes for economic recovery.

The oil pricing offered by S. 622 is a compromise solution. It is high enough to keep oil producers in business, yet not so high as to throw the country back into a new recession. In short, everybody will have to tighten his belt a bit.

I well remember the argument presented by many major oil companies during the debate over ending the oil depletion allowance. Satisfactory returns on their investments, they maintained, would be possible only if the depletion allowance were retained. Many went a step further and said the industry could not survive the loss of the depletion allowance. Yet, in 1974, the oil companies reported an industrywide profit increase of 15 percent, the highest in 10 years.

Oil producers in Montana and especially in my district are unique from the rest of the Nation. Nationally only 60 percent of all crude oil produced is "old oil." In Montana, however, old oil accounts for about 70 percent of the total. What little new oil is produced comes largely from wells in northeastern Montana or from secondary recovery techniques in the Powder River Basin. Virtually all oil in my district is considered "old." Under current pricing policy, "old oil" cannot be sold for more than $5.25 per barrel. Under title IV, this price ceiling can rise appreciably. I am hopeful that the new price will actually increase the returns of most of my district's oil producers.

I expect that increased production of "old oil" in my district will help expand the county tax bases. State and local corporate tax revenues will rise along with the profits of oil people. The even larger revenues that would be generated from complete decontrol are deceptive. While studies show that corporate profits will increase by 7.2 percent under deregulation, domestic tax receipts will increase only in the short run. Tax increases will immediately reduce the income available for use by households and businesses for consumption and investment. The long-term results of this decreased consumption will be lower corporate profits and a corresponding decline in local tax revenues.

The oil price regulations of S. 622 will provide U.S. oil producers with price predictability and stability needed to plan their operations, while shielding U.S. consumers against the arrogant pricing policies of OPEC. Further, these controls will stimulate economic recovery, thereby increasing demand for products from such depressed Montana industries as timber and mining.

We have had recent conversations with the Federal Energy Administration on possible ways of implementing the Energy Policy and Conservation Act if it is enacted. I have been advised that a portion of the Nation's old oil may be reclassified to provide increased incentive for maximum old oil production. This is an option I strongly support. Information supplied by representatives of Montana's crude oil industry indicates that much old oil in western Montana remains in the ground, because it brings little if any return. This situation must be rectified and I believe can be rectified. Similarly, I will press for increased incentives for maximum production of stripper oil.

Based upon the facts I have outlined above, the Energy Policy and Conservation Act is a sound bill both for Montana and for our country. Of course, I do not claim to have all the facts. Should new information come to my attention, I am prepared to reassess my position.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I missed the vote on the tax bill a little while ago. If I had been present I would have voted yea.

DISSENTING VIEWS ON H.R. 10210

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the Record and to include extaneous matter.)

Mr. PICKLE. Mr. Speaker, I place in the Record the dissenting views that Representatives Waggonner, Burleson, and I filed with the committee report to accompany H.R. 10210, the Unemployment Compensation Act of 1975.

I believe that this once-sturdy program of unemployment insurance has seriously deteriorated in the last few years. If we pass H.R. 10210, in its present form, we will further weaken the system.

It is my hope that every Member will review these remarks, because I am afraid that this important program is so complicated it is not given the full study that it requires:

Dissenting Views on H.R. 10210 of Messrs. Pickle, Waggonner, and Burleson

The unemployment compensation program of this country has worked very well since its inception in 1935 as a front-line defense against recession and depression. Those Americans who have lost their jobs because of downturns in the economy have been able to turn to the insurance fund, created by employers, to tide them over while they are seeking a new job, or until their old job reopened. The system has worked well because it has had the cooperation of employers and employes and has been a cooperative state-federal system.

During the last five years, however, the Congress has taken steps which we feel are not in the best interest of the system. Because of the prolonged economic lump, which has been very severe in some regions, the present system allows a recipient to draw unemployment benefits for up to 65 weeks—almost a year and a half. As unemployment has skyrocketed in the last 2 and a half years due to the energy boycott, world commodity shortage and numerous other factors, the state employment services have barely been able to process the claims which millions of jobless Americans have filed. There has been neither time nor money to investigate claims for validity. We are concerned that there are numerous instances of fraud involved with the program which is costing employers and ultimately, consumers, millions of dollars.

1. The bill which the committee has passed increases the present wage base from $4,200 to $8,000. Naturally, all of us are concerned about the solvency of the overall program since now some 16 states are borrowing from the federal fund. But we fear that this 90 per cent increase in the base is too much and too soon. We supported an amendment in thte committee, offered by Rep. Pickle, which would have brought the system out of the red in the same period of time, five years, which the committee bill does. The Pickle amendment raises the base to $6,000 and escalates the effective federal rate to 0.8 per cent. We feel that this is a more equitable way to replenish the depleted fund without overly punishing the employers who support the unemployment compensation system.

2. It is estimated that the imposition of an $8,000 base will cost employers more than $6 billion in unemployment taxes annually. This comes at a time when this Congress has tried to reduce the burdensome tax load on both individuals and businesses. Therefore, this increase, which might have been spent on new plant production and other job-producing capital investments, will be funneled into unemployment taxes.

3. We feel that such a high base should not be implemented because it is simply not needed in those numerous states which have good employment situations and solvent funds. Those states whose funds are in the red may raise their bases if they deem it necessary. In fact, since the $4,200 base went into effect in 1972, 16 states have elevated their bases above the federally-required minimum. We really feel that it would be best to leave the states this option but in the spirit of compromise, and out of every desire to see the system operating on a balanced basis, we have endorsed the $6,000 base.

There is another important reason why we feel adjusting the rate is preferable to making an astronomical escalation in the base: a much higher base penalizes the steadier industries and employers and favors the seasonal employer. For example, if employer A paid his workers $200 per week for 26 weeks, their annual earnings would be $5,200. Employer B pays his workers $150 weekly for 52 weeks, with yearly earnings at $7,800. Increasing the base from $4,200 to $8,000 would increase Employer B's tax liability *3.6* times more than Employer A because B's taxable amount would increase only by $1,000 while A's would increase by $3,600. So, the impact falls most heavily on the annual wage, regardless of the hourly or monthly pay.

4. We also feel compelled to oppose the committee's proposal regarding the extended benefit program. The committee's bill will provide payments for weeks 27 through 39 in the states when the following conditions are met: 1) there is a seasonally adjusted national insured unemployment rate of 4.5 per cent, based on the most recent 13 week period, *or* 2) the seasonally adjusted insured rate is 4.0 per cent, based on the most recent 13 week period.

Of course, all states and jurisdictions covered under the unemployment compensation are now paying extending benefits and will continue to pay them as long as the national insured rate of employment rate continues to be above 4.5 p er cent. Currently, the national insured rate of unemployment is 6.5 per cent.

But we are hopeful that the future will bring a brighter economic picture and that the national unemployment figure will gradually decline. This is why we feel that the figure of 4.5 per cent nationally and 4 per cent statewide are unrealistically low. If these averages are written into the permanent law, then those numerous states whose insured unemployment rate (IUR) is now below 4.0% will be subsidizing those states who will be "triggered in" permanently by this low trigger percentage. Extended benefit costs would be about three times greater than under the present program. A recent study conducted for the Department of Labor illustrated what would have occurred during the period from 1957 to 1973 if the 4 per cent trigger had been in effect. In 17 states, a trigger would have been paid more than 50 per cent of the time. On the other hand, such a trigger will virtually eliminate some states from any participation in the extended program. Colorado, the District of Columbia, Nebraska and South Dakota would never trigger in, while Texas, Virginia, and Iowa would trigger in 2 per cent of the time, or less. In terms of funds paid under the Extended Benefit system, H.R. 10210 would perpetuate the inequities. California which has slightly less than 10 percent of employment in the U.S., would get nearly one-fifth of all payments. But Virginia, Texas, Kansas, and South Carolina would get virtually nothing—even though their combined employment is greater than that of California.

Obviously, those cities which are bankrupt will have to borrow from state funds, many of which are already insufficient themselves.

Unemployment compensation was established as an insurance program—we must not allow it to degenerate into a public assistance program. Some may feel that recipients should receive their benefits based on need. But this concept will do damage to the insurance principle in the system. Benefits have always been geared to a recipient's earnings and we think that this system should be retained.

If we expand the wage base too quickly we are running the risk of driving many small firms out of business and ultimately, to more unemployment. One of the biggest factors in the failures of small business has been their inability to anticipate and meet their tax load.

Our continuation toward extending benefits, where they have little relationship to work experience, is moving the program away from unemployment insurance and moving it toward a welfare system.

Employers (and employees alike) are already paying 5.8% in social security taxes and face an increase next year. Other employer costs are escalating. We are approaching the point where it is becoming too expensive for many individuals to go into business.

We oppose this bill in a sincere effort to keep the program solvent while not destroying its basic elements.

RENEWED DRIVE FOR GUN CONTROL DUE IN JANUARY

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the first session of the 94th Congress will adjourn with gun control legislation due to be considered by the House Judiciary Committee in January. A clean bill was voted out of the Crime Subcommittee of Judiciary on a close vote after subcommittee members had approved by a 6-to-1 margin the addition of mandatory sentences for crimes committed with a gun.

The mandatory sentencing provision could have rough sledding in the more liberal Judiciary Committee in January. I would not be surprised to see a gun confiscation provision added to the present bill if it was decided that the public would swallow it. Registration and so-called "Saturday night special" amendments will be proposed.

This is the present status of gun control legislation in the House. Those who are apprehensive about this type of legislation should petition Congress by voicing their views and encouraging others during the holidays and again in January. We must be on guard against the effort of congressional liberals to take away or seriously abridge the basic right of law-abiding Americans to own and properly use firearms.

DIALOG ON MONOPOLY POWER IN THE OIL INDUSTRY

(Mr. JAMES V. STANTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. JAMES V. STANTON. Mr. Speaker, as one who has been active in the oil company divestiture effort, I believe a public dialog on this issue between the advocates of this legislation, and advocates of the oil companies as they now exist, can be very helpful in furthering public understanding of this complex question.

Thus after testifying before the Senate Antitrust Subcommittee in behalf of my own bill, H.R. 9026, the Corporate Citizenship and Competition Act, and other divestiture legislation, I sought to initiate such a dialog with Charles E. Spahr, chairman of the Standard Oil Co. of

Ohio. I commend Mr. Spahr for accepting my invitation, and I would now like to insert into the RECORD copies of the correspondence we have exchanged. In addition, I am inserting an exchange of correspondence I have had with Thomas Kauper, Assistant Attorney General for Antitrust, on an antitrust case against Sohio which is also discussed in my correspondence with Mr. Spahr, and letters I sent to the chairmen of the antitrust subcommittees of the House and the Senate on this case.

The material follows:

Statement of Congressman James V. Stanton Before Subcommittee on Antitrust and Monopoly

I greatly appreciate having the opportunity to appear before this Subcommittee to express my conviction that the oil industry can be a truly competitive one, serving the consumer at the lowest possible price, only if Congress acts to end the domination of the industry by a handful of huge corporations.

Of course, the oil industry is not the only major industry populated by large corporations which at best engage in "sweetheart" competition, and I have called for the restructuring of certain noncompetitive industries in a bill I have introduced entitled the Corporate Citizenship and Competition Act. Thus I commend this Subcommittee for undertaking this investigation of oil, and I would like to share with you my views on why Congressional action, not alone court action, to restore competition to the oil industry is necessary.

When the first antitrust statute was enacted in this country in 1890, the oil industry had been in existence for some thirty years, and reviewing the results of the major oil company cases filed under the antitrust statutes, it is difficult to see how the industry could be any less competitive today if these laws had never been passed. Even the 1911 case which ended John D. Rockefeller's Standard Oil holding company served mainly to replace a national monopoly with a series of regional monopolies, and it is no surprise that the price of Standard Oil stock actually rose after that Supreme Court decision. Frankly, I believe the antitrust laws have been ineffective against the oligopolies because they simply do not address the obstacles to competition which have been raised in these industries.

A violation of these laws occurs, basically, only when there is an actual agreement among competitors to engage in monopolistic practices, or when a company undertakes a course of action with the intent to destroy his competition. By focusing on agreement and intent, these laws ignore the possibility that, in those industries dominated by a few corporations, price fixing and restraints on output inevitably occurs even without an apparent agreement among the businesses.

And, instead of encouraging the enforcement officials to engage in careful economic analyses of industry performance, these laws send them scurrying for the "hot" document, or testimony of the secret meeting, without which they cannot win a case.

The problem of proving such a conspiracy in court are tremendous. All of us have seen how antitrust cases, and particularly the pretrial stage in which evidence is sought, drag on for years. The major undertaking of the Federal Trade Commission against the eight largest oil companies, now in its third year, probably will not come to trial before 1978, and with the appeals that are certain to follow, it may be years before the case is finally resolved. In addition, there is no guarantee that the FTC will be able to meet the burden of proof placed upon it, and because the suit takes so much time, there may be massive changes within the industry which the lawsuit will not have taken into account.

I would also point out that as to the oil industry, it has been especially difficult to gather the type of evidence which the antitrust laws require. On this subject, I call your attention to the testimony of Keith Clearwaters, second in command of the Antitrust Division, before the Senate Commerce Committee in December, 1973. He stated that those who have the most reason to complain about the oil company-owned pipelines have not produced evidence, because they are dependent upon the major oil companies in other phases of their operations, and fear the loss of their good will.

But it may well be that the best detective work in the world would not produce evidence of an agreement among the oil companies, for as I have said, in an industry dominated by a few large corporations, price fixing and other monopolistic practices can take place without any formal agreement. Rather, in seeking to maximize their profit, the industry leaders can, each apparently acting on his own, attune their policies to further cooperation, rather than competition, among themselves. The structure of the industry, by virtue of which they possess so much power, makes it feasible for them to cooperate for their mutual benefit. The lure of greater profits is their motive.

Certainly we see evidence of such cooperation in the oil industry today, for how else do we explain prices which continue to rise—entirely apart from what the OPEC nations have done—at a time of declining demand, and an actual decline in domestic production at a time when domestic crude prices have more than doubled? The crux of the problem, in my view, is the structure of the oil industry, and I contend that competition will be restored to it not by issuing cease-and-desist orders, or even jailing some oil company officials, but by changing, and changing significantly, the structure of the industry.

I need not dwell on the current structure of the industry; for other witnesses have described it fully. I would, however, like to highlight several matters which are of special concern. To an extent greater than in any other industry, the major oil companies have integrated themselves vertically, so that almost all are active in every phase of the industry: production, refining, transportation, and marketing. Thirteen oil companies, which are among the largest and wealthiest corporations in the nation, are giants in everyone of these areas. Overall, it is generally recognized that the industry is dominated by twenty "majors." Oil industry advocates never fail to point out how other industries are more concentrated than this, but to this point I respond that what the largest oil companies may lack in market shares, they more than make up in intimate knowledge of each other's operations.

This Subcommittee has heard the litany of joint exploration, joint bidding, joint leasing, and, on a broader scale, joint ownership of oil pipelines by the majors. This web of interrelationships, as the FTC calls it, is destructive of competition not only in the immediate undertaking, but far more importantly, in the common ground it provides these companies which call themselves competitors. In addition to the common interest which each project gives them, the companies cannot help but obtain in these joint ventures precise information on the intentions and capabilities of each other. And the access to this information, I submit, in itself precludes competition.

I believe we can see most clearly how competition in the industry has been smothered, if not snuffed out entirely, by reviewing the recent history of the refining industry.

We begin with the fact that today, the twenty largest companies control over 80% of domestic refining capacity. Between 1950 and 1973, there were only thirty new entrants into the refining industry, and most of these were small firms which produced specialty products, such as asphalt. Only thirteen of these firms still exist today. In the period 1950 to 1963 alone, 115 refiners vanished from the industry, having been merged or dissolved. And the most important point is that only two of the new entrants, Suntide and Hess, built substantial new capacity, and each of these was swallowed up by one of the major oil companies we have under scrutiny today—Suntide by the Sun Oil Company, and Hess by Amerada Oil. In my view, there can hardly be more convincing evidence that the industry is indeed a closed brotherhood, which is careful to ensure that no one else infringes on its "territory."

One other aspect of the petroleum industry I would like to touch on is the retailing of gasoline, in which there have been a number of antitrust suits alleging price fixing by the oil companies. I am most familiar with the lawsuits that have been filed against Standard Oil of Ohio, and if the results of these are any indication, I doubt there is any area of litigation in which the government has expended more time and money, and obtained less results. For example, in September, 1970, the Justice Department filed suit against Sohio, alleging that it was fixing the pump price of gasoline through the "Commission Manager" type of dealership it used at some of its stations. The Petroleum Retailers Association of Northern Ohio estimated that motorists were paying up to 3¢ a gallon more for gasoline because of this arrangement. Yet, after three years of hemming and hawing, the Justice Department entered into a consent decree with Sohio which permitted the price fixing to go on, but under a different name—the so-called Incentive Manager plan—and with a slight change in Sohio's bookkeeping.

In January, 1973, the FTC filed suit against Sohio alleging that, by using short term leases which the company could terminate at will, Sohio coerced its independent branded dealers to follow its policies on pricing, hours of operation, and product purchases. The relief sought by the FTC included a requirement that Sohio, in establishing dealerships, grant long term leases, cancellable only for good cause, and upon notice. In addition, the FTC requested that Sohio be prohibited from converting any more of its dealer-owned stations to company-owned stations. Now, three years later, the case has yet to be concluded, and a former Sohio dealer who had just had his station repossessed recently remarked to me that the dealership protection provisions being sought by the FTC are fine, but at the rate Sohio is converting to company-owned stations, there may soon be no dealers left to protect. His remark indicates to me the futility of these cases, for why should we expend all this effort trying to prove the oil company fixed the price at which their dealers must sell, when the companies can achieve the same end, within the law, simply by buying out the dealer and opening a company station? It seems to me the only solution to the problem is to forbid the oil producers from operating at the retail level altogether.

Thus, Mr. Chairman, considering the nature of the oil industry today, and the inability of existing antitrust laws to end the monopolistic practices, I believe action by the Congress is essential. The bill you have authored, S. 2387, which would end vertical integration in the oil industry by requiring that each major company confine itself to one of the industry's four segments, would without question be effective in restoring competition. I have indicated my support for the thrust of this bill by sponsoring an identical version in the House. However, I respectfully suggest that a better means of restructuring the industry may be found in the Corporate Citizenship and Competition Act, to which I referred earlier.

Briefly, the procedure for industrial reorganization contemplated in the Act begins with the establishment of a seven-man Industrial Reorganization Commission. The Commission is directed to invite the major corporations in the industry to submit to the Commission, in a 90 day period, three items: current information on the state of the industry, and any proposal for reorganizing the industry, or request for deferring reorganization, that the corporation may wish to submit. The Commission is then given 120 days to draw up a plan for reorganizing the industry to make it more competitive. Specific purposes for which the Commission is to strive, including protection of employee pension plans and shareholder interests, are spelled out in the Act, as are the means available to the Commission. After publication of the proposed plan, the Commission is to hold not more than 30 days of hearings on it.

120 days later, the Commission is to submit a final reorganization plan to Congress, which will take effect in 60 days, unless Congress by resolution disapproves it.

I believe this approach is a better one, because it adds flexibility to the restructuring process, with no sacrifice in speed. Rather than apply an across-the-board rule to all the corporations, the Act would permit each corporation to be looked at individually, so that action most likely to further competition can be taken with regard to each. For example, I am certain the Commission would look into activities of the oil companies in natural gas and other energy sources, and probably, acting according to the guidelines stated in the bill, would require that these activities be divested.

But no matter which course of action for restructuring the oil industry is taken, I believe that the overriding need is for Congress to act. We hear a great deal these days about the need for our nation to achieve energy independence, and how each individual must show restraint and a sacrifice to this end. But implementation of the present energy independence plans will end our dependence upon the international oil cartel, only to make us wholly dependent on a domestic oil cartel. And I am absolutely certain that the people are willing to sacrifice, but only so long as the energy independence program does not cause one segment of the economy, the oil industry, to reap a bonanza. I would remind you, too, that these oil corporations, like all other corporations, are creatures of the state. They have no God-given right to exist in their present configuration. Rather, they are incorporated for the public benefit. When they fail to serve adequately, it becomes the duty of the peoples' representatives to take remedial action.

SOHIO,
THE STANDARD OIL CO.,
Cleveland, Ohio, November 18, 1975.
Hon. JAMES V. STANTON,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STANTON: Thank you for your letter of October 29, enclosing a copy of the testimony you gave before the Senate Subcommittee on Antitrust and Monopoly.

The hearings on oil industry competition and the proposed legislation being considered which seeks to break up the industry are naturally of great concern to me. Because of this, I submitted a statement to this Subcommittee in October on oil pipelines, and we are today submitting an additional statement concerning several of the issues on which you testified. Copies of both are enclosed for your information.

As I read the testimony of various witnesses, and see the conflicting results of public opinion polls concerning feelings toward our business and the job we have to do, I am convinced that we must do a better job of getting more people in and out of government to understand the basic situation of energy problems today. I agree with you that more contact between your office and Sohio on this subject would be very desirable. I've asked Bob Griffin, our Marketing Vice President, and Dick Donaldson, our Vice President of Government and Public Affairs, to get in touch with you to see if we can't establish the meaningful dialogue you suggest.

Sincerely,

C. E. SPAHR.

SOHIO,
THE STANDARD OIL CO.,
Cleveland, Ohio, November 18, 1975.
Hon. BIRCH BAYH,
Subcommittee on Antitrust and Monopoly,
Washington, D.C.

DEAR SENATOR BAYH: I have followed with much interest the Subcommittee's current hearings regarding the oil industry.

Recent testimony, including a statement from Congressman James Stanton of Ohio which mentioned Sohio, has encouraged me to submit for the record this short statement. I believe it will provide you with some additional factual data you should have in order to reach an objective conclusion. The areas I want to comment on briefly are industry structure, prices and competition, and profits.

INDUSTRY STRUCTURE

Reading some of the testimony which has been submitted would lead you to believe the oil industry is made up of only three or four companies. In fact, the oil industry in the U.S. is made up of many companies and businesses, big and small alike. Definitions may vary, but there are about twenty oil companies which are considered major. Most of these are involved to some extent in all phases of the petroleum business—exploration and production, transportation, refining, and marketing. In addition there are also about 10,000 independent crude oil producers, 110 independent refiners, and 200,000 retail outlets operated by independent businessmen. The industry is certainly not dominated by a few companies to the complete exclusion of all others.

Compared to other industries, the concentration ratio in the oil industry is considerably lower than the ratio found in many U.S. manufacturing industries. The four largest oil companies account for 33 percent of the business. There are many major industries with significantly higher concentration ratios than that for the oil industry. For example, the four-firm ratio in the glass container, aircraft, detergent, basic metal and appliance industries are all higher than the ratio for the oil industry. Even those numbers may be superficial and ignore the competitive vitality of the rest of the industry.

Integrated oil companies, like integrated companies in other industries, evolved as a result of businesses seeking more efficient and less costly ways of doing business in order to compete. A company seeking a greater return on investment must either raise prices, increase sales volumes, or reduce costs. When hard competition, such as exists in the oil industry, prevents that company from realizing higher profits through prices, and when volume increases are difficult due to the same competitive forces, the only choice is to cut costs. Vertical integration, which can improve efficiency and reduce costs, is the product of a competitive industry.

Some people have been critical of joint ventures between oil companies, but a full and fair look at these ventures shows that they actually encourage competition and work to reduce costs for everyone. Joint ventures are not the sole province of the major oil company. Many independent oil companies are involved with majors and other independents in pipeline and exploration ventures. The result has been that more crude oil was discovered and more oil is being transported at lower costs than would have been the case without the joint efforts of majors and independents alike. Joint ventures, again, are the result of competition forcing companies to seek the best and lowest cost methods, and spreading the risks that no single company could shoulder.

PRICES AND COMPETITION

You have heard testimony that presented a belief on the part of the witnesses that there is probably implicit cooperation among the major oil companies which is preventing gasoline prices from seeking the levels they should under a freely competitive environment. A review of the history of gasoline prices from just after World War II until 1971, when price controls were imposed on the oil industry, clearly refutes the suggestion that oil companies kept prices at unnaturally high levels.

During this period of about twenty-five years, retail gasoline prices (excluding tax) increased at a rate considerably less than the average consumer price levels as shown in Attachment 1. For most of this period, there was an over-supply of gasoline which contributed to the depressed price levels, a normal reaction in a competitive market situation.

Competition among oil companies of all sizes took many forms during this period. New marketing methods were developed, product qualities were improved, companies developed new refining techniques to increase efficiency and reduce costs, various promotional activities were undertaken. Above all, however, there was price competition, accounting for the generally depressed gasoline prices throughout the period.

Attempts by companies to raise prices were usually met by other companies figuring out how to cut costs and sell more profitably at a lower cost. As the profit margin per gallon would grow, temporarily, the incentive also grew for marketers to reduce that margin by selling at a lower price and, hopefully, increasing their volume at the expense of the higher-priced competition. This is exactly what happened with the result that retail prices remained at quite low levels.

Since 1971, it is not reasonable to talk about the degree of price competition that does or does not exist since government imposed price controls of one variety or another have been in effect since late in 1971.

The fact is competition of all types has been and is strong in the petroleum industry. The assumption that major oil companies share intimate knowledge of each others' activities and, as a consequence, act in concert with one another to the disadvantage of the non-majors is just not true. I've lived through it and know of what I speak. I have heard lots of charges but have never seen the facts brought forward by those making the charges to support them.

But let me submit for your record the facts from my own experience. In 1969, Sohio was the top gasoline marketer in Ohio with over 29 percent of the market. The major oil companies in total had 87 percent of the market with the non-majors holding about 13 percent. Today, Sohio has slipped to 21 percent. A small part of this, about 2 percent of the market, is due to the divestiture of some retail business as part of the consent decree which permitted the merger of Sohio and BP The major part of the loss, however, reflects the competitive gains of others. All majors have slipped to 74 percent while the non-majors have increased their share to almost 26 percent. These numbers aren't guesses but are based on State of Ohio taxable gasoline sales reports. Ohio is not unique in this; the national figures reflect the same trend. Those who would have you believe that major oil companies act together to the disadvantage of the non-majors should be asked to explain why, if this is so, the non-majors seem to be thriving.

Statements have also been made that the Department of Justice and the Federal Trade Commission have been ineffective insofar as the oil industry is concerned. Our own experience has been that both of these organizations are comeptent and aggressive in their efforts to enforce the law. In the matter of the consent decree in which Sohio agreed to divest itself of a number of service stations as a part of the merger with BP, the Justice Department has certainily not been passive. When Sohio was unable to find purchasers for these stations and asked for an exemption, the Justice Department persuaded the Federal Court to appoint a third party to oversee the divestiture activities and to make certain that every practicable effort is made to comply with the decree.

I suspect that those who are most critical of the Justice Department and the FTC are not considering all the relevant facts. For example, in testimony submitted by Congressman James Stanton, he referred to a Justice Department investigation into Sohio's former Commission Manager stations. He faulted the Justice Department for not taking more action to stop Sohio from marketing through Commission Manager (and the successor Incentive Manager) stations, citing a Northern Ohio Petroleum Retailers Association (NOPRA) estimate that this arrangement cost Ohio motorists an additional three cents per gallon. Apparently the Justice Department did not agree with this estimate and rightly so. If NOPRA was saying that company stations where Sohio established the price sold gasoline at prices three cents higher than Sohio independent dealers, this clearly was not true. Since 1967, Sohio independent dealers have sold at prices one-half cent to three cents per gallon higher than prices at Sohio company-operated stations.

If, on the other hand, NOPRA was claiming that all Sohio prices at independent dealer, as well as company-operated stations, are higher than major competition because of Sohio's marketing arrangements, this clearly was also incorrect. Over the last several years, and until very recently, Sohio's company stations have generally sold slightly below the average for other majors, while the price for gasoline at its independent dealer stations has been somewhat higher than the price at other major brand service stations. Attachment 2 shows this information in detail.

Mr. Stanton's statement may reflect his view as a former attorney for NOPRA, but his view does not square with the established facts of the matter.

PROFIT IN THE OIL INDUSTRY

Many who feel the oil industry is noncompetitive have alleged exorbitant profit levels as evidence. A review of actual profits earned in the U.S. by the thirty largest oil companies since shortly after World War II shows four important things:

1. Profit levels in the oil industry are about the same as those for industry in general, and the domestic part of the oil industry has not done quite as well as all U.S. manufacturers.

2. The percent of oil company profits returned to the stockholders in the form of dividends is exactly the same as it is for the average of all U.S. manufacturers.

3. There is a high correlation between oil company profits and the amount of capital investment made by those oil companies in any given year. When profits go up, capital investment goes up, and vice versa.

4. Oil companies invest a major part—three out of every five investment dollars—in efforts to develop new energy. That's where the risk is and that's also where the investment emphasis should be.

In light of the above, it is difficult to find reasons to support measures that have as their goal the reduction of oil industry profits and the industry's capacity to develop needed new energy.

CONCLUSION

The oil industry today is very complex, comprised of many companies and individuals. The record, as measured by price levels and other indicators of competition, has been a good one over the years.

Before any action is taken which would arbitrarily disrupt this industry, very careful attention should be paid to what the real effects of that action might likely be. Any such action should be approached very cautiously because, as witnesses before this Subcommittee have pointed out, once the action is taken it cannot be undone. Only vague assertions and opinions have been offered in support of a restructuring, and these are hardly sufficient reasons to dismember an industry. I believe that the facts indicate no such action is warranted or desirable.

Sincerely,

R. G. Griffin.

ATTACHMENT 1

COMPARISON OF GASOLINE PRICES AND THE CONSUMER PRICE INDEX

Year	Sohio posted retail price regular gas (excluding tax)	Percent of change since 1947	Consumer price index	Percent of change since 1947
1947	19.0		66.9	
1948	19.0	0	72.1	8
1949	19.0	0	71.4	7
1950	19.8	4	72.1	8
1951	19.8	4	77.8	16
1952	19.8	4	79.5	19
1953	20.9	10	80.1	20
1954	19.9	5	80.5	20
1955	20.9	10	80.2	20
1956	20.9	10	81.4	22
1957	21.9	15	84.3	26
1958	20.9	10	86.6	29
1959	20.9	10	87.3	30
1960	21.9	15	88.7	33
1961	20.9	10	89.6	34
1962	20.9	10	90.6	35
1963	20.9	10	71.7	37
1964	20.9	10	92.9	39
1965	20.9	10	94.5	41
1966	21.9	15	97.2	45
1967	22.9	21	100.0	49
1968	23.9	26	104.2	56
1969	24.9	31	109.8	64
1970	26.9	42	116.3	74
1971	26.9	42	121.3	81
PRICE CONTROLS BEGIN				
1972	26.9	42	125.3	87
1973	34.4	81	133.1	99
1974	47.8	120	144.0	115
1975	[1]47.9	152	[2]163.6	145

[1] October.

[2] September.

ATTACHMENT 2

REGULAR GASOLINE PRICES IN OHIO (SOHIO COMPANY, DEALER, AND MAJOR COMPETITIVE STATIONS)

[Cents per gallon]

Date	Sohio company price [1]	Sohio dealer price	Other major oil company prices
September 1967	33.9	34.4	34.3
July 1968	34.9	35.4	35.3
September 1969	35.9	36.5	36.3
March 1970	35.8	36.5	36.3
April 1970	36.9	37.4	36.4
September 1970	35.8	37.0	36.6
January 1971	35.4	37.6	37.2
June 1973	37.9	38.8	38.7
September 1973	37.9	38.5	38.6
March 1974	51.8	55.0	53.7
July 1974	55.8	59.0	56.6
December 1974	52.8	53.9	52.5
March 1975	53.8	54.8	53.1
June 1975	57.9	58.8	56.8
August 1975	59.9	61.1	59.5

[1] Includes commission/incentive manager stations.

Note: Large increase in price between September 1973 and March 1974 reflects the impact of OPEC price increases on the high percentage of foreign oil which Sohio must use.

Source: Price surveys taken by Sohio on the dates shown.

House of Representatives,
Washington, D.C., November 24, 1975.
Charles E. Spahr,
Chairman, the Standard Oil Co.,
Cleveland, Ohio.

Dear Charlie: Thank you for your letter to me of November 18—and also for the copy of the Sohio letter to Senator Birch Bayh in which you people attack, point by point, the evidence that I presented to his Subcommittee on Monopolies. I commend you, in all sincerity, for thus accepting my invitation to engage in a dialogue on the issues of oil, gasoline and business monopolies. This letter constitutes my own reply to you, and I would hope we could continue to have further exchanges. May I suggest that, to enhance public understanding of these vital questions, it might also be useful to deliver an oral presentation of our views, with opportunity for rebuttal on both sides, on a platform in Ohio or in Washington, where you have appeared frequently as the chief spokesman for the oil industry, in your capacity as chairman of the American Petroleum Institute. For example, as you may have heard, I am scheduled for a debate next Wednesday at Ohio State University with Mr. John Anderson, a leading Toledo industrialist, on the subject of government regulation of the market place. I would be happy to share a platform with you as well, and I will await your answer on this point.

In the meantime I must say that your retort to Senator Bayh anent my testimony fails to answer a number of the points I had made, and in fact raises several new questions concerning the oil industry.

Obviously, I take exception to your assertion that the Department of Justice and the Federal Trade Commission have been "competent and aggressive in their efforts to enforce the law." While I believe that the current antitrust laws are inadequate I have also found that these agencies often fail to enforce even the existing law vigorously because of limited resources, and, at times, an absence of will.

Do you seriously consider it "aggressive" enforcement of the law when it took the Justice Department *three years* to arrive at a consent decree in the Sohio "Commission Manager" price-fixing case? In addition to the delay, the other aspect of this case to which I objected—the content of the consent decree—was in my view the product of a failure of will on the part of the Justice Department. For the consent decree in effect permitted price-rigging to continue under a different name, and with a slight change in Sohio's bookkeeping. You also state that the Justice Department apparently disagreed with my view that a "Commission Manager" form of operation resulted in higher gasoline prices. I would point out that the complaint filed by the Justice Department in this case stated that one of the effects of this practice was that "prices of defendant's petroleum products and of TBA (tires, batteries, and accessories) products and services at defendant's service stations have been fixed at arbitrary and non-competitive levels . . ." and the Justice Department has never withdrawn this accusation.

Similarly, I ask whether you contend that the FTC is aggressively enforcing the law when its suit against Sohio for its dealership practices is nearly three years old, and there is still no end in sight. Or when, to cite an even worse example, the FTC sues in 1973 to break up the monopoly power of the eight largest oil companies, only to be sucked into legal quicksand by corporation lawyers who, according to one estimate, will succeed in delaying the trial at least until 1978.

This latter instance reflects not so much on the FTC, which has been more than diligent in this case, as it does on the inadequacy of existing statutes—many of which are useless. As I observed before Senator Bayh's committee, government lawyers are on record lamenting the fact that it is difficult to gather evidence under these laws because monopoly victims fear retaliation from the giant oil corporations.

Your letter denies that the oil industry is dominated by twenty major companies. It cites the large number of businesses involved in production, refining, and retailing. But do you dispute the reports which state that the twenty account for over 75% of the crude oil production in the United States, 90% of the nation's reserves of crude oil, 80% of the total domestic refining capacity, 75% of the gasoline market—and further control pipelines that carry 90% of the crude oil on which we find pipelines reporting to the ICC? And do you contend that this situation is anything less than domination of the industry by the majors?

Also, considering the manner in which you treat your independent branded dealers, I would think your assertion that the oil industry is competitive because of "200,000 retail outlets operated by independent businessmen" must have been made tongue-in-cheek. I direct your attention, for example, to the complaint filed by the FTC against Sohio on January 18, 1973, which states that "in the course and conduct of its business as aforesaid, Sohio, by use of coercion, intimidation or threats such as, but not limited to, canceling or threatening to cancel, terminating or refusal to renew Sohio's lease with its lessee dealers, compels, and has compelled, certain of its retail service station dealers to: carry trading stamps, engage in various promotional activities, purchase exclusively or preferentially tires, batteries, and accessories sold or sponsored by respondent and to adhere to required hours of operation. . . . Sohio disciplines many of its lessee dealers, forcing adherence to Sohio's resale prices. . . ."

Thus while I argue that independent dealers can provide a strong competitive force in the oil industry, often they have not—because of oil company practices such as those with which Sohio has been charged in the FTC case which has yet to be resolved.

With further reference to the structure of the industry I note that, as to vertical integration, the letter states that such integration "can improve efficiency and reduce costs", but it does not actually state that such economies have been realized in the industry. Whether or not such economies have been realized, vertical integration inherently has one, distinctly anti-competitive, effect: the foreclosure of markets to competitors.

I also note that the letter defends joint ventures in the oil industry on the same grounds and denies that, as a result of these operations, the major oil companies have intimate knowledge of each other's operations. But when companies are involved in such joint ventures, such as drilling, leasing, or in operating a pipeline, how can they help but gain knowledge of each other's intentions and capabilities? Do participants in a joint venture have some type of honor system in which they agree to turn their heads and not look at how much their partners are producing or shipping? I contend that a sharing of information inevitably occurs, and that any real competition among these companies is thereby precluded.

I believe the high degree of vertical integration in the oil industry is harmful not only for the lessening of competition which it has already caused, but also because this integration tends to feed on itself, pushing all industry participants in the direction of complete vertical integration. For example, in your statement before the Senate Subcommittee on Antitrust and Monopolies on January 15, 1974, you described Sohio's frantic efforts to integrate into the one level of the industry in which it is not yet active in a substantial way, production of crude oil. You also stated that when Sohio has either an excess or a shortage of supply, you sell to or by from only integrated refiners. Such tacit mutual assistance agreements obviously are a hindrance to any firm which would be active in only one phase of the oil industry.

As to the position of the small companies in the oil industry, I have no doubt that they have increased their share of the market due to the fact that they offer their product to the public at a lower price. But I do not believe that these companies can pose a threat to the majors as the industry is now constituted, because of the limits on their capacity in each phase of the industry. They are like runners who are forced to make the race wearing cement shoes—and the majors are well aware of this situation. I call your attention to the refining industry, in which the mortality rate for small firms and new entrants has been extremely high, and in recent years, the two new entrants who built substantial capacity were quickly swallowed up by one of the majors.

Finally, the letter makes much of pricing and profits in the oil industry, making comparisons to the consumer price index and to trends in other industries. To these points I would reply by quoting from the complaint of the FTC in its case against the eight majors: ". . . Prices for refined petroleum products are higher and the level of refinery capacity lower than that which would prevail in a competitive environment . . . Moreover, the consumer pays twice for the respondents' market power, both directly in the form of higher prices and indirectly in that society's resources are not allocated in the most efficient manner."

Thus in evaluating the oil industry, I look not to what the performance of other industries has been, but to what the performance of the oil industry, in terms of prices and services for the consumer, can be, if it were made into a truly competitive one.

Again, I appreciate your interest in what I have to say, and I look forward to hearing from you again.

Sincerely,

JAMES V. STANTON,
Member of Congress.

THE STANDARD OIL CO.,
Cleveland, Ohio, December 12, 1975.

Hon. JAMES V. STANTON,
Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN STANTON: I want to acknowledge my receipt of your letter of November 24 which, incidentally, I did not receive until December 1, at which time I gather you also released it to the media. I also want to advise you that I received your letter of December 5 attaching your correspondence with Senator Hart.

I had suggested in my letter of October 29 that Sohio was prepared to establish a meaningful dialogue with your office, and indeed Mr. Griffin, our Marketing Vice President, did visit with you on December 2 in furtherance of this suggestion. I hope that meeting was productive of a better understanding of some of our views. I have encouraged this type of dialogue with you and other members of Congress, because I am convinced that many members of Congress, for reasons which are not entirely clear to me, have simply decided to ignore the realities of the critical energy problems facing the country today in favor of indulging in fanciful rhetoric which displays a tragic lack of understanding of America's economic system.

We sent you a copy of Mr. Griffin's letter to the Senate Subcommittee on Antitrust and Monopoly since we believe your testimony before that Committee, as well as your proposed legislation to break up vertically integrated oil companies (H.R. 10185), reflects serious misunderstandings on your part. We believe that Mr. Griffin's letter, for the most part, adequately states our views on your testimony, and when read with the Congressional testimony and public statements by myself and other Sohioans on energy subjects during the past year or two, provides you with an adequate view of our position.

With respect to divestiture and divorcement legislation generally, we think it is incumbent on you and others who endorse such proposals to produce convincing evidence that such proposals will "improve performance of the industry in terms of prices and services to the public"—using the language of your recent letter. *If* such evidence can be produced, though we believe that it simply does not exist, then a change of structure might be called for. However, as Frank Zarb, Federal Energy Administrator, recently stated, "Those who want divestiture just haven't generated enough hard data to tell people whether they are better off with that kind of legislation. We need to get a full understanding of the issue first."[1] For this reason I am quite concerned by your statement before the Bayh Committee on October 29, that "S. 2387, which would end vertical integration in the oil industry by requiring that each major company confine itself to one of the industry's four segments, would *without question* be effective in restoring competition." There is indeed a *serious question*, and I think your failure to recognize this is irresponsible, particularly when you profess to support the free enterprise system.

Similarly, your repeated statements that the industry is "dominated by 20 major companies" simply does not lead to a conclusion that something is amiss or illegal. All you have done is to add up the percentage market shares of a number of companies to get a big number. Monopoly or dominant control means some kind of single or unitary operation by a group of companies, and this simply doesn't exist in the oil industry. If it did, I would have seen it during many years of experience with all phases of the industry, and I haven't.

You appear, however, to argue that a special feature in the oil industry is that joint ventures have made the industry non-competitive. The fact is that joint ventures are employed only in limited operations where they are necessitated by economic or conservation considerations. They do not affect the basic competitive character of the industry. In fact, I believe there is substantial evidence, for example, that in pipeline transportation joint ventures, shippers become more competitive by being able to move oil or products at lower costs than would be possible if each cmpany built its own transportation system. Obviously, this benefits the ultimate consumer. Moreover, joint ventures in these limited areas give the participants little, if any, information not available to the public. Some critics of this industry are concerned that joint owners of product pipelines have knowledge of each other's shipments. This information is not available to the public nor to the owners of the pipelines. Management of such pipelines are careful not to disclose shipment data for one company to any other company because of the antitrust implications that might result from such disclosure.

In summary, the information made available to participants in a joint venture is either a matter of public record, of no competitive significance, or handled in a manner whereby competition is not affected. To the best of my knowledge, there are no jointly owned domestic refineries or marketing systems.

In reply to Mr. Griffin's statement that the competitive character of the oil industry is indicated by the 200,000 retail outlets operated by industry businessmen, you cite the FTC allegations in its complaint against

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[1] The Oil Daily, November 11, 1975, page 2.

Sohio that Sohio has intimidated its dealers and forced their adherence to Sohio's retail prices. I am not a lawyer, and you are. Perhaps you know something about legal complaints that I do not know. But, I had always understood that the accusations in a legal complaint were merely the allegations of the party filing the complaint, and that it was up to a jury or judge to decide whether the charges were true. I am honestly puzzled, therefore, by your repeated reference to the unproven allegations made in legal complaints filed against Sohio, and also in the legal complaint filed by the FTC against 8 major oil companies. No one has gone into a courtroom and persuaded a judge or jury that the charges in those complaints are true. The fact is that Sohio has not been violating the antitrust laws, and I am inclined to suspect that as the Government lawyers dug into the facts, it became rather painfully obvious to them that they simply had no case. Your objectivity in these matters is, in my opinion, subject to some question when you cite mere allegations without pointing out that they have all been denied by Sohio in its answers to these complaints.

For some time now, you have persistently criticized the content of the Consent Decree entered in our "Commission Manager" case. You are undoubtedly aware that Sohio is entitled to establish retail prices at service stations operated by its own employees. The Government's case against Sohio alleged, in effect, that commission managers were not employees, but rather independent contractors. We believed that the allegations in the case were not correct at their inception, and the consent judgment entered by the U.S. District Court expressly confirmed that these stations are now being operated by Sohio employees. This has recently been confirmed again by the United States Court of Appeals for the Third Circuit in a case involving our subsidiary, Boron Oil Company. In that case the Federal appeals court upheld the lower court ruling that commission managers are employees and not independent contractors, and a hearing was denied by the United States Supreme Court on October 6, 1975.[2] Therefore, we believe it is highly improper for you to keep referring to our incentive manager program as a "price fixing" or "price rigging" arrangement when the law is clearly otherwise.

Moreover, I do not see how you can argue that the commission manager or incentive manager form of operation results in higher gasoline prices, because the fact is that the last several years Sohio's dealers have consistently charged prices for gasoline higher than those charged at Sohio company stations. It is perhaps understandable why dealers and their representatives desire to avoid the competition from company operated stations, but this desire is obviously at variance with the interest of the motoring public in obtaining gasoline at the lowest possible price. The philosophy underlying the antitrust laws was designed to promote the public interest and not the special interests of any single group of businessmen.

You also requested my comments on your letter of December 5 to Senator Hart. We believe your charges that Sohio has somehow managed to thwart the purposes of the Justice Department in carrying out its obligations under the 1969 Consent Decree requiring service station divestiture which we were required to enter into in order to accomplish our merger with BP, and that Sohio is using the Decree in a reprehensible manner to abruptly force dealers out of business, are intentionally misleading. You know as well as we do that our compliance with the Decree is under the control of the United States District Court in Cleveland, and Sohio has diligently complied with all directives of that court. The court itself has exercised control over the selection of the stations to be sold, the selection of buyers, and negotiations with buyers. Sohio has no control over whether a buyer chooses to operate these stations through dealers or its own personnel after a sale. We cannot perceive of the Justice Department taking a position relating to competition in the Ohio gasoline market which would be inconsistent with the accomplishment of the purposes of the Decree, as you suggest. We recognize that performance of any divestiture decree can cause hardships, and we discussed this in a letter which we sent to you and all other members of the Ohio delegation in early August. We would be appreciative of receiving a copy of the Justice Department staff recommendations to which you refer in your letter since these are not consistent with any position which the staff has ever expressed to us.

Finally, you acknowledge in your December 5th letter to me that we may have philosophical differences. Your legislative proposal and its implications that our industry can be better run by a seven-man Industrial Reorganization Commission certainly runs counter to my view that our free market economy has led to a far more efficient allocation of resources than the state controlled economies of the socialistic world. It is the profit motive that has led enterprising businessmen to rack their brains to figure out how to serve the public more efficiently. A successful company is one that knows what its public wants and knows how to fill that want economically. I believe any member of Congress who thinks that the Federal bureaucracy can do a better job of determining the public's wants and devising mechanisms for meeting those wants bears a very heavy burden of explaining himself to his constituency.

Very truly yours,

Charles E. Spahr.

November 26, 1975.

Chairman Peter Rodino, Jr.,
House Judiciary Committee,
Rayburn House Building.

Dear Mr. Chairman: I know that you are concerned, as I am about the current structure of the petroleum industry, and I would like to bring to your attention a situation in a pending antitrust case which could result in a lessening of, rather than an increase in, competition in the petroleum industry.

I refer to the case of *United States* v. *Standard Oil of Ohio*, C69–854, which was filed in the Northern District of Ohio, Eastern Division, on December 1, 1969, to contest the merger of Sohio and British Petroleum. A consent decree, in which Sohio agreed to divest itself of some of its retail outlets, was entered to on January 1, 1970. But as is explained fully in the attached letter I wrote to Assistant Attorney General Kauper on July 22, Sohio has turned this consent decree into a weapon which it is using in a ruthless and summary fashion to dispossess a number of its independent branded dealers.

As you know, one of the most disturbing aspects of the oil industry is the high degree of vertical integration, and in the past year or two, many of the major oil companies have been approaching total integration by converting stations which had been dealer-operated into company-owned stations. In my view, if this consent decree continues to be implemented in the manner it has been, it will not only cause great hardship to the men and women who have built these dealerships through years of toil, but also will lessen competition and facilitate price fixing by furthering the trend toward total control of petroleum retailing by the major oil companies.

Along with others in the Ohio Congressional delegation, I expressed my deep concern to the Justice Department over the manner in which this consent decree is being implemented, and the culmination of our efforts was a meeting of Assistant Attorney General Kauper and his staff, representatives of the Congressional delegation, and of the petroleum retailers, on September 10. I understand that as a result of this meeting, the staff of the Antitrust Division has prepared a set of recommendations for modifying the consent decree which I find to be highly constructive.

Basically, these recommendations state that (1) the dealers should be given first-refusal rights on buying the station they operate, (2) appraisal of the value of the station should be done by an independent appraiser, (3) company-owned stations should be sold first, and (4) in cases in which a dealer station is being sold, and the dealer cannot purchase it, that dealer will be established at company station.

However, I understand further that Mr. Kauper has thus far refused to accept the recommendations of his staff. Apparently he believes the decree should continue to be implemented as it has been. Thus I urge that you again, as part of your current hearings on the oil industry, an investigation into this situation, and that you call Mr. Kauper before the Monopolies Subcommittee so that he can explain fully what the policy of the Antitrust Division will be in this case, and the reasons for it. I believe that an inquiry by the Committee into this matter can both promote a just resolution of this case, and highlight for the Committee some of the shortcomings of the existing antitrust laws in dealing with obstacles to competition in today's marketplace.

Sincerely,

James V. Stanton,
Member of Congress.

House of Representatives,
Washington, D.C., July 22, 1975.

Mr. Thomas E. Kauper,
Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C.

Dear Mr. Kauper: I am writing to you to express my deep concern over the manner in which the consent decree issued in the case of *United States* v. *Standard Oil of Ohio*, C–69–854, now before the U.S. District Court for the Northern District of Ohio, is being implemented. As you know, this antitrust action was initiated by the Justice Department to contest the merger of British Petroleum and Sohio, and the consent decree requires Sohio to divest itself of a number of its larger service stations.

I believe that this consent decree can be implemented in a manner that achieves the major purpose of maintaining competition in this market, and is at the same time fair to all concerned. But if the decree is effected by the terms of the notice that was sent to eleven dealers on July 1, and the purpose of this suit will be accomplished only at a terrible and unfair expense to several hundred dealers throughout the State of Ohio, who thus far have not even been heard in the suit.

These eleven dealers, some of who have operated their Sohio stations for fifteen or twenty years, were on that date sent a notice that their station leases would be cancelled in thirty days. Although this suit has been underway for over five years, the men and women who operate these stations were given only thirty days' notice of what is, in effect, the abolition of their livelihood. Each time the dealers went to the company to obtain some idea of whose station might be sold, and when, they were told that all the lists were indefinite, and nothing had been formally decided. Thus the law in this case, instead of granting due notice to those most intimately affected by the decision of the court, acted instead like a guillotine upon people who were not even told their head was on the block.

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[2] Please refer to the case of *Goldinger v. Boron Oil Company* which was decided by the Federal Court in Pittsburgh in 1974.

Furthermore, the amount of compensation being offered to these dealers by Sohio is clearly inadequate in several respects. Sohio offers these dealers who built their businesses through years of toil—years in which gasoline was not the precious commodity it is today—not one cent in compensation for the equity and good will they have accumulated. Sohio is not even purchasing all of the tangible assets of the dealers.

Each one estimates that he will be left with thousands of dollars of merchandise and equipment which Sohio now is refusing to buy.

Does the Justice Department believe that these dealers can set up stands in their front lawns to sell this merchandise, or that they would want to display the excess equipment in their living rooms? This material is worthless to these dealers in its present position, but Sohio can certainly put it to use in the many stations it still owns.

Finally, the merchandise that is being repurchased is being bought back at the prices of several months ago, rather than the current prices. If the goods are to be brought back at a fair market price, they should be repurchased at today's prices.

I noted that last month, President Ford gave a speech stating his concern for the small businessman, and his belief that the Federal Government should do all it can to help small business survive and prosper. I believe that in this case, the Administration has an opportunity to show some solicitude for these small businessmen, who, as you know, often operate in the worst of both business worlds. They take the major risks, and it is by their own effort that their business will either succeed or fail; yet in setting their business policies, they are not truly independent, for they must often operate within severe limits imposed by the company. If the Administration permits the pending sale of stations to go into effect as now proposed, with no greater concern being shown for the dealers, it will be a signal to all dealers and small businessmen that in governmental decisions, their interests will be accorded only secondary consideration, or will be ignored entirely.

Thus I urge that the Justice Department act to ensure that the provisions of the sale which I have described will be corrected. Because the dealers have not been a party to the case, they have no one to speak in their behalf but your office. In initiating this action, the Justice Department was, as it does in all antitrust cases, acting in behalf of consumers. I believe it is entirely proper and necessary for the Department to act in behalf of the other major group that is affected by the actions of the company, the dealers. There is certainly no conflict between these two tasks, and I see nothing in the antitrust laws which precludes the Justice Department from shaping a settlement so as to avoid placing an onerous burden upon another. To the contrary, I would think the United States Government would strive to see that a case it initiated does not have such an outcome. Without an expression of interest on your part in the situation of the dealers, or, at a minimum, without your deference to the dealers so that they will be able to make their own presentation, their effort will certainly fail.

Specifically, I ask that you arrange with the presiding judge a meeting with the dealers so that they will be able to describe their situation to him, and he will be fully cognizant of the effect which the court action will have. In addition, I ask that in the process of station sales that is now underway, you make known to Sohio that all sales must take account of the dealers' needs, and that any which do not will be objected to by the Justice Department. It seems to me that in addition to the points of the proposed sales I have already covered the settlement should include an offer by Sohio of a new station to each of the dealers who are being dispossessed.

Your prompt reply would be very much appreciated.

Sincerely,

JAMES V. STANTON,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 5, 1975.
PHILIP A. HART,
Chairman, Anti-Trust and Monopoly Subcommittee, Dirksen Senate Building.

DEAR MR. CHAIRMAN: I know that you are concerned, as I am, about the current structure of the petroleum industry, and I would like to bring to your attention a situation in a pending antitrust case which could result in a lessening of, rather than an increase in, competition in the petroleum industry.

This situation involves the Standard Oil Co. of Ohio (Sohio). Your record already contains testimony by me vis-a-vis the structure of the oil industry in general, and Sohio in particular, plus the company's rebuttal to my testimony.

The case I have reference to in this letter is that of *United States* v. *Standard Oil of Ohio*, C69–854, which was filed in the Northern District of Ohio, Eastern Division, on December 1, 1969, to contest the merger of Sohio and British Petroleum. A consent decree, in which Sohio agreed to divest itself of some of its retail outlets, was entered into on January 1, 1970. But as is explained fully in the attached letter I wrote to Assistant Attorney General Kauper on July 22, Sohio has turned this consent decree into a weapon which it is using in a ruthless and summary fashion to dispossess a number of its independent branded dealers.

As you know, one of the most disturbing aspects of the oil industry is the high degree of vertical integration, and in the past year or two, many of the major companies have been approaching total integration by converting stations which have been dealer-operated into company-owned stations. In my view, if this consent decree continues to be implemented in the manner it has been, it will not only cause great hardship to the men and women who have built these dealerships through years of toil, but also will lessen competition and facilitate price fixing by furthering the trend toward total control of petroleum retailing by the major oil companies.

Along with others in the Ohio Congressional delegation, I expressed my deep concern to the Justice Department over the manner in which this consent decree is being implemented, and the culmination of our efforts was a meeting of Assistant Attorney General Kauper and his staff, representatives of the Congressional delegation, and of the petroleum retailers, on September 10. I understand that as a result of this meeting, the staff of the Antitrust Division has prepared a set of recommendations for modifying the consent decree which I find to be highly constructive.

Basically, these recommendations state that (1) the dealers should be given first-refusal rights on buying the station they operate, (2) appraisal of the value of the station should be done by an independent appraiser, (3) company-owned stations should be sold first, and (4) in cases in which a dealer station is being sold, and the dealer cannot purchase it, that dealer will be established at a company station.

However, I understand further that Mr. Kauper has thus far refused to accept the recommendation of his staff. Apparently he believes the decree should continue to be implemented as it has been. Thus I urge that you begin, as part of your current hearings on the oil industry, an investigation into this situation, and that you call Mr. Kauper before the Monopolies Subcommittee so that he can explain fully what the policy of the Antitrust Division will be in this case, and the reasons for it. I believe that an inquiry by the Committee into this matter can both promote a just resolution of this case, and highlight for the Committee some of the shortcomings of the existing antitrust laws in dealing with obstacles to competition in today's marketplace.

Sincerely,

JAMES V. STANTON,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 5, 1975.
Mr. CHARLES E. SPAHR,
Chairman, the Standard Oil Company, Midland Oil Co., Midland Building, Cleveland, Ohio.

DEAR CHARLIE: I am enclosing a copy of a letter I am sending today to Senator Hart, with a copy to Senator Bayh, since it goes without saying that the matter is of interest to you and your organization.

I appreciated the opportunity to meet with your Mr. Griffin and his associates in my office the other day, and as you may know we continue to disagree.

Nonetheless I think the dialogue we have going is useful and I look forward to your reply to my letter of November 26, as well as to any comments you may have on this enclosed letter of December 5.

I needn't add that, despite our philosophical differences, areas of agreement may arise where both of us can be of assistance to the people in meeting the energy crisis that confronts our nation, and I look forward to continuing contacts between your office and mine.

Sincerely,

JAMES V. STANTON,
Member of Congress.

DECEMBER 1, 1975.

Mr. THOMAS KAUPER,
Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

DEAR MR. KAUPER: From past correspondence you know of my concern over the manner in which the consent decree in the case of *United States* v. *Standard Oil of Ohio*, C69–854, is being implemented. In light of most recent developments, I felt compelled to contact Chairman Rodino of the House Judiciary Committee on this matter and request that he include it in his ongoing investigation of the oil industry. Attached for your reference is a copy of my letter to him. Of course, I would appreciate it if you would keep me appraised of any further developments.

Sincerely,

JAMES V. STANTON,
Member of Congress.

DEPARTMENT OF JUSTICE,
Washington, D.C., December 9, 1975.
Hon. JAMES V. STANTON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STANTON: You have indicated an interest in the problem of gasoline dealers who have been or may be displaced when divestiture of Sohio service stations occurs as required in *United States* v. *Standard Oil Company (Ohio)*.

While the Department is sympathetic to the situation in which these dealers find themselves, it is also charged with enforcing the Clayton Act and securing effective relief against anticompetitive mergers. In our view, effective relief in this case requires divestiture of a substantial number of service stations.

To the extent that disagreements arise between Sohio and the dealers, these would be private disputes and should appropriately be dealt with by the parties involved. However, we believe that most of these matters can be worked out on a case-by-case basis, with minimal injury to individual dealers while at the same time protecting the interests of the general public in competition.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 12, 1975.

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, D.C.

DEAR MR. KAUPER: I am in receipt of your letter of December 9, which, I presume, was sent in reply to my letter of December 1 and its enclosures.

Having read your reply, I am compelled to ask whether you even read my letter, and the copy of my letter to Chairman Rodino that was enclosed. Perhaps one of your secretaries wrote this reply and sent it without your knowledge. I hope this is the case, for the part of the letter that does deal with the case of *United States* v. *Standard Oil of Ohio* is totally unresponsive to the points I raised, and the remainder is simply irrelevant.

I find your comments that the Justice Department is charged with enforcing the Clayton Act and securing relief against anticompetitive mergers, and that the relief required in this case is the divestiture of a substantial number of service stations, are irrelevant to the matter at hand. I am not seeking to halt the divestiture, and I know of no one who is. What I am seeking is the aid of the Justice Department in ensuring that the divestiture will be done in a manner that treats the dealers fairly and provides for their needs. I cannot see any way in which consent decree modifications such as those proposed by your staff would even slow down, much less halt the divestiture. But if for any reason you believe that implementation of these recommendations would have this effect, please so state.

And this brings me to the part of your letter which states your belief that any disagreements between Sohio and the dealers can be worked out on a case-by-case basis with minimal injury to the dealers. Your statement obviously is not in accord with the facts, and you must know that these disagreements are not being settled in a satisfactory way. First, if they were being settled in a manner which caused the dealers minimal injury, neither the dealers nor I would be urging action by the Justice Department in the first place. Secondly, you must know there has been no satisfactory settlement because you had in your office on September 10, and spoke with an individual, Mr. Liborio Scaffidi, who was a dealer for 16 years, and who, in addition to other abuses, was given 30 days to fire his employees and vacate his station.

If this is your idea of "minimal injury", then you and I are certainly in sharp disagreement. My concept of "minimal injury" is the treatment that the dealers would receive if the consent decree were modified according to the staff recommendations. But if you contend that the recommendations would in some way provide the dealers more protection than they deserve, I would appreciate it if you would state your reasoning in reaching this conclusion.

I look forward to your prompt reply.

Sincerely,

JAMES V. STANTON,
Member of Congress.

ENVIRONMENTAL FACTORS AND CANCER

(Mr. OBEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OBEY. Mr. Speaker, cancer is without question the most dread disease in our society today. In our lifetime it will strike at least three out of four of us, and two out of every three stricken will die of the disease. In 1975 alone, it is estimated that cancer will kill more than 365,000 Americans—that is over a thousand people a day.

Many scientific leaders have recently raised serious questions about the effectiveness of the Federal cancer control program. They point out that between 80 and 90 percent of all cancer is caused by environmental agents, and maintain that the Federal cancer program is putting far too little emphasis on identifying those agents and preventing human exposure to them.

The November issue of the Scientific American contained an excellent article on cancer and environmental agents which I would like to submit for publication in the RECORD at this time.

THE CANCER PROBLEM

(By John Cairns)

Almost all cancers appear to be caused by exposure to factors in the environment. The most promising approach to the control of the disease is to identify those factors and eliminate them.

During the past 150 years the Western world has virtually eliminated infectious diseases as a significant cause of death. A child born in the U.S. today can look forward to a life untroubled by fear of diseases such as scarlet fever, diphtheria, tuberculosis, typhoid fever and dysentery, which were major causes of death three or four generations ago. Life expectancy has been increasing steadily since the middle of the 19th century. The longer average life span is a result mainly of improvements in public health; the more spectacular fruits of scientific research, such as the introduction of vaccines and antibiotics, merely completed the process.

Death has how been confined mostly to old age and can therefore be attributed to diseases that are either peculiar to old age or lethal only in old people. Although innumerable changes in the body that accompany advancing age could be classified as diseases, two particular conditions commonly arising in old age are often a direct cause of death: arterial disease (atheroma and arteriosclerosis) and cancer. Arterial disease is lethal when it affects the arteries supplying the heart or the brain; it now accounts for about 50 percent of all deaths in the U.S. Cancers are lethal when they spread from their site of origin; they now account for almost 20 percent of all U.S. deaths.

People have very different attitudes toward these two diseases. It is not just that death from arterial disease is often rapid, whereas death from cancer can be painfully drawn out. For some reason heart attacks and strokes tend to be thought of as natural hazards of age, and either a normal end to a satisfactorily long life or, when they occur in middle-aged men, the wages of overeating and lack of exercise. In contrast, cancer is thought of as an unpredictable disease that strikes indiscriminately at rich and poor, fat and thin, old and middle-aged, as if it usually owed nothing to external causes. If that were true, our only hope of overcoming cancer would be to improve the treatment of the disease. One object of this article is to show that most of the common kinds of cancer seem to be caused in large part by environmental factors; because we can act to alter the environment, these cancers are potentially avoidable.

INCIDENCE

Groups of abnormally proliferating cells can arise in any part of the body. Those that cannot invade the surrounding tissues and so remain strictly local growths are called benign tumors. Those that spread from their site of origin and can therefore reach the bloodstream and the lymphatic system are called malignant tumors, or cancers.

The cancers are divided into three broad groups. The carcinomas arise in the epithelia, the sheets of cells covering the surface of the body and lining the various glands. The much rarer sarcomas arise in supporting structures such as fibrous tissue and blood vessels. The leukemia and lymphomas arise in the blood-forming cells of the bone marrow and lymph nodes. These three words—carcinoma, sarcoma and leukemia—are so entrenched in everyday usage that they must be mentioned, but I do not mean to imply by their use that there are three basically different forms of carcinogenesis or that the three kinds of cancer have different prospects for prevention and cure. That kind of information can be obtained only through a finer system of classification.

Cancers are classified mainly by the organ in which they originate and by the kind of cell involved. When they are considered in this way, there are 100 or so distinct varieties of the disease. Such an elaborate classification would be of no general interest were it not that the different varieties plainly have different causes, since the incidence of each one changes independently when the environment is altered. Most of the 100 varieties are rare, and so we can account for most cancer mortality by considering a fairly short list of diseases.

Roughly half of all cancer deaths are caused by cancers of three organs: the lung, the large intestine and the breast. There can therefore be no major inroad on overall cancer mortality until some means are found for curing or preventing these three kinds of cancer. Each of them can be considered a discrete entity because the frequency of each varies independently when factors in the environment are changed.

It could reasonably be argued that we are not interested in total numbers of deaths as much as in loss of life span. The death of a 90-year-old man from cancer of the prostate is less of a tragedy than the death of a young man from leukemia. In determining our priorities we should therefore take into consideration the age distribution of the victims of each cause of death. There are various ways of doing this. For example, it is possible to calculate how much each major cause of death or each kind of cancer diminishes the average life expectancy or, in particular, how much each reduces our working life up to the age of 65. The main effect of such a weighting procedure is to increase the relative importance of accidents among the general causes of death, and of the leukemias and lymphomas among the cancers. Cancer of the lung, however, still remains at the top of the list.

Deaths from cancer now make up almost a fifth of all deaths in the U.S. Of the deaths that are attributed to cancer, more than 60 percent are caused by a few common forms of the disease. The remainder are distributed among more than 100 other cancers. The impact of each kind of cancer can also be judged from the loss of life span it causes, measured here in lost working years, with working life assumed to extend from age 20 to age 65. Among all causes of death, the principal effect of considering loss of life span instead of simple mortality is to increase the importance of accidents; among cancers, it emphasizes relatively high incidence of leukemias in young people. Lung cancer, however, is still predominant.

All these statistics refer to mortality, and that is the most accessible and reliable measure of the impact of cancer. Estimating the incidence of the different cancers is not as easy. To begin with, one might consider the patients who present themselves to a physician and are found to have cancer. Most of them will sooner or later die of their cancer. This single depressing statistic reinforces the point that science has had little impact on diseases that mainly affect the middle-aged and the old. An alternative definition of incidence would include not only those cancers that have begun to cause symptoms, but also those that can be detected by a deliberate search. Many kinds of cancer have been sought in this way by routine surveys, and it has become pain that far more small, symptomless cancers can be detected than might have been expected. It follows that most of those minute collections of invasive cells must either regress before they become very large or more likely, grow so slowly that they do not give rise to symptoms during the patient's lifetime. For example, the conventional estimate of the incidence of cancer of the prostate in 70-year-old men is about 200 cases per 100,000 men per year, or .2 percent per year; routine autopsies of 70-year-old men who had died of other causes, however, have shown microscopic invasive cancers of the prostate in from 15 to 20 percent of them. The incidence measured by this method is thus 100 times as great.

When the site of the cancer is accessible to direct examination, surveys are much easier to carry out; they give the same result. For example, a recent survey in a rural district of Tennessee showed that about 4 percent of the adult population have skin cancer. Indeed, it seems likely that if we could extend such a detailed examination to the entire body we would find that by middle age each of us has acquired several nests of proliferating, invasive cells that might reasonably be classified as cancers. Without knowing much more about the natural history of the disease we cannot predict which of these cancers will spread and which will not. Before discussing the natural history of cancer, however, I should like to consider what can be deduced about the causes of the disease by studying its epidemiology.

The first step in finding out what causes any particular variety of cancer is to determine which groups of people show the highest incidence and what distinguishes them from other people.

Those most conspicuously at risk are of course the old. Almost all kinds of cancer are much commoner in old people, and the incidence rises steeply with age. To take a typical example, the death rate from cancer of the large intestine increases about a thousandfold between the ages of 20 and 80, and most of the increase comes after age 60.

Old people compose the subpopulation that is most conspicuously at risk in the development of cancer. The incidence of almost all forms of cancer increases dramatically with advancing age. Here the U.S. death rate from a representative cancer, that of the large intestine, is plotted against age. It can be seen that the logarithm of the death rate is linearly related to the logarithm of age. The relation can be explained by the hypothesis that several mutations are required to generate a cancer, and that the probability of each mutation is proportional to age. The slope of the line suggests that the number of mutations required is five.

MODEL OF CARCINOGENESIS

Various models have been proposed to account for the clustering of cancer in old age. One of the most reasonable models postulates that each cell has several genes that independently restrain it from forming a cancer, so that it will not form one until each of those genes has been inactivated by mutation. Because mutations can be introduced at any time in the life of a cell or of its ancestors, the probability that any one of our cells has a mutation in a particular gene increases in direct proportion to our age. The probability that the cell has mutations in all n of its n restraining genes (and is thus cancerous) therefore rises as the nth power of our age. The risk of having cancer should therefore increase as the nth power of our age; expressed another way, the logarithm of cancer incidence should be linearly related to the logarithm of our age. The theory is often in excellent agreement with the observed age distribution of cancer. Assuming that the model is correct, one can calculate from the slope of the linear logarithmic relation the number of mutations needed to create a cancer. In a typical cancer, that of the large intestine, the number appears to be about five.

That interpretation of the relation between age and incidence has one important implication. Each cancer is considered to be the end result of several mutational steps that may have taken place at any time in the patient's life. The total incubation period of any cancer therefore dates back to the moment when the first step took place and so must often extend over much of the patient's lifetime. In some instances this is demonstrably true. For example, the incidence of lung cancer in each of several countries is directly proportional not to the number of cigarettes its inhabitants are smoking today but to the number they smoked about 20 years ago. Similarly, occupational cancers induced by exposure to certain industrial chemicals may not appear until from 10 to 20 years after a person has retired from work. One particularly good but rare example of a long incubation period is provided by cancer of the penis.

The cancer is seen only in old men, but it is certainly caused by factors operating in youth because it is prevented by circumcision in the first few days of life but not if circumcision is postponed for a few years. Finally, as we shall see, various studies of migrant populations show that the incidence of many common cancers is partly determined by our environment in youth. It follows that when we ask what has caused a particular cancer, we must not confine our attention to the patient's recent past. Conversely (and this is most important), if we inadvertently start to expose a population to some carcinogenic agent, it may be many years before the first cancers awaken us to the danger, and by then it may be too late to prevent the wave of cancer cases that is about to come.

ENVIRONMENTAL FACTORS

Knowledge of the relation between age and death rate does not tell us what causes a cancer, only that the steps leading up to it are probably accumulated over many years. What we want to know is whether or not the main causative factors are environmental (and therefore potentially avoidable). For example, if the steps in forming a cancer are mutations, we want to know whether they are induced by environmental mutagens or arise as spontaneous errors during the replication of DNA. The distinction can be made by observing what happens to cancer incidence when people migrate from one country to another. Many populations have been studied; they all show that environment plays a decisive part. For example, cancer of the stomach is much commoner in Japan than it is in the U.S., but cancer of the large intestine, the breast and the prostate are much less common. When Japanese emigrate to the U.S., these differences are lost within a generation or two. Because the Japanese immigrants and their children tend to marry within the group, the change in incidence must be caused by the changed environment rather than by genetic factors; moreover, since the incidence of the various cancers takes more than one generation to reach levels typical of the U.S., some of the causative agents must be factors such as diet, which tend to persist as part of a cultural heritage, rather than factors such as air pollution, which tend to be the same for everyone in a given place. Similarly, Jews who migrate to Israel from Europe or the U.S. have an incidence of cancer that is typical of their country of origin. In this respect they have become more like the indigenous Jewish and Arab populations and the Jewish immigrants from Asia and Africa.

Even within a single country it is possible to detect the influence of local variation in environment and circumstances. In the U.S. the death rate from most of the common cancers is much lower in college graduates than in nongraduates; the exceptions are cancer of the breast and the prostate, which are commoner in graduates. If you are fair-skinned, your chance of dying of skin cancer is greater if you live in one of the Southern states; if you live in a Rocky Mountain state, your chance of dying of any form of cancer is much less than the national average. These differences in death rates within the U.S. are generally less than twofold, but even that limited range implies that a substantial proportion of cancer deaths could be prevented by controlling appropriate constituents of the environment.

INCIDENCE AND CAUSATION

By demonstrating the influence of environment we have not, of course, excluded the possibility of a genetic contribution to carcinogenesis. We should like to know if genetic factors are important in the formation of any of the common cancers, not least because screening programs to achieve early diagnosis would be much less expensive if a particularly susceptible subsection of the population could be identified in advance. Certain rare inherited diseases are known to be associated with a greatly increased risk of some kinds of cancer; for example, an inherited defect in the enzymes that repair DNA damaged by ultraviolet light called xeroderma pigmentosum leads to multiple skin cancers. Some rare cancers in children seem to be caused by inherited mutations. Even collectively, however, these and other obviously familial types of cancer are too rare to contribute much to the overall cancer problem.

It is not easy to determine whether or not the frequency of the common cancers is significantly influenced by genetic factors. Close relatives are likely to share the same environment and therefore should show some tendency toward the same kinds of cancer even in the absence of a genetic contribution. On the common cancers the one with the strongest propensity to run in families is cancer of the breast, which is found at about twice the normal frequency in the close relatives of patients with breast cancer. Such effects are less obvious for the other common cancers. The best evidence for the inheritance of traits that influence cancer would be the demonstration that identical twins were more likely to have the same kind of cancer than nonidentical twins of the same sex. But, to take a single example, a registry of the twins born in Denmark since 1870 has not sufficed to establish even that simple fact. Genetic constitution is therefore probably not an important variable, at least when considering the cancer problem on a national scale.

The ultimate object of epidemiological studies is the prevention of cancer by identifying its causes and removing them. It is an exercise that runs into a great variety of problems, as is evident when we consider what has been deduced about the causes of four types of cancer: carcinoma of the lung, the stomach and the large intestine and the various forms of leukemia and lymphoma.

Cancer of the lung is a disease of the

20th century. At first it involved only men, but recently it is being seen in women as well. In the U.S. it accounts for about a third of all cancer deaths in men and in England for roughly a half. From the start the most likely cause was thought to be cigarette smoking; after all, that was the new form of atmospheric pollution to which men were exposed and women initially were not. This explanation, however, encountered difficulties. In particular the incidence of lung cancer in different countries was not simply related to their per capita consumption of cigarettes. Most of the difficulties were resolved once it was realized that the incubation period was very long. There are still many unresolved questions, but the basic fact is no longer in doubt. If you smoke cigarettes, you increase your risk of dying of lung cancer tenfold to fiftyfold, the exact value depending on how much you smoke, the country you live in and various other factors. If many members of a group give up smoking, the mortality from lung cancer for the group as a whole will decline. There is every reason to believe that the abolition of cigarette smoking would largely eliminate lung cancer, the commonest of all forms of death from cancer. So far, however, there is no sign that smoking will be abolished. The professional classes smoke less than they once did, but the poor smoke more. It could even be argued that few Western societies could afford to abolish a habit that creates a large secondary industry, generates considerable revenue and kills mostly the older members of the population, who otherwise would draw on government welfare and social security benefits.

The incidence of cancer of the stomach has changed almost as markedly as that of cancer of the lung, but in the opposite direction. In the U.S. deaths from cancer of the stomach have decreased almost eightfold in the past 50 years. From this we can conclude that a single factor, or a group of closely related factors, must have been responsible for most of the cases observed in the past, simply because if there had been many unrelated causes, they would hardly all have declined at the same time. Stomach cancer has thus actually been prevented, albeit by chance.

Cancer of the large intestine has shown no great change in incidence with time, but it does vary greatly from one country to another, and that variation should give us some clue to its cause. Generally the richer the country the higher the incidence. In seeking the cause it has seemed natural to examine the diet, just as in explaining lung cancer it seemed reasonable to look for an inhaled carcinogen. The most likely causative agent is a high level of meat in the diet or alternatively a low intake of cereals. One proposed mechanism for the development of cancer of the large intestine suggests that normal intestinal bacteria convert various components of bile into carcinogens. The conversion might be much more extensive with low-residue diets, which are known to retard the transit of the intestinal contents.

Cancers of the lung, stomach and large intestine show how it is possible to deduce something about the cause of a cancer from the way it varies in incidence from one year to the next or from one country to another. A fourth and last example consists of a heterogeneous group of cancers involving the various cells of the immune system; they include the several varieties of leukemia and certain cancers of the lymph nodes, of which Hodgkin's disease is one of the commonest. Individually they are fairly rare, but they gain in importance because they often affect children and young adults. Recently they have received much attention because it is thought that they may be caused by viruses.

VIRAL THEORY

The idea that viruses may be involved in carcinogenesis springs from the fact that certain leukemia-like diseases of chickens. cats and inbred strains of mice can be induced in young animals by inoculating them with viruses isolated from leukemic animals. The thought that human leukemia, and perhaps some other human cancers, may similarly be caused by viruses is attractive for two reasons. First, the induction of cancer by a virus is an event more amenable to investigation by the techniques of molecular biology than carcinogenesis by chemical mutagens. Second, there is the hope that once a virus is established as the cause of some human cancer it might be a short step to developing a vaccine and so preventing the cancer. Unfortunately the relation of most of the animal leukemia viruses to their hosts is exceedingly complex. Many of the viruses are transmitted "vertically" by inheritance rather than "horizontally" from one animal to another as the familiar pathogenic viruses are. Furthermore, even in the presence of the virus the development of leukemia in the adult animal requires some separate precipitating event. For example, the virus associated with leukemia in mice is inherited by many wild mice and is present in many inbred strains of mice, but leukemia is probably very rare in the wild, and it can be prevented in the inbred strains by a slight restriction in the diet; thus it seems to be precipitated as much by dietary factors as by the presence of the virus. In those cases where the virus is acquired by horizontal transmission it is only the rare animal that develops leukemia; for example, the leukemia virus of cats spreads horizontally, but apparently it causes leukemia only if the cat is infected with an unusually large dose of virus and then fails to have the normal immune response. The precipitating cause may therefore be some other event that depresses the immune system.

The quest for human cancer viruses has been conducted at several levels. Investigators have searched for viruses regularly associated with particular cancers; they have looked for familiar clustering in diseases such as childhood leukemia, which might indicate the inheritance of a leukemia virus, and they have looked for spatial and temporal clustering of cases of leukemia or other similar diseases that might indicate the horizontal transmission of an infective agent. As yet there is no unambiguous evidence that any class of human cancers is regularly caused by a virus. Some cancers are often associated with elevated levels of antibody to certain viruses, some cancer cells have been shown to contain viral nucleic acid and certain cancers of lymph nodes (Hodgkin's disease and a rare cancer of children in tropical Africa called Burkitt's lymphoma) occasionally arise as clusters of cases. In each instance, however, some complicating factor makes interpretation difficult. We must assume that a genuine human cancer virus will eventually be found, simply because cancer viruses are known to exist in animals. It is important to remember, however, that with few exceptions viruses produce cancers in animals only if they are administered to very young animals and in particular combinations, whereas any animal of any age will produce a cancer if given the right chemical carcinogen by almost any route.

This brief review of the epidemiology of human cancer is intended to show what we know and what we hope to find out about the causes of cancer. To emphasize that the object is the practical one of preventing the loss of life from cancer, the examples were chosen from among the commonest cancers in Western society, and that choice has tended to emphasize the importance of diet and of habits such as smoking. The populations of the world each suffer their own group of cancers. If by the appropriate public-health measures the incidence of each kind of cancer could be reduced to the lowest level observed anywhere in the world, the overall incidence of cancer would be reduced at least tenfold. That is roughly equivalent to the reduction in mortality from infectious diseases that has been achieved in the past 50 years.

MECHANISM OF CARCINOGENESIS

Epidemiology bears on the question of causes and therefore on the prospects for prevention. One can also approach the cancer problem through the question of mechanism and the prospects for a cure. At the moment there is no effective general cure and no sign that one is about to be discovered. A few cancers (including Hodgkin's disease and Burkitt's lymphoma) can often be cured by a combination of cytotoxic drugs, and the growth of certain cancers of organs sensitive to sex hormones can be slowed by administration of hormones. For the vast majority of cancers, however, there is no specific drug and so they are treated by whatever combination of surgery, radiation and cytotoxic drugs has been found empirically to give the best results. The results are not very good. Fewer than half of all cancer patients survive five years from the time cancer is first diagnosed. Death is almost always caused by metastasis: the spread of the cancer to distant sites. If it were not for such spreading, few cancers would be beyond the reach of modern surgery; indeed, many benign tumors grow rapidly to great size and yet are rarely fatal. When considered as a cause of mortality, therefore, cancer is not so much an abnormality of growth control per se as it is a defect in the mechanism that normally sets the territorial limits of the cell.

Because cancer is predominantly a disease of the epithelia, the biology of cancer can best be discussed in terms of the controlling systems that determine the form and establish the territorial limits of epithelial cells. For this purpose the skin serves as a convenient organ in which to compare the behavior of normal cells and cancer cells.

The epithelium of the skin is called the epidermis; it forms a sheet, usually from five to 10 cells deep, overlying a loosely knit layer of supporting cells, the dermis. The entire epidermis continuously replaces itself through the division of the cells in its deepest, or basal, layer, next to the dermis. As a result of this constant cell division cells are continuously squeezed out of the basal layer into more superficial layers. There they begin to differentiate according to an established program: they become flattened, begin to synthesize the insoluble protein keratin and lose their nucleus. Finally they fuse into the flakes called squames, which are eventually shed from the surface. The result of this program of development is that we are separated from our immediate environment by a relatively impenetrable layer of insoluble keratin that is continuously shed and replaced.

From the behavior of the epidermal cells we can deduce that they must be subject to several kinds of control. First, the fact that the only cells that divide are those in contact with the underlying dermis suggests that some short-range signals pass between the dermis and the basal cells; in the absence of these signals an epidermal cell stops multiplying and starts differentiating. Second, in order to prevent the multiplying basal cells from invading the dermis some mechanism must establish and enforce the boundary between the two layers. Third, some system of lateral signals must regulate the spacing of epidermal structures such as hair follicles and sweat glands.

In addition to local regulation of epidermal growth various overriding systems of control can be perceived in the behavior of the cells. Although surface characteristics such as fingerprints are expressed by the epidermis, they are determined by the dermis; if epidermal tissue is removed from the thigh, for example, and grafted onto the palm, it will thicken and take on the pattern of lines characteristic of the palm. If an area of skin is subjected to increased wear, the program of differentiation is somehow modified to increase the depth of the cells and thicken the keratin layer, forming a callus. If an area is denuded of epidermis, the area is recolonized through an increase in the rate of cell division in the surrounding epidermis. If a piece of skin is implanted into subcutaneous tissue, the epidermis degenerates.

The means by which all these controls are effected are not known. They necessarily involve communication between the cells; that might be accomplished through a concentration gradient of a freely diffusible substance secreted by some cells and detected by others, or it might require direct contact between the cells. Whatever the mechanism is, communication could be interrupted by a defect in the signaling cell or in the recipient cell. As there seem to be many signaling systems in the skin, each operating more or less independently, there should be many distinct disorders of growth control. That is in fact exactly what we find.

Two well-known skin diseases that represent noncancerous abnormalities of growth control are psoriasis and the common wart. In psoriasis the number of multiplying basal cells increases, so that the basal-cell layer becomes about 10 cells thick. Psoriasis seems to be caused by a failure of communication between the dermis and the basal cells. The common wart, which is caused by a virus infection, is a local thickening of all layers of the epidermis. In warts the differentiation of epidermal cells appears to be drastically slowed, so that more cells are present at each level of differentiation. The overall arrangement of the cells remains precisely ordered, however, and the boundary with the dermis is unchanged.

There are two common cancers of the epidermis. The basal-call carcinoma is made up of cells derived from the basal layer that seem to have escaped the control of the system that normally preserves the boundary between the dermis and the epidermis. The cancerous cells invade the dermis and the underlying tissues, forming an irregular, erosive ulcer; this form of skin cancer is sometimes called rodent ulcer. In spite of its great powers of local invasion a basal-cell carcinoma virtually never metastasizes, suggesting that the cancerous cells still require signals from the dermis in order to multiply.

The second skin cancer, squamous-cell carcinoma, also consists of disordered groups of cells, but unlike those of the basal-cell cancer they undergo almost normal differentiation into squames of keratin. Squamous-cell carcinoma is less invasive locally, but it occasionally gives rise to distant tumors. The cells thus seem to retain some of the cohesive properties of normal epidermal tissue, but they are less dependent on signals from the dermis.

There are many other disorders of growth in the epidermis, reflecting the variety of ways in which the regulatory systems can malfunction. Significantly, it is only when the cells are freed from the constraints of territoriality that they can form a potentially lethal cancer. Furthermore, as the two common skin cancers illustrate, territoriality can be lost in more than one way, and each kind of loss will have a distinctive effect on the behavior of the cells. Cancer therefore cannot be considered a single disease, brought on in every case by the same cellular malfunction. Even though basal-cell and squamous-cell carcinomas both arise in the epidermis, and even though both are caused by sunlight, the cells involved behave differently.

THE IMMUNE RESPONSE

We cannot expect to understand the behavior of a cancer until we can comprehend the signals passing between cells and the forces that separate groups of dissimilar cells in multicellular organisms. Although little is known about these systems of intercellular communication, it is apparent that the molecules on the cell surface must determine what signals the cell can receive and how the cell interacts with its neighbors. Some abnormalities of cancerous cells should therefore be expressed on their surface.

On the surface of every human cell are molecules called histocompatibility antigens that distinguish it from the cells of other individuals. It is part of the duty of our immune system to destroy cells that bear the wrong histocompatibility antigens. It is natural to wonder whether some means might be found for mobilizing the immune system against any abnormal components that may be present on the surface of the cancer cell. Indeed, since the discovery of cellular immunity at the beginning of the century the suggestion has often been made that one of the main functions of the immune system is to destroy cancers and that the appearance of cancer in old age shows simply that the immune system is failing.

Like the theory that cancers are caused by viruses, that idea is attratcive because it offers the hope of a cure, in this case by some form of immunotherapy, without having to wait for further advances in basic biology. Unfortunately the facts are against it. Patients treated with immunodepressants so that they can tolerate an organ transplant and people with inherited defects of the immune system show a greatly increased incidence of certain rare cancers of cells of the immune system, but they do not show an increase in the death rate from any of the common cancers. When very old people are examined for their reactivity to appropriate test antigens the annual death rate is found to be higher in those who showed depressed reactivity, but the deaths are not caused by cancers. Similarly, mice with various induced or inherited defects of their immune system may show increased susceptibility to certain tumor viruses, but they are not more susceptible to chemical carcinogens, nor do they show any increase in spontaneous cancers. On the other hand, there is no doubt that the cells of many experimental cancers of animals and certain cancers in man do display abnormal surface components that evoke a limited response from the immune system. The alternative suggestion has therefore been made that a mild immune reaction by the host stimulates the multiplication of cancer cells; in other words, there may be some selection, during the growth of a cancer, for variant cells with noval surface components that provoke an immune response. That, of course, is exactly the opposite of the original idea that the immune system inhibits the development of cancers. Nevertheless, it is not entirely ruled out that some method of immunotherapy could eventually be directed against whatever surface abnormalities of the cancer cell are responsible for its disorganized, invasive behavior.

EARLY DETECTION

A last aspect of the cancer problem that must be discussed concerns once again the time course of the disease. The most important question from the point of view of the cancer patient is whether his cancer has been detected and excised before it has begun to metastasize. Great efforts are being made to develop screening programs that will detect the common cancers, in particular cancer of the breast and the cervix, very early in their development. Unfortunately these programs are likely to have only limited success.

In order for a cancer to form secondary growths in a distant organ its cells not only must enter the bloodstream or the lymphatic system by direct invasion from the primary site but also must survive and multiply in an alien environment. There is reason to believe the latter capability is often the factor limiting the spread of a tumor. Cancers that are undergoing metastasis do not spread randomly. Cancers of the lung tend to colonize the brain and the adrenal glands; cancer of the prostate commonly spreads to bone; one variety of cancer of the stomach spreads almost exclusively to the ovaries. In other words, the ability to grow in foreign sites is not a universal property of cancers. Some, like the basal-cell carcinoma of skin and most cancers arising in the brain, almost never metastasize; others can produce multiple metastases at a stage where the primary cancer is still too small to be detected. It is therefore a misconception to think that the natural history of every cancer consists in growth to a certain size followed by inevitable metastasis. When we consider screening programs for a class of cancers, we should expect to find that some will not spread if they are left untreated for a long time and others will be lethal even when they are detected very early. Hence it will be only for a limited, intermediate group that screening will bring any benefit. To take the most clear-cut example, a carefully controlled screening program in New York has apparently reduced mortality from cancer of the breast by about 30 percent in the group being examined. The death rate seems to have been reduced only for women over the age of 50, however, suggesting that all the breast cancers of younger women that are capable of metastasis spread too early to be intercepted. As a result of screening 31,000 women annually for five years, the number of lives saved is thought to have been about 23, which is probably no more than the number of women in the screened group who died of lung cancer during the same period and who might have been saved by ensuring that none of the women continued smoking cigarettes. Two other programs that have had some success involve screening for cancer of the cervix and, in Japan, for cancer of the stomach. In contrast, an attempt to reduce the high mortality from lung cancer by frequent chest X-rays has been a total failure.

Apart from their limited effectiveness, screening programs have an additional shortcoming: for every cancer they detect they reveal perhaps 10 other abnormalities, many of which seem to be precancerous. As long as it is impossible to tell which of these will progress to cancer they must all be treated, which presents an economic problem. It would be beyond the resources of the U.S., let alone any other country, to treat all the precancerous lesions that could be detected with even the limited screening procedures available today if these procedures were applied to the entire population. The survey that found skin cancers in 4 percent of the adult population of rural Tennessee found precancerous skin lesions in a sixth of the population; if all those lesions were to be treated by surgical excision, the cost to the state would be several million dollars, even though cancer of the skin is perhaps the least expensive form of cancer to detect and treat.

CONCLUSIONS

The cancer problem is of immediate, urgent concern. We all want to know when we can expect to hear of the discovery of a cure for cancer and to be told what steps we can take in the meantime to reduce our chance of dying of cancer. I have tried to give a simple review of what is known about the nature of cancer in man and in particular what can be deduced about the prospects for its prevention or cure. Because the cancer problem arouses so much interest and attracts so much financial support, people engaged in cancer research are under pressure to announce some breakthrough in treatment or, failing that, at least some major advance in our understanding of the disease. As a result it has become unfashionable to suggest that the hoped-for cure may have to wait until we have learned much more about the interactions of cells in simple systems. If this view is correct, however, we should in the meantime be trying to do more in the realm of preventive medicine. Since screening programs seem to be of limited use and too expensive, we are left with the prevention of cancer by seeking out and eradicating its causes. That should not be taken as a counsel of despair. After all, it was largely preventive medicine that eradicated the infectious diseases.

SPENDING, TAX CUTS, AND HONESTY IN GOVERNMENT

(Mr. McDONALD of Georgia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McDONALD of Georgia. Mr. Speaker, as we continue the debate on Federal spending and tax cuts, it is important to review our present fiscal affairs. The latest congressional budget resolution places a ceiling of $374.9 billion on Federal spending for the current fiscal year, with revenues estimated to be $300.8 billion, and thus a deficit of $74.1 billion—by far the largest ever. The reason for the huge deficit is that we cut taxes this past year, but raised spending by about $50 billion.

Now it is proposed, and supported by a majority in Congress, to continue the tax cut but place no limits on spending—not even the limit of $395 billion proposed by the President, a figure which allows for a $20 billion increase in spending.

It is unfortunate that this issue of tax cuts and Federal spending has been viewed predominantly in partisan terms. The issue is not Democrats versus Republicans, nor is it Congress versus the President. The issue is honesty. Are we going to tell the people precisely how much the vast array of Government programs is costing them? Or are we going to tell them that they can have their cake and eat it too—that there can be both tax cuts and higher Federal spending?

When one proposes to cut taxes but not Government spending, he is not proposing a cut in real taxes. Whatever the Government spends must be paid for by the people in one form or another. If income taxes are reduced but Government spending is not, it just means that the difference will be made up by a more subtle form of taxation: inflation. To cover its deficits the Government must either borrow funds or print more money. If it borrows, it drains the capital markets and drives up interest rates—hence the people are taxed in the form of less capital investment, which means less economic growth, which means fewer goods and services, which means higher prices. If, on the other hand, the Government prints more money to cover its deficits, then the value of the dollar is reduced, which also results in higher prices.

Thus a vote for extending the current tax cuts without placing limits on Government spending, is not a vote for a reduction in taxes. It is merely a vote for lower direct taxes coupled with higher indirect taxes in the form of inflation. And since direct taxes is an honest way of telling the people how much of their money the Government is spending, while inflation is a means of covering this up and constitutes a fraud, a vote for tax cuts along with unlimited spending is a vote for dishonesty.

For this reason, I am pleased that the motion to override the President's veto of the tax cut extension was defeated. Tax cuts along with higher Government spending is bad economics and bad government. And, as the taxpayers begin to realize what is going on, I believe we also will find such practice to be bad politics.

If we want a real tax cut, we need only cut Federal spending. Let us get on with it.

HOUSE CONCURRENT RESOLUTION ON IMF AGREEMENT

(Mr. ROUSSELOT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, today I am introducing a resolution which expresses my reaction to a series of ongoing negotiations among the members of the International Monetary Fund, and to a draft report of the Subcommittee on International Economics of the Joint Economic Committee.

For several months, the Interim Committee of the IMF has been negotiating agreements which would lead to the reduction of gold holdings of the IMF. This is because international economic developments of the past 10 years have rendered fixed exchange rates obsolete. Therefore, the committee proposed that a system of floating exchange rates not linked to gold should be adopted. The United States has been in agreement with this position.

To insure the adoption of such a system, the administration and several committees of the Congress have encouraged the IMF to reduce the importance of gold in the International Monetary System.

In response to this advice, a plan has been proposed whereby one-third of the IMF gold would be sold, which involves the contribution of a portion of the profits of such sale to developing countries as a form of multilateral aid.

After hearings on this matter, the Subcommittee on International Economics of the Joint Economic Committee, of which I am a member, issued a report entitled, "The Proposed IMF Agreement on Gold," which recommended that we go even further than the IMF suggests in the direction of multilateral aid.

The IMF proposal suggests that one-sixth of the IMF gold be set aside for restitution at the official price to member nations, who deposited the gold at the IMF in the first place. Another one-sixth would be sold at market prices to fill a trust fund whose purpose would be to aid developing nations. As if this proposal were not objectionable enough, it was superseded by the committee report that recommended that all of the profits of the contemplated sale of one-third of the fund's gold be made at market prices, and that all profits from that sale should be turned over to the developing nation trust fund.

The two questions at stake here are: "What should be the role of gold in the International Monetary System?" and, "How much foreign aid should be given over the next few years?" I see no reason why they should be confused with each other and dealt with together, which is what the IMF proposal and the JEC Subcommittee report would have us do. The gold belongs to the member states who deposited it in proportion to their subscriptions to the fund, and it should be restored to the member nations in proportion to their subscriptions.

The IMF is not designed as a relief agency, nor a development agency, and should not be used as such. There are already established mediums through which nations can make funds and relief available to developing countries that are separate and apart from the purposes of the IMF. If nations want to use these mediums to aid other nations, then they should; but such a decision should be taken openly, by each nation, unencumbered by an artificial link between the question of aid and the roles of gold in international payments. As far as the United States is concerned, such aid should be provided, if at all, through the normal legislative process, not through the "back-door" device of the IMF.

My complete views on this subject and my reaction to the subcommittee report on "The Proposed IMF Agreement on Gold," appear in my supplemental views that were filed with the report and are presented here:

REPORT OF THE SUBCOMMITTEE ON INTERNATIONAL ECONOMICS ENTITLED: "THE PROPOSED IMF AGREEMENT ON GOLD"

Governments should not intervene in the gold market. Market forces should be permitted to determine the prices of both currencies and commodities. Individuals should be allowed to make contracts involving gold, and no aspersions should be cast upon the decisions of those who choose to trade in gold.

The most serious and persistent economic problem is inflation, which in itself is responsible for a large measure of what is often referred to as a separate problem—unemployment. Accordingly, my primary concern regarding any new monetary system which may emerge from the current series of negotiations is that it not become an engine of inflation. Avoidance of inflation will require a considerable amount of discipline in the conduct of National and international monetary affairs which has been lacking at crucial times in the past.

Concerning the specific recommendations of "The Proposed IMF Agreement on Gold," the following views are given:

Recommendation No. 1. Floating exchange rates with agreed "guidelines" designed to prevent member countries from manipulating designated "exchange rate guidelines" are desirable.

Recommendation No. 2. Limitations on intervention in exchange markets to situations in which it is intended "only to combat to prevent the emergence of disorderly conditions" raises the question as to who will determine when, in light of such criterion, intervention might be permitted. Similarly, the suggestion that under "the most extraordinary circumstances should swaps remain outstanding for more than a year" raises the question as to what would constitute "extraordinary circumstances." The limited power to intervene should not be abused.

Recommendation No. 3. According to this recommendation, the IMF should publish a plan for the sale of its gold holdings and adhere to the plan, irrespective of any change or variations in the gold market. Admittedly, the rationale is that if the schedule of gold sales is known in advance, the market can accommodate such sales with minimum disruption. However, there are other questions to consider. Since the gold sales would be carried out over a number of years, there is no way to predict exactly what the nature of the gold market is going to be over the extended length of time. Even the best schedule cannot forecast severe market disruptions that could conceivably erupt. In our view, the recommendation should make allowances for such possibilities and read that IMF sales be carried out according to the pre-determined schedule, but that the IMF should have the option of departing from the schedule when circumstances so warrant.

Recommendation No. 4. Most Members endorse the concept that the IMF should refrain from managing the price of gold.

Recommendation No. 5. Allocation of profits from IMF sale of gold to developing countries is not desirable. It is my view that profits from the sale of IMF gold be allocated according to the participation of the countries in the fund and that any assistance provided to developing countries come directly from each contributing country involved.

In the case of the United States this means that the question of assistance to developing countries would be determined by normal Congressional authorization procedures rather than through the obscure and indirect method of the sale of IMF gold.

Recommendation No. 6. Since as a practical matter, the United States retains a virtual veto power over the sale of IMF gold stock, this recommendation is consistent with protection of the interest of the United States and the sale of IMF gold.

A RESPONSE TO ANTHONY LEWIS

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the September 29 edition of the New York Times carried an outrageous attack on the House of Representatives by columnist Anthony Lewis. The object of his disaffection was the failure of the House to approve legislation establishing an embargo on Rhodesian chrome.

I sent a letter to the New York Times attempting to set the record straight on the chrome issue. Unforunately that paper did not see fit to print my response.

For the information of my colleagues, following is the text of my letter to the New York Times:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 3, 1975.

EDITOR,
The New York Times, 229 West 43 Street, New York, New York.

DEAR SIR: On September 29 the *New York Times* carried an article by Anthony Lewis. This article purported to describe the September 25 vote in the U.S. House of Representatives on whether to impose an embargo on chrome from Rhodesia.

According to Mr. Lewis, the House reverted to "some primitive past" during which time a group of legislators filled with "xenophobia and racism" used "distortion and bluster" to talk their colleagues in defeating the proposed boycott of Rhodesian chrome.

Mr. Lewis' version of the facts bears little resemblance to reality. I think it would be appropriate at this point to examine some of Mr. Lewis' "profundities."

First, is it "funny" to suggest that a cutoff of our chrome imports from Rhodesia would mean unemployment in the U.S. stainless steel industry? Perhaps Mr. Lewis could tell his readers why he thinks this is "funny." Has he made a detailed study of this situation such as the one prepared for the Center for Advanced International Studies at the University of Miami, *The Economic Impact of U.S. Restrictions on Trade with Rhodesia?* It is this work that is the source for the statistics cited by Mr. Lewis. If Mr. Lewis has evidence that these statistics are "funny", why doesn't he make it public?

Second, do we really have a "large chrome stockpile" as Mr. Lewis claims? What does Mr. Lewis mean by "large?" The reader is not told. In fact, we have only about two years' supply of usable metallurgical grade chrome ore at current rates of consumption. Is this a "large" supply—considering the fact that the United States has no indigenous chromite ores of economic significance? The answer from Congress is no—which is why the plan to drastically reduce our national stockpile has been halted.

Third, is it "xenophobia" to question the present large reliance by the U.S. on the Soviet Union for chrome? Has Mr. Lewis forgotten so soon the enthusiastic support of the Russians for the Arab oil embargo against our country? Has he forgotten that Russia cut off chrome shipments to the U.S. during the Korean War? Can anyone really take Mr. Lewis seriously when he tells us it is "xenophobia" to question the reliability of the Soviet Union as a source for a strategic raw material? Is it "xenophobia" to worry about the consequences of cutting America off from 67% of the world's reserves of metallurgical grade chrome ore?

Fourth, can we accept Mr. Lewis' claim that the sanctions are "beginning to exert effective pressure for peaceful change in Rhodesia?" If this is so, why did the black nationalists recently split into two warring factions that are now denouncing each other just as violently as they used to denounce Mr. Smith? Is this a harbinger of "peaceful change?"

And what sort of "pressure" is Mr. Lewis talking about? Since the sanctions were imposed, Rhodesia has had one of the highest economic growth rates of any country in the world. There are so many countries breaking the sanctions right now that an American boycott would quickly be made up for by someone else. The real "pressure" would be on our economy—the cost of our chrome imports would go up by an estimated $300,000,000 according to the University of Miami study.

Fifth, is there something legally wrong with trading with Rhodesia as Mr. Lewis implies? The answer is a flat no. This matter was decided in court in 1972 (Diggs et al. vs. Schultz et al.). Mr. Lewis doesn't seem to be aware of the fact that under our Constitution Congress has the *final* say in foreign policy and is quite entitled to overrule decisions taken by the President in the U.N. Security Council.

Sixth, should Americans feel morally obliged to implement the Rhodesian sanctions as Mr. Lewis insists? The answer again is a flat no. The reason is the U.N. has failed miserably to even implement the principles of its own charter. Rhodesia cannot be considered the worst nation on earth. It cannot be said to be the only country deserving sanctions.

Even Mr. Lewis grudgingly admits that "awful things" have taken place elsewhere without U.N. sanctions. Take Burundi, for example, where in 1927 the ruling Tutsi tribe, making up 15% of the total population, murdered over 200,000 members of the majority Hutu tribe. Is Mr. Lewis aware that the U.N. imposed no sanctions against Burundi?

And can anyone take the U.N. seriously when it tells us that Rhodesia is a "threat to peace" when it tumultuously welcomes people like Yassir Arafat, whose "peaceful" acts include a terrorist attack this Spring on a Tel Aviv Hotel which killed 16 tourists?

It should be clear that the U.S. House of Representatives did not return to "some primitive past" on September 25, 1975. It was not misled by xenophobes and racists when it voted against a renewal of the Rhodesian sanctions.

What the House did do was to make certain that America would not punish its own economy for the sake of a U.N. action that was and is an utter fraud in moral terms.

It is Mr. Lewis who has dealt in "distortion and bluster."

Sincerely,

JOHN M. ASHBROOK,
Representative to Congress.

FORD OR SCROOGE: FOR NEW YORK THEY ARE THE SAME

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I cannot grasp why it is that the Ford administration has been so hard-hearted toward New York. It was only as a result of national public clamor that the President ultimately supported assistance for New York City—and then only under the most onerous of terms. I think our colleagues will be interested, particularly in this season when the legend of Scrooge is discussed, in some comments set forth in a letter to me by a friend and noted economist, Lee J. Seidler. The letter follows:

NEW YORK, *December 16, 1975.*

Congressman EDWARD I. KOCH,
1134 Longworth Office Building,
Washington, D.C.

DEAR ED: I don't know if you noted it, but the federal government will profit by more than the apparent 1% point spread between its borrowing cost and the 8% interest rate charge to New York. The approximately 7% interest rate paid by the U.S. to borrow the funds will represent taxable income to the holders of the U.S. bonds. That automatically produces taxes right back to the U.S. There are no good statistics on the tax rates of government bond holders, but since many are corporations, the average rate is fairly high—say another 1% to 2% (20% to 40% tax rate).

You might also note that the supposed 1% profit really represents a 14.3% profit on the government's (pre-tax) cost of money (1% on 7%).

Sincerely yours,

LEE J. SEIDLER.

MIKVA URGES REFORM OF COMMISSION SALES AGENT PRACTICES

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Today I am introducing a bill designed to provide a remedy for salesmen working on commission who are unjustifiably terminated by the business firms whom they represent. Like the Franchising Practices Reform Act of 1975, which I introduced earlier this session, the Sales Representatives Protection Act will provide much needed reform in an important area of business conduct which has previously gone unnoticed. The vast majority of salesmen work long, hard hours attracting and maintaining customers for the business firms they represent. But, regardless of the number of successful contracts which they negotiate many sales representatives are continually in jeopardy of having their sales relationship terminated arbitrarily and unjustifiably. The bill establishes certain minimum standards to protect sales representatives from unfair conduct by their principal.

Efforts on behalf of sales representatives have already been undertaken by Congressman John McCollister and Congressman Richard Ottinger. I look forward to working with them in an attempt to provide safeguards and protections for sales representatives. It is clear that many businesses derive their profits from the work of their commissioned agents. It should be no less clear that these agents must not be deprived of their opportunity to maintain a relationship mutually advantageous.

THE 94TH CONGRESS, 1ST SESSION

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, as the 94th Congress prepares to close its 1st session, I feel this is an appropriate time to look back on the achievements of this year and to look forward to the work awaiting my colleagues and myself when we return in January.

This session is not easy to characterize in one or two words. In the past months we have been faced with economic problems which in combination with the energy crisis have proved exceedingly trying. Despite careful study and consideration of various solutions, the total answer to the Nation's problems—if there is one—has quite frankly eluded us. Yet while we have not come upon the complete cure-all, Congress has worked effectively to alleviate many of the symptoms of the national illness. In brief, I would describe this first session as difficult, yet productive.

At the opening of this session, a comprehensive program of action was outlined which included immediate tax relief, increased public service employment and stimulation of the housing industry. I am pleased that all three of these plans were approved by Congress. A $22.8 billion tax cut included cash rebates and reduced withholding tax for 1975. A similar withholding reduction was approved by Congress for 1976, however the attempt which I supported to override a Presidential veto failed to gain a two-thirds majority in the House. Congress also passed a $2.9 billion jobs package despite an administration veto and a bill which I sponsored to authorize mortgage subsidies and a $2,000 tax credit for new home buyers to aid the economically hard-hit construction industry.

Congress also worked to aid the elderly, the unemployed, and underemployed. The $50 social security bonus and Congress rejection of the proposal to limit the cost-of-living increase insured the rights of those Americans living on fixed incomes of a decent life. Unemployment compensation eligibility periods were extended and a special benefits program was introduced for workers not regularly covered by the unemployment compensation program. Congress fought to maintain the current cost of food stamps by passing legislation which I sponsored and vigorously supported, while the Older Americans Act channeled Federal funds into an enlarged health and welfare program for those over 65. Nor did Congress hesitate in the fields of health and education, overriding three Presidential vetoes and approving funds for health revenue sharing and nurse training, education appropriations, and the school lunch program.

The energy problem has proved itself a more difficult matter. Many long hours of study, discussion and compromise have been spent in the preparation of Congress energy policy. A four-point plan has emerged: To maximize domestic production; to reduce consumption through conservation; to set an oil-pricing policy to encourage production; and to authorize emergency standby measures in case of a disruption of supply. I consider this proposal to be balanced and adequate for our present and future needs and if properly utilized I believe it will be successful for the Nation.

The list of achievements goes on and when totalled presents an impressive picture of accomplishment despite disagreement and opposition. I am also proud to note that all these programs were carried through under the supervision and with the approval of the new congressional budget process, designed to eliminate unnecessary and ill-advised spending.

In addition to these national accomplishments, the 23d District of Illinois has benefited.

Major successes must include the approval of the New Athens, Ill. site for the coal conversion demonstration plant. The $237 million Coalcon project should prove to be a true economic shot in the arm for the entire area. The recent Comptroller General's report of a favorable cost-savings benefit in connection with the proposed move of the Air Force Communications Service to Scott Air Force Base holds great promise for final approval of the plan. We look for a final decision sometime in the spring of next year. Similarly, final action on the Columbia-Waterloo airport proposal came nearer with the December 23, Department of Transportation hearings held in St. Louis, at which I expressed my strong support and that of my Illinois colleagues for approval of the site.

Further revitalization of the area may be seen in two other actions still before Congress. The Railroad Revitalization and Regulatory Reform Act, authorizes $6.4 billion to improve the Nation's rail system. Included in the authorization is $1 billion for rail rehabilitation in the form of grants, loans and loan guarantees and $2.1 billion to finance ConRail, which will take over operation of some rail lines within the 23d District.

Of more immediate impact is the Local Public Works Capital Development and Investment Act pending before Congress. This legislation authorizes $2.5 billion to provide 100 percent Federal grants to local and State public works that can be started within 90 days; 70 percent of the funds will be allotted to areas where the unemployment rate exceeds the national average. Countercyclical, antirecession grants to cities with high unemployment to continue necessary public services are also provided for.

The sum of $375 million per quarter until June 30, 1977, would be available to be shut off only when the national unemployment drops below 6 percent. A $500 million authorization would extend title X public works job opportunities until October 1, 1976 and an additional $125 million authorization for EDA title II business development loans would also be included in the act.

All these actions seem to me to show a new trend for the Nation, the 23d District and indeed for every American. We have not reached the end of our troubles, and I believe it would be foolhardy to suggest that when these problems are solved there will not be others to take their place. Only in a stagnant society can things go on unchanging, only that which is dead or dying does not move ahead, finding and overcoming obstacles as they are met. As we enter the Bicentennial year we come face to face with the past, the present, and the future. We must move ahead, we must work together to help make the American dream a reality. This is the task of the second session of the 94th Congress—to take our ideas and put them to work for the national good. I hope that this time next year I can look back and say, "We have done what we set out to do." There is no greater praise.

AID TO DISABLED CHILDREN

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, in 1972, Congress established that handicapped people would be referred to vocational rehabilitation agencies under the SSI program. At that time, no consideration was given to the referral of children who are not eligible for vocational rehabilitation. In June of this year, I introduced, along with Mr. Rangel, Mrs. Keys, Mr. Jacobs, and Mr. Rosenthal, legislation to correct this oversight. The bill was intended to amend title XVI of the Social Security Act so as to provide for the referral for appropriate services provided by other State agencies of blind or disabled children who are receiving supplemental security income benefits.

Since that time, the Unemployment Compensation Subcommittee of the Ways and Means Committee has held extensive hearings on the SSI program. I compliment Mr. Corman on his work in this regard; he and his committee have made great strides in this area. In order to further the progress that already has been made, I am introducing new disabled children's referral legislation. Similar legislation is being prepared for Senate introduction.

The new bill provides for the referral of all persons 16 years of age and under to the appropriate State agency for treatment; it sets forth criteria to be used by the Secretary of HEW in approving State plans for rehabilitation services, including those services which are social and developmental in nature; and it establishes a special program for children 6 years of age and under. States would be reimbursed for the services provided under the referral program.

The importance of early intervention cannot be stressed too strongly. A recent HEW-funded Rand Corp. study concluded that "for handicapped children, age six is past the optimal time to start the child" in programs designed to reverse the disability. Other studies, including one by the Oregon Board of Education and a report published in the American Journal of Orthopsychiatry, have confirmed the significance of early treatment. In addition to the important humanitarian considerations of early rehabilitation, there are potentially significant long range implications for the economy. Early treatment which reverses a disability or which helps a child to become an employable adult means an important savings in disability and other social service payments that would become due at a latter date.

The necessity for establishing a separate program for the referral of disabled children arises, in part, out of the inability to apply the criteria developed for adults to children. Disabilities suffered by children do not manifest themselves in the same way as in adults. This can result in problems in determining eligibility for the SSI program. And for children, there is a need for additional information beyond the medical data required for adult eligibility—learning, social, and emotional factors must be taken into account in determining childhood impairment.

The bill I am introducing today provides for a designated State agency that will assume responsibility for insuring the availability of counseling for disabled children, the development of separate referral plans, monitoring of the delivery of those services, and implementation of the plans.

While the services offered by State agencies are available even without the referral provided for in this bill, they are often not used because their existence may not be known to those who need those services. By a mandated referral we can insure that the child in need has early access to a comprehensive health services system.

Mr. Speaker, I hope this bill can be acted on promptly so that handicapped children receive the help they need.

At this point, I insert the text of the bill in the RECORD.

H.R. 11334

A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate rehabilitative services under approved State plans, of blind and disabled children who are receiving supplemental security income benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1615 of the Social Security Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocation Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section for rehabilitation services under such plan, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

"(b) The Secretary shall by regulation prescribe criteria for approval of State plans for the offering of appropriate, comprehensive rehabilitative services (including social and developmental services) to disabled persons who have not attained the age of 16 (hereinafter referred to as 'disabled children'). Such criteria shall include—

"(1) administration by the agency administering the State plan for crippled children's services under title V of this Act;

"(2) coordination with other agencies serving disabled children; and

"(3) establishment of an identifiable unit within such agency which shall be responsible for (A) assuring appropriate counseling for disabled children and their families, (B) establishment of an individual service plan for each child, and prompt referral to appropriate medical, educational, and social services, (C) monitoring to assure adherence to each individual service plan, and (D) provision for disabled children who are 6 years of age and under, or who require preparation to take advantage of public educational services, or of medical, social, developmental, and rehabilitative services, in all cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(c) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act or under subsection (b) of this section; and no individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept rehabilitation services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of the applicable State plan the costs incurred in the provision of rehabilitation services to individuals so referred.

"(e) The Secretary shall, within 120 days after the enactment of this subsection, promulgate by regulation criteria (including medical, social, personal, educational, and other criteria) for the determination of disability in the case of persons who have not attained the age of 16."

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the second calendar month beginning after the date of the enactment of this Act.

TAX CUT IMPASSE BROKEN

(Mr. TRAXLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. TRAXLER. Mr. Speaker, yesterday I voted to override the President's unfortunate veto of the 6-month tax cut extension. I deeply regretted the ability of a minority of our colleagues to block this override because the result was not a defeat for Democrats or for Republicans, but for the American people.

Immediately after the vote, I called for the leadership to keep the Congress in session until this impasse could be resolved. I stated that we should put partisan politics aside and reach an agreement with the President to insure that Americans' taxes do not go up on January 1. It would have been a cruel Christmas present indeed for the average American family to let taxes go up while we went home and the President took off for Vail.

For those reasons, I was delighted that the deadlock was broken today by a compromise that extends the tax cut and puts the public interest above considerations of election year politics. I am pleased to vote once again for this tax cut and for the resolution which both affirms the intent of Congress to establish firm budget ceilings under the Budget Control Act and to reduce spending dollar for dollar in fiscal 1977 if the tax cuts are extended again.

The most important consideration in this whole debate was the American taxpayer. The average family should not be punished because of partisan or procedural disputes between the President and Congress. These games of political chicken have to stop. The public interest comes first.

At the same time, it is important for the American people to know that the dispute as framed by the President was somewhat misleading. Congress was never against setting a limit to spending for fiscal 1977. We have already agreed to such a limit for fiscal 1976 and will live by it. What we did have problems with was the President's demand that we agree to an arbitrary limit for fiscal 1977—which does not even begin until next October—now, before receiving the details of the proposed cuts. What was at issue was when Congress would agree on a ceiling, not if. What was particularly ironic was that the 6-month tax extension covered the period of January to June 1976. It would have ended 3 months before the spending limits would have had any effects. By June, the Congress would have agreed to a spending limit for fiscal 1977 under the Budget Control Act. Thus, the issue as framed by the President was a bit phoney.

Mr. Speaker, while I am pleased that this deadlock has been broken, I think that the editorial in today's Washington Post provides a clear analysis of what caused the deadlock and why it never should have happened. It provides food for thought should this happen again, and I ask that it be printed in the RECORD at this point.

[From the Washington Post, Friday, Dec. 19, 1975]

STALEMATE ON TAXES

Another stalemate on basic economic policy now confronts the country, and this one is the most dangerous of all. With President Ford's profoundly unwise decision to veto the tax cut extension, and his congressional opponents' unfortunate inability to override him, the stalemate is complete. Neither side can impose its will upon the other—and with that, both sides pack up to leave town for the holidays. Merry Christmas to all you taxpayers.

If last spring's temporary tax cut expires at the end of the month—as it will, unless there is further legislation—the taxes withheld from the average paycheck will go up $3 to $4 a week. For most families, it will be an annoyance rather than a disaster. Three dollars a week is not the end of the world. But three dollars a week times 86 million paychecks is well over $1 billion a month, and that is enough to make a substantial difference in the way in which the American economy works. The effect is, of course, to reduce purchasing power, consumer demand and business investment—all of them essential to recovery from the recession.

That recovery has already shown itself to be a rather frail and contingent affair—a vehicle on which sensible people would not try to load any more baggage than it is currently carrying. But now it is going to have to take on, in addition to everything else, an intolerably heavy freight of ideology. You can already hear the springs creaking. Will they break altogether? No one knows. It is at least possible that this unplanned tax increase, in conjunction with other uncertainties ahead, could tip the country back into another recession. Perhaps you have lost count: It would be the third since 1970.

It is impossible to avoid the impression that Mr. Ford's harsh and stubborn resolve in this long dispute has been increased by the recent political polls, which climaxed last weekend in figures showing Mr. Reagan to be running ahead of him among Republicans. Presidential over-reaction to polls is one of the notorious hazards of our system of government. But the whole handling of the tax issue at the White House strengthens the dismaying prospects that the country is going to be ruled mainly by Mr. Gallup, Mr. Harris and their computers for the next 11 months.

The substance of this collision between the President and Congress is exasperatingly meager in proportion to the dire consequences that might flow from it. There is a clumsiness that overtakes American politicians when they begin to pursue ideological dogma; that pursuit does not lie in their tradition, and they are not generally very gifted at it. Mr. Ford has let himself be talked into becoming an example of this rule.

Mr. Ford wants, and thinks that he needs, some sort of symbolic acknowledgement from Congress that it has committed a fiscal sin. He wants it to kneel down with him right now, here in front of the crowd, and take the pledge—in the form of a limit on spending. You might think that he would want it to cover the current fiscal year, which ends next summer. But the current year does not suit Mr. Ford's purpose since Congress, following its own Budget Reform Act, has just legislated its own spending limit to cover it. That limit is a very tough one, under which any bill exceeding the total budget is illegal and can be stopped dead on a point of order brought by any one member of either House. In regard to 1976, that does not leave Mr. Ford much to ask for. In consequence he has briskly moved the quarrel ahead to fiscal 1977, which does not begin until next October.

That is how the country cones to be entangled in a bitter dispute over a spending limit for a year for which the President himself has not drafted his own budget proposals, and for which the economic forecasts are still highly imprecise. As everyone has learned by recent experience, both recession and inflation tend to increase spending rapidly. The tremendous budget deficit this year, for example, is much less a cause of the recession and inflation than a result of it. Inflation pushes up spending because the Navy has to pay more for the same amount of oil for its ships, and because Social Security benefits rise automatically with the cost of living. Early this year Mr. Ford proposed to reduce the cost-of-living increments in the Social Security checks, but Congress would not hear of it. At the same time, recession adds costs in categories like unemployment insurance, in which federal outlays rose from $6 billion in fiscal 1974 to something over $18 billion this year. If a spending limit is based on forecasts of unemployment that turn out to be too low, is it a fair and effective public policy to cut off unemployment benefits because they exceed that arbitrary and premature limit? The question answers itself.

Despite all the angry words of the past few days, there is doubtless still a chance that the President and Congress will be able to get together before New York's Eve on some sort of temporary compromise. To extend the present tax withholding schedules for a period of three months would be a poor precedent, but it would be better than nothing.

The truth of the matter is that Mr. Ford has taken a firm grip on the wrong side of this argument, and the role of Oliver Cromwell does not become him. It would be helpful to him, and to his cause, if he were to reflect upon the characteristics that brought him remarkably wide public support through his first year in office. In those days he made great efforts to be open-minded, conciliatory and pragmatic. Those are qualities that served him well then, and could serve him well again. After all, the business before him is not only the next election, but quite possibly the next recession as well.

THE AWAKENING

(Mr. DENT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DENT. Mr. Speaker, few of us have noted or been aware of the current devastating impact on American employment because of outmoded, unsound and unworkable free trade policies, The whole issue is one that requires a lot more than a cursory examination.

I remember very well when President Eisenhower first advocated and successfully promoted legislation creating tax credits and other inducements for American investment overseas. I questioned the wisdom of this legislation, but, being a rather new Member of Congress at the time, I hesitated to step into the turbulent waters of international affairs.

In a statement for the RECORD I said that the ultimate result would be disastrous to American industry and the job economy. My decision to oppose this idea of foreign investment by Americans as being helpful to the U.S. economy was based upon the hearings held by the Ad Hoc Subcommittee on the Impact of Imports and Exports on American Employment and Unemployment, which I chaired.

I predicted that there would be four steps apparent in the development of overseas profiteering, the ultimate result of the tax credit program. Obviously, American corporations would find it to their advantage, taxwise and profitwise, to produce overseas.

The first step would be well intentioned in that we would put private capital into the development and rehabilitation of foreign industries in order that those countries would be able, in the words of President John F. Kennedy in his famous Fourth of July speech, to make themselves more independent than they had previously been and stand on their own feet.

The second phase would be American know-how and capital resulting in increased production in these countries beyond their ability to consume. The American-owned corporations with foreign-based facilities would start sending their products back to the United States because of their ability to undercut their own domestic production costs.

The third phase would come when, slowly but surely, American corporations started expanding their foreign operations to more than one country, since they could do so with tax-free profits.

The fourth stage would occur when the American marketplace would be flooded with foreign-made products, a greater portion of which would be produced in American-owned or joint-owned production facilities overseas.

I predicted that the end result would be unemployment and the most costly welfare and aid programs that any nation has ever been saddled with.

All of these things have happened. The flood of imports into the United States is directly responsible for the closing of many plants, the impoverishing of many communities and an unbalanced load of unemployed workers for the taxpayers to carry.

One of a very small group, especially in the labor movement, who understood what I was talking about, and who himself expressed grave concern, was Mr. Andrew Biemiller, director of the department of legislation in the AFL–CIO. I will be including some of his observations and information which every Member of Congress should take time to read. This material deals with multinationals; particularly their impact on the American economy including our job economy, tax economy, and production economy.

Mr. Biemiller points out very effectively how the multinational corporations have become a matter to be dealt with none too lightly.

Mention should also be made of Ms. Peggy Musgrave whose study and report should be the basis for a complete study of the entire situation. Her report points the road ahead that we should follow.

In the 2d session of the 94th Congress, I intend to conduct extensive hearings on the question of the impact of imports and exports on American employment and unemployment. I am, frankly, afraid of what might happen if this Congress fails to heed the warnings of the last 20 years and the up-to-date statistical data, which proves beyond a doubt that while we cannot live alone, we must live first and foremost as a nation and as a people.

The whole concept of economic stability is based upon production, distribution, and consumption. We have been trying too long to do away with production and expecting to prosper from distribution and consumption of the production of other countries.

While this presentation will deal mainly with the multinational corporations, it is very interesting to note that, at the same time that multinationals were grabbing an extra slice of the American marketplace, foreign-owned production was increasing its share of the American consumer dollar.

There is no reason under the Sun for there being one worker out of work in any consumer production facility in the United States, simply because that worker cannot live on the same wages as foreign workers. Our industries cannot survive in competition with low-taxed foreign production and, in many cases, subsidized foreign production.

An official of the German Government, who attended the recent economic conference held in Europe—also attended by President Ford and his troop of advisers—stated that they were urging the United States to expedite its recovery so that they could sell Americans more products. This, in one simple honest statement, spells out the whole purpose of the members of GATT and the other international trade groups. They do not spend too much time worrying about or planning a greater purchase of American-made goods. They plan to sell more goods to the American people.

At this time I am submitting other statistics and important notes on the export of American capital, American know-how, and ultimately, American jobs.

I also bring to your attention the fact that you can contact Mr. Biemiller to receive further pertinent statistics and information on this issue.

Included in the material is the resolution of the AFL–CIO convention of this year.

This turnaround by labor in general is the one bright spot that can become the beacon light for Congress to follow.

As I have warned many times before, there is no such thing as free trade between nations with unlike economies and cost differentials that cannot be overcome except by way of countervailing duties and, if necessary, embargoes and restrictions on the imports of competitive products. No nation in the world allows their people to be put out of employment because of diplomatic considerations that ignore the economic facts of life.

I urge your undivided attention to the position of the AFL–CIO, as it is presented in the following statements:

STATEMENT BY ANDREW J. BIEMILLER

Today, multinationals are the dominant force in world business. They include the world's bankers, shippers, lenders, builders and service industries. They are well-known oil producers and manufacturers. Some, in fact, are combinations of all of these.

U.S.-based multinationals include America's largest financial institutions, manufacturers and other industries. They are defense contractors and government contractors. But they have no single size or form of operations. They operate as private corporations at home, but abroad in some instances join forces with state-owned industries, with nations that wage economic warfare against the United States.

On numerous occasions in the past 8 years, we have shown their effect on America—the export of American jobs, American technology and American capital. We have called attention to the closing of American factories and their re-establishment abroad where foreign markets are served in protected economies and exports to the United States are manufactured.

We have urged action to regulate the export of American technology, often paid for by the American taxpayer, because these exports erode the base on which America's industrial society is built.

We have asked an end to the tax bonanzas enjoyed by U.S.-based corporations that seek to avoid their responsibility to this and every other nation.

Today, despite the deep recession, multinationals continue to use their tax subsidies to expand their foreign operations while claiming a "capital shortage" that can be solved only by still more tax breaks at home.

Today, America's newest industries are being shipped out of the recession-bound economy. As other nations get America's know-how in aerospace and electronics, chemicals and shipping, computers and other new industries; the job-generators of the future are being lost. U.S. multinationals sell technology even to nations with closed economies, oppressed labor and which provide subsidies for exports. More and more foreign nations echo the words of the Saudi oil minister, Sheikh Yamani, in 1974: "We want one, your technology; and two, your markets."

We are pleased that this subcommittee published Professor Peggy Musgrave's study on the impact of foreign direct investment by these firms. Her study gives the lie to corporate claims that workers benefit and the nation gains from unregulated foreign investments. She reports:

"U.S. direct investment abroad in 1973 amounted to well over $100 billion (book value), having tripled since the early 1960s." The market value "is of the order of $160 billion."

"Gross capital formation abroad has roughly tripled over the past decade, whereas domestic capital formation has only doubled. Plant and equipment expenditures by foreign affiliates rose to 16 percent of all such expenditures in the U.S. and to over 20 percent in manufacturing."

"Foreign employment by U.S. manufacturing subsidiaries abroad in 1970 amounted to about 17 percent of all manufacturing employment in the U.S., but 8 percent of the corresponding payroll."

In 1968, she reports, foreign affiliates' manufacturing sales abroad were more than twice those of U.S. manufactured exports.

Some of her major conclusions are:

"In the long run, perhaps the major effect of foreign investment is through its impact on domestic capital formation in the U.S. To the extent that domestic capital formation is displaced, foreign investment will reduce the level of income originating within the U.S. as well as the labor share in national income . . ."

"The private net rate of return from foreign investment lies above the national net rate because foreign taxes paid on U.S. investment income received abroad are lost to the U.S. economy. Our estimates show the national net rate of return from foreign investment to be negative."

In other words, income to multinationals and rich investors is higher, but the national benefit to the economy as a whole is lower.

While these overall changes in the income totals are small, the effects on distribution are more substantial. Labor income after tax in the absence of foreign investment would have been about $10 billion larger while capital income would have been $8 billion smaller, assuming full displacement of domestic investment. Labor income accordingly would have been about 4 percent higher while capital income would have been 17 percent smaller. The magnitudes are somewhat less with regard to labor income if partial displacement is assumed and about the same with respect to capital income.

Since the date of her study, these trends have moved further in the direction she reported. In addition, a rush of products have been shipped back to the U.S. market from foreign factories.

Commerce Department figures show that foreign direct investment had a book value of over $118.6 billion by 1973. Sales abroad by U.S. manufacturing firms reached about $140 billion, over three times the value of U.S. manufactured exports. And sales back to the United States were about a fifth the size of such exports from the United States. Sales from their foreign factories to third countries were about half of exports of manufactured goods from the United States.

Here at home American workers experienced the specific impact of these changes. Auto workers have stated that an increasing number of four-cylinder engines for the Ford Pinto are being built in Brazil and funneled into this country, by a circuitous route that includes Jamaica and Canada.

The President of UAW Ford Local 600 has said that 75,264 Brazilian built engines were used in the 1975 model Pinto run.

Dr. Jack Baranson, an economic consultant to the World Bank, cites this and other similar investments:

Ford Motor Company—$110 million investment in a Pinto engine facility in Brazil (capacity about 200,000 annually).

TRW—joint venture with Fugi Valve (Japan) to manufacture engine valves in Korea for export.

North American Rockwell—$100 million investment in industrial chain manufacture in Singapore for U.S. and world markets.

Dana Corporation—$40 million investment in Korea to manufacture axles, differentials and transmissions.

Tenna Corporation—investment in Dominican Republic to manufacture auto antennas for export to U.S. market.

Such examples show a worsening trend.

Professor Musgrave, a tax expert, has found that U.S. tax laws worsen the impact on America's welfare to benefit multinationals private gain. Even if these laws are corrected, there will still be a loss of American labor.

Meanwhile, multinationals want to keep and enlarge many special privileges now in U.S. tax law. The three preferences AFL–CIO has emphasized are the deferral privilege, the foreign tax credit and the DISC (Domestic International Sales Corporation).

These three preferences encourage U.S. investors to choose foreign expansion at the expense of investing in a stronger American economy. The time to end them is overdue.

The tax deferral privilege means that so long as the profits of a foreign subsidiary are kept abroad, there is no U.S. income tax liability. This is no less than an interest-free loan, courtesy of Uncle Sam until the profits are repatriated.

If the profits stay abroad forever, for unending foreign expansion, they are entirely free of U.S. taxes.

Deferral also distorts the statistics which attempt to pinpoint the location of U.S. foreign investment. Peggy Musgrave points out, for example, that because Canada does not tax dividends on income from its foreign affiliates, many U.S. firms use Canadian subsidiaries to hide the extent and location of their foreign operations. These firms funnel investments to Brazil, Korea, Taiwan, etc. through their Canadian affiliates and according to Professor Musgrave, the result is that "the large volume of reinvested earnings in the Department of Commerce statistics shown as originating in Canada may actually have originated elsewhere."

Most important, deferral of taxes on earnings of foreign subsidiaries encourages investment abroad at the expense of investment at home and the effect of deferral is cumulative. The longer the deferral and the lower the repatriation, the greater the disincentive to return the money, pay U.S. taxes on it and make needed job-creating investment at home.

In 1974, for example, according to the Commerce Department, U.S. multinational firms reinvested $3.8 billion in manufacturing facilities abroad. They shipped out $2.7 billion from this country.

No one knows all the details of how corporations arrange their international corporate accounting to take advantage of deferral and other loopholes. Once outside the United States, many reporting requirements under domestic law are avoided and profits can be shifted among countries.

The Congress ended some abuses of deferral when it enacted the Tax Reduction Act of 1975, through tightening the provisions affecting the operation of multinationals in countries that have little or no taxes or provide special tax incentives to encourage foreign investment—the so-called "tax haven" countries.

And, the Act put some limitations on the ability of corporations to avoid taxes through shifting income to U.S.-owned and controlled shipping companies that fly foreign flags. These improvements, however, fall far short of the complete repeal that is necessary.

The U.S. Treasury would gain $365 million a year if deferral were repealed according to the Joint Committee on Interal Revenue Taxation.

The tax code is honeycombed with other escape routes for multinationals to encourage even more foreign expansion. The foreign tax credit is the largest.

The foreign tax credit provision (with some limitations) allows multinationals to credit income taxes paid to foreign governments, dollar-for-dollar against their U.S. income tax liability. Moreover, in the case of energy companies, royalty payments are considered income taxes and can be credited.

At home, firms operating and paying taxes in Idaho or Illinois or any other state, can deduct state and local taxes from their federal income tax—these taxes are treated as costs of doing business, just like wages, supplies, rent and other costs. Thus, each dollar in taxes paid to a U.S. state or local government partially reduces a corporation's federal income tax liability. If the same dollar is paid to a foreign government however, the full amount can be deducted from the corporation's tax liability.

Again, it all adds up to huge amounts of U.S. tax dollars being sacrificed to benefit overseas activities of U.S. corporations.

According to the Joint Committee on Internal Revenue Taxation an estimated $17.8 billion in foreign tax credits were claimed in 1974.

Multinational corporations can also deduct their foreign losses from their U.S. tax liability, utilize "unused" or excess credits and generally combine loopholes in a fashion that results in zero U.S. taxation for many companies in many different years.

The tax credit, and deferral provisions cost about $3–4 billion annually in lost federal revenue in 1970, according to a study by Peggy Musgrave for the Joint Economic Committee. Based on trends since then the cost currently is about $9 billion a year. Other taxpayers, of course, had to make up the loss.

Peggy Musgrave's study emphasizes the national economic loss to the U.S. from these provision:

"U.S. taxes, seen from the national point of view, are only a transfer, whereas foreign taxes are a loss."

U.S. Treasury data published by the Joint Committee on Internal Revenue Taxation shows some of the effects of these tax subsidies. In 1968, U.S. multinationals paid $1 billion in U.S. taxes on $13.5 billion for foreign source income, an effective rate of 7.5 percent. In 1974, the effective rate was 3.2 percent—they paid $1.7 billion on an income of $53.6 billion.

According to that data U.S. income taxes paid on the foreign source income of manufacturing operations of U.S. corporations amounted to an effective rate of 7.6 percent in 1968 and 5.6 in 1972.

In 1974, before tax foreign-source manufacturing income of U.S. corporations totalled $18.9 billion. On this income they paid U.S. taxes of only $1.08 billion for an effective rate of 5.7 percent. And, according to the Treasury data, petroleum companies in 1974 reported $29.8 billion in foreign source incomes and the U.S. Treasury received nothing.

A third major loophole, the DISC, or Domestic International Sales Corporation, was enacted in 1971. This allows U.S.-based companies to set up dummy corporations (DISCs) to handle their export activities. DISCs pay taxes on only 50% of their profits until such profits are turned over to the parent corporation, if ever. This costs the Treasury an estimated $1.6 billion a year—a much higher figure than original estimates. Like deferral abroad, the benefits are cumulative. $1.6 billion a year in taxes deferred amounts to $16 billion in interest free government loans in a 10 year period.

DISC provisions do not require that companies increase exports in order to get the tax break. Thus U.S.-based multinationals get a tax windfall for exports they would have shipped out anyway. Exports of agricultural products, raw materials, the newest technology, new equipment to expand their plants in Taiwan, Mexico and Brazil—all mean a tax-bonanza.

Treasury reports on DISC for 1972 and 1973 showed that exports funneled through DISCs rose only slightly faster than total exports of such products. The Treasury also indicates that the government cannot separate out how much of this improvement was DISC-induced and how much was the result of other factors. These reports and other economic studies show that much of the increase in total U.S. exports during the past few years, was due to:

1. Inflation, which increased dollar amounts of exports but not the physical volume.

2. Devaluation of the dollar which reduced the price of U.S. goods in foreign countries, and, at least temporarily helped to boost U.S. exports.

In addition, the sharp rise in exports of agricultural products in the wake of the Russian Grain Deal of 1972, and exports of crude materials, like steel scrap, also increased U.S. exports.

The benefits have gone often to large multinational corporations which export components or unfinished products to their foreign subsidiaries or foreign companies with which they have joint venture agreement.

The nation cannot afford the continued drain on its resources. The lessons of economics and history show the danger.

Today, many economists in addition to Peggy Musgrave have begun to question the results of multinationals unregulated activities. They point out that investment at home is far more productive of jobs and capital than excessive investments abroad. An investment at home ripples throughout this economy and creates more jobs. An investment abroad ripples through a foreign economy. Multinational managers and some investors have net private gains, but on balance, labor and the nation have a net loss.

Peggy Musgrave tells what happened to Britain in the latter part of the 19th and early 20th century when similar policies were followed. British economists then believed that when capital went abroad to get higher profits, Britain would be better off. Since 19th century investments were largely in developing foodstuffs and raw materials, there was truth in this. However, she goes on to say, "The nature of foreign investment and the circumstances in which it took place changed in the early decades of the 20th century. It has been estimated that annual British investment abroad rose eightfold between 1900 and 1914 (from about 25 million pounds to 200 million pounds) and by World War I Britain was investing an astonishing 80 to 90 percent of her total capital formation abroad. Furthermore an increasing proportion of this foreign investment began to move into the manufacturing industries . . ."

British economists discovered that foreign investment "might lower the standard of living instead of raising it."

Professor Musgrave also quotes John M. Keynes, in the early 1920s when he pointed out the difference between home-front and foreign investment, as it affected private investors and the nation-as-a-whole:

"Consider two investments, the one at home and the other abroad, with equal risks of repudiation or confiscation or legislation restricting profit. It is a matter of indifference to the individual investor which he selects. But the nation as a whole retains in the one case the object of the investment and the fruits of it; whilst in the other case both are lost. If a loan to improve South American capital is repudiated, we have nothing. If a Poplar housing loan is repudiated, we as a nation still have the houses. If the Grand Trunk Railway of Canada fails its shareholders by reason of legal restriction of rates chargeable or for any other cause, we have nothing. If the Underground System of London fails its shareholders, Londoners still have the Underground System."

As England continued to move its capital abroad, Englishmen were deprived of investment at home, of productivity improvement, and even decent housing. The hopes of living off money returned in private profits from foreign investment proved unrealistic for the nation as a whole. The value of the British pound, the industrial base of England, and the industrial strength of England itself were eroded. Increasingly, investments made abroad were taken over by new nations which cast off their British investors' control. Some investors still had some returns. But Britain could not build an industrial economic or social strength she had exported.

With over $11.86 billion in foreign direct investment, with so many countries threatening to take over "U.S." properties, the lesson for the United States is clear.

But America has not only subsidized capital exports. In 1972 and 1973 subsidies were going to exports of materials in short supply—agricultural products, logs, scrap steel and other products needed at home. After years of direct investment, direct transfers of new patents and processes, America is now at the last stage of transferring both military and commercial technology abroad at a break-neck pace.

Two years ago we warned that America's aerospace technology, paid for by American taxpayers, was being sold to the Japanese at the private profit of the McDonnell Douglas Corporation.

The Thor-Delta rocket and launching system, considered by space experts to be America's most effective and reliable launching unit, was developed at taxpayer expense and cost millions of dollars in research and development funds before it became operational. It has been used to launch satellites for Canada, France and a multi-nation weather watcher for seven North European nations. Such launching work provided the U.S. with millions of dollars in funds, helping to offset the U.S. balance of payments deficit.

The Thor-Delta system is also military technology, capable of carrying several hundred pound objects into space orbit, or with little modification, can carry a nuclear warhead in the 1,500-to-5,000 mile range, clearly a potentially offensive weapon.

Workers involved in the Vandenberg base were understandably upset over the transfer because of its many implications for U.S. defense and aerospace capability. They feared that the system was being sold for the exclusive profit of McDonnell Douglas while the nation lost a basic resource. They pointed out that the education of highly trained Americans, millions of dollars in U.S. funds and expensive trial and error testing brought about a basic technological system which was being sold out at a fraction of its worth.

In addition, they feared that putting another nation into direct competition in the satellite launching business would mean an end to further U.S. technology. The sale of America's most sophisticated technology, they felt, would cause highly trained jobless personnel to disperse and be difficult to assemble again even if further development was considered. In addition to those who worked at the launch facility, additional hundreds of workers had been employed in the manufacture of the Delta rocket in California aerospace factories. Involved in the project at that time were an estimated 1,200 to 2,000 skilled aerospace workers.

Last week we heard that many of the workers at the Vandenberg Base have been laid off. The workers' jobs have been lost and U.S. taxpayer technology is now in Japanese hands.

We described how the deal was reportedly developed by U.S. cabinet officers and their Japanese counterparts at a 1971 meeting in Tokyo. "Estimates at that time were that the bilateral understanding could mean up to $100 million in profits to U.S. concerns over four or five years. Of added incentive to the U.S. companies was the agreement by Japan at that time to move ahead on permitting foreign investment by U.S. multinational firms in its automotive industries. Both moves would profit stockholders of the corporations involved at the expense of U.S. aerospace and automobile workers."

Now, technology is flowing even faster. Today, so-called "package" or "turnkey" technology—the whole plant, building the facility, installing the machinery, training the workforce and providing skills for marketing and managerial knowhow—is sold to foreign countries by American firms—for production abroad and export from those countries. These are the latest kinds of exchanges, moving even faster—far ahead of the economists and the policymakers in the United States.

A list of some recent examples of technology transfers is appended.

The multinational rush to comply on the ground that if they don't get the "sale," the Japanese, or the French or the Germans will.

But the Japanese and almost every other nation have regulations to make sure they have a technological future and that they can maintain productive capacity. Canada, Australia and France have policies or requirements for regulating technology, trade, investment and capital flows in or out of their countries.

Across Europe, national trade policies curb imports when their industries are affected. Tariffs assure that a percentage of output is produced within their borders. Nontariff barriers of all kinds continue to develop. The Swedish government has put quotas on shoe imports. The Common Market reached agreement with Japan to cut down imports of steel. Layoffs are costly to the employer in Europe or require government consultation. In Japan, according to Dr. Jack Baranson, a consultant to the World Bank, a firm must get permission and work out arrangements for Japanese adjustments at home before investing in law-wage countries. In one case, he reported, that meant a two-year wait.

In Communist and other closed economies, the transfer is a one-way street for the United States and its workforce, with some quick returns for the multinational managers. If they enter into a partnership with a communist country, however, the multinational gets a chance to "compete" for the U.S. market from abroad. The production, jobs, and new technology are behind the walls of a communist state. Such a deal is competition against the U.S. economy to increase the profits of the multinational managers, stockholders, and communist states.

We have watched the changes over the years, and called attention to the need for action to change America's policies in order to curb the runaway export of America's jobs, capital and production facilities without regard to the impact at home. We have urged action to stop the sale of American technology to communist countries which get the benefits at firesale prices of the technology America has spent billions to develop. We have urged action to curb the imports of the products produced for export from closed economies all over the world. We have witnessed the erosion of our industrial base and the blighting of many communities in America.

Now we are witnessing the export of America's future technological base. That includes investment in new machinery essential to improvements in productivity. It also includes the know-how of a design or process and the know-how that makes the design possible. A workforce to build factories to produce new machinery, to install it, and to make the processes work and to keep the machines running as well as to provide services is a critical part of America's future. These jobs and skills are being exported.

We are glad that some academic economists have begun to join in our concerns. Peggy Musgrave's longstanding contributions on direct investment, taxes and labor are notable. Many economists are beginning to talk about overinvestment and the loss of technology.

In October 1975, the AFL–CIO adopted a resolution on multinationals setting forth our program to deal with this new problem for the United States. This resolution is attached. It recommends:

An end to preferential tax treatment for multinationals' foreign operations, including repeal of the deferral, the foriegn tax credit and the DISC.

Comprehensive federal monitoring of multinational corporations to measure precisely their impact on employment, investment and productivity.

Regulation of the export of our most advanced productive equipment and industrial plants.

Regulation of the export of American capital and technology.

Regulation of imports into the United States economy to help build American jobs and to assure America's future as an economy with a strong industrial base. We think it is high time the Congress addresses itself to these questions.

TABLE I.—*U.S. plant and equipment spending abroad as a percent of plant and equipment spending in the United States*

	1967–70 Average[1]	*1974*[2]
All industries	15.9	22.9
All manufacturing	21.2	30.9
Petroleum	66.9	108.2

[1] Peggy B. Musgrave, "Direct Investment Abroad and the Multinationals: Effects on the United States Economy," prepared for the use of the Subcommittee on Multinational Corporations, August 1975, p. 14.

[2] AFL–CIO estimates, based on the Survey of Current Business, September 1975.

Table II.—U.S.-based multinationals foreign jobs and pay, 1970

Employment abroad as percent of employment in the United States:

All industries	7.8
All manufacturing	17.1
Chemicals	37.4
Motor vehicles	73.3
Machinery	25.9
Metals	9.5
Food	15.9
Other	8.4
Petroleum	59.6
Mining	43.4
Trade	3.8
Other	1.8

Payroll abroad as percent of payroll in United States:

All industries	4.6
All manufacturing	8.3
Chemicals	15.2
Motor vehicles	26.8
Machinery	11.8
Metals	4.4
Food	6.6
Other	4.2
Petroleum	32.1
Mining	17.9
Trade	2.1
Other	1.3

Source: Peggy B. Musgrave, "Direct Investment Abroad and the Multinationals: Effects on the United States Economy," Prepared for the Use of the Subcommittee on Multinational Corporations, August 1975, p. 14.

TABLE III.—SALES BY FOREIGN OPERATIONS OF U.S.-BASED MULTINATIONALS,[1] 1966–73

[In billions of dollars]

	1966	1967	1968	1969	1970	1971	1972	1973
All industries	97.8	108.5	120.8	134.3	155.9	184.4	212.3	291.5
Manufacturing	47.4	52.6	59.6	67.6	78.3	90.9	107.6	140.9

[1] These are the only data available and cover only companies that are majority-owned.

TABLE IV.—TOTAL SALES BY FOREIGN OPERATIONS OF U.S.-BASED MULTINATIONALS AS A PERCENT OF U.S. MANUFACTURED EXPORTS, 1966–73

	1966	1967	1968	1969	1970	1971	1972	1973
All industries	501	515	501	495	524	598	619	640
Manufacturing	243	249	235	249	264	295	314	309

TABLE V.—EXPORTS TO THE UNITED STATES BY FOREIGN OPERATIONS OF U.S.-BASED MULTINATIONALS AS A PERCENT OF U.S. MANUFACTURED EXPORTS, 1966–73

	1966	1967	1968	1969	1970	1971	1972	1973
All industries	32	34	36	35	33	42	42	44
Manufacturing	14	15	17	19	18	21	23	21

TABLE VI.—EXPORTS TO OTHER FOREIGN COUNTRIES BY FOREIGN OPERATIONS OF U.S.-BASED MULTINATIONALS AS A PERCENT OF U.S. MANUFACTURED EXPORTS, 1966–73

	1966	1967	1968	1969	1970	1971	1972	1973
All industries	93	95	94	98	108	124	133	148
Manufacturing	32	32	33	35	41	45	49	49

Source: "Sales by Majority-Owned Foreign Affiliates of U.S. Companies 1973," Survey of Current Business, August 1975, p. 27 and U.S. Department of Commerce data on U.S. manufacturing exports.

TABLE VII.—DOMESTIC CORPORATIONS: FOREIGN SOURCE INCOME, AND U.S. TAXES PAID, AS A PERCENT OF FOREIGN SOURCE INCOME

[In billions]

	All industries		Manufacturing		Petroleum	
	Total foreign source income	U.S. taxes (percent)	Total foreign source income	U.S. taxes (percent)	Total foreign source income	U.S. taxes (percent)
1968	$13.5	7.5	$6.7	7.6	$3.6	1.5
1972	24.4	5.0	13.3	5.6	7.0	0
1974	53.6	3.2	18.9	5.7	29.8	0

Source: Taxation of Foreign Source Income: Statistical data, Joint Committee on Internal Revenue Taxation, Sept. 30, 1975, pp. 13 and 20.

TECHNOLOGY TRANSFERS[1]

Technology is transferred by direct investment, licensing and patent sales. Today, many nations demand co-production, and/or "package" or "turnkey" technology. The following are a few examples of technology transfers:

*** Equipment for foundry at the Soviet Union's Kama River truck factory. Financed with 6% loans from the Export-Import Bank, in part, this factory manufactures 150,000 trucks every year.**

* International Harvester and Control Data have co-production agreements with the government of Romania—to provide management and technical services for completely working factories.

* General Motors has announced co-production of trucks with the government of Poland—for export to other countries.

* General Telephone and Electronics has a $240 million contract with the government of Algeria to set up a completely operational factory to make consumer electronics products, with $25 million for training 350 Algerians as management and technical experts to run the factory with plans for exporting the production.

*** Dupont has announced an agreement for selling the technology for manufacturing chromium dioxide in the U.S.S.R. for use in audio and video magnetic tape production.**

*** Allis Chalmers has announced a contract to set up iron-ore pelletizing equipment to be installed in the Soviet Union.**

*** Monsanto Polymers and Petrochemicals Co. has agreed to grant a license for use of its acetic acid technology to the Nippon Synthetic Chemical Industry Co., Ltd. of Osako, Japan (first licensing of Monsanto technology in the Far East).**

*** Monsanto will produce Monsanto's prevulcarization inhibitors in North Wales.**

*** Dow Chemical received Eximbank loans to produce polystyrene in its affiliate in Brazil.**

*** Eaton produces automotive valve making equipment in Brazil.**

*** 8 turnkey fertilizer plants in China have been reported (*Foreign Affairs*, October, 1975).**

RESOLUTION ON MULTINATIONAL CORPORATIONS ADOPTED BY AFL–CIO CONVENTION, OCTOBER 1975

Although they are a relatively new phenomenon, multinational corporations already span the globe. They know no homeland and have no loyalties to nations or people. Concerned almost entirely with the bottom line on the ledger book, the multinationals too often disrupt economic life, undermine political stability and the social fabric of the nations in which they operate.

The multinationals today dominate world business. They take the form of corporations, or combinations of private corporations, with state-controlled industries. They include the world's bankers, shippers, lenders, builders and service industries. Because they can move capital and resources across national boundaries they can and do avoid the law of both host nations and the nations to which they owe nominal allegiance because of their corporate papers or other legal forms.

U.S.-based multinational firms have destroyed and exported the jobs of millions of American workers and have left behind communities devastated by the closing of plants upon which their economies have depended. As far as the multinationals are concerned, U.S. technology, capital, services and even construction are for export to those nations where they can make the greatest profit through the exploitation of labor or resources, through currency speculation, through tax breaks, and even through the corruption of public officials.

The U.S.-based multinationals and their foreign-based counterparts have brought a new look to the economic, political and industrial scene. They have institutionalized the runaway shop, the runaway ship, the runaway film and have converted them into international facts of life. Nations that once invited these firms to locate in their countries already find to their horror that they must constantly bend to the demands of the multinationals lest they pack up and move to a still more compliant host nation. Few industries, fewer and fewer workers are unaffected.

The American economy is damaged by this new development. The industrial base that is the heart of our national economy is already seriousely eroded. Massive export of U.S. jobs and technology adds to unemployment and economic instability and weakens the nation's ability to cope with the massive domestic problems that now confront us.

This threat to our livelihood grows as the giant multinationals move across the face of the globe expanding and contracting without concern for the welfare of the people affected. While no precise reporting of their impact on jobs at home exists the U.S. department of Commerce has reported that foreign sales of foreign affiliates of U.S.-based multinationals were $291 billion in 1973. The value of exports back to the U.S. from these foreign affiliates of U.S.-based multinationals increased by 39 percent up to $20 billion. The trend has since accelerated.

Even the partial reports show that U.S.-based firms have more than 5,000,000 jobs abroad. The reported foreign sales of these foreign affiliates of U.S. companies—in the neighborhood of $300 billion—are about three times greater than this country's total exports.

Tax breaks in the federal tax code subsidize the movement and cause the multinationals to plan even more rapid investment and expansion behind the sheltered walls of closed economies of other nations. Present federal policy points to still further threats to the job security and hopes of American workers who are already beset by the highest unemployment rate of any industrial nation. U.S. policy permits multinationals to escape U.S. taxes by moving operations around the globe. Thus, the U.S. taxpayer subsidizes the export of technology and the export of jobs with his own tax dollars. The U.S. government encourages job losses at home not only through essentially unrestricted imports but also by policies that aid and abet the export of U.S. technology, and materials needed for a strong economy at home.

The AFL–CIO recognizes that the United States does not and cannot live in isolation. At the same time, this nation must develop policies that will develop its economic and industrial base. In large part, current problems flow from the inept and ill-conceived economic policy which encourages multinationals to export manufacturing, shipbuilding, construction, transportation, finance, film production and other economic activity vital to the strength of the domestic economy.

Multinationals today mock even the private enterprise system which gave them birth and whose virtues they parade. They made deals with the Communist bloc reminiscent of sweatshop days here at home. The Communists offer cheap labor, no union, no strikes, political pricing of raw materials and finished products for the multinational capitalists. In exchange, the multinationals provide new technology—the industrial potential which the U.S. system created, often paid for by American taxpayers. The U.S. policy, as in the case of Romania, has been to grant most favored nation treatment to imports from these nations. Production now moves to the Eastern European Communist countries, as multinationals seek ever-cheaper labor and even auto production by General Motors in Poland has been announced—for export to the United States and across the globe.

As workers here and abroad have discovered, the threat of international relocation by multinationals weakens the workers' position in collective bargaining. And when there is a strike in one country, they have the ca-

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[1] For earlier AFL–CIO statements on transfer of military and commercial technology, see: Statement by George Meany before Senate Subcommittee on International Trade, Senate Finance Committee, 1971; and before Senate Finance Committee on Trade Act of 1973, March, 1974; Statement by Andrew J. Biemiller, Director of Legislative Department, AFL–CIO, before Senate Subcommittee on International Trade, March, 1973.

Sources: Selected from various press reports, stockholders reports, government releases, etc.

pacity to increase production in other countries, thus further undermining the position of workers. The unregulated operations of multinationals pose major challenges to trade unions, to the Free World and to the future strength of the United States.

The AFL–CIO, therefore, supports increased cooperation among trade unionists from different countries in the international trade secretariats, as one counterweight to the multinational corporations' disregard for workers' interests. The AFL–CIO further endorses the development of an effective international code of fair labor standards to strengthen the rights of workers to organize unions, engage in collective bargaining and to obtain decent wages and working conditions.

In order to achieve the objectives of the American labor movement for jobs, improving living standards and a strengthened economic base, the AFL–CIO urges Congress to implement policies to insure that the operations of multinational corporations are consistent with the growth of domestic industry and American employment. Essential provisions must include:

1. An end to preferential tax treatment for the multinationals' foreign operations, including repeal of the Foreign Tax Deferral, the Foreign Tax Credit and DISC (tax deferral of 50 percent of profits of export subsidiaries);
2. Comprehensive federal monitoring of multinational corporations, to measure precisely their impact on employment, investment and productivity;
3. Regulation of the export of our most advanced productive equipment and industrial plants;
4. Regulation of the export of American capital and technology;
5. Regulation of imports into the United States economy, to help build American jobs and to assure America's future as an economy with a strong industrial base.

THE 1976 ELECTION MAILING RESTRICTIONS

(Mr. UDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, I submit for printing in the RECORD at this point regulations affecting mass mailings under the Congressional Franking Act as adopted by the House Commission on Congressional Mailing Standards:

MASS MAILING RESTRICTIONS UNDER THE CONGRESSIONAL FRANKING ACT

Members are reminded that pursuant to section 3210(a)(5)(D) of title 39, United States Code, the House Commission on Congressional Mailing Standards has prescribed regulations for the House of Representatives governing the time during which franked mass mailings, as defined under the subject, may not be made.

The statutory restriction on the use of the frank for such mass mailings prior to elections is set forth in 39 U.S.C. 3210 (a)(5)(D) as follows:

> (5) It is the intent of the Congress that a Member of or Member-elect to Congress may not mail as franked mail—
>
> (D) any mass mailing when the same is mailed at or delivered to any postal facility less than 28 days immediately before the day of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for public office. For the purpose of this clause (D) the term "mass mailing" shall mean newsletters and similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical but shall not apply to mailings—
>
> (i) which are in direct response to inquiries or requests from persons to whom the matter is mailed;
>
> (ii) to colleagues in Congress or to government officials (whether Federal, State, or local); or
>
> (iii) of news releases to the communications media.
>
> The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations and shall take such other action, as the Commission or Committee considers necessary and proper for the Members and Members-elect to conform to the provisions of this clause and applicable rules and regulations. Such rules and regulations shall include, but not be limited to, provisions prescribing the time within which such mailings shall be mailed at or delivered to any postal facility to attain compliance with this clause and the time when such mailings shall be deemed to have been so mailed or delivered and such compliance attained.

Accordingly, the Commission established the following regulations regarding restrictions on mass mailing:

> (a) Mass mailings as defined under section 3210(a)(5)(D) may not be mailed as franked mail by a Member of or Member-elect to the House of Representatives when the same is mailed at or delivered to any postal facility other than the Publications Distribution Service of the House of Representatives, hereinafter referred to as the House Folding Room, less than 28 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member or Member-elect is a candidate for any public office.
>
> (b) Such mass mailings, if processed through the House Folding Room, shall be deemed to be in compliance with the subject statutes and these regulations, if delivered to the House Folding Room, with instructions for immediate dispatch, not less than 30 days immediately before the date of any such election. In the case of mass mailings delivered to the House Folding Room prior to the 30-day cut-off period provided herein, the requirement of instructions for "immediate dispatch" may be modified to the extent that instructions are given for delivery of the mailing to the addressee not later than the 28th day immediately before the date of such election. The House Folding Room shall issue a receipt, which shall specify the date and time of delivery and a brief description of the matter to be processed, to the Member at the time he or she delivers such mass mailings to the House Folding Room.
>
> (c) For purposes of the subject statutes and these regulations, a Member of or a Member-elect to the House of Representatives, shall be deemed to be a candidate for public office at any election as hereinabove set forth if his or her name appears anywhere on any official ballot to be used in such election.

Mr. Speaker, in order to assist Members of the House in determining the cutoff dates for mass mailings as they apply to the various congressional primaries to be held by the States in 1976, the Commission has prepared a tabulation of these primary dates, as provided by the Republican and Democratic campaign committees, as well as the cutoff dates for mass mailings applicable thereto.

The dates listed in the third and fourth columns of the tabulation are the 30th and 28th day immediately before the primary election dates and, therefore, are the last dates, as appropriate, on which a mass mailing may be made.

Reference is also made to the fact that the 30 and 28 day cutoff regulations apply to runoff elections in which the Member is a candidate, although specific dates or not shown.

The final items listed below are cutoff dates for mass mailings as they apply to the general election to be held on November 2, 1976.

The tabulations follow:

CONGRESSIONAL PRIMARY DATES

States	Primary dates	30-day cutoff (folding room)	28-day cutoff (postal facility)
Illinois	March 16	February 15	February 17
Pennsylvania	April 27	March 28	March 30
Texas	May 1	April 1	April 3
Alabama	May 4	April 4	April 6
District of Columbia	Do.	Do.	Do.
Indiana	Do.	Do.	Do.
Nebraska	May 11	April 11	April 13
West Virginia	Do.	Do.	Do.
Maryland	May 18	April 18	April 20
Arkansas	May 25	April 25	April 27
Kentucky	Do.	Do.	Do.
Oregon	Do.	Do.	Do.
Mississippi	June 1	May 2	May 4
Montana	Do.	Do.	Do.
New Mexico	Do.	Do.	Do.
South Dakota	Do.	Do.	Do.
California	June 8	May 9	May 11
Iowa	Do.	Do.	Do.
Maine	Do.	Do.	Do.
New Jersey	Do.	Do.	Do.
Ohio	Do.	Do.	Do.
South Carolina	Do.	Do.	Do.
Virginia	Do.	Do.	Do.
Idaho	August 3	July 4	July 6
Kansas	Do.	Do.	Do.
Michigan	Do.	Do.	Do.
Missouri	Do.	Do.	Do.
Tennessee	August 5	July 6	July 8
Georgia	August 10	July 11	July 13
Louisiana	August 14	July 15	July 17
North Carolina	August 17	July 18	July 20
Alaska	August 24	July 25	July 27
Oklahoma	Do.	Do.	Do.
Arizona	September 7	August 8	August 10
Connecticut	Do.	Do.	Do.
Florida	Do.	Do.	Do.
North Dakota	Do.	Do.	Do.
Delaware	September 11	August 12	August 14
Colorado	September 14	August 15	August 17
Massachusetts	Do.	Do.	Do.
Minnesota	Do.	Do.	Do.
Nevada	Do.	Do.	Do.
New Hampshire	Do.	Do.	Do.
New York	Do.	Do.	Do.
Rhode Island	Do.	Do.	Do.
Utah	Do.	Do.	Do.
Vermont	Do.	Do.	Do.
Wisconsin	Do.	Do.	Do.
Wyoming	Do.	Do.	Do.
Washington	September 21	August 22	August 24
Hawaii	October 2	September 2	September 4

The 30-day and 28-day cutoff regulations are applicable to runoff elections in which the Member is a candidate.

General Election

November 2	October 3	October 5

UNITED STATES ANSWERS SOUTH AFRICAN CHALLENGE AT U.N.

(Mr. FRASER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FRASER. Mr. Speaker, in recent days the United States has made its most forceful critique of South Africa's laws and policies of detention and repression of opponents of apartheid.

The statement was delivered by Mr. Clarence Mitchell, legislative director of the National Association for the Advancement of Colored People. Mr. Mitchell spoke in his capacity as member of the United States delegation to the United Nations. He spoke for himself, for the U.S. delegation and for the United States.

Mr. Mitchell's speech came after Prime Minister Vorster of South Africa challenged the United States to name "one individual in South Africa who was arrested and detained, only because of his outspoken opposition to the system of apartheid." Mr. Vorster's challenge was in response to an earlier American statement at the U.N. General Assembly on South African detentions which warned that the South African Government "is courting disaster when such repressive measures have the effect of closing off all avenues for peaceful change."

The Mitchell statement goes beyond the mere naming of names. It is an in-depth analysis and critique of South Africa's system of detention and of the numerous South African laws which are used to stifle political opposition to apartheid.

The Mitchell statement ends with a challenge to the South African Government to allow the United Nations Human Rights Commission to conduct a full investigation of the deprivation of human rights in South Africa.

I include the full text of Mr. Mitchell's statement to be printed in the RECORD at this point.

PRESS RELEASE

U.S. MISSION TO THE
UNITED NATIONS,
New York, N.Y., November 28, 1975.

STATEMENT BY CLARENCE M. MITCHELL, JR., UNITED STATES REPRESENTATIVE, IN PLENARY, ON CIVIL RIGHTS IN SOUTH AFRICA, NOVEMBER 28, 1975.

The United States Delegation has voted in Plenary as it did in the Special Political Committee on the resolutions before us relating to the discussion of the "Policies of Apartheid of the Government of South Africa".

On October 23, 1975, when speaking on behalf of my Government before the Special Political Committee on the subject of apartheid, I made the following statement:

"The U.S. deplores the detention of persons whose only act is outspoken opposition to the system of apartheid. The South African Government is courting disaster when such repressive measures have the effect of closing off all avenues for peaceful change."

Prime Minister Vorster of South Africa has called the first sentence of that quoted portion of my speech a "downright lie." He has also called for the name of just one individual in South Africa who was arrested and detained only because of his outspoken opposition to apartheid.

If the Prime Minister wants to establish credibility at the U.N. on the matter of repressive laws and policies in his country, he cannot do so by trying to narrow the issue to one point or by calling for the name of one victim. He would be better off if he could give positive assurance that his Government will stop making arrests and holding persons on vague charges. His indignation would seem more plausible if he accompanied it with an announcement of full equality under the laws of his country for all South Africans without regard to race or color.

One useful opportunity emerges from the heated response of the Prime Minister. At last he has shown that he is paying attention to the much deserved criticism being voiced against the racial politics and policies of South Africa. Some of the members of the U.S. Delegation to the U.N. have made extensive studies of South African racial policies and the method of enforcing those policies. Congressman Donald M. Fraser, who is a member of the U.S. Delegation to the U.N. and also a member of the Committee on International Relations in the U.S. House of Representatives, has been and continues to be particularly interested in Africa. But I wish to emphasize that in making this statement I am speaking for the United States and on behalf of the entire United States Delegation.

First, I want to point out that the South African Government has the forms, but for over 80% of its people, it has little of the substance of democracy. To understand this one should consider this brief comment. South Africa is governed by a white minority which runs the affairs of the nation through an all-white Parliament chosen by an all-white electorate. In that Parliament, the Nationalist Party, dedicated to apartheid or separate development, has enjoyed a decisive majority since 1948. In 27 years, it has introduced a system of police and administrative control of the black, colored and Asian people who constitute 83% of the population.

Government controls have eliminated these people's political organizations and cut off the growth of new political organizations representative of what the Nationalists euphemistically label the non-European or non-white people. Indeed, the majority party of South Africa's white minority has made these people political non-persons by forbidding even their participation in the affairs of the white political parties. They are permitted political activity only in tightly circumscribed segregated bodies existing on sufferance of the white South African Parliament.

In 1948, when the Nationalists came to power, the Constitution entrenched only a limited privilege of vote for the colored and equality of the English and Afrikaans languages. A little over a decade later, the Nationalists deprived the colored of the vote, and today only the two white languages enjoy Constitutional protection. Thus the judiciary has no Constitutional basis on which to protect the individual against violation of internationally recognized human rights such as freedom of movement, freedom of expression, freedom from arbitrary arrest and detention and, it goes without saying, freedom from discrimination on the basis of race or color.

Moreover, although its supporters say it enjoys a fine old tradition of independence and integrity, the judiciary has been repeatedly frustrated in the exercise of that tradition. Judgments giving the benefit of the doubt to liberty and freedom have been overruled by express legislative amendment. The judiciary itself has also changed with new appointments under the Nationalists.

In any society it is possible for law enforcement agencies to pervert just laws by using them for repressive purposes. Being aware of that possibility, my own country has established safeguards in our constitution and laws to guard against acts which officials might use to deprive persons of their rights. While I do not pretend to say we are perfect in that respect, I am pleased to say that these important laws exist and are enforced and I am proud that I have played a part in getting some of these laws enacted.

In South Africa the laws are written to repress and stifle free expression or lawful activity to change such statutes. Thus, while there is abundant evidence of repressive acts by those who enforce the law in the country, it must be remembered that what these officials do is sanctioned by law instead of being prohibited. For that reason it is important that some statement be made about the nature of South African laws and the policies that implement those laws.

The South African system of detention and repression is built into the legal structure itself. There is a system of political laws, which are designed to stifle and intimidate political opposition, laws which make criminal, acts which are not criminal in any free society. Indeed, certain acts which form the rough give-and-take that is the life blood of democracy are considered criminal in South Africa.

The statutes employed to stifle opposition to South Africa's racial policy are numerous: these include the so-called "Suppression of Communism Act," the so-called "Terrorism Act," the Bantu Administration Act, the Unlawful Organizations Act, the Public Safety Act, the Criminal Law Amendment Act, the Riotous Assemblies Act, the General Law Amendment Act (No. 76 of 1962) Section 21 (a.k.a. the Sabotage Act), the General Law Amendment Act (No. 37 of 1963) Section 17 (a.k.a. the 90-day law), the Criminal Procedure Act (No. 56 of 1955) Section 215 bis (a.k.a. the 180-day law), the General Law Amendment Act (No. 62 of 1966) Section 22 (a detention law for Namibia).

Consider the so-called "Suppression of Communism Act." This Act, together with its complement, the Unlawful Organizations Act, is one of the most important elements employed by the South African Government to limit individual opposition to apartheid and to destroy political organizations which oppose apartheid. It seeks to conceal its real nature by drawing on the emotional responses attached to the term "Communist."

The Act starts out by declaring the South African Communist Party to be an unlawful organization. It then authorizes the State President to declare unlawful, organizations other than the Communist Party, if he is satisfied that the organization engages in activities which are calculated to further the achievement of any of the objectives referred to in the statute's definition of communism. The definition includes any doctrine or scheme "which aims at bringing about political industrial, social or economic change within the republic by the promotion of disturbance or disorder." Thus all that is necessary for a political organization to be declared illegal is that the State President is satisfied that it aims at bringing about change through disorder or disturbance. No definition of "disturbance or disorder" is given. Because no definition exists, the police have full discretion. As a result, passive resistance campaigns and sit-ins can and have been treated as disturbances and thus "Communistic."

It should be noted that no judicial process is necessary to make the political activity of any organization illegal. All that is necessary is that the State President issue a proclamation. In the case of South African Defense and Aid Fund vs. Minister of Justice, the Appellate Division held that the organization has no right to be heard at any stage.

Once an organization has been declared illegal, there are far reaching penalties imposed upon it and its members. For the organization, its legal life is ended, and its property vested in a liquidator appointed by the Minister. After debts are paid, any surplus is given to charitable and scientific organizations designated by the Minister.

When an organization has been declared unlawful, the liquidator may compile a list of persons who were, whether before or after the commencement of the act, office-bearers, officers, members or active supporters of the organization. An individual has only twelve months to institute judicial proceedings to get himself removed from the list. It is up to him to prove that "he neither knew nor could reasonably have been expected to know that the purpose or any of the purposes of the organization were of such a nature or that it was engaged in such activities as might render it liable to be declared an unlawful organization." Thus, purely by administrative action not only the organization but the individual is found guilty and is given the expense of an unpromising attempt to clear himself.

Based upon this listing the individual may be prohibited from joining an organization of any type specified by the Minister. There is a blanket prohibition against belonging to any organization "which in any manner propagates, defends, attacks, criticizes, or discusses . . . any . . . policy of the Government of a state." (Paragraph 2 of Part II of the annexure to Government notice 2130 Supra.)

The Act further restricts the individual's civil liberties by making it a crime to record, reproduce, print, publish or disseminate any statement made by a listed person. A listed person is almost without exception disqualified from practice as an advocate, attorney or notary. It is a criminal offense for a listed person to change his residence without giving notice to the police. He is disqualified from holding various elective offices and commits a criminal offense if he accepts nomination for election.

Thus, in a variety of ways, a net of new criminal offenses is thrown around the individual. Without trial he is precluded from participating in political life.

The Act does more than create new political crimes and treat individuals unjustly. It serves the general and more basic purpose of discouraging as both dangerous and futile all political criticism of the system.

The system of apartheid includes not only this system of political repression; it includes as one of its elements a *system* of detention. Detention is so thoroughly a part of South African life that it is impossible to imagine apartheid without it. In my original statement, I spoke of the detention of opponents of apartheid, but there is an even more basic form of detention which is at the heart of the apartheid system. It requires no act and is not conditional on any belief. It applies to South Africans who are Black because they are Black. It is carried out through the operation of the notorious "Pass Laws" which restrict the freedom of movement of Black South Africans. They require that every Black South African carry at all times a pass which specifies the one place in white South Africa where the Black is allowed to be, to remain, to reside and to work. Failure to carry the pass, or contravention of the terms of the pass, is a criminal offense. It is as though one was restricted forever to a specific place merely because one had been born there. Even married couples from different areas are not permitted to live together without special permission.

The Pass Laws aside, there are several different forms of detention in South Africa and these result in various classes of detainees. There are:

1. Those who are under banning orders including house arrest.

2. Those who are being detained without charges.

3. Those who have been charged, and are either awaiting trial or serving sentences.

Banning orders are issued under the so-called "Suppression of Communism Act." They vary in form and degree. The most severe are those which include 24-hour house arrest. They may be less severe and permit movement within a particular neighborhood or district. They restrict the person from attending any gathering of more than 2 persons—whether of a political or purely social nature. They may further restrict his right to engage in various occupations. They often result in loss of employment. As we have seen, banning orders are imposed without trial. Their intent is to restrict the freedom of movement and political participation of individuals who are political opponents of the regime. They are given to people against whom the Government can prove no offense as well as to those political prisoners who have been convicted and have completed serving their sentences. Violation of these orders itself constitutes a crime which may result in imprisonment.

A typical banning order starts with these words: "Whereas I, ————, the Minister of Justice, am satisfied that you engage in activities which are furthering or may further the achievement of the objects of Communism, I hereby . . . prohibit you . . . from . . ." What follows is a long list of prohibitions which force the individual to choose between abstention from all political activity or violation of South African law. Let me make clear at this point that in criticizing the arbitrary use of banning orders, I am not conveying support for any ideology but rather—pointing out how opponents of apartheid have their basic freedoms abridged without due process of law.

The most recent information published in the South African Government Gazette lists banned persons. Their names follow. (See attached) I will not read them aloud but they are included in the printed text. My source is from the Gazette of July 11, 1975.

The second category of detainees are those that are actually held by government authorities but not charged with any offense. Most of these detainees are held under Section (6) of the Terrorism Act.

Section (6) of the Act provides for indefinite detention incommunicado of persons believed to be terrorists or to have information about terrorism.

Terrorism is defined in the Act in terms broad enough to include as terrorist acts any of a variety of peaceful protests against state policy. Thus, Section 2(2) states that if it is proved that the accused committed an act which had or was likely to have results such as the obstruction of traffic, the hindrance of administration of the affairs of the state or "to cause, encourage or further feelings of hostility between white and other inhabitants of the Republic," then the accused shall be presumed to have committed "such act with intent to endanger the maintenance of law and order in the Republic, unless it is proved beyond a reasonable doubt that he did not intend any of the results aforesaid." Section 2(1) makes any such act committed with intent a "terroristic act." Thus, acts ranging from writing poetry about the suffering of Blacks under apartheid, to engaging in a hunger strike, or a peaceful sit-in may constitute terrorism.

If one is believed to have information about such acts of so-called "terrorism," Section (6) not only provides for unlimited detention, it specifies that the person may be arrested without a warrant and then explicitly states that "no court of law shall pronounce upon the validity of any action taken under this Section, or order the release of any detainee."

Finally, and this may explain Mr. Vorster's challenge to name names, Section 6(6) states that: "No person, other than the Minister or an officer in the service of the state acting in the performance of his official duties, shall have access to any detainee, or shall be entitled to any official information relating to or obtained from any detainee."

It is interesting to note that an exchange between Mrs. Helen Suzman, a member of the House of Assembly of the Republic of South Africa, and the Minister of Police in that country gives enlightening details on how the detention system works. The colloquy is printed in the weekly edition February 8, 1974 of the House of Assembly Debates on pages 34 through 38.

In response to questions, the Minister of Police revealed that during 1973, 69 males and 13 females were arrested and detained under Regulation 19 of Proclamation R.17 of 1972. These persons were held for periods ranging from 1–92 days. Most were held for periods of 20 to 65 days. Of those held only 27 were charged with any offense. For these the charge was contravention of Regulations 3 and 11 of Proclamation R. 17 of 1972. According to the Minister, 26 of the 27 were convicted.

At another point in the exchange, the Minister gave a racial breakdown on the number of persons detained during the period of March 1, 1973, to December 31, 1973. Of these, 49 were white, 16 were Asians, 34 were Coloureds and 117 were what South Africa calls Bantu. These were detained under Section 13 of the Abuse of Dependence-Producing Substances and Rehabilitation Act. The period of detention lasted from 1 day to 113 days with most being held from 5 to 50 days.

The Suzman questioning also revealed that in 1969, 26 persons were detained under the South African Proclamation No. 400 of 1960. Twenty-two of these persons were held for periods ranging from 2 to 125 days and then released without charges. Four were charged after being detained from 56 to 103 days. The record does not show whether any of the four were convicted.

On May 27, 1975 Mrs. Suzman asked the Minister of Police: "Whether any persons detained in September 1974 in terms of Section 6 of the Terrorism Act, as a result of investigations in connection with meetings planned in support of the Frelimo Movement of Mozambique, are still in detention under that Section; if so, how many?"

The Minister replied:

"Yes. I am not prepared to disclose this information."

Mrs. Suzman asked: "Whether any of persons detained have been charged; if so (a) with what offenses, (b) when were they so charged; and (c) how many persons were charged with each offense."

The Minister replied:

"Yes.

"(a) Contravention of Section 2 of the Terrorism Act.

"(b) On 31–1–1975.

"(c) 12."

Mrs. Suzman further asked:

"Whether any of them have not been charged and are in detention in terms of other legal provisions; if so (a) how many, and (b) in terms of what legal provisions."

The Minister of Police responded:

"I am not prepared to disclose this information."

This police power still goes unchecked.

On October 23, 1975, the Rand Daily Mail commented: "Eight more Terrorism Act arrests during the past week have been reported. Are these all the arrests that have taken place? Why is there this continuing series of arrests? Why are people disappearing for days or up to a year and then being released without trial or explanation? How can anyone having concern for the welfare of our country countenance the official silence?"

With respect to those individuals who have been detained without charge, it is not the responsibility of the United States to prove that the detainees are innocent of any wrongdoing. On the contrary, we stand behind their right to be presumed innocent.

The situation is only too clear. The South African Government holds these individuals. The South African Government knows their names. It is South African laws which countenance official secrecy. It is South African officials who refuse to divulge this information. It is the South African system which operates under the shroud of secrecy.

After Prime Minister Vorster's statement, the *Cape Times*, a respected South African newspaper, in its lead editorial for November 3, 1975 said that the controversy over my statement:

"Illustrates how indefensible the present system of detention is in South Africa. The fact is that unless Mr. Vorster is prepared to reveal reasons for detentions, he will be unable to answer convincingly the United States Government charge that people are detained whose only act is outspoken opposition to apartheid. To term this a "downright lie" as Mr. Vorster has, might sound impressive for domestic consumption, but it is not really satisfactory."

The editorial concluded:

"For a start, Mr. Vorster should abolish the iniquitous Terrorism Act if he wants to deal effectively with the U.S. charge. The Act provides for indefinite detention incommunicado and without trial, on the mere say-so of a police officer. There are no effective judicial reviews or guarantees. While the system remains on the statute books, charges such as the recent U.S. Delegate's remarks in the U.N. will persist; and they cannot be answered convincingly. South Africa, moreover, will remain in the dubious company of countries which bypass the due process of law as part of the ordinary routine."

There is a third category of detainees: those that have actually been charged with criminal offenses and are either awaiting trial or have been sentenced and are now in prison.

We must examine these cases within the unique South African context.

As we have seen, there exists a series of laws that are designed and are consistently used to stifle political opposition. Individuals may be convicted under these laws for performing acts which would not constitute criminal behavior in a free society. Within this category I include violation of the bans restricting the individual's right to exercise traditional political freedoms, such as writing and speaking on matters of public policy. The so-called "Suppression of Communism Act" makes it a crime to publish anything said or written by a banned person. The Gatherings and Demonstrations Act authorizes the Minister of Justice, at his own discretion, to prohibit demonstrations or meetings, however peaceful and otherwise law abiding, in any area he designates for as long as he designates. Violations of such prohibitions carry criminal penalties.

The Publications Act of 1974—the basic censorship statute of South Africa—makes it a criminal offense to publish books and articles or to show films that are deemed "contrary to the public interest." The list of such banned books includes the works of outstanding African writers and even includes the writings of the late civil rights leader, Dr. Martin Luther King, Jr.

The Customs and Excise Act makes it a crime to bring into the country material which would be unproblematic in a free society.

There are laws restricting strikes, demonstrations and meetings. These include the Bantu Labor Act (No. 48 of 1953), the Suppression of Communism Act, the General Law Further Amendment Act (No. 92 of 1970 Section 15), the Gatherings and Demonstrations Act, the Riotous Assemblies Act (No. 17 of 1956).

In addition there are special laws designed to prevent other forms of peaceful protest. Thus, the Criminal Law Amendment Act (No. 8 of 1953) provides special, harsher penalties for any person who commits any offense, however minor, "by way of protest" or in a campaign to repeal or modify any law or affect its administration. Instead of the normal penalty originally imposed for the same offense under non-political circumstances, he may be punished by special penalties including fines, imprisonment up to three years and whipping. Section (2) of the same Act makes it an offense to commit any act calculated to cause anyone to commit an offense by way of protest or in support of a protest campaign. Penalties include fines, up to five years in prison and whipping.

In view of the underlying fact that Blacks are not permitted to vote in any of the elections for those officials with the power to eliminate or alter the system of apartheid, one may safely say that any political effort which has any realistic likelihood of mobilizing opposition to the system of apartheid will fall under one or another criminal statute.

This has two consequences for anyone committed to democracy and human rights. First, it means that a distinction must be made between those acts which are only criminal by virtue of this body of repressive legislation and acts which would be criminal in any free society. But secondly, and more to the point, it means that the system of apartheid has made peaceful change not only criminal and thus personally dangerous, it has made it next to impossible. This is the point I was stressing in my October 23rd speech when I stated that the South African Government is courting disaster when it closes off avenues for peaceful change. No people will forever bear the deprivation of the basic elements of human dignity.

The South African Government continues to employ its legislation to stifle the opponents of apartheid. At present there is an effort to destroy the unity movement among Blacks. Nine young men are charged with "participation in terroristic activities." As I noted before, we must not be misled by words such as "terroristic activities." Although these young men, if convicted will face sentences ranging from five years imprisonment to execution, the indictment mentions no act of violence, whether against persons or property, that these individuals are even alleged to have committed. Instead, the indictment and accompanying documents contain page after page of essays, plays and poems written by the accused. One of the so-called "terroristic acts" is a call for business interests to disinvest from South Africa.

There are several other cases which merit special attention as illustrations. A shocking example of how far the South African regime is willing to go in detaining persons for their opposition to apartheid is illustrated by the case of Mrs. Winnie M. and 18 other Africans who were detained under the Terrorism Act in May, 1969. In February, 1970 they were acquitted of all charges under the Suppression of Communism Act. After the judge left the courtroom, they were immediately surrounded by the security police who, with guns in their hands, placed them under detention once again. After several months of detention, they were re-charged for the very same acts, now under the Terrorism Act.

They were acquitted a second time. Within a few days they were all served with five-year banning orders.

Thus, these people were twice found "not guilty" of all charges—even under the loose and repressive provisions of South African law.

An even more shocking example of the way the apartheid system corrupts the entire fabric of South African society is the case of Robert Sobukwe. No other case better illustrates the lengths to which the South African Government will go in its efforts to suppress opposition.

Mr. Sobukwe became the President of the Pan-Africanist Congress in 1959. In March of 1960 he announced a campaign against the "Pass Laws." This campaign involved a refusal to comply with the Pass Laws and peaceful marches to police stations at which time the demonstrators surrendered themselves for arrest. In the instructions to all PAC branches, Mr. Sobukwe stated: "Our people must be taught now and continuously that in this campaign we are going to observe absolute non-violence."

On March 21, 1960, Mr. Sobukwe, accompanied by about fifty supporters, marched to the Orlando Police Station and presented himself for arrest. At the same time similar marches took place in many parts of South Africa. At Sharpeville, the police opened fire on the peaceful demonstrators killing 68 of them.

Mr. Sobukwe was charged with sedition and incitement to riot. He was sentenced to three years in prison. He served this sentence from May 1960 to May 1963. But before his term was up, Prime Minister Vorster, then Minister of Justice, obtained passage of the 1963 General Laws Amendment Act in Parliament. Enacted the day before Sobukwe was to be released, the Act states that the "Minister, may, if he is satisfied that any person serving any sentence of imprisonment" under a variety of acts "is likely to advocate, advise, defend or encourage the achievement of any of the objects of Communism, prohibit such person from absenting himself, after serving such sentence, from any place or area which is or is within a prison."

This clause, widely known as the "Sobukwe Clause" was used only against Mr. Sobukwe. It was extended annually for five years. Mr. Sobukwe was detained under it on Robben Island until May 13, 1969. He was then put under banning orders which placed him under partial house arrest and restricted him to the Kimberly Municipality. These same banning orders further prohibited Mr. Sobukwe from various forms of political expression including the preparation of any "book, pamphlet, record, list, placard, poster, drawing, photograph, or picture . . . in which . . . any form of state or any principle or policy of the Government of a state is propagated, defended, attacked, criticized, discussed, or referred to."

On May 23, 1970, Mr. Sobukwe applied for an exit permit. Departure from South Africa on an exit permit involves loss of citizenship and prohibition against return to the country. He was granted the permit on March 1, 1971. However, as his banning orders restricted him to Kimberly, he was not allowed to leave. Unbelievably, the courts of South Africa have upheld this refusal to allow him to leave. At present he still resides in the Kimberly area, although his wife and children are in the United States and he has been offered a teaching position at an American University. He is still under banning orders.

In summation, the basic facts about human rights in South Africa are clear and may be stated in two propositions:

First, the majority of South Africans live under an oppressive government which deprives them of their basic human rights; and

Second, the South African system of laws is designed and administered so as to prevent that majority from taking effective action to alter this condition of fundamental deprivation.

If the South African Government has any difficulty in accepting these two propositions, then let me extend the following challenge to them:

Allow the Human Rights Commission or any commission of internationally known and respected jurists to conduct a full examination to determine the truth of these two propositions. Allow them access to your prisons, to your detention centers. Allow them to take testimony from the people within your control. Allow them to make a full inquiry, and then let the world know the truth!

LIST OF PERSONS UNDER BANNING ORDERS AS PUBLISHED IN SOUTH AFRICAN GOVERNMENT GAZETTE, JULY 11, 1975

A. Blankes/Whites

Aitchison, John Jacques William.
Arenstein, Jacqueline.
Arenstein, Rowley Israel.
Cheadle, Michael Halton.

Curtis, Neville Wilson.
Davis, David Kennelly.
De Beer, David Edmond.
Desmond, Patrick Anthony.
Ensor, Margaret Paula.
Hayes, Stephen Thromp Wynn.
Hemson, Christopher David Law.
Heyman, Isaac.
Hirson, Bertram Martin.
Keegan, Clive William Arthur.
Lapinsky (nee Barsel), Sheila.
Le Roux, Phillipe Anthony David.
Moore, Basil Scott.
Pretorius, Paul Joseph.
Schermbrucker, Ivan Frederick.
Schermbrucker, Leslie Erica.
Strachan, Robert Harold Lundie.
Tarshish, Jack David.
Turner, Richard Albert David.
Weinberg, Eli.
Weinberg, Violet May.
Wood, Donald James Christopher.

B. Nie-Blankes/Non-Whites

Alexander, Neville Edward.
Asvat, Mohamed Farouk.
Balfour, Mabel.
Baqwa, Dumo Jeffrey Martin.
Bardien, Mogamat Tafie.
Bhana, Mohamed Sulliman.
Bhengu, Moses.
Biko, Steven Bantu.
Bock, William Jacobus.
Buthelezi, Herman Sipho.
Cachalia, Amina.
Cachalia, Yasuf Ahmed.
Charles, Sipo Samuel.
Chetty, Saravanan.
Cooper, Sathasivan alias Saths.
Dangor, Ahmed Ebrahim.
Davis, Don John William.
Davis, Lionel Bazil.
Dhlamini, Martha Litha.
Dhlamini, Stephen.
Diale, Nelson.
Diseko, Mathe Mathews.
Duma, Alfred Maphanga.
Docrat, Abdul Khalek alias Khalik Mohamed.
Ferus, John Marinus alias Hennie.
Gwentshe, Mzinikulu.
Gqola, Frederick.
Gwabeni, Joel.
Gwala, Temba Harry.
Hendricks, Gordon Frederick.
Isaacs, Henry Eric.
Issel, John James.
Josie, Mervyn Jayaprakash.
Joyi, Twalamfene Gobinambo.
Keke, Zolile Hamilton.
Khoapa, Bennie.
Kobo, Willem Mwali.
Koka, Kgalushe.
Langa, Benjamin Johnson.
Leeuw, Jeremia Baiden.
Mabandla, Lindelwa Mtutuzeli.
Maduna, Mncedisi A-ednego.
Mafuna, James Bokwe.
Magubane, Sexford Peter.
Mahlangu, Mqothwa Lucas.
Mahlawula, Hlengani Jackson.
Mandela, Nomzamo Winnie.
Manisi, alias Mansi, Mparolo Oria.
Maroo, Oupa John.
Mashaba, Tshintsheng Caroline.
Mattera, Donald Francisco.
Mati, Joseph alias Joe.
Maumakwe, Boiki Isaac alias Moumakwe.
Mbali, Mehlo Gladwell.
Mbane, Livingstone Russel Jiyana.
Mdhletshe, Gideon Makatamane.
Mkwanazi, Pipi Riot.
Mngoma, Virginia alias Venus alias Thoko.
Modisane, Jerome Leteane.
Moetsi, Mogapi Solomon.
Mokoape, Maitshwe Mchaupe Aubrey.
Mokoditoa, Madibeng Chris.
Mokwebo, George alias David.
Moodley, Mary.
Moodley, Strinivasa Rajoo.
Moodley, Sumboornam (nee Pillay).
Morolong, Joseph Duncan Kgomotsi.
Moseneke, Dikgang Ernest.
Mosikare, Mosimanegape Simon.
Motau, Mankurwana David.
Motau, Patrick Abie.
Mpumlwana, Malusi Mthanjiswa.
Mvemve, Matshetshe Douglas.
Mxenge, Mlungiso Griffiths.
Naidoo, Gonaseelan.
Naidoo, Indris Elathenater.
Naidoo, Moorgiah Dhanabathy.
Naidoo, Phyllis Ruth Vasendha.
Nanabhai, Shriish alias Fakir Jasmath.
Nathaniel, Immanuel Gotlieb alias Machuri.
Ndabana, Sipho Price.
Ndawonde, David.
Ndhlovu, Jethro Sililo.
Ndou, Samson Ratshivahanda.
Ndyolo, Richard.
Ndzanfia, Rita Alita.
Ndzanga, Lawrence Owathi.
Nene, Samson John.
Nengwekhulu, Ranwedsi Harry.
Ngoye, Lillian.
Nhlapo, Frank Fezile.
Nhlapo, Welile Augustine Witness.
Nikelo, Alex.
Njana, Theophulus Vukile.
Nkadimeng, John.
Nobanda, Joseph Chamberlain.
Noel, Victor Reuben.
Nqini, Zola alias Sqonyela.
Ntsoane, Jackson Thibedi.
Ntwasa, Sabelo Stanley.
Nyembe, Gabriel Sondhlo.
Pityana, Nyameko Barney.
Pholoto, Solomon Magalane.
Ramgobin, Ela (nee Gandhi).
Ramgobin, Mawalal.
Ramokgadi, Martin.
Reddi, Soma Lynette.
Sewpersadh, Chanderden.
Shinners, Mark Mabitsi.
Sikakane, Joyce.
Singh, Girja.
Sisulu, Albertina.
Sobukwe, Robert Mangaliso.
Solomon, Marcus Chinsani.
Tsotetso, David.
Van der Heyden, Elizabeth.
Vandeyar, Reggie Pakiry.
Vanqa, Msimelelo Owen.
Wilcox, Alfred Kennith.
Wilcox, Gwendoline Edith.
Willem, Kolisile Stanford.
Zikalala, Joseph alias Snuki.

HOUSE ESTABLISHES PUBLIC POLICY AGAINST SST

(Mr. HARRIS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. HARRIS. Mr. Speaker, when the House approved the amendment to ban the Concorde-SST, we clearly established public policy which I hope will be a clear message to Secretary Coleman as he considers whether to allow the aircraft to enter the country.

I was pleased to join my colleagues in rejecting the SST. I firmly believe that allowing the Concorde to land would be a grave mistake. Although disagreement over the adverse environmental impact has surrounded the issue for some time, I believe that the latest Environmental Protection Agency study indicating that the SST's noise upon landing at Dulles International Airport could be heard in a 485-square mile area is definitive evidence that the attendant noise of the aircraft would greatly outweigh the minimal benefits of the plane. Additionally, it has been found that the SST could be a contributor to increased incidence of skin cancer. It is fuel-inefficient and there are some questions about its safety. In my own mind, there are real questions about behind-the-scenes promises made to Britain and France by former President Nixon that should be brought out into the open.

The American public does not want the SST. The House has expressed the will of the public. I believe Secretary Coleman has an obligation to protect U.S. citizens from the Concorde's noise, vibrations and pollutants. I hope he heeds the House's action.

EXPANSION OF AGRICULTURE RESEARCH

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, today I am introducing legislation to require a substantial expansion in agriculture research programs.

From every quarter of our society increasing demands are being placed on American agriculture to find means and methods for increasing food and fiber production at less cost. Unfortunately, our once active agriculture research programs, which gave our Nation a series of technological breakthroughs, coupled with the individual efforts of our farmers, thus allowing our country to lead the world in food and fiber production, are now in serious decline.

During the past decade and especially during the last 5 years, our Government has gradually changed the role of the Department of Agriculture from an agency to enhance food and fiber production with high nutritional values at the lowest feasible production cost, to that of an institution which has been required to perform ever-increasing welfare functions.

In the fight for its part of the budget, the research effort, which for so long served the best interest of all people, has come off second best. So much so, that a leading agricultural research specialist recently wrote me that—

> We have seen the time lag from discovery to application greatly decreased and have had few real breakthroughs comparable to hybrid corn, crossbreeding, artificial insemination, etc. in the past two decades. We are still relying on much of the basic information obtained years ago.

Mr. Speaker, only through a revamped and expanded agricultural research program can we hope to provide food and fiber to meet the projected increase in the population of the United States or begin to effect worldwide population expansion in the coming decades.

Moreover, it is apparent that we must find new means to lower the cost of production of food and fiber, not only to preserve the family farm system, where our farmers are daily faced with rising land, equipment, and labor cost, but, to also provide plentiful supplies of quality agricultural products that can return consumer expenditures on food to a lower portion of total income. These goals can only be reached through expanded research.

Mr. Speaker, a recent report by the prestigious National Academy of Sciences, a world food and nutrition study, "Enhancement of Food Production for the United States," has also recommended a substantial emphasis on technological research and development in the Department of Agriculture to enhance production and improve the dependability of U.S. food supplies, conserve resources, and improve nutrition. Much of the legislation I offer today would place the recommendations of the academy into legislative action.

Briefly, my bill, titled the "National Agricultural Research Policy Act of 1976" would accomplish the following: For the first time emphasize agricultural research as a distinct mission of the U.S. Department of Agriculture. Second, appoint a principal administrator, with a staff of specialists, under the Assistant Secretary of Agriculture presently responsible for research, to coordinate all agriculture research conducted or financed by or affiliated with the Department of Agriculture. Third, establish a National Agricultural Research Policy Committee made up from representatives from government, farm and industry organizations, institutions, and scientific bodies, to establish and review national policies, priorities, grants, and strategies for both short- and long-term agricultural research considered by USDA and other agencies and institutions conducting agricultural research. Fourth, establish two new Federal research grant programs: A mission-oriented program at land-grant colleges and State agricultural experiment stations and a comptitive grant program for research institutions, organizations, and individuals for carrying out new agricultural food research programs. Fifth, my bill when fully implemented would authorize $250 million annually to carry out this new expanded research program, plus recommending that it is the sense of Congress that existing agricultural research programs should be expanded annually by an additional $250 million.

It is my judgment that this expansion, so vital to our future, can be accomplished by reordering priorities in the current agricultural program without a budgetary increase.

I urge each Member to study this proposal seriously.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. OTTINGER (at the request of Mr. O'NEILL, for today, on account of official business.

Mr. CORMAN (at the request of Mr. O'NEILL, after 4:15 p.m. today, on account of official business.

Mr. GILMAN (at the request of Mr. RHODES), on account of business related to the Select Committee on Missing Persons in Southeast Asia.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAUMAN) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Ohio, for 30 minutes, today.

Mr. MARTIN, for 15 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. FRENZEL, for 20 minutes, today.

Mr. DON H. CLAUSEN, for 15 minutes, today.

Mr. BURKE of Florida, for 20 minutes, today.

Mr. ASHBROOK, for 15 minutes, today.

(The following Members (at the request of Mr. BALDUS) to revise and extend their remarks and include extraneous material:)

Mr. PATMAN, for 15 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. LEVITAS, for 5 minutes, today.

Mr. VANIK, for 10 minutes, today.

Ms. ABZUG, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. BAUCUS, for 5 minutes, today.

Mr. CHARLES H. WILSON of California, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OBEY and to include extraneous matter notwithstanding the fact that it exceeds five pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,217.

Mr. JAMES V. STANTON and to include extraneous matter notwithstanding the fact that it exceeds six pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,931.

Mr. DENT and to include extraneous matter notwithstanding the fact that it exceeds four pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,287.

Mr. FRASER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,001.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 726. An act to direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho; to the Committee on Interior and Insular Affairs.

S. 1187. An act to authorize the documentation of the vessel, *Bruja Mar*, as a vessel of the United States with coastwise privileges; to the Committee on Merchant Marine and Fisheries.

S. 1689. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended; to the Committee on Interior and Insular Affairs.

S. 1941. An act to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4573. An act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes.

H.R. 5900. An act to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers and to establish a national framework for collective bargaining in the construction industry and for other related purposes;

H.R. 10792. An act for the relief of Jana Hlavaty;

H.R. 11016. An act to extend the Renegotiation Act of 1951 for 9 months; and

H.R. 11184. An act to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 95. An act to guarantee the constitutional right to vote and provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 3474. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes;

H.R. 4073. An act to extend the Appalachian Regional Development Act of 1965, to increase the authorizations for the title V Action Planning Commissions, and for other purposes;

H.R. 5541. An act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts;

H.R. 6461. An act to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes;

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit assocations to Federal district courts.

H.R. 8631. An act to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes;

H.R. 10555. An act for the relief of Mrika Mrnacaj;

H.R. 10792. An act for the relief of Jana Hlavaty;

H.R. 11016. An act to extend the Renegotiation Act of 1951 for 9 months; and

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes.

SINE DIE ADJOURNMENT

Mr. BALDUS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. McFALL). In accordance with the provisions of House Concurrent Resolution 518, the Chair declares the 1st session of the 94th Congress adjourned sine die.

Thereupon (at 8 o'clock and 11 minutes p.m.), pursuant to House Concurrent Resolution 518, the House adjourned sine die.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 322. An act to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes;

S. 1469. An act to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes;

S. 2327. An act to amend the Real Estate Settlement Procedures Act of 1974;

S. 2718. An act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes; and

S.J. Res. 157. A joint resolution to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by federally related financial institutions for property located in communities not participating in the national flood insurance program.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes;

H.R. 4287. An act to provide for additional law clerks for the judges of the District of Columbia Court of Appeals;

H.R. 6673. An act to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes;

H.R. 8304. An act to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes;

H.R. 9968. An act to change certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 10035. An act to establish the Judicial Conference of the District of Columbia;

H.R. 10284. An act to amend title XVIII of the Social Security Act, and for other purposes;

H.R. 10355. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes;

H.R. 10727. An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes; and

H.J. Res. 749. Joint resolution to provide for the beginning of the 2d session of the 94th Congress and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on December 22, 1975, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes;

H.R. 4287. An act to provide for additional law clerks for the judges of the District of Columbia Court of Appeals;

H.R. 4573. An act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes.

H.R. 5900. An act to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers and to establish a national framework for collective bargaining in the construction industry, and for other related purposes.

H.R. 6673. An act to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes;

H.R. 8304. An act to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes;

H.R. 9968. An act to change certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 10035. An act to establish the Judicial Conference of the District of Columbia;

H.R. 10284. An act to amend title XVIII of the Social Security Act, and for other purposes;

H.R. 10355. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes;

H.R. 10727. An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes;

H.R. 11184. An act to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes; and

H.J. Res. 749. A joint resolution to provide for the beginning of the second session of the 94th Congress and for other purposes.

BILLS AND JOINT RESOLUTIONS APPROVED AFTER SINE DIE ADJOURNMENT

The PRESIDENT, subsequent to the sine die adjournment of the Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the House of the following titles:

On December 20, 1975:

H.R 2724. An act to provide for establishment of the Father Marquette National Memorial near Saint Ignace, Mich., and for other purposes;

H.R. 9005. An act to authorize for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961, and for other purposes;

H.R. 9883. An act to amend the joint resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes; and

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

On December 23, 1975:

H.R. 1535. An act to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service;

H.R. 1753. An act to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes;

H.R. 2110. An act for the relief of Joyce Ann Farrior and Sarah E. Farrior;

H.R. 4865. An act to amend title 39, United States Code, to prohibit certain franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office;

H.R. 6642. An act to provide for allotment or assignment of payments from civil service annuities, and for other purposes;

H.R. 6851. An act to increase the retired pay of certain members of the former Lighthouse Service;

H.R. 7976. An act to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes;

H.R. 8151. An act to authorize the President of the United States to present in the name of Congress, a medal to Brig. Gen. Charles E. Yeager;

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system;

H.R. 8773. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes;

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes;

H.R. 9968. An act to change certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes;

H.R. 10355. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes; and

H.R. 10555. An act for the relief of Mrika Mrnacaj.

On December 26, 1975:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers-Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

On December 27, 1975:

H.R. 6874. An act to amend the Small Reclamation Projects Act of 1956, as amended.

On December 31, 1975:

H.J. Res. 749. Joint resolution to provide for the beginning of the second session of the 94th Congress and for other purposes;

H.R. 3474. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes;

H.R. 4016. An act to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes;

H.R. 4073. An act to extend the Appalachian Regional Development Act of 1965, to increase the authorizations for the title V Action Planning Commissions, and for other purposes;

H.R. 4287. An act to provide for additional law clerks for the judges of the District of Columbia Court of Appeals;

H.R. 4573. An act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes;

H.R. 5541. An act to provide for emergency relief for small business concerns in connection with fixed-price Government contracts;

H.R. 6461. An act to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes;

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts;

H.R. 8304. An act to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes;

H.R. 8631. An act to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public renumeration in the event of a nuclear incident, and for other purposes;

H.R. 10035. An act to establish the Judicial Conference of the District of Columbia;

H.R. 10284. An act to amend title XVIII of the Social Security Act, and for other purposes;

H.R. 10792. An act for the relief of Jana Hlavaty;

H.R. 11016. An act to extend the Renegotiation Act of 1951 for 9 months;

H.R. 11172. An act to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes; and

H.R. 11184. An act to amend title 3, United States Code, to provide for foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes.

On January 2, 1976:

H.R. 6673. An act to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; and

H.R. 10727. An act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes.

BILLS DISAPPROVED AFTER SINE DIE ADJOURNMENT

The **PRESIDENT** announced his disapproval of the following bills with memorandums of disapproval as follows:

S. 2350

MEMORANDUM OF DISAPPROVAL

I return without my approval S. 2350, a bill "To amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council."

The National Security Council is one of the most important organizations in the Executive Office of the President. The Council's function, under the law, is to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The President, the Vice President, the Secretary of State, and the Secretary of Defense are the statutory members of the Council. In addition, the President may, under the law, appoint by and with the advice and consent of the Senate the Secretaries and Under Secretaries of other executive departments and of the military departments to serve at his pleasure. No President has ever exercised this latter authority.

In my judgment, enactment of S. 2350 is not necessary. From its establishment in 1947, each President has invited from time to time additional officers to participate in National Security Council deliberations when matters specifically relating to their responsibilities have been considered. In line with this practice, the President invites the Secretary of the Treasury to participate in Council affairs when issues of substantial interest to the Department of the Treasury are involved. Thus, existing arrangements provide for adequate participation of the Secretary of the Treasury in National Security Council matters.

Furthermore, additional mechanisms exist to assure that the President receives advice which takes into account the proper integration and coordination of domestic and international economic policy with foreign policy and national security objectives. Both the Economic Policy Board and the Council for International Economic Policy provide the President with high level advice on economic matters. The Secretary of the Treasury is the Chairman of these two bodies on which the Secretary of State also serves.

I believe that S. 2350 is undesirable as well as unnecessary. The proper concerns of the National Security Council extend substantially beyond the statutory responsibilities and focus of the Secretary of the Treasury. Most issues that come before the Council on a regular basis do not have significant economic and monetary implications.

Moreover, a large number of executive departments and agencies have key responsibilities for programs affecting international economic policy. From time to time these programs influence importantly our foreign policy and national security decisions. The Treasury Department does not and could not represent all those interests. Extending full statutory membership on the National Security Council to the Secretary of the Treasury would not achieve the purpose of bringing to bear on decisions the full range of international economic considerations.

For these several reasons, I am concerned that increasing the statutory membership of the Council might well diminish its flexibility and usefulness as a most important advisory mechanism for the President.

In sum, S. 2350 is unnecessary, since adequate arrangements for providing advice to the President on the integration of economic and foreign policy already exist, and it is undesirable because the proposed arrangement is inconsistent with the purposes of the National Security Council and would lessen the current and desirable flexibility of the President in arranging for advice on the broad spectrum of international and national security policy matters.

H.R. 5900

MEMORANDUM OF DISAPPROVAL

I am returning without my approval H.R. 5900, commonly known as the Common Situs Picketing Bill.

The bill before me represents a combination of H.R. 5900, which would overturn the United States Supreme Court's decision in the *Denver Building Trades* case and the newly proposed construction industry collective bargaining bill, S. 2305, as amended. During the development of this legislation, I stipulated that these two related measures should be considered together. The collective bargaining provisions have great merit. It is to the common situs picketing title that I address my objections.

I had hoped that this bill would provide a resolution for the special problems of labor-management relations in the construction industry and would have the support of all parties. My earlier optimism in this regard was unfounded. My reasons for this veto focus primarily on the vigorous controversy surrounding the measure, and the possibility that this bill could lead to greater, not lesser, conflict in the construction industry.

There are intense differences between union and nonunion contractors and labor over the extent to which this bill constitutes a fair and equitable solution to a long-standing issue. I have concluded that neither the building industry nor the Nation can take the risk that the bill, which proposed a permanent change in the law, will lead to loss of jobs and work hours for the construction trades, higher costs for the public, and further slowdown in a basic industry.

Gerald R. Ford.

The White House, *January 2, 1976.*

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2226. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Navy to offer to sell certain defense articles and services to Israel, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

2227. A letter from the National Executive Director, American Veterans of World War II—Korea and Vietnam, transmitting the audit report of AMVETS for the fiscal year ended August 31, 1975, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2228. A letter from the National Director of Administration and Services, Marine Corps League; transmitting the annual report and audit of the League as of June 30, 1975, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2229. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of a letter to the President appealing the Office of Management and Budget reduction in the Board fiscal year 1976 employment level, pursuant to section 304(b)(7) of Public Law 93-633; to the Committee on Public Works and Transportation.

2231. A letter from the Chairman, Commission on Information and Facilities, U.S. House of Representatives, transmitting a report on the staff required to provide the House Legislative Counsel with the capability to meet fully the needs of the Members of the House, pursuant to section 204(d) of House Resolution 988, 93d Congress (H. Doc. No. 94-327); ordered to be printed.

Received From the Comptroller General

2230. A letter from the Comptroller General of the United States, transmitting a report on operations auditing by the Defense Contract Audit Agency; jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. House Resolution 945. Resolution providing for meetings of the House on Tuesdays and Fridays, authority to receive messages and sign enrollments, authority to declare recesses, and authority to call up resolutions from the Committee on Rules without a two-thirds vote for the remainder of the first session, 94th Congress. (Rept. No. 94-767). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 2718 (Rept. No. 94-768). Ordered to be printed.

Mr. REUSS: Committee of conference. Conference report on S. 2327 (Rept. No. 94-769). Ordered to be printed.

[*Pursuant to the order of the House on December 10, 1975, the following report was filed on December 31, 1975*]

Mr. PERKINS: Committee on Education and Labor. H.R. 10760. A bill to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes; with amendment (Rept. No. 94-770). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOWEN (for himself, Mr. Alexander, and Mr. Jones of Tennessee):

H.R. 11285. A bill to facilitate the sale of U.S. agricultural commodities to be stored in the United States not subject to export control and restricted from resale into the U.S. markets; to the Committee on International Relations.

By Mr. BRADEMAS:

H.R. 11286. A bill to amend title 44, United States Code, to provide a 1-year extension for the preparation of the report of the National Study Commission on Records and Documents of Federal Officials; to the Committee on House Administration.

By Mr. BREAUX (for himself and Mr. Waggonner):

H.R. 11287. A bill to prohibit persons who are not citizens of the United States from acquiring more than 5 percent of the voting securities of certain domestic producers of materials used in the production of fertilizers; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. Conable, Mr. Helstoski, Mr. Jones of Oklahoma, Mr. Mikva, Mr. Rangel, and Mr. Stark):

H.R. 11288. A bill to amend title XVIII of the Social Security Act to provide coverage for services which may be performed by a dentist on the same basis as presently allowed for physicians under the medicare program, and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Dominick V. Daniels, Mr. Forsythe, Mr. Hughes, Mr. Jenrette, Mr. Maguire, and Mr. Miller of California):

H.R. 11289. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mrs. Keys, Mr. Helstoski, Mr. Jones of Oklahoma, Mr. Karth, Mr. Mikva, and Mr. Rangel):

H.R. 11290. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Davis, Mr. Jenrette, and Mr. Santini):

H.R. 11291. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. DEVINE (for himself and Mr. Skubitz):

H.R. 11292. A bill to amend the Regional Rail Reorganization Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee:

H.R. 11293. A bill to reduce the level of Federal employment to the level which existed on July 1, 1975; to the Committee on Post Office and Civil Service.

By Mr. FISHER:

H.R. 11294. A bill to prohibit certain civil supersonic aircraft from landing at, or taking off from, Dulles International Airport or Washington National Airport; to the Committee on Public Works and Transportation.

By Mr. HANLEY:

H.R. 11295. A bill to amend title 5, United States Code, to extend preference eligibility to the mother, father, and wife or husband of any individual who is a prisoner of war or missing in action; to the Committee on Post Office and Civil Service.

H.R. 11296. A bill to amend title 39, United States Code, to require the Postal Service to notify the local offices of each State employment service with respect to employment vacancies in the Postal Service; to the Committee on Post Office and Civil Service.

By Mr. HEINZ (for himself, Ms. Abzug, Mr. Melcher, Mr. Ottinger, and Ms. Schroeder):

H.R. 11297. A bill to amend title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. Downey of New York, Mr. Edgar, Mr. Eshleman, Mr. McHugh, Mrs. Meyner, Mr. Mineta, Mr. Mosher, Mr. Ottinger, Mr. Patterson of California, Mr. Pattison of New York, Mr. Sarasin, Mr. Solarz, Mr. Charles Wilson of Texas, and Mr. Won Pat):

H.R. 11298. A bill to establish a National Commission on Victimless Crimes; to the Committee on the Judiciary.

By Mr. HENDERSON (for himself, Mr. Derwinski, and Mr. White):

H.R. 11299. A bill to amend chapter 83 of title 5, United States Code, to bar civil service annuity payments during periods an annuitant is entitled to receive salary as a justice or judge of the United States; to the Committee on Post Office and Civil Service.

By Ms. HOLTZMAN:

H.R. 11300. A bill to amend the Immigration and Nationality Act to exclude from admission into and to deport from the United States all aliens who persecuted others on the basis of religion, race, or national origin under the direction of the Nazi Government of Germany; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 11301. A bill to amend the Internal Revenue Code of 1954 to allow income tax deductions for social security and retirement taxes paid by individuals; to the Committee on Ways and Means.

By Mr. KETCHUM (for himself, Mr. Lujan, Mr. Gibbons, and Mr. Whitehurst):

H.R. 11302. A bill to amend the Voting Rights Act of 1965 to limit certain aspects of its coverage for other than racial groups; to the Committee on the Judiciary.

By Mr. McDADE (for himself, Mr. Biester, Mr. Coughlin, Mr. Eshleman, Mr. Goodling, Mr. Heinz, Mr. Johnson of Pennsylvania, Mr. Schultze, Mr. Shuster, Mr. Morgan, Mr. Barrett, Mr. Dent, Mr. Edgar, Mr. Eilberg, Mr. Flood, Mr. Gaydos, Mr. Green, Mr. Moorhead of Pennsylvania, Mr. Murtha, Mr. Nix, Mr. Rooney, Mr. Vigorito, and Mr. Yatron):

H.R. 11303. A bill to designate the Herman T. Schneebeli Federal Building; to the Committee on Public Works and Transportation.

By Mr. MIKVA:

H.R. 11304. A bill to amend the Federal Trade Commission Act to provide indemnification in certain instances by business firms to sales representatives for the unjustified termination of their jobs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MINISH:

H.R. 11305. A bill to regulate lobbying and related activities; jointly to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. PATTERSON of California:

H.R. 11306. A bill to establish a reduced rate of postage for letters sealed against inspection mailed by private individuals; to the Committee on Post Office and Civil Service.

By Mr. RINALDO:

H.R. 11307. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. ROBERTS (by request):

H.R. 11308. A bill to direct the Administrator of Veterans' Affairs to conduct a scientific study to determine the relationship between amputations and cardiovascular disorders; to the Committee on Veterans' Affairs.

H.R. 11309. A bill to direct the Administrator of Veterans' Affairs to conduct a study to determine the effects of age upon service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. ROBERTS (for himself and Mr. Montgomery) (by request):

H.R. 11310. A bill to amend title 38 of the United States Code to provide that certain persons with a service-connected disability of 30 percent or more, will have 2 years in which to apply for service disabled veterans insurance (RH); to the Committee on Veterans' Affairs.

H.R. 11311. A bill to amend title 38 of the United States Code to provide additional compensation for a veteran with a dependent spouse or child in need of regular aid and attendance; to the Committee on Veterans' Affairs.

H.R. 11312. A bill to amend title, 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 11313. A bill to amend title 38, United States Code, to extend eligibility for automobile adaptive equipment to certain additional veterans; to the Committee on Veterans' Affairs.

H.R. 11314. A bill to amend title 38 of the United States Code to authorize a presumption of service connection for cause of death in certain cases involving veterans who had been rated permanently and totally disabled due to service-connected disability for at least 1 year immediately preceding death; to the Committee on Veterans' Affairs.

By Mr. RODINO (for himself and Mr. Hutchinson) (by request):

H.R. 11315. A bill to define the jurisdiction of U.S. courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 11316. A bill to amend the Public Health Service Act to extend for 3 fiscal years assistance programs for health services research and statistics and programs for assistance to medical libraries; to the Committee on Interstate and Foreign Commerce.

H.R. 11317. A bill to extend for 3 fiscal years the programs of assistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; to the Committee on Interstate and Foreign Commerce.

By Mr. St GERMAIN:

H.R. 11318. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. STEELMAN (for himself, Mr. Fascell, Mr. Bennett, Mr. Drinan, Mr. Gibbons, Mr. LaFalce, Mr. Lent, Mr. McHugh, Mr. Mottl, Mr. Nix, Mr. Patterson of California, Mr. Scheuer, and Mr. Weaver):

H.R. 11319. A bill to provide that meetings of Government agencies shall be open to the public, and for other purposes; to the Committee on Government Operations.

By Mr. THORNTON:

H.R. 11320. A bill to amend section 376 of title 28, United States Code, in order to reform and update the existing program for annuities to survivors of Federal Justices and judges; to the Committee on the Judiciary.

By Mr. VANDER VEEN:

H.R. 11321. A bill to suspend until July 1, 1977, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 11322. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for electrical energy fuel surcharges imposed by public utilities; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself and Mr. Hagedorn):

H.R. 11323. A bill to provide for the establishment of the Minnesota Valley National Wildlife Recreation Area; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. ALEXANDER:

H.R. 11324. A bill to amend titles XVIII XIX of the Social Security Act to provide an optional, simplified method of reimbursement for physicians' services under the medicare and medicaid programs for each State on the basis of a fee schedule, uniform throughout such State, and to authorize reimbursement to participating physicians in the full fee schedule amounts (with collection of the applicable deductible and coinsurance from patients becoming the responsibility of the Federal program); jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BAFALIS (for himself and Mr. Haley):

H.R. 11325. A bill to amend section 5(a) of the Wild and Scenic Rivers Act by designating the Myakka River in Florida as a potential addition to the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. DRINAN:

H.R. 11326. A bill to establish an independent agency to administer the internal revenue laws; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. Rogers, and Mr. Mollohan):

H.R. 11327. A bill to revise and extend the provisions of title XII of the Public Health Service Act relating to emergency medical services systems, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FLORIO (for himself, Mrs. Chisholm, Mr. Cornell, Mr. Drinan, Mr. Edgar, Ms. Holtzman, Mr. Harrington, Mr. Mitchell of Maryland, Mr. Moss, Mr. Nix, Mr. Ottinger, Mr. Pattison of New York, Mr. Stark, Mr. Scheuer, Mr. Symington, and Mr. Waxman):

H.R. 11328. A bill to amend the Community Mental Health Centers Act to require States which receive assistance under that act to establish and maintain mental health advocacy services; to the Committee on Interstate and Foreign Commerce.

By Mr. FORSYTHE:

H.R. 11329. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with even-handed protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 11330. A bill to amend the Federal Power Act to provide greater authority in the Federal Power Commission to regulate interlocking officers and directorships between public utilities and financial organizations and suppliers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS:

H.R. 11331. A bill to amend the Internal Revenue Code of 1954 to treat certain distributions of part of an employee's balance in a pension plan as lump-sum distributions if the entire amount of such balance is not distributed because of pending litigation; to the Committee on Ways and Means.

By Mr. HEINZ (for himself, Mr. Drinan, and Mr. Harkin):

H.R. 11332. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HECHLER of West Virginia (for himself, Mr. Bell, Mr. Blouin, Mr. Downing of Virginia, Mr. Flowers, Mr. Hayes of Indiana, Mr. Krueger, Mrs. Lloyd of Tennessee, Mr. Pressler, Mr. Thornton, and Mr. Wirth):

H.R. 11333. A bill to authorize a program of energy research, development, and demonstration to assist in the exploration and development of oil and gas on the Outer Continental Shelf, and for other purposes; jointly, to the Committees on Science and Technology, and Interior and Insular Affairs.

By Mr. MIKVA:

H.R. 11334. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate rehabilitative services under approved State plans, of blind and disabled children who are receiving supplemental security income benefits; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 11335. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

By Mr. REGULA (for himself, Mr. Brown of Ohio, Mr. Broyhill, Mr. Del Clawson, Mr. Crane, Mr. Derwinski, Mr. du Pont, Mr. Erlenborn, Mr. Lott, Mr. Pattison of New York, Mr. Sarasin, and Mr. J. William Stanton):

H.R. 11336. A bill to amend the Congressional Budget Act of 1974 to establish in the Congress a zero-base budgeting process, with full congressional review of each Federal program at least once every 6 years; to the Committee on Rules.

By Mrs. SCHROEDER (for herself, Mr. Lehman, Mrs. Spellman, and Mr. Hinshaw):

H.R. 11337. A bill to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SIMON (for himself, Mr. Solarz, Mr. Ottinger, Mr. Long of Maryland, Mr. Brodhead, Mr. Hechler of West Virginia, Mr. Badillo, Mr. Downey of New York, Mr. Dellums, Mr. Hughes, Mr. Rees, Mr. Pattison of New York, Mr. Seiberling, Mr. Bedell, Mr. Hayes of Indiana, Mr. Weaver, Mr. Edgar, Mr. Mikva, Mr. McHugh, Mr. Patterson of California, Mr. Mezvinsky, Mr. Drinan, and Mr. Baucus):

H.R. 11338. A bill to amend the Arms Control and Disarmament Act to require the Director of the Arms Control and Disarmament Agency to prepare arms control impact reports with respect to certain transfers of nuclear materials or technology to foreign countries; to the Joint Committee on Atomic Energy.

By Mr. WAMPLER:

H.R. 11339. A bill to establish a National Agricultural Research Policy Committee and for other purposes; to the Committee on Agriculture.

By Mr. BEARD of Tennessee:

H.R. 11340. A bill to establish a procedure under which the Congress may disapprove rules or regulations adopted by the executive branch which are contrary to law or inconsistent with congressional intent or which exceed the mandate of the statutes which they are designed to implement; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 11341. A bill to amend the Public Health Service Act to revise and improve the authority under that act for the regulation of clinical laboratories; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES V. STANTON (for himself, Mr. Badillo, Mr. Davis, Mr. Long of Maryland, Mr. Downey of New York, Mr. Edgar, Mr. Fountain, Mr. Harrington, Mr. Helstoski, Ms. Holtzman, Mr. Litton, Mr. Mitchell of Maryland, Mr. Stark, Mr. Studds, Mr. Vander Veen, and Mr. Waxman):

H.R. 11342. A bill to establish the position of Special Assistant to the President for National Security Affairs; to the Committee on Armed Services.

By Mr. BLOUIN:

H.J. Res. 761. Joint resolution authorizing and requesting the President to issue a proclamation designating February of each year to be American History Month; to the Committee on Post Office and Civil Service.

By Mrs. BURKE of California:

H.J. Res. 762. Joint resolution to designate the calendar week of each year during which the third Wednesday of March occurs, as National Community Health Week; to the Committee on Post Office and Civil Service.

By Mr. CLEVELAND (for himself, Mr. Boland, Mr. Cohen, Mr. Moorhead of California, Mr. St Germain, Mr. Sarasin, Mr. Stratton, and Mr. Vander Jagt):

H.J. Res. 763. Joint resolution to authorize the President of the United States to designate National Ski Week; to the Committee on Post Office and Civil Service.

By Mr. MATSUNAGA (for himself, Mr. Horton, Mr. Brown of California, Mr. Scheuer, Mr. Weaver, Mr. du Pont, Mr. Carter, and Mr. Won Pat):

H.J. Res. 764. Joint resolution to declare a United States policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

By Mr. RAILSBACK:

H.J. Res. 765. Joint resolution to designate the fourth Monday in March of each year as National Agriculture Day; to the Committee on Post Office and Civil Service.

By Mr. COHEN (for himself, Mr. Scheuer, Mr. Mosher, Mr. Hannaford, Mr. Emery, Mr. Mikva, Mr. Hughes, and Mr. Pritchard):

H. Con. Res. 519. Concurrent resolution to express the sense of the Congress that Congress should be consulted prior to the commitment of significant U.S. resources for covert military operations abroad; to the Committee on International Relations.

By Mr. FRASER (for himself, Mr. Carney, and Mr. Rosenthal):

H. Con. Res. 520. Concurrent resolution indicating the sense of Congress that every person throughout the world has the right to a nutritionally adequate diet; and that this country increase its assistance for self-help development among the world's poorest people until such assistance has reached the target of 1 percent of our total national production (GNP); jointly to the Committees on Agriculture, and International Relations.

By Mr. MATSUNAGA (for himself, Mr. Bedell, and Mr. Seiberling):

H. Con. Res. 521. Concurrent with respect to an international treaty banning lethal chemical weapons; to the Committee on International Relations.

By Mr. ROUSSELOT:

H. Con. Res. 522. Concurrent resolution expressing the sense of the Congress that any gold to be released from the International Monetary Fund should be offered for restitution at the official price to the member nations of the International Monetary Fund in proportion to their cumulative subscriptions to the International Monetary Fund; to the Committee on Banking, Currency and Housing.

By Mr. STUCKEY (for himself, Mr. Hansen, Mr. de la Garza, Mr. Litton, Mr. Brinkley, Mr. Burlison of Missouri, Mr. Ambro, and Mr. Pickle):

H. Con. Res. 523. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNING of Virginia (for himself, Mr. AuCoin, Mrs. Heckler of Massachusetts, Mr. Mitchell of New York, Mr. Moakley, Mr. Oberstar, and Mr. Sarbanes):

H. Res. 949. Resolution creating a select committee to conduct an investigation and study of the circumstances surrounding the death of John F. Kennedy; to the Committee on Rules.

By Mr. GOLDWATER (for himself, Mr. John L. Burton, and Mr. Phillip Burton):

H. Res. 950. Resolution expressing the gratitude of the House of Representatives to Oliver Sipple for his selfless heroism in preventing the assassination of Gerald R. Ford, President of the United States of America; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Res. 951. Resolution creating the Select Committee on Nuclear Proliferation and Nuclear Export Policy; to the Committee on Rules.

By Mr. RYAN (for himself, Mr. Tsongas, Mr. Charles Wilson of Texas, and Mr. Hechler of West Virginia):

H. Res. 952. Resolution to direct the Committee on Appropriations and the Committee on International Relations to begin immediate studies of the relationship of the United States with the United Nations and to report, within 3 months, to the Speaker of the House of Representatives recommendations with respect to whether the manner and nature of such relationship should be changed; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. EDGAR:

H.R. 11343. A bill for the relief of J. B. Archer; to the Committee on the Judiciary.

By Mr. HILLIS:

H.R. 11344. A bill for the relief of Yung Chan Choi and Kapsoon Jin Choi; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 11345. A bill for the relief of Jiri V. Parma; to the Committee on the Judiciary.

H.R. 11346. A bill for the relief of Kan Hwanpo; to the Committee on the Judiciary.

By Mr. HOWE:

H.R. 11347. A bill to convey the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation; to the Committee on Government Operations.

Ms. KEYS:

H.R. 11348. A bill to direct the Secretary of the Interior to convey certain lands in Geary County, Kans., to Margaret G. More; to the Committee on Interior and Insular Affairs.

By Mr. PREYER:

H.R. 11349. A bill for the relief of M. Sgt. William E. Boone, U.S. Army, retired; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 11350. A bill for the relief of Philip H. Ward; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 11351. A bill for the relief of Kitzman Plumbing and Heating, Inc.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

351. By the SPEAKER: Petition of Mrs. J. M. Cox, Midwest City, Okla., relative to a "Bill of Rights for Foster Children"; to the Committee on Education and Labor.

352. Also, petition of the board of supervisors, Santa Barbara County, Calif., relative to the Federal Land and Water Conservation Fund program; to the Committee on Interior and Insular Affairs.

353. Also, petition of the Oklahoma Cattlemen's Association, Oklahoma City, Okla., relative to the proposed Prairie National Park; to the Committee on Interior and Insular Affairs.

354. Also, petition of Wilford L. Marker, New Philadelphia, Ohio, relative to redress of grievances; to the Committee on the Judiciary.

SENATE—*Friday, December 19, 1975*

(Legislative day of Monday, December 15, 1975)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT P. GRIFFIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Behold I bring you good tidings of great joy, which shall be to all people.

For unto you is born in the city of David, a Saviour, which is Christ the Lord.

Let us now go even unto Bethlehem and see this thing which has come to pass which the Lord hath made known unto us.—Luke 2:10, 11, 15.

O God, show us the way of the manger-child and the guiding star and the ancient refrain. "Peace on Earth among men of good will." Grant us wisdom as we work, safety when we travel, and reverent joy at Christmastide.

Now unto the King eternal, immortal, invisible, the only wise God, be honor, and glory forever and ever.—1 Tim. 1:17. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 19, 1975.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT P. GRIFFIN, a Senator from the State of Michigan, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. GRIFFIN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, December 18, 1975, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, may I ask what the order of events for this morning is? I do not have my agenda.

The ACTING PRESIDENT pro tempore. Following the recognition of the majority and minority leaders, under a previous order, the Senator from Iowa (Mr. CLARK) will be recognized for not to exceed 15 minutes.

Mr. MANSFIELD. I understand that is to be vacated.

The ACTING PRESIDENT pro tempore. To be followed by a special order for the recognition of the Senator from New York (Mr. JAVITS), followed by a special order for the recognition of the Senator from West Virginia (Mr. ROBERT C. BYRD). Then there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited to 5 minutes. Then the Senate will resume the consideration of H.R. 9861.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous order, the Senator from New York is recognized.

THE UNEMPLOYMENT SITUATION

Mr. JAVITS. Mr. President, before the Congress winds up the business of this session today, I would like to ask my colleagues to reflect on the alarmingly slow pace of recovery this Nation is making out of the current deep recession, and particularly, the impact this is having on the bleak employment prospects facing millions of jobless workers. When the Congress reconvenes next month we must initiate new affirmative programs to assure the 7.7 million jobless men and women of this country that measures are being taken to get them off the unemployment lines and back on the road to becoming productive, contributing members of America's work force.

The programs we have adopted so far to stimulate the economy and bring the rate of unemployment down from its highest levels since the Great Depression have helped, but they clearly have not been enough. Although some economic indicators report a slow recovery from the current recession, other indicators point to a conclusion that the economic recovery is already losing steam. After only a few months of strong recovery, most important indicators are pointing toward extremely slow and spotty growth, if not actual resumption of the recession.

Every major index of consumer confidence and sentiment—the University of Michigan's survey research center, Sindlinger and Associates, First National City Bank, and the Conference Board—indicates extreme consumer pessimism and caution. Retail sales, which moved up sharply in late spring have stood still since late July and have already begun to show signs of weakness. The growth of consumer credit in October was 30 percent below that of September. In November, housing starts were down for the first time in 5 months, and industrial production growth was only two-tenths of 1 percent, half that of October and the smallest rise in 6 months.

Business investment in real terms is not expected to grow at all in 1976. According to the Conference Board, the 1,000 largest manufacturing firms appropriated only $10.8 billion in the third quarter for capital investment, the fourth successive decline in this important component. The Conference Board predicts a decline of 1 percent in 1976 capital investment.

The November unemployment rate of 8.3 percent represents a statistical drop from the October figure of 8.6 percent. However, lest anyone be lulled into complacency by these figures, I would like to point out some characteristics of those persons who are presently unemployed.

In November 1974, fully half the unemployed were out of work for less than 5 weeks, while only 7 percent had been out of work longer than 27 weeks. In November of 1975, 33 percent were unemployed for less than 5 weeks, while 21.2 percent were out of work longer than 27 weeks. By comparison, in the 1958 recession, the highest monthly figure for the number of unemployed idle for more than 6 months was slightly over 1 million. Thus, the rate of long-term unemployed has increased by over 300 percent in the past year.

These figures leave little doubt that potentially employable individuals are finding it increasingly difficult to find their way back to productive employment. Equally distressing is the fact that the individual's first line of defense against unemployment, unemployment insurance, will soon no longer provide any defense at all to millions of men and women who will remain unemployed in the coming month.

Many currently unemployed workers first lost their job toward the end of 1974 or in the early months of 1975. With 65 weeks the maximum duration for UI benefits under the various programs, it is clear that those who have not found jobs will exhaust their benefit rights in increasing numbers after the first of the new year. Moreover, the present law calls for changes in the "trigger" mechanism governing the duration of benefits under the final UI program, Federal supplemental benefits, which provides benefits from the 39th to the 65th weeks of unemployment.

The situation of our Nation's jobless is even worse when we consider the fact that hundreds of thousands of workers who have only recently entered or reentered the work force are not even covered by unemployment compensation protection.

The facts are that on January 1, 1976, unemployed workers in 31 States will face reductions in the duration of their unemployment benefits and later in 1976 the prospect of going off unemployment assistance entirely. The latest data provided by the U.S. Department of Labor shows that at the end of last September 788,000 unemployed workers had exhausted their total benefits. By the end of this month, the final figures will show that nearly 1.3 million workers will have totally exhausted their benefits. By the end of June 1976, it is virtually certain that there will be at least 1,600,000 unemployed who will have come to this desperate situation.

For those who have exhausted their benefits and are currently jobless, and for those who are currently jobless and receiving benefits which will be exhausted within the next 6 months, we face the worst unemployment problem since the Great Depression. Even with our present extraordinary extension of unemployment benefits to as long as 65 weeks, we have only restored the proportion of those workers who draw their full benefit entitlement to levels comparable to that of more normal economic conditions.

We do not have data on the unemployment experience of unemployment insurance exhaustees, although there can be no question that their job prospects in this depressed employment market are bleak. We do know, however, that this group has to be counted among the hardest hit by the recession, and whatever we do about new employment opportunities, through improved job creation and job preparation programs, has to be targeted at these particular people.

The slow rate of economic recovery, and a continuing pessimism by both consumers and business in terms of capital goods, gives us a warning that this situation demands action very early next year after we have had a chance to go home, look at the situation ourselves, and digest the facts and figures and the alternative options which I shall propose in a moment. When we come back in the middle of January, we must immediately confront this problem.

I will say that I have not pressed forward with a measure because I believe that it would be improvident to try to do so at the very tail end of the session. However, it is unlikely that a simple extension of unemployment insurance benefits alone will prove to be the answer to this serious unemployment problem. We need to consider all available options, including the following:

The first one, obviously, is a further extension of unemployment compensation, at least until more affirmative programs are devised and put in place.

Second, more public service jobs and new project-oriented job creation programs in the local communities. Additional funds for this purpose have already been included within the budget resolution. Canada has tried with some success what is called the Local Initiative Program and a similar program has been successfully tried in Sweden.

A third alternative is authorizing the long-term unemployed to enroll in skilled training and occupationally related education programs.

The fourth alternative is a further examination of employer tax credits to encourage the employment of long-term unemployed workers and those workers who have exhausted their unemployment compensation.

These alternatives, Mr. President, are by no means mutually exclusive; but they represent ideas for Members to think about during the recess between the first and second sessions.

Finally, Mr. President, Senator HUMPHREY and I, along with others in this body, have introduced bills to make good the promises of the Employment Act of 1946. But, at this time I am trying to deal solely with what we shall do respecting the unemployed, especially those who have exhausted their benefits.

I have conferred with Senator WILLIAMS, the distinguished chairman of the Committee on Labor and Public Welfare, my constant partner in all these great matters, and with Secretary Dunlop, who has undertaken to provide us the most recent data available concerning workers who have exhausted their benefits under ongoing programs and to help us with whatever assistance we need in developing alternatives.

Also, we intend to work with both the private sector and with organized labor, who are so critically important and concerned in these decisions.

I hope very much that Members will give thought to what I have laid before them today.

When we come back, it shall be my purpose—and I believe I shall be joined by Senator WILLIAMS, the chairman of our committee—to propose to the Senate and to Congress generally the alternative or alternatives which we believe are the best adapted to dealing with what is already a very critical situation and which promises to become even graver in the next 6 months.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material in connection with this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE UNEMPLOYMENT INSURANCE FEDERAL SUPPLEMENTAL BENEFITS, FINAL PAYMENTS, JANUARY–SEPTEMBER, 1975

	January	February	March	April	May	June	July	August	September
Alabama	0	0	0	19	7	50	363	598	761
Alaska	0	0	0	0	1	11	60	48	5
Arizona	0	0	0	123	521	912	2,178	1,455	1,564
Arkansas	0	0	4	235	441	261	331	538	555
California	0	83	5,882	21,167	15,298	16,486	13,063	13,877	14,496
Colorado	0	0	0	10	96	251	13	10	76
Connecticut	0	0	0	8,000	6,000	7,000	6,000	4,000	4,000
Delaware	0	0	0	0	0	58	81	0	346
District of Columbia	0	0	0	0	2	740	158	26	571
Florida	0	0	0	442	4,262	5,646	7,180	9,154	8,702
Georgia	0	0	0	641	2,750	4,636	0	1,138	1,931
Hawaii	0	0	0	0	0	0	0	632	774
Idaho	0	0	0	192	295	338	113	91	118
Illinois	0	0	0	0	[1] 500	[1] 500	[1] 500	567	575
Indiana	0	0	0	[1] 1,500	[1] 1,800	[1] 1,900	[1] 1,600	[1] 1,700	[1] 1,700
Iowa	0	0	0	78	655	945	1,117	1,286	[1] 1,300
Kansas	0	0	0	0	41	30	508	180	300
Kentucky	0	0	0	0	21	580	771	885	517
Louisiana	0	0	0	0	342	731	1,182	1,183	1,936
Maine	0	750	500	947	1,078	13	1,182	599	674
Maryland	0	0	0	0	1	1,111	1,657	1,702	2,229
Massachusetts	0	0	0	12,000	8,000	9,000	11,000	8,000	9,000
Michigan	21	3,758	10,035	22,879	13,313	13,079	19,583	15,402	12,184
Minnesota	0	0	12	56	1,088	1,482	2,867	915	891
Mississippi	0	0	0	0	91	487	862	288	418
Missouri	0	0	0	52	1,104	1,520	0	1,382	1,984
Montana	0	0	0	47	144	298	406	[1] 400	374
Nebraska	0	0	0	0	75	397	679	1,064	1,104
Nevada	0	77	382	406	762	519	906	1,139	966
New Hampshire	0	0	0	0	0	0	[1] 1,200	[1] 300	[1] 300
New Jersey	0	0	5,830	16,746	12,329	13,109	16,377	12,041	12,632
New Mexico	0	0	0	0	11	224	316	184	302
New York	0	0	0	0	0	0	[2] 53,035	11,947	10,594

	January	February	March	April	May	June	July	August	September
North Carolina	0	0	0	0	0	176	2,003	339	546
North Dakota	0	0	0	0	0	0	29	52	46
Ohio	0	0	0	0	1	218	1,847	33	488
Oklahoma	0	0	0	0	0	6	67	247	439
Oregon	0	36	231	2,858	1,185	869	927	758	627
Pennsylvania	0	0	0	0	0	13,815	[1]13,000	[1]13,000	10,467
Rhode Island	28	1,063	3,194	9,691	5,591	6,138	11,896	5,732	4,707
South Carolina	0	0	0	0	0	0	1,628	1,883	1,988
South Dakota	0	0	0	3	50	59	120	105	128
Tennessee	0	0	0	110	820	1,224	0	716	331
Texas	0	0	0	0	0	462	1,352	1,780	2,380
Utah	0	0	0	229	433	509	248	442	708
Vermont	0	0	0	1,164	478	354	424	343	288
Virginia	0	0	0	[1]800	[1]600	[1]600	[1]500	[1]600	[1]600
Washington	0	558	3,591	8,324	6,478	6,923	5,612	3,827	3,501
West Virginia	0	0	0	0	0	0	[1]2,100	[1]500	[1]400
Wisconsin	0	9	88	78	446	87	1,086	832	787
Wyoming	0	0	0	[1]100	[1]100	100	[1]100	[1]100	[1]100
Puerto Rico	0	0	0	0	0	0	0	5,003	3,069
U.S. total cumulative total (788,000)	49	6,334	29,749	110,000	87,000	115,000	188,000	128,000	125,000

[1] Includes rough estimates.

[2] 1st submittal of data was in July.

Source: U.S. Department of Labor, Employment and Training Administration.

States by EB–FSB trigger rates for week ending November 29, 1975

Below 5.0 Percent

Colorado	3.20
Delaware	4.38
D.C.	4.16
Idaho	4.33
Indiana	4.09
Iowa	3.41
Kansas [1]	3.18
Louisiana [1]	3.52
Minnesota	3.90
Mississippi	4.16
Nebraska	3.34
North Carolina	4.58
North Dakota [1]	1.72
Ohio [1]	4.53
Oklahoma	4.43
South Dakota [1]	1.65
Texas	2.50
Utah [1]	4.12
Virginia	2.67
Wisconsin	4.36
Wyoming	1.45

From 5.0 Percent to 5.99 Percent

Alabama	5.90
Georgia	5.29
Hawaii [1]	5.72
Kentucky	5.64
Maryland	5.23
Missouri	5.51
Montana	5.20
New Hampshire [1]	5.22
New Mexico	5.14
South Carolina	5.73
Tennessee	5.80
West Virginia	5.04

Six Percent and Over

Alaska	6.64
Arizona	6.68
Arkansas	6.06
California	6.55
Connecticut	7.66
Florida	6.08
Illinois	6.29
Maine	6.59
Massachusetts	7.94
Michigan [1]	8.43
Nevada	6.36
New Jersey [1]	8.36
New York	7.15
Oregon	6.66
Pennsylvania	6.95
Puerto Rico	20.66
Rhode Island	8.38
Vermont	7.53
Washington	8.82

[1] Trigger rate indicators as of November 22, 1975.

Mr. WILLIAMS. Mr. President, I wish to congratulate the Senator from New York (Mr. JAVITS) for the breadth and perceptiveness of his statement. As usual, he has identified the most urgent imperatives of the problem before us, and he has identified a set of policy options for the Congress to consider.

His central concern at this time, which I share, is for the many jobless workers who have no unemployment benefits to sustain them. Either they have exhausted their entitlements without finding a job, or they have not worked long enough to qualify for unemployment benefits before being laid off.

In recent days as we near the threshold of the Nation's Bicentennial year, the Senator from New York and I, in our capacities as ranking minority member and chairman respectively of the Committee on Labor and Public Welfare, have given special attention to these concerns.

We have reviewed carefully the steps that the committee has taken in the current recession to confront joblessness, with a feeling of urgency that arises from the conviction that the economic recovery which began last summer has been stalled for several weeks.

Last December, when the recession was in its early stages, the committee recommended and the Congress pass an emergency public service jobs program to provide employment for those who could find no other work and had no unemployment benefits to sustain them.

The committee's bill resulted in jobs for some 250,000 workers, most of whom are still employed in the work that was created by the December act.

Another part of that act established a special unemployment assistance program to provide unemployment benefits for workers who are laid off from jobs that are not covered by the regular unemployment compensation insurance program. For the first time under this program, some 12 million State and local government employees, farm workers, domestic workers, and other similar classes of workers had available to them up to 26 weeks of unemployment benefits in event they were laid off.

Also in December, the Finance Committee recommended, and the Congress enacted, a 13-week extension of the regular unemployment compensation program, bringing the maximum coverage under that program to 52 weeks at that time.

In April, another 13 weeks was added to the regular UI program, and in June, the special unemployment assistance program was increased by 13 weeks, making the maximum 65 weeks and 39 weeks respectively for the two programs.

Despite these extensive congressional initiatives, the effects of joblessness remain severe. Nearly 8 million persons were counted as unemployed last month. Another 1.2 million were unemployed, but not counted, because they had given up hope of ever finding a job and stopped searching.

Most disturbing to me has been the fact that thousands upon thousands of unemployed workers have been exhausting their unemployment benefits each week. Our best figures indicate that, each month, about 100,000 receive the last of their unemployment checks, facing the prospect of welfare, bankruptcy, or both. Next year, the pace of exhaustions is expected to increase, until a total of nearly 1.7 million will have been removed from the unemployment benefit rolls without having found a job.

In consultations with officials of the Labor Department earlier this week, we were told that this rate of exhaustions is not uncommonly high for any recent year. While that may be true, there can be no doubt that those who exhaust the longer term unemployment benefits now available are persons who have the greatest difficulty finding work in our modern economy. They are the people who need help the most.

And while the national rate of exhaustions is not uncommonly high, the situation in my home State of New Jersey is a crisis. Already this year, 70,000 persons have lost their unemployment benefits before finding a job. Some 450,000 persons are without work. The unemployment rate is 13.3 percent, computed by the method used by the State of New Jersey, and over 11 percent computed by the Federal method which disregards persons who have quit looking for work in despair. The situation in New Jersey is not unlike the situation in New York, Rhode Island, Massachusetts, and virtually the entire northeast corner of this Nation.

To confront this rampant joblessness, we have persistently tried to assemble a series of programs and program expansions to create jobs and to alleviate the effects of unemployment. But it has not been easy.

Severe budget constraints have been imposed on the Federal budget by the recession. The constraints are far more severe for State and local governments, who are expected to bear at least a small part of the cost of any such Federal program. In addition, the economic policies of the current administration have not included a significant offensive against joblessness by creating jobs.

So Congress has tried to pick its way through the hazards and the obstacles, and it is my belief that we have chosen a sound path.

One part of that effort we have planned has been passed in its final form by the Senate and awaits final passage by the House. It is H.R. 5247, a major public works job creation bill that also contains an important new program to provide emergency countercyclical assistance to State and local governments where unemployment is greatest and revenues are reduced, to permit them to maintain essential services.

Another part is being carefully devised to be ready for swift congressional approval in January. This will be the emergency legislation to extend and expand the public service employment program originally enacted a year ago. The congressional budget adopted a few days ago allows enough funds to add about 250,000 new jobs to the 310,000 now existing under titles II and VI of the Comprehensive Employment and Training Act.

We are also at work preparing a plan to directly confront the problems of those who exhaust their unemployment compensation, with special attention to giving them the opportunity to have work in public service employment.

I deeply hope that President Ford will join with us in these efforts. Thus far, he has not indicated any enthusiasm for Federal job-creation programs, but in the days ahead, I hope that he will look with favor on such efforts. So many jobless Americans' ability to survive will depend upon his decision in this regard.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, who is next to be recognized under the order?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. Have both of the preceding orders been consummated?

The ACTING PRESIDENT pro tempore. The first order, for Mr. CLARK, was yielded back by the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I yield back the time allotted to me.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 15 minutes, with statements therein limited to 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rscinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10 a.m. today.

There being no objecion, the Senate, at 9:29 a.m., recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUMPERS).

The PRESIDING OFFICER (Mr. BUMPERS). There are 12 minutes remaining in morning business. Is there further morning business?

Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

STATE OF THE ELDERLY

Mr. CLARK. Mr. President, this marks the third time in as many years that I have had the opportunity to discuss the problems of this Nation's senior citizens and the efforts that have been made by the Federal Government in the past year to address these problems. My first speech in the Senate, in 1973, was an attempt to assess the state of the elderly in the Nation at that time.

We are now three-quarters of the way through this century, and it might be useful to consider how the situation of older Americans has changed from what it was at the beginning of the 20th century.

Many social, economic, and demographic changes have occurred over the past 75 years that have brought about numerous new responsibilities for our Nation in terms of its attention to the needs of its senior citizens. Our society has become more and more mobile, with elderly parents and relatives often left behind. Older Americans can no longer depend on the support they once received from their children, relatives, and friends.

In addition, the ranks of the elderly Americans have grown substantially in the past 75 years. While in 1900, one out of every 25 Americans was 65 years or older, today that proportion is 1 out of 10, amounting to 22 million citizens. And by the end of this century, it has been estimated that their numbers will increase further to 30 million, 12 percent of our population.

The character of senior citizens as a group demonstrates the justification for programs designed for their special needs.

First, a disproportionate amount of people over 65 are female, and this is the reverse of the situation in 1900. Today, there are 143 older women for every 100 men. This fact contributes to the emphasis that should be placed on the special needs of our female senior citizens, many of whom live alone or with nonrelatives.

Second, most senior citizens remain in the small towns where they have spent much of their life, often in the same home over a period of many years. Therefore, we find that older Americans are concentrated in the small towns and rural areas of this country, where they are often left without the emotional support of their families. The 1970 census showed that 77 percent of the elderly now live in rural areas. My own State of Iowa contains the third largest concentration of senior citizens in this Nation, and six of the seven other States with the highest proportions of elderly citizens are located in a rural belt that stretches from South Dakota to Arkansas.

Third, what was once a personal, emotional decision to remain in the communities that they have known is now becoming an economic one as well. Rampant price increases in recent years have left no one immune from the shrinking worth of the dollar, but those on fixed incomes, like our retired Americans, always seem to be hit the hardest. And in these times of spiraling inflation, the results can be disastrous for them. Our elderly spend proportionately more of their income than other people for food, shelter, and medical care, which are items that have skyrocketed in price.

Fourth, a substantial portion of older Americans do not receive enough income to support themselves. And those who live alone or with nonrelatives tend to be the poorest of any identifiable group in the United States. Nearly 60 percent receive less than $3,000 a year in income or other benefits. Even among older Americans as a whole group, about one of every six are below the official poverty index. Thus, despite the contributions of pensions, savings, social security benefits, and the supplementary security income program, more than 3 million older people live in conditions of poverty.

Fifth, senior citizens have special health needs. Older individuals are subject to more chronic conditions and disabilities, see physicians 50 percent more often, and have about twice as many hospital stays than younger persons.

But good health costs a great deal of money in America. And older Americans account for four times as much in health care services as younger Americans. While they represent 10 percent of the population, senior citizens account for almost a third of personal health care expenditures in this country.

The points that I have mentioned—the high proportion of women among older Americans, their low incomes and decreasing buying power, their concentration in small, rural communities, and their special health needs—indicate that the Federal Government must conceive and implement policies that confront the special problems of the elderly.

I intend to focus my remarks on several of the topics that were discussed in last year's state of the elderly speech and also on a few new ones. These subjects are social security, medicare, health care legislation, the Older American Act Amendments of 1975, the food stamp program, community service and employment, and veterans' legislation.

SOCIAL SECURITY

There can be little doubt that the single most beneficial program ever enacted by Congress to aid the financial situation of America's senior citizens is the social security program. This program has reflected a cooperative effort of all the citizens of the United States—of those who are young and old, of those who work and those who are retired or unable to work.

Social security is marking its 40th year in 1975, and it truly has become an American institution. However, like any other program enacted by Congress, the social security progam ought to be reviewed in order to determine the extent to which it is achieving its goals.

In the past few years, many questions have been raised about the ability of the social security trust fund to bear the strains of this inflationary period. Certainly, this question ought to be confronted, and the Senate Special Committee on Aging—on which I serve—is doing just that. This committee is undertaking a thorough study of the long-range trends in the program through its hearings on "Future Directions in Social Security," and it will be proposing changes to insure the continued financial stability of the system.

One subject in which I have a particular interest is the ability of the program to respond to increases in the costs of the goods and services that the elderly must purchase. It cannot be denied that the social security program has helped many older Americans to avoid entering a life of poverty. Although the number of poverty-stricken older Americans has declined by 1½ million since 1960, the elderly still comprise the most economically disadvantaged age group in this country. And thus it is so important that the social security program be able to react to the increasing financial needs of older Americans.

Today, the social security system is more responsive to changes in the cost of living, but still inadequately so. Under the existing cost-of-living escalator provisions in the social security law, benefits for the 32 million beneficiaries were increased by 8 percent beginning with checks issued in July 1975. President Ford's proposal to limit this increase to 5 percent was soundly defeated by a Congress determined to aid our older Americans through this period of inflation. With this 8 percent rise, the average monthly benefits of a retired worker increased from $184 to $200, those of a retired couple went from $314 to $341, and the monthly benefits to aged widows increased from $178 to $193.

Two important points should be kept in mind. First, the Consumer Price Index, upon which the adjustments are determined, is an inadequate tool for measuring the increases of costs to the elderly. Older people tend to have spending habits that are quite different from those of an urban family of four with a moderate income, upon whose spending habits is based the Consumer Price Index. The expenditures for housing, food, and medical care constitute a major proportion of senior citizens' budgets—about 70 percent—while less than 60 percent of the income of households with younger working heads is devoted to those needs.

Second, the social security benefits are adjusted just once a year in July based on the 12-month increase in the cost of living from the first quarter in 1 year to the first quarter in the following year. However, the increases that took effect on July 1 only took into account the 8 percent rise in costs from the second quarter in 1974 to the first quarter of this year. Therefore, those increases do not help the elderly person with the inflation that has occurred since March, which has amounted to about 5 percent both for food and for medical care. The elderly must wait until July of next year before this inflation, and the inflation that is likely to occur in the coming months, can be reflected in increased benefits.

For these two reasons, I have sponsored the introduction of a new measure, the Special Consumer Price Index for Older Americans. This index would weight the consumer prices according to the expenditures of senior citizens. It would be adjusted twice a year, rather than just once, so that it would more accurately correspond to the current cost of living for older Americans.

As I indicated above, many senior citizens are still living in conditions of poverty, despite the introduction of the supplemental security income program. The intention of this program was to build a federally guaranteed floor under the incomes of the aged, blind, and disabled. But that floor is still much too low. With the July increase, an individual participating in the SSI program will receive about $40 a week, or close to $1,900 a year, while the 1974 poverty benchmark was determined to be almost $500 greater than that annual level. Therefore, I am in strong support of increasing the SSI benefit levels, so that no elderly person needs to go without the basic necessities.

MEDICARE

The second major triumph for the Nation's senior citizens came a decade ago with the enactment of the medicare legislation. With this law on the books, the U.S. Government made a firm commitment to protect the health of its elderly and to do so at minimum cost to them. Although medicare provides valuable protection, its coverage has been reduced by rigid administrative regulations and soaring health care prices.

There have been increased costs in such noncovered items as out-of-hospital prescription drugs, eyeglasses, hearing aids, and dental care. Nursing home care and home health services are covered by medicare, but the rigid administrative guidelines for reimbursement have had the effect of making these services account for less than 3 percent of medicare's expenditures. Also, the existing law prohibits reimbursement for preventive medicine, so that medicare only covers the critical health needs of individuals.

In addition, the deductibles and other charges under medicare have had sharp increases. The medicare hospitalization deductibles have risen more than twofold since 1966, and coinsurance payments for hospitalization and extended care have also soared. The optional supplemental medical insurance has undergone similar increases in cost, with premiums more than doubling since 1966.

The ultimate effect of these increases has been that elderly individuals now pay more for medical care than they did before medicare was inaugurated. Medicare today covers only about 38 percent of the senior citizen's health care expenses, a decline from the 45 percent just a few years ago. And this downward trend is likely to continue.

Any package of medicare reforms should stress the importance of preventative care for the elderly. A provision for reimbursement for a yearly physical may reduce the need for costly surgery and hospitalization. Furthermore, home health care should be emphasized, so that hospital or nursing home admissions can be avoided and costs reduced.

Several steps were taken by the Congress this year that were aimed at preventing more increases in health care costs for older Americans. In June, the House and Senate passed a measure that protects nearly 50,000 persons from the loss of medicaid coverage that would have resulted from the 20 percent increase in social security benefits in 1972. With the President's signature on this bill, elderly medicaid beneficiaries can be assured of continued participation in the program.

Also in June, the Senate tabled an amendment that would have permitted an increase in the medicare premium charges for supplemental medical insurance.

On October 2, Senator FRANK CHURCH, the chairman of the Special Committee on Aging, introduced a bill that would freeze the medicare hospitalization deductible at $92. If this bill is not enacted soon, the deductible will automatically increase to $104 on January 1, 1976. Also, such an increase would also increase coinsurance charges by 13 percent for nursing home care and lengthy hospital stays. The Committee on Aging has calculated that Senator CHURCH's bill would reduce out-of-pocket payments by more than $100 million for the nearly 6 million aged and disabled medicare patients who are expected to be hospitalized next year.

HEALTH CARE LEGISLATION

Congressional action in three other areas should be of interest to those concerned about the health care problems of older Americans.

Those of us on the Senate Special Committee on Aging have spent many months investigating the reports of abuses in nursing homes. Under the direction of Senator Moss, the investigators found numerous instances of gross negligence, unsanitary and unsafe conditions, misappropriation of funds by nursing home operators, and lack of proper health care services.

Immediate action by Congress and by the Department of Health, Education, and Welfare is absolutely necessary to halt these practices. New, effective standards ought to be enacted and they should be enforced to the greatest extent possible. At the same time, the Congress should promote policies that would give older Americans other alternatives besides entering nursing homes. Senior citizens should be afforded every opportunity to continue a life of semi-independence, rather than be left with no option other than becoming dependent upon an extended-care facility.

A second health care area that has received congressional attention has been the issue of health manpower. Attempts have been made in recent years to address the problem of the geographic maldistribution of health care services through policies providing incentives for health professionals to practice in underserved areas.

Health services are still clustered in urban and suburban areas where professionals can command the highest salaries. This situation is definitely detrimental to older Americans, whose health care needs are great and who often reside in rural areas, small towns, or innercities, where health services are often inaccessible.

In June, the House of Representatives acted favorably on a health manpower bill that constructively deals with the problem of geographic maldistribution of services. The most significant provision in this regard concerns the funding that is allocated to professional schools to reduce the cost of tuition.

The House-passed bill would give students the option of practicing in medically underserved areas as an alternative to paying back that portion of their tuition that was supported by these funds. This option, combined with a strengthened National Health Service Corps, should help to provide rural and innercity senior citizens with the same level of care as that received by other Americans. It is my hope that the Senate will include this type of a provision in its health manpower bill.

Home health services is another area where we have seen congressional action. A Government survey showed that more than a quarter of all older patients in hospitals and nursing homes throughout the United States have no medical reasons for being there and could live in their homes if appropriate assistance and services were available.

With this in mind, the House and Senate enacted the Health Revenue Sharing Act in July of this year, over the veto of President Ford. This new law authorizes funds to establish home health agencies in areas where such agencies are not now available. This act also expands the services to be provided by home health care to include increased visiting nurse care, home aide assistance, laboratory services, physical therapy, and prescription drugs. I look forward to seeing our elderly take full advantage of this legislation, so that home health care is accessible to every elderly individual who wishes an alternative to institutionalization.

OLDER AMERICAN ACT AMENDMENTS

Like the medicare program, the Older Americans Act celebrates its 10th anniversary this year. Although the current administration and its predecessor failed to either request adequate funding for the programs authorized by this legislation or to spend all the money that has been appropriated for these programs, the act has made a significant contribution to the lives of many senior citizens.

The Older Americans Act has made a number of achievements in a variety of areas.

There are now State offices on aging in all 50 States, and more than 400 regions now have area agencies on aging that are located in areas containing 70 percent of Americans over the age of 60.

Under title VII of the act, increasing numbers of older Americans are participating in a hot meal program. These participants receive daily nutritious meal at more than 4,000 sites and through a meals-on-wheels program.

Other programs contained in the Older Americans Act include career training programs in courses related to aging, a national information clearinghouse on aging, model projects in education, housing, and transportation for the elderly, and community service and employment programs.

In November, the House and Senate overwhelmingly approved the conference committee report on the Older American Act Amendments of 1975. In addition to an extension through fiscal year 1978 of the programs just mentioned, four new provisions were included in the 1975 amendments.

First, a new requirement was inserted regarding the plans that are to be drawn up by the State agencies on aging. This would require States to assure the Federal Government that they will commit no less than 20 percent of their appropriations for title III social services for four priority services. They include transportation services particularly suited to the needs of older Americans, in-home services, where aides would perform general household chores and meet the medical needs of the elderly, home repair services, including renovation, home improvements, and the installation of energy-saving features, and legal services for the elderly.

Second, the model projects section would be expanded to include ombudsmen services to nursing home residents, improved services to low-income, rural, minority, Indian, and limited-English-speaking senior citizens, and assistance in the establishment of ambulatory day care centers for senior citizens.

Third, the training section of the act would be expanded to include the services of lawyers and paraprofessionals who provide legal counseling and who monitor services for older Americans.

Finally, the 1975 amendments take an important step by including a prohibition of age discrimination in all programs that receive Federal financial assistance. Thus, a new national policy has been declared that "ageism" will not be tolerated. Moreover, the Civil Rights Commission would be authorized to study this issue and to determine the extent to which elderly individuals are subject to age discrimination in federally assisted programs.

These new amendments, and the extensions of the existing provisions of the act, provide the framework for the types of social service programs that senior citizens so desperately need. It is now the responsibility of the administration to enact these amendments, to request adequate funding so the programs can reach many more elderly people and to fully utilize those funds.

THE FOOD STAMP PROGRAM

A topic of great concern to me is the food stamp program as it affects older Americans. The current debate centers around changes in the levels of food stamp benefits, as proposed by the U.S. Department of Agriculture. In early November our committee—the Special Committee on Aging—held a hearing in which witnesses described the hardships that elderly persons would bear as a result of these proposed changes.

Approximately 2½ million food stamp recipients are more than 60 years of age, representing about 15 percent of all who receive food stamps. The changes that the USDA promoted would have adversely affected most of these older food stamp recipients, and they would have constituted an especially harsh burden for elderly women. A nutritionally adequate diet would not have been provided to those who need it. Instead, many older individuals would have been terminated from the program, or would have received reduced assistance.

For these reasons, those of us who serve as members of the Special Committee on Aging urged President Ford to reject the USDA proposals.

The 94th Congress is also currently considering proposals to make major reforms in the food stamp program. If legislation is enacted to reduce the number of eligible participants, the elderly would surely be adversely affected. Some proposals would restrict eligibility to those with gross incomes below the poverty level, and this would create an additional work disincentive for senior citizens who still work. The Congress should not ignore the possible effect upon the elderly when it acts on food stamp reform legislation.

COMMUNITY SERVICE AND EMPLOYMENT

Perhaps the greatest challenge to those concerned about the special needs of senior citizens is to provide opportunities for these individuals that are rewarding, enriching, and perhaps even financially desirable. Retirement can be a period in life when older Americans reevaluate their goals and look for new opportunities for fulfillment. But for many, it is a time of emptiness. It is also a period of loneliness, and despair.

Our Nation must continue to provide new opportunities to older citizens, not only to make their lives more enriching, but also because they can make a significant contribution to our society.

In the past few years, the Congress has authorized a number of programs that can offer opportunities for volunteer and community service employment. Such programs as the foster grandparent program, the senior companions program, the retired senior volunteer program, and the senior community service employment program help give senior citizens more purposeful lives. At the same time, those who participate in these and similar programs are providing considerable services to exceptional children, children in school settings, older persons with home-health needs, and to many others in a wide variety of activities. In almost every case, these activities have been enthusiastically endorsed by older participants and by those served by the program.

The Congress should continue to expand these opportunities. It should do all it can to provide these types of opportunities to as many older individuals as possible.

A recent survey of attitudes about aging was conducted by Louis Harris and Associates for the National Council on the Aging. This survey reveals that the elderly constitute a great as yet untapped resource of volunteer strength. As much as a third of the total number of potential older volunteers are not being utilized, and this represents some 2 million citizens.

But older Americans do not want to do volunteer work exclusively. In fact, about a third of our senior citizens would like to work for pay, and even a larger proportion say that they did not choose to leave the work force entirely.

The biggest reason seems to be the mandatory retirement policies of this Nation. I believe that our country should reevaluate these policies, which may constitute the cruelest form of age discrimination. Older Americans do not want to be abandoned by our society; they do not believe that they are unproductive citizens. And the general public seems to agree with this analysis, for according to the Harris survey, some 85 percent are opposed to mandatory retirement at a fixed age.

We ought to take a fresh look at our social security laws to determine if they penalize those over the age of 65 who are still working and discourage others from doing so. And we in Congress should take all other necessary steps to make certain that older Americans can continue to be contributing members of our society.

VETERANS LEGISLATION

Congress has passed legislation this year and is in the process of studying further legislation that will improve the condition of those who have served in the Armed Forces.

This past spring, the focus of congressional action in this area was on measures to aid disabled veterans. By overwhelming margins, the House and Senate in June passed the Veterans Disability Compensation and Survivors Benefits Act of 1975. This piece of legislation increases the compensation payments for the 2.2 million disabled veterans and also increases payments to the 390,000 widows and children of deceased servicemen.

Last year, I indicated that extensive reform of the veterans' pension system was necessary to make the system more responsive to the needs of veterans and their families. This reform is now especially important because the recent social security increase may diminish the levels of pensions to many veterans.

The House of Representatives took action in early November to address this problem. Although the Veterans and Survivors Pension Adjustment Act that was passed was rather limited in nature, a much more comprehensive measure is currently under consideration by the Senate Veterans' Affairs Committee.

This bill, introduced by Senator HARTKE and which I have cosponsored with 25 other Senators, would extensively reform the veterans' pension system. It would establish a basic minimum level of income for all eligible veterans and dependents and would adjust this minimum level through an automatic annual cost-of-living escalator. In this way, no veteran would lose pension benefits as a result of a cost-of-living increase in social security.

This pension reform measure would address the poverty problem that exists among many veterans and their families. We know that despite the assistance provided by veterans' pensions, nearly half of older veterans and widows now receiving pension payments have incomes that are below the poverty level. And about a third of this Nation's veterans cannot even afford to pay for the food, medical care, and housing they need.

Therefore, it is imperative that a bill like Senator HARTKE's be given close attention by the Congress. We must allow veterans and their survivors to live their lives in dignity and financial security by assuring them a decent level of income.

OTHER AREAS

There are some areas where we have yet to see congressional action, and they should be pinpointed as well. Transportation represents one of the largest expenditures for our older Americans, and costs are rising, making it difficult for low-income older people to utilize mass transportation services and own automobiles. In rural areas, any kind of mass transportation is often unavailable. The Administration on Aging has been conducting hearings and research on this vital issue, and a number of bills have been introduced in Congress to provide relief for our elderly as well.

Housing is another critical area for our elderly. It is widely acknowledged that a significant number of elderly people live in homes that are unsuitable because of deteriorating neighborhoods. The 1971 White House Conference on Aging recommended that 120,000 units for the elderly should be constructed each year, but that level has not yet been reached. Unfortunately, the lack of adequate housing is a problem that confronts our entire population, and Congress will have to work especially hard to see that the special housing needs of the elderly are taken into account.

It is evident that there is a pressing need for Federal action on many fronts to help our older Americans. The Federal Government, including both the Congress and the administration, has the responsibility to provide leadership toward these directions. But legislative and administrative initiatives will not alone accomplish the necessary tasks—our country needs to develop an attitude toward older people that fully recognizes their right to participate in all levels of our society.

The PRESIDING OFFICER. Is there further morning business?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. GRIFFIN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that on December 16, 1975, he approved and signed the following bills:

S. 223, an act for the relief of North Central Educational Television, Inc.

S. 364, an act relating to certain Forest Service timber sale contracts involving road construction.

S. 1537, an act to amend the Defense Production Act of 1950, as amended.

MESSAGES FROM THE HOUSE

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal Employees' Health Benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 2, and 3, to the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles; that the House agrees to the amendments of the Senate numbered 4, 6, and 8, with amendments in which it requests the concurrence of the Senate; and that the House agrees to the amendment of the Senate to the title of the bill.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 6673) to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 8304) to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 10355) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5900. An act to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers and to establish a national framework for collective bargining in the construction industry, and for other related purposes.

H.R. 11016. An act to extend the Renegotiation Act of 1951 for nine months.

H.R. 10792. An act for the relief of Jana Hlavaty.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

At 4:45 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 9968) to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 322) entitled the Hells Canyon National Recreation Area Act.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 1469) to authorize the Secretary of the Interior to enroll certain Alaska Natives for benefits under the Alaska Native Claims Settlement Act, to resolve certain issues arising from the implementation of such act, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 95. An act to guarantee the constitutional right ot vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States.

H.R. 4573. An act to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes.

H.R. 11184. An act to amend title 3, United States diplomatic missions, to provide for foreign diplomatic missions, to increase the size of the Executive Protection Service, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. GRIFFIN).

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1975—CONFERENCE REPORT (REPT. NO. 94–585)

Under authority of the order of the Senate of December 18, 1975, Mr. HARTKE submitted a report during the adjournment of the Senate from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 332. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the provisions of the "Rehabilitation Act Extension of 1975" (S. 2807) (Rept. No. 94–586).

By Mr. GRAVEL, from the Committee on Public Works, with amendments:

S. 2071. A bill to authorize appropriations for the repair of highways in the State of Alaska, and for other purposes (Rept. No. 94–587).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce: Bob Casey, of Texas, to be a Federal Maritime Commissioner.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATUS OF NOMINATIONS

Nominations returned to the President following the sine die adjournment of the Senate on December 19, 1975, under the provisions of paragraph 6 of rule XXXVIII of the Standing Rules of the Senate:

John William Kauffman, of New Jersey, to be a Member of the Board of Regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1977.

Eddie G. Smith, Jr., of the District of Columbia, to be a Member of the Board of Regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1976.

Charles E. Schwab, of Colorado, to be a Member of the Federal Metal and Nonmetallic Mine Safety Board of Review for the term expiring September 15, 1979.

William J. Kendrick, of Maryland, to be a Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1979.

Two hundred and thirty Public Health Service nominations beginning Maurice B. Burg, to be medical director, and ending Jon P. Yeagley, to be senior assistant health services officer, which nominations were printed in the Congressional Record of July 18, 1975.

(Note: All other nominations pending but not acted upon at the close of the 94th Congress, 1st session, were carried over to the 94th Congress, 2d session, by the order of the Senate of December 17, 1975.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, December 19, 1975, he presented to the President of the United States the following enrolled bills:

S. 313. An act to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Texas, and for other purposes.

S. 1281. An act to extend the authority for the flexible regulation of interest rates on deposits and share accounts in depository institutions, to extend the National Commission on Electronic Fund Transfers, and to provide for home mortgage disclosure.

S. 2350. An act to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council.

AUTHORITY TO FILE A REPORT ON THE NOMINATION OF GEORGE BUSH TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. STENNIS. Mr. President, I ask unanimous consent for permission to file a committee report containing both majority and minority views at any time not later than midnight, January 14, on the nomination of Mr. George Bush, which was reported to the Senate on December 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BURDICK:

S. 2828. A bill to grant a Federal charter to the United States Athletic Hall of Fame, Incorporated. Referred to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 2829. A bill to amend the Internal Revenue Code of 1954 to reduce the excise tax based on investment income of private foundations. Referred to the Committee on Finance.

By Mr. PHILIP A. HART:

S. 2830. A bill for the relief of Gary A. Broyles. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 2831. A bill to improve the requirements for licensing of Federal pilots for steam vessels, and for other purposes. Referred to the Committee on Commerce.

By Mr. MUSKIE (for himself, Mr. HUGH SCOTT, Mr. NELSON, Mr. DOLE, Mr. BAKER, Mr. BAYH, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. CURTIS, Mr. EAGLETON, Mr. GOLDWATER, Mr. GRAVEL, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. PACKWOOD, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. SYMINGTON, Mr. TUNNEY, Mr. WILLIAMS, Mr. YOUNG, and Mr. LEAHY):

S. 2832. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations. Referred to the Committee on Finance.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 2833. A bill to prohibit the sale and use of nonreturnable beverage containers on Federal lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (for himself, Mr. CHILES, Mr. FORD, Mr. HUDDLESTON, Mr. STONE, and Mr. WILLIAMS):

S. 2834. A bill to regulate interstate commerce in wagering on horse racing, to maintain the stability of the horse racing industry, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. HANSEN:

S. 2835. A bill to amend section 1403 of the Interstate Land Sales Full Disclosure Act to provide an exemption for land sold free and clear of all liens and encumbrances other than that reservation required by the Act of August 30, 1890. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. METCALF:

S. 2836. A bill to amend the Federal Power Act to provide greater authority in the Federal Power Commission to regulate interlocking officers and directorships between public utilities and financial organizations and suppliers, and for other purposes. Referred to the Committee on Commerce.

By Mr. HANSEN:

S. 2837. A bill to amend the act of August 30, 1890, to except a tract of ground located in Carbon County, Wyoming, from its restrictions. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 2838. A bill to reduce the risks to public health and safety from theft or diversion of special nuclear materials and from sabotage of nuclear facilities. Referred to the Joint Committee on Atomic Energy.

By Mr. INOUYE:

S. 2839. A bill to supplement authority of the Secretary of Commerce to collect regular and periodic information on foreign direct and portfolio investments in the United States and on American investments abroad, and for other purposes. Referred to the Commitee on Commerce.

By Mr. McINTYRE:

S.J. Res. 157. A joint resolution to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by Federally related financial institutions for property located in communities not participating in the national flood insurance program. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARTLETT:

S. 2829. A bill to amend the Internal Revenue Code of 1954 to reduce the excise tax based on investment income of private foundations. Referred to the Committee on Finance.

TAXATION OF PRIVATE FOUNDATIONS

Mr. BARTLETT. Mr. President, today I have introduced a bill to reduce from 4 percent to 2 percent the excise tax on investment income of private charitable foundations. This bill, if enacted, will significantly add to the total amount of funds available for charitable purposes.

The excise tax on private charities was designed to cover administrative costs of Government audits on foundation books. However, the present 4-percent tax can represent several hundred thousands dollars annually on large charities. Obviously, this is far in excess of the amount necessary to maintain annual audits.

The 2-percent tax provided in this bill will more than cover all administrative costs of supervising private foundations. I believe we should make every effort to encourage charitable foundations. They are fulfilling on a voluntary basis functions which Government would otherwise have to finance and perform.

By Mr. MAGNUSON:

S. 2831. A bill to improve the requirements for licensing of Federal pilots for steam vessels, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, in July of this year, the Congressional Office of Technology Assessment—OTA—issued an outstanding report entitled "Oil Transportation by Tankers: An Analysis of Marine Pollution and Safety Measures." As the report shows, all waterborne commerce is increasing rapidly, led by the growth in oil shipping. This fact was recognized by the Congress when it enacted the Ports and Waterways Safety Act of 1972. This act was designed to bring about a systematic approach to the task of reducing accident risks in ever-crowded U.S. harbors and waterways.

But as the OTA report reveals, over 50 percent of collision or grounding accidents with tankers is due to human error. Given this fact, one would assume that strong measures are being taken to improve the expertise of vessel personnel and pilots. Unfortunately, as the report shows, such is not the case. At page 61, I found the following statement: "Marine licenses in themselves do not assure competency." This was contrasted with the far more progressive licensing practices of the airline industry. The report recommends several improvements, including restricting licenses to the size and type of vessel an individual is proficient in handling.

One area of marine licensing which needs improvement is the licensing of Federal pilots for "steam vessels." A steam vessel is any vessel subject to safety inspection, first, under 46 United States Code 361 and is propelled in whole or in part by steam or any other form of mechanical or electric power, or second, under 46 United States Code 391a and having on board any inflammable or combustible liquid cargo or hazardous substance in bulk. All coastwise vessels, when in U.S. waters, and all inland commercial vessels are required to be under the control of a federally licensed pilot.

Coastwise vessels are those enrolled and licensed for the domestic trade and which sail between ports or places in the United States. The individual States regulate pilotage on other vessels operating in U.S. waters.

The separation of authority between State and Federal Government has remained unchanged for over a hundred years. And the licensing of Federal pilots has not changed significantly for nearly as long.

At the OTA report suggests, however, vessel sizes have grown dramatically and novel vessels are being built. Since the Federal pilot licensing requirements depend heavily on experience, it is questionable when many currently licensed pilots have the necessary expertise to handle newer and larger vessels. I think we need to know the answer to that question. Therefore, I introduce, for appropriate referral, a bill to improve requirements for the licensing of Federal pilots.

This bill contains added authority for the Coast Guard to develop more modern licensing procedures. In addition, the bill authorizes the Commandant of the Coast Guard to encourage improved and uniform State laws for the regulation of pilotage.

This bill is part of an overall effort to improve, and make safer, the Nation's marine transportation system. As the OTA report has pointed out to us, there are numerous ways to reduce the risks in our waterways. The Committee on Commerce anticipates examining other ways next session in oversight hearings on the Ports and Waterways Safety Act.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Pilotage Improvement Act."

SEC. 2. Section 4442 of the Revised Statutes is amended by deleting the entire section and inserting in lieu thereof the following new language:

"(a) The Commandant of the United States Coast Guard is authorized and directed, in accordance with subsection (b) of this section, to establish eligibility requirements for the issuance of a license to pilot any steam vessel.

(b) No person may be issued a license to pilot any steam vessel unless he—

(1) is at least 21 years of age;

(2) is of sound health and has no physical limitations which would hinder or prevent the performance of a pilot's duties;

(3) agrees to have a thorough physical examination each year while holding a pilot's license;

(4) demonstrates, to the Commandant's satisfaction, that he possesses the requisite general knowledge and skill to hold a pilot's license;

(5) maintains adequate knowledge of the waters to be navigated as a pilot;

(6) demonstrates, to the Commandant's satisfaction, his ability to handle any vessel of the type and size which he may be endorsed to pilot;

(7) is not, with respect to a license to pilot seagoing coastwise vessels—

(A) a member of the regular compliment of any such vessel;

(B) an employee of the owner of any such vessel; or

(C) an employee of the owner of any cargo transported by any such vessel; and

(8) meets any other requirement which the Commandant considers reasonable and necessary.

(c) No license to pilot any steam vessel shall be valid for a term longer than 3 years. Upon expiration of any such license, the holder may reapply for an additional term and may be reissued a license if he meets the requirements under subsection (b) of this section.

(d) The Commandant may revoke or suspend any license to pilot any steam vessel upon satisfactory evidence of—

(1) negligence;

(2) unskillfulness;

(3) failure to adhere to any requirements for a license;

(4) willful violation of title 52 of the Revised Statutes; or

(5) other just cause related to the performance of pilot duties.

(e) For the purposes of this section, the term—

(1) 'coastwise vessel' means a vessel which is enrolled and licensed for domestic trade and operates solely between ports or places in the United States; and

(2) 'seagoing coastwise vessel' means any coastwise vessel which operates in waters in which the International Rules of the Road must be observed."

SEC. 3. The Commandant of the Coast Guard shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the regulation of pilotage.

By Mr. MUSKIE (for himself, Mr. HUGH SCOTT, Mr. NELSON, Mr. DOLE, Mr. BAKER, Mr. BAYH, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CULVER, Mr. CURTIS, Mr. EAGLETON, Mr. GOLDWATER, Mr. GRAVEL, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. PACKWOOD, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. SYMINGTON, Mr. TUNNEY, Mr. WILLIAMS, Mr. YOUNG, and Mr. LEAHY):

S. 2832. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations. Referred to the Committee on Finance.

REFORM OF INEQUITABLE TAX TREATMENT OF PUBLIC CHARITIES

Mr. MUSKIE. Mr. President, for the past 4 years the Congress has been studying and debating the problem of inequitable limitations imposed by the Internal Revenue Code on tax exempt public charities which advocate the public interest directly before the Congress.

Today, I am introducing with Senators SCOTT of Pennsylvania, NELSON and DOLE and other Senators a bill which we hope will write the final chapter in this debate in the 94th Congress.

I first introduced a proposal of this kind in 1971 when presented with studies of the uneven application of our tax laws relating to public charities. That proposal was patterned after a resolution adopted by the American Bar Association. Again in the 93d Congress, I was joined by Senators SCOTT, NELSON, DOLE and 35 other Members of the Senate in an effort to define the amount of legislative activity in which those charities could be involved.

Under current law, publicly supported charities may lose their sources of revenue from tax deductible contributions if a substantial part of their activities involve efforts to influence legislation. This vague standard, set forth in section 501 (c)(3) of the Internal Revenue Code, has unpredictably, unreasonably and unnecessarily restricted the worthwhile and legitimate activities of these organizations.

By imposing an uncertain and unclear measure on the scope of an institution's activities, they are likely to play safe and not do anything that might jeopardize their financial support. The code, in effect, has a chilling effect on the exercise of their first amendment rights, and as a result the Congress and the public lose valuable sources of information.

Current law makes the standard even more inequitable because it allows businesses, under a tax code provision adopted in 1962, to deduct all expenses incurred in lobbying even though the public charities are not allowed a similar privilege. Our bill would help reduce this inequity.

When I first offered a reform of section 501(c)(3), an organiaztion named American Labor and Industry for the SST was running advertisements in the New York Times and the Washington Post. The organization had been formed to develop and coordinate industry and grassroots support for the supersonic transport. The organization was a business association, organized pursuant to section 501(c)(3) of the Internal Revenue Code. As such, it was tax exempt, and for Federal income tax purposes contributions to it were deductible. Thus the massive lobbying effort which was launched in support of the SST, was, in effect, subsidized by the Federal Government by means of favorable tax treatment.

Mr. President, in 1962 I supported the amendment to section 162 of the Internal Revenue Code which permits tax-exempt business associations such as the SST coalition to engage in lobbying activities. I did so to assure that Congress would have the most complete record possible as it considers legislation. I did so with the feeling that the denial of tax-exempt status for such organizations would hamper their ability to communicate effectively with the Congress on matters where their expertise, experience, and interest were directly involved. The 1962 amendment which added section 162(e) to the tax laws has resulted in a flow of valuable information to the Congress.

Public interest and environmental organizations, however, are legally prohibited from contributing to the legislative process. These organizations can be a valuable source of information; they can broaden legislators' understanding of proposed legislation, and they can suggest valuable legislative alternatives.

Accordingly, I am today introducing a bill to amend Section 501 of the Internal Revenue Code. The amendment is identical to H.R. 8021, introduced by Representative CONABLE and cosponsored by 22 other Members of the House of Representatives. It reflects more than 4 years of study of this issue by Members of Congress, the Joint Committee on Internal Revenue Taxation, and the Coalition of Concerned Charities. The bill provides that a specific portion of an organization's budget may be expended for lobbying activities, and that the proportion would decrease as the total annual budget increases in size up to an overall limit of $1,000,000. The limitations in the bill would apply to "carrying on propaganda, or otherwise attempting to influence legislation." However, certain activities could be engaged in without regard to the limitation, including communications between an organization and its members with regard to legislation of direct interest to the members; the provision of technical advice to a governmental body or committee; making available the results of nonpartisan analysis, study or research; communications with the executive branch; and communications with legislative bodies concerning issues of direct concern to the life of the organization, such as its existence or tax-exempt status.

The bill would not apply to those charitable organizations which are private foundations. Therefore, it would not affect the activities of any private foundation as defined in the Tax Reform Act of 1969.

The limitations in the present law have had a severe impact on the ability of charitable and public interest groups to participate meaningfully in the formulation of public policy. A determination that such an organization has engaged substantially in attempting to affect legislation will result in a denial of tax-exempt status and a consequent denial of deductions for contributions which the organization receives. This is the equivalent to death for many of them. Even a review of their tax-exempt status can dry up desperately needed funds. It makes no sense to decide that these organizations operate in the public interest and grant them tax-exempt status and then silence them when they attempt to speak to those who must decide public policy.

The groups which suffer most under these limitations of the Internal Revenue Code are civil rights organizations, consumer and environmental groups and public interest law firms. The outstanding characteristic of these groups has been their advocacy of the views of those who are underrepresented before governmental agencies, in the courts, and Congress. It is fundamental to our constitutional system that they should have equal access along with business groups and others in presenting views to Congress. This is so, not because the views of the public interest groups are necessarily correct, but because in considering the increasingly complex matters which come before it, the Congress should hear and weigh all views to the fullest extent possible.

On this point, it is instructive to review the language of the Senate committee report which accompanied the 1962 trade lobbying provision. The committee stated:

> It is also desirable that taxpayers who have information bearing on the impact of present laws, or proposed legislation, on their trade or business not be discouraged in making the information available to the members of the Congress or legislators in other levels, of Government. The presentation of such information to the legislators is necessary to a proper evaluation on their part of the impact of present or proposed legislation. S. Rept. No. 1881, 7th Congress, 2nd Session.

This reasoning is eminently sound and should be applied fairly to all groups which represent interests affected by legislation.

Today the business community spends enormous sums of money trying to influence public opinion and Congress on legislative matters. Yet public interest groups, conservation groups, and other nonprofit tax-exempt organizations speaking for other parts of our society, have their voices stifled by the tax code. Why should the Government encourage private business to communicate with Congress by making lobbying a business expense which can be deducted from taxes, while preventing strong efforts of public-interest groups to speak to lawmakers by removing their tax-exempt status when they raise their voices?

I believe that voices of the environmentalists, of the civil rights and poverty groups, of public interest law firms, are just as important—if not more important today—than the already finely orchestrated views of private business pursuing private policy.

Nor would it change the provision of existing law which denies exempt status to organizations which participate in political campaigning on behalf of a candidate for public office.

The amendment would allow charitable organizations which rely on public support to express their views in appropriate ways before the Congress, without the fear of losing their tax exemption.

Those who control the power of government are not responsive enough to the needs of our people. Congress itself is not as accessible as it should be, and it is often accessible only to the privileged few. If we are to maintain a democratic form of government in practice, and if the Congress is to reach reasoned judgments on the important issues before it, we must assure that every segment of our society is able to communicate with Congress. With its present restrictions, the Tax Code seriously impedes such communication. I hope the Congress will amend that impediment and allow us the information which we need in order to consider fairly the issues which come before us.

The Deputy Administrator of the Environmental Protection Agency, John R. Quarles, Jr., in a speech earlier this month to the National Council on Philanthropy gave a thorough discussion of the problems facing charitable organizations involved in environmental issues. What the limitations in the IRS Code mean, he said, is—

> That a substantial number of large, important, conservation organizations are unable to effectively present their views to the Congress. . . . Only those groups which do not seek tax-exempt status are permitted to lobby. Unfortunately these are few and far between.

Together with the bill and its summary, I ask unanimous consent to have printed in the RECORD the speech by John R. Quarles, Jr. and a list of the organizations supporting this legislation.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. LOSS OF EXEMPT STATUS.

(a) Section 501 of the Internal Revenue Code of 1954 (relating to exemption from income tax) is amended by redesignating subsection (g) as subsection (h) and inserting after subsection (e) the following new subsection:

"(g) Expenditures by Public Charities to Influence Legislation.—

"(1) GENERAL RULE.—In the case of an organization described in paragraph (2) that has elected under paragraph (3) to have this subsection apply, exemption from taxation under section 501(a) shall not be denied because a substantial part of the activities of such organization consists of carrying on propaganda or otherwise attempting to influence legislation, unless—

"(A) with respect to the total of the amounts (including administrative expenses) paid or incurred by such organization (other than amounts chargeable to capital account) to accomplish one or more purposes described in section 170(c)(2)(B) (relating to religions, charitable, educational, etc., purposes),

"(B) amounts paid or incurred by such organization during each taxable year to carry on propaganda or otherwise attempt to influence legislation, normally exceed the lesser of $1,000,000 or the sum of 20 percent of the first $500,000 of the amounts described in subparagraph (A), 15 percent of the next $500,000 of the amounts described in subpargarph (A), 10 percent of the next $500,000 of the amounts described in subparagraph (A), and 5 percent of the excess over $1,500,000 of the amounts described in subparagraph (A).

"(2) ORGANIZATIONS TO WHICH THIS PROVISION APPLIES.—An election under paragraph (3) to have this subsection apply may be made by an organization described in—

"(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

"(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

"(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

"(D) section 170(b)(1)(A)(v) (relating to governmental units), or

"(E)(i) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions), section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or section 509(a)(3) (relating to organizations supporting certain types of public charities) (except that for purposes of this subsection, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a)),

"(ii) which is neither described in section 170(b)(1)(A)(i) (relating to churches and conventions or associations of churches) nor is an integrated auxiliary of a church.

"(3) ELECTIONS.—

"(A) Any organization described in paragraph (2) may elect, in such manner and at such time as the Secretary or his delegate may prescribe, to have the provisions of this subsection apply to such organization.

"(B) With respect to those organizations which are not eligible to elect to come under the provisions of this subsection or which, being eligible, do not elect to come under such provisions, nothing contained in this subsection shall be construed to affect the interpretation of the terms 'influencing legislation' or 'substantial' under section 501(c)(3).

"(4) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under paragraph (3) shall be effective for all taxable years of such organization which—

"(A) end after the date the election is made, and

"(B) begin before the earlier of (i) the date the election is revoked by such organization (under regulations prescribed by the Secretary or his delegate) or (ii) the date such organization ceases to be described in paragraph (2).

"(5) INFLUENCING LEGISLATION.—For purposes of this subsection—

"(A) the term 'influencing legislation', with regard to an organization, does not include—

"(i) making available the results of nonpartisan analysis, study, or research,

"(ii) providing of technical advise or assistance to a governmental body or to a committee or other subdivision thereof,

"(iii) communicating with any official or employee of an executive branch of Government,

(iv) appearances before, or communication to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, its tax-exempt status, the deduction of contributions to the organization, or such attributes of members of the organization; and

"(v) communication between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members;

"(B) the term 'legislation' includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, by any similar governing body outside the United States, or by the public in a referendum, initiative, constitutional amendment, or similar procedure;

"(C) the term 'action' is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

"(6) AFFILIATED ORGANZIATIONS.—

"(A) If for a taxable year two or more organizations described in section 501(c)(3) are affiliated within the meaning of subparagraph (B), and an election under paragraph (3) is effective for at least one such organization for such year, then such organizations shall be treated as constituting one organization in applying paragraph (1)(A) (relating to expenditure limits) and if the expenditure limits of that paragraph are exceeded, such organizations shall be treated as constituting one organization for purposes of applying subsections (a) and (c)(3), and this subsection.

"(B) For purposes of subparagraph (A), organizations are affiliated with each other only where—

"(i) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

"(ii) the governing board of the organization includes persons who are also members of the governing board of the other organization and who, by aggregating their votes, have sufficient voting power to cause or prevent action by both organizations on legislative issues.

"(C) If affiliated organizations have different taxable years, their expenditures shall be computed for purposes of subsection (1) in a manner to be prescribed by regulations promulgated by the Secretary.".

(b) Section 501(c)(3) of such Code is amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation" and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation (except as otherwise provided in subsection (f)),".

SEC. 2. DISALLOWANCE OF DEDUCTION FOR CONTRIBUTIONS TO INFLUENCE LEGISLATION.

(a) Section 170(f) of such Code (relating to disallowance of charitable contribution deductions in certain cases) is amended by adding at the end thereof the following new subparagraph:

"(7) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) if the expenditure is made for the purpose of influencing legislation (defined in accordance with section 501(q)(5) (A), (B), and (C)).".

SEC. 3. CONFORMING AMENDMENTS.

(a)(1) The following sections of such Code are amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," and inserting in lieu thereof "which is not disqualified for tax exemption under section 501 (c)(3) by reason of attempting to influence legislation,";

(A) Section 170(c)(2)(D) (relating to the definition of charitable contributions);

(B) Section 2055(a)(2) (relating to transfers for public, charitable, and religious uses);

(C) Section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses);

(D) Section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and

(E) Section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(2) Sections 2055(a)(3) and 2106(a)(2) of such Code (relating to transfer for public, charitable, and religious uses) are each amended by striking out "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation," wherever it appears therein and inserting at the end of each such section "and such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,".

(b) Sections 2055(e) and 2522(c) of such Code (relating to disallowance of charitable contributions in certain cases) are each amended by adding at the end thereof the following new paragraph with the appropriate consecutive number:

"( ) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) if the expenditure is made for the purpose of influencing legislation (defined in accordance with section 501(g)(5)(A), (B), and (C).".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall be applicable to taxable years beginning after December 31, 1974, and to estates of decedents dying after the date of the enactment of this Act.

THE ENVIRONMENTAL MOVEMENT AFTER FIVE YEARS—AN ASSESSMENT AND A PROPOSAL

(21st Annual Conference of The National Council on Philanthropy on December 4, 1975—John R. Quarles, Jr., Deputy Administrator, Environmental Protection Agency)

The Environmental Protection Agency is five years old this week. Official birthdays for government agencies rarely evoke much sentiment, but I would like to take this opportunity to pause a moment—to reflect on where we have been, where we are, and where we are going. For those of us who have been with the Agency since the beginning, these have been five years of excitement, five years of struggle, five years of change and growth.

From the start EPA has been somewhat special—special in the sense that it has always been part of a much larger national movement. To a large degree, that movement was responsible for the creation of the Agency. Early in 1970 public demands for stepped-up efforts to protect the environment reached the groundswell stage. In every part of the country voices were raised against abuses which had accumulated for over a century. In Cleveland, it was the Cuyahoga River—a river whose surface was so polluted with oil that it frequently caught fire. In Houston, it was the Houston Ship Canal—one of the world's most notorious industrial sewers. In Los Angeles, it was the air—air so dirty that people could not see through the smog. All across the country citizens organized to protest such abuse. These efforts culminated in Earth Day—one of the largest, spontaneous demonstrations in our nation's history. Hundreds of separate rallies and protest meetings were held on that day throughout the country, and the environmental movement was launched.

That movement and EPA are now five years old. What I would like to do this afternoon is briefly review where EPA stands after five years, and then take a close look at the movement which played such an important role in getting us off the ground. There are signs the environmental movement is in trouble and needs assistance. Before turning to these problems, however, it may be useful to understand where we have been during these past five years.

First, there is no question that progress has been made in cleaning up the environment since 1970. In the air pollution area, sulfur dioxide concentrations have been reduced nationwide by roughly 25 percent since 1970. Overall particulate levels have dropped almost 14 percent. On the other hand, we still have not achieved the statutory standards for both pollutants in a number of areas.

The record on controlling auto pollution is equally mixed. We have made significant progress in reducing new car emissions. Emission levels from new 1975 vehicles are almost 85 percent below pre-1970 autos. On the other hand, we still have not achieved the statutory standards for auto pollutants in many of our large metropolitan areas. The main reason for this is congestion—there are simply too many cars on the streets of our major cities. We have tried to reduce auto use in these areas, but without much success so far.

In the water pollution area, there is room for considerable optimism. Our lakes, streams and rivers are getting cleaner. Lake Erie, once thought dead, is reviving. Major rivers such as the Mississippi, the Snake and the Cuyahoga are showing signs of real improvement. On the other side, it now appears that only one half of the nation's municipalities will have installed secondary treatment facilities by the 1977 statutory deadline. While most industrial dischargers have been placed on compliance schedules, there are a number of permits which are being challenged. These challenges could delay compliance beyond 1977 to certain areas. On the whole, however, we are making good progress against water pollution.

We have also made progress in other areas of Agency responsibility. In the pesticide area, we have banned three products—DDT, aldrin and dieldrin—all of which represented a serious threat to human health. Although some of our actions in the pesticide program have been controversial, we feel that the steps we have taken have been both reasonable and responsible. We have also made Some progress in attacking the noise pollution problem, but not as much as we would like. Although we have only limited statutory authority, we have made significant strides in solving the nation's solid waste problems through a program of technical assistance to states and localities. A number of demonstration projects involving the use of municipal garbage as boiler fuel are now underway and look quite promising.

In short, a great deal of progress has been made in the last five years. But today I don't want to dwell on the past. Today I would like to talk about the future with you, particularly the future of the environmental movement. As I said earlier, there are indications that these groups are in trouble. The movement has never been particularly strong. Despite the best efforts of these groups in the 1960's to bring environmental problems to public attention, little happened until early 1970 when the problems themselves became so bad that everyone, environmentalists and everyone else, realized that *something* had to be done. Only then, could real progress begin.

For a short time, the environmental groups enjoyed great prominence. Virtually everyone agreed that they had been right—that we all should have listened to their warnings much earlier. Constant media attention created the illusion of great influence—and yet within a matter of two or three years, the activity of the groups began to decline. Much of the blame lies with the recession. Always strapped by tight budgets, these groups have been particularly hard hit by the steady drop in foundation support and individual contributions. Several of them have been forced to lay off key people, and there has been little money for new projects. As a result, a great deal of important work is going undone.

This work really falls into two categories. First, the environmental groups play a very important role in what might be called public education. Without these groups, public awareness of the threat posed by environmental abuses might have been even further delayed. As such, these groups served as an important catalyst for the much wider movement which developed after Earth Day.

But the role of these groups did not end at the education stage. Many of them have continued to play an extremely important role in our efforts to implement the statutes which were passed by Congress after the excitement of Earth Day had subsided. This is not very glamorous, but still vitally important work. Much of it involves such things as reviewing proposed water pollution permits to make sure they conform to statutory requirements. It involves attending numerous public hearings and meetings to make certain that the state has an adequate air pollution control plan. And on occasion, it involves suing EPA for a failure to push hard enough against certain polluters. None of this is very exciting, and yet it is absolutely essential if progress is to be made.

To make sure these activities continue, it is essential that the major environmental groups continue to receive adequate financial support. Those foundations which are now funding environmental groups must not cut back further on their support. To do so, would put many of the groups in real jeopardy. These foundations must recognize that individual membership fees can supply only a portion of the funds needed for an effective operation. The groups are already struggling to retain their present membership as a result of hard economic times. To expect them to significantly expand their memberships at this time in order to become "self-sufficient" is unrealistic. At the same time, those people who are members of these groups must recognize that it is now more important than ever that they retain those memberships. Individual contributions continue to play an important role in funding virtually all the groups, and it is unlikely that their role will become less important in the near future.

Up to this point, I have focused on the educational and "watchdog" functions performed by environmental groups. We have seen that these activities are an integral part of the public policy process, and thus directly in the public interest.

But there is a second function which is equally in the public interest which, up to now, many of these groups have been unable to perform. That function is to lobby for new environmental legislation. Very few people associate the activities of a lobbyist with the public interest. And yet, everyone knows that legislaion is not passed in a vacuum. No one questions the right of business and industry to lobby Congress. But if not the environmental groups, who will speak for the environment before Congress?

Congress needs to hear both sides of the story before acting on important environmental legislation. To encourage one side to tell its story and not the other is not only unfair, it is unwise. It enables the group with superior resources, but not necessarily superior logic, to exercise a disproportionate influence on public policy. To enact legislation which is truly in the "public interest," Congress must hear from all segments of that public—not just the business sector.

Up to now, most environmental groups—at least those that depend on tax-exempt contributions—have not been able to directly lobby Congress. This is a result of the way the nation's laws are written. Under section 501(c) of the Internal Revenue Code, no private tax-exempt organization can devote a significant portion of its income to lobbying activities. If they do, the groups run the risk of losing their tax-exempt status, and thus their major source of income. What this means is that a substantial number of large, important conservation organizations are unable to effectively present their views to Congress. This is why the environmental movement can support so few full-time lobbyists. Only those groups which do not seek tax-exempt status are permitted to lobby. Unfortunately these are few and far between. To understand just how great the disparity between industry and the environmental groups is, consider the following:

In Washington, D.C., industry and trade associations maintain well over 100 lobbyists who devote some or all of their time to environmental issues. The number of full-time lobbyists maintained by the environmental groups is perhaps 10–15.

But these numbers alone do not tell the whole story. Behind the industry and trade association lobbyists are large staffs of researchers, secretaries, lawyers and consultants. Behind the environmental lobbyists are a handful of paid staff and a few volunteers, many of them part-time. The industry and trade association lobbyists work out of large impressive office buildings, the environmentalists largely out of a collection of storefronts and converted town houses. Environmental lobbyists frequently arrive on Capitol Hill by foot; most of their industry counterparts by limousine or taxi.

The reason for this disparity is quite simple: money. The industry and trade association lobbyists simply have a great deal more money available to them than do the environmental lobbyists. This is not surprising. But what is surprising, and what must be changed, is the additional tax break given to industry. Under section 162 of the Internal Revenue Code, a business is permitted to deduct many of the costs associated with lobbying activities. This means that, in the case of large corporations, Uncle Sam is, in effect, footing almost half the bill for corporate lobbying activities. The top corporate tax rate is 48 percent—that means that every dollar which is spent for lobbying activities only "costs" the corporation 52 cents since if that same dollar were taxable income, the corporation would only get to keep 52 cents out of it. The other 48 cents would go to Uncle Sam. Thus, the government in effect subsidizes corporate lobbying activities by permitting their cost to be deducted from corporate income which in return reduces total corporate taxes. In short, the tax laws merely aggravate an already overwhelming imbalance.

What is needed is legislation which will correct this imbalance. Private non-profit organizations which have an interest in public policy issues should be permitted to devote a certain percentage of their budgets to legitimate legislative activities without running the risk of losing their tax-exempt status. This is only fair if corporations and trade associations are permitted to deduct their lobbying expenses. The Senate Finance Committee's rationale for permitting business deduction of lobbying expenses applies with equal force to private non-profit groups—as the Committee put it, "the presentation of such information to the legislators is necessary to a proper evaluation on their part of the impact of present or proposed legislation."

I submit that information from environmental groups is just as necessary to a "proper evaluation" of the "impact of present or proposed legislation," as information from corporations and businesses. It makes no sense to encourage one group to submit information, and not the other. The public interest demands that both views be heard and weighed before important legislative decisions are made.

Such a change will not solve all the problems of the environmental groups. But it will go a long way toward redressing a long-standing imbalance. It will not solve the resource problems of the environmental groups, but it will at least put them on an equal tax footing with their industry counterparts. This is a step in the right direction. And I believe it is a step which should be taken as soon as possible.

Despite these current problems, the role of private non-profit groups in the environmental movement is as important today as it was in 1970. In some respects it is more important. The changes which need to be made during the next five years to achieve environmental goals will require broad public support. Fundamental changes in commuting habits, land use patterns, and individual lifestyles will be essential if the nation is serious about achieving a truly healthy environment. Cleaning up industrial sources is not enough. Regulating new car emissions is not enough. To finish the job which Congress gave us in 1970, we must reduce our dependence on the auto. We must make sure new industrial sources are located in areas which can absorb the additional emissions without creating new health hazards. These types of changes will require broad public understanding and support. Non-profit citizen groups will have to assume much of the responsibility for creating that public understanding and support. Without it, EPA cannot do its job. In short, these groups are an integral part of the process which produces sound public policy. For all of these reasons, we cannot let them perish.

In conclusion, we have come a long way since that warm spring day in April of 1970. After a very fast start, we were confronted first by the energy crisis, and then the recession in our efforts to turn back the tide of environmental abuse. At times our progress has slowed. But through all of it, one thing has remained unchanged—the dedication of those who would not give up. And it is this quality which will guarantee our ultimate success. For we will not give up—whether it takes five, ten or twenty more years to do the job. We will get the job done. Today is the beginning of the next five years.

COALITION OF CONCERNED CHARITIES MEMBERSHIP LIST

American Association of Blood Banks.
American Association for Respiratory Therapy.
American Cancer Society.
American College Health Association.
American Diabetes Association.
American Heart Association.
American Jewish Committee.
American Jewish Congress.
American Littoral Society.
American Lung Association.
American Medical Technologists.
American Public Health Association.
Association for Voluntary Sterilization, Inc.
Association of Schools of Public Health.
Audubon Naturalists Society of the Central Atlantic States, Inc.
Big Brothers of America.
Camp Fire Girls, Inc.
Center for Study of Responsive Law.
Child Welfare League of America.
Community Council of Greater New York.
Community Services of Pennsylvania.
Community Service Society of New York.
Council for Advancement and Support of Education.
Council for Financial Aid to Education.
Defenders of Wildlife.
Environmental Defense Fund.
Environmental Policy Center.
Epilepsy Foundation of America.
Family Service Association of America.
Girl Scouts of the U.S.A.
Goodwill Industries of America.
Muscular Dystrophy Association of America.
National Assembly of Voluntary Health and Social Welfare Organizations, Inc.
National Association for Mental Health.
National Association of Social Workers.
National Audubon Society.
National Cancer Foundation, Inc.
National Center for Voluntary Action.
National Council on the Aging.
National Council on Alcoholism.
National Council for Homemaker-Home Health Aide Services, Inc.
National Council of Jewish Women.
National Council of State Garden Clubs.
National Council of Women.
National Cystic Fibrosis Research Foundation.
National Easter Seal Society for Crippled Children and Adults.
National Environmental Health Association.
National Federation of Settlements and Neighborhood Centers.
National Foundation.
National Health Council.
National Hemophilia Foundation.
National Kidney Foundation.
National League for Nursing.
National Medical Association.
National Multiple Sclerosis Society.
National Safety Council.
National Society for Autistic Children, Inc.

National Society for the Prevention of Blindness.
National Wildlife Federation.
State Communities Aid Association.
Student American Medical Association.
The Garden Club of America.
The Nature Conservancy.
The Wilderness Society.
Travelers Aid International Social Service of America.
United Cerebral Palsy Association.
United Service Organizations, Inc.
United Way of Delaware.
United Way of America.
Wildlife Management Institute.
World Wildlife Fund.
Y.W.C.A. of the U.S.A.

SUMMARY OF A BILL TO PERMIT LIMITED LOBBYING FOR CERTAIN TAX EXEMPT ORGANIZATIONS

Purpose: To clarify rules governing lobbying for certain tax exempt groups classified, for tax exemption purposes, under Section 501(c)(3) of the Internal Revenue Code. A quantitative budget limit for lobbying activities is proposed. Groups under 501(c)(3) would be free to come under the new rules or stay with current status. Definitions of permissible activities are offered. Groups which violate the proposed lobbying limits would be subject, as now, to a possible loss of tax exempt status if audited and acted against by IRS.

Budgetary limits on lobbying: The bill provides that a specific proportion of each organization's budget may be expended for lobbying activities. (See Table I). The proportions decrease as total annual budget increases in size. An overall limit of $1 million is proposed. This limit would be reached only by organizations with budgets of $17 million or more. (The formula was proposed as a reasonable limit on lobbying activities by larger organizations.)

Coverage: If your organization is classified under Section 501(c)(3) you may elect to be covered by the proposed lobbying provisions. You need not do so. If you do not do so, you would continue to be judged, for lobbying purposes, by legal interpretations of existing rules, i.e., the "substantial" test. If you are not under Section 501(c)(3) the new lobbying rules do not apply.

Activity included: The bill would apply to "carrying on propaganda or otherwise attempting to influence legislation . . ." Budgetary limits noted above would apply to this kind of activity, unless an activity is specifically excluded. The bill applies to national, state and local government relations.

Activity excluded: The following activity could be engaged in without limit:

Making available results of nonpartisan analysis, study, or research;

Provision of technical advice to a governmental body, committee, etc.;

Communicating with the executive branch;

Communications with legislative bodies concerning issues of direct concern to the life of the organization, e.g. its existence, tax exempt status, etc.;

Communication between the organization and its members with regard to legislation of direct interest to the members.

Affiliated organizations: Organizations considered "affiliated" under the proposed bill (see p. 6, line 11 of bill) would have their total lobbying activities counted as if they were one organization. To be "affiliated" the organization would have to meet one of these tests: the governing instrument of one "requires it to be bound by decisions of the other organization of legislative issues" or, "the governing board of the organization includes persons who are also members of the governing board of the other organization and who, by aggregating their votes, have sufficient voting power to cause or prevent action by both organizations on legislative issues."

TABLE I.—PROPOSED BUDGET LIMITS ON LOBBYING FOR 501(c)(3) GROUPS

For each segment of your budget—	You can spend this percent on lobbying—	If your budget is not greater than—	You can spend up to—
1st $500,000	20	500, 000	$100, 000
Next $500,000	15	1, 500, 000	175, 000
Next $500,000	10	1, 500, 000	225, 000
Over $1,500,000	5	2, 000, 000	250, 000
		5, 000, 000	400, 000
		10, 000, 000	650, 000
		15, 000, 000	900, 000

Note: No organization may spend more than $1,000,000 for lobbying, regardless of total budget size.

Mr. DOLE. Mr. President, I am pleased to join the distinguished Senator from Maine (Mr. MUSKIE) in introducing a bill to provide equitable treatment for tax-exempt public charities which advocate the public interest directly before the Congress.

With some modifications, this legislation is similar to S. 1036, a bill we introduced in the 93d Congress, along with over 30 cosponsors. It will provide more specific rules than present law with respect to the rights of publicly supported charitable organizations to communicate with legislative bodies without jeopardizing their tax-exempt status.

Since introduction of the original bill on February 28, 1973, much discussion of this topic has occurred, hearings have been held in the Ways and Means Committee, and, on June 18, 1975, Congressmen BARBER CONABLE and JAMES C. CORMAN introduced H.R. 8021, the House counterpart of the measure we are introducing today.

Each bill has broad bipartisan support and both accomplish two important objectives:

First. To give the operating charities rules they can follow with reasonable certainty, instead of having possible argument with the Internal Revenue Service as a result of disagreement as to the meaning of the present vague wording of section 501(c)(3) of the Internal Revenue Code.

Second. In addition to being more definite, to liberalize the rights of charities in certain specific areas, such as intra-charity communication by Members.

This bill will not give public charities the same rights which businesses and trade associations have to influence legislation without restriction, but would correct what appear to be unfair restrictions on their lobbying activities.

Charities can be and should be important sources of information on legislative issues. The bill we are introducing today permits such limited lobbying within carefully prescribed boundaries. Its provisions extend only to public charities and do not alter the restrictions imposed by present law on private foundations.

Over the past few years the principles of this bill have received broad public support. In addition, only last week the Commission on Private Philanthropy and Public Needs concluded a 2-year study of all matters pertaining to charitable organizations. That report recommended even broader rights for the charities than provided for by this legislation.

With this background, I am pleased to join Senator MUSKIE in introducing this important legislation and I urge my colleagues to lend the bill their support.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 2833. A bill to prohibit the sale and use of nonreturnable beverage containers on Federal lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, today I send to the desk legislation which would prohibit the sale or use of nonreturnable beverage containers on the Federal lands.

As my colleagues are aware, I have already introduced the Returnable Beverage Container Act of 1975 during this session of Congress, which would ban nonreturnable soft drink and beer containers throughout this Nation. That such a concept can work—and reduce litter and conserve energy while doing so—has already been proven in Oregon, where such a law has been in effect since 1972.

While the legislation I am introducing today is reduced in scope, the principle is the same as that encompasseed in the Returnable Beverage Container Act: As a Nation, we can no longer afford the "flip-top, snap-top" ethic which insist that it is better to use something once and dispose of it than to reuse scarce resources whenever possible. We simply must reduce solid waste by reducing the source of that waste.

Mr. President, the Nation's Federal lands ought to be the model of wise conservation practices. There is nithing new about this idea. When, for example, we had to reduce energy consumption after the oil embargo of 1973, the Federal Government took the lead in ordering a reduction in its own buildings and property through a mandatory lowering of the thermostats in the winter and an increase in the summer months. My legislation would increase the Government's efforts to deal with solid waste and would provide an example of how the "bottle bill," as it is popularly known, can work.

I realize, Mr. President, that there has been substantial opposition to my beverage container legislation, most of which comes from precisely those industries which manufacture the "throwaway" containers. They have been out in force in every bottle bill battle in this country and I am sure that we will all be hearing from them about the bill I am introducing today as well. But surely the Congress can take the lead and state that we will try on the Federal lands—over which the Congress has important legislative and oversight responsibilities—what has worked so well in the States where container legislation has been enacted.

The Environmental Protection Agency has drafted and circulated regulations to deal with the problems of beverage containers on Federal facilities and I strongly support their efforts in this regard. Should those regulations be adopted as drafted, the need for this legislation may be obviated. I do not for one moment want anybody in the Congress or in the Environmental Protection Agency to view this bill as interference with EPA's efforts. Lobbying against even publishing the proposed guidelines developed by EPA was intensive and I view this legislation as supportive of the EPA proposal.

It is my hope that the Congress will address these issues and take the leadership in curbing the waste of natural resources and energy. The measure I am introducing today, along with S. 613, the Returnable Beverage Container Act, would be an important step in the right direction.

By Mr. MAGNUSON (for himself, Mr. CHILES, Mr. FORD, Mr. HUDDLESTON, Mr. STONE, and Mr. WILLIAMS):

S. 2834. A bill to regulate interstate commerce in wagering on horse racing, to maintain the stability of the horse racing industry, and for other purposes. Referred to the Committee on the Judiciary.

Mr. MAGNUSON. Mr. President, I am introducing today, for myself and Senators FORD, STONE, HUDDLESTON, CHILES, and WILLIAMS, the Interstate Horse Racing Act of 1976, a bill which would regulate interstate commerce in parimutuel wagering on races. The purpose of this legislation is to protect both the parimutuel racing industry and the States which permit racing and depend upon it for revenue.

The horse racing industry in the United States has grown tremendously in recent years to the point that it represents a multibillion enterprise when one considers the capital investment and annual expenditures by owners, breeders and trainers of horses. Moreover, it is estimated that in excess of $1 billion is paid in various taxes by the racing industry each year. In addition to financial support, the States depend upon horse racing for employment opportunities. Many positions in the racing field are available to unskilled or semiskilled persons who might not otherwise be employable.

The contributions which horse racing makes to our economy are not confined to the States. In a period of deficits in our balance of trade, the U.S. equine industry has experienced a continuing, substantial surplus in its international trade, due in large measure to the development of some of the finest racing bloodstock in the world today.

In order to assure the continued growth and vitality of the racing industry, and in order to prevent the constriction and possible demise of this very important aspect of our economy, it has become evident that steps must be taken to prevent the States from accepting parimutuel wagers on races which are run in other States. This bill will protect the States, the horsemen and the tracks from off-track wagering in foreign states. It does not affect the right of a State to permit this type of wagering on races which are run within its borders.

The existence of interstate off-track wagering and its possible proliferation as a means of obtaining quick and easy revenues constitutes a danger to the States and race tracks whose proprietary rights are being infringed by off-track wagering in the other States. Attendance and handle at the tracks suffer. Purses are smaller and the quality of racing declines. It is myopic in the extreme to allow some States to reap immediate, temporary profits from the efforts of another State which will in time experience a loss in parimutuel revenue from its tracks. We cannot allow an industry which has served us so well in the past and those States which have supported it and depend upon it to be denied protection from misappropriation beyond the borders of those States.

Accordingly I am introducing a bill which will prohibit interstate off-track wagering and which will provide civil remedies to the injured parties in the event of a violation of its provisions.

By Mr. METCALF:

S. 2836. A bill to amend the Federal Power Act to provide greater authority in the Federal Power Commission to regulate interlocking officers and directorships between public utilities and financial organizations and suppliers, and for other purposes. Referred to the Committee on Commerce.

Mr. METCALF. Mr. President, I introduce for appropriate reference the Public Utility Interlocking Directorate Act which would make unlawful officer or director interlocks between electric utilities and financial or credit institutions or suppliers of electrical equipment and fuel, unless the Federal Power Commission finds that such interlocks would not adversely affect the public interest. This would be an amendment to section 305 of the Federal Power Act.

Mr. President, this legislation is identical to a bill introduced by Representative MICHAEL HARRINGTON, Democrat of Massachusetts, and is based in considerable part on the investigative record developed by Congressman HARRINGTON in cooperation with the Senate Subcommittee on Reports, Accounting, and Management. Attention is called to the subcommittee's hearings on "corporate disclosure," August 14, 1974, part 3. The legislation is also based on some of the language contained in legislation proposed by the Federal Power Commission itself earlier this year.

Congressman HARRINGTON's and my bill further provides that no approval of such interlocks by the FPC can be used as a defense in any action brought under section 8 of the Clayton Act. That provision has been specifically put in the bill to preserve the present standing and authority of the Antitrust Division and any private party to challenge the interlocks under the antitrust laws. The language on this has been taken from the FPC proposed interlock legislation.

My bill would require a report from the FPC to the Congress on all existing officers and directors of electric utilities under its jurisdiction and their business and financial affiliations. This would give both the Congress and the FPC a picture of the existing situation from which they can more adequately evaluate the need for separating certain interlocks.

My bill contains some additional features which were not proposed by the FPC.

It would require that each electric utility provide for representation on its board of directors of at least one member who shall represent directly the interests of residential consumers of electricity. Such member would be compensated by the public utility in the same manner and amount as any other board member, and would have access to all meetings, records, hearings, agendas, and any other information prepared by or for such public utility as may be available to any other board member.

Mr. President, according to testimony introduced in our hearings there were 17 registered holding companies in the United States with 689 men serving on their boards of directors or boards of their subsidiaries. Thirty-five percent of these directors served on the boards of banks. For instance, 65 percent of the board members of Middle South Utilities, Inc. were found to serve on bank boards. Next was the Southern Co., with 58 percent, and the smallest percentage was American Electric Power with 15 percent.

One area of the country where the interlocks appeared to be especially strong was New England. There, the New England Electric System had 18 of its directors interlocked with banks, and 9 of Boston Edison's 14 directors were similarly interlocked.

These utilities are major customers of banks and other financial institutions in the region and perhaps nationally. The utilities not only obtain extensive loans both short term and long term, but they make substantial bank deposits. They use bank and other institutional services for the collection of revenues, the payments to suppliers, employees and shareholders, the management of pension funds, the maintenance of health programs, the purchase of insurance, the issuing of securities, and other financial and corporate needs. Such services should be obtained on a competitive basis in order to keep down costs and, in turn, utility rates to the consumer.

The fact that representatives of these major utilities sit at the board table of the region's largest bank corporation together with a heavy representation of directors from major insurance companies may provide an opportunity whereby these financial institutions can learn the particular financial needs of such utilities and obtain a favored position in meeting those needs to the detriment of other competitive financial institutions. We do not claim that such practice is in effect, merely that the potential for preferential access to credit and other anticompetitive activities is apparent from the representation on utility bank and supplier boards.

This bill combines a response to two growing concerns of many of our Members. The first is the increasing concentration of industrial, financial and management power in the energy sector. Published material is replete with examples, in every local and regional market area, of utilities interlocked with banks, insurance companies and suppliers of electrical equipment and fuel, either directly or secondarily. It is a matter of degree of that interlocking power potential that must be analyzed and dealt with by the Federal Power Commission.

Second is the lack of public participation in the planning and decisionmaking of the utilities before they reach the level of governmental review and action. Electrical utilities produce and distribute public services; yet they deal, almost exclusively, in a private business world. They are responsible only to private owners; supervised by private overseers, and operated by private managers. But they are referred to as public utilities, as if the public were a part of their operations—which it is not.

State and Federal agencies have certain regulatory responsibilities for utility rates and performance, but these responsibilities attach only after the private decisions are made. Thus any governmental impact upon private utility policy is generally after the fact; and often too late and too little.

This bill is a modest approach to placing a public advocate in the initial stages of the decisionmaking process. One director against many is obviously not an effective balance, but it is a beginning, and it can be partially effective. It can establish a dialog; it can raise the consumer issues; it can inform the other directors; and it can inform the residential consumer constituents who must pay the price for electric power. A consumer member of the board can provide a liaison with the public—which under appropriate circumstances could result in a better public understanding of the problems and needs of the private utility.

This bill is a start in the direction of independence for utility management and policy. It is not absolute insurance against conflicts of interest or bias, but it could encourage a more competitive approach to electrical energy policy and a broadening of management discretion. It could encourage innovation, and perhaps develop a better understanding between those who doubt the private system, and those who believe in it.

By Mr. HUGH SCOTT:

S. 2838. A bill to reduce the risks to public health and safety from theft or diversion of special nuclear materials and from sabotage of nuclear facilities. Referred to the Joint Committee on Atomic Energy.

Mr. HUGH SCOTT. Mr. President, several years ago a newspaper in Orlando, Fla., received a blackmail note suggesting that the writer would detonate a nuclear bomb unless the city of Orlando paid a ransom of $1 million in cash and guaranteed him passage out of the country. The writer had enclosed a rough sketch of a nuclear device, had indicated that he was in possession of plutonium, the ingredient vital to the building of a nuclear bomb, and made clear that we would blow up Orlando and surrounding areas if he did not receive the ransom within 24 hours.

The Orlando Police Department and the newspaper, stunned by the demand, called in the Air Force which verified that the bomb sketch was basically accurate and that the writer did pose a very real threat. The Air Force felt it was essential to establish whether the writer did possess the necessary plutonium. It was decided that a check with the Atomic Energy Commission would determine if plutonium were missing. Their findings were unbelievable. The AEC could not say with any certainty whether or not any plutonium was missing.

The city prepared to pay the $1 million ransom.

The ending of the story is a happy one. The blackmailer, a precocious 14-year-old high school student, had gotten carried away with his plan which he viewed only as a prank, and had inadvertently left clues to his identity. The Orlando police were able to track him down before the 24-hour deadline passed.

As I said, the ending of this story is a happy one. But, a happy one perhaps only temporarily. For there is still the possibility that the next nuclear blackmailer will not leave clues.

It is, therefore, essential that stringent safeguards be placed on the nuclear industry so that theft and sabotage are at least made more difficult, and so that, at the very least, the Nuclear Regulatory Commission will establish firm accountability procedures. Unlike a failure in the design of nuclear hardware, the consequences of a safeguards failure pose a dual threat. For if theft or diversion occurs, we may be subject not only to nuclear devastation, but to unlimited blackmail as well.

In addition, there is a very real black market for nuclear materials, not just for use by radicals, but for resale purposes.

In Britain, at four nuclear sites, guns have been issued to the United Kingdom Atomic Energy Authority police and to members of the constabulary who guard nuclear materials in transit. This recent action is all the more significant in a country known for the use of unarmed law enforcement. It is reported that the decision to arm these special police was made at the Cabinet level.

An official with the UKAEA said "security arrangements for nuclear sites and materials are under continuous review. The Government considered that it was only prudent in present circumstances to strengthen them."

The bill I am introducing today will provide additional safeguards for our nuclear industry—safeguards which will be critically important as the United States expands all of its energy resources and comes to rely more heavily on nuclear energy as a mainstay of our electrical energy supply.

It has been estimated that by 1980 our dependence on nuclear energy will triple. It may mean that we will have more than 200 nuclear plants spread out over the country to supply the energy needs of our growing economy. We now have only 55.

In light of the increased use of nuclear power generation, we must begin today to insure atomic energy safety. By far the greatest risk to public safety is presented not by a nuclear reactor accident, but by the possibility of nuclear theft or sabotage.

If we are going to continue to expand our nuclear energy capacity, we must do it responsibly. Over the past few years, the Senate has primarily concerned itself with insuring the safety of the hardware involved in the nuclear process. Today, with the introduction of the Nuclear Safeguards Act of 1975, I would like to emphasize the need for security.

The primary goal of the bill I am introducing today is to eliminate, or at the very least, reduce the threat of nuclear theft, diversion of nuclear materials, or sabotage.

In essence, my bill separates the present Office of Nuclear Material Safety and Safeguards of the Nuclear Regulatory Commission established by Public Law 93–438 into two separate, but equal entities: The Office of Nuclear Materials and Facilities Safety and the Office of Nuclear Materials and Facilities Safeguards. Each office will be headed by a Director appointed by the President by and with the advice and consent of the Senate. The purpose of this division is to strengthen each office by giving it a separate function.

A Safeguards Protective Force will be established under the Office of Nuclear Materials and Facilities Safety. Its purpose is to provide physical protection of production and utilization facilities as well as physical protection for special nuclear materials in transportation.

A further aim of this legislation is to provide that the Director of Nuclear Materials and Facilities Safeguards enter into mutual support agreements with State and local police forces and to cooperate with all Federal agencies concerned with nuclear safeguards to counter potential theft, diversion, or sabotage of nuclear materials.

While the bill does not address itself to accountability of nuclear materials, it is my hope that the Joint Committee on Atomic Energy will hold hearings on this bill and the subject of accountability will be properly addressed at that time.

It is vital that some form of accounting process or procedure be set up by the Nuclear Regulatory Commission. The NRC clearly has such powers under Public Law 93–438. Section 204(2)(A) of the Energy Reorganization Act of 1974 cites as functions of the Director of Nuclear Material Safety and Safeguards:

> Monitoring, testing and recommending upgrading of internal accounting systems for special nuclear and other nuclear materials licensed under the Atomic Energy Act of 1954, as amended.

It is hoped that the Nuclear Regulatory Commission will take heed of this section of the enacting legislation and take immediate, strong steps to set up accounting procedures, which are vital if we are to have adequate safety and safeguarding of the nuclear industry.

The day has passed when we may rely on the value of special nuclear materials to motivate individuals to employ adequate safeguards. The threat is too great and the past performance too poor; the time has come when we must act.

By Mr. INOUYE:

S. 2839. A bill to supplement authority of the Secretary of Commerce to collect regular and periodic information on foreign direct and portfolio investments in the United States and on American investments abroad, and for other purposes. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, as economic systems increasingly transcend political divisions, international investment activity has achieved a substantial and growing importance. Today, as never before in the world's history, capital and goods and services flow across borders unimpeded by national or local barriers. The consequences of such investment and trade for the economics and policies of this country, as both a source for and a host of multinational investment, are substantial.

At the end of 1974, long-term American investment abroad had a total value of more than $147 billion, according to official estimates. American-controlled corporations abroad sold goods and services worth $291.5 billion in 1973, the latest year for which figures are available. This was more than four times our exports in the same year. Foreign long-term investment in the United States at yearend 1974 totaled approximately $81 billion, of which more than $21 billion was in the form of direct investments. When the current benchmark surveys on direct and portfolio investments are completed in April, I anticipate that the final figures will be substantially higher.

The decisions of American political and business leaders on policy towards inward and outward investment are of heightened importance in the new world economic context, and they must be based on an adequate knowledge of investment activities. The intent of the bill being introduced today is to provide authority for the systematic collection, analysis, and publication of such essential information.

The bill which I am introducing would accomplish two objectives. First, it would mandate periodic benchmark surveys to keep our information on outward and inward investment current and accurate. The information gap which we have encountered in attempting to deal with this phenomenon would be far less troublesome since the executive agencies would no longer have to wait for explicit congressional authority before initiating comprehensive studies. By making such surveys a regular event, the Commerce Department would enable corporations to collect a great deal of the information without making special, expensive efforts. The bill covers both outward and inward investment and requires that both inward and outward surveys be conducted at least once every decade.

Second, the bill would confer clear and unambiguous authority on the Department of Commerce to collect information not directly related to the balance of payments and would preclude challenges to data collection programs.

The legislation in no way should be interpreted as a weakening of the U.S. general commitment to the principle of free flow of investment capital. In fact, by reducing uncertainties and allaying unnecessary fears bred by misinformation, it may have the opposite effect. For example, considerable concern was recently expressed about the potential for massive foreign investment in the United States. The anticipated accumulation of immense monetary surpluses by OPEC nations raised the specter of foreign control of major U.S. corporations. Recent evidence has greatly alleviated this concern, showing an increase in the level of OPEC imports and indicating that they prefer portfolio to direct investments.

In fact, there is little evidence as yet to show that foreign investment has had a negative impact on the United States. The unsophisticated and emotional character of much recent discussion on the subject can be attributed largely to the paucity of reliable data.

However, should objective data and analysis show that foreign investment in the United States or American investment overseas has had a detrimental impact on the United States, I believe that the Congress should develop an appropriate response to protect the American public. That data is not yet available or conclusive.

The uncertainties regarding inward capital investment are so fundamental that private estimates of the total amount of such investment range to more than double the official Commerce Department figure. Many of these differences hopefully will be eliminated by a benchmark survey which has been undertaken by the Treasury and Commerce Departments as directed in a bill that I introduced in the 93d Congress.

As valuable as this survey will be, however, there is as yet no mandate for regular, periodic updates to reveal current trends. Such a requirement will be provided by the bill which I am introducing today. Prior to the enactment of the Foreign Investment Study Act, the last survey by the Department of Commerce on foreign direct investment in the United States was undertaken in 1959. The information available to the Treasury was just as bad. Its last foreign portfolio study dated from 1949, which was only an update of a 1941 survey. The record for both departments in this particular area is clearly not good, although it must be conceded that this issue did not impinge upon the public consciousness until recently.

A similar uncertainty also exists with respect to the effect of American investment activity in foreign countries. The vast size of American overseas investment calls for the collection of statistics which are as detailed and comprehensive as those obtained from key domestic sectors. Issues of immediate political and economic importance such as the impact of multinational corporations on U.S. foreign policy and the concern of labor leaders that foreign investment leads to an export of American jobs cannot be evaluated in the absence of complete and reliable statistics and data and analyses.

The only recent general survey of foreign investment of U.S.-based multinational firms was conducted by the Commerce Department's Bureau of Economic Analysis in 1966. This benchmark survey was supplemented in 1970 by an updating of limited range and value. It is of marginal value to us today for purposes of policymaking.

The 1966 outward investment study was flawed because it lacked a great deal of essential information. It made no detailed inquiry into the relationship between multinational corporations and their foreign affiliates even though this tie is an essential aspect of multinational corporations' activities. Substantive material on foreign affiliates in which American-based multinational firms held less than a majority interest and on their operations was completely absent from the study. Not even the total employment of the multinational corporations could be determined because the appropriate data was not collected.

Still less information is available to the Congress and the general public. Data on individual companies must be held confidential by law, and the statistics published by the Commerce Department for the use of other agencies and the Congress is very broadly aggregated.

Benchmark surveys are conducted pursuant to the authority contained in the Bretton Woods Agreements Act, which provides for the collection of information on capital flows for balance of payments purposes. This responsibility has been delegated to the Department of Commerce through two Executive orders.

There remains, however, a serious legal question about what kinds of information can be obtained under the act. The collection of information not directly related to the balance of payments could presumably be challenged in court. It was for this reason that explicit congressional authority was required to conduct the current inward investment survey.

The absence of explicit authority in the Bretton Woods Agreements Act has also discouraged the gathering of detailed information on outward investment. In 1974 the Department of Commerce submitted a proposed questionnaire to the National Advisory Committee on International Monetary and Financial Policy—NAC—from which approval must be obtained prior to dissemination. The NAC, which consists of one representative from the Departments of Commerce, Treasury, and State, and from the Eximbank and the Federal Reserve, expressed doubt about the legal authority of Commerce to conduct such a survey, and, following a narrow interpretation of the Bretton Woods Agreements Act, it ruled that fully 40 percent of the proposed questions had to be deleted.

The removal of these questions as dictated by the NAC would have stripped the questionnaire of much of its value. It would have eliminated all questions pertaining to company foreign income, number of employees abroad, trade, foreign income, taxes paid abroad, and all questions on parent-affiliate ties—which includes intracompany trade and distribution of sales to home and host countries. Even if the NAC had allowed Commerce to send out the original questionnaire, several corporations expressed their intention to challenge in court the legality of all requests not directly pertinent to the balance of payments data authorized by the Bretton Woods Agreements Act. It was the feeling of the Bureau of Economic Analysis of the Commerce Department that the abbreviated questionnaire would not merit the expense of its distribution and that a postponement would be preferable to dissemination of a truncated document.

Mr. President, it is evident that a survey under guidelines such as this legislation proposes ought to be conducted periodically in order to provide much needed information to the Congress and the American public. Such legislation constitutes a minimal response to the internationalization of the world economy and to the international character of capital.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Investment Survey Act of 1975".

SEC. 2. (a) The Congress finds and declares that—

(1) the Secretary of Commerce is presently authorized to collect limited amounts of information on United States investment abroad and foreign investment in the United States;

(2) investment in the United States by foreign multinational enterprises and by foreign portfolio investors and investment abroad by United States multinational enterprises and United States portfolio investors have increased rapidly within recent years;

(3) such investment significantly affects the economy of the United States and other nations;

(4) international efforts to obtain information from multinational enterprises have accelerated recently;

(5) the potential consequences of foreign investment in the United States and United States investment abroad cannot be calculated accurately because the Federal Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, the general welfare, and United States foreign policy;

(6) accurate and comprehensive information on foreign investment in the United States and United States investment abroad is needed by the Congress to develop a policy with respect to the activities of foreign investors in the United States and United States investors abroad; and

(7) existing estimates of American investment overseas are based on outdated statistical bases, reports, and information which are not longer reliable for policy formulation and decisionmaking.

(b) It is therefore the purpose of the Congress in this Act to provide clear and unambiguous authority to the Secretary of Commerce, acting in behalf of the United States Government, to collect information on foreign investment in the United States and United States investment abroad and to provide analyses of such information to the Congress, the Executive and the general public.

(c) Nothing in this Act is intended to restrain or deter foreign investment in the United States or United States investment abroad.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) "person" means an individual, partnership, association, trust, corporation, or other organization, including the Federal, State and local governments, and any agencies thereof, corporations, financial institutions, or other instrumentalities thereof, including Federally-sponsored agencies;

(3) "United States person" means any individual resident in the United States, or any other person organized or created under the laws of the Federal, State, and local governments, and any instrumentalities thereof, including Federally-sponsored agencies;

(4) "multinational business enterprise" means any business enterprise which conducts business operations in the United States and in one or more foreign countries either directly or through one or more foreign affiliates, or a foreign parent company, or home office;

(5) "parent" means a person in one country who directly or indirectly owns 10 percentum or more of voting stock of an incorporated business enterprise, or equivalent ownership interest in unincorporated business enterprise, located in another country;

(6) "affiliate" means a business enterprise which is directly or indirectly owned by a parent company or home office to the extent of 10 per centum or more of its voting stock for an incorporated business, or an equivalent interest for an unincorporated business, including foreign branches;

(7) "branch" means the operations or activities conducted by a business enterprise in a different country directly under its own name;

(8) "foreign investment" means the ownership or control of stock or other securities, by contractual commitment or otherwise, by persons of one country in companies or properties located in other countries;

(9) "portfolio investment" means the ownership or control of up to ten percentum of the voting or non-voting securities or any long-term debt obligations issued by a business enterprise;

(10) "direct investment" means the ownership or control of ten per centum or more of the voting or non-voting securities or control of an equivalent interest in a nonincorporated business enterprise; and

(11) "secretary" means the Secretary of Commerce.

AUTHORITY

SEC. 4. (a) The Secretary of Commerce is hereby authorized and directed to periodically conduct comprehensive and timely studies of foreign direct and portfolio investments in the United States and of direct and portfolio investments overseas by United States investors. Studies authorized by this subsection shall be conducted and reports made at least once every ten years and in such a manner that information obtained pursuant to this Act shall be timely and useful in the development of policy with respect to multinational business activity.

(b) In carrying out the studies, the Secretary of Commerce shall—

(1) identify and collect such information as may be required to carry out the study authorized in section 4(a) of this Act;

(2) consult with and secure information from (and, where appropriate, the views of) representatives of industry, the financial community, labor, agriculture, science and technology, academic institutions, public interest organizations, and such other groups as the Secretary deems suitable; and

(3) consult and cooperate with other government agencies, Federal, State, and local, and to the extent appropriate, with foreign governments and international organizations.

SEC. 5. The Secretary of Commerce, in his studies of investment by multinational business enterprises shall, among other things, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, magnitude, and rate of investment activities in the United States and United States investments abroad;

(2) survey the reasons foreign persons are undertaking investment in the United States and the reasons United States persons are investing overseas;

(3) analyze and study the effect of transfer of technology to or from foreign affiliates, or to or from foreign parent companies, as regards to productivity, trade and balance of payments, pricing policies, effects, and international competition;

(4) identify the processes and mechanisms through which foreign investment is made in the United States and United States investment is made abroad, the financing methods used by United States and foreign investors, and the effects of such financing on financial markets;

(5) analyze the scope and significance of foreign direct investment in acquisitions and takeovers of existing American enterprises, the significance of such investments in the form of new facilities or joint ventures with American firms, and the effects thereof on domestic competition;

(6) analyze the concentration and distribution of foreign and American overseas direct investment in specific geographic areas and/or economic sectors;

(7) analyze the effects of foreign and American overseas investment on United States national security, energy, natural resources, agriculture, environment, real property holdings, balance of payments, balance of trade, the United States international economic position, and various significant American product markets;

(8) analyze the effect of foreign and American overseas investment on employment opportunities and practices and the activities and influence of foreign and American management executives employed by multinational business enterprises firms;

(9) analyze the effect of Federal, regional, State, and local laws, rules, regulations, controls, and policies on foreign investment activities in the United States and the effect of foreign investment policies and programs on United States investment overseas;

(10) compare the purpose and effect of United States, State, and local laws, rules, regulations, programs, and policies on foreign investment in the United States with laws, rules, regulations, programs, and policies of selected nations and areas where such comparison may be informative;

(11) compare and contrast the foreign direct investment activities in the United States with the investment activities of American investors abroad and appraise the impact of such American activities and policies of foreign firms in the United States;

(12) determine the effects of variations between accounting, financial reporting, and other business practices of American and foreign investors;

(13) study the adequacy of information, disclosure, and reporting requirements and procedures;

(14) study and recommend means whereby information and statistics on investment activities by multinational business enterprises can be improved; and

(15) study and report periodically to the Senate Committee on Commerce and the House Committee on Interstate and Foreign Commerce on national and international developments with respect to the regulation of multinational enterprises.

SEC. 6. The Secretary of Commerce, in his study of foreign investment abroad by United States persons, shall also include—

(1) the magnitude and scope of total direct and portfolio investment by such business enterprise in each of its foreign affiliates and branches, financial transactions between such business enterprise and each of its foreign affiliates and branches, the consolidated net income of each of its foreign affiliates and branches reported separately, the amount of taxes paid by such business enterprise and by each of its foreign affiliates with respect to foreign affiliate and branch operations, reported separately, and information on all mergers, net book value of acquisitions, liquidations, and invest-

ments in foreign countries involving such business enterprise;

(2) the gross sales by primary line of business (and, whenever possible, by significant product line) of such business enterprise and of each of its foreign affiliates in each foreign country in which such affiliate has significant operations, reported separately, the dollar amount of trade by primary line of business (and, whenever possible, by significant product line), which such business enterprise carries on with each of its foreign affiliates, reported separately, and the trade by primary line of business (and, whenever possible, by significant product line) of each of its foreign affiliates, reported separately;

(3) employment data showing both the number of American and foreign employees of such business enterprise and of each of its foreign affiliates by country and by level of compensation by type of activity;

(4) the total dollar amount of research and development expenditures by such business enterprise, and the dollar amount of research and development expenditures by each of its foreign affiliates, by country and activity;

(5) payments to the parent company from its foreign affiliates, or by the parent company to its foreign affiliates for transfer of technology or know-how; and

(6) the name and location of each foreign affiliate and foreign branch of such business enterprise, the total assets and income of each such foreign affiliate and foreign branch, and a description of the commodities produced by each such foreign affiliate and foreign branch.

SEC. 7. (a) The Secretary of Commerce may by regulation establish whatever rules he deems necessary to carry out each of his functions under this Act.

(b) The Secretary may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which the Secretary determines is germane to his functions in the foreign direct investment and foreign portfolio investment studies to be conducted pursuant to this Act; and

(2) to furnish under oath any report containing whatever information the Secretary determines is necessary to carry out his functions in the studies authorized in this Act.

(c) In the administration of this section, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and documentation to the extent feasible consistent with effective enforcement and compilation of data required by this Act. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(d) In addition to the Secretary of Commerce, the only individuals who may have access to information furnished under subsection (b)(2) are those sworn employees of the Department of Commerce, including consultants of the Department of Commerce and those persons working on contracts awarded by the Department pursuant to this Act. Neither the Secretary nor any such employee, consultant or contractor may—

(1) use any information furnished under subsection (b)(2) except for analytical or statistical purposes within the United States Government; or

(2) publish, or make available to any other person in any manner, any such information in a manner that the information furnished under subsection (b)(2) by any person can be specifically identified, except for the purposes of a proceeding under section 8.

No agency of the United States or employee thereof may compel (1) the Secretary of Commerce, (2) any individual designated by the Secretary under the first sentence of subsection (d), or (3) any person which maintained or furnished any report under subsection (b), to submit any such report or constituent part thereof to that agency or any other agency of the United States without the prior written consent of the person which maintained or furnished any report under subsection (b) and without prior written consent of the customer, where the person which maintained or furnished such report included information identifiable as being derived from the records of such customer. Such report or any constituent part thereof may not be produced for any judicial or administrative proceeding, except for a proceeding under section 8(b) of this Act.

ENFORCEMENT

SEC. 8. (a) Whoever fails to furnish any information required pursuant to the authority of this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act may be assessed a civil penalty not exceeding $10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears to the Secretary of Commerce that any person has failed to furnish any information required pursuant to the provisions of this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act, he shall bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule, regulation, order, or instruction, and upon a proper showing by the Secretary of the relevance to the purposes of the Act of such rule, regulation, order, or instruction, a permanent or temporary injunction or restraining order shall be granted without bond, and such person shall also be subject to the civil penalty provided in subsection (a) of this section.

(c) Whoever willfully fails to submit any information required pursuant to this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act shall, upon conviction, be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than one year or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

AUTHORIZATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 1745

At the request of Mr. McGovern, the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of S. 1745, the Defense Economic Adjustment Act.

S. 2273

At the request of Mr. Proxmire, the Senator from Florida (Mr. Stone) was added as a cosponsor of S. 2273, a bill to provide minimum national standards for disclosure and consumer protection in condominium sales and condominium conversions, and for other purposes.

S. 2312

At the request of Mr. Burdick, the Senator from Maine (Mr. Muskie) was added as a cosponsor of S. 2312, a bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada or the United States and Mexico at night or on Sunday or a holiday from provisions requiring payment of the United States for overtime services of customs officers and employees.

S. 2636

At the request of Mr. Williams, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 2636, a bill to amend title 38, U.S.C., to promote the care and treatment of veterans in State veterans' homes.

S. 2650

At the request of Mr. Allen, the Senator from Florida (Mr. Stone) was added as a cosponsor of S. 2650, a bill to require separate consideration of pay increases for Members of Congress.

S. 2766

At the request of Mr. Roth, the Senator from Wyoming (Mr. Hansen) was added as a cosponsor of S. 2766, a bill to establish procedures for oversight of social research and development by Federal agencies.

S. 2802

At the request of Mr. Culver, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2802, a bill to require the Federal Trade Commission, the Department of Justice, and the Department of Agriculture to compile information and annually report to the Congress with respect to antitrust enforcement, market structure, and state of competition in the food industry, and for other purposes.

SENATE RESOLUTION 337—SUBMISSION OF A RESOLUTION RELATING TO TRANSFER OF CERTAIN FUNDS

(Referred to the Committee on Appropriations.)

Mr. TUNNEY (for himself, Mr. Cranston, Mr. Clark, Mr. Kennedy, Mr. Hathaway, and Mr. Weicker) submitted the following resolution:

Whereas, the national and international implications and possible consequences of covert military and paramilitary activities carried out by the United States in foreign countries are of such importance that the Senate, rather than one or more committees of the Senate, should consider any request for the use of funds for any such purpose: Now, therefore, be it

Resolved, That on and after the date of the adoption of this resolution, no committee of the Senate, and no member of any such committee or subcommittee, shall in any way take any action which purports to sanction or approve any request by any department or agency of the Federal Government to reprogram or transfer funds from one program or activity to another for the purpose of carrying out any covert military or paramilitary activity of any nature in any foreign country unless the committee concerned has itself previously considered such request and reported such matter to the Senate and the Senate has affirmatively, by resolution, indicated approval of the requested reprogramming or transfer of funds for such purpose.

SEC. 2. Nothing contained in the first section of this resolution shall require that any report, or the contents thereof, made by any committee of the Senate in accordance with such section be publicly disclosed.

SENATE CONCURRENT RESOLUTION 84—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF A REPORT

(Referred to the Committee on Rules and Administration.)

Mr. HELMS (for himself and Mr. MORGAN) submitted the following concurrent resolution:

S. CON. RES. 84

Resolved by the Senate (the House of Representatives concurring), That the report of the proceedings of the forty-seventh biennial meeting of the Convention of American Instructors of the Deaf, held in Greensboro, North Carolina, from June 22, 1975, through June 27, 1975, be printed with illustrations as a Senate document. Five thousand five hundred additional copies of such document shall be printed for the use of the Joint Committee on Printing.

AMENDMENTS SUBMITTED FOR PRINTING

TOXIC SUBSTANCES ACT—S. 776

AMENDMENT NO. 1324

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. NELSON. Mr. President, scientific evidence makes it increasingly clear that the PCB's—polychlorinated biphenyls—pollution problem may be one of the most serious ever to confront the environment and to threaten human health.

We can no longer afford to wait and debate the risks versus the commercial benefits. As in the case of DDT, it is apparent that the risks to human health and the environment far exceed the benefits. More importantly, alternatives to the commercial use of these substances are being developed.

For this reason, I am proposing that all nonenclosed uses of PCB's cease immediately and that all enclosed uses be ended within 1 year of enactment of a bill requiring such cessation, assuming that viable and safe alternatives exist for such substances.

WHAT THE BILL WOULD DO

First, ban all nonenclosed uses of PCB's immediately. This would include but is not limited to such uses as in carbonless paper, paints, coatings, soaps, copying ink toners.

Second, ban all enclosed uses 1 year after enactment, if the Administrator of EPA finds there are safe and viable alternatives available.

Third, require EPA to define "enclosed," based on minimum leakage.

Fourth, require labeling of all products containing PCB's, which products are manufactured after the issuance of such labeling regulations, noting that they contain PCB's and must be disposed of in accordance with Federal regulations.

Fifth, require regulations controlling disposal of PCB's and PCB-containing products, and recycling of PCB's.

Sixth, encourage research into the development of alternatives to PCB's for industrial uses.

All imported PCB's would be subject to the same restrictions.

The goal is to eliminate the use of PCB's in the long term and to minimize their pollution effect.

It is preferable not to enact legislation on a substance-by-substance basis. However, the PCB problem shows no sign of abating, and it has become so severe, that it is necessary to address the problem head on, as we were forced to do with DDT.

THE PROBLEM

Nathaniel Reed, Assistant Secretary of Interior for Fish, Wildlife and Parks, stated at a conference in Chicago on PCB's November 19–21:

> We must immediately respond to the dangers posed by PCB's; they represent an ubiquitous degenerative influence on our national health and well being. . . . Our food and water supplies are contaminated; our health is threatened; and we are faced with "environmental stress" about which we know comparatively little.

At least 10 million pounds of PCB's are lost into the environment each year through vaporization, leaks, and spills, according to estimates reported by Thomas E. Kopp, a chemist with the Environmental Protection Agency's Office of Toxic Substances.

At least 10 plants are dumping PCB's into U.S. waterways and another two are discharging the chemicals in municipal sewage treatment systems, according to the EPA.

PCB's are chemical compounds widely used in both closed and nonclosed commercial uses because of their stability, fire resistance, and electrical insulating properties.

They have been found to be far more resistant than DDT to degradation by natural forces. Thus, they are building up in concentration in the environment, wildlife, and human tissues.

They have been found, in scientific tests, to cause severe skin and liver problems in humans.

University of Wisconsin Medical School researchers, Dr. James R. Allen and Deborah Barsotti, have demonstrated that very low PCB levels are dangerous to primates, causing facial swelling, loss of hair, acne lesions within 1 month, birth defects, miscarriages, still births, and death.

Other research shows similar problems with fish and wildlife, such as reproductive failure identified in herring gull colonies around Lake Ontario.

The Food and Drug Administration admits that PCB's have infiltrated our food, milk, water, and meat, to the extent that the FDA has been forced to set tolerance levels of allowable amounts of PCB's in the food supply.

Despite efforts to voluntarily limit the commercial use of PCB's to closed systems and to reduce U.S. production—by the only U.S. manufacturer, Monsanto Co.—the pollution has not been reduced. This is due in part to their indestructibility; to the fact that U.S. users of PCB's are obtaining supplies from foreign producers for nonenclosed uses, such as in hand soaps, copying ink toners, and other products; and to the fact that PCB's still are being spilled or leaked, either accidentally or directly, into the environment.

A 1972 report by a Federal Government task force urged a ban on all PCB uses except in closed electrical systems, restricting them to "essential or nonreplaceable uses which involve minimum direct human exposure, since they can have adverse effects on human health."

The commercial fishing industry in the Great Lakes and elsewhere are threatened with extinction, unless the PCB problem can be alleviated or eliminated. Thousands of pounds of Great Lakes fish have been condemned as unsafe because of PCB contamination, and New York State conservation officials warn against eating Hudson River fish.

Water supplies throughout the Nation are contaminated far in excess of safe drinking criteria.

There has not been adequate monitoring of the extent of the polution, nor of the sources of the pollution.

> A continuing widespread accumulation of PCBs in water, sediment and fish appears to be occurring. A significant proportion of the nation's waters are now affected and will continue to be.

As stated at the November Chicago PCB conference by Dr. David Rall, Director, National Institute of Environmental Health Sciences:

> Thus, in a relatively short period of time, we saw a man-made compound introduced into commerce for a relatively narrow purpose, a closed use, broadened through new applications and discovered to be hazardous to animals, birds, fish, and to man. In slightly more than two generations, we had closed the all-too-frequent circle of progress: product development, distribution, use, and resulting hazard to human health.

FACTS

PCB's have been banned for most uses in Japan—after a 1968 poisoning of more than 1,000 persons who had eaten PCB tainted rice cooking oil.

Alternatives have been instituted in Japan, and are being developed in the United States. For example, air-filled transformers have been used for years instead of PCB-filled transformers.

Use of alternatives to PCB's may require retooling and redesigning of some electrical products and equipment which now use PCB's.

PCB's can be destroyed, in special incinerators at very high temperature.

PCB's can be recycled.

We can no longer afford to wait. Strict regulation of PCB's, with an ultimate goal of eliminating their use altogether, and thus, of reducing their pollution of the ecosystem, must be undertaken immediately.

There is no dispute over their toxicity to wildlife and to humans. The risks of further contamination—with the threat that future human generations may experience genetic damage and birth defects—far outweigh the commercial benefits of their continued use.

The PCB's problem is an example of the need for toxic substances control laws, which must provide a means to systematically assess the potential impact on public health of substances prior to their use. Such laws also must provide authority to limit the use and distribution of substances.

For this reason, the bill is proposed as an amendment to the Toxic Substances Act, which has been pending before the Congress for more than 5 years. If that had been enacted, the Federal Government would now have the authority to regulate PCB's.

Mr. President, I ask unanimous consent that the text of the amendment and the following articles describing the PCB problem be inserted into the RECORD following these remarks: "The Spreading Menace of PCB," by Robert H. Boyle, Sports Illustrated, December 1, 1975, page 20; Air/Water Pollution Report, November 24, 1975, page 463, and December 1, 1975, page 475; Environmental Report, September 8, 1975, page 67; an article from the Milwaukee Journal, November 22, 1975; a list of accidents caused by PCB's from a conference report of the Organization for Economic Cooperation and Development, Paris, 1973; an editorial from the Milwaukee Journal, August 11, 1975; and an article from the Milwaukee Sentinel, November 11, 1975.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1324

On page 31, between lines 4 and 5, insert the following:

(c) PCB Research Programs.—The Administrator shall, at the earliest practical time after the date of enactment of this Act, undertake and support programs of research to develop effective and safe alternatives to the use of polychlorinated biphenyls (PCBs). The Administrator also shall undertake an intensive research program for the development of safe methods for the disposition of products containing polychlorinated biphenyls (PCBs); and for control or elimination of PCB hazards, which presently threaten the environment.

On page 36, line 5, insert "(a)" immediately after "Sec. 16.".

On page 36, between lines 22 and 23, insert the following:

(b) It shall be unlawful for any person to—

(1) use any polychlorinated biphenyl (PCB) in commerce, except as provided in subsection (c) of this section;

(2) distribute in commerce any product which contains (in a totally enclosed manner) a polychlorinated biphenyl (PCB) unless such product bears a label clearly indicating, in accordance with regulations issued by the Administrator, that such product (A) contains a polychlorinated biphenyl (PCB), and (B) may not be disposed of except in accordance with regulations issued by the Administrator; or

(3) reuse any polychlorinated biphenyl (PCB) except in accordance with regulations issued by the Administrator.

(c) The prohibition contained in subsection (b)(1) of this section shall not apply in the case of the use of any polychlorinated biphenyl (PCB) in commerce—

(1) for a period of one year after the date of enactment of this Act if such chemical is used in a totally enclosed manner, and

(2) for any period or periods beyond such one year period if the Administrator (A) authorizes the continued use of such chemical for such period or periods because of a determination by him that no safe and effective substitute is available as a replacement for such chemical, and (B) such chemical is used in a totally enclosed manner.

On page 53, between lines 18 and 19, insert the following:

REGULATIONS

SEC. 26. (a) Definition of "Polychlorinated Biphenyl (PCB)".—The Administrator shall, within 30 days after the date of enactment of this Act, define by regulation the term polychlorinated biphenyl (PCB).

(b) Definition of "Totally Enclosed Manner".—The Administrator shall, within 30 days after the date of enactment of this Act, issue regulations defining the term "totally enclosed manner" for purposes of section 16(b) and (c) of this Act. The Administrator shall define such term so as to insure that any leakage of a polychlorinated biphenyl (PCB) from its enclosure will be in such an insignificant amount as to be harmless.

(c) Labeling of Products Containing PCBs.—The Administrator shall, within 30 days after the date of enactment of this Act, issue regulations specifying the manner in which products containing polychlorinated biphenyls (PCBs) shall be labeled so as to clearly indicate to the purchasers and users of such products that such products contain polychlorinated biphenyls (PCBs) and that such products may not be disposed of except in accordance with regulations issued by the Administrator.

(d) Disposal of Products Containing PCBs.—The Administrator shall, within 30 days after the date of enactment of this Act, issue regulations prescribing approved methods for the disposition of products containing polychlorinated biphenyls (PCBs).

(e) Reuse of PCBs.—The Administrator shall, within 30 days after the date of enactment of this Act, issue regulations prescribing the conditions under and the manner in which polychlorinated biphenyls (PCBs) may be reused.

On page 53, line 20, strike out "Sec. 26" and insert in lieu thereof "Sec. 27".

On page 2, in the table above line 1, strike out "Sec. 26" and insert in lieu thereof "Sec. 27".

[From Sports Illustrated, Dec. 1, 1975]

THE SPREADING MENACE OF PCB

(By Robert H. Boyle)

There was ironic laughter in the coffee shop of Chicago's Pick-Congress Hotel last Friday when Nathaniel P. Reed, Assistant Secretary of the Interior for Fish and Wildlife and Parks, glanced at the menu and said, "Ah, fresh salmon sandwich!" Only an hour before, at the concluding session of the National Conference on Polychlorinated Biphenyls (PCBs), Reed had delivered a blistering speech on PCB contamination of fish, including Great Lakes salmon.

"The problem is a national problem," Reed had emphasized to some 40 scientists, bureaucrats and conservationists. "I am deeply shocked by the pervasiveness of PCBs; they are literally everywhere. I am very troubled by the exceedingly high levels found in fish in all our drainage systems, and I do not mean just the Hudson and the entire Great Lakes system, but the Merrimac and Connecticut rivers of the Atlantic Coast, the Mississippi and Ohio rivers of the Midwest, the Columbia River system in the northwest, the Sacramento in the West, the Rio Grande and other Gulf Coast streams . . . even the Yukon in Alaska."

Reed called for the elimination of all sources of PCBs in the U.S. environment within three years. With a candor unusual for a federal official, he criticized the sponsor of the conference, the U.S. Environmental Protection Agency, which has done little protecting, and the U.S. Food and Drug Administration, which has established a "tolerance" level of five parts per million of PCBs in fish for human consumption.

"Quite frankly," Reed ended his speech, "I am thoroughly disgusted by the gnashing of teeth, wailing and rubbing of hands. To the agencies which have the enforcement responsibilities, a word on behalf of the bewildered but concerned American people—*get on with it!*"

PCBs are chlorinated hydrocarbon compounds used by industries throughout the world because of their resistance to heat. More durable than DDT, PCBs are a proved menace to animal organisms, ranging from invertebrates to man (SI, Sept. 1). In 1968 an estimated 1,200 Japanese came down with *Yusho* disease after using rice oil heavily contaminated with PCBs. The clinical effects included stillbirths, undersized infants, bone and joint deformities and various neurological disorders including loss of libido.

In this country, in a recent experiment on laboratory rats, PCBs caused liver cancer. Last week in Chicago the scientist in charge of that experiment, Dr. Renate D. Kimbrough of the U.S. Public Health Service, delivered a paper in which she warned, "Because of these findings in experimental animals, ingestion of PCBs in humans must be curtailed." The EPA estimates that about half the American public now carries around with it from one to three parts per million of PCBs in its fatty tissues.

Another speaker at the Chicago meeting was Dr. James R. Allen of the University of Wisconsin Medical School, who fed eight female rhesus monkeys a diet that included 2.5 ppm of Aroclor 1248 (one of the nine trademarked PCB compounds made by the sole domestic manufacturer, Monsanto Industrial Chemicals Company) for six months. They were then bred to normally fed male rhesus monkeys. Two females resorbed their fetuses, one suffered a stillbirth, and the five infants born were all undersized. Two of the infants died while nursing. The three survivors are now eight months old, and although they have been on a PCB-free diet for four months, preliminary observations by Dr. Diane H. Norback, a colleague of Dr. Allen, indicate that the youngsters are hyperactive.

The PCB problem, which has been growing for years, began to receive nationwide attention last summer when Ogden R. Reid, commissioner of the New York State Department of Environmental Conservation, warned the public against eating striped bass from the Hudson River or salmon from Lake Ontario. Reid issued his warning after receiving a report from EPA scientists who noted that two General Electric plants at Hudson Falls and Fort Edward were discharging at least 30 pounds of PCBs per day into the river. In September, Reid brought action against G.E. to force the company to reduce its discharge to two pounds a day by Dec. 31 and to zero by Sept. 30 of next year. The action is now before a state hearing officer, and G.E. is contesting it all the way. It is worth noting, however, that in response to a state interrogatory before the hearing began, G.E. admitted, "During the past 15 years, 49 employees have reported to the dispensaries complaining of allergic dermatitis, diagnosed as having been caused by contact with PCBs."

No one really knew that PCBs were present in the world environment until 1966 when Sweden's Dr. Soren Jensen isolated and identified the compounds that had been baffling researchers working on DDT residues. PCBs were then commonly used in a wide variety of everyday products, such as paints, sealants and caulking compounds. In 1971 Monsanto announced it would restrict sales of PCBs to use in so-called "closed cycle" systems, such as capacitors and transformers. U.S. industry turns out more than 100 million capacitors a year, including those for home air conditioners. When junked, such an item is commonly taken to a dump, where the chance exists that PCBs can leach through the soil to bodies of water. In western New York state several companies have been draining PCBs from old transformers, mixing them with crankcase oil and selling the gunk to municipalities to put in roads as a dust suppressor. There is also a report the PCBs have been spread on airport runways in Maryland to prevent skidding in wet weather.

Beyond such practices, there is the danger that transformers can rupture or leak. According to EPA records available in Chicago, a transformer leak occurred on April 16, 1974 on a railroad train running between Philadelphia and Paoli, Pa. From 10 to 100 pounds of PCBs were spilled. The same type of spillage occurred on July 5 of last year from a transformer leak in Stamford, Conn.

On March 8, 1973, a truck developed a leak in Kingston, Tenn., and 630 gallons of PCBs were spilled. The contaminated soils were recovered in 11,500 drums and sealed in concrete at a cost of $1.7 million. It was paid by G.E., which was shipping the chemical. Local residents also brought damage suits against G.E. and last October a judge awarded them a total of $120,000.

The U.S. Department of Defense was involved in a Catch-22 PCB episode with other government agencies in Seattle. On Friday, March 13, 1974 an electrical transformer destined for an Air Force radar station in Shemya, Alaska fell on a pier in Seattle and 265 gallons of PCBs bled into the Duwamish River. Defense refused responsibility; so did the U.S. Coast Guard, which has the primary obligation to clean up oil and other harbor spills. The Coast Guard said PCBs were not among the chemicals it was required to recover. The EPA had to hire divers who brought up 70 to 90 gallons of the compound, and in February of this year the Defense Department finally agreed to pay the cost, $148,000.

But recovery from the Duwamish spill is far from ended. EPA officials estimate 60 to 80 gallons remain in the riverbed, and Defense has assigned the job to the U.S. Army Corps of Engineers. The Corps is scheduled to begin dredging 30,000 cubic yards of river bottom sometime around the first of the year. Estimated cost of the project is between a quarter and half a million dollars.

Although the U.S. Food and Drug Administration allows up to five parts per million of PCBs in fish, the U.S. Fish and Wildlife Service regards the presence of a half part per million (.5 ppm) in a fish egg as a sure sign of trouble in a waterway. According to Charles R. Walker, Senior Environmental Scientist with the Service, who delivered two papers in Chicago, trouble spots on the Atlantic Coast range from the Merrimac River in Massachusetts to the St. Johns in Florida. On the Gulf Coast afflicted rivers extend from the Rio Grande east to the Apalachicola in the Florida panhandle. The Mississippi-Missouri system has its hot spots. On the West Coast, the Sacramento, Rogue, Columbia and Snake rivers have problems and they abound in the Great Lakes region and in the St. Lawrence.

Last week, Canadian officials announced they were dropping edible fish tolerance levels from 5 ppm to 2 ppm and might well close the eel fishery in the St. Lawrence.

Obviously, some rivers are in worse shape than others. Here are some PCB values for fish sampled by the U.S. Fish and Wildlife Service: carp, Cincinnati, Ohio River, 133 ppm; two channel catfish, Marietta, Ohio, Ohio River, 38–77 ppm; walleye pike, Natrona Heights, Pa., Allegheny River, 35 ppm; white perch, Camden, N.J., Delaware River, 19 ppm; gizzard shad, Elizabethtown, N.C., Cape Fear River, 23 ppm; small-mouth buffalo, Redwood, Miss., Yazoo River, 73 ppm; yellow perch, Lowell, Mass., Merrimac River, 98 ppm; goldfish, Poughkeepsie, N.Y., Hudson River, 213 ppm.

The Fish and Wildlife Service does not sample every stream in the country—it extends itself to maintain even the 100 monitoring stations in existence—but research by other agencies reveals other trouble spots. Half the lake trout analyzed from Lake George, N.Y, have more than 5 ppm. And eggs of striped bass taken in 1972 from the Nanticoke and Choptank Rivers on the supposedly unspoiled eastern shore of Maryland had PCB levels that ranged from 2.8 to 20 ppm.

For a number of years the Fish and Wildlife Service also has been monitoring birds. Every starling tested has contained PCBs. Examination of mallard and black duck wings show the Atlantic Flyway has the most severe problems, at least for waterfowl. The mean value for black duck wings is 1.36 ppm, while mallards averaged 1.26 ppm. The values are slightly lower for the Mississippi Flyway, and lower still for the Central and Pacific.

For all the damning data produced in Chicago, some bureaucrats acted in bizarre fashion when their turns came to speak. Walter C. Barber, director of the Standards and Regulations Evaluation Division in the EPA, said, "I don't know what we're going to do." Dr. Albert C. Kolbye, associate director for Sciences, Bureau of Foods, FDA, said, in all seriousness, "We are the straight men in a bad joke." Dr. Kolbye is the FDA official who sets the PCB tolerance levels for human foods.

The weeks ahead doubtless will reveal even more grim news about PCBs. A hearing by the House Subcommittee on Fisheries and Wildlife Conservation and the Environment is scheduled to start this month in Washington; and in New York, Ogden Reid continues to push his state hearing.

If there is any measure of comfort in all this, it is that Soviet bureaucrats must be more inefficient than most of ours. Just recently a delegation of Soviet scientists visited one of the finest labs in this country. They were shown everything the lab had on PCBs and left loaded down with papers. Before returning home, they stopped at the Soviet embassy in Washington, where all the papers were taken away from them.

EPA SAYS 10 MILLION POUNDS OF PCB'S ENTER ENVIRONMENT YEARLY

At least 10 million pounds of polychlorinated biphenyls are lost into the environment each year through vaporization, leaks and spills, Thomas E. Kopp, a chemist with Environmental Protection Agency's Office of Toxic Substances, estimated during the opening of EPA's conference on PCBs in Chicago last week. Outlining the extent of the PCB problem, Kopp said that at least 10 plants are dumping PCBs directly into U.S. waterways and another two are discharging the chemicals into municipal sewage treatment systems. Since PCBs are not removed by any known sewage treatment process, they are assumed to remain in sewage effluent.

EPA Administrator Russell E. Train took the opportunity of the conference to urge adoption of Federal toxic substances control legislation. He noted that in 1972 a Federal task force on PCBs urged a ban on all uses of PCBs except in closed electrical systems, and early passage of toxics control legislation to provide regulatory authority for dealing with problems posed by PCBs and other chemicals. Action was taken by the Food and Drug Administration and EPA to lower PCB levels in food and water, and by other countries to limit PCB use overseas, he added.

Such actions were expected to "take care" of the PCB problem, Train said, but "instead more than three years later, we find that, although PCB levels in food have steadily declined, PCBs are present in our environment to a far greater degree and at higher levels than we have previously thought ... The evidence we have accumulated over the past three years has underscored our original concern over the toxicity of PCBs and over the potential health hazard posed by the presence of high PCB concentrations in waterways, in water supplies and in fish.

Without authority of toxics control legislation, an estimated 600 chemicals are introduced into commercial use each year with no "systematic, advance assessment of their potential impact upon public health," he pointed out. "We find ourselves without the authority we need to really cope with the problems posed by PCBs—the authority to limit selected uses and distribution of PCBs as well as to require testing concerning the health and ecological effects of proposed substitutes."

There is a possibility of ordering individual plants to cease the discharge of PCBs under Section 504, the emergency powers provision of the Federal Water Pollution Control Act, but Train expressed hesitancy at using that provision. "Conceivably, it could give you authority to halt PCBs, but there is a question as to whether it would hold up in court," Train said. "I am not entirely decided on whether we can use it—it would be a very difficult route to go."

REED CALLS FOR IMMEDIATE ACTION ON PCB'S

Questioning the wisdom of waiting until conclusive evidence demonstrates a human health threat from polychlorinated biphenyls before stringent regulation of the substance is undertaken, Assistant Secretary of Interior for Fish, Wildlife and Parks Nathaniel Reed contended that "we must immediately respond to the dangers posed by PCBs; they represent an ubiquitous degenerative influence on our national health and well being," during Environmental Protection Agency's conference on PCBs last month (A/WPR, Nov. 24, 1975, p. 463). Reed insisted that "our food and water supplies are contaminated; our health is threatened; and we are faced with 'environmental stress' about which we know comparatively little," and action must be taken.

Immediate goal of regulators should be the elimination of all sources of PCBs in the environment within three years, Reed said. Toward this end, he supported recommendation by the Lake Michigan Toxic Substances Committee for a national ban on use of all domestic and imported PCBs other than in transformers and capacitors. Latter uses should be reviewed in light of potential replacement products, Reed noted, adding that prior to use, substitutes must be subjected to intensive evaluation to determine hazards associated with their potential loss to the environment.

For the long term, Reed pointed out, legislation that will preclude new 'PCBs' from being discharged into the environment must be pursued. "The passage of an effective toxic substances act and the complete control of PCB importation are imperative to the health of the American people." A substance-by-substance approach to control of toxics only delays and hampers efforts to regulate the occurrence of poisons in the environment, he concluded.

While the conference was in progress, Environmental Defense Fund and Natural Resources Defense Council filed a petition with the Food and Drug Administration in Washington seeking an immediate lowering of permissible levels of PCBs in human food and leading to an eventual ban on foods containing those chemicals. First FDA action should be to lower the current permitted level of 5 parts per million of PCBs in fish, petition said, citing high levels of PCBs found in fish from Lake Michigan and the

Hudson River. In Canada, Department of National Health and Welfare announced establishment of temporary guidelines of 2 ppm for PCBs in fish in that country. DNHW explained that only certain freshwater species from locations in the Great Lakes and St. Lawrence River have a PCB problem and that levels of the chemicals in other foods have been declining.

HIGHLAND EXPLAINS EDF, NRDC ACTION

Explaining EDF and NRDC request for lower levels of PCBs in food, Dr. Joseph Highland, director of EDFs toxic chemical program, explained that "quick and continuing action by the FDA to lower levels of PCBs permitted in food will not only reduce the risk to consumers from involuntary exposure to a potential human carcinogen, but will also educate the public and government regulatory agencies regarding the need to eliminate entirely continuing environmental contamination with PCBs from whatever source."

At the Chicago conference, NRDCs A. Karim Ahmen said the environmental group supports not only a phaseout of all uses of PCBs but also a ban on import and export of PCBs; development of PCB use and consumption inventory to pinpoint all discharges of the substances into the environment; accelerated program of monitoring and surveillance of PCBs in fish, wildlife and foods by state and Federal agencies; moratorium on all dredging of river bottoms until a study is conducted to examine resultant resuspension of PCBs in river water; promulgation by EPA of toxic standards for PCBs such that water in receiving streams has a maximum 0.001 parts per billion level; and swift passage of toxic substances control legislation.

Reporting on reduction of PCB levels in foods as a result of ban on PCBs in packaging, and non-closed systems, FDA's C. F. Jelinek and P. E. Corneliussen said monitoring programs in fiscal years 1973, 1974 and 1975 indicate that PCBs now contaminate far fewer types of food than formerly, and that "the rate and level of occurrence of PCBs have declined very drastically in all categories except fish."

Comprehensive fish survey conducted in fiscal 1973 reveals which species and geographical areas are of concern in regard to PCBs, they said, but significant trends are difficult to determine. After study of primarily commercial fish species, survey found that more than 70% of samples contained no PCBs; about 3% contained over 1 ppm and 0.5% more than 5 ppm of PCBs. Jelinek and Corneliussen said that the only fish which contained more than 5 ppm of PCBs were carp, with the maximum level 20.5 ppm.

Comparison of all samples of domestic fish in FY '73-'75 showed that "the percent of fish samples containing PCBs decreased, but on the other hand, the percent of PCB-containing samples which were above 5 ppm increased. Significantly, all these samples were from the districts in the Great Lakes area, and included such species as chubs, carp and coho salmon."

[From Environment Report, Sept. 8, 1975]

PCB HAZARD

The Environmental Protection Agency is stepping up its efforts to investigate and recommend controls for polychlorinated biphenyls (PCBs), in the wake of "new evidence" that the chemicals may be more toxic and prevalent than previously thought. The decision follows a series of recent actions by state and Federal agencies, including the seizure of thousands of pounds of Great Lakes fish by the Food and Drug Administration, and a warning against eating Hudson River fish by New York State conservation officials.

"A continuing widespread accumulation of PCBs in water, sediment and fish appears to be occurring," EPA analysts warn in a study to be presented later this month. "A significant proportion of the nation's waters are now affected and will continue to be," they add.

Levels as high as 350 ppm and 165 ppm have been detected in Hudson River and Lake Michigan fish, well in excess of 5 ppm—the FDA's "temporary tolerance" limit.

The principal use of PCB is as an insulating fluid in "closed" electrical systems, and Monsanto, the only U.S. producer, is "believed to be" limiting its sales of the product to such purposes, which would presumably provide a safeguard against environmental contamination.

However, the EPA study noted that there have been five water spills involving PCB leakage from transformers during the past year, and there is a potential hazard from the tens of thousands of capacitors, each containing several gallons of PCBs, awaiting disposal.

More importantly, perhaps, EPA said it has received information that PCB reprocessors may be selling the product for other applications, and that most of the 375,000 or more pounds of imports for 1974 were used for other than closed electrical systems, including investment casting processes, heat exchanger fluids and hydraulic fluids.

The director of EPA's Office of Toxic Substances, G. E. Schweitzer, announced that the agency is asking the National Academy of Sciences to determine whether a drinking water standard for PCBs is needed, and has requested information from 84 companies suspected of using the chemical.

Schweitzer also said EPA is initiating a series of new actions related to PCBs, including a limited national sampling effort, a program to help local conservation agencies develop improved sampling techniques, and an examination of possible substitutes for PCBs.

However, the Natural Resources Defense Council, in a letter to Administrator R. Train, accused EPA of not acting on information it had for more than a year. The environment group urged Train to establish a two-parts-per-trillion standard for PCBs within one year and a "zero discharge" standard "in a few years." NRDC is also filing a Freedom of Information request that EPA release the names of the 84 companies believed to be using PCBs.

While EPA currently considers a PCB concentration of 1 ppt in ambient water as an "appropriate goal," the agency maintains that more information is needed before setting a time limit for achieving such a standard.

The increased interest in PCBs by EPA, as well as by conservationists and local health officials, stems in part from two recent studies. One, by researchers at the University of Wisconsin Medical School, reportedly indicates that concentrations of PCBs as low as 2.5 and 5 ppm produce serious adverse health effects in monkeys, including urinary disruptions, lesions, loss of hair, and birth defects.

Another study, headed by Dr. R. Kimbrough of the Center for Disease Control of the U.S. Public Health Service, Atlanta, concludes that one particular PCB, known as Aroclor 1260, produced liver cancer in rats. Findings are expected to be published in the Journal of the National Cancer Institute.

The PCB issue was also heightened in May when a Michigan-based committee, composed of state and Federal officials, recommended that PCBs be banned in almost all uses.

The Lake Michigan Toxic Substances Committee said PCBs have remained at high levels in fish and industrial and municipal effluents, despite programs to locate sources, eliminate discharges and recommend proper handling and disposal procedures.

[From the Milwaukee Journal, Nov. 22, 1975]

PCB BAN URGED BY U.S. AIDE

CHICAGO, Ill.—A top federal fish and wildlife official says the industrial chemicals known as PCBs should be banned nationally because they are threatening the nation's health.

Nathaniel P. Reed, assistant secretary of the interior for fish, wildlife and parks, said Friday, "Our rivers and streams are sick."

He said the $175 million Great Lakes fish restocking would not succeed if the chemicals continued in use.

The federal Food and Drug Administration already bans the commercial sale of any fish with a PCB content of five parts per million, and Canada has a two parts per million limit.

Reed, addressing a national conference on PCBs organized by the Environmental Protection Agency (EPA) and other federal agencies, said polychlorinated biphenyls, or PCBs, threatened to wipe out fishing in the Great Lakes within a generation.

"Nothing short of immediate drastic action will enable us to raise anything better than lakes full of eunuchized fish," Reed said.

PCBs have been widely used as insulating fluids in certain electronic equipment and in hydraulic fluids, lubricants, heat transfer fluids, and as plasticizers in adhesives, sealants, printing inks, coatings and waxes.

Earlier this week, the EPA for the first time identified 10 industrial dischargers of PCBs into the nation's waters and said 24 other electric equipment makers discharged PCBs into sewage treatment plants.

But, said Thomas Kopp, an EPA chemist, "you're only looking at the tip of the iceberg when you look at the manufacturer."

He told the conference that most PCB pollution occurred through the disposal of products in which the chemical is used.

"For example," he said, "what do you think happens to the ballast in that fluorescent light above your head when it's replaced? That's a capacitor. It's thrown in the trash somewhere and ultimately, through runoff, the PCB finds its way to the lakes and streams."

TELLING US SOMETHING

Environmentalists said the PCBs had been found to cause reproduction defects and deaths in fish, birds and mammals.

"I think the fish are telling us something," Reed said.

They are stating unequivocally that our rivers and streams are sick. We should not need a clarion call to realize that our rivers and lakes—the very life lines of our environment—are in mortal danger."

Besides the Great Lakes, high levels of PCBs have been found in the fish of the Hudson River, the Merrimac and Connecticut Rivers of the Atlantic Coast, the Mississippi, Missouri and Ohio Rivers of the Midwest, the Columbia in the Northwest, the Sacramento in the West, the Rio Grande and other Gulf Coast streams and even the Yukon in Alaska, Reed said.

He said he supported the recommendation of the Lake Michigan Toxic Substances Committee for "a national ban on all domestic and imported PCBs destined for use other than in transformers and capacitators" and their use in transformers and capacitators be "immediately and critically reviewed."

ANNEX: SOME ACCIDENTS CAUSED BY PCB'S

June 1968, Japan: Poisoning of about a thousand people (Yusho) as a consequence of leakage of a heat transfer fluid in a rice oil pasteurisation plant.

July 1969, U.S.A.: Occurrence of PCBs in milk from cows given feed treated with herbicides that had been diluted with PCBs.

April, August 1970, U.S.A.: Occurrence of PCBs in milk from cows given feed that had been stocked in silos coated with PCB-based products.

December 1970, U.S.A.: Occurrence of PCBs in chicken following absorption from PCB-containing plastic wrappings.

July 1971, U.S.A.: Contamination of animal feed (by-product of meat production), as a result of a leak in heating equipment used for pasteurisation.

August 1971, U.S.A.: Occurrence of PCBs in turkey and chicken fed PCB-containing products (reason unknown).

July 1971, U.S.A.: Discovery of PCBs in food wrappings due to recycling of copying paper in the production of paper pulp.

From: "Polychlorinated Biphenyls: Their Use and Control," organization for Economic Cooperation and Development (OECD), Paris, 1973.

[From the Milwaukee Journal, Aug. 11, 1975]

CITIZENS ACT ON POLLUTION

Residents along Lake Pepin on the Mississippi River have been stirred to action by the virtual collapse of the fishing industry there due to excessive levels of polychlorinated biphenyls (PCBs), industrial chemicals that pose a potential danger to human health.

The residents have formed the Citizens for Preservation of Lake Pepin. But they're not just demanding a ban on upstream discharge of PCBs. They also have decided to attack persistent sewage overflow of St. Paul, the dumping of sewage and refuse into the river from towboats, inadequate control of siltation and an abundance of rough fish that interfere with the spawning of game fish.

Environmental protection is a nice principle that generally gets the sort of lip service that is accorded motherhood and apple pie. But as the Lake Pepin residents belatedly are discovering, it takes alert citizen action to do something about environmental protection. And that too often does not occur until people become direct, personal victims of unchecked pollution.

[From the Milwaukee Sentinel, Nov. 11, 1975]

RESTOCKING LAKES SEEN AS FUTILE

(By Quincy Dadisman)

CHICAGO, ILL.—The millions spent to restore fishing on the Greate Lakes may all have been wasted, because the fish are likely to be contaminated, the man in charge of much of that spending said here Friday.

Nathaniel P. Reed, assistant secretary of the Department of the Interior for fish, wildlife and parks, said 17 years and $33 million have gone into restoring the Great Lakes, and that success seems achieved in all the lakes except Lake Ontario.

But, he said, "All our efforts are for naught if these fish cannot be harvested—and we now face this stark possibility."

Polychlorinated biphenyls (PCBs), industrial chemicals that have contaminated the lakes, make many of the fish dangerous to eat, Reed said.

LAKES LOSSES TOLD

"During this century," Reed told a conference on PCBs called by the federal Environmental Protection Agency (EPA), "the fisheries of the Great Lakes have suffered from heavy fishing, relentless predation by the parasitic sea lamprey, the influx of other nonnative species like the alewife and the diminished quality of habitat as a result of waste disposal, uncontrolled shoreline development and numerous other water polluting activities.

"In recent years, however, we have taken significant steps at great financial cost to stop the decline of Great Lakes fisheries and to restore them to their former productivity."

He said control of the lamprey—which once nearly eradicated lake trout in the Great Lakes—had been achieved in all the lakes except Lake Ontario and that the states and federal government had restocked the lakes with lake trout, other trout and salmon, adding:

"These stocked salmonids have fed heavily on the plentiful alewife and have rapidly grown to trophy size. The resulting sport fishery of these salmonids, when combined with the existing sport fisheries on other species, currently contributes $350 million annually to the Great Lakes states and the Province of Ontario."

But many of the Lake Michigan fish, he said, contain more than five parts per million (ppm) of PCBs—the Food and Drug Administration "action level" beyond which fish are considered unsafe for human consumption.

WARNINGS ISSUED

As a result, he said, warnings have been issued against eating large lake trout and salmon from Lake Michigan and similar problems exist in Lakes Superior, Huron and Ontario.

The Food and Drug Administration can seize anything offered for sale for human consumption that contains more than the action level of any contaminant. Many of the witnesses who appeared earlier at the conference were critical of the 5 ppm action level, arguing that it is too high to provide adequate protection.

Last week, the Canadian government set the action level there at 2 ppm, the level several speakers at the conference advocated for the United States.

"But if the current level were lowered to 1 or 2 ppm," Reed said, "then virtually all species would be restricted and essentially the entire Great Lakes' fishery would be curtailed. The current guideline of 5 ppm has already tabled any serious consideration of commercially utilizing the salmonid popuations in the near future," he said.

HISTORIC STRUCTURES TAX ACT— S. 667

AMENDMENT NO. 1325

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BEALL. Mr. President, I am submitting and sending to the desk an amendment to S. 667, the Historic Structures Tax Act, which I introduced on February 12, 1975. The Historic Structures Tax Act has now been cosponsored by the following 19 Senators: Senators ABOUREZK, BAKER, DOLE, DOMENICI, GOLDWATER, GRAVEL, HART of Michigan, HARTKE, JAVITS, MATHIAS, MCGOVERN, MCINTYRE, METCALF, SCOTT of Pennsylvania, STEVENS, STONE, TAFT, TOWER, and TUNNEY.

The amendment I am submitting today would allow historically significant buildings which are located within "historic districts" established by State and/or local governments to receive the tax benefits contained in title II of S. 667. Thus it will not be necessary to make a building-by-building determination in those areas which have been set aside as historic districts. I would add, Mr. President, that the Secretary of the Interior is authorized, by this new language, to determine by a certification process that the historic district designation meets "criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance." I believe that this language will prevent abuse or misuse of this provision while at the same time achieving a desirable objective.

Mr. President, on October 13, 1975, I visited the Union Square restoration area in Baltimore which is a prime example of what can be done by individuals committed to the cause of historic preservation. Restoration and rehabilitation are far better forms of "Urban Renewal" than the more traditional approaches we have pursued in the past. Restored areas, such as Union Square, Bolton Hill, Federal Hill, Fells Point, Mt. Vernon, Seton Hill, Charles Village, and others serve to revive communities, improve the tax base, strengthen the urban social fabric, while improving the general quality of life in our major cities.

On the same day I sent a letter to each member of the House Ways and Means Committee and the Senate Finance Committee urging them to focus attention on this vital area during their consideration of tax reform legislation. By these actions I hope to give visibility to an important legislative initiative that might otherwise be overlooked.

I feel that our current system of tax incentives works in a very direct and definite way against enlisting private funds in historic restoration projects. We can no longer continue to systematically destroy our Nation's history, weaken the fabric of our communities, and deplete our resources as we have in the past. As our national values readjust to the concept of a finite world it is important for us to update our tax system so as to achieve socially desirable goals.

I believe that the Congress should give prompt and favorable consideration to the Historic Structures Tax Act which would harness the constructive aspects of our Federal tax system so as to preserve historically significant buildings, encourage the rehabilitation rather than the demolition of older buildings in our urban centers; and increase the development of additional open spaces for public use.

Mr. President, I ask unanimous consent that amendment No. 1325 and the text of S. 667 be printed in the RECORD.

There being no objection, the amendment and bill were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1325

On page 4, line 12, strike out "or".

On page 4, line 15, strike out "or his delegate".

On page 4, line 16, strike out the period and insert in lieu thereof a comma and "or".

On page 4, between lines 16 and 17, insert the following new subparagraph:

"(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary or his delegate as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district."

On page 4, beginning with line 17, strike out through line 23.

On page 4, line 24, strike out "(3)" and insert in lieu thereof "(2)".

On page 8, line 18, strike out "as defined in section 189(d)(2)".

On page 8, below line 25, insert the following new paragraph:

"(3) CERTIFIED REHABILITATION.—The term 'certified rehabilitation' means any rehabilitation of a certified historic structure (as defined in section 189(d)(1)) or of any other structure located in a Registered Historic District or in a State or local government historic district established under a certified statute as described in section 189(d)(1)(C) which the Secretary of the Interior has certified to the Secretary or his delegate as being consistent with the historic character of such property or district."

S. 667

A bill to amend the Internal Revenue Code of 1954 to encourage the preservation and rehabilitation of historic buildings and structures and the rehabilitation of other property, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, ETC.

Sec. 101. Short Title.

This Act may be cited as the "Historic Structures Tax Act of 1975".

Sec. 102. Amendment of 1954 Code.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE II—PRESERVATION AND REHABILITATION OF HISTORIC STRUCTURES

Sec. 201. Amortization of Rehabilitation Expenditures.

(a) Allowance of Deduction.—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

"Sec. 189. Amortization of Certain Rehabilitation Expenditures for Certified Historic Structures.

"(a) Allowance of Deduction.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

"(b) Election of Amortization.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) Termination of Amortization Deduction.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

"(d) Definitions.—For purposes of this section—

"(1) Certified historic structure.—The term 'certified historic structure' means a building or structure subject to the allowance for depreciation provided in section 167 which—

"(A) is listed in the National Register, or

"(B) is located in a Registered Historic District and is certified by the Secretary of the Interior or his delegate as being of historic significance to the district.

"(2) Certified rehabilitation.—The term 'certified rehabilitation' means any rehabilitation of a certified historic structure or of any other structure located in a Registered Historic District which the Secretary of the Interior or his delegate has certified as being consistent with the historic character of such property or district.

"(3) Amortizable basis.—The term 'amortizable basis' means the portion of the basis attributable to additions to capital account which—

"(A) are amounts expended for certified rehabilitation, and

"(B) are described in section 167(o)(2).

"(e) Depreciation Deduction.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(f) Life Tenant and Remainderman.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(g) Cross References.—

"(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of 'National Register' and 'Registered Historic District', see section 470 et seq. of title 16 of the United States Code.

"(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1238.".

(b) Gain on Disposition.—Section 1238 (relating to amortization in excess of depreciation) is amended by inserting after "facilities)" the following: "or section 189 (relating to amortization of certain rehabilitation expenditures for certified historic structures)".

(c) Conforming Amendments.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 189. Amortization of certain rehabilitation expenditures for certified historic structures.".

(2) Section 642(f) (relating to amortization deductions of estates and trusts) is amended by striking out "and 188" and inserting in lieu thereof "188, and 189".

(3) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 188" and inserting in lieu thereof "188, or 189".

(4) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 188" and inserting in lieu thereof "188, or 189".

(d) Effective Date.—The amendments made by this section shall apply with respect to additions to capital account made after February 15, 1975.

Sec. 202. Demolition.

(a) Disallowance of Deductions.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"Sec. 280. Demolition of Certain Historic Structures.

"(a) General Rule.—In the case of the demolition of a certified historic structure (as defined in section 189(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) Special Rule for Registered Historic Districts.—For purposes of this section, any building or other structure located in a registered historic district shall be treated as a certified historic structure unless the Secretary of the Interior or his delegate has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(b) Clerical Amendment.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280. Demolition of certain historic structures.".

(c) Effective Date.—The amendments made by this section shall apply with respect to demolitions commencing after the date of enactment of this Act.

Sec. 203. Depreciation of improvements.

(a) Method of Depreciation.—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) Straight Line Method in Certain Cases.—

"(1) In general.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after February 15, 1973, occupied by a certified historic structure (as defined in section 189(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 189(d)(2)) after such date, subsections (b), (j), (k), and (l) shall not apply, and the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) Exception.—The limitations imposed by this subsection shall not apply to property which is not affixed to land or improvements.".

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after December 31, 1975.

TITLE III—REHABILITATION OF OTHER PROPERTY

Sec. 301. Substantially Rehabilitated Property.—

(a) Section 167 (relating to depreciation) is amended by inserting after subsection (n) (as added by section 203 of this Act) the following new subsection:

"(o) Substantially Rehabilitated Property.—

"(1) General rule.—Pursuant to regulations prescribed by the Secretary or his delegate, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated property as though the original use of such property commenced with him.

"(2) Substantially rehabilitated property.—For purposes of paragraph (1), the term 'substantially rehabilitated property' means property described in section 1250 with respect to which the additions to capital account during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization allowable thereto, exceeds the greater of—

(A) the adjusted basis of such property, or

"(B) $5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250 (c)), whichever is later.".

(b) Effective Date.—The amendment made by this section shall apply with respect to additions to capital account occurring after June 30, 1976.

TITLE IV—CHARITABLE TRANSFERS FOR CONSERVATION PURPOSES

Sec. 401. Transfers of Partial Interests in Property for Conservation Purposes.

(a) Income Tax Deductions for Charitable Contributions of Partial Interests in Property for Conservation Purposes.—Section 170(f)(3) (relating to charitable contributions) is amended—

(1) by striking out "or" at the end of subparagraph (B)(i),

(2) by striking out "property.", at the end of subparagraph (B)(ii) and inserting in lieu thereof "property,",

(3) by adding after clause (ii) of subparagraph (B) the following new clauses:

"(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years' duration granted to an organization described in subsection (b) (1)(A) exclusively for conservation purposes, or

"(iv) a remainder interest in real property which is granted to an organization described in subsection (b)(1)(A) exclusively for conservation purposes.", and

(4) by adding at the end thereof the following new subparagraph:

"(C) Conservation purposes defined.—For purposes of subparagraph (B), the term 'conservation purposes' means—

"(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

"(ii) the preservation of historically important land areas or structures; or

"(iii) the protection of natural environmental systems.".

(b) Estate Tax Deduction for Transfer of Partial Interests in Property for Conservation Purposes.—Section 2055(e)(2) (relating to deductions from gross estate) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(c) Gift Tax Deduction for Transfer of Partial Interests in Property for Conservation Purposes.—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out "(other than a remainder interest in a personal residence or farm or an undivided portion of the donor's entire interest in property)" and inserting in lieu thereof "(other than an interest described in section 170(f)(3)(B))".

(d) Effective Date.—The amendments made by this section shall apply with respect to contributions and transfers made after February 15, 1975.

GRANTS TO CERTAIN INDIAN EDUCATIONAL INSTITUTIONS—S. 2634

AMENDMENT NO. 1326

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (S. 2634) to provide for grants to certain Indian postsecondary educational institutions, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1075

At the request of Mr. Hathaway, the Senator from Maine (Mr. Muskie), the Senator from Maryland (Mr. Beall), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Alaska (Mr. Gravel) were added as cosponsors of amendment No. 1075, to clarify the tax status of certain independent fishermen, intended to be proposed to the bill H.R. 7727, suspending duties on certain silk yarns.

NOTICE OF FURTHER HEARINGS ON THE ROLE OF THE INTERNAL REVENUE SERVICE IN LAW ENFORCEMENT ACTIVITIES AND THE PRIVACY OF FEDERAL TAX RETURNS AND TAX INFORMATION

Mr. HASKELL. Mr. President, I wish to announce that on January 22, 1976, the Subcommittee on Administration of the Internal Revenue Code will hold further hearings concerning the role of the Internal Revenue Service in Federal law enforcement activities. Our earlier hearings have indicated that the extent of IRS involvement in these efforts has been determined on a case-by-case basis with little attention given to the broader question of whether limits should be set for these activities. This additional day of hearings will focus on the need for setting appropriate limits and their impact on the administration of the tax laws and on individual rights. It is anticipated that the witnesses appearing before the subcommittee on this matter will include both academicians and constitutional law experts.

In addition, on January 23, 1976, the Subcommittee on Administration of the Internal Revenue Code hopes to wind up its hearings on the privacy of Federal tax returns and tax information, hearing from members of the public and representative State tax administrators who have indicated their concern with respect to this matter. The statutory rules governing the disclosure of tax information have not been reviewed by the Congress for 40 years, and over that period a number of rules concerning the disclosure of tax information have been established by Executive order, regulation, and common practice. In order to insure that the development of these procedures does not in any way impair the effectiveness of the voluntary assessment system—which is the key to Federal tax collection—we have tried to conduct exhaustive hearings on this matter. The subcommittee hopes to bring out information which will help the Congress fashion legislation on the privacy of tax returns and tax information that is compatible with the Privacy Act of 1974 and the Freedom of Information Act.

Witnessess desiring to testify during this hearing must submit their requests in writing to Michael Stern, staff director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than Wednesday, January 7, 1976. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. Once the witness has been advised of the date of his appearance, it will not be possible for this date to be changed. If for some reason the witness is unable to appear on the date scheduled, he may file a written statement for the Record of the hearing in lieu of a personal appearance. The hearings will be held in room 2221, Dirksen Senate Office Building and will begin at 10 a.m. on each day.

The committee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the subcommittee. This procedure will enable the subcommittee to receive a wider expression of views than it might otherwise obtain.

I urge very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

The Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the committees of Congress to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument.

Witnesses scheduled to testify must comply with the following rules:

(1) A copy of the statement must be filed by the close of business two days before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement *a summary of the principal points included in the statement.*

(3) The written statements must be typed on letter-size paper (not legal size) and at least *75 copies* must be submitted by the close of business the day before the witness is scheduled to testify.

(4) *Witnesses are not to read their written statements* to the subcommittee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for oral presentation.

The subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length, and mailed with 5 copies by February 13, 1976, to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

THE IRS AND THE LAW

Mr. MORGAN. Mr. President, Thomas Jefferson wrote that—

> The republican is the only form of government which is not eternally at open or secret war with the rights of mankind.

Recently in this country we have betrayed Jefferson's trust. We have seen revealed a long sequence of secret abuses of human rights by all of our investigative agencies. I will not recite the litany; it is familiar to all.

We have seen everything from the opening of private citizen's mail to the harassment of individuals through illegal use of their tax returns. An overzealous attempt to enforce the law has led to what is perhaps America's greatest disgrace: A totalitarian like abuse of human rights. For what is America if it is not the Nation where human rights are protected against all else? And is it not a national disgrace when we systematically violate those rights as though we were a totalitarian nation? How can our Nation be held up as an example to the rest of the world if we violate our own constitutional principles in overzealous attempts to enforce subsidiary legislation? The answer is obvious enough. Unfortunately our shame is not nearly so obvious, for too many of our investigative officers cloak their overzealousness in pious patriotism, forgetting that the Constitution is our primary law, a law not to be taken lightly, a law not to be violated under any circumstances.

Too much cannot be said about the importance of our governmental agencies operating within the limits of the law, for as Henry Clay has said:

> Government is a trust, and the officers of the government are trustees; and both the trust and the trustees are created for the benefit of the people.

People do not exist for the Government or its rules and regulations. The situation is just the opposite: Government and its rules and regulations exist for the people.

We must remember that totalitarianism is but an oversight away. If we should consider violations of the Bill of Rights to be mere oversight, our Constitution will be a sham, and our people will in effect have beeen subjugated. Americans deserve better from their governmental agencies. Somehow or other, we have failed to impress upon our agencies the importance of the Bill of Rights. And when I hear that we must excuse our agents, because they are sincere and dedicated men, I wonder why no one asks if they have ever read the Constitution. Sincerity is no excuse for ignorance, and dedication is no excuse for crime.

The role of Government and its relationship to the individual has been changed so radically that Government today is involved in almost every aspect of our lives. This is especially true of the Internal Revenue Service. And in the past, this agency, just as the others, has abused its role in our society. Let me give you but a few examples:

In 1972, a Mexican trucker sent one of his trucks and about $11,000 in cash into the United States to buy automotive parts. Police seized the truck and cash in Laredo, Tex., on suspicion of illegal narcotics activities, sent the two drivers back to Mexico on foot, and called the IRS. The IRS immediately levied a $12,774 income tax on the cash and sold the truck for $750, refusing to explain how they had figured a U.S. income tax in any amount against a person who was not a citizen or a resident and who had never worked or earned any money in the United States. When this person went to court it became apparent that there was no basis for the tax and that the IRS had simply come up with a figure that would justify seizing the truck and cash.

On several instances, the Federal Bureau of Investigation, which had direct access to tax return information through the Internal Security Division of the Department of Justice, used tax returns and information taken from tax returns in its counterintelligence programs. That the FBI's program spanned the complete range of political philosophies can be seen by quickly reviewing its use of tax return information. In one instance, a woman known to be a Communist and her employer were audited by IRS at the request of the FBI. In another situation, the tax returns of a midwestern university professor who was active in the antiwar movement were reviewed by the FBI and he was subsequently audited by IRS at the request of the FBI.

In a third situation, the FBI labeled certain of this country's blacks as Key Black Extremists and set about to disrupt and neutralize their activities. In formulating its plan of attack, the bureau stated that the tax returns of all Key Black Extremists should be "reviewed." And finally, there are several instances where the FBI sought to disrupt the activities of the Ku Klux Klan through the improper use of tax returns. In one, the winner of an automobile at a Klan rally was subjected to an extensive audit and called upon to account for each and every one of his exemptions merely because he had participated in the lottery and been lucky.

Problems inherent in the free availability of tax returns have not been confined to improper FBI activities. It has been the normal practice for the Civil Division of the Department of Justice to request the returns of individuals involved in civil litigation against agencies of the Federal Government. The need for such information is not very clear.

The CIA obtained the tax returns of the author of a book, the publication of which the CIA tried to prevent. An IRS source suggested that the person's income tax returns be subjected to a "routine audit."

In its efforts to aid the Justice Department in its fight against organized crime, the IRS illegally used wiretaps for which no authorization was gotten.

The Meikeljohn Civil Liberties Library, a tax-exempt San Francisco-based organization which provided legal materials to attorneys involved in civil liberties cases, was audited because it sponsored a summer law institute for lawyers.

A Bahamian bank official with a briefcase containing records of bank transactions in the Bahamas which, if in the hands of the IRS, would constitute evidence of IRS violations by the individuals identified in the documents was in Miami. While there an arrangement was made by an IRS informant for the banking official to have dinner with a female companion. While the banking official was at dinner, the informant entered the bank official's hotel room, took the briefcase, and had the contents copied. These copies were then turned over to the IRS, and the informant received $8,000 for his efforts.

And although the divulgence of the contents of telegrams to persons other than the addressee, his agent, or attorney is prohibited by U.S. law, the IRS on at least two occasions made use of computerized lists of senders of Western Union telegraphic money orders.

These are but a few examples of the kinds of illegal actions which have been permitted by our former IRS Commissioners. Today, however, we are fortunate to have an Internal Revenue Commissioner who seems intent upon changing such injustice. And I now stand to praise him for his position. He has sought to set things right. By calling off IRS investigations in which illegal procedures were being used, he has begun a hard but necessary task. In this effort he deserves our support rather than our criticism, our praise rather than our vilification. We are indeed fortunate to have a man such as Commissioner Alexander in this position at this time. For in the light of recent revelations, the people have lost their confidence in the ability of our investigative agencies to protect our fundamental rights. This Government cannot afford to have the people's faith in the IRS eroded, for the success of our system of taxation depends upon citizen confidence in fair treatment and voluntary compliance with the law. Commissioner Alexander's efforts will do much to restore and maintain this confidence.

BONN CHARGES BIAS IN SELECTION OF TANK

Mr. BARTLETT. Mr. President, I want to address myself to an article written by John W. Finney found on page 8 of yesterday's New York Times, December 18, 1975. The article is entitled, "Bonn Charges Bias in Selection of Tank."

The article, Mr. President, relates to the Army's XM-1 tank, an armored weapons system that is far superior to any we now have, and, so far as can be determined, that the Soviet Union has.

The thrust of West Germany's concern expressed in the article by E. B. Eberhard, director of research in the West German Defense Ministry, appears to be the fact that the U.S. Army is unwilling to delay the XM–1 program in order for the West German experimental main battle tank, the Leopard II, to reach a similar state of development in order to evaluate the two tanks side-by-side.

It is my understanding that there was never any plan to conduct a runoff competition side by side between a winning U.S. XM–1 prototype and the Leopard II. The Leopard II would run through the same test schedule, the results evaluated, and then desirable and/or superior components would be incorporated into the XM–1 winner during engineering development. This latter action would occur only if the Leopard II was ready for testing on October 1, 1976.

As a defense program, the XM–1 is remarkable for it is currently on schedule and within its budget, and, in this day and age of the tight defense dollar, this factor is extremely important.

There has been considerable talk expounded by opponents in the Congress of the XM–1 program relating to delaying the program for this or that reason. We all know, Mr. President, that delay means dollars. The Federal Government and private sector of our economy both have experienced the increased costs associated with delays.

The current XM–1 program is a good one. Testing for the two U.S. prototypes is scheduled from February through April 1976, with evaluations to follow thereafter, and contractor selection made in August. Under present plans the Leopard II would run through the same testing as the XM–1 prototype from September through December 1976. Adherence to this schedule would allow the Department of Defense to make a decision on the final winner by the end of March 1977.

Because the allies would be outnumbered from two to three to one in any war with the Soviets and the Warsaw Pact, we should not delay one day a new generation weapon—the XM–1 tank is a new generation weapon.

I have stated often that standardization of weapons systems among our allies is desirable, and perhaps even necessary because of rapidly escalating defense production costs. However, the Leopard II is not ready for competition, and it is my opinion that it will not be ready by October 1976. Furthermore, based on initial reports the Leopard II cannot compete with the XM–1 as a cost effective new generation weapon system.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times article referred to above and an excellent letter from Mr. J. E. Knott, general manager, Detroit Diesel Allison, Division of General Motors Corp., to Deputy Secretary of Defense W. J. Clements, Jr., which I believe outlines the problems and situation from the U.S. contractors' points of view.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BONN CHARGES BIAS IN SELECTION OF TANK

(By John W. Finney)

WASHINGTON, December 17.—West German defense officials have expressed concern to the Defense Department that the United States Army is attempting to prevent an open competition in picking a new basic tank for the United States and West Germany.

The two governments agreed a year ago that West Germany could enter its new Leopard II tank in competition with tanks being developed by the United States army, with the winner presumably selected as the standard battle tank of the two nations.

In West European eyes, the tank competition has become a test of whether the North Atlantic Treaty allies can achieve their oft-stated goal of standardization of weapons and, in particular, whether the United States military services are willing to accept a European-developed weapon.

CONCERN IS EXPRESSED

West German concerns that the United States Army was attempting to prejudice the competition against the West German tank became evident in letters made public today by Senator Thomas F. Eagleton, Democrat of Missouri. The letters were written by Hans L. Eberhard, research director in the West German Defense Ministry, to Malcom R. Currie, director of research and engineering in the Defense Department.

Similar concerns have been expressed directly to Senator Eagleton in recent days by Carl Damm, a member of the lower house of the German Parliament, who is chairman of the subcommittee on European defense cooperation of the North Atlantic Assembly.

A principal point of complaint in the Eberhard letters was the way the United States Army had prevailed upon Congress in recent weeks to provide funds for engineering development of the United States tank before the competition was completed.

The Senate Armed Services Committee has sought to strike out the engineering development funds on the ground that such an investment prior to selection of the winning tank "would basically invalidate the competition." Faced with such a potential setback at the hands of the Senate committee, the Army, according to Congressional sources, lobbied intensively and successfully to have it in this year's defense appropriations bill.

The Army's position, as stated in an interview by Norman R. Augustine, the Under Secretary of the Army, is that the United States development program "should not have to stop until the other guy can catch up."

Mr Eberhard complained in his letter that the Army was "entering into premature contractual and financial commitments" that might make it impossible for the German tank to be judged "without any reservations and in a fair manner."

By the time the competition is completed in March 1977, the United States Army will have spent nearly $100 million in engineering development of its tank on top of an earlier development investment of $200 million. The concern in West German circles, shared by some members of Congress, is that by then the United States Army will have a vested financial interest in proceeding with its own tank.

Mr. Eberhard also expressed annoyance at the inability of the two nations to agree on a common gun for the future tank.

He said a joint American-British-West German study earlier this year had confirmed that the 120-mm gun developed by West Germany was "the only one to meet all performance requirements"

The United States Army, in contrast, interpreted the study as confirming its choice of a 105-mm gun, for which its tank is being designed.

Senator Eagleton said in a statement that it was becoming apparent that the United States Army believes in standardization "only when American weapons are being standardized."

DETROIT, MICH.,
May 19, 1975.

Hon. W. P. CLEMENTS, Jr.,
Deputy Secretary of Defense,
Washington, D.C.

DEAR MR. CLEMENTS: I am writing about our position in the XM–1 Main Battle Tank Program. Since our last communication in the fall of 1974, we have made substantial progress with the XM–1 project. We are in the 23rd month of our 34-month contract and we are ahead of schedule on our deliverable items and we are within the development cost plan. All of the testing we have done indicates we will meet or exceed the contract requirements.

On the other hand, the concern we felt and expressed to you in May and October of 1974 regarding the entry of the German Leopard into the U.S. competition is increasing. We were concerned that involvement of the Germans would ultimately result in a delay in the U.S. program which would bring with it a host of difficulties, including increased costs and difficulties in maintaining the necessary technical team to complete the development. Unfortunately, these concerns are increasingly coming to pass and we see a set-back developing for the United States program in the recent action by the Senate Armed Services Committee to prevent the Army from initiating the XM–1 Phase II program as scheduled.

We understand that the DOD position on the German Leopard II tank is essentially that a viable German competitor for a future production Main Battle Tank would be welcome at the starting line of the U.S. competition. If it can win the competition in the schedule time frame, with superior technical performance under identical test, and at a more advantageous production cost than the United States competitors, it would be utilized by the United States. We have suggested that allowing the Leopard tank to enter the competition would so complicate the XM–1 decision-making process that it would delay and compromise the United States program. You have told us that you will exert every effort to avert such disruption.

If our understanding is correct, then it appears that your position is being misinterpreted by the Senate Armed Services Committee investigators who seem to have turned the situation completely about to the point where the main thrust of the U.S. program is not a new tank for the U.S. but rather a standard tank for NATO. Using this fundamental shift in basic program rationale, people are suggesting that the United States program stop while the Germans catch up so that the competition may be a "real competition." The specific result of this approach is for the Senate Armed Services Committee to forbid the Army beginning its XM–1 Phase II program as planned. The money for the first three months of the Phase II program, which was in the FY 7T budget, is withheld, thereby interrupting the program we were encouraged to undertake in 1972 and whose plan has been remarkably stable until Leopard II and the current FY 76 and FY 7T budget hearings.

In my last letter to you, I indicated the serious problem of maintaining continuity and the technical team, should there be any delay in the funding of the XM–1 program. Some of the proposals that have come to our attention would result in a halt in the present program from eight to twelve months and the Phase II award would not be made to either U.S. contractor until the Germans catch up with their own competition tank.

We want to impress everyone concerned that we see no way that our technical team can be held together for a period of many months without continuous government funding. The team now approaches 600 people located principally at General Motors and Teledyne Continental. Many of these skilled technicians and engineers were adversley affected with the previous termination of the XM–803, and it is unlikely that any of them again would volunteer for a government funded military vehicle program. This would indicate that we very well could cease to be available as a competitive contractor for such programs.

I would like to further comment on this situation as we perceive it developing toward an unnecessary major error for the United States. We have one of the two United States XM-1 prototype tank programs, and the status of our candidate is as follows:

We are ahead of schedule.

We are under our development cost plan.

We have demonstrated by test armor performance which exceeds the contract requirements.

We have demonstrated by test acceleration performance which exceeds the contract requirements.

We have demonstrated by test suspension system performance which exceeds the contract requirements.

Perhaps more important, our production cost predictions, now being audited by the Army, show we have achieved a design only 4% more costly than the M60A3 which is considered the Lo end of the Hi-Lo mix of future tanks.

In spite of the allegations from some that the German Leopard will represent good competition, most of the information reaching us indicates that our candidate should win this competition on performance and easily on price. The Defense Department is obviously in a better position to judge this early comparison, but it would be tragic if our very successful prototype XM-1 program were delayed a year and then find out that it is still the superior vehicle. The use of the term "competition" appears questionable when the leaders are asked to stop and wait for the stragglers to catch up.

We feel that the General Motors XM-1 tank design provides a rare opportunity for the United States to field a weapon system with dramatic performance improvements at a very small cost increment over the scheduled evolution of the current production tank which is known to be totally vulnerable to penetration by existing Soviet armor and antiarmor weapons.

We know that a desire for standardization of the NATO arms has been expressed. Many of the people on our current tank technical staff worked and lived in Germany with German industry on the MBT-70 program for a period of years. We, and our German counterparts, have spent many hundreds of thousands of engineering hours working the problems of main battle tank international standardization. Although the MBT-70 initial thrusts were for a logistically common tank, it soon became evident that this simply expressed concept is vastly complex and difficult to attain. Once a common tank design is achieved, and this is a mammoth undertaking, both countries must subjugate their forward manufacturing and engineering endeavors to the constraint of mutual agreement between Government and industry joint groups involving large staffs from both countries. Simply summarized, our past experience is that there is sufficient divergence of national interests that the logistically common concept becomes untenable and alternatives are sought. Whereas these implementation problems are concrete and quantifiable, the potential benefits are not evident in any quantitative terms known to us. Despite this past painful experience, we see developing the possibility that the entire cycle may be attempted again.

We believe the U.S. has conducted an outstandingly successful XM-1 program to date. The Government management of the effort has been exemplary. We would like to see the Government pursue this program to its successful production introduction rather than delay to consider an alternate course which we feel to be a predictable blind alley.

If the need for NATO tank commonality is of very great importance, we would urge all steps possible to get NATO to standardize to some degree on the U.S. XM-1 basic design. It seems to us this would be in the best interests of the United States and NATO. A program to accomplish this could move forward on a very rapid pace from the U.S. side once a single U.S. contractor has been chosen. There would be no need for artificial delay.

Sincerely,

J. E. Knott,
General Manager.

CHURCHES QUESTION NUCLEAR POWER

Mr. GRAVEL. Mr. President, although many of the problems of nuclear power are technical, the ultimate decision by the United States and other nations of whether to rely on nuclear technology is really a moral decision.

We know, from a technical standpoint, that nuclear fission produces radioactive wastes which are sufficiently poisonous to wreak genetic havoc upon our environment and upon our species—and we know that the nuclear power reactor is a factory of atom bomb grade plutonium.

The decision to go nuclear should be made only after we have confronted the fact that in using nuclear power, we are consigning to future generations the guardianship of our radioactive wastes—and that in allowing the proliferation of peaceful nuclear power, we are also allowing the proliferation of weapons-grade materials, and hence are increasing the risk of nuclear war.

These, as I say, make the nuclear decision a moral one. And I have been pleased to see in recent months that church groups have taken an interest in seeking the answers to the questions involved.

The National Council of Churches of Christ has issued a "Statement of Concern" about the proposed plutonium economy; and the World Council of Churches has also issued a "Report on Nuclear Energy."

I ask unanimous consent that the "Statement of Concern" and a selection from the "Report," written by Dr. Jan Prawitz, assistant to the Defense Minister of Sweden, be printed in the Record. A complete background report on the "Statement of Concern" is available from the National Council of Churches, 475 Riverside Drive, New York City, 10027.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Plutonium Economy: A Statement of Concern

(By the Committee on Inquiry: The Plutonium Economy)

Large amounts of the man-made element plutonium are unavoidably produced in nuclear power plants fueled by uranium. Plutonium is, and remains for hundreds of thousands of years, dangerous to life in amounts so small as to be undetectable. It must therefore be infallibly and perpetually isolated from the biosphere. Plutonium, once separated from other reactor byproducts, can also be readily made into crude but effective atomic weapons of mass destruction, and must therefore be infallibly and perpetually safeguarded from theft.

At present, plutonium is accumulating as a byproduct of the generation of nuclear power, but it is now proposed to use plutonium as one of the most important fuels of the United States and other countries. Under this proposal, plutonium would first be used to supplement fissionable uranium in existing reactors and would later be generated and recycled in larger quantities by fast breeder reactors specially designed for this purpose. The use of plutonium as a nuclear fuel would permit a vast expansion in our reliance on nuclear fission power, for our low-cost uranium supplies are limited.

Plans for the next few decades include hundreds of fast breeder reactors, scores of special fuel plants, and hundreds of shipments of plutonium each day throughout the United States, and similarly in many other countries. Twenty years from now, hundreds of tons of plutonium would be produced annually in the United States, and production would be rising rapidly. But the amount needed to make a nuclear bomb will remain less than 20 pounds, and the amount needed to induce lung cancer will remain a few hundred-millionths of an ounce.

We believe that the proposed "plutonium economy" is morally indefensible and technically objectionable. At many stages in the nuclear fuel cycle—including reactor operation, fuel transport, reprocessing, fabrication and waste management—opportunity exists for catastrophic releases of plutonium and other radioactive materials through accident or malice. There is no validated scientific basis for calculating the likelihood or the maximum long-term effects of such releases, nor for guaranteeing that risks will not exceed a particular level. All of the present or planned precautions intended to prevent releases are imperfect and, for fundamental reasons, are likely to remain so. We fear that the cumulative effect of these imperfections may well be unprecedented and irremediable disaster.

In a plutonium economy, moreover, nuclear theft and terrorism, weapons proliferation to both national and subnational groups, and the development of a plutonium black market seem inevitable. None of these problems will respect national boundaries, and the difficulties of international cooperation will complicate efforts to contain them.

In an effort to suppress nuclear violence and coercion, to limit the spread of illicit nuclear weapons, and to encourage the needed perpetual social stability, the United States and other countries may have to undertake massive social engineering and to abrogate traditional civil liberties. The drastic nature of the nuclear threat is apt to elicit a drastic police response. Even these measures, however repressive, might in the end prove ineffective.

There is additionally the fundamental ethical question of our right to leave to countless future generations a permanent heritage of radioactive waste products. In producing vast quantities of materials so deadly that they will require perpetual vigilance and guardianship, nuclear power will inject into the future an element of risk comparable to that of our vast store of nuclear arms.

These profound biological and social hazards, many without present technical solutions, or easily foreseeable solution, would be incurred in pursuit of small and possibly ephemeral economic advantages. Decisions balancing the risks of the plutonium economy with its benefits are now founded on self-serving economic and technical assessments lacking in analytic quality. They are being hastily made without the full and informed public discussion that decisions of such unique importance require.

Alternatives exist, both to our extravagant waste of energy and to our use of nuclear power in general and the plutonium economy in particular. These alternatives, including energy conservation, solar energy, advanced fossil fuel and organic conversion techniques, geothermal energy, and eventually perhaps fusion energy, are socially and environmentally preferable to fission power. But they are also unlikely to play their proper role if nuclear power, and especially the fast breeder reactor, continues to dominate our energy research and development efforts.

In this thirtieth year of the Atomic Age, more than 50 nuclear power reactors are licensed to operate commercially in the United States. The Atomic Energy Commission (AEC) in its last year projected about a thousand at the turn of the century, and more thereafter. Other countries combined are expected to build nearly twice as many as the United States. An enterprise originally conceived as a civilian spinoff from an essentially military technology has now produced a $100 billion quasi-civilian industry that is a vigorous force in its own right, often cooperating with its federal regulators to shape new commercial imperatives.

This anniversary also marks a crucial series of decisions which will determine whether the United States will embark on the second and most hazardous phase of the nuclear enterprise. the plutonium economy. The AEC's proposal that plutonium extracted from used nuclear fuel be recycled into fresh fuel in commercial reactors is now pending before the AEC's successor agency, the Nuclear Regulatory Commission (NRC). The Energy Research and Development Administration's multi-billion-dollar program to develop a commercial liquid-metal-cooled fast breeder reactor (LMFBR), which is fueled with plutonium and is specially designed to produce as much new plutonium as possible, is also being reviewed to decide whether it should remain the cornerstone of the future energy economy. In many other industrialized countries, decisions about fast breeder reactors and the plutonium economy are rapidly proceeding, often without the benefit of even as much public discussion as so far has occurred in the United States.

The unprecedented hazards of the plutonium economy demand an unprecedented political response. These are hazards so grave that every citizen should have a voice in deciding whether this is the road to energy independence we—or anyone—should take. All who believe that technology should serve human values should join in opposing the plutonium economy and in seeking to divert into safer and more constructive channels the vast resources being devoted to nuclear power. The responsibility for these decisions cannot be delegated to nuclear experts, for the key issues are not technical or economic but social and ethical, and in a democracy such issues should be resolved only through the political process.

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THE PLUTONIUM ECONOMY*

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NUCLEAR POWER—COMPATIBLE WITH PEACE? THE RELATION BETWEEN NUCLEAR ENERGY AND NUCLEAR WEAPONS

(By Jan Prawitz)

An important issue in the current nuclear power debate is the fact that the plutonium produced together with energy in most nuclear reactors, might also be suitable as the explosive substance in atomic bombs. An extensive installation of nuclear power stations would over a long period of time result in the build-up of considerable stockpiles of surplus plutonium and thus produce the fundamental prerequisites for atomic bombmaking in a large number of countries of the world. In the view of many, such plutonium would sooner or later be used for bombmaking and subsequently for nuclear aggression. The necessity of prohibiting this possibility would, according to this view, greatly strengthen the conclusion that nuclear power must be stopped in all countries, thus removing the very basis for bomb-making.

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*Affiliation is for purpose of identification only and does not imply organizational endorsement.

If peace and nuclear power are incompatible, it is reasonable to assume that everybody will be for peace. But is that the pertinent problem? Is it possible to handle plutonium in such a way as to have both nuclear power and a peaceful world?

As the organization of the international society is primarily based on sovereign states, the analysis of the plutonium problem is better divided into two parts. One is the possible proliferation of nuclear weapons among national states. The other is the possibility that terrorists or sub-national groups might get access to fissile material and make their own nuclear explosive devices. It is also necessary to extend the problem to include the protection of highly enriched uranium-235, in addition to plutonium.

TECHNOLOGICAL BACKGROUND

When plutonium is produced along with power in nuclear reactors, it is fixed to highly radioactive fuel elements, fatally dangerous to handle except in special facilities. Before separation from the spent fuel, plutonium would thus watch itself. If after a cooling period used fuel is processed, plutonium may be produced in chemically pure form and could either be recycled as fuel in reactors or stockpiled. Only part of the plutonium produced in the future would thus be available in stockpiles. How big these stocks will grow will depend on a number of factors, but their content could very well reach a considerable size in the 1980's.

This plutonium would be reactor-grade, i.e. contain up to 30% concentration of the isotope plutonium-240. Weapon-grade plutonium should have no more than a few per cent of that isotope. The higher the concentration of Pu 240, the less predictable and weaker the explosion yield of the bomb. Weak in this context would mean weaker than most military nuclear weapons but large compared to most conventional charges.

Even if power reactors, optimally run, would produce plutonium unsuitable for bombs, it would be quite possible to run a reactor differently to get a "better" plutonium. In addition weapon-grade plutonium could be produced in research reactors and in special plutonium production reactors.

While plutonium is itself a nuclear fuel of great potential value all reactors are at present essentially fueled with uranium, either natural or slightly enriched with the isotope uranium-235. This uranium is not usable for bomb-making—that would require almost pure. Such weapon-grade uranium is now very scarcely available because it is used in a few research reactors only and because the facilities to produce it exist only in the nuclear weapon states. However, if uranium enrichment technology later becomes available to many nations a U 235 problem will be added to the Pu problem.

THE TERRORIST CASE

For a terrorist or other sub-national group wanting their own atomic bomb, the most practical approach would be to steal bombs from a military depot. This would provide reliable bombs of high and predictable yields and avoid the cumbersome and difficult design and fabrication problems. If that is not possible the second best approach would be the seizure of weapon-grade uranium from a military stockpile, because uranium is much easier to handle than plutonium. If that also is impossible the third approach would be to steal weapon-grade plutonium from a military stockpile. As clandestine production of fissionable material in hidden facilities would be out of the question for sub-national organizations, the last and least attractive possibility would be seizure of reactor-grade plutonium from civilian stocks. It is only that fourth possibility that is directly connected to the civilian nuclear power debate.

Should the terrorists choose the fourth possibility they will face the problems of designing and making the bombs themselves, which is not as easy as is usually claimed, particularly if the plutonium to be used is reactor-grade. It is true that most of the nuclear physics involved is available in the unclassified literature; but beside that there will always be a fair share of difficulties to overcome in the intricate and unromantic disciplines involved, i.e. electronics, chemistry, shaped charges, metallurgy etc. before the entire process would produce a nuclear bomb.

There are examples where students have designed an atomic bomb in the library of a university. But the designs we have seen have been very primitive and would probably not produce a bomb of nuclear size (or perhaps only a small one), should the student survive the manufacture! This is not a critical observation, however, because there is always the possibility that a group of qualified scientists or a professional bomb-maker who changed his loyalty will do that part of the job. Therefore, the solution to the plutonium problem must be physical protection of the fissionable material.

Fortunately, the prospects for solving this problem seem hopeful for two reasons. One is that it has been positively demonstrated for several decades that it is possible to protect effectively the huge arsenals of nuclear weapons and the military stocks of weapon-grade fissionable material. And there is no reason why the military protection procedures could not easily be applied also to civilian material. The second reason is that denying sub-nationals access to the bomb would be in the interest of all governments, without exception; accordingly, an international agreement as minimum standards for protection procedures is now being prepared.

It is sometimes claimed that guarding the plutonium-stocks of the future would require such an effort that countries would have to turn themselves into police-states. This is clearly exaggerated. Protecting nuclear weapons has been successfully performed in several nuclear weapon states for a long time without turning them into police-states, at least for that reason.

INTERNATIONAL PROLIFERATION

While the sub-national proliferation problem seems to be manageable and can probably be successfully solved, the prospects for denying access of nuclear weapons to national states seem to be less predictable. A general and widespread application of nuclear energy would furnish a number of countries with a good part of the necessary physical basis for bomb-making. The Non-Proliferation Treaty (NPT) was intended to take care of this problem before the nuclear industry had turned the many have-nots into potential haves. The treaty prescribes that haves shall not transfer any nuclear weapons to any recipient whatsoever and that have-nots shall continue as have-nots. The treaty prescribes further that the International Atomic Energy Agency (IAEA) shall verify that the peaceful nuclear industry is not used for bomb-making by have-not parties. This safeguard system is now in operation. But the treaty being essentially an expression of political intent has a number of weaknesses. Firstly, the subscription to it is far from universal. About 90 states are parties but a number of countries having a significant nuclear industry remain outside. Among these are haves like France, China and India and have-nots like Japan, Israel, South Africa, Brazil and Argentina, to mention a few.

Secondly, the safeguard system can only detect but not prevent the diversion of fissionable material to bombs. On the other hand the IAEA inspectors seem effective enough to be able to discover violations of the treaty at such an early stage that political counteractions can be properly organized, for instance by the UN Security Council. In addition, safeguards apply uniformly only in NPT-countries. They apply in part in a number of non-party states and not at all in some countries.

In addition, national states would of course have much better possibilities than sub-nationals, in both physical and economic terms, to carry through a nuclear weapon program. A state might for instance change the operation schedule of its nuclear power stations to produce a higher grade plutonium. And it might complement its nuclear fuel cycle to achieve more selfsufficiency in fissile material. But a state would on the other hand probably want their bombs for other purposes than would terrorists, and they would, therefore, need many more bombs and more predictable ones.

In coping with these problems, it is necessary to realize that the political will to stop proliferation is sometimes single-sided. Certainly most governments would agree that proliferation of atomic bombs among additional countries would be unfortunate. But when it comes to writing off their own nuclear option, a number of governments apparently hesitate.

Therefore, the problem should be approached in two ways. One is to convince states, which can make the bomb and want to make it, to change their minds by promoting the NPT and encouraging as many have-nots as possible to subscribe to it. The other is to organize joint policies influencing and restricting the nuclear industry in non-party, have-not countries.

The main responsibility for promoting the NPT would fall on the nuclear weapon powers. They alone can reduce the risk of nuclear aggression and they alone can remove certain discriminatory features of the NPT by agreeing among themselves on substantial measures of nuclear disarmament. Only such measures would in the long run convince the hesitating have-nots. A few agreements of this kind (SALT I) have been reached but most of them remain to be realized, and the rate of progress is not impressive. It is true that nine more have-nots, including several with a significant nuclear industry (Euratom) became parties to the NPT in connection with the recent Review Conference of the parties to the treaty. But one should have no illusion that universal pacification of the atom can be achieved soon by means of nuclear disarmament.

In addition to promoting the NPT there has always been an interest among states exporting fuel and equipment for nuclear power stations to see to it that their export does not support or become involved in any nuclear weapon program abroad. This aspect has been increasingly stressed after the Indian nuclear explosion last year. It is reflected in the NPT by a provision banning such export to non-parties unless the exported fuel or equipment is covered by IAEA safeguards. This provision in fact extends the application of safeguards substantially beyond the NPT-group of states.

Furthermore, leading export countries are now discussing joint export policies including a demand that IAEA safeguards shall apply not only on what is exported but on the entire nuclear industry as a condition for transfer of fuel, equipment and technological know-how. To be effective such policies must be uniformly subscribed to by the main exporting countries. Also recommended is the establishment of multinational nuclear fuel cycle centers, i.e. combining chemical reprocessing plants, fuel fabrication plants, waste management installations and long term spent fuel storage under multinational management minimizing the risk of both national diversion of plutonium.

Other measures have also been suggested such as: dispersed stockpiling of weapon-grade materials organized by the IAEA, in order to minimize the physical availability of such material in any single country; increased efforts to solve the remaining problems in recycling plutonium as reactor fuel, in order to encourage the consumption of existing plutonium as reactor fuel; international ownership, Euratom-style, of all fissionable material in all non-nuclear weapon states; and the general strengthening and improvement of the intensity of the IAEA safeguards system.

CONCLUDING REMARKS

This analysis has so far avoided two drastic measures that could altogether solve the problem of civilian plutonium stockpiles. One is the cessation and banning of all nuclear power production in all countries, a measure that would finally and completely remove the whole problem of civilian stockpiles. The other is changing the role of the IAEA from international verification of NPT obligations to supranational management of all nuclear activities for peaceful purposes in all countries, a measure that would go very far in securing that atoms for peace would be atoms for peace for ever.

I do not intend to use this opportunity to plead for or against nuclear power in general. But it is necessary to state that neither of the two far reaching measures indicated above seems at present politically realistic on a global scale. No leader of any country has enough power to decide on measures like that. And even if such measures could be agreed upon, the huge military stocks of weapon-grade material would remain as would all the nuclear weapons.

Therefore great efforts both to diminish the possibilities of diversion of peaceful atoms to bombs, and to accomplish nuclear disarmament are our only realistic choice, because we will have to face the possibility that the nuclear power industry will continue to grow in several countries for several years to come and that the nuclear arms race will not stop by itself.

It will thus be necessary to reach agreement, within the next couple of years, among the sovereign states of the international society on a number of measures. A few that are presently under consideration shall be listed here:

Joint and uniform export policies requiring effective pacification of the recipient's nuclear industry as a condition for transfer of fuel, equipment and technological know-how;

Strengthening and improvement of the IAEA safeguards system;

Increased efforts to solve the remaining problems for recycling of plutonium;

Protecting stockpiles of plutonium and other special fissionable materials from seizure by terrorists or other sub-nationals;

Dispersed stockpiling of weapon-grade fissionable material organized by the IAEA;

Establishment of multinational nuclear fuel cycle centers and further measures to increase the international management of the nuclear power industry;

A number of substantial nuclear disarmament measures.

It is certainly impossible to promise that such measures will be agreed to or that they will be fully effective if agreed. But as long as a nuclear power industry exists in a number of countries, such efforts would be necessary to make nuclear power more compatible with peace. The ultimate success could not be based on physical measures alone. There needs to be the combined political will of all countries to stop proliferation and to accomplish nuclear disarmament. In the long run this will be the essential factor.

Coming back to my initial question whether it will be possible to combine nuclear power with a peaceful world, the answer cannot be a clear yes. The terrorist problem could certainly be solved. But it is impossible to say that the proliferation problem would also be solved. It might or it might not, depending on the unpredictable political will of so many countries.

THE FEDERAL COMMUNICATIONS COMMISSION

Mr. McCLURE. Mr. President, the Senate has recently considered a bill to provide long-range funding for the Public Broadcasting Corporation. One of the major concerns of those opposed to the bill is the danger of imbalance in PBS programing due to the lack of congressional oversight. This concern was heightened by the Senate's refusal to insure diversity on the Board of Public Broadcasting by rejecting the nomination of Joseph Coors because of his unfashionable philosophy. The reason given for Mr. Coors' rejection was a fictitious "conflict of interest" predicated on his involvement with Television News, Inc.—TVN.

I resurrect this controversy to point out the double standard employed in a similar case, that of the purchase of the Washington Star. The Federal Communications Commission has paved the way for Joe L. Allbritton to acquire the paper, and I ask unanimous consent that an article to this effect in the Washington Post be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Allbritton Gets Star Package Bid

(By Robert G. Kaiser)

The Federal Communications Commission ruled yesterday that Texas banker Joe L. Allbritton may conditionally acquire The Washington Star and radio and television stations it owns in a package.

This is what Allbritton said he needed to keep the money-losing Star afloat. Thus, the FCC action apparently has given the evening paper a new—or at least extended—lease on life.

However, the FCC's landmark ruling said Allbritton would have to sell two television stations and a radio station in the region served by The Star—WMAL–TV and WMAL–AM here, and a TV station in Lynchburg, Va.—within three years to comply with new FCC rules on the ownership of more than one mass medium.

The commission's rules forbid the transfer of more than one medium in a single market to the same owner. It granted a temporary exception to Allbritton, it said, to avoid creation of "a newspaper monopoly in the (Washington) area." The commission acknowledged that The Star "has serious financial difficulties that threaten its survival."

The object of the multiple-ownership rule will be achieved within three years, the commission noted, when Allbritton must sell the three stations.

Allbritton argued before the commission that he had to have the profitable stations to help him fund The Star's big losses. The paper lost $5.5 million in the first eight months of this year.

On Tuesday, Allbritton's lawyers petitioned the FCC to hasten its decision in the case, citing their client's urgent need for a resolution of all doubts about the future ownership of The Star and its subsidiaries.

Financial institutions were withholding loans to The Star because of this doubt, the lawyers wrote in a letter to FCC Chairman Richard E. Wiley. The paper also was running dangerously short of newsprint, the lawyers said, and could not raise the money to acquire stockpiles.

Allbritton sought—but was reportedly denied—tax concessions from the FCC that would have made it more profitable for him when the time came to sell the three stations.

The commission was divided in its ruling yesterday. Four members voted for it without reservation; two others supported it with partial dissent, and one commissioner dissented.

Chairman Wiley and Commissioner Charlotte Reid said they approved the commission's decision but objected to the haste with which it was reached. Commissioner Glen O. Robinson dissented.

In another development yesterday, The Star announced it was putting its editorial employees back on a five-day work week, but would lay off 10 of them to save money. The 10 include photographers and employees of the art department.

The newspaper guild, the union that represents these, concurred in the decision to lay off the 10. The guild voluntarily had accepted a four-day week earlier when Allbritton said that was the only alternative to large-scale layoffs.

Mr. McCLURE. I see no indignant outburst or solemn statements about free speech in the Congressional Record, protesting the attempts of Texas millionaire Allbritton to acquire controlling interest not only of the Star, but also WMAL television and AM and FM radio, in clear contravention of FCC regulations. Indeed, even the FCC itself has declared in favor of a waiver of the regulations despite the fact that it will doom the Nation's Capital to a liberal monopoly in news-reporting and despite the fact that an able and willing buyer, Mr. John P. McGoff, is prepared to acquire the Star alone—without WMAL–TV–AM–FM—in literal compliance with the FCC's existing regulations. Mr. President, I suggest that two points may be inferred from a comparison of the Coors and Allbritton cases: First, that diversity of opinion is precious only when it can be used to exclude a conservative, and second, that the Congress and the so-called "independent" agencies will bend over backward to accommodate liberals even if this means ignoring current regulations adopted to insure diversity of opinion.

FCC regulations prohibit the transfer of the common ownership of a daily newspaper, a radio station, and a television station in the same locality—FCC rules 73.35, 73.636. The reasoning behind the regulations is clear and eminently reasonable; namely, to prevent any one person or corporation from attaining control over several classes of communications media in the same area. In order to waive these regulations, a petitioner is subjected to a heavy burden to prove that the public interest would be better served by the waiver than by complying with the regulations.

Texas banker Joe Allbritton will now acquire controlling interest in Washington Star Communications, Inc.—WSCI—the parent corporation of the Star and WMAL–TV–AM–FM, which transfer will require a waiver of FCC rules 73.35 and 73.636. John McGoff, a Michigan newspaper owner, attempted to purchase only the Star; that is without acquiring the broadcast properties.

Mr. Allbritton's motive for conditioning a purchase of the Star on the concurrent acquisition of the broadcasting properties is based on the significant losses the newspaper has suffered in recent years. The profits from WMAL–TV–AM–FM, he argues, will enable him to offset the losses of the newspaper until it is restored to financial health under his management—despite the fact that this is Mr. Allbritton's first venture into the newspaper world. Mr. McGoff, the owner of over 40 Midwest and California newspapers, insisted that he could turn the Star around without the cross-subsidization of the broadcasting properties.

As a result of the efforts of Mr. McGoff and the Concerned Citizens for Balance in News Media—a group of Washington area residents who value diversity in media—the FCC denied Mr. Allbritton's initial request for approval and set a date for hearing. After a few days of hearings, however, Mr. Allbritton withdrew his original terms for transfer and submitted a compromise plan which provided for divestiture of the broadcasting properties within 3 years of acquisition of the total package. In accepting that offer, the FCC has overturned its own regulatory procedure on his behalf.

Although there is serious doubt that the corporation through which Mr. Allbritton will purchase controlling interest in WSCI is financially capable of keeping the Star afloat, I prefer to focus on the most important issue—the public interest. Let me reiterate: the burden was on Mr. Allbritton to prove that a waiver of the regulations would benefit the public more than compliance with them.

Given this standard, I question the FCC's inability to make a decision. Indeed, I question why Mr. Allbritton's petition for waiver was not denied before a hearing, considering the public interest in the competition of ideas.

Mr. Allbritton has demonstrated that he is keenly partisan. In 1961, for example, according to a Houston newspaper, Mr. Allbritton formed a corporation known as Pierce Leasing Corp., whose sole business was leasing an airplane to a candidate for the Democratic nomination for President of the United States. The plane was apparently purchased by Pierce from Northwest Airlines for $347,000 and leased to the candidate's committee for only $8,910 per month. No one seems to know what happened to Pierce Leasing following the Democratic National Convention.

Mr. President, the people of the Nation's Capital, and especially the politicians who spend a great deal of time here, need a healthy confrontation of differing political philosophies in order to make more informed judgments on the issues. This end, I submit, will not be served by two liberal Democratic newspapers both of which control broadcasting entities in the same metropolitan area.

In expressing my opposition to the waiver, I am not adopting the same tactics as those which I deplore. I do not think the FCC has any business denying Mr. Allbritton a waiver simply because he is a liberal Democrat. What I am saying is that a current FCC regulation, designed to promote diversity in reporting, should not have been overridden to provide Mr. Allbritton with an opportunity to influence public opinion, especially when to follow the regulations would have resulted in the additional benefit of enhancing diversity of opinion in the Washington, D.C., area.

The purpose of these remarks is to refresh the dedication of my colleagues to freedom of expression and to alert the general public to the dangers of monopoly in media. At a time when the Congress is showing keen interest in regulatory reform, I think it is particularly relevant that we lawmakers attend to instances in which regulatory agencies either enhance or destroy competition so that the need for corrective legislation may be discerned. The FCC, of course, under current practice, is free to decide according to its best judgment.

But if its rules are to be ignored without explanation it is fair to assume that something is wrong with either the regulations or the commissioners.

HUMAN RIGHTS AND THE ACHE INDIANS IN PARAGUAY

Mr. ABOUREZK. Mr. President, subsequent to the international furor created in 1974 by the disclosure of human rights violations in Paraguay, and the U.N. and OAS investigations into alleged genocide of the Ache Indians, the Paraguayan Government began to demonstrate more concern for the plight of all the Indians within its borders. This created a favorable climate for private-sector initiative, and a new Indian project began, sponsored by the Center for Anthropological Studies of the Catholic University.

The project, entitled "Marandú—Information to Indian Leaders," has two primary activities. The first is the provision of information and services through short courses given in Indian communities. Topics include identity papers, land titles, employer obligations under the labor code, the extensive existing legislation in defense of the Indian, and sanitary education, a course supplemented by medical attention. The second activity is a media campaign attacking the indifference of the mainstream Paraguayan population toward the Indian and presenting in a cogent way the largely unknown Indian cultural traditions.

Directed by the internationally known and respected anthropologist, Miguel Chase-Sardi, the project established clearly at the outset that it sought to acknowledge and respect Indian customs and traditions, and encourage the emergence of Indian organizations and Indian self-development initiatives. As an indication of the strong official support for the project, its inauguration in July 1974 was attended by Gen. Marcial Samaniego, Minister of Defense and anthropology aficionado, Gen. Ramón C. Bejarano—also president of the Indigenous Association of Paraguay, delegates from other ministries, the rector of the Catholic University, and a representative of the U.S. Embassy. The project is supported by the Inter-American Foundation, a U.S. Government agency created by Congress, and other international funders.

PROJECT ACHIEVEMENTS

The year and a half span of the project has resulted in a steady stream of achievements that have helped to counteract the negative image of Paraguay regarding the treatment of the Indians. In October 1974 the Indo-American Parliament of the Southern Cone was held in San Bernardino, Paraguay. Organized by the Marandú Project staff, the parliament was the first opportunity for an exchange of experiences and ideas among Indian leaders from Paraguay, Bolivia, Argentina, and Brazil. In addition to the discussions and documents produced by the parliament, this forum of local Indian leaders, meeting for the first time on an interethnic basis, stimulated the birth of a permanent organization of Indian leaders from all over Paraguay. This "Consejo Directivo Indígena"—Indian Directive Council—has steadily grown in influence and capacity, and presently meets every other month to address the problems of Indian communities, and plan community-managed self-development projects. The group is awaiting recognition of its juridical personality by the President.

With the consolidation of the council, an important benchmark was passed in relations between Indians and other Paraguayans. The Marandú project team, under Chase-Sardi's leadership, elected to submit itself to the authority and direction of the council, and, in effect, became the first group of white Paraguayans to work under the supervision of the Indians. By the same token, the project staff has been training and employing Indian counterparts, to work with and eventually replace the white Paraguayan staff. The Marandú team regards these measures as an affirmation of Indian self-help capacity.

The efforts of "Marandú" as a nongovernmental organization, have elicited considerable collaboration between the government and private sector. Under the sponsorship of Gen. Marcial Samaniego, Minister of Defense, and Col. Alberto Samaniego. Director of the Department of Indigenous Affairs—within the Ministry of Defense—the department and the Marandú team have combined efforts on many occasions.

In June of this year, at the request of the department, the project staff traveled with Colonel Samaniego to the Alto Parana to make the first contact with a group of 40 Ache tribesmen who had been driven from the forest by hunger, illness, and encroachment of white settlers. Emergency medical care and food was supplied to the group, and the possibility of setting aside lands for them is being pursued with the Instituto de Bienestar Rural—Institute of Rural Welfare. The institute is yet another government agency that has collaborated closely in the project, largely due to the interest of its president, Juan Manuel Frutos, who has received delegations from both the project and the council. The institute has provided funds and technicians for a survey of land to be transferred and is establishing a special office within the organization to monitor the progress of Indian land requests.

Other achievements of the project include an informational course in 10 Indian communities, the provision of legal services for casework, the procurement of identity papers—without which one is a nonentity—the presentation of a study urging statutory changes in the agrarian laws to allow the communal ownership customary among Indians, and a massive vaccination program.

With little more than 6 more months to completion of the original project plan, the Marandú project came to an abrupt halt on December 1, when four of its staff members were arrested without explanation: Miguel Chase-Sardi, project director; Marilyn Rehnfeldt, deputy director; Victorio Suárez, of the information course team; and consultant-sociologist Mauricio Schwartzman. They were all arrested in the streets of Asunción and held incommunicado from their friends and families. Ms. Rehnfeldt was released several days later, a hopeful sign but just briefly: the secretary to the Indigenous Council was arrested a few days after her release. The jeep belonging to the project was impounded, and the project offices at the university were searched several times.

At present, no one has received word of the well-being of Chase-Sardi and his colleagues. No charges have been announced and no one has seen them since the day of their arrest. The activities of this fine project have been halted due to the climate of unrest and fear. Many other Paraguayans have been arrested also. It was first conjectured that these arrests were part of a preventive sweep for the visit of President Geisel of Brazil, but now they appear to be of longer duration.

What was interpreted to be a new era of cooperation and interest in Indian affairs on the part of the government in Paraguay now seems merely a transitory phase. The achievements of the brief period of collaboration now seem likely to be undone by the persecution of those committed to improving the opportunities for Indian promotion. It is urgent that all of us who are concerned with human rights to speak out against such senseless oppression of individuals and, in a larger sense, of the movement toward Indian self-determination.

CHAIRMAN ROGER C. CRAMTON REPORTS ON LEGAL SERVICES CORPORATION

Mr. HRUSKA. Mr. President, the National Legal Services Corporation is going through a challenging period of organizing its staff and establishing its priorities. The Corporation is fortunate to have as its Board Chairman Dean Roger C. Cramton of the Cornell Law School. He appeared recently before the Appropriations Subcommittee on State, Justice, Commerce, the Judiciary, of which I am the ranking minority member, to testify on behalf of the new Corporation's first budget request. The subcommittee was impressed with both the burdens he carries and his skill in representing the Corporation's needs.

Dean Cramton has had a distinguished career in the law. He graduated from Harvard College, magna cum laude, and received his law degree from the University of Chicago. He was law clerk to Mr. Justice Burton of the U.S. Supreme Court and subsequently taught at the University of Chicago and the University of Michigan law schools. Dean Cramton has also served as Chairman of the Administrative Conference of the United States and more recently as Assistant Attorney General for the Office of Legal Counsel.

I had the opportunity to come into personal contact with Dean Cramton when he served on the Commission on Revision of the Appellate Court System. I was strongly impressed by his performance. His tenure as Chairman of the Legal Services Corporation will fully test his abilities.

The Federal legal services program has been controversial since its inception. It raises all the familiar problems of priorities, structures, intergovernmental relations, and equity inherent in all governmental efforts to provide social and professional services. In addition, the program raises unique questions about the responsibilities of Government to assist one group of citizens in civil actions against other groups.

Dean Cramton is dedicated to assuring that all Americans are able to obtain vindication of their legal rights in the courts. The restructuring of the legal services program represents progress toward that goal. But structural changes alone cannot resolve the problems I mentioned earlier. We must look to Dean Cramton and his fellow board members for fresh thinking, for sustained dialog and negotiations with the many parties interested in the proper role of federally supported legal services, and for constructive recommendations to the Congress.

The American Bar Association Journal in its November issue carried an article written by Dean Cramton entitled, "The Task Ahead in Legal Services." This perceptive article merits the careful attention of those interested in an accounting of the Legal Services Corporation's initial days and the problems which its chairman believes to lie ahead.

Mr. President, for the benefit of my colleagues who wish to further inform themselves on this subject, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Task Ahead in Legal Services

(By Roger C. Cramton)

The Legal Services Corporation, now organized and operating, has faced several short-term problems, chiefly adequate funding. Now it is turning to the long-range concerns of alternate delivery systems, professional independence and responsiveness to local conditions, the "law reform" controversy, and the paramount issue of commitment to the ideal of legal services for all who need them.

After four years of uncertainty and effort, the Legal Services Corporation has been born. It exists in the most tangible forms imaginable: it has permanent Washington offices, a letterhead, a telephone number, a small staff, and recently it passed the modern test as to whether an organizational fetus has life: a Xerox machine arrived.

This day has been a long time arriving, and some wondered whether it ever would come. Without the courageous and persistent efforts of many, including the organized bar, it would not yet have arrived. But the perspective of history will emphasize what has been accomplished during the past ten years and the possibilities that are now opened, rather than the delays and hesitations along the way.

The premise of our constitutional system is citizen participation; and the system will not work unless everyone in the community has the opportunity to participate on fair terms. And in order to participate meaningfully and effectively in the justice system, a lawyer is required. We do not deny poor people the opportunity to vote because of their poverty; similarly, we cannot deny them the vindication of their legal rights in the courts, administrative agencies, or legislative hearing rooms merely because they are poor. Providing access to justice is not a radical or dangerous proposition, but a profoundly conservative one. The legitimacy of our institutions and the order and stability that they possess are dependent on the confidence of citizens that avenues of peaceful change—that justice itself—are open to all citizens and not merely to the rich.

Ten years ago a creative and energetic new federal initiative—the legal services program of the Office of Economic Opportunity—began to give larger meaning and content to the legal profession's ancient commitment to the principle that each citizen, without regard to means, should have access to the institutions of justice. This program, it is generally agreed, was the most successful of the poverty programs of the "Great Society" years. The zeal, enthusiasm, and accomplishment of this creative period led to reaction, controversy, and challenge. In California and on the national scene the legal services program was attacked not because it was a failure but because it was highly successful in bringing the just claims of the poor to the attention of courts and policy makers.

FROM YOUTHFUL ENTHUSIASM TO MATURITY

Faced with a threat to its continued existence, the program shed its youthful zealotry, lost some of its innovative aspect, and concentrated on professionalism—the delivery of high-quality services in an effective and economical manner. The naïve assumption that a few lawsuits could eradicate poverty was replaced by a more realistic assessment of the limits of law as an instrument of social change. The occasional abuses that stemmed from youthful enthusiasm or inexperience were tempered by professional development. New ground was broken in the organization and delivery of specialized legal services to a large population.

Today much of the controversy over legal services has abated, the gains of the past have been consolidated, the program has matured, and there is wider general acceptance of the principles that inspired Reginald Heber Smith years ago and legal services lawyers during the last decade. A historic opportunity now exists for further evolution and development of the legal services idea.

The Legal Services Corporation Act of 1974 (42 U.S.C. §§ 2996 *et seq.*) embodies principles of access, independence, and professionalism. The act is predicated on the great principle that the poor are entitled to legal representation. The shift in form from an executive branch agency to a congressionally chartered, nonprofit corporation was designed to safeguard the attorney-client relationship from political use or influence. While limitations are placed on the kinds of civil representation that may be provided—for example, clients cannot be represented in school desegregation cases, selective services cases, and some abortion cases—the act provides effective machinery for an efficient, high-quality, and highly professional national legal services program.

The Legal Services Corporation has come into being, but the reality of accomplishment lies ahead. It cannot achieve its full potential without the knowledge, experience, and support of those who care about it and about the principles embodied in the act. We who direct the corporation need the continuing support of the American bar. With that help, creative energies that have been slumbering may be released and the path opened to new ideas, new approaches, and better ways.

The continuing support of the American bar is a vital necessity. It is a revealing truth that the bar is most supportive of legal services in states like California in which the program is most extensive, and most distrustful and suspicious in states that have no legal services offices. Federally funded legal services took early root in California, and the number and quality of the California projects are envied. California lawyers, who have had more experience with the legal services program than lawyers in many other parts of the country, are more knowledgeable about and supportive of the program. They have learned that a local legal services office relieves them of demands on their professional time that they do not wish to undertake; that legal services lawyers represent poor people with high professionalism and great thoroughness; and that legal aid, by referring paying clients to them and by suing their regular clients, produces legal business for private lawyers rather than depriving them of profitable business.

Before turning to some of the fundamental and long-term issues that face the Legal Services Corporation, a brief report on some short-term concerns is in order.

MONEY PROBLEMS THREATEN SERVICE

First in time and in order of priority is money. The legal services program has been operating for at least four years under continuing resolutions that provided only $71.5 million a year. Static funding for this extended period—one marked by high inflation and increased unemployment—has reduced the quantity of service available to the poor, threatened its quality, and resulted in an unacceptable level of lawyer turnover.

The number of lawyers in the field has dropped by about 13 per cent since 1972 and the number of neighborhood offices by more than 40 per cent. At the same time, economic recession has increased the eligible client population and generated new demands for service.

The predictable result has been cutbacks in service. Some programs have closed off client intake for periods of two months or more, while others have turned away categories of cases, such as bankruptcies and divorces. Working conditions in some programs—lack of privacy for client interviews or insufficient funds for essential professional activities, such as witness depositions—fail to correspond with the minimal requirements of lawyering mandated by the Code of Professional Responsibility.

The widening gap between the salaries paid to legal service lawyers and those employed by other public agencies is a special source of concern, since it has resulted in an unacceptable level of turnover. When as many as 40 per cent of the lawyers in a system are being replaced in a year, the loss of experience and specialized ability in poverty law constitutes a hemorrhage of talent of dramatic proportions. If consistent quality and good judgment are to be provided to poor clients, a substantial number of experienced and able lawyers must be retained in local offices in order to supervise and train the young lawyers who are hired. While the program must continue to attract lawyers with a commitment to public service, idealism will not feed their families. A salary structure that provides a larger number of professional careers in legal services is needed.

The fiscal needs of the existing program were given prompt attention by the corporation's board of directors. On July 14, 1975, several days after the completion of the appointment process, the board met to deliberate on funding needs. Several days later an appropriation request of about $96.5 million for the 1976 fiscal year, which began on July 1, was forwarded to Congress. In mid-September the Senate and House conferees agreed on a 1976 appropriation of $88 million. While this amount fell about $8.5 million short of what we felt was needed, it will provide about $16.5 million of new funds for maintenance and improvement of the existing program.

A second immediate task is to select the president of the corporation. This person, who will be the chief executive officer, will have one of the most exciting and important legal positions in the United States. He or she will have great influence on the development and quality of legal services provided to the poor. In addition, the other powers of the corporation ensure that this individual will have a more general influence on the structure and organization of the legal profession and on its image of itself.

The corporation has undertaken a broad and open search for the most highly qualified lawyer in the United States for this position. Hundreds of individuals have been nominated, including many prominent and distinguished lawyers. The importance of the position is confirmed by the intense interest that has been generated on the part of the candidates and their supporters.

The search committee, led by Samuel Thurman of the University of Utah College of Law, who is a member of the corporation's board of directors, is gathering information about nominees and narrowing the list to a smaller number for final consideration by the board. Since many tasks that a president normally would perform fall on my shoulders during this formative period, I have a special interest in seeing that the process is concluded promptly. I expect that a truly outstanding lawyer will have been named to head the corporation by the time this article is published. (On October 16 the Legal Services Corporation announced the appointment as its president of Thomas Ehrlich, dean of the Stanford Law School.)

A third short-term concern was the adoption of those regulations which the act required to be issued within ninety days of the first meeting of the board of directors. Regulations governing picketing, political activity, and other matters were adopted after notice-and-comment rulemaking procedure and they became effective on October 13 (40 Fed. Reg. 33293, August 7, 1975). After lengthy public discussion, bylaws to govern the corporation's own activities were adopted by the board on October 5 (40 Fed. Reg. 33751, August 11, 1975). Proposed Freedom of Information Act regulations were adopted on October 5 (40 Fed. Reg. 42362, September 12, 1975).

Finally, a great deal of the board's energy in the early months was devoted to organizational and administrative activities so that we could take over operating responsibilities for the legal services program on October 13, 1975, the end of the ninety-day transition period contemplated by the act.

Creation of a going organization that can operate the existing legal services program and that also can address the new responsibilities stated in the act has involved innumerable problems of corporate organization, fiscal control, personnel policy, and the like. Our ability to handle the myriad legal and administrative questions of the transition period has been largely dependent on an extraordinarily talented transition staff, headed by Louis B. Oberdorfer, a senior partner of the Washington, D.C., firm of Wilmer, Cutler, and Pickering, who has taken time from a busy law practice to get us organized and on our way.

JUDICARE NEEDS MORE EXAMINATION

With these short-term concerns behind us, the corporation must now address fundamental long-term issues.

. One concerns the method of delivery. The present legal services program is based primarily on the staff-attorney system, in which full-time lawyers are deployed in local legal services offices. The Office of Economic Opportunity made an early commitment to the staff-attorney system; its funding of a few judicare experiments in rural Wisconsin, rural Montana, New Haven, Connecticut, and West Virginia was designed to mollify the proponents of judicare and to provide information that would assist in the future design of the best possible delivery system. This limited number of experiments, the absence of adequate evaluation components, and the difficulty of comparing a small number of programs operating under different conditions in widely separated geographical areas did not provide the basis for firm conclusions. It is fair to say that judicare and other alternatives have not yet been given a full and fair hearing.

The Legal Services Corporation Act requires the corporation to make a "comprehensive, independent study of the existing staff-attorney program . . . and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms," and to report its recommendations to the president and Congress within two years (42 U.S.C. § 2996f(g)). The corporation board, which approaches this complex subject without biases or prejudgments, intends to make as comprehensive and careful a study as time and funds permit. A supplemental appropriation request for fiscal 1976, now in preparation, will seek adequate funding from Congress for this important endeavor.

A MIXTURE OF APPROACHES MAY BE GOOD

While it may be true, as its proponents argue, that the staff-attorney system has advantages over open-market systems—lower cost, development in *expertise* in poverty law, and more payoff in legal changes beneficial to the poor—the corporation plans to treat these assertions as hypotheses to be investigated rather than as facts that have been established. There is always the possibility that a combination or mixture of approaches may provide more and better service at lower cost. I believe that combinations of staff lawyers with open and closed panels of private lawyers are especially worth exploring.

Pursuit by the board of the statutory mandate to study alternative delivery systems will not divert the corporation from the maintenance and improvement of the existing staff-attorney system. Unlike some of the proposed alternatives, the present system is tried and tested. We know that it can deliver high-quality legal services to millions of Americans at relatively low cost. The improvement and expansion of the existing system can proceed at the same time that other alternatives are being explored.

A second fundamental issue concerns the balance between professional independence and responsiveness to local conditions. There were bitter fights within the O.E.O. as to who would control the legal services program—lawyers or social workers—and a continuing battle to insulate the representation of poor clients from political influence or pressure. The Legal Services Corporation Act settles most of these questions: its board and those of local legal service organizations must be controlled by lawyers, and the corporation itself is an independent entity not subject to executive direction or political pressure. The act commands the board to protect the attorney-client relationship, to prevent the use of the program for political purposes, and to see that full and effective legal service is provided to all eligible clients.

The legal services program is set on a road that emphasizes professional quality, and the board intends to provide the leadership necessary to ensure that the poor receive the same quality and range of service that is provided to the rich. Recognition of the professional independence of the lawyer is not inconsistent with responsiveness to the needs of the client community. Just the reverse is true. It is only as the lawyer serves the needs and desires of his client, rather than embarking on an ego trip of his own, that the client or client group receives the loyal and zealous representation to which it is entitled.

There is enormous differentiation among present programs in mode of operation, areas of concentration, internal organization, and quality. For some years little leadership has been provided from above, evaluations have been perfunctory or unimportant for refunding, and local autonomy has been encouraged. In a sense there is no national legal services program, but rather a large number of separate local programs that happen to be federally funded. Many knowledgeable observers believe that a much greater degree of uniformity in standards is necessary and look to the corporation to provide leadership. Determination of the areas in and the extent to which national goals should override local autonomy is a central question with which the corporation must struggle.

I believe that a third fundamental issue, the alleged conflict between serving individual clients and engaging in "law reform," consists almost entirely of symbolism, emotion, and semantic confusion. The rhetoric of the Great Society required that the legal services program be described as a great engine of social change that would eradicate the causes of poverty and change the world for the better. Legal service programs funded by O.E.O. were asked to devote a portion of their resources to law reform matters that were more significant than routine individual controversies. In fact, aside from a few mistakes of judgment by inexperienced lawyers of the "have writ, will travel" variety, the program responded to the needs of clients and took appeals or initiated cases of larger scope only when it was clear that the best interests of the client would be served.

The "change the world" law reform rhetoric was largely that, except that it resulted in enormous controversy and public attack. I agree with Howard Westwood, who says, "the guy who thought up that 'law reform' label should have been hung by his heels."

CLIENT SHOULD GET THE BEST REPRESENTATION

When the rhetoric is put aside, what remains? Basically the question is one of the quality, scope, and character of the representation to which a poor person is entitled. The answer, if we take the Code of Professional Responsibility seriously, is that the client is entitled to zealous and effective representation in the defense of his interests. What does that mean? If the client's interests are best served by negotiation and settlement, that course should be followed. But if litigation is necessary, it should be pursued to the hilt. An appeal from an adverse decision below should be taken when the interests of the client would be served. And participation in administrative or legislative proceedings may often be appropriate or necessary in order to advance or protect the client's interest.

That, I take it, is what affluent clients are entitled to and receive. The poor are entitled to no more and no less. If full and zealous representation means suing city hall, or attacking a federal or state administrative regulation, that is what the poor client should get. Some controversy may result, but it is the duty of the board—and, I believe, the legal profession as a whole—to defend legal services lawyers who are doing their job in the best professional manner when they are subjected to public criticism or political attack. If a legal services program does not arouse some controversy, it probably isn't doing its job, which is to provide the poor with full, zealous, and effective representation.

A fourth and final issue may be the most fundamental. Is our commitment to the principle that everyone who cannot afford legal assistance is entitled to it a form of tokenism, or do we mean to make it a reality? If we mean to make it a reality, and I see no other alternative, we should be aware of the magnitude of the need and the gap between promise and performance that now exists in legal services.

On May 5, 1971, in his message to Congress submitting the first national legal services bill, former President Nixon stated that, despite the growth of the legal services caseload, "perhaps four out of every five legal problems of the poor still go unattended."

The American Bar Foundation's recent comprehensive study, *The Legal Needs of the Public*, by Barbara A. Curran and Francis O. Spalding, which indicates that nearly one out of every four poor persons in the United States has a legal problem each year, suggests that President Nixon's statement was an optimistic one. The existing legal services system is able to handle annually only about one million of the seven million legal problems of our poor citizens. The most generous estimates today indicate that less than 15 percent of the legal needs of the poor are being met. Less than twenty-two hundred lawyers—only about one-half of 1 percent of the American bar—are working full time to meet the legal needs of about one sixth of the population.

Geographic coverage of the existing legal services program is also woefully incomplete. About 43 percent of the poor live in areas totally unserved by legal services offices, and coverage is more nominal than real even in areas in which a legal services program is operating. In this as in many other respects, the rural poor receive even less favorable treatment than the urban poor. These and other hard facts demonstrate that we have a long way to go before we come close to realizing the ideal of equal access to the system of justice.

The Legal Services Corporation Act states that the poor need "equal access to the system of justice" and that "high quality legal assistance" is needed for those "otherwise unable to afford adequate legal counsel" (42 U.S.C. § 2996). The principle is all-inclusive; it does not apply only to some of the poor, only to those in Vermont but not those in Alabama, only to those in San Francisco but not those in Baton Rouge.

During the last few years constitutional decisions have made it clear that poor persons are entitled to adequate counsel in criminal proceedings. Tentative steps extending this principle to civil matters have been taken and more cases are pending. But need we wait until a sound principle is declared to be constitutionally required? The ancient commitment of the legal profession and the guiding premise of the Legal Services Corporation Act is that all who are poor are entitled to adequate representation. The great challenge of the years ahead is to provide the machinery and resources so that this principle will be observed in practice as well as honored in theory. We must strive to realize this ideal or we condemn ourselves to moral failure.

THOROUGH AND EXHAUSTIVE STUDY OF AMERICAN ECONOMY NEEDED

Mr. RANDOLPH. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Indiana (Mr. BAYH) on the state of the American economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BAYH

We are rapidly aproaching the end of 1975. It has been a trying year for all Americans as we experienced the longest and most severe recession since the 1930's.

The number of unemployed exceeded 8% throughout the year and there still are close to 8 million people without work. In the past month, the mean duration of unemployment reached 17 weeks. More than 1.66 million Americans have been unemployed for more than 27 weeks. While we have some decrease in the rate of inflation from the double digit levels of 1974, inflation still continues at dangerously high rates and remains a major public enemy.

Unfortunately, Mr. President, the outlook for 1976 provides little comfort. Though we saw encouraging statistics for the third quarter, these were largely related to the build-up of inventories which had been liquidated earlier in the year. Projections now indicate that the recovery will slow considerably to a 5–6% rate of growth which will leave unemployment near 8% at the end of 1976. And this is an optimistic forecast. With the President's veto of the tax cut extension, and the possibility of sudden decontrol of oil prices becoming increasingly real, we may well see a return of double-digit inflation and plunge into another deep recession late next year.

The tragedy is that things did have to be gloomy. Proper management of the economy would have prevented the recession from going as deep as it did. Strong, affirmative leadership, properly using and coordinating the tools of economic policy, could have put us on the path of a robust and sustained recovery with the prospect for price stability.

The Ford Administration either has been unable to understand the nature of inflation or recession or has been unconcerned about the human consequences of its policies. Refusing to recognize that record inflation was the product of structural economic problems and external shocks such as the quadrupling of oil prices, unusually high demand for American agricultural products, and two devaluations of the dollar. President Ford insisted on bringing the economy to its knees. His actions were so inappropriate that they bring to mind the story of the man who burned down his house in order to roast a pig.

One would think that when President Ford took the unemployment rate to 9% and still saw inflation in the danger zone, he would have learned that employment and today's inflation are not related. Unfortunately he did not. He vetoed nearly every effective piece of legislation Congress passed and is now playing a shell game with the American people with his tax-cut spending ceiling proposal which jeopardizes recovery and could make a shambles of the new Congressional budget process. At the same time, he is threatening to veto the energy bill and take the lid off oil prices.

The steps which were needed this year and will continue to be necessary are no mystery, Mr. President. Many of us here in Congress have been calling for them throughout the year. It is unfortunate that the Administration kept us from properly implementing them.

To end the recession it was first necessary for us to pass a tax cut. We did this and it worked. The Tax Reduction Act of 1975 had a major role in bringing our recessionary slide to an end.

Second, it was essential to extend that tax cut and increase it so that withholding rates would not be increased in 1976. I would have preferred an even larger increase of about $4 billion to make certain the economy continued moving ahead, but this was politically unrealistic in the face of Presidential opposition. At any rate, Congress took timely action, and our simple extension was vetoed.

Third, we needed to enact an emergency jobs program to help those who need work and to stimulate all sectors of the economy. Through the existing public service jobs program and new public works programs we could easily provide one million jobs. Such jobs programs are the most efficient means of job creation and are relatively inexpensive since they provide increased tax revenues and decrease transfer payments. More importantly they provide the unemployed with an opportunity to earn a living with dignity.

Earlier this year we passed a jobs bill which died after a Presidential veto. This week we took a significant step in the Senate by passing the conference report on the Local Public Works Capital Development and Investment Act of 1975. This bill will provide tens of thousands of jobs in the public and private sector for public works projects which can be started quickly and which will provide lasting and worthwhile improvements for hundreds of communities. We must be strong in our resolve to override a Presidential veto of this legislation should it be forthcoming, and we must be determined to pass legislation to create additional jobs and meet our goal of one million.

Fourth, it was crucial that we establish a countercyclical revenue sharing program. It is heartening that this Senate program was included in the Public Works Conference report, and hopefully the bill will be signed by the President. This innovative new program is one of the most important pieces of legislation we passed this year. Unemployment has resulted in a severe loss of revenues for state and local governments coupled with increased demands for assistance in the form of transfer payments. To meet the financial crunch, governments have had no choice but to increase taxes and lay off employees, all at a time when we are trying to stimulate the economy by cutting taxes and creating public service jobs. The countercyclical program will ease the burdens on state and local governments in areas hardest hit by unemployment and enable us to coordinate local fiscal policies with those of the federal government.

Fifth, and probably most importantly, it was essential that we find a means to coordinate monetary and fiscal policy. Arthur Burns' ill conceived high interest rates policy has worked against everything we have tried to do in stimulating the economy. We passed legislation, which I cosponsored, to require the Chairman of the Federal Reserve Board to testify regarding target rates for the money supply. Clearly, this measure was not enough; and money remains far too tight. I am convinced that we must be bolder in the years to come and pass legislation which will make monetary policy work in conjunction with fiscal policy. We must not permit the nation's economy to be held hostage by a man who professes the independence of a Supreme Court justice and who is out of touch with economic reality.

If we had taken the steps I have outlined, I have no doubt that we would be enjoying a strong recovery which would continue throughout 1976 and well into 1977. And, contrary to Republican dogma, we would not have created excessive deficits and fueled inflation. The deficits we are seeing today have not been caused by spending, but rather by unemployment. Each percentage point of unemployment above 4% costs the federal government about $16 billion in lost tax revenues and increased outlays for unemployment compensation and other income assistances. When one notes that we are presently 4½ points above full employment, it becomes quite evident where the $70 billion deficit comes from, and that the only means to end these deficits is a solid economic recovery.

Clearly when we are operating at only ⅔ industrial capacity, stimulating demand and creating jobs will not cause further inflation. If we learned anything from our tragic experience in 1975, this was the lesson.

To deal with inflation we must come to grips with its true causes.

We must through governmental action control the price of petroleum. The increase in prices for this product which is used in everything from gasoline to plastic frames for eyeglasses has been the chief inflationary villain. By controlling it, we can take a long stride toward price stability.

Secondly, we should establish strategic grain reserves to put an end to the wild fluctuations in food prices. Such reserves must include strong safeguards to insure against dumping, but, if administered properly, they can stabilize prices and serve farmer and consumer alike.

Finally, we must devise methods to deal with the structural changes which have taken place within the economy. Many industries are now controlled by a few large companies which can control and administer prices. As a result prices in those industries have risen rather than responded to the downward pull created by slack demand in the midst of the recession.

These structural problems are immense, and I do not pretend to have all the answers. We must, however, ask tough questions about the very nature of our economy, questions which have been avoided in Washington in recent years. To perform this task, I have introduced legislation to establish a new Temporary National Economic Committee (TNEC) similar to the TNEC set up in 1938 by Franklin Roosevelt to investigate the concentration of economic power. I believe it is imperative that we conduct the most thorough and exhaustive study of the American economy in the nation's history.

And while we search for answers, we should utilize the prestige of the White House to keep prices in line with the public good. Jawboning may be out of fashion, but that doesn't mean it won't work.

We can return prosperity and price stability to America if we act with wisdom and determination. We must carry that message to the American people and make every effort to make 1976 a prosperous bicentennial year.

THE FIESTA BOWL

Mr. FANNIN. Mr. President, I call the attention of my colleagues to the fact that on December 26 the Nebraska Cornhuskers will be playing the Arizona State University Sun Devils in the Fiesta Bowl at Tempe, Ariz. As a good Republican, it pains me to think that Arizonans might do harm to a team from a town named Lincoln. But it is inevitable that when Sun Devils play Cornhuskers, the latter get their ears roasted. Actually, my good friend and colleague, the senior Senator from Nebraska (Mr. HRUSKA) reminds me that Nebraska considers itself more of a cattle State than a corn State. No matter, if the Sun Devils do not roast their ears, they certainly will tan their hides.

Now, I do not want to appear that I am needling the Senator from Nebraska, even though it is true that we have a grand supply of cactus in Arizona. ASU defensive players, as a matter of fact, have developed their technique by observing the famed Arizona jumping cactus. The Sun Devils stick it to the offensive backs when they make a move.

We also should mention that both institutions playing in this game are known for something more than their football greatness—both institutions are outstanding centers of learning. Most people do not know that the name Tempe, the city where ASU is located, is of Greek origin. It is likewise generally unknown by both scholars and athletes that Tempe is where the phrase was coined, "Beware of Sun Devils bearing pigskins."

Now, I am certain that the ASU team will totally bedevil the Cornhuskers. To demonstrate my faith I would like to be able to offer a bundle of Arizona sunshine to my friend from Nebraska should I be wrong. The closest I can come is to put up a crate of Arizona oranges. So I propose that should the Sun Devils fail to put the squeeze on Nebraska—a very unlikely outcome—I will deliver to him a crate of oranges.

Mr. President, I hope that all our colleagues will be watching this historic game. We know that the Big Eight perennially has the greatest of football teams. We feel that in recent years the Western Athletic Conference has reached the point that we can challenge the greatest. The Fiesta Bowl has developed rapidly as one of the great bowl games in the country. It is for a most worthy cause, and we know that the game will be a classic.

Mr. HRUSKA. Mr. President, the Senator from Arizona (Mr. FANNIN) and I agree on many issues that come before this body. He is a man of high integrity and I greatly respect his judgment and his political acumen. When it comes to football, however, he exhibits a woeful lack of knowledge. His assertions that the Arizona State Sun Devils will beat the University of Nebraska Cornhuskers on December 26 in the Fiesta Bowl are beyond belief.

In fact, Mr. President, I am so confident of a Cornhusker victory that I have wagered a bushel of Nebraska sweet corn against his crate of Arizona oranges. As you might guess, it is obvious that he will lose. I know that Nebraska coach Tom Osborne and his Cornhuskers are prepared to put out the Sun Devils' fire.

So that this occasion will be properly recorded, I have composed a short verse that I believe will describe the scene in Arizona after the Fiesta Bowl game. If it reminds my colleagues of another, fairly well-known story, that is merely coincidental.

THE NIGHT AFTER CHRISTMAS

(With apologies to Clement C. Moore)

'Twas the night after Christmas,
When all through the South
Not a Sun Devil was stirring,
They were down in the mouth;

The doors in Tempe
Were closed in despair,
Because the Cornhuskers
Won the Fiesta Bowl there;

The Sun Devils were restless
All tucked in their beds,
While visions of Blackshirts
Tormented their heads;

They remembered the slaughter
Of earlier that day,
When Big Red had trounced them
And turned them to clay.

And the Sun Devils in their helmets,
And Coach Kush in his cap,
Had just settled their brains
For a long winter's nap.

When out on the desert
There arose such a clatter,
They sprang from their beds
To see what was the matter.

The moon on the breast
of the glimmering sand
Gave a lustre of midday
to the sight at hand.

When what to their wondering eyes
did seem,
But Coach Tom Osborne
and his Scarlet and Cream.

'Twas the same Husker players
they had met that day
And the Sun Devils knew
it was an instant replay.

More rapid than eagles
Huskers back they came,
And Osborne whistled and shouted
and called them by name:

"Now, Rik, now, Wonder!
now, Vince, now, Tony!
Now, John! now, Clete!
now, Bobby! now Monte!

To the top of the ratings,
to the top of the poll,
You extinguished the Sun Devils,
In the Fiesta Bowl."

Osborne sprang to his plane,
to his team gave a whistle,
And away they all flew,
like the down of a thistle.

But the Sun Devils heard him say
As he flew out of view:
"Happy Christmas to all,
Better luck next time, A–S–U."

NATURAL GAS CRISIS: WHO IS TO BLAME?

Mr. ABOUREZK. Mr. President, the House has decided to take up the question of long-term deregulation of natural gas prices along with an emergency measure limiting deregulation to a short period. Leaving aside the fact that the "emergency" has mysteriously vanished as gas companies take advantage of a regulation that allows them to sell their gas for 60 days at any price they can get, we still seem to be laboring under the misconception that regulation has caused the so-called shortage, and that deregulation will cure it.

An Associated Press writer, Stan Benjamin, has written an excellent article that makes clear the real nature of today's natural gas shortage. As Benjamin points out—

> The biggest single factor advancing the shortage by five or ten years was a sudden, unprecedented reversal of supply estimates by gas industry experts, from good news to bad, after 1968.

Well, it is interesting that in May of 1968, the Supreme Court decided to throw out a gas industry challenge of the Federal Power Commission's interstate price. The producers came to Court arguing that the ratio of production to reserves had declined. The Court pointed out that this was not the issue, and denied the producer's request for higher prices on the basis that each year new additions to reserves were larger than production.

The gas industry is not dumb. Not surprisingly, beginning in 1968 and every year thereafter, new reserve additions declined sharply, and old industry estimates kept being revised downward. The gas industry obviously began preparing for this winter's emergency back in 1969, and now we in Congress are going to play out the role assigned to us and give them deregulated prices.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rapid City Journal, Nov. 23, 1975]

NATURAL GAS CRISIS: WHO'S TO BLAME?

(By Stan Benjamin)

WASHINGTON.—Federal price ceilings and the gas industry's push to sell its product cheaply helped cause the natural gas shortage. But the biggest factor in bringing the crunch to a head was the industry's own reduction of supply estimates, an Associated Press investigation shows.

While critics accuse the gas industry of faking the current natural gas shortage to drive up prices, the industry blames it on 21 years of restrictive federal regulation. But a detailed examination points to more complex reasons for the shortage, which is expected to be especially severe this winter.

Here's a quick rundown of some of the major reasons for the shortage, which experts say will continue for at least 10 years:

The gas industry, offering discount rates to large consumers, has pushed rapid growth of gas demand, disregarding historic supply limits.

Petroleum producers, able to aim for either oil or gas, explored more intensively for oil because it was more profitable.

Gas discoveries associated with oil exploration dropped in the United States as petroleum companies moved their efforts to the Middle East, where oil drilling was cheaper.

With or without federal regulation or industry obstruction, the United States was probably headed for a natural gas shortage anyway, by the late 1970s or early '80s.

The biggest single factor advancing the shortage by five or 10 years was a sudden, unprecedented reversal of supply estimates by gas industry experts, from good news to bad, after 1968. Gas is sold on a long-term contract basis. If supplies, i.e., gas estimated to be in the ground in working wells, are found to be smaller than originally thought, this limits the amount of new business that can be contracted. It could even jeopardize fulfillment of current contracts. Reserve supplies determine the rate at which natural gas is sold.

Industry experts say unexpected engineering setbacks caused this reversal; but even if the pessimistic reestimates were faked—and there is no substantial evidence that they were—they appear to account for only about half the supply shortage.

Federal regulation of wellhead prices probably did not discourage gas exploration very severely in the 1950s and early 1960s; the industry had large excess gas capacity then and a relatively small market despite the low price ceilings.

But wellhead price ceilings may have discouraged gas exploration and development more seriously in the late 1960s and early 1970s as the Federal Power Commission, basing its prices on five-year-old drilling costs, was left behind by rapid inflation in the gas fields.

The discouragement imposed by federal price ceilings appears to account for only about one-third of the gas shortage.

These complications are often ignored by partisans for or against federal gas regulation.

"What's the cause of this supply-demand imbalance? Federal price controls on natural gas sold in the interstate market." That's the explanation offered by the American Petroleum Institute, representing oil and gas producers.

"For 21 years," says an API statement, "artifically low prices set by the FPC have discouraged investment in exploration, while encouraging demand for natural gas."

But for many years after the FPC began regulating gas prices in 1954, the petroleum industry had a huge surplus of natural gas it was anxious to get rid of at any price and a small market for it.

Although reliable figures are not available, a spokesman for Exxon told The Associated Press that in those days, the FPC's gas ceiling prices were actually higher than the unregulated prices gas could bring in the markets within producing states.

"Because gas was super-abundant, interstate (regulated) gas had the best prices," he said.

Natural gas, often found in the search for oil, was considered a nuisance in its early days, a waste product which could be sold only if a new market for it could somehow be developed.

At the consumption rates then, there was enough gas in reserve for nearly 30 years.

The pipeline and utility companies had plenty of incentives to enlarge the gas market, for their profits were improved by building larger pipelines and keeping them full. They advertised the benefits of natural gas to the public and offered big discount rates to get industries and power plants to hook up to gas lines.

Figures published by the American Gas Association, a pipeline trade group, show that in 1950—four years before FPC regulation arrived—gas utilities were charging residential customers 85 cents per million gas energy units—BTUs, but would sell an equal amount to commercial customers for 65 cents and to industrial customers for 21 cents.

The discount factor has decreased, but even last year, when residential customers paid an average of $1.42 per million BTUs for gas, commercials paid $1.11 and industrials paid 68 cents.

From 1950 to 1974, the natural gas market tripled, and commercial and industrial demand accounted for 65 per cent of the increase.

The FPC was not to blame for the discount rates that promoted heavy industrial and commercial use of gas, for it has no power over sales to final users.

But it does regulate sales from pipelines for resale in interstate commerce, and within this limited area, the FPC proposed last February to set rates "designed to eliminate incentives for pipelines to sell natural gas for ultimate industrial consumption."

It is true that natural gas discoveries and reserve extensions and revisions were, on the average, lower after FPC regulation began in 1954 than before. But how much of this can be blamed on the FPC?

One way to find out is to examine new gas discoveries.

After 1954, by AGA statistics, average annual new gas discoveries declined about three trillion cubic feet.

But more than half of the decrease came in discoveries of gas found along with oil.

And the search for gas alone was slighted in favor of oil.

"The producers made the most money finding oil," explained an industry analyst who did not wish to be identified.

Furthermore, it was cheaper to drill for oil in the Middle East than in the United States, and gas found with oil in the Middle East could not be transported to the United States.

"You could get oil cheaper by going foreign," said the industry analyst, "so the oil discovery rate in the United States went down, and gas is partly captive to oil."

A far bigger factor than discoveries was the gas industry's own estimates of the reserves held by known gas fields—the "extensions" allowed by new information and the "revisions" of previous estimates.

In recent years, FPC price regulation has had a hard time keeping up with the inflation in gas production costs.

It appears that federal regulation may have held back some gas development, but not enough to create the entire current shortage.

The relative impact of each major factor can be calculated.

To maintain the high growth rate of gas demand in recent years, the gas industry would have to add some 29.5 trillion cubic feet a year to its reserves by now. Instead it has fallen short by more than 15 trillion.

The decrease in gas discoveries associated with oil, largely caused by the shift of oil drilling overseas, can account for about 11 per cent of the shortfall.

The drop in "extensions and revisions" of industry reserve estimates after 1968 accounts for about 54 per cent of the shortfall.

That leaves about 35 per cent which could, perhaps, be blamed on FPC regulation.

Despite FPC regulation, the industry continues to drill in areas such as Alaska and off-shore where it claims the costs surpass the ceiling price. Why?

Its critics suspect the costs are exaggerated and the price is adequate.

Industry people say there is simply no choice but to drill regardless of cost in the expectation that either Congress or the FPC will lift controls.

Until 1967, regardless of FPC regulation, extensions and revisions were always upward, as new wells were dug in known fields.

Starting in 1968, extensions, and especially revisions, took a sudden, unprecedented plunge from an average of 12.9 trillion cubic feet added per year to 4.7 trillion a year.

The "revisions" of expert estimates went through the floor into actual cutbacks from earlier estimates for the first time.

Considerable gas exploration and development did continue under FPC regulation.

The industry added more than 20 trillion cubic feet to its reserves in a single year only once during the seven years before federal regulation, but surpassed that level in nine out of the next 15 years during regulation.

The Federal Power Commission, Federal Trade Commission and a House subcommittee have been investigating various suspicions of industry under-reporting and failure to develop gas fields.

But the Federal Energy Administration recently conducted a survey and came up with reserve estimates close to the industry's figures and innocent explanations for non-producing fields.

THE SHORT WAR CONCEPT

Mr. THURMOND. Mr. President, there appeared in the December issue of The Guardsman magazine an editorial entitled "A Costly Oversight."

This editorial addressed the dangers of the so-called short war concept in Europe. It was authored by Maj. Gen. Duane L. Corning, president of the National Guard Association of the United States.

Mr. President, this editorial brings into focus some of the dangers of this concept and I ask unanimous consent it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A COSTLY OVERSIGHT

There seems to be a growing acceptance among defense planners of the so-called "short war" concept, which holds that there'll be only one battle—the first and the last—if war erupts in Europe between the NATO and Warsaw Pact nations. In that view, which currently appears to dominate U.S. strategic planning, that battle will be short, decisive and of high-intensity, probably involving tactical nuclear weapons, and we and our allies must "win the first battle"—or lose the war.

The opposite side of this seeming preoccupation with the short, one-battle war is that it's hard to find much concern over the possibility of a more portracted conflict, and the need to provide the units, equipment and other assets that would give us staying power.

It must be recognized that the terms "short war" and "protracted conflict" are purely relative. Under current terms of reference, even a "protracted conflict" would be brief compared with previous wars. And the short war would be measured in mere weeks.

The short-war philosophy has its attractive aspects, if one can attach so grotesque a term as "attractive" to so hideous a prospect as war. It envisions a conflict so brief that military casualties might well be limited to only those forces on the scene or able to reach the scene of battle in the first few weeks of combat. It likewise provides a comforting but illusory rationale for those who want to reduce defense spending, manpower, equipment purchases and other resources.

But it is a dangerous, one-shot strategy that provides no margin for error. If we have misread the intentions of our potential adversaries, the Soviet Union and its pact allies—if a war should commence and both sides avoid the use of tactical nuclear weapons in deference to world opinion—then we are left with only two, equally unthinkable alternatives—early resort to strategic nuclear weapons, or defeat!

In leaning so heavily toward the short-war doctrine, we appear to be demonstrating, again, our tendency to make a virtue out of unpleasant necessity. And the sad aspect of it all is that it's a self-imposed necessity, rooted in pressures that are being applied to national decision-makers by an unrealistic but highly articulate segment of our society. That pressure is focused on Congress and thence onto the Department of Defense, and has led to severe and repeated prunings of manning levels, equipment procurement and other resources. Defense planners respond by tailoring war plans to fit attainable resources rather than to realistic appraisals of the threat.

My assessment may be simplistic and somewhat exaggerated for the sake of emphasis, but I believe it fairly represents the final result of the process by which we became welded to a short-war strategy.

The National Guard has a direct and crucial stake in our strategy. We're at the farthest end of the pipeline for equipment. Units that don't have adequate quantities of usable equipment on hand or immediately available can't be deployed to a combat zone in time to affect the outcome of a so-called "short war." Acceptance of the short-war doctrine, valid or not, fuels the efforts of those who want to reduce defense spending still further. And that means reducing equipment purchases and making it impossible for equipment-short units to *ever* attain deployability.

The short-war doctrine scarcely recognizes even the possibility of a more protracted war and it thus is fallacious nad questionable, in our view. Moreover, it pays little heed to the deterrent effect of maintaining powerful, battleworthy, adequately equipped back-up forces in the Guard and reserve, ready to augment our active forces should a war come which doesn't fit our budget-slanted plan.

The latter may well turn out to be the most serious and costly oversight of all, for if our armed forces are too small and under-armed to be credible, deterrence fails. We thus increase the possibility of war while reducing our ability to win.

THE INVISIBLE REAL AND PRESENT WORLD DANGER

Mr. HARTKE. Mr. President, an article entitled "The Invisible Real and Present World Danger," appearing in a report from Howard and Harriet Kurtz to the Honorable Maurice Strong, Executive Director, the United Nations Environment Program, has come to my attention. In the Citizens Consulting Report, the Kurtz opened a pro and con and creative professional, public and political discussion of the character and the magnitude of the present awesome real and present danger.

I commend this article to the attention of my colleagues for their information and consideration in light of current international developments.

I ask unanimous consent that the article published in the Citizens Consulting Report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INVISIBLE REAL AND PRESENT WORLD DANGER

Gradually a world-wide public debate has begun around the theme of "Limits to Growth" from the initiative of Dr. Aurelio Peccei, President of the Club of Rome (and through the further efforts of the Club of Rome under title of *Reviewing the International Order* (RIO) . . . and from many other thoughtful persons and organizations concerned for approaching world tragedy.

There are limited energies and resources within reach on the Earth at acceptable social costs.

From one to two billion human beings face a future of starvation, malnutrition, disease, pestilence, disintegration, pollution, violence, agony and unattractive death on a planet which can not both (1) sustain its expanding population and in addition (2) burn up and waste its scare energies and resources in a self-generating race to produce the power to kill off every man, woman, and child now alive.

For more than a generation now the Kremlin and the White House have been commandeering the cream of the Earth's energies and resources and human creativity for the advancement of military science and technology and the technologies of death and devastation and destruction.

Although the necessities of life were becoming scare from the increases in population, vastly increased personal incomes and profit from people working in the unproductive arms race has forced up the prices for necessities in a world-wide runaway inflation.

But far worse, the Kremlin/White House science and technology race, itself, has taken control of world events.

Hungry nations (India as but one example) now take scarce energies and resources away from their own dying citizens to produce weapons of war, including nuclear bombs to try to maintain their place in the pecking order among nations following the examples of the Soviet Union and the United States, pyramidding the power to destroy world populations.

As the human predicament further deteriorates around the world, more and more national governments will collapse, to be taken over by more primitive political leaders . . . as in the next five years perhaps thirty of these national leaders will have their fingers on the triggers of nuclear weapons, capable of igniting the final world holocast. Within this same five year period, nuclear weapons may well come into the possession of the world's gangsters . . . and hijackers . . . and terrorists . . . and kidnappers, each quite literally capable of holding all humanity hostage.

The power elite controlling Soviet global objectives and strategy . . . and the power elite controlling American global objectives and strategy . . . today have a policy of supplying weapons and technologies of dread, including nuclear capabilities, to both sides of the trigger ward which are generating around the world . . . hastening the inevitable human tragedy.

VIETNAM: THE DEAFENING SILENCE

Mr. BUCKLEY. Mr. President, I recently came across a report of the National Catholic News Service entitled "Schools Closed, Religious Dispersed in South Vietnam." The report told of communities of nuns broken up by Communist authorities, of "brainwashing" sessions, of denial of food to those who are not "reeducated" in Communist theory, of "a great state of depression" of the Vietnamese people under their Communist masters.

Mr. President, this is but one of the reports that have come out of that tragic land, demonstrating beyond any doubt that the Communists in Vietnam are engaged in a general but unmistakable plan of destruction of all those who do not fit into the new regime.

What puzzles me is that I have not heard a single denunciation of this outrage from those who were so consistently and eloquently ready to criticize even the slightest restrictions imposed by the former government in South Vietnam.

Where are the voices of dismay and anger that we used to hear about the Thieu regime? Where are the appeals for compassion? Why is the Senate not ringing with oratory about the atrocities and the denial of civil liberties, the brainwashing, the total lack of a free press, the total lack of free elections, the total control of every facet of human life under the new Communist regime?

If I could hear but one voice out of the thousands damning the repressions of yesteryear stating that the agony of the Vietnamese people under communism does matter, perhaps I could believe that those who condemned the Thieu regime really meant it when they said over and over again that all they were ever interested in in Vietnam was the well-being of the people.

Where is Jane Fonda now? Where is Dr. Spock? Where are the thousands of young men and women who demonstrated in the late sixties? Where, in fact, is the group of Senators whose laments on a daily basis condemned the former government in Vietnam for things not half as terrible in their implication for human freedom as what is now going on in Vietnam?

Mr. President, the answer is obvious. The silence is deafening. That is what history will record—that damning silence of those who cannot find even a single word of compassion for those under Communist tyranny.

Mr. President, I ask unanimous consent that the NCNS article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SCHOOLS CLOSED, RELIGIOUS DISPERSED IN SOUTH VIETNAM

ADELAIDE, AUSTRALIA.—Communities of nuns have been disbanded in South Vietnam and the Sisters have gone back to their homes or to work in the fields, according to an Australian welfare worker.

Rosemary Taylor, who is visiting her family here, had spent eight years in South Vietnam looking after babies and orphans and escorting thousands to Europe and America.

Taylor, in an interview with the Adelaide diocesan weekly, The Southern Cross, told what was reported to her by Vietnamese who had remained since the South Vietnamese government fell and French nuns who had been deported.

"All the Catholic schools have had to close," she said.

"Of course, the whole school system is disrupted at the moment. But there is no possibility of the Sisters having anything to do with teaching any more. Nor are they able to carry out their normal work of looking after children."

She maintained that what she reported "can be substantiated by documents."

Taylor said some nuns were still able to care for elderly, disabled and abnormal people in Phu My Hospital, Saigon.

"These people are of no interest whatever to the new government," she said. "The Sisters may care for them but they are not allowed to have anything to do with the education of normal children."

Taylor spoke of a report from the French embassy written in September and describing the economic and business position in Vietnam. "It speaks of the priority that's being given to brain-washing," she said. "It actually uses the term 'brain-washing'—and this is a report by a friendly embassy.

"Everything else is being ignored at the moment while people are being 're-educated.' They are being taught to give the right answers, especially in foreign relations.

"They've got to give the right answers or they aren't given any rice." Taylor said the shortage of food made this a very real form of blackmail.

"We've handed these people over to the communists," she said.

"Many people will say: 'It doesn't really matter. Most people over there don't care about political doctrine, anyway. They'll probably be better fed once things get organized'."

She agreed that the South Vietnamese would probably be better fed under the new regime.

"But there are people there I know, people with minds of their own. I'm aware of what will happen to their freedom of spirit, their freedom of speech, their liberty of mind. To me this seems more important than life or the daily rice."

People who had left Vietnam recently reported the spirit there was appalling, Taylor said. "They say the people are in a great state of depression, that their morale couldn't be lower."

EXTENSION OF REVENUE SHARING

Mr. BIDEN. Mr. President, I want to consider today the question of extending the State and Local Fiscal Assistance Act of 1972—better known as the Revenue Sharing Act—which expires on December 31, 1976. Under this act, nearly $30 billion will have been distributed by the end of 1976 to over 38,000 units of State and local government. No matter how you look at it, this amount of money makes the existence of revenue sharing a fact. I may wish it were not, but it is, and the only responsible course is to search for some way of extending it that will prevent fiscal hardship to our State and local governments and their citizens, while achieving our national goals and priorities.

My comments today are not intended to offer a final proposal. To the contrary, my purpose is to stimulate discussion of alternative means of extending general fiscal assistance to our State and local governments. I have been disappointed that no real alternatives to a simple extension of revenue sharing have been introduced in the Senate. My comments today seek to suggest some possible alternatives. I hope that these comments will fill a void and encourage other Members of the Senate, as well as all our citizens, to think about and discuss this matter before it is too late for thorough consideration.

REVENUE SHARING OR DEFICIT SHARING?

This country has only had real revenue sharing once in its history. That was in 1837, when Congress enacted the Surplus Distribution Act which resulted in the distribution of about $28 million of surplus funds in the U.S. Treasury to the then 26 States in the Union. The revenue sharing program that we have today is not really "revenue sharing," but rather "deficit sharing." This is not a point to be taken lightly. Many proponents of revenue sharing point to the fact that State and local governments are often severely restricted in the extent of their deficit financing. This is true to some extent. But in revenue sharing, it seems that we defeat the purpose of these "balanced budget" provisions at the State and local level by having the Federal Government borrow money for them and give it to them. Rather than creating fiscally healthy units of local government, this represents an evasion of the intent of "balanced budget" provisions. Furthermore, it is just one more encouragement to the Federal Government—which seems to need no encouragement—to further extend its deficit financing.

FEDERAL FUNDS FOR NATIONAL PRIORITIES

Because the Federal Government does not have surplus money to distribute as it did in 1837, revenue sharing can be justified only if it meets national needs and priorities, as well as local priorities. Matters of purely local concern should be dealt with through local laws and budgets, and not financed through increasing Federal deficits.

RESPONSIBLE FINANCIAL PROCEDURES

I am disturbed that the proponents of revenue sharing—many of whom share with me a sincere concern for

Federal fiscal responsibility—would have us now, in 1975, commit ourselves to the distribution of billions of dollars from the Federal Treasury to State and local governments until 1982, or even beyond. There would be no review through the appropriations process. In fact, most bills that have been introduced specifically set aside a provision contained in the recently enacted Congressional Budget Act of 1974 that provides for a review of revenue-sharing appropriations by the Appropriations Committees. The act set up the machinery for responsible congressional budget action—and already some propose to weaken it. It is said that money must be committed years ahead to permit good financial planning by State and local governments. But what does that do to Federal financial planning?

While I recognize that our system of government depends upon fiscally sound State and local units, it also depends upon fiscal soundness at the Federal level. For this reason, I believe that one essential element in extending any form of revenue sharing should be its inclusion in the appropriations process. Who, at this point, would dare to predict, over the next 6 to 8 years, whether the fiscal problems of the Federal Government will be more or less than those of State and local governments? This is a decision that must be made as we go along, through the appropriations process. Our constituents who want fiscal integrity at the Federal level will settle for nothing less.

USE OF LOCAL TAXING POWER

I have already indicated the difficulties in repealing revenue sharing because of the reliance that has been placed upon it by many units of State and local government. However, it is still worthwhile to examine the basic premise that the Federal Government has preempted many tax resources—particularly the income tax—making it impossible for local governments to raise adequate revenues.

In my judgment, the statistics available do not justify an assumption that a substantial majority of the 38,000 units of government receiving revenue-sharing funds are in serious financial difficulty.

I will cite just a few indicators of this. Perhaps one of the most significant is the fact that only 40 of our 50 States have a broad-based income tax. In addition, there are substantial variations in rates among the States that levy income taxes. Maximum rates run from as low as 3.5 percent to a high of 19.8 percent. Such variations would indicate that there is still room for many States to raise additional revenues locally through the income tax.

Some local governments have local income taxes, but most make no effort to use them. For example, only 10 States have authorized any form of local income taxes. In these 10 States, about 4,000 jurisdictions—of which 3,500 are found in one State—have actually levied a local income tax. With a few exceptions, the rates run between 1 percent and 2 percent.

None of this should be taken to mean that I favor raising State or local income taxes. They receive heavy use in my State of Delaware. I do not like to see any taxes go up—local, State, or Federal—but I do not like to see the Federal deficit go up either. The Advisory Commission on Intergovernmental Relations, in its study, "Federal-State Personal Income Tax Coordination," put the matter in perspective when it said:

> It is clear to us that no comprehensive study of the ways in which the Federal government can use its resources in aiding State and local governments can override the hard logic that the States should be encouraged to exploit their own tax resources before Congress considers the introduction of large scale general purpose aid programs.

The Tax Foundation made a study in 1973 called "The Financial Outlook for State and Local Government in 1980." In this study, it was not able to foresee the recent deep recession, nor did it anticipate that inflation would remain as high as it has. However, these factors have influenced Federal spending patterns and revenue patterns as much as those of local governments. It seems to me, therefore, that the general findings of the report are still valid over the long haul. The report said:

> Nevertheless, the projection results do not foretell broad general problems of fiscal crisis for State and local governments. Nor do they suggest a rosy financial future for each of the 71,000 or so taxing jurisdictions. There are needs not being met, and acute fiscal problems in some areas, particularly in some large and old cities. How to solve these "pocket" problems within our present intergovernmental revenue system, despite years of discussion, still remains something of an enigma.

I am deeply convinced that general revenue sharing, as we have it today, is not fiscally necessary or desirable. The revenue-sharing formula should be altered gradually to favor two policies. The first is to provide additional funds for those pocket areas which really need greater financial assistance from the Federal Government. The second purpose would be—since funds are not needed for broad financial support to all local governments—to begin to target the use of the funds toward meeting national goals and objectives, rather than purely local desires.

USE OF REVENUE-SHARING FUNDS

At a later point, I want to review the adequacy of the data available concerning the uses of revenue-sharing funds. However, for the moment, let us accept, for analysis, the figures on the use of revenue-sharing funds as contained in the Department of the Treasury's "General Revenue Sharing: Reported Uses 1973–74." They are the best available. With one exception—education at the State level—I do not see that the expenditures of revenue-sharing funds conform to what I believe Congress has determined in other actions over the years to be important domestic priorities.

Looking at local governments first, all together they spent $4.2 billion of revenue-sharing funds during the 1973–74 period. Of this, they spent nearly half, just a little over $2 billion, on capital expenditures. Of this $2 billion, $599 million, or about 30 percent, was spent for capital improvements that would not have qualified had capital expenditures been restricted to the priority expenditures categories. This, of course, is permissible under the present law, but in my judgment is not wise if the priority expenditure categories have any meaning at all.

If you look at services that help people, you will find figures such as 1 percent of the money for social services to the poor and the aged, 1 percent for education, and 7 percent for health. These are all important priorities—national, State, and local. Or at least they should be. But that is not where the money is going.

Let us also look at the reported uses of revenue sharing funds by State governments and the District of Columbia. Here I find the picture somewhat brighter because a reported 52 percent of the funds appears to have been spent for education. However, only 7 percent of the funds were used for social service programs, and 8 percent for health programs.

It would appear that the law needs to be revised in several respects. It should be rewritten to strengthen the congressional intent that funds be used as specified in the law; to modify the priority expenditure categories and apply them to State governments; to permit matching of federally-aided projects with revenue sharing funds; and to restrict capital improvement expenditures to the priority expenditures categories.

EDUCATION

Equality of educational opportunity is one of the great challenges facing us today. Unfortunately, revenue sharing has not been a real contributor toward that goal. First of all, school districts—which were to be recipients in early drafts of the legislation—were excluded as eligible units of government in the final version. Education was not even included as a priority expenditure for local governments. Second, the State governments—in many instances important contributors to equalizing educational opportunity—were arbitrarily restricted to receiving one-third of the funds available. These two features of the formula tended to inhibit seriously the maximum use of revenue sharing funds for education, even though many States have used a high percentage of their limited share for education.

We have made great strides in this country toward improving educational opportunity. Many States have restructured their financing systems in an effort to achieve this goal. Federal funds have also been made available for this purpose. The fact remains, however, that many educational systems remain heavily dependent upon the property tax. This inhibits educational programs in two ways. School districts are in keen competition with other units of local government for local revenues, particularly the property tax revenues. Currently, over 40 percent of all local government revenues raised are for the use of school districts. This has the double edged effect of placing a practical limit on the amount of local funds available for education, but to the extent that school districts are successful in raising funds, of placing other units of local government at a disadvantage in meeting their needs.

The second problem in relying upon local property taxes is that the educational needs of the students in a school district are not necessarily at all related to the assessed value of the school district, and thus its ability to raise revenues.

Providing revenue-sharing funds for education through the State government and encouraging the States to use their own funds for educational purposes can both eliminate the competition for property taxes at the local level and provide a more equitable distribution on a statewide basis of available resources. Therefore, I would like to encourage and reward State support of elementary and secondary education. I would suggest that States that use a large portion of their own funds, in addition to revenue sharing, should have their allocation of total revenue-sharing funds increased, in proportion to their support of elementary and secondary education.

A MORE EQUITABLE FORMULA

The entire formula for the distribution of revenue-sharing funds was subject to much compromise in drafting the original legislation. As such, it probably deserves careful scrutiny before being extended. In particular, two issues concern me.

The first of these is a provision which limits the available funds to any county area or any unit of local governments to 145 percent of the per capita amount available to all local governments in the State. This provision placed a ceiling on the maximum amount that any government can obtain. Unfortunately, many of those whose funds are restricted are the units of governments most in need of financial assistance. In my State of Delaware, both the New Castle County area and the city of Willmington—as well as some other municipalities—receive less funds because of this provision than they would otherwise receive. Such arbitrary restrictions or cut-off points most always work a hardship on those most in need. In this particular case, I believe that the ceiling limitation should be increased over a period of years. While I would like to see it eliminated entirely, to do so at this time might deprive other units of government of unreasonable amounts of anticipated revenue, thus creating another hardship.

I am also concerned that, on a nationwide basis, we are spreading the money too thin. This means that we are giving revenue-sharing funds to many units of government that do not need the money, thus depriving other units which need it badly. In particular, I am concerned about the distribution of funds to small, limited purpose units of government. Fortunately, I do not believe this description fits any category of government in Delaware.

We have all heard about the 13,000-odd townships in the Midwest most, but not all of which, are characterized by limited functions, few employees, and small expenditures. But they receive revenue sharing funds. In New England, the role of county governments is limited, but they receive revenue-sharing funds. In addition, there are undoubtedly many small municipalities which function as inefficient or ineffective providers of public service. But, once again, many of these are encouraged to function by revenue sharing. It seems possible that something approaching half of the units of local government receivng money under revenue sharing are limited-purpose units that cannot use the money most effectively.

It is clearly impossible to try to distinguish between the effective and the ineffective forms of local government at the Federal level, and design a formula that will funnel money only to the effective ones. The existing dollar limitations in the law cannot do the job. What might do the job is to put responsibility back on the States, as originally proposed, by authorizing them, through a uniformly applied formula based on reasonable standards, to determine which of its units shall receive revenue-sharing funds.

REPORTING PLANNED AND ACTUAL USES

I am disturbed by the fact that it is impossible, in the view of the Comptroller General and everyone else who has studied the subject, to determine what has really been done with the money. It is clearly possible, under present law, to substitute revenue-sharing funds for general revenues which are then directed to a use not permitted under revenue sharing. It is never possible in any grant program to prevent completely substitution of funds. However, I do not believe it is a good law that permits or even encourages blatant disregard of the categories of expenditure that Congress has designated areas of priority need. In addition, any list of priority expenditures should extend to the State government as well as the local government. The programs of these two levels of government are so closely intertwined in every State that it makes no sense to set forth intended uses at one level of government and provide for unrestricted uses at another.

CITIZEN PARTICIPATION

One issue that is stressed in support of revenue sharing is that it will decentralize decisionmaking and bring government closer to the people. Revenue sharing was intended to serve as a catalyst to stimulate public participation in the spending of both revenue sharing and other State and local funds. There seems to be general agreement that this has not been markedly successful. The Comptroller General, in a July 21, 1975, study entitled "Case Studies of Revenue Sharing in 25 Local Governments," makes the following observation concerning citizen participation:

> In addition to publishing the required reports showing the planned and actual uses of revenue sharing funds, a few of the governments attempted to publicize the revenue sharing program and encourage public participation in deciding how the funds should be used. However, public participation in most of the governments' budgetary processes did not change, but remained at the same low level that existed prior to revenue sharing.

The problem of the adequacy of the planned and actual use reports should be considered in concert with the broader problem of increasing citizen participation in how their tax money is spent. Some form of public participation in the entire budgetary process might well be made a requirement for receiving revenue sharing funds. In addition, there must be more effective knowledge of how revenue sharing funds are being used. These things are difficult to achieve on a national basis. However, if every State were allowed to develop a plan for citizen participation, as well as for financial reporting, reflecting local conditions and practices, then a more effective program might be achieved.

NONDISCRIMINATION REQUIREMENTS

It seems to be generally agreed that the actual accomplishment of nondiscrimination in the use of revenue sharing funds has not been successful. The difficulty in identifying what revenue sharing funds are really used for creates a problem in identifying discrimination as related to revenue sharing funds. A second problem has been the lack of mandatory enforcement requirements in the law, and the less than vigorous enforcement of the law by the Office of Revenue Sharing.

The Comptroller General, in his case studies of 26 local governments, observes on page 35:

> Our analysis of the composition of many of the governments' work forces showed that the percentages of minority employees of females in either the total work forces or in certain departments or job categories of the work forces were low when compared to the total civilian labor forces.

The Comptroller General then goes on to point out that he testified before the Senate Finance Committee in April 1975, that the civil rights provisions of the act should—

> Be broadened to provide that (1) a government receiving revenue sharing could not discriminate in any of its programs or activities regardless of the source of funding and (2) revenue sharing funds could be withheld pending acceptable actions to correct discriminatory practices.

Another report, issued by the National Clearinghouse on Revenue Sharing entitled "Equal Opportunity Under General Revenue Sharing," contains a careful scrutiny of conformance with and enforcement of the nondiscrimination provisions of the exiting law. The only conclusion that one can draw from this report, after 50 pages of analysis, it is own conclusion on page 51 that "minorities and women continue to suffer discrimination subsidized by Federal revenue sharing funds."

SOME ALTERNATIVES TO CONSIDER

Now that I have set forth some of my concerns about the present revenue sharing program, I want to advance some specific alternatives that I think are worthy of consideration. I hope that a discussion of these with my colleagues, with Delawareans and with other interested groups will help me to formulate an alternative to simple extension of revenue sharing that I can support. None of these proposals represents a final position, but each is, I think, deserving of consideration.

STATEMENT OF FINDINGS AND PURPOSES

The original Revenue Sharing Act contained no statement of congressional intent to guide the administrators of the law. In addition, the absence of such a statement makes it difficult, several years later, to judge the effectiveness of the act because congressional intent is unclear. The extension of the act should contain such findings, to provide guidelines for future administration and evaluation of the act. Some of the findings and purposes that might be included are the following.

First. The Revenue Sharing Act has, in many instances, helped to ease financial hardships and to improve the level of essential public services provided by State and local governments, which are the purposes of the act.

Second. The funding of the act should be subject to the congressional budget and apppropriations process to assure responsible Federal fiscal policy.

Third. It is necessary to clarify the purposes for which revenue sharing funds are to be used; to improve means for assuring compliance with priority expenditure categories; to modify priority expenditure categories to assure their use to meet national as well as local objectives; and to encourage use of revenue sharing funds for education and other human resource programs.

Fourth. There is a need to improve accounting and reporting requirements and to increase citizen participation in the budget processes of governments receiving revenue sharing funds.

Fifth. It must be assured that there is no discrimination in employment or in the provisions of services by governments receiving revenue sharing funds.

Sixth. There needs to be some modification in the distribution formula to target funds to those governments that can best use it.

EXTENSION OF REVENUE SHARING

Any extension of revenue sharing should be for a period of no more than 4 fiscal years. Every Federal program should be reviewed periodically to determine whether it is still meeting its intended purposes. A 4-year period is long enough to provide evidence of the usefulness of a program, without continuing for too long a program that may require revision. Such a provision should apply to all Federal spending programs, not just to this one alone. In addition, the revenue sharing funds made available by this bill should require clearance annually through the budget and appropriations process of the Congress to assure conformity to sound Federal fiscal policy. It might be desirable to utilize "forward funding"—that is, appropriating funds a year ahead of time to permit easier financial planning by the State and local governments.

USE OF FUNDS FOR PRIORITY EXPENDITURES

Section 103 of the original act, relating to priority expenditures, should be amended. First, consideration should be given to making both State and local governments subject to the priority expenditure categories. Second, the list of priority expenditures might be modified somewhat as follows:

First. Add civil rights enforcement as a specific item under the general category of public safely;

Second. Add water supply as a permitted use under the general category of environmental protection;

Third. Restrict the present public transportation category by limiting it to public mass transit systems and local streets and roads;

Fourth. Enlarge the social services category by redesignating it as housing and social srevices, and by redefining the individuals for whose benefit the funds may be spent as lower-income individuals and families, the aged, or the disabled;

Fifth. Add education—including payments to school districts—as a priority expenditure for both State and local governments;

Sixth. Provide that the expenses of administering the public participation, reporting, and nondiscrimination provisions of the act are priority expenditures; and

Seventh. Eliminate financial administration as a priority expenditure. The all-inclusive category of capital expenditures might be eliminated as a priority expenditure, but capital expenditures falling within the listed priority categories would still be eligible.

USE AS MATCHING FUNDS

It may be desirable to eliminate the existing prohibition on the use of revenue sharing funds to match Federal grants. This seems an unnecessary restriction on the local determination of the use of revenue sharing funds, provided the money is spent for programs within the priority expenditure categories. In the past, this provision may have prevented the use of revenue sharing to expand local human resource programs through use of Federal grant programs if local matching funds were not available.

FUNDING EDUCATION

The act should provide greater financial assistance to those State governments that have undertaken a larger than average responsibility for funding elementary and secondary education programs. Specifically, it might provide for increasing the State government allocation from one-third to as much as one-half of the entire State entitlement for the State and its local governments. This could be done by providing that, whenever the proportion of State tax revenues allocated for elementary and secondary education are more than 50 percent of the total of all State and local tax revenues for elementary and secondary education, then the State share would be increased by 1 percentage point for each percentage point that the State's share of the cost of elementary and secondary education exceeds 50 percent of the total.

In order to minimize the impact of any shift in revenues, the State allocation should not increase by more than 5 percentage points in any one year, and the change in formula should not be effective for any fiscal year prior to the one beginning October 1, 1976. The formula should also provide for the State's share to decrease if its proportion of the financing of elementary and secondary education decreases, but not below the present one-third limit. This proposal will encourage support for education programs as well as providing additional financial support to States that provide a larger than average proportion of government services.

FORMULA CHANGES

Any extension of revenue sharing should increase the ceiling limitation now found in the existing law. The most frequent proposal raises the ceiling from 145 to 175 percent of the amount allocated to units of local government divided by the population of the State. This could be done in increments of 10 percent each year, beginning with the fiscal year starting October 1, 1977.

To prevent wasteful use of revenue-sharing funds, any State government, by law, should be able to limit payments of revenue-sharing funds to certain agencies of local government based on such criteria as the form of government, population, functions performed, or total tax revenues. For example, a State could decide to exclude from eligibility for revenue-sharing funds certain forms of government—for example, small, limited purpose townships. The other criteria could be applied in similar manner.

CITIZEN PARTICIPATION AND UNDERSTANDING

Any extension of the act should require that each State government assume some of the burden of administering the Revenue Sharing Act. Among the areas of responsibility could be the development of a program of citizen participation tailored to local conditions; development of an accounting and financial reporting system that will provide good public information about government finances; and responsibility for the satisfactory completion of planned use reports and actual use reports.

In an effort to strengthen the citizen participation process, each State should be required to prepare a plan which will provide for citizen participation in the planning and execution of State and local budgets, including funds available under this act. The act might cite alternative means of stimulating citizen participation, but it should not require any specific format, leaving this to be shaped to the areas involved. However, each citizen participation plan would have to be approved by the Secretary of the Treasury.

None of the States' responsibilities should give them any voice in the use of revenue sharing funds as long as they are used according to Federal law.

The Revenue Sharing Act should continue to require reports on the planned and actual uses of revenue sharing funds. It should require, however, that this information be made available in the context of all funds budgeted by the State or local government so that citizens can see how all of their money, including revenue sharing, is being used. A plan should be developed in each State to be sure that adequate financial information is available to concerned citizens so that they can have an effective voice in the financial planning for their communities. All accounting and reporting should be in sufficient detail to assure conformance with the priority expenditures sections of the Revenue Sharing Act.

NONDISCRIMINATION

The nondiscrimination provisions of the existing act probably require substantial revision. Discrimination under any programs or activities of State and local governments should be prohibited whether or not the programs and activities are funded with revenue sharing funds. There should be a clear procedure for determining noncompliance with the nondiscrimination provisions, which could involve a determination of noncompliance by the Secretary of the Treasury and a written agreement of the terms and conditions of compliance if agreement can be reached. If agreement cannot be reached, the matter should be referred to the Attorney General for civil action, and there should be mandatory withholding of funds or termination of payments if action is not taken within stated time periods to achieve compliance with the nondiscrimination provisions.

THE CUBAN "LIBERATION" OF ANGOLA

Mr. THURMOND. Mr. President, in the December 15 issue of the Washington Star there appeared an editorial column by William F. Buckley, Jr., entitled "The Cuban 'liberation' of Angola."

This article urges consideration by the Ford administration of sanctions against the Soviets and Cuba for their heavy-handed intrusion in Angola.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CUBAN "LIBERATION" OF ANGOLA

(By William F. Buckley, Jr.)

Do you remember the talk about the "new Cuba"? The Cuba we should "normalize our relations with"? The Cuba that promises no longer to interfere in other people's politics? The Cuba a couple of trendy senators opened their arms to on a recent visit, even as the chief of staff of the Senate Foreign Relations Committee was lobbying for Cuba's integration into the Organization of American States?

Well, it transpires that the reason Cuba doesn't have guerrilla fighters roaming around such countries as Colombia, Bolivia and Venezuela these days is that Cuba's resources are strained. Cuba is off liberating Angola.

From the Portuguese? No; from other Angolans. Cuban troops and Russian advisers are, as we sit here toasting the delights of détente, turning the tide of battle in Angola toward the tough Communist-backed and oriented MPLA, against the more moderate (if hardly democratic) coalition (FNLA-UNITA), which is being backed by food parcels and a few rounds of ammunition from the United States (dispatched via Zaire, which for all its strutting anti-Westernism plainly does not desire a Soviet satellite state as a neighbor); and a few South Africans, mostly Portuguese mercenaries. The Cuban detachment is a whopping 3,000 men. In relation to its size, it is as though we had sent 100,000 men.

The American people have lost interest in Africa, have you noticed? It happened some time after the trauma of the Congo, and Katanga, in 1962. Pretty soon the endless changes in government, the coups, the fixed depositism, the strident rhetoric, turned us off, and we have simply ignored the continent.

Although that stance is morally itchy, it is grounded in solid geopolitical doctrine. "We are friends of liberty everywhere in the world," John Quincy Adams wrote, "but custodians only of our own." An update from that was spoken not long ago by then-Sen. Fulbright. "We have no quarrel with any country in the world, no matter how repugnant its policies, unless that country seeks to export those policies."

But this of course is different. It isn't as though the bad guys were winning in a purely local contest. If the Luanda government prevails, it will be the direct result of Soviet-Cuban interference. That interference gives the lie to Soviet protestations made publicly by Leonid Brezhnev when he last visited this country; and to public protestations made by Fidel Castro every week or so.

Secretary Kissinger has of course protested. And Ambassador Moynihan has used the toughest language against the Soviet Union heard in the United Nations since the day that Henry Cabot Lodge lost his cool during the great October crisis. Brezhnev has a retaliated by denouncing our bellicose policies, and our violation of the spirit of détente in Warsaw, where he addressed the satraps of another of his colonies. I do not know how we will react to the challenge. If we are to judge from past performance, we shall immediately step up our shipment of grain to Russia, perhaps extending better credit terms.

What in fact could we do about it, if we had the will? The strategic situation is as follows: The Soviet Union has perfected a mighty naval base in Somalia, the purpose of which is to dominate the Indian Ocean. With the political conquest of Angola, it could situate a second major base on the African continent at a southwestern diagonal, dominating the South Atlantic; a Gilbraltar, regulating traffic around the Cape of Good Hope. It is a textbook example of the worst thing a major naval power can do to another major naval power: against which, under the rubric of detente, we are powerless except to sneak in a few slingshots through Zaire, and do a little tablepounding at the U.N.

James Burnham remarks the anomaly: that the same people who are always talking about the interdependence of the world, are those who fail to draw the logical conclusion from it. If we are dependent on a peaceable Africa, for raw materials, for freedom of the seas, why do we permit to happen what is now happening to us?

Secretary Kissinger no doubt believes that the American will is not there to act in Angola. Perhaps—whoever said our missionary spirit burns as bright as Cuba's? But he should try asking the American people whether they would support sanctions—I mean real sanctions—against the Soviet Union and Cuba, to be continued for as long as they seek to colonize Angola.

TAX CUT—THE NEED FOR EARLY RESOLUTION

Mr. MOSS. Mr. President, I am deeply distressed that the House has failed to override the President's veto of the bill to extend the tax cut. The Senate, I believe, had the votes to override. But because of the legislative rules, the failure in the House means the Senate will not even have a crack at it.

This situation is a real setback for Americans and for our economy. Unless the tax cut is extended in 1976, taxes will expire at the end of this month and withholding taxes will rise starting next month. This means people will have less money to spend, sales will drop, unemployment will increase, and recovery will be slowed. Unless prompt remedial action is taken, the success of the recovery is greatly threatened, and the long-term outlook for our economy is a real question mark.

The Nation's No. 1 priority should be to get our economy back on the road, to resume full production, and to get the unemployed back to work. An extension of the tax cut is absolutely essential to continued economic recovery and to attaining a healthy, viable economy. Many of the vital signs of our economy are showing improvement. We appear to be moving in the right direction, but we are not yet out of the woods. The economy can now be likened to a sick man who has just gotten out of bed. Perhaps the worst is over, but recovery is going to be slow and painful, and there is no guarantee that a relapse will not occur. Recovery is not automatic and we run a great risk of its stalling out without the boost in consumer spending which comes from extending the tax cut.

The President said that he vetoed the tax cut because Congress failed to include a spending ceiling. The fact is that the Congress has included such a spending ceiling in the Federal budget for fiscal 1976, which it passed on December 12. Congress will set a ceiling on spending in fiscal 1977 next May. But the President wanted Congress to set a spending ceiling now for fiscal 1977, which does not begin until next October, and before we have seen the budget which is still under preparation at the White House. This, of course, cannot realistically be done now—before we have seen the President's budget for fiscal 1977, and before anyone can predict with any certainty the economic situation the Nation is likely to experience in a period which ends nearly 2 years from now. The law wisely prescribes that Congress wait until these facts are known before setting a spending ceiling and a floor on revenues each May for the coming fiiscal year.

I strongly support actions to limit Federal spending in fiscal 1977. But spending ceilings are only effective when they are combined with specific expenditure reductions. Spending ceilings were proposed and enacted by Congress five times between 1967 and 1972, but because they were never combined with specific reductions they were ineffective. The President has not yet provided such specifics.

For years Congress has been criticized for not controlling the Federal budget. Much of the criticism was justified. Congress was not properly organized. It approved programs and proposals individually, and budgeted somewhat irresponsibly by piecemeal action as opposed to looking at the budget in total and considering income and expenses together. But this year, Congress implemented a new budget process growing out of a change in the law which it created of its own accord. The new budget system is working. It has already enabled us to hold down Federal spending and to keep this year's deficit below what it would have been without this system and at least $25 billion less than the President predicted in April.

In asking the Congress to set a ceiling now for fiscal 1977, the President is asking us to abandon the new congressional budget system, to arbitrarily pick a number before we have had the opportunity to see his budget, and to know what sort of economic picture to expect in the months ahead. It seems to me that this is somewhat like deciding what type of surgery to perform on a patient we have not seen and without the benefit of diagnosis based on examination. I am opposed to such an approach. I believe that Americans deserve a better fate.

Operating within the system, we still have plenty of time—the full period envisioned by the Budget Act—to determine what are the appropriate tax and spending cuts for fiscal 1977.

I recognize that next year is an election year. But I believe strongly that the economy of this Nation and the new budget process, which has enabled the Congress, at long last, to make a start in getting a handle on Federal spending are both far more important than election politics. If the budget process is busted now, merely to score some points in the election game, then the process will be worth nothing later on.

The American people want the institutions of Government to work. However, this whole action on the tax cut unnecessarily creates a lot of uncertainty for Americans and places our economy under an ominous cloud. Failure to resolve this matter readily will deal another significant blow to people's confidence in Government. That should never be taken lightly. But in our economy the significance of public confidence looms even greater. Despite disappointment and setback, we have a responsibility to the Nation to attempt to resolve the current impasse in a manner which is responsible from a budget viewpoint, and which is responsive to the needs of the American people and our economy. Unless we are to abandon the new system of budgeting which is implicit in the President's request, then both the Congress and the administration must find a way to reach such a compromise by working within the system, and I intend to do everything I can toward that end. As a minimum I would urge that the present tax rates be frozen in place until a satisfactory solution can be worked out.

COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

Mr. HATFIELD. Mr. President, when the Congress passed amendments to the Freedom of Information Act earlier this year, the expressed intent was to improve agency compliance with citizen requests by setting deadlines for replies and specifying what information could be withheld under certain procedures and conditions. While I believe that in most instances the agencies are making a good faith effort to respond appropriately to requests, and sympathize with the problems in handling the volume of requests expeditiously, I am also concerned that no agency should engage in deliberate foot-dragging and noncompliance by using technical evasions to frustrate the citizen's efforts.

A constituent of mine, Ms. Phoebe Friedman, wrote an article in a recent issue of Willamette Week describing her difficulties in obtaining information through a Freedom of Information Act request to the CIA and the FBI. I think her article is enlightening in its illustration of the difficulties a private citizen may encounter in dealing with the Federal bureaucracy, and I call it to the attention of my colleagues so that it may serve to remind us of the need for effective oversight of FOIA enforcement and compliance. I ask unanimous consent that Ms. Friedman's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREEING MY FILES FROM CIA CLUTCHES

(By Phoebe L. Friedman)

If you've been thinking about asking for the files which the FBI, CIA or other government agencies may have on you, and to which you are entitled under the amended Freedom of Information Act, you'd best have a fair supply of stationery, postage and patience. You might also tack a calendar above your desk to keep track of the passing deadlines, and maybe even inquire around for a friendly lawyer to handle a suit for you if all else fails.

In addition, unless you're prepared to spend lots of time in court, you might also make some tentative decisions about which law violations by government agencies you will want to challenge and which you'll be willing to overlook. Suing over each violation that is likely to occur could easily become a full-time occupation.

Exaggeration? In six months' correspondence with federal officials, I secured a copy of one document which provides direct proof of domestic surveillance by the CIA, in violation of its charter, and the CIA apparently continues to maintain this file illegally. Further, it refuses to release even a "sanitized" portion of another document in which it says my name is mentioned. Meanwhile, the FBI withheld, without reason, information which it had promised to provide two months earlier. Immediately after a suit was filed, the promised material arrived.

Yet, the amended Freedom of Information Act (FOIA) stipulates a 10-working-days deadline for agencies to respond to requests for information, with a possible maximum extension of 10 additional working days. Appeals must be answered within 20 working days, with a 10-working-days extension again available.

When Congress over-rode President Ford's veto and enacted the 1974 amendments to the 1966 FOIA, it intended to eliminate the foot-dragging and stonewalling to which agencies had often resorted.

The Act provides that records of federal agencies be available to the public and outlines procedures by which private citizens may secure these records. It also specifies nine exemptions which federal agencies may claim. In general, these exempt material which is "security-sensitive" and therefore classified, material which constitutes a "clearly unwarranted" invasion of someone else's privacy, certain types of law-enforcement investigatory files, and reports dealing with supervision of financial institutions or with geological explorations by private gas and oil companies.

The amendments, which went into effect Feb. 19, 1975, not only specify time limits for responding to requests and appeals but also place on the agencies the burden of proving that documents withheld are properly exempt. But the law also provides that even if a document is exempt, "reasonably segregable" portions must be released.

Legal recourse for the citizen is made easier by the provision that if a person successfully sues for release of information, the government may be ordered to reimburse the plaintiff's legal and litigation expenses.

Nonetheless, federal agencies continue to stall, apparently gambling on citizen inertia and on attorneys not being willing to take such cases on a contingency basis. Even if you think you have a good case, you may not have the cash necessary to make the legal fight. At the very least, you'll probably have to lay out the money to cover filing fees and process serving.

As soon as I began this odyssey through the bureaucratic maze, I learned that whatever interlinked computers and other information-sharing methods federal agencies have at their disposal, the system isn't working for the rest of us. I naively assumed that the Portland office of the U.S. attorney could help, so I phoned U.S. Atty. Sidney Lezak. He asked me to put my request in writing and I did. By that time a number of government agencies had admitted to maintaining files on peace and civil rights activists, so I asked for my files from the FBI, IRS, CIA and departments of Defense, State and Post Office.

A week or so later a note from Lezak said new regulations required such requests to be made separately and directly to the Washington, D.C., office of each agency. I was also cautioned to "be as specific as possible in making the requests so as to enable the agencies to locate any material which they might have" to which I would be entitled.

Only slightly daunted, I assessed my limited free time and decided that for convenience's sake I'd narrow my quest to the CIA and FBI. I wrote, stating my full name, including my maiden name.

In reply, both agencies asked for more information. Robert S. Young, freedom of information coordinator for the CIA, with commendable concern for my right of privacy, explained that agency needed date and place of birth, "at a minimum," in addition to "other names" I may have used, to "ensure that we have a positive match'" and to determine that release of information "is to the person actually concerned."

Clarence Kelley, director of the FBI, was more blunt. He stated simply that "based on the limited information" I had provided, it was "not possible to make an accurate search of our central records." He asked me to furnish not only date and place of birth but "prior addresses, employment [and] additional identifying data." Clearly, the FBI's nationwide data bank network was not going to be worked overtime to satisfy my request.

I provided Young and Kelley with my birth date and place, repeated my full name, and added that I now expected to receive a reply within the 10 working days specified in the law.

About three weeks later I again heard from the FBI and CIA, both claiming pressures of work due to increased numbers of requests for individual files which they had been receiving. Both disregarded the maximum 10-day extensions specified in the act. Kelley of the FBI stated that he needed an additional "30 working days." Young of the CIA gave no specific time deadline at all, and instead suggested an interesting option:

"Since it has not been possible to complete the processing of your request at this time, we could issue a formal denial, from which you could appeal to the Central Intelligence Agency information review committee. It would appear to be more reasonable, however, to ask our components to continue to search for and review any located documents so that appropriate decisions regarding release can be made. Accordingly, unless we hear from you to the contrary, we will proceed in this manner and I will contact you again as soon as the decisions have been made."

Some six weeks passed before Kelley wrote again, saying that he needed "15 working days" more to complete processing my request, and asking for a notarized signature to verify my identity. There had been no further word from the CIA so I dashed off a note to Young, noting the lapse of time, and commenting that by now he had certainly had ample opportunity to exercise all diligence necessary to process my request. A few days later, on Aug. 6, I mailed the requested notarized signature to Kelley. I waited again.

This time the CIA was the more responsive agency. On Aug. 12 Young wrote, "We have made a thorough search of our records and determined that this agency does not maintain any file in your name. A search of our indices located two documents wherein your name is mentioned and, after reviewing them, we have made the determinations cited below:

"a. Enclosed please find a copy of the following document, which is released in its entirety:

"Women Strike for Peace, Steering Committee and Contact List, dated January 1967.

"b. The other document cannot be made available to you because its contents include properly classified information received from a foreign liaison service. It it, therefore, exempt from release under Section 5B(1) of Executive Order 11652, 8 March 1972, as well as under subsections (b)(1) and (b)(3) of the Freedom of Information Act."

The letter went on to advise me of my right to appeal the decision regarding the withheld document within 30 days, "by addressing your appeal to the CIA Information Review Committee, via the undersigned," I appealed, asserting that, "It is my belief that my name could not possibly be included in any matter that is security sensitive; however, without waiving my right to the document in its entirety, I would consent to a sanitized copy deleting any security sensitive material."

My argument failed. According to John F. Blake, chairman, Information Review Committee, the document contains information "furnished by a foreign government liaison service with the understanding that it was to be kept in confidence and . . . involves intelligence sources and methods which the director of Central Intelligence has the responsibility to protect from unauthorized disclosure per section 102(d)(3) of the National Security Act of 1947."

What could this highly sensitive document be? Does it refer to my trip to Vancouver, B.C., in 1971 to participate in a peace conference with women from Hanoi and the liberation movements of South Vietnam and Laos? There was a press conference to report on that trip. It was far from a secret.

Or does the information concern my trip to North Vietnam in October 1973, nine months after the peace agreement had been signed? I held press conferences after that trip too, spoke at public meetings and wrote articles for national and local publications. Again, it was no secret.

However, there are several other things which are interesting about the CIA's letter. First, the information which they did release is specifically prohibited from CIA concern. It is a copy of a mimeographed mailing and phone list of people in a perfectly legal, domestic organization, and therefore clearly outside the boundaries of the CIA's charter. Nonetheless, the CIA apparently intends to continue holding this material in its files.

Also, apparently the CIA had no need for the additional identifying details which they demanded of me. The Women Strike for Peace list did not contain my birth date. No doubt, however, the data has now enabled them to open a file in my name.

Moreover, there was no indication that any effort had been made, as the FOIA requires, to segregate the classified information (such as the name of the "foreign liaison") from the document which they withheld, and release the rest to me.

Finally, if the law permits agencies to withhold information because that information would reveal the method of obtaining it, then how are we to protect ourselves against such illegal invasions of our civil liberties as the unauthorized opening of our mail or unwarranted wiretaps?

As for the FBI, having exhausted his two extralegal extensions of time, Kelley resorted to total silence for more than two months. Two follow-up inquiries went unanswered. However, three days after my attorneys filed suit in my behalf (a last resort), an envelope of material arrived from the FBI, along with a long letter claiming extreme pressure of work and citing several exemptions allowed by the FOIA. There was no indication of which exemption applied to which enclosures, nor to whether entire documents had been withheld.

The so-called "documents" in the packet are a mystifying hodge-podge of excerpts from reports on public, legal, peaceful civil rights, labor and peace activities over the years. Most pages have no identification whatever, not even an FBI report letterhead. Typed fragments of sentences stand lonely on otherwise blank paper.

Interestingly, the FBI seems to have difficulty in recognizing national boundaries, only in reverse from the CIA. The packet includes a report on the Vancouver, B.C., peace conference mentioned above.

Considering the difficulties for an individual using the FOIA, is the effort worthwhile? My reply is: the effort is especially worthwhile because of the difficulties.

As long as illegal government surveillance of legitimate citizen activities goes unchallenged, it will continue. The act is valuable only if agencies are forced to comply with it. The American Civil Liberties Union now has a booklet available which can help avoid some of the frustration in getting your files.

If we had no newspapers, freedom of the press would be a meaningless guarantee. If no one voted, suffrage rights would be void. If government secrecy and harassment is to be abolished, citizens, *en masse*, must demand access to government records. That's what it's all about.

And what better pursuit could there be in a Bicentennial year?

CHANGE TO REGULATIONS ON MAILING FRANK

Mr. CRANSTON. Mr. President, the Senator from Nevada (Mr. CANNON) has asked me to report that in accordance with its statutory responsibilities to prescribe regulations governing the proper use of the franking privilege, the Select Committee on Standards and Conduct recently approved a change to the existing regulations. Copies of the change are being distributed to all offices. Additional copies may be obtained by telephoning the committee office, extension 42981.

REVENUE SHARING

Mr. BAKER. Mr. President, as this session of the Congress draws inexorably to a close, it is time to note that the future of revenue sharing remains in limbo. While I view this an unfortunate, I realize that, during this first session of the Congress, the issue had not quite reached the critical stage. It is, however, rapidly approaching that point of criticality; and I am hopeful that the Congress will realize the necessity to act quickly on this program when it returns in January.

When this program was finally initiated in 1972, I was convinced that the underlying theory of revenue sharing, that of returning tax-generated revenues to the governmental entities most able to effectively and efficiently administer them, was one of sound government policy. I believe that the successful operation of the program has proved that judgment correct and that the revenue sharing program has become a widely accepted and popularly supported landmark of Federal assistance to State and local governments.

As with all Federal programs of this magnitude, it has not been without criticism, some of which may well be justified. There may, indeed, be some areas of the program which we would wish to change; in general, however, I believe that we should be reluctant to tamper with a program which has, so obviously, been a success.

I have three fairly specific observations. First, I believe that one of the strengths of the program has been the flexibility, within certain guidelines, with which the recipient governments have been able to determine the manner in which the funds may be most effectively used. I would, therefore, like to see this flexibility retained in any continuation of the program.

Secondly, I believe strongly that revenue sharing should become a permanent program, funded from a permanent trust fund, with automatic increases indexed to some element of the national economy. I recommend this element of permanence because it enhances one of the most beneficial and necessary aspects of the revenue sharing program, and that is the element of certainty and stability that it lends to the planning and budgetary processes of the local governments.

Finally, Mr. President, and, perhaps, most importantly, I believe that it is imperative that this program receive the immediate attention of the Congress. The longer we delay, the longer we undermine the orderly and effective fiscal planning of the State and local governments.

With this in mind, I intend to introduce legislation in the opening weeks of the second session that will seek to insure that the benefits of this vital and successful program are continued.

In closing, Mr. President, I ask unanimous consent that an interesting and well-reasoned editorial which appeared on this subject in the Washington Post on Monday, the 15th of December, be printed in the RECORD for the consideration of my colleagues.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

REVENUE-SHARING REVISITED

Jimmy Carter, a Democratic presidential candidate and former governor of Georgia stirred up a small fuss the other day by telling the Democratic Governors' Conference that revenue-sharing grants to the states ought to be cut. More aid should be channeled to the cities. Mr. Carter said: moreover, the money should be spent on social programs, not on marginal capital improvements such as "dance halls, or golf courses, or jail houses." These are not original suggestions. They are worth noting, although, because they point to the central isue that Congress will be considering early next year, when both houses discuss extending the revenue-sharing program. That issue is how general—how inclusive and flexible—the $6-billion-per-year program ought to be.

The first part of the problem is how the funds should be divvied up. About one-third is now parceled out to the states. The rest is spread among more than 38,000 units of local government, including about 20,000 jurisdictions with fewer than 1000 people apiece, some very affluent suburbs, and booming cities such as Houston—whose mayor is fond of saying that he doesn't really need the $15-million annual grant. Obviously the formulas should be modified to direct more aid to the cities and rural areas where poverty is most extensive and fiscal resources are most strained. The present formulas, however, reflect not only complicated calculations of need, but also political accommodations of the most sensitive sort. Attempts to rewrite the formulas could shatter the coalition of state, county and city officials that pushed the program through Congress in 1972. Thus even the mayors of have-not cities have decided not to press to hard—though they could make a good claim to larger slices of the pie.

On the question of how funds should be used, the arguments at least sound more philosophical. As an experiment in the "new federalism," revenue-sharing is based on the belief that state and local governments should have more flexibility in determining the uses of federal aid. Some opponents of the program simply reject this concept. Others, such as Mr. Carter, seem to object to its results. It is true that little revenue-sharing aid has been assigned to social services: according to several studies, local governments have tended to emphasize tax relief, capital improvements and public safety, while many states have given priority to education. There is, however, little assurance that modifying revenue-sharing would alter those priorities very much. If revenue-sharing grants were earmarked for social services, both Congress and state and local governments would be likely to cut back other programs for the poor. The major gain would be red tape.

The wiser course, in our view, would be to strengthen the requirements for real public involvement in deciding how state and local revenue-sharing grants should be used. This really means greater public participation in budget review in general. Equally important is far tougher enforcement of the law's ban on discriminatory practices by all jurisdictions receiving aid. Changes in those two areas, recommended by most analysts of the program, might not produce any dramatic shift in uses of the funds. They would, however, promote greater access to decision-making for more citizens. That is a vital element in the revenue-sharing concept, and one that has not been emphasized enough by the mayors and governors who are now lobbying for extension of the law.

PRESIDENTIAL SCIENCE ADVISER

Mr. MOSS. Mr. President, the science and engineering community has recently expressed a great deal of concern to me that the bills now pending before the Senate which would establish the Office of Science and Technology in the White House and which would establish the Presidential Science Adviser have been moving slowly through the Senate.

President Nixon abolished the position of the President's Science Adviser in 1973. That office is of great importance to the Nation if we are to have real policy direction in science and technology. The point can be no better dramatized than by Project Independence. Our slowness in developing new technologies in energy supply illustrates the failure of not having any continuous scientific or engineering advice within the White House offices.

During both the 92d and 93d Congresses, the Senate passed legislation which would establish a Presidential Science Adviser in the White House.

Last year the Committee on Aeronautical and Space Sciences and the Commerce Committee jointly reported S. 2495 which was rereferred to the Committee on Labor and Public Welfare. Ultimately that committee reported S. 32, which was passed unanimously by the Senate but never got through the House of Representatives.

Mr. President, S. 32 was once again introduced at the beginning of this session by Mr. Kennedy, with myself and 26 other Senators as cosponsors. Following the introduction of S. 32 the administration requested that the Office of Science and Technology be established in the White House and sent its own proposed legislation to the Congress. The House of Representatives has now passed this bill as H.R. 10230. It would establish the Office and that bill is now before the Senate. Those of us who are working closely with these bills (S. 32 and H.R. 10230) had hoped that the Senate would be able to act on the legislation during the first session of the 94th Congress. Because of the press of other legislative business, the committees to which the legislation was referred, Aeronautical and Space Sciences, Labor and Public Welfare, and Commerce, have been unable to report the legislation in this first session.

Mr. President, I am happy to announce to the science and engineering community that I have now been assured that these bills have been given priority. I am assured that the legislation will be scheduled for executive markup by the Subcommittee on the National Science Foundation of the Committee on Labor and Public Welfare, the Subcommittee on Science and Technology of the Commerce Committee during the week of January 19. The Committee on Aeronautical and Space Sciences will mark up on January 21, 1976, at 9 a.m.

I express my appreciation to the subcommittee chairman and their staffs for this assurance of speedy action.

Mr. President, I look forward to the Office of Science and Technology being firmly established before we celebrate the 200th birthday of this Nation which has become the world leader in the advancement of science and technology.

ADMIRAL ZUMWALT'S CLEAR WARNING

Mr. THURMOND. Mr. President, the December 10, 1975, issue of the Aiken Standard newspaper, Aiken, S.C., included an editorial entitled "Admiral Zumwalt's Clear Warning."

This editorial takes note of recent Soviet violations of the SALT Agreements as enunciated by Admiral Zumwalt.

Mr. President, I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Admiral Zumwalt's Clear Warning

In extraordinary testimony before the House Select Committee on Intelligence, retired Adm. Elmo R. Zumwalt Jr. said that the Soviet Union has made a "grotesque mockery" of agreements on strategic arms limitations, and that President Ford has not "gone into the material in sufficient depth" to understand the issues on his own. The admiral also charged that Secretary of State Henry Kissinger had not been candid wtih the President "in the gross nature of the cheating that has occurred.

Mr. Kissinger, he said, has a "personal and political interest" in seeing that agreements negotiated by him are not questioned. Asked to characterize the secretary of state, Zumwalt said he was a skillful man with a knack for making "strategic defeat look like tactical victory.

Coming hard on the heels of the Schlesinger firing, the Zumwalt testimony is particularly disturbing. In our view, there is more to this story than a public falling out between two men—Kissinger and Zumwalt—long known to have little love for each other.

If others have sown the seeds of doubt concerning President Ford's intellectual capacity to control his headstrong secretary of state. Adm. Zumwalt may now be credited with having amply watered that soil. Further, he has fostered suspicion, intentionally or not, that Mr. Ford may indeed be incapable of grasping the intricacies of strategic arms limitations and their enforcement.

Citizen Zumwalt, it is only fair to note in passing, has his eye on a seat in the U.S. Senate from Virginia. As a former Chief of Naval Operations and a member of the Joint Chiefs of Staff, however, he speaks from a position of authority and experience.

Mr. Kissinger, visibly irritated, has denied the charges.

The Zumwalt testimony, however, provides a clear warning to the American people, and it is an unmistakable challenge to the President and his secretary of state.

OPTOMETRY STUDY

Mr. RIBICOFF. Mr. President, I am pleased that the House accepted the Ribicoff-Dole amendment to the medicare bill. We note that under title XVIII, medicare, all refractive services are specifically excluded. With reference to those services reimbursable under title XVIII for aphakic patients, optometrists perform, in addition to refractions, other examinations and professional services. With respect to those other professional services performed on aphakic patients by optometrists, the Senate included an amendment, which the House accepts, whereby the Secretary has been instructed to conduct a study within 4 months to deal with this matter. The purpose of the Dole-Ribicoff amendment is to direct that this determination be conducted by the Assistant Secretary for Health and that he utilize, in his investigation, the information in the Health Resources Administration dealing with present optometric curriculum and optometric manpower distribution. The Secretary shall utilize the expertise of optometrists who are not employed directly or indirectly in governmental agencies and that the investigation would focus on those professional maintenance services provided the cataract patient, including aphakic services after surgery, and that the Secretary report to the Congress those services which should be reimbursable for purposes of title XVIII. In the pursuit of this determination at least 50 percent of the professionals utilized shall be optometrists.

THE DILEMMA OF PUBLIC OFFICIALS

Mr. BUCKLEY. Mr. President, one of the things that I find distasteful about public life is the mood of suspicion fostered in significant part by such sanctimonious groups as Common Cause and by too many in the press that has created almost a presumption that public officials are corrupt or corruptable unless proven innocent. Thus, we find ourselves subject to a unique form of harassment that we who are in office have no choice but to live with, but which increasingly has caused men and women of integrity and ability to stay away from politics.

However unfair and distasteful this state of affairs, it is nevertheless one that we must live with until such time as the pendulum swings back to a position where politicians are not assumed to be more venal than, say, journalists who report business news or review movies and plays, or the self-appointed protectors of various special public interests.

It is an unfortunate fact of life that charges or insinuations once made are hard to eradicate from the public record or consciousness. This is something I have become increasingly conscious of as I contemplate seeking reelection to this body.

In September 1973, I sought to immunize myself from possible vulnerability to charges of conflicts of interests by transferring my assets—other than personal property and real estate—to a blind trust administered by a bank and a lawyer as cotrustees. As a consequence, I no longer either control my own investments or know what it is I own. I would be less than candid, however, if I did not admit to an educated guess that the trustees have retained the Catawba Corp.—a company whose voting shares are wholly owned by members of my family—and certain other assets—consisting largely of royalty interests in petroleum and mineral leases, most of them foreign—if for no other reason than that these assets are by and large expensive to appraise, and difficult to sell.

While this exercise in political prophylaxis may be useful in many or most cases, I have found in my own that it has been impossible for me to ignore the fact that whatever my trustees may have done with respect to the more exotic assets I turned over to them, I have the knowledge that my brothers and sisters have retained their own interests in them. Anyone who has been a member of a large family will understand that my judgment is just as subject to influence by a concern for the interests of my siblings as it is by one for my own. It is for this reason that I have on several occasions abstained from voting on matters that would have a direct effect on their financial affairs, and very probably on my own. For example, proposals for modifying the depletion allowance and foreign tax credits.

In light of next year's election, Mr. President, I am prepared to go beyond what I believe to be required of me as a matter of principle, and to place on the record—in the RECORD—directly and by reference, first, the nature of my family's involvement in the oil, gas, and mineral business, and second, the principal tax credits and deductions my wife and I have taken in the noble cause of keeping our taxes at minimum. I believe it was Justice Brandeis who once wrote that it was the duty of every citizen to minimize his taxes.

With respect to my family's business interests: We own all of the voting stock of the Catawba Corp., a Delaware corporation whose primary business it is to provide a variety of services to a group of companies engaged in oil and gas and mineral exploration and development, primarily outside the United States. The principal exception is a company that holds extensive nonproducing exploratory leases from the State of Florida. Another Catawba client, a Canadian company, has a small interest in oil production in Wyoming, and I understand it is now undertaking exploration elsewhere in the United States. In consideration for its services, Catawba earns cash and a royalty, usually a 1/64th interest, in any production from the properties acquired by its client companies.

These clients are the corporate descendants of companies organized by my father between the early 1920's and the mid-1950's. Members of my family, or trusts established by them, own varying stock interests in them. Most of their shares, however, are owned by more than 100,000 members of the investing public. The principal client companies—which are listed on the National, Pacific, and/or Toronto Stock Exchanges—are Canada Southern Petroleum Ltd., Coastal Caribbean, Inc., Magellan Petroleum Corp., Pancoastal, Inc., Pantepec International, Inc., and United Canso Oil and Gas, Ltd. As these companies from time to time offer their shares for sale to the public, anyone with a passing curiosity as to their holdings and activities, and as to their relationship to Catawba, may satisfy the same by examining their most recent annual reports and registration statements on file with the Securities and Exchange Commission. Although my family owns some interests in mineral properties independently of Catawba and its client companies, I believe such an examination will accurately disclose the nature of our involvement in the oil and gas and mineral industries.

Now let me turn, Mr. President, to the matter of taxes. Last year, on a joint income of approximately $165,000—including more than $20,000 in net capital gains—my wife and I paid approximately $36,000 in Federal taxes, $18,000 in foreign taxes, and $15,000 in New York State and city taxes. In computing our Federal tax liability, we took a credit for the foreign taxes, exemptions for our six children, and deductions for the following, using approximate figures:

Interest payments—$33,000; State and local taxes—$23,000; contributions to Senate office expenses—$9,000; contributions to charities—a figure that is no one's business other than our Maker's and the auditors for the Internal Revenue Service; living expense—the statutory $3,000 allowed Members of the Congress; trustees' fees—$1,500; other miscellaneous deductions—aggregating less than $2,500. I do not know how much of a depletion allowance was taken in the calculation of income attributable to royalties received on oil and gas production, as our joint income tax returns—from which the above information is taken—were prepared by the corporate trustee for my blind trust. In order to keep from identifying the sources of my income derived from the trust, the trustee withheld from us those schedules to our income tax returns that would have identified the total amount of the depletion allowance taken.

Could there be other categories of real income, or of deduction, that would not have been reported in the income tax returns prepared by my trustee? Yes, but none of importance, as far as I am aware. What I believe I can state with assurance is that I have not taken the various writeoffs available to participants in oil and gas drilling ventures in the United States for the simple reason that I have not participated in such ventures in years, and I think it highly unlikely that my trustees would have done so on my behalf.

Mr. President, the information I have provided represents the limits of what is required to meet the legitimate questions that New Yorkers might ask in trying to determine for themselves whether in the discharge of my responsibilities, my judgment has been warped by my own personal financial advantage. In this connection, I might note that a number of reporters have asked me whether my consistent vote for lifting price controls on oil and gas does not reflect self-interest. Aside from the fact that by far the major portion of my family's oil and gas royalty income is derived from foreign sources unaffected by U.S. law—except to the extent that continuing U.S. shortages help maintain high foreign prices—it ought to be self-evident from my position on wage and price controls and all other restraints on the marketplace that my votes with respect to the pricing of energy would be suspect only if I had voted to maintain such controls on oil and gas.

As is true of any group that has been willing to take substantial gambles, my family has acquired interests in several ventures or inventions that could at some future date, if lightning strikes, assume importance. Should any of these give rise to a potential conflict of interest, I shall in the future—as I did in the case of my family's ownership of an equity in a new shallow drilling technique that might benefit from the building of the Alaskan pipeline—declare that interest and vote "present."

Having placed all of this information on record in the RECORD, I know there will be those who will ask, "But what about your net worth?" Here I believe we clearly breach the line between the most generously defined limits of legitimate concern over potential conflicts of interest and unabashed curiosity. I will merely say that I would judge my net worth to be substantially below that of a number of our colleagues while being substantially above that of the average of this body. I would also observe that it is significantly less than it would have been had I not decided 5½ years ago to seek public office.

STALEMATE ON TAXES

Mr. MOSS. Mr. President, I ask unanimous consent that the lead editorial of the Washington Post this morning be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

STALEMATE ON TAXES

Another stalemate on basic economic policy now confronts the country, and this one is the most dangerous of all. With President Ford's profoundly unwise decision to veto the tax cut extension, and his congressional opponents' unfortunate inability to override him, the stalemate is complete. Neither side can impose its will upon the other—and with that, both sides pack up to leave town for the holidays. Merry Christmas to all you taxpayers.

If last spring's temporary tax cut expires at the end of the month—as it will, unless there is further legislation—the taxes withheld from the average paycheck will go up $3 to $4 a week. For most families, it will be an annoyance rather than a disaster. Three dollars a week is not the end of the world. But three dollars a week times 86 million pay-checks is well over $1 billion a month, and that is enough to make a substantial difference in the way in which the American economy works. The effect is, of course, to reduce purchasing power, consumer demand and business investment—all of them essential to recovery from the recession.

That recovery has already shown itself to be a rather frail and contingent affair—a vehicle on which sensible people would not try to load any more baggage than it is currently carrying. But now it is going to have to take on, in addition to everything else, an intolerably heavy freight of ideology. You can already hear the springs creaking. Will they break altogether? No one knows. It is at least possible that this unplanned tax increase, in conjunction with other uncertainties ahead, could tip the country back into another recession. Perhaps you have lost count: It would be the third since 1970.

It is impossible to avoid the impression that Mr. Ford's harsh and stubborn resolve in this long dispute has been increased by the recent political polls, which climaxed last weekend in figures showing Mr. Reagan to be running ahead of him among Republicans. Presidential over-reaction to polls is one of the notorious hazards of our system of government. But the whole handling of the tax issue at the White House strengthens the dismaying prospects that the country is going to be ruled mainly by Mr. Gallup, Mr. Harris and their computers for the next 11 months.

The substance of this collision between the President and Congress is exasperatingly meager in proportion to the dire consequences that might flow from it. There is a clumsiness that overtakes American politicians when they begin to pursue ideological dogma, that pursuit does not lie in their tradition, and they are not generally very gifted at it. Mr. Ford has let himself be talked into becoming an example of this rule.

Mr. Ford wants, and thinks he needs, some sort of symbolic acknowledgement from Congress that it has committed a fiscal sin. He wants it to kneel down with him right now, here in front of the crowd, and take the pledge—in the form of a limit on spending. You might think that he would want it to cover the current fiscal year, which ends next summer. But the current year does not suit Mr. Ford's purpose since Congress, following its own Budget Reform Act, has just legislated its own spending limit to cover it. That limit is a very tough one, under which any bill exceeding the total budget is illegal and can be stopped dead on a point of order brought by any one member of either House. In regard to 1976, that does not leave Mr. Ford much to ask for. In consequence he has briskly moved the quarrel ahead to fiscal 1977, which does not begin until next October.

That is how the country comes to be entangled in a bitter dispute over a spending limit for a year for which the President himself has not drafted his own budget proposals, and for which the economic forecasts are still highly imprecise. As everyone has learned by recent experience, both recession and inflation tend to increase spending rapidly. The tremendous budget deficit this year, for example, is much less a cause of the recession and inflation than a result of it. Inflation pushes up spending because the Navy has to pay more for the same amount of oil for its ships, and because Social Security benefits rise automatically with the cost of living. Early this year Mr. Ford proposed to reduce the cost-of-living increments in the Social Security checks, but Congress would not hear of it. At the same time, recession adds costs in categories like unemployment insurance, in which federal outlays rose from $6 billion in fiscal 1974 to something over $18 billion this year. If a spending limit is based on forecasts of unemployment that turn out to be too low, is it a fair and effective public policy to cut off unemployment benefits because they exceed that arbitrary and premature limit? The question answers itself.

Despite all the angry words of the past few days, there is doubtless still a chance that the President and Congress will be able to get together before New Year's Eve on some sort of temporary compromise. To extend the present tax withholding schedules of a period of three months would be a poor precedent, but it would be better than nothing.

The truth of the matter is that Mr. Ford has taken a firm grip on the wrong side of this argument, and the role of Oliver Cromwell does not become him. It would be helpful to him, and to his cause, if he were to reflect upon the characteristics that brought him remarkably wide public support through his first year in office. In those days he made great efforts to be open-minded, conciliatory and pragmatic. Those are qualities that served him well then, and could serve him again. After all, the business before him is not only the next election, but quite possibly the next recession as well.

GIVE CONSERVATION A CHANCE—IT PAYS

Mr. DOMENICI. Mr. President, this Nation faces a crisis in energy and natural resources which will require many varied measures for solution. American businesses and individuals are challenged by the prospect of major shortages. I am confident that they will rise to this challenge by becoming much less wasteful of limited resources; and that at the same time they will continue their efforts to strengthen our economy.

I am convinced that in the field of energy conservation what is required is not so much sacrifice as ingenuity. The following figures show how as individuals and as a nation we can use energy savings to help narrow the gap between long term supply and demand for petroleum products.

A recent speech given by Charles R. Ince, Associate Assistant Administrator of the Federal Energy Administration, to the Southeast Texas Energy Awareness Conference gives some excellent advice on how to proceed to achieve energy conservation in quantities that are indeed significant.

Most U.S. buildings waste from 25% to 50% of the energy they consume.

Home insulation saves perhaps six to 10 barrels of $16-a-barrel fuel oil per winter.

Ceiling insulation costing less than $300 and having a life expectancy of 20 years would save the equivalent of 60 barrels of oil after deducting the cost of money at 10%. Dividing $300 by 60 barrels shows that $5 worth of insulation saves more than $16 worth of fuel oil.

Since everyone is agreed that it will take some years to expand our supply of domestic energy production, I think it is important that we begin to take some of the sensible steps that Mr. Ince suggests. I will have much more to say on this subject in the coming year. In the meantime, it is heartening to note, as Mr. Ince did in his speech in Houston, that the FEA estimates that conservation efforts have already reduced petroleum consumption by about 5 percent beneath levels which would have otherwise occurred, and that Federal Government energy consumption was reduced by 25 percent last year.

Another important point addressed by Mr. Ince relates to this Nation's supply of minerals critical to our economic vitality, a matter about which I am becoming increasingly concerned. Mr. Ince pointed out that we are growing more dependent on foreign sources for an increasing percentage of the most essential minerals. This is the same scenario we followed so carelessly to the brink of disaster over the past decade for the petroleum products this country must have.

Surely we learned enough from those developments and the Arab oil embargo to take actions necessary to prevent a reenactment of that scenario in relation to essential minerals. This is a subject I have spoken out on in the past and an area in which I have introduced several legislative proposals; thus far, unfortunately without much success. Again, I urge my colleagues to take this issue seriously, because the time is coming and is not far away when, unless things are changed, the effective control of the vast majority of minerals we need will be in the hands of nations other than the United States. Conservation and more efficient utilization of minerals, as an element of maintaining our independence to the greatest extent possible, are matters which must receive the attention their importance demands. I intend to pursue very vigorously solutions to these problems during the coming year and I urge my colleagues to do the same.

Mr. President, I ask unanimous consent that the applicable portion of Mr. Ince's speech, together with the text of two newspaper articles relating to it, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Energy Conservation Opportunities and Challenges for the Construction Industry

(Remarks by Charles R. Ince, Jr., Federal Energy Administration)

Good afternoon. I am delighted to visit Houston, as always, there is an excitement about this town, created largely I would think by the efforts of you people in the vital building industry. I suppose the whole world knows the story of the Houston building boom. You are national leaders in your area. And living as you do in an energy rich area of our nation, you have lower transportation costs to secure energy than some of your yankee cousins in New England.

Today I want to challenge you to become national leaders in building energy efficient structures as well. And I also want to share with you some thoughts about the potential of energy conservation for your industry and for the country, particularly the implications of the major bills which Congress is actively considering right now.

As you know, our energy situation is a complicated problem. The Arabs may have moved up the time schedule of our energy crisis, but it was forming long before the embargo, it continues long after the embargo has ended, and it will take much more than stop gap oil supply measures for solution. Lest there be any question that there is an energy crisis, listen to this:

Each minute we spend 50 thousand dollars.

For every Hour of every day we spend three million dollars for imported petroleum.

In the time that I will spend with you here today, we will have sent about *two million* hard-earned dollars out of the country. And remember this—these dollars leave this country without being immediately recirculated into our economy.

Incidentally, we have more than only an energy crisis. We have a natural resource crisis. The National Commission of Materials Policy, made up of resource expert and businessmen, recommended last year that all industrial nations slow down their consumption of mineral resources, design all products for recycling and move rapidly toward greater use of our more abundant resources.

Of the 13 minerals identified by the department of interior as the most essential to our economy, we are already importing more than 50 percent of six of them: aluminum, manganese, nickel, tin, zinc and chromium—and by 1985 we shall add to that list iron, lead and tungsten—with copper, sulfur and potassium joining the list by the year 2000. The price of the vast majority of these minerals will be set by nations other than the United States. Our economic base, therefore, will be at the mercy of foreign nations, both in energy and raw materials.

Perhaps we live in a hinge of history—an old world is dying and a new world is painfully being born. I believe that in our ability to recognize the parameters of that *new* world lies hope of a continued intelligent civilization, and if we don't recognize it, it will be to our great peril.

What is the true road to energy and other natural resource independence? These questions are much debated in meetings across the country:

A. Are need and demand the same thing?

B. Are energy projections fixed or variable?

C. Is energy growth a siamese twin to economic growth or are they two separate though related concepts?

D. Can we have infinite growth of demand in a finite universe, or do we have a finite universe?

E. Are we being "doomsayers" when we question the solutions of "More," "Bigger," "Faster?"

F. Perhaps more basically, what does it mean to be Americans—Do we measure our civilization by two cars in every garage, a garbage compactor in the kitchen and plastic flowers on the table—or something more?

The large question then is how do we treat shortages—can we "develop" our way out of them—or do we match our development effort to "conserve" our way out of them? Do we attempt to feed the voracious consumption we have accustomed ourselves to—or do we put it on a diet?

I would like to list the basic components of our national energy dilemma on which there is general agreement—

(1) Domestic reserves of oil and natural gas are limited—and production is declining at an alarming rate

(2) A heavy reliance on imported petroleum poses a serious threat to both our economy and national security;

(3) Expanding domestic supplies of energy, whether they be from conventional or exotic sources, will take many years. These new supplies are likely to be increasingly costly; and,

(4) Energy supply, conversion and use often pose serious threats to environmental quality.

I am not, by any means, opposed to developing new supplies in line with our future needs for them. But, the purpose of any energy policy must be to fill the gap between the increasing demand and the decreasing supply on the basis of what's cheapest, environmentally the most attractive, and what's fastest.

It is clear that, as a Nation, we tolerate huge amounts of energy waste. Sweden and Germany, two countries with per capita incomes approximating our own, consume only half as much energy per capita. Some of this difference can be accounted for by the larger U.S. homes and greater use of transportation. The major reason is that Germany and Sweden have responded to many years of high energy prices by improving the efficiency of energy use. For example, average new car fuel economy in Germany is 20 MPG versus 14 MPG in the United States. The manufacturing of paper requires only 37 percent and chemicals require only 57 percent of the energy used to produce the same amounts of these products in the U.S.

European energy use patterns are indicative of the potential for energy savings. FEA estimates, for example, that by applying existing technology we could *eventually* save more than 50 percent of the energy consumed in the United States. To fully achieve even these savings, however, will require the replacement of much of our existing plants and machines with more energy efficient equipment, vehicles and buildings. Because we cannot afford to simply scrap existing buildings and industries, even though they may be grossly inefficient, improvements in energy efficiency will have to coincide, at least partially, with the gradual replacement of existing facilities and equipment. Nonetheless, substantal savings can be achieved in the short term through the modification of existing facilities and practices.

If individuals and businesses were totally committed to conserving energy and aware of the opportunities to save, we would not have nearly as serious a problem as we do today. But, for a variety of reasons, the response to the calls for energy conservation has not been as strong nor as enduring as we might have hoped. Certainly, the dramatic increases in the price of fuel and the increased awareness of the need for conservation have resulted in some significant savings. Energy demand so far this year has been somewhat less than 1973 levels. Considering that energy demand grew at about 4.3 percent annually from 1964 to 1973, no growth in demand for nearly two years is certainly an important accomplishment. Although the recession accounts for a significant portion of this reduction, FEA believes that conservation has reduced petroleum consumption around 5 percent below what it would have been otherwise. This is the equivalent of at least one million barrels of oil per day.

The slackening of the rate of energy demand growth is a significant achievement, but, there remain opportunities for substantially greater savings.

As you might expect, you are hearing a pitch for conservation. No matter how hard we work at developing new supplies, we will not be able to bring them on fast enough to do us much good in the near future. Conservation is available to us here and now, when we need it. It is the quickest and most economical way to add to our supplies.

The term "conservation" by itself leaves considerable room for interpretation. We at the Federal Energy Administration have come to accept as "energy conservation," these actions:

Elimination of wasted energy; such as extinguishing lights in unoccupied buildings at night, or removing excessive bulbs in existing commercial lighting fixtures.

Cost effective substitutions of human time or effort for energy use; Such as increasing the use of insulation in buildings, investing in heat pumps instead of electrical resistance heating, or installing equipment to capture the waste heat from boilers for a useful purpose.

Substitutions of alternative lower energy activities which have a similar effect; such as using telecommunications in place of long distance travel or dressing differently to permit thermostats to be raised in the summer and lowered somewhat in the winter.

These strategies do not assume that energy conservation requires any dramatic changes in the basic preferences or individuals. But they do suggest that some changes in attitudes or lifestyles will occur as a greater awareness of energy and its costs emerges. The cost of energy, long disregarded by most consumers and businesses, has recently become a key factor guiding these individual choices. Each of the strategies, nevertheless, represent in a broad sense, a way to use energy more efficiently. Each individual must make his own choices regarding energy use by weighing the importance of different factors, including energy costs, time value, comfort, convenience and force of habit.

By defining energy conservation measures as cost-effective substitutes for energy consumption, we can begin to assess the ultimate potential for energy savings. Most of this potential can be realized by energy conservation measures which fall into one of the following general categories:

In transportation:

Improving the fuel economy of motor vehicles.

Reducing vehicle miles traveled.

In residential and commercial buildings:

Designing and building more energy efficient new structures and appliances.

Improving the energy efficiency of existing buildings and homes.

In industry:

Improving the efficiency of industrial processes and equipment.

In utilities:

Reducing the amount of scarce fuel required to generate each KWH of electricity.

Further, such actions as the application of life cycle costing techniques: the sum of acquisition, support and disposal costs over the life of the product has proven an effective means to increase the return on the dollar invested. Dollar and energy savings associated with a widening group of appliances, including window air conditioners, hot water heaters and gas ranges, using life cycle cost techniques stressing energy efficiency, have been significant.

One need only peruse any current well-known financial or construction industry periodically to know of depressed architectural and engineering activities as well as of all related effort. Unemployment is unusually high throughout the construction industry. The national unemployment in construction industry was 17.9 percent in November of this year [1] and there is curtailed manufacturing of all products and equipment used in the construction industry.

In the absence of new construction starts, a huge potential exists for your industries in altering, modifying or refitting of existing buildings of all types: industrial, commercial, institutional, and even residential. The inventory of existing buildings is going to be with us for a very long time. Most of them, we have found, are wasting from 25 to 50 percent of the energy required to operate them and/or make them habitable.

In the majority of the cases, investment to alter, modify or refit these buildings is cost effective. By doing these types of work, the construction industry can be stimulated; "energized," if you please, and even the companies that manufacture energy-using products can benefit. Perhaps the most important gain for the Nation as a whole is that by pursuing these kinds of activities we begin an orderly and sure process of reducing our reliance on expensive imported petroleum.

Viewed from the perspective that conservation means improved energy efficiency and not simply reduced consumption—energy conservation becomes an equal partner with efforts to increase supplies. For example, if a homeowner installs insulation, he will save perhaps 6 to 10 barrels of oil during the winter months. The oil thus saved represents that much reduction in total U.S. energy use and reduces dependence on imported petroleum accordingly.

This type of analysis can be used to determine the "cost per barrel saved" of conservation actions. For example, ceiling insulation can be installed in the average home for less than $300.00. This amount of insulation would save, on the average, 40 million BTU of fuel annually, which is the equivalent of about 7 barrels of oil. Assuming that the insulation has a life expectancy of at least 20 years and that the cost of money is 10 percent, the equivalent of 60 barrels of oil would be saved. By dividing $300.00 by 60 barrels, we conclude that $5.00 worth of insulation is needed to save one barrel of oil.

This figure of $5.00 is less than virtually every other form of energy available to the howeowner. For example, at current prices, fuel oil costs over $16.00 per barrel. Solar heating and electricity from nuclear power plants would also be about four times more expensive than saving fuel by installing insulation.

Similar calculations have been performed for storm windows, which cost about $9.00 per barrel of oil saved, and improved auto efficiency, which costs about $2.50 per barrel saved, or 6c per gallon. This approach can be applied to numerous other conservation measures in industry, transportation, utilities and buildings, but it is sufficient to say that most energy conservation measures turn out to be far cheaper than the available supply alternatives. This conclusion has relevance for individuals as well as policy makers.

While conservation projects are not the only viable alternatives, they generally represent the most cost-effective way we have of dealing with energy problems. We are going to need both conservation and new supplies. Neither will do the job by itself. But, in my opinion, we must break out of our institutionalized "supplies or bust" attitude, choose the lowest cost option, and give conservation a fair chance to compete.

Because there is an overriding national interest in reducing our dependence on imported petroleum, the Federal Government has actively sought ways to increase the conservation of energy. Unfortunately, the Federal effort, up until now, has been constrained by limited authority and inadequate funding. Current Federal activity, with the exception of the mandatory 55 MPH speed limit falls into four general areas:

1. Information transfer—includes the distribution of pamphlets and other materials on conserving energy, public service advertising and several programs which involve direct contacts with building managers, industry groups and individuals.

2. Goal setting—Federal programs directed at improving automobile fuel economy (40% by 1980), appliance efficiency (20% by 1980), and industrial energy efficiency (10–15% by 1980) as well as programs in the development stage, which will involve utilities and the individual states.

3. Research and development—Efforts directed at the development of more energy efficient technologies. With the establishment of the Energy Research and Development Administration, Federal energy conservation R&D efforts have expanded and become more cohesive.

4. Import tariffs—Although the President has continually urged Congress to adopt measures that would replace the current $2.00 per barrel tariff and has pledged to remove the tariff if the price of "old oil" is completely decontrolled, this remains the only measure now in effect which encourages conservation by artificially raising the price of energy.

We have a marketing job to do. We are looking for the best way to effectively communicate the maximum information. And it is in this light that we must consider the question of voluntary or mandatory conservation.

In most people's minds the choice is one of taking away freedoms, or not taking them away. I don't think that is accurate. This Administration has committed itself to keeping Government interference in the daily lives of the American people to a minimum. Again, our primary consideration is determining the most cost-effective way to transfer the information—to make the sales pitch.

For example, in the case of building standards, the existence of over three thousand different building code jurisdictions makes it very difficult to achieve a unanimous voluntary adherence to energy efficiency standards—difficult because of the money and man-hours needed to reach every jurisdiction with the specialized information needed for that situation. So we have found that mandating Federal standards adapted to each community will be the most cost-effective way to achieve the improvements we need. And the Governors all seem to agree.

On the other hand, there are only four major automobile manufacturers. It is easy to maintain close contact with their management. And the standard is easy to set—miles per gallon. In their case, we think voluntary programs and goals are the answer, at least until those goals are ignored.

These may be the two poles of the issue. In between you have decisions to be made over such things as appliances and industrial equipment and processes. In dealing with these cases individually, we consider two things. First, the number of people involved—the size of the target audience; and secondly, the complexity of the standard—how easy or difficult it will be to set one that will be equitable in all cases.

In short, I view the whole problem as one of information transfer. We are going to do whatever will bring the largest share of the market, and that means using every means of marketing at our disposal, from issuing guidelines to setting mandatory standards, to advertising, or mobilizing citizen efforts.

But the duty is not all ours. The energy crisis—yes, the whole resource crisis, is not only a Government problem. The day when it becomes the sole responsibility of Government to make our economic system work will be a day when America as we know it is dead and gone.

It is the Government's job to try to undo the ill effects of its own interference in the market place—by removing price controls, for instance, and letting the price of energy reflect its true value.

But the job of making our economic system work is not ours, but yours. Each of you, working within his or her own sphere of influence, will be the one who sets the price this country pays to regain its energy independence.

Energy conservation, like good public relations, is not something to be paraded out when the mob is at the main gate. Less than 50 percent of the public feels that conservation is needed because energy is a long term problem.

And, less than 50 percent of the public is practicing it and neither are 50 percent of our institutions. You in the audience represent the construction business leadership in this Houston area. For the sake of the country—and for your own sake—I urge you strongly to set doubts aside and take the lead in conservation. The time has come for our institutions and business leaders such as yourself to set the pace. The Federal Government saved 25 percent of its anticipated energy use last year and avoided $921 million in costs equivalent to 263,000 barrels of oil per day—and it did not hurt one bit.

You have within your means actions—as both citizens and businessmen—which you can take that would make those savings look paltry by comparision.

Turn your utilities toward marketing energy-saving devices as well as energy-using devices.

Identify and encourage the public to purchase the most energy efficient appliances, particularly air conditioners, that are presently on the market.

Get the companies who manufacture what you buy to develop and market new lines of energy saving equipment and materials.

When you are considering advertising campaigns, consider energy conservation.

When you are planning a mailing, consider energy conservation.

Encourage your chief executive officer and your clients to make a corporate commitment to energy conservation.

Adopt FEA's Lighting and Thermal Guidelines for its own ends and as a symbol of your commitment to energy conservation.

Encourage employee awards for energy saving ideas.

Look for ways to substitute conference calls and correspondence, videotapes, and films in place of conventions, travel or other interior intra-company communications.

Focus your society's speakers' bureau, if you have one, on energy conservation.

Keep your Congressman informed about such activities. Ask him to credit you in the Congressional Record.

Let us in FEA know what you are doing. Write when you are proud of any accomplishments—send us case histories.

HOUSTON ENERGY AWARENESS SEMINAR TOLD "GIVE CONSERVATION A CHANCE—IT PAYS"

(By Jim Drummond)

HOUSTON.—Five hundred of them practically beat down the doors to get into an energy-saving meeting supposed to have been limited to 400.

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[1] U.S. Department of Labor, Bureau of Labor Statistics, Publication No. 627, The Unemployment Situation October 1975, issued December 5, 1975 by the Office of Current Employment Analysis, Division of Employment and Unemployment Analysis, John E. Bregger, Chief, (202) 523-1944, Room 3826, 441 "G" St.

They heard the keynoter urge Americans to "break out of our institutionalized 'supplies or bust' attitude, choose the lowest cost option, and give conservation a fair chance to compete."

They got a long list of energy-saving ideas and dollar signs to go with them. Together with the cheering word that Uncle Sam ultimately can do today's chores with 50% less energy and that conservation generally is "cost effective." In other words, it returns a profit.

The occasion was a "Southeast Texas Awareness Conference," the bright idea of the Dallas regional office of Federal Energy Administration (Texas, Oklahoma, Louisiana, New Mexico and Arkansas).

Regional FEA Administrator D. M. Fowler presided and spoke. Keynoter was Charles R. Ince, Jr., Washington, D.C., FEA's associate administrator of building programs. In the daylong audience at Royal Coach Motor Hotel were architects, engineers, university and municipal construction experts, and a hearteningly sizable number of energy producers from Houston's oil community.

In fact, Sun Oil Co.'s local building complex was singled out for an FEA award for a conservation program, started in January, 1974, which reduced kilowatt consumption 24% from 1973 levels. E. R. McManus, Sun's energy conservation director accepted a plaque from Fowler spelling out the achievement.

Ince addressed a general luncheon meeting sandwiched between all-day workshops on each of four topics—conservation in 1) new construction and design; 2) industry; 3) existing buildings, and 4) from the viewpoint of gas and electric utilities.

The idea that energy growth is a Siamese twin to economic growth is a "much debated" question instead of an accepted fact, the kneynoter asserted He said other open questions are whether need and demand are identical, whether energy projections are fixed or variable, and whether demand can grow infinitely in a finite universe—assuming, that is, that it's finite.

Ince had tell-tale figures from a different field. Of 13 of our most essential minerals, he said, we're importing six today and will be importing six more by the year 2000.

"The price of the vast majority of these minerals will be set by nations other than the United States," he warned. "Our economic base, therefore, will be at the mercy of foreign nations, both in energy and raw materials."

"Hope of a continued intelligent civilization" lies in U.S. ability to recognize the parameters of the world that's coming.

Everybody is agreed, said Ince, that U.S. petroleum is in short supply, that domestic energy production will take years to expand properly and that heavy reliance on imported oil threatens both our economy and security.

What to do? The experience of Germany and Sweden, which use only half as much per capita energy as the U.S., was seen pointing the way.

A 50% energy saving in this country would require replacement of much of our existing plant and machines, said Ince. But modifications could achieve much.

Some FEA arithmetic:

Most U.S. buildings waste from 25% to 50% of the energy they consume.

Home insulation saves perhaps six to 10 barrels of plus $16 a barrel fuel oil per winter.

Ceiling insulation costing less than $300 and having a life expectancy of 20 years would save the equivalent of 60 barrels of oil after deducting the cost of money at 10%. Dividing $300 by 60 barrels shows that $5 worth of insulation saves more than $16 worth of fuel oil.

Storm window installations can save $9 a barrel oil; improved automobile efficiency, $2.50 oil.

Ince had some words of defense against widely heard charges the federal government's sole energy-saving move has been establishment of a national 55 miles an hour speed limit.

It's put out a lot of information, set a number of important goals (40% better auto economy by 1980; energy savings of 20% by appliances and 10–15% by industry by the same date), done much research and development, and imposed a $2 a barrel excise tax on oil imports.

One unfortunate note, said Ince. Although the government is committed to minimum interference in the daily lives of Americans, the welter of domestic building codes (more than 3,000) has forced it to mandate federal construction standards for adoption by each community.

Since conservation pays for itself, FEA's problem is one of "information transfer," delegates were told.

The FEA executive had some surprising words about the omnibus energy bill, awaiting President Ford's signature or veto.

Although this measure would roll back petroleum prices temporarily, it also would set up a number of conservation mechanisms. These are partly of the goal-setting type (Appliance, auto and industrial conservation plus a 10-year plan for federal buildings). There's also a grant-in-aid program under which states would plot 5% energy-use reductions by 1980.

Bills granting home-owners tax credits for insulating expenses and insulation of solar equipment were reported stalled in Congress, as is a measure which would pay for insulating low-income housing.

Ince said FEA believes conservation has reduced petroleum consumption by about 5% beneath levels which otherwise would have occurred.

"Considering that energy demand grew at about 4.3% annually from 1964 to 1973, no growth . . . for nearly two years is certainly an important accomplishment," he declared.

Fowler cited recently published Rand Corp. studies purporting to show that 10% price increases cut demand for natural gas more than 20%; for electricity, more than 10%, and for gasoline, 9 to 10%.

He also noted an increase in the "practical economical lighting level" for offices from about two footcandles in 1920 to some 200 footcandles at many sites in 1967. FEA wants 50 footcandles at "occupied work stations," 30 in work areas, and less than 10 elsewhere.

Fowler's office held a landmark "Energy Awareness Conference" in Dallas last April. This drew 325 persons. A third is planned in Albuquerque, N.M., the first week in February; a fourth, in New Orleans in April. Others are due at still undetermined dates in Oklahoma City and Little Rock.

Nation Faces Metal Crisis, Conferees Told

(By Jim Maloney)

Besides an energy shortage, the nation is facing a crisis in some of the most essential metals, an associate assistant administrator of the Federal Energy Administration said Wednesday.

The National Commission of Materials Policy has recommended a slowdown on consumption of mineral resources and design of all products for recycling, Charles R. Ince Jr., said.

The commission has also urged a rapid move toward greater use of more abundant resources, Ince said.

Ince addressed a Southeast Texas Energy Awareness Conference in the Dunfey's Royal Coach Motor Hotel.

He stressed the importance of energy conservation in every area as a means of easing the energy crisis.

The meeting was attended by some 550 persons who are primarily architects, builders and owners and managers of commercial buildings.

Of the 13 minerals identified by the Department of Interior as the most essential to our economy, we are already importing more than 50 per cent of six of them," Ince said.

The minerals are aluminum, manganese, nickel, tin, zinc and chromium, he said.

"And by 1985 we shall add to that list iron, lead and tungsten," Ince said.

Copper, sulfur and potassium will be joining this shortage list by the year 2000, it is estimated.

"The price of the vast majority of these minerals will be set by nations other than the United States. Our economic base, therefore, will be at the mercy of foreign nations, both in energy and raw materials," Ince said.

Ince said energy conservation is not a tradeoff of economic growth versus no growth or limited growth.

"It is a tradeoff of jobs, goods and services purchased here in the U.S. versus sending out dollars overseas to pay for oil," he said.

The United States is spending $3 million an hour for imported petroleum, he said.

The purpose of a national energy policy should be to fill the gap between increasing demand and decreasing supply "on the basis of what's cheapest, what's environmentally the most attractive and what's the fastest."

Huge amounts of energy waste are tolerated in the United States, he said.

Sweden and Germany, with per capita incomes about that in this country, consume about half as much energy per capita, Ince said.

AMERICAN LEGION SUPPORTS H.R. 9576

Mr. TALMADGE. Mr. President, the American Legion supports H.R. 9576, to terminate the Vietnam era veterans readjustment assistance program for members entering the armed services after December 31, 1975.

In order to clarify its position and to eliminate any misunderstanding which may have arisen, the American Legion has issued a statement outlining, point by point, its reasons for supporting this legislation.

I call this statement to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RESPONSE TO CRITICS OF PROPOSAL TO END WARTIME G.I. BILL FOR FUTURE PEACETIME MEMBERS OF THE ALL VOLUNTEER SERVICES

(H.R. 9576, which passed the House 10–6–75)

Opponents of the measure claim:

(1) Ending G.I. Bill to future peacetime veterans would adversely effect Vietnam veterans.

(2) The All-Volunteer Armed Forces need the G.I. Bill as a recruiting incentive.

(3) Disadvantaged minorities need the G.I. Bill to maintain momentum toward an upward mobility.

(4) Education Institutions need the G.I. Bill for economic reasons.

The American Legion's reaction to these points:

(1) G.I. Education benefits for Vietnam veterans would be improved rather than adversely effected if H.R. 9576 is enacted. The restriction on use of eligibility to undergraduate work beyond 36 months would be removed. Any veteran heretofore eligible to G.I. Bill benefits is not affected by the cut-

off and will continue to have 10 years from the date of discharge to complete their education or training programs. Persons on active duty on the proposed cut-off date would also continue to accrue education eligibility up to the maximum amount of 45 months, and would have 12 years from the cut-off date to complete their courses. Discontinuance of the G.I. Bill would apply only to persons entering upon active duty in the Armed Forces after the cut-off date.

(2) The American Legion wrote the original concept of the G.I. Bill in 1944, and regardless of what has been stated subsequently by other sources, the rationale for the concept of a G.I. Bill was: "to provide vocational redajustment and restore lost educational opportunities to those servicemen and women whose careers were interrupted or impeded by reason of active duty during a period of war or declared hostilities or aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served under such conditions;".

The G.I. Bill was born of war and of the recognized obligation of the Government to see to the post-service readjustment and rehabilitation of those who were designated to fight the war. Subsequent to WW II, renewed G.I. Bill programs were engendered by subsequent wars, and wartime conditions and circumstances imposed on those of military age.

As far as The American Legion is concerned, the G.I. Bill was not conceived as, nor intended to be a recruitment incentive for the peacetime military establishment.

If the Department of Defense and the Congress determine that a post-service education program is necessary to the military recruitment program, then such a post-service benefit should be so identified and it should be funded and administered through the Defense Department. There are various ways this could be accomplished without assigning such a post-service benefit to the VA, an agency established to administer benefits for veterans and their survivors. An important additional reason The American Legion is adamant on this point is that it is important to continue to be able to identify the cost of war. VA programs presently are essentially programs for war veterans and their survivors, and, as such, they represent the cost of war. To add to present programs an expensive recruiting inducement program would ultimately screen the identifiable veterans benefits programs.

(3) The problems of disadvantaged minorities, essentially have nothing to do with war service. That the G.I. Bill program provides a singular method by which members of disadvantaged minorities who are also veterans, can improve themselves is fortuitous. In the judgment of The American Legion, the problems of disdvantaged minorities should be confronted by Congress directly, and programs to deal with these particular problems should be properly identified and funded. To use disadvantaged minorities as a reason for the indefinite extension of the G.I. Bill is deceptive, and The American Legion objects to it, because its result, again, will be to diffuse the national consciousness of the nation's obligation to look to the well-being of its war veterans and their survivors.

(4) The education industry would very naturally like to see the G.I. Bill program extended indefinitely since it constitutes a most welcome subsidization of that industry. The education industry has no need to encompass the rationale for the G.I. Bill within the total goal concept of education in America. The G.I. Bill provides a salutary infusion of funds. That is enough. But it is not enough for The American Legion. The G.I. Bill was not conceived by The American Legion as a method of solving the financial crisis in the field of education. That is a separate and clearly identifiable problem that should be addressed directly by all those who are concerned with it. To escape the full implications of the problem by relying on the providential availability of G.I. Bill funds is to avoid the need to solve the basic problem.

H.R. 9576

This bill essentially satisfies the observed need, as seen by The American Legion, to close off the Vietnam Era Veterans Readjustment Assistance Program, now that the Vietnam War is ended. We no longer have a military establishment at war. We are now in a time of peace. Programs of education for future members of the Armed Forces should be devised by Congress, funded and administered by the Defense Department, as a post-service education benefit, and not as a readjustment and rehabilitation program. Men and women now volunteering for military service are for the most part career-oriented. The national obligation to them is entirely different than that which projects to those who serve in wartime.

The termination date for the Vietnam Era G.I. Bill program, set down in H.R. 9576 is December 31, 1975. For the practical administration of the legislation it may be advisable to change that date to June 30, 1976. To such a change The American Legion would be agreeable.

THE SLURRY PIPELINE A DANGEROUS MISUSE OF SCARCE WATER

Mr. BURDICK. Mr. President, I have just read an editorial which appeared in the Grand Forks Herald on December 4, 1975. I would recommend its reading to all Members. For this reason, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IN MY BOOK—THE SLURRY PIPELINE PROPOSAL

We seldom agree with Senator George McGovern of South Dakota, but we heartily endorse his opposition to the proposed coal slurry pipeline project as a dangerous misuse of scarce water from the Upper Great Plains.

The slurry pipeline would depend largely upon underground water supplies which may well be needed for other purposes in the future. In the meantime, railroad facilities for moving coal from Wyoming to the proposed users are available and will not damage the future water supplies of the area.

Whatever water we have in this area is needed for other purposes than washing coal dust down to Arkansas.

We have kept an open mind on whether or not the use of water for coal gasification is justifiable. But we tend to believe that a better use of coal for energy is the generation of electricity. Water used in that process is not lost, but is returned to the streams or cooling ponds from which it is taken.

It would be far better to transport coal by rail to ports on the Mississippi, then barge it to Arkansas, than to rob underground aquifers of water to flush the coal through a pipeline.

Remember last year when Congress was supposedly so enmeshed in Watergate investigations that it couldn't do its regular job? Well, through last week the Senate had been in session more days in 1975 than at the same point in 1974—but had passed only half as many public laws.

This is the Congress which was supposed to have an easy time of it, because the large number of freshman Democrats elected in 1974 provided such a strong liberal majority. But even the Democrats now concede that it has been a "stumbling" session filled with "frustration."

The two main goals of the 1975 session are still unrealized. With the session scheduled to end in less than two weeks, Congress has been unable to agree on either energy policy or tax reform.

So much for the "veto proof" Congress that was so optimistic last January.

U.S. INTERNATIONAL TRADE COMMISSION HEARINGS ON SHRIMP

Mr. TALMADGE. Mr. President, I applaud the continuing efforts of the U.S. International Trade Commission to take its escape clause proceedings out of Washington and into the areas which are likely to be affected by any change in the status of access to the American market.

In the case of shrimp, the State of Georgia has large investments in both the shrimp fishing and processing industries, and I think it is highly appropriate that the Commission will hold one of its two out-of-town hearings in Savannah, Ga., on Tuesday, February 3, 1976.

I ask unanimous consent that the notice of public hearings be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

U.S. INTERNATIONAL TRADE COMMISSION

[TA-201-12]

SHRIMP—NOTICE OF INVESTIGATION AND HEARING

Investigation instituted. Following receipt of a petition on November 17, 1975, filed by the National Shrimp Congress, the United States International Trade Commission, on December 11, 1975, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether shrimp, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces), provided for in item 114.45 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearings ordered. Public hearings in connection with this investigation will be held in Brownsville, Texas, beginning on January 27, 1976, at a time and place to be announced, and in Savannah, Georgia, beginning on February 3, 1976, at a time and place to be announced. Requests for appearances at any of the hearings should be received in writing by the Secretary of the Commission at his offices in Washington not later than noon of the fifth calendar day preceding the hearing for which appearance is requested.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, United States International Trade Commission, and at the New York City office of the United States International Trade Commission located at 6 World Trade Center.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued: December 18, 1975.

PENSION PORTABILITY

Mr. WILLIAMS. Mr. President, last year Congress passed the Employee Retirement Income Security Act. A primary goal of ERISA was to protect pension credit when employees change jobs prior to retirement.

Studies by the Committee on Labor and Public Welfare revealed that the average worker may change jobs several times during his career losing his accrued pension credit along the way. The frequency of job turnover is a natural consequence of our market economy.

The mandatory vesting provisions of ERISA will go a long way toward protecting employee pension credit. But certain groups within the American work force are so mobile that ERISA may not be the final answer.

The plight of the professional scientist has dramatically illustrated this problem. Recently, the New Jersey Institute of Chemists made a statewide survey of the retirement status of chemists now enrolled in private pension plans. The study found that nearly a third of the chemists were not vested in any pension program although in the work force for more than 20 years.

As the chief sponsor of the 1974 act, I have a longstanding interest in the concept of portability as a solution to this problem. The act directs Congress to make a study of this concept and I note that the Institute makes several innovative recommendations for pension portability.

It recommends an individual contributory portable retirement account with immediate vesting modeled after the IRA account created in ERISA. In this connection, the tax reform bill (H.R. 10612) recently passed by the House would relax the IRA rules to permit participation by active plan participants making this concept almost feasible.

This is a most timely study with important implications for congressional consideration and I want to thank Mr. R. C. Ropp, president-elect of the New Jersey Institute of Chemists for his efforts in the direction of this study.

I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE PENSION PROBLEM

(By R. C. Ropp)

It seems to be the contention in the United States that the Scientific Professional is rather well off in terms of salary and other planned benefits such as pensions and vesting. Such is not the case, particularly for the Chemist and his pension. Although there are a multitude of pension plans, they are useless to the individual without vesting rights. Yet in a recent meeeting of so august a body as the Executive Committee of the American Chemical Society, it was stated that "Chemists do not need a separate Retirement Account since they are already covered under a pension plan." Being perhaps closer to the problem, and knowing that this statement was not quite accurate, we decided to survey the membership of the New Jersey Institute of Chemists to determine each personal situation in regard to pensions and vesting. New Jersey contains probably the highest density of Chemists per capita of any State in the Union and it is probably safe to regard the results as being typical of those on a National basis.

Accordingly, a postcard survey was sent out to 716 members and 349 replied (49%). The questions asked were: (1) Are you under a Pension Plan currently? (2) Are you vested under the Plan? (3) Are you in favor of portable pensions? (4) Are you in favor of minimum standards for pensions by Legislation?. After sorting out the replies, a number of pertinent facts emerged which confirmed our original beliefs:

Nearly all chemists are enrolled in a current pension plan.

One out of three chemists (35.8%) are not vested, although they have worked an average of 23.3 years as a scientist.

Only 55.9% of all chemists are vested in a pension program; they have worked an average of 27.8 years.

About 8.4% of the replies indicated that they were retired. Most of these have pensions. (Average years worked was 36.7 years). Only two indicated that they were satisfied with the pension being received.

Of those not vested, only three were eligible for private plans (Keogh or IRA). The rest are not eligible, being under a current pension plan, although they have no vesting at this time.

Of those vested, 6% have vested rights under two plans.

Ninety-eight plus percent are in favor of portable pensions, administered by an outside agency.

Ninety-four percent are in favor of minimum pension standards by Legislation. A common complaint among those vested seems to be "pension benefits when received will be minimal".

The replies were also categorized in terms of range of years worked as compared to non-vested members, as shown in the following Table:

Years worked		Total		Percent	
Range	Average	Number	Percent	Vested	Nonvested
9 to 9	7.3	22	6.3		
10 to 19	15.2	74	21.2	43	57
20 to 29	25.7	101	28.9	65	35
30 to 39	34.7	93	26.6	84	16
40-plus	54.0	30	8.6	63	37
Retired	36.7	29	8.4		

The current Pension Reform Act of 1974 will not change this situation since it does not apply to past service. Of those in the 40+ category, several chemists have been working longer than 50 years and still have no vesting rights! Specific comments received from individuals included:

"Portable pensions are essential for professionals."

"Paid into pension plans for 28 years, no vesting".

"Have lost 3 pensions in 23 years because of job changes".

"Seeking new position. Due to factors beyond my control, I lost pension rights twice".

"Twenty-three years and still no pension".

"Like contributory plan for portable pension".

"Portable pension is a must".

"Need legislation to prevent 'forced early retirement' ".

"Should not jeopardize present pension plans, where vested".

"Need agency to administer pension plans".

"Need universal vesting".

"Separate 'pension funds' from employers".

"34 years—as you can see, I have been screwed".

Many of these comments are basic to the problem of a unified pension plan, equitable for all scientists. The question remains—what can be done about this situation? There is little doubt concerning the NEED for further pension reform for Chemists, or of the justice involved. Chemists as a group have probably contributed more to the present standard of living than any other group in Society, witness plastics, toiletries, solid-state electronics to name a few. Yet scientists as a whole seem to have "gotten the short end of the stick" in the matter of pensions, as compared to many of the other professions. The blame cannot be laid at any particular doorstep. The situation has grown by itself.

The Pension Reform Act of 1974, due to become effective January 1, 1976, as sponsored by Senator Harrison A. Williams, is an excellent beginning, but more is needed. What is required are Portable Pensions with immediate vesting. A planned retirement pension will only become a reality for many engineers and chemists when the present vesting requirement is removed and a portable pension system is adopted.

However, it would not be fair, or wise, to place the entire onus upon the employer since few could afford to remain in business. Therefore what is required is an individual *contributory* portable pension (or contributory retirement account) with immediate vesting. Tax writeoffs should be given to *all* contributors, whether the individual or the employer. However, administration should be in the hands of a non-profit organization such as the American Institute of Chemists or the American Chemical Society. There should be a maximum contribution per year to prevent abuses.

The present situation regarding employment of chemists is rapidly becoming a turmoil, particularly in regard to pensions. The current trend is toward five year periods of employment in the chemical industry and long term employment is becoming a thing of the past. Thus vesting after 10 years is rapidly becoming meaningless. Furthermore, "forced early retirement" with its accompanying fractional rate of pension is becoming commonplace. This overall trend will probably be accelerated by the Pension Reform Act. It is patent that portable pensions are the only equitable means of assuring a retirement income for the Scientific Professional, and that the only way that this can be accomplished in an economical manner is by a contributory plan administered by a non-profit agency, with tax benefits for all contributors.

INTENTION TO TERMINATE BLIND TRUSTS

Mr. PERCY. Mr. President, on April 6, 1970, I entered into a blind trust agreement with Harris Trust & Savings Bank, with the firm of Stein Roe & Farnham of Chicago acting as investment counsel. The purpose of doing so was to insulate myself from any decisionmaking process with respect to personal investments. On January 1, 1971, Mrs. Percy entered into a blind trust with Fiduciary Trust Co. for the same purpose.

We have now had over 4 years' experience; and though this mechanism might be appropriate for some, I do not believe as a general rule that it is practical or necessarily the best way to protect the public interest. I have found it frustrating never to be able to discuss my portfolio in anything other than overall terms with my trustee and investment counsel. I feel certain they have felt this same sense of frustration. Though they are willing to assume the responsibility, I presume that it makes for a more satisfactory arrangement to be able to discuss investment philosophy and investment decisions with the principal. I have found it unnecessarily expensive. Lastly, I have found as a result of this experience that it did not have any real value by providing any measurable degree of assurance to my constituents that public office was not being used for personal gain.

In the light of this experience, it is my intention and Mrs. Percy's intention to terminate our blind trusts, effective the end of this calendar year.

THE ROLE OF STATES IN OUR FEDERAL SYSTEM OF GOVERNMENT

Mr. TALMADGE. Mr. President, I have just had the opportunity to read the testimony of the Honorable George Busbee, Governor of Georgia, at regional hearings in Atlanta on December 8, of the Joint Economic Committee of Congress.

This is an outstanding statement and a forthright and incisive assessment of the role of the States in our federal system of government. Governor Busbee called for a strong spirit of cooperation and more interested participation on the part of the Federal Government in working with the individual States to help solve our Nation's pressing social and economic problems, especially in the area of economic development that will generate more employment and benefit not just the States, but the entire Nation.

Governor Busbee makes the point, with which I wholeheartedly concur, that States and their governments do not exist solely because of the National Government in Washington. Under our Federal-State system of government, the opposite actually is true.

Governor Busbee told the committee:

> To solve our national problems, we—the Federal Government and the States—must jointly formulate policies and goals and work closely in their implementation.
>
> In so doing, States need the flexibility and authority to administer programs not only in the national interest, but also in a manner which meets State and local policies and priorities as well.

Mr. President, I call Governor Busbee's statement to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE ROLE OF STATES IN OUR FEDERAL SYSTEM OF GOVERNMENT

(Testimony of George Busbee, Governor of Georgia, before the Joint Economic Committee of the Congress of the United States, December 8, 1975)

Mr. Chairman and distinguished members of the Joint Economic Committee: I appreciate your invitation and am pleased to be able to be with you this morning. On behalf of all Georgians, I would like to welcome you to our beautiful State and particularly to the great City of Atlanta.

Your fact finding mission is a timely one. Last Thursday, after careful study of our November revenue collections, I was forced to trim Georgia's current revenue estimate by $57 million because of the continuing economic uncertainty caused by the recession.

By noon today, all State agency heads will have submitted to me their recommended cuts of a minimum of 3.5 percent in each of their fiscal year 1976 budgets. In addition, I intend to ask the Georgia General Assembly, when they convene in January, to eliminate approximately $28 million in capital outlay funds that were appropriated in this year's budget, but which have been frozen as a hedge against a revenue shortfall.

Many special interests, I'm sure, think that all I ever learned about arithmetic is subtraction since this is the third time, including calling a special session of the legislature, that I have cut the State's budget since taking office in January. If you include the $36 million I cut before taking office, a total of $270 million has been trimmed from the Georgia budget . . . and there will be well over 1000 fewer employees on the State payroll next fiscal year.

In the South, Georgia's experience has been the rule . . . not the exception. The recession and national economic policies have drastically affected our neighboring States. For example, Florida's FY 76 expected revenue is 10.92% below what was collected in FY 75. Kentucky is expecting 7.5% less than in 1975 revenues . . . and Tennessee is reporting minus 7.0%.

It's not easy denying teachers pay raises, children a kindergarten, or being forced to shelve some new programs I believe are sorely needed. The programs I wanted to finance at the State level to spur employment, productivity, and economic recovery have had to take a back seat to a higher State priority—a program of State fiscal restraint and responsibility—which I feel has cut the fat and streamlined State government as well as helped hold down the national inflationary spiral.

While we don't have the fiscal resources to fight the recession, I and many other Governors have taken alternative actions which will help foster economic recovery.

I recently returned from Europe on a trade mission to three countries in an effort to attract industry to Georgia and the South. Since taking office, I've met with representatives of over 100 of the Nation's 200 largest firms to encourage them to expand operations in Georgia communities so that jobs will be created and productivity increased.

With the assistance of the Georgia Legislature, the State Department of Community Development is being streamlined and reorganized so that economic development efforts of our cities and towns might be enhanced through well coordinated and competent State technical assistance.

In short, I feel that State governments are doing their best to help overcome a national problem—economic recovery.

I read your letter to me about the purposes of the Joint Economic Committee's efforts in Atlanta very carefully. I noted you were interested in determining why we have not met the goals of the Employment Act of 1946, the bill which established your Committee. As you know, the Employment Act established as a Federal responsibility the achievement of "maximum employment, production, and purchasing power."

In re-reading the Employment Act, I was particularly struck by the term "Federal responsibility", so I looked it up.

The word Federal is defined as . . . and I quote . . . "of or constituting a form of government in which power is distributed between a central authority and a number of constituted territorial units".

Unfortunately, I'm afraid that too many of our people believe that word means power only to a central government. "Federal responsibility", then, means that solving a national problem is the sole burden of those who govern from Washington.

As we approach the 30th anniversary of the Employment Act of 1946 and the 200th anniversary of the founding of this Nation, I would hope that we would reaffirm that we live under a federal system of sovereign governments.

The responsibility for economic recovery is just as much my burden and that of my colleagues as it is the Congress and the national Administration's. Creation of jobs and the administration of programs to implement this goal is and should be a joint responsibility between the federal government and the States. We cannot continue to ignore our collective actions on each other and the effects these actions have on our individual efforts to solve the Nation's problems.

I must say to you candidly that one of the biggest obstacles I have encountered in attempting to ease the problems of the recession . . . in addition to the obvious problems with revenues . . . has been the federal government itself.

Last February, I met with the President and asked his asssistance in establishing a pilot program for a State Department Regional Representative for the eight Southeastern States. This regional representative could be of great assistance to Southern Governors in helping arrange trade missions, or in the establishment of consulates and trade offices, and in keeping Governors abreast of the Administration's foreign policies with other countries so that we might do our part to further the national interests, such as the creation of an even more favorable balance of trade.

Despite Presidential assurances of action, nothing happened.

A month later, I broached the subject with Secretary Kissinger, and in August, all eighteen Governors in the Southern Governors' Conference endorsed the opening of a regional office. Secretary Kissinger, who was a guest of the Conference, responded that he would pursue the question and establish an office or, at least, assign a State Department representative to work with the Atlanta Office of the Southern Governors' Conference.

While I recognize this may be an insignificant problem for the Secretary of State, it is nevertheless an action that could help lead to significant foreign investments in our region, and that means jobs to folks in Tifton, Waycross, Augusta, and Albany.

We have yet to hear from the State Department.

The highest priority of my Administration is the achievement of sound economic growth without detriment to our environment, which is our greatest resource next to the Georgia people.

While it is essential that we protect and manage our natural resources, we must also maintain the State in a position to allow sound economic growth and development compatible with environmental constraints.

The proposed amendments to the 1970 Federal Clean Air Act being considered by Senator Muskie's Subcommittee in the Senate . . . and by the Subcommittee on Health and Environment in the House . . . would no longer allow a State such as Georgia to have even reasonable industrial growth and development. Under the guise of "prevention of significant deterioration", a faction of the Congress is proposing to limit additional emissions to the atmosphere by new industries in any community to such low concentrations that reasonable economic growth would be prevented.

The inequity of such an approach and the discrimination against the Southeast is appalling. It is further revealed in some of the proposed language in the amendments . . . and I quote . . . "to protect any State, region, or area of the country from the loss of jobs or tax revenues to other states, regions or areas which but for this subtitle would permit significant deterioration of air quality". An amendment to the federal act concerned with air quality that attempts to protect certain States while discriminating against others is unacceptable to us.

An example of the discriminatory aspect of the Muskie Subcommittee proposed amendment is the increment change that would be allowed for sulfur dioxide . . . only 15 micrograms per cubic meter over the current average in each state up to but not exceeding the present standard of an annual average of 80 micrograms per cubic meter. Since most of the air over Georgia contains less than 10 micrograms per cubic meter as an annual average, the proposed Muskie amendment would require Georgia to allow no more than 25 micrograms per cubic meter . . . less than one-third of the concentration of the national air standards the Federal Environmental Protection Agency has established. This would unreasonably limit the potential growth and development for most of Georgia.

To sum up what's happening here, let me just say that what we're experiencing is nothing but a replay of the old discriminatory freight rates battle in a new format.

The Northern States see what's happening in the South. We're getting our fair share of new industry and new jobs, and they're doing everything in their power to set up trade barriers just as they did with freight rates.

The Southern Governors' Conference was organized in 1934 for the sole purpose of fighting the rank discrimination against the South in freight rates. We won that fight because the Supreme Court finally recognized this subtle trade barrier thrown up by the North. They're trying to team up against us again, and the sad aspect of this fight is that they're trying to do their dirty work behind the "white knight" cloak of environmental protection.

In the early days of my Administration, I learned that $9 billion was being made available as a result of the Supreme Court Decision for water pollution control programs. Under the archaic formula utilized by EPA to allocate the $9 billion . . . Georgia was short-changed about $81 million. Had EPA been able to allocate that money under the formula recommended to the Congress by EPA Administrator Russell Train for future allocations, Georgia would have received $199 million instead of $118 million to fund a back-log of needed water and sewer proposals submitted by the cities and counties of Georgia. They need these projects not only to manage waste properly, but also so they can have the facilities necessary to attract and hold industry.

With the help of the entire Georgia Congressional delegation, we sought in vain to bring this problem to the attention of the appropriate committees of Congress. Finally, our delegation was forced to take the matter directly to the Senate Floor, where it prevailed because of the efforts of the 33 States who had been unjustly discriminated against.

Fortunately, I now understand a compromise with the House has been effected which will be coming before you shortly in the Public Works Bill. Though the 33 States will not receive their full share of what they would have been entitled, I believe it is a fair compromise . . . and the 17 States which would have lost funds (though the funds have not been obligated) will now lose nothing.

I urge your support of this bill.

There are many other recent or imminent Congressional actions which deny States the opportunity to participate fully in our federal system of Governments.

I understand that there are efforts being made to take the urban system portion of our highway program away from the States.

The "National Health Planning and Resources Development Act of 1974" (PL 93-641) completely bypasses Governors and other elected officials by establishing a system for health planning and regulation which is not accountable to the public.

Title X of the Economic Development Act, the Job Opportunities Program, does not provide an orderly uniform way by which Governors can assist in helping determine regional problems so that these limited funds could be more effectively utilized.

Amendments to the Highway Trust Fund which would allow States to preempt 3¢ of the 4¢ federal tax and thus help alleviate the fiscal crisis in our Transportation Departments caused by declining motor fuel tax revenues due to fuel-efficient engines and soaring gasoline prices can't even get to the floor.

Yet Governors in the national interest have adopted energy conservation as our prime thrust. To the extent we are successful in energy conservation in the national interest, we only exacerbate our respective gas tax revenues shortfalls.

I could go on with examples, but my point is this: To solve our national problems, we—the federal government and the States—must jointly formulate policies and goals and work closely in their implementation.

In so doing, States need the flexibility and authority to administer programs not only in the national interest, but also in a manner which meets state and local policies and priorities as well.

It is not my purpose here today to lay blame, but to assess the need for change. I recognize that much or most of the blame for the massive shift of power to the federal government was the inaction of the States. However, because of massive reorganization, institution of more efficient management systems, and a new breed of Governors who are determined to be chief executives instead of ribbon cutters, States can once again serve as laboratories of change and innovation in attempting to solve national problems.

To help solve our economic woes, I strongly agree with Governor Lamm of Colorado: "The States, in sum, are an old idea whose time has come, gone, and then come once more."

Thank you for our consideration, and I'll be happy to respond to any questions you might have.

THE URBANIZATION EXPLOSION

Mr. SPARKMAN. Mr. President, a most serious challenge faces mankind in the years ahead with respect to the provision for decent housing and essential community services to meet the needs of an expected 7.5 billion people on Earth in just 30 years. The need for shelter is further aggravated by a mammoth urbanization explosion. At the beginning of the 20th century, four out of five human beings lived on farms or in rural areas. By the end of the century, this ratio will be probably turned around so that two-thirds of all people will live in urban areas.

We have seen this phenomenon occur in this country, and we are now seeing it all over the world. The tremendous movement from farm to city with the terrible consequences of squatters and overcrowded city slums have created inhuman conditions that a civilized world should no longer endure.

To find some answer to this, the United Nations is sponsoring in cooperation with the Canadian Government a Conference on Human Settlements to be held in early June 1976, in Vancouver, British Columbia.

As a prelude to this Conference, a Symposium on World Housing Needs and the Environment sponsored by the International Development Conference and American University was held on November 10 and 11 of this year. I was unable to attend, but I sent my regrets in the following letter:

Mr. Wallace J. Campbell,
Suite 801,
1629 K Street, NW.,
Washington, D.C.

Dear Wally: I regret that urgent Senate Committee business prevented me from speaking at the symposium on World Housing Needs and Environment being held in November at American University under the sponsorship of the University and the International Development Conference.

I should like to express my strong support for this endeavor and congratulate you and the sponsors for your efforts in conducting this Symposium as a prelude to the forthcoming Habitat Conference in Vancouver, Canada.

As you know, the Senate Subcommittee on Housing and Urban Affairs has had a long interest in international housing, having conducted several studies and hearings on this subject since the early Sixties. It was obvious from these hearings that the world's human settlement problems are approaching disastrous proportions and that a solution to these problems could be accomplished only through mobilizing the resources of the world community in a cooperative effort among all the nations of the world. I am pleased to note the progress made in this direction in the last few years, which demonstrates that the world community of nations is finally realizing that only through the mutual cooperation can the world succeed in providing decent living conditions for all its people.

I wish you would let the participants in your conference know of my high regard for the work you are doing in this field and my continued support for our Government's cooperation in meeting the objectives of Habitat.

Sincerely,

John Sparkman.

The Conference had a most outstanding group of speakers including such world renowned personalities as Dr. Margaret Mead, Mr. Buckminster Fuller, as well as Sr. Enrique Peñalosa, the secretary general for the Vancouver Conference, Mr. John Murphy, Deputy Administrator of the U.S. Agency for International Development, and M. J. W. MacNeill, commissioner general for the Conference from Canada.

The following summary was prepared on the symposium, which gives some idea of the depth of the subject discussed as follows:

"To Shelter Humanity"—the symposium on "World Housing Needs and Environment" was conceived as a prelude to Habitat—the United Nations Conference on Human Settlement, planned to be held in Canada in 1976.

The UN Conference on Human Environment in Stockholm in 1972 recommended concern for human settlements as priority number one in the work of the new United Nations Environment Program. The home is the heart of the human environment. This priority for housing and community development in the context of human settlements was supported, almost unanimously, by the newly developing countries and became a top item in the program for the new United Nations agency.

In preparation for Habitat, the UN has held preliminary meetings in Caracas, Cairo and Geneva.

This symposium "To Shelter Humanity" has been an independent effort to encourage interest and understanding in the United States about this world concern. It was cosponsored by the International Development Conference (group of over a hundred private agencies) and the School of International Service, at the American University.

Dr. Enrique Peñalosa, Director General of Habitat and Dr. Paul Mwaluko, Director of the UN Center for Housing Building and Planning, outlined world housing needs for the last quarter of the present century. The world will need to build more new housing in 25 years than it has built since the beginning of time.

Buckminster Fuller, creator of the "geodesic dome" indicated that the new technologies have made the old city and the seaports obsolete and indicated that new materials and new techniques could make it possible to build more homes for less money to meet world human needs.

Margaret Mead, President of the American Association for the Advancement of Science, made it abundantly clear that "housing is not enough." Shelter must be involved with new neighborhoods and new communities, combined with the social and economic factors of the new community.

Simultaneous panel discussions brought new answers to questions arising from ethical and political imperatives, social and psychological factors, environmental considerations and population questions involved in human settlements.

Another set of panels brought together outstanding authorities in their respective fields on design and land use planning; building materials with new and old building systems; energy factors in future planning; minimum-cost shelter involving self-help project experiences; mobilizing finance for housing and related development; and the question of new towns and secondary cities—will they work in the third world?

The delegates also considered the question of food and shelter as competitive or complementary factors and the broader question of public goals and public expectations.

This report attempts to bring you the highlights of these discussions.

In the final plenary, attention turned to "what next?" Five public officials from the United States and Canada spoke on the question of what Habitat can be expected to do. The consensus was that the UN Conference in Canada can open new doors to the future and will be a beginning of a new commitment to provide adequate shelter for humanity.

It is hoped this summary report will stimulate further discussion and written comments or articles from additional contributors, which may be considered for inclusion in the more complete report, contemplated for publication as financial resources make this possible.

WALLACE J. CAMPBELL,
President, International Development Conference.
DARRELL RANDALL,
Director, World Human Needs Program, School of International Service, the American University.
Cochairmen of the Symposium.

A report of the proceedings has been published entitled "To Shelter Humanity." Individual copies of this report are available at the World Human Needs Program, School of International Service, the American University, Washington, D.C. 20016.

CAPITAL FORMATION PROBLEMS OF SMALL BUSINESS

Mr. HUMPHREY. Mr. President, on November 21, the Joint Economic Committee held joint hearings with the Senate Select Committee on Small Business to review the capital formation problems of small business. The witnesses included William Simon, Secretary of the Treasury; Henry Wallich, a Governor of the Federal Reserve Board; Louis Laun, Small Business Administration Administrator; and James Needham, president of the New York Stock Exchange.

Secretary Simon's statement discussed the various figures on effective tax rates. He pointed out that large corporations often appear to have low effective rates relative to small ones because of the credit allowed for the payment of taxes to foreign nations. He also admitted the basic difficulty of defining a small business for financial assistance purposes. He had no proposals for resolving the size standard problem, however.

Mr. Simon identified inflation as the U.S. economy's most pervasive problem and, as such, a major threat to savings, to investment, and necessarily to capital formation. He warned that unless the rate of capital investment increased, general economic growth would be severely threatened. And he argued that the problem would grow in the future due to the increased capital needs that Treasury Department forecasts predict.

Although future capital needs will be high, Secretary Simon said:

> I firmly believe that we are capable of achieving our basic investment goals if we will follow responsible fiscal and monetary policies.

Such policies would include a balanced Federal budget, when economic conditions allow it, and Federal tax relief for business.

Tax proposals made by the Secretary include reduction in the maximum corporate tax rate from 48 percent to 46 percent, maintaining the surtax exemption increase to $50,000, and increasing the investment tax credit from 7 percent to 10 percent. Mr. Simon, however, did not recognize any significant difference between the capital formation problems facing small and big business.

Louis Laun discussed the receding position of small business in financial markets. Small business' share of gross private domestic investment has fallen 50 percent since 1953. He argued that without corrective actions, large capital shortages will hit small business harder and with more velocity.

Small business' limited access to all financial markets is at the center of its capital formation problems. Other problems include the aversion of money managers to risk-oriented investments, and small business' declining share of assets. In addition, the SBA has noted a decline in cash flow for small business.

Mr. Laun reviewed the SBA's performance over the last year. He noted that the $3 billion of SBA financial assistance should be supplemented by as much private sector assistance as it will offer. The SBA is fostering this approach by initiating an active secondary paper market for loan guarantees. Also, the Small Business Administration proposed a small business lending company to make long-term loans. Mr. Laun said the SBA is reviewing employee stock ownership trusts as a new source of capital for small business.

Henry Wallich discussed the general nature of the capital formation crisis that now exists in the U.S. economy. His primary policy suggestion was to change the tax laws to remove the subsidy for debt financing and thereby increase the incentives for equity financing.

James Needham offered several policies for relieving small business capital formation problems, which will be heightened by the severe equity gap predicted by the New York Stock Exchange. Needham called for liberalization of capital gains and losses and at least a partial elimination of double taxation of distributed corporate earnings.

He also suggested that the $50,000 surtax exemption and the reduced base corporate tax rate of 20 percent be made permanent. Another of Needham's policy suggestions involved further graduation of corporate taxes—graduated possibly up to $2 million before the 48 percent rate applies. In addition, Needham said it would be helpful if the Keogh plan could be modified to allow deductions to be invested in a business rather than only in financial intermediaries.

Mr. President, this testimony was most helpful in the ongoing analysis required to determine appropriate actions that can and must be taken to help small business to survive the strains imposed by present economic conditions. I regret that space limitations do not permit the inclusion in the RECORD of the statements of all these witnesses. I ask unanimous consent that the statement by Secretary Simon be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE WILLIAM E. SIMON, SECRETARY OF THE TREASURY

Mr. Chairman, and members of the Committees, I am pleased to appear before you this morning to discuss the capital formation and financing problems of small business firms. The continued vitality of small businesses is fundamental to the development of the entire economy and we need a better understanding of the specific problems faced by these firms as a basis for preparing constructive policies.

For some time I have been concerned about the role of small- and medium-sized businesses. We need an environment in which existing small businesses can thrive as long as they provide an economically valuable product or service. It is also necessary to have a dynamic economy in which new enterprises can be formed. Without the continual search for new ideas and better ways of doing things our competitive system would become complacent and progressively less efficient. New enterprises are a basic source of innovative ideas and they serve to continually push the entire economic system to become more efficient.

While many think of a small business as the exciting "new idea" company which will evolve into the IBM or Xerox of tomorrow, the vast majority of small firms are not in that category. Instead, they serve basic needs in the community and are likely to remain small. For many communities the small businessman really represents "business" in an economic, political and sociological sense. In addition to fulfilling an economic need, such businesses provide important outlets for self expression by the individuals involved. The opportunity to create a new business is one of our most important freedoms, for in many parts of the world it does not exist. For all of these reasons, I have a strong interest in the current state of small business.

DEFINITION OF A SMALL BUSINESS

Your letter of November 6 states that it is very difficult to find a widely accepted definition of small business. I share this concern. In trying to define a small business on the basis of such widely varying statistics as asset size, number of employees, sales, net income, net worth, dominance in the field, and taxable income there are many arbitrary assumptions that tend to confuse the economic significances of the differences identified.

There does not appear to be any universal definition which can be used.

Earlier this year, Frederic W. Hickman, then Assistant Secretary of the Treasury for Tax Policy, testified at length on this subject before the Select Committee on Small Business. He recommended a procedure for defining small businesses which would rely upon an arbitrary cutoff point at the level where 90 percent of the firms classified by some statistics such as value added, sales, or assets would be categorized as a "small business". A common definition of this sort would allow different analysts to make generalizations on the basis of the same set of companies rather than by using overlapping definitions as is now the case. Such consistency would be helpful to all who are concerned with the affairs of small business and about how to evaluate data pertaining to their performance.

CAPITAL FORMATION

The problems of capital formation, about which I have testified and talked on repeated occasions in the past, are a matter of concern for companies of all sizes. The plant and equipment requirements of large companies are obvious but the capital investment needs of small businesses are equally important to their success. Therefore, the importance of capital formation must be recognized in evaluating the prospects for small businesses. Economic problems which restrict capital formation will have a serious negative impact on small businesses. It is interesting to note from surveys of small businesses contained in the Quarterly Economic Report for Small Business, (published by the National Federation of Independent Business), that inflation is cited as the single most important problem facing them today. Equally interesting is the reported negative impact of inflation on the expansion plans of the small businesses surveyed. The greater the degree to which inflation was regarded as a problem by the reporting small business firms, the less they expected to expand their inventories and capital assets. As inflationary concerns have declined somewhat in the last two quarters, the sentiment for expansion has improved and the pace of business spending on plant and equipment increased slightly in the third quarter after declining during the first six months of 1975.

I believe that inflation has been a pervasive problem in our economy and that it was the basic disruptive force which caused the severe recession from which we now are recovering. I am particularly concerned about the restrictive effects of inflation on capital investment. Indeed, inflation should be recognized as the major threat to savings and investment. Inflation first reduces the incentives to save by eroding the purchasing power of financial assets and then distorts investment decisions. In my May 7, 1975 testimony before the Senate Finance Committee, I endeavored to summarize the record on capital formation and to discuss the dimensions of the problem.

Briefly, the record shows that:

1. During the 1960's the United States had the lowest proportion of capital investment to real national output of the major industrial countries.

2. Over this same time frame, our record of productivity growth was among the lowest of the major industrial countries. In fact, productivity has been a major concern throughout the postwar period: from 1948 and 1954 output per manhour in the private economy rose 4.0 percent per year; from 1955 to 1964 it rose by 3.1 percent; from 1965 to 1974 it rose by 2.1 percent; and from 1970 to 1974 it rose by 1.6 percent per year.

Capital investment is a key factor in increasing productivity, economic growth, and the real standards of living enjoyed by Americans. This is not to imply that capital investment is the only factor affecting productivity. Other factors—new technology, shifts in the composition of output, the level of capital assets, the skills and growth of the labor force, the availability of transportation, communication and other facilities, access to raw materials, and the stage of the business cycle—affect productivity and economic growth. However, the rate of capital investment is basic to the positive development of the other growth variables.

Our own analysis in the Treasury, together with analyses contained in a number of other studies (Brookings, Data Resources, Inc., General Electric, Chase Econometrics, Professor Friedman, and the New York Stock Exchange, all of which are summarized in the Appendix table of this testimony), are remarkably consistent in pointing to the need for a higher level of capital investment in the decade ahead. The most immediate capital requirement is to create more jobs for our rapidly growing labor force. Between now and 1985, the labor force will expand by approximately 16 million persons. When we add to this the 3 to 4 million unemployed people in the current labor force who must be reemployed to return to reasonably high levels of employment the challenge of creating the necessary number of new jobs becomes even more impressive.

A second problem arising from inadequate capital investment involves the capacity limitations that hold down economic growth. During periods of economic expansion specific bottlenecks develop which restrict growth and result in inflation as the supply of goods and services falls below the rising demand. Inadequate capital formation clearly contributed to the serious inflation problems experienced during the past decade.

Another requirement is for replacement and modernization of the existing stock of capital. In the 1960's, the United States used 62 percent of its investment captial for the replacement of existing facilities compared with only 52 to 54 percent for Canada, France and West Germany, and only 31 percent for Japan. Still another category of investment needs relates to specific policy objectives: projects involving new energy sources and conservation; requirements for environmental control; safer working conditions; and the provision of more and better housing. And other capital investment needs will become apparent in the future as our economy continues to develop. The rapid increase in capital investment in environmental control and safety oriented projects reflects the concerns of society about the total quality of life; however, such investments usually do not add to the productive capacity of the economy even though they contribute to the achievement of other national goals.

In such a dynamic economy it is impossible to estimate our future capital requirements exactly but it appears that private domestic fixed investment for new plants, equipment and housing will total $4 to $4½ trillion from 1974 through 1985. This is roughly three times the total of $1.5 trillion invested between 1962 and 1973. Some analysts have concluded that it will not be possible to meet these capital formation requirements. I disagree. I firmly believe that we are capable of achieving our basic investment goals if we will follow responsible fiscal and monetary policies. I have repeatedly emphasized the importance of a balanced Federal budget over time as a beginning point for achieving these capital formation goals. Unfortunately, the Federal Government has reported a deficit in fourteen of the past fifteen years and a massive deficit is occurring in FY 1976.

The near-term prospects for balancing the Federal budget are also discouraging. The key point is this: unless strong action is taken to bring Federal spending under better control the chronic deficits of the past will continue and the achievement of our basic capital formation goals will be impossible. This basic contradiction is widely recognized but corrective action has not occurred. If the Federal government fails to provide the proper investment environment the negative results of higher unemployment, continued inflation pressures and inadequate productivity will occur. This is not a choice between current consumption or investment. It is a choice between short- and long-term goals. If we do not have adequate capital investment we will continue to experience higher unemployment and inflation than we want. Small businesses will suffer over the longer run if the future growth of jobs is inadequate and inflation remains excessive.

On the basis of available data, we are unable to say that the relative capital formation needs of small businesses are significantly different from those of other businesses. There is some indication, based on data published by the Federal Trade Commission, that larger companies have a higher proportion of fixed assets and a lower proportion of cash, marketable securities and receivables than do small firms. (See Table 1) The fact that larger companies have a higher proportion of fixed assets than do smaller companies does not necessarily imply that there is any fundamental difference in the need for capital. One would expect capital intensive types of businesses to be larger on the average than less capital intensive types in order to take advantage of economies of scale and the figures in Table 1 substantiate this view.

If there were no costs associated with obtaining additional financing and if such financing were always readily available, most companies would want more in the way of capital assets. The relevant question is whether there is a gap between the actual desired availability of capital given the costs of financing, and the actual amout of capital formation, and whether there is a systematic bias which favors large companies compared to smaller firms.

PROBLEMS OF FINANCE

One of the factors which is currently restricting the rate of capital formation is the financial condition of American corporations—both large and small. Analysis of debt to equity ratios indicates that corporate balance sheets have shown signs of deterioration over the past decade, which is a break from the pattern which persisted in earlier periods. Debt has increased dramatically, both in absolute terms and relative to assets and income. Interest costs have risen appreciably, roughly doubling over the past ten years (see Chart 1). The combination of increased debt financing and higher interest rates has resulted in a decline in the coverage ratios reported by American corporations—that is, the ratio of earnings to interest charges. The ratio of liquid assets to debt has shrunk. Profits, after allowing for more realistic accounting procedures, have declined in both real and nominal terms. As a result of these developments, there is a serious question about the potential capability of companies to be able to finance the capital investment that will be required to achieve our basic economic goals of reducing unemployment and inflation.

For many years there has been a discernible trend toward growing dependence by business, both large and small, on outside funds to finance their growth. As indicated in Chart 2, the percent of business financing needs raised externally by nonfinancial corporations declined from 1958 to 1964 and averaged about 30 percent of total needs during that period. However, that trend was reversed beginning in the mid-1960's and the proportion of external financing rose to over 60 percent in 1974. The growing dependence on external financing really began in the mid-1960's and has risen steadily since then. This shift in financing methods from reliance on internal to external sources of funds follows the pattern of inflation pressures which also began to accelerate in the mid-1960's. Inflation rapidly increases the costs of new investments and erodes corporate profits which are a major internal source of capital for financing new projects. The distorting effects of inflation force companies to rely more heavily on external sources of funds.

Another, and perhaps more important, change appearing on corporate balance sheets is that the increased emphasis on external financing has been dependent on debt rather than equity sources of funds. There are several fundamental reasons for the shift toward debt: (1) corporate treasurers have been reluctant to raise new equity capital because the sale of additional shares of ownership dilutes the earnings per share and ownership rights of existing stockholders; (2) In the 1950's and throughout most of the 1960's, the cost of debt was low relative to the cost of equity; (3) because of the depressed level of stock prices, the shares of many companies have had historically low price earnings ratios—indeed many stocks are selling at prices below their book values which discourages new equity financing; (4) the financing costs of arranging new debt issues or loans are usually much less than the costs of selling new shares of stock and there is less uncertainty about placement of the securities; and (5) the use of debt enables the borrower to deduct the interest payments from earnings before determining the amount of taxes to be paid. The tax deductibility of interest payments creates a major advantage in favor of debt financing and has encouraged the sharp shift in the debt-equity relationship. Unfortunately, the emphasis on debt commitments has made our financial system more rigid and more vulnerable to economic shocks.

From 1965 to 1974 nonfinancial corporations raised a total of $267.4 billion of long-term funds. Long-term debt accounted for 83 percent of that total. The balance sheet impact of this change was to cause long-term debt outstanding to rise from $141.4 billion to $362.3 billion over the same time span—a two and one-half fold increase in just 10 years time. What this means, of course, is that there has been a significant rise in debt-equity ratios over the past 10 years. These have roughly doubled (on the traditional measure) for manufacturing firms as indicated in Chart 2. The ratios for smaller-sized manufacturing firms (those with assets of less than $1 million) have shown an even more pronounced rising trend, particularly in recent years.

The corporate balance sheet is not only more highly leveraged and at a higher interest cost, but the average maturity of the debt is also becoming shorter. Corporate treasurers will have to make more frequent trips to the financial markets, but at the same time fewer companies are finding their securities welcome. The emphasis on quality by lenders has increased dramatically in recent months so that today only top-rated companies are welcome in capital markets for all practical purposes. This sharp shift in investor preferences started with the financial difficulties of the Penn-Central Railroad in 1970 and has accelerated further following the well-published financial difficulties of New York City, the Real Estate Investment Trusts (REIT's) and several large companies. Furthermore, record federal budget deficits, which will total over $150 billion in just three fiscal years—FY 1975, 1976 and 1977—will absorb a large part of the available savings. This is a clear illustration of the "crowding out" phenomenon I have been discussing for many months now. Less than prime-rated firms are facing more difficulty in raising funds as seen in Table 2.

The implication of these fundamental shifts in the patterns of financing is that the structure of corporate balance sheets is much more brittle and less liquid than it was 10 years ago. Furthermore, with heavy demands on credit markets, especially over the years ahead, there will unquestionably be less room for some firms, the lower rated and smaller ones in particular, to get all the funds they need for expansion.

Obviously there is no simple level where the corporate financial structure suddenly becomes too illiquid and inflexible, but at the same time an ever higher burden of debt commitments relative both to financial assets and to income is a matter for some concern. Coverage ratios have dropped sharply over the past decade and operating break-even points have risen. This makes companies less able to withstand even modest-sized recessions. Accordingly, the potential for bankruptcy has greatly increased across the entire spectrum of U.S. business. This potential in and of itself will discourage future investment as lenders become more reluctant to make long-term commitments and companies become more reluctant to take on fixed payments of interest and repayment of debt obligations. Some investments which would have been undertaken in earlier periods will be passed over in the future.

With respect to the issue of small business financing, smaller companies appear to rely more heavily on external debt financing than do larger companies. In the past, development capital was available from venture capital firms which were willing to lend money to growing firms despite the risks involved. Unfortunately, the supply of venture capital for small growth-oriented has largely disappeared. If venture capital is provided lenders often demand a large—frequently a controlling share—of the ownership position in the company financed. The future vitality of the entire economy will be unfortunately restricted if the availability of venture capital is not restored. This problem is another negative result of the excessive rates of inflation experienced in recent years.

Data from the Federal Trade Commission and from our own Treasury Office of Tax Analysis are shown in Tables 3 and 4 respectively. A comparison on Table 3 of the ratio of debt-to-equity with the ratio of long-term debt to equity suggests that the higher overall debt-to-equity ratios for smaller companies are occasioned primarily by the more extensive use of short-term financing. In particular, these companies rely more heavily on trade credit and, to a lesser extent, on short-term loans.

With respect to sources of internal financing, we have run some studies of earnings by size of company. Two tables are provided: one where the compensation of officers is included and one where it is excluded. For a smaller company controlled by the principals, often part of the compensation of officers really represents a return on investment as opposed to a return on human capital. In part, this occurs in order to avoid the double taxation associated with a dividend payment. It is impossible to speculate on the exact mix of the two components.

Table 5, which includes the compensation of officers, shows that earnings per dollar of assets decline as the size of the company increases. This occurs for all industry classes. When compensation is excluded, in Table 6, earnings per dollar of asset increase for manufacturing companies up to about the $1 million size, after which they fluctuate about essentially the same level. For other industry classes, the steady state level is reached much earlier. If one views part of the compensation of officers as a return on investment, it is not clear that smaller companies earn less on a relative basis than do larger companies. Therefore, there is little indication of a systematic bias with respect to this important component of internal financing.

SOME POLICY NEEDS

The related problems of growing capital investment needs and the deterioration of cooperate balance sheets are not unique to small-sized business but rather are a difficulty confronting all U.S. business firms. Under these circumstances, the appropriate policy steps should not focus just on the needs of small business but instead should attempt to help bring about and sustain an environment which—

will foster greater savings in our economy so that there will be adequate funds to finance the capital growth ahead;

will encourage businesses to make long-term investment commitments; and

will help reverse the growing trend toward greater corporate illiquidity and debt leverage.

First and foremost, we must have a much greater understanding on the part of the public on the basic concept of capital. Capital is the cornerstone of increased productivity, of higher real wages, of greater job opportunities, of a stronger competitive position internationally, and of holding down the rate of inflation. High levels of inflation raise interest rates, raise the dollar cost of new capital, discourage investment and weaken our entire financial structure. Unfortunately, the close relationship between capital formation and the vitality of the financial markets is not recognized by many analysts. If we are to have the kind of sustained economic recovery we desire, including an increased rate of capital investment, the disruptive impact of chronic Federal budget deficits must be eliminated.

Second, the government itself must follow policies that will help eliminate some of the economic and financial distortions created over the past decade and permit the free market system to function closer to its potential. Specifically the federal government must get its own financial house in order.

The spiraling growth in Federal government spending must be moderated. The excessive fiscal policies of the last decade can continue only at the expense of price stability and economic vitality. This in turn works to the detriment of capital formation by small and large businesses alike. More and more, economic decision making is being taken out of private hands, where within limits we believe it is most efficiently and responsively handled, and placed in the hands of the government.

The President's recommendations for controlling Federal expenditures and for personal and business tax relief is a positive step toward bringing the spiraling growth of government spending under control. The inflationary psychology is a key part of the forces behind inflation, and I do not believe we can change that psychology until the government begins to moderate the rapid growth of spending. The longer run implications of this program for inflation cannot help but improve capital formation.

Part of the President's program involves tax policy changes which are designed to provide more incentives for capital formation. Specific tax cuts contained in the President's program going to business would include:

Reduction in the maximum corporate tax rate from 48 percent to 46 percent.

Continue the 1975 Act increase in the surtax exemption (which determines the amount taxable at rates below 48 percent) from $25,000 to $50,000 of taxable income.

Continue the 1975 Act in the 20 percent rate on the first $25,000 of taxable income (the second $25,000 of taxable income will be taxable at 22 percent rate, with the balance of income taxed at a 46 percent rate).

Make permanent the 1975 Act increase in the investment credit from 7 percent (4 percent in the case of public utilities) to 10 percent.

Enact a six-point program to provide tax relief to electric utilities.

As you requested, we have analyzed the corporation's income tax and investment credit proposals as they relate to the size of business. As the program for electric utilities involves essentially large companies, we did not make such an analysis. The results for increasing the surtax exemption to $50,000 and lowering the tax rate applied to the first $25,000 from 22 to 20 percent are shown in Table 7, as is the effect of the 2 percent reduction in the surtax. In both cases, the estimated tax effect is projected for 1976.

For the surtax exemption proposal, the Table shows that approximately 38 percent of the total tax benefits will be realized by businesses with $50,000 or less in assets. As expected, the bulk of the tax benefits associated with the reduction in the maximum rate from 48 to 46 percent go to larger corporations. This is due to the fact that corporate income is a function of the total assets employed in the enterprise.

The distribution of the investment tax credit for 1972 by size of enterprise is shown in Table 8. Most of the tax benefits associated with the investment tax credit are also concentrated in larger corporations. Small businesses tend to use less machinery and equipment per dollar of assets employed than do larger businesses. For one thing, most small businesses are involved in trade and services, where fewer fixed assets are used than is the case in manufacturing. Even in these industries, small companies tend to use relatively less machinery and equipment than do larger companies. This may be due to economies of scale.

In addition, small business investment in qualifying machinery and equipment often tend to be short-lived in nature, thereby qualifying for less than a full investment tax credit. Finally, small enterprises more frequently make investments that are large relative to their taxable income. This is due to the "lumpy" nature of capital investments by the small business. As a result, they less frequently are able to fully utilize the tax credit in the year the asset is placed in service. For all of these reasons, smaller businesses realize less relative tax benefit from the investment tax credit than to larger businesses.

In addition to these tax measures for stimulating capital formation, the Administration has proposed the elimination of the withholding of taxes on interest and dividends paid to foreign investors. We believe that this will greatly improve the atmosphere for foreign investment in the United States. In turn this should work to enhance capital formation.

For long term savings and capital investment incentives, the Administration still is actively seeking adoption of a plan presented in my testimony of July 31, 1975 before the House Ways and Means Committee for the integration of personal and corporate income taxes. This proposal is specifically designed to encourage greater savings and investment. The proposal's major recommendation would eliminate the inequity and inefficiency which arises from first taxing corporate income and then taxing individuals who receive corporate dividends. This double taxation is an onerous restraint on economic expansion which already has been eliminated by most major industrial countries. I believe it is time for the United States to act.

The Treasury proposal is the only major recommendation that seeks to correct the imbalance between corporate debt and equity by encouraging greater reliance on equity financing. By redressing this imbalance the financial markets would be able to perform more efficiently their task of channeling the savings of society to the most promising investment opportunities. Small firms in particular would benefit by improving their access to the financial markets.

In order to provide a stable environment in which rational capital spending decisions can be made, government wage-price control and/or guidelines should be strongly resisted. While such steps may work for a short period of time, they ultimately end up causing shortages, distortions and misallocations of resources in our economic system. More importantly for capital formation purposes, they introduce a much greater element of uncertainty regarding the future return from current investment. The small businessman has to cope with added problems of whether he will have sufficient pricing discretion in the future to assure a fair rate of return on his investment. The small businessman also has to contend with the possibility of supply shortages, even if he is willing to pay a higher price for the items in question.

Finally, unnecessary rules and government reports should be eliminated and careful consideration should be given to deregulation efforts to remove existing barriers to economic efficiency. Government regulations impose costs on business which ultimately are reflected in higher prices to the consumer. Furthermore, these costs are usually more burdensome for smaller-sized business, since they tend to be relatively fixed in nature. For example, in a company with only a few employees (and there are literally millions of such small firms in our economy today) this often means taking the time of the owner whose efforts are more properly focussed on the immediate needs of his business. The small businessman needs to devote his time to increasing his sales and controlling costs rather than complying with seemingly endless bureaucratic requirements enforced by distant government officials who somehow seem to believe that the country's millions of small companies can afford staffs of technical experts to fill out the forms and figure out how to comply with all of the regulations imposed.

All of these policy measures would contribute to improving the climate for financing by American business and for capital formation in this country. In the end we must slightly tilt our preferences away from personal consumption and government spending toward somewhat greater savings and investment. We estimate that our capital formation needs in the decade ahead can be met if savings and investment increase moderately from about 15 percent of Gross National Product to almost 16 percent. I might add that these views are shared by most others who have analyzed the problem. (See the Appendix Table for a summary of these studies.) In terms of business fixed investment, this implies going from about 10½ percent of GNP to 11½ percent.

CONCLUDING COMMENTS

By improving the prospects for capital formation the current economic recovery will be sustained and long-term prospects for higher productivity, economic growth, and rising standards of living will be improved. Most important, increased capital investment will create more jobs and expand our productive capability to moderate inflation. It is not a matter of reslicing the economic pie, but rather the need to expand the pie so as to benefit everyone. For the reasons cited earlier, I feel that a major beneficiary will be small business, particularly when it comes to the problem of financing.

Thank you, Mr. Chairman, for this opportunity to share my views with you and the members of these two distinguished Committees.

TABLE 1.—BALANCE SHEET PERCENTAGES OF SELECTED ASSETS TO TOTAL ASSETS, 2d QUARTER, 1975—MANUFACTURING COMPANIES

	Asset (in percent of total assets)				
Size of company (millions)	Cash	Marketable securities	Receivables	Inventories	Net fixed assets
Under $1	11.0	1.0	26.5	23.8	28.6
$1 to $5	7.4	1.3	25.5	29.2	27.9
$5 to $10	6.5	2.2	23.0	30.5	28.2
$10 to $25	5.7	1.8	21.6	29.5	30.7
$25 to $50	4.3	1.7	20.9	29.8	30.5
$50 to $100	4.0	2.5	20.7	27.6	31.1
$100 to $250	3.8	1.7	18.8	27.1	32.6
$250 to $1,000	3.1	1.8	16.8	25.0	33.9
Over $1,000	2.3	3.2	12.3	17.9	38.3
All sizes	3.6	2.5	16.2	22.3	35.0

Source: "Federal Trade Commission Quarterly Financial Report."

TABLE 2.—QUALITY DISTRIBUTION OF PUBLIC STRAIGHT CORPORATE BOND ISSUANCE

[Monthly averages; dollars in millions]

	1971		1972		1973		1974		1975—1st half	
Moody's	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
Total issuance:										
Aaa	$492	27.7	$441	33.7	$308	30.0	$659	31.9	$996	29.6
Aa	447	25.2	347	26.5	321	31.3	670	32.4	942	28.0
A	565	31.9	373	28.5	298	29.0	596	28.8	1,161	34.5
Others (including nonrated)	269	15.2	149	11.3	99	9.6	144	7.0	267	7.9
Total	1,773	100.0	1,310	100.0	1,026	100.0	2,069	100.0	3,366	100.0
Long-term issuance:										
Aaa	422	27.8	237	23.3	289	30.8	559	39.4	664	35.5
Aa	413	27.2	327	32.2	302	32.2	392	27.7	572	30.6
A	472	31.1	325	32.0	268	28.5	385	27.2	584	31.2
Others (including nonrated)	213	14.0	126	12.4	80	8.5	81	5.7	51	2.7
Total	1,520	100.0	1,015	100.0	939	100.0	1,417	100.0	1,871	100.0

Source: "Salomon Brothers Comments on Credit".

TABLE 3.—DEBT RATIOS FOR ALL MANUFACTURING CORPORATIONS AND FOR THOSE WITH $1,000,000 OF ASSETS OR LESS

	Total debt/equity ratio		Long-term debt/equity	
	All manufacturing	Under $1,000,000	All manufacturing	Under $1,000,000
1959	0.24	0.32	0.18	0.19
1960	.25	.34	.18	.21
1961	.25	.37	.19	.24
1962	.25	.38	.19	.24
1963	.25	.41	.19	.26
1964	.25	.41	.19	.26
1965	.27	.41	.21	.26
1966	.31	.43	.23	.27
1967	.34	.43	.26	.26
1968	.37	.45	.29	.27
1969	.40	.46	.30	.29
1970	.44	.50	.32	.32
1971	.44	.53	.33	.34
1972	.43	.53	.33	.33
1973	.44	.57	.33	.37
1974	.42	.58	.31	.35
1975 1st half	.44	.59	.33	.36

Source: "Federal Trade Commission Quarterly Financial Report."

TABLE 4.[1]—CORPORATE DEBT-EQUITY RATIOS FOR SELECTED INDUSTRIES FOR FIRMS WITH NET AND WITHOUT INCOME BY ASSET CLASS, 1972

	Asset class (thousands)										
	Under $25	$25 to $50	$50 to $100	$100 to $250	$250 to $500	$500 to $1,000	$1,000 to $2,500	$2,500 to $10,000	$10,000 to $25,000	$25,000 to $100,000	Over $100,000
Manufacturing	19.34	2.23	1.41	1.13	.91	.80	.81	.62	.58	.62	.69
Services	3.73	1.96	1.39	1.42	1.71	2.33	2.52	2.17	1.87	1.82	1.34
Construction	7.13	2.58	1.61	1.38	1.70	1.75	1.79	2.22	2.38	2.13	1.17
Transportation	3.98	2.06	1.52	1.41	1.20	1.43	1.40	1.36	1.36	1.46	1.19
Wholesale and retail trade	5.15	2.06	1.48	1.10	1.00	1.06	1.19	1.16	1.19	1.09	1.08

[1] The debt/equity ratios in this table for 1972 is substantially higher than that in table 3 for 3 reasons: (1) in this table, debt is the sum of net trade credit plus all other liabilities, which is more comprehensive than the measure used in table 3; (2) in this table, the asset measure is total assets net of trade credit and this tends to cause a downward redistribution of enterprises as compared with that in table 3; (3) the sample of manufacturing corporations filing tax returns in 1972 is not identical to the sample underlying table 3.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

TABLE 5.—EARNINGS INCLUDING COMPENSATION OF OFFICERS, PER DOLLAR OF ASSETS, FOR CORPORATIONS WITH AND WITHOUT NET INCOME BY ASSET CLASS, 1972

	Asset class (thousands)										
	Under $25	$25 to $50	$50 to $100	$100 to $250	$250 to $500	$500 to $1,000	$1,000 to $2,500	$2,500 to $10,000	$10,000 to $25,000	$25,000 to $100,000	Over $100,000
Manufacturing	0.49	0.39	0.35	0.28	0.24	0.22	0.18	0.16	0.14	0.12	0.10
Services	2.42	1.03	.53	.29	.19	.13	.11	.09	.09	.09	.07
Construction	85	.53	.40	.30	.23	.19	.16	.13	.09	.08	.05
Transportation	.42	.26	.26	.23	.18	.15	.13	.11	.10	.08	.05
Wholesale and retail trade	.49	.34	.29	.24	.21	.20	.17	.15	.12	.12	.09

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Note: Income=total receipts—total deductions+interest+officers' compensation+charitable contributions.

TABLE 6.—EARNINGS, EXCLUDING COMPENSATION OF OFFICERS, PER DOLLAR OF ASSETS FOR CORPORATIONS WITH AND WITHOUT NET INCOME BY ASSET CLASS, 1972

	Asset class (thousands)										
	Under $25	$25 to $50	$50 to $100	$100 to $250	$250 to $500	$500 to $1,000	$1,000 to $2,500	$2,500 to $10,000	$10,000 to $25,000	$25,000 to $100,000	Over $100,000
Manufacturing	−0.13	0	0.06	0.07	0.09	0.11	0.12	0.13	0.12	0.11	0.10
Services	2.12	.99	.10	.09	.08	.07	.07	.06	.07	.08	.06
Construction	−.04	.02	.09	.09	.08	.08	.09	.07	.06	.06	.05
Transportation	−.03	.05	.07	.09	.09	.09	.09	.09	.09	.07	.05
Wholesale and retail trade	−.07	.04	.07	.10	.11	.11	.12	.07	.11	.11	.09

Note: Income=total receipts minus total deductions plus interest plus charitable contributions. Source: Office of the Secretary of the Treasury, Office of the Tax Analysis.

TABLE 7.—DISTRIBUTION OF PROPOSED CORPORATION INCOME TAX REDUCTIONS, FOR ALL CORPORATIONS AND SELECTED INDUSTRY CATEGORIES; BY SIZE OF TOTAL ASSETS

			Asset size (thousands)						
Industry/item	Estimated 1976 quantities	All sizes (percent)	Under $25 (percent)	$25 to $100 (percent)	$100 to $500 (percent)	$500 to $2,500 (percent)	$2,500 to $10,000 (percent)	$10,000 to $100,000 (percent)	$100,000 and over (percent)
All industries:[1]									
Number of corporations [2]	2,085,000.0	100	24.8	30.4	31.5	9.9	2.1	1.1	0.2
Tax reduction provided by:									
H.R. 10612 (billions)	$2.0	100	3.0	10.3	24.5	23.6	13.3	20.9	4.4
Surtax reduced 2 points [3] (billion)	$2.5	100	.2	1.4	6.2	9.3	7.9	12.8	62.2
Wholesale and retail trade:									
Number of corporations [2]	639,000.0	100	19.8	33.2	35.3	10.2	1.2	.3	(4)
Tax reduction provided by:									
H.R. 10612 (millions)	$300.0	100	2.3	12.5	35.5	32.5	9.7	6.8	.7
Surtax reduced 2 points [3] (millions)	$360.0	100	.3	3.2	18.4	25.5	14.7	14.6	23.3
Services:									
Number of corporations [2]	402,000.0	100	46.1	29.6	18.9	4.5	.7	.1	(4)
Tax reduction provided by:									
H.R. 10612 (millions)	$65.0	100	15.2	23.6	29.3	18.4	6.9	5.7	.8
Surtax reduced 2 points [3] (millions)	$80.0	100	3.8	10.6	22.2	18.6	12.4	17.9	14.5

Footnotes at end of table.

TABLE 7.—DISTRIBUTION OF PROPOSED CORPORATION INCOME TAX REDUCTIONS, FOR ALL CORPORATIONS AND SELECTED INDUSTRY CATEGORIES; BY SIZE OF TOTAL ASSETS—Con.

Industry/item	Estimated 1976 quantities	Asset size (thousands)							
		All sizes (percent)	Under $25 (percent)	$25 to $100 (percent)	$100 to $500 (percent)	$500 to $2,500 (percent)	$2,500 to $10,000 (percent)	$10,000 to $100,000 (percent)	$600,000 and over (percent)
Manufacturing:									
Number of corporations [2]	229,000.0	100	16.8	26.5	34.1	16.6	4.0	1.5	.4
Tax reduction provided by:									
H.R. 10612 (billions)	$1.0	100	.9	5.3	18.0	28.2	21.9	20.1	5.7
Surtax reduced 2 points [3] (billions)	$1.3	100	(4)	.3	2.0	5.9	7.1	13.3	71.4

[1] Includes industries not displayed here.

[2] Includes corporations with and without taxable income as well as those electing not to be taxed as corporations under the provisions of subchapter S.

[3] 2 percent reduction on all corporate income subject to corporation income tax above $50,000.

[4] Less than 0.05 percent.

TABLE 8.—DISTRIBUTION OF INVESTMENT CREDIT DATA, FOR ALL CORPORATIONS AND SELECTED INDUSTRY CATEGORIES, 1972

Industry/item	1972 quantities (millions)	Asset size (percent)							
		All sizes	Under $25,000	$25,000 to $100,000	$100,000 to $500,000	$500,000 to $2,500,000	$2,500,000 to $10,000,000	$10,000,000 to $100,000,000	$100,000,000 and over
All industries: [1]									
Number of corporations [2]	1.419	100	23.8	29.6	31.9	10.8	2.4	1.3	0.2
Investment in qualified property	71,466	100	.3	1.5	5.4	7.8	5.5	9.5	70.0
Amount qualified for credit	62,073	100	.3	1.3	4.8	7.1	5.2	9.4	72.0
Credit taken	3,013	100	.1	.8	4.6	7.7	5.7	10.3	70.8
Wholesale and retail trade:									
Number of corporations [2]	.442	100	18.9	32.3	35.9	11.4	.7	.1	(3)
Investment in qualified property	6,287	100	.8	5.0	17.9	21.6	11.7	15.0	28.0
Amount qualified for credit	5,186	100	.7	4.7	16.7	19.9	11.3	15.4	31.3
Credit taken	263	100	.1	2.3	14.4	21.5	12.2	16.9	32.6
Services:									
Number of corporations [2]	.242	100	45.7	29.4	19.3	4.8	.7	.1	(3)
Investment in qualified property	3,756	100	2.7	7.6	16.5	19.5	14.1	16.8	22.9
Amount qualified for credit	2,722	100	2.6	7.5	16.1	19.8	13.1	16.8	24.1
Credit taken	106	100	1.0	6.1	18.0	23.0	13.9	14.3	23.8
Manufacturing:									
Number of corporations [2]	.166	100	15.2	25.0	34.7	18.3	4.7	1.7	.4
Investment in qualified property	26,669	100	(3)	.6	3.0	6.3	5.6	11.1	73.4
Amount qualified for credit	23,496	100	(3)	.5	2.9	6.2	5.6	11.2	73.5
Credit taken	1,374	100	(3)	.2	2.6	6.0	5.9	11.5	73.7

[1] Includes industries not displayed here.

[2] Includes only corporations subject to regular corporation income tax whether or not taxable in 1972. Does not include corporations electing to be taxed under provisions of subchapter S.

[3] Less than 0.05 percent.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

APPENDIX TABLE

ACTUAL AND PROJECTED INVESTMENT AS A PERCENT OF GNP

	Average 1965–74	NYSE [1]	Bosworth Duesenberry Carron [2]	Friedman [3]	GE [4]	DRI [5]	Chase Econometrics [6]
Gross private domestic investment	15.1	16.4	15.5	15.8	15.8	15.7	15.9
Nonresidential fixed	10.4	12.1	11.3	11.5	11.4	11.0	11.8
Inventory	1.0	.3	.8	.8	.4	.8	.8
Residential	3.8	3.9	3.5	3.5	4.0	3.8	3.3

[1] The New York Stock Exchange, "The Capital Needs and Savings Potential of the U.S. Economy: Projections Through 1985, September 1974. Figures shown are based on cumulative projections in current dcllars, 1974–85.

[2] Barry Bosworth, James S. Duesenberry, and Andrew S. Carron, "Capital Needs in the Seventies, the Brookings Institution, 1975. Figures shown are based on estimates for 1980 in current dollars from table 2–12, p. 39 (note the constant dollar 1980 figures in table 2–11 project gross private domestic investment as 15.8 percent of GNP).

[3] Benjamin M. Friedman, "Financing the Next Five Years of Fixed Investment" in president's authority to adjust imports of petroleum, public debt ceiling increase; and emergency tax proposals; hearings before the Committee on Ways and Means, House of Representatives, January 1975, pp. 710–726. Figures shown are based on 1975–79 averages of current dollar projections.

[4] Reginald H. Jones, "Capital Requirements of Business, 1974–85," Testimony submitted to Subcommittee on Economic Growth, Joint Economic Committee, May 8, 1974. Figures shown are based on cumulative projections in current dollars, 1974–85.

[5] Data Resources, Inc., Summer 1975, "Special Study: The Capital Shortage." Summary table on inside cover. 1985 data only, current dollars, standard forecast.

[6] Chase Econometrics August 1975. "The Next Ten Years: Inflation, Recession and Capital Shortage." 1984 data only, current dollars. Table, p. 1 of 14. No recession run.

"ECONOMIC RECOVERY" HAS NO MEANING FOR JOBLESS AT CHRISTMAS

Mr. HARTKE. Mr. President, we are coming to the Christmas time with a rush and with great hopes of peace and good will for all people. In spite of our good wishes, however, many people in the United States have been forced into positions of restrained enthusiasm for the 1976 Christmas season. I am thinking especially of the jobless in the United States and the unemployed in Indiana. John H. Lyst of the Indianapolis Star has stated the dilemma with unusual simplicity and clarity in his column of December 12, 1975.

I ask unanimous consent to have that column printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"ECONOMIC RECOVERY" HAS NO MEANING FOR JOBLESS AT CHRISTMAS

(By John H. Lyst)

Despite all the talk about the so-called "economic recovery," there are, as Christmas approaches, an estimated 35,000 to 40,000 persons out of work in the Indianapolis area.

There are some whose unemployment benefits already have ended or threaten to run out soon.

United Christmas Service, an agency which the Community Service Council administers annually for the United Way to allocate small sums for the neediest of the community's needy families at Christmas, is being appealed to this year by many more families who find themselves in such a circumstance.

Typically the Christmas agency deals with many families who are caught annually in the cycle of poverty.

But in 1975 there are a great many more persons seeking help for the first time.

"These are people, in great part, who have not asked before," says Christmas Service Director Mrs. Marilyn Peachin.

The letters of the unemployed tell their own stories best. Here are parts of a few of some 1,600 received recently by the agency, which depends annually on voluntary contributions to help fund a little brighter Christmas for the city's neediest:

NEEDS CLOTHES

"To whom it may concern:

"I am begging you (sic) Christmas help. I have six children and my husband is unemployed. He is a brick mason, but he hasn't been able to find work for quite sometime.

"My children need warm clothes so desperately. I have asked the trustee, but by me not being on welfare they can't help me.

"I would appreciate any help you all can give me. Thanks very much for listening and caring. These are the names of my children . . . "

JOBLESSNESS PAY ENDING

"Dear Sirs,

"I am writing to see if you might help my children for a Christmas present.

"My husband's employment runs out in two weeks. I know I won't be able to buy them anything. And what do you tell children when all the other children are having Christmas that they won't have any.

"My husband got laid off last December and they didn't have anything then either. I can't stand to see them hurt again.

"I wrote last year, but they wrote back saying I was too late and they were sorry. So if you can help I would really appreciate it a lot . . . "

LAID OFF

"To United Fund:

"Will you please help me for Christmas I have four children. I am not on welfare. I am lade (sic) off from work. I will be thankful for anything that you can help me with for Christmas.

"Thank You very much. . . . "

HARD TO ASK

"Dear Senior Citizens,

"I know sometimes their are some of you who likes to help someone who need it. I feel awful bad asking but the reason I am is for my children. You see, they won't be having Christmas at our house. My husband was laid off last March and . . . "

NO WORK 'TIL SPRING

"Dear United Christmas Service,

"I am sending this letter because we can use all the help we can get right now. Because my husband was lade off at work four weeks ago and they said it would be spring before they called back any men at all . . ."

Judging by these and many other similar letters, the "economic recovery" has little or no meaning for hundreds of families who still face this Christmas from the fringes of poverty.

PARANOIA AND POLICY

Mr. KENNEDY. Mr. President, in recent months, a serious debate has emerged concerning the future direction of U.S. relations with the Soviet Union. The policy which we have come to call détente has now become the center of heated controversy. But in many ways, the debate is being pursued without a clear understanding of what the issue is really about. Perhaps the term détente has outlived its usefulness; it is an abstraction which tends to obscure the question, when what we most need is a detailed and precise look at individual problems in United States-Soviet relations.

Mr. President, last week, an excellent column written by Erich Fromm, the eminent social philosopher and psychoanalyst appeared in the New York Times. In developing an analogy between "sane" and "paranoid" human behavior and foreign policy thinking, he notes that:

> The only sane method of thinking in foreign policy is to distinguish between realistic probabilities and mere possibilities and to be aware of the fact that our opponents are as little suicidal as we are, and have the same interests in survival and in the progress of their own society; yet paranoid thinking is mutually infectious.

Mr. President, these are days of serious discussions, and critical decisions. It is a time when such reflection is welcome. I ask unanimous consent that the full text of Mr. Fromm's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 11, 1975]

PARANOIA AND POLICY

(By Erich Fromm)

LOCARNO-MURALTO, Switzerland.—If someone will not touch a doorknob because he might catch a dangerous bacillus, we call this person neurotic or his behavior irrational. But we cannot tell him that what he fears is not possible. Even full-fledged paranoia demonstrates that one can be insane and yet that one's capacity for purely logical thinking is not impaired.

Normal thinking is based on the belief in a greater or lesser degree of probability. Paranoid-like thinking is based on the assumption of a logical possibility and wants to have absolute certainty that something could not happen even in the most remote circumstances.

The healthy person makes his decisions on the basis that something is probable or improbable, and this judgment is made after thorough examination of all obtainable and relevant data; for paranoid-like thinking mere possibility is sufficient, and close empirical examination unnecessary.

If we based our behavior on sheer possibility, and not on realistic probability, our lives would be more crippled, or even endangered, by defending ourselves against the "possible" than it might be by the events that could happen, if we have thought only in terms of probabilities.

In foreign policy, we find a good deal of the paranoid kind of thinking, in the assumption that what is possible must be considered to be a basis for decisions, rather that what is probable. This is not surprising. The less one knows about the full reality of a situation, the less one is able and willing to analyze it empirically and thoroughly, and the more one tends to think of it in terms of abstract, paranoid thinking.

This explains why people in the affairs of their personal lives usually think in a healthier realistic way in terms of probability than they do when they deal with matters of foreign policy.

Closely related to the problem of the mode of paranoid thinking is the wish for absolute security.

In individual life we know the irrationality of people who strive for absolute security—people such as hypochondriacs who spend most of their energy protecting their health, or overcautious people who avoid any risk, because it could interfere with their craving for absolute security.

This craving is irrational (1) because there is no absolute security in life, (2) because once it is established as the dominant goal there is no limit to the means sought for to reach this goal, (3) because in the search for this goal the person cripples himself and loses all pleasure in living.

In fact, the chase after absolute security is a boomerang. It creates more insecurity than it avoids.

The same goal of absolute security is equally damaging when it dominates foreign policies. The nuclear armament on both sides has shown that already. Economically it impoverishes us, politically it restricts freedom, psychologically it creates fear and apathy.

The realization of our ideals for a rich human life requires that we change this for the rational goal of optional security, thus acceptable certain possible risks for the sake of avoiding the impoverishment brought about by the demand for the absolute.

Those who demand that political decisions must be made on the basis of excluding all dangerous possibilities "beyond the shadow of a doubt" make a sane foreign policy virtually impossible. since one can never prove that certain things could not possibly occur.

By this demand all constructive steps for détente and disarmament are made impossible. Hence the arms race, on the basis of this paranoid logic, must be continued by mutual fears on technical and political "possibilities" rather than reasonable probabilities.

We repress the facts that the nuclear arms race and even the currently built-up arsenal will with the greatest probability result in the destruction of America, Western Europe and the Soviet Union, if not of all life on earth. In our obsession to consider all possibilities we end up by not considering the real probabilities.

The only sane mode of thinking in matters of foreign policy is to distinguish between realistic probabilities and mere possibilities and to be aware of the fact that our opponents are as little suicidal as we are and have the same interest in survival and in the progress of their society; yet paranoid-like thinking is mutually infectious.

MODEL STATE UTILITY LAW

Mr. METCALF. Mr. President, each year I receive a number of requests from State legislators for model utility regulation laws. These legislators have discovered that many of the statutes were written with too much assistance from utility officials, and are searching for legislative proposals that will provide adequate safeguards and procedures for all parties of interest in utility proceedings, especially the customers who pay the bills.

In the past I have responded to these legislators by suggesting that they look to certain public service commissions for regulations or statutes regarding issues in which they are interested. The Michigan commission, for example, developed an excellent bill of rights for utility consumers. The Iowa commission, and the Connecticut legislature, recently adopted strong positions regarding exclusion of advertising and sales promotion from customer-financed operating expenses. The West Virginia legislature, and several State commissions, prohibit use of fuel adjustment clauses. Montana now elects its five commissioners by district, a method which has resulted in the election of an excellent regulatory body.

Unfortunately, no model legislation covering all aspects of utility regulation has been developed. The need for this has been demonstrated not only by the requests of individual legislators, but also through testimony before and studies by the Subcommittee on Intergovernmental Relations, headed by the distinguished senior Senator from Maine (Mr. MUSKIE), and my Subcommittee on Reports, Accounting and Management. Therefore, I directed that an outline of comprehensive utility regulatory legislation be prepared by my staff and a consultant.

The outline, which is the work primarily of Prof. Lee Webb of Goddard College in Plainfield, Vt., and Subcommittee Counsel Jack Chesson, deals with commission composition, structure, procedure, standards, jurisdiction and enforcement, and regulated utilities' responsibilities and obligations. The section regarding reporting requirements dealing with ownership and control of regulated utilities is identical to the proposal now being considered by the Interstate Commerce Commission and other Federal regulatory agencies.

I hope that publication of this model outline will be useful to State legislators in their forthcoming sessions, and that it will stimulate comment and suggestions.

Mr. President, I ask unanimous consent to have printed in the Record the Webb-Chesson outline.

There being no objection, the material was ordered to be printed in the Record, as follows:

OUTLINE OF MODEL STATE PUBLIC UTILITY COMMISSION ACT

I. PUBLIC UTILITY COMMISSION: COMPOSITION AND STRUCTURE

A. Election of Members:

1. The public utility commission shall consist of five (5) members who shall be elected for the same number of districts. The Legislature shall determine the boundaries of the election districts on the basis of population.

2. The terms of the commissioners shall be four years, except that of the commissioners elected at the first election under this act, only three of the commissioners shall serve for a term of four years. The initial term of the other two commissioners shall be for two years. At their first meeting the commissioners shall determine by lot who shall serve the initial two-year terms.

3. Candidates for election to the commission shall be subject to campaign financing restriction and disclosure at least as comprehensive as those applying to any other official elected on a state-wide basis in the state.

4. Any vacancy occurring in the commission shall be filled by appointment of the Governor. The appointee shall hold office until a successor is elected and qualified.

5. A quorum of three commissioners shall be able to act for the commission. Any such action may be reviewed by the full commission on its own motion or by petition to reconsider by any party within 30 days.

B. Recall:

1. Commissioners shall be subject to recall by the voters.

C. Chairman:

1. A chairman and vice chairman shall be selected by the commissioners from its membership at the first meeting of each year after a general election.

D. Qualifications of Commissioners:

1. No person shall be eligible for certification by the Secretary of State as a candidate for commissioner who has been employed by a regulated utility under the terms of this act for any period of time within the previous two years, or for a law firm, trade association, accounting firm, engineering firm or other business which derives a substantial portion of its revenue from a regulated utility.

E. Qualifications of Staff:

1. No person shall be hired by the commission who has been employed by a regulated utility for any period of time within the previous two years, or by a law firm, trade association, accounting firm, engineering firm or other business which derives a substantial portion of its revenue from a regulated firm.

F. Conflict of Interest:

1. Neither a commissioner nor a member of the commission staff nor the members of their immediate families, shall hold any financial interest in a regulated utility, partnership, company, bank or other financial institution doing substantial business with such a utility.

2. Neither a commissioner nor a member of the commission staff shall accept a job with a regulated utility or any other company doing substantial business with a utility until at least two years after the commissioner or staff has left the commission.

G. Ex Parte Contacts:

1. The commission shall within 90 days after its first meeting promulgate rules and regulations for commissioners and staff members governing their relationships with the regulated utilities, the staff, directors, owners.

H. Public Access:

1. All records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, and other documents used or prepared by the commission or its staff shall be available for public inspection and copying at a single location in the offices of the commission. Copying charges shall not exceed actual costs of reproduction without regard to stenographic fees or other contractual arrangements increasing cost per copy.

2. All meetings of the commission are declared to be public meetings open to the public at all times, and no resolution, rule, regulation or formal action shall be considered binding except as taken or made at such a meeting.

3. The commission shall keep written and detailed minutes of decisions and discussions at its meetings, and these minutes shall be open to the public for inspection at reasonable times.

4. All decisions, determinations, and orders of the commission shall be made in public meeting by majority vote.

I. Consumer Counsel:

1. An office of Consumer Counsel shall be appointed by the Governor or as determined by the legislature to represent interests of consumers, especially residential consumers and small businesses, before the commission or in any court proceedings.

2. Funds for the Office of Consumer Counsel shall be provided by a special assessment on the gross revenues of regulated utilities.

II. PUBLIC UTILITY COMMISSION: AUTHORITY

A. Commission has authority to set, determine, and investigate all rates, tariffs, fees, and prices charged by regulated utilities and the service, standards of service and quality of the products offered by the utility.

B. Commission has the authority to inspect all books, accounts, papers, records, and memorandum of the regulated utilities at any reasonable time and to examine under oath any officer, agent, or employee of a regulated utility.

C. Commission has the authority to inspect the books and audit contractors and subcontractors of the regulated utilities.

D. Commission has authority to appoint and hire experts and consultants at the expense of the state.

E. Commission has authority to assess the regulated utilities for the costs of experts or consultants it deems necessary.

F. Commission has authority to promulgate a uniform system of accounts that the regulated utilities must use in their financial reporting to the commission.

G. Commission has authority to promulgate a uniform system of rate filing that the regulated utilities must use in submitting a request to the commission for changes in its rates or tariffs.

H. Commission has authority to inquire into the operations of management, its decisions, and the wisdom of its decisions.

I. Commission has the sole authority to issue certificates of public good and convenience that shall be required for general utility operations, and specifically for the construction of any large generating, storage, transmission, distribution, or communication facility. Public hearings shall be required on the issuance of all certificates of public good and convenience.

J. Commission has the authority to issue general orders affecting any special class of regulated utilities.

K. Commission has the authority to initiate proceedings, make findings and recommendations, and issue such subpoenas and orders as it deems necessary on its own motion or on application of parties.

L. No certificate of public good or convenience issued by the commission shall be deemed to create a property right or exclusive franchise as against any state or local authority taking such by lawful means.

III. REGULATED UTILITIES: RESPONSIBILITIES AND OBLIGATIONS

A. Reporting Requirements: Corporate Ownership and Control

Definitions

Annual Reporting. The term "annual reporting" means as of December 31 of each calendar year, or accounting year of thirteen four-week periods.

Control. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, natural or artificial. Sources of power may include, but are not limited to: equity security ownership; debtholdings; sole or partial voting arrangements; common directors, officers, or stockholders; or lease, purchase, lines of credit, supply, distribution, or operating agreements.

Financing Lease. The term "financing lease" shall refer to any lease which during the noncancelable lease period, either (1) covers 75 percent or more of the economic life of the property or (2) has terms which assure the lessor of a full recovery of the fair market value (which would normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans.

Parent of Respondent. "Parent of respondent" shall refer to every firm, holding company or other person or combination of persons who ultimately control the respondent, as well as any intermediary controlling entity.

Annual reporting requirements

I. Corporate Structure.

A. For each respondent, parent of respondent, subsidiaries (and/or organizations controlled) of the respondent, joint ventures involved in by the respondent, and subsidiaries (and/or organizations controlled) of joint ventures involved in by the respondent, the following information shall be submitted:

1. Name and address.
2. Basis of control.
3. Principal business activities.

a. List and describe by four-digit SIC code and short title each industry in which the respondent's activities generated 10 percent of gross revenues or $5 million dollars (during the reporting year). Four-digit industry SIC codes and short titles are listed in the most recent Standard Industrial Classification Manual as published by the Executive Office of the President, Office of Management and Budget.

b. Four-digit SIC codes and short titles should be listed in order of significance relative to the total activities of respondent, based upon the percentage of gross revenues generated within each four-digit industry.

4. Copy of the latest balance sheet and income statement and consolidated balance sheet and income statement, if available.

5. A copy of any chart or other graphic material showing the relationship of the respondent to such parents, subsidiaries, and other organizations listed.

B. In addition to subparagraph (A) above, list every corporation, partnership, or other business organization in which the respondent owns more than five percent of the outstanding voting securities or other ownership interests and indicate the percentage so owned.

II. Voting Stock Ownership.

A. In descending order, the 30 largest holders of voting shares (not to include any holder with less than one-tenth of one percent of the outstanding shares) in the respondent, identified as to

1. name
2. address
3. type (bank, broker, holding company, individual or other specified category).
4. the number of voting shares held (as of the end of the reporting period) and its percentage relationship to total outstanding shares. (If some shares—such as preferred issues—carry limited voting rights describe the limitation and the number of shares affected.)

(In determining the number of shares held, all nominee and other accounts of each shareholder, including accounts held by depository trust companies, such as (CEDE & CO., SICOVAM, Pacific Coast Stock Exchange Clearing Corp., Midwest Stock Exchange Clearing Corp.) shall be aggregated and reported as one account in the name of the bank, broker, holding company, individual or other identified shareholder.)

B. With respect to each of the 30 largest holders, the number of shares (and percentage relationship to total outstanding voting shares) over which the holder has

1. sole voting power
2. shared voting power (if voting power is shared with any of the thirty largest shareholders, identify the shareholder and the number of shares held).
3. no voting power under any circumstances.

C. With respect to shares over which the stockholder has no voting power, the name and address of the person(s) empowered to vote the ten largest blocks of stock, the number of shares and the percentage of stock in relation to the total outstanding voting shares.

D. With respect to the 30 largest holders of voting shares in any parent, holding company or other organization or person controlling the respondent, provide the information required in subparagraphs (A), (B), and (C) above.

III. Affiliations of Officers and Directors.

A. The name, address and social security number of each of the principal officers and each director, trustee, partner or person exercising similar functions, of the respondent and parent together with his title and position with the respondent and with any parent, holding company, person, or combination of persons, controlling the respondent, and with any subsidiary of the respondent and any other company, firm or organization which the respondent controls.

B. For each of the officials named under subparagraph (A) above, list the principal occupation or business affiliation if other than listed in subparagraph (A), and all affiliations with any other business or financial organizations, firm or partnership.

C. A list of each contract, agreement or other business arrangement exceeding an aggregate value of fifty thousand dollars entered into between the respondent and any business or financial organizations, firm or partnership named in subparagraph (B) above, identifying the parties, amounts, dates and product or service involved.

D. A list of each contract, agreement or other business arrangement in excess of $600 entered into during the reporting period (other than compensation related to position with respondent) between the respondent and each officer and director listed in subparagraph (A), identifying the parties, amounts, dates and product or service involved. In addition, provide the same information with respect to professional services for each firm, partnership or organization with which the officer or director is affiliated.

IV. Debtholdings.

A. A description of each long-term debt (debt due after one year) of the respondent, including the name and address of the creditor, the character of the debt, nature of the security, if any, the date of origin, the date of maturity, the total amount of the debt, the rate of interest, the total amount of interest to be paid, and a copy of any and all restrictive covenants attached to the indebtedness (where such indebtedness is widely held, such as bonds and debentures, provide the name of the trustee in place of the creditor).

1. With respect to each holder of more than five percent of each issue reported provide the name, address and type of holder—bank, broker, holding company, individual or other specified category and amount of debt held.

B. A description of each short-term debt (under one year) excluding accounts payable of the respondent, including the name and address of the creditor, nature and character of the liability, period of the debt, rate of interest, total amount of such short-term debt, nature of the security, and date when debt was paid, or date when such debt must be paid, and a copy of any and all restrictive covenants attached to the indebtedness.

C. A description of each financing lease arrangement, equipment trust, conditional sales contract, or major liability with respect to the capital assets of the respondent and involving aggregate payments in excess of one million dollars and a copy of any and all restrictive covenants attached to the indebtedness.

B. Reporting Requirements, Rates and Plans:

1. Regulated utilities shall file with the commission and each of the utility's customer service offices all tariffs, prices, and any proposed changes.

2. Regulated utilities shall file with the commission all corporate plans, planning documents, reports on projected demand, supply, costs, and other material requested by the commission.

C. Prohibited Activities:

1. No regulated utility shall in any manner hire any former commissioner or employee of the commission until more than two years have expired since the person was with the commission.

D. Conflict of Interest:

1. Any director or officer of a regulated utility must file with the commission a document revealing any and all interest either they or their family have in any company, firm or partnership doing substantial business of any type with the utility.

E. Purchasing:

1. Competitive bidding is required of the regulated utility on any purchases for amounts of more than twenty-five hundred dollars.

F. Bonds and Notes:

1. Competitive bidding is required of the regulated utility in the sale or underwriting of any equity or certificates of debt.

G. Stock Purchases and Sales:

1. Any regulated utility is prohibited from purchasing stock in any other utility or selling its own stock to another utility without the approval of the commission.

H. Customer Purchase of Equipment:

1. Every regulated utility shall allow its customers to purchase at reasonable and just prices equipment involved in providing service—such as a telephone—which is used solely by the customer.

IV. PUBLIC UTILITY COMMISSION: PROCEDURE

A. Complaints:

1. Any person aggrieved by a regulated utility may make a complaint to the commission asking for relief.

2. The commission must respond to any complaint within ten days.

3. The commission may hold a public hearing to determine the merits of any complaint, however, when any written complaint is accompanied by a petition for a public hearing signed by at least 25 persons, such public hearing must be held within a reasonable time.

4. All complaints relating to manner or quality of services, billing practices under approved rates, or any practice which would sustain an action in a court of proper jurisdiction shall reach final disposition within 60 days. Service shall not be terminated until final disposition of the complaint without consent of the complainant.

B. Summary Investigations:

1. The commission may on its own motion initiate an investigation into any matter under its statutory authority, and make such findings, recommendations and orders as it deems necessary.

C. Jurisdiction over Complaints:

1. On the quality of any product or service furnished by a regulated utility.

2. On the manner of operating or conducting the business of the utility.

3. On the price, toll, charge, or tariff of any utility.

4. On the sufficiency of the maintainance of proper systems by the utility.

5. On the decisions, practices, and competency of management, as well as the management structure.

6. On the relations between a utility and any other company.

7. On the issuance of stocks, mortgages, bonds, or other securities by a utility.

8. On the need to restrain a utility from discrimination or violations of the law.

9. On any other practice, policy, action or omission to act which may be reasonably considered related to the powers of the commission, specifically including complaints directed at the commission itself or its method of operation.

D. Notice:

1. Public announcement of any hearing or proceeding shall be made no less than 15 days prior to the date of such hearing or proceeding, except as provided in subsection IV D(3).

2. Public announcement of every finding, order, or action of the commission shall be made at the earliest practicable time, but in no instance shall that be later than the effective date of such finding, order, or action.

3. In the case of any hearing or proceeding to consider an increase in the rates or charges of a utility, or to consider changes in service affecting a substantial number of the utility's customers, public notice of such hearing or proceeding shall be given at least 120 days prior to its commencement in order to allow the commission staff and potential parties reasonable time for preparation. In addition to public announcement, adequate

notice must include an insert accompanying customer bills giving the dates, times, and locations of the hearings or proceedings along with a brief description of the issues to be presented and the potential impact of those issues on the customers of the utility.

4. Failure to comply with the notice provisions of this section shall make null and void any finding, order, action, hearing, or proceeding in violation hereof.

E. Parties:

1. Every citizen shall have the right of intervention and full participation in any proceeding before the commission. Counsel shall not be required.

2. Every party to a proceeding shall have the right to propound written interrogatories which must be answered within 21 days. All answers shall be deemed sworn.

F. Hearing Procedure:

1. The commission shall develop rules of procedure designed to ensure orderly, yet full development of all issues and evidence.

2. The commission shall establish procedures to be followed by a utility in a rate request.

3. The regulated utility must file its total case at the time notice is given as required in IV D(3).

4. On its own motion or the motion of any party, the commission may postpone any rate hearing for up to 120 days if the volume of evidence, complexity of the issues, or response to interrogatories is such that it would be impractical for one or more parties to be adequately prepared by the original hearing date.

5. Hearings must be held in a public place large enough to accommodate all interested persons.

6. Hearings shall be scheduled at such times and locations as shall provide a reasonable opportunity for all interested persons to observe or participate. Specifically, night and weekend hearings are authorized when appropriate to meet the intent of this paragraph, as well as hearings at different locales throughout the state.

G. The commission shall review the rates of a regulated utility annually and make such rate increases and decreases as necessary.

H. Suspension of Rates:

1. The commission is required to suspend the proposed rates until formal hearings are held.

2. The regulated utility is not allowed to put its rate increase into effect until after the commission makes its determination of the reasonableness of the proposed rates.

I. Temporary Rates:

1. The commission may permit temporary rate increases only in case the utility's survival is at stake. Such temporary rate increases may not be granted more than once in any twelve-month period.

J. Temporary Rate Reductions:

1. The commission has the authority to order temporary rate reductions.

K. Transcripts:

1. The commission shall make available without cost full stenographic transcripts of hearings to all parties of record. Extra copies shall be available to all persons at a cost not to exceed the actual cost of reproduction. Parties making appeal shall be provided with necessary transcripts at no cost, such transcripts to be returned to the commission when no longer needed for appeal.

L. Costs:

1. The commission shall award all or a portion of costs, including legal fees, to deserving intervenors.

M. Judicial Review:

1. Decisions of the commission are appealable directly to the State Supreme Court as a matter of right.

2. No fees other than reasonable filing fees shall be made a requirement of such appeal.

3. The Supreme Court shall allow all or a portion of costs, including legal fees, to deserving intervenors.

V. PUBLIC UTILITY COMMISSION: DETERMINATION OF REASONABLE RATES

A. Right of Basic Utility Service at Reasonable Rates:

1. The commission shall not approve any residential electric utility rate structure that does not provide a basic amount of electricity at a reasonable cost.

2. The commission shall consider the consumer's ability to pay proposed rates as one of the criteria in the determination of their reasonableness.

B. Due Process:

1. The commission shall establish procedures for a fair hearing before the commission on disputes between a consumer and a regulated utility, including disputes involving possible termination or disconnection of service.

2. The commission shall formulate general rules to govern the practices of all regulated utilities covering terminations, reconnections, and consumer grievances.

C. Deposits:

1. Regulated utilities may require deposits only when the customer has demonstrated tardiness in the paying of its bills.

2. All deposits shall be returned to a customer at the end of any one year period in which all bills were paid on time.

3. All deposits shall earn interest at a rate comparable to the prime New York money market rate, but determined at public hearings held by the commission twice a year.

D. Right to Hearings:

1. The commission is prohibited from approving "automatic" clauses such as the fuel adjustment, or purchased power clause. Only rate increases approved by a full hearing by the commission with opportunities for the public to be represented are permitted.

E. Conservation:

1. Commission has the authority to approve "peak-time" and "seasonal" differentials rate structures.

2. Commission may not approve any rates which are designed to increase the overall demand for electricity.

VI. PUBLIC UTILITY COMMISSION: STANDARDS FOR RATE DETERMINATION

A. Valuation of Utility Property:

1. The commission has the right to initiate a full field audit of the utility's assets at any time.

2. The commission must use actual capital invested in providing service as the sole measure of the rate base. No monies derived from customers through the payment of rates should be included in the rate base.

3. The commission can set and require the depreciation practices and rates used by a utility.

B. Test Year:

1. The commission must use the historical test year method of estimating revenue needs.

C. Accounting:

1. The commission must exclude construction work-in-progress from the utility rate base.

2. Normalization shall not be permitted.

D. Exclusion from Rate Setting:

1. The commission must exclude all monies used for advertising, public relations, and charitable contributions from the setting of rates.

2. The commission must exclude all lobbying activities and political contributions from the setting of rates.

E. Rate Making Standards:

1. Specialized services or products shall not be subsidized in any manner by users of basic service.

2. Fair rate of return may not be determined on the basis of returns earned by any speculative company or industry.

3. Rate of return must be based solely on jurisdictional business, and not on capital needs of the entire company.

4. Rate of return shall be measured by average return on invested capital.

5. The commission may make the efficiency of management a criteria for determining the rate of return allowed to a utility.

F. Dividend Exclusion:

1. The commission may deduct all or part of any dividend paid to stockholders from rates if commission determines the utility is benefiting the stockholders at the expense of the customers.

2. The commission may halt transfer of money or property to any parent, subsidiary or affiliate when it would be detrimental to jurisdictional business.

VII. PUBLIC UTILITY COMMISSION: JURISDICTION OVER CORPORATE PRACTICES

A. Affiliated Interests:

1. The commission has jurisdiction to investigate relations and transactions between regulated utilities and other firms, corporations, and partnerships which hold an interest in the utility or in which the utility holds an interest.

2. The commission may issue orders governing the relations between a regulated utility and affiliated interests.

B. Reorganizations and Bankruptcies:

1. The commission must be a party in any re-organization or bankruptcy proceeding of a regulated utility representing the interests of the consumers.

2. The commission, in the event of a bankruptcy or reorganization proceeding, must initiate a feasibility study of possible state, municipal, or cooperative acquisition of the regulated utility.

C. Interlocking Directors:

1. No person may be an officer or a director of more than one regulated utility.

2. No person may be an officer or director of a regulated utility who is also an officer or director of a major seller of goods or services to the utility or major purchaser of services or goods from the utility.

3. The commission shall promulgate additional rules and regulations prohibiting other forms of interlocking directorships.

VIII. PUBLIC UTILITY COMMISSION: ADDITIONAL AUTHORITY

A. Plans:

1. The commission has the authority to require a regulated utility to submit each year a two year, five and ten year plan for the future.

B. Certificates of Public Convenience and Necessity:

1. The commission has the authority and is required to hold public hearings prior to the issuance of a certificate of public convenience and necessity.

C. Facilities:

1. The commission has the authority to require any regulated utility to build a facility, plant, transmission line or any other structure that the commission determines is in the public interest.

D. Management Audits:

1. The Commission has the authority to hire outside consultants to evaluate the management and operation of any regulated utility with the costs to be paid by the utility.

E. Feasibility Studies:

1. The commission has the authority, and must, if requested by the governing body of any town, municipality, or other political unit, to undertake a feasibility study of possible state, municipal or cooperative ownership of the regulated utility in question. The

costs of such studies shall be billed to the utilities.

2. The commission must undertake such a feasibility study if and when Federal Power Commission's hydroelectric site licenses of private regulated utilities expire.

F. Projected Costs and Fees:

1. The commission has the authority to require disclosure by a regulated utility of all projected costs or fees of any project being considered or being constructed.

G. Federal Power Commission:

1. The commission is authorized to intervene before the Federal Power Commission in any application by a regulated utility for licensing of a hydroelectric site.

2. The commission is authorized to intervene in all wholesale power rate cases in which a regulated utility would be likely to have to pay higher rates for purchased power.

IX. PUBLIC UTILITY COMMISSION: ENFORCEMENT

A. Commission's Power to Fine:

1. The commission shall have power to levy such fines as it finds reasonable to enforce its orders.

B. Enforcement of Commission's Orders:

1. Orders of the commission shall be enforced by injunction, contempt or other judicial process in any court of general jurisdiction within the service area of a utility subject to regulation by the commission.

C. Subject to Court Authority:

1. The commissioners and commission staff shall be subject to mandamus, injunction or any other judicial order issued by any court of general jurisdiction within this state.

D. Penalties:

1. Commissioners and staff shall be fined not to exceed $10,000 and/or imprisoned not to exceed 3 months for each knowing violation of this Title or the regulations issued to implement the purposes of this Title

X. MISCELLANEOUS

A. Invalidity of Any Portion of Act:

1. If any section of this chapter or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of any other section of this chapter or the remaining portion of such section which shall be declared invalid.

REPUBLIC OF NIGER

Mr. HARTKE. Mr. President, Niger lies on the southern fringe of the Sahara Desert, about 1,200 miles from the Mediterranean Sea and over 1,000 miles from the Atlantic Ocean. Four-fifths of Niger is arid desert and such conditions have caused extreme hardship to the population.

In recent years the famine and drought have reduced the livestock population by 50 percent, and human suffering has been boundless. Niger is a part of the Sahel and averages about 4 inches of rainfall per year. With a population of about 4.2 million people, who are mainly concentrated along the southern border of the country facing Nigeria, there is considerable evidence the inhabitants go back 6,000 years.

The empires of Songhai, Mali, Gao, Kanem, and Bornu all flourished in parts of Niger and the country's location made it a very important economic crossroad.

In recent years an American organization called Africare has contributed substantially to health care of the population of Niger by furnishing doctors and medicine.

We hope the winds of change blowing across the African continent will blow favorably on the Republic of Niger, and we wish the government and the people of the Niger Republic best wishes.

RESPONSES FROM YOUNG AMERICANS

Mr. CULVER. Mr. President, it was inevitable that in the investigation of the Nation's intelligence agencies currently under way, honest differences of opinion and sharply contrasting viewpoints would emerge. There are those who believe it is best, in the long range, that all of the facts, however unpleasant, be brought to light, and that such openness is indeed the very hallmark of our free society. Others, deploring the possible damage that might be done by confusing inference with fact and fearing danger to our national security from the revelation of secrets in high places, believe that much concerning the covert record of our Government should remain undisclosed.

Although I have my own profound convictions on these matters, it is not my intention to address them at this point. Rather, the purpose of my statement is to call the attention of my colleagues to articles on the subject by two exceptional young Americans representing illustrious families whose names are known in every household across the land.

On Thursday, December 4, an article by David Eisenhower appeared in the Wall Street Journal. On December 16, a response appeared in the same newspaper, by Robert F. Kennedy, Jr.

Whatever one's feelings may be about the comparative merits of the points made, it seems to me that we can all be proud that these two young representatives of leading American families have had the courage to step forward in defense of their own families and their individual principles with such strength and articulateness. Amid all the controversy, it seems to me that this fact in itself gives us assurance about the character of young America.

I ask unanimous consent that these two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

The White House Killers

(By David Eisenhower)

Ordinarily, when you come up against the Kennedy legend and lose, you shrug it off. It rarely occurs to anyone that in such a contest he might win. But when allegations of murder are thrown all over the political lot except at the very people who are most likely to have been implicated with it, it may be worth at least a try at overcoming the invincibility of that Kennedy ethos.

In real terms, this problem comes up as a result of the recent report of Sen. Frank Church's Intelligence Committee. To put the matter as starkly as possible, and also as truthfully as possible, where there is the best evidence that a President of the United States might have known about and sanctioned assassination attempts, the President in question is absolved. Where the evidence is weakest and most attenuated that Presidents were involved, the Church committee uses the strongest language with the most sinister implications. It is unmistakably obvious that the former President is John F. Kennedy and the latter are Dwight Eisenhower and Richard Nixon.

'STRAIGHTFORWARD ACTIVITY'

To take the cases in chronological order, President Eisenhower is accused of involvement in plans to assassinate Patrice Lumumba, a pro-Soviet leader in the Congo before and shortly after its independence from Belgium. The extent of the involvement is that at a meeting of the National Security Council, President Eisenhower is said to have expressed the wish for "straightforward activity" against Lumumba. This recollection comes from one uncorroborated witness. At least three other witnesses of the same meeting did not recall any such order.

A day later, Director of the CIA Allen Dulles is reported to have authorized an attempt on Lumumba, resulting in the transmission of various guns and poisons to the Congo. Six months later, Lumumba died in the hands of his Congolese captors—his death unrelated to a CIA plot, according to the Senate committee itself. On the basis of the one "straightforward activity" remark, the committee draws the "inference" that President Eisenhower authorized an assassination.

On the other hand, the Kennedy brothers are held by the committee to have been unaware of the repeated murder efforts in the Caribbean on the following evidence: There were repeated presidential-level discussions of the Kennedy's displeasure with Castro. As in the Eisenhower-Lumumba case, Sen. Church found references to suggestions for "straightforward activity" against Castro.

However, in what seems to some ears to be stronger language, those discussions also included reference to "disposing of Castro." CIA director John McCone recalls that discussions with the Kennedys were even drawn in terms of "knocking off Castro." CIA aide Richard Bissel recalls that President Kennedy ordered the CIA to "get off its ass" against Castro.

Further, within three weeks of JFK's inauguration, his national security adviser, McGeorge Bundy, was briefed on the development of an "assassination capability" within the CIA. Mr. Bundy supposedly did not order it stopped nor, supposedly, did he tell President Kennedy. Robert Kennedy was informed at least twice about Mafia connections with attempts to kill Castro, without disavowing either and, supposedly, without telling his brother, the President, about them. Robert Kennedy is, in fact, frequently portrayed by the Church commitee as misled by the nature and extent of CIA activities, a proposition which Tom Braden, a Washington columnist with close Kennedy associations and a former Office of Strategic Services man himself, thinks is "impossible to imagine."

All of this activity, the Church committee concludes, shows only that President Kennedy was interested in some kind of "broad strategy" to bring about Cuban democracy.

Moving right along, despite a mountain of evidence of Kennedy displeasure with the Ngo Dinh Diem regime and undoubted U.S. involvement in the coup against him and his brother Nhu, the Church committee finds the Kennedys absolved because the murders of Diem and Nhu were "spontaneous acts." The assassination of

General Trujillo of the Dominican Republic, though plotted with the knowledge of American "personnel" (read "the President, John F. Kennedy") is construed by Church's group as defiance of Kennedy's written statement that assassination is wrong (though not so wrong as to prevent U.S. recognition of Trujillo's assassins should they succeed.)

When the report comes to Richard Nixon, Sen. Church's committee finds "inferences" that President Nixon gave carte blanche to the CIA to kill whoever necessary to keep Allende from power in Chile, and therefore Mr. Nixon should be responsible for the death of General Rene Schneider. General Schneider had been a target for CIA kidnapping, but died in a non-CIA connected kidnapping.

The Church committee is thus giving us more than a double standard. It is saying that where there is clear evidence of responsibility (the Kennedy cases), even clearer evidence of responsibility is needed to establish an "inference." Where there is extremely vague evidence of responsibility (the Eisenhower and Nixon cases), no more than vague hints are needed.

As I said at the outset, people are used to less than equity when dealing with the Kennedy legend. And, in recent years, politicians have gotten used to throwing around "inferences" pretty casually. But the Church committee's action is a deadly combination of the two. Even when protecting the Kennedys, it is not a laughing matter to throw out inferences of murder into a public forum where the distinctions between "inferences" to spare the feelings of the Kennedy fans, and facts get blurred. In other words, even you should treat accusations of murder similarly in similar cases.

That's what the law is supposed to be about—treating similarly situated people similarly. And respect for the law and for American ideals is supposed to be the reason why the Church committee is washing so much dirty laundry in public. We have to have an open society, reasons Sen. Church, so let it all out, no matter how bad it looks.

LESS THAN MEETS THE EYE

There are a couple of problems with this posture. One is that we may be letting stuff out that is worse than what really happens. In other words, in the cases of all three Presidents, there is apparently less going on than meets an eye scanning the Church report. A report from an American Senate committee accusing Americans of plotting murder is one thing if it is solidly based. It becomes quite another thing, something more like the most irresponsible kind of partisanship if it is a device aimed at one party by another, using only the most flimsy evidence.

And what good will the report do? We know it has demoralized the CIA. What we cannot know is how foreigners will react to our self-flagellation. Senator Church thinks they will respect our candor. I cannot help but think that this is akin to thinking a rapist will be admired for confessing.

Beyond a few vague pieties about not assassinating people, hedged with more vague words about not barring covert activities, the Church report offers no guidance about how the CIA should be conducting itself, which, after all, is supposed to be the main product of the Church committee. Perhaps that will come with the committee's final report in a few months. In the meantime, is any broader purpose than publicity for politicians being served? It's hard to see what that might be.

Assassination. Just the sound of the word makes one's skin crawl. The committee report calls it "a coldblooded, targeted intentional killing of a political leader." Don't we need far more tangible, convincing proof before we even begin to make such grave changes against Presidents Kennedy or Nixon or my grandfather?

POLITICS AND ASSASSINATIONS

(By Robert F. Kennedy, Jr.)

In The Wall Street Journal of Dec. 4, there appeared on your editorial page a column by David Eisenhower. I was surprised that the Journal assigned such prominence to an emotional outburst.

Because of the nature of the attack, because it was directed toward my family, and because of the age of its author, I feel it is up to me to reply.

What ostensibly has upset Mr. Eisenhower is the alleged partisan double standard with which the Senate Intelligence Committee handled evidence relating to President Kennedy and my father, as opposed to the way they handled evidence relating to Presidents Eisenhower and Nixon.

Mr. Eisenhower states that his grandfather, on the basis of flimsy evidence, is "accused of involvement in plans to assassinate Patrice Lumumba" and that the report contains " 'inferences' that President Nixon gave carte blanche to the CIA to kill whomever necessary to keep Allende from power in Chile and therefore is responsible for the death of Rene Schneider." Mr. Eisenhower complains that "on the other hand the Kennedy brothers are held by the committee to have been unaware of the repeated murder efforts in the Caribbean."

Mr. Eisenhower sees this as a rigged job, part of a partisan conspiracy to protect the Kennedy name. He seems to feel that somebody should have pinned the rap on President Kennedy and assigns himself to the task of making ". . . at least a try at overcoming the invincibility of that Kennedy name."

It is my impression from reading the committee's findings that there was no conclusive evidence linking *any* President as the authority behind intended assassination attempts of foreign officials.

PRESIDENT KENNEDY'S MEMO

The closest that the resolution comes to accusations of anybody is at the points when it criticizes various administrations for not clearly ruling out assassination as a means of executing or expediting foreign policy. As a matter of interest, President Kennedy was the only President to specifically condemn the use of political assassinations by government agencies. He did this in a memo circulated in the State and Defense Departments and the CIA.

It is true that the nature of the evidence that did surface implicated some Presidents more seriously than others. But the minority Senators on the Church Committee, all of whom signed the final resolution, had the right to cross examine and subpoena. Neither Senator Barry Goldwater nor Senators Baker or Tower is known for his political allegiance to the Kennedy family. Furthermore, the committee that drafted the final resolution was bipartisan. It is unlikely that the very conservative Senator John Tower participated in a coverup conspiracy to shield the Kennedy name.

Mr. Eisenhower goes on to ask what good the report will do. He questions the use of this type of open investigation, and expresses concern over how the world will react to our "self-flagellation."

I can tell him. Moscow will think it's silly. Peking will think it's silly and Brazil will shrug its shoulders and turn up the voltage. Greece thought it silly as did Franco, and Idi Amin of Uganda sent a "Get Well Soon" card. The Chilean junta will think it especially silly and I was in that country when it abandoned the truth and with it, democracy.

But people all over the world who honor and love the truth will continue to respect the United States for its honesty and confidence in a system that allows honesty. They don't call it silly that we set up committees to make open investigations of those who rule us. They call it democracy and they respect those who can afford to admit their mistakes.

Our esteem in the world never had sunk so low as it did between 1969 and 1974 when we retained a leader who thought himself above the law and above this type of invesigation—a leader who refused to admit to his own mistakes and interfered with those who wanted to expose him. During those years we forfeited a tiny piece of our democracy.

There is no reason that Mr. Eisenhower should not speak out on behalf of his family. It is his right and duty to defend his late grandfather against the rash of criticism that is bound to follow any new revelations about that President's administration. That is a stigma of public life, and one is happy to see that David Eisenhower rises to meet the duties that his situation dictates.

NOT AFRAID

I am confident that General Eisenhower would have been proud and secure in the knowledge that there would be a man of his grandson's caliber, not afraid to stand up and protect his name and reputation when he no longer could.

I am equally as confident that it would have distressed President Eisenhower, as it does me, to see that the heart of his defense consists of an attack against my own family.

During his bout with public life, President Nixon transformed what was considered by my family to be a friendly political rivalry into a vindictive feud.

With the political demise of that President, I had hoped that the feud was buried. It disturbs me now to see it awakened in another generation.

I know that the late President Eisenhower would have been horrified at the vile and unsavory transformation that took place in American politics between 1969 and 1974.

He would have been disturbed about the nature of his relationship with the man responsible for his new direction. For this was never Gen. Eisenhower's approach. Pettiness and dishonesty never dared set foot in the Eisenhower White House. That was not his style.

I would say to the young Mr. Eisenhower that it is the duty of our generation to search backward for the footprints left by a great man like his grandfather—not to uncover their sins, but rather to find the source of their greatness and the direction in which they were leading. We must find out where we lost the trail and take up marching again. By following the example of the General's courage and integrity we can abandon pettiness of all kinds. Only then can we face our task, as my father was fond of quoting Aeschylus, "to tame the savageness of man and make gentle the life of the world."

THE CHURCHILL LECTURE

Mr. SPARKMAN. Mr. President, I submit a very able lecture by Kingman Brewster, Jr., president of Yale University. The occasion was the Churchill Lecture at the English-Speaking Union of the Commonwealth, London, England, November 27, 1975.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the lecture was ordered to be printed in the RECORD, as follows:

Mr. Chairman: I have been pondering the mystery of this invitation. But for this aberration on your part, I have always stood in awe and admiration of your judgment and good sense. Such was my confidence in you that I was certain that, upon reflection I would discover the subtle purpose which motivated your flattery. Then it suddenly occurred to me.

Ours is a time of gloom and doom. A "woe is me" atmosphere, a very low pressure area straddles the North Atlantic.

So, Mr. Chairman, in your ever cheerful way, you have evidently sought out a speaker who, by the nature of his calling, if not his temperament, can be relied upon to have an infinite capacity for both rationalization and wishful thinking.

These two attributes, rationalization and wishful thought, are indeed, the two qualities most demanded of anyone whose lot it has been to preside over a university during these past dozen years. Most especially it must characterize anyone who presides over an institution of higher learning whose name, after all, amounts to an acronym: Youth Against Learning and Education.

But lest you think me abnormal, do let me wallow a bit in the "crisis of our times".

I join you in nostalgia. Yet our nostalgias, yours and mine, are markedly different.

You might, quite properly, long for the society which was held together by mutual deference and consideration. It was better characterized by the ethic of the Belisha beacon rather than by the do's and don'ts of the regulatory state. It was not riven by fear of anarchistic violence.

We in the United States long for the "everything is possible", expansive optimism of a seemingly infinite growth. Our wishful memory is better characterized by the frontier. We knew nothing of unrationed scarcity. We like to think that we were not cabined by the claustrophobia of insolvent, indecent cities.

Your happiest days saw the gradual democratization of society, without any loss of the mutual deference which is essential to order. Tolerance, mutual respect and fierce defense of individuality made it possible for you to achieve stability without coercion. Your constitution did not have to be written. It was an unwritten tradition of both public and private behaviour. "Those wise restraints which make men free" were, in your case, very largely self-restraints.

In America, our gladness, if not our goodness, was a bumptious, competitive, rough-and-tumble, ambitious optimism. Private coercion was avoided, in large part, by the unlimited possibilities for escape, for a fresh start. Government coercion was mitigated by the dispersion of official power throughout a federal system. The more formal separation of executive, legislative and judicial power was secured by a written Constitution. Restraint on public authority required a written Bill of Rights.

Bagehot was right to characterize yours as the "deferential society". The essence of ours, as de Tocqueville perceived it, was mobility.

(May I be permitted one Bicentennial thought: In the spirit of Trevelyan's historical "ifs": I wonder whether, if we had not cast loose two hundred years ago, "the rights of Englishmen" could have been preserved in America. I am not thinking here of the Thirteen Colonies, but of the sprawling continent which developed from them. Perhaps our independence actually forced us to seek the unity in diversity of a formally constituted federal system. The constitutional guarantee of freedom of interstate commerce made possible a continental market. Constitutional limitations on the central government made a sprawling, highly diverse continent more or less governable. These arrangements might never have developed had it not been for the need to accommodate the disparate interests of the thirteen newly independent colonies.)

Back to our nostalgias. Our paths have been quite different, markedly so. Yet from quite different points of departure, by quite different routes, we did emerge at a common rendezvous by the time of the last World War. We were confident that the values of our two societies—yours an empire and commonwealth; ours a federalized continent—were shared; so deeply rooted that they were taken for granted. Victory, we believed, would, in the buoyant rhetoric of the Atlantic Charter, establish the four freedoms "everywhere in the world".

Now both of us have experienced a crisis of confidence. We in America know too painfully the anguish of an undefeated team that has just suffered its first set-back. But more devastating than your peaceful liquidation of an empire, more shocking than our bloody defeat in Indo-China is the realization that the four freedoms of the Atlantic Charter are not easily transplanted. It is not easy to admit that they will not readily thrive "everywhere in the world".

I would submit, Mr. Chairman, that the belated discovery that it is not our "manifest destiny" nor your "white man's burden" to bring "the rights of Englishmen" to the yearning world, should not dissipate our pride or our determination.

The torture which freedom has suffered in the second and third world make "the rights of Englishmen" all the more precious.

Our missionary frustration makes our own destiny all the more important.

Our traditional values are not the natural and inevitable order of mankind.

They are the hard won and fragile achievement of the English-speaking Peoples. Our recent disillusionments in the world around us should strengthen our sense of purpose.

Precisely because ordered freedom will not readily prosper in many climates, together the English-speaking Peoples have a very special trust. It is our first obligation to see to it that "the rights of Englishmen" are not lost, that they are protected and nurtured in their natural home.

If we were to fail this challenge, what has been so gallantly achieved by our forefathers might be lost for all humanity, perhaps for all time.

Our first task is to see to it that the way of life we care about is made secure from external subversion and attack. That we can do only by collective action, equal in scope to the global challenge which seeks to do us in.

Happily, the values connoted by "the rights of Englishmen" are shared most deeply in Australia, North America and in this island which gave them birth.

Logistically, taken together, ours is a global, strategic base of considerable promise. It offers the land masses of Australia and most of North America to supplement the high seas as platforms for mobile launchers which assure a convincing capacity for retaliation. It also incorporates the arsenal of the United States, and the diplomatic experience, the European connection, and the Commonwealth responsibility of Great Britain.

If we are bold and wise, we ought to be able to provide a deterrent of global span. It should be sufficient to assure the ability of the English-speaking Peoples to survive without concession of our own principles.

The credibility of this tacit alliance should be able to withstand the erosion of cynicism. It should be able to outlast strains of shifting interests.

Our common cause is made reliable by shared heritage and purpose. It does not depend upon the fine print of a legalistic adversary bargain.

Security against external threat is, of course, a first priority. It is not, in my opinion, however, our greatest problem.

The concern more demanding of attention is closer to home. Can we secure "the rights of Englishmen" within our own societies, even if we are made secure from external subversion and attack?

Let me take a clue from your own nostalgia. Yours is the proper fear that perhaps the deferential society cannot survive the clamoring of interest groups which seek fair or unfair shares through the processes of the welfare state.

Taking a clue from our nostalgia, ours, in America, is the fear that maybe the open society is closing. Perhaps the ethic of competition has become a war of all against all for shrinking resources.

This challenge to us both is, in good part, strictly economic. Thus, if government remains representative, will it not always cater to the demands of the present at the expense of the future? Can wage settlements be expected to leave a surplus for investment? Will taxation and inflation together dry up savings? Will government itself be under inexorable pressure to favor consumption at the expense of capital?

Other worries are more strictly political.

When the State decides who gets what, can we avoid a corrupting scramble for official favor?

When all seek preference from government, can we expect citizens to be generous to each other?

Will the sense of responsibility for the use of property, a sense which ownership engenders, be replaced by carelessness when all are tenants of an anonymous state?

Will the latitude for individual choice which freedom of contract permits, inevitably be replaced by status, dependent upon public award?

In short, can life remain voluntary? Or will we become dependent upon paternalism at best, coercion at worst?

These essentially constitutional questions—they are at least questions involving constitutional values—are inherent in the challenge which a modern political economy poses to the voluntary society and the democratic process.

So, you see, I, too, can wallow in despair. Where then is room for wishful thought?

Of course there is no cure-all. But some approaches, I submit, are better than others. If I were asked to reduce it all to slogans, I would say that the general attitude which should inform our attack on these problems ought to be a preference for the "incentive state" rather than the "guarantee state"—for the "opportunity society" over the "welfare society".

Now what does that mean?

To me it means three things: First, we should exhaust ways of encouraging private decisions in the public interest before resorting to government allocations or regulations.

Second, when government must act as investor in defense, health and education, it should try to use market mechanisms so that who benefits will not depend on the favoritism of bureaucrats and politicians.

Third, when government has to exercise its discretion in awarding favors or imposing penalties, we should find some way of assuring redress against its abuse.

When unemployment of human and material resources was the problem, Lord Keynes rightly focused attention on the problem of under-consumption. The great political virtue of his fiscal and monetary prescriptions was that they allowed a responsible government to act impersonally, without coercion. Democratic capitalism was probably saved from the alternatives of the Fascist corporate state or the total coercive mobilization of Communism, by the effectiveness of Keynes' prescription for full employment without interference with private economic decisions. This was most shrewdly perceived and eloquently expounded by young Arthur Schlesinger, Jr., in "The Vital Center".

Now that inflation is the spectre, how are we to marshall the discipline to offset the bias in favor of consumption at the expense of savings; the bias in favor of the spendthrift present at the expense of the future; the bias in favor of public expenditure and against public savings?

Since I am not expert, I hesitate to make technical prescriptions. But, like you, I have heard enough of platitudinarian addresses which ask alarming questions, but which fail to give so much as even a clue to possible answers. Without vouching for the particular solutions, let me at least point to an agenda worthy of attention.

Might we reconsider both the incentives and the equities of our systems of taxation?

Both a free market and a democratic political system show a strong tendency toward expenditures for consumption and current welfare at the expense of savings. I would suggest that we badly need to build into our system of public revenue a strong incentive for savings for productive investment.

Capital starvation is the economic peril of western capitalism generally, and of your country and mine in particular. Might we not, therefore, again consider the validity of a graduated tax on expenditures in preference to our present graduated tax on income?

We can at least find philosophical support in Hobbes and Mill in their espousal of this view. Political ancestry, if not political realism, can be found in Gladstone's advocacy of a similar approach. Profession ingenuity, if not wisdom, credits Yale's Professor Irving Fisher and your Nicholas Kaldor with the same enthusiasm.

In economic terms, a tax on expenditures rather than income would be an incentive to saving, hence to the formation of capital.

In political terms, if the belt must be tightened today in order to encourage investment in tomorrow, is it not far more tolerable to have the squeeze felt at the level of luxurious living, rather than to impose taxes upon savings and investment?

In terms of more fundamental, constitutional values, the achievement of a healthy equilibrium between the claims of investment and the claims of consumption seems to me better done by realigning the incentive of the tax system rather than by reliance upon government to make particular investment decisions. At least the chance of favoritism and political abuse would be minimized.

A second economic objective of the "incentive state", which has received dramatic attention, is the careful husbanding of non-renewable resources.

As others, notably Fritz Schumacher, have pointed out, traditionally we treat the draw-down of non-renewable resources as though they were current expenditures. We account for what we take out of the ground as though it were no different from what we grow on the ground in forests and on farms. As Dr. Barry Commoner has noted, unless otherwise constrained, the lust for short-run profit is bound to favor the use of plastics instead of wood, the use of artificial fibers instead of natural fibers.

Again, instead of relying on the State to allocate non-renewable resources by rationing and regulation, instead of quashing the profit motive, would it not be far better to advise a "value-subtracted tax"? Might we not provide an incentive for the use of renewable resources, by imposing a surcharge on a product to the extent that it uses up raw materials which cannot be replaced?

Using the government to "rig" the market seems to me far preferable to giving the government the power to decide who gets what in particular transactions.

In a big country like mine, however, even if incentives were shifted from the short term to the long term, from consumption to savings and conservation, representative government would still pose a frightening challenge to economic responsibility. As one wag put it, our game may be "Truth or Keynesequences".

Any politician whose life is dominated by the prospect of standing for re-election, (every two years—absurd as this sounds—that is what the members of our lower House of the Congress must do!), has an inevitable bias in favor of spending and against imposts. The ensuing inflation will, of course, be just as brutal as an equivalent tax would be.

However, the inflationary impact cannot be traced to a particular political act, it cannot be tallied in terms of yeas and nays on particular bills. So, too, the beneficiary of a particular expenditure knows who his benefactor is, who voted for the subsidy, the public investment or government purchase. He also knows the particular agency or ministry which declared him eligible for the help he wanted. Thus, he can trace his bounty, quite precisely, to its political source. On the other hand, no one can prove that the higher price of groceries is attributable to any particular public expenditure, to any particular legislative act.

The clear political identification of the source of public economic benefits and the obscure source and causes of inflationary burdens is bound to favor excessive public expenditures and irresponsible tax cuts.

The inflationary bias of representative government seems to me the greatest threat to the survival of a democratic political economy.

In the eighteenth and nineteenth centuries, constitutions emerged as great self-denying ordinances to constrain the use of official power for political self-perpetuation. Perhaps we now need an equally creative act which would devise a self-correcting ordinance to offset the bias of representative government toward inflation. We need some "higher laws" to restrain the natural temptation to use the spending power for political self-perpetuation. If we do not solve this problem, representative government will drive us up to altitudes of inflation which, like anoxia above 14,000 feet, will not be able to sustain productive economic life.

Again, I feel an obligation to at least suggest illustrative approaches.

Whenever public expenditures exceed a balanced full-employment budget, might the law provide that tax rates would rise automatically? This would be more rational, more dramatic in its impact if taxes were on expenditure rather than on income. Both public opinion and political judgment might then see more clearly that inflation, too, is another form of tax on expenditure.

Of course I have no patent medicine to cure the fever of inflation. Its causes are not limited to public expenditures.

There is also no gimmick which will substitute for statesmanlike self-restraint. That capacity for restraint, when the spending power is involved, unfortunately seems at odds with the political interests of a legislature which is representative of its people.

In this aspect, we Americans would seem, in the long run, to be even more vulnerable than you are. We are saved, only for the moment I fear, by our more abundant resources. Without some creative act of political leadership, such factors as the short term of Congressional office, the lack of national party discipline, and the roots of political power in highly localized constituencies, make the long view very rare. A representative democracy of any kind finds it difficult to practice the politics of self-restraint.

We in the United States should apply much more ingenuity to techniques and arrangements designed to offset the incentives which every Congressman now has, to favor expenditures even at the price of inflation, and which, whenever an election year approaches, impel even a conservative President to promise tax reduction.

Until we can devise ways by which the inflationary consequence of a Congressman's vote is traced to him with the same particularity which attaches to a yea or nay on a revenue bill, we will not cure the disease of public spending motivated by the desire to achieve re-election.

Even if the balance could be redressed, however; even if the inflationary tilt of a representative government could be corrected, there would remain other threats to "the rights of Englishmen" which flow from the government's responsibility for the general welfare. These, as I have suggested, are more strictly political or constitutional.

When individual opportunity comes to depend upon the decisions of government, it becomes very difficult to protect the citizen from fear of retaliation. It is even more difficult to prevent the corruption which follows the pursuit of official favor.

The power of government to threaten penalty, or to promise favor, is ultimately inconsistent with the citizen's freedom to throw the rascals out.

An astute, malevolent officialdom can turn the publicly dependent economy into an instrument of political entrenchment. At its crudest, "government by shakedown" can result. This ethic of political self-perpetuation characterized the Nixon years, particularly the Mitchell-Stans management of the 1972 Presidential campaign.

In matters of this sort it is more difficult to prescribe effective mechanisms, or even to suggest illustrative approaches.

I would, at the threshold, urge a strenuous effort to devise market mechanisms through which government might apply the national revenue to the support of health, education and welfare. At least if the legislator or the bureaucrat cannot identify the particular individual who will benefit, there is already some insulation from the politics of favoritism.

There are areas where the society as a whole must use its power to tax everyone in order to secure the national defense, provide minimal human decency, adequate health and assurance of the education of its children. Even in such instances it is still terribly important to allocate opportunity through impersonal mechanisms which minimize the chance that an official can personally select his beneficiaries.

In our country we need far more stringent protections against favoritism and conflict of interest in the massive sector of the economy dominated by defense procurement.

Subsidizing students and leaving them free to choose the institutions to which they apply is far more consistent with academic freedom than direct institutional support would be. Innovative scholarship and research benefit by a multiplicity of private foundations and by a "peer review" system which awards government grants by the judgment of the academic peerage rather than by the decisions of bureaucrats or politicians.

The insurance mechanism helps to retain some freedom of choice in publicly supported medicine. The mortgage guaranty achieves housing objectives without requiring a citizen to be a tenant of the State.

Sometimes the spending power must be exercised in a way which might make or break an individual, a firm or an institution. There we need to develop some opportunity for objective review of the exercise of discretionary power. In fact, we need something analogous to the judicial review of regulatory acts in our country; perhaps more techniques of parliamentary inquiry and redress in yours.

I would not purport to prescribe for your situation. I would not even be confident in prescribing for my own country. But, I do feel strongly that the citizens' dependence upon government bounty is a problem of constitutional proportions.

By constitutional proportions I mean that in the United States the federal spending power poses a threat to the values of both the federal system and of due process of law. It also poses a danger that those in power may be able to assure their re-election by favoring their supporters. These threats are no less real than the power of government to police and to regulate and to tax; powers which so much concerned the Founding Fathers of the thirteen United States.

It may be that our belief that the governors should be accountable to the governed is our advantage. How tempting the authoritarian, the seemingly "efficient" solution sometimes seems. Coercion, surely, does offer a solution to both full employment and the control of inflation. Happily, we are stuck with our heritage of freedom.

Do we, then, have the will and the ingenuity to solve our economic problem without forfeiting our birthright of political freedom?

Our secret, I believe, lies in the tradition of law, especially constitutional law, as an organic, evolving process.

With us, law is not confined to the ink lettered parchment of a code's prescription. Its extension or reform does not require a root and branch reformulation of a grand design. We are not given to total solutions. Muddling pragmatism may serve our values better than the logical perfection of a total scheme.

As one continental critic once put it, a common law lawyer doesn't even cross the bridge when he does come to it! That is a danger. It would now seem that we are unwilling to cross a very important bridge. Our task is to make the massive public spending power subject to a rule of law, just as we once brought the police power and the taxing power under constitutional constraint.

Even in my own vast, unmanageable country, pragmatic ingenuity was able to concoct an administrative law which, to a large extent, did make the growth of regulatory power accountable to the values of due legal process; first under Woodrow Wilson's New Freedom; later under Franklin Roosevelt's New Deal. Even the controls required for wartime mobilization were kept within constitutional bounds.

My deep reservoir of wishful thought leads me to believe that legal craftsmanship is capable of restraining the exercise of the spending power so that it cannot be used for purposes of political self-perpetuation.

After all the rhetoric of concern and alarm has been heard, however; after all avenues of legal redress have been exhausted, our destiny depends upon the faith of our peoples and their alertness to encroachments upon their freedom and the freedom of their institutions.

Ultimately the quality of a society—with its respect for individuality, its impertinent skepticism of authority—resides in the hearts and minds of its citizens.

Given the eloquence of the person whose name graces these lectures; given, therefore, the honor which is thus bestowed upon the lecturer, I am most reluctant to attempt my own articulation of the shared purposes which bring us here.

Yet, the honor of your invitation and the logic of the argument I have attempted join to compel the effort.

We do have a heritage which deserves protection against external subversion and attack. We do have a mission which requires all the imagination and dedication and ingenuity of which we are capable. It is our high calling to make sure that "the rights of Englishmen" shall survive the pressures and harassments of an over-organized, technological society.

The faith of our fathers and the high hopes which their achievements have made possible should be sufficient inspiration. We have not done badly, but we have much more to do.

We have reason to believe that incentive rather than coercion, individual choice rather than programs imposed by decree, are most likely to liberate all individuals to find their own fulfillment. We would trade a little efficiency, even a bit of welfare, in order to assure the opportunity for individual choice and immunity from coercive authority.

As we look out upon the world around us, we see many peoples surrendering to coercion, drab and heavy-handed at best, bitterly brutal at worst. We also see raucous, anarchistic violence masquerading as freedom. Both are making inroads upon the Western World at the moment, particularly on the Iberian and Mediterranean shores.

We know that the intricate interdependence of a specialized society requires discipline. We know, too, that the alternative to discipline is anarchy.

Two questions confront mankind everywhere: are we capable of the discipline necessary for survival, and, is that discipline consistent with our individual freedom?

The challenge now is to bring economic forces under control without so enhancing the power of discretionary government that we lose our freedom of private and political choice.

The English-speaking People have given the world some hope that it is possible to organize society so that government, institutions, and most of all, individuals are capable of that organized self-discipline upon which freedom depends.

NITRITES AND NITROSAMINES ADVISORY PANEL CHALLENGED

Mr. METCALF. Mr. President, in September of 1973, the Secretary of Agriculture appointed an Expert Panel on Nitrites and Nitrosamines "to study and advise—him—on the use of nitrates-nitrites in the processing of meats for the purpose of maintaining a safe supply of meats in the food distribution system," as the 1974 annual report of this Federal advisory committee put it.

The principal problem is sodium nitrite, used as a coloring and flavoring agent and preservative in cured meats, such as hot dogs, bacon, and ham. Nitrite, used in several billion dollars worth of food, can combine with other compounds in food or in the body to form potentially cancer-causing substances known as nitrosamines.

On November 11, the Department of Agriculture published in the Federal Register proposed modifications in the use of nitrates, nitrites, and salt in meat and poultry products, based on three recommendations the panel had made on December 4, 1974. The USDA proposal, published in clear prose as a "statement of considerations," contends that—

> To date, no substitute for nitrite has been discovered. No compound or treatment has been found that will produce the characteristic product and that possesses nitrite's antibotulinal properties. Researchers are still trying to find a replacement.

Interestingly, while the proposal refers several times to the role of nitrite in guarding against botulism, it nowhere mentions cancer in connection with nitrosamines.

For example, the proposal asserts that—

> As recognized by the Panel, a special problem exists with bacon. The fact a nitrosamine is formed during its frying is apparently unique to this product. The levels found have been decreasing steadily and are now in the range of 10 to 20 parts per billion. The meat industry has furthered this reduction through its research efforts and through voluntary adjustments in curing procedures.

But it does not say why there is concern that nitrosamines may be hazardous to your health.

Nor does it expressly say how highly the industry values nitrite as a coloring and flavoring agent. The proposal does say that—

> The Romans had learned from the Greeks the technique of curing pork and fish with salt, and they were probably the first to establish a trade market for cured meats. Meat cured with salt containing nitrate, and even nitrite impurities, developed a characteristic cured flavor and color, as well as the properties of a preserved product. In time, the cured flavor and color became highly desirable to many people.

Compare that conclusion, written in the third-person passive—"became highly desirable to many people"—with the judgment quoted above putting color and flavor on a par with safety:

> No compound or treatment has been found that will produce the characteristic product *and* that possesses nitrite's antibotulinal properties." (Emphasis added.)

Mr. President, the problem and the panel were placed in perspective on December 10 when Michael F. Jacobson, codirector, Center for Science in the Public Interest, addressed the panel. Among other points, Jacobson suggested that the panel is in violation of the Federal Advisory Committee Act requirement that the membership of an advisory committee "be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee."

The USDA says the panel "consisted of six well-qualified scientists who represent various disciplines considered most important to the evaluation of the problem." Jacobson's point is that one of those member scientists also represents Swift & Co., and USDA has not attempted to balance the panel by appointing a consumer-oriented member.

I might note that this panel was renewed in November in accordance with the Federal Advisory Committee Act, which requires prior consultation with the Office of Management and Budget. OMB guidelines in turn require that before an agency advisory committee can be renewed the agency head must inform OMB of the agency's plan "to attain balanced membership of the committee." It turns out in this case that balance was discussed in terms of the scientific disciplines represented, and not in terms of the scientist' affiliations.

Under the circumstances, I will suggest to OMB and USDA that the latter consider appointing a consumer-oriented member to this panel.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of Jacobson's remarks to the panel on December 10, the USDA proposal from the Federal Register of November 11, the 1974 annual report of the Expert Panel on Nitrites and Nitrosamines, and the USDA notice of the panel's renewal from the Federal Register of November 18.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT TO USDA'S EXPERT PANEL ON NITRITES AND NITROSAMINES, DECEMBER 10, 1975

Thank you for the opportunity to address this panel. Over the past three years I have been concerned about the way the Department of Agriculture has handled the matter of nitrite additives in foods. For instance:

In 1972 USDA rejected completely a petition filed by consumer groups asking that measures be adopted to minimize human exposure to nitrite. It is interesting that the man who signed the rejection letter, Richard Lyng, is now president of the American Meat Institute.

In 1973 USDA appointed this panel of scientists to advise the Secretary, and although an industry representative was named, a consumer representative was not named.

In 1975 this panel and USDA made proposals intended to reduce human exposure to nitrite. While the USDA proposal was welcome, because it was the first move after more than three years of procrastination, it was only a marginal improvement over the *status quo*.

Although members of the panel and officials of USDA are undoubtedly well-meaning, there seem to be some underlying assumptions that are preventing the right decisions from being made. It seems to an observer that this panel and USDA are not seeking an answer to the question "how can the hazard of nitrite be minimized," but has re-phrased the question to read "how can the hazard of nitrite be reduced without inconveniencing the meat industry."

The whole thrust of USDA's and industry's efforts has been to find ways of using nitrite, but preventing nitrosamines from forming. In the absence of an effective measure of achieving this, people are being exposed to the risk of cancer. Virtually no effort has been made, at least publicly, to eliminate nitrite itself. The reason for this, of course, is obvious. Although lipservice is given to the uniqueness of nitrite as a preservative, its real value to industry is as a coloring and flavoring. In situations where alternative methods would eliminate the need for nitrite, the finished food product might taste or look somewhat different from the current product. And although the difference might only be small, industry fears, possibly with some justification, that consumers would buy less of the safer, but new-tasting product. Starting with the premise that the exact color and flavor of nitrite-cured foods must be retained, one will necessarily come up with different solutions from someone who is more concerned about safety than sensory characteristics.

The panel and Department have been most blatantly irresponsible in not proposing a ban on nitrite for those products in which it is unnecessary and no processing changes would have to be made. Due to consumer pressure, the baby food companies have removed nitrite from most of their products. For three years USDA did nothing. Now USDA bravely proposes banning nitrite from the products that no longer contain it. But USDA has refused to propose a ban on nitrite in "toddler" foods, the only baby foods still containing nitrite. Foods like Gerber's "Green Beans, Potatoes, and Ham Casserole" toddler meal—which contains both ham and bacon—are heat sterilized. The companies readily admit that nitrite does not act as a preservative. I cite the case of toddler meals, not because the danger to babies is overwhelming, but because the failure of the panel to recommend a ban and USDA's intransigence are indicative of their philosophy.

Many food products, such as shelf stable canned ham and potted meat products, are also sterile. Nitrite is used only as a coloring and flavoring. USDA proposes a level of 50 unnecessary parts per million, instead of zero ppm.

The meat industry, echoed by USDA, argues that nitrite is essential as a preservative to prevent botulism, implying that there is no known substitute. Members of this panel who are not associated with industry are remiss in not pointing out to USDA that substitutes currently exist and that research would develop additional substitutes. I was shocked when USDA's Mr. Bill Dennis told me that USDA was not doing any research whatsoever in this area.

I can cite several possible alternatives to nitrite:

Just leaving nitrite out, as for toddler meals and other sterilized canned products; USDA has never identified all products in which nitrite is unnecessary and proposed a ban;

Using other anti-microbial chemicals; parabens, sorbic acid, or others, possibly in conjunction with salt, may work; USDA has done nothing in this area;

Using higher processing temperatures, perhaps in conjunction with salt or other chemicals that contribute to an anti-microbial effect. As far as I know, USDA has never investigated this approach;

Using traditional curing processes that do not employ nitrite. Mr. Herb Mullinex, for instance, who lives out in Damascus, Maryland, makes nitrite-free bacon and ham, just like his father used to do. He uses a salt and pepper cure. He spends more time than Oscar Mayer to cure his products, he has a small-scale operation, but people buy his product. His bacon costs $2 a pound, just one penny more than what Briggs bacon costs at the supermarket;

Freezing controls microorganisms, and at least one packer uses this method to preserve hot dogs and luncheon meats;

Using wholly different processing procedures. Again USDA's laboratories have done nothing. A small midwestern packer has developed a process by which porkbellies are ground up, mixed with flavorings, cooked, then shaped into sausages or bacon-sized strips. His products are totally free of nitrite and stable under refrigeration. They are also low in fat and cheaper on a cost per edible pound basis than bacon. USDA has authorized the use of the name b-a-k-o-n, bakon, for this product, suggesting that it is quite similar to bacon, and, of course, safe. USDA's Agricultural Research Service, if it was allowed to put its mind to it, could probably come up with similar or better processes.

The variety of alternatives demonstrates that USDA could ban nitrite from bacon tomorrow, and people would not be deprived of a food they like, and manufacturers would not be deprived of their profits. In fact, their profits might even improve, because nutritionists would be applauding rather than criticizing their product.

In summary, nitrite is hazardous, because it can react to form nitrosamines, both in cured foods—particularly bacon—and in the stomach. The goal should be to minimize human exposure to nitrite. Industry, keeping both eyes on its profits, has been trying to pull the wool over the public's eyes by saying that there is no substitute for nitrite.

However, substitutes for most or all of nitrite's uses exist. I believe that current knowledge and technology would permit the immediate elimination of nitrite from most foods in which it is used.

Ever since the nitrosamine problem has been recognized, the U.S. Department of Agriculture has sided four-square with industry, and has not conducted even the most basic library and laboratory research. Its continued approval of the use of nitrite violates the Federal Food, Drug, and Cosmetic Act (section 402—adulteration). Finally, the Expert Panel on Nitrites and Nitrosamines has been a USDA device to stall new regulations for years. Moreover, the Expert Panel is in violation of the Federal Advisory Committee Act of 1972 (section 5(b)(2)), because the Panel is unbalanced in that it has an industry representative, but no consumer representative. I have written to Senator Lee Metcalf, the main author of the Advisory Committee Act, urging him to investigate this violation. The Panel has wasted more than $14,000 of the taxpayers' dollars in the past two years. I recommend that the committee be dissolved.

Thank you very much.

[From the Federal Register, Vol. 40, No. 218, Nov. 11, 1975]

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

[9 CFR Parts 318, 381]

NITRATES, NITRITES, AND SALT—NOTICE OF PROPOSED RULEMAKING

Purpose: The purpose of this document is to propose modifications in the use of nitrates, nitrites, and salt in meat and poultry products. It will also advise that work must continue on the removal of performed nitrosamines from bacon and that the extent of progress will be reviewed during and after the end of 1 year.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending the Federal meat inspection regulations, pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), and the poultry products inspection regulations, pursuant to the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), for the purposes set forth above.

Statement of considerations. As used in the opening paragraph of this document, and in this statement of considerations, unless otherwise noted, the term "nitrate" shall mean sodium nitrate, the term "nitrite" shall mean sodium nitrite, and the term "salt" shall mean sodium chloride (common table salt).

The curing of meat and poultry products

today is based partly on the art as practiced over thousands of years and partly on sound scientific principles developed within the last 80 years. Meat was first preserved with salt as the curing agent in the saline deserts of Hither Asia and coastal areas. These desert salts contained nitrates as impurities. Even in Homer's time (900 B.C.), curing meat with salt, followed by smoking, was an established practice. Cato (234–149 B.C.) wrote careful instructions for dry-curing hams. It included rubbing with salt, overhauling with salt, rubbing with oil, smoking, and rubbing the ham again with a mixture of oil and vinegar. However, it was not until Roman times that the reddening effect now attributed to nitrite was mentioned. The Romans had learned from the Greeks the technique of curing pork and fish with salt, and they were probably the first to establish a trade market for cured meats. Meat cured with salt containing nitrate, and even nitrite impurities, developed a characteristic cured flavor and color, as well as the properties of a preserved product. In time, the cured flavor and color became highly desirable to many people.

Reference to the use of nitrate itself can be traced back several hundred years. Its use continued after passage of the Federal Meat Inspection Act of 1906.

Chemists and meat scientists in the early 1900's determined that the active agent responsible for the color and flavor changes was nitric oxide, which was formed from nitrate during the curing process. Nitrite, in turn, is formed from nitrate, but the formation process is difficult to control. Therefore, once this mechanism was understood, the Department in 1925, formally authorized the direct addition of nitrite, permitting no more than 200 parts per million (ppm) of residual nitrite in finished product. This limit has been in force unchanged since then.

In the late 1960's questions were raised as to the use of nitrites in food and their combination with other compounds in the food or in the body to form nitrosamines. The Federal Food and Drug Administration (FDA), Department of Health, Education, and Welfare, and the Department of Agriculture organized a scientific study group to carefully review information and data concerning the matter. This group has met regularly since its organization in 1970. In 1971, the House Intergovernmental Relations Subcommittee conducted hearings on the issue of nitrosamine formation and the possible involvement of nitrite in cured foods. The matter was widely discussed by the public and the media, and further studies were carried out by the scientific community. Numerous conferences were held during 1972, to discuss available information on the role of nitrite in curing and preserving, and to determine what new information was needed. Again, further research was scheduled cooperatively among industry, FDA, and the Department.

Early in 1972, the Department was petitioned to ban, or greatly reduce the amount of nitrite used in the curing process. The Department denied the petition, indicating additional information was needed on the chemistry associated with nitrosamine formation. Another factor associated with the problem, and one which could not be ignored, was the recognized role of nitrite in inhibiting the growth of *Clostridium botulinum*. These bacteria, under favorable conditions, can produce the deadly toxin responsible for the food poisoning known as botulism. Information in literature indicates that in the 1920's, scientists were demonstrating the antimicrobial effect of nitrite, and further investigation continued through the years. In the early 1970's, concentrated research studies were begun to learn more precisely the antimicrobial role of nitrite in modern forms of meat products. In a short time, sufficient data were gathered to satisfactorily confirm the inhibitory action of nitrite to the growth of *Clostridium botulinum*, as well as the levels required to accomplish the desired effect. The studies clearly showed that the amount of nitrite needed to inhibit botulinal toxin formation was dependent upon the quantity of nitrite introduced into the product, rather than the residual level of nitrite in the finished product. It has been necessary for the Department to act carefully and deliberately in this matter, since it recognizes that, in the desire to reduce levels to eliminate the possibility of nitrosamine formation, the very real public health hazard of botulism cannot be ignored.

Late in 1973, the Secretary of Agriculture appointed an Expert Panel on Nitrites and Nitrosamines to advise him on this difficult and controversial subject. The Panel consisted of six well-qualified scientists who represent various disciplines considered most important to the evaluation of the problem. The first three meetings were devoted to presentations by scientists to help the Panel build the proper foundation for its deliberations. Papers were presented on the occurrence of nitrite and nitrate in various foods, and a detailed report given on the meat curing process and its chemistry. The Panel also heard discussions on the toxicology, chemistry, and microbiology of nitrite, and on the toxicology and chemistry of nitrosamines. In addition, the role of ascorbates (salts of Vitamin C) in curing was discussed. Notice of time and place of each meeting was published in the Federal Register at least 15 days prior to the meeting. The meetings were open to the public and were attended by a large number of participants from industry, the research community, and the media. All persons in attendance were given an opportunity to ask questions and participate in the deliberations. Copies of all papers presented and the minutes of the meetings were distributed, upon request, and are now on file with the Hearing Clerk of the Department and available for inspection during regular hours of business.

At its fourth meeting, the Panel formulated three recommendations. After review and approval of these recommendations at the fifth Panel meeting, a report was made to the Secretary. The recommendations of the Panel were:

"1. That use of nitrate salts in the curing process be discontinued in all meat and poultry products with two exceptions, dry-cured products and fermented sausage products. These two product categories will be addressed at a later date when additional data are available.

"2. That the level of nitrite salt permitted to be added for curing of meat and poultry be limited to 156 parts per million (ppm) in all processed products, with the exception of bacon and dry-cured products. Recommendation for these latter products will be deferred, pending availability of further research data.

"3. That the current permitted 200 ppm residual nitrite salt level be reduced in various product categories to reflect what is achievable with current technology. The Panel believes that 100 ppm in cooked sausage products, 125 ppm in canned cured and pickle cured products, and 50 ppm in canned cured sterile product would be sufficient to maintain product safety. Action on bacon, fermented sausage products, and dry-cured products is deferred until additional research data being developed become available.

"It is the consensus of the Panel members that these recommendations are consistent with all safety considerations. Levels of nitrate and nitrite are decreased, thus reducing the consumers' exposure to the potential hazards of nitrosamines, nitrosamides, and related chemicals; at the same time, sufficient levels of nitrite are maintained to protect the consumer against the very real hazard of botulinal poisoning."

To date, no substitute for nitrite has been discovered. No compound or treatment has been found that will produce the characteristic product and that possesses nitrite's antibotulinal properties. Researchers are still trying to find a replacement.

The work of the Expert Panel is not concluded at this point. The Panel will continue to review pertinent research findings, such as will be developed in current studies on dry-cured products and fermented sausages, and they will determine whether to recommend further changes in permitted levels of nitrate or nitrite. The Expert Panel will meet again during the comment period on this proposal. The Panel's comments on those portions of this proposal which go beyond their present recommendations will become part of the record and will receive consideration.

As recognized by the Panel, a special problem exists with bacon. The fact that a nitrosamine is formed during its frying is apparently unique to this product. The levels found have been decreasing steadily and are now in the range of 10 to 20 parts per billion. The meat industry has furthered this reduction through its research efforts and through voluntary adjustments in curing procedures.

The Department, however, recognizes that greater efforts need to be directed toward the removal of nitrosamines from bacon. The problem has been discussed with the meat industry and the Food and Drug Administration. The meat processing industry has already begun studies designed to develop a possible solution to the problem and has indicated its intent to commit additional resources to the work. New precessing procedures are, and will be, explored which are directed toward preventing the formation of nitrosamines in bacon during frying. An assessment of the need for further action will be carried out both during and at the termination of a 1-year period. Also, the Department is considering the establishment of maximum levels of nitrite and minimum levels of ascorbate or erythorbate in the curing of bacon. Data available to the Department indicates that the proposed levels lead to reduced amounts of preformed nitrosamines in bacon.

As a result of the Panel's recommendations, the Department proposes that other related matters warrant discussion. Thus far, most of the attention with respect to nitrates and nitrites has been directed toward red meat products. However, for several years, a considerable number of products have been developed, using poultry in lieu of red meat. Such products have the same basic characteristics as the red meat items, and have comparable need for protection from botulinal toxin formation. Therefore, the Department believes it is necessary to make the same proposal with respect to poultry products as that set forth for meat products.

The Department is aware that some consumers have expressed a desire to purchase products cured solely with salt. This should be considered, and every person should be given an opportunity to comment. Accordingly, the Department is proposing that salt (sodium chloride) be included in the list of approved curing agents. Such use would be for salt-cured products, with sufficient brine concentration, or a water activity level such that *Clostridium botulinum* will not grow. Based upon current information, the Department believes the finished product should have a minimum brine concentration of 10 percent, or a maximum water activity of 0.92. This brine concentration can usually be attained by using 7 pounds of salt per 100 pounds of meat. It is determined in the finished product by analyzing for salt and moisture, and dividing the salt content by the moisture content. Water activity (usually abbreviated A_w) refers to the available water in a product which microorganisms depend on for growth, since their nutrients must be in solution. The A_w for fresh meat is 0.99 or above, as compared to an A_w of 1.0 for pure water. This A_w for meat is near the optimum for many varieties of microorganisms, although many can grow with a lower A_w. As the A_w decreases, the conditions favoring microbial growth also decrease. An A_w of 0.92 or lower will provide ample assurance that *Clostridium botulinum* will not grow.

An additional consideration of this proposed rulemaking relates to the use of curing agents in foods for babies. The greater toxicity of nitrite to infants in relation to adults has been recognized for several years. For that reason, the addition of nitrite to baby foods has not been practiced for some time, although some products generally marketed as toddler foods do contain some cured product as ingredients. Therefore, to clarify this matter, the Department is proposing to deny the use of nitrates or nitrites, or meat ingredients containing nitrates or nitrites, in meat and poultry food products intended for very small children. These are usually marketed as infant (strained) and junior (chopped) foods.

To this point, this document has discussed sodium nitrate or nitrite. However, potassium nitrate and nitrite are used on a limited basis. These agents produce the same results as their sodium counterparts. Because the potassium nitrate and potassium nitrite salts are heavier than their sodium counterparts, it is necessary to permit greater amounts of the potassium salts in order to obtain the same amount of nitrate and nitrite This proposal makes a distinction in quantities permitted on that basis.

In establishing the required levels of nitrite to be introduced into product, the wording of the Panel's recommendations imply a concern that the maximum quantities not be exceeded. While this is true, it is not the only point of interest. The Secretary cannot ignore the bacteriostatic properties of nitrite and the amount necessary to inhibit the growth of *Clostridium botulinum*, since, in the absence of nitrites, it appears that certain meat and poultry products could become adulterated. What those exact levels are will vary, depending on the product and its microflora, method of preparation, packaging and other handling practices. Processors need to exercise special care in keeping with good manufacturing practices to assure adequate introduction of nitrite into product. This means that careful control will be necessary in cases where pickle is recirculated, cleaned, and reused, so that it will not be diluted. Pickle solutions held for several hours will also require special attention by the processor to determine the extent of nitrite dissipation. Further considerations by the Panel or Department, or both, may be necessary in this connection.

Another consideration with respect to this proposal concerns the level of nitrite introduced into pickle cured products. For the purpose of determining compliance with the requirements, the quantity of curing agent introduced into product would be determined on the quantity of curing pickle injected into the product, regardless of the quantity which may subsequently drain out.

Because of the necessity to maintain strict control over the quantity of curing agents introduced into product, it would no longer be permissible to submerge injected product in curing pickle (cover pickle), or to totally pickle cure product by submerging it in curing pickle. However, processers could use brine solutions provided the finished product is in compliance with other requirements. A prohibition on curing by submerging in pickle could affect some small processors of cured products who live in cold regions of the country. The temperature of their facilities is influenced considerably by external temperatures. Because product may freeze and not cure, it has been necessary to employ the use of pickle in the curing process to successfully cure product. This processing procedure would not have to be changed.

This proposal, for purposes of defining permissible levels of residual nitrite, makes a distinction between shelf stable canned cured product and commercially sterile canned cured product. The shelf stable product depends upon a mixture of nitrite, salt, and heat pasteurization to prevent the germination of *Clostridium botulinum* spores. Commercially strile product receives heat treatments sufficient to destroy *Clostridium botulinum* spores.

Based on the data and information available to the Department at this time, it is proposed to implement the Expert Panel's recommendations by limiting the use of sodium and potassium nitrite and nitrates as follows:

A limit would be established of 2183 part per million (ppm) of sodium nitrate or 2597 ppm of potassium nitrate (3.5 oz. sodium nitrate or 4.2 oz. of potassium nitrate per 100 lbs. of meat) to be added in dry cured products; and 1716 ppm of sodium nitrate or 2042 ppm of potassium nitrate (2.75 oz. sodium nitrate or 3.3 oz. potassium nitrate per 100 lbs. of meat) to be added in fermented sausages;

A limit would be established of 624 ppm of sodium nitrate or 768 ppm of potassium nitrite (1 oz. sodium nitrite or 1.22 oz. potassium nitrite per 100 lbs. of meat) to be added in dry cured products and 156 ppm of sodium nitrite of 192 ppm of potassium nitrite (0.25 oz. of sodium nitrite or 0.31 potassium nitrite in 100 lbs. of meat) to be added in fermented sausages;

Whether nitrate, nitrite, or a combination of both are used in dry cured and fermented sausage products, the residual nitrite calculated as sodium nitrite would be limited to 200 ppm; and

In canned cured product, whether perishable, shelf stable, or sterile; in cooked sausages; and other cured perishable products (other than bacon), a limit would be established of 156 ppm of sodium nitrite or 192 ppm of potassium nitrite introduced by pumping of solid pieces of meat or otherwise incorporated into comminuted products. Canned cured sterile products would be limited to a residual nitrite of 50 ppm calculated as sodium nitrite; all other canned cured products, and products prepared with curing solutions, to 125 ppm; and cooked sausage products to 100 ppm.

In addition to the above which are in connection with the Expert Panel's recommendations, the following also are being proposed by the Department:

Use of sodium or potassium nitrites and nitrates would not be permitted in meats used in the commercial preparation of infant (strained) or junior (chopped) foods;

The maximum amount of nitrite permitted to be added to bacon would be limited to 125 ppm and a requirement would be established that ascorbate or erythorbate be used at the maximum rate currently permitted by regulation:

Salt would be permitted as a preservative when added to products in an amount sufficient so that the finished product has a minimum brine concentration of 10 percent or a water activity (A_w) no greater than 0.92;

The foregoing requirements with respect to nitrates, nitrites, and salt would also apply to poultry and poultry products which are prepared in a manner similar to those prescribed for red meats.

As stated previously, it is recognized that a special problem exists with bacon. In this regard, the Department has been assured by the meat industry that it is accelerating studies underway concerning processing procedures which are directed toward preventing nitrosamine formation in fried bacon. At the same time, the hazard of botulism will have to remain an important consideration throughout. The Department will continue to cooperate with the industry and FDA in developing this needed information. This work should be substantially completed within 1 year's time from the date of publication of this document (on or before November 11, 1976). Both during and at the end of this period progress on achieving a nitrosamine-free product will be evaluated and a determination as to need for further action will be made. The Department recognizes that 1 year may not be adequate to resolve this matter entirely, but believes that sufficient information can be developed to better define what further steps might be necessary.

Any person wishing to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by January 12, 1976.

Any person desiring opportunity for oral presentation of views should address such request to the Product Standards Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on: October 30, 1975.

F. J. MULHERN,
Administrator, Animals and Plant Health Inspection Service.

[FR Doc. 75-30331 Filed 11-10-75; 8:45 am]

EXPERT PANEL ON NITRITES AND NITROSAMINES

4. Committee Status: (b) In existence at end of year.
5. Establishment authority: (c) Agency authority.
6. Specific establishment authority: Secretary's memorandum No. 1826, dated September 21, 1973.
7. Committee type: (c) continuing.

8. Establishment date: October 21, 1973.

10. Termination date: October 20, 1975.

12. Committee chair revised during year: No.

13. Brief, statement of function: To study and advise the Secretary on the use of nitrates-nitrites in the processing of meats for the purpose of maintaining a safe supply of meats in the food distribution system.

14. Total number of all reports submitted by the committee during the calendar year:

TITLES AND DATES

Recommendations of the Expert Panel on Nitrites and Nitrosamines, December 4, 1974.

15. (a) total number of open meetings, 5.

(b) Total number of closed meetings, 0.

(c) Total number of partially closed meetings, 0.

(d) Actual dates of all meetings: February 8, 1975, April 25, 1975, June 19, 1974, July 15, 1974, and September 9.

16. Estimated annual man-years of federal staff support for the committee, 0.4.

17. Total annual cost to the U.S. to fund, supply and maintain the committee: $13,162.

18. Statement of any information excluded from this report for reasons of national security: 272.

19. Total number of committee members, 5.

3. Exact name of committee: Expert Panel on Nitrites and Nitrosamines.

4. Calendar year: 1974.

5. Name and address of chairman: Dr. Richard L. Feltner, USDA, Washington, D.C. 20250.

Title: Assistant Secretary.

Occupation: Federal Government.

6. Name and address of agency representative: Dr. Harry C. Mussman, APHIS-USDA, Washington, D.C. 20250.

Title: Acting Associate Administrator.

Telephone: (202) 447–3861.

7. List members alphabetically:

Dr. Francis J. Mulhern, Administrator, Vice-Chairman, APHIS—USDA, Washington, D.C. 20250. Phone: (202) 447–3668.

Dr. Cecile H. Edwards, Howard University, 3910 44th Street, NW., Washington, D.C. 20016.

Dr. Richard A Greenberg, Swift & Company, 115 West Jackson Boulevard, Chicago, Il. 60604.

Dr. James P. Keating, St. Louis Children's Hospital, 500 South Kingshighway, St. Louis, Mo. 63110.

Dr. A. E. Wasserman, USDA, ARS, Northeastern Region, Eastern Regional Research Center, 600 East Mermaid Lane, Philadelphia, Pa. 19118.

Dr. John H. Weisburger, Naylor Dana Institute for Disease Prevention, 2 East End Avenue, New York, NY 10021.

[From the Federal Register, Vol. 40, No. 223, Nov. 18, 1975]

OFFICE OF THE SECRETARY: EXPERT PANEL ON NITRITES AND NITROSAMINES

RENEWAL

Notice is hereby given that the Expert Panel on Nitrites and Nitrosamines has been renewed by the Secretary. The purpose of the Panel is to advise the Secretary on research reports and other data and information concerning the safety of nitrites and nitrates in foods. Such renewal is in the public interest in connection with the duties imposed on the Department by law.

The Chairman of this Panel is the Assistant Secretary for Marketing and Consumer Services.

This notice is given in compliance with Pub. L. 92–463.

Dated: November 13, 1975.

J. PAUL BOLDUC,
Deputy Assistant Secretary for Administration.

[FR Doc.75–31136 Filed 11–17–75;8:45 am]

REPORT BY THE NATIONAL MACHINE TOOL BUILDERS ASSOCIATION

Mr. INOUYE. Mr. President, in early November, the National Machine Tool Builders Association held its 74th annual meeting in Boca Raton, Fla. The machine tool industry is one of the most important in the country, because it produces the large tools used in manufacturing. Without it, the American economy would sooner or later come to a halt. Indeed, this industry is watched closely as an indicator of our national economic health.

Members of the machine tool industry by and large tend to be small- and medium-sized companies. They are not the multinational companies about which a great deal of controversy swirls. In recent years they have watched as imported tools have captured a larger and larger share of the domestic market, while our share of world exports has declined. The NMTBA, which represents most of the industry, has urged its members to expand their export efforts and has been helping individual companies to enter the export market. Export figures have, as a consequence, risen substantially.

What happened in the machine tool industry can be seen in many other indusrties. Our economic supremacy can no longer be assumed although too many Americans are complacent or are indifferent to the plight of American business. The United States faces foreign competitors who are not only able and aggressive, but also who receive the consistent and strong encouragement of their respective governments. American industry, on the other hand, receives inadequate support from the administration and the Congress, and our international economic policy often looks like one of aimless drift.

The NMBTA report was delivered by Mr. Jim Gray, executive vice president of the association. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY MR. JIM GRAY

Thank you, Mr. President and good morning. Members and guests of the Association, ladies and gentlemen, first of all, I want to welcome you to the 74th Annual Meeting of the National Machine Tool Builders' Association. It seems like the last meeting just ended and here we are again.

The climate here in Florida is quite different and the outlook is certainly more pleasant than the one we experienced in Washington last Spring. In the Spring, we were looking forward, rather hopefully, to an expected bottoming out of the worst economic recession to hit America in more than 30 years. The signs of a turnaround were there casting their rays of hope, but no one was quite sure whether or not the signs could be relied upon.

Today, the climate is obviously better. A recovery, perhaps slow, is underway.

As we enter this period of economic recovery, it is important that we take a careful look into the future because as the theme for this meeting indicates, the outlook can get you if you don't look out.

Accordingly, we designed our meeting program to bring together a number of eminent speakers—men who are well qualified to project the outlook that will be affecting the American machine tool industry in the months and years ahead.

I think that, as we listen to the speakers over the next couple of days, it may become obvious that the outlook for American industry will not be a rapid recovery from the recession and all the problems associated with it.

Most of the problems that face us as we prepare to move into the future are a result of our past. You are all familiar with these, but I would like to take just a moment to quickly review.

In the 1960's, the United States had the lowest rate of capital investment of any major industrialized nation. As a result of this insufficient investment, we also had one of the lowest rates of productivity growth of any Western nation. This resulted in an average national economic growth rate of four percent per year which was sixth among the seven major competing industrialized Western nations.

As other nations channeled relatively more of their resources into capital investments, acquiring more modern plants and equipment, they eroded our competitive edge in world markets adding to our potential for unemployment, inflation, capital shortages, *and*, ultimately, this led to the current recession.

This morning, I would like to show you where the American Machine Tool Industry's battle lines have been drawn after years of national underinvestment and then outline how I think we should launch our assault upon the future.

Let us begin by looking at the American economy's consumption of machine tools for the past fifteen years. It is a familiar sight—our nation's purchases of machine tools looks like the proverbial Coney Island roller coaster. During much of the early 60's, machine tool consumption in America was on the uphill climb. Then, in 1967, we began a frantic trip downhill into the depths of the 1971 machine tool depression. Since that time, American machine tool consumption has been climbing at an ever faster rate. Consumption so far in 1975 is running at an annual rate of about 2⅓ billion dollars.

We have attained a dizzying altitude, but the precipice is now in full view. For about a year now, orders have been few and far between, and we have been working off our backlogs at a fantastic pace.

As the backlog evaporates, shipments will go screaming downhill into the next valley. If our industry is to avoid another hair-raising or, if you prefer, hair-losing plunge into the icy waters of recession, then we must quickly stimulate the demand for American machine tools. The early signs are encouraging. More inquiries are turning into orders and it looks like we will arrest the downward plunge of the backlog before it reaches the critical level.

Incidentally, last month's NMTBA Forecasting Conference seems to have confirmed this conclusion. With one exception, the consensus was that next year's orders will be up fifty percent, so here we go again up the roller coaster.

We all know that these wild fluctuations in machine tool demand are damaging. When demand falls too low and American machine tool builders are put through the wringer, then it takes time, sometimes years, to recover the work force and revenues that are lost.

Conversely, when demand skyrockets, efforts to boost production foster inefficiences and customers become unhappy with the long delivery times. Also, the growth in backlogs brought on by sudden demand creates another problem—the loss of another chunk of our domestic market to foreign competitors. As backlogs grow and our deliveries stretch out, more and more of our domestic customers begin looking overseas to meet their immediate machine tool needs.

You have seen it happen before and it is happening again. As our backlogs rise, imports follow just as surely as night follows day. As our backlogs decline, eventually the *dollar* value of imports also decreases. *But* that is only half the story! Each time our backlogs rise, our foreign competitors capture a larger *share* of the U.S. market. But as our backlogs recede, the imports hold on to their freshly captured market share, leaving a smaller piece of a smaller pie for the American machine tool industry.

This chart illustrates the point! In the mid 60's, when business was on the upswing, our overseas competitors cashed in with a 165% increase in their share of the American market. Then the foreigners held on to their recently gained market share until the next surge in business. Last year, when our backlogs were at all time highs our foreign competitors increased their market penetration by another 32%. Now, they are taking one out of every seven machine tool dollars spent in the United States.

How do we stop it? How do we turn the foreign tide that is washing our shores? How do we hang on to our domestic market? One answer would be to expand the capacity of the American machine tool industry so that it can meet the peak demands of our economy. But with a roller coaster machine tool business cycle, we all know that this is highly impractical.

It would mean economic disaster to try to equip our plants to meet domestic demand peaks just so that we can keep imports out of the country. The only way that we could afford to gear our industry for the peaks is by eliminating the deep valleys so that we have a stable, growing market for our products—one that would not be subject to the violent ups and downs for which the American machine tool industry is so famous. And that sounds like wishful thinking!

But it is possible, it can be done, there is just such a market. Listen, all we have to do is to expand our horizons and look beyond our own borders. Actually, the world machine tool market is the Mother Lode because it is a machine tool market that keeps going up.

The world machine tool market has been growing steadily and is almost unaffected by the ups and downs of individual national machine tool demand cycles. It is simply the result of the counter-cyclical effect of combined markets. The world machine tool market could be the answer to our problems. *If* the American machine tool industry would really market its products on a global scale, it could become almost immune to the vagaries of the domestic business cycle. As a result, our industry could better absorb sudden domestic demand peaks and meet our customer's immediate machine tool needs.

Anyway let's take a look at how we've been doing in this gigantic 15 billion dollar global machine tool market.

There is no doubt about it—the dollar value of our exports has been rising, but this is not the whole story. The dollar volume of exports does not take into account the effects of inflation and world market growth. To get the real picture of where the American machine tool industry stands in the world market we must look at *our share* of the total market.

Just ten years ago, the mid 60's, we still had a major part of the global machine tool market. About one-third of the world's machine tool output was made right here in America. Today that proportion has fallen to 19 percent. In short, over the past decade our share of the world market has declined nearly 40 percent.

Now I don't know about you, but this bothers me because it means that even though the dollar volume of our industry's export sales has been rising, we are simultaneously being squeezed out of the market.

This loss is the result of two factors. First, our domestic market has declined relative to the size of the world market. Second, our share of the export market has also declined. We have been belted from both sides!

Who took the market away from us? Where did it go? What happened?

Although many countries have cut into our market share our biggest competitors have done the most damage. During the decade, Japan almost doubled its share of the world's total machine tool business from six percent to eleven percent. West Germany's world market share has grown from fifteen percent to slightly more than twenty percent while the remainder of the European economic community countries suffered only a slight decline in total market share. That's what happened!

Gentlemen, it is obvious that we have been losing the battle for world machine tool supremacy. By losing a substantial portion of the total global machine tool market, we have been exacerbating our industry's roller coaster cycle because we have become increasingly dependent upon a smaller portion of the market and consequently more sensitive to fluctuations in the American business cycle.

I believe that the only way that we can eliminate the violent ups and downs is to become so closely tied to the world market that we will benefit from its steady upward growth.

It's academic—our global market penetration depends upon only two factors.

First, our share of the U.S. market, and

Second, our share of all of the other markets of the world.

Beyond that, we have to go out into the Universe.

We have already seen that a share of our domestic market has been eroded by imports. Our domestic market share declined from 96 percent to 86 percent over the past decade, so we have been suffering defeat in our own backyard.

Now let's turn to the second component of our market share—exports. In this arena we have taken a worse drubbing than at home. When we looked at the dollar value of our exports the results looked encouraging. But if we look at American exports as a percentage of all of the machine tool exports in the world the results are indeed discouraging. In 1964, twenty-one percent of the world's machine tool exports were produced by the United States. Today that percentage has fallen to nine percent. That represents a 60 percent loss in America's share of world export markets in just ten years, but even more significant is the substantial gain for our major foreign competitors.

West Germany, after expanding its market share by 30 percent over the past decade, now holds 38 percent of the export market. Today the other EEC countries divide up 18 percent of the market while Japan has captured nearly four percent.

Why is this so? Why have we lost such a large chunk of the markets that once relied on American machines? Why?

Part of the answer lies in our four traditional export markets—West Europe, Japan, Canada, and Mexico. Ten years ago the American machine tool industry still dominated those markets and they accounted for 70 percent of our exports, but that was ten years ago. Things have changed and that is not the case today.

As the Japanese and European machine tool industries have grown and prospered, benefitting from their government subsidies and lower costs and using their profits for R & D, they slowly narrowed the quality, productivity, and technology gap. The result has been a lessening of world-wide demand for American machines so that today our four traditional markets account for just over half of our exports.

But make no mistake about it. Our competitors have lost their cost advantage, and even though the technology gap has narrowed, we still build the most productive, reliable and accurate machines in the world. And the world knows it!

Some people claim that our market decline is the result of the growth of American subsidiaries throughout the world, but that is just not so. Time and again, in industry after industry, case after case, American companies have shown that when they open a subsidiary in a new market their exports to that market grow as soon as the subsidiary becomes established. This export growth occurs because the American firm becomes better entrenched in the market, can better service its products, and has a stronger sales and promotion effort.

As a result, they capture a growing share of the market and import more and more of the sophisticated products and spare parts that are not locally manufactured. History has shown this to be a fact for virtually every major American industry including machine tools.

So we cannot blame our export market losses on those members of our industry with overseas plants. On the contrary, they are helping us maintain our position. Even though their foreign operations have slowed the decline, we have still lost a substantial portion of our traditional markets.

This chart tells the story. It shows how our share of the imports of our four traditional markets have declined.

Just a decade ago, more than 35 percent of all the machinery tools imported by the EEC, Japan, Canada, and Mexico were made in America. But over the decade, our foreign competitors have turned from weak sisters into strong adversaries so that today only fifteen percent of these once-lucrative markets are served by American machine tools. Now that is a drop of more than 50 percent in market share in just ten years!

Obviously the decline of these substantial markets has contributed significantly to the decline in America's share of the world market.

So let's summarize. Over the last ten years, our share of the American market has declined by ten percent. At the same time, our share of the world export market has declined 60 percent. As a result, our share of the world's total machine tool output has declined nearly 40 percent in ten years. It's shocking!

Can we do anything about it? You're darn tootin' we can! Let me tranquilize your fears.

Look at this chart because it proves that we can help ourselves.

In the middle 1960's our International Trade Committee, after careful study, selected seven nations that had potential for export growth. These nations fall into three market areas—Brazil, the Soviet Union, and the rest of Eastern Europe. Since that time, NMTBA and its members have conducted a modest program aimed at developing these markets. Today, after only a few years, our share of the world exports to these market areas has increased 1000 percent. With the exception of Korea where there are special government considerations, these are the *only* known machine tool market areas anywhere in the world where America's market share has increased in the last ten years.

This export growth has strengthened our total exports significantly. In the mid-60's, these markets accounted for only 1.2 percent of our national machine tool exports. By 1974, this figure had grown to 25 percent. Of course, the lion's share of the growth has occurred in Brazil and the Soviet Union while growth in the other East European markets so far has been modest. There are signs that our market share in East Europe will be accelerating over the next few years.

The message is there and you can see it in neon lights ten feet high. Where we have sustained a total industrywide marketing program of trade missions, catalogue shows, trade shows, reverse trade missions, or other marketing activities, we have been able to reverse the trend.

To me it is clear—we can only regain our rightful share of the world markets through consistent and aggressive international marketing. Every company in this industry must take a more positive view of international trade. We must upgrade the importance of international trade in our future planning.

As companies and as an industry, we must devote more of our resources to the development and maintenance of international markets everywhere in the world. Because if we don't, ten years from now we could be in one heck of a mess.

Throughout the world, the business is there and it is growing every day. All we have to do is go get it. And I want you to Know that NMTBA stands ready to help you regain your rightful share of other markets just as we have in the magnificent seven.

We will develop seminars and workshops to train your people on international financing, export licensing, contract negotiating, or any other subject that will benefit your company. We will conduct market research to locate new and promising markets for industry development. We will organize trade missions to help you gain a foothold in these new markets. We will sponsor foreign exhibitions so that you will have more opportunities to display your products overseas. We will organize reverse trade missions to bring foreign buyers to your plants. And we will bring large groups of foreign visitors to the International Machine Tool Show.

We will gladly do all of these things and more. But to make these programs work, we have got to have your support and we have got to have your participation.

I would like to challenge each and every one of you between now and the January Regional Meetings—tell your elected Directors or tell me what you think NMTBA should do to help you recapture your rightful share of the world market.

We think we know what to do but if our industry can generate a grass-roots movement aimed at once again leading the world's machine tool industry, if we can get that kind of a membership mandate, there will be no stopping us! So give your Association the colors and we will take the point in the new market invasion.

The battle is already in progress and right now the industry is losing its position in the world market. Adamant, Aggressive Action is required because the outlook will get you if you don't look out.

DEVELOPING A FORESTRY PROGRAM FOR THE FUTURE

Mr. HUMPHREY. Mr. President, I wish to share with this body letters which I sent to the Secretary of Agriculture, to Mr. John Beale, president of the Society of American Foresters, and to Mr. William Towell, executive vice president of the American Forestry Association.

In January, we will be receiving materials developed by the Forest Service of the Department of Agriculture on the program and assessment for our forest and rangelands, as called for in the Forest and Rangeland Renewable Resources Planning Act of 1974. This was legislation which I introduced to bring some sensible long-range planning and management to our forest and rangeland resources.

In my letter to Secretary Butz, I emphasized the important role which our private forest lands must play in meeting our future needs for timber and other renewable resources. Most of our discussions regarding forest lands, unfortunately, usually involve only our national forests.

In my letters to Messrs. Beale and Towell I urged that their organizations provide suggestions on principles for the application of environmentally sound forest management and any specific legislative language which might be needed to translate these principles into practice.

In light of the recent Monongahela decision, the issue of forest management has become a very critical one in terms of the management of these resources and our future timber supplies. At the time the program and assessment are reviewed, this concern will also be very much in the forefront of our discussions. The administration has indicated that it will be prepared to provide its own recommendations.

This is an issue of great urgency for our economy and our renewable resources. Mr. President, I ask unanimous consent that these letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Foreign Relations,
Washington, D.C., December 19, 1975.
Mr. John A. Beale,
President, Society of American Forester,
Bethesda, Md.

Dear John: When I addressed your national meeting earlier this year, I suggested that Congress would benefit from the advice of your organization on modernization of forest management legislative authority. As you are aware, the Administration has now decided that it will not appeal the Monongahela case to the Supreme Court, and it will come forward, at long last, with proposed legislation.

It would be most useful to the Committee on Agriculture and Forestry, and I am sure to the entire Congress, to have the views of your organization on principles for the application of environmentally sound forest management and any specific legislative language that you would suggest to translate these principles into practice.

I shall look forward to hearing from you and your organization and to having you advise and counsel on means to assure effective resource management.

With best wishes.

Sincerely,

Hubert H. Humphrey.

U.S. Senate,
Committee on Foreign Relations,
Washington, D.C., December 19, 1975.
Mr. William Towell,
Executive Vice President, American Forestry Association, Washington, D.C.

Dear Bill: When I addressed your national meeting earlier this year, I suggested that Congress would benefit from the advice of your organization on modernization of forest management legislative authority. As you are aware, the Administration has now decided that it will not appeal the Monongahela case to the Supreme Court, and it will come forward, at long last, with proposed legislation.

It would be most useful to the Committee on Agriculture and Forestry, and I am sure to the entire Congress, to have the views of your organization on principles for the application of environmentally sound forest management and any specific legislative language that you would suggest to translate these principles into practice.

I shall look forward to hearing from you and your organization and to having you advise and counsel on means to assure effective resource management.

With best wishes.

Sincerely,

Hubert H. Humphrey.

U.S. Senate,
Committee on Foreign Relations,
Washington, D.C., December 19, 1975.
Hon. Earl L. Butz,
Secretary, U.S. Department of Agriculture, Washington, D.C.

Dear Mr. Secretary: In early January you will be submitting to Congress the first Assessment and Program required under the Forest and Rangeland Renewable Resources Planning Act of 1974. The reports I have received indicate that the Forest Service has been making a most constructive effort to produce an effective report.

The purpose of this letter is to indicate to you several areas of interest that I have and which will need to be addressed when the report is considered.

The time frame for this first Assessment and Program was short, and it was urgent to get underway without delay. Thus I will be most interested in the observations and recommendations offered for strengthening the data base in order to have an improved Assessment and Program for the first full decadal period commencing in 1980.

There are 500 million acres of commercial forest land. Of this total only 107 million are publicly owned while 393 million acres are privately owned. Of the public acreage the National Forests contain 92 million acres. However, most of the dialogue over forestry seems to center on the forest land within the National Forests rather than the almost 80% which is privately owned.

It seems to me that, over the long pull, we are going to have to look to our private lands and to private initiative to supply a large portion of the wood, water, wildlife and other related forest benefits that the Nation will need from its forested lands. I would thus expect that, in the presentation of the Program and in the discussion of the situation, you and the Forest Service will focus on the opportunities, role and needs with regard to the private forest lands. Of special interest is the catalytic role that the public sector can provide in relation to the private sector.

In light of the Administration's conclusion that it will not appeal the Monogahela case to the Supreme Court, we will want your specific advice on the principles that ought to apply to assure environmentally sound forest management and the specific legislative language that you would suggest to translate these principles into practice.

Sincerely,

Hubert H. Humphrey.

RIGHT TO READ AND READING IS FUNDAMENTAL

Mr. MONDALE. Mr. President, I want to thank the distinguished Chairman of the Subcommittee on Education (Mr. Pell) for acting so expeditiously on H.R. 8304. This legislation, which the Senate adopted last evening, assures that State right to read programs currently receiving Federal funding, including a very effective program in my own State of Minnesota, will not lose Federal support this coming February. It also provides much needed Federal support for the creative and effective reading motivation program known as Reading Is Fundamental.

Mr. President, I am particularly proud of the Minnesota right to read program which was initiated in 1972 and is now serving 70 percent of our State's 436 school districts. Since Minnesota began this program, more than 3,000 tutors have been trained and are working with nonreaders in all parts of our State. An independent evaluation of 22 Minnesota school districts has shown that students in right to read districts achieved two and one half times more than students in nonparticipating districts.

Recently, Ed Cain, the outstanding director of Federal/State programs with the Minnesota Department of Education, testified on this legislation before the House Education and Labor Committee. His statement provides an excellent description of the progress which has been achieved under State right to read programs, and I ask unanimous consent that a copy of it be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. MONDALE. Mr. President, this legislation also authorizes long overdue Federal support for Reading Is Fundamental. This successful program, known as RIF, has had an unparalleled record of accomplishment. Without any Federal support, RIF has grown from a single pilot project in Washington, D.C. in 1966 to 344 programs in 46 States serving 2 million children and their families. And these children are making dramatic progress in reading.

Mr. President, this record of achievement is due in large measure to RIF's unique approach of permitting children to choose from a wide variety of inexpensive paperback books, and by letting them keep these books as their own. It is also due to the outstanding leadership that Mrs. McNamara provided, and the generous support of foundation, corporation and literally thousands of individual volunteers.

I am delighted, in short, that this measure before us will assure continued support for the very promising State right to read program, and, at the same time, authorize initial support for the successful and imaginative reading is fundamental program. Let me close by again extending my appreciation to Senator PELL for his leadership on this measure.

EXHIBIT 1

STATEMENT BY: EDWIN E. CAIN

Mr. Chairman and Members of the Subcommittee: I would first like to thank you for the opportunity to speak to this group.

Secondly, I would like to speak with you, this morning, about one of the most cost effective programs funded by the Federal Government. The State Right to Read Program, which has had the most far-reaching impact on the National reading problem, is about to be terminated if something cannot be done immediately.

The National Right to Read Program, funded since 1972 under the Cooperative Research Act, was rescinded by the Education Amendments of 1974, Public Law 93-380. Although I am sure this was not the intent of Congress, enactment of Title VII of P. L. 93-380 resulted in the termination of the State program component of The Right to Read Program as interpreted by the General Counsel of the Department of Health, Education, and Welfare. Without an amendment to this legislation, the activities carried on by 49 states and two outlying areas will end on February 28th, 1976.

In 1974, when only thirty-one states were involved in this national effort, the state agency program was able to establish Right to Read Programs in 1,287 school districts, and provided in-service training for more than 60,000 teachers. This program affects 3.7 million students both at the elementary and secondary level. This entire effort over a three year period was conducted at a cost to the Federal Government of only $5.3 million dollars. By June, 1975, the number of school districts participating in the State Right to Read Programs have increased to more than 3,400. Each has made a commitment to reading excellence, established a plan to attain these goals, and has initiated activities to respond to program deficiencies. No other program in the history of Congress, and The Office of Education has positively affected this many teachers and students for such a small amount of money.

There is no need to review for you the reading problem in this Nation. I've heard testimony before this Subcommittee that has brought to your attention the facts that we have some 18½ million adult illiterates in this country; that one child in four leaves school with severe reading deficiencies; that of the 700,000 youngsters who drop out of school each year, 90 per cent are disabled readers; that one child in five drops out of school sometime between grade five and prior to high school graduation. I hardly need to stress the impact that this situation has on our society, the economy and the welfare of the citizens of this United States.

Since 1965, the Federal Government has taken an active role in addressing this problem. The passage of the Elementary and Secondary Education Act and its amendments have directed billions of dollars towards educational needs, many of those dollars used to fund programs addressing the reading problem. Dropout prevention programs, bilingual education and many demonstration projects are also directly attuned to the reading needs of our students. In spite of these efforts, and additional efforts by the state and local education agencies, the problem is still with us.

The demonstration programs funded under ESEA Title III and other such programs have given many insight into strategy, process, instructional approaches, and administration of reading programs, but these projects have affected a very small percentage of the school districts throughout the Nation.

ESEA Title I has done much to improve reading and the other basic skills of elementary students throughout the Nation. The problem with Title I is that while it can have a significant impact on those children two or more grade levels behind in reading ability, it does nothing to correct the system that produces these failures. We need both levels of effort. One to correct the mistakes our system has produced, and the other to change the system, the process of education, to assure that we do not continue producing educational and reading failures. It is just this system-change process that the State Right to Read Program produced. The State Right to Read Program is not a grants program, but rather a strategy to assure that all data and information that we have attained over the past years are brought together within a single management approach that assures excellence in reading.

The State Right to Read Program consists of 6 major parts, each of which are vital to systemic change.

1. The establishment of a State "Criteria of Excellence" to serve as a standard of what a reading program should be.

2. A commitment by the school board and school officer to the development of a quality reading program.

3. The amassing of public support to assist in the resolution of the reading problem.

4. The preparation of reading leadership at the local school level.

5. The development of a state and local plan of action.

6. The implementation and evaluation of the plan of action.

The Right to Read State Agency Program was initiated by The Office of Education in 1972 with five states participating in demonstration projects with an initial $10,000 Grant; these five states were to develop a process to impact the National reading problem. In Minnesota, this grant in conjunction with monies made available by the Minnesota Commissioner of Education and the commitment of the Governor of the State of Minnesota, gave impetus to the development of the Minnesota Right to Read strategy. It is important to know the premises on which this program was built. They are vital to its success.

1. All but one per cent of the population can be taught to read, and parents have the right to expect that each one of their children will learn how to read.

2. Drastic reform is necessary of at least that part of the educational system which has so consistently produced such a large number of functionally illiterate individuals.

3. The needed reform is not something that can be purchased, because no solution appears to be for sale. Mere money alone will thus not solve the problem. The solution will need to be built rather than bought.

4. The needed reform must be comprehensive in order that rural as well as urban, small as well as large, and non-public as well as public school districts are served equally. By comprehensive we also mean that the out-of-school illiterate is served as well as the in-school population.

5. The needed reform must be systematic and pervasive, rather than consisting of a stab here and a stab there. Random demonstration projects cannot solve the problem, for a system cannot be changed by merely working with a component—one teacher at a grade level, one grade level in a school, one school in a district, or one or two districts in a state. A system is changed by systematically getting to everyone and everything directly. Minnesota has 436 school districts and 464 non-public schools. All contribute to the problem. The solution will not be realized by only working with a few. The nation has about 18,000 school districts. The implication should be apparent.

6. The plan for reform must be replicable. Not only should the plan permit us to solve our immediate problems in the area of reading, but it will hopefully apply to the solution of other problems and in other locales.

7. The plan for reform must have clearly stated objectives, defined action steps, the necessary human and dollar resources, a broad base of support, and a limited amount of time in which to complete the task.

Proceeding from the established premises, the plan was developed. It appeared that in order to eradicate functional illiteracy in Minnesota's schools and out-of-school adult population, the state should attempt to do two things. The state should provide direct technical assistance to local education agencies (LEA's) for an extended period of time in order that quality reading programs may come to eventually be built. By technical assistance we mean the kind of help and knowledge that the typical LEA is unable to buy for itself. By local education agency, (LEA) we mean each and every public school district (436) and non-public school (464) which voluntarily seeks help. By extended period of time, we mean up to three and one-half years. By quality reading programs, we mean programs which are able to meet the State of Minnesota Criteria of Excellence in Reading Programming. The technical assistance will help LEA's to achieve these criteria. This role of being a provider of technical assistance on a massive scale is new to the State Department of Education.

The state should also seek to ensure that each LEA come to eventually possess its own technical assistance person. We will call this person a reading director. This will be a leadership position. The reading director will be prepared to assume this role by completing a program of preparation, a curriculum, as conducted by State of Minnesota personnel.

On October 2, 1972, the Minnesota State Board of Education created a new position in Minnesota schools, that of reading director in Right to Read LEAs. A local education agency which designates a person as reading director may consider that person legally qualified to serve in that position upon his/her completion of the program of preparation.

The Minnesota Plan assumes that if an LEA is able to truly achieve the Criteria of Excellence, and if the LEA is served by a truly competent reading director, it will follow that functional illiteracy will be on its way to eradication. There is no single component more essential for educational reform in reading than the development of a "Criteria of Excellence." It provides the basis for assessing school district and community needs; it identifies the areas of training need for teachers and administrators; it serves as an evaluative tool in determining progress toward the stated goal and it alleviates the fear of change by showing what changes are to be made.

The Criteria of Excellence in Minnesota was established by the State Advisory Council for Reading. This Council included educators, parents, reading specialists, and a variety of others who represented concerns about reading and the educational system. Educators are too prone to avoid the identification of specific learning objectives. The Criteria of Excellence clearly stated what an effective, failure-proof, reading program in the public and private schools should be. This document served as a guide for school districts in the development of a comprehensive approach toward meeting the reading needs of children and adults.

The document not only deals with the instructional process, but also addresses all areas of the educational process which impinge upon learning. Certain criteria addressed the administration and organization of the reading program. There was a commitment to student learning and not just to staff teaching. The organization and management of the classroom was clearly addressed, as well as local community leadership and organization. The Criteria of Excellence recognized that a program must be comprehensive, not just dealing with one segment or a few grades of the school program, but addressing a pre-school through adult effort. It stressed the use of community resources and supported the development and initiation of intensive in-service training for teachers, support services for the administration, faculty, staff, volunteers, and parents.

Such a Criteria of Excellence has been developed in thirty-one Right to Read States along with a commitment to implement such a program on a schedule designed by each participating state agency.

In Minnesota we began with a 240 hour training program of local reading directors from 22 pilot districts selected regionally throughout the State. Each of these reading directors were responsible for the initiation of Right to Read Programs in their local districts, whether they be public school or private school districts. From that group of 22 local reading directors, 8 were selected to serve as regional directors and to implement our "multiplier effect." The second phase of the program found each of the regional directors conducting classes of preparation for 20 or more new reading directors within their respective regions. By continuing this process over five phases in the past three years, we have now provided reading leadership at the local level in nearly three-fourths of our 436 school districts and 464 plus private school districts.

The larger school districts such as Minneapolis and St. Paul determined that the program would be more effective in the metropolitan schools if a reading director was prepared and assigned to each of the units within their school district. Minneapolis, for example, has employed seven reading directors, each of which has been assigned to an educational pyramid, i.e., a senior high school plus the "feeder" junior high schools and elementary schools within a specific geographical location.

In some of the small school districts and in the private schools, the position of the reading director may be combined with that of a master teacher or a principal. The important factor is that a specific, trained individual be delegated both the responsibility and the authority to carry out those functions that will reshape the system to meet the reading needs of children, youth and adults.

What impact has this strategy had on the reading program in Minnesota? This is the vital question.

Participation—Nearly three-fourths of Minnesota's 1,000,000 students attend public or private schools committed to Right to Read concepts. This feat has been accomplished in three years with no promise of money to local school districts, only the opportunity to improve the quality of education. They receive only technical assistance, reading leadership training, and an opportunity to share reading program materials and ideas with each other.

Volunteers—The greatest untapped resource this nation has in education are the citizens themselves. Parents, senior citizens, and students are currently providing millions of hours in volunteer services to the Minnesota Right to Read Effort.

In the adult literacy program alone, more than 3,000 volunteer tutors have completed 12 hours of training and are working in every section of the state, providing the opportunity for adult non-readers to overcome a handicap more severe than many physical and mental handicaps.

Finance—The Minnesota State Legislature has added over a million dollars to this effort. ESEA Title V funds also were used to increase the initial Federal grants. Seven other states now have passed or have pending legislation supporting their respective Right to Read programs.

Evaluation—Minnesota has initiated a twelve phase evaluation program which includes statewide assessment of reading skills. These studies have indicated a surging enthusiasm for the Right to Read effort by teachers, administrators, parents, and others surveyed. But most significant, a study conducted by an independent evaluation firm of 22 Right to Read and 22 non-Right to Read districts, found after seven months of program involvement that students in Right to Read districts achieved 2½ times more than students from non-participating districts.

Other Factors—The Right to Read concept encourages, supports, and enhances reading programs for all students. We all recognize the need for programs for the gifted and talented, but little has been done except in isolated demonstration programs to provide for the needs of these students. However, under the Right to Read "umbrella," the Great Books Program has increased from 14 school districts serving 1800 children in 1972, to 110 school districts serving 25,000 students in 1975. Similar growth has been observed with RIF, Book Fairs, and other reading program activities.

Similar results are taking place in States across the nation, but it takes time to set in motion a program of the magnitude reached through the Right to Read State Agency Effort. The remaining 18 states, Puerto Rico, and the District of Columbia just received planning grants a few months ago. Twenty other states have been in operation a little over two years. To terminate legislative authority for funding at this time is simply unbelievable.

H.R. 8304 authorizes the U.S. Commissioner of Education to continue the State Right to Read Program under Title VII of the Education Amendments of 1974. Also, it permits the States to continue their work with secondary school students and adults as well. Without this amendment, program funding will expire in 31 states on February 28th, 1976, and in the remaining states, after one year of planning, in June, 1976.

The Honorable Wendell R. Anderson, Governor of the State of Minnesota, has been an educational leader in providing the impetus necessary to initiate a program of educational reform. In his speech to school administrators, launching the State's Right to Read Program, he made the following predictions.

"First, we must abolish functional illiteracy so that all our citizens, rich and poor alike, will have a better chance to learn from the accumulated wisdom of man. This is the goal of our Right to Read program, and to achieve it we must not only eliminate the existing reading and literacy deficiencies of today, but also reform our educational institutions so that these problems will not reoccur tomorrow."

I am sure the U.S. Congress had no intentions of terminating the State Right to Read program when this P.L. 93–380 was passed. This program has the strong endorsement of the Council of Chief State School Officers, as well as U.S. Commissioner Bell. The prompt passage of H.R. 8304 will assure that thousands of children, youth, and adults will have the opportunity to learn to read, and that the system that produces failures will be changed.

CRITERIA OF EXCELLENCE IN READING PROGRAMING

1. There is coordination of all of the administrative facets of the reading program.

2. There is continuous progress organization of the reading curriculum so as to preclude omissions.

3. There is a record keeping system for individual pupils.

4. There is a complete testing system which includes the use of criterion-referenced measures.

5. There is a commitment by staff to pupil learning.

6. There is refined accommodation of the varying moments of readiness, varying rates and modalities of learning, and special needs and problems of all children.

7. There is accommodation of the Instructional Reading Level of all children.

8. The materials that provide the basis for reading instruction must fairly reflect the racial, cultural, and sex differences found in our society.

9. There are curriculum adjustments in other subject areas for the children who are unable to cope with grade level reading matter.

10. There is ongoing in-service education for the total certificated teaching, supportive, and administrative staffs that is both intensive and extensive. Certificated staff will also include substitute teachers. Supportive staff is interpreted to include librarians, teachers of special subjects such as music and physical education, counselors, et cetera.

11. There is a program of preparation in reading for non-certificated staff who work in the classroom, such as teacher aides, par-

ent volunteers, et cetera, and for the auxiliary personnel associated with the school.

12. Opportunities are provided to junior and senior high school teachers in academic subject areas to develop the competencies which will allow them to accommodate the varying reading achievement levels of their students.

13. Each local education agency has a cadre of trained volunteer reading helpers.

14. There is an adult basic education component.

15. There is defined curricular provision within the LEA for individuals at both extremes of the aptitude continuum.

16. There is an articulated pre-school component that involves parents.

17. There exists readily available school and public library resources and services.

18. Provision has been made within the local education agency to produce instructional and practice materials for distribution to the teachers of reading. Materials that allow pupils to work independently and that articulate with the defined curriculum of the LEA are desirable.

19. Junior and senior high school teachers of reading have a demonstrated knowledge of developmental reading as it relates to their local education agency's curriculum.

20. The Board of Education of the local education agency has established an incentive program for teacher in-service education in reading.

21. Each local education agency defines their reading curriculum and makes the information available to the public.

22. Each local education agency has identified someone within the LEA who has the authority responsibility, and time for the development and maintenance of a quality reading program.

23. The local education agency annually has available the achievement levels of their pupils in reading by grade and/or age level.

24. Each local education agency has developed a reporting system for reading development that fully, accurately, and specifically documents a child's learning and provides such information to the parents.

MINNESOTA'S RIGHT TO READ EVALUATION DESIGN

I. Reading Achievement of Pupils in Grades 2, 4, and 6 in 11 Phase I Right to Read LEAs and 11 Non-Right to Read LEAs During the 1972–1973 School Yaar. Purpose: To assess pupil growth in reading attributable to Right to Read participation, Study report completed in September of 1973.

II. State of Minnesota Educational Assessment and Right to Read Mini-Assessment of the Reading Achievement of 9 Year Olds. Purpose: To assess pupil growth in reading attributable to Right to Read Participation. Pretest administered in January of 1974, Posttest to be administered in January of 1976.

III. A Study to Determine the Percent of Minnesota 16 Year Olds and Citizens Over 16 Years of Age Who Meet the Definition of Functional Literacy. Purpose: To assess the extent to which Minnesota has/has not realized the national Right to Read objectives. Instrumentation to be developed beginning in 1975. Instrument to be administered in the fall of 1979.

IV. A Report on the Number of Out-of-School illiterates Who Have Learned to Read as a Result of the MLCI and Right to Read Partnership. Purpose: To determine the number of literacy projects, individuals trained as tutors, individuals being tutored, and the number having learned to read. Annual Report filed beginning in May, 1974, and to continue through remainder of decade.

V. A Study of the Impact of the Minnesota Right to Read Program on School and Community: An Attitudinal Survey of Participants. Purpose: Determine the attitudes of participants about what is happening within the LEA as a result of participating in Right to Read. Survey of Phase I Participants done in January of 1974 and report completed in May of 1974. Survey of Phase II and III participants to be done in fall of 1975. Survey of Phase IV participants to be done in fall of 1976. Survey of Phase V participants to be done in fall of 1977.

VI. Processes and Results of Establishing Quality Reading Program: An Evaluation of the Minnesota Right to Read Program. Purpose: To assess the degree to which the 24 performance standards are being realized, and to evaluate the reasonableness of those standards. Survey of Phase I and II LEAs done in June of 1974 with final report completed in March of 1975. Survey of Phase I, II, and III LEAs to be done in September of 1975. Survey of Phase I, II, III, and IV LEAs to be done in September of 1976.

VII. An In-depth Analysis of a Right to Read School District. Purpose: To document the experience of a school district as it goes about the process of implementing the Right to Read strategies. Effects on institutions and individuals have been sought. The study was begun in August of 1975, and the report completed in January of 1976.

VIII. Special Education Questionnaire. Purpose: To gather information regarding the relationship of special education and the Right to Read effort. The survey was done in September of 1974 with the report completed in December of 1974.

IX. A Study to Determine Why LEAs Did Not Elect to Voluntarily Participate During the Primary Thrust of Right to Read (January, 1972–June, 1976). Purpose: To identify the reasons for failing to participate. The Study is to be undertaken in February of 1976.

X. A Study of Evaluation of the Right to Read Model for Reform. Purpose: To examine the strategies employed and assess the efficacy of those strategies combined with conclusions drawn as to why or why not each was successful. This study is to be begun in June of 1976.

XI. Letters of endorsement.

XII. Opportunities for individuals and agencies to piggyback on Right to Read in evaluative efforts.

TOXIC SUBSTANCES

Mr. TUNNEY. Mr. President, the Toxic Substances Control Act has now been pending before the Congress for nearly 5 years. While it has passed both the House and the Senate in each of the last two Congresses, irreconcilable differences on key provisions of the bill have prevented its enactment into law.

Most of the controversy has surrounded the premarket screening provisions of the legislation. While the Senate has steadfastly maintained that legislation should have a strong premarket screening function, whereby the Environmental Protection Agency is given notification prior to the manufacture of each new chemical, the House of Representatives has opted for a very limited form of premarket screening. In my view, and I share this with others on the Committee on Commerce, who have fought hard for toxic substances legislation, a strong premarket screening provision is an absolute necessity to protect the public from environmental pollutants at the time when the costs of control are the lowest. It is at this time, before expensive equipment has been purchased and built and before jobs are committed that control is most appropriate. But even more importantly, control at this stage avoids the pain, misery, and, in some cases, even death that all too frequently follows the production of chemicals in large quantities without sufficient knowledge as to their toxic properties.

The grim facts continue to mount. Vinyl chloride, BCME, DMNA, PCBs, and other chemicals in a number of instances recently have been found to cause disastrous health effects, and in several cases cancer. In fact, the cancer death rates are at an all-time high and, according to a National Cancer Institute study, are centered around the industrialized sectors of the country. NCI has estimated that up to 85 percent of the cancers are caused by substances placed in the environment by man.

It is high time that the trend be reversed and the Toxic Substances Control Act is a vital tool to reverse the trend.

Recently, an article appeared in the Sierra Club Bulletin which gives an excellent history of and rationale for the Toxic Substances Control Act.

In addition, an article appeared in the November 26 issue of Coastal Zone Management, a publication of Nautilus Press describing the results of an EPA conference on PCBs in November.

I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Sierra Club Bulletin, November/December 1975]

TOX-IC! LEGISLATION TO CONTROL TOXIC SUBSTANCES

(By Nancy Buder and Linda Billings)

The following article is about poison—in the working place, the home, and the environment at large. It is about products that each of us uses every day, products that have already resulted in a significant incidence of disease and death. It is about Congress' repeated failure to pass legislation to assure that new substances are screened and tested for toxicity before they are introduced into the marketplace and from there into our homes. This article is not pleasant, but its subject is a matter of life and death. If, after reading this article, you agree that something must be done now to protect all of us from the vast array of toxic substances that contaminate our lives, take a few minutes to write your senators and representatives in Congress, urging them to support Senate Bill 776 and House Bill 7548, both of which would, for the first time, provide adequate controls on the introduction and use of hazardous chemicals.

Each human epoch revels in its singularity, proposing as unique virtues its responses to circumstance; as enlightment, its own meager candle in the corridors of history. This is obvious enough in our own time in the pronouncements of politicians, the assurances of many scientists and engineers, and in the sloganeering of corporations and their ministers of marketing. Until the mid-sixties, when almost everything began to be called into question, most of us accepted, or at least put up with, such bromides. Progress was our most important product; modern chemistry was a miracle. In some ways, perhaps, it still is, yet increasingly we learn that yesterday's testtube wonder has become today's Frankenstein monster. Radium, DDT, thalidomide, fluorocarbons, mercury, phosphates, abestos, and various plastics, to name only the most notorious examples, are all former wonders now regarded with either skepticism or horror. In too many cases, the miracle has turned out to be a mixed blessing.

Each year, American industry introduces hundreds of new substances into the environment. We eat them, wear them, inhale them, wash in them, wrap things in them, keep things in them, and apply them to our bodies. Yet evidence accumulates each day that many of our most common domestic products are fabricated from poisons, that in our most routine and necessary acts we may be inadvertently poisoning ourselves, our environment, and our posterity. The Department of Health lists 13,000 chemicals as toxic substances. Of these, 1,300 are carcinogens (cancer causing), and about 1,000 are mutagens (substances believed to cause genetic mutation). Furthermore, the National Cancer Institute estimates that between sixty and ninety percent of all human cancers are caused by environmental factors.

POLYVINYL CHLORIDE

One common substance known to be a carcinogen is polyvinyl chloride, or PVC, the most common plastic in use today, accounting for about half of all plastics. PVC is fashioned into a variety of products: food wrappers; plastic bags used in blood transfusions; water pipes; toys; dentures; phonograph records; furniture coverings; containers for oils, beverages, shampoos, and other liquids; and a large variety of other common household items. Its manufacture is responsible for one percent of the gross national product.

Polyvinyl chloride is an enormous molecule comprising a chain of individual vinyl-chloride molecules. Hence the name: poly- (many) vinyl chloride. But when this chain is formed, not all the vinyl-chloride molecules are linked up; some float free, so to speak, in the structure of the PVC molecule. PVC plastics were not pretested for possible toxicity, and these randomly floating vinyl-chloride molecules were therefore not known to pose a health hazard. A few years ago, however, scientists were forced finally to study the substance.

Two years ago, Dr. John L. Creech, physician for the B. F. Goodrich chemical plant in Louisville, Kentucky, was disturbed by the large number of workers with serious liver ailments. Searching the work records, Dr. Creech discovered that in the previous five years, four employees had died from angiosarcoma of the liver, an extremely rare form of cancer. To date, nineteen workers in PVC plants have become victims of this inevitably fatal disease. Scientists estimate that each year only twenty new cases of this disease would normally occur throughout the entire United States, so that these nineteen cases among PVC workers alone are equivalent to an epidemic.

It has been known for twenty-five years that vinyl chloride is toxic to the liver. Today, we are learning the real extent of this toxicity by the sharp rise in this rare form of liver cancer. Trying to pin down the causes of this disease is complicated by what scientists call its "twenty-year latency period." It is believed that the onset of symptoms comes twenty years after exposure to the carcinogen, a lag that makes precise determinations of cause and effect difficult. The problem is further complicated by the likelihood that cancer may not require prolonged exposure to the carcinogen, but may be triggered by even a single overdose.

Nor is angiosarcoma the only health problem associated with vinyl chloride. In 1973, researchers at Bonn University in Germany found extensive liver damage in nineteen out of twenty workers at a single PVC plant, damage that could be the first signs of approaching cancers. Tumors believed to be connected with PVC exposure have also been found in the brain and lungs. Osteolytic lesions, which are caused by constriction of blood vessels in the hands, have also been observed among PVC workers. These lesions typically lead to a loss of sensation in the hands and a shortening of the fingers. Another debilitating disease associated with PVC is "meat packer's asthma." Meat packers use PVC film to wrap cuts of meat. The plastic sheets are severed by a hot wire that decomposes the plastic, releasing vinyl-chloride fumes into the working environment. After inhaling these fumes, workers frequently have trouble breathing, sometimes leading to permanent disability.

The workplace is like the canary in the mine; it may be the best indicator of environmental cancers that later may affect the populatioin at large. After all, the meat being wrapped is what we take home from the supermarket, and angiosarcoma has not been limited to PVC workers. In upstate New York, three deaths caused by the disease did not involve occupational exposure to vinyl-chloride molecules. The three victims lived near a vinyl-chloride plant; their deaths were attributed to breathing the local air, which contained vinyl-chloride gas from the factory.

Genetic mutations have also been traced to polyvinyl chloride. Dr. Cesare Maltoni of Bologna, Italy, has shown that pregnant rats exposed to PVC will spontaneously produce offspring with angiosarcoma. Studies in the United States indicate an increased rate of birth malformations among human infants born in areas where PVC plants are located.

The consumer has great difficulty avoiding PVC products. In the United States alone, 150 million pounds of vinyl film are used in packaging meat and fresh produce, 55 million pounds are made into bottles to contain oils and medicines, and 200 million pounds are used as lining and lid gaskets for metal and glass food containers. PVC is also used to package various cosmetics. It is virtually impossible for the average consumer to distinguish PVC containers from those made from other plastics or to detect whether any vinyl chloride has leached into the product inside the containers. Many products in daily use far more vinyl chloride than the one part per million (ppm) recommended as an acceptable level for even the working environment.

Alcoholic beverages are especially susceptible to the migration of vinyl-chloride molecules from containers. Studies have shown the alcohol in PVC bottles could contain up to twenty ppm of vinyl chloride. Because of these high concentrations, the Food and Drug Administration (FDA) has banned PVC liquor bottles because it "knows no studies which establish a safe level of consumption when this monomer [vinyl chloride] is leached from containers into alcoholic foods."

Vegetable oils have been found with concentrations of vinyl chloride up to 6.5 ppm, and cider vinegar in PVC bottles has reached levels of 8.4 ppm. According to the American Meat Institute, vinyl-chloride concentrations in foodstuffs wrapped in PVC film are around four ppm. Many cosmetics, including almost all shampoos, resemble alcohol and fatty foods in their affinity for vinyl-chloride molecules. Hair tonic, for example, can contain four ppm and mouthwash nine ppm.

Vinyl chloride can also leach into water from storage bottles and PVC water pipes. Water stored in plastic bottles for three months showed .03 ppm; and after twelve months, .11 ppm, according to an industry study. Water stored in PVC pipes for three days contained .023 to .036 ppm of vinyl chloride, and thereafter showed indefinite increases.

As a result of such figures, the FDA recently extended its ban on PVC containers to include all rigid food packaging. This ruling prohibits PVC from being used in containers for such items as salad dressing and vegetable oils. The FDA will continue, however, to allow fresh meat and produce to be wrapped in PVC film. Previously, the FDA banned the use of vinyl-chloride gas as an aerosol propellant, which use could have resulted in 250 ppm of PVC in a single spray.

Pharmaceutical houses and hospitals often use PVC products—containers, syringes, tubing, and many others. At first, the medical profession enthusiastically welcomed PVC products because their low prices permitted one-time use and disposal, thus eliminating the need to sterilize equipment, and minimizing the risk of passing infections among patients. But one study indicated symptoms of acute liver ailment among patients receiving weekly hemodialysis with PVC equipment. The symptoms stopped immediately when the PVC material was eliminated from the treatment procedure.

PVC surrounds us, and we are constantly being exposed to vinyl-chloride gas. Passengers in a warm car are inhaling vinyl chloride whenever they can smell the plastic seat-covers. A week-old infant is likely to suck a vinyl pacifier or receive its formula from a PVC bottle. As Anthony Mazzocchi of the Oil, Chemical and Atomic Workers Union has pointed out, "Someone assumes that something one is using is safe because no one has been told that it is unsafe. And people have this habit of thinking that someone is looking after them. They really don't know that these items have not been tested."

The tragedy of this situation is that it could have been avoided before vinyl chloride had caused even one case of angiosarcoma or one attack of meat packer's asthma. As Senator John V. Tunney of California said during the Commerce Committee's hearings on vinyl chloride in 1974, "It is absolutely indefensible to me that the only way we became aware of the dangers of vinyl chloride was because of the deaths of at least sixteen vinyl-chloride workers." Lack of technology is not to blame; scientists have in their possession the ability to determine what substances are detrimental to man and the environment. It is inexcusable that with such knowledge available these men and women were allowed to come in contact with the substance that caused their deaths.

TOXIC SUBSTANCES CONTROL ACT

Until recently, public concern about chemical pollutants was largely restricted to regulation of air and water pollution, pesticides, food additives, drugs, and occupational exposure. But over the past five years, pollution, disease, and death from exposure to toxic substances have increased markedly. Evidence indicating a number of substances continues to accumulate, some of it already conclusive. Yet Congress has done nothing to solve the problem, having spent these same years fruitlessly debating the issue. Legislation controlling toxic substances has been introduced in both Houses in the past, but has come to nothing, thanks to intensive lobbying by the chemical industry, which has succeeded in clouding the important issues. Letters from manufacturers expressing fear that such legislation would put many of them out of business have flooded the offices of Congress. Unfortunately, these same offices have received few letters favoring the legislation, this, largely because the public has simply been unaware of the problem.

There is still time to do something. Legislation that would control toxic substances is now before both houses of Congress. In the Senate, Tunney has once again assumed leadership on this issue, gaining early hearings for his bill, S. 776, the Toxic Substances Control Act (TSCA). Although environmental groups and other supporters of the legislation have suggested a few changes, for the most part S. 776 is an excellent bill that takes many steps in the right direction. As in the past, the bill has come under heavy attack from the chemical industry. Supporters of the legislation in the Senate Commerce Committee fear that once again it will fail because of strong industry protest and the small volume of mail supporting the measure. A Senate floor vote is expected at the end of the year.

In the House, a critical battle on toxic-substances-control legislation is shaping up in the House Interstate and Foreign Commerce Committee, most of whose members formerly have turned a more sympathetic ear to the complaints of the chemical industry. Representative Lionel Van Deerlin of California, whose subcommittee will review the legislation, has taken a go-slow approach. The main bill the committee will work on is sponsored by Representative Robert Eckhardt of Texas, who, along with John Moss of California, has been one of the most effective supporters of the TSCA in the House. While the Eckhardt bill does not satisfy environmental groups on some key points, such as premarket testing, it is a substantial improvement over former House versions. Eckhardt is expected to continue to play an important role in shaping the legislation. Full committee action is not expected until late this year, with a House floor vote unlikely until early in 1976.

A new champion has emerged in Representative William Brodhead of Michigan, who has introduced HR. 7548, the Federal Toxic Substances Control Act, an excellent bill supported by environmentalists, public-interest groups, and some labor groups. It contains the following provisions:

The Environmental Protection Agency (EPA) would have to require premarket screening of all new substances or significant new uses of existing ones to find out what, if any, hazards are posed, and further, would have to require testing of existing substances and products when this is deemed prudent;

EPA would regulate the manufacture, distribution, use, and disposal of hazardous or potentially harmful substances;

EPA would be authorized to protect the public from hazardous substances posing an imminent danger, to seize substances or products in violation of the law, and to allow citizens to bring suit to ensure enforcement of the law;

Strong penalties would be provided for violators;

EPA woudl be authorized to gather data on chemical substances currently in use through research, monitoring, and the preparation of reports;

Employees would be protected from retaliation and provided with special assistance in case of bona fide job losses;

Loans would be authorized for small businesses that may suffer economic hardship from the act's testing requirements;

EPA would be granted flexible authority to exempt laboratory and research chemicals (the majority of which are made in very small batches and have very limited uses);

The act would preserve the force of existing laws, such as the Occupational Safety and Health Act, the Clean Air Act, and the Water Pollution Control Act, while allowing EPA full authority to apply the provisions of the Toxic Substances Control Act;

The act would provide for disclosure of health and safety information on substances (information now concealed by manufacturers under the guise of "trade secrets").

The industry claims to support control legislation (with the notable exceptions of Dow Chemical and many small manufacturers, who oppose it strongly), but not this particular bill. It instead favors H.R. 7764, by Representative John Y. McCollister of Nebraska, which is substantially weaker than the Brodhead bill in many key respects. The McCollister bill is essentially the same as two previous bills that were passed by the House. In fact, although bills have passed in both the House and the Senate in previous congresses, their differences proved irreconcilable In both cases, environmentalists supported the Senate versions, and the chemical industry supported the House bill. Neither side was willing to compromise.

The point of critical difference has been testing requirements. Chemical companies, fearing that EPA would be overzealous, have favored tight restrictions on EPA's authority and discretion. The industry would allow EPA to order testing of only those substances that have already been shown to be hazardous. The burden of proof would be on EPA. Thus, in effect, tests would be allowed on substances that least need them, but forbidden on substances of which we are most ignorant. Furthermore, EPA would be allowed to require premarket testing only on substances that it would officially list as posing an unreasonable risk. Catch 22: such risk can only be determined by the tests that are forbidden until such risk is shown.

The chemical industry is most concerned, of course, about the costs of testing. The Manufacturing Chemists' Association estimates that they would range from $358 million to more than $1.3 billion a year, but refused to release the data on which this calculation is based. Preliminary information obtained from them indicates, however, that the higher figure is based on the assumption that a very large number of chemicals would be tested, using the most expensive tests, as, for example, is the case with chemical pesticides. The fallacy here is that pesticides are poisonous by definition and must therefore be submitted to the most rigorous testing procedures. This is not the case with most industrial chemicals.

EPA has charged that the estimated testing costs in the Manufacturing Chemists Association's report are excessive, that the actual costs will more than likely range between $80 and $140 million a year. Costs of this magnitude would hardly induce bankruptcy in the section of the industry most likely to be affected, namely, the giant producers. Last year, chemical-industry sales were $72 billion, and profits after taxes exceeded $5.5 billion. The small manufacturers' fears of bankruptcy are not realistic since very few of them are engaged in developing new chemicals.

But if we are going to talk about costs, we should also consider the costs of not initiating a testing program for new substances. Right now, the costs to society from death, disease, and disability as a result of pollution from toxic chemicals far exceed any projected costs of testing. The costs in suffering are incalculable. The time never was here when human beings and the environment should have been used as guinea pigs for substances that should have first been tested in the laboratory. It is time to enact a strong toxic substances control act. Please send your letters to your congressmen and senators now. Ask them to support S. 776 and HR. 7548—while there is still time.

POLYCHLORINATED BIPHENYLS

Polychlorinated biphenyls (PCBs) offer a particularly revealing case study of the effects of untested new chemicals that become widely used and dispersed with unfortunate consequences to humans and their environment. PCBs are a highly toxic and persistent class of synthetic chemicals that are similar in structure to DDT. Their stability and fire-retardant properties make them very desirable for a wide variety of uses, including plasticizers, textile coatings, paints, flame-proofing, carbonless "carbon" paper, and impregnants in transformers and power capacitors. Widely used for more than forty years, PCBs have been increasingly restricted as their toxic properties have become better known. Monsanto Chemical Company, the sole producer of PCBs in the United States, now limits its PCB sales to use in the "closed systems" of capacitors and transformers. Nevertheless, amounts for other uses are being imported from abroad, and there are no legal controls over the uses of PCBs. As recently as this year, state and federal agencies have identified fourteen types of products containing PCBs, including copy-reproduction toner, primers, toilet soaps, and waste paper used in recycling. PCB residues still remain high in some areas, and their dispersal throughout the environment is thought to be virtually ubiquitous. Recently, PCBs were discovered in the drinking-water supply of a remote Air Force facility on Johnson Island in the South Pacific.

Concern over PCBs intensified this year with the discovery that pollution levels were increasing largely because of contamination from electrical-manufacturing plants. The increases have rendered fish inedible in several areas and have wiped out the striped-bass fishery in the Hudson River. PCB contamination continues to halt commercial and sport fishing in Lake Michigan. PCBs are stored in fatty tissues, and it has been documented that fish and other aquatic organisms accumulate the substance in amounts greater than 40,000 and 75,000 times the levels to which they are exposed. It has been estimated that forty percent of the American population contains one part per million or more of PCBs in their fatty tissues. We are just beginning to get some idea of how serious the consequences may be for human beings. We already know that PCBs produce biochemical changes in fish, even when present at very low levels. Adverse effects on reproduction have been observed in rhesus monkeys, minks, rats, and many species of birds. The studies on primates are especially alarming because they involved PCB levels as low as 2.5 and 5.0 parts per million. Experiments on rats also revealed that PCBs were liver carcinogens.

[From Coastal Zone Management, Nov. 6, 1975]

COASTAL RESOURCES DEVELOPMENT, CONSERVATION AND ENHANCEMENT

A group of industrial chemicals known as PCBs received the full scientific and bureaucratic treatment when about 500 people concerned with the study and regulation of these "ubiquitous" compounds met last week in Chicago to discuss the presence and effects of the substitutes for, and the control of polychlorinated biphenyls. In the midst of the controversy over continued use of PCBs in closed electrical systems and their widespread presence despite curtailed use (CZM,3Sep), is the sponsor of the 19–21 Nov. "National Conference on Polychlorinated Biphenyls," the Environmental Protection Agency. Although EPA's concern was expressed by calling the conference (in cooperation with the Agriculture Dept., Council on Environmental Quality, Dept. of Health, Education & Welfare, and the Interior Dept.), that concern comes too late in the minds of many, including Lee Weddig of the Natl. Fisheries Institute. His statement at a general session of the conference provides a concise summary of the regulatory problems facing government officials, conservationists, commercial and sports fishermen, citizens and scientists, and calls for:

An immediate ban on further sale, production, importation, or recycling of PCBs in any form with perhaps an exception for use in existing electrical transfotmers where usage could be strictly controlled. Efforts should be made to achieve such an international agreement also.

A national system to provide for safe disposal of PCBs already in use in electrical equipment.

Passage of a toxic substances control act.

Retention of the present Food & Drug Administration tolerance level of 5ppm (parts per million) in fish, pending further research on the toxic effects of PCBs on humans. Any reduction in the tolerance should be selective, based on the role of the specific affected food in the diet.

Compensation to commercial fishermen whose livelihood is destroyed by prohibition of sale of the species of fish in which presence of PCBs exceeds the FDA tolerance.

A Congressional investigation of EPA to determine why effluent standards for PCBs have not yet been established despite the clear mandate of the Federal Water Pollution Control Act (FWPCA) to do so.

The PCB problem, though only recently a headliner, is not new. PCBs first were detected in the environment in 1966, when they were found in Baltic Sea fish, David P. Rall, director of the Natl. Institute of Environmental Health Sciences, said. This "ubiquitous compound" has since been demonstrated to have "an almost global distribution," Rall said. Just how widespread PCBs are and what their toxicological effects are were only two of the topics of the more than 60 speakers, many of them scientists who reported on studies ranging from the biological responses to PCBs in chickens and mice to the sources of PCBs in Wisconsin and Michigan, and the input and distribution of PCBs in the Southern California marine environment. One such study, that of the federal interagency-sponsored Natl. Pesticide Monitoring Program, was reviewed by Charles R. Walker of the U.S. Fish and Wildlife Service, Interior Dept.

In monitoring freshwater fish at 100 stations, F&WS found more than 98% of the samples during 1969–71 contained PCB residues exceeding 0.5 mg/kg (ppm), in at least one composite sample. Higher concentrations of PCBs were associated with river systems having industrial activity, Walker said. "Fish in four of the Great Lakes had PCB concentrations exceeding the 5 mg/kg level, and all stations reported concentrations exceeding 0.5 mg/kg," Walker said. Stations along the Allegheny, Kanawha, Cumberland, Tennessee and Ohio rivers and two stations on the Mississippi and Missouri rivers reported residues often exceeding 10 mg/kg—the highest reported. Rivers in the Gulf states region, the Northwest and the Yukon were found to contain residues exceeding 5 mg/kg, Walker said. "Only in the last two sample periods of 1972–73 and in the current monitoring samples . . . yet to be fully analyzed, has there been a downward trend," Walker said, adding that "this is only in those samples where we are not detecting residues. The stations where high residues have been noted in the past still remain relatively contaminated with PCBs." All starlings monitored in the program since 1970 contained PCB residues, Walker reported.

"Cleansed of all the details, the facts, simply stated, are that we are in trouble," Asst. Secretary of the Interior for Fish & Wildlife & Parks Nathaniel P. Reed said. "Under present conditions, PCBs may very well pull the rug out from beneath us by destroying marginal species in spite of our best efforts for preservation," Reed said. "I hope we don't have to repeatedly demonstrate the differences in susceptibility among wildlife species before we establish the imminence of a hazard requiring drastic national action." Several of Interior's fish stock restoration programs, including Atlantic salmon in the northeastern rivers and trout and salmon in the Great Lakes, cannot be justified, Reed said, if the fish cannot be eaten because of excessive levels of PCBs.

The Great Lakes bear the brunt of the PCB problem: "It takes more than 50 years for water to turn over in Lake Michigan," Reed said. And because of the large population along the lakes, "tons upon tons of PCB-infested materials are deposited daily. . . . It appears highly probable that the primary cause for the failure of PCBs to decline in Lake Michigan fish is that their sources have not been curtailed to any significant degree," Reed said. A "significant portion" of Great Lakes sport fish, including lake, rainbow, brook and brown trout; splake; coho, chinook and Atlantic salmon; and kokanee, contain PCB residues in excess of the 5ppm FDA level, Reed said. And commercial fish such as carp, chubs, smelt and alewives have detectable levels of PCBs, as high as nearly 5ppm for carp and chubs. "If the current level were lowered to one or two parts per million, virtually all species would be restricted and essentially the entire Great Lakes fishery would be curtailed," Reed said. "The current guideline of 5 ppm has already tabled any serious consideration of commercially utilizing the salmonid populations in the near future." But Reed did not call for higher levels of tolerance—PCBs have been shown to affect the reproductive systems of humans and of fish, leading Reed to state that "nothing short of immediate drastic action will enable us to raise anything better than lakes full of eunuchized fish. With the present preponderance of PCBs, the lifespan of the Great Lake fishery will be limited to a single generation."

What should be done about the PCB problem? "For the immediate range our goal must be the elimination of all sources of PCBs in the environment within three years. For the long haul . . . we must vigorously pursue legislation that will preclude new "PCBs" from being discharged into the environment" Reed said. Other points Reed made were that FDA's present regulations are "outdated," that the "passage of an effective toxic substances act and the complete control of PCB importation are imperative to the health of the American people," and that "since drastic action is needed, we should not be afraid to step back from industrial efficiency if we can step forward to environmental health."

And what has been done about PCBs since May 1972 when an interagency task force concluded that the chemicals were highly persistent, could be found in all parts of the environment, could bioaccumulate in fish (to more than 400,000 times the concentration of PCB in water, according to Reed), and could have serious adverse effects on human health? Any action has been cautious, with EPA and other regulatory authorities considering the economic effects of a total ban and the problem of finding a safe substitute for PCBs in transformers and capacitors. But Monsanto Industrial Chemicals Co., sole producer of PCBs in the U.S., voluntarily restricted PCB sales to manufacturers of closed electrical systems. FDA, under the Food, Drug & Cosmetic Act set tolerance levels for fish and other foods. The member countries of the Organization for Economic Cooperation & Development agreed to prohibit the use of PCBs except in certain closed systems. Japan banned the future production or import of PCBs entirely.

EPA Administrator Russel E. Train told the conference he had expected the combined measures would "take care of" the PCB problem: "Instead, more than three years later, we find that, although PCB levels in food have steadily declined, PCBs are present in our environment to a far greater degree and at higher levels than we have previously thought." What should have been done three years ago, which "might have enabled us to really come to grips with the PCB problem and rendered this conference unnecessary," Train said, was to enact an effective toxic substances control law.

Until such legislation as Sen. John Tunney's (D-CA) S. 776 becomes law, "we will continue to address the problem as effectively as we can under existing authorities—especially under the Water Act (FWPCA)—while at the same time recognizing the inherent inadequacies of the piecemeal approach we are forced to take," Train said. In anticipation of a toxic substances act, EPA also is working on measures taking into account "not only the available information on toxicity and exposure levels, but also the impact of any regulatory steps upon business, employment and the economy," he added. And EPA still is attempting to track down the point sources of PCB discharges: "When we control and cut pollution at the source," Train said, "we are shifting its costs from the shoulders of society as a whole on to those of the polluter, where they belong in the first place."

The nature of PCBs may make the point source approach to control useless, according to studies such as that of the Michigan Dept. of Natural Resources described by John L. Hesse. "Since new industrial sources of loss are continuously being found, we feel we are far from eliminating the PCB inputs to surface waters by searching for point sources and taking corrective measures on a case-by-case basis," Hesse said, noting that effluent samples were taken from "a diversity of industries showing contamination and in many cases the source of effluent contamination could not be determined." Atmospheric contamination, another non-point source, is "probably very significant also," Hesse said. Most PCBs used in plasticizer applications, for example, are disposed of in landfills and dumps, Hesse said, and vaporization does occur (with losses as great as 20%). Open burning also releases PCBs to the atmosphere (PCBs can be destroyed by incineration at 2,700° F), Hesse said. In Wisconsin, reported Stanton Kleinert of the state Dept. of Natural Resources, snow melt water from several areas contained PCB concentrations from .17 to .24ppb, suggesting "fallout of PCBs from the air may be a principal source of PCBs entering the waters of the state."

Both Michigan and Wisconsin have taken steps toward control of PCBs. The Wisconsin DNR, which "does not have the authority to regulate the sale or use of PCBs," Kleinert said, "can adopt effluent standards." Hearing have been held, but no decision made, on two proposals for effluent limitations; one would prohibit the discharge of PCBs, the other would limit the discharge to 5ppb. And in Michigan, a bill in the state legislature would prohibit the manufacture, sale and use of PCBs in Michigan for all applications other than transformers and capacitors and would provide labeling, reporting and disposal requirements and sanctions for violators, Hesse said. The proposed legislation calls for the elimination of products containing 25% or more of PCBs by 1 Jan 76; 10 ppm or more by 1 Jan 77; and 5 ppm or more by 1 Jan 78. Michigan's DNR "feels that legislation on a national level would be much more effective," Hesse said, "but supports the state legislation in order to be able to move more quickly." In New York, the Dept. of Environmental Conservation has ordered General Electric to reduce PCB discharges from its Fort Edward and Hudson Falls plants to two pounds daily by 31 Dec and to achieve zero discharge by 30 Sep 76. The state's previous lack of attention to the PCB problem in the Hudson River is "an environmental Watergate that knows no parallel," a representative of New York conservation and fisheries groups said.

A United Electrical Union spokesman objected to these state-by-state attempts at regulation, saying the result would be high unemployment. "It is incumbent upon EPA to set a federal standard," he said, and in this he was supported by many of the environmentalists and scientists present. EPA has several available approaches to control of PCBs, including Sec. 307(a) of the FWPCA, under which the agency can establish "toxic and pretreatment effluent standards."

Thomas E. Kopp of the Office of Toxic Substances, says EPA is "now looking at 307(a) standards." But EPA has "delayed for two years in setting standards because of their concern over economic dislocations" that might result, A. Karim Ahmed of the Natural Resources Defense Council said. NRDC and the Environmental Defense Fund have filed suit against EPA because of this delay, and urge a complete phaseout of PCBs, a moratorium on dredging, and promulgation by EPA of a 1ppt effluent limitation standard (which, Kopp said, is EPA's "goal for fresh water and marine aquatic life and consumers thereof"). Proposed regulations adding PCBs to Sec. 311 of the act, providing for oil and hazardous substance liability also will be out soon, Kopp said.

As usual, "one of the major problems is sorting out the roles" of the "vast number" of federal agencies involved in such regulations, the moderator of a panel on approaches to control of PCBs said. Some of those represented at the conference were the FDA, Interior Dept., Natl. Institute of Occupational Safety & Health, Dept. of Transportation Commerce Dept. A noted omission—although not intentional — was the Army Corps of Engineers, which has regulatory authority over dredge spoil disposal, an area which, judging by several of the speakers' presentations, is of major importance in the control of PCBs. A study of the upper Chesapeake Bay, conducted by the Westinghouse Ocean Research Laboratory under contract to the Maryland DNR, found concentration of 12ppt PCBs in suspended sediments and .28 ppt in bottom sediments of the bay. More than 90% of the suspended sediment in the upper bay comes from the Susquehanna River, working its way down the bay to the Atlantic. The highest PCB concentration the study found was near Baltimore where the sediments are deposited: "Continuous maintenance dredging makes the Baltimore harbor a dandy place for sediments," T. O. Munson of the lab reported.

Many questions were left unanswered by the conference. The effects of PCBs on humans, on monkeys, fish and other species were generally well-documented and uncontested, although some doubt remains as to what in the chemicals causes the skin and liver lesions, gastric abnormalities, reproductive dysfunctions and ultimate death of many of the test animals. The facts that PCBs are "ubiquitous" and persistent elements in the environment also were undisputed, but those facts left unanswered the questions of how to control further contamination, and even more difficult, how to clean up the PCBs which now are perpetually recycling themselves throughout the world's waters and atmosphere. A ban on PCB use would affect the electrical industry, fluid and lubricant manufacturers, and of course, Monsanto. Stricter effluent limits would place a burden on municipal wastewater treatment facilities, the paper recycling industry (PCBs used in carbonless copy paper and inks before the 1971 restrictions still are entering the environment through waste paper manufacturing), and even on the shipping industry whose antifouling paints and hydraulic fluids have been sources of a significant amount of PCB contamination in the Southern California Bight. These and other point sources of PCBs urge "reasonable" regulations considering their economic impacts. One somewhat surprising source calling for caution in regulating PCBs was Thomas Billy of the Natl. Marine Fisheries Service, who supported continuation of the 5ppm FDA temporary standard for PCB content in fish. Fearful that the Chicago conference "might yield precipitous action," Billy said that "new and complete" toxicological information and information on the impact of stricter regulations on the fishing industry should be gathered before the FDA standards are revised. In a three-point recommendation exemplary of the best in bureaucratic caution, Billy urged that federal and state governments issue regulations, to prevent PCB pollution; that current tolerances in seafood be maintained; and that "unnecessary adverse publicity" about PBCs be avoided.

Canada, acting on newly available toxicological data, set a 2ppm limit on polychlorinated biphenyls in fish. The temporary guideline established by the Dept. of Natl. Health and Welfare after consultation with the Fisheries Inspection Branch of Environment Canada primarily pertains to smelts and eels from Lake Ontario and the St. Lawrence River system. These commercially important fish frequently contain PCB residue in excess of 2ppm—a study presented at the PCB conference in Chicago (see above) detailed concentrations of as high as 4.16 ppm in smelt and 17.14ppm in eel caught in Lake Ontario. The PCB problem is considerably reduced in the maritime provinces where eel have been found with only .56ppm PCBs. Coho salmon, a popular sports fish from the Great Lakes, also contains an excess of 2ppm PCBs, according to the Health Protection Branch of the department. No limits have been set for other foods, which the department says have PCBs "only in trace amounts" which have decreased in recent years.

HIGHWAY TRUCKING SAFETY

Mr. McGOVERN. Mr. President, I have been contacted by a number of South Dakota trucking firms regarding systems required on over-the-road rigs by the National Highway Traffic Safety Administration.

These regulations require new tractors to be equipped with a "computer-assisted" braking system. Although most truck operators agree that the system is unsurpassed when operating correctly, the reliability of the system is dismal.

According to my constituents, failure of the system has been so frequent that they have difficulty in locating drivers to operate the vehicles. Several near tragedies have demonstrated the hazards of this system, and the economics of constant repair are forcing some small owner-operators out of business.

Mr. President, I believe every member of the Senate would agree that safety standards are necessary and that the NHTSA has a responsibility to enforce legitimate regulations. However, I strongly object to the apparent policy of the NHTSA to require the implementation of a particular braking system without exhaustive tests for reliability. We cannot afford to use our trucking industry as guinea pigs in our pursuit of safety.

A recent article published in the South Dakota Motor Carriers accurately depicts the views of the trucking industry in my State and I would urge each of my colleagues, and particularly those on the appropriate committees, to read this article and take the steps necessary to promote greater levels of safety on our Nation's highways. I ask unanimous consent the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

ATA Says Federal Government Forces Truckers To Use "Unsafe" Brakes

Trucking industry representatives recently told a National Highway Traffic Safety Administration (NHTSA) hearing that their companies have been forced by the federal government to operate new trucks equipped with air brake systems that are both unreliable and unsafe.

Robert H. Shertz, chairman of the Safety Committee on Research and Environment (S.C.O.R.E.) of American Trucking Associations (ATA), said the operating experience of the new system is "atrocious," adding that were it not for the federal brake standard, "the voice of the market place would have spoken long since."

Shertz, who is also a vice chairman of ATA and RLC Corp., Wilmington, Del., opened the trucking industry's presentation on Federal Motor Vehicle Safety Standard 121, being reviewed by NHTSA at hearings set for Oct. 29–31 in the Departmental Auditorium in Washington, D.C. Approximately 20 motor carrier executives and experts testified.

"In less than a year that the standard has been in effect it has earned the name of unreliability and mistrust to both the man who must drive it and the truck owner to the extent that our trade journals boldly advertise pre-121 trucks as a solution to what the NHTSA is forcing upon us."

Shertz said charges that the trucking industry is only concerned because of the cost of the brake system are "both untrue and a gross distortion of our objective which is a sincere concern for highway safety." He pointed out that motor carriers recognize the difference between their own complaints with vehicles or components causing trouble and the standard which is NHTSA's responsibility.

"This really pinpoints our basic difference with NHTSA. We do not believe we should be forced to be a hazard while we are waiting for the engineering solutions. That is why we have urged from the beginning that there should be workable pilot models to get out the bugs, the development of a knowledgeable field organization for parts and service—in contrast to the chaos caused by having 121 brakes applicable to every air-braked truck in production resulting in field testing of production vehicles on the highway," he declared.

Shertz said the Administrator of NHTSA should administer the rule to eliminate the brake safety hazards encountered by the trucking industry. He suggested a temporary restructuring of the effective dates and some portions of the standard for a period of time to allow manufacturers to "get their thinking straight and for them to learn how to produce the system on a quality basis with the kind of reliability we have to have."

The trucking industry spokesman reminded NHTSA that such suggestions were previously made by the carriers and were rejected. As a last resort, ATA was forced to take the industry's case to the courts, he noted.

In referring to previous industry suggestions to NHTSA for ways to improve the brake system, Shertz said: "If this hearing is an indication of new attitude on the part of NHTSA, we will be pleased to try once again to sit down with your staff and outline a program that might work."

MEETING THE AIRPORT NEEDS OF NEW JERSEY

Mr. WILLIAMS. Mr. President, legislation to amend the Airport and Airway Development Act of 1970, which is currently under consideration in the Senate Commerce Committee, is of great interest to me and to my State of New Jersey.

New Jersey has more people and more airplanes per square mile than any other State. Its airports directly employ 11,500 men and women whose annual payroll totals $160 million.

New Jersey is also unique in the type of air service it receives. It is served primarily by reliever, commuter, and general aviation airports, most of which are privately owned. These airports are vitally important to the economy of communities and industries throughout the

State. Only one large air carrier airport, Newark International, is located in New Jersey.

The primary recipients of Federal airport development funds, under the 1970 Airport and Airway Development Act and the proposed legislation before the Senate Commerce Committee, are large air carrier airports. The draft bill that is under consideration would authorize $515 million in fiscal year 1977 for air carrier airports, while $65 million would be authorized for general aviation. Two-thirds of the air carrier funds would be apportioned to airports according to number of enplanements, with each air carrier airport receiving from a minimum of $150,000 to a maximum of $10 million.

Level of activity, rather than need, would be the determining factor in the distribution of this portion of the air carrier funds. Using this formula, Newark International Airport would receive about $2.4 million. Morristown Municipal Airport, which is served by New York Airways helicopters, would probably receive the minimum of $150,000. If Mercer County Airport receives certification as an air carrier airport next year, it will also be eligible for the minimum of $150,000.

The remaining one-third of the air carrier moneys would be discretionary with the Secretary of Transportation.

In the general aviation category, $25 million of the $65 million authorized would be set aside for reliever airports. The main function of these airports, such as Caldwell-Wright and Teterboro in New Jersey, is to relieve congestion at air carrier airports by diverting general aviation traffic from them.

Three-quarters of the remaining $40 million in the general aviation fund would be apportioned among the States on the basis of population and area. New Jersey's apportionment would be $561,000. The other one-fourth of the remaining general aviation funds, $10 million, would be discretionary, and could be used for reliever or general aviation airports. The great majority of New Jersey's publicly owned airports would have to compete with the rest of the Nation's general aviation and reliever airports for this small discretionary fund of $10 million. New Jersey would be denied access to what I feel is its fair share of Federal airport aid.

For this reason, I am most gratified that the Senate Commerce Committee decided to amend the draft bill by changing the funding category for reliever airports. The committee voted to transfer reliever airports to the air carrier category, thus making them eligible for the Secretary's air carrier discretionary fund of $171.5 million. In this way, reliever airports would not have to compete with general aviation airports for the $65 million general aviation fund. I strongly support this change which is of critical importance to the future financing of New Jersey's reliever and general aviation airports.

Commuter service airports are another category which I feel should be defined separately from general aviation. According to the Civil Aeronautics Board, commuter air carriers serve 725 airports. In 1974, 6 million passengers used commuter airlines. Two hundred airports served by commuters receive no other scheduled service. New Jersey has three such airports that are publicly owned: Mercer County, Bader, and Cape May. Under the 1970 act, these airports were funded from the general aviation category. With the rapid expansion and great importance to communities of these airports, I believe they should be included in the air carrier category.

Another group of airports which is important to New Jersey and many other States are those which are used by the public but are privately owned. Of the 83 public-use airports in New Jersey, 69 are privately owned. Although these privately owned airports contribute to the airport and airway trust fund through the fuel tax, aircraft registration tax and way bill taxes, none of them are eligible for assistance from the fund. This is a problem which I feel needs to be addressed, particularly in light of the fact that many of these airports are disappearing.

New Jersey has lost three important privately owned airports over the past few years: Hadley, one of the State's oldest; Totowa-Wayne in Passaic County; and the Red Bank airport. Once these airports are sold and converted to other uses, they cannot be rebuilt. The important public service they provide is permanently lost, and the demands on publicly owned airports increase proportionally. I believe that Federal, State, and local governments need to review their policies toward these airports and the function they serve in our overall transportation system.

The proposed legislation before the Commerce Committee addresses several other problems which have arisen in the implementation of the 1970 act.

One of these problems has been the lack of long-range planning for our Nation's airport system. The proposed bill would authorize Federal airport development funds from the airport and airway trust fund through fiscal year 1980. This will allow airport sponsors to take a long-term, rational approach to meeting their development needs. The draft bill also requires the Secretary of Transportation to publish a revised national airport system plan. The revised plan would serve as a guide for the orderly development of a national system of airports, rather than as a directory of proposed airport projects.

The Federal airport system and the Federal Aviation Administration have been heavily criticized in recent years for excessive spending and inefficiency. While not sacrificing in any way the goal of attaining the highest degree of aviation safety, the Senate draft bill would call for consultations between the Secretary of Transporation and users of the Federal aviation system to consider methods of reducing nonessential Federal expenditures for aviation. This I feel is a welcome provision, which should help to minimize aviation costs to users and general taxpayers alike.

I am hopeful that the 1975 Airport and Airway Development Act Amendments will provide the basis for a rational and integrated airport system, which takes into account the individual needs of States and communities.

SER JOBS FOR PROGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Indiana (Mr. BAYH).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAYH

One of the many programs endangered by the President's politically-inspired veto of H.R. 8069, the Departments of Labor-Health, Education, and Welfare Appropriations Bill for fiscal year 1976, is the Comprehensive Employment and Training Act, or CETA. The CETA appropriation provides public service jobs, assistance to state and local prime sponsors to design and operate comprehensive manpower services programs, and supports activities administered at the national level by the Department of Labor. These manpower assistance programs are the foundation of our efforts to train people and put them into useful jobs.

I was particularly pleased to note that the Committee report accompanying the bill gave recognition to the accomplishments of Jobs for Progress, Inc., commonly known as SER (Service, Employment, and Redevelopment) for their efficient job as the largest manpower vehicle serving Spanish ancestry Americans.

Spanish ancestry Americans are both younger and less educated than the average American. Their average age is 21 compared to the national average of 28. In the past, their educational level was lower than that of the average American citizen. However, in 1970, about a third of their population was in school at all levels.

Spanish ancestry Americans are primarily urban dwellers. Their living conditions, however are substantially worse than the national average. Based on the census definition of 'overcrowded' as 'more than one person per room', one quarter live in overcrowded homes. This compares to the national average of about one person in twelve living under similar conditions.

To a large extent, this situation can be traced to the below average earning capacity of Americans of limited English-speaking ability.

According to the 1970 census, there are approximately 9.6 million Americans of Spanish ancestry, concentrated in California, Texas, and New York. These Americans are involved primarily in manufacturing occupations and earn a median income of $7,534 per family as compared to $9,500 for the average American family. In addition, unemployment among Americans with limited English speaking ability is far above the national average.

It is precisely because of this situation that SER Jobs for Progress is such an important program, and one that deserves continued support: it is the largest manpower vehicle serving Spanish-speaking Americans, with an outstanding record in two cities in my own state and 70 cities nationwide. I fully concur with the recommendation given to the Secretary of Labor by the Committee report that steps be taken to insure adequate funding and continuation of this national network which has served over 150,000 people during the last decade. The Committee urged that the Department of Labor use a combination of support—including national contracts awarded to maintain the existing SER projects—at least at 1975 funding levels in the 70 cities presently being served.

Mr. President, I would like to take this opportunity to briefly describe the history of this significant program.

Commonly known as SER, it came into existence through the efforts of farsighted individuals in two Spanish speaking organizations. This large scale program to tap the manpower resources of the Spanish speaking community was given the name "to be" in Spanish—Operation SER.

In the spring of 1964, the American G. I. Forum announced the opening of a local chapter office in Washington, D.C. with special emphasis on employment programs.

In the spring of 1965, almost simultaneously, job placement centers for Spanish speaking people were operated in Houston and Corpus Christi by the League of United Latin American Citizens (LULAC).

The two national organizations, the American G. I. Forum and LULAC joined hands to ". . . eliminate poverty in the Southwest—with special attention to the culturally different."

In the spring of 1965, the members of these two organizations, realizing the tremendous need for manpower services for the Spanish speaking, put all their financial and human resources under the banner, Jobs for Progress to insure continued operation of the voluntary job placement centers in Houston, and Corpus Christi, Texas. The centers were funded and staffed exclusively by Spanish speaking volunteers.

On June 10, 1966, the Department of Labor and the Office of Equal Opportunity announced joint funding of Operation SER. Subsequently, the Department of Health, Education and Welfare provided funds.

In October 1966 a small staff was installed in Albuquerque, and a skills bank began placing people in non-traditional jobs. By August 1968, the result of two years' work began to materialize. Convinced that it was moving in the right direction, SER forged ahead, implementing new ideas to reach the Spanish speaking and make manpower programs available to them for the first time.

In 1970, SER changed status from an experimental program under the Experimentation and Development Division of the Department of Labor to a categorical program under that department. By 1972, SER had expanded its operations to Arizona, California, Colorado, Illinois, New Mexico, Texas, Kansas, Wisconsin, Utah, Washington, Nevada, Michigan, Washington, D.C. and my home state of Indiana, thus displaying the need for support to Spanish-American throughout the United States.

In 1973, with the enactment of the "Comprehensive Employment and Training Act," SER decentralized from a national program to community projects funded by CETA. Now SER has 70 programs with the main office in Los Angeles, California, headed by National Director Ricardo Zazueta. The national office provides technical assistance, research and planning for the vast network of local affiliates.

I need hardly remind my colleagues that every segment of our population today faces a severe unemployment problem. The SER program has successfully addressed itself to the unique problems of the Spanish-American who is seeking gainful employment. The program is an outstanding example of a creative self-help endeavor which is matching jobs to people. I applaud the Committee's recommendation that adequate funding for programs such as SER be continued.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, a perennial criticism of international agreements on human rights in general and of the Genocide Convention in particular is that such accords are violative of our basic constitutional guarantees. However, this is most assuredly not the case with respect to the Genocide Convention.

The Supreme Court in Geoffroy against Riggs, 1889, described the rather broad power to enact a treaty in the following expansive language:

> It would not be contended that it (the treaty-making power) extends so far as to authorize what the constitution forbids, or a change in the character of the government or in that of one of the states, or a cession of any portion of the territory of the latter, without its consent. But with these exceptions it is not perceived that there is any limit to the questions which can be adjusted touching on any matter which is properly the subject of negotiations with a foreign country.

The major substantive provisions of the Genocide Convention—those defining the crime, establishing the crime, prescribing the punishment, providing for the settlement of disputes, calling upon the United States to execute the treaty by appropriate legislation, providing for extradition in accordance with the laws and treaties in force—are not violative of the Constitution and have been included in principle in many of the treaties to which the United States is a party—some of them going back to the 18th century. These provisions have not only not denied our citizens any of their constitutional rights but have, in many cases, enhanced them.

Further, Mr. President, even if the articles of the Genocide Convention were, on their face, violative of the Constitution, the Supreme Court has always recognized that a treaty cannot authorize what the Constitution forbids—Reid against Covert, Missouri against Holland, and Geoffroy against Riggs. In short, the Genocide Convention provisions do not and cannot violate the Constitution.

RESOLUTION OF THE NEW JERSEY COUNCIL OF THE BLIND

Mr. WILLIAMS. Mr. President, on October 25, I had the great personal pleasure of meeting with and speaking to the New Jersey Council of the Blind regarding national issues affecting blind and other handicapped persons at their 18th annual statewide convention. The New Jersey Council of the Blind is a very active and outspoken group, and one which I always enjoy meeting with.

Mr. President, I was requested by the council's president to place in the CONGRESSIONAL RECORD a resolution the council has adopted commending Dr. Andrew Adams, commissioner of the Rehabilitation Services Administration. So that my colleagues may also know of their views I ask unanimous consent that the resolution of the New Jersey Council of the Blind be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION 7531, NEW JERSEY COUNCIL OF THE BLIND

Whereas, Dr. Andrew S. Adams has served as Commissioner of the Rehabilitation Services Administration since April 1974; and

Whereas, during his administration great progress has been made, especially in expanding the role played by consumers of rehabilitation services and their organizations, in policy making and program development at the Federal level; and

Whereas, Dr. Adams is principally responsible for this new focus in RSA's relationship with the people it serves (the handicapped themselves); and

Whereas, a visible manifestation of consumer input is Dr. Adams' selection of the National Federation of the Blind as his consulting consumer organization and his designation of Dr. Kenneth Jernigan, President of the National Federation of the Blind, as his special consultant on services to the blind—this being the first time that the blind themselves, thru their organization, have been directly consulted on policy matters at the Federal level; and

Whereas, in all ways, Dr. Adams has exhibited a unique sensitivity and awareness to the needs of all handicapped individuals: now, therefore,

Be it resolved by the New Jersey Council of the Blind, in convention assembled this 25th day of October 1975 in the City of Asbury Park, New Jersey, that this organization officially expresses its highest commendation and deepest gratitude to Dr. Andrew S. Adams for his outstanding performance as RSA Commissioner; and

Be it further resolved that appropriate federal officials, including Dr. David Matthews, Secretary of the Dept. of Health, Education, and Welfare, Senator Harrison Williams, Chairman of the Senate Committee on Labor and Public Welfare, and Senator Clifford Case, senior Senator from the State of New Jersey, and all members of the House of Representatives from the Garden State of New Jersey, be notified of this organization's high regard for, and support of, Dr. Andrew S. Adams.

EQUITABLE TAX TREATMENT FOR PUBLISHERS OF TEXTBOOKS AND OTHER TEACHING AIDS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that a statement on the equitable tax treatment of publishers, by Senator LLOYD BENTSEN be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR BENTSEN

Earlier this week the Senate Finance Committee approved a tax amendment relating to the tax treatment of publishers' research and development costs.

I want to state my unequivocal support for this amendment. It was my privilege to bring this matter before the Committee on Finance earlier in the week. The Committee at that time approved the amendment without objection.

This amendment will prevent the IRS from retroactively and discriminatorily compelling changes in methods of tax accounting for publishers' prepublication expenditures which have been consistently applied by the taxpayer. The amendment is in substance the same as a technical income tax provision contained in H.R. 10612, recently passed by the House.

The amendment is necessary to correct a problem created by Revenue Ruling 73–395 in which the Internal Revenue Service held that the costs incurred in the writing, editing, design and artwork directly attributable to the development of textbooks and visual aids do not constitute research and experimental expenditures under section 174. The Service further held that these costs represent expenditures that must be capitalized and may be depreciated.

The publishing industry maintains that most publishers have consistently deducted most prepublication expenditures, and that retroactive application of Revenue Ruling 73–395 would impose severe financial hardship by changing the tax rules in the middle of the game.

The amendment would merely provide a "do not disturb" rule to preserve the status quo for prepublication expenditures paid or incurred in taxable years beginning on or before the date on which prospective Treasury regulations dealing with prepublication expenditures are issued after the date of enactment. The amendment provides that, with respect to such expenditures, the application of chapter 1 of the Internal Revenue Code of 1954 to any prepublication expenditure shall be administered without regard to Revenue Ruling 73–395 and in the manner in which such chapter was applied by the taxpayer to such expenditure before the date of the issuance of such revenue ruling. Thus, a taxpayer may not be compelled to change a method of accounting consistently applied for Federal income tax purposes with respect to such expenditures paid or incurred in those years.

Mr. President, I ask that a technical explanation relating to this amendment be printed in the RECORD at this point.

TECHNICAL EXPLANATION

The amendment relates to the tax treatment of certain prepublication expenditures of publishers.

Subsection (a) contains statutory rules which apply to prepublication expenditures paid or incurred in taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of the bill. In the case of any such prepublication expenditure, the application of chapter 1 of the Internal Revenue Code of 1954 is required to be administered (1) without regard to Revenue Ruling 73–395, and (2) in the manner in which such chapter was applied consistently by the taxpayer to such expenditure before the date of the issuance of the ruling.

In determining whether a taxpayer consistently followed a tax accounting method with respect to a prepublication expenditure, the principles of section 481 (relating to adjustments required by changes in method of accounting), as to what constitutes a method of accounting, apply. Examples of accounting treatments include treatment of a prepublication expenditure as a current deduction, as an item taken into account in determining cost of goods sold, as a capital expenditure, or as a deferred expense deducted in the year the product is published.

Under subsection (b) of the new section, the regulations dealing with prepublication expenditures are to apply only to expenditures paid or incurred in taxable years beginning after the date on which such regulations are issued.

Subsection (c) defines the term "prepublication expenditures" to mean expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product. This definition encompasses all costs for development or improvement of a book, teaching aid, or similar product, such as a text published in microfilm or other medium. These costs would include, for example, costs for composition or revision of books, teaching aids, or similar products.

REPORT ON MIDDLE EAST TRIP

Mr. STENNIS. Mr. President, the Senator from New Hampshire (Mr. MCINTYRE) is a very valuable member of our Armed Services Committee and a tireless worker on many of our problems. In fact, his energy is almost unexhaustible, as is his determination. Recently he made a trip to the Middle East and has filed a report thereon with our committee, said report being entitled "Report on Middle East Trip."

This report is of value and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON MIDDLE EAST TRIP

(By Senator THOMAS J. MCINTYRE)

During the Thanksgiving recess, I had the opportunity along with my good friend, the junior Senator from North Carolina, and with eight of our Colleagues from the House of Representatives, to visit the Middle East and to obtain a first hand insight into the potentially explosive situation there.

I was pleased at our very good fortune in being able to meet during the short period of one week with the leaders and heads of state of Egypt, Israel, Iran, and Greece. It made the trip much more significant by providing an opportunity for personal, candid exchanges with these four national leaders.

Although my comments must be somewhat restrained, because of the sensitivity of some of the discussions, there is significant substance which can be covered at this time.

I would like to state first that I was impressed with the uniformly high degree of competence displayed by the various levels of governmental and military leaders in each country visited. There is a sober awareness of the precariousness of the political situation in the Middle East, which is made even more acute by the massive influx of sophisticated armaments into the hands of the various parties in the area.

I would like to take this opportunity to share with my colleagues the comments of the various heads of state and other officials we met during the trip. I will have some overall observations and conclusions of my own at a later time, but I think it would be useful at this time to convey, without embellishment, the points made to us by the officials in each country. While I might personally disagree with some of the opinions stated, I offer them all in the interest of giving my colleagues the benefit of the frank and informative discussions we had.

I should also add, by way of setting the time perspective, that our visits in the Middle East occurred just before the extension of the UN mandate on the Golan Heights, and the subsequent developments in the UN Security Council.

ITALY

Our first stop was in Naples where we were briefed by Admiral Stansfield Turner, Commander-in-Chief, Allied Forces Southern Europe. The situation in the area of Southern Europe and the Mediterranean is a cause for serious concern because of the numerous problems there. These include:

a. The worsening economic situation in Italy combined with the increasing strength of the Italian Communists in government. Italy's contribution to NATO is being reduced.

b. Greek and Turkish differences regarding Cyprus are not being resolved and may continue to weaken their support of NATO.

c. Soviet pressure in the Middle East constitutes an indirect threat to NATO.

d. Uncertainty regarding the future of Yugoslavia after Tito.

e. Soviet pressure in North Africa, Portugal and Spain constitutes a threat to the soft underbelly of NATO.

EGYPT

Our next stop was Cairo. Our Embassy people in Cairo consider that the Soviet Union suffered a serious setback when their miscalculations of Egypt's attitude led to their reversal in Egypt, and created the atmosphere which is leading to a resumption of normalized and historically good relations with the United States. Restoration of economic aid to Egypt, considering the possibility of limited defensive military assistance, and the inclusion of our NATO allies in these measures are logical steps which should strengthen these ties and improve the chances for a peaceful solution in the Middle East.

President Sadat appeared very well and in good spirits. In a friendly and very candid exchange he made the following points:

a. Egypt is lacking in armaments while Israel has replaced equipment lost during the Yom Kippur war. Syria also has received substantial shipments from the Soviets while no Soviet deliveries have been made to Egypt since the cease fire. This leaves Egypt in an awkward position

b. He encourages U.S. help to Syria to prevent exclusive Soviet influence in that country.

c. Solution of the Palestinian question is critical to the attainment of peace in the Middle East.

d. The Palestinian solution would be based on a Palestinian state consisting of the Gaza strip, the west bank of the Jordan River, and a connecting corridor. He is working toward this goal.

e. He considers that the Palestinian solution could also be based upon "other compensation," besides territorial restoration, but he did not define these terms.

f. He believes there is a basis for Syria and Israel to agree upon a Golan Heights compromise with U.S. guarantees.

g. He expects to be asking the United States in the future for certain defensive arms.

h. For some time into the future Egypt and Israel will not have confidence in each other, but both have confidence in Secretary Kissinger.

i. He believes that if Israel withdrew to its pre-1967 borders, the state of belligerency would end. Meanwhile, the step-by-step approach should be continued.

j. Steps to be taken following the disengagement agreement in the Sinai should be a second disengagement agreement with Syria in the Golan Heights, and a Geneva Conference including the Palestinians to work out an overall solution. The Syrian disengagement would be followed by a third disengagement agreement between Egypt and Israel.

During our visit to Egypt we motored to Ismailia where we were briefed on the importance of reopening the Suez Canal. We also were impressed with the progress being made in rebuilding the city with new and modern low cost housing.

ISRAEL

The next stop was Israel where we met with Prime Minister Rabin and other high level military and political leaders. Significant points made include:

a. There has been an historical basic reluctance on the part of the Arab countries to reconcile their differences with Israel since it was created as a nation.

b. The gap between Israel and the Arab states was too deep to be solved by an overall settlement. The step-by-step approach agreed upon between Israel and Egypt was the only hope of bridging this gap and providing the first step toward lasting peace.

c. Former President Nixon's visits and discussions with Israel, Syria and Egypt led to the attempt for the step-by-step approach.

d. The agreements have reduced but not eliminated the risks and threat of war by Syria and Egypt.

e. Soviet influence has been reduced along with Soviet supply of arms.

f. Less acceptable boundaries to Israel have resulted, and oil fields which produced 60 percent of Israel's requirements have been returned to Egypt.

g. In return for the lands oil facilities given up by Israel, Egypt has produced only words, but even these intangible signs are significant to the Israelis.

h. The United States has gained a measure of stability in the Middle East including stability in oil prices.

i. The results of the Sinai agreement cannot be fully determined because it is still being implemented.

j. Israel desires to negotiate with Jordan on the Palestinian question, but Jordan is unable to negotiate with Israel because the Arab agreement at Rabat took the Palestinian issue out of their hands.

k. U.S. initiatives with Syria thus far have proven unsuccessful.

l. Soviets cannot afford to allow Syria to agree to negotiate because it would enhance United States influence in the Middle East at the expense of the Soviets.

m. Soviets and Syria may be expected to continue to support the PLO, and a shift from the process of negotiation to a process of discussion within the U.N.

n. If the United States and the major Western European nations remain firm, the prospects for continued peace in the Middle East would be good.

o. Israel must remain strong if the political process is to continue towards a final peace in the Middle East.

There was significant discussion of the Israeli requirement for $2.3 billion from the United States, and the problem the Congress faces in considering this against the background of sharp cuts in the U.S. Defense budget, the domestic problem of New York City bankruptcy, and the economic problems we face here at home.

Prime Minister Rabin stated his appreciation for this problem but offered the following considerations to support their critical need.

a. Israel taxes represent 62 to 64 percent of its Gross National Product compared with 30 to 31 percent in the U.S.

b. About every three months Israel must announce heavier taxes.

c. Private consumption has been reduced 3 to 5 percent in real terms. This will continue in the future.

d. Israel exploits everything possible in its inventory of military equipment, including 30 to 35 year old Sherman tanks and a variety of captured foreign made weapons.

e. Israel must have the full U.S. support requested to postpone war and strengthen the process of negotiation. He believes any substantial cut by the Congress would affect hopes for a more relaxed period and weaken the chances for a final peace. It would adversely affect Israel's military posture.

The Prime Minister considers that the Arab countries have nurtured and promoted the Palestinian problem for political purposes. They could have assimilated the Palestinian refugees, but with the exception of Jordan, refused to do so. By contrast, Israel assimilated 500,000 Jewish refugees who were forced to leave the Arab countries. He made the following additional points on this issue.

a. Israel doesn't believe it has the right to decide who represents the Palestinians.

b. The PLO plan for a secular state of Christians, Jews and Arabs would not work because the minorities would be in peril of annihilation.

c. Prospect for solution would be good if negotiated between Israel and Jordan.

The Prime Minister recommended that the United States embark carefully in its efforts to achieve an overall Middle East agreement after the Syrian mandate is extended and after the interim agreement with Egypt is implemented. This should be on the basis of Resolution 338 and would involve reconvening the Geneva Conference under the joint chairmanship of the U.S. and the Soviet Union. There would be reasonable chance for success if the U.S., England and Germany hold together.

He expressed serious concern about the possibility of Congressional cuts in the aid request. He had expected that the U.S. Administration had spoken for the Congress and that Israel had acted on this basis in accepting the agreement with Egypt. He stated that Israel might in the future take the position that any agreement would be subject to approval by the Congress and that Israel would not finally agree until such approval had been obtained.

He concluded by stating that U.S. aid to Egypt serves the interest of the United States and not of Israel. All it means to him is that Israel will be facing U.S. rather than Soviet weapons in the event of war. However, he does not oppose U.S. economic aid to Egypt.

During our Stay in Israel, we flew to the Sinai and visited the various sites overlooking the Gidi and Mitla passes where U.S. technicians, Egyptian and Israeli forces will monitor these strategic locations as provided in the current agreement.

We also looked at Soviet and other weapons captured by the Israelis and were impressed with their quality. Concern was expressed that advanced technology provided those weapons with a high degree of sophistication which complicates the Israeli defensive problem.

IRAN

After leaving Israel, we stopped in Teheran, where we met with the Shah of Iran and his foreign minister. A major concern is the critical importance of the Persian Gulf area and the desire to keep both the Soviet Union and the United States naval forces out of the Gulf.

I might mention some of the other important points which were made about the Middle East problem:

a. Israel is a state and member of the U.N. and, therefore, its existence must be recognized.

b. The Palestinian question must be resolved before the Middle East problem can be solved.

c. Iran does not recognize the occupation by one state of the territory of another state.

d. Iran believes that the lands occupied since 1967 should be returned. However, there is a question as to whom they should be returned.

e. Palestine should be recognized as an independent state and become a member of the U.N. in the same manner as Israel.

f. Iran voted for the U.N. resolution on Zionism as a gesture of solidarity with the Arab bloc.

g. The Rabat conference did not necessarily foreclose Jordan as representatives for the Palestinians.

Relations between Iraq and Iran are peaceful now, but the Soviet influence on Iraq and Syria is considered to be a matter of concern to Iran.

GREECE

The last visit made was in Athens, Greece, where we were fortunate in being able to meet with Prime Minister Karamanlis and several of his staff. Points made during these discussions are as follows:

a. There is deep concern about the continuing problem of Cyprus, Greece is prepared to meet with Turkey and to try to work out a solution. It makes no claim on Turkey. This is also complicated by the role that Makarios plays in this problem.

b. Greece must devote its resources to bolstering its military forces as a defense against the greater strength of Turkey. This degrades its capability as part of NATO.

c. Greece is concerned about the trend and influence of Communist movements in Italy and Portugal, and in the succession of leadership in Albania and Yugoslavia.

d. Greece remains pro-American and supports improved relations with the United States. They consider that the dark period of rule by the Greek Colonels should be put aside and the historically warm feelings between the peoples of Greece and the U.S. should be resumed.

e. The U.S. embargo on arms to Turkey was recognized as a matter of concern although it was understood that this is a question to be resolved by the United States.

f. The importance of favorable Congressional action on aid for Greece was emphasized.

I should add that U.S. Embassy people in all of the countries visited did an outstanding job of briefing us on the situation in the respective country and in making our stay most comfortable and productive.

Although most of what I have recounted is not new, it does provide a first hand insight into an area of critical importance to the entire world, and may help my colleagues and the American people better understand what is going on in the Middle East.

CONGRESSIONAL ACTIONS ON PRESIDENT'S REQUESTS FOR BUDGET AUTHORITY CONSIDERED IN APPROPRIATIONS BILLS DURING THE 1ST SESSION, 94TH CONGRESS, COMMITTEE ON APPROPRIATIONS, U.S. SENATE

Mr. McCLELLAN. Mr. President, during this 1st session of the 94th Congress, the Committee on Appropriations has processed 21 major appropriation measures—14 bills relating to funds for fiscal year 1976 and the transition period and 7 bills relating to fiscal year 1975. In addition, 4 budget rescission bills and numerous resolutions disapproving deferrals were handled by the committee.

I am submitting for insertion in the RECORD a tabulation which shows for all the appropriation bills for this session, the amount of the budget requests submitted by the President and the amounts approved by the House of Representatives, a comparison of the requests with the amounts approved, the amounts considered and reported by the committee to the Senate, the amounts approved by the Senate, a comparison of the requests with the amounts approved, and the amounts finally approved by the Congress, together with a comparison of the final amounts with the final budget requests.

This tabulation covers both the bills for fiscal year 1976 and the bills for fiscal year 1975 considered in this session. It shows that the Congress, in considering budget requests submitted by the President for fiscal year 1976 and the transition period, has made a net reduction in the amount of $3,548,885,745, and that the reductions made in the fiscal year 1975 bills considered in this session amount to $3,823,566,477.

The grand total of budget estimates considered during this session amounted to $267,224,774,434. The Congress provided in the appropriation bills a total of $259,852,322,212 which means that a total reduction of $7,372,452,222 has been effected thus far in these budget estimates over which the Congress has control.

Mr. President, it should be noted that the largest single reduction is $7,390,888,000 which was cut from the Department of Defense bill. It is clear from this tabulation, and I believe irrefutable evidence, that it is the Defense budget which is bearing an overwhelming disproportionate burden of budget reductions from the President's estimates. Whereas the total net reduction from the request for all bills for the entire session was $7,372,453,222, the reduction made in the Defense bill alone was $7,390,888,000. Thus, Mr. President, I think it should be noted that so far the Congress budget control efforts are resulting in expenditure reductions only in the military while social programs continue to grow and thrive.

Mr. President, I also emphasize that this tabulation excludes the so-called "back-door" spending authority in legislative bills and the permanent budget authority, Federal and trust funds, which automatically becomes available without further action by the Congress, or neither of which comes through the annual appropriations process. Also, an ever-increasing amount of the portion of the total budget subject to the annual appropriation process is mandatory or uncontrollable under present law—and that fact should be kept in mind when studying this tabulation.

Mr. President, I ask unanimous consent that the tabulation be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 94TH CONG., 1ST SESS.[1]—REVISED TO DEC. 12, 1975

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and Trust) available without further action by Congress]

	House			Senate				Congress	
Bill and fiscal year	Budget requests considered	Approved by House	Compared with budget requests considered by House	Budget requests considered	Reported by committee	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
A. BILLS FOR FISCAL 1976									
1. Education (P.L. 94-94)[2]	$6,134,339,000	$7,332,995,000	+$1,198,656,000	$6,134,339,000	$7,672,878,000	$7,682,511,852	+$1,548,172,852	$7,480,312,952	+$1,345,973,592
2. Legislative (P.L. 94-59)	708,624,440	698,076,000	−10,547,640	838,265,425	825,372,685	825,302,485	−12,962,940	827,546,570	−10,718,855
3. Continuing Appropriations, 1976 (P.L. 94-41)		2,004,800,000	+2,004,800,000		2,379,800,000	2,379,800,000	+2,379,800,000	2,379,800,000	+2,379,800,000
4. HUD-Independent Agencies (P.L. 94-116)	[6] 42,366,070,000	[6] 42,366,024,000	−46,000	[6] 48,779,570,000	[6] 50,275,314,000	[6] 50,275,314,000	+1,495,744,000	[6] 49,344,914,000	+565,344,000
5. Public Works (H.R. 8122)	7,057,462,000	7,225,401,500	+167,939,500	7,300,162,000	7,454,260,500	7,489,660,500	+189,498,500	7,440,912,500	+140,750,500
6. State-Justice-Commerce-Judiciary (P.L. 94-121)	5,601,907,400	5,671,669,000	+69,761,600	5,721,747,400	6,130,679,000	6,188,253,000	+466,505,600	5,958,676,000	+236,928,600
7. Labor-HEW (H.R. 8069)	35,153,357,000	35,979,641,000	+826,284,000	35,157,909,000	36,265,952,318	36,272,522,318	+1,114,613,318	36,073,748,318	+915,839,318
8. Transportation[2] (P.L. 94-134)	3,964,974,775	3,744,413,775	−220,561,000	4,069,994,775	4,170,732,775	4,194,482,775	+124,488,000	3,978,924,775	−91,070,000
9. Agriculture and Related Agencies (P.L. 94-122)	11,076,869,000	11,047,263,000	−29,606,000	11,084,514,000	11,078,102,000	11,092,283,000	+7,769,000	11,061,282,000	−23,232,000
10. Treasury-Postal Service-General Government (P.L. 94-91)	6,330,463,000	6,265,532,152	−64,930,848	6,330,463,000	6,338,955,000	6,338,985,000	+8,522,000	6,314,070,000	−16,393,000
11. Interior (H.R. 8773)	4,034,942,000	4,101,962,000	+67,020,000	4,307,158,000	4,304,340,000	4,304,340,000	−2,818,000	4,234,621,000	−72,537,000
12. Defense (H.R. 9861)	97,857,849,000	90,219,045,000	−7,638,804,000	97,857,849,000	90,783,349,000	90,721,789,000	−7,136,060,000	[7] 90,466,961,000	−7,390,888,000
13. Military Construction (P.L. 94-138)	4,109,020,000	3,518,723,000	−590,297,000	4,109,020,000	3,660,295,000	3,660,295,000	−448,725,000	3,585,014,000	−524,006,000
14. Supplemental Appropriations 1976 (H.R. 10647)	8,928,526,861	7,820,606,201	−1,107,920,660	11,304,210,377	10,314,397,777	10,334,997,777	−969,212,600	10,299,533,117	−1,004,677,260
Subtotal, bills approved by House	233,324,404,476	227,996,152,428	−5,328,252,048	242,995,201,977	241,654,428,055	241,760,536,707	−1,234,665,270	239,446,316,232	−3,548,885,745
15. District of Columbia	(507,841,000)								
16. Foreign Operations	(5,694,340,909)								
Total, bills for fiscal 1976	(239,526,586,385)	227,996,152,428	−5,328,252,048	242,995,201,977	241,654,428,055	241,760,536,707	−1,234,665,270	239,446,316,232	−3,548,885,745
B. BILLS FOR FISCAL 1975									
1. Foreign Assistance (P.L. 94-11)	5,946,460,909	3,498,420,000	−2,448,040,909	5,946,460,909	3,864,346,982	3,946,096,982	−2,000,363,927	3,674,346,982	−2,272,113,927
2. Further Urgent Supplemental (P.L. 94-6)	142,175,000	142,175,000		143,175,000	143,175,000	143,175,000		143,175,000	
3. Emergency Employment (H.R. 4481) (Vetoed)[3]	(130,000,000)	(5,373,474,000)	(+5,243,474,000)	(2,042,700,000)	(5,504,535,000)	(5,504,535,000)	(+3,461,835,000)	(4,729,146,000)	(+2,686,446,000)
Temporary Employment Assistance[4]	125,000,000		−125,000,000	1,625,000,000			−1,625,000,000		−1,625,000,000
4. Urgent Supplemental, Summer Youth Employment (P.L. 94-36)	412,700,000	473,350,000	+60,650,000	412,700,000	473,350,000	473,350,000	+60,650,000	473,350,000	+60,650,000
5. 2d Supplemental (P.L. 94-32)[5]	11,540,647,646	11,397,042,586	−143,605,060	14,956,698,548	15,939,642,000	15,964,662,998	−1,007,964,450	15,071,595,998	+114,897,450
6. Additional Appropriation, Veterans (P.L. 94-17)	638,038,000	638,038,000		638,538,000	638,538,000	638,538,000		638,538,000	
7. Vietnam Refugee Assistance (P.L. 94-24)	507,000,000	405,000,000	−102,000,000	507,000,000	405,000,000	405,000,000	−102,000,000	405,000,000	−102,000,000
Total, bills for fiscal 1975	19,312,021,555	16,554,025,586	−2,757,995,969	24,229,572,457	21,464,051,982	21,570,822,980	−2,658,749,477	20,406,095,980	−3,823,566,477

ACTIONS ON REQUESTS FOR NEW BUDGET AUTHORITY CONSIDERED IN APPPROPRIATION BILLS, 94TH CONG., 1ST SESS.[1]—REVISED TO DEC. 12, 1975—Continued

[This table excludes "back-door" spending authority in legislative bills and permanent budget authority (Federal and Trust) available without further action by Congress]

	House			Senate				Congress	
Bill and fiscal year	Budget requests considered	Approved by House	Compared with budget requests considered by House	Budget requests considered	Reported by committee	Approved by Senate	Compared with budget requests considered by Senate	Approved by Congress	Compared with budget request
C. CUMULATIVE TOTALS FOR THE SESSION TO DATE									
1. House	252,636,426,031	244,550,178,014	−8,086,248,017						
2. Senate				267,224,774,434	263,118,480,037	263,331,359,687	−3,893,414,747		
3. Enacted								259,852,322,212	−7,372,452,222

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[1] Additionally, the Congress has taken action to rescind budget authority during this period, as follows:

Bills	Proposed rescissions considered	Approved by House	Approved by Senate	Approved by Congress	Compared with proposed rescissions
Budget Rescission (P.L. 94-14)	$929,420,272	$222,550,000	$300,456,470	$223,336,470	−$706,083,802
3d Budget Rescission (P.L. 94-15)	1,248,674,954	16,454,704	10,955,000	16,454,704	−1,232,220,250
4th Budget Rescission (H.R. 6573)	238,323,000	17,873,000	1,623,000		
Budget Rescission (P.L. 94-111)	188,888,000	47,500,000	47,500,000	47,500,000	−141,388,000
Total	2,605,306,226	304,377,704	360,534,470	287,291,174	−2,079,692,052

[2] Includes advance appropriations for 1977.

[3] Vetoed on May 28, 1975; sustained by House of Representatives on June 4, 1975.

[4] The Budget for Fiscal Year 1976 requested $125 million of fiscal year 1975 budget authority previously transferred to the Economic Development Administration to be restored to the Temporary Employment Assistance program, Department of Labor. Subsequently in House Doc. No. 94-74, the President requested an additional $1.5 billion for Temporary Employment Assistance to be included in a proposed supplemental appropriation for fiscal year 1975. Although the latter request arrived too late to be considered in the House of Representatives, the House Committee on Appropriations did recommend $1.625 billion in the Emergency Employment bill. The Senate considered both requests and then approved the same funding as recommended by the House. After the veto of H.R. 4481 was sustained, funding for the program was included in the Continuing Appropriations Act (P.L. 94-41), but for fiscal 1976. To be consistent in tabulating actions on budget requests, therefore, the requests only are tabulated as applicable under B. Bills for fiscal 1975. The enactment of the funding is included with the totals for P.L. 94-41 under A. Bills for fiscal 1976.

[5] Includes advance appropriations for 1976.

[6] Originally, the Fiscal Year 1976 budget request estimated $26.1 billion over a 40-year period for assisted housing annual contract authority. The House and Senate agreed to the Administration's request, but more recent estimates indicate that $17 billion is the amount necessary for runous costs of the new commitments. All requests and approved amounts for annual contract authority have been adjusted to reflect the reestimate.

[7] Conference agreement.

Note: The Budget for 1976, as submitted Feb. 3, 1975, tentatively estimated total new budget authority for 1976 at $435,233,000,000 gross ($385,848,000,000 net of some $49,385,000,000 in intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget purposes only). Of this total an estimated $181.1 billion does not require current action by Congress; it involves permanent appropriations such as interest and various trust funds already provided in basic law. Virtually all of the remaining $254.1 billion is for consideration at this Session in the appropriation bills. About $12.3 billion of the $254.1 billion was shown in the February budget as being "for later transmittal" for supplemental requirements under present law, new legislation, allowances and for contingencies and civilian pay raises.

Parentheses indicate that amounts are not included in "C. Cumulative totals for the session to date."

LABRE R. GARCIA

Mr. STENNIS. Mr. President, Labre R. (Larry) Garcia, a fine man and a valued former member of the Armed Services Committee staff, died in Bethesda Naval Hospital Friday, November 7.

After completing a career in the Air Force, retiring as colonel, Larry Garcia joined the staff of the House Committee on Armed Services. In January 1969 he became a member of the Senate Armed Services Committee staff from which he retired in June 1973.

Born in Antonito, Colo., April 21, 1910, Mr. Garcia was the son of a rancher and civic leader who served several terms in the State senate. Larry grew up in Colorado but came to Washington to get a law degree and was admitted to the bar here in 1940. For a short period he was in general law practice here, but he was drafted in March 1941.

During World War II Mr. Garcia served with United States and British forces starting as an infantry officer and then—because of his legal training—as an officer in military government. He saw wartime service in North Africa, Sicily and Italy.

During the immediate postwar period he returned to law practice and later joined the Department of State as a Foreign Service officer. Ultimately he was made presiding district judge for the occupation forces in Germany and later presiding district judge for the High Commissioner, U.S. Military Forces.

Returning to the United States, he transferred his Army commission to the Air Force in 1953 and began a long tour in the Office of Legislative Liaison, Secretary of the Air Force. In 1967 he was assigned to the staff of the House Armed Services Committee; in May 1968 he retired from the Air Force but remained on that committee staff; in 1969 he joined our staff, working mostly with minority members under the direction of Senator Margaret Chase Smith of Maine. He retired in 1973 joining Raytheon Corp. as a consultant.

Colonel Garcia held the Legion of Merit with Oak Leaf Cluster, Bronze Star, American Defense Service Medal, European Theater Medal with Silver Star and the Brazilian Madalha de Guerra.

For those of us who were so fortunate as to work with him, he was an able and conscientious worker who did credit to the staff of our committee and to the Senate. I know members of the Senate will join me in extending condolences to his wife, Anne, and to the children, Kim, Kristina, and Judith.

DEATH OF JULIUS EPSTEIN

Mr. THURMOND. Mr. President, as the year draws to a close, I would like to remind my colleagues of the passing of Julius Epstein, researcher and writer, and a one-time witness before the Senate Subcommittee on Internal Security, who died last July 3 in Menlo Park, Calif., at the age of 73. I would like to pay a parting tribute to Mr. Epstein because he probably did more than any other person to bring to light the shocking facts about the forced repatriation of Soviet nationals, at the close of World War II. He also played a major role in exposing the facts about Katyn Forest massacre, in which 15,000 Polish prisoners of war were executed by the Soviets in 1940.

A man of determination and principle, Julius Epstein fought a legal battle that lasted 15 years in an effort to force the declassification of U.S. Army documents dealing with "Operation Keelhaul"—the code name for the forceful repatriation of more than one million anti-Communist Russians to the Soviet Union. Epstein's book "Operation Keelhaul: The Story of Forced Repatriation," was published in 1974 by Devin Adair. His efforts to expose the facts about forced repatriation won him high praise from Alexandr Solzhenitsyn in his book "The Gulag Archipelago."

The principal eulogy at Epstein's funeral was delivered by Dr. Stephen Possony, a senior fellow of the Hoover Institution where Epstein had worked for many years.

Mr. President, I ask unanimous consent to have printed in the RECORD an article that appeared in the Palo-Alto Times on July 4, 1975, dealing with the career of Julius Epstein and the eulogy spoken in his memory by Dr. Possony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Palo Alto (Calif.) Times, July 4, 1975]

Julius Epstein, Researcher and Writer, Dies at 73

Julius Epstein, 73, a former research associate at Stanford's Hoover Institution, who devoted years to research on forced repatriation of Soviet prisoners after World War II, died Thursday at Sharon Heights Convalescent Hospital in Menlo Park.

Epstein had suffered a stroke in June of 1973, and another this May, according to Stefan Possony, a senior fellow at the Hoover Institution. Possony and Epstein had been friends for 50 years.

Possony provided these highlight's of Epstein's long career as a writer and researcher;

Epstein was born Dec. 26, 1901 in Vienna, Austria. His family was musically inclined. Epstein's grandmother had been Johann Strauss's wife. Epstein's father and grandfather were both prominent pianists.

Epstein was reared in Vienna and Germany. He studied economics and political science at the University of Leipzig and the University of Jena.

At Jena he became a leader of a communist and left-wing student group, but had renounced the Soviet type of communism by 1922 or 1923.

After his university days, Epstein became a free lance journalist, writing about politics and current events.

In 1923 he left Germany for Prague, Czechoslovakia, then later moved to Switzerland. In 1939 he left Europe for the United States and ultimately became an American citizen.

During World War II Epstein wrote for the Office of War Information. He specialized in investigative journalism, and after the war was instrumental in arranging a Congressional investigation of the Katyn executions.

Possony said the Katyn affair involved 15,000 Polish prisoners of war who were shot in the forest of Katyn in 1940.

Their graves were discovered by retreating Germans in 1943. The Nazis and the Soviets each charged the other with the crime.

The Germans were indicated at the Nuremberg Trials, but the indictments were later dropped, Possony said.

The Congressional investigation concluded that the mass murders at Katyn had been committed by the Soviets, according to Possony.

Epstein became affiliated with the Hoover Institution in 1963 and retired about 10 years later, at the age of 70.

Since then he had maintained an office in Palto Alto and continued his lengthy work on the Russian prisoner repatriation question.

This research had involved a legal battle of 15 years duration, in which Epstein had sought for declassification of U.S. Army documents on "Operation Keelhaul."

"Operation Keelhaul," Epstein said, was the code name for the forcible repatriation of between one and two million anti-communist Russians back to the Soviet Union during and after World War II.

Possony said that Epstein fought his case to the Supreme Court twice, losing both times, in his efforts to obtain documents he believed would recount the horrors of Soviet prisoners of war being repatriated against their will, sometimes forcibly.

In 1973 Epstein publicized two alleged classified British documents regarding the repatriation, which he said had been sent to him anonymously. The repatriated Russians, some of whom had served in the German Army, had been held by the British in Italy. "They were mainly simple peasants with a bitter personal grievance against the Bolsheviks," the document said.

Epstein's book, "Operation Keelhaul: The Story of Forced Repatriation," was published in 1974 by Devin-Adair. Alexander Solzhenitsyn, the Nobel laureate Soviet author, praised Epstein in Solzhenitsyn's book, "The Gulag Archipelago," for Epstein's efforts to publicize the Keelhaul operation.

Possony described Epstein as "a great expert in archival research."

"He was essentially a man who was devoted to what you might call humanism, and he liked to research all these cases of man's bestiality to man," Possony said.

Epstein was an American correspondent for many European papers, most notably the German "Die Welt."

His Home was at 2440 Ash St., Palo Alto.

He is survived by his wife, Vally Epstein; his son, Peter Stevens and his grandson, Christopher Stevens, both of San Francisco; and his brother, Hanns Epstein-Strauss of Bad Hall, Austria.

Funeral services will be held at 1 p.m. Monday at Johnston Colonial Mortuary, 650 Live Oak Ave., Menlo Park. Burial will be in Alta Mesa Cemetery, Palo Alto.

In Memoriam: Julius Epstein

(By Dr. Possony)

The sorrow of irretrievable loss cannot be stilled. A productive life has come to its end.

I cannot quite visualize the world without Tully Epstein. He was my friend and for fifty years he was like my older brother.

Alas, today we have come to bury Julius. But before we release him from our midst, let us praise and eulogize him.

Born with golden spoons, Epstein chose a life of simplicity, at times even poverty.

He was weaned on the pessimism and decadence of an old and falling empire.

And his existence was shattered when Nazi killers were on his heels and he had to flee into the darkness of night.

But during the second part of his life, he embraced the optimism and missionary sense of the young and rising republic where he lived with his wife, son, daughter-in-law, and grandson.

Epstein's early intellectual life was marked by bookish knowledge of Marx, and literary and personal contacts with Freud and Karl Kraus.

As a student in Jena, he was one of those who made a revolution, in the name of Marx; or rather he tried to do so. He soon discovered—and rejected—the deceptions and crimes practiced by the self-styled apostles of the false prophet.

He always venerated Freud. But he never accepted the one-sided dogmatism of the master's disciples.

Kark Kraus was the lasting influence in Epstein's life. From this poet and social critic he learned to reject and oppose falsehood, pomposity, callousness and bureaucratic stupidity; and always to love wit and humor.

Out of this combined influence of Austrian tradition and ruin, Nazi homicidal-suicidal fury, communist insincerity and savagery, and American progress and purpose grew Epstein's commitment to one overriding and fundamental idea—namely, that no idea or ideology is good and true enough to justify cruelty and extermination.

Epstein's quest for mankind's emancipation called for an unceasing effort to prevent avoidable evil.

During the long period from Rapallo to the Berlin Wall, Epstein—gifted journalist that he was—repeatedly scooped his better-paid but less sharp-sighted colleagues. As newspaperman he was most proud of his discovery that the Austrian state treaty called for the forced repatriation of refugees from communism. Thanks to Epstein's disclosure, the treaty was changed and many lives were saved.

The world owes it to Epstein, performing as a Congressional consultant, that it now knows the truth about the Katyn slaughter.

Epstein was not a religious but a decent man, and so he lived up to the rule that after the fight is over, the enemy must be forgiven. Hence he involved himself in the reconciliation of the United States with Germany, and he assisted in international endeavors to secure the release of Rudolf Hess.

As a Hoover historian, Epstein's greatest satisfaction was that he documented the bloody story of the mass repatriations and deportations which the U.K. and the U.S. forced upon anti-communist Russians and Ukrainians; and which, as we all know, resulted in the enslavement and death of more than one million human beings. For this work, and during the last two years of his life, he finally received the recognition which he had never craved but which he richly deserved.

Our departed friend led a life of examplary service to humanity. He will not vanish into nothingness. So long as people remain interested in upholding the divine commandment which forbids murder, Julius Epstein will be remembered.

In saying our last goodbye, we are consoled by the thought that we were close to a man who fought for the most noble of all causes—the cause of life itself.

GUN CONTROL

Mr. McCLURE. Mr. President, I ask unanimous consent that the results of a new and comprehensive public opinion poll on the issue of gun control be printed in the Record at the conclusion of my remarks for the enlightenment of those Members of Congress who have not yet had the opportunity to study it.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLURE. Mr. President, this new national survey, carefully and scientifically conducted, presents some public opinion revelations on the issue of gun controls that have neither been reflected in the national press, nor probed by the much touted polls recently presented in the national media. It shows, for example, that a majority of Americans—when asked about solutions to the national crime problem place the blame where it belongs—on the criminal; and it shows that 86 percent of our people believe in the right of the individual American to keep and bear arms.

This particular public opinion survey, conducted by Decision Making Information this fall, directly challenges conclusions recently drawn by pollster Louis Harris—conclusions to the effect that most Americans would support immediate and strict Federal gun control measures. The DMI survey, asked 1,538 scientifically selected registered voters the kind of indepth question on the issue that have not been sufficiently covered in other surveys. Of specific interest were the unaided answers to a query on ways to reduce crime, only 11 percent listed gun control as their first suggestion. Of the 11 percent mentioning gun control, only 1 percent listed registration of firearms and less than one-half percent listed a ban on so-called "Saturday night specials"—two specific issues currently receiving legislative attention by the Congress.

EXHIBIT 1

ATTITUDES TOWARD GUN CONTROL: OVERVIEW OF A NATIONAL SURVEY OF THE AMERICAN ELECTORATE, OCTOBER 1975

SURVEY OVERVIEW

Decision Making Information is pleased to present the results of this survey. This section provides a brief overview of the research methods and techniques used in this study.

While the most sophisticated procedures have been used to collect and analyze the information presented herein, it must be remembered that surveys are not predictions. They are designed to measure public opinion within identifiable statistical limits of accuracy at specific points in time. This survey is in no way a prediction of opinion or action at any future point in time.

The project director and principal investigator for this study was Dr. Gary C. Lawrence. Overseeing and assisting in all phases of the research activity was Dr. Richard B. Wirthlin.

Research Design

This study contains the results of an in-home survey of one thousand five hundred thirty-eight (1,538) registered voters within the continental United States (Hawaii and Alaska were not included).

Survey responses were gathered between September 29 and October 8, 1975.

All respondents interviewed in this study were part of a randomly selected sample of registered voters. A detailed explanation of this sample selection method appears on page 6. In general, random samples such as this yield results projectable to the entire universe of registered voters within ±3.0 percentage points in 95 out of 100 cases.

Interviews were conducted by Decision Making Information trained personnel throughout the United States.

Approximately 15% of all interviews were independently validated for precedure and content by a Decision Making Information professional. Completed interviews were edited and coded at DMI's headquarters in Santa Ana, California. Statistical analysis and cross-tabulations were produced by the firm's own software and computer system.

Sample Selection

Effective survey research must be based on a sample truly representative of the universe of interest. An area sampling technique was employed to gather the data for this study. All members of the universe of interest initially had the same chance to be included in the sample. This technique selected areas directly proportional to the number of persons of interest residing in that area. For example, the likelihood of choosing Los Angeles in a nationwide study of adult households would be greater than that of selecting Redding, California, because of the presence of many more households of interest.

The essential feature of this sampling procedure is that individual respondents were predetermined by the design of the survey. That predetermination was made by the careful specification of a series of random choices. The first step in creating an area sample was the division of the total universe into smaller units called primary sampling areas. A primary sampling area may be a country, a political precinct, a census tract or enumeration district. As described above, primary sampling areas were selected with a probability proportional to the size of the target of universe residing within the boundaries of that area.

From the large collection of primary sampling areas, secondary or subsampling areas were chosen. These areas might, for example, consist of a city block within a primary sampling area such as a city. Once the specific geographical area was identified, then all dwelling units within the chosen area were enumerated. From this enumeration of dwelling units containing potential respondents, a pre-specified number of dwelling units were randomly selected, and one person, again randomly chosen, within those households was interviewed.

The application of these procedures produced a calculable probability of being included in the survey sample for each member of the potential universe.

Any further questions the reader has about sampling methodology will gladly be answered by Dr. Lawrence or Dr. Wirthlin.

SAMPLE VALIDATIONS

COMPARISON OF THIS DMI SAMPLE WITH THE GENERAL POPULATION PARAMETERS

[In percent]

	DMI sample	1972 registered to vote	1974 population parameters (18 years plus)[1]
Age:			
18 to 24	19.0	14.7	18.6
25 to 34	20.5	18.7	20.6
35 to 44	15.0	16.9	15.8
45 to 54	15.9	18.8	16.5
55 to 64	14.6	15.4	13.5
65 and over	15.0	15.4	15.1
Sex:			
Male	50.5	47.4	48.8
Female	49.5	52.6	51.2
Region:			
New England	6.2		5.8
Middle Atlantic	24.6		20.7
Outer South	17.2		19.4
Deep South	7 9		9.3
Great Lakes	22.1		21.4
Farm Belt	5.1		6.1
Mountain	3.8		4.5
Pacific	13.1		12.8
Residence:			
Urban	35.2	30.5	NA
Suburban	36.4	42.6	NA
Rural	28.4	26.9	NA
Race:			
White	81.2	86.7	86.2
Black	16.0	9.2	9.7
Spanish-American	2.8	4.1	4.1

[1] U.S. Census, projections of voting age for States, November 1974.

AN EXAMINATION OF THE WEIGHTING PROCEDURE USED IN THIS SAMPLE

	Unweighted sample (N=1,538)	Weighted sample (N=1,554)	1974 population parameters (18 years plus)[1]
Age:			
18 to 24	12.7	19.0	18.6
25 to 34	21.1	20.5	20.6
35 to 44	15.7	15.0	15.8
45 to 54	16.6	15.9	16.5
55 to 64	15.2	14.6	13.5
65 and over	18.6	15.0	15.1
Sex:			
Male	50.0	50.5	48.8
Female	50.0	49.5	51.2
Region:			
New England	6.2	6.2	5.8
Middle Atlantic	24.6	24.6	20.7
Outer South	17.2	17.2	19.4
Deep South	8.1	7.9	9.3
Great Lakes	21.8	22.1	21.4
Farm Belt	5.2	5.1	6.1
Mountain	3.9	3.8	4.5
Pacific	13.0	13.1	12.8
Race:			
White	79.9	81.2	86.2
Black	16.1	16.0	9.7
Spanish-American	2.3	2.8	4.1

[1] U.S. Census, projections of voting age for States, November 1974.

ANALYSIS

Overview of key results

	Percent
Suggested steps (unaided) to reduce crime:	
Harsher punishment	33
Social causes	23
Better judicial system	11
Better police effort	11
Gun control	11
Knowledge of federal gun laws: fair to poor	
Belief in right to own guns	82
Gun turn-in- would reduce crime—No	73
Households with gun	41
(Counting refused to state)	46

THE CONTEXT OF THE PROBLEM

This section examines answers to questions which were posed at the beginning of the questionnaire before the general nature of the survey became known to the respondent. Because there wasn't anything in these questions to indicate our theme of the gun registration problem, the answers respondents gave form a good indication of the position of gun registration and gun confiscation attitudes in the context of all problems in the nation, all problems of the community, and problems of reducing crime specifically.

Most important national and community problems

Pocketbook issues continue to dominate the concerns of the average American in the fall of 1975 with inflation and unemployment the most important (Table I–1). Social issues—crime, social unrest, drugs, racial problems, etc.—which were so prevalent in the late 1960's have slipped considerably in the last few years in the wake of economic and energy crises. Today such social issues arouse the fears of approximately one person in four in a national context. The main component of these social concerns, crime and the need for better law enforcement, is specified as the No. 1 national problem by 13% of all voters. Though 13% may not appear to be too large a number, in the context of the great amount of attention given to pocketbook issues and considering that the responses were unaided, we must conclude that such concerns are not too far below the surface of even those who gave some nonsocial fear as the most important national problem.

Concern over social problems including crime and related issues shows up considerably more as a community problem than as a national problem—all of which could be expected. Table I–2 indicates that one out of five voters still chooses pocketbook issues as the most important community problem, but three out of eight indicate the social issues are more important.

TABLE I–1: *Most important national problem*

	Percent
Pocketbook	51
Inflation	25
Unemployment	14
Economy-general	10
Taxes	1
Depression	1
Poverty	1
Food shortage	*
Social	24
Crime/law enforcement	13
Social unrest	5
Drugs	2
Racial problems	2
Welfare	1
Juvenile delinquency	1
All other	25
Political corruption	9
Energy crisis	5
Foreign policy	5
Government spending	1
Ecology	1
President Ford	1

TABLE I-1: *Most important national problem*—Continued

	Percent
Social security	1
Education	1
Air pollution	1
Don't know/no opinion	1
Unions/strikes	*
Other	*
News media	*
Over population	*

* Less than 0.5%.

Actual question wording: What do you consider to be the most important problem facing the United States today?

TABLE I-2: *Most important community problem*

	Percent
Pocketbook	21
Unemployment	9
Inflation	5
Taxes	3
The economy	2
Lack of industry	1
Fiscal problems/cities	1
Too much welfare	1
Poverty	*
Social	37
Crime	18
Moral decay	5
Law enforcement	4
Problems/youth	4
Drugs	4
Racial problems	2
Judicial system	1
Guns/gun control	*
Prisons/parole	*
All others	42
Don't know/no opinion	7
No problems	6
Education	5
School busing	4
Lack of government leadership	3
Lack of public transportation	3
Lack of public facilities	3
Ecology	3
Urban renewal	3
Lack of low-cost housing	2
Population growth	2
Energy crisis	1
Public health	1
General	*
Other	*
Labor problems	*

* Less than 0.5%

Actual question wording: And what do you consider to be the most important problem facing your community today?

TABLE I-3: *Unaided suggestions to reduce crime*

	Percent
Punishment	33
More severe punishment	23
Reinstate capital punishment	9
Severe punishment/guns	1
Allow corporal punishment	*
Social	23
Strengthen family unit	6
Reduce unemployment	6
Improve public awareness	3
Reduce moral decay	2
Solve racial problem	*
Reduce government corruption	1
Return to religion	1
Reduce poverty	1
Improve public facilities	1
Reduce poverty	1
Control TV programing	1
Solve racial problem	*
Reduce welfare	*
Police	11
Increase police force	5
Police walking beat	3
Improve/quality police	2
Increase/authority police	2
Judicial	11
Improve judicial system	9
Swift trials	2
Legalize victimless crimes	1
Gun control	11
Gun control	8
Confiscation of firearms	2
Registration of firearms	1
Citizens/protect with guns	*
Ban "Saturday night specials"	*
Penal	6
Review parole system	3
Improve rehabilitation facilities	2
Prison reform	1
Other/don't know	5
Don't know/no opinion	3
General	1
Other	*

* Less than 0.5 percent.

Actual question wording: In recent years there has been a sharp increase in the nation's crime rate. What steps do you think should be taken to reduce crime?

A reading of some of the sample verbatim responses seems to reveal some quite strong language in expressing the opinions. It appears to be a theme through many of the answers that too many criminals are going free or are not being sufficiently punished and the blame is being placed in several locations with a great amount of exasperation. Gun control as a hoped-for solution receives its share of emotion, but there is also an indication that some who suggest gun control hold the reservation that it might not work, a point that is verified quite strongly in later more specific questions.

The highest subgroup suggesting unaided that gun control be the major step to reduce crime is New England with 16%. Table I-4 presents a profile of those above and below in suggesting unaided that gun control (including both registration and confiscation) be the first step to reduce crime. Although a larger percentage of each group shown in this table suggest another method (most of them opt for harsher punishment), the basic profiles are those that the reader will become familiar with in the pages ahead. Inclined most toward gun control are young, educated, liberal New Englanders (although it should be said in all fairness that the bulk of the New England sample came from Massachusetts and Connecticut). Those who are anti-gun control tend to be older, more conservative, and very often from the Southern States.

Aided Suggestions for Crime Reduction

Immediately after the respondents were asked the open-ended question about reduction of crime, they were given five cards listing some programs for fighting crime and asked to rank them in the order they believe would be the most effective. Once again this was done early in the questionnaire before the full nature of the interview became apparent. Table I-5 presents the rank ordering believed to be most effective by the population as a whole. Except for the first two items, the rank order positioning of each program is statistically significant from the placement of every other program—that is, it would have been very rare for the differences between the mean scores shown to have happened by chance. Thus we see of these five specific programs, the registration of all firearms and the licensing of firearms owners would be considered much less effective than stiffer sentences for criminals, a simplification of the court system, and better police efforts.

TABLE I-4: *High and low unaided suggestions of gun control as a step to reduce crime*

	Percent
Above average:	
New England	16
College graduates	15
18–24 year olds	14
Great Lakes	14
Liberals	13
Nongun owners	13
Nonvoters	13
$15–$25 K	13
Average	10.6
Below average:	
Deep South	6
Refused to state gun ownership	6
Republicans	7
Senior citizens	7
Outer South	8
45–54 year olds	8

Summation: Not summable.

TABLE I-5: *Perceived effectiveness of five specific programs for combatting crime*

	Mean Score*
End plea bargaining and give convicted criminals stiff sentences	2.48
Simplify the court system to produce speedy trials and prompt sentencing	2.51
Hire more police and provide them better training and equipment	2.81
Register all firearms and license their owners	3.31
Reduce prison populations and emphasize outside rehabilitation programs	3.87

* 1.00=highest perceived effectiveness; 5.00=lowest perceived effectiveness.

Actual question wording: Each card in this stack lists some program which has been suggested as a means of combatting crime. Would you please read through the stack and then arrange the cards in the order in which you think these measures would be most effective, that is, which one would be most effective, which one second most effective, and so on.

Table I-6 presents a demographic profile of the chief supporters of each specific program, and Table I-7 expands this profile for those who choose registration of firearms and licensing of gun owners. In many cases over the years of studying attitudes of Americans, we have used the data to point out contrasts from the commonly held stereotypes. In the present question, however, the truth does not differ all that greatly from the commonly held stereotype—in fact, the profile shown in Table I-7 of those highest in support of gun registration is as cohesive and clean as any we have discovered.

Another point which should be noted is that the higher the education, the less the inclination to believe that greater police effort will reduce crime.

Congressional rating

Congress is given very poor ratings on the job it is doing to solve the crime problem today as can be seen in Table I-8. It is very sad commentary on the effectiveness of this august body when two out of five (42%) rate its effort as poor and a similar number rate it as just fair. It is obvious that voters of all different persuasions band together in this assessment of Congress. Some of the groups harshest on Congress on this item include:

- Males
- 55–64 year olds
- 25–34 year olds
- College graduates
- Post graduates
- Independent voters
- Mountain States
- Gun owners

TABLE I–6.—GROUPS HIGHEST IN AIDED SELECTION OF SPECIFIC PROGRAMS FOR CRIME REDUCTION

	High group			
	Sex	Age	Education	Region
End plea bargaining and give convicted criminals stiff sentences.	Male	[1]55–64	Less high school.[1]	Mountain.[1]
Simplify the court system to produce speedy trials and prompt sentencing.	do	[1]55–64	Postgrads[1]	Mountain and Pacific.
Hire more police and provide them better training and equipment.	Female	45–54	Less high school.[1]	Outer South.[1]
Register all firearms and license their owners.	do	[1]18–24	Postgrads	New England.[1]
Reduce prison populations and emphasize outside rehabilitation programs.	Male	[1]18–24	College grads[1]	Pacific.[1]

[1] Groups deviate significantly from average.

Table I–7: *Groups highest and lowest in aided choice of gun registration as program for crime reduction*

Highest:	*Mean**
Singles	2.90
18–24 year olds	2.93
New England	2.99
Nongun owners	3.02
Liberals	3.10
Low gun law knowledge	3.12
Females	3.18
Average	3.31
Lowest:	
High gun law knowledge	3.66
Refused/gun ownership	2.66
Gun owners	3.65
45–54 year olds	3.51
Rural	3.48
Republicans	3.56

*1.00=High; 5.00=Low.

Table I–8: *Rating of Congress on solving crime problem*

How would you rate the job Congress is doing to solve the crime problem today—excellent, good, just fair, or poor?

	Percent
Excellent	1
Good	12
Just fair	44
Poor	42
No opinion	2

Knowledge of Federal Gun Laws

It is obvious from Table II–1 that American's are lacking rudimentary knowledge about federal gun laws. The majority believes that a person can drive across the state line and buy a handgun and also believes that one can buy a gun by mail order from another state. About half of them are correct about a person convicted of a robbery a few years ago not being able to buy a gun, but still 51% either believe he can (42%) or aren't quite sure (9%). A majority got the correct answer about a person under 21 being unable to buy a gun and 86% of them sensed that a firearms dealer must keep records of some sort by law. We believe that the last two items were the most easy to answer which makes their knowledge scores even less impressive. The greatest amount of controversy on these points deals with the misconceptions surrounding mail order guns and ease of purchase such as driving across a state line. On these two points only about one person in three gets the correct answer.

As a summary of responses, one out of ten could answer all five questions correctly and an additional one in five could answer four questions correctly. As shown in Table II–1, if this were a test the grading curve would be skewed toward the bottom.

Contrary to expectations, the higher the formal education, the lower the score on this knowledge test. One might also expect older respondents with more experience to have the correct answers, but the opposite is the case; the younger the respondent the more the knowledge. Some stereotypes continue to hold true as shown in Tables II–2 and II–3.

Gun owners score consistently better than non-gun owners, but even a majority of them are mistaken in two out of the five cases.

Table II–1: *Knowledge of Federal gun laws*

I'm going to ask you a series of questions about buying a gun. Tell me in each case whether you think Federal Law, as it stands today, prohibits or does not prohibit the gun purchase I describe.

	Percent correct
Under present law, can a person buy a gun by mail order from another State	36
Under present law, can a person drive across a State line and buy a handgun?	28
A person was convicted of a robbery some years ago. Under present law, can he go into a gun shop and buy a gun?	49
Under present law, can a person under 21 go into a gun shop and buy a handgun?	57
Under the present law, must a firearms dealer keep records on each gun he sells and the person to whom he sells it?	86

Summary of responses:	*Percent*
Five correct answers	11
Four correct answers	18
Three correct answers	21
Two correct answers	23
One correct answer	22
No correct answers	6

Table II–2: *Groups highest and lowest on overall knowledge of Federal gun laws*

Highest knowledge:	*Mean score*
Deep South	2.96
Black	2.99
18–24 years old	3.07
Own gun(s)	3.26
Oppose/police power to regulate	3.30
Lowest knowledge:	
65 years and over	3.85
College graduate	3.80
New England	3.85
Post graduate	3.75
55–64 years old	3.68
Republican	3.63
Don't own gun(s)	3.60

TABLE II–3.—GROUPS LOWEST IN FEDERAL GUN LAW KNOWLEDGE, BY SPECIFIC CASES

	Sex	Area	Region
Purchase by mail	Female[1]	Urban	New England.[1]
State line	do	Rural	Farm Belt
Former convict	do	Rural[1]	Great Lakes
Under 21	do	Rural	New England.[1]
Dealer keep records	do	Urban	Do.[1]

[1] Groups deviate significantly from average.

Table III–1: *Beliefs of rights to own firearms*

Do you believe that you, as a citizen have a right to own a gun, or not?

	Percent
Yes	82
No	17
Don't know	1

Do you believe that the Constitution of the United States gives you the right to keep and bear arms, or not?

	Percent
Yes	78
No	18
Don't know	4

Do you think that the "right to keep and bear arms" applies to each individual citizen or only to the National Guard?

	Percent
Individual citizen	70
National Guard	21
Both	3

Beliefs in Citizens' Right to Own Firearms

Probes of a person's belief as to whether or not he has the right to own a firearm were built into the questionnaire at separate locations. The first two questions shown in Table III–1 occurred fairly early in the questionnaire and a third question almost toward the end. As can be seen, the other arguments of the questionnaire did not contaminate Americans' belief that they indeed do have the right to own a firearm, thus indicating even more the stability of these beliefs as well as the very strong majorities who hold that attitude.

The belief is especially strong among gun owners, people in the Southern states and Farm Belt states, in rural areas and somewhat surprisingly (given soft patterns elsewhere) college graduates (Table III–2). Note in the table that those who refuse to indicate whether or not they own a gun are also above average in believing they have the right to own one, an indication (as will be pursued in Section IX) that those refusing to answer the question on gun ownership are indeed gun owners.

Table III–2: *Groups highest and lowest on belief of right of gun ownership*

Highest:	*Percent*
Own gun(s)	94
Deep South	93
Outer South	91
Farm Belt	91
No/Turn-in guns would not reduce crime	89
Rural	88
Refused/gun ownership	88
College graduate	87
Lowest:	
Yes/Turn-in guns would reduce crime	38
New England	35
Don't own gun	27
Middle Atlantic	24

Current and potential arguments on gun control both pro and con

Comparison Arguments

Seven comparison arguments were tested wherein opposing arguments on specific points were submitted to the respondent under the fictitious names of Mr. Smith and Mr. Jones and the respondent asked to indicate how closely he agreed with one man's position or the other. The exact wording used and the percentage results are found in Table IV-1.

Collapsing all answers to the seven positions into a point system, we can classify 52% of the population as either very or slightly anti-gun control versus 24% of the population very or slightly pro-gun control; 25% are in the middle ground.

Examining some of the specific scores of gun control support groups we find very few deviations from the most powerful arguments among respondents as a whole. The claim that every citizen has the right to own a gun is the most powerful argument. The fruitlessness argument—that is, that criminals would find some way to get guns anyway—is a good second argument in most demographic subgroups. It is also a good first argument with non-gun owners, females and residents of New England (mainly Massachusetts and Connecticut). The argument that criminals would simply turn to rifles and shotguns even if the handgun population could be reduced would also be a good argument.

On the other side, the contention that criminals would simply ignore the registration law would not work too well on the pro-gun control groups nor would the argument that some domestic shootings are not enough reason to deprive everybody of the right to own a gun.

TABLE IV-1: *Comparison arguments*

Smith believes that if firearms must be registered, there would be less crime because fewer people would have guns.

	Percent
Exactly like Smith	14
Lean toward Smith	17

Smith believes that no private individual should be allowed to own a hangun.

	Percent
Exactly like Smith	13
Lean toward Smith	11

Jones believes that when it gets right down to it, it's up to him to protect himself and his family.

	Percent
Exactly like Jones	25
Lean toward Jones	29

Smith believes prohibiting private ownership of handguns would cause fewer handguns to be available and therefore crime would go down.

	Percent
Exactly like Smith	11
Lean toward Smith	19

Smith believes that firearms registration would enable police to solve crimes by tracing firearms to their owners.

	Percent
Exactly like Smith	14
Lean toward Smith	22

Smith believes that firearms registration would make it more difficult for the potential criminal to get a gun.

	Percent
Exactly like Smith	11
Lean toward Smith	19

Smith believes that confiscation of handguns would decrease murders because these weapons wouldn't be convenient when someone got angry.

	Percent
Exactly like Smith	21
Lean toward Smith	23

Jones believes that if firearms must be registered, there would still be the same amount of crime because criminals would ignore the registration law.

	Percent
Exactly like Jones	39
Lean toward Jones	31

Jones believes that any law-abiding citizen without a criminal record should be entitled to keep a handgun if he or she wants to.

	Percent
Exactly like Jones	44
Lean toward Jones	31

Smith believes that the protection of citizens from criminals should be left up to the police.

	Percent
Exactly like Smith	17
Lean toward Smith	30

Jones believes that even if criminals couldn't get handguns they'd simply use rifles and shotguns instead.

	Percent
Exactly like Jones	40
Lean toward Jones	30

Jones believes that firearms registration would not help solve more crimes because criminals wouldn't register their firearms.

	Percent
Exactly like Jones	38
Lean toward Jones	26

Jones believes that firearms registration wouldn't really help because potential criminals determined to get guns would get them anyway.

	Percent
Exactly like Jones	45
Lean toward Jones	25

Jones believes that occasional domestic shootings are tragic, but are not enough reason to deprive everybody of the right to own a gun.

	Percent
Exactly like Jones	27
Lean toward Jones	29

Government Arguments

The population is evenly split on the contention that a national gun registration program would eventually lead to the confiscation of registered guns by the government. As can be seen in Table IV-2, the bulk of the population does not place itself in the extreme categories of agreeing strongly or disagreeing strongly. When this occurs it is usually an indication that the idea is new to the respondents and/or hasn't been thoroughly thought through yet. In the light of the strong belief that the Constitution gives people the right to own guns, we believe that the answers to this statement indicate that the idea of government confiscating even registered guns is viewed as quite far-fetched in most people's minds.

The fears of eventual confiscation by government drops the higher the education. The Great Lakes States have the highest fear that this might happen, the Middle Atlantic States the strongest disagreement. We also find (Computer Printout page 583) that the Deep South disagrees with that fear more than they agree with it. This is perhaps some indication that the source of gun support in the Deep South is not tied to fears of confiscation. Also (page 585) gun owners themselves are not all that enthused about the argument. One subgroup where the confiscation fear is strong (albeit we're dealing with a small subsample, N=43) is the Mexican-American community. Here 74% agree that the government might eventually confiscate registered guns. The Blacks, on the other hand, do not differ significantly from the population as a whole.

The low fear of confiscation is not to say, however, that government is viewed as benevolent and just as can be seen in Table IV-3. If a law were passed requiring people to register their guns, only 30% would want the federal government to regulate the ownership and use of firearms, whereas the vast majority would want a government closer to home to run the operation. Local government units would be first choice with 37%.

TABLE IV-2: *Attitudes toward eventual Government confiscation of firearms*

A national gun registration program will eventually lead to the confiscation of registered guns by the government.

	Percent
Agree strongly	18
Just agree	32
Just disagree	35
Disagree strongly	16

TABLE IV-3: *Level of government desired for any regulation of firearms and perceived fairness*

If a law were passed requiring people to register their guns, which level of government do you think should regulate the ownership and use of firearms—federal, state, or local?

	Percent
Federal	30
State	29
Local	37
No opinion	4

How fair do you think the government would be in administering this task—very fair, somewhat fair, or not very fair?

	Percent
Very fair	23
Somewhat fair	54
Not very fair	23

We can also tell from Table IV-3 that the days of honest faith in government are over. Only one person in four believes that the government (at whatever level, but most apparently assumed federal) would be very fair in administering the task of regulating firearms ownership and use; about half equivocate on this and say that they expect somewhat fair treatment.

The Mountain States would be the most fertile ground in which to campaign against federal involvement in firearms regulation. The Farm Belt, the Deep South and rural areas in general also appear predisposed to anti-federal arguments.

In terms of cynicism toward government administration of the task, post graduates (normally not an anti-gun control group) are very cynical on this point. The Mountain States again turn out to be very cynical as do those who already oppose gun control laws. Not many subgroup distinctions in this item appear beyond these few.

People Arguments

The contention that "If we are serious about solving crime and violence, we must concentrate more on people than on weapons" is strongly supported by the vast majority of Americans; fewer than one in ten disagrees with the statement. The Outer South and the Pacific States are above average in support of this contention. See Table IV-4.

Assassination Arguments

Arguments being heard in some quarters that laws banning the handgun or at least requiring registration could prevent assassination attempts on public officials just are not being bought by the American public. There is very strong disagreement that banning private ownership of handguns could avoid an assassination attempt (Table IV-5); most of this emotion seems to stem from perceptions of utter unenforceability of handgun laws as will be examined in Section V.

TABLE IV-4: *Attitudes toward people related arguments*

If we are serious about solving crime and violence, we must concentrate more on people than on weapons.

	Percent
Agree strongly	63
Just agree	29
Just disagree	5
Disagree strongly	3

The constituencies who are above average in disagreeing with this argument form a slightly different profile than we've become accustomed to:

25 to 34 year olds

The high educated groups (in fact, the higher the education the greater the disagreement)

Deep South

Mountain States

Pacific States (perhaps California's attempt to do penance and reject the kook label)

When the specific instances of assassination attempts on President Ford were presented for respondent consideration, even if there had been a law requiring the registration of all handguns, four out of five people do not believe that law would have prevented Sarah Jane Moore and Lynnette Fromme from obtaining guns. And of course having obtained guns, there was even less to prevent them from using them. A few more people believe that such registration laws would have prevented Moore from her attempt than would have prevented Fromme, but these are very small percentages (Table IV-5). In most cases where we can isolate current or potentially pro-gun control groups, we seem to find a hardcore 20-25% in such groups.

Police Discretionary Power Argument

By almost a three to one margin, Americans reject the idea of giving police the power to decide who may and who may not own a firearm (Table IV-6). Literally every subgroup analyzed has a majority of its members in opposition to this idea. The margin by which Americans reject this concept and the strong inter-subgroup consistency can only lead us to conclude that certain national pollsters and commentators have misinterpreted their findings and are seriously misreading the total set of attitudes Americans have toward the types, and extent, of gun controls they are willing to support.

TABLE IV-5: *Assassination prevention arguments*

Assassination attempts on public officials could be avoided by banning private ownership of handguns.

	Percent
Agree strongly	12
Just agree	17
Just disagree	30
Disagree strongly	41

Within the past few weeks, two people have tried to assassinate President Ford. From what you've heard and read, if there had been a law requiring the registration of all handguns, do you think that law would have prevented these two people from obtaining guns, or not?

	Percent
Yes—would have prevented both	16
Would have prevented Fromme only	1
Would have prevented Moore only	4
No—would not have prevented	78
No opinion	2

TABLE IV-6: *The question of police power to determine gun ownership*

Would you favor or oppose a law giving police the power to decide who may or may not own a firearm?

	Percent
Favor	27
Oppose	71
No opinion	2

Potential effectiveness and enforceability of gun registration and confiscation laws

One of the most telling points of the whole study is that three out of four American citizens do not believe that even such a stringent law as turning in all weapons would reduce crime (Table V-1). The key element in the belief that such a law would be ineffective is that they don't believe that criminals would give up their guns—in essence, criminals and citizens alike would resist the law in the belief that they are granted the rights by a higher law (the Constitution). This is quite a clear cut pattern of pragmatic realistic attitudes lined up against a naive idealism.

The public's perceived compliance with registration and turn-in laws further illustrates the fruitlessness of the effort. As shown in Table V-2, the vast majority does not believe over half of all Americans would even register their firearms with the Federal government let alone comply with a turn-in law.

Another aspect of the effectiveness argument is found in Table V-3 where over eight people in ten believe that registration will not prevent criminals from acquiring or using handguns for illegal purposes. Again this appears to be common sense borne out with statistics. There is also some evidence shown in the table that people have become more realistic and less idealistic about the gun control issue in the last 7 years. In 1968, a Harris poll claimed that 45% of the public believe control of guns might cut down on violence, whereas now only 37% believe that gun control might help stop violence. A counterpoint is that almost two out of three now believe that control of guns might not cut down on violence at all.

On the compliance issue shown in Table V-2, subgroup patterns are generally what we have come to expect in terms of those who would be the least unbelieving (most idealistic) that firearms owners would comply with the law. On the gun confiscation side of compliance, we see that the young people are most cynical. High cynicism about a turn-in law was also found in the Farm Belt, the Southern States and the Mountain States.

TABLE V-1: *Perceived effectiveness of a gun turn-in law*

Just suppose Congress passed a law requiring all guns to be turned in. Do you think such laws would be effective in reducing crime, or not?

	Percent
Yes—would reduce crime	25
No—wouldn't reduce crime	73
Don't know	2
Effective:	
Would reduce crime	11
Guns less available	5
Reduce crimes passion	4
Record of gun owners	1
Reduce accidents by guns	1
Ineffective:	
Criminals won't give guns	29
People won't turn in guns	14
Gun available/general	10
Guns/black market	7
Impossible to enforce law	5
General	4
People use guns for protection	4
Not all guns registered	2
Unconstitutional	1
Wouldn't reduce crime	1
Severe penalties for breaking law	1
Don't know/no opinion	1
Control only hand guns	*
Other	*

*Less than 0.5%.

TABLE V-2: *Perceived compliance with laws requiring registration and turning-in of all guns*

If a law were passed requiring people to register their guns with the Federal government, how many firearm owners do you think would comply with the law?

	Percent
All	1
Most	22
Half	30
A few/some	45
None	2

If a law were passed requiring people to turn in all their guns to the Federal government, how many firearm owners do you think would comply with the law?

	Percent
All	1
Most	8
Half	24
A few/some	59
None	9

TABLE V-3: *Perceived effectivenes of gun registration laws*

Registration of handguns will not prevent criminals for acquiring or using them for illegal purposes.

	Percent
Agree strongly	53
Just agree	31
Just disagree	11
Disagree strongly	6

Control of guns might not cut down on violence at all.

	DMI 1975	*Harris 1968*
Agree strongly	30	45
Just agree	33	
Just disagree	22	45
Disagree strongly	15	

Gun ownership patterns and reasons

To try to encourage more gun owners to admit ownership of their weapons, we used a secret envelope technique. Toward the end of the interview the respondent was given an envelope with a sheet of questions on it which he or she filled out personally. We thought that making gun ownership admission a little easier (as opposed to having to verbally say it to an interviewer) would get a more accurate reading of actual gun ownership in the nation. The results as shown in Table VI-1 indicate that the percentage of guns measured differs only slightly from national published polls where the question was asked verbally.

Approximately 5% refuse to state whether or not they own a gun. As we have examined the attitudes of this specific group throughout the analysis, we have come to the conclusion that their attitudes are so much like gun owners (and in many cases are even more intense than those of gun owners) that the bulk of these people could not be classified as non-gun owners. In essence then, our measurement is that 46% of all adults in the nation own some type of firearm.

Table VI-1 also indicates that over half of the respondents admit to owning the gun themselves and about two out of five in all gun owner households claim the gun is owned by some other family member. The same table presents the percentage of gun owners who own various types of firearms.

As can be seen, about one person in ten (9%) owns all three types of firearms—pistols, shotguns, and rifles. Consistent with some stereotypes, there is a greater correlation between rifle owners and shotgun owners than there is between either and pistol owners.

The profiles of pistol owners, shotgun owners and rifle owners as shown in Table VI-4 verify this last point. Blacks, for example, are not above average in owning shotguns and rifles, but are very high in owning pistols. The highest educated group is above average on pistols but not on owning shotguns or rifles. Residents of suburbs are more likely to own pistols, whereas owning a shotgun or a rifle is naturally enough a function of rural areas.

TABLE VI-1.—GUN OWNERSHIP

[In percent]

	DMI 1975	Gallup 1975*	Harris 1968*	ORC 1968*
Do you have guns of any kind in your home?				
Yes, own gun(s)	41	44	49	45
No, Don't own gun(s)	54	56	51	50
Refused (most likely gun owners)	5			5

Do they belong to you or do they belong to some other member of your family? *

	Percent of gunowners
Owned by me	53
Owned by other family member	39
Both	5
Refused	4
Any pistols in home:	
Yes	50
Refused	7
Any shotguns in home:	
Yes	57
Refused	7
Any rifles in home:	
Yes	62
Refused	7

*Fairly similar wording, but orally asked.

TABLE VI-2: *Subgroup patterns of admitted gun ownership*

Highest:	Percent
Mountain	60
Rural	56
Deep South	54
Farm Belt	50
Outer South	49
$15,000-$24,999 income	48
$25,000 and over income	48
Male	48
Republican	48
Lowest:	
Middle Atlantic	27
New England	28
$0-$4,999 income	30
Urban	30
Female	34
55-64 years old	36

TABLE VI-4: *Profiles of gunowners by firearms category*

	Percent of gunowners
Own a pistol:	
Outer South	66
Black	62
Post graduate	62
Mountain	57
Some college/technical	57
$25,000 and over income	56
Suburban	55
Own a shotgun:	
Republican	69
Deep South	67
45-54 years old	65
Rural	65
Great Lakes	64
Independent	63
$10,000-$14,999 income	62
$25,000 and over income	62
Own a rifle:	
Rural	76
College graduate	71
Pacific	70
Republican	70
Mountain	69
$15,000-$24,999 income	69
18-24 years old	68
White	68

As for use of guns as a source of security and reasons for gun ownership, Table VI-5 reveals about 45% of all respondents would personally feel that the presence of a gun in their homes would make them feel more secure. The profiles of those who would feel more secure versus those who would not feel more secure about having a gun in a home follow almost the exact same pattern we have discovered over and over in this analysis and hence does not need to be repeated here. Feelings of security caused by a gun in a home elicits profiles that are highly correlated with constituency groups who oppose gun control versus those who do not.

Approximately one gun owner in six (17%) is willing to claim that he owns a gun for self-defense only. Self-defense as a secondary purpose to hunting or sport shooting is mentioned by an additional 38% (Table IV-5). Therefore we can say that fully 55% of all gun owners admit to self-defense and security as at least a secondary reason for owning a gun if not the primary reason. The top subgroups who own a gun only for self-defense include:

Blacks (almost half own it for this reason alone)
Lowest Income Group
Senior Citizens
Urban Residents
Deep South
Farmbelt
Less than High School
Highest Income Group
Democrats
Outer South

TABLE VI-5: *Guns as a source of security and reasons for gun ownership*

Asked of all respondents:

Do you personally feel that the presence of a gun in your home would make you feel more secure, or not?

	Percent
Yes—more secure	45
No—not more secure	55
No opinion	1

Asked of gun owners only:

Which one of the following choices best describes the reason you own a gun?

	Percent
I own it for self-defense	17
I own it for hunting	22
I own it for sport or target shooting	9
I own it mainly for hunting, but I'm glad it's there for self-defense	24
I own in mainly for sport or target shooting, but I'm glad it's there for self-defense	14
Other	10
Refused	5

SUMMARY

The following list is a nutshell recap of key findings which originate from the attitude patterns discussed in more detail in the previous sections.

1. On a national level Americans are still very much preoccupied with pocket book issues. Concern over crime and related social issues is still fairly substantial on the national level but, even more important, on the local level.

2. The lack of gun control laws is not spontaneously mentioned as either a national problem or a local problem by a significant number of citizens. Their attention had to be called to the issue before they expressed an opinion.

3. Harsher punishment is the main step suggested to reduce crime. Solving the social causes is the number two most often mentioned step to reduce crime. Improved judicial system and better police efforts receive as many unaided responses as the idea of gun control. In another question, gun control is ranked fourth most effective of five specific programs tested.

4. Congress has a very poor performance rating on crime solutions.

5. The strongest support for gun control positions comes from New England, 18 to 24 year olds, liberals, women, and to some extent from upper education groups and the Middle Atlantic States.

6. The greatest opposition to gun control positions comes from the Deep South, the Outer South, the Mountain States, rural areas, middle-aged groups, conservatives, and men.

7. Americans are quite ignorant about federal gun laws. Pro-gun control groups are generally lowest on knowledge, but gun owners, while above average, still have a lot to learn.

8. On three separate occasions in the questionnaire, respondents verified overwhelmingly their belief of their right to own guns as private citizens. The argument that the National Guard is the body the framers of the Constitution intended to bear arms for the populace just is not accepted.

9. All told, the best argument in the majority of cases is still the head-on contention that citizens have the right to own guns. The next most effective (and because it is more graphic and more action-oriented, maybe in some cases the most effective) is the fruitlessness or "it won't work" argument. There

are three key forms tested which found very good response:

Criminals will simply ignore the registration law.

Even if the number of handguns is reduced, criminals will find a way to get them anyway.

Even if it were possible to eliminate all handguns, criminals would simply switch to using rifles and shotguns instead.

10. American attitudes are still very fluid on gun control. It is not an issue that most people think about day to day, nor is the lack of a gun registration law a major concern to them. The attitudes haven't jelled yet and information is still quite scanty.

11. A solid majority of Americans rejects the suggestion that police be given the power to decide who may or may not own a gun.

12. Arguments that gun registration laws would discriminate against low income and minority groups aren't plausible even among these groups themselves.

13. The vast majority of Americans does not believe that any gun registration or gun control law would have prevented the two recent attempts on President Ford's life.

14. We believe that approximately 46% of all American adults have a firearm of some type in their homes. Over half of them admit that security and self-defense play at least a secondary role in the reason they own their guns.

THE MARIANA ISLANDS

Mr. GARY HART. Mr. President, the longer passage of House Joint Resolution 549, legislation which would irrevokably make the Marina Islands in the Pacific Ocean part of the United States and the inhabitants citizens, is delayed, the more we are learning about faults in the measure. Hearings held last month by the Foreign Relations and Armed Services Committees have allowed the Senate to understand that haste in passing this legislation will damage our Nation's international image, will certainly cost the taxpayers of the United States a great deal of money without any but remote promises of future returns and will create a new type of citizenship under which the people of the Marianas will have the Constitution selectively applied to them, the revenue laws of the United States altered to suit their desires not to contribute through taxes, duties or other revenues because the White House has said we should pay any price in order to secure the islands for essential military purposes. We have learned, however, that the Pentagon wants merely to deny the islands to other nations and does not plan any future military use of them except for limited training and storage areas. Furthermore, Government witnesses have testified that denial can be assured under any form of future status the Marianas might achieve.

Until the Foreign Relations and Armed Services hearings, all that Congress knew about why the administration was pushing to absorb the Marianas was that the people of the islands want the many benefits promised them by administration officials. Advocates of the plan proudly point out that 78 percent of the islanders voted in a plebiscite to accept the offers made. It is a wonder that 22 percent of the eligible voting population of 5,000 turned down the idea of becoming Americans since the per capita value of the Federal benefits they will receive under the authority of House Joint Resolution 549 is nearly $2,000 for every man, woman and child, 10 times more than the average mainland citizen gets back from his Government. In fact, the American people will have no choice because the implementing legislation cannot be changed without the consent of the Marianas. This means that, once the bill becomes law, the United States cannot turn back.

Certainly, House Joint Resolution 549 is defective because it provides much for the Marianas but no protection for the people of the United States who will be assuming full responsibility for distant islands for very little good reason. There is much more wrong with the measure, however, than the unprecedented benefits, exemptions from U.S. law, and other peculiarities of the arrangement negotiated by the administration nearly completely without the knowledge of the people of our Nation and the vast majority of their elected representatives. For example, the Senate has heard testimony that, to accomplish its aims in the Marianas, the administration is prepared to violate a treaty to which we are a party and is willing to accept the adverse international complications which will be generated by creating what will be in all but in name a colony of the United States.

Most important of all, in House Joint Resolution 549 the administration is dealing with only 10 percent of the people and islands of the vast Trust Territory of the Pacific. All the other islands are negotiating their future status, but, despite recent significant progress, it will take some time to decide in what manner the United States will turn over its U.N.-given supervisory responsibilities to the Micronesians. Until all this is settled, locking our Nation into an agreement solely with the Marianas is premature. As proof of this, the administration's witnesses have testified that the Marianas agreement will not be brought before the U.N. Security Council until the package for the rest of the islands is ready. This will not occur until 1980 or 1981. In the meantime, a separate but better status for the Marianas can inspire further fragmentation among the other islands and island groups of Micronesia. No one can say these islands will not find it to their advantage to shop around the other nations of the world to make the best deal they can to protect their future. This would immediately put at risk the one essential objective of the United States, denial of the islands to any other country.

There can be no doubt that House Joint Resolution 549 should not at this time be enacted. No harm is done to the interests of the United States, Micronesia, or the Marianas by delay because many of the self-government measures which would be triggered by passage can be done by executive order. Indeed, they should be done, not only for the Marianas, but for the rest of the Trust Territory as well. No one can deny that the United States has sadly neglected its responsibilities over the years to the peoples which the U.N. put in our trust. Only recently has the Congress attempted to make good the damage done. But giving the Marianas all they could possibly dream of in the way of an unalterable lien on the public treasury of the United States goes beyond our obligations. In short, our obligations to the Marianas and to the rest of the Trust Territory should not be eternal. We must settle the future status of Micronesia, perhaps with different features for different parts, but the whole package should be considered by Congress at the same time. Until then we should forget about House Joint Resolution 549.

After the holiday recess the Foreign Relations and Armed Services Committee will vote on House Joint Resolution 549 and various amendments proposed to it. The Senator from Virginia (Mr. Harry F. Byrd, Jr.) and I will ask the Armed Services Committee to consider an amendment which defers House Joint Resolution 549 without prejudice until such time as the administration has reached agreement with the entire trust territory. I understand a similar amendment will be offered in the Foreign Relations Committee. A vote for these amendments will be a vote against hasty legislation which could do grave damage to the interests of the United States.

Over the past several months I have asked to have printed on these pages the comments of individual citizens of the United States and a large number of editorials from major newspapers all over the Nation. With few exceptions, the letters I have received and the editorials I have read urge the Congress to go slowly until the American people have spoken on their desire to acquire new territories and citizens thousands of miles from our shores.

One recent example of editorial comment is an article written by the distinguished international lawyer, Dr. Jose A. Cabranas, now legal advisor to Yale University. His article appeared in the December 13 edition of the New Republic. Yet another, which I received only yesterday, is a petition from 52 citizens of Micronesia, all of them students at the University of Guam and many of them natives of the Mariana Islands. I ask unanimous consent that these be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

New Colony in the Pacific

(By José A. Cabranes)

The Ford administration is quietly attempting a major political and diplomatic coup: the dismemberment of the United Nations trusteeship in the western Pacific (Micronesia) and the annexation of its most compliant archipelago, the North Mariana Islands. The move to convert the Northern Marianas into an "unincorporated territory" of the U.S. (the euphemism for what others call a colony) has been timed and executed to avoid serious congressional opposition. Liberals in both houses (most notably, the chairman of the Democratic Caucus, Phillip Burton of California) have been among the loudest supporters of this effort to expand the territory of the U.S. for the first time since 1917. (Liberal complicity in winning for the Pentagon unimpeded access to lands for future base-building will come as no surprise to historians of American expansionism. Woodrow Wilson's interventions in Latin America made Theodore Roosevelt seem timid.)

The first rule of the expansionist game is simple enough: if there is no domestic constituency to question or oppose the interests of a major bureaucratic force, the bureaucracy will have its way with Congress, *The New York Times, The Washington Post* and a few academic ankle-biters notwithstanding. That is especially true when the island-grabbing is packaged in a way that appeals to the liberal passion for extension of the benefits of American civilization to less-favored races. A proposal (H.J. Res. 549) to enter into a "Covenant" with the people of the Northern Marianas—to create a "Commonwealth" of the Northern Mariana Islands and extend U.S. citizenship to its people does not sound horrifying, especially when added to it are pledges of federal subventions amounting to well over $1000 per year for every man, woman and child, for a period of at least seven years. The final flourish was a solemn plebiscite in June in the Northern Marianas, in which **"78 percent of the electorate" proclaimed eternal fealty to the United States.**

Need one say more about why Burton (who is also the chairman of the House Subcommittee on Territorial and Insular Affairs) managed to move the administration proposal through the House in less than three weeks in July (culminating in a voice vote on the floor of the House)? The now pending Senate bill, managed by Sen. Jackson, would also have sailed through unchallenged but for the alertness of Senators Gary Hart (D., Colo.), Harry F. Byrd, Jr. (Ind., Va.), and Claiborne Pell (D., R.I.), who demanded that the Senate Armed Services and Foreign Relations Committees review the matter independently of Jackson's Interior Committee. These are strange bedfellows united in the simple belief that this is no time to establish a new colony in the western Pacific, even if the arrangement has the endorsement of the colonial people concerned.

Critics of the proposal to annex the Northern Marianas note that:

The U.S. began status negotiations with the Northern Marianas only after a Micronesia-wide status commission proved too demanding in its search for self-government, and asked for too much political freedom in exchange for the coveted bases.

The administration ignored repeated urgings of the U.N. that the U.S. maintain the territorial integrity of the Trust Territory and give no encouragement to secessionist sentiment in the Marianas; limited its plebiscite to the 5,000 voters of the Marianas, thereby ignoring the overriding right to self-determination of the remaining 100,000 Micronesians; invited the U.N. merely to "observe" the plebiscite (rather than to conduct it and frame the question); and now plans to ignore the U.N. Charter requirements that political changes in Micronesia be approved by the Security Council.

The grant of a second-class form of US citizenship is designed permanently to unite the Marianas to the US, foreclose other political status options in the future and establish unalterable (and highly dubious) US security commitments in the western Pacific.

The U.S. should look to its own long-range interests before making irrevocable and unnecessary commitments for the government of a distant and dependent people, notwithstanding liberal pieties about the supposed right of self-determination of the Northern Marianas' 12,000 people.

Finally and most simply, territorial annexation is a policy that should hardly be favored by the American people in the year of their bicentenary.

The issue should go to the Senate floor before the recess.

In the coming weeks America has the opportunity of proving to us in Micronesia whether she is a great democratic nation or simply another colonial power.

We feel that the Marianas Covenant issue has not been handled in the best democratic tradition since the minority viewpoint has not been allowed to express itself to the U.S. Congress. Furthermore, a real choice was not offered to the voters.

Both the Congress of Micronesia and the United Nations have clearly endorsed the concept of unity of all six districts as opposed to its disintegration. We as university students, the future leaders of our islands, support this viewpoint of our leaders.

We firmly believe that unity is possible especially after the strong pro-unity stand of the recent Micronesian Constitutional Convention.

Therefore, as members or supporters of a duly-recognized campus organization at the University of Guam, GUMA, which stands for Guam United with Micronesia Association, we would like to see the following done:

1. A fair hearing is to be held in Washington for both sides. This will necessitate a delay in the U.S. Congressional vote. To build a house requires expert engineers and the task cannot be rushed.

2. A legal opinion is to be given by the United Nations and the International Court of Justice as to the legality of the separate Marianas status negotiations.

3. A legal interpretation is to be made of certain clauses in the covenant as to their constitutionality and of how the agreement will benefit the Marianas people as opposed to its benefit to and the protection of the interests of the U.S. in terms of immigration, the Tinian military base, the potentially rich ocean resources of oil and minerals, etc.

OPPRESSIVE PAPERWORK REQUIREMENTS

Mr. HUGH SCOTT. Mr. President, I think the time has come to say "enough is enough" to the Government agencies that deluge our hard-pressed businessmen and women with oppressive paperwork requirements.

I understand that in 1973 the Federal Government was using 5,298 different forms, not including those of the Internal Revenue Service, the prime offender, or those of the bank regulators. Ten billion new sheets of paper clog the Federal offices every year and fill 4.5 million cubic feet of space. Fifty forms are filled out each year for each and every man, woman, and child in the United States. I find these figures mind-boggling.

These paperwork requirements drain an estimated $20–$40 billion a year from American business. You and I as consumers must pay for this added and nonproductive cost.

Senator Roth has just introduced a bill that would require approval by the Office of Management and Budget—OMB—the right arm of the President—of all new or revised forms that the Internal Revenue Service seeks to use. Admittedly, this is just a stop-gap measure. Final action must await the findings of President Ford's Federal Paperwork Commission, which are due 2 years hence. In the meantime, Senator Roth's bill will hold the line on further increases in the burgeoning paperwork requirements. I am pleased to join him as cosponsor of this legislation, S. 2791, establishing oversight with respect to IRS forms: A step toward lessening the paperwork burden.

Presently, the Internal Revenue Service—IRS—generates more than half the Federal Government's paperwork requirements. My Pennsylvania constituents are only too well aware of this fact. Strangely enough, IRS is one of the few Federal agencies that is exempt from the provision of the Federal Reports Act of 1942, which requires that Federal forms and information requests intended for 10 or more persons must be reviewed and cleared by OMB.

The reasons for this exemption are no longer operative. Thus, the IRS should submit to the same paperwork oversight procedures as other agencies. Senator Roth's bill achieves this purpose, and I am happy to join him today as his cosponsor.

Again, I stress that this is an interim measure. It is my earnest hope that the President's Federal Paperwork Commission will find a way to reduce the present paperwork burden in a major way.

COMPARATIVE STATEMENT OF CONFERENCE ACTION ON SUPPLEMENTAL APPROPRIATION BILL, FISCAL YEAR 1976 (H.R. 10647)

Mr. McCLELLAN. Mr. President, I ask unanimous consent that a comparative statement of new budget authority estimates, House and Senate amounts, and the conference agreement with comparisons thereto, on the Supplemental Appropriations bill, fiscal year 1976 (H.R. 10647) be printed in the Record. The conference report on this bill was agreed to in the House and Senate on December 15, 1975.

There being no objection, the statement was ordered to be printed in the Record, as follows:

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD

TITLE I—GENERAL SUPPLEMENTALS

[Note: All amounts are in the form of appropriations unless otherwise noted]

Doc. No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with—		
						Estimates	House	Senate
	CHAPTER I							
	DEPARTMENT OF AGRICULTURE							
	FARMERS HOME ADMINISTRATION							
	Rural Housing Insurance Fund							
	(Insured loans)	( )	( )	($500,000,000)	($500,000,000)	($500,000,000)	($500,000,000)	( )
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	SOIL CONSERVATION SERVICE							
	Watershed and flood prevention operations		$21,702,000	26,432,000	26,432,000	26,432,000	4,730,000	
	Transition period							
	FOOD AND NUTRITION SERVICE							
	Special milk program			60,000,000	60,000,000	60,000,000	60,000,000	
	Transition period							
	Child nutrition programs			4,100,000	2,050,000	2,050,000	2,050,000	—$2,050,000
	Transition period							
S. 94–94	Food stamp program	$3,137,095,000	1,750,000,000	1,750,000,000	1,750,000,000	—1,387,095,000		
	Transition period	788,883,000				—788,883,000		
	GENERAL PROVISIONS							
	Working Capital Fund							
	(Increase in limitation)	( )	( )	(9,876,000)	(4,948,000)	(4,948,000)	(4,948,000)	(—4,928,000)
	(Transition period)	( )	( )	(2,573,000)	(1,287,000)	(1,287,000)	(1,287,000)	(—1,286,000)
	RELATED AGENCIES							
	COMMODITY FUTURES TRADING COMMISSION							
	(Increase in 5 U.S.C. 3109 limitation)	( )	( )	(200,000)	(65,000)	(65,000)	(65,000)	(—135,000)
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	Total, chapter I, new budget (obligational) authority	3,137,095,000	1,771,702,000	1,840,532,000	1,838,482,000	—1,298,613,000	66,780,000	—2,050,000
	Transition period	788,883,000				—788,883,000		
	CHAPTER II							
	DEPARTMENT OF DEFENSE							
	Defense							
	(Language only)							
	CHAPTER III							
	DISTRICT OF COLUMBIA							
	District of Columbia Funds							
H. 94–296	(Settlement of claims and suits)	(59,000)	( )	(59,000)	( )	(—59,000)	( )	(—59,000)
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	CHAPTER IV							
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
	Housing Programs							
S. 94–115	Federal Housing Administration:							
	(Restoration of losses)	(463,672,000)	( )	(142,500,000)	(142,500,000)	(—321,172,000)	(142,500,000)	( )
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	DEPARTMENT OF THE TREASURY							
S. 94–138	New York City Seasonal Financing Fund	2,300,000,000		2,300,000,000	2,300,000,000		2,300,000,000	
	Transition period							
S. 94–138	New York City Seasonal Financing Fund, administrative expenses	1,000,000		1,000,000	1,000,000		1,000,000	
	Transition period	315,000		315,000	315,000		315,000	
	Total, chapter IV:							
	New budget (obligational) authority	2,301,000,000		2,301,000,000	2,301,000,000		2,301,000,000	
	Transition period	315,000		315,000	315,000		315,000	
	(Restoration of losses)	(463,672,000)	( )	(142,500,000)	(142,500,000)	(—321,172,000)	(142,500,000)	( )
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	CHAPTER V							
	DEPARTMENT OF LABOR							
	MANPOWER ADMINISTRATION							
H. 94–276	Advances to the Unemployment Trust Fund and other funds.	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000			
	Transition period							
H. 94–276	Grants to States for unemployment insurance and employment services:							
	(Trust fund transfer)	(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)	( )	( )	( )
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	LABOR-MANAGEMENT SERVICES ADMINISTRATION							
S. 94–116	Salaries and expenses	4,618,000	3,910,000	3,910,000	3,910,000	—708,000		
	Transition period	1,077,000	1,077,000	1,077,000	1,077,000			

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

[Note: All amounts are in the form of appropriations unless otherwise noted]

Doc. No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with—		
						Estimates	House	Senate
	CHAPTER V—Continued							
	DEPARTMENT OF LABOR—Continued							
	EMPLOYMENT STANDARDS ADMINISTRATION							
S. 94-82	Salaries and expenses	3, 340, 000	2, 926, 000	2, 926, 000	2, 926, 000	—414, 000		
	Transition period	834, 000	834, 000	834, 000	834, 000			
H. 94-276	Special benefits	97, 100, 000	97, 100, 000	97, 100, 000	97, 100, 000			
	Transition period	10, 800, 000	10, 800, 000	10, 800, 000	10, 800, 000			
	DEPARTMENTAL MANAGEMENT							
S. 94-116	Salaries and expenses	305, 000	203, 000	203, 000	203, 000	—102, 000		
	Transition period	154, 000	154, 000	154, 000	154, 000			
	Total	5, 105, 363, 000	5, 104, 139, 000	5, 104, 139, 000	5, 104, 139, 000	—1, 224, 000		
	Transition period	12, 865, 000	12, 865, 000	12, 865, 000	12, 865, 000			
	DEPARTMENT OF HEALTH, EDUCATION AND WELFARE							
	HEALTH SERVICES ADMINISTRATION							
H. 94-22	Health services	266, 354, 000	432, 013, 000	440, 763, 000	437, 013, 000	170, 659, 000	5, 000, 000	—3, 750, 000
	Transition period	65, 017, 000	87, 517, 000	112, 000, 000	89, 662, 000	24, 645, 000	2, 145, 000	—22, 338, 000
	CENTER FOR DISEASE CONTROL							
H. 94-22	Preventive health services	5, 410, 000	10, 410, 000	13, 710, 000	13, 100, 000	7, 690, 000	2, 690, 000	—610, 000
	Transition period							
	ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION							
	Alcoholl drug abuse and mental health		50, 500, 000	64, 500, 000	56, 500, 000	56, 500, 000	6, 000, 000	—8, 000, 000
	Transition period							
	HEALTH RESOURCES ADMINISTRATION							
H. 94-22	Health resources	18, 000, 000	77, 000, 000	89, 000, 000	85, 000, 000	67, 000, 000	8, 000, 000	—4, 000, 000
	Transition period	4, 000, 000	6, 000, 000	6, 000, 000	6, 000, 000	2, 000, 000		
	NATIONAL INSTITUTE OF EDUCATION							
	National Institute of Education			3, 250, 000				—3, 250, 000
	Transition period							
	ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT							
H. 94-91	Human development	38, 080, 000	40, 080, 000	38, 495, 000	38, 495, 000	415, 000	—1, 585, 000	
	Transition period	8, 668, 000	9, 168, 000	9, 510, 000	9, 317, 000	649, 000	149, 000	—193, 000
	DEPARTMENTAL MANAGEMENT							
	General departmental management		413, 000	413, 000	413, 000	413, 000		
	Transition period		206, 000	206, 000	206, 000	206, 000		
	Total	327, 844, 000	610, 416, 000	650, 131, 000	630, 521, 900	302, 677, 000	20, 105, 000	—19, 610, 000
	Transition period	77, 685, 000	102, 891, 000	127, 716, 000	105, 185, 000	27, 500, 000	2, 294, 000	—22, 531, 000
	RELATED AGENCIES							
	COMMUNITY SERVICES ADMINISTRATION							
	Community services program		2, 500, 000	2, 000, 000	2, 500, 000	2, 500, 000		500, 000
	Transition period							
	Total, chapter V:							
	New budget (obligational) authority	5, 433, 207, 000	5, 717, 955, 000	5, 756, 270, 000	5, 737, 160, 000	303, 953, 000	20, 105, 000	—19, 110, 000
	Transition period	90, 550, 000	115, 756, 000	140, 581, 000	118, 050, 000	27, 500, 000	2, 294, 000	—22, 531, 000
	(Trust fund transfers)	(364, 100, 000)	(364, 100, 000)	(364, 100, 000)	(364, 100, 000)	( )	( )	( )
	(Transition period)	( )	( )	( )	( )	( )	( )	( )
	CHAPTER VI							
	LEGISLATIVE BRANCH							
	SENATE							
S. 94-	Compensation and mileage of the Vice President and Senators	181, 500		181, 500	181, 500		181, 500	
	Transition period	62, 000		62, 000	62, 000		62, 000	
S. 94-	Salaries, officers and employees:							
	Office of the Secretary	11, 000		9, 400	9, 400	—1, 600	9, 400	
	Transition period	4, 700		4, 700	4, 700		4, 700	
S. 94-	Administrative and clerical assistance to Senators	26, 400		26, 400	26, 400		26, 400	
	Transition period	13, 200		13, 200	13, 200		13, 200	
	Subtotal	37, 400		35, 800	35, 800	—1, 600	35, 800	
	Transition period	17, 900		17, 900	17, 900		17, 900	

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

[Note: All amounts are in the form of appropriations unless otherwise noted]

Doc. No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with— Estimates	House	Senate
	CHAPTER VI—Continued							
	LEGISLATIVE BRANCH—Continued							
	CONTINGENT EXPENSES OF THE SENATE							
S. 94–	Inquiries and investigations	1, 995, 000		1, 080, 000	1, 080, 000	—915, 000	1, 080, 000	
	Transition period	500, 000		275, 000	275, 000	—225, 000	275, 000	
S. 94–	Miscellaneous items, 1975	350, 000		350, 000	350, 000		350, 000	
	Transition period							
S. 94–	Miscellaneous items, 1976	2, 500, 000		2, 550, 000	2, 550, 000		2, 550, 000	
	Transition period	1, 275, 000		1, 275, 000	1, 275, 000		1, 275, 000	
	Subtotal	4, 895, 000		3, 980, 000	3, 980, 000	—915, 000	3, 980, 000	
	Transition period	1, 775, 000		1, 550, 000	1, 550, 000	—225, 000	1, 550, 000	
	Total	5, 113, 900		4, 197, 300	4, 197, 300	—916, 600	4, 197, 300	
	Transition period	1, 854, 900		1, 629, 900	1, 629, 900	—225, 000	1, 629, 900	
	HOUSE OF REPRESENTATIVES							
	HOUSE LEADERSHIP OFFICES							
H. 94–288	Office of the Speaker	106, 000	106, 000	106, 000	106, 000			
	Transition period	26, 500	26, 500	26, 500	26, 500			
H. 94–288	Office of the Majority Floor Leader	36, 000	36, 000	36, 000	36, 000			
	Transition period	9, 000	9, 000	9, 000	9, 000			
H. 94–288	Office of the Minority Floor Leader	93, 400	93, 400	93, 400	93, 400			
	Transition period	23, 350	23, 350	23, 350	23, 350			
H. 94–288	Office of the Majority Whip	50, 000	50, 000	50, 000	50, 000			
	Transition period	12, 500	12, 500	12, 500	12, 500			
H. 94–288	Office of the Minority Whip	50, 000	50, 000	50, 000	50, 000			
	Transition period	12, 500	12, 500	12, 500	12, 500			
	Subtotal	335, 400	335, 400	335, 400	335, 400			
	Transition period	83, 950	83, 850	83, 850	83, 850			
	SALARIES, OFFICERS AND EMPLOYEES							
H. 94–288	House Democratic Steering Committee	50, 000	50, 000	50, 000	50, 000			
	Transition period	12, 500	12, 500	12, 500	12, 500			
H. 94–288	House Democratic Caucus	66, 000	66, 000	66, 000	66, 000			
	Transition period	16, 500	16, 500	16, 500	16, 500			
H. 94–288	House Republican Conference	116, 000	116, 000	116, 000	116, 000			
	Transition period	29, 000	29, 000	29, 000	29, 000			
	Subtotal	232, 000	232, 000	232, 000	232, 000			
	Transition period	58, 000	58, 000	58, 000	58, 000			
	MEMBERS' CLERK HIRE							
H. 94–288	Clerk hire	5, 621, 000	5, 621, 000	5, 621, 600	5, 621, 600	600	600	
	Transition period	1, 405, 250	1, 405, 250	1, 405, 250	1, 405, 250			
	CONTINGENT EXPENSES OF THE HOUSE							
H. 94–288	Miscellaneous items	9, 453, 600	9, 453, 600	9, 453, 000	9, 453, 000	—600	—600	
	Transition period	2, 363, 400	2, 363, 400	2, 363, 400	2, 363, 400			
H. 94–288	Special and select committees	450, 000	450, 000	450, 000	450, 000			
	Transition period	112, 500	112, 500	112, 500	112, 500			
	Subtotal	9, 903, 600	9, 903, 600	9, 903, 000	9, 903, 000	—600	—600	
	Transition period	2, 475, 900	2, 475, 900	2, 475, 900	2, 475, 900			
	Total	16, 092, 000	16, 092, 000	16, 092, 000	16, 092, 000			
	Transition period	4, 023, 000	4, 023, 000	4, 023, 000	4, 023, 000			
	JOINT ITEMS							
	CONTINGENT EXPENSES OF THE SENATE							
H. 94–288	American Indian Policy Review Commission	385, 168	385, 168	385, 168	385, 168			
	Transition period	710	710	710	710			
	CONTINGENT EXPENSES OF THE HOUSE							
H. 94–288	Joint Committee on Defense Production	19, 000				—19, 000		
	Transition period	4, 750				—4, 750		
	OFFICIAL MAIL COSTS							
H. 94–288	Expenses	16, 080, 000	16, 080, 000	16, 080, 000	16, 080, 000			
	Transition period	4, 020, 000				—4, 020, 000		
	Total	16, 484, 168	16, 465, 168	16, 465, 168	16, 465, 168	—19, 000		
	Transition period	4, 025, 460	710	710	710	—4, 024, 750		
	CONGRESSIONAL BUDGET OFFICE							
H. 94–264	Salaries and expenses	8, 079, 000	4, 736, 340	4, 900, 000	4, 736, 340	—3, 342, 660		—163, 660
	Transition period	2, 073, 000	1, 184, 085	1, 600, 000	1, 184, 085	—888, 915		—415, 915
	ARCHITECT OF THE CAPITOL							
	CAPITOL BUILDINGS AND GROUNDS							
S. 94–	Capitol buildings	65, 000		65, 000	65, 000		65, 000	
	Transition period							
H. 94–297	Capitol grounds	100, 000	100, 000	100, 000	100, 000			
	Transition period							
H. 94–297	Senate office buildings	721, 000		696, 000	696, 000	—25, 000	696, 000	
	Transition period	29, 000		29, 000	29, 000		29, 000	

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

[Note: All amounts are in the form of appropriations unless otherwise noted]

Doc. No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with—		
						Estimates	House	Senate
	CHAPTER VI—Continued							
	LEGISLATIVE BRANCH—Continued							
	LIBRARY BUILDINGS AND GROUNDS							
H. 94-297	Structural and mechanical care	213,000	213,000	213,000	213,000			
	Transition period							
	Total	1,099,000	313,000	1,074,000	1,074,000	—25,000	761,000	
	Transition period	29,000		29,000	29,000		29,000	
	LIBRARY OF CONGRESS							
H. 94-264	Salaries and expenses	312,800	312,800	312,800	312,800			
	Transition period	36,000	36,000	36,000	36,000			
H. 94-288	Distribution of catalog cards, salaries and expenses, 1974 (reappropriation)	300,000	300,000	300,000	300,000			
	Transition period							
	Total	612,800	612,800	612,800	612,800			
	Transition period	36,000	36,000	36,000	36,000			
	GOVERNMENT PRINTING OFFICE							
H. 94-264	Printing and binding	794,000	794,000	794,000	794,000			
	Transition period	199,000	199,000	199,000	199,000			
H. 94-264	Office of Superintendent of Documents, salaries and expenses	900,000	900,000		800,000	—100,000	—100,000	800,000
	Transition period	225,000	225,000		200,000	—25,000	—25,000	200,000
H. 94-264	Project planning	210,000	210,000	210,000	210,000			
	Transition period							
	Total	1,904,000	1,904,000	1,004,000	1,804,000	—100,000	—100,000	800,000
	Transition period	424,000	424,000	199,000	399,000	—25,000	—25,000	200,000
	GENERAL ACCOUNTING OFFICE							
H. 94-134	Salaries and expenses	1,292,000		1,292,000	1,292,000		1,292,000	
	Transition period							
	Total, chapter VI, New budget (obligational) authority:							
	Fiscal year 1976	50,026,868	39,823,308	44,987,268	45,623,608	—4,403,260	5,800,300	636,340
	Transition period	12,465,360	5,667,795	7,517,610	7,301,695	—5,163,665	1,633,900	—215,915
	Fiscal year 1975	350,000		350,000	350,000		350,000	
	Transition period							
	Fiscal year 1974	300,000	300,000	300,000	300,000			
	Transition period							
	CHAPTER VII							
	DEPARTMENT OF STATE							
	INTERNATIONAL ORGANIZATIONS AND CONFERENCES							
S. 94-132	Contributions for international peacekeeping activities	42,000,000		35,000,000	35,000,000	—7,000,000	35,000,000	
	Transition period							
H. 94-277	International conferences and contingencies							
	Transition period							
H. 94-277	International trade negotiations	264,000	260,000	260,000	260,000	—4,000		
	Transition period	66,000	65,000	65,000	65,000	—1,000		
	ADMINISTRATION OF FOREIGN AFFAIRS							
	Salaries and expenses			300,000				—300,000
	Transition period							
	Total	42,264,000	260,000	35,560,000	35,260,000	—7,004,000	35,000,000	—300,000
	Transition period	66,000	65,000	65,000	65,000	—1,000		
	DEPARTMENT OF JUSTICE							
	LEGAL ACTIVITIES							
	Salaries and expenses, general legal activities			230,000	200,000	200,000	200,000	—30,000
	Transition period							
	DEPARTMENT OF COMMERCE							
	BUREAU OF THE CENSUS							
S. 94-131	Periodic censuses and programs	4,940,000		4,940,000	4,940,000		4,940,000	
	Transition period							
	THE JUDICIARY							
	COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES							
H. 94-263	Representation by court-appointed counsel and operation of defender organizations	4,500,000	4,100,000	4,100,000	4,100,000	—400,000		
	Transition period	675,000	575,000	575,000	575,000	—100,000		
S. 94-139	Salaries and expenses of U.S. magistrates	404,000		404,000	404,000		404,000	
	Transition period	151,000		151,000	151,000		151,000	
H. 94-263	Salaries and expenses of referees	1,711,000	1,466,000	1,466,000	1,466,000	—245,000		
	Transition period	772,000	661,000	661,000	661,000	—111,000		
	Total	6,615,000	5,566,000	5,970,000	5,970,000	—645,000	404,000	
	Transition period	1,598,000	1,236,000	1,387,000	1,387,000	—211,000	151,000	

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

[Note: All amounts are in the form of appropriations unless otherwise noted]

Doc. No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with—		
						Estimates	House	Senate
	CHAPTER VII—Continued							
	RELATED AGENCIES							
	FEDERAL COMMUNICATIONS COMMISSION							
H. 94-245	Salaries and expenses	445,000	313,000	313,000	313,000	−132,000		
	Transition period	111,000	111,000	111,000	111,000			
	JAPAN-UNITED STATES FRIENDSHIP COMMISSION							
	Japan-United States Friendship Trust Fund			24,000,000	18,000,000	18,000,000	18,000,000	−6,000,000
	Transition period							
	PRIVACY PROTECTION STUDY COMMISSION							
H. 94-244	Salaries and expenses	398,000	398,000	398,000	398,000			
	Transition period	200,000	200,000	200,000	200,000			
	Total	843,000	711,000	24,711,000	18,711,000	17,868,000	18,000,000	−6,000,000
	Transition period	311,000	311,000	311,000	311,000			
	Total, chapter VII, new budget (obligational) authority	54,662,000	6,537,000	71,411,000	65,081,000	10,419,000	58,544,000	−6,330,000
	Transition period	1,975,000	1,612,000	1,763,000	1,763,000	−212,000	151,000	
	CHAPTER VIII							
	DEPARTMENT OF TRANSPORTATION							
H. 94-22	Facilities and equipment (Airport and Airway Trust Fund)	250,000,000	245,537,000	245,537,000	245,537,000	−4,463,000		
	Transition period							
H. 94-22	Grants-in-aid for airports: Liquidation of contract authority:							
	(Airport and Airway Trust Fund)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)			
	(Transition period)	(43,000,000)	(43,000,000)	(43,000,000)	(43,000,000)			
	URBAN MASS TRANSPORTATION ADMINISTRATION							
S. 94-119	Urban Mass Transportation Fund:							
	(Liquidation of contract authorization)	(300,000,000)		(300,000,000)	(300,000,000)		(300,000,000)	
	(Transition period)	(50,000,000)		(50,000,000)	(50,000,000)		(40,000,000)	
	Total, chapter VIII:							
	New budget (obligational) authority	250,000,000	245,537,000	245,537,000	245,537,000	−4,463,000		
	Transition period							
	(Liquidation of contract authorization: fiscal year 1976)	(350,000,000)	(50,000,000)	(350,000,000	(350,000,000		(300,000,000)	
	(Transition period)	(93,000,000)	(43,000,000)	(93,000,000)	(93,000,000)		(50,000,000)	
	CHAPTER IX							
	DEPARTMENT OF THE TREASURY							
	BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS							
H. 94-235	Salaries and expenses	15,500,000	3,100,000	7,211,000	5,500,000	−16,000,000	2,400,000	−1,711,000
	Transition period	4,900,000	980,000	1,825,000	1,375,000	−3,525,000	395,000	−450,000
	INTERNAL REVENUE SERVICE							
	Compliance		4,000,000				−400,000,000	
	Transition period		1,000,000				−1,000,000	
	U.S. SECRET SERVICE							
H. 94-265	Salaries and expenses	11,000,000	3,000,000	10,500,000	10,500,000	−500,000	7,500,000	
	Transition period	2,500,000	500,000	2,500,000	2,500,000		2,000,000	
	Total	26,500,000	10,100,000	17,711,000	16,000,000	−10,500,000	5,900,000	−1,711,000
	Transition period	7,400,000	2,480,000	4,325,000	3,875,000	−3,525,000	1,395,000	−450,000
	EXECUTIVE OFFICE OF THE PRESIDENT							
	DOMESTIC COUNCIL							
H. 94-243	Salaries and expenses	920,000		300,000	300,000	−620,000	300,000	
	Transition period	230,000		75,000	75,000	−155,000	75,000	
	OFFICE OF MANAGEMENT AND BUDGET							
S. 94-125	(Salaries and expenses (by transfer))	(554,000)	(..............)	(554,000)	(500,000)	(−54,000)	(500,000)	(−54,000)
	(Transition period)	(131,000)	(..............)	(131,000)	(120,000)	(−11,000)	(120,000)	(−11,000
	INDEPENDENT AGENCIES							
	CIVIL SERVICE COMMISSION							
H. 94-279	Salaries and expenses	950,000	500,000	500,000	500,000	−450,000		
	Transition period	257,000	100,000	100,000	100,000	−157,000		
H. 94-279	Federal Labor Relations Council	105,000	105,000	105,000	105,000			
	Transition period	39,000	39,000	39,000	39,000			
	Subtotal	1,055,000	605,000	605,000	605,000	−450,000		
	Transition period	296,000	139,000	139,000	139,000	−157,000		

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

[Note: All amounts are in the form of appropriations unless otherwise noted]

Doc. No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with— Estimates	House	Senate
	CHAPTER IX—Continued							
	INDEPENDENT AGENCIES—Continued							
	COMMISSION ON FEDERAL PAPERWORK							
H. 94–291	Salaries and expenses	4, 000, 000	4, 000, 000	4, 000, 000	4, 000, 000			
	Transition period	2, 000, 000	2, 000, 000	1, 000, 000	2, 000, 000			1, 000, 000
	GENERAL SERVICES ADMINISTRATION							
S. 94–124	Refunds under Renegotiation Act	1, 000, 000		1, 000, 000	1, 000, 000		1, 000, 000	
	Transition period							
	TEMPORARY STUDY COMMISSION							
S. 94–136	National Commission on Supplies and Shortages	622, 500		622, 500	622, 500		622, 500	
	Transition period	295, 000		295, 000	295, 000		295, 000	
	Total, chapter IX:							
	New budget (obligational) authority	34, 097, 500	14, 705, 000	24, 238, 500	22, 527, 500	—11, 570, 000	7, 822, 500	—1, 711, 000
	Transition period	10, 221, 000	4, 619, 000	5, 834, 000	6, 384, 000	—3, 837, 000	1, 765, 000	550, 000
	(By transfer)	(554, 000)	( )	(554, 000)	(500, 000)	(—54, 000)	(500, 000)	(—54, 000)
	(Transition period)	(131, 000)	( )	(131, 000)	(120, 000)	(—11, 000)	(120, 000)	(—11, 000)
	CHAPTER X							
	Claims and judgements:							
	New budget (obligational) authority	43, 472, 009	24, 946, 893	43, 472, 009	43, 472, 009		18, 525, 116	
	Transition period							
	Total, chapter X, new budget (obligational) authority	43, 472, 009	24, 946, 893	43, 472, 009	43, 472, 009		18, 525, 116	
	Transition period							
	CHAPTER XI							
	ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION							
	Operating expenses, fossil fuels			6, 900, 000				—6, 900, 000
	Transition period							
	Total, chapter XI, new budget (obligational) authority			6, 900, 000				—6, 900, 000
	Transition period							

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD

TITLE I—GENERAL SUPPLEMENTALS

[Note: All amounts are in the form of appropriations unless otherwise noted]

Chapter No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with— Estimates	House	Senate
	SUMMARY							
I	Department of Agriculture:							
	Fiscal year 1976	3, 137, 095, 000	1, 771, 702, 000	1, 840, 532, 000	1, 838, 482, 000	—1, 298, 613, 000	66, 780, 000	—2, 050, 000
	(Transition period	788, 883, 000				—788, 883, 000		
	(Insured loans)			(500, 000, 000)	(500, 000, 000)	(500, 000, 000)	(500, 000, 000)	
	(Transition period)							
	(Increase in limitation)			(10, 076, 000)	(5, 013, 000)	(5, 013, 000	(5, 013, 000)	(—5, 063, 000)
	(Transition period)			(2, 573, 000)	(1, 287, 000)	(1, 287, 000)	(1, 287, 000)	(1, 286, 000)
II	Defense (language only)							
III	District of Columbia:							
	(District of Columbia Funds)	(59, 000)		(59, 000)		(—59, 000)		(—59, 000)
	(Transition period)							
IV	HUD-Independent agencies:							
	Fiscal year 1976	2, 301, 000, 000		2, 301, 000, 000	2, 301, 000, 000		2, 301, 000, 000	
	Transition period	315, 000		315, 000	315, 000		315, 000	
	(Restoration of losses)	(463, 672, 000)		(142, 500, 000)	(142, 500, 000)	(—321, 172, 000)	(142, 500, 000)	
	(Transition period)							
V	Labor, and Health, Education, and Welfare:							
	Fiscal year 1976	5, 433, 207, 000	5, 717, 055, 000	5, 756, 270, 000	5, 737, 160, 000	303, 953, 000	20, 105, 000	—19, 110, 000
	Transition period	90, 550, 000	115, 756, 000	140, 581, 000	118, 050, 000	27, 500, 000	2, 294, 000	—22, 531, 000
	(Trust fund transfers)	(364, 100, 000)	(364, 100, 000)	(364, 100, 000)	(364, 100, 000)			
	(Transition period)							
VI	Legislative:							
	Fiscal year 1974	300, 000	300, 000	300, 000	300, 000			
	Transition period							
	Fiscal year 1975	350, 000		350, 000	350, 000		350, 000	
	Transition period							
	Fiscal year 1976	50, 026, 868	39, 823, 308	44, 987, 268	45, 623, 608	—4, 403, 260	5, 800, 000	636, 340
	Transition period	12, 465, 360	5, 667, 795	7, 517, 610	7, 301, 695	—5, 163, 665	1, 663, 900	—215, 915
VII	State, Justice, Commerce and Judiciary:							
	Fiscal year 1976	54, 662, 000	6, 537, 000	71, 411, 000	65, 081, 000	10, 419, 000	58, 544, 000	—6, 330, 000
	Transition period	1, 975, 000	1, 612, 000	1, 763, 000	1, 763, 000	—212, 000	151, 000	
VIII	Transportation:							
	Fiscal year 1976	250, 000, 000	245, 537, 000	245, 537, 000	245, 537, 000	—4, 463, 000		
	Transition period							
	(Liquidation of contract authorization:)							
	(Fiscal year 1976)	(350, 000, 000)	(50, 000, 000)	(350, 000, 000)	(350, 000, 000)		(300, 000, 000)	
	(Transition period)	(93, 000, 000)	(43, 000, 000)	(93, 000, 000)	(93, 000, 000)		(50, 000, 000)	

COMPARATIVE STATEMENT OF SUPPLEMENTAL NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED BY THE CONFERENCE FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

[Note: All amounts are in the form of appropriations unless otherwise noted]

Chapter No.	Agency and item	Budget estimates	House bill	Senate bill	Conference bill	Conference increase (no indication) or decrease (—) compared with— Estimates	House	Senate
	SUMMARY—Continued							
X	Treasury, Postal Service, and General Government:							
	Fiscal year 1976	34,097,500	14,705,000	24,238,500	22,527,500	−11,570,000	7,822,500	−1,711,000
	Transition period	10,221,000	4,619,000	5,834,000	6,384,000	−3,837,000	1,765,000	550,000
	(Transfer from salaries and expenses:)							
	(Fiscal year 1976)	(554,000)	( )	(554,000)	(500,000)	(−54,000)	(500,000)	(−54,000)
	(Transition period)	(131,000)	( )	(131,000)	(120,000)	(−11,000)	(120,000)	(−11,000)
X	Claims and judgments: Fiscal year 1976	43,472,009	24,946,893	43,472,009	43,472,009		18,525,116	
	Transition period							
XI	Interior:							
	Fiscal year 1976			6,900,000				−6,900,000
	Transition period							
	Totals:							
	Fiscal year 1974 new budget (obligational) authority	300,000	300,000	300,000	300,000			
	Transition period							
	Fiscal year 1975 new budget (obligational) authority	350,000		350,000	350,000		350,000	
	Transition period							
	Fiscal year 1976 new budget (obligational) authority	11,303,560,377	7,820,306,201	10,334,347,777	10,298,883,117	−1,004,677,260	2,478,576,916	−35,464,660
	Transition period	904,409,360	127,654,795	156,010,610	133,813,695	−770,595,665	6,158,900	−22,196,915
	Insured loans			500,000,000	500,000,000	500,000,000	500,000,000	
	Transition period							
	Increase in limitations			10,076,000	5,013,000	5,013,000	5,013,000	−5,063,000
	Transition period			2,573,000	1,287,000	1,287,000	1,287,000	−1,286,000
	Restoration of losses	463,672,000		142,500,000	142,500,000	−321,172,000	142,500,000	
	Transition period							
	Trust fund transfers	364,100,000	364,100,000	364,100,000	364,100,000			
	Transition period							
	Liquidation of contract authorization:							
	Fiscal year 1976	350,000,000	50,000,000	350,000,000	350,000,000		300,000,000	
	Transition period	93,000,000	43,000,000	93,000,000	93,000,000		50,000,000	
	Transfer from salaries and expenses:							
	Fiscal year 1976	554,000		554,000	500,000	−54,000	500,000	−54,000
	Transition period	131,000		131,000	120,000	−11,000	120,000	−11,000

BICENTENNIAL SPEECH BY JOHN B. OAKES

Mr. McCLURE. Mr. President, on November 2, 1975, Temple Emanu-El of New York City, the largest Jewish house of worship in the world, inaugurated a Bicentennial lecture series, at which John B. Oakes, the eminent editor of the editorial page of the New York Times spoke. His was a thought-provoking address that brings into focus the deep-seated problems that face an America entering into its third century and I commend it to you for your consideration and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE UNITED STATES OF AMERICA: TWO HUNDRED YEARS LATER

(By John B. Oakes)

"America is promises" said Archibald MacLeish, but America also is history: a continuum of the present, building on the past, to create the future. The American accent has, in fact, always been on the future; and that profound faith in the progress of man, and especially of American man (and woman) is the most distinguishing mark of the American character as it has evolved during these past 350 years. We as a people are "always becoming, never being" Albert Einstein once observed; and we as a people now celebrating the 200th anniversary of our existence as a nation, would do well to take advantage of this historic occasion not merely to extol ourselves for what we have been, not only to look in a collective mirror to see what we are in fact in process of being, but, most importantly, to try to determine where we are going to be: what, as a people, we are becoming.

What, as a people, we are becoming. Not as Jews, or WASPS, or blacks, or Irish, or Hispanics, or Italians; but we as that unique amalgam of varied racial, religious and ethnic strains that has succeeded in accomplishing what no other people has done in so short a span of time: create a nation not out of gradual, centuries-long mingling of disparate tribal groups—as, for example, the English nation was created—but rather on the basis of an extraordinary set of political acts and documents that, in the space of hardly more than a decade, established the philosophical parameters of the new nation as well as its structural framework.

In the formation of this genus Americanus whose origins we are celebrating today and in succeeding months here in Temple Emanu-El, let us not forget—as it is sometimes forgotten—that there has been a Jewish presence in America almost from the very first settlement of the New World, and a tremendously significant Jewish influence in the development of our national life and institutions—a fact insufficiently appreciated by Jews and non-Jews alike.

Throughout the pre-Revolutionary period, Jews kept coming to these shores from both Western Europe and the Caribbean, concentrating in half a dozen of the more important coastal cities from Savannah to Newport. Jews, just exactly like the rest of their fellow-colonists, took an active part in the American Revolution. You may be surprised to hear that Haym Solomon was not the only one: there were Jewish officers on Washington's staff, Jewish soldiers in his army and, yes, a handful of Jewish Tories, too—which only goes to prove that the Jews of colonial America reflected the same variations in political, economic and social status, relationship and reactions as their non-Jewish neighbors. They were remarkably integrated into American life, far more completely than in any other contemporary society of the known world, even including such traditional citadels of freedom as Holland.

And so it is hardly surprising that with the Declaration of the Independence of the United States and the subsequent adoption of the Constitution and the Bill of Rights, American Jews enjoyed from the very beginning precisely the same freedoms, precisely the same legal status, precisely the same protection of the laws, precisely the same obligations of citizenship, as their fellow-citizens who happened to be non-Jews.

And so we as Jews as well as Americans have a very special reason to celebrate the establishment of a new country, a new kind of government, on this continent "conceived in liberty and dedicated to the proposition that all men are created equal."

It is now more than a century since Lincoln uttered those words and just under two centuries that this great experiment began. It rests on the fundamental concepts of individual liberty and political democracy; of freedom and independence and at the same time social responsibility and government under law. These articles of faith are underpinned by an implicit agreement among the overwhelming majority of Americans that our kind of government and our kind of society requires a broad degree of tolerance and a highly developed sense of self-restraint if indeed it is to be held together. Through these two centuries it has so held with only one tragic, though temporary, break; it has survived social upheaval and economic disaster; internal convulsion and two global wars.

Perhaps it is a miracle that our country, with its inherently fragile form of government, has survived and has survived so successfully. I think it is no miracle at all, but the product of an idealistic, intelligent and energetic people, who despite their differences have had an essentially agreed philosophy of life and government, indispensably fortified by the vast natural resources of an untapped continent.

But now, two hundred years after the founding of our republic, there can be no question that there is a widespread sense of unease abroad in this land, affecting every class and segment of our society. Just within these past few years, we as a people seem to have lost our way, to be floundering in uncertainty, to be unsure of ourselves in our relations to each other and to the world at large, to have replaced the optimism so characteristic of America throughout the decades with a deepseated cynicism and disillusionment far more severe than ever before, even in the most traumatic moments of our history.

This negativism of spirit, which is apparent to any sensitive observer of the contemporary United States, runs through all classes of our society, every age group and in every section of our country, varying only in degree. Its existence is confirmed by numerable research analyses and opinion polls. A scientific study conducted by the respected Survey Research Center of the University of Michigan not long ago showed that more than two-thirds of Americans were not convinced that their government was run for the general benefit of all the people; two-thirds were dissatisfied with the way the country was managed; three-fifths believed that what they think "doesn't count for much any more" and along with all this—in each case a startling decline from the norms of only a few years back—has gone a precipitous drop in public trust in every leadership group in our society, not excluding the press. Although of course no such scientific evaluation of public attitudes was made in previous eras of our history, it nevertheless seems clear that the prevailing sense of dissatisfaction—more than that, of cynicism and disillusionment—runs far more deeply and more broadly and more pervasively than even in the most difficult periods of our past, such as the depression days of the 1930's, or the post-Civil War relapse of the 1870's at the time of the Centennial, the period of Reconstruction, of financial panic, of exploitation of land and labor, and particularly of governmental and business corruption that has been equalled, if not surpassed, only in recent years.

Yet, with all this, there was by all accounts nothing like the pervasive sense of distrust of men and institutions that characterizes America a century later. If we Americans have in fact temporarily lost our way in the world as we approach our Bicentennial year, the explanation is not far to seek. A generation ago, our country was emerging triumphant from the second World War. The nation then perceived itself as a colossus bestriding the world, a benevolent colossus to be sure—one ready to succor its friends and forgive its enemies, confidently looking forward to a golden era of endless prosperity at home, with unsullied faith in the perfectibility of our institutions, which—if they were not yet perfect—at least had the capacity of becoming so.

How different the picture looks today! The myth of American omnipotence—as the late Sir Denis Brogan called it many years ago—has long since been shattered. What the contemporary critic Daniel Bell describes as the concept of American exceptionalism—the tradition that American democracy and many characteristics of American society are so exceptional as to be both God-given and unique—no longer seems entirely valid.

The rise during the 1950's and particularly the 60's of totally novel conditions, both in the external world and within the confines of our own country, engendered something that was essentially new for America and Americans: a questioning of our own values, the beginnings of self-doubt, a chipping away of that historic American characteristic of self-confidence and self-assurance, and even of the most characteristic attribute of all: American idealism.

Perhaps this development began to appear in the early 50's with the ominous emergence of the Soviet Union as a nuclear power, concurrently with the explosion of a dynamic and revolutionary China on the world scene. The first and immediate effect in our country was the sudden casting about for someone or something to blame for what had gone wrong with our heretofore ordered view of a world safe for American-style democracy; the era of suspicion—the conspiracy theory of history and politics—was the result.

Although it lasted in its virulent McCarthyesque form only briefly, it had enduring effects on the American psyche, which were revived and intensified, though in a different way, during the harrowing period of the Vietnam experiment. However understandable were the reasons for the American adventure in Vietnam—and as an early and consistent opponent of our military escalation there, I have always thought that the original motivations for the Vietnam intervention were misguided rather than immoral—the fact remains that as Vietnam developed in its later phases, it tore our own country apart as nothing else had done for more than a century.

On top of it came the trauma of Watergate and the undermining of confidence in some of the most respected institutions of government, accompanied and preceded by a general disintegration of traditional moral values and standards that reflected the age of easy affluence and of technological advance. When everything is done by machine, from brushing teeth to exploring space, it is natural that the human personality suffers and human values recede in importance.

At the same time profound changes were taking place within the social structure of the United States and in the relationship of our country to the world at large. Most significant was the mass movement of impoverished minorities—principally but not exclusively blacks—from rural areas to the magnet of the great cities; the accompanying flight of the white middle class to the suburbs; the rising, insistence of those minorities on the equality of opportunity that had long been denied them; the resultant exacerbation of racial consciousness and conflict to the point of violence.

Concurrently, and only in these past few years, have Americans become uneasily aware of the fact that the Age of American Supremacy, which most of us had habitually taken for granted and had accepted as a God-given fact of life, was now evaporating before our eyes. The heedless exploitation of the natural resources on which the prosperity of this country was largely based; the criminal indifference with which, by and large, we have treated the most fundamental resource of all, our land and water; the carelessness and wastefulness and selfishness that became characteristics of the country's burgeoning prosperity—these aspects of our internal economic life are now suddenly forcing themselves to the front of our national consciousness and facing us with the hard reality that even America cannot be invulnerable forever to the laws of God and nature.

Meanwhile, two developments beyond our control have had a profound effect on the American position in the world. One is the sinister danger of nuclear destruction, both because of the Soviet-American nuclear arms race which despite the propaganda is still far from being brought under control, and, also, perhaps even more significantly, because of the rapid proliferation of military nuclear technology around the globe.

The other great new external force is the volcanic upheaval throughout the underdeveloped, underfed, underprivileged countries of the Southern Hemisphere, which have suddenly and brusquely thrown off American and European economic and political domination and are now insistently demanding a more equitable reapportionment of the world's resources. However strident their voices, however ungrateful they may be for such benefits of civilization as we have bestowed upon them, their voices must be heard; for, quite apart from the question of morality, the hunger of billion of people, of perhaps a third of the population of this earth, is in the last analysis a global weapon even more fearful and more threatening than the atomic bomb.

Thus, as it seems to me, there are these two transcendentally important world problems facing us as we face the future; the need to curb the arms race and the need to build understanding rather than confrontation with the underdeveloped regions of the earth.

I do not think that the developments of the last few years, or the foreseeable prospects, are very encouraging in either respect. While certainly it would be absurd to argue that there has been no progress—for instance, the Strategic Arms Limitation Talks with the Soviet Union have materially advanced the possibilities of nuclear arms control—it would be equally fatuous to assert that the question is all but solved. It isn't; and it is still a tossup whether the military protagonists in both Moscow and Washington—those who are unwilling to take any risks for the sake of peace—are going to come out ahead in the internal discussions now going on in both capitals, while the third potential superpower, Mainland China, cheers us both along the slippery slopes toward confrontation.

The other great international hazard to which I have just alluded is the sudden emergence of the Third and Fourth worlds as a self-assertive, demanding and truculent force that is rapidly and ominously turning from the Revolution of Rising Expectations into the Devolution of Growing Disappointments. Their plight, enormously exacerbated but certainly not caused by the quintupled price of oil and the consequent effective constraints on energy, has created an entirely new set of crucial problems for the industrial world in general but the United States—as the leader of the industrial world—in particular.

Partly because of our own economic difficulties but I think more especially because of the more inward-looking attitudes that were perhaps the inevitable result of the Vietnam debacle, the United States in recent years has seemed to draw back perceptibly from its former stance of openhearted, almost prodigal, international generosity. However salutory, however, inevitable that shift in approach may have been, it came at a desperately unpropitious time for the nations of the underdeveloped world which are destined to have negative per capita growth rates for the rest of the century unless they receive outside help—which means from the industrial world and principally from the United States.

Only in the last few weeks have there come proposals of major significance from Washington that at last evince a renewed recognition, for the first time in several years, that the stability of our civilization is going to depend as much on effective international cooperation in aiding the billion or more desperately poor and desperately hungry people of the underdeveloped world as the effective inhibition of nuclear arms. In this connection, I must add that I think it also as important for the future of civilization that we gain control of the population bomb as it is to establish control of the atomic bomb.

We have a tremendous task ahead of us if we are to succeed in the essential renewal and renovation of our society in what may some day be looked back on as the Second American Revolution. For it seems to me that such a revolution—a revolution of the spirit rather than a revolution by force of arms—is what is necessary for this country to endure.

This unprecedented global problems, to which I have just referred, that have been pressing in upon us as we enter our third century as a nation were literally inconceivable to the Founding Fathers or even to the celebrants of 1876. Equally novel, equally difficult, equally threatening are the internal conditions of American society that do indeed require a revolution of the spirit—more than that, a revolution of the will.

We are no longer basking in the days of affluence. We are now in a period of social and economic distress, of growing disparity between rich and poor, of inflation and unemployment; or energy shortages and the constant threat of racial conflict, of sporadic violence. We are going through a period of rank disillusionment; we have been made aware of moral or financial corruption at the highest reaches of government; we know that the press, the churches, the labor unions, even the schools have all been downgraded in public esteem.

The corruption of American institutions did not begin or end with Watergate. As we have since learned, some of the most respected—or once—respected—names in American business, including the heads of huge multinational companies, were no more averse to engaging in the subversion of our political system at home by illegal campaign financing than they were to falling in line with the easy immorality of bribing public officials abroad—which they also did on a lavish scale.

Some of the most sensitive instruments of government apparently did not hesitate to violate the law on their own part, by illegal spying on American citizens, by secret police activities more appropriate to totalitarian than to democratic societies, and by other forms of harassment that were actually far more subversive of American principles than any actions of the subjects against whom these activities were directed. A general lowering of standards, an unravelling of the web of mutual respect and trust on which our kind of society depends, contributes mightily to the moral and spiritual convulsion through which this country has been passing.

Most serious of all has been the profound questioning of the meaning and the values of our society by much of our youth. If the Fifties produced their "Silent" generation, the Sixties and early Seventies have their "Questioning" or "Doubting" generation. I am of course not referring to the handful of bomb-throwers who had nothing to offer but violence; I am referring to the hundreds of thousands, even millions, of young men and women who seeing the injustice, corruption and the cynicism of our government and society of the past decade, and noting how utterly inadequate have been the efforts to achieve a fairer and better balance among that society's conflicting interests, have begun to question both the very values of our society and the validity of some of its basic assumptions. We have to answer this challenge; and the Bicentennial year is the best possible time to do it.

Although the inner strength and resilience of American democratic institutions—both private and public—was well demonstrated in the Watergate affair, I think it is still a question whether our political structure as now constituted is strong enough, and responsive enough, to meet the needs of the convulsive society that we have to anticipate in the next few years. It is necessary to recognize that the America of the Bicentennial, within its unity has, deep and increasing divisions of class and race which, unfortunately, are exacerbated even now by self-serving politicians seeking to score electoral points irrespective of the long-term damage they may be doing to their country.

What does it all mean? I think it means that we must recognize that we can no longer be a society of easy riders? The age of affluence, now ended, permitted us to go slack in America; we largely lost what sense of social discipline we had. The one beneficial effect of the new era of adversity into which we seem to have entered is that such a period focuses us to re-evaluate our way of life, to reexamine our institutions, to redefine the direction in which we wish to go. We have been brought up short with the realization that the new technologies, an expanding population, declining resources, an altered cultural and social environment, constitute a revolution in the external conditions under which we live. And this in turn may well demand drastic changes in the governmental and social structure—for example, new relationships in the Federal, State, and local systems—to cope with radically changing conditions, which, in such cases as welfare, have forced formerly local concerns onto the stage of pressing national responsibility.

Some ways have to be devised to make our political institutions more responsive to public needs and to the common good, less amenable to special vested interests, whether of capital or business, farm or labor. Life in America has become so complex, so interconnected, so interdependent that each of us really is his brother's keeper in the sense that what affects one segment of society now affects virtually all. Government necessarily intrudes on the individual in ways unimaginable two centuries ago.

The American of the Bicentennial year has come face to face with problems of a kind, or at least of an intensity, it has never met before. Can we cope simultaneously with the twin scourges of massive unemployment and massive inflation? Can we—or should we—obey the instinctive imperative of constant economic growth, despite increasingly severe environmental costs? Can our country exercise enough self-discipline to implement a genuine energy conservation program in light of the inevitable shortage in the supply and its precipitous rise in price? Can we reverse the debilitating collusion of Big Business and Big Labor in institutionalizing featherbedding and diminishing productivity? Can we extend and deepen our social services to take adequate care of all who need them without destroying the independence and initiative, ambition and drive, of the individual American worker? Can we afford to do so without drastic redistribution of income—and shouldn't that be the goal anyway as a matter of equity and justice?

Are we prepared to accept the idea of social control over the use of land that may take precedence over the personal whims or economic benefit of individual or corporate owners? Is the traditional form of local government in the United States becoming obsolete, is regionalism the answer? Are the given priorities in the Federal budget, in which defense needs rank foremost, acceptable in a nation that, 40 years after F.D.R., still has literally millions of citizens who are ill-fed, ill-housed, ill-clothed and ill-educated?

Worst of all a very large proportion of those people—the disadvantaged, the dispossessed, the dislocated, the disoriented—are in the great urban complexes that the founders of this country's laws and institutions two centuries ago never dreamed of. The crisis of the cities is something of which we New Yorkers are only too acutely aware; but the challenge, not merely to this city's financial structure but, much more importantly, to its social and political structures, is only symptomatic of conditions that exist to greater or lesser degrees in every large metropolitan concentration in the country today.

New York's problem is the nation's problem; it is more visible and seems more catastrophic in New York only because New York is bigger and everything that happens here, for good or ill, happens on a gigantic scale. But if New York's problem is the nation's problem, New York's conscience ought to be the nation's conscience. What is not yet adequately realized in our country is that the cities—the largest cities especially and New York City preeminently—have taken on a national role in the last half-century that is something new in our history and must be dealt with by new and innovative methods that we have not yet begun to develop.

In the eighteenth and throughout the nineteenth and even well into the twentieth century, the primary and proper focus of the Federal Government, in its concern (mandated by the Constitution) for the "welfare" of the people, was in fostering first the agricultural and then the industrial and commercial life of the nation. But meanwhile, the United States has dramatically shifted from a rural, agricultural, commercial, rather diffuse and independent kind of society to one that is overwhelmingly urban, concentrated and totally interdependent. In the shift the cities have become the magnet for "the" tired . . . huddled masses yearning to be free" in Emma Lazarus' unforgettable words. But instead of the immigrants from Central Europe of whom she wrote, the immigrants of today are the in-migrants, the American (native born or Latin) minorities, the discarded farm workers, the illiterates from the South, the unemployed and unemployable, the despairing attracted by the anonymity and the magnanimity of the great cities.

In the America of 1975, the cities not only carry the burden of the nation; we bear the conscience of the nation; and the nation; as a whole is only becoming slowly aware of that fact. And some people in Washington or elsewhere are obviously not aware of it at all.

There is not much time to lose. We the people of all the nation are going to have to take massive action in education, housing, welfare, health, unemployment, crime and its causes—the kind of first-priority attack on a national level that is urgently necessary not only because it is right but also because without it we are simply not going to be able to preserve domestic tranquility in the ghettoes and the slums. The need is just that great and the emergency is just that serious.

The New York crisis does indeed precipitate the necessity of reexamining the whole relationship among Federal, state and local governments. If in the nineteenth century it was taken for granted that under the Constitution the Federal government had a responsibility for, let us say, natural disasters that crossed state lines such as floods or relief to farmers suffering from nationwide drought, why is it so difficult in the late twentieth century to see a Federal—meaning a national—responsibility for the floods of human beings crossing state lines into the great cities in search of relief from the drought of poverty, unemployment and despair?

The kinds of far-reaching questions affecting domestic affairs that I have been enumerating are going to have to be answered—and soon. The questions concerning America's foreign interests, our relationship to the United Nations and to our allies and to our adversaries in a nuclear world, are equally new and equally difficult to answer. Certainly no one has ready-made answers; but it is the obligation of leadership in a democracy to formulate and pose the essential questions. "Perhaps no form of Government needs great leaders so much as democracy," wrote James Bryce nearly 90 years ago; but, alas, he also noted that "the ordinary American voter does not object to mediocrity."

If America could afford that luxury in Bryce's day, as the last century neared its close, there is not the slightest doubt that America cannot afford it as this century moves toward the next one. Democratic government is on the defensive throughout the world today; our democracy, with all its systemic defects is one of only a handful still operating with respect for individual freedom and guarantees of individual liberty. But particularly in so complex a democratic structure as ours, the current of moral as well as political leadership is required to hold the stones together—and in fact to prevent a dissolution of the community into fragmented parts that could eventually lead, as has happened so often elsewhere in the recent past, to authoritarian governments of the right or of the left.

What leadership can provide, and what is urgently necessary for leadership to provide today, is the re-establishment in the American mind of the sense of community that transcends our differences, a sense that beneath the turbulent surface of our national life is a basic mutuality of interest, a set of commonly accepted values and a determination to move forward to provide that equality of opportunity, in liberty and freedom under law that is the practical basis of the American dream.

I think that, as usual, the American people are ahead of their political leadership—of both parties. As I have tried to indicate, I think that we on this eve of our Bicentennial are at one of the critical turning points of our history, no less grave than the one the American people were facing two hundred years ago.

In those days and at that time, in full knowledge of the immensity of the task before them, the people of the 13 colonies, overcoming considerable internal opposition as well as external force, created a new nation, a new system of government, and in fact a new society.

The circumstances of today are no less forbidding, no less challenging than those of 18th century America—in fact more so. The suddenly adverse economic, political and social conditions in which this country now finds itself may indeed be a blessing in forcing us to look at ourselves, to ask ourselves if in truth we are prepared institutionally to cope with the entirely new challenges as we approach the Twenty-first century.

Yesterday we walked in the forest; today we walk on the moon. But have our concepts of government and society kept pace with the technological progress of mankind? The new era requires new leadership, new creativity, a willingness to evaluate new ideas and new concepts and new relationships with the kind of courage and innovative spirit that as Americans and, as Jews, our history and our heritage have bestowed upon us.

LOW-COST HEARING AIDS UNDER VA PROGRAM

Mr. PERCY. Mr. President, at the request of Senator PROXMIRE, the respected chairman of the Appropriations Subcommittee on Housing and Urban Development and Independent Agencies, the General Accounting Office has conducted a study of the reasonableness of cost for the delivery of hearing aids by the Veterans' Administration.

The results of this study were released on December 4, and show conclusively that the hearing aid delivery system run by the Veterans' Administration provides these devices for veterans in need at a cost considerably under that which the average citizen is required to pay in a private transaction with a hearing aid dealer.

The GAO survey shows that it cost the Veterans' Administration an average of $199.90 for a combination package consisting of hearing aid, salaries of audiological personnel, travel, ear molds, depreciation, batteries, and overhead. This includes an average cost for the hearing aid of $100.27. This data is based on audits at two of the VA hearing clinics, one in Denver and one in Albuquerque. The figures are significant, because the $199.90 figure includes audiological services, which are not provided by hearing aid dealers, who often charge for the aid alone as much as three to four times the manufacturer's price.

Hearing aid dealers maintain that the markup is due to their cost of servicing the instrument. The high prices charged in these private transactions put the purchase of a hearing aid, which is an extremely valuable communications tool for many Americans, out of the price range of too many elderly persons on fixed incomes unable to afford the cost. I have proposed that a way around this problem is for the dealer to separate the cost of the instrument from the servicing charges. This would have the effect of reducing the initial capital investment for the hearing aid purchaser and might very well increase the volume of hearing aid sales, while at the same time letting the purchaser know precisely what he is paying for.

The GAO survey further shows that in a national sample, the average contract price paid for hearing aids by the VA to a manufacturer for 28 different kinds of aids was $104.88, while the average price it was forced to pay local dealers for the same aids was $264.49. One manufacturer charged the VA $82 for the same aid for which a dealer charged the VA $315.20.

Senator PROXMIRE is to be commended for his interest and work in this area, and for requesting the GAO to undertake this study. These are compelling statistics and I think it would be useful to have the Comptroller General's report printed in the RECORD. I, therefore, ask unanimous consent that this be done.

There being no objection, the report was ordered to be printed in the RECORD as follows:

COSTS TO OPERATE THE VETERANS' ADMINISTRATION HEARING AID PROGRAM

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

B-182457.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on Housing and Urban Development, and Independent Agencies, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated October 17, 1974, you requested that we look into the costs of operating the Veterans' Administration (VA) hearing aid program to determine how it functions and the reasonableness of program-associated costs. You also requested that we visit one or two audiology clinics to determine the extent to which these clinics may be overstaffed or underutilized.

VA does not accumulate cost data at the level of individual programs, such as the hearing aid program. However, we identified fiscal year 1974 costs, including central office salary, procurement and distribution, repair service, and audiology service costs, directly related to the hearing aid program. The costs reviewed appeared reasonable, and in our opinion the VA clinics visited in Albuquerque, New Mexico, and Denver, Colorado, were not overstaffed or underutilized. At the clinics visited it cost VA an average of $199.90 to provide a hearing aid to a veteran.

We performed work at (1) the VA central office in Washington, D.C., (2) VA hospitals in Albuquerque, New Mexico; Denver, Colorado; and Washington, D.C., (3) VA's marketing Center and Supply Depot in Hines, Illinois, (4) and VA's Prosthetic Distribution Center in Denver, We also visited a contract audiology clinic in Salt Lake City, Utah.

HOW THE HEARING AID PROGRAM FUNCTIONS

Eligible veterans who request or require a hearing aid are examined at 1 of the 171 VA hospitals by a physician specializing in ear problems. The physician examines the patient to determine the cause of the problem and may be able to restore some or all of the veteran's hearing ability through medical or surgical treatment. During the course of treatment, or if medical or surgical treatment is not indicated, the physician may refer the veteran to an audiologist.

Audiologists specialize in the branch of science dealing with hearing and provide therapy to individuals with impaired hearing. The audiologist is trained in testing, rehabilitating, and counseling people with hearing disorders. If tests reveal that a hearing aid may benefit the patient, the audiologist will help in selecting the type of aid needed.

The VA program provides for issuing a hearing aid, including all the necessary accessories, to each eligible veteran after VA determines that the veteran needs an aid. The necessary accessories include such items as receivers, ear inserts, carrying garments, batteries, and cords. The veteran, after he has worn his aid for 6 months, is entitled to a second aid so that he will have a spare. VA provides free repairs to a veteran's hearing aid—including the replacement of accessories. Eligible veterans requesting an initial, replacement, or spare hearing aid are referred to the nearest VA or contract audiology clinic for a hearing aid evaluation and selection of a suitable aid. In 1974 VA had 40 clinics available to perform these evaluations. (See app. II.) VA opened five additional clinics in 1975.

When VA determines that it would not be feasible for the veteran to travel to the nearest VA audiology clinic, authority may be obtained for the purchase of a hearing aid from a local hearing aid dealer. In such cases the examining physician must determine the need for the hearing aid as well as test the aid on the veteran, if at all possible, to determine whether it is satisfactory.

Eligible veterans required to travel to a VA hospital for treatment are entitled to be reimbursed for travel costs. As of June 30, 1975, veterans were being reimbursed for mileage at the rate of 8 cents per mile.

A review of travel reimbursements paid to veterans seen at the audiology clinics visited did not reveal any instances where an overnight stay was involved.

Procurement and distribution of hearing aids

VA has developed a program for measuring and evaluating hearing aid performance. The program provides VA with a means of selecting a manageable group of aids from among the more than 500 models available in the United States.

Each year VA sends manufacturers or their agents a copy of the bid format and an invitation to participate in the program. Manufacturers are limited to submitting seven different models from their line of hearing aids. In addition, VA separately solicits some special models. All models submitted for evaluation must be available to the general public through the manufacturers' dealers. In 1974, 19 hearing aid manufacturers submitted 114 models.

The National Bureau of Standards tests all hearing aids submitted in response to VA's invitation. The Bureau measures each aid for acoustic and electronic factors and submits the results to VA. The test data is subjected to statistical and comparative analysis and converted into a performance score. The weighting factors used in developing the performance score were determined by a group of nationally recognized audiologists and physicists serving VA on a consulting basis. After the hearing aids have been evaluated and clinical need, performance, and cost have been considered, specific models are recommended for acceptance on VA contracts.

VA procures hearing aids through annual contracts beginning on October 1. The VA Marketing Center in Hines, Illinois, negotiates these contracts. The hearing aids selected for contract are available under two schedules:

One for purchases made directly from the manufacturers for delivery to the VA Supply Depot in Hines, Illinois.

One for purchases by VA field stations from manufacturers' authorized dealers.

The average contract cost for hearing aids available directly from manufacturers for the 1974 contract year was $105 as compared to the average contract cost of $264 for the same aids available from authorized dealers. Appendix III shows the difference in contract prices for the different model hearing aids purchased directly from the manufacturers as compared to the contract prices for the same hearing aids obtained from local dealers.

In fiscal year 1974 the Marketing Center purchased 12,960 hearing aids from manufacturers and 739 hearing aids from local dealers. During fiscal year 1974 the VA Supply Depot issued 14,401 hearing aids—11,099 to VA clinics, 2,724 to military organizations, and 578 to the Indian Health Service. On June 30 VA had an inventory of 7,014 hearing aids. Aids in inventory were stocked at the Supply Depot and at the VA and contract audiology clinics.

Audiology clinics

VA audiology clinics are staffed by personnel trained at the masters or doctoral level in hearing and speech sciences. Trainees assisting at clinics are working toward their graduate degrees.

The VA audiology clinics visited were both under the direct supervision of audiologists with doctoral degrees. The clinics provided various types of services, such as examining patients—

To evaluate compensation or pension claims;

For medical treatment evaluations;

For hearing aid evaluations;

For assessment of rehabilitation needs;

For special diagnostic assessments to aid medical diagnoses;

For problems concerning hearing aid malfunctions; and

For recounseling regarding hearing evaluations, hearing aids, benefits, etc.

The audiologist conducts tests to determine if the patient will benefit from the use of a hearing aid. If an aid will benefit the patient, he is allowed to try several models which are known to possess characteristics which might compensate for his hearing deficiency. Once a specific hearing aid is determined to be most suitable, the patient is issued that aid.

An audiologist, upon issuing a hearing aid, discusses the results of the hearing evaluation with the veteran and explains the operation of the aid to him. The veteran is also advised of his eligibility for hearing aid accessories and repairs.

The Prosthetic Distribution Center (PDC)

The PDC is responsible for—

Centralized storage and distribution of such items as canes, braille typewriters, and hearing aid batteries to eligible blind, deaf, or amputee veterans.

Administration of the program for hearing aid repairs for eligible veterans.

Testing new hearing aids and preparing a performance graph for each aid.

Personnel at VA hospitals determine the eligibility of veterans to receive items stocked at the PDC. The PDC maintains a file on eligible veterans based on authorizations received from hospitals.

The PDC, upon receiving notice from an audiology clinic that a veteran has been issued a hearing aid, sends him an estimated 90 day supply of hearing aid batteries and provides him with a form for requesting additional batteries. A record of the number of batteries issued to each veteran is maintained at the PDC.

The PDC keeps records indicating the types of hearing aids in the veteran's possession as well as repair records on the aids. The veteran returns hearing aids in need of repair to the PDC, where they are examined and processed under the following criteria:

Hearing aids under warranty are returned to the manufacturer unless the defect is minor and can be corrected at the PDC.

Hearing aids no longer under warranty may be repaired at the PDC depending on the availability of parts and personnel.

Other aids which are not under warranty and which the PDC cannot repair are returned to the manufacturer for repairs under the provisions of a service contract negotiated by the VA Marketing Center.

Under the terms of VA's procurement contract, hearing aids are guaranteed for 2 years from the date of issuance to the veteran. Corrections or adjustments required within this period are made by manufacturers at no cost. During fiscal year 1974 the PDC returned 5,587 hearing aids to manufacturers for repair under warranty. During that year the PDC's hearing aid repair section used the services of 4 full-time employees to repair 3,351 hearing aids.

After the warranty expires, VA enters into service contracts with manufacturers for the repair of aids. The contracts provide that the contractor must complete repairs to an aid within 7 days of the receipt date. The total charge for repairs to the aid shall not exceed $25 without specific authority from the PDC. After the aid is repaired, the contractor returns it to the PDC where its operating condition is checked. During fiscal year 1974 the PDC returned 1,114 aids to the manufacturers for additional service before the aids could be returned to veterans.

In December 1974 VA initiated a program requiring PDC personnel to test each new hearing aid to determine whether it is working properly before it is sent to the audiology clinic. They also prepare a performance graph to accompany each aid to the clinic to assist the audiologist in fitting the aid. From December 15, 1974, to April 18, 1975, PDC personnel tested 6,408 new hearing aids and returned 340 as defective.

HEARING AID PROGRAM COSTS

Costs of providing hearing aids

The VA's accounting system does not routinely provide reports indicating the costs associated with the hearing aid program. We analyzed cost records related to the program and developed the costs of providing an aid to a veteran.

We identified costs directly related to the hearing aid program, including central office salary costs, procurement and distribution costs, and audiological services costs for fiscal year 1974. (See app. IV.) We did not attempt to allocate costs for services provided by the examining physician before his referral of the patient to the audiology clinic since we regarded this examination as an integral part of the VA medical care system which would be required regardless of the existence of a hearing aid program.

Also, we did not attempt to allocate hospital costs for administrative support services to the hearing aid program since the audiology clinics were such a small part of the total hospital operation. Each of the clinics in our review accounted for less than 1 percent of its hospital's fiscal year 1974 expenditures. In addition, personnel providing the support service said that their workload would not significantly change and staffing requirements would not be reduced if the audiology clinics were not part of the hospital.

The following table indicates that it cost VA, on the average, $199.90 to issue a hearing aid in fiscal year 1974 at the two clinics reviewed. An explanation of the computation of these costs is in appendix IV.

COST PER HEARING AID ISSUED

	Denver clinic	Albuquerque clinic	Average cost
Supply service:			
Hearing aid cost	$87.96	$87.96	$87.96
Overhead charge (14%)	12.31	12.31	12.31
	100.27	100.27	100.27
Audiology clinic:			
Salaries	89.32	[1]53.19	71.25
Travel	11.11	8.64	9.88
Equipment depreciation	7.31	6.64	6.98
Ear molds	4.08	5.74	4.91
Batteries	1.02	1.02	1.02
Other	.87	2.65	1.76
	113.71	77.88	95.80
Central office	3.83	3.83	3.83
	217.81	181.98	199.90

[1] We were informed that this lower salary cost is due to the Albuquerque clinic being understaffed, according to VA staffing criteria, for a clinic its size.

In developing the above costs, we reviewed cost records and other documents and did not find any costs which appeared unreasonable.

PDC costs

Since December 1974 the PDC has responsibility for testing all new hearing aids. Although this was not a cost in fiscal year 1974, it would have to be considered in any future computation of VA's cost of providing hearing aids. At the time of our review, PDC personnel had computed an average labor cost of $1.61 for each aid tested.

Costs of repairing hearing aids

The Chief, PDC, accumulates the labor and material charges for repairs performed by his personnel. He said that for fiscal year 1974 these repairs averaged about $8 per aid. The average cost of parts for these repairs was $4.77. The estimated labor cost was based on informal records which were not retained.

In fiscal year 1974 contractors repaired 11,367 hearing aids under the provisions of the service contract at a cost of $182,449 for an average cost of $16.05 per aid.

Cost of batteries

The PDC purchases hearing aid batteries from manufacturers under contracts negotiated by the VA Marketing Center. The number of batteries purchased and their cost for fiscal year 1974 and the first 6 months of fiscal year 1975 was as follows:

Fiscal year	Batteries purchased	Cost	Average cost(cents)
1974	1,829,716	$267,904.84	14.6
1st 6 mos of 1975	665,808	140,223.82	21.1

STAFF USE

Review of the duties and activities of audiology clinic personnel to determine the appropriateness of the clinics' staffing levels showed that about 73 percent of the clinics' staff time is spent providing audiological services to veterans. The remainder of their time is devoted to training, research, and administrative activities.

At the time of our review, the Denver audiology clinic staff consisted of two audiologists and four audiology trainees. The Albuquerque clinic staff consisted of one audiologist and two trainees. The audiology trainees work 20 hours per week, and their time is divided between working with patients and doing research and class work toward their advanced degrees.

We compared the amount of time clinic personnel said they spent providing audiological services to standard times established for audiological services developed by the American Speech and Hearing Association. The following table summarizes the comparison which shows that the clinic staffs are not spending an excessive amount of time performing the services.

	Denver clinic	Albuquerque clinic
Number of services provided	2,442	1,275
Standards applied to services provided (hours)	4, 144	4,205
Hours spent by clinic staff in providing services	4,205	2,484

The training and research aspects of a VA hospital are basic components of the overall mission of the VA system. The intent of the Congress concerning the VA training and research programs is clear, as evidenced by section 4101 of title 38 of the United States Code and annual congressional approval of appropriations for VA research and training programs. Although no time standards exist for the training, research, and administrative functions performed by the audiology clinic staffs, we believe that the staff time spent in these areas was reasonable.

VA officials have been given an opportunity to review and comment on this report. (See app. I.) They agreed with the report's findings, and, where appropriate, their comments have been incorporated.

We are sending copies of the report to the Administrator of Veterans Affairs, and other congressional committees, Members of Congress, and other interested parties.

Sincerely,

Elmer B. Staats,
Comptroller General of the United States.

Veterans' Administration,
Washington, D.C., October 8, 1975

Mr. Gregory J. Ahart,
Director, Manpower and Welfare Division, U.S. General Accounting Office, Washington, D.C.

Dear Mr. Ahart: We appreciate the opportunity to review and comment on your draft report on the operation of the VA hearing aid program and concur with its evaluations and findings. The information contained in the report accurately reflects the status of the hearing aid program.

In Enclosure I of the report, 40 clinics that perform hearing aid evaluations are listed. You may wish to update the list since hearing aid evaluations are now provided at the clinics located in Allen Park, Michigan; Indianapolis, Indiana; San Antonio, Texas; San Diego, California, and St. Louis, Missouri.

Sincerely,

Richard L. Roudebush,
Administrator.

Appendix II

VA Audiology and Speech Pathology Clinic

VA Hospital, 2100 Ridgecrest, S.E., Albuquerque, New Mexico, 87108.

VA Hospital, 2215 Fuller Road, Ann Arbor, Michigan 48105.

VA Hospital, 1670 Clairmont Road, N.E., Atlanta, Georgia 30329.

VA Center, Bay Pines, Florida 33504, (St. Petersburg Outpatient Clinic).

VA Outpatient Clinic, 17 Court Street, Boston, Massachusetts 02108.

VA West Side Hospital, 820 S. Damen Avenue, Chicago, Illinois 60680.

VA Hospital, 10701 East Boulevard, Cleveland, Ohio 44106.

VA Hospital, Columbia, South Carolina, 29201.

VA Hospital, 4500 S. Lancaster Road, Dallas, Texas 76216.

VA Hospital, 1055 Clermont Street, Denver, Colorado 80220.

VA Hospital, Fulton and Erwin Road, Durham, North Carolina 27705.

VA Hospital, East Orange, New Jersey 07019, (Newark Outpatient Clinic).

VA Hospital, 2002 Holcombe Boulevard, Houston, Texas 77031.

VA Hospital, Highway 6, Iowa City, Iowa 52240.

VA Hospital, 1500 Woodrow Wilson Drive, Jackson, Mississippi 39216.

VA Hospital, 4801 Linwood Boulevard, Kansas City, Missouri 64128.

VA Hospital, 300 E. Roosevelt Road, Little Rock, Arkansas 72206.

VA Outpatient Clinic, 425 S. Hill Street, Los Angeles, California, 90013.

VA Outpatient Clinic, 1405 West Broadway, Louisville, Kentucky 40201.

VA Hospital, 1201 N.W. 16th Street, Miami, Florida 33125.

VA Outpatient Clinic, Fort Snelling, Minnesota 55417.

VA Center Mountain Home, Johnson City, Tennessee 37684.

VA Hospital, 1601 Perdido Street, New Orleans, Louisiana 70140.

VA Hospital, First Avenue at E. 24th Street, New York, New York 10010.

VA Hospital, 921 N.E. 13th Street, Oklahoma City, Oklahoma 73104.

VA Outpatient Clinic, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

VA Hospital, University Drive C, Pittsburgh, Pennsylvania 15240.

VA Hospital, Sam Jackson Park, Portland, Oregon 97204.

VA Hospital, 1201 Broad Rock Road, Richmond, Virginia 23219.

VA Hospital, 4150 Clement Street, San Francisco, California 94121.

VA Center, GPO Box 4867, San Juan, Puerto Rico 00936.

CONTRACT CLINICS

University of Montana, Missoula, Montana 59801.

SPECIAL

VA Regional Office, Manila, Philippines, APO, San Francisco 96528.

VA Outpatient Service, Smith Tower, 2nd Avenue and Yesler Way, Seattle, Washington 98104.

VA Hospital, 510 E. Stoner Avenue, Shreveport, Louisiana 71101.

VA Hospital, Irving Avenue and University Place, Syracuse, New York 13210.

VA Hospital, 13000 N. 30th Street, Tampa, Florida 33612.

VA Hospital, Tucson, Arizona 85723.

VA Hospital, 50 Irving Street NW., Washington, D.C. 20422.

University of Utah, Cooperative Research, 207 Park Building, Salt Lake City, Utah 84112.

CLINICS ADDED IN 1975

VA Hospital, Southfield and Outer Drive, Allen Park, Michigan 48101.

VA Hospital, 1481 W. Tenth Street, Indianapolis, Indiana 46202.

VA Hospital, St. Louis, Missouri 63125.

VA Hospital, 7400 Merton Minter Blvd., San Antonio, Texas 78284.

VA Hospital, 3350 La Jolla Village Drive, San Diego, California 92161.

APPENDIX III

VA CONTRACT PRICES FOR HEARING AID PURCHASES, OCT. 1, 1973, to SEPT. 30, 1974

Model [1]	Contract price for purchase from manufacturer	Contract price for purchase from local dealer
1	$97.50	$291.75
2	90.75	299.25
3	105.00	266.00
4	105.00	266.00
5	131.05	242.14
6	94.50	296.50
7	99.00	188.00
8	85.00	170.00
9	145.00	263.00
10	82.00	315.20
11	71.50	268.75
12	97.50	287.60
13	86.60	227.15
14	129.60	307.60
15	116.10	276.15
16	126.00	293.65
17	95.00	202.00
18	119.00	289.00
19	129.00	299.00
20	109.00	275.00
21	149.00	297.00
22	159.00	310.00
23	94.00	264.00
24	96.00	243.06
25	96.00	235.11
26	81.50	230.22
27	75.00	219.82
28	72.20	282.72
Average [2]	104.88	264.49

[1] Descriptions of hearing aids from both sources are essentially the same except that the aids from dealers include batteries.

[2] This is the average cost of all models available for purchase during the contract year.

The above schedule lists the contract prices charged VA field stations for hearing aids purchased from authorized dealers as compared to the contract prices charged for the same model hearing aids purchased from manufacturers and delivered to the Hines Supply Depot. If a hearing aid is purchased from a dealer, in addition to demonstrating the aid, the dealer assists in selecting and fitting the aid and advises the patient as to its care and maintenance. The contract prices do not include the cost of the examination required to determine whether a hearing aid may be beneficial. This cost arises regardless ,of whether the hearing aid is purchased from the manufacturer or an authorized dealer.

Appendix IV

Explanation of Cost Computations

This appendix describes the basis of the computuations made to develop the costs for providing hearing aids.

SUPPLY SERVICE COSTS

When an audiology clinic issues a hearing aid, the supply depot sends the clinic a replacement aid and charges the hospital for the cost of the hearing aid plus a 14 percent markup. The following schedule shows the number and cost of the hearing aids sold to audiology clinics for fiscal year 1974 and for the first 6 months of fiscal year 1975.

Fiscal year	Quantity	Total cost	Average cost of hearing aids	14 percent markup	Total cost of hearing aid
1974	11, 099	$976, 262	$87. 96	12. 31	$100. 27
1st 6 mo of 1975	6, 733	625, 422	92. 89	13. 00	105. 89

AUDIOLOGY CLINIC COSTS

In accumulating audiology clinic costs, we included costs for audiology staff salaries; audiology costs other than salaries (equipment, supplies, etc.); travel reimbursements to veterans; ear molds; depreciation of audiology equipment; and hearing aid batteries.

However, many of the services performed in audiology clinics are not related to providing a veteran with a hearing aid. According to VA records, the clinics also provide services for compensation and pension examinations and assist in evaluating patients referred from other professional services. The categories of audiology services performed and the number of each service completed in fiscal year 1974, at the audiology clinics reviewed, are shown in the following schedule:

Service	Denver—Audiology clinic		Albuquerque—Audiology clinic	
	Number	Percent	Number	Percen
Compensation and pension examinations	526	21.5	419	32.9
Medical treatment	789	32.3	137	10.7
Assessment of rehabilitation needs	384	15.7	70	5.5
Special diagnostic	235	9.6	305	23.9
Nontest	275	11.3	175	13.7
Hearing aid evaluation [1]	233	9.6	169	13.3
Total	2,442	100.0	1,275	100.0

[1] This service resulted in 184 hearing aids issued in Denver and 150 hearing aids issued in Albuquerque.

To determine what percent of the audiologist's time was applicable to providing a veteran a hearing aid, we took a statistical sample of the above audiology services. Our sample was selected using a confidence level of 95 percent. We evaluated the patient's audiology clinic records to determine into which of the following three categories the audiology service fit:

Service directly related to issuing a hearing aid.

Service related to the hearing aid program but not to issuing a hearing aid, such as adjustments or minor repairs to hearing aids already issued.

Service not related to the hearing aid program, such as compensation or pension examinations.

Since each audiology service does not take the same amount of time to perform, we applied the American Speech and Hearing Association's relative value time standards for audiology services[1] to adjust our samples for the amount of time required to perform each service. Our sample results were as follows:

Category	Denver—Audiology clinic		Albuquerque—Audiology clinic	
	Time (hours)	Percent	Time (hours)	Percent
Related to issuing a hearing aid	85.21	24.4	96.74	22.3
Related to hearing aid program	22.68	6.5	20.61	4.7
Not related to hearing aid program	241.89	69.1	317.41	73.0
Total	349.78	100.0	434.76	100.0

The sample results were used to allocate the audiology clinic costs which were not exclusively related to issuing hearing aids, such as salaries and equipment depreciation.

AUDIOLOGY SALARY COSTS

The actual fiscal year 1974 salary costs for full-time and trainee positions were identified. To this, a 10-percent factor as computed by VA was added to the full-time salaries for Federal pension and insurance contributions. To this total we applied the sample percentage for audiology time allocated to providing hearing aids and computed an average cost per hearing aid by dividing the number of hearing aids issued into the salary costs applicable to providing hearing aids.

AUDIOLOGY COSTS OTHER THAN SALARY

We identified fiscal year 1974 expenditures in this category for audiology and applied the sample percentage for audiology time allocated to providing hearing aids. We computed the average cost per hearing aid by dividing this total by the number of hearing aids issued in fiscal year 1974.

TRAVEL COSTS

For patients in our sample who received audiology service related to providing a hearing aid, we determined how much travel reimbursement they were entitled to receive.

EAR MOLD COSTS

We computed the average costs actually paid for ear molds issued during fiscal year 1974.

EQUIPMENT DEPRECIATION COSTS

We computed the annual depreciation applicable to audiology equipment based on the useful lives of the equipment. We applied the percentage of audiology time related to providing hearing aids to this total and computed an average cost by dividing the number of hearing aids issued into the depreciation cost applicable to issuing hearing aids.

BATTERY COSTS

We applied the average fiscal year 1974 hearing aid battery cost paid by VA (as determined at the PDC) to the number of hearing aid batteries supplied with the issuance of most hearing aid models.

CENTRAL OFFICE COSTS

Services provided by the VA central office for the hearing aid program include auditory research and program direction. The research support is in the selection of hearing aids recommended for procurement after evaluation of the results of tests by the National Bureau of Standards. The manpower cost of these services for fiscal year 1974 was $3.83 per hearing aid issued to audiology clinics.

FOOD FOR THOUGHT

Mr. McCLURE. Mr. President, many Government studies amount to no more than wasting new money in order to find out how we were wasting old money. As Federal programs, studies, and projects proliferate, they tend to become more and more intrusive and more obviously silly. There comes a point at which a serious discussion is almost impossible. Meg Greenfield, in a recent article in Newsweek, has addressed herself to the examination of the degree and cause of "plate waste" about to be entered into by our Government at our expense. It is a funny article, but a pretty expensive laugh. More sobering still is the thought that the same kind of petty thinking and bureaucratic interference affects the most serious operation of our Nation and its citizens. Mr. President, I ask unanimous consent that Miss Greenfield's article be printed at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOOD FOR THOUGHT

(By Meg Greenfield)

"SEC. 18. The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act . . . As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program . . . the Secretary . . . shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976."

This week you and I are going to draft some legislation. It will be called the National Plate Waste Act of 1978. We will be taking our cue from the language cited above. It comes from the recently enacted school-lunch and child-nutrition statute, and if it means anything, it means that there is Federal anti-plate-waste legislation in our future.

The reason we are postdating our bill to 1978 is that it will take time for the Secretary to complete and the Congress to consider the newly mandated study of the "cause" of lunchroom plate waste. It is, of course, true that anyone who has had occasion to eat a school lunch at any time in the past 50 years will know what the cause of the plate waste is—it is what the scientifically minded would call the Yecch! Factor. But never mind: while the Federal Government will not move hastily, there is no question that in time it will move. Who pays the piper, as the fellow said, ends up buying an awful lot of plate waste; and Washington can hardly be expected to sit still for this forever.

A WASHINGTON BREAKTHROUGH?

I will confess that for a fleeting moment in my reading of the school-lunch act, I thought a libertarian solution was at hand. "Students in senior high schools which participate in the school-lunch program under this Act," it says at one point, "shall not be required to accept offered foods which they do not intend to consume." This struck me as something of a Washington breakthrough—ceding back to the people the right not to have a ladleful of creamed carrots dropped down over their Spam croquette. But I am afraid the tone and thrust of the act on this point go in another direction; and especially as the mountain of plate waste gets higher and we find that we can't burn it for fuel, I expect we shall see a bipartisan consensus develop. On the right, plate waste can surely be construed as just one more form of welfare profligacy, ingratitude and cheating. And on the left the issue should have great appeal for those humanitarian, if coercive, guardians of our well-being, whose message of concern for the citizen can best be summed up: eat your spinach or else . . .

Actually, we shouldn't be too hard on these propositions, since they will be the basis of our legislative "findings." All legislation should arise out of "findings." The Plate Waste Act's findings will read like this: "The Congress of the United States, finding that 2.3 cents of every Federal dollar is currently being expended on uneaten consumable food products furnished to certain disadvantaged public-school children; further finding that the result is gravely detrimental to the physical health of the children and the financial health of the Nation; and further finding that State and parental authority are inadequate to act in this matter—does hereby declare School Lunch Plate Waste to be a threat to the general welfare."

OUTLAWING PLATE WASTE

Once we have done that, we can do almost anything, and I would suggest that we be forthright about it and simply outlaw plate waste. It's no trick. Thus: "(A) It shall be unlawful for any person dispensing foodstuffs paid for in full or in part by public monies to knowingly dispense such foodstuffs in amounts which he has reason to believe are more than 33⅓ per centum in excess of what the dispensee can be expected to consume without suffering ill effects.

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[1] The American Speech and Hearing Association has recommended time standards for services performed by audiologists and speech pathologists. A member of the committee that developed the standards said that they had not been adopted yet because of disagreement of audiologists and speech pathologists in the area of special tests. The general categories of the standards used by VA are not being challenged.

"(B) It shall be unlawful for any person receiving foodstuffs paid for in full or in part by public monies (*provided that* these are dispensed in accord with the provisions of subsection (A) above) to refuse to consume within a reasonable period of time more than 33⅓ per centum of such foodstuffs.

"(C) The standard for determining the appropriate amount of foodstuffs to be dispensed in the first instance and in each case shall be: the age, weight and height of the schoolchild; divided by the change in the Consumer Price Index for the preceding fiscal year; times two."

That last formula may sound a little arbitrary to you, but I have been studying these legislative formulas, and you will have to take it from me that ours is in the ball park. We do want to provide some flexibility, however, for unusual circumstance, and for special cases. To this end, we can borrow a phrase from the school-lunch act just passed and allow for certain exceptions based on "cultural eating patterns"—which I figure covers ethnic habits, religious proscriptions and whether or not forks are used in the home. We will also make provision for due process in contested cases. Adjudication should be fairly simple, since we shall naturally require that records of the amounts of foodstuffs dispensed and returned on individual plates be kept for no less than five years and filed quarterly with HEW.

ENFORCING THE ACT

That leaves us only the matter of definitions to tidy up. There should be no problem here: "As used in this Act, the term (a) 'plate' shall mean any container no wider than 8¼ inches and no deeper than 1¼ inches on a graduated depression from rim to center; (b) 'waste' shall mean any normally consumable foodstuffs dispensed upon plates in accord with subsection (A) of this Act and excluding 'refuse'; (c) 'refuse' shall include, but not be limited to, fruit pits, egg shells, bones, and such foreign matter as may from time to time be included in the serving. For the purposes of this Act, bread crusts shall be considered waste and not 'refuse.' Apple cores shall be considered 'refuse' and not 'waste' *provided that* such apple cores have been consumed to within one-half inch of the fibrous membrane."

I will grant that enforcement of all this could pose a problem in normal times. But these are not normal times, and we are in luck. For by the time the National Plate Waste Act goes into effect, there should be at least two Federal affirmative-action officers stationed in every public-school yard and gymnasium in America to look after the recently promulgated sex-discrimination regulations. And I see no reason why they should not double as plate-waste officers at lunchtime. It would represent a terrific saving and probably bring our act in at a modest half billion dollars for its first full year of operation.

The spoilsports will tell you, of course, that you could buy kids a lot of edible food for that much money—like hamburgers and peanut-butter sandwiches. But pay them no mind. They're living in another world.

FOOD STAMPS

Mr. McCLURE. Mr. President, an associate was explaining that he saw a program on television the other evening called Hollywood Squares. This is a program in which celebrities are asked questions, and contestants then decide whether the answers are correct or not.

On this particular program, as detailed to me, the question was asked: "True or false, you have to be poor to receive food stamps?" The celebrity said he was afraid the answer was "false." The contestant agreed and won the point. The moderator added that you not only do not have to be poor, but that people with income in excess of $16,000 a year can qualify for food stamps. As a result of his answer, the contestant was awarded a nice prize.

The point I am trying to make is that you can fool some of the people all of the time, and all of the people some of the time, but you cannot fool all of the people all of the time. When it comes to the food stamp fiasco, we are not fooling anybody any more.

Increasingly, we are hearing and seeing articles and editorials on television and radio, in newspapers and magazines criticizing the food stamp program—and now we have even hit the TV game shows.

The American people are not opposed to helping the truly needy, but they do want the loopholes and abuses of the food stamp program cleaned up. We are going to do it; the country can no longer economically afford, nor can the liberal advocates politically afford, not to take positive action.

Mr. President, I ask unanimous consent that one of the many recent public editorials on the subject, "The Food Stamp Mess," by Frank Van Der Linden, be printed in the RECORD. I strongly recommend this analysis of the abuses taking place under the present food stamp law to everyone with an interest in this vital subject.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FOOD STAMP MESS

(By Frank Van Der Linden)

WASHINGTON.—The taxpayers' outrage over the scandalously expensive food stamp mess is growing so fast that Congress must soon enact some reform to cut the cost below the present figure of $6 billion a year. The tough bill, sponsored by New York Sen. James L. Buckley and Illinois Congressman Bob Michel, is picking up support all across the country—much to the dismay of the liberals who fear any cutback in federal subsidies.

President Ford has praised it as "a very fine bill," and promises to include some of its major features in his own reform proposals which will go to Capitol Hill later this month, after his assistants finally settle their disputes about its details.

Ford says he seeks to save at least a billion dollars a year by giving more benefits to the poor people who actually need food stamps and taking them away from those who don't.

By an odd coincidence, this is precisely the principal argument made by Buckley and Michel. Their bill would restrict food stamps to families with annual incomes below the $5,000 poverty line. It would count the value of other federal aid, such as housing subsidies and school lunches, as parts of the recipient's income. It would bar stamps to college students, strikers, and people who choose to live in communes.

The reform bill would abolish the present crazy-quilt system of eligibility rules under which food stamps legally go to millions of well-to-do people who have no moral right to get even part of their grocery bills subsidized by the taxpayers.

The Agriculture Department, which administers the food stamp distribution, estimates that about 2.5 million recipients are from households with incomes of $7,000 or more a year, and many with gross incomes approaching $9,000.

These figures shocked Sen. James Allen, the Alabama Democrat who conducted recent hearings on the food stamp fiasco and branded it "a financial nightmare."

From a tiny program with half a million recipients and a $36 million budget 10 years ago, it has expanded into a monster with 19 million beneficiaries and its cost has doubled within only the past 12 months, from $3 billion to $6 billion a year.

Senator Allen was appalled to learn that as many as 73 million Americans—one out of every three—may be eligible for food stamps and the expense could go as high as $20 billion a year. "At a time when the American taxpayer is at a breaking point, burdened by ever-upward spiraling taxes and prices," he said, "Congress must see that this program meets its original goals without needless or wasteful expenditures."

Other astute Democrats are beginning to realize that Allen is right; they cannot defend the food stamp program in its entirety but must push their own clean-up bills to prevent passage of the much tougher Republican measure.

It is no longer smart strategy to say that the President is going for food stamp reforms to appease the conservatives and head off Ronald Reagan.

It is true that the Buckley-Michel bill was drafted by David Swoap, Gov. Reagan's former welfare director, but it is gaining support among taxpayers generally, not merely those on the right. Democratic Sen. John Glenn of Ohio, the former astronaut, is most appropriately sponsoring a bill designed to bring down the skyrocketing costs of the food stamps before they ascend into the stratosphere.

Glenn proposes to scrap the itemized deduction system, which he blames for most of the mistakes involved in allotting food stamps to undeserving people.

The error rate is so high, he says, that one of every six food stamp dollars goes to someone who really doesn't deserve it, and the taxpayers' final bill for errors and frauds could soar close to a billion dollars this year.

Under his plan, every applicant would get a $120 deduction in determining eligibility for stamps, and older people would get an extra $60.

An Ohio Republican, Congressman John Ashbrook, has told the latest food stamp horror story which he captioned "Food Stamps for Fido." A constituent, he says, was waiting in a grocery store check-out line behind two hippie girls and an older man. They were told that they could not pay for dog food with their food stamps. "Go get six pounds of hamburger, then," the man told one of the girls. "The dog likes hamburger just as well."

BUSINESS REQUIRES POLICY OF GOOD HUMAN RELATIONS

Mr. McCLURE. Mr. President, the Sunday Observer of London, October 19, 1975, contains a very interesting discourse that Sir Marcus Sieff, the distinguished chairman of England's successful chain of retail stores, Marks and Spencer, delivered to the Royal Institution.

We have been hearing a great deal about the economic difficulties that Great Britain is experiencing, but here is a statement that gives encouragement that our private enterprise system, if there is a real care for human needs, can flourish. It is well-worth reading because it emphasizes that business everywhere requires a policy of good human relations.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

My Social Contract by Sir Marcus Sieff

(Note.—The chairman of Marks and Spencer discusses the growing discontent within industry and suggests that good human relations can do a lot to overcome the trouble—and the trouble-maker.)

In my lifetime, the capitalist and market economy systems which, for all their faults, have gradually raised the standard of living and created a better standard than any other system, have been under constant attacks by those who wish to replace them with one or other of those systems which are nondemocratic, where individual freedom does not exist and where the general standard of living is lower—often considerably lower—than that developed under our present system. And today these attacks grow stronger.

What has gone wrong? It is frequently said that people in Great Britain do not have the will to overcome the economic and social problems facing us, but believe they can achieve a better standard of living by the magic of slogans, not by work and effort. I do not believe this. What is lacking is leadership and a real care for people's needs and an understanding of their aspirations.

The main problem we face is not the energy crisis, or lack of investment, or the need for new technology, or inflation, but the development of a co-operative relationship between human beings in all spheres of activities. The alternative to cooperation is confrontation.

Standards of education, literacy and knowledge for the majority have improved considerably in the past 50 years. This has led many people to expect a better standard of living and quality of life. Most want to be kept informed of developments which affect them: they appreciate their advice being sought. This applies particularly to industry. It emphasises the vital importance of establishing good human relations in industry.

Such relations cannot be successfully imposed on industry from outside, by Government, for example. State compulsion is generally a manifestation of desperation. Good relations can develop organically only from within the individual organisation. Of course nearly everybody in top management says that they believe in good human relations. In fact, I have found that management can be divided into three groups—those who pay lip service to the idea but do not care a damn about it, those who believe in it but do not know how to implement it, and the small number who believe in it and implement the policy of good human relations successfully. Most top management does not appreciate what such a policy implies, certainly not what a total commitment to it entails.

As organisations become larger and numbers employed increase, it is apparently difficult to prevent personal relationships between senior management and employees from becoming remote. People feel that they are tiny unimportant cogs in a vast machine and no one is interested in their problems. They are often motivated by insecurity and sometimes by frustration and boredom. They become easy prey to the troublemakers. I refer here to the influential, dynamic, vociferous, militant minority who exacerbate differences and exaggerate grievances with the aim of changing the whole political and socioeconomic structure.

When management treats employees as responsible people meriting respect, most respond. This results in people working well, less absenteeism, greater staff stability, a more experienced staff and, generally, a willing acceptance of new and more modern methods of production and operation.

Under such conditions, most people take pride in their work, and this often results in high productivity and good profits. This in turn enables management to pay higher wages and provide those facilities which make for a contented and hard-working staff, to have funds for investment which creates employment, and to pay dividends to the shareholders who have provided the money to operate the business.

My personal experience naturally colours my views. For the past 40 years I have been active in a business which believes in, and implements, a policy of good human relations. The Marks and Spencer philosophy was developed by the late Lord Marks and my father. The principles from which this philosophy emerged were laid down over 40 years ago. Perhaps the most important of these was to foster good human relations with all staff, with our manufacturers and suppliers, and with our customers.

In 1933, at the inaugural meeting of PEP (Political and Economic Planning), a non-partisan agency for economic and social research, my father said: 'Lying at the core of our industry problem is a need for a new attitude of mind on the part of the human factors engaged in it. To break down the element of fear in human relations is difficult. If it can be done, a new spirit of co-operation will be born. There is certainly no short-cut to the achievement of this end. Yet without it, there can be little hope for the future of industry.'

Depressing as it may seem, these words are as apposite today as they were 42 years ago.

A policy of good human relations has to start with top management having a sincere respect for the individual. Top management must understand the need for a right and just personnel policy, which is known to all employees and seen to be honoured in action. This policy must include a progressive wage policy so that all should share in the progress and prosperity of the organisation for which they work.

The implementation of a good human relations policy requires sustained physical and mental effort, and it costs money. As organisations grow larger, it is impossible for those at the top to know everybody individually. So there must be a professionally trained group of people—staff management—to carry out the principles of personal policy laid down by the Board of Directors, of whom a senior member's main concern should be the implementation of an agreed personnel policy. But all executives should be aware of and interested in the personnel policy of their organisation. And all employees should know with whom they can talk and discuss their problems.

But this is not enough; those in charge must visit the factory and the shop floor. They should listen to what people have to say and look at what is happening. And they should do this objectively—not seeing what they want to see or translating what people are saying into what they would like people to say. Then those in charge will learn a great deal about what is going on, see what is being well done and should perhaps be intensified and see what is being badly done and needs rectifying.

In the personnel department at Marks and Spencer we employ some 700 people whose primary responsibility is the well-being of some 40,000 staff. It is their job to see that the Board's policy is implemented. It is their job to see that every member of the staff is personally known and has regular contact with somebody who is concerned with his or her well-being and progress.

Despite the National Health Service there is much scope for indiivdual medical care. Since 1933 we have provided advisory medical services and, since 1934, dental services. We encourage staff to attend regularly for examination and over 90 per cent do.

The establishment of a system of testing for cervical and recently breast cancer has saved a number of lives and revealed many other ailments which, for one reason or another, the person concerned thought could not be cured, or just did not bother about. Among the first 40,000 examinations, we found 75 cases of cancer, of whom 74 are alive and well. These welfare activities show people that management cares for them and they, in turn, cooperate at work.

Our welfare activities, which cover catering subsidies, medical, dental, chiropody and non-contributory pension scheme and other amenities, will this year cost some £19 million. Those who lead Marks and Spencer have for a long time been convinced that without this investment in the care of people, we would not enjoy such success as we do.

Some of the great firms have grown quickly, often by mergers and takeovers. The well-established human relations of the original firm are sometimes overwhelmed by the very size of the new undertaking. Sometimes bad traditional practices of one of the merged firms become the standard for all.

In such circumstances, troublemakers thrive. Constructive moves to increase productivity, through investment or improved organizations, are misrepresented by those who want to subvert our socio-economic system into class warfare between 'us and them.' The militants use every genuine grievance and manufacture artificial ones to achieve their aims. Here a dynamic policy of developing good human relations is all the more important.

British Leyland is an example of a company whose failure so far is in no small measure due to its inability to develop a spirit of cooperation between management and employees. So far as I remember, the original Morris management, led by William Morris, better known as Lord Nuffield, cared for people and relations were good. The Austin management did not have such good relations with their employees. When the two companies merged in 1952 to become the British Motor Corporation, problems due to poor relationship between management and employees arose.

When the successful Leyland Company took over the leadership in 1968 did the new management of BLMC get their priorities right? Leyland had good relations with its employees but to quote Geoffrey Robinson, former head of Jaguar Motors, part of BLMC, and who had previously held senior executive responsibility in BLMC:

'The plain fact is that that essential precondition for success—the complete cooperation of the workforce, so rightly diagnosed in the first and increasingly, almost sententiously, emphasized in every successive chairman's statement—was not achieved. The merger was completed against a background of mutual suspicion between managers and men, of a plethora of piece work agreements, of overmanning, and of a minefield of jealously guarded differentials.

'The full extent of the difficulties that lay ahead could hardly have been appreciated and it is hardly surprising that in the early period more awareness was shown of the potential than the problems.

'Positive changes in industrial relations that were necessary within a relatively short period of time, if British Leyland was to survive, would have needed more vision and sheer self-confidence than the battle-weary line management of British Leyland could muster. But if the lead from management was along conventional and inadequate lines, so was the response of the unions.'

Without personnel leadership on either side, mutual confidence was lost and resulted in what Mr. Robinson describes as a 'conspiracy of disbelief' which went into a vicious circle. Last October and November, British Leyland lost 37 per cent of its scheduled production through industrial disputes, quality faults, facility failures, absenteeism and so on.

Some employees become bored because they have a purely repetitive job. This can and does lead to low productivity. Many people have a desire, possibly in some only subconscious, for creative expression. This is difficult to fulfill on some modern production lines. We have paid too much attention to machines, too little to people and systems. No doubt advanced mechanization and automation will eventually eliminate many repetitive tasks but some jobs will always depend on the human eye, human touch and human resourcefulness: progress starts with people who think. Machines don't think.

Let me give you an example. United Biscuits operates 12 factories in this country with 20,000 factory employees, 50 per cent of whom are men, fully unionized. Production is highly mechanized and automated. There is much boring work. Management found it was impossible to make the work less boring, so it created a costly factory radio system with news every half-hour, music and educational talks. There are a large number of individual loudspeakers so people can control the volume of sound—or turn the radio off.

United Biscuits has deliberately set out to involve people in matters which concern them, and most behave responsibly. For example, stewards, as well as full-time union officials, take part in all their negotiations. Full disclosure is made to the unions of company results and objectives. Industrial leaders must educate. The gulf must be bridged between what management know, because they have access to a lot of information, and what staff believe, often in ignorance. There has been virtually no industrial strife at United Biscuits for many years.

Good human relations are very important but they alone will not solve industrial problems. Let me touch briefly on some of these other problems the solutions of which are of great importance. Some may consider they are as important, or even more important, than the development of good human relations. I don't.

Most people feel that, if they show initiative, assume greater responsibility and work harder they should be adequately rewarded. Rightly or wrongly many people feel that the reward they receive, for assuming greater responsibility and working harder, is not adequate compensation for the extra time and effort they are putting in.

Many of us are beset with increasing domestic problems brought about by inflation and high personal taxation, and many wonder whether the game is worth the candle. Some opt for the quiet life. Among them are those who in the past would in all probability have eventually assumed considerable responsibility. There is an urgent need to reduce the high levels of taxation so that personal initiative and hard work are adequately rewarded at all levels.

Another major factor in industry is the power of trade unions. In industry it requires two sides to co-operate and equally to confront. Trade union leadership falls more and more into the hands of those who do not believe that the solution of our problem lies in co-operation within our present socio-economic structure, but that the whole structure is wrong. They seek a system which would in effect be a State-controlled bureaucratically-run economy with power residing in the hands of the trade unions.

This group is a dynamic and often militant minority who in many cases do not represent adequately the views of the moderate majority of the members of the unions they claim to lead. They are elected by a small minority of union members because the present system of election in many trade unions does not encourage the majority to exercise their democratic right to vote.

Lord George-Brown writing on what he calls 'the capture of critical positions of power by this'—as he also believes—'unrepresentative group of key figures in particular unions,' considers that a compulsory, secret and preferably postal ballot would 'quickly put to rights this problem of leadership which controls the use of trade union power.'

He is convinced that his fellow trade unionists would not merely acquiesce but positively applaud such urgently-needed legislation. I agree.

VISIT WITH SECRETARY CARLA HILLS ON HOMEOWNERSHIP FOR LOWER INCOME AMERICAN FAMILIES

Mr. PERCY. Mr. President, I recently had the opportunity to meet with HUD Secretary Carla Hills to discuss the issue of housing in general and, specifically, the 235 homeownership program.

I have a strong interest in this program, having worked closely with Senators SPARKMAN, MONDALE, TOWER and other cosponsors in its formulation during my tenure on the Banking, Housing and Urban Affairs Committee. In particular, I authored one of the first homeownership proposals that eventually became the 235 program.

The Home Buyers and Homeowners Protection Act is based on three premises. First, available evidence suggests that present housing programs are basically sound in concept. Second, these programs have suffered because of bad management. Third, the way to improve these programs is to give the Secretary of Housing and Urban Development the necessary tools to administer them primarily for the benefit of lower-income housing consumers rather than disproportionately for the benefit of contractors, developers, brokers, mortgage bankers, and labor unions.

I recognize that the 235 program was set back by the moratorium placed on it in 1973. Also, there were problems in implementing the program in its initial stages. Administrative oversight and consumer counseling have been inadequate. But there were many achievements as well.

From 1968 through 1975, there were 469,289 mortgages insured under section 235. Given an average family size of about 4.5 persons, this means that over 2,100,000 Americans had the opportunity to live in their own homes. This might not have been possible if the 235 program had not existed. During the same period, slightly more than 1.5 million mortgages were insured under the traditional FHA section 203 program.

Our goal now should be to make the 235 program more beneficial for housing consumers. We can accomplish this by correcting mismanagement and emphasizing the essential sound concept of the program that promotes homeownership for millions of Americans, including those in lower income brackets. Congress has responded to this need by taking new initiatives and making important changes to improve the program.

I was very pleased with Secretary Hill's recent statement and support of the basic 235 program. As she has reconstituted it, the program is geared to lower income families who can make a down payment of 3 percent of the first $25,000 and 10 percent of $28,000 in high cost areas. The purchaser must also pay closing costs.

The investment required by the purchaser is greater than what was required previously. This fact should increase the buyer's motivation to maintain the property properly and avoid default on mortgage payment. Nonetheless, because of cost-of-living increases, families throughout the United States should be helped in finding housing through this program.

Secretary Hills is well aware that this program will not reach the poor. However, other programs, such as section 8, are more applicable to low-income families that may not have extra funds for everyday repairs, large utility bills and the many other expenses a homeowner faces.

Secretary Hills is committed to making the 235 program work in a realistic and practical way. I strongly support her effort and I hope many of my colleagues will do so also. On the basis of her record up to now and the strength and dedication she has demonstrated in her present office, I anticipate that Secretary Hills will make a highly significant contribution as Secretary of Housing and Urban Development.

The December, 1975, edition of Fortune magazine featured an article on Secretary Hills that discusses her work as HUD Secretary. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARLA HILLS GIVES "THE WOMAN'S TOUCH" A BRAND-NEW MEANING

(By Irwin Ross)

At times, Carla Anderson Hills, the Secretary of Housing and Urban Development, finds it a mixed blessing to be a woman in a job normally held by a man. She occasionally appears distressed at being the object of endless curiosity because she is a woman. She is fed up with such dreary questions as whether being a woman hurt or helped her career, or how she managed to bear four children without ever taking more than two weeks off from her law practice. She would much prefer to talk about housing.

Yet the interest in Mrs. Hills as a woman who has made it to the top is quite understandable, for she is among a very select few—one of just three female Cabinet officers in U.S. history. Her only predecessors were Frances Perkins, Secretary of Labor under Franklin D. Roosevelt, and Oveta Culp Hobby, the first Secretary of HEW in the Eisenhower Administration.

There are few women anywhere in the upper reaches of the government. Only forty-six out of 1,353 presidential appointees are women, according to the latest count. One is chairman of the National Labor Relations

Board, three are assistant secretaries, seven are commissioners of various agencies, and twelve are judges (out of 749 judges on the various federal benches).

In October, Carla Hills achieved an even rarer distinction. When her husband, Roderick, became the new chairman of the Securities and Exchange Commission, she suddenly found herself celebrated as half of the first husband-and-wife team to head two powerful agencies of the U.S. government.

A SMILE INFREQUENTLY FLASHED

They make an appealing pair, a couple endowed with all the blessings—good looks, relative youth (she is forty-one, he forty-four), those four attractive children, plenty of money (earned by both, as well as inherited by her), a large house in a posh neighborhood in Washington.

Their personalities complement each other. A thin, carefully coiffed woman in quiet, well-cut clothes, she is crisp in manner, businesslike, reserved, a person who measures her words as if she were always addressing an appellate court. She has an agreeable, toothy smile, but flashes it infrequently. Her face in repose is usually encased in a frown.

In contrast, Roderick Hills is outgoing and far more relaxed than his wife—the sort of man who gets on a first-name basis in five minutes and gives the impression that he would tell a drinking companion the secrets of his life at the first show of interest. When they were interviewed at their home for this article, it was Rod who pressed his wife to be more forthcoming, sometimes asking a follow-up question to draw her out, and frequently filling her wineglass—over her protests—to get her to unbend.

Her rapid rise is tribute both to talent and to the happy accident of being of the right sex at the right time. Her first government post in Washington was as assistant attorney general in charge of the Justice Department's civil division. Two accounts, not altogether contradictory, are told about how she got the job. William Ruckelshaus, deputy attorney general under Elliot Richardson in 1973, recalls a conversation with Richardson in which they agreed that a woman should be sought to fill the vacancy. Ruckelshaus then asked his wife, Jill, who was professionally concerned with getting more women into government, to provide a list of qualified female lawyers. Carla Hills turned out to be the outstanding candidate.

THE BOSS REMEMBERED HER

Richardson remembers the selection process somewhat differently. They did not set out on a deliberate search for a woman, though "we both agreed that, everything else being equal, it was a good idea to get women." Moreover, Richardson had known of Carla Hills for some little time before he arrived at Justice in May, 1973. In his previous post, as Secretary of Defense, he had vainly sought to recruit Rod Hills as assistant secretary for international security affairs. In checking out Hills, Richardson had picked up a good many favorable comments about his wife's legal talents, and he remembered her after he got to Justice and found a vacancy coming up in the civil division.

In any event, the job was proposed to Carla Hills. Her nomination had not yet gone to the Senate when the "Saturday night massacre" occurred and both Richardson and Ruckelshaus left office. Carla Hills' government career seemed over before it began. But later the White House renewed the offer, and she went to work at Justice in April, 1974.

By all accounts, she did a highly efficient job of overseeing the work of some 240 lawyers. Also important, she held a top government post at a time when the new President, having tapped HUD Secretary James T. Lynn to become head of the Office of Management and Budget, had a vacancy to fill—and when he was being lobbied by his wife to appoint a woman to the Cabinet. On more than one occasion, Betty Ford has taken credit for Carla Hills' appointment.

Events moved swiftly. Ten months after she began work at Justice, Mrs. Hills received a phone call one Saturday morning from the White House asking whether she could see the President in an hour. She made it on time and was promptly offered the HUD job.

BRICKS FROM THE HOUSING LOBBY

The post she assumed last March 10 is one of the toughest in Washington. She was charged with administering a new and complex housing-subsidy program whose implementation had fallen far behind schedule. The department was saddled with a huge load of foreclosed houses and apartments—an unwelcome dividend of earlier subsidy programs gone awry. That property had to be taken care of and ultimately disposed of. Morale was low and scandals were rampant; a HUD official or ex-official was being indicted every other week. And the private home-building industry was in a severely depressed state.

Moreover, she was no housing expert, a fact that led to a barrage of criticism. Wisconsin Democrat William Proxmire, chairman of the Senate Banking, Housing and Urban Affairs Committee, was especially caustic, arguing that "this is no time for on-the-job training of a new Secretary of HUD." A joint statement by the U.S. Conference of Mayors and the National League of Cities predicted that "it will take her a year to eighteen months to learn the job, and by that time we will be in the midst of the next presidential election." Nonetheless, the Senate voted eighty-five to five for her confirmation.

In office, she proved to be a quick study and took firm hold of the department in a remarkably short time. She has put her major thrust behind the leased-housing program of the Housing and Community Development Act of 1974. It is spelled out in Section 8 of the law, a numerical coincidence that always brings wry smiles to anyone old enough to recall that during World War II Section 8 referred to military discharges for emotional instability. HUD's Section 8 is an ambitious program to put low- and moderate-income families in existing, rehabilitated, or new housing by paying subsidies to landlords.

Carla Hills finally got the program moving after it had been languishing for many months under Lynn. The act was passed in August, 1974, and on several occasions Lynn gave Congress estimates that 200,000 Section 8 units would be in the pipeline before the end of fiscal 1975. After she took over last March, Mrs. Hills discovered not only that no Section 8 units were in the processing stream, but also that the necessary regulations had not yet been issued.

A SEARCH FOR CREDIBILITY

Her response displayed the brusque decisiveness that has made "tough" the adjective most frequently applied to her. She told her staff that their top priority was to get out the regulations, and she imposed tight deadlines. She pointed out that, with less than four months to the end of the fiscal year, the reiterated forecast of 200,000 units was an absurdity. "What is a realistic figure?" she demanded. "My credibility and the department's credibility are at stake."

A deflated figure of 40,000 units was finally agreed upon and announced. She kept up the pressure, and by June 30, HUD had completed preliminary agreements covering more than 92,000 units, mostly with landlords of existing private housing. (No one, to be sure, could say how many of these units housed families as yet.) Raising its sights, the department announced a target of 400,000 units for the current fiscal year.

AN EXPENSIVE SUBSIDY

Many problems beset the Section 8 program, however. In general, anyone is eligible whose income is no higher than a stipulated percentage of the median income for his or her area. The percentage depends on the number of persons in the family; for a four-person family, it is 80 percent, and for a six-person family it is 90 percent. Such levels theoretically confer eligibility on many millions of family in the U.S.

HUD's calculations of the average annual subsidy cost have climbed rapidly in recent months. For existing housing, the department has upped its estimate from $1,800 to $2,200 per unit; for new housing the estimate has risen from $3,200 to $4,400 per unit. At these levels, Section 8 could well become, per beneficiary, the most expensive housing-subsidy program yet.

A family at the upper end of the allowable income spectrum, such as a four-person family with $14,500 income in New York City, could afford to live in a new apartment that would otherwise require an income of over $20,000 a year. (A family must pay between 15 and 25 percent of its income for rent, and the landlord receives a subsidy for the rest, up to the "fair-market rent" of the apartment.) Such a state of affairs, once it becomes widely known, is hardly likely to be viewed as equitable, but Mrs. Hills argues that critics focus too much on the upper end of the spectrum. Most people applying for aid will be at the lower end, she says.

BUILDERS ARE STAYING AWAY

Despite the large sums that HUD is prepared to spend (the department has $1.5 billion for the program to the end of this fiscal year), landlords and developers are not rushing to sign up. Unless their vacancy rates are high, many landlords prefer nonsubsidized to subsidized tenants. Poor people, at least in large groups, often run down property values. Private new construction under Section 8 has been virtually nil, largely because developers figure that at today's high construction costs, they cannot recoup their investment over the twenty years HUD will provide subsidies.

If the contract is with a state housing agency, it runs for forty years. This phase of the program, however, has now ground almost to a halt because of the difficulty state agencies face in borrowing funds in a demoralized bond market. Mrs. Hills recognizes all these problems, and, while she may not be able to overcome them, she can clearly be depended upon to make a determined effort.

Her speed and decisiveness dazzle her staff aides, some of whom are old Washington hands long accustomed to bureaucratic delays to cover all flanks. David M. de Wilde, one of her deputy assistant secretaries, recalls an occasion when he brought a large packet of material to her desk. It had to be issued quickly, and de Wilde was ready to brief her on it. Instead, this dialogue took place:

Mrs. Hills: "Have you reviewed this package personally?

"Yes."

"Are you satisfied with it?"

"Yes."

"Do I have any personal knowledge to contribute?"

"No."

"Do you recommend that I sign it without going over it?"

"Yes."

Exit de Wilde with her signature.

Carla Hills reacts promptly to a crisis. Early in September, her executive assistant, Richard McGraw, got the dismaying news that the House Ways and Means Committee had unexpectedly voted to close a loophole in income-tax law that lets investors write off paper losses on new housing against their other income. The reform would sharply reduce the tax incentive for real-estate investment and, incidentally, hobble the Section 8 program. Mrs. Hills was on a quick trip to Seattle, where McGraw reached her at 1:00 p.m. Seattle time.

She was flying back that night, and on her return wanted memoranda with the committee's arguments, HUD's counterarguments, a draft of the legislative proposal, and background papers. She also asked for a staff meeting at 8:00 a.m. the next morning, and a meeting with Representative Al Ullman, the committee chairman, at 10:00 a.m.

The material was delivered to her when her plane landed at 2:00 a.m. She found time to study it before the staff meeting, and was still being briefed as she went up the elevator to Ullman's office at 10:00. The committee later voted tentatively to accede to the HUD request for a five-year exemption for subsidized housing. But whatever the final outcome, the Secretary made quite an impression on her staff.

MISCREANTS NEVER FORGET

Male members of her staff are a bit amused when asked whether they find any difference working for a woman rather than a man. McGraw thought a while, then remarked: "I never had to tell Jim Lynn that his slip was showing." He added: "It's kind of like being close to a black man and forgetting that he's black."

Carla Hills's incisive directness is rarely tempered by a softer quality that in an earlier era could without offense be called feminine. When she is displeased with performance, she chews out the miscreant with uncommon vigor, eyes flashing and the words bitten out with staccato precision. Never a word of profanity, just a stinging rebuke, sometimes with the peroration, "I don't dislike that kind of thing—I just hate it!" But the wrath quickly passes and as the victim turns toward the door, she is likely to put out her hand and ask, "Are we still friends?"

"Once you've been chewed out by the Secretary, you never forget it," says H. R. Crawford, the large, droll former real-estate executive who is assistant secretary for housing management. Chuckling, he recalls that 'as I crawled out of the door, slid down the stairs, I was totally aware of what she expected. There were no clouds—there was no doubt in my mind of her position."

BYPASSING THE BUREAUCRATS

Few of her staff have escaped her pointed cross-examination. 'She will sometimes hold a meeting as if she were a litigating lawyer," says special assistant Bernard J. Carl. "If someone comes up with a proposal, she will vigorously cross-examine him to dicover the underlying premises." She will use the same technique when something goes wrong, pursuing the cause of error through layers of rationalization and double-talk. She visibly enjoys the confrontation, and after years at the bar is proficient at it.

For a Cabinet officer, she is surprisingly available by phone. The chiefs of each of HUD's eighty-seven field offices have been instructed to feel free to telephone her, and she is scrupulous about returning the calls. In an effort to bypass the bureaucratic logjams for which HUD has been notorious, she has also asked each field-office director to write her a monthly confidential letter. She does not draft the replies, but goes over each one before it is dispatched.

In unexpected ways, she is a fussy perfectionist. She has been known to edit thank-you notes written by her staff. She labors for hours over speech drafts, although her public utterances are unadorned by literary flourish or lively turn of phrase. A Hills speech does have the virtue of lucidity. It also conveys a Girl Scout exuberance that hardly reflects the private person. After sketching the dismal housing scene for an audience at the Washington Press Club, she asked. "Who would even want to be at HUD at a time like this?" and then responded, Well, I would! Yes, we have problems, lots of them. And some of them are agonizing. But we face a challenge that is worthy of all our energy, creativity, and horse sense."

She concedes that I'm by nature a compulsive person," and she certainly never stints her job. She rises at 6:00 a.m., often with no more than five and a half hours of sleep, and is on the way to the office between 7:15 and 8:00 for a workday that stretches until 8:00 p.m. Lunch is usually no more than a sandwich and she often skips that. By nightfall, she is often short-tempered and her face is slack with exhaustion. "Have you ever given a speech and feared you'd fall asleep on the podium?" she asked some visitors recently. "I'd say to myself, 'Come on adrenalin, where are you?' "

TAPES FROM THE POOLSIDE

Without compulsiveness and the discipline that accompanies it, she could hardly have raised four children while pursuing a nonstop law career. Her long-time secretary, Beverly Posey, recalls that when the family used to go on vacation, Mrs. Hills would always take along some briefs or depositions to work on. She would dictate at the poolside, and when the tapes were played back at the office, Mrs. Posey could hear the kids slashing in the water.

The children range in age from five to fourteen and their production and nurture seem never to have slowed her down. In each case, Mrs. Hills worked right up to the time the baby came. One Los Angeles judge expressed surprise to hear that she had just given birth, for she had been in his courtroom the previous week and he had not realized she was pregnant. She took pains to disguise the fact, keeping her weight down and shunning maternity clothes.

Natural endowment aside, the indefatigable Mrs. Hills could hardly have pushed ahead so rapidly without inner drive. From adolescence onward, she seems to have been powered by great ambition, conceivably because she was a girl and her father was quite vocal about preferring boys.

The dominant parent in her life was certainly Carl Anderson, a Midwesterner transplanted to southern California who made a small fortune in the building-supply business after World War II. She, rather than her older brother Stephen, was named after her father, and she seems to have absorbed from him a strong will as well as a great capacity for self-discipline. Stephen, for one, reads his sister's career as a long effort to prove to her father what a girl could accomplish. He died too soon, in 1965.

As a child, as she tells it, she decided she wanted to be a lawyer. Her father, a very conservative man, argued that a woman's work was in the home, or at least no farther removed than the family business. There were many confrontations between them. Stephen recalls a conversation at the family table where the father asked why he should educate her, since there was nothing in it for him—she would marry and relinquish his name. She countered that if he educated her, she would perpetuate the name, and indeed she has long referred to herself as Carla Anderson Hills.

She was eager to go to college in the East; her father wanted here in the Los Angeles area; they compromised on Stanford. When it came time to attend law school, she proposed Harvard or Yale. He wanted her to remain in California, and refused to finance her studies at an eastern school, whereupon she said she would pay her own way. She had prepared for this moment by saving money she had earned during summer vacations, working first as a bookkeeper and then as a teller in a Bank of America branch. After her first year at Yale, her father picked up the bills; by this time he was proud of her.

REUNIONS IN NEW HAVEN

Carla had met Rod Hills at Stanford when she was a senior and he in his third year at law school. He was a brilliant student, an energetic type who clearly was going to move up rapidly. His family had little money and Hills had financed his education largely by working as a bartender and during summer vacations as a construction laborer.

They saw a good deal of each other at Stanford. Thereafter the reunions were in New Haven and in Washington, where for a year and half he served as law clerk to Supreme Court Justice Stanley Reed. Carla did well at Yale, graduating twentieth in her class.

She took her bar exams in September, 1958, married Rod a week later, and set out on a European honeymoon. A few months later, she went to work as an assistant U.S. attorney in Los Angeles. It was a wise choice, encouraged by Rod, which gave her a wealth of experience at the federal bar and at the same time sidestepped the discrimination then faced by women who sought to work for large law firms. Looking back, she insists that she never personally suffered discrimination, but on the other hand she never seriously tried to get a job with a private law firm.

ONE WAY TO BEAT THE SYSTEM

Early in 1962, Rod, just turning thirty, and a few other lawyers from an established firm set up their own shop, initially called Munger, Tolles & Hills. From the outset, everyone was a partner, including Carla. "We couldn't afford to pay associates," she recalls. In a sense, she had beaten the system.

The firm developed a general corporate practice, with Rod specializing in labor law and Carla in antitrust. In 1964 she received a telephone call from Covington & Burling, the Washington law firm, asking her to take over an antitrust case on the West Coast on behalf of two trade associations that were being sued. She helped work out a settlement, and thereafter was in increasing demand, invariably representing defendants. In a relatively short time, the Hillses propered, as did the firm, which now has twenty-eight lawyers.

It was also a highly innovative firm, largely at Rod's prompting. The offices of all the partners were the same size, no records were kept of who originated business, and every partner had to take a paid sabbatical every seventh year. During the academic year 1969–70, Rod went to Harvard to teach labor law. Carla accompanied him, and spent the year working on an antitrust legal handbook for McGraw-Hill.

When the academic year was over, they returned to the law firm, and soon afterward Rod took a leave to join Republic Corp. as legal counsel. Republic, best known for its former role as a producer of grade-B movies, had turned into a shaky conglomerate. It had just sustained a $17-million write-off, placing it in default of a loan agreement with the Bank of America. The bank asked that the company bring in fresh legal talent. Hills took the assignment for what he thought would be ninety days; he stayed four and a half years, winding up as chairman and chief executive officer. Though the write-offs ultimately reached $62 million, he helped turn the company around and was generously rewarded—a $125,000 annual salary, 20,000 shares of stock for which he paid 50 cents a share and $300,000 in special compensation.

During his time at Republic, Hills became well acquainted in Washington and joined the reservoir of bright, successful, and relatively young men whom executive- branch recruiters continually try to entice into second-rung jobs. A Democrat in his college days, he had established his political acceptability to the G.O.P. by working to stimulate organization among Republican moderates in California after the Goldwater debacle. Thereafter, he managed campaigns in southern California for Houston Flournoy (for state controller) and Senator Thomas Kuchel, activities that identified Hills as a liberal Republican. The tag annoys his wife, who prefers to be known as "pragmatic"; he professes indifference.

A HIGH PRICE FOR PROMINENCE

Rod had turned down several Washington offers by the time Carla went to HUD. A few weeks after she was sworn in, he became a counsel to the President, serving as deputy to chief counsel Philip Buchen. It was a position of importance, for he saw Gerald Ford daily, but he remained little known to the public while she became famous. Now that he is chairman of the SEC, the equilibrium has been reestablished, although he cannot match the curiosity value of a woman Cabinet officer.

Mrs. Hills has paid a high price for prominence, for there is little surcease from the six-day-a-week grind at HUD. The problems are immense, and the criticism has been relentless from home builders and unions that want more housing starts. Yet she seems surprised to be asked whether the game is worth the trouble. It has all been an enormous intellectual stimulus, she insists.

Much of the housing philosophy that she voices is implicit in the Housing and Community Development Act of 1974. What does she regard as the appropriate role of government in the housing market? "Keep the government out as much as possible but put the government in where it is necessary."

She also describes herself as a "fiscal conservative" and has warned: "We do not believe that we can spend our way out of the housing slump without inviting a new and more crippling inflationary spiral—in which housing would be the first to suffer."

IT'S CHEAPER TO RECYCLE

The theme Mrs. Hills stresses most in her speeches is the need to preserve the wasting assets in our cities. "We must combat the notion," she argues, "that the best way to cope with a worn-out city neighborhood is to throw it away and build a new one a little farther out." The error for years has been to spend public and private funds in ways that promote suburban sprawl, while the city was left to decay. Now, with resources less abundant, the need is to "recycle"—one of her favorite words—both existing houses and whole neighborhoods.

That huge task is not entirely consigned to Section 8. Under the 1974 act, more than $8 billion was authorized to be spent over three years on "community-development block grants," which replace several former categorical-grant programs such as urban renewal, model cities, and water and sewer projects. Previously, communities had to apply for HUD funds under a specific grant program; now they get their money with few strings attached and can spend it in accordance with local needs. Reports from the field show that more than 66 percent of the grants have been used "to preserve declining and blighted neighborhoods." In HUD's view, however, the program is so new that an appraisal of its success would be premature.

In October, Mrs. Hills also made an effort to stimulate housing construction. She revived a suspended program known as Section 235, which had provided hefty interest subsidies to enable low- and moderate-income families to become home owners. The program was shelved by the Nixon Administration, which objected to its extreme inefficiency and high default and foreclosure rates.

To overcome these difficulties, Mrs. Hills revamped the rules to focus aid on persons at the higher end of the eligibility scale. The minimum down payment on a house was raised from $200 to about $1,500 and the interest subsidy reduced so that a home owner will pay a minimum of 5 percent rather than 1 percent. These changes mean that most subsidized families will have incomes in the $9,000-to-$11,000 range rather than $5,000 to $7,000, as under the old program. Such families should be better able to keep up mortgage payments and pay for repairs.

THE SUPREME COURT RUMORS

Even before she reactivated Section 235, a move that may appease some of her critics, attitudes toward Carla Hills had softened notably. Senator Proxmire conceded, for example, that she now could talk about housing "in a reasonably intelligent way." Representative Thomas L. Ashley, one of the leading Democratic specialists in housing, says, "I'd give her pretty good grades. I think she's a good administrator and that's what she was brought in for."

While Mrs. Hills has been putting her imprint on HUD, there has been a good deal of talk that she will be leaving before very long. She says she plans to remain to the end of President Ford's term. Mrs. Ford, however, makes public noises about pressing her husband to put a woman on the Supreme Court. Inevitably, speculation turns to the departure of Justice William O. Douglas and the elevation of Carla Hills. For her, the subject is a vast embarrassment; she has nothing to say about such talk, except that "I find it most inappropriate." Yet the rumors will not die. She has, after all, come a long way in a short time.

SENATOR MUSKIE'S BUDGET WORK: PROGRESS TOWARD FISCAL RESPONSIBILITY

Mr. HATHAWAY. Mr. President, as we complete our first year under the new budget process, I would like to commend the distinguished Senior Senator from Maine, ED MUSKIE, for his hard work and accomplishments in his first year as chairman of the Senate Budget Committee.

As we have learned in recent years, the economic well-being of the average citizen can be hurt when the Federal Government does too little and in some cases when it does too much.

At least 60 times this year, ED MUSKIE has taken to the Senate floor to insure that a wide variety of legislation meets the standard of both economic and fiscal responsibility. Time and time again he has opposed measures which he believed would cause excessive Federal spending. While we had different views in some cases, I support his cause: that every program enacted by Congress squares with the people's overall economic interest. One of the most valuable aspects of budget reform is that it allows all of us to debate and reach a consensus on those interests.

ED MUSKIE's role as budget chairman is not always a popular one. Telling Members that their favorite legislative proposals are too expensive, that the money is needed elsewhere, is a difficult job, but Senator MUSKIE has done it effectively.

In recent weeks many voices have been raised against the uncontrolled growth of Federal spending. The people of Maine benefited by having a representative who has spoken steadily on this issue but, more importantly, has gone about the work of doing something about it. In the long run, that is what will really make the difference.

In the past session, due largely to the efforts of Senator MUSKIE's Budget Committee, the Congress has spent more money where the people wish it to be spent and less money where the people wish to see reductions. We have enlarged programs such as health, education, and aid to the elderly. We have cut programs devoted to the military and to foreign aid. We have added considerably to programs aimed at job creation.

Perhaps more important than any single accomplishment, Senator MUSKIE has been able to open the budgetary process to public view. From the outset, the committee has held its hearings and conducted its business in public session. That fact has increased the accountability of the Federal Government.

Budget control is not a glamour issue. It will never arouse the interest, or the television coverage, of a CIA investigation. But there are no more important issues than those addressed by the budget process.

To help focus attention on Senator MUSKIE's work, I ask unanimous consent that several news articles and editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Portland (Maine) Evening Express, Sept. 9, 1975]

SENATOR MUSKIE'S SUCCESS

How well the 94th Congress succeeds in holding down the size of the federal deficit this year depends in large measure on the ability of senators and House members to earnestly abide by self-imposed spending limits. So far, thanks in large measure to the efforts of Sen. Edmund S. Muskie, chairman of the Senate's new Budget Committee, the Congress is acting with considerable self-restraint.

Two indications of Muskie's success in forging a workable coalition in the Senate occurred in the past month. First, the Senate rejected a $31.1 billion military procurement package on the grounds it exceeded stated spending limits.

More recently, the Senate voted to send a $2.8 billion child nutrition measure back to a conference committee for the same reason.

In both instances Senator Muskie managed to muster an unlikely coalition of conservatives and liberals to prevent passage of the spending bills. In the first instance he won conservative opposition to the military spending bill by promising to oppose excessive spending for domestic programs. Last week he lived up to his word when he opposed the child nutrition bill, saying that "What we are doing is to insist that the fiscal discipline which led to the disapproval of the military bill be applied equally to other programs." The Senate turned back the bill by a surprising 76–0 vote.

Overall, Muskie is successfully arguing that Congress must take the bitter with the sweet if it is to succeed in holding the deficit to the $68.8 billion it approved in May. Although it may be argued that a federal deficit of that magnitude is too much, it is not far from the $60 billion deficit initially sought by President Ford and since subjected to upward revisions totalling $2 billion more. In terms of deficit spending limits, the President and Congress are not poles apart.

While it is still too early to accurately gauge the long range impact of congressional creation of the new Budget Committee, the success achieved so far is promising. For the first time in decades the Congress has the machinery needed to become a full-fledged partner in the federal budgetary process, a position it has all but ceded to the executive branch in recent years.

Moreover, Senator Muskie's success in convincing his colleagues that they must make the hard decisions as well as the easy—to vote for warranted spending reductions as well as popular spending bills—promises a restoration of congressional fiscal responsibility.

[From the Maine Sunday Telegram, Sept. 21, 1975]

MUSKIE TAKES SENATE FLOOR DAILY TO CONTROL SPENDING

(By Donald R. Larrabee)

WASHINGTON.—On three successive days this week, Sen. Edmund S. Muskie D-Me. waded into the briar patch of budget reform. The Senate floor was no bed of roses for the budget committee chairman but, as Muskie said, "nobody promised us a rose garden."

The Maine senator, by his recent actions, seems dead serious about putting the Congress and the country on the long, hard road back toward fiscal responsibility. The press gallery is beginning to pay attention because Muskie is beginning to upset the powerful lobbies, the powerful executive agencies and the power blocs in Congress.

Whatever his personal feelings about a particular expenditure, Muskie feels he must take the floor on every major spending bill before the Senate to remind his colleagues of their decision last May to keep within a ceiling of $367. billion. This puts him in almost daily combat.

Last week, Muskie spoke out on the Health-Labor-Education-Welfare Bill and on the Federal Pay Bill, warning of budget-busting implications in both measures. In the midst of this, House-Senate conferees agreed on a defense procurement bill which had been pared down by $250 million as a result of an earlier Muskie appeal.

These actions have stepped on some ancient toes in the Appropriations Committee which once ruled supreme on spending bills. Muskie found himself tangling with two of the committee giants—Chairman McClellan of Arkansas and Sen. Magnuson of Washington State. They said his committee was not coordinating its activities with theirs. "Mr. Budget" was creating chaos and confusion, they charged.

Muskie was alternately frustrated, angered, flushed with victory and torn by his own spending priorities and his responsibilities as chairman. What ticked him off most, however, was a story by syndicated columnists Evans and Novak charging that the budget reform process was "really a Senate shell game to fleece the pentagon."

The article was prompted by Muskie's unprecedented victory over the powerful military bloc when the Senate sent the procurement bill back to conference August 1. The story implied that the senator from Maine, one month earlier, had engineered a cutback in the nutrition-school lunch bill in order to win conservative support for reducing military spending. Evans and Novak said the real Muskie target is defense.

The columnists also accused Muskie's budget staff of juggling figures to give a misleading picture of how defense spending is shaping up compared with spending for social welfare.

The senator produced figures of his own in an attempt to show that Evans and Novak were dealing in "political gossip" rather than facts. The nub of his rebuttal was that his committee's opposition to the school lunch bill shows that it is just as concerned with overspending in the domestic area as in the defense-international area.

But, as Muskie himself conceded, his stand on these two bills has already shaken up the liberals on welfare spending who are now trumpeting word that the defeat of the defense bill carries "grave implications for domestic programs."

The Council on National Priorities and Resources issued a statement warning that "Muskie and the liberals on the Budget Committee seem to have been seduced by the Conservatives. . . . This action will most likely exact a heavier toll on programs oriented to human needs."

Americans for Democratic Action, in a separate report applauded the use of the new budget process to control military spending but warned that if Muskie can defeat "Stennis and the Pentagon," any major increases in social programs will be hard to come by. How, for example, the ADA asked, can we look for action on national health insurance?

In the face of attacks from right and left, Muskie was philosophical. "We haven't looked for thanks for our efforts. Any reward for this work will come slowly. It will come in the form of a return to the sound fiscal management Congress owes the taxpayers."

It is early in the game and Muskie's dilemma is not likely to diminish. There will always be a pressure group to argue that the national interest is being damaged by a specific cut. There will always be those who complain that social progress can only be achieved by greater spending.

But Muskie still feels that unless the integrity of the new budget process can be established in its first year of trial. Congress will have embarked on an exercise in fiscal fantasy and futility.

[From the Kennebec Journal, Aug. 7, 1975]

MUSKIE SCORES A COUP

Sen. Muskie scored a bona fide coup last week when the Senate, by a narrow margin, rejected a compromise military procurement bill. It was an important test of the concepts of budgetary responsibility approved last year to take federal financing out of the helter-skelter, pork barrel groove.

As chairman of the Senate's new Budget Committee Muskie knew well his colleagues' propensity for 11th hour programs and backstairs juggling. He came down hard on military spending in excess of ballpark figures adopted by Congress in May. And he won. It was the first time the new budget committee had decided to challenge a spending authorization or appropriation bill worked out by the standing committees. If the conference committee report were adopted, Muskie said in a floor speech, "we will inevitably bust the budget target for national defense." He didn't add that, in so doing, Congress would be undercutting the reforms it had approved and federal fiscal matters would return to their comfortable and expensive chaos.

The new Budget Act, fully operational next year when the fiscal year is changed, means Congress sets overall targets for revenue, appropriations, spending, deficits. Within this framework—already accomplished last May, you'll remember—are the guidelines as to how much Congress should appropriate in specific areas.

The rejected legislation refers to major weapons, among other things, and Muskie landed on a $60,000,000 item that would have committed Congress to building a Navy strike cruiser at a cost of more than one billion dollars next year.

The debate apparently uncovered a power struggle between the new Budget Committee and the senior members of the standing committee who see an invasion of their traditional turf. The Budget Committee won, thanks largely to the zeal Muskie threw into the fight. In so doing he saved the Budget Control Act since a key feature is the process by which Congress establishes spending priorities for itself before any fiscal legislation is enacted. It was a good day for the country.

[From the New York Times, Sept. 21, 1975]

BUDGET REFORM: THE QUIET REVOLUTION ON CAPITOL HILL

(By James Reston)

WASHINGTON, September 19.—Sometimes it is the quiet things, slipping by almost unnoticed at the start, that change the power structure of this noisy city more than anything else. The new Senate and House Budget Committees are the latest evidence of the point.

These committees were formed just a year ago on the reasonable but unprecedented notion that the Congress itself should try to keep its appropriations in line with the nation's revenues. It was even suggested that if the President or the committees of the Congress asked to put out more money than was likely to come in, the Budget Committees could challenge the deficit, and propose budget cuts and spending priorities.

Well, of course, the deficits are now running higher than ever before, and these Budget Committees of the Congress haven't had time to get their staffs or their procedures in order, but Muskie's liberal colleagues are scalding him for his cuts and priorities.

"Muskie and the liberals on the (Senate) Budget Committee," says the liberal Council of National Priorities and Resources, "seem to have been seduced by the conservatives." Likewise, the liberal Americans for Democratic Action concluded that "if Muskie can defeat Stennis and the Pentagon, he almost surely can defeat the Child Nutrition Act amendments . . . and any major increases in social programs, such as expanded food stamp benefits, or any social initiatives . . ."

But something new is happening here. Mr. Muskie, Mr. Bellmon and their colleagues in the Senate Budget Committee are reaching beyond ideological and partisan assumptions, and insisting that fiscal responsibility in the Congress is more important than the principle of guiding it not controlling appropriations has already been established.

For example, on last Aug. 1, the Senate, on the urging of both Republican and Democratic members of the Senate Budget Committee, rejected the fiscal 1976 military procurement conference report (H.R. 6674). On Capitol Hill, where committee decisions are usually regarded as commands, especially when the committees of the House and Senate agree in conference on the money to be voted, this was a startling surprise. Never before had a military budget conference report been defeated, especially when recommended by the chairman of the Senate Armed Services Committee, John Stennis of Mississippi.

In the fight over money in this town, which most of the big fights are all about, there has been no more formidable coalition than the Pentagon and the Armed Services Committees. When they have agreed in the past, nobody could stand against them, not the rest of the Congress, or even the President. But the Senate Budget Committee, led by Senator Edmund Muskie, Democrat of Maine, and Senator Henry L. Bellmon, Republican of Oklahoma, prevailed.

What has happened in this intervention of the Senate Budget Committee may be more important than any other event in this Congress. The new Budget Committees have taken the problem of Congressional fiscal responsibility seriously. They have limited powers, but they have avoided party ideology, and have dared to question the most powerful committee chairmen of the House and Senate.

Also, Mr. Muskie has made clear that his fight against what he regards as excessive spending by the Pentagon also applies to excessive spending on domestic social programs in the Department of Health, Education and Welfare. He is leading the fight with Mr. Bellmon against what they regard as extravagance at HEW as well as across the river at the Pentagon, and the prerogatives of their parties or the committee chairmen.

Senator Muskie has been very careful to respect the prior responsibilities of the chairmen of the Appropriations Committees and the Ways and Means Committee, provided they stay within reasonable guidelines, pay attention to over-all priorities, and work together to avoid "busting the budget."

"Nobody promised us a rose garden when we undertook budget reform," Mr. Muskie told the Senate the other day. "We knew the task of addressing our national fiscal priorities and beginning the long road back toward a balanced budget would be a thankless one.

"We knew those whose favorite programs would be cut would complain we were damaging the national interest, and those whose programs were allowed to grow might complain that the growth was not fast enough. We did so because of our conviction that failure to put the Congress and the country on the course toward fiscal responsibility and a balanced budget was to abandon our responsibility to our people. . . .

"I think it's fair to say, at the end of our first year, that the Budget Committees of the House and Senate, with the help and support of the membership and committees of both bodies, have gained a toe-hold in the struggle toward fiscal responsibility."

And of course, it's no more than a toe-hold bitterly opposed by many of the most powerful Democratic chairmen and liberal members of the Democratic party, but these Budget Committees, created almost by accident after President Nixon's impounding of funds voted often recklessly by the Congress, and aided mightily by the financial nightmare of New York City's financial crisis, are gradually having an important effect on Capitol Hill. Almost unnoticed, they may have started a quiet revolution in the Congress, and imposed a little common sense upon the ideological and party struggles on Capitol Hill.

[From the Tampa Tribune, Sept. 14, 1975]

CONGRESS IS HOLDING THE LINE

(By Donald Smith)

WASHINGTON.—At a time when success stories about Congress are hard to find, here is one to watch.

Last spring, Congress set for itself a $367-billion target for the amount of Federal spending it intended to approve during the summer for the fiscal 1976 budget. So far Congress has stuck to the target.

The toughest test of Congress, budgeting procedures, operating for the first time this year, is still two months off. But the fact that things have gone so well to date has lifted a few eyebrows on Capitol Hill, particularly among conservatives. Many of them are crediting the system with helping to keep Congress from, overreacting to the recession by adopting expensive new spending programs.

"Considering the process is still in its infancy, I'm pleased with our results so far," said Henry Bellmon of Oklahoma, the ranking Republican on the Senate Budget Committee. Bellmon's counterpart in the House committee, Ohio's Delbert L. Latta, agreed, "I've seen some of these people who have been labeled as big spenders saying we ought to cut back, or at least give some thought to cutting spending," he says.

Some liberals, on the other hand, feel the system is working too well. They contend that it has cowed Congress into essentially accepting President Ford's conservative fiscal policy.

"The whole thing is an absolute failure so far," contends AFL–CIO economist Arnold Cantor. "What they have done is not at all responsive to the needs of the economy. If they continue along this vein, I'd just as soon see the system go down the drain, because it isn't doing anybody any good."

The purpose of the new procedures is to consolidate the scattered pieces of legislative activity pertaining to the Federal budget into a coordinated Congressional spending strategy.

To do this, Congress last year set up the House and Senate Budget Committees to formulate over-all spending and tax goals, and a Congressional Budget Office (CBO) to provide Congress with technical information about the economy and the budget.

The law also created a set of deadlines for Congressional action on the budget. One key date each year is April 15, when Congress is supposed to have completed action on a resolution containing budget targets to guide the various committees as they process fiscal legislation during the summer.

The other important date is Sept. 15, when Congress is obliged to enact a second resolution, replacing the targets with binding limits on such items as total Federal spending and the amount of the deficit. This year the deadline for the second resolution has been pushed back to Nov. 20.

If the limits adopted in the second resolution differ from those adopted during the summer through the individual pieces of spending legislation, Congress must reconcile the amounts before it can adjourn.

The most concrete evidence that the system is working is the fact that Congressional action on appropriations bills to date generally has been consistent with the targets Congress adopted in the first resolution last May.

As Congress returned from its latest recess, the House—where all spending bills originate—had approved $77.4-billion in outlays contained in 11 appropriations bills, according to a House Budget Committee status report. That amount was $6-billion below the corresponding spending targets envisioned in the first resolution.

At the same time, the Senate had completed action on seven appropriations bills. The Senate Budget Committee, which does not have the same scorekeeping system as the House, could not provide an exact comparison between the targets and the amounts actually passed. But, according to a spokesman, "So far they (the bills) have all been consistent with or inside the targets."

Part of the success Congress has had in adhering to the targets is due to Ford's threat of vetoing any new spending measures. The President's vetoes of a $5.3-billion emergency jobs bill and an emergency farm bill, which he said would add $1.8-billion to the fiscal 1976 deficit, helped Congress stay well below its targets. The House sustained both vetoes.

With that kind of pressure from Ford, most observers doubt that Congress will overshoot its total $367-billion spending target by more than $3-billion to $5-billion by November, when the time comes to replace the targets with binding limits. Ford's requests for the two major appropriations bills remaining to be taken up in Congress—defense and foreign aide—both exceed the Congressional targets.

However, if action on the remaining bills does greatly exceed the targets, the stage could be set for a battle that could wreck the process.

The scenario that the Budget Committees fear the most goes as follows: if, after a number of reconciliation rounds, spending and the spending ceiling still do not agree, it may become apparent that a majority cannot be formed around any further cutting of spending or further raising of the ceiling.

For example, liberal members might refuse to cut social programs they already have approved, and conservatives might oppose cutting defense. And various factions could coalesce to hold down the spending ceiling because of dissatisfaction with cuts already voted or with the size of the deficit.

In that case, the system "can destroy itself," House Budget Committee Chairman Brock Adams, D-Wash., acknowledged. "If people don't want to be rational and make it work, it can be destroyed."

Adams puts the importance of holding the system together in terms of Congressional versus executive power.

"People are seeing for the first time where all the money is going, and I'm not sure they like it," he said. "But I keep telling them, if you want to be in on governing through the revenue and spending policy of the United States, you've got to use this act. That's what the House and Senate have got to decide. Otherwise it's the President's game completely, and you're out."

FAMILY PLANNING SERVICE

Mr. PACKWOOD. Mr. President, the Senate Finance Committee has taken the initiative repeatedly over the years—in 1967, 1971, 1972, and 1974—to strengthen the provisions of family planning services through the social services program authorized by the Social Security Act. The Social Security Act now requires:

That family planning services—including medical services and supplies—be "offered" and "provided" to all eligible persons.

That they be provided "promptly."

That they be provided to "minors who can be considered to be sexually active."

To encourage the provision of services by the States, the Senate Finance Committee proposed in 1972 that 100 percent of Federal matching be provided for family planning services. This was reduced in conference to 90 percent, still a preferential rate to the 75-percent match for other programs. The same social security amendments also established a 1-percent penalty on the States for nonperformance. The Senate Finance Committee report states clearly that, while the penalty is limited to the failure to provide family planning services to AFDC recipients, this is so only because of the technical difficulties involved in the monitoring of the services to non-AFDC individuals and families. The report also indicates that it is the aim of the legislation to prevent dependency and that services are to be made available on a "voluntary and confidential basis." The Congress, in 1974, in overhauling the social services program retained these various provisions in title IV–A—section 402(a)(15)—and continued the 90 percent matching rate in title XX.

Throughout the years, in spite of prodding by Congress, SRS has shown little enthusiasm or interest in the implementation of the family planning provisions. It views family planning services as essentially medical services and, therefore, not properly in the province of its Community Services Administration—health programs, of course, view unwanted pregnancy as a social, not medical problem. Progress has been slow and uneven but there are now sizable statewide programs in Texas, Massachusetts, California, Georgia, Tennessee, and Louisiana.

There are small programs in perhaps half of the States. All of the States' wel-

fare agencies have some sort of "counseling" and referral programs. The planning process required under the new legislation holds much promise for the wider use of title XX to support and expand family planning programs, particularly since programs are desperately short of funds and likely to pursue additional funding sources with vigor.

During the preparation of the regulations, and when they were published in final form, planned parenthood indicated to SRS that a documentation of family income requirement would present an insurmountable obstacle for a large number of prospective family planning patients since confidentiality, even within the family, is often crucial. This is most obvious in relation to abortion but obviously applies to contraception as well. However, the final regulations, published June 27, 1975, state that, without any exemptions:

> § 228.71 Determination of eligibility
>
> (d) The determination process. No determination shall be made solely on the basis of the application. Applications for services based on income maintenance status shall be supported by documentation or ascertained from the appropriate source of the income maintenance benefit or payment. Applications based on income status shall be supported by documentation of significant current family monthly gross income as defined in § 228.66.

Twenty-nine percent of all patients currently enrolled in organized family planning programs are young women under 20. Obviously, not all—perhaps not most—are in programs financed by title XX but the number is very substantial. There are no available data on the marital status of these young women but most —75 percent is a conservative estimate—are unmarried or not currently married. The family income which must be documented therefore must be their father's or mother's or both—plus any income of their own. This presents two types of difficulties: The young person must report her sexual activities to the parents and the parents must disclose their income to her—and to each other.

Of the 2.5 million women who are enrolled in organized programs and are over the age of 20, a substantial number—at least 50 percent—must be married. However, a serious problem of documentation remains for very many. Many low-income men and women, domestics in particular, get paid in cash and have no pay records. A very large number do not pay any income tax and do not file with IRS. Many of the men do not disclose their income to their wives as a matter of principle. Many wives do not admit to practicing contraception—or to seeking a sterilization or an abortion. For women no longer married whose family income is alimony and/or child support payments, it is difficult to document income since the cancelled checks or money order records are retained by the ex-husband. The problems outlined here are the most typical but the list is by no means exhaustive. In all of these instances, the DHEW regulations effectively bar the States, and the local programs, from making services widely available and accessible, and doing so promptly.

While no one argues that fiscal accountability should not be maintained, particularly when the benefit to be provided has a substantial cash value—such as day care—the mechanisms used should not create absolute or substantial obstacles to obtaining the service and should be commensurate with the costs/benefits involved in administering the program. The University of Texas which has 40,000 patients enrolled, and serves over 25,000 each year, has estimated that the cost of administering the DHEW income documentation requirement will amount to $625,400 which will have to come out of the current budget of a little less than $2.5 million and this, in turn, will require the discontinuation of 5,600 patient from the caseload. This includes the development of new reporting forms and materials, computer adjustments, training of existing staff, the addition and training of six admissions clerks, and the cost of existing staff overtime. In addition, considerable nursing time will be absorbed in the process, away from patient care. Several years ago, DHEW, estimated the average cost of providing family planning services, per year, at $66 per patient. The University of Texas cost per patient, probably reflecting inflation, is currently $85 per year, exclusive of the new administrative cost which are calculated at $25.01 per person per year. During the first 2 weeks of the operation of the program under the new regulations, only 20 percent of the patients could be certified as eligible.

Eighty-six percent of patients in family planning programs have incomes less than 200 percent of the official poverty level which is comparable to, but generally below, the eligibility ceilings established by title XX. Therefore, without eligibility requirements, means tests and "certification" virtually all patients who avail themselves of organized services are already within the eligibility limits. DHEW could, with no substantial loss and with considerable savings in administrative costs, waive the income documentation requirement for family planning services; or it could waive the certification process for services the cash value of which is under a stated amount; or it could waive the documentation for services which are episodic in nature—say less than half a dozen times a year; or it could waive the requirement for services which are confidential in nature; or it could allow an affidavit declaring income—or declaring that income cannot be ascertained. There are no doubt other possibilities. It appears, however, that DHEW does not intend to explore any of these avenues. Congressional intervention is needed to insure that the purpose and intent of the family planning provisions of titles IV-A and XX are not frustrated by regulations.

Mr. President, immediately following the December recess, I intend to discuss with Senator TALMADGE, who is currently working on a medicare and medicaid administrative and reimbursement reform bill, the possibility of amending his bill to include legislative language to make family planning services more readily and widely available to persons on welfare and to other low income persons as well. The language of my proposed change is in the final drafting stages now. It is apparent that only a substantive legislative change will convince HEW of congressional intent regarding family planning services.

BEVERAGE CONTAINER DEPOSIT BILL

Mr. PACKWOOD. Mr. President, I am pleased to join my colleague from our home State of Oregon (Mr. HATFIELD) in introducing a bill which will require a 5-cent deposit on beverage containers sold on Federal property. As many people are aware, the U.S. Environmental Protection Agency has recently promulgated proposed guidelines which will require a 5-cent deposit on beverage containers sold on Federal property. This action is being taken under the administrative authority of the Solid Waste Disposal Act which is enforced by the EPA. When many of us in the Senate began working to insure that the EPA's proposed guidelines requiring a 5-cent deposit on beverage containers were published in the Federal Register, we realized the difficulty of persuading people of the merits in requiring deposits on returnable beverage containers.

However, I do believe more people are becoming aware of the benefits in energy conservation, net job increases, litter reduction, decreases in solid waste disposal costs, and generally a greater public awareness toward saving, reusing, and recycling our limited materials. This legislation will provide the specific legislative authority supporting the EPA's administrative action which is now underway. I am hopeful the Senate Public Works and Interior Committees will move swiftly on this bill.

PROPOSED ARMS SALE

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received. Some data relative to this notification is classified and is available in the committee files for inspection by the Members of the Senate and by staff with appropriate clearances.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DIRECTOR, DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA

Washington, D.C., December 19, 1975.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76-24, concerning the Department of the Navy's proposed Letter of Offer to Israel for four (4) E-2C aircraft, spare parts, logistics support and training estimated to cost $210.0 million. After this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Signed H. M. FISH,
Lieutenant General, USAF.

TRANSMITTAL No. 76-24

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as amended

a. *Prospective Purchase:* Israel.

b. *Total Estimated Value:* $210.0 million.

c. *Description of Articles or Services Offered:* Four (4) E-2C aircraft, spare parts, logistics support and training by the contractor for delivery in September and October 1978.

d. *Military Department:* Navy.

e. *Date Report Delivered to Congress:* 19 December 1975.

MAJOR TAX REFORM

Mr. KENNEDY. Mr. President, earlier this month in New York City, Secretary of the Treasury Simon delivered a major address on the tax laws and tax reform to the Tax Foundation's 27th National Conference.

Perhaps the most interesting passage in Mr. Simon's address is his positive discussion of the view that comprehensive tax reform may be achievable only by a far-reaching change that would eliminate essentially all of the special loopholes and deductions, in return for dramatic reductions in individual and corporate tax rates. Mr. Simon notes that if the suggested reforms were implemented, tax revenues would increase by $50 billion, which in turn would enable individual tax rates to be reduced from their present 14 to 70 percent range to new and much lower levels of, say, 10 to 40 percent.

Mr. President, I believe that Secretary Simon's address is an important contribution to the debate over tax reform, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE WILLIAM E. SIMON, SECRETARY OF THE TREASURY, AT THE TAX FOUNDATION'S 27TH NATIONAL CONFERENCE, NEW YORK CITY, DECEMBER 3, 1975

Since history has a habit of repeating itself, I'm sure I'm not the first Secretary of the Treasury who has reached the conclusions I want to discuss with you tonight. And no doubt, I will not be the last. But the time has come for a little plain talk about a subject that is important to all of us: our taxes.

The system of Federal taxation which has evolved since the early days of the Republic is in trouble today. And after several years of seeking to reform the system, I am increasingly persuaded that tinkering may no longer be the answer.

Let me elaborate for a moment about the difficulties of the tax system.

First, it is readily apparent that the Federal tax system is poorly structured for a period of rampant inflation. Millions of taxpayers now legitimately complain that the extraordinarily high rates of inflation we have experienced recently have hit them with a double whammy: at the same time that inflation is eroding their real purchasing power, it is also pushing them into higher tax brackets.

Secondly, because of the rapid growth in the size of government at all levels since the early 1960's, the portion of personal income that must be paid into Federal, state, and local tax coffers is rising steadily. Many of you are familiar with the Conference Board study published this spring showing that the item which rose the fastest in the American family budget during the last six years was taxes. While the general cost of living climbed about 40 percent during that period, the total bill for taxes—Federal, state, and local—jumped by 65 percent.

Thirdly, it is becoming more widely recognized now that the Federal tax system is discouraging savings and investment when we need three times as much investment in the next decade as the last decade. By taxing corporate profits twice—once at the corporate level and then at the level of the shareholder—the United States is imposing a heavier tax burden on its business enterprises than in most other major industrialized nations of the Free World. And by allowing corporations to deduct interest payments on their debt but refusing to allow deductions for their dividends, the tax system is encouraging businesses to rely too heavily upon the debt markets, so that the corporate financial structure is increasingly unbalanced. Economists are properly cautious in saying that the way we collect taxes may not totally determine how much we save and invest. But the fact is that the share of our GNP devoted to capital investment over the last 15 years has been lower than in the economies of any of our major competitors. We have also had one of the poorest records in terms of productivity gains and in terms of real income growth. Furthermore, our recent unhappy experience in terms of high inflation is in part attributable to past inadequate capital formation. The Federal tax system has been a major influence on all of these developments.

Finally, it has become painfully obvious to most taxpayers that the present tax system is so riddled with exceptions and complexities that it almost defies human understanding. No one can adequately assess its basic fairness. The complexities have reached a point where I'm not even sure the IRS experts fully understand the system anymore. How can they when they are dealing with a tax code and regulations that now exceeds 6,000 pages of fine print? You may remember the informal survey conducted a few years ago by an executive in Atlanta, working in conjunction with The Wall Street Journal. This executive visited five different IRS centers around the country, presenting to each of them the same set of facts about his income and possible deductions and then asking how much tax he should pay. The result? Five different answers, varying by as much as $300 in how much he owed. The offices could not even agree on how many forms he should fill out.

In these circumstances, it is hardly surprising that two taxpayers out of every five now seek outside assistance, usually at some expense, to complete their tax forms. It is even less surprising that more than three quarters of the American people now want the tax code changed, and some 50 percent want major changes. There is a widespread feeling that the system favors the rich at the expense of working families.

As everyone in this chamber knows, the success of our tax system rests upon the voluntary compliance of our taxpayers. If there were widespread abuses of the system, we could not possibly police them. Yet, when people lose faith in the basic fairness of the system, it almost inevitably follows that the system itself will falter. In fact, the rate of compliance has begun to drop in recent years. We are faced, as former Treasury Secretary Joseph Barr first observed almost 10 years ago, with an incipient taxpayers revolt.

The fear of a revolt has not been lost upon Washington, but so far, I'm afraid, attempts to reform the tax system have fallen far short of the mark. I say this with full appreciation of the herculean labors performed by the House Ways and Means Committee under Wilbur Mills and by the Administration in securing passage of the 1969 Tax Reform Act. That act did help to simplify the tax system: some 8 million low-income taxpayers (poverty level or below) were removed from the tax rolls altogether, and another 11 million taxpayers were offered greater incentives to use the standard deduction, avoiding the time and trouble of itemizing their deductions. Nonetheless, considering all the labors that went into that bill, it was a great disappointment to those who were seriously interested in tax reform. If anything, the 1969 act, like the Revenue Act of 1971, was really more of a lawyers' and accountants' relief bill. There is still a decisive need to overhaul the code. I speak with some feeling on this because nearly three years have passed since the Executive Branch proposed a comprehensive series of changes, and most of them are still awaiting final Congressional action. I know that many Members of the Congress have shared my frustrations this year as they have watched the House Ways and Means Committee spend literally thousands of man-hours on a complex series of changes in the Code, only to have their efforts watered down at the last minute. As of tonight, there is a strong possibility that serious attempts to change the system will be put off until 1976, and possibly until after the election.

Given these circumstances, I would suggest three major steps must be considered.

First and foremost, it is now incumbent upon elected leaders at every level of government to halt the relentless upward spiral in public spending. By cutting back on the growth in spending, we can also cut back on the growth in taxes and thus do as much to alleviate the distress of the taxpayer as any single reform could ever accomplish. We do not have financial resources to afford all of the bold new programs that have traditionally gotten people elected, and a large portion of our body politic now believes that government has already assumed too much responsibility within our society. Clearly, as the government has become more pervasive, the vitality of the private sector has diminished. In an illuminating article published this fall, the President of Stanford University argues that the Government has preempted so many responsibilities in education that it is now forcing many private universities and colleges to the wall. That same trend prevails elsewhere, and it is the taxpayer—victimized by the very system that supposedly represents him—who is forced to pay the bill, either through higher taxes, higher inflation, or both.

Restraining the growth of public spending is essential if we are to defuse the taxpayers' discontent. Equally important, by holding down spending, we will begin to return to the taxpayer the ability to control more of the economic decisions that affect his life. The choice about how to spend his earnings will not be made so often in Washington but in his own home. That is the essence of economic freedom, and in a very real sense it is also at the heart of our political and social freedom.

The proposal that President Ford has made to the Congress to cut projected spending for next year's budget by $28 billion and to return the savings dollar-for-dollar to the American taxpayer is a clear recognition of the linkage between spending and taxes. We have tried every other technique to restrain spending, and the Congress has turned a deaf ear. This one, the President believes, may be our last best hope. Moreover, by lowering taxes, it would help most taxpayers overcome the effects of past inflation on their tax liability.

Some economists are arguing that the President should sign tax cut legislation regardless of what the Congress does about spending. I am not persuaded by their argument. Whether or not we enact another tax cut immediately may not have a significant impact upon our immediate economic hopes; however, whether or not we bring spending under control and work our way out of horrendous budget deficits will most assuredly have a significant impact upon our hopes for the future. We must finally say no to the apologists for big spending, rejecting their misguided notions that the Government can identify, analyze and solve every problem by throwing more money at it.

A second step that I believe essential is to achieve fundamental reforms in the way we tax business profits—reforms that will provide a stronger bulwark against future economic contractions; reforms that will help to redress the imbalances in corporate balance sheets and broaden equity ownership; and reforms that will encourage the levels of savings and capital investment that are so vitally needed for our future.

Toward these ends, the Administration this summer proposed to the Congress a "Tax Program for Increased National Saving." This proposal would eliminate the double taxation of corporate earnings which I mentioned earlier. I strongly believe that this proposal—which has already been adopted in one form or another in most of the other major industrialized countries—would make a significant contribution toward financing our capital investment needs of the future. Moreover, it is the only major tax proposal of which I am aware that comes to grips with the growing imbalance between corporate debt and equity.

Some observers have asked whether the President's subsequent request for a cut in taxes, linked to a cut in projected spending, means that the Administration has shelved its tax integration proposal. Let me set the record straight: the Adminisration stands four-square behind both measures. We regard the tax cut/spending cut as an item on the immediate agenda, and we remain hopeful that the Congress will act favorably on it this year. The tax integration measure is much more complicated and will require extensive hearings and debates so that, while we would like to have it passed quickly, we recognize that in reality it will require more time to enact. But both proposals still have our whole-hearted support.

Let me turn now to the third and final step that I personally believe we should begin considering with regard to our tax system. This is a concept that has been suggested from time to time but it has rarely been given serious consideration. It is simply this: to wipe the slate clean of personal tax preferences, special deductions and credits, exclusions from income, and the like, imposing instead a single, progressive tax on all individuals.

I am increasingly attracted to the idea because of its simple elegance and its basic equity toward all taxpayers.

For years, politicians have been telling us that the tax system should be used to promote certain economic and social goals. But should it really? Isn't this precisely the kind of social engineering that lies behind so many of our troubles today? What has caused more disillusionment with government than the failure of government to deliver on so many of its promises? What has caused more bewilderment and distrust among taxpayers than the myriad of so-called loopholes which now litter our tax code?

There have been many studies by responsible organizations which indicate that if the special deductions and credits, exclusions from income, etc. are eliminated or drastically curtailed, we could revise the individual tax rates substantially downwards and keep our total income tax revenues at present levels. Generally, it is suggested that rates could be set at 10–12 percent at the low end and 35–40 percent at the high end. Thus a family of four with income of $15,000 might have an annual Federal tax bill of $1,200; the lowest income families would continue to pay no Federal income taxes at all; and wealthier individuals would pay a tax of 35 percent on their income over $50,000—no ifs, ands, or buts. Everyone would pay his or her fair share.

Looking at it another way, if every taxpayer was allowed the standard deduction under the 1975 law but all other deductions were disallowed and capital gains and tax preferences were taxed as ordinary income, revenues from the personal income tax would increase by about $50 billion. Thus, even under this partial step, personal income tax rates could be cut across the board by about 30 percent without any loss of revenue.

Obviously, the wealthy taxpayer with income of $100,000 or more who is presently able to "shelter" his income will stand to lose from this proposal. As noted before, all of this income would be subjected to taxation at some insignificant rate rising to 35–40 percent. On the other hand, the working men and women of the country—families who earn $10,000 and $20,000 per year—should benefit through reduced tax burdens. And let us not overlook the fact that all citizens will benefit through increased public confidence in the tax system.

Developing the precise details of such a program would clearly involve hard work. Significant political decisions would also have to be made in establishing the tax rate schedules which would be applied to the broadened tax base. But innovation should be encouraged. For example, the idea of a consumption-type income tax discussed by Assistant Secretary Walker here today clearly merits further examination.

If we imposed a single, progressive tax on individual taxpayers, what should be done with corporate taxes? There are, of course, several alternatives that could be considered. My own predilection would be to press forward with the tax integration plan I mentioned earlier, and then to simplify the corporate tax itself in much the same way as we would the individual tax. By eliminating preferences and closing loopholes—that is, by broadening the corporate tax base—we should be able to effect a meaningful cut in corporate income tax rates without any loss in post-integration revenues from this source. Regardless of what form the corporate tax may take, we must bear in mind that ultimately corporations do not pay taxes, people do. It is axiomatic that corporations are simply legal entities. The revenues they turn over to the IRS come either from their customers in the form of higher prices or from their employees and shareholders in the form of lower salaries and lower dividends. In the end, the corporate tax always comes out of somebody's personal pocket. It never ceases to surprise me how often that point is misunderstood.

For years we have been talking about tax reform, and the Executive Branch continually sends up ad hoc measures that predictably draw the fire of special interest groups and are eventually overrun or changed beyond recognition by political opponents. If we truly want tax reform, I say that here's a place to start.

Let me emphasize that I am not trying to float a trial balloon for the Administration. I am speaking here tonight strictly as a Secretary of the Treasury who shares the frustrations of so many Americans who want to bring greater equity and rationality to our tax system and who believe that we must now begin giving much more serious consideration to a tax system that rests upon the twin pillars of fairness and simplicity.

And I must say that I think I am also speaking for millions of Americans who are fed up with the current tax system and want it replaced by one that they can both understand and trust. Indeed, I doubt there is anyone in this audience who believes that if we could start over again, we would build a tax structure similar to the one we have today. As they say, if we didn't have it already, nobody would ever invent it.

Americans have habitually complained about taxes. Tax rebellions extend far back in our history. But during most of our history, the majority of our people have agreed with Justice Holmes that "Taxes are what we pay for civilized society."

Let me reemphasize: The success of the American tax system—and we should always remember that it has been one of the most successful in the world—is that our citizens voluntarily comply with its requirements. They pay their taxes because they believe that others are also paying their fair share, and because they are getting their money's worth.

Over the years, as one new wrinkle has been placed on top of another, the Federal tax system has come under increasing jeopardy.

We are threatening to erode basic faith in the fairness of the system because many people feel that taxes are being imposed upon them without their consent, that too many of their fellow-taxpayers are escaping their responsibilities through dozens of loopholes, and that the code itself has become a labyrinth of legal double-talk. In short, for the average taxpayers, the New Deal has given way to the Raw Deal, and they don't like it one bit.

I think the time has come for some fundamental changes and far more imagination about what we can accomplish as a nation if we only overcome our hesitations and fears. Some critics will tell you that what I am suggesting should be dismissed as pure politics. The charge of politics is a poor substitute for thinking. We have been talking and talking about tax reform for years, but we have yet to act in a comprehensive way. The question I leave with you tonight is this: Do we or do we not have the courage to act on our convictions? It's that simple.

Thank you.

MONEY CAN'T BE SPEECH

Mr. KENNEDY. Mr. President, in today's Washington Post Arthur M. Okun writes eloquently and perceptively about the major constitutional questions now awaiting resolution by the Supreme Court in the pending election law case.

The essay is an important one, because I believe that in it, Mr. Okun very ably captures the essence of the need for election reform that persuaded Congress to enact the Election Campaign Financing Reform Act of 1974, with its strict limits on campaign spending and campaign contributions and its provisions for public financing of elections. Those of us in Congress who favored this basic reform have argued that no person has a constitutional right to buy an election or own a candidate, that the time has come to end the corrosive power of money in public life.

Mr. Okun, a senior fellow at the Brookings Institution and a former Chairman of the Council of Economic Advisers, is no stranger to this question. He deals with this issue and many other basic social, political, and economic problems in his excellent recent book, "Equality and Efficiency."

Mr. President, I believe that Mr. Okun's article will be of interest to all of us concerned with election financing reform, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"MONEY CAN'T BE SPEECH"

(By Arthur M. Okun)

The case before the Supreme Court on the constitutionality of the 1974 legislation limiting campaign contributions has evoked some comments that seem to reflect a fundamental misunderstanding of our democratic capitalistic system. Most seriously, Justice Potter Stewart, according to the press, suggested that "in this case, money is speech," implying that a restriction on the use of money may be indistinguishable from a restriction on the freedom of speech. Far more vehemently, George Will states (The Post, Nov. 28): ". . . the law limiting campaign giving and spending is a grossly unconstitutional abridgment of free political expression."

I don't know anything about constitutional law, but I do know that the whole American system depends crucially on restricting the use of money so that it cannot buy rights and liberties that are intended to be equally and universally distributed. It is obviously illegal to purchase the verdict of a judge, to buy one's way out of jury duty or a military draft, or to trade cash for elective offices or presidential appointments.

Most significantly, the buying and selling of votes has traditionally been outlawed, and the constitutionality of that ban is beyond question or doubt. A rich person with strong political convictions may not offer money to acquire the electoral rights of those who value their suffrage less or who need something else more. The prohibition against vote-buying is backed up by the secrecy of the ballot that prevents any outlaw vote-buyer from ensuring his quid pro quo. The law thus says that money isn't votes and shouldn't be used to buy votes. Thereby, it is imposing an "abridgment of free political expression"—insofar as buying anything ever can be free. Not only does it encroach on the freedom of the rich to use their money but also on the freedom of the poor to get, in return for selling their votes, some food and clothing they may need desperately. Yet, if "free trade" in votes were permitted, any notion of political democracy would be a sham. The whole political process would be a vending machine in which anything and everything could be bought by inserting enough coins.

Once Congress decides that votes are something that money should not buy, it must also protect the principle against indirect uses of money that could turn one-person-one-vote into one-bankroll-one-vote. The limitations on giving enacted last year represent such an effort. Congress made the judgment that lavish campaign contributions are a way in which some of the rich have managed to obtain extra helpings of votes—to "counterfeit" them, in effect. News stories of recent years offer dramatic evidence of undue political influence through campaign giving.

Apparently, Howard Hughes diversified his portfolio of campaign contributions with gifts to candidates of both parties in a successful effort to further his particular business interests. Evidently, the trade associations of milk producers found a new dollar-enriched dairy product through their checkbook of campaign contributions. After that revelation, it became easier to understand why we have federal milk-marketing legislation that harms 200 million milk consumers and benefits 200 thousand milk producers. Because contributions by individuals were not limited, Gulf Oil was able to masquerade its illegal corporate campaign funds. The need to cater to contributors can distort in subtle ways the positions candidates take on issues. I once heard the finance director in the campaign of a liberal politician imploring his boss not to espouse loophole-closing tax reform lest he offend a handful of wealthy potential contributors.

It is not my intention to defend—or to criticize—the package with which the Congress sought to implement its goals, including provisions for public financing, limits on spending by candidates, and limits on giving by contributors. Any bill as complex and pioneering as the Federal Election Campaign Act of 1974 is bound to contain some mixture of good and bad provisions. What I do want to stress is that a limitation on individual campaign contributions to moderate amounts is a compromise in the best tradition of our system of capitalistic democracy that is itself a compromise. That system offers large incomes and great wealth as prizes in the marketplace in order to provide economic incentives for ideas and effort. Those prizes are meant to be used in the realm of material goods and services that includes stock in big businesses, partnerships in small businesses, real estate, limousines, and fur coats. They should not be allowed to buy legislators or elections—directly or indirectly. Only by restricting what money buys can we tolerate a capitalistic economic system that distributes income and wealth very unequally among our citizens and still maintain a democratic political and social system that strives for equality of rights and privileges. The very survival of our capitalistic democracy depends on the recognition that money can't be votes and can't be speech.

QUALITY OF HEALTH CARE—A NATIONAL ISSUE

Mr. RANDOLPH. Mr. President, it is my privilege to serve with our colleague, the senior Senator from California (Mr. CRANSTON), on the Veterans' Affairs Committee where he chairs the Subcommittee on Health and Hospitals, of which I am ranking majority member. We also serve together on the Labor and Public Welfare Committee where he is a member of the Subcommittee on Health. In these mutual committee assignments, I have had opportunity to view closely Senator CRANSTON's progressive endeavors toward the establishment of improved health care systems.

On December 11, he addressed the Association of Military Surgeons of the United States, and the experience and interests he has developed in serving on these two committees are very evident in the remarks he made to that group.

In his speech, Senator CRANSTON stressed the opportunity the Federal health services—those of the Veterans' Administration, the Public Health Service, and the Department of Defense—have in developing innovative and cost-effective methods of providing health care which can be applied to the community at large. He also pointed out the vital role those Federal services can and should play in working together with those communities in which they serve a large number of beneficiaries or have a major medical facility. In those instances, Senator CRANSTON told the association, the "military medical services, as well as those of the VA and the Public Health Service, must—become increasingly involved in health care planning and also in sharing additional health care resources on local basis."

Mr. President, the Senator from California (Mr. CRANSTON) has been a very able and effective advocate in the development of vital health care programs. His diligent and persevering efforts have benefited citizens throughout our country. I believe his remarks clearly set forth the interdependence of all elements of the medical community, both public and private, in insuring the provision of quality health care in a cost-effective manner. I ask unanimous consent, Mr. President, that the text of Senator CRANSTON's remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUALITY OF HEALTH CARE—A NATIONAL ISSUE

Dr. Chase, Dr. Cooper, Dr. Cowan, Mr. Gavazzi, members of the Association of Military Surgeons, Ladies and Gentlemen.

I was delighted to accept your invitation to address this Annual Meeting because your theme, "Quality of Health Care—A National Issue," is a subject to which I have dedicated a substantial portion of my time and energies in the Senate.

Let us first define what we mean by quality. To me quality health care encompasses medical care that is technically and scientifically proficient; that is rendered with compassion; that is provided in a cost-effective manner; and that is accessible and available to those who need it without regard to financial barriers.

I am proud to have been able to sponsor or co-sponsor a number of pieces of legislation touching on this vital subject. As Chairman of the Subcommittee on Health and Hospitals of the Committee on Veterans Affairs, the improvement of care provided veterans in VA hospitals has been a first priority for me. I believe I can truthfully say that as a result of our oversight hearings and the resulting legislation and appropriations, the Veterans Administration's ability to provide quality care has been greatly strengthened. Most significantly, I feel, we have been successful in helping ensure that that the great medical needs of veterans are better met by increasing VA medical and hospital budgets by more than three-quarters of a billion dollars to cover the cost of meeting those needs—helping make it possible, among other things, for the VA to add 36,000 additional hospital workers over the past four fiscal years.

I have also authored legislation which has expanded the ability of the V.A. to provide quality care. This legislation has—among other provisions—enabled the V.A. hospitals to provide ambulatory care without first requiring the hospitalization of the patient in two important instances. First—for veterans having a service-connected disability rated 80 percent or more and—second—for any eligible veteran where such treatment would obviate the need for hospitalization. The statutory provisions which this legislation replaced had seriously impeded the ability of the VA to provide quality care in a cost-effective manner.

In the recently enacted VA doctors' bonus legislation, we included provisions which would enable the VA to expand greatly its employment of physicians' extenders and dentists' extenders. This is an area of keen personal interest. I am hopeful that these new authorities will improve care and reduce costs.

At the same time, I have worked to expand the involvement of each VA hospital and the overall VA health care system in the health programs of the community. I am on record in favor of this Nation's retaining a separate system of health facilities for its veterans to ensure access to quality health care for veterans with service-connected disabilities. But I also agree with the evaluation of many eminent medical authorities that the VA system cannot endure if it is isolated from the community. The VA system and community health resources must reinforce each other to achieve mutual benefit to both systems and assurance of quality health care for all citizens.

As a member of the Subcommittee on Health of the Labor and Public Welfare Committee, I have thus taken steps to provide for representation of the VA on almost every national health council or board as well as on local, state, and national health planning councils.

It was to enhance and extend involvement of the VA system in national health planning mechanisms that I authored amendments to the Health Planning and Resources Development Act of 1974 to provide for a VA representative on the governing body of the health systems agency if there is a VA facility within the HSA's area. This representation assures appropriate consideration of—although not control over—VA resources and VA needs in the planning of health resources at the community and state level.

Our men and women of the Armed Forces, (and their dependents), our veterans and Native Americans, are those segments of our society for whom the Federal Government will continue to have special direct health care responsibilities. But these groups are not isolated from the rest of society, they do not live in a vacuum.

We cannot focus our attention only on quality and cost-effective health care for some Americans, no matter how worthy, or how great the debt our Nation owes them, and ignore other Americans.

The Veterans Administration and the other Federal Medical Services can make a great contribution to the Nation by pioneering ways to improve the quality and cost effectiveness of general health care. To do this, all the elements of your Association, not just the VA, must increasingly, in my opinion, involve themselves in matters affecting community health and national health resources and planning.

The Nation has begun to bring about access to direct care for all Americans. More than ten years ago Medicare was enacted to relieve millions of aged and disabled persons and their families from the costs of serious illness. Medicare was and still is one of the landmark legislative achievements since World War II.

Next, with the enactment of Medicaid, access to medical care was extended to millions who were unable to afford it.

Now, through the establishment of PSRO's, we are attempting to assure the quality and cost-effectiveness of the health care provided under these programs. Only a fledgling effort today, P.S.R.O. can have a major impact down the road on the quality of care provided all Americans.

The VA, I am pleased to note has taken steps to implement a counterpart quality assurance mechanism, the Health Services Review Organizations. I have been watching the development of this program with great interest. I hope that, as this program grows, it will provide for representation from the community and that there will be substantial coordination between the VA's H.S.R.O. and the community's P.S.R.O. in developing norms and criteria to benefit their respective beneficiaries.

In addition to these professional standards review organizations, major steps have recently been initiated to attempt to contain Medicare and Medicaid costs through establishment of restrictions on reimbursement maximum allowable cost levels for categories of drugs.

The federal agencies have an excellent opportunity to set an example of cost effectivness. They can provide care without regard to the strictures State licensure imposes. They can experiment in more efficient cost-saving techniques, such as greater use of physician and dentist extenders, nurse practioners, drug utilization review, and preventive medicine.

In addition to the major financing mechanisms such as medicare and medicaid, the Congress has enacted numerous measures to improve the provision for health care to individual Americans. For example, the Health Maintenance Organization Act of 1973 is one which could have a direct impact on increasing the accessibility of health care while reducing its cost. I was an original co-sponsor of this Act which took our society another step forward by offering incentives to establishing more comprehensive and cost-effective systems of health care. This legislation was in direct response to a clear need for additional prepaid group practice organizations to provide alternatives to the fee-for-service system.

Amendments I authored in this legislation provided among other things, for greater consumer and non-physician health discipline participation in the review and management processes of the HMO's.

I have not yet mentioned the matter of National Health Insurance. I have been a co-sponsor of legislation in the last three Congresses to provide a comprehensive national program to meet the Nation's health needs. Among the several and varied approaches to national health insurance, none has, as of yet, commanded a consensus of support.

There is no doubt whatsoever in my mind, however, that we will have a creative national health insurance program in this country, and soon.

In working toward the goal of a healthier America, we must deal with and integrate four factors—capacity, coordination, compassion, and cost.

First, I believe that every citizen must be guaranteed the right to quality, cost-effective health care as rapidly as we can develop the systems and capacity for providing it to him.

Second, and this is the point I want to emphasize particularly to this group, access to good health care for all can be achieved only through the joint efforts and close collaboration of the entire medical community. This includes the government—through its elected officials and its employees—the private sector health care providers, and the health care consumers—the public.

The third basic factor is compassion—the recognition of the value and uniqueness of each patient as a thinking, feeling, human being. This is the most overlooked element of all those that make up good quality care, and, unfortunately, is almost antithetical to the hectic, overburdened, non-system of health care most encounter today.

Fourth, quality health care is deeply intertwined with cost. I want to focus on cost at some length today.

Good quality care—interestingly enough—does not mean the most costly kind of care. Rather it is primary care backed up by ready access to quality secondary and tertiary care where needed. Providing these latter levels of care has been the cause of much of the astounding escalation in the cost of health care over the last ten years. Health care costs in the last year have risen 13.1% while the general cost of living has risen 9.9%. Today total health care expenditures account for 8.3% of the G.N.P. Ten years ago, the share was 5.9%.

Yet despite this escalating investment of national resources there are still many people who find access to primary health care extremely difficult or impossible to obtain. The private sector suffers from an oversupply of the specialist and a serious shortage of the primary care physician who is trained to deal with everyday health problems.

The medical profession and we in Government both have failed to act with sufficent vigor and promptness in defining and dealing with common factors that are prejudicial to health—smoking, over consumption of alcohol and drugs, over-eating, poor diet, lack of exercise, self-medication, dangerous interactions of multiple medication, and protection of the health of school-age children where there is a shocking incidence of anemias and hearing and eyesight deficiencies among both middle-to-low and middle-to-high income children—to name just a few.

Waiting for episodic illness is another factor which runs up the cost and lowers the efficiency of health care. It is imperative that we devote adequate national resources to prevention of disease and that the Federal Government and the private sector work together to attack these problems. I will shortly be introducing legislation to give the VA Department of Medicine and Surgery a greater preventive care mission.

As we move in the direction of a national health insurance system, we must be looking for ways to promote proper utilization and coordination of personnel and hospital facilities, outpatient facilities, and home health services.

We must defeat the twin evils of underutilization and overutilization. We must halt the proliferation of underutilized resources, and make more effective use of existing resources in order to control costs. The VA especially can provide a model for regional approaches to provision of certain specialized medical services. But it must exercise great self-discipline to do this, resisting the pressures of affiliated medical schools and hospital specialty services—all of whom want to share in the most sophisticated, up-to-date procedures and technologies.

At the same time, it is absolutely essential that we take steps to prevent the application of unnecessary or duplicative diagnostic tests and other services that multiply the expense to the health care consumer and to all of us as taxpayers without providing additional benefit to the patient.

We must be sure there is proper distribution of services to provide care for those who need it—and who we know do not now receive it.

We must make greater use of the entire health care team than we have been doing under our present disorganized, often catch-as-catch-can system. Every member of the health care team, the physician, the dentist, the nurse, the pharmacist, the optometrist, the professional extender, all have an integral part to play in providing the patient with quality health care. Working together, each can provide essential support to the other member of the team in providing a total spectrum of patient care. Each, in addition to his or her own specially defined role, is able to detect early signs of illness in a patient and refer the patient to the appropriate level or source of care.

Under any national health insurance program, there must be far more attention to ways to utilize, to the utmost, the skills of every member of this team.

These are some of the factors I believe will inevitably be recognized as mandatory in any truly national health care system if every citizen is to be assured access to quality health care. They are also mandatory if such care is to be provided in a cost-effective manner and without producing a taxpayer revolt.

I believe strongly that there must be a substantial commitment to progress in most or all of these areas before N.H.I. actually begins. This is where the existing Federal systems can make an important contribution to finding solutions to meet national needs.

The health care services supplied by the Department of Defense are among the most comprehensive that this nation now provides. The Armed Forces medical services have long experience in health care planning. You have played a leading role in preventive medicine and in therapy for trauma. You are experienced with care of the chronically ill as well as in acute medical care.

Your development of the paramedic has led to use of the physician's assistant in the community as an accepted member of the health care team. The Veterans Administration has picked up on this concept and is now the Nation's primary trainer of physicians' assistants outside of the military.

D.o.D. techniques in developing rapid access by skilled health care personnel to servicemen injured in Vietnam and the rapid transfer to secondary and tertiary care units has served as a source for legislation I developed—The Emergency Medical Services Systems Act of 1973. Under this law, hundreds of communities in the country are developing comprehensive systems which can coordinate the many resources necessary to bring quality care to the emergency victim.

What is not generally recognized, however, is the impact the military medical system already exerts on community health. In some localities the military population *is* the community population, or essentially so.

The military medical services, as well as those of the VA and the Public Health Service, must, therefore, become increasingly involved in health care planning and also in sharing additional health care resources on a local basis.

The boundaries between military and civilian health care already are far less distinct than they were a generation or so ago, as the "CHAMPUS" and "CHAMPVA" programs demonstrate. As I mentioned earlier, the VA is now designated as an active partner in health care planning and resources development under P.L. 93-641 for each of the communities of which it is a part.

I want to focus on this new role for a moment as an example of what I believe is a vital responsibility of all three Federal Medical Services. VA membership on each local HSA was provided to assure proper coordination of resources at the community level, for the benefit of both the community system and the VA system. It did not anticipate or authorize a community veto over the addition of VA facilities needed to serve veterans, although I certainly believe strongly that community input should be an important factor in VA decision-making.

It seems doubtful that the Veterans Administration will be initiating very many more new hospitals. New VA facilities will be either replacement facilities or ambulatory care centers. These, along with the establishment of specialized medical units, will be the major VA expansion affected by the health planning process. These specialized units are an especially promising area where the greatest results can be achieved in terms of concerted community planning.

The VA already is a major provider of kidney dialysis treatments under the special Medicare-supported program. I was pleased to work closely with the VA and HEW in developing the agreement whereby this has been accomplished.

I would hope that this type of joint utilization of specialized resources could be fostered in the future and that the VA, as a participant in the planning process, would work with the community in developing rational and coordinated allocations of specialized medical units.

This discussion of the VA's role should be equally applicable to the military medical services. Although P.L. 93-641 does not specifically require military representation in local HSA's, as is the case for the VA, I believe that the military should and must be involved. I cannot believe, for example, that a representative HSA membership can be established for Norfolk, or San Diego, or San Antonio, without membership from the military medical facilities already serving thousands of service men and women and their families in those communities. It seems to me it will behoove the military leadership in each locale to volunteer its expertise and experience as an informed counselor to the local health systems agency.

Similarly, when national health insurance is a reality, the military medical services, the Public Health Service, and the Veterans' Administration systems must all be involved in planning the best use of their resources for the benefit of their special beneficiaries with an eye to the needs of the community.

In our national quest for quality health care for all, the Nation must rely upon the health care professionals—especially those in public health, such as the members of your organization, to make many of the decisions, not only in planning and developing new resources, but in the day-by-day application of the healing arts and sciences to those in need. There is a real need for health care professionals to learn to deal with the patient as a partner by discussing treatment options and ensuring the patient is accepting care only with full and informed consent. Finally, these professionals must recognize their responsibility to protect the public interest through the use of effective cost-containment mechanisms.

It, therefore, seems to me that the membership of this particular organization has a unique opportunity to make a contribution to improving the quality and cost-effectiveness of health care in this country. You more than any other group of health care professionals have the experience and the tradition of treating the whole patient, not merely the episodic illness.

As you go about your deliberations at this meeting, and as you go back to your hospitals and clinics and your home communities, I urge you to think about how you can extend and apply what you are now doing to improve the quality of health care provided all Americans. You represent a uniquely qualified cadre of public health physicians on whom America will increasingly depend.

I urge you to accept this heavy responsibility and to respond in a manner that will help make quality health care not only a goal but a reality for all Americans.

FOREIGN ASSASSINATIONS: ANOTHER PERSPECTIVE

Mr. PERCY. Mr. President, following the recent release of the Senate Select Committee report on intelligence activities there has been considerable debate about the section of the report that discussed CIA plots to assassinate foreign leaders.

Specifically, these debates have centered on the question of whether or not American Presidents were fully informed of CIA plots and if they in fact ordered or approved such plots.

The committee report includes a reference to President Eisenhower regarding assassination plots. One witness recalled a statement by Eisenhower calling for "straightforward activity" against Patrice Lumumba, although other witnesses did not recall the statement.

Dr. Milton Eisenhower, the late President's brother has told me that he knows that President Eisenhower would not have tolerated a plan to assassinate Patrice Lumumba. David Eisenhower, the late President's grandson, has written a commentary on the Select Committee's report that challenges the conclusions about President Eisenhower's connection with CIA activity directed against Lumumba.

Senator CHURCH, chairman of the Select Committee, was recently quoted as making the following comment on David Eisenhower's commentary:

> If I were in his shoes, I would react the same way. He is the grandson of a famous man. We tried to be extremely objective and even-handed in the report, and it was signed by all the Republican committee members. I think Eisenhower is placing too much stress on the word "inference."

In the interest of thorough examination of the committee's report, and because of my lifetime friendship with, my deep affection for and great admiration of former President Eisenhower, his wife, Mamie, his exceptional brother Milton, and the entire Eisenhower family, I ask unanimous consent that the article by David Eisenhower, titled "White House Killers," which appeared in the December 4, 1975, edition of the Wall Street Journal, be printed in the RECORD at this time for study by my colleagues in the Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE KILLERS

(By David Eisenhower)

Ordinarily, when you come up against the Kennedy legend and lose, you shrug it off. It rarely occurs to anyone that in such a contest he might win. But when allegations of murder are thrown all over the political lot except at the very people who are most likely to have been implicated with it, it may be worth at least a try at overcoming the invincibility of that Kennedy ethos.

In real terms, this problem comes up as a result of the recent report of Sen. Frank Church's Intelligence Committee. To put the matter as starkly as possible, and also as truthfully as possible, where there is the best evidence that a President of the United States might have known about and sanctioned assassination attempts, the President in question is absolved. Where the evidence is weakest and most attenuated that Presidents were involved, the Church committee uses the strongest language with the most sinister implications. It is unmistakably obvious that the former President is John F. Kennedy and the latter are Dwight Eisenhower and Richard Nixon.

STRAIGHTFORWARD ACTIVITY

To take the cases in chronological order, President Eisenhower is accused of involvement in plans to assassinate Patrice Lumumba, a pro-Soviet leader in the Congo before and shortly after its independence from Belgium. The extent of the involvement is that at a meeting of the National Security Council, President Eisenhower is said to have expressed the wish for "straightforward activity" against Lumumba. This recollection comes from one uncorroborated witness: At least three other witnesses of the same meeting did not recall any such order.

A day later, director of the CIA Allen Dulles is reported to have authorized an attempt on Lumumba resulting in the transmission of various guns and poisons to the Congo. Six months later, Lumumba died in the hands of his Congolese captors—his death unrelated to a CIA plot, according to the Senate committee itself. On the basis of the one "straightforward activity" remark, the committee draws the "inference" that President Eisenhower authorized an assassination.

On the other hand, the Kennedy brothers are held by the committee to have been unaware of the repeated murder efforts in the Caribbean on the following evidence: There were repeated presidential-level discussions of the Kennedy's displeasure with Castro. As in the Eisenhower-Lumumba case, Sen. Church found references to suggestions for "straightforward activity" against Castro.

However, in what seems to some ears to be stronger language, those discussions also included references to "disposing of Castro." CIA director John McCone recalls that discussions with the Kennedys were even drawn in terms of "knocking off Castro." CIA aide Richard Bissell recalls that President Kennedy ordered the CIA to "get off its ass" against Castro.

Further, within three weeks of JFK's inauguration, his national security adviser, McGeorge Bundy, was briefed on the development of an "assassination capability" within the CIA. Mr. Bundy supposedly did not order it stopped nor, supposedly, did he tell President Kennedy. Robert Kennedy was informed at least twice about Mafia connections with attempts to kill Castro, without disavowing either and, supposedly, without telling his brother, the President, about them. Robert Kennedy is, in fact, frequently portrayed by the Church committee as misled by the nature and extent of CIA activities, a proposition which Tom Braden, a Washington columnist with close Kennedy associations and a former Office of Strategic Services man himself, thinks is "impossible to imagine."

All of this activity, the Church committee concludes, shows only that President Kennedy was interested in some kind of "broad strategy" to bring about Cuban democracy.

Moving right along, despite a mountain of evidence of Kennedy displeasure with the Ngo Dinh Diem regime and undoubted U.S. involvement in the coup against him and his brother Nhu, the Church committee finds the Kennedys absolved because the murders of Diem and Nhu were "spontaneous acts." The assassination of General Trujillo of the Dominican Republic, though plotted with the knowledge of American "personnel" (read "the President, John F. Kennedy"), is construed by Church's group as defiance of Kennedy's written statement that assassination is wrong (though not so wrong as to prevent U.S. recognition of Trujillo's assassins should they succeed).

When the report comes to Richard Nixon, Sen. Church's committee finds "inferences" that President Nixon gave carte blanche to the CIA to kill whoever necessary to keep Allende from power in Chile, and therefore Mr. Nixon should be responsible for the death of General Rene Schneider. General Schneider had been a target for CIA kidnapping, but died in a non-CIA connected kidnapping.

The Church committee is thus giving us more than a double standard. It is saying that where there is clear evidence of responsibility, (the Kennedy cases), even clearer evidence of responsibility is needed to establish an "inference." Where there is extremely vague evidence of responsibility, (the Eisenhower and Nixon cases) more than vague hints are needed.

As I said at the outset, people are used to less than equity when dealing with the Kennedy legend. And, in recent years, politicians have gotten used to throwing around "inferences" pretty casually. But the Church committee's action is a deadly combination of the two. Even when protecting the Kennedys, it is not a laughing matter to throw out inferences of murder into a public forum where the distinctions between "inferences" and facts get blurred. In other words, even to spare the feelings of the Kennedys fans, you should treat accusations of murder similarly in similar cases.

That's what the law is supposed to be about—treating similarly situated people similarly. And respect for the law and for American ideals is supposed to be the reason why the Church committee is washing so much dirty laundry in public. We have to have an open society, reasons Sen. Church, so let it all out, no matter how bad it looks.

LESS THAN MEETS THE EYE

There are a couple of problems with this posture. One is that we may be letting stuff out that is worse than what really happens. In other words, in the cases of all three Presidents, there is apparently less going on than meets an eye scanning the Church report. A report from an American Senate committee accusing Americans of plotting murder is one thing if it is solidly based. It becomes quite another thing, something more like the most irresponsible kind of partisanship, if it is a device aimed at one party by another, using only the most flimsy evidence.

And what good will the report do? We know it has demoralized the CIA. What we cannot know is how foreigners will react to our self-flagellation. Senator Church thinks they will respect our candor. I cannot help but think that this is akin to thinking a rapist will be admired for confessing.

Beyond a few vague pieties about not assassinating people, hedged with more vague words about not barring covert activities, the Church report offers no guidance about how the CIA should be conducting itself, which, after all, is supposed to be the main product of the Church committee. Perhaps that will come with the committee's final report in a few months. In the meantime, is any broader purpose than publicity for politicians being served? It's hard to see what that might be.

Assassination. Just the sound of the word makes one's skin crawl. The committee report calls it "a coldblooded, targeted intentional killing of a political leader." Don't we need far more tangible, convincing proof before we even begin to make such grave charges against Presidents Kennedy or Nixon or my grandfather?

TOUGH GUN LAWS FALL APART IN COURT

Mr. McCLURE. Mr. President, an article which recently appeared in the New York Daily News tells an all too familiar story. Three suspects were caught by the police during the commission of an armed robbery. While the victim was telling the district attorney what had happened, the suspects were released on $300 bail. Despite the seriousness of the crime and the fact that one defendant had a record of 13 prior arrests, the criminals were back on the street before the victim. Only one suspect returned to court when he was supposed to, the other two jumped bail. One is still at large. New York City, where this incident occurred, has the most restrictive gun control laws in the country. It is obvious that these laws serve only to prevent law abiding citizens from possessing guns. Criminals will never apply for licenses or register their weapons. As an anticrime measure, gun control laws are a total failure. Yet Congress must take some action to halt the terrible rise in crime. There is no more important task before us than the rebuilding of our criminal justice system into an effective deterrent to crime. I have proposed a law requiring a mandatory sentence for anyone guilty of using a gun to commit a crime of violence. I believe this is the proper course for us to take because it punishes the criminal for criminal misuse of firearms but does not infringe on the rights of law abiding citizens.

I urge my colleagues to read the Daily News article, "Tough Gun Laws Fall Apart in Court," and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Tough Gun Laws Fall Apart in Court

(By Michael Pousner)

William Turkheimer, owner of a West Side meat market, didn't sense anything out of the ordinary when a man wearing a beret lugged a violin case into the store just before closing one Saturday night. The neighborhood around the Endicott Meat Market, which is located at Broadway and W. 81st St., has its share of musicians.

But when the man reached into the violin case and pulled out a .12-gauge sawed-off Mossberg shotgun and pointed it at Turkheimer, the elderly owner realized he was in serious trouble. Then another robber, also in a beret, entered, brandishing a .38 Smith and Wesson automatic pistol.

The men relieved Turkheimer and three employees of their wallets and keys, locked them in a walk-in ice box and began rifling the cash register.

"We could have frozen to death," Turkheimer remembers.

Fortunately the incident had a happy ending—or seemed to at the time. A friend walking by the meat market noted that the lights were on but no employees were in sight. He notified police who beseiged the front of the building.

One robber took Turkheimer from the ice box and asked him if there was another way out. Turkheimer said no. As the robber walked away, pondering his plight, he forgot about the shotgun. Turkheimer picked it up, got the drop on the criminals, and they surrendered. Later, an accomplice, who had entered and gone into the basement while Turkheimer was in the ice box, fled up the stairs, crashed through a plate-glass window in front of the store and was immediately captured by police.

TRIED TO MAKE DEAL

The three suspects were charged with armed robbery, unlawful imprisonment and possession of a dangerous weapons. If convicted, each could be sentenced to more than 25 years in jail.

Before Turkheimer turned the tables on them, the robbers, eyeing the cops outside, had tried to make a deal with him. "If we surrender without hurting you," one said, "will you promise not to testify against us?"

Turkheimer just shrugged. As things turned out, he hasn't had to testify against Angel Velez, one of the robbers. Later that night, as Turkheimer was being grilled by an Assistant District Attorney preparing his case, Velez and the other suspects were released on $300 bail—despite the serious holdup charges and one defendant's record of 13 previous arrests.

Only one suspect returned to court when he was supposed to. The other two jumped bail. A month later one of the bail-jumpers surrendered.

But Angel Velez is still at large.

And William Turkheimer, a year later, still worries about him.

A chasm separates citizens who favor strict gun controls from those who oppose them. But there's one point on which both sides—along with all other law-abiding citizens—agree; criminals who use guns to commit violent crimes should be punished.

In Turkheimer's case and all too many others, that's not what happens. Instead some gun-using criminals go ont to commit new crimes. Earlier this year, for instance, a young woman was shot to death and two men wounded in the head by a man who was awaiting trial for an armed robbery that occurred months before. The same week, Frank Walker, a father of six, went to the aid of a critically wounded policeman. Walker himself was killed by the policeman's assailant, a youth with a long criminal record whose last arrest for armed robbery was plea bargained down to four months served in jail.

These incidents occur despite New York's gun statutes, which are among the toughest in the nation.

Under the Sullivan Law, a person can be sentenced to up to seven years in prison for merely possessing a loaded unlicensed weapon. Potentially, anyway, the sentence can be hiked to 15 years if it can be proven the suspect intended to use the weapon. And actually using the gun for a robbery, rape, or other violent crime, hypothetically adds many more years to these sentences.

The problem is that gun cases—Sullivan Law violations and armed robberies alike—are part and parcel of a dramatically overburdened and under-financed court system where extensive case backlogs are a fact of life and plea-bargaining to relieve that backlog is the rule.

Commenting on cases where guns are used in violent crimes. Bronx District Attorney Mario Merola acknowledges: "My problem is that I have 40,000 felony cases a year, and I am only able to try 4,000 of them given the rescources I have. I have no choice but to plea-bargain. Obviously if the gun were used in a particularly violent crime—and we have a good case—I'll do my utmost to avoid plea-bargaining. But I have to be selective."

Plea-bargaining marked the cases against Isaac Parks and Valentine Pacheco, the two men who did appear to face charges in the Endicott Meat Market robbery. Parks was sentenced to a state prison for a maximum term of six years. He will be eligible for parole, police say, after one year's incarceration. Pacheco was sentenced for from four to eight years.

"The way the criminal justice system works, those are good convictions," says a policeman who works closely with the courts. "After all they didn't shoot anyone. On the other hand, a citizen might look at Pacheco's 13 previous arrests. He might look at the number of years the two could have received. He might have thought the sentence was too light."

Turkheimer, the victim, is not pleased with the sentences.

"They could have killed me," he says, adding: "Do you have any idea what it's like to have a shotgun pointed at your back?"

NOT THE ONLY EVIL

Plea-bargaining isn't the only evil. Prisons are crowded like the courts, encouraging judges to allow bail for questionable suspects. That's how people like Angel Velez get back on the streets.

Given the courts' treatment of armed robbers, it's no surprise that arrests for simple possession of guns rarely result in serious penalties.

The State Commission of Investigation last year studied judicial treatment of a number of Sullivan Law cases in 1973. The study revealed that few suspects were convicted, while most of those who were convicted received only a fine.

The Commission concluded: "These studies revealed an appalling sentencing pattern with respect to gun crimes which speaks for itself. The fact is . . . that very few defendants receive jail sentences even though in every one of these cases the defendants could have received a sentence of up to seven years."

Court officials defend their record by pointing out that many gun arrests are "bad arrests," in other words unconstitutional. Laws place major restrictions on cops' frisking a suspect for a gun. When the cases are thrown out, judges say, they end up getting blamed.

Bronx District Attorney Merola contends that local DA's are getting tougher on Sullivan Law violations. But he concedes: "Obviously murders, rapes and robberies must get first priority over cases involving simple possession of guns."

Noting the problems of local courts, some gun detectives here try to stick with a gun case until a suspect violates federal laws. Then the case will be tried in federal courts which are believed to be much tougher on gun violations.

But the courts alone can't be blamed for the failure of gun enforcement. The front line against gun-related crime is obviously the cop in the street. Thousands of street cops have been laid off. As a result, Sullivan Law arrests seem to have dropped. Police, for instance, are confiscating 20% fewer guns this year than they did in 1974—even though cops contend that there are far more weapons on the street.

Budget cuts also have eviscerated the city police gun unit, a specialized outfit that concentrates on big shipments of arms here and organized crime involvement in the illegal gun business. The gun unit has lost half its personnel since the cuts began.

The local office of the Federal Bureau of Alcohol, Tobacco, and Firearms has its own problems. Among other duties, ATF agents work to stop the flow of illegal weapons from the South and Midwest into New York. But ATF, along with the Secret Service, is a unit of the Treasury Department. The surfeit of Presidential candidates has sorely taxed Secret Service agents.

SUPPLEMENT PROTECTION

So each time a Presidential candidate visits New York, ATF agents are removed from gun cases to supplement Secret Service protection.

Would more stringent nationwide gun controls ameliorate the gun situation here? An official of the National Rifle Association—a group stridently opposed to gun control—pointed at New York's gun enforcement record, and commented: "You can't enforce the laws you have. What would you need new laws for?"

Bronx DA Merola disagrees. Sitting in his office in the Bronx County Courthouse, he pointed out his window at the George Washington Bridge in the distance. "Our laws are absolutely meaningless here if a guy can go to New Jersey or upstate, lie about his address, and bring back a rifle or shotgun to use in crime."

Merola estimates that ownership of illegal handguns in the Bronx is evenly divided between criminals and otherwise law abiding citizens.

"Things are out of hand here," he says. "Back, even in the Wild West, Wyatt Earp made people check their guns when they came into town. Something must be done about guns here—and soon."

SUPPLEMENTAL APPROPRIATIONS

Mr. McGOVERN. Mr. President, the conference report for H.R. 10647 has been filed and represents a commendable effort by the conferees of the House and Senate.

The Senate version contained an amendment which I offered on the floor to provide a supplemental appropriation of $4.1 million for State administration expenses required for the proper functioning of the child nutrition programs of Public Law 94–105. The current appropriatiton for this purpose is $4.6 million. During consideration of Public Law 94–105, then H.R. 4222, the Senate and House Budget Committees approved and included in their cost computations an annualized figure of $8.7 million for fiscal year 1976. My amendment for $4.1 million in additional funds to be added to the current appropriation of $4.6 million would have brought the total of funds appropriated up to the necessary and acceptable level of $8.7 million.

The House version of H.R. 10647 contained no provision for these State expenses, but House conferees agreed to a final figure of $2.05 million. While this figure is inadequate for the balance at fiscal year 1976, it will be sufficient to allow the States to administer these programs until the April supplemental appropriations bill where the needed balance, a minimum of $2.05 million, will be included.

It is likely that this figure of $2.05 million will have to be increased to reflect the most recent estimate at State administrative funding needs submitted to the Senate Appropriations Committee by Edward J. Hekman, Administrator of the Food and Nutrition Service of the Department of Agriculture. In his testimony of November 20, 1975, Mr. Hekman indicated the necessity of an annualized sum of $11,150,000 for State administrative expenses. We fully expect the January 1976 budget recommendations of the President to reflect this reality. It will also be necessary at that time to examine closely the other programs contined in Public Law 94–105, such as the $1 million authorization for nutrition education, to determine their funding needs.

I would like to add that any unspent State administrative expense funds from fiscal year 1975 should be carried over to fiscal year 1976 and used for the specific purpose for which they were originally appropriated. This is especially true in light of the new requirements of law which will mean additional administrative duties at the State and local level.

Mr. President, my amendment and an additional appropriation in April would have been unnecessary had the Department of Agriculture simply requested the needed funds. Unfortunately, they did not, and, as a result, nearly accomplished what the President's veto of H.R. 4222 did not. This "oversight" by USDA was brought to my attention only after staff for the Select Committee on Nutrition and Human Needs began to receive phone calls and visits from alarmed States. Without such funds, the States indicated, they would probably be forced to turn the programs back to the Federal Government.

It is the duty of USDA to carry out the intention of Congress, not to subvert it. We now intend that USDA apportion to the States those funds contained in the conference version at an annualized rate of at least $8.7 million. The balance of the funds will be appropriated in the next supplemental appropriations bill. If this is not done, there can be no assurance that the States will have the funds necessary to fulfill their role in the vital process of feeding America's children, a priority which this Congress has resoundingly embraced.

LEO WALKER

Mr. MATHIAS. Mr. President, the adjournment of the Senate tonight will mark the end of 18 years of service to the Senate by Leo Walker. It has been Mr. Walker's decision that he should retire effective December 31 and return to his home in Cumberland, Md.

I am sure that every Member of the Senate join me in thanking Leo Walker for his years of service on the Senate staff and in wishing him many useful and satisfying years ahead.

U.S. SENATE ADMINISTRATIVE ASSISTANTS: UNSUNG HEROES

Mr. PERCY. Mr. President, some of the institutions of the Senate, I hope, will be preserved for many years to come as they have served the Senate and the Nation well. Others, such as the 190-year-old tradition that only young men can serve the Senate as pages, and that the duties were too arduous for young women, could better be modified or abolished.

One of these is the tradition of clinging to titles that are misrepresentative and in some respects actually demeaning to anyone other than those relatively few who are steeped in Senate tradition.

For instance, the term "Clerk of the House" is used to describe a job that pays $40,000 and that in a traditional business organization might carry the title of Vice President.

But perhaps the most underrated job in title and understanding of its duties and responsibilities is the job of "Administrative Assistant" to a Senator. In ordinary organizational terms, an "assistant" is almost invariably a "staff" not a "line" position. Few people report to an assistant; they generally report directly to the principal. The assistant may help to regulate the flow of work, but he, or she, generally carries little authority of his or her own. For the most part, a Senate administrative assistant, however, is a chief of staff. Office managers, legislative assistants, counsels, press secretaries, case department staff and home State staff report directly to the administrative assistant. To be effective, they must have a keen political sense, considerable knowledge of the home State, be able to deal with the heads of major businesses, business organizations, labor unions and labor union leaders, elected officials as well as staffs; medical societies, bar associations, keep close contacts with major media and public interest groups.

In addition to top level contacts in the Senator's home State, many times they must substitute for their Senator, with the White House, other Senators and their staffs, with House Members, particularly those from their home State, and with every major agency of Government. The heavy flow of work to an administrative assistant rivals that of the workload of a Senator, with generally more mail and reading material, telephone calls and steady stream of visitors than can be handled in a 12-hour day.

For instance, for over 6 years my administrative assistant, whom I do consider my "chief of staff" has been Joseph Farrell, an extraordinarily good top executive, qualified through experience and competence to be a key executive in a business corporation, head of a governmental commission or agency, or a flag officer in the military. A graduate of Annapolis, he served for 12 years as a naval officer, most of it in nuclear submarines. In 1964, he left the Navy and joined the Peace Corps, where he served as Peace Corps Director in Honduras and, finally, as Director of Peace Corps Volunteer Selection in the Washington headquarters. In 1969, he assumed responsibilities for heading up my staff.

As is occasionally the case with an AA who not only has an excellent knowledge of government and politics, in 1972 I asked Joseph Farrell if he would take a leave of absence from the Government and assume full time responsibilities as manager of my political campaign. I attribute my ability to maintain a relatively high attendance record in the Senate in that election year and achieve a substantial plurality in the election itself in part to the extraordinarily fine campaign that Mr. Farrell organized, led and managed.

But most important of all he supervises a group of gifted men and women on my Senate staff who have learned to respect his judgment, decisiveness, and other attributes of leadership that helped build the efficiency, effectiveness, and esprit de corps so necessary in a Senate staff. I am pleased to pay tribute not only to Mr. Farrell and the members of my own staff, but also to those other outstanding AA and Senate staffers with whom we have been privileged to work this past year and wish them and the members of their families a happy holiday season.

CRIME CONTROL NEEDS HANDGUN CONTROL

Mr. PERCY. Mr. President, the Senate Government Operations Committee recently completed 3 days of hearings on the problems of Presidential protection and handgun control. Portions of the transcripts of these hearings have already been printed in the CONGRESSIONAL RECORD, including the testimony of a panel of police chiefs appearing on October 21, page 33373, and the testimony of Pollster Louis Harris and Dr. Milton Eisenhower, appearing on October 29, page 34205. I recommend these inserts to all of my colleagues.

I would like to take this opportunity to discuss my own reaction to the hearings and the issues they so pointedly raised. While I have long recognized the potential threat posed by the 40 million handguns presently at large in the United States and have supported gun control legislation, these hearings have convinced me of the crisis proportions of the problem and the immediate need for positive, effective action. While I realize that gun control is not the total answer to crime in America, I am convinced that without effective regulation of handguns no other Government crime control program stands much of a chance of success. I state this conclusion in light of the fact that since 1968, the Federal Government has provided close to $6 billion for crime control programs under the Law Enforcement Assistance Administration, with only scant visible results.

The overall handgun death statistics are truly alarming; 12,000 homicides, 10,000 suicides, 3,000 accidental deaths each year, not to mention the countless thousands of serious injuries and near deaths, the street robberies, the aggravated assaults caused by handguns in the hands of the criminals, and in the homes of the well-intentioned private citizen. The lasting scars, physical and psychological scars, on the handgun victim who survives present in themselves a compelling case for handgun regulation. Two years ago, a U.S. Senator was shot and seriously wounded in front of his Washington residence by a gun-toting assailant. Cases of congressional staffers being victimized by handguns are all too commonplace.

Louis Harris, the nationally recognized and respected pollster, told our committee that "more people own guns than dishwashers, more own guns than stereo sets, more own guns than smoke cigarettes or drink alcoholic beverages." Sixty-eight percent of the American people, he said, "are now convinced that the easy availability of guns is a contributor to violence in this country." By a 77 to 19 percent majority, the American people now favor strict Federal control of handguns. This figure includes 69 percent of the gun owners themselves, and 61 percent of handgun owners. Clearly, the American people, the victims and potential victims of violent crime, are fully aware of the scope of the gun problem.

The judgment of the people is, here as so often, borne out by the facts.

The most dramatic testimony received by the committee was that of a panel of five chiefs of police from across the country, including Robert DiGrazia of Boston; Reggie Eaves of Atlanta; Pete Pitchess of Los Angeles County; Hubert Williams of Newark; and E. E. Peters of San Antonio.

No one knows more about crime than the police. It is the police officer who must face the armed and dangerous criminal in the street, in the alleyway. It is the police officer who is asked to lay his or her life on the line to protect us, the private citizens, from the criminal. And it is the police officer, with greater and greater frequency, who is falling victim to the handgun. Commissioner DiGrazia told the committee:

> As a police Commissioner, I urge you to take action to save the lives of my police officers and the lives of the citizens of my city and reduce the fear of violent crime. If we are to make serious inroads into the reduction of violent crimes, then you must do something about the facilitator of violent crimes, the handgun.

There is no question but that guns cause crime. True, it takes a person to pull the trigger, but the bare facts indicate that without access to a gun, in a large number of cases the criminal would not have attempted his crime. Three out of four homicides are spurned by anger, jealousy, or momentary passion. A large number of these homicides would not have occurred if a gun were not present and available. A growing number of violent crimes are committed by juveniles who, the police chiefs testified, would in many cases not have the nerve to go through with their crime without the psychological crutch of a gun in their pocket.

A handgun not only allows the criminal to view himself as superior to his victim, but even superior to police. And while it is argued that, without a gun, the criminal will simply turn to some other weapon to carry out his plan, the facts show that death results 500 percent more often when a gun is employed than when a knife, the second most common criminal weapon, is used. Over half of all homicides and half of all aggravated assaults involve handguns. These facts indicate more than a simple coincidence.

Many citizens purchase handguns with the hope of protecting themselves against attack from armed criminals. This hope is fostered by many of the current police television programs which portray heroic citizens fighting off organized mobsters. It is also fostered by such magazines as the National Rifleman, which each month under a column entitled "The Armed Citizenry," portrays supposedly true-to-life stories of courageous private citizens triumphantly chasing away the muggers and thieves with their trusty six shooters.

The facts are that for every robber stopped by a storeowner or homeowner with a gun, gun ownership has resulted in four homeowners or members of their families dying in a gun accident. In many cases, the presence of a gun serves only to transform a burglar or a robber into a killer.

Only two-tenths of 1 percent of firearms purchased for protection result in firearm injury to an intruder, an almost negligible figure. When this is offset against the thousands of accidental shooting deaths each year, and the thousands of crimes of passion made possible by the presence of a handgun around the house, the balance clearly shows that the risk is not worth it. The police chiefs suggest that if an individual is really desirous of this kind of security, he would be much better off purchasing a large dog. I must agree.

Let me emphatically note that my comments concern handguns only, not rifles. It is the concealability and portability of the handgun which makes it such a suitable weapon for the criminal. Of the 12,000 firearm homicides each year, 80 percent are committed with handguns. Neither I nor my colleagues on the committee have any intention of introducing legislation inhibiting the ownership of rifles.

The legislation that I have introduced along with Senator JAVITS (S. 2152 and S. 2153) is an attempt to create specific legislative solutions to the criminal threat of the handgun. For this reason, it is designed to place the most stringent controls where the problem of violent crime is the greatest. In metropolitan areas where the Attorney General finds the rate of violent crime to be 20 percent above the national average, or 10 percent above the national rate and 5 percent above that area's crime rate for the previous year, a temporary ban would be imposed on the possession, distribution, manufacture, and importation of all handguns. Rural areas where crime is not such a pressing problem would remain untouched by this provision.

Certain types of handguns, loosely called Saturday night specials, are used more than others in crime and are of absolutely no use as sporting instruments or collectors items. Generally they are small weapons of light construction and low cost. Thus, our bill bans the ownership of such handguns, as they are specifically defined by the Attorney General.

The strict handgun control laws that have been adopted by some States and localities have been undermined by the easy access of handguns in neighboring areas. Thus, our bill requires that handguns be sold only to those residing in the State or SMSA of purchase and prohibits the multiple sale of guns to a single purchaser.

Finally, a majority of the criminals who use handguns in committing crimes are repeat offenders. Thus, our bill prohibits the sale of handguns to convicted felons and provides a 10-day waiting period to allow the existence of any prior conviction to be determined.

S. 2153 is an anticrime measure. It does not interfere with the lawful use or ownership of guns other than where statistics prove that a significant anticrime purpose would be served.

While the "conventional wisdom" is that no gun control legislation can stand the heat of the well-lubricated gun lobby, I feel strongly that once the Congress and the American people are fully informed of the facts, this attitude will change and the voice of the majority will be heard. This country is founded upon the principles of representative democracy, a system designed and intended to assure that the will of the majority be dominant. The "conventional wisdom" reveals the sad fact that those principles of democracy have become perverted, that an active and well organized and financed minority can thwart the message of the people. It is imperative, in my opinion, that the law-abiding majority of the American people raise their voices for all to hear.

Milton Eisenhower testified to the committee that—

> No one would be so rash as to argue that effective legislation to prohibit handguns will eliminate all crime. But the reduction in crime would be substantial, perhaps spectacular.

I do not advance the argument of handgun control as a panacea to the Nation's crime problem. The causes of crime are deep and complex, touching the field of sociology, economics, psychiatry, and many others. However, I do believe that without gun control, the Nation's fight against crime, I am sorry to say, is doomed from the start.

For these reasons, I have firmly committed myself to working for the passage of effective handgun control legislation in this Congress. On October 28, I testified before Senator BAYH's Subcommittee on Juvenile Delinquency, which has chief substantive responsibility over the gun control area. I stated then that if we can keep guns out of the hands of the mentally deranged and known criminals, if we can stop the use of small cheap guns whose only purpose is to kill human beings, and if we can limit the ownership of other handguns in high crime urban areas, I believe the American public can have much greater assurance of the safety of their elected officials and of themselves.

NORTHERN MICHIGAN UNIVERSITY NATIONAL FOOTBALL CHAMPIONS

Mr. GRIFFIN. Mr. President, last week the Members of the Senate took proper notice of an important intercollegiate athletic event by unanimously adopting a resolution cosponsored by the distinguished Senators from Kentucky (Mr. FORD and Mr. HUDDLESTON) and by the distinguished senior Senator from Michigan (Mr. HART) and myself to commend the Wildcats of Northern Michigan University, located in Marquette, and the Hilltoppers of Western Kentucky University, located in Bowling Green, for successful football seasons and good sportsmanship, and to wish both teams success in the national championship game.

I speak of the Camellia Bowl, played Saturday, December 13, 1975, in Sacramento, Calif., to decide the NCAA Division II national championship in football.

I am especially happy to report officially the outcome of the contest, Mr. President, for it is the culmination of an almost unbelievable sports saga.

In 1974, the Northern Michigan Wildcats failed to win a single football game, losing all 10. But in 1975, they surged back to chalk up a 13 to 1 record, topping it last Saturday by winning the national title, 16 to 14, over a fine Western Kentucky team in the Camellia Bowl.

I speak with a great deal of personal pride about the Wildcats, Mr. President, for I am privileged to count myself as an alumnus of sorts, having been the recipient of an honorary degree from Northern Michigan a few years back.

Northern is an excellent institution of higher learning, led by a most capable president, Dr. John X. Jamrich.

The Wildcats, under the direction of head coach Gil Krueger, are themselves splendid representatives of this institution, as noted sports columnist Joe Falls of the Detroit Free Press has observed.

These young men have been dubbed the "Cinderella Team" of the 1975 football campaign, and the title is well deserved.

It is a gritty, tough, determined, talented, never-say-die group of students who take both their football and their studies seriously.

Last year, the Camellia Bowl was won by another Michigan team, the Chippewas of Central Michigan University, located in Mount Pleasant, which happens to be my alma mater.

To keep this important national trophy in the State of Michigan for the second successive year is cause for real celebration throughout our State. This development says a great deal about the quality of football played in our State of Michigan where winning at football has become a tradition.

I might just note that President Gerald Ford, also from Michigan, was among the millions who watched this year's Camelia Bowl which was televised nationally over ABC-TV. The President was gracious enough, after the game, to telephone personal congratulations to Coach Kreuger and the team as they celebrated their victory in the locker room. Without doubt, that phone call must have added measurably to the sweetness of the victory for Northern Michigan.

Let me mention, also, that in the spirit of a good-natured rivalry, Senator Ford of Kentucky, and I, agreed before the game that in the event of an NMU victory, he would present me with a Kentucky ham; and, in the unlikely event that Western Kentucky should win, I would present him with some Michigan lake trout. I am sure the Griffin family will enjoy that good Kentucky ham.

My heartiest congratulations go to Coach Krueger, his staff and all the members of his squad. Congratulations are also in order for the people of Marquette and the Upper Peninsula who have provided such strong and loyal support for this great northern Michigan team.

Mr. President, I ask unanimous consent that several columns and news accounts of the Camelia Bowl game be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Marquette (Mich.) Mining Journal, Dec. 15, 1975]

CONGRATULATIONS, WILDCATS!

Fantastic. Superb. Outstanding. Take your pick—they all fit the Northern Michigan University Wildcats, who brought home the NCAA Division II national football championship over the weekend.

It was a long, hard road, but the Wildcats proved worthy of the challenge as they pulled off the greatest turnaround in college football history.

Coach Gil Krueger and his team were magnificent on national television. They really put the Upper Peninsula on the map, and we could not have had finer representation.

Our sincere congratulations to Krueger and the Wildcats. Marquette County, the Upper Peninsula and the entire state of Michigan are proud of you. As a result of your tenacity, 1975 will go down as the greatest ever for U.P. sports fans.

[From the Detroit Free Press, Dec. 15, 1975]

NORTHERN MICHIGAN HAS ARRIVED

(By Joe Falls)

Sacramento, Calif.—When the President of the United States takes a full afternoon out of his busy schedule to watch you play football on TV, you have arrived.

Northern Michigan has arrived.

The tiny school from the Upper Peninsula made itself known around the nation Saturday with its stirring 16-14 victory over Western Kentucky for the small-college championship of 1975.

By winning the title, the Wildcats from Marquette completed a comeback unlike any ever known in football.

They couldn't win a game a year ago. They lost 10 in a row. Nobody paid much attention to them, not even the townfolk of Marquette.

Now they are on page one of virtually every newspaper in the land, and anyone who saw their victory over Western Kentucky on television—as did Gerald Ford—had to be impressed with the moxie of these players.

They were pushed around through a large portion of the game, but when it was over, they were on top in the only place that counts—on the scoreboard.

Northern Michigan was the underdog in all three of its playoff games and yet won all of them—by three points, two points and two points again. The Wildcats finished with an almost unbelievable 13-1 record.

The Wildcats, in a sense, were on the spot in this one. A lot of people were wondering if they could make it two in a row for the State of Michigan since Central Michigan came out here a year ago and won the Division II title by running all over Delaware, 54-14.

It turned out that Central Michigan had a super team, one that comes along once in a lifetime. The Chippewas were big and strong and talented.

That sure isn't Northern Michigan. These are small kids. They almost look like high schoolers. They are small and slight.

But are they ever tough. They didn't quit once during the season and they didn't quit against Western Kentucky, despite taking an awful pounding.

Northern Michigan got tougher as the game progressed. At the end, the Wildcats were so fired up they were swarming all over the Western Kentucky backs so that the Hilltoppers had no chance at all to pull it out.

It was so funny when President Ford called the Northern Michigan dressing room.

The call came through about five minutes after the game but nobody was there. The players and coaches were still out on the field celebrating. This was a special moment for them and they didn't want it to end.

So there was the phone ringing and the clubhouse man answering it and saying: "Who? What? The White House? Oh, nobody's here."

There was a pause.

"Could you call back in a little while?" he said.

Another pause.

"Oh, you want to leave a number. Let me see if I can find a pencil. Could you please hold on?"

He scurried around the room looking for a pencil and something to write on.

"Okay, whats' the number?" he said. "I'll have them call when they get in here."

That's how far Northern Michigan has come.

They are really a beautiful bunch of kids because they are so unspoiled. Maybe the simple life of the Upper Peninsula does that to them. Maybe it's the coaching, or how they were raised.

But in their short stay in Sacramento, they conducted themselves like perfect gentlemen. Not a one of them got out of hand.

The manager of the motel commented that she'd never seen a better behaved group of young men.

After the game, the players came streaming into their dressing room and it was a thrill watching them enjoy their moment of victory.

They were inded like high schoolers. Singing and shouting and hugging one another, and not a foul word in the entire room.

Somebody did a good job with them.

[From the Detroit News, Dec. 14, 1975]

NMU VICTORY CAPS TURNAROUND

Sacramento, Calif.—There are Cinderella stories every year in college sports, but few will ever match the dramatic turnabout of this season's Northern Michigan team.

Last season the Wildcats lost all 10 of their games under last-year coach Gil Krueger. In a complete reversal of form this season, they drove to a national championship with a resolute, determined group of players who simply refused to yield to pressure.

Northern came up with a truly championship performance in the Camellia Bowl Saturday to beat Western Kentucky, 16-14, and win the National Collegiate Athletic Association's Division II championship.

It was the 13th victory this season for Northern and one of the triumphs was over Central Michigan, last season's Division II championship.

Northern's defense made two stands late in the fourth quarter to protect the two-point lead which it had held since the first play of the third quarter.

The first came with just over seven minutes left when Western Kentucky drove from its own 17 to the Wildcats' 11, where the Hilltoppers from Bowling Green, Ky., had a first down.

Tailback Lawrence Jefferson gained five yards on the first play, but on second down he was trapped by safety Keith Ponder for a two-yard loss back to the eight.

Freshman quarterback Steve Larimore underthrew a third-down pass under pressure. On fourth down, Barry Henry tried a field goal form the 15. It was wide to the left by a few inches.

Western got the ball two more times in good field position before the game ended but couldn't advanced the ball either time.

End Tom Buchkoski trapped Tony Logan for a loss on a flanker reverse on first down, and that gave Western a second and 28 at its own 32 after getting the ball at midfield on a punt. The Hilltoppers had to punt the ball on fourth down.

When Northern couldn't move the ball and had to punt, Western Kentucky got the ball back at its 42 with the help of a 15-yard penalty on the kick. Two incompletions and a sack of Larimore put the ball on the 39 on a third-down-and-13 situation.

Tackle Tom Gilbert trapped Larimore at the 27 on fourth down with just over one minute left in the game and Northern's offense stalled out the rest of the time to take the national championship back to the school's campus in Michigan's Upper Peninsula city of Marquette.

For awhile, it looked as if the Wildcats would be eaten up by Western Kentucky's stingy defense and rugged ground attack.

Western drove 64 yards in eight plays the second time it had the ball, with Jefferson getting the touchdown on a two-yard run through a huge hole off left tackle. Henry's extra point gave the Hilltoppers a 7-0 lead.

Middle guard Rich McGuire recovered a fumble by Jefferson later in the quarter and it led to Northern's first score, a 25-yard field goal by Dan Harves.

Quarterback Steve Mariucci hit tight end Brian Adams with a three-yard pass in the end zone on third down, but the touchdown was nullified by a penalty for illegal motion.

Western drove for its second—and last—score with the ensuing kickoff.

The Hilltoppers began at their 20 after downing Harves' kickoff in the end zone.

With Jefferson and fullback Arnold Snardon doing most of the heavy work, Western Kentucky drove to NMU's 27 on 10 running plays. On fourth down at the 25, Coach Jim Feix passed up an opportunity for a field goal and Larimore hit end Bob Hobby for a touchdown.

Henry added the extra point for a 14–3 lead. It was the first touchdown pass of the season for Larimore, who began the season as Western Kentucky's fifth-string quarterback but moved up to the No. 1 spot after a succession of injuries and dropouts.

At that point, it seemed as if Western was too strong for Northern—both offensively and defensively.

But as was characteristic of their season, Northern chose that point to assert itself and get back in the game.

After getting the ball at their own 13 on the kickoff, Northern finally began to move the ball on the ground. A run by halfback Randy Awrey on first down gained 12 yards, and Mariucci picked up 15 more on two straight keepers.

On second and 13, Mariucci passed 11 yards to flanker Maurice Mitchell and Mariucci got the first down on a three-yard run, advancing the ball to Western Kentucky's 49.

On the next play he threw a fluttering pass in the wind. When the defensive back overran the ball, Mitchell came back to make the reception and raced into the end zone to complete the 49-yard scoring play.

Harves' extra point made the score 14–10. Neither team threatened again in the half.

Northern got the winning touchdown on the first play after the second-half kickoff when Awrey sprinted 67 yards off tackle for the score. Awrey appeared to be stopped at the line, but he squirmed free and ran untouched into the end zone.

Harves' extra point attempt was wide, and Northern had a 16–14 lead which it clung to the rest of the game.

Western Kentucky had good field position the entire third quarter but was unable to move the ball against the Wildcats' stubborn defense.

On a fourth-down-and-one play at Northern's 30, Larimore was stopped seven inches short of a first down.

Two other drives in the quarter ended at Northern's 45 when Larimore couldn't complete third-down passes and Western Kentucky had to punt.

Western's drive for the missed field goal attempt came on its first possession of the fourth quarter.

The Hilltoppers, co-champions of the Ohio Valley Conference, went into the game with an 11–1 record and a defense that had allowed an average of only 59.2 yards a game on the ground.

Awrey gained 111 yards on only 11 carries and the Wildcats picked up 183 yards on the ground on 37 attempts.

Jefferson was the game's leading ballcarrier with 161 yards on 34 carries. Western had 302 yards on the ground in 70 rushes.

Northern had a wide edge in passing, however.

Mariucci, a sophomore from Iron Mountain, Mich., completed five of 14 passes for 133 yards. Four of them went to Mitchell and Adams caught the other.

Northern Mich	3	7	6	0—16
Western Kentucky	7	7	0	0—14

WKU—Jefferson 2 run (Henry kick).

NMU—FG Harves 25.

WKU—Hobby 25 pass from Larimore (Henry kick).

NMU—Mitchell 49 pass from Maricci (Harves kick).

NMU—Awrey 68 run (kick failed).

A—12,017.

	NMU	WKU
First downs	11	19
Rushes/yards	37/183	70/302
Passing yardage	133	26
Return yards	19	22
Passes	5-14-2	2-11-1
Punts/average	8/32.8	5/34.2
Fumbles/lost	1/0	2/1
Penalties/yards	4/40	5/35

[From the Detroit Free Press, Dec. 14, 1975]

Here's Story Behind the "NMU Miracle"

(By Joe Falls)

The hour was late and one of the Northern Michigan rooters was feeling good. He felt warm and expansive. And why not?

Here he was in California with his favorite football team . . . a team nobody knew anything about, but one which—in a few hours—would be playing for the small-college championship of the country.

He wasn't being a bore, as so many of these Friday night football fans can be. They drink a little too much and feel a little too big and pretty soon they are poking their finger into your chest and telling you this is the greatest little old football team in the land.

None of the Northern Michigan people have been that way at all.

And now, over a drink, the man was talking about his team.

"Do you know what turned it all around for us?" he was saying. "Bucky Nystrom, he's the one who did it. At least that's what everyone in town has been saying.

"He is a great coach, maybe the greatest offensive line coach in this country, and he came in and showed these kids how the game should be played.

"And head coach, Gil Krueger, should get all the credit for hiring him. Krueger didn't have much of a name when he came to Marquette. In fact, nobody knew anything about him.

"Everyone wondered if he'd hire Bucky. Bucky's the big man in our town, the most popular guy of all. We wondered if Krueger would take the chance of hiring someone who could take the limelight away from him.

"Well, that's exactly what he did. He recognized Bucky's talents and went out and got him and it has worked out just beautifully for everybody.

"Bucky's been doing a great job of coaching and Krueger showed everyone how big a man he is. That's why this team got to where it is."

SO, WHO NEEDS A FANCY CAR

Bucky Nystrom? That's what the townfolk in Marquette call Buck Nystrom, the big, likeable lug who used to play guard on those great teams at Michigan State in the middle 1950s.

You look at big Buck Nystrom and he can't be anything else in the world but a football coach.

He owns a couple of clothing stores in Marquette and this is how he supports his family. But it's hard to imagine him fitting somebody's suitcoat or picking out the proper tie to go with that purple shirt.

Buck Nystrom has the beefy face of a steelworker, hard and tough and weatherbeaten. But there is mirth in his eye and always a smile on his lips. He is regular folks, Buck is, and if you know him around Marquette, you know he drives around town in a truck, and waves to everyone and says hello to everyone.

Buck Nystrom is so filled with life that whole rooms light up when he walks in.

"I'm so glad to be back coaching I can't believe it" he was saying on Saturady morning as he awaited the team bus to take him out to the Camellia Bowl.

"I love these kids. I love them all. Do you think I'm doing it for the dough? Naw. That doesn't mean anything to me. I make a nice living out of my two stores.

"But working with these kids, showing them how to do things, and do them the right way . . . I mean, making them good persons as well as good players . . . that's what it's all about."

When Nystrom talked to Krueger about working for Northern Michigan, Krueger said he expected only one thing of him. He wanted Buck to give his full time to the job.

"It couldn't be any other way," said Buck. "It's the only way you can coach football. I stop in at the store once in a while to see how things are going, but my main job now is working with this team."

There is something very warm about the entire Northern Michigan team.

Maybe it's because they come from such a distant part of our state and have done so well for themselves. But they are all so glad to be here that you can just see the excitement in all of their eyes and hear the enthusiasm in their voices.

EVEN THE PREZ HAD A BEER

Do you know what the players on the team did Friday night? They went to a movie. Do you know how they got there? They rolled up a Hertz rent-a-truck, they all climbed into the back and away they went, standing there in the darkness and laughing and joking with each other.

"They don't care," said athletic director Gil Canale. "Nothing bothers them. They're just glad to be here."

You always hear talk of team spirit in this world of sports and sometimes it gets a little sickening. But these kids, these coaches, this team and these fans seem very special.

"All of this is so great for our school," said Dr. John X. Jamrich, the president of Northern Michigan. Even the old prez was having himself a beer, pouring an inch at a time into his glass and slowly sipping it.

"Something like this has to give us great visibility," Dr. Jamrich went on. "I believe you have to have a well-rounded program in all areas if you are going to have an outstanding school.

"These young men and these coaches have given us an excellence that has just been a joy to behold. I don't think of the game so much, but of all the discipline that has been required to hold together week after week.

"We've got an enrollment of about 9,000 at Northern Michigan with room to go to 11,000 or 12,000. Something like this has to help us because young people will see that we do think on a high plane.

"I couldn't be happier with our football team."

As the good doctor spoke there was Bucky Nystrom—old Buck—across the room laughing and joking with the players. They were kidding him back and the whole scene was just plain good to see.

Northern Michigan is about 500 miles from Detroit. But even I, an old cynic, felt a sense of pride about being with this team. Thanks, guys.

[From the Green Bay Press-Gazette, Dec. 14, 1975]

Wildcats Win It All 16–14

(By Cliff Christl)

Sacramento, Calif.—More than 100 years after they discovered gold here at Sutter's Mill, Northern Michigan struck it in another form.

The Wildcats' pot of riches was a 16–14 victory over Western Kentucky Saturday in the Camellia Bowl, which earned them the NCAA Division II national championship.

Thus, on a clear, crisp day before 15,558 fans at Hughes Stadium, Northern Michigan wrote the final chapter in what has been a phenomenal Cinderella story. The Wildcats finished their season with a 13–1 record after going 0–10 a year ago.

Furthermore, the resolute Wildcats won the national title as they have won almost everything else this year—by coming from behind. And afterward, Gil Krueger, the head coach, received a congratulatory call from the White House.

"He said it was a great comeback," said Krueger, repeating President Gerald Ford's message. "He said the players never quit and it was very typical of a Michigan football team. They wouldn't give up."

Northern overcame an early 14–3 deficit with a couple big plays, which is another of their trademarks, and a determined defense that rose up and shut off the Hilltoppers' relentless ground attack.

The Wildcats' touchdowns were scored on a 49-yard Steve Mariucci to Maurice Mitchell pass and a 67-yard run on the first play of the second half by Randy Awrey, which prompted Coach Jimmy Feix, a gracious loser, to say admiringly, "They make those plays all day."

Krueger, however, was more inclined to talk about his defense, which gave up 14 points and 224 yards in the first half and then zero and 104 in the second half.

"In the first half, they kicked the crap out of us, but in the second half they never scored," said Krueger. "At the end, they were really playing. That's been our style all year."

Awrey's run was the only score of the second half and it came on a simple option play.

"The coach said they'd key on me," explained Stu Betts, formerly of Green Bay Southwest, who has overshadowed Awrey all season. "Our game plan was to let them key on me and we'd work around it.

"That's what happened on Randy's touchdown. It was a dive option and three guys came out on me on the pitch, but Randy went up the middle and nobody touched him."

Ironically, Awrey, a native of Iron Mountain, was a late bloomer because of suspect speed. "When I first came to Northern, I was told I was too slow and too small to be a back," he related before explaining what transpired during his 67-yard jaunt.

"I was hit for a second and stopped, but then I got out of it or he was knocked off of me," he said. "The blockers did a job on the rest of their line and the backs were playing bump-and-run up the side lines, so they had a long way to come to get me."

Then, he smiled and mused, "I never ran over a guy like that before. I'm not that way."

Midway through the fourth quarter, Western's offense, which had been stymied since early in the first quarter, started at its own 17 and penetrated to the Northern six before the drive was stalled and 5-foot-9, 135 pound Barry Henry was summoned to try a 25-yard field goal.

The kick would have given the Hilltoppers a 17–16 lead with 7:05 left in the game because Dan Harves missed the extra point after Awrey's run. But the official ruled that the ball was wide left, prompting a mild protest by the Hilltoppers players. And, later both Feix and Krueger said they thought the kick was good.

Western, which had scored a total of 28 points in its last two games and averaged a mere 2.9 yards per rush during the year, controlled the ball most of the first half in building its four point lead.

With Lawrence Jefferson and Arnold Snardon persistently blasting through the Wildcats' defense, Western marched 64 yards in eight running plays to open the scoring with 6:25 remaining in the first quarter.

Minutes later, middle guard Rich McGuire recovered a fumble by Western's Jefferson at the Northern 45 and the Wildcats had the advantage of field position for the first time.

Mariucci immediately teamed with Mitchell for a 29-yard gain and three plays later Mariucci connected again with tight end Brian Adams for a 20-yard gain to the four.

However, a Mariucci to Adams touchdown pass on third down from the three was nullified and the Wildcats settled for a 25-yard field goal by Harves. Again, the Hilltoppers pounded away on the ground and advanced from their 20 to the Northern 25 on 12 straight running plays.

But after an incompletion on third down, quarterback Steve Larimore, who was described as "a Huckleberry Finn type kid," by Feix, came back with only his second pass of the game, covering 25 yards for a touchdown to Bob Hobby with 8:45 left in the half.

But then the momentum swung as the Wildcats responded by advancing from their 13 to the Western 49 from where Mariucci hit Mitchell on their 49-yard bomb.

"They were playing a man and Steve called an audible at the line," said Mitchell, who caught the ball near the 20. "The pass was underthrown but I waited until the ball was about 20 feet in the air before I came back for it. I knew if I'd come back too soon, he'd have time to get back too. But I timed it just right."

That's 2 National Titles In Row for State: NMU Rally Wins Camellia Bowl, 16–14

(By Joe Falls)

Sacramento, Calif.—Northern Michigan climaxed its Cinderella season Saturday by coming from behind to upset Western Kentucky, 16–14, and win the small-college football championship in the Camellia Bowl.

The Wildcats from the Upper Peninsula, who didn't win a game a year ago, spotted Western Kentucky a 14–3 lead and then won it on a spectacular 67-yard run by halfback Randy Awrey on the first play of the second half.

The victory—Northern's 12th against only one loss—made it two championships in a row for the state of Michigan. Last year, Central Michigan came out here and won the title by decimating Delaware 54–14.

Northern Michigan had to work much harder for its championship, but the Wildcats earned it by standing up under a terrific pounding from Western Kentucky and through the running of Awrey and the timely pass work of quarterback Steve Mariucci.

Western Kentucky, although controlling the ball much of the way, couldn't get it into the end zone often enough and wound up with only its second loss in 13 games.

A crowd of 12,017 and a national TV audience saw the biggest victory in Northern Michigan's history.

Western Kentucky, a very physical team, threatened to blow the game apart on sheer might in the first half, but Northern Michigan hung in there and behind Mariucci's passing, the Wildcats trailed by only a 14–10 count at intermission.

Western Kentucky, favored by three to six and a half points, got on the board after just 8:35 on a two-yard bolt by tailback Lawrence Jefferson. The Hilltoppers got into position to score on a kick opener which sent fullback Arnold Snardon sprinting 34 yards straight up the middle to the Northern Michigan 18.

Unable to move against Western Kentucky's awesome line, Northern Michigan went to the air and Mariucci moved the Wildcats down the field with some smart passing plays.

The Wildcats got possession of the ball on their own 46 when middle guard Rich McGuire fell on Jefferson's fumble.

Mariucci, a sophomore who plays with the poise of a senior, hit flanker Maurice Mitchell with a pass over the middle which went for 29 yards to Western Kentucky's 25.

Then the youngster lofted another pass to tight end Bryan Adams for a 20-yard gain to the four.

That put Northern Michigan in position to tie up the game but an apparent TD pass to Adams was called back because of illegal procedure and the Wildcats had to settle for Dan Harves' 25-yard field goal. The kick came at 14:12 of the first quarter.

Now it was Western Kentucky's turn to shock the crowd in Hughes Stadium. The Hilltoppers went 80 yards in 12 plays to make it 14–3 but nobody—especially Northern Michigan—expected them to score the way they did.

Faced with a fourth and eight on Northern Michigan's 25, the Hilltoppers pulled off a pretty pass play, with quarterback Steve Larimore lining one to fullback Bob Hobby as he broke into the end zone.

When Barry Henry added his second extra point, Western Kentucky was ahead by 11 points and seemed well in command of the game.

Northern Michigan didn't rattle, however. Just as they've done all reason, the Wildcats pulled themselves together and got back into the game when Mariucci lofted a long pass to flanker Maurice Mitchell and he took it in for a touchdown.

The ball was a floater and Mitchell beat his man to it on the Western Kentucky 20 and then romped in with no one else near him. The play covered 49 yards and when Harves added the point, it was Western Kentucky 14, Northern Michigan 10.

Northern Michigan took a 16–14 lead on a stunning 67-yard touchdown run by halfback Randy Awrey on the first play of the second half. The Wildcats had been checked with only 34 yards on the ground in the first half when Awrey took a handoff from Mariucci and broke out over right tackle.

He was into the Western Kentucky secondary almost before anyone knew it. Awrey picked up speed and shook off one would-be tackle on the Western Kentucky 35 and veered off to his right and went all the way. Only 20 seconds had elapsed.

Harves' try for the point was off to the right. But it didn't matter. The momentum was now with Northern Michigan.

Western Kentucky drove nearly the entire length of the field in the fourth quarter, only to be frustrated when Henry's try for a field goal flew wide to the left from the 15-yard line.

Starting from their own 17, the Hilltoppers hammered through the middle of the Northern Michigan line to put the ball on the eight with a little more than seven minutes to go.

But with a chance to take a one-point lead, Henry, who stands just 5-foot-9 and weighs only 135, booted it to the left into a 20-mile-an-hour wind.

Northern Michigan then held on the rest of the way.

	W. Ky.	N. Mich.
First downs	19	11
Rushes—yards	70–302	37–140
Passing yards	26	133
Return yards	28	4
Passes	2–11–1	3–14–1
Punts	2–34	8–33
Fumbles—lost	2–1	1–0
Penalties—yards	5–35	4–40

W. Kentucky	7	7	0	0—14
N. Michigan	3	7	6	0—16

WK—Jefferson 2 run (Henry kick)

NM—FG Harves 25

WK—Hobby 25 pass from Larimore (Henry kick)

NM—Mitchell 49 pass from Mariucci (Harves kick)

NM—Awrey 67 run (kick failed)

A—12,017.

[From the Detroit Free Press, Dec. 13, 1975]

CALIFORNIA SUN LETS NMU'S KIDS DOWN

(By Joe Falls)

SACRAMENTO.—The sky was dark and a chilly wind blew across the practice field at Sacramento College.

It was a raw, blustery day, hardly the sort you'd expect in this land of sunshine.

A tall man in glasses was watching from the end zone as the Northern Michigan football team was going through its final practice session for Saturday's championship game against Western Kentucky in the Camellia Bowl.

"Oops, excuse me," he said as one of the coaches blew a whistle and the entire team started gathering in the middle of the field. "I've got to be one of the linebackers."

Dr. Don Elzinga, the team physician for Northern Michigan, went trotting onto the field in his raincoat and hat and took his place with the defensive team.

That's what life is like at this so-called small college level. They don't have enough players to go around, so the team doc has to play left linebacker.

Some of the other niceties are also missing . . . like a Greyhound bus to transport the team back and forth to practice. They come out in one of those yellow school buses and return the same way. and it is so crowded that the entire coaching staff and about 10 of the players have to stand up.

The players are so cramped together they can barely move. They look out at the bleak weather and you can see the disappointment in their eyes.

"IT MAY AS WELL SNOW SATURDAY"

They expected it to be sunny and warm here. That's what they were told it would be like. But it's been miserable the last couple of days—cold and damp and dark.

"Heck, it may as well snow on Saturday and then we'll feel like we're at home," said one of the players.

"Yeah, it'll give us the home-field advantage," said another.

The players are dressed in almost every conceivable type of uniform. Green jerseys and white pants. White jerseys and white pants. Green jerseys and gold pants.

Most of the jerseys are shredded Most of the pants are torn. Some of the sox fit, some of them don't.

The helmets look as if they've come out of a steel mill. They are broken and bent and they're marked with black streaks and splotches of blood.

Yet, there is an elegance about this team, a feeling of closeness and pride.

The good doctor is out there playing linebacker while the trainer, Reg Peters, is playing on the corner. A couple of the equipment kids are playing defensive end, and they are doing their best to get at the quarterbacks. Unfortunately, they are turned around on every play.

There is a good feeling about this team, a feeling of unity—that they got this far and nothing is going to keep them from going all the way.

Gil Krueger, the head coach, was talking about this at the breakfast table with his coaches. He said: "These kids are really something. They always think they're going to win. They think they're going to win, no matter what the score is against them."

Krueger looked around at his assistants and added: "We don't think they're going to win, but they do. Right, guys?"

The other coaches started laughing.

It is a strange experience to come here and watch a team like Northern Michigan get ready to play in something like the Camellia Bowl after spending three days at the Oklahoma factory in Norman.

There, everything is first class, the food, the living quarters, the practice facilities. Oklahoma is big league.

Here, these kids look as if they are getting ready to play a sandlot game. They are a motley-looking group.

Except for one thing.

Their enthusiasm. They came bolting out of that bus and raced onto the field as if they were grammar school kids out for recess.

They were shouting and applauding and carrying on as if this was their first practice of the year.

WHAT A TURNABOUT IN ONE YEAR

This is a team which has been at it since the middle of August, beginning with three-a-day practice sessions for almost a month and then cutting back to two-a-days and finally one-a-days when school started.

This is a team which didn't win a game a year ago. Now it is playing for the small-college championship of the nation.

Krueger was watching the workout from a distance.

"Do you know we came here with only two linebackers—just two of them? If they get hurt, I don't know what we're going to do," he said.

A smile crossed the coach's face.

"Oh heck, it doesn't make any difference. We can put anyone in there," he said. "We've been doing it all year and we can keep on doing it. These kids don't care where they play, as long as they play. We don't have any standout players, but everybody can do a little something."

When practice was over, the players jammed onto the bus and it lurched back to the team's motel.

Krueger was asked what the schedule would be for the rest of the day. "We'll have one meeting and maybe take them to a movie. But they've also got to do some studying. We've got exams when we get back to Marquette on Monday," he said.

Uh, when did you ever hear the Oklahoma coach say that?

[From the Detroit Free Press, Dec. 10, 1975]

IT'S TITLE TIME, NOW, FOR CINDERELLA NMU

(By Joe Falls)

SACRAMENTO, CALIF.—Love Doubles, the wishbone and now the Camellia Bowl. Who's got a better job? Who else can be in Las Vegas one day, Norman, Okla. the next and Sacramento the next?

I just wonder when they're playing the Hula Bowl? I'm available. Just send some more laundry money.

And since I'm out this way, I don't think we should miss the Sumo wrestling in Osaka. And if I'm not mistaken, the All-Indian finals in freestyle snake charming is coming up in New Delhi just after the first of the year.

Just don't let the old office or the wife know how much fun you're having. That's the first, and last, rule of the road.

"If you think it's strange to be out here, how do you think we feel," laughed Gil Krueger, coach of the Northern Michigan football team. "This is like paradise to us."

When you come from the iron ore country of northern Michigan to this orange-blossom-scented countryside of California, it has to stir your senses a bit.

Like maybe the entire Northern Michigan football team is dreaming this whole thing.

But they are real and they are good and on Saturday they will be playing for the small-college football championship of the world.

They'll be playing Western Kentucky in the Camellia Bowl and Howard Cosell's television network (ABC) will be on hand to record all of the proceedings (2 p.m., Detroit time, Channel 7).

FROM 0–10 TO THE CAMELLIA

Actually, it's a much bigger surprise that Northern Michigan is playing for the championship than it was when Central Michigan played here for the title a year ago.

Central Michigan was on the verge of going big time, preparing to move to the Mid-American Conference and its coach, Roy Kramer, was reasonably well known around the country. Central, located in the middle of the state, was a stopping place for a lot of football scouts passing through on their way to other destinations.

But Northern Michigan—Where's that? What's the Upper Peninsula? Marquette? Isn't that in Milwaukee?

This is what Krueger had to put up with.

He was a rookie coach at Northern Michigan last season and when he'd go downtown for his weekly luncheon, maybe 15 persons would show up.

Seven or eight friends and his coaching staff.

The Wildcats were in the process of losing every game—they went 0–10—and these weekly get-togethers became a little trying on Krueger.

"I'm going to say one thing," he said as he relaxed in the sun at his team's motel. "The town treated us pretty well. Not many showed up for the luncheon but not many complained about our 0–10 record.

"I'm sure some people thought they got a lemon when they brought me in to coach. But most people in Marquette understand the game and they could see what was happening. We weren't being run off the field; we lost four hard games in the last minutes and so they went along with us."

How does a team that goes 0–10 turn it around to compete for the national championship?

"We recruited a lot of junior college players and transfers and that made the difference," said Krueger. "We had quite a season for ourselves and when we beat Central Michigan in our third game, you could just feel that we were on our way."

Northern Michigan comes into their showdown with a 12–1 record. Only a 30–14 loss to Akron blemishes the Wildcats' record.

"I really can't say enough about the support we've received from the townfolk," said Krueger.

"I know they had to wonder about me since the school had interviewed coaches from places like Notre Dame and Michigan State and other Big Ten schools.

"What did they do? They went out and hired a guy from Platteville, Wis., and that had to puzzle a lot of people."

"YOU CAN'T RELAX AGAINST US"

It turned out that all the Kruegers became winners in their new home. Pops went 9–1 in the regular season, then beat Boise State, 24–21, in the first round of the playoffs and Livingston, Ala., 28–26, in the second round.

Krueger's son Todd led the Marquette High School to a record and daughter Caron played for the Marquette girls team, which won 21 straight. And Krueger's other son, Paul, is NMU's second-string quarterback.

"We are not a great team," said Krueger, "but we have a lot of good players who go all out every play. You can't relax against us. We make you play every down in the game."

Northern's leading players are quarterback Steve Mariucci, a 5-foot-10, 175-pounder who was fifth in the nation in total offense, and fullback Stu Betts, a 6-foot-3, 215-pound slammer who can run the 40 in 4.5 seconds.

But the guy who probably had the greatest effect on the team was Buck Nystrom, a former Michigan State lineman. He was a clothing salesman in Marquette when he went to Krueger and asked for a job. Big

Buck, who had coached the offensive line at Oklahoma, was out of football for several years and Krueger and his aides were slightly apprehensive when Nystrom asked for a job.

"I'll tell you, he went to a blackboard and showed us more football in one hour than any of us knew in a lifetime," said Krueger.

So these are the Wildcats of Northern Michigan. They've got three plane loads of fans to cheer them on here, plus their band, and they are all confident Northern can repeat Central Michigan's victory here a year ago.

But even if they don't make it, there's always the Spaghetti Bowl in Florida and the Shakespeare Cup playoffs in Stratford. Send lots of money.

THE STATE OF THE ECONOMY

Mr. CRANSTON. Mr. President, economic uncertainty persists.

In November—for the 11th month in a row—over 7 million Americans were reported unemployed. Well over a million more are so discouraged they are no longer looking for work.

Significantly high inflation continues. In the past 12 months consumer prices have risen over 7 percent.

Retail sales are still below 1973 levels.

And even with the emergency housing legislation, the housing sector has not achieved any real recovery.

Recently, there have been signs that the economy is improving. Most encouraging was the third quarter growth in real output—the gross national product adjusted for price changes. It increased at an annual rate of 11.2 percent recording the biggest quarterly jump in 20 years.

If we are to sustain the economic recovery we have achieved, if we are to employ the millions of Americans who are out of work, and if our idle plant capacity is to be utilized and new business investment undertaken, we must pursue a combination of fiscal and monetary policies which are capable of gaining the confidence of the American people. In my judgment, unless the administration, the Congress and the Federal Reserve Board work together and seek a coordinated fiscal and monetary policy, our full economic recovery will be postponed and our problems compounded.

GOVERNMENT SPENDING

The rising cost of Government is a serious problem.

Until this year, however, congressional procedures have been inadequate to evaluate the President's spending proposals—over $360 billion for fiscal 1976—or to establish meaningful priorities for congressional initiatives. Instead, Congress annually voted on 13 separate appropriations bills plus numerous "supplemental" and other spending requests, without considering the total effect, or considering at the same time, the amount of revenue available to meet expenditures.

To resolve these problems, several of my colleagues and I pressed for the enactment of the Congressional Budget and Impoundment Control Act, a bill which became law in July 1974. This major governmental reform measure created a process for the scrutiny of all Government spending requests. It also enables Congress to set strict spending limits; to enact guidelines on appropriate amounts to be spent for specific priorities such as national defense, environment, health, veterans benefits and education; and to determine appropriate revenue levels.

While the new budget procedures will not be implemented fully until 1976, Congress decided to put as much of this process as possible into effect this year. In April, the House and Senate Budget Committees proposed an alternative to the President's budget, and in May Congress adopted overall spending and revenue targets. In accordance with the new budget process, those targets have now become spending ceilings under a resolution agreed to by both Houses of Congress this month.

Although the new budget reform procedures are barely in place, they have already had some beneficial effects. Budget Committee Chairman MUSKIE recently noted that the new process has forced the Congress to trim more than $10 billion from programs, ranging from defense to child nutrition.

However, congressional efforts to control Government spending have a long way to go. One area of particular concern to me is the so-called uncontrollables in the Federal budget. These programs—which comprised about three-quarters of this year's budget—are commitments under existing law.

The "uncontrollables" include such diverse items as farm price supports, general revenue sharing, interest on the debt, and various income maintenance programs. The goals of many of these programs are critical to our national needs and priorities. But, some are administered inefficiently, and some others need revision or reform. As a member of the new Senate Budget Committee, I pledge to continue working to eliminate waste and unnecessary spending, so that those funds which we do spend will be well spent to achieve national goals.

THE DEFICIT

The new budget procedures provide the means for Congress—and the administration—eventually to get a firm grip on Federal spending. However, controlling Federal spending is only a partial answer to resolving the problem of the Federal deficit. For decreasing Government spending decreases employment, which in turn decreases revenues—while pushing up expenses for unemployment compensation, food stamps, welfare, and medicaid.

In the final analysis, full employment and increased productivity are the keys to restoring a balanced budget. Not only do they increase the gross national product and provide new revenues to the Treasury, they also reduce the need for Government spending on welfare programs, food stamps, medicaid, and unemployment compensation.

For most of 1974, the administration policies focused on reducing Federal spending as a means of fighting inflation and ignored the oncoming recession. Meanwhile the deficit soared—not because of new or unnecessary spending programs—but rather because of deteriorating economic conditions. Diminished personal and corporate income greatly reduced tax receipts. At the same time, unemployment assistance and welfare payments to those hurt by the recession increased.

Official estimates indicate that each 1-percent increase in the unemployment rate over 4 percent—the so-called full employment level—reduces Federal revenues by approximately $16 billion. At the present unemployment rate of over 8 percent, about $70 billion is lost to the Treasury—an intolerable waste of our productive capacity, and a prime factor in our present deficit level.

LIMITING GOVERNMENT

During the past several decades, the Federal Government has extended its activities into many facets of our daily lives. Many of these activities are important to the well-being of the Nation. Others have long outlived their usefulness and should be revised or abolished.

Because our economy is complex and highly integrated, solutions are neither simple nor quick. I will continue to support efforts by the Congress and the administration to insure that Government regulatory activity is both necessary and responsive to our current needs, and to eliminate it where it is not.

In 1962 the Federal budget reached $100 billion. Next year it will be about four times that amount. While these figures are staggering, it is important to recall that budgetary reform at the end of Lyndon Johnson's Presidency put social security and other trust fund spending in the regular budget for the first time. In 1976, these additions to the budget accounted alone for $95 billion. We had these programs in 1962 too, but they were not counted in the Federal budget.

During the same period, the gross national product—GNP—has grown from a 1962 level of $560.3 billion to a projected 1977 level of $1.896 trillion. When the increases in unemployment compensation resulting from the current—and, one would hope, temporary—recession are subtracted, the size of the Federal budget is seen to have grown as a constant percentage of the gross national product.

Although its relative size has thus remained relatively constant, the growth in the absolute size of the Federal Government means that it has greater potential to intrude on our liberties and into our lives.

Close scrutiny of the need for and effectiveness of future spending requests is essential if we are to preserve our fundamental freedoms and liberty, and if the Federal Government is to be both responsive and affordable in the years ahead.

UNEMPLOYMENT

Since the beginning of this year, unemployment has been at the highest levels since 1941. As long as it remains at these extremely high levels, adequate unemployment benefits must be available and certain temporary public employment projects provided.

Over the years, I have worked hard to develop manpower and employment legislation to achieve a real full-employment economy. I was a principal architect of the 1971 Emergency Employment Act, the Comprehensive Employment and Training Act of 1973, and the Emergency Jobs and Unemployment Assistance Act of 1974. I have worked hard to provide adequate funding for these programs, and I pledge to continue my efforts in these areas.

I am developing a new public service employment program designed to provide a job to every household where a person is receiving unemployment compensation or welfare benefits. I think this kind of use of Federal dollars makes far more economic, human, and commonsense than paying people who are not contributing to our productive capacities and are being denied the self-esteem that comes with being employed in a meaningful, contributing job.

INFLATION

One of the most serious handicaps in the Nation's fight against inflation has been the lack of strong and effective leadership from the Administration. In my view, the major reason for the current high rates of inflation are food and energy costs. The keystone of the President's energy program is rapid decontrol of oil and gas prices—an action which will assure further increases in the prices of many goods and services. Future foreign sales of food grains must be accompanied by safeguards that will protect the pocketbooks of the American consumer and the American farmer.

Less intense competition in many areas of the private sector also contributes to inflation. I will continue to support vigorous enforcement of antitrust laws and staff penalties for offenders. I also believe that we, as consumers, can help fight inflation by our daily decisions in the marketplace. As Federal Reserve Chairman Arthur Burns stated in a recent speech:

> The power of the consumer to force business firms to price competitively and to improve their products must never be underestimated. We as consumers can help to keep the spirit of competition alive by shopping carefully and avoiding impulse buying.

ENERGY POLICY

After more than a year of intense debate by Congress and the administration, the Congress has enacted an Energy Conservation and Oil Policy Act, S. 622. This program strikes a reasonable compromise among the various competing pricing proposals—from a drastic rollback of oil prices, on the one hand, to an immediate elimination of all energy price controls on the other. The bill requires the administrative establishment of a system of crude oil prices which will yield a weighted average price of $7.66 a barrel. Special exemptions are allowed for high-cost oil, such as that produced through expensive tertiary recovery.

This pricing policy in the bill, while far from perfect, is nevertheless a middle ground that can protect our economy from foreign energy price manipulation and still encourage new energy production at home. Moreover, by phasing out price controls over the next 4 months, we will get out from under the yoke of price controls and do so within a time frame that ensures against sudden, inflationary jumps in crude oil prices.

In addition to an oil pricing policy, the Congress has agreed on a broad range of energy-related programs that can put us on the road to energy independence. Included among the provisions of S. 622 are: Mandatory automobile fuel economy standards, emergency standby authority for the President to invoke in the event of another oil embargo or other energy emergency, the creation of a strategic petroleum reserve, and improved energy efficiency standards for most home appliances.

CONTINUING EFFORTS

Revitalizing the economy and getting people back to work will continue to have my highest priority. In my State service on the Banking, Labor and Public Welfare, and Budget Committees, I am giving my most critical review to a wide range of proposals to solve our economic and social problems. I am grateful to the thousands of Californians who have assisted me with their thoughts and comments.

ANGOLA

Mr. ROBERT C. BYRD. Mr. President, the conflict taking place in Angola has understandably created a considerable amount of concern in the United States as well as in other nations. The precipitous exit of the Portuguese colonial regime was executed without an adequate provision for the transfer of authority to a single native Angolan administration. Since nature and politics both abhor a vacuum, the chaotic situation which resulted was an obvious temptation to the Soviet Union and Cuba to interfere in the affairs of an incipient new black African State. The involvement of South Africa in response to the Russian-Cuban intrusion was almost predictable.

In a world in which the United States carries so much responsibility, it is natural that the Angolan dispute should become a matter of debate. Already there are those who contend that the United States is too much involved in Angola, while others have declared that our vital interests require that this Nation must become more deeply committed in the present struggle there.

Whatever course of action the United States follows, however, I would caution restraint and careful consideration. Some expert observers have interpreted the conflict in Angola between three separate independence movements essentially as an intertribal conflict. The commitment of South Africa carries with it the unfortunate possibility of a foreordained rejection by the other states of black Africa for whatever party becomes South Africa's primary ally.

Were the United States to become jointly allied with South Africa in this conflict, it could spell disaster for our future relations with most of the states of black Africa, as well as with the rest of the Third World.

Furthermore, the involvement of other foreign nations in the affairs of a country with otherwise limited military resources sets the stage for tragedy. There is the possibility that a civil war of short duration could be transformed into an unending struggle of inexhaustible power in which literally millions of innocent men, women, and children will lose their lives for the sake of an ideological competition of whose origins and foundations they have absolutely no comprehension.

I suggest, Mr. President, that the United States is called upon to act in this present situation — but not on a battlefield. I suggest that the time has come for America to resort to a bit of "market basket diplomacy." Predictions are that the Soviet Union is facing another bleak wheat harvest. The continuing need for American wheat by the Soviet Union offers this Nation a lever by which we might persuade the Russians that its continued meddling—and that of its Cuban satellite—not only are jeopardizing the climate of détente; the Soviet-Cuban adventure could also imperil future grain purchases from the United States. The time is right for the United States to realize some real dividends from détente in the diplomatic arena.

The situation in Angola is too fluid and unstable for the United States to risk a major commitment of its resources there. An effective exercise of diplomacy requires wisdom, foresight, and patience as well as decision and force. I urge the administration to read cautiously and watchfully in the Angolan conflict. There are times, however, when the specter of crop shortages at home might exert a far greater influence on the Kremlin than the prospect of an ideological victory on a distant continent.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS FOR 30 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes.

The motion was agreed to; and at 10:14 a.m., the Senate took a recess for 30 minutes.

The Senate reassembled at 10:44 a.m., when called to order by the Presiding Officer (Mr. GLENN).

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session for the purpose of considering nominations on the executive calendar, beginning with the Department of Defense.

The motion was agreed to and the Senate proceeded to the consideration of executive business.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk proceeded to read the nomination of

Robert Ellsworth, of New York, to be a Deputy Secretary of Defense, the nomination of William I. Greener, of Virginia, to be an Assistant Secretary of Defense, and the nomination of Thomas C. Reed, of California, to be Secretary of the Air Force.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. The nominations are considered and confirmed en bloc.

U.S. COURT OF MILITARY APPEALS

The second assistant legislative clerk read the nomination of Matthew J. Perry, Jr., of South Carolina, to be a judge of the U.S. Court of Military Appeals.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk read the nomination of Col. Wayne Walter Bridges, to be brigadier general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations of Reserve officers of the U.S. Navy for permanent promotion to grades indicated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. The nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of Maj. Gen. Thomas H. Miller, Jr., to be lieutenant general, and the nomination of Lt. Gen. Wallace H. Robinson, Jr., when retired, to be placed on the retired list in the grade of lieutenant general.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER (Mr. GLENN). Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. GLENN. Mr. President, I was particularly pleased to be serving as Presiding Officer of the Senate at the time of the confirmation of the nomination of my longtime and very close friend, Gen. Thomas H. Miller, Jr., to be lieutenant general in the Marine Corps.

General Miller and I went through flight training together in World War II days, flew many, many combat missions together, and were stationed together at several duty stations through subsequent years. Our families, too, developed a close relationship that we cherish.

I know of no man to whom I would give higher recommendation for any position than Tom Miller, and I do not make that statement lightly. He is a dedicated officer whose interests in this Nation transcend the parochial interests sometimes associated with too many military officers. He is dedicated to doing what is right, is a fine Christian gentleman in every sense, and I deem our country fortunate to have a man of the caliber of General Miller being selected for this position of high leadership.

Mr. President, I appreciate the indulgence of the Senate in these short personal observations on this occasion.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent, on behalf of Mr. GLENN, that the President be notified of the confirmation of the nomination of Maj. Gen. Thomas H. Miller.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALIFORNIA DEBRIS COMMISSION

The second assistant legislative clerk read the nominations of Brig. Gen. Richard Martin Connell, Col. Frederick Gore Rockwell, Jr., and Col. Henry Augustus Flertzheim, Jr., of the Corps of Engineers, to be members of the California Debris Commission.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

FEDERAL RESERVE SYSTEM

The second assistant legislative clerk read the nomination of J. Charles Partee, of Virginia, to be a member of the Board of the Federal Reserve System.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

EXPORT-IMPORT BANK OF THE UNITED STATES

The second assistant legislative clerk read the name of Stephen M. DuBrul, Jr., of New York, to be President of the Export-Import Bank of the United States.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nominations of Samuel W. Lewis, of Texas, to be Assistant Secretary of State; William J. Porter, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia; and Thomas O. Enders, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force and the Army, placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD subsequently said: Mr. President, as in executive session, I ask that the President be notified of confirmation of the nominations by the Senate earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders 555, 556, and 560.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHARLES HAMMOND, JR.

The bill (S. 180) for the relief of Charles Hammond, Jr., was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 4132 of the Revised Statutes of the United States (46 U.S.C. 11) or any other provision of law, the Commandant of the Coast Guard shall document the Mary M (official Coast Guard number 230483), a foreign-built vessel substantially rebuilt in the United States and owned by Charles Hammond, Junior, of Glen Burnie, Maryland, to engage in the American fisheries upon compliance by the owner with all requirements of such documentation other than any requirements that the vessel be built in the United States.

The title was amended so as to read:

A bill to authorize the documentation of the vessel, **Mary M, as a vessel of the United** States with the privilege of engaging in the American fisheries.

GRAND RIVER BAND OF OTTAWA INDIANS

The Senate proceeded to consider the bill (S. 1659) to provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket No. 40-K, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, as follows:

On page 1, beginning in line 8, strike out "and expenses of the Grand River Band of Ottawas Descendants Committee".

On page 2, in line 15, after "States" strike out the colon and the following: "*Provided*, That no person shall be eligible to have his name placed on the roll who at the same time is an enrolled member of any tribe other than the Grand River Band of Ottawa Indians or the Ottawa and Chippewa Tribe of Michigan."

On page 3, in line 14, after the comma, strike out—

Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act.

And insert:

nor shall such funds or their availability be considered as income or other resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, together with any interest thereon, after payment of attorney fees and litigation expenses and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

SEC. 2. The Secretary of the Interior shall prepare a roll of all persons of Grand River Band of Ottawa Indian blood who meet the following requirements for eligibility: (a) they were born on or prior to and were living on the date of this Act; and (b) their name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census rolls or other records acceptable to the Secretary of the Interior; (c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d) are citizens of the United States.

SEC. 3. Applications for enrollment must be filed with the Great Lakes Agency of the Bureau of Indian Affairs at Ashland, Wisconsin, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary of the Interior regarding the eligibility of an applicant shall be final.

SEC. 4. The judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with section 2 of this Act.

SEC. 5. Sums payable to adult living enrollees or to adult heirs or legatees of deceased enrollees shall be paid directly to such persons. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or other resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SEWARD NATIONAL RECREATION AREA

The Senate proceeded to consider the bill (S. 847) to establish the Seward National Recreation Area in the State of Alaska, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, as follows:

On page 2, in line 5, strike "February 1974" and insert "November 1975";

On page 3, beginning with line 4, strike out:

SEC. 4. The boundaries of the Chugach National Forest are hereby extended to include all of the lands not presently within national forest boundaries lying within the recreation area as described in accordance with section 1 of this Act. Notwithstanding any other provision of law, the Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

On page 3, line 14, strike "5." and insert "4.";

On page 3, in line 20, strike out:

only with the consent of such State or political subdivisions. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein for the purposes of this Act. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become part of the recreation area and of the Chugach National Forest.

And insert in lieu thereof:

by donation only. Lands acquired by the Secretary within the recreation area shall become part of the recreation area and of the Chugach National Forest.

On page 4, line 6, strike "6." and insert "5.";

On page 4, line 17, strike "7." and insert "6.";

On page 5, line 19, strike "8." and insert "7.";

On page 5, in line 22, strike out:

Under the provisions of this Act, any taking by the United States of water rights which are vested under either State or Federal law at the time of enactment of this Act shall entitle the owner thereof to just compensation.

On page 6, line 4, strike "9." and insert "8.";

On page 6, beginning with line 15, insert the following:

SEC. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for the public outdoor recreation use and enjoyment of certain spectacular forested areas, geological areas, lakes, rivers, and streams, and other recreational features and resources on the Kenai Peninsula in the State of Alaska by present and future generations and the conservation of scenic, scientific, historic, geologic, and other values contributing to public enjoyment of such lands and waters, there is hereby established subject to valid existing rights, the Seward National Recreation Area (hereinafter referred to as the "recreation area"), comprising approximately one million four hundred thousand acres. The boundaries of the recreation area shall be those shown on the map entitled "Proposed Seward National Recreation Area", dated November 1975, which is on file and available for public inspection in the Office of the Regional Forester, Alaska Region, and in the Office of the Chief, Forest Service, United States Department of Agriculture.

SEC. 2. The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") in accordance with the laws, rules, and regulations applicable to the national forest system, in such manner as in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of biotic, scenic, scientific, geologic, historic, and other values contributing to public enjoyment; and (3) such management, utilization, or disposal of natural resources as in his judgment will promote or are compatible with, and do not significantly impair the purposes for which the recreation area is established.

SEC. 3. Within one year after the effective date of this Act, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the recreation area and such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description may be made.

SEC. 4. Within the boundaries of the recreation area the Secretary is authorized to acquire lands, waters, or other property, or any interest therein, in such manner as he considers to be in the public interest to carry out the purposes of this Act. Any lands, waters, and interests therein owned by or under the control of the State of Alaska or any political subdivision thereof may be acquired by donation only. Lands acquired by the Secretary within the recreation area shall become part of the recreation area and of the Chugach National Forest.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on the land and waters under his jurisdiction within the recreation area in accordance with applicable Federal and State laws; except that the Secretary may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations pursuant to this section shall be issued only after consultation with the Alaska Department of Fish and Game.

Sec. 6. The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. The Secretary of the Interior, under such regulations as he deems appropriate, may issue permits or leases for the removal of the nonleasable minerals from lands or interests in lands within the recreation area, and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 24, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the administration of the recreation area: *Provided*, That any lease respecting such minerals in the recreation area shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe. All receipts derived from permits and leases issued under the authority of this section for removal of nonleasable minerals shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests. Any receipts derived from permits or leases issued on lands within the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act.

Sec. 7. The jurisdiction of the State of Alaska and the United States over waters or any stream included in the recreation area shall be determined by established principles of law. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

Sec. 8. The Secretary shall cooperate with the State of Alaska or any political subdivisions thereof in the administration of the recreation area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive the State of Alaska or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreational area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

Sec. 9. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11:46 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes.

The motion was agreed to, and at 11:16 a.m., the Senate recessed until 11:46 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Ford).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider a nomination which was reported today by the Committee on Commerce.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

FEDERAL MARITIME COMMISSION

The assistant legislative clerk read the nomination of Bob Casey, of Texas, to be a Federal Maritime Commissioner.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, it is with great pleasure that I ask that the nomination of Bob Casey to the Federal Maritime Commission be called up for consideration.

I have known Bob Casey for many years and believe that he brings to the position of Maritime Commissioner the kind of expertise that is necessary to carry out the responsibilities of the post. I have served on the Committee on Commerce since first coming to the Senate and have been actively involved in maritime issues. Service on the Maritime Commission is an important responsibility. Not only does it involve regulation of our waterborne commerce, but it has a substantial impact on the quality and performance of our maritime industry.

Bob Casey has been involved in public service since the early forties and, since 1958, has well represented Texas' 22d Congressional District. During his continuous service in the Congress, he was a member of the House Committee on Merchant Marine and Fisheries for 7 years and helped draft the statute under which the Maritime Commission operates.

His service as chairman of the House Legislative Branch Appropriations Subcommittee has placed him across the conference table from me for a number of fiscal years. He understands budgets and fiscal responsibility. He is a tough and persuasive spokesman for his position.

Yesterday afternoon, the Senate removed the only possible impediment to this nomination by passing H.R. 11172, which provides that, during Bob Casey's service on the Maritime Commission, he will not receive the cost-of-living increases which the Congress enacted last year.

I believe that the Government is fortunate that a man who has already contributed most of his adult career to public service desires to continue that service in such an important and appropriate capacity. I urge my colleagues to favorably consider this nomination.

Mr. President, I move the confirmation of the nomination.

Mr. TOWER. Mr. President, I am highly pleased that the Senate has today confirmed the nomination of my good friend and colleague from the House of Representatives, Bob Casey, to the Federal Maritime Commission.

We will miss the influence of Bob here on the Hill. He has served his constituency of the 22d District of Texas admirably and well during an uninterrupted term commencing with his election in 1958. Seven of his years in the House were devoted to service on the Merchant Marine and Fisheries Committee, a responsibility which broadened his expertise in the area of waterborne commerce. In fact, Mr. President, Bob was instrumental in the drafting and eventual passage of the very statute under which the Maritime Commission now functions. There should be few questions by the Commission in the future concerning the legislative history or congressional intent of their enabling statute once Bob takes his place with the other Commissioners.

Prior to his confirmation today, Bob has served during this Congress as a member of the House Appropriations Committee and as chairman of its legislative branch subcommittee. He also held assignments on the Labor-Health, Education and Welfare, and the Agriculture-Environmental and Consumer Protection Subcommittee of Appropriations.

An attorney, Bob received his formal legal training at the South Texas School of Law and was admitted to the State Bar of Texas in 1940. For several years he practiced law in Alvin, Tex., serving also as city attorney. Moving to Houston, he began a 4-year stint as an assistant district attorney, followed by a term in the Texas House of Representatives.

In 1950, Bob was elected county judge of Harris County and served as the county's chief administrative officer for some 8 years, working closely throughout the period with the Port of Houston, our Nation's third largest facility, and the shipping industry, which generates one-third of the Houston economy.

Mr. President, we are indeed fortunate that this man who has already contributed 27 years in elective office has determined to remain in the public realm in this key regulatory capacity. I wish him well as he assumes his new responsibilities and applaud his willing spirit to serve the public good. I am confident that my colleagues here in the Senate join me in this expression as evidenced by the vote of confirmation earlier today.

Mr. ROBERT C. BYRD. Mr. President, I ask for a voice vote.

The PRESIDENT OFFICER. All those in favor, say "aye."

Those opposed, say, "no."

Mr. ROBERT C. BYRD. No.

The PRESIDING OFFICER. The ayes appear to have it. The ayes have it. The nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, Senators will recall that I voted against Mr. Saxbe to be Attorney General for constitutional reasons and my views, without any personal opposition to Mr. Saxbe. Later, when his nomination came before the Senate to be Ambassador to India, I supported it.

My "no" vote today is without any personal opposition or enmity or animus toward Mr. CASEY, but just to stay in conformity with the position which I have felt to be sound in the past, and on the constitutional question.

Mr. President, I move that the nomination be reconsidered.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, is is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to and the Senate resumed the consideration of legislative business.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that Don Moorehead and Bruce Thompson, of my staff, be granted the privilege of the floor during votes for the remainder of today's proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXEMPTION OF INDUSTRIAL DEVELOPMENT BONDS FOR IRRIGATION FACILITIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 9968, and that the defense appropriation bill be temporarily laid aside and remain in a temporarily laid aside state until the disposition of H.R. 9968, and that only one amendment be in order to H.R. 9968, an amendment to be offered by Mr. LONG.

Mr. CURTIS. Mr. President, reserving the right to object, will the Senator identify that bill other than by number.

Mr. LONG. I would like unanimous consent, Mr. President, to offer an amendment to the amendment.

Mr. ROBERT C. BYRD. The bill is Calendar No. 546, the American Falls Dam.

Mr. CURTIS. The one amendment that the Senator states would be in order is the amendment that was adopted by the Finance Committee this morning.

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. LONG. It actually will require two, because one is an amendment to the amendment.

Mr. ROBERT C. BYRD. Then I would modify my request accordingly.

Mr. CURTIS. Is there any limitation of time?

Mr. ROBERT C. BYRD. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

H.R. 9968, a bill to amend sec. 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. LONG. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana proposes an amendment.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Revenue Adjustment Act of 1975".

SEC. 2. INDIVIDUAL INCOME TAX REDUCTIONS

(a) LOW INCOME ALLOWANCE.—

(1) INCREASE.—Subsection (c) of section 141 of the Internal Revenue Code of 1954 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—

"(1) IN GENERAL.—The low income allowance is—

"(A) $2,100 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,050 in the case of a married individual filing a separate return.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1), the following amounts shall be substituted for the amount set forth in paragraph (1)—

"(A) '$1,700' for '$2,100' in subparagraph (A),

"(B) '$1,500' for '$1,700' in subparagraph (B), and

"(C) '$850' for '$1,050' in subparagraph (C).".

(2) CHANGE IN FILING REQUIREMENTS TO REFLECT INCREASE IN LOW INCOME ALLOWANCE.—Paragraph (1)(A) of section 6012(a) of such Code (relating to persons required to make returns of income) is amended—

(A) by striking out "$2,350" in clause (i) of such paragraph and inserting in lieu thereof "$2,450";

(B) by striking out "$2,650" in clause (ii) of such paragraph and inserting in lieu thereof "$2,850"; and

(C) by striking out "$3,400" in clause (iii) of such paragraph and inserting in lieu thereof "$3,600".

(b) PERCENTAGE STANDARD DEDUCTION.—

(1) INCREASE.—Subsection (b) of section 141 of such Code (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—

"(1) GENERAL RULE.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(A) $2,800 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $2,400 in the case of an individual who is not married and who is not a surviving sponse (as so defined), or

"(C) $1,400 in the case of a married individual filing a separate return.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1) of this subsection, the following amounts shall be substituted for the amounts set forth in paragraph (1)—

"(A) '$2,400' for '$2,800' in subparagraph (A),

"(B) '$2,200' for '$2,400' in subparagraph (B), and

"(C) '$1,200' for '$1,400' in subparagraph (C).".

(2) CONFORMING AMENDMENTS.—Section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$2,600" in paragraph (1)(B) and inserting in lieu thereof "$2,800", and

(B) by striking out "$2,300" in such paragraph and inserting in lieu thereof "$2,400."

(c) EARNED INCOME CREDIT.—Subsections (a) and (b) of section 43 of such Code (relating to earned income credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1), the term'5 percent' shall be substitued for the term '10 percent' where it appears in that paragraph.".

"(b) LIMITATION.—

"(1) GENERAL RULE.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

(d) Disregard of Refund.—Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility, for the month in which such refund is made or any month thereafter which begins prior to July 1, 1976, of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds, but only if such individual (or the family unit of which he is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund is made.

(e) Extension of Certain Low-Income Allowance, Percentage Standard Deduction, and Tax Credit Provisions.—The last sentence of section 209(a) of the Tax Reduction Act of 1975 is amended to read as follows: "The amendments made by section 201(a) and 202(a) shall cease to apply to taxable years ending after December 31, 1975; those made by sections 201(b), 201(c), and 203 shall cease to apply to taxable years ending after December 31, 1976.".

(f) Extension of Earned Income Credit.—Section 209(b) of the Tax Reduction Act of 1975 (relating to effective date for section 204) is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1977.".

(g) Effective Date.—The amendments made by this section apply to taxable years ending after December 31, 1975, and before January 1, 1977.

Sec. 3. Taxable Income Credit.

(a) Taxable Income Credit.—

(1) In general.—Section 42 of the Internal Revenue Code of 1954 (relating to credit for personal exemptions) is amended to read as follows:

"Sec. 42. Taxable Income Credit.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(A) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000; or

"(B) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.

"(2) Application of six-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the percentage "1 percent" shall be substituted for "2 percent" in subparagraph (A) of such paragraph, and the amount "$17.50" shall be substituted for the amount "$35" in subparagraph (B) of such paragraph.

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

(2) section 37 (relating to retirement income credit),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section.

"(c) Special Rule for Married Individuals Filing Separate Returns.—

"(1) In general.—Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1)(A) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (1)(B) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '$4,500' for '$9,000'.

"(2) Application of paragraph (1)(B).—Subparagraph (B) of paragraph (1) shall apply to any taxpayer for any taxable year if—

"(A) such taxpayer elects to have such subparagraph apply for such taxpayer year, and

"(B) the spouse of such taxpayer elects to have such subparagraph apply for any taxable year corresponding, for purposes of section 142(a), to the taxable year of the taxpayer.

Any such election shall be made at such time, and in such manner, as the Secretary or his delegate shall by regulations prescribe.

"(3) Marital status.—For purposes of this subsection, the determination of marital status shall be made under section 143.

(d) Certain Persons Not Eligible.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual.".

"(2) Clerical amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Taxable income credit.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1975. Such amendments shall cease to apply to taxable years ending after December 31, 1976.

Sec. 4. Corporate Tax Rates and Surtax Exemption

(a) Corporate Normal Tax.—Section 11(a) of the Internal Revenue Code of 1954 (relating to corporate normal tax) is amended to read as follows:

"(b) Normal Tax.—

"(1) General rule.—The normal tax is equal to—

"(A) in the case of a taxable year ending after December 31, 1976, 22 percent of the taxable income, and

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1977, the sum of—

"(i) 20 percent of so much of the taxable income as does not exceed $25,000.

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(2) Six-month application of general rule.—

"(A) Calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the normal tax for such taxable year is equal to the sum of—

"(i) 21 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(B) Fiscal year taxpayer.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976 paragraph (1) shall cease to apply and the normal tax shall be 22 percent.".

(b) Corporate Surtax.—Section 11(c) of such Code (relating to surtax) is amended to read as follows:

"(c) Surtax—

"(1) General rule.—The surtax is 26 percent to the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(2) Special rule for 1976 for calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the surtax for such taxable year is—

"(A) 13 percent of the amount by which the taxable income exceeds the $25,000 surtax exemption (as in effect under subsection (d)(2)) but does not exceed $50,000, plus

"(B) 26 percent of the amount by which the taxable income exceeds $50,000.".

(c) Surtax Exemption.—Section 11(d) of such Code (relating to surtax exemption) is amended to read as follows:

"(d) Surtax Exemption.—

"(1) General rule.—For purposes of this subtitle, the surtax exemption for any taxable year is $50,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) Six-month application of general rule.—Notwithstanding the provisions of paragraph (1)—

"(A) Calendar year taxpayer.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the provisions of paragraph (1) shall be applied for such taxable year by substituting the amount '$25,000, for the amount '$50,000' appearing therein.

"(B) Fiscal year taxpayers.—In the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall be applied by substituting the amount '$25,000' for the amount '$50,000' appearing therein, and such substitution shall be treated, for purposes of section 21, as a change in a rate of tax.".

(d) Technical and Conforming Changes.—

(1) Section 1561(a)(1) of such Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000". Section 962(c) of such Code (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000" and inserting in lieu thereof "the surtax exemption".

(2) Section 21(f) of such Code (relating to increase in surtax exemptions) is amended—

(A) by striking out "Increase" in the caption and inserting "Change" in lieu thereof, and

(B) by inserting after "Tax Reduction Act of 1975" the following: "and the change made by section 3(c) of the Revenue Adjustment Act of 1975".

(e) Effective Dates.—The amendments made by subsection (b), (c), and (d) apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) ceases to apply for taxable years beginning after December 31, 1976.

Sec. 5. Withholding; Estimated Tax Payments.

(a) Withholding.—

(1) In general.—Section 3402(a) of the

Internal Revenue Code of 1954 (relating to income tax collected at source), as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and before July 1, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(2) Technical amendment.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

(b) Estimated Tax Payments by Individuals.—Section 6153 of such Code (relating to installment payments of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(g) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to section 42(a)(2), 43(a)(2), 43(b)(2), 141(b)(2), or 141(c)(2).".

(c) Estimated Tax Payments by Corporations.—Section 6154 of such Code (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

(h) Six-Month Application of Revenue Adjustment Act of 1975 Changes —In the case of a corporation which has as its taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to sections 11(b)(2), 11(c)(2), and 11(d)(2).".

Sec. 6. Rolling Stock.

(a) Exclusion From Income.—Section 883(a) of the Internal Revenue Code of 1954 is hereby amended by adding at the end thereof the following new paragraph:

"(3) Railroad rolling stock of foreign corporations.—Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States."

(b) Effective Date.—The amendment made by this section shall apply to payments made after November 18, 1974.

Sec. 7. Certain Irrigation Facilities.

(a) In general.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Irrigation Dams.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Mr. LONG. Mr. President, I send to the desk an amendment to the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Louisiana proposes an amendment thereto.

The amendment to the amendment is as follows:

Following the end of section 1, insert the following:

Sec. 1A. Declaration of Policy.

Congress shares the President's determination to reduce spending levels in order to reduce the national deficit.

Congress affirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974.

If the Congress recommends a continuation of the tax reduction provided by this Act for the remainder of the calendar year 1976, Congress shall provide for reductions in the level of spending which would otherwise occur by $1.00 for each $1.00 of tax reduction (from the 1974 tax rate levels) provided in the fiscal year 1977, *provided, however,* That nothing shall preclude the right of the Congress to pass a resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by changing economic conditions or other unforeseen circumstances.

Mr. LONG. Mr. President, the amendment I am offering is the tax-cut bill as incorporated in the conference report on H.R. 5559, which was sent to the President and which was vetoed. The veto was sustained in the House yesterday.

The amendment to the amendment is language which we believe to be a fair compromise of the difference between the President and Congress with regard to relating tax cuts to spending cuts.

Mr. President, in order that Senators who would like to vote against a tax cut but who, at the same time, would like to record themselves in favor of the proposition that tax cuts should be related to spending cuts, I ask unanimous consent that we might vote on the amendment first and on the amendment to the amendment thereafter. That would then give every Senator the right to express his views most accurately.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, the first vote then will come on the tax cut itself. The Senate passed the tax cut extension by a vote of 73 to 19. I hope we could dispose of the tax cut provisions by a voice vote, Mr. President, on the assumption that the vote would be the same as it was before.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. HUGH SCOTT. I have reason to believe, good reason to believe, Mr. President, that the proposal of the Senator from Louisiana by which certain language will be inserted will be acceptable to the President.

In fairness to the Senate, I have not had an opportunity to talk to the President, but I am so advised by his intermediaries.

Mr. ROTH. Mr. President, will the Senator yield on that point?

Mr. HUGH SCOTT. Yes.

Mr. ROTH. I was trying to get in contact with our minority leader earlier today.

Mr. HUGH SCOTT. The minority leader knows. I returned the call and missed the Senator.

Mr. ROTH. But I will advise that the chairman of the Finance Committee and I labored long last night in trying to develop this language, and I advised the chairman, at the completion of that, that I was going to send the language over to the White House so that this would not be an exercise in futility.

After several discussions with the White House I am pleased to say that they would accept the——

Mr. HUGH SCOTT. I thank the Senator. For the sake of the Record, the Senator called me, I missed him, and I spent the rest of the morning trying to get in touch. I found the Senator from Oklahoma and told him I was looking for the Senator from Delaware because that was the way the word was coming to me.

I hope this will be acceptable. We want tax relief, we want it very much. I voted for the tax relief extension. The Senator from Louisiana is one of the greatest Members of this Chamber in his ingenuity and his competence and, thank God, in his persistence. I personally am so relieved that I, for once in my life, lack the words to express it.

Mr. LONG. I thank the distinguished Senator.

Mr. CURTIS addressed the Chair.

Mr. LONG. I yield to the Senator from Nebraska.

Mr. CURTIS. I was going to take a very little time on my own here.

Mr. LONG. Fine.

Mr. CURTIS. Mr. President, the issue now has developed in this manner. Some language has been——

Mr. STENNIS. Mr. President, may we have silence?

The PRESIDING OFFICER. There will be order in the Chamber and in the galleries, please.

The Senator from Nebraska.

Mr. CURTIS. Some language has been formulated which expresses an intent or a desire to cut Federal spending. I supported that language in the committee. I support it now. I will vote for any language, any feeling, that restrains spending because it is obvious with a more than $70 billion deficit in 1 year that has got to be done.

I am sure that that will meet with the approval of the vast majority of Senators.

Mr. President, we should keep in mind that a ceiling of a figure, or words committing us to restrain spending, are all about the same because none of them have any authority beyond the statute and they are of limited authority.

Any procedure that we wait and go through next spring is an act of Congress, which in this body can be overturned by majority vote, even a point of order, and after this, Congress goes through the legalistic steps to establish a congressional ceiling for fiscal 1977.

At the best, it is very little for 3 months because the next 9 months is in a new Congress and one Congress cannot bind another.

So I have disagreed all along with the legalistic views taken by some on the Budget Committee about ceilings. Ceilings are a commitment to an objective, that is all.

Here, this language commits to an objective—because I hoped that it will restrain something, something I supported in that language.

I believe we will have a chance to vote on this proposal. Then the question is, after we put in that language, should we reduce taxes?

On that I am not going to take time to argue because everyone has been committed. With me, I cannot. I cannot vote for any tax reduction when we are operating under a $74 billion deficit.

I cannot even extend the existing one and I assume there will be some others who will take the same attitude.

But that is the issue. The language committed for restraining spending carries a certain commitment. I approve of that effort.

When the roll is called on final passage, I will not support the cut, not because of the deficiencies in the language, but because I do not favor a cut of any kind in view of the great deficit we have.

I want to thank my distinguished chairman, as well as staff and other people who worked on this matter through the night.

Mr. ALLEN. Mr. President, I think it is important that the tax cuts be continued and that the enactment of the continuation of the tax cuts take place prior to the first of the year.

I think that this is a good compromise of this issue to enact the extension of the tax cuts and at the same time have the Congress go on record, not as shooting for a definite ceiling on expenditures, but as committing itself to a reduction in spending.

This is the best compromise that could be worked out. I commend the distinguished chairman, the distinguished Senator from Louisiana (Mr. LONG), and the able and distinguished Senator from Delaware (Mr. ROTH), who has made a most important contribution and the distinguished Senator from Nebraska (Mr. CURTIS) and the distinguished Senator from Maine (Mr. MUSKIE) for staying in behind this matter and seeing that we did not adjourn for the holidays until at least one more effort had been made to resolve this impasse.

It would seem to me that there is enough credit here for the Congress, there is enough credit for the President, but really there are no gainers in resolving this impasse other than the American taxpayers and the benefit to the economy.

So I am delighted that this compromise has been arrived at, at least here in the Senate, and I hardly see how the House will fail to go along with the compromise.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, this language has been developed by my distinguished colleague from Delaware (Mr. ROTH) and Senator LONG, with the assistance of the Finance Committee staff. I understand that they did so in consultation with two Members of the House and also with some consultation with the White House.

I gather also that there was some——

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MUSKIE. Yes.

Mr. LONG. There is not one word in the amendment that was suggested to me, or as far as I know was suggested to the Senator from Delaware, by any person from the White House.

I have in my hand here an original suggestion which embodied the thoughts that we had which had been drafted by Mr. Larry Woodworth, who is the chief of the staff of the Joint Committee on Internal Revenue Taxation.

He did this after checking to find something that we thought would appeal to some of those who voted to sustain the President's veto, but who also agree with what we are trying to do.

We perfected his draft and wound up with the language we are now offering. What we are now offering, by the way, includes a change suggested by the Senator from Maine (Mr. MUSKIE). But so far as I know, there is not one word in here that was suggested by the White House.

Mr. MUSKIE. I did not mean to imply that. It was my understanding when the language was presented to me that the language had been discussed. I understood that it was discussed with representatives of the White House, and favorable signals were received. That is the only point I was trying to make. I was not privy to those discussions.

Mr. LONG. I just wanted to get the record straight that after we perfected what we proposed to offer, the Senator from Delaware communicated with the White House. And he certainly has the right to do that. I do not challenge anyone's right to communicate with anyone he wants to. The Senator did tell me that he expected to communicate with the White House and he hoped that they would go along with this, and if they could not support it that they would not fight it. He had the right to communicate with them, of course.

Mr. MUSKIE. I welcome the fact that he did. It is important to the Senate to get some indication of what reception this language will get from the administration if the Congress is to be asked to act on it and try to enact it into law.

I discussed this earlier with the distinguished chairman of the Finance Committee (Mr. LONG) prior to the meeting of the Finance Committee this morning on this proposal. The Finance Committee, as he has told us, unanimously supported it.

At his request I called a meeting of the Budget Committee and we considered it at 11 o'clock this morning. The Budget Committee has also approved it. We are together in the Chamber in support of this language. I rise simply for the purpose of giving briefly some of the reasons why the Budget Committee supported the language.

In the first place, of course, and overriding everything else, is the importance of continuing the tax cut, both in terms of the individual taxpayers who would be impacted if the tax cut is not continued, and also because of the impact on the economy if the tax cut is not continued.

I would like to remind Members that the tax cut on an annual basis amounts to a little over $16 billion. On an annual basis the increase in social security taxes which will go into effect the 1st of the year are on the order of $3 billion. So what we are talking about in terms of an additional tax burden for taxpayers and the economy the 1st of this year if we do not extend the tax cuts would be on the order of $19 billion. That is a significant impact. It concerns all the members of the Budget Committee and the members of the Finance Committee. It also concerns every Member of the Senate as well. I have heard Senator LONG emphasize this point in so many of the discussions we have had.

So it is important that we find a way to continue the tax cuts and to accommodate our differences with the administration on how we handle the budget. This language attempts to get at that second problem.

With respect to that, it seems to me, as I read this language that it has the effect of affirming the budget process which the Congress has adopted and which we have been implementing, I think with demonstrable success this year.

As a matter of fact, in the second paragraph, this language states, "Congress affirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974."

The language does contain a reference to a principle which the President asserts with respect to his budget policy for this year. The President has been asserting the principle that if there is a dollar in tax cuts, it ought to be matched by a dollar in outlays. We, in the Senate Budget Committee, have not been prepared to adopt that principle. No. 1, because at this point we do not know what tax cuts the President has in mind or will propose in his budget message the last of the month. Second, we do not know what the impact might be on particular segments of our population or our society. Until we know that, we are hardly in a position to give them our blank check blessing.

Third, of course, we are concerned about the needs of the economy in these troubled times as they may develop in the course of the next months until the beginning of the next fiscal year.

Then, of course, we are concerned with unforeseen circumstances of another nature that may come up.

So what we have been striving for, while assuring the President that we would give consideration to this principle that he has asserted, is the preservation of Congress prerogatives for taking into account these other factors.

If I may now refer to the language of the distinguished Senator from Louisiana, first of all with respect to the President's principle, the language says:

> If the Congress recommends a continuation of the tax reduction provided by this

> measure for the remainder of the calendar year 1976, Congress shall provide for reductions in the level of spending which would otherwise occur by one dollar for each one dollar of tax reduction from the 1974 tax rate levels.

That is the move in the direction of the President.

> Provided, however,—

And this is the language that preserves our options.

> that nothing shall preclude the right of the Congress to pass a resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by changing economic conditions or other unforeseen circumstances.

The key language is the last, "by changing economic conditions or other unforeseen circumstances."

Let me point out that that does not say "provided that economic conditions next year are different than we now think they will be."

If it were that kind of language, I would consider that to be a deprivation of congressional prerogatives. What it says is, "by changing economic conditions." Economic conditions, of course, are constantly changing, in recent months in undesirable ways.

In any event, Congress still retains the option under that language to make its independent judgments about what economic conditions may require when we look at the budget next spring.

With respect to the language "other unforeseen circumstances," let me point out that one of the unforeseen circumstances that we can foresee is the nature of the President's $28 billion in cuts. He has not told us what they are. He has refused to give us information as to what they are. We have no idea how they will impact upon particular people who are affected by Federal programs.

So far as I am concerned, the nature of those proposed cuts constitute, in my judgment, an unforeseen circumstance within the language of this amendment.

I am trying to be as frank as I can with the Senate and with the administration in giving my views on this language. It is with those views in mind that I have agreed to accept this language for myself. I believe that is also the view of the members of the Budget Committee who were in attendance this morning at the Budget Committee session.

In my judgment, what we have done here is to make a commitment to the President that we will give serious consideration to this budget principle that he asserts, but that we also retain the prerogatives which the Congressional Budget and Impoundment Control Act of 1974 gave to us.

With that in mind and recognizing, of course, that those on the other side of this compromise see in it whatever they want to see and will say so, recognizing that that is in the nature of compromise, whenever we enter into compromises. The Budget Committee found this meaning for it.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Minnesota.

Mr. MONDALE. I thank the distinguished chairman of the Budget Committee for the explanation, which I think does express the view of most of us who serve with him on the committee.

Will the Senator also comment on the matter of how these cuts can be made with respect to a possible tax expenditure pickup?

Mr. MUSKIE. Yes. I have suggested to my good friend from Minnesota and to the Budget Committee the addition of language in this amendment which would clarify that point, and I might suggest to the Senator where that language would have gone. Following the language "containing a higher or lower expenditure figure" there would have followed the words "offsetting tax expenditure reductions."

As I understand the discussion that took place in the Committee on Finance, it was the clear understanding of all members that that was implicit in the language, and that it was not necessary to put it explicitly. Am I correct?

Mr. LONG. The Senator is entirely correct. I do not think there is any misunderstanding about that point, either at the White House, in the House of Representatives, or in the Senate. If we want to bring in a revenue bill which increases taxes on certain people and reduces taxes for others, or if we want to bring in a bill that increases excise taxes and reduces income taxes, or vice versa, but where the revenue we raise offsets the revenue that we lose, or if we bring in two bills and do it on two separate bills, there is nothing in this resolution that would preclude Congress from spending whatever additional revenue it can raise, either in that bill or a subsequent bill. There never has been a misunderstanding about that, and that is why I do not think it is necessary for it to be in the resolution.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes. I yield.

Mr. PASTORE. One thing that seems a little bit depressing to me is the fact that this whole thing seems motivated on the assumption that there will not be an upsurge in the economy, that there will be no return to prosperity. What if the economy so changes that more money comes into the coffers of the U.S. Treasury? Are we then going to be bound by setting this ceiling, and taking it out of the hides of those on social security or what have you?

Mr. MUSKIE. No, I do not——

Mr. PASTORE. Is seems to me that the language as read could be so construed. It strikes me that if the economy should so improve that more money comes into the Treasury, we should reserve the prerogative that Congress should do whatever is in the best interests of the people.

Mr. RIBICOFF. Mr. President, if the Senator will yield, unfortunately copies of the amendment are not on every Senators' desk, but the last clause, "To pass a resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by changing economic conditions or other unforeseen circumstances" would cover that. And that is in the resolution at the suggestion of the Senator from Rhode Island.

Mr. PASTORE. That is correct; and this was in response to the original caveat of the President that we were freezing in a ceiling of $395 billion, as though we were going down the drain in the meantime, that the only way we could pick up a premium to the taxpayer by lowering taxes is if we were cutting off at the other end.

Mr. President, I think there is in this country a possibility of a little bit of prosperity, and I do not think we should rule that out at this moment, because what we need at this moment in the United States of America more than anything else is the restoration of confidence, and I do not think we ought to cement ourselves in so that we cannot be extricated.

Mr. MUSKIE. I could not agree with the Senator more.

Mr. RIBICOFF. We are not cementing ourselves in at all. As the Senator from Minnesota commented earlier, we were facing a situation of substantial cuts in social services, and I think that could be picked up by substantial tax reform, to bring into the Treasury some $5 or $6 billion, and this body will have an opportunity at that time to determine whether it really wants tax reform, closing loopholes, as against cutting basic social services to the people of this Nation.

I think that is understood by both the Committee on Finance and the Budget Committee, and this will really give us an opportunity next year to grapple with the issue: Do we really want tax reform for all the people of this country?

Mr. MUSKIE. I think that is a very important point.

Mr. FORD. Mr. President, will the Senator yield for two or three questions?

Mr. MUSKIE. Yes, but let me make another point, to indicate the flexibility in this proposal.

For example, it contains this language:

> If the Congress recommends a continuation of the tax reduction next July 1st.

In other words, implicit in that language is the right of Congress to look at the state of the economy next May, to determine whether or not we need this kind of economic measure at that point.

Mr. PASTORE. Well, I would stipulate that whatever we do, at least we give one signal to the American people, that we look to the future with a little bit of optimism rather than pessimism. I do not think it is the end of the road.

Mr. MUSKIE. With a jacket like that, a man has to be an optimist.

Mr. PASTORE. You are not kidding, and that is why I wore it today, in the spirit of Christmas. And I hope they let us go home to enjoy Christmas with our families.

SEVERAL SENATORS. Hear, hear.

Mr. MUSKIE. I yield to my friend from Kentucky.

Mr. FORD. I thank the Senator.

Will the Senator answer this question? I have two or three. If there is no change in the economic conditions, then what do we do? If we just stay at the status quo, on the same level, what do we do then?

Mr. MUSKIE. I think we can assume there is going to be change. It is a dynamic situation. All the forecasters say there will be change; there may be differences about what the degree of change may be, but that there will be change in important elements of the economy seems certain.

Mr. FORD. All right. Then the Senator is saying to me that we will not adhere to the $395 ceiling, it will be changed?

Mr. MUSKIE. That number is not included here, either explicitly or implicitly.

Mr. FORD. All right. The resolution states:

> Congress shall provide for reductions in the level of spending which would otherwise occur by $1.00 for each $1.00 tax reduction (from the 1974 tax rate levels).

Is that dollar for dollar from the Executve budget that the President presents?

Mr. MUSKIE. That is left ambiguous.

Mr. FORD. Is it from the $395 billion ceiling that he is asking us to put on?

Mr. MUSKIE. It is not.

Mr. Ford. Are we going to take the $28 billion from the OMB projected need of, I believe, as high as $423 billion?

Mr. MUSKIE. There is no commitment to either the $423 billion figure or the $28 billion figure.

Mr. FORD. I respect the chairman a great deal, but I have heard an analogy to this resolution in the halls that it appears we have been wrestling with the President, he now has us down and we have said "uncle," and we are going to vote for the bill and send it back to hm.

Mr. MUSKIE. No, I would not say that at all to my good friend from Kentucky, unless we choose to interpret it as the Senator has, which I think would be a real disservice to our own interests and prerogatives and the country's interests.

This is not a commitment to a $395 billion flat outright ceiling. If we had wanted to make such a commitment, we could have made it, and we refused to make it; and it is because we refused to make such a commitment that we have this language. We have not committed ourselves to the $423 billion estimate of projected spending, because there was no justification for it. We refused to make such a commitment, and it was because we refused to make such a commitment that we have this language here.

We have comitted ourselves to $28 billion of budget cuts that the President has proposed because he has not told us what they are. He has not presented them. He refused to make the commitment. Because we refused to make that commitment we have this language before us.

So the whole history of the negotiation of this language is of congressional refusal to commit itself to those numbers.

I fail to see how the Senator can turn that legislative history around to read this language as a commitment to some thing which we designed the language prevent.

Mr. FORD. As I said before, it is about like a beagle dog getting ahold of a great dane, which I think the Senator from Maine is, and I am not going to do that. I am a little bit smarter than that, I hope.

But we in this one paragraph say "shall" and then in the middle of the paragraph we say "provided, however".

Really we are not saying anything, but one can read the first half of it and print that, and we have committed ourselves dollar for dollar, however any one individual wishes to interpret that language in this resolution.

Mr. MUSKIE. One can distort any law by printing only half of it, I say to the Senator.

Mr. FORD. That is right.

Mr. MUSKIE. But this has to be read in the context of the whole language.

Mr. FORD. One is going to be able to read it in the context he wishes.

We have one saying "shall", and the other said "provided, however", and one can take the "shall" out.

Mr. MUSKIE. No. There is another "shall" after the "provided". May I read it?

Mr. FORD. Changing economic conditions.

Mr. MUSKIE. "Nothing shall preclude"—nothing—by that one is referring to the "shall" that the Senator referred to.

Mr. FORD. All right.

Mr. MUSKIE. "Nothing shall preclude". Nothing, including the language before the "provided", "shall preclude the right of Congress to pass a resolution containing a higher or lower expenditure figure", and the rest of that condition.

The "nothing shall preclude" is surely just as final, definite, and precise as the other "shall" which worries the Senator so.

Mr. FORD. I think some areas of the country would probably pronounce it a "shilling".

Mr. MUSKIE. It may be a shell game.

Mr. FORD. I think maybe that is where we are. I do not believe we are fooling anyone, really.

Mr. MUSKIE. I hope not.

Mr. FORD. I hope not.

Mr. MUSKIE. I concur with that. I hope it is clear to everyone, including the Senator from Kentucky, that under this language the prerogatives of Congress under the Congressional Budget Control Acts are preserved.

Mr. FORD. I want it preserved, and that is why I was so concerned. I want it preserved because I have seen it work. I have seen the Senator from Maine work and labor hard in the Senate Chamber to send bills back to conference, and I think we are eliminating the ability of this Chamber.

Mr. MUSKIE. I do not think so.

Mr. FORD. We have a piece of that language that is getting the tax extension bill through, that says dollar for dollar, and anyone can lay on that who wants to, to say we received what we wanted and now it is going through.

Mr. MUSKIE. Let me say this to the Senator: In the first place, if the Senator's interpretation is correct, the question follows: how would that interpretation be enforced? Second, I do not think that interpretation would hold unless Congress gives it that interpretation. I mean it is Congress that implements the Budget Control Act. It is Congress that determines what this language means. The President conceivably would challenge us, as he has for months.

Mr. FORD. Will the Senator agree, though, this will be a piece of legislation that will either be passed or turned down by the House and the Senate and will go to the President for his signature? Then, as I understand it, it becomes law.

Mr. MUSKIE. That is right.

Mr. FORD. That law is subject to interpretation.

Mr. MUSKIE. That is right.

Mr. FORD. I believe we have two areas in which one can interpret it any way he wishes to.

Mr. MUSKIE. Has the Senator seen a law that could not be interpreted in more than one way?

Mr. FORD. Yes, if he were not a lawyer.

Mr. MUSKIE. What I am trying to do here is to make legislative history.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MUSKIE. Everyone on that part agrees, except the Senator from Kentucky, in making legislative history that makes it clear that leaves this prerogative in the hands of Congress and the Budget Committee.

Mr. LONG. Mr. President, everyone can construe the language any way he wishes to construe it as far as I am concerned. But as far as I am concerned, what that language means is that we will take this tax cut into consideration in deciding how much we are going to spend.

The President has said, that it looked to him as if the way things were going, Congress would spend $423 billion next year, which he felt was altogether too much. He said he was willing to go along with a $28 billion tax cut if Congress would reduce spending that much below $423 billion.

This is what our approach is in the amendment. We say we do not buy the $423 billion figure. We are not prepared to buy any specific figure, and we do not know what the figure is going to be. We understand that the President is using $423 billion as his starting point, and cutting down from there. He will take a tax cut into consideration, thinking how much money he can afford to spend, and so would we.

Every Governor in every State in America does business that way. He says: "Let me see how much money we have here. How much can we afford? Can we afford a tax cut?"

We are saying here that if we extend the tax cut we expect to spend less money than if we do not extend the tax cut, because the tax cut reduces the revenue that we have to spend.

It seems to me, whether one reaches it by adding up a column of figures from the bottom to the top or from the top down to the bottom, one still arrives at the same conclusion.

What we are saying here is that we expect to take the tax cut and weigh that against some things that we would like to do and say: "Would you rather spend this money reducing taxes, or spend that same amount of money providing services?"

This is the way the President is thinking about it. If he wishes to think about it from that point of view, I do not know why we also cannot think about it from that point of view.

Let us decide what we wish to spend for this country. We can say, "Here are some wonderful things we would like to do." Let us look at the lowest priority items we can find no matter how much merit they all contain. Let us see, looking at them, whether we think we ought to put that much into spending or whether we should put some of it into tax reductions?

I would be pleased but very much surprised if the President looks upon the level of spending that this Nation can afford as being the precise same figure as the Budget Committee does, by the time those men, representing 535 Members of Congress, each makes his input and they arrive at their figure. But I do not think the President and the Congress are going to be all that far apart. My guess is they are going to be a lot closer together than people at this point anticipate.

So rather than have this Nation suffer because we anticipate that they will not be able to agree, we ought to be willing to presume we are going to do as we did this year. By the time the Budget Committee gets through with deliberations, they may not be all that far apart from the President's figure.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to my good friend from Utah.

Mr. MOSS. If I understand what the chairman of the Budget Committee and the chairman of the Committee on Finance have been saying it is that we are here talking about some semantics, some cosmetic type language.

As we sat in the Budget Committee this morning we discussed this.

Really, the language, as I see it, does not change things at all as far as the Budget Committee is concerned.

I understand the concern of the Senator from Kentucky, pointing out that on one hand it appears to give something and immediately qualifies it out in the other way.

Is it not a fact that we are, in effect, reenacting the tax cut? We are taking the chestnuts out of the fire for the President and in order to do that and salve his conscience, or whatever else, we have to put in this kind of cosmetic language. It is really meaningless, is it not?

Mr. MUSKIE. I do not wish to overstress things. I do not wish to discourage the President from signing the bill. But let me say that I think he preserves all our prerogatives.

Mr. MOSS. I thank the Senator.

Mr. MUSKIE. It may mean something to him.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. RIBICOFF I think the Senator from Utah is correct and also the Senator from Kentucky. There is really no winner except the American people.

The President has gained no victory and Congress has gained no victory, but some 80 million taxpayers in this country have gained a victory. We are in a situation in which Congress and the President are at sword's point on the language. The people of this country would have suffered and the economy would have suffered by taking out these billions of dollars from the economy and being in a position to assure the loss of some 500,000 jobs, in accordance with the opinion of all the economists who appeared before the Budget Committee and the Finance Committee.

I point out to the Senator from Kentucky that what there is in this proviso is that none of this affects tax cut for the first 6 months. That goes into place, and the budget figures that we have adopted still pertain. This resolution applies only to what other additional tax cuts are made after July 1, 1976. It does not apply to the tax cuts to which we are now addressing ourselves.

During those circumstances, we also are in a position—and I believe the Senator from Maine has won his point—that the President of the United States finally will have to tell Congress and the American people where he expects to cut the budget. The administration continuously has refused to give that information to Congress and to the American people. So, comes the end of January and the beginning of February, the President finally will have to give all of us a bill of particulars.

We are not obliged to take the bill of particulars that the White House gives us. At this point, the congressional committees—the Budget Committee, the Appropriations Committee, and the Authorizations Committee—will go to work and make their other determinations; and then we will find out where the cuts will or will not come. In addition, we can make the determination, if we wish, to pick up some of these cuts by some tax reform which could bring billions of dollars into the Treasury.

Mr. MUSKIE. I thank the Senator.

Mr. President, I ask unanimous consent to have printed in the Record an editorial published today in the New York Times and an editorial in the Washington Post in connection with this matter.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From The New York Times, Dec. 19, 1975]

IMPASSE ON TAXES

President Ford's veto of the tax bill and the failure of the House to override create a situation that ought not be allowed to drag into 1976 unresolved. If inaction causes income tax rates to revert to the pre-cut levels of 1974, virtually every American family will suffer some loss in purchasing power, with further adverse effects on an already sluggish recovery.

This is a foolish price to make the country pay when both President and Congress agree that continued tax relief is essential. In recognition of that reality, Congress has wisely decided not to take its holiday recess but to keep meeting in hopes of arriving at an accommodation with Mr. Ford. It is no time for inflexibility by either side.

We remain convinced that the President should have signed the tax-cut extension in the clear-cut form in which it emerged from Congress. His insistence that the renewed cut in Federal revenue had to be matched by a precisely equal cut in projected Federal spending for fiscal 1977 was an expression of politics, not economics.

The fact is that Congress proposed to limit the tax cut to the next six months, a period already covered by the Federal spending ceiling the legislators have fixed for the 1976 fiscal year under their admirable new budget procedure. It is senseless for Mr. Ford to demand that Congress bind itself now to his own proposed 1977 ceiling of $395 billion or to any other arbitrary figure.

The budget appropriate to the nation's needs next year can only be determined after the President submits his own proposals for each agency and function, and after these proposals are subjected to thorough review under the exacting rules Congress has set for itself. The pre-run of that machinery this year encourages hope that it can establish realistic curbs on the runaway growth in governmental expenditure at the same time that it guards against shortchanging priority functions.

The pinch of inflation on living standards at every level and the frailty of the economic revival mandate an extension of tax relief for at least another half-year. It is up to the White House and Congress to reconcile their differences on a basis that will promote national, not partisan, interests.

[From the Washington Post, Dec. 9, 1975]

STALEMATE ON TEXAS

Another stalemate on the basic economic policy now confronts the country, and this one is the most dangerous of all. With President Ford's profoundly unwise decision to veto the tax cut extension, and his congressional opponents' unfortunate inability to override him, the stalemate is complete. Neither side can impose its will upon the other—and with that, both sides pack up to leave town for the holidays. Merry Christmas to all you taxpayers.

If last spring's temporary tax cut expires at the end of the month—as it will, unless there is further legislation—the taxes withheld from the average paycheck will go up $3 to $4 a week. For most families, it will be an annoyance rather than a disaster. Three dollars a week is not the end of the world. But three dollars a week times 86 million paychecks is well over $1 billion a month, and that is enough to make a substantial difference in the way in which the American economy works. The effect is, of course, to reduce purchasing power, consumer demand and business investment—all of them essential to recovery from the recession.

That recovery has already shown itself to be a rather frail and contingent affair—a vehicle on which sensible people would not try to load any more baggage than it is currently carrying. But now it is going to have to take on, in addition to everything else, an intolerably heavy freight of ideology. You can already hear the springs creaking. Will they break altogether? No one knows. It is at least possible that this unplanned tax increase, in conjunction with other uncertainties ahead, could tip the country back into another recession. Perhaps you have lost count: It would be the third since 1970.

It is impossible to avoid the impression that Mr. Ford's harsh and stubborn resolve in this long dispute has been increased by the recent political polls, which climaxed last weekend in figures showing Mr. Reagan to be running ahead of him among Republicans. Presidential over-reaction to polls is one of the notorious hazards of our system of government. But the whole handling of the tax issue at the White House strengthens the dismaying prospects that the country is going to be ruled mainly by Mr. Gallup, Mr. Harris and their computers for the next 11 months.

The substance of this collision between the President and Congress is exasperatingly meager in proportion to the dire consequences that might flow from it. There is a clumsiness that overtakes American politicians when they begin to pursue ideological dogma; that pursuit does not lie in their tradition, and they are not generally very gifted at it. Mr. Ford has let himself be talked into becoming an example of this rule.

Mr. Ford wants, and thinks that he needs, some sort of symbolic acknowledgement from Congress that it has committed a fiscal sin. He wants it to kneel down with him right now, here in front of the crowd, and take the pledge—in the form of a limit on spending. You might think that we would want it to cover the current fiscal year, which ends next summer. But the current year does not suit Mr. Ford's purpose since Congress, following its own Budget Reform Act, has just legislated its own spending limit to cover it. That limit is a very tough one, under which any bill exceeding the total budget is illegal and can be stopped dead on a point of order brought by any one member of either House. In regard to 1976, that does not leave Mr. Ford much to ask for. In consequence he has briskly moved the quarrel ahead to fiscal 1977, which does not begin until next October.

That is how the country comes to be entangled in a bitter dispute over a spending limit for a year for which the President himself has not drafted his own budget proposals, and for which the economic forecasts are still highly imprecise. As everyone has learned by recent experience, both recession and inflation tend to increase spending rapidly. The tremendous budget deficit this year, for example, is much less a cause of the recession and inflation than a result of it. Inflation pushes up spending because the Navy has to pay more for the same amount of oil for its ships, and because Social Security benefits rise automatically with the cost of living. Early this year Mr. Ford proposed to reduce the cost-of-living increments in the Social Security checks, but Congress would not hear of it. At the same time, recession adds costs in categories like unemployment insurance, in which federal outlays rose from $6 billion in fiscal 1974 to something over $18 billion this year. If a spending limit is based on forecasts of unemployment that turn out to be too low, is it a fair and effective public policy to cut off unemployment benefits because they exceed that arbitrary and premature limit? The question answers itself.

Despite all the angry words of the past few days, there is doubtless still a chance that the President and Congress will be able to get together before New Year's Eve on some sort of temporary compromise. To extend the present tax withholding schedules for a period of three months would be a poor precedent, but it would be better than nothing.

The truth of the matter is that Mr. Ford has taken a firm grip on the wrong side of this argument, and the role of Oliver Cromwell does not become him. It would be helpful to him, and to his cause, if he were to reflect upon the characteristics that brought him remarkably wide public support through his first year in office. In those days he made great efforts to be open-minded, conciliatory and pragmatic. Those are qualities that served him well then, and could serve him well again. After all, the business before him is not only the next election, but quite possibly the next recession as well.

Mr. MUSKIE. Mr. President, I yield to the ranking Republican on the committee, Senator Bellmon.

Mr. BELLMON. Mr. President, I congratulate the chairman of the Committee on Finance, Senator Long, and Senator Roth, and Senator Muskie for the tremendous amount of work that has gone into this matter and for the spirit of cooperation which has developed.

As has been said, this language does protect the budget processes that were mandated by the law which Congress approved last year. It also gives Congress sufficient flexibility to deal with economic realities in these uncertain times, as they develop over the next 12 months.

The thing that has been good about this whole business, I believe, is that it has served as an educational process for some people downtown who did not fully realize what Congress did when we approved the Budget Act. I believe they understand better now the determination Congress has to hold the line on spending, and they understand the problems that are presented by some arbitrary spending ceiling which makes it difficult for Congress to discharge its duties properly.

When we look at the record of spending by the 94th Congress, I believe it is one that cannot be criticized by the President or the administration. Later today, I understand, the distinguished chairman of the Committee on Appropriations will put into the Record some figures which will make this point very eloquently. So if Congress can continue next year to do as good a job as it has done this year, I believe the President should be pleased with the results.

So far as I am concerned, the objective we have here is to find a way of providing the essential services the American people need and to get the Nation back on the route to prosperity. If we are able to arrive at this kind of program and if the country does recover, there will be plenty of credit for all of us. If it does not, it will be futile for us to waste time trying to fix the blame.

I congratulate all those who worked out this compromise language, and I will support it wholeheartedly.

Mr. MUSKIE. Mr. President, I express my appreciation to Senator Long, who served all week in trying to resolve the impasse between Congress and the President. He has had more optimism about that than I have had, in all frankness. But I suppose politicians and Senators from his part of the country have a greater confidence in the magic of words than some of us in my part of the country, where words are used more sparsely. If, indeed, this thing flies, I am going to take my hat off to that culture, I say to my good friend from Louisiana. [Laughter.]

I yield to the Senator from Kentucky.

Mr. FORD. I thank the Senator from Maine.

Mr. President, I believe the junior Senator from Kentucky has accomplished what he wanted to accomplish. The statement is now in the Record that Congress did not win and the President did not win, but the people of this country won; and that is the reason for our being in this Chamber.

If anyone has any doubts as to why this measure is going through, we now have it as a matter of record from the distinguished chairman of the Committee on Finance, the Senator from Louisiana, and the Senator from Maine. It is a matter of record. So the point I wanted to make has been made, and that was the reason for my question.

Hopefully, now, the people of this country will understand that they are supreme. If we can keep that image, we will restore the confidence that this Chamber needs.

Mr. MUSKIE. I want the Senator to know that we smoke something no different from that which he raises in the State of Kentucky, that we are operating with our faculties intact, as a result. I appreciate the questions of the Senator from Kentucky.

Mr. FORD. I am delighted that the Senator is smoking tobacco. [Laughter.]

Mr. MUSKIE. Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, I do not want to delay the vote on this matter. I do commend the distinguished chairman of the committee for his fine work. I also commend the Senator from Delaware (Mr. Roth) for his fine participation, which has been very important, and the staff members, who have worked long hours in getting together what I think is a good resolution.

The resolution states exactly what is involved. It is very clear to me. I think I understand the affirmation by Congress to share with the President his determination to reduce spending levels in order to reduce the national deficit. That is exactly what we say. Congress also affirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974. So it is clear what is involved.

The word "shall" is important, because we do commit ourselves, I think, to more than what would have been done otherwise. When we say that we will provide for a dollar reduction for each dollar of tax cut, we are making a commitment. It is a serious commitment, and one that I believe will affect what is done so far as the budget is concerned next year.

So I feel that a great deal has been accomplished. Regardless of how some may read this language, the intent, so far as I am concerned, is that we are going to do our utmost to reduce expenditures, and that is tremendously important to this body.

Mr. PASTORE. Mr. President, I am afraid that unless we stop complimenting one another and get this bill to a vote, there will not be enough time for the House to join us in this venture. I hope we keep that in mind. It is 1 o'clock in the afternoon. I understand that they are losing a quorum in the House. I believe we had better get going, if we want to pass the bill.

Mr. ROTH. Mr. President, I agree with the sentiments just expressed. I just wish to make a very brief statement, as one who has worked for many days with the distinguished chairman of the Committee on Finance.

It is important to point out that—at least, in my judgment—we are doing something today. I feel very strongly that it is important that we have a tax cut to assure a recovery from the recession; but I feel just as strongly that it is important that we go on record, in principle, that a reduction in Federal spending is necessary to curb inflation.

Mr. CURTIS. Will the Senator yield at that point?

Mr. ROTH. Yes, I yield.

Mr. CURTIS. I commend the distinguished Senator from Delaware for several things—his devotion to duty, his persistance, and, above all, his commitment to the principle that the huge expenditures of this Government must be restrained and that Congress should now commit themselves to that principle. He has given long hours and many days to trying to maintain that principle in connection with moving ahead the legislation before the committee and before the Senate. I not only commend him, I congratulate him.

Mr. ROTH. I thank the distinguished Senator for his very generous words. I want to add one further thought.

I also have been a strong believer in the budgetary process, as one who worked very hard to develop this new procedure. It seems to me that we have made an accommodation that does protect the rights of the Budgetary Committee and does provide the flexibility that we may need in the months ahead.

I urge the adoption of this amendment. I congratulate my chairman, as well as Larry Woodworth, Don Moorehead, and Bruce Thompson, who worked so hard, as staff, to get this accomplished.

I am happy to yield to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, I thank my friend from Delaware.

I want to say two things very briefly. First of all, I do believe there is an element of fraud in describing what we are doing as a tax reduction to the American people. What we are really doing is making sure that all Americans will not be pushed into a still higher level of taxation by virtue of the fact that inflation has lifted working Americans into higher tax brackets. This is not a tax reduction in real terms.

The second thing I wish to say, as a member of the Committee on the Budget, is that I do not dismiss, as some others have, the words, "by changing economic conditions or other unforeseen circumstances." I believe that if we accept this resolution, and I trust we shall, we have every right to ask in the months ahead, as we deliberate on the budget resolution matter, whether or not there have been changed economic conditions or whether or not there have been other unforeseen circumstances that will justify a reduction in expenses that is not equivalent to a reduction in at least the nominal rate of taxes we have received.

I, too, want to express my appreciation to the Senator from Delaware for his work in seeing to it that we join our families by the 25th.

Mr. ROTH. I agree with the distinguished Senator from New York. I thank him for his kind words. This really is not a tax reduction, and the results of inflation have been to push many people into higher tax brackets so that all we are really doing is trying to protect them in some small measure.

I also want to reiterate what I said earlier: I think this should be satisfactory to the President—I have been so advised—and that he will accept it. I think it is important to point out again that it does establish the principle of Congress that we will move for a dollar-for-dollar cut in the event we extend the tax next July.

Mr. PASTORE. Vote.

Mr. HELMS. Mr. President, I ask for 30 seconds.

Mr. MANSFIELD. Fair enough.

Mr. HELMS. As I read this resolution, I am reminded of Lewis Carroll's "Through the Looking Glass," and what a gentleman named Humpty-Dumpty said: "When I use a word," Humpty-Dumpty said in a rather scornful tone, "it means just what I choose it to mean—neither more nor less."

I thank the Chair.

Mr. PASTORE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. The question is now on agreeing to the amendment to the amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CURTIS. Would the Senator identify what that is about?

Mr. LONG. What we are voting on now is a compromise proposal which suggests that if the tax cut is to be extended, it should be accompanied by a reduction in spending below the level that would otherwise occur. That is the language that we have been discussing.

The voice vote occurred on simply adding to the bill the tax cut that we had previously passed. What we have here now is language expressing the principle that if the tax cut is to be extended beyond July 1, there should be budget restraints to accompany that.

Mr. MOSS. Vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(At this point Mr. Haskell assumed the chair.).

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Missouri (Mr. Eagleton), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from North Carolina (Mr. Morgan), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. Stone), the Senator from North Carolina (Mr. Morgan), the Senator from Texas (Mr. Bentsen), and the Senator from New Hampshire (Mr. McIntyre) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada, (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Brock), the Senator from Ohio (Mr. Taft), the Senator from Arizona (Mr. Goldwater), and the Senator from Kansas (Mr. Dole) would each vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 607 Leg.]

YEAS—82

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Clark
Cranston
Culver
Curtis
Domenici
Durkin
Eastland
Fannin
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—18

Bayh
Bentsen
Brock
Cannon
Chiles
Church
Dole
Eagleton
Fong
Goldwater
Johnston
Laxalt
Mathias
McGee
Montoya
Morgan
Stone
Taft

So Mr. Long's amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROTH. Mr. President, I firmly believe that a tax cut is needed to insure a recovery from the recession. I believe just as strongly that a reduction in Federal spending is necessary to curb inflation and insure that higher prices do not eat up the tax savings.

But because of the current confrontation, we are at a stalemate that could result in the worst of both worlds. We are faced with a sudden tax increase on January 1, and we have no restraints on the inflationary growth of Federal spending.

I believe that the amendment we are offering today represents a reasonable and responsible solution to this confrontation. By acting on this amendment, Congress can extend the tax cuts and agree to hold down Federal spending before the Christmas recess. I also believe that this amendment can be enacted. It has the approval of the Finance Committee and the Budget Committee. With quick Senate approval, I am confident the House of Representatives will agree to the amendment. I have also received word that the President recognizes this as a clear Congressional commitment to halt the growth of Federal spending and will sign this bill.

The wording of the amendment is as follows:

> Congress shares the President's determination to reduce Federal spending levels in order to reduce the national deficit.
>
> Congress affirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974.
>
> If the Congress recommends a continuation of the tax reduction provided by this Act for the remainder of the calendar year 1976, Congress shall provide for reductions in the level of spending which would otherwise occur by $1.00 for each $1.00 of tax reductions (from the 1974 tax rate levels) provides in the Fiscal Year 1977, provided, however, that nothing shall preclude the right of the Congress to pass a resolution containing a higher or lower expenditure figure if Congress concludes that this is warranted by changing economic conditions or other unforeseen circumstances.

By the adoption of this amendment Congress would agree in principle that, subject to unforeseen economic circumstances additional tax cuts would be accompanied by dollar for dollar reductions in Federal spending.

I believe the crucial language in this amendment is the clear commitment by Congress to reduce the level of spending which would otherwise occur by $1 for each $1 of tax reductions.

In my judgment, the amendment recognizes that spending would be reduced from the level of spending which the Budget Committee determines would occur under existing conditions. It is my understanding that both the administration and the Budget Committee currently set that spending level in the range of $420–$430 billion, with some areas of difference in offsetting receipts from offshore oil leases.

This amendment also provides for flexibility. If between now and May, the Budget Committee and Congress determine that economic conditions have changed, the spending level can be changed. If economic circumstances warrant it, either higher or lower spending levels could be set.

Therefore, I do not feel that this amendment would undermine the new congressional budgetary process. No one was more active than myself in creating the budgetary reforms, and I see nothing wrong with Congress commiting itself in principle to reduce Federal spending dollar for dollar for any future tax reductions. After all, the Budget Committee is a creature of Congress and should carry out its will.

This amendment will commit Congress to exercise fiscal restraint and force Congress to eliminate waste and inefficiency in the Federal Government. Most importantly, it will start Congress on the road to a balanced budget, lower taxes, and less Government spending.

I believe the American people want Congress to extend the tax cuts, but I also believe the American people want Congress to halt to runaway growth of Federal spending.

A temporary reduction in taxes without a firm commitment to reduce spending will not benefit the American people; it would not result in larger and larger budget deficits and more and more inflation.

If this amendment to reduce spending is agreed to and the tax cuts are extended, neither the President nor the Congress will be the winner. The real winner will be the American people who want lower taxes and lower spending.

I urge the adoption of this amendment.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), The Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from North Carolina (Mr. Morgan), the Senator from Florida (Mr. Stone), and the Senator from New Hampshire (Mr. McIntyre) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. Stone), the Senator from North Carolina (Mr. Morgan), the Senator from Texas (Mr. Bentsen), and the Senator from New Hampshire (Mr. McIntyre) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Ohio (Mr. Taft), and the Senator from Kansas (Mr. Dole) would each vote "yea."

The result was announced—yeas 73, nays 7, as follows:

[Rollcall Vote No. 608 Leg.]

YEAS—73

Abourezk
Allen
Baker
Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Culver
Domenici
Durkin
Eastland
Fannin
Ford
Garn
Glenn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGovern
Metcalf
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Tower
Tunney
Weicker
Williams
Young

NAYS—7

Bartlett
Byrd,
Harry F., Jr.
Curtis
Hatfield
Helms
Scott,
William L.
Thurmond

NOT VOTING—20

Bayh
Bentsen
Brock
Cannon
Chiles
Church
Dole
Eagleton
Fong
Goldwater
Gravel
Johnston
Laxalt
Mathias
McGee
McIntyre
Montoya
Morgan
Stone
Taft

So the bill (H.R. 9968), as amended, was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Revenue Adjustment Act of 1975".

SEC. 1A. DECLARATION OF POLICY.

(a) Congress is determined to continue the tax reduction for the first 6 months of 1976 in order to assure continued economic recovery.

(b) Congress is also determined to continue to control spending levels in order to reduce the national deficit.

(c) Congress reaffirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974 under which it has already established a binding spending ceiling for the fiscal year 1976.

(d) If the Congress adopts a continuation of the tax reduction provided by this Act beyond June 30, 1976, and if economic conditions warrant doing so, Congress shall provide, through the procedures in the Budget Act, for reductions in the level of spending in the fiscal year 1977 below what would otherwise occur, equal to any additional reduction in taxes (from the 1974 tax rate levels) provided for the fiscal year 1977: *Provided, however,* That nothing shall preclude the right of the Congress to pass a budget resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by economic conditions or unforeseen circumstances.

SEC. 2. INDIVIDUAL INCOME TAX REDUCTIONS.

(a) LOW INCOME ALLOWANCE.—

(1) INCREASE.—Subsection (c) of section 141 of the Internal Revenue Code of 1954 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—

"(1) IN GENERAL.—The low income allowance is—

"(A) $2,100 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,050 in the case of a married individual filing a separate return.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1), the following amounts shall be substituted for the amount set forth in paragraph (1)—

"(A) '$1,700' for '$2,100' in subparagraph (A),

"(B) '$1,500 for $1,700' in subparagraph (B), and

"(C) '$850' for '$1,050' in subparagraph (C).".

(2) Change in filing requirements to reflect increase in low income allowance.—Paragraph (1)(A) of section 6012(a) of such Code (relating to persons required to make returns of income) is amended—

(A) by striking out "$2,500" in clause (i) of such paragraph and inserting in lieu thereof "$2,450";

(B) by striking out "$2,650" in clause (ii) of such paragraph and inserting in lieu thereof "$2,850"; and

(C) by striking out "$3,400" in clause (iii) of such paragraph and inserting in lieu thereof "$3,600".

(b) Percentage Standard Deduction.—

(1) Increase.—Subsection (b) of section 141 of such Code (relating to percentage standard deduction) is amended to read as follows:

"(b) Percentage Standard Deduction.—

"(1) General rule.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(A) $2,800 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)).

"(B) $2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,400 in the case of a married individual filing a separate return.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the following amounts shall be substituted for the amounts set forth in paragraph (1)—

"(A) '$2,400' for '$2,800' in subparagraph (A),

"(B) '$2,200' for '$2,400' in subparagraph (B), and

"(C) '$1,200' for '$1,400" in subparagraph (C).".

(2) Conforming amendments.—Section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$2,600" in paragraph (1)(B) and inserting in lieu thereof "$2,800", and

(B) by striking out "$2,300" in such paragraph and inserting in lieu thereof "$2,400".

(c) Earned Income Credit.—Subsections (a) and (b) of section 43 of such Code (relating to earned income credit) are amended to read as follows:

"(a) Allowance of Credit.—

"(1) General rule.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

"(b) Limitation.—

"(1) General rule.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(2) Application of 6-month rule.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

(d) Disregard of Refund.—Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility, for the month in which such refund is made or any month thereafter which begins prior to July 1, 1976, of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds, but only if such individual (or the family unit of which he is a member) is a recipient of benefits or assistance under such a program for the month before the month in which such refund is made.

(e) Extension of Certain Low-Income Allowance, Percentage Standard Deduction, and Tax Credit Provisions.—The last sentence of section 209(a) of the Tax Reduction Act of 1975 is amended to read as follows: "The amendments made by section 201(a) and 202(a) shall cease to apply to taxable years ending after December 31, 1975; those made by sections 201(b), 201(c), and 203 shall cease to apply to taxable years ending after December 31, 1976.".

(f) Extension of Earned Income Credit.—Section 209(b) of the Tax Reduction Act of 1975 (relating to effective date for section 204) is amended by striking out "January 1, 1976," and inserting in lieu thereof "January 1, 1977.".

(g) Effective Date.—The amendments made by this section apply to taxable years ending after December 31, 1975, and before January 1, 1977.

Sec. 3. Taxable Income Credit.

(a) Taxable Income Credit.—

(1) In general.—Section 42 of the Internal Revenue Code of 1954 (relating to credit for personal exemptions) is amended to read as follows:

"Sec. 42. Taxable Income Credit.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(A) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000; or

"(B) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.

"(2) Application of six-month rule.—Notwithstanding the provisions of paragraph (1) of this subsection, the percentage "1 percent" shall be substituted for "2 percent" in subparagraph (A) of such paragraph, and the amount "$17.50" shall be substituted for the amount "$35" in subparagraph (B) of such paragraph.

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to retirement income credit),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions (be reduced by the credit allowed by this section.

"(c) Special Rule for Married Individuals Filing Separate Returns.—

"(1) In general.—Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

"(A) the amount determined under paragraph (1)(A) of subsection (a); or

"(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (1)(B) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting '$4,500' for '$9,000'.

"(2) Application of paragraph (1)(B).—Subparagraph (B) of paragraph (1) shall apply to any taxpayer for any taxable year if—

"(A) such taxpayer elects to have such subparagraph apply for such taxable year, and

"(B) the spouse of such taxpayer elects to have such subparagraph apply for any taxable year corresponding, for purposes of section 142(a), to the taxable year of the taxpayer.

Any such election shall be made at such time, and in such manner, as the Secretary or his delegate shall by regulations prescribe.

"(3) Marital status.—For purposes of this subsection, the determination of marital status shall be made under section 143.

"(d) Certain Persons Not Eligible.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual.".

(2) Clerical amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Taxable income credit.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1975. Such amendments shall cease to apply to taxable years ending after December 31, 1976.

Sec. 4. Corporate Tax Rates and Surtax Exemption.

(a) Corporate Normal Tax.—Section 11(a) of the Internal Revenue Code of 1954 (relating to corporate normal tax) is amended to read as follows:

"(b) Normal Tax.—

"(1) General rule.—The normal tax is equal to—

"(A) in the case of a taxable year ending after December 31, 1976, 22 percent of the taxable income, and

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1977, the sum of—

"(i) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(2) Six-month application of general rule.—

"(A) Calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the normal tax for such taxable year is equal to the sum of—

"(i) 21 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(B) Fiscal year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall cease to apply and the normal tax shall be 22 percent.".

(b) Corporate Surtax.—Section 11(c) of such Code (relating to surtax) is amended to read as follows:

"(c) Surtax.—

"(1) General rule.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(2) Special rule for 1976 for calendar year taxpayers.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the surtax for such taxable year is—

"(A) 13 percent of the amount by which the taxable income exceeds the $25,000 surtax exemption (as in effect under subsection (d)(2)) but does not exceed $50,000, plus

"(B) 26 percent of the amount by which the taxable income exceeds $50,000.".

(c) Surtax Exemption.—Section 11(d) of such Code (relating to surtax exemption) is amended to read as follows:

"(d) Surtax Exemption.—

"(1) General rule.—For purposes of this subtitle, the surtax exemption for any taxable year is $50,000, except that, with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) Six-month application of general rule.—Notwithstanding the provisions of paragraph (1)—

"(A) Calendar year taxpayers.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the provisions of paragraph (1) shall be applied for such taxable year by substituting the amount '$25,000' for the amount '$50,000' appearing therein.

"(B) Fiscal year taxpayers.—In the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall be applied by substituting the amount '$25,000' for the amount '$50,000' appearing therein, and such substitution shall be treated, for purposes of section 21, as a change in a rate of tax.".

(d) Technical and Conforming Changes.—

(1) Section 1561(a)(1) of such Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000". Section 962(c) of such Code (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) as such section is in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000" and inserting in lieu thereof "the surtax exemption".

(2) Section 21(f) of such Code (relating to increase in surtax exemptions) is amended—

(A) by striking out "Increase" in the caption and inserting "Change" in lieu thereof, and

(B) by inserting after "Tax Reduction Act of 1975" the following: "and the change made by section 3(c) of the Revenue Adjustment Act of 1975".

(e) Effective Dates.—The amendments made by subsections (b), (c), and (d) apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) ceases to apply for taxable years beginning after December 31, 1976.

Sec. 5. Withholding; Estimated Tax Payments.

(a) Withholding.—

(1) In general.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source), as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and before July 1, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(2) Technical amendment.—Section 209 (c) of the Tax Reduction Act of 1975 is amendeed by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

(b) Estimated Tax Payments by Individuals.—Section 6153 of such Code (relating to installment payments of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(g) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to section 42(a)(2), 43(a)(2), 43(b)(2), 141(b)(2), or 141(c)(2).".

(c) Estimated Tax Payment by Corporations.—Section 6154 of such Code (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

"(h) Six-Month Application of Revenue Adjustment Act of 1975 Changes.—In the case of a corporation which has as its taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 1, 1976, may be computed without regard to sections 11(b)(2), 11(c)(2), and 11(d)(2).".

Sec. 6. Rolling Stock.

(a) Exclusion From Income.—Section 883 (a) of the Internal Revenue Code of 1954 is hereby amended by adding at the end thereof the following new paragraph:

"(3) Railroad rolling stock of foreign corporations.—Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States."

(b) Effective Date.—The amendment made by this section shall apply to payments made after November 18, 1974.

Sec. 7. Certain Irrigation Facilities.

(a) In General.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Certain Irrigation Dams.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c)(4)(G) if—

"(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

"(2) the water so released is available on reasonable demand to members of the general public.".

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

Mr. LONG. Mr. President, I ask unanimous consent that in the engrossment of the amendments of the Senate, the Secretary of the Senate be authorized to make all necessary technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the title of the bill be amended to read as follows: "An act to change certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes."

The PRESIDING OFFICER. Without objection, it is so ordered.

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1975—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I move that the Senate turn to the consideration of the conference report on S. 2718, the Rail Services Act.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. If the motion of the distinguished majority leader is agreed to, will this displace the Department of Defense Appropriations legislation as the pending business, or will we return to that matter upon the disposition of the conference report on the railroad bill?

The PRESIDING OFFICER. The Chair would read from the rules that a privileged matter under consideration by the Senate may be displaced by another privileged matter by a majority vote. Therefore, the Chair would rule that this issue would depend upon the outcome of the vote.

Mr. GRIFFIN. I ask the majority leader if he would modify his motion so that we could take up the conference report under a unanimous-consent agreement, which there would be no objection to. Not speaking necessarily for myself, there are Senators who are willing to take up other business, provided that the defense appropriation conference report is not displaced, and that we will return to it upon the disposition of this matter.

Mr. MANSFIELD. If that is the wish of the distinguished assistant Republican leader.

Mr. GRIFFIN. It happens to be at the present time, I say to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I change my request to ask unanimous consent that the Senate proceed to the immediate consideration of the conference report.

Mr. GRIFFIN. That we temporarily lay the pending matter aside to take this up?

Mr. MANSFIELD. Yes, that is correct.

Mr. GRIFFIN. The majority leader can also get a time limitation agreement, if he likes.

Mr. MANSFIELD. I first want to get this laid down.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report without the official papers at the desk?

There being on objection, the Senate proceeded to consider the report, which is as follows:

CONFERENCE REPORT (S. REPT. No. 94–585)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the text of the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Railroad Revitalization and Regulatory Reform Act of 1975":

TITLE I—GENERAL PROVISIONS

DECLARATION OF POLICY

SEC. 101. It is the purpose of the Congress in this Act to provide for rehabilitating and maintaining the physical facilities, rationalizing the operations and structure, and restoring the financial stability, of the railway system of the United States, and to promote the revitalization of such railway system, so that this mode of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient, ecologicaly compatible transportation services with greater efficiency, effectiveness, and economy, through—

(1) ratemaking and regulatory reform;

(2) the encouragement of efforts to restructure the system on a more economically justified basis, including planning authority in the Secretary of Transportation, an expedited procedure for determining whether merger and consolidation applications are in the public interest, and continuing reorganization authority;

(3) financing mechanisms that will assure adequate rehabilitation and improvement of facilities and equipment, implementation of the final system plan, and implementation of the Northeast Corridor project;

(4) transitional continuation of service on light-density rail lines that are necessary to continued employment and community well-being throughout the United States;

(5) auditing, accounting, reporting and other requirements to protect public funds and to assure repayment of loans, and financial responsibility; and

(6) necessary studies

It is further declared to be the policy of the Congress in this Act to—

(A) balance the needs of carriers, shippers, and the public;

(B) foster competition among all carriers by railroad and other modes of transportation, to promote more adequate and efficient transportation services and to increase the attractiveness of investigating in railroads and rail-service-related enterprises;

(C) permit railroads greater freedom to price their services in competitive markets;

(D) promote the establishment of rate structures which are more sensitive to changes in the level of seasonal, regional, and shipper demand;

(E) promote separate pricing of distinct rail and rail-related services;

(F) formulate standards and guidelines for determining adequate revenue levels; and

(G) modernize and clarify the functions of rate bureaus.

DEFINITIONS

SEC. 102. As used in this Act, unless otherwise specified, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "final system plan" means the final system plan issued by the United States Railway Association on July 26, 1975, under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717);

(5) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(6) "Office" means the Transportation Services Planning Office of the Commission;

(7) "railroad" means a common carrier by railroad or express, as defined in section 1 (3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation and The Alaska Railroad; and

(8) "Secretary" means the Secretary of Transportation.

TITLE II—RAILROAD RATES

EXPEDITIOUS DIVISIONS OF REVENUES

SEC. 201. Section 15(6) of the Interstate Commerce Act (49 U.S.C. 15(6)) is amended by (1) inserting after "(6)" and before the first sentence thereof the following two new subparagraphs:

"(b) Notwithstanding any other provision of law, the Commission shall, within 180 days after the date of enactment of this subparagraph, by rule, establish standards and procedures for the conduct of proceedings for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise) in accordance with the provisions of this paragraph. The Commission shall issue a final order in all such proceedings within 270 days after the submission to the Commission of a case. If the Commission is unable to issue such a final order within such time, it shall issue a report to the Congress setting forth the reasons for such inability. All evidentiary proceedings conducted pursuant to this paragraph shall be completed, in a case brought upon a complaint, within 1 year following the filing of the complaint, or, in a case brought upon the Commission's initiative, within 2 years following the commencement of such proceeding unless the Commission finds that such a proceeding must be extended to permit a fair and expeditious completion of the proceeding. The Commission shall file a written report with the Congress of any such finding and the reasons therefor. Upon receipt of a notice of intent to file a complaint pursuant to this paragraph, the Commission shall accord, to the party filing such notice, the same right to discovery that would be accorded to a party filing a complaint pursuant to this paragraph.

"(C) Whenever a proceeding for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise established) is commenced by the filing of a complaint with the Commission, the complaining carrier or carriers (i) shall attach thereto all of the evidence in support of their position, and (ii) shall, during the course of such proceeding, file only rebuttal or reply evidence unless otherwise directed by order of the Commission.".

RAILROAD RATEMAKING

SEC. 202. (a) Section 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)) is amended to read as follows:

"(5) (a) Each rate for any service rendered or to be rendered in the transportation of persons or property by any carrier subject to this part shall be just and reasonable. A rate that is unjust or unreasonable is prohibited and unlawful. No rate which contributes or which would contribute to the going concern value of a carrier shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate is below a just or reasonable minimum for the service rendered or to be rendered. A rate which equals or exceeds the variable costs (as determined through formulas prescribed by the Commission) of providing a service shall be presumed, unless such presumption is rebutted by clear and convincing evidence, to contribute to the going concern value of the carrier or carriers proposing (hereafter referred to as the "proponent carier") such rate. Notwithstanding any other provisions of this part, no rate shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate exceeds a just or reasonable maximum for the service rendered or to be rendered unless the Commission has first found that the proponent carrier has market dominance over such service. A finding that a carrier has market dominance over a service shall not create a presumption that the rate or rates for such service exceeds a just and reasonable maximum. Nothing in this paragraph shall prohibit a rate increase from a level which reduces the going concern value of the proponent carrier to a level which contributes to such going concern value and is otherwise just and reasonable; for the purposes of this sentence a rate increase which does not raise a rate above the incremental costs (as determined through formulas prescribed by the Commission) of rendering the service to which such rate applies shall be presumed to be just and reasonable.

"(b) As used in this paragraph, the term—

"(i) 'market dominance' refers to an absence of effective competition for the traffic or movement to which a rate applies from other carriers or modes of transportation; and

"(ii) 'rate' means any rate or charge for the transportation of persons or property.

"(c) Within 240 days after the date of enactment of this subparagraph, the Commission shall establish, by rule, standards and procedures for determining, in accordance with section 15(8) of this part, whether and when a carrier possesses market dominance over a service rendered or to be rendered at a particular rate or rates. Such rules shall be designed to provide for a practical determination without administrative delay. The Commission shall solicit and consider the recommendations of the Attorney General and of the Federal Trade Commission in the course of establishing such rules.".

(b) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by renumbering paragraphs (8) through (14) thereof as paragraphs (9) through (15) thereof, respectively, and by inserting therein a new paragraph (8) as follows:

"(8) Whenever a rate is challenged as being unreasonably high, the Commission shall, upon complaint or upon its own initiative and within 90 days after the commencement of a proceeding to investigate the lawfulness of such rate, determine whether the carrier proposing such rate has market dominance, within the meaning of section 1(5)(b)(i) of this part, over the service to which such rate applies. If the Commission finds that a carrier does not have such market dominance. such finding shall be determinative in all additional or other proceedings concerning such rate or service, unless (a) such finding is modified or set aside by the Commission, or (b) such finding is set aside by a court of competent jurisdiction. Nothing in this paragraph limits the Commission's power to suspend a rate pursuant to paragraph (7) of this section, except that if the Commission has found that a carrier does not have such market dominance over the service to which a rate applies, the Commission may not suspend any increases in such rate on the ground that such rate as increased exceeds a just or reasonable maximum for such service, unless the Commission specifically modifies or sets aside its prior determination concerning market dominance over the service to which such rate applies.".

"(6) If any hearing under this section, the burden of proof is on the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation, or practice will have a significantly adverse effect on the competitive posture of shippers or consignees to be affected by such change.". The Commission shall give such hearing and decision preference over all other matters pending before the Commission and shall make its decision at the earliest practicable time.

(c) The last sentence of section 15a(3) of the Interstate Commerce Act (49 U.S.C. 15a (3)) is amended to read as follows: "No rate of a carrier shall be held up to a particular level to protect the traffic of any other carrier or mode of transportation, unless the Commission finds that such rate reduces or would reduce the going concern value of the carrier charging the rate.".

(d) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by adding at the end thereof the following two new paragraphs:

"(16) Within 1 year after the date of enactment of this paragraph, the Commission shall establish, by rule, standards and expeditious procedures for the establishment of railroad rates based on seasonal, regional, or peak-period demand for railroad services. Such standards and procedures shall be designed to (a) provide sufficient incentives to shippers to reduce peak-period shipment through rescheduling and advance planning; (b) generate additional revenues for the railroads; and (c) improve (i) the utilization of the national supply of freight cars, (ii) the movement of goods by rail, (iii) levels of employment by railroads, and (iv) the financial stability of markets served by railroads. Following the establishment of such standards and procedures, the Commission shall prepare and submit to the Congress annual reports on the implementation of such rates, including recommendations with respect to the need, if any, for additional legislation to facilitate the establishment of such demand-sensitive rates.

"(17) In order to encourage competition, to promote increased reinvestment by railroads, and to encourage and facilitate increased nonrailroad investment in the production of rail services, a carrier by railroad subject to this part may, upon its own initiative or upon the request of any shipper or receiver of freight, file separate rates for distinct services. Within 1 year after the date of enactment of this paragraph, the Commission shall establish, by rule, expeditious procedures for permitting publication of separate rates for distinct railroad services in order to (a) encourage the pricing of such services and the demand therefor, and (b) enable shippers and receivers to evaluate all transportation and related charges and alternatives.".

(e) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended—

(A) by adding at the end of paragraph (7) thereof the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to this part."; and

(B) by redesignating paragraphs (8) through (14) as paragraphs (9) through (15), respectively, and by inserting immediately after paragraph (7) the following new paragraph:

"(9)(a) Whenever a schedule is filed with the Commission by a common carrier by railroad stating a new individual or joint rate, fare, or charge, or a new individual or joint classification, regulation, or practice affecting a rate, fare, or charge, the Commission may, upon the complaint of an interested party or upon its own motion, order a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice. The hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Such hearing shall be completed and a final decision rendered by the Commission not later than 7 months after such rate, fare, charge, classification, regulation, or practice was scheduled to become effective, unless, prior to the expiration of such 7-month period, the Commission reports in writing to the Congress that it is unable to render a decision within such period, together with a full explanation of the reason for the delay. If such a report is made to the Congress, the final decision shall be made not later than 10 months after the date of the filing of such schedule. If the final decision of the Commission is not made within the applicable time period, the rate, fare, charge, classification, regulation, or practice shall go into effect immediately at the expiration of such time period, or shall remain in effect if it has already become effective. Such rate, fare, charge, classification, regulation, or practice may be set aside thereafter by the Commission if, upon complaint of an interested party, the Commission finds it to be unlawful.

"(b) Pending a hearing pursuant to subdivision (a), the schedule may be suspended for 7 months beyond the time when it would otherwise go into effect, or for 10 months if the Commission files a report to Congress pursuant to subdivision (a), except under the following conditions:

"(i) in the case of a rate increase, a rate may not be suspended on the ground that it exceeds a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act or, following promulgation of standards and procedures in accordance with section 15(8) of this part, if the carrier is found to have market dominance within the meaning of section 1(5)(B)(i) of this part, over the service to which such rate increase applies; or

"(ii) in the case of a rate decrease, a rate may not be suspended on the ground that it is below a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under sections 2, 3, and 4 of this Act or for the purposes of investigating such rate change on a complaint pursuant to subparagraph (d) of this paragraph. That such rate change constitutes a competitive practice which is unfair, destructive, predatory or otherwise undermines competition which is necessary in the public interest.

"(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b) (i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only to rate changes in which—

"(i) the rate increase or decrease is filed within 2 years of the date of the enactment of this subparagraph;

"(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subparagraph;

"(iii) the increase or decrease in any rate filed within the first calendar year following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1976; and

"(iv) effect on January 1, 1977;

"(d) The Commission may not suspend a rate under this paragraph unless it appears from specific facts shown by the verified complaint of an interested party that—

"(i) without suspension the proposed rate change will cause injury to the complainant; and

"(ii) there is reasonable grounds for presuming that the rate is in violation of this part.

Nothing in this paragraph shall be construed as establishing a presumption that any rate increase or decrease in excess of the limits set forth in subdivision (c) is unlawful or should be suspended.

"(e) If a hearing of a proposed increased rate, fare, or charge is initiated and the schedule is not suspended pending hearing, the Commission shall require the common carrier by railroad to keep an account of all amounts received because of the increase from the date such rate, fare, or charge became effective until an order issues or until 7 months elapse, whichever first occurs, or, if the hearings are extended pursuant to subdivision (a), until an order issues or until 10 months elapse, whichever first occurs. The account shall specify by whom and in whose behalf the amounts are paid. In its final order, the Commission shall require the common carrier by railroad to refund to the person in whose behalf the amounts were paid that portion of such increased rate, fare, or charge found to be not justified, plus interest at a rate which is equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. With respect to any proposed decreased rate, fare, or charge which is suspended, if the decrease or any part of it is ultimately found to be lawful, the common carrier by railroad may refund any part of the portion of such decreased rate, fare, or charge found justified if such carrier makes such a refund available on an equal basis to all shippers who participated in such rate, fare, or charge, according to the relative amounts of traffic shipped at such rate, fare, or charge.

"(f) In any hearing under this section, the burden of proof is on the common carrier by railroad to show that the proposed changed, rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall give such hearing and decision preference over all other matters relating to railroads pending before the Commission and shall make its decision at the earliest practicable time.

(f) Nothing in this section shall be construed to—

(1) modify the application of section 2, 3, or 4 of the Interstate Commerce Act (49 U.S.C. 2, 3, and 4) in determining the lawfulness of any rate or practice;

(2) to make lawful any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is necessary in the public interest;

(3) to affect the existing law or the authority of the Commission with respect to rate relationships between ports; or

(4) to affect the authority and responsibility of the Commission to guarantee the equalization of rates within the same port.

(g) The Secretary and the Commission shall separately study the effect of the amendments made by this section on the development of an efficient and financially stable railway system in the United States. Such studies shall include (1) an analysis of the effects of such provisions upon shippers and upon carriers in all modes of transportation, and (2) proposals for further regulatory and legislative changes, if necessary. The Commission shall gather all data relating to such studies as requested by the Secretary, and shall make such data available to the Secretary. The Secretary and the Commission shall transmit the results of their respective studies to each House of the Congress within 30 months after the date of the enactment of this Act.

TARIFF MODIFICATIONS

SEC. 203. (a) Section 15(3) of the Interstate Commerce Act (49 U.S.C. 15(3)) is amended by adding at the end thereof the following new sentence: "In determining whether any such cancellation or proposed cancellation is consistent with the public interest, the Commission shall, to the extent applicable, (a) compare the distance traversed and the average transportation time and expense required using the through route and the distance traversed and the average transportation time and expense required using alternative routes between the points served by such through route; (b) consider any reduction in energy consumption which may result from such cancellation; and (C) take into account the overall impact of such cancellation on the shippers and carriers who are affected thereby.".

(b) Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall, in any proceeding which involves a proposed increase or decrease in railroad rates specifically consider allegations that such increase or decrease would change the rate relationships between commodities, ports, points, regions, territories, or other particular descriptions of traffic (whether or not such relationships were previously considered or approved by the Commission) and allegations that such increase or decrease would have a significantly adverse effect on the competitive posture of the shippers or consignees who would be affected thereby. If the Commission finds that such allegations as to change or effect are substantially supported on the record, it shall take such steps as are necessary, either before or after such proposed increase or decrease becomes effective and either within or outside such proceeding, to investigate the lawfulness of such change or effect."

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR THE TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

SEC. 204. (a) INVESTIGATION.—The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

(1) conduct an investigation of (A) the rate structure for the transportation, by carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which that rate structure has been affected by successive general rate increases approved by the Commission for such common carriers by railroad. The Commission shall, after a public hearing during which the burden of proof shall be upon such common carriers by railroad to show that the rate structure as affected by rate increases applicable to the transportation of such competing materials is just, reasonable, and nondiscriminatory, determine whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;

(2) in all cases in which such transportation rate structure is determined to be, in whole or in part, unjustly discriminatory or unreasonable, issue orders requiring the removal from such rate structure of such unreasonableness or unjust discrimination; and

(3) report to the President and the Congress, in the annual report of the Commission for each of the 3 years following the date of enactment of this Act, and in such other reports as may be appropriate, all actions commenced or completed under this section to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable or recycled materials.

(b) ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY TO PARTICIPATE.—The Administrator of the Environmental Protection Agency shall take such steps, in proceedings before the Commission, as are necessary to assure that the directives set forth in subsection (a) of this section are carried out as expeditiously as possible. Such Administrator may participate as party in the investigation to be commenced by the Commission under such subsection (a).

(c) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—The Secretary, in cooperation with the Commission, shall establish a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods for the purpose of facilitating the competitive and efficient transportation of recyclable materials by common carriers by railroad subject to part I of the Interstate Commerce Act.

(d) REVIEW.—Orders issued by the Commission pursuant to this section shall be subject to judicial review or enforcement in the same manner as other orders issued by the Commission under the Interstate Commerce Act. In all proceedings under this section, the Commission shall comply fully with the requirements of the National Environmental Policy Act.

(e) DEFINITIONS.—As used in this section, the term—

(1) "recyclable material" means any material which has been collected or recovered from waste for a commercial or industrial use, whether or not such collection or recovery follows end usage as a product; and

(2) "virgin natural resource material" and "virgin material" mean any raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or other resource which is, or which will become (through the application of technology) a source of raw material for commercial or industrial use.

ADEQUATE REVENUE LEVELS

SEC. 205. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended—

(1) by adding at the end of paragraph (2) and at the end of paragraph (3) the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to the part."; and

(2) by redesignating paragraph (4) as paragraph (5), and by inserting immediately after paragraph (3) the following new paragraph:

"(4) With respect to common carriers by railroad, the Commission shall, within 24 months after the date of enactment of this paragraph, after notice and an opportunity for a hearing, develop and promulgate (and thereafter revise to the extent appropriate and maintain) reasonable standards and procedures for the establishment of revenue levels adequate under honest, economical, and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable, and economic profit and/or return on capital employed in the business, which revenue levels should provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation. Such revenue levels should insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States. The Commission shall make an adequate and continuing effort to assist such carriers in attaining such revenue levels.".

RATE INCENTIVES FOR CAPITAL INVESTMENT

SEC. 206. Section 15 of the Interstate Commerce Act (49 U.S.C. 15), as amended by section 202 of this Act, is amended by adding at the end thereof the following new paragraph:

"(18) Notwithstanding any other provision of law, a common carrier by railroad subject to this part may file with the Commission a notice of intention to file a schedule stating a new rate, fare, charge, classification, regulation, or practice whenever the implementation of the proposed schedule would require a total capital investment of $1,000,000 or more, individually or collectively, by such carrier, or by a shipper, receiver, or agent thereof, or an interested third party. The filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such filing is based. Any interested person may request the Commission to investigate the schedule proposed to be filed, and upon such request the Commission shall hold a hearing with respect to such schedule. Such hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Unless prior to the 180-day period following the filing of the notice of intention the Commission has determined, after a hearing, that the proposed schedule, or any part thereof, would be unlawful, such carrier may file the schedule at any time thereafter to become effective after 30 days notice. The schedule may not, for a period of 5 years after its effective date, be suspended or set aside as being unlawful under section 1, 2, 3, or 4 of this Act, except that the Commission may order such schedule to be revised to a compensatory level after such date if the rate stated therein is found to be not compensatory.".

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

SEC. 207. Paragraph (1) of section 12 of the Interstate Commerce Act (49 U.S.C. 12 (1)) is amended by inserting "(a)" immediately before "The Commission" and by adding at the end thereof the following new subdivision:

"(b) Whenever the Commission determines, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for hearing, that the application of any provision of this part to any person or class of persons or to any services or transactions by reason of the limited scope of such services or transactions is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall by order exempt such persons or class of persons or services or transactions from such provision to the extent and for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it finds, after notice and reasonable opportunity for hearing, that the subjugation of the exempted person or class of persons or exempted services or transactions to the provisions of this part, to the extent specified in the order, is necessary to effectuate the national transportation policy declared in this Act and to achieve effective regulation by the Commission, and would serve a useful public purpose."

RATE BUREAUS

SEC. 208. (a) Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended in paragraph (1) thereof by striking out "part I, II," and inserting in lieu thereof "part II".

(b) Part I of the Interstate Commerce Act is amended by inserting after section 5a thereof a new section 5b as follows:

"AGREEMENTS BETWEEN CARRIERS SUBJECT TO PART I

"SEC. 5b. (1) As used in this section, the term—

"(a) 'affiliate means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person. As used in this subparagraph, the term (i) 'control' has the same meaning as in section 1(3)(b) of this part; and (ii) 'ownership' refers to equity holdings of 5 percent or more in any business entity;

"(b) 'antitrust laws' means the Act of July 2, 1890, as amended (15 U.S.C. 1, et seq.), the Act of October 15, 1914, as amended (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Act of August 27, 1894, as amended (15 U.S.C. 8 and 9), and chapter 592 of the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a); and

"(c) 'carrier' means any common carrier subject to part I of this Act.

"(2) Any carrier which is a party to an agreement, between or among two more carriers, relating to rates, fares, classification, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, shall, under such rules and regulations as the Commission shall prescribe, apply to the Commission for approval of such agreement. The Commission shall, by order, approve any such agreement if approval thereof is not prohibited by paragraph (4), (5), or (6), if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (9) should apply with respect to the making and carrying out of such agreement: otherwise the application shall be denied. No such approval shall be granted or continued (a) if any of the terms and conditions which are prescribed under the last sentence of this paragraph are violated or not complied with, or (b) unless the Commission receives a verified written statement (and, upon request by the Commission, a written supplement or addendum thereto) setting forth, with respect to each carrier which is a party to such agreement (i) its name; (ii) the mailing address and telephone number of its headquarter's office; (iii) the names of each of its affiliates; (iv) the names, addresses, and affiliations of each of its officers and directors and of each person who, together with any affiliate, either owns or controls any debt, equity, or security interest in it having a value of $1,000,000 or more; and (v) such other information as the Commission directs to be included. The approval of the Commission shall be granted only upon such terms and conditions as the Commission shall prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

"(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission. All such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives. The Commission may conduct investigations, make reports, issue subpenas, conduct hearings, require the production of relevant documents, records, and property, copy and verify the correctness of information subject to inspection, and take deposition (a) to determine whether any such conference, bureau, committee, or other organization, or any carrier which is a party to any such agreement, has acted or is acting in compliance with the provisions of this section, regulations issued under this section, and the public interest; (b) to determine whether any such organization or carrier is inhibiting an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation; and (c) for such other purposes as the Commission deems appropriate.

"(4) The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is, by its terms and in practice and effect as implemented, of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes. For purposes of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipeline companies are carriers of one class; carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; and freight forwarders are carriers of one class.

"(5) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction, to which section 5 of this Act is applicable.

"(6) (a) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action, without fear of any sanction or retaliatory action, at any time before or after any determination arrived at through such procedure. In no event shall any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section—

"(i) permit participation in discussions or agreements with respect to, or any voting on, single-line rates, allowances, or charges established by any carrier;

"(ii) permit any carrier to participate in discussions or agreements with respect to, or to vote on, rates, allowances, or charges relating to any particular interline movement, unless such carrier can practicably participate in such movement; or

"(iii) permit, provide for, or establish any procedure for joint consideration or any joint action to protest or otherwise seek the suspension of any rate or classification filed by a carrier of the same mode pursuant to section 15(7) of this part where such rate or classification is established by independent action.

As used in clause (i) of this subdivision, a single-line rate, fare, classification, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

"(b) The limitations set forth in subdivision (a) shall not be applicable (i) to general rate increases or decreases, if the agreements accord the shipping public, under specified procedures, adequate notice of at least 15 days of such proposals and an opportunity to present representations thereon, in writing or otherwise, prior to the filing with the Commission of the tariffs containing such increases or decreases, or (ii) to broad tariff changes where such changes are of general application or substantially general application throughout a territory or territories with which such changes are to be applicable. In any proceeding in which it is alleged that a carrier discussed, voted, or agreed upon a rate, allowance, or change, contrary to the provisions of this section, the party alleging such violation shall have the burden of showing such discussion, vote, or agreement; a showing of parallel behavior is not, by itself, sufficient to satisfy such burden.

"(7) (a) The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in paragraph (2) and with the public interest and whether any such terms and conditions are not necessary or whether any additional or modified such terms and conditions are necessary for purposes of conformity with such standard. After any such investigation the Commission shall by order terminate or modify its approval of such an agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

"(b) The Commission shall periodically, but not less than once every 3 years, review each agreement which the Commission has by order approved under this section to determine whether such agreement, or any conference, bureau, committee, or other organization established or continued pursuant to such agreement, still conforms with the standard set forth in paragraph (2) and the public interest and to evaluate the success and effect upon the consuming public and the national rail freight transportation system of such agreement and organization. The Commission shall report to the President and to the Congress on the results of such reviews, as part of its annual report pursuant to section 21. If the Commission makes a determination that any such agreement or organization is no longer in conformity with such standard, the Commission shall by order terminate or suspend immediately its approval thereof.

"(8) No order shall be entered under this section except after interested parties have been afforded a reasonable opportunity for hearing.

"(9) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4), (5), or (6), hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with the provisions and in conformity with the terms and conditions prescribed by the Commission.

"(10) Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying the approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (9).

"(11) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall periodically prepare an assessment of, and shall report to the Commission on (a) any possible anticompetitive features of (i) any agreement approved or submitted for approval under this section, and (ii) any conferences, bureaus, committees, or other organizations operating under such agreements, and (b) possible ways to eliminate or alleviate any such anticompetitive features, effects, or aspects in a manner that will further the goals of the National Transportation Policy and this Act. The Commission shall make such reports available to the public.

"(12) Any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under this section shall make a final disposition with respect to any rule, rate, or charge docketed with such organization within 120 days after such proposal is docketed.".

FILING PROCEDURES

SEC. 209. Section 6(6) of the Interstate Commerce Act (49 U.S.C. 6(6)) is amended by deleting "shall prescribe; and the" and inserting in lieu thereof the following: "shall prescribe. The Commission shall, beginning 2 years after the date of enactment of this sentence, require (a) that all rates shall be incorporated into the individual tariffs of each carrier or ratemaking association within 2 years after the initial publication of the rate, or within 2 years after a change in any rate is approved by the Commission, whichever is later, and (b) that any rate shall be null and void with respect to any carrier or association which does not so incorporate such rate into its individual tariff: Provided, That the Commission may, upon good cause shown, extend such period of time; a notice of any such extension and a statement of the reasons therefor shall be promptly transmitted to the Congress. The".

INTRASTATE RAILROAD RATE PROCEEDINGS

SEC. 210. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by striking out ": Provided, that" and all that follows through "notwithstanding" in paragraph (4) thereof, and by adding at the end thereof the following new paragraph:

"(5) The Commission shall have exclusive authority, upon application to it, to determine and prescribe intrastate rates if—

"(a) a carrier has filed with an appropriate administrative or regulatory body of a State a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing such a rate, fare, or charge, for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and

"(b) the State administrative or regulatory body has not, within 120 days after the date of such filing, acted finally on such change. Notice of the application to the Commission shall be served on the appropriate State administrative or regulatory body. Upon the filing of such an application, the Commission shall determine and prescribe the rate thereafter to be charged according to the standards set forth in paragraph (4) of this section. The provisions of this paragraph shall apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.".

DEMURRAGE CHARGES

SEC. 211. (a) Section 1(6) of the Interstate Commerce Act (49 U.S.C. 1(6) is amended by inserting at the end thereof the following: "Demurrage charges shall be computed, and rules and regulations relating to such charges shall be established, in such a manner as to fulfill the national needs (a) of freight car utilization and distribution, and (b) of maintenance of an adequate freight car supply available for transportation of property.".

CAR COMPENSATION

SEC. 212. (a) Section 1(14)(a) of the Interstate Commerce Act (49 U.S.C. 1(14)(a)) is amended to read as follows:

"(14)(a) It is the intent of the Congress to encourage the purchase, acquisition, and efficient utilization of freight cars. In order to carry out such intent, the Commission may, upon complaint of an interested party or upon its own initiative without complaint, and after notice and an opportunity for a hearing, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including the compensation to be paid for the use of any locomotive, freight car, or other vehicle; the other terms of any contract, agreement, or arrangement for the use of any locomotive or other vehicle (other than a freight car) not owned by the carrier by which it is used (and whether or not owned by another carrier); and the penalties or other sanctions for nonobservance of such rules, regulations, or practices. The Commission shall, at least once every 2 years, determine the rates of compensation to be paid for the use of each type of freight car owned or controlled by a railroad. In determining such compensation, the Commission shall give consideration to the national level of ownership of each such type of freight car and to other factors affecting the adequacy of the national freight car supply. Such compensation shall be fixed on the basis of elements of ownership expense involved in owning and maintaining each such type of freight car, including a fair return on the cost of such type of freight car (giving due consideration to current costs of capital, repairs, materials, parts, and labor). Such compensation may be increased by any incentive element which will, in the judgment of the Commission, provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. The Commission shall not make any incentive element applicable to any type of freight car if the Commission finds that the supply of such type of freight car is adequate. The Commission may exempt from the compensation to be paid by any group of carriers such incentive element or elements if the Commission finds such exemption to be in the national interest.".

(b) The Commission shall, within 18 months after the date of enactment of this Act, revise its rules, regulations, and practices with respect to car service, in accordance with the amendment made by subsection (a).

TITLE III—REFORM OF THE INTERSTATE COMMERCE COMMISSION

ACCESS TO INFORMATION BY CONGRESSIONAL COMMITTEES

SEC. 301. Section 17 of the Interstate Commerce Act (49 U.S.C. 17), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(14) Whenever the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce of the Senate makes a written request for documents which are in the possession or under the control of the Commission and which relate to any matter involving a common carrier by railroad subject to this part, the Commission shall, within 10 days after the receipt of such request, submit such documents (or copies thereof) to such committee, or submit a report in writing to such committee stating the reason that such documents have not been so submitted, and the anticipated date on which they will be submitted. If the Commission transfers any document in its possession or under its control to any other agency or to any person, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission for purposes of complying with the preceding sentence. This paragraph shall not apply to documents which have been obtained by the Commission from persons subject to regulation by the Commission, and which contain trade secrets or commercial or financial information of a privileged or confidential nature. This paragraph shall not be deemed to restrict any other authority of either House of Congress or any committee or subcommittee thereof to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.".

EFFECTIVE DATE OF ORDERS OF THE COMMISSION

SEC. 302. Section 15(2) of the Interstate Commerce Act (49 U.S.C. 15(2)), is amended by deleting ", not less thirty days,", and inserting in lieu thereof "as the Commission may prescribe".

COMMISSION HEARING AND APPELLATE PROCEDURE

SEC. 303. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively, and by inserting immediately after paragraph (8) the following new paragraph:

"(9)(a) Whenever the term 'hearing' is used in this part, such term shall be construed to include an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties, such conferences to be chaired by a division, an individual Commissioner, an administrative law judge, an employee board, or any other designated employee of the Commission.".

"(b) Whenever the Commission assigns the initial disposition of any matter before the Commission to an administrative law judge, individual Commissioner, employee board, or division or panel of the Commission, such judge, Commissioner, board, division, or panel shall—

"(i) complete all evidentiary proceedings with respect to such matter within 180 days after its assignment; and

"(ii) with respect to any matter so assigned which involves written submissions or the taking of testimony at a public hearing, submit in writing within 120 days after the completion of all evidentiary proceedings an initial decision, report, or order containing—

"(A) specific findings of fact;

"(B) specific and separate conclusions of law;

"(C) a recommended order; and

"(D) any justification in support of such findings of fact, conclusions of law, or order.

The Commission, or a duly designated division thereof, may, in its discretion, void any requirement for an initial decision, report, or order, and, in appropriate cases, may direct that any matter shall be considered forthwith by the Commission or such division, if it concludes that the matter involves a question of agency policy, a new or novel issue of law, or an issue of general transportation importance, or if the due and timely execution of its functions so requires. Whenever an initial decision, report or order is submitted, copies thereof shall be served upon interested parties. Any such party may file an appeal with the Commission, with respect to such initial decision or report. If no such appeal is filed within 20 days after such service, or within such further period as the Commission or a duly designated division thereof may authorize, the order set forth in such initial decision or report shall become the order of the Commission and shall become effective unless, within such period, the order shall have been stayed or postponed by the Commission or by a duly designated division thereof.

The Commission or a duly designated division thereof may, upon its own initiative, and shall, in any case in which such an appeal is filed, review the matter, upon the same record or upon the basis of a further hearing. Any such appeal shall be considered and acted upon by the Commission or a duly designated division thereof within 180 days after the date on which such appeal is filed. Any such decision, report or order shall be stayed pending the determination of such appeal. Such a review shall be conducted in accordance with section 557 of title 5, United States Code, and such rules (limiting and defining the issues and pleadings upon review) as the Commission may adopt in conformance with section 557(b) of such title 5. With respect to this paragraph, the Commission may, in its discretion, authorize duly designated employee boards to perform, on such terms and conditions as it prescribes, functions of the same character as those which may be performed by a duly designated division of the Commission. If the initial review of any appeal under this paragraph is performed by such an employee board, the decision of such board may be appealed to the Commission or to a duly designated division thereof, in accordance with this paragraph.".

"(c) Any decision, order, or requirement of the Commission, or of a duly designated division thereof shall become effective within 30 days after it is served on the parties thereto, unless the Commission provides for such decision, order, or requirement, or any applicable rule, to become effective at an earlier date. Any interested party to a decision, order, or requirement of a duly designated division of the Commission may petition the Commission for rehearing, reargument, or reconsideration, subject to such rules and limitations as the Commission may establish. If the Commission finds that a matter of general transportation importance is presented, the Commission may reconsider the decision, order, or requirement, and it may, in its discretion, stay the effective date of such decision, order, or requirement.".

If the Commission reviews a decision, order, or requirement of the Commission or a duly designated division, it must complete the review process and issue its final order not more than 120 days after the date it granted the application for review.

(d) The Commission may, in its discretion, extend any time period set forth in sections (5) or (6) for a period of not more than 90 days if a majority of the Commissioners, by public vote, agree to such extension. The Commission shall submit an annual report in writing to each House of the Congress setting forth each extension granted pursuant to this subdivision, classified by the type of proceeding involved, and stating the reasons for each such extension and the duration thereof.

(e) In extraordinary situations in which an extension granted pursuant to subdivision (d) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

"(i) not less than 7 of the Commissioners, by public vote, agree to such further extension; and

"(ii) not less than 15 days prior to expiration of the extension granted pursuant to subdivision (d), the Commission reports in writing to the Congress that such further extension has been granted, together with—

"(A) a full explanation of the reasons for such further extension;

"(B) the anticipated duration of such further extension;

"(C) the issues involved in the matter before the Commission; and

"(D) the names of personnel of the Commission working on such matter.

"(d) The Committee may at any time upon its own motion—

"(i) reopen any proceeding;

"(ii) grant rehearing, reargument, or reconsideration with respect to any decision, order, or requirement; and

"(iii) reverse, modify, or change any decision, order, or requirement.

The Commission may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon new evidence or changed circumstances.

"(f) Any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall be final on the date on which it is served. A civil action to enforce, enjoin, suspend, or set aside such a decision, order, or requirement, in whole or in part, may be brought after such date in a court of the United States pursuant to the provisions of law which are applicable to suits to enforce, enjoin, suspend, or set aside orders of the Commission.".

"(g) Notwithstanding the provisions of paragraphs (5), (6), (7), and (8), the provisions of this paragraph shall govern the disposition of any matter before the Commission which involves a common carrier by railroad subject to this part.

"(h) Reports in writing and other written statements (including, but not limited to, any report, order, decision and order, vote, notice, letter, policy statement, rule, or regulation) of any official action of the Commission (whether such action is taken by the Commission, a division thereof, any other group of Commissioners, a single Commissioner, an employee board, an administrative law judge, or any other individual or group of individuals who are authorized to take any official action on behalf of the Commission) shall indicate the official designation of the individual or group taking such action; the name of each individual taking, or participating in taking, such action; and the vote or position of each such participating individual. If any individual, who is officially designated as a member of a group which takes any such action, does not participate in such action, the written statement of such action shall indicate that such individual did not participate. Each individual who participates in taking any such action shall have the right to express his individual views as part of the written statement of such action. The written statement of any such action shall be made available to the public in accordance with Federal law.".

PUBLIC PARTICIPATION AND REPRESENTATION

SEC. 304. (a) Part I of the Interstate Commerce Act, as amended by this Act, is further amended by inserting after section 23 thereof, a new section 24, as follows:

"OFFICE OF RAIL PUBLIC COUNSEL

"SEC. 24. (a) There shall be established, within 60 days after the date of enactment of this section, a new independent Office affiliated wtih the Commission to be known as the Office of Rail Public Counsel. The Office of Rail Public Counsel shall function continuously pursuant to this section and other applicable Federal laws.

"(b) The Office of Rail Public Counsel shall be administered by a Director. [The Director shall be appointed by the Commission.] The Director shall be appointed for a term of 4 years. He shall be responsible for the discharge of the functions and duties of the Office of Public Counsel, unless removed for cause. He shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title.

"(c) The Director is authorized to appoint, fix the compensation, and assign the duties of employees of such Office and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office of Rail Public Counsel with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties. The Director shall submit a monthly report on the activities of the Office of Rail Public Counsel to the Chairman of the Commission, and the Commission, in its annual report to the Congress, shall evaluate and make recommendations with respect to such Office and its activities, accomplishments, and shortcomings.

"(d) In addition to any other duties and responsibilities prescribed by law, the Office of Rail Public Counsel—

"(i) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves a common carrier by railroad subject to this part;

"(ii) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves a common carrier by railroad subject to this part;

"(iii) may seek judicial review of any Commission action on any matter involving a common carrier by railroad subject to this part, to the extent such review is authorized by law for any person and on the same basis;

"(iv) shall solicit, study, evaluate, and present before the Commission, in any proceeding, formal or informal, the views of those communities and users of rail service affected by proceedings initiated by or pending before the Commission, whenever the Director determines, for whatever reason (such as size or location), such community or user of rail service might not otherwise be adequately represented before the Commission in the course of such proceedings; and

"(v) shall evaluate and represent, before the Commission and other Federal agencies whose policies and activities affect rail transportation matters subject to the jurisdiction of the Commission, and shall by other means assist the constructive representation of, the public interest in safe, efficient, reliable, and economical rail transportation services.

In the performance of its duties under this paragraph, the Office shall assist the Commission in the development of a public interest record in proceedings before the Commission.

"(e) The budget requests and budget estimates of the Office of Rail Public Counsel shall be submitted concurrently to the Congress and to the President, and the provisions of section 11(e) of this part are applicable to the Office.

"(f) There are authorized to be appropriated to the Office of Rail Public Counsel for the purpose of carrying out the provisions of this section not to exceed $500,000 for the fiscal year ending June 30, 1976, not to exceed $500,000 and not to exceed $2,000,000 for the fiscal year ending September 30, 1977.".

(b) Section 13 of the Interstate Commerce Act (49 U.S.C. 13) as amended in this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(a) Whenever, pursuant to section 553 (e) of title, United States Code, an interested person (including a government entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation relating to common carriers by railroads under this Act, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

"(b) If the Commission denies such a petition (or if it fails to act thereon within the 120-day period established by subdivision (a)), the petitioner may commence a civil action in an appropriate court of appeals of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(c) If such a petitioner can demonstrate to the satisfaction of such court, by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court, that the action requested in such petition to the Commission is necessary and that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with the public interest or in accord with this Act, such court shall order the Commission to initiate such action.

"(d) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act.

"(e) The term 'Commission', as used in this paragraph, includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under this Act relating to common carriers by railroad.".

REFORM OF RULES OF PRACTICE BEFORE THE COMMISSION

SEC. 305. (a) Within 360 days after the date of enactment of this Act, the Commission stall study, develop, and submit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives an initial proposal setting forth rules of practice under which the Commission proposes to conduct all adjudicatory and rulemaking proceedings with respect to any matter involving a common carrier by railroad subject to this part. Such rules of practice before the Commission shall be consistent with existing law, shall take into consideration the varying nature of proceedings before the Commission, and shall include—

(1) specific time limits imposed upon the filing and disposition of all complaints, petitions, pleading, motions, appeals, and rulemaking procedures before an administrative law judge, individual Commissioner, review board, division or panel of the Commission, or the full Commission;

(2) specific methods of taking testimony, receiving evidence, hearing cross-examination, and the modification of such procedures so as to facilitate the timely execution of the functions of the Commission;

(3) utilization of additional administrative law judges or the assignment of employees of the Rail Services Planning Office in complex adjudicatory or rulemaking procedures so as to facilitate proper focus and timely resolution of the issues within the required time limits; and

(4) specific remedies in any case of failure to observe required time limits.

(b) Within 210 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit to the Congress and to the Commission its comments on the rules of practice before the Commission proposed pursuant to subsection (a), together with such recommendations as it may deem appropriate.

(c) Within 30 days after receipt of comments submitted by the Administrative Conference of the United States, the Commission shall consider such comments and shall submit to the Congress a final proposal setting forth the rules of practice before the Commission. Such rules of practice shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of the submission of such final proposal, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such final proposal. If no resolution is adopted as provided in the preceding sentence, the Commission shall adopt such proposed rules of practice. For purposes of this paragraph, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

PROHIBITING DISCRIMINATORY TAX TREATMENT OF TRANSPORTATION PROPERTY

SEC. 306. Part 1 of the Interstate Commerce Act is amended by redesignating section 27 thereof as section 28 thereof and by inserting after section 26 thereof a new section 27, as follows:

"SEC. 27. (1) Notwithstanding the provisions of section 202(b), any action described in this subsection is declared to constitute an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce. It is unlawful for a State, a political subdivision of a State, or a governmental entity or person acting on behalf of such State or subdivision to commit any of the following prohibited acts:

"(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property.

"(b) The levy or collection of any tax on an assessment which is unlawful under paragraph (a).

"(c) The levy or collection of any ad valorem property tax on transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction.

"(d) The imposition of any other tax which results in discriminatory treatment of a common or contract carrier subject to this part I, part II, part III, or part IV of this Act.

"(2) Notwithstanding any provision of section 1341 of title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this section, except that (a) such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this subsection; (b) the provisions of this section shall not become effective until 3 years after the date of enactment of this section; (c) no relief may be granted under this section unless the ratio of assessed value to true market value, with respect to transportation property, exceeds by at least 5 percent the ratio of assessed value to true market value, with respect to all other commercial and industrial property in the same assessment jurisdiction; (d) the burden of proof with respect to the determination of assessed value and true market value shall be that declared by the applicable State law; and (e) in the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study, conducted in accordance with statistical principles applicable to such studies, to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then the court shall hold unlawful an assessment of such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property, and the collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(3) As used in this section, the term—

"(d) 'transportation property' means transportation property, tax levied by any taxing district;

"(b) 'assessment jurisdiction' means a geographical area, such as a State or a county, city, township, or special purpose district within such State which is a unit for purposes of determining the assessed value of property for ad valorem taxation;

"(c) 'commercial and industrial property' or 'all other commercial and industrial property' means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber, which is devoted to a commercial or industrial use and which is subject to a property tax levy; and

"(d) 'transportation property' means transportation property, as defined in regulations of the Commission, which is owned or used by a common carrier by railroad subject to economic regulation under this part or which is owned by the National Railroad Passenger Corporation.".

UNIFORM COST AND REVENUE ACCOUNTING SYSTEM

SEC. 307. Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall, not later than June 30, 1977, issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all common carriers by railroad subject to this part. Such regulations and procedures shall become effective not later than January 1, 1978. Before promulgating such regulations and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, and their employees, and the general public.

"(b) In order to assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, information required in establishing fair and reasonable rates, and other regulatory areas of responsibility, the Commission shall identify and define the following items as they pertain to each facet of rail operations:

"(i) operating and nonoperating revenue accounts;

"(ii) direct cost accounts for determining fixed and variable costs for materials, labor, and overhead components of operating expenses and the assignment of such costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and "(iii) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of such costs to various functions, services, or activities.

"(c) The accounting system established pursuant to this paragraph shall be in accordance with generally accepted accounting principles uniformly applied to all common carriers by railroad subject to this part, and all reports shall include any disclosure considered appropriate under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. Other provisions of this section notwithstanding, the Commission should, to the extent possible, devise the system of accounts to be cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and to give due consideration to appropriate economic principles. The Commission should attempt, to the extent possible, to require that such data be reported or otherwise disclosed only for essential regulatory purposes, including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

"(d) In order that the accounting system established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such accounting system and revise it as necessary.

"(e) For purposes of carrying out the provisions of this paragraph, the Commission is authorized 2 additional systems accountant opsitions at GS–14 level and 2 additional systems accountant positions at the GS–13 level of the General Schedule under subchapter III of chapter 53 of title 5, United States Code.

"(f) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed $1,000,000, to be available for—

"(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $250 per day plus expenses; and

"(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).".

SECURITIES

SEC. 308. (a)(1) Paragraph (6) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 77(c)(6)) is amended to read as follows:

"(6) Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any interest in a railroad equipment trust. For purposes of this paragraph 'interest in a railroad equipment trust' means any interest in an equipment trust, lease, conditional sales contract, or other similar arrangement entered into, issued, assumed, guaranteed by, or for the benefit of, a common carrier to finance the acquisition of rolling stock, including motive power. Notwithstanding this paragraph, the provisions of subsection (e) of this section shall not apply to the issuance of securities of the Corporation to the Association as the initial holder of such securities, to the issuance of securities of the Corporation in connection with the conveyance under this Act of rail properties to the Corporation, or any subsidiary or affiliate thereof, or to the distribution of such securities by the Special Court pursuant to Section 303(c)(4) hereof."

(2) The second sentence of section 19(a) of such Act (15 U.S.C. 77s(a)) is amended by striking out "; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20".

(3) Section 214 of the Interstate Commerce Act (49 U.S.C. 314) is amended by striking out "That the exemption" and all that follows through "And provided further,".

(b) Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by striking out ", and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act" and all that follows in such subsection, and inserting in lieu thereof "(except that such rules and regulations of the Commission may be inconsistent with such regulations to the extent that the Commission determines that the public interest or the protection of investors so requires).".

(c) Paragraph (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(7)) is amended to read as follows:

"(7) Any company (A) which is subject to regulation under section 214 of the Interstate Commerce Act, except that this exception shall not apply to a company which the Commission finds and by order declares to be primarily engaged, directly or indirectly, in the business of investing, reinvesting, owning, holding, or trading in securities; or (B) whose entire outstanding stock is owned or controlled by a company excepted under clause (A) hereof, if the assets of the controlled company consist substantially of securities issued by companies which are subject to regulation under section 214 of the Interstate Commerce Act.".

(d)(1) The amendments made by subsection (a) of this section shall take effect on the sixtieth day after the date of enactment of this Act, but shall not apply to any security with respect to which a bona fide offering was made by the issuer or by or through an underwriter before such sixtieth day.

(2) The amendment made by subsection (c) of this section shall not apply to any report by any person with respect to a fiscal year of such person which began before the date of enactment of this Act.

(3) The amendment made by subsection (c) of this section shall take effect on the sixtieth day after the date of enactment of this Act.

RAIL SERVICES PLANNING OFFICE

SEC. 309. (a) Section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended to read as follows:

RAIL SERVICES PLANNING OFFICE

"SEC. 205. (a) ESTABLISHMENT.—The Rail Service Planning Office is established as an office in the Commission. The Office shall function continuously pursuant to the provisions of this Act, and shall be administered by a director.

"(b) DIRECTOR.—The Director of the Office shall be appointed for a term of 6 years by the Chairman of the Commission with the concurrence of 5 members of the Commission. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

"(c) POWERS.—The Director of the Office is subject to the direction of, and shall report to, such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or (in the case of disagreement) the Chairman of the Commission, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office with any person (including a Government entity). Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

"(d) DUTIES.—In addition to its duties and responsibilities under other provisions of this Act, the Office shall—

"(1) assist the Commission in studying and evaluating proposals for merger, consolidation, control, coordination projects, joint use of tracks or other facilities, and acquisition or sale of assets, as authorized by section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2));

"(2) assist the Commission in developing with respect to economic regulation of transportation, policies which are likely to result in a more competitive, energy-efficient, and coordinated transportation system which utilizes each mode of transportation to its maximum advantage to meet the transportation service needs of the Nation.

"(3) assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies, with such criteria to include the following considerations: rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation; the cost to the gross national product in terms of reduced output of goods and services; the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby; and the cost to the environment measured by damage caused by increased pollution;

"(4) conduct an ongoing analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the Commission on the basis of such analysis, and advise the Commission of the results of such evaluation; and

"(5) within 180 days after the effective date of the final system plan, issue additional regulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code, which contain—

"(A) standards for the computation of subsidies for commuter rail passenger service, as provided in section 304(c)(2)(A), assuring compensation to the Corporation at the level of avoidable cost of providing service, plus a reasonable management fee and an allowance for depreciation of equipment; and

"(B) standards for the determination of emergency commuter rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964.".

"(e) ADDITIONAL DUTIES.—(1) Within 270 days after the effective date of the final system plan, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall (A) develop an accounting system which will permit the collection and publication, by the Corporation or by profitable railroads providing service over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units, and (B) determine the 'avoidable cost of providing rail freight service', as that phrase is used in section 1a(f) (1) (B) of the Interstate Commerce Act. The Office may, at any time, revise and republish the standards and regulations required by this section to incorporate changes made necessary by this accounting system.

"(2) Upon the request of a State in the region, within 90 days after the date of enactment of the Rail Services Act of 1975, the Office shall prepare and publish an evaluation of the economic viability of any or all light density lines within such State which are not designated for inclusion in the final system plan. Such an evaluation shall include an analysis of the actions which may be necessary to make the operation of rail services over any such line economical. The results of each such evaluation shall be transmitted to the requesting State and published in the Federal Register, not later than 1 year after the date such request is received by the Office.".

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

SEC. 310. Section 1(12) of the Interstate Commerce Act (49 U.S.C. 1(12)) is amended by adding at the end thereof: "In applying the provisions of the paragraph, unit-train service and non-unit-train service shall be considered separate and distinct classes of service, and a distinction shall be made between these two classes of service and between the cars used in each class of service; questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any other provision of sections 1, 2, and 3 of this Act (49 U.S.C. 1, 2, and 3), and of sections 1, 2, and 3 of the Elkins Act (49 U.S.C. 41, 42, and 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier's fleet or otherwise counted in determining questions of distribution or car count under this paragraph or statutes referred to in this section. As used in this paragraph, the term 'unit-train service' means the movement of a single shipment of coal of not less than 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one day and destined to one consignee, at one plant at one destination, via one route.".

APPROPRIATIONS REQUEST

SEC. 311. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsection:

"(j) Whenever the Interstate Commerce Commission submits any budget estimate or request, other budget information (including manpower needs), legislative recommendations, prepared testimony for congressional hearings, or comments on legislation, to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No office or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by the Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.".

LAW REVISION

SEC. 312. The Commission shall prepare, or shall cause to be prepared in whole or in part by consultants, a proposed modernization and revision of the Act of February 4, 1887 as amended (the Interstate Commerce Act), and a proposed codification of all Acts supplementary to the Interstate Commerce Act, and shall submit the final draft thereof to the Congress within 2 years after the enactment of this Act. The final draft shall include comments on each proposed provision, significant alternative provisions considered but not recommended, and such other information as may be useful to the Congress. The final draft shall be designed to simplify the present law and to harmonize regulation among the several modes of transportation.

TITLE IV—MERGERS AND CONSOLIDATIONS

RESPONSIBILITIES OF THE SECRETARY

SEC. 401. The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended by inserting after section 4 thereof the following new section 5:

"RAIL SERVICES

"SEC. 5. (a) The Secretary may develop and make available to interested persons feasible plans, proposals, and recommendations for mergers, consolidations, and other unification or coordination projects for rail services (including, but not limited to, arrangements for joint use of tracks or other facilities and any acquisition or sale of assets) which the Secretary believes would result in a rail system which is more efficient, consistent with the public interest.

"(b) (1) In order to achieve a more efficient, economical, and viable rail system in the private sector, the Secretary may, upon the request of any railroad and in accordance with this subsection, assist in planning, negotiating, and effecting a unification or coordination of operations and facilities with respect to two or more railroads.

"(2) As part of such assistance, the Secretary may conduct such studies as are deemed advisable (in addition to the study required under subsection (c) of this section) to determine the potential cost savings and possible improvements in the quality of rail services which are likely to result from such unification or coordination, through the elimination of duplicative or overlapping operations and facilities; the reduction of switching operations; utilization of the shortest, or the most efficient, and economical routes; the exchange of traffic rights; the combining of traffic and of terminal or other facilities; the upgrading of tracks and other facilities used by two or more railroads; reduction of administrative and other expenses, and any other measures likely to reduce costs and improve services. For purposes of such studies and of the study described in subsection (c) of this section, each railroad shall provide such information as may be requested by the Secretary in connection with the performance of functions under this section. In furtherance of any of the functions or responsibilities of the Secretary under this section, any officer or employee duly designated by the Secretary may obtain, from any railroad, information regarding the nature, kind, quality, origin, destination, consignor, consignee, and routing of property, without the consent of the consignor or consignee involved, notwithstanding the provisions of section 15(11) of the Interstate Commerce Act (49 U.S.C. 15(11)) and may, to the extent necessary or appropriate, exercise, with respect to any railroad, any of the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 713(c)), as provided therein, except that subpenas shall be issued under the signature of the Secretary.

"(3) When requested by one or more railroads, the Secretary may also hold conferences with respect to any proposed unification or coordination project. The Secretary may invite officers and directors of all affected railroads; representatives of employees of such railroads who may be affected; the Commission; appropriate State and local government officials, shippers, and consumer representatives; and representatives of the Federal Trade Commission and of the Attorney General to one or more such conferences with respect to such a proposal. The Secretary may mediate any dispute which may arise in connection with any proposed unification or coordination project. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference and as to any agreements reached at such conference which are entered into with the approval of the Secretary, in order to achieve or determine a plan of action to implement any such unification or coordination project.

"(c) The Secretary shall conduct a comprehensive study of the American railway system. Such study shall commence not later than 45, and shall end not more than 360, days after the date of enactment of this section. Such study shall include—

"(1) a showing of the potential cost savings and of possible improvements in service quality which could result from restructuring the railroads in the United States through the means developed under or described in subsection (a) or (b) of this section;

"(2) an identification of the potential economies and improvements in performance which could result from the improvement of local and terminal operations;

"(3) an estimate of the potential net savings in the expense of rehabilitating railroads which are possible through improvement of traffic flows;

"(4) an assessment of the extent to which common or public ownership of fixed facilities could improve the national rail transportation system;

"(5) an assessment of the potential effects of alternative rail corporate structures upon the national rail transportation system;

"(6) a listing, in order of descending priority, of the rail properties which should be improved to the extent necessary to permit high-speed rail passenger or freight service over such properties, in terms of the costs and benefits of such improvements and the reasons therefor; and

"(7) a survey and analysis of the financial and physical condition of the facilities, rolling stock and equipment of the various railroads in the United States.

This study may be used by the Secretary as a basis for developing plans, proposals, or recommendations under subsection (a) of this section and, to the extent appropriate, under subsection (b) of this section.

"(d) Whenever any railroad submits a proposal for a merger or other action the approval of which is subject to the jurisdiction of the Interstate Commerce Commission under section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)), the Secretary may, if he has not already done so, conduct a study of such proposal in order to determine whether or not, in his judgment, such proposal is in accordance with the standards set forth in section 5(2) (c) of such Act (49 U.S.C. 5(2) (c)). Whenever such proposal is the subject of an application and a proceeding before such Commission, the Secretary is authorized to appear before the Commission in any proceeding held with respect to such application.".

(e) As a condition of his approval under this section of any project involving a carrier or carriers by railroad subject to the provisions of part I of the Interstate Commerce Act, the Secretary shall require a fair and equitable arrangement to protect the interests of the railroad employees affected. In its order of approval the Commission shall include terms and conditions providing that during the period of 4 years from the effective date of such order such transaction will not result in employees of the carrier or carriers by railroad affected by such order being in a worse position with respect to their employment, except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period, following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order. Notwithstanding any other provisions of this Act, an agreement pertaining to the protection of the interests of said employees may hereafter be entered into by any carrier or carriers by railroad and the duly authorized representative or representatives of its or their employees. Such fair and equitable arrangements shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subsection and those established pursuant to section 405 of the Rail Passenger Service Act.".

MERGER PROCEDURE

[SEC. 402. (a) Section 5(2) of the Interstate Commerce Act (40 U.S.C. 5(2)) is amended by adding at the end thereof the following new subparagraph:

"(g) In all cases arising under this paragraph and involving any carriers by railroad, the Commission shall—

"(i) within 30 days after the date on which an application is filed with the Commission and a certified copy of such application is furnished to the United States Railway Association, publish notice thereof in the Federal Register or, if such application is incomplete, reject the application by order, which order shall be deemed to be final under the provisions of section 17 of this part;

"(ii) provide that written comments on an application, as to which such notice is published, may be filed within 45 days after the publication of such notice in the Federal Register;

"(iii) require that copies of any such comments shall be served upon the Secretary of Transportation, the Chairman of the United States Railway Association, and the Attorney General, each of whom shall be afforded 15 days followed the date of receipt thereof to inform the Commission whether he will intervene as a party to the proceeding, and if so, to submit preliminary views on such application;

"(iv) require that all other applications, which are inconsistent, in whole or in part, with such application, and all petitions for inclusion in the transaction, must be filed with the Commission and with the Association, within 90 days of the publication of notice of the application in the Federal Register;

"(v) conclude any evidentiary proceedings within 240 days following the date upon which notice of the application was published in the Federal Register, except that in the case of an application involving the merger or control of two or more class I railroads, as defined by the Commission, the Commission shall conclude any evidentiary proceedings not more than 24 months following the date upon which notice of the application was published in the Federal Register; and

"(vi) issue a final decision within 180 days following the date upon which the evidentiary proceeding is concluded. If the Commission fails to issue a decision which is final within the meaning of section 17 of this part within such 180-day period, it shall notify the Congress in writing of such failure and the reasons therefor. If the Commission determines that the due and timely execution of its functions under this paragraph so requires or that an application brought under this paragraph is of major transportation importance, it may order that the case be referred directly without an initial decision by a division, individual Commissioner, board, or administrative law judge to the full Commission for a decision which is final within the meaning of section 17 of this part.".

(b) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) thereof as paragraphs (4) through (17) thereof, respectively, and by inserting immediately after paragraph (2) thereof the following new paragraph:

"(3) Any modification of any transaction governed by paragraph (2) of this section, which involves a carrier by railroad may be proposed by the Secretary of Transportation, who shall have standing to appear before the Commission in support of such proposed modifications.".

EXPEDITED RAILROAD MERGER PROCEDURE

SEC. 403. Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) as paragraphs (4) through (17), respectively, and by inserting immediately after paragraph (2) the following new paragraph:

"(3)(a) In any merger, consolidation, coordination project, joint use of tracks or other facilities, or acquisition, or sale of assets which involves any common carrier by railroad subject to this part is proposed by the Secretary or by a common carrier by railroad subject to this part during the period beginning January 1, 1976, and ending December 31, 1981, the party seeking authority may utilize the procedure set forth in this paragraph or paragraph (2).

"(b) Any transaction referred to in subdivision (a) may be proposed by—

"(i) the Secretary, with the consent of the common carriers by railroad subject to this part which are parties to the proposed transaction; or

"(ii) any common carrier by railroad subject to this part, but only if such carrier first submits such proposed transaction to the Secretary, for evaluation pursuant to subdivision (f), not less than 6 months prior to proposing such transaction pursuant to this paragraph.

"(c) Whenever a transaction is proposed under subdivision (a) utilizing the procedure set forth in this paragraph, the proposing party shall submit an application to the Commission with respect to such proposed transaction. Within 10 days after the receipt of such application, the Commission shall notify—

"(i) the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(ii) the Attorney General;

"(iii) the Secretary of Labor; and

"(iv) the Secretary (with respect to any such application not submitted by the Secretary).

The Commission shall accompany its notice to the Secretary with a request for the report of the Secretary pursuant to subdivision (f)(v).

"(d) The Commission shall hold a public hearing on each application submitted pursuant to subdivision (c) within 90 days after the receipt of such application. Such public hearing shall be held before a panel of the Commission, and such panel may utilize administrative law judges or the Rail Services Planning Office in such manner as such panel considers appropriate for the timely and effective resolution of the issues. The panel shall, in a manner it considers necessary for the expedition of the hearing, complete such hearing within 180 days after the commencement of such hearing, and render an initial decision and certify the record to the entire Commission for a final decision within 90 days after the termination of such hearing. The entire Commission shall allow oral argument on the matter so certified and shall render a final decision within 120 days after the receipt of the certified record and initial decision of the panel. The Commission may, in its discretion, extend any time period set forth in this subdivision, except that the aggregate of all such time periods shall in no case exceed 2 years.

"(e) In making its initial decision with respect to any transaction proposed under this paragraph, the panel of the Commission shall—

"(i) request the views of the Secretary with respect to the effect of such proposed transaction on the National Transportation Policy;

"(ii) request the views of the Attorney General with respect to the competitive or anticompetitive effects of such proposed transaction; and

"(iii) request the views of the Secretary of Labor with respect to the effect of such proposed transaction on railroad employees, particularly as to whether such proposal contains adequate employee protection provisions.

"(f) Whenever a proposed transaction is submitted to the Secretary by a common carrier by railroad pursuant to subdivision (b)(ii), and whenever the Secretary develops a proposed transaction for submission to the Commission pursuant to subdivision (c), the Secretary shall—

"(i) publish the contents of such proposed transaction in the Federal Register in order to provide reasonable notice to interested parties of such proposed transaction;

"(ii) give notice to the Attorney General and to the Governor of each State in which any part of the properties of the common carriers by railroad involved in the proposed transaction are situated;

"(iii) conduct an informal public hearing with respect to such proposed transaction and provide an opportunity for all interested parties to submit written comments;

"(iv) study each such proposed transaction with respect to—

"(A) the needs of rail transportation in the geographical area affected;

"(B) the effect on the retention and promotion of competition in the provision of rail and other transportation services in the geographical area affected;

"(C) the environmental impact of such proposed transaction and of alternative choices of action;

"(D) the effect on employment and the communities in the geographical areas affected;

"(E) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

"(F) the rationalization of the rail system;

"(G) the impact on shippers, consumers, and railroad employees;

"(H) the effect on the geographical areas contiguous to the geographical areas affected by such proposed transaction; and

"(I) whether such proposed transaction will improve rail service; and

"(v) submit a report to the Commission setting forth the results of each study conducted pursuant to clause (iv). Such report shall be submitted to the Commission within 10 days after an application is submitted, pursuant to subdivision (c), with respect to the proposed transaction which is the subject of such study. The Commission shall give due weight and consideration to such report in making its determinations under this paragraph.

"(g) The Commission may—

"(i) approve a transaction proposed under this paragraph if the Commission determines that such proposed transaction is in the public interest; and

"(ii) modify any such proposed transaction, with the consent of the common carriers by railroad involved, if the Commission determines such modification is in the public interest.

"(h) As used in this paragraph, the term 'Secretary' means the Secretary of Transportation.".

(c) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended—

(1) in paragraph (2(a) thereof, by inserting "or paragraph (3)" immediately after "subdivision (b)";

(2) in paragraph (2) (f) thereof, by inserting immediately after "(2)" the following: "or paragraph (3)";

(3) in paragraph (5) thereof, as redesignated by this Act, by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)", and by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(4) in paragraph (8) thereof, as redesignated by this Act, by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)", and by striking out "(12)" and inserting in lieu thereof "(13)";

(5) in paragraph (10) thereof, as redesignated by this Act, by striking out "(7)" and inserting in lieu thereof "(8)";

(6) in paragraph (14) thereof, as redesignated by this Act, by striking out "(12)" and inserting in lieu thereof "(13)";

(7) in paragraph (16), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)"; and

(8) in paragraph (17), as redesignated by this Act, by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

DEFINITIONS

SEC. 501. As used in this title, the term—

(1) "applicant" means any railroad, or other person, including a governmental entity, which submits an application to the Secretary for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation;

(2) "equipment" includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Secretary may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act.

(3) "facilities" means all—

(A) track, roadbed, and related structures, including but not limited to, rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, and office buildings used for operating purposes only, repair shops, enginehouses, and construction of public improvements;

(B) communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(C) signals, including signals and interlockers;

(D) terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of rolling stock by water; or

(E) shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of rolling stock;

(4) "Fund" means the Railroad Rehabilitation and Improvement Fund;

(5) "holder" means the obligee or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee or creditor, the term refers to such bank or trust company;

(6) "obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement; and

(7) "obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Secretary.

THE RAIL FUND

SEC. 502. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States the Railroad Rehabilitation and Improvement Fund. The Fund shall be administered by the Secretary, without the requirement of annual authorizations, in order (1) to secure the payment, when due, of the principal of, any redemption premium on, and any interest on, all fund anticipation notes and fund bonds, by a first pledge of and a lien on all revenues payable to and assets held in the Fund; and (2) to carry out the purposes, functions, and powers authorized in this title.

(b) PURPOSE.—The purpose of the Fund is to provide capital which is necessary to—

(1) enable the Association to furnish financial assistance to the Corporation, at such times and in such amounts as it requires or requests, in accordance with section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), as amended; and

(2) furnish financial assistance to other railroads, to the extent of appropriated funds, for working capital, facilities, rehabilitation and improvements, and such other financing as the Secretary approves, in accordance with this title.

(c) GENERAL POWERS.—In order to achieve the objectives and to carry out the purposes of this title, the Secretary may—

(1) issue and sell securities, including fund anticipation notes and fund bonds, as provided for in sections 507 and 508 of this title;

(2) make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary or appropriate to carry out the purposes or provisions of this title;

(3) prescribe and impose fees and charges for services by the Secretary, pursuant to this title;

(4) settle, adjust, and compromise, and, with or without consideration or benefit to the Fund, release or waive, in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Secretary or the Fund;

(5) sue and be sued, complain, and defend, in any State, Federal, or other court;

(6) acquire, take, hold, and own, deal with, and dispose of, any property, including carrier redeemable preference shares, as provided for in section 505(d) of this title;

(7) determine, in accordance with congressional appropriations, the amounts to be withdrawn from the Fund and the manner in which such withdrawal shall be effected; and

(8) appoint, employ, fix, and provide for the compensation and benefits of such employees, attorneys, and agents as are necessary or appropriate in furtherance of the Secretary's direction and control of the Fund, without regard to any other law, except as may hereafter be provided by any Federal law which expressly limits any authority under this subsection.

(d) ASSISTANCE FROM OTHER AGENCIES.—The Secretary, with the consent of any department, establishment, or corporate or other instrumentality of the Federal Government, may utilize and act through any such department, establishment, or instrumentality. The Secreary may, with such consent, utilize the information, services, facilities, and personnel of any such department, establishment, or instrumentality, on a reimbursable basis. Each such department, establishment, and instrumentality is authorized to furnish any such assistance to the Secretary upon written request from the Secretary.

(e) JURISDICTION.—Whenever the Secretary or the Fund is a party to any civil action under this title, such action shall be deemed to arise under the laws of the United States. Except as otherwise provided in section 209 of the Regional Rail Reorganization Act of 1973, the district courts of the United States shall have original and removal jurisdiction of any action in which the Secretary or the Fund is a party, without regard to the amount in controversy. No attachment or execution may be issued against the Secretary, the Fund, or any property thereof prior to the entry of final judgment to such effect in any State, Federal, or other court.

(f) CONTENTS OF FUND.—There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

(1) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale by the Secretary to the Secretary of the Treasury of fund anticipation notes, as provided in sections 507 and 508 of this title;

(2) funds as may be hereafter appropriated to the Fund by Act of Congress, following the submission to the Congress of the Secretary's report, under section 504 of this title, with respect to the perceived needs of the rail industry for facilities rehabilitation and improvement, projected cash shortfalls within the rail industry, and the scope and sources of long-term public sector funding for the Fund;

(3) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale of fund bonds, as provided in section 508 of this title;

(4) debentures and series A preferred stock issued by the Corporation and purchased by the Association on behalf of the Fund together with all funds received by the Fund, representing interest, dividends and redemption payments, if any, with respect to such securities;

(5) carrier redeemable preference shares purchased by the Secretary on behalf of the Fund and funds received by the Fund representing dividends and redemption payments on such shares, as provided in sections 505(d) and 506 (a) and (b) of this title;

(6) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments; and

(7) any other receipts of the Fund.

(g) EXCESS FUNDS INVESTMENT.—If the Secretary determines that the amount of money in the Fund exceeds the amount required for current needs, the Secretary may, subject to sections 508 (g) and (h) of this title, direct the Secretary of the Treasury to invest such amounts as the Secretary deems advisable, for such periods as the Secretary directs, in obligations of, or obligations guaranteed by, the Government of the United States, or in such other governmental or agency obligations or other securities of the United States as the Secretary of the Treasury deems appropriate.

(h) DEPOSITARY.— The Secretary may deposit moneys of the Fund with any Federal Reserve bank, any depositary for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(i) USES.—Moneys in the Fund shall be utilized (1) to provide capital to the Secretary for the purpose of providing financial assistance to the Corporation at such times and in such amounts as may be required and requested by the Corporation, in accordance with section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), as amended by this Act, (2) to provide financial assistance to railroads other than the Corporation for working capital, facilities rehabilitation and improvement projects, and for such other financial needs as may be approved by the Secretary pursuant to section 505 of this title, (3) to effect the payment, when due, of the principal of, and interest, if any, on, fund anticipation notes and fund bonds issued by the Secretary pursuant to sections 507 and 508 of this title, (4) to make payment of all expenses incurred by the Secretary in carrying out his functions under this title, (5) to redeem, as contemplated by section 507(c) and section 508(g) of this title, fund anticipation notes and fund bonds, and (6) to make transfers to the general funds of the United States.

(j) EXEMPTION FROM APPORTIONMENT.— Neither the Fund, nor any of the funds credited to it, shall be subject to apportionment under the provisions of section 7 of the Act of July 12, 1870 (31 U.S.C. 665).

CLASSIFICATION AND DESIGNATION OF RAIL LINES

SEC. 503. (a) TRAFFIC DENSITY ANALYSIS.— within 180 days after the date of enactment of this Act, each railroad shall analyze its rail system and submit to the Secretary a full and complete analysis of such system. Each such analysis shall indicate the traffic density for the preceding 5 calendar years on each of the main and branch rail lines of the railroad submitting such analysis. The requirements of the preceding sentence shall not apply to (1) the Corporation; or (2) any railroad in reorganization in the region, as defined in the Regional Rail Reorganization Act of 1973, which has elected, pursuant to section 207(b) of such Act, to be reorganized pursuant to the provisions of such Act.

(b) PRELIMINARY STANDARDS AND DESIGNATIONS.—Within 270 days after the date of enactment of this Act, the Secretary shall develop and publish—

(1) the preliminary standards for classifying both main and branch rail lines according to the degree to which they are essential to the rail transportation system, in at least three categories. Such classification shall be based on the level of usage measured in gross-ton-miles, the contribution to the economic viability of the railroad which controls such lines, and the contribution of such lines to the probable economic viability of any other railroads which participate in the traffic originating on such lines; and

(2) the preliminary designations with respect to each main and branch rail line, in accordance with such classifications.

In determining "level of usage" and "probable economic viability", for purposes of such classification, the Secretary shall take into account operational service and other appropriate factors, and he may make reasonable allowance for differences in operation among individual railroads or groups of railroads.

(c) PUBLIC HEARINGS.—Commencing 30 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall hold public hearings (in the District of Columbia and in other parts of the country) on the preliminary standards for classification and on the preliminary designations. The Office shall give notice of the date, time, and place of each such hearing, and such notices shall be designed and placed in such manner that all interested parties will have a full and fair opportunity to be heard.

(d) REPORT BY OFFICE.—Within 120 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall release and report to the Secretary its conclusions and recommendations with respect to such preliminary standards for classification and such preliminary designations. This report shall be based on the record which was developed by the Office during the hearings under subsection (c) of this section, as supplemented by such studies as may be undertaken by the Office.

(e) FINAL STANDARDS AND DESIGNATIONS.— Within 60 days after the date of receipt of the report required under subsection (d) of this section, the Secretary shall, after giving due consideration thereto, and with the cooperation and assistance of the Office, prepare and publish—

(1) the final standards for classification of main and branch rail lines; and

(2) the final designations with respect to each main and branch rail line, in accordance with these classifications. The Secretary shall include findings in support of any material change which is made in a designation from the preliminary designation under subsection (b) of this section.

CAPITAL NEEDS STUDY

SEC. 504. (a) DEFERRED MAINTENANCE SCHEDULE.—Within 180 days after the date of enactment of this Act, each railroad shall prepare and submit to the Secretary a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures, as of December 31, 1975; and (2) of the projected amounts of desired maintenance to be performed and capital expenditures to be made for such railroad's facilities, during each of the years from 1976 through 1985. Each railroad shall submit such additional information as may be required from it by the Secretary in connection with his duties under section 503 and this section prior to July 1, 1977, including the projected sources of and uses for the funds required by such railroad for such projected program.

(b) PRELIMINARY FINANCING RECOMMENDATIONS.—Within 360 days after the date of enactment of this Act, the Secretary shall, after giving due consideration to (1) the final designations under section 503(e) of this title, (2) the information furnished under subsection (a) of this section, and (3) any other relevant information, develop, publish, and transmit—

(A) to the Congress, his preliminary recommendation as to the amount of carrier equity financing to be effected through the Fund or through any other funding mechanism recommended by the Secretary, based upon his view of the rail industry's facilities rehabilitation and improvement needs, as projected through December 31, 1985; and

(B) to the Secretary of the Treasury, his preliminary recommendation as to the means (consistent with his recommendations under section 301 of this Act) by which the Federal share, if any, or such equity financing should be provided. The Secretary shall specifically consider the public benefits and costs which would result from public ownership of railroad rights-of-way.

(c) EVALUATION.—Within 90 days after the date of publication of the Secretary's preliminary recommendations under subsection (b) of this section, the Secretary of the Treasury shall publish and transmit to the Secretary and to the Congress his evaluation thereof and any recommendations with respect to the matters referred to in clause (B) of subsection (b).

(d) FINAL RECOMMENDATIONS.—Within 90 days after the date of receipt of the evaluation transmitted under subsection (c) of this section, the Secretary shall, after giving due consideration to such recommendations, prepare and transmit to the Congress his final recommendations with respect to the matters referred to in subsection (b) of this section.

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 505. (a) ELIGIBILITY.—Following the date of enactment of this Act, any railroad, other than the Corporation, may apply to the Secretary, in accordance with regulations promulgated by the Secretary, for financial assistance for working capital and such other financial needs as may be approved by the Secretary. Following the final classification and designation of rail lines under section 503(e) of this title, any such railroad may apply to the Secretary, in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement.

(b) APPLICATION AND DETERMINATION.— Each application for facilities rehabilitation and improvement financing shall be set forth—

(1) a description of such carrier's proposed facilities rehabilitation and improvement program and of the current physical condition of such facilities;

(2) the essentiality classification of each main and branch rail line included in such program as determined in accordance with the final standards and designation under section 503(e) of this title;

(3) the track standards to which each such line is then being operated and the reasons therefor and the safety standards and signal requirements necessary to prevent loss of life and serious accident or injury at grade crossings;

(4) the track standards necessary, in the judgment of the applicant railroad, to provide reliable and competitive freight service (and passenger service, where applicable) over such line, together with such railroad's recommendations as to the most economical method of improving the physical condition of such line to meet the desired track standard and the cost of providing adequate safety standards and signals together with an economic analysis of the cost of such improvements in safety standards and signals;

(5) such railroad's estimated cost of labor and materials and completion time, and its opinion as to the priority to be accorded such portions of the proposed project as are reasonably divisible; and

(6) such other information as the Secretary shall by regulation require to assist him in evaluating such application in accordance with this section.

Applications for financial assistance, other than for facilities rehabilitation and improvement, shall contain such information as the Secretary shall by regulation require. The Secretary shall act upon each application for any financial assistance within 6 months after the date on which it is received. The Secretary may approve any such application if he determines that providing the requested financial assistance is in the public interest. When making such a determination, the Secretary shall consider (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed; (B) the interest of the public in supplementing such other available funds, if any, in order to increase the total amount of funds available for railroad financing; and (C) the public benefits to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify public costs. The Secretary, in the granting of financial assistance to any applicant, shall assign the highest priority to applications for assistance for providing safety improvements and signals including underpasses or overpasses at railroad crossings wherein injury or loss of life has frequently occurred or is likely to occur.

(c) FINANCING AGREEMENT.—Upon the approval of an application for financial assistance, the Secretary shall promptly enter into an agreement with such applicant railroad to provide financing in such amounts and at such times as is sufficient, in the judgment of the Secretary, to meet the reasonable cost, in whole or in part, of such railroad's financing program as is approved, in whole or in part. Each such agreement shall include such terms and conditions as are necessary or appropriate, in the judgment of the Secretary, to assure that the financing will be used only in the manner, and for the purposes, approved by the Secretary.

(d) RAILROADS OTHER THAN THE CORPORATION.—(1) In the case of a railroad other than the Corporation, financing shall be in the form of purchase, by the Secretary, at par, of redeemable preference shares of a railroad's stock. Such shares shall be specifically issued, in accordance with the terms and conditions set forth in section 506 of this title, for this purpose.

(2) The total par value of the redeemable preference shares which the Secretary may purchase, from the proceeds received by it from the issuance and sale of fund anticipation notes, shall not exceed $600,000,000.

(e) FUTURE PURCHASES OF REDEEMABLE PREFERENCE SHARES.—The total par value of the redeemable preference shares which the Secretary may purchase under this Act after December 31, 1977, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 504 of this title, except that, (1) the amount of the Secretary's investment in redeemable preference shares in any fiscal year (out of proceeds other than those derived through the issuance and sale of trust fund anticipation notes) shall not, when added to the amount of his prior investment in such shares, exceed 200 percent of the aggregate principal amount of the trust fund bonds which (A) have been issued by the Secretary prior to such fiscal year, and (B) are projected to be issued by the Secretary through the end of such fiscal year; and (2) neither redemptions of trust fund bonds nor their payment at scheduled maturity shall have any bearing on the limitation in paragraph (1).

REDEEMABLE PREFERENCE SHARES

SEC. 506. (a) CHARACTERISTICS.—The redeemable preference shares acquired by the Secretary pursuant to section 505(d) of this title are securities which are issued by a railroad other than the Corporation for the purpose of obtaining financing under this title. Each such redeemable preference share—

(1) shall be nonvoting and shall have a par value of $10,000;

(2) shall be senior in right to all common stock of the issuing railroad, whenever issued, and to any subsequently issued preferred stock, with respect to dividend and redemption payments and in case of liquidation or dissolution of such railroad, but shall be subordinate in such matters to any of such railroad's previously issued and outstanding shares which rank ahead of its common stock and shall be subordinate to all securities received in exchange as a part of a court approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205) for previously incurred senior debt or previously issued and outstanding shares which ranked ahead of its common stock; except that, redeemable preference shares issued in exchange for the debentures and series A preferred stock of the Corporation, in accordance with section 507 (d) of this title, shall have priority, in case of liquidation or dissolution, over the series B preferred stock of the Corporation, with respect to dividends, if any, and redemption payments;

(3) shall accrue dividends commencing on the tenth anniversary date of the date of its original issuance. After such 10-year period, such shares shall bear dividends at such rate as shall be fixed by the Secretary for each issuance prior to the issuance thereof and which, when added to the amount of the mandatory redemption payments under subparagraph (4) of this paragraph, shall return to the Fund not less than 150 percent of the aggregate par value thereof, over the scheduled life of the issue and in annual payments which shall be as nearly equal as practicable; and

(4) shall be subject to mandatory redemption, at par, commencing not earlier than the 6th and not later than the 11th as determined by the Secretary for each issuance anniversary date of the date of its original issuance, in annual amounts which shall, over the period ending, as determined by the Secretary for each issuance, not later than the thirtieth anniversary date of the date of its original issuance, aggregate the total par value of such share.

(b) DEPOSIT.—All redeemable perference shares which are acquired by the Secretary, pursuant to section 505(d) of this title shall, upon such acquisition, be deposited in the Fund.

(c) WHEN PAYMENTS IN ARREARS.—Whenever the dividend or redemption payments on redeemable preference shares, which are issued by any railroad, are in arrears for a period of 4 months, the Secretary shall be entitled to appoint two members to the Board of Directors of such railroad. The term of office of such directors shall not extend beyond the period during which such dividend or redemption payments are in arrears.

FUND ANTICIPATION NOTES

SEC. 507. (a) IN GENERAL.—The Secretary shall, until December 31, 1977, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase fund anticipation notes, in an aggregate principal amount of not more than $600,000,000, in order to provide financial assistance to other railroads for such financing needs as the Secretary approves.

(b) TERMS OF ISSUE.—Fund anticipation notes shall be issued in denominations of $100,000 (or any integral multiple thereof), upon such terms and conditions, with such maturities, such rates of interest, if any, and such redemption premiums, if any, as the Secretary in his sole discretion may determine. The date of maturity of each fund anticipation note may not exceed 7 years from the date of its issuance.

(c) REDEMPTION.—If the Congress, following its receipt of the recommendations of the Secretary, pursuant to section 504(d) of this title, with respect to the amount of facilities rehabilitation and improvement financing which should be effected through the Fund and the method of long-term public sector funding therefor, and, in such context, authorizes the issuance of fund bonds, the Secretary shall redeem the fund anticipation notes then outstanding, in such manner, and over such period of time, as the Secretary shall determine, from the proceeds of the sale of such fund bonds and from such other public sector moneys as have been appropriated to the Fund: *Provided*, That the amount of fund anticipation notes so redeemed shall be reduced by an amount equal to the sum of the aggregate principal amount of debentures of the Corporation and the aggregate par value of the series A preferred stock of the Corporation which have not been exchanged for redeemable preference shares, pursuant to subsection (d) of this section.

(d) REMITTANCE AND TERMINATION.—If the Congress does not, on or before January 1, 1978, enact legislation of the type contemplated by subsection (c) of this section, the Secretary shall hold in trust all redeemable preference shares issued by railroads which are held in the Fund, and the Fund shall thereupon terminate.

FUND BONDS

SEC. 508. (a) ISSUANCE.—The Secretary may, following enactment of the legislation contemplated by section 504 of this title, issue fund bonds in denominations of $100,000 (or any integral multiple thereof), in such total amounts as may be authorized by the Congress. No fund bonds—

(1) shall be issued which mature in less than 8, or more than 15, years from the date of original issuance thereof;

(2) shall be issued later than the tenth anniversary of the date of publication of the final standards and designations under section 503(e) of this title; and

(3) shall be subject to redemption (at the option of the Secretary) (A) at any time prior to the tenth anniversary of the date of original issuance thereof, and (B) at any time thereafter, except as contemplated by subsections (d)(5) and (g) of this subsection.

(b) PLEDGE AND LIEN.—The Secretary, subject to sections 502 and 508(g) of this title, shall impose a first pledge of, and a first lien on, all revenues payable to, and assets held in, the Fund, and appropriated for the use of the Secretary pursuant to this title. The Secretary may impose such a pledge of and lien on all other revenues or property of the Fund. The purpose of any such pledge and lien shall be to secure the payment, when due, of the principal of, any redemption premiums on, and any interest on, all fund anticipation notes and fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Secretary deems necessary or desirable. Any pledge made by the Secretary shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, against the Secretary or the Fund, without regard to whether such parties have notice thereof. No instrument by which a pledge is created need be recorded or filed to protect such pledge.

(c) ENHANCEMENT OF MARKETABILITY.—The Secretary may enter into binding covenants with the holders of fund bonds, and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to (1) the establishment of reserves, and other funds; (2) stipulations concerning the subsequent issuance of obligations; and (3) such other matters as the Secretary deems necessary or desirable to enhance the marketability of fund bonds.

(d) SPECIFIC DETERMINATIONS.—Subject to subsection (a) of this section, the Secretary may determine, with respect to fund bonds—

(1) the form and denominations in which they shall be issued;

(2) the time when they shall be sold, and in what amounts;

(3) the time when they shall mature;

(4) the price thereof at sale;

(5) the rate of interest thereon;

(6) whether, and in what manner, they may be redeemed prior to the date when they mature; and

(7) whether they shall be negotiable or nonnegotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) Characteristics.—Fund bonds issued by the Secretary under this section shall—

(1) contain a recital that they are issued under this section. Such a recital shall be conclusive evidence of the validity, and of the regularity of issuance and sale of such fund bonds;

(2) be subject to such other terms and conditions as the Secretary may, by the resolution authorizing their issuance, determine;

(3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States. The Secretary of the Treasury or any other officer or agency having authority over, or control of, any such fiduciary, trust, or public funds may at any time sell any of the obligations of the Corporation acquired under this section;

(4) not be exempted from Federal, State, and local taxation; and

(5) not be debts or enforceable general obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States. Neither the full faith and credit, nor the general taxing power, of the Federal Government shall be pledged to the payment of the principal of, any premium on, or interest on, such fund bonds.

(f) No Personal Liability.—Neither the Secretary, nor any other individual, who executes any fund anticipation notes or fund bonds, shall be subject to any personal liability or accountability by reason of the issuance of any such notes or bonds.

(g) Redemption and Transfer.—If, from and after the tenth anniversary date of the original issuance of the initial series of fund bonds, the amount in the Fund, exclusive of the value of any redeemable preference shares held by the Fund, exceeds 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of fund bonds, the Secretary may use such excess to redeem fund bonds in accordance with their terms or may withdraw all or part of such excess from the Fund and transfer it to the general fund of the United States. When all fund bonds have been redeemed, all amounts remaining in the Fund or thereafter accruing to it shall be transferred to the general fund of the United States, except to the extent necessary to cover such expenses of the Secretary or the Fund as may be required to carry on and complete their remaining responsibilities.

(h) Purchase by Secretary.—The Secretary, subject to such agreements with holders of fund bonds as may then exist, shall have the power (out of any funds available) to purchase fund anticipation notes or fund bonds. Upon any purchase, such notes and bonds shall be canceled.

AUTHORIZATIONS

Sec. 509. There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed $600,000,000, and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to January 1, 1978, from the Secretary, out of such moneys in the Treasury as are appropriated under the authorization of this sentence, fund anticipation notes in such aggregate principal amounts, subject to the aforesaid limitation, as the Secretary may so offer for sale. There is authorized to be appropriated to the Fund or, upon termination of the Fund, to the Secretary, such additional sums as may be required to permit the Secretary to carry out his obligations under this title, for the fiscal year ending June 30, 1976, and the transitional quarter ending September 30, 1976, not to exceed $1,000,000; and for the fiscal year ending September 30, 1977, not to exceed $1,000,000. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after January 1, 1978, without prior approval thereto in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 401(d) of the Congressional Budget and Impoundment Control Act of 1974.

EXEMPTION

Sec. 510. Neither the provisions of section 20a of the Interstate Commerce Act, as amended (49 U.S.C. 20a), nor the registration and prospectus delivery requirements of the Securities Act of 1933, as amended, shall be applicable to the issuance and sale of redeemable preference shares by railroads, to the extent authorized, as provided by this title.

GUARANTEE OF OBLIGATIONS

Sec. 511. (a) In General.—The Secretary may, in accordance with the provisions of this section, guarantee and make commitments to guarantee the payment of interest on and the principal balance of an obligation prior to, on, or after the date of execution or the date of disbursement of such obligation the proceeds of which shall be or have been used to acquire or rehabilitate and improve facilities or equipment. Each guarantee of an obligation shall be made in accordance with the provisions of sections 511 through 513 of this title and such rules as the Secretary may prescribe to protect reasonably the interests of the United States. Each application for the guarantee of an obligation or for a commitment to guarantee an obligation shall be made in writing to the Secretary in such form and with such content as the Secretary prescribes. Such application shall be granted if the Secretary determines that the proposed, negotiated, or executed obligation is eligible for such guarantee. Each such guarantee or commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate, consistent with the purposes of this title. Such a guarantee or commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment to guarantee applies. In no event shall any such holder receive or be entitled to retain payment from said guarantee in a total amount which, together with any other recovery, including a security interest in the equipment or facilities, exceeds the actual loss of such holder.

(b) Fund.—An obligation guarantee fund shall be established and administered by the Secretary as a revolving fund to carry out the provisions of sections 511 through 513 of this title. Moneys in the obligation guarantee fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

(c) Valuation.—Before granting any application for a guarantee or a commitment to guarantee any obligation, the Secretary shall make a determination of the value of the facilities or equipment which are or will be financed or refinanced by such obligation. Such determination of values shall be conclusive and not subject to review in any court.

(d) Modifications.—The Secretary may approve any modification of any provision of a guarantee, or of a commitment to guarantee an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, if the Secretary makes a finding in writing that such modification is equitable and not prejudiced to the interests of the United States under this title, and that the holder of such obligation consents to such modification.

(e) Maximum Obligational Authority.—The aggregate unpaid principal amounts of obligations, including interest thereon, which may be guaranteed by the Secretary under this title shall not exceed $800,000,000 at any one time.

(f) Rate of Interest.—The rate of interest (exclusive of premium charges for a guarantee and service fees) which shall be paid on the unpaid principal balance of each obligation guaranteed by the Secretary, shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market.

(g) Notice.—Upon receipt of an application for the guarantee of an obligation, the Secretary shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence after reasonable notice. Notice of such proceedings shall be published in the Federal Register. Such notice shall include (1) a statement of the time, place, and nature of the proceeding; and (2) a description of the subjects and issues involved.

(h) Prerequisites for Guarantees.—No obligation shall be guaranteed and no commitment shall be made to guarantee any obligation under this section, unless and until the Secretary makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured by the particular equipment which is to be financed or refinanced by such obligation;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refinancing is justified by the present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, or improved with the obligation will be economically and efficiently utilized;

(5) the probable value of any equipment to be improved, rehabilitated, or acquired, and of any facilities to be acquired, is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Secretary; and

(6) the transaction will result in an improvement in the ability of any affected railroad to transport passengers or freight.

(i) General Obligation.—The recipients of any guarantees of, or of any commitments to guarantee, an obligation under this section, shall, consistent with their capital resources, maintain their facilities, on a continuing basis, in accordance with standards promulgated under this subsection. The Secretary shall assure compliance with this obligation by regular periodic inspection.

(j) Conditions of Guarantees.—No guarantee of, and no commitment to guarantee, an obligation may be granted, approved, or extended under this section, unless the obligor first agrees in writing that so long as any interest or principal is due and payable on such obligation—

(A) there will be no increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the 5 years preceding such proposed increase, without prior approval of such increase by the Secretary. Such approval may only be granted after a public hearing with an opportunity for interested persons to submit comments and a written finding by the Secretary that such increase in dividends will not materially affect the ability of the obligor to comply with the requirements of subparagraph (C) of this paragraph;

(B) the obligor will not use assets or revenues (other than cash) related to or derived from railroad operations in nonrailroad enterprises, without prior approval in writing from the Secretary. Such approval may only be granted after a public hearing with an opportunity for interested persons to submit comments and a written finding by the Secretary that such use of assets or revenues will not materially affect the ability of the obligor to comply with the requirements of subparagraph (C) of this paragraph; and

(C) the obligor shall take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Secretary and the Commission, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service.

(k) Breach of Conditions.—The Attorney General shall commence a civil action in any appropriate district court of the United States to enjoin any activity which the Secretary finds is in violation of any condition specified in subsection (i) or (j) of this section, and to secure any other appropriate relief, including termination, suspension, and punitive damages.

(l) Investigation Charge.—The Secretary shall charge and collect from each applicant such amounts as he deems reasonable for the investigation of any application submitted for appraisal of the value of the equipment or facilities involved, and for making the necessary determinations and findings. Such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation with respect to which the applicant seeks a guarantee or commitment to guarantee.

(m) Premium Charge.—The Secretary shall levy and collect from the obligor an annual premium charge on each obligation guaranteed under this section. The amount of such premium may not exceed an annual rate of 1 percent on the unpaid principal balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed by the Secretary, and, thereafter, on the anniversary date of such guarantee.

(n) Administrative Costs.—All moneys received by the Secretary under this section shall be deposited in the obligation guarantee fund. An amount, which shall not exceed 5 percent of the total annual premium charges authorized to be collected under subsection (m) of this section, may be used by the Secretary to pay administrative costs and expenses incurred by him pursuant to this section.

ISSUANCE OF NOTES OR OBLIGATIONS

Sec. 512. (a) Authorization.—The Secretary may issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary may prescribe. Such obligations may be issued whenever the moneys in the obligation guarantee fund are not sufficient to pay any amount which the Secretary is required to pay under section 513 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury shall purchase any such obligations and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Bond Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States. Moneys obtained under this subsection shall be deposited in the obligation guarantee fund, and redemptions of any such obligations shall be made by the Secretary from such fund.

(b) Disposition and Property.—Notwithstanding any other provision of law, the Secretary may, in his discretion, perform any acts which he considers necessary or appropriate to complete, recondition, reconstruct, renovate, repair, maintain, manage, operate, charter, lease, rent, sell, or otherwise dispose of any property or other interests acquired by him pursuant to sections 511 through 513 of this title.

(c) Validity.—No guarantee by the Secretary, and no commitment by him to guarantee an obligation, under sections 511 through 513 of this title may be terminated, suspended, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Secretary. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of such sections of this title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment to guarantee shall be valid and incontestable in the hands of the holder thereof, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

DEFAULT ON GUARANTEED OBLIGATIONS

Sec. 513. (a) In General.—If there is a default by the obligor in any payment of principal or interest due under an obligation guaranteed under sections 511 through 513 of this title, which has continued for 30 days, the holder of such obligation or his agent has the right to demand payment by the Secretary of the unpaid interest on, and the unpaid principal of, such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such specified period, but not later than 60 days from the date of such demand, the Secretary shall pay to such holder the unpaid interest on, and the unpaid principal of, such obligation; except that the Secretary shall not be required to make any such payment if he finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

(b) Rights of Secretary.—If the Secretary makes a payment to a holder, under subsection (a) of this section, he shall thereupon have all the rights granted to him by law or security agreements between him and the obligor, at such time. The Secretary shall also be subrogated to all of the rights which such holder had by law, assignment, or security agreements between such holder and the obligor. Nothwithstanding any other provision of law, the Secretary may, in his discretion, complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property obtained by him pursuant to this section. The terms of any such sale or other disposition shall be as approved by the Secretary.

(c) Form of Payment.—Any amount required to be paid by the Secretary pursuant to subsection (a) of this section shall be paid in cash.

(d) Action Against Obligor.—If there is a default by the obligor in any payment due under an obligation guaranteed under sections 511 through 513 of this title, the Secretary shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interest of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Secretary all records and evidence necessary to prosecute any such suit. The Secretary may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him, if the value of such property is not greater than the total of the unpaid interest, charges and principal of such obligation. If the Secretary receives, through the safe of property an amount greater than his cost and the amount paid to the holder under subsection (a) of this section, he shall pay such excess to the obligor.

AUDIT OF TRANSACTIONS

Sec. 514. (a) In General.—The Comptroller General of the United States is authorized to audit the operations of the Fund and of the obligation guarantee fund in accordance with such rules and regulations as he may prescribe. Any such audit shall be conducted at the place or places where accounts of the Fund or of the obligation guarantee fund are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Fund, the obligation guarantee fund, or the Secretary which pertain to the financial transactions of the Fund or the obligation guarantee fund and which are necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, things, and property shall remain in the possession and custody of the Fund, the obligation guarantee fund, or the Secretary, as the case may be.

(b) Access to Information.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any person or entity which has entered into a financial transaction, with or involving the Fund, the obligation guarantee fund, the Secretary, under this title, to the extent deemed necessary by the Comptroller General to facilitate any audit of financial transactions pursuant to subsection (a) of this section. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such person or entity shall remain in the possession and custody of such person or entity, to the extent practicable.

(c) Report.—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the obligation guarantee fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority or which is inconsistent with the purposes and provisions of this title. A copy of such report shall be furnished to the President, the Secretary, and the Commission, at the time it is submitted to the Congress.

ANNUAL REPORT

Sec. 515. The Secretary shall report to the Congress within 90 days following the end of each fiscal year on the financial condition and operations of the Fund and of the obligation guarantee fund during such fiscal year, and on the anticipated condition and operations of the Fund and of the obligation guarantee fund during the next fiscal year.

EMPLOYEE PROTECTION

Sec. 516. (a) In General.—Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 510) who may be affected

(b) Terms.—The arrangements required by subsection (a) of this section shall apply to individual employees having an employment relationship with the particular railroad employer involved, on the date on which the applicable financial assistance under this title is first sought. Such arrangements shall include such provisions as may be necessary—

(1) to provide for notice, negotiation, and execution of agreements providing for the manner in which the protective arrangements shall be applied, which agreements shall be executed prior to implementation of work funded from assistance obtained under this title, except that (A) if such agreements have not been reached within 30 days after the date such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration and the decision on any such arbitration shall be rendered within 30 days after such submission; and (B) the arbitration decision (i) shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, (ii) shall be final and binding on the parties, and (iii) shall become a part of the agreement;

(2) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(3) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(4) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under this title, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(5) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this title.

(c) Subcontracting.—The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this title V.

Sec. 517. (a) Grants.—The Secretary is authorized to provide grants to any railroad, in such form as he deems advisable, so as to improve intercity passenger service on the lines of such railroad outside the Northeast Corridor.

(b) Authorization.—There are authorized to be appropriated to carry out the purposes of this section such sums as are necessary not to exceed $200,000,000.

TITLE VI—IMPLEMENTATION OF THE FINAL SYSTEM PLAN

REFERENCES TO ACT

Sec. 600. (a) Unless otherwise specified, whenever, in this title, an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or provision of "such Act", the section or other provision amended or repealed is a section of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) The table of contents of such Act is amended to read as follows:

"TABLE OF CONTENTS

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Declaration of policy.
"Sec. 102. Definitions.

"TITLE II—UNITED STATES RAILWAY ASSOCIATION

"Sec. 201. Formation and structure.
"Sec. 202. General powers and duties of the Association.
"Sec. 203. Access to information.
"Sec. 204. Report.
"Sec. 205. Rail Service Planning Office.
"Sec. 206. Final system plan.
"Sec. 207. Adoption of final system plan.
"Sec. 208. Review by Congress.
"Sec. 209. Judicial review.
"Sec. 210. Obligations of the Association.
"Sec. 211. Loans.
"Sec. 212. Records, audit, and examination.
"Sec. 213. Emergency assistance pending implementation.
"Sec. 214. Authorization for appropriations.
"Sec. 215. Maintenance and improvement of plant.
"Sec. 216. Purchase of debentures and series A preferred stock.

"TITLE III—CONSOLIDATED RAIL CORPORATION

"Sec. 301. Formation and structure.
"Sec. 302. Powers and duties of the Corporation.
"Sec. 303. Valuation and conveyance of rail properties.
"Sec. 304. Termination and continuation of rail services.
"Sec. 305. Continuing reorganization.
"Sec. 306. Certificates of value.
"Sec. 307. Supplementary assistance.
"Sec. 308. Protection of Government funds.

"TITLE IV—LOCAL RAIL SERVICES

"Sec. 401. Findings and purposes.
"Sec. 402. Rail service continuation assistance.
"Sec. 403. Acquisition and modernization loans.

"TITLE V—EMPLOYEE PROTECTION

"Sec. 501. Definitions.
"Sec. 502. Employment offers.
"Sec. 503. Assignment of work.
"Sec. 504. Collective-bargaining agreements.
"Sec. 505. Employee protection.
"Sec. 506. Contracting out.
"Sec. 507. Arbitration.
"Sec. 508. Duties of acquiring and selling railroads.
"Sec. 509. Payment of benefits.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Relationship to other laws.
"Sec. 602. Annual evaluation by the Secretary.
"Sec. 603. Freight rates for recyclables.
"Sec. 604. Separability.
"Sec. 605. Duty of transferee.".

GENERAL

Sec. 601. (a) Section 202(a)(2) of such Act (45 U.S.C. 712(a)(2)) is amended to read as follows:

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise receive and hold securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all of the rights, privileges, and powers of a holder of any such securities; and issue certificates of value under section 306 of this Act;":

(b) Section 303 of such Act (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

"(e) Transfer and Other Taxes and Recording Fees.—All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this section in accordance with designations in the final system plan, or which are made in accordance with a continuing reorganization, pursuant to section 305 of this title, shall be exempt from any taxes, imports, or levies now or hereafter imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, or other instruments and, consistent with the designations and applicable principles in the final system plan, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the services performed.".

(c) Section 208 of such Act (45 U.S.C. 718) is amended by adding at the end thereof the following new subsections:

"(d) The provisions of the Association's official errata supplement, dated December 1. 1975, to the final system plan, including all designations made therein, shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress. The final system plan shall, for all purposes, be deemed to be approved as modified and amended by such supplement.

"(e) Notwithstanding any other provision of this Act, the Association may, upon petition of any State, modify the final system plan to make further designations with respect to lines and related rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations (1) are likely to result in improved rail service to users on such lines and connecting lines, and (2) would not materially impair the profitability of the Corporation. Such designations, including designations of such rail lines and properties to a State, a profitable railroad or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209(c) of this Act. Such further designations shall be treated for all purposes as if they had been included in the final system adopted by the Association and reviewed by the Congress and the final system plan shall for all purposes to be deemed to be approved as modified by such designations. Any action of the Association with respect to any such petition shall not be subject to review by any court.".

SPECIAL COURT

SEC. 602. (a) Section 209(b) of such Act (45 U.S.C. 719) is amended by striking out the sixth sentence thereof and inserting in lieu thereof the following new sentence: "The special court may issue rules for the conduct of its functions, including rules with respect to the time within which motions may be filed, and with respect to appropriate representations of interests not otherwise represented.".

(b) Section 209 of such Act (45 U.S.C. 719) is amended by adding at the end thereof the following four new subsections:

"(e) ORIGINAL AND EXCLUSIVE JURISDICTION.—(1) Notwithstanding any other provision of law, any civil action—

"(A) for injunctive or other relief from the enforcement, operation, or execution of this Act or any provision thereof, or from any action taken pursuant to authority purportedly conferred under this Act;

"(B) challenging the constitutionality of this Act or any provision thereof;

"(C) challenging the illegality of any action or any failure to take any action pursuant to authority conferred or purportedly conferred under this Act;

"(D) to enforce or declare any rights under this Act;

"(E) to obtain, inspect, copy, or review any document in the possession or control of the Association that would be discoverable in litigation pursuant to section 303 (c) of this Act; or

"(F) brought after a conveyance, pursuant to section 303(b) of this Act, to set aside or annul such conveyance or to secure in any way the reconveyance of any rail properties so conveyed.

shall be within the original and exclusive jurisdiction of the special court. The special court shall not hear or determine any such action prior to the date of conveyance pursuant to section 303(b)(i) of this Act, except as the Constitution may require. Relief shall not be granted in any action referred to in subparagraph (A), (C), (D), or (F) unless the person seeking such relief establishes that the Association acted in reckless or deliberate disregard of applicable law.

"(2) The original and exclusive jurisdiction of the special court shall include any action, whether filed by any interested person or initiated by the special court itself, to interpret, alter, amend, modify, or implement any of the orders entered by such court pursuant to section 303(b) of this Act in order to effect the purposes of this Act or the goals of the final system plan. During the pendency of proceedings, the special court may enter such orders as it determines to be appropriate, including orders which enjoin, restrain, condition, or limit any conveyance, transfer, or use of any asset or right which is subject to such an order or which is at issue in such a proceeding, or which involves the enforcement of any liens or encumbrances upon such assets or rights. Any orders pursuant to this subsection which interpret, alter, amend, modify, or implement orders entered by the special court shall be final and shall not be restrained or enjoined by any court.

"(3) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of this Act, in whole or in part, or of any action taken under this Act, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code: *Provided*, That such an appeal is exclusive and shall be filed not more than 20 days after entry of such order or judgment.".

"(f) CONTINUING REORGANIZATION REVIEW.—(1) Within 180 days after the filing of a petition under section 305(e) of this Act, the special court shall decide, after a hearing, whether the proposed continuing reorganization transfers, considered in their entirety, are (A) in the public interest, as defined by the purposes of this Act and the goals of the final system plan, and (B) fair and equitable. If the special court determines that such transfers, considered in their entirety, are in the public interest and fair and equitable, it shall, upon the making of such a determination, issue such orders as may be necessary to consummate, implement, or execute such transfers. If the special court determines that such transfers, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusions and reasons therefor, and in such a case the Association or the Secretary may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of such proposed supplementary transfers have been modified consistent with the opinion of the special court and are acceptable to each proposed transferor and transferee, and may petition the special court for reconsideration of the proposal as so modified. With respect to any proposed transfer under section 305(d) of this Act, the Association shall certify to the special court that the terms and conditions of the proposed supplementary transfer have been modified consistent with the opinion of the special court and shall petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal, as modified in the manner attested to by the certification of the Association or of the Secretary is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(2) The special court is authorized to exercise the powers of a district judge in any judicial district with respect to any proceeding under this subsection, and such powers shall include those of a reorganization court.

"(3) Any evaluation or determination of the Association, the Secretary, or the Commission under this section or under section 305 of this Act shall not be reviewable in any court except the special court in accordance with the provisions of this section. No supplementary transfer shall be restrained or enjoined or otherwise reviewed by any court other than the special court, as provided in this subsection.

"(4) Notwithstanding any other provision of this Act, no findings, determination, or proceedings (whether administrative or judicial) shall be required with respect to any proposed supplementary transfers except as expressly set forth in this section and in section 305 of this Act.

"(5) Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplementary transfer are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by holders of all classes of securities except that the special court shall not assign to the series B preferred stock and common stock of the Corporation any values which have been added to such securities by reason of the Association's investment in the debentures and series A preferred stock issued by the Corporation in excess of any values required by constitutional principles applicable to a reorganization process.

"(6) A final order or judgment of the special court entering or denying an order pursuant to this subsection shall be reviewable in the same manner as provided in subsection (e)(3) of this section.

"(g) DISPOSITION OF CASH DEPOSITS.—Whenever the compensation which is deposited with the special court under section 303(a) of this Act is in the form of cash, such cash shall be invested and reinvested upon such terms and conditions as the special court shall determine, pending the making of the findings referred to in paragraphs (1), (2), and (3) of section 303(c) of this Act. Notwithstanding section 303(c) (4) of this Act, the special court may order (1) the income from such investments, (2) the dividends or interest, if any, received on any securities or obligations deposited with the special court under such section 303(a), and (3) the income, if any, received with respect to any other form of compensation so deposited, to be distributed to the trustee or trustees of each railroad in reorganization and to any person leased, operated or controlled by such a railroad which conveyed right, title, and interest in the rail properties with respect to which such cash, securities, obligations, or other compensation have been so deposited with the special court. Notwithstanding section 303(c)(4) of this Act, the special court may also order, within 90 days after the date of its order of conveyance of rail properties pursuant to section 303(b) of this Act, up to 25 percent of any cash (including investments made with cash) and other compensation so deposited to be distributed to each such transferor and, on petition of the applicable such transferors, it may order such additional distributions as it finds reasonable and appropriate, to be made prior to the making of the findings referred to in paragraphs (1), (2), and (3) of such section 303(c).

"(h) STAY OF COURT PROCEEDINGS.—The special court may stay or enjoin any civil action or proceeding in any State court or in any court of the United States other than the Supreme Court if such action or proceeding is contrary to any provision of this Act, impairs the effective implementation of this Act, or interferes with the execution of any order of the special court pursuant to this Act.".

OBLIGATIONS OF THE ASSOCIATION

SEC. 603. Section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows:

"(b) The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed $400,000,000. After the date on which the Association first makes a purchase of securities of the Corporation under section 216 of this title, no additional obligations or proceeds thereof shall be issued or made available to the Corporation.".

DEBENTURES AND SERIES A PREFERRED STOCK

SEC. 604. Title II of such Act is amended by adding at the end thereof the following new section:

"DEBENTURES AND SERIES A PREFERRED STOCK

"SEC. 216. (a) GENERAL.—The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to $1,000,000,000 principal amount of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to $1,100,000,000 principal amount of the series A preferred stock of the Corporation.

"(b) Purposes and Procedure for Investment.—

"(1) The Association is authorized to purchase debentures and, thereafter, series A preferred stock of the Corporation at such times and in such amounts as may be required and requested by the Corporation in accordance with the terms and conditions governing such purchases (which shall be prescribed by the Association), to provide—

"(A) for the modernization, rehabilitation and maintenance of rail properties of the Corporation;

"(B) for the acquisition of equipment and other capital needs;

"(C) for the refinancing of indebtedness which was incurred by the Corporation under section 211 of this title or which was incurred under section 215 of this title and assumed by the Corporation;

or

"(D) working capital as contemplated by the final system plan.

"(2) Purchases of up to $1,000,000,000 of debentures and thereafter of up to $1,100,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation unless the Association makes an affirmative finding that (A) the Corporation has failed in any material respect to comply with any covenants or undertakings made to the Association and such failure remains uncorrected, (B) the Corporation has failed substantially (as determined by performance within margins prescribed by the Board of Directors of the Association to obtain the overall operating and financial results projected in the final system plan, as they may be modified by the Board of Directors, or (C) taking into consideration all relevant factors, including its overall operating and financial results, it is not reasonably likely that the Corporation will be able to become financially self-sustaining without requiring Government funds substantially in excess of the amount authorized in this section.

"(c) Findings and Election.—If the Association decides not to purchase securities of the Corporation in accordance with subsection (b) of this section, it may elect (1) not to purchase debentures or series A preferred stock of the Corporation after the date of such determination, or (2) notwithstanding subsection (e)(1) of this section to purchase debentures or series A preferred stock of the Corporation after the date of such determination only in such amounts, at such times, and on such terms and conditions as the Association determines to be appropriate to its role as an investor in the debentures and series A preferred stock of the Corporation.

"(d) Terms and Conditions.—Notwithstanding any other provision of State or Federal law, the debentures and the series A preferred stock of the Corporation shall have such terms and conditions, not inconsistent with the final system plan, as may be prescribed by the Board of Directors of the Association, except that interest on such debentures, and dividends on such series A preferred stock, shall not be cumulative and shall be payable only at such times as the earned surplus of the Corporation exceeds $500,000,000, and only out of such earned surplus which exceeds $500,000,000.

"(e) Modifications and Waivers.—(1) The Association may agree with the Corporation to modify any of the terms and conditions governing the purchase of the securities of the Corporation, upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan.

"(2) The Association may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan, waive compliance with any term, condition, provision, or covenant of the securities of the Corporation held by the Association, including any provision of such securities with respect to redemption of principal or issuance price, payment of interest or dividends, or any term or condition governing the purchase of such securities.

"(f) Apppropriation.—There is authorized to be appropriated to the Association the sum of $2,100,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

LOANS

Sec. 605. Section 211 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsections:

"(g) Pre-Conveyance Loans to the Corporation.—It is the further intent of Congress that in the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 303(b) of this Act, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation subject to the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and subject to the further condition that any loan to the Corporation under this subsection shall be refinanced by the issuance of debentures under section 216 of this title. In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors.

"(h) Loans for Payment of Obligations.—(1) Notwithstanding any other provisions of this Act, the Association is authorized, subject to the limitations set forth in section 210(b), to make loans, in amounts not to exceed $200,000,000 in the aggregate, to the Corporation, the National Railroad Passenger Corporation, and to any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303 (b)(1) of this Act, for the purpose of meeting existing or prospective obligations of the railroads in reorganization which the Association determines should be paid, in accordance with procedures established by the Association, by the Corporation, the National Railroad Passenger Corporation or profitable railroad on behalf of the transferors in order to permit continued, orderly operations. Such obligations shall be limited to amounts claimed by suppliers, including private car lines, of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline account, claims of employees arising under the collective bargaining agreements of the railroads in reorganization and subject to section 3 of the Railway Labor Act, and claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Acts. The Association shall not make such a loan unless it first finds that—

"(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

"(B) such obligations arose from rail operations prior to the date of conveyance of rail properties pursuant to section 301(b)(1) and are, under other applicable law, the responsibility of a railroad in reorganization;

"(C) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligations by the Corporation, the National Railroad Passenger Corporation or profitable railroad is necessary to permit continued, orderly operations; and

"(D) the transferor is unable to pay such obligations, under procedures established by the Association, within a reasonable period of time.

"(2) To assist in the establishment of procedures, the Association may, not less than thirty (30) days prior to conveyance pursuant to section 303(b)(1), petition each of the United States district courts having jurisdiction over the reorganization of a railroad in reorganization for an order, which shall be entered prior to such conveyance, and which—

"(A) identifies both cash and other current assets of the estate of the railroad in reorganization arising from rail operations which shall be utilized to satisfy obligations of the estates identified in paragraph (1) of this subsection; and

"(B) provides for the application by the Trustees of such railroads and their agents, consistent with the principles of reorganization under Section 77 of the Bankruptcy Act, all current assets, including cash, arising from rail operations available as of or subsequent to the date of conveyance, the payment in the post-conveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

"(3) Any obligation of a railroad in reorganization paid with assistance provided pursuant to paragraph (1) of this subsection shall be processed on behalf of the railroad in reorganization by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be. Any such obligation that the Corporation, the National Railroad Passenger Corporation or a profitable railroad deems to have been outstanding on the date of conveyance pursuant to section 303(b)(1), or which accrues thereafter because of rail operations prior to such date, and which said transferor acknowledges to have been its obligation or which the United States district court having jurisdiction over the reorganization proceeding of the transferor approves as a valid administrative claim against such transferor, and which cannot be paid within a reasonable period of time under the procedures established pursuant to paragraph (2) of this subsection, shall be paid on behalf of such transferor by the Corporation, the National Railroad Passenger Corporation or a profitable railroad to the extent funds are available under paragraph (1) of this subsection. The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization. The Corporation, the National Railroad Passenger Corporation or the profitable railroad shall be entitled to reimbursement directly, as a current expense of administration, from the estate of the railroad in reorganization on behalf of whom the obligation was paid, for direct costs, including attorneys' fees and court costs, incurred by them in reimbursement therefor, together with interest thereon at the rate of interest charged by the Association for the loan from which the funds for such payment were provided.

"(4) If at any time the Government Banking Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of the railroad in reorganization for any obligation of the estate paid pursuant to this subsection could adversely affect the fairness and equity of the transfers and conveyances pursuant to section 303(b) (1) of this Act, or that failure of the National Railroad Passenger Corporation to receive such full reimbursement with interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Committee. The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization, equal to the amount by which loans of the Corporation or the National Railroad Passenger Corporation, plus interest, have been forgiven, and such claim shall be prior to all other administrative claims of the estate. Such direct claim shall not be subject to any reduction by way of set-off, cross-claim or counterclaim which the estate of the railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association or the United States of America.".

"(g) Electrification.—Upon application by the Corporation, the Secretary shall, pursuant to but without regard to the limitations contained in sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1975, guarantee obligations of the Corporation for up to $200,000,000 for the purpose of electrifying high-density mainline routes where such electrification will return operating and financial benefits to the Corporation and will facilitate compatibility with existing or renewed electrification systems.".

MISCELLANEOUS AMENDMENTS TO TITLE II

Sec. 606. (a) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended to read as follows:

"(h) Executive Committee.—The Board of Directors of the Association shall have an executive committee which shall consist of the Chairman of the Board, the Secretary or his duly authorized representative, the Chairman of the Commission or his duly authorized representative, and two other members who shall be selected by the members of the Board.".

(b) Section 202(e) of such Act (45 U.S.C. 712(e)) is amended by inserting after "obligations issued" and before "and loans" in clause (4) thereof the following: ", certificates of value issued, securities purchased,".

(c) Section 202(f) of such Act (45 U.S.C. 712(f)) is amended by inserting after "section" and before ")" in the first sentence thereof the following: "and receipts and disbursements under section 216 of this title and section 306 of this Act.".

(d) Section 203(a) of such Act (45 U.S.C. 713(a)) is amended by striking out the last sentence thereof.

(e) Section 206(d)(3) of such Act (45 U.S.C. 716(d)(3)) is amended by inserting after the first sentence thereof the following three new sentences: "All determinations made by the Association in the correction to the preliminary system plan published on April 11, 1975 (40 Fed. Reg. 16377) shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to such correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to acquisitions by profitable railroads referred to in any supplement to the preliminary system plan published under section 207(b)(2) of this title shall be deemed to be timely if made prior to the adoption of the final system plan under section 207(c) of this title.".

(f) Section 206(c)(1)(B) of such Act (45 U.S.C. 716(c)(1)(B)) is amended by inserting after "paragraph" and before "in the event" the following: "and what alternative designations shall be made under this paragraph".

(g) Section 206(c)(1)(A) of such Act (45 U.S.C. 716(c)(1)(A)) is amended by deleting the semicolon and inserting in lieu thereof the following: ": Provided, That the Corporation shall, within 60 days after the effective date of the final system plan, give notice to the Association of which such rail properties, if any, are to be transferred to a subsidiary or affiliate of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan;".

(h) Section 206(c)(2) of such Act (45 U.S.C. 716(c)(2)) is amended by adding at the end thereof the following new sentence: "Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary or affiliate of the Corporation.".

(i) Sections 206(d)(1), 209 (c) and (d), 215(d), 304(e), and 501 (1) and (2) of such Act (45 U.S.C. 716(d)(1), 719 (c) and (d), 744(e), and 711 (1) and (2)) are amended by inserting after "Corporation" each time it appears the following: "or any subsidiary or affiliate thereof".

(j) Section 206(c)(1)(D) of such Act (45 U.S.C. 716(c)(1)(D)) is amended by—

(1) inserting after "by" the designation "(i)"; and

(2) striking "; and" at the end thereof and adding the following: "or (ii) the National Railroad Passenger Corporation to meet the needs of improved passenger service over intercity routes, other than the Northeast Corridor, identified by the Association pursuant to the final system plan; and".

(k) Section 210(c) of such Act (45 U.S.C. 720(c)) is amended by adding at the end thereof the following new sentence: "All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States for the payment of which its full faith and credit are pledged.".

(m)(1) Subsection (b) of section 214 of such Act (45 U.S.C. 724(b)) is amended by deleting "$5,000,000" and inserting in lieu thereof "$7,000,000".

(2) Section 214(c) of such Act is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated to the Association for adminstrative expenses incurred under this Act and under the Rail Services Act of 1975 such sums as are necessary not to exceed $5,000,000 for the fiscal year ending June 30, 1976; not to exceed $3,000,000 for the transitional fiscal period ending September 3, 1976; and not to exceed $9,000,000 for the fiscal year ending September 30, 1977.".

(n) Section 214(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724 (a)) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the United States arising under section 303(c)(5) of this Act.".

(o) Paragraph (4) of section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 206(d)(4)) is amended—

(1) in the first sentence thereof, by striking out "30 days after the effective date of the final system plan" and inserting in lieu thereof "5 days (exclusive of weekends and holidays) after the date of the enactment of the Railroad Revitalization and Regulatory Reform Act of 1975"; and

(2) by inserting immediately after the first sentence thereof the following new sentence: "Such offer may be modified until date of acceptance to the extent that such modification does not result in an offer for sale less than the net liquidation value of the property to be sold.".

(p) Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any statement to the contrary in the final system plan, a State (or a local regional transportation authority) shall not be required to deliver to the Corporation a firm commitment to acquire rail properties designated to such State or authority prior to January 9, 1976, or 5 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, whichever is later.".

(q) Section 206 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(c)) is amended by adding at the end thereof following new section:

"(j) Any line of railroad or segment of a line of railroad on which rail service was being provided as of the effective date of this Act, and which was recommended in the preliminary system plan for transfer to the Corporation, shall be deemed to be designated in the final system plan for transfer to the Corporation under subsection (c)(1)(A) of this section. Any designation in the final system plan, pursuant to subsection (c)(1) (B) of this section, of overhead trackage rights to be acquired by a profitable railroad operating in the region over specified rail properties to be acquired by the Corporation, where such designation does not (1) include the right for such profitable railroad to interchange traffic with at least one railroad, or (2) provide for the connection of portions of such profitable railroad's rail properties, and where the transfer of ownership of such rail properties or trackage thereover to such profitable railroad was recommended in the preliminary system plan, and the Commission has made a determination with respect thereto, in accordance with subsection (d)(3) of this section, shall be deemed to include the right for such profitable railroad to interchange traffic with the Corporation and any other profitable railroad connecting with such specified rail properties.".

(r) Section 207 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Time Extension.—The time prescribed in subsections (c) and (d) of this section for the delivery of certified copies of the final system plan may be extended to a date, not later than March 11, 1976, prescribed in a notice filed by the Association not later than February 1, 1976, with the special court, the President of the Senate, the Speaker of the House of Representatives, and each court referred to in subsection (d) of this section. Such notice shall contain the certification of the Association that an orderly conveyance of rail properties cannot reasonably be effected before the date for conveyance determined with respect to such notice. The time prescribed in section 303(a) of this Act shall be determined with respect to the date prescribed in such notice.".

CAPITALIZATION OF CORPORATION

Sec. 607. Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out the first 2 sentences of subsection (e) thereof and inserting in lieu thereof the following: "In order to carry out the final system plan, the Corporation is authorized to issue debentures, series A preferred stock, series B preferred stock, common stock, and other securities. Debentures and series A preferred stock shall be issued initially to the Association, pursuant to section 216 of this Act. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, or controlled by railroads in reorganization in the region, and to other transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. All securities of the Corporation issued to the Association as the initial holder of such securities, or issued in connection with the transfer to the Corporation or any subsidiary or affiliate thereof of rail properties under this Act, shall be deemed for all purposes to have been authorized pursuant to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).".

B preferred stock, common stock, redeemable preference shares, and other securities. Debentures and series A preferred stock shall be issued initially to the Association. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, and controlled by railroads in reorganization in the region and to other persons leased, operated or controlled by a railroad in reorganization who are transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. The series B preferred stock shall have terms and conditions not inconsistent with the final system plan: *Provided*, That as a condition of its investment in the Corporation, the Association may prescribe limitations on the circumstances under which dividends on the series B preferred stock and common stock are payable so long as any of the debentures are outstanding and any of the series A preferred stock has not been redeemed.

PROTECTION OF GOVERNMENT FUNDS

"SEC. 308. (a) AUDIT BY COMPTROLLER GENERAL.—(1) The Comp- (45 U.S.C. 791 et seq.), as amended by this Act, is further amended by adding at the end thereof the following new section:

"PROTECTION OF GOVERNMENT FUNDS

SEC. 308. (a) AUDIT BY COMPTROLLER GENERAL.—(1) The Comptroller General of the United States is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (A) Federal funds are being used to finance any portion of its operations, (B) Federal funds have been invested therein, or (C) the Corporation has outstanding obligations guaranteed by the United States. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the status of the Corporation, and to make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations.

"(2) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a designated representative of the Comptroller General, shall have access to and the right to examine all books, accounts, records, reports, files and other papers, items, or property belonging to or in use by the Corporation.".

"(b) REPORT.—The Association shall prepare and submit an annual report to Congress on the performance of the Corporation. Such report shall be submitted within 90 days of the close of the fiscal years of the Corporation. Such report shall include an evaluation of—

"(1) the degree to which the goals of section 206(a) of this Act are being met;

"(2) the amounts and causes of deviations, if any, from the financial projections of the fiscal system plan;

"(3) the amount of Federal funds made available to the Corporation and a clear description of the uses of such funds;

"(4) the projected financial needs of the Corporation;

"(5) the projected sources of meeting the financial needs of the Corporation; and

"(6) the ability of the Corporation to become financially self-sustaining without requiring government funds in excess of those projected in the fiscal system plan.".

CONTINUING REORGANIZATION

SEC. 609. (a) Section 102 of such Act (45 U.S.C. 702), as amended by this Act, is amended—

(1) in paragraph (14) thereof, by striking out "and";

(2) in paragraph (15) thereof, by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(16) 'Supplemental transaction' means any transaction proposed under section 305 of this Act as supplemental to the final system plan within 6 years after the date on which the special court orders conveyance of rail properties to the Corporation under section 303(b) of this Act, under which the Corporation (which for purposes of supplemental transactions shall be deemed to include any subsidiary or affiliate thereof) would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary or affiliate of the Corporation or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or, for rail use, to any other responsible person, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services."

(b) Title III of such Act is amended by adding at the end thereof the following new sections;

CONTINUING REORGANIZATION; SUPPLEMENTAL TRANSACTIONS

"SEC. 305. (a) PROPOSALS.—If the Secretary or the Association determines that further restructuring of rail properties in the region through transactions supplemented to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary or the Association, as the case may be, may develop proposals for such supplemental transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 206(c)(1)(A) of this Act but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the efficient operations of the Corporation, and (2) transfers, consistent with the final system plan, of rail properties from the Corporation to a subsidiary or affiliate thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state the rail properties involved, the parties to any transactions, the financial and other terms of any transactions, the purposes of the Act or goals of the final system plan intended to be effectuated by any transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary or the Commission, and upon the development of a proposal developed by the Association, the Association shall publish a summary of such proposal in the Federal Register, and shall afford interested persons an opportunity to comment thereon.

"(b) EVALUATION BY ASSOCIATION.—The Association shall analyze each proposal for a supplemental transaction, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may have been held, and shall, within 120 days after the publication required by subsection (a), publish in the Federal Register a report evaluating the proposal. Such evaluation shall state whatever the proposal for supplemental transactions is (1) in the public interest as defined by the purposes of the Act and the goals of the final system plan, and (2) fair and equitable. Within 30 days after the Association publishes its report, each proposed transferor or transferee shall notify the Association in writing as to whether the proposed supplemental transaction is acceptable to such proposed transferor or transferee. If any such proposed transferor or transferee fails to notify the Association that the proposed supplemental transaction is acceptable to it, no further administrative or judicial proceedings shall be conducted with respect to such proposed supplemental transaction. In such supplemental transactions, the transferor and transferee shall be subject to the provisions of title V of this Act, except that the term 'effective date of this Act' as contained in such title V shall be applied to such supplemental transactions as if such term read 'effective date of the supplemental transaction'.

"(c) REVIEW BY THE COMMISSION.—Within 90 days after the publication in the Federal Register of each report referred to in subsection (a) of this section, the Commission shall determine whether the supplementary transfer would be in full accord and comply with the provisions and standards of section 5 and other applicable provisions of the Interstate Commerce Act (49 U.S.C. 1) considering, inter alia, any substantial impairment of the Corporation's ability to meet the purposes of this Act and the goals of the final system plan, and any possible increase in the public costs involved. The Commission may condition its approval of any such supplementary transfer on such reasonable terms and conditions as it may deem necessary in the public interest. Subject to the determination of the special court under 209(f) of this Act, no such supplementary transfer shall be made without the approval of the Commission, except that if the Commission fails to act within the time period provided in this subsection, the supplementary transfer involved shall be deemed to have been so approved. The Commission may prescribe such regulations as may be necessary for the administration of this section.

"(c) FINAL REVISED DESIGNATIONS.—Within 30 days after the Commission makes a determination or is deemed to have given its approval under subsection (b) of this section, each proposed transferor or transferee shall notify the Association in writing whether the proposed supplementary transfer is acceptable to it. If any such proposed transferor or transferee fails to notify the Association that the proposed supplementary transfer is acceptable to it (other than the Corporation, where it is a proposed transferor, if the Association has determined that such transfer is likely to result in achievement of the goals specified in section 206(a) of this Act in a manner less costly to the public than that specified in the final system plan), no further administrative or judicial proceedings shall be conducted with respect to such proposed supplementary transfer, except that when the Corporation is the proposed transferor and the Association has made the aforementioned determination, further proceedings shall be conducted in accordance with subsection (e) of this section.

"(d) **SPECIAL COURT PROCEEDINGS.**—If the Association makes the determination that a proposal for supplemental transactions is in the public interest as defined by the purposes of this Act and the goals of the final system plan, and is fair and equitable, the Association shall, within 40 days after the date of the Commission's determination under subsection (c) of this section, or the expiration of the 90-day period referred to in such subsection (c), whichever is applicable, petition the special court for an order of such court finding that such proposal for supplemental transaction is in the public interest as defined by the purposes of this Act and the goals of the final system plan and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal. If the Association determines that a proposal made by the Secretary is not in the public interest or is not fair and equitable, the Secretary may, if he determines that such proposal is in the public interest and is fair and equitable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal.

"(2) Within 180 days after the filing of a petition under paragraph (1) of this subsection the special court shall decide, after a hearing, whether any proposed supplemental transactions, considered in their entirety, are in the public interest as defined by the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that any such proposed supplemental transactions, considered in their entirety, are in the public interest and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines either that any such proposed supplemental transactions, considered in their entirety, are not in the public interest or are not fair and equitable, it shall file an opinion stating its conclusions. In such event the Association, the Secretary, or the carriers involved may, within 30 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor or transferee, and may petition the special court for reconsideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal as modified by the certification is in the public interest and is fair and equitable, and shall enter such further orders as are consistent with that determination.

"(3) The special court shall make such rules for the conduct of proceedings under this subsection, including any necessary provisions for the representation of interests not otherwise represented, as it deems necessary or appropriate.

"(4) In proceedings under this subsection, the special court is authorized to exercise the powers of a judge of a United States district court with respect to such proceedings and such powers shall include those of a reorganization court.

"(5) Any evaluation of the Association or the Secretary shall not be reviewable in any court except the special court in accordance with the provisions of this section. The supplemental transactions shall not be restrained or enjoined by any court nor shall they be otherwise reviewable by any court other than by the special court to the extent provided in this section.

"(6) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings shall be required with respect to any proposal for supplemental transactions other than as expressly set forth in this section.

"(7) Revised or supplemental designations under this section shall subject the transferor and transferee, under such supplementary transfer, to the requirements and other provisions of title V of this Act, except that the time "effective date of this Act" contained in title V shall be applied to such revised or supplemental designations as if it read "effective date of the supplemental transfer."

"(d) **DEFINITION.**—For purposes of this section, the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act (11 U.S.C. 205), to (1) the estates of railroads in reorganization, and railroads leased, operated, or controlled by railroads in reorganization, or other transferors who have conveyed rail properties under section 303(b) of this title in exchange for the securities of the Corporation, the securities of the Association and other profitable railroads and the other benefits provided by the Act, and to any subsequent holders of such securities at the time of such supplemental transactions; and (2) to the holders of other securities of the Corporation. Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplemental transaction are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by all classes of security holders except that the special court shall not assign to the Series B Preferred Stock and common stock any values added to those securities by reason of the investment by the Corporation in excess of any value required by constitutional principles applicable to a reorganization process.

"CERTIFICATES OF VALUE

["SEC. 306. (a) **GENERAL.**—On the date when a certified copy of the final system plan is delivered to the special court, pursuant to section 209(c) of this Act, the Association shall deliver to the Corporation, for deposit with the special court pursuant to section 303(a)(1) of this title, the certificates of value of the Association required by this title. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this title. All guarantees entered by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to mutual mistake of fact or as to fraud or material misrepresentation by the holder of such certificates.

"(b) **NUMBER AND DISTRIBUTION.**—The number of certificates of value to be deposited pursuant to section 303(a)(1) of this title shall be equal to the number of shares of series B preferred stock of the Corporation which are required to be deposited by the Corporation with the special court, pursuant to section 303(a)(1) of this title. Certificates of value shall be distributed by the special court, pursuant to section 303(c)(4) of this title, at the same time, to the same transferors, and in the same numbers of units as shares of such series B preferred stock are distributed.

"(c) **REDEMPTION.**—(1) Certificates of value shall be redeemed by the Association on December 31, 1987, or on such earlier date as the Association may determine and specify.

"(2) Each certificate of value shall be redeemable for an amount, payable in cash, equal to its base value on the redemption date, minus (A) the sum of the fair market value of the series B preferred stock applicable to such certificate and the fair market value of the common stock applicable to such certificate and all cash dividends theretofore paid on any such series B preferred stock and on any such common stock (B) any sums paid to a transferor of rail properties resulting from sales or leases by the Corporation of properties transferred to it by such transferor. The number of shares of series B preferred stock and common stock so applicable to each certificate of value shall be, respectively, one share of series B preferred stock and the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiving such certificate of value by the total number of certificates of value so distributed to such transferor.

"(3) The base value of each certificate of value shall be the value obtained by taking the net liquidation value, as determined by the special court, to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1) to the Corporation and any subsidiary or affiliate thereof, subtracting the value of other benefits provided by this Act, as determined by the special court, adding interest from the transfer date to the redemption date to be compounded at a rate of 8 per centum per annum, and dividing the resulting value by the number of certificates of value distributed to such transferor. In making such determination, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of transfers of rail properties under section 303(b)(1).

"(4) The fair market value of series B preferred stock and of common stock shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the two first selected.

"(d) **AUTHORIZATION FOR APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.".

"(3) the applicant has offered such security as the Secretary deems necessary to protect reasonably the interests of the United States.".

CORPORATION DIRECTORS AND OFFICERS

SEC. 610. (a) Section 301(c) of such Act (45 U.S.C. 741(c)) is amended by deleting the second sentence thereof and inserting in lieu thereof the following two new sentences: "Notwithstanding any provision of State law, the members of the executive committee of the Association (including delegates of members who are authorized by this Act to have delegates) and the chief executive officer of the Corporation shall also adopt the initial bylaws of the Corporation and serve as the Board of Directors of the Corporation until at least five members of the Board of Directors of the Corporation shall have been selected in accordance with subsection (d) of this section. The chief executive officer shall serve as chairman of such Board until a chairman thereof is selected pursuant to subsection (d) of this section, after which time such chairman shall serve at the pleasure of such Board."

(b) Section 301(d) of such Act (45 U.S.C. 741(d)) is amended to read as follows:

"(d) Board of Directors.—The Board of Directors of the Corporation shall consist of 13 qualified individuals selected in accordance with the articles and bylaws of the Corporation as follows: 6 individuals selected by the holders or holders in trust of the Corporation's debentures and series A preferred stock or redeemable preference shares, voting as one class, as soon as any debentures are issued; 3 individuals selected by the holders of the Corporation's series B preferred stock; and 2 individuals selected by the holders of the Corporation's common stock. Notwithstanding any provision of State law, the chief executive officer of the Corporation and the chief operating officer of the Corporation shall also serve on the Board and shall represent the holders of all classes of securities rather than the holders of any particular class or classes. The chief executive officer and chief operating officer of the Corporation shall not be entitled to vote on any questions subject only to class vote, and neither shall be entitled to vote on his selection. Two members of the Board selected by the holder of the Corporation's debentures and series A preferred stock or redeemable preference shares shall resign when less than $1,500,000,000 of the securities of the Corporation are issued and outstanding; two additional members of the Board selected by the holder of the corporation's debentures and series A preferred stock shall resign when less than $1,000,000,000 of the securities of the Corporation are issued and outstanding; the two remaining members of the Board selected by the holder of the Corporation's debentures and series A preferred stock or redeemable preference shares shall resign when less than $500,000,000 of the securities of the Corporation are issued and outstanding. As directors resign in accordance with diminished Association investment in the Corporation, the election of corporate directors to fill the vacancies created by their resignations shall be governed by applicable State law and the articles and bylaws of the Corporation. For the purposes of this subsection includes a holder in trust."

(c) Section 301 of such Act (45 U.S.C. 741) is amended by (1) striking out subsection (f) thereof; (2) redesignating subsection (g) thereof as subsection (h); and (3) inserting the following two new subsections:

"(f) Officers.—The officers of the Corporation shall include a chief executive officer and a chief operating officer, who shall be elected by the Board of Directors and who shall serve at the pleasure of the Board; and such other officers as shall be provided for in the bylaws of the Corporation.

"(g) Voting Trustees.—For and during the period between the deposit of securities of the Corporation with the special court, in accordance with section 303(a) of this title and the distribution of such securities, in accordance with section 303(c) of this title, the special court may appoint one or more voting trustees for each class of securities which is so deposited. Such voting trustees shall, on behalf of the distributees, exercise the rights of the holders of such securities as their interests may appear.".

MISCELLANEOUS AMENDMENTS TO TITLE III

Sec. 611. (a) Section 303(b)(3) of such Act (45 U.S.C. 743(b)(3)) is amended to read as follows:

"(3) Notwithstanding any other provision of this Act, if an interest in railroad rolling stock (defined as assets which could be carried in Interstate Commerce Commission account numbers 52, 53, 54, and 57) is included in the rail properties to be conveyed, the conveyance of such properties shall be deemed an assignment relieving the assignor of liability for any breach occurring after the date of such assignment, except that such assignor shall remain liable for any breach, event of default, or violation of covenant which occurred, and any changes or obligations which accrued, prior to the date on which such properties are conveyed regardless of any assumption thereof by the assignee and, in the event such liabilities, charges or obligations are paid by or on behalf of any person or entity other than the assignor, such person or entity shall have a claim to reimbursement directly from such assignor as a current expense of administration together with interest thereon. Such a conveyance may only be effected (A) if the profitable railroad operating in the region, or the Corporation to whom the conveyance is made, assumes all of the obligations, under any conditional sale agreement, equipment trust agreement, or lease with respect to such rolling stock, including any obligations which accrued prior to the date on which such properties are conveyed, and (B) such conveyance is made subject to such obligations. Subject to the provisions of this subparagraph 3, the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale agreement, equipment trust agreement, or lease under section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)). A profitable railroad operating in the region or the Corporation, to whom such a conveyance is made as assignee or as lessee, shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such a profitable railroad or the Corporation shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease."

(b) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by (1) inserting "and" after the comma at the end of subsection (7) thereof; and (2) deleting ", and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganization Act of 1973." and inserting in lieu thereof ".".

(c)(1) Section 303(a)(1) of such Act (45 U.S.C. 743(a)(1)) is amended by inserting after "Corporation", the second time it appears "or any subsidiary or affiliate thereof".

(2) Paragraphs (1) and (2) of section 303(b) of such Act (45 U.S.C. 743(b) (1) and (2)) is amended by inserting after "Corporation" each time it appears therein (except the first time) "or any subsidiary or affiliate thereof".

(3) Section 303(c)(1)(A)(i) of such Act (45 U.S.C. 743(c)(1)(A)(i) and 744(3)) is amended by inserting after "Corporation" each time it appears or any subsidiary or affiliate thereof";

(4) Paragraph (2)(A) of section 303(c) of such Act (45 U.S.C. 743(c)(2)(A)) is amended by striking "Corporation" and inserting in lieu thereof "Corporation or any subsidiary or affiliate thereof".

(d) Section 303(c)(2) of such Act (45 U.S.C. 743(c)(2)) is amended by (1) deleting "shall" in the clause preceding subparagraph (A) thereof and inserting "may" in lieu thereof; (2) deleting the semicolon at the end of subparagraph (A) thereof and inserting in lieu thereof ", except that at least one share of series B preferred stock and one certificate of value shall be allocated to each such railroad;"; and (3) amending subparagraph (C) thereof to read as follows:

"(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation."

(e) Section 303(c) of such Act (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Whenever the special court orders, pursuant to section 303(b)(1) of this title, the transfer or conveyance to the Corporation or any subsidiary or affiliate thereof of rail properties designated under section 206 (c)(1) (C) or (D) of this Act, or to a profitable railroad, the United States of America shall pay any judgment entered against the Corporation with respect to the conveyance of any such rail properties or against such profitable railroad, plus interest thereon at such rate as is constitutionally required. The United States of America may, in its discretion, represent the Corporation or such profitable railroad in any proceedings before the special court that could result in such a judgment against the Corporation under paragraph (2) of this subsection or such profitable railroad under paragraph (3) of this subsection. The Corporation or any profitable railroad which is represented by the United States of America shall cooperate diligently in whatever manner the United States of America shall reasonably request of it in connection with such proceedings. Neither the Corporation, its subsidiaries or affiliates, nor any profitable railroad shall be obligated to reimburse the United States of America for any moneys paid by the United States pursuant to this section.".

(f) Section 303(d) of such Act (45 U.S.C. 743(d)) is amended by (1) striking out "5" and inserting in lieu thereof "20".

(g) Section 303(c)(4) of such Act (45 U.S.C. 743(c)(4)) is amended by (1) striking "subsection (b)" therefrom and inserting "subsection (a)" in lieu thereof; and (2) inserting after "region" the following: "and to persons leased, operated, or controlled by such railroads who so transferred or conveyed rail properties".

(h) Section 303 of such Act (45 U.S.C. 743) is amended by (1) adding ", certificates of value" after "securities" in subsection (c)(1)(A)(i) thereof, in the preamble of subsection (c)(2) and in subsection (c)(2) thereof, and in subsection (c)(3) thereof; (2) adding "and certificates of value" after "of the Corporation" in subsection (c)(2)(A) thereof and after "Corporation's securities" in subsection (c)(2)(B) thereof; (3) deleting "obligations of the Association" at each place where the phrase appears and inserting in lieu thereof "certificates of value issued by the Association"; and (4) deleting "obligations" at each place where it appears other than as part of such phrase and inserting in lieu thereof "certificates of value".

(i)(1)(A) Section 301(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(a)) is amended by inserting immediately after "Corporation" the following: "or such other corporate name as may be duly adopted by the Corporation".

(B) Section 201(j) of such Act (45 U.S.C. 711(j)) is amended by striking out the second sentence.

(2) Section 301(b) of such Act (45 U.S.C. 741(b)) is amended by inserting in the third sentence thereof after "of the Corporation" and before "shall be" the following: "or of its principal railroad operating subsidiary".

(j) Section 303(b)(4) of such Act (45 U.S.C. 743(b)(4)) is amended by inserting after "is made assumes" and before "all of the terms and conditions" the following: "all future liability under such lease and".;

(k) Section 303(b) of such Act (45 U.S.C. 743(b)) is amended by inserting at the end thereof the following new subparagraph:

"(5) Notwithstanding any contrary covenant, undertaking, condition, or provision of any sort in any lease, agreement, or contract, the conveyance of such lease, agreement, or contract or of any interest therein, or the assumption by the Corporation or a profitable railroad of obligations thereunder, shall not be deemed a breach, an event of default, or a violation of any covenant of such lease, agreement, or contract.' "

(e) Section 301 of such Act (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(h) No director of the Corporation shall be subject to suit in any court or made a party to any threatened, pending or completed action, suit or proceeding, whether civil, administrative, or investigative (including an action by or in the right of the Corporation), nor shall any such person be liable for money damages or otherwise to any party by reason of the fact that such person is or was, a director, if with respect to the subject matter of such action, suit, or proceeding, such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Corporation. The United States shall indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any such action, suit, or proceeding in which such person is determined to have met such standard of conduct. The United States shall also indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any action, suit, or proceeding in which such person is claimed to have taken action in conflict with the best interests of the Corporation, if such person, at the time such action was taken, was fulfilling a duty which he in good faith reasonably believed to be required by law or vested in him in his capacity as director of the Association or his capacity as an officer of the United States. This subsection shall not be construed to grant any immunity from any criminal law of the United States.

(i) Corporate Simplification.—In the interests of corporate simplification, the Corporation, in implementing the final system plan, shall undertake, as soon as possible and pursuant to financial assistance provided pursuant to section 802(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1975, to acquire all interests in rail lines and related rail property otherwise conveyed to the Corporation, upon the tender of such interests to it, so as to eliminate any remaining intermediate layers of ownership or interest, such as leaseholds, owned or held by persons who are neither a railroad, a railroad in reorganization nor controlled by a railroad in reorganization. Any option conditions regarding the purchase price for such interests, in existence since prior to January 2, 1974, shall be deemed to be conclusive of fair and equitable value.".

(m) Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended by adding a new subsection reading as follows:

"(g) No railroad in reorganization and no person leased, operated or controlled by such a railroad shall sell, transfer, encumber or otherwise dispose of rail property or any right or interest therein designated for transfer to the Corporation or conveyance to a profitable railroad in the final system plan, except pursuant to section 303(b) of this title: *Provided*, That this section shall not apply to any such sale, transfer, encumbrance, or other disposition—

"(1) as to which the Association generally or specifically consents in writing:

"(2) which, prior to enactment of the Railroad Revitalization and Regulatory Reform Act of 1975, had been specifically approved by a United States district court having jurisdiction over the reorganization of a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); or

"(3) following certification to the special court pursuant to section 209(c) of the Regional Rail Reorganization Act of 1973 of any such rail property not so certified."

DEFINITION

Sec. 612. Section 501 of such Act (45 U.S.C. 771 (1)) is amended by (1) inserting after "Corporation" at each place where such term is used the words "or any subsidiary or affiliate thereof", and insert after "Corporation or any subsidiary or affiliate thereof", as so amended, in paragraph (2) thereof the following: ", to the National Railroad Passenger Corporation,"; (2) amending paragraph (2) thereof by adding after the phrase "or operated by the railroad in reorganization", and before the phrase "except a president", the following: ", except a class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but which is controlled by a railroad in reorganization, and"; (3) amending paragraph (3) thereof to read as follows:

"(3) 'protected employee' means any employee of—

"(A) an acquiring or selling railroad who is adversely affected by a transaction;

"(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who is adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under section 206(c)(2) of this Act;

"(C) a railroad in reorganization; and

"(D) a railroad who is adversely affected by a supplementary transfer under section 305 of this Act or by a project recommended under section 206(g) of this Act;

who, in any such case, has not reached age 65 on the effective date of this Act or; [1]

(4) amending paragraph (8) thereof by (A) striking "this Act or" and inserting in lieu thereof "this Act, including section 305 thereof, or ", and (B) striking "and" at the end of such paragraph; (5) striking the period at the end of paragraph (9) thereof and inserting in lieu thereof "; and"; and (6) adding at the end thereof the following new paragraph:

"(10) 'selling railroad' means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act; and".

EMPLOYMENT OFFERS

Sec. 613. (a) Section 502(b) of such Act (45 U.S.C. 772(b)) is amended to read as follows:

"(b) Mandatory Offer.—The Corporation shall offer employment, to be effective as of the date of a conveyance or discontinuance of service under the provisions of this Act, to each employee of railroad in reorganization who has not already accepted an offer of employment by the Association (where applicable), an acquiring railroad, or the Corporation. Such offers of employment to employees represented by labor organizations will be confined to their same craft and class. The Corporation shall apply to said employees the protective provisions of this title.".

(b) Section 502(a) of such Act (45 U.S.C. 772(2)) is amended by adding at the end thereof the following new sentence: "As used in this subsection, the term 'where applicable' refers to the relation of the Association, as an employer (A) to employees of the Association who, before the date of conveyance under section 303(b)(1) of this Act, had creditable service under the relevant statute and who were offered and accepted coverage under such statute; and (B) to former employees of railroads in reorganization, after the date of such conveyance.".

COLLECTIVE BARGAINING AGREEMENTS

Sec. 614. Section 504 of such Act (45 U.S.C. 774) is amended by adding the following three new subsections:

"(e) Liability for Employee Claims.—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance and shall be entitled to direct reimbursement as a current expense of administration from the estates of the railroads in reorganization which were the employers at the time such claims arose: *Provided*, That in those cases in which claims for employees were sustained or settled prior to the date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of their former employers.".

"(f) Transfer of Employees to the National Railroad Passenger Corporation or Acquiring Railroads.—Notwithstanding any otherwise applicable provisions of this title, protected employees to whom the Corporation has made offers of employment may be transferred to the National Railroad Passenger Corporation in accordance with the following procedure:

"(1) Not later than 90 days after the date of completion of the transaction required by section 206(c) of this Act, implementing agreement negotiations between representatives of the various crafts or classes of employees associated with the involved properties, the Corporation, and the National Railroad Passenger Corporation shall commence. These negotiations shall—

"(A) identify the specific employees of the Corporation to whom the National Railroad Passenger Corporation offers employment;

"(B) the procedure by which those employees of the Corporation may elect to accept employment with the National Railroad Passenger Corporation;

"(C) the procedure for acceptance of such employees into the National Railroad Passenger Corporation's employment; and

"(D) the procedure for determining the seniority of such employees in their respective crafts or classes on the National Railroad Passenger Corporation's system which shall to the extent possible, preserve their prior seniority rights.

If no agreement regarding the matters referred to in this subsection is reached by the end of 60 days after the date of commencement of negotiations (which shall also be a date which is at least 90 days after the transaction contemplated by section 601(d) of the Act) upon notice of any party, all parties shall within an additional 10 days select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the National Mediation Board shall promptly appoint a referee. Hearings thereon shall commence not later than 30 days after the date of selection or appointment of such referee, and a decision shall be rendered by such referee within 60 days after the date of commencement of the hearings. The referee shall resolve and decide all matters in dispute regarding the negotiation of the implementing agreement or agreements. All parties may participate, but the referee shall have the only vote. The referee's decision shall be final and binding and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railroad Labor Act.

"(2) Prior to implementation of the agreement or agreements pursuant to the preceding paragraph, the representatives of the various crafts or classes of employees designated to be transferred to the National Railroad Passenger Corporation shall meet with representatives of the National Railroad Passenger Corporation for the purposes of negotiating agreements regarding rates of pay, rules and working conditions. If, 60 days after the date of commencement of such negotiations, no agreement has been reached, the bargaining agreement in existence on the property from which the employees are to be transferred and which is applicable to the craft or class of employees being transferred will apply and the implementing agreement will be put into effect.

"(3) An employee of the Corporation entitled to protection and transferred as a result of an acquisition pursuant to this Act shall carry with him his protected status upon transfer to the National Railroad Passenger Corporation or to an acquiring carrier. The National Railroad Passenger Corporation or an acquiring carrier, as new employers, shall be responsible for payment of protective benefits and shall be entitled to reimbursement pursuant to section 509 of this title.

"(4) The National Railroad Passenger Corporation may offer employment to any noncontract employee prior to completion of any of the agreements referred to in this section. Noncontract employees accepting employment with the National Railroad Passenger Corporation shall carry with them all rights and benefits accorded to them under this title.

"(g) All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization arising prior to the date of conveyance of rail properties pursuant to section 303 of this Act shall be assumed by the Corporation or an acquiring carrier, as the case may be, and the Corporation or the acquiring carrier shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 216(b) (5) of this Act.".

EMPLOYEE PROTECTION

SEC. 614. (a) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(a)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: " ' including, without limitation, all accrued pension benefits under any employee pension benefit plan in effect on December 1, 1975, until such time as a replacement employee pension benefit plan, establishing a fair and equitable overall program covering all such employees, shall have become effective.

(b) Section 505(b) (1) of such Act (45 U.S.C. 775(b) (1)) is amended by striking "the last 12 months immediately prior to his being adversely affected" and inserting in lieu thereof "the 12 full calendar months immediately preceding February 26, 1975".

(c) Section 505(b) (3) of such Act (45 U.S.C. 775(b) (3)) is amended by deleting "his being adversely affected" and inserting in lieu thereof "February 26, 1975,".

(d) Section 505(b) of such Act (45 U.S.C. 775) is amended by (1) redesignating paragraph (4) thereof as paragraph (5) and (2) inserting a new paragraph (4) therein as follows:

"(4) If a noncontract employee exercises seniority rights in a craft or class of employees protected under this Act, then, during the period such seniority is exercised, such noncontract employee shall be entitled to the same protection, offered under this Act to employees in the craft or class in which such seniority is exercised. However, in computing the monthly displacement allowance, the last 12 months in which such noncontract employee performed service under a collective-bargaining agreement prior to February 26, 1975, shall be used.".

(e) Section 505(f) of such Act (45 U.S.C. 775(f)) is amended to read as follows:

"(f) TERMINATION ALLOWANCE.—The Corporation may terminate the employment of an employee of a railroad in reorganization, who has less than 3 years' service as of the effective date of this Act. The Corporation's right to terminate an employee must be exercised within a period of 1 year from the date of conveyance. Upon notification to the employee of the Corporation's intent to terminate his services, the employee shall have the option of accepting the termination allowance or of accepting a voluntary furlough without pay: *Provided*, That in the event the employee entitled to receive a lump sum separation allowance accepts such an allowance, the amount shall be determined as follows:

2 to 30 years' service____________________	180 days' pay at the rate of the position last held.
1 to 2 years' service____________________	90 days' pay at the rate of the position last held.
Less than 1 year's service______________	5 days' pay at the rate of the position last held for each month of service.".

(f) Section 505(h) of such Act (45 U.S.C. 775(h)) is amended by adding at the end thereof the following sentence: "Provisions of this title shall also be applied, upon a conveyance or discontinuance of service, to employees who are otherwise entitled to protective benefits and who were placed in furlough status on or after February 26, 1975.".

(g) Section 505 of such Act (45 U.S.C. 775) is amended by adding at the end thereof the following new subsection:

"(i) NONCONTRACT EMPLOYEES.—Compensation, severance, termination, and moving expense benefits for employees not governed by a collective-bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section.

"(1) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsection (e) or (f) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

"(2) If any dispute arises between the Corporation and a noncontract employee regarding the interpretation or application of the provisions of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. Either party may request arbitration and the cost and expenses of such arbitration shall be shared equally by the parties.

"(j) Section 505(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775 (a)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", including, without limitation, all accrued pension benefits under any employee pension benefit plan in effect on December 1, 1975, until such time as a replacement employee pension benefit plan, establishing a fair and equitable overall program covering all such employees, shall have become effective.".

(h) Section 509 of such Act (45 U.S.C. 779) is amended to read as follows:

"SEC. 509. The Corporation, the Association (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title, not to exceed the aggregate sum of $250,000,000, by the Railroad Retirement Board, upon certification to such Board, by the Corporation, the Association (where applicable), and acquiring railroads, of the amounts paid such employees. Such reimbursement shall be made from a separate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. Neither the Regional Rail Transportation Protective Account nor the Corporation nor an acquiring carrier shall be charged for any amounts of benefits paid to a protected employee under the provisions of the Railroad Unemployment Insurance Act or any other income protection law or regulation. There is authorized to be appropriated to such protective account annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of $250,000,000. There is further authorized to be appropriated to the Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by the Board in the performance of its functions under this section.".

DUTIES OF ACQUIRING AND SELLING RAILROADS

SEC. 615. Section 508 of such Act (45 U.S.C. 778) is amended by (1) inserting after "SEC. 508." and before the first sentence thereof the following: "(a) ACQUIRING RAILROADS.—(1)"; (2) inserting after "railroad from which it acquires properties or facilities" the following: "(including operating rights)"; (3) deleting "303" in the last clause thereof and inserting in lieu thereof "206 (d) (4)"; (4) adding at the end thereof the following new sentence: "For purposes of this subsection, the National Railroad Passenger Corporation shall be deemed to be an acquiring railroad with respect to employees described in clause (3) of section 501(3) of this title."; and (5) inserting at the end thereof the following new paragraph and the following new subsection:

"(2) NATIONAL RAILROAD PASSENGER CORPORATION.—In the event the National Railroad Passenger Corporation acquires rail properties of a railroad in reorganization, prior to conveyance of rail properties to the Corporation under section 303 of this Act but after the adoption of the preliminary system plan, it shall offer such employment and afford such employment protection to employees of a railroad from which it acquires rail properties and shall further protect its own employees who may be adversely affected by such acquisition, as shall be agreed upon between the National Railroad Passenger Corporation and the representatives of such employees prior to said acquisitions: *Provided*, That the protection and benefits provided for employees in such agreements shall be the same as those specified in section 505 of this title, except that such agreements shall supersede conflicting provisions in any previously applicable job stabilization agreements or agreements implementing said stabilization agreements, and the National Railroad Passenger Corporation shall be reimbursed for expenses incurred as a result of any such acquisition as provided in section 509.

"(b) SELLING RAILROADS.—A selling railroad shall offer such employment and shall provide such employment protection to each of its employees who are adversely affected by such sale, pursuant to agreements to be entered into between it and the representatives of such employees prior to said sale: *Provided,* That (1) the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 505; and (2) unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act.".

EXEMPTIONS

SEC. 616. (a) Section 601(a)(2) of such Act (45 U.S.C. 791(a)(2)) is amended by adding immediately before the period at the end thereof the following: "and with respect to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act".

(b) Section 601(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(b)) is amended—

(1) by striking out "to the extent necessary" and inserting in lieu thereof "taken"; and

(2) by striking out "whenever" and all that follows through "this Act" and inserting in lieu thereof of the following: "where such action was in compliance with the requirements of such plan, or to any action taken to formulate or implement any supplemental transaction as defined in section 102(16) of this Act"; and

(3) adding at the end thereof the following two new paragraphs:

"(2) All securities of the Corporation which are issued to the Association as the initial holder, or which are issued in connection with the transfer to the Corporation of rail properties under this Act, shall be deemed for all purposes to have been issued subject to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).

"(3) The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205), with respect to a railroad in reorganization which conveys all or substantially all of its designated rail properties to the Corporation or to any subsidiary or affiliate thereof, or to profitable railroads in the region, pursuant to the final system plan, and the duty of the trustee or trustees of such a railroad to file a reorganization plan with the Commission, shall cease upon the date of such conveyance. The powers and duties of the Commission under Section 77 of the Bankruptcy Act shall also similarly terminate as of the date of enactment of the Rail Services Act of 1975 with respect to any railroad in reorganization under Section 77, but not subject to this Act, which (1) does not operate any line of railroad and (2) has transferred all or substantially all of its rail properties to a railroad in reorganization which is subject to this Act prior to the effective date of this Act. Thereafter, such powers and duties of the Commission shall be vested in the United States district court which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance. Such court shall proceed to reorganize or liquidate such railroad in reorganization pursuant to (A) such section 77 on such terms as the court deems just and reasonable, or (B) any other provisions of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate: *Provided,* That this paragraph does not affect any obligation of any carrier by railroad subject to regulation under the Interstate Commerce Act. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall continue in effect (1) if the railroad in reorganization continues to operate any line of railroad, [or (2) if a plan of reorganization has been approved, in whole or in part, by the Commission as of the date of enactment of the Rail Services Act of 1975."]

(c) Section 601(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(c)) is amended to read as follows:

section 102(2)(C) of the National Environ-
"(c) ENVIRONMENT.—The provisions of
mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to any action taken under authority of this Act before, and including, the conveyance of rail properties ordered by the special court under section 303(b)(1) of this Act, and shall not apply thereafter to any action taken in compliance with the requirements of the final system plan.".

NATIONAL RAILROAD PASSENGER CORPORATION

SEC. 701. (a) IN GENERAL.—To carry out the purposes of this title, the Rail Passenger Service Act, and the Regional Rail Reorganization Act of 1973, the National Railroad Passenger Corporation is authorized to—

(1) acquire by purchase, lease, exchange, gift, or otherwise, and to hold, maintain, sell, lease or otherwise dispose of, any real or personal property or interest therein which is necessary or useful in establishing and maintaining improved high-speed rail services, as specified in section 703 of this title;

(2) enter into and implement such contracts and agreements as are necessary or appropriate in the conduct of its functions;

(3) provide for the continuous operation and maintenance of rail freight, intercity rail passenger, and commuter rail passenger service over the properties acquired pursuant to this section;

(4) improve railroad rights-of-way between Boston, Massachusetts, and Washington, District of Columbia, to the extent necessary (including, at its option, the route through Springfield, Massachusetts) and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast corridor to enable improved high-speed rail passenger service to be provided between Boston, Massachusetts, and Washington, District of Columbia, and intermediate intercity markets, in accordance with the goals set forth in section 703 of this title;

(5) acquire, construct, improve, and install passenger stations; communications, electric power, and other facilities and equipment; public and private highway and pedestrian crossings; other safety facilities or equipment; and any other facilities or equipment which it determines are necessary to enable improved high-speed rail passenger service to be provided over the railroad rights-of-way acquired under paragraph (1) of this subsection and as improved under paragraph (4) of this subsection;

(6) enter into agreements with other railroads, other carriers, and commuter agencies, for the purpose of granting, acquiring, or entering into trackage rights, contract services, and other appropriate arrangements for freight and commuter services over the rights-of-way acquired under this title. Any such agreement shall be on such terms and conditions as are necessary to reimbursement for costs on an equitable and fair basis, except that cross subsidization among intercity, commuter, or rail freight services is prohibited;

(7) appoint a qualified individual to serve as the General Manager of the Northeast Corridor improvement project; and

(8) enter into agreements with telecommunications common carriers on a basis which is consistent with, and subject to, the Communications Act of 1934, for the purpose of continuing existing, and creating new and improved, rail passenger radio mobile telephone service in the high-speed rail passenger service area specified in section 703(1) of this title.

(b) TRANSFER OF RAIL PROPERTIES.—The Corporation, on the date of conveyance under section 303 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 743), shall by purchase or lease, transfer to the National Railroad Passenger Corporation all rail properties designated pursuant to sections 206(c)(1)(C) and 601(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and 701(d)), and it shall, within 180 days after the date of enactment of this title, execute agreements providing for the National Railroad Passenger Corporation to assume (1) all operational responsibility for intercity services with respect to such properties, and (2) control and maintenance of the properties transferred. Such parties may agree to retaining or transferring, in whole or in part, operational responsibility for freight or commuter rail services in the area specified.

OPERATIONS REVIEW PANEL

SEC. 702. (a) ESTABLISHMENT.—There is established an entity which shall be representative of the various users of Northeast Corridor facilities, to be known as the Operations Review Panel (hereafter in this section referred to as the "Panel"). The Panel shall have the authority to take such actions as are necessary to resolve differences of opinion concerning operations (among or between the National Railroad Passenger Corporation, other railroads, and State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 705 of this title.

(b) MEMBERSHIP.—The Panel shall consist of 5 members, as follows:

(1) one member who shall be selected by the chief executive officer of the National Railroad Passenger Corporation;

(2) one member who shall be selected by majority vote of the commuter rail authorities which are subject to the jurisdiction of the Operations Review Panel;

(3) one member who shall be selected by the chief executive officer of the Consolidated Rail Corporation; and

(4) two neutral members who shall be selected by the Chairman of the National Mediation Board.

The members shall each serve a term of 4 years from the date of such selection, or until a successor has been selected. If, within 45 days after the date of enactment of this Act, the National Railroad Passenger Corporation, the consumer authorities, or the Consolidated Rail Corporation fails to select the member who it is authorized to select under this subsection, the Chairman of the National Mediation Board shall, within 30 days after the expiration of such 45-day period, appoint a member on behalf of such party. Any member so appointed shall serve until such time as the party so represented selects a successor.

(c) DECISIONS AND REVIEW.—All decisions of the Panel shall be final and binding on the parties. All costs and expenses of the Panel shall be paid by (1) the National Railroad Passenger Corporation, (2) the commuter rail authorities which are subject to such Panel, and (3) the Consolidated Rail Corporation, each of which shall pay one-third of such costs and expenses, unless otherwise determined by a majority of the members of such Panel. The Panel may adopt such rules of procedure and may employ such resources as it deems appropriate. It may issue preliminary and final orders, which shall have the force and effect of law, with respect to any difference of opinion concerning any operational matter which is the subject of such an order. No order of the Panel shall be subject to review by any court. Upon petition by any party subject to the Panel, the United States District Court for the District of Columbia shall enforce any final order issued by the Panel.

REQUIRED GOALS

SEC. 703. The Northeast Corridor improvement project shall be implemented with a view to achieving the following goals:

(1) INTERCITY PASSENGER SERVICES.—Within 4 years after the date of enactment of this Act, the establishment of regularly scheduled and dependable intercity rail passenger serv-

ice between Boston, Massachusetts, and New York, New York, operating on a 3-hour schedule, including appropriate intermediate stops; regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2½-hour schedule, including appropriate intermediate stops. The National Railroad Passenger Corporation and the Corporation shall, in accordance with route criteria approved by the Congress, make improvements in service on routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line, and from Springfield, Massachusetts, to Boston, Massachusetts, and New Haven, Connecticut in order to facilitate compatibility with improved high-speed rail service operated on the Northeast Corridor main line.

(2) Commuter Services, Rapid Rail Transit, and Local Transportation.—To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rapid rail transit, and local public transportation.

(3) Freight Services.—The maintenance and improvement of rail freight service to all users of rail freight service located on or adjacent to the Northeast Corridor and the maintenance and improvement of all through freight services that remain on the Northeast Corridor, to the extent compatible with the goals contained in paragraphs (1) and (2) of this section.

(4) Passenger Radio Telephone Service.—To the extent compatible with the goals contained in paragraph (1) of this section, the continuation of and improvement in passenger radio telephone service aboard trains operated in high-speed rail service between Washington, District of Columbia, and Boston, Massachusetts. The President and relevant Government agencies, including the Federal Communications Commission, shall take whatever actions are necessary to meet this goal, including authorization for the utilization of the necessary Government radio frequencies by common carriers in a manner which minimizes interference with competing governmental uses, subject to the provisions of the Communications Act of 1934, including necessary licensing, construction, operation, and maintenance standards for the radio service, as determined by the Federal Communications Commission to be in the public interest, convenience, and necessity.

FUNDING

Sec. 704. (a) Authorization of Appropriations for Loans.—There is authorized to be appropriated to the Association $2,400,000,000 to remain available until expended to permit the Association to make available non-interest-bearing 30-year loans to the National Railroad Passenger Corporation for the use of the Northeast Corridor improvement project, to other railroads, or to State, local, or regional agencies responsible for the provision of commuter rail service, rapid rail, or rail freight service, in order to effectuate the goals specified in section 703 of this title. If the improvements mandated by this title result in greater profits, to the National Railroad Passenger Corporation, than anticipated, the Association may accelerate appropriately the schedule for repayment of such loans.

(b) Authorization of Appropriations for Grants.—(1) There is authorized to be appropriated to the National Railroad Passenger Corporation, for system management and development costs connected with the Northeast Corridor improvement project, an amount not to exceed $50,000,000 to remain available until expended; an amount not to exceed $25,000,000, to remain available until expended, for nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor; an amount not to exceed $85,182,956 to acquire the properties of the Northeast Corridor; an amount not to exceed $650,000 to remain available until expended, for the development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service; an amount not to exceed $75,000,000 to remain available until expended, for interim operating losses of intercity rail passenger services; an amount not to exceed $20,000,000, to remain available until expended, for acquiring and improving properties designated pursuant to section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c)(1)(D)).

(2) No funds appropriated under this section or pursuant to section 601 of the Rail Passenger Service Act may be used to subsidize any operating losses of commuter or rail freight services.

(c) Coordination.—The Secretary shall coordinate all transportation programs related to the Northeast Corridor so that all such programs are integrated and consistent with implementation of the Northeast Corridor improvement project. If the Secretary finds any significant noncompliance with the implementation of the goals of section 703 of this title, he may deny funding to any noncomplying program until such noncompliance is corrected.

(d) Emergency Maintenance Continuation.—After the conveyance of rail properties, pursuant to section 303(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)) and section 702(b) of this title, not to exceed $25,000,000 of the funds appropriated pursuant to Public Law 94–6 (89 Stat. 11) shall remain available to be utilized by the Secretary, for the purpose of performing emergency maintenance on the rail properties designated in the final system plan, in accordance with section 206(c)(1)(C) of such Act (45 U.S.C. 716(c)(1)(C)).

CONFORMING AMENDMENTS

Sec. 705. (a) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by adding at the end thereof the following three new sentences: "Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973, as amended, and the Railroad Revitalization and Regulatory Reform Act of 1975. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services.".

(b) Section 601(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 (d)(1)) is amended to read as follows:

"(d) Northeast Corridor.—(1) Rail properties designated in accordance with section 206(a)(1)(C) of this Act shall be purchased or leased with an option to purchase by the National Railroad Passenger Corporation. The Corporation shall negotiate an appropriate sale or lease with an option to purchase agreement with the National Railroad Passenger Corporation for the properties designated for transfer pursuant to section 206 (c)(1)(C) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 716 (c)(1)(C)), which shall take effect on the date of conveyance of such properties to the Corporation.".

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended by inserting "(1)" immediately after "(b)" and before the first sentence thereof; and (2) deleting the second sentence thereof and inserting in lieu thereof the following: "The Corporation shall institute such service under an agreement if the State, regional, or local agency agrees to reimburse the Corporation for 50 percent of total operating losses and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

"(A) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section; and

"(B) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service.

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

"(2) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system shall be given preference.

"(3) The Board of Directors shall establish the basis for determining the total costs and the total revenue of the service provided pursuant to this subsection.".

(d) Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(i) The provisions of section 361 of the Public Health Service Act (42 U.S.C. 264) shall not apply to railroad conveyances operated in intercity rail passenger service".

(e) Section 303(a)(5) of the Rail Passenger Service Act (45 U.S.C. 543(a)(5)) is amended by (1) deleting "for each meeting of the board he attends." and inserting in lieu thereof "per diem when engaged in the actual performance of duties.", and (2) inserting ", secretarial or professional staff support which is reasonably required after "necessary travel."

(f) Section 305(d)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 545(d)(1)(B)) is amended by deleting "for the construction of tracks or other facilities necessary to provide".

(g) Section 402(d)(1) of the Rail Passenger Service Act (45 U.S.C. 562(d)(1)) is amended by deleting "the construction of tracks or other facilities necessary to provide".

(h) Section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) is amended by adding the following sentence at the end thereof: "After January 1, 1977, all route additions shall be in accordance with the Criteria and Procedures for Making Route and Service Decisions approved by the Congress pursuant to section 404(c)(2) (45 U.S.C. 564(c)(2)), and this subsection shall no longer apply to route additions."

FACILITIES WITH HISTORICAL OR ARCHITECTURAL SIGNIFICANCE

Sec. 706. Section 4(i) of the Department of Transportation Act (49 U.S.C. 1653) is amended by (1) redesignating paragraph (1) (C) thereof and all references thereto as paragraph (D) thereof; (2) inserting after paragraph (1)(B) thereof and before "and" thereof the following new clause: "(C) acquiring and utilizing space in suitable buildings of historic or architectural significance, unless the use of such space would not prove feasible and prudent compared with available alternatives;"; (3) redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) thereof as paragraphs (5), (6), (7), (8), (9), (10), and (11) thereof, respectively; (4) inserting after paragraph (3) thereof the following new paragraph:

"(4) Acquisitions made for the purpose set forth in paragraph (1)(C) of this subsection shall be made only after consultation with the chairman of the National Endowment for the Arts and the Advisory Council on Historic Preservation."; and (5) amending paragraph (9) thereof, as redesignated by this section, to read as follows:

"(9)(A) There is authorized to be appropriated for the purpose set forth—

"(i) in paragraphs (1)(A) and (1)(C) of this subsection not to exceed $15,000,000;

"(ii) in paragraph (1)(B) of this subsection not to exceed $5,000,000; and

"(iii) in paragraph (1)(D) of this subsection not to exceed $5,000,000.

"(B) Of the sums available under clauses (ii) and (iii) of subparagraph (A) of this paragraph, there shall be available to the National Endowment for the Arts not to exceed $2,500,000 for planning under paragraph (1)(D) of this subsection and not to exceed $2,500,000 for interim maintenance under paragraph (1)(B) of this subsection.

"(C) Sums appropriated for the purposes of this subsection shall remain available until expended.".

TITLE VIII—LOCAL RAIL SERVICE CONTINUATION

EXTENSION OF SERVICE

SEC. 801. (a) Section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended to read as follows:

"(18)(A) No carrier by railroad subject to this part shall—

"(i) undertake the extension of any of its lines of railroad or the construction of any additional line of railroad;

"(ii) acquire or operate any such extension or any such additional line; or

"(iii) engage in transportation over, or by means of, any such extended or additional line of railroad,

unless such extension or additional line of railroad is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or will be enhanced by the construction and operation of such extended or additional line of railroad. Upon receipt of an application for such a certificate, the Commission shall (I) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of such extended or additional line; (II) send an accurate and understandable summary of such application to a newspaper of general circulation in such affected area or areas with a request that such information be made available to the general public; (III) cause a copy of such summary to be published in the Federal Register; (IV) take such other steps as it deems reasonable and effective to publicize such application; and (V) indicate in such transmissions and publications that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(B) The Commission shall establish and may from time to time amend rules and regulations (as to hearings and other matters) to govern applications for, and the issuance of, any certificate required by subparagraph (A). An application for such a certificate shall be submitted to the Commission in such form and manner and with such documentation as the Commission shall prescribe. The Commission may—

"(i) issue such a certificate in the form requested by the applicant;

"(ii) issue such a certificate with modifications in such form and subject to such terms and conditions as are necessary in the public interest; or

"(iii) refuse to issue such a certificate.

"(C) Upon petition or upon its own initiative, the Commission may authorize any carrier by railroad subject to this part to extend any of its lines of railroad or to take any other action necessary for the provision of adequate, efficient, and safe facilities for the performance of such carrier's obligations under this part. No authorization shall be made unless the Commission finds that the expense thereof will not impair such carrier's ability to perform its obligations to the public.

"(D) Carriers by railroad subject to this part may, notwithstanding this pragraph and section 5 of this part, and without the approval of the Commission, enter into contracts, agreements, or other arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The authority granted to the Commission under this paragraph shall not extend to the construction, acquisition, or operation of spur, industrial, team, switching, or side tracks if such tracks are located or intended to be located entirely within one State and shall not apply to any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.

"(E) Any construction or operation which is contrary to any provision of this paragraph, of any regulations promulgated under this paragraph, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this paragraph or of the conditions of a certificate issued under this paragraph.".

(b) Section 1(19), 1(20), 1(21), and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(19) through 1(22) are repealed.

DISCONTINUANCE OR ABANDONMENT

SEC. 802. The Interstate Commerce Act is amended by inserting after section 1 thereof the following new section:

"DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

"SEC. 1a. (a) No carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line (hereafter referred to as 'discontinuance'), unless such abandonment or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, and notwithstanding any decision, order, or procedure of any State administrative or judicial body.

"(b)(1) Whenever a carrier submits to the Commission a notice of intent to abandon or discontinue, pursuant to subsection (a), such carrier shall attach thereto an affidavit certifying that a copy of such notice (A) has been sent by certified mail to the chief executive officer of each State that would be directly affected by such abandonment or discontinuance; (B) has been posted in each terminal and station on any line of railroad proposed to be so abandoned or discontinued; (C) has been published for 3 consecutive weeks in a newspaper of general circulation in each county in which all or any part of such line of railroad is located; and (D) has been mailed, to the extent practicable, to all shippers who have made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12 months preceding such submission.

"(2) The notice required under paragraph (1) shall include (A) an accurate and understandable summary of the carrier's application for a certificate of abandonment or discontinuance together with the reasons therefor, and (B) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

"(c) During the 60-day period between the submission of completed application for a certificate of abandonment or discontinuance pursuant to subsection (a) and the proposed effective date of an abandonment or discontinuance, the Commission shall, upon petition, or may, upon its own initiative, cause an investigation to be conducted to assist it in determining what disposition to make of such application. An order of the Commission to implement the preceding sentence must be issued and served upon any affected carrier not less than 5 days prior to the end of such 60-day period. If no such investigation is ordered, the Commission shall issue such a certificate, in accordance with this section, at the end of such 60-day period. If such an investigation is ordered, the Commission shall order a postponement, in whole or in part, in the proposed effective date of the abandonment or discontinuance. Such postponement shall be for such reasonable period of time as is necessary to complete such investigation. Such an investigation may include, but need not be limited to, public hearings at any location reasonably adjacent to the line of railroad involved in the abandonment or discontinuance application, pursuant to rules and regulations of the Commission. Such a hearing may be held upon the request of any interested party or upon the Commission's own initiative. The burden of proof as to public convenience and necessity shall be upon the applicant for a certificate of abandonment or discontinuance.

"(d) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

"(1) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience and necessity. In determining whether the proposed abandonment is consistent with the public convenience and necessity, the Commission shall consider whether there will be a serious adverse impact on rural and community development by such abandonment or discontinuance;

"(2) issue such certificate with modifications in such form and subject to such terms and conditions as are required, in the judgment of the Commission, by the public convenience and necessity; or

"(3) refuse to issue such certificate.

Each such certificate which is issued by the Commission shall contain provisions for the protection of the interests of employees; such provisions shall be at least as beneficial to such interests as provisions established pursuant to section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) and pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565). If such a certificate is issued, actual abandonment or discontinuance shall take effect, in accordance with such certificate, 120 days after the date of issuance thereof.

"(e)(1) Each carrier by railroad subject to this part shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish, a full and complete diagram of the transportation system operated, directly or indirectly, by such carrier. Each such diagram shall include a detailed description of each line of railroad which is 'potentially subject to abandonment', as such term is defined by the Commission. Such term shall be defined by the Commission by rules and such rules may include standards which vary by region of the Nation and by railroad or group of railroads. Each such diagram shall also identify any line of railroad as to which such carrier plans to submit an application for a certificate of abandonment or discontinuance in accordance with this section. Each such carrier shall submit to the Commission and publish, in accordance with regulation of the Commission, such amendments to such diagram as are necessary to maintain the accuracy of such diagram.

"(2) The Commission shall not issue a certificate of abandonment or discontinuance with respect to a line of railroad if such abandonment or discontinuance is opposed by—

"(A) a shipper or any other person who has made significant use of such line of railroad during the 12-month period preceding the submission of an applicable application under subsection (a); or

"(B) a State, or any political subdivision of a State, if such line of railroad is located, in whole or in part, within such State or political subdivision;

unless such line or railroad has been identified and described in a diagram or in an amended diagram which was submitted to the Commission under paragraph (1) at least 4 months prior to the date of submission of an application for such certificate.

"(f)(1) Whenever the Commission makes a finding, in accordance with this section, that the public convenience and necessity permit the abandonment or discontinuance of a line of railroad, it shall cause such finding to be published in the Federal Register. If, within 30 days of such publication, the Commission further finds that—

"(A) a financially responsible person or a government entity has offered financial assistance to enable the rail service involved to be continued; and

"(B) it is likely that such proffered assistance would—

"(i) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line together with a reasonable rate of return on the value of such line; or

"(ii) cover the acquisition cost of all or any portion of such line of railroad;

the Commission shall postpone the issuance of a certificate of abandonment or discontinuance for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment or discontinuance, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to it of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

"(2) A carrier by railroad subject to this part shall promptly make available, to any party considering offering financial assistance in accordance with paragraph (1), its most recent reports on the physical condition of any line of railroad with respect to which it seeks a certificate of abandonment or discontinuance together with such traffic, revenue, and other data as is necessary to determine the amount of assistance that would be required to continue rail service.

"(g) Whenever the Commission finds, under subsection (f) of this section, that an offer of financial assistance has been made, the Commission shall determine the extent to which the avoidable cost of providing rail service plus a reasonable return on the value of the rail properties involved exceed the revenues attributable to the line of railroad or the rail service involved.

"(h) Petitions for abandonment or discontinuance, which were filed and pending before the Commission as of the date of enactment of this section or prior to the promulgation by the Commission of regulations required under this section shall be governed by the provisions of section 1 of this Act which were in effect on such date of enactment, except that subsections (f) and (g) of this section shall be applicable to such petitions.

"(i) Any abandonment or discontinuance which is contrary to any provision of this section, or any regulation promulgated under this section, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed $5,000 on each person who knowingly authorizes, consents to, or permits any violation of this section or of any regulation under this section.

"(j) As used in this section, the terms—(1) 'avoidable cost' means all expenses which would be incurred by a carrier in providing a service which would not be incurred, in the case of discontinuance, if such service were discontinued or, in the case of abandonment, if the line over which such service was provided were abandoned. Such expenses shall include, but not be limited to, all cash inflows which are foregone and all cash outflows which are incurred by the carrier as a result of not continuing or not abandoning such service. These foregone cash inflows and incurred outflows shall, where foregone or incurred, include, but are not limited to a reasonable rate of return on the salvage value of the properties, the foregone tax benefits from not retiring of the properties from rail service, working capital; required capital expenditures; expenditures to eliminate deferred maintenance; and the current cost of freight cars, locomotives and other equipment; and the effect of applicable Federal and State income taxes; (2) 'reasonable rate of return' means the applicant's cost of capital.

LOCAL RAIL SERVICE ASSISTANCE

SEC. 803. Section 4 of the Department of Transportation Act, as amended by this Act (49 U.S.C. 1654), is amended by adding at the end thereof the following 10 new subsections:

"(l) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

"(1) the cost of rail service continuation payments;

"(2) the cost of purchasing a line of railroad or other rail properties for future rail service;

"(3) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line;

"(4) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service.

"(m) The Federal share of the costs of any rail service assistance program shall be as follows: (1) 100 percent for the period from July 1, 1976 to June 30, 1977; (2) 90 percent for the period from July 1, 1977 to June 30, 1978; (3) 80 percent for the period from July 1, 1978 to June 30, 1979; and (4) 70 percent from the period July 1, 1979 to June 30, 1981. For the period from July 1, 1979 to June 30, 1981, the Secretary may make such adjustments in the percentage level of the Federal share as may be necessary and appropriate so as not to exceed the maximum amount of funds authorized under subsection (u) of this section.

The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(n) Each State which is, pursuant to subsection (i) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this section and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this section during such periods. Notwithstanding the provision of the preceding sentence the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in the first sentence of this subsection.

"(o) Rail service assistance to which a State is entitled under this section may be allocated by such State to meet the cost of establishing and implementing the State rail plan required by subsection (i) of this section or section 402(c)(1) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 762(c)(1)). Such grants shall be made available by the Secretary during the course of the State rail planning process, and shall be distributed by the Secretary as needed by the States. The amount of State rail planning grants to which each State (including each State referred to in subsection (t)(1) of this section) is entitled shall be proportionate to the amount of rail service assistance to which such State is entitled under this Act.

"(p) A State is eligible to receive rail service assistance from the Secretary if—

"(1) such State has established an adequate plan for rail services in such State as part of an adequate plan for all transportation services in such State, including a suitable process for updating, revising, and amending such plan;

"(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources;

"(3) such State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient transportation services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation; and is designated and directed to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution;

"(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of Federal funds; and

"(5) such State complies with regulations of the Secretary issued under this section and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

"(q) A project is eligible in any year for financial assistance from the applicable rail service assistance program only, if—

"(1)(A) the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project, or (B) the line of railroad, or related project, was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and

"(2) such line, or related projects, has not previously been the subject of Federal rail service assistance under this section for more than 5 fiscal years.

"(r) The Secretary shall pay to each eligible State an amount equal to its entitlement under subsection (i) of this section to be expended or committed to one or more projects which are eligible, pursuant to subsection (j) of this section.

"(s)(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of each assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

"(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

"(A) a financial audit, in accordance with generally accepted auditing standards; and

"(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

"(t) As used in this section, the term 'State' means—

"(1) during the period from the date of enactment of this subsection through the second anniversary of the date on which rail properties are conveyed pursuant to section 303(b) (1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (b) (1)), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad, except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

(2) during the period following the second anniversary of the date on which rail properties are conveyed pursuant to such section 303(b) (1), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad.

"(u) There are authorized to be appropriated to the Secretary for the purposes of this section an amount not to exceed $400,000,000 without fiscal year limitation. Of the foregoing sums, not to exceed $5,000,000 shall be made available for planning grants during each of the 3 fiscal years ending June 30, 1976; September 30, 1977; and September 30, 1978. Such sums as are appropriated shall remain available until expended.".

TERMINATION AND CONTINUATION OF RAIL SERVICES

SEC. 804. Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended to read as follows:

"TERMINATION AND CONTINUATION OF RAIL SERVICES

"SEC. 304. (a) DISCONTINUANCE.—(1) Except as provided in subsections (c) and (f) of this section, (A) rail service on rail properties of a railroad in reorganization in the region which transfers to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and (B) rail service on rail properties of a profitable railroad operating in the region which transfers substantially all of its rail properties to the Corporation or to other railroads pursuant to the final system plan, may be discontinued to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) of this title if—

"(i) the final system plan does not designate rail service to be operated over such rail properties;

"(ii) not sooner than 30 days following the effective date of the final system plan, the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not less than 60 days after the date of such notice or on the date of any conveyance ordered by the special court pursuant to section 303(b)(1) of this title, whichever is later; and

"(iii) the notice required by paragraph (B) of this subsection is sent by certified mail to the chief executive officer and to the Commission, the transportation agencies of each State, to the government of each political subdivision of each State in which such rail properties are located, and to each shipper who has used such rail service during the previous 12 months.

"(2)(A) If rail properties are not, in accordance with the designations in the system plan, required to be operated, as a consequence of a recommended arrangement for joint use or operation of rail properties (under section 206(g) of this Act) or as part of a coordination project (under section 206 (c)(1)(B) of this Act), rail service on such properties may be discontinued, subsequent to the date of conveyance of properties pursuant to such section 303(b)(1) if the Commission determines that such rail service on such rail properties is not compensatory and if—

"(i) the petitioner and any other railroad involved in such arrangement or coordination project have, prior to filing an application for such discontinuance, entered into a binding agreement (effective on or before the effective date of such discontinuance) to carry out such arrangement or project;

"(ii) such application is filed with the Commission not later than 1 year after the effective date of the final system plan; and

"(iii) such discontinuance is not precluded by the terms of the leases and agreements referred to in such section 303(b)(2).

"(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 205(d)(3) of this Act.

"(C) The Commission shall make its final determination, with respect to any discontinuance requested under this paragraph, not later than 120 days after the date of filing of an application therefor. The applicant shall have the burden of proving that the service involved is not compensatory. If the Commission fails to make a final determination within such time, the application shall be deemed to be granted.

"(D) The Commission may issue such rules, regulations, and procedures as it deems necessary for the conduct of its functions under this paragraph.

"(b) ABANDONMENT.—(1) Except as provided in subsections (c) and (f) of this section, rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 120 days after the effective date of the discontinuance. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days' notice in writing to any person (including a government entity) required to receive notice under subsection (a)(1)(iii) of this section.

"(2) In any case in which rail properties proposed to be abandoned under this section are designated by the final system plan as rail properties which are suitable for use for other public purposes (including roads or highways other forms of mass transportation, conservation, and recreation), such rail properties shall not be sold, leased, exchanged, or otherwise disposed of during the 240-day period beginning on the date of notice of proposed abandonment under this section unless such rail properties have first been offered, upon reasonable terms, for acquisition for public purposes.

"(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of the Interstate Commerce Act or the constitution or law of any State or the decision of any court or administrative agency of the United States or of any State.

"(c) Continuation of Rail Services.—No rail service may be discontinued and no rail properties may be abandoned, pursuant to this section—

"(1) in the case of service and properties referred to in subsections (a) (1) and (b) (1) of this section, after 2 years from the effective date of the final system plan or more than 2 years after the date on which the final rail service continuation payment is received, whichever is later; or

"(2) if a financially responsible person (including a government entity) offers—

"(A) to provide a rail service continuation payment which is designed to cover the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties together with a reasonable return on the value of such properties: *Provided*, That if a rail service continuation payment is offered for both freight and passenger service on the same rail property, the owner of such property may not be entitled to more than one payment of a reasonable return on the value of such property;

"(B) to provide a rail service continuation payment which is payable pursuant to a lease or agreement with a State or with a local or regional transportation authority under which financial support was being provided on January 2, 1974 for the continuation of rail passenger service; or

"(C) to purchase, pursuant to subsection (f) of this section, such rail properties in order to operate rail services thereon.

"(d) Freight Service Agreements.—(1) If a rail service continuation payment is offered, pursuant to subsection (c) (2) (A) of this section, for rail freight service, the person offering such payment shall designate the operator of such service and enter into an operating agreement with such operator. The person offering such payment shall designate as the operator (A) the corporation or the other railroad which connects to the line of railroad involved, or (B) any responsible person (including a government entity) which is willing to operate rail service on such rail properties. A designated railroad may refuse to enter into such an operating agreement only if the Commission determines, on petition by any affected party, that the agreement would substantially impair such railroad's ability to serve adequately its own patrons or to meet its outstanding common carrier obligations. The designated operator shall, pursuant to each such operating agreement, (i) be obligated to operate rail freight service on such rail properties, and (ii) be entitled to receive, from the person offering such payment, the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties together with a reasonable management fee, as determined by the Office.

"(2) The trustees of a railroad in reorganization shall permit rail-service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable rate of return on the value of such properties, as determined in accordance with the provisions of section 205(d) (3) of this Act.

"(3) If necessary to prevent any delay in, or loss of, rail service, at any time after the date of concurrence pursuant to section 303 (b) (1) of this title, the Commission—

"(A) shall take such action as may be appropriate under this existing authority (including the enforcement of common carrier requirements applicable to railroads in reorganization in the region) to ensure compliance with obligations imposed under this subsection; and

"(B) shall have authority, in accordance with the provisions of section 1(16) (b) of the Interstate Commerce Act (49 U.S.C. 1(16) (b)), to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the provision of section 205(d) (3) of this Act. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.

"(e) Passenger Service Agreements.—The Corporation shall provide rail passenger service, for a period of 180 days after the date of conveyance, under section 303(b) (1) of this title, of the rail properties over which such service was being provided by railroads in reorganization immediately prior to such date of conveyance. Such service shall be provided on such properties regardless of whether or not such properties are designated in the final system plan as rail properties over which rail service is required to be operated, except with respect to rail properties over which such service is provided by the National Railroad Passenger Corporation. If a State (or a local or regional transportation authority) was providing financial support for the continuation of rail passenger service pursuant to a lease or agreement which was in effect immediately prior to such date of conveyance, the Corporation shall be bound by such lease or agreement for the duration of such 180-day period. If no such financial support was being provided, or if no such lease or agreement was in effect immediately prior to such date of conveyance, the Corporation shall provide, during such 180-day period, the same level of service as was being provided by the railroads in reorganization immediately prior to such date. In any case in which a State (or a local or regional transportation authority) was providing financial support for the continuation of rail passenger service immediately prior to such date of conveyance, such State (or local or regional transportation authority) shall maintain the same level of such financial support during such 180-day period. If such financial support is not provided, or if, at the end of the 180-day period, a State (or a local or regional transportation authority) has not offered a rail passenger service continuation payment pursuant to subsection (c) (2) (A) of this subsection or if such a rail passenger service continuation payment is not paid when due, or if any payment payable under a section 303(b) (2) or a section 304(c) (2) (B) lease or agreement is not paid when due, the Corporation, the National Railroad Passenger Corporation, and, where applicable, the trustee or trustees of the railroads in reorganization may discontinue such service, and, in the case of rail properties not designated for inclusion in the final system plan, abandon such properties, pursuant to subsections (a) and (b) of this section. Nothing in this subsection shall affect the obligation of the Corporation, or of the trustee or trustees of the railroads in reorganization, to provide rail passenger service pursuant to section 303(b) (2) or 304 (c) (2) (B) of this title. If, at the end of such 180-day period, a State (or a local or regional transportation authority) has offered a rail passenger service continuation payment, pursuant to subsection (c) (2) (A) of this section, and compensation for operations conducted at a loss during such 180-day mandatory operation period pursuant to this subsection, the Corporation shall continue to provide such service, except as otherwise provided in this subsection. If a State (or a local or regional transportation authority) has not offered such a payment and such compensation, the Secretary shall reimburse the Corporation for all of the 180-day mandatory operation period operating loss, as determined pursuant to section 17(a) (1) of the Urban Mass Transportation Act of 1964, as amended, and under regulations issued by the office under section 205(e) of this Act. In the event of a dispute with respect to the application of any regulations promulgated pursuant to section 808 of the Rail Services Act of 1975, the parties thereto may agree to arbitration by a third party; if the parties cannot agree to an arbitrator, the Chairman of the Commission shall serve in that capacity, except as to those matters to be decided by the Commission pursuant to section 706 of that Act. The Corporation shall be relieved of any obligation under this subsection to provide rail passenger service on rail properties in which a State (or a local or regional transportation authority) contracts with an operator other than the Corporation to provide rail passenger service on such rail properties. The Corporation shall, subject to reimbursement, provide access to such rail properties for such service.

"(f) Purchase.—If an offer to purchase is made under subsection (c) (2) (C) of this section, such offer shall be accompanied by an offer of a rail service continuation payment. Such payment shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties of its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make an offer to purchase or to provide a rail service continuation payment, promptly make available its most recent reports on the physical condition of such property together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data as are necessary to ascertain the avoidable costs of providing service over such rail properties.

"(g) Abandonment by Corporation.—After the rail system to be operated by the Corporation or any subsidiary or affiliate thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or any subsidiary or affiliate thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or any subsidiary or affiliate thereof can demonstrate that no State (or local or regional transportation authority) is willing to offer a rail service continuation payment pursuant to subsection (c) of this section. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of the Interstate Commerce Act.

"(h) Interim Abandonment.—After the date of enactment of this section, no railroad in reorganization may discontinue service or abandon any line of railroad other than in accordance with the provisions of this Act, unless it is authorized to do so by the Association and unless no affected State (or local or regional transportation authority) reasonably opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or the decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.".

CONTINUATION ASSISTANCE

SEC. 805. (a) Section 402 of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"RAIL SERVICE CONTINUATION ASSISTANCE

"SEC. 402. (a) IN GENERAL.—(1) The Secretary shall provide financial assistance in accordance with this section to assist in the provision of rail service continuation payments, the acquisition or modernization of rail properties, including the preservation of rights-of-way for future rail service, the construction or improvement of facilities necessary to accommodate the transportation of freight previously moved by rail service, and the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service. The Federal share of the costs of any such assistance shall be as follows: (1) 100 percent of the 12-month period following the date that rail properties are conveyed pursuant to section 303(b)(1) of this Act; and (2) 90 percent for the succeeding 12-month period.

"(2) The Secretary shall promulgate standards and procedures whereby the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

"(3) The Secretary, in cooperation with the Secretary of Labor, the Association, and the Commission, shall assist States and local or regional transportation authorities in negotiating initial operating or lease agreements and shall report to the Congress not later than February 1, 1976, on the progress of such negotiations. The Secretary may, with the concurrence of a State, enter directly into operating or lease agreements with railroads designated to provide service under section 304(d) of the Act, and with the trustees of railroads in reorganization in the region over whose rail properties such service will be provided, to assure the uninterrupted continuation of rail service after such date of conveyance. Such agreements may be entered into only during the period when the Federal share is 100 percent. Payments shall be made from the funds to which a State would otherwise be entitled under this section.

"(b) ENTITLEMENT.—(1) Each State in the region which is, pursuant to subsection (c) of this section, eligible to receive rail service continuation assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service continuation assistance under this section and whose denominator is the rail mileage in all of the eligible States in the region which is eligible for rail service continuation assistance under this section. Notwithstanding the preceding sentence, the entitlement of each State shall not be less than 3 percent of the funds appropriated. Not more than 5 percent of a State's entitlement may be used for rail planning activities. For purposes of this subsection, rail mileage shall be measured by the Secretary in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any sums which are not used or committed by a State during the preceding fiscal year, shall be reallocated among the other States in accordance with the formula set forth in this subsection. In addition to the amounts provided pursuant to such rail mileage formula, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as bridges, car floats, lighters, ferries, yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail services and which are also contained in each State's rail plan. Any Federal assistance provided for purposes of the preceding sentence shall extend only 1 calendar year beyond the date of conveyance. During the period of such extension the Secretary, not later than 90 days prior to the termination of Federal participation in the support of rail facilities continuance, shall prepare a report to the Congress in conjunction with a designated State agency, recommending future action with respect to rail facilities referred to in this subsection. Notwithstanding the providing of any funds for the operation and maintenance of rail service facilities pursuant to this subsection, the Consolidated Rail Corporation, or any other solvent carrier, shall not be required to operate such facilities.

"(2) For a period of not more than 1 year following the date rail properties are conveyed pursuant to section 303(b)(1) of this Act, the Secretary is authorized to provide financial assistance from the funds to which a State would otherwise be entitled under this section for the continuation of local rail services to any person determined by the Secretary to be financially responsible who will enter into operating and lease agreements with railroads designated to provide service under section 304(d) of this Act, regardless of the eligibility of the State within which are located the rail properties over which such services are to be performed to receive rail service continuation subsidies under subsection (c) of this section. In any case in which a State is eligible to receive rail service continuation subsidies under subsection (c) of his section, State and local and regional transportation authorities shall have priority to receive such payments over any other person eligible under this paragraph and no other person eligible under this paragraph shall receive such payments unless his application therefor has been approved by the State agency designated under subsection (c) to administer the State plan.".

(f) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763(b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Nothwithstanding any other provision of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title.

"(c) ELIGIBILITY.—(1) A State in the region is eligible to receive financial assistance pursuant to subsection (b) of this section if, in any fiscal year—

"(A) the State has established a State plan for rail transportation and local rail services (herein referred as to the "State rail plan") which is administered or coordinated by a designated State agency and such plan includes a suitable process for updating, revising, and amending such plan and provides for the equitable distribution of such financial assistance among State, local, and regional transportation authorities;

"(B) the State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation;

"(C) the State provides satisfactory assurance that such, fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State; and

"(D) the State complies with the regulations of the Secretary issued under this section.

"(2) The rail freight services which are eligible for rail service continuation assistance pursuant to subsection (b) of this section are—

"(A) those rail services of railroads in reorganization in the region which the final system plan does not designate to be continued;

"(B) those rail services of profitable railroads in the region referred to in section 304(a)(2) of this Act;

"(C) those rail services in the region which have been, at any time during the 5-year period prior to the date of enactment of this Act, or which are subsequent to the date of enactment of this Act, owned, leased, or operated by a State agency or by a local or regional transportation authority, or with respect to which a State, a political subdivision thereof, or a local or regional transportation authority has invested (at any time during the 5-year period prior to the date of enactment of this Act), or invests (subsequent to the date of enactment of this Act), substantial sums for improvement or maintenance of rail service; or

"(D) those rail services in the region with respect to which the Commission authorizes the discontinuance of rail services or the abandonment of rail properties, effective on or after the date of enactment of this Act.

"(3) The rail freight properties which are eligible to be acquired or modernized with financial assistance pursuant to subsection (b) of this section are those rail properties which are used for services eligible for rail service continuation assistance, pursuant to paragraph (2) of this subsection, including those properties which are identified, in the applicable State rail plan as having potential for future use for rail freight service.

"(4) The facilities which are eligible to be constructed or improved with financial assistance pursuant to subsection (b) of this section are those facilities in the region (including intermodal terminals and highways or bridges) which are needed in order to provide rail freight service which will no longer be available because of the discontinuance of rail freight service under section 304 of this Act or other lawful authority. No funds provided under this paragraph may be used to pay the State share of any highway projects under title 23, United States Code.

"(5) Rail properties are eligible to be acquired with financial assistance pursuant to subsection (b) of this section if (A) they are to be used for intercity or commuter rail passenger service; and (B) they pertain to a line in the region (other than rail properties designated in accordance with section 206(1)(c)(C) of this Act) which, if so acquired, (i) would enable the National Railroad Passenger Corporation to serve, more efficiently, a route which it operated on November 1, 1975, (ii) would provide intercity rail passenger service designated by the Secretary under title II of the Rail Passenger Service Act, (iii) would provide such service over a route designated for service pursuant to section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) or (iv) would enable a State (or a local or regional transportation authority) to provide rail communter service more efficiently.

"(d) Regulations.—Within 90 days after the date of enactment of this Act, the Secretary shall issue, and may from time to time amend, regulations with respect to the provision of financial assistance under this title.

"(e) Payment.—The Secretary shall pay to each eligible State in the region an amount equal to its entitlement under subsection (b).

"(f) Records, Audit, and Examination.—(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in such paragraph.

"(g) Withholding.—If the Secretary, after reasonable notice and an opportunity for a hearing to any State agency, finds that a State is not eligible for financial assistance under subsections (c) and (d) of this section, payment to such State shall not be made until there is no longer any failure to comply.

"(h) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out the purposes of this section an amount not to exceed $180,000,000 without fiscal year limitation. Such sums as are appropriated shall remain available until expended, without regard to the provisions of section 806 of the Rail Services Act of 1975.

"(i) Definition.—As used in this section, the term 'rail service continuation assistance' includes expenditures made by a State (or a local or regional transportation authority), at any time during the 5-year period preceding the date of enactment of this Act, or subsequent to the enactment of this Act, for acquisition, rehabilitation, or modernization of rail facilites on which rail services would have been curtailed or abandoned but for such expenditures.".

(b) Section 403 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 763), is amended (1) by striking the colon and the proviso in subsection (a) thereof and inserting in lieu thereof a period; and (2) by striking the last sentence of subsection (b) thereof.

REPEAL

Sec. 806. Effective on the date of the second anniversary of the date on which rail properties are conveyed, pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973; as amended (45 U.S.C. 743), title IV of such Act is repealed.

RAIL PASSENGER SERVICE

Sec. 807. (a) Within 180 days after the effective date of the final system plan, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall contain—

(A) standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Interstate Commerce Commission under section 706 of this Act), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight services; and

(B) standards for the determination of emergency rail passenger service operating assistance provided by the Secretary pursuant to section 17 of the Urban Mass Transportation Act of 1964.

(b) Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716) is amended to read as follows:

"(5) All properties—

"(A) transferred by the Corporation pursuant to sections 206(c)(1)(C) and 601(d) of this Act;

"(B) transferred by the Corporation to any State (or local or regional transportation authority), pursuant to subsection (c)(1)(D) of this section, or

"(C) transferred by the Corporation to any State, local or regional transportaion authority, or the National Railroad Passenger Corporation within 900 days after the date of conveyance to meet the needs of commuter or intercity rail passenger service,

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) and (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements), and the cost to the Corporation of transferring such properties.".

EMERGENCY OPERATING ASSISTANCE

Sec. 808. The Urban Mass Transportation Act of 1964, as amended, is amended by adding at the end thereof the following new section:

"EMERGENCY COMMUTER RAIL SERVICE OPERATING PAYMENTS

"Sec. 17. (a) The Secretary shall provide financial assistance for the purpose of reimbursing—

"(1) the Consolidated Rail Corporation, the National Railroad Passenger Corporation, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) for rail passenger service operations conducted at a loss during the 180-day mandatory operation period as required under section 304(e) of such Act (45 U.S.C. 744(e)). Such reimbursement shall cover all costs not otherwise paid by a State or a local or regional transportation authority) which would have been payable by such State or authority, pursuant to regulations promulgated by the Commission under section 808 of the Rail Services Act of 1975, if such regulations had been in effect on the date of conveyance of rail properties under section 303(b)(1) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 743(b)(1)); and

"(2) States and local bodies and agencies thereof for additional costs incurred by such States, bodies, and agencies with respect to rail passenger service, for the payment of rail passenger service continuation payments authorized by section 304 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744).

"(b) Such assistance shall not apply to intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation which was in effect immediately prior to the date of conveyance.

"(c)(1) Such assistance shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate with such reasonable exceptions to requirements, and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of the assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

"(2) The Federal share of assistance made available for payment of operations required by section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) shall be 100 percent of the cost eligible under subsection (a)(1) of this section.

"(3) The Federal share of such assistance which is made available from the end of the 180-day period to the end of an additional 180-day period shall be 100 percent.

"(4) The Federal share of such assistance, which is made available for an additional 1-year period beyond the time specified in subsection (a)(3) of this section, shall not exceed 90 percent.

"(5) The Federal share of such assistance, which is made available for an additional 180 days following the time specified in subsection (a)(4) of this section shall not exceed 50 percent. No assistance may be provided beyond the time specified in subsection (a)(4) of this section, unless the applicant or other responsible agency provides satisfactory assurances to the Secretary that the service for which such assistance is sought will be continued after the termination of the assistance authorized by this section. The terms and provisions applied by the Secretary, for assistance provided pursuant to this subsection shall be consistent, insofar as is practicable, with the terms and provisions which are applicable to operating assistance under section 5 of this Act.

"(d) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $125,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 for the transitional fiscal period ending September 30, 1976, $95,000,000 for the fiscal year ending September 30, 1977, and $125,000,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended.".

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

Sec. 810. (a) Study. The Secretary shall, within 360 days after the date of enactment of this Act, and in consultation with the Secretary of the Interior, the Transportation Services Planning Office of the Commission, the Association, the Environmental Protection Agency, any other appropriate Federal agency, any appropriate State and regional transportation agency, any other appropriate State, and local governmental entities, and any appropriate private groups and individuals, shall prepare and submit to the Congress and the President a report on the conversion of railroad rights-of-way. This report shall evaluate, and make suggestions concerning potential alternate uses of, and public policy with respect to the conversion of railroad rights-of-way on which service has been discontinued. The report shall include but need not be limited to—

(1) an inventory statement as to all abandoned railroad rights-of-way and significant segments of such rights-of-way which retain their linear characteristics, including, as to each, identification of the owner of record and an evaluation of its topography, characteristics, condition, approximate value, and alternate use suitability;

(2) an evaluation of the advantages of establishing a "bank" consisting of selected such rights-of-way, as a means of assuring their availability for potential railroad use in the future, a discussion of interim uses for such rights-of-way, the development of conveyancing and leasing forms, conditions, and practices to assure such availability, a projection as to the costs of such a program, and recommendations regarding the administration of such a program;

(3) a survey of existing Federal, State, and local programs utilizing or attempting to utilize abandoned railroad rights-of-way for public purposes, including an assessment of the benefits and costs of each; and

(4) an assessment and evaluation of suggestions for more effective public utilization of abandoned railroad rights-of-way, including recommendations for legislative, administrative, and for regulatory action, if any, and proposals as to the optimum level of funding therefor.

(b) INFORMATION AND FUNDING.—The Secretary of the Interior, after consultation with the Secretary, shall, in accordance with this subsection, provide financial, educational, and technical assistance to local, State, and Federal governmental entities for programs involving the conversion of abandoned railroad rights-of-way to recreational and conservational uses, in such manner as to coordinate and accelerate such conversion, where appropriate. Such assistance shall include, but is not limited to—

(1) encouraging and facilitating exchanges of information dealing with the availability of railroad rights-of-way, the technology involved in converting such properties to such public purposes, and related matters;

(2) making grants, in consultation with the Bureau of Outdoor Recreation of the Department of the Interior, to State and local governmental entities to enable them to plan, acquire, and develop recreational or conservational facilities on abandoned railroad rights-of-way. Such grants shall cover not more than 90 percent of the cost of the planning, acquisition, or development activity of the particular project for which funds are sought;

(3) allocating funds to other Federal programs concerned with recreation or conservation in order to enable abandoned railroad rights-of-way, where appropriate, to be included in or made into national parks, national trails, national recreational areas, wildlife refuges, or other national areas dedicated to recreational or conservational uses; and

(4) providing technical assistance to other Federal agencies, to States, local agencies, and private groups for the purpose of enhancing conversion projects, To increase the available information and expertise, the Secretary may contract for special studies or projects and may otherwise collect, evaluate, and disseminate information dealing with the utilization of such rights-of-way.

(c) CONFORMING AMENDMENT.—Section 1a of the Interstate Commerce Act, as inserted by this Act is amended by adding at the end thereof the following new subsection:

"(j) In any instance in which the Commission finds that the present or future public convenience and necessity permit the abandonment of any railroad properties, the Commission shall make a further finding whether such properties are suitable for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the properties proposed to be abandoned are suitable for other public purposes, it shall order that such rail properties not be sold, leased, exchanged, or otherwise disposed of except in accordance with such reasonable terms and conditions as are prescribed by the Commission, including, but not limited to, a prohibition on any such disposal, for a period not to exceed 180 days after the effective date of the order permitting abandonment unless such properties have first been offered, upon reasonable terms, for acquisition for public purposes.".

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, not to exceed $25,000,000 for the fiscal year and the transitional fiscal period ending September 30, 1976, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and not to exceed $25,000,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended. Of the funds appropriated, at least four-fifths are to be made available to the Secretary of the Interior to carry out subsection (a) of this section.

EMERGENCY FOSSIL FUEL RAIL BANK

SEC. 811. (a) The Secretary shall, within 180 days after the date of enactment of this Act, and after consultation with the Secretary of the Interior and the Secretary of Commerce, in accordance with this section, establish a fossil fuel rail bank to consist of rail trackage and other rail properties eligible under subsection (d), for purposes of preserving existing service in certain areas of the United States in which fossil fuel natural resources or agricultural production is located.

(b) The Secretary may include in the fossil fuel rail bank established under this section any railroad trackage or other rail properties which are recommended for inclusion in a rail bank under part III, section C, of the final system plan.

(c) The Secretary may acquire, by lease, purchase, or in such other manner as he deems appropriate, rail properties or any interests therein eligible for inclusion in the fossil fuel rail bank or agricultural production bank established under this section.

(d)(1) Except as provided in paragraph (2), the Secretary may hold rail properties acquired for the fossil fuel rail bank, and may sell, lease, grant rights over, or otherwise dispose of interests or rights in connection with such rail properties.

(2) The Secretary may not engage in the disposition of any such rail property pursuant to paragraph (1) if he determines, after consultation with the Secretary of the Interior and the Secretary of Commerce, that such disposition would adversely affect the availability of such properties for any continued necessary access to, and egress by rail from, facilities in which fossil fuels are being or can be extracted or processed.

(e) There are authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this section such sums as are necessary, not to exceed $6,000,000. Sums appropriated pursuant to this section are authorized to remain available until expended.

TITLE IX—MISCELLANEOUS PROVISIONS

STUDY OF GOVERNMENT AID TO TRANSPORTATION

SEC. 901. The Secretary shall conduct a comprehensive study and analysis of the policy, past and present, of providing Federal, State, and local government aid and other assistance, and of the methods employed pursuant to such policy (including tax benefits and the replacement of potential capital costs through the subsidization of Federal projects, user charges, and other nondebt financing mechanisms), for the construction, improvement, operation, and maintenance of transportation facilities and services utilized by entities involved in any mode of transportation, including transportation by air, railroad, highway and waterway, whether or not such transportation is private or for hire. Such study and analysis shall compute and total the outlays made by all Federal, State, and local governmental entities for transportation services (including capital, maintenance, operating, and administrative and other overhead expenses) during the period from 1930 through 1975, by mode. As part of such study and analysis, the Secretary shall examine alternative means and processes for determining and developing policy with respect to Federal aid to transportation, so as to encourage the establishment and maintenance of an open and competitive market (1) in which the various transportation modes are likely to compete on equal terms, and (2) in which the respective market shares of each will be governed by customer preference and full financial and economic costs. The Commission and the Secretary of the Army shall cooperate fully with the Secretary in carrying out the purposes of this section, and shall submit to the Secretary such independent and separate reports, comments and recommendations as each deems appropriate. In carrying out the purposes of this section, the Secretary may require by request, subpena, or other order all transportation carriers, other than carriers by water not subject to regulation under the Interstate Commerce Act (including (A) those operating under exemptions pursuant to section 203(b) the Interstate Commerce Act (49 U.S.C. 303(b)) and (B) the owners and operators of private or proprietary carriers) to file such reports containing such data and other information and any documentation thereof as the Secretary finds necessary to enable him to comply with the provisions of this section. Within 1 year after the date of enactment of this Act, the Secretary shall complete the study and analysis herein authorized and directed, and shall transmit a report to the Congress containing his findings and conclusions together with his recommendations for a policy respecting government aid to transportation.

STUDY OF RAILROAD ELECTRIFICATION

SEC. 902. The Secretary shall conduct a study of the potential benefits of railroad electrification for high density rail lines in the United States, and shall report the findings of such study to the Congress not later than 6 months after the date of enactment of this Act. The study shall evaluate the costs and benefits of electrifying rail lines in the United States with a high density of traffic, including—

(1) the capital costs of such electrification and the oil fuel economies which would be derived therefrom, the ability of existing power facilities to supply the additional power required, and the amount of coal or other fossil fuels required to generate the power necessary for railroad electrification; and

(2) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution, and the disadvantages to the environment from increased use of fuels such as coal.

STUDY OF CONGLOMERATES

SEC. 903. The Commission shall undertake a study of conglomerates and of such other corporate structures as are presently found within the rail transportation industry. The Commission shall determine what effects, if any, such diverse structures have on effective transportation, on intermodal competition, on revenue levels, and on such other aspects of national transportation as the Commission shall deem to be legitimate subjects of study. The Commission shall prepare a report with appropriate recommendations and shall submit its report to the Congress within 1 year after the date of enactment of the Act.

NATIONAL TRANSPORTATION PROGRAM

SEC. 904. (a) PROGRAM.—Within 720 days after the date of enactment of this Act, the Secretary shall study, formulate, publish, and submit to the Congress and the President (1) a national transportation program and (2) the criteria, standards, and data upon which this program is based and formulated. The Secretary shall consider all relevant factors, including (1) the need for coordinated development and improvement, with respect to all modes of transportation, and (2) the priority which should be assigned to the development and improvement of each such mode. In developing such program, the Secretary shall consider the studies conducted by the Association pursuant to section 202 of the Regional Rail Reorganization Act of 1973, as amended by this Act (45 U.S.C. 712). Such program shall include (A) a survey of existing transportation services and an analysis of the effectiveness of each in meeting the Nation's immediate and long-term transportation needs; (B) a plan (including an estimate of the costs of, and realistic plans for, financing the implementation of such plan on a continuing basis) to meet short-term and long-term transportation needs in each geographic area of the Nation; (C) a survey of the problems which the Secretary anticipates in the implementation of such program; and (D) a proposal for coordinating existing Federal laws relating to transportation. Copies of such program and materials shall be made available by the Secretary to interested persons upon request. There are authorized to be appropriated to the Secretary not to exceed $5,000,000 for the purpose of carrying out the provisions of this section, such sums to remain available until expended.

(b) RAIL ABANDONMENT REPORT.—In addition to the national transportation program required in the previous subsection, the Secretary shall submit to the Congress within 90 days after the enactment of this Act a comprehensive report on the anticipated effect, including the environmental impact, of rail abandonments in States not previously studied by the Association pursuant to the Regional Rail Reorganization Act of 1973.

NONDISCRIMINATION

SEC. 905. (a) IN GENERAL.—No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project, program, or activity funded in whole or in part with funds made available under this Act.

(b) COMPLIANCE.—(1) Whenever the Secretary determines that any person receiving financial assistance under this Act has failed to comply with subsection (a) of this section, or with any applicable Federal civil rights statute or regulation issued thereunder, the Secretary shall notify such person of such determination and shall direct such person to take such action as may be necessary to assure compliance with subsection (a).

(2) If, within a reasonable period of time after receiving notification pursuant to paragraph (1), such person fails or refuses to comply with subsection (a), the Secretary shall—

(A) provide no further financial assistance to such person under this Act;

(B) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(C) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 20000d et seq.); or

(D) take such other actions as may be provided by law.

(c) CIVIL ACTION.—whenever a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section.

(e) JUDICIAL REVIEW.—Any determinations made or actions taken by the Secretary pursuant to this section shall be subject to judicial review.

(f) DEFINITION.—For purposes of this section, the term "financial assistance" includes loan guarantees made by the Secretary of the Treasury.

And the House agree to the same.

Vance Hartke,
Frank E. Moss,
John O. Pastore,
Wendell H. Ford,
Adlai Stevenson,
Daniel K. Inouye,
Warren G. Magnuson,
J. Glenn Beall, Jr.,
Lowell Weicker,
Managers on the Part of the Senate.

Harley O. Staggers,
Fred B. Rooney,
Brock Adams,
Ralph H. Metcalfe,
Bill Hefner,
Jim Santini,
James J. Florio,
J. F. Hastings,
Managers on the Part of the House.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 1 hour on the conference report, to be equally divided between and controlled by the manager of the bill, the Senator from Indiana (Mr. HARTKE) and the ranking Republican member of the committee, the Senator from Connecticut (Mr. WEICKER).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of the conference report: Tom Allison, Lynn Sutcliffe, Paul Cunningham, Mal Sterrett, Geoff Baker, John Kirtland, and David Clanton.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator from Indiana yield me 1 minute?

Mr. HARTKE. I yield to the majority leader.

Mr. MANSFIELD. Mr. President, I did obtain unanimous consent that there be a time limitation of 1 hour, did I not?

The PRESIDING OFFICER. Not to exceed 1 hour, equally divided.

SENATE RESOLUTION 335—ELECTION OF FRANK N. HOFFMANN TO BE SERGEANT AT ARMS OF THE SENATE

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved, That effective January 1, 1976, Frank N. Hoffmann of Maryland, be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 335) was considered and agreed to.

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1975—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

Mr. HARTKE. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. HARTKE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distingiushed Senator from New Hampshire (Mr. MCINTYRE) be permitted to proceed for not to exceed 4 minutes without the time being charged to either side on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF FLOOD DISASTER PROTECTION ACT—S.J. RES. 157

Mr. McINTYRE. Mr. President, I send to the desk a joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 157) to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by Federally-related financial institutions for property located in communities not participating in the national flood insurance program.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

Mr. McINTYRE. Mr. President, the purpose of this joint resolution is to allow a 2-month extension of the exemption for individuals in flood prone areas whose community may not be participating in the national flood insurance program, but who may wish to sell their home. This exemption was a part of the Emergency Housing Act which passed earlier this year. However, the exemption is due to expire on December 31 of this year.

The 2-month exemption is necessary in order to allow individuals the freedom to sell their homes and not be held up because of lack of congressional action. H.R. 9852, the mobile home bill contains amendments to the flood insurance program. I hope Congress will see fit to make this exemption permanent.

Until Congress has an opportunity to act on this remedial legislation early in the next session, let us not penalize these individuals for the inaction of their communities.

I have been in contact with Senator THOMAS EAGLETON'S office, the principal leader in correcting this objectionable program. He reluctantly agrees with the 2-month exemption with the understanding that the House and Senate will come to grips with modifications to the program early in January.

Mr. President, this has been cleared with the minority. I ask that it be adopted.

The joint resolution (S.J. Res. 157) was considered, ordered to a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(b) of the Flood Disaster Protection Act of 1973 is amended by striking out "January 1, 1976" and inserting in lieu thereof "March 1, 1976".

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1975—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2718) to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, I take great pride in bringing to the floor the conference report on S. 2718, the omnibus railroad legislation that the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee have been working diligently upon for well over a year. This legislation is without doubt the most significant bill dealing with rail transportation that has been before the Senate since 1920, and it is very badly needed. As most of my colleagues here in the Senate are aware, this legislation puts into effect the reorganization and rehabilitation of the seven bankrupt railroads operating in the Midwest and Northeast. If this implementation is not carried forward, there will be severe economic consequences for the entire Nation and great additional expense to the public to keep essential services operating.

While it is true that both title VI and VII of this legislation are primarily designed to rehabilitate rail services in the Northeast region, I want to emphasize that this is by no means a regional bill. Most of this legislation is nationwide in scope, and important provisions dealing with regulatory reform, light density lines, improvement of passenger services, nationwide rehabilitation of rail freight facilities, and reform of the Interstate Commerce Commission are nationwide in scope and will go a long way in providing the United States with the adequate rail service it so desperately needs for a healthy economy. The Senate version of S. 2718, approved by this body on December 4, was improved in conference with the House, and I would urge my colleagues to give their resounding stamp of approval to this significant legislation. The bill has been significantly changed in response to requests from the administration in several respects. First, the overall funding levels have been dramatically reduced from a figure of $9.4 billion including guaranteed loans to less than $7 billion. I have here a summary of the various funding portions of the legislation, comparing the bill as passed by the Senate along with the legislation passed by the House and the administration approvals, comparing these amounts with the funding authorized in the conference report which is now before the Senate. As this table shows, the conference report is an extremely reasonable compromise between the desires of the various parties.

Mr. President, I ask unanimous consent that that statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARTKE. The titles of this bill dealing with regulatory reform are dramatic and significant, and constitute one of the most important regulatory reform provisions passed by Congress. In my opinion, the reform of regulation by the Interstate Commerce Commission over railroads contained in this legislation is better designed than that proposed by the administration and should be strongly supported by the Senators here on the floor today. Furthermore, several other reforms were made in the Interstate Commerce Commission itself, subject only to an unfortunate limitation on these reforms that stems from a jurisdictional dispute in the House of Representatives between the Commerce Committee and the Public Works Committee.

I am hopeful that more legislation could be passed in the near future in this area that is specifically designed to accomplish the same reforms that have already been passed by the Senate and which could be accepted in the House.

Sections of the bill dealing with ConRail represent a significant compromise on the part of the Senate, but I am confident that ConRail will fare quite well under this legislation and will become a viable rail transportation company. The amount of Federal assistance in the form of loans for ConRail was limited to $2.1 billion, but other features of the bill were adopted which assure ConRail private sector viability. These features will save the Government money by making absolutely clear that this is an income-based reorganization, and that ConRail will be a successful company. The provisions of the bill dealing with the Northeast corridor also represent a significant compromise, both with the House and the administration and represent a balanced program for transportation improvements within the corridor area. The funding has been reduced from that passed by the Senate by $600 million, and the project is to be implemented "with the view" toward achieving the goals stated in the legislation. This change was made in order to permit initial improvement to the "Metroliner 2 Plus" service proposed by the Department of Transportation to the Office of Management and Budget in September of 1975. Furthermore, the implementation time for the project was stretched by 2 additional years and authority was given to Amtrak to lease the corridor as well as to purchase it in response to a suggestion of DOT.

The provisions dealing with light density line operations represent a good approach to this particular transportation problem. The basic provisions of the legislation passed by the Senate were retained, but a compromise was made with regard to the funding and the duration of this program. Again, this is one of the features of the bill which is nationwide in scope and is a long-standing problem with regard to rail transportation.

Mr. President, I would urge my colleagues to overwhelmingly endorse this significant and worthwhile measure. While some statements have been made regarding its provisions by the Department of Transportation, it is the careful judgment of the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee that the bill as agreed to combines the best features of all proposals and represents a judicious approach to necessary improvements in rail transportation on a nationwide basis.

I urge the support of this measure.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HARTKE. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I wish to take this occasion to compliment my dear friend and colleague from the State of Indiana (Mr. HARTKE) and also my colleague from the State of Connecticut (Mr. WEICKER) for the assiduous manner in which they have worked out this agreement with the House that was presented here.

All of us who come from New England know what this means to us. We are all grateful to the Senators for their toil in bringing about a solution which I think will one day lead to a good rail system in our part of the country.

We in New England are in a congested area. We have more people per square mile, I assume, than any other equivalent area in the country. Our railroad is in deplorable condition.

I had occasion at the conference to

bring out the fact that we have one bridge in my State that has to be inspected every 3 hours, to make sure that some railroad boxcar or freightcar will not fall through it. Regrettably, I have to march under that bridge on every Columbus Day, and I hope that by next Columbus Day it will be fixed.

I compliment the members of the committee for the fine work they have done.

Mr. HARTKE. Mr. President, I thank the Senator from Rhode Island. His contribution to this legislation was of great help to the committee. He is to be complimented for his insistence on making sure that we propose the type of legislation which is in the best interest of the Northeast as well as the entire Nation.

Mr. President, I yield the floor, and I reserve the remainder of my time.

EXHIBIT 1

FINANCING

[In billions of dollars]

	Senate	House	Administration	Conference report
1. Conrail	[1] 3.0	[1] 2.1	[1] 2.1	[1] 2.1
2. Northeast Corridor	[1] 3.0	[2] .9	1.40	[1] 2.4
3. Branch line subsidy to States	[2] .8	[2] .365	[2] .180	[2] .4
4. Aid to RR.'s outside the region:				
(a) Rehab	[1] 1.4	[1] 1.0	[3] 1.0	[1] .6
(b) Passenger service improvement	0	[2] .2		[2] .2
(c) Loan guarantees for equipment and facilities	1.0	1.0	1.0	.8
Total:				
Grants	.8	1.465	[4] 2.08	.6
Loans	7.4	3.1	2.6	5.1
Loan guarantee	1.0	1.0	1.0	.8

[1] Loans.

[2] Grants.

[3] Loans or grants.

[4] Assumes that half of funds would be in form of grants and half in loans where discretionary with Secretary.

Mr. BAKER. Mr. President, I am opposed to adoption of the conference report on S. 2718, the Rail Revitalization and Regulatory Reforn Act of 1975.

As a member of the Senate Committee on Commerce and a conferee on the bill, I am aware of the need for the Congress to take prompt action to insure the continuation of rail service in the Northeastern sector of the United States through implementation of the Final System Plan developed by the United States Railway Association. Toward that end, I am pleased that the conference report authorizes the amount proposed by USRA and the Department of Transportation—$2.1 billion in debentures and preferred stock—to permit reorganization of the freight service of the bankrupt carriers in the Northeast.

I am disturbed, however, that the conference report contains $2.4 billion in loan funds for upgrading passenger service in the Northeast corridor and commits the Congress to a goal of high speed passenger service in the corridor which could, ultimately, cost upwards of $4 billion. The Department of Transportation has recommended an investment of $1.2 billion in Federal grants for the Northeast corridor which would achieve rehabilitation of bridges and tunnels, eliminate deferred maintenance on the Washington to Boston main rail line, and extend electrification from New Haven to Boston. This expenditure would permit upgrading of service to a safe and comfortable level now while not foreclosing the possibility of greater improvements in the future, should Congress decide to make that investment.

The increased expenditure contained in the conference report on S. 2718, however, represents, in effect, a downpayment on achieving an even higher level of service at a time when billions will be required merely to maintain essential rail freight services in the region. I share the view of Secretary of Transportation Coleman that this commitment to high-speed passenger service is an unjustified luxury which the Nation's taxpayers cannot afford at this time.

Another aspect of the conference report which gives me cause for concern is the failure of the House conferees to accept the Senate amendment to section 207 of S. 2718, dealing with State taxation of transportation property. This section of the bill prohibits States from taxing the property of interstate transportation carriers at a level highe than industrial and commercial property in the State or taxing district. The Senate Commerce Committee and the full Senate approved an amendment which I offered to exempt from this section States with constitutional provisions requiring the classification of property according to use for tax purposes. There are only two States—Tennessee and Alabama—whose constitutions specifically provide for a property classification system. In Tennessee, this constitutional provision was adopted in a popular referendum in 1972, by a voter margin of four to one. According to the Tennessee system, property is divided into several classes according to use, residential and farm property being assessed at 25 percent of its market value, industrial and commercial property at 40 percent, and public utility property at 55 percent. Interstate transportation carriers, and all other industries regulated by the State's public service commission, fall into the public utility class.

By failing to include my amendment, therefore, the bill's section on State taxation of transportation property will require the State of Tennessee to reduce the level of assessment of railroads and other interstate carriers from 55 percent to 40 percent. This will ultimately result in a 40-percent decrease in taxes paid by transportation carriers to local units of government in the State, and an average tax rate increase of 6 percent for all other taxpayers, including homeowners and farmers, to make up the revenue loss.

The railroad industry, which has long favored the tax provision in the bill, justifies it by alleging that State property tax systems discriminate against railroads and place an undue burden upon interstate commerce. The railroads, however, have been unsuccessful in challenging Tennessee's tax system in the courts, and that system has been upheld as reasonable and constitutional by the U.S. District Court for the Middle District of Tennessee and by the U.S. Supreme Court. Moreover, the profitability of railroads which are subject to Tennessee's property tax offers no support for arguments that interstate commerce is unduly burdened by that tax system.

In my view, there is no justification whatsoever for the Congress to override the express wishes of the people of my State and negate a provision of the constitution of the State of Tennessee which has been upheld by the highest court in the land. The effect of enactment of the conference report in Tennessee will be a tax windfall for profitable railroads at the expense of other taxpayers who are already bearing increasingly the brunt of inflation.

I cannot, in good conscience, support a conference report which will do irreparable harm to the constitution and fiscal system of the State of Tennessee in order to alleviate the property tax burden of a portion of the railroad industry.

For all of the foregoing reasons, I intend to vote against adopting the conference report on S. 2718.

Mr. WEICKER. Mr. President, I enthusiastically endorse the Rail Services Act to my colleagues.

Before any remarks as to the substance of the agreement arrived at with the House, I pay particular thanks to two Midwesterners without whose assistance this final product would have been impossible. One is the distinguished chairman of the Transportation Subcommittee, Senator HARTKE, who really has borne the lion's share of the work, both as to the hearings and as to the various committees and conferences. I commend the distinguished Senator from Indiana for putting so much energy and enthusiasm into something which is intended for the entire Nation and clearly has an enormous impact outside of his particular region.

The same holds true for the distinguished Senator from Kansas, the ranking Republican Member on the Committee on Commerce. We have not agreed as to all aspects of the contents of this bill, but he has never failed to give his complete encouragement to this Senator to continue his work on the subcommittee.

So I am deeply indebted to both gentlemen and thank them for their assistance over the months.

Mr. President, this is sound legislation, because it applies to the country as a whole. We have seen our rail systems deteriorate, yes, first in the Northeast; but the cancer is spreading and it is now moving on the Midwest; and left alone, as it has been for the last 50 years, it will spread into the South, Southwest, and Western parts of the United States.

This Nation, if it is to realize its full economic potential, if it is to realize its maximum effort in the conservation of energy, if it is to participate meaningfully in conservation of the environment, must have a good rail system. We have today exactly what we have paid for, and what we have paid for has been nothing over the past three decades. If indeed we have the best highway system in the world, it is because we have paid for the best highway system in the world—more than $100 billion in the last 20 years.

During the same period of time, we have only spent roughly $1 billion for rails, and therefore we have nothing.

What this bill does is to take the railroads off the orphan list and welcome them into the transportation family insofar as a balanced system of transportation in the United States is concerned.

I do not and I will not delude my colleagues or the American public or the administration into believing that this is going to come cheap. It is not. The price tag that is carried in this bill is the beginning. But it is a beginning of the way out of the bailouts. It is not bailing out a private enterprise in an emergency situation. It is not patching up an old system. It is money dedicated to a completely new start for a decent rail system in this country.

Mr. President, in conclusion, I should like to make the following comments which specifically are addressed to the administration:

It is a well-known fact that there has been a certain amount of pulling and hauling among the Commerce Committee and its Transportation Subcommittee and the administration on this issue. Word has come to me that the same will hold true or does hold true insofar as the administration's view of the conference report is concerned.

Just as we heard the word "veto" during debate on this matter on the floor of the Senate a few weeks ago, so I have heard it again yesterday afternoon and this morning. I hope that this particular effort, which is a substantial compromise as among three views—the view of the House, the view of the Senate, and the view of the administration—will not be viewed in a negative way but rather in a spirit of achievement which characterizes those three institutions—the House, the Senate, and the administration.

It does no good for the administration to have the American people believe that this system can be created with mirrors or without a price tag. It would be fairer to say to the American people that we cannot afford a rail system at this time, period. That would be honest and consistent with their particular budgetary views. What is misleading, and what this Senator will not permit to happen, so far as he is able, is to give the illusion that something is being done when, in fact, all that is being done is to make sure that standards of the past are lived up to and that there is some visible sign of rolling rail stock in this country.

I repeat: I hope that the administration will support this effort in the spirit in which it is devised, which is truly a spirit of compromise, between their officials and Senators and Representatives. If it cannot be done right, let us not do it at all this year. I think we have the resources, the energy, and the know-how to rectify what has been overlooked for too long.

Somewhere in what we do in this Nation, the caretaker attitude that has gripped everybody must come to an end. A caretaker attitude in rails is the same as it is in housing or any other national endeavor. It leads to stagnation, and stagnation is exactly what we have on our hands in the overall economic sense. There has to come that point when we are going to decide that we are going to move out for the future and not only attend to the particular need that is addressed in this case—rails—but also bring an economic prosperity to this Nation that has been absent too long.

I have told the distinguished chairman, Senator HARTKE, that I do not want to spend 1 cent in the way of a patchup of the northeast rails. What is important is that we get started on the job for the future. This bill does that. The money has been considerably negotiated and compromised downward. But I will not let go of that concept which is essential to the future and essential to having rails take its vital and meaningful place in our transportation system. That concept embodies new systems, new tracks, new equipment, and R. & D., so that we will not have the same trains running over the same tracks in the same way resulting in the same deficits; but, rather, a new day in rails and no deficits. I urge my colleagues' full support, with the widest possible margin, to send a signal to the White House that we mean business—not the business of confrontation, but the business of a new day in railroad transportation for this country.

I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I want to express my very warm congratulations to the Senator from Indiana (Mr. HARTKE) and the Senator from Connecticut (Mr. WEICKER) for bringing this measure back from conference in the form and the shape that they have. The record is quite clear, from the statements that they have made, and others in that committee, on the complexity of the problems of trying to provide rail transportation for the Northeast part of this Nation. But the subcommittee and the full committee, I think, reported a first-rate bill out of the committee. It was considered on the floor. Some alterations, changes, and modifications were made, but they took the essential aspects of that bill to conference.

I, for one, representing a State that will be greatly impacted by this legislation when it becomes law, commend those who sat in that conference for the work that they have done in continuing the essential aspects of the legislation which can make such a monumental difference in terms of transportation for those of us who live in the Northeastern part of this country, and a very substantial group of Americans do.

The three essential aspects that have been preserved, Mr. President, are first, the opportunity to permit the Northeast railroads to reorganize. This is absolutely crucial and essential to the commerce and to the industries of that particular part of our country, which is already being heavily pressed, probably more heavily pressed than any other section of our Nation, in terms of economic difficulty.

Second, it maintains a full commitment toward the high-speed rail passenger service in the Northeast corridor. This is an essential aspect in terms of meeting not only the particular issues of freight and rail transportation, but also, I think, is an important national commitment because of its implications from an energy point of view.

I think it will also make a significant difference in terms of forming an extremely essential link in our whole development of a balanced transportation system, with highways and also with air transportation. I think the proposals that are being made here in this report are completely consistent with the development of this kind of transportation system. I commend the conferees for holding on that particular measure.

Third, it maintains the essential proposals on the branch-line preservation—those small lines that reach out into many smaller communities, which, in many instances, are not only the main life link to the larger railroad network complex, but are absolutely essential links to the economic viability of so many small communities—in my own State of Massachusetts and generally throughout New England. This conference, I believe, has fashioned a proposal by which those branch lines can be maintained and preserved and can include both State and local participation in future decisions. I think that this is a very significant aspect of the report.

Finally, it also preserves the study on the feasibility of the ownership of railroad rights-of-way. I think this is an issue that has been debated and talked about. I think as the result of this legislation, we can get the kind of thoughtful consideration on that issue that will eliminate the rhetoric and the hyperbole and the distortions and misrepresentations, and come up with a report which I think can provide the committee and the Senate with a strong basis from which to move ahead.

I say, Mr. President, to those members of the committee, particularly the Senator from Indiana and the Senator from Connecticut, that I feel they have pursued in the conference the interest of those of us in the Northeastern part of this country, but even more importantly, they have pursued an important national interest. I commend them for it, and I want to join with them in the hope that the President will understand how essential and important this proposal is from a sound economic point of view, from the general economic point of view and for the future of our Nation. I urge my colleagues to support the report.

I yield the floor.

Mr. PEARSON. Mr. President, I am going to support this conference report. I suppose that I am not any different from the manager of the bill or the distinguished Senator from Connecticut when I say that had I had the authority to draft this bill and to insert my own judgments entirely, it would have been different in many respects. But one has to really experience the trials and tribulations and frustrations and concerns all the way back to 1971 to have the in-depth feeling and appreciation of the complexity of the problems presented, and, also, of the great national interest that is involved in a national rail system.

As I look over this report and try to understand exactly what is in this bill, I think that, by and large, the conferees have met the objections that I held when this bill first passed the Senate.

However, I must say to the Senate, unless there is a change of mind and a change of disposition, that this bill will not be acceptable to the administration. They hold that view, not having the same sense of balance I do about the good points and the weak points of this legislation, in five main areas. I think at this time, it would be most appropriate if I set forth those areas of serious objection which will possibly, unless an override can be achieved, put us back to a reconsideration—a necessary reconsideration—of a very vital piece of legislation.

Mr. President, the first is the overall funding level. The conference report recommends a total of approximately $7.1 billion: $2.1 billion for ConRail, in addition to $400 million in section 201 of the Regional Rail Reorganization Act; $2.4 billion in loans for the Northeast corridor; $800 million in loan guarantees, $600 million in loans, and $200 million in grants to railroads outside of the Northeast region; and $600 million in rail continuation subsidies, the so-called continuation of branch lines.

The administration seeks an overall funding level of $5.8 billion.

The second area where the administration finds this bill inadequate is in the Northeast Corridor funding. The conference report recommends $2.4 billion in no-interest loans to upgrade the Washington-Boston Corridor, "with a view to achieving"—I think that is significant, "with a view to achieving"—certain specified goals. That is a significant moderation and accommodation on the part of the conferees toward the position of the administration.

The Senate bill authorized $3 billion in loans and mandated that those goals be met. The Department of Transportation recommended $1.08 billion in grants to upgrade to lesser standards.

The Department of Transportation contends that the loans recommended in the conference report will not be repaid and will become grants; and that to meet the specified goals a much greater expenditure would be required. They estimate the amount of some $6 billion. The DOT also is opposed to the USRA role in funding the corridor project, a role which the USRA now has under the existing law.

The third item is with reference to the administration proposal that a Government Banking Committee composed of the Secetary of Transportation, the Secretary of the Treasury, and the Chairman of the USRA be authorized to exercise control of ConRail funding.

Both the Senate bill and the conference report recommended that this control be placed in the USRA Board. The Department of Transportation argues this does not give enough protection to the Government's financial interest in ConRail. Now, under the Regional Rail Reorganization Act, USRA is authorized to fund ConRail.

The fourth item is accumulation of interest. The conference adopted the Senate provision on accumulation of interest, which provides that the interest on the debentures and dividends on series A preferred shall not accumulate and shall be payable only at such times as earned surplus of ConRail exceeds $500 million and only out of such earned surplus which exceeds the $500 million figure.

The administration argues that this provision amounts to a substantial interest subsidy; also as a future holder of the debentures and series A preferred, it would obviously prefer not to lose any of its interest or return on its investment.

Last, Mr. President, is the item of supplementary transfers. The conference adopted the House provision with modifications. It essentially proposed supplementary transfers may be vetoed by either ConRail or the ICC; transfers may occur at any time 6 years after conveyance; and the Department of Transportation is able to petition the special court for approval of a proposed supplementary transfer, over the objection of USRA. The administration would contend that it needs flexibility to propose "controlled liquidations" of ConRail, which would be practically impossible with either ConRail or the ICC having a veto power over such proposals.

Mr. President, I thank the Senator for yielding.

Mr. HARTKE. I would like to address the issue of the way in which the administration, and particularly the Department of Transportation, has acted with respect to this legislation. I can only characterize the performance of DOT as irresponsible. Instead of desiring reasonable compromise on issues, the Members of the Senate Commerce Committee have received nothing but threats of veto action if the legislation does not conform exactly to the wishes of the Secretary of Transportation.

Mr. President, the committee has held hearings for half a year on this legislation, and has received the advice of countless experts both within the Government and outside the Government. The bill is the product of this exhaustive process, and in the opinion of both myself and the ranking minority member of the subcommittee, is far superior to the proposals of the Department of Transportation. If we are going to permit these kinds of threats to determine the substance of legislation, it is my opinion that we should just place the administration's request legislation on the consent Calendar, dispense with referring it to committee, do away with the studies that have been conducted on these issues by the Office of Technology Assessment and outside consultants, and pass whatever Secretary Coleman demands of us.

We have come a long way in meeting the administration's demands on this legislation, and the conference yesterday made substantial further adjustments designed to come more than halfway on all the major issues dividing us. The administration has yet to compromise on one major issue. If we simply allow the Congress of the United States to be pushed around in this manner, it would represent a negation of the entire legislative process. The legislation before the Senate today is strongly supported by a tremendous hearing record and a voluminous report. The administration's demands are supported by nothing other than the political views of the Secretary of Transportation and the Office of Management and Budget. I urge my colleagues to demonstrate by their vote here today that the Congress will not be intimidated by these threats and will not abandon reason and rationale in the face of a Secretary of Transportation or an Office of Management and Budget that make unsupported allegations and irresponsible charges.

If this legislation is enacted as the administration would like, it will do nothing other than provide the Secretary of Transportation with the total power to restructure the Nation's rail system without any public interest controls, and the executive branch would be given the complete and unfettered discretion to control the funding and operations not only of the Northeast railroads, but of all railroads in the Nation. Aside from the problems that this would cause in the courts with respect to the question of whether Government has effectively nationalized the northeast and midwest rail system, it is my firm belief that it would be very detrimental to the railroad system of the entire Nation. It is not the judgment of the Senate Commerce Committee that the American system works best by granting total discretion to the executive branch to do whatever it pleases with respect to a major sector of the Nation's transportation system.

If the pending rail legislation is not enacted into law at once, at least a 2- or 3-month delay of the long-planned revitalization of Northwest rail service is inevitable. Delay is costly to the taxpayer and the reorganization process.

Grants to the Penn Central and other bankrupts must continue, at the rate of well over $1 million a day. These funds are lost forever. They result in no improvements of service.

Grant funds will run out by the scheduled date for startup of ConRail under the final system plan, unless funds now dedicated to rehabilitation are reprogramed.

If new funding is not made available, there is a danger that rail service will terminate.

The bankrupt railroads are now running their operations on a going-out-of-business basis that threatens the integrity of the final system plan. They are assiduously selling off properties and running down inventories. Delay only feeds this process.

Delay creates uncertainty that can upset plans for participation in the final system plan of the Chessie System and other solvent rail carriers.

Delay means that advance planning for transfer of functions from the bankrupts to ConRail and Chessie will be thrown into disarray and result in extra costs.

Delay would cause a shutdown of the advance rehabilitation program—section 215. This would result in immediate layoffs of 3,000 employees and extra costs of some $300 million to ConRail.

A lapse of service on some commuter and light density lines, beginning as early as February 7, probably will occur.

Extended delays in startup of the plan may upset ConRail's financial performance and cause confusion as to whether the final system plan had been fully successful.

Delays also may add to potential claims against the United States for "erosion" of the assets of the bankrupt estates.

Mr. President, I am ready to vote.

I would just like to say that during the time of this conference we have had the help of not alone some dedicated members of the Commerce Committee itself, but from staff members, both on the majority and minority side. I think it would be appropriate for me to say this at this time.

I do not know a man who has contributed more to the success of this legislation than the Senator from Connecticut (Mr. WEICKER). He has been outstanding in his concern, his depth of understanding, and his realization that what we are doing here is really providing for a massive reorganization on a private enterprise basis of the railroad system, and in our hope that we will not be faced with this type of situation in the future.

We know we have not cleared all the errors, but I will say this: Without Senator WEICKER'S concern it would have been very difficult for us to pass this legislation in the form and in the positive stance which it has at the present time.

I would also like to pay tribute to the staff members, particularly Lynn Sutcliffe, general counsel; Tom Allison, Paul Cunningham, Mal Sterrett, Geoff Baker, John Kirtland, and David Clanton for the work they have done.

It has been one of the real joys to have people who have understanding and wisdom and, at the same time, the ability to move with speed at a time when speed was needed.

It has been a real pleasure to work with these gentlemen.

Mr. BEALL. Mr. President, as a member of the Surface Transportation Subcommittee and as a member of the conference committee, I urge the Senate to approve S. 2718, the Railroad Revitalization and Regulatory Reform Act.

As I stated on December 4 when this measure passed the Senate, this is must legislation. It is simply imperative that we move ahead and allow ConRail to take over as quickly as possible the operations of Penn Central. From what I have heard, Penn Central is doing little, except depleting inventories and continuing to allow its bankrupt operations to go farther down hill. S. 2718 seeks to stop this deterioration and not only to develop a viable rail system in the Northeast but also to assure a healthy rail network nationwide.

Hopefully, the enactment of this bill will signal an end to an era of neglect for the Nation's railroads. Railroads had not only been victims of neglect, but also in many instances of public policy and regulatory action which worked against greater utilization of this energy efficient, ecologically sound, and safe transportation mode.

S. 2718 would:

First. Reform the regulatory system and the regulatory agency, the Interstate Commerce Commission. One example is the expediting of railroad mergers and rationalization in order to avoid situations such as the Rock Island case which dragged out for over 10 years.

Second. Implement the reorganization of the bankrupt railroads of the Northeast. I am pleased that the conference committee included the Senate protection against deficiency judgments. This provision was included by the Senate committee at my urging and is essential for the acquisition by Southern Railroad of the lines on Maryland's Eastern Shore. This important section of my State thus will be able to count on services by one of the Nation's outstanding railroads.

Third. Reaffirm the commitment by Congress to the Northeast corridor project which Congress endorsed in the Regional Rail Act of 1973. This provision is designed to bring modern, first-rate transportation service to this heavily populated area of the country. Projections show increased population growth and additional travel requirements. Existing transportation systems will have difficulty accommodating such growth. Therefore, it behoves this Nation to get on with this project. It has been studied enough. It is technologically feasiable and economically viable. Delay today will mean only increased costs and inadequate transportation tomorrow.

Better ways to move people in energy-efficient, environmentally sound, and safe ways must be given higher priority. The time to act is now—not when another energy crisis is upon us.

Fourth. Provide a subsidy for local rail freight service of 100 percent the first year, 90 percent the second, 80 percent the third, and 70 percent for the fourth and fifth years. This will make certain that the State and/or local communities and shippers will be able to continue branch lines which they deem vital.

Fifth. Mandate continuation of rail commuter services for 6 months with a 100-percent Federal subsidy for that period and for a succeeding 6-month period. Thereafter, a subsidy of 90 percent will be available for 1 year and 50 percent for a succeeding year for State and local transportation agencies willing to continue this service. This provision is essential for otherwise the rail commuter service, which serves approximately 500 passengers between Baltimore and Washington, would be lost. I am confident that with this provision my State will be able to see that this important transportation service will continue, and

Sixth. Authorize a new program to provide for the conversion of abandoned railroad rights-of-way to public use.

S. 2718, the bill before the Senate today, is complex legislation. Given the gigantic problems and issues which this measure addresses and the critical importance not only to the Northeast but also to the entire Nation of their resolution, this is understandable.

While S. 2718 is not perfect, and no comprehensive measure involving so many issues and interests could be, it nevertheless represents a Herculean effort and should be supported by the Senate.

As I look back on our work, the process and procedures we mandated seemed to have worked well. I feel the office of public counsel was particularly helpful in alerting communities and shippers regarding the act's impact on them and in helping them to prepare their cases. It was an open process with inputs from many. Again, not perfect, but as fair and as open as seems humanly possible.

Of course, the final test of the work remains ahead. ConRail has an increase task confronting it. With the support provided in the bill and with new management, there is reason for guarded optimism. In any event, we had little choices.

The railroads had to be kept running. Nationalization, as a few advocated would have been even more costly. I am pleased and proud to have participated in this historical and significant effort. I urge the enactment of the conference report.

Mr. PERCY. Mr. President, with some reservations I concluded I should vote against the conference report on the Rail Services Act, S. 2718.

While certain reductions in outlays were achieved in conference, I still maintain the bill authorizes expenditures beyond what I believe to be prudent both with respect to Amtrak for improving Northeast corridor service from Boston to New York and the District of Columbia. I am a strong supporter of rail passenger service in general and of Amtrak in particular. But with all the other urgent funding priorities and our soaring Federal budget I feel compelled to oppose spending which does not meet what I consider to be a prudent and fully justifiable cost-benefit analyses. I applaud the movement toward compromise but I do not believe we have trimmed to the proper level yet.

I am disappointed that the House language with respect to certificates of value was largely retained. I believe this is a serious flaw in that it permits and may encourage years of litigation. The virtual assurance that many of these suits will not be decided as swiftly as would have been the case had the Senate language been accepted, I think will deter financial institutions from making capital available to our railroads and, possibly, our utilities.

Finally, I oppose giving authorities to the U.S. Railway Association which I believe properly belong in the Department of Transportation.

For these reasons I will oppose the act as now drafted and will vote to sustain the Presidential veto that is expected.

Mr. WEICKER. Mr. President, I am prepared to yield back the remainder of my time.

I want to thank the distinguished Senator from Indiana for his very gracious remarks about me. I also want to commend Mal Sterrett and Geoff Baker who worked hand-in-glove in a cooperative way with the majority members of the staff.

I yield back the remainder of my time.

Mr. HARTKE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiania (Mr. JOHNSTON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Florida (Mr. STONE), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVESON) are necessarily absent.

I also announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

On this vote, the Senator from Illinois (Mr. STEVENSON) is paired with the Senator from Florida (Mr. STONE). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Florida would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 51, nays 29, as follows:

[Rollcall Vote No. 609 Leg.]

YEAS—51

Beall
Biden
Brooke
Buckley
Bumpers
Burdick
Case
Clark
Cranston
Culver
Durkin
Ford
Glenn
Gravel
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Symington
Tunney
Weicker
Williams

NAYS—29

Allen
Baker
Bartlett
Bellmon
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Curtis
Domenici
Garn
Griffin
Hansen
Hart, Gary
Haskell
Helms
Hruska
Mansfield
McClellan
McClure
Morgan
Nunn
Packwood
Percy
Proxmire
Scott,
  William L.
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—20

Abourezk
Bayh
Bentsen
Brock
Cannon
Chiles
Church
Dole
Eagleton
Eastland
Fannin
Fong
Goldwater
Johnston
Laxalt
Mathias
Montoya
Stennis
Stevenson
Stone

So the conference report was agreed to.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. May we have order, please, Mr. President.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 9861, which the clerk will state by title.

The legislative clerk read as follows:

Amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. McCLELLAN. Mr. President, let us have order.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

The Senator from Montana.

Mr. MANSFIELD. Mr. President, the leadership has been endeavoring all day to arrive at an agreement affecting the conference report on the defense appropriation and the amendment offered by the distinguished Senator from California (Mr. TUNNEY).

We thought we had arrived at a reasonable solution by means of which the pending business would be laid aside and the Senate would then have the opportunity to turn to the consideration of such measure as the 200-mile legislation, in which the distinguished Senator from Washington (Mr. MAGNUSON) is so interested, and who has exerted so much pressure that I am getting a bent back from contacts with him.

Then it was hoped that it would be possible to turn to H.R. 9852, the so-called Mobile Housing Act, which has a time limitation.

Then it was the intention of the leadership, because of the pressure exerted by the distinguished Chairman of the Committee on Appropriations—low key, quiet—that we would take up a bill to establish improved programs for the benefit of producers and consumers of rice.

The proposed agreement, we thought, would have been the best way out of a difficult situation, especially for the administration. We would have turned to at least one and possibly two of these other measures, and what we did not complete in that sphere would be taken up the first thing on our return next January 19, the House willing to send us a resolution to that effect, which we do not have at the present time.

The matter was discussed with the chairman and the ranking member of the Appropriations Committee, with the Republican leadership, with people interested on both sides of the issue.

It was impossible to reach an agreement, and therefore we are faced with a situation which only will allow for more dillydallying on the part of the Senate.

Mr. President, I think I have covered the main points.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. If I may, let me finish please. I think I have covered the main points in what I intended to say to the Senator at this time. I wish to say to the distinguished Senator from Washing (Mr. MAGNUSON) that I will make every effort to bring up the 200-mile bill on our return after the recess. I will make the same pledge to the distinguished Senator from Arkansas (Mr. McCLELLAN) concerning the rice bill, and I will make the same promise to the distinguished Senator from Missouri (Mr. EAGLETON) concerning the mobile housing bill.

I hope that in this respect we will be able to advance the work of the Senate, and at this time I am glad to yield to my distinguished friend the Republican leader of the Senate.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

Mr. President, in addition to much other agonizing over this issue, about two dozen Senators spent nearly 4 hours yesterday afternoon trying to arrive at a viable solution. There seems to me to be at least substantial majority sentiment for a proposal which would not have satisfied anyone entirely, I suppose, and certainly not satisfied everyone, but which at least would have allowed some movement in the area which the administration sought, really, very hard indeed to achieve; and I will say that the meeting was with the Secretary of State.

This morning some of us met with the majority leader in a further effort to work out the order of business on the basis of a declaration of intention by the majority leader beginning next year.

All of these attempts have fallen by the wayside, because some Senators are of one mind and one point of view here, and others are diametrically opposed.

If the distinguished majority moves to lay on the table the pending amendment, while I would have to vote against the amendment, I would like to make it clear that that should not be interpreted as reflecting my views on the Angola situation one way or the other, on the merits. Such a motion may well be offered by him in order to bring about a resolution of the question. Perhaps if he does offer it, it would be better to table it, and I would so vote. Then we can get on with the rest of the business, and the Appropriations Committee can get on with this tough situation, as well as a number of others we will have to take up as soon as we possibly can arrange the meetings.

I wanted the distinguished majority leader to know that I myself hope that under the circumstances the amendment can be laid on the table, so that when we come back in January, similar amendments could be offered and similar arguments could be made. The debate at that time might look different. The administration feels that the adoption of the amendment at this time would be disastrous, would be a catastrophe, and they have made their views very strongly clear.

Again I repeat, and then I am through, that I am not stating my own views here on Angola one way or the other. I am very much concerned about the American position. I am also concerned about the impact on world opinion of what the Senate may do here today. I wanted the chance to get that on the RECORD before the Senator proceeded further.

I thank the majority leader.

Mr. MANSFIELD. Mr. President, before I make the motion to lay on the table the Tunney amendment, I wish to state unequivocally that I favor the Tunney amendment; that I am against our intervention in the affairs of two of the three tribal elements within Angola; that in my opinion the national interest and security of this country are not involved in the events in Angola; and I wish to say that I can see many parallelisms between this situation and the beginning of the adventure in Vietnam.

Mr. President, I move to lay on the table the amendment of the Senator from California (Mr. TUNNEY), and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the motion of the Senator from Montana (Mr. MANSFIELD) to lay on the table the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), and the Senator from Florida (Mr. STONE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 21, nays 58, as follows:

[Rollcall Vote No. 610 Leg.]

YEAS—21

Baker
Bartlett
Beall
Bellmon
Buckley
Curtis
Domenici
Griffin
Hansen
Hruska
Long
McClellan
McClure
McGee
Morgan
Roth
Scott, Hugh
Stevens
Thurmond
Tower
Young

NAYS—58

Allen
Biden
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Ford
Garn
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
McGovern
McIntyre
Mondale
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott,
William L.
Sparkman
Stafford
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—21

Abourezk
Bayh
Bentsen
Brock
Cannon
Chiles
Church
Dole
Eagleton
Eastland
Fannin
Fong
Goldwater
Johnston
Laxalt
Mathias
Metcalf
Montoya
Stennis
Stevenson
Stone

So the motion to table Mr. TUNNEY's amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from California, as amended.

Mr. MANSFIELD. Mr. President, I have discussed this possibility with the Republican leadership. I have received no assurances, but I think it is worthy of the effort.

I ask unanimous consent that there be not to exceed 40 minutes on the Tunney amendment, the time to be equally divided between the distinguished manager of the bill, the Senator from Arkansas (Mr. MCCLELLAN) and the distinguished Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Kentucky.

SENATE CONCURRENT RESOLUTION 82 AND SENATE CONCURRENT RESOLUTION 83—CORRECTIONS IN ENROLLMENT OF S. 2718, RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1975

Mr. FORD. Mr. President, I send two concurrent resolutions to the desk and ask for their immediate consideration, en bloc.

The PRESIDING OFFICER. The concurrent resolutions will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 82) to make corrections in the enrollment of S. 2718, a bill to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

A concurrent resolution (S. Con. Res. 83) to make corrections in the enrollment of S. 2718, a bill to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

Mr. FORD. Mr. President, these resolutions make corrections in the enrollment of S. 2718, which the Senate has just passed. The corrections are for the purpose of seeing that the bill meets the agreement at the conference and what we passed today. The staff worked long and hard last night in order to put it together. These are simply technical changes.

Mr. GRIFFIN. No substantive changes?

Mr. FORD. No substantive changes at all.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolutions.

The concurrent resolutions (S. Con. Res. 82 and S. Con. Res. 83) were agreed to, as follows:

S. CON. RES. 82

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate is directed to make corrections in the enrollment of S. 2718, a bill to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes as follows:

Strike out section 308 of the bill in its entirety and redesignate sections 309 through 312 of the bill as section 308 through 311 thereof.

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the Senate is directed to make corrections in the enrollment of S. 2718, a bill to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes as follows:

SEC. 2. In section 306 of the Regional Rail Reorganization Act (as added by section 609 (b) of the bill) strike the bracket at the beginning of the section.

SEC. 3. In title VI of the bill redesignate the second section 614 as 615, and redesignate sections 615 and 616 as 616 and 617 respectively.

SEC. 4. In section 601(b)(3) of the Regional Rail Reorganization Act of 1973, as added by 617 of the bill as redesignated is amended by—

(a) striking "(1)" the second time it appears; and

(b) striking the brackets and the material therein, except the quotation mark and the final period.

SEC. 5. Before the section heading of section 701 of the bill insert the following:

"TITLE VII—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION"

SEC. 6. Section 4(m) of the Department of Transportation Act, (as added by section 803 of the bill) is amended by inserting the last sentence immediately after the period of the sentence preceding it.

SEC. 7. Section 4(n) of the Department of Transportation Act (as added by section 803 of the bill) is amended by striking "(1)" and inserting in lieu thereof "(p)".

SEC. 8. Section 4(o) of the Department of Transportation Act, (as added by section 803 of the bill) is amended by striking "(1)" and inserting in lieu thereof "(p)".

SEC. 9. Subdivision (e) of section 20(3) of the Interstate Commerce Act, as amended by section 307 of the bill is deleted and subdivision (f) is redesignated as subdivision (e).

SEC. 10. Section 4(r) of the Department of Transportation Act (as added by section 803 of the bill) is amended by striking "(1)" and "(j)" and inserting in lieu thereof "(p)" and "(q)" respectively.

SEC. 11. Insert a period after "(6) necessary studies" in section 101 of the bill.

SEC. 12. In section 15(6) of the Interstate Commerce Act (as amended by section 201 of the bill) strike "(C)" and insert in lieu thereof "(c)".

SEC. 13. In section 202(b) of the bill strike out all of the matter starting with "'(6) In any hearing under" and ending with "at the earliest practicable time".

SEC. 14. In the matter inserted into the Interstate Commerce Act by section 202(e) (B) of the bill—

(1) strike "'(9)(a)"

and insert in lieu thereof "'(8)(a)";

(2) strike "section 1(5)(B)(i) of this part" in new subdivision (b) thereof and insert in lieu thereof "section 1(5)(b)(i) of this part" and in such new subdivision (b) strike "subparagraph (d) of this paragraph. That" and insert in lieu thereof "sudivision (d) alleging that";

(3) strike in its entirety clause (iv) of new subdivision (c) thereof and insert in lieu thereof the followng new such clause (iv):

"'(iv) the increase or decrease for any rate filed within the second year following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1977;";

(4) in new subdivision (d) thereof—

(A) after "interested party" and before "that—" insert the following: "or of the Office of Rail Public Counsel";

(B) after "injury to the complainant" and before "; and" insert the following "or, in the case of the complaint of such Office, injury to a member of the public or the public generally";

(5) in new subdivision (f) thereof after the first sentence thereof and before the last sentence thereof insert the following two new sentences: "In any hearing under this section, the burden of proof is on the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is compensatory, just, and reasonable. The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation, or practice will have a significantly adverse effect on the competitive posture of shippers or consignees to be affected by such change."

SEC. 15. In section 202(f) of the bill in the clause preceding paragraph (1) thereof strike "to" and in paragraph (1) thereof immediately before "modify" insert "to".

SEC. 16. In section 15(3) of the Interstate Commerce Act (as amended by section 203(a) of the bill) (1) strike "In determining" in the first sentence of the new matter and insert in lieu thereof "With respect to carriers by railroad, in determining"; and (2) strike "(C)" and insert in lieu thereof "(c)".

SEC. 17. In new section 5b of the Interstate Commerce Act (as inserted in section 208(b) of the bill—

(1) in paragraph (6)(a)(i) thereof strike "discussions or";

(2) in paragraph (6)(a)(ii) thereof strike "discussions or".

SEC. 18. In new section 24 of the Interstate Commerce Act (as inserted by section 304 of the bill)—

(1) strike out the brackets and the second sentence in subsection (b) thereof and insert in lieu thereof the following: "The Director shall be appointed by the Commission and shall be qualified and take office upon the approval of such appointment by a concurrent resolution of the Senate and of the House of Representatives";

(2) in subsection (c) thereof strike "recommendations" and insert in lieu thereof "recommendations";

(3) in subsection (e) thereof strike the comma after President and all that follows through the end of such subsection and insert in lieu thereof a period.

SEC. 19. In section 306 of the Regional Rail Reorganization Act of 1973 (as inserted in section 609(b) of the bill) strike out the bracket immediately before "SEC. 306.".

SEC. 20. In section 403 of the bill—

(1) insert "(a)" immediately after "403.";

(2) strike "(c) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is" and insert in lieu thereof "(b) Section 5 of such Act (49 U.S.C. 5) is further".

SEC. 21. In section 404 of the bill, strike the bracket before "SEC.".

SEC. 22. Amend the first six printed lines on page 69 of the Conference Report to read as follows:

"PROTECTION OF GOVERNMENT FUNDS

"SEC. 608. Title III of the Regional Rail Reorganization Act of 1973, as amended by section 609 of this Act, is further amended by inserting the following new section:

"'PROTECTION OF GOVERNMENT FUNDS

"'SEC. 307. (a) AUDIT.—(1) The Comp-

SEC. 23. In section 27(1)(d) of the Interstate Commerce Act as added by section 306 of the bill, strike "or contract carrier subject to this part I, part II, part III, or part IV of this Act" and insert in lieu thereof "carrier by railroad subject to this part".

SEC. 24. In section 15(3) of the Interstate Commerce Act as amended by section 203(a) of the bill is amended by inserting after "proposed cancellation" the words "involving any common carrier by railroad."

SEC. 25. The amendment to section 6(6) of the Interstate Commerce Act by section 209 of the bill is amended by

(A) striking "each carrier or" and inserting in lieu thereof "each common carrier by railroad subject to this part or rail" and

(B) striking "any carrier" and inserting "any such carrier."

SEC. 26. Paragraph 9(b) of section 17 of the Interstate Commerce Act as added by section 303(a) of the bill is amended by inserting after "any matter" the following "involving a common carrier by railroad subject to this part which is".

SEC. 27. The first subdivision (d) of paragraph (3) of section 27 of the Interstate Commerce Act, as added by section 306 is amended to read as follows: "(a) 'assessment' means valuation for purposes of a property tax levied by any taxing district.

SEC. 28. The second subsection (e) of section 611 of the bill is redesignated as subsection (1).

SEC. 29. Section 301(i) of the Regional Rail Reorganization Act of 1973, as added by redesignated section 611(1), is amended by striking out "financial assistance provided pursuant to section 802(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1975," and inserting "section 305 of this Act".

SEC. 30. Title VI of the bill is amended by adding at the end thereof the following new section:

"APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 617. Nothing in this title shall effect the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) to actions of the Commission.".

SEC. 31. The table of contents of the Regional Rail Reorganization Act of 1973, as amended by section 600(b) of the bill, is amended by (A) striking out "Section 305. Continuing reorganization; supplemental transactions", (B) striking out "SEC. 307. Supplementary assistance", and (C) striking out "SEC. 308" and inserting in lieu thereof "SEC. 307".

SEC. 32. Strike out in its entirety section 901 of the bill and redesignate sections 902 through 905 of the bill as sections 901 through 904 thereof.

SEC. 33. Amend section 903 of the bill, as redesignated by this resolution, to read as follows:

"RAIL ABANDONMENT REPORT

"SEC. 903. The Secretary shall submit to the Congress, within 90 days after the date of enactment of this Act, a comprehensive report on the anticipated effect, including the environmental impact, of any abandonments of lines of railroad and any discontinuances of rail service in States outside the region, as defined in section 102 of the Regional Rail Reorganization Act of 1973.".

SEC. 34. In section 616(b) of the bill amend paragraph (1) thereof to read as follows:

"(1) by (A) striking out "—The" and insert in lieu thereof "—(1) The", and by striking out "to the extent necessary" and inserting in lieu thereof "taken";

SEC. 35. In section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (as inserted in section 605 of the bill) strike "$200,000,000" and insert in lieu thereof "$400,000,000".

SEC. 36. In section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (as inserted in section 605 of the bill) (A) strike "Government Banking Committee of the"; (B) strike "." at the end thereof and in the next line of the bill strike "(g)" and insert in lieu thereof "(1)'.

SEC. 37. Section 305(b) of the Regional Rail Reorganization Act of 1973, as amended by section 609(b) of the bill, is amended by striking "whatever" and inserting "whether".

SEC. 38. Section 305(c) of the Regional Rail Reorganization Act of 1973 as amended by section 609(b) of the bill by striking "(other than the corporation, where it is a proposed transfer, if the Association has determined that such transfer is likely to result in the achievement of the goals specified in section 206(a) of this Act in a manner less costly to the public than that specified in the final system plan)".

SEC. 39. Section 305(d)(5) of the Regional Rail Reorganization Act of 1973, as amended by section 609(b) of the bill is amended by striking "or" following "Association" and inserting "or the Commission" following "the Secretary".

SEC. 40. Section 306(d) of the Regional Rail Reorganization Act of 1973, as amended by section 609(b) of the bill, is amended by striking "(3) the applicant has offered such security as the Secretary deems necessary to protect reasonably the interests of the United States."

SEC. 41. Section 216(b)(2) of the Regional Rail Reorganization Act of 1973, as amended by section 604 of the bill, is amended by inserting ")" following "the Board of Directors of the Association."

SEC. 42. Section 301(d) of the Regional Rail Reorganization Act of 1973, as amended by section 610(b) of the bill by (1) striking "his selection" in the third sentence and inserting "their elections" and (2) inserting " 'holder' " following "subsection" in the last sentence.

SEC. 43. Section 301(c) of the Regional Rail Reorganizations Act of 1973, as amended by section 610(a) of the bill is amended by striking "also" and "initial".

SEC. 44. Section 504(g) of this Regional Rail Reorganization Act of 1973, as amended by section 614 of the bill is amended by striking "216(b)(5)" and inserting "211(h)".

SEC. 45. Section 216(c) of the Regional Rail Reorganization Act of 1973 as added by section 604 of the bill is amended by inserting "any" between "purchase" and "debentures.", in clause (1) thereof.

SEC. 46. Section 211(h) of the Regional Rail Reorganization Act of 1973 as added by section 605 of the bill is amended as follows:

(i) In clause (B) of paragraph (2) insert "of" before "all current assets" and insert "to" before "the payment."

(ii) In paragraph (3) change the phrase "paragraph (2)" to "paragraphs (1) and (2)."

(iii) In paragraph (4) strike the phrase "the Government Banking Committee of" and change the word "committee" to "Association."

SEC. 47. In the final newly created subsection to section 211 of the Regional Rail Reorganization Act of 1973 as added by section 605 of the bill change "(g)" to "(i)."

SEC. 48. In subsection (v) of section 606 of the bill change "207" to "209" and change the "(e)" before "Time Extension" to "1."

SEC. 49. Section 301(e) of the Regional Rail Reorganization Act of 1973 as amended by section 607 by the bill is amended by striking at the beginning of the second paragraph "B preferred stock" through the first "."

SEC. 50. Section 308(b) of the Regional Rail Reorganization Act of 1973 as added by section 607 of the bill is amended by changing "90" to "150."

SEC. 51. Section 209(f) of the Regional Rail Reorganization Act of 1973 as added by section 602 of the bill is amended by deleting the fourth sentence thereof.

SEC. 52. Section 202(c) of the bill is deleted, and subsections (d), (e), (f), and (g) are redesignated (e), (f), (g), and (h).

SEC. 53. Paragraph (4) of section 15a of the Interstate Commerce Act, as amended by section 205 of the bill, is amended by adding at the end thereof: "No rate of carrier shall be held up to a particular level to protect the traffic of any other carrier or mode of transportation, unless the Commission finds that such rate reduces or would reduce the going concern value of the carrier charging the rate.".

SEC. 54. Section 304(e) of the Regional Rail Reorganization Act, as amended by section 804 of the bill, is amended by striking "section 808 of the Rail Services Act of 1975," and inserting in lieu thereof: "section 807 of the Railroad Revitalization and Regulatory Reform Act of 1975,".

SEC. 55. Section 402(b)(2) of the Regional Rail Reorganization Act as amended by section 805 of the bill is amended by striking "subsidies" where it appears and inserting in lieu thereof "assistance".

SEC. 56. Section 205(d)(5) of the Regional Rail Reorganization Act as amended by section 309 of the bill is amended by striking out subsection (a) and inserting in lieu thereof:

(A) "standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Interstate Commerce Commission under section 705 of this Act), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight services; and"

SEC. 57. Section 807(c)(A) of the bill is amended by striking "706" and inserting "705".

SEC. 58. Section 402(h) of the Regional Rail Reorganization Act is amended by Section 805 of the bill is amended by striking "Rail Services Act of 1975," and inserting in lieu thereof "Railroad Revitalization and Regulatory Reform Act of 1975."

SEC. 59. In section 202(h), lines 12 and 13 of section 15(8) are amended by inserting "this" after "pursuant to" in line 12 and striking "(7) of this section" in line 13.

SEC. 60. In section 206, the numeral at the beginning of the new section is changed from (18) to (17).

SEC. 61. In section 303, quotation marks are added immediately before "(d)" on page 19, line 25. On page 19, line 22, "this" is added immediately after "set forth in", the word "sections" is amended to "section" and "(5) or (6)" is deleted.

SEC. 62. On page 19, line 29, quotation marks are added before "(e)".

SEC. 63. On page 19, line 46, the letter (d) is changed to (f) and quotation marks are added before said letter.

SEC. 64. On page 20, line 1, the letter (f) is changed to (g) and quotation marks are added before it.

SEC. 65. On page 20, line 8, the letter (g) is changed to (h) and quotations are added before it.

SEC. 66. On page 20, line 13, (h) is changed to (i) and quotations are added before it.

SEC. 67. On page 20, line 11, after the word "part" add "and shall apply only to such matters".

SEC. 68. Section 808 of the bill is amended by striking "section 808 of the Rail Services Act of 1975," and inserting in lieu thereof "section 807 of the Railroad Revitalization and Regulatory Reform Act of 1975."

SEC. 69. Subsection (f) of section 805 of the bill is deleted.

SEC. 70. Section 805 of the bill is amended by adding at the end thereof the following new subsection:

"(c) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763 (b)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title for acquisition and modernization pursuant to this section, or for any project designated pursuant to a State rail plan.".

SEC. 71. In section 611(m) of the bill, strike "reading" after "adding a new subsection".

SEC. 72. In section 303(b) of the Regional Rail Reorganization Act of 1973 (as amended by section 611(k) of the bill) strike out "an" after "shall not be deemed a breach," and insert in lieu thereof "in".

SEC. 73. In paragraph (3) of section 501 of the Regional Rail Reorganization Act (as amended by section 612(3) of the bill) strike "1" after "has not reached age 65 on the effective date of this Act or;".

SEC. 74. In section 403(c)(C) of the Regional Rail Reorganization Act, as amended by section 805(b) of the bill, as amended by these amendments, delete ", fiscal" and insert in lieu thereof "fiscal".

SEC. 75. In section 301(i) of the Regional Rail Reorganization Act of 1973 (as amended by section 611(1) of the bill) insert " " " before "(i)".

SEC. 76. In section 611(e) of the bill the second time it appears strike out "(e)" and insert in lieu thereof "(1)".

SEC. 77. Delete "SEC. 616." of the bill and insert in lieu thereof "SEC. 617.".

SEC. 78. Delete "SEC. 615." of the bill and insert in lieu thereof "SEC. 616.".

SEC. 79. Delete "SEC. 614." of the bill the second time it appears and insert in lieu thereof "SEC. 615.".

SEC. 80. In the last sentence of section 402 (a)(1) of the Regional Rail Reorganization Act of 1973, as amended by section 805(a) of the bill, delete "(1)" and "(2)" and insert in lieu thereof "(A)" and "(B)".

SEC. 81. Delete "(f)" of section 805 and "(b)" of section 805 and insert in lieu thereof "(b)" and "(c)", respectively.

SEC. 82. In section 611(1) of the bill as amended by amendment ( )), strike "new subsection:" after "at the end thereof the following" and insert in lieu thereof "2 new subsections:".

JUDGMENTS IN FAVOR OF THE SAC AND FOX INDIANS

Mr. BARTLETT. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of H.R. 4016 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee is discharged from further consideration of the bill.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4016) to provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD a statement in connection with this matter by the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. DOLE

The junior Senator from Kansas is prepared to move forward with passage of this legislation, S. 1823, to provide for the distribution of funds among the three groups of the Sac and Fox Nation in Kansas/Nebraska, Iowa and Oklahoma. In doing so however, the Senator from Kansas must express reservations.

The Senator from Kansas favors passage of this legislation for several reasons.

First it will allow the timely distribution of the awards that have been made. When all the funds for these awards are appropriated, the total will be over $18 million which, together with interest, will amount to over $22 million.

Without the passage of this legislation, neither the members of the Sac and Fox Nation in Kansas nor those in Iowa or Oklahoma will be able to receive any of the funds. So it is in the interest of my own constituents as well as those Indians in other States to move forward with the passage of this legislation.

It is also my hope that this legislation will provide an equitable distribution. The distribution provided in this bill, based on the 1937 census rolls, will provide a per capita distribution of about $6,500 for the members of the tribe in Kansas and Nebraska, compared to a distribution of about $6,000 for those in Iowa and about $5,200 for those in Oklahoma.

So the distribution in this legislation will be somewhat more favorable to those members in my own State. It is a compromise that is more equitable in proportion to existing population although it does contain a historical basis as well.

EARLIER APPROACH MORE FAVORABLE

My reservation is that the distribution approach used previously would be more advantageous to those members of the Tribe in Kansas and Nebraska than the bill presently before us. That is why I earlier introduced a bill, S. 1953, which has been rejected by the Interior Committee in favor of the bill before us.

Earlier awards made as recently as 1966 were disbursed among the three tribes on the basis of 1891 and 1892 allotment and annuity rolls for the three tribes. At the time those rolls were prepared, membership criteria for the three tribes were basically equivalent.

My legislation, S. 1953, was based on the 1891/1892 rolls.

My reason for introducing S. 1953 was that historically the Kansas/Nebraska group (Missouri Tribes) has been smaller in size than the other two Sac and Fox units, but it possessed a large land area and exercised more influence in tribal matters during the 19th century than did the confederated Mississippi Tribes to which the other units belonged. Were the Department of Interior able to determine now what the respective tribal memberships were at the time the land sales were made to the U.S. Government before 1870, we might have the fairest possible statistical means available by which to make proper reimbursement to the Sac and Fox.

However, membership figures were incomplete during the period when most of the sales and cessions were made.

On the other hand, current membership figures are highly questionable for a distribution basis because of large variances in membership criteria among the three tribes involved. It would be totally improper, for example, to base a distribution upon the membership of one tribe where membership requires a patrilineal lineage when the membership of another of the tribes liberalized its criteria considerably in 1954.

COMPROMISE MADE

As I mentioned earlier, the bill before us is a compromise between the current population and the earlier distribution basis incorporated in my own bill. As I understand, the objection to the 1891/1892 allotment and annuity rolls as a basis of distribution is that the rolls are irrelevant to the land sales and cessions on which the claims in the several dockets are based, as well as to the political structures of the three Sac and Fox Tribes as they exist today.

The Senator from Kansas is satisfied that this issue has been thoroughly reviewed in careful and impartial hearings in the Senate Interior Committee.

The differences over the 1891/92 rolls versus the 1937 rolls have also been thoroughly gone over in the House of Representatives. The House has chosen to adopt the 1937 basis of distribution.

Finally, the Department of Interior has gone over this matter in great detail as well. The Department has reached the same conclusion as the Senate Interior Committee and the House of Representatives that the most equitable approach is to base the distribution on the 1937 census rolls.

It is the position of this Senator that although this legislation is not as favorable to those in Kansas as my own bill, it is important that we move forward to reach a final decision in this matter. Because of the careful reviewing this matter has received, as previously outlined, the Senator from Kansas accepts the distribution approach embodied in S. 1823 and is prepared to move forward with adoption of this legislation.

It is the hope of this Senator that the compromise based on the 1937 census rolls will be acceptable to all of the three tribes.

Mr. ABOUREZK. Mr. President, both S. 1823 and H.R. 4016 relate to the disposition of judgment funds awarded to the Sac and Fox Indians by the Indian Claims Commission in various dockets. For purposes of expediting enactment of legislation to permit the tribes to make use of these funds, I support approval of the House-passed measure, H.R. 4016. That measure, save for technical drafting differences, is identical to S. 1823.

The disposition of the Indian judgment funds addressed in H.R. 4016 normally would have been disposed of pursuant to the act of October 19, 1973 (87 Stat. 466). That act authorizes the Secretary of the Interior to cooperate with affected Indians in the development of plans for the use or distribution of claims awarded to them by the Indian Claims Commission or the Court of Claims. The act provides further that such plans be submitted to Congress and if neither the Senate nor the House of Representatives passes a resolution disapproving a plan it becomes operative.

Because of differences between the three recipient groups and the Secretary over the contents of the plan, the Secretary, pursuant to the 1973 act, submitted proposed legislation to Congress which was introduced by Senator BARTLETT as S. 1823 and H.R. 4016 in the House of Representatives. The issue which delayed disposition of these funds was the inability of three Sac and Fox groups in Iowa, Oklahoma, and Kansas and Nebraska, to agree on the formula for division of the judgment funds. H.R. 4016 provides that a 1937 census roll as corrected will be used for this purpose. This approach is supported by the administration as the most equitable formula for division of funds among the three groups. Following such division and after a minimum of at least 20 percent of each tribe's share is set aside for program purposes, they are authorized to utilize the funds for per capita purposes. Other provisions in H.R. 4016 protect the per capita shares from Federal and State income taxes and from being counted as financial resources for social security and other Federal programs.

Mr. President, in conclusion, the three Sac and Fox groups have waited patiently for many years for settlement of their judgment claims. Unfortunately, their inability to agree on a formula for division of the funds has added to this delay. In the judgment of our committee the approach contained in S. 1823 and H.R. 4016 represents a reasonable compromise and the most equitable formula for division of these funds among the three groups.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BARTLETT. Mr. President, I ask unanimous consent that S. 1823 be indefinitely postponed. This is a companion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976

The Senate continued with the consideration of amendment in disagreement No. 75 to H.R. 9861, an act making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, for the information of the Senate, I am asking this question of the majority leader: Do we correctly understand that once action is taken either way on the Tunney amendment, that is final action in this body, and it will then go to the other body, and other action may be required; but so far as we are concerned, that is it?

Mr. MANSFIELD. The Senator is correct, because the conference report has been agreed to and all other elements in dispute have been agreed to.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Mr. President, I am very happy that the Senate, at long last, is going to have an opportunity to vote up or down on an amendment which is designed to prevent any funds under this defense appropriation bill from being programed for military operations in Angola.

I have tried during the past week to make it very clear that I, for one, felt that it was a disastrous policy for us to become engaged in military action, either directly or through proxies, in Angola. Angola is a country which, unfortunately, is undergoing a rather tragic tribal war, resulting in some more than 450 years of Portuguese colonial rule, a rule that left about 10 percent of the people in that country literate when it ended.

I think there is a larger meaning than just Angola to the amendment which I and a number of others have sponsored. It seems clear to me that from now on, we should not allow the executive branch of government to engage the United States, directly or indirectly, in military actions in any part of the world without the prior approval of Congress. The Constitution makes it very clear that Congress has the power to make war. Yet, in recent years we have lost that power to a considerable extent by the executive branch taking unilateral action and then presenting Congress with a fait accompli.

What was attempted in this defense appropriation bill was to secrete moneys that were to go to Angola for military purposes, to get Congress to approve of those funds, not knowing what they were approving, and then to say that they had congressional approval, once those moneys were made available, if anything went wrong.

I am very pleased that we are at last having an opportunity to vote on this issue up or down.

I should like to ask the distinguished and esteemed chairman of the Committee on Appropriations a question.

As the distinguished chairman knows, if my amendment carries, no funds will be available under the defense appropriation bill for use in Angola, directly or indirectly, for military purposes. The only funds that would be available would be for intelligence-gathering. Yet, within the last couple of weeks, we have passed a supplemental appropriation bill which, conceivably, might have funds in it which could be used for military purposes in Angola. It is my understanding that the distinguished chairman has indicated that before there could be any reprograming of any funds that are subject to the supplemental appropriation bill, the chairman, when notified by the administration, by the President or anyone else in the administration, that such reprograming is going to take place, would make that fact known to the full Appropriations Committee. I also understand that if the full Appropriations Committee agreed to that request for reprograming, the chairman would then make such request to the full Senate; and that the full Senate, either in open session or in secret session, would have the right to approve of such funds.

Is my understanding correct?

Mr. McCLELLAN. Mr. President, there may be funds—the Senator said the supplemental appropriation bill?

Mr. TUNNEY. In the supplemental appropriation bill, yes.

Mr. McCLELLAN. Whether in the supplemental appropriation bill or some carryover funds from some other year or appropriation, any reprograming request under the present system—and there is one pending, as the Senator knows, for $28 million in this instance. The funds proposed to be reprogramed there are out of this particular bill and not funds in the supplemental or some past appropriation, or carryover appropriation. So the pending request would apply to this appropriation bill.

May I say to the distinguished Senator, as I said yesterday when I initiated some effort to resolve this dilemma that confronted us, I said then and I repeat now that, in view of what I thought the sentiment of the Senate was then, before this vote a few minutes ago, I announced to my colleagues in the conference, where the Senator was present and a number of other Senators, that I would not sign approval of reprograming in this instance, except and only after full committee hearings on this proposal and a report to the Senate thereon giving the Senate an opportunity to work its will on the reprograming request. I made that statement yesterday to the leadership as well as the distinguished Senator.

That is the way I feel about it now. Anyway, the Senator is aware that it takes both the Appropriations Committees of the House and the Senate, and also the Committees on Armed Services of the two bodies to approve this reprograming request that is before us. Then I think—I do not know, but I would assume the others feel as I do about it, particularly now after the sentiment that has been indicated by this vote, but even before that. In view of the considerable amount of money involved, I would not, where there is any dissension apparent in the Senate, take the responsibility for authorizing such a reprograming personally, and I doubt if many Senators would.

In this matter, I do not know whether now I shall hold any hearings at all on it. I feel it would be going through a futile exercise. I may not hold any hearings at all. There may be some developments that will arise later that will indicate that hearings should be held. But as of now, with the situation before us, and with this amendment as it is finally resolved, I would hold no hearings at all. This would indicate that no funds could be used for that purpose.

Mr. TUNNEY. I understand, and if there were an attempt to reprogram funds under any other appropriation bill that had passed—say 1974 funds or 1975 funds, would the Senator take the same attitude? He is saying he would take the same attitude?

Mr. McCLELLAN. I would not take it. I have already taken it. I took it yesterday, I take it today, I shall take it tomorrow. I think the Senate has the right to determine in these matters. I say further that I have suggested in another area that the Senate take some affirmative action to change the present situation.

There are many requests for reprograming. Some of them come up in a way that could not possibly have been anticipated. Some change in situation develops and the reprograming process, I think, is indispensable, maybe, to good government. But it casts upon some of us a pretty heavy responsibility.

I say to the Senator, not only in respect to this particular item or request that is now pending, there would be, possibly, other requests for reprograming coming along where I would choose, and where I think my colleagues on the committee would choose, rather than make a decision ourselves, to hold hearings, possibly, and report to the Senate and, with a resolution, give the Senate the opportunity to express its will. But there are some of these requests where I do not think it would be expedient or necessary that every request for reprograming through that cumbersome process.

If there is anything further, I shall try to answer the Senator.

Mr. TUNNEY. That answers my question very fully. I thank my distinguished friend and chairman for having made it very clear what he did yesterday in the way of making a decision and now amplifying, on the Senate floor, what his understanding is with respect to future action on making funds available for Angola.

Mr. PASTORE. Will the Senator yield?

Mr. TUNNEY. Yes, I yield.

Mr. PASTORE. Will the Senator add me as cosponsor to this amendment?

Mr. TUNNEY. Mr. President, I ask unanimous consent that the distinguished Senator's name be added as cosponsor.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered.

Mr. TUNNEY. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Has the Senator yielded the floor?

Mr. TUNNEY. I have yielded the floor.

Mr. McCLELLAN. I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I shall be voting against the Tunney amendment, I feel that it is a serious mistake. The most that could be made available under the new procedures of the Senate Committee on Appropriations just announced by the distinguished chairman (Mr. McCLELLAN) would be $9 million. These funds would require reprograming. If the Tunney amendment is approved, there will be no more funds. There could be developments in Angola where maybe a little more money would be very helpful, it could mean the difference between winning and losing. We might want to provide additional funds, but it could not be done in time to do any good.

We are announcing to the world that we are through with Angola. I doubt if this is the right way to do it. I can understand people's feelings, but I am concerned about the many assertions made that it would cost us hundreds of millions of dollars in Angola. That is so far from the truth.

May I say, once more, that even if the Tunney amendment does not pass under the bill, the most that may be made available for CIA operations in Angola would be $9 million, any additional would require reprograming with the approval of the Senate Committee on Appropriations and the full Senate, as well as the Appropriations Committee in the House and the Armed Services Committees of both houses.

We should not be establishing far reaching foreign policy such as this without even a hearing by the committee.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield 4 minutes to the distinguished minority leader.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I feel like another Senator who said to me yesterday, "When I listen to one side I am convinced, and when I listen to the other side I am convinced," because there is much to be said and much has been said.

I do not like the Senate making foreign policy unilaterally. I, as a party leader, have certain responsibilities. I am aware, as I have said earlier, of the fact that the Secretary of State and, I presume, the President, regard this amendment as disastrous to our foreign policy in that part of the world.

Let me state the other side of it which also concerns me. I do not like us to get into situations which may tempt us into escalation. I do not believe we have a major national policy interest in Angola. I do recognize that the presence of the Soviet Union ought to be taken into consideration, and that there should be some response to it.

Now, this raises for me, frankly, a very serious dilemma. As I said, in speaking before the table resolution, I have never failed to support every President of the United States under whom I served in his foreign policy objectives, and sometimes that has been very difficult, and it has been without regard to the political party of the President, and I do believe that, as a party leader, I have that, at times, very difficult responsibility of seeking to advance the announced foreign policy of the United States.

So my own personal concern and my own heart is very heavy with the fear that we may reach a point of involvement which we have not anticipated.

My deep concern is that we may be running a risk of more involvement than we ought to assume.

On the other hand, as the leader here representing the administration's viewpoint, I have to conclude that I am more directly bound to accept their assertion as fact that the foreign policy of the United States will be seriously hampered by the adoption of the Tunney amendment. This forces me with reluctance to conclude that I must vote against the amendment.

I have taken the lead, with others, in seeking compromises. I firmly believe the proposed compromise discussed last night would have been better all around. I do not think the country is served by extreme positions on either side. I think if we had more time we would have more moderation here.

I think we are setting a very dangerous precedent if we are going to unilaterally alter the U.S. foreign policy and, for what is done here today, the Senate had better be prepared to accept full responsibility.

So I find my heart very much tilted in one direction. I find my sense of duty leading me to the conclusion that I must be consistent with supporting what I am convinced is the firm conviction of the administration that this amendment would be bad for the national interests of the United States and, therefore, I will have to vote against the amendment as sympathetically as I have listened to the arguments on both sides.

I may say I had not made up my mind until this very minute, and I have agonized over it ever since the issue arose. I wish these hard decisions would go away, but they will not. They have to be faced, and that is the way I am going to face them.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding his time.

Mr. President, I think there is so much to be said that it is difficult to synthesize it into the time that is available to us today. Of course, there has been extended debate on the floor of the Senate in the last 2 days in both closed session and open session in regard to this issue.

Let me say only this: The distinguished Senator from Minnesota, in the session the day before yesterday, made some comment about actions taken by the Senate which might be interpreted as fools following the fools. The difficulty I have is determining who are the fools that the rest are following.

I have a very difficult problem of resolution in my own mind based upon the almost total lack of information that this Senate had before us on which to base our judgment.

I think there is one thing that has emerged very clearly from all of these discussions, and that is the administration is still following the practices that have grown up over the years: They believe they can still, on sensitive matters, brief only a few Members of the Senate and have their policies adopted without a full and open discussion in the Senate of the United States.

Rightly or wrongly that time has ended and I hope the administration in all of its departments and agencies will have come to the conclusion at last that they must bring the Senate of the United States into the discussion and give us the facts by which we can make our own determination.

There is as of today a confusion concerning the facts of reprograming money and how much money is available. The fact is that under the Tunney amendment, if it is adopted—and I have no doubt that it will be—no sufficient moneys can be reprogramed to keep any kind of a viable operation going in Angola during the period of time we are trying to determine whether or not there should be one.

The result will be, as a matter of fact, that whatever operations the United States is involved in in Angola will cease—let me repeat, will cease. Let us not kid ourselves one minute about the fact that in some way we may be able to reprogram and keep this program going in Angola while we decide in January or February what it is we want to do. We are making that decision today.

Who are the fools following which fools? Where is the information on which we should be making our determination in regard to the cutoff of the program, a change of policy because, make no mistake about it, there is in this amendment a change of policy.

It would seem to me that on a matter of this gravity we should have in any kind of logic or good sense given ourselves the time to develop the information base, which was not provided us by the administration in the ordinary course of events up here, so that we could make an informed judgment about what our foreign policy decision should be.

The Senator from California, exercising a perfect right on his part, has forced us to make a decision before the Senate of the United States has enough information upon which it can make that decision.

Mr. NUNN. Will the Senator yield for a brief comment?

Mr. McCLURE. A very brief one.

Mr. NUNN. I want to answer that last statement of the Senator.

We are being forced to make a decision with inadequate information. We are being forced to make a decision that could be fundamentally important to the United States of America without having adequate information.

I have heard in the last few minutes classified information, I do not know whether it is absolutely accurate, that rebuts a lot of what was said in the secret session here yesterday. We have heard a one-sided presentation.

I do not in any way blame the people who feel the way they do on the Tunney amendment. But on the other hand, in the secret session we hear one thing and now other information which cannot be talked about on the floor, yet we are being called on under a time limitation to vote on an amendment.

There may be other people who feel like I do, and that is, it is very uncomfortable to have to make the kind of decision we are going to make with this kind of time limitation when we are getting new information about every 15 minutes on this subject.

I, personally, am very disturbed about this uncomfortable, awkward, and I think irresponsible position which we are placed in. I do not blame any one individual, but I think it is not the way to run a government.

Mr. McCLURE. I thank the Senator from Georgia and I agree with his sentiments.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. I yield the Senator from New York 5 minutes.

Mr. BUCKLEY. Mr. President, I concur with all the sentiments expressed by the Senator from Idaho and the Senator from Georgia.

The fact is that we are subverting our own procedures, procedures designed by the Congress of the United States, for better or for worse, to oversee necessary activities of a sensitive, delicate type that require a flexibility of approach that this body simply is not equipped to handle.

In the process, I believe that we are throwing some signals around the world that can be extraordinarily dangerous in its potential.

Let us face it, we are not talking about Angola in this respect, but we are talking about the impressions that countries around the globe, friend and foe alike, will have from the action of this body in arbitrarily and abruptly cutting operations that the administration is pursuing in full accordance with the law, negotiations and operations that do not commit the United States down the line to extravagance or something that would lead to warfare.

We seem to have abandoned any confidence in the legislation we enacted last year, the war powers law, which was supposed to have protected us from any such possibility, and at the same time we are preempting the work of the Church committee.

Let us face it, the Soviet Union is a serious power. The Soviet Union has objectives that cannot be described as either peaceful or friendly. The Soviet Union is willing to make large commitments. The Soviet Union can keep secrets.

It seems to me that what we are doing here today can only encourage further Soviet adventurism around the globe, and it can only discourage uncommitted nations or weak nations from ever looking toward the United States for any kind of support.

I believe, Mr. President, that this is a course of action that we are taking that can only be described as reckless, ill-considered, and dangerous.

I know that there is no hope of defeating the Tunney amendment, but I hope that it will, nevertheless, be defeated. I hope that over the intervening weeks Members of this body will reflect on what it is we are doing, reflect on the fact that in a very important way we are usurping the responsibilities that the Constitution of the United States places primarily in the Executive, that we have, in fact, destroyed the abilities of this Government to conduct covert operations.

I hope, Mr. President, that this amendment will be defeated.

Mr. CLARK. Will the Senator from California yield?

Mr. TUNNEY. Yes, I yield to the Senator from Iowa.

Mr. CLARK. Mr. President, the issue before us is very clear, as several Members here have stated.

The question is whether this body wishes to go on record at this time favoring the possible expenditure of an additional $9 million in a tribal civil war in central Africa.

The question is really that simple.

As we know from other discussions here, it is not going to be possible to receive other funds through a reprograming or other methods. So the decision the Members of this body must make is whether they feel that by spending another $9 million, that somehow the policies of our Government in Angola are going to be suddenly turned around.

I think, in view of the magnitude of the problem on both sides, that is inconceivable.

I think before yielding back, because I know there are Members that are prepared to vote, that we ought to face up to that issue, each of us.

One can say many things about why we ought to be in Angola or ought not to be, but the real question is, if we vote yes or no here, do we wish to authorize and appropriate the money, $9 million, to continue the war in central Africa.

Mr. MORGAN. If the Senator will yield for a question, are we down to $9 million, and if we are down to $9 million how did we get there?

Mr. CLARK. I think it would be. But it is clear from the figures the various committees and administration officials have presented to us that that is all that is in this bill that could conceivably be transferred. It is not earmarked for that purpose.

Mr. McCLELLAN. That is not all that will be transferred. That is all that could be used without reprograming.

Mr. CLARK. Yes; and as the Appropriations Committee said.

Mr. NUNN. Is the Senator telling us now, as far as the money is concerned, this entire amount boils down to whether we are going to save $9 million, or whether we are going to spend the $9 million as far as the money part is concerned?

It is not $28 million involved or $50 million or $60 million, it is $9 million?

Mr. McCLELLAN. In this bill, there is only $9 million.

Mr. NUNN. I would just like to observe——

Mr. McCLELLAN. That could be used. None of the rest in this bill can be used without reprograming, but I have advised the Senate would come to the Senate itself so it could work its will.

Mr. NUNN. That certainly is a fact, in my opinion. I do not think enough people realize that is the amount of money we are talking about.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield to the distinguished Senator from New Mexico.

Mr. DOMENICI. I thank the distinguished Senator from Arkansas.

I think the distinguished minority leader indicated in his opening remarks that he was heavyhearted. He was concerned about the U.S. Senate assuming the full responsibility of the decision.

The PRESIDING OFFICER. May I interrupt a moment to say that the Senator from Arkansas has only 1 minute remaining. I wanted him to be aware of that.

Mr. McCLELLAN. Mr. President, I beg the Chair's pardon, it is 40 minutes to the side.

The PRESIDING OFFICER. The unanimous consent——

Mr. McCLELLAN. I am compelled to ask unanimous consent for another 15 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. I was under the impression I had 40 minutes. I am very sorry.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

As I was indicating, I, too, am heavy-hearted because we are going to assume the full responsibility here today, not because I do not want us to, but because I am firmly convinced we are going to assume the full responsibility for denying the U.S. Government an option in foreign policy for somewhere between $9 million and $28 million, which could be determinative of America's relationship with the Soviet Union and, more importantly, because we are doing it predominantly upon misinformation or lack of information.

Suffice it to say that there has not been a committee member reporting to this Senate who spoke to the Secretary of State of the United States before this matter came to the floor of the Senate. As a matter of fact, while we come here today to vote on this, it is only by accident that informally the Secretary of State was called to tell us the facts about the options he is trying to protect here.

I can say this, if he is to be believed then we are acting upon either the impressions or opinions of other than the Secretary of State, which are different from his in at least five major areas. Without going into details, I will say what they are: his opinion as to whether we are alining ourselves with white South Africa so as to cause all of black Africa to be against us. His answer is, no. To the contrary, we have been invited by two major black countries to continue this participation for the next few weeks.

Second, suffice it to say that we have not been told all the facts as to why China is no longer putting some armament in this area. I will not go beyond that.

Suffice it to say that we have been led to believe this is a unilateral effort on our part. We have been told some of our NATO allies have been talked to; that the OA Unity group in South Africa has been called upon and will be working on the matter.

Suffice it to say we have been told——

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. DOMENICI. I thank the Senator for the time yielded, and thank him for accommodating me.

Mr. McCLELLAN. I yield 4 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, if I may, I would like to point out I do not care anything about the vote one way or the other, particularly at this time, favorable or not as to the money for Angola. I believe the Senator from California has already won his point. He has driven home the principles he is fighting for. He has obtained results. There will be none of this new money spent in Angola without the consent of the two Appropriations Committees of the Congress plus, as the Senator from Arkansas has said, this body. So, Mr. President, this primarily is a foreign relations policy question. We are attempting to decide the question here as a rider, a limitation, on an appropriation bill.

We ought to have the testimony and the counsel of the Foreign Relations and Foreign Affairs and other committees. The policy question ought to be decided in a bill, after hearings, and not as a limitation on an appropriation bill.

We are not going to settle the Angola question here with a little limitation on an appropriation bill. We are not going to settle it tonight, tomorrow, this year or next year, in my humble opinion. This is going to be a long, drawn-out affair involving many of the countries of Africa. But where is the Senate going in the meantime?

We have a $90 billion appropriation bill, plus the additional part that is in the 3-month period.

It has been worked on now for 13 months, to my own knowledge, by this subcommittee, and the Armed Services Committee considered the authorization for the military hardware and personnel and research that is in it. Some of the best staff members on Capital Hill have worked laboriously on this entire bill. All adjustments have been made, everything has been considered, as to what will our spending policy for armament, research and personnel for the military. This is for 12 months and an additional 3-month period.

What do our adversaries think of us? We have already run over 6 months into the year for which we are supposed to appropriate. This will take it over another month—7 months out of 12 for this period for which we are appropriating already gone.

If I was an adversary of this country, I would be thinking, "Those people do not know what they want and they do not know how to get anything settled when they do want it."

The Senator from California has established his point. I am not directing anything at him except victory for his side of this matter.

The Senator won his point for getting consideration on this particular money.

There must be a policy evolved. I have been wanting more of a policy evolved on all covert matters. I have never liked the taste of it.

I will say if this country is going to run its foreign relations and military affairs and everything else, by limitations coming in at the last minute, with half of the year gone, as limitations on appropriations bills and thereby set vast, worldwide policy questions, then we are on the way down. Everybody will know it except us.

I say this deliberately because I am concerned.

I hope that what little I can say—I do not expect to change votes—will have some warning value.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. KENNEDY. Will the Senator yield 2 minutes?

Mr. TUNNEY. Does the Senator want another minute or two to complete his remarks?

Mr. STENNIS. I would like to continue for another minute.

Mr. TUNNEY. I yield.

Mr. STENNIS. I would just like to mention several programs that are considered important. They have been debated when the bill was up. The money has been put in the bill. All items are still being held up. No contract plans can be made. Industry is standing by and the Department is standing by. Everybody is standing by having to wait, wait, wait 6 months, almost 7 months, but nothing can be done.

I plead for a better policy than that, not just for the Department of Defense, but for all departments. Otherwise, we are not handling our affairs, I humbly suggest and with great respect to everyone, in the right method and in the right manner, and we are not being effective. Particularly, let us not try here to settle a worldwide policy question by a rider on an appropriation bill. How far can we go?

I thank the Senator for yielding.

Mr. KENNEDY. Will the Senator yield 3 minutes?

Mr. TUNNEY. I yield 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I think our distinguished colleague and chairman of the Armed Services Committee has put the question very clearly, when he states that the real issue is whether we are or are not going to decide policy.

I believe everyone in this body remembers the years when, by the failure of the Congress to act on the Vietnam issue, we had indeed voted for a defense appropriation that was thrown back to us time and time again, and that we were in error by approving a policy that kept us in Vietnam. Every Member of this body remembers that.

Without the inclusion of the Tunney amendment we will be saying exactly the same thing with regard to Angola. We will permit the administration to say, without the Tunney amendment, that we have known about our Nation's involvement in Angola, and yet we are unprepared to take a position on this policy issue.

I would agree with the Senator from Mississippi, that this is the issue, whether we are going to pass an appropriation bill that is going to permit the administration to say, "They knew about it up there in the Senate of the United States and refused to take a position," or whether we are going to heed the lessons of Vietnam. As shown by the early votes on this issue we have a clear bipartisan majority in this Senate insisting, that we have learned the lesson of Vietnam as it applies to covert activity in Third World countries, and that we are going to stamp into policy on this bill this afternoon the fact that we in the U.S. Senate do not concur with the administration, which apparently has not learned the policy and has not learned the lessons of Vietnam by suggesting that we abandon the Tunney amendment.

I am hopeful that for the very reasons that the Senator from Mississippi has stated, for the policy reasons, the amendment of the Senator from California will be overwhelmingly accepted. I reserve the remainder of my time.

Mr. BARTLETT. Will the Senator yield?

Mr. McCLELLAN. I yield 1 minute.

Mr. BARTLETT. Mr. President, the question is not whether we decide to act in this manner but it is how we decide to act, whether we decide to act in haste or act deliberately.

Are we going to just undercut the executive branch of the Government, which is following the outlines of congressional options, and cut off what they have already started without proper deliberations, without the full information that we are entitled to have?

Certainly it is not a matter of favoring covert action, but I think it is a matter of considering at some length what the future policy should be, and continuing the present support for the time being, in order that we can act in January or February, after considering all sides and all the facts and knowing what we are doing.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. BARTLETT. You bet.

Mr. KENNEDY. Why not just put on a moratorium now, and let the administration come up and defend the policy?

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Does the Senator wish more time?

Mr. BARTLETT. Yes, I would appreciate it.

Mr. TUNNEY. I yield the Senator another minute.

Mr. BARTLETT. I thank the distinguished Senator.

There was nothing in the legislation which authorized the executive branch to counter covert actions by the Soviets with covert actions by ourselves, and to come up to Congress and justify that, other than to do it through committee. This is being done. But if we act very precipitously here, in great haste, and undercut them, who would really be speaking for the United States? I think they would be saying around the world that we are speaking with a forked tongue, that no one knows what the United States is doing, that the executive branch says one thing and Congress acts contrary to that.

I think we should support the administration until we have a chance to consider this matter in a deliberate fashion, as a deliberative body should.

Mr. McCLELLAN. Mr. President, I yield myself such time as I may require.

I would like to preface my remarks by saying that whatever I may say is said with due deference to and respect for my colleagues who may have differing views from those which I shall express. I speak more, Mr. President, in the role of a Senator than I do as chairman of the Appropriations Committee, because as chairman of the Appropriations Committee I have little concern about whether some particular item in an appropriation bill is stricken out or some item is added to the bill. Certainly that is true when the sum involved is only $9 million.

But there is something much greater involved here than just $9 million.

Mr. President, I made every effort I could to bring about a solution to this situation. First, I sought not to have any expenditure made between now and when Congress returns. Yesterday afternoon in the conference that has been referred to there was an apparent agreement, or obviously a possibility of an agreement to let the administration spend this $9 million, with the additional balance of $3 million they still have in the reserve fund, which would carry the issue over until we come back in January at which time or during which time I proposed to call the Appropriations Committee together and hold hearings, and give the administration an opportunity to make its case. I said the committee would then report to the Senate on the pending reprograming request and give the Senate an opportunity to work its will.

That was clearly understood. There can be no mistake about it. Now this morning the Senate comes in and turns down the $9 million in this bill. This action denies the opportunity for the administration to thoroughly make its case and for us to hold hearings and do what this body should do, conscientiously consider and fully deliberate on this issue.

We are signaling to the world today—we are signaling to the Kremlin at this hour that now that you are there, whatever your ambitions are, whatever your goals may be—even to establish a military base right across the shipping lanes of the Atlantic, we are moving out, and "you can have it." We are saying we will not even invest $9 million for 3 or 4 weeks' time, to give us an opportunity to properly consider and deliberate upon this issue before we decide it.

Yes, I think there will be great elation in the Kremlin when they know what we are doing and have done. I think there is confusion and consternation in other countries, who look to us for leadership and wonder whether our word is good any longer, or whether this Nation is so divided that there can be no reliance upon the efforts of our constitutional officers whose duty it is to conduct foreign affairs for us.

Well, you have made the decision. Today you strain at a gnat. When you get the foreign aid bill up, which provides $1.5 billion in military aid to Israel and $750 million to Egypt, Israel's enemy, in economic funds, you do not strain there, you swallow a camel.

What kind of a policy does this Nation have? I think there is good reason for the Senate, in meeting its responsibility, to weigh most carefully the whole policy in this field. But it is not weighing it carefully now. It is precipitously saying, "All right, Mr. Soviet, we are stepping out; take what you want. You have got the arms over there; you can overpower these people if you want to, you can establish military bases if you like. We have no further interest."

God save America from that kind of a retreating foreign policy and the consequences thereof. You will have your way today but this can well be a sad day indeed for America and other areas of the non-Communist world.

SEVERAL SENATORS: Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, I have listened closely and carefully to the Senator from Idaho (Mr. McClure), the Senator from Georgia (Mr. Nunn), and the Senator from New York (Mr. Buckley).

I associate myself with these remarks. Much of the argument heard on this issue has been based upon inadequate and oftentimes faulty information.

I am sure we all agree that we do not want to back into another war with our eyes closed. I would hope, on the other hand, that with the important negotiations taking place between our country and the Soviets, we would not resolve a worldwide policy issue in the fashion and with as few facts as we presently possess.

Mr. President, I think the proposal made by the distinguished chairman of the Appropriations Committee has great merit. I regret that it was not given the consideration I believe it deserves.

I shall vote against the Tunney amendment.

Mr. PELL. Mr. President, in considering the dangerously evolving situation in Angola, in what has become the first major test of post-Vietnam policy, it is discouraging in the extreme that so little appears to have been learned from the past. Once again, a long and largely secret U.S. involvement in a distant country has reached the threshold of a major commitment. And, until recently, few have been in a position to raise fundamental questions regarding the direction and nature of this policy.

There is little need to trace the detailed history of the present situation in Angola. The United States, Soviet Union, People's Republic of China, and most recently South Africa have all attempted both indirectly and directly to influence the balance of power in that country. For years three competing local factions, the MPLA, FNLA, and UNITA have sought to dominate this newly emergent country. For years, this struggle was obscure and hardly noticed; suddenly, it is being debated everywhere.

What, then, is the reason for this dramatic upsurge in interest in Angola? It is difficult to believe, as some have claimed, that it is due to any new-found, strategic importance in Angola itself. Angola has always possessed significant mineral resources and has always been the beneficiary of a fine harbor with military potential.

Rather, increased American concern in Angola appears to result from increased Soviet involvement in Angola. The United States has been caught reacting to Soviet initiatives, while the goals of American policy remain undefined.

As the situation now stands, unless the United States injects a massive amount of military assistance, the Soviet-backed MPLA will emerge victorious. But what will the Soviets have gained for all their intrigue and efforts?

Quite simply, any Soviet "victory" will be short-lived. The most powerful force in the nonalined world is nationalism—an ideology that rejects external control regardless of whether the ideology comes from the East or West. One has only to recall recent Soviet failures in Egypt and Mozambique to realize this fundamental fact characterizing the world today. Tragically, the United States is forfeiting opportunities for long-term benefits in Africa and elsewhere by over-reacting to the short-term Soviet initiative in Angola. The United States would do far better to take a long view of history, condemning all outside interference in Angola while concentrating on more constructive policies of assisting economic and social development in Angola and elsewhere.

Moreover, the United States has been tainted in all Africa by its "guilt by association" with the Government of South Africa. As a result, we are sure not only to fare badly in Angola, but we are sure to fare badly throughout the entire continent of Africa until this ill-advised association is dissolved.

Today, more than 20 years since the initial American involvement in Vietnam, it seems that the foreign policy of the United States is still guided by the philosophy of containment Yet cold war perceptions of global strategy and "zero-sum" competition with the Soviet Union bear little relevance to a situation dictated mostly by local loyalties defined primarily by region and tribe. Manufactured rationales for the United States involvement in Angola cannot hide the fact that Angola itself is not the issue; rather, it would appear that Angola has been chosen as but the most recent symbol of U.S. determination to act internationally.

Before the United States further involves itself in Angola, it is the responsibility of the administration to explain fully its policy both to Congress and the American people. Many questions remain unanswered. What is the strategic importance of Angola? What are the implications of either continuing or terminating our involvement? What diplomatic alternatives exist bilaterally with the Soviet Union or multilaterally in the United Nations for the United States?

Ultimately, however, Angola may be most important for providing a dramatic reminder that the United States has yet to fashion a coherent foreign policy for the post-Vietnam era. What is clear is that expectations of détente must be lowered. Détente is not a mutual commitment between superpowers who support the status quo but rather a fluid relationship which primarily attempts to avoid direct confrontation. And beyond a more realistic view of détente, what is required is a new definition of interests and commitments—one which is supported by the American people and which recognizes the limitations of America's ability to influence events everywhere in the world.

Mr. TUNNEY. I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Arkansas yield back the remainder of his time?

Mr. McCLELLAN. I yield it back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. Tunney), as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGEE (when his name was called). On this vote I have a pair with the distinguished Senator from the State of Washington (Mr. Jackson). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The clerk will suspend.

The clerk is having difficulty hearing responses of Senators.

The Senate will be in order.

The clerk may proceed.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The clerk will suspend. The Senate will be in order so Senators may hear their names when called. The Senate is not in order. Senators are asked to take their conversations to the cloakroom.

The clerk will not proceed until the Senate is in order.

Mr. ROBERT C. BYRD. Mr. President, some Senators have airline reservations. I hope Senators will heed the request of the Chair in the Chair's efforts to get order in the Senate which is the duty of the Chair, by the way, under the rule.

The PRESIDING OFFICER. The Senate is still not in order.

The clerk may proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate and may the well be cleared?

The PRESIDING OFFICER. Senators and staff members are asked to clear the well. Senators are asked to take their conversations to the cloakrooms. The Senate will be in order.

The Chair thanks Senators.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Johnston), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Illinois (Mr. Stevenson), the Senator from Florida (Mr. Stone), the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Hollings), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I also announce that the Senator from Idaho (Mr. Church) is absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. Church), the Senator from Rhode Island (Mr. Pastore), and the Senator from Florida (Mr. Stone) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The result was announced—yeas 54, nays 22, as follows:

[Rollcall Vote No. 611 Leg.]

YEAS—54

Abourezk
Allen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Ford
Garn
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Huddleston
Humphrey
Inouye
Javits
Kennedy
Leahy
Magnuson
Mansfield
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott,
William L.
Stafford
Stevens
Symington
Taft
Tunney
Weicker
Williams

NAYS—22

Baker
Bartlett
Beall
Bellmon
Buckley
Byrd,
Harry F., Jr.
Curtis
Domenici
Griffin
Hansen
Hruska
Long
McClellan
McClure
Morgan
Nunn
Scott, Hugh
Sparkman
Stennis
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McGee, against.

NOT VOTING—23

Bayh
Bentsen
Brock
Cannon
Chiles
Church
Dole
Eagleton
Eastland
Fannin
Fong
Goldwater
Hartke
Hollings
Jackson
Johnston
Laxalt
Mathias
Montoya
Pastore
Stevenson
Stone
Talmadge

So Mr. Tunney's amendment, as amended, was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist upon its amendment and request a further conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. CLARK. Mr. President, I object.

The PRESIDING OFFICER (Mr. Helms). The question is on agreeing to the motion.

Mr. CLARK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. What is the question now? If a Senator will vote "aye," what happens? If he votes "no," what occurs?

Mr. McCLELLAN. Mr. President, I have followed the usual procedure. If the Senator does not want conferees, I will withdraw the motion.

The PRESIDING OFFICER. Does the Senator withdraw his motion?

Mr. FORD. That answers my question.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

THE SENATE AND ANGOLA: IN THE TRADITION OF WAYNE MORSE

Mr. CRANSTON. Mr. President, today the Senate has refused to accept what might well later have been termed the equivalent of a "Gulf of Guinea Resolution."

But we will now have no new "Gulf of Tonkin Resolution" opening the way to a Vietnam-type disaster in Angola.

That is the meaning of the majority vote for the Tunney amendment barring any funds in the Defense appropriations bill from being used "for any activities involving Angola other than intelligence gathering."

We have refused to commit this body by voting funds for covert purposes that could be used to more deeply involve the United States in a civil war. The voting of funds could have been cited later by the administration as congressional authorization of deeper and ever more dangerous U.S. involvement in Angola.

We have weighed the potential consequences of intervention on an installment plan, as Wayne Morse tried to get his colleagues to do back in August 1964, when the Senate was debating the Gulf of Tonkin resolution.

Mr. President, we have over the past several days heard repeated assurances that we are defending "freedom" in Angola.

We have heard assurances that what the administration seeks will not lead inevitably to escalation.

We have heard again that the President has limited intentions, and that Congress will have ample opportunity under the exercise of its constitutional powers, with the help of the War Powers Act, to restrain the President, should his intentions change.

All of this has a familiar ring.

But the simple fact remains that once the President involves the Nation in a war, whether with money, weapons, or men, it is harder to turn back.

National pride becomes involved.

Crises develop which produce emotional, not rational, reactions.

The time to stop is at the beginning.

Mr. President, I was not in this body in 1964, when the debate over the Tonkin Gulf Resolution took place.

The approval of that resolution led inevitably to the catastrophic escalation of the war in Vietnam.

There are many here now who were here then—and have long since come to regret the action that the overwhelming majority of the Senate took that day—on August 7, 1964, by a vote of 88 to 2.

Just before that historic vote took place, the late, great Senator Wayne Morse of Oregon, who—along with the late, distinguished Senator from Alaska Ernest Gruening—were the sole dissenters that day, made a speech on the floor of this body. For its courage, prescience and inherent wisdom, it must go down as one of the greatest speeches ever delivered in the U.S. Senate.

Senators Morse and Gruening both lost their seats in 1968, and died less than a month apart in 1974.

Their voices cannot instruct us now.

But, for the benefit of those who did not hear that 1964 speech, and as a reminder to those who heard, but did not heed its message, I ask unanimous consent that Senator Morse's speech be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Speech of Senator Morse

Mr. Morse. Mr. President, in view of the debate which took place last night, which we did not contemplate at the time we entered into the unanimous-consent agreement, as I have stated to the majority leader, I wish now that we had fixed the time to vote at 12 o'clock today. There is little remaining to add, by way of rebuttal, to what I said last night, except the points that I shall cover this morning. However, I do want to discuss in some detail the predated declaration of war aspects of this unfortunate resolution.

I hope, as I said to the majority leader, that the defenders of this unfortunate resolution will come to the floor of the Senate and give a defense of it in answer to the points that I made in rebuttal last night and shall amplify this morning. I am waiting for their replies.

I have a little reply of my own to make this morning to the Washington Post. There is a very fallacious editorial in this morning's Washington Post entitled "Democracy's Response." I ask unanimous consent that it be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Democracy's Response

Congress is responding with commendable promptness and with an almost unanimous voice to President Johnson's request for support in the Southeast Asia crisis. The President consulted the leaders of both Houses and then asked for a supporting resolution not only because he felt the necessity for congressional approval of what is being done, but also because he wished to demonstrate before the world the unity of the American people in resisting Communist aggression. That unity has been demonstrated despite the reckless and querulous dissent of Senator Morse.

There is no substance in Senator Morse's charge that the resolution amounts to a "predated declaration of war." On the contrary, it reaffirms the longstanding policy of the United States of aiding the States covered by the Southeast Asia Collective Defense Treaty in the protection of their freedom as a contribution to international peace. It pledges military action only to resist aggression against American forces in that area. Of course, the President has authority to respond to attacks upon American forces without any approval in advance by Congress. So the resolution means only a recommitment of the Nation to the policy it has been following—an almost unanimous recommitment in the face of the inexplicable North Vietnamese challenge.

This means of reasserting the national will, far short of a declaration of war, follows sound precedents set in other crises. President Johnson noted in his message to Congress that similar resolutions had been passed at the request of President Eisenhower in connection with the threat to Formosa in 1955 and the threat to the Middle East in 1957. The same course was followed in 1962 at the request of President Kennedy to meet the missile threat in Cuba. None of these emergencies lead to war. Rather, the firm action that this country took interrupted Communist maneuvers that might otherwise have led to war.

Congress ought to be very pleased with the now firm establishment of this mechanism for meeting an emergency with a united front. Reliance solely upon the power of Congress to declare war as a last resort would not be appropriate in these days of repeated crises short of war. A resolution of support for the executive arm in meeting an emergency has all the virtue of rallying national strength behind a firm policy—without taking the calamitous step of war in this nuclear age. We surmise that the almost unanimous sentiment behind this resolution on Capitol Hill reflects appreciation for the President's sharing of responsibility as well as support for the tough punishment for aggression that he initiated.

Mr. Morse. The Washington Post has demonstrated in editorial after editorial that it does not have a good constitutional lawyer on its editorial staff. The editorials published in the newspaper demonstrated that fact constantly. In an editorial which appeared in this morning's issue of the newspaper there appears the following statement:

"There is no substance in Senator Morse's charge that the resolution amounts to a 'predated declaration of war.' "

One wonders whether or not the editorial writer has ever read the joint resolution. No one can read the joint resolution and the authority proposed to be given the President in the joint resolution without recognizing that it would clearly authorize the President to proceed to follow whatever courses of action are necessary in his opinion; and such action would constitute authority to conduct war.

I should like to make an additional comment on a statement in the editorial in reference to resolutions passed by previous Congresses. In the body of the editorial the statement is made:

"President Johnson noted in his message to Congress that similar resolutions had been passed at the request of President Eisenhower in connection with the threat to Formosa in 1955 and the threat to the Middle East in 1957. The same course was followed in 1962 at the request of President Kennedy to meet the missile threat in Cuba."

The editorial writer apparently had not read, or certainly had not read recently before he wrote that editorial, the Cuban resolution, for there is no similarity between the Cuban resolution on the one hand and the Formosa, the Middle East, and the pending resolutions on the other hand.

But returning to the comment of the Washington Post that there is no substance in Senator Morse's charge that the resolution amounts to a "predated declaration of war," I should like to read for the benefit of that unenlightened editorial writer of the Washington Post page 2 of the joint resolution:

"*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,* That the Congress approves and supports the determination of the President—"

Not the Congress, but of the President—"as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression."

The joint resolution thus gives the President warmaking power.

I shall come to another section of the resolution same item in a moment. The Commander in Chief, the President of the United States, has the inherent constitutional power immediately to defend the United States in case of an attack, but he does not have the inherent power after that immediate defense to proceed to make war. That is the distinction which this unenlightened editorial writer of the Washington Post has never grasped.

Mr. President, the right of immediate defense is something quite different from the right to proceed to lay out a campaign of war. Under the joint resolution the President would be given the authority to go beyond immediate self-defense of the United States and proceed with a war campaign. That is why I say today, as I said in 1955, and as I said at the time of the Middle East resolution, that such resolutions constitute a predated declaration of war. The Washington Post editorial writers ought to consult with Senators who occupy high positions in the Senate on the other side of the issue in connection with the defense activities of the country. They might be surprised to learn that they are not quarreling with the Senator from Oregon in regard to the effect of the joint resolution. The joint resolution does propose to give the President of the United States authority beyond the inherent authority that he already possesses to act immediately in national self-defense.

Mr. President, that is a very important distinction, in constitutional law. The Senator from Oregon repeats that, under the Constitution, the President has no power to wage war until a declaration of war is passed by the Congress. The joint resolution is a contravention of article I, section 8, of the Constitution, just as the Formosa resolution and the Middle East resolution were contraventions of the Constitution and caused the senior Senator from Oregon in the debate on those two resolutitons to take a stand in opposition. As one of the Armed Services Committee leaders of the Senate told me this morning. "Wayne, there is no difference between the position that you are taking today and the position that you have taken consistently with regard to the other resolutions. No one can really quarrel with your conclusion that the joint resolution does go beyond the inherent authority of the President to act in the self-defense of our country and does vest in him authority to proceed to carry out a campaign that amounts in fact to the waging of war."

Mr. President, I do not believe we should do it. It is not necessary to do it. There is inherent power in the President as Commander in Chief under the Constitution to meet an attack immediately, and then come to the Congress of the United States asking for a declaration of war. We should require those steps, rather than give the President blanket authority under the joint resolution to proceed to wage war without a declaration of war.

Ah, but it may be said, and is said, by some in conversations with me, "But, Wayne, a President would not do that for very long."

I do not care whether he does it for a short time or a long time. It is not necessary for him to do it, so long as he has the inherent authority to meet attack with immediate self-defense actions.

As I said in 1955, I believe it is important in these trying times that we not extend and expand the authority of the President of the United States beyond the limits of the Constitution.

It may be said that if the President should commit an unconstitutional act under the joint resolution, or if the joint resolution in effect, as argued by the Senator from Oregon, is an attempt to give to the President an unconstitutional power, he can be checked. I wish I could say that he could be. The difficulty in relation to these constitutional questions as they involve the Presidency of the United States is that we do not have a procedure for having them tested in the U.S. Supreme Court. That has been the subject of great discussion, concern, and debate among constitutional lawyers for many decades. It is difficult to bring the President of the United States before the U.S. Supreme Court. Our constitutional fathers provided for other procedural checks upon the President of the United States, one of which is impeachment, which, of course, is unthinkable when we have a President who seeks only in the exercise of his powers—though he may be mistaken in regard to having exceeded an inherent power—to protect the interest of the United States. But that is a check that is provided in the Constitution. Then, of course, we check the President in regard to the purse strings by way of appropriations.

We have the authority, of course, to check the President by way of appropriations, with his ancillary check on Congress of the veto. It is not impossible to eventually get a case before the Supreme Court involving the warmaking powers of the President, but the legal road could be long and tortuous. The time consumed would make the question moot by the time it was decided as far as the emergency is concerned will give rise to the issue in the first instance.

When Congress passes a joint resolution such as this, it is practically impossible—in fact, I think it impracticable—procedurally to have the power checked, on constitutional grounds, before the U.S. Supreme Court. I do not know, and I know of no constitutional lawyer who has ever been able to point out, a procedure by which we could bring the President before the Court on the charge that he was making war unconstitutionally. I can hear the Court, in refusing jurisdiction, say, "Congress will have to follow the procedures set out in the Constitution for checking the President."

So I am concerned about the resolution in respect to its giving to the President what I honestly and sincerely believe is an unconstitutional power—that is, the power to make war without a declaration of war. It feeds a political trend in this country that needs to be checked. For some time past in this Republic we have been moving in the direction of a government by executive supremacy.

It is very interesting to listen to the arguments that one hears for extending and expanding the power of the White House. It is extremely important—and I speak soberly and out of a depth of great sincerity—that we never grant a single power to any President, I care not who he is, that in any way cannot be reconciled with that precious fundamental foundation of our Republic; namely, a system of three coordinate and coequal branches of Government.

It is dangerous to the freedoms and liberties of the American people to vest in any President, at any time, under any circumstances, power that exceeds the constitutional concept of three coordinate and coequal branches of Government.

The American people will quickly lose their liberty if you do not stop feeding the trend toward Government by executive supremacy. In my opinion, the joint resolution would do just exactly that. It would give to the President of the United States an authority which, in my judgment, he does not need, by any stretch of the imagination. He has inherent power to react, in the self-defense of this Republic, in the event of an immediate attack.

It is particularly essential that we continue to require a President of the United States to conform to article I, section 8, of the Constitution, in regard to making war, and that we continue to hold any President—I care not who he is—under the strictest restraint with regard to the making of war.

We have entered an era of civilization in which an unconstitutional act of war on the part of a President of the United States can lead to nuclear war and the end of this Republic, no matter how sincere a President may be in his intentions in respect to exercising the power to make war.

We need to be on guard in respect to vesting power in the White House. The White House has plenty of power under the Constitution. I am for giving the White House no more power than the Constitution gives him.

I have heard sincere colleagues on the floor of the Senate—and I respect them—differ with me in regard to the effect of the joint resolution. There are also colleagues on the other side of the issue who have come to me and said, as did one who discussed it with me this morning, "Wayne, there is no doubt as to the effect of the resolution that you are pointing out, and that you pointed out in 1955. It bothered me in 1955; but we have every reason to count on the fact that the President of the United States will not abuse the power."

Mr. President, I do not think he would deliberately abuse the power, but he could most sincerely exercise the power in a manner that would result in great damage to this Republic.

There is an elementary rule of law which states that when we come to deal with procedural matters, if a procedure is subject to abuse we had better change the procedure.

My majority leader, who always is courteous to me and was exceedingly courteous to me in arranging the format for this debate, has heard me say many times as we have served together in this body that we should never forget that our substantive rights are never any better, and can never be any better, than our procedural rights. Our procedural rights determine our substantive rights. There are no substantive rights unless there are procedures for implementing them.

I have said many times—and the statement should be applied to this issue, because it is applicable—let me determine the procedure of any human institution or the administration of any law, and I will determine all the substantive rights anyone may have under that law, that tribunal, or that administrative body. Let me determine the procedure of any courtroom, and I will determine all the substantive rights that can be adjudicated in that courtroom.

Although some critics will say that this principle involves a legalistic abstraction, nevertheless the great principles of so-called legalistic abstraction are principles that determine, in the last analysis, whether one remains a free man or not. This is true because the procedures of our Government written into the Constitution and the laws of our country determine our substantive rights as freemen.

In my judgment, the pending joint resolution tinkers with and impairs the great procedural rights of the American people written in article I, section 8 of the Constitution—namely, that the power and the right to declare war is vested in the Congress, and not in the President of the United States.

War cannot be declared speculatively; war cannot be declared in futuro under article I, section 8 of the Constitution. War cannot be declared to meet hypothetical situations yet to arise on the horizons of the world. War is declared in relation to existing operative facts of the moment of the call for a declaration of war.

In the resolution before the Senate—and I shall read the section to which I have referred and another section momentarily—the President of the United States would be given power to make war in relation to operative facts not now in existence, but which may come into existence in futuro. That cannot be reconciled with article I, section 8 of the Constitution.

For the education of the unenlightened editor of the Washington Post who wrote the ignorant editorial in respect to this constitutional point, I hope he will reread article I, section 8 of the Constitution, and that he will read again—assuming that he ever read the resolution before he wrote the editorial—the section to which I have referred and read, and which I repeat. That part of the joint resolution reads:

"The Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression."

Let us analyze that sentence for a moment. Let us analyze that part of the sentence that deals with the inherent power of any commander in chief, any President, to react immediately in the defense of this Republic. That part of the sentence is not needed. He has that power now. If there is to be read into that part of the sentence which starts on line 4—"to take all necessary measures to repel any armed attack against the forces of the United States"—authority to commit an act of aggression, preventive in nature, it goes beyond the Constitution.

That was my argument in 1955. How well I remember it. In 1955 I participated in the same format of committee organization in which I took part yesterday; namely, a joint meeting of the Armed Services Committee and the Foreign Relations Committee. I opposed the Formosa resolution. My recollection is that in committee in 1955 two of us took that position. When we came to the floor of the Senate, my recollection is that

I was supported by a third member, as I said last night, the great Senator from New York, Herbert Lehman; and I believe we ended in 1955 with three Senators voting against the resolution. As I remember my opening speech in 1955—and the record will speak for itself—I said, as I say now, that I was standing in a position on the floor of the Senate in which a few other liberals had stood throughout the history of this great parliamentary body. Like them I was confronted with the choice of telling the American people what I was satisfied they were entitled to know about their foreign policy, and run the risk of violating the rules of secrecy of the Senate, thereby risking the discipline of the Senate, or failing in my obligation to tell the American people things that I thought they were entitled to know in regard to the foreign policy of the country and avoid running the risk of being disciplined by the Senate.

If Senators will read that speech they will see that I said I thought I could give the American people what they should be warned about within the rules of the Senate, without subjecting myself to Senate discipline. Senators will find that I said—I paraphrase the speech, but accurately:

"I wish to tell the American people that this is a preventive war resolution; and if any Senator has any question about it, let him go to the Foreign Relations Committee on the floor below and read the testimony of the Secretary of State—"

Who was then John Foster Dulles—

"and the testimony of the Chairman of the Joint Chiefs of Staff of the Military Establishment—"

Who was then Admiral Radford.

I said:

"If Senators will read that testimony, they will know that behind this resolution is the proposal that the Military Establishment and those in charge of American foreign policy are to be given the authority to make a strike against the mainland of China before China makes a strike against the United States. Such a strike would be an act of aggression. Such a strike would be an act of war. Authorization for such a strike in the Formosa resolution amounts to seeking to give to the Military Establishment, without a declaration of war, the power to make war. Senators will find that clear power in the resolution."

Senators will remember that in 1955 the senior Senator from Oregon took that position in the hearing before the committee. My position became known. After I took that position the chairman of the committees sitting jointly, Mr. Walter George, of Georgia, declared a recess, and announced that he would go to the White House for the purpose of discussing with the President the argument that I had made in committee. He went to the White House. Out of that conference came the famous White House pronouncement with respect to the Formosa resolution, in which President Eisenhower announced that he, and he alone, would make the decision under that resolution as to what course of action this Government would follow in implementing the Formosa resolution.

Senator George came back and had a conference with me. He thanked me for what he considered to be the service I had rendered. He said, "It was a very important service. I would not support the resolution in the absence of the White House announcement," He said, "WAYNE, I hope you will work with me now to help get the resolution through the Senate."

I said to the chairman of the Foreign Relations Committee, who served on that occasion as chairman of the committees sitting jointly, "That does not make it any better so far as I am concerned. You missed the point of my objection. Although the testimony in committee would have left the impression that the Secretary of State and the military officials could have made the decision, they will still be making the decision, because the President will follow their advice." I said, "I would not vote for it if they had no voice in it at all, because I will not vote to give to any President this power, because the Congress of the United States must jealously guard its prerogatives under article I, section 8 of the Constitution. All that the President needs to do is to come before Congress and ask for a declaration of war. He has inherent authority to meet an emergency that requires national self-defense action prior to the time he gets to the Congress."

Senators will note in the RECORD that I used the beginning of the war with Japan as a precedent. I said, "After the strike at Pearl Harbor, Franklin Delano Roosevelt exercised the power as Commander in Chief to defend this country in national self-defense, but he came to Congress for a declaration of war.

I made that argument in 1955. I repeated it in summary form at the time of the Middle East difficulty, and I am summarizing it again in this historic debate.

I have heard no answer in all the intervening years to the constitutional point that I now raise, and of which the editor of the Washington Post who wrote the editorial this morning is abysmally ignorant.

Mr. President, this joint resolution is not needed for the defense of the Republic. It should not be used to make an end run around article I, section 8, of the Constitution. So long as an attack is in progress, the President has the inherent power to protect the Republic in self-defense. But there is reserved to Congress, under the Constitution, the responsibility of passing judgment on whether or not even an attack calls for our declaring war. It may very well be that after a response to an attack, the attacking party may start diplomatic maneuvers into motion—to surrender, to capitulate, to ask for a negotiated settlement, or to resort to the rule of law—which might cause Congress, in exercising its authority under the Constitution, to check the President and cause him to decide not to make war at that time. It is an important procedural check.

It is easy, understandable, and natural in a time of high national emotion, in a time of strong patriotic fervor, to say, "Give 'em the works." It is also true that in such an hour of high national emotion and hysteria, we who sit in seats of responsibility, so far as the legislative process is concerned, can say, "Let us wait. Let us first analyze the situation on the facts and then vote the authority that is needed to protect the country. Sincere and honest men can differ as to the procedural form that the grant of such authority shall take."

In 1955 and again in 1957 the senior Senator from Oregon took the position, as he does in the instance of this resolution, that the Middle East resolution and the Formosa resolution would be grants of authority to the President to exercise power which would amount to predated declarations of war. That should not be done. It is not necessary. All the world knows that any country that attacks the United States will be met immediately with the exercise of the inherent power of the President, under the Constitution, to defend the Republic. All the world knows that if any country continues an attack upon this country, the President will come before this body and quickly, as the great Roosevelt did after Pearl Harbor, in 1941, obtain from Congress a declaration of war. What more is needed?

A constitutional principle is involved. It is dangerous to give to any President an unchecked power, after the passage of a joint resolution, to make war. Consider the procedural complications that could develop if Congress decided that the President was making serious mistakes in the conduct of a personal war—for it would be a Presidential war at that point. How could the President be stopped? He could not be stopped. Consider what would happen to this Republic if we got into that kind of conflict with the President in carrying out the joint resolution.

But, say some, see what the end of section 3 provides:

"This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by concurrent resolution of the Congress."

That would create a nice mess, would it not? That would be a nice portrait of the United States to paint before the eyes of the world. What havoc of disunity that kind of procedure would encompass.

What is wrong with letting the Constitution operate as written by our constitutional fathers? Why this indirect amendment of the Constitution? There are Senators, for whom I have deep affection, who become a little shaken, in our private conversations, when I say, "What you are really seeking to do is to get around the amending process of the Constitution. In effect, you are trying to get around article I, section 8, by amending the Constitution by way of a joint resolution."

I do not believe we ought to establish any more precedents of this kind. I do not accept the argument that because we have made two mistakes in the past—we made no mistake in connection with the Cuban resolution; and I shall speak of that later—because we made mistakes in the Formosa and the Middle East joint resolutions, we can make another one. Even a repetition of mistakes does not create a legal right in the President. I do not believe it is good legislative process to, repeat mistakes. We ought to stop making them.

In effect, this joint resolution constitutes an amendment of article I, section 8, of the Constitution, in that it would give the President, in practice and effect, the power to make war in the absence of a declaration of war. It is also important to demonstrate to the world, including the free nations, that the Constitution of the United States is not an instrument to be tinkered with; that the Constitution is a precious, sacred document, so far as our form of government is concerned, and is not subject to subversion in the legislative process. We should never miss an opportunity to demonstrate this principle to the totalitarian nations of the world. We should never forget that under Fascist or Communist regimes there are no rights and liberties of the person.

It is proposed, by this joint resolution, to subvert the Constitution. We are engaging in a subterfuge, so far as article I, section 8, is concerned. We should not do that. We should not in any resolution tinker with the Constitution in respect to the powers and prerogatives of the President, and the limitations upon such powers and prerogatives.

Going back to section 1 of the resolution, I assert again that in the language "to take all necessary measures to repel any armed attack against the forces of the United States," there is no question about the inherent power of the President to do so without a resolution.

I have stated that if this proposed grant of power implies that the right of the President of the United States to take all the necessary measures to "repel any armed attack against the forces of the United States"—which former Secretary of State Dulles and Admiral Radford asked for in 1954—includes the authority to commit an act of aggression before an act of aggression is committed against the United States, on the basis of the theory of a preventive war, that is a dangerous doctrine. It cannot possibly be reconciled with the Constitution; nor can it be reconciled with sound national policy.

I remember that in 1955 former Secretary of State Dulles said to me, "Would you wait for the Red Chinese to strike?"

My reply was that when I thought of the billions of dollars I had joined in voting for the defense of my country, including great sums of money for intelligence service, if there were particular concern about a Red Chinese air base closest to the coast of Alaska and our intelligence agency had given us reports as to what it had found in regard to the size of that Communist air armada, I would wish to believe that when the first Red Chinese plane left the ground and started for Alaska, our alerting stations and our intelligence would be such that our planes would meet it before it ever reached Alaska.

At that time, I also made perfectly clear to former Secretary of State Dulles and former Chairman of the Joint Chiefs of Staff Admiral Radford, that under international law we could not possibly justify our being an aggressor in the first instance. I frankly stated that it was a risk which we must run in order to remain in a sound constitutional framework under our system of government.

Why should we give arbitrary discretion to mere men who happen to hold office at a given time, when the American people and their lives are at the mercy of the discretion of those mere men?

One of the great protections that the American people have in constitutional theory, under our form of government, is that we are a government of laws and not of men. Granted, we are a government of laws, it is also true that those laws must be administered by men. Human failings being what they are, we must always keep a check on the exercise of the discretion of mere men who administer government, or we shall constantly run the risk of being victimized by arbitrary and capricious discretion.

In 1955, I made clear that I had observed too frequently the psychology of trigger-happy military men, and the psychology of diplomats who convince themselves that it is necessary to pull the trigger before an act of war has been committed against us.

Mr. President, we like to boast—and for the most part our glorious history sustains the boast—that we are not an aggressor nation. Resolutions such as the pending joint resolution, as well as the Formosa resolution and the Middle East resolution, frequently raise grave doubts among our friends in the free world as to whether there are not great differences between our theory and our practice.

So, then as now, on the constitutional grounds on which I objected to the Formosa resolution, I voted against it—as I shall vote against the pending joint resolution today.

I repeat this, so that there can be no misunderstanding of my position: So far as the inherent right of the President to meet an aggression in the self-defense of the Republic is concerned, the pending resolution is not needed. The President has that inherent right now, under the Constitution. But, so far as having any right to commit an act of war in the absence of an aggression, he does not have that right under the Constitution. The pending resolution cannot give it to him under the Constitution.

Of course, we can sanction his exercise of that unconstitutional right. That is what the Senate will be doing today in adopting the pending resolution.

In constitutional effect, the Congress is saying to the President, "You can go ahead and act unconstitutionally and we will look the other way," because it is known that there is no existing procedure which would be effective by which we can check the President. Once the pending resolution is adopted, the Senate thereby will sanction such conduct. There is no way to check it by taking the case before the U.S. Supreme Court for final determination of the constitutionality of this course of action in time to be effective.

I am asked, "Should we not amend the Constitution in this respect?"

I believe that we should amend it by clearly denying to the Congress the power to pass such a resolution as this one. Because the past situations such as are present in this case are such rarities, so extraordinary and so novel, I am enough of a political realist to know that we shall never get anywhere with that kind of constitutional amendment. The only time we become interested in it is when a crisis such as this exists. When a crisis exists, it is so serious that people are not going to become interested in a very important constitutional abstraction, even though it is a constitutional abstraction which after all, is determinative, in the last analysis, of their rights as free men.

In times of hysteria and high national emotionalism, it is only human for most people, particularly those not sitting in the seats of legislative responsibility, to be willing to look the other way on such questions as I raise in this debate again this year. But I believe it is so dangerous to establish another precedent toward the creation of a government by Executive supremacy in the United States, that I am willing to stand up and oppose the overwhelming majority against me, and take all the castigation and criticism which is bound to be heaped upon my head, for a constitutional principle that I am sincerely convinced is vital to the very preservation of this Republic.

I am satisfied that if we continue to build up a wall, brick by brick, precedent by precedent, which separates the executive branch of the Government from the people, resulting in making the executive branch of the Government more and more inaccessible to direct control, we shall endanger the very survival and preservation of the Republic and our constitutional system upon which it is based.

Mr. President, if it is self-defense we are concerned about, we do not need this resolution. If it is to empower the President to commit an act of aggression before an act of aggression is committed upon us, as was the program in 1955, and as was openly testified to, let me say—I can say it now—as the transcript will show, by the Secretary of State and the Chairman of the Joint Chiefs of Staff at the time, it is a dangerous precedent, a power that never should be given, never should have been granted by the Congress, and should not be granted now under the pending resolution.

Turning to the language I have read, "to repel any armed attack against the forces of the United States," does that mean that the attack must have started, or does it mean that all the President and his advisers have to conclude is that in all probability an attack may be made?

That is preventive war. There is no power in the Constitution for the President of the United States to wage a preventive war. I cannot imagine a set of hypothetical facts which would cause the President of the United States, the Congress, the Department of State, and those in the Pentagon Building to become alarmed about the danger of an attack against the United States that cannot be taken immediately to existing channels of international law. The right of national self-defense would still vest in the inherent constitutional power of the President.

The fact that we are not doing very much about using those channels of international law does not excuse us. And as we use those channels of international law, the inherent power of the President to defend this country continues. With all the military might of this country at the present time, the world knows that that power of self-defense is adequate to protect the security interests of this country until the processes of international law can run their course.

There is no question about the meaning of the next four words on line 6 of page 2 clearly authorize—"to prevent further aggression."

That is when the whole realm of judgment upon the part of the President of the United States comes into play. That is when we substitute the President for article I, section 8 of the Constitution. That is when we say to the President, "You can go beyond acts of immediate self-defense of the Republic. You do not have to come to the Congress, as Franklin Roosevelt did after Pearl Harbor, and ask for a declaration of war. You can proceed in the exercise of your judgment to prevent further aggression."

The uninformed, unenlightened editor of the Washington Post who wrote that stupid editorial in this morning's paper has not the slightest conception of the meaning of those words. If he had, he would not have written in his editorial:

"There is no substance in Senator MORSE's charge that the resolution amounts to a 'predated declaration of war.' "

* * * * *

There is no doubt that the language, "to prevent further aggression," rouses all the objections that I made in 1955 to the Formosa resolution. This proposal seeks to vest in the President of the United States the power to carry on a so-called preventive war. By preventive war, we mean making a war against another country because it is assumed that that country is about to make war, or contemplates making war, against the United States. Such authority is not to be found in the Constitution. The Congress cannot give such authority to the President of the United States as far as the Constitution is concerned. It can sanction the exercise of the authority, but the exercise of the authority would still be just as much outside the Constitution as though the President acted without the joint resolution. The joint resolution could never make legal the exercise of such authority by the President of the United States.

That is not the only place in the resolution in which we would give to the President a preventive war authority. I refer the Senate to section 2, line 7, which provides—

"SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution—"

It has been agreed, by way of an amendment to the joint resolution, that that means the Constitution of the United States—

"and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

Mr. President, that is an awful power to give to a President. If the Washington Post does not think that that is a predated declaration of war, the editor ought to start asking himself some questions about certain hypothetical situations.

Shall we allow any President of the United States to decide, with no check—that is, no check for immediate application—to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom?

We had better pause long enough to take a look at the nature of some of the countries involved, because many of the countries are not free countries. Many of those countries are totalitarian countries. Many of those countries are dictatorships. It is wishful thinking to assume that it would be safe to give the President of the United States unchecked authority to proceed to use American boys in defense of those countries on the basis of claims that acts of aggression are being committed against them by some other country, without a congressional check. Have we reached the point in American foreign policy where we are going to permit the President to send American boys to their death in the defense of military dictatorships, monarchies, and fascist regimes around the world with which we have entered into treaty obligations involving mutual security, no matter what the provocation and no matter what wrongs they may have committed that cause an attack upon them? Are we going to do that without a check of Congress by way of a declaration of war? What are we thinking of? What time factor would justify such precipitate action?

Mr. President, this Senator will never vote to send an American boy to his death anywhere in the world under any such language as is contained in that part of the joint resolution. It is of utmost importance that we surround that language with a congressional check. And there is none.

One could say, as I said a few moments ago, "But, Mr. Senator, the Congress can terminate this authority by a concurrent resolution."

I have already pointed out the kind of hassle that such a situation would create, and the kind of disunity that such action would produce. The American people should be protected from a possible abuse of the authority. So long as abuse of a procedure is possible, the procedure should be modified to prevent the possibility of the abuse.

Mr. President, that is why it is so important that we hold any President—I care not who he is—to Article I, section 8, of the Constitution in the carrying out of mutual security agreements. We should hold him to the approval of the Congress before the fact and not after the fact.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. GRUENING. I wish the Senator would discuss what seems to me the obvious escalation of the war by the authority granted in section 2 of the joint resolution—

"To assist any member or protocol state of the Southeast Asia Collective Defense Treaty."

Mr. MORSE. I was about to do so.

Mr. GRUENING. Hitherto we have been dealing wholly with South Vietnam. The President has stated his purpose, which is quite evident—not to extend the war.

In the section to which I referred we are including a number of additional nations into which we could send our Armed Forces. The joint resolution would extend the prospective war all over southeast Asia, would it not?

Mr. MORSE. It certainly would, with no check on it.

Mr. GRUENING. In other words, in effect, the Congress would authorize an escalation of the war to Thailand, Laos, Cambodia, North Vietnam, South Vietnam—and what else?

Mr. MORSE. Pakistan.

Mr. GRUENING. I have in my possession, which I intend to present when the foreign aid bill comes before the Senate, a statement from a high official of Pakistan indicating that his government has no intention of using the nearly $1 billion in military aid that we have given to Pakistan to help out our cause because it is needed in their prospective difficulties with India.

Mr. MORSE. The Foreign Minister of Pakistan in effect made that statement in Washington, D.C., when he addressed the Press Club not so many weeks ago. He was asked by a newspaperman at the meeting to state whether or not Pakistan could be counted upon to be of assistance in southeast Asia. He said, "No."

He gave his reason. His reason was Pakistan's involvement with India. Pakistan has no intention of responding to any calls to SEATO members.

I yield further.

Mr. GRUENING. It seems to me that the joint resolution presents an unlimited authorization for war anywhere in southeast Asia, including Pakistan, which is really not in southeast Asia, but which is in south central Asia, and it seems to me a very dangerous, unwarranted, and unprecedented action.

Mr. MORSE. Do not forget, Pakistan is a member of SEATO; its obligations to South Vietnam are the same as ours.

Mr. GRUENING. Yes; but it has shown no disposition whatever to carry out its obligations under that treaty.

Mr. MORSE. That is correct; but, she being a SEATO member, we would be obligated to go to her assistance.

Mr. GRUENING. This resolution, in effect, is an authorization which would be the equivalent of a declaration of war by the Congress. Would it not be?

Mr. MORSE. I think so.

Mr. GRUENING. That is one thing I am very apprehensive about. If we should get into an all-out war, which I fear may happen, this resolution would be considered the authorization by the Congress to so proceed. Would it not?

Mr. MORSE. That is correct.

Mr. GRUENING. I expressed my views on it yesterday. I do not at all criticize the President—in fact, I think the President was correct—for repelling the assault, whatever may be the background, on American vessels and destroying the attackers. I approve of that action, but the resolution goes far beyond such action, which apparently precipitated the request by the President for such a resolution, and covers the whole of the southeast Asia area. I distinctly disagree with the administration policy.

As I have stated repeatedly, this was a policy which the President inherited, and from which I hoped he would disengage himself. He inherited it from the Eisenhower administration, from John Foster Dulles, when we picked up the fiasco the French had engaged in with the loss of over 100,000 young lives. We contributed vast sums of money to that operation. It was obviously a failure.

Now we have escalated it, as could be foreseen, and as I in fact did foretell, and as the Senator from Oregon foretold, into an all-out war in southeast Asia. Regrettably, the end is not yet. I am extremely fearful about the situation.

This is a moment when patriotic passions are around, and it seems indicated that we should do whatever the President asks.

It is very painful for those of us who disagree with the policy. I felt it was wrong in the beginning and have repeatedly stated for 5 months that I thought it was wrong, and that we should continue to try to find a peaceful solution; that we should take the issue to the United Nations, and seek a cease fire. It is, as I have said, painful not to support the President, but I cannot do so in good conscience under the blanket terms of this resolution.

Mr. MORSE. As the Senator knows, last night it was impossible for him, because of a previous appointment, to be present when I paid my high respects to him for his courage, statesmanship, and leadership in this matter for many months past. I said last night that the Senator from Alaska had put the issue squarely.

Now, in a very few moments, the Senator from Alaska has summarized succinctly the major points of the address I have been making on the floor of the Senate the last hour and 15 minutes. I wish to formalize those points before I come to the next major issue which I shall discuss in my speech.

What I have said expresses my views as to the power that would be granted to the President in the resolution. It is what I have called an undated declaration of war. I summarize the points as follows:.

First, the unlimited language of the resolution would authorize acts of war without specifying countries, places, or times. That language cannot be reconciled with article I, section 8 of the Constitution. It amounts, in fact as well as in law, to a predated declaration of war.

Next, as I said last night, we have armed forces in South Vietnam, some 20,000, or more, apparently, with the number increasing by planeload after planeload.

Senators can bemoan and warn against a land war in Asia, but the resolution would put the United States in the middle of the Vietnam civil war, which is basically a land war.

Under the resolution Congress would give to the President of the United States great authority, without coming to the Congress and obtaining approval by way of a declaration of war, to carry on a land war in South Vietnam. The choice is left up to him.

As I said last night, the interesting thing is that South Vietnam, with a population of 15 million, and an armed force of 400,000 to 450,000 men, has been unable, through all the years of the holocaust in South Vietnam, to put down a Vietcong force of a maximum of 35,000 men. The Pentagon and the State Department, in testifying before the committee, say the number probably does not exceed 25,000. We have to have more than 20,000 American boys over there, to die in whatever numbers they are killed, in an attempt to win that war. And for whom?

Mr. President, the leaders of this Government keep talking about freedom in South Vietnam. There is not one iota of freedom in South Vietnam, for the South Vietnamese people, by and large, do not know what the word means. I quoted, in a speech the day before yesterday, a letter I received from a Republican Member of Congress, in full support of the position I have taken on this issue. I paraphrase it, although the quotation is already in the RECORD. He said that the average man of North or South Vietnam would not know what democracy looked like if he met it on the main street of Saigon. The difference between their governments is like the difference between tweedledum and tweedledee. But both are interested in the next bowl of rice.

That is why this Senator has been pleading for years, in connection with foreign policy, that the great need of the United States in the field of foreign policy is to export economic freedom, and to stop exporting military aid, for our military aid makes Communists. Prepare the seedbeds of economic freedom for the masses of the people of any country and we prepare for the growth of freedom. Unless the people are first economically free, they cannot be politically free; and, what is more important, they will never understand political freedom until they are first economically free.

There is great danger now that Congress will give to the President of the United States power to carry on whatever type of war he wishes to wage in southeast Asia. That is why I said, in answer to an argument that was made on the floor of the Senate yesterday, apparently some colleagues are laboring under the illusion that perhaps the resolution would reduce the danger of fighting a land war in Asia. There is not a word in the resolution that has any bearing on the subject. To the contrary, the broad, sweeping, sanction of power—note my language, because it cannot be done legally—the broad, arbitrary, sweeping power Congress is sanctioning for the President would in no way stop him from sending as many America boys as he wants to send into South Vietnam to make war.

As the Senator from Alaska has said over and over again, and as I have joined him in saying, all South Vietnam is not worth the life of a single American boy; and the killing of a single American boy in South Vietnam is an unjustified killing. It ought to stop. It is not going to stop until we turn our warmaking policy into a peacekeeping policy. It is not going to stop until we insist that our alleged allies in SEATO come in with as many divisions of peacekeeping units as are necessary to keep the belligerents apart. It is not going to stop until the United Nations, under the procedures of international law, can come in and keep the peace and set up whatever controls are needed, by way of United Nations trusteeship if necessary, to bring that war to an end.

This result will not be achieved by unilateral military action. It makes me sad to have to say it, but I am satisfied that history will record this horrendous mistake of the United States in its false assumption in the year 1964 that it could supplant in South Vietnam military control by Asiatics with military control by the United States.

We could never win such a war. We might win military victory after military victory. If we did not stop the escalation, we would kill millions of people, because the escalation, step by step, would lead to all-out bombing of North Vietnam and Red Chinese cities. When we were through, we should have killed millions, and won military victory after military victory, but we should still have lost the war.

The United States can never dominate and control Asia, with 800 million people in China alone. That kind of war would create a hatred for the United States and for the white man generally that would persist for centuries. Dominating Asia, after destroying her cities and killing her millions by bombings—that is the danger that we are walking into—would not make the white man supreme in Asia, but only hated.

We know what the floods of human history do. Eventually the white man will be engulfed in that Asiatic flood and drowned.

I do not know why we should be so shortsighted. It is difficult to follow the processes of international law. I suppose the saddest announcement that has been made recently is that of the Secretary General of the United Nations, Mr. U Thant, from Burma, who is not even a shadow of the great world statesman who preceded him, Dag Hammarskjold. He announced in Washington yesterday his grave doubts as to whether the Security Council could help resolve the matter.

Mr. President, we will never know until such procedures are tried. The Secretary General should have been using his voice and his influence to persuade the Security Council to carry out its obligations under the charter. Not a word has been heard from the Secretary General in regard to the power and authority for the General Assembly of the United Nations.

The Secretary General knows the power of the General Assembly if the Security Council is incapacitated by a Russian veto. I repeat what I have said for many months past on the floor of the Senate. I wish to put Russia on the spot. Let her exercise her veto, if she dares. The rest of the world will be her judge. We did not find her following that course in the Middle East, or in Cyprus, or in the Congo.

I was highly disappointed by what I considered to be the abdication of leadership and responsibility on the part of the Secretary General of the United Nations in the unfortunate statement he made in Washington yesterday.

The next point I wish to make, by way of summary, is that the fear expressed by some Senators in this debate against involvement in a land war means no more than the reservation expressed in 1954, that we should not become militarily involved in South Vietnam. We did not intend then to do any of the things we are now doing in South Vietnam, but we have done them. That pious expression of intention in 1954 came to naught. This policy is sucking us into military involvement deeper and deeper, and will continue to suck us in, under this resolution, deeper and deeper.

Mr. President, you and I will be gone in a few years; but I am satisfied that the end of the road that we are traveling today will be the engulfment and drowning in world history of the influence of the white man in Asia, if we follow this course of action.

I despair frequently at the fact that so often people in positions of responsibility are inclined to think only of the present, and not a century hence. Yet, when we are dealing with matters of foreign policy and the roots of peace or war, we need to remember that the seed we plant today, be it a seed of peace or seed of war, is the seed that will finally come to fruition in a blossoming plant, perhaps a hundred years hence.

I say most respectfully and sadly that in my judgment, in this resolution, we are planting seeds not of peace, but of war. Those who will follow us in the years to come will cry out in anguish and despair in criticism over the mistake that was made in 1964 when the joint resolution was passed.

Why do we do it? I do not know. We are dealing here basically with a civil war between conflicting forces in South Vietnam. So many in this debate have overlooked the geographic problem. Let us not forget that prior to the Geneva accord of 1954 North Vietnam and South Vietnam were one people. One could go into North Vietnam today, after he had been in Saigon, and think that he was still in South Vietnam. He would feel the same way if he first went to North Vietnam and then to Saigon. They are the same people. Unfortunately, as a result of the partition under the Geneva accord in 1954, they were divided into two countries, North Vietnam and South Vietnam.

Many of the people in South Vietnam who are involved in this civil war have close relatives in North Vietnam. One reason why the military dictator-puppet whom we are supporting in South Vietnam, Khanh, is having so much difficulty with the mass of the people—and he is having a serious difficulty—is his insistence that he must stage a blood bath in North Vietnam. He will never get the support of the people, because a blood bath would kill the relatives of hundreds of thousands of people in South Vietnam; and vice versa.

It is a tragedy that the Vietcongs try to subvert South Vietnam, but that is a reality. The solution is not the exercise of military might. As a critic of De Gaulle on many points, I say that the sad fact is that the De Gaulle solution is far superior to the American solution. The solution is a political and economic solution, not a military solution. De Gaulle is right. We should go to the conference table. We should not take the American position that we will go to the conference table only after we dominate the battlefield.

If we ever establish that principle, we shall have assassinated the rule of law as an instrumentality for settling disputes among nations. If we ever take the position that we must first dominate the battlefield, that we must be in control, that our orders must be carried out, then going to a conference table will mean only that the dominating authority tells the others at the conference table what, in effect, Adlai Stevenson unfortunately said in the sad speech he made some weeks ago before the Security Council—that, in effect, we are going to do what we think is necessary, and the others can like it or not. When he did that, as I said, he extinguished his lamp of world statesmanship.

We cannot follow the theory that underlies the present policy of our Government; namely, that until we first dominate the battlefield, we will not follow De Gaulle's suggestion to settle this dispute at the conference table. De Gaulle is right. This problem will never be settled except by a political and economic settlement. It can never be settled by the imposition of the military might of the United States upon Asia.

Mr. CRANSTON. Mr. President, in debating the Angolan issue this week, we did not plead ignorance. We tried to find out the facts, both in regard to the competing political consideration in Angola and in regard to the amounts of money potentially involved. We knew there was money in this bill headed for Angola, if the executive had had its way. To argue that it was not specifically earmarked for Angola and, therefore, we could not get at it—as some did—while arguing that there was, indeed, money in the Defense appropriation bill that could be used for Angola, was to admit either legislative impotence or legislative complicity. I am proud to say that such a position was unacceptable to a majority in the world's most powerful legislative body.

In refusing to vote more money for the covert funding of paramilitary activities in Angola and environs, we have rejected the road to another Vietnam. We have only to listen to the global confrontation terms used to describe what is at stake there. This is the rhetoric that led us into Vietnam.

Further, we have rejected insofar as Angola is concerned the closed system under which so many fateful foreign and defense policy decisions have been made by a few men in the executive branch and even fewer men in Congress. This is an important precedent. The Senate has indicated today that it is fed up with "foreign policy by contingency fund." As a body, it insists upon being involved in decisions to spend millions of dollars abroad covertly, after such funding has been "authorized" by the 40 Committee or some other secretive executive group.

To sum up, Mr. President, we have sent some important messages today. We have rejected a world view that sees every foreign conflict in "United States versus them," Americans versus Russian terms. We have tried to evaluate our Angolan policy in the context of more relevant political and geographical realities.

My colleague, JOHN TUNNEY, has performed historic and effectual work on this vital matter, providing real leadership. So have Senators CLARK, BROOKE, KENNEDY, HUMPHREY, JAVITS, WEICKER, PERCY, and others. It has been a rewarding experience to work with them.

I thank Bill Jackson, of my staff, for his able aid to me.

We have reminded the executive branch that Congress will play a large role in determining the policies of this country, as, indeed, the people want us to do—not to mention the constitutional obligations placed upon the legislature. And, very importantly, we have recognized through five days of debate that we have to improve the internal procedures of the Senate to insure that the whole body can fully debate all issues of great consequence to their nation's security.

Mr. President, in trying to grasp the complex historical and political context of the current Angolan conflict, I asked my staff to develop information briefs for me. I want to especially thank Ms. Emily Thurber for her work in this regard; it was grounded in actual experience in Africa for many years.

To accomplish all of these tasks, Mr. President, a vigorous free press was indispensable. I ask unanimous consent to place in the RECORD an article by John Averill in the Los Angeles Times, and articles by David Binder and Sy Hersh in the New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times]

SENATE FOES OF ANGOLA AID OPTIMISTIC

(By John H. Averill)

WASHINGTON.—Senate critics of U.S. involvement in Angola expressed cautious optimism Wednesday night that the Senate will vote to block further military aid to anti-Soviet factions in the West African nation.

"I think we have the votes to win as of now," said Sen. Alan Cranston (D-Calif.), who has helped revive the Senate's Vietnam era antiwar coalition into a bloc opposed to further U.S. involvement in Angola.

Cranston expressed that outlook in an interview after Ford Administration supporters blocked until today a vote on an arms-cutoff amendment.

The amendment, sponsored by Sen. John V. Tunney (D-Calif.), would deny the Central Intelligence Agency funds to finance military assistance to two Angolan factions opposing a third faction that is strongly supported by the Soviet Union and Cuba in a civil war.

Tunney, Sen. Hubert H. Humphrey (D-Minn.) and other critics of the Administration's Angolan policy said it could lead to another Vietnam-type commitment by the United States.

In an emotional arm-waving speech, Humphrey said that until recently the United States was spending only $150 million a year on all kinds of assistance to the entire continent of Africa.

"Then in one month, we are going to put in $60 million in Angola to chase the Russians out," said Humphrey, a one-time staunch defender of U.S. involvement in Vietnam.

A better way to counter the Russians, he said, would be to use trade leverage, such as grain sales, to force them to withdraw from Angola.

As a substitute for the Tunney amendment, Senate Minority Whip Robert P. Griffin (R. Mich.) offered a proposal that would prohibit the use of U.S. military or civilian forces in Angola but would not affect CIA spending.

"Cuba has sent thousands of well-trained soldiers to Angola," Griffin said. He told the Senate that those forces, armed with massive supplies shipped in by Russia, have been largely responsible for gains by the Soviet-backed Angolan faction.

"I agree that we ought to slam the door and keep it closed on the use of any U.S. military or civilian forces in Angola," Griffin argued. "But do you want to close the door on CIA flexibility? Is there no way that we can assist the majority of people in Angola who are resisting Soviet imperialism?"

Sen. Dick Clark (D-Iowa) said the Griffin amendment did "asolutely nothing about military assistance and CIA activities."

At the White House, Dep. Press Secretary William I. Greener said the Ford Administration has no intention of sending either military or civilian advisers to Angola.

"There are no U.S. government-sponsored advisers in Angola," he said under questioning. "Nor do we contemplate any form of U.S. combat intervention there."

Tunney introduced his amendment after the Senate wrangled behind closed doors for three hours about the extent of CIA involvement in Angola, a former Portuguese colony.

Emerging from the closed session, Tunney, Humphrey and others said they were able to learn very little about the extent of CIA spending in Angola. The reason, they explained, was that Sen. John L. McClellan (D-Ark.), chairman of the Senate Appropriations Committee and one of the very few people in Congress who is privy to the CIA budget, interpreted Senate rules as barring him from disclosing highly secret national security information.

Taking issue with McClellan's rule interpretation, Tunney told reporters:

"I feel the Senate has an inherent right in closed session to obtain secret information which one or more senators may obtain as a result of their position on a Senate committee."

Tunney originally proposed cutting $33 million out of the Pentagon budget which he said he had reason to believe was earmarked for CIA operations in Angola. But he dropped any dollar figure after Humphrey said he understood that there was $750 million in the Pentagon budget that could be tapped by the CIA.

Tunney offered his amendment as a rider to a $112.3 billion defense appropriations bill. Any Angolan amendment that the Senate might adopt would have to be approved by the House.

[From the New York Times]

EARLY ANGOLA AID BY UNITED STATES REPORTED

(By Seymour M. Hersh)

WASHINGTON, December 18.—The Ford Administration's initial authorization for substantial Central Intelligence Agency financial operations inside Angola came in January 1975, more than two months before the first significant Soviet build-up, well-informed officials report.

It could not be learned on what basis the agency won approval to deepen its clandestine involvement in Angola at that point, but William E. Colby of Central Intelligence told a secret Congressional hearing two months ago that the January increase in C.I.A. activity was needed to match increased Soviet activity.

The Soviet Union has been involved in Angola since 1956 but, according to well-informed American intelligence officials, did not substantially increase its support for one of the liberation armies in Angola until March and April of this year. At that time at least two shiploads and two planeloads of Soviet war matériel were sent.

Told of the Administration's decision of January, 1975 a number of Government officials and lawmakers contended that it was impossible without more information to determine whether the subsequent Soviet build-up had been purely aggressive and expansionist, as Secretary of State Henry A. Kissinger and others have contended, or whether it might have been in part a Soviet response to the action by the United States.

$300,000 FOR ROBERTO

The Administration's high-level intelligence-review panel, known as the 40 Committee, discussed Angola at its January meeting—the first such discussion of the African nation since the mid-1960's, officials said. They said the group agreed to permit the C.I.A. to provide $300,000 clandestinely to Holden Roberto, the leader of one of three factions now seeking control of Angola.

At the time, Mr. Roberto, whose links with the C.I.A. began in 1961, was on a $10,000-a-year agency retainer for "intelligence collection," the officials said. Mr. Roberto leads the National Front for the Liberation of Angola, which also has been aided by Zaire and China.

During the same 40 Committee meeting in January, the officials said, the C.I.A. unsuccessfully also sought authority to provide a $100,000 subsidy secretly to Jonas Savimbi, leader of the National Union for the Total Independence of Angola.

At the time, the movements led by Mr. Roberto and Mr. Savimbi—since merged—were trying to negotiate a settlement with the Popular Movement for the Liberation of Angola, a third liberation group, which has been supported by arms and aid from the Soviet Union since its formation in 1956. Those talks failed.

There was a sharp division today among Government officials and some lawmakers about the significance of the 40 Committee's decision in January to increase the funds available to Mr. Roberto.

LINK TO MOBUTU SEEN

Some officials belittled its importance and argued that the funds, which reportedly were not meant for direct military support, were supplied merely to reassure President Mobutu Sese Seko of Zaire that the Ford Administration was not going to permit the Popular Movement to win the Angolan civil war. Mr. Mobutu, who is Mr. Roberto's father-in-law, was an early advocate of American intervention.

Many others, including Senators and Representatives who have had access to secret C.I.A. briefings on Angola, believe that disclosure of the January decision to increase the American involvement raises new questions about which nation—the United States or the Soviet Union—initiated what inside Angola.

"I think it's very important," one well-informed official acknowledged. "That money gave him a lot of extra muscle. He'd been sitting in Kinshasa for nearly 10 years and all of a sudden he's got a lot of bread—he's beginning to do things."

Since the early 1960's, Mr. Roberto had maintained his headquarters in Kinshasa, the capital of Zaire.

The official's point was that the C.I.A. source of the revitalized flow of funds for the

Roberto movement would be quickly perceived by the Popular Movement and its Soviet supporters.

The disclosure further contradicts the insistence of Secretary Kissinger in Senate testimony that is still secret that the State Department's Bureau of African Affairs had, in effect, withheld information about Angola from him early this year. He suggested that the bureau had done so in an effort to limit the options available to the Ford Administration.

In January Mr. Kissinger was Secretary of State and also President Ford's adviser on national security. As adviser, he was chairman of the 40 Committee when the decision was made to increase greatly the C.I.A. cash subsidy to Mr. Roberto.

BEHIND THE DECISIONS

In an extensive recounting of Washington's Angola decision-making, well-informed officials also made these points:

C.I.A. statistics as of early last month show that the agency had paid $5.4 million to ship what was listed as $10 million in arms to Angola between late July and October. The high shipping costs were described by many knowledgable officials as evidence that the agency had been systematically underestimating the value of the weapons shipped thus far, in an effort to make the United States role appear as minimal as possible.

The intelligence agency was explicitly authorized by President Ford on July 27, 1975, to begin a $500,000 information program inside Angola as part of a 40 Committee decision to begin major shipments of United States arms there.

The precise date of the 40 Committee's meeting in January, 1975, could not be learned, but January was a pivotal month in Angola.

JOINT POLITICAL PACT

On Jan. 5, leaders of the three liberation movements met in Kenya and signed a political accord that was viewed as paving a way for independence for the Portuguese territory. On Jan. 10 Portugal formally agreed to grant independence in Angola in the following November.

On Jan. 31 the three liberation movements agreed to share cabinets posts and power equally with a Portuguese contingent until the formal date of independence.

The three liberation movements further agreed to prepare for and hold national elections for a constituent assembly. Those elections were never held, however, as the coalition dissolved over the next few monhts and warfare broke out.

American officials were interviewed repeatedly by correspondents of The New York Times in recent weeks, but none suggested what Mr. Colby and other C.I.A. officials have said in recent secret briefings in Congress—that Soviet buildups in Angola before this year were in any way a factor in the subsequent United States decision to intervene directly in July 1975 with shipments of arms and aid.

100 TONS OF ARMS

More than 100 tons of arms were reported to have been landed by Soviet planes in southern Angola and the Congo in March and April. It was these shipments, American officials have contended up to now, that led to rapid military advances by the Popular Movement and the subsequent decision by Secretary Kissinger and President Ford to intervene directly.

Throughout the spring, a number of officials have said, the C.I.A. lobbied intensively for a larger United States role in Angola, justifying its agrument on increased Soviet activities. Specifically, the C.I.A. was seeking high-level approval to begin supplying funds directly to Mr. Savimbi.

The matter was discussed at a 40 Committee meeting in June, officials said, with no resolution, although a full-scale National Security Council study of the issues and the various options was authorized.

It was at this point, State Department sources said, that opposition to further United States involvement was repeatedly raised by Nathaniel Davis, then the Assistant Secretary of State for African Affairs.

Mr. Davis, who resigned in protest over the Administration's policies on Angola, is now Ambassador to Switzerland. He explicitly argued in June that the decision by the 40 Committee to support both Mr. Roberto and Mr. Savimbi would be perceived as an escalation by the Soviet Union and lead, in turn, to even more involvement by the Russians.

IN CONTROL OF LUANDA

Following the National Security Council review, officials said, the 40 Committee met on July 17, 1975. By then the Popular Movement, using the Soviet supplies shipped since March, had seized firm control of Luanda, Angola's capital, and had won significant victories elsewehre.

The Popular Movement was claiming control of 11 of Angola's 16 provinces.

The 40 Committee authorized the following steps:

The direct shipment of arms to the forces led by Mr. Savimbi and Mr. Roberto and the replacement of arms that had been previously supplied and would continue to be supplied by Zaire and Zambia, the two neighboring African nations that supported the American intervention. It was agreed to permit Zambia and Zaire to provide as much non-American equipment as possible at first in order to minimize the overt link with the United States.

Exposure through information programs and other means of the Soviet arming of the Popular Movement, with emphasis on the possible embarrassment of African nations relaying the Russian arms or in other ways serving as conduits for such aid.

The use of an information program to build the abilities and integrity of the forces controlled by Mr. Savimbi and Mr. Roberto.

The dispatch of cash in two stages of Angola, with $6 million to be expended in Stage 1 and $8 million in Stage 2. The significance of the two-tiered approach has not been made clear by the sources.

Ford Supporters Start Filibuster for Angolan Aid

(By David Binder)

Washington, December 18.—The Ford Administration sought today to reach a compromise with the Senate that would allow the United States to continue covert support operations in the Angolan civil war.

The move was initiated by Senator Robert P. Griffin, Republican of Michigan, after John L. McClellan, chairman of the Senate Appropriations Committee, failed to induce President Ford to concur in a system that would enable the Congress to play a larger role in deciding on such secret operations.

On Senator Griffin's invitation, Secretary of State Henry A. Kissinger conferred with about 25 leading Senators on an arrangement that would end the present stalemate. A filibuster is being conducted in the Senate against an amendment that would immediately cut off funds for assistance to two Angolan factions.

NO MEETING OF MINDS

Emerging from the meeting, Mr. Kissinger said that it had not been "a meeting of minds," but that he was taking the Senate leadership's proposals to Mr. Ford.

Senator John Tunney, a California Democrat, who is leading an attempt to cut off all funds for Angola, said he intended to push for the cutoff tomorrow.

"Nothing is acceptable that won't result in a cutoff of all funds for military aid to Angola," he said. "I don't want to see more money down this rathole."

The filibuster began about 2 P.M. when Senator Mike Mansfield, the Democratic majority leader, requested a vote on the cutoff amendment submitted by Senator Tunney and 12 others.

Senator McClellan, the Arkansas Democrat who has been managing the $112 billion defense appropriations bill, slipped out and telephoned President Ford, appealing for his approval of a procedure involving Congress in the funding of covert operations.

The funds for the Angola operations have come out of the defense appropriations, according to officials of the Central Intelligence Agency in testimony before a Senate committee.

According to other Senators, Mr. McClellan proposed that in future requests for covert funds, the President should first seek the approval of the Appropriations Committee and, upon approval, the request would go directly to the full Senate.

Under the present system the Administration simply informs Senator McClellan and his minority colleague on the Appropriations Committee, Senator Milton R. Young, Republican of North Dakota, and they either approve or disapprove without any further airing in committee or in the Senate as a whole.

A White House spokesman, William I. Greener, said President Ford had discussed the proposal with Senate McClellan, but "no arrangement could be reached."

As the filibuster by conservative Senators wore on, Mr. Kissinger arrived at the office of Hugh Scott, the Republican Minority Leader from Pennsylvania, and agreed to provide the leadership with more information about the Angola situation, as well as the Administration's view on the covert operations, on which $33 million has already been spent.

KISSINGER CONVEYS OFFER

After two hours of discussion, Mr. Kissinger promised to convey a refined compromise proposal to the President and to return tomorrow with a response. The compromise was described by a Senator as involving a concurrence of the Senate in a $10 million increment for Angolan aid, after which the Administration would have to obtain regular Senate approval of any further funding.

The Administration is seeking $28 million in additional funds for the Front for the National Liberation of Angola in the north and the National Union For Total Independence of Angola in the south. The two groups are opposing the Popular Movement for the Liberation of Angola, which has the support of the Soviet Union and has established a government in Luanda, the capital of the former Portuguese colony.

The total aid projected by the Administration for Angolan aid this year comes to $60 million.

But, the Central Intelligence Agency's contingency funds for covert activity are said to total only $50 million, of which two-thirds is already exhausted, either through expenditures and commitments.

It is the belief of Senator Tunney and his Senate allies that by amending the defense appropriation to bar further covert expenditures it can deny the C.I.A. the capacity to continue Angola operations.

The Tunney forces showed their strength early in the afternoon in defeating a substitute amendment by Senator Griffin that would have allowed the covert operations to continue. The vote was 72 to 26.

This left the pro-Administration Senators with the filibuster as their only weapon, made more effective by the nearness of the Christmas holidays and the desire of a number of Senators to go home tomorrow or Saturday.

Senator Tunney and some of his allies said they were determined to force a resolution of the issue, even if it meant staying in Washington. Several said they believe they had the

60 votes needed to bring about cloture, ending the filibuster and compelling a vote on the cutoff amendment.

It was this threat, according to Administration officials, that caused Secretary Kissinger and the White House to agree to the compromise attempt.

While the Senate prepared for its third day of debate on the Angola issue, the House International Relations Committee approved an amendment to the foreign assistance bill that would require the Administration to clear future Angola expenditures with the Congress.

SENATE CONCURRENT RESOLUTION 81—PROVIDING FOR A CONDITIONAL ADJOURNMENT OF CONGRESS

Mr. MANSFIELD. Mr. President, I ask that the Senate proceed to the consideration of Senate Concurrent Resolution 81.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 81) providing for the adjournment of Congress.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the concurrent resolution.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I withdraw my request to proceed to the consideration of the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Proxmire may proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the order of procedure, the concurrent resolution is laid aside temporarily.

The Senator from Wisconsin is recognized.

REAL ESTATE SETTLEMENT PROCEDURES ACT AMENDMENTS—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on S. 2327, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HELMS). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2327) to suspend sections 4, 6, and 7 of the "Real Estate Settlement Procedures Act of 1974," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2327) entitled "An Act to suspend sections 4, 6, and 7 of the 'Real Estate Settlement Procedures Act of 1974' ", submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TRUTH-IN-LENDING DISCLOSURES

The Senate bill contained a provision not in the House amendments which would authorize the Federal Reserve Board to require the disclosure of all or a part of the information required in the Truth-In-Lending Act at or prior to the time a written commitment to make a real estate loan was issued. The conference report does not contain the Senate provision.

The conferees believe that the advance disclosure of truth-in-lending information, which has been provided as page three of the RESPA statement, has been useful to consumers. With the repeal of section 6 of RESPA, there is doubt whether the Federal Reserve Board of Governors retains the authority to require advance disclosure of truth-in-lending information. The conferees believe that continuation of some form of advance truth-in-lending disclosure in consumer real estate transactions has merit. However, this question was not treated in hearings and neither of the banking committees has had an opportunity to consider the details of such disclosure. The conferees believe that rather than include a truth-in-lending provision in this Act, the appropriate committees should consider the question early in 1976, and recommend legislation at the earliest feasible time.

COMPLETION AND INSPECTION OF SETTLEMENT FORM IN ADVANCE

The Senate bill contained a provision not in the House amendments which would require the settlement agent to complete the uniform settlement form one business day prior to the day of settlement and to make it available for inspection by the borrower.

The conference report contains the Senate provision in amended form. The provision as revised makes clear that the obligation of the settlement agent to make the settlement form available prior to settlement is to be triggered by the request of the borrower and that the agent's sole obligation is to make available only that information which is known to him at the time of disclosure. The amended language also makes clear that the information is only required to be made available sometime during the business day immediately preceding the settlement day.

William Proxmire,
John Sparkman,
Harrison A. Williams,
Bob Packwood,
Jake Garn,
Managers on the Part of the Senate.

Henry S. Reuss,
William A. Barrett,
William S. Moorhead,
Robert G. Stephens, Jr.,
Fernand J. St Germain,
Gary Brown,
John H. Rousselot,
Managers on the Part of the House.

The PRESIDING OFFICER. The Senator will be in order. The Chair solicits the cooperation of Senators. Staff members are asked to cooperate similarly. The Senate is not in order. The Chair has plenty of time.

Mr. ROBERT C. BYRD. But Senators who have airline reservations do not have plenty of time. I hope Members will accede to the request of the Chair that there be order in the Senate, so that we can get on with the business.

Mr. NELSON. Mr. President, I do not believe that the Members at the rear of the Chamber have been able to hear the Chair. I wonder if the Chair would repeat the request.

The PRESIDING OFFICER. If the Senator would speak to them personally, the Chair would appreciate it.

Mr. NELSON. Members at the Republican cloakroom side apparently have not heard the request, back by the entrance door and on my left. I wonder whether the Chair would speak a little louder or ask them to turn on their hearing aids again.

The PRESIDING OFFICER. The Senator from Wisconsin may try to proceed now.

Mr. PROXMIRE. The conference report is on the Real Estate Settlements Procedures Act which we acted on a few days ago. There were two amendments that we passed. The first amendment, the House agreed to, we receded in the Senate on providing a modified 1-day advance disclosure of settlement charges. On the second amendment, the Senate receded in the truth-in-lending area. We think we can work that out a little later on. I think the conference report, as agreed to, is one that is very close to the bill as it passed the Senate.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

SENATE CONCURRENT RESOLUTION 81—PROVIDING FOR ADJOURNMENT OF CONGRESS

Mr. MANSFIELD. Mr. President, I renew my request that the resolution on adjournment be laid before the Senate. It is my intention, if it is agreed to, to hold it at the desk pending an appropriate time.

The PRESIDING OFFICER. The clerk will state the current resolution.

The legislative clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That when the two Houses adjourn on Friday, December 19, 1975, they shall stand adjourned sine die or until 12:00 noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

Sec. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it, or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for consideration of legislation.

Sec. 3. During the adjournment of both Houses of Congress as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

Mr. MANSFIELD. And the date?

The legislative clerk read:

When the two Houses adjourn on Friday, December 19, 1975.

Mr. MANSFIELD. Yesterday, we agreed to January 19.

Mr. CURTIS. Will the Senator yield right there?

Mr. MANSFIELD. Yes.

Mr. CURTIS. What is the status of any similar resolution in the House of Representatives?

Mr. MANSFIELD. We have not received any. Hence, we are forced to take action. Pending action by the House, it is the leadership's intention to hold it at the desk.

Mr. WEICKER. Will the Senator yield for a question?

Mr. MANSFIELD. Yes.

Mr. WEICKER. The Senator says this will be held at the desk pending an appropriate time. Why is this not an appropriate time?

Mr. MANSFIELD. We want to make sure that the Senate is not caught short again, as it was my first year as the majority leader, when the House passed an adjournment resolution, left the city in a hurry, and left us with a pack of expensive legislation on our desks.

Mr. WEICKER. I thank the Senator.

Mr. GRIFFIN. Would it not be true, I ask the distinguished majority leader, that if we were to pass this legislation and send it over to the House, then we could be in the situation that the majority leader has just described, because both Houses do have to pass that adjournment resolution?

Mr. MANSFIELD. That is correct, but if we passed it and went out, which we never do, then the House would have to take what they were given, as we were given by the House some 16 years ago.

Mr. GRIFFIN. Earlier, when the majority leader presented the resolution, I put in a quorum call because I wanted to send for the minority leader and let him know that the Senator was calling this up. If he cannot come to the floor, I take it from the statement of the majority leader that he would consult with the minority leader before he would take it from the desk and consider it.

Mr. MANSFIELD. Oh, yes, indeed.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

AUTHORIZATION FOR APPEARANCE OF WITNESS

Mr. MANSFIELD. Mr. President, I send to the desk a resolution with the concurrence of the distinguished Senator from Pennsylvania, the Republican leader, and me. This is a matter which was discussed at the Democratic conference on Thursday last and which I believe was discussed likewise by the Republicans. I ask that it be read.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 336) to authorize James Estep, Senate Computer Center, and Harold W. Needham, Superintendent, Senate Service Department, to appear as witnesses in the case of Common Cause, et al. v. Benjamin Bailar, et al.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MANSFIELD. Mr. President, I want at this time to bring to the attention of the Members of the Senate the legal proceeding brought by Common Cause to have the court declare the franking statute unconstitutional on its face because according to Common Cause it disadvantages challengers to incumbents seeking reelection to Congress, uses taxpayers' dollars for a nonpublic purpose and discriminates against other users of the mails.

For discovery and evidence purposes in this case, Common Cause has subpenaed Senate records, including:

First. The complaints with respect to violations of the frank received by the Select Committee on Standards and Conduct and their disposition, advisory opinions given by the committee and its staff—both written and oral—and interpretive memorandums prepared for committee use, as well as testimony concerning matters conducted by the committee in executive session;

Second. Senate Computer Center records including the User's Guide and computer programs which show how names and addresses of franked mail recipients are developed, how those names are categorized, and the groupings into which the names can be separated, work orders for address labels and records which disclose the number of franked mail labels printed for the use of each Senator, the categories of names maintained on the Senate computer by each Senator, the number of names in each category, the code designation for each category; and

Third. Senate Service Department records of the number of franked mail pieces sent by each Senator, work orders from each Senator reflecting the number of newsletters printed and copies of all newsletters printed.

Common Cause contends that the frank is used for mass mail material that is political in nature and for particular mailings that it says are targeted to special interest groups very much like campaign literature is. Common Cause has told the court that the Senate documents it seeks will show that what it has discovered so far is a very widespread practice.

A three-judge court found that the documents were relevant to Common Cause's case, rejected the Senate and House claims of privilege, and ordered that the documents must be produced with the identity of individual Senators not disclosed as far as it is possible to achieve this result without unduly hampering the full and expeditious processing of the lawsuit.

We have given consideration to the alternative courses of action the Senate might take at this time with respect to these legal proceedings and the court order granting the discovery sought by the Common Cause subpenas. Basically we have three alternatives. One is to comply with the demands of the subpenas pursuant to the court's order. A second is a contempt proceeding against the Senate documents and testify as demanded. The third is to attempt to achieve a compromise with Common Cause. In deciding which alternative to adopt we are guided by the following considerations.

The facilities of the Senate Service Department and Senate Computer Center are utilized by the Senate, its Members and committees for many types of official business, including information on the status of legislation, internal administrative records, information retrieval systems for individual Senate offices, and the printing and addressing of questionnaires, newsletters, and reports sent out by Senators and Senate committees.

In no case are Members of the Senate or Senate committees authorized to use these Senate facilities for political or personal purposes and Members of the Senate and Senate employees are subject to disciplinary proceedings with respect to such unauthorized use of these facilities. For these reasons, the Senate originally asserted its constitutional privileges with respect to the Senate records subpenaed by the plaintiffs in this litigation and also its objection to any attempt to obtain such records by subpenas requiring that these documents be produced by Senate employees contrary to the express order of the Senate as set forth in Senate Resolutions 423 and 431, adopted by the Senate on October 9, 1974, and October 11, 1974, respectively.

In administering the use of these and other Senate facilities and services, the primary criterion is the size of the population of the State of the Member, although under the rules, regulations, and practices of the Senate Members from smaller States may make a proportionately greater use of such facilities than Members from larger States. A review of records reflecting the use of these Senate units indicates that 93 percent of the Senate mailed less than two pieces of mail under frank per voting age constituent during the general election year 1974 according to the records of these units. The seven Members of the Senate who sent out two or more mailings per voting age constituent in 1974 were from States which fall in the lowest population category.

Furthermore, 82 Members of the Senate sent out less than one piece of mail per voting age constituent under the frank in 1974, according to these records. In comparing 1974 election year mailings to 1973 mailings, the average increase in number of pieces of mail was 31.6 percent for candidates and 60.4 percent for noncandidates, according to data computed by the Senate computer. The Senate records also show that of the six Senators mailing the largest volume of franked mail, two were candidates for reelection and defeated, and the mailings of the other four were less than one mailing for every voting age constituent. In our opinion this indicates a very modest amount of communication between a Senator and his constituents in the form of reports and newsletters mailed under the frank.

In order that such matters may be fairly and adequately disclosed to the Court consistent with the Senate's previous action, the Senate will offer by this resolution to provide certain computer-prepared information showing the use of such facilities for the preparation of franked mail in such detail as the Court may determine to be necessary, and certain other material set out by the resolution.

Finally, we make no change in the position of the Senate taken by formal Senate resolution prohibiting the disclosure of the internal records of the Senate Select Committee on Standards and Conduct. That committee was established to give advice and counsel to Members of the Senate on matters of conduct within the jurisdiction of the committee. The Senate regards the advice and counsel given by the committee and its staff to individual Members, its investigations, and matters conducted by the committee in executive session to be confidential.

The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 336

Whereas, in the case of Common Cause, et al. v. Benjamin Ballard, et al. (Civil Action No. 1887–73), pending in the United States District Court for the District of Columbia, subpenas have been issued by the court and addressed to James Estep, Senate Computer Center, and Harold W. Needham, Superintendent, Senate Service Department, directing them to appear before a representative of the Plaintiff in such case, and to give testimony and present other evidence with respect to such case: Now, therefore, be it.

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by permission of the Senate.

Sec. 2. By the privileges of the Senate and by rule XXX of the Standing Rules of the Senate, no officer or employee of the Senate is authorized to produce documents, papers, or records of the Senate but by order of the Senate and information secured by officers and employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

Sec. 3. When it appears that testimony of an officer or employee of the Senate is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers, or records under the control of or in the possession of the Senate and communications, conversations, and matters related thereto, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

Sec. 4. James Estep, Senate Computer Center, and Harold W. Needham, Senate Service Department, are authorized, in response to subpenas issued by the United States District Court for the District of Columbia in the case of Common Cause, et al. v. Benjamin Ballar, et al., (1) to appear as witnesses; (2) to take with them and produce (A) a copy of the User's Guide to Computer Services, (B) a detailed description of the supplementary computer programs used in the processing of name and address data as described in such User's Guide, and (C) a compilation showing, for each Member of the Senate, the 1974 voting age population of the Member, the number of newsletters printed, and the number of franked mail pieces sent by each Member, the categories of names maintained on the Senate computer by the Member, the number of names in each category, the code designation for each category, and the categories of individuals for whom address labels were prepared, according to the records of the Senate Service Department and Senate Computer Center for the period December 1, 1973 to October 30, 1975, inclusive, in such detail as the Court shall determine to be necessary; and (3) to testify with respect thereto.

Sec. 5. The Secretary of the Senate shall transmit a copy of this resolution to the United States District Court for the District of Columbia and to the representative of the plaintiff named in such subpena.

REHABILITATION ACT AMENDMENTS OF 1976

Mr. **MANSFIELD**. Mr. President, on behalf of Senator Randolph, pursuant to the terms of Senate Resolution 332, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11045, the Rehabilitation Act Amendments of 1975, solely for the purpose of considering a substitute amendment which incorporates the provisions of S. 2807, introduced my Senator Randolph on Wednesday.

The **PRESIDING OFFICER**. The bill will be stated.

The legislative clerk read as follows:

A bill (H.R. 11045 to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act.

Mr. **MANSFIELD**. I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

The **PRESIDING OFFICER**. Without objection, the bill will be considered to have been read twice, and the Senate will proceed to its immediate consideration.

Mr. **MANSFIELD**. Mr. President, the House passed H.R. 11045, a 2-year extension of the Rehabilitation Act of 1973. Senator Randolph has introduced S. 2807, a 1-year extension of the act. Mr. President, I move to strike out all after the enacting clause of H.R. 11045 and to substitute the text of S. 2807.

The **PRESIDING OFFICER**. The question is on agreeing to the motion.

The motion was agreed to.

Mr. **CHILES**. Mr. President, I am aware of the comments by the Senator from West Virginia that the Subcommittee on the Handicapped will give attention to a thorough review of the Rehabilitation Act, hopefully during the latter part of January.

I ask the Senator whether the issues to be covered during these oversight hearings will include the possibility of a waiver by the Secretary of Health, Education, and Welfare in situations where a State chooses to reorganize its human service delivery system. As the Senator knows, my colleague from Florida (Mr. Stone) and I are deeply interested in the issues concerning the reorganization of Florida's Department of Health and Rehabilitative Services. This was a serious attempt to improve the delivery of services, including vocational rehabilitation services, within the State. I am pleased to hear that the Subcommittee on the Handicapped is moving ahead on the oversight hearings and I hope that the matter of reorganization will be covered during the hearings.

Mr. **STONE**. Mr. President, I join in the expression just made by my colleague from Florida (Mr. Chiles). The purpose of the reorganization of the Florida Department of Health and Rehabilitative Services is to integrate the delivery of all health, social, and rehabilitative services offered by the State to those citizens in need of assistance. It was not the purpose of the reorganization to destroy the vocational rehabilitation program or to lessen its effectiveness.

Mr. **RANDOLPH**. As I have indicated earlier to my colleagues from Florida, during the joint hearings last week on the extension of the Rehabilitation Act, Assistant Secretary Thomas, when responding to a question regarding the Florida situation, said that the Department of Health, Education, and Welfare would not and could not grant a waiver unless present law was changed. You may be sure that the Subcommittee on the Handicapped will give this matter close attention during the hearings as it affects Florida and such other States that are now pursuing or might in the future pursue a reorganization.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The **PRESIDING OFFICER**. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 11045), as amended, was passed.

That this Act may be cited as the "Rehabilitation Act Extension of 1975"

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

Sec. 2. (a) (1) Section 100(b) (1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b) (1)), as amended (hereinafter in this Act referred to as the "Act"), is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $720,000,000 for the fiscal year ending September 30, 1977".

(2) Section 100(b) (2) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $42,000,000 for the fiscal year ending September 30, 1977".

(b) Section 112(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1977".

(c) Section 121(b) of the Act is amended by striking out "June 30, 1977" and by inserting in lieu thereof "September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 3. (a) Section 201(a)(1) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $32,000,000 for the fiscal year ending September 30, 1977".

(b) Section 201(a)(2) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $32,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 4. (a) Section 301(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and September 30, 1977".

(b) Section 301(a) of the Act is further amended by striking out "July 1, 1978" and by inserting in lieu thereof "October 1, 1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 5. Section 302(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 6. Section 304(a)(1) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and $20,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 7. Section 305(a) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND PROJECT EVALUATIONS

SEC. 8. Section 403 of the Act is amended by by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following; ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES

SEC. 9. Section 405(d) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $600,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 10. Section 502(h) of the Act is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof ", and $1,500,000 for the fiscal year ending September 30, 1977".

MAGNUSON FISHERIES MANAGEMENT AND CONSERVATION ACT OF 1976

Mr. MANSFIELD. Mr. President, I move to take up S. 961, the Fisheries Management and Conservation Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 961) to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

Mr. STEVENS subsequently said: Mr. President, I move that the beginning of this matter, where the record shows that we have taken up this matter, we indicate that we have taken up the Magnuson Fisheries Management and Conservation Act of 1976.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and the Senate proceeded to consider the bill (S. 961) which had been reported from the Committee on Commerce with an amendment in the nature of a substitute and an amendment to the title; reported adversely by the Committee on Foreign Relations; and reported from the Committee on Armed Services with amendments.

The amendment of the Committee on Commerce is to strike out all after the enacting clause and insert:

That this Act may be cited as the "Magnuson Fisheries Management and Conservation Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The coastal species of fish which inhabit the waters off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in United States rivers and estuaries, constitute a valuable and renewable natural resource. This resource contributes to the food supply and economy of the Nation as well as to health and recreation.

(2) As a consequence of increased fishing pressure and because of the absence of adequate fishing management practices and controls, (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) International agreements have not always prevented or terminated overfishing, nor have they halted the unnecessary reduction of this valuable resource. There is danger that further overfishing will occur before an effective international agreement on fishery management and jurisdiction can be negotiated, signed, ratified, and implemented.

(4) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade.

(5) Management of fisheries as common property resources has led to the use of excessive amounts of capital and labor in many fisheries. As a result, the profits earned by individual fishermen are low, potential economic benefits to the Nation are lost, and the fisheries are depressed industries.

(6) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be restored and maintained so as to provide optimum yields.

(7) A national program for management and conservation of the fishery resources subject to the jurisdiction of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take immediate action to protect and conserve the fishery resources of the Nation by declaring management and conservation authority over such resources in a 200 nautical mile zone off the coasts of the United States;

(2) to extend the exclusive management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and

(3) to establish a national fishery management program to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the management and conservation of fishery resources, as provided in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, other than that necessary for the management and conservation of fishery resources, as provided in this Act;

(3) to support and encourage international agreements for the management of highly migratory species of fish and to manage such species when found within the 200-mile zone on the basis of regulations adopted pursuant to such agreements; and

(4) to assure that the national fishery management program (A) utilizes, and is based upon, the best scientific information available; (B) involves, and is responsive to the needs of, interested and affected citizens; (C) promotes efficiency; (D) minimizes the costs of research, administration, management, and enforcement; and (E) is workable and effective.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "anadromous species" means those species of fish which spawn in fresh and estuarine waters of the United States and which migrate to ocean waters;

(2) "Board" means the Fishery Management Review Board established under section 204 of this Act;

(3) "coastal species" means all species of fish, other than highly migratory and anadromous species, which inhabit the waters off the coast of the United States;

(4) "conservation" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild and maintain, and useful in rebuilding and maintaining fishery resources and the marine environment; and (B) which are designed to assure that—

(i) a supply of food, and other products, and recreational benefits, may be taken or obtained therefrom on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources, or on the marine ecosystem as a whole are highly unlikely; and

(iii) there will be a multiplicity of options available with respect to future use of these resources;

(5) "Continental Shelf fishery resources" means living organisms of sedentary species which, at the harvested stage, are either (A) immobile, (B) in the seabed, or (C) unable to move except in constant physical contact with the seabed or subsoil of the Continental Shelf; including, but not limited to, the following species:

COLENTERATA

Bamboo Coral—Acarella spp.;
Black Coral—Antipathes spp.;
Gold Coral—Callogorgia spp.;
Precious Red Coral—Corallium spp.;
Bamboo Coral—Keratoisis spp.; and
Gold Coral—Parazoanthus spp.

CRUSTACEA

Tanner Crab—Chionecetes tanneri;
Tanner Crab—Chionocetes opilio;
Tanner Crab—Chionoecetes angulatus;
Tanner Crab—Chionoecetes bairdi;
King Crab—Paralithodes camtschatica;
King Crab—Paralithodes platypus;
King Crab—Paralithodes brevipes;
Lobster—Homarus americanus;
Dungeness Crab—Cancer magister;
California King Crab—Paralithodes californiensis;
California King Crab—Paralithodes rathbuni;
Golden King Crab—Lithodes aequispinus;
Northern Stone Crab—Lithodes maia;
Stone Crab—Menippe mercenaria; and
Deep-sea Red Crab—Geryon quinquedens.

MOLLUSKS

Red Abalone—Haliotis rufescens;
Pink Abalone—Haliotis corrugata;
Japanese Abalone—Haliotis kamtschatkana;
Queen Conch—Strombus gigas;
Surf Clam—Spisula solidissima; and
Ocean Quahog—Artica islandica.

SPONGES

Glove Sponge—Hippiospongia canaliculata;
Sheepswool Sponge—Hippiospongia lachne;
Grass Sponge—Spongia graminea; and
Yellow Sponge—Spongia barbera.

The Secretary, in consultation with the Secretary of State, may add to the foregoing list the name of any other species of living organism which he determines to be such a resource, upon publication of a notice to such effect in the Federal Register, and such species shall thereafter be considered to be included in the term.

(6) "Council" means a Regional Fishery Management Council established under section 202 of this Act;

(7) "fish" means all living marine organisms, including, but not limited to, finfish, mollusks, crustaceans, marine mammals, and all other forms of marine animal and plant life (but not including birds);

(8) "fishery" means—

(A) one or more stocks of fish which can be managed as a unit for purposes of management and conservation and which are identified by the appropriate Council and the Secretary on the basis of geographic, scientific, technical, recreational, and economic characteristics; and

(B) the business, organized activity, or act of fishing for such stocks;

(9) "fishery conservation zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(10) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting, of any fish for any purpose other than scientific research, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(11) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing;

(12) "fishing-support vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or of a type which is normally used for, aiding or assisting one or more fishing vessels at sea in the performance of any support activity (except a scientific research vessel), including, but not limited to, supply, storage, refrigeration, or processing;

(13) "foreign fishing" means fishing by a vessel other than a vessel of the United States;

(14) "high seas" means waters beyond the territorial sea or the fishery conservation zone (or the equivalent thereof) of any nation;

(15) "highly migratory species" means species of the tuna which, in the course of their life cycle, spawn and migrate in waters of the ocean;

(16) "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party;

(17) "national standards" means the national standards for fishery management and conservation set forth in section 201(a) of this Act;

(18) "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which, if produced, will provide the greatest benefit to the Nation; and

(B) which is prescribed as such by the appropriate Council and the Secretary on the basis of the maximum sustainable yield from such fishery as modified by any relevant economic, social, and/or ecological factors;

(19) "person" has the meaning set forth in section 1 of title I, United States Code, and, in addition, includes any government, including a foreign government, any entity of a government, and a citizen of a foreign nation;

(20) "Secretary" means the Secretary of Commerce, or his delegate;

(21) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other territories and possessions of the United States;

(22) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit;

(23) "United States", when used in the geographical context, includes all States; and

(24) "vessel of the United States" means any boat, ship, contrivance, or other craft, however propelled or moved, which is—

(A) designed, used, or capable of being used for navigation on or under water; and

(B) documented under the laws of the United States or which is registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT JURISDICTION OF THE UNITED STATES

EXTENT OF JURISDICTION

SEC. 101. (a) FISHERY CONSERVATION ZONE.—(1) There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. Within such zone the United States shall, except as provided in subsection (d) of this section, exercise exclusive fishery management authority. The inner boundary of this zone is a line formed by the seaward boundaries of the coastal States, and the outer boundary of this zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline by which the territorial sea is measured.

(b) ANADROMOUS SPECIES.—The United States shall exercise, throughout the migratory range of each applicable species, exclusive fishery management authority over anadromous species of fish spawned in the fresh and estuarine waters of the United States: *Provided*, That such management authority shall not extend to such species during the time they are found within the territorial sea or the fishery conservation zone (or the equivalent thereof) of any other nation, as recognized by the United States.

(c) CONTINENTAL SHELF FISHERY RESOURCES.—The United States shall exercise exclusive fishery management authority over Continental Shelf fishery resources to the depth at which such resources can be exploited.

(d) HIGHLY MIGRATORY SPECIES.—The exclusive fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish. Such species shall be managed solely pursuant to international fishery agreements established for such purpose.

FOREIGN FISHING

SEC. 102. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize foreign fishing within the fishery conservation zone, for anadromous species, or for Continental Shelf fishery resources, in accordance with the provisions of this section and subject where appropriate, to (1) title II of this Act, and regulations promulgated under such title, and (2) sections 301 and 302 of this Act.

(b) ALLOWABLE LEVEL.—(1) The allowable level of total foreign fishing, if any, shall be set upon the basis of the portion of the allowable catch of any fishery or stock of fish which cannot or will not be harvested by vessels of the United States. Annual allowed foreign fishing and annual fishing by vessels of the United States shall not, for any fishery or stock of fish, exceed the optimum yield thereof. For purposes of this subsection, the term "allowable catch" means the surplus, from any fishery or stock of fish, which can be taken without exceeding the applicable optimum yield.

(2) In determining the allowable level of total foreign fishing with respect to any particular fishery or stock of fish, the Secretary and the Secretary of State shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant data compiled and made available by any foreign nation.

(3) In determining the allowable level of foreign fishing for any particular nation, with respect to any fishery or stock of fish subject to the exclusive fishery management authority of the United States, the Secretary and the Secretary of State shall consider whether, and to what extent, the vessels of such nation have traditionally fished in such fishery or for such stock.

(c) RECIPROCITY.—Foreign fishing shall not be authorized for any foreign nation unless such nation satisfies the Secretary and the Secretary of State that it extends substantially the same fishing privileges to vessels of the United States, with respect to an equivalent fishery or stock of fish within its fishery conservation zone, or its equivalent, or for such nation's anadromous species or Continental Shelf fishery resources, if any.

(d) CONDITIONS.—The Secretary and the Secretary of State shall establish appropriate conditons on foreign fishing, which shall be complied with by any foreign-flag fishing or fishing-support vessel of any nation which is authorized to fish pursuant to subsection (a) of this section. Such conditions shall be consistent with the national standards, the fishery management plans, and the management regulations under title II of this Act.

(e) MISCELLANEOUS.—(1) The Secretary, through the National Oceanic and Atmospheric Administration shall verify the authenticity of foreign catch statistics and any other relevant data furnished for purposes of this section. The Secretary may require that observers be placed aboard foreign-flag fishing and fishing-support vessels authorized to fish pursuant to subsection (a) of this section, to the extent deemed necessary by the Secretary to ensure that accurate catch statistics are reported and that the applicable allowable level is not exceeded.

(2) The Secretary shall establish a schedule of reasonable fees which shall be paid to the Secretary by any foreign-flag fishing or fishing-support vessel authorized to fish pursuant to subsection (a) of this section. In determining the level of such fees, the Secretary may take into account the cost of management, research, administration, enforcement, the value of the fishing privilege, and other relevant factors. The fees charged may vary for different categories of fishermen, to the extent deemed reasonable and appropriate.

(3) All pertinent information relating to foreign fishing, including that which is authorized to be collected by the Secretary, shall be made available publicly and shall be published, in summary from where appropriate in the Federal Register.

(4) No vessel of a foreign nation authorized to fish pursuant to subsection (a) of this section shall engage in such fishing unless and until the owner or operator thereof establishes and maintains a place of business in the United States and names an agent in a State who is authorized to receive legal process.

(f) PROHIBITION.—Except as provided pursuant to this Act, it shall be unlawful for any vessel, or for any master or other person in charge of any vessel, except a vessel of the United States, to engage in fishing in the internal waters, the territorial sea, or the fishery conservation zone of the United States, or to engage in fishing for anadromous species or Continental Shelf fishery resources.

INTERNATIONAL FISHERY AGREEMENTS

SEC. 103. (a) GENERAL.—(1) The Secretary of State, in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which, prior to the date of enactment of this Act, has been engaged in, or whose citizens have been engaged in, or wish to engage in, fishing within the fishery conservation zone of the United States, or for anadromous species or Continental Shelf fishery resources. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose fishery conservation zone, or its equivalent, vessels of the United States are engaged, or wish to be engaged, in fishing, or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority and for which vessels of the United States fish, or wish to fish. The purpose of such negotiations shall be to conclude international fishery agreements to effectuate the purpose, policy, and provisions of this Act.

(2) Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

(A) coastal species which are found both in the fishery conservation zone of the United States and in an adjacent foreign nation's equivalent of such zone;

(B) anadromous species which are found, during the course of their migration, in ocean areas subject to the fishery management authority of more than one nation, or which intermingle on the high seas with anadromous species originating in the rivers and estuaries of other nations;

(C) highly migratory species which may be covered by international fishery agreements; and

(D) coastal species or Continental Shelf fishery resources which are found in areas subject to the fishery management authority of any foreign nation, through measures which allow vessels of the United States to harvest an appropriate portion of such species in accordance with traditional fishing by vessels of the United States.

(b) REVIEW.—The Secretary of State shall immediately review, in cooperation with the Secretary, each treaty, convention, and other international agreement to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend or terminate such agreements by not later than September 30, 1976.

(c) BOUNDARY AGREEMENTS.—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(d) NONRECOGNITION.—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone, or its equivalent, beyond 12 nautical miles from the baseline from which the territorial sea is measured, if such nation—

(1) fails to recognize traditional fishing activity of vessels of the United States, if any, within such zone;

(2) fails to recognize traditional fishing activity of vessels of the United States with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management authority; or

(3) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement.

TERMINATION OF TITLE

SEC. 104. The provisions of this title shall expire and cease to be of any legal effect on such date as a law of the sea treaty (or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is a party to) shall come into force or be provisionally applied by the United States.

TITLE II—NATIONAL FISHERY MANAGEMENT PROGRAM

NATIONAL STANDARDS

SEC. 201. (a) GENERAL.—Fishery management plans developed by the Councils, and management regulations promulgated by the Secretary, pursuant to this title, shall conform to the following national standards for fishery management and conservation:

(1) Management and conservation measures shall prevent overfishing and assure on a continuing basis, the optimum yield for each fishery.

(2) Management and conservation measures shall be based upon the best scientific information available.

(3) To the extent possible, an individual stock of fish shall be managed as a unit throughout its range and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Management and conservation measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Management and conservation measures shall, where appropriate, promote efficiency in the utilization of fishery resources.

(6) Management and conservation measures shall allow for unpredicted variations in fishery resources and their environment and for contingencies and possible delays in application.

(7) Management and conservation measures shall, where appropriate, minimize research, administration, and enforcement costs and shall avoid unnecessary duplication.

(b) GUIDELINES.—The Secretary shall establish guidelines, based on the national standards, for the Councils to follow in developing fishery management plans and in developing recommended regulations for the management and conservation of fisheries.

REGIONAL FISHERY MANAGEMENT COUNCILS

SEC. 202. (a) ESTABLISHMENT.—There shall be established, within 120 days after the date of enactment of this Act, seven Regional Fishery Management Councils, as follows—

(1) The North Atlantic Fishery Management Council (hereafter in this title referred to as the "North Atlantic Council"). The North Atlantic Council, which shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(2) The South Atlantic Fishery Management Council (hereafter in this title referred to as the "South Atlantic Council"). The South Atlantic Council, which shall consist of the States of North Carolina, South Carolina, Georgia, and Florida, shall be concerned with the fisheries in the Atlantic Ocean seaward of such States.

(3) The Gulf of Mexico Fishery Management Council (hereafter in this title referred to as the "Gulf Council"). The Gulf Council, which shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida, shall be concerned with the fisheries in the Gulf of Mexico seaward of such States.

(4) The Pacific Fishery Management Council (hereafter in this title referred to as the "Pacific Council"). The Pacific Council, which shall consist of the States of California, Oregon, Washington, Idaho, and Alaska, shall be concerned with the fisheries in the Pacific Ocean seaward of California, Oregon, and Washington.

(5) The Caribbean Fishery Management Council (hereafter in this title referred to as the "Caribbean Council"). The Caribbean Council, which shall consist of the Virgin Islands and the Commonwealth of Puerto Rico, shall be concerned with the fisheries in the Caribbean seaward of such States.

(6) The North Pacific Fishery Management Council (hereafter in this title referred to as the "North Pacific Council"). The North Pacific Council, which shall consist of the States of Alaska and Washington, shall be concerned with the fisheries in the northern Pacific Ocean seaward of Alaska.

(7) The Outer Pacific Fishery Management Council (hereafter in this title referred to as the "Outer Pacific Council"). The Outer Pacific Council, which shall consist of the States of Hawaii, American Samoa, Guam, and the Trust Territories of the Pacific, shall be concerned with the fisheries seaward of such States.

(b) Representation of States.—Each Regional Fishery Management Council shall reflect the expertise and interests of the several identified States in the ocean area over which such Council is granted authority. Each identified State is entitled to three members on each applicable Council, except that in the case of the Caribbean Council, the Virgin Islands and Puerto Rico are entitled to four members each, and in the case of the North Pacific Council, Alaska is entitled to five members.

(c) Appointments.—(1) The Governor of each State entitled to membership on a Council may submit to the President a list setting forth the names of individuals qualified to be appointed as members of such Council as representatives of each such State. The President shall appoint, by and with the advice and consent of the Senate, the members to represent each State in the number set forth in subsection (b) of this section, at least one of whom shall be a State official with expertise in fishery management. The terms of office of the members first taking office shall expire as designated by the President at the time of nomination—one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year. Successors to such members shall be appointed in the same manner as the original members, except that members who have faithfully attended and effectively contributed, in the public interest, to the functioning of such Council are eligible for reappointment. The terms of office of successors to such members shall expire 6 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of such term. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments in the public interest with respect to the management and conservation of fishery resources.

(2) The President shall appoint, upon the recommendation of the Secretary, at Federal Government employee to serve on each Council as the representative of the Secretary.

(3) Members of a Council, who are not otherwise employed in any capacity by the Federal or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule, when engaged in the actual performance of duties for such Council, and all members shall be reimbursed for actual expenses incurred in the performance of such duties.

(c) Powers and Functions.—In addition to any other function assigned under any other provision of this Act, each Council, in accordance with the provisions of this title—

(1) shall select a chairman;

(2) may appoint, and assign duties to, an executive director and such other full- and part-time employees as are necessary to conduct business, and persons to committees as provided in subsection (e) of this section;

(3) shall identify fisheries in need of conservation within its geographic area of authority;

(4) shall develop, and submit to the Secretary, an overall fishery management plan, including separate programs for each fishery, within its respective geographic area of authority, which is in need of management and conservation;

(5) shall develop, and submit to the Secretary, recommended regulations for the management and conservation of fish within its geographic area of authority;

(6) shall monitor fishing activity and review the impact of management regulations within its geographic area of authority and may recommend to the Secretary any appropriate amendments or changes therein;

(7) shall conduct public hearings, at appropriate times and in appropriate locations, so as to allow all interested persons an opportunity to be heard on (A) the overall fishery management plan; (B) any separate management program; (C) recommended regulations; and (D) any amendments to regulations;

(8) may otherwise carry out such other functions as are necessary and appropriate for the effective management and conservation of fishery resources within its geographic area of authority; and

(9) shall report to the Secretary on its activities, plans, programs, findings, and such other matters as are requested.

(d) Support.—The Secretary shall provide to each Council such administrative support as is necessary for effective functioning.

(e) Committees.—(1) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to management plans or recommended regulations. Each such committee shall be composed of (A) not more than six fisheries scientists and experts, and (B) the director of the appropriate regional research center of the National Marine Fisheries Service, who shall serve as the Chairman.

(2) Each Council shall establish and maintain ad hoc or standing committees for each individual fishery identified by it as in need of conservation, to the extent necessary to assist such Council in the preparation of (A) management programs, (B) recommended regulations, and/or (C) changes or amendments to existing plans or regulations. The members of such committees shall be appointed by the respective Councils, and they shall be selected to represent persons who are actually engaged in the fishery involved and to include other persons knowledgeable and interested in the conservation of such fishery.

(3) Members of the committees established pursuant to paragraph (1) and (2) of this subsection shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

(f) Miscellaneous Provisions.—(1) No Council shall have any authority to develop a fishery management plan, or to recommend regulations, with respect to fisheries which are principally located in waters within the boundaries of a single State.

(2) Whenever a fishery extends beyond the geographic area of authority of a single Council, the appropriate Councils shall coordinate or combine their efforts as necessary.

MANAGEMENT REGULATIONS

Sec. 203. (a) General.—As soon as practicable, each Council, or the Secretary, shall identify fisheries in need of conservation. The appropriate Council shall develop (1) a fishery management plan for each such fishery in the order needed; and (2) recommended management regulations as required for the implementation and maintenance of each such plan. Such Council shall submit each such plan and recommended regulations to the Secretary as soon as practicable. Such a plan shall include—

(A) a description of the fishery, including, but not necessarily limited to, the number of vessels involved; the type of gear used; the species of fish involved and their location; the costs likely to be incurred in management; the potential revenue from the fishery; the recreational interests in the fishery; and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(B) a summary of the best scientific information available with respect to the present and probable future condition of, and the maximum sustainable yield from the fishery;

(C) an assessment of (i) the capacity and desire of vessels of the United States to harvest the optimum yield from the fishery, and (ii) the surplus in the fishery which can be made available for foreign fishing without risk of overfishing; and

(D) any other relevant and appropriate information, data, and evaluations.

(b) Type of Regulations.—Recommended management regulations developed under subsection (a) of this section may—

(1) designate zones where, and designate periods when, fishing shall be limited to, or shall not be permitted, or shall be permitted only as to specified vessels or gear;

(2) establish a system which shall, directly or indirectly, limit access to a fishery on a basis which shall recognize, among other considerations, present participation in the fishery, historical fishery practices and dependence on the fishery, the value of existing investments in vessels and gear, the value of the fishing privilege, capability of existing vessels to direct their efforts to other fisheries, State limited access systems, history of compliance with applicable fishing regulations, the optimum yield of the fishery, and the cultural and social framework in which the fishery is conducted;

(3) establish limitations on the catch of fish in any fishery, based on area, species, size, number, weight, sex, incidental catch, total biomass or quotas, and other factors which are necessary for the conservation of such fish;

(4) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels including devices which may be required solely or partially to facilitate enforcement of this title or the regulations issued hereunder;

(5) require a license or permit to be issued by the Secretary as a condition to engaging in any fishery, upon such terms as may be prescribed, including the payment of fees appropriate to the value of the fishing license or permit;

(6) require catch and other appropriate statistics from fishermen and processors; and

(7) mandate or encourage such other management and conservation measures as are necessary or appropriate to carry out the purposes of this Act.

(c) Review.—(1) The Secretary shall review each management regulation which is recommended and submitted to him by Council to determine whether it is consistent with (A) the national standards and (B) the provisions and requirements of this Act and any other applicable law, before he issues a notice of proposed rulemaking regarding management regulations for the applicable fishery. If such recommended regulations are determined to be so consistent, the Secretary shall adopt them and shall publish, immediately thereafter, a notice of proposed rulemaking with regard thereto. If the recommended regulations are determined not to be so consistent, the Secretary shall notify the applicable Council of such inconsistency and shall indicate the changes that are necessary to make such recommended regulations so consistent. Such Council may change the recommended regulations to make them consistent: *Provided*, That if the Council does not make the necessary change within 60 days after it receives notice from the Secretary, the Secretary shall make the necessary changes and shall, thereupon, issue the notice of proposed rulemaking.

(2) If any recommended management regulations involve methods and procedures for enforcement at sea, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating.

(3) If any recommended management regulations would apply to foreign fishing, the Secretary shall consult with the Secretary of State.

(d) Proposed Rulemaking.—The Secretary shall publish, in the Federal Register, any management regulations which he proposes to promulgate pursuant to this Act. Each such notice (1) shall request comment thereon; (2) shall designate the fishery or fisheries to which they apply; and (3) shall summarize the recommendations of the applicable Council or Councils, including where appropriate, an explanation of how the proposed regulations differ from those so recommended and the reasons therefor.

(e) Regulations.—The Secretary is authorized to promulgate regulations, in accordance with the provisions of this title and section 553 of title 5, United States Code, without regard to subsection (a) thereof, to govern fishing by vessels of the United States and foreign fishing (1) within the fishery conservation zone (and vessels of the United States fishing for coastal species beyond such zone), (2) for anadromous species, and (3) Continental Shelf fishery resources. In addition, such regulations shall pertain to, but need not be limited to, the operation of the Councils, the setting of fees, procedures for obtaining data and statistics relating to fishing, and other matters relating to the purposes of this Act. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments, with any coastal State, and with any foreign nation, through the Secretary of State, and for consideration of the views of any interested member of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this title, to amend or rescind any such regulations.

(f) Emergency Action.—If the Secretary determines that an emergency situation exists requiring immediate action in the national interest to protect any fishery resources, he shall prepare and promulgate emergency management regulations as soon as practicable. Such regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof.

(g) Action by General Public.—Any coastal State, or any interested member of the general public, may nominate a fishery as a fishery in need of regulation, by submitting a written statement to the Secretary identifying such fishery and describing the reasons why it should be managed. The Secretary shall promptly forward each such nomination to the appropriate Council for action.

(h) Overview.—The Secretary shall from time to time review the actions of the Councils to determine whether the Councils are acting in timely fashion. If the Secretary determines that a Council has failed to recommend management regulations for any fishery within a reasonable time, he shall prepare management regulations and submit them to such Council. Such Council may make changes in such regulations consistent with the national standards: *Provided*, That if such Council does not make such changes within 45 days after it receives such a submission from the Secretary, the regulations shall stand, and the Secretary shall issue a notice of proposed rulemaking with regard to such regulation.

(i) Fisheries Research.—The Secretary shall initiate and maintain a program of fisheries research designed to acquire knowledge and information, including statistics, on fishery management and conservation, including, but not limited to, biological research concerning interdependence of species, the impact of pollution, the impact of wetland and estuarine degradation, and other factors bearing upon the abundance and availability of fish.

FISHERY MANAGEMENT REVIEW BOARD

Sec. 204. (a) Establishment.—There is established an independent instrumentality to be known as the Fishery Management Review Board. The Board shall have exclusive and original jurisdiction to hear the appeals described in subsection (c) of this section.

(b) Membership.—(1) The Board shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate. Of such members at least three shall be individuals who shall be appointed by the President from a list of qualified individuals submitted to the President by the National Governor's Conference, such list to consist of not less than three such individuals for each vacancy. Members of the Board shall not engage in any other business, vocation, or profession during their term of office. As used in this paragraph, a "qualified" individual is one who is knowledgeable and capable of making sound judgments with respect to appeals before the Board.

(2) The members of the Board shall be appointed for a term of 3 years, except that (A) the terms of office of the member first taking office shall expire as designated by the President at the time of nomination; and (B) any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed. Successors to the members of the Board first taking office shall be appointed in the same manner as the original members. Each member of the Board shall be eligible for reappointment.

(3) The members of the Board shall select one of their number to serve as Chairman.

(4) The Board is authorized to appoint an executive secretary and such administrative law judges and other employees as are necessary for the proper performance of its duties.

(c) Appeals to the Board.—(1) Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, (A) any final management regulation promulgated by the Secretary pursuant to this title, or (B) a decision by the Secretary to issue, transfer, revoke, suspend, modify, or renew a license or permit, may obtain review of such action by the Board not later than 60 days after the date of publication of such final regulation or decision.

(2) Any Council whose recommended management regulations were determined by the Secretary to be not consistent with the national standards may obtain review of the Secretary's action by the Board if it files a request therefor with the Board not later than 60 days after the date of publication of any final management regulation involved.

(3) In any action under this section, the Secretary or any affected Council, if not a party, may intervene as a matter of right.

(4) Review proceedings under this section shall be in accordance with the provisions of section 554 of title 5, United States Code. To the extent possible, such proceedings shall be held in the locality closest to the fishery involved. If the Board finds that justice so requires, it may issue an order (A) postponing the effective date of an action of the Secretary or (B) preserving the status or rights of any person, pending the outcome of such review proceedings.

(d) Review Standard.—(1) In any review requested by a Council relating to any management regulation, the Board shall uphold the action of the Secretary unless it finds that his action—

(A) was not consistent (i) with the national fishery standards or (ii) with the provisions and requirements of this Act or any other applicable law;

(B) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(C) was contrary to constitutional right, privilege, power or immunity;

(D) was clearly not supported by the facts and record available to the Secretary; or

(E) did not observe the procedure required by this Act or other law.

If the Board does not uphold the action of the Secretary, it shall enter a final decision declaring such action invalid together with the reasons therefor; remanding the matter to the Secretary; and directing the Secretary to take, after consultation with the affected Council, appropriate action.

(2) In an appeal relating to any other matter, the scope of review shall be as set forth in section 706 of title 5, United States Code.

(e) Powers.—(1) The Board or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or other order the attendance and testimony of such witness and the production of such evidence as the Board or member deems advisable. Subpenas may be issued under the signature of the Chairman of the Board, or that of any duly designated member of the Board, and may be served by any person designated for such purpose by such Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpena or other order, issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States for any such district shall have jurisdiction and shall, upon the request of the Chairman of the Board, issue to such person an order to appear and produce evidence. Any failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(f) Compensation.—Members of the Board shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall be reimbursed for travel expenses, including per diem in lieu of subsistence.

(g) Judicial Review.—Any person who is adversely affected or aggrieved by, or who suffers legal wrong through, a decision of the Board may, not later than 60 days after the date of any such decision, seek judicial review of such decision in the United States Court of Appeals for the circuit nearest to the fishery involved.

RELATIONSHIP TO STATE LAWS

Sec. 205. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond its seaward boundaries, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within its boundaries.

INTERSTATE COOPERATION AND UNIFORM LAWS

Sec. 206. The Secretary shall encourage cooperative action by the States and Councils for the management and conservation of coastal and anadromous species of fish and Continental Shelf fishery resources, and shall encourage, insofar as practicable, the enactment of improved and uniform State laws relating to the management and conservation of such fish.

TITLE III—MISCELLANEOUS PROVISIONS

PROHIBITED ACTS AND PENALTIES

Sec. 301. (a) Prohibited Acts.—(1) It is unlawful for any person to—

(A) violate any provision of this Act, or any regulation issued hereunder, regarding fishing within the fishery conservation zone or with respect to anadromous species or Continental Shelf fishery resources;

(B) violate any provision of any international fishery agreement to which the United States is a party and which is negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the fishery conservation zone;

(C) ship, transport, purchase, sell or offer for sale, import, export, possess, control, or maintain in his custody any fish taken in violation of paragraphs (A) or (B) of this subsection, if such person knew or had reason to know that such taking was not lawful;

(D) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control, if the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials aboard such vessel; or

(E) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (D) of this subsection, or to resist any lawful arrest.

(2) For the purposes of this section, it shall be a rebuttable presumption that all fish found on board a vessel seized in connection with an act prohibited under this section were taken or retained in violation of this Act.

(b) Criminal Penalties.—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than $100,000 or imprisoned for not more than 1 year, or both.

(c) Civil Forfeiture.—(1) Any district court of the United States shall have jurisdiction, upon application by the Secretary or the Attorney General, to order forfeited to the United States any fish or fishing gear, used, intended for use, or acquired by, activity in violation of any provision of subsection (a) of this section. In any such proceeding, such court may at any time enter such restraining orders or prohibitions or take such other actions as are in the interest of justice, including the acceptance of satisfactory performance bonds in connection with any property subject to civil forfeiture.

(2) If a judgment is entered for the United States under this subsection, the Attorney General is authorized to seize all property or other interest declared foreited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims, shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary.

ENFORCEMENT

Sec. 302. (a) General.—The provisions of this Act shall be enforced, together with regulations issued hereunder, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or any State agency, in the performance of such duties.

(b) Powers.—Any person, duly authorized, pursuant to subsection (a) of this section, may—

(1) board and inspect any fishing vessel or fishing-support vessel which is within the fishery conservation zone, or which he has reason to believe is fishing for anadromous species or Continental Shelf fishery resources;

(2) arrest any person, with or without a warrant, if he has reasonable cause to believe that such person has committed an act prohibited by section 301(a) of this title;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize all fish and fishing gear found aboard any fishing vessel or fishing-support vessel which is engaged in any act prohibited by section 301(a) of this title.

(c) Courts.—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act, except as provided in section 204 of this Act. Such courts may issue all warrants or other process, to the extent necessary or appropriate. In the case of Guam, actions may be brought and process may be issued by the District Court of Guam; in the case of the Virgin Islands, by the District Court of the Virgin Islands; and in the case of American Samoa, by the District Court for the District of Hawaii. The aforesaid courts shall have jurisdiction over all such case and controversies without regard to the amount in controversy or the citizenship of the parties.

REPEAL

Sec. 303. (a) The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed.

(b) The Act of May 20, 1964 (16 U.S.C. 1081–1086), as amended by the Act of July 26, 1968 (82 Stat. 445), is repealed.

AUTHORIZATION FOR APPROPRIATIONS

Sec. 304. There are authorized to be appropriated for the purposes of this Act—

(1) to the Secretary such sums as are necessary, not to exceed $22,000,000 for the fiscal year ending June 30, 1976; not to exceed $5,500,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed $22,000,000 for the fiscal year ending September 30, 1977; and

(2) to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed $13,000,000 for the fiscal year ending June 30, 1976; not to exceed $3,250,000 for the transitional fiscal quarter ending September 30, 1976; and not to exceed $13,000,000 for the fiscal year ending September 30, 1977.

The title was amended by the Committee on Commerce, as follows: "A bill to extend, pending international agreement, the fishery management and conservation authority of the United States, and for other purposes."

The amendments of the Committee on Armed Services are as follows:

On page 44, in line 16, strike out "September 30, 1976" and insert "January 1, 1977".

On page 71, beginning with line 3, insert:

TITLE IV—EFFECTIVE DATE

Sec. 401. This Act shall take effect on January 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, for the record, I ask the distinguished majority leader whether it is contemplated that this measure, which is a controversial measure, will be considered prior to the adjournment of the Senate.

The PRESIDING OFFICER. The Chair advises the distinguished majority leader that a question has been directed to him.

Mr. MANSFIELD. What was the question?

Mr. WILLIAM L. SCOTT. Mr. President, just for the record, and I believe I know the answer, I ask the distinguished majority leader whether it is contemplated that any action will be taken on this bill prior to the adjournment of the Senate? The reason I ask this is that the Committee on Armed Services had a closely divided vote, and I am sure it was considered by other committees. I am hopeful that nothing will be done on this bill until—no action, no final passage be taken until next year. I ask the majority leader for the record, if he will respond to this.

Mr. MANSFIELD. Yes. Mr. President, to use a colloquialism, no way.

Mr. WILLIAM L. SCOTT. I thank the distinguished majority leader.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. What is the pending business?

The PRESIDING OFFICER. The Chair states the pending business is S. 961.

Mr. MUSKIE. The so-called 200-mile-limit bill?

The PRESIDING OFFICER. That is right, Calendar No. 498.

Mr. MUSKIE. Mr. President, I am delighted the Senate has before it for preliminary consideration this legislation on which so many of us have worked for so long and which we have been interested in for so long.

As I understand it, we do not expect to get to the final vote on this legislation today and that it will be made the pending business, and that it will be the pending business upon our return in January, but I thought this might be a good opportunity to at least lay down some of the initial points in this debate which, I gather, will be hotly contested when we get down to it later on.

It is my hope, Mr. President, that this will be the final and the successful debate on the Fisheries Management and Conservation Act, legislation which will extend U.S. fisheries jurisdiction over a 200-mile zone.

For too many years, Mr. President, our fishermen——

The PRESIDING OFFICER. The Senator will suspend. The Senator is entitled to be heard. The Senate will be in order.

The Senator from Maine may continue.

Mr. MUSKIE. For too many years our fishermen have been unprotected from the ravages of foreign fleets fishing off our shores and for too long the Federal Government has delayed taking action to provide relief in the vain hope that international solution would be developed. We can no longer afford to await such solutions and must enact this legislation to provide the interim protection which our fishermen so desperately need. The international agreements which are now in place represent hopeful progress but are clearly inadequate to provide the interim protection which our fish stocks need.

Maine's experience demonstrates quite clearly how serious the situation is. In 1950, Maine fishermen landed 353 million pounds of fish of all species. By 1970, that total had been cut by more than half, and in 1974, fish landings totaled only 148 million pounds.

For individual species of fish, the statistics are even more dramatic. Since 1966, Maine's whiting catch has declined by 90 percent, from 30 million pounds to 3 million pounds in 1975. The catch of sea herring has declined 75 percent; ocean perch, 61 percent; cod, 30 percent; pollock, 42 percent; and haddock, 97 percent, from 6.5 million pounds in 1950 to 220,000 pounds last year.

At present, the United States is party to 22 international fishing agreements and virtually all of the fish stocks depleted or threatened with depletion are subjects of those agreements. Obviously, further steps must be taken to prevent the depletion of our offshore stocks—for the sake of conserving the world's fisheries resources as well as preserving the U.S. fishing industry.

The key to a 200-mile limit worldwide, according to the U.S. position at the Law of the Sea Conference is a responsibility that Coastal States have to insure the highest and best use of offshore resources.

I concur. But I think the major fishing nations of the world are demonstrating no great sense of responsibility toward our offshore stocks, and no great sense of urgency toward reaching agreement at the Law of the Sea Conference.

And I think the United States has a responsibility to protect our stocks of fish from extinction pending the conclusion of a new regime for the oceans. If we ignore our responsibility, the Japanese, the Russians, or the English and the Polish, will certainly not step forward to accept it.

To meet that responsibility, I believe the United States should adopt a 200-mile fisheries management zone, on a temporary basis, until the international community can reach agreement on an enforceable regime for the world's oceans.

I believe the 200-mile limit is also important as a sign of good faith to our fishing industry. Our fishermen in Maine and nationwide are an independent group. They have not been anxious for regulation of any kind, and in fact, they suffer under various Government restrictions and tariffs which hamper their ability to compete.

They seek no relief from these restrictions. But the 200-mile limit has become a symbol—a rallying cry for fishermen who see the livelihood of generations threatened by rapacious foreign competition.

Government's failure to adopt a 200-mile limit will be nothing more than a desertion of this traditional segment of our economy.

This legislation is among the most important we will be considering this year. For the first time the way seems clear toward this legislation actually becoming law. The House has approved similar legislation and there are some hopeful indications that the President will look favorably on the measure if full implication is continued until after the next round of Conferences on the Law of the Sea.

I welcome those signs and encourage the President to sign the legislation when it reaches his desk. It is important not only for our own domestic fishery but for the preservation of the worldwide fisheries resource. The issue before us today is not who should manage the fisheries resource within 200 miles from our shore but whether in fact any efforts will be made to protect the resource and insure effective conservation management.

Opponents of this bill argue that recent international agreements have made great gains in reducing foreign fishing off U.S. shores and has diminished or removed the need for 200-mile-limit legislation. Unfortunately, this is not the case and the international agreements now in place provide only minimal protection and frequently institutionalize overfishing practices. A recent editorial by Mary Brewer in the Boothbay Register on December 4 effectively rebuts that claim by recounting the experience of New England fishermen under ICNAF regulations.

Mr. President, I ask unanimous consent that that editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, at this point, I quote from her remarks only as follows:

> ICNAF is certainly not successfully protecting its own fishermen, and, even if it is trying in some areas, the other participating countries are not abiding by the rules, anyway. Despite an ICNAF agreement that only two countries, the United States and Canada, can fish for herring in an area off the New England coast known formally as subarea 5Y, others continue to fish there.
>
> Whenever these infractions take place outside the 12-mile limit, this country can only give them citations, but can take no other punitive action. It is up to the country whose vessel has been cited to hand down the punishment, and, in most cases, there is little or no punishment. In Poland and Russia, the two most flagrant violators of ICNAF rules, the vessels are government-owned, and it isn't very likely that the government is going to punish its own vessels and their captains.

Opponents also argue that this legislation will threaten national security interests by encouraging other nations to unilaterally abrogate our rights of free transit and overflight. As an official advisor to the U.S. delegation, I attended the meetings in Caracas last summer and talked with many foreign delegates. In none of my conversations was there any indication that the major nations of the world would react to our passing a 200-mile fish limit bill by immediately ending our rights of free transit and overflight. Of course, in some of these talks, foreign delegates expressed reservations about American's enacting interim 200-mile fish limit legislation. But my best guess is that their first reaction, after denouncing the legislation, would be to negotiate at the next session of the U.N. Conference with a new sense of urgency, and that is really what we need.

It is important to understand that this legislation will not prohibit other nations from fishing in the 200-mile zone. In fact, it would preserve the rights of nations which have traditionally fished off our shores. But it would reserve to the United States the right to manage our offshore fish stocks to assure their best, and most prudent use.

Mr. President, I urge the Senate to consider this legislation favorably and to give it the kind of support which it gave to the same legislation a year ago, having acted then in concert with the other House. We can then put the issue before the President and, I might add, before those nations which are legislating in the Law of the Sea Conference and perhaps lend a sense of urgency to our efforts.

I close, Mr. President, with an apology to my good friend, the floor manager of the bill (Mr. MAGNUSON), for using his time. I was simply killing time until the Senator arrived.

I would like to express my appreciation to Senator MAGNUSON and to Senator STEVENS for their efforts over the past several years to bring this legislation to this point.

Without their efforts, the efforts of the rest of us would have, I think, fallen far short of what was necessary to move this legislation to the point where it now is.

With that expressed appreciation to both of them—they are both on the floor now—I yield the floor so that they may take it and present the issue finally to the Senate.

EXHIBIT 1

ICNAF RULES ARE NOT BEING FOLLOWED BY FOREIGN FISHING FLEET

(By Mary Brewer)

Repeated violations of the 12-mile limit by Polish fishing vessels—and other foreign fleets—lend added support to the need for a 200-mile limit in which this country can control fishing operations off its own coast.

Two stories appearing recently in the Gloucester (Mass.) Daily Times really do a job in explaining what is happening. In one story, staff writer Tim Sullivan reports that despite the seizure of one ship already, Polish trawlers are continuing to fish inside the 12-mile limit, according to reports being received almost daily by the Coast Guard.

While it was felt that seizure of the factory ship Humbak a couple of weeks ago would act as a deterrent, officials report that violations have increased, if anything. The reason the Polish fleet continues to risk seizure, and fish inside the limit is because they are chasing herring, which are migrating shoreward. Not only are these foreign vessels illegally fishing inside, but they have already caught their quotas of herring. Thus, they are breaking the rules established by ICNAF two-fold. Boarding the Polish trawler Likowal just outside the 12-mile limit last week but still inside the closed herring area, showed that 12 metric tons of a 50-ton total in the holds was herring. The most recent catch still unprocessed on board the Likowal at the time of the inspection showed 22 tons of fish, 18 tons of which was herring.

While the vessel was given a citation, it's up to the home government of the offending nation to deal with the offense whenever these vessels are boarded outside the 12-mile limit and found to be violating ICNAF regulations.

Meanwhile, as the foreign vessels continued to fish inside for herring at the risk of being caught, a Gloucester fisherman complained to officials that the ICNAF regulation of yellowtail flounder was going to put him out of business. Making his living in a 70-ft. dragger, he has been catching yellowtail flounder off New Bedford this summer. His boat, and another 100 boats of similar size, can no longer run 200 to 300 miles out onto Georges Bank due to the poor weather conditions in the fall and winter, yet, according to ICNAF regulations, they can't fish inside for yellowtails either, since it is prohibited.

He is a little bitter about the fact that the reason the inshore fishery is closed is because foreign fishing boats, much larger and more modernized, have been allowed to take all the fish, break all the rules, and still keep fishing, while this country's own boats and crews must suffer the consequences.

He complained that he now has two choices: either continue to fish illegally, or tie up his boat. In talking with National Marine Fisheries Law Enforcement Division personnel, he was quickly told that he must abide by the rules, and if that means tying up his boat, he must do so.

However, the fisherman said that in 30 years of fishing he has never ever thought it better to collect welfare than to fish. He has five children, and says that counting his crew members and their families, if he ties up his boat, there will be 23 people in all added to the welfare load in Gloucester. This, he said, can be multiplied by 100 other similar size boats and crews who are in the same situation—now that the inshore fishery has been cleaned out by foreign fishing fleets, they are about to be put out of business, because they just can't compete with the huge, modern, fishing vessels of other countries, which are capable of fishing far offshore. Despite this ability, however, these foreign fishing vessels continue to come in as close to shore as they feel they can, to scoop up the fish before scurrying back across the 12-mile line to safety.

ICNAF is certainly not successfully protecting its own fishermen, and, even if it is trying in some areas, the other participating countries are not abiding by the rules, anyway. Despite an ICNAF agreement that only two countries, the United States and Canada, can fish for herring in an area off the New England coast known formally as subarea 5Y, others continue to fish there.

Whenever these infractions take place outside the 12-mile limit, this country can only give them citations, but can take no other punitive action. It is up to the country whose vessel has been cited to hand down the punishment, and, in most cases, there is little or no punishment. In Poland and Russia, the two most flagrant violators of ICNAF rules, the vessels are government-owned, and it isn't very likely that the government is going to punish its own vessels and their captains.

No wonder it's a bit discouraging to draggers, seiners, and other American fishermen, who can't help but feel that they are being sold out by their own country. No wonder they find it extremely difficult to understand why their own country permits foreign fishing vessels to catch inshore fish which are their very livelihood, leaving them little choice but to either break the rules, as they see the foreign fishing boats doing, or reluctantly leave the fishing industry for a job ashore. Most fishermen don't feel that they are asking their country for an unreasonable request when they stress the need for a 200-mile limit. All they really want is a chance to earn a reasonable living without having to try to compete against government-subsidized foreign fishing fleets.

Mr. MAGNUSON. Mr. President, I am glad that the Senator from Maine led off this debate. I did not hear all he had to say, but I know he made some pertinent remarks as to why this bill should be approved by the Senate.

He did point out, and I repeat, that we passed this bill last year in the Senate, a bill almost word-for-word to this bill, with the exception of the time limitation.

The vote, I think, was 68 to 27. The House did not take it up last year, but they did this year, and the vote over in the House in favor of the bill was over two to one. We have it back now and I can see no difference between the situation last year than the situation now.

As a matter of fact, if we got 68 votes for it in the Senate last year, we ought to get about 78 now, because the situation has grown worse.

We were sympathetic to having a meeting in Caracas and Geneva and found out from many of the people of the Senate that went there that just nothing was going to happen.

No one argues the point that probably the best way to do it would be to have a Law of the Sea Conference and a treaty which we thought was feasible and workable. That would be a better way to do it, of course. But we have waited and waited and waited and waited. I have listened to testimony from the State Department and the rest of them. It is just like a broken record over and over. Wait, give us another chance, and all they have done is move from one place to another.

They were going to Vienna. That is a great seaport and they know all about fishing in Vienna. It is a different kind of fishing, I guess, that goes on.

But we have just waited and waited.

I attended my first Law of the Sea Conference, Mr. President, 17 years ago in Geneva and our navy was over there lobbying against the 12-mile limit at that time. I objected to them doing that.

It has just gone on and on and on. In the meantime, the fish stocks are going down and down.

This is a conservation measure and all we are suggesting is that, in the meantime, while we wait for a treaty to come out of Law of the Sea Conference, we are going to protect our own fish stocks.

I mentioned the Navy. The bill only deals with fishing. It has nothing to do with navigation. It has nothing to do with mineral rights in the bed of the sea or oil rights, at all. It is just fishing. The oil will be there when they can arrive at some agreement, and so will the minerals, but the fish will not. They cannot wait.

There has been so much misinformation about this thing in the first place.

Mr. MUSKIE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. MUSKIE. I think this is an important point to emphasize and I rise only for that purpose.

There are so many people who confuse this 200-mile management zone as a territorial sea zone, as a territorial power that compares with the old 3-mile limit.

There is just no comparison. We do not touch any of those values.

The notion we cannot protect our fish stocks without changing the territorial boundaries is just as unrealistic as can be.

Some of these other questions the Senator mentions are not touched by this bill. What we are talking about is managing and conserving the depleting fish stocks off our shores.

If we do not do it, there is no other power on Earth moving in to do it. So when we talk about protecting them, we talk about protecting them not only for our own fishermen and for our own population's food requirements, but we are talking about protecting them for the world's food requirements. I believe that is a very important point to make. The Senator has made that so well that I wanted to emphasize it.

Mr. MAGNUSON. I have some details which I shall not bring up tonight. I have asked unanimous consent to have printed in the RECORD a lengthy statement, pointing out many of the things that the Senator from Maine has talked about. I ask that be printed at this point in the RECORD.

There has been a lot of misapprehension and there have been a lot of misstatements peddled about this bill. I do not know where they get their information.

Mr. President, there has been considerable misinformation spread around about the status of our fisheries. Lawyers in the Department of State and not the fisheries managers and biologists of the Department of Commerce are controlling the flow of this information. Nearly every Senator has been visited by Ambassador John Norton Moore, of the State Department, who is not a fisheries expert but rather is a lawyer. To set the record straight, since Ambassador Moore may have painted a rather rosy picture of the status of our fish stocks. I asked former Ambassador Donald McKernan, previously our chief fisheries negotiator, to comment on, first, the status of our fisheries; second, the results of recent international agreements; and third, the outlook for the U.N. Law of the Sea Conference.

The following is a sample of his expert assessment of the situation:

> I have concluded that it is unlikely that an acceptable Law of the Sea Convention can or will be negotiated in 1976 and probably not in 1977.
>
> There is *no* assurance that "many" of our fisheries will be rehabilitated in six to seven

years as a result of recent bilateral or multilateral actions by our government. We do not have adequate control over foreign fishing, neither adequate surveillance nor enforcement, to be at all certain we will ever be able to rehabilitate those fisheries depleted by foreign fishermen unless we achieve greater control over the activities of those fishermen.

I would like to state unequivocally that I believe that this very large stocks of fish being fished by foreign fishermen off the Pacific Coast of the United States and off Alaska continue to be overfished by these nations.

Without control by the United States over the intermediate zone between 12 and 200 miles, it is unlikely that our fishermen will be able to take advantage of the opportunity to expand U.S. fisheries.

It should be noted that, until the conclusion of the Geneva session of the Law of the Sea Conference this year, Ambassador McKernan was opposed to this legislation. The slow pace of the conference, the content of the single negotiating text, and the inability of the Department of State to support fisheries negotiations have all combined to change his mind. I would venture to say that there is no one in the United States more knowledgeable on fisheries matters than Don McKernan. I hope my colleagues will read his letter closely.

I ask unanimous consent that Ambassador McKernan's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEATTLE, WASH., *December 4, 1975.*

Hon. WARREN G. MAGNUSON,
U.S. Senate, Committee on Commerce, Washington, D.C.

MY DEAR SENATOR: In answer to your letter of November 18, following are some brief comments on the so-called fact sheets presented by Senator Gravel. May I preface my remarks by saying that Mr. David Wallace of NOAA and Ambassador Thomas Clingan, former Deputy Assistant Secretary of the Department of State, did negotiate superbly for our country during this past year, both in the last ICNAF Annual Meeting (Wallace) and during bilateral negotiations with Japan (Clingan). There were advances made in this country's position which may in the future improve conservation of the fishery resources off our coast and may improve the opportunity for our fishermen. This would be an acceptable temporary solution if nations were moving deliberately towards an L.O.S. Convention, particularly a Convention that would be widely acceptable and one that would ensure in the long run the conservation and full use of the living resources of the world ocean. Unfortunately, I do not perceive these conditions being fulfilled within the foreseeable future and especially by the "Informal Single Negotiating Text" now being considered by the L.O.S. Conference.

I have concluded that it is unlikely that an acceptable L.O.S. Convention can or will be negotiated in 1976 and probably not in 1977. Secondly, the present text under consideration by the Conference, the single negotiating text that was submitted to the last meeting of the L.O.S. Conference, is unsatisfactory and will not ensure appropriate conservation of either fisheries or marine mammals. In fact, if the current "Single Text" is accepted, the U.S. will have practically accepted a 200-mile territorial sea insofar as fisheries are concerned, and the "full utilization" concept so prominent in the U.S. position, as well as protection for our tuna fishery and for marine mammals within the 200-mile zone, will be virtually gone.

Provisions for the conduct of ocean research are contradictive in the texts from Committee II and III, and there is no reason whatsoever to assume from the past sessions of the Conference that these texts relating to scientific research will improve from our point of view. In fact, it would appear just the opposite despite optimistic views from some administration spokesmen. One must keep in mind, the more the Economic Resource Zone provisions resemble sovereignty over the zone for the coastal state, the less the likelihood that the U.S.S.R. or Japan—nations catching by far most of the fish caught off the U.S. coast, approximately 3.0 million tons—will accept such a Convention. Then, where will we be?

The most acceptable course of action at this time in our history is for our nation to assert jurisdiction over a 200-mile economic resource zone and to provide in the same piece of legislation for appropriate federal authority over the management of those resources as generally provided in the Magnuson Bill, S. 961. The Bill could be improved by indicating strong U.S. policy on unimpeded transit through the zone and the encouragement of other matters to conduct scientific research within the zone, subject to adequate notification of the U.S.

Now, turning to the "Fact Sheets" of Senator Gravel: Fact Sheet No. 1 deals with the status of U.S. fisheries. I find the arguments for both the Atlantic and Pacific far too optimistic:

1. There is no assurance that "many" of our fisheries will be rehabilitated in six to seven years as a result of recent bilateral or multilateral actions by our government. We do not have adequate control over foreign fishing, neither adequate surveillance nor enforcement, to be at all certain we will ever be able to rehabilitate those fisheries depleted by foreign fishermen unless we achieve greater control over the activities of those fishermen.

S. 961 does not "exclude other nations from traditional fishing grounds." It, of course, makes provisions for foreign fishermen to fish "traditional fishing grounds," but with adequate provisions to monitor and to see—contrary to present practice—that the foreign fishermen are abiding by conservation.

Atlantic fisheries section.

This section was obviously written by someone who knew very little about the Northwest Atlantic Fisheries Convention (ICNAF). The International Convention was not just recently concluded as mentioned in the first sentence of that section. The annual meeting of the Convention, which has been in effect for twenty-five years, provided for a reduction of 200,000 metric tons in subarea 5 and 6, an area off the United States' coast. The provisions of ICNAF do provide for a further reduction in catch, but the provisions for adequate enforcement and surveillance are not adequate at the present time, nor do I believe they can ever be adequate until the United States assumes jurisdiction over the resources. Again, it is not clear that within a six or seven year period these stocks can be brought back to a level which will produce the maximum sustainable yield. I think the opposite is just as likely.

2. There are three things to be said about the discussion on the northwest Atlantic fisheries: (1) Without adequate surveillance and adequate enforcement which are not present in the northwest Atlantic, there can be no assurance that foreign fishermen will abide by regulations which they themselves enforce, (2) while the U.S. quota has increased in relation to other fisheries, the biomass of fish in the northwest Atlantic has steadily decreased, (3) our government is perfectly aware of the fact that major nations fishing off our coasts have been misrepresenting the levels of their fish catch; that is to under-report their catches. Obviously, this is not something condoned by their government, but the individual fishing captains and perhaps fleet commanders have been found to permit false reporting. In these circumstances, obviously, the only way that we can be sure that foreign fishermen are abiding by conservation rules is to have adequate control over fishing. Anything less is short-term and imperfect and does not insure either the conservation of the resources nor an adequate opportunity for the United States fishermen to benefit from those resources. For example, W. Gordon, Acting Director, National Marine Fisheries Services, Northwest Region, was quoted in September of this year as saying, "Our most conservative estimates would indicate that they (the U.S.S.R.) have exceeded the quota for mackeral by 10%." Other sources in New England estimate that the Soviets overfished their quota by 54,000 tons.

3. I would like to state unequivocally that I believe that the very large stocks of fish being fished by foreign fishermen off the Pacific Coast of the United States and off Alaska continue to be overfished by these nations. More specifically, the Pacific Ocean perch have been depleted and are still depleted throughout the northeastern Pacific Ocean. The Alaskan pollack, the major stock being fished by foreign fishermen in the Bering Sea, is overfished and foreign fishing remains at a level at least 200,000 tons over what it should be.

4. The recent meeting of the International North Pacific Fisheries Commission in Vancouver, British Columbia, referred to on page 6 of Senator Gravel's document, failed to provide any additional protection for stocks of fish found off the U.S. coast being fished by foreign fishermen, as could easily be predicted. Thus, in the Pacific, there is even less reason for optimism than in the Atlantic. Beyond the problem of continued overfishing by foreign fleets which have been fishing the area for a decade or more, there are increased numbers of fleets from other nations now fishing in the north Pacific and Bering Sea. One can only assume that until the United States gains some control over the 200-mile zone off our coast, there cannot be effective conservation of the great fishery resources of the northeastern Pacific Ocean and Bering Sea; it's just as simple as that.

5. The interesting thing about Facts Sheet No. 2 from Senator Gravel is that this speaks about the traditional U.S. fisheries for shrimp, clams, crabs, etc., at some length. Since a great deal of United States historical fisheries do take place within the 12-mile limit, obviously management of these are within our control. On the other hand, in the northwest Atlantic and the Pacific as well, major parts of these important stocks (herring, scup, sea bass, river herring, and even menhaden on the Atlantic) move during the year from within 12 miles to beyond 12 miles and are thus vulnerable during some part of their life history. Incidental catches by foreign fishermen have effected the flounders and rock fishes off Washington, Oregon and California coasts and, of course, it is well known that foreign fishermen taking Pacific ocean perch directly and indirectly, have seriously contributed to the decline in stocks of ocean perch and have directly caused the decline of the Pacific halibut.

6. The major point, however, is that if the United States fisheries are to prosper, it will be necessary for our fishermen to begin to fish such stocks as Alaskan pollack and many of the flat fishes found on our Continental Shelf beyond 12 miles not now fished by our fishermen. *Without control by the United States over the intermediate*

zone between 12 and 200 miles, it is unlikely that our fishermen will be able to take advantage of the opportunity to expand U.S. fisheries. Once again a major factor is the lack of control of the activities of foreign fishermen, inadequate statistics, and generally, an inability of the United States to know who is fishing where, what is being caught, or what effect such catches are having on the stocks of fish.

7. With respect to our salmon resources, this will require special negotiations for those countries capable of offshore salmon fishing. I believe such regional negotiations can be carried out to protect the salmon fisheries but need to be done whether or not there is a 200-mile Economic Resource Zone or how such a zone comes about.

8. There is reference to U.S. renegotiations of the eleven fishery treaties within the next year. I think it is quite clear that even with the competent staff available in the Department of State, there is no chance that we can significantly, equal by means of bilateral negotiations, this next year what could be done if we were to assert, in a conservative manner of course, a 200-mile zone of fishery jurisdiction off the United States coast. I think it is silly to claim otherwise. A very simple question can be asked, and that is what is our negotiating "coin." That is to say, how are we going to get these nations to agree, to what is implied to be a 200-mile zone of jurisdiction, without U.S. law—and the leverage that implies—or international treaty. On the other hand, if the United States does assert jurisdiction then, of course, we would have a strong negotiating lever which we could use in discussions with foreign nations.

9. It is true that a unilateral assertion of jurisdiction causes problems for the United States tuna fishery which fishes for the most part within the 200-mile zone of Central and South American countries. On the other hand, if the United States asserts jurisdiction in such a way as to provide for the international treaty route for highly migratory species such as tuna and indicates, contrary to past practice, the strong support of our government, including both Congress and the Executive, it seems to me that it will give us a better opportunity to negotiate with Latin American countries than by accepting the present, impossible conditions in the single negotiating text now being discussed in the Law of the Sea Conference. I see no indication that the United States can improve the wording of this text and therefore I conclude that for the United States to continue to negotiate on the basis of the Single Text is to give up completely our position on highly migratory species of fish such as tuna.

10. With respect to the argument on shrimp, once again United States unilateral assertion of jurisdiction as provided for in S. 961 provides for a full utilization concept. If we could accept this concept, ourselves, and then negotiate with other countries off whose coasts our fishermen fish, we could expect at least better protection for our shrimp fishermen than the present impossible provisions of the Single Text, again which I don't expect to get better as negotiations proceed. Thus, our shrimp fishermen have no protection in the present Single Text, and a move by our government asserting our policy seems to me to be the best alternative available for our shrimp fishermen. Thus, I tend to discount very much indeed the arguments presented in Fact Sheet II. The current text before the Law of the Sea Conference provides no protection for the U.S. shrimp and tuna fishermen.

11. The realities of the north Pacific salmon fisheries are that Japan and other countries, unquestionably at the present time would be willing to negotiate the salmon issue with the United States for access to resources within 200 miles. Salmon of U.S. origin would be vulnerable in significant quantities in the Gulf of Alaska waters beyond 200 miles. On the other hand, the 200-mile limit, if enforced would prevent Japanese fishing for salmon in their traditional areas along the Aleutian Islands west of the Provisional Abstention Line. On balance, it seems quite likely negotiations could be successfully completed with Japan with or without the Convention and with or without a 200-mile unilateral extension of jurisdiction by the United States.

With respect to such countries as Korea and Taiwan, obviously bilateral negotiations under any circumstances will be necessary to keep these fishermen from fishing salmon of U.S. origin. If one could assume that a multilateral Law of the Sea Convention, favorable to the United States' position, could be negotiated soon, then of course, the salmon resources would have the best protection. In the absence of such assurances, in fact with the almost certainty of no agreement of a Law of the Sea Convention for at least two more years coupled with an uncertain future ahead of that because of the need for ratification of such a Convention and the uncertainty of the actions of Japan and other countries capable of fishing Pacific salmon on the high seas, one can only logically conclude that the United States policy on this subject ought to be set now and negotiations for resources requiring special attention such as shrimp, tuna and salmon ought to begin immediately after such assertion of extended jurisdiction by the United States government.

There are a good many facts misrepresented in the Fact Sheet dealing with salmon. It is very likely that the *cost* of Japanese vessels coming clear over to the Gulf of Alaska and fishing salmon will increase substantially over their fishing the central north Pacific so that the net value of salmon versus pollack may be much closer than represented in Gravel's argument. Furthermore, of course, pollack is in much greater demand than salmon for protein food within Japan. I grant that the salmon problem is a touchy, delicate one. I maintain, however, that it is time for the United States to assert its policy in the form of national law. Following this, it seems to me that our nation will have a better opportunity to protect salmon within the next decade by such a prompt assertion of jurisdiction, followed by negotiations with nations who fish or potentially could fish for salmon, than by depending upon the vagaries of a Conference which seems to be going nowhere and a Convention Text which is undesirable in any case.

Returning now, Senator, to your letter, I wish to answer your inquiry as to my opinion of the likelihood of success of the Law of the Sea Conference during 1976. As is obvious from my previous remarks, there is very little possibility that a Law of the Sea Conference will be concluded during 1976 and even less possibility that a Convention will be negotiated which adequately takes into account important U.S. interests.

Next, you have asked me for my opinion of the President's new initiative in fisheries which was recently announced by the Secretary of State, and you have asked me my opinion of whether this initiative might succeed or fail. I see no reason to believe that the United States can negotiate any provisions in new agreements which will approximate those provided for in S. 961, the Bill being considered by Congress at the present time. There are several reasons why I do not believe this initiative will be successful. I think it was cooked up in the first place without adequate consideration and adequate thought. It emerged at a time when the positions for Assistant Secretary and the Deputy Assistant Secretary of the Bureau of Oceans, Environment and Atmosphere were vacant. Furthermore, this whole Bureau within the Department of State is inadequately staffed in numbers to handle such a fantastically large job as anticipated and there is no negotiating leverages which will insure its success. It was obviously designed to defeat the legislation, not to improve the conservation of fisheries resources lying off our coast.

Therefore, I am opposed to the Administration's position, and I now believe our nation should pull together and set a conservative ocean policy; a policy that takes into account changing world conditions; a policy that shows leadership instead of following the leaders; a policy that provides some time in which foreign nations can react (implementation in January, 1977). That policy should be set in the form of national law and should provide for flexibility and for modification as our dialogue with nations of the world continues within the L.O.S. forum and within the context of bilateral and regional negotiations.

Sincerely,

DONALD L. MCKERNAN,
Director, Institute for Marine Studies.

Mr. MAGNUSON. In the first place, the bill does not prevent making fishing agreements within the 200-mile limit. The difference is that when we make them, we will have control and we will not allow people to fish unless they practice conservation. It is as simple as that.

The bill does not affect, contrary to what a lot of loose statements which have been made, present treaties at all. We specifically say that the present treaties will remain in existence.

Second, the bill merely establishes some reasonable management for our fish stocks. We cannot do it unless we go out about 200 miles. We cannot do it if we are going to have all of the foreign flagships fishing uncontrolled within the 200 miles. They even come within the 12-mile limit.

A person can go off the coast of my State of Washington on a clear day, or get on a bluff on the far northwest corner, and look upon 200 or 300 fishing boats belonging to the Russians or Japanese. The Polish ships are in there now. China has started. South Koreans fish off our shores with boats we gave them after the war and which have been converted into fishing fleets. There are just no fish remaining.

There is more unemployment in the fishing industry than in any other industry in the United States.

Off the coast of Maine they are fishing with long nets. The other day there was a net from a Russian trawler and when they hauled it up, it had seals in it. That is how they practice conservation.

We are running out of our fish supply. That supply cannot return overnight.

Some say now that in 6 or 7 years some of our fish stocks will come back. They use that figure, because they have reduced foreign fishing in the North Atlantic on their catch. They agreed to a little bit of a quota.

Well, that is a pretty good proposition, Mr. President. That is like telling a burglar he should stop burglarizing part of your house all the time.

The burglar says, "I will tell you what I will do. I will cut down about 50 percent. I will only burglarize half your house, or the second story and then the bottom story."

They are stealing our fish and we have spent hundreds of millions of dollars to develop our fish stocks, and are practicing conservation. We do not fish off the shores of any other country, not at all.

Mr. President, if we took an American fleet and started to fish off the islands of Japan, the Diet would meet within 24 hours and throw us out. If we started early enough in the morning they would meet in the afternoon and throw us out.

We do not fish off of the shores of another country.

If we started to fish in the Pacific off the coast of Siberia, they would restrict us, too.

To a fisherman this 200 miles of ocean is like land is to a farmer. This is his land. This is all the fishermen have. And they cannot eat negotiations. That gets a little bit dry after about 11 or 12 years.

I could give the same testimony by heart that I heard 11 years ago from the military.

I see my friend from California who has talked about tuna. This bill has nothing to do with tuna. We do not fish much tuna within 200 miles. They do within 200 miles of Mexico and they now have a 200-mile limit. There is a loose agreement covering tuna out in the Pacific.

And there is no conservation. There is not a bit of tuna left in the Atlantic commercially, because we did not have conservation.

If we do have to have some kind of agreement, we can do it within this bill. In fact, we encourage it.

Mr. President, as I said earlier, I do have many things to say, but we will have a time later to talk about this.

Most of our fishing people are looking forward to this. They are looking forward to participating in the revival of our fish stocks. They want to do that and they will give us good advice. They will watch it. And, Mr. President, this goes for shellfish, too.

I am hopeful that when we get to this bill, we will promptly get to it and have a rollcall. As I said before, if 68 Senators were for it in the last session, there ought to be 78 for it now since the conditions have worsened since we voted it last year. All indications prove that.

At this time, Mr. President, I will yield the floor. I first want to say the Senator from Alaska (Mr. STEVENS) has done yeoman work on this bill. We have had hearing after hearing after hearing to give everybody a chance. I have let the bill go through two or three committees every time. The House did the same thing. Everybody comes to the conclusion that we have to have some kind of coastal protection for our fish stocks. It is not denied. But, Mr. President, we cannot wait any longer.

Caracas was a failure. The first Geneva Conference was a failure. The last conference was a failure, and all the rest in between.

Maybe our people tried, but they could not get anything done.

There is another thing, Mr. President. Even if they do, by some miracle, come out with something in March in New York, and then go on until May—at one time they passed a resolution to go on to Chile and talk about it after that—the representatives would have to go back to their countries to have an approval. That may take months and months and years.

It is going to take us some time to get this bill moving and time is running out.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Alaska.

Mr. STEVENS. Mr. President, I join with the Senator from Maine in commending our distinguished colleague and neighbor (Mr. MAGNUSON) and point out that this is now known as the Magnuson Fisheries Management and Conservation Act, or it will be when it becomes law, at least.

He has demonstrated his leadership as chairman of our Commerce Committee, and has been most persistent in seeing to it that the bill is in the situation that it is today. Before we are finished here on the floor of the Senate it should be acceptable to almost every conservation, environmental, and fishing organization in the country. I would echo what the Senator from Washington has said in terms of the amount of review that the bill has had to date.

So, Mr. President, I am pleased and honored to speak in support of S. 961, the Magnuson Fisheries Management and Conservation Act. This legislation is critically needed to enable the United States to adequately and effectively conserve and manage U.S. fisheries resources and would provide the framework upon which the U.S. fishing industry can be revitalized.

S. 961, a bill that I have cosponsored, would extend, on an interim basis, U.S. jurisdiction and management authority over fisheries resources to a distance of 200 nautical miles from the base line of U.S. territorial sea. In the case of anadromous species spawned in U.S. waters, such jurisdiction would extend throughout the migratory range of each applicable species. This legislation is vitally needed to enable the United States to adequately protect and conserve fishery resources adjacent to our coast and to control foreign fishing activities directed toward U.S. fishery resources. Existing fisheries agreements have clearly not achieved this objective.

While world fish landings have tripled since 1938, from approximately 50 billion pounds to over 150 billion pounds, U.S. landings in the same period rose only slightly, from 4.3 billion pounds in 1938 to 4.7 billion pounds in 1973. The volume of fish harvested off the U.S. coast has increased dramatically from approximately 4.4 billion pounds in 1948 to 11.8 billion pounds in 1973. Landings by U.S. vessels remained virtually constant throughout that 25-year time span while the foreign catch in U.S. coastal waters increased to an annual level of 7.9 billion pounds, a figure that represents nearly 70 percent of the commercial U.S. coastal fish harvest.

In the same 25-year period consumption of fish products in the United States has more than doubled, from 3.1 billion pounds in 1948 to 7 billion pounds in 1973. Under existing growth patterns, this figure could increase by an additional 3 billion pounds by 1985. Nearly the entire growth in U.S. fish consumption has been supplied by imports that are often harvested in U.S. coastal waters by foreign fishing fleets, processed in the home port of the foreign fishing vessel or on the fishing vessel itself, and exported for sale to the United States.

Today, the United States imports over 60 percent of its fish product needs. In 1974, the U.S. balance-of-trade deficit in fishery products alone amounted to nearly $1.5 billion. It has been estimated that if imports of foreign fisheries products were replaced by domestic production, the additional economic impact on the U.S. economy would approach $3 billion and result in an increase of 200,000 man-years in employment.

As a result of virtually unrestrained harvesting of U.S. coastal fishery resources, particularly by large-scale foreign fishing fleet operations, the National Marine Fisheries Service has indicated that at least 14 fish species of interest to U.S. fishermen have been overfished and their continued economic viability has been threatened. An additional 16 species have been classified as fully utilized.

As impressive as these statistics may be in indicating the need for the United States to take positive action regarding the conservation of its coastal fishery resources, I am well aware of the need to consider additional factors when considering the advisability of this legislation. One such concern frequently mentioned by individuals opposing the passage of S. 961 is the potential effect such legislation would have on the ongoing U.S. Law of the Sea Conference. I have closely followed the progress of this conference, from its genesis in 1967 through the progress made at the Geneva meeting this Spring and the ongoing preparations for the upcoming New York session. I unequivocally support this effort to achieve international agreement on a new Law of the Sea regime. The events of these last 8 years, however, lead me to conclude that the prospects for a rapid settlement of the many ocean issues before the conference are remote at best. This conclusion is not surprising when one considers that there has yet to be any final agreement on any of the over 100 issues presently before the conference. Adding to the difficulty of reaching agreement is the fact that nearly 150 nations states are participating in the conference, each seeking to achieve a regime that best serves its own national interest. Such interests may not necessarily coincide with those of the United States, as evidenced by the disputes involving deep seabed mining, marine scientific research, passage through straits, and marine pollution. It may be many years before a regime acceptable to the United States is agreed upon at the conference. In addition, the cumbersome rules of procedure adopted by the conference and the announced objective of seeking agreement on one comprehensive treaty rather than a series of separate agreements dealing with specific topics mitigate against any rapid settlement emerging from the conference. Immediate and decisive action, however, is needed to protect and conserve U.S. fisheries resources. Solutions to the many and critical problems facing the U.S. fishing industry cannot depend upon unduly optimistic projections for a rapid and acceptable agreement at the U.N. Law of the Sea Conference.

Statements to the effect that passage of S. 961 would jeopardize what chances currently exist for any settlement at the Law of the Sea Conference are simply unsupportable. As I have indicated earlier, the prospects for any agreement emerging from the conference in the near future are not very optimistic. This evaluation is unaffected by any decision the United States makes regarding its fishery jurisdiction. Areas of disagreement at the conference are focused on other issues and not upon the question of coastal state control over fishery resources. In fact, the positions contained in S. 961 closely parallel those contained in the single negotiating test that emerged from the 1975 Geneva session. S. 961, therefore, is reflective of the positions of the vast majority of nations attending the conference concerning the question of coastal state jurisdiction over fishery resources and clearly in line with international expectations regarding coastal state control over adjacent fisheries resources.

Additionally, it must be noted that title I of S. 961 is interim in nature and terminate upon the implementation of an acceptable Law of the Sea treaty. S. 961 is thus clearly not intended to preempt any international agreement concerning fishery resources but is designed to conserve and protect U.S. fishery resources pending an international settlement on the question. It should be further noted that S. 961 protects both United States and international interests in the living resources of the sea. U.S. coastal waters contain upward of 20 percent of the world's living resources and positive U.S. action to protect and conserve these resources, as exemplified by S. 961, pending an international agreement on the question of coastal state control over fishery resources, not only protects the resource for the United States, but also for the world community at large.

I must respectfully disagree with my colleagues who allege that the Magnuson Fisheries Management and Conservation Act violates international law. Such arguments are based upon the erroneous belief that the 1958 Geneva Convention established a regime that limited the seaward extent of the territorial sea or coastal state control over fisheries resources. In point of fact, not one of the four 1958 Geneva Conventions relates to either of these issues. Not a single article in any of those conventions, or any other international convention, can be said to address these issues. That these deficiencies were recognized by the international community is indicated by the fact that a subsequent Law of the Sea Conference was convened in 1960 to attempt to resolve these two deficiencies in the 1958 conventions. As was the case with all previous international conferences, agreement on these two critical areas of the international law of the sea eluded negotiators. Judge DeCastro, in his concurring opinion in the 1974 decision of the International Court of Justice in the Iceland Fisheries Jurisdiction case, succinctly stated the issue:

> There are no well-founded arguments in . . . binding character of the 12-mile rule; those built upon *ad hoc* interpretations of articles in the 1958 conventions do not convince. The 1958 Conference failed in its attempt to fix a limit to fisheries jurisdiction. How can one deduce from the conventions what the parties to the Conference refused to say.

Since international treaty law on the question of the acceptable limits of coastal nation jurisdiction over adjacent fisheries resources is lacking, one must look to customary international law.

As my colleagues are well aware, the customary international law of the sea has a rich and long tradition and has been the product of mutual accommodation, reasonableness, cooperation, and a process of claims and counterclaims. The laissez-faire treatment of the ocean's living resources, prevalent from the time of Grotius in the early 1600's and through the end of the 1950's, has rapidly been replaced by recognition within the world community of the need and duty of coastal nations to take positive action to conserve fishery resources. International law regarding the question of the permissible limits of coastal nations' jurisdiction over the living resources of the sea is in a state of flux. Nearly 40 coastal nations have already extended their exclusive fishery jurisdiction beyond 12 nautical miles from their coasts. Both Iceland and Mexico have, within the past month, extended their fisheries jurisdiction seaward to 200 nautical miles. As the five members of the majority stated in the ICJ Iceland Fisheries case:

> In our view, to reach the conclusion that there is at present a general rule of customary law establishing for coastal states an obligatory maximum fishing limit of 12 miles would not have been well founded. There is not today an international usage to that effect sufficiently widespread and uniform as to constitute, within the meaning of Article 38, paragraph 1(b), of the Court's Statute, evidence of a general practice accepted as law."
>
> * * * It could therefore be concluded that there is at present a situation of uncertainty as to the existence of a customary rule prescribing a maximum limit of a state's fisheries jurisdiction. No firm rule could be deduced from state practice as being sufficiently general and uniform to be accepted as a rule of customary law fixing the maximum extent of the coastal states jurisdiction with regard to fisheries.

Given this uncertainty, positions take at the Third U.N. Law of the Sea Conference concerning this very issue take on added significance. While the proposals and statements made at the Conference concerning this issue do not, in and of themselves, constitute customary international law, they are strongly indicative of a new consensus on the question of fisheries jurisdiction. This is particularly true when combined with the fact that customary international law concerning the permissible seaward limits of coastal nation jurisdiction over fisheries resources is currently in the process of being remolded. S. 961 is virtually a carbon copy of the provisions concerning coastal nation jurisdiction over fishery resources contained in the single negotiating text that emerged from the 1975 Geneva Sessions of the U.N. Law of the Sea Conference. S. 961 can thus be said to comply with the expectations of the world community concerning the acceptability of coastal nation control over fisheries resources.

In the absence of a clear rule, what standards are to be used in judging the legality of a coastal nation's claim to an extended zone of fisheries jurisdiction? Such claims, in the words of H. A. Smith, must be reasonable:

> "If the general law, apart from exceptions created by special treaties, fails to give reasonable protection, then the law is defective and should be amended by common consent. The law of nations, which is neither enacted nor interpreted by any visible authority universally recognized, professes to be the application of *reason* to international conduct. From this it follows that any claim which is admittedly *reasonable* may fairly be presumed to be in accordance law and the burden of proving that it is contrary to law should lie on the State which opposed the claim." (Emphasis added) Smith, *The Law and Custom of the Sea* 29(1959).

McDougal and Burke in *The Public Order of the Oceans* indicate that such claims, to be reasonable, must be measured against the interest sought to be protected, the significance of that interest to the coastal nation, and the scope of the authority asserted by the coastal nation to protect that interest.

The reasonableness of S. 961, when analyzed according to the above guidelines, is clear. First, S. 961 is directed toward the conservation and protection of a major resources of the United States—our fisheries. These resources have, as I have previously indicated, been grievously overexploited by massive foreign fishing activities.

Secondly, the extension of U.S. jurisdiction as proposed by S. 961 is strictly limited to fishery resources. Such activitives as navigation, vessel passage through straits, general navigation and overflight, scientific research, deep seabed mining, or other ocean-related issues are not addressed by this legislation. Thus, S. 961 contemplates no action unrelated to fishery conservation and therefore, is reasonable in scope.

Third, the legislation protects both U.S. and world community interests in fishery resources found off the coast of the United States. Overfishing of these resources, particularly by foreign fishing fleets, has resulted in severe depletion of many economically important fish species—that is fact. U.S. action to protect and conserve these resources, as exemplified by S. 961, pending international settlement on the question of coastal state control over fishery resources, not only protects the resources for the United States but for the world community at large. In addition, S. 961 specifically provides that existing U.S. international commitments concerning these resources will continue to be honored pending the conclusion of negotiations directed toward the objective of making all U.S. fisheries agreements consistent with the requirements of the bill. Further, S. 961 recognizes that traditional foreign fishing activity will be considered as a factor in future decisions concerning the acceptable level of harvest of U.S. resources by foreign nations.

S. 961 is thus (1) reflective of international expectations concerning the need of coastal nations to take positive action to conserve the living resources of the world's oceans; (2) nearly identical to fishery jurisdiction provisions in the single negotiating text that is the basis for future law of the sea negotiations; and (3) fully in compliance with the standard of reasonableness that is used to evaluate the legality of unilateral claims under customary international law.

The Magnuson Fisheries Management and Conservation Act provides an effective means to conserve and manage U.S. fisheries resources and is reflective of the rich and long tradition associated with the development of the customary international law of the sea.

Additional opposition against S. 961 has been voiced by those individuals advocating increased reliance on existing bilateral agreements as a means to solve U.S. fisheries problems. As with the ongoing efforts by the United States to reach an international settlement of fisheries problems at the third U.N. Law of the Sea Conference, I fully support efforts to negotiate more effective bilateral fishery agreements. I am also aware, however, as is the case with the Law of the Sea Conference, of the enormous difficulty faced by U.S. negotiators in reaching acceptable and effective international agreement on fisheries issues. Past efforts to reach such agreements, either on a multilateral or bilateral basis, have clearly been ineffective. While I am aware of and fully support the State Department's increased efforts to achieve more equitable bilateral fisheries agreements, I remain unconvinced that this process, alone, will prove sufficient to the task at hand. Basic institutional and substantive difficulties associated with existing bilateral agreements mitigate against any long-term reliance on the effectiveness of this course of action to solve the problems facing the U.S. fishery resources. We simply cannot continue to delay in our response to the problems associated with U.S. fisheries.

I must point out that passage of S. 961 would not obliterate the need for the United States to reach either multilateral or bilateral agreements with foreign states concerning fishery resources. As you are undoubtedly aware, S. 961 provides that foreign states may continue to fish in the U.S. 200-mile zone, but only for those species that cannot be optimally utilized by U.S. fishermen. In addition, the United States would be able to charge reasonable fees to foreign states for the right to fish for such U.S. species and would be able to clearly establish a strong conservation program to insure that fishing activities do not harm the resource. Thus, S. 961 would greatly facilitate the process of reaching effective bilateral agreements with foreign states concerning U.S. fishery resources.

In closing, I wish to indicate that S. 961, in my opinion, provides the United States with an effective means to conserve and protect U.S. fishery resources. Passage of such legislation would not detrimentally affect U.S. interest, either at the U.N. Law of the Sea Conference or in the international community at large. In addition, S. 961 does not violate any existing provisions of international law and is clearly reflective of the positions put forth at the Law of the Sea Conference and developing customary international law.

Some of my friends who know that I have supported the Law of the Sea Conference, as has the Senator from Washington, from its very inception, question why we are proceeding so vigorously to make this bill become law at this time.

Mr. President, it is out of a total sense of frustration that we do so, because last year, as the Senator from Washington will recall, we begged the negotiators for the United States at the Law of the Sea Conference to go to that conference and urge that the living resources issues be separated out—that the United States seek a single agreement on the living resources of the sea, and put off for later debate and later consensus all of the other issues.

We did that because we perceived the ever-growing pressures on the resources of coastal nations that have very vital fish stocks that have not previously been overexploited.

We saw the statistics building up right off our own State of Alaska. There, despite the fact that bilateral agreements have been in effect and are supposed to protect our fisheries, we find that 14 species off U.S. shores, a majority of which are found off the shores of Alaska, are in a state of depletion. They have been found to be, in effect, endangered species.

With regard to the Alaska pollock alone, the bilateral negotiations with Japan and Russia led us to a conclusion last year where our Nation agreed they could harvest 1.3 million tons of Alaska pollock in a single season, and yet the sustained yield of that species is one million metric tons at the most.

So the result of the negotiations was that this country agreed to let just two foreign nations fishing off our shores take 30 percent more than that species could absorb and survive. The consequence we have is now that the Alaska pollock has joined the list of depleted species, and we must take some action to protect fisheries for the future.

I think that it is imperative that we know that at the Law of the Sea Conference there are a series of issues that cannot be resolved in a short period of time in and of themselves. They require international education before the rest of the world will understand our position and the position of the developed nations. The issues involve the regime for the deep seabed, the questions revolving around all of the issues pertaining to freedom of the seas on the high seas, the total issues pertaining to scientific research, and the very complex issues involved in marine pollution. The whole question of dispute settlement in and of itself is a sufficient issue that it should require some time to resolve.

Yet we see that the issues we are trying to address in this interim legislation, those pertaining to living resources exhaustion, are in fact putting pressure on the Law of the Sea Conference to come to a conclusion and to reach an agreement. The whole world now, I think, realizes that this tremendous pressure exists upon the living resources of the sea.

So what we are saying in this bill is, "Allow us to establish an interim conservation zone for the protection of the fisheries and management concept, and this interim bill will be in effect only until the Law of the Sea Conference achieves its objectives."

I still personally would favor a separate treatment to protect the living resources of the sea, but if that is not possible, at least the Law of the Sea Treaty must be a cohesive one that recognizes all of the interests of the United States and the living resources issues ought to be the predominant issues that require our consideration in the first instance.

The bill that is before us now and the amendments that we have offered to meet some of the comments that have been made, which would improve the bill, I think, is absolutely essential to meet the best interests of future generations of Americans with regard to the protein base that exists in the oceans off our shores. I do not think that we can ignore the statistics, which show an ever increasing foreign catch off our shores, an ever increasing amount of imports of our own fishery products, an increasing deficit in our balance of payments on fisheries products, the declining employment not only in the fishing industry itself, but in related shore based industries, and the total disregard for the future of the species themselves.

At one hearing we were told, about 2 years ago now, that there were more fur seals in the Pribilof Islands that were floating ashore dead of malnutrition than used to be harvested. This is occurring because the foreign fishing fleets are depleting the food sources, the food chain of those ocean mammals. Mr. President, this is happening at the very time our country has declared a moratorium on the taking of ocean mammals, when we are trying to replace our stocks and achieve an increase in their numbers.

I think, as to anything that can be raised about this bill that looks at the future of the living resources themselves, we can only come to the conclusion that the time has passed, really, when we should have acted upon this legislation. To allow this situation to continue into the future would be to deny protection to those species upon which we will rely for many, many years in the future.

Mr. MAGNUSON. Mr. President, will the Senator yield just at that point?

Mr. STEVENS. I yield.

Mr. MAGNUSON. There is another matter; at the beginning we mentioned it, but we did not go into it in great depth. What has been happening here in the past 2 or 3 years is that even the sports fishermen are finding the same situation in sports fishing. A lot of good sports fishing is off the coast of the State of the distinguished occupant of the Chair (Mr. MORGAN); and they are finding more meager supplies all the time, according to the records.

That is the same thing that is happening to the seals and out beyond, because sports fishing brings some of those things in, in our part of the country. It is a shame. The sports fishermen have been starting to complain pretty loudly about us not moving to protect our stocks within the 200-mile coastal zone part of the ocean.

Mr. STEVENS. I thank the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement showing overfishing due to foreign catching of fish in the ocean areas off the shores of our country, where the catch limits negotiated by bilateral negotiations exceed the sustained yield of the species.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FOREIGN CATCHES—OVERFISHING SHOWN

1. A. Eastern Bering Sea and Aleutians: Pollock—Expected Catches (metric Tons) in 1975:

Japan [1]	1,100,000
U.S.S.R. [1]	210,000
Other nations	3,000
Total	1,313,000

Estimated Sustainable Yield Under Current Environmental Conditions and Fishing Practices: 1,000,000 Metric Tons.

B. Pacific Ocean Perch, Flounders, and others (Pacific Cod, Sablefish, Etc.):

Expected Catches (Metric Tons) in 1975:

Pacific Ocean Perch: 11,000 [2] (148,000 [2]) 373,000.

Flounders and Others: 214,000 [2].

Estimated sustainable Yields: 350,000.

II. A. Gulf of Alaska:

Rockfishes (primarily Pacific Ocean perch) Expected Catches (metric tons) in 1975:

Japan	[3] 54,000
U.S.S.R.	[3] 10,000
Others	3,500
Total	67,500

Estimated sustainable yield: 50,000 metric tons.

B. Sablefish:

Expected Catches (Metric Tons) in 1975:

Japan	[4] 30,000
United States	1,000
Others (an increase over figure given in attached table)	10,000
Total	41,000

Estimated sustainable Yield, 30,000 Metric Tons.

III. Washington, Oregon, and California:

A. Pacific Hake: Expected catches (metric tons) in 1975:

U.S.S.R.	[5] 150,000
Poland	[5] 44,000
United States	6,000
Others	1,000
Total	201,000

Estimated Sustainable Yield, 150,000.

B. Rockfishes: Estimated Catches (Metric Tons) in 1975:

Japan	[6] 4,000
U.S.S.R.	[6] 2,500
Poland	1,000
United States	10,000
Total	17,500

Estimated Sustainable Yield, 15,000.

[1] Agreed Quota.
[2] Agreed Quota.
[3] Agreed Quota.
[4] Agreed Quota.
[5] Agreed Quota.
[6] Agreed Quota.

Mr. STEVENS. Mr. President, what the Senator from Washington has mentioned is something that I feel very personally. I am a sports fisherman. When I fish for silver salmon in southeastern Alaska my limit is two per day or three total possession on the boat per fisherman on a trip. That limit cuts in half the limit of previous years. As to the Cook Inlet salmon fisherman, who literally spends hundreds of dollars to get where he can fish for this king salmon, his quota is one.

In the State of Washington in the Puget Sound it is even worse.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. STEVENS. Yes.

Mr. McCLURE. The Senator might be interested in knowing that in the State of Idaho, which happens to lie 400 miles inland, where we are a major spawning area for sea run steelhead salmon, we have completely and totally cut off sports fishing because the situation became so critical on the spawning beds on the headwaters of the Columbia and Snake areas.

Mr. STEVENS. It has gone even further than that.

In Washington State, I am informed that the catch of the sports fishermen was reduced down to one-third in a 2-year period.

The total number of fish taken by the fishermen in Bristol Bay has been domestically reduced. We had a total closure of fishing in Bristol Bay. One could not even take the fish for subsistence purposes, and the President declared the area a natural disaster area because the people who lived entirely off the sea could not fish. We had to provide Federal assistance in that area primarily, in my opinion—other people had other opinions about the weather—but primarily, in my opinion, due to the impact of the foreign fishing fleets.

Mr. President, we all know we are not going to continue and finish this bill now today. It does become, as I understand it, the pending business for the second session of this Congress. We had hoped to be able to get this bill into conference so that the staff of our two committees could help work out the differences between the two bills, the House-passed bill and this bill, so that we might get the bill into a position where it could be passed and become law before the Law of the Sea Conference.

I am prepared to offer an amendment to make the bill effective on the date it is signed but to delay the enforcement date until January 1, 1977. The House bill is a little bit different in delaying the effective date. My amendment would enable the Fisheries Management Councils to begin to organize these management councils. We need time to find the people who are qualified to be members of the councils. They must be nominated by the President after their names have been suggested by the Governors of individual States. They must then be confirmed by the Senate. They must be able to get appropriations from Congress. They must then find their staff, locate their headquarters, conduct hearings, promulgate their regulations, have an opportunity for everyone who is involved to be heard, to comply with the Administrative Procedures Act. In other words, Mr. President, it will take 9 months to a year before these councils could constitutionally have effective, enforceable, and fair regulations.

We are prepared to demonstrate to the Law of the Sea conferees that they have the time next year to reach an agreement, if they can. If they reach an agreement, this bill would be implementing legislation in the interim between the time the agreement was reached and it had been ratified by a sufficient number of nations in order to be promulgated as international law.

Mr. President, the last time that process was gone through by this country with regard to ocean resources was in the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas.

It took 8 years from the time that was negotiated until it was promulgated by the United States as law, and the interesting thing is that the nation that we are trying to enforce conservation principles on now, namely, Japan, participated in that conference and was part of the negotiation but refused to sign.

So I warn everyone concerned with the Law of the Sea Conference that it is entirely possible that the nations of the world meeting under the auspices of the United Nations could come to a consensus, but some of the very vital coastal nations could refuse to ratify, and we would be in exactly the same position 8 or 10 years from now as we are right now, faced with a question of do we have the intestinal fortitude as a nation to stand up and say we will enforce unilaterally conservation principles out to 200 miles.

Our neighbor in Mexico did it, and they are in the process now of bringing about their enforcement scheme. Our neighbors to the north, and to the south of my State, Canada, are prepared, I am informed, to also put into effect a 200-mile zone. They have the equivalent of 100 miles now. In other words, if our three nations would act together and declare a conservation zone, this whole continent would have protection off its shores so far as the living resources of the sea are concerned.

Mr. President, there is no difference between our bill and the Law of the Sea consensus on the 200-mile issue.

I am informed, and those of us who have been to the conferences came away with the opinion that the world community is prepared to accept a 200-mile zone for the purpose of total economics; our proposed 200-mile conservation zone is only related to the protection of the living resources within 200 miles.

We should act on this bill. Those who are involved in the negotiations of the Law of the Sea should know that we are sincere in trying not to disturb the progress of their negotiations.

At the same time, I do not think that this Senate ought to be deterred by any comments that come from foreign nations that indicate any type of retaliation, for instance, from Japan. I have heard reports of what the Japanese have indicated they might do should we pass this bill. They are the one nation that has been given complete preference in terms of the Law of the Sea Treaty in its present form. I would have to oppose the ratification of that treaty in its present form because the economic dislocation clause that appears in it that would give

Japan the right to determine whether or not it could continue to fish on the high seas for anadromous fish.

When one looks at the Law of the Sea's progress and looks at what we are trying to do, I think statements that come from foreign nations that try to influence this Senate should be regarded with great suspicion, particularly if they are generated from a nation which failed to ratify the Convention on Fishing and Conservation of Living Resources of the High Seas that was designed for the protection of the very species that we once again are trying to protect.

Mr. MAGNUSON. The Japanese Government, about 60 days ago, had a full-page ad in the Washington Post, and I guess the New York Times, also, intimating that they would not sign any, that they had to live off the sea, and that argument we have heard. So they have already in an advertisement here in the United States given us warning what they were going to do. It was a three-quarter of a page advertisement. I have it someplace in my files, and I shall have it printed in the RECORD when we return.

Mr. STEVENS. I thank the Senator from Washington.

The point is it is a nation such as that that is coming through their representatives to either our conferences on the Law of the Sea or our State Department, warning against the enactment of our bill on the basis of some claim that they might retaliate.

Mr. President, for my own, only as one individual Senator and an American, I think the Japanese ought to think twice before they threaten this country with regard to action in retaliation when we are trying to make them observe internationally recognized conservation principles. We still provide the defense umbrella for Japan, and we still provide the defense umbrella for the whole Pacific. We cannot, I think as a nation, continue to do that and watch the rape of the oceans that abound our shores.

It seems to me that it is time that the people in the State Department recognize what their true role is, and it ought to be to take action on those issues that, as the Senator from Washington states, are most affected by time.

Those are the issues pertaining to living resources. I am hopeful that when we return, we will be able to enact this bill and get it to conference and get it into shape, so that it can be delivered to the Law of the Sea Conference in a demonstration that this is interim legislation; that it will become effective on January 1, 1977, either to implement title 1 of this bill or to implement a Law of the Sea agreement with regard to living resources of the sea.

Again I commend my good friend. I remind him that he made the move to name the 12-mile bill after my predecessor, Senator BARTLETT; and I have been most pleased to be able to respond as an Alaskan and as a good friend of Senator MAGNUSON—this is the Magnuson bill now.

Mr. MAGNUSON. Mr. President, does the Senator from Alaska want to speak on this matter?

Mr. GRAVEL. I will be happy to.

Mr. MAGNUSON. I will suggest the absence of a quorum first, because I am not quite sure how long the leadership wants us to go on tonight.

Mr. GRAVEL. That should not stop me from making a statement.

Mr. MAGNUSON. No. I am just suggesting the absence of a quorum, to find out. They will not shut you off.

Mr. GRAVEL. Why can I not make the statement until the Senator ascertains that from the leadership?

Mr. MAGNUSON. All right.

Mr. GRAVEL. Mr. President, essentially what we are doing here is preparing ourselves for a debate that may take place at the beginning of next year. It is a very fine exercise, because I think we can lay out some of the parameters that will be involved.

Prior to that, Mr. President, I should like to place some material in the RECORD and seek some printing, as was done earlier by the proponents of the bill.

I send to the desk, and I ask unanimous consent for its printing, a compilation of a position paper that I have written, fact sheets, and a response to the evaluation of those fact sheets by Senators MAGNUSON and STEVENS. I ask that it be printed as a Senate memorandum, as was printed the rebuttal to those fact sheets that I originally presented. I hope we can print the same number of copies that were printed of the memorandum to the Senate on November 21, 1975

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object to equal treatment for my colleague—I am informed that that is not a proper request, to have a document printed by the Senate itself, that those documents were printed by the committee. I am certain that the committees will accord Senator Gravel the same privilege afforded us in terms of the document.

The document we presented was in answer to a previous document that was presented by Senator GRAVEL. Until the leadership on this side has a chance to review that, I am told that we do not approve of printing documents as memorandums from the Senate itself, but they should be originated from a committee.

Will my colleague permit me to check that out?

Mr. GRAVEL. I have no problem. I leave the unanimous-consent request there with the reservation, and we will get it determined.

I am sure that my colleague, as much as I, wants to get as many facts and as much information on the subject to the public and available to the public. I am sure no objection will be posed to what I am trying to do, after there has been an investigation, because I know that my colleague wants to get information into the hands of the people not only in my State but also throughout the United States and in the hands of the media. I know that he is a very fair man and wants to see this information get out on the same basis that he and Senator MAGNUSON put out the information.

The PRESIDING OFFICER. The unanimous-consent request is withheld temporarily.

Mr. GRAVEL. Mr. President, as to some of the statements that were made, I do not want to get into an argumentative posture with the proponents of the bill, except that many statements were made that were in obvious error. I will not enumerate them. But when a person who has spent so much time on this legislation stands before this august body and says that we, the United States, do not fish off any foreign shores, it can only mean that there are some breeches in the knowledge and the base of information that is present to the Senate in this regard. I think that breech will be further appreciated when we examine the work of the Committee on Commerce and recognize that most of the data presented in the report comes from 1972.

I believe it also can be appreciated by this body that when people are quoting what happened in Caracas and what happened in Geneva, many of these inaccuracies or misperceptions will be cleared up in time, and we will have ample time to do that, come the first of the year, because I think we will be able to make the case that should be made as to what the status really is of the fisheries.

I think the case that is made is that what we have is a situation so desperate that it cries for immediate solution. I believe that one of the statements made by my distinguished colleague was that we cannot wait for an international agreement. We will make the case more than adequately, come the first of the year, that we have no choice but to wait; that the situation with respect to our fisheries is not as panicky as is indicated; that it does not require the emergency that is put forth, and that we can be deliberate and do things in a very intelligent and progressive fashion.

There is no question that we have seen the rape of our oceans. There is no question that we have seen excesses. But the fact of looking back a year, 2 years, 5 years, and 10 years and saying that that is the situation that must propel us into some action that may not be thought out properly and whose consequences may be detrimental to the national interest is not very wise. We have to look at what the situation is today.

What happened in the most recent negotiations last September? What happened in the negotiations we just had in November? The Committee on Commerce cannot shed too much light on that, because the report they have is really based on data and information that comes from 1972. I say to the Commerce Committee and the proponents of this bill that much has happened since 1972 and a lot of good things will not happen and a lot more good things can happen in the future if we have the patience and the perspicacity to realize this.

So I will make the case as to what is really the status of our fisheries today or what will be the status next January, when we proceed to the consideration of this legislation. That case will be very revealing. Those who want to pursue the details of that case can avail themselves of this document that we hope to get printed. I am sure that my colleague will not interpose a permanent objection, because he has a similar interest in getting information to the public.

The next case that is going to be made is going to show what impact this legislation will have on our fisheries. I maintain that that impact will be severe and could be detrimental. The details of that case are partially—more than partially—put forward in this document. I think it will show incontrovertibly that we will lose more than this legislation in terms of dollars—actual dollars—gross revenue to the Nation, and I think we want to look with respect to this problem in terms of acting as a nation; that we will lose more money than we will gain; and that, commensurate with that, we will lose more jobs than we will gain. I do not think that the Senate, in its wisdom, is going to press for legislation, particularly when our economy is in dire straits, that will deny income to American citizens and to American industry and that will, at the same time, produce more unemployment to American industry. I do not think the Senate will do that. But that case will be made in one of the factsheets presented.

In another factsheet, we will show the effect of this legislation on something that is very dear to the economic interest of my State and to the people of Alaska. That is, of course, the impact that this legislation will have on salmon. I think anybody in this body who is knowledgeable is well aware that salmon are not all that knowledgeable on existing law and that it is difficult for salmon to read the CONGRESSIONAL RECORD. It is difficult for salmon to understand the law as we want to put it out. I think that we can pass a law here and say that we want 200 miles, but it is going to be difficult for the salmon to obey that law, because there are inner instincts, within the salmon, that propel them to swim beyond 200 miles. When they get out there beyond 200 miles, they are unprotected by this legislation. Therefore, they can be caught by somebody.

Now, we can put a little cosmetic on this legislation, because we recognize that salmon will not obey this law. The cosmetic will say that those salmon who go beyond 200 miles, we are going to control. We are passing a law here that is supposed to take care of the 200 miles. But we are trying to do a little cosmetic thing, hoodwink the fishermen—particularly the fisherman in my State. And the word is hoodwink, because I think, basically, we understand that the salmon do go beyond 200 miles. But we are going to say, oh, there is no danger, because we, in the United States of America, the most powerful Nation on Earth, with all of our destroyer fleets, we are going to tell the world that those are our salmon, and do not touch our salmon. That is essentially what this legislation says.

I submit that all that is cosmetic. We are not going to go to war over protecting the salmon that swim beyond 200 miles. So, essentially, we will have hoodwinked the fishermen into thinking that they have an element of protection when, in point of fact, they do not have protection. In point of fact, what happens is that we raise aspirations. This is an issue that is highly emotionally charged. What we are going to do is raise aspirations that cannot be satisfied. That is to raise to a higher emotional crescendo this issue. What that means, of course, is that we get into a situation where we call upon greater and greater layers of emotion and less and less soundness of thought. Obviously, that is very, very volatile and makes for a very dangerous situation.

After that case is made, and I think that case can be made, and is readily recognized, we will make the case next year as to what the impact of this will be on the treaties that we have. There are many representations made that we just do not violate treaties. We will have an effective date change and I might add that, tangentially, there will be an effort made by proponents of this legislation to change the effective date of this legislation so that it becomes effective in January 1977.

The reason that effort will be made is, very simply, that if they do not put that forth, then there will be a very clear violation of many treaties, if we pass this legislation. That was a point that I brought out publicly. There is no response to that point, other than the fact that we, the great American Nation, would be lawbreakers. So, to try, again, to apply a little cosmetic so that this thing will sort of wash in a very superficial fashion, what we will do is move out the effective date and that will——

Mr. STEVENS. Will my colleague yield?

Mr. GRAVEL. No, I choose not to yield.

Mr. STEVENS. I do not want him to misunderstand what I said.

Mr. GRAVEL. Mr President, who has the floor?

The PRESIDING OFFICER The Senator from Alaska (Mr. GRAVEL) has the floor.

Mr. GRAVEL. I did not interrupt my distinguished colleague from Alaska and I did not interrupt the Senator from Washington and I should like to be accorded the same privilege, just as I will be accorded the privilege of having a document printed just as my colleagues had a document printed, because I am sure we are interested in getting this subject up.

I am sure that when we get to correcting this legislation, we will pass a law, telling the State Department, "You go out and negotiate this law." That is an interesting situation. That says, "We are not going to break any laws, but if you do not negotiate what we pass in law, then forget it, get out of whatever treaties you are in. If these treaties do not conform to our law, then that is the end of them. That is the end of that treaty; get out."

We can call that not breaking a treaty. I would call that still breaking a treaty. I would call it breaking a treaty only with a little innuendo, a little tour de force. But in point of fact, if you look at it, we have broken a treaty.

I think most people can realize that when we pass a law, it alters the existing economic situations, the existing consultation situations, all the situations we have in treaties and tell them, that is the law of the land. When you tell negotiators to go out and negotiate that, what we are saying is, you go out and tell those Russians, tell those Japanese, tell those South Americans, and tell those Europeans that they now have to obey U.S. law.

Now, they have laws in their countries, too. When these laws come into conflict, what we do is negotiate an understanding. That is called a treaty. But when we go out and unilaterally tell the State Department to deliver an ultimatum that now they have to live by our law, that is not accommodating ourselves to a treaty. That is not even negotiating a treaty. That is just delivering to them an ultimatum; and when the United States of America, the most powerful nation on Earth, does that, what we are doing is saying, "Hey Charlie, I am the strongest guy on the block and you just do what I say."

That is going to be an interesting development that is going to take place. I do not want to see that development take place, because I think it would be an unbelievable tragedy.

I think that, next year, we will also be able to show that this legislation clearly violates international law. I think we Americans take great pride, and with good reason, that we abide in the law. I think we shall be able to bring before the Senate the testimony of every international authority in this country who has any respect and standing, and their views are, to the man, that this breaks international law. We can cavalierly dismiss that we are breaking international law. But, I submit, we do this at great peril, because these experts who have studied the law, who are aware of the international situation, cannot be put aside. If we do it, we will be viewed as law breakers in the world. We will be law breakers. That is not a situation I should like to see my country be in.

Again, in January, we shall be able to show and develop what will be the impact of the passage of 961 on the Law of the Sea Conference. We are told that we have to pass this legislation in order to put pressure on the conference. Well, that is fine if we are the only people in the world. But we are not the only people in the world. At this conference, there are 150 nations, the largest convocation in the history of the human race. If we go there with a posture of arrogance, so tied with an imperialistic attitude, that conference will fail. That would, in my mind, totally jeopardize the conference. Now, we can pass a piece of legislation. Then we can decide that that legislation will self-destruct when the conference is completed.

We can decide to do various things. We are a very sophisticated people. We are a very responsive democracy. But what happens after we act? Mexico acts, as they are in the process of acting. In fact, I talked with a Mexican official, and the reason why their President brought forth a constitutional change—and I want to emphasize there is a constitutional change—of talking in terms of paternal seas, not talking about what we are talking about; we are talking about fisheries, and they are going to take considerably more than that, but then again, if we can unilaterally take our fisheries, why can they not take whatever they perceive to be in their unilateral interest and, of course, they will.

If we take our fisheries unilaterally because it is in our economic interests, why cannot Malaysia take the Straits of Malacca and charge a toll. That is in their economic interest.

If we take what we think is in our interests off our shores, why cannot Morocco and Spain, as they have already indicated, charge a toll for tankers that will go through the Strait of Gibraltar? Why not? What is the difference? Egypt charges a toll for going through the Suez Canal. If a tanker were to run aground going into the Strait of Gibraltar it would pollute the Spanish coast and the Moroccan coast.

They are entitled to protect themselves. We are not talking about just ourselves in the world.

So, if we go out and say, "Hey, you nations, get out of this 200-mile zone, you are doing harm to our economic interests as we perceive them," and they tell them to get out, why can they not tell us to get out of other parts of the world? That is what will happen. We will set in motion with this legislation a chain reaction, and that is where the damage occurs, a chain reaction around the world where everybody will go for his interest as he perceives it.

We will bring about anarchy on the high seas, and we will bring about a situation from which we cannot return. We will not be able to say, "Well, now, we are ready to negotiate. We have taken what we want, let us sit down at the Law of the Sea Conference. We are prepared to negotiate for the rest of what is interesting to the rest of the people of the world."

Well, the rest of the people in the world will tell us, "Hey, you just took what you wanted, we want to take what we want and then maybe we will think of discussing something." That is what is going to happen. So our actions will have triggered it.

Now, it is OK when Iceland does it, and they can turn around and start a cod war. You know, they took 50 miles, and they went to the International Court and lost that case, so they turned around and took 200 miles, so you have got now the British having to send in their vessels, their warships, in order to protect their fishing vessels. Is that what we want to get ourselves into where we have to get out our destroyers on picket duty around the United States ready to shoot down any foreign vessel? Is that the threshold we want to raise the world to, the tinder box we live in where we have a proliferation of nuclear capability in every two-bit nation in the world? Is that what we want to do? That is, of course, what we can do and what we will do if we let this legislation come into being.

That, of course, is what would happen to the negotiations. We would be the ones who would destroy them. How tragic, we, who are the major pushers for the Law of the Sea Conference, because we recognize, at least I recognize, that is the only way we are going to get a real 200 miles, I am for the 200 mile limit. We recognize that is the way we are going to get control of our salmon, and we recognize that is the way, we recognize we are going to be able to take a step forward in bringing about understanding in the world, because we recognize that through international sovereignty for the first time the human race will make a small, baby step forward toward a sane existence, and we recognize that this conference offers to the human race for the first time the ability to have law, mandated law, upon the human race. All these opportunities are within our reach if we recognize that the best way to get them is through an international forum and not through international action.

I think we will be able to develop that case in the courts of the deliberations coming forward in January.

I think we will also be able to make another case. We have heard it said there is no progress being made on the Law of the Sea Conference and, by God, they have been going on forever is what is said. "No, we cannot wait any more." Well, those are not the facts. It depends on the perception and definition you want to give it. If you say that negotiations over the seas has been going on for a long time, I will tell you they have been going on since the birth of mankind. That is how long they have been going on, just like the negotiations for peace have been going on since the birth of mankind.

But if you are talking about the United Nations Conference on the Law of the Sea that is presently being undertaken at this time, you are not talking about a long time, and anybody who says you are talking about a long time is not presenting the facts correctly.

The first meeting of the Law of the Sea Conference that we are talking about took place in the spring of 1974. It had 2 weeks. The next meeting they had was in the summer of 1974, and that was in Caracas and that was 8 weeks. Then the next meeting you had was in Geneva in the spring of this year, and that was for 9 weeks. So, all told—and I will throw in an extra week for arbitrariness—we are talking about 20 weeks.

People stand here frustrated that a convocation of a hundred and fifty nations over one of the most complex subjects we have ever had to face has not produced an end result, a final accomplishment in 20 weeks of deliberation. My God, if the Senate of the United States or the Congress of the United States could act deliberately as this international conference has acted, we would live in a Utopia today.

The conference, in my mind, has been very progressive and has accomplished a great deal. In Caracas, from my provincial point of view, from the point of view of Alaska, we accomplished the most important thing of all. We accomplished a general agreement on the 200 miles. The United States of America had opposed the 200 miles up until that time. All the major powers of the world, the Soviet Union, Japan, had opposed the 200 miles, and so we go to Caracas, and we win the 200-mile agreement. There is no dispute over the 200 miles right now in the world community. We are going to get that out of this agreement.

So people say, people who are knowledgeable say, there was no accomplishment in Caracas. My God, the greatest accomplishment that could ever happen to Alaska was accomplished in Caracas.

Then we look at Geneva and they say nothing happened in Geneva. They say, "I went to Geneva, I looked around, and nothing happened." In Geneva what we saw, we saw at the end of the session come forward a document which is called the single negotiating text, a document that we will show as more than 80 percent agreement in the world community.

Now, if I were able to introduce a piece of legislation on this floor that had 80 percent agreement, consensus agreement, I would introduce it, walk to my office as happy as I could ever be knowing that I am secure that it will become law because all you need is 51 percent agreement. But there is 80-percent consensus agreement on what exists in the unilateral text, on this single negotiating text.

I can understand where the confusion will take place by many of my colleagues because when they look at the negotiations in the international arena, these negotiations are a little different. I can understand where there might be some misperceptions that could occur, misunderstandings as to what really happened.

When the President of the United States or the Secretary of State of the United States goes to a foreign nation to negotiate a treaty he does not go to that nation and take out a document, hold a press conference, and say, "Here is the treaty. Now we are going to negotiate line by line." Of course not. He goes there, sits down and negotiates with one or more nations, and at the end of those negotiations up comes a document that everybody is in agreement with, and they sign it. That is the international process because when you are negotiating internationally you do not negotiate from a basis of sovereignty. Each nation comes forward with its sovereignty, but there is no sovereignty compelling action, there are no devices. You suffer one another, so to speak.

So what has happened in the single negotiating text where people have confused it, well, they are just beginning to put a document in, that is not what is happening in the international arena. What we are seeing is the end of the process, not the beginning because what is floated in this single negotiating text is basically the consensus that is floating around in the world, and it has come together in this one document.

Now, what needs to be done is to go through the refinements, the hangups, and there are some, and there are some areas of disagreement, but I think there is sufficient goodwill within the international community so that we can see these resolved if they are not jeopardized, if they are not thwarted. This legislation would thwart that situation.

When we talk about the impatience of this body, we are going to have a meeting in March, and the resolution that was passed a week ago Friday in the United Nations said that we will have the meeting in March, from March 15 to May 7, and that if the conference does not complete its work we will meet in the summertime.

We will get the money put aside for the interpreters and for the space and everything to be involved. In fact, the cost is around $2 million. That is the money that was put aside by the United Nations to pay for the summer conference.

For those who have no confidence that we are close to accomplishment—and I cannot stand here and guarantee it will be in 1976, it could be 1977, 1978, I do not know—but I do know if we pass this legislation it will not be in 1976, or 1977, or 1978.

In fact, the opponents of this bill say, "Well, it won't be for 5 or 10 years."

They have set themselves up a self-fulfilling prophecy because if this legislation passes, it will guarantee that the conference will not succeed.

So they will have been right. They will have passed legislation saying that the conference cannot succeed, so, therefore, we pass this legislation and if it passes, it will have that effect.

That is the great tragedy and the great confusion in this regard.

No, Mr. President, I think the conference has a chance, and to prove it, the last paragraph of the resolution that was passed last Friday in the United Nations, the last paragraph talked about the fact that they are making plans to go sign the final agreement in Caracas in early 1977.

That may not take place, but that is the kind of optimism that exists, so much that they are prepared to put it on paper and pass it as a resolution in the United Nations.

That is not binding, but, to my mind, it does mirror the degree of optimism that exists in that regard.

Mr. President, that is just an overview of the case we are going to begin to make in January. I just wanted to give a smattering of what is involved.

Again, I want to renew my unanimous consent to get information into the hands of the American people, my colleagues in the Senate, on the same basis Senator MAGNUSON and Senator STEVENSON got information to our colleagues, because I know the majority leader stated repeatedly, I know it is a basic part of his belief, we are all equal in this body. Though I may not be a full committee chairman, when I stand here on the floor I am equal to my senior Senator from Alaska and I know I am equal to Senator MAGNUSON and I know this august body would not want to have inequalities take place in a case we try to make to the American people and to our colleagues in the Senate.

So again I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I reserve the right to object again, based upon the previous statement that I made, and I do object temporarily.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the Senator and I hope my colleague from Washington will return.

Mr. President, I want to assure my colleague, the Senator from Alaska, there are no cosmetics in this bill. I wish he would listen to this, as we go through the debate, because the camaraderie could evaporate very fast if these remarks continue on this level.

In the first place, there was nothing cosmetic about the effective date. The amendment we have would make this bill effective upon signature. The enforcement date would be delayed until we had the mechanism in place for enforcement.

Second, with regard to experts in international law, I am perfectly willing to sit and listen to any expert that wants to say he is an expert.

A friend of mine used to say that an expert is a dumbhead away from home. But, as a practical matter, these experts are the same ones who, when Senator Bob Bartlett and Senator MAGNUSON moved to extend the U.S. fisheries zone to 12 miles, screamed there would be anarchy on the seas and that we would have all the straits closed in the world. They said that legislation would bring about total, total revolution of the seas.

That is what they said before and I would be glad to go back and get some of those excerpts from statements.

These same people today come forward and say, "If you create a fisheries conservation zone, out to 200 miles, you are going to have anarchy."

That, to me, is a statement from someone who does not recognize how international law is created. International law comes into being through acceptance throughout the world on a consensus basis.

It certainly does not come into being because some professor at Harvard writes a paper about how it is going to come into being. I say that advisedly after having come through that institution and having great respect for it. But I am not overimpressed by Harvard lawyers or professors who try to say the 200-mile zone would be in violation of international treaties when the 12-mile zone which they said was in violation of the international treaty has not been so interpreted.

As a matter of fact, there are 32 strategic straits in the world. Seventeen of them have 12-mile limit closures. None of those 17 have, in fact, been closed to international traffic since the world recognized, following the lead of the United States, a 12-mile limit.

We have prepared and presented to this Congress a 200-mile bill. Congressman STUDDS initiated such legislation on the House side and I initiated it on this side. At that time, no one felt we could ever get a consensus on it.

In the period of 7 years, there is, in fact, now consensus in the world on a 200-mile conservation zone and it has come about because Members of the U.S. Congress have been willing to fight for protection for the fisheries resources themselves.

We are not fighting for anything on a personal basis and anyone that puts it on that basis, I think, is misguided. The concept is, shall the living resources of the sea have a chance to survive?

Mr. President, last year alone within 200 miles of our shores there were 3.2 billion pounds of fish taken.

The major fishery within our shores is, in fact, the Alaska pollack, where they have taken 2.3 billion pounds in 1 year of 1 specie. That pollack is, in fact, the basic food chain for the Bering Sea and the North Pacific and if it continues even another 2 or 3 years, it will go the way of the California herring. It will disappear from the ocean.

We cannot stand that kind of pressure. Even if my colleague were correct that they are going to wrap this up in 1977 and initial the treaty, if he is correct, it will be 6 or 8 years until that is enforceable in the world, and to me, never be enforceable against Japan and Russia, if they do not sign the treaty, unless we have the fortitude to pass interim legislation unilateral and enforceable because we are declaring it enforceable, just as the other nations of the world have.

I would say one last thing, I understand the Senator from Wisconsin wishes the floor and I will be happy to yield to him when he comes.

My colleague says that there is 80-percent agreement in the Law of the Sea Conference and if those of us who have been there understood that Conference—and mind, I think I have sat through more days of the Law of the Sea Conference than any Member of the Congress, so I think I know what is going on in the Law of the Sea Conference—he says that if we understood it we would understand there is 80-percent agreement, 80-percent consensus.

That is like saying there is 80-percent consensus in the House right now in agreement with the President over the fact that we should limit spending next year. I am sure my colleague understands that there is an 80-percent consensus that spending should be limited. The question of how it should be done and what the language is to accomplish it is something else. There has never been one vote—not one vote to date—in any session of the Law of the Sea Conference.

We cannot have an 80-percent consensus on objectives and make that into an 80-percent consensus in agreement on particular text, negotiated text.

He talks about the single text which is the product of three separate men. The chairman of the separate subcommittees of the law of the sea have produced three separate provisions that became, when united, the so-called single negotiating text. But no negotiation has taken place yet.

In the 1958 convention there were 86 nations. As I said, it took us 8 years to agree that that product of that 1958 conference was enforceable. After they reached an agreement, it took 8 years before it was promulgated as being enforceable.

In the 1960 conference, 89 nations met and I am informed they failed to reach an agreement on the extension of national jurisdiction because they could never reach a conclusion on the specific language to accomplish their purpose.

Now there are 145 nations in the Law of the Sea Conference, 77 of whom have banded together. They are basically noncoastal nations demanding their rights as they perceive them from the products and the wealth of the oceans.

I would predict that once there is a Law of the Sea Conference Treaty agreed to in principle by the negotiators, it could be as long as 10 or 15 years before the President of the United States would notify the Congress that that had become acceptable international law and was enforceable in the world bodies, particularly the World Court.

Under these circumstances, I say we cannot tolerate any further delay. If my colleague wishes Alaska pollack to go the way of California herring, that is his business. I would state to the Senate that I am convinced that more than 90 percent of the Alaska people favor this bill. To my knowledge, there is no one I know who favors delaying this bill in favor of waiting for the Law of the Sea Treaty who is involved in the fisheries organizations of Alaska, but for one group.

I have held hearings along with Senator MAGNUSON, Senator PASTORE, and Senator KENNEDY all over the country. In the hearings we held in my State in 1974 there was not one dissenting voice to this legislation. In 1975 there was only one dissenting voice that I recall in Washington State, and that was the former Ambassador McKernan. We now have correspondence from him in which he states that, because of the delay of the Law of the Sea Conference, he is prepared to accept this legislation and support it.

I say, Mr. President, I am looking forward to returning, because I believe my colleague and I are going to have some fun off this one. I read to him his statement of March 5. One would think it was me.

> As last year's Commerce Committee on this measure pointed out, the inroads of foreign fleets on American coastal fisheries is destroying this valuable resource. Further delay is encouragement for these foreign fleets to take what they can get as soon as possible. A workable international pact is years away. Our coastal fisheries cannot tolerate that further exploitation.

That quote is not this Senator from Alaska; it is the other Senator from Alaska, this year. I say there is no reason for delay on this legislation.

I am happy to yield to my friend from Wisconsin, subject, of course, to my colleague replying.

Mr. GRAVEL. Will the Senator yield for a moment?

Mr. PROXMIRE. Certainly.

Mr. GRAVEL. I hope when I am 80 years old, Mr. President, I will have the ability to change my mind when I acquire more knowledge. If I have changed my mind because of new facts given me, and if my colleague thinks that is a decrement in the colloquy or in the argument that we have, I can only tell him that it is an asset.

I do not want to see Alaska's pollack decimated. I believe we can solve that problem and we will show that next year. I do not want to do something that will give apparent control over pollack and lose the salmon. We do not have fishermen in Alaska who fish for pollack. They happen to fish for salmon. That is just a slight distinction in that regard.

I would like to pose an inquiry and then I will be happy to yield.

The majority leader asked me to put on a quorum call to get him back here.

Mr. STEVENS. He asked us to yield to the Senator from Wisconsin.

Mr. GRAVEL. I yield the floor, Mr. President.

TAX RELIEF LEGISLATION

Mr. PROXMIRE. I thank the Senator for yielding, Mr. President. I am not speaking on the 200-mile matter but I am speaking on another matter.

Mr. President, every year since I have been here at the end of the session a series of amendments come in to provide tax relief for citizens and corporations in various States. This year apparently is no exception. We almost had that happen last night, and it might happen tonight, although I hope that this speech will prevent it from happening tonight.

The vehicle to be used by Members of the Senate to attach their relief bills for their constituents would be either the silk yarn bill, which is on the calendar, I understand, or the Virgin Islands bill. I might say if this is done tonight, and as the chairman of the Finance Committee has told me that any Senator is in a position now to block anything from happening because the time is so limited, at least from happening this year, I will do my best to stop the adoption of any amendments that are not obviously germane and related to either one of these bills or any similar bill.

Mr. President, for years both the House and the Senate acted on tax bills in what most observers believed was an irresponsible way. The result often led to opening loopholes and truckholes in the tax laws.

The House had something called a Members bill. Each member of the House Ways and Means Committee was allowed to have a bill or two a year in which the committee—by courtesy—voted out. Usually there were no hearings on the bill, there was no report on it, the Treasury did not give its views, there was no revenue estimate on it, and it was passed in a perfunctory way, usually by unanimous consent.

In the Senate we had what was called the "Bob Tail" bill. Each year, near the end of the session, some minor tax bill on the calendar was taken up and to it was added amendment after amendment.

In recent years the name has been changed to the Christmas tree bill because now, as opposed to the old days, the Senate usually is in session until the end of the year and these amendments are trotted out on the last day or next to last day of the session, which was usually Christmastime.

This year we have the silk yarn bill, and one or two other minor bills which may be the vehicle for the Christmas tree.

I have a list of some 38 amendments proposed to this bill, and there may be more. Some seem to be good. Some are clearly very bad. And some are neutral or nonentities. But they all have one thing in common, namely that no hearings have been held on them in the Senate, there is no report concerning them, there is no indication of their revenue loss, there is no indication of who will benefit from them—and many of them are, for all practical purposes, private relief bills—and there is no indication of what the Treasury thinks about them.

In the past a very minor amendment to a tax bill trotted out on behalf of a nun in Philadelphia, ended up as the "unlimited charitable deduction" loophole which was one of the major causes why some individuals with incomes of millions or tens of millions paid no taxes whatsoever.

The House has reformed their procedures, and I think it is time the Senate did. I hope we take that step now. They set up a three-man task force of the Ways and Means Committee to winnow out all the bills and amendments to the Tax Code.

Here is what they did:

First, they listed all the House or members' bills which had been introduced. Then their three man screening committee went through them. They applied certain standards.

First, they threw out any bill which was of major substantive importance. They kept under consideration only miscellaneous minor bills;

Second, they threw out any bill which had a revenue loss of over $5 million;

Third, they threw out any bill which had been set for consideration under phase II of their tax reform effort;

Fourth, they threw out any bill which was the subject matter for one of the committee's special task forces such as bills affecting capital gains or foreign corporations which the committee is looking into with a view to tax reform and revision;

Fifth, they winnowed the number down to 22 bills. At that stage the staff prepared a report on the 22 bills describing each bill, saying how it would change the present law, what the revenue loss would be, and what the Treasury thought of them; and

Sixth, on December 10 they held a hearing. The proponents presented their views. Common Cause and Nader's group testified. At least one bill was so bad it was shot down immediately.

Soon after the first of the year there will be a report on the bills which are passed giving the relevant information. They will then be taken up in the regular order in the House.

The House will then have an opportunity to act in a reasonably intelligent way on them.

I think we should follow some similar procedures in the Senate. I do not take the position that the Senate should never act on an amendment to any bill where there has been no hearings or no report from an agency. We do have the right to act and to legislate on the Senate floor.

But when, as we have been doing for years, a tax bill is brought up on the last day or the next to the last day of a session, amendment of every kind are adopted to it, we are acting irresponsibly, and so it is reported in the press and so it is believed by responsible citizens.

Furthermore, in addition, on tax bills there is something called the Tax Court. We set up the Tax Court so that individuals and corporations could get their day if they felt the Internal Revenue Service was dealing with them unfairly or harshly. Any citizen can go to that Court for a very nominal fee—in the recent times it has been as low as $10—and the taxpayer could argue the case himself or herself.

In my view we should have a report on these bills. Who benefits? I know in one of them a famous dog food company is said to benefit by some thing like $100,000. That is the "Alpo amendment."

What is the cost? What does the Treasury say about them? I do not think the Treasury should have a veto over our actions but I do believe we should know what they think about the bills.

Is there some other form of relief—through the Tax Court for example—before it is brought here?

Furthermore, in the case of revenue bills, the Constitution clearly states that they shall originate in the House. I do not believe that the Senate should be precluded from amending a House bill because of that provision, but certainly that is a very different matter than adding on a dozen or so amendments to a minor bill which are entirely unrelated to the subject matter of the original bill.

We have certain authority and power that the House does not have. We confirm nominations. We decide whether to ratify treaties or not. We are elected for 6 year terms. By and large, we receive more attention, frequently, than the House of Representatives does. But one clear provision in the Constitution is that they originate revenue measures, and it seems to me that when we follow the procedures we have followed in the past, we do not respect that constitutional provision.

For all these reasons, Mr. President, I intend to object to the amendments to the minor tax bills on the calendar. I hope by doing so we can reform the Christmas tree procedure in the Senate as the House has reformed their old Members bills procedures. We do not have to follow them precisely but we should act in our own way to make certain that the public interest is protected against last minute riders to tax bills about which little or nothing is known and which have no relationship at all, as amendments, to the bill before us.

So, Mr. President, I rise at this time to serve notice that if the chairman of the Committee on Finance or anyone else brings up these measures I have referred to, the silk yarn bill, the Virgin Islands bill, or any other bill to be used as a vehicle for such amendments, I shall do my best to prevent any of the amendments, good, bad, or indifferent, from being adopted; and view of the hour and in view of the timing, I think that should be sufficient to make sure that such amendments will not be considered, at least under these circumstances, and will not be adopted.

Mr. President, I thank the distinguished Senator from Alaska for yielding the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the majority and minority leaders and the assistant majority and minority leaders.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, will the Senator withhold that request for a moment?

Mr. MANSFIELD. Yes.

MAGNUSON FISHERIES MANAGEMENT AND CONSERVATION ACT OF 1976

Mr. GRAVEL. I would like to pose a dilemma publicly to the majority leader, if he has no objection, as to a matter that was voiced in the course of the debate.

The Commerce Committee took my testimony that I brought before the Foreign Relations Committee, a number of fact sheets, and Senator MAGNUSON and Senator STEVENS caused to be published, under Senator MAGNUSON's chairmanship of the Commerce Committee, a rebuttal to that testimony in a booklet form like this.

This is highly unusual. We made an investigation and found out that this is rarely done; in fact, we could not find another example, I use the word colloquially, where a Senator had had a "job" done on him by this device.

I had made a request earlier, which was objected to by Senator STEVENS, asking that I be accorded the same privilege that was exercised by the chairman, the Senator from Washington, that is, that I have printed in the exact same form the same number of copies as they chose to have printed.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in view of the impasse which has been reached relative to the counterrebuttal of the distinguished Senator from Alaska (Mr. GRAVEL) to a rebuttal previously printed by the Committee on Commerce, I ask unanimous consent that, instead of it going to the Committee on Rules and Administration or the Committee on Commerce, it be printed in the RECORD at this point.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. Mr. President, reserving the right to object——

Mr. MANSFIELD. I do this on my own responsibility.

Mr. GRAVEL. Does the majority leader mean the RECORD?

Mr. MANSFIELD. The RECORD tonight which contains the opening statements on the pending business.

Mr. GRAVEL. I think the majority leader recognizes that I would have that ability to do that if I thought that were the cure under the situation.

Mr. MANSFIELD. That is correct.

Mr. GRAVEL. But when the chairman of the Committee on Commerce, snickering, looked at me when I told him I have been taken unfair advantage of as a Senator because he is chairman of a committee that has resources at its disposal—we are all in the communications business, and I am not satisfied with the remedy of just having it in the RECORD in small print where we have trouble reading it. All I am seeking is to get the same treatment that the——

Mr. MANSFIELD. Mr. President, the Senator can have reprints made in large print, and I think that the temporary way to handle this now is to do it on the basis of what I have suggested, and we can work it out later maybe.

Mr. GRAVEL. Is the Senator telling me we can have it printed in booklet form like this without any special request?

Mr. MANSFIELD. No. That would be up to the Senator himself because otherwise it would have to go to the Committee on Rules and Administration, or some committee, so that necessary funds would be forthcoming.

Mr. GRAVEL. I think the majority leader is aware that this debate has been initiated, it is going to be the pending business, and there is really no committee going to act between now and then, so what happens is that in putting forth the information I get behind the power curb in this regard.

Mr. MANSFIELD. The difficulty is under the rules the Committee on Rules and Administration would have to authorize the printing of a booklet of that nature. What I am trying to do is to get the Senator's evidence in at an appropriate place so that it can be used as an answer to the rebuttal already made to previous testimony rendered by him.

Mr. GRAVEL. It is like a person being accused on the headlines and then on the third page——

Mr. MANSFIELD. We cannot do it under the rules.

Mr. GRAVEL. We could do it if the Senator from Washington is not here to object.

Mr. MANSFIELD. I would not do that.

Mr. GRAVEL. I am not suggesting that to the majority leader because he protects all our rights. I think we could call him to the Chamber and ask him as to the reasons for his objections. I think he can object to me privately.

Mr. MANSFIELD. Mr. President, I suggest that the Senator from Alaska contact the Senator from Washington and see what, if anything, can be worked out.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that in the meantime the Senate stand in recess subject to the call of the floor leaders of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. I do not object.

There being no objection, the Senate at 6:34 p.m. took a recess, subject to the call of the Chair.

The Senate reassembled at 7:15 p.m. when called to order by the Presiding Officer (Mr. Hathaway).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMISSION TO FILE STATEMENT DURING ADJOURNMENT

Mr. HARTKE. Mr. President, I ask unanimous consent for permission to have printed in the Record to be published during the sine die adjournment material on legislative activity during the first session of the 94th Congress. The extraneous material will exceed the two-page limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Berry announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2327) to suspend sections 4, 6, and 7 of the Real Estate Settlement Procedures Act of 1974.

The message also announced that the House has passed the bill (H.R. 9771) to amend the Airport and Airway Development Act of 1976.

The message further announced that the House has agreed to the concurrent resolution (H. Con. Res. 518) providing for an adjournment of the two Houses sine die, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 9771) to amend the Airport and Airway Development Act of 1976, was read twice by its title and referred to the Committee on Commerce.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTION

S. 2812 AND S. 2819

At his own request, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2812, the Regulatory Reform Act of 1976; and S. 2819, the Small Business Estate and Gift Tax Reform Act.

S. RES. 197

At the request of Mr. Leahy, the Senator from California (Mr. Leahy) was added as a cosponsor of S. Res. 197, to establish a Select Committee on Federal Responsiveness and Accountability.

INTRODUCTION OF A BILL

The following bill was introduced, read the first time and, by unanimous consent, the second time and referred as indicated:

By Mr. JAVITS:

S. 2840. A bill to reform the food stamp program. Referred to the Committee on Agriculture and Forestry.

AMENDMENT OF INTERNAL REVENUE CODE

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9968.

The PRESIDING OFFICER (Mr. Hathaway) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 9968) to amend section 103 of the Internal Revenue Code of 1954 with respect to certain obligations used to provide irrigation facilities, which reads as follows:

Page 1, strike out all after line 4, over to and including line 10 on page 2 of the Senate engrossed amendments, and insert:

Sec. 1A. Declaration of Policy.

(a) Congress is determined to continue the tax reduction for the first 6 months of 1976 in order to assure continued economic recovery.

(b) Congress is also determined to continue to control spending levels in order to reduce the national deficit.

(c) Congress reaffirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974 under which it has already established a binding spending ceiling for the fiscal year 1976.

(d) If the Congress adopts a continuation of the tax reduction provided by this act beyond June 30, 1976, and if economic conditions warrant doing so, Congress shall provide, through the procedures in the Budget Act, for reductions in the level of spending in the fiscal year 1977 below what would otherwise occur, equal to any additional reduction in taxes (from the 1974 tax rate levels) provided for the fiscal year 1977: *Provided, however*, That nothing shall preclude the right of the Congress to pass a budget resolution containing a higher or lower expenditure figure if the Congress concludes that this is warranted by economic conditions or unforeseen circumstances.

Mr. LONG. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

Mr. President, I believe it would be well to make some legislative history with regard to this measure.

At first, Mr. President, I had some concern about the House amendment. I was dismayed that it did not have what was a very fine tone of peace on earth and good will toward men. Both the Senator from Delaware and I stayed late last night trying to achieve something on which we could all be sustained, and I was dismayed that the House amendment, I thought, failed to convey the same spirit of good will that the Senate conveyed.

But, Mr. President, as I read the language of the House amendment, I know it is not the technical language that counts; that is surplusage. It is the intent which counts.

When we look at the language of the House amendment, most of the language is identical, or almost so, with the Senate provision. In some respects the House has correctly perfected minor technical mistakes made by the Senate.

For example, I see where the word "June 30, 1976," appeared instead of "July 1, 1976."

I must confess that the House is right. They would have been a little more precise had they said "midnight," June 30, 1976."

So that is a change of no consequence.

Mr. President, the statement which the House chairman made in discussing this matter I hold in my hand. To me, it clarifies a number of doubts I had about the matter.

Let me read that into the record. This is the chairman of the House Ways and Means Committee, the Honorable Al Ullman. He said:

> Before I conclude I want to say I understand that both the Senate and the President have had trouble with some of the changes that we have made in the Senate language in our policy statement. I want to say that the changes are not substantive. Let me go through some of them with you.
>
> For example, I understand that some object to adding the language "and if economic conditions warrant doing so" at the beginning of the third paragraph. I would like to point out that this phrase is almost the same as that provided in the proviso at the end of the third paragraph. There, it is indicated that nothing would preclude the right of Congress to change the expenditure figure if this is warranted by economic conditions. As far as I am concerned—and I speak as chairman of the committee—this means nothing more than was meant by the proviso at the end of the paragraph. Therefore, it really is simply a redundant statement. However, some of the House Members felt it was important to have this phrase appear up above to be sure that no one misunderstood that that was a condition that if economic conditions change, the commitment specified might have to be modified.
>
> I know also that there are some that think that the omission of the word "changing" in front of "economic conditions" at the end of the third paragraph had some significance. I do not believe that there is any substantive effect occurring from this omission. I believe that it is clear that the economic conditions existing today do not warrant departing from the commitment spec-

ified, and I believe that it is only if economic conditions were to change that this would be true.

Also, I know of no other circumstances at this time which would require a change from the commitment. Of course, other circumstances which are unforeseen at the present time may ultimately require such change.

I understand, also, that some question has arisen where we made reference to "additional reduction in taxes". It was the intention of all of us to refer to any reduction in taxes which occur after June 30, 1976, even though it is the same amount of reduction which is already provided for in the period up to June 30, 1976. In other words, an extension of the existing tax reduction beyond June 30, 1976, would give rise to a requirement of an equal reduction in spending to offset a tax reduction.

The determination of the controlled spending is, in my opinion, a determination which the Congress shares with the President. I know of his interest in reducing the national deficit, and I can assure him that as a result of the statements that we are making in this tax bill, Congress shares this determination with him, and that the statements we are making in this tax bill reinforce that determination.

Mr. President, I want to make it clear that if there is any doubt in the President's mind about this matter, as the chairman of the Senate Finance Committee, and I believe I speak for the Finance Committee, we made a good faith commitment to the President this morning and that commitment was unanimous. We stand by that commitment. If the President has any doubt about the language of the House amendment, I want to make it clear as far as I am concerned, and I believe as far as the Finance Committee and the Senate are concerned, when the Senate voted unanimously by a vote of 82 to nothing we stand by what we said to the President today. If he has any doubt about the House language, we stand on the Senate language, that that is what we meant. We construe the House language to mean the same thing that we meant: That further spending cuts will accompany tax cuts, barring unforeseen circumstances.

I want to make clear, Mr. President, that we are not looking for any out when we say "barring unforeseen economic circumstances," "changed conditions," or however one wants to put it. The President has made that clear, that he wants a commitment based on what we can foresee at this time.

He knows as well as we know that he found it necessary to recommend a tax increase when economic conditions existed that he thought required a tax increase. A few months thereafter he found it necessary to ask for the largest tax cut in history because he felt the deteriorating condition of the economy required him to recommend a major tax cut, in fact, the largest tax cut in history, when he had previously recommended a major tax increase.

The President has never sought to deny us the same prerogative he has claimed for himself, that a commitment made under one set of circumstances might not be proper if the circumstances dictate the opposite result.

If the economic recovery continues, I, for one, and I believe the members of the Finance Committee also, would feel that this commitment that we make here should be carried out in good faith. If, on the other hand, the economic situation takes a bad turn, or if the Nation should find itself at war, or something of that sort, of course, it would be a whole new ball game.

There has never been any misunderstanding with the President about that aspect of the policy statement.

Mr. ROTH. Will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from Delaware.

Mr. ROTH. I must say I think the language that the Senate adopted this morning was more precise and clear, but I do feel that the statement that was issued by the chairman of the House Ways and Means Committee does answer the questions that both the chairman and I have raised with respect to intention.

Does the chairman agree that the intention of the House language is identical in purpose to the Senate language we adopted this morning?

Mr. LONG. Given the legislative history made by the distinguished chairman of the Ways and Means Committee, it is basically the same commitment.

Mr. ROTH. Identical in purpose?

Mr. LONG. Yes.

Mr. ROTH. I thank the Senator.

Mr. CURTIS. Will the distinguished chairman yield?

Mr. LONG. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I want to say there are varied opinions about tax cutting. We went into that this morning and on previous days. We have had our rollcall. The junior Senator from Nebraska has no disposition to delay this matter or insist on a rollcall. I realize the time in which we are operating, and so on.

I would like to ask a few questions that we might lay a basis for legislative intent.

As I understand the President's statement of some weeks back—Mr. President, could the non-Senators refrain from disrupting?

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order, please? Will the Senators refrain from holding conversations in the Chamber?

Mr. CURTIS. Mr. President, it is my understanding of the President's remarks in recent weeks that he favored a tax cut if there was an expression in favor of reducing expenditures. The bill that was sent to him reduced taxes for a period of 6 months and had no such provision in there. It was vetoed. Now we have before us a bill that was passed today, which has certain language of the Senate that the distinguished chairman of the Committee on Finance presented.

My understanding of the Senate language which was passed this morning is that the Congress is committed to the proposition that if they undertake to extend tax cuts beyond the first 6 months of the next calendar year, they expect to do it by balancing it with reductions in expenditures, barring any unforeseen events or changes in the economy. Is that correct?

Mr. LONG. Yes.

Mr. CURTIS. Based upon the conversations of the chairman of the Finance Committee with the chairman of the Committee on Ways and Means, and the statement that has been read, does the chairman believe that, in essence, that is the intention of the distinguished chairman of the Committee on Ways and Means of the House of Representatives?

Mr. LONG. Yes, I do. I have not the slightest doubt about it.

Mr. CURTIS. I want to say to my chairman that I believe spending ceilings, as well as language referring to reduction of expenditures, are targets and objectives and nothing more. It expresses the intent of the Congress at that time. Congress at a later time can take such action as the circumstances warrant at that time. Is that correct?

Mr. LONG. Yes.

Mr. CURTIS. Certainly we cannot control a subsequent Congress after there has been an election.

I believe that the strength of statements of intention to reduce expenditures, and actual ceilings that are in the statute, depend upon the good faith of the Members of Congress who make those statements and who back them up.

I have utmost confidence in the distinguished chairman of the Committee on Finance, but for the record I would like to ask him, is it the intention of the chairman of the Committee on Finance, assuming no drastic changes in the peace and war situation or in the economy of the country, to proceed with any tax cuts beyond the present measure unless Congress applies itself to the task of cutting expenses?

Mr. LONG. That is the way I construe it. Please understand, I would expect that we will go through the same type of budgetary reasoning that the President is going through. The President starts with a figure, and then the President takes the view that from that figure, if there are to be tax cuts, then there must be spending cuts to offset them.

Our Budget Committee might arrive at a somewhat different figure. I predict that that figure will not be very far from the President's figure. I doubt very much, based on the study that I have been able to make of this matter and the information that I have had from those who are conversant with it, but that that budget figure will probably be within 1 percent of what the President's figure is. It is not going to be come great departure, as some suspect.

If that is the case, and I believe that is how it will be, when we come back here and see what the President's budget is and what the Budget Committee recommends, then we are going to have to approach the Budget Committee and say, "We would like to continue this tax cut," and we are going to have to have spending cuts."

In some respects, we will have the President on our side, because the President is suggesting, from a starting point which he believes is $423 billion, a much larger tax cut than that, a $28 billion tax cut. So he will apparently be suggesting spending cuts of about $28 billion. If we want to continue our tax cut, which on an annual basis will work out to about $17 billion, we will have to look at the areas where he is suggesting cutting spending and say, "We can find about $17 billion of that $28 billion that we can support, if our figures on spending agree to begin with."

If our figure is somewhat higher, we still have the problem that we are going to have to find the amount representing what we believe are items which do not have a high enough priority to rate keeping them in the budget when compared to a tax cut.

Mr. CURTIS. I understand that it is difficult to discuss figures, because the arrangement of the figures could mean different things to different people. I think it is easier to state it as a matter of principle. At the present time, at least, and next year if we have further tax cuts, we will have to make those tax cuts by increasing the deficit, or make those tax cuts by cutting spending. Is it fair to say that it is the Senator's intention, if we have those tax cuts, to bring them about by cutting spending rather than increasing the deficit? Is that correct?

Mr. LONG. Yes. I expect to go to the Budget Committee at the beginning of the next Congress—something I have not done before, let me say, because we have not had the procedure until this year—and say, "Here is this tax cut that we would like to continue, and we want to ask you to find a place for this in the budget. That will mean you are going to have to squeeze out some items that are of the lowest priority of the things you would like to do."

The Budget Committee will have that difficult problem of trying to suggest, of all these good things we would like to do, where some could come off from one place and some from another so that we could finance this $17 billion from that budget. That is a difficult task, but that would be the problem of the Budget Committee.

Mr. CURTIS. Is it the Senator's understanding that the distinguished chairman of the Ways and Means Committee of the House of Representatives also feels that further tax cuts should come about by way of expenditure cuts, rather than increases in the deficit that might exist otherwise?

Mr. LONG. That is what the commitment is, but I want to make it clear that I do not want to go beyond the language of what we agreed to here.

For example, we said when we passed our amendment, which to me is much easier to understand than the other amendment:

> If the Congress recommends a continuation of the tax reduction provided by this Act for the remainder of the calendar year 1976, Congress shall provide for reductions in the level of spending which would otherwise occur—

I am going to leave out the dollar for dollar, but that is what it means——

Mr. CURTIS. It means substantially in the same amounts, does it not?

Mr. LONG.——

> Provided in the fiscal year 1977.

I would point out that if we carefully read that language, we will find out that the period of time for which we are committing ourselves is the remainder of the calendar year 1976.

Mr. CURTIS. That is correct.

Mr. LONG. So we are making a commitment for a 6 months period.

Mr. CURTIS. That is correct. Before I yield the floor, and I shall not take much time, I would like to have the attention of the distinguished chairman of the Budget Committee.

I feel that the Budget Committee should early make a request upon every committee of the Senate for them, by oversight hearings or in such a manner as they choose, to examine the agencies, bureaus, and departments under their jurisdiction and come up with some recommendations as to what is not of great importance and might be eliminated.

I believe in every department of the Government there are some things that perhaps accomplish some service, but are not of major importance. I do not wish to be critical of the procedure for this first year, because it is the beginning year. But certainly if the Budget Committee just sends out word to the committees for information as to how much money is required, we are going to end up with an enormous figure, and more than we can collect the taxes to pay for.

I am not submitting this as a question. I merely, as one Member of the Senate, express the hope that the Budget Committee will place a burden upon every legislative committee to exercise such oversight, supervision, and inquiry into the departments under their jurisdiction that they can bring about some savings that will not hinder the public service rendered, and certainly will not take benefits away from the poor and unfortunate, because there are ways to cut expenses besides just saying, "It cannot be done because we will hurt the poor."

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield to the Senator from Maine.

Mr. MUSKIE. The Senator did not put that as a question. Let me say that I share with him, indeed, with Congress through its committees to exercise its oversight responsibilities in the way that he suggests. Indeed, the Budget Act imposes or restates that obligation on the part of Congress.

In addition, the Senator may be interested to know that I am in the process of developing what I might refer to now as spending reform legislation designed to more effectively evaluate performance both in terms of achieving the objectives of programs and in terms of cost effectiveness.

We are also undertaking to recommend moving in the direction of zero base budgeting which, as the Senator knows, requires that we evaluate spending requests not only in terms of continuing what we are now doing but in terms of examining what we are now doing so we may rejustify it if it can be rejustified in the light of current priorities. So the Senator's question really hits the target pretty well as far as I am concerned.

Mr. CURTIS. I thank the distinguished Senator.

I firmly believe that it is false propaganda for us to take the view that the only way to strive toward a cut in expenditures is to deprive some people, who cannot do for themselves and who are entitled to Government benefits and services of these benefits and services. I think if we reexamine every activity of Government we can take enough away from those people able to provide for themselves to reduce expenditures where we can live with a balanced budget.

I thank the distinguished chairman for his assurances and the expression of what he expects to do.

Mr. President, I shall momentarily yield the floor. It has been stated here that the House language intends to do that which the Senate language provided and that we are committed to the proposition that future tax cuts are not to be made by increasing the deficit but rather by effecting economies. That is the commitment that the Senate and the House have committed themselves to strive for.

I want that legislative record made. As for me, I stated this morning that I could not vote for a tax cut, even an extension of the cut, as long as we had a deficit of the size it is. That is still my position. The case was made this morning.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion to concur was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. California State legislators face some very serious personal income tax problems as a result of the inability of the Senate to act before the end of the current year. So do legislators in other States.

I would like to establish these facts for the record and I ask the chairman to indicate whether he agrees.

My amendment, in principle, is the same as section 605 of H.R. 10612, the Tax Reform Act of 1965, which has passed the House.

Mr. LONG. That is correct.

Mr. CRANSTON. Our nonaction on this amendment is not a judgment on the merits.

Mr. LONG. That is correct. If we had time—and time has run out on us—I am sure that the Senator's amendment would receive favorable consideration by the Senate. I support it, and I know that a majority of the Finance Committee are cosponsors.

Mr. CRANSTON. I hope the chairman will join me in asking IRS to take note of Congress intent to act on this matter and stay its hand which now is raised against the California State legislators, as well as legislators in other States.

California legislators have been able

to offset living expenses against per diem reimbursement payments for 30 years.

Recently, IRS has reversed its position by disallowing per diem payments as reimbursement for living expenses and instead treating these payments as compensation, taxed as ordinary income. IRS also has reopened all returns of legislators for the past 3 years.

As a result an expensive burden has been placed on State legislators, which I think, Congress should remove.

Mr. LONG. I agree. We will act soon and we will act retroactively to take care of those individual returns being reopened.

Mr. CRANSTON. For purposes of writing a clear legislative record, I will now further explain my amendment.

My amendment will establish for purposes of the Federal tax laws that a State legislator's home is in his home district, not the State capital.

Section 162(a) of the Internal Revenue Code now provides that the "tax home" of Members of Congress shall be the home district of the Member. My amendment simply provides similar tax treatment for State legislators.

The amendment sets a dollar limit on the amount which can be claimed by State legislators for living expenses and further provides that amounts paid as per diem to legislators shall be deemed to have been spent for living costs. In addition, an election to apply the new rules retroactively to tax returns still open is provided.

This amendment is virtually the same as section 605 of H.R. 10612, approved by the House of Representatives, with one important exception. My amendment applies only to State legislators. It does not increase the tax benefits of Members of Congress as section 605 would do.

Legislators—State or Federal—must spend considerable amounts of time in the capital, yet they also are required by law to maintain a residence in their home district. For years, this situation did not present tax difficulties to State legislators. Congress took action many years ago to correct the application of the "tax home" rules to Members of Congress in section 162(a) of the code.

California State legislators, for example, have received per diem living allowances for some 30 years. These per diem allowances in California are not set by the legislature but by the State finance board, an independent body, which sets the per diem level for all elected officials of the State. For years, IRS permitted the offsetting of living expenses against the per diem, with the net result that no taxes were paid on the amounts received by legislators for living expenses.

Recently, IRS in California, the western region, and in Michigan, has been insisting that the "tax home" of State legislators is in the State capital and that per diem payments constitute "compensation," not living expense reimbursement.

The position of IRS with respect to the "tax home" issue has been upheld by the Tax Court in Montgomery versus Commissioner of IRS. The decision would be reversed, in effect, by this amendment.

Additional corrective action also is necessary to establish that the per diem amounts paid by States to legislators as reimbursement for living expenses is not to be treated as "compensation." My amendment, unlike section 605 of the House bill, takes care of this problem.

Without the language of my amendment, State legislators everywhere—regardless of "tax home"—will have to account to IRS for every cent expended, unlike the favorable treatment given businessmen by the Treasury under the provisions of section 274(d) of the code.

I ask that the text of my amendment now appear in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

SEC. . CERTAIN EXPENSES OF STATE LEGISLATORS.

(a) IN GENERAL.—Section 162(a) of the Internal Revenue Code of 1954 (relating to trade or business or business expenses) is amended by adding at the end thereof the following: "The place of residence of a State legislator within the legislative district which he represents shall be considered his home. Any individual referred to in the preceding sentence shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount at least equal to the lesser of (i) the amount received by such individual under a per diem or other expense reimbursement arrangement, or (ii) the amount determined by multiplying the total number of days of legislative participation by such individual during the calendar year (established under paragraph (2) of subsection (h)) by an amount equal to the per diem dollar limitation prescribed by the Secretary or his delegate under subsection (d) of section 274 which is used generally to determine for the taxable year whether the requirements of such subsection apply to certain expenses incurred in the United States while away from home. Amounts expended by a State legislator within the taxable year for living expenses (in connection with his trade or business as a legislator) shall not be deductible for income tax purposes in excess of the applicable dollar limitation determined under subsection (h).".

(b) DOLLAR LIMITATION.—Section 162 of such Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) APPLICABLE DOLLAR LIMITATION FOR PURPOSES OF SUBSECTION (a).—

"(1) IN GENERAL.—The Secretary or his delegate shall establish the applicable dollar limitation for each calendar year for each legislature with respect to which the third sentence of subsection (a) (relating to State legislators) applies. In establishing such dollar limitation for any legislature the Secretary or his delegate shall apply rules of reasonableness and shall take into account—

"(A) the number of days during the calendar year on which the legislators are away from their homes,

"(B) the cost of living during the calendar year at the place where the legislature meets, and

"(C) amounts normally allowed as living expenses of businessmen under similar circumstances as not being lavish or extravagant under the circumstances.

"(2) SPECIAL RULE FOR STATE LEGISLATURES.—In the case of any individual who is a State legislator, the applicable dollar limitation for any calendar year shall be the dollar limit (established under paragraph (1) without regard to subparagraph (A) thereof) for each day of legislative participation in the State legislature concerned, multiplied by the total number of days of legislative participation by such individual during the calendar year. For purposes of this paragraph, each day on which an individual's physical presence is formally recorded or excused during a meeting of the State legislature, a meeting of a committee thereof, or for purposes of transacting legislative business, shall be a day of legislative participation.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) ELECTION BY STATE LEGISLATORS FOR PAST PERIODS.—

(A) IN GENERAL.—In the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1976, and who elects the application of this paragraph, for any period during such a taxable year in which he was a State legislator—

(i) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(ii) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount at lease equal to the sum of the amounts determined by multiplying each legislative day of such individual by the amount generally allowable with respect to such day to employees of the United States for per diem while away from home but serving in the United States.

(B) LEGISLATIVE DAYS.—For purposes of subparagraph (A), a legislative day during any taxable year for any individual shall be any day during such year on which (i) the legislature was in session (including any day in which the legislature was in recess for a period of four consecutive days or less), or (ii) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(C) LIMITATION.—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this paragraph shall not exceed the greater of (i) the amount claimed for such purpose under a return (or amended return) filed before September 10, 1975, or (ii) the amount received by a State legislator under a per diem or other expense reimbursement arrangement.

(D) MAKING AND EFFECT OF ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1976, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.

HOUSE CONCURRENT RESOLUTION 518—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 518.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

H. Con. Res. 518. A concurrent resolution providing for an adjournment of the two Houses of Congress.

The PRESIDING OFFICER. Without

objection, the Senate will proceed to its immediate consideration.

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators in the aisles will take their seats and those talking please retire to the cloakroom.

The concurrent resolution (H. Con. Res. 518) was considered and agreed to.

The concurrent resolution reads as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Friday, December 19, 1975, they shall stand adjourned *sine die* or until 12:00 noon on the second day after their respective Members are notified to reassemble in accordance with section 2 of this resolution, whichever event first occurs.

Sec. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it, or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for consideration of legislation.

Sec. 3. During the adjournment of both Houses of Congress as provided in section 1, the Secretary of the Senate and the Clerk of the House, respectively be, and they hereby are, authorized to receive messages, including veto messages, from the President of the United States.

ORDER VACATING ACTION ON SENATE CONCURRENT RESOLUTION 81

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate vacate the action already taken on Senate Concurrent Resolution 81 in view of the action taken on House Concurrent Resolution 518.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING COMMITTEES TO REPORT BILLS WITH PRINTED REPORTS AND SPECIAL REPORTS ON JANUARY 16, 1976, BETWEEN THE HOURS OF 10 A.M. AND 3 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the sine die adjournment of Congress all Senate committees have authority to report bills with printed reports thereon and special reports on January 16, 1976, between the hours of 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT OF SENATORS TO ATTEND THE CANADIAN-UNITED STATES INTERPARLIAMENTARY CONFERENCE

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86-42, appoints the following Senators to attend the Canadian-United States Interparliamentary Conference, to be held in Key Biscayne, Fla., January 29–February 2, 1976: the Senator from Wyoming (Mr. McGee), chairman, the Senator from Utah (Mr. Moss), the Senator from North Dakota (Mr. Burdick), the Senator from Minnesota (Mr. Humphrey), the Senator from Iowa (Mr. Culver), the Senator from Vermont (Mr. Leahy), the Senator from North Dakota (Mr. Young), the Senator from New York (Mr. Javits), and the Senator from Michigan (Mr. Griffin).

The PRESIDING OFFICER. What is the will of the Senate?

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX CREDIT FOR HOME HEATING SYSTEM IMPROVEMENT

Mr. GLENN. Mr. President, on behalf of myself and Mr. Brooke, we had proposed to offer an amendment to one of the bills this evening. This amendment might very well help to conserve energy this winter. It is an amendment that would have given a tax credit to those who insulate their homes and make other improvements, such as the installation of clock thermostats, which, over a period of 3 to 4 years, would have been self-liquidating so far as recouping the expense incurred through the savings in fuel costs. This proposal would have provided for home heating system improvements and insulation.

I will not go into all the details this evening. However, I want the record to show that we had discussed this amendment with the leadership this evening. Trying to attach this amendment to any legislation this evening would have been self-defeating if it would not have gone through in the House, even had it been adopted in the Senate.

The chairman has been very helpful in this regard in expressing his support for this amendment. The fact that we have some 21 other cosponsors on this proposal in the Senate indicates the general support for this type legislation that can help homeowners and, at the same time, help alleviate our energy shortage problem.

However, in light of the parliamentary situation in the House and the late hour, I am happy to go ahead with the recommendation of the chairman and not submit these amendments tonight, with the idea that after we return, we will submit this proposal on an appropriate piece of legislation and hope it will be adopted. We look forward to the distinguished chairman's support at that time because I know he shares our interest in this type legislation.

Mr. LONG. I thank the distinguished Senator. I assure him that I will do all I can to help pass legislation of this type next year I am on notice that if further revenue amendments are offered to any bill, it is going to be objected to. At this late stage in the session, one preson who is determined that a measure shall not pass has it completely within his power to prevent it from happening. I am well familiar with that. I have tried on occasion to overcome that type of opposition late in the session, and it cannot be done.

I am not here to be critical of one who does not agree. That is what Congress is all about. That is why we have 100 Senators rather than just one. I have stopped legislation at the closing day. In fact, I have my finger in the dam on a piece of legislation that somebody else wants to pass right now. That is just like someone having his finger in the dam to hold mine back.

So I say to the Senator, "Join the club." Next year, we will vote on those measures and bring them to a conclusion. I wish we could have given the Senator better help this year, but we will try to make it up to him next year.

Mr. GLENN. I thank the chairman for his consideration and his advice.

Mr. President, I ask unanimous consent that this amendment be printed in the Record, so that Members may familiarize themselves with it. Mr. Brooke and I will be working with the other Members who have cosponsored this amendment, and we will bring it up again after the first of the year.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

At the end of the Act insert the following new section:

Sec. . Tax Credit for Home Heating System Improvement

(a) Findings.—The Congress finds that—

(1) the heating of private homes accounts for a significant portion of our national energy consumption, and that substantial increases in the cost of oil, gas, and electricity have significantly and adversely affected millions of American homes;

(2) at present, national energy sources are limited and the capacity of the national energy supply system to meet future demand is inadequate;

(3) it is in the national interest to conserve energy by improving the efficiency with which fossil fuels are used;

(4) significant energy savings for the Nation and the consumer may be achieved by the installation of commercially applicable energy-saving components, including insulation, and the application of advanced technologies; and

(5) it is an important national objective to encourage sound investment practices which improve the operating efficiency of existing residential heating systems.

(b) Insulation and Other Energy-Conserving Alteration of Principal Residence.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44A. Insulation and Other Energy-Conserving Alteration of Principal Residence

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified insulation and other energy-conserving expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $500.

"(b) Limitations.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to credit for personal exemptions), and

"(G) section 44 (relating to purchase of new principal residence).

"(2) VERIFICATION.—No credit shall be allowed under subsection (a) with respect to any qualified insulation or other energy-conserving expenditures unless such expenditures are verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(3) NEW FURNACES.—No credit shall be allowed under subsection (a) for the purchase of any new entire heating system or for the purchase of equipment designed to permit the burning of alternative fuels.

"(4) EFFECTIVE DATE OF CREDIT FOR OTHER CONSERVING EXPENDITURES.—No credit shall be allowed under subsection (a) for the purchase of any 'other energy conserving component' made prior to July 30, 1976.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INSULATION AND OTHER ENERGY-CONSERVING EXPENDITURES.—The term 'qualified insulation and other energy-conserving expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after January 1, 1976, and before January 1, 1979, of insulation or other energy-conserving components in any dwelling unit which—

"(A) at the time of such installation is used by the individual as his principal residence; and

"(B) is in existence on January 1, 1976, and used on such date by one or more individuals as a residence.

Such term shall only include amounts paid for the original installation of any insulation or other energy-conserving components in a dwelling unit.

"(2) INSULATION.—The term 'insulation' means any insulation, storm (or thermal) window or door, or any other similar item—

"(A) which is specifically and primarily designed to reduce, when installed in or on a building, the heat loss or gain of such building,

"(B) the original use of which commences with the taxpayer,

"(C) which has a useful life to the taxpayer of at least 3 years, and

"(D) which meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development.

"(3) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving ment or material including, but not limited to, a heat exchanger, combustor, ducting, piping, and control which—

"(A) is capable of increasing in a cost effective manner thermal efficiency in a residential structure or improving the operating efficiency of a heating system already installed in such structure;

"(B) meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development;

"(C) the original use of which commences with the taxpayer; and

"(D) has a useful life of at least 3 years.

"(4) HEATING SYSTEM.—The term 'heating system' means any item, fixture, equipment or material which is designed, when installed in or on a building, to contribute to the heating of such building, to contribute to the heating of water for use within such building, or to control the automatic cycling of such hardware. Such term includes, but is not limited to, all necessary fittings and related installations.

"(d) SPECIAL RULES.—

"(1) JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified insulation or other energy-conserving expenditures paid during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified insulation or other energy-conserving expenditures paid by such corporation.

"(e) REDUCTION OF BASIS.—The basis of any property shall not be increased by the amount of any qualified insulation or other energy-conserving expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(f) REPORTS.—

"(1) The Secretary of the Treasury shall prepare an annual report in consultation with the Administrator of the Federal Energy Administration. Such report shall be transmitted to the Congress not later than December 31 of each year, beginning with 1976, and shall include information with respect to the number and amounts of credits taken under the amendments made by the foregoing provisions of this Act; the nature of insulation improvements made by taxpayers with respect to their principal residences; the geographic areas of the United States in which such residences were located.

"(2) The Administrator of the Federal Energy Administration, in consultation with the Secretary of the Treasury, shall prepare an analysis of the energy savings achieved through operation of such amendments and prepare recommendations for modification, if any, of the tax incentive.

"(g) TERMINATION.—This section shall not apply to any amount paid after December 31, 1978.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of contents for such subpart A is amended by inserting immediately before the item relating to section 45 the following new item:

"SEC. 44A. INSULATION AND OTHER ENERGY-CONSERVING ALTERATION OF PRINCIPAL RESIDENCE.".

(2) Section 56(a)(2) of such code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out "; and" at the end of clause (vii) and inserting in lieu thereof ", and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to insulation and other energy-conserving alteration of principal residence); and".

(3) Section 56(c)(1) of such Code (relating to tax carry-overs) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to insulation and other energy-conserving alteration of principal residence), exceed".

(4) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon and by inserting after paragraph (22) the following new paragraph:

"(23) to the extent provided in section 44A(d), in the case of property with respect to which a credit has been allowed under section 44A."

(5) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof "44, and 44A".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after January 1, 1976, in taxable years ending after such date.

Mr. BROOKE. Mr. President, the Home Heating Systems Improvement Amendment which I and Senator GLENN, together with others of my colleagues cosponsor, is an essential part of a national energy conservation program. Each year, the 35 million American homes which lack adequate insulation waste the equivalent of 130 million barrels of oil that could have been saved through proper retrofit of the building.

Each year, 2 million gas- and oil-fired home heating systems waste 9 million barrels of oil which could be saved if they were simply fitted with more efficient components.

We cannot keep missing the opportunity for fuel savings which could be realized by proper home heating conservation measures.

A large part of the problem, particularly in the market for heating system improvements, is that consumers are not aware of possible savings. Furthermore, the heating equipment industry needs to expand its procedures for evaluating and standardizing new conservation equipment. And homeowners need more education about the money-saving impact of home insulation and storm windows.

One efficient way to educate homeowners is through a temporary program of tax credits for such energy saving expenditures. This would be an appropriate use of the tax system, as few national goals are so important as a reduced reliance on oil imports.

The House of Representatives wisely

passed a tax credit for home insulation as part of the Energy Conservation and Conversion Act of 1975 which it sent to the Senate last summer. In July, I testified before the Senate Finance Committee on provisions of this act, as well as on energy conserving measures of my own I hoped would be included.

But the committee has taken no action on this vital matter. Winter is upon us, and again, poorly insulated and inefficiently heated houses are billowing forth wasted heat into the cold air. I believe the Senate can wait no longer, so I have used the House language the Senate Finance Committee has already considered in this legislation.

I have made one amendment I feel is important which was not a part of the House bill. The tax credit in H.R. 6860 only applied to expenditures for insulation. But important fuel savings can also be realized by upgrading existing oil and gas furnaces and the pumps, ducts, and thermostats which control heat flow. Many well-insulated homes are still using 10 percent more fuel than they should for lack of new heating system components. I have added the words "other energy conserving alterations" to the list of those expenditures which may be counted for the tax credit. This means "any item fixture equipment or material * * *" used as part of the existing heating system which meets conservation and quality standards established by the FEA Administrator. As the ceiling of 30 percent of $500 of qualified expenditures remains as the House passed it, this should not increase the demands on the Treasury above the House estimates of $260 million per calendar year. In any case, it would be as foolish for the Government to urge citizens to conserve fuel without upgrading their obsolete heating systems as it would be for any car owner to try to cut gasoline consumption with a poorly tuned automobile.

This program is not the answer to all our residential energy conservation problems. Clearly we need loans, consumer education, and tough construction standards for energy conservation. More important, this bill treats residences owned by individuals who can respond to admittedly small tax incentives by investing in improvements. It is not a response to the high energy costs borne by tenants in multifamily buildings. Nor is it a solution to the truly dire needs of the poor and the elderly who usually live in the least well insulated buildings.

Nevertheless, most residential energy is used and wasted by middle-income families. This tax credit is an important and long overdue incentive to cut our residential fuel consumption.

The House Ways and Means Committee estimate of revenue loss to the Treasury is $260 million for each calendar year. This must be considered in light of the $539 million which will be saved each year both during and long after the 3-year life of this program. This figure is also a conservative estimate of the gains, since it is calculated by considering the 47,450,000 barrels of oil saved per year by the end of 1978 at the current world price of oil, which is likely to rise.

The addition of heating system retrofit as a qualifying expenditure under this program should not significantly increase the use of the tax credit. This is because the industry as it now exists, or is likely to exist in the next 2 years, can only provide high quality retrofit for about 2 million homes. Some of the 35 million homes which need insulation also need their heating systems updated and will have to choose between one or the other kind of expenditure for the tax credit. Even if all the 2 million potential users of this credit were added to the 35 million potential users of the tax credit foreseen by the House, that is only an addition of 5 percent, or, at the outside, a $13 million additional revenue loss per calendar year.

Finally, the impact on the fiscal year 1976 revenues about which the Senate Budget Committee is quite rightly concerned is minimal. All of this revenue loss will be realized in spring of 1977, because the retrofit expenditures can only qualify if made after July 30, 1976, and thus will have no impact on fiscal year 1976 revenues at all.

Mr. President, I ask unanimous consent to have the amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following new section:

SEC. . TAX CREDIT FOR HOME HEATING SYSTEM IMPROVEMENT EXPENDITURES.

(a) FINDINGS.—The Congress finds that—

(1) the heating of private homes accounts for a significant portion of our national energy consumption, and that substantial increases in the cost of oil, gas, and electricity have significantly and adversely affected millions of American homes;

(2) at present, national energy sources are limited and the capacity of the national energy supply system to meet future demand is inadequate;

(3) it is in the national interest to conserve energy by improving the efficiency with which fossil fuels are used;

(4) significant energy savings for the Nation and the consumer may be achieved by the installation of commercially applicable energy-saving components, including insulation, and the application of advanced technologies; and

(5) it is an important national objective to encourage sound investment practices which improve the operating efficiency of existing residential heating systems.

(b) INSULATION AND OTHER ENERGY-CONSERVING ALTERATION OF PRINCIPAL RESIDENCE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44A. INSULATION AND OTHER ENERGY-CONSERVING ALTERATION OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the qualified insulation and other energy-conserving expenditures paid by the taxpayer during the taxable years with respect to any residence to the extent that such expenditures do not exceed $500.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office),

"(F) section 42 (relating to credit for personal exemptions), and

"(G) section 44 (relating to purchase of new principal residence).

"(2) VERIFICATION.—No credit shall be allowed under subsection (a) with respect to any qualified insulation or other energy-conserving expenditures unless such expenditures are verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(3) NEW FURNACES.—No credit shall be allowed under subsection (a) for the purchase of any new entire heating system or for the purchase of equipment designed to permit the burning of alternative fuels.

"(4) EFFECTIVE DATE OF CREDIT FOR OTHER CONSERVING EXPENDITURES.—No credit shall be allowed under subsection (a) for the purchase of any 'other energy conserving component' made prior to July 30, 1976.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INSULATION AND OTHER ENERGY-CONSERVING EXPENDITURES.—The term 'qualified insulation and other energy-conserving expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after January 1, 1976, and before January 1, 1979, of insulation or other energy-conserving components in any dwelling unit which—

"(A) at the time of such installation is used by the individual as his principal residence; and

"(B) is in existence on January 1, 1976, and used on such date by one or more individuals as a residence.

Such term shall only include amounts paid for the original installation of any insulation or other energy-conserving components in a dwelling unit.

"(2) INSULATION.—The term 'insulation' means any insulation, storm (or thermal) window or door, or any other similar item—

"(A) which is specifically and primarily designed to reduce, when installed in or on a building, the heat loss or gain of such building,

"(B) the original use of which commences with the taxpayer,

"(C) which has a useful life to the taxpayer of at least 3 years, and

"(D) which meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development.

"(3) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item, fixture, equipment or material including, but not limited to, a heat exchanger, combustor, ducting, piping, and control which—

"(A) is capable of increasing in a cost effective manner thermal efficiency in a residential structure or improving the operating efficiency of a heating system already installed in such structure;

"(B) meets such performance standards as the Secretary or his delegate may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development;

"(C) the original use of which commences with the taxpayer; and

"(D) has a useful life of at least 3 years.

"(4) Heating system.—The term 'heating system' means any item, fixture, equipment or material which is designed, when installed in or on a building, to contribute to the heating of such building, to contribute to the heating of water for use within such building, or to control the automatic cycling of such hardware. Such term includes, but is not limited to, all necessary fittings and related installations.

"(d) Special Rules.—

"(1) Joint occupancy.—In the case of any dwelling unit which is jointly occupied and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b) (2)) with respect to any qualified insulation or other energy-conserving expenditures paid during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b) (3)) of any qualified insulation or other energy-conserving expenditures paid by such corporation.

"(e) Reduction of Basis.—The basis of any property shall not be increased by the amount of any qualified insulation or other energy-conserving expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(f) Reports.—

"(1) The Secretary of the Treasury shall prepare an annual report in consultation with the Administrator of the Federal Energy Administration. Such report shall be transmitted to the Congress not later than December 31 of each year, beginning with 1976, and shall include information with respect to the number and amounts of credits taken under the amendments made by the foregoing provisions of this Act; the nature of insulation improvements made by taxpayers with respect to their principal residences; the geographic areas of the United States in which such residences were located.

"(2) The Administrator of the Federal Energy Administration, in consultation with the Secretary of the Treasury, shall prepare an analysis of the energy savings achieved through operation of such amendments and prepare recommendations for modification, if any, of the tax incentive.

"(g) Termination.—This section shall not apply to any amount paid after December 31, 1978.".

(c) Technical and Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44A. Insulation and other energy-conserving alteration of principal residence.".

(2) Section 56(a) (2) of such Code (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (vi), by striking out "; and" at the end of clause (vii) and inserting in lieu thereof ", and", and by inserting after clause (vii) the following new clause:

"(viii) section 44A (relating to insulation and other energy-conserving alteration of principal residence); and".

(3) Section 56(c) (1) of such Code (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (F), by striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and by inserting after subparagraph (G) the following new subparagraph:

"(H) section 44A (relating to insulation and other energy-conserving alteration of principal residence), exceed".

(4) Subsection (a) of section 1016 of such Code (relating to aljustments to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon and by inserting after paragraph (22) the following new paragraph:

"(23) to the extent provided in section 44A(d), in the case of property with respect to which a credit has been allowed under section 44A."

(5) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44" and inserting in lieu thereof "44, and 44A".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid after January 1, 1976, in taxable years ending after such date.

Mr. MONTOYA. Mr. President, today the Senate was to consider the Home Heating Improvement Act of 1975 as an amendment to H.R. 7727, the suspension of duties on certain silk. I am a cosponsor of this legislation that provides for a tax credit of 30 percent of expenditures on home insulation and/or the upgrading of components of the home heating system up to $500. As my colleagues can see, this amendment provides tax incentives for homeowners to improve the insulation on their homes, thus saving energy. This measure further adds to our natural program of energy conservation which will hopefully lead us down the path of energy self-sufficiency.

Mr. President, allow me briefly to relay how the program will be adding to our energy conservation effort. Even though the total cost to the Treasury is estimated to be $190 million the first year and $260 million each of the 2 following years, this tax expenditure must be compared to the savings of the cost of 47,450,000 barrels of oil per year which the FEA estimates these new conservation measures will save. Even if the world price of oil remains unchanged, this could mean savings of about $593 million per year. Thus, this legislation not only will be saving the country money, but it will also be further relieving our reliance on foreign oil exporters.

The amendment sponsored by the distinguished Senator from Massachusetts adds the necessary incentives to promote further energy conservation which in turn adds to our national quest for energy self-sufficiency.

PREVAILING FEES BY MEDICARE

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10284.

The PRESIDING OFFICER (Mr. Morgan) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

(The amendment of the House is printed in the Record of December 18, 1975 beginning at page 41762.)

Mr. LONG. Mr. President, as I indicated during the Senate's consideration of H.R. 10284 earlier this week, there was a good possibility that the House might not find the time necessary for a conference with the Senate on the various Senate amendments to the bill, which include some necessary changes in medicare and medicaid. The House, however, has been able to accept certain of the Senate amendments, including those which would:

Up date the life safety code requirements applicable to nursing homes;

Make grants to demonstrate appropriate mechanisms for reimbursement to HMO's;

Authorize a study of certain diagnostic services by optometrists;

Provide a modification of the present requirement for 100 percent review under medicaid;

Amend the PSRO program with the exception of the Senate provision relating to the liability of PSRO's for their review activities;

Provide tax-exempt status for certain obligations issued in connection with reconstruction of the American Falls Dam, and

In the Senate amendments we provided for making it a matter of State option rather than mandatory to let welfare recipients purchase their food stamps through a procedure involving the withholding of the purchase price from the welfare check. The House Agriculture Committee indicated a desire to study this further and the House therefore modified our amendment to make it effective only for a temporary period until October 1, 1976.

In addition, the bill includes a provision added by the House designed to provide an opportunity for hospitals to seek relief in Federal courts in certain situations where a State appears not to be in compliance with the statutory requirement that it pay hospitals on a reasonable cost basis.

The chairman of the Committee on Ways and Means, Mr. ULLMAN, assures me that the Senate amendments which are not included were not necessarily dropped because of basic objections to the amendments, but rather because time did not permit the development of necessary technical changes and the extensive consideration which some of these amendments necessitate. This includes amendments such as Senator CRANSTON's medicare buy-in provision. It is my understanding that the Committee on Ways and Means will evaluate these provisions during the next session with a view toward expediting consideration of those which ultimately meet with their approval in either modified or present form.

Mr. TAFT. Mr. President, for a number of years, there have been disputes arising from certain State decisions involving payments, or more precisely, lack of payments, to hospitals under the medicaid program. What makes this matter extremely serious, is that, although a particular hospital may be able to prove its case, it cannot sue. It is in a Catch-22 situation. The State cannot be sued in State court, because the Federal Government, a partner in the medicaid program, must be a willing party to the suit. And the State cannot be sued in Federal court without its consent because of the 11th amendment guarantees.

When a State fails to properly administer medicaid payments, hospitals can suffer a severe loss of income. I am aware of one Chicago hospital which has over $3 million in claims outstanding against the State of Illinois, and which has had to borrow, at high interest rates, to cover its operating losses over the past 3 years.

If such situations continue much longer, the quality of medical care will surely suffer.

The first section of the House amendment provides that a State waiver of immunity to suit by hospitals in Federal court be included as part of any State application for participation in the medicaid program.

The second section requires the Secretary of Health, Education, and Welfare to enforce the application standards with a penalty cutback of 10 percent of medicaid payments due the State by the Federal Government. As the law now stands, the Secretary can either withhold all payments or do nothing. Obviously, withholding all payments is such a severe move that it is inconceivable. This section provides the Secretary with an enforcement tool strong enough to be effective, without crippling the program.

I ask that this amendment be accepted.

Mr. CRANSTON. Mr. President, I was very disappointed the House dropped two of the three provisions in H.R. 10284—the medicare amendments—which I sponsored in the Senate, and on which the chairman of the Committee on Finance (Mr. LONG) was so helpful in assuring Senate adoption.

The House refused to accept the medicare buy-in provision which would have enabled certan individuals between the ages of 60 and 65 to purchase medicare coverage by payment of equal-to-cost premiums. The House reasoning here was they would only include provisions facing an immediate deadline for termination, and "because it would tend to put medicare into competition with private health insurance carriers, because it raises the question of why social security beneficiaries below age 60 should not also be included."

I would like to ask the Senator from Louisiana if he did not receive some assurances from the chairman of the House committee that they would work on this amendment and agree to include it in an appropriate bill next session?

Mr. LONG. Yes, I would like to assure my colleague, the Senator from California, that the chairman of the Committee on Ways and Means (Mr. ULLMAN) has assured me he will look at this provision very carefully so that the questions raised by the House can be answered fully and addressed in legislation to be enacted next session.

Mr. CRANSTON. I thank the Senator from Louisiana for that assurance. I would like to suggest at this time that the questions raised by the House can be answered with a moderate amount of research, and I believe such research will find that this group of individuals between the ages of 60 and 65 find private health insurance difficult or impossible to purchase at fair cost unless they are fully employed or are covered under a spouse's plan. I do not believe my amendment will result, at all, in medicare competing with private health insurance carriers.

In addition, the House refused to accept my amendment which would have enabled a VA hospital to be reimbursed by medicare where it provided care to a medicare beneficiary on the good faith assumption that he was a veteran but later discovered he was not a veteran and therefore not eligible for VA care. When this unfortunate set of circumstances occurs now, the patient must pay the full costs of his medical care, even though he is entitled to medicare coverage.

The House suggests in yesterday's debate that "It might be appropriate to afford relief, as part of veterans' legislation, for all such persons found not to be VA eligible—not just those who are eligible for medicare. In addition, it would seem more appropriate for the VA to administer such a provision rather than complicating the medicare law and its administration."

The VA statute prohibits the VA from providing care to anyone except a veteran, and then only when it is in conjunction with a service-connected injury, or when the veteran is unable to defray the cost of hospitalization. What the House seems to be proposing is that the VA hospitals open their doors to everyone. The VA does provide emergency services to anyone, regardless of eligibility, as a humanitarian service. However, to do what the House suggests could seriously detract from the VA mandate to care for the service-connected disabilities of veterans and could result in the VA being unable to provide care to eligible veterans on a timely basis.

Therefore, I hope the House will also reconsider their position on this provision next session.

I would like to ask the chairman of the Finance Committee (Mr. LONG) if he will work with me to convince the House of the merit of this provision.

Mr. LONG. Yes, I will.

Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, this Wednesday the Senate approved the bill H.R. 10727 which had earlier been sent to us from the House and which attempts to alleviate the large backlog the Social Security Administration now faces in processing hearing cases. In passing this bill, the Senate basically accepted the House provisions and added several very meritorious amendments affecting other aspects in the administration of social security programs. The House has just completed consideration of the Senate amendments and accepted most of them.

However, the House did strike a Senate amendment related to the work incentive program and modified the Senate amendment which would move the reporting of social security wages to an annual basis so as to lessen some of the paper work burden of small employers in this country. While there is nearly universal acceptance in principle of the concept of annual social security wage reporting, the administration has some objections to the particular methodology that would be employed under the amendment the Senate approved last Wednesday. The House agreed with the Senate's judgment that this is a matter which has been hanging fire for too long a time and that it is important to get the principle established in the statute now.

However, the House felt that it would be advisable to add an amendment postponing for 1 additional year the effective date of this change so that consideration could be given to whatever changes in methodology the administration may wish to propose prior to the implementation of the new system.

With respect to the work incentive program amendments which were stricken by the House, I believe these are indeed meritorious amendments, but they are not of such an urgent nature as to require immediate consideration and it is my hope that we can convince the House to consider them again in the near future.

Overall, I believe the amendment sent to us by the House represents a substantial acceptance of the major provisions of what we did last Wednesday in the Senate and I would urge that these House changes be accepted.

UNIFORM REVIEW PROCEDURES UNDER SOCIAL SECURITY

The PRESIDING OFFICER (Mr. MORGAN) laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to H.R. 10727, which was read as follows:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, and 3, to the bill (H.R. 10727) entitled "An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles."

Resolved, That the House agree to the amendment of the Senate numbered 4 to the aforesaid bill, with the following amendments:

(1) Page 5, line 19 of the Senate engrossed amendments, strike out "1976.", and insert "1977."

(2) Page 12, line 6 of the Senate engrossed amendments, strike out "1977", and insert: "1978".

(3) Page 12, line 8 of the Senate engrossed amendments, strike out "1978,", and insert: "1979,".

(4) Page 13, line 6 of the Senate engrossed amendments, strike out "1977", and insert: "1978".

(5) Page 13, line 8 of the Senate engrossed amendments, strike out "1978", and insert: "1979,".

Resolved, That the House agree to the amendment of the Senate numbered 6 to the aforesaid bill with an amendment as follows:

Page 16, line 10 of the Senate engrossed amendments, strike out "SEC. 12.", and insert: "SEC. 9."

Resolved, That the House agree to the amendment of the Senate numbered 8 to the aforesaid bill with an amendment as follows:

Page 17, line 18 of the Senate engrossed amendments, strike out "SEC. 15.", and insert: "SEC. 10."

Resolved, That the House disagree to the amendments of the Senate numbered 5 and 7.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. LONG. Mr. President, I move that the Senate recede from its amendments Nos. 5 and 7.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the Senate concur in the amendments of the House to the Senate amendments Nos. 4, 6, and 8.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 83) directing the Secretary of the Senate to make corrections in the enrollment of S. 2718.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4287) to provide for additional law clerks for the judges of the District of Columbia Court of Appeals.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 10035) to establish the Judicial Conference of the District of Columbia.

The message also announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 749) to provide for the beginning of the 2d session of the 94th Congress and for other purposes.

The message further announced that the House has passed, without amendment, the joint resolution (S.J. Res. 157) to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by federally related financial institutions for property located in communities not participating in the national flood insurance program.

YEARS PAST AND YEARS AHEAD—A CONTINUITY IN DICHOTOMY (S. DOC. NO. 94-143)

Mr. HUGH SCOTT. Mr. President, again I have the honor as the Republican leader to submit to my colleagues the minority report on the accomplishments of the Senate during the year just past. As I do so, I cannot but be very aware that, God willing, I shall do this one more time, about a year from now, then pack it away among the memories of the privilege of service in this body.

For the U.S. Senate, 1975 has been a busy year. It has not been as traumatic as the year just preceding—years like 1974 do not come often in a lifetime—but it has been difficult enough, nevertheless, as we stumble into our Bicentennial year and the last quarter of the 20th century. I hope I can speak with less pessimism when it is time to assess the accomplishments of the 94th Congress as a whole. For the present, at the halftime mark as it were, I can only point to the past as progenitor of the future.

Mr. President, it is more than a simple matter of comity that I begin this report with a respectful and hearty tip of the hat to my very good friend, the distinguished majority leader, the Senator from Montana, MIKE MANSFIELD. The Senate has been fortunate in having him for its leader these past 15 years. While I would be less than candid if I claimed not to have occasionally wished for his job myself during my time as a minority leader—even a bolt of lightning could not make this possible now—I can in all honesty say that he has been personally responsible for the smooth, coordinated functioning of this body in a manner which it has seldom seen before. His modesty and quiet dignity are matched only by the incisive determination with which he has led us through this troublesome decade and a half.

I must also pay my respects to the Senator from West Virginia, ROBERT C. BYRD, whose devotion to the Senate and love of the action in this Chamber is surpassed by no one. It is he who has so often managed the day-by-day routine of floor business. As I said last year, and will say again many times, I fear, it is he who has kept our noses to the grindstone. Much credit goes to him for his indefatigable labors.

On my own side of the aisle, I am deeply grateful to the very able assistant minority leader, the Senator from Michigan, BOB GRIFFIN. He has been a tower of strength as we of the Republican side endeavored to keep pace with our considerably more numerous brethren over there. Along with him I must rank the chairman of the Republican Policy Committee, Senator JOHN TOWER, of Texas, one of the most astute parliamentarians and managers of Senate business on our side. He has made an immense contribution to this body.

I am also indebted to our distinguished chairman of the Republican Conference, the Senator from Nebraska, CARL CURTIS, and to the Secretary of the Conference, BOB STAFFORD of Vermont, for their cooperation, assistance and understanding.

Finally, I am keenly sensible that this is my penultimate valedictory. I shall be able to deliver one more, about a year from now, and I trust I may be forgiven for hoping that we can at that time observe the beginnings of a pulling together in the Nation, relaxation from tension, peace at home, and a reduction of violence in the world, a time during which our problems will appear to become lesser rather than greater, our contentions of less severity. Regretfully, I cannot do so today.

Let me suggest some of the ways in which our country could be improved and in which it seems to me the Senate has the capability of taking decisive action in 1976. The dichotomy of our ideas will continue; this should occasion no surprise, for it was clearly intended by the founders of this Republic. But there can be unanimity on certain goals, even though the means will not always be so clear.

For example, I would really like to see a reduction of armaments, and a reduction in the tremendous expense associated with them. For this there must be some kind of agreement with the other two superpowers in the world; and for an agreement, there must be a degree of trust working in the six directions that exist between the three corners of that international triangle. Trust is not achieved by words, nor by blind faith, but rather by pragmatic realism, self-confidence, and a respect for others. But the burgeoning growth of technological capability goes on apace, and it must be turned away from war. We have made a beginning, and I hope 1976 will see another step along that devoutly-to-be-desired road.

Crime is another of our great problems. It has been defined as one of those illnesses which hasten a decadent society into its grave. Is this happening to us? I believe not. But there must be an improvement of action, and it would be my hope that the second session of the 94th Congress will at least see a sensible dialog, rooted in realities, without which progress toward a cure cannot be achieved.

Personally I have often thought some ideas expressed by Gilbert and Sullivan music might well be put to practical use. For example, what is wrong with the Mikado's idea of letting the punishment fit the crime? A pool shark—and I mean no pun—should most certainly be required to use elliptical billiard balls. My point is simply that our society currently envisions only one punishment for crime: imprisonment. We can, and we should, do better. For certain criminals other punishments might be more practical as well as more punitive than time in the slammer. Additionally, they would have the undeniable advantage of reducing some of the load on our prisons and the cost to our taxpayers.

Regarding the economy, to which a major portion of this report is devoted, I have one abiding concept: It is not right, it is illogical, for the expediency of today to place a burden upon the future. The institution of black slavery, for example, was perpetrated upon our new land in its early days as a source of easy economic gain. The outcome of that perversion has had an incalculable effect upon our land, our society, and our way of life. And, just as that past is irretrievable, so are its onward flowing consequences inevitable.

Another example is our economy itself, the succession of deficit budgets with which we are burdening our children and grandchildren. Judging from today's attitude, there is only one way in which the national debt can be managed. This is by inflation, which is as inevitable as night and day, and sunrise and sunset. I do not say inflation is deliberate, but I do say it is inevitable if we do not better manage our income and expenses, and we all know it. If and when a dollar reaches the reduced value of 1 cent—not at all an impossibility if one but reviews history—our more than a half trillion dollars of national debt—which will reach a trillion dollars in 6 years time at the rate we are going—will then be the equivalent of only some 10 billion of today's dollars: Chickenfeed.

To plagarize from a man only a few years dead:

Some chickenfeed.

Some chicken.

True enough, the projected trillion of public debt will have been reduced by a factor of 100. So will the savings of every man, woman, and child in this country. And so will the incomes of all those who retired in the naive belief that what they had worked all their lives to provide would be there when they needed it. That is how future Congresses may "handle" this huge public debt. Perhaps, at least, it will be more fair this way than to penalize those who were not even alive when the problem was created. These last will, at least, be working and drawing correspondingly inflated salaries. You could even call inflation the ultimate application of Murphy's law, for the poverty level will by then be an income of $500,000 per year.

Problems of this nature, both social and economic, cry out for long-range, responsible study and long-range responsible action. I would hope a beginning could be made in our 200th year as a nation.

So much for my big hopes for the future. I also have some more modest ideas. One has to do with the operation of the Senate itself. We are not spending our time wisely. We call ourselves the world's greatest debating body, promising that time will be found for full discussion of all problems with which we are seized. Unlike the Supreme Court, however, we cannot occupy ourselves only with those things we consider worth our attention.

The many appropriation bills must be passed every year.

There is a never-ending stream of other legislation with which we must deal.

Our time is also taken up with constituent matters, concerns of protocol and ceremony, the problems of running for reelection, ordinary office problems, and even those simple human things which afflict us all, such as what to do for one's wife's birthday.

And yet any Senator, if he feels it important, for whatever reason, can force debate, and delay, and voting over and over again on the most inconsequential of matters.

This year we have voted 600 plus times for record; the cost to a Senator of each vote is upwards of half an hour. That is an average of nearly three votes per day of session, or 200 hours spent voting. During the past 6 years, we have set five new records for voting. This year we surpassed all previous efforts.

But the central question is whether all this voting is really worthwhile. How much time has each Senator been able to give to actual study of all this legislation on which he is voting? When has he been able to do this? Or is he simply taking the word of someone else—and in that case, are the taxpayers, or his constitutents, getting the service and attention which are their right?

What I am really saying is that there must be a better way. Perhaps we should limit our votes to no more than one a day, or 10 a week. Perhaps we should cut in half the number of days the Senate is in session during the year, not to increase our days out of the office but to increase our days on the job—what do ordinary citizens do when not receiving visitors or attending meetings? Do they, perchance, work at their jobs?

We can and must do better. Some of the low esteem to which our two legislative bodies have fallen is due to this very factor.

And while I am on the subject of the Senate, there is another matter about which much can be done. I refer to the adequacy of the staff function. Today, any branch of the executive department, or any well-heeled lobby, can overwhelm any Senator, or all the Members of Congress simultaneously, if it but choose to do so. The Pentagon can bring over a task force of 40 colonels and generals, each dedicated, well briefed, intensely loyal to the objective they are seeking. Against these, a Senator can only pit his own human judgment, supported by the same work-worn staffers who have been studying the other 599 plus items on which he has had to vote during the year, as well as answering the hundreds of thousands of letters he received during the same period. If a Senator is to retain his objectivity, he must, somehow, have greater strength on his side with which to match the ever increasing—nowadays even computerized—pressures upon his judgments, time, and attention. And how does one decide effectively 600 important issues in a year?

As I said earlier, this is only my penultimate valedictory. I hope I shall have the opportunity to speak to these subjects again during the year, and perhaps more specifically, a year from now.

1975: THE EGREGIOUS ECONOMY

The downhill-uphill-downhill economics of 1975 were perhaps best illustrated by this year's "Financial Follies," presented by the New York Financial Writers Association last November 10, which opened with an RCA executive as the Town Crier:

> Hear Ye, Hear Ye! It being the 200th anniversary of the United States of America . . . and the last anniversary of the City of New York . . .

This afforded the clue, said Variety, of a focus on default rather than the topsy-turvy economic history of calendar 1975. To the tune of "Danny Boy" the actor portraying New York Gov. Hugh Carey sang to New York City Mayor Abe Beame, "Oh Abie Boy, the banks, the banks are calling. They want their dough * * *." And Leonard Sloane of the New York Times, as Treasury Secretary William Simon, was a show stopper in top hat and tails singing to the tune, "It's Delightful": "* * * Though Abe and Hugh cry boo-hoo-hoo, their fiscal tangle I'll not undo, They're deceitful, they're depressing, they're defaulting."

In an excruciatingly unique fashion, the financial writers were expressing something closely akin to anxiety—the giggles.

They have good reason. At no point since January 1, 1975, have the forecasts, the predictions, the indicators, the implicit inflators and deflators, the econometric models, nor hunches based on experience or common sense, seemed to provide a "fit" for the reality facing most Americans, most of the time: get up, go to work, try to save a little, try to live a little better and, as best you can, get the kids through school.

SAVE ENERGY: BE LETHARGIC

Consider the record. On November 19, 1974, 16 nations had agreed in Brussels to create an International Energy Agency, and on December 10, 1974, House Speaker CARL ALBERT appointed a 10-member task force of the Democratic steering and policy committee to draft a program of action on the economy and energy. Thus, on January 13, 1975, the House Speaker's Democratic steering and policy committee task force issued its "blueprint" for congressional action on economic measures.

It was not to be heard of again.

Instead, Senator JACKSON of Washington, issued his own economic analysis of the President's economic and energy program, prepared by the staff of his Senate Interior Committee, on January 17.

By the 20th of January, the ball was back in the House of Representatives as Speaker ALBERT listed "serious reservations" about President Ford's economic/energy program in a televised speech and—comme toujours—4 days later the House Ways and Means Committee voted to postpone by at least 90 days implementation of the President's program: Sufficient time, they said, to develop their "own program." They also increased the Federal debt limit to $531 billion.

Once again, a Democratic task force was formed to propose an alternative to President Ford's program. This time Chairman AL ULLMAN, Democrat of Oregon, disclosed his House Ways and Means Committee had formed a special committee of top-ranking members to try to work out a compromise plan. The special "umbrella" group would include important personages of important committees.

Subsequently, the Senate debated a motion to prohibit for 60 days certain provisions of the President's program.

On February 4, President Ford submitted his Economic Report to Congress. In a press conference in Atlanta, Ga., the President challenged the Democratic Congress to formulate a comprehensive energy/economic plan of its own, if it did not agree with his program.

On February 5, I introduced President Ford's Energy Independence Act of 1975, S. 594.

Within 2 days, the Senate Finance Committee began hearings on a proposal to suspend for 90 days the President's authority to impose tariffs on imported petroleum and its products.

And on February 12, the Senate "ad hoc committee" on coordinating energy legislation recommended that the Senate's own National Fuels and Energy Policy Study be extended for an additional year.

By February 25, Representative ULLMAN informed reporters that his House Ways and Means Committee would shortly report out a comprehensive energy program. Eight task forces were at work on the committee's plan. Mr. ULLMAN announced he expected to finish work on a bill by April 18.

What followed was a melange of House and Senate Democratic proposals, each to be born, see light of day, and disappear into that vast New-Deal-In-The-Sky.

February 27: Senator PASTORE, Democrat of Rhode Island, and Representative WRIGHT agreed on an "alternative" Democratic energy program.

March 2: Democrats on the House Ways and Means Committee formally issued proposals for a national energy program.

March 3: House Ways and Means Committee began "extensive hearings" into energy programs and policies.

March 4: Representative ULLMAN placed in the CONGRESSIONAL RECORD the Ways and Means Committee statement of alternatives to the President's Democrat-postponed program.

March 5: Ford vetoed the 90-day tariff suspension, Speaker ALBERT said the House would delay its vote for 60 more days, Republican leaders objected, and the Speaker announced a vote would be taken March 11 instead.

Meanwhile, Representative DINGELL, Democrat of Michigan, announced he would hold hearings in the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, and that beginning March 24, the subcommittee would hold hearings "to define the policy parameters" of legislation to be drafted during the Easter recess.

On it went.

March 6: Thirty-nine freshmen Democrats sent a letter to Representative JIM WRIGHT to express their skepticism of the joint congressional approach.

March 7: Representative JOHN DINGELL, Democrat of Michigan, said his subcommittee would now complete work on their energy/economics plan during the Easter recess and bring it to the floor in mid-to-late April.

March 14: Five freshmen Democratic Congressmen announced they had drafted, and more than 100 Congressmen signed, a letter to Chairman ULLMAN arguing for a Government-ordered reduction of gasoline supplies.

By March 17, even Comptroller General Elmer B. Staats presented his own package of energy proposals to the House Ways and Means Committee.

March 24: The Joint Economic Committee, in its annual report to Congress, rejected the President's energy/economic program and made its own recommendations for an energy program.

By April 6, the Democratic National Committee Advisory Council stepped onstage and issued its own proposed energy/economics program.

April 30: President Ford announced his decision to allow a further delay of 30 days in the imposition of his energy/economic plan in order to give additional time for congressional action.

On June 10, the Joint Committee on Atomic Energy began hearings before an ad hoc committee on fast breeder reactors.

On July 15, the Senate passed S. 1849, a bill to simply extend the Emergency Petroleum Allocation Act for 6 more months.

By now, the 90-day extension had long since passed. No workable energy/economic program alternative to the Ford program had been agreed upon by House or Senate Democrats.

On July 22, the President vetoed the extension of the Emergency Petroleum Allocation Act, and 3 days later proposed a second plan for gradually decontrolling the price of domestic crude oil.

July 30: The House disapproved the President's second plan.

July 31: The House extended the Emergency Petroleum Allocation Act for another 6 months.

Enter, like Falstaff posing as a warrior, the U.S. Court of Appeals which, on August 11, ruled that the President could not impose a tariff to control oil imports. Quite promptly, the Justice Department announced it would appeal to the Supreme Court to overturn the ruling. Equally promptly, the U.S. Court of Appeals announced it would delay enforcement of its order until September 15.

September 9: President Ford vetoed the 6-month extension of the Emergency Petroleum Allocation Act.

September 10: The attempt by the Senate to override Ford's veto failed.

September 11: The House voted to extend the Emergency Petroleum Allocation Act of 1973 for 45 days.

September 23: President Ford outlined yet another attempt to compromise on an Energy Independence Authority.

September 25: President Ford and Democratic congressional leaders reached an agreement on oil decontrol plan.

September 26: The House and Senate passed the compromise extension of oil price controls.

November 3: The Supreme Court announced it will review the Appeals Court decision that the President could not impose a tariff on oil imports.

November 11: First meeting of the House-Senate Conference on the Energy Research and Development Agency authorizations was held.

December 2: Conference meeting to finalize conference report on ERDA authorization.

As of this writing, about 1,387 energy-related bills have been introduced in the House and Senate. And the Democratic compromise bill worked out in response to the President's proposal—after 11 months—has now reached the stage of final passage in both House and Senate.

But I find myself more than a bit confused. After all this, does it really matter anymore? This reminds me of a poem:

> But what good came of it at last?
> Quoth little Peterkin.
> "Why, that I cannot tell," said he;
> "But 'twas a famous victory."

Yet this remains only the energy half of our energy/economy quandary. The "First Emperor" of China, Ch'in Shih Huang Ti, considered monumental architecture to be indispensable to sound government. The Han emperors, who succeeded Shih Huang Ti, also believed that great architecture was necessary to stable government. They considered great size and overpowering beauty as the appropriate means for inspiring awe—a tenuous and interesting analogy which leads to the other half of our quandary; that is, the great size and overwhelming growth of Federal borrowing and spending under a Democratic Congress. This too, inspires a wondrous and holy awe.

THE DEMISE OF THE THEOPNEUSTIC ECONOMIST

Few Americans ever realize the size, the dimensions, the sheer scale of the human institutions we have created. The Grand Canyon is big. There it is; look at it. Any damn fool can tell it is big. But other things, human things, are less easily discerned as being big. Take—for purposes of illustration only—the Teamsters Union.

Who among us will honestly admit to knowing that the Teamsters include test pilots, interior decorators, opticians, telephone repairmen, news directors, social workers, flight control agents, surveyors, draftsmen, lab technicians, lab analysts, school teachers, chemists, bacteriologists, design draftsmen, technical writers, animal trainers, technical radio mechanics, radio operators, cable operators, pharmacists, audio and video engineers, communication technicians, engineers—I know I have made my point, but the list is too fascinating to stop now—hotel and reservation clerks, night auditors, dental mechanics, conductors, railroad trainmen, funeral directors, X-ray technicians, announcers, embalmers, case aides, cosmetic employees, clerical employees, animal keepers, surgical technicians, and truck drivers.

Interesting? If not to you, then to me as I reflect upon what we have wrought these past few decades.

In 1954, the House and Senate had a combined staff of 4,500 people, and an operating budget of $42 million. As 1975 draws to a close, this too has multiplied: Close to 20,000 employees are now employed by the House and Senate, with a budget—including all legislative branch extensions and functions—of over $828 million. And we still cannot cope with the increase of demands upon us. C. Northcote Parkinson's famous law is very much alive and well.

The great strikes of the 1930's and 1940's idled tens of thousands of workers. History texts still devote chapters to the struggle. Yet in the first half of 1975 alone, there were 2,974 strikes, involving 930,000 workers. The average length of strikes, was 18.5 days—up 5 days from the same period last year. All 10 of the large strikes last June were in the construction industry, accounting for 28 percent of the days of idleness due to strikes.

Scale, size, dimension: Big.

A house in suburban Maryland sold in 1965 for $26,000, sold in 1975 for $62,000. Taxes went up proportionately, even for those who had not sold their homes. Growth. Costs. Inflation.

U.S. population growth September 1974 to September 1975: 1.8 million people. Monthly gain: currently 172,000 people; a new Galveston, Tex., a new Portland, Me., month in, month out.

An older population: Median U.S. age in 1974: 28.6 years. Median age 24 years from now: between 31.4 and 37 years.

Net immigration from overseas continues: 400,000 persons per year; a new Wichita, Kans., a new Knoxville, Tenn., year in, year out.

Migration southward: In our Southern States, the net gain from population migration almost tripled between 1970 and 1975, compared to 1965–70. About 1.8 million more people 5 years old and over moved into the South than moved out of it during 1970–75, according to the Census Bureau.

The timeless, immutable laws of economics? All changed. The theopneusty into which economists had drifted—they were governed only by God, and if they frequently appeared to identify themselves with Him, it was with the self-assured air of a partner merely doing his job—had led to a belief they could "fine tune" the economy, control all disparate elements, eradicate the business cycle.

This, they discovered, was not so. For several years now we have experienced relatively high levels of both inflation and unemployment, an impossibility under the classic laws of economics. But, classic laws of economics assumed more-or-less stable fiscal—taxing and spending— and monetary—supply of money—policies, with minimal Government intervention in the marketplace; that is, no peacetime wage and price controls, and others.

But we have changed the basics. We have tinkered with the natural laws which we assumed would nevertheless continue to operate as before. Intervention has been the rule. We have pushed ahead of us, in a massive bow-wave, the immutable functions of economics. Catastrophe has been the result. Has anyone read "The Wreck of the *Grosvenor*?" The *Grosvenor* was a ship which sailed heedlessly on and on, building up a bigger and bigger bow-wave before her with an equally growing stern-wave following, until finally the two waves converged and smashed her. The book was a novel. The allegory is self-evident.

In 1973, the latest year for which data is available, a corporation was required to spend—on the average—a grand total of $111,000 simply to create one job for one worker.

One hundred and eleven thousand dollars would buy the machine, build the new portion of factory space, pay for the gas, the electricity, the water, the time of the salesman, the bookkeeper, the auditor, the portion of the truck, ad infinitum. All for one new job.

Ten jobs? $1.1 million.

One hundred jobs? $11 million.

The number of jobs currently needed to employ each of the now unemployed in America?

About 7.7 million.

The cost? Multiply $111,000 by 7.7 million and you have $854,700,000,000, an unrealistic figure because a certain amount of machinery exists, unused; a certain amount of factory floor space exists, unused: In short, all those things that go into that oft-used word "excess capacity." But there exists no such whopping excess capacity to employ 7.7 million people; not $854 billion worth.

Therefore, a corporation must take from profits—total before-tax profits of all U.S. corporations last year was only $105.6 billion—or borrow from savers who keep their money in banks, to spend the $111,000 to create one new job. But where will all our businesses find the hundreds of billions to employ all our unemployed? Or the hundreds of billions to employ only half of them?

Besides, business uses up about $77 billion in worn-out equipment, buildings, et cetera, each year, and this must be replaced just to stay even.

Since profits, even before taxes, are clearly insufficient, corporations each year go to places where people have their money. These places, called capital markets, are the source, the wellspring, of new job creation in America.

But as Government spends more and borrows more, less money is left over for job creation, for new machinery, for new factories; and this is reflected not only in unemployment, but in how much a worker can produce each hour. That is, he can produce less with an old machine, an old truck, and third-class mail, than with a new machine, a new truck, and U.P.S.

Productivity in the United States traditionally ran at an increase of about 3 percent per year. No more. The table below demonstrates our productivity decay over the past 2½ decades.

TABLE 1.—*Average annual growth rate in productivity, private nonfarm sector*

Three-year period ending in:	*Output/ man-hour*
1950	4.3
1955	3.2
1960	2.4
1965	3.2
1970	1.0
1974	1.1

Source: Data from Economic Report of the President, Feb., 1975, Table C–33, p. 287.

With Government borrowing approaching $100 billion per year, little is left for business to borrow to create that one solitary job that means so very, very much to one of those 7.7 million Americans.

CONCLUSION

Congress and the White House are deadlocked over budget cuts, a spending limitation, and continuation of reduced tax rates into 1976.

The House of Representatives and the Senate conferees agreed on these figures on December 11.

Outlays: $374.9 billion—House figure, $373.9 billion, Senate figure, $375.6 billion; budget authority: $408 billion—House, $408 billion, Senate, $406.2 billion; revenues: $300.8 billion—House, $301.8 billion, Senate, $300.8 billion; deficit: $74.1 billion—House, $72.1 billion, Senate, $74.8 billion; and public debt; $622 billion—House, $620.5 billion, Senate, $623.2 billion.

Also, the conference report directs the House Ways and Means and the Senate Finance Committees to reduce tax revenues by the $6.4 billion necessary to maintain present personal income tax withholding rates, and extend temporary corporate tax reductions in the 1975 Tax Reduction Act.

A very old American expression dealt with giving, or getting, "the mitten." Folklore has it that when a lady fair rejected her suitor, she give him "the mitten." The expression was in American usage for at least a hundred years. The Knickerbocker, a New York periodical, back in July of 1847 wondered how the expression had originated. It decided the intent of the phrase was that the suitor, requesting the hand of his lady fair, received instead only its empty, fingerless, and insensate covering.

Much of today's confrontation between Congress and the White House is equally empty of need, fingerless to touch upon a common path, insensate to the speed at which events are overtaking the world, America, Americans.

The winter is long, and the wind chilly. Le us take care then, Republicans, Democrats, Congressmen, Senators, President, the press—to keep our mittens on.

1975: U.S. FOREIGN POLICY

Since 1969, the two major changes in U.S. foreign policy have been the resumption of diplomatic conversations with the Communist government of China, and the cultivation of "détente"—resulting in arms-control and other agreements—with the Communist government of Russia. A major accomplishment has been our success in developing patterns of political negotiations between Israel, Egypt, and Syria.

Thus, if one recalls the headlines of the last month of last year, and of this, there would seem to be remarkable continuity in our foreign policy. In late November 1974, Gerald Ford—in the fifth month of his succession to the Presidency—was in Vladivostok, appraising and being appraised by U.S.S.R. leader Leonid Brezhnev, a true Bolshevik for 50 years. They discussed the basics for a new SALT agreement and a summer summit conference: byproducts of détente, or the basis for détente, depending on one's point of view.

This December 1975, Gerald Ford—in the 17th month of his Presidency—was in Peking, appraising and being appraised by Mao-Tse Tung, a true Bolshevik for 50 years, and his latest heir-apparent. The Chinese warned against détente with the U.S.S.R. "warmongers"; we in turn said we understood, but must maintain our own foreign policy parameters.

If the expected summit meeting did not materialize in 1975, nor yet another SALT agreement, and if no new arrangements have been agreed on with Peking for 1976, what is served by such conferences?

Clearly a new President felt the need for such face-to-face meetings; nor would he wish to diminish in any way the peculiar usefulness of this international menage a trois. Nor could he, without being accused by our Presidential Senators—for all their feigned indifference to these meetings—of reverting to cryogenic diplomacy, of turning our foreign relations down to cold-war temperatures.

Other events, crashing one on another, serve to explain what did or did not result from Vladivostok 1974, or Peking 1975.

Indeed, were one—say in June 1975—to take the extraordinary gush of doomsday talk to be an accurate picture of the United States, we might well have called off all bets and crawled into the nearest decaying air raid shelter.

At the beginning of 1975 we were still in the downward swing of economic recession, along with Japan and Western Europe. Those were glorious days for Communist-country propagandists. After all, they were "depression proof"; there was no such thing as unemployment among their happy masses. Strangely enough, as we gradually work our way toward economic recovery, all sorts of alarming reports about unfulfilled 5-year plans, cutbacks in consumer goods production, agricultural failures, and balance-of-payments problems are now filtering out from the assorted Marxist paradises.

In January, as well, our European allies and Japan were extraordinarily fearful that another Israeli-Arab conflict was imminent, with an accompanying oil embargo. They were watching somewhat dyspeptically the efforts of Secretary of State Kissinger to arrange for the second round of personal negotiations between himself and the leaders of Israel, Egypt, and Syria, as opposed to a Geneva summit, where the U.S.S.R. and PLO could throw spanners into the operation.

Certain Congressional decisions in 1974 bore unexpected fruit. The cutoff of any further military aid to Turkey because of its invasion of Cyprus resulted in Turkish countermeasures threatening to unravel the east flank of NATO. The proposed legislation aimed at liberalizing Jewish emigration from the Soviet Union unfortunately resulted in Moscow's cancellation of the 1972 trade agreement in January 1975.

During the next 3 months, corks popped out of bottles and dikes sprang leaks all over the world: Host country Argentina cancelled a Latin-America-U.S. parley, Canada announced a sort of "neutrality" against U.S. commercial ties. Then the big bombs went off: The U.S.-Israeli-Egyptian negotiations failed, and shortly thereafter King Faisal of Saudi Arabia was assassinated. Even more devastating, the United States supported governments in Cambodia, then South Vietnam, began to give way to the Communist armies poured in from the north during the 2-year armistice.

President Ford's call for military-economic aid for South Vietnam on April 10 was debated and trimmed by Congress. Toward the end of April, the Senate passed a spate of well intentioned legislation most of which never became law. Our Southeast Asia policy came down to evacuating the remaining Americans and 170,000 Vietnamese. Thus our Vietnam commitment—dating from 1950—was ended. The final solution was now in the hands of Hanoi.

Portugal seemed on a dead reckoning course for a Communist takeover; there were rumors again of North Korean attacks on South Korea; various governments of Southeast Asia, such as the Philippines, Malaysia, Thailand, Indonesia, were "reassessing" their positions vis-a-vis the United States.

By mid-year, the United States was portrayed in our own magazines and newspapers as a Charles Atlas suddenly become a 97-pound weakling.

Yet, the chief troublemakers in the world—Russia and China—were somewhat restrained in their comments. Perhaps they realized the United States was not quite the helpless caricature limned in cartoon or column by our native prophets and soothsayers.

After all, Russia and the other planned Utopias were facing severe food shortages. Meanwhile, our farmers were resolutely beginning record harvests—and thus, once more, we would feed 35 percent of the world's population, in addition to our own 6 percent.

Our industrial and technical strength, our immensely talented people, our free government, our free society were still functioning. At that moment of seeming defeat and despair, our enemies may have seen much more to respect than did many of those who profess to speak to and for America.

And the Sun did indeed continue to rise each day. A second round of negotiations by Secretary Kissinger resulted in some firm agreements between Israel, Egypt, and Syria promising a far more peaceful climate in the Near East. This, together with our steady economic recovery, made the fall weather seem unusually lovely. Early next year we will resume negotiations with Moscow for a SALT II agreement.

A summary of everything the Senate did, to, for and with U.S. foreign policy in 1975, makes an exotic bill of fare far too long for this report.

We approved treaties or agreements bearing on: Epizootics, Brazilian shrimp, Atlantic tunas, coffee, trade with Romania, collisions at sea, Polish and Icelandic taxes, extradition from Canada, patent cooperation—to name but a few.

We consented to nominations of ambassadors to great powers. We also sent ministers to former coaling stations, but lately become sovereign entities, with a vote equal to ours in the United Nations General Assembly.

The Senate's first record vote in 1975 was to establish a select committee to investigate our foreign and domestic intelligence gathering activities. The results of the committee's work will have an impact around the world for many years.

Military aid to allies or friendly nations generates great interest. Less attention is paid to the multitude of programs in the regular authorization and appropriations bills whereby we continue to combat disease, increase agricultural productivity, feed the starving, and provide technical assistance and education over much of the Earth.

The foreign aid appropriation bill is traditionally a very late bloomer. Some sort of record was set, however, when enactment of the fiscal year 1975 bill did not occur until but 3 months remained in the fiscal year.

In great part, this was because the Senate Appropriations Subcommittee not only insisted on a clear delineation of military and economic aid, but also made a serious effort to audit the efficacy and true cost of all our foreign assistance programs. It is worth noting that AID asked for $2.8 billion for fiscal year 1975—and this is generally the ball park figure given for U.S. foreign aid. Yet the committee found that all U.S. foreign assistance, from whatever source and however funded, totaled over $8.8 billion for fiscal year 1975. I recommend their report, 94-39, for a comprehensive overview of U.S. foreign aid programs.

In May, the Senate began to do some repair work. On the same day it authorized and appropriated $405 million for Indochina migration and refugee assistance, some $102 million less than requested by the administration.

It also modified the arms and aid embargo imposed on Turkey in 1974. After protracted wrangling, the House rejected the bill in July. A second such measure, again originating in the Senate, was accepted by the House in October.

The Senate found it more difficult to make up its mind about constructing a naval base on the last remnant of the British Empire east of Suez. It was requested as a counter to the new Soviet base in Somalia, where the Red Sea joins the Indian Ocean. In July the Senate rejected a resolution of disapproval. In September, it delayed the beginning of construction for another year.

However, the Senate did approve the joint resolution authorizing 200 American volunteer technicians to establish an early warning system in the Sinai. Thereby it agreed to one of the most controversial parts of the agreement worked out earlier by Mr. Kissinger between Israel, Egypt, and Syria.

Perhaps the most significant foreign policy decision of the Senate in 1975 was its refusal to grant military and economic aid to the Government of South Vietnam as requested in April by the President. Under the War Powers Act, which had my support, the President could no longer act unilaterally to commit U.S. forces, even in a very restricted manner a la limited air strikes against North Vietnamese columns.

Three decisions affecting U.S. policy in three separate parts of the world. The Indian Ocean. Sinai. Vietnam.

History will be the judge as to the wisdom of each or all. We, who have been in on the creation, will not be privileged to know whether our structures have been built on basic bedrock foundations or on shifting sand. We can only hope that the doomsayers are wrong.

And so, having commented learnedly all the way from our theopneustic economists to Diego Garcia, I conclude that nothing is constant save constant change.

We in the Senate have much still to do. Let us try our best to do it well.

Mr. President, I ask unanimous consent that this Republican report, entitled "Years Past and Years Ahead—A Continuity in Dichotomy," be printed as a Senate document.

REPORT TO THE PEOPLE OF MISSISSIPPI FOR 1975

Mr. STENNIS. Mr. President, as the first session of the 94th Congress draws to a close, I wish to make my usual report to the people of Mississippi. As has been my practice I wish to tell them of the matters which have received my particular attention during the calendar year, and to discuss the subjects that I think will be of particular interest.

This report also gives me the opportunity to thank the people of our fine State for the trust they have placed in me, and for the assistance, loyalty, and encouragement they have given me in carrying out my responsibilities. I thank the other members of the Mississippi delegation in Congress. They have been unfailingly helpful and cooperative, and I have done my best in turn to assist them all I could in their endeavors on behalf of our constituents.

My warm thanks go also to my colleagues here in the Senate. They have been very helpful and cooperative in support of my efforts in matters of importance to Mississippi. My office staff has been diligent and loyal, and they have my thanks. I believe they have done a good job in helping me with thousands of cases where constituents have asked for assistance in solving some problem involving a Federal agency. I am here to help in such cases, I am glad when you ask me to do so, and I take a great deal of satisfaction in being able to work out a solution for most of these problems.

The year 1975 has been a year of tumult, civil disturbances, and war in much of the world. The United States has been blessed by being in a state of peace in our international relations. We also have been fortunate to see a turning point in the long economic recession, although I still am greatly concerned at the number of worthy people who are unemployed.

I am concerned also at the divisions that have consistently developed in Government in attempting to arrive at national policies on matters of great importance and urgency, such as energy independence and oil conservation. Congress and the executive branch have both been at fault in this. There was too little consultation and cooperation, and too much confrontation. It is regrettable but true that political considerations have entered into much of this disputing of issues. I deplore this and I absolutely oppose it.

Political parties have their place in a democracy, and they serve a purpose in our form of government. That place, however, must always be subordinate to the national interest and to the public good. It is not only shortsighted but wrong to follow any other course. In those cases where individual political ambitions have entered into positions of advocacy of one course of action or another, that is wrong also. If a public servant, whether he be a legislator or an administrator, is not first and above all a patriot, totally dedicated to what is best for the Nation and the people, then to that extent he serves not the public but himself, and the people deserve better.

Congress and the administration both have fallen short in 1975 in decisively pursuing the facts to decisions, and carrying them out for the national good. I have opposed inaction, or counterproductive action, whenever it occurred, and I will continue to do so in 1976.

There have been many accomplishments in 1975, however, and I take pride in my part in them. Some of the matters that I think are of special interest to you as Mississippians are discussed under the following headings.

ECONOMIC OUTLOOK

Since the national economy bottomed out in April and May of this year, it has generally been on the upswing and it appears that we can look forward to a gradual and steady recovery in 1976. Through November, industrial production had risen for seven consecutive months. The real growth in the gross national product—the national output of goods and services—surged ahead in the third quarter at the annual rate of 132 percent—the highest in 25 years. The prime interest rate is down. Our international balance of trade will probably show a surplus of $9 to $10 billion for the year. There is some indication that the real estate market is showing signs of life.

The possibility of renewed inflation—particularly in fuel and foods—constitutes the most obvious threat to sustained economic growth. Only a highly fortunate and extremely unlikely combination of circumstances will bring inflation back from its 1974 high or more than 10 percent to its 1946-74 average of 3.7 percent. And it will be quite some time before we bring the unemployment rate—now about 8.3 percent—down anywhere near the 1946-74 average of 4.7 percent. Nevertheless, from the indications presently available, I believe that 1976 will be at least moderately improved over 1975.

INCOME TAX REDUCTION

In March of this year, the Congress passed the Income Tax Reduction Act of 1975. This provided for a reduction in individual and corporate income taxes for 1975 only and also for tax rebates. The net tax reduction was $22.8 billion.

The impact of the individual tax reductions and the rebates was unquestionably very significant. The economy received a quick and substantial stimulus. Undoubtedly, this was one of the factors which contributed to the beginning of the economic recovery in the late spring and early summer.

In addition, the increased take-home pay of the individual taxpayer, which has resulted from the reduced income tax withholding, has given our people additional spending power. This not only helps the economy, but it helps the American worker to combat the effects of inflation and higher prices.

The reduction in taxes provided by the previous bill apply only to the year 1975 and, unless the reductions are extended, the level of taxes and withholding will revert to the former higher rate and individuals and small businesses will be faced with an income tax increase on January 1, 1976.

This would work a financial hardship on the American wage earner. In addition, the months ahead are critical in determining whether the economic recovery is to continue, whether we will remain at the present level, or perhaps even fall back to a lower level of economic activity.

I am ordinarily strongly opposed to tax decreases when the Federal Government is experiencing substantial budget deficits. However, this is an exceptional situation in which the decrease in income taxes has, in effect, become a part of the worker's base pay. The effect of failing to extend the reduction would be a tax increase on people who are already hard-pressed to make ends meet. In addition, the impact on the national economy is a very important consideration. Therefore, I supported the extension of the current level of withholding through the calendar year 1976. For individuals, this represents a reduction of about $13.4 billion in terms of 1976 income levels, and a reduction of about $2 billion in corporate rates.

A bill extending the tax reductions through 1976 has been passed by the Congress and sent to the President. President Ford, however, has said repeatedly that he will not sign any bill extending the tax reduction unless it is accompanied by a corresponding decrease in expenditures. Therefore, as this is being written, it is not known whether the President will sign or veto the bill, and thus the fate of the tax reduction is unknown.

REVENUE SHARING

The Federal revenue sharing program is now of great importance to the financial structures of our State, counties, and municipalities.

Revenue sharing was first established by a law passed by the Congress in 1972 which will expire December 31, 1976. The funds paid to the States and their political subdivisions under the program have become a vital part of their economy and fiscal structure. Their reliance upon them is now so ingrained that it would have a very harmful effect for the law to be discontinued.

Early this year the President sent legislation to the Congress to continue the program for 6 more years. Starting with a base of $6.3 billion for fiscal year 1976, the President has proposed an increase of $150 million a year to compensate for inflation. I am confident that next year the Congress will extend revenue sharing although it may not emerge in exactly the same form as submitted by the President. In view of the extent to which the States and local subdivisions now rely on it, I will certainly work for and support its extension.

As far as Mississippi is concerned, it is my information that the funds which have been received under revenue sharing have, by and large, been handled and expended in an appropriate, prudent, and economic manner. Certainly, they have taken off some of the pressure for State and local tax increases.

The formula for allocating the money is based on three factors: population, per capita income, and the tax effort of State and local governments. This is a very favorable formula for Mississippi and the South in general. As a result, Mississippi receives the maximum per capita amount under the formula—$40 per person. The District of Columbia, by contrast, receives the lowest amount per person—about $10.50.

There may be an effort in to change the formula on which these funds are distributed to reduce the amount received by the lower income States. I will certainly oppose any such change just as strongly as I can.

WAGE AND PRICE CONTROLS

Except for the standby pricing controls proposed for oil under the Energy Policy Act, the subject of wage and price controls appears to be a dead issue at this time. I do not anticipate any significant effort during this Congress to provide the President with the authority to impose such controls unless inflation gets completely out of control and an emergency situation arises. I would oppose any legislation giving the President the power to impose general wage and price controls except under the most urgent and extreme circumstances.

MEETING THE ENERGY CRISIS

Unfortunately, the "energy crisis" is still very much with us. Whereas last year supplies were short and prices high, we now have no supply problem but still have a very real problem with price. In addition, our dependence upon foreign sources for petroleum is increasing instead of decreasing. Our country is paying more than $20 billion annually for imported oil versus just $8 billion in 1973. Were it not for our agricultural exports we would probably be running a balance-of-payments deficit, thus weakening our dollar.

The problems we face concerning energy are the most complex I have ever faced as a U.S. Senator. For better than 2 years Congress and the President have been at odds over what kind of energy policy and program our Nation should have. Our country is large and diverse and this has helped prevent a majority from getting solidly behind a particular policy and pursuing it fully. It is just almost impossible to get a strong program adopted because people in every section of the country are affected differently by any program Congress and the President adopt.

Recently the Congress passed and sent to the President a bill which contained a provision calling for a rollback in domestic petroleum prices. The law would be in effect for 40 months and the average price of all domestic oil could rise slightly each year. While I did not particularly approve of the pricing portion of the bill, I did vote for the bill because it did contain some highly desirable conservation provisions. We have been trying for a long while to get an energy bill passed and the one we just passed is the best we have been able to come up with. It at least is a start and we can add to and subtract from as we go along and try to improve any bad situation we may have created by the bill. So, while the bill had imperfections as far as I was concerned, I did feel that it was necessary to get something on the books. Therefore, I voted for the energy bill.

My position on pricing has been to allow the price of "old" oil to rise slowly over a period of time and to allow the price of "new" oil to seek its own level in the marketplace. Decontrolling the price of "old" oil slowly would allow producers owning "old" wells to make a profit, thereby keeping these "old" wells pumping. Also, the extra money the producers of "old" oil would receive could be used for capital to explore for new sources of oil and natural gas. By gradually removing these controls the economy would then have time to adjust to these higher prices and not be an impediment to our economic recovery.

I believe that our solution to this energy problem lies in three areas: 1. Alternate sources of energy; 2. Conservation; and 3. Pricing incentives.

This Nation has an abundance of coal. Some experts say we have a 400-year supply. Not only can this coal be burned as a solid but it can be gasified and liquefied. I favor a stepped-up program in the use of coal and we are increasing our use of it gradually.

We also will be depending on nuclear power more and more in the future. Nuclear power today supplies less than 10 percent of our energy needs. But this will grow. Today there are nearly 50 nuclear powerplants in commercial operation. Ten more plants are currently licensed to operate. There are over 70 applications for construction permits awaiting approval from the Nuclear Regulatory Commission.

Nuclear power can and will go a long way in helping our country to become energy self-sufficient. I believe it is a vital source of energy to our Nation and I welcome its increased role.

Solar power is also a source of energy which will be an asset to our country. While its usage will remain small for the next several years it will become very important to us. Today, more than 60 buildings are partially heated by a variety of solar systems.

There is a great deal of research and development going on in the area of solar heating and cooling. I am pushing the Energy Research and Development Administration to really get on with this because I believe it is a highly desirable energy source. As chairman of the subcommittee which handles the funds for this agency, I intend to continue to see that this solar power program is pursued vigorously.

Second, we can conserve more. Americans have, until recently, never had to really worry about whether there would be enough fuel on hand. While we seem to have enough now, we are short on domestic supplies and without a cut in our demand we will continue to be overdependent on foreign sources for our oil needs.

While we imported oil prior to 1970, this was a matter of choice—not necessity. Foreign oil was cheaper than domestic oil, so we imported quite a bit of it.

We have experienced some difficulty in cutting back on our energy consumption. Much of this can be blamed on the President and the Congress for not adequately telling the people of America the hard and actual facts.

Much of the success we have had in the area of conservation has been caused by the economic recession, mild winters and higher prices.

Our Nation is last among oil consuming nations in energy conservation efforts. We can and must do better. Strict enforcement of the 55-mile-per-hour speed limit is one thing we can take a hard line on. Besides saving fuel it saves lives.

We can also cut down our thermostats, cut off unnecessary lights, better insulate new and existing homes and buildings, cut out unnecessary driving, encourage the automakers to build cars which get better gasoline mileage—relaxing auto emission controls will help—encourage car pooling, and there are many more.

I fully support all reasonable conservation efforts because it is one way to lessen our dependence on foreign countries for our oil. If we eliminate waste we will not need as much fuel and our standard of living will not suffer. Some Scandanavian countries have a higher standard of living than we do but use substantially less energy than we, so here is an area we can all participate in which will produce results.

Third, we need pricing incentives. I do not want anyone getting rich at the expense of the public and taking advantage of them, but it costs quite a lot of money to drill and produce oil and gas wells. The price should be high enough to offer producers an incentive to explore for these fuels. While the energy bill recently passed by Congress would somewhat remove the incentive to drill for more oil, there is a provision for allowing the price of the oil to increase annually.

Until we are able to rely on solar power, nuclear power, geothermal power and coal for our energy needs, oil is going to play a dominant role. Therefore, it is mandatory that we do nothing to discourage the exploration for oil.

Most all oil discovered in the United States is found by independent drillers. The major oil companies do very little drilling in the United States. Most of the profit earned by the independent is plowed back into the business for further exploration.

The price of oil has about leveled off and I see no major increases for the near future. The economy will continue to adjust to the 400-percent price rise we experienced in 1973 and 1974.

Our energy policy is something which I have been interested in for quite a few years. I have cautioned my colleagues about our reliance on foreign sources for our oil needs many times. I am going to continue to give this matter my close and personal attention because it is one of the most serious problems ever to face our country. While it will take time, effort, money and sacrifice, I believe we are equal to the task and will eventually solve this problem.

THE NATURAL GAS PROBLEM

Shortages of natural gas in the interstate market continue to plague our Nation. Only mild winters have prevented sharp disruptions to business and industry. One, and perhaps the major, cause of this shortage has come about because of price controls on natural gas which is sold to the interstate pipelines. Since 1954 such gas has been subject to price controls. Natural gas sold within the State which produced the gas can be sold at the "market" price. Recently, the price difference between the two has become great and producers are selling their gas to the intrastate market.

Earlier this year the Federal Power Commission gave approval to interstate pipeline companies to purchase natural gas at higher prices so that they could compete with intrastate purchasers. This is a temporary grant and does not really attack the problem properly. Too, it involves only emergency situations.

This fall the Senate passed a bill, which the House has not yet approved, which would give interstate pipelines an opportunity to compete with intrastate purchasers by allowing them to pay the prevailing price, if the pipelines are in an emergency situation with respect to natural gas supplies.

A second part of the bill provided for the ending of all price controls on natural gas beginning next year. I believe that this is a sound approach because if all natural gas sells for the same price there is no price advantage for the producer to sell his gas to intrastate purchasers and the interstate pipelines should fill up again if sufficient quantities of natural gas are discovered, of course.

Deregulation of natural gas prices should also help provide the necessary incentives for natural gas producers to explore for more natural gas and hopefully reverse the trend of dwindling discoveries we have experienced over the past few years.

Mississippi has certainly experienced its share of natural gas problems over the past couple of years. Electric utility companies have historically used natural gas to fire their boilers and produce electricity. In 1974, the FPC ordered heavy curtailments by interstate pipeline companies with dwindling supplies of natural gas and set up priorities for the use of natural gas. Homeowners get all they need and utility companies are in the last category and get very little.

Most of the electric utility companies in Mississippi which have been using natural gas were forced to switch to an alternate fuel. In most cases this was fuel oil. Fuel oil costs much more than price-regulated natural gas so everyone began receiving utility bills which were double or more their normal bills. In addition industry has suffered some in Mississippi as have schools from a shortage of natural gas. Therefore, it is imperative that we do what is necessary to make sure that everyone has an ample supply of natural gas or our economy will definitely suffer. I believe that deregulation will help end this shortage and I regret that the House of Representatives has not agreed to this solution approved by the Senate.

Homeowners and small businesses in Mississippi should not experience any curtailments this winter, but industry may this spring if the supply situation does not improve. I hope Congress gets to work soon in 1976 to try and remedy this situation on a permanent basis. I will continue to work toward that end and do all I can to see that Mississippians are protected from drastic shortages.

THE FARM BILL

Early in the year Congress passed the farm bill, which was intended to adjust target prices and loan levels for most farm commodities during this crop year. We felt that the legislation was needed because the old legislation predated most of the large cost increases to farmers that resulted from the oil crisis.

On May 1 the President vetoed the farm bill, and his veto was later sustained in the House. The planting season was then at hand, and there was not time to try again for new agricultural legislation, so our farmers had to go ahead under the programs in effect for 1974.

The purpose of farm support programs is to lend stability to the prices for farm commodities. They do so by providing a safety net under the prices, in the form of target prices and loan rates. This is for the good of both the consumers and the producers. It is insurance against a disaster market that would bankrupt the farmers, put them in a position of enforced underproduction, and in turn lead to sky-high commodity prices.

The bill the President vetoed would have made modest increases in the target prices and loan levels for the coming crop year, to take into account the effects of inflation on production costs. Since the bill originated in the House, the first vote on whether to override the veto was held there, and failed to attain the two-thirds vote required to reverse the President's decision. All of our Mississippi House members supported the bill.

I had feared that the attempt in the House to override the veto might not be successful because such a large part of the House comes from big cities, where farmers' problems are not well understood, and where many people are under the misguided impression that the high costs of food in the stores results from high prices paid farmers. This is not the case of course. Farmers now get only 39 cents out of each dollar paid for retail food items. The rest goes to middlemen for processing, transporting, distributing, and retailing, and of course inflation has also hit these services.

The farmer, on the average, gets less return on his investment than in any other industry, and we are all aware of the importance of maximum farm production to our national economy and the food needs of the world.

I believe that the prospects are very good that in the coming year Congress will again undertake to update the Agriculture Act of 1973, to bring it into line with the realities of the day. I hope to see a broad, strong, and effective farm bill that will correct existing inequities, and I will work for its passage.

EMERGENCY FARM LOANS

In March the Senate passed a bill which Senator EASTLAND and I cosponsored to simplify the procedures for emergency farm loans in areas of natural disasters, such as floods and droughts, and to increase the credit available under these circumstances.

It was passed by the House in July, agreed to with a few modifications in conference, and signed into law August 5.

The Farmers Home Administration is authorized under present law to make emergency loans to farmers covering actual losses in natural disasters, so that they will be able to continue their operations and not be forced out of business. The present general shortage of credit is particularly hard on farmers who suffered losses in disasters last year.

This bill eases the credit shortage in several ways for farmers who are unable to obtain credit from other sources. Loans can be made in excess of actual losses, but the excess is to be at commercial rates of interest, and there would have to have been at least a 20-percent loss in production due to the disaster. Subsequent loans for up to 5 years can be made at commercial rates where no other credit is available. For disasters occurring after January 1, 1975, the loans can be for up to 20 years, instead of the usual 7, if the financial need justifies it.

One provision of the bill requires that those who apply for the disaster loans must show that they cannot get needed credit on reasonable terms from normal commercial lending agencies. This is intended to make the 5-percent loans available to small producers who are most apt to be the hardest pressed financially after a natural disaster. This so-called credit elsewhere requirement is a usual one in other loan programs of the Farmers Home Administration.

The bill also says that if 25 or less farmers in an area are affected by a disaster, the State Director of the Farmers Home can declare it a disaster area, instead of having to refer it to Washington.

As all farmers are only too well aware, in modern agriculture the availability of credit at the beginning of a crop year, especially after a crop loss, is a governing factor in farm production. This bill fills a real need in this area, and I am very pleased that it has become a part of the permanent agricultural laws.

FOREIGN AGRICULTURAL SALES

American agriculture is moving rapidly toward full production, and therefore toward maximum efficiency, with no fertile land held idle and with farm equipment and machinery, which represent such a large capital investment, put in use to the most effective degree. All of us are also aware that each year we can expect to see the increased yields per acre, in many crops, that have been so spectacular in the recent decades, and which are a tribute to the success of agricultural research and technology.

So with maximum use of good acreage, and continued improvement of yields, we have a clear picture of sharply increasing farm production. But this will not occur, of course, unless there are markets. The domestic per capita consumption of food and fiber cannot be expected to increase greatly, and population growth in the United States is slowing materially. Consequently, if there are to be markets for full farm production they will in substantial degree be in export trade. Under these circumstances it is, in my judgment, very prudent to give special attention to the measures that are being taken and are contemplated to develop foreign markets for U.S. farm products.

In July I presented a statement to the Agriculture Appropriations Subcommittee of the Senate Appropriations Committee, in a successful effort to obtain additional funding for the foreign market development programs of the Foreign Agricultural Service of the Department of Agriculture. I pointed out the tremendous present and future importance of farm exports to our national economy and to Mississippi, based on the following factors.

Farm exports are of transcending importance to our economy. They have gone a long way toward a balance of payments, in spite of the onerous charges imposed by the oil cartel, which have caused a long recession in the United States and in the rest of the industrial nations of the world as well.

Agriculture is our largest industry, and farm exports use over a fourth of our farm acres, and provide a fourth of farm employment. They create an estimated 1.7 million jobs, of which half are in the cities. They brought in about $22 billion in dollars from abroad this past year, up from $9.4 billion in 1972, which shows the dramatic rate of increase.

The U.S. supplies a very large proportion of five leading crops in the world's export trade. We supply 85 percent of the soybeans, 60 percent of feed grains, 45 percent of the wheat, 30 percent of cotton, and 24 percent of the rice that move in international agricultural trade.

Of these five major export crops, three are extremely important in the State of Mississippi. They are soybeans, cotton, and rice. Mississippi's farm exports rose from $230 million in 1972 to $459 million in 1974, an increase of 100 percent in two years.

Exports are vitally important to all U.S. crops, but I want to stress cotton as an example, because of course our Delta area in Mississippi is one of the most fertile cotton producing areas in the world.

Cotton exports from Mississippi brought back $182 million dollars in 1974, as compared to $85 million in 1972, more than a 100 percent increase, and over each year over the last 5 years, on average, total U.S. cotton exports brought back over three-quarters of a billion dollars.

Consumption of cotton is increasing abroad and decreasing in the United States. During the 5-year period of 1970–74, the average annual domestic consumption was 7.5 million bales, decreased from 8.8 million bales in the previous 5-year period. At the same time, cotton consumption overseas grew from 45 to 51 million bales a year. We can expect this trend to continue, and therefore foreign cotton markets will take a growing share of our cotton crop and return a growing share of the income we need so badly to balance the costs of foreign oil. That is, cotton can do this if we aggressively seek the new markets we must continue to develop.

In the same way, it is necessary to be aggressive in pushing foreign sales of grain and soybeans, taking care while doing so to avoid creating shortages or greatly increasing costs at home.

As you know, in October a long-term agreement was negotiated with the Soviet Union for sales of feed grains and wheat. It established yearly minimum tonnages, maximums which can be invoked at our option, and agreement on how much would be shipped in U.S.-owned ships.

In order to maintain leverage during the negotiations, President Ford suspended grain sales to the U.S.S.R. for several weeks. American farmers were understandably displeased by this suspension of sales. They needed full access to all foreign markets in order to dispose of the tremendous grain crops that were grown this year, and the Russians are part of that market. Otherwise we would have vast surpluses to store, and grain prices could drop below the cost of production. If this should happen farmers would understandably cut their production next year; then prices would shoot up because of small crops. That would not only hurt American consumers, but would cause the loss of a good part of the $22 billion that we get for our farm exports, and which pays for most of the foreign oil that we import.

In the long run, the negotiated contract can become a help to American farmers and consumers, by taking some of the "roller-coaster" effect out of the grain market. This helps stabilize prices at the retail level, and at the same time farmers are better able to anticipate prices and estimate the risks they are willing to take in planning their next crops.

There was a certain amount of public apprehension about selling grain to the Russians, and this dates back to the 1972 wheat sale, which was one of the causes of rising prices here at home.

In 1972 the Russians entered the market secretly, taking advantage of commodity price fluctuations, and bought tremendous amounts, almost exhausting our reserves.

They cannot do that now. A running check on export sales is continuously kept by the Department of Agriculture, and the total cumulative sales at any time is accurately known. The U.S. reserves have been built back up to very adequate levels. In fact if all the known Russian requests are met our reserves of both wheat and corn will still be twice what they were for the previous year.

In my view we are entitled to know well in advance what the requirements of the Russians for grain are going to be. That way the farmers can plan ahead, and will not be placed in the position they were in 1972, when most export grain was sold at unnecessarily low prices.

The Japanese are steady customers for American grain. They import 18 to 19 million long tons of grain a year. We have a traditional part of that market which we can count on selling them, and they can count on buying. The Russians have been in the habit of buying heavily when they have a crop failure, and little at other times. A large part of their crop comes from lands that are relatively newly developed, in areas subject to drought or freeze.

This is an unreasonable variation, and we should not permit it. It upsets the status of supply and demand here, and it is unfair to American farmers both as to pricing their crops and as to being able to plan ahead. In effect what it does is cause us to store grain for the Russians until they need it, and I am against that.

These export sales of grain are one of the greatest international economic strengths that the United States has. It strengthens the American dollar abroad, balances our international payments, and protects American consumers against high import costs. American farmers in a typical year expect to export up to two-thirds of their wheat and a quarter of their corn, and they are going to have to keep on doing it if we are to have a healthy, stabilized agricultural situation here at home.

A world shortage of food grains is on the verge of happening and is inevitable, based on population growth in the undeveloped nations. By 1985 the shortage will be anywhere from 15 to 70 million tons a year, according to the Department of Agriculture, depending on measures that might be taken in the more primitive countries in the next 10 years.

In the face of this I think it is evident that the United States should continue a policy of maximum farm production. Not that we can or should be the granary of the world, but we have a lot to spare of wheat others will want and must have. It is going to be mightly valuable in making sure we get the raw materials we customarily import to supply our industries.

I have discussed this subject at some length because its importance is only beginning to be fully appreciated. I believe that in 10 years American agricultural production will be one of the dominant factors in world affairs.

THE FORESTRY INCENTIVES PROGRAM

The Forestry Incentives Act, which I introduced in the Senate, was passed in 1973, and this year it was in its second full year of operation.

The need for the bill rests on the fact that demands for wood in the United States are expected to double in the next 30 years. Unless we are to be at the mercy of foreign suppliers, as we have been for much of our oil needs, we obviously are going to have to find a way to grow it ourselves. Most of the increased production would have to come from the forest lands in small, privately owned tracts, and a very large part of it from the pine and hardwood forests of the South.

My bill established a forestry incentives program, to be carried out under the Secretary of Agriculture, to encourage and assist landowners to plant seedlings and to develop their forest lands to produce timber, expand recreational facilities, protect the land from erosion, improve fish and wildlife conditions, and enhance environmental values. For private, nonindustrial lands, the Federal Government would pay up to 75 percent of the costs of this reforesting and land management program.

To comment briefly on what this program can accomplish in Mississippi, the people of our State can reforest about 5 million acres that are now idle, and they can greatly improve another 6.5 million acres. Average yield per acre throughout the State can be raised.

Nationwide, during 1974, in its first year of operation, the incentives program generated an estimated 363,000 man-days of gainful employment in hard-pressed rural areas. In the process 282,000 acres of run-down forest lands were improved by planting seedlings or applying cultural work, such as removal of diseased or misshapen trees.

The cost of this worthwhile undertaking was shared by nearly 14,000 owners of small tracts in a ratio of $3 million in private funds to $9 million Federal.

The program is of special interest to us because Mississippi is one of the leading States in total accomplishment. Our citizens planted 12,000 acres and improved growing conditions on 4,500 acres more. The Federal share of the cost of this work was $478,465, an average of $29 per acre.

National accomplishments were shared in by all of the contiguous 48 States with 170,000 acres planted and 112,000 acres improved in cultural treatments. About 84 percent of the planting occurred in the pine woods of 13 Southern States, while more than one-half of the stand improvement work was applied in the hardwood stands of Northern States.

This year Mississippi has much more money than last year, a total of $800,700. When the accomplishments have been totaled for calendar year 1975, I believe we will be proud of what was accomplished in our State. The State of Mississippi now has a comparable program, and the two programs complement each other very well. I believe that we can look forward to the fact that for many years to come the forests in our State will be renewed at a rate faster than they are harvested.

MISSISSIPPI ARMY AMMUNITION PLANT

As a result of an amendment to the Defense Appropriations bill, the plans of the Department of the Army to construct an ammunition plant at the National Space Technology Laboratories in Hancock County were temporarily delayed.

By a 1-vote margin, 40 to 39, the Senate on November 14 voted to prohibit construction of any new Army ammunition plants except in areas where existing plants are being closed or production reduced. The Senate vote was taken on a floor amendment without proper hearings and was totally contrary to the recommendation of the Senate Appropriations Committee. The House earlier had taken similar action.

The broad nature of the language in the amendment can have a very detrimental impact on the Army's ability to meet its ammunition requirements. I fully intend to forcefully present the dangers of this action to the Senate again in the near future and try to get this decision reversed.

Although funds for the project have been denied in this year's Defense appropriations bill, it is my understanding that the Army will not abandon its plans for the proposed Mississippi facility. The Mississippi Army Ammunition Plant is an essential element in the Department's ability to meet its ammunition requirements in the most economical manner. These facts have not changed and I will continue to work for congressional approval of the project.

The proposed facility will implement a new concept of ammunition production. Rather than have parts of the ammuntion produced at several sites and assembled at another, the Mississippi plant will handle virtually the entire manufacturing and assembly operation at one site. This promises a tremendous cost savings to the Federal Government and, thereby the American taxpayers.

In addition to construction employment to build the facility, this ammunition plant will create 1,000 to 1,500 new jobs in the area. The facility will also have the capacity to employ beween 2,000 to 3,000 people, if ammuntion requirements of the Army ever need the increased production.

Although the program has been temporarily delayed and time will be required to construct the facility once it is approved, I am extremely pleased with the additional jobs for Mississippians which will be created and the long-term benefits which this new plant will bring to the area.

NAVY OCEANOGRAPHIC OFFICE

Against stiff opposition from the Maryland congressional delegation, on November 13 the Senate voted final approval for the transfer of the Navy Oceanographic Office to the National Space Technology Laboratories in Hancock County. This favorably completed congressional action on the matter.

However, on December 5, U.S. District Judge Gerhard Gesell issued a preliminary injunction against the move based on technical deficiencies in the Navy's environmental impact statement. I am convinced that the judge's objections to the transfer involve technicalities which can be corrected by the Navy within a reasonable time and the transfer will then proceed as planned.

It is highly regrettable that this matter has become clouded in the public mind as a result of a number of local Washington area news media reports which very unfairly misrepresented the facts. I sincerely regret that the transfer of the Navy Oceanographic Office has been subjected to emotional charges by many with incomplete, and in many cases, totally incorrect information.

This transfer has been carefully studied and evaluated by the Department of the Navy, the Department of Defense, congressional committees, and the General Accounting Office. In all cases, it has been proven to be entirely justified on the basis of program management, cost effectiveness and previous congressional directives for the Navy to move several elements out of the Washington, D.C. area.

Once approved by the judicial branch of our Government, the Naval Oceanographic Office will be a tremendous asset to the entire State and will develop into a national focal point for oceanography and related activities. The naval oceanographic program is a vital elements in our national security requirements and becomes more important with each new development in undersea warfare.

The move will involve approximately 1,200 employees with an annual payroll in excess of $25 million. It will help the economy of the area immediately and, as the program expands, new support industries and businesses will naturally seek locations in the area. This program will be of lasting benefit to the entire area.

WATER RESOURCES PROJECTS

In Mississippi our water resources are a very valuable asset. They provide municipal and industrial water supply, the water for our vast agricultural and forestry production, barge transportation on our navigable rivers and waterways, and clear streams and lakes for recreational use.

The development of water resources through public works projects is greatly assisted by investment of Federal funds. This is a sound investment in the future, for the money that is spent on them is less than the value of the benefits they will return over the years. This fact must be demonstrated by engineering analysis and economic forecasts before Congress authorizes such projects.

These initial studies are themselves authorized and funded by Congress. If they show a favorable benefit-to-cost ratio, the projects are then considered by Congress for authorization, which is also contingent upon expressions of support by local and State governments.

After a project is authorized in a water resources development act, which commonly are passed by Congress every 2 years, then that project becomes eligible to receive money from the annual Public Works appropriations bill. At this point the competition for money, between many eligible projects, becomes quite strong. Some wait years for their first appropriation. In general we have been very fortunate in this respect in Mississippi. Our projects have good benefit-to-cost ratios, they have strong local support, and the Mississippi delegation in Congress pushes hard for them.

As the chairman of the Public Works Subcommittee of the Senate Appropriations Committee, I preside at the very lengthy hearings and committee deliberations which allocate money each year to these water resources projects and I naturally take a very strong interest in studies of all potential projects in Mississippi, and in the progress of projects that Congress has authorized to be constructed in our State.

Studies which I had proposed for approval and helped to fund resulted in the authorization of a number of new Mississippi projects in the Water Resources Authorization Act of 1973. This year we continued to provide money to carry on the design of these projects. There were cases where the money was not included in the budget, but in these cases the money was added by Congress.

These new projects for which money has been provided include Edinburg Dam, on the Pearl River, in northern Neshoba County, for flood control and recreation; an addition to Greenville Harbor, to provide an additional harbor channel in undeveloped lands adjacent to the existing port area: the Vicksburg port area, to provide a new leveed area for industrial expansion near the port area; and the Natchez port area, where a new leveed area is also to be provided near the port.

There are additional studies underway, which I was instrumental in initiating, and I am sure that they will eventually result in new authorized projects. These include studies in the Yazoo Basin and in the Pascagoula River Basin, seeking means to prevent damages such as were suffered in the floods of 1973 and 1974, and a study to see what can be done to improve the channel of the lower East Pearl River and to provide navigation to Picayune. The appropriation bill this year also provided funds for navigation studies at our harbors on the gulf coast, which are in need of increased depths. A study of navigation depths from Baton Rouge to Natchez is just getting started this year. Flood control studies are funded for Nonconnah Creek and the Horn Lake area in northwest Mississippi.

For projects under construction, the money the Army Engineers needed for the year was appropriated for all Mississippi projects, and we can expect that the projects will proceed at a good pace. Tallahala Creek Lake has money for the start of actual construction. All the work in the Yazoo Basin is being pressed forward, so as to provide additional flood protection, particularly against backwater flooding from the Mississippi River.

The Tennessee-Tombigbee Waterway in East Mississippi and Alabama is the largest water resource project now under construction in the Nation.

This concept of connecting the Tennessee River with the gulf coast via a navigable waterway, using the Tombigbee River, dates back to the early 1800's. The project has been studied formally since 1870. It was first authorized by Congress in 1946, and its favorable benefit to cost ratio reconfirmed in several reanalyses since.

The first construction money for the waterway was appropriated in fiscal year 1971, and a total of $67.9 million appropriated and spent on construction through fiscal year 1975. For this year, Congress received a budget request of $52 million, and $21.9 million for the so-called transition quarter, the third quarter of calendar year 1976. Congress appropriated $72 million and $29 million, respectively, making a total of $101 million for work to be done during the next 15 months.

Work is underway at several lock and dam sites on the project, and on the excavation work at the northern end of the project also. This new money comes just in time to keep the project going at full speed.

The Tennessee-Tombigbee Waterway has tremendous economic implications for the future of east Mississippi. Many, many fine citizens and civic organizations have worked for years toward seeing this project built, and I am proud to be able to share with them in such a worthy endeavor.

APPALACHIAN COMMISSION PROGRAMS

In 1967 an amendment I offered in the Senate resulted in a change to the Appalachian Regional Development Act of 1965, so that the 20 northeast counties of Mississippi became eligible to participate in programs financed by the Appalachian Regional Commission. The purpose of these programs is to stimulate the economy in the areas covered by the act, which extend southwesterly from a part of New York State to the northeastern part of our own State.

We are in the eighth fiscal year since my amendment was approved. Since that time projects in Mississippi with a total cost of over $137 million have been completed or approved. About half of this money came from grants from the Appalachian Regional Commission and half from matching funds of State and local money.

During this past fiscal year projects with a total cost of over $15 million have been funded.

These are projects of many varieties, but all serve purposes of health, education, or economic development. They include access roads to industrial parks, vocational training facilities, expansions of hospitals and other health facilities, water and sewer systems, child care and training facilities, and the improvement of junior college equipment and buildings.

As the chairman of the Public Works Subcommittee of the Senate Appropriations Committee, I have the opportunity to review carefully the budget submissions for the Appalachian Commission programs. These projects accomplish much good, and I am pleased that Mississippi has taken full advantage of them, within the 20 counties that are eligible.

MISSISSIPPI'S APPALACHIAN CORRIDOR HIGHWAY

The Appalachian Commission represents the 13 States that make up the Appalachia Region, which includes 20 counties in northeast Mississippi and 2 counties in northwest Alabama. Our counties and those in Alabama came into the program too late to be included in the corridor highway program, a system of major highways for developmental purposes.

Such routes in all States are selected and approved by the Appalachian Regional Commission, consisting of the Governors of the 13 States concerned and a Federal member who is cochairman, along with a State cochairman who is selected by the Governors from among themselves.

At my urging the Commission agreed to try to rectify the omission of Mississippi and Alabama from the corridor highway program. Possible routes were given careful consideration and study by the Commission and its staff from 1970 to 1973. In March 1973, the Commission formally adopted a resolution designating a corridor highway to run from Interstate 55 at Batesville, west of Oxford through Tupelo and Decatur, Ala., to Chattanooga. It was designated and approved as corridor V in the Appalachian Development System.

The Commission then authorized 31.7 miles of the route in Mississippi for improvement, subject to funding. The remaining 69.3 miles of the route in Mississippi could not be authorized at that time because all of the total of 2,700 miles of corridor highways authorized by Congress in the 1965 act had been allocated. For the fully authorized 31.7 miles, the Commission has made available $1 million in Federal funds, and has allocated $11 million more through fiscal year 1978.

It then became necessary to get Congress to authorize an increase in the corridor highways from 2,700 to 2,900 miles. If this were done, then the Commission would have authority to allocate to Mississippi the remaining 69.3 miles of corridor V.

In June I proposed an amendment to the existing Appalachian Act to authorize the additional mileage needed for both Mississippi and Alabama. The Senate Public Works Committee accepted my amendment, and it was passed in July as a part of the bill. The legislation remained in conference until this month, when it was agreed upon, including my amendment, and sent to the White House for signature.

Following authorization, the rate at which construction will proceed will depend upon appropriations and upon State participation. However, $1 million has already been made available from Federal funds, and $11 million more allocated through fiscal year 1978.

FOOD STAMPS

The food stamp program started out in 1961 as a pilot program to test ways of assisting those whose poverty prevented them from obtaining adequate nutrition. It was accepted as a regular program in 1965 at a cost of $60 million per year. By 1969, 3 million people were receiving food stamps, and in 1971, 9.4 million. This year the monthly totals of people receiving food stamps has reached 20 million, and the cost is over $4 billion and rising fast.

This is a so-called open-ended program, one in which there is no way of knowing how many people will be eligible, and how many will apply, so it could continue to grow at a runaway pace. Allowances for stamps are adjusted upward twice a year, depending upon food prices, so the costs are unknown in advance, just as the number of participants.

The Department of Agriculture estimates that there are over 40 million people in the United States that are eligible for food stamps at some time during the year, and some estimates go as high as 50 million people, or almost 1 person in four.

Last winter the President announced his intention to increase the price of food stamps as a means of controlling the cost of the food stamp program, which was growing very rapidly and showed signs of getting completely out of hand. Congress did not go along with this proposal, and passed a bill in February freezing the price of food stamps at the present level. I voted against that bill because the food stamp program is in fact getting out of control.

The Senate did, however, pass a resolution in February calling on the Department of Agriculture to report to the Congress on the growth of the food stamp program and to outline means of controlling abuses that exist within the program.

By October it had become widely recognized that excesses and abuses exist in the program, and extensive hearings were begun in both the Senate and the House, aimed at extensive reform of the program. As I said before, this was long overdue in my opinion.

Figures available in October revealed that one person in every six receiving food stamps was in fact not eligible for the program. Some had incomes over $12,00 a year. About 40 percent of the participants received more stamps than the number to which they were entitled, and many received less than the proper number.

The estimate was that outright errors in administering the program were costing the Government between $500 million and $1 billion a year. These figures were primarily addressed to errors in the administration of the program, let alone the fact that it has ballooned in size to a magnitude never contemplated when the program started on a pilot basis in 1961.

The blame for these excesses for the most part must be on the shoulders of Congress. The authorization for the food stamp program is loose, open-ended legislation, and it has been poorly administered. It has been permitted to grow and expand beyond all reason. It must be brought firmly under control, so that it serves the truly needy and is denied to all others.

When the Senate Agriculture Committee began hearings on reforming the program I presented my views, which I will summarize as follows:

In the first place, I believe that the food stamp program is out of place in the Department of Agriculture. It is intended to assist in preventing malnutrition among the needy. It is a social welfare program, and in my opinion the new legislation should transfer the responsibility for the program to the Department of Health, Education, and Welfare. The Secretary of Agriculture has been an advocate of this transfer of responsibility. The tremendous sums of money that are appropriated for food stamps distort the budgets of both Departments, and the field organization of the Department of Agriculture is not well designed to carry out such a function. It is a function for welfare departments at field level.

The new legislation should streamline and simplify the program. It is now too cumbersome to administer properly.

Families above the poverty level should not be eligible to participate in the food stamp program.

The legislation should define precisely what constitutes a household, and what is intended by the term separate households. The same rules on income limitations should apply to all households. Exceptions should not be made for households receiving public assistance, for their real incomes may in fact exceed the limitations. Particular attention should be given to the elderly. They frequently live alone, or in a two-person household, and may be penalized for this when they in fact have the greatest need on a per-individual basis.

Deductions should either be eliminated entirely or standardized. Eligible families should be required to spend at least a prescribed percentage of income on food stamps in order to participate.

College students should not be eligible for food stamps unless their families are eligible, or unless they are married and registered for employment. Persons on strike should not be eligible for the program.

The penalties for fraud should be strengthened. They should include suspension from participation pending refund of improperly received benefits, and permanent disqualification for repeated offenders. Mandatory requirement for prosecution should be provided for appropriate cases. Provisions covering work requirement need clarifying and strengthening.

The constant changes in regulations covering the food stamp program have been a contributing cause to inefficient administration. The legislation can be and should be made sufficiently specific so that continuous reinterpretation by the administering agency should not be necessary.

As this is written the food stamp legislation is still under intensive study and revision in the committees, but I am hopeful that early in the coming session the new legislation will be reported out and will be acted upon promptly. The need has been evident to me for many months, and I have said so clearly on the floor of the Senate.

In the final analysis there is a basic question that Congress must consider, and that is whether it is in fact a prudent and effective measure to substitute food stamps for direct assistance payments. Those who are truly needy are able to obtain financial assistance from the Government. Receiving a part of this assistance as food stamps is intended to assure adequate nutrition. The question before the Congress is whether those who would expend cash unwisely would not do the same with food stamps, and whether the potential good to be accomplished is greater than the opportunities to defraud that are inherent in a very large and complex food stamp program.

This month when the Senate Appropriations Committee considered the administration's request for supplemental appropriations for the food stamp program, I supported a reduction of $2.18 billion out of the $3.9 billion that had been requested. This action, which received approval of the committee and the Senate, was based upon the fact that the Secretary of Agriculture has sufficient authority under the Food Stamp Act to drastically reduce abuses in the program, and can effect large economies by doing so.

That part of the population that receives food stamps is growing every day. Using stamps at the store is a practice to which many readily become accustomed, and if this goes on and on it will become a way of life, and be viewed as an inalienable right. Changing this trend is not going to be easy, nor will it be popular, but it is absolutely essential. What was intended as a moderate program to help the truly poor has become a runaway program headed for the poorhouse, as far as the national budget is concerned. It is time to bring this runaway under control.

RURAL WATER SYSTEMS

One of the most effective Federal programs to assist the economic growth of rural areas and to protect the health of its citizens is the rural water system program of the Farmers Home Administration. Nonprofit organizations and local public governments can obtain loans and grants to construct water systems in rural communities and in towns of less than 10,000 population. This would include developing the source, such as wells, building tanks for storage and to provide pressure, treating the water to clean and purify it, and the pipes to distribute the water to the members of the association or the customers of the community-owned facility.

The Farmers Home Administration can assist in establishing water systems by grants of up to 50 percent of the cost of the project. Also loans are available from the rural development insurance fund, at rates not to exceed 5 percent. Between the two the people of a rural community can get the assistance that is essential if they are to finance the installation of a water system, pay off their loans, and pay the annual operating and maintenance costs.

This year the Agriculture Appropriations Subcommittee, of which I am a member, provided a total of $250 million for grants for rural water systems during fiscal year 1976. This is considerably more than has been made available in recent years, and should be able to cover most of the grant applications that were on hand at the beginning of the year. Also $470 million was authorized for water system insured loans.

I shall continue my strong support of these rural water system grants and loans. They serve an essential function in revitalizing rural areas by attracting industry, protecting the health of the citizens, and slowing down the movement of rural citizens to cities. Mississippi ranks very high among all the States in making good use of this very fine Federal program.

MISSION-66 BYPASS ROAD

This session of Congress I have been able to help, together with Senator EASTLAND, to solve a long-standing road problem in the city of Vicksburg, where the Vicksburg National Military Park, which is operated by the National Park Service, occupies land in the city itself.

After 1865 the War Department acquired a narrow semicircle of land which followed the ridge line around Vicksburg on the north, east, and south, and which contained the Confederate and Union positions as they existed during the siege of Vicksburg. The Mississippi River on the west completed the circle around Vicksburg, thus constraining the subsequent growth of the city. The land acquired became the Vicksburg National Military Park and was transferred to the Department of the Interior in 1899.

The roads within the park were built upon old public roads that existed prior to the Vicksburg siege. They became national park roads but they were never condemned to preclude public use.

As the city of Vicksburg grew, traffic of local origin on the roads within the park grew accordingly, and became a burden to the Park Service and an impediment to tourist traffic. Also, the slow moving tourist automobiles, stopping to look at monuments and read signs, were a danger to local vehicles. In particular, the principal north-south road, Confederate Avenue, carried heavy traffic, and constituted a special traffic problem to the city and its citizens.

An agreement was worked out between the city, the county, and the Park Service in which there were various changes in park boundaries, exchanges of responsibilities for maintenance of statues and memorials, and provision for crossings over and under park roads. Part of this agreement provided that the Federal Government would aid the city to construct a north-south road, west of the park, in order to relieve the traffic on Confederate Avenue.

The estimate then for all the road work was $1.6 million, which was to cover the crossings in the park and the new north-south road. The legislation, which I sponsored, embodying the agreement, was passed by Congress and signed into law in 1963.

Appropriations in the authorized amount were provided and construction proceeded. However, it became apparent as work progressed that the money available would not accomplish the full scope of the work contemplated. As a result, the new north-south road, which is referred to as the Mission-66 Bypass Road, was terminated short of its intended destination. As a consequence the full intended traffic pattern within the park has not been attained, and the northeastern portion of the city is without adequate access to the new north-south road. The estimated cost to complete the project is now $1.8 million.

The problem was taken up with the Office of Management and Budget, and after they agreed that completion of the road should be a Federal responsibility, Senator EASTLAND and I introduced a bill to provide the necessary authorization.

Hearings were held by the Senate Interior Committee, and I provided a statement strongly supporting the bill. I am glad to say that the committee agreed with this view and favorably reported the bill. It has now been considered and passed by the Senate and sent to the House. I expect it to be passed there next session. It will then be necessary to obtain appropriations so that the work can proceed, and I will endeavor to do that.

This will finally correct a situation which has been unsatisfactory for the Park Service and the many tourists visiting this historical site, and it will meet a longstanding need of the citizens of Vicksburg.

THE NATCHEZ TRACE PARKWAY

The Natchez Trace Parkway is one of nine national parkways under the jurisdiction of the National Park Service. Most are incomplete and need construction money; all require expensive maintenance each year. This takes a lot of money, and the competition for it between parkways is intense. That money has to come out of the budget of the Department of Interior, which is one of the smaller departmental budgets, and the National Park Service is just one element of Interior, and can in turn give only a small part of its budget for parkway construction.

The result is that it is a constant struggle, year after year, to get enough money to keep this important project moving. There is usually little or none in the budget for it, and it becomes a matter of trying to add it in Congress, in the face of strong fiscal restraints on appropriation bills.

Relatively speaking I feel generally successful in this, but at the same time I am very dissatisfied at the slow rate of progress. The Natchez Trace over the last 5 years has received more than twice as much new construction money than any other parkway, but the pace of construction is much too slow to suit me, and I continue to work hard on the problem.

There are two ways to fund the construction of the parkway. One is from annual appropriations, as I mentioned above. The other is to pass authorizing legislation that would permit use of money from the highway trust fund. I have been pursuing both courses of action.

I was able last year to get the Senate to include in the Interior appropriations bill for fiscal year 1975 a program of $7.4 million for the Natchez Trace, over and above the budget, and this addition was retained in conference with the House. This work is going on and will continue in the coming months.

In April, when the Senate considered the special Emergency Employment Appropriation Act, I was able to add $2,125,000 in liquidating cash for obligations on the Natchez Trace Parkway. This amount was retained in conference with the House, but unfortunately this bill was subsqeuently vetoed, not because of the Natchez Trace money, but for other reasons.

With respect to the budget for 1976 and the problem of obtaining adequate appropriations, on a regular continuing basis, to carry out construction of the Natchez Trace, I received a letter dated April 24 from the Secretary of Interior. This was in a response to a letter to him signed jointly by Congressman JAMIE WHITTEN and me. In the letter, the Secretary says,

> The line item road construction program of the National Park Service in fiscal year 1976 amounts to $6.5 million to provide for construction and reconstruction projects servicewide.

He points out that I was able to get a $7.5 million program added in the current fiscal year, and continues—

> Because of this, and the urgent needs in other areas administered by the National Park Service, we regret that no additional projects could be budegted at Natchez Trace in fiscal year 1976.

So it was again necessary to get money for the present fiscal year, 1976, in Congress, without any help from the administration. I took this up on a special basis with members of the Senate Appropriations Committee, and I am pleased that the effort was successful. For the fiscal year and the added transitional quarter that follows the Congress provided $1.5 million to pay obligations under current contracts on the parkway. Best of all, however, the Senate approved a program of $9,160,000 in additional obligations to begin this fiscal year.

I started months ago, of course, to worry about the budget that will soon be submitted for the next fiscal year, beginning October 1, 1976, and I have strongly presented our case to the administration.

Using money from the highway trust fund, as I mentioned before, is the other way to get on with the work. This is potentially the quickest way to complete the parkway, but it requires new legislation of an innovative nature, and there are many opponents to that legislation.

I was the cosponsor of legislation last year, with Senator EASTLAND, to authorize the use of money from the highway trust fund to construct parkways, of which there are several which have not been completed. Our bill specified that the parkways would be managed solely for scenic and recreational use and passenger car travel. This legislation passed the Senate without opposition, but unfortunately was rejected by the House in conference.

We again introduced this authorizing legislation on March 6, 1975. By letter to me dated March 12, the chairman of the Senate Public Works Committee stated:

> The purposes of your bill are consistent with my thinking in this matter, for I believe that proper parkway development cannot take place so long as it is dependent on erratic appropriations from the General Fund.

He assured me that the Public Works Committee would give every consideration to our bill, as they did last year, and they did so. The Highway Amendments of 1975 were reported by the committee and passed by the Senate this month. They included authorization of $50 million from the highway trust fund for parkway construction in fiscal year 1977 and 1978.

Adoption of the bill by the House will be necessary, of course, and I would expect that the previous opposition in that body may arise again. However, I feel that I must continue to explore all possible means of expediting the parkway construction.

For this year, in any case, I feel very good about what we now have accomplished in the way of an ongoing program for the immediate future. I must persevere, and will. This is a worthy project for Federal expenditures, and its completion is very important to our State.

APPRECIATION TO THE NEWS MEDIA

No matter how diligently one tries to answer his mail, return telephone calls, or visit back home, every Senator in this Chamber knows the value of his home State news media. Each of us has a responsibility to keep our contituents informed about their government and the news media performs a tremendous service in this regard.

In recognition of their contributions to the betterment of our Nation I would like to sincerely say to my colleagues that I hope they are as fortunate as we in Mississippi to have such a vast and responsible group of newsmen and newswomen. This is in no way to discredit the news media of other States, but a sincere expression of my appreciation with the excellent work done in Mississippi. For several years now I have produced weekly radio and television reports to the people of Mississippi in addition to written news releases. Throughout the years, use of these reports has increased greatly. I would like to recognize those radio and television stations in Mississippi who make these reports available to their audiences.

Television stations receiving weekly reports:

Biloxi—WLOX-TV.
Columbus—WCBI-TV.
Hattiesburg—WDAM-TV.
Jackson—WJTV-TV; WLBT-TV.
Memphis, Tenn.—WMCT-TV.
Meridian—WTOK-TV; WHTV-TV.
Tupelo—WTWV-TV.

Radio stations receiving weekly reports:

Aberdeen—WMPA.
Amory—WAMY.
Canton—WMGO.
Cleveland—WCLD.
Columbia—WFFF.
Columbus—WCBI; WMBC.
Corinth—WCMA.
Greenville—WDDT.
Greenwood—WGRM.
Grenada—WRIL.
Gulfport—WGCM; WROA.
Hattiesburg—WFOR; WHSY.
Houston—WCPC.
Indianola—WNLA.
Iuka—WVOM.
Jackson—Mississippi Radio News; WRBC; WWUN.
Kosciusko—WKOZ.
Laurel—WAML; WNSL.
Lexington—WXTN.
Magee—WSJC.
McComb—WAPF/AM; WCCA/FM; WAKK.
Meridian—WOKK.
Natchez—WNAT.
Pascagoula—WCIS; WPMP.
Picayune—WRJW.
Pontotoc—WSEL.
Poplarville—WRPM.
Senatobia—WSAO.
Starkville—WSSO.
Tupelo—WELO; WJLJ.
Vicksburg—WQBC; WVIM.
West Point—WROB.
Winona—WONA.

Of course, all newspapers in Mississippi continually report events in Washington. I would like to recognize their contributions at this time:

DAILY NEWSPAPER IN MISSISSIPPI

Biloxi—Daily Herald, South Mississippi Sun.
Brookhaven—Daily Leader.
Clarksdale—Press Register.
Cleveland—Bolivar Commercial.
Columbus—Commercial Dispatch.
Corinth—Daily Corinthian.
Greenville—Delta Democrat Times.
Greenwood—The Commonwealth.
Grenada—Daily Sentinel Star.
Hattiesburg—The American.
Jackson—Clarion-Ledger; Jackson Daily News.
Laurel—Leader-Call.
McComb—Enterprise-Journal.
Meridian—Meridian Star.
Natchez—Natchez Democrat.
Oxford—Oxford Eagle.
Pascagoula—Mississippi Press Register.
Starkville—Daily News.
Tupelo—Daily Journal.
Vicksburg—Vicksburg Evening Post.
West Point—Daily Times Leader.

WEEKLY NEWSPAPERS IN MISSISSIPPI

Aberdeen—News Herald.
Ackerman—Choctaw Plaindealer.
Amory—Advertizer.
Ashland—Southern Advocate.
Baldwin—News.
Batesville—Panolian.
Bay St. Louis—Sea Coast Echo.
Bay Springs—Jasper County News.
Belmont—Belmont-Tichomingo Journal.
Belzoni—Banner.
Booneville—Banner-Independent.
Brandon—Rankin County News; Rankin County Press.
Bruce—Calhoun County Journal.
Calhoun City—Monitor-Herald.
Canton—Madison County Herald.
Carrollton—The Conservative.
Carthage—Carthaginian.
Charleston—Mississippi Sun.
Clarksdale—Delta Farm Press.
Clinton—News.
Coffeeville—Courier.
Collins—News-Commercial.
Columbia—Columbian Progress.
Crystal Springs—Meteor.
DeKalb—Kemper County Messenger.
Drew—Sunflower County News.
Durant—News; Plaindealer.
Ellisville—Progress Item.
Eupora—Webster Progress-Times.
Fayette—Chronicle.
Forest—Scott County Times.
Fulton—Itawamba County Times.
Gautier—Gautier Independent.
Gloster—Wilk-Amite Record.
Grenada—Grenada County Weekly.
Gulfport—Examiner Times; Keesler News, Pictorial Review.
Hazelhurst—Copiah County Courier.
Hernado—DeSoto Times.
Holly Springs—South Reporter.
Houston—Times-Post.
Indianola—Enterprise-Tocsin.
Iuka—Tishomingo County News.
Jackson—Mississippi Enterprise; Reporter; Northside Sun; South-West Guide.
Kosciusko—Star-Herald.
Leakesville—Greene County Herald.
Leland—Progress.
Lexington—Adviser; Holmes County Herald.
Liberty—Southern Herald.
Long Beach—Gulf Coast Weekly.
Louisville—Winston County Journal.
Lucedale—George County Times.
Lumberton—The Head Block.
Maben—The News-Press.
Macon—Beacon.
Magee—Courier.
Magnolia—Gazette.
Marks—Quitman County Democrat.
Meadville—Franklin Advocate.
Meridian—Lauderdale Ledger; Meridian Record.
Mendenhall—Simpson County News.
Mize—Messenger.
Monticello—Lawrence County Press.
Morton—Morton-Pelahatchie Advertiser.
Mount Olive—Tribune.
New Albany—Gazette.
Newton—Record.
Ocean Springs—Ocean Springs Record.
Okolona—The Messenger.
Pass Christian—Bird; Tarpon Beacon.
Philadelphia—Neshoba Democrat.
Picayune—Item; Pearl River Journal.
Pontotoc—Progress.
Poplarville—Weekly Democrat.
Port Gibson—Reveille.
Prentiss—Prentiss Headlight.
Purvis—Lamar County News.
Quitman—Clark County Tribune.

Raleigh—Smith County Reformer.
Raymond—Hines County Gazette.
Richton—Dispatch.
Ripley—Southern Sentinel.
Rolling Fork—Deer Creek Pilot.
Sardis—Southern Reporter.
Senatobia—Tate County Democrat.
Summit—Summit Sun.
Sumner—Sentinel.
Taylorsville—Signal.
Terry—Headlight.
Tunica—Times Democrat.
Tupelo—Shoppers News.
Tylertown—Times.
Union—Appeal.
Utica—Advertiser.
Water Valley—North Mississippi Herald.
Waynesboro—Wayne County News.
Wiggins—Stone County Enterprise.
Winona—Times.
Woodville—Republican.
Yazoo City—Herald Peoples Press.

These news sources are supplemented in their coverage by the services of Associated Press, United Press International, and the Mississippi Radio News Network. Mississippians are also fortunate to receive in-State coverage of events from full-time correspondents for the New Orleans Times Picayune and the Memphis Commercial Appeal.

Of course, no expression of appreciation to the Mississippi news media would be complete without a sincere "thank you" to the Washington correspondents who file stories daily from the Nation's Capital to the media back home.

In the rapidly moving world of today, the need to know is greater than ever before. I am extremely grateful that the capability to inform the people has reached such an effective level.

COMMITTEE WORK

The matters I have discussed so far in this report are for the most part those which are of direct interest to Mississippians because they affect their daily lives, their work, and the communities in which they live. These matters are of intense interest to me, of course, and to them I devote a large part of my time and effort.

In addition to this work, I also have, as do all Senators, legislative responsibilities of a national nature. Most of this work is done in committees. As a body, the Senate represents the union of 50 States, each State having equal rights. In national matters a Senator is speaking for his State, and when legislation is passed into law, that law becomes binding upon the people of his State, so this is a responsibility that is taken very seriously indeed.

The work that is done in Senate committees ultimately is considered on the Senate floor as legislation, so it is important that this work receive careful attention. The assignments of Senators to the various standing, or permanent committees and to the various special, select, and joint committees are of course of great significance, for they delineate the particular broad subjects in which each Senator will do most of his work which is of a national nature.

I feel very fortunate in my committee assignments. They require much time and hard work, but they are achieved through long service in the Senate and specialized knowledge gained through experience, and they give me opportunities to participate in the formulation of legislation that is important to the State of Mississippi and to the Nation.

I am privileged to serve as chairman of the Armed Services Committee, one of the major committees of the Senate, which deals with all military matters involving the military protection and security of the American people. The work of this committee is not only of paramount importance concerning our national security but also our support of the security of the free world. As chairman, I have gotten into many policies of the entire Government because the subject of national security is vast and related to many other aspects of our society.

Each year the Armed Services Committee, after months of hearings and detailed investigation and examination of the facts, draws up the bill that will authorize the procurement of major weapons systems and set the personnel strengths of the Armed Forces. In doing so, I as chairman endeavor to see that not a dollar is wasted but that a strong national defense is insured.

This year the efforts by liberals to cut defense money in favor of spending on social programs has been unusually severe, but I was successful, I believe, in holding the line for what is necessary for military security. I served as floor manager for the military authorization bill, and led the Senate conferees in formulating agreement between the Senate and House bills. This required many days of intense work and many hours of debate on the Senate floor. I am well pleased with the ultimate contents of the bill which was signed into law.

My second major committee assignment is on the Senate Appropriations Committee, where I am the third ranking Democrat. I serve on six subcommittees: Agriculture, Defense, Housing and Independent Agencies, Labor-HEW, Public Works, and Transportation. Of the 26 members of the committee, only three of us serve on as many as six subcommittees. As I mentioned previously, I am chairman of the Public Works Subcommittee.

I am particularly gratified to have the opportunity to serve on the Appropriations Committee, for it has the duty of passing on every proposed expenditure of money by the Federal Government. The committee reviews the budget proposal of the President, and any proposal that may originate within Congress. There are, of course, differences of opinion at times between the House and Senate as to the amounts and purposes of appropriations, and these must be resolved in conference committees, which in effect, write the bills in their final form. My seniority on the committee privileges me to participate frequently as a member of these conference committees.

I am also a member of the Aeronautical and Space Sciences Committee, which is a major committee. This gives me a particularly effective opportunity to maintain an overview of activities at the National Space Technology Laboratory in Hancock County, a subject which is discussed elsewhere in this report.

I continue to serve as a member of the Select Committee on Standards and Conduct of the Senate, commonly referred to as the Senate Ethics Committee. I served as its chairman from the time it was formed in 1965 until last year, when I asked that another Senator assume the chairmanship, in order that I might have additional time to devote to Mississippi matters, which have increased rapidly from year to year.

Committee work is demanding, and takes time, but in my judgment it is time well spent. My assignments give me many opportunities to look out for the interests of Mississippi, and its people, in the formulation and enactment of the public laws that apply across the Nation.

CONCLUSION

Each year as I prepare this report to my constituents, and I reflect back over the year, I conclude that it has not been an easy year for the Nation nor for the American people, but that progress has been made—there are accomplishments, achieved in the face of adversity. I expect that this has been the story of our democracy, long before our time, and will be after it. National accomplishments under a truly democratic system such as ours, where individual rights are scrupulously observed, can never be easily or quickly attained, and sometimes progress seems painful. But the system works. In 200 years it has made us the greatest Nation on Earth, and our people the most free to follow as they wish their individual pursuits.

This year has been no exception. It has been a year still bearing the scars of Watergate, marked by efforts that were at times overzealous to expose completely and without reservation to public view and to the world at large all of the workings of government, including many that heretofore had been considered privileged to secrecy in the national good.

I have been very dissatisfied with the accomplishments of Congress this year. Much of this has been because the administration and Congress were frequently in a state of confrontation, with each under control of different political parties. Frequently rational compromises, which I have sought, suffered as a consequence.

The problems facing the people of the Nation have been difficult, and the populace has been understandably uncertain and divided in its views. A people divided on issues means a divided Congress, and we certainly have seen that this year. Our people in Mississippi are not as divided in their views as they are elsewhere, and I have been able to pursue a firm course, as I always have tried to do, toward what I am sure is right and proper for the people and the Nation. Members of Congress from many other areas are not as fortunate in this respect.

Congress is going to have to do better, and will do so, in acting decisively, and with prudence in spending. For a time yet the situation will remain complicated by the fact that there are aspirants for the office of President in both the Senate and the House, but this will end, and issues will not be so clouded by considerations that are outside the problem itself.

I have always opposed big government. I think it has been thrust on the people by many years of liberal domination of Congress.

This year I see a growing revulsion toward the principle of centralized governmental control of everyday decisions. The people are making their views known and are being heard. There has been some signs of progress in this respect in 1975, and there will be more coming.

As I said, progress in a democracy can be painful, and frustrating, but it goes on, and will as long as we protect and preserve the functioning of government under the Constitution. This concept, based upon mutual respect of individual rights, has brought us a long, long way in 200 years. We are at peace. We still are showing the rest of the world how a people can govern themselves and be strong and prosperous.

I am very proud to be part of a governmental system that can accomplish this, although sometimes haltingly, sometimes too slowly, but always finally with success. I am proud and grateful for the support I receive from the people of Mississippi. I thank you for it, I seek your views and your guidance, and again I pledge my complete dedication to the duties and responsibilities you have vested in me as one of your Senators.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. MANSFIELD. Mr. President, I submit a resolution and ask for its immediate consideration.

The resolution (S. Res. 338) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. The Chair appoints the majority leader the Senator from Montana (Mr. MANSFIELD) and the minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT), as a committee on the part of the Senate.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. MANSFIELD. Mr. President, I submit a resolution and ask for its immediate consideration.

The resolution (S. Res. 339) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable NELSON A. ROCKEFELLER, Vice President of the United States and President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-fourth Congress.

THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. HUGH SCOTT. Mr. President, I submit a resolution and ask for its immediate consideration.

The resolution (S. Res. 340) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable JAMES O. EASTLAND, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the first session of the Ninety-fourth Congress.

THANKS OF THE SENATE TO THE ACTING PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I submit a resolution and ask for its immediate consideration.

The resolution (S. Res. 341) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the thanks of the Senate are hereby tendered to the Honorable LEE METCALF, Acting President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over the deliberations during the first session of the Ninety-fourth Congress.

AUTHORIZATION TO PRESIDENT OF THE SENATE TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. GRIFFIN. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 342) was read, considered by unanimous consent, and agreed to as follows:

Resolved, That, notwithstanding the final adjournment of the present session of the Congress, the President of the Senate be, and he is hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

AUTHORIZATION TO THE PRESIDENT OF THE SENATE TO SIGN ENROLLED BILLS AND RESOLUTIONS

Mr. MANSFIELD. Mr. President, I send to the desk a final resolution.

The resolution (S. Res. 343) was read, considered by unanimous consent, and agreed to as follows:

Resolved, That, notwithstanding the sine die adjournment of the two Houses, the President of the Senate, the President pro tempore, or the Acting President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed and found truly enrolled.

Mr. CURTIS. Mr. President, I rise for the purpose of wishing everybody a Merry Christmas and a Happy New Year.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LUTHER LEO WALKER

Mr. BEALL. Mr. President, I would like to take official note of the fact that one of the loyal employees of the Senate is retiring as we conclude our business for this year, Mr. Leo Walker, who happens to come from Mexico Farms near Cumberland, Md., which happens to be my hometown. He is retiring as a member of the Sergeant at Arms' staff 18 years in service in the Senate.

It should be noted, I think, that Mr. Walker came here originally, 18 years ago, as a member or with my father as part of his patronage in the Senate. When my father left he got on the staff of, the patronage staff of, Senator COTTON from New Hampshire, and then my colleagues from Maryland, Senator MATHIAS and, since that time, has been on the staff of the Sergeant at Arms.

Mr. Walker has performed loyally and with a great deal of devotion to his duties as a member of the Sergeant at Arms' staff, and he has been a man of very pleasant demeanor who has been willing to be of great assistance to those of us who have needed his help from time to time.

I know my colleagues in the Senate join with me in wishing to Leo Walker a very pleasant retirement, and we trust he will be active in his retirement. We want him to know we will miss him, miss having him around the Senate, and we certainly wish him well in his retirement years which, I understand, are going to be back in western Maryland.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President

on behalf of the leadership, I wish to express the gratitude of the leadership to the Parliamentarian and his assistants, the legislative clerk, the journal clerk, the reading clerk, the secretaries to the majority and the minority and their assistants, all of the other officers of the Senate, the Sergeant at Arms and the Secretary of the Senate and their staffs, all the official reporters, the pages, the clerks and staff aides to Senators and to Senate committees, who have contributed so much throughout this year to make the record of this session an outstanding record.

These are people whose assistance we could not do without, and I think it is too seldom that we pause not only to reflect on the services that they perform to us and to our constituents and to the Nation, but just as seldom do we pause to express not only publicly but privately our appreciation to them.

The leadership also thanks the members of the fourth estate who sit behind and above the Presiding Officer daily and who perform a high duty in informing the people.

We would also, in making reference to the Presiding Officer, want to thank especially the newer Members who spend so much time in the chair in fulfilling a chore and doing it well.

This is the season of the year when, above all other seasons, we ought to think upon these things and be grateful. We express not only our appreciation, but also our good wishes for a pleasant Christmas, a good holiday, and a prosperous and glad New Year.

Mr. GRIFFIN. Will the distinguished acting majority leader yield to me so that I can join him in that eloquent statement about all the fine people who make it possible for this Senate to operate as an institution and who do such a wonderful job helping us?

We on both sides of the aisle wish them a very, very happy and Merry Christmas and New Year and hope that the recess will give them an opportunity to get some very well-deserved relaxation.

While I am on my feet, I want to salute and commend the distinguished majority whip, who day after day, week after week, did such a great job keeping this Senate on schedule, making it possible for us to get a great deal of work done, and doing it in a way that commands the respect of all of his colleagues on both sides of the aisle.

I do not know what we would do and how we would work our way out of some of the snarls if it were not for the ingenious ability of the majority whip to come up with the right suggestion at the right time and to cajole and encourage and to somehow get the cooperation of people from all sides of very complex and very difficult issues to come together, and, finally, to have a unanimous-consent agreement that makes it possible to get to a vote.

He does a fine job, and even though we differ on policy issues from time to time I want him to know we really respect and admire him and wish to commend him for the outstanding job he has done.

Mr. ROBERT C. BYRD. Mr. President, I thank the able Republican whip.

May I say that I am fortunate to be able to count among my friends the very distinguished majority leader with whom I have worked now for 9 years, standing at his side practically all the time, and never with one iota of friction or ill feeling between us.

And also among that circle of friends I want to say that I am grateful for the privilege and the good fortune to work with the able minority leader and the able minority whip.

They are men who are congenial and amicable and they are most cooperative and understanding. There have been many times that the majority leader and I, in talking together, have expressed our thanks, unknown to the minority leader and the minority whip, that we have such a fine team on the other side of the aisle to work with.

Our work is difficult at times. It could be much more difficult for the majority leader and I if we did not have in the minority the kind of effective and cooperative leadership that is so ably demonstrated from day to day by Mr. HUGH SCOTT and Mr. GRIFFIN.

We respect our peers on the other side of the aisle. It is true we cannot always agree. We understand that. But we do not let that tarnish our warmth of feeling and our friendship toward one another.

I think the same can be said for all of our friends on the other side of the aisle. They battle vigorously and courageously, of course, but they have to do their duty as they see it and we understand that and we think we have a pretty happy group to work with throughout the year. We are very thankful for that.

It goes without saying that the leadership on this side also wishes to salute all our Senators on both sides of the aisle. They have worked hard. They have established a record of accomplishments that I think the Senate and the Nation can be proud of.

Mr. President, while we have a few minutes in which to congratulate our colleagues, I would like to call attention to the fact once more that the distinguished senior Senator from Wisconsin, Mr. PROXMIRE, who is present, holds the alltime Senate record for perfect attendance on rollcalls.

I have not been able to take a look at his record lately but I think it must be beyond the 4,000 mark—well on his way to that 5,000th milestone which, if we have as many rollcalls next year as we had this year, he will probably surpass.

Already this year the Senate has had 611 rollcall votes and 92 live quorums, making a total of 703 votes and live quorums this session. So the Senate has exceeded the alltime record which heretofore was 594 rollcall votes in a single session. We have exceeded that record. This is also 83 more rollcall votes and live quorums than have ever been conducted in any one session in the recorded history of the Senate, which is, I think, something worthy of note.

Moreover, the average attendance of Senators this year is better than in any year since 1964. So, while there have been a number of recesses, not only did the Members of the Senate fulfill a duty in getting back home more often to mingle with their constituents, but they also were in better attendance when the Senate was in session than they otherwise might have been. This ought to be mentioned—the fact that with the recesses, we have had the best average attendance on the part of Senators this year since 1964.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the President said he was satisfied with the work of the Senate and wished us all a Merry Christmas and a Happy New Year. That is about it.

Mr. HUGH SCOTT. Mr. President, I would like to pay my compliments to my good friend and associate, the distinguished majority leader, for his zeal, his diligence and cooperation, and the way in which he has unfailingly helped to make the process work.

I am gratefully indebted to my friend, the distinguished majority leader, for his fairness, his constant thoughtfulness, his desire to include the minority in the business of the Senate and in its operation, and his method of handling matters so as to make the system work better.

I want to thank, too, my good friend, the distinguished assistant majority leader, the Senator from West Virginia, whose parliamentary skill we all admire, whose ability to get work done by Senators is not only remarkable but becoming legendary, and whose competence is admired by all of us. I wish everyone, the staff, the officers, and Senators a very pleasant holiday season, and I hope you will all come back on January the 19th prepared to work and to help us all give a good account of ourselves to the country.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon on January 19, 1976, the 200th anniversary of the independence of our country.

On that date, the pending matter before the Senate will be S. 961, the bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

STANDING ORDER FOR RECOGNITION OF THE MINORITY AND MAJORITY LEADERS AT THE BEGINNING OF EACH DAY DURING THE SECOND SESSON OF THE 94TH CONGRESS

I ask unanimous consent that throughout the second session of the 94th Congress, the two leaders or their designees be recognized following the prayer and the disposition or reading of the Journal, each for not to exceed 10 minutes, as was the custom during this session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION FOR THE PERIOD OF ROUTINE MORNING BUSINESS ON JANUARY 19

Mr. ROBERT C. BYRD. I ask unanimouse consent that following the recognition of the two leaders or their designees on Monday, January 19, there be a period for the transaction of routine morning business of not to exceed 1 hour, with statements therein limited to 5 minutes each, at the conclusion of which the Senate resume the consideration of S. 961.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is the intention of the leadership—in accordance with the statement made earlier today by the distinguished majority leader—to call up, following the disposition of S. 961, or as soon as possible thereafter, H.R. 9852, which is the mobile homes bill, and it is similarly the intention of the leadership then to follow that, if possible, with S. 2260, a bill to establish an approved program for the benefit of producers and consumers of rice. It may be possible to operate on a multiple track system so as to expedite the business of the Senate in connection with those three items, and as to other items which may be cleared for action at that time and as time goes on.

Mr. President, I would not rule out rollcall votes on January 19. There may be some conference reports that will be coming along as well.

Mr. President, there is a Santa Claus, and West Virginia is "almost heaven," so I would suggest to my colleagues that if they want to really enjoy a happy Christmas in the place that is almost heaven, and where Santa Claus will be traveling on his sleigh drawn with reindeer, they are invited to come to West Virginia.

ADJOURNMENT SINE DIE

Mr. ROBERT C. BYRD. Mr. President, on that happy note, I move, in accordance with the provisions of House Concurrent Resolution 518, that the Senate stand in adjournment until the hour of 12 o'clock noon on Monday, January 19, 1976.

The motion was agreed to, and at 8:45 p.m. the Senate adjourned sine die.

APPROVAL OF BILLS AND JOINT RESOLUTIONS—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

The President of the United States, subsequent to the sine die adjournment of the second session of the 92d Congress, notified the Secretary of the Senate that he had approved and signed the following acts and joint resolutions:

December 20, 1975:

S. 55. An act for the relief of Dino Mendoza Pascua;

S. 605. An act for the relief of Heung Soon Kim;

S. 1653. An act for the relief of Sun Yang Kim and Sun Mi Kim; and

S. 1800. An act to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

December 22, 1975:

S. 622. An act to increase domestic energy supplies and availability to restrain energy demand; to prepare for energy emergencies; and for other purposes.

December 23, 1975:

S. 313. An act to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Texas, and for other purposes;

S. 447. An act for the relief of Jesus Cortez Pineda;

S. 848. An act to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes;

S. 1922. An act to amend the Act of July 7, 1970 (84 Stat. 409) to authorize appropriations to the Secretary of the Interior without reference to the agencies involved; and

S. 2757. An act to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

December 31, 1975:

S.J. Res. 157. Joint resolution to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by federally-related financial institutions for property located in communities not participating in the national flood insurance program;

S. 322. An act to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes; and

S. 1281. An act to extend the authority for the flexible regulation of interest rates on deposits and share accounts in depository institutions, to extend the National Commission on Electronic Fund Transfers, and to provide for home mortgage disclosure.

January 2, 1976:

S. 95. An act to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States;

S. 1469. An act to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes; and

S. 2327. An act to amend the Real Estate Settlement Procedures Act of 1974.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that he presented to the President of the United States the following enrolled bills and joint resolutions:

On December 22, 1975:

S. 95. An act to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States;

S. 322. An act to establish the Hells Canyon National Recreation Area in the States of Oregon and Idaho, and for other purposes;

S. 1469. An act to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes;

S. 2327. An act to amend the Real Estate Settlement Procedures Act of 1974; and

S.J. Res. 157. A joint resolution to provide a 2-month extension of the exemption for loans made to finance the acquisition of previously occupied residential dwellings from the prohibition against financing by federally related financial institutions for property located in communities not participating in the national flood insurance program.

NOMINATIONS

Executive nominations received by the Senate December 19, 1975:

U.S. REPRESENTATIVE TO THE EUROPEAN COMMUNITIES

Deane R. Hinton, of Illinois, a Foreign Service officer of the class of Career Minister, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

THE JUDICIARY

George N. Leighton, of Illinois, to be U.S. district judge for the northern district of Illinois vice Abraham L. Marovitz, retired.

In the Navy

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Steven J. Brunson
Brian P. Burghgrave
Thomas S. Dollard
Brian D. Jones
Scott R. Laidlaw
Paul R. Martz
Stephen F. Mueller
James S. Poe
John A. Tague
Hekmat D. Tamimie
Joel K. Vander Waal
Stanley C. Waldruff
Vernon J. Walters

The following-named naval enlisted scientific educational program candidates to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

William R. Adams
Michael H. Allen
Richard M. Ames
William K. Anawalt
Randy D. Andras
David L. Arnold
David I. Ashley
Robert Baumstark
James E. Beckle
Randolph G. Beres
Paul E. Blackford
James L. Bohli
George D. Boozer
Henry G. Boyter, III
Alvin E. Bray
Jeffrey A. Brooks
Stephen P. Bross
Ronald Brown
Trenholm L. Brownley
David L. Bruech
Dennis M. Bryant
Vernon D. Buchanan
Robert J. Burns
Richard D. Butler
James Buyski
Steven W. Callahan
Ronald R. Callander
Ronald E. Causey
John W. Conner
Donald P. Cook
Albert D. Copeland
Richard B. Darden
John P. Delaney
James F. Destael
Byrant Dickey
John T. Donnelly
Alton O. Douglass
Harlan L. Dubois
Thomas L. Duggin
James E. Etterman
Richard J. Evans
Ronald A. Fenner
John C. Fletcher
David M. Forkas
Daniel L. Forkel
William A. Foster
Andrew Fugate
Jeffrey E. Fugate
Maurice R. Gagnon
John S. Garrett
John P. Gleason
Michael L. Goins
Richard Goldsworthy
Michael R. Gray
Stephen M. Gray
James S. Green
Harry D. Halquist
William L. Halsne
Bernard Hamm
Herman Hancock
Bruce R. Hauenstein
Karl R. Heinz

Gordon E. Hendrick
Paul M. Herzig, Jr.
Mathew Hodgins
John S. Hoefel
Dale S. Hollen
David L. Hunt
Danny E. Ingalls
Paul G. Isabelle
Jerry L. Jansen
Bernie Johnson
Leslie M. Johnson, Jr.
George Johnston
Steve V. Jones
John E. Kane III
Joseph L. Kendrick
Mark E. Kenyon
Robert R. Klimowski
Peter Krause
Stephen T. Krouse
Daniel T. Kuper
Gerald W. Laflen
John E. Lampas
David B. Lane
Arvid R. Larson
Keith W. Larson
Stephen E. Larson
Alton O. Ledoux
Edwin L. Lieb
Jimmy L. Little
Patrick E. Little
Edward L. Littleton
James L. Long
Robert A. Love
William T. Lucas
August E. Luedke
Peter J. Lukken
Harry C. Luster
Ira K. Magid
Martin Mallen
Mylen J. March
Charles N. Marlow
David Martin
Edgar D. Martin
Roserdo Martinez
Robert B. Maufroy
Joseph P. McAuliffe
John R. McGowan
William T. McIntyre
David McKinney
Blaise L. Merchlewitz
David F. Miller
Michael R. Miller
Barry L. Mills
Kenneth J. Mills
Clayton Moen
Victorino M. Monzon
Christopher A. Moren
Janice Morgiewicz
Harry R. Nace, Jr.
James L. Newhall
Claude R. Newton
Isabella O'Leary
Kenneth E. Patterson
James L. Perry
David C. Petke
Charles A. Pool
Patrick R. Poole
Tony L. Porter
Gary P. Potkay
Lawrence Pratt
Richard Predergast
Barry W. Prochaska
Roger A. Richter
Robert M. Rider
John Rosenow
Ronald Routh
Rene Ruesch
John E. Ryan
Eugene E. Saari
Michael Sanders
Walter D. Sedlacek
Gregory A. Simmons
Frederick F. Smartt
Neal F. Smith
Timothy M. Spence
George F. Spilios
David A. Spivey
David A. Stark
Kevin Sullivan
Paul J. Swagler
James L. Szatkowski
Larry J. Taylor
Melvin L. Taylor
Ronald A. Titus
Randel S. Tomlinson
James M. Tucker
William S. Ullom
Stephen W. Vanderbosh
Charles Vining
William E. Vsetecka
Robert Warner
Harry Watkins
Gary A. Weaver
Stephen M. Webb
Michael H. Werner
Lawrence A. Wessing
Bruce R. Whitely
Edmond G. Wilson
Randolph D. Wooley
Frank S. Wright
Richard A. Wright
Roger P. Yanda
Eric R. Zumwalt

Lt. Ellis H. Hall, Jr., USN, to be appointed a permanent lieutenant and a temporary lieutenant commander in the Dental Corps of the U.S. Navy, to correct grade, subject to the qualifications therefor as provided by law.

Daniel E. Santos (civilian college graduate) to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

The following-named (civilian college graduates) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Jack M. Quick
Boston S. Shima

Samuel L. D'Amato, Jr. (ex-USNR officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

The following-named (ex-USN officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Edward R. McDonough
Drewry H. Morris
William M. Yarbrough

The following-named (U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Donald D. Bell
Stanley A. Bloustine
Harry R. Boffman, Jr.
Alvin H. Crawford
Joseph P. Green
Jack F. Mason

John C. Fulmer (ex-USAF officer) to be appointed a permanent commander and a temporary captain in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

The following-named (Naval Reserve officers) to be appointed permanent captains in the Medical Corps of the U.S. Navy, subject to the qualifications therefor as provided by law:

William N. Elam, Jr.
Carl M. Voyles, Jr.

Mayo D. Gilson (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law.

CWO4 Wendell L. Parrish (USN(T)) to be appointed a permanent chief warrant officer, W–3 and a temporary chief warrant officer, W–4, in the U.S. Navy, subject to the qualifications therefor as provided by law.

Richard A. Millington (U.S. Navy officer) to be reappointed from the temporary disability retired list as a permanent lieutenant commander and a temporary commander in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law.

Alden B. Chace (U.S. Navy officer) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the line of the U.S. Navy, subject to the qualifications therefor as provided by law.

CWO2 Edward A. Bauer (USN(T)) to be reappointed from the temporary disability retired list as a chief warrant officer, W–3, for temporary service, in the line of the U.S. Navy, subject to the qualifications therefor as provided by law.

The following-named Navy enlisted candidates to be appointed chief warrant officers, W–3, in the U.S. Navy, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Operations technician

Eugene E. Barney
William A. Olson

Aviation electronics technician

Wilbur E. Tomlinson

Communications technician

Kenneth F. Cadran

The following-named Navy enlisted candidates to be appointed chief warrant officers, W–2, in the U.S. Navy, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Boatswain

Charles L. L. Armentor
Charles B. Blackmon
James T. Compton
Kent N. Dixon
Wendell E. Jones
James K. Leggett, Jr.
William F. Marion
Judson W. Murdock

Operations technician

John C. Craver
John L. Dilbeck
William G. French
Bobby W. Hagler
Terry H. Hardee
Ronald K. Kissel
Charles W. Lozier
Earl L. McConaha
Lester C. Miller, Jr.
Richard Miller
Richard P. Murray
Lorimer D. Patrick
Robert E. Partridge
Victor A. Platta
Joseph H. Raby
Nicholas T. Riggio
William T. Royal
James H. Ruble
William J. Ryan
James J. Souhrada
Robert J. Sunday
Milton E. Thorne

Engineering technician

Augustus Y. Alegado
Porfirio Q. Ambrosio
Michael P. Ansich, Jr.
Charles L. Bell
Harold L. Bickel
Donald O. Boling
Donald H. Brewer
Donald E. Cole
Renferd A. Crosby, Jr.
James L. Dale
Rolando V. David
Nolan R. Davis
Willie E. Everett
Ralph E. Farmer
John O. Flinner
Charles L. Floyd
Ronald K. Goecke
Joseph T. Haddakin, Jr.
Thomas J. Hair
John E. Hazlett
Cecil Hedrick
Bobby J. Hendrix
Sebastian Hernandez
Gerald L. Hines
Frederick S. Holden
Joe B. Hood
Joseph A. Horalek
Raymond L. Huntley
Bobby G. Johnson
Howard O. Johnson
William I. Johnson
Robert A. Kapherr
Robert J. Kirchhofer
Robert L. Krauss
John H. Kurek
Remigio C. Las Dulce
James E. Lasher
Charles R. Law
Thomas E. Leighty
Marvin C. Linson
William J. Livernois
Kenneth E. McCool
Napoleon McCormick, III
Henry R. Maine
Jimmy W. Marshall
Arthur J. Martin
James Mayfield
Richard J. Merrill
J. M. Miller
Johnnie D. Mills
Anthony S. Moddesette
Thomas O. Montgomery
Lloyd E. Moore
Gordon R. Morris
Gerald R. Nelson
Glenn T. Nichols
Heinz G. Park
Robert A. Peck
Thomas B. Peterson
James B. Pope
Thomas G. Pownder
Thomas J. Quinn
Thomas J. Ratchford
Philip M. Roberts
Charles E. Rogers, Jr.
Camillo V. Romero
James G. Root
Peter M. Ruden
Derald H. Rust
Harold E. Smith
James Smith
Robert H. Storey
Robert S. Story
James A. Swartz, III
Perry G. Tankersley
Henry R. Tobola
James S. Traynor
Raymond D. Weatherford, Jr.
Gerald W. Wilson
Thomas J. Witt
Ronald F. Wolter

Repair technician

Gerald L. Bush
Kenneth J. Carter
John M. Clark, Jr.
Robert E. Daniel
Claude J. Dollahite
Guy D. Freeman, Jr.
Albert L. Frontz
Robert L. Gramm
James A. Green
Charles A. Jaap
John W. Knight
Richard C. McDonald
Kenneth G. Menard
James H. Partridge
Cecil W. Ratliff
Clifton J. Reed
Donald C. Stonecipher
William G. Surber
Raymond J. Thompson
John R. Werderman

Nuclear power technician

Thomas E. Austin
Jerry M. Cochran
John V. Doliver
Gary L. Ingraham
Bruce E. Johnson
James J. Ruddy, Jr.

Ordnance technician

James A. Albaugh
Patrick O. Brock
James L. Goyette
Anthony R. Hellen
John M. Hicks
William T. Hunter
Thomas L. Jernigan
Richard E. Kasten
Edward E. Kriner
Jerrolld W. Parli
Ralph D. Pelletier
Ronald M. Rabey
Charles S. Reed
Milton E. Taylor
Larry W. Woods

Underwater ordnance technician

Donald E. Espeseth
Bobbie S. Holt
Jack D. Lindquist
Charles A. Ross
Leo S. Urbanski, Jr.
John A. Yahn

Electronics technician

Raymond J. Allen, Jr.
Larry J. Barrick
Alvin E. Bearden
George L. Bennett
Robert E. M. Brovick
Robert H. Caldwell
William G. Cleveland
John W. Collison
Donald M. Connell
Charles I. Craig, Jr.
Michael A. Craig
David N. Davies
Thomas E. Davis, III
David S. Diaz
Thomas I. Dier
Thomas A. Edwards, Jr.
Michael D. Emley
Jack Folkner
Stanley D. Grimm
James W. Hadley
Emery T. Harmon
William H. Harrah, Jr.
Richard O. Harrelson
Glen E. Heath
Franklin L. Hensley
James R. Jones
Gayhart E. Klavon
Donald W. Landin
Charles C. Leptien
Kent McKean
Andrey A. Maglievaz
Lawrence S. Ouellette
Richard B. Pollock
Charlie D. Porter
Arthur W. Potts
Harry D. Ramsden
Rock A. Reinhart
Eddie H. Richardson
Melvin L. Shaw
Richard M. Teachout
Warren N. A. Thietje
Daniel W. Thomas
David R. Thomas
Gerald L. Thompson
Richard E. Turner
John R. Ulrich, Jr.

Daniel D. Van De Mark
Clayton S. Wier
Cass A. Wilson
Peter E. Woodward

Aviation boatsman

John W. Fuller
Donald L. Strampfer

Aviation operations technician

Michael J. Cinchar
Lonnie G. Glass
Russel H. Hietbrink
Philben A. Sims

Aviation maintenance technician

Raymond G. Hood, Jr.
James D. Moorhead

Aviation ordnance technician

Chauncey J. Schoonmaker

Aviation electronics technician

Dennis R. Sneed
Emil J. Weiss

Ships clerk

Henry E. Coley
James R. Mayo
Woodrow R. Porter
William B. Ross
Gary A. Veblen
Robert E. Walls

Data processing technician

George D. Doughton
Clarence R. Edwards
Arnold Feller
Gerald D. Maines
Gary A. Painter
Roger A. Pawson

Bandmaster

Donald G. Christensen
Arthur D. Jacobus

Comunications technician

Larry K. Crawford
Walter L. Moquin
Alfred J. Pawlikowski

Intelligence technician

Allan B. Pieper

Aerographer

Melvin G. Harder

Photographer

Patrick J. Moore

Explosive ordnance disposal technician

John D. Bartleson, Jr.
Fenoy W. Butler
Jack L. Reider

Supply Corps warrant

Pierce E. Thacker

Food Service warrant

William D. Cox

Civil Engineer Corps warrant

Scott F. Lowe.

The following-named Navy enlisted candidates to be appointed ensigns in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Deck

George R. Arthur, Jr.
Ronald L. Miller.

Operations

William J Harris.
Kenneth W. Jones.
Dwayne N. Junker.

Engineering/repair

Paul K. Clausen, Jr.
Donald H. Flowers
David L. Hunt
Curtis O. Murphy
David J. Nekola
Russell T. Oliver
Lee O. Turner

Nuclear power

Jay D. Bruce
Michael A. Clark
Robert E. Cox
Eugene M. Ducom
James P. Ellis
Frederic F. Feldhaus
William D. Marsh
Joseph H. Seidl

Nuclear power

Robert E. Bryan
James R. Cook
Edwin L. Evering
Frederick M. Holmes, Jr.
Frank B. Houghton, Jr.
James E. Lashbrook
Wallace J. McKendry
George F. Petershagen
Martin E. Serafin
Walter T. Townsend
David Van Cleef
William T. Waddell

Ordnance

John C. Glynn, Jr.
David P. Meyering.
William R. Yoshida.

Electronics

Stephen G. R. Hills.
James H. Jacks.
Curtis D. Langendorff.

Aviation maintenance

Keith V. Chambers
Joseph M. Kulsicavage
Alfred F. Omeally
Robert E. Shrader
Leversia Williams

Aviation ordnance

Perry D. Driver

Aviation electronics

William L. Cochran
William A. Cook
Charles J. Delaney
Jerry D. Heacock
Edward M. Hoyser

Administration

Charles E. Ingram
Donald E. McClimon
James R. Proctor
Garl V. Sterling, Jr.
Charles K. Whitson, Sr.

Cryptology

Darrell B. Hawkins
John T. Mirabelli

Explosive ordnance disposal

Scott G. Britton

The following-named temporary chief warrant officers to be appointed lieutenants (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Deck

James L. Brant
William J. Sewell, Jr.

Operations

Charles J. Gurey
Adrian R. Pittman
William H. Sidner
Larry R. Thomas
Terry P. Wise

Engineering/Repair

William C. Abbruzzese
Jerry A. Dunn
William T. Gott
Edward G. Haskell
Stanley O. Hunter
Robert T. Hutchins
Ross W. Laine
George R. Lucie
George P. Miller
James S. Morrison
Ronald G. Shuck
Fobert W. Spann
Donald E. Thornberry

Nuclear power

Philip V. Porter, Jr.

Ordnance

Evan D. Cox
David L. Duncan
Don J. Fenton
Dennis N. Glow
Edwin M. Jordan III

Electronics

Michael W. Crawford
Darrel D. Delaney
William W. Flinner
Gary R. Geithmann
William L. Gold
Jerry G. Kincade
Kenneth J. King
Jerry S. Kosowski
David D. Nash
Ronald L. Payne
Bruce B. Pimm
Laurence A. Yano

Aviation maintenance

Robert W. Marsh, Jr.
Arthur J. Partridge

Administration

Gerald H. Davis
Curtis J. Smothers
Henry H. Taylor

Cryptology

Alvin E. Callahan

Supply

Donald E. Mumford
James W. Dixon

Mess management

Michael E. Kostich
James R. Kuenzinger
Odell G. Lowe

The following-named temporary chief warrant officers to be appointed lieutenants (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, and as permanent warrant officers and/or permanent and temporary warrant officers, subject to the qualifications therefor as provided by law:

Deck

Merrill C. Albury
Merle W. Bakken
John R. Bissonnette
MacArthur D. Braswell
Travis B. Cox
William D. Gossett
Javier Gracia
Lucian P. Highlander, Jr.
Winston M. Holtzclaw
Phillip E. Kern
Roger D. Law
Judson C. Mack
Joe L. Robles
Gary L. Schlomer
Danny F. Smith
Timothy B. Stark
Francis F. Thornton, Jr.
Wiley W. Todd
Raymond T. Turner
Barry L. Van Vleet
Ray J. Verhasselt
Albert H. Wolstenholme

Operations

Timothy Allensworth
William D. Askins
John A. Blackie
Hubert B. Blankenship
Murl N. Carlson
Robert E. Davis
Alvin B. Erickson
Richard R. Leonard, Jr.
Rondal R. Leonard
Lawrence A. McKinney
Paul M. Maurer
Kurt C. Merkling
Harvey E. Olsen, Jr.
Delavan E. Pfranger
Peter C. Schuhl
James A. Simmons
Jerry M. VanCleave
Gerald W. York

Engineering/Repair

James M. Adkins, Jr.
Ted A. Amrowski
George M. Balles
Donald R. Barnett
Larry L. Bolding
Charles M. Booker
L. J. Briggs
James C. Brobjorg
Doyle E. Cahoon
Lewis H. Carbaugh, Jr.
James T. Cardens
Edward B. Corradi
David L. Cowan
Charles H. Crawford
Terry T. Davis
James P. Donohoe
James H. Edwards
Bruce A. Fairweather
Willie D. Gilbert
Donald R. Goins
Robert L. Green
James H. Hanson
Gaylord L. Harvey
Arthur B. Hoag
Arthur H. Jones
John R. Kieffer
Glen E. Kitchen, Jr.
Harry G. Koch
Dennis R. LaChance
Christopher H. Lewis
Gary A. Long
Charles E. Love, Jr.
Earl E. Lucas
Samuel L. McClymond, Jr.
Andrew J. Maggard
Henry B. Malone
Benedict Morrow
Charles T. Mundy, Jr.
Dwight P. Nutting
Phillip M. Odom
Vincent B. Ohara
William F. Perry
Urlich G. Piepenhagen
Edward J. Plaza
John C. Ramsey
Charles M. Ruth, Jr.
Halley L. Simpson
Ersul E. Sowers
Arnold D. Stephens
William D. Stevens
Richard E. Swayne, Jr.
Ike L. Svensson
Carl W. Thompson
Richard B. Walsh
Jack P. Weisinger
Stephen P. Williams
Mark H. Witmer
Ray B. Wood
David J. Wright

Nuclear power

William J. Baldwin
Everett P. Borszich
Karl F. Bradley
Gerald B. W. Bregg
Michael A. Calhoun
Samuel R. Calveard
David B. Campbell
John R. Coarsey, Jr.
Jerry I. Collins
Thomas P. Fahrenkrug
Thomas M. Glencoe
Danny O. Gunter
Pascal W. Hagan
Robert E. Lawrence
Thomas L. Pehl, Jr.
Dale M. Rohlf, Jr.
Malcolm E. Smith
Thomas J. Tidd

Ordnance

Michael J. Barry
Robert L. Bradsher
Charles E. Chamberlain
Kenneth J. Conklin
Duane L. Daugherty
George W. Duryea
James B. Freeman
Jon C. Gilbert
Raymond A. Hieber
William J. Hines
Garrett J. Hinnefeld
Manfred Holik
Charles W. Jackson
William J. Jones
John P. Kennedy
Thomas E. Knutson
William J. McElhinney
John W. McMullen
Cecil H. Martin
Raymond H. Normandin, Jr.
Lowell L. Parks
Jon L. Rylander
Lawrence E. Schander
William D. Schoenberg
Lowell L. Smeltzer
Richard A. Sooy

Electronics

Herman E. Allen, Jr.
Charlie L. Arsta
Grady L. Booth
Karl W. Chelgren
Neil W. Bagley
Richard D. Cook
Thomas D. Dean
Donald A. Downie
Vernon R. Eubanks
David E. Farley
Paul H. Fichter
Robert C. Flint
Neil S. Frazer
John L. Giersch
Lyman H. Guest
Carl H. Heck
Lon E. Hollis
Russell D. Hulsing
Daniel C. Hurdle, Jr.
Richard C. Joyce
Burlyn L. Keller
Timothy E. LeCompte
William H. Logan
John D. Lyon
Keath L. Marx
Richard A. Moore

Robert D. Mosher
Fred T. Nuti
Edward J. O'Donnell, Jr.
Don E. Opseth
Johnny L. Pearce
Ronald O. Perriman
Robert G. Pierson
Thomas E. Porter
Leonard E. Ritchey
Larry A. Settlje
Emmanuel S. Siguenza
David H. Stang
Thomas C. Stoneking
Chester H. Stout
Robert A. Thompson
Johnny S. Tomlinson
William D. Tomlinson
Kurt J. G. A. Von Gehr
Mervyn D. Walter
Brian W. Welch
Oliver L. Widerburg
David Williams
Larry L. Willits
Nick Zabetakis

Aviation deck

Roland H. Jaeh

Aviation operations

William R. Aultman
Joseph L. Crossland

Aviation maintenance

Ronald E. Barrick
John M. Eccleston
Glenn S. Shirer, Jr.
James R. Stewart
Charles C. Webster
John P. Williams

Aviation ordnance

Gerald E. Burrows
James M. Cain

Aviation electronics

Thomas E. Berkheimer
Walter H. Dill
Herbert E. Frederick
Lloyd K. Verhage

Administration

Eduardo F. Baca
Robert W. Coleman
Gerry A. Flaherty
Jackie P. Fraker
Charles W. Haskell, Jr.
Donald J. Krauss
Tommy Long, Sr.
Andrew C. Schaefer
Daniel W. Stuart
Richard H. Thomas
Fred D. Thornton, Jr.
Donald L. Westfall
Kenneth D. White

Data processing

Albert W. Elrod, Jr.

Bandmaster

Harold R. Hessler

Cryptology

Carl H. Burgess
Ronnie L. Hightshoe
Donald W. Hill, Jr.
Joseph D. James
William L. Schultz
Edward R. Sharkey
Curtis W. Thurman
Merion D. White

Intelligence

Robert T. Lane, Jr.

Meteorology

Marvin M. Tanner

Photography

Harold D. Browning
Franklin R. Hudek
Charles E. Jackson
Ronald K. Schlatter

Explosive ordnance disposal

Norman G. Garon
Thomas M. Ligon

Supply

Donald E. Adams
William S Boswell, Jr.

Mess management

Danny L. Walsworth

Civil engineer

Albert H. Jensen

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1975:

DEPARTMENT OF DEFENSE

Robert Ellsworth, of New York, to be a Deputy Secretary of Defense.

William I. Greener, of Virginia, to be an Assistant Secretary of Defense.

Thomas C. Reed, of California, to be Secretary of the Air Force.

U.S. COURT OF MILITARY APPEALS

Matthew J. Perry, Jr., of South Carolina, to be a judge of the U.S. Court of Military Appeals for the remainder of the term expiring May 1, 1981.

CALIFORNIA DEBRIS COMMISSION

Brig. Gen. Richard Martin Connell, [redacted] Corps of Engineers, to be a member of the California Debris Commission, under the provisions of section 1 of the act of Congress approved March 1, 1893 (27 Stat. 507) (33 U.S.C. 661).

Col. Frederick Gore Rockwell, Jr., Corps of Engineers, to be a member of the California Debris Commission, under the provisions of section 1 of the act of Congress approved March 1, 1893 (27 Stat. 507) (33 U.S.C. 661).

Col. Henry Augustus Flertzheim, Jr., Corps of Engineers, to be a member of the California Debris Commission, under the provisions of section 1 of the act of Congress approved March 1, 1893 (27 Stat. 507) (33 U.S.C. 661).

FEDERAL RESERVE SYSTEM

J. Charles Partee, of Virginia, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1972.

EXPORT-IMPORT BANK OF THE UNITED STATES

Stephen M. DuBrul, Jr., of New York, to be President of the Export-Import Bank of the United States.

DEPARTMENT OF STATE

Samuel W. Lewis, of Texas, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

William J. Porter, of Massachusetts, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Thomas O. Enders, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

FEDERAL MARITIME COMMISSION

Bob Casey, of Texas, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1978.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE ARMY

The following-named officer for appointment as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392 (Army National Guard of the United States):

To be brigadier general

Col. Wayne Walter Bridges, [redacted], Adjutant General Corps.

IN THE NAVY

The following-named Reserve officers of the U.S. Navy for permanent promotion to the grade of rear admiral:

LINE

Robert N. Colwell
Earl Forgy, Jr.
Arthur M. Wilcox
Norman A. Coleman
Raymond B. Ackerman
Stephen T. Quigley
Sigmund F. Bajak
Bernard E. Nash
Richard Lyon
Anthony N. Murray, Jr.
Thomas E. Morris
Paul W. Rohrer

MEDICAL CORPS

Victor P. Bond
Winston H. Weese

SUPPLY CORPS

Robert G. James
Charles H. Mayfield

CHAPLAIN CORPS

Bertram W. Korn

CIVIL ENGINEER CORPS

Robert C. Esterbrooks

DENTAL CORPS

Albert G. Paulsen
Edward U. Austin

IN THE MARINE CORPS

In accordance with the provisions of title 10, U.S. Code, section 5232, Maj. Gen. Thomas H. Miller, Jr., U.S. Marine Corps, having been designated for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

Lt. Gen. Wallace H. Robinson, Jr., U.S. Marine Corps, when retired, to be placed on the retired list in the grade of lieutenant general in accordance with the provisions of title 10, U.S. Code, section 5233.

IN THE AIR FORCE

Air Force nominations beginning Frank W. Berry, Jr., to be colonel, and ending Stephen L. Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on December 9, 1975.

Air Force nominations beginning Mary J. Auton, to be captain, and ending Carolyn M. Brown, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on December 9, 1975.

Air Force nominations beginning George G. Mitchell, to be captain, and ending General R. King, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on December 9, 1975.

IN THE ARMY

Army nominations beginning Claude T. Barlow, to be lieutenant colonel, and ending Robert A. Vitori, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on December 9, 1975.

Army nominations beginning Robert M. Baker, to be colonel, and ending Robert D. Green, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on December 9, 1975.

Army nominations beginning Virginia M. Barr, to be colonel, and ending Carol J. Warther, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on December 9, 1975.

EXTENSIONS OF REMARKS

PULASKI DAY 1975

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 16, 1975

Mr. GINN. Mr. Speaker, we are about to begin our Nation's Bicententtial year, and I know that all of my colleagues join with me in anticipation of this opportunity to learn more about the rich panorama of our American heritage.

One part of that heritage is the fact that so many men and women of foreign nations came to our nation to help us in our struggle for freedom. One of the most valiant of those brave individuals was Casimir Pulaski, a Polish military man who was commissioned a general in our Revolutionary Army. He gave his life in the battle of Savannah, Ga., in October of 1779.

Each year the Immaculate Conception Council, Fourth Degree Knights of Columbus, have gathered in Savannah to pay tribute to Pulaski and the other brave men who died in the siege of Savannah, one of the bloodiest engagements of the Revolution. More than 4,500 fighters for independence died there in battle.

This past October 14, Mr. Thomas F. Coffey, associate editor of the Savannah Morning News and the Savannah Evening Press, delivered the principal address at the Pulaski Day observance. Participating in the program with Mr. Coffey were J. Thomas Coleman, Jr., chairman of the Chatham County Board of Commissioners; Msgr. Daniel J. Bourke; R. M. Laird, faithful navigator of the fourth degree, and Savannah mayor pro tempore, Frank P. Rossiter. The Benedictine Military School cadets and the Federation of Musicians assisted in the program, which was attended by many hundreds of citizens.

Mr. Coffey's remarks at the observance are a remarkable resource for our further understanding of our American heritage. I commend them to the attention of my colleagues, and I include them to be reprinted in the RECORD at this point, along with an editorial which appeared in the October 12 edition of the Savannah Morning News-Evening Press:

ADDRESS BY THOMAS F. COFFEY, JR.

Today we honor the memory of Casimir Pulaski, who gave his life for the cause of American Freedom. He was a great soldier, a dedicated person, a zealot who was motivated by the burning spark of liberty, even before he came to this country.

Pulaski was impelled—and compelled—by that zeal for liberty. And what he did for that cause, he did in a very short span of time by comparison with many others who also have been lovers of liberty and zealots of freedom.

We are not quite certain as to the exact length of Pulaski's military career, but generally it is believed that he became a soldier somewhere around the age of 20, and it is known that he was mortally wounded in the siege of Savannah at age 31. So, eleven or twelve years at the most was the length of this man's military career. . . . It began in his native Poland, when he joined with his father and other kinsmen to fight the corrupted government which had produced a tyrannous oppression of the freedom of the Poles. As Americans later were to petition for the rights of free Englishmen in America, an English possession, he insisted upon the rights of free men in Poland . . . rights which were denied by the Polish monarch, a denial which was aided and abetted by Russians, Prussians and Austrians.

And because of his acts in behalf of freedom in his native land, Pulaski was condemned as an enemy of the state, sentenced to death at a trial at which he was not present to defend his views, and forced to flee his homeland. A nobleman in exile! Disillusioned, without question, but no less ardent in his respect for the rights of individuals. So strong was his ardor that when he went to France he sought out Benjamin Franklin and told him of his interest in America's quest for freedom.

It was a letter from Franklin that introduced Pulaski to General Washington, and the father of our country was so impressed with this young man that he persuaded Congress to commission him a brigadier general and to place him in charge of the cavalry forces. Thus a foreigner, who spoke Polish and French much more fluently than he spoke English, became the first commander of our Army's cavalry, and the father of a branch of the military service which has distinguished itself in all our history.

Nothing short of brilliant was the success of this young general officer Pulaski. He distinguished himself as a tactician and as a fearless leader of troops at Brandywine. He fought with General Lincoln in the Carolinas. And he came with forces from South Carolina as a cavalry and infantry leader in the forces of the Frenchman d'Estaing at the siege of Savannah.

And it was here that he gave his life. The date of his death was Oct. 11, 1779, two days after he was shot from his horse—One hundred ninety-six years ago. Some three years after the Founding Fathers had declared an independence which brave men and women would have to win, on the battlefields and on the home front, in the months that lay ahead.

This is enough to say about Pulaski's singular contribution to winning the freedom that we now enjoy. But on this beautiful fall day—in this Bicentennial period—we who are free to stand here and extol a hero of American history can never say enough in behalf of the freedom that makes all this possible.

It is a marvelous thing, freedom. Yet something we often take for granted—forget its preciousness—forget its benefits—forget its source—and forget our obligations to think enough of it as Pulaski did, and give something in return. It is a shallow freedom that men will seize and use to their own advantage and gain, disregarding, or overtly denying the fact that such advantages also are guaranteed to others—to all others in America.

It is not a George III who now imperils the freedom that men like Pulaski helped to win. It is not a Katherine the Great of Russia, who abetted the King of Poland in oppressing the freedom which Pulaski held dear in his native land. Neither is it a Frederick the Great of Prussia, also a part of that tyrannous conspiracy which prevailed in 18th Century Europe. No, it is none of these. It is, instead, something in the hearts and minds of some in this country, who consciously or unconsciously, momentarily or permanently, either forget or subdue the all-embracing qualities of freedom.

We see time and again—on the right and on the left—examples of this, in people giving aid and comfort to the same kind of oppressive corruption which impelled and compelled Casimir Pulaski to act.

We have just come through a tragic and horrendous period in our history, a period in which freedoms have been corrupted or denied. Less than 15 years ago an American President was shot dead on the street of one of our great cities. Other public figures have met similar fates. And in recent weeks two overt attempts on the life of our President have been made. Also, we have seen some of our cities plundered, looted, burned!

Equally as terrible: an oppressive corruption, the result of abuses of freedom, has spawned an American President's resignation in dishonor, AFTER a Vice President resigned in disgrace . . . And many of this same President's most intimate associates: indicted . . . tried . . . convicted . . . disgraced . . . BECAUSE they abused the precious freedom guaranteed by this most perfect system of government ever conceived on the face of the earth.

Through our history—because our freedom is so all-embracing, all-encompassing, all-permissive—America has experienced peaks and valleys of the flagrant abuse of freedom. Americans are THAT free . . . to abuse the freedom won by Pulaski, d'Estaing, Washington, the Adamses, Paine, Wayne, countless others . . . and preserved by such leaders as Teddy Roosevelt, Pershing, MacArthur, Eisenhower, Bradley, countless millions of others . . . OF rank and IN the ranks and ON the home front.

But there is something else about America that confines and relegates these abuses of freedom more to the valleys than to the peaks. It is, I believe, an awe and an awareness of the source of our freedom . . . an awareness that overrides and transcends.

Significantly, the banner that Pulaski carried into battle proclaimed an awareness of this source. And the source is this: It's the covenant between mankind and the Supreme Being. And the history of this covenant antedates by far the mere 200 years of our nation's history. It antedates even Abraham. It goes back to creation, when the Supreme Being elevated mankind above the living beings in his environment and endowed mankind with a soul.

This covenant shall endure, despite tempting distractions, unless mankind loses its senses absolutely.

On one side of Pulaski's banner were the letters U.S., for the United States, and a Latin phrase: Unitas Virtus Fortior, which means: Union Makes Valor Stronger. Mankind and God in union, fortifying and underscoring valor.

And on the reverse side of Pulaski's banner: The all-seeing eye, one of the many symbols of the Supreme Being, incorporated still on the reverse of the Great Seal of the United States of America. This Latin phrase surrounded the all-seeing eye on the reverse of Pulaski's banner: Non Alius Regit, which means: No Other Governs.

A brave man, Pulaski. A great cause he had: the cause of freedom. And what a wonderful and divine inspiration he had! May we—free Americans—never lose sight of that Divine inspiration. Never! Lest we forfeit our precious American freedom.

PULASKI AND COLUMBUS

Today and Monday we observe two special "days" honoring the memory of Casimir Pulaski and Christopher Columbus, significant figures in America's history, and especially significant in this Bicentennial period.

Though Columbus, the discoverer of America, and Pulaski, a Polish hero of the American Revolution, lived almost three centuries apart, they had in common a daring spirit from which Americans down through all generations have taken inspiration. This spirit guided the Pilgrim Fathers, the framers of the Declaration of Independence, the pioneers and settlers of the West and countless others. Had not men and women dared to dare, this country would not be what it is; indeed, this nation would not be at all.

We owe a deep debt of gratitude to the Columbuses and the Pulaskis, by whatever other names they might have had, who in some measure have made significant and dynamic contributions to our history.

In an age when we often are tempted to take the line of least resistance by forgetting the past and thinking only of the here and now, it is to our credit that there are many among us who will pause and reflect on the contributions of individuals to our history. Only out of an appreciation of our history, and the examples that the makers of history set, can we plan effectively for the future.

If we do not misuse our opportunities, our next 200 years as a nation and our next 483 years as the pivotal and catalytic element of this grand "new world" can be great and marvelous.

HON. JAMES A. FARLEY

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. DELANEY. Mr. Speaker, the Honorable James A. Farley, former Postmaster General of the United States, and past chairman of the Democratic National Committee, has always held a special place on the minds and hearts of the American people.

I would like to take this opportunity to share with my colleagues an interesting article concerning Mr. Farley and another "active, keen, and cheerful" Old Warrior which was written by L. H. Whittemore, and appeared in Parade, the Sunday newspaper magazine.

The article reads as follows:

Two Elder Statesmen With Young Ideas

(By L. H. Whittemore)

Topeka, Kan. and New York City.—In the American history books, Alf M. Landon and James A. Farley are already indelible fixtures as characters in the political drama of this century. But Alf Landon and Jim Farley, 88, and 87, are also involved in today's world. They are as active, keen and cheerful as ever.

Both men will regard next summer's national conventions as occasions for nostalgia. The upcoming Presidential campaigns will mark the 40th anniversary of the race between Gov. Alf Landon of Kansas, the Republican, and Franklin Delano Roosevelt running for his second term in the White House. Managing FDR's strategy that year, 1936, was Postmaster General Jim Farley.

Landon and his wife still live in Topeka, Kan., the state capital. Their home is a stately white mansion with eight massive columns in front, set back from a country road. Most every morning, he is out early in a turtleneck shirt, riding pants and black knee-high boots. A short, slight figure of a man, he covers several miles on horseback. He rides past cornfields and alongside a river, stopping to chat with farmers along the way.

To them he is a familiar figure, smiling from behind black-rimmed spectacles and puffing on his ever-present pipe. In style and outlook, Alf Landon is "just folks" the way he always was, preferring to dress casually and eat lunch at a place called Tommy's, where both the food and the people are down-to-earth like himself.

KEEPING AT IT

At home and at a small office in downtown Topeka, Landon plunges into a day filled with telephoning, answering mail and studying. He talks with workingmen, scholars and public figures, gaining their views on current problems. And he's always working on some new speech that might take up pressing issues of our age.

If Alf Landon is the country squire, then Jim Farley is the urban gentleman, living in the heart of Manhattan in New York City. In his 12th-floor suite at the Waldorf-Astoria Hotel, he wakes religiously at 6 a.m. to catch the latest radio news. By 7 he is showering and then watching TV while he dresses in his business suit.

At 8 a.m. the tall, affable Irishman is downstairs in the hotel for breakfast, at his usual table. And after a quick shave in the barbershop, he is off on his walk to a nearby building on Madison Avenue. Up on the 18th floor, he puts in a full day behind his desk at the Coca-Cola Export Corp., where he is honorary chairman of the board.

Farley's office, like Landon's is filled with photographs of Presidents and other public leaders whom he has known intimately through the years. The former Democratic national chairman is still in frequent contact with a dazzling array of prominent friends who seek his opinions and predictions. At the moment, too, he is completing a book of recollections.

"It will cover all my political activities," he says, "from the beginning in Stony Point, N.Y., when I was elected town clerk in 1911." By any standard, it was an incredible journey through the labyrinth of American politics.

But the high point was probably that 1936 election. The Republicans that year had great hopes for Alf Landon. As leader of the liberal GOP faction in Kansas, he had won election twice as Governor despite national Democratic sweeps. At the convention, delegates answered Roosevelt's "New Deal" with a "sound, sensible, friendly" candidate, a "Kansas Coolidge" who was both thrifty and progressive in outlook.

"Frugal Alf" toured the country from the back of a campaign train. The papers played up his Methodist background, his Midwest twang, his love for home, family and squash pie. They printed stories about his folksy ways, such as betting nickels on baseball games and wearing his clothes until they wore out.

BALANCED BUDGETS

A tireless and active speaker, Landon explained how he'd balanced his state budgets by declaring, "Don't spend what you haven't got!" An influential poll even had him winning.

Meanwhile, Jim Farley was managing President Roosevelt's reelection campaign with typical optimism and flair. When the poll showed Landon ahead, Farley pointed solemnly to the fact that it had been taken by telephone. "So it has to be wrong," he said with a grin, "because the Democrats who are going to vote for Roosevelt by the millions don't even have any phones."

Then, five days before the election, Farley outdid his own reputation as a prophet. He forecast not just a Democratic landslide, but that Landon would carry only two states, Maine and Vermont. When the votes were counted, the prediction proved right. "As Maine goes," the old saying went, "so goes the nation." With impish glee, Farley turned the phrase around and quipped "As Maine goes, so goes Vermont."

Landon and Farley provided a study in similarities and contrasts. Both had the "feel" for politics, a common touch, enabling them to get along with people in all walks of life. At the same time, Farley was the practical politician, the eternal Democrat and loyal party man, while Landon was uncomfortable with any restrictions on his independence.

"I always loved politics," Landon says, "but I never liked being tied down to party positions that I didn't agree with. The words 'liberal' and 'conservative' don't mean much to me. I take different stands on different issues."

When he left the Governor's office shortly after his Presidential campaign, Landon remained in Topeka but retired to private life, attending to his business as an independent oil producer. But since then he has continued to speak out, especially on foreign policy, and over the years his views have been singularly his own.

As early as 1955, Landon urged détente with Russia and China "so long as we're not foolish about it." He has been critical of the United Nations for having been "oversold at the start" and for raising false expectations. In the 1960's, he supported inquiries into the commitments that the United States was making on behalf of Vietnam and the rest of Asia.

OPPOSED IKE

He has also proved an independent when it comes to supporting Republican candidates. "My record for party regularity hasn't been too good," he observes.

In 1952, for example, he was against Eisenhower's nomination because "I didn't think his military background fitted the demands of a President." A strict moralist, Landon was also wary of Nixon's alleged use of campaign funds for personal expenses. After listening to Nixon's "Checkers" defense speech that year, Landon turned to his wife and said, "Well, it's corny, but maybe he got away with it."

"I wasn't for Nixon in '60 or '68, either," Landon recalls. "I didn't support Goldwater's nomination, for that matter. I felt better about Nixon when he moved toward détente, but then came Watergate. That was a shocking and terrible disaster, not because of Mr. Nixon personally at all, but because we're at such a crucial stage of world affairs in this nuclear age. For the President to resign, it's bound to raise the question of just how stable our government is, from the viewpoint of other nations."

WARY OF NIKITA

At the moment, Landon's attention is focused on the shaky settlement in the Middle East and our delicate relations with the Soviet Union. Written promises, he says, are not enough.

"When Premier Khrushchev came to the United States," he explains, "I said I was willing to sleep in the same bedroom with him, but not leave my wallet in my pants hanging over the back of a chair."

What is needed, Landon says, is a peace agreement based on "good trade relations." "The Soviet Union needs and must have imports of food and grain from us, and we need their influence for stability in the Middle East."

. . . A wheat-for-oil trade with Russia could, Landon believes, not only boost our economy but help in other areas such as limitation of arms. "It could provide a real basis for the strongest kind of agreements," he goes on.

In New York, meanwhile, Jim Farley is certain that what this country needs is a good Democrat in the White House. He considers Lyndon Johnson our last great President, joining the ranks of Washington, Jefferson, Jackson, Lincoln, Wilson, FDR and Truman.

"A President needs good advisers," he says. "The trouble is that few people like to take an opposite point of view. I remember Cabinet meetings with Roosevelt, where very rarely would members disagree with him. I guess they were afraid of losing his favor. I always spoke up. I wasn't always right, but I'd tell the truth as I saw it."

In 1940, Farley spoke up a bit too loudly. He opposed Roosevelt's running for a third term and, at the Democratic convention that summer, he even permitted his own name to be put up as a Presidential candidate. (His wife Elizabeth, who died in 1955, never forgave FDR for having "misled" her husband into thinking he would not run for another term in the White House.) After Roosevelt's renomination, Farley resigned both as party leader and as Postmaster General, positions he had held concurrently for nearly eight years.

There has never been a national chairman like him, in either party. Farley's influence over patronage was monumental, with literally thousands of government jobs flowing-out of his office. "I've always believed in the two-party system," he explains. "And to the victor belongs the spoils. After all, members of a President's own party are inclined to be more loyal and helpful to him." No one, however, accused Jim Farley of possessing anything less than total honesty and integrity.

FIND THE JOBS

Such a reputation has stood him well over the years. He has traveled all over the world, as a kind of American ambassador, and serious Democratic candidates still come to him for advice.

"I tell them we can win on the issue of

unemployment," he says. "There are at least eight million out of work, undoubtedly more. It's the paramount problem. We have to get building construction moving again. If that industry is busy, you have the others, too, like carpenters and road builders and electricians and so forth. The automobile business, too, has to improve."

What about the political system itself? Has the state of the art declined? Is government corrupt? Both Farley and Landon look on the bright side.

FARLEY. "Politics starts down in the election districts, at the grossroots. Even if you take the money out of it, you won't stop people from going to the polls. And the independent vote can always sway elections."

LANDON. "There can still be a grassroots movement, and that's the dominant saving grace in America. I always appreciated the men and women who got out and worked in their precincts more than I cared for the fat cats who gave the money."

FEW ARE CORRUPT

FARLEY. "Corruption exists as a small percentage. Out of the thousands of men and women I recommended for public office, all politically, none ever betrayed my trust."

LANDON. "On the one hand, you have the love of power and control. It's a factor that has to be recognized. But there's also a genuine spirit of public service, a sense of responsibility, at every level. You don't have to be a candidate or hold public office in order to serve. And that spirit is what makes our unique American system work."

Alf Landon says he will not attend the Republican Convention next summer, even though it will be held in nearby Kansas City. "It gets awful hectic," he says, "and I try to take good care of myself." He did, however, send a note to President Ford, saying that in 1977 he would like to celebrate "your first full term in office and my 90th birthday."

Jim Farley does hope to attend the Democratic Convention in New York City as a delegate-at-large. "I've been at every one since 1924 up until the last, in 1972," he says. "The McGovern crowd kept me out and, besides, I had a heart attack that year. I'm glad this one will be here in Manhattan and not Los Angeles, but I would've gone out there anyhow."

A WORD FOR 'SCOOP'

Does Farley know which Democrat will be nominated to run for President? "Certainly not, but I hope it won't be Ted Kennedy. He says he won't run, and he shouldn't. And I've told 'Scoop' Jackson that he just isn't lighting a fire."

In Topeka, Kan., Alf Landon sits down and writes a letter to a friend in the news media, saying that he still believes "that the basic weakness of our foreign policies since our infancy as a republic is trying to reform the world en masse in our own image." In New York City, Jim Farley tells fellow Democrats that they had better avoid the bitterness of recent years and get behind a candidate who can win, "because the Democratic party has always shown the ability to handle the problems of this country well." At 88 and 87, their moments in the limelight have come and gone; but they remain two splendid examples of elder statesmen in our midst.

REFLECTIONS ON CHRISTMAS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. YOUNG of Florida. Mr. Speaker, this is the time of year when—no matter how pressured we may be—many of us pause to reflect on the meaning of Christmas. I recently read an excellent column on "The Influence of Christ," by syndicated columnist W. A. Leavell of St. Petersburg, Fla.

As we approach the Christmas holiday, I wish to share Mr. Leavell's column with you and my fellow colleagues because it very succinctly brings the meaning of Christmas into proper perspective.

The article follows:

THE INFLUENCE OF CHRIST

(By W. A. Leavell)

On Christmas we celebrate the birth of Jesus Christ. We are not sure He was born on December 25th, but that is not the important thing. The important thing is that we, as a people, believe in Christ and God and celebrate as a means of believing in them and their love.

Jesus came into the world at God's appointed time. During his short sojourn on earth Jesus fulfilled God's appointments.

He did not travel throughout the then known world. He only crossed the boundary of the country in which he lived once. He neither had wealth or influence.

He had little training or education. His relatives were inconspicuous and uninfluential. Nothing in his background would indicate that He was to be the greatest leader the world was to know.

When He was a baby He startled a king. As a child He puzzled the doctors. As a man He commanded the very course of nature. In His way through life He healed multitudes without medicine and never charged for His service.

No leader the world has ever known has more volunteers. He did this without drafting a single person.

His force affected the world of commerce as no other has ever done. Even today many of the wheels of business stop in His honor every seventh day.

Time has spread almost 2,000 years between the people who watched His crucifixion and our generation but He still lives.

Herod could not kill Him. Satan could not defeat Him. Death could not destroy Him. The grave could not hold Him.

Even today, in a time of growing Godlessness, for millions and millions He stands forth upon the highest pinnacle of heavenly glory, proclaimed of God, acknowledged by angels, adored by saints, feared by the devil, as the living personal Christ, our Lord and Savior.

When Jesus preached and healed He kept the finest tradition of courtesy, hospitality, honor and dignity. He spoke with compassion, not with defiance.

During his life on earth He paid taxes. He kept the Mosaic law even through He was soon to give that law a different meaning than before His time.

Jesus revealed salvation by preaching that man is not made holy by faith alone or by good works but through the grace of God. This grace of God can only be discovered through faith and demonstrated by good works.

He did not organize mass marches of his followers to go to a palace and demand social reformation or change of his beliefs. He did not lead demonstrations to demand reparations for the poor or the oppressed.

Jesus did not persuade His most devoted followers to lie down across the road, blocking the camel caravans taking riches to Rome. He did not invade the military headquarters of the Roman soldiers to destroy records.

Not once did He stand on street corners and demand that the rulers give His followers their civil rights or welfare benefits.

Jesus served God quietly and with dignity and so did his followers. To be effective the true followers of Christ today must do the same.

Jesus' first concern was not for length of hair, the kind of clothes, the life style but for the spiritual salvation of the soul.

This is the religious leader we honor on Christmas. Let us follow Him in love.

TROTSKYISTS SEEK VISA FOR TERRORIST

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. McDONALD of Georgia. Mr. Speaker, I note that the Washington Post has taken up the cause of Peruvian terrorist Hugo Blanco on yesterday morning's December 16, 1975, editorial page while on that same page deploring the terrorism in Northern Ireland and Great Britain. Rather than spend the time to write its own editorial, the Post chose to reprint excerpts of a Boston Globe editorial of November 22, 1975.

This editorial paean to the Peruvian Trotskyist appeared in conjunction with a Boston University conference entitled "Repression and Resistance in the Third World." At the urging of the largest U.S. Trotskyist Communist Party, the Socialist Workers Party (SWP), many of those attending the conference joined the campaign to bring Hugo Blanco into the United States for a speaking tour.

The official Socialist Workers Party newspaper, the Militant, December 12, 1975, reported a protest telegram from the conference demanding Blanco be granted a visa:

> "We protest the abrogation of our democratic rights to hear a firsthand account of how U.S. foreign policy has affected the lives of people in Latin America," the telegram said. "We demand the immediate granting of a visa to Hugo Blanco so we may hear the voice of the landless campesinos (peasants)."

It is interesting, though not surprising, that the portions of the Boston Globe editorial supporting Blanco which the Washington Post chose to reprint, were the same sections so honored by the Socialist Workers Party's house organ.

The editorial said in part:

From an editorial in the Boston Globe:

A Peruvian Marxist named Hugo Blanco was not among the speakers recently at Boston University's conference on repression and resistance in the third world. Despite a favorable recommendation by the U.S. State Department, the Immigration and Naturalization Service has refused to grant the waiver necessary for a Communist to receive a temporary visa to come to this country on a speaking tour. And so, once again, our country, which prides itself on the dissenters who made up its founding fathers and on a Constitution that guarantees free speech, is closing its doors to a recognized spokesman for freedom and dissent.

The Immigration and Nationality Act, or the McCarran-Walter Act as it was known when it passed over President Truman's veto in 1952, lists 31 grounds for visa ineligibility. These range from personal histories, past or present, of insanity, indigence and prostitution to such vague concepts as "known or believed to be" prejudicial to the public interest or a threat to national security. Anarchy, totalitarianism and communism are included under item 28 of Section 212–A of the code, as is advocating the overthrow of government by force or violence.

> This was the section applied against Hugo Blanco, an admitted Communist who has dedicated his life to organizing, peasant unions in Peru and Chile. . . .

Just who is this so-called "recognized spokesman for freedom and dissent" that the liberal press is now championing? The Trotskyist Communists are not shy about giving Blanco's credentials which make him neither the "voice of the landless campesinos" nor a "spokesman for freedom and dissent," but a Communist terrorist.

The Militant of December 5, 1975, described Blanco as "the Peruvian revolutionist who was scheduled to begin a national speaking tour here September 25." The Militant continued:

> Blanco has made no secret of his political associations. He is a revolutionary socialist and a leader of the Fourth International, the world Trotskyist organization.

Indeed, Hugo Blanco was designated by his faction of Trotskyist Communists as a member of the International Executive Committee of the Fourth International at the World Congress held in Sweden in February 1974.

To understand the depth of Hugo Blanco's—and all of his faction's— commitment to revolutionary terrorism, a brief background is necessary.

Since 1969, there have been two principal factions in the worldwide Trotskyist Communist movement. One faction, the International Majority supports and is engaged in the use of terrorism now. This "terrorism now" group which forms the majority of the Fourth International, is headed by Ernest Mandel, Livio Maitan, and others. The other faction supports the use of terrorism in the future, as soon as they feel they can get away with it successfully. This "terrorism in the future" group is headed by Hugo Blanco and Joe Hansen of the Socialist Workers Party. The principle support for the "terrorism as soon as we can get away with it" group comes from the Socialist Workers Party in this country and from the Argentinian PST.

The group headed by Blanco and his SWP supporters argue against what they term "individual" terrorism and the "premature use of terrorism." But they plainly state in their letters, pamphlets and speeches that revolutionary terrorism by the masses organized by the Communists is not only permissible, but is necessary for the victory of socialism. Clearly the Trotskyists feel that this latter form of terrorism will not be "premature."

The Boston Globe/Washington Post editorial asserts that Hugo Blanco has "repeatedly written and spoken against the use of violence."

However, the editorial writers have plainly read and understood less than the Immigration and Naturalization Service officials who have denied Blanco a visa. For example, in 1973, Blanco wrote:

> For us what is central is the mass movement, which at a certain moment arrives at armed struggle in one form or another. * * * We are revolutionists carrying on political work in the ranks of the masses, leading them toward revolutionary maturity, organizing the party on this basis. At a certain moment we can become guerrilla fighters if this is the form the armed struggle has to take. (From the secret International Internal Discussion Bulletin of the Fourth International, "Discussion on Latin America," January, 1973, p. 79.)

What Blanco is saying is that armed struggle is the highest form of revolutionary activity, and that the question is what form the necessary violence will take—civil war, militia, guerrilla warfare in the cities or the countryside, et cetera.

Hugo Blanco and other leaders of the "promature use of terrorism" faction circulated a position paper in January 1973. The signers of the paper were Hugo Blanco, Anibal Lorenzo, Peter Camejo, and Joe Hansen of the Socialist Workers Party, and Nahuel Moreno of the Argentinian PST. Moreno as early as 1962 was sending groups of Argentinian Trotskyists to Cuba for guerrilla warfare training. The position paper stated:

> The orientation is armed struggle on a mass scale. The training and arming of the masses in this field begins on the most elementary level with pickets. It reaches its highest level in the formation of a workers militia. Another process occurs concomitantly. This is the disintegration of the bourgeois army, which begins on a propagandistic level among the ranks. Both processes require the guidance of a Leninist-type party. (International Internal Discussion Bulletin of the Fourth International, "Argentina and Bolivia—The Balance Sheet," p. 9.)

With regard to the "disintegration of the bourgeois army" via initially a propaganda campaign, it is interesting that the Washington Post also reported in today's edition the arrest of Blanco's comrade on the Fourth International Executive Committee, Alain Krivine, and other members of the Communist Revolutionary League. Krivine was arrested for putting into practice just what Blanco and others recommended in the above quoted paragraph. The Trotskyists had been distributing radical literature to French Army draftees and "took particular exception to one tract which urged the young soldiers to learn how to turn their guns against their officers if necessary."

"If necessary"—certain, if the government collapses at the threat of revolutionary terrorism then there will be no need for the revolutionaries to fight.

In the same document published in the secret International Internal Discussion Bulletin of the Fourth International, a letter by Hugo Blanco written when he was in jail in Peru was quoted, page 40:

> As to the tactics of guerrilla warfare, * * *. All knowledge of guerrilla tactics which can be adapted to our militia strategy must be taken advantage of.

Blanco wrote in 1962:

> Now I feel even more deeply grateful to memory of Comrade Leon Trotsky, * * *. Following his method of "Permanent Revolution" we are reaching victory, comrades. That is why it is vital to bear in mind some of the general principles of our Trotskyist-Leninist doctrine:
>
> The working classes will achieve the recognition of their rights by violence, and not by legal forms. * * *
>
> * * * We have seen the uselessness of court cases, memoranda, delegations to the government, sending telegrams, elections, candidates, etc.
>
> Looking at this, we can see that to gain our triumphs, we have not waited for the bourgeois legalist government. Instead we have broken and smashed the power of that government in our area, * * *. That is, we are carrying out a revolution, and not waiting for reforms or half-measures within the bourgeois regime.

In that same year, Blanco led a raid on a police post in Peru to secure weapons. During the raid Blanco shot a police officer to death. He was captured in May 1963, and was eventually sentenced to 20 years imprisonment. However, Blanco received amnesty in 1970. Since he continued his revolutionary organizing, Blanco was expelled to Argentina, which expelled him in turn for the same reasons.

The Allende regime in Chile provided Blanco with a haven and he participated in revolutionary activities under the Popular Unity government until its fall in September 1973. Swedish Ambassador to Chile, Harald Edelstam, a noted defender of Marxist-Leninists, arranged Hugo Blanco's removal to Europe where he now lives and remains active in the leadership of the Fourth International.

The Socialist Workers Party, its front, the U.S. Committee for Justice to Latin American Political Prisoners (USLA), and the SWP publishing house, Pathfinder Press, would like Blanco in this country for fundraising and even more valuable propaganda activities.

A campaign has been organized to pressure the State Department into overruling the Immigration and Naturalization Service's correct and lawful denial of a visa to this terrorist organizer.

Despite the ease with which pro-Soviet Communists like Luis Figueroa, a member of the Central Committee of the Communist Party of Chile, or leaders of international communist fronts like Mrs. Hortensia Allende, are given visas, the INS has resisted the Trotskyist pressure campaign. Perhaps this is only because the pro-Trotskyists lack sufficient supporters, but hopefully it is because the INS is conscientiously upholding the law of our land.

H.R. 5900

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. QUIE. Mr. Speaker, in following the debate and statements on the situs picketing bill, H.R. 5900, there are a few areas I would like to clear up. First, this has been a highly controversial measure from the standpoint of both labor and management. Organized labor has claimed that contractors and subcontractors on a construction site are not "innocent neutrals." It is my understanding that management has always claimed otherwise. From our hearings and from all management statements since those hearings, management has continually opposed H.R. 5900. and has also opposed H.R. 9500 as a "tradeoff" for H.R. 5900. However, certain management sections have endorsed H.R. 9500 independently of H.R. 5900.

Second, supporters of the bill, including myself, have endorsed the bill with the understanding that we are overruling only the limited picketing restrictions imposed by the Denver Building Trades case. There have been, and there are, no provisions in H.R. 5900 that amend any section of the NLRA other than section 8(b)(4)(B), and that secis amended in only a very limited sense. Had we intended to extend to the building trades the same rights given to the garmet industry in the 1959 Landrum-Griffin amendments to section 8(e), we would, of necessity, had to amend section tion 8(e). This we have not done. Not one conferee mentioned section 8(e). Not one word was said of Board or Court decisions involving section 8(e). Neither was one word mentioned of the Connell decision, a decision reached after H.R. 5900 was introduced in the House. As a matter of fact, after that decision issued, the Secretary of Labor, through his solicitor, submitted a memorandum to the Committee on Education and Labor stating that, in his opinion, the Connell decision had little effect on H.R. 5900 and vice versa. Accordingly, any attempt to expand H.R. 5900 beyond the intent as stated in the conference report should have little validity. The legislative history that proponents, as well as opponents, of this bill attempt to make on this floor, as well as on the floor of the other body must necessarily be limited to the language of the legislation as worked out in conference and to the intent of that compromise as contained in the statement of the managers. When any individual conferee, including myself, goes beyond that which is contained in the conference report, he, they, or I, are not representing the will of the majority of the conference.

Third, concerning the "Ashbrook amendment," as to who is an employer primarily engaged in the construction industry, the statement of managers in the conference report very clearly spells this out. An employer primarily engaged in some other enterprise other than construction cannot, by definition, also be primarily engaged in the construction industry. In that regard, it is clear from the conference report that an employer primarily engaged in some other enterprise will have the privilege of establishing separate gates when construction is being done on his site. The colloquy between certain Members and the colloquy between certain Senators regarding existing VA medical facilities reinforces the understanding of the conferees in this regard.

Furthermore, the examples set out in the conference report are the understanding of the conferees—not to be paraphrased, shortened, combined, or ignored. Those examples are to be given the meaning as expressed therein.

Fourth, although the chief sponsor of this bill and certain Senators have criticized a ruling by the NRLB regarding the section 8(g) notice provision of the 1974 amendments to the Taft-Hartley Act relating to health care institutions, I am of the opinion that the Board properly construed the notice provisions in Mercy Hospital, 219 NLRB 154, and related cases. Certainly, the colloquys in the Senate and House regarding the protections to VA hospitals call for just such a conclusion—for if the hospital on whose premises construction was taking place has not received the required notice, how would it be able to anticipate picketing and set up the separate gates so that patient care is not interrupted? The whole premise of the hospital amendments in 1974, and the additional safeguards provided thereunder, was to insure the continuity of patient care. If the Board erred in the opinion of the gentlemen who discussed this matter, it erred in the manner that would protect the VA hospitals that both principal sponsors claim will be protected under this bill, H.R. 5900.

Finally, let me state that the rhetoric involving what the President said and what the President meant when and how he said it should not concern this chamber. The President knows what he said. The President knows what he meant when he made his statements—just as the conferees knew what they were saying when they signed the conference report. For instance, in example 4 of the statement of managers of the conference report, it is my intention for that language to mean exactly what it says: That when an employer, primarily engaged in some other enterprise, extends his existing facilities within his general premises acting as his own general contractor and using his own employees, he is not primarily engaged in the construction industry. That language did not include "regular long-term employees and not individuals hired only for that project." That language referred to his "own employees" and that is all it said. When certain words are used, they say what they say, and I am sure that the President knows equally what he has said. In that regard, certain legal analyses of H.R. 5900 have surfaced, which may cause some future misinterpretation of the intent of the sponsors of this bill when compared with the eventual result reached by the conferees. It is obvious that the intent of the sponsors are subservient to the resolution of differences worked out by the conferees, and that the conference bill and language govern the eventual outcome. Otherwise, there would be no need for a conference. For instance, there was a legal analysis prepared for the use of certain Members of the other body. That analysis, in my opinion, need not be answered in detail since it was prepared in response to the Senate bill. The conferees, by accepting the House language regarding the Ashbrook amendment, clearly altered the thrust of the Senate bill. Furthermore, neither legislative history nor legal analysis can change the plain meaning of the legislative language of the bill as it emerged from conference or the statement of the managers.

JUDGE COCHRANE—A GREAT LEADER

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. FLOWERS. Mr. Speaker, on November 21, Judge David M. Cochrane, a great man and native of my home community, was taken from among us by death. During his 64 years he participated in many worthwhile endeavors—practically everything that is good in our society. "Pal," as he was affectionately known to all, was gentle and kindly with an inner strength which made him an outstanding leader. Everything he did, he did to perfection and he deserved and enjoyed the admiration and respect of his fellow man. He will be greatly missed by his fine family and all who knew him, but our community will be a better place because of his great interest and dedicated work.

In tribute to the memory of an old and dear friend, I insert the following articles from our hometown newspapers to be printed in the RECORD at this point:

JUDGE DAVID M. COCHRANE

DAVID M. COCHRANE died last week at the age of 64. He had been a great probate judge and had helped bring a new era of county government to Tuscaloosa.

Pal Cochrane was a gentle, kindly man. He numbered countless friends. He exuded good will and his ready smile and hearty laughter were evidence of a warm heart and loving spirit.

We are grateful that Judge Cochrane could be tough when conditions required it. As probate judge of Tuscalosa County for more than eight years, he stood fast for careful control and sound business practice.

He was elected to two six-year terms, first in 1958 and then in 1964. After suffering a stroke, he resigned as probate judge in August 1967 and was appointed register in chancery.

Judge Cochrane presided over the County Commission, then the old Board of Revenue, when the new Court House was being constructed. While construction was under way county government was housed in the old McLester Hotel, which stood at the site of the present First Federal Savings and Loan Assn. building.

Judge Cochrane, often outvoted on the commission board, insisted on strict adherence to the bid law and full and open conduct of the public's business. This editor recalls in particular how he battled with the Court House and Jail architects to make sure the taxpayers got what they were paying for. Way back then he was skeptical of the architects' claim that the new jail would be "escape proof."

David M. Cochrane was a good public official. In his personal life he was loving and kind and gentle. We do not have enough of his kind and his passing is a deep loss to this community.

A LIFE OF SERVICE

David M. Cochrane loved life and his native community. His life, cut short Friday, combined those two characteristics with this city and his friends the benefactors.

"Pal" Cochrane was a gentle man with an inner strength which made him a leader. He was not content to make a minimal contribution in any endeavor he undertook. He believed anything worth doing was worth doing well.

For nearly 10 years he was probate judge here until ill health forced him to step down. He finished his career as a servant of the public in the office of register in chancery.

It is significant that David Cochrane was the first chairman of the West Alabama Planning and Development Council. He served in that position at a time when cooperative effort on a regional scale was a new concept. His direction and leadership in that organization led it its firm establishment bringing together governmental leaders from the counties surrounding this one in West Alabama.

An award has been named in his honor and will be presented for the first time Dec. 12 at the annual workshop of the planning organization. It will serve as a lasting memorial to his efforts in intergovernmental cooperation.

He will be missed here by his many friends, by his family and kinsmen. This area is a better place in which to live because of him and his service.

TEXANS EXPLORE GEOTHERMAL RESOURCES

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. PICKLE. Mr. Speaker, for decades oil drillers on the Texas and Louisiana gulf coasts have fought and cursed their bad luck when they would repeatedly strike not oil but a highly pressurized pocket of very hot water. Now they are turning the geological knowledge gained from countless drillings and the technical knowledge gained from learning to control the tremendous pressures released when one of these pockets was hit into a new energy resource.

These geopressured deposits were created when water was trapped in rapidly laid sediment over a vast area of the gulf coast—rapidly laid in geological terms. As the depth of the sediment built up, the water trapped beneath was placed under tremendous pressures and now contains enough heat and energy possibly to supply the electrical needs of Texas. It also apparently contains substantial quantities of now scarce and precious natural gas.

Key to the development of this promising energy source has been a joint effort of industry, government, and university funds and brainpower under the direction of Dr. Myron Dorfman, formerly an in-the-field petroleum engineer and now a professor at the University of Texas at Austin.

This type of knowledge is now being put to work on another type of geothermal resource—the hot dry rock resources found in the U.S. Southwest. Dr. Dorfman again has been called upon as 1 of 10 geothermal experts appointed by the Energy Research and Development Administration to the National Hot-Dry Rock Geothermal Advisory Panel to plan and oversee long-range policies and development of this new and advanced energy concept.

The hot-dry rock deposits as well as the geopressured deposits are both located at tremendous depths requiring extensive drilling expertise.

I am pleased to see the Government moving forward to help develop both these types of geothermal energy, and I applaud their choice of Dr. Dorfman to help with the cause. He is a capable and knowledgeable person with a real dedication to the rapid development of geothermal energy and will be an asset to the advisory panel.

I would like to include in the RECORD an interview with Dr. Dorfman which appeared in the University's *Daily Texan* of December 2, 1975:

EXPERT EXPLAINS GEOTHERMAL ENERGY EXTRACTION

(By Anna Marie Pena)

If future energy needs are to be met, development of all available alternative energy resources is imperative, Dr. Myron H. Dorfman, associate director of geothermal studies at the Center for Energy Studies and assistant professor of petroleum engineering, warns.

Despite environmental concerns, Dorfman predicts that for the present rate of energy consumption to be maintained, fossil fuels (coal and lignite), solar, nuclear and geothermal energy are all necessary alternatives to rapidly depleting supplies and rising costs of petroleum fuels.

Dorfman is one of 10 geothermal experts recently appointed by the Federal Energy Research and Development Administration (ERDA) to the National Hot-Dry Rock Geothermal Advisory Panel to plan and oversee long-range policies and development of a new and advanced energy concept.

THIS CONCEPT, still in the explorative stages, is the hot-dry rock type of geothermal deposit, one of four basic types of deposits.

"The concept is so advanced that it requires a great deal of testing. The technology for developing this process has been under investigation for the past two years at Los Alamos Scientific Laboratories in New Mexico," Dorfman said. "If it can be made to work, it will be useful as a supplementary energy resource some 25 years from now."

According to a report published last January by Dorfman and colleague Dr. Ralph O. Kehle, associate professor of geological sciences, the process by which geothermal heat is used to produce electrical power depends on how the heat is stored in the deposit.

The hot-dry rock type of deposit is distinctive from the other three types in that it contains no water or steam whatsoever. Hot-dry rock deposits and geopressured deposits are located at tremendous depths, while the dry and wet steam and hot water deposits are extracted from shallower depths.

The process for extracting the enormous amount of heat in the slowly cooling molten rocks 9,000 to 10,000 feet beneath volcanic regions involves a new and quite different geothermal power process, the vapor-turbine or binary system.

Using the petroleum industry's experience in the hydraulic drilling of oil wells and the electric industry's experience in generating geothermal power steam, the two processes are combined in what Dorfman describes as "the initial stages of an entirely new technology."

This technology is based on the hydraulic fracture process used to drill oil wells in Texas and elsewhere for the last quarter century.

In a hot-dry rock system, a heavy, viscous water and sand mixture is injected into a hole drilled into the ground and hydraulically fractured to expose a greater surface area. (At this depth, temperatures reach 600 degrees Centigrade-1,000 degrees Fahrenheit.

The water is heated by the hot-dry rocks and pumped back to the surface by means of a second well drilled parallel to the first. There the now hot water is used in the binary system to convert a secondary fluid, such as freon or isobutane, to vapor which is in turn converted to electricity by turbines.

Los Alamos located its first drilling attempt in Central New Mexico and is planning a second test drilling at Coso, a remote area bordering California and Nevada, in January.

I would like to include in the RECORD

Dorfman described the binary system as a closed hot water system which produces "no adverse environmental effects, no contamination or problem except for a little heat and that's what you're trying to get anyway."

Basically, the same process is used to extract heat from geopressured deposits of hot water more than 25,000 feet deep. Once drilled, the water in these deposits gushes to the surface like a geyser and the combination of steam and hot water produced is used in a binary system to produce electricity.

Neither potential energy resource (hot-dry rock or geopressured) have systems in operation yet.

However, according to Dorfman and Kehle's report, "Perhaps the best documented basin containing geopressured zones is the Gulf Coast basin of the United States and Mexico." A study of the extraction of electric power from these abnormally pressured hot water deposits in this area is being conducted by the University.

Dry steam deposits, or geysers, and wet steam deposits which contain some water, and hot water systems are in everyday use producing electricity.

Geothermal waters have been used for space heating and agricultural purposes in all parts of the world since 1890. Hot water systems are used for heating homes in Iceland, New Zealand, Mexico and Oregon, Idaho and California.

Using geothermal steam from deposits associated with water, modest amounts of electricity are being generated in the United States, Italy, Japan, Mexico and New Zealand.

The only dry steam deposits known to exist are the geysers in Sonoma, Calif., where geothermal power generation began in 1960, and Lardello, Italy, where geothermal steam has been used for electrical power since 1904.

Dorfman points out that most of the power-producing geothermal deposits currently in operation in the United States are in states west of the Rocky Mountains.

The report states that if the hot-dry rock system for geothermal power generation proves to be commercially feasible, a large area of western Texas may have potential for this type of development. Also, "the geothermal potential of the Rio Grande may be sufficient to supply the power needs of five million people for 100 years." And "costs are usually less than those encountered for power generation using other petroleum substitutes or alternatives."

Realistically, Dorfman anticipates all of the geothermal energy resources combined will not have a significant impact until after the turn of the century. "Until the year 2,000, we will have to rely on fossil fuels plus nuclear to meet our energy requirements," he said. But he also warns of finite quantities of coal and lignite.

Geothermal energy, Dorfman believes, represents an interesting and viable energy source which, with rapid development, may partially fulfill our future energy requirements.

AMERICA'S HOPE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. SYMMS. Mr. Speaker, I recently had the privilege of receiving a visit from Mr. Ezra Taft Benson, president of the Council of the Twelve of the Church of Jesus Christ of Latter Day Saints. In my discussions with Mr. Benson, one underlying theme of this patriotic American is evident—he truly has the spirit of high ideals and high principles that were present during the founding of our country. His spiritual leadership and dedication to constitutional government and the free enterprise system are evidenced in a speech he delivered on November 19 of this year to the Seattle Rotary Club. I feel the message in this speech is important to all Americans who are concerned with mending the thread by which our beloved republic hangs.

Although the frankness of his speech may not appeal to some who do not wish to hear such clear assessment of our situation in America today, I would especially like to point out one important statement of Mr. Benson's:

> The blame for inflation must be laid directly at the door of the federal government itself!

I would go further and point out the two clearly specified crimes mentioned in our U.S. Constitution—one is treason, the other is counterfeiting. I consider his point regarding inflation to be appropos since the President and the Congress just recently bailed out New York City. That city government has operated with the same irresponsibility as the Congress of the United States in its fiscal concerns—the only difference being that New York City did not have a printing press to gloss over their mistakes as we here in Washington have.

Mr. Benson proffers a very optimistic format by which America could get out of the mess into which the tired old cliches of socialism have led us. In no way does he say that the road to recovery is easy, although the concepts and techniques are simple and practical. The American people must come to realize that the best way to solve America's problems is to leave individuals alone.

The speech follows:

AMERICA'S HOPE

(By President Ezra Taft Benson)

You confer on me a great honor by inviting me to speak to you. It is a privilege, a very real pleasure, and a challenging responsibility.

Because of the nature of the message I bring, I have committed most of it to writing. I am not here to tickle your ears—to entertain you. I shall speak to you frankly and honestly. The message I bring is not a particularly happy one. But it is the truth. And time is always on the side of truth.

During this Bicentennial year, it seems appropriate to say something about our government, our citizenship responsibility, the problems which face us as free men in this choice land. I'd like to say something about the threat to our God-given freedom. I want to talk about America, the United States, a land choice above all other lands; a nation with a prophetic history, with spiritual foundation.

As Americans, we share a serious citizenship responsibility. The Prophet Joseph Smith declared, "It is our duty to concentrate all our influence to make popular that which is sound and good and unpopular that which is unsound." (HC 5: 286.)

God has told us, in a modern scripture, that the United States Constitution was divinely inspired for the specific purpose of eliminating bondage and the violation of the rights and protection which belong to "all flesh." (D&C 101: 77–80.) If we believe in God and His works, it is up to each one of us to uphold and defend our Constitution, which guarantees our precious freedom. For God states unequivocally: "Let not that which I have appointed be polluted by mine enemies, by the consent of those who call themselves after my name. For this is a very sore and grievous sin against me, and against my people in consequence of those things which I have decreed and which are soon to befall the nations." (D&C 101: 97, 98.)

Hear again the words of the late President David O. McKay. He declared: "No greater immediate responsibility rests upon members of the Church, upon all citizens of this Republic and of neighboring Republics than to protect the freedom vouchsafed by the Constitution of the United States." (CR, April 1950, p. 37.)

As Americans, we have marched a long way down the soul-destroying road of socialism, atheism, and totalitarianism. It is the price we pay when we turn away from God and turn to government to do everything for us. It is the formula by which nations become enslaved by their own leaders.

As England's Lord Acton so succinctly put it, "Power tends to corrupt—but absolute power corrupts absolutely." (*Essays on Freedom and Power*, p. 364.)

Increasing numbers of Americans today are subscribing to the myth that you can get something for nothing—as long as the government is footing the bill. In fact, they believe it is the duty of government to take care of them, from the womb to the tomb.

There is no such thing as a free lunch. Everything we get from the government—everything—we pay for in debilitating taxes. Everything the government gives to the people, it must first take from the people. This is something few Americans appear to understand.

We tend to forget how America became the greatest, most prosperous and powerful nation in the world, blessed with an abundance of everything needed for the good life.

It didn't just happen. It wasn't an accident. It was all an integral part of the divine plan for America. In the early frontier days of this country, a special breed of men and women came here from all over the world, seeking not only opportunity, but freedom. They were strong, proud, and fiercely independent. They believed that the surest helping hand was at the end of their own sleeves. They shared one thing in common—an unshakable faith in God, and in themselves. And that, without doubt, is the secret of success as viable today as it was yesterday.

With little but raw courage and indomitable purpose, those intrepid pioneers set forth into the unknown by covered wagon, on horseback, and sometimes on foot.

The land demanded iron men with steel in their backbones. Nature did the weeding out. But they didn't whine or bleat because things were tough. They asked no favors from any man. They knew what they were up against, and they accepted the challenge. All they wanted was to be left alone to do what had to be done. They were wrenching a civilization out of the wilderness.

America soon blossomed into a rich, fertile, productive nation. Individual initiative—free enterprise—paid off, and American ingenuity flourished in a climate of freedom. Very soon, our technology, our inventiveness, and our business know-how became the envy of the world. America had reached maturity—a giant among nations, a glowing example of free enterprise in action, and a perfect demonstration of what free men can do when they are left alone to do it.

But, as those affluent years slipped by, voices were heard in the land, singing the siren songs of socialism. And many Americans tapped their feet to the beat of the music. Politicians were already promising something for nothing . . . that elusive free lunch. Thus, gradually, the people let the government infringe upon their precious freedoms, and the preliminary signs of decay began to appear in our young Republic.

A current example of this moral erosion can be seen in the Food Stamp Program. Originally intended to assist those who were on minimum subsistence by drawing on great government surpluses being stored at a cost of a million dollars a day and which had accumulated by government bungling, this program has burgeoned to the extent that today one out of 13 Americans is drawing food stamps—and one out of every four has been made eligible, by recent legislation. And who pays of all of this? We do—the tax payers. There is no such thing as a free lunch.

Today, as government becomes increasingly dominant in our affairs, we are becoming more and more like ancient Rome before it crumpled and collapsed. We are choosing bread and circuses instead of facing the challenges that always test a free people. We are no longer the proud leader of the world. We have lost the respect of almost every country . . . through our policies of equivocation and our politics of expediency and appeasement. We think we are buying world peace. This is not diplomacy, it is national suicide! No wonder we have earned the contempt of our enemies, who are only too happy to take our money, our food, our industrial equipment, and our technical expertise.

Some of you no doubt have read the "Warning to America" by the Russian Nobel Prize winner, Alexander Solzhenitsyn. The text of his first major public address was printed in full in the July 14, 1975 issue of *U.S. News and World Report*. Time will not permit an analysis of this remarkable address. I commend its reading to every American—leader and citizen. May I highlight only a few points made by Mr. Solzhenitsyn.

There are appeasing, strident voices in our midst who maintain that the Soviet leaders have given up their inhumane ideology. Mr. Solzhenitsyn answers the proponents of this thesis by charging that the Communist system is one which:

"Introduced concentration camps for the first time in the history of the world."

"Was the first to use false registration," that is, "they would order such and such people to come in and register. People would come in. At that point, they were taken away to be annihilated."

"It's a system which introduced genocide of the peasants (the deliberate and systematic destruction of people). Fifteen million peasants were sent off to extermination."

"A system which . . . artificially created a famine, causing six million persons to die . . ."

"It's a system where for forty years there haven't been genuine elections, but simply a farce."

"A system without an independent press."

"A system without an independent judiciary, where people have no influence on external or internal policy—"

"It's a system where unmasked butchers of millions like Molotov . . . have never been tried in the courts, but retire on tremendous pensions."

"It's a system where the very constitution today—"

"It's a system where the very constitution has never been carried out for one single day, where all the decisions are made somewhere high up by a small group in secret, and then released on the country like a bolt of lightning."

You ask how did such a system gain such a stranglehold on a third of the world's population? Mr. Solzhenitsyn answers. "A process" on our part, as Americans, which has been in progress for more than thirty years, "of shortsighted concessions, a process of giving up, giving up, and giving up in hope that at some point the wolf will have eaten enough." It's a process Mr. Solzhenitsyn unmasks as the present foreign policy of the United States toward the Soviet Union called *detente*.

Finally, he makes an appeal to our leaders and politicians to "stop this senseless process of endless concessions to aggressors, these clever legal arguments for why we should make one concession after another and give up more and more and more." (*U.S. News and World Report*, July 14, 1975, pp. 44–50.)

Despite what many say and think, the cold war continues today and during this period of detente. One of the main weapons in the cold war arsenal of our enemies is inflation.

Our economic situation, I believe, is extremely serious. The facts are harsh and cold. This is a grim topic. But how can one soften the truth? Inflation, like an insidious disease, is weakening us. We are in this position because we have lost our national pride, our sense of independence. When we want something, we go crawling to the government instead of doing it ourselves. We have exchanged those God-inspired principles upon which this once mighty nation was built, for a mess of shoddy values. No wonder our structures of freedom are cracking.

Many voices in government today are blaming businessmen—the unions—and even the buying public for not praticing thrift and economy in their shopping habits.

The blame for inflation must be laid directly at the door of the Federal Government itself! Inflation is an increase in the nation's money supply—an increase, to be more exact, in the supply of money and credit.

Inflation is not caused by rising prices and wages. To the contrary, rising prices and wages, as any solid economist knows, are the direct result of inflation. It stands to reason that when the money supply is increased, all money, automatically becomes less valuable. This includes, of course, our savings.

So . . . when our dollars shrink in value, businessmen naturally raise their price tags, and then their employees demand higher wages. You can see how it all becomes a vicious circle.

In a free society such as ours only the federal government can cause inflation. And the reason it puts more money into circulation is to finance its disastrous policies of deficit spending.

As the federal government promotes more and more costly and unnecessary programs, it spends far more than it receives. So . . . to keep in business, the government has to borrow. To do this, it offers bonds, which are purchased mainly by private banks. Many of these bonds are resold to the Federal Reserve. The Federal Reserve then issues newly printed paper money—or issues credit to pay for the bonds. Thus, new money is created . . . the money supply is increased . . . and the value of ALL money is reduced.

It is well to remember that continued government deficits cause inflation; inflation is used as an excuse for ineffective price controls; price controls lead to shortages; artificial shortages inevitably are used as an excuse to implement rationing. When will we learn these basic ecomonic principles?

The Prophet Isaiah wrote: "Therefore my people are gone into captivity, because they have no knowledge." (Isaiah 5:13.)

It is quite obvious that a lack of knowledge and understanding on the part of Americans regarding the causes of inflation, which threaten our economic survival, could well lead us into captivity.

Americans could halt inflation today by demanding that their government stop increasing the supply of money. It is not that the government does not know how to do it . . . it doesn't want to do it. Their excuse is that if they stop printing money, they will plunge the nation into a recession . . . or worse . . . a depression precipitating an unacceptable percentage of unemployment. But the longer we delay sound action, the more it will cost our nation and its people.

Unfortunately, the average American knows very little about the complexities of economics. He leaves that to the "expertise" of those in government. But the tragedy is that the political spendthrifts in government are the ones who are wrecking our economy. They are spending billions of dollars on useless domestic programs, and squandering billions more in support of communist governments that are getting "most favored nation" treatment.

The Congress has failed us abysmally in its historic role as watchdog over our national interests. They could and should put the clamps on irresponsible government spending. Unhappily, when a government embarks on a course of inflation, it must accelerate that inflation in order to perpetuate the false stimulating effect.

If the government were genuinely concerned about full employment and real prosperity, it could do much in bringing it about. It could support the proven and successful free market system . . . the law of supply and demand . . . where the buying public, and not the government, is the deciding factor in what shall be produced and marketed. The bureaucrats ignore the lessons of American history that freedom works . . . and that the ability of individuals to come to mutually beneficial agreements is the very essence of a free society.

There is no problem at all about how to stop inflation. The problem is not economic, it's political!

Our original monetary system as established by the founding fathers, and the only one authorized by the Constitution makes this imperative by the following clause: "No state shall . . . make anything but gold and silver coin a tender in payment of debts." (Art. 1, Sec. 10.)

The government is manipulating our monetary system. And unless we return to fiscal responsibility, we can look forward to a highly dangerous economic crisis.

If we are to beat inflation effectively, there are four vital steps to be taken:

1. Abolish wage and price controls permanently.

2. Stop all spending in excess of tax receipts and make annual payments on the debt.

3. Abrogate all extravagant and unnecessary government programs.

4. Re-establish the gold and silver standard.

The Congress has the power and the responsibility to accomplish these measures. If our representatives and senators persist in shirking their duties in this regard, then we'll continue on the same course to economic disaster. And we'll end up with a controlled economy under a totalitarian form of government.

Our spiraling national debt is but one of the danger signs, and is indicative of the culpable negligence of those in the highest echelons of government.

Thomas Jefferson counseled: "To preserve our independence, we must not let our rulers load us with perpetual debt. We must take our choice between economy and liberty, or profusion and servitude." Indeed, paying our debts, or living within our means, was always one of the sterling characteristics of Americans. We looked upon it as a duty to ourselves as individuals, and as children of God.

Today, we look to Washington as the provider of whatever is needful . . . at no cost to ourselves. If this trend continues, the states may be left hollow shells, operating primarily as field districts of impersonal federal departments. In government, as in all organizations, it is a firm principle that the smallest or lowest level that can possibly undertake the task is the one that should do so. First the community or city; if the city cannot handle it, then the county. Next, the state; and only if no smaller unit can possibly do the job should the federal government be considered. The smaller the unit and the closer it is to the people, the easier it is to guide it, to correct it, to keep it solvent and to keep our freedom.

It is well to remember that the states of this Republic created the federal government. The federal government did not create the states. Today we find government engaged in activities which are NOT within the authorized and proper role of government. These activities pose a grave danger to our continued freedom. No one has the authority to grant such powers as welfare programs, schemes for redistributing the wealth, and activities which coerce people into acting in accordance with a prescribed code of social planning. We shouldn't forget the wise words of President Grover Cleveland that, ". . . though the people support the Government, the Government should not support the people." (*Essays on Liberty*, 3:254.)

Students of history know that no government in the history of mankind has ever created any wealth. People who work create wealth

According to Marxist doctrine, a human being is primarily an economic creature. In other words, his material well-being is all important; his privacy and his freedom are strictly secondary. The Soviet constitution reflects this philosophy in its emphasis on security, food, clothing, housing, medical care—the same things that might be considered in a jail. The basic concept is that the government has full responsibility for the welfare of the people, and in order to discharge that responsibility, must assume control of all their activities. It is significant that in actuality the Russians have few of the rights supposedly "guaranteed" to them in their constitution, while the American people have them in abundance even though they are not guaranteed. The reason, of course, is that material gain and economic security simply cannot be guaranteed by any government. They are the result and reward of hard work and industrious production. Unless the people bake one loaf of bread for each citizen, the government cannot guarantee that each will have one loaf to eat. Constitutions can be written, laws can be passed, and imperial decrees can be issued, but unless the bread is produced, it can never be distributed.

Why, then, do Americans bake more bread, manufacture more shoes, and assemble more TV sets than Russians do? They do so precisely because our government does NOT guarantee these things. If it did, there would be so many accompanying taxes, controls, regulations, and political manipulations that the productive genius that is America's would soon be reduced to the floundering level of waste and inefficiency now found behind the Iron Curtain.

God has prospered this land! Though the United States has only about six percent of the world population and seven percent of the land area, our gross national product is about forty percent of the world total. It exceeds that of all the western European countries combined and is three times greater than that of the entire Far East. (1974 *Associated Press Almanac.*)

The United States is the most generous nation under heaven. We have put out 25 billion dollars' worth of food aid around the world—84 percent of the world's food aid in the last several years.

The principles behind this prosperity can be reduced to a rather simple formula:

1. Economic security for all is impossible without widespread abundance.

2. Abundance is impossible without industrious and efficient production.

3. Such production is impossible without energetic, willing, and eager labor.

4. This is not possible without incentive.

5. Of all forms of incentive—the freedom to attain a reward for one's labors is the most sustaining for most people. Sometimes called the profit motive, it is simply the right to plan and to earn and to enjoy the fruits of your labor.

6. This profit motive diminishes as government controls, regulations, and taxes increase to deny the fruits of success to those who produce.

7. Therefore, any attempt through government intervention to redistribute the material rewards of labor can only result in the eventual destruction of the productive base of society, without which real abundance and security for more than the ruling elite is quite impossible.

Some say the free enterprise system is heartless and insensitive to the needs of those less fortunate individuals who are found in any society, no matter how affluent. What about the lame, the sick, and the destitute? Most other countries in the world have attempted to use the power of government to meet this need. Yet, in every case, forced charity through government bureaucracies has resulted in the long run in creating more misery, more poverty, and certainly less freedom than when government first stepped in. Charity can be charity only when it is voluntary—and it will be effective only when it is voluntary.

As Henry Grady Weaver wrote in his excellent book, *The Mainspring of Human Progress*, "Most of the major ills of the world have been caused by well-meaning people who ignored the principle of individual freedom, except as applied to themselves, and who were obsessed with fanatical zeal to improve the lot of mankind-in-mass through some pet formula of their own . . . The harm done by ordinary criminals, murderers, gangsters, and thieves is negligible in comparison with the agony inflicted upon human beings by the professional 'do-gooders,' who attempt to set themselves up as gods on earth and who would ruthlessly force their views on all others—with the abiding assurance that the end justifies the means." (pp. 40–41.)

By comparison, America traditionally has relied on individual action and voluntary charity. The result is that the United States has fewer cases of genuine hardship per capita than any other country in the entire world or throughout all history. Even during the depression of the 1930s, Americans ate and lived better than most people in other countries do today.

As a summary to this discussion, I present a declaration of principles to which I wholeheartedly subscribe. As an independent American for constitutional government, I declare that:

1. I believe that no people can maintain freedom unless their political institutions are founded upon faith in God and belief in the existence of moral law.

2. I believe that God has endowed men with certain inalienable rights as set forth in the Declaration of Independence and that no legislature and no majority, however great, may morally limit or destroy these; that the sole function of government is to protect life, liberty, and property and anything more than this is usurpation and oppression.

3. I believe that the Constitution of the United States was prepared and adopted by men acting under inspiration from Almighty God; that it is a solemn contract between the peoples of the states of this nation which all officers of government are under duty to obey; that the eternal moral laws expressed therein must be adhered to or individual liberty will perish.

4. I believe it a violation of the Constitution for government to deprive the individual of either life, liberty, or property except for these purposes.

a. Punish crime and provide for the administration of justice.

b. Protect the right and control of private property.

c. Wage defensive war and provide for the nation's defense.

d. Compel each one who enjoys the protection of government to bear his fair share of the burden of performing the above functions.

5. I hold that the Constitution denies government the power to take from the individual either his life, liberty, or property except in accordance with moral law; that the same moral law which governs the actions of men when acting alone, is also applicable when they act in concert with others; that no citizen or group of citizens has any right to direct their agent, the government, to perform any act which would be evil or offensive to the conscience if that citizen were performing the act himself outside the framework of government.

6. I am hereby resolved that under no circumstances shall the freedoms guaranteed by the Bill of Rights be infringed. In particular, I am opposed to any attempt on the part of the federal government to deny the people their right to bear arms, to worship and pray when and where they choose, or to own and control private property.

7. I consider ourselves at war with international Communism—the greatest evil on earth—which is committed to the destruction of our government, our right property, and our freedom; that it is treason as defined by the Constitution to give aid and comfort to this implacable enemy.

8. I am unalterably opposed to Socialism, either in whole or in part, and regard it as an unconstitutional usurpation of power and a denial of the right of private property for government to own or operate the means of producing and distributing goods and services in competition with private enterprise, or to regiment owners in the legitimate use of private property.

9. I maintain that every person who enjoys the protection of his life, liberty, and property should bear his fair share of the cost of government in providing that protection; that the elementary principles of justice set forth in the Constitution demand that all taxes imposed be uniform and that each person's property or income be taxed at the same rate.

10. I believe in honest money, the gold and silver coinage of the Constitution and a circulating medium convertible into such money without loss. I regret it as a flagrant violation of the explicit provisions of the Constitution for the Federal Government to make it a criminal offense to use gold or silver coin as legal tender or to issue irredeemable paper money.

11. I believe that each state is sovereign in performing those functions reserved to it by the Constitution and it is destructive of our federal system and the right of self-government guaranteed under the Constitution for the Federal Government to regulate or control the states in performing their functions or to engage in performing such functions itself.

12. I consider it a violation of the Constitution for the Federal Government to levy taxes for the support of state or local government; that no state or local government can accept funds from the federal and remain independent in performing its functions, nor can the citizens exercise their rights of self-government under such conditions.

13. I deem it a violation of the right of private property guaranteed under the Constitution for the Federal Government to forcibly deprive the citizens of this nation of their property through taxation or otherwise, and make a gift thereof to foreign governments or their citizens.

14. I believe that no treaty or agreement with our countries should deprive our citizens of rights guaranteed them by the Constitution.

15. I consider it a direct violation of the obligation imposed upon it by the Constitution for the Federal Government to dismantle or weaken our military establishment below that point required for the protection of the states against invasion, or to surrender or commit our men, arms, or money to the control of foreign or world organizations or governments.

These things I believe to be the proper role of government. We have strayed far afield. We must return to basic concepts and principles—to eternal verities.

There is no other way. The storm signals are up. They are clear and ominous.

As Americans—citizens of the greatest nation under heaven—we face difficult days. Never since the days of the Civil War—100 years ago—has this choice nation faced such a crisis.

Throughout history, great civilizations have disappeared. In every case the pattern bears a grim similarity. First comes a decline in spiritual values, then a repudiation of economic and moral principles of integrity and responsibility, followed by the inevitable loss of freedom.

If we are to survive as an independent, sovereign nation, we must, as free Americans, follow sound economic and political policies, uphold and protect our hallowed Constitution, and live to the letter the virtues of frugality, integrity, loyalty, patriotism, and morality. Today, more than ever before, we need God's influence and guidance in every area of our lives.

America has a spiritual foundation. Her wellsprings are religious. Our crisis is a crisis of faith; our need is for greater spirituality . . . and a return to the basic concepts upon which this nation was established.

How much this country needs men with a mandate higher than the ballot box!

How much this country needs men in government who acknowledge their debt to the Almighty, men whose lives are a daily witness to the truth of the American motto, In God We Trust!

The days ahead are sobering and challenging, and will require the faith, prayers, and loyalty of every American citizen.

Our challenge is to keep America strong and free . . . strong socially . . . strong economically . . . and above all . . . strong spiritually . . . if our way of life is to endure.

Indeed, it is America's only hope for life . . . liberty . . and the pursuit of happiness!

God grant we may realize this hope, I pray.

L. B. J. COUNTRY REVISITED

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. PICKLE. Mr. Speaker, Stuart Long of Austin is one of this Nation's most respected journalists. In a most exemplary manner, Mr. Long has covered the political scene in Texas for more than 40 years. Stuart and his wife Emma, a former Austin City Councilwoman, together have rendered distinguished service to our community.

This past summer, Stuart took a nostalgic tour of L. B. J. Country, an area he visited many times before to talk with his friend, President Johnson.

For those of you who have visited this beautiful area this article should rekindle fond memories; for those who have yet to visit, the article provides encouragement.

I enclose "L. B. J. Country Revisited," from the December 14, 1975 New York Times:

L. B. J. COUNTRY REVISITED

(By Stuart Long)

If Lyndon Evanko of Collinsville, Ill., should be driving along U.S. 290 from Stonewall to Hye, Tex., he might want to drop in and see the letter he wrote President Lyndon B. Johnson in October 1964. Or, Mrs. Mary Lou Hotchkiss of Paradise, Calif., might want to see the wall hanging she sent—a horse's head composed of buttons against a corduroy background.

Both items are on display at the Lyndon B. Johnson State Park, which sprawls for two miles along the south bank of the Pedernales River. Across the Pedernales and the lakes created by two dams on the normally slow-moving, spring-fed river is the Lyndon B. Johnson National Historic Site. A visit takes one to the country school where the 36th President first began his education, to the restored farm house where he was born, to the L.B.J. Ranch that was the Texas White House during his Presidency, and to the live-oak shaded cemetery where he is buried. Twelve miles downriver is the fifth segment of the historic site—L.B.J.'s boyhood home and the Johnson Family Compound in Johnson City where his grandfather once gathered cattle for trail drives to the railroad in Kansas, and where his grandmother once hid from raiding Comanches.

Put together, the state and Federal facilities tell not only of the life of Lyndon B. Johnson but the life of a land that was a frontier only a century ago. Despite its somewhat remote location 65 miles west of Austin, the L.B.J. Historic Site is outdrawing all the other Presidential home sites except that of Abraham Lincoln—198,633 visitors in the first six months of 1975.

On a 90-degree day in August, cars from 23 states are parked by the park's visitor center, their occupants looking at displays of L.B.J. artifacts while they wait for the tour bus with its two trailer coaches that leaves every half-hour on an 80-minute tour of the historic site. The daily tours are free—President and Mrs. Johnson had insisted on that.

On this day the display, on loan from the L.B.J. Library in Austin, includes a mosaic tile portrait of L.B.J. by Genaro Alvarez of Mexico; a donkey carved from walnut logs by a Kansan; a montage painting of Texas scenes by an Englishman; a Fritz Hilton mockingbird; a tiny hand-carved saddle; oil paintings of Vermont pines, Indiana sycamores, California redwoods.

The bus comes around on schedule and away we go on a half-mile ride to a low-water crossing of the Pedernales. After a description of the state park by our tour guide, Terri Kusenberg, a taped commentary by the former President introduces us to his country. "I guess every person feels a part of the place where he was born," he begins in his soft drawling voice. "He wants to go back to his surroundings as a child. This is my country—the hill country of Texas. I always liked to return to the scenes of my childhood. I guess we all search at times for serenity. It's serene here."

Miss Kusenberg points out the Trinity Lutheran Church cemetery, where L.B.J.'s great-grandmother Bunton was to have been buried. Because the Pedernales had flooded over, her family couldn't cross it, and they started the family cemetery on the ranch side of the river. There President Johnson is buried.

We cross the river on a low-water bridge and the bus halts at the first building of the historic site, a restored one-room schoolhouse where L.B.J. started school when he was 4. Here he signed the 1965 education law, with his first teacher, Katie Detheridge, as a guest of honor. We hear a tape of President Johnson saying that the elementary and secondary education act he was signing was the proudest landmark of his career, and that, as the son of a tenant farmer, he had always believed that education was the only passport out of poverty. The education law extended Federal funds to local schools.

On down the road beside the riverbank pasture, where the Park Service's registered Hereford heifers are grazing, to L.B.J.'s birthplace, a restoration of the five-room pioneer farm house. We pile out of the bus to tour the house. Decor is turn-of-the-century Sears Roebuck; kerosene lanterns, a veranda with a white deacon's bench, wood-frame chairs with cowhide seats, a little red wagon filled with kindling for the wood-burning cook stove.

We straggle down a sandy walkway and along a paved road to the Johnson family cemetery. Shaded by a dozen huge live oak trees and encircled by a wall of native limestone, the cemetery has a dozen headstones dating to Grandma Bunton. Cameras click, and each new group of arrivals among our tour party of about 80 wants to be told that the largest red granite marker is L.B.J.'s and the one with the lamb on top is Grandma Bunton's. The cemetery looks cool and restful, shaded by the live oaks from the burning noonday sun, a great contrast from the freezing rain and wind on Jan. 25, 1973 when President Johnson was buried.

Back in the bus, we move up the river, halting at the Secret Service guard station manned electronically now. We cruise past the home of L.B.J.'s grandparents and the live-oak grove where the Johnsons entertained at barbecues. The next stop is the L.B.J. Ranch house itself—where Lady Bird Johnson still lives—a two-story white stone and frame home President Johnson bought from his aunt Frank Martin in 1952. Giant live oaks and beds of flowers and shrubs frame the grassy lawn and swimming pool where L.B.J. entertained visiting Presidents and prime ministers as well as a Pakistani camel driver.

Lady Bird, who retains ownership of the house after giving 200 acres of the ranch to the Park Service, tells us on tape how the house was expanded from its original eight rooms to the present 27. The last addition was "my forever room," a sitting room with big bay windows, a fireplace and "lots of book shelves." We pull on past the ranch house and the airplane hangar, which Miss Kusenberg describes as the only air-conditioned carpeted hangar in the world with a jukebox and movie projection equipment. It was used for news conferences and parties. She also points out the old fire truck, given to President Johnson by the people of Brady, Tex.; the Lincoln Continental in which he used to inspect his cattle, and the amphibian car with which he used to surprise his friends. When L.B.J. first got the amphibian jeep, he took "Cousin Oriole," an elderly relative, on a ride, and roared with laughter at her fright when he drove it into the lake in front of the ranch house and the car floated.

Up the hill is the coastal bermuda grass hay just baled from much of the 200 acres of pastureland operated by Dale Malechek. The foreman of the L.B.J. Ranch, he's now superintendent of ranching and maintenance for the Park Service, living in a home on the ranch given him and his wife by President Johnson. The show barns afford a look at fat, spoiled Hereford cows and bulls.

The hill country of Texas is a thin-soiled land with limestone poking out of the ground almost everywhere, but soil conservation techniques have been applied successfully on the L.B.J. Ranch to hold the soil and water, and proper planting has produced a pastureland for the cattle. Hay and cattle sales help to pay for the free bus tours taken by an average of 1,100 people a day during the height of the tourist season.

Passing over another low-water crossing, we are back at the state park, which in addition to its swimming, tennis and picnic facilities, has living history areas. At the restored pioneer homes, men and women in period clothes re-create the farm life of the 1900's—a life L.B.J. must have known as a boy. A garden produces food for the "family"; meat is prepared at the smoke house. The men feed the animals (horses, mules, sheep, cows, calves, hogs), repair harnesses, plow or harvest. Besides the barn and pens, there's a chicken house, a wash house, a well house. In a high-fenced enclosure are animals native to the area—deer, antelope, buffalo and longhorn cattle.

Fifteen miles east of the state park, on U.S. 290, is the fifth segment of the Johnson Historic Site: L.B.J.'s boyhood home in downtown Johnson City, across from the Federal Building and the Lyndon B. Johnson Memorial Hospital. The early 1920 furnishings include a hand-cranked Victrola, water pitchers and wash basins in the bedrooms, a claw-footed bathtub. From L.B.J.'s boyhood home, a mule-drawn wagon with hard-board seats takes us on a mile ride to the Johnson Settlement. It is on land once owned by President Johnson's grandfather, Sam Ealy Johnson Sr., who bought and raised cattle and drove them to market at Dodge City and Abilene, Kan., in the 1870's. President and Mrs. Johnson bought the tract, including the remains of the log cabin where his grandmother, Eliza Bunton Johnson, hid from raiding Comanche warriors. Relics from the days of the cattle drives can be seen in two old barns and a new exhibit center. At the blacksmith shop, with an ancient forge, bellows and anvil still in use, horseshoes and harness fastenings are hammered out in much the same way they were in the 1870's.

Bouncing along in the hard-springed wagon, I get a new appreciation of the 49ers who rode across country in wagons, and think about the changes in Johnson City since the pioneer days. The 30-bed L.B.J. Hospital has a helicopter landing pad so patients with illnesses beyond the scope of Johnson City's single general practitioner can be flown to San Antonio or Austin.

We pass the Johnson City Park, which was presented to the people of Johnson City in 1965 by Time Magazine in appreciation for the Johnsons' beautification programs. The tiny park has an unusual traffic sign, "Parking for Visitors Only," a bandstand and benches along its two 100-foot sides.

A sign on the main street points out the First Christian Church as "L.B.J.'s Boyhood Church," recently repainted a dazzling white. It brings back memories of the "church chase," as the White House press used to call the Sunday-morning outings. On occasion the Johnsons would go to church in Fredericksburg or across the Pedernales to the Catholic or Lutheran churches, so the White House press would wait and follow the Johnson car to church.

I am jolted back to the present when the mules drawing the wagon are reined in. My day with L.B.J. has been country and corny, the whole a warm picture of a President as seen by his Texas friends. But it has been an impressive experience, notwithstanding. Like the man himself, the L.B.J. State Park and Historic Site are larger than life.

PIGSKIN CLUB OF WASHINGTON, INC., GIVES 38TH ANNIVERSARY AWARDS PROGRAM.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. STOKES. Mr. Speaker, on Friday, November 12, I was an invited guest at the 38th anniversary awards dinner of the Pigskin Club of Washington, Inc.

The invitation to participate in this outstanding annual affair was extended to me by my distinguished brother in Kappa Alpha Psi Fraternity, James "Biff" Carter.

In commemoration of its past leaders, the club paid tribute to founder and first president Charles Bennett Fisher. Other presidents cited were John T. Rhines, James G. Tyson, Isaac N. T. Cupid, and Lawrence Oxley.

Welcoming remarks were offered by Mr. Carl D. Coleman, the current president of the organization. He said as follows:

As President of the Pigskin Club of Washington, Inc., it gives me great pleasure to extend a sincere welcome and warm personal greetings to the members and their guests attending this Thirty-eighth Anniversary Awards Dinner.

In 1937, a small group of twelve to fifteen District of Columbia men met in the office of our first President, Dr. Charles Bennett Fisher to discuss founding an organization of sports oriented men. At a second meeting with thirty to forty men in attendance united in a common bond to promote a true "Democracy in Sports", the Pigskin Club of Washington, Inc. was chartered and the first dues were paid to our present treasurer, Dr. W. Henry Greene.

While we still enjoy that common bond, our members now come from ten Atlantic Seaboard states as well as the District of Columbia, and the Pigskin Club with a paid-up membership of over 370 has extended its areas of interest to meet other challenges of the years. The expertise of our membership is wide and varied and is manifested in their financial support of and active participation in a great many civic, community, professional and welfare organizations and agencies which merit concern.

I am hopeful that after tonight our guests will have a continuing interest in the Pigskin Club and a desire to join its membership adding their talents to its efforts. So I say to you—"Come on in. The water is fine." Applications are available from Officers of the Club. You will enjoy the fellowship. The Club will benefit from new ideas. Together we can go forward stronger than ever.

The theme of the affair this year was "Democracy in Sports" and the 1975 anniversary club honorees were:

PIGSKIN CLUB OF WASHINGTON, INC.—ALL-METROPOLITAN SELECTIONS, 1975

OFFENSIVE TEAM						DEFENSIVE TEAM					
Position	Name	Height	Weight	Class	School	Position	Name	Height	Weight	Class	School
E	Snoots, Mike	6–3	196	Sr.	Montgomery Blair.	E	Pierce, Dino	6–4	200	Sr.	Parkdale.
E	Brown, Mike	5–9	155	Sr.	Yorktown.	E	Shaffer, Jim	6–1	196	Sr.	High Point.
T	Weaver, Gary	6–3	235	Sr.	Lee.	T	Argo, Mike	6–4	220	Sr.	Fort Hunt.
T	Mitchell, Gregory	6–3	240	Sr.	Anacostia.	T	Brown, Gregory	6–5	225	Sr.	H. D. Woodson.
G	Ross, Edward	6–0	225	Sr.	Northwood.	MG	Meile, William (Bill)	6–4	205	Sr.	St. Johns.
G	Jagers, Bob	6–3	230	Sr.	St. Johns.	LB	Taylor, Carooq	6–1	193	Sr.	H. D. Woodson.
C	Kroger, Joe	6–2	215	Sr.	Annandale.	LB	Lee, Alonzo	6–0	185	Sr.	Dunbar.
B	Singletary, Ronnie	5–11	160	Sr.	Dunbar.	LB	Prather, Guy	6–2	200	Sr.	Gaithersburg.
B	Hill, Tyree	5–8	145	Sr.	Paint Branch.	DB	Larry, Ralph	6–3	185	Sr.	Wooton.
B	Curtis, Don	6–1	195	Jr.	Parkdale.	DB	Debutts, Boota	5–10	160	Sr.	Episocpal.
B	Carayiannis, James	5–10	175	Sr.	Annandale.	DB	Newsome, Kevin	5–8	155	Sr.	Ballou.

Area Selection Committee: 6 High School Officials of Football Games, 140 High School Coaches, 3 Sports Editors of local newspapers.

Pigskin Selection Committee: Charles E. Brown, James Carter, Jr., Richard Clarke, William Curtis, Sal Hall, John W. Posey—Chairman, Edward J. Queen, John F. Talley.

FRESHMAN COLLEGE SCHOLARSHIP AWARDS WINNERS

To assist worthy high school seniors, qualified scholastically, but in need of financial assistance to enroll in an accredited college, The Pigskin Club each year provides a limited number of $600.00 freshman-college grants-in-aid. The following high school seniors from the Metropolitan Area of the Nation's Capital have been honored recipients of these special grants-in-aid:

Calabreeze, Joseph, St. Johns; Chavis, Richard, Eastern; Critzer, David, Crossland; Dean, Richard, Eastern; Disheroon, Max, Anacostia; Drummond, Richard, Woodrow Wilson; Ford, Garret, DeMatha; Gill, Cordell, Roosevelt.

Glaser, Stephen, Woodrow Wilson; Green, Cornelius Dunbar; Harris, David, Cardozo; Hill, Richard, Sherwood; Johnson, William, Eastern; Mahnic, Robert, Carroll; Melchor, Richard, DeMatha; Mitchell, Darnell, Eastern.

Nash, Aubrey, DeMatha; Neverson, Norman, Roosevelt; O'Brien, Coley, St. John's; Parker, John, St. Alban's, Perrin, Lonnie, McKinley; Shinn, Robert, Annandale; Simms, Eugene, Cardozo.

Singletary, Samuel, Bell; Stedmon, Charles, Carroll; Tate, Donald, Anacostia; Tabron, Fred, Fairmont Heights; Thompson, Curtis, Jr., McKinley; Watkins, David, Anacostia; Wood, Freddie, Cardozo; Wrenn, Benjamin, Bell.

Mr. Speaker, I must say that this was one of the most impressive programs that I have ever had the privilege to attend. The audience was moved to applause on many occasions, especially when the master of ceremonies read the many accomplishments of the athletes being honored. The program was as follows:

PROGRAM

Toastmaster, Honorable Luke C. Moore, Judge, Superior Court.

Invocation, Father H. Albion Ferrell.

Remarks, Carl D. Coleman, President, the Pigskin Club of Washington, Inc.

In Memoriam, Father H. Albion Ferrell.

INTRODUCTIONS

DISTINGUISHED CLUB GUESTS

Presentation—the Pigskin Club Achievement Plaques to: Twenty-Two Players Selected as Members of the Pigskin Club Metropolitan All-Star High School Teams, Defensive and Offensive.

Presented by: John W. Posey, Chairman—High School Selection Committee.

PRESENTATIONS—METROPOLITAN AREA HIGH SCHOOL COACH OF THE YEAR

To: Robert Headen, Head Coach—H. D. Woodson High School, Presented by: Wm. Curtis.

MAJOR NATIONAL INTERCOLLEGIATE FOOTBALL AWARDS

1. The Charles Richard Drew Trophy: The National Intercollegiate Coach of the Year to: Jerry Clairborne, University of Maryland, Presented by: Sylvester R. (Sal) Hall.

2. The John L. Young Trophy: The National Intercollegiate Offensive Player of the Year to: Archie Griffin, Ohio State University, Presented by James "Biff" Carter.

3. The Harold Douglas Martin Trophy: The National Intercollegiate Defensive Player of the Year, To: Leroy Selmon, University of Oklahoma, Presented by: Harold B. Martin, Ernest D. Martin.

4. The Pigskin Special Trophy: The Mid-Eastern Athletic Conference Player of the Year, To: Harry Carson, South Carolina State College, Presented by Edward J. Queen.

5. The James Guy (Pete) Tyson Trophy: The Central Intercollegiate Athletic Association Player of the Year, To: Anthony Leonard, Virginia Union University, Presented by: Thomas A. Hart.

6. The Lawrence Augustus Oxley Award: To: Willie Wood, Head Coach of the Philadelphia Bell, Presented by: Richard K. Lyon.

CITATIONS

To: Lowell Perry—Outstanding Government Service, Presented by: C. Herbert Marshall.

To: Cornelius Greene—Outstanding Achievement by a former All-Met High School Player, Presented by: Richard Clark.

To: Sylvester R. Hall—Outstanding Service to the Pigskin Club of Washington, Presented by: Talmadge "Marse" Hill.

Awards Committee: 1975, Hosea C. Brown, James "Biff" Carter, Chairman, Jesse O. Dedmon, Sylvester R. (Sal) Hall, Thomas A. Hart, Talmadge L. "Marse" Hill, John W. Posey, Leslie R. Simms, Claude "Buddy" Young.

One of the most poignant occasions during the evening was the tribute paid by the Pigskinners to their deceased members. The "in memoriam" message was given by Father Albion Ferrell, and tribute was paid to the following deceased members.

Robert E. Avant, Theodore A. Brown, Bernard N. Christmas, Claude Lee Cowan, Louis Harrison Fisher, K. Albert Harden, Sylvester A. Mason, Jr.

George E. Meares, Daniel Grover Monroe, William F. Nelson, William Luther Porter, John E. Robinson, Sr., William W. Simpson, George Steward, Cornelius E. Stone.

"Now the labourer's task is o'er:
Now the battle day is past;
Now upon the farther shore
Lands the voyager at last
"Father in thy gracious keeping
Leave we now thy servant sleeping."
—John Ellerton—1870

Mr. Speaker, I am sure that all of my colleagues will join me in congratulating the Pigskin Club of Washington, Inc. for 38 outstanding years.

SENATOR BROOKE CALLS ON BLACK ELECTED OFFICIALS TO DEVELOP COALITION STRATEGIES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr STOKES. Mr. Speaker, last week this Nation's Capital was host to the Third National Institute for Black Elected Public Officials. Nearly 1,000 black officeholders from around the country gathered at the Sheraton Park Hotel to develop strategies and coalitions for increased minority participation and representation in the political process.

At the opening banquet, conference participants had the opportunity to hear from one of the most prominent black officials in the land, Senator Edward W. Brooke of Massachusetts. Mr. Speaker, I am submitting the text of Senator Brooke's address to the attention of my colleagues in Congress in hopes that they will gain further insight into the vast responsibilities of the black elected official:

Public Office and Political Power

It is an honor and a privilege to participate in the Third National Institute for Black Elected Officials. And I am delighted to learn that more than one thousand black elected officials are expected to take part in this important conference. With such a distinguished assemblage I am confident that the Third Institute will be even more successful and productive than its predecessors.

This is an especially appropriate time to convene the institute for this is a period of commemoration and rededication for black Americans. Just last week we commemorated the 20th anniversary of the Montgomery Bus Boycott, the protest that precipitated events which touched and changed the lives of all Americans. And shortly, we will begin our nation's Bicentennial, a year which should be dedicated to the fulfillment of America's promises of freedom, justice, and human dignity. Since it is also a presidential election year, 1976 will give us a special opportunity to evaluate how politics and government can better serve those purposes for which our nation was founded but which have too often been forgotten. And, it appropriate that we, as black elected officials, meet here this weekend to review where we have been and to chart a course which leads us to where we would like to be.

Since Rosa Park's courageous act of defiance in 1955, the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Economic Opportunity Act of 1966 and the Civil Rights Act of 1968 have collectively changed our political history. We have made impressive gains, but let's not fool ourselves, for you know, as well as I, that Blacks who seek access to the political process still face enormous resistance.

Anyone doubting this resistance need only have observed the difficult fight on the Senate floor last summer over extending the Voting Rights Act of 1965. We were not debating a complex civil rights issue. We were not even debating busing. We were debating voting. We were trying to assure the most basic constitutional right for all American citizens. And yet on the floor of the United States Senate American politicians very nearly said to black, brown, and red Americans: You cannot even be guaranteed your right to vote.

Clearly our struggle is far from over. In a very real sense it is just beginning. This institute will give us a chance to share, and thus increase, the skills we need for gaining access to the political process. And it should also reinforce our sense of solidarity with one another.

Tonight, I would like to discuss with you some thoughts about acquiring and consolidating power but also about the even more difficult problem of what to do with power when we do get it.

I believe that Blacks must adopt a number of overall strategies to protect and increase our political gains. First, we must exploit our inherent strengths. It is true that we are a minority but we are a powerful minority. And we can use our numbers in such a way that we hold the margin of winning votes on issues that have an effect upon our lives.

Our influence is particularly great in the 60 congressional districts where Blacks comprise 25 per cent or more of the electorate. And in many more districts, Blacks comprise a sufficient segment of the voters to win important campaign concessions from prospective candidates.

But, let me hasten to add that I do not believe that we should restrict ourselves to 60 districts. There are 435 districts, 50 statehouses, and thousands of county seats, city halls and town halls. And of course there are the offices of Vice President and President of the United States. We should never let the composition of our constituency be a limitation upon our aspirations for political office. Black politicians can and should represent a wider spectrum of interests without sacrificing effective representation of minority needs.

Indeed, we must consistently aspire to the highest elective offices. The right attitude is the one expressed by my friend and colleague Representative Barbara Jordan of Texas who, when asked if she wished to be appointed Supreme Court Justice, replied that she would rather do the appointing than be the appointee, I concur.

In addition, we must learn to deal with both political parties from a position of strength. For a long time now, Blacks have rallied to the Democratic party. But we cannot afford the luxury of supporting just one political party. The two-party system is a reality of American political life. Its continued viability and vitality is essential. And let there be no doubt that the balancing and trading of competing interests in our political system produces results. If we are to shape governmental priorities, our full, and effective, participation in both political parties is critical. Both parties must be made to respond to our voices, our needs, and our strength.

We must be even more flexible and creative in making temporary alliance to further our own permanent interests. We must work with natural allies to achieve our common goals of economic justice and equal opportunity.

Of course, the formation of political coalitions will always be difficult. Deep-rooted racism will inhibit some from ever joining with us.

However, there are ways to make a coalition strategy effective. In spite of the economic hardships the 70's have brought us, we should recognize that black people have a new opportunity to make common cause with all the have-nots in the nation who are realizing where their most basic interest lie. For example, Blacks and labor are and should be allies in the fight for a full employment policy even though they disagree on other issues.

It is a fact that unemployment affects Blacks disproportionately. Indeed, the black unemployment rate at its best has never been as low as the white unemployment rate at its worst. However, it is also a fact that approximately six million out of the 7.5 million workers now unemployed are white. And this very fact can serve as the basis for building a successful coalition, because the cost, in both revenue and human losses, of allowing a continuation of current economic policies is excessively burdensome to the entire nation. Neither black nor white officials can any longer sanction a morality which permanently condemns many people to the awful consequences of being unable to find decent work at decent wages. Neither black nor white officials can any longer afford this drain on our inadequate municipal and state resources.

Full employment must be the cause to which we rally in this decade, just as we rallied to the cause of civil rights in the last decade. I am pleased that it is included in the Institute's agenda.

But I would like to move from this discussion of coalitions, political power and specific legislative goals, and share with you some of my thoughts about what we, and in fact all public officials, must do with power once we gain it. I believe the most important task is to reverse the failure of our public officials to provide all Americans the practical and moral leadership that they need and deserve.

This Fall the Senate has been embroiled in two issues which illustrate my fears, school busing and the New York City financial crisis. Busing is a regrettable but very real example of the failure in moral leadership and the New York crisis is a regrettable but very real example of the failure in practical leadership.

Let me begin with busing.

Busing has become an issue not because of tyrannical courts or weaknesses in our Constitution. It exists because the public officials chosen to lead have proven either unwilling or unable to present the issue of busing accurately to their constituents. They have allowed the facts surrounding this issue to be distorted. And as a result, few Americans understand the law regarding busing or the role of the federal courts in interpreting and implementing that law. You, here tonight are perhaps unique in that, however you feel about it, you do realize that the law is crystal clear: segregation of public schools by official act is a direct violation of the equal protection clause of the 14th Amendment.

In Boston, as well as in other cities across the country, the law was deliberately flaunted by public school officials who personally favored segregated schools or who felt it expedient to cater to those who wished to maintain a segregated school system. The courts did not respond to this violation arbitrarily. They responded because the constitutional rights of our children had been abridged. If elected public officials, charged with the public trust, had upheld their legal responsibilities, these cities would not now be under court order.

Of course, we do not hear these facts from public officials even now. The public is told that the courts are ordering busing to achieve racial balance. This distortion of fact is even being used by many of those who are aspirants for the presidency of the United States. It is false and deliberately misleading. And they know it!

So too are arguments that busing is ordered to improve the Quality of a child's education. If quality education is a byproduct of our desegregation orders, so much the better, but it is not the reason for those orders. The Constitution does not demand quality education; it demands equal educational opportunity. Quality education is a matter for local, state and federal policy, equal educational opportunity is a matter of constitutional law.

We know that busing for the purposes of desegregation amounts to only 5 percent of all school busing. And we know there is no question but that busing has always been used far more often for the purposes of segregation than for the purposes of desegregation. We also know that busing can be peaceful and effective, as it has been in Charlotte, Jacksonville, Pontiac, Racine, Pasadena, and Denver. And we are tragically acquainted with the familiar fact that the victims of disorders related to busing protests are most likely to be our black children.

I have been fighting anti-busing amendments on the floor of the Senate a long time, and it is painful for me to tell you that the erosion of political leadership which caused the problem is now seriously weakening the historic civil rights coalition in the United States Senate. This fall for the first time the Senate actually passed an "anti-busing" amendment. How shameful it is that on the eve of our Bicentennial year, the United States Senate was willing to deny American school children their constitutional rights. And how hypocritical it is that the great civil rights coalition in the Senate begins to weaken in direct proportion to the number of court orders in northern cities.

Two days ago in my own city of Boston, federal Judge Arthur Garrity removed the headmaster and the administrative personnel of South Boston High School and placed that troubled school under receivership. In addition the Judge removed jurisdiction over the implementation of the desegregation order as well as responsibility for system-wide school security from the Boston School Committee. Later that night the NAACP Headquarters was fire-bombed. I deeply deplore this senseless act of violence which will accomplish nothing but more hatred and more fear in an already troubled city.

I believe that the Court's action speaks directly to the failure of moral leadership which so troubles me. Once again we have witnessed what can happen when public officials fail to carry out their constitutional responsibilities. In a very real sense it was not Judge Garrity's action which resulted in South Boston High being placed under receivership, it was the Boston School Committee's inaction that did so. Judge Garrity under the law had no choice but to do what he did.

Paralleling this failure of moral leadership is a failure of practical leadership. It is a failure of our public institutions to deliver effective government for the taxpayers' dollars.

The financial crisis which New York City faces offers us a useful example. Most of us here are no strangers to crises in public finance. Certainly my friends from the Massachusetts Legislature's Black Caucus who are here can tell you more than I about the agonizing task of dividing up the scarce resources of a state threatened with *de facto* bankruptcy. And other cities and states, particularly those with many poor residents, have faced New York City's situation without the benefit of federal backing. Mayor Ken Gibson inherited a fiscal quagmire in Newark. And to his great credit he extricated the city without asking for any federal loan guarantees.

As a member of the Senate Banking, Housing and Urban Affairs Committee, I became very concerned with New York's problem. Witness after witness came before the committee to say that it is the responsibility of the federal government to rescue the city. It was predicted that the nation, the international financial community and, of course, the city would fall if the federal government did not assume a major role.

But after countless hours of testimony it became clear that New York City itself must bear the primary responsibility for its fiscal problems. Washington has indeed failed New York City as it has failed all cities. But the city had also lived beyond its means. It had an extravagant pension and benefits system for its middle income workers. It had been treating all households, regardless of means, to a free education right through college and to a rent controlled apartment. Now some of these programs may be desirable, but the reality is that if a city is going to have such programs, it must have the resources to pay for them.

It is symptomatic of the times that New York City's response to its fiscal crisis was to seek federal assistance.

I opposed the original loan guarantee proposal reported by the Senate Banking Committee. My opposition was not prompted by any desire to see New York City default, but rather my conviction that the Committee's loan guarantee proposal did not require New York State and City officials to come to grips with the fiscal realities facing them. As an alternative to the Committee's loan guarantee bill, I proposed a short-term seasonal financing program much like the one which has now been adopted. Such financing would have prevented any interruption in essential human services in the event of default. My proposal was defeated in Committee by a vote of 7 to 6.

When it became apparent that a loan guarantee bill was not going to be enacted, New York's leaders, to their credit, proposed a plan which called only for short-term federal loans to meet the City's cash flow needs, and I was pleased to support this plan and to manage the New York loan bill on the Senate floor. New York's leaders now have time to work on solutions to their problems which are only more acute examples of those we all face.

I think there are some lessons for all of us in the New York City fiscal crisis. For example, we have seen that black officials must be particularly concerned about crisis conditions in government because it is always the poor and minorities who get first blamed and then punished. We all heard the misrepresentations about how the "welfare burden" and services to minorities had ruined New York. But the truth was that subsidies to the middle class, excessive fringe benefits for city workers and fiscal mismanagement were the chief drains on the city's budget. Nevertheless, black and brown poor New Yorkers are today still in danger of being the main victims of the crisis.

I am also convinced that Blacks must be far more cautious about relying on Washington for solution to local problems.

The most disastrous consequence of all from federal loan guarantees would have been continuing control by the Federal Government of the programs and priorities of the City of New York. It is bad enough that a committee of businessmen and state officials, most of whom have never faced the electorate of New York City, retains enormous leverage over her affairs today. But the guarantee proposal could have put the Secretary of the Treasury, the Chairman of the Federal Reserve Board and the Secretary of Labor in the position of having to decide what rent an AFDC mother in the Bronx can afford or whether the children of Bedford Stuyvesant need their eyes examined. Nothing could be worse for minority residents, indeed, for any resident of New York than to be placed on a new kind of federal reservation status. If you doubt my words, I believe Mayor Walter Washington probably has some similar thoughts he can share with you.

If we are to act on the deep concern we share for self-determination for our people we cannot imitate the conventional politicans of past generations who have, on the whole, failed to meet the true needs of Americans. The mayors of New York City struggled for decades to get fiscal autonomy. When they got it, they misused it and now they have lost it. New York, like other cities and states, was financed by budget gimmickry. The system in these governments involves a conspiracy, however benign its motives, of private and public interests which translates hope into budget estimates and issues paper surrogates for money commitments.

There is probably not one of us here who has not tried to squeeze blood from a turnip. We all deal with conflicting life and death needs everyday. But it is not longer possible to resolve these conflicts with our present financial resources.

Now, I don't mean this as a counsel of despair. I truly believe we can make radical changes in the way government does business and still cover basic services and welfare needs.

In the near term, we can vastly increase the effectiveness of the funds we do have. We know that government is full of unproductive workers performing unproductive jobs. We know that too many services are delayed and unresponsive. And there is absolutely no reason why, under Medicaid or AFDC programs, it should take two years for a state to pay a pharmacist or department store for goods purchased, often with an 18 per cent finance charge.

Black public officials must communicate with one another and share their solutions to the problem of promoting effective management. Nothing could be more important to black people, since the services managed with the most shocking inefficiency are usually the ones that touch poor people's lives. Certain groups with economic power and political clout always get at least their share of the pie. Waste inevitably diminishes the share of the poor and the minorities.

In the long run, we have to maximize both our resources and the responsiveness of our governments. And I think there are two basic strategies to do so. The first is to use the resources we do have far more prudently. The second is to put both responsibility and power with the state and local officials who must deliver basic services. The federal government can and must be a partner in effective programs and policies. But its capabilities are limited. It is not infinitely rich. It cannot respond to unique local situations. It canont be accountable to individual citizens. It should not usurp the powers of those officials closest to the people.

I think the outlines of a program for a well managed federal system have been emerging for some years. For example, fiscal responsibility for uniform, national programs, like a reformed income maintenance welfare system and a public health insurance program, must be put at the federal level where they belong. The states must modernize their tax systems and, freed of welfare programs, take over statewide human services like education and hospitals. Perhaps even more important, states have to exercise those police powers and say "no" to the proliferation of taxing and spending entities in our metropolitan areas. Only then can we give our urban communities a rational tax base and a functionally and racially integrated service system.

Finally, local officials must provide basic community services in a cost effective way.

They must be free to institute a progressive tax system, perhaps supplemented by revenue sharing, and so abandon that centuries-old anachronism: the property tax.

None of these things can be accomplished until officials decide that running communities well is the best road to re-election. Fortunately, I believe the nation's politics are changing, so that it is becoming expedient for politicians to be good managers. The public, quite rightly, has had enough, and I think we shall see a radical transformation in the nature of political demands placed on candidates.

But as we reform our governments to reflect the times we black officials will never be able to end our continuing struggle to establish a just system of national priorities. Even in a well managed governmental system in which officials are prudent and responsible, there will be no rest for those who seek economic and political justice. Blacks are going to have to keep up the old struggle for jobs for all and a fair share of America's growing economy, at the same time we are trying to make government work again. As always our people are in need. Our gains are in constant danger. And we must work twice as hard as others.

What I have been saying tonight is that we are in a subtle but serious crisis of government. Our national political climate has led politicians to avoid rather than to make choices; to shirk rather than to shoulder responsibility; to follow rather than to lead. We have seen it in New York's fiscal crisis, in the busing issue, in the lack of a coordinated full employment initiative and in so many other areas.

We must now realize that our resources, both natural and financial, are no longer boundless. Our problems are no longer susceptible to simple solutions. We need politicians who will be honest with the American people, who will explain these new realities, who will put performance above promises.

So yes, let us organize. Let us form the coalitions. Let us press forward with our legislative program, and let us set the highest standards for ourselves, meet those standards, and give to our people committed, inspirational, honest and responsible leadership.

Then shall we really overcome!

JOSEPH P. LUNA

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. HELSTOSKI. Mr. Speaker, I would like to add one additional note to my comments of a few weeks ago regarding the honor and recognition conferred this past fall upon Joseph P. Luna of Lodi, N.J.

The following resolution adopted by the Municipal Council of the Borough of Lodi, N.J. further exemplifies the high regard in which Joe is held in his community and their deep appreciation for his lifetime of service and accomplishment:

RESOLUTION—MUNICIPAL COUNCIL OF THE BOROUGH OF LODI, N.J.

JOSEPH P. LUNA DAY

Whereas, the friends and relatives of Joseph P. Luna are honoring this notable gentleman on his 70th Birthday Anniversary at a Dinner-Dance on Friday, September 19, 1975; and

Whereas, Joseph P. Luna has served our community as a public official as Tax Collector, Councilman and Mayor with great public acceptance and recognition; Now Therefore;

Be it Resolved by the Borough Council of the Borough of Lodi, New Jersey, that this Council does hereby join with his many friends and public officials in honoring Joseph P. Luna on this memorable occasion; and

Be it Further Resolved that this Resolution be spread in full on the Minutes of the Borough Council.

STEPHEN P. MARCHESE,
STEVEN N. SIRECI, Sr.,
Council President.
Borough Clerk.

IRS ACTS TO HELP PURCHASERS OF INDIVIDUAL RETIREMENT ACCOUNTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. PICKLE. Mr. Speaker, I am sure all of us have seen advertisements for the so-called "great new tax shelter" created by the Pension Reform Act of last year. This enticing and welcome new program goes under the official title of individual retirement accounts and sets up a tax-deferred pension plan available to the some 40 million Americans covered by no pension program other than social security. It is a long-awaited, much needed, and very welcome program.

However, faced with a major drive by insurance companies, savings and loans, and commercial banks to sell the new individual retirement accounts before the close of this tax year, the Ways and Means Oversight Subcommittee held a hearing in November to try to head off key trouble spots in the program. Chairman of the subcommittee, our able colleague from Ohio, Mr. VANIK, asked me to preside of the hearings and assisted me in exploring the important issues involved. I commend him for his continuing concern that the pension law be wisely and fairly implemented.

I am delighted to see that two significant steps suggested at the hearing have been taken by the Internal Revenue Service.

First, consumers buying individual retirement accounts during this past year will have a second chance to invest their retirement savings if their first effort proved unwise.

Second, the tax form required of individual retirement users has been greatly simplified.

Although there are other matters which also must be cleared up immediately—including eliminating false or "puff" advertising in this field and improving and enforcing adequate financial disclosure standards—the two steps by the IRS are certainly taken in the right direction. I applaud the IRS for moving forward in a very short time and I also encourage them to keep up the speed and diligence in attending to the other problems of this program.

As Mr. VANIK has explained, the subcommittee was particularly concerned about the preponderance of "puff" advertising and incomplete promotional literature found in this field, especially in light of testimony that the information in this literature was often all that was available to the person making the sale as well, in spite of clear directives in the law for full disclosure.

Now those who were caught and bought an IRA which on a second look will prove to be a poor investment are being given a chance to correct the error. And here let me again express my extreme pleasure that when the taxpayer fills out his tax return he will not be faced with a two-page complicated 8 x 10½ inches form but with a much simpler 8 x 5 inches card in order to report his IRS deduction. I hope that it will be possible to file this form with the 1040A or simplified tax return form.

Of course, we do have to be mindful that the extra chance being given early purchasers of IRAs will be of little use to them unless they have full and adequate disclosure before they file their tax returns.

So, again, I applaud the IRS for its actions—and I urge them to keep up the good effort so that we may indeed get this important program off to a sound start.

I insert in the RECORD at this point the full text of TIR 1425, which includes several practical examples of how the new regulation is to be used:

TIR–1425

In order to provide guidance for preparing 1975 reports and returns relating to individual retirement accounts, individual retirement annuities, and certain endownment contracts, the Internal Revenue Service today announced three positions which will be reflected in final regulations. The IRS further announced that, pending the issuance of final regulations, taxpayers may otherwise rely upon the proposed regulations (which were published on February 21, 1975) and Technical Information Release No. 1391 (July 3, 1975).

First, the final regulations will provide that annual reports (Form 5498, Statement of Account for Participants in Individual Retirement Accounts or Annuities) must be furnished by the trustee of an individual retirement account or the issuer of an individual retirement annuity on or before January 31, to the individual for whose benefit the account was established or the annuity or endowment contract was issued. In addition, the final regulations will require that such reports be filed with the Service on or before the last day of February. The proposed regulations required these reports to be filed on or before the 30th day of the first month following the close of the individual's taxable year.

Second, the IRS announced that, because a Form 1099 (U.S. information return) with respect to an individual retirement account, annuity, or endowment contract would merely duplicate the information set forth on a Form 5498 with respect to the account, annuity or contract, a Form 1099 should not be filed with respect to an individual retirement account, etc.

Third, the IRS discussed certain tax consequences of revoking, on or before April 15, 1976, an individual retirement account, annuity or endowment contract established prior to January 1, 1976.

In general, the final regulations will provide certain rules having the effect of permitting the individual who establishes but later revokes the account, annuity, or contract to treat for tax purposes the account, annuity or contract as though it had not been established under the rules governing individual retirement accounts, etc. The final regulations will provide the following rules:

(1) If prior to January 1, 1976, a taxpayer establishes a trust or account or purchases an annuity or endowment contract which would otherwise be an individual retirement account described in section 408 (a) of the Internal Revenue Code of 1954 or an individual retirement annuity described in section 408 (b) of the Code, the trust, account, annuity or endowment contract will nevertheless not be treated as such an individual retirement account or individual retirement annuity if (1) no deduction is claimed under section 219 (relating to deduction for retirement savings) with respect to the trust, account, or contract, and (2) the taxpayer revokes the trust, account, or contract on or before April 15, 1976.

(2) If a lump-sum distribution from a trust described in section 401 (a) or from a plan described in section 403 (a) is distributed or made available prior to January 1, 1976, a trust, account, or annuity contract to which the appropriate amount of such lump-sum distribution is transferred by the recipient prior to January 1, 1976, and which would otherwise be an individual retirement account described in section 408 (a) or an individual retirement annuity described in section 408 (b), will not be treated as such an individual retirement account or individual retirement annuity if (1) the amount distributed is not treated as a rollover contribution described in section 402 (a) (5) or 403 (a) (4) (and, therefore, is included in gross income), and (2) the trust, account, or contract is revoked on or before April 15, 1976.

(3) In contrast to rule (1) if prior to January 1, 1976, a taxpayer establishes a trust or account or purchases an annuity or endowment contract which would otherwise be an individual retirement account described in section 408 (a) or an individual retirement annuity described in section 408 (b), the trust, account, annuity or endownment contract will be treated as such an individual retirement account or individual retirement annuity if a deduction is claimed under Code section 219 (relating to deduction for retirement savings) with respect to the trust, account, or contract even though the trust, account or contract is revoked on or before April 15, 1976.

(4) In contrast to rule (2), if a lump-sum distribution from a trust described in section 401(a) or from a plan described in section 403(a) is distributed or made available prior to January 1, 1976, a trust, account, or annuity contract to which the appropriate amount of such lump-sum distribution is transferred by the recipient prior to January 1, 1976, and which would otherwise be an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b) will be treated as such an individual retirement account or individual retirement annuity if the amount distributed is treated as a rollover contribution described in section 402 (a)(5) or 403(a)(4) (and, therefore, not included in gross income), even though the trust, account or annuity contract is revoked on or before April 15, 1976.

For purposes of these rules, an individual will be considered to have "revoked" an account, annuity, or contract if, at the time the account, annuity or contract is terminated, the balance to the credit of the individual is distributed to him. This is to be distinguished from the meaning of the term "permitted to revoke" for purposes of § 11.-408-1(b)(1) of the temporary regulations on the furnishing of disclosure statements relating to individual retirement accounts, annuities, and certain endowment contracts, as was described in News Release IR-1533, dated December 1, 1975.

Finally, the final regulations will provide that if an individual engages in a transaction described in section 408(d)(3)(A)(1) (relating to rollover contributions) on or before April 15, 1976, the first such transaction by the individual on or before April 15, 1976, will not be taken into account for purposes of applying section 408(d)(3)(B) (relating to rollover contributions to another individual retirement account, annuity, or bond made within a 3-year period).

The IRS provided the following examples to illustrate the effect of this rule.

Example (1). In March 1975, A, a calendar year taxpayer, established an account which would otherwise be an individual retirement account. In October, 1975, while under age 59½, he revoked and received a distribution from the account and does not claim a deduction under section 219 (relating to deduction for retirement savings) when he files his income tax return for 1975 on April 15, 1976. A will not be considered to have established an individual retirement account in March, 1975, and, therefore, the account will not be treated as an individual retirement account described in section 408(a). A must, however, include any interest, dividend or capital gain income attributable to the account in gross income for his taxable year 1975, and he may be entitled to deduct custodian fees or expenses attributable to the account as expenses for production of income pursuant to section 212 or any capital loss attributable to the account within the limitations of section 1211. The 10 percent additional tax under section 408(f) (relating to additional tax on distributions from an individual retirement account or annuity made before age 59½) will not be imposed on the distribution. In addition, if A chooses to do so and he is otherwise eligible, he may establish a new account which satisfies the requirements of section 408(a) or purchase an individual retirement annuity or individual retirement bond after he revokes the first account. If he does so, the application of proceeds received on account of the revocation of the first account will not be treated as a rollover contribution under section 408(d)(3). Thus, A may not contribute more than $1,500 (or, if less, 15 percent of his compensation for 1975) to the second account or for an annuity or bond in 1975 and the transaction will not be taken into account for purposes of applying section 408 (d)(3)(B) (relating to rollover contributions to another individual retirement account, annuity, or bond made within a 3-year period).

Example (2). B, a calendar year taxpayer, established an individual retirement annuity in June of 1975 and revokes the annuity in March of 1976. No deduction is claimed under section 219 when B files his income tax return for 1975 on April 15, 1976. Therefore, B will not be considered to have established an individual retirement annuity in June of 1975. He paid an annual premium of $1,500 to the issuer of the contract in 1975, and when he surrenders the policy in March of 1976 he is entitled, under the policy, to the cash value of the policy ($1,300). He, therefore, received $1,300 in March of 1976. B may deduct the excess of his investment in the contract ($1,500) over the amount received upon a surrender of the contract ($1,300) as an ordinary loss pursuant to section 165 on his income tax return for 1976. See Rev. Rul. 61-201, 1961—2 C.B. 46. The 10 percent additional tax on premature distributions imposed under section 408 (f) (relating to additional tax on distributions from an individual retirement account or annuity made before age 59½) does not apply. In addition, if B chooses to do so and he is otherwise eligible, he may establish a new individual retirement account, or purchase an individual retirement annuity, or a retirement bond in 1976. If he does so, the fact that B applies the proceeds from the surrender of the annuity does not mean that such proceeds will be treated as a rollover contribution under section 408 (d) (3). Thus, he may not contribute more than $1,500 (or, if less, 15 percent of his compensation for 1976) to the account or for the annuity or bond in 1976, and the transaction will not be taken into account for purposes of applying section 408(d)(3)(E) (relating to rollover contributions to another individual retirement account, annuity or bond made within a 3-year period).

Example (3). C, a calendar year taxpayer, established an individual retirement account in March, 1975. On December 16, 1975, C receives and transfers the assets received from this account to an individual retirement annuity as described in section 408 (d) (3) (A) (1) (relating to rollover contributions). On his income tax return for 1975, he claims a deduction pursuant to section 219 with respect to the contribution to the account established in March. Because of the rule to be provided in the final regulations, in considering the application of section 408 (d) (3) (B) to the next transfer to another individual retirement account, annuity, or bond, the transfer made on December 16, 1975, will not be taken into account.

Example (4). On March 4, 1975, D, a calendar year taxpayer, received a lump-sum distribution from the M Corporation's noncontributory qualified plan upon his separation from service with the M Corporation. He transferred the amount he received to an individual retirement account on April 1, 1975. In February, 1976, he revokes the account established in April, 1975. On his income tax return for 1975, which he files on April 15, 1976, he treats the distribution as a lump-sum distribution described in section 402(e)(4)(A). The 10 percent additional tax under section 408(f) (relating to additional tax on distributions from an individual retirement account or annuity before age 59½) will not be imposed on the distribution from the account established April 1, 1975.

Example (5). Assume the same facts as in example (1), except that A claims a deduction under section 219 when he files his income tax return for 1975 on April 15, 1976. A will be considered to have established an individual retirement account described in section 408(a). Thus, the distribution to A made in October, 1975, will be considered a distribution from an individual retirement account and the provisions of sections 408 (d) and (f) are applicable to such distribution.

Example (6). Assume the same facts as in example (4), except that D treats the March 4, 1975 distribution from the M Corporation's plan as a rollover contribution described in section 402(a)(5) when he files his income tax return for 1975 on April 15, 1976. D will be considered to have established an individual retirement account described in section 408(a). Thus, the distribution made to D in February, 1976 will be considered a distribution from an individual retirement account and the provisions of section 408 (d) and (f) are applicable to such distribution.

SOLZHENITSYN, KISSINGER, AND SCHLESINGER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. CRANE. Mr. Speaker, while in Peking, in the face of repeated Chinese warnings about the aggressive intentions of the Soviet Union, Secretary of State Henry Kissinger said that the United States does not share the Chinese conviction about the inevitability of war, but should there be a military expansion by the Soviet Union, the United States would resist it.

The fact is that the Soviet Union is now, in the words of U.S. Ambassador to the United Nations Daniel P. Moynihan, "colonizing" Africa through its military involvement in Angola. It is subverting democratic government in Portugal. Through its Cuban clients, it is spreading revolution throughout Latin America. The response of the United States is simply to continue to speak in the soft words of "détente" and to accompany such words with wholly consistent deeds. Thus, as the Soviet military expands, ours declines. How the Soviet Union can take seriously the harsh words issued in Peking when they realize the changing balance in strategic forces is difficult to understand.

The dramatic symbolism of our apparent turn away from military strength was the abrupt removal of the Nation's most articulate and well-informed advocate of a strong strategic position for the United States, former Defense Secretary James Schlesinger.

This symbolism was well understood abroad, if many at home may not have initially been aware of its meaning. Discussing the unusual juxtaposition of two strong, able men with contradictory ideas—Secretaries Kissinger and Schlesinger—Soviet writer Alexandr Solzhenitsyn notes that—

> Mr. Kissinger does not concede that any concessions whatsoever are being made. . . . The very process of surrender of world positions has the character of an avalanche. . . . This is evident in the new conditions across entire continents, in the unprecedented encroachments by the Soviet Union in Southwestern Africa and in votes in the United Nations.

Of the removal of Mr. Schlesinger, Solzhenitsyn writes that he had the same feeling of dismay as when President Kennedy was assassinated:

> Despite the dissimilarity of events, I had a very comparable feeling at the time of the abrupt dismissal of Secretary of Defense James R. Schlesinger, a man of steadfast, perceptive and brilliant mind. Once again, the feeling was that America had been insulted.

I wish to share Alexandr Solzhenitsyn's thoughtful analysis, as it appeared in the New York Times of December 1, 1975, with my colleagues, and insert it into the RECORD at this time:

SCHLESINGER AND KISSINGER

(By Aleksandr I. Solzhenitsyn)

ZURICH.—I shall never forget, when President Kennedy was assassinated, the pain we felt for America and the bewilderment and disillusionment experienced by the many former soldiers in World War II and former inmates in Soviet camps and prisons.

It was all the worse because of the inability or the lack of desire by the American judicial authorities to uncover the assassins and to clear up the crime.

We had the feeling that powerful, open-handed and generous America, so boundlessly partial to freedom, had been smeared in the face with dirt, and the feeling persisted. Something more than respect was shaken—it was our faith.

Despite the dissimilarity of events, I had a very comparable feeling at the time of the abrupt dismissal of Secretary of Defense James R. Schlesinger, a man of steadfast, perceptive and brilliant mind. Once again, the feeling was that America had been insulted.

I realize that President Ford acted in full conformity with the Constitution. But woe betide a system in which it is sufficient and expedient to govern guided only by one's personal or party's election interests.

There is something higher than jurisdiction, and that is decency. There is something beyond juridical right, and that is good sense. There should at least be decency toward one's allies. After all, the Secretary of Defense is not merely a member of the Amercan Government. He is in fact also responsible for the defense of the entire free world.

It would have been a friendly act first to have received consent from the allies. As for good sense, this involves the way things are handled. A leap-frog succession of officials in *such* a post can only impair the defense of the country. (It was noted who was pleased by the dismissal).

There are rumors that the dismissal was linked to another name. It is an irony of history that the two names almost rhyme.

When I was in the United States last summer, I avoided direct questions from the press on assessing the character of Secretary of State Henry A. Kissinger. But his present triumph and the blinding misinformation being spread to this day about his activities compel me to speak out bluntly.

Defending his policy of unending concessions, Mr. Kissinger repeats the one and same argument almost like an incantation: "Let our critics point out the alternative to nuclear war!" More than anything, it is this phrase that exposes the nature of Mr. Kissinger; in particular, it exposes that he is *least of all a diplomat*.

"Alter" in Latin means "other (of two)." An alternative is a choice between two possibilities. This is a scientific concept, but even scientific situations often allow a much broader choice. But diplomacy is not a science. It is an art, one of the arts concerning the nature of man. To construct diplomacy on an "alternative" is to put it on the lowest and crudest level.

An art does not recognize alternatives within itself; it would fall apart if it developed only on the basis of two possibilities. No, in every instance art has a thousand choices. Every art has a spectrum, a keyboard of possibilities. From ancient times to the present, the art of diplomacy has consisted of playing on this keyboard.

How many great diplomats of the past have won negotiations even with empty hands or backed by inadequate power, in circumstances of military weakness, conceding nothing and paying nothing, defeating the opponent only by intellectual and psychological means. That is diplomacy.

Mr. Kissinger endlessly deafens us with the threat ". . . but otherwise, nuclear war." He obscures the fact that this same nuclear war hangs equally over the head of his opponents (at least as of today, until new successes by Mr. Kissinger).

And in these equal circumstances, under the same threat, his opponents are always *winning* and he is always *yielding*. Let him learn something from his opponents—how is it that they operate so successfully in the nuclear age? The answer would be: They study the psychology of Mr. Kissinger.

What an absurdity: The United States was the first to introduce nuclear weapons to the world. Should it *because of this* have become weaker, and should it *because of this* surrender its positions in the world?

I dispute not only that Mr. Kissinger has the life experience necessary to understand the psychology of Communist leaders, and as a result sits at the negotiating table as if blindfolded. I also dispute that he is on the high diplomatic intellectual level ascribed to him.

It is not diplomacy to negotiate with a preponderance of power behind one's back, with an abundance of material means in one's pocket, to submit to all participants in the negotiations, to pay them all off and thereby to create unbalanced and temporary grounds for transition to further concessions.

The celebrated Vietnam agreement, the worst diplomatic defeat for the West in 30 years, hypocritically and very conveniently for the aggressor prepared the way for the quiet surrender of three countries in Indochina.

Is it possible that the prominent diplomat could not see what a house of cards he was building? (The Soviet press, in its rage against Andrei D. Sakharov, damned his Nobel Peace Prize as "the ultimate in political pornography." The press aimed in the wrong direction and was three years too late. This abuse would have been more suitable for the Nobel Prize shared by the aggressor and the capitulator in the Paris agreement.)

A similar alarming feeling of shakiness is aroused by the Middle East agreements of Mr. Kissinger (as far as I know, many Israeli leaders do not regard them any higher), although there has not been the kind of open capitulation to which Vietnam was doomed by the same pen.

Mr. Kissinger does not concede that any concessions whatsoever are being made. Thus, it appears: "The Western countries have not set a goal of ideological détente" (that is, they have not even tried to eradicate the coldest aspect of the cold wars, so what is their goal?). Or as he said on Aug. 15, 1975: "It is not we who were on the defensive in Helsinki." Three months have passed and we ask: If it was not you who was it?

The very process of surrender of world positions has the character of an avalanche. At every successive stage it becomes more difficult to hold out and one must yield more and more. This is evident in the new conditions across entire continents, in the unprecedented encroachments by the Soviet Union in southwestern Africa and in votes in the United Nations.

Mr. Kissinger always has an emergency exit available to him. He can transfer to a university to lecture to credulous youngsters about the art of diplomacy. But the Government of the United States (just as those youngsters) will have no emergency exit.

There is another favorite argument by Mr. Kissinger: In the nuclear age, we shall not forget that peace, too "is a moral imperative." Yes, that is true and not only in the nuclear age (indeed, this nuclear age is an obsession for Mr. Kissinger) but only if one correctly understands peace as the opposite of violence and does not consider Cambodian genocide and Vietnamese prison camps as the attainment of peace.

But a peace that tolerates any ferocious forms of violence and any massive doses of it against millions of people—just so long as this does not affect us for several years yet—such a peace, alas, has no moral loftiness even in the nuclear age.

MAJOR RELIGIOUS DENOMINATIONS URGE LIFTING U.S. EMBARGO OF VIETNAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 17, 1975

Mr. BINGHAM. Mr. Speaker, I have pointed out in earlier statements in the RECORD that one of the unfortunate consequences of the total U.S. embargo on trade with Vietnam is that the embargo restricts the sending of assistance to Vietnam by private charitable and church groups—many of which have a long and commendable history of private humanitarian work with the people of Vietnam.

The Subcommittee on International Trade and Commerce last week approved and reported favorably to the full International Relations Committee H.R. 9503, a bill I introduced that would lift the trade embargo on Vietnam. The action of the subcommittee on this important legislation was greatly influenced by the testimony of the leaders of the churches and charitable groups in favor of lifting the embargo to help them continue their humanitarian work in Vietnam.

Just prior to the action of the subcommittee, the prestigious Interreligious Committee of General Secretaries, composed of the chief executive officers of the U.S. Catholic Conference, the National Council of Churches, and the Synagogue Council of America, added their considerable weight to the movement to lift the U.S. embargo on Vietnam. The Interreligious Committee issued a formal statement entitled "Reconciliation and Reconstruction of Post-War Indochina. The text of that important statement follows:

RECONCILIATION AND RECONSTRUCTION OF POSTWAR INDOCHINA

(Statement Issued by the Interreligious Committee of General Secretaries, composed of the Chief Executive Officers of the U.S. Catholic Conference, National Council of Churches, and the Synagogue Council of America, December 2, 1975)

The Catholic, Protestant and Jewish communities of America greeted with relief and happiness the news of the final silencing of guns and the end of the destruction in Indochina. Many of us have long decried the devastation which has been visited upon the land and people of Indochina during the past ten years.

The Jewish-Christian tradition places strong emphasis upon reconciliation and healing after periods of corporate conflict. When the war is over, we must work at making the peace. It is time for America to turn its attention to binding up the wounds of war both, at home and abroad. Nothing is to be gained by maintaining an atmosphere of hostility between the nations. Sitting together at the table of nations and opening communication are certain paths to understanding and reconciliation.

To begin the process of reconciliation, we should examine first the need for post-war reconstruction of the lands devastated by war. Currently, an embargo stemming from the Trading with the Enemy Act limits humanitarian aid and prevents shipments of tools and small machinery to the people of Indochina. This embargo, which prevents the free flow of assistance to the people of North Vietnam, South Vietnam and Cambodia, prevents genuine efforts by the American people to express their concern for healing the wounds of war.

The Trading with the Enemy Act was created in 1917 to prevent support for the Germans against whom we had declared war. To those on the "Z" list, it prevents the exportation of any materials without Treasury Department license; further, a license from the Commerce Department is required if goods are to be shipped from the United States.

The Act has been perpetuated by Presidents for purposes which go beyond its original aim. It appears to be used today to prevent the economic reconstruction of the Democratic Republic of Vietnam, the Republic of South Vietnam, and Cambodia. Licenses have been granted solely for shipment of medical supplies. They have generally been denied for shipments of simple equipment which might help the people reclaim lands uncultivated for years so as to begin to return crop production to pre-war levels.

Private agencies attempting to give relief to war victims in Indochina have met with delay and denial in response to their applications for purchase and shipment of assistance materials for Indochina. The Bach Mai Hospital Relief Fund was forced to delay shipment of life-saving medical equipment and medicines for more than nine months pending a U.S. Government decision. The American Friends Service Committee, which applied for and received licenses to purchase not only medical supplies, but also reconstructive materials such as fish nets, rototillers and lathes for building wooden limbs, was then denied a license to ship those items because the U.S. Government deemed them economic assistance. The Mennonite Central Committee, which has operated a service agency in South Vietnam for ten years and has supplied materials for humanitarian assistance and reconstruction in the past, was denied a license to purchase $75,000 worth of rototillers to reclaim land for agricultural production. Only in the last few days were these license applications reconsidered and granted, but such applications continue to be considered only on a case-by-case basis.

While Cuba is also on the same "Z" list, many evidences of ending that embargo are apparent. Trade with the Soviet Union and China, once also on the highly restricted list, is now open to all but strategic materials. We view flexibility in American policy toward the new governments in Saigon, Hanoi, Phnom Penh, and Vientiane as the best way to regain their friendship, assure their independence and help satisfy unresolved problems of providing information on civilian and military personnel missing in action.

A national examination of conscience may be necessary to create the atmosphere for reconciliation. We encourage our constituents to recall the generous assistance of the United States to Germany, Japan and Italy after World War II. We encourage them to recognize that, to build peace and prevent war, communications must be available; whatever prohibits communication must be removed.

Specifically we propose:

(1) that U.S. government restrictions on private aid shipments to Indochina be removed because they impede citizen action for alleviating suffering and for contributing to the social-economic reconstruction of Indochina.

(2) that the United States withdraw its veto against the seating of the Democratic Republic of Vietnam and the Republic of South Vietnam at the United Nations as a first step to opening communication with those countries with whom we must now establish peace.

(3) that negotiations for normalizing relations between the United States and the nations of Indochina begin at once.

(4) that while appropriate government aid for humanitarian and medical assistance and reconstruction should be negotiated by the Administration, and legislated by Congress, private efforts to heal the wounds of war by the religious community and private citizens be encouraged.

We seek the normalization of relations between our nations as soon as possible. To this end we urge that the trade embargo be lifted, that negotiations for appropriate massive government reconstructive relief begin, and until such aid is forthcoming, that the citizenry support private efforts for a people-to-people aid program for the victims of the war. This voluntary effort would contribute significantly to healing the wounds of the war.

Dr. CLAIRE RANDALL,
General Secretary of the National Council of Churches.
Bishop JAMES S. RAUSCH,
General Secretary of the United States Catholic Conference.
Rabbi HENRY SIEGMAN,
Executive Vice President, Synagogue Council of America.

SHIPOWNERS FEAR CARGO DOMINATION BY RUSSIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. McDONALD of Georgia. Mr. Speaker, in recent years the Soviet Union and its Eastern bloc satellites have tended more and more to encroach into traditional Western shipping routes, by undercutting the rate structure. In the late 1950's, the Soviet and Eastern bloc fishing fleets began to spread over the oceans of the world. During the 1960's the Soviets wedged their way into various shipping conferences, first in the passenger liner business and then with their cargo ships. There now appears to be a concerted Communist effort underway to undermine Western sea trade by any means possible, with economic considerations being purely secondary to ideological considerations, as might be expected. All of these moves, it should be noted, are not unrelated to the concurrent gigantic buildup of the Soviet Navy. The high seas are cluttered with the hammer and sickle. The article on the latest shipping invasion from the London Daily Telegraph of December 12, 1975 follows:

SHIPOWNERS FEAR CARGO DOMINATION BY RUSSIA

A confidential dossier has been presented to governments by Western and Japanese shipowners with a request for international action to smash Russian moves to dominate world seaborne cargo.

"Shipping policies of the Eastern bloc pose a very real threat to international shipping," said Mr. W. R. Russell, retiring chairman, after the annual meeting in London of the Council of European and Japanese National Shipowners' Associations. Western liner shipping would wither away unless there was urget action to counter the Russian moves, he said.

He quoted an East German document as proof that merchant shipping was now a key part of the Communist ideological battle against capitalism. There was evidence that the Russians would undercut whatever prices the Western companies offered, no matter how uneconomic. They had already gone as far as undercutting by 50 p.c. on some routes.

Almost every day brought further efforts of the Russians to expand their fleet and trade routes. Much of it had no connection with Russian trade. A substantial loss of trade for Western ships would mean a significant worsening in the balance of payments situation. Yet about 80 p.c. of world trade originated in Western nations.

Mr. Russell said the competition was unfair and could not be matched by commercial means. It amounted to "dumping."

MIKHAIL MAGER AND THE POLICY OF DÉTENTE

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BROOMFIELD. Mr. Speaker, at a time when our policy of détente with the Soviet Union is experiencing strains in various parts of the world, one would hope that traditional adversaries, newly committed to a search for understanding, could at least achieve some progress on the basic issues of human rights and movement of persons. We cannot realistically expect détente to terminate overnight the era of United States-Soviet rivalry, but we can, and should, anticipate a more civilized international environment and solutions to problems which do not impinge directly on the vital national concerns of the parties.

I would commend my colleagues' attention to the case of Mikhail Mager, a Soviet Jew who, for the past 2 years, has been prevented from joining other members of his family in Israel. Mikhail, 29 years old, is an electronics engineer who served in the Soviet military from 1968 until 1970. He was expelled from the Konsomol in 1968 for his involvement with "Zionists," so it is doubtful indeed that he was permitted access to sensitive material during his military service.

On January 15, 1973, Mikhail and his parents were told they would be permitted to leave the Soviet Union, but when the permits were granted, only the parents were permitted to leave owing to alleged "security" considerations in Mikhail's case. The family was assured, however, that Mikhail would be allowed to join them soon.

As a result of their original application, in 1972, to leave for Israel, Mikhail Mager and his family were publicly denounced, condemned for their "Zionism," and accused by the local press of being traitors.

Since the departure of his parents, Mikhail has been denied an exit permit on several occasions; he has been called repeatedly before the KGB for questioning, harassed, and warned that he would be punished if his parents did not stop writing letters of protest to the Soviet authorities. His telephone has been disconnected. Mikhail's latest application for an exit permit has been overdue for over a month.

If détente is to succeed on the broader level of international understanding, it will have to succeed on the more intimate level of shared respect for human dignity. The case of Mikhail Mager suggests that we have a long way to go. I sincerely hope that the Soviet authorities will see the wisdom of permitting him, and others like him, to live in the country of their choice and, by so doing, will help lay the foundation for meaningful détente.

TRIBUTE TO ANDREW F. GIANNONE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BIAGGI. Mr. President, the name of Andrew F. Giannone may not be easily recognized by anyone in the House of Representatives, but to the residents of the Fordham and Tremont communities of my congressional district, his name is a household word. Several hundred residents of these communities recently gathered to pay tribute to the memory of the late Andrew F. Giannone when they dedicated a new million-dollar Police Athletic Center in his honor.

"Officer Andy," as he was affectionately known throughout these communities, served as the Youth Patrolman for the 46th Precinct for a period of 26 years until his untimely death on October 1, 1974. During these years, Andy worked closely with thousands of young people in the community and was extremely active in initiating worthwhile programs to keep the young people of his area constructively occupied. He gained not only the respect of the young people he worked with, but the entire community as well which recognized the importance of Officer Andy to the neighborhood.

Andy made the building of the beautiful new PAL center his personal project. He was instrumental in gaining both the community's and city's support of the project, and almost singlehandedly raise the necessary funds for the center. The real tragedy was that Andy Giannone did not live to see his dream reach its fruition.

There was little doubt in the community's mind that this center, which will serve an estimated 3,500 young people, would be dedicated in honor of the man who served these, and thousands of other youngsters, and helped many of them acquire the foundation to lead a productive life. Andy's philosophy of police work was very simple: Deal firmly but fairly with all.

In addition to his outstanding work as a member of "New York's Finest," Andy Giannone was active in several civic organizations, including the Lions and Boys Clubs. He also served with distinction as a member of the Armed Forces during World War II and remained active in veterans' affairs throughout his life. He was the founder and past commander of the Van Nest American Legion Post in the Bronx. He was also deeply involved in police organizations such as the Holy Name Society and Columbian Society.

But above all, Andy Giannone was a loving husband and father. His widow, Betty, and his three children were all in attendance at the dedication ceremony and their pride was evident throughout.

Mr. Speaker, as a former member of the New York City Police Department, it gives me a great sense of personal pleasure to pay tribute to Andy Giannone. I knew him to be an extraordinary policeman and human being. His quest to serve his fellowman was unending and his legacy will endure for years to come.

FEDERAL TRADE COMMISSION AUTHORITY TO PREEMPT STATE AND LOCAL LAW

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. FORSYTHE. Mr. Speaker, I am a cosponsor of House Concurrent Resolution 499, introduced in the House on December 2, by my respected colleague, Mr. STUCKEY, of Georgia. This resolution carefully specifies that Congress has not given to the Federal Trade Commission the authority to determine whether its rules preempt State and local laws.

The purpose of the Federal Trade Commission is to protect both consumers and competitors from deceptive trade practices. To implement this policy the FTC directs its action toward curtailment of unfair competition. Their objectives to increase competition and thereby lower prices are admirable, indeed.

The various sovereign States, however, also have an interest in protecting their citizens from unfair competition. In fact there are currently 48 States which have enacted laws more or less similar to the FTC law.

In the past 6 months the FTC has taken upon itself to strike out in an unchartered source. The Commission is attempting to usurp State powers and preempt State laws through its regulatory authority in such fields as retail drugs, credit, funerals, and optometry. This is clearly contrary to congressional intent in its passage of FTC laws. In fact, the Magnuson-Moss Warranty-Federal Trade Commission Act made it clear by title II of the act that it was not intended to preempt State and local jurisdictions.

Furthermore, it is hard for me to believe, and the FTC has yet to prove that Federal regulations in these fields would in fact be an economic benefit to the consumers. There is an obvious cost-benefit situation which has yet to be established. Would Federal regulation in a State where unfair competition in a particular industry has not been proven lower the costs to the consumer in that State? The cost of Federal regulation would surely be passed on to consumers regardless of the compliance with State laws. This national regulation would tend to increase costs locally.

Finally, and perhaps most importantly, the States tend to be more responsive to the needs of their citizens, and the protective powers of the States are vested in the various attorney generals. If there is a crisis within a State, it should be that State's executive, legislative, and judicial branches which should respond to protect the interest of its citizens. The burden and costs of Federal regulation should not be borne by the innocent of other States.

Accordingly, I strongly support Congressman STUCKEY's initiative in clarifying the intention of Congress not to delegate to the Federal Trade Commission authority to determine whether a Commission rule preempts the laws of the States and their political subdivisions. I commend Congressman STUCKEY for his fine work in this area and I recommend speedy action on this legislation by the House.

DETROIT NEWS CRITICAL OF HOUSE INTELLIGENCE COMMITTEE

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BROOMFIELD. Mr. Speaker, several constituents have called to my attention a December 10 editorial in the Detroit News entitled "Representative Pike's Crusade." While I recognize that a potential constitutional confrontation over the move to hold Dr. Kissinger in contempt of Congress has been averted, I nevertheless believe the editorial comment is significant and indicative of widespread public dissatisfaction with the work of this Congress. The editorial follows:

REPRESENTATIVE PIKE'S CRUSADE: IT'S ANOTHER ATTACK ON FORD'S POWERS

If Rep. Otis Pike persists in his crusade to hold Secretary of State Kissinger in contempt of Congress, he could wreck the separation of powers and emasculate the conduct of foreign policy. It's time for wiser heads in Congress to call a halt to this madness, so reminiscent of the Joe McCarthy era.

Indeed, when Secretary of State Dean Acheson came under fire in 1950, his foes were merely trying to force his resignation. Pike and some of his colleagues aim at reducing the President and his official family to vassals of Congress.

The current crusade involves not simply the future of one man; it threatens to precipitate a major constitutional confrontation. It is no accident or irrelevancy that Congress has never voted a member of a president's Cabinet in contempt. Congress has stopped short of upsetting the balance of power necessary to the orderly and effective conduct of American government.

Rep. Pike, however, apparently won't stop short of anything that he thinks will get headlines and advance his ambition to be a U.S. senator from New York. He demands all documents in which the State Department recommended covert action overseas. Up to now, he has rejected administration efforts to provide helpful information to Pike's House Intelligence Committee without destroying the vital confidentiality of intelligence operations.

Pike's cynicism is matched by that of House Speaker Carl Albert, who has neither supported nor opposed Pike but indicates he will not raise obstacles against Pike's effort to obtain a House contempt vote.

Therefore, the country faces the possibility of a head-on collision between White House and Congress; also, the possible indictment of an incumbent Cabinet officer, who, if convicted, could be put in jail.

Reflecting on such possibilities, Atty. Gen. Edward H. Levi said in a recent speech that the prospect is "unedifying" in any event. He added that it is "the more so when punishment rather than clarification is sought—an attempt by one branch to assert its authority by imposing personal sanctions on those who seek to perform their duty as officials of another branch equal to the Congress."

Punishment rather than clarification seems to be on Chairman Pike's mind. His crusade is not merely unedifying; it is nakedly opportunistic and destructive. The fact that his colleagues take him at all seriously tells a lot about the character of this Congress, which has already made great progress toward being one of the worst in U.S. history.

WORLD WAR II FILIPINO VETERANS ARE ENTITLED TO U.S. CITIZENSHIP

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. ANDERSON of California. Mr. Speaker, on November 10, 1975, a historic ruling was handed down in the U.S. District Court in San Francisco by Judge Charles Renfrew. The ruling declared that Filipino World War II veterans are legally entitled to become U.S. citizens.

As a sponsor of legislation in this Congress to extend first preference category immigration privileges to those Filipino veterans who served at least 3 years as members of the U.S. Armed Forces during World War II and were honorably discharged, I am especially pleased that these veterans are finally being accorded the recognition they are due for their courageous service to our country.

At this point, I would like to insert in the RECORD for the benefit of my colleagues an editorial which appeared in the Bataan News, a Filipino American newspaper in Sacramento, on December 5, 1975 regarding this historic decision:

WORLD WAR II FILIPINO VETERANS ARE ENTITLED TO U.S. CITIZENSHIP

At long last, the Filipino World War II veterans are declared legally entitled to become United States citizens. The ruling was handed down by United States District Court Judge, Charles Renfrew, in San Francisco on November 10, 1975.

The decision is indeed historic in that America, through this Court decision, is showing its traditional gratitude to the men who had served in its Armed Forces.

To the World War II Filipino veterans, who were neglected by America after World War II, the decision is indeed most welcome, because they are finally accorded due recognition for their heroic sacrifices and loyalty to America.

In rendering the decision, District Court Judge Renfrew issued the following statement:

"While it in no way serves as a legal basis for this decision, the Court cannot ignore, nor will the American public forget, the heroic sacrifices made by these and other Filipinos during World War II. Their courage and valor at Corregidor, during the Bataan Death March, and throughout the Japanese occupation of the Philippine Islands stand as the finest examples of the dedication of free men opposing and resisting tyranny imposed upon them by an outside belligerent force. Petitioners' love of freedom and dedicated defense of this country during time of war truly show that 'loyalty is a matter of the heart and mind, not of race, creed or color'."

It must be remembered that in 1936 General Douglas MacArthur was sent to the Philippines to raise an army in preparation of the promised independence that was soon to be granted the Philippines. But when the Japanese bombed Pearl Harbor and made the U.S. Pacific Fleet impotent for a time, General MacArthur, of necessity, had incorporated the Philippine Army into the United States Armed Forces and engaged the Japanese in the battles of Corregidor and Bataan in a delaying tactic to disrupt the Japanese timetable of conquering the whole of Southeast Asia and Australia.

History has recorded the heroism of the Filipinos in battle. Ragged and weary, and most of the time short of munitions, they fought the Japanese at Corregidor and Bataan with a display of valor never before seen. In spite of their being overwhelmingly outnumbered and equipped with inferior weapons, they doggedly fought on hoping against hope that their comrades in arms from America might arrive in time to give them relief. But no relief came, and soon the weary band that had gone through the furious assault of the enemy was forced to surrender. They were herded and were forced to take part in that infamous "death march" from Bataan to Manila where they were imprisoned at the Santo Tomas University.

What price glory!

We, like a vast majority of the American people, view the San Francisco District Court decision as America's heart and mind giving justice to the men who had borne the burden of protecting America. We further view it as the heart and mind of America extending its gratitude to the Filipino veterans who put their lives on the line in defense of America in its greatest hour of need.

The Court decision was precipitated by a class action suit brought before the Court by a group of 68 Filipino veterans who are living in the Bay area. They are in the United States on visas of varying lengths. The Immigration and Naturalization Service is in the process of deporting them because of their status as non-immigrants.

Because they believe that they are not subject to deportation, the veterans brought the suit under the Second War Powers Act. Their suit is more or less a test case to find out whether America would extend them the justice due them. And they are greatly elated by the District Court decision.

In an interview the other day in San Francisco, INS District Director, David N. Ilchert, stated that he is recommending the Immigration and Naturalization Service to appeal the case. He argues that if the veterans should be given proper relief, it should not be the Court that should give relief but Congress.

Of course Ilchert's argument, we believe, does not hold water because the Second War Powers Act and the subsequent amendments to it were acts of Congress to give relief to the veterans. It is rather explicit that the Court is not taking a presumptious position of giving relief. It is only asserting that the veterans have the relief under the Second War Powers Act.

It is quite obvious that the Immigration and Naturalization Service objects to the decision because of the possible entry of more

Filipinos into the United States, which will cause shortage of jobs for local citizens.

It is a correct assumption that if the veterans come to the United States, they will be seeking employment. But all the 50,000 veterans are not going to come. A great number of that group are highly successful professionals and would certainly not want to come to America and renounce their allegiance to the Philippines. But there would be quite a number who would want to come and would expect employment. But what of it? Their loyal service to America entitles them to whatever America has to offer them.

As far as their taking jobs from the local citizens is concerned, they do not have to. There are approximately eight million illegal aliens in the country today. If some of the veterans decide to come to America, they could easily be assimilated by weeding out the illegal aliens who are working in all kinds of skilled jobs but are not paying taxes at all on the earnings.

If the INS will appeal the case, we view it as a tactic only to delay the extension of the justice due the Filipino veterans.

The American people must not let down those veterans who have gone through hell of battle in defense of America and what it stands for.

ADOPTION OF THE ANTI-ZIONIST RESOLUTION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. SOLARZ. Mr. Speaker, the recent adoption of the anti-Zionist resolution by the General Assembly of the United Nations constitutes a shocking betrayal of the very ideas and ideals on which the U.N. was founded. Indeed, the passage of this pernicious pronunciamento equating Zionism with racism represents a complete corruption of the meaning of the term.

This renewed effort to deprive the Jewish people of the ideological right to claim a homeland of their own has prompted my good friend and constituent, Rabbi Ezra Gellman to write a thoughtful and concerned article commenting on the incredible ironies and inconsistencies inherent in the U.N. resolution. Rabbi Gellman is one of the outstanding spiritual leaders in the American Jewish community and presides over the Congregation Kneses Israel, which is located in the Seagate community of Brooklyn.

I wish to share with my distinguished colleagues this eloquent and impassioned article by Rabbi Gellman expressing his thoughts on the recent U.N. action. His article follows:

U.N. RESOLUTION

On October 16 Israel's Ambassador to the United Nations stated that "the attempt now being made by certain Arab governments to strike at the very roots of Israel by trying to denigrate Zionism, its ideological basis, is nothing but ruthless and cynical political warfare. It is a renewed effort by the enemies of the Jewish people to deprive it of its homeland."

Just as the Nazis sought to make the Jew an "untermensch," so are the Arabs trying to render Israel an "unterstaat" or a pariah state. The Arab attitude was perhaps best articulated by the Lebanese representative at the UNESCO General Conference on November 21, 1974 in Paris when he said that "Israel is a state which belongs nowhere because it comes from nowhere."

Everyone knows that the General Assembly has endorsed a resolution equating Zionism with racism. The choice language of other parts of this same resolution is not equally well known. The same resolution, for example, states that Israel is "the racist regime in occupied Palestine" and for good measure it goes on to say that "Zionism is a threat to world peace and security" and it calls upon "all countries to oppose this racist and imperialist ideology."

Little wonder that Chaim Herzog tore up this resolution in the presence of the General Assembly. Little wonder that he reflected later that "Hitler would have felt at home in this hall." Little wonder that U.S. Ambassador Patrick Moynihan declared that the "abomination of anti-Semitism has been given the appearance of international sanction." Little wonder that Senator Henry M. Jackson called the supporters of the resolution "a coalition of feudal societies, totalitarian regimes, dictatorships and one party states who are condemning the only true democracy in the Middle East."

If ever any governments deserved the label "racist" they are none other than the Arab sponsors of the resolution.

In the 1930's and 1940's the Iraqis put the Assyrians to the sword.

Since the Egyptian revolution in 1952 the Copts have endured severe discrimination.

In the late 50's and 60's the blacks in Sudan suffered what amounts to genocide.

In the 1960's the Kurds in Syria were harshly repressed.

In the 1960's until the spring of this year the Kurds in Iraq were systematically massacred.

It now appears that the fate of the Maronites in Lebanon is to be sealed.

And the United Nations has not seen fit to concern itself with any of these Arab atrocities against ethnic and religious minorities. Yet the State of Israel is branded as racist.

It certainly appears as if the world is in the grip of an evil that is intent to rewrite history so that which is evil appears as good and that which is good appears as evil.

On Tuesday, November 11th, a massive rally of over 125,000 Americans took place in the Brotherhood-in-Action Plaza in midtown Manhattan. One of the speakers, Bayard Rustin, summed up the situation eloquently when he hurled one word at the U.N. He repeated the word at least three times and said: Shame! Shame! Shame!

DONALD R. (BARNEY) KLINE

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BYRON. Mr. Speaker, last Tuesday, more than 600 friends, relatives, and fellow police officers stood in silent tribute to Donald R. (Barney) Kline, an officer of the Hagerstown police force who was killed in an attempt to prevent a robbery.

Officer Kline was a native of Boonsboro, Md. He had served in Korea as a pilot with the U.S. Marine Corps. He was a member of the Fraternal Order of Eagles Aerie 694 and the Fraternal Order of Police of Hagerstown. He had served as a patrolman in the Hagerstown Police Department for over 13 years.

Patrolman Kline was not on duty at the time of the robbery attempt; however, he became involved in an effort to prevent the commission of a felony. As a result, he lost his life.

I would like to express my sympathy to Officer Kline's family and friends. This man of great honor and integrity will be missed by the community for which he gave his life.

KISSINGER AND SOLZHENITSYN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. McDONALD of Georgia. Mr. Speaker, some time ago America's Future, a fortnightly review of News, Books, and Public Affairs, published a short article on Secretary Kissinger's fear of Solzhenitsyn.

In this article, published on August 1, 1975, three main points were covered. The first was that respect for the United States would diminish in Soviet eyes over the initial refusal of the President to meet with Solzhenitsyn, as they have not and will not hesitate to meet with Americans opposed to their own Government and favorable to the U.S.S.R. Second, the impact of this year's wheat sales to the Soviet Union, and third, the futility of East-West trade in that we always bolster the U.S.S.R.'s economy whenever it becomes weak, thus contributing to our potential downfall. I, therefore, commend the article which follows to the attention of my colleagues:

KISSINGER AND SOLZHENITSYN

The famous exiled Russian writer, Aleksandr Solzhenitsyn, is one of the giant literary figures of our time. He also, as he does especially in his non-fiction book *The Gulag Archipelago* (see AF, 6/21/74), can inform us tremendously about communism in Russia and its designs on the rest of the world.

At the invitation of the AFL–CIO, Solzhenitsyn delivered to a distinguished gathering in Washington his first major address since the Kremlin bosses banished him for revealing the crimes and excesses of their regime. His appearance kicked up a storm because President Ford did not invite him to the White House though later, in the face of much criticism—some of it coming even from liberals and sections of the liberal media—the President said he would be glad to see Solzhenitsyn.

At the time, various reasons were given for the President's action, or inaction. But finally, more than two weeks after the event, Secretary of State Kissinger acknowledged that it was he who advised the President not to see Solzhenitsyn. Dr. Kissinger, of course, is the author of the policy of so-called *détente* with the Soviet Union. Solzhenitsyn is highly critical of that policy, maintaining that it involves a "senseless process of endless concessons to aggressors," shores up an essentially rotten internal system, and supplies it with the rope with which it will hang the free West.

Wedded as he is to his policy of détente, it was perhaps natural for Secretary Kissinger to advise the President against honoring Solzhenitsyn. But the Secretary, in stating his reasons for doing so, said that Solzhenitsyn's views are a threat to peace because his "message is that the United States should pursue a policy to overthrow the Soviet system." That caused another storm because, as both Senators Henry Jackson and James Buckley pointed out, Solzhenitsyn has taken no such position, and they charged the Secretary with misrepresenting his views.

As to Dr. Kissinger's apparent fear that the President's recognition of so respected and famous an author might jeopardize cooperation with the Kremlin, Professor Adam Ulam of Harvard University suggested it could have the opposite effect. He said the communist leaders have "no inhibitions in receiving and counseling" foreign visitors "opposed, to put it mildly, to the governments with which the USSR purports to maintain friendly relations." Therefore, Professor Ulam said, "their respect for democracy is not likely to be increased if they see the President of the United States fearful of offending them by receiving a man who speaks not for any political movement but only his private conscience."

ANOTHER GRAIN DEAL

With the results of the famous, or infamous, wheat deal of several years ago with Communist Russia still fresh in their minds, Americans are properly concerned about the latest announcement that the Soviet Union is again buying wheat and other grains in the United States. That original wheat deal resulted in high prices for bread and related products, and many Americans are fearful that the same thing will happen again.

The Secretary of Agriculture and other government officials have attempted to allay these fears. They point out that unlike the earlier deal, the government has been kept fully informed about the details of this one, that our harvests will be so great this year that we will have plenty of grains to sell abroad, that the Russian deals not only will help American farmers but will have a favorable effect on our international balance of payments, and that the sales will have what is called a "minimal impact" on the price of bread and other products.

One cannot blame the average American for being somewhat skeptical of this latter claim, since even the mere rumors of the deals, before they were actually announced, sent prices up on the grain markets. Also, Secretary of Agriculture Butz cautioned the Senate Agriculture Committee that he was saying the grain deals would have "a minimal impact—not a zero impact" on prices, so evidently we can expect to pay a bit more for grain products in order once more to save Russian communist agriculture.

But there is a great deal more to this subject of selling, loaning or giving grain or anything else to Communist Russia besides its effect on prices Americans must pay. First of all, why must the Soviet Union, once one of the greatest agricultural-producing nations in the world, buy grain abroad? This year the answer is a drought and poor weather conditions. That's the same answer we have been hearing for more than 55 years, ever since communism seized power in Russia. The truth, of course, is that communism's collectivist system is simply incapable of producing enough food for its people.

Second, are we really helping ourselves, the oppressed Russian people, and the cause of true detente when free, capitalist America constantly bails out the communist slave system? To return to the Solzhenitsyn episode, he made very clear the misrepresentation of his views by Secretary Kissinger (referred to above) when the famous writer said: "I have always told my countrymen that they must save themselves, and not look to outsiders." All that this brave and brilliant Russian asks is that the West stop making concessions to the Kremlin, that it stop its economic and trade policies. He put it this way: "When they bury us alive, please do not send them shovels and the most up-to-date earth-moving equipment."

RED GOALS THE SAME

Mr. Solzhenitsyn, who knows probably better than anyone else the truth about communism in Russia, as well as its plans for making the free world no longer free, told Americans in the course of an address in New York: "Our whole slave system depends on your economic assistance." He pleaded with us to "stop sending goods. Let them stand on their own feet, and see what happens." He noted that which has been proved over and over again—that it is American assistance and trade that lets the Soviet economy concentrate its resources on armaments and preparations for war. Remove that trade, said Solzhenitsyn, and the Soviet economy would have to devote some of those resources to feeding, clothing and housing its people—"something this socialist economy has never been able to do."

In other words, we are not engaging in true détente and cooperation in the interest of peace when we keep on bailing out the Soviet communist system. On the contrary, it allows the communists to build themselves into an always greater threat to peace. At the same time, they use help from capitalist America to go on oppressing their slaves who never are told, of course, that that is where some of their food and technology comes from.

For those shortsighted Americans who want so-called "trade" with Soviet Russia, Mr. Solzhenitsyn, in his earlier address in Washington, made a most telling point. He said: "Lenin, who spent most of his life in the West . . . always said that the western capitalists would do anything to supply the Soviet economy. . . . And in the difficult moments of a party meeting in Moscow he said: 'Comrades, don't worry when things are hard with us. When things are difficult, we will give a rope to the bourgeoisie and the bourgeoisie will hang itself with this rope.' Then Karl Radek, a witty fellow, . . . said: '. . . where are you going to get enough rope to hang the whole bourgeoisie?' Lenin said immediately: "They'll supply us with it.' "

As to that policy of so-called détente as now conducted, Mr. Solzhenitsyn recalled that when former Soviet Boss Khrushchev came here and told us "We will bury you," people thought it a joke. But, said Solzhenitsyn: "Now, of course, the communists have become much more clever in my country. They do not say 'We're going to bury you' any more. Now they say, 'Détente.' "But, he added, "the goals are the same as they were."

BICENTENNIAL ANIMAL

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. GUDE. Mr. Speaker, the Humane Society of the United States recently conducted a poll among some 75,000 students from all parts of the United States to learn what animal they thought should be designated as the Nation's "Bicentennial animal." The students were asked to consider, in making their selection, the animal they believed best represents man's relationship with animals. Their choice also took into account the historical impact of the animal on our Nation's development and the appropriateness of the animal as a continuing symbol of the man-animal relationship.

These students selected the horse to be the Bicentennial animal. The bald eagle, for those of you who are worried that it had been forgotten, came in a very close second in a field of 14 animals suggested by the Humane Society. These students came from all 50 States and from American schools overseas.

The horse, representing both wild and domestic horses, is especially dear to me, since I sponsored the Free Roaming Wild Horse and Burro Act of 1971. I am pleased that the students saw fit to select these magnificent animals to be our Nation's Bicentennial animals.

The Humane Society offered the students 14 animals from which to make their selection, but many of the students offered other animals, including fleas and sharks—probably the white shark. Many entries came back with crude drawings of animals which the Society made their best effort to interpret and others included written justification for the selection made.

I offer my congratulations to the Humane Society of the United States for initiating this contest which in the tradition of the Society has served to encourage young people to develop a respect for the great American environmental heritage.

LOCAL NEWSPAPER ENDORSES QUANTICO CEMETERY FOR WASHINGTON AREA

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. HARRIS. Mr. Speaker, I am pleased to share with my colleagues a December 10 editorial from the Potomac News endorsing my bill, H.R. 11140, which establishes a national veterans cemetery at the Quantico Marine Base in Prince William County, Va. The editorial is indicative of the very positive community reaction I have received since personally visiting the Quantico site on December 5.

A national veterans cemetery at Quantico, just 30 miles south of the Nation's capital, would be an honor for the Washington metropolitan area. The Veterans' Administration, in a 1974 study, called for creation of a national cemetery in the Washington area to accommodate the approximately 600,000 veterans who will wish burial in a national veterans cemetery. I am pleased to play a part in that goal and call on my colleagues to join me in supporting it.

The editorial follows:

FULL SUPPORT

The full resources of the community, we hope, will be applied to establishing an annex to Arlington National Cemetery on a 600-acre tract at the Quantico Marine Corps base in Prince William County. The proposal, being pressed by Rep. Herb Harris, apparently has a tremendous chance of fruition following a visit to the site Friday by members of the Cemeteries and Burial Benefits Subcommittee of the House Veterans Affairs Committee.

Several Prince William sites, each with drawbacks, have been considered in recent years, and Quantico, to our point of view, has always been the most preferred. But only last week did it become generally known that the base apparently would be willing to release the 600-acre tract, ideally located across Joplin Road from Prince William Forest Park and adjacent to 900 acres destined for development as a county park.

For the nation's veterans, the cemetery would provide badly needed burial space for 300,000 veterans and their families in future years. For this community, it would provide, we are told, some 125 new jobs as well as an opportunity to provide services for countless thousands of visitors who would come to the site over the years. The added cost to the county government should be minimal, and no new lands would be taken off tax rolls.

In every respect, the proposal deserves full and aggressive community backing.

LEADERSHIP ESTABLISHED IN SAGINAW, MICH., STUDENT CONSTITUTIONAL CONVENTION

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. TRAXLER. Mr. Speaker, today I present two additional articles written by Mr. John Puravs of the Saginaw News regarding the Student Constitutional Convention in Saginaw, Mich. Today I would like my colleagues to see that these students have had difficulties very similar to ours in establishing policies, and have in the end looked toward strong leadership.

The first article demonstrates how a 19-member rules committee has attempted to determine which legislative proposals should be considered by the entire convention, and in what fashion. We all realize the importance of having an appropriate method in which to consider legislation, and I am certain that all my colleagues can appreciate the frustration experienced by some of these excellent students in their attempts to "speed up" their legislative process.

The second article is a recount of the election of Frederick Wheeler, Jr., of Saginaw High School. The victor in an eight candidate race, President Wheeler has pledged himself to work in a spirit of unity with all delegates, reminding them that even though they must consider the interests of the individual schools which they represent, they must all work together in order to establish any effective programs.

This honor student at Saginaw High, currently earning a 3.95 grade average on a 4-point scale, has indicated a desire to conduct himself in an impartial manner and attempt to be a motivating factor within the Student Constitutional Convention. He certainly will have a massive job facing him when the convention formally starts next month.

Mr. Speaker, I hope that my colleagues can learn as much about our youth as I have by reading the following articles:

CON CON RULES COMMITTEE SORTS ORDER FROM CHAOS

(By John A. Puravs)

Robert's Rules brought order out of possible chaos Monday as Saginaw County students completed plans for the first assembly Wednesday of delegates to their Bicentennial Constitutional Convention.

A religious dispute was forgotten, a small-schools challenge fizzled and personal feathers remained relatively unruffled when the 19-member Rules Committee met Monday at Bridgeport High School.

With a newly appointed parliamentarian laying down the laws, the students pushed aside disputes similar to those that plagued the original 1787 convention.

In a smooth five-hour meeting, the committee outlined procedures for choosing a convention president, set ground rules for Wednesday's day-long assembly at Eisenhower High School, and elected chairmen of the four major committees writing a new model Constitution.

At least eight students will campaign Wednesday for presidency of the convention, scheduled for January at the Saginaw Civic Center.

They will be nominated and elected Wednesday morning by nearly 150 delegates meeting for the first and only time until the convention itself.

After election of convention officers and a keynote speech by former Michigan Gov. George Romney, delegates will split into committees assigned to write Constitution sections dealing with the Bill of Rights and the executive, legislative and judicial branches of their model government.

Only in the first and last half-hours of the Rules Committee meeting Monday were there hints of the disputes which at some points threatened to hamper convention preparations.

The first challenge was reminiscent of the more complex forms of parliamentary manipulation concocted by professionals of the procedural art.

The issue dealt with a proposal that the Rules Committee appoint itself a screening panel to "weed out irrelevant proposals" at the convention, as committee chairman Aaron Moore of Arthur Hill put it.

"This is ridiculous," challenged one delegate. "Who's going to decide what's relevant and irrelevant?"

"We are," replied Moore firmly.

But other members insisted the convention is "for the delegates. We could have too much power." One student complained, "I don't want a dictatorship. Why have a convention if we're deciding everything now?"

On the first vote, the committee tied 7-7, with Moore casting the deciding vote in favor of the screening system.

But Dale Skran, Bridgeport High Student Council president acting as parliamentarian, ruled the vote had been taken without closing debate.

That nullified the first ballot. On the second one, the delegates dumped the idea of filtering convention proposals.

The victory clearly was for orderly procedure, as Skran continued to remind committee members of the proper way of doing things.

At one point, he stopped contentiousness with a lucid explanation of the uses—and misuses—of "point of order" rulings.

The parliamentarian thus defused an expected challenge to young Moore, who had been accused by some of abusing his authority as chairman.

The more subdued atmosphere also seemed later to help defeat an attempt to give smaller high schools more voting power.

A proposal by Mark Nearing of Douglas MacArthur High to vote Wednesday by schools instead of delegates gathered only four votes. Thus each of Arthur Hill's 23 delegates will have a vote Wednesday, while some smaller schools will have only three votes.

Nearing argued that a unit vote would save time and individuals still would have a voice within their delegations.

But Moore contended this would be undemocratic. "In fact, it's communistic," he declared.

The issue of religious observance Wednesday provoked little discussion despite the concern of some convention planners, students and adults alike.

The agenda now lists neither an invocation nor a moment of silence. Moore pointed to parliamentary rules and explained there could be no "reconsideration of a reconsideration" of the oft-debated question.

Both students and faculty advisers, who were wrestling themselves with issues of "official" Bicentennial meetings and lost school time, found that countercurrents continued despite Monday's smooth session.

That was evident during bloc voting for chairmen of the four major planning committees Monday afternoon.

Elected to head each of the panels were: Bill of Rights, Lee Henning of Michigan Lutheran Seminary; executive branch, Tommy Ford of Buena Vista; judiciary branch, Michael Smith of St. Charles and legislative branch, Thomas A. Ulmer of Bridgeport.

CONVENTION LEADER EMPHASIZES UNITY

(By John A. Puravs)

Frederick Wheeler Jr. strode to the stage of Eisenhower High School's theater to the roaring, standing applause of nearly 150 fellow students.

His acceptance speech was one of few words. But they were the words these delegates to Saginaw County's Bicentennial Constitutional Convention wanted, perhaps needed, to hear.

"After this," proclaimed the 17-year-old Saginaw High School senior, "no more Arthur Hill, no more Saginaw High, no more Freeland. We're all together."

Another crash of applause ensued, drowning out, at least for that moment 10 days ago, weeks of controversy and doubt that had led up to the first gathering of delegates from all 19 Saginaw County high schools.

Young Wheeler had emerged from among eight candidates as the clear choice for president of the convention this January which will rewrite the U.S. Constitution as students believe it should govern for the third American century.

He drew support from virtually every delegation, support that accelerated with his two-minute candidacy speech that stressed unity above all.

"I want everyone to get together on ideas," he said later amid a coterie of well-wishers. "We have to unite. That's the only way we can write a Constitution."

Wheeler's unity platform was so well-phrased that even some teachers at Saginaw High wondered if he wrote it himself.

He did. He said so, and so did Anthony C. Martinez, Wheeler's teacher at Saginaw High's Bicentennial government class. "He speaks his own piece as well as anyone," said Martinez.

But Wheeler speaks it softly, modestly. His goal as president is to let the convention find its own path to a new national guiding document.

"I see my job as president to keep order, not take sides, be nonpartisan, be impartial," he said. "It's not necessarily leadership, but letting everyone get their own opinion in."

That too can be a form of effective leadership, if the example of George Washington, president of the original 1787 convention, is any guide.

Washington was the choice of a convention described by one historian, Catherine Drinker Bowen, as struggling "with the bias of birthright, locality, statehood—South against North, East against West, merchant against planter."

Today the biases may be different but the struggle toward compromise still is there.

Washington handled his responsibilities almost in total silence. "One sensed that he would never be overbearing, power would not turn his head," historians said of him.

Through four months in the 1787 assembly, Washington watched in silence. Only on the very last day did he take part in the debates.

"In his silence lay his strength," said historian Bowen. "His presence kept the convention together, kept it going."

"By presiding with dignity and understanding, Washington helped mightily to make the convention a success," agreed another historian, Clinton Rossiter.

Certainly such a performance sets a high standard for the youthful Wheeler to emulate.

At Saginaw High, though, there are few doubters, and there is Wheeler's own performance to back up their judgment: He is the No. 1 student at Saginaw High, carrying a 3.95 grade average out of a possible 4 points. He may well be valedictorian of the Bicentennial graduating class.

"A driver, a doer-type, a guy who just does his work and puts in a lot of time to do it well," said Principal Gene Nuckolls.

"He is very, very energetic," assessed Mrs. Carrie Zackrie, Wheeler's counselor. "He sets high goals for himself and strives to reach them."

Nuckolls noted that Wheeler fits squarely into the image of the school's Bicentennial motto: "The spirit of achievement is the spirit of Saginaw High."

But Wheeler himself believes the students will be hard put to match the achievements of 200 years ago.

"It's beautiful," he said of the 1787 document. "It's a darn good one to last that long. I like it pretty much the way it is now."

In fact, if it were up to Wheeler, there would be no rewriting of the original Constitution.

"It's lasted almost 200 years," he explained, "and we haven't had any major problems. I think it can last another 200 years."

Can it still be improved? "We'll definitely try," Wheeler promised. "There will be changes. We're not going to write the same Constitution over again. We're going to put in what we feel."

Necessary or not, though, the students' project will be "a beautiful experience," Wheeler declared. "It informs you about the government. Definitely a lot of kids don't know much about it. You can read about it, but where you really participate, it's different."

In accordance with his image of the convention presidency—and like Washington—Wheeler is diffident about expressing his own views of possible constitutional changes.

"When he approved a measure, delegates reported that his face showed it," historians wrote to Washington. "Yet it was hard to tell what the General was thinking and impossible to inquire."

With Wheeler such inquiry is only slightly more possible.

"Changes will depend on the rest of the delegates," he said. "It depends on what we all come up with."

But Wheeler allowed that few severe alterations are likely in the Bill of Rights. He supports freedom of speech, for instance, with "restrictions to control violence." Freedom of the press should be retained but again with restriction "to protect someone's privacy."

Wheeler is a member of the Seventh-day Adventist Church and believes "religion is the main part of a person's life." And he suggested students would retain freedom of religion but might take a second look at the constitutional doctrine of separation of church and state.

"I plan to do a lot of research into this," promised Wheeler.

Nuckolls recalled that when Wheeler decided to run for president, "I gave him a brochure on the role of a president in an organization, a booklet on parliamentary procedure, and a filmstrip and a projector.

"He's a worker. He impresses me as the type of guy who would follow through."

Teacher Martinez said Wheeler is among those in his class "who believe government has too much authority. He's strong on civil liberties. He's against too much government control.

"But he's not like Jefferson, though, who believed that government is best which governs least."

Wheeler's new duties will make him one busy high schooler: He holds a part-time co-op job in the chemical services and development laboratory at Dow Corning Corp. in Midland, apt preparation for his career goal of chemical or biomedical engineering.

If Wheeler fails to totally unite his 148 student delegates, he shouldn't worry overmuch. Washington couldn't do it either.

Of the 55 original delegates, only 39 signed the Constitution. Rhode Island didn't even show up. Men such as Patrick Henry, Elbridge Gerry and George Mason opposed ratification.

Yet, Clinton Rossiter wrote:

"If the political process of the liberal West has any successes to its credit, none can be much more memorable than the intense session of give-and-take at Philadelphia in the summer of 1787."

In Saginaw, in the winter of 1976, Frederick Wheeler, Jr. expects to preside over similar give-and-take.

"The biggest problem may be wasting too much time on debate among ourselves," he worried, "instead of working together and producing a Constitution. The biggest goal is unity. I can play my most important role there."

If he does, he will be following Washington's own advice.

"It is not sufficient," Washington wrote, "for a man to be a passive friend and well wisher to the cause."

IS THE U.N. FOR REAL?

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. DE LUGO. Mr. Speaker, my colleagues are well aware of the recent actions of the U.N. General Assembly's Colonialism Committee which Ambassador Moynihan has aptly termed a "theater of the absurd."

The degree of absurdity reached new levels when this committee warned that the military installations in the U.S. Virgin Islands constituted a "threat" to the Caribbean. This preposterous claim was the subject of a December 15, 1975, editorial in the Virgin Islands Daily News, which I would like to share with you at this time. Such a flagrantly ridiculous and uninformed statement does little for the diminished reputation of the U.N. General Assembly.

The editorial follows:

Is The UN For Real?

We are beginning to wonder if the United Nations Decolonization Committee is for real. Its efforts to save the Virgin Islands from the perils of Yankee imperialism have always befuddled us, but its charge that these islands are a hotbed for military bases threatening Latin America and the Caribbean is something that only Lewis Carroll or Art Buchwald could have dreamed up.

Apparently we have been duped all along by a clever plot of the Pentagon. First, we were thrown off guard when the Army closed its Water Island installation, the Navy shut down the Sub Base and stopped UDT training here, and the Strategic Air Command ceased using Hamilton Airport as a base. Then, Washington surreptitiously transferred the Coast Guard into the innocuous sounding Department of Transportation, where nobody but the UN would look for the forces of aggression.

However, that seems to be where they are, for if the UN committee's report is to be believed then the 14 coast guardsmen on St. Thomas, along with the Cutter Point Whitehorn and its fearsome 81 mm. mortar, are tagged to spearhead the conquest of the hemisphere. It must be the Coast Guard, that being the only thing resembling a military base here, although it is possible that the newly arrived Customs chase boat will be in the second wave of the invasion when it thunders down on Sail Rock or Sandy Cay.

The Decolonization Committee's imaginative script won the endorsement last week of the General Assembly, more and more of whose members seem to prefer ignoring reality when considering this nation. The assembly's action earned it the well-deserved description "theater of the absurd" from the United States ambassador to the UN, and that is about the only way to describe this incredible action. The only trouble is that the United Nations was not created as an entertainment vehicle, and there are far too many genuine problems confronting the world for its members to fritter away time ad money on fantasies such as Virgin Island military bases.

EXEMPLARY GUAMANIAN MARINE CORPS COLONEL RECEIVES LEGION OF MERIT

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. WON PAT. Mr. Speaker, today I am pleased to bring to the attention of my colleagues the achievements of one of my constituents of my district of Guam, Marine Corps Col. Vicente T. Blaz, one of the first individuals of Guamanian ancestry to be commissioned in the U.S. Armed Forces. During a 24 year Marine Corps career, Colonel Blaz has distinguished himself continually and has earned high recognition, most recently being awarded the Nation's fourth highest military medal, the Legion of Merit.

The Legion of Merit was presented to Colonel Blaz for his service for the past 3 years as chief of the Maritime United Nations Negotiations Division, Plans and Policy Directorate, while assigned to the office of the Joint Chiefs of Staff. In that capacity, Colonel Blaz was the Department of Defense representative on the U.S. delegation to international conferences in Europe.

According to the citation, Colonel Blaz "distinguished himself through his exceptional professional and intellectual capabilities and an unusually keen and objective grasp of strategic concepts."

It also noted he "made a significant contribution to the presentation of sound and persuasive positions and thus toward the achievement of U.S. objectives in the important strategic international negotiations."

The accomplishments of Colonel Blaz are particularly significant to Guam. Commissioned in 1951, Colonel Blaz was one of the first Guamanians to be commissioned in the U.S. military services. To date, he is but one of three Guamanians to reach his present military rank. There is one other in the Navy and one in the Air Force.

The significance lies in that Colonel Blaz and his contemporaries represent the first generation of Guamanians to reach adulthood after World War II which marked the point at which Guam entered the mainstream of global activities and began its greatest period of social, economic and political developments for succeeding generations to follow.

Colonel Blaz graduated from the George Washington High School on Guam in 1947. He received a bachelor of science degree from the University of Notre Dame in 1951 and entered the Marine Corps.

During his military career, Colonel Blaz attended the Naval Justice School at Newport, served as base legal officer at Camp Pendleton, Calif., with the 9th Marines in Okinawa, Japan, the 5th Marines in Korea, as battery commander and operations officer in the 19th Marines at Camp Lejeune, N.C., at the Marine Barracks on Guam, with the Marine Corps Headquarters Personnel Department in Washington, D.C., the Inspector-Instructor Staff at Santa Monica, Calif., and the office of the Joint Chiefs of Staff. Presently, he is Inspector for the Marine Corps Development and Education Command at Quantico, Va.

While on active duty, Colonel Blaz received a master's degree in personnel management from George Washington University, graduated with honors from the College of Naval Warfare at Newport, R.I., and in 1969 was the Marine Corps winner of Freedom Foundation, Valley Forge, Pa., award for an article he wrote on civil rights. His War College thesis, "The Cross of Micronesia" was published in the Naval War College Review.

Beside his academic acomplishments while in the Marine Corps, Colonel Blaz has been awarded the Legion of Merit, Bronze Star with combat "V"; two Naval Commendation Medals; the Combat Action Ribbon; the Presidential Unit Citation; two National Defense Service Medals; Korean Service Medal; Viet Nam Service Medal with three battle stars; Republic of Viet Nam Cross of Gallantry, First Class; Republic of Viet Nam Cross of Gallantry, Unit; United Nations Service Medal; and the Viet Nam Campaign Medal.

In slightly more than 30 years, Guam has progressed from an out of the way tropical island to an integral part of the United States and a crossroads of the Pacific Basin. Its social, economic and political capabilities are developing rapidly and it is speedily assuming its full status in national and international activities.

As everywhere, Guam's strength and future depend upon the increasing capabilities and acomplishments of its succeeding generations. Colonel Blaz is a fine example of Guam's strength and future. It is his achievements, and those of his contemporaries of Guam which are contributing so much to creating what is today's and tomorrow's modern Guam.

I congratulate Colonel Blaz for his outstanding record and for establishing higher standards and goals for Guamanians who follow him.

PRO-AMERICA RESOLUTIONS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. ROUSSELOT. Mr. Speaker, today I am placing in the RECORD the final of three installments of the resolutions of the National Association of Pro America. The first two installments have been presented in previous editions of the RECORD.

Mr. Speaker, these resolutions represent the thinking and convictions of a dedicated and patriotic group of Americans, and I would commend them for the perusal and reflection of my distinguished colleagues:

REPEAL OCCUPATIONAL SAFETY AND HEALTH ACT

Whereas, Inflation is primarily caused by government spending; and

Whereas, The Occupational Safety and Health Act (OSHA) contributes to inflation partly by its own budget but, more importantly, by forcing businesses to spend millions of dollars in order to comply with its regulations; and

Whereas, This increased cost of products and services is passed on to the already heavily over-burdened consumer; and

Whereas, The manifest bias of this federal bureaucracy is shown by the fact that it imposes penalties on the *owners* of business for violating OSHA regulations, but does not require compliance on the part of *employees;* now, therefore, be it

Resolved, That the members of the National Association of Pro America express their opinions to the Secretary of Labor and send copies of their letters to their Congressmen; and, be it further

Resolved, That the National Association of Pro America reaffirm Resolution No. V, 1973, urging repeal of the Occupational Safety and Health Act of 1970.

PREVENT RED ENCIRCLEMENT OF THE UNITED STATES OF AMERICA

Whereas, Portugal, Cuba and Panama are vital links in the communist master plan to encircle the United States of America; and

Whereas, The communist regime in Portugal renders untenable the Mediterranean Sea to the United States Navy, limits access to the Mediterranean area and the Middle East, restricts aircraft refueling in the Azores, makes very difficult surveillance of Soviet naval and maritime activities in the Atlantic Ocean and threatens sea lanes connecting the United States with its western allies; and

Whereas, Vital American military bases in Cuba, Panama, the Portugese Azores and Spain are threatened by the incredible actions of the United States Secretary of State and others in that department; and

Whereas, There is a proposal to give the Panama Canal—so vital to the protection of the United States—to the Panamanian government which is under communist control; and

Whereas, It has been proposed that diplomatic relations with Cuba be resumed, although Cuba is a well-equipped Soviet naval and military base and the headquarters for revolutionary activity and subversion of the entire western hemisphere; now, be it

Resolved, That the members of the National Association of Pro America urgently recommend that Congress prevent the communist drive to carry out Lenin's plan to encircle the United States, the last bastion of capitalism.

URGE PROTECTION OF INTERNAL SECURITY AGENCIES

Whereas, During the past several years there has been a sustained effort to destroy United States of America security and intelligence services, and these efforts have recently escalated to an alarming extent; and

Whereas, These attempts to discredit United States intelligence-gathering security programs have been instigated primarily by Marxist groups and their liberal followers; and

Whereas, The craft of gathering foreign intelligence demands secrecy, and in present world conditions when spying, counter-spying, electronic eavesdropping and sabotage abound in this country and abroad, it is essential that the United States have a clandestine organization to learn what its enemies here and abroad are doing; and

Whereas, Such radical revolutionary groups as Students for a Democratic Society, Socialist Worker's Party and National Peace Action Coalition have wreaked massive physical and financial damage on public and private institutions; and

Whereas, Only as a result of Central Intelligence Agency's findings have many of the plans of the revolutionary groups been defeated; and

Whereas, The House Committee on Internal Security has been of invaluable service to the United States through its investigation into the activities of subversive groups; and

Whereas, As a result of the elimination of the House Committee on Internal Security, Congressman John Ashbrook (R.-Ohio) has introduced House Resolution No. 67 to restore the committee; and

Whereas, Representative Ashbrook has said that, if H.R. 67 has not been reported out of the liberal-dominated Rules Committee within thirty legislative days, he would file a discharge petition which, if signed by a majority of House members, will bring it to the floor; and

Whereas, The Senate Internal Subcommittee of the Judiciary Committee, the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation (FBI) are also under attack, and individual anti-communist influence in government is being silenced; now, therefore, be it

Resolved, That the members of the National Association of Pro America urge their congressmen to co-sponsor House Resolution 67 and to sign the discharge petition; and, be it further

Resolved, That the members of the National Asociation recommend that all investigative committees which have been phased out be reinstated, and that the vitally important security and intelligenec services be maintained in their mission to protect national security and to preserve public order and safety, remembering the admonition of a former judge that "The nation has the right and duty to protect itself from acts of espionage and sabotage, and attempts to overthrow the government by force."

Oppose Socialized Medicine

Whereas, All-out government control of the economy is central to the communist philosophy; and

Whereas, Communist conspirators have been urging socialized medicine for many years; and

Whereas, The Daily World of Dec. 27, 1974, discussed a bill to be proposed early in 1975 which this communist newspaper said ". . . will call for coverage for all United States *residents* (emphasis ours) for all hospital, physician, eyeglasses, hearing aids and other medical needs," and

Whereas, According to an article in the *Painters and Allied Trade Journal* for January 1975, a new health security bill will be introduced in the 94th Congress to be sponsored by Senator Edward M. Kennedy and Representative James C. Corman, which will provide all inclusive cradle-to-the-grave benefits as a matter of right; and

Whereas, The failure of socialized medicine in other nations is a well known fact; now, therefore, be it

Resolved, That the National Association of Pro America go on record as strongly opposing any form of a government-controlled, or socialized medicine; and, be it further

Resolved, That this Association *alert all Americans to the dangers of such a bill,* and reaffirm all previous resolutions opposing socialized medicine.

Urge Tax Reform

Whereas, The Internal Revenue Service (IRS) had its birth in 1913, levied an annual income tax of one percent, and had a staff of 277; and

Whereas, One of its supporters assured Congress that the IRS would never exceed an income tax rate of more than 10%, yet within thirty years it was collecting 94% from the highest income brackets and employing 70,000 people; and

Whereas, It is doubtful that any one—even the Commissioner who heads the huge Internal Revenue Service—understands the Income Tax Laws and Regulations that the IRS requires you, under penalty of fines and imprisonment, to observe with exact accuracy (the IRS Code, the Manuals of Regulations, and the volumes of official interpretations fill a bookshelf 33 feet long); and

Whereas, the IRS is an intensely secretive bureaucracy, continually and successfully fending off examination by the Congress, by the press, by taxpayers it has abused, and even by the federal watchdog agency, The General Accounting Office, which monitors other federal bureaus; and

Whereas, there are companies that do nothing but condense the flood of tax information into digests that they sell to tax lawyers, tax accountants, and commercial tax-preparers; and

Whereas, Private tax-exempt foundations, organized and operated by wealthy individuals, are one of the principal IRS loopholes by which huge taxes are avoided, making the tax burden greater for the average taxpayer, and it is conservatively estimated that one foundation alone has enabled its creators to avoid approximately $8 billion in federal taxation; and

Whereas, According to the Treasury Department, the average private citizens pay about 21% of their income in taxes, and for many middle income Americans, the income tax is one of the largest items in their budget; and

Whereas, The fantastic misuse of federal money for foreign aid, undeclared wars, welfare programs for idlers and parasites, research programs of no value, subsidies to domestic corporations, contributions to the United Nations, financial support of programs to subvert the minds of children, and so forth, constitute a waste of billions of dollars per year; now, therefore, be it

Resolved, That the National Association of Pro America favor repeal of the 16th Amendment, return of all government-operated business to private enterprise, and reform of the Internal Revenue Service to make it subject to the Constitution of the United States.

Urge Repeal of the 25th Amendment

Whereas, The 25th Amendment to the Constitution of the United States of America nullified the provisions of the 1947 amendment to the Presidential Succession Act, which set forth the order of succession to the office of President; and

Whereas, Section 4 of the Amendment provides that "Whenever the Vice President and a majority of either of the principal officers (what officers?) of the executive department or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President *shall immediately assume the powers and duties of the office as Acting President*. Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office *unless* the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives *their* written declaration (no reference to medical opinions) that the President *is unable* to discharge the powers and duties of his office." (emphasis added); and

Whereas, The ratification of this amendment has resulted in this nation's having for the first time in its history an unelected President and an unelected Vice President (ready to move up should circumstances warrant); and

Whereas, The passage of this amendment was expedited by Herbert Brownell, a New York lawyer employed by Nelson Rockefeller (now in line for the presidency), who worked, by testifying before Congressional and State legislative committees, with Rockefeller's financial backing, for its speedy and quiet ratification; now, therefore, be it

Resolved, That the members of the National Association of Pro America deplore the situation which has resulted from the 25th Amendment and support legislation which would repeal this devious and dangerous amendment, and restore the provisions of the 1947 Presidential Succession Act.

Oppose New International Economic Order

Whereas, On May 2, 1974, the United Nations General Assembly passed the Declaration of a "New International Economic Order" (NIEO), which established a "Programme of Action" to implement the order; and

Whereas, The Declaration and "Programme of Action" call for a vastly stronger United Nations to execute the order, and Senator Charles Percy has said, "The philosophy behind the New International Economic Order is based on the fact that the developed, wealthier nations use a substantially greater share of the earth's resources and contribute more to global pollution and environmental degradation than do the less developed, poorer nations. (Nothing is said of the fact that they also produce most of the world's wealth, or that the United States has lavished and is continuing to lavish its wealth upon the rest of the world.) The new order calls for a more equitable distribution of the earth's resources among the earth's people and redistribution of wealth among rich and poor nations;" and

Whereas, One of the principal objectives of the "New International Economic Order" toward which Secretary of State Henry Kissinger is maneuvering the world is a massive redistribution of the world's resources and wealth as an integral part of the loosely knitted world government which Mr. Kissinger wants set up to make global strategy and policy; and

Whereas, Mr. Kissinger is already rushing around the world offering to share American food and energy with all other nations while the President is calling upon United States citizens to sacrifice needed fuel supplies until alternative sources of energy can be produced; and

Whereas, The rising danger of Third World domination of the United Nations was demonstrated when the Assembly voted to expel one of the permanent members, the Republic of China, to bar the Union of South Africa from its 1974 meeting of the Geneva Assembly, and to recognize the terrorist group, the Palestine Liberation Organization; now, therefore, be it

Resolved, That the National Association of Pro America vehemently oppose the "New International Economic Order," and be it further

Resolved, That this Association reaffirm all past resolutions opposing the United Nations, particularly Resolutions No. XVII (1971) and No. XXIII (1972), which calls on Congress to withdraw membership of the United States from the United Nations and to remove the United Nations from the United States.

THE THREAT TO THE INTEGRITY OF PRIVATE COLLEGES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. CRANE. Mr. Speaker, do private colleges and universities have any future in the American society? How we answer this question may well determine whether future generations of young people will have the opportunity for educational diversity or whether all young Americans will be forced into the straitjacket of an educational system mandated from Washington by nonelected Government officials.

The bureaucrats at the Department of Health, Education, and Welfare are not even content to impose their rules and regulations only upon those institutions which are recipients of Federal assistance. Now, they seek also to impose such regulations upon institutions which have steadfastly refused such aid, precisely in order to avoid sacrificing their own educational integrity. The lever being used by bureaucrats is the fact that any college or university which has in attendance students who receive Federal loans or aid of any kind will be subject to control in exactly the same manner as institutions which actively seek and receive direct aid.

One small college which is being treated in this arbitrary manner and which is resisting is Hillsdale College in Michigan. The board of trustees of the college calls the Federal regulations "immoral and illegal" violations of the school's "inalienable rights of freedom." The school's president, Dr. George Roche III, declares that,

> Acceptance of status as a "recipient institution" opens the door to Federal control of Hillsdale College. . . . The issue at stake is not equal treatment for minority groups or women. Hillsdale had already pioneered in nondiscriminatory treatment for over a century before the first Federal legislation on the subject.

The real issue is whether freedom of education can long survive in a society in which Government bureaucrats seek total control,

In a recent editorial the Wall Street Journal hailed President Roche's refusal to submit to Governmental interference and stated that,

> One of the central questions facing higher education today is whether small private colleges, and the educational pluralism they offer to the Nation, have any future. Survival itself, while worth pondering, is only part of the issue. The other part is whether their privacy, and their independence from state interference . . . can be protected from federal incursions. . . . If they are unable to withstand these incursions . . . the nation will have lost an important resource that has traditionally dedicated itself to religious and cultural diversity, freedom of thought, and, in many cases, the encouragement of excellence.

I wish to share with my colleagues the editorial, "Private Colleges At Bay," as it appeared in the Wall Street Journal of December 4, 1975, and insert it into the RECORD at this time:

PRIVATE COLLEGES AT BAY

One of the central questions facing higher education today is whether small private colleges, and the educational pluralism they offer to the nation, have any future.

Survival itself, while worth pondering, is only part of the issue. The other part is whether their privacy, and their independence from state interference in key policies dealing with staffing and admissions, can be protected from federal incursions authorized by "anti-discrimination" statutes.

If they are unable to withstand these incursions, some of which are based on overly expansive interpretations of what the law authorizes, the nation will have lost an important resource that has traditionally dedicated itself to religious and cultural diversity, freedom of thought, and, in many cases, the encouragement of excellence.

The economic problems that face all colleges, public and private, are serious enough. Inflation has jacked up costs. Private colleges have seen their endowments shrink with falling stock prices. On top of that, the era of nonstop expansion of higher education is over. An educational consulting firm recently predicted that enrollment at four-year colleges and universities will drop almost 24% in the next 15 years. This decline may have a more severe impact, in some ways, on state universities since theirs has been the greatest expansion. But it can hardly fail to touch the private colleges as well, particularly if state institutions begin actively recruiting students to try to fill up unused space.

The threat to privacy itself, while related to money questions, is something else. The Department of Health, Education, and Welfare and federal equal opportunity agencies feel they have a strong mandate to go into institutions of all kinds and "equalize" the treatment accorded to the different races and sexes. They approach this task by working out quotas—how many women, blacks, Chicanos, etc., colleges have on their faculties, for example, and how many they *should* have. It's a mindless exercise and it doesn't do colleges much good to say they are sex and color blind in their hiring and promotion policies, even though most are exactly that. The justification the federal social engineers use for taking their quota numbers into private colleges is that any slight connection the place might have with federal money makes it a "recipient institution" and thus subject to federal regulation.

We are happy to see, however, that some college presidents are fighting back against this highhanded interference from Washington. Among them are George Roche, president of Hillsdale College in Michigan, John Howard of Rockford College in Illinois and Dallin Oaks of Brigham Young University in Utah. President Roche is particularly upset because his college has been put on the "recipient institution" list merely because some students have received federal assistance. The college itself does not accept money from the government.

President Roche has in effect replied to HEW's quota system overtures the same way General McAuliffe replied to German demands that he surrender at Bastogne. And President Oaks is equally adamant that BYU will not comply with federal regulations, under Title IX of the Education Amendments of 1972, that the Mormon-affiliated school regards as an infringment on its religious rights.

The plight of these embattled schools has received a sympathetic airing in the press. The major disappointment is that few of the larger prestigious private universities have joined in condemnation of the bureaucratic power play. The reason apparently is that many are already so heavily dependent on various forms of government aid that they are in no position to complain. Unfortunately, that is exactly the point critics of federal aid tried to make all during those years when a benevolent Washington opened its pocketbook to swarms of educators and administrators.

There is some talk that HEW might beat a strategic withdrawal, now that there seems to be an awakening in the press and public over what is at stake. But only a complacent analysis would hold that the private colleges are winning. Government expansionism seems to have a life of its own, threatening all types of private, independent institutions with ill-conceived attempts to reorder and homogenize American society.

Nonetheless, those college presidents who are resisting are to be commended. We can only hope that their stand will embolden other heads of institutions that style themselves as private to protect that assertion more vigorously.

EQUAL RIGHTS TO OLDER AMERICANS

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. COHEN. Mr. Speaker, the American Issues Forum of the American Revolution Bicentennial Commission is intended to engage all segments of American society in a reexamination of the issues which underlie the development of our Republic.

Nine monthly topics have been chosen to focus national debate on pressing issues as we enter the Bicentennial year. The topics for the months of November and December are "Certain Unalienable Rights" and "A More Perfect Union."

Mr. Speaker, I would like to call to the attention of my colleagues two articles written by a distinguished Maine educator which examine these two topics from the viewpoint of elderly Americans.

Dr. William Pierce Randel, professor emeritus of the University of Maine, writes insightfully on the failure of American society to keep its promise of equal rights to older Americans. These two columns, part of a larger series sponsored by the National Council on the Aging, Inc., and funded by the National Endowment for the Humanities, draw attention to this often-neglected segment of our society.

Our older citizens have given much to make this country great. In this Bicentennial year, we must recommit ourselves to repaying the enormous debt we owe our elderly. I ask that my colleagues give Professor Randel's fine articles the close attention they deserve.

The articles follow:

CERTAIN INALIENABLE RIGHTS

(By William Pierce Randel)

If certain human rights are unalienable, as the Declaration of Independence affirms, they must, by simple logic, have existed as far back in time as the earliest social structure. Life, liberty, and the pursuit of happiness, the examples offered by the Declaration, are general enough to meet this logical condition. But most of the rights that individuals and groups have fought for are much more specific, rising out of changing circumstances. Until they surface into awareness, they could just as well never have existed. And given group, however, may hope that its rights will in time be recognized as unalienable.

What of America's older citizens, a group just beginning its campaign for rights? For three centuries it occurred to nobody that they were being deprived of their rights, or even that they had any special rights to be deprived of. Few in number and low in visibility, they accepted life as it was for them, and were not considered a distinctive group with distinctive problems. Only since 1900, as a result of their phenomenal increase in numbers and changes produced by the great social revolution still in progress, has that been possible.

In 1900, only 3 million Americans, or about 4 percent of the population, were 65 or older. By 1975 they numbered a solid 22 million, 10.3 percent of the total. The forecast is for this forecast to increase. Statistically, they have become a major category in the population and are certain to remain so.

A category, however, is not necessarily a group. It becomes one only when its members are conscious of common interests and, more particularly, of disadvantages general enough and pressing enough to need corrective joint action. One handicap to the consolidation of a genuine old-age group is that every American who passes his or her 65th birthday, the generally accepted threshold to old age, is already a member of several other groups and is unlikely to lose interest in them suddenly just by becoming a year older. On the other hand, news reports of flagrant discrimination against the elderly, and improving distribution of information about aging encourage active participation. There is firm evidence that the category of older Americans is well on its way to becoming a better organized major group and each year in creasingly capable of campaigning for its rights.

A BILL OF RIGHTS

Sooner or later, virtually every older person, strong or weak, rich or poor, is a victim of discrimination. If and whe nthe 65-and-older group should decide to draw up a Bill of Rights, relief from discrimination and from those mortifying stereotypes will be conspicuous among its articles.

Unalienable rights, as suggested earlier, have practical meaning only as they can be stated in words. If given the form of a Bill of Rights, each section should clearly, and as concisely as possible, express the right demanded. For maximum impact, moreover, the rights should be exclusively the concern of the elderly. To include rights sought also by other groups would invite the question of whether older citizens are a genuine group with special needs all its own.

Our hypothetical Bill of Rights, again for maximum effect, should concentrate on major demands. Scattered through the ranks of our elderly are pathetic clusters with particular handicaps. However, listing the needs of every identifiable sub-group, in co-equal articles, would distract attention from what concerns *all* the older people. The 1971 White House Conference on Aging, as summarized, revealed this fragmenting tendency: separate pleas were made for Rural Older People, Asian-American Elderly, Spanish-Speaking Elderly, the Aged in the Mariana Islands, and several others in demonstrable need of help. The inevitable result was the audience couldn't see the forest for the trees. The whole *is* greater than the sum of its parts, and for a Bill of Rights intended to sway a Congress, fifty state legislatures, and the majority of voters, piling fraction on fraction can only invite defeat.

With due regard to the danger of diluting emphasis, and by firmly limiting demands to those matters exclusively the concern of older citizens, we might begin our hypothetical Bill of Rights by echoing the Declaration in a plea for

1. The right to relief from forms of discrimination based on age that diminish the enjoyment of life, liberty, and the pursuit of happiness.

Simple as this may sound, once it is accepted and supported by implementing legislation this article would be a solid base for seeking judicial relief. Discriminatory practices abound, all of them susceptible of correction. Denial of credit, for example, on the sole grounds of advanced age. Refusal to employ older workers even if fully qualified. Cynical abuses in nursing homes, and indifference to contract promises in old-age retirement communities. Less than adequate official concern for the sub-groups cited at the White House Conference. Discrimination, especially in its more subtle forms, can never perhaps be wholly suppressed, but this one article, properly implemented, could open up a bright new world for all the elderly, whatever their circumstances.

Until discrimination can be brought under control, that bright new world of the elderly can exist only in imagination, as a wistful vision of potential beauty. The present reality is closer to an unkempt garden where foul weeds flourish in a smothering compost of stereotypes. These wholly ungrounded but widely held attitudes seriously damage the image of all older people, and, in their pernicious way, encourage discrimination in all its ugly forms. They are an evil not to be ignored; their very existence must be challenged in our Bill of Rights for the Elderly.

PREJUDGING PEOPLE

A few samples will be enough to illustrate the prejudice toward the elderly that results from these stereotypes. According to the NCOA-Harris Poll, only 29 percent of the public consider most Americans 65 or older very bright and alert. Only 21 percent think they are very open-minded and adaptable, and only 35 percent believe they are very good at getting things done. Evidence of just the opposite, on all three counts, is ample; but myths take form and persist in disregard of facts. Older people vary in alertness, openmindedness, and ability to get things done just as younger people do, and blanket prejudgment in disregard of individual qualities causes deep and general resentment. Our second article, accordingly, should claim

2. The right to be judged on individual merit and ability, and to relief from prejudgment based solely on age.

Whether a Bill of Rights for the Elderly should include other articles may safely be left to the elderly themselves to decide in future deliberations. The two suggested here could no doubt profit from refinement in wording, but both meet the conditions proposed for any Bill of Rights: application to all members of the group concerned, and limitation of the subject to the exclusive needs of that group.

The 1961 White House Conference on Aging included several more specific articles such as "The right to obtain decent housing suited to needs of later years," "The right to a fair share of the community's recreational, educational and medical resources," "The right to live independently, as one chooses," and "The right to live and die with dignity." These are certainly rights that society ought not to deny the aged.

Assuming that our older citizens do have certain unalienable rights exclusively their own, it stands to reason that they are susceptible to being formulated into a Bill of Rights. At no point will it be easy. Later problems will include what to do with the finished document and how to gain for it the legal status it needs for effective implementation. Opposition, certain to grow as the process nears completion, may be formidable from entrenched interests that might lose ground, or from opponents of all extensions of "the common welfare."

We might hope that common decency would serve to reduce the disadvantages of aging, once these are clearly known. But some believe jarring the general public out of its indifference may call for militant action. Thomas Paine, in the first issue of *The Crisis* late in 1776, was writing about colonies and an empire, but poetic license may justify applying his words to this situation: "Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph." For "tyranny" read discrimination and gross abuses. For "conflict" consider the entrenched hostility of mindless stereotypes, and the need for unflagging determination. As for the eventual glorious triumph, it can be nothing less, for America's aged, than the attainment of their unalienable rights.

A More Perfect Union

(By William Pierce Randel)

"Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of age."

If this has a familiar ring, it is because it exactly duplicates, except for the final word, the 27th Amendment now awaiting ratification by the necessary 38 states. When we think of the long struggle for equality of the sexes, the prospect of a parallel amendment for the benefit of the elderly seems dim and remote. But it is not impossible. Nothing is, if the people concerned can mount a strong enough campaign, develop the most effective methods, and keep up the pressure despite every frustration and delay. Since equality of rights can have no stronger support than an Amendment to the Constitution, achieving it would mark the climax of relations between the elderly and their government.

Whether or not they ever campaign for an Amendment, it is reasonable to ask if the aging are really disadvantaged to the degree of needing relief through legislation. Or can we detect the "me too" impulse at work here? Before considering these matters, we might pause to consider the national commitment to the welfare of the population at large.

One purpose of the Constitution, as its preamble asserts, is to "promote the general welfare." Fair enough: yet each word in that phrase needs interpretation and invites particular questions. Does "general" mean the great majority or all segments of the population, at all times and in every circumstance? Who is to determine what welfare (or "faring well") really means, and can government be depended on to promote it wisely and fairly? How active, moreover, should government be in promoting it? The whole phrase must also be questioned: is it possible, or feasible, or even desirable for government to assume responsibility for whatever we may decide the general welfare is?

One thing is quite clear: at no point in our history has the government, or anyone else, ever worked out guiding principles for promoting the general welfare, or set up a list of priorities. Welfare as mentioned in the body of the Constitution, specifically in Section 8 of Article I, relates to such things as coinage, postal service, copyright, and the militia. Even in the original ten Amendments, the famous Bill of Rights, the freedoms guaranteed relate more to the aims of the Revolution than to any concerted effort to anticipate future conditions.

The one provision most helpful to extending the general welfare is Article V, setting up the machinery for amendments; but the built-in difficulty of the process suggests very little enthusiasm for change of whatever sort. Henry Thoreau, in "Civil Disobedience," spoke for all his impatient contemporaries when he remarked that the American people would have achieved more "if the government had not sometimes got in its way." Yet the fact remains that the government is the only agency we have for extending the general welfare to particular groups, whether through legislative, judicial, or executive action.

PROBLEMS OF INFLUENCE

In that same essay Thoreau identified another perennial handicap to change, the ability of strong individuals and "selfish interests" to influence government at every level against any change in the status quo or any lessening of their own special privilege. Any group seeking relief through government action must acknowledge these handicaps and gird with great care for long, hard action. "The battle," Patrick Henry insisted in 1775, "is not to the strong alone; it is to the vigilant, the active, the brave." Entrenched interests, simply by being entrenched, have a powerful advantage. Superior force alone can overcome it.

Laws relating to the well-being of citizens result not by implementing some grand design worked out in advance, but from successful ad hoc efforts by individuals and groups to overcome opposition and influence law makers. Recent efforts by our elderly and on their behalf have produced landmark legislation. Majorities in Congress must have been convinced that disadvantage did exist and needed correction. Medicare, the medical insurance program, was added to Social Security in 1965. In that same year the Older Americans Act established, within the

Department of Health, Education and Welfare, an Administration on Aging that makes grants for special services. In 1972 an amendment to this Act provided for meals for the needy aged. Other important Congressional measures have included addition of a cost-of-living adjustment to Social Security, establishment of federal minimums for old age assistance, protection for individuals in private pension plans, and authorization of federal loans for housing for the elderly.

A BENEFICIAL DECADE

In their relations with their government, it must be concluded, America's elders have fared much better in the last ten years than they could have hoped to at any time earlier. Their welfare, moreover, has become a federal concern not only at HEW, which has principal responsibility, but in bureaus and agencies in several other departments. The Older Americans Act provides for Presidential Councils for liaison and general overview. Whether the elderly would be better served by a Department on the Aging under a Cabinet-level Secretary is comparable to the question of whether a Constitutional Amendment is desirable or necessary.

If Congress has come to view the aging as disadvantaged and in need of legislative relief, so also, and for a longer time, have an impressive number of organized private groups. Some experts in gerontology, the scientific study of aging, insist that these groups have been more effective in securing aid for the aging than the aging themselves, who, being as diverse as the population at large, cannot easily be molded into a group capable of effective action.

MANY GROUPS, MANY GOALS

A 1971 directory of organizations active or interested in programs for the aging lists more than 300. A few are exclusively for older people. In the majority, the welfare of the aging is only one facet of concern. The directory lists fraternal orders, veteran's associations, religious denominations. Also included are professional bodies such as the Gerontological Society and The National Council on the Aging.

The existence of so many groups, all engaged in efforts to improve conditions for America's oldest citizens, proves beyond question that the aging are not merely indulging a "me too" impulse. The sheer multiplicity of effort, however, may have a distracting effect on legislators, notoriously the victims of many pressures. A thoughtful objective observer might see the desirability of an umbrella organization, large enough to cover all the concerned groups and also the millions of the aging not now enrolled in old-age associations. No component unit in this conjectural super-group would need to surrender its special concerns and activities, but the super-organization, more than 20 million strong, would constitute the largest and potentially the most powerful special-interest body in the nation.

Once created and operative, this massive pressure group could be expected to push Congress even further along the road to maximum aid to the aging. Of necessity, its campaign would be stripped of all demands narrowly limited to particular sub-groups within the total. Instead, it would concentrate on what concerns all our aging, and on what is exclusively their concern. It would not overreach by seeking privileges denied to other age groups; but it would hardly need to. Simply catching up, gaining an equal share of the general welfare cited in the preamble to the Constitution, would be victory enough.

Given the necessary limitations to its program and the advantage of concentrating on the fewest possible demands, in the simplest and clearest wording, the ultimate goal might best be framed as a single statement. If so, we come full circle, back to what could be an all-embracing Amendment, the ultimate in any group's relation to the government: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of age." This is not an impossible dream.

CHURCH-SUPPORTED TERRORISTS RESORT TO CANNIBALISM IN RHODESIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the obvious bias of the World Council of Churches has been noted on previous occasions. I previously called to the attention of my colleagues the fact that the delegates to the fifth assembly of the World Council of Churches in Nairobi had ducked when presented with a resolution condemning religious persecution in the U.S.S.R. This item appeared on page 39547 of the December 9, 1975, CONGRESSIONAL RECORD. Even while the delegates were avoiding this issue, one of the terrorist groups that the World Council has sent money to was engaged in an act of cannibalism in Rhodesia. For the further edification of my colleagues, I am placing in the RECORD the story as reported in Rhodesian Viewpoint of December 15, 1975:

Church-Supported Terrorists Resort to Cannibalism in Rhodesia—Methodist Delegate to W.C.C. Says Terrorists Are Motivated by Love

Terrorists in southern Africa are motivated by love, not hate, in the view of the Methodist Church of Great Britain. So says Mr. Allan Shaw, delegate to the fifth assembly of the World Council of Churches meeting this month in Nairobi. According to a report in the Rhodesia Herald (November 29), Mr. Shaw was taking to task another delegate for suggesting that the church cannot support violence as a way of coping with a situation, and for expressing grave concern about the World Council of Churches' programme to combat racism.

About the time Mr. Shaw was delivering his judgement the following incident was reported from Rhodesia:

"Rhodesian Security Forces are hunting a gang of terrorists in the northeast operational area responsible for the first act of cannibalism since incursions first started.

FORCED WIFE TO EAT FLESH

"When a tribesman refused to give the terrorist gang food, the terrorists tied his hands behind his back and beat him, breaking both wrists, then cut off his ears, his lips and his nose.

"They then forced his wife to roast the flesh on an open fire and eat it. The mutilated victim, Mr. Chikombe Mazvidza, aged 30, said from his hospital bed, 'These people who did this are not human beings'. His wife is also in hospital suffering from shock. Before being forced to eat her husband's flesh she was badly beaten and also had her wrists broken. Her children were forced to witness her ordeal.

"The Director of nearby Karanda Mission, Dr. David Drake, said, 'It has got to be a pathological mind to do something like this.'"

MORE CHURCH MONEY FOR TERROR IN AFRICA

In its Capital Briefs section, the conservative journal Human Events noted that the World Council of Churches is likely to step up its aid to leftist guerrillas. A special W.C.C. panel recommended last week that the group "greatly increases" its "program to combat racism" by supporting revolutionary groups in Rhodesia, South Africa and elsewhere. A report entitled "Structures of Injustice and Struggles for Liberation" was approved by the committee, urging all-out support for "anti-racist" forces.

NEW FLUSHING REMONSTRANCE URGES FARMWORKER JUSTICE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. ROSENTHAL. Mr. Speaker, the community of Flushing in New York has a long and glorious history of speaking out for the rights of the oppressed. In 1966, residents of the town of Flushing wrote to Governor Stuyvesant calling for the religious freedom which had been promised to all in the Dutch charter. This letter has come to be known as the Flushing Remonstrance.

Today I am commending to my colleagues' attention a new Flushing Remonstrance. This document, signed by over 500 residents of Flushing, protests the oppressive conditions faced by the farmworkers of our country. Once again, the citizens of this important community remind us that we cannot accept silently incursions upon the freedom of our citizens.

The text of the Remonstrance follows:

Remonstrance of the Inhabitants of the Town of Flushing, N.Y., to Grape Growers of California, Lettuce Growers of California, Ernest & Julio Gallo of the Gallo Wine Co., Modesto, Calif.

The early inhabitants of Flushing, common people like ourselves, did not hesitate to oppose the politically and economically powerful when the basic rights of an oppressed people were in danger. This tradition is part of our rich heritage, and out of it, we the present inhabitants of the town of Flushing, speak out once more in the name of human rights and freedom. As our ancestors did for the religiously oppressed Quakers of their time, so we speak out for the economically and politically oppressed farm workers of our day. We too recognize that while our town city faces its most severe and trying economic crises, we must not become centered on ourselves. While facing our own needs, we must also speak out for the needs of others, for where the rights of one people are threatened, the rights of all are endangered.

Through the wasteful spending of millions of dollars, you have tried to persuade us that we should buy your products, that we ought not listen to or give heed to the message brought here by the United Farm Workers. We are not so persuaded; on the contrary, we find ourselves more committed to the goals of the farm workers, which we find in complete harmony with the traditions of our founders.

In their own documents, our founders proclaimed that they could lay violent hands on no one, that they would be governed by the law of love and peace and liberty, which condemns hatred, war and bondage, bondage to which you would subject these farm workers. We too are governed by these humane virtues and that to co-operate with you against their boycott would be, by failure to act, to lay violent hands on a non-violent people.

It is likewise in the traditions of our town to do good unto all people and evil to no one. We intend no evil to you as we give our support to the farm workers who seek only justice. We hold in great esteem, and enjoy ourselves, what they seek for their own, namely, justice, fair elections, education for their children, a guarantee of a fair wage and decent working conditions, and adequate medical care for their families. We find these demands to be fully just, and we find that to support the farm workers' boycott is equally just and necessary if we are to do good to our brothers and sisters who harvest our food.

REMONSTRANCE

We find the words of John Bowne, who suffered much for what he believed, to be as fittingly addressed to you as he addressed them to his would-be judges:

"I do not believe that you ever thought we would subscribe or yield to your unreasonable demands. We are persuaded, on the basis of truth and justice, that you will be and are judged in the eyes of God, your own state Supreme Court, and especially in the eyes of all good people, to have mocked the oppression of the oppressed and to have added affliction to the afflicted."

Therefore, in fidelity to the heritage we have received from our ancestors, and to pass that same heritage on to the generations to come, we proclaim that we will continue to extend our hospitality and support to the United Farm Workers, doing to them what we want others to do to us. This is the Law and the Prophets, and the key to a world of justice and peace for all people.

We send this message to you in the season when all here enjoy the renewing and peaceful spirit of religious and secular holidays. We call upon you to be open to this spirit and honor the just demands of the farm workers.

(Signed by approximately 550 residents of Flushing, 31 pages of signatures.)

BLANCHARD REPORTS RESULTS OF QUESTIONNAIRE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BLANCHARD. Mr. Speaker, in early November I mailed a questionnaire to the residents of Michigan's 18th Congressional District. To this date, I have received responses from over 11,000 citizens. While returns are still coming in, I believe the preliminary results of this survey will be of interest to my colleagues. The results, and my comments regarding subjects discussed in the questionnaire, follow:

1. People often think in general terms about the way public officials perform their jobs. How would you rate the job Gerald Ford is doing as President?

Excellent—3 percent.
Good—33 percent.
Not so good—36 percent.
Poor—24 percent.
No answer—4 percent.

2. How would you rate the job Congress is doing?

Excellent—0 percent.
Good—13 percent.
Not so good—51 percent.
Poor—32 percent.
No answer—4 percent.

3. In your own words, what would you say is the number one problem facing the people in your community today that you feel Congress should help with?

Inflation—27 percent.
Unemployment—20 percent.
Crime—10 percent.
Taxes/tax reform—5 percent.
Energy—5 percent.
Government spending—5 percent.
Faith in public officials—5 percent.
Other or no answer—23 percent.

Comment: I have spent a great deal of time working with economic problems during my first year in Congress. As I pledged to do when I ran for office, I have supported added funds for antitrust activities of the Justice Department, with the idea in mind that more competition will help keep prices down. I have also supported investigations of the food and oil industries, which are two of the most important contributors to the rising cost of living. I have introduced a bill to allow the United States to use its large share of world food production as a defense against blackmail by the oil cartel nations.

As for unemployment, I am continuing to work for passage of bills which will help the economy to recover, the most recent being the Tax Reform Act, which extends tax cuts for another year and will put more money into the hands of consumers. Others were: the Tax Reduction Act (now law), the Public Works bill (nearing passage now), the Emergency Unemployment Compensation Extension Act (now law), the Emergency Employment Act (vetoed), and the Emergency Middle-Income Housing Act (vetoed).

The public works bill contains legislation which is designed to provide employment help to areas of the nation with high unemployment (such as the Detroit area) whenever the national economy is in a downturn. This "countercyclical" concept is one which I have endorsed and supported.

In the area of crime, I have recently introduced a broad package of bills to protect law-abiding citizens and prevent crime. They include: a bill to provide for police and fire protection in localities which have severe financial problems; a bill to encourage local governments to speed up the trial process; a bill to restrict bail for persons convicted of violent crimes; a bill to help victims of violent crimes by providing federal aid for compensation programs; a bill to create stiffer sentences for drug pushers; a bill to impose stiffer penalties for committing a crime with a gun; and a bill which would ban the sale of "junk" pistols known as "Saturday Night Specials.".

4. Congress has considered, and will consider, a number of proposals to help solve the energy problem. Which of the following proposals do you favor? (You may select one or more of the proposals.) (Answers add to more than 100% because many respondents chose more than one alternative.)

A massively funded program for development of new sources of energy—52 percent.

Take strong action against the foreign oil cartel—48 percent.

Construction of nuclear power plants—35 percent.

Offering tax incentives for the purchase of fuel efficient cars—35 percent.

Oil decontrol—13 percent.
Rationing gasoline—9 percent.
Increasing gasoline taxes—9 percent.

Comment: The above answers certainly reflect the complexity of the energy problem with only about half of those answering in favor of any alternative. However, I do think it is clear that there is substantial opposition to the President's program of bringing about conservation through higher prices (decontrol, taxes and the like). I agree. As a member of the Science and Technology Committee, I have pushed for more funding for energy research and development programs, and I will continue to do so. In addition to working for action against the cartel, I supported, as did most Michigan Congressmen, an amendment to offer tax incentives for fuel efficient autos. The amendment was defeated by the House, but I intend to bring up similar legislation again in the future. The problems of the auto industry, and the effect of energy legislation on those problems, are too great to be ignored.

5. Another major problem we have is inflation and the rising cost of living. Which of the following ways of fighting inflation do you prefer? (You may select one or more of the proposals.)

Reducing government spending across the board—66 percent.

Reducing welfare spending except Social Security and unemployment benefits—62 percent.

Breaking up monopolies or companies that fix prices or hoard products—49 percent.

Strict controls on prices, wages, interest rates, profits and rents—31 percent.

Reducing military spending—24 percent.

Comment: I have introduced and cosponsored a number of bills which are designed to cut wasteful federal spending. Among them are the Truth in Budgeting Act, which would force a review of each federal spending program every two years; the Regulatory Agency Abolition Act, which would abolish all federal regulatory agencies within three years unless Congress decides that they should continue operations; a bill to establish the office of Inspector General in the Department of Health, Education and Welfare, to monitor and audit spending by that department; and the Full Employment Budget Surplus Act, which would require that the budget show a profit in any year when the unemployment rate is below four and one-half percent. I believe we must take steps now to be ready to reduce spending when the economy recovers, and at that time to make payments toward the national debt. The mistakes of the past, when deficits have been approved even during periods of high unemployment, must not be repeated.

6. I have introduced a Constitutional amendment to halt forced busing of public school children. Do you favor or oppose such an amendment?

Favor—93 percent.
Oppose—6 percent.
No answer—1 percent.

Comment: Congress, take note. (Antibusing sentiment is still growing in Congress. The most recent indication is an amendment to the appropriations bill for the Department of Health, Education, and Welfare. It bars the Department of HEW from requiring transportation of any student to a school other than that nearest the student's home.)

7. I have introduced a bill to require review and justification of all Federal spending at least once every two years (at present only budget increases are normally reviewed). Do you favor or oppose such a bill?

Favor—95 percent.
Oppose—3 percent.
No answer—2 percent.

Comment: Results of this question and question 8 have been sent to the committees considering these bills.

8. I have introduced a bill to give the U.S. government power to control sales of grain by private companies to the Soviet Union. Do you favor or oppose such a bill?

Favor—76 percent.
Oppose—18 percent.
No answer—6 percent.

9. Would you rather see more or less of your tax dollars spent on the following items next year? (No answer on this question is recorded as "Same".)

Crime control: More—75 percent, less—8 percent, same—17 percent.

Energy sources: More—74 percent, less—6 percent, same—20 percent.

Programs to reduce unemployment: More—62 percent, less—20 percent. Same—17 percent.

Education: More—54 percent, less—21 percent, same—24 percent.

Environment: More—40 percent, less—32 percent, same—28 percent.

Military and defense: More—30 percent, less—46 percent, same—24 percent.

Highways: More—18 percent, less—49 percent, same—33 percent.

10. Following are several statements. On each, I would like to know whether you agree strongly, tend to agree, have no opinion, tend to disagree, or disagree strongly.

a. Foreign investments in the U.S. should be regulated:

Agree strongly—50 percent.
Tend to agree—30 percent.
Have no opinion—11 percent.
Tend to disagree—6 percent.
Disagree strongly—3 percent.

b. The U.S. should reduce the number of troops it has in Europe:

Agree strongly—30 percent.
Tend to agree—30 percent.
Have no opinion—12 percent.
Tend to disagree—18 percent.
Disagree strongly—10 percent.

c. Unemployment could spread if the government doesn't take action:

Agree strongly—36 percent.
Tend to agree—23 percent.
Have no opinion—14 percent.
Tend to disagree—21 percent.
Disagree strongly—6 percent.

d. Most elected officials are afraid to level with the people:

Agree strongly—63 percent.
Tend to agree—27 percent.
Have no opinion—5 percent.
Tend to disagree—5 percent.
Disagree strongly—0 percent.

11. Who do you think should control X-rated movies?

Local communities—51 percent.
State legislature—11 percent.
U.S. Congress—9 percent.
No one—19 percent.
No answer—11 percent.

Comment: I, too, support local control on matters of this nature. However, I do believe Congress must examine more closely both the connection of pornography of various kinds, as a social factor, with decaying quality of life in our neighborhoods, and also the involvement of organized crime in this industry. A good opportunity for hearings on these matters will come when bills are considered which would revise the federal criminal code.

IRVINE RANCH RESISTS URBAN ENCROACHMENT

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BELL. Mr. Speaker, I call to the attention of my colleagues the story of the Irvine Ranch, one of the oldest and largest farming operations in California, as described in a recent issue of "Insight," published by the Council for California Growers.

The text of the article follows:

IRVINE RANCH FARMING OPERATIONS THRIVE—RESIST URBAN SPRAWL

One of the state's oldest and largest farming operations is thriving despite its existence in an atmosphere of urban sprawl, freeways, shopping centers, jet planes and smog.

The Irvine Ranch, founded in Orange County by James Irvine and two partners 100 years ago as a sheep raising operation, actually is more successful and widely diversified than it was when it enjoyed a rural atmosphere, according to John W. Brown, manager of the engineering and water department for the Irvine Co. Agriculture Division.

Two of the state's major freeways—Interstate 5 and 405—intersects the farming area. Tracts of homes adjoin the property on the south and west. Jets from nearby El Toro Marine Air Station roar overhead. But the ranch has resisted urban sprawl and there are approximately 15,000 acres in irrigated crops.

The entire ranch has 82,000 acres, stretching about 25 miles from the ocean to the north and eight miles from east to west. Its topography ranges from steep mountains as high as 2,000 feet, rolling hillsides and flat land almost at sea level.

"The ranch occupies one-fifth of the area of Orange County," said Brown, an agricultural engineer who has been with the firm for 10 years.

In Orange County, one of the nation's largest growth areas, The Irvine Co. has set aside more than 40,000 acres of the Irvine Ranch as an agricultural preserve. As a result, farming operations are assured for the foreseeable future despite the fact that area land values, taxes and irrigation water costs are sky high.

Good management practices have been the salvation of the ranch, which last year set an all-time record in sales—$15 million, Brown said.

"What we've done is convert from low risk, lower investment crops such as sugar beets, lima beans and barley to higher-yield, higher-risk commodities," said Brown in an interview with the Council of California Growers. "It's paid off."

Among the crops now raised at Irvine are strawberries, asparagus, celery, cauliflower, sweet corn, oranges, lemons, grapefruit, avocados and cannery tomatoes. In addition, there are 5,000 head cattle and some poultry. Several nurseries also lease land on the ranch properties, including Hines Nursery, one of the largest wholesale operations in the nation.

"Although we've lost some ground to houses, we've been able to utilize more of the land we have because of modern techniques, such a drip irrigation," Brown said.

Avocado and citrus trees now are planted on steep hillsides, utilizing the drip method in which water trickles into the ground slowly and evenly.

"We could never succeed with furrow or even sprinkler irrigation," said Brown. A lot of the Irvine terrain is hilly, and Brown envisions further development in the future as need arise.

The Orange County operation is fully integrated, with packing and shipping facilities on the property. Irvine also has ranch holdings in Imperial Valley and a cattle operation in Montana. William J. Williams is general manager of the Irvine Agricultural Division and a vice president of the firm.

COURT-ORDERED BUSING

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mrs. HOLT. Mr. Speaker, for nearly 3 years, Prince Georges County, Md., has endured court-ordered busing for racial balance in schools.

It has not improved the quality of education for the students, white or black, but has required a wasteful and nonproductive diversion of education funds to busing.

I am not alone in saying this. I invite your attention to a resolution adopted November 13 by the Board of Education of Prince Georges County. If you are seeking information from experts, here is that information:

RESOLUTION

Whereas, the Prince George's County Public Schools made considerable effort to comply with a court ordered desegregation plan commencing in January of 1973 which employed massive busing as the principle method of accomplishing this order; and

Whereas, Prince George's County concentrated every available fiscal and program resource to accomplish this mandate; and

Whereas, the intent of the court-ordered program was designed to provide equality of educational opportunity for all students regardless of race, religion, sex or national origin; and

Whereas, there is ample evidence to indicate the financial burden imposed to support additional busing created by this court order is detrimental to the efforts of the Board of Education to provide services designed to improve the quality of education for all students; and

Whereas, after several years of the forced busing program no evidence exists that the quality of education has significantly improved for students affected; and

Whereas, original proponents of busing, such as Professor James Coleman, has recently declared this method as inadvisable and counter-productive; and

Whereas, national and local surveys have consistently indicated the majority of education stockholders (taxpayers and parents) are opposed to busing as the method to achieve a quality of educational opportunity through racial balancing in our schools; and

Whereas, the President of the United States has publicly denounced the disruptive characteristics of forced busing programs; and

Whereas, Congressional opposition to forced busing has been renewed in the form of recently proposed anti-busing legislation; therefore,

Be It Resolved, That the Board of Education of Prince George's County, officially requests each member of the Maryland Congressional delegation to introduce and/or support national legislation which would terminate the use of forced busing; and

Be It Further Resolved, That such legislation be designed to apply not only to future court orders and/or HEW plans, but retroactive, therefore granting the option to local school boards to rescind and negate such plans in districts that have or are now implementing such programs; and

Be It Further Resolved, That this action be communicated to the Maryland State Board of Education and the Maryland Association of Boards of Education with an urgent request for support and endorsement.

CHINA TRIP FAILS TO PRODUCE SOMETHING NEW

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. DERWINSKI. Mr. Speaker, I ask leave to insert in the RECORD an article by John J. O'Malley which appeared in the San Diego Union on December 10, and which summarizes the results of the President's recent trip to China. Mr. O'Malley analyzes it in what I consider to be a very accurate and objective fashion.

The article follows:

CHINA TRIP FAILS TO PRODUCE SOMETHING NEW

(By John J. O'Malley)

Why no communique after the Peking trip?

The answer that matters of great moment are self-explanatory and do not demand the formality of a communique will not satisfy most Americans. They are more likely to conclude as a matter of instinct that there was no communique after President Ford's China trip simply because there was no news.

The Shanghai communique of 1972, despite the fact that it announced no earth shaking agreements between the two countries, was still meaningful because it signaled the climax of a visit that reopened China to the United States after a quarter of a century of isolation.

But the current visit produced little upon which the participants could agree.

The main aspiration of the Chinese Communists, so far as we are concerned, is "normalization of relations." Translation: "Abandon U.S. ties with the Nationalist Chinese on Taiwan and back off from U.S. efforts at detente with the Soviet Union."

They want us out of Taiwan, bag, baggage and embassy. They want an end to our security relationships with the Nationalist Chinese and they want the Nationalists out of Washington. Talk of their willingness to tolerate our military presence in Asia as a counterpoise to the colonial aggressiveness of the Soviet Union is just talk and nothing more.

Concurrently the Chinese want us to back away from our detente efforts with the Soviet Union. They are sufficiently perceptive to understand that the technology, the manufactured products, the corn and the wheat that detente will move from the United States to the Soviet Union are exactly the things that they themselves need and want from us. They reason that if the Russians get those American treasures, the Chinese won't.

Our own aspirations with the Mainland Chinese are simple. We want a good relationship with them, and an open one. We want reciprocal embassies, consulates and free-flowing trade. We want them to be a good member of the family of nations, to leave their neighbors alone and to quit exporting violent Marxist revolution to Africa and Latin America. We want them to be responsible participants in the nuclear community and to put their signature on the Nuclear Nonproliferation Treaty, which they have so far refused to do. This is what we want from the Chinese.

These national aspirations, are, in theory, not mutually incompatible. In reality, and at this moment, they are.

That is so because we are not yet ready to abandon our engagement with the Nationalist Chinese on Taiwan. While Mr. Kissinger speaks of a relationship at some time in the future "on the Japanese model," we all know that we are not Japanese and that the Nationalists are our friends. The moral obligation, the treaty commitment and pure security factors involving Taiwan are still too strong to permit a change.

And, with respect to the Peking desire that the U.S. abandon its efforts at detente, they must perceive that this is a program which our Secretary of State regards as a cornerstone of our foreign policy, and that we are not likely soon to abandon it.

The Communist Chinese, for their part, are not ready to make any dramatic changes. Their leadership is weak, diffuse, internally disorganized and mutually suspicious. There is nobody at or near the top willing to take the lead opening up their country to the United States. They still have too much to hide. Nor is there any vestige of leadership courageous enough to take an entire new tack and back off from their on-going plans of colonialism and subversion elsewhere in the world.

This basic inconsistency of views and aspirations stripped all substance from any joint announcement. It left the architects of the President's visit with the sound conclusion that no communique is better than a non-communique.

GUAM JAYCEE, EXECUTIVE VICE PRESIDENT JAYCEE INTERNATIONAL

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. WON PAT. Mr. Speaker, I am pleased to announce that Mr. Carl Peterson, a prominent businessman on Guam, has been overwhelmingly selected to serve as one of the three world executive vice presidents of the Jaycees International.

Mr. Peterson received the highest vote total of any candidate—472 out of a possible 590—a fantastic tribute to a dedicated man who richly deserves the honor and support of his fellow Jaycees.

As one of the original sponsors and past president of the Guam Junior Chamber of Commerce, I am honored that a resident of our island should receive such an accolade. Mr. Peterson has long been active in Jaycee work and his selection will most certainly enhance the ability of the Jaycees International to provide effective leadership in Pacific business communities.

In his new capacity, Mr. Peterson will have full responsibility for training new Jaycee executives as well as administrative responsibility for Jaycee activities in 26 countries in Asia and the Pacific.

During the past decade, Guam's hard working community organization, the Jaycee has led the way in developing important contacts in Asia and the Pacific. As a consequence, Guam has taken on increasing new importance for mainland U.S. firms who desire to do business in that part of the world. I and others on Guam firmly believe that the Pacific market represents a great untapped recourse for American business and I welcome the added new recognition of Guam's value in this effort which the Jaycees International have bestowed on our island through Mr. Carl Peterson.

The first Jaycee organization on Guam was started in the days following World War II by a number of young men from various walks of life spearheaded by former Judge Vincente Bamba and myself. Those were trying times, however, and it was not until the mid-1960's that the Jaycees was reestablished and became fully recognized on Guam. Now, the organization has five chapters across the island.

Like their brethren across the world, the Guam Jaycees have worked hard and effectively on many community related activities. Perhaps the best known is the annual blood drive conducted with great success by the Guam Jaycees. Under the present leadership of Joe Cruz (Happy) and his fellow officers, the Guam Jaycees and the five chapters will continue to make valuable contributions to the territory and their fellow Guamanians and live up to the traditionally high standards of the Jaycees International.

At this time, I insert in the RECORD, Mr. Carl Peterson's informative biography together with an editorial relating to Mr. Peterson which appeared in the November 26 issue of the Pacific Daily News:

BIOGRAPHICAL INFORMATION ON CARL PETERSON, 1976 EXECUTIVE VICE PRESIDENT, JAYCEES INTERNATIONAL

Carl Peterson was elected Executive Vice President of Jaycees International for 1976 at the XXX JCI World Congress held in Amsterdam, The Netherlands, from November 2–8, 1975.

Mr. Peterson was born in Laurel, Nebraska, U.S.A., on June 23, 1941. He now lives in Guam, with his wife Millie, where he has been president of his own financial planning company for ten years. In addition, he is engaged in business activities throughout Asia, Hawaii, North America and the Pacific, which include tax planning, securities, real estate, and insurance.

He joined the Guam Jaycees in 1965 and was elected to various positions in his local chapter, including LOM Secretary in 1970 and LOM Vice President in 1971. When the Guam Jaycees, which were previously part of the US Jaycees, became an independent NOM, he served as the first national President for the newly named Pacific Jaycees in 1972. He was elected JCI Vice President at the XXVIII World Congress in Nice, France, in 1973, and in addition to serving on the 1974 Board of Directors, was assigned to assist the National Organization Members in Hong Kong, Japan, Korea and China, where he chaired the JCI Conference held in Taichung that year. Last year, he served as JCI's representative to Project Concern. Mr. Peterson has attended JCI World Congresses in Honolulu, Hawaii (1971), Taipei, Republic of China (1972), Nice, France (1973), Auckland, New Zealand (1974), and Amsterdam, The Netherlands (1975), in addition to numerous regional JCI Conferences. He is JCI Senator No. 15483.

During his term of office as Executive Vice President, Mr. Peterson will be responsible for the supervision of five vice presidents of Jaycees International, in addition to serving on JCI's Executive Committee and Board of Directors.

GUAM AND JAYCEES . . .

We who live on Guam shouldn't have to be defensive about our island. We know that it is a pleasant, challenging, rewarding, exciting place to live.

Our problem is getting that message out to the rest of the world.

Unfortunately, our image has been beclouded by the lack of understanding of Ferdinand Magellan, by the horrors of World War II, by the terrors of Typhoon Karen and by the riots of the Vietnamese repatriates.

Consequently, we over react and reach out passionately for anything that would make our island look good in the minds of others around the world. We're happy with the world's largest McDonald's, Shakey's and Ben Franklin.

All this is by way of praise and admiration for the men of the Pacific Jaycees who put Guam on the world map recently during the Jaycee World Congress in Amsterdam.

Guam's Carl Peterson was elected one of three world executive vice presidents of Jaycees International. This is a remarkable achievement, coupled with the fact that Guam's William Flores also was national Jaycees president.

Peterson's victory was obtained in magnificent fashion: He got the most votes of any of those in the race, 472 out of a possible 590, with more than 3,000 delegates participating from all over the world. A 10-year Guam resident, he was accompanied to the convention by Flores and past president Jesse Perez.

To win the coveted post Peterson had to have strong support from Guam and Micronesia. He had to compete against some large and powerful groups. And now he even may have a chance at world president next year, if he can get the support of Asia and the entire Pacific.

Peterson's new responsibilities will include the training and administration of five vice presidents and the supervision of Jaycee activities in some 26 countries in Asia and the Pacific.

But the victory is more than a personal tribute to Peterson; it's also a feather in the cap for Guam, a place finally getting on the world map in a positive way. JCM.

SPENDING, TAX CUTS, AND HONESTY IN GOVERNMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. McDONALD of Georgia. Mr. Speaker, it is unfortunate that the issue of tax cuts and Federal spending has been viewed predominantly in partisan terms. The issue is not Democrats versus Republicans, nor is it Congress versus the President. The issue is honesty. Are we going to tell the people precisely how much the vast array of Government programs is costing them? Or are we going to tell them that they can have their cake and eat it too—that there can be both tax cuts and higher Federal spending?

When one proposes to cut taxes but not Government spending, he is not proposing a cut in real taxes. Whatever the Government spends must be paid for by the people in one form or another. If income taxes are reduced but Government spending is not, it just means that the difference will be made up by a more subtle form of taxation: inflation. To cover its deficits the Government must either borrow funds or print more money. If it borrows, it drains the capital markets and drives up interest rates—hence the people are taxed in the form of less capital investment, which means less economic growth, which means fewer goods and services, which means relatively higher prices. If, on the other hand, the Government prints more money to cover its deficits, then the value of the dollar is reduced, which also results in relatively higher prices.

Thus, a vote for extending the current tax cuts without placing limits on Government spending, is not a vote for a reduction in taxes. It is merely a vote for lower direct taxes coupled with higher indirect taxes in the form of inflation. And since direct taxes is an honest way of telling the people how much of their money the Government is spending, while inflation is a means of covering this up and constitutes a fraud, a vote for tax cuts along with unlimited spending is a vote for dishonesty.

For this reason, I am pleased that the motion to override the President's veto of the tax cut extension was defeated. Tax cuts along with higher Government spending is bad economics and bad Government. And, as the taxpayers begin to realize what is going on, I believe we also will find such practice to be bad politics.

If we want a real tax cut, we need only cut Federal spending. Let us get on with it.

This whole issue is well explained in the following editorial from the Wall Street Journal of December 17, 1975:

THE PRESIDENT'S TAX BOX

The 94th Congress is about to send President Ford a bill that asks us to believe taxes and spending should not and cannot be considered together. In all innocence, congressional Democrats who believe this ridiculous position somehow calculate that the President can't deal with it and come out a political winner. They think Mr. Ford has put himself in a box from which there is no exit.

Their reasoning: If the President vetoes the tax bill, and the veto is sustained, every paycheck will be smaller in January because of the increased tax withholding. Should the tenuous economic recovery then falter, Mr. Ford will be blamed. On the other hand, if he signs the tax bill after having sworn up and down the country that he would never agree to a tax cut without a congressional commitment to hold down spending by an equal amount, he'll be confirmed as a weak and swerving President instead of a firm and unswerving one.

This conventional analysis, though, ignores the possibility that the President is in that box because he sees an opportunity there, and that he can win politically by persuading the public to join him therein. We not only think the President should be right where he is and that he should veto the bill. We also believe his only real problem lies in selling his very saleable position, persuading the public that he is being stubborn with Congress for good reason.

We think he has the best reason there is, which is that he is right and Congress is not only wrong but frivolously wrong. Congress insists on merely extending $16 billion in 1975 tax reductions for six months, at which time it pledges to only "consider" reducing spending by that amount in the fiscal 1977 budget. The President has proposed a tax cut amounting to $28 billion that is precisely matched by reductions in projected spending in fiscal 1977, and he only asks that Congress commit itself to spend no more than $395 billion in that year.

The only argument the Democratic leadership has offered on why it won't buy the $395 billion ceiling is that Congress has a new budget process, and the calendar for that process doesn't call for setting a ceiling until next June. It is simply not possible, Congress solemnly asks us to believe, for Congress to violate the official calendar of the new budget process in order to compromise with the President.

This is so much nonsense, and the President should say so when he vetoes the bill. The real reason the Democrats don't want to accept the ceiling is that they do not want to have the idea of tax reductions and spending limitations joined in the public's mind. And this is the real reason why Mr. Ford is so stubborn in insisting that the two be joined. Anything less perpetuates the Keynesian idea that there is a free lunch. The nation has now learned in New York that while you can defer taxes through borrowing for awhile, you eventually have to pay with interest for all spending. But Congress is resisting applying this lesson to the federal level.

It seems to us the public is not only waiting to hear this simple message from Washington, but that it knows in advance that it has to be true. President Ford doesn't have a dilemma at all, but a golden opportunity to unveil the free lunchers on Capitol Hill. He has the right position, the right philosophy, the right tax package. All he needs is the right words to explain that when spending goes up, taxes have to follow, and for taxes to go down, spending must come down too. If Congress wants to argue with him about this, we will find out who is in a box.

REGULATORY REFORM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. ARCHER. Mr. Speaker, I have recently noted with great interest, a speech on regulatory reform that was delivered by R. A. Stranahan, Jr., president and chairman of the board of the Champion Spark Plug Co., to the Rotary Club of Toledo, Ohio.

Every day, the public demand for regulatory reform grows, and as a Member of Congress, I believe we have a duty to respond affirmatively. Excessive Government regulation results in a direct and substantial increase in price for every commodity the consumer purchases. In effect, the cost of excessive Government regulation is a hidden tax that is ultimately paid for by the consumer. I commend to the attention of my colleagues the following address by R. A. Stranahan, Jr.:

STRANGULATION BY REGULATION

(By R. A. Stranahan, Jr.)

I have been a member of Toledo Rotary for about thirty years and have had the opportunity of participating in various programs, but I've never felt quite as compelled as I do today to appear before you to discuss some of the current issues that confront us as individuals and as a nation.

Perhaps you wonder what would motivate a person like me to speak out, or to criticize some of our Congressmen for what I consider to be their socialistic tendencies.

Like many of you in this room today, I have children and grandchildren, so I have more than a casual interest in what happens to this country over the next 40 or 50 years and beyond. I want the young people coming along to enjoy the freedoms and opportunities which will enable them to benefit from a competitive society which rewards hard work, ingenuity and those who want to accept responsibility. Within our young people must be a burning desire to create, to develop, to invest, to take a chance and most of all to succeed or fail in accordance with their own talents.

Also, I think I have a real responsibility to our shareholders as well as about 14 thousand employees who work for Champion. It is my job to try to protect these stockholders and see that they get a reasonable return on their investment and also to protect the jobs and the future security of our workers.

Actually, every American should be concerned with unnecessary government regulation which is rapidly undermining our business system, destroying the value of the dollar, eroding wages and pensions, and weakening the capital structure necessary for the future expansion of our job-producing organizations.

Unfortunately, businessmen who are responsible for profit and loss no longer have full freedom to make profit-and-loss decisions. The problem is that government officials and government agencies who are not responsive to the pressures of the marketplace, are usurping that power and though their decisions affect management, they have no management responsibility.

FREE ENTERPRISE

For years nearly all businessmen have been guilty of neglect in one very important segment of our responsibilities. We have failed to defend our free enterprise system and I think for a very good reason. We did not feel it needed to be defended. The standard of living in the U.S. has been proof-positive of the accumulative benefits of a free, competitive society which has helped alleviate the suffering and poverty of the entire world. However, most of us in business today feel that even though it is late we cannot afford to neglect this problem any longer.

Champion has been in existence for nearly 70 years and there are many reasons why we have survived while many of our competitors have come and gone.

We may have faced difficult times over the years, such as recessions, depressions, wars and political upheavals, but we have been fortunate enough to be operating in a comparatively free economy with a system we call Free Enterprise where there has been challenging competition and a real incentive to grow and prosper with a minimum of restrictive controls.

This system has worked very successfully over the years as a self-regulating system with its own checks and balances in the marketplace. The law of supply and demand, the inescapable costs of labor and materials plus competition have determined selling prices.

Why is it that people have lost faith in our system? Why is it that the government bureaucracy has decided that we don't have the ability to run our own businesses and that it is necessary to direct and control us from Washington? We are about to celebrate our Bicentennial in the United States, two hundred years since the signing of the Declaration of Independence. Perhaps we should stop for a moment and consider what has happened.

In a maze of advanced technology we have become a strange people, a supposedly educated, sophisticated people a little aloof to some of the basic traits of our ancestors. You might say the American people have forgotten their political, economic and religious heritage.

Basically, we are a nation of people who believe in an infinite intelligence which we choose to call God. We believe in Divine Guidance. And it is well to remind ourselves occasionally that our forefathers came to this land in order to escape oppression, to be free to worship as they pleased and to be free as their Creator meant them to be.

But with this inherited freedom, which is so precious, we have also been given certain responsibilities with just enough rules to guide us and keep order in a civilized society. But I wonder if we haven't been relinquishing our responsibility as individuals to a paternal government which can carry us from the cradle to the grave? There is always something comforting in the many promises of social improvement which intimate that we shall be taken care of regardless of our circumstances, and most importantly, at no cost to the recipient.

However, it has been said that a great nation is the result of a great people. A great people are not the result of a great nation.

Lincoln once said:

"You cannot bring about prosperity by discouraging thrift.

"You cannot strengthen the weak by weakening the strong.

"You cannot help the wage earner by pulling down the wage payer.

"You cannot furtrer the brotherhood of men by encouraging class hatred.

"You cannot establish sound security on borrowed money.

"You cannot keep out of trouble by spending more than you earn.

"You cannot build character by taking away man's initiative and independence.

"You cannot help men permanently by doing for them what they could and should do for themselves."

These statements are as valid today as they were yesterday and in view of the present state of the nation they should be a basic philosophy for all our statesmen, businessmen and economists and be understood by all of our citizens.

THE TREND TO SOCIALISM

Unfortunately, very few people express any sympathy for business when they are promised "pie in the sky, cradle to grave" security from the federal government.

It is incredible when we have thousands of our workers walking the streets that we find so many liberal-minded public officials devoted to destroying business when it should be receiving the support of everyone if we expect to solve the present situation and put people back to work.

This country and our entire free enterprise system have been built and have grown on the basic premise of incentive and its reward to those who are willing to work hard, take a risk and perhaps succeed. Every investment, whether it be the purchase of a few shares of stock or an investment in a small business is made with the desire for a return, or profit on this investment. The future of our entire business community is dependent on the availability of capital and capital investment must be encouraged and rewarded. However, there are many men in Washington who are devoting their efforts to legislation which will destroy incentive and penalize success.

The present economic problems, including inflation in so many countries around the world, are all caused by this same attitude. It is a rejection of a free society for a socialistic government-controlled economy.

England is a good example. Listen to an excerpt from a recent article in the Wall Street Journal entitled "Good-by Great Britain."

"Steady as She Sinks" proclaims the April 25 cover story of The Economist, the British weekly journal of news and opinion. It is the British economy, of course, that is sinking. But that's not news. What makes this issue of The Economist valuable—it should be bound in leather and made required reading in every U.S. school of economics—is that it so finely traces the ultimate consequences of the welfare-state-Keynesian syndrome.

"Britain's current contribution to the world is to reveal the ultimate result of economic and social policies rapidly gaining ascendancy in the United States. To wit, the state must fulfill all needs especially medical care. Income must be redistributed principally through taxes on the returns from capital."

In closing, the article says:

"Good-by Great Britain. It was nice knowing you. Since we're following down the same road, perhaps we'll meet again."

Depending upon our business, I suspect each of us has a particular piece of legislation that irritates us, but actually we must take an interest in any legislation already enacted or pending because all of these controls have an effect on our lives, our freedom and our income.

I can get just as mad as the doctors over malpractice insurance requirements and the eventual effect of such activity in the field of medicine. How can we suggest that a doctor guarantee the diagnosis and the care of a sickness when most of us can't even describe our own symptoms? As a layman, I have always felt that the most important thing about the doctor-patient relationship was confidence. Now it is being suggested by adverse publicity that the new role between these two people should be that of antagonists.

THE AUTOMOTIVE INDUSTRY

However, I would like to zero in on a particular field of business with which I am familiar—the automotive industry. I think we must all take a vital interest in the automobile companies and the auto-related industries because they employ one out of every six working people in the U.S. and, therefore, have a very real influence on our entire economy.

This is merely an example of the problem which affects many businessess across the country. Listen to an excerpt from a recent article from Automotive Industries:

"Regulation has cost car buyers about $15 billion in the past decade. And Lee Iacocca, president of the Ford Motor Company predicts that future regulations may cost up to $150 billion in the next decade.

"To a large extent, federal regulation is responsible for the present catastrophic sales slump that's already caused the layoff of over a quarter million autoworkers. Federal standards are to blame for around 40% of price increases. Also, they've added greatly to the current confusion in the auto market and to the 'nonappeal' of 1975 cars.

"Regulation could lead the nation into a full-fledged national depression. The 'ripple effect' of the auto sales slump has not yet really hit the 40,000-plus auto suppliers or the hundreds of thousands of other auto-related businesses through the country.

"But, forget for a moment what automotive regulation has done so far. Government withdrawal is now needed to avoid the implementation of more than 20 already-mandated or proposed regulations which could well have a disastrous impact on (a) automobiles, (b) the auto industry, and (c) the national economy.

"A major miscalculation behind all this regulation is that it was aimed at four auto companies. But, 100 million motorists will have to pay out the billions of dollars for the hardware development work and the government regulation.

"The only voice these 100 million 'middle Americans' have in all these high-level government-industry negotiations is at the point-of-sale. These people are now voting 'no thanks' at car dealers."

Another interesting excerpt from this same article says:

"Dwarfing these costs are the billions of dollars being spent for energy-absorbing bumpers that have been mandated since 1973. Cost-benefit studies by the Department of Transportation, auto companies and insurance firms have since invariably shown that these bumpers were an atrocious waste of money, gasoline and natural resources.

"Bumper systems add 100 to 200 pounds of weight to each car increasing costs $125 to $250."

You know, it's interesting to hear the critics tell us that the real problem with the auto industry is that they have not responded to the needs and desires of the public. They should have been building mini cars which could go 40 miles to a gallon of gas. However, in reality, the great majority of motorists in this country consider their car a necessity and an investment second only to their home. They want a nice looking automobile which has all the comforts they can afford.

Don't forget the first mass-produced, low-priced cars to come off the assembly line were all alike and you could have your choice of color as long as you wanted black. Today's hundreds of models and colors with all the selection of interiors and options were the result of public demand.

This is true of all products and services. If we don't produce a quality product that people want and need that is priced competitively, they can refuse to buy and you can be sure there will be some rapid changes made. People screamed to Congress and the media about the price of meat and sugar but actually nothing happened until they refused to buy. Then prices came down immediately. This is the way things should happen when the consumer is boss.

It costs $4 billion dollars a year to support the federal regulatory agencies that ride herd on business and they are the new bosses. They tell you how to hire people, what products to make, how you go about making them, personnel practices, production methods, marketing, advertising, finance, etc., etc.

I am sure you remember the safety legislation forced on the automobile companies which required increased reinforcement which meant additional weight and lower gas mileage. Next came seat belts and shoulder harnesses with all of their visual and audio signals. These regulations all increased the cost of the automobile. The public, as you know, rejected the systems, devised to protect them and the compulsory regulations on the interlock were rescinded. Public opinion can change things.

Then came the most popular issue, which was cleaning up the air that we breathe—which is a commendable objective—but the automobile companies were told to comply with the new standards regarding exhaust emissions regardless of the severe penalty on fuel consumption and were given only a very limited amount of time to meet these standards. Under the circumstances, the car companies had no alternative but to put all their highly-experienced, trained engineers on the job of trying to meet these strict emissions standards rather than concentrating their efforts on trying to improve gas economy and build a better automobile. As a result, they had to dangle all the emission control devices on the car with some guarantee that they would continue to work efficiently for years to come.

These increased costs could not be absorbed by the vehicle manufacturer and have been passed on to the consumer even though the owner sees no noticeable benefits. The cars don't look much different, nor run any better. Well, people have started to rebel because they are not going to pay these prohibitive prices for transportation. Also, you know our legislators have back-tracked now and admit some of the legislation was hastily and poorly conceived.

Add to this problem the competitive situation from the imported, low-cost cars which have been allowed practically free access to our markets for years. Also, consider that the success of imported products into this country has been due to a great extent to the fact that they have been subsidized by their own governments. which in turn have put severe restrictions on the importation of U.S. products.

ANTI-BUSINESS SENTIMENT

This policy on the part of foreign governments has resulted in the complete elimination of some U.S. industries. At the same time, our government is exerting every kind of pressure to penalize multinational corporations and discourage all foreign investment without any consideration or understanding of the consequences. This can be very dangerous when you consider that 30 to 50 percent of the income of many of our large corporations comes from their foreign operations. No wonder U.S. companies are in trouble. No wonder we have a balance of payments problem.

No wonder we have thousands of people lined up for unemployment checks, welfare benefits and food stamps. George Meany, whose advice seems to be constantly sought in the halls of Congress, has an answer to the problem. He says, you must take immediate action to put out a fire. In this case, his answer is more money poured out of Washington in the form of reduced taxes, direct handouts or public service jobs. In a recent interview he said $30 billion is not enough, it should be $100 billion.

I think a far more constructive approach on the part of labor leaders—if they are sincere in their desire to help their members and I'm sure they are—would be to persuade their friends in Congress to overhaul, or abandon every piece of anti-business legislation and give their support to business programs which can provide real jobs and opportunities to the people who want to work. Also, they might heed the advice of Samuel Gompers, the founder of organized labor in America who made this statement, "The first responsibility business has to labor is to make a profit."

This activity would provide far greater security to the union workers than unrealistic demands for pay increases which do not in any way relate to productivity. Increases in cost of labor and materials are the first step in inflation.

It's interesting to hear the statements that are made by some union leaders that business can afford all of the increased expenses and additional taxes. However, let's face the facts—all expenses in business whether fringe benefits, direct wages or taxes must be factored into prices of the product or services.

It's also interesting to note that the greatest ambition on the part of labor leaders at the present time is to have compulsory union membership of all government workers. This would be a pretty kettle of fish when you consider that one out of every five people employed in this country is working for the government. They already have the power to bring industry to its knees and bring this country to a complete standstill. They hardly need this additional power and control.

Over the years, there has been a great deal of legislation passed which has been harmful to industry—there are hundreds of new bills pending which can be very destructive. Many of these bills may seem to be pretty remote to the different segments of the business world, but indirectly affect all of us. In addition to all of the environmental controls, we have had foreign trade bills, bills affecting depreciation, the Occupational Safety and Health bills and consumer protection agency bills and so many others that vitally affect the cost of doing business and our ability to operate in a free economy.

With all these threats to our way of life, it is time we forget party politics and put people in public office who stand for economic freedom and want to see our capitalistic system work. If we can ever get business, labor and public officials to work together towards framing reasonable legislation, and I think it is possible, we can put an end to inflation, energy problems and the serious unemployment situation.

WHAT CAN BE DONE?

Now, what are we at Champion doing about the issues that confront us as an industry and far more important what can all of us do together?

We can be heard not only in the halls of Congress, but in the court of public opinion. Our industry, along with all other segments of our business system, represents millions of working Americans and should be able to exert a great deal of leverage and create changes, but we have to work individually and collectively toward common goals.

First, we at Champion are working with congressional committees to provide facts so that legislation when finalized makes economic and common sense for everyone. Secondly, I am personally talking to thousands of people in our industry directly and through various industry magazines and publications. I have also enlisted the help of our 350 salesmen and other Champion people to spread the message across the country.

I believe the average citizen must be aroused. What can we do or say to activate or motivate people? Each of us can give hundreds of examples of how higher costs caused by government regulation result in higher priced products and services. (I repeat, our businesses would all be bankrupt if we didn't pass on these costs to the consumer.) Government price controls are responsible for the petroleum shortage and the natural gas problems. These are real issues which can be understood by everyone.

I don't believe we can afford to solve the energy problems by shutting down industry, even though we would be solving one OSHA requirement by making our factories silent. Nor, can we solve the problem by leaving cars in the garage and shutting down the entire auto parts industry. According to a U.S. Geological Survey, it is estimated we have approximately a 500 year supply of petroleum and a 300 year supply of natural gas and enough coal reserves to last for 1,500 years.

The American way is to provide some incentive for people to invest and explore for these new oil and gas fields and expand their productive capacity. This is the way a free economy works. This is the way America was built. This is what makes us different from the socialistic and communistic countries. This is why we fought wars and sacrificed our young people—to defend this freedom.

I don't believe we can afford to give away billions of dollars to foreign countries and in the same breath tell the American people there is nothing wrong with operating with a 70 billion dollar deficit. We certainly can't make friends with these gifts. All we ever hear from these people is "Yankee Imperialists—Go Home."

I don't think the American people would put up with this deficit if they realized why we are in this situation and if they understood the cost of operating the numerous regulatory agencies which turn out rules and regulations which cost the taxpayers additional billions of dollars. The average American worker already works 2 hours and 35 minutes out of every 8-hour work day to pay all of his taxes. We don't have to operate at a deficit if people get mad enough and tell their representatives they want to eliminate questionable foreign aid programs and eliminate expensive and useless government agencies. As a matter of fact, they should demand an accounting of the expenses of operating these agencies.

Recently, President Ford said that a key priority of his administration is to eliminate costly, unnecessary federal regulations which are hampering the economy. He said in the nearly 90 years since we created the first federal regulatory commission, we have built a system of regulations which abound with contradictions and excesses all of the detriment of the public.

I think every person who hears this story should pass it along to their employees, their friends and anyone who will listen and ask every person to contact their congressional representatives and in their own words—tell these people we are sick and tired of being strangled by regulation.

Perhaps if Congress stopped trying to control our nation's business, it could address itself to the greater social issues of the day such as poverty, crime and injustice and let the American people control the marketplace.

Let's give business the opportunity to solve their own problems that they might grow and prosper in a competitive and free market. In this environment our business system can continue to provide real jobs and opportunities for those people who want to work. I am optimistic about the future of our country, but we must give the control back to the people if we are to retain our position of leadership in our world society.

CONGRESS SHOULD REAFFIRM ITS OWN EXPESSED POLICY THAT THE GOVERNMENT SHOULD RELY ON THE PRIVATE SECTOR FOR GOODS AND SERVICES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. KEMP. Mr. Speaker, the growth of Government is a real problem and issue. Government gets bigger every year.

And, Government's handmaiden—the bureaucracy—has reached the point where it intervenes in or interferes with every conceivable aspect of our lives and livelihoods.

Yet, the powers that be—the powers which could restrain this growth and involvement—and that certainly includes the Congress—too often act as if they are powerless against the enormous swell of Government activity. It is as if they were waiting for the problem simply to go away.

Admittedly, not all Government activity is unnecessary or bad. A large part of the Government exists to carry out the basic constitutional obligations of preserving internal order, administering justice, and providing for the national defense. But, none of us should be complacent about Government activity which unnecessarily competes with the work being done by the private sector.

As we approach our Nation's 200th anniversary, the Congress, the executive and its agencies, and the taxpayers should reflect on the growth of the Government and the impact that growth has had—and will continue to have unless restrained—on this country's fiscal policies and social fabric. Much of the growth has been unnecessary, and many functions being performed today by the Government can be accomplished at less cost and more effectively.

Government has grown to the point where Federal dollars are being used to compete with the private sector in the production of goods and services—and Government has an unfair, anticompetitive advantage because it also sets the rules governing the competition with itself. Government budgets in the past 15 to 20 years have increased in both size and influence and to the detriment of the vitality of the free enterprise system which ultimately finances all Government activity through our tax system.

Government seems determined to become the first convergence of monopoly—a single seller—and monopsony—a single buyer. Simply put, the marketplace is increasingly controlled by a single buyer and a single seller who are one and the same—Government. The Federal Government is buying more than ever and is producing more than ever—in order to sell to itself.

This type of activity is in direct conflict with the expressed policy of both the Congress and the Executive. That policy is a clear one too. It is that the U.S. Government should rely on private industry for goods and services. There are sound economic reasons for this policy—and sound underlying principles of the way in which Government ought to carry out its missions in a free society too. And, I am concerned that these reasons are being ignored, often with impunity.

Government has no business being in business. Government has an obligation to make policy and to administer that policy. That is quite different from making products and selling them to itself. Moreover, when the Government does get into the production business, it is not economical.

According to the 1975 Annual Report of the National Commission on Productivity and Work Quality, the private sector continues to be 20 percent more productive than the Federal sector. The Commission observed that for fiscal years 1967–73, the productivity of 1.7 million Federal civilian employees—approximately 60 percent of total—increased by 11.1 percent. This represents an annual increase of 1.8 percent. For the same years, the productivity of the total nonfarm employees in the private economy increased by 13.4 percent, representing an annual increase of 2.2 percent. Thus, the private economy productivity grew 20.7 percent more than the Federal.

The Commission further observed that—while the output of Government is difficult to measure—the incentives to maximize resource efficiency and effectiveness are much less clear and compelling in the public sector than in the private sector.

The free enterprise economy dictates that waste and duplication must be guarded against. This is particularly true in high-technology areas. If invention is indeed the offspring of necessity, then competition by placing a premium on effort is more conducive to effective research and development. Yet, scientific inquiry done inhouse by the Federal Government has neither this advantage or this motivation. The inherent creative process that is an integral part of research activity is thereby minimized in Government. And, the effective program management technique of bringing together the talent and wisdom of the entire private sector either through subcontracting and/or competitive hiring go unutilized. Moreover, the capital investment required to improve this approach to problem solving is subsequently endangered.

What are some specific examples of government involving itself in the wrong places?

In the past few years, while the nation has grappled with its energy problems, the Department of Interior's Office of Coal Research signed an agreement with the U.S. Air Force to pay $3.5 million for research into a more efficient method of generating electrical power from coal. Yet, there have been a number of private firms who have been working in that very field and who have invested their own money into research and development on the subject. The private sector could have done the work under contract. Apparently, the Department's interest lay elsewhere.

The National Oceanographic Instrumentation Center—NOIC—which is part of the National Oceanic and Atmosheric Administration—NOAA—of the Department of Commerce has established regional centers at several locations in the country and is actively seeking contracts for calibration of oceanic instrumentation systems. Private firms, which have made substantial capital investment in the facilities required to do the work, report a significant loss of business due to competition from NOIC, which has directed that all—I repeat, all—NOAA activities must use their services and all grantees should use them.

Within the Department of Defense, a large percentage of development moneys for the design and construction of hardware is being consumed inhouse. Estimates for 1974 place the total at $1.9 billion or 28.8 percent. These are not efforts to improve the defense technology base; rather, they translate to government factories producing hardware.

When all the examples are added up, the extent to which the Federal Government has chosen to conduct much of its work effort on an inhouse basis is quite substantial. In 1967, industry as a provider of goods and services to the Federal Government accounted for 60.5 percent of total Federal expenditures in this category. By the close of 1973, it was estimated that the industry share had dropped to 50.4 percent of the total. This represents a difference of $11.6 billion in potential contract money which has been lost to the private economy. The importance of this statistic can be demonstrated in a number of ways.

The private sector is obliged to pay corporate taxes on its business revenue. The Federal Government, of course, does not have the same obligation. If the money had been contracted out, part of the money would have found its way back to the Federal coffers as tax revenue. Instead, the money was applied to a nonrevenue sector.

The private sector also uses part of the profit portion of its business income for capital investment purposes. Ordinarily, part of that $11.6 billion would have been applied to improvement factors which in turn affect productivity growth. Instead, the money was funneled into the public sector where there is no direct accountability for performance, cost and scheduling, and where capital investment—if and when it occurs—merely serves to duplicate existing private sector capability.

In a special report to the Office of Management and Budget in 1971 requested by the Commission on Government Procurement, executive branch agencies reported a total of 18,618 inhouse activities providing a product or service available from private industry, with a total capital investment of $10 billion and annual operating costs of $7 billion. The significance of these figures is also increased by considering the areas that are not included—all activities providing a product or service to the general public, those excluded by agency regulations and those omitted by local interpretation.

The activities which were considered include such things as photographic services, printing and reproduction, communications, clothing manufacture, aircraft and automobile repair, road construction and maintenance, instrumentation, fabrication and others. The expansion of Government effort is expected to flow into other significant areas of private sector competence including the engineering, design, and development of new products and systems, prototype fabrication, production, overhaul and repair of hardware produced by industry.

Still there are those who insist that it is cheaper to do the work in-house in spite of all the considerations mentioned above. There might, in fact, be examples of where this is true. I would expect as much when the unit price of the articles delivered does not include competitive bidding costs, when price itself does not have to be competitive, when corporate taxes are not an issue, when profit levels do not have to be considered, and when overhead can be kept at a bare minimum.

The real proof of the pudding, however, is in the ultimate retirement costs and fringe benefits which are an important feature of employee compensation in the Federal sector. The recent history of Federal expenditures indicates that employee compensation approaches half of the total Federal dollars used to provide goods and services needed by the Government. With the recent Federal pay raise and estimated increases in health and insurance benefits, the cost to the Federal Government is expected to escalate. This is not meant to impugn either the raise or the benefits package. It is cited to indicate that Government competition with industry is not the bargain basement sale which many of its advocates insinuate. On the contrary, its ultimate dollar cost continues to rise.

But relative cost is only one of a number of criteria which might justify that the Government perform work in-house. Cost must be considered in conjunction with the overall Government policy. Historically, the Government policy has been to rely on the private sector. Concern over whether or not the Government was competing with the private economy led to detailed investigations as early as 1932. Continual inquiry into the problem finally resulted in a series of 22 recommendations from the Second Hoover Commission in 1955. The clearly set forth recommendations were aimed at eliminating or lessening Government competition with the private sector. The Bureau of the Budget, the predecessor to OMB, issued Bulletin 55-4 in 1955 announcing to the heads of executive departments and agencies that:

> It is the general policy . . . that the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary channels.

Since that time, the bulletin has been revised and refined. The policy, however, as contained in the current OMB Circular A-76, clearly indicates that it is the general policy of the Government to rely on the private enterprise system to supply its needs.

OMB Circular A-76 is, I understand, now undergoing extensive review within the executive. A draft revision may even now be on the desk of the Director of the Office of Management and Budget. I certainly trust any revision of A-76 will reflect accurately the cost to Government which I have just outlined—especially Government personnel benefit and retirement costs. As I have already indicated, this is an area which has grown out of hand in recent years, and it is one to which this administration has pledged its commitment to try to restrain to reasonable levels. That administration policy would be undercut—inside the administration—by any OMB A-76 revision which fails to require each and every agency to include benefit and retirement costs in the computation of economic feasibility in judging whether to carry out an activity in-house or by contract.

The growth of the Federal Government has apparently served to mitigate the force of the initial A-76 policy decision and its subsequent application.

But the intrusion by the Government on the private sector will not—cannot—be dismissed on the grounds that it will go away and that everything will be all right in the morning. It is an increasing menace to the ordinary machinations of the free enterprise system.

It was for these reasons that I introduced, on October 30, a joint resolution to clarify and reaffirm Government purchasing policies. At that time, I invited my colleagues to join with me in this endeavor to preclude a further erosion of our free enterprise system at the hands of Government.

I have today reintroduced this joint resolution as House Joint Resolution 758. It now has 28 cosponsors—from both political parties. This confirms the existence of a growing recognition that a change away from the trend toward bigger Government providing its own goods and services is taking hold in the Congress. The reaffirmation of this policy is essential to helping business, including small businesses, recover more rapidly from the recession of recent months.

This joint resolution is now cosponsored by the following Members: Myself, Mr. ADDABBO of New York, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. BURGENER of California, Mr. CRANE of Illinois, Mr. DERWINSKI of Illinois, Mr. DICKINSON of Alabama, Mr. ESHLEMAN of Pennsylvania, Mr. GOLDWATER of California, Mr. GRASSLEY of Iowa, Mr. GUYER of Ohio, Mrs. HOLT of Maryland, Mr. HYDE of Illinois, Mr. KASTEN of Wisconsin, Mr. KINDNESS of Ohio, Mr. KETCHUM of California, Mr. MANN of South Carolina, Mr. NOWAK of New York, Mr. PATTISON of New York, Mr. ROBINSON of Virginia, Mr. ROONEY of Pennsylvania, Mr. ROUSSELOT of California, Mr. SARASIN of Connecticut, Mr. SATTERFIELD of Virginia, Mr. TREEN of Louisiana, Mr. VANDER JAGT of Michigan, Mr. WALSH of New York, and Mr. CHARLES WILSON of Texas.

The text of the joint resolution follows:

> Joint resolution to clarify and reaffirm Government purchasing policies.
>
> Whereas it is the function of the Government to set policy and manage the affairs of the Nation; and
>
> Whereas it is the role of private enterprise to provide goods, jobs and services needed in that endeavor; and
>
> Whereas optimum economy, efficiency, and productivity can be achieved if the Government relies on competitive procurement for its supplies and services; and
>
> Whereas it is a primary goal of the Nation to improve its economy by adoption of anti-inflationary policies: Now, therefore, be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the general policy of the Government of the United States to rely upon private commercial sources for the goods and services required to meet Government needs, unless
>
> (1) such reliance would demonstrably disrupt or significantly delay an urgent agency program; or
>
> (2) in-house performance is mandatory for national security; or
>
> (3) the product or service is not and cannot be made available from the private sector and is available from a Federal source.

Mr. Speaker, the joint resolution has been referred to the Committee on Government Operations, under the able chairmanship of our colleague, Representative BROOKS of Texas. I hope that public hearings can be held at the earliest opportunity, when we return for the 2d session.

PRESIDENT FORD IGNORES NEEDS OF THE HISPANIC COMMUNITY

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BADILLO. Mr. Speaker, early in President Gerald Ford's administration he indicated a desire to respond to the needs of the 15 million Hispanic Americans of the United States. He manifested this concern by convening a meeting of the Spanish-speaking Members of Congress. This meeting took place on September 4, 1974 and was attended by Senator JOSEPH MONTOYA; Resident Commissioner Jaime Benitez; and Representatives KIKA DE LA GARZA, HENRY B. GONZALEZ, MANUEL LUJAN, EDWARD ROYBAL, and myself. The President displayed a great deal of sincerity and interest in the problems of the Hispanic community.

The topics discussed covered a range of problems that affect our community. The President listened as we told him of the need for expansion of the bilingual and bicultural education programs. This vital program is underfunded and reaching less than 3 percent of the children eligible. The President also heard how the housing problems of low income Hispanics has been especially hard hit by the housing construction lag and lack of housing programs. We talked about the need for statistical information about our community and how the 1970 U.S. Census undercount shortchanged our local communities of funding and Hispanic representation. Another topic we talked about was the need for employment of the Spanish speaking in the Federal Government. Efforts to increase the employment of Spanish speaking in the Federal establishment and to advance qualified Hispanics have been total failures. In the Department of HEW, for example—a department whose programs directly affect the well being, health, and education of the Spanish speaking—Latins comprise only 2.5 percent of the total workforce and 83 percent of these employees are in grades below GS–9. Finally, we reviewed the problems and needs for bilingual job training and services to Spanish-speaking veterans and service personnel.

To this date, there has been no follow-up on this meeting. The President has even vetoed measures that would benefit our community, that is emergency employment, education appropriations, and health legislation. No additional meetings with the President have been scheduled nor has anyone from the White House contacted me about the issues we discussed. Our sense of frustration with the Ford administration is growing daily. The following letter expresses this concern and frustration. The correspondence was sent to President Ford on December 11, 1975 by the National Congress of Hispanic American Citizens. I would like to express my support of the intent of the letter and I hope other Members of Congress will do likewise.

The text follows:

El Congreso National Congress
of Hispanic American Citizens,
Washington, D.C. December 11, 1975.

Hon. Gerald R. Ford,
Washington, D.C.

Dear Mr. President: On behalf of our National Board of Trustees, and the 125 participating national, state and local Spanish speaking organizations, I would like to bring to your personal attention our very deep concern over your Administration's continued failure to firmly commit itself to the particular problems and concerns affecting our nation's second largest minority; the Spanish speaking community.

On numerous occasions, individuals and representatives of Spanish speaking organizations have repeatedly made known to the White House the pervasive social, economic, political and federal job discrimination that has historically been perpetrated against our Hispanic community. We have all rightfully asked whether these practices would continue under this Administration. Additionally, in many of these same occasions we have also discussed with senior White House staff persons whether or not this Administration was seriously going to be open and responsive, not only to our fervent pleas for equality of opportunity and for a meaningful opportunity to participate in its decisions but also whether this Administration would couple its responsiveness with meaningful and constructive action.

Now, if after sixteen months our Hispanic community is to judge this Administration by its past and present record in meaningfully and constructively responding to our particular problems, concerns and needs, it can only conclude that this Administration is failing us miserably. And if we are to judge this Administration's leadership, again, we can only conclude that its leadership has been insensitive, indifferent and continues to callously and blatantly ignore the problems, concerns and needs of our nation's 16 million Hispanic American Citizens.

Mr. President, it is not without cause that we are expressing these very critical concerns to you. Let's take a look at the record:

In the past 16 months you have met only once with a sizable representative group from the Hispanic community and on another occasion you briefly stopped by a board meeting of a Hispanic organization.

In spite of over 15 million Hispanic American citizens in this country you have only made three Hispanic Presidential Appointments: Fernando De Baca, Special Assistant; Fernando Oaxaca, Associate Director OMB; and Bert Gallegos, Director of CSA.

In spite of repeated requests and inquiries to the White House not a single Hispanic has yet to be appointed to any Sub-Cabinet posts, Federal commissions, regulatory agencies or any high level federal program staff positions.

In spite of the demonstrated success of the Bilingual Education Program in meeting the needs of our nation's limited English speaking children, you have once again demonstrated your total lack of support for this effort by requesting to Congress on November 18, 1975 a rescission cut of $27.7 million for the Bilingual Education Program.

In spite of repeated promises and commitments during the last six months from senior White House staff members that you would soon nominate a Hispanic to the Board of the Corporation for Public Broadcasting, you have failed to fulfill this promise and commitment.

In spite of repeated promises and commitments during the last year and-a-half from senior White House staff members that you would soon nominate a Hispanic to the Policy Board of the National Institute of Education, you have again failed to fulfill this promise and commitment.

In spite of repeated requests by numerous individuals and organizations for the last year for the appointment of a Hispanic recruiter in the White House Personal Office, you have refused to positively act on this request.

In spite of repeated requests for a strong and an effective enforcement effort in protecting the civil rights of the Hispanic community, this Administration has responded with its decision to stop all action against national origin discrimination complaints in HEW's Office of Civil Rights in the Dallas region.

In spite of numerous requests and invitations for you to appear and address numerous Spanish speaking organizations and/or their conventions, you have literally rejected every single request.

In spite of repeated efforts by individuals and Hispanic organizations to obtain your support for the numerous legislative proposals that directly impact on our nation's Hispanic community that have been and are currently pending before Congress, you have failed to lend support to a single issue.

The list is endless, but I am sure it vividly illustrates our point. For these reasons, Mr. President, we cannot in good conscience be silent and allow this inexcusable situation to continue. We are therefore strongly urging you to personally begin the immediate resolution to these problems.

We very anxiously await your reply.

Sinceramente,
Manuel D. Fierro,
President.

NEWSLETTER DISTRIBUTED

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. WOLFF. Mr. Speaker, periodically, I distribute a newsletter to my constituents in a continuing effort to keep them informed of my activities as their representative in Washington. And often, I use the newsletter as a vehicle to obtain their views on major issues, thus allowing me to function more effectively on their behalf on Capitol Hill. I would like to share with my colleagues my latest newsletter:

A Report From Your Congressman

(By Lester Wolff)

Dear Friend and Constituent: New York City's financial crisis and its nationwide economic consequences have not been full or finally resolved by the shuttered vision of the Administration. Critical days remain ahead for every American until fiscal responsibility is achieved on both national and local municipal levels through the curtailment of nonessential spending and a halt to the endless increases in debt ceilings and interest rates.

Remember, the Administration did not hesitate to guarantee the Soviet Union the development cost of a natural gas plant and assure shipping subsidies for grain deals—yet it chose to turn deaf ears on the fearsome plight of New York City and her wage earning populace. There is no question that NYC must act now to put its own house in order and hold to account those responsible for the mess, but the federal government cannot ignore its obligation to recognize and avert the dire effects a default would have on the entire economy of our country.

As your Representative I voted along with all Members of the NY Delegation, for the Administration's proposal to loan the city $2.3 billion a year in direct aid (an ill-conceived measure that will only provide for short term cash needs), because there was no other alternative available to us to prevent a NYC default in 1975.

The President had made it "perfectly clear" that he would veto any legislative proposals to provide federal loan guarantees to the nation's largest city—action that would have cost the taxpayers absolutely nothing. Direct aid is subject to the cost of current borrowing rates plus 1 percent in additional interest. I believe the direct aid measure to be a "bandaid" cover-up for a gaping wound.

We must recognize that if NYC falls, the State of New York could follow for it will be hard pressed to avert its own default and bankruptcy. The reason is simple, N.Y. State has committed billions of dollars to help NYC—billions it would never recoup if the city defaulted. The net result could well mean two million more persons unemployed in the nation and a loss to the Gross National Product in excess of $56 billion, a deadly economic condition that would trigger widespread economic failures. Federal revenues would plunge as tax collections decreased and federal expenditures would increase sharply in terms of unemployment and welfare assistance

As well, we cannot lose sight of the fact that some 75 percent of NYC's debt is held by individuals who are faced with losing their life savings and, in the instance of elderly pensioners, their very means of economic survival.

Further, the NYC crisis has bred an unprecedented, instability in the municipal credit market with the result that localities on Long Island and throughout the U.S. are forced to borrow needed foods at the highest rates of interest in history, if they are able to borrow at all. Each added percentage point of interest costs the American taxpayer substantially more in property and other local taxes.

We must not permit this upward spiral of interest rates to continue at a time when our economic recovery demands tax reductions. Ours is an interdependent economy. No one part of our nation can supply its own needs alone, a fact that is graphically driven home in the metropolitan area where the purchase of goods and services are contracted with purveyors and manufacturers across the country. Drastic reductions in municipal purchases, caused by these increased borrowing costs, will unleash even greater economic consequences and hinder our chances for economic security.

The future of every American family depends on our coming to grips now with the underlying causes threatening the structure of urban and suburban government in this country. We must develop a responsive economic policy to insure that local municipalities are never again faced with an instability to meet the needs of the people.

WOLFF CONDEMNS GENERAL ASSEMBLY AS "IRRESPONSIBLE"

The General Assembly of the United Nations has failed to live up to the Charter defining its role as a world body obligated to seek harmony and peaceful resolution of disputes. Instead, by continuing to act irresponsibly, the General Assembly has spawned new worldwide tension and distrust and has subjected the United States to the whims of tiny despotic nations that have perverted the original purposes of the U.N.

U.S. Ambassador Moynihan is to be commended for his outspoken stance against the deliberate attempts of the General Assembly to subvert the free world and tilt the scales of justice toward nations that represent less than 10 percent of the world population.

Just as I condemned the General Assembly last year for overstepping its mandate by ousting South Africa, by granting observer status to the PLO, and for not raising an indigant voice of protest when Uganda's Idi Amin expelled all inhabitants of Asian heritage and murdered countless thousands, we cannot condone the overt antisemitic action of the General Assembly to brand as racism the continuing fight for independence of the Jewish people. Not one word was said in the U.N. about the Moslem slaughter of Christians in Lebanon or the British repression of Catholics in Ulster. This is wrong in every sense of the word and is counterproductive to world efforts to achieve a peaceful Mid-East solution.

Accordingly, I have introduced a Resolution in the House to amend the United Nations Participation Act to suspend all U.S. activity in the General Assembly until such time that body returns to its Chartered role and Congress approves renewed participation. This measure does not affect U.S. participation in the U.N. Security Council, but does serve notice that we will not sit by and permit America's values and principles to be eroded.

CONGRESS MOVES ON NATIONAL ENERGY PROGRAM

I am encouraged by the legislation finally agreed upon by the House and Senate conferees to establish a comprehensive National Energy Policy for I have been advocating the necessity for such action since first entering Congress.

A National Energy Policy can be the catalyst to forge a new partnership between government and industry—a partnership for progress—that will benefit the American consumer by meeting the nation's energy needs at reasonable prices.

This new legislation will increase domestic energy production and, at the same time, insure a strategic energy reserve. It will encourage energy conservation and establish oil pricing standards that will not gouge the consumer who has been forced to bear the brunt of skyrocketing fuel oil and gasoline prices.

Most important, it will act to reduce our dependence on foreign oil supplies while controlling domestic oil companies from exploiting the consumer and reaping greater corporate profits. It is long past the time for this government to control the oil companies, instead of the oil companies dictating policy.

In a subsequent newsletter, I will discuss with you in greater detail the ramifications of this most important piece of legislation that directly and favorably affects you mobility in the open marketplace.

THE MAJOR INSURANCE COMPANIES HAVE EMBARKED ON A PROGRAM OF ABUSIVE AND ANTICOMPETITIVE PRACTICES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. DOWNEY of New York. Mr. Speaker, last week I had the honor of testifying before the special Ad Hoc Subcommittee on Antitrust, the Robinson-Patman Act, and Related Matters of the Committee on Small Business. Under the leadership of Representative HENRY B. GONZALEZ, this subcommittee has conducted a number of very important hearings on recent efforts to amend or repeal the Robinson-Patman Act. Mr. Speaker, I believe that all small businessmen owe a debt of gratitude to Chairman GONZALEZ for his efforts on their behalf.

Mr. Speaker, the major insurance companies have embarked on a program of abusive and anticompetitive practices in an effort to manipulate the automobile repair industry. In their efforts, they are systematically harassing small businessmen and are threatening the safety of the motoring public.

Mr. Speaker, I insert for the RECORD a copy of my testimony before Chairman GONZALEZ' subcommittee:

TESTIMONY OF HON. THOMAS J. DOWNEY

Mr. Chairman, I would like to thank you for this opportunity to bring to the attention of this subcommittee a problem of steadily increasing magnitude, not only in my own Congressional district, but, I believe, throughout the country.

Mr. Chairman, the major insurance companies have embarked on a program of abusive and anti-competitive practices in an unlawful attempt to manipulate the automobile repair industry. In their efforts to bring their tremendous economic power and influence to bear on the automobile repair market in an attempt to control the price of automobile repairs,

(i) the insurance companies have forced small businesses to choose between performing work at arbitrary prices set by the insurance companies or losing much of their repair business;

(ii) the insurance companies have established "preferred lists" of automobile repair shops which have cooperated with them and have attempted to direct automobile repair business to these shops and away from shops which have attempted to be more independent;

(iii) the insurance companies have so distorted the economics of the automobile repair market that repair shops today must often resort either to cheating the insurance companies or performing inadequate and shoddy repairs on the automobiles which they service if they wish to deal successfully with these insurance companies and still realize a reasonable profit; and

(iv) at least one of these insurance companies has embarked upon a new nationwide promotional advertising campaign which does not appear to comply with the Magnuson-Moss Warranty Act or the F.T.C. regulations promulgated thereunder.

In sum, the insurance companies, by their actions, are systematically harassing small businessmen, in violation of our antitrust statutes, and are threatening the safety of the motoring public.

Mr. Chairman, the single most important influence upon the quality and cost of automobile repairs today is the insurance industry. The small autobody shops—which typically consist of an owner and three or four employees—depend upon these multi-million dollar corporations for about 60 to 85 per cent of their business. This makes the insurance companies the dominant purchaser in the automobile repair marketplace, and gives them a tremendous amount of leverage over these small businessmen.

The insurance companies use their influence over their insureds to harass the small automobile repair shop. The secret of the power of the insurance companies is their ability to assume from their insureds the authority and discretion to decide at which establishment damaged automobiles should be repaired. This is done through suggestion, through encouragement, and occasionally through outright coercion. But however it is accomplished, the insurance companies have developed the ability to influence the automobile owner's choice of repair shop and thus control much of the flow of auto repair business in this country.

The insurance companies then hold this power over the heads of automobile repairmen like a Sword of Damacles. If the repair shop complies fully with insurance company demands, it may be placed on the insurance company's preferred list. On the other hand, if it tries to strike a more independent course, the repair shop may find its business significantly curtailed.

Through their enormous power in the marketplace, the insurance companies have thus reduced many repair shops to the status of mere franchisees—dependent almost entirely upon their good relations with the insurance companies and not their automobile owning customers for their survival.

With this bargaining power, the insurance companies are usually able to insist that repair shops offer to them a discount ranging from 10 to 20 per cent on automobile parts. If a body shop refuses to go along, it is taken off the insurance company's so-called "preferred list" and will usually find its insurance business significantly curtailed. And at the same time that the insurance companies are exacting this discount from the repair shops they are requiring their insureds to pay the full "amount deductible" under their insurance policy—those who pay the premiums never see any part of the pound of flesh which the insurance company exacts from the repair shop.

In addition to establishing required parts discounts, the insurance companies also effectively fix the labor charges for crash repair in most regions of the country. Again, body shops which insist on charging more will find that insurance companies avoid doing business with them. The insurance companies in this regard are all price and no pride—they would rather steer their insureds to cut-rate garages of questionable quality than meet the cost of a first class shop. Basically, the insurance industry makes little or no attempt to assure that the crash repairs which they arrange are satisfactorily and safely performed.

Furthermore, these labor rates are fixed at unreasonably low levels. As an example, it is interesting to note that Sears, Roebuck & Co., which owns Allstate Insurance Co., charged $12 per hour of its customers for appliance repairs in 1970; however, its insurance company subsidiary at the same time refused to pay more than $7 per hour to autobody shops for car repairs.

Since most repair shops couldn't make it if they were to follow strictly their unrealistically low labor rate, they are forced to do one of two things to compensate. They either short-change the consumer—by taking short cuts on repairs, or using salvaged parts and bill for new ones—or they may cheat the insurance companies by padding the records of time spent on repairs. The practices of the insurance companies literally compel many repair shops to develop dishonest practices in order to survive.

Mr. Chairman, my testimony this morning is a summary of an inquiry conducted by my office over the last six months. During that time, we have spoken with insurance adjusters, automobile repairmen and consumers in my own Congressional district. In addition, we have received dozens of letters from all parts of the country telling us that the problem is not local in scope, but nationwide.

Mr. Chairman, I ask this subcommittee to take an active interest in this matter by hearing additional testimony at an early date on this problem. If the Committee can hold hearings on this matter, I would be happy to provide as witnesses at that time a claims adjuster presently employed by a major insurance company, together with a multitude of automobile repairmen who will all confirm the account which I have presented here today. I place myself and my staff at the service of this subcommittee and will supply it with any information on this subject which it may require. Thank you, Mr. Chairman.

RED CROSS CERTIFICATE OF MERIT AWARDED TO ALAN VOELS AND PAUL BABITZKE

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. HAGEDORN. Mr. Speaker, I am pleased to call to the attention of my colleagues a meritorious action taken recently by two of my constituents who have been named to receive the Red Cross Certificate of Merit. This certificate is the highest award given by the American National Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a voluntary training program offered by the Red Cross in first aid, small craft or water safety.

On July 10, 1975, Alan Voels, the 14-year-old son of Mr. and Mrs. Stephen Voels, and Paul Babitzke, the 12-year-old son of Mr. and Mrs. Walter Babitzke, both of Burnsville, Minn., were approaching a lake near their home when they were told by two small boys that one of their friends was floating face down near the water's edge. Paul and Alan immediately went to assist the young boy. They waded into the water, recovered the victim and pulled him onto a dock. The boy was not breathing so the rescuers began alternating with mouth-to-mouth resuscitation. The victim soon responded and was rushed to a nearby hospital where he later recovered completely. It was the alertness of these two fine young boys, applying their lifesaving skills and knowledge, that saved the life of the unfortunate swimmer.

I extend my heartiest congratulations to Alan Voels and Paul Babitzke for the meritorious act they performed together last summer. They can both be proud of the Certificate of Merit award they will receive from the American National Red Cross. It is an award that is richly deserved.

THE PLIGHT OF THE POLTINNIKOVA FAMILY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. WAXMAN. Mr. Speaker. I should like to bring to the attention of my colleagues in the Congress and as much of the American public as possible, the tragic situation of the Poltinnikovas, a family in the city of Novosibirsk, in the Soviet Union. The details of this family's plight have been brought to my attention by constituents actively working to help them through the Southern California Council for Soviet Jews. The difficulties of the Poltinnikova family are not only of great importance in and of themselves, but provide us with a vivid lesson in Soviet immigration policy.

For more than 3 years, the Poltinnikoyas have been denied the exit permit to Israel they requested. Since notifying the authorities that they wished to emigrate, the Poltinnikovas have been subject to one harsh punitive measure after another. Dr. Isaac Poltinnikova, a distinguished ophthalmologist, was dismissed from his position with no explanation. He was also stripped of his military rank and of the pension he drew as a 30-year veteran of the army medical corps.

Dr. Poltinnikova's wife is also a physician, but poor health has prevented her from working for many years. The entire family is without regular income, and is dependent on charity from friends. Their daughter, Victoria, suffers from tuberculosis, but is unable to obtain proper medication.

After depriving the Poltinnikovas of all opportunity of legal employment, the Soviet Government, in a sadly ironic move, brought criminal charges of "parasitism" against the Poltinnikovas for their failure to do productive work.

Hard as it is to imagine, the plight of the Poltinnikova family has taken a substantial turn for the worse during the past several months. The Soviet authorities have totally cut off communication between the Poltinnikovas and their friends and relatives outside the Soviet Union. Mail from them to others is never received. Mail from their daughter in Israel is not delivered. Telephone calls from outside the U.S.S.R. are not put through. The family now lives virtually in a state of solitary confinement. In a message sent through friends, Dr. Poltinnikova reported intense fear of violence from the KGB. He feels that he and his family are now in mortal danger.

When Dr. Poltinnikova first applied for an exit visa to Israel, the Russian authorities praised his medical skill and knowledge and told him he was far too valuable a Soviet citizen for them to lose. Yet, in no time, the doctor and his family were branded as criminals and denied any useful role in the land of their birth. If the "spirit of détente" means anything at all, it must mean responsiveness by the Soviets to American interest in the Poltinnikova case.

Soviet immigration policies grossly deviate from the moral convictions we Americans have about freedom of movement. As long as this gross deviation exists, I doubt if much progress toward mutual understanding can be made between the two nations.

NATURAL GAS POSSIBILITIES IN SOUTH DAKOTA

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. PRESSLER. Mr. Speaker, much has been said and written about the natural gas shortage our Nation is facing. Indeed, this Chamber will be taking up legislation designed to alleviate this situation in the short-run, but long-range predictions of natural gas consumption rates point to the urgent need to explore and develop new reserves. My State of South Dakota is one of those areas which has been little explored, but shows potential for containing natural gas deposits. The State Capital of Pierre at one point was powered entirely by natural gas, and there is today a producing natural gas well right on the State Capitol grounds.

A few weeks ago, I conducted a public meeting in Sioux Falls to discuss the natural gas situation in South Dakota, and I was most pleased to have there Mr. Robert Herring, chairman of the board of Houston Natural Gas Corp., and Mr. Robert Mayse also from Houston Natural Gas. Mr. Mayse had spent the prior week making a feasibility survey regarding the exploitation of natural gas potential in South Dakota. Although Mr. Mayse's study was necessarily limited to one week and he stressed the need for much more investigatory work, his initial findings were somewhat encouraging.

The area which has real indications of natural gas possibilities is the central portion of South Dakota, particularly around Pierre, the State Capital. A number of shallow wells in this area produce large quantities of mineralized water, together with bubbles of natural gas. It must be mentioned that no well has produced natural gas without water. This is the reason why South Dakota has not been extensively explored and developed as it is commercially unfeasible to separate the gas from the water unless the well is assured to have a high yield. However, I have been informed that Houston Natural Gas Corp. intends to run analyses of these water-gas wells to determine the type of hydrocarbon present. Knowing this, I have been told, is very important in determining the source of the gas and, consequently, where the most likely spot for accumulations of water-free gas may occur.

Other areas of the State also show potential. In the northwestern corner, Harding County, oil and natural gas have been produced from the Buffalo fields since the mid-1950's. A number of smaller oil fields, generally of the one-well variety, have been discovered in this area in recent years. The drilling pace in 1975 has doubled that of the previous year, and several oil finds are already on the books. I have been in contact with South Dakotans in the Peever and Sisseton area who have natural gas flows from artesian wells. This section of the State, too, should be further explored.

I am hopeful that Houston Natural Gas Corp. will continue to make every effort to determine the potential of natural gas development in South Dakota, and I hope that other gas companies, too, will become interested. Although South Dakota will not be the answer to the natural gas shortage, it is, nevertheless, important that the State can fulfill its own energy needs from what may be produced within its borders. South Dakota's supply of natural gas has not been as seriously curtailed as that of some other States, but we have faced the situation where several businesses have declined to build there because no natural gas has been available to them. Business and industry is very important to the State in order to diversify a primarily agrarian economy. I look forward to the day when South Dakota can produce enough of its own natural gas so that our homes and farms can be heated and perhaps new industry may be attracted to the State.

PLEA FROM A SOVIET DISSIDENT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. DODD. Mr. Speaker, I would like to make a last and desperate appeal before the U.S. Congress for a unified effort to save the life of dissident Soviet mathematician, Leonid Plyushch.

Arrested in 1972 on charges of anti-Soviet agitation, Mr. Plyushch has been detained in a police-run psychiatric hospital in the Ukraine since July 15, 1973, and subjected to massive doses of insulin and mind-numbing drugs.

Today he is reported to be in a state of complete mental and physical collapse, and it falls upon all of us free men and women to do what we can to secure his immediate release.

Since his commitment on grounds of insanity, Mr. Plyushch has been the subject of widespread protests in the West against his confinement. In response to these outside pressures, Soviet authorities told Mrs. Plyushch on November 28 of this year that her husband would soon be released and that she could prepare exit permit applications for him and his immediate family.

On December 4, Mr. Plyushch was still in the prison psychiatric hopsital, and Mrs. Plyushch reported in a phone call to Western newsmen that the senior visa official handling her case was "unavailable" to her.

On December 10, Mrs. Plyushch was told that her husband's case would be "positively solved" within 5 days.

And now, 8 days later, there has been no further word from the Soviet authorities, no release of Leonid Plyushch, and no delivery of the family's visas.

This tragedy has a chance of being righted only through greater, more intensified outside pressures on the repressive Soviet authorities—who are once again engaged in an active violation of the spirit of the Helsinki Agreements.

I appeal to all of you whose sense of humanity and justice makes this situation a disgraceful and intolerable one. I urge all of you to join your voice to the pleas of the International Congress of Mathematicians, the International Red Cross, the Moroz Defense Committee, Amnesty International, and French Communist Party Leader George Marchais.

It is suggested that you may best support the international human outcry in this critical moment of a man's life by sending a telegram to the head of the psychiatric hospital in which Leonid Plyushch is detained.

The address is the following: Mr. Pruss (Chief), Special Psychiatric Hospital, Chicherina Street, Dnepropetrovsk, Ukrainian SSR, U.S.S.R.

BENTON MACKAYE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is quite common for Members of Congress to pay tribute to military heroes who have served their country with a special courage and distinction. Today I would like to pay homage to a much different type of hero, but certainly a man who is most deserving of this acclaim.

I am talking about the late Benton Mackaye, first president of the Wilderness Society, who passed away last week at the age of 96. Mr. Mackaye is the person most responsible for the creation of the world-famous Appalachian Trail, a 2,000-mile-long footpath that stretches from Mount Katahdin in Maine to Springer Mountain in Georgia.

It was in October 1921, that Mr. Mackaye wrote about his idea in an article titled "The Appalachian Trail, An Experiment in Regional Planning." The article, which first appeared in the Journal of the American Institute of Architects, was subsequent reprinted in several magazines. The concept of a single continuous Appalachian Trail quickly attracted wide public support, so that in 1926 work began on linking several existing trails. This project was completed in 1933.

Mr. Mackaye's legacy is a living tribute to his memory. The tremendous growth in the number of active hikers in this country, recently estimated at 50 million, provides some indication of the importance of the Appalachian Trail to all Americans.

Yet it must be remembered that the fight to preserve this great national resource will never end. Constant pressure created by an expanding population and a desire on the part of some to develop the remaining vestiges of America's wilderness heritage threatens the Appalachian Trail and the other hiking trails throughout the country. It is important that we realize how much these unspoiled treasures are worth before it is too late. That is the message that Benton Mackaye tried to relate to us.

MAYOR PAUL C. HOY RETIRES AFTER 10 YEARS OF SERVICE TO CENTERVILLE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. WHALEN. Mr. Speaker, I rise on this occasion to pay tribute to one of the outstanding leaders in my congressional district, the Honorable Paul C. Hoy, mayor of the city of Centerville, Ohio.

Mayor Hoy will be retiring on January 1, 1976, after 10 years of distinguished and dedicated service to the citizens of his city and the betterment of our entire area. He has been the chief executive of Centerville during a period of unprecedented growth in population, responsibilities, and challenges. As his constituents so well know, he has responded effectively during his decade of leadership, to the everlasting benefit of the city.

When Paul Hoy first became mayor, Centerville numbered some 6,000 souls. Today, the municipality's population stands at more than 16,000. During the same period, the physical size of the city grew enormously. In 1967, for example, 2,288 acres representing the entire northeastern portion of Washington Township were annexed. The city's budget has increased from less than $200,000 in 1966 to more than $2 million today. Only the police and fire departments existed 10 years ago. Centerville now operates all of the departments necessary to run a modern municipality, including finance, planning and development, building and electrical inspection, recreation, law, and service departments.

Similarly, many boards and commissions were organized and established during Mayor Hoy's tenure. Examples include the board of architectural review, the arts commission, the city beautiful commission, parks and recreation, the youth board, and sister city committee, to name only a few. With Mayor Hoy's cooperation, the YMCA, the chamber of commerce, and the historical society were organized in the last 10 years during which the city also observed its 175th anniversary in 1971 and approved a home rule initiative in 1968.

One of the oldest communities in southwestern Ohio, Centerville always has been and continues to be one of the nicest places to live in the Miami Valley. Much of the credit for continuing to uphold that tradition during a period of great change devolves upon Mayor Paul C. Hoy.

Mr. Speaker, I am very pleased to be able to commend Mayor Hoy for his contributions as a public servant. He leaves office with our congratulations, thanks, and warmest wishes.

FOOD STAMP REFORM A MATTER OF NECESSITY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. MICHEL. Mr. Speaker, I want to call to the attention of my colleagues a recent editorial from the Galesburg Register-Mail, an important daily newspaper in my district.

Entitled "Food Stamp Reform a Matter of Necessity," this commentary contains a cogent analysis of the problems with the food stamp program, and the urgent need for its drastic revision.

The editorial says:

> Dramatic reform is precisely what is needed, and Congress would be mistaken if it concludes that merely cosmetic changes in the program will suffice.

I agree entirely, and I include the editorial in the RECORD so other Members will have the opportunity to read it:

FOOD STAMP REFORM A MATTER OF NECESSITY

> A decade ago, a lawmaker from Missouri pushed through Congress a new welfare program designed to insure that poverty-stricken Americans obtained a nutritionally adequate diet with the variety and protein needed to protect their health.
>
> The food stamp program became one of the many blocks in the Great Society being constructed by then President Lyndon Johnson. It initially reached 350,000 participants at a cost of $30 million. One in every 439 Americans was eligible for food stamps under the program.
>
> Today, that worthwhile project is what columnist James Kilpatrick has aptly described as "the biggest ripoff of them all."
>
> According to some reliable estimates, one out of every four Americans is now eligible to receive food stamps. Currently there are close to 20 million participants, and the cost of the program has skyrocketed to nearly $6 billion. To dramatize the growth of the program over a 10-year period, the total cost in 1965 is just .005 per cent of the total cost today.
>
> Few on Capitol Hill would argue that the food stamp program is not in need of reform. Reform legislation has been introduced by Democrat and Republican liberals such as Sen. George McGovern, D-S.D., and Sen. Robert Dole, R-Kan., and Republican conservatives such as Rep. Robert H. Michel, R-Ill., and Sen. James Buckley, R-Con.-N.Y. President Gerald Ford has introduced yet another piece of food stamp reform legislation.
>
> All of the sponsors estimate that savings of anywhere from $1-$2 billion could be achieved without jeopardizing the health and welfare of needy families.
>
> The likelihood that realignment of a federal program could save the American taxpayer as much as 1/5th of what it costs to run the entire State of Illinois for a year is enough by itself to warrant reform by the Congress.
>
> But the need for food stamp reform cuts much deeper into what has created the great wasteland we call federal bureaucracy.
>
> One credible study of the system has estimated that errors and graft alone in food stamp distribution cost the taxpayer $480 million a year, enough money to run the City of Galesburg at present spending rates for nearly a half-century.
>
> The food stamp distribution system apparently has grown sloppy with age, with recipients being treated as though they were excess baggage on the welfare roles, a flourishing black market that offers stamps for 50 cents on the dollar, and food stamp benefits going to college students, striking workers and those in unemployment lines who are there voluntarily, unwilling to accept jobs that may fall below their criteria.
>
> And, as with many federal programs, members of Congress each year find ways Uncle Sam can benefit more people, so the guidelines for eligibility are stretched just a bit more and administrative costs are bloated a little bit more to meet the new demands.
>
> The most dramatic reforms of the food stamp program are contained in the legislation written by Rep. Michel, who represents Central Illinois' 18th Congressional District. But some of his proposals will undoubtedly be compromised in House and Senate conferences next year. However, in general terms, dramatic reform is precisely what is needed, and Congress would be mistaken if it concludes that merely cosmetic changes in the program will suffice.
>
> We are not a people so insensitive to human need or so ignorant of the devastations of poverty that we would deny our neighbor food for his table or clothing for his back. Nor can we deny the social principles on which the food stamp program was founded a decade ago.
>
> But we as a people cannot tolerate the unconscionable abuse of worthy endeavors nor the mismanagement or misdirection of tax dollars and citizen intent. When waste in the federal bureaucracy reaches into the billions of dollars while the citizenry in a town such as Galesburg feel compelled to vote against funds for education because taxes are too high, the Congress must listen and heed public demand for reform wherever and whenever it is possible.

"U.S. MARINES NOW FACING A WAR AT HOME"

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. SARASIN. Mr. Speaker, recently I had the pleasure of being an honorary chairman of the Bicentennial Ball held in Hartford to commemorate the 200th anniversary of the founding of the Marine Corps. I was particularly pleased that Lt. Gen. Samuel Jakilka, Assistant Commandant of the Marine Corps, joined us for the festive occasion.

Throughout the history of our country, it has been imperative that we build and maintain a strong national defense. One of the vital elements in building this defense has been the Corps. Despite recent discussion about the feasibility of abolishing the USMC, I wish to raise my voice in continued support of this group of men and women and the fine service which they have rendered to our country.

An article which appeared recently in the Hartford Times sums up quite well, I believe, the reasons for continuing to maintain this body of men:

THE U.S. MARINES NOW FACING A WAR AT HOME

(By Michael Hull)

> We all wished the United States Marine Corps a happy 200th birthday the other day . . . and many of us hoped that Americans would be able to repeat the compliment in another 300 and 400 years' time.
>
> This elite fighting force which has grown up with the republic has amassed a remarkable record of two centuries' service, dedication and sacrifice in a wide range of conflicts in virtually every corner of the world.
>
> It has proved itself a staunch, effective bulwark of freedom; vigilant in peace and tenacious in war. It has tried steadfastly to remain intact in the face of congressional whims.
>
> Now, those so-called reformers and progressives who would seek to emasculate and dilute—perhaps even disband—this proud force are lurking at large again.
>
> Some congressional and Pentagon planners are actually questioning whether the nation still needs its Marines. They say that its amphibious role has diminished with today's emphasis on missile-tipped pushbutton warfare.
>
> While they are currently at peace abroad, the Marines are engaged in an undeclared war at home to preserve their identity and size.
>
> This is pathetic and idiotic. No matter how many pushbuttons and computers with which armed forces choose to festoon themselves, wars will always ultimately be fought by rifle-carrying foot soldiers. This is the way it has always been in the past, and the way it will be in the future, short of an overall nuclear holocaust.
>
> America will need her Marines, because they are trained foot soldiers, just as she has in the past. Any suggestion to do away with them is nothing short of treason.
>
> Nobody enjoys war or killing, but there are times when it has to be done. A good Marine does not enjoy it any more than anyone else, for a good soldier is not a butcher or psychopathic killer.
>
> War is hateful, but, because man has not advanced any further than he has, it is inevitable. Until races and nations learn a higher way of resolving differences, they will sometimes go to war. And men like the U.S. Marines will be needed.
>
> No nation can afford to be without a well-trained, elite core of professional soldiers.
>
> The British and French are not showing much more sense in this matter than the congressional meddlers. France has only a battalion of Fusilliersmarins, and the crack Royal Marine Commandos (inspiration for the first U.S. Marines) have been whittled down to a pitiful 7,800 men by Britain's myopic Labor government.
>
> Besides constituting an insult to all the gallant dead of many wars, eviscerating historic military units is short-sighted, senseless and totally lacking in understanding of either history (which has always repeated itself, and always will) or human nature.
>
> I hope the Marine Corps will be able to survive the insidious attacks by those insensi-

tive, narrow-minded "experts" who know nothing of either war, history or the balance of power. Any disservice they do to the corps will also be felt by the nation.

Leathernecks have fought for freedom, and died, for two centuries. Their blood has been spilled freely—though not without struggle—at places whose names ring out on the roll call of history: Bonhomme Richard, Montezuma, Tripoli, Fort Fisher, Belleau Wood, Haiti, Nicaragua, Wake Island, Guadalcanal, Tarawa, Saipan, Tinian, Iwo Jima, Okinawa, Inchon, Chosin Reservoir, Khe Sanh, Da Nang.

America cannot afford to let uninformed meddlers sell the corps down the river or persuade her to lose faith with both the dead of yesterday and the living of tomorrow.

UNIFORM PROBATE CODE

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. HARKIN. Mr. Speaker, on September 11, I introduced legislation to amend section 6324 of the Internal Revenue Code of 1954. This measure is designed to permit the executor of a decedent's estate to sell or transfer property of the estate without having to first take steps to release the lien which attaches to such property to secure payment of any Federal estate taxes due.

The distinction between real property and personal property in probate proceedings had its origin in the ecclesiastical courts and under the feudal laws of England. Various States in the United States adopted much of their probate law from the English and thereby continued the distinction between real and personal property. Real estate was generally considered as passing to the heirs or devisees unless it was necessary to sell such property to pay the debts and charges against the estate. Section 6324(a) of the IRC was evidently adopted with this concept in mind.

However, the modern trend in probate proceedings is to equate real estate and personal property. The Uniform Probate Code, which has been adopted by the American Bar Association and is presently being used in whole or in part by several States provides that—except as restricted by will or order of court—the executor or administrator may sell, mortgage or lease any real or personal property of the estate without any notice to the distributees.

The modern version of liberalizing the sale of real estate in State proceedings has given rise to the increasing demand on IRS for waivers of the Federal estate tax lien.

It makes little sense for the IRC to provide that a spouse, transferee, trustee, surviving tenant, or beneficiary may transfer the property free from the lien of the tax while at the same time limit the transfer of the property by the executor or administrator, particularly in view of the fact that the transferor shall be personally liable for the tax. No sensible fiduciary would transfer the property and incur personal liability for the tax when he receives the proceeds and has the means to pay the tax. The desire to avoid personal liability would be stronger on the part of the executor or administrator than most of the persons in the other classes; besides, the fiduciary is selected because of his or her trustworthiness and he or she is also under court supervision.

Admittedly, a release of lien can be obtained more or less automatically after application. However, after the release is obtained, it must be shown in the abstract and in most States the abstract charge would amount to a minimum of $5 per entry. This means, for example, that people in my State of Iowa are paying nearly $7,000 per year in abstract charges relative to these releases. This is in addition to the time spent by attorneys and their secretaries obtaining the releases, the time spent in the Internal Revenue Service office processing the releases, and the time the clerks of courts spend indexing and recording them.

I believe that this proposed change of the IRC represents a significant modernization of the code with regard to its estate tax provisions. A great deal of credit must go to Mr. Shirley Webster, an attorney from Winterset, Iowa, who brought this matter to my attention initially and has made considerable efforts over the past months to research the problem and suggest appropriate changes to the American Bar Association and my office.

As the Committee on Ways and Means resumes its hearings on tax reform in January with hearings scheduled on estate, gift, and inheritance tax provisions of the Code, I would hope that this measure will be seriously considered and that the committee will see fit to incorporate this change in its legislation in this area.

NATION'S ELDERLY ISOLATED FROM MAINSTREAM

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mrs. HECKLER of Massachusetts. Mr. Speaker, all too often our Nation's elderly find themselves isolated from the mainstream of American society, and having limited incomes and difficulty with transportation, a senior citizen's trip to the shopping center can become a frustrating and difficult journey.

The Harbour Mall in Fall River, Mass., recognizing this problem, has established an outstanding and successful program to ease the difficulties confronted by senior citizens in this regard—the Senior Citizens Discount Club. By signing up at the club's headquarters, those 62 years and older receive not only a 10 percent discount every Tuesday on most items at the mall but also free transportation to the mall. Additionally, members may participate in such vital programs as free heart, blood and glaucoma tests, as well as enjoyable activities such as ballroom dancing.

This special show of appreciation to the senior citizens was initiated by Roger Benoit, manager of the Harbour Mall, and his sensitivity to the needs of the senior citizens is exemplary. Thanks to this program, Tuesday has become a very special day to the elderly of southeastern Massachusetts.

GETTING 1976 OFF TO A FLYING START

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. WON PAT. Mr. Speaker, Guam is proud of its American heritage and equally proud that our geographical location permits us to boast that we are "Where America's Day Begins."

America's day truly does begin in Guam since our position just over the International Dateline causes the new day to start first for America on Guam.

In part, because of this unique phenomenon and because of the strong ties the 100,000 American citizens of Guam have with their fellow citizens here on the mainland, Guam has been busy planning an exciting list of events which will take place during next year's official Bicentennial celebration.

There is one project in particular which I would like to bring to the attention of my colleagues since it will assure that the people of Guam continue to follow our tradition of getting America off to a proper start. The Benevolent and Protective Order of the Elks Lodge of Guam, whose Exalted Ruler is Mr. Vernell Pinson, has developed a project which will start the bicentennial year for Guam and all of America with a flair. Their plans call for a flag raising ceremony to be conducted at midnight on New Year's Eve. This flag, which will thus be the first one to be flown over a U.S. area in the Bicentennial year, will then be sent to Washington for presentation to the President and later to the Smithsonian Institution.

Participating in this memorable ceremony on New Year's Eve will be numerous civilian and military officials on Guam. I too am pleased to have the opportunity to be there, especially as I am a member of the Elks.

I am confident that this flag, which is a tribute to Guam's lasting and deep affection for the American way of life, will be afforded the proper recognition it deserves.

The 13th Guam Legislature also has added its noteworthy support to the plan in Resolution No. 190 which commends the leadership and members of Elks Lodge 1281 in Agana for this laudable effort.

The Bicentennial year will be a memorable one. And thanks in part to the ingenuity and dedication of Elks Lodge 1281, Guam's role in saluting our Nation's heroic forefathers will be one we can all be justly proud of. I am pleased to take this opportunity to publicly endorse the flag raising ceremony and offer my sincere congratulations to those who are working to give Guam a major role in the Bicentennial year.

At this time I insert in the RECORD the text of the Guam Legislature's Resolution No. 190 relative to the Benevolent and Protective Order of Elks Lodge No. 1281 in Agana, Guam:

13TH GUAM LEGISLATURE, 1975

RESOLUTION NO. 190

Whereas, the Fraternal Order of Elks is one of the oldest community associations on Guam; and

Whereas, the Benevolent and Protective Order of Elks, Agana Lodge, has contributed countless benefits to the island in its many years since it was founded in Guam; and

Whereas, the Benevolent and Protective Order of Elks, Agana Lodge, have initiated in cooperation with the Guam American Revolution Bicentennial Commission many meaningful projects, all to commemorate the Bicentennial celebrations on Guam; and

Whereas, among those projects are a Flag Raising Ceremony in which the Nation's Flag and the Guam Flag will be raised at the beginning of our Nation's Bicentennial Year; and

Whereas, these Flags will be the first Nation's Flag and State or Territorial Flag flown in the Bicentennial Year and these Flags will shortly after the ceremony be taken to be flown over the Nation's Capitol and later presented to the President and the Smithsonian Institute; and

Whereas, another major project is "America's Bicentennial Baby" which will give nationwide recognition to the first born American citizen and present to that child various gifts; and

Whereas, another Bicentennial project that the Benevolent and Protective Order of Elks, Agana Lodge, is jointly promoting with the Guam American Revolution Bicentennial Commission is "Let Freedom Ring" in which every church bell, fire and police siren will be sounded for four (4) minutes at noon of the Fourth of July; and

Whereas, another Benevolent and Protective Order of Elks, Agana Lodge, is to bury a Time Capsule containing contemporary memorabilia to be opened in our Tricentennial celebration; and

Whereas, other Benevolent and Protective Order of Elks, Agana Lodge, Bicentennial projects include a musical composition contest, a speech and essay contest and a poster contest; and

Whereas, some of these projects will be adopted as annual programs; and

Whereas, these projects set outstanding examples of possible celebration and commemoration of our Nation's birth; and

Whereas, since Guam is where America's day really begins it is most appropriate that we honor the birth of our Nation not only on July 4th but throughout the year 1976; and

Whereas, the Benevolent and Protective Order of Elks, Agana Lodge, has started the community spirit needed to properly plan and implement Bicentennial projects; now, therefore, be it

Resolved, That the Thirteenth Guam Legislature in behalf of the people of Guam does hereby commend and congratulate the Benevolent and Protective Order of Elks, Agana Lodge, for their outstanding Bicentennial projects and wishes them success in all their projects; and be it further

Resolved, That the entire community of Guam is encouraged not only to participate in the Benevolent Protective Order of Elks, Agana Lodge, Bicentennial projects but to also plan and implement as many Bicentennial projects throughout the island and the Bicentennial Year of 1976; and be it further

Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Benevolent and Protective Order of Elks Grand Exalted Ruler Honorable Willis C. McDonald; Vern Pinson, Exalted Ruler, Benevolent and Protective Order of Elks Lodge 1281; Delfina Aguigui, Executive Director, Guam American Revolution Bicentennial Commission and to the Governor of Guam.

"OUR WATCHDOG BITES THE HAND"

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. MICHEL. Mr. Speaker, the framers of the Constitution gave the House of Representatives the sole power to initiate revenue measures, because Members of the House were presumed to be "closer to the people" and therefore less likely to tax the people to death.

The question nowadays, however, is not whether a Congressman is close to the people, but rather, which people are close to the Congressman?

The answer to that, of course, is the lobbyists, whose very livelihood depends on their ability to get close to Congressmen. Thus it has ever been, but so far as the taxpayer is concerned, the problem has taken a new twist in recent years, because now, unlike in past times, most institutional lobbyists are not private business representatives eager to keep down the size of government, but professional money-wheedlers, each trying to expand the scope of governmental activity.

Thus, in the words of the editor of the Peoria Journal Star, C. L. Dancey:

> The same system designed to make Congressmen careful about spending because of direct public pressure, now exposes scores of them instead to massive public pressure and even real reprisals unless they go for all manner of ever-bigger payoffs.

That is it in a nutshell, and for the further benefit of my colleagues, I would like to have the full editorial from which that statement was taken printed here in the RECORD:

OUR WATCHDOG BITES THE HAND

When the Constitution of the United States was written, the founders decided to make the House of Representatives the guardian of the public purse.

They provided, purposely, that the House members be elected from what were then rather small districts, that they should run for election every two years, and when they handed out all the powers of Congress they made one special entry.

"All bills for raising revenue shall originate in the House of Representatives."

Thus, clearly, they placed members of the House, unlike the President and much unlike the Senators, under the maximum direct, immediate and persistent pressure from their home folks—by providing that only the House could originate new taxes.

(What they clearly did not think of was a Congress that would blithely spend fifty billions of dollars more than there were taxes levied.)

It is pretty obvious and the Federalist Papers spelled it out plainly at the time that the idea was to make sure that the House would be a brake on government fiscal policy.

The system designed for that in those days quite often does just the opposite now.

In the days of the private business lobbyist as a hazard to sound public policy, the member's direct and frequent exposure to the people of his district was a counter balance and a pressure to hold down taxes on the average man and to worry about large-scale spending.

But, these days, the private business lobbyist must take a back seat to the modern style lobby groups made up of small armies of special interest blocs.

Governmental employees (14 millions) have learned the techniques to organize, finance, and pursue direct lobby activities backed up by impressive special "vote" blocs. Welfare groups, with 16 million more Americans on some form of direct "sustenance" financing from the public treasury, are exploited likewise. So are highly organized and well-heeled labor unions, and sundry other special interest groups ranging from the gun lobby to the "consumer" groups.

These are the "activists," made so in most cases because they will get something out of it!

And the same system designed to make Congressmen careful about spending because of direct public pressure, now exposes scores of them, instead, to massive pressure and even real reprisals unless they go for all manner of ever-bigger payoffs.

The game has turned upside down, today, whereby the very people who were supposed to be the watchdog of the public purse find the political device that is most useful is to always "up the ante" whatever it may be, and thus become the most valued representative of the special interest lobbies.

And we wonder why New York is broke, the State of Illinois hovering on the fiscal brink, and the United States of America's biggest single expense is paying the interest on its debt!

We wonder why we are spending fifty billions more than taxes will finance at the federal level?

Why we have a mixed up economy as a consequence of its massive interference and financial manipulation?

It's built that way when we have turned our "watchdog" into the pet of the looters instead of the guardian of the house.

FOOD DEFENSE FUND, INC.

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BOWEN. Mr. Speaker, the National Agricultural Aviation Association, whose president I am happy to say is a constituent of mine, Mr. James L. Maxwell, of Benoit, Miss., has recently established a much needed defense fund to compete with the growing numbers and power of environmental and regulatory pressure groups, who pose such a serious threat to the economic prosperity of our Nation.

The following is an editorial on this subject written by Mr. F. Farrell Higbee, executive director of the National Agricultural Aviation Association, in the December issue of the World of Agricultural Aviation:

FOOD DEFENSE FUND

I am proud to announce the incorporation of the Food Defense Fund, as a not-for-profit entity established for the legal defense of our nation's food supply. It has been incorporated under the laws of the State of Mississippi, but the temporary address will be Suite 461, National Press Building, Washington, D.C. 20045.

The purpose of the food defense fund is simple. Any citizen, or group of citizens, who feels that their food supply is or has been threatened, by the action or proposed action of any regulatory or administrative agency of the federal government, may ask the Fund to instigate legal action on their behalf or to intervene on the side of the defendant (the agency) in the case of suits brought by groups not interested in food production.

The initiators of the FDF want to invite broad participation from agricultural associations, consumer groups, or individuals interested "in administering and using the Food Defense Fund." Many large contributions have been made to start the Fund. Anyone concerned with adequate food production may actively suggest nominees for a Board of Trustees to administer the Fund and decide its actions. In other words, no individual or specific group will control or lead the Fund for a particular interest. Size of monetary contribution will not dictate control of the Fund either.

What kind of actions might the Fund consider? On my part, it is only speculation at this time. For example, the Fund might . . . question specific actions as a result of the application of the Delaney Amendment to the Food and Drug Act or even question its Constitutionality; seek injuctive relief from decisions of the Interstate Commerce Commission to abandon parts of the transportation system to the detriment of agriculture; defend persons accused of violations of amended FIFRA; defend pesticides where landmark or historical decisions have been noted; seek amendment or repeal of standards or regulations fixed by the Environmental Protection Agency under the Water Quality Act considered too restrictive or causing great economic harm to the food production system.

There are literally hundreds of issues, some of which have not been resolved by education, lobbying, or even the legal action of one company or special interest. The Fund will neither educate nor lobby, but will offer the broad base needed to provide our day in court.

It is going to take lots of money, time, and nonpartisan support for the Fund to ensure the most expert legal talent for food defense. Let's hear from you!

A BILL TO OUTLAW AGE DISCRIMINATION IN EMPLOYMENT

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. NIX. Mr. Speaker, the Age Discrimination in Employment Act of 1967 has proven to be an effective remedy in protecting the rights of those who have been arbitrarily discriminated against because of their age. However, the act is presently limited in its coverage to persons between the ages of 40 and 65. I am today introducing legislation to eliminate that upper age limit in the law, so that it will apply to all older workers.

Although many arguments can be advanced in support of this legislation, I will mention just three basic ones. First is the question of equity. There is no good reason why workers should be discriminated against solely on account of their age, any more than they should be discriminated against on account of their race or sex. This legislation will mark a major step toward the eradication of this form of discrimination.

Second, this legislation will help to solve some of the many social and economic problems that face older Americans. By allowing older workers to continue in the work force, it will help to overcome the most basic problem of older Americans—lack of an adequate income. It will enable those who are able and willing to work to maintain the pride and dignity of being useful and productive members of society. It will enable older workers to plan their own lives without being chained to inflexible deadlines.

Third, the enactment of this legislation will prove beneficial to our economy as a whole. Individual employers as well as the national economy will have the benefit of the productive contribution of many skilled and experienced workers who would otherwise be forced into retirement. And by increasing the number of older Americans who are economically productive and self-sufficient, it will lighten the burden of our welfare and social services programs.

There are many older Americans who are able to work and who wish to do so, but who are forced out of the labor market because of discrimination. But we should also bear in mind that older workers as well as younger workers are handicapped by the great inadequacy of the number of jobs in our economy today. Thus, we must address the problem of the older worker in the context of a full employment policy. Fundamental equity demands that we insure that every American, including those over 65, has the right to a decent job with decent pay and working conditions.

Mr. Speaker, I offer for the RECORD two statements in support of this legislation, one by the National Council of Senior Citizens and one by the Gray Panthers:

NATIONAL COUNCIL OF SENIOR CITIZENS

DEAR CONGRESSMAN NIX: The National Council of Senior Citizens appreciates your effort to eliminate the practice of discrimination in employment on account of age for those Americans over age 65.

It has remained one of the great injustices of the American system of government and industry that—with so many strides being made against discrimination on account of sex, religion, race or national origin—this country still officially subscribes to a policy which eventually works against every single American who happens to live more than 65 years.

The very term "senior citizen" has as its antecedents the 19th century social security plan instituted by the Imperial German Chancellor Otto von Bismarck who picked age 65 for retirement benefits under the German plan on the advice of his experts on life expectancy who assured him that most people would not live far beyond that age.

In 1937, when the U.S. Social Security system began operation, the Social Security Board estimated that 20,000,000 Americans would reach age 65 by the year 2000. Today—with 25 years to go—the U.S. Senate Finance Committee finds, in a February, 1975 report, that there are 23,000,000 Americans age 65 and the number is expected to reach 31,000,000 by the next century.

The life span of the average American has lengthened far beyond what it was in Bismarck's day. It has gone from age 44 to beyond age 70 in this country.

Yet, despite these clear signs of increased life expectancy, this nation still—for the most part—insists upon discarding its most experienced workers simply because they have passed an arbitrary age.

There can be no argument that some older Americans are no longer physically fit to perform the tasks they did when they were younger. But this is not true for all. Not nearly all.

Further, American industry and government are daily robbing themselves of one of their most valuable assets—experience—when they force retirement for every worker upon his 65th birthday.

I submit that this is a resource that neither industry nor government can afford to do without.

Current age discrimination in employment laws deal with the employee through age 64. But this upper limit on coverage puts Congress squarely in the position of condoning discrimination in employment on account of age for those workers over age 64.

It has long been the position of the National Council of Senior Citizens and its constituent members and clubs to support legislation requiring adherence to anti-discrimination laws for those employees and potential employees over age 65. The history of the National Council in opposition to compulsory retirement was highlighted in September 1969 in an NCSC Position paper opposing compulsory retirement.

This paper—endorsed by the NCSC membership—declared "Assuming good health and employability, there is no logical purpose in forcing men and women off the job at a certain birthday. Aging is not a disease."

"All other things being equal, the older worker should have a free choice between continuing in the work force or retiring on an income close to pre-retirement earnings with assurance that retirement income stays in line with prevailing salaries and wages."

Consistently the National Council has recognized the special considerations to be given to retirement worked out between management and an employees union. Certainly, contracts may stipulate that retirement become mandatory at age 65—or even earlier. But the individual employee in this case has at least the opportunity to vote on this policy in accepting the proposed contract. Further, it is recognized that when an individual joins a union he or she is voluntarily giving up certain individual rights in order that rights and privileges may be assured for all.

This is unlike the current situation where the national government, by failing thus far to insure the rights of workers over age 65, has enforced discrimination in employment to older Americans.

However, aside from the moral obligation of Congress to insure that all Americans are treated equally without regard to age, there are two fiscal reasons for adopting your legislation.

The most recent Social Security advisory board recognized that due to errors in the projected work force for the next century, made in 1937, there will actually be fewer workers providing contributions to an increasing number of Social Security beneficiaries shortly after the year 2000. It was pointed out by the advisory board that, should there be no remedial action taken by Congress to redress this imbalance, there was the likelihood of a shortfall of funds available (approximately in the year 2011) in order to pay all those due retirement benefits.

If workers are protected from discrimination in employment past age 65 there is every indication that many will continue to work well past the now normal retirement age.

If this occurs, it will have the dual effect of lessening the number of Americans drawing from the Social Security system the retirement income guaranteed them while increasing the number of workers contributing in any given year toward the Trust Funds. The second fiscal reason for adopting your legislation deals with Federal and State aid to low-income retired individuals and couples. At least one half of all retired Americans in 1975 are living on less than $5,000 per year, and 57% of elderly Americans living alone had incomes of less than $3,000 per year; 28% had incomes of $2,000 or less. Because they are eking out an existence on these low levels of income, the Federal and State governments are rightly providing a measure of assistance through Food Stamps, Supplemental Security Income, property tax relief, and other measures. These are laudable programs.

However, the evidence is clear that—given a choice—many older Americans now receiving Federal or State tax dollars in assistance would prefer and are able to work to add to their incomes. When times were better during the 1950's and 60's, the number of people 55 years and over that were employed gradually grew from 10 million to over 14 million. However, because of the economic situation of the 1970's many older workers have been forced out of the labor market and now only approximately 13.5 million people of this age group are working. Since the population of this group is steadily increasing, the employment participation rate has therefore taken a plunge. In 1970, the participation rate was 36.35%, by September, 1975, this rate had dropped to 32.07%.

However, as the number of people of all working age groups needing and wanting jobs is so very high, the government should not only stop arbitrary discrimination, it must also provide thousands of work opportunities. This is the only real solution to the sad situation thousands of unemployed people are being made to suffer in this country.

The National Council of Senior Citizens is one of several national organizations with expertise in aging matters which is now managing, under a grant from the U.S. Department of Labor provided for under Title IX of the Older Americans Act, a public service employment program for the elderly. In the 53 projects in local communities throughout the nation there are employed more than 2,800 seniors. But, for every opening available in a local Senior AIDES Program there are an average of seven fully qualified applicants.

Each applicant must meet a minimum standard of income and be employable.

The older men and women who are working for the Senior AIDES Program and the other programs operated under Title IX are contributing needed services to their communities which would go begging otherwise. Statements from mayors, city councilmen and governors across the nation testify to this.

But, the income of these individuals are raised from tax dollars. I do not suggest that the need for such programs will disappear if Congress were tomorrow to enact anti-job discrimination for the elderly. But, the crying need for increasing allocations to these programs evidenced by the vast numbers of qualified individuals who apply for each vacancy would be reduced. This would represent a very real savings to the burdens of the State and Federal Treasuries.

We would also ask that you consider amending the present Age Discrimination in Employment Act in other respects, e.g., coverage, exceptions, enforcement, and budget.

The National Council of Senior Citizens would be pleased to support a broader bill that would increase the Act's effectiveness as well as remove the arbitrary age 65 jurisdiction cut-off.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

STATEMENT OF GRAY PANTHERS

One of the greatest fears of growing old is that of having to be ignored as useless or a burden to society. The fear is further increased when one considers that aging is, in the minds of younger people, a negative personal development; one that reduces one's effectiveness.

While security in the older years is essential, and retirement pensions a must, it is also ironic that this incentive for security should be accompanied by a withdrawal from society in order to benefit; a forced exile into the "leisure world" of smaller dimension and productivity. It in fact becomes a "second childhood" for those who are otherwise the same as years before except that they have reached an age where they must cease employment.

It is because the Gray Panthers strongly believe that old age is not a time to retire into a cloister until death; that many are productive and healthy well into the 70s and 80s, and that human talent and energy is sadly wasted and denied society because of mandatory retirement regulations, that this system must be made flexible.

There is so much talk about making older people "independent and productive;" with the rhetoric of deinstitutionalization leading to campaigns for services that would keep older people in their homes longer than would otherwise be possible. But so many older people are driven into institutions long before they have to; in part because of the idleness and ignorance of their continued worth that depresses and eventually leads to physical and mental decline. The lifting of mandatory retirement would reduce institutionalization and the accompanying tragic conditions that so often leads to such confinement prematurely.

At the first Gray Panther national convention in Chicago this past October we passed a resolution saying in part:

The Gray Panthers go on record as being opposed to compulsory retirement on the basis of age.

We are opposed to the waste of human talent and energy that occurs because of compulsory retirement.

Be it resolved: That Gray Panthers organize a lobbying effort to pass laws forbidding mandatory retirement on the basis of age.

STUDIES ON BACON CONTINUE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. FINDLEY. Mr. Speaker, I would like to share with my colleagues an article from the Prairie Farmer reviewing the use of nitrites and nitrates in pork products. Pork production is important to the livelihood of many of the people in my district. Producers are concerned that the Government make administrative decisions on these products only in an atmosphere of scientific reality. This study should help to reduce the tendency toward panic.

The article follows:

IS BACON HAZARDOUS TO HEALTH?

There's a first-class flap about bacon use. There has been a rash of news stories claiming cured bacon contains a potent cancer-forming agent. USDA proposes to terminate the use of most nitrate in all meat curing processes. And they want to reduce the amount of nitrite used in meat curing.

There's plenty of confusion about the use of nitrates and nitrites. Use of these preservatives has been approved and regulated by USDA since 1925.

So the basic question is why are nitrates and nitrites used in meat curing. Nitrite combines with the pigment of meat. It helps to form the characteristic color and flavor of cured meats.

It also prevents rancidity of the meat during storage. But its most important value is in protecting a meat product from deadly botulism toxin if the meat is contaminated or abused.

In the curing process nitrate breaks down to form nitrite.

Now fast-cure methods are used and nitrates are no longer needed except for the dry-cured meat products.

So USDA has proposed to terminate the use of nitrate in most products—including bacon. In fact most meat processors eliminated the use of nitrate several years ago.

There has been substantial research in the past 4 years on the role of nitrites. The relationship between nitrite levels and the formation of botulism toxin in meat products has been thoroughly checked.

The results show that nitrite does prevent botulism from forming in meat experimentally inoculated with botulism spores and incubated at 80 degrees. Because botulism is so deadly, this is the only method of analysis.

Since 1899 some 959 deaths have occurred in the United States due to botulism. None of these deaths has been traced to commercially cured meats.

Under certain conditions nitrite can combine with the protein in meat or other sources to form nitrosamine. This is the suspected cancer-forming agent.

Nitrosamines have been found only in cooked bacon, not fresh bacon. In 1973 a USDA regulation was issued to prevent the shipment and storage of meat cures premixed with spices. The spice and the cure together formed some nitrosamines which were later detected in cured meats.

What's happened since that regulation was issued? No nitrosamines have been found in any cured meat product except cooked bacon. But is cooked bacon really a problem?

The Food and Drug Administration (FDA) has conducted a series of tests. They found that nitrosamine levels in cooked bacon or drippings revealed levels ranging from 7 to 28 parts per billion (ppb). These results were lower than 1972 results showing levels of 100 ppb.

There's a reason for the drop. Probably it's because processors have reduced the level of nitrite used in all of their cured meat products, including bacon. The government regulation proposed now would reduce the level of nitrite used in all products except bacon. And a ruling by a board of experts is pending for bacon.

Assume that average cooked bacon contains 17 ppb of nitrosamine. German researchers recently called nitrite-treated meat a "serious risk." They fed rats 0.3, 1.0, and 3 milligrams (mg) of n-pyrrolidine per kilogram (kg) of body weight per day for 600 days.

At the 0.3 and 1.0 mg levels, no cancerous tumors developed. The rats fed 3.0 mg developed many tumors. All died within 600 days.

How could the average human consume 3 mg/kg/day? He would need to eat 195 mg, assuming the human weighed 143 lb. or 65 kg.

How would he get 195 mg per day by eating a product with only 17 ppb of the chemical? He would have to eat more than 25,000 lb. of cooked bacon per day.

And 70% of the weight of bacon is lost during cooking. So the human would have to purchase nearly 82,000 lb. of bacon per day.

Remember, nitrite-treated bacon is only suspected as a cancer-forming agent.

An independent board of experts is continuing to study the bacon problem. Meanwhile, researchers are looking for alternate methods of producing bacon.

YOUNG AID ELDERLY

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. SANTINI. Mr. Speaker, the senior citizens of our country are confronted with many serious problems. One of the most acute problems for the elderly citizens who are residing in rural areas is the absence of adequate housing.

As a member of the House Select Committee on the Aging, we have had an opportunity to investigate this problem both in Nevada and other states. I would offer for the consideration of my colleagues a very constructive solution that one small county in Nevada, Mineral County, has found to this critical need area.

This solution is noteworthy from several standpoints. Mineral County, like many of our rural counties in this Nation, is confronted with the continual dilemma of limited financial resources. In the face of this serious on-going problem, the imagination and the resources of the county, the State, and the Federal Government were integrated to provide an imaginative solution to the housing needs for our elderly.

First, the Mineral County School District incorporated a construction work assistance project through the vocational education department. Second, the county donated the land. Third, FHA insured the loans for the building, and HUD will provide rent subsidies once the living units are completed.

This effort involved the young people of the county helping the elderly with the combined assistance of all resources available.

This commendable accomplishment is a reflection of the initiative and the commitment of all the community leaders in Mineral County with the reinforcement of the State and Federal Government where needed. I believe that the Mineral County experience can serve as a shining example for other counties with a small population base and a housing shortage for its elderly citizens.

I offer the following editorial from the Nevada State Journal which elaborates on this program and provides further details for my colleagues who may wish to offer the Mineral County experience to counties in their district which are confronted with a similar housing shortage:

YOUNG AID ELDERLY

Mineral County High School has announced a plan which could have a marked affect on public housing in Nevada, particularly in rural areas.

It's an idea which makes use of so many resources, provides so much solid training, and could benefit so many that one wonders why it hasn't been tried before.

In brief, Mineral County High School is allowing some of its classes to participate in the building of a series of duplex housing units for the elderly.

Mineral County is donating the land. The Federal Housing Authority will insure loans for the building. And the Department of Housing and Urban Development (HUD) will provide rent subsidies.

Most of the construction work is being done by the school's vocational department. Members of home economics classes will decorate the first unit and the school's accounting department is keeping the books.

According to Jay Baker, who is director of the State Rural Housing Authority, the school, which began work in September, now has the roof on the duplex. It will be finished in the early spring and the school will then start another unit nearby.

Even with student work and free land, the duplex is expected to cost approximately $16,000.

Amortizing a loan of this size would demand rents in excess of $100 a month which many of the elderly poor would be unable to pay.

The Department of Housing and Urban Development, however, will subsidize the housing so that occupants would pay rent at the rate of 20 per cent of their monthly salary.

Included in this aspect of the plan is a factor which could make a tidy sum for the participating governmental entity.

The Department of Housing and Urban Development, in making such subsidies, appraises prospective units at their market value and pays the participating government the difference between the appraised value and the 20 per cent the renter pays.

And although the total amount spent on the Mineral County duplex amounts to only about $16,000, its rent potential would be appraised at about $158 per month according to Baker.

The extra money (the difference between the $158 figure and the $100 required to amortize the debt) could be spent for operating expenses or to finance new projects.

At present, Mineral County is talking about building as many as 20 duplexes (or 40 units), according to Baker.

Every community in the state has a shortage of livable, low cost housing for the elderly. But residents of rural counties for many reasons have the worst problem. Housing is often at a premium in those areas. And a few of Nevada's smaller communities have begun low cost housing programs.

Hawthorne's example might be the solution for many communities which have a county high school large enough to include a vocational department.

Ely, Elko, Winnemucca, Pioche and Fallon are only a few cities which might follow Hawthorne.

And even the City of Reno might benefit from the example of its country cousin whose resourcefulness in this area has left this city standing in the dust.

REPUBLIC OF KOREA

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BURGENER. Mr. Speaker, yesterday there was a special order during which a number of my colleagues made some very interesting statements concerning Korea. As one who has recently been in that country, I would like to add a few thoughts by inserting in the RECORD the following:

On a recent visit to the Republic of Korea I was struck by the united determination of their people to resist Communist aggression and to raise the level of their economic prosperity.

After the division of the country in 1948 and the proclamation of a Communist state in the north, some 3 million northerners fled south; practically no one fled to the north. Today about 35 million Koreans live in the south and about 16 million in the north.

North Korea may well be the most iron dictatorship in the world today. Their so-called "Great Leader—President," Kim Il Sung, controls the country completely by means of a police state, coupled with an almost unbelievable personality cult. North Korean officials quite normally attribute the beauty of the mountains to the wise foresight of the "Father of His People," and so forth. Kim has recently consolidated the success of his son by having his ancestors deified back to his great-grandfather.

The northern dictator's long-term goal is to bring about the withdrawal of the American forces as the first step toward "unification" of the whole country by force of arms. While the southern part of Korea does not enjoy all the democratic freedoms we take for granted, we have to remember that hostile troops are only 24 miles from the capital, Seoul, a city of some 6 million people. We only have to ask ourselves if we would not have to have extraordinary security measures if Canada were a nation of about 120 million people with armed forces equal to ours, and under the control of a militant Communist regime. Fortunately for us, this possibility is most unlikely. There is little doubt, however, that the South enjoys far more freedoms than the North and that the press, while restricted to some extent, still engages in frequent criticism of the government, as properly it should. In addition, there is a strong parliamentary opposition consisting of about a third of the Members of the National Assembly.

During a visit last summer, I was greatly impressed by the rapid growth of the economy, the industry, and skill of the people, and the increasing prosperity of both urban dwellers and farmers.

Total armed forces in North Korea are estimated at approximately 550,000 regular troops, with a militia of about 1½ million. In South Korea, the regular troops number about 625,000 with a 2 million man Home Guard which, however, is equipped with mostly World War II weapons. In addition, there is an American division of about 40,000 men. Since the debacle in Vietnam, the North Koreans have been encouraged in their militancy and have doubled their tank strength to about 1,500. The North Koreans have highly trained special forces which have been active in sea raids on the South Korean coasts and in other forms of infiltration. They have dug through solid granite a number of tunnels capable of allowing thousands of Northern troops to attack from behind the Southern lines in the event of hostilities. They deny any responsibility for these illegal tunnels.

For the past 22 years the presence of the United Nations Command in Korea has prevented the breakdown of the armistice. The prime guarantee of stability in Korea which so far has caused the Russians or Chinese to hesitate to intervene, is the relatively small number of American troops. I believe, Mr. Speaker, our Armed Forces in this critical area should be commended for their great contribution to the peace of the world, and I hope all of us will continue to support them and our allies in East Asia in the future.

MR. ROBERT D. ROWLAND OF YOUNGSTOWN, OHIO TO RECEIVE THE PRIME MINISTER'S MEDAL OF THE STATE OF ISRAEL

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. CARNEY. Mr. Speaker, it gives me great pleasure to announce to the U.S. Congress that one of my constituents, Mr. Robert D. Rowland, president of the Dollar Savings & Trust Co. of Youngstown, Ohio, will receive the Prime Minister's Award of the State of Israel, in recognition of his civic and humanitarian work in the community. The award will be presented to Mr. Rowland at a State of Israel tribute dinner which will be held at the Youngstown Country Club on January 10, 1976.

Bob Rowland is a long-time friend of mine and one of the outstanding leaders in the Youngstown area. His concern for his fellow man is well-known and deserving of the highest praise. Consequently, his selection for this high honor came as no surprise to me. I know that my colleagues in the House of Representatives and Senate join with me in commending Mr. Rowland for his achievement, and in extending our sincere congratulations and best wishes to him and his family on this special occasion.

Mr. Speaker, I insert portions of the tribute dinner brochure in the RECORD at this time:

STATE OF ISRAEL TRIBUTE DINNER IN HONOR OF ROBERT D. ROWLAND

Robert D. Rowland, president of The Dollar Savings & Trust Company, is to be recognized for his civic and humanitarian work in the community by the award of the Prime Minister's Medal of the State of Israel. He has been informed by Israel's Ambassador to the U.S., Simcha Dinitz.

Active in the community since 1946, Rowland has been a leader in a number of organizations devoted to help for his fellow man. He has also been in the forefront of area development groups.

A native of Youngstown, Rowland joined Dollar Bank in 1946 following three years of U.S. Navy service in the Pacific Theatre, where he took part in amphibious landings as an Operations Officer in an LST Flotilla. Previously, after graduating from William College, he was with the Federal Reserve Bank in Cleveland and City Bank, Kent.

Rowland rose from the position of Assistant Comptroller and Assistant Treasurer to become First Vice-President in 1969 and President in 1971. Under his leadership, the Dollar Bank remodeled its downtown offices and building which were recently completed.

Long active in the Community Chest, Rowland is on its executive committee and has served as general chairman of the United Appeal Campaign. He is also a trustee and past president of the YMCA and was general chairman of a membership drive and chairman of the building committee. He is also on the boards of the American Red Cross, the Youngstown Hospital Association and the Youngstown Council of Churches, and of various philanthropic foundations.

In area development, Rowland serves on the Greater Youngstown Area Development Foundation, the Western Reserve Economic Development Agency, the Chamber of Commerce and Downtown Board of Trade.

He is a member of Boardman United Methodist Church, the Cambium Club, Youngstown Club and Youngstown Country Club. He and Mrs. Rowland, the former Helen Graham, have two children, Mrs. Betsy Goodwin of New York City and John R. Rowland of Youngstown.

It is most fitting to bestow upon Mr. Rowland the State of Israel's Silver Anniversary Award, the Prime Minister's Medal, in full recognition of his contributions to business, to the betterment of his community, and above all, to his consideration for the welfare of his fellow man.

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Max Harshman, Youngstown Chairman.

STATE OF ISRAEL BONDS

These bonds are a loan to the State of Israel for a specific period of time. Israel, staggered by the third largest defense budget in the world, must look to Israel Bonds to provide a maximum share of its current Development Budget of $1 Billion Dollars.

In her 27-year history, Israel has never defaulted on the payment of principal or interest on any obligation.

Israel's purchases of goods and services in this country far exceed our imports. Thus the balance of payments between our country and Israel is very much in favor of the United States. The monies loaned to the State of Israel through the purchase of Bonds create dollar credits with which it purchases American goods, thus providing jobs and business for the American economy; over 90% of the money realized from the sale of bonds are spent in the United States.

Prime Minister Rabin recently stated that, "From the beginning of the existence of the State of Israel, twenty-seven years ago, we have learned from experience that economic stability is a vital and indispensable part of our security, of our capacity to protect ourselves and preserve our independence . . .

"This year, it is my hope that the Israel Bond campaign will provide most of the budget to sustain our economy, promote exports, create jobs for new immigrants, and give us the economic strength to achieve a real peace."

THE CRIME RATE MUST BE REDUCED

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. BLANCHARD. Mr. Speaker, in the last 14 years our crime rate has increased an appalling 157 percent. This figure plainly indicates that there is an urgent need for us to take firm steps in the area of crime prevention and control.

I am extremely concerned about this serious problem and in a recent poll of my district it became obvious to me that my constituents share this same concern.

Today I am introducing a broad package of bills to protect our law-abiding citizens and to help prevent crime.

First, I have introduced a bill which would allow LEAA (Law Enforcement Assistance Administration) to provide States, counties, and cities with grants for the study, design, testing and implementation of speedy trial procedures such as those passed into law last year under the speedy Trial Act of 1974. Due to budgetary constraints faced by local governments, the resources are not often available to implement these procedures.

I have also cosponsored a bill to provide funds for police and fire protection in localities which have severe financial problems. Many local governments have been forced to lay off public safety officers. I feel that we must provide funds through LEAA to these areas so that they can guarantee their citizens adequate levels of protection.

I have introduced two measures which would stiffen penalties for the commission of certain crimes. One bill would provide for a mandatory minimum sentence plus harsher sentences for the commission of a crime with a gun. My other bill would also provide mandatory minimum sentences and stricter sentences for people convicted of manufacturing, selling, exporting or importing dangerous drugs. It is painfully obvious that we need to provide stiffer deterrents for these types of crimes.

I have also introduced a bill which would provide for compensation to victims of violent crimes. Some States have already instituted programs of this type and my bill would provide an incentive for other States to set up programs to compensate victims of violent crime.

In addition, I am introducing a bill which would restrict bail for persons convicted of violent crimes while they are awaiting sentencing or appeal.

Also, I have introduced a bill which would prohibit the manufacture, transportation or sale of certain "junk" pistols known as "Saturday Night Specials." These cheap pistols are not good for hunting, target practice or defensive use. However, they are attractive to a criminal who has the need to quickly acquire and dispose of a cheap weapon. By eliminating the source of these cheap pistols, I believe we can more effectively protect our law abiding citizens.

Finally, I am introducing the "Law Enforcement Officers Bill of Rights Act of 1975." This is a bill which would help insure that peace officers receive the same fairness and due process on the job that we extend to the average citizen in everyday life.

Mr. Speaker, we cannot solve our crime problem unless we are willing to invest time and money. I therefore urge my colleagues support of these measures and urge that Congress take positive action in providing adequate protection for the citizens of our Nation and in instituting measures which will serve as effective deterrents to crime.

TOO MUCH ENERGY, TOO SOON

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. HARKIN. Mr. Speaker, on July 14, under a special order requested by my distinguished colleague from California (Mr. BROWN) we were given the opportunity to comment upon the role of conservation in solving our Nation's energy problems. I had, myself, intended to make some remarks on this important subject, and I am sorry I was unable to do so at that time.

As we all know, the Federal energy budget submitted by the Energy Research and Development Administration in January was overwhelmingly committed to increasing energy supplies, as opposed with trying to reduce energy demand growth, in attempting to solve our energy problems. I, and most of my colleagues on the House Science and Technology Committee, were astonished to note that funding for energy conservation research represented less than 1 percent of the total ERDA budget, with funds requested for end-use conservation amounting to less than one-tenth of 1 percent. These disturbingly low figures were offered at a time when most economic studies indicated that it made a good deal more sense to give far greater attention to cutting demand growth as a means of attaining energy self-sufficiency.

Yet, even as late as May, when ERDA was preparing its national energy plan, ERDA officials were testifying to an Appropriations Subcommittee that they simply were not able to find ways to spend the increased sums authorized for conservation research by the House, even though several studies justified the full use of these authorized funds. While the ERDA plan does now, in fact, finally appear to be placing greater emphasis on conservation in national energy policy, there is still little, in the way of available resources and the suggested pace at which conservation research, development, and demonstrations will proceed, to indicate the real commitment to energy conservation by ERDA which I believe most of us in the House would like to see.

The reason most often expressed as to why the Federal energy budget tends to be skewed to the supply side is that our energy-use system has been characterized by inexpensive and plentiful energy supplies. Yet, the new price for energy provides many economic reasons to use less energy. In addition to these "market-related" reasons, there is, of course, national urgency to cut oil imports. In this setting, we must insure that future budget decisions on how to allocate Federal energy funds be made on the basis of how many—equivalent—barrels of oil will be created or saved per dollar invested. It is clear that these budget decisions have not thus far been made on the basis of potential total cost per unit of energy provided or saved.

At a time when both the administration and Congress are attempting to find fair and effective solutions to our national energy problems—solutions which, for the most part, have tended to emphasize accelerating energy supply growth rather than efforts aimed at cutting energy demand growth rates—a recent guest editorial appearing in the New York Times very clearly and convincingly poses this question: Are we, in our efforts to attain energy self-sufficiency, threatened far more by the environmental, social and economic hazards of too much energy, too soon, than by the hazards of too little, too late?

The editorial was written by John P. Holdren, an assistant professor of energy and resources at the University of California, Berkeley. I believe my colleagues will find it particularly timely as we continue consideration of energy legislation and are called upon to make the difficult judgments as to balancing the supply and demand approaches to energy self-sufficiency.

The editorial follows:

TOO MUCH ENERGY, TOO SOON

By John P. Holdren

BERKELEY, CALIF.—The United States is threatened far more by the hazards of too much energy, too soon, than by the hazards of too little, too late.

The hazards of too much, which have been as widely underestimated as the liabilities of too little have been exaggerated, include diverting financial resources from compelling social needs, making hasty commitments to unproved technologies, and generating environmental and social costs that harm human welfare more than the extra energy improves it.

The idea that slower growth of energy use is better follows from several lines of reasoning—all supported by an accumulating volume of evidence.

First, rapid growth of energy use fosters expensive mistakes. The pressure of growth encourages the nation to seize any and all sources of supply that seem available. Some of these sources seized in haste are overpriced, some will prove unreliable and hence even more expensive than anticipated, some will produce unexpected environmental and social burdens.

Second, even at slower growth rates, a point exists beyond which more energy can do more harm than good.

The relation of energy to well-being, in other words, is two-sided. Through its productive application in economic-technological systems, energy fosters well-being; but the environmental and social effects of mobilizing and using energy can undermine well-being by means of direct damage to health, property, and human values, and by disrupting indispensable "public-service" functions of natural systems (climate regulation, fertility maintenance, waste disposal, controls on pests and disease organisms).

The higher the level of energy use already attained, the more likely it is that the economic-technological benefits of an additional unit of energy will be outweighed by the social and environmental costs. Mounting evidence suggests that the United States is approaching (if not beyond) the level where further energy growth costs more than it is worth.

Third, conservation of energy can mean doing better, not doing without. The essence of conservation is the art of extracting more well-being from each gallon of fuel and each kilowatt-hour of electricity. There is enormous potential for improvement here by raising efficiencies in homes, offices, transportation, and industry.

Of course, other approaches to energy conservation could involve changes in individual behavior, and critics of conservation are quick to suggest that what is implied here is a return to a primitive existence.

In a society that uses its 5,000-pound automobiles for half-mile round trips to the market to fetch a six-pack of beer, consumes the beer in buildings that are overcooled in summer and overheated in winter, and then throws the aluminum cans away at an energy loss equivalent to a third of a gallon of gasoline per six-pack, this "primitive existence" argument strikes me as the most offensive kind of nonsense.

Fourth, saving a barrel of oil is generally cheaper than producing a barrel. Reducing waste through higher efficiency makes more energy available for genuine needs, but at smaller economic cost than the alternatives of more mining, more drilling, and more power plants. In this sense, conservation is the cheapest new energy source.

Finally, less energy can mean more employment. The energy-producing industries comprise and most capital-intensive and least labor-intensive major sector of the economy. Accordingly, each dollar of investment capital taken out of energy production and invested in something else, and each personal-consumption dollar saved by reduced energy use and spent elsewhere in the economy, will create more jobs than are lost.

The notion of a one-to-one between energy use and well-being is the most dangerous delusion in the energy-policy arena. Sweden, Denmark and Switzerland all had higher gross national products per capita in 1974 than did the United States, despite energy use per capita around half that in the United States or less.

It is time we studied how the frugal Europeans get so much prosperity from so little energy. By carving the fat from our energy budget and wisely applying these savings, we probably could hold United States energy growth between now and the year 2000 to 1 per cent per year, instead of the 3 to 4 per cent so widely forecast. If our goal to maximize human well-being, accounting both for the benefits of energy use and the likely costs, we should not aim at more energy growth than this, and I believe it possible we should even aim at less.

U.S. INTERVENES IN ANGOLA STRIFE

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mrs. CHISHOLM. Mr. Speaker, certainly all of us are apprised of the current crisis in Angola, the involvement of the U.S. Government in that conflict, and the potential for more unilateral conflict that situation poses because of the forces bearing down in that small African country.

The Black Caucus has uniformly deplored all intervention in the war in Angola not only because of the covert manner of U.S. involvement, but also because the CIA has defied the mandate of the Organization of African Unity opposing all foreign intervention.

Like the War in Indochina, U.S. involvement in the initial stages has relied on an information "black out". We are only learning now of money already spent and of actions already taken because of State Department decisions to interfere to counter actions taken by the Soviet Union.

I would like to submit for review of my colleagues an in depth analysis of the situation in Angola and the role of the United States in it. The history of our covert activity is important in understanding why it is essential that no more aid be approved for any actions in Angola. The following was prepared by the Washington Office on Africa, an invaluable source for information on the topic:

U.S. INTERVENES IN ANGOLAN STRIFE

Since the Portuguese coup of April, 1974, the process of decolonization in Angola has proven far more tortuous and complex than in the former sister territories of Mozambique and Guinea-Bissau. In the latter two colonies, power was transferred to single, relatively unified liberation movements which acceded to independence and sovereignty in orderly fashion. In Angola, the presence of three movements divided on political, ideological and geographic and ethnic lines has prevented a simple transition from colony to independence. These divisions, together with strategic considerations and Angola's wealth in natural resources, have invited intervention in the decolonization process by external powers. The United States has been prominent among these outside forces, and recent evidence has provided a clearer, though still very incomplete, picture of the nature of U.S. intervention.

In a front page New York Times article of September 25, Leslie Gelb revealed that the U.S. Central Intelligence Agency has been buying arms for two liberation movements, FNLA and UNITA, in an effort to offset the military success of the third movement, MPLA, which has received significant arms support from the Soviet Union. The Times story states that the CIA operations have been approved by President Ford and are being carried out, as prescribed by law, with the knowledge of several Congressional committees. These include the Senate and House Armed Forces and Appropriations Committees, and the Senate Foreign Relations and House International Relations Committees. In each case CIA oversight has been delegated to subcommittees dominated by conservatives, or to individual ranking members.

CIA support for FNLA has a long history: according to Gelb, in 1962 the Agency and President Kennedy selected FNLA leader Holden Roberto as a man to back for the future, since Portugal could not be expected to retain Angola indefinitely. Support waned in 1969 but the CIA reactivated its Roberto connections last spring, in light of the upsurge in liberation activities following the Portuguese coup.

The CIA interest in UNITA is much more recent. Gelb's report on this connection followed a few days after an announcement by UNITA President Savimbi that he is receiving armaments from "anti-Communist Western nations and their allies" (according to Africa News). Jonas Savimbi, who heads UNITA, is avowedly anti-communist and anti-MPLA—two reasons for the CIA's interest in him. He may also be emerging as a more realistic possibility than Roberto as a future contender for leadership of Angola. Savimbi is a magnetic figure with considerable popular support from the rural peasantry of central and southern Angola, and is personally attractive to some progressive African leaders in other countries.

U.S. aid to the two movements is being disbursed largely through President Mobutu Sese Seko of Zaire. Indeed, it is impossible to approach the subject of Angola and U.S. intervention there without examining Zaire's relationship with both Angola and the United States. Zaire shares a long border with Angola; the BaKongo people, who comprise the bulk of FNLA's supporters, straddle this border. Holden Roberto of FNLA is Mobutu's brother-in-law. It is not surprising, then, that Mobutu's Zaire government has long been an open supporter of FNLA. Mobutu's support for UNITA is much less solid, and seems primarily based on UNITA's shared opposition to FNLA's main enemy, MPLA. An instance of U.S.-Zaire connection with UNITA was reported by an expert eye-witness recently. He saw a Hercules transport plane offloading arms at Silva Porto, UNITA's headquarters. The French-speaking crew was smoking Zairean cigarettes; the U.S. sold the Hercules aircraft to Zaire last year.

Establishing and maintaining the stability of Mobutu's staunchly pro-western rule in Zaire has, of course, been a cornerstone of U.S. policy in Africa since the General seized power in 1965. The CIA has long had a principal Africa station in Zaire. U.S.-Zaire relations received a jolt in June of this year when Mobutu expelled U.S. Ambassador Deane Hinton, accusing him and the CIA of complicity in a coup plot. Nathaniel Davis, the Assistant Secretary of State for African Affairs who was travelling in Africa at the time, tried to go to Zaire to repair relations, but was refused entry. (Mobutu had earlier in the year opposed Davis' nomination to his post, precisely because of Davis' implication in CIA activities in Chile.)

The task of patching up things with Mobutu fell to Sheldon Vance, a former ambassador to Zaire, now a senior aide to Kissinger. Vance made two trips to Zaire, and then began to put together a new package of U.S. aid for Mobutu. The package totals $60 million—4 times the 1975 level, 7 times the 1974 level, and $20 million higher than the annual average of U.S. aid during the peak years of U.S. assistance in the crisis period of the 1960's. It is divided into $20 million in Export-Import Bank loans; $20 million in Food for Peace credit, and $20 million for "Security Supporting Assistance"—which exists to "support or promote economic or political stability." The State Department rationale for the package has been Zaire's balance of payments problems stemming from a drop in price of its copper exports and a rise in import costs, especially for oil. Vance and other State Department officials have also approached U.S. private creditors to assist in the rescheduling of Zaire's considerable foreign debt.

In July Vance and Deputy Assistant Secretary for Africa Edward Mulcahy discussed the package with several Senators and Congressmen, hoping that a low-key approach would gain their acquiescence while avoiding publicity. Reaction on the Hill to State's approach was decidedly negative. Although the Ex-Im Bank and Food for Peace portions require no specific Congressional approval, Senators Clark and Humphrey insisted that the Security Supporting Assistance be fully scrutinized. Closed hearings on this part of the package are to be held in the near future.

In short, the Administration is seeking to underwrite the finances of the Mobutu government with a quantum leap in its level of aid. Since Mobutu is actively involved in the Angolan civil war and is the conduit for U.S. involvement, this move seems to have considerable implications for the Angolan scenario.

More evidence of increasing Administration interference in Angola has emerged in the revelation that Nathaniel Davis—according to news reports of September 1—plans to resign shortly from his post as Assistant Secretary for African Affairs. The ostensible reason is his inability to establish good relations with African states and their leaders, as his problem with Mobutu demonstrates. A high-ranking source in the State Department, however, contends that the immediate reason for Davis' departure is his disagreement with Henry Kissinger over Angola—i.e., Davis balked at Kissinger's proposals for stepped-up intervention there. Davis may have resisted because he feared yet another CIA blot on his record, which would confirm what was predicted by his opponents at the time of his nomination. Many observers expect Davis' successor to be Sheldon Vance. Whether or not Davis objected to Angolan intervention, he surely could not implement it effectively if he could not work with the other major actors in the Angolan arena.

On another front, when Senators Clark and Brooke proposed an amendment to this year's foreign economic aid bill which would specify $30 million for assisting the former Portuguese territories, the Agency for International Development suggested that $25 million of this be earmarked for resettlement of black Angolan refugees. Most such refugees are Bakongo returning to Angola from Zaire. But the Senators caught the political implications of the language and specified in the report accompanying the bill that no aid should go toward "refugee or economic assistance that would constitute political support for any one of the liberation movements in Angola."

A further complication in the Angolan turmoil revolves around Cabinda, the tiny exclave of Angola separated from the rest of the country by a strip of Zairean territory. Cabinda is where Gulf Oil produces 100,000 barrels of oil a day. MPLA currently controls the area, and all the Angolan liberation movements favor keeping Cabinda part of Angela. But a Cabindan separatist organization, FLEC, has recently emerged into the limelight. FLEC is presently located in and is heavily backed by Zaire, which is known to have an interest in the oil; some experts predict Zairean attempts to dominate or even annex Cabinda in the future. Clearly Cabinda is also a focus of external interests, both private and governmental.

The United States is not, of course, the only external power involved in Angola. The Soviet Union has given considerable support, especially in arms, to MPLA. China has provided some assistance to FNLA, including military advice. Numerous indications and allegations of intervention have been aired concerning other countries such as France, Tunisia, Zambia and South Africa.

The Soviet Union's arms deliveries to MPLA make opposition to U.S. intervention more difficult. It can be cogently argued that a "Soviet-engineered takeover" of the Angolan government is no more desirable than a similar CIA effort. The problem, however, is that any Soviet presence in a particular country is so often exaggerated, and used as justification for significant American subversion of the internal political process. Furthermore, warnings of dangerous Soviet intervention from American officials should hardly be taken at face value, when accompanied by pious denials of U.S. interference. In a major Africa policy statement on September 23, Secretary Kissinger stated that one of the three major U.S. concerns was "that the continent be free of great power rivalry or conflict." He added a "cautionary word" specifically about Angola: "We are most alarmed at the interference of extra-continental powers who do not wish Africa well, and whose involvement is inconsistent with the promise of true independence."

One task, then, is to judge the degree of Soviet support for, and control over, the movement they are backing—MPLA. Soviet arms have been used to some extent by MPLA for several years; but according to the respected British journalist David Martin, the principal arms shipments came last spring, in response to a massive movement of FNLA troops from Zaire to Angola. It is notable that MPLA has sought good relations with China (despite the latter's moderate support for FNLA) by sending two top level MPLA delegations for visits: hardly the behavior expected from a Soviet puppet. MPLA also is maintaining good relations with Gulf Oil, and has recently softened its position on post-independence nationalization.

The evidence, then, that MPLA is completely under the Soviet thumb is unconvincing. Such a figure as Senator Dick Clark, Chairman of the Africa Subcommittee of the Senate Foreign Relations Committee, who visited Angola and met with the presidents of all three movements in August, came away firmly convinced that nothing in the situation justifies U.S. intervention. The problem may be best expressed by one of Leslie Gelb's government sources: "It's just that we can't keep our hands out of anything."

In general, we feel any effort to stop U.S. intervention in Angola should be supported. Several amendments are being considered to the military aid bill, which the Administration has yet to submit and which Congress will probably pass on by mid-November. Specifically, the Security Supporting Assistance to Zaire should be opposed, since there is too much possibility that Angola movements will be the beneficiaries of it. We should support an amendment which Clark may propose stipulating that no aid should go "directly or indirectly" to the liberation movements in Angola. Another possibility is to back a possible Clark "sense of Congress" resolution urging negotiations with the Soviet Union on mutual restraint in Angola. An aide to Congressman Diggs has suggested that such negotiations include not only the major powers of East and West but those on the African continent as well.

There is a persisting doubt, however, that steps such as these will affect only the proverbial "tip of the iceberg" of U.S. policy in central and southern Africa. Significant policy operations have proceeded and are proceeding covertly under the rubric: "CIA". The American people have not been informed of these actions and have, in fact, been deliberately been misled concerning them. The whole range of policy, covert and overt, appears to amount to an unwarranted and immoral intrusion to guarantee a government friendly to the U.S. interests. But it will be impossible to debate U.S. policy, and to propose effective alternatives to it, when so much remains hidden from public view.

In a situation so murky we need your ideas and analyses concerning these issues. We welcome your response.

A LESSON IN QUESTIONNAIRE-MANSHIP

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. MIKVA. Mr. Speaker, the first lesson which every new Member of Congress must learn is to carefully scrutinize their list of constituents for the names of any former Members of Congress. The second lesson is to omit those names from the list of recipients of questionnaires, because ex-Members of Congress invariably respond with more information than you expected. I would like to demonstrate the dangers of failing to master these lessons by inserting the response to Congressman Dave Evans' questionnaire submitted by Judge Andrew Jacobs, Sr., a former Member of this House of Congress. The depth and lucidity of Judge Jacobs' response should come as no surprise to those of us who have witnessed the sagacity of his son, our colleague, Congressman Andrew Jacobs, Jr., or to those fortunate enough and senior enough to remember the distinguished service of Congressman Andrew Jacobs, Sr.

The questionnaire follows:

Indianapolis, Ind.,
December 1, 1975.

Re Crime Poll.
Congressman Dave Evans,
Congress of the United States, House of Representatives, Washington, D.C.

Dear Congressman Evans: Interrogatories never afford built-in space for adequate answers. Hence I will comment upon yours seriatim:

1. Do you favor any type of strict gun control legislation? Yes—No—Please explain.—

Every firearm should be registered with identifying ballistics data and other indicia. This is a proper subject for Federal jurisdiction, although penal enforcement could be concurrent with State Courts as a clear exception provided to 18 U.S. Code 3231. But constitutionally, I believe, enforcement must be optional, not mandatory upon State Courts. Licensing, to carry guns, thusly registered, intra-state, should be left to states, while carrying beyond the registrant's state would have to be by Federal authorities. No distinction between "Saturday Night Specials" and better guns has any validity. One is as deadly as the other. Possession of an unregistered firearm should carry a penalty of imprisonment with mandatory destruction of the unregistered weapon. When and if we have recovered virtually all illegally held weapons, and experience affords a method of preventing replenishment, we might consider gun abolition.

2. Should first time purchasers of any type of firearm be required to participate in a firearm training course? Yes—No—

I have serious doubts. Before instituting such a program we should await the experience afforded by the registering and licensing program. Eventually such training might prove wise. I am undecided at this time. Generally, I oppose creation of new public jobs.

3. Should there be mandatory sentencing for offenders who commit a crime with a firearm? Yes—No—

I think you refer to what is euphemistically called an "executed sentence." The fact that you ask this question (vis a vis firearms) manifests the debasement of our language regarding criminal jurisprudence. The other kind (suspended sentences or probation) are merely threats to sentence at a later date, under certain conditions.

I do not use probation, which merely requires the convicted accused to slip on his Sunday britches and come to the Department and tell a few concocted fibs about what he did during the interim of visits. On two occasions I gave a suspended sentence (on condition of no future penal violation) when the State petitioned me to do so upon verified showing that the accused had effectively and truthfully aided authorities in meeting criminals more highly placed. Otherwise, everyone convicted, before me, has been given an executed sentence, within the prescription of the law. Studies have revealed that supervised parolees do not better than the unsupervised. Unfortunately, neither do too well.

Experience also shows that certain, and better still, prompt punishment reduces crime, especially crimes of profit.

This is a rough business, and no place for the faint-hearted.

4. Do you believe juvenile delinquents who are either repeat or first time offenders should be tried as adults provided the crime involves bodily harm, i.e. assault, rape, murder? Yes—No—

Tentatively, yes. But I would prefer that the original court be empowered to impose appropriate sentencing without such transfers. Almost without exception when I read one pre-sentence report I re-read what I have previously read, with monotonous regularity; early and constantly repeated criminal conduct with no punishment.

Recently, as I was sentencing a convicted accused with such a juvenile record, I asked him if he thought he would have committed the crime of which he then stood convicted if the juvenile court had actually punished him for his earlier transgressions.

He replied that he thought it quite unlikely. I recently received a letter from a young man I had sentenced to prison for a year. He thanked me, saying that had I released him upon an unexecuted sentence, he would be doing the same thing again, but that he had learned his lesson and was resolved to go straight hereafter. I receive many such letters, which always before had closed asking that, since they had learned their lessons, would I now order them released. But not this one. He resolved to finish his sentence without infraction of institutional rules and go straight, no favors asked. His battle is half won. I wrote him to come and see me when he is released. I intend to try to help him find employment, if he does as he promised.

5. Should parents be held financially responsible for crimes committed by their juvenile delinquent children? Yes— No—

Only where their knowing and understandingly negligent conduct was clearly a proximate cause. I could not favor holding the parents of teenagers too strictly responsible when the governing institutions shrink from effective law enforcement, especially in the drug culture of this era. Beware of such pat remedies.

6. Should "hard-core" drug addicts who commit crimes receive medical treatment as part of the legal process? Yes— No— Please explain. ----------------------------------

Such helpful treatment, if any, should be available to such criminals in the prisons to which they are committed. I am opposed to the "King's X" laws whereby the accused says:

> "Yes, Judge, I did it, but, King's X. I also violated the drug laws, and I want to be sent to the drug program instead of prison."

and the judge must engage in that charade.

Occasionally a convict may fit into the prescriptions stated under No. 3 above. If "bigger fish" can thusly be netted, I am willing to evaluate possibilities, with due caution against the danger of getting false accusations in return for leniency.

Recently such a defendant objected that if he did as I required (in a drug case) we'd find his body "floating in White River". I told him that as long as we draft young men to die for their country he should assume that risk because he owed society more than the draftees owed. He refused. I sent him to prison for 5 years.

Harsh? Yes. But it is war and society can't win by carrying its heart on its sleeve.

I sentence persons to prison hoping that during ensuing years fewer will have to be sentenced, hence less human suffering will be caused, not only to victims, but also to those tempted to criminal conduct, as well.

7. Do you believe that the judicial system is being stringent enough in sentencing? Yes — No —

No. However, the public erroneously believes no one is punished, which is untrue. The thugs, with the public, also believe this. If every judge would realize that the law is written to be obeyed, otherwise enforced; if every convicted criminal would be promptly tried and imprisoned within the prescriptions of the law; and if appeal bonds were allowed only upon a showing of probable harmful error, the incidence of crime would be immediately and sharply reduced. (See No. 9 below)

However, bear in mind that the most prevalent crimes which menace society are within State jurisdiction, with which Federal authority should not meddle, save in clear case of violation of substantial consitutional rights.

8. Are you in favor of a mandatory death penalty for selected crimes? Yes — No — Please explain. ____________________________

Yes, as provided by Indiana law prescribing the death penalty for murders, to-wit:

"(b) Whoever perpetrates any of the following acts is guilty of murder in the first degree and, on conviction, shall be put to death:

(1) Killing purposely and with premeditated malice a police officer, corrections employee, or fireman acting in the line of duty.

"(2) Killing a human being by the unlawful and malicious detonation of an explosive.

"(3) Killing a human being while perpetrating or attempting to perpetrate rape, arson, robbery, or burglary by a person who has had a prior unrelated conviction of rape, arson, robbery, or burglary.

"(4) Killing a human being while perpetrating or attempting to perpetrate a kidnapping.

"(5) Killing a human being while perpetrating or attempting to perpetrate any seizure or exercise of control, by force or violence or threat of force or violence and with wrongful intent, of an aircraft, train, bus, ship, or other commercial vehicle.

"(6) Killing a human being purposely and with premeditated malice:

"(i) by a person lying in wait;

"(ii) by a person hired to kill;

"(iii) by a person who has previously been convicted of murder; or

"(iv) by a person who is serving a life sentence.

"An indictment under subsection (b) may not charge a lesser included offense, but in all situations to which this subsection applies, the jury, or the trial judge if there be no jury, may find the defendant guilty of second degree murder or voluntary or involuntary manslaughter, if the facts proved are insufficient to convict the defendant of the offense charged."

Subsection IV is in keeping with Indiana Supreme Court decisions [Hash vs. State (1972) 258 Ind 692; 284 N.E. (2d) 770] and Hester vs. Stat. (1974) —— Ind ——; 315 N.E. (2d) 351 (not yet officially reported) wherein the trial court is not required to instruct upon lesser included offenses (nor find regarding them) unless distinguishing evidence discloses such crime, as opposed to the greater crime.

What this means is that judges and juries should not, willy nilly, find lesser included offenses unless evidence warrants such findings, and courts should not instruct upon same in the absence of such evidence.

9. What methods and procedures does the judicial system need to implement to make it more effective and responsive to society's needs?

In Indiana abolish the absolute right to a change of judge.

Nationally (and in most states) abolish the vacuous liturgy and evidentiary rules. Courts should be hospitable to truth and hostile to the legal obstacle race the truth must run to get into the record. Occasionally she makes it but generally not before she is mangled beyond clear recognition.

Trials should be speedy. Elimination of the foregoing liturgy and obstacle course would aid in speeding trials. But short hours, long recesses also kill trial hours and slows the process.

Appeal bail should be allowed only in case of probable error, determined by the appellate tribunal. This is an integral part of the speedy process.

I clearly think a guilty person should be in prison within 90 days from apprehension.

When I took office January 1, 1975, the lapsed time from apprehension to trial was, for January, 204.6 days*; for February 152.3 days. By November the lapsed time was reduced to 97.3 days, which, except for 2 older cases I inherited, would have been 77 days.**

I expect next year's average to fall close to 50 days.

October, during which we disposed of only current cases, the lapsed time was 68.4 days.

This record was achieved by constantly leaning on both sides. It was done despite handicaps described below. The point is that it can be done despite handicaps. It could be done better if they were removed.

1. Please feel free to make additional comments on the back.

One adjustment needed in Indiana (over which the Federal authority does not, and should not extend) is the absolute right to a change of judge without assigning or proving any reason. (I believe only Indiana has this rule.) Therefore, this comment is for your general informational background only.

In my court we have had (so far this year) 655 felony cases to deal with. Of these 199 (28.96%) exercised the absolute right to a Special Judge. (After 3 months on the bench the average rose to 61%, in narcotics cases). Of the 456 cases remaining before me I had disposed of 92.1%, that is all but 36 cases. Of the 199 cases which went to Special Judges, 112 remain to be disposed of, that is, the Special Judges have disposed of 43.7% of their cases.

However, this is far from reflecting the entire problem. By virtue of scheduling problems and lack of courtroom facilities the Special Judges were severely handicapped. So was I. I had approximately 70 available trial days on which my courtroom was not used due to the confusion and conflicts in scheduling. The Special Judges could not utilize these days because the calendar was aborted too late to give notice to their cases.

Had it not been for this loss of 70 days I could have disposed of every one of these 199 cases without any help from Special Judges.* Without these conflicts I could also dispose of the remaining 36 cases now before me ere our new filings begin at about Christmastime.

*In two cases I disqualified myself; one because of (1) a prior hostile confrontation with the accused; (2) the other because the father of the accused had been my son's Marine officer in Korea and had been kind to him, seeing that he was treated exactly as others who set out to haze him because his father was a congressman.

Secondly, two matters into which Federal authority has unwisely intruded. Both are related to Federal Revenue Sharing.

(a) Local authorities have taken these funds and irrigated the local soil out of which have sprung (like mushrooms) little principalities operated by arrogant personalities who believe they are competent to direct state courts, because they deem themselves vested with Federal oversight. These folk surface largely in bail bond proceedings and drug reform programs. They don't bother me. I simply hand them back their manifestos and tell them to begone. There are other aspects to this but they are unnecessary to this opinion.

(b) The second threatens to interfere with my scheduling. My rules provide:

RULE 1. DESIGNATED WEEK-DAYS

"Case numbers ending in 1 and 6 will be Monday; 2 and 7, Tuesday; 3 and 8, Wednesday; 4 and 9, Thursday and 5 and 0 Friday cases. The week days thus designated will be known as the case's "week-day."

RULE 2. HEARING HOURS

"2(a) Except by special order, a case shall always be assigned for action on its week day, at 11:30 A.M. for all purposes except trial and at 9 A.M. for trial. However, a case assigned for trial at 9 A.M. may be held for trial at a later hour on the same day if it appears likely the trial starting at 9 A.M. may conclude in time to commence another trial.

* * * * *

RULE 9. CONTINUANCES

"9(f) No later than the 11:30 A.M. proceedings on the case's last week day before the trial date the motion seeks to vacate, the ourt will rule upon such motions. Those so moving will be deemed to have notice. Otherwise, the order will be mailed to counsel. But counsel is nevertheless bound to ascertain disposition, as prescribed in Rule 3(g).

"9(g) The Court will, after granting adequate motions, grant or give standby status to those having inadequate motions, balancing inconveniences as best it can before confirming causes as prescribed in Rule 3(h).

"9(h) In granting inadequate motions, or giving standby status and otherwise selecting cases to go to trial, consideration will be given to defendants held in jail, especially those requesting early trial, the age and seriousness of the case, prior continuances and any other factor which, in fairness, may bear upon the decision."

We were doing fine with this scheduling. There are 5 deputy prosecutors and 5 public defenders (who defend approximately 40% of our cases) assigned to my court. Each took a week day. Their cases were assigned and followed with satisfactory regularity, even with private counsel, who are accustomed to such scheduling.

Then the Prosecuting Attorney received a Federal Grant, the terms of which provide that he have a deputy assigned exclusively to (1) drug cases, (2) Crime Impact cases (I thought all crimes had impact, so this is a fuzzy distinction), and (3) career criminal cases (nearly all are because experience teaches that few are caught the first time and there are far more crimes than criminals). I'm informed that these special deputies are forbidden to try cases in other categories else they will forfeit these Federal Funds.

So now the deputy for the drug cases is asking me to assign his cases on a fixed week day because he must cover the other 3 Divisions of this Court. I am already bogged down with scheduling conflicts and can absorb no more without loss of trial hours our congested calendar cannot afford.

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* "days" include Saturdays, Sundays, and holidays.

** During November 64.7% of cases disposed of were done within 50 days, and all current cases averaged 77 days. Two extremely old cases I inherited increased the average to 97.3 days.

Here is an example of the Federal authority dreaming impractical dreams, and having no comprehension of the local problems.

I fully agree that Federal Funds should not be ladled out, willy nilly, without stated purposes. But these strictures interfere with valid scheduling of our business, without any valid reason. I probably will not be able to accommodate it.

I have achieved such record as is manifest from the foregoing because I wrote the rules of this court to fully utilize our trial hours for trial work, and impose sanctions enabling me to enforce the rules. (I enclose a copy of the latest revision of these rules.)

There is no way to revise my scheduling to accommodate these Federal strictures without losing trial hours that this court cannot afford to lose. The latest revision was written to preclude losses of time previously occurring because of failure of counsel (and others) to perform their pre-trial functions which failure had forced delays.

If I am to accommodate the Prosecutor (which I'd like to do) I will lose some of the scheduling control my carefully constructed rules contemplated.

All this "expertise" in special prosecutors is not warranted anyway. The range of felony cases filed in this court are not so extensive or complicated as to preclude any trial deputy from mastering them. I have to, in order to find, or instruct juries. Of the trials held in this Court from January 1 to November 30, 77.3% were tried by jury. They represent the whole spectrum of state felony cases. The deputy prosecutor has 4 days to prepare for his one day in court.

Besides, narrowed expertise tends to narrow judgment. And finally, the criminal law is a narrow field as compared to the civil law. The so-called specialities in this jurisprudence is not warranted, especially at the expense of the confusion it generates in scheduling the business of the Court.

So I give you the caveat—to ward off such unwarranted strictures insofar as possible.

In conclusion, there is no royal road to success in this field. There is no substitute for hard work, long hours, and adherence to the law.

It is said we have a government of laws—not of men. But laws are sterile unless enforced by men, or women (with a bow towards women's lib). When this is wisely understood—and abided—by those entrusted with law enforcement crime will be brought under control, not before.

Succinctly be it said that no man is fit to be a Judge if he enjoys sending a fellow creature to prison. But neither is one who lacks the fortitude to do so when guilt is proven beyond a reasonable doubt, or who will not force the disposition of the Court's business with dispatch.

Very truly yours,

Andrew Jacobs, Sr.

FEDERAL OIL POLLUTION LIABILITY AND COMPENSATION ACT OF 1975

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. DODD. Mr. Speaker, under leave to extend my remarks in the Record, I include the following:

Testimony Before the Merchant Marine and Fisheries Subcommittee on Coast Guard and Navigation; by Representative Christopher J. Dodd, Democrat of Connecticut

Mr. Chairman: the probability of oil spills has increased dramatically in recent years, and promises to remain an evergrowing concern in the years to come.

This can be attributed primarily to an upsurge in tanker transportation—including an increase in size of tankers and their cargoes—and the accelerated production schedule of energy resources on our Outer Continental Shelf.

Coupled with this growing potential for oil spills is the need for a comprehensive oil spill control program with provisions for strict liability and compensation for damages and clean-up costs.

I welcome this opportunity, Mr. Chairman, to testify this morning on a bill, which I cosponsor—H.R. 10756—which would accomplish these objectives.

H.R. 10756, the "Federal Oil Pollution Liability and Compensation Act of 1975," consolidates major oil spill control provisions of existing federal legislation—particularly the Federal Water Pollution Control Act Amendments of 1972 and the Deepwater Port Act of 1974—into a comprehensive and uniform program.

This legislation also would expand existing, outdated and inadequate liability.

Under existing legislation, if an oil spill occurs from sources other than those related to the Trans-Alaska Pipeline or from deepwater ports, the discharger would be liable only for clean-up costs.

Any damages caused by the spill, including damage or destruction to personal property and loss of income or impairment of earning capacity, must be absorbed by the owner of the property.

The bill now under consideration by your subcommittee, Mr. Chairman, would remedy this situation by making those dischargers liable—without regard to fault—for damages from the oil spill.

H.R. 10756 also goes a step further by providing for relatively high limits on liability for any damages, such as $50 million for the owner and operator of onshore and offshore facilities and $150 a ton tanker liability—equal to $25 million for a 167,000 ton tanker.

These provisions provide a needed incentive for preventing and controlling oil spills at a time when my home state of Connecticut faces the possibility of a major oil spill for the first time now that offshore areas on New England's Georges Bank are up for leasing in the summer of 1976.

Nothing is more important to those residing and making a living on our scenic and bountiful Connecticut coastline, than the preservation of that environment.

The historic and fruitful relationship by New Englanders with the ocean is one that cannot be sacrificed for the sake of limited industrial development.

We have a responsibility in Congress to ensure the livelihood of a 25,000-person fishing industry in New England; and I would hope that your committee, Mr. Chairman, will not ignore the challenge before it today.

Before concluding, I would like to state my unequivocal support for the provisions in H.R. 10756 which would establish and maintain a Federal Oil Pollution Compensation Fund.

Such a fund, financed through a 5-cents-per-barrel fee imposed on the owner of transported oil until $250 million is collected, would be used for certain clean-up costs resulting from oil spills, and damages not previously compensated.

The fund also would be used to finance meaningful research into methods for preventing, containing and removing oil discharges.

Mr. Chairman, this comprehensive oil spill legislation is critical to the protection of those earning a living through the coastal environment and also to the safety of the environment, itself. I strongly support enactment of this bill and hope that the Coast Guard and Navigation Subcommittee will take favorable action.

ANNUAL CAUCUS WEEKEND LAUNCHES NATIONAL LEGISLATIVE AGENDA AND NETWORK

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mrs. BURKE of California. Mr. Speaker, many of our colleagues have expressed a continuing interest in the activities of the Congressional Black Caucus—CBC. For these colleagues, and anyone else who would like to be informed of the recent activities of the caucus, I would like to take this opportunity to insert an article from the November–December CBC newsletter into the Record:

Annual Caucus Weekend Launches National Legislative Agenda and Network

The Congressional Black Caucus Fifth Annual Dinner Weekend, September 26th and 27th, stimulated broad-based public and press interest in the Caucus' *Ten-Point Plan* for the development of a National Legislative Agenda and Network. The Annual Dinner Weekend, in addition to raising funds for the Caucus staff operations and legislative information services, has become a viable strategy forum for many Black Elected Officials, civil rights organizations, professional organizations, public interest advocates, educators, labor representatives, small business and corporate representatives, federal agency officials, Members of Congress and congressional staff.

The underlying theme of the 1975 Dinner Weekend, *"From Changing Structures to Using Structures: 1876 to 1976"*, guided the activities and supported the Caucus' call for all participants to join in reordering national priorities, and in making effective, progressive use of political/legislative structures. Five years ago, actor Ossie Davis addressing the First Annual Dinner noted that, "It's not the rap, it's the map; it's not the man, it's the plan." He urged the Caucus and its supporters to go beyond personalities and rhetoric in developing specific strategies for addressing human needs and priorities.

Many feel that the Ten Point Plan responds to Mr. Davis' challenge and reflects the new growth and direction of the Caucus. Representative Charles B. Rangel (D-NY), chairman of the Caucus, in an opening address to some 2,800 guests at the Annual Dinner, Saturday, September 27th, stated that:

"As national legislators we feel an obligation to speak for those who have had almost no voice in national affairs—those who bear the burden of three centuries of racial discrimination. . . . This year, for the first time, the Caucus presented to Congress, a formal Legislative Agenda which includes some 50 legislative items on which we want congressional action."

Congressman Rangel went on to note that while some progress has been made on the Caucus Legislative Agenda (e.g. passage of a seven-year extension of the Voting Rights Act, major reforms in tax laws), congressional inaction on a broad range of human need issues still poses a major challenge. He called on Congress to pass a full employment bill, a national health insurance bill, welfare reform, and legislation that addresses the issue of quality education and equal educational opportunity. "We need your experience and your insights into how the programs that Congress has passed are working." "We need your assistance and your political influence as voters to make non-black Members of Congress more responsive to their black and poor constituencies," Rangel told the Dinner audience.

LEGISLATIVE WORKSHOP

The basic elements of the Ten-Point Plan were introduced and examined during a day-long workshop, Friday, September 26th. The workshop was co-sponsored by the Caucus and the Joint Center for Political Studies and over 500 people attended. The Ten Point Plan was presented in the opening session of the workshop by Congressman Walter E. Fauntroy (D-D.C.), chairman of the Fifth Annual Dinner Weekend. Fauntroy noted that:

"This year's Legislative Workshop explores a national strategy for effective use of political/legislative structures by black and poor citizens. The Caucus, combining its own experience and expertise with that of key resource people, organizations and supporters has devised a plan for moving any issue through the legislative process. Using this Plan, we hope to build and implement a National Legislative Agenda that is accountable to the needs of black and poor people and of the majority of American citizens."

The workshop provided an opportunity to examine in more detail, the status of the Legislative Agenda which the Caucus presented to the first Session of the 94th Congress. In addition, Congressman Andrew Young (D-Ga.) presented a definitive explanation of "The Rules of the Game"—how the legislative process works and the key vehicles for public input and pressure. Participants expressed a continuing interest in pushing for legislative action and remedies.

The applicability of the Ten-Point Plan was tested in a series of issue workshops that focused on seven key areas of concern to Caucus constituents: Full Employment/Affirmative Action, The Urban Fiscal Crisis, Housing, International Affairs, Black Business and Economic Development, Quality Education and Equal Educational Opportunities, and National Health Care. Specifically, the Ten-Point Plan calls for:

Legislative Agenda Development.

Legislative Monitoring of the Administration of Existing Laws.

Development of Legislative Support Groups by Congressional District.

Coalition Development.

Development of a Black Media Perspective and Strategy.

Legislative Research and Information Dissemination.

Development.

Identification and Development of Financial Resources.

Candidate Development and Support.

Voter Education and Registration.

The *Jobs/Affirmative Action Workshop* was chaired by Representative Augustus F. Hawkins (D-Calif.), primary sponsor and author of H.R. 50, The Equal Opportunity and Full Employment Act, and Representative John Conyers (D-Mich). Respondent-panelists in this workshop included: Dr. Bernard Anderson, Wharton School of Finance, University of Pennsylvania; Mr. Charles Hayes, Vice President of the Coalition of Black Trade Unionists; Mr. Colston Lewis, Commissioner, Equal Employment Opportunity Commission; Ms. Eleanor Holmes Norton, Chairperson, New York Commission on Human Rights; and Mr. Harold Sims, Director of Corporate Affairs, Johnson & Johnson.

Discussion in the Jobs/Affirmative Action Workshop focused on:

The impact of the nation's current economic crisis on poor and minority constituents.

Black joblessness.

Strategies and mechanisms for pushing passage of full employment legislation.

Congressional action and inaction on the issues of full employment and economic recovery.

Affirmative Action in the public and private sector.

The relationship between affirmative action and full employment.

Alternatives to lay-offs.

The role of congressional oversight in monitoring and ensuring enforcement and compliance with affirmative action mandates.

The *Urban Fiscal Crisis Workshop* was chaired by Congressman Louis Stokes (D-Ohio) Respondent-panelists included: Dr. Karl Gregory, visiting economist, Congressional Budget Office; Mr. John Bass, Comptroller, City of St. Louis; Mr. Richard Austin, Secretary of State, Michigan; Mr. Carl McCall, State Senator, New York; and Mr. Carl Holman, President of the National Urban Coalition. Among the issues discussed were:

The role of state and federal government in aiding localities.

The impact of business on urban communities.

The role of major financial institutions and bond rating structures.

Regionalism and intergovernmental relationships.

Improving the economic viability of minority urban communities.

The role of minority and poor voting populations in pushing for local fiscal reform and accountability.

The *Black Business and Economic Development Workshop*, chaired by Representatives Parren Mitchell (D-Md) and Harold Ford (D-Tn), focused on the current status and needs of the black business community. Panelists included: Mr. Naylor Fitzhugh, consultant, Pepsi Cola Corp.; Mr. William Fitzgerald, President, Independence Savings and Loan; Mr. Gerald Anderson, director of G. A. Anderson & Company; Mr. Connie Mack Higgins, Associate Administrator for Minority Small Business, Small Business Administration; Mr. Eugene Baker, Executive Director, National Association of Black Manufacturers; Ms. Beatrice Reed, President of the Washington Real-Estate Brokers Association. The broad range of issues covered in the workshop included:

Impact of the current economic crisis on minority business.

Federal, State and local aid to minority enterprise.

Status of Affirmative Action in contract compliance.

Congressional oversight and initiatives around minority contracting.

Accountability of the minority entrepreneur to the black community.

Vehicles for organizing broad-based support around issues that impact on minority enterprise.

The *Housing Workshop*, chaired by Representatives Yvonne B. Burke, Walter E. Fauntroy and Charles Rangel, focused on housing as a "neglected national mandate". Respondent-panelists were: Mr. William Ravenell, Secretary, Department of Human Affairs, Florida Housing Development Corporation, Ms. Majorie Lawson, Senior Partner, Lawson & Lawson, First Vice President and General Counsel, Federal Housing Corporation; Ms. Cushing Dolbeare, Housing Specialist and Policy Analyst, National Rural Housing Alliance; Mr. H. R. Crawford, Assistant Secretary for Housing Management. Department of Housing and Urban Development; Mr. Floyd McKissick, President, Soul City, North Carolina.

In the Housing workshop participants discussed:

The recently passed, Emergency Housing Act of 1975 (PL94-50).

The Ford Administration's position on housing.

Implementation and impact of Section 8.

Tax write-offs as a form of housing subsidy.

Redlining, credit discrimination and congressional action.

New communities/new towns.

Housing as an economic stimulus.

The *Quality Education and Equal Educational Opportunities Workshop* was chaired by Representative Shirley Chisholm (D-NY). Panelists included: Mr. Sam Ethridge, National Education Association; Mr. Wilson Riles, Superintendent of Public Instruction, California; Ms. Gloria Scott, National Institute of Education, U.S. Department of Health, Education and Welfare (HEW); Ms. Patsy Flemming, staff assistant, House Committee on Rules; Mr. Joffre Whisenton, Consultant on Education Affairs, HEW; Mr. Miles Fisher, National Association for Equal Opportunity in Higher Education.

Issues examined in the education workshop included:

The status of and inequities in public school financing and vehicles for school financing.

The rights of students, teachers and parents.

Disproportionate drop-out, suspension and push-out rates for black students.

Community involvement and school governments.

The role of the federal government in public education.

Factors in supporting and enlarging equal educational opportuintes.

Students aid, institutional aid and appropriation levels for higher education.

The financial plight and survival of black colleges.

Affirmative Action in higher education.

The *International Affairs Workshop* (The Black Stake in Global International Interdependence) was chaired by Representatives Charles C. Diggs (D-Mich), Cardiss Collins (D-Ill) and Robert N. C. Nix (D-Pa.)—all members of the House International Relations Committee. Workshop panelists were: Mr. Robert Browne, Director of the Black Economic Research Center; The Honorable Dudley Thompson, Foreign Minister of Jamaica; Mr. Clyde Ferguson, Professor of Law, Harvard University, former Ambassador to Uganda; The Honorable J. Chassawa, Foreign Minister of Mozambique.

The issues examined in this workshop were:

Trade and transfer of real resources.

International policies on the exchange and sharing of information and resources in science and technology.

World hunger and agriculture.

Industrialization in developing countries.

Overall U.S. policy toward Third World nations.

Legislative initiatives on international affairs—status report.

Positions and actions of the Congressional Black Caucus.

The *National Health Care Workshop*, chaired by Representatives Andrew Young and Ronald Dellums (D-Calif), focused on public accountability in the health care field, the passage of comprehensive health care legislation and the status of health care in poor and black communities. Workshop panelists included: Mr. Jerry Ashford, National Association of Neighborhood Health Care Centers; Mr. John L. S. Holloman, President, New York City Health and Hospital Association; Ms. Dorothy Height, President of the National Council on Negro Woman and member of the National Commission for Protection of Human Subjects in Biomedical and Behavioral Research. The workshop participants discussed:

Maldistribution of medical personnel and facilities.

The costs of medical care and the role of private practitioners and hospitals.

Health planning and resources.

Abuses and regulation of biomedical and behavioral research (e.g. The Tuskeegee Experiment).

Support for the Community Mental Health Program, Health Maintenance Organizations.

A comparative assessment of national health care insurance proposals before the 94th Congress. A focus on health care legislation introduced by Rep. Young, *The Comprehensive Ntaional Health Care Act* and legislation proposed by Rep. Dellums.

At the conclusion of the seven issue workshops, participants convened for a special plenary session on the *Black Perspective in Media Strategies*. This session was chaired by Congressman William Clay (D-Mo.) and included a diverse panel of media experts: Mr. Dexter Eure, *Boston Globe;* Ms. Sandra Dillard, *Denver Post;* Mr. Vernon Jarrett, *Chicago Tribune;* Mr. Lonnie Kashif, *Muhammad Speaks;* Ms. Ethel Payne, *Chicago Defender;* Mr. Moses Newson, *Baltimore Afro-American;* Ms. Belva Davis, KPLX-T.V., San Francisco; Mr. Tony Brown, *Black Journal;* Dr. Carlton B. Goodlett, President of the *National Newspaper Publishers Association*.

Dr. Goodlet led off the discussion by panelists, noting that:

"The Congressional Black Caucus, together with the black media—radio, television and the press—must join forces to expose the misery, the deprivation, the crimes against poor and minorities, and indeed, the majority of American people."

Participants in the Black Media workshop examined the media's current responsiveness on issues of concern to black and poor citizens. They also explored vehicles for ensuring more adequate coverage of the black perspective on legislative, political, economic, national and international issues. Specific areas of discussion included:

Accountability of the black media to black constituencies.

The role of the media in exposing political, social and economic injustice.

The public service requirements of electronic media—how to use it.

Monitoring media coverage for accountability regarding issues and positions of the National Legislative Agenda.

BENEFIT LUNCHEON/FASHION SHOW

The activities in this year's Dinner Weekend were expanded to include a special Benefit Luncheon and Fashion Show, Saturday, September 27th, sponsored by the D.C. Host City Committee and spouses of Congressional Black Caucus Members. This special benefit was held to raise initial funds for a *Congressional Black Caucus Legislative Internship Program*. Commenting on the need to increase the number of minorities in legislative staff roles, Representative Rangel observed:

"Despite the increase in the number of Black Elected Officials over the last decade, the representation of minority staff in key legislative roles is woefully inadequate . . . The staff composition of the U.S. Congress itself, our highest legislative body, provides a shameful illustration of halting affirmative action initiatives in providing training experiences and career opportunities for minorities . . ."

The D.C. Host Committee includes a broad cross-section of organizations in Washington, D.C. Plans for the scope of the internship/training program, selection criteria and evaluation criteria are currently being developed by the Caucus. Descriptive materials on this program will be prepared for dissemination in early 1976.

THE ANNUAL DINNER

In keeping with the theme, "From Changing Structures to Using Structures: 1876 to 1976", the formal Dinner Program included the presentation of awards for outstanding achievements on behalf of the black community and substantive addresses on the national and international political direction of black people. The Newark Boys Choir helped open the evening's activities with "Lift Every Voice and Sing". Mayor Walter Washington welcomed the Dinner audience.

The seventeen members of the Congressional Black Caucus were formally introduced to the audience by Senator Edward Brooke (R-Mass.). The program included the presentation of three Caucus awards that have become a traditioinal feature of Annual Dinners:

The George W. Collins Award for Community Service was presented to the Mound Bayou Community Hospital, a black controlled hospital which serves medically indigent residents in a four-county area of the Mississippi Delta Region. Receiving the award for the hospital were: Dr. Matthew Walker, one of the hospital's founders and Mr. Howard Jessamy, the hospital's current administrator.

The Adam Clayton Powell Award for Political Achievement was presented to Lieutenant Governor George L. Brown of Colorado and Lieutenant Governor Mervyn M. Dymally of California. These black men hold high elective offices within their states and have been able to gain broad support among a majority white constituency.

The William L. Dawson Award for Legislative Development was presented to Dr. Kenneth B. Clark for his outstanding work in education research and school desegregation. His work on the impact of segregation on school children was cited by the United States Supreme Court in its historic 1954 decision against unequal education.—*Brown vs. the Board of Education.*

In addition to the three Annual Awards, a special tribute was given to outstanding *Honorees* for the significant roles they played in the history and development of black Americans. This year's Honorees were: Mr. Joe Louis, a living legend and symbol of a golden era of prize fighting, and Mr. Paul Robeson, outstanding athlete, actor and singer. Mr. Louis held the title, "Heavyweight Champion" of the World longer than any man. Robeson is remembered for his many talents and strong convictions in speaking out on behalf of racial, political and economic justice. Paul Robeson, Jr. accepted the tribute on behalf of his father at the Dinner.

Dinner speakers included Foreign Minister of Liberia, The Honorable C. Cecil Dennis, who addressed the audience on linkages between black Americans and African nations, and Mr. Benjamin L. Hooks, Commissioner, Federal Communications Commission, who delivered the keynote address. Hooks called for the creation of "support clubs" througout the country to assist the Congressional Black Caucus in developing and securing action on a progressive National Legislative Agenda:

". . . For the support clubs will be the feedback arm of the Caucus, setting up a two-way network from Washington to the hinterlands and back again . . . letters apprising their broad constituency of pending legislation and the broad issues of the government will be sent regularly by the Caucus to support clubs. . . . That the support clubs will take the initiative in voter registration drives . . ."

Mr. Hooks' reference to 'support clubs' captured the basic goals of the Congressional Black Caucus Legislative Action Network, a system for alerting thousands of individuals and organizations about key legislative issues and encouraging them to contact congressional representatives on these issues. In addition, the Caucus is building a significant *Technical Resource Network* composed of diverse individuals and organizations who have volunteered their experience and expertise to assist the Caucus in developing positions, analyzing policies and issues and developing legislative proposals and strategies.

The chairpersons of the 1975 Annual Dinner included Mr. I. W. Abel, President of the United Steelworkers of America and Vice President of the AFL-CIO; Ms. Patricia Harris, an outstanding attorney, former ambassador and distinguished leader in the Democratic Party; and Mr. Ralph A. Weller, chairman of the Otis Elevator Company. Mr. Weller was an active participant in the Dinner Weekend and assisted in involving a number of corporate officials in a meeting with Caucus Members.

Mr. Hal Jackson, Vice-President of WBLS and WLIB in New York City served as host during the Dinner Program. Dinner entertainment was provided by the O'Jays of *Philadelphia International.*

REPRESENTATIVE LITTON ON NEW YORK CITY

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. REUSS. Mr. Speaker, there is a strong bond of common interest between Americans who live in cities and those who live on farms. We enjoy prosperity together and we suffer depression together. This lesson has been well learned over the years, but during the recent discussions of New York City's financial crisis there were occasional outcroppings of divisive attitudes. Our colleague, Representative JERRY LITTON of Missouri, a successful farmer in the December-January 1976 issue of the Charolais Bull-O-Gram, addresses himself to his fellow cattle-breeders on this subject. His message of urban-rural cooperation is worthy of our attention:

NEW YORK CITY: THE FORBIDDEN APPLE

By U.S. Congressman JERRY LITTON

Five years ago, indeed five months ago, an article concerning New York City municipal bonds and the state of that municipality's local budget would have received only a cursory review from the readership of a livestock publication. What is happening in our nation's largest city has always been of some passing interest with people involved in commerce, finance, and business production, but there has not been the "down home" gut feeling of relevance that the business population is experiencing today. The New York City fiscal crisis, no matter what one's alignment in the polarity, is hot news. What happens to that city of iniquity some one thousand miles from the Litton Charolais Ranch in Chillicothe and a million light years away from the peaceful, friendly farms in the Midwest may become much more important than this year's grand champion Charolais bull at the State Fair.

I have referred to The Polarity for good reason. Very few issues before the Congress have been so dichotomized as this specific dilemma of federal assistance to New York City via New York State. The mail my office is receiving quite boldly pronounces a heartfelt conviction one way or the other. Most issues display much more of a continuum of thought, with gradations of opinion across a spectrum. New York City constituent correspondence shows the following variances and verbosity: "NO!" or "YES!" That gives a Congressional representative very little margin to resolve the problem to the pleasure of both sides.

New York City, as the nation's largest city, is often referred to as "the Big Apple." It is easy to visualize parallels and sense the potential rippling effects from the final drowning of the hulky monster in the financial ocean when one looks upon New York City as what it is—a giant, overgrown town. That is in essence what this entity is that is splashing the front pages of the newspapers and news magazines of today. As with all towns, New York City has an elected "town council," an educational system and school board, those onerous property taxes, and bonds for special projects. The bad news, folks: the "Big Apple" has rotted to the core and finds itself in a state of muck and mire at the bottom of the barrel.

It is rotting from a predicament that all American towns, families, and individuals work hard to avoid—namely the problem of not earning enough money to pay the bills and not having the credit to get through a low spot. It is not a unique predicament, in general; it is the extent of its present fate that has ushered in the darkest of days for municipal budget management and the municipal bond market. The City of New York has a critical cash shortfall in excess of one billion dollars between now and January 30, 1976, for employees' salaries, suppliers, and welfare payments (this is not even counting its debt services) and nowhere to obtain any revenue. Its bonds have dried in the market, and the benevolent State of New York has contributed all of its excess treasury money, its pension fund reserves, and has even watched its own double A bond rating dragged down to lower and lower levels of trading demand. Finally, the state's bond markets are every bit as dry and desolate as the city's.

The point has, in fact, been reached where all of the City and State of New York's agencies and subdivisions are for all practical purposes being boycotted by the National investment community. To meet the cash flow needs and debting services requirements of even a stream-lined, rationally-administered budget for all entities involved in the immediate crisis (the City, State, and all State agencies and subdivisions) would demand the raising of over $12 billion by June 30, 1976. Without investor confidences or assurances, there is no way that this money can be raised. So, the problem in New York State has reached crisis proportions. Example after example could be presented to exemplify the effect of New York City on the other political subdivisions of the States' bond interest rates, reduced investor market, and absolute necessity of paring back of services. This effect is obvious and expected. The effect on the rest of the nation is the mystery and the subject of a great deal of the remainder of this article.

I must first utilize this opportunity to give my personal evaluation of the conditions which led to New York City's financial demise. They are conditions which must be noted and ingrained in the minds of economists, businessmen, elected governmental officials, and the general population. After all, what good will a solution to the New York fiscal crisis be if the root of the problem is not understood and eradicated? There are potential "New York Cities" in every state of this nation, especially in large urban centers.

Admittedly, New York City suffers from the major financial problems that confront many of the nation's cities today. There is a continual outward migration of the affluent or even semi-affluent population into the suburbs and in some cases even into the rural areas. There is an eroding tax base because primarily only the poor and itinerant remain in the inner cities. The effects of inflation have taken their toll, as even though the cities have on the average cut their annual budgetary increases nearly in half (from 12 percent down to 6 percent), their operational expenses have sent them to new debt levels. Because of corporate tax loopholes and advantages for foreign investment programs such as DISC, the once highly attractive tax-exempt municipal bond investments have curtailed sharply. The welfare payments, especially food stamps, have reached levels that were unthought of, due to unemployment and inflationary impact. These major problems and others have created a real "danger area" for local governments that needs urgent attention.

New York City's failure, however, can be attributed to a key factor that goes one giant step further. The City of New York has been victimized by one of the worst cases of financial mismanagement in the history of collecting and spending currency. Not since the overly-generous caveman a few years back gave all of his clubs to his buddies and found himself lining the warm stomach of the saber tooth tiger in a bit of personal disarray has any entity committed such gross errors in the management of its resources.

Nearly every witness before House and Senate Subcommittees and Committees—including Governor Hugh Carey; Chase Manhattan Bank's Chairman of the Board, David Rockefeller; First National City Bank Chairman of the Board, Walter Wriston; and Secretary of the Treasury, William Simon—has premised his testimony with the same evaluation of ludicrous fiscal management. New York City officials indeed dug their own graves with absurd payroll, educational, pension, welfare, and capital construction expenditures and policies. Then all hoped for a miracle of monetary immortality from the Almighty Municipal Assistance Corporation (Big MAC).

There are many examples of waste and extravagance in the New York City governmental operation, one of the best being the New York City policemen's official yearly work time. The policemen's off time amounts to six months a year: 27 days vacation; 10 days for sick leave; 11 annual holidays; 18 days off in return for 15 minutes early arrival for briefings; three days for giving blood; three days for efficient arrests; two days off each seven-day swing shift; and even one day for shooting practice. Down the line New York City services and financial infrastructures are filled with such records of extravagance and a bad case of going too far.

I have now stated my general interpretation of the causation of New York City's slide down the hill into the red from its former position at the apex of the black in the world financial community. I have also intimated there are other general mitigating factors which nearly all major U.S. cities are facing. These opinions have been statistically validated by the economic brain trusts of our country.

I wish an analysis of the effects of the possible New York City default could enjoy such unanimity. The House Banking and Currency Committee, the House Rural Caucus, and the Senate Banking, Housing, and Urban Affairs Committee have heard testimony from the leading securities dealers, bankers, economists, currency comptrollers, and the highest-ranking fiscal analysts of the Federal government. The forecasts espoused are as numerous as those testifying. Quite frankly, no one knows the effects of a New York City default. On one hand, there is Secretary of the Treasury Simon predicting only a slight tremor in the economy and bond markets, followed by a substantially strengthened system. Conversely, there is Federal Reserve Chairman, Arthur Burns admitting under pressured questioning that default by New York City, if followed by a New York State default, could cause a "domino effect" of municipal defaults and the triggering of a serious recession. Likewise Frank Willie, Chairman of the Federal Deposit Insurance Corporation has hinted at serious consequences with 271 FDIC banks holding debt issues equal to 20 percent or more of their assets, 56 banks, situated in 18 states holding New York debt equal to 50 percent or more of their net worth, and nine national banks with assets totaling nearly one billion dollars likely to go under completely.

There is a school of thought that even hails the New York City fiscal crisis and eventual default as a blessing in disguise and a radiant light in the bond market. The philosophy here is that governments, agencies, and project groups that have a long record of proper fiscal management will actually prosper from the collapse of those with records reflecting the antithesis. In other words, it is a return to the free enterprise idea of the "survival of the fittest." In principle I certainly do not disagree with that conviction, but I believe it is impractical when we are considering cities and millions of citizns of this country.

What really worries me is that finance, investment, and business decisions, which are predicated on psychology, will be thrown into a state of uncertainty, fear, and perhaps even panic because of the psychology instilled from a New York City default. After all, that is the proverbial straw which broke the New York City budget's back. Psychology finally worked against the City's method of covering deficits in the balance of payments. Then, Big MAC (which by all rights should have experienced no difficulty in peddling its bonds) found itself caught in the same psychological clutches. There were no takers. When a state government's "morality" and "full faith and credit" securities are boycotted because of a relationship with New York City, I say there is every reason to believe that the same "guilt by association" may unveil itself in the entire bonding concept across the nation. Catastrophic precedents are . . . well, catastrophic.

An examination of the effects New York City's present dilemma and the talk of a future default have had on the bond market documents the potential seriousness of an actual default. The evidence is rather conclusive that interest rates are being driven up as the number of investors shrinks—a combination that can deal this market a death-blow. Fairfax County, Virginia, for example, floated $2.9 million in school bonds at 7 percent interest, up from 6 percent last March, costing over $290,000 in interest over 20 years. The State of Connecticut sold $100 million in state bonds at 6.1 percent interest in early September, up from 5.6 percent interest on a June sale. This will cause an additional cost of $1.7 million. California and Oregon have attributed their higher priced bond sales to the "plight of New York City." The California interest rate has soared nearly three-fourths of one percent in six months. The average rating of the 20 bonds used in the Municipal Bond Average Yields shows an average interest increase from 6.34 percent in February to 7.67 percent in October. A significant jump took place in the July-October period of .71 percent (6.96–7.67 percent). The seriousness of the developments in New York City in recent months is exemplified in the monthly statistical bulletin *Municipal Market Developments of the Security Industry Association:* "The financial problems of New York City have been a factor in pushing up the borrowing costs of all major U.S. cities. Furthermore, the extra interest cost for these cities has been increasing and is likely to go higher."

Many bond markets have completely dried up to the point where a number of offerings have been withdrawn completely in recent weeks. This panicky mood was the major factor that explained why Atlanta and Tallahassee chose to withdraw scheduled bond issues rather than pay higher rates. The very fear of default in the nation's largest city has caused the postponement in Boston, Cleveland, Oakland, Cincinnati, Richmond, and even Kansas City, Missouri.

The inability to sell bonds hits the capital improvements area first, as such improvements and new construction projects seem much easier to postpone in comparison to necessary operational expenses. If ever there were a time in this nation's history when capital expenditures should not be curbed, it is this very moment. Literally, trillions of dollars are going to be necessary in the next ten years. I am a bit alarmed at the situation which seems imminent to cities such as Philadelphia ($82 million in notes); Cleveland ($138.3 million); Lincoln, Nebraska ($39.8 million); Columbus, Ohio ($67.9 million); and Boston ($30 million) if they are unable to float the bonds necessary to meet payments on bond anticipation notes.

A variety of experts feel the default of New York City could precipitate widespread economic chaos and a sputtering of the entire economy. Robert W. Farrell, Executive Vice-President of Bache and Company, one of the nation's largest brokerage houses, warns of the trouble banks might find themselves in. He says, "I think it could really hurt the stock market. You would probably have inactive markets, and the averages could go down 10 percent or more." I tend to agree, also, with the manager of a large investment fund who ws questioned at a recent meeting of the International Monetary Fund and World Bank when he indicated all markets would be affected by a default. In his words, "If you can get 11 percent on a municipal bond, tax-free, who wants a growth stock." I am convinced that the risks of default to our entire economy—whether we are talking about the largest New York investment houses or the smallest Missouri general store—are too great for this country in a time when we are struggling to free ourselves from severe recession. We cannot simply ignore the crisis and then deal with the ravages of the disaster. I would much rather build a dike than have to deal with the destruction of a flood. Said a different way, I prefer preventive medicine.

The Governor of New York, Hugh Carey, is busy in Washington pleading with the government for a taxable guarantee bond to raise the necessary four billion dollars to prevent default. He admits there should be many strings, including an on-paper, guaranteed, balanced budget plan (which I have seen), state assumption of the City's fiscal responsibility (in the form of the Emergency Financial Control Board), and a legitimate attempt to shore up the wastes that have been perpetuated. New York City has removed 60,000 city employees from the payroll, frozen wages, eliminated $390 million of capital expenditures from the projected budgetary outlays. Governor Carey's plan calls for no money being taken out of the United States Treasury.

CONCLUSION

I would like to pretend that New York City's problem does not exist. I wish every day that haunting problem did not exist. But it does—the "apple tree" bends wildly in the wind. I believe a Federal government which gives money to Lockheed, the Franklin National Bank, and the Penn Central Railroad will be hard-pressed to explain why it cannot guarantee a bond, with severe strings attached, to its largest city. A Federal government that acts as Saviour to countries most Americans not only will never visit but many cannot pronounce—countries that continually insult America and vote against us in the U.N.—will likewise experience difficulty explaining its failure to assist 10 million of its own citizens from the city in this country that has served as the welcome mat for most newcomers to our land. Perhaps the fact that we have an electoral college which delivers an all or none vote of an entire state to one of two presidential candidates and the political mileage one can gain by whipping a big city in the East will be as much a deciding factor on the Federal government's decision as some of the economic aspects discussed in this article.

Do not hang your own Congressman if he supports a federal gurantee of New York City bonds. A favorable vote will not be based on political expediency or pleasing the folks back home (unless the folks back home live in New York City). I would hope that if a favorable vote does occur it is based on the belief that to do less would be damaging to all of America including the raising of the cost of operation of all towns in America by making municipal bonds less attractive. I would also hope that such a favorable vote would include strings which would force New York City to make proper management changes and that these strings would be so unattractive so as to discourage rather than encourage other cities to follow in the footsteps of New York City.

If your Congressman makes the wrong decision (and who can say at this time what is the wrong decision) you can then go to your basement and the barn for rope, twine or even durable gift-wrapping ribbon and rally around the hanging tree . . . an apple tree, of course.

SNAPSHOTS OF WASHINGTON

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. COHEN. Mr. Speaker, earlier this month two young men from Maine, Jay Davis and Steve Curtis, came to Washington for a visit. Like most other visitors to the Capital City, Davis and Curtis spent some time seeing the sights and visiting their Congressman, my distinguished colleague from Maine, DAVID EMERY.

When they returned to Maine, however, Jay Davis set down on paper some of his thoughts and observations on his Washington visit. These "Washington Snapshots" have been published in the Belfast Republican Journal. Davis' commentary on the Capital and the people and institutions he saw there make interesting reading to those of us who work here, and I commend them to the attention of my colleagues.

The article follows:

SNAPSHOTS OF WASHINGTON

(By Jay Davis)

Maine's effect on a person can be measured in many ways. I have lived here almost five years, long enough to triumph over the color slide phase, in which scenes are viewed like they came courtesy of a slick magazine; over the do-I-belong-here phase, which is accompanied by various bodily and psychic aches and a longing for Spring; even, this year, over the can-I-make-it-here phase. In fact, instead of judging my progress by my adaptability to Maine, I now encounter the old awkwardness when I leave. Last Friday I went to Washington, D.C. with Steve Curtis, a Belfast native who had never been south of Avenel, New Jersey. I had been to the Capital several times, but never like this. Here is some of what happened.

It was 9 above zero when we left Monroe and, of course, the car wouldn't start. The thought of getting on an airplane made that seem oddly pleasant. I had a suitcase that contained a suit, several button-down shirts and, horrors, a necktie. I can count the number of times I've worn a necktie in the past five years on the thumb of one hand. I was wearing tie shoes. An hour later those shoes were the only thing solid about the lower part of my body. The rest was jelly as the plane sped down the runway. There must be no better place to sell deodorant than in an airplane. I'm sure.

Maine looks glorious from the air. It's all lakes, forest and just enough buildings to show that it's civilized. A half-hour later Boston is under the wing. It has just enough greenery to show it's on earth. Outside Washington the wonders of modern civilization show themselves profusely. Suburban housing developments twist and curl like the monograms of their builders. The land, by rough aerial accounting, is 10 percent asphalt, 20 percent roof, two percent swimming pool, 30 percent small lawn, five percent Potomac River, four percent Pentagon and 29 percent golf course. It must be a fine place to live if you think scenic is a word used to describe your condominium development.

It was 55 when we bumped down at National Airport. And that wasn't the only difference. Inside the lobby were hundreds of people one wouldn't find in Waldo County. About half were black. The other half were dressed like they were going to meet the Queen. The airport is about three miles from the Capitol, an easy walk in the two hours we had before our first appointment. Carrying our suitcases we walked past the lines of cabs and up the steps to the road. It had eight lanes, none for pedestrians. We walked back down and hailed a cab. The driver was a large black man with a knife in his hand. He inserted it in a hole where a trunk key shoud go, we threw in our bags, and drove off. Silently. Five minutes and five dollars later, we were next to the Capitol.

David Emery told us it takes a freshman Congressman about three or four months to learn the ropes at the Capitol. It took us almost that long to find his office. We knew it was on the fourth floor and had the number 425. We went to the fourth floor and followed the numbers around the rectangular corridors. 429. 427. 423. Where 425 should have been was a blank wall. Open Sesame failed to reveal our Congressman. Turned out he was in an annex of the building, as he said, "about as far from the House floor as you can get." He answered our questions for a half-hour, coming across as a nice, concerned young man. He said he will be coming to the Unity-Burnham-Thorndike area soon. He will seek reelection next year, keeping his options open after that. In 1978 Sen. William Hathaway's seat—and the Blaine House—will be up for grabs. He told us that his mail is running about two-to-one in favor of a nuclear plant on Sears Island.

Congressional offices have a collegiate quality. Parked out front is a nice-looking receptionist. Behind, in cubicles, are shirt-sleeved young people working on position papers. In the big office is the dean. From those we peeked in on there emanated a studied busyness, an important white-collar skill. Those running for President had campaign posters on their doors. Others were more parochial: "Agriculture feeds the nation three times a day" said a sticker on a Midwestern Congressman's door. "Kindness spoken here" said another. The House floor was empty this Friday. It's almost election time.

We were walking down some unknown street in search of a six-pack. "Jay Davis," said a voice. It belonged to a cousin I hadn't seen in several years.

There are more people working in the Pentagon—33,000—than there are in Waldo County. The cost of the new FBI building—$126 million—is nearly three times the county's entire assessed valuation. There are more people in the Monroe General Store on a Saturday night than there are on many Washington streets. We passed up an invitation for a topless shoe shine and never even saw any of the city's 450 massage parlors. We also showed no interest in an offer of a small parking place on a Georgetown street for $40 a month.

We checked into the National Hotel, an inexpensive place just a few blocks from the White House. We had a whole night in front of us. So we tucked our spending money into our shoes like good country boys, stepped quickly past alleyways, and looked for FUN. Fun is expensive in Washington, about $2 per drink, 90 cents for a draft, unthinkable for other things we thought about. I read in the Washington Post that the topless shoe shine costs $15.

On Saturday we were to check into the Loew's L'Enfant Plaza Hotel as guests of the Cystic Fibrosis Foundation, which would present us with awards the next night. It is a huge red marble building filled with shops, restaurants, offices—and very few people. Inside the closet was a card saying the room cost $61 per night. Outside the window was a tableau of the future. Cars passed silently beneath the building. Boats coursed the waters of the Potomac. Planes glided gracefully into National Airport every two minutes. It was like a living diarama, an architect's dream of tomorrow.

But it still doesn't work very well. As former Governor Kenneth Curtis discovered, you couldn't buy a cigar, or anything else, until after 10. There are so few people in the city on weekends that the hotel sells $61 rooms for $25 each for those two nights if you will come then. If you are waiting for the Bicentennial to make your pilgrimage to Washington, please know that the government is waiting for you: everywhere are signs of new paths, trees, roads and walks to insure that your visit—and those of 13 million other people—will be ordered, non-claustrophobic.

Public Washington is a beautiful city. Its white marble buildings are huge, inspiring, accessible. It is neat, clean. And except for the 10 cents we paid to ride to the top of the Washington Monument, free. We saw dinosaurs, a Leonardo DaVinci painting, John Glenn's space capsule. Abraham Lincoln sat passively by while we read his Second Inaugural and the Gettysburg Address on the walls beside him. We walked through the Capitol by the White House and into a jungle at the Botanical Gardens. On Pearl Harbor Day we watched a group of Japanese having their pictures taken by the feet of Lincoln. Everywhere people were friendly. After the first night we took our money out of our shoes.

There is another Washington, too. I went there in 1962 to protest President Kennedy's resumption of nuclear testing; in 1963 for the Civil Rights March; in 1970 to criticize our involvement in Vietnam. That Washington is often small, demeaning and secretive. And expensive. Wherever we went, be it from cab drivers or government elevator operators, political Washington was described thus: "They sure know how to spend your money." Inside the white marble buildings are the decisions made to allow cost overruns, spy on innocent citizens, let out this multi-million dollar contract, cut back on that social program. It all looks good to the tourist. But what about the taxpayer?

Inside the House Office Building is the familiar thermometer recording contributions to the local United Way campaign. The goal was, I think, $250,000, but the mercury registered like January in Siberia. From all the Congressmen, assistants, secretaries and receptionists less than $2,000 had been collected.

Downtown Washington is dominated by a miles-long mall connecting the Capitol with the Lincoln Memorial. The Washington Monument rises imperially in the middle. The surrounding buildings are all low and rambling so that from almost anywhere the monument and even the Capitol dome can be seen. The absence of skyscrapers and the presence of a reversed history make Washington an open and almost charming alternative to the modern American city.

The 20th annual convention of the National Cystic Fibrosis Foundation was the object of our stay. We sat at the head table with Baltimore Oriole Pitcher Jim Palmer, the national sports chairman; with Miss Teenage America, the national youth chairperson; with other award winners. We heard about the disease that has become one of the great killers of children and young adults. Many of the participants had watched their children die from C/F; all were working to find a cure. Though this year's fund drive has been completed, contributions may be sent to the Downeast C/F Chapter, Box 1020, Waterville, Maine 04901. There are more than 1,000 children in Maine who would appreciate it.

There was a dusting of snow when we left Washington, none when we got back to Maine. It was nice to be home.

PHONY GAS SHORTAGE WAS PREDICTED

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. HARKIN. Mr. Speaker, those of us who live in the Midwest, perhaps more than those from other parts of the country, have a vital interest in the natural gas situation in this Nation. We have been told there are shortages. We have been told that the only solution was a total decontrol of interstate gas. There are others who say there is no shortage at this time, that this is just a ruse to get higher prices and profits for the gas producers and shippers.

Now, with a temporary relaxing of controls on prices, just like a miracle, we will have plenty of natural gas for the winter.

Much of the confusion can be laid at the doorstep of the Federal Energy Administration and their "cozy" relationship with the oil and gas industry. In the newspaper this morning was an article by Jack Anderson which brings to light this "cozy" relationship. This type of "revolving door" between the FEA and the oil and gas companies is strikingly similar to the situation that exists between the Department of Agricuture and the large grain companies.

The article follows:

PHONY GAS SHORTAGE WAS PREDICTED

(By Jack Anderson and Les Whitten)

We hate to say we told you so, but we told you so.

As early as Nov. 22, 1974, we warned that the natural gas industry was conspiring to create a phony "shortage" as an excuse to deregulate prices. We suggested in subsequent columns that plenty of gas was available to heat homes and run factories. It simply wasn't being delivered.

We pointed out that the gas companies had contracted to deliver 31 percent more gas than was coming through the pipelines. It was unlikely, we suggested, that the companies would have signed contracts to deliver more gas than they had available.

The producers simply were holding back gas, we charged, until they got the right price. Now they have got the right price, and, voila, there is suddenly plenty of natural gas.

Congress has allowed them to sell gas at unregulated prices to "emergency" areas. It was the companies, of course, that created the emergency in the first place by curtailing gas deliveries. Now that they can charge the price they want, the gas is flowing again, and the emergency miraculously has evaporated.

This little shell game, which will cost utility users millions, could have been exposed if the government had kept its own data on oil and gas reserves. Then the government would have known whether the "shortage" was real or contrived.

With this in mind, Congress authorized the Federal Energy Administration to conduct a "complete and independent analysis of actual (domestic) oil and gas reserves," and appropriated $3 million.

We reported in November, 1974, that the FEA survey was being run "for the benefit of the oil men, not for the benefit of the public." We noted that survey forms "had been modified to incorporate virtually all the suggestions from the industry."

We also reported that the survey forms were being influenced by the American Petroleum Institute, the industry's powerful Washington lobby.

However, we quoted the survey director, Daniel Rathbun, as insisting that the FEA would go to other sources to find out how much oil and gas America really has in its reserves.

As it turned out, Rathbun's study praised both the American Petroleum Institute and the American Gas Association for their efforts in compiling the data on oil and gas reserves. The study recommended that the government merely keep an eye on these two industry groups, rather than run surveys of its own in the future. Then, believe it or not, Rathbun left the government and went to work for the American Petroleum Institute. This heightened our suspicion that the $3 million survey, which was supposed to give the public a true picture of the oil and gas shortage, was shaded to favor the industry.

We called Rathbun, who insisted that he had no ties to the oil industry and swore that his study was not slanted. We have now learned, however, that Rathbun had a close tie to Charles DiBona, the American Petroleum Institute's executive vice president.

DiBona first worked with Rathbun in the Pentagon eight years ago. Then DiBona hired Rathbun to work at the Center for Naval Analysis. DiBona subsequently joined the American Petroleum Institute, and Rathbun stayed in government, winding up at the FEA. Now Rathbun has joined his old friend DiBona at the American Petroleum Institute, and DiBona was the man who put him on the payroll.

The taxpayers, meanwhile, have spent $3 million to be told that the oil and gas industry can be trusted to continue to inform the government whether or not there is a shortage—a conclusion that the Federal Trade Commission, for one, has called "questionable."

Footnote: DiBona told us he might have talked to Rathbun in general terms about the study before hiring him. DiBona insisted "there just isn't anything sinister to it." He had asked Rathbun to come to work for the American Petroleum Institute because he is a man of "intelligence and integrity," said DiBona. Both Rathbun and DiBona said they didn't recall discussing the FEA survey before the job offer.

ADDRESS OF ADM. ISAAC C. KIDD, JR., TO JEWISH WAR VETERANS CONVENTION

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. STEPHENS. Mr. Speaker, the address of Adm. Isaac C. Kidd, Jr., to the

Jewish War Veterans Convention in Nevada in August was recently called to my attention by Mr. Carl L. Shipley, prominent Washington attorney, who sat in on a briefing by Admiral Kidd on the U.S.S. *Forrestal* in November.

Admiral Kidd was graduated from the U.S. Naval Academy and commissioned ensign on December 19, 1941, just 12 days after the attack on Pearl Harbor where his father, Rear Adm. Isaac C. Kidd, USN, was killed on board his flagship U.S.S. *Arizona*, the first American flag officer killed in action in any war.

During World War II, Admiral Kidd took part in North Atlantic convoy duty and the invasions of North Africa, Sicily, and Italy. He also saw action in Leyte Gulf, Saipan, and Iwo Jima. In 1942, he married the former Marie Angelique de Golian of the prominent de Golian family of Atlanta.

Admiral Kidd's distinguished career in the Navy resulted in his appointment on May 30, 1975, as Supreme Allied Commander Atlantic and Commander in Chief of the U.S. Atlantic Fleet.

The address which Admiral Kidd presented to the Jewish War Veterans deals with our national defense and the Russian buildup in the Mediterranean and in the Atlantic area. I believe that what he has to say is most important and I would like to bring it to the attention of my colleagues. The address is as follows:

ADDRESS OF ADM. ISAAC C. KIDD, USN

Mr. Chairman, Distinguished Guests, Ladies and Gentlemen:

I am honored to be with you this evening to share with you in your 80th anniversary observance and in the comraderie of those who have worn the military uniform of our country.

About the only obvious qualification I have for being nominated to address this distinguished group is my first name. Someone probably thought that an admiral with a name like Isaac would be a natural. If that's what got me in, I'm most grateful to my Grandmother.

Actually, I have my own selfish reasons for addressing this group tonight. If words truly have the power to move nations, then surely a uniformed member of your armed services can present a case to you, the public, in as convincing a way as possible for continued support on behalf of a strong national defense. Judging from your track record as a patriotic, defense minded group, I'm probably preaching to the choir. We so often do.

Throughout your convention sessions you have paid particular recognition to our Bicentennial observance. This is most fitting. No doubt there has been appropriate tribute paid to Jewish patriots who distinguished themselves during these early years of our country's struggle for independence. People like Haym Salomon whose love of liberty and business acumen combined to make him the financial hero of the War of Independence; people like Colonel Solomon Bush, who reached the highest rank of all Jewish officers in the Continental Army and who was cited for his distinguished and brilliant career; and finally, to move along to the War of 1812, people like Commodore Uriah P. Levy, the famed naval hero who served his country with great distinction, and for whom a U.S. Navy destroyer was named in World War II, and also for whom was named the first Jewish chapel ever to be built by the armed forces—Commodore Levy Chapel, which is located about four blocks from where I live on the Naval Station in Norfolk, Virginia . . . a lovely place of worship and a fitting tribute to a great American.

Over the span of these 200 years there have been traditions that have been handed down that have given strength to our society and to our military organizations. In october the Navy will celebrate its 200th anniversary and will focus attention on those traditions which have been preserved as part of our heritage. As Tevye said so dramatically in "Fiddler on the Roof," "Tradition, tradition, our strength derives from the age-old laws of tradition."

For our Navy (yours and mine) tradition is our heritage. It is a moral base and our source of strength and sustenance when storm clouds form and shoal waters threaten.

Both Admiral Holloway and I are sons of Navy admirals, so we both have had instilled in us, all our lives the doctrines and traditions of the Navy. To me, this has been that most important and invaluable source of strength and inspiration in carrying out my responsibilities over 37 years of naval service.

When I speak of these responsibilities tonight, I am speaking solely in the role of an operational commander not a policy maker.

There is a popular misconception that the military makes national policy. Nothing could be farther from the truth. We in uniform are the instruments of national policy. But one tool in our national tool box. The adjustable wrench, if you will, to apply the required pressure to seal a joint or secure a fitting. When diplomacy fails at the discussion level, it continues with the passage of arms. We must be prepared to earn our money the hard way in the interest of national objectives.

Now for the personal experiences . . .

When I was Commander of the U.S. First Fleet in the Pacific in 1969–70 I had responsibility for 65 million square miles of ocean. On a given day approximately 10–15 Soviet ships were assigned in that area.

Next, I was assigned to the Mediterranean with one million square miles of ocean. The job there was a commander of our naval forces assigned to the U.S. Sixth Fleet. This was during the tensions from August 1970 to October 1971. Normally, we saw anywhere from 60 to 70-plus Soviet ships in the Mediterranean depending on the political pulse beat at the time.

The Mediterranean has been a volatile section of the world for hundreds of years, and during my tour of duty there we experienced, among others, the crisis in Jordan in the fall of 1970 when Jordanian troops were engaged in a 10-day period of civil operations with Palestinian guerrillas. As the Sixth Fleet, on orders from the Joint Chiefs of Staff, deployed eastward toward Jordan to take up a position to wait and watch developments, the Soviets had approximately 20 ships and submarines in the immediate area, and approximately 50 additional ships and submarines within one day's steaming time of our U.S. forces.

That is the point I want to emphasize; the increasing presence of Soviet naval forces in the Mediterranean. In 1967, there were, on a daily average, 25 Soviet ships in Mediterranean waters. That number more than doubled in two years, and increased to as many as 72 in 1970. They have maintained roughly that number since that time.

During the Jordanian situation, the Soviet ships also watched and waited. Neither our fleet nor theirs gave any evidence of undue stress. Both sides operated in a restrained manner. It was evident that the Soviets were under the direction of a seasoned seaman who knew the limitations of his equipment and was also sensitive to the seriousness of the situation.

The Jordanian crisis passed without any involvement on the part of U.S. naval forces or of Soviet naval forces. The encounter was subtle but significant. A new chapter was being written in the textbook of naval warfare. The Mediterranean had seen the first signs of new naval tactics in the missile age. Our experience in that Jordanian situation proved that no longer would naval task forces group in classical manner, search out the enemy and engage. Our Sixth Fleet and the Soviet Fleet units were frequently interspersed. I had them in my hip pocket. It was routine practice for Soviet men-of-war to shadow our attack aircraft carriers; we, in turn, trailed their "high value" units. Soviet surface ships and land-based aircraft regularly monitored Sixth Fleet and NATO exercises, and they, in turn, routinely conducted their own training and exercises in the central and eastern Mediterranean. The Soviet Navy gives ever more convincing evidence of its growing capability and professionalism. It has new ships, modern missile weapons systems, well trained and highly motivated personnel, and [access to facilities] in the Black Sea and along the Mediterranean coast. This close proximity of the "locker room" to the "playing field" gives the Soviets the decided advantage in this critical resupply—reinforcement aspect in the Mediterranean and they are well aware of this advantage.

The growing Soviet strength in this area has caused many to question the capability of the U.S. Sixth Fleet to perform its mission of helping to maintain peace and stability on NATO's southern front. The fact is that under existing pressures, we are walking a **tightrope of adequacy;** at some points, the rope is beginning to fray. Our still formidable fleet is being forced to accommodate to a new environment far different from the one which it dominated for almost a quarter of a century. Besides the increasing Soviet naval presence is the aggravating requirement to keep Soviet ships of high interest under surveillance to preclude surprise, and that tends to further fragment our limited forces. Another new factor that causes concern is the unsettled condition in several countries on which we have relied for shore bases. The Sixth Fleet operates independently of fixed bases. It does, however, receive significant support from shore bases in the northern Mediterranean littoral at which we stock limited quantities of supplies, such as petroleum products and ammunition. The loss of any of these bases would create serious logistics problems.

On the positive side, in my opinion the U.S. Sixth Fleet and its allied NATO partners are still the dominant naval force in the Mediterranean. Problems that we face are not insurmountable. The primary weapons system of the Sixth Fleet is the aircraft carrier. It is capable of sustained action in a wide variety of roles. Assuming we don't lose our shirts in a surprise attack, the Sixth Fleet aircraft carriers can concentrate an awesome air power strike against Soviet combatships and maintain this power in sustained combat, since aircraft are in a sense re-usable missiles. Our intensive surveillance efforts are partly for reducing the prospects of a successful surprise attack and partly to prevent technological surprise. With new ship units, aircraft, and weapons systems being added to the Sixth Fleet, my estimate is that this first line of defense in the Mediterranean will continue to do its job with continual support of our NATO allies.

Connecting the Mediterranean with the Red Sea, and on to the Persian Gulf and the Indian Ocean, is the recently reopened Suez Canal. You will recall, Egypt had closed the Canal after Israel took the whole of the Sinai Desert from Egypt in the Six-Day War of 1967. Egypt's economic planners, however, face the prospect of a sizable reduction in the canal traffic of Middle East oil, which had been the chief source of revenue before 1967.

After the closing of the canal, the supertanker became the chief means of transport between the Persian Gulf and ports in Europe and the United States. Shipment by the mammoth ships around Africa is cheaper than sending a fleet of smaller tankers through the canal.

In 1966, 75 percent of ships using the canal were tankers. Oil provided 175 million tons of traffic; all other cargoes amounted to only 65 million tons.

In that same year, three out of every four tankers afloat could get through the 38-foot-deep canal capable of handling 70,000 ton ships at the outside. In 1968, only one percent of the world's fleet were supertankers (larger than 100,000 tons). Today, these maritime monsters comprise about half the total world merchant tonnage.

These superships make the run around the Cape of Good Hope, without high canal tolls (and continuing war-risk insurance), at costs cheaper than those of 1966 for moving the same cargo in smaller ships through Suez.

This fact is important to a U.S. presence in the Indian Ocean and Persian Gulf.

Why, because the Soviet buildup in the Indian Ocean, which now averages approximately 19 ships on a regular basis, has occurred during the period since the Suez Canal closed in 1967. We anticipate that, with the Canal once again open we will see an increase in the level of Soviet merchant ship traffic and commercial activity with south Asia. The opening of the canal reduces the sailing time from the Black Sea to the Arabian Sea by 24 days. It also reopens to the USSR a warm water transit route from European Russia to the Soviet Far East, which will undoubtedly be important for the transfer of naval units between eastern and western fleets.

The level of U.S. presence in the Indian Ocean has been prudent. We have had a small permanent presence in the Persian Gulf and Red Sea since 1949. In addition, since October 1973, we have conducted more frequent and more regular deployments to the area from our Pacific Fleet.

Since an effective military balance is essential to the preservation of regional security and stability in this area of great importance to the economic well-being of the industrialized world, we feel we should have logistical facilities which will permit us to maintain a credible presence.

As these big tankers continue to steam through the sea lanes of the Atlantic to North America and Europe, the task will continue to fall on the U.S. Navy to safeguard these critical lines of communications. In fact, about 35 percent of our current oil consumption must be imported, and most of it comes from the Persian Gulf.

This is indeed an area of great strategic and economic importance to our country. Its distance from U.S. bases necessitates a shore facility to offer logistic support to our naval units operating in the Indian Ocean and Persian Gulf. Our principal objective in requesting this facility called Diego Garcia is to provide secure access to logistical support for these forces.

Our naval forces operating in that part of the world today must rely either on local sources of fuel or else must be replenished by a chain of tankers stretching over 4,000 miles from U.S. facilities in the Philippines. The additional fuel storage we have proposed would permit a normal carrier task group to operate for about 30 days independent of other sources of supply. That margin of time could spell the difference between the orderly resupply of our forces and a hasty improvisation which could place unwieldy demands on our support assets in other areas. The same is true of the repair and maintenance which could be performed on ships and aircraft.

In short, the proposed facility at Diego Garcia would provide the assurance of U.S. capability to deploy and maintain forces in an area which has become increasingly important to our national welfare.

This leads me to my current responsibility as Commander in Chief of the Atlantic Fleet. In fulfilling this job, I am carrying out the primary mission of the United States Navy, which is to gain and maintain control of the seas and to use that control in support of national policy. By "control of the sea", I mean the assurance that we will have continued free use of international waters wherever and whenever required by our essential national interests.

The United States is essentially an island nation. Two of our states lie overseas. Much of our foreign trade is intercontinental. Besides oil imports, the United States is dependent on the import of many other raw materials to keep our industries going. By volume, ninety-nine percent of our overseas trade is carried by ship. Economic interdependence is a fact of modern-day life.

One more aside (if you please). It is the Soviets' stated purpose to defeat us at our own game. The game at which we as a nation of merchants, a maritime nation, have excelled for 200 years . . ., the access through the seas to the market places of the world. Their parallel efforts in developing a first class Navy and Merchant Marine are designed to tip the balance of trade in their favor.

Our political and security ties equally involve us overseas. The United States has defense treaties with 43 other nations, and 41 of these lie overseas. The validity of these arrangements depends absolutely upon our ablity to maintain the integrity of our sea lines of communications. In fact, the integrity of our sea lanes is a prerequisite to the conduct of all major overseas operations.

Threats to the security of vital overseas areas and the connecting sea lanes must be considered as threats not only to our allies but, more fundamentally, to our own security. (Story on detente and prize fighter awaiting the bell)

What complicates the task of the Navy, and particularly the Atlantic Fleet, is, again, the steady growth of the Soviet maritime capability. Now, I'm not only referring to the numbers of ships that the Soviets have; I'm referring to the numbers, quality and demonstrated capability. The Soviet Navy is continuing to show us that they can operate militarily significant forces in the open ocean areas of the world that we in the United States Navy used to consider our own personal domain.

About six months ago a Soviet naval task force, consisting of cruisers and submarines, conducted training operations in the Gulf of Mexico. Not long before that, a Soviet cruiser task force circumnavigated Hawaii and returned to their Soviet bases via Alaskan waters and the Aleutian chains. And just a few weeks ago, more than 220 Soviet naval ships, deployed in oceans of the world, participated in a major world-wide naval exercise called OKEAN 75. Long range strike aircraft, in addition to reconnaissance and antisubmarine warfare aircraft, participated in all exercise phases from bases in the Soviet Union, and from air facilities made available to the Soviets in the Somali Republic, Guinea and Cuba.

So the challenge is formidable. We have a troubled world; we have alliances; we have fewer bases around the world and we have a growing Soviet maritime capability. This capability shows no letup in the trend toward a steady buildup. The most recent intelligence data shows that in every meaningful category of defense expenditures, the Soviets continue to invest more than we do. Calculated in dollar prices, the Soviets currently outspend us by 25 per cent in military procurement, 20 per cent in overall research and development, 20 per cent in general purpose forces, and 60 per cent in strategic nuclear offensive forces. Yet their gross national product is only half of our own. In the area closest to my own professional interest, I observe that the Soviets have spent 50 per cent more than the U.S. Navy for new ship construction over the past decade, and that they are currently outspending us by one-third in that category. Indeed, navies are expensive and the Soviets must spend two national fortunes to get theirs—one to get it in the first place, and second fortune to get it in a hurry. That second fortune goes into overtime and premium prices for raw materials. It is this rate of growth which is my chief concern. Thus far they have shown no signs of stopping. Ask yourself the question: "How can a nation afford to spend that kind of money, in those amounts, if they're not going to use it?" That's a tough question. Then you come down to when, where, and how they are going to use it? My crystal ball isn't polished enough to answer that. It is of major concern to me as Commander in Chief of the Atlantic Fleet, knowing that the ratio of Soviet advantage in major warships is pretty close two to one. But they're not yet 14 feet tall, not by a long shot. It is their growing capacity for making war that is worrisome. As they have grown, what have we been doing? . . . cutting back!

In the next fiscal year, as a consequence of Congressional cuts and inflation, DOD expenditures will represent about five per cent of capacity output—the lowest point since the pre-Korean demobilization. As a "burden" on the economy our fighting forces have been cut almost in half since the Vietnam high; cut by 30 per cent as compared to the pre-Vietnam period. As a percentage of total government spending, including state and local, defense expenditures come to 16 per cent, the lowest point since before Pearl Harbor. The United States now has under arms about one percent of the nation's population, a percentage no higher than that reached in the pellmell demobilization after World War II—with the then lower population base. Military manpower has been reduced by 600,000 men as compared to pre-Vietnam.

This fiscal year the U.S. Navy has dipped below 500 ships in the active fleet, a level lower than at any time since 1939—two years before Pearl Harbor. As compared to pre-Vietnamese years, our Navy has been cut almost in half. Remember, a considerable portion of the Navy's ships were built in the World War II period. It is now 30 years since the close of World War II and those ships are rapidly going out of service. To be sure, Navy ships today have greater per unit capability than a decade ago. However, the steady shrinkage in force structure must be reviewed in terms of the military balance, and as I have said, the Soviets have not exactly been standing still.

As we examine our own resources and our own resources and our own state of readiness I am not discouraged. Anxious, perhaps! But not discouraged.

NOTICE OF HEARING

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. GINN. Mr. Speaker, the issue of shrimp imports and the relationship of these imports to the strength of the shrimp fishing and the shrimp processing industry is of the utmost importance in my district in Georgia. The U.S. International Trade Commission recently instituted an action under section 201 of the Trade Act of 1974 to determine whether the domestic shrimp industry is being injured by imports. As a part of its investigation, the Commission will hold a hearing in Savannah, Ga., on Tuesday, February 3, 1976, and I hope that all interested citizens, shrimp fishermen, processors using imported shrimp, and consumers will come forward and give their views to the Commission. After the hearing, a determination will be made by the Commission which, in the event of an affirmative finding, could result in the imposition of a tariff or other restrictions on shrimp imports.

I insert the Commission's notice of the hearing in the RECORD at this point:

U.S. INTERNATIONAL TRADE COMMISSION,
Washington, D.C.

[TA-201-12]

NOTICE OF INVESTIGATION AND HEARING

SHRIMP

Investigation instituted. Following receipt of a petition on November 17, 1975, filed by the National Shrimp Congress, the United States International Trade Commission, on December 11, 1975, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether shrimp, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces), provided for in item 114.45 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearings ordered. Public hearings in connection with this investigation will be held in Brownsville, Texas, beginning on January 27, 1976, at a time and place to be announced; and in Savannah, Georgia, beginning on February 3, 1976, at a time and place to be announced. Requests for appearances at any of the hearings should be received in writing by the Secretary of the Commission at his offices in Washington not later than noon of the fifth calendar day preceding the hearing for which appearance is requested.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, United States International Trade Commission, and at the New York City office of the United States International Trade Commission located at 6 World Trade Center.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued: December 18, 1975

INSTITUTE FOR CONGRESS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. ANDERSON of Illinois. Mr. Speaker, I welcome the announcement made on December 7 that an Institute for Congress is being formed to provide us with timely and independent analyses of major policy issues confronting this country. The new institute which will be a nonpartisan, privately funded research organization, will be headed up by our former colleague, Martha Griffiths, and former EPA Administrator and Deputy Attorney General, Bill Ruckelshaus, who will serve as chairman and vice chairman respectively of the institute's 15-member board of trustees.

In announcing the formation of the institute, Mrs. Griffiths and Mr. Ruckelshaus stressed the importance of providing the Congress with "superior policy analysis, cutting across committee jurisdictional lines, that lays the factual groundwork, names the options for action, and presents a clear case for alternative policies," if we expect to become coequal partners with the Executive in formulating national policy.

Mr. Speaker, I am aware of the many months of preparation and consultation with Members of Congress and others which have led up to this official announcement. While all the institute's trustees are in nongovernment positions, the majority and minority leaders of the House and Senate will be invited to serve as ex officio members of the board. In addition, a Congressional Advisory Council will be established to enable key legislative committees to take an active role in formulating the institute's research agenda. The institute has indicated that its early focus of attention will be on problems of national security, environment and resources, health and welfare, and the social and economic implications of new technology.

The initial plan of the institute calls for a 3-year budget of $11.5 million from private philanthropic sources to establish an interdisciplinary policy analysis staff consisting of experienced professionals from the legislative and executive branches, as well as individuals of outstanding intellectual achievement and ability from the academic and private research communities. The first 5-year experimental phase envisages building to a professional staff of 80 persons with total funding of $22.5 million over that period. If this experiment is successful, it is anticipated that future funding for the institute would come primarily from research contracts made with the Congress.

Mr. Speaker, I particularly want to commend Alton Frye, former administrative assistant to Senator EDWARD W. BROOKE, on all his hard work in getting this idea off the ground, and Martha Griffiths and Bill Ruckelshaus for assuming the key leadership positions in implementing this worthwhile endeavor. I welcome their initiative in attempting to provide the Congress with this new source of policy analysis and I look forward to benefiting from the work of the Institute in the months and years ahead.

At this point in the RECORD, Mr. Speaker, I include a summary of the Institute concept and a biographical listing of the 15-member board of trustees.

THE INSTITUTE FOR CONGRESS—A 5-YEAR EXPERIMENT

The Institute for Congress will be a nonpartisan private organization devoted exclusively to providing Congress with independent, objective and systematic analysis of public issues and programs.

The institute would assemble an expert staff of a type and caliber not now available to Congress and, as its central and unique function, would integrate analytically issues which are now splintered in the congressional committee system.

The Institute would not study Congress; it would assist congressional operations through the existing structure.

The research mandate of the Institute would be comprehensive. Initially, it would address problems of national security, environment and resources, public health, and social and economic implications of new technologies.

It would seek both to assess questions of broad concern to the legislature and to anticipate issues which will require congressional deliberation.

The Institute will function under a Board of Trustees composed of a broad cross-section of private citizens; the Majority and Minority Leaders of the House and Senate will be invited to serve on the Board ex officio.

The research agenda of the Institute will be negotiated through a Congressional Advisory Council composed of chairmen and ranking members of most congressional committees or their designees.

To test the concept the organizers contemplate a five-year experimental operation of the Institute funded by private philanthropy.

The plan calls for a professional staff of approximately 30 by the end of the first year, 60 by the following year, and an average professional staff of 80 thereafter.

The total five-year budget is approximately $22.5 million and the initial fund-raising target is $11.5 million for the first three years.

The independence and flexibility of private financing at the outset offer the greatest promise of creating an environment capable of attracting an exceptional professional staff.

If the Institute demonstrates its utility, its continued existence would eventually depend on contractual support by the Congress.

THE BOARD OF TRUSTEES

Lucy Wilson Benson

Secretary of Human Services for the Commonwealth of Massachusetts, Lucy Wilson Benson served as president of the League of Women Voters of the United States from 1968-74 and co-chairman of the National Urban Coalition from 1973-75. She was a founding member and member of the governing board of Common Cause, 1970-74, was a member of the Executive Committee of the Leadership Conference on Civil Rights, and has served on the board of the National Urban League, the Brookings Institution, Northeast Utilities, and several other public organizations and corporations.

*William T. Coleman, Jr.**

Before entering office as Secretary of Transportation on March 7, 1975, Mr. Coleman was senior partner in the law firm of Dilworth, Paxson, Kalish, Levy and Coleman of Philadelphia, special counsel to the Southeastern Pennsylvania Transportation Authority, and a member of the board of governors of the American Stock Exchange. Active in civil rights affairs, he has served with the NAACP Legal Defense and Education Fund in many capacities and was one of the authors of the plaintiffs' brief in the 1954 Supreme Court school desegregation case. In 1969, he was a member of the U.S. delegation to the 24th Session of the United Nations General Assembly and has served on the boards of several corporations, including Pan American World Airways and the First Pennsylvania Corporation.

William D. Eberle

Prior to assuming the presidency of the Motor Vehicle Manufacturers Association in February 1975, Mr. Eberle was the President's Special Representative for Trade Negotiations with the rank of Ambassador, from 1971–75, and concurrently from 1974 until his resignation, Executive Director of the Council on International Economic Policy. He was president and chief executive officer of American Standard, Inc. from 1966–71, vice-president of Boise Cascade Corporation from 1960–66, and served in the Idaho House of Representatives as Majority Leader, Minority Leader, and Speaker. He has served as a director or trustee of PPG, Hewlett-Packard, the National Urban Coalition, Common Cause and the Conference Board.

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* On leave for government service.

Alton Frye

Director of Membership Affairs and Senior Fellow of the Council on Foreign Relations, Mr. Frye was formerly Legislative and Administrative Assistant to Senator Edward W. Brooke (1968–71). He was a Fellow of the Woodrow Wilson International Center for Scholars from 1971–73 and a staff member of The RAND Corporation (1962–68). He has taught at U.C.L.A. and Harvard University, where he was a Fellow of the Center for International Affairs. A frequent writer on public policy issues, Mr. Frye's most recent book is "A Responsible Congress: The Politics of National Security" (1975).

Martha W. Griffiths

As representative of Michigan's 17th Congressional District in Congress from 1955–74, Mrs. Griffiths served on the House Committee on Ways and Means and on the Joint Economic Committee, chairing its Subcommittee on Fiscal Policy. Earlier, she had been elected to the Michigan State Legislature (1949–52), was judge and recorder of the Detroit Recorder's Court (1953), and was a member of the Detroit Election Commission. Mrs. Griffiths is a partner in the law firm of Griffiths and Griffiths in Farmington Hills, Michigan. She is a member of several boards, including National Detroit, Burroughs and Chrysler Corporation.

Ben W. Heineman

A practicing lawyer from 1936–56, Mr. Heineman is now president and chief executive officer of Northwest Industries, Inc., which he founded in 1968. Mr. Heineman was chairman and chief executive officer of the Chicago and North Western Railway Company from 1956–72. He is director of the First National Bank of Chicago, a trustee of the Rockefeller Foundation and the University of Chicago, and was the first chairman of the Illinois Board of Higher Education.

Craig Hosmer

President of the American Nuclear Energy Council, Mr. Hosmer was a member of the U.S. House of Representatives from California for 22 years (1953–75), serving as ranking minority member of the Joint Committee on Atomic Energy and the Committee on Interior and Insular Affairs. He was also an attorney for the U.S. Atomic Energy Commission at Los Alamos Laboratory from 1948–49 and served in the U.S. Naval Reserve, retiring in 1973 with the rank of Rear Admiral. His Navy duty included command of the USS DICKENS.

Leon Jaworski

Special Prosecutor and head of the Watergate Special Prosecution Force from November 1973 to October 1974, Mr. Jaworski is a senior partner of the Houston law firm of Fulbright and Jaworski. He has served the government in many capacities, including positions in the offices of the U.S. Attorney General and the Attorney General of Texas, U.S. Member of the Permanent Court of Arbitration at The Hague (1965-69), member of numerous national commissions and as Presidential Adviser from 1964–69. He is a past president of the American Bar Association (1971–72) and is a director of the Bank of Southwest in Houston.

Gordon J. F. MacDonald

After serving as a member of the President's Council on Environmental Quality from 1970-72, Mr. MacDonald, a geophysicist, was named Henry R. Luce Third Century Professor of Environmental Studies and Policy at Dartmouth College where he is director of the Environmental Studies Program. He is concurrently chairman of the Commission on Natural resources of the National Academy of Sciences and National Research Council and a member of the Department of State's Advisory Committee on Science and Foreign Affairs, having served as a member of the President's Science Advisory Committee from 1965-69. Mr. MacDonald was vice president of the Institute for Defense Analyses in 1967-68 and was formerly a faculty member at M.I.T., U.C.L.A., and the University of California at Santa Barbara.

Harry C. McPherson, Jr.

Partner in the Washington law firm of Verner, Liipfert, Bernhard and McPherson, and the Washington partner of the New York law firm of Hughes Hubbard and Reed, Mr. McPherson was Special Counsel to the President (1965-69). Prior to that, he had served as Deputy Under Secretary of the Army for International Affairs (1963–64) and Assistant Secretary of State for Educational and Cultural Affairs (1964-65). From 1956-63, he was Associate Counsel, then General Counsel of the U.S. Senate Democratic Policy Committee. He is the author of "A Political Education" (1972).

Clarence Mitchell

Mr. Mitchell, a member of the Maryland Bar, is Director of the Washington Bureau of the NAACP, an organization he has served for 29 years. In 1969, he was awarded the NAACP's Spingarn Medal for his efforts in obtaining passage of the landmark civil rights bills of the 1950s and 1960s. His government service includes executive posts with President Roosevelt's Fair Employment Practices Committee, the War Manpower Commission and the War Production Board. He is currently a member of the U.S. delegation to the 7th Special Session and the 30th Session of the United Nations General Assembly.

Richard B. Ogilvie

Prior to his service as the 37th Governor of Illinois from 1969–73, Mr. Ogilvie served as a federal prosecutor in Chicago, as elected Sheriff of Cook County, and as President of the Cook County Board of Commissioners. During his term as governor, Illinois undertook across-the-board constitutional reform, upgraded its tax system, and enacted a broad environmental protection program. He is now a partner in the Chicago law firm of Isham, Lincoln and Beale and a member of several corporate and philanthropic boards, including CNA Financial, Inc.

William D. Ruckelshaus

Before his appointment as the first Administrator of the U.S. Environmental Protection Agency (1970–73), Mr. Ruckelshaus had served as Assistant Attorney General in charge of the Civil Division (1969–70). Later he was Acting Director of the Federal Bureau of Investigation (April–July 1973) and Deputy Attorney General until his resignation in October 1973. In 1967, he was elected to the Indiana House of Representatives where he served as Majority Leader. He is currently senior partner of the Washington law firm of Ruckelshaus, Beveridge, Fairbanks & Diamond.

William B. Spong, Jr.

A U.S. Senator from Virginia from 1966–73, Mr. Spong had previously been a member of the Virginia House of Delegates (1954–55) and of the Senate of Virginia (1956–66) General Counsel of the Commission on the Organization of Government for the Conduct of Foreign Policy from 1973–75, he is now a senior partner of the Portsmouth (Va.) law firm of Cooper, Spong, Davis, Kilgore, Parker, Leon & Fennell. In the Senate, Mr. Spong served as a member of the Foreign Relations and Commerce Committees. He is now president of the Virginia Bar Association. In July, 1976, he will assume the deanship of the Marshall-Wythe School of Law at the College of William and Mary.

Cyrus R. Vance

Deputy Secretary of Defense from 1964–67, Mr. Vance was also Secretary of the Army from 1962–64, General Counsel for the Department of Defense (1961–62), and Special Counsel for the Preparedness Investigation Subcommittee of the Senate Armed Services Committee (1957–60). He was the Special Representative of the President in the Cyprus crisis (1967) and in Korea (1968) and was one of the two U.S. Negotiators at the 1968–69 Paris Peace Conference on Viet-Nam. Associate and partner of the New York law firm of Simpson Thatcher & Bartlett from 1947–60 and from 1967 to date, Mr. Vance is President of the Association of the Bar of the City of New York. He is a director of IBM, Pan American World Airways and the New York Times Company, and a trustee of the Rockefeller Foundation, the Urban Institute and Yale University.

FLORENCE RICE: POOR MAN'S RALPH NADER

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. ALEXANDER. Mr. Speaker, on Tuesday, December 16, the House approved H.R. 8529, The Rice Production Act of 1975. A major share of the credit for House passage of this bill must go to the representatives of consumer-oriented organizations who worked tirelessly on its behalf.

I would like to publicly express my appreciation to some of those who worked hardest for this bill contacting Members of Congress to share their views and concerns about the rice situation. They are: Wayne Horiuchi and Dr. Leslie S. Hiraoka of the Japanese American Citizens League; Mrs. Florence Rice of the Harlem Consumer Education Council; K. L. Wang of the Organization of Chinese Americans; Larry Klepner of Action Committee on Hunger and World Hunger Year; Harry Chapin, founder of World Hunger Year; Robert Tsang of the Rice Consumer Institute of America and the Chinese American Restaurant Association of Greater New York.

By taking an active interest in the operations of the Congress and by being willing to invest the time and resources needed to make personal contact with individual Members of Congress these people have lent strength to our belief that the best government is government by, for and of the people.

In connection with this, I believe that my colleagues would be interested in an article which recently appear in the New York Sunday News Magazine. It deals with Mrs. Rice's activities on behalf of poor consumers.

[From New York Sunday News, Dec. 14, 1975]

How To Fight Unfair Bills

(By Clinton Cox)

Florence Rice is a 56-year-old black woman whose short figure and no-nonsense walk have long been as familiar a part of the Harlem scene as the sleazy businesses that flourish there: used furniture stores, pawn shops, "bargain" stores, hole-in-the-wall restaurants. Mrs. Rice and these businesses also have one other thing in common: an interest in the hard-pressed consumer's money. The stores want it and Mrs. Rice doesn't want them to get it, at least not by cheating.

For 12 years she has worked from early morning till late at night to keep alive the Harlem Consumer Education Council Inc., an organization designed to help the poverty-level consumer, whether his problem is furniture that falls apart almost as soon as it leaves the store, or incomprehensibly high bills from Con Ed and New York Tel.

In the process, the largely self-educated Mrs. Rice has become this country's leading consumer advocate fighting specifically for the poor ("Ralph Nader is good for the white middle class," she declares, "but what he's doing doesn't touch poor blacks"), and has received the rewards given those who dedicate their lives to their fellow man: little thanks and less money. She has also gained a deep sense of accomplishment.

The high school dropout, who grew up in orphanages and foster homes and once worked as a domestic, is now listened to at the highest levels of New York Tel and Con Ed and has access to some of the most powerful men in corporate America. A few years ago, after she became a regular defender of the public's interests at Public Service Commission hearings, one of the phone company's vice presidents asked her to lunch. "Some of the best men take me out to lunch," she joked at the time. She has spoken to thousands of people, from senators and members of the National Association of Manufacturers to frightened senior citizens wanting to know how to keep Con Ed from cutting off their electricity.

Her goals remain the same today as they were when she started out as a consumer advocate 12 years ago: to educate consumers to the ways they're being cheated so "you can begin to have an army of advocates out there. It's a slow process. People are going to have to learn how to protect themselves."

Mrs. Rice's principal base of operations is two small cluttered rooms in a Harlem storefront, housing the Consumer Council. At night metal grills cover the front windows to keep out anyone desperate enough to try and steal the council's battered belongings. Mrs. Rice cofounded the council in 1963, after being blackballed from the garment industry because of her efforts to organize underpaid black and Puerto Rican women. Neither the union, with its cozy relationship with the owners, or the owners themselves appreciated her efforts.

"It was very interesting to see how they'd bring in some people, teach them and pay them good money," Mrs. Rice said. "I was a chairlady in the union, the ILGWU, and all I wanted was to make sure the black and Puerto Rican girls got the same things. This is the kind of education I had. You begin to see very clearly what happens to you out there."

When the late Adam Clayton Powell held congressional hearings on abuses in the garment industry, Mrs. Rice testified. "It was a tremendous education," she said. "I would recommend that everyone get involved in hearings at least once in their lives." In spite of the hearing, however, little changed in the day-to-day lives of the workers. Mrs. Rice laughs and shakes her head as she remembers her belief at that time in the fairly easy triumph of good over evil—if only enough people could be made to understand what was happening.

"I was idealistic, you know? You're striving to be the kind of person your parents said you should be, not knowing the man out there is kicking your ass."

After finding jobs in the garment industry closed to her, Mrs. Rice eventually obtained work as a credit clerk in a Harlem furniture store. Even for someone who had grown up in poor neighborhoods, the experience was an education in the many ways devised to cheat the poor. "What I find coming from where I come from," she says now of those earlier experiences, "without reading all those books that get your head fuzzed up, is that this society lies, cheats and steals."

The furniture store, like many in ghetto areas, specialized in selling "garbage that fell apart before the people could finish paying for it. Then when a customer would have the furniture almost paid for, after about three years of bringing in their few dollars every week, the salesman would start telling you how you needed something else—bedroom furniture, a dinette set, whatever.

"One thing you find out about the poor, they keep everybody else working. They pay their bills unless they just don't have the money; it's the rich who don't pay. If the store didn't make but 10 sales a week they could get by. It was an eye-opener to me." Another eye-opener to her was the store owner's practice of demanding payment before the customer saw his merchandise.

Her experiences in the store, plus the inability of blacks to obtain credit in big downtown department stores like Macy's and Gimbels at that time, gave birth to the idea of the Consumer Council. "I got into it because I wanted to see that people weren't cheated," Mrs. Rice said. "When you've got that dollar, that man is going to do everything he can to get that dollar away from you."

Mrs. Rice initially concentrated on the problems encountered by poor people in stores, especially poor black people. "I felt I could help if I could just sort of inform consumers of how to deal with their problems by holding workshops, and that's what I did in the early days. People told me I couldn't do it because I didn't have a college degree. Some of them still tell me that. What the hell you need a degree for?"

She tried to teach people how to avoid paying such extra costs as the "ghetto tax," the difference between the price of an item in Harlem and other black neighborhoods and its lower cost in white neighborhoods. Typical was a washing machine that sold for $179 in a downtown store and $399 in Harlem. Often there were differences in price within the same store, with black customers being charged more than white customers for the same items.

Mrs. Rice soon switched her battle from retail stores to the utilities, though, because black lawyer and feminist Florynce Kennedy convinced her that "utilities were where the action really was." With the sometime help of volunteer lawyers, Mrs. Rice brought numerous briefs before the PSC, challenging alleged discriminatory practices by Con Ed and New York Tel.

Because of her efforts to represent consumers before the PSC, Mrs. Rice became known as the "telephone militant." She was also an "electricity militant" who came to know Con Ed Board Chairman Charles Luce, who is often pictured as an ogre by hard-pressed Con Ed customers. Somewhat surprisingly, Mrs. Rice disagrees. "In the capacity I've worked with Luce," she said, "I found him very nice. There are people in Con Ed who are racist, though, and it shows anytime they can show it. It shows in their work."

In spite of some progress in the battles Mrs. Rice has been waging with the utilities for the last several years, she said the phone company is still "really harsh" on the poor. "Not only do they require larger deposits here in Harlem, but at the 749 exchange and some of the others they automatically cut off service if your bill exceeds your deposit. The saddest thing is that a lot of the people who suddenly find themselves in this situation are people of some means who have only recently become unemployed."

As far as the poverty-level customer's problems with Con Ed are concerned, Mrs. Rice said many senior citizens are being especially hard hit now. "They just don't have enough money. Older people have contributed so much to our society to get so damn little. Blacks especially never acquired nothing. never had nothing. To get old is a crime, I have a lot of senior citizens coming in here asking for help in keeping their electricity from being shut off. Pretty soon electricity will be a luxury."

In contrast to the poverty of the elderly, she notes that New York Tel and Con Ed "are guaranteed a profit. When was any man guaranteed an income?"

Mrs. Rice's Madison Ave. base of operations for her forays against the opposition is on the bottom floor of a three-story wooden building just off 125th St. On a recent day she arrived at her office at 8:45 a.m., while the cold morning wind shuffled papers in the gutter and the sun tried hopelessly to peer through the long blue shutter covering the Hide-A-Way Social Club across the street.

Inside, the office was filled with filing cabinets, desks and a huge table. All of the furniture was covered with booklets of advice for consumers ("How to Challenge Your Gas or Electric Bill"), newspapers clippings of consumer articles, mimeographed sheets and other papers, leaving only narrow aisles for the small staff and visitors to squeeze through. Mrs. Rice does most of the council work herself, but said, "We have people who come in and volunteer." Many times she isn't paid because "we have gaps when no money is received. Then I do consultant work."

Mrs. Rice lamented the fact that "black organizations don't give us a dime, as important as this work is and as many as utilize this service." The council's financial requests have also been turned down by over 100 white foundations, although she has received a few small grants. "I get a kick our of reading proposals," Mrs. Rice said. "What they say and what they do are two different things. Unless you tell lies on your proposal you don't get a dime."

One of the volunteers at the council is Claude Flythe, a young black man Mrs. Rice is training to work as a consumer advocate. "I've had two years of college working with Florence the past five months," he said, shaking his head. "When I first met her she puzzled me. She didn't care when she ate or slept. She's always out there working."

"Consumerism is a career," Mrs. Rice explained. "Minorities should look into it. If I die today there's no one to take my place. I try to get young blacks to look at the long range. Where are you going to be in the year 2000? Still where are we now?"

Mrs. Rice said that, unlike Flythe, most young black people are not willing to sacrifice in order to learn consumerism. "The first thing black students ask is 'How much do you pay?' They've also never learned the art that Adam Powell knew so well, the art of compromising. It's the fault of the way they've been educated, and sometimes I think it was done on purpose."

The workday for Mrs. Rice usually lasts until late at night and this day, as usual, the phone started ringing while she was still trying to hang up her coat. The call was from a family who suspected their landlord was tapping into their electricity. Mrs. Rice made an appointment to meet them early the same evening.

"You have many landlords in Harlem who have never paid electric bills," she charged. "They tie into the tenant's lines and then

Con Ed cuts off the tenant. Meanwhile, the landlord continues to drive around in his big car, belong to his high-class clubs and be a respected man, even though he's a thief. One of the things you can do as a tenant is check to see if the landlord has a meter. If he doesn't, he's stealing from you."

Though Mrs. Rice deals mainly with problems faced by poor black consumers, she recognizes that solutions to these problems depend on organizing consumers of all races. At a recent homeowners' clinic conducted by her and sponsored by Con Ed ("We work together on some things"), the audience was divided almost equally between black and white women from all parts of the city. The main complaint voiced by most of them was that they were victims of sexual discrimination practiced by banks and other lending agencies.

Mrs. Rice also recognizes that not all the culprits are white. "Blacks can be as rotten as whites," she declared. "I once did a survey on why more blacks didn't shop in stores run by blacks, and the people said that prices were often higher in black stores and the service poorer. Exploitation is exploitation, no matter where you find it."

Today, as in the past, there are few better places to find exploitation than in a black community. Mrs. Rice talked about the hopes she still has after 12 years of some heavy fighting. "Most groups want to stay in business," she said. "I'd like to work myself out of business and become a research institute for consumerism."

Or: "I hope eventually to be able to establish a National Black Consumers chapter in every state."

She is more aware than ever, however, of the problems faced by consumers and those trying to protect them. "Consumer groups are naked now," she declared. "They've got to go for money to the very foundations where you have people from the utilities and corporations sitting on the boards. You can't go to the enemy to get him to fight your battle. If you're a good little boy or girl you'll get the money; if not, you won't."

Mrs. Rice claimed that "the rich man and the corporation are taken care of. People have to understand this. They have to understand how things work, then maybe they'll get together and say, 'What are we going to do? Can we take over the utilities?' But you can't talk about taking them over till you're ready to take them over. You get people out here waving banners, marching, demonstrating. I went through all that and it's a lot of bull."

A lot of progress has been made since the council opened its doors in 1963. There is now a branch office at 1965 Amsterdam Ave., whose regular visitors include several neighborhood cats and dogs looking for food.

Mrs. Rice remembers when she was a 10-year-old orphan in 1929 when the stock market crashed "People committed suicide because they had nothing to fall back on. Now you at least have some financial cushion, and you have it because of the sacrifices of others—those who paid into social security. A consumer advocate is also someone who sacrifices, because he or she wants to stop people from suffering."

Victories are hard to come by, though, and the years of struggle in the union, the furniture store and the council—while failing to blunt Mrs. Rice's enthusiasm—have given her a firm grounding in the realities of power. She mentions meetings she has attended with executives of large corporations. "When I sit in those places and I'm the only black person there," she said, "you know niggers ain't into nothing. And I'll tell you something else, Jews ain't there either. It's all white Anglo-Saxon."

Mrs. Rice paused, gazing at a group of schoolchildren walking by. "The kind of work I'm doing should be taught in the schools," she said quietly. "Let people see for themselves what they can do on their own. But then it would come in conflict with the way the economy is run; you're not supposed to know what to do to help yourself."

The phone rang and she quickly answered it. "What's that? They charged you how much? . . . All right, honey, bring the bill over and we'll see what we can do." She hung up and hurriedly grabbed her coat, already late for another appointment. Outside, though it was midmorning, the protective grills were still down over the windows of most of the stores along the stretch of 125th St. between Madison and Park Aves.: the May May Chinese Kitchen, a pawn shop ("highest prices for everything"), two or three used furniture stores and a burned-out looking building with a big "Abe Beame" sign above the grill. A few scratched tables and chairs gathered dust on the sidewalk in front of one of the used furniture stores. Two older women stopped to look, then shook their heads and moved on. "Second hand furnishings, they're so expensive," said one.

A block away a battered bridge carries the New York Central railroad tracks over 125th St. and down Park Ave. toward the shiny skyscrapers of mid-Manhattan. This part of Park Ave. is a place where dilapidated bars, transient hotels and wrecked cars huddle in the permanent darkness cast by ugly, rusted railroad girders. Even on a sunlit morning such as this one, sad young men seek refuge in that darkness and drink cheap wine out of bottles in brown paper bags. They seem like the men T. S. Eliott wrote about who have crossed to "death's dream kingdom," and say of themselves: "We are the hollow men, we are the stuffed men, leaning together, headpiece filled with straw. Alas!"

Mrs. Rice stopped for a moment, still talking, her eyes roaming restlessly over the familiar scene. Her gaze took it all in, but the area's depression seemed no match for her determination to be at least one of the people to build—if not a better world—at least a few neighborhoods where the poverty-level consumer isn't quite so "naked and alone." She talked of how nice life could be "if this society were really into making the quality of life better for people."

Suddenly she smiled broadly like a child with unexpected gift. "Did I tell you I'm a delegate to the International Women's Congress?" she asked. "It's being held in Germany. I was so surprised when they told me I'd been chosen." Then she was serious again. "You know, I want to get on one of those committees they're setting up, maybe the one on Women in Industry and Agriculture. If I could do that, think of the changes we could make. There'll be women there from all over the world."

She sounded, as she often does, idealistic. It is a charge she denies ("If I hadn't been so involved with corporations these last 10 years, I'd still be idealistic"). But the impression of idealism remains and, after seeing her in action, one is tempted to believe that one day, somehow, she'll find a way to set up a National Black Consumer chapter in every state and educate that army of advocates she talks about.

"As long as you don't have people looking out for the consumers' interests, you're going to have higher prices, higher utility rates, and the poor are going to continue to catch hell," she said.

She suddenly remembered her appointment and moved off quickly, every inch of her five feet geared for battle on behalf of the people who are at least a little less "used and manipulated and cheated" than they were when she started the council. She sees the biggest obstacles still ahead, though, and is far from certain of the outcome.

"I don't see any answers," she said softly, "except to try and get young people to recognize what I'm doing and get into it. I'm sort of still out here by myself like a pebble in the ocean, but I'd rather do this than anything I can think of. Somebody's got to care."

FUEL PRICE INCREASE HURTS RURAL RESIDENTS MORE THAN CITY DWELLERS

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 18, 1975

Mr. HARKIN. Mr. Speaker, the House may soon be called upon to consider a possible veto of the Energy Policy and Conservation Act of 1975 which was adopted by both the House and Senate earlier this week after many long months of consideration. I think this piece of legislation represents a responsible first step towards reducing our dependence on foreign sources of oil, but in a way which ensures that our fragile economic recovery will continue.

The most controversial aspect of this legislation, as we all know, was the oil pricing policy provision. I believe that the present provision reflects a responsible compromise with the President's energy advisors and I am hopeful that the President will accept this provision and sign the bill into law.

I express this hope with a particular view towards one sector of our economy that would suffer perhaps more than any other sector as a result of a veto and subsequent increase in fuel prices. I am, of course, talking about agriculture. A recent article appearing in the Ames, Iowa Daily Tribune, which cites a study made by the Department of Agriculture, furnishes convincing evidence that rising gasoline prices and the lack of alternative modes of transportation deal an especially hard blow to farmers and rural residents who must drive far greater distances to work than any other occupational group in our society.

Because our Nation's energy problems are unique in terms of the different impacts they have on different sectors of our economy, I think my colleagues will find this article a most convincing bit of evidence of the problems faced by our farmers and rural residents because of higher fuel prices.

FUEL PRICE INCREASE HURTS RURAL RESIDENTS MORE THAN CITY DWELLERS

(By Cheryl Arvidson)

WASHINGTON.—Rising gasoline prices and the lack of alternative modes of transportation deal an especially hard blow to farmers and rural residents who have to drive greater distances to work than any other occupational group.

An article in a recent Agriculture Department publication, The Farm Index, says there are preliminary indications that efforts to develop a national energy policy will have greater impact on rural residents than city dwellers.

OWN MORE CARS

This is especially true, the article said, because most fuel conservation efforts thus far have hinged on increasing the prices of energy to cut consumption.

Such a program is not feasible for rural households because they are so dependent on the car. In 1972, the report said, 96 per cent of all rural households with incomes more than $5,000 owned at least one car or truck compared with 85 per cent of urban households.

And almost 70 per cent of the rural poor, with incomes less than $5,000, owned a car or truck compared with only 40 per cent of the urban poor.

Families in rural areas make more automobile trips each year than residents of other areas, about 15 per cent above the national average and nearly double the average number of trips made by residents of the largest cities. In addition to driving more miles to work, rural residents also must drive farther for shopping, medical care, recreation and leisure activities.

FORTY-TWO MILES PER DAY

The publication said total miles traveled by rural households was about 15,500 a year or 42 miles a day. This is more than families living in smaller towns or cities and almost twice as many miles as people living in the largest metropolitan areas.

The article estimated boosting the cost of gasoline by 25 cents a gallon would increase the rural family's transportation costs by $250, compared with $175 for the urban resident. But people living in the city would have more opportunity to reduce automobile travel distances or switch to alternate means of travel such as carpools, public transportation, walking or bicycling.

"What all this boils down to is that rural families would have less purchasing power than others as a result of a jump in gasoline prices. The purchase of any product has two cost factors—the market price and the cost of the transportation to obtain it. Since country folk can rarely cut the gross cost of an item by lessening the transportation, their dollar is worth less than their city cousins'," the article said.

FROM UNCLE SAM TO "UNCLE SANTA"

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. HARRY F. BYRD, JR. Mr. President, Charles G. Bluhdorn, the able chairman of Gulf & Western Industries, Inc., made an excellent and provocative address to the Executives' Club of Chicago.

I ask unanimous consent that his address be printed in the Extensions of Remarks.

There being no objection, the address was ordered to be printed in the Record, as follows:

A Change of Name From Uncle Sam to "Uncle Santa"

(By Charles G. Bluhdorn)

We say that we are a world power today but we *were* a world power in December 1941 and nobody questioned it. There was no United Nations in those days because, after all, it must be remembered that *we* were the originators of that world body.

We were haunted by our failure to support the League of Nations and felt a great overriding obligation and responsibility to bring everlasting peace to the world by permitting the expressions of *all* of the countries on this earth. We generously offered New York City as the base for these United Nations. And on the East River we built the monument of peace and cooperation among all peoples.

I am happy to say that we have since watched this organization grow to a membership of over 100. But I am sick to my stomach when I contemplate how many members of the United Nations have now taken to a regular diet of abusing the one nation that made the very existence of that organization possible.

Hardly a day goes by when there is not some delegate pouncing on the United States and using us as a convenient shooting gallery for target practice. Particularly little dictators from abroad who make well-advertised spectacles of themselves, while in the name of so-called independence they have brought to their countries ruthless totalitarian regimes. These are the people who came here to lecture to us on our immorality and our failure to live up to our world commitments.

Publicity-hungry lunatics make their way to the podium of the United Nations to turn the Assembly into a ludicrous spectacle of deceit and discourtesy. And what have we done about this? Until very recently, *nothing*. I am proud finally to see an American representative stand up straight and denounce this behavior.

I am all for a United Nations that is responsible in the functions that were provided for it originally, but I am sick and tired as an American to see it used as a forum of anti-Americanism while we take on the lion's share of subsidizing this anti-American rhetoric.

It is a sad case in point alone that while New York City was teetering on the brink of bankruptcy, this very city, which is the host city of the United Nations, is spending $2.5 million a year to pay for policemen and security to protect these very same foreign diplomats that have made it a habit of showing disrespect to the United States.

We ask ourselves: "How has all this transpired? How is all this happening to us?" And the answer must be found in ourselves. I say sadly that we as a people *have* not and *are* not demonstrating the same true grit that we demonstrated so clearly and effectively throughout the world 30 years ago.

In December, 1972, the Arab countries unilaterally embarked on a boycott of oil shipments to the United States and the countries of the free world. Not only that: After moving to expropriate most of the properties of American companies that originally developed these resources, they simply raised prices by 400 percent and have since blatantly maintained an oil cartel which, if any American businessman engaged in similar practices, would immediately put him into a federal jail cell.

Now I admit that there have been sporadic noises forthcoming from isolated sections of Washington protesting this type of unorthodox behavior. But we have now finally adjusted ourselves to the situation and are even grateful to these blackmail artists for their statesmanlike act in recently holding the new and additional increase to a mere 10 per cent.

I confess that it is somewhat amusing that the same free world partners who just a few years ago bitterly criticized us for our irresponsibility for owing them $80 billion are now looking to us to bail them out if the oil misery gets too great for them.

In other words, it was just a short time ago that an American could go to Europe and not even be able to exchange dollars because these same people that we saved in World War II didn't think our currency was good enough. Now all of a sudden the fact that we are less dependent on oil than they are has made us once again the light and beacon, conveniently that is to say, of the free world.

Naturally, this type of circumstance is not new to us because I really do feel that it is time to change the name of Uncle Sam to Uncle Santa. And of course this Uncle Santa has been delivering packages for so many years all over the world that when they don't arrive on time he is assaulted and condemned immediately.

Lately Uncle Santa has taken to providing presents of arms and nuclear plants to the very same unstable children who are in the process of ripping him off daily with their oil blackmail.

Let's face it. We are living in a world of permissiveness and surrender initiated by our own feeling of insecurity and lack of leadership.

Secretary of State Kissinger goes to Peking and, while in the process of entertaining 2,000 diplomats from all over the world, rushes away from his own reception that he is hosting because that great man, Mao Tse-tung, is allowing him to pay his respects.

It appears as if Uncle Mao has become our Godfather. But while our Presidents and our Secretary of State go rushing to Peking, I have yet to see the first Chinese of the same level set foot on our soil. This is the way it is. We are in awe of the big and the small, no matter who they are. But they are not in awe of us. That is the difference between 1945 and 1975 and that is the deepseated problem of America today.

ENERGY POLICY AND CONSERVATION ACT

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. RUPPE. Mr. Speaker, I voted in favor of the conference report on S. 622, the Energy Policy and Conservation Act, for a variety of reasons—chief among them, the fact that it stabilizes oil prices during the next 40 months rather than allowing them to be abruptly decontrolled. By removing price controls now, we would, in effect, be placing our economy at the mercy of an international oil cartel which has already demonstrated its callous disregard for the problems of the industrial and developing nations by hiking its prices to levels which bear no resemblance to the cost of production.

The FEA estimates that the impact of sudden decontrol would be equivalent to 6 cents per gallon during the driving season next summer and a similar increase in fuel oil prices during this winter's heating season. This would represent a substantial increase in the price of petroleum products and would, in my opinion, be too much to ask the American consumer or the American economy to bear.

The conference report which was approved by the Congress, on the other hand, attempts to protect consumers as well as the economy from the devastating impact of soaring energy costs by setting an initial composite domestic price of $7.66 per barrel. In fact, this measure would actually lower energy prices somewhat in the short run. At the same time, though, it addresses the need to attract new capital to the energy development field by giving the President the authority to remove high-cost Alaskan oil from this composite price and by allowing oil prices to be gradually decontrolled over a 40-month period. I therefore feel that this report strikes a meaningful balance between the needs of consumers and the needs of producers—a balance which the marketplace is currently unable to achieve because of the influence of the OPEC cartel.

On the plus side, too, I believe this conference report takes some important steps toward building the comprehensive energy program this country so desperately needs. For example, it would extend the Government's authority to require powerplants to convert to coal, establish a strategic petroleum reserve to protect us against the dangers of another embargo, set energy efficiency targets for major appliances, and require Federal regulatory agencies to assess the energy impact of their major regulatory actions. It would also prevent refiners from placing a disproportionate share of their increased costs on heating oil and propane prices—a prohibition which is of special importance to my northern Michigan district.

I am not, of course, completely happy with this legislation—I doubt that any of us are. I would have preferred, for instance, a bill which does not attempt to foresee the future by setting 1985 fuel efficiency standards for automobiles. Currently, it appears that the 27.5 mpg average fleetwide standard which auto makers are supposed to attain by 1985 will require more than 8 out of 10 cars to be the size of subcompacts like the Vega or Pinto. While our country should certainly move toward more fuel-efficient automobiles and is, in fact, already moving in this direction, I am afraid that such a drastic shift will not meet the transportation needs of many American families. As a result, many potential new car buyers may decide to retain their old cars rather than purchasing new ones. This would result in fewer sales and higher unemployment throughout the auto industry and slow progress toward the attainment of national goals such as safety and clean air which require the replacement of older cars with new ones.

However, it is clear that this measure represents a substantial improvement over the bill which was originally passed by the House of Representatives; and it is clear, too, that this is the best bill we are going to get from this Congress. The alternative to this measure would be immediate decontrol and the continued absence of any sort of energy program.

SUPPLEMENTAL APPROPRIATIONS FOR THE SCHOOL LUNCH AND CHILD NUTRITION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. MILLER of California. Mr. Speaker, the conference report for H.R. 10647 has been adopted and I commend the chairman of the conference committee for working so capably on this legislation.

I am particularly gratified by the conference committee's consideration of the funding made for State administrative expenses required for the functioning of the school lunch and child nutrition programs contained in Public Law 94–105, the School Lunch and Child Nutrition Act Amendments of 1975. The Senate version of this supplemental appropriation bill contained $4.1 million for the administration of these vital feeding programs. $4.6 million had already been appropriated for state administrative expenses. A reasonable total estimate of administrative cost, considered and approved by the Senate and House Budget Committees during consideration of the child nutrition bill and counted in estimates of the bill's total costs, was $8.7 million for fiscal year 1976. Therefore, the Senate version of H.R. 10647 provided for $4.1 million to be added to the $4.6 million already appropriated.

The House version contained no similar provision because USDA had not informed the House Appropriation Committee that such funds were necessary. Indeed, the original Senate version also lacked the supplemental appropriation for this same reason until Senator McGovern added the $4.1 million figure amendment,

Mr. Speaker, this subtle action by the USDA nearly accomplished by the appropriations process what the President's ill-advised veto of H.R. 4222 failed to accomplish. Without an adequate amount of funds for administrative expenses, many of the States would have been forced to turn their programs back to the USDA, or delay implementation of the new provisions.

The conference bill reduces the $4.1 million contained in the Senate version to $2.05 million, a figure insufficient for the rest of the fiscal year 1976. It is, however, sufficient to administer the programs until the next supplemental appropriation, now scheduled for April. I wish to make it clear that we expect USDA to apportion these funds to the States on the basis of the original $8.7 million annualized figure, with our assurance that the balance of the needed funds, a minimum of $2.05 million, will be provided in the next supplemental appropriations bill. We further expect USDA to inform the States that this will be the method of apportionment and that the States can expect the necessary administrative funds for the rest of the fiscal year.

The figure of $2.05 million which is the minimum balance needed may, in fact, need an upward revision to reflect a more recent estimate of State administrative expense needs which was submitted to the Senate Appropriations Committee on November 20, 1975, by Edward J. Hekman, Administrator of the Food and Nutrition Service of the Department of Agriculture. In his testimony, Mr. Hekman estimated a necessary sum of $11,150,000 for State administrative expenses. We have every reason to believe this to be a more accurate figure in that it best reflects the current reality of the added burdens on State agencies under Public Law 94–105. We fully expect the January 1976 budget recommendations of the President to incorporate this figure. If it does not, I will introduce the necessary corrective legislation.

Additionally, Mr. Speaker, I would like to make clear that any unspent funds for fiscal year 1975 originally appropriated for State administrative expenses should be carried over to fiscal year 1976 and used for the same specific purpose. That was and remains the expressed intent of Congress as expressed in Public Law 94–105 and earlier nutrition legislation.

Thank you, Mr. Speaker, and once again let me commend the conferees for the swift and capable action taken on this legislation.

FOOTBALL ACHIEVEMENTS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. RUPPE. Mr. Speaker, in recent years, the end of the calendar year has also meant a wrap-up of each fall's football season. Before we close the book on the 1975 football records, though, I would like to point out the achievements of two high schools in my northern Michigan District.

Recently, Hudson High School of Hudson, Michigan received a great deal of national attention when it completed 72 straight games without a loss. However, in the 73d game, the Hudson squad met Ishpeming, from my District, in the State Championship game for class C high schools and was decisively beaten.

The Ishpeming Hematites, Mr. Speaker, went against the Hudson team as heavy underdogs. Once on the field, though, the Hematites completely controlled the action and never gave the much-publicized Hudson team a chance.

I would like to congratulate the Ishpeming Hematites, Mr. Speaker, on a fine season and join with the people of Ishpeming in complimenting them on their iron will, determination, and skill.

Still another team in my district won a Michigan football championship, but they also demonstrated a championship spirit off the field.

Forest Park High School in Crystal Falls won the first State class D football championship, defeating Flint Holy Rosary by a score of 58 to 0, to culminate a perfect season. Like true champions, the team worked together for one goal all season, the State Championship—with a determination and maturity few high school teams display.

The team selected as its most valuable player—MVP—a teammate who never played a minute this season nor saw the team play a single game.

The Forest Park Trojans picked James Fabbri as their most valuable player even though he has been paralyzed from the neck down since an automobile accident last August. The team members felt that Fabbri would have been a great help in their fall campaign. Even incapacitated, he served as an inspiration.

Mr. Speaker, I believe this is an example of the fine, upstanding nature of many of the young people in our Nation today. I am proud of the Forest Park Trojans Football Team's unselfishness and concern for their friend as well as for their accomplishments on the football field.

I commend the Trojan team members for their outstanding character and for the spirit of loyalty and sharing they have shown both the Upper Peninsula of Michigan and the Nation.

FLEXIBILITY IS KEY ELEMENT IN MEDAILLE COLLEGE GROWTH

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. NOWAK. Mr. Speaker, to survive amid an economic recession and an inflationary spiral is the principal challenge confronting many small, private institutions of higher education today. It is heartening, therefore, to find examples of such small colleges which are actually flourishing during these difficult times.

One such example is Medaille College in my home city of Buffalo, N.Y. Under the creative leadership of Dr. Robert R. Hesse, its president, Medaille is committed to developing on- and off-campus programs aimed at making itself accessible to an ever-widening segment of the community. With innovative and flexible curriculum development, Medaille—judging from its student enrollment increase of 62 percent in 1 year—provides high quality education while meeting changing community needs.

At this point, Mr. Speaker, I would like to refer to the following article in the December 16, 1975 Buffalo Evening News which provides a more detailed summary of the Medaille College achievements:

Foresight and Flexibility Provide The Spark for Medaille's Growth

(By Judy Malone)

While tight funds and restricted enrollments are a part of the future for state colleges and universities, foresight and a willingness to change can make this situation beneficial to the private institutions.

That's the philosophy Medaille College has chosen for the 1970s.

Describing itself as a "school in transition," the college is changing directions from a training ground for elementary school teachers to an institution meeting the more varied needs of future students "frozen" out of public education.

"We may be the fastest growing four-year school in the nation," college president Dr. Robert R. Hesse told a national magazine's survey of college enrollments.

Citing a 62 per cent enrollment increase from 1974 to 1975 and a 1975 enrollment of 621, Dr. Hesse adds that the growth should continue.

With the State University of New York enrollment freeze on 20 campuses as part of a five-year consolidation program, Medaille and other private schools will be scrutinized more closely by a student population, which is expected to increase by 5100 statewide over the next five years, according to State Education Department figures.

"We're very competitive," Dr. Hesse says, "Our tuition is the lowest among the four-year private schools in the area. We maintain a small school atmosphere. The average class ratio is 17 to one and the teachers go by first name."

Beyond 1980, when enrollments across the state are predicted to drop 22 percent, Medaille is planning to attract the non-traditional student.

Dr. Hessee says: "With present facilities, on-campus growth would have to be limited to about 800 students total enrollment. It doesn't make sense to build when the number of 17-year-old high school graduates is going to decrease. Off-campus, we could grow infinitely."

A lack of construction has kept Medaille financially sound, Dr. Hesse believes.

Although the school that shares 26 acres with Medaille Elementary School and Mt. St. Joseph's Academy has no gymnasium, residence halls, auditorium or dining hall, "we're probably the only school in the state that's not in debt. We're not paying off the construction bills of the 60s."

Without new buildings, Medaille has added to its student body through the Lyndon B. Johnson senior citizens highrise with courses in silent film and consumerism and through the state Civil Service Educational & Training Benefits Division courses in English composition, speech and phychology.

Small businessmen responses to a survey resulted in two workshops in management and marketing co-sponsored by the Small Business Administration. The college plans to offer courses for credit along similar lines in the fall.

Feelers are out to attract the police, firemen, the military, unions, veterans and the unemployed.

"The development of a nontraditional curriculum moves slowly," acknowleges Dr. Hesse. "There are so many traditions to buck. It's difficult to break away from the idea that classes should be held from 3 a.m. to 3 p.m. Mondays through Fridays on campus.

He says co-operative use of facilities and cross-enrollment among the area's smaller private colleges will also be essential for meeting a greater variety of student needs with limited financial resources.

"The amount of state aid we receive could be cut. The Tuition Assistance Program might be endangered by a reduction in the state budget. We've never had the money to do everything we've wanted. It looks like the public schools are just joining the club."

RESOLUTION HONORING OLIVER SIPPLE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. GOLDWATER. Mr. Speaker, I am today introducing a resolution expressing the gratitude of the House of Representatives to Oliver Sipple, a resident of San Francisco, Calif., whose courageous action in deflecting the gun aimed at President Ford by Sara Jane Moore in all probability saved the President's life.

All too often we read in the newspapers about Americans who shirk the basic responsibilities of their citizenship or who refuse to "get involved" and come to the aid of a fellow human being. I have never believed that these news stories are typical of the basic American. Oliver Sipple's action is living proof of this.

Given the magnitude of the horror he was instrumental in preventing, it would be equally tragic for the Congress to let his selfless act pass without giving the proper thanks it deserves.

Consequently, I have introduced the following resolution:

Resolution Honoring Oliver Sipple

A resolution expressing the gratitude of the House of Representatives to Oliver Sipple for his selfless heroism in preventing the assassination of Gerald R. Ford, President of the United States of America.

Whereas, Oliver Sipple, a resident of the city of San Francisco, California, believes in the legitimacy and principles of the American democratic republic; and

Whereas, Oliver Sipple in practicing his citizenship rejects the use of violence and murder as legitimate elements of a free and open society; and,

Whereas, Oliver Sipple, in direct jeopardy of his own life and person security, did by his own courageous and individual action prevent an assailant from assassinating Gerald R. Ford, President of the United States of America, be it therefore

Resolved, that the House of Representatives, in behalf of the people of the United States, express their complete and unqualified gratitude for his selfless heroism and resoluteness.

KEEPING AN EYE ON THE FBI

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ANDERSON of California. Mr. Speaker, tarnish can happen when a thing is exposed to the elements—but in one bureau of Government, tarnish was caused from being closed up for much too long. While none of us will say that J. Edgar Hoover never made a positive contribution to American life, we have recently learned that many abuses occurred because of Mr. Hoover's ability to run the bureau in his own way, with insufficient oversight from the legislative and executive branches.

I wish to insert in the RECORD an editorial from KNXT television in Los Angeles on December 5 which makes some good suggestions for preventing such abuses in the future. The editorial follows:

KNXT Editorial

Subject: Keeping an Eye on the FBI.
Broadcast: December 5 and 6, 1975.

The hallowed image of the FBI that J. Edgar Hoover promoted for nearly 50 years has been shot to pieces by the abuses of the leader himself.

There isn't any question that we need a strong FBI for the enforcement of Federal laws against criminals and subversives.

But it seems clear now, after disclosures before Congress, that the FBI went far beyond its legal bounds. There was illegal mail opening, wire tapping, burglary, bugging, and character assassination.

The primary reason for such abuses was that the leader for almost 50 years, John

Edgar Hoover, permitted and encouraged them.

The biggest problem was that he held the job of FBI Director so long he thought he owned the agency and that he could do almost anything.

One cure for such abuse would be to limit the term of the Director. A President is limited to eight years in office. An FBI Director should be limited to eight years—perhaps even less.

Also, Congress should have direct oversight capability—oversight meaning the process of watching over what an agency does and reporting back to Congress and to the people.

We'd suggest a special Oversight Committee on the FBI, with special offices that are as tightly secured as those of the FBI itself in order to avoid leaks; with a specially cleared staff; with pre-agreed limits on subpoena power and areas of Executive privilege, so we won't have the Executive and Legislative branches fighting in the courts. And, the membership of the Committee should be approved by the Administration as well as by Congressional leadership. These things could help guarantee security for FBI operations, while giving Congress the investigative power it needs.

The FBI has had a long history of integrity, and it's a shame to see it tarnished now. But it can be restored, and it should be, with continuous surveillance by the elected representatives of the people.

A NEEDLESS EXERCISE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. HARRINGTON. Mr. Speaker, I wish to briefly state my strong sense of dismay over the silly and wasteful exercise the House and the Senate was forced to go through today in order to maintain a tax reduction for the next 6 months.

The "magic language" we adopted this afternoon serves as nothing more than a face-saving gimmick designed to soothe the petty political sensitivities of an administration which is quickly sinking in the eyes of most Americans.

The substance of the tax reduction extension bill has remained thoroughly intact; and the amending language which the President demanded is clearly designed to allow Congress to exercise the same powers to determine future spending levels as have always existed.

The President clearly realized that his position against a tax reduction was both wreckless and irresponsible given current economic conditions. If the issue was not of such overriding importance to every wage-earner in America, I would have seriously recommended that we not let Mr. Ford off the hook.

However, I firmly believe that we cannot now afford any increase in taxes. I strongly supported and voted for the tax reduction extension when it came before us originally. I, voted against the President's wreckless veto, and I now have recorded myself in favor of this latest attempt to keep taxes down.

By originally vetoing this crucially important measure, Mr. Ford demonstrated what I believe to be a flagrant disregard for the millions who could not afford to pay an additional penny in new taxes. The face-saving shell-game which the President subjected us to this afternoon,—a virtual reenactment of the tax reduction extension—only further confirms my belief that this administration would rather attempt to confuse the public than admit that it is wrong.

The President's approach to the tax extension bill is, unfortunately, not surprising. We have watched this administration bring forth WIN buttons in place of sound economic programs, take New York City to the brink of disaster, and destroy any reasonable attempt to develop a responsible energy policy.

I am sure that most Americans share my resentment over the way in which the President continues to play politics with the economy.

TRANSIT SYSTEMS VITAL TO PLANNING AND ORDERLY GROWTH

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. GUDE. Mr. Speaker, the region III Office of the Environmental Protection Agency publishes a newsletter, EPAlert, which recently ran an article demonstrating the vital importance of land use planning. In particular, the article takes careful note of the need for improvements in public mass transportation if our urban areas are ever to come to grips with the problems facing them.

We are often reminded of the high costs of public transit. There are those who never cease to tell us that transit is very expensive to build and very expensive to operate. But where are those same people when it comes to pointing out the real dollar costs of not providing for transit systems which charge fares people can reasonably be expected to pay? We hear numerous complaints that rail transit construction costs $50 million a mile. Who complains about highway construction, which is rapidly approaching a cost of $100 million a mile? People complain that transit systems cost a lot to operate. But where are those people when the discussion turns to all the costs involved in automotive commuting? Who mentions the cost of highway maintenance, auto purchase and maintenance, fuel—oil—air pollution, traffic control, congestion and so forth? The list is lengthy.

A realistic, hard-nosed approach to our urban transportation problems must look at the total picture. To single out the subsidies required to operate a transit system—or the costs of building a system in the first instance—is a highly deceptive practice. It ignores the costs of doing without those systems.

In the weeks and months ahead, I hope each of us will take the time to reflect on these matters. As a starting point, I include in the RECORD at this point the article I mentioned. I can recommend it highly:

TOUGH QUESTIONS IN LAND USE MANAGEMENT

In the area of land use we are now being faced with two tough questions: "Should land use decisions be made at all?", and "Who should make these land use decisions?"

In answer to the first question, we are making land use decisions every day, many of which we are not even aware of. Decisions on such topics as development of infrastructure, taxes, zoning, and private activities all affect land use.

Development of infrastructure includes transportation. The building of highways encourages suburban sprawl and with it high energy consumption. Building or implementation of mass transit encourages high density development along a corridor and reduces energy consumption. The development of major radial expressways promotes growth into the countryside. Such highways, which will need to be as much as seven lanes in each direction to handle future traffic levels, may soon cost as much as $100 million per mile to build.

The amount of sewage treatment capacity is often of major importance to land use. Growth requires available sewage capacity. Development tends to take place near treatment plants with available capacity and also along major interceptor sewer routes.

Utility rate policies are another factor. Today's policies make present users subsidize the expansion of electric, gas, and water service into previously undeveloped areas. The new users do not have to pay the full costs of such expansion, thus encouraging this expansion.

Local property taxes often encourage development. Many times land will be assessed at its development value even if it is being used for agriculture or open space. These taxes may force the owner to sell to developers even if he would rather not. This happens especially when open land which is located near recently developed land.

Zoning decisions are also land use decisions. The problem is that zoning is often done helter-skelter with no real planning. This makes present zoning practices unsatisfactory for effective land use management.

Private actions can also affect land use. An example is the practice of "red-lining" certain neighborhoods by banks and other mortgage lending institutions.

The Federal government has had an important role in land use decisions in the past, both good and bad.

Federal grants such as the Highway Trust Fund has provided over $300 billion for highway construction. I have already discussed the results of this activity. At the same time the government has provided only $3 billion for mass transit.

The National Environmental Policy Act (NEPA) is perhaps the most important Federal legislation at this time affecting land use. NEPA requires environmental impact statements be prepared on Federal projects which may significantly affect the environment. These statements must look at both short and long term environmental effects and cost effectiveness. An example of this is the Tocks Island Dam project. This $100 million dam would have required the construction of $300 million in sewage treatment plants and a costly non-point source water pollution control program to insure that the lake would not undergo eutrophication.

The Federal government has also provided many comprehensive planning grants to substate regional planning agencies. The problem is that these grants are often categorical in nature and are given to one-function planning groups. The result is different functional plans with no coordination, no common boundaries, and no common goals.

> EPA's 208 area wide water management planning program was authorized $150 million nationwide to begin. This program recognizes that water pollution problems can not be solved merely by building treatment plants. Other water pollution sources, such as industrial non-point sources, urban runoff, agricultural runoff and mine drainage are other areas that must be controlled. The 208 program is expected to have an important affect on land use planning.
>
> An approach similar to the 208 concept is being considered for air planning also. Comprehensive transportation planning is needed but still seems to be far off.
>
> However, the ultimate goal is to have all planning consolidated into a single comprehensive planning agency where priorities and decisions are set by local elected leaders sitting on a board. The State and Federal governments would provide technical assistance, review plans, and fund designated infrastructure projects.

EXPORTING AMERICAN JOBS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the people of my district are working people. They feel the pinch when the prices in the grocery store keep rising. But, a more serious threat to their financial security is the possibility that their jobs will be exported behind the Iron Curtain.

As part of the diplomacy of détente, American business has been encouraged to ship sophisticated machinery and computers to the Soviet Union and the captive nations. In addition to the fact that this equipment is being used to strengthen the war machine of the Communist aggressors, it also provides another threat. It increases the ability of the Soviet Union to compete with us on the world market.

Our workers belong to trade unions which fight for higher wages and for better working conditions. In the Communist countries wages and hours are set by the Communist dictatorship. They can provide manufactured goods at any price necessary to compete against free labor.

In my district textile workers and workers in aircraft and electronics' industries are already suffering the consequences of foreign firms encroaching on the markets for their products. Competition with the slave labor of the Communist countries would further erode our living standards. There is no reason for American business to provide the machinery for the destruction of the American worker.

Obviously, someone profits from these deals with the Communist slave masters. You will remember the profits that were made by a few speculators and Government bureaucrats on the wheat deal that did so much to raise American prices while bailing the Soviet Union out of the consequences of the inefficient Communist economic system. Rockefeller's Chase Manhattan Bank is deeply involved in the deals to provide American machinery to our Communist enemies. The Reds get low-interest loans to enable them to buy the equipment to use against us. The low-interest loans are guaranteed by the American taxpayer. Some of the details of these agreements were worked out in Moscow a few years ago in a meeting attended by the Soviet tyrant Kosygin and David Rockefeller, the brother of our Vice President.

Communist exports to the United States usually consist of junk products such as trinkets, toys, and Christmas tree ornaments. Our exports to them are usually capital equipment and food. This is hardly a fair balance.

Every Labor Day American politicians stand on public platforms and mouth platitudes about the glorious American worker. If they really believe what they say, they should want to protect the American worker from the competition of Communist slave labor. I ask my colleagues to join me in demanding an end to the unequal trade with the Soviet Union.

THE SUCCESS OF THE ENA FORMULA

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. GAYDOS. Mr. Speaker, American industry has moved through many stages of management-labor relationships and now, I am happy to note, could be emerging into a new day of mutual responsibility which bodes well for the future.

The reason for this, I hasten to add, is the success so far of the "Experimental Negotiating Agreement"—ENA—which was worked out in 1971 between the United Steel Workers and the steel industry—a pact which is proving of enormous value to this important sector of the economy.

The landmark pact was discussed by I. W. Abel, United Steel Workers president, at the annual Benjamin F. Fairless Memorial Lectures held recently at Carnegie Mellon University in Pittsburgh.

Mr. Abel paid tribute to Mr. Fairless, late chairman of U.S. Steel Corp., for having helped lay the groundwork for the union-industry cooperation as set forth in the ENA contract. Mr. Fairless, he recalled, addressed a union meeting following the steel strike of 1952 and called for ways to be found "not only to work together but to live together and understand each other's problems."

Out of that statement developed the thinking among union leaders and steel executives that brought about the historic ENA agreement which substitutes arbitration for industry wide strikes. Its formula was used by the union in negotiating first the 1974 labor agreement and now the 1977 pact.

The plan, as we know, assures union members annual wage increases and protects certain hard-won work practices. As the Pittsburgh Post-Gazette stated in reporting on Mr. Abel's lectures:

> It (ENA) has stabilized steel production at time and slowed imports.

The pity, I might point out, is that such an agreement was not in effect to head off the disastrous steel strikes of the past—strikes which damages both worker and company and also first opened the gates to foreign imports, thus creating a problem that still begs for governmental corrective action in some areas.

But the fact is that ENA since its adoption has worked out even better for steel industry, perhaps, than some of its sponsors anticipated and today is serving by its example as a ready doorway to a new and harmonious age for U.S. industry generally. We have learned by experience that periodic strikes hurt everybody and that new methods must be found to settle differences. I agree with Mr. Abel in his Pittsburgh assessment of ENA that:

> This new, revolutionary approach to traditional bargaining procedures may or may not be the complete answer . . . but it does merit study.

American industry as a whole, now facing serious competition both in its world markets and in the markets here at home, must make this study and, in doing so, take a much-needed lesson from the steel producers who could be looking with ENA into the future, as the saying goes, and finding that it works. And for this Mr. Abel and the other ENA pioneers deserve the Nation's thanks.

PERSONAL EXPLANATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. EDWARDS of California. Mr. Speaker, at the time of the vote taken late yesterday on the conference report to accompany H.R. 6461, the Public Broadcasting Financing Act of 1975, I was unavoidably absent. Had I been present I would have voted "no." This is because the conferees failed to adopt an amendment which would have made public broadcasting subject to titles VI and VII of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972. This action was taken in spite of the acknowledgment by the conferees that discrimination exists in public broadcasting and that congressional action is necessary to remedy the situation.

IMPROVING MEDICARE COVERAGE OF CHIROPRACTIC CARE

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. CORMAN. Mr. Speaker, I am today introducing a bill, H.R. 11290, to extend the medicare coverage of the services of chiropractors. Medicare patients already benefit from the services of these health professionals, but the range of coverage has been unduly limited.

Currently, medicare chiropractic coverage is limited to manual manipulation of the spine to correct a subluxation that can be demonstrated by X-ray. The proposed legislation would pay for the X-ray and other diagnostic or therapeutic chiropractic services and eliminate the mandatory X-ray if the subluxation can be shown by other chiropractic procedures to exist.

In its present form, medicare mandates an X-ray as a basis for reimbursement for chiropractic services. This is unwise from a health point of view because it requires what may often be excess and unnecessary radiation. There are many instances where, for the patient's own welfare, a chiropractic patient should not be X-rayed or re-X-rayed.

Furthermore, we have the curious result under current Medicare regulations that although X-rays are mandated for chiropractic care, the patient is not reimbursed for them. The extra out-of-pocket cost to the patient of the mandatory X-ray effectively cancels out much of the chiropractic benefit intended by Congress.

H.R. 11290, therefore, provides for medicare reimbursement for the cost of X-rays taken or required by a doctor of chiropractic when used in connection with services authorized by the law, precisely in the same manner as X-rays are reimbursed when taken or required by doctors of medicine or doctors of osteopathy.

Also, authorized would be payment for treatment to correct a subluxation whose existence is demonstrated either by X-ray or "by other chiropractic procedures." Such procedures would include, among others, the customary and normal case history, static palpation, motion examination, and other symptomatic information to determine the presence of a spine displacement.

The protection of health care consumers under medicare requires that chiropractic patients, just as the patients of doctors of medicine and osteopathy, should have the full benefit of physical examinations and necessary laboratory tests. Here again, the nonreimbursement of such necessary health procedures can virtually deny their availability to the chiropractic patient. This legislation would authorize reimbursement not only for appropriate X-rays, as indicated, but also for "physical examination and related routine laboratory tests" which the chiropractor is authorized by State law to perform.

Such physical examination and laboratory tests will improve patient care because they will better enable the doctor of chiropractic immediately to refer to other health practitioners cases for which chiropractic therapy is neither appropriate nor suitable, and to provide the kind of chiropractic care which is most suitable for the patient's ailment.

I should add that the amendments proposed by this bill are in precise conformity with what the Congress adopted last year in amendments to the Federal Employees Compensation Act, Public Law 93–416.

I am pleased to introduce this proposed amendment to title XVIII of the Social Security Act and I urge its timely consideration.

RESTRICT AVAILABILITY OF HANDGUNS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. LEVITAS. Mr. Speaker, contrary to the impression that many attempt to generate, Washington is not the center of the universe, and indeed, it is not even the center of our country. Unfortunately, this is a truism too often lost by many because of the uniqueness of the city and the convergence of domestic and international pressure here. Often it takes an effort to remember that although the sunrises and sunsets are beautiful over the Potomac, Washington is not the only place the Sun rises and sets.

Mr. Speaker, I raise these considerations lightly, but with a serious purpose. We have come a long way from believing that all problems are solvable—usually with money—but we have not come far enough, for many still believe that those problems that are solvable are solvable in Washington. Nothing could be further from the truth. It seems only commonsense that those closest to the problems are often best able to remedy those problems, particularly when the nature and extent of the problems vary from State to State. Often local and State officials will have a much better idea of just what the problem is in their particular jurisdiction and how to deal with that problem. For example, Utah is, in very many respects, a different place from New York. So is Georgia.

An example of the willingness and ability of many at the State level to approach difficult problems was recently indicated by Georgia's Lieutenant Governor, Zell Miller, when he outlined his support for legislation designed to restrict the availability of cheap handguns, known as "Saturday night specials." In a speech given to the Georgia Police Academy graduation on November 21, 1975, Lieutenant Governor Miller showed again that States can do the job without federalizing every matter or solution. I commend him for his efforts and I would like to here include excerpts of his remarks:

EXCERPTS FROM REMARKS BY ZELL MILLER

Like the statistics on crime about which we have read this week, the figures on the number of law enforcement officers killed on the job each year continue to increase. In 1972, 112 police officers so lost their lives; in 1973, 127; in 1974, 132, and we all are very vividly aware of the instances in Georgia this year in which victims have included a sheriff, a state trooper and several city policemen.

The Southeastern United States ranks much higher than any other section, and Georgia is at the top among all the states. In 1973, for example, only California and Texas had more deaths of law enforcement officers than did Georgia.

A fact that you might not be aware of is that of the police officer deaths in the line of duty on which I was citing statistics a moment ago, more than 70 percent of them were caused by handguns.

Essentially, my bill would prohibit handgun manufacturers and importers from manufacturing, importing or assembling from parts a "Saturday Night Special" for sale in Georgia and any wholesale or retail gun dealer from selling such weapons in Georgia.

As you are aware, one of the principle problems in drafting any such bill is to accurately define "Saturday Night Special". People familiar with firearms know generally what is meant: Crudely-made, pot-metal handguns selling for as little as $10 or $15.

Yet, the formulation of a precise definition has been difficult. It cannot be so loosely worded that it also would ban many high quality handguns purchased by honest citizens for legitimate purposes.

The bill that I will support clearly identifies, and is confined to, "Saturday Night Specials" It establishes an objective standard of quality which all new handguns—no matter whether manufactured domestically—must meet, or be banned from sale.

"Saturday Night Specials" would be prohibited by rating the metal from which they are made by three scientific criteria:

Only those handguns which meet all three criteria could be manufactured, imported, assembled or sold in Georgia. And, by their very nature, "Saturday Night Specials" cannot meet these criteria.

I believe this legislation is a workable, moderate and a politically realistic approach.

It does not impinge on the rights of law-abiding citizens to buy and use handguns for sporting and defensive purposes, and I believe it will enjoy their support.

SST BAN

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. FISHER. Mr. Speaker, I have today introduced a bill to prohibit from landing at Dulles and National Airports any supersonic aircraft which exceeds Federal noise standards. Last night the House voted to prohibit landing and taking off by such planes at airports funded under the Airport and Airways Development Act; however, Dulles, being owned and operated by the Federal Aviation Administration, is not funded under that act. Supporters of the amendment to ban SST's assured me that they had wanted to include Dulles, but a point of order would have been raised against that. Thus, separate legislation is necessary to protect it from supersonic planes which exceed the noise standards.

I have long contended that airplanes that do not meet adequate noise standards should not be permitted to land at U.S. airports. Only when the SST or any other airplane meets such standards should it be allowed to land here. The available evidence indicates that the Concorde-SST does not meet the standards. Therefore, it should not be given landing permission. If the Secretary of Transportation fails to keep the SST out of this country by administrative decision, then Congress must keep it out by law. The House took a step in that direction last night and my bill will ensure that Dulles Airport is also safeguarded.

The effect of noise and other pollution from the SST on the people on the ground is my major concern. It is the job of government to protect its citizens against unnecessary health and safety hazards and my bill would help accomplish that.

THE REAL LESSON OF NEW YORK: PUBLIC DEBTS MUST BE PAID!

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. CRANE. Mr. Speaker, for too long all governments—State, Federal, city and local—have been operating on one of the myths of modern economics, that public debts do not really ever have to be repaid.

How many of us remember college professors of economics explaining in detail a philosophy which defied common sense, telling us that while individual debts always come due, since individuals die and estates must finally be settled, public debts never come due, since States do not die but live in perpetuity? Those who failed to understand this complex philosophy may have failed college economics, but have passed the harder tests of real life.

Now, in New York, we see the most glaring example thus far of the view that public debt will never have to be repaid. The due date, suddenly, has come.

In Washington, however, it is easy to be self-righteous about New York. That should be avoided, for our own chickens will come home to roost soon enough. The national debt makes New York's problems appear small indeed. New York, however, does not have the ability to print additional money and inflate the currency to keep in business. It has, as a result, called upon that branch of Government which does have this power to lend it some of its printing facilities.

In an editorial entitled "The Real Lesson Of New York City," Financial World, in its December 1, 1975, issue, notes that this lesson is obvious:

> The public refinancing game is over. It could only go on as long as the governments involved fundamentally lived within their means. Red ink has a peculiar quality. Pour enough of it around and it will dissolve all confidence, all certainty.

I wish to share this thoughtful editorial from Financial World with my colleagues, and insert it into the RECORD at this time.

THE REAL LESSON OF NEW YORK CITY

Somewhere, pretty early in our two-hundred year history, one of our nation's public officials was blessed with what must be considered the most far-reaching and fundamental insight. We don't know who he is, or whether he worked for the federal government or for one of the states or cities. But his inspiration, and its application, has been responsible for a giant share of the development of our nation, its states and its cities.

As with all institutions, private or public, there was an occasional shortage of funds. And as with all institutions, especially public, leaders turned to the general public—that great mass of workers who by dint of effort and thrift had surplus funds available to invest.

But unlike all other institutions, the federal government, states and the major cities had an advantage impossible to match. They could, in effect, virtually guarantee repayment of interest and principal because they had the power to tax. They knew it, their citizens knew it, the bankers knew it and the general public knew it. In any man's rating system, their debt obligations ranked on top. Default was unthinkable as long as the power to tax was there.

And somewhere early in the century—the 18th, that is—perhaps late on a hot summer's night or very early on a cold wintry morn, our harried financial official was contemplating this awesome and seemingly endless ability to raise money. He know, through experience, that as each bond issue fell due, all his government had to do was sell new bonds to replace the old debts. Voila! Ancient alchemy brough back to life. The public debt need never be repaid!

So has it gone. The restraints were off; the system was foolproof. Whenever a government wanted to spend in any year more than it took in, it had only to issue debt based on its full and seemingly endless supply of credit. The resulting debt was first in millions, then billions, and now trillions.

Oh yes, a few malcontents here and there were griping about history from the sidelines. Truth to tell, we were there too. How many times have you read, "Sooner or later the bills will come due . . ." on this page?

Now the unthinkable has happened. New York City's deficits are overwhelming and the never-ending well has run dry. No one wants its bonds. The full faith and credit of the world's financial center, the home of the only great capital market on earth is, incredibly, gone. In New York City the bills have come due.

The real lesson of New York is obvious: The public refinancing game is over. It could only go on as long as the governments involved fundamentally lived within their means. Red ink has a peculiar quality. Pour enough of it around and it will dissolve all confidence, all certainty.

Is is possible, is it just barely possible, that the president we elect next year will be the Abe Beame of American presidents? Will he be the man sitting there when all the national bills are tendered?

HEALTH BILLS INTRODUCED

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ROGERS. Mr. Speaker, I have today introduced three bills which I intend that the Subcommittee on Health and the Environment consider early in 1976. Two of them would extend programs due to expire in 1976—the programs authorizing grants and contracts to help combat alcoholism, and programs authorizing support of health services research and development, health statistics, and medical libraries.

The third bill, the Clinical Laboratory Improvement Act of 1976, would significantly revise the existing authority with respect to national standards for clinical laboratories.

I will circulate these bills for cosponsorship early in January, but I wanted to introduce them today in order that interested persons may evaluate them for as long a period as possible prior to hearings.

JACKALS ATTACK NEW YORK STATE POLICE UNIT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. McDONALD of Georgia. Mr. Speaker, America's law enforcement agencies are under attack by a varied pack of cop-hating jackals—both criminal and revolutionary—whose one aim is to discredit and handcuff the police so that they may operate without restraint. Their chief method is a campaign of smear, slander, and distortion in which they are aided by the irresponsible press to poison the minds of American citizens against their police. The second tactic is to promote official harassment of police through court suits and other maneuvers.

For the past decade our country has been subjected to escalating errorist attacks, civil disruptions, and organized criminal activities. New York State with its vast variety of Marxist-Leninist, violence-oriented and criminal groups has had major problems to control. Both the New York City Police and New York State Police have had effective intelligence units to cope with these problems.

Intelligence activities are a preventive measure. Their most praiseworthy successes are the ones which remain unknown to the public. Yet it is known that an attempt by a black militant group with Cuban Communist connections to blow up the Statue of Liberty was thwarted by a police undercover officer, and a plot to assassinate non-Marxist Negro leaders was also prevented by undercover police officers. In each case, these black police officers risked their lives by penetrating terrorist groups to protect the citizens of New York.

In the past few years, as part of the attack on police intelligence gathering, cowardly politicians afraid of the antipolice clamor raised by revolutionary groups and their liberal supporters have ordered severe curtailing of these vital police functions. In New York City, the FALN terrorists bomb, maim, and murder while the police department's intelligence files on Puerto Rican revolutionaries have been destroyed. The left-wing extremists and organized crime syndicates have had a field day with the exposure in the newspapers and destruction of effective police intelligence operations.

The most recent attack on police intelligence gathering in New York was launched by William F. Haddad, a political hack appointed to a legislative oversight position by State Assembly Speaker Stanley Steingut. Mr. Steingut is presently under indictment for selling patronage jobs.

Although Haddad had no legitimate official standing—his position was analogous to that of any clerk or aide in Mr. Steingut's office—the New York State Police, as a courtesy to Steingut, a powerful politician, allowed Haddad to inspect their intelligence files. Haddad made a supposedly confidential report on these intelligence files to his boss, Steingut, a copy of which was immediately made available to the press.

Haddad's report was at best incompetent, and at worst intellectually dishonest. It was filled with misrepresentations, half-truths, and outright lies.

Haddad leaked every possible bit of misinformation he could to the Long Island newspaper, Newsday. Newsday's editors and reporters then added even more irresponsible comments to the material furnished by Haddad.

For example, on November 7, 1975, Newsday complained editorially that the police maintained an intelligence file or, as Newsday termed it, a "dossier" on Assembly Minority Leader Perry Duryea. The facts were that there was no such dossier. There was a report in the files identifying some of the members of a violence-prone group which had demonstrated against Duryea at his Long Island office. Therefore there was an index file card to that report with Assemblyman Duryea's name on it. The pretense was made by the newspaper that a political and personal activities file had been maintained on Duryea because he was an opponent of Gov. Nelson Rockefeller—an outright lie.

Duryea does have a distinguished—and very public—record of opposing the excesses of Nelson Rockefeller. No policeman would fault him for that.

Haddad also supplied Newsday with a confidential New York State Police report which indicated that school officials had cooperated with police during campus rioting. Newsday used this information to snoop around and discovered that a State police investigator had visited the State University at Stony Brook to gather information. Newsday wrote:

> Why the state police gathered such information was not immediately clear.

It was only if one read to the end of the story that one found that—

> During the spring of 1970, Stony Brook suffered $78,000 in property damage due to campus disorders.

Haddad's hysteria has now resulted in the appointment of a New York State Assembly subcommittee to examine the question of State police intelligence gathering. This new subcommittee will have official authority to inspect New York State Police files, unlike Bill Haddad and his assistants. Haddad was granted this opportunity in violation of New York State Police regulations regarding confidentiality and privacy by Haddad's abuse of his political connections.

Haddad's assistant, Tom Burton, a former New York Post employee, has been contacting official agencies pretending that he has the authority to obtain official information. Some of these agencies, including the U.S. Postal Service, have made the error of providing Burton with private and confidential information without checking his nonexistent credentials.

The press also has acted irresponsibly in this matter in treating the Haddad "report" as an official document of the New York State Legislature. In fact it is a private document prepared by a politically appointed hack without a shred of official authority. It is equivalent to a first grader's report to his teacher on income tax reform being cited as a State board of education report.

The press recipients of Haddad leaks has also erroneously reported that Haddad and his sidekick have subpena power. The New York State Legislature by vote has the power to appoint a committee or subcommittee with subpena power and such a vote has not taken place. Steingut has appointed members to the proposed subcommittee, but the assembly has taken no action.

It is clear from the questions that Haddad and his associates have asked that they are trying to identify the confidential sources of information in the State Police files. People who are risking their lives working undercover to gather information on terrorists or organized crime should not be subjected to endangerment or harassment by petty political hacks.

Criticism of the Steingut investigation via Haddad has appeared from more responsible commentators, including those well established in the liberal camp. Village Voice columnist Jack Newfield, December 15, 1975, noted:

> (Albert) Blumenthal, who is indicted, and Steingut, who is under investigation in the nursing home scandal, are in a position to cut off funds for the agency of the executive branch that is investigating them.

He further noted:

> Blumenthal (and Steingut) are exploiting the civil liberties argument to try to keep their powerful positions of majority leader and speaker of the assembly.

New York State's lawmakers have the opportunity to learn the truth about this matter. I hope that they will hear all of the facts and not permit Haddad and his associates to distort the issues as they have in their press campaign.

SOCCER CHAMPIONSHIP

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. PHILLIP BURTON. Mr. Speaker, I wish to call to the attention of the House the outstanding success of the University of San Francisco soccer team in winning the NCAA Division 1 soccer championship.

I would particularly like to commend coach Steve Negoesco and the following members of his team for their fine sportsmanship which is a tribute to the sport in which they participated with such great intensity and dedication.

The members of the team are:

Number, Name, Position, and Hometown

1. Peter Arnautoff, G, San Francisco.
2. Mark Dillon, FB, San Francisco.
3. Tony Igwe, MF, Nigeria.
4. Bjorn Dahl, CF, Norway.
5. Tom Tronstadt, CH, Norway.
6. Kjell Tvedt, MF, Norway.
7. Victor Arbelaez, F, San Francisco.
8. Andy Atuegbu, MF, Nigeria.
9. Paul Korn, F, San Francisco.
10. Mal Roche, CF, San Francisco.
11. Perry Fedje, F, Norway.
12. Greg McKeown, F, Washington.
13. Misak Pirinjian, FB, San Rafael.
14. Oscar Granados, CH, Honduras.
15. Jim Boyle, F, San Francisco.
17. Anthony Gray, MF, Liberia.
18. Bjorn Skagen, MF, Norway.
20. Dan Cremin, FB, San Francisco.

EVERYONE CALLS HIM "MAJOR"—OR "MR. WAIPAHU"

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. MATSUNAGA. Mr. Speaker, as chairman of the Subcommittee on Federal, State and Community Services of the House Select Committee on Aging, I recently held hearings in the State of Hawaii to determine the needs of the elderly and the State and local agencies serving them. One session was held in the rural community of Waipahu, where, in spite of torrential rains caused by a severe winter storm, we were greeted by a band and a turnout of nearly 300 senior citizens. The fact that so many came to participate in the Waipahu hearings was due in large measure to the efforts of Hideo "Major" Okada, a lifetime resident of Waipahu who, since his retirement last June at age 65, has become a leader in senior citizen activities.

"Major" Okada was the fifth of eight children born to immigrant laborers employed by the Oahu Sugar Co. at Waipahu. Although he modestly claims to have been the "dumbest" in his family, he won a baseball scholarship to the prestigious Mid-Pacific Institute, a private high school in Honolulu, where he earned his nickname—probably a reference to his "major league" ability. Upon his graduation, however, the Great Depression had hit the Islands and "Major" found that his only alternative was to accept employment in the sugar fields. Perhaps it was his first-hand experience with poverty and injustice as a boy and young man which made him a lifetime advocate of peaceful social change.

Soon after he went to work in the sugar fields, the National Labor Relations Act gave workers the right to organize and "Major" Okada became a leader in the early efforts to organize Hawaii's sugar plantation workers. The goals of Okada and men like him were better pay, better working conditions, better housing and educational opportunities for the children of sugar plantation employees. Today, he looks back on those days as "the best" in his life. When he retired, after 41 years with the sugar company, Hawaii's sugar and pineapple employees had gained recognition as the best paid agricultural workers in the world. Hideo Okada had made major contributions toward this remarkable accomplishment of organized labor.

Okada's next step was to help organize a Democratic Party in Hawaii and to fight for statehood so that Hawaii would have an equal voice at the national level.

Upon retirement, "Major" was named "Mr. Waipahu" by the residents of his hometown—a tribute to his active role in community affairs, a role to which he now devotes 100 percent of his time.

Knowing that my colleagues will find inspiring the story of "Major" Okada, I am submitting for inclusion in the CONGRESSIONAL RECORD an article about him from the December 3, 1975 edition of the Honolulu Star-Bulletin:

IN WAIPAHU, EVERYONE CALLS HIM "MAJOR"

(By Susan Yim)

Progress has come to Waipahu but there's still a lot of small plantation town left. Neighbors know each other and there's a strong community spirit.

It's a feeling that Hideo Okada is proud of, one everyone in Waipahu says he's helped to nurture and keep alive. Everyone in Waipahu knows Okada, but they call him "Major," a nickname he picked up in high school and which has lasted through the years.

It's fitting that Okada lives right at the entrance to the town on Farrington Highway. He was honored last year as "Mr. Waipahu," a title bestowed at testimonial attended by 1,500 residents.

Okada has lived in Waipahu all his life except for a brief period when he boarded at Mid-Pacific Institute, where he was on an athletic scholarship and played on the school's baseball team.

But he was raised in a plantation camp and worked for Oahu Sugar Co. for 41 years before retiring in June. After World War II he helped the ILWU organize the plantation workers. Today, the ties with the plantation are strong despite memories of strikes and clashes.

The ex-pitcher and fielder is a small man, slightly built, but at 65, still full of the energy that's kept him continually involved in organizations and projects.

Okada is recognized in Waipahu for his community work: his past leadership of the active Waipahu Community Association, advisory role with Leeward Community College, participation in senior citizen activities and willingness to lead task forces.

But his reputation Islandwide was earned as a union organizer for the ILWU, a position which eventually got him active in the Democratic party. Both activities solidified friendships with the late union leader Jack Hall and late Gov. John Burns.

Okada is a member of the Central Committee of the State Democratic party and on the Stadium Authority, appointed by Burns.

Besides his other projects, he is always ready to speak before public school and college students on his experiences on the plantation and with the union. It's not uncommon to see him on a bus taking kids on a tour of Waipahu, sharing stories about the plantation days.

Basically, Okada is what he calls "a practical man" who leads a simple life. His home is a two-bedroom apartment in back of the Wailani Steak House, a restaurant his wife, Matsuko, ran while Okada worked days at the plantation in the sugar processing department.

Lining the living room walls and shelves are pictures of Okada's three children and nine grandchildren. And there are trophies and plaques and more pictures of Okada with, not only local politicians, but national figures like then Vice President Hubert Humphrey.

The picture hangs next to an invitation to the 1964 presidential inauguration. It was another honor the modest Okada declined. Instead he chose to attend a world convention of orchid growers, to learn more about his hobby.

He insists that "I'm one of the Indians, I'm not a chief."

His story from high school baseball star to plantation worker, union organizer, party man and community leader fits neatly into that period of Hawaiian history.

Okada was the fifth of eight children born to immigrant Japanese laborers who came from Hiroshima to work on the plantation. Like many of the immigrants who came to Hawaii, their dream was to make enough money to go back to Japan wealthy.

Like most, the dreams were never realized, and instead they devoted their lives to long hours of work, banking on hopes their children would rise to the heights they never could.

Okada's parents moved from Aiea to Waipahu to work for Oahu Sugar around 1910, the year he was born. They ran a kitchen which fed single Filipino workers who labored in the fields.

Okada still has vivid memories of life in the plantation camps, strikes that left workers, including his parents, unemployed for periods and harsh lunas who abused the workers.

But his ability in baseball got him off the plantation for four years, and although he claims he was "the dumbest in the family" he found himself at the private Mid-Pacific Institute on a four-year scholarship.

It was there that Okada earned the nickname, "Major," perhaps a reference to his "major league" ability. But when the four years were up Okada found himself with few alternatives.

The depression had found its way to the Islands and the only job Okada found was working in the fields in Waipahu.

"Then Roosevelt was elected," Okada says. "The National Labor Relations Act gave workers the right to organize and it changed the whole complexion of plantation life."

In 1945, ILWU leader Jack Kawano contacted Okada about organized workers at Oahu Sugar Co. Okaha persuaded a handful of workers to help sign up members. Through his contacts with local baseball leagues, Okada was able to organize neighboring plantations: Ewa, Waianae and Waialua.

By 1946 the union had a strong foothold in the plantation. And then came the McCarthy era and years that Okada admits "scared the hell out of us."

Okada says big businesses, although they didn't come right out and oppose the union, were able to make things difficult in other ways.

"When we organized everyone was against us," Okada says. "The only friends we had were radicals and since we were for preservation of the union we didn't care who our friends were."

The Communist scare led to hearings and subpoenas. Okada can remember receiving a subpoena at 2 p.m. just after he had finished work.

He was one of the "Reluctant 39" union and community activists who were charged with contempt of Congress in 1950 for refusing to testify before the House Un-American Activities Committee. The charge was later thrown out by a federal judge.

"We were advised at the time that if we said we were not members of the Communist Party, they'd hook us. And if we said we were they'd hook us anyway," Okada recalls. "We were told the best thing to do was to take the Fifth Amendment."

"There were 39 of us who stood on the Fifth Amendment. You have to remember that in the old days you needed guts and that's all we had."

The next move, part of what Okada calls "the peaceful revolution," was the decision to organize the Democratic party.

But Okada looks back on his years organizing labor and the party as "the best years of my life."

"Your values change" he says about his years in group work. "Life of the Land, Save Our Surf, they're just high falluting names. During our time they would have been considered Communist too. But a change has taken place."

The change doesn't bother Okada. He says matter of factly, "One of these days sugar will be out of this Island."

"But you take things in stride, try to hold back on development so you don't kill the plantation right away, so you can adjust yourself.

"That's why it's important for kids to learn about what came before. After the old-timers pass away nobody is going to be around to talk about these things."

ST. JOAN OF ARC CHURCH AND OUR BICENTENNIAL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. GAYDOS. Mr. Speaker, the approaching celebration of our nation's 200th birthday is a special occasion for every American. But, for the parishioners of a church in my 20th Congressional District of Pennsylvania, the event is of special significance.

Not only are the members of St. Joan of Arc Roman Catholic Church, in Library, Pa., joining in the national celebration, they also are observing a few of their own. The parishioners are marking the 50th anniversary of their church, the 100th anniversary of the Community of Nuns who serve the church, and the 25th anniversary of the sisters' direct involvement with St. Joan's.

Originally established as a mission parish for St. Francis of Assisi Church, St. Joan came into its own with the canonization of St. Joan of Arc in 1920 by Pope Benedict XV. Incidentally, the Library Parish was one of the first churches in the world to take the name of the new saint.

Services at St. Joan's were first held in private homes; however, in 1924, ground was purchased for a wooden structure, which was dedicated by the Reverend F. J. Hertzog, and served the growing congregation for the next quarter century. In 1949, the Reverend Patrick Rice became the first resident pastor of St. Joan. He was succeeded in 1952 by the Reverend George T. Sullivan who launched an extensive building program that today includes a new church, school, mother house, and rectory.

St. Joan Parish today numbers 1,200 families and the spiritual leaders are the Reverend Peter A. Kuenzig and the Reverend John M. Bauer.

The nuns who serve St. Joan's are members of the Sisters of the Holy Family of Nazareth, an order founded in 1875 that emphasizes a strong family relationship. However, the sisters also respond to social changes and contemporary needs and today work with children having learning disabilities, disturbed teenagers, the rehabilitation of alcoholics, and the elderly.

St. Joan's also is deeply involved in community affairs, ranging from activities for youth to programs for Golden Age Clubs.

Mr. Speaker, as we all know, America is the culmination of the dreams and efforts of many people. The Parishioners of St. Joan of Arc Church have contributed to this rich heritage and on behalf of the Congress of the United States, I extend to them congratulations on the milestones they have passed to date and wish them the greatest of success in future endeavors.

LET'S NOT TRADE AWAY OUR IDEALS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. DOWNEY of New York. Mr. Speaker, in recent months our Nation has found itself in an uncertain world position. I am sure that many Americans feel confused about what our role in the world has become and where the administration is leading us. One weekly paper in my district expresses a concern I have heard repeated often. I would like to have The Islip News' editorial included in the RECORD:

LET'S NOT TRADE AWAY OUR IDEALS

Secretary of State Kissinger seems intent on plunging this nation into a further crisis of confidence as he skirts the globe bargaining and compromising and somehow losing sight of what our country is all about.

Our standing in the United Nations is so low that public support here in America of the U/N has eroded to an all-time low.

Those of us who supported the general concept of "Detente" with the Soviet Union have our faith shattered by substantial charges that the Russians have violated the 1972 armament control pact. Kissinger answers those charges with a no, then a maybe, and continued vagueness.

The Secretary of State rushes to China but virtually ignores the growing importance of South America. Our position in the Middle East, in Africa, in Vietnam is hard to fathom.

But what is even more disturbing to America is that our principles seem even more obscure than our positions.

America does not want to see itself as a power broker, an arms trader, a world merchant operating on a global scale without concern for basic values. That is the view too many nations of the world have held for too long.

But that is the vision of America which Henry Kissinger seems to be selling abroad and here at home.

Well, that vision may sell abroad; but it will not be bought in America.

Henry Kissinger has personalized our foreign policy, ignored his responsibility to be honest and open with the Congress and the people of the United States, and compromised our integrity around the world.

America is sustained by its ideals. Those principles are its strength and someone on the State Department should try to get that message across to our Secretary of State.

BUSINESS AS USUAL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. HARRINGTON. Mr. Speaker, another session of Congress is now coming to an end and we are no closer to passing a serious and effective handgun control law. It is perplexing that in a year marred by two attempts on the President's life with the use of handguns, this problem still has not been squarely confronted. Although Congress has lacked responsible leadership, Massachusetts has been fortunate enough to have the initiative needed to gain support for this issue.

"People Versus Handguns," of which I am a member, has recently solicited enough signatures from registered Massachusetts voters to place the issue on next fall's ballot. Voters will then have the chance to decide for themselves whether or not they would like to have handguns banned.

The following article was written by Sheriff Buckley of Middlesex County, Mass., for the December 1975 issue of Fortune News. Sheriff Buckley, who heads "People Versus Handguns," explores the question of what a handgun symbolizes to many citizens.

The text of the article follows:

GUNS: MATTER OF MACHISMO AND RACE

(By John Buckley)

Some of the old Sheriffs, like Wyatt Earp, who had that wild town, called Dodge City in Kansas, couldn't control it until he decided that he wouldn't allow anyone to bring a handgun into Dodge City, so he put his deputies outside on the road in and he took the guns away, and when they left, he gave the guns back. And he brought some peace to Dodge City. So the old Sheriffs had a good idea, and maybe some of the new Sheriffs could bring it back.

Over seven years ago, I first spoke out in favor of handgun control, and at that time, I quoted the statistics that you have heard so often; that seven out of ten murders are committed by friends and acquaintances. I told people that the handgun was not good protection and that individuals who had handguns were five times more likely to kill a member of their family or a friend. But all the statistics and all the logic have themselves fallen victim to the emotionalism of this debate. The heat of the emotionalism has melted away the logic and the hard facts. One distinguished attorney from Minnesota said he's never heard one good argument for possessing a handgun, and I have wondered how many more years the emotionalism would be the reality and the statistics the illusion. Now I think it's time to examine the emotional realities for what they truly are, because they are hidden arguments which must be addressed lest the debate be lost in the maze of figures. There are many hidden arguments that are not heard in the public debate: machismo and race.

I have observed at legislative hearings, both in Massachusetts and other parts of the country, that many of those who are opposed to handgun control are men. The vast majority in favor of handgun control are women. Why? I have wondered what the National Rifle Association meant when it said in a recent pamphlet, and I quote. "Let them follow their counsels of cowardice if they prefer to surrender the privileges and the rights of manhood." Art Buchwald put it more succinctly and with better humor in a recent article when he said, and I quote, "If the American males have to give up their handguns, they'll lose their manhood. If we don't have handguns we will have a nation of eunuchs."

What is this machismo? What is this need to prove not only that you are a man but a big man; the John Wayne syndrome? What is it that makes men strut when they put on the greatest equalizer which makes little men the equal of big men?

Sigmund Freud said many years ago that the handgun is the perfect phallic symbol. But machismo is very much a part of life, not only in America but in other lands. In ancient China, if you could get big and fat like Buddha, you would be a big machismo. In other lands, if you conquer many women, you are a big machismo. Others, if you have many, many children, you are a big machismo. But in America, the symbol has become the deadly handgun. It has become more than just a symbol. It is power in interpersonal relationships. This is why seven out of ten murders are among families and friends. This is also why debates on the abolition of handguns have become debates on castration. And this represents the privileges and the rights of manhood that the NRA has been expounding all these years. Why should a man's manhood in any way depend on a piece of machinery that propels a drop of metal which kills another human being? Ask yourself the question. Why should a man's manhood in any way depend upon a piece of machinery that propels a drop of metal which kills a human being?

Fortunately, today there is a strong movement which was only in its infancy when I spoke of handguns seven years ago; a movement which reduces the need for men to prove bigness. It is no accident of history that the women's movement and the movement to outlaw the deadly handgun meet in the 1970's. The women's movement contains within it not only greater freedom for women, but also greater freedom for men. It is no longer necessary for women to stay at home and rock the baby to prove they are women, and so too, men don't have to pack a handgun to prove they are men. With the increasing recognition of men and women as equals, there is a growing acceptance of another's sexuality in its fullness and beauty and a decreasing need to prove sexuality at all. That is part of the emotions of this argument which is not discussed in public, but needs to be discussed in a gentle and intelligent manner. It's got to be brought forward and discussed. No longer should we just dodge these issues.

In the 1970's we can speak honestly and fairly about this, being kind and knowing that not everyone has this affliction, but that those who do, given extensive psychiatric care over a period of several years, the chances of success are less than 50–50. When John Wayne came to Harvard Square last year to get his award from the Harvard Lampoon, there was a lady running in front of him all day, and she had a sign, and everywhere that John Wayne went, she held up her sign. And the sign said, "John Wayne has a little wee-wee."

The handgun control debate is also emotional because it involves race. The sharp increase in murder rates began in America in this city. If you look at the murder rates per 100,000 in America, you will see that through the thirties and forties and the fifties, there was no increase. But in 1965 it started to leap, and what happened in 1965 that caused this? Watts had a riot.

After that riot, Los Angeles County sold 10,000 handguns per day; the whites armed themselves against blacks. After the Detroit riots, Wayne County, Michigan sold 4,000 handguns a day, as the whites armed themselves against blacks. Now, blacks have outarmed whites. Over 60 percent of murders and over 60 percent of the offenders are black today in murder cases. Ghetto-dwelling blacks kill or are killed at a rate ten times higher than their white counterparts living in the same cities. Because they involve young black males who are faceless, invisible noncitizens to the whites in the suburbs and to the legislature, nothing is done except to lock them up.

Race is a concealed handgun argument, and like machismo, a very emotional one. It's not discussed in public, but it has to be brought out.

I have run on the issue, and I have won. Sheriff Pitchess in Los Angeles has run on the issue and he has won. I say elected officials, don't be afraid of the gun lobby anymore. It's a plus. Speak out; you can win on this issue. When we put the question (of a total ban on handguns) on the ballot in East Boston and in Newton and Winthrop and in Brookline and Wellesley, we asked the people who voted what they thought about it; the vote was 79 percent in favor of the total ban, 21 percent opposed. We have in Massachusetts the help of many: The Massachusetts Council on Crime and Corrections, the League of Women Voters, the Council of Churches, and above all, a nonprofit group of which I am the founder and President called People Versus Handguns, in Boston. We have quietly been organizing individuals in other organizations to put the question on the ballot in November 1976 in a binding referendum. I think Massachusetts, which has been first in so many areas, will be the first state in the United States to outlaw the deadly handgun.

In Concord, Massachusetts, there is a bridge over the Concord River. Here in Middlesex County, on April 19, 1775, was fired the "shot heard 'round the world," the first shot of the American Revolution. As the Sheriff of Middlesex County, I hope that we will be first again in 1976. Let this noiseless innovation mark the rebirth of real American manhood and the beginning of a new and more glorious American revolution for all men and women.

"MAMA" MARKS

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. LEGGETT. Mr. Speaker, as we draw near to concluding our business before recessing for the Christmas holidays, I would like to take a moment to tell my colleagues of the wonderful work of Mrs. Margaret Marks in Del Paso Heights, a neighborhood in Sacramento, Calif., that I am proud to represent.

"Mama" Marks, as she is known to all, has been feeding hungry in Del Paso Heights since 1971. With the help and support of the Asbury United Methodist Church and volunteer assistants she has served over one-half million meals in the last 4 years.

"Mama" Marks has accomplished this feat without the financial assistance of any governmental agency—Federal, State, or local. Through her tireless efforts all the food has been donated and the necessary labor has been volunteered.

"Mama" Marks feeds all who come to her door with no questions asked. She has never turned anyone away in 4 years.

Despite the crippling effects of arthritis, this wonderful 61-year-old woman has established herself as an institution in the Del Paso Heights community—she is an organizer, an accomplished cook, a counselor, and a neighborhood entrepreneur of extraordinary energy.

Above and beyond her normal program, "Mama" Marks served a Thanksgiving meal to over 500 people at the Hagginwood Clubhouse. Today a similar gathering is enjoying a Christmas meal.

The remarkable "Mama" Marks is being honored at the meal today by her friends and it is appropriate that her fine efforts be noted by the House of Representatives as well. "Mama" Marks truly represents the Christmas spirit every day of the year.

CONSTITUTIONAL AMENDMENT AGAINST FORCED BUSING

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. BURKE of Florida. Mr. Speaker, I think it is fair to say that the average American wants to see an end to forced busing to achieve arbitrary racial balance in the public schools. I have sponsored legislation to provide for a constitutional amendment dealing with this very important issue in the 91st, 92d, and 93d Congresses, only to see these efforts frustrated by the liberal bloc.

Today, I am once again introducing a constitutional amendment whose purpose is beautifully simple:

> Nothing in the Constitution of the United States shall empower any official or court of the United States to issue any order requiring or encouraging, or directing or permitting any funds to be used or withheld to require or encourage, the transportation or busing of pupils or students from one school to another or one school district to another or to force any student or students attending any elementary or secondary school in their own neighborhood, where such school is not established purposely to perpetuate segregation, to attend any other school against the choice of his or her parents, parent or guardian, in order to accomplish any objective or purpose, express or implied, under this Constitution.

Mr. Speaker, this Congress must act on the question of forced busing, and it must act decisively. There are numerous bills before the House Judiciary Committee on this question, but they are going nowhere because of an obvious reluctance on the part of the entrenched liberals who dominate the committee to allow a meaningful proposal to reach the floor for an up or down vote on its merits.

What are these people afraid might happen? Are they afraid that a constitutional amendment might finally be approved? Are they afraid the will of the people might find expression—at long last—through such an amendment? Are they afraid that an overwhelming majority of the House and Senate might assert themselves and thus overturn the present liberal stranglehold?

No good faith advocate of a constitutional amendment such as the one I am introducing today is motivated by anything sinister or bigoted. Indeed, I take modest pride in the fact that my record of public service over the years is free of any taint of support for prejudice of any sort, racial, religious, or otherwise.

I am also convinced that the large number of citizens from my congressional district who have written me on this question are motivated solely by an entirely legitimate concern for quality education. I have even received one letter—and a very intelligent one at that—from a 13-year-old student.

These constituents of mine are, I am sure, typical of our citizens. They care very deeply about the education of our young people. They are sincerely concerned about the regrettable racial problems that have been exacerbated by mass court-ordered busing. They know that any program that creates so much ill will cannot help but damage the chances of our next generation for the sort of quality education they need in this bewilderingly complex society in which we now live.

These people, and many millions more across the United States, are justifiably upset by what may be the worst effect of court-ordered busing: the destruction of the neighborhood school concept. I share their concern, and I know for a fact that this concern is far from being the exclusive property of white people. Both white and black parents throughout this country realize the detrimental effect to students that flows from the destruction of the neighborhood school as a basic component of our educational system.

Different areas have different programs geared to specific needs of their students. Certain urban areas, for example, have very different sets of problems, social and otherwise, with which they must contend. Their school curricula are tailored to those needs.

But if some judge orders these students bused into another school district with a program geared to drastically different needs—and this is far from uncommon these days—who suffers? Parents? Teachers? School administrators? Of course, they all suffer; but who really suffers most? We all know who suffers most: the student who, for no reason other than the capriciousness of a judge, is caught in the middle.

Wrenched from a school whose program is designed to maximize his chances for educational success, he is all too often thrown into an entirely different educational environment, one which, to state the hard fact of the matter, may well be tragically beyond his present level of achievement.

Mr. Speaker, this is unconscionable. Students throughout the United States have been put at a severe disadvantage because of the present busing program. It must be stopped, and I am convinced that the most effective means of stopping it is with a clearly worded constitutional amendment. That is why I have introduced my amendment today, and that is why I am appealing to my colleagues on the Judiciary Committee to get on with the job.

The amendment follows:

H.J. RES. —

Joint resolution proposing an amendment to the Constitution of the United States relating to the busing or involuntary assignment of students

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE

"Nothing in the Constitution of the United States shall empower any official or court of the United States to issue any order requiring or encouraging, or directing or permitting any funds to be used or withheld to require or encourage, the transportation or busing of pupils or students from one school district to another or to force any student or students attending any elementary or secondary school in their own neighborhood, where such school is not established purposely to perpetuate segregation, to attend any other school against the choice of his or her parents, parent or guardian, in order to accomplish any objective or purpose, express or implied, under this Constitution."

MILITARY COVER AND DECEPTION VERSUS FREEDOM OF INFORMATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. BOB WILSON. Mr. Speaker, When we normally think of camouflage, visions of twig-filled nets and ships, planes and vehicles painted irregularly in a variety of earth-tone shades come to mind. But Webster's Dictionary also defines camouflage as "behavior or expedient designed to deceive or hide."

It is axiomatic that in warfare, the side that knows more about what the opposition is doing, or plans to do, is in a far better position to disrupt those plans and activities and win the day at a far less cost in human lives. If by deceiving the enemy, by camouflaging plans and intentions, a military objective can be achieved with as little risk as possible, then such a deception would be deemed highly desirable.

However, the present climate in our country is to view any deception or any embargo in the release of information as suspect. Our people, both through their elected representatives or the press, demand to know everything about any military proposal. On the one hand, this freedom of information is laudable. On the other, by informing the public we also inform potential enemies and thereby place our military under a tremendous handicap. In the December issue of the Naval Institute Proceedings, Rear Adm. Wycliffe D. Toole, Jr., U.S. Navy, treats this subject in depth and I believe that all my colleagues should consider what Admiral Toole has to say. I include his article as a portion of my remarks:

MILITARY COVER AND DECEPTION VS. FREEDOM OF INFORMATION

(By Rear Adm. Wycliffe D. Toole, Jr., U.S. Navy)

(In the wake of Watergate, the news media are badgering the public man and branding as "Cover-up!" the slightest suspicion that any scrap of military information is being withheld. In our lemming-like rush to achieve totally "open" government, we are making it easy for enemy planners and impossible for our own.)

The historical significance of Watergate and the eventual changes it will force in our national mores and institutions will take years to evaluate and understand. However, one immediate impact of this regrettable series of incidents is a growing tendency by the public, Congress, and the news media to equate military cover and deception with political deceit. This has resulted in the public impetus for "open" government—in all areas of decision-making. Many would include defense programs and plans in this openness.

The concept of developing national standards for "freedom of information" without regard for international realities must be examined closely by responsible Americans. No freedom is absolute within civilized societies. Some accommodation must be reached in determining how much information regarding our defense effort is to be placed in the public domain. Supplying freedom of information on military matters to the American public would automatically provide the information to our potential enemies as well.

This concept of gratuitously providing a strong potential opponent with complete information on one's own defense affairs—while that opponent's defense affairs are held in total secrecy—is so unusual that there are no historical parallels to examine for predicted results. Without such guidelines, the critical nature of world affairs and the continuing evidence of the use of force as a means of settling international disputes make it imprudent to unilaterally implement such innovations in our international policies. In many ways, such actions could be equated to a form of unilateral disarmament. The realistic expectations of the consequences of providing the Soviets with full information on our defense efforts, with no reciprocity possible, suggest that the end results would be disastrous for U.S. national survival. Therefore, if the potential dangers of the increasing trend for full public information on military matters are not recognized and provisions are not made within our national moral structure for the military to continue practicing the art of cover and deception, the results will have deep and far-reaching implications for our ability to survive as a viable nation.

This statement is particularly true in a time when the balance of naval power between the United States and the Soviet Union is in such tenuous equilibrium that no definitive agreement can be reached on who holds the edge. Total force figures tend to give it to the Soviets. Systems evaluations lead the Secretary of Defense to favor the U.S. Navy. Admiral Elmo R. Zumwalt, Jr., former Chief of Naval Operations, has expressed serious doubts as to whether the U.S. Sixth Fleet can control the Mediterranean. Admiral S. G. Gorshkov, Commander-in-Chief of the Soviet Navy, says his service has a distinct advantage. *Jane's Fighting Ships*, an impartial judge, agrees with Admiral Gorshkov. Thus, the argument goes back and forth with adherents and theories to back either conclusion. Until this near and dangerous balance of naval forces is further disturbed by increases of Soviet naval capability, the edge may actually depend upon which country employs its force in the most effective manner. This could also be stated another way: the advantage belongs to the country which employs its forces with sufficient cover and deception to gain the greatest measure of strategic surprise and tactical advantage in a conflict of national interests. If our own national actions make the vital weapon of stratagem no longer available for strategic implementation, then there is little doubt as to where the power advantage will be in a contest of naval strength between the United States and the Soviet Union.

Despite our present ascendancy in science and technology, where history repeats itself with monotonous regularity in all time, geographical areas, and diverse forms of societies, we cannot consider ourselves totally immune from further repetition. The same fire that burned the hands of the cavemen will burn ours. We may control it in a more sophisticated manner, but the ever-present danger remains. With an unbroken chain of ideological and national wars stretching back over 8,000 years, there is little reason to believe they will suddenly and magically cease for our generation or even our nation. This is particularly true in view of present world conflict indicators. And, if we can determine any basic facts from the history of warfare, the foremost is that secrecy and deception have been the guiding principles and major strengths of imaginative and victorious commanders.

Examples of this begin with our earliest records of the past. Field Marshal Viscount Montgomery notes in *A History of Warfare* (Cleveland: The World Publishing Co., 1968) that the battle of Kadesh is one of the earliest conflicts about which we possess sufficient recorded information to reconstruct. This battle was fought in 1288 B.C. between the Egyptian armies of Ramses II and the Hittites. In the ancient encounter, the Hittite general Mutallu gained an initial advantage in the fighting by providing the Egyptian commander with erroneous information on Hittite troop dispositions. He did this through the simple expediency of using two Hittite "deserters." His actions were simple but effective.

The Old Testament is replete with accounts of battles won by subterfuge and misdirection as the Israelites moved out of Egypt and captured Jericho and land as far north as Lebanon and Mt. Hermon.

Sun Tzu, in his essays on *The Art of War* (translated by Samuel B. Griffith, Oxford: Clarendon Press, 1963) said: "All warfare is based on deception." These essays, written in the fourth century, B.C., comprise the earliest surviving monograph on military doctrine. They subsequently influenced the major aspects of Chinese and Japanese military thought, planning, and action, and they also form the source of Mao Tse-Tung's strategic theories and tactical doctrines. Sun Tzu, whose writings stress deception and surprise as the two key principles of warfare, actually condemns the leader who ignores the necessity for such actions and buys victory with lives rather than cunning.

The listings of devious actions to cloak military intentions continue unbroken through the ages: the Trojan horse, the destruction of the beached Athenian fleet at Aegospotami by the Spartan Admiral Lysander, the desert maneuvers of Lawrence of Arabia, and thousands of others. All were based on variations of basic patterns of strategic and tactical deception. And, in our own times, the quest for victory through surprise has continued. Indeed, we have reached even greater heights of sophistication, because the new methods of rapid communication and broad world news coverage lend themselves well to this facet of warfare.

In World War II, we had carefully orchestrated plans of strategic deception that involved misinformation for the press, radio, national leaders, and even friendly area military commanders. These extremely complex and imaginative plots produced such classic misdirections as "the man who never was" for the protection of landings at Sicily and various imaginative covers for other Allied actions.[1] In one of the cover plans for the landings at Normandy, Operation Fortitude I, a professional actor, Lieutenant Clifton James, impersonated Field Marshal Bernard Law Montgomery in well-publicized visits to Gibraltar and Algiers in order to focus German attention on the Mediterranean. Throughout World War II, the Allied press and public were continually fed a mixture of truth and lies to create confusion in the minds of our enemies as to our real intentions. The reason was stated beautifully by Winston Churchill at the 1943 Teheran conference: "In war," he said, "truth is so precious that she should always be attended by a bodyguard of lies."

There are those who would question the ethics of such actions. Their concept of mass opinion reaction within the international community drives them to promote their own personal views of moral conduct as a universal standard. Ethics, however, are not in question in these instances; for, the ethical acceptance of military deception has been long acknowledged. In his *International Law: Fourth Edition* (New York: Meredith Publishing Co., 1965), Charles Fenwick states: "Ruses of war or stratagems were recognized by international law as legitimate means of deceiving the enemy, and their customary use was confirmed by the Hague Regulations." Their use does exclude violations of "good faith" in areas such as misuse of flags of truce or the Red Cross emblem. Apart from this, deceit is accepted in warfare and, as he further notes, "under the name of 'strategy' it was the deciding factor of many battles."

The problem in our times, however, is that wars are no longer absolutely definable in terms of open hostility. Like people, they come in all shapes, sizes, temperaments and colors. Former Premier Nikita Khrushchev of the Soviet Union expressed the Communist Party's attitude on the future nature of the continuing conflict as: "Coexistence is a continuation of the struggle between the two social systems, but a struggle by peaceful means, without war . . ." However, he also made it clear his party and government would support the "just" wars of "national-liberation movements." Also, Marshal of the Soviet Union V. D. Sokolovskii stresses in *Soviet Military Strategy* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1963): "Lenin's concept of war as a continuation of class politics with the instruments of violence and the concept of war as armed combat for definite political goals still remain valid in the present epoch."

To demonstrate that these are long-range policies of the Communist Party that have not been affected by the present détente, Dr. Zbigniew Brzezinski, in the fall 1974 issue of the *National Security Affairs Forum* quotes a leading East European party secretary at a recent East European-Soviet party conference as saying: "Peaceful coexistence does not mean and never will mean class peace. It does not remove the antithetical contradictions between socialism and capitalism. It is a form of class struggle, a historical form of contest between socialism and capitalism, developing itself on all platforms—economic, political, diplomatic and ideological. Peaceful coexistence is a form of struggle."

In effect, what we are experiencing in the way of détente is only a result of Soviet accommodation to political realities and U.S. military strength. It is simply a more effective way of continuing the class struggle between socialism and capitalism at this particular time in history. There is no indication that the basic goals or policies of the Soviet Union have changed, that the U.S.S.R. views détente as anything more than another tactical accommodation to the tide of world politics, or that it views détente as enduring. This view was certainly implied by Soviet General Secretary Leonid I. Brezhnev in a speech to the World Peace Conference in Moscow. "Of course," he said, "we are realists and we cannot fail to see facts of a different sort. We all well know that wars and acute international crisis are far from being a matter of the past." Thus, regardless of the hopeful ambitions of those who consider us to be in a time of "peace," all evidence points toward a continuation of the ideological struggle with political tactics that will be instantly backed by force where it is profitable.

In truth, we have been well notified that the national and ideological conflict will be continuous, widespread, and sustained. How we react to the challenge is our business. Like a guest at a buffet, we can partake or not. It is our choice. However, we have been adequately warned that the pressure for domination will be steady and unyielding. And, just as a rose by any other name will smell as sweet, a war by any other name can be just as destructive to national survival.

Recognizing the true nature of the challenge we face, our efforts in all areas must be structured so as to counter that challenge. In particular, our naval strength must be sufficiently viable to deter or counter the Soviets from using their growing Navy in ways detrimental to our national interests. Our fleet's strengths, weaknesses, plans, and tactical innovations cannot be made readily available to the Soviets without seriously inhibiting our capacity to serve as an effective counter.

This fact seems so evident that it is difficult to comprehend the opposing viewpoint. In fact, the only way to put the argument for full freedom of information on our military affairs in any reasonable perspective is by viewing our national goals in total isolation from the ambitions of all other nations. Yet, this is patently impossible under present world conditions. Consequently, the question arises as to why this concept has gained credibility in the minds of the public.

Several hypotheses can be developed to account for this present attitude of mistrust. However, most of them appear to have resulted from a basic misunderstanding of the military role in modern government. The first step in solving the problem, then, must be to correct this confusion.

The military is an arm of the government and must be responsive to the civilian leadership. It may advise on national policy; but, under our democratic system, it can never make it. The civilian leadership is elected by the people, and the military must accept and be responsive to those individuals as reflecting the desires of the majority of our citizens. The neutral political nature of the military has been recognized in the constitutional basis of our democratic society and is one of our greatest strengths, for it allows the people to control the military and not vice versa. Prior to Vietnam, this fact was never in question, and the military was not tainted by shifting political goals of national parties. Military accommodation to these changes was considered not only normal, but desirable.

During the Vietnam War, however, the separation of civilian and military direction in pursuing national objectives became confused. The long years of fighting placed the military in a prominent national position and obscured the fact that the military conducted the war in accordance with civilian political decisions. Further, and most important, civilian decisions and military actions became so closely aligned in the public's mind that people made no effort to separate them. This concept was also fostered by the antiwar movement that found the military a visible and easy target to attack. The success of the war critics' efforts is readily apparent from the condemnation of the military over the Cambodian bombing.

It has been stated by civilian leaders from the Secretary of Defense to the President that they approved the Cambodian bombing operation as necessary for the protection of American troops. They also approved its secrecy as a political measure to protect the Cambodian government. The cover plan for the operation was developed by the military in line with past scenarios and was not as ambitious or broad in nature as similar covers for military operations in World War II or Korea.

Yet, at the time the plan was exposed, it was widely publicized as an example of unwarranted deception by the military against the American people. The fact that this tactic had many historical precedents, and in World War II or the Korean War would have been heralded as a brilliant cover plan for the protection of American lives and an Allied government, was lost in the glare of present political attitudes. Under the totally new concept of "open information" on military operations, the actions of our commanders were considered deceitful toward their own country, and the military was pictured in conflict with the best interests of the American people.

This situation has now progressed to the point where the Department of Defense and the military services live in the strange light of inquiry on almost every aspect of our defense efforts. Even attempts to cover operational movements of military units are met with opposition from the press and some members of Congress. This opposition highlights the fallacy of including tactical and strategic deception in the freedom of information program. Under this concept, the U.S. Navy would lie open and exposed to the Soviet Fleet. Our opponents would know our every move, and our ships would be continuously pinpointed. Our ability to use the vast breadth of the world's oceans as cover would be ended, and the tactical advantage of mobility virtually lost.

The implications of this growing demand for open U.S. military plans, openly arrived at, in any developing or future conflict are readily apparent. In effect, if unchecked, this demand could force us to play in the international "balance of power" arena with our national military thoughts, abilities, and actions completely exposed, while our opponents hide theirs. If continued, we would no longer be able to rely safely on any military course of action other than massive power and head-on assault. This is a doctrine that has proven costly in terms of money, men, and defeat throughout history. It is a doctrine our present Navy has neither the men, forces, nor weaponry to implement and survive.

To correct this situation, the military must first make it clear in the minds of the American people that it has no fear of close inspection of its plans, policies, or programs. What it fears is their exposure to our national enemies. Our mission is to protect our people, our nation, and our national institutions. None of our defense efforts should be in conflict with this mission, and we have to make this understood. We must attempt to develop a measured, realistic, and honest program to explain to the American people the great need for the military to plan and operate within the constraints forced on us by foreign pressures. Our approach must be open and direct in nature and designed to reaffirm to the American people that the military's place in American government is solely that of an instrument of national policy, under civilian control. We should actively seek to develop with the executive and congressional branches a system of inspections and verifying procedures that can be conducted in executive sessions. The civilian and military members of such committees and teams would hold impeccable credentials of public trust. Through them, any abuses of our democratic system by individual military personnel can be exposed, while the major activities of our defense effort can be conducted in the secrecy required for national survival.

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[1] This scheme was a bizarre deception wherein the British searched for and found an appropriate cadaver which, given a spurious identity, was dressed in the uniform of a Royal Marine courier and allowed to wash up on a Spanish beach carrying letters from Lord Louis Mountbatten and General Sir Archibald Nye which suggested the Allies planned to land at Sardinia rather than Sicily.

Perhaps, then, we ought to think of the military services and of those committees and the team appointed to supervise them as having the same kind of relationship as exists between an accused, innocent man and an honest lawyer. The man would not be accused were it not for a misunderstanding, and—in order to clear it up—he must withhold nothing from his attorney who is bound, as the committees and team would be bound, to an oath of silence.

The analogy is a valid one. The military is on trial. Many institutions are on trial. And one of the legacies of Watergate is the presumption not of innocence, but of guilt—and not only of those on trial, but of those who defend them.

THE EPA AND LAND USE CONTROLS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. CRANE. Mr. Speaker, the Environmental Protection Agency, or so the Congress thought, was established for the very specific purpose of administering the National Environmental Protection Act, followed in subsequent years by legislation mandating clean air and water.

Bureaucrats have, as they have in every agency of Government, taken the specific congressional mandate only as a starting point for their activities. They have broadly interpreted the language of statutes to provide themselves with power and authority never intended by the elected representatives of the people. They have assumed a legislative function by making rules and regulations rather than carrying them out.

In the case of EPA, however, a new function has been added to this list of activities—lobbying for legislation in an entirely different area than outlined in their own mandate—namely, land use legislation.

In an important study recently released by the U.S. Industrial Council, journalist Solveig Eggerz details the manner in which EPA has pursued its lobbying activities.

In 1973, for example, Dr. Stanley M. Greenfield, Assistant Administrator of EPA's Office of Research and Monitoring, told an American Society of Planning Officials Conference that—

> It would be a shame if EPA were not given a role to play in land use planning.

In a November 1974 statement EPA announced its intention to shift from a "pollution abatement mind set to a pollution prevention focus." EPA even formed a land use task force which called for "a dramatic change in the attitude with which Americans view the land" and urging "a new interpretation of the 'taking' clause of the Constitution."

At the 1973 EPA National Conference on Managing the Environment, Acting Administrator Robert W. Fri said he was looking forward toward a society "more orderly and efficient than the one we have now."

Clearly, nonelected Government adminstrators are using their jobs not to fulfill the will of the people as expressed in the Congress, but to advance their own will—at the taxpayers' expense.

What Mr. Fri was saying, Miss Eggerz writes in her study, "is bureaucratese for EPA's intention to involve itself more intensively in restricting private activities in the interest of the 'public good.' Since then EPA has become deeply involved in regulating land use and in promoting land use legislation as an umbrella act to solve the chaos created already by existing environmental legislation."

If anyone doubted the need to end the Environmental Protection Agency, a careful reading of Miss Eggerz' study, "The EPA and Land Use Controls," will be very convincing.

Freedom and the right to private property go hand in hand. Those who seek to eliminate property rights today, will seek to eliminate other freedoms tomorrow. There is possible excuse for employees of the U.S. Government to use the taxpayers' money to devise ways in which to eliminate the property rights of those very taxpayers.

I wish to share with my colleagues the study, "The EPA and Land Use Controls: A Federal Agency's Expansion From Pollution Regulation To Policing Of Private Land Uses," by Solveig Eggerz, published by the U.S. Industrial Council, 918 Stahlman Building, Nashville, Tenn., and insert it into the RECORD at this time:

THE EPA AND LAND USE CONTROLS

(By Solveig Eggerz)

The Environmental Protection Agency was created with the emergency mandate to remedy the pollution of the environment. On January 1, 1970, EPA was given the National Environmental Protection Act to administer, followed in subsequent years by legislation mandating clean air and water. These acts and other vaguely formulated legislation such as the Noise Control Act of 1972 have served to extend EPA's influence into almost every aspect of individuals' lives.

With its mandate for fighting pollution, a goal with a potential for tyranny as far reaching as a crusade against sin, EPA has developed from a remedial unit to a powerful bureaucracy with regional offices across the country. EPA's step from pollution regulator to a land use policing agency was a logical one perhaps, since land use restrictions have already been federally imposed under the Clean Air and Water Acts and the Noise Control Act.

Idyllic phraseology such as EPA's stated purpose of creating "harmony between man and nature" has propelled EPA into land use planning. In fact EPA officials' justification for the extension of anti-pollution measures into land use control has helped prepare a favorable atmosphere for national land use legislation. In January 1972 then EPA Administrator, William Ruckelshaus, told the National Association of Homebuilders that "there's little hope of permanently cleaning our waters, or purifying our turbid air, or handling solid waste without at the same time confronting problems of land use planning."

In 1973, Dr. Stanley M. Greenfield, Assistant Administrator of EPA's Office of Research and Monitoring, told an American Society of Planning Officials Conference that "It would be a shame if EPA were not given a role to play in land use planning." In its November 1974 land use policy statement, EPA emphasized the need to coordinate environmental programs and announced EPA's intention to shift from a "pollution abatement mind set to a pollution prevention focus."

Although EPA officials have raised objections to present land use legislation on the grounds that it doesn't specifically coordinate with environmental legislation, EPA has supported the general idea of land use legislation from the start. Among EPA's key spokesmen for land use legislation has been its administrator, Russell Train, formerly head of the Council for Environmental Quality, where he supervised the drafting of the administration's first land use bill in 1971.

Representing the CEQ, Train testified before the U.S. Senate Committee on Interior and Insular Affairs in the 92nd Congress on behalf of land use bills S. 632 and S. 992. He told the Committee:

"It is a matter of urgency that we develop more effective nationwide land use policies and regulations. Land use is the single most important element affecting the quality of our environment which remains substantially unaddressed as a matter of national policy."

When Train moved from CEQ to EPA in 1973 he brought with him several assistants from CEQ, who have worked to increase EPA's sphere of influence. However, EPA's practice of commissioning studies as a means of justifying the agency's involvement in land use control and support of land use legislation, predates Train's arrival.

In November 1971 EPA established the National Youth Advisory Board, which formed a Land Use Task Force to prepare a land use study for the EPA administrator. The Task Force, which was advised by a Land Use Council consisting of members of major EPA program offices, was asked to "bring the responsibilities and goals of the Environmental Protection Agency into the perspective of land use."

Predictably, the Task Force's subsequent 1973 study called for a "new land ethic" whereby land is viewed as a resource rather than a commodity, and concluded that EPA needed a land use office and that the nation needed a land use bill. Executive Secretary of the National Youth Advisory Board was Robert H. Knight of EPA's Office of Enforcement and General Counsel.

Calling for "a dramatic change in the attitude with which Americans view the land," the Task Force report states:

"A new interpretation of the 'taking' clause of the Constitution would be a significant step in realizing a new land ethic as well as allowing for more rational land use planning and management . . .

"Citizens in this country must adopt the attitude that the land which supports all human life belongs to all mankind—not just to those few who can afford to purchase little pieces for themselves . . .

"It is time to change some of the outdated attitudes and legal concepts which govern our land use decision making and prevent public and private institutions from effectively dealing with land use problems."

EPA funds have been used in a less direct way to promote land use legislation. An example is the $217,000 grant given by EPA's Public Affairs Office to the Conservation

Foundation to conduct a series of ten Water Quality Training Institutes.

Among the resource materials were *How to Plan an Environmental Conference*, written several years ago by the League of Women Voters under an EPA grant. The goal of the EPA-funded Training Institutes was to train participants in affecting "water pollution control decisions." The programs suggested that citizens ask the following questions of their state and local governments:

"Does the state have a land use planning program? Does it give the state an active role, or is it advisory to other state agencies and local governments?

"What land use controls does the state have? General? Zoning? Critical environmental area program? Wetlands? Other?

"Have local governments of regional agencies the statutory authorities necessary to regulate land use to achieve water quality objectives?"

In 1972 the EPA commissioned the Argonne National Laboratories to prepare a document designed to serve as a briefing document for meetings of the President's Water Pollution Control and Air Quality Advisory Board meetings in March 1972.

Entitled *The Relationship Between Land Use and Environmental Protection*, the study cites previous legislation such as the Clean Air and Water Acts, the Refuse Act and Solid Waste Disposal Act as examples of "statutory authority for EPA to utilize land use as a pollution control method." The section "Federal Authority to Establish Environmental Land Use Controls," reads:

"Although EPA now has the legal authority to establish land use controls, this authority is at present limited, indirect and in some areas implicit rather than explicitly defined . . . Thus EPA currently shares the responsibility for land use planning and management with a number of other federal agencies having widely divergent missions."

EPA again dipped into its research funds to promote the "quality of life" concept as yet another environmental goal in the name of which land use may be restricted.

The study, prepared in 1973 by the consulting firm Booz, Allen Public Administration Services, Inc., appeared as a book entitled *The Quality of Life Concept: A potential New Tool for Decisionmakers*, and was based on EPA's Quality of Life Symposium held in Warrenton, Virginia in 1972.

Lance Marston, head of the Office of Land Use and Water Planning in the Department of Interior, the unit which hopes to administer a national land use bill, is among those to adopt Quality of Life as part of his environmental vocabulary and link this concept with land use legislation.

Marston told an environmental conference in Arkansas in November 1973 that:

"Basic reform of our existing land use practices clearly is essential for achieving those desirable, but often elusive, quality of life goals we all want."

Another study, *Interrelationships of Land Use Planning and Control to Water Quality, Management and Planning*, was prepared for EPA by Alan M. Voorhees and Associates in conjunction with Environments for Tomorrow, and released in April 1973.

Key Land Issues Facing EPA was prepared for EPA by the Boston Research Institute, Harbridge House, Inc. in 1974.

"Why should EPA be concerned with land use?" the Harbridge House land use study asks and answers its questions with a somewhat forced analogy between the Hippocratic Oath and the Environmental Protection Act, where EPA officials are likened to doctors, practicing preventive medicine. The study cites the need for "establishing a balance between the needs of man and the utilization, conservation and preservation of the environment," and cites Sen. Henry Jackson's National Land Use Policy and Planning Assistance Act as the answer.

Expressing support for EPA's land use activities, the Harbridge study states that "the interrelationships between land use and environmental quality, the need to see land use in terms of the intermediate perspective, and the timing considerations, especially vis-a-vis establishing a proper foundation for implementation of LUPA (Land Use Planning and Assistance Act), are all strong points in favor of EPA identifying and addressing significant land use issues."

Another study commissioned by EPA cites the need for land use legislation as a means for coordinating EPA's other activities. *EPA Authority Affecting Land Use* was prepared in 1974 by land use lawyers. Fred Bosselman, David Callies and Duane Feurer of the Chicago law firm Ross, Hardies, O'Keefe, Parsons and Babcock.

The study points to land use legislation as "one mechanism giving EPA greater authority to implement some degree of coordination between land use and environmental control programs." The study attempts to convince the reader that, in the absence of a land use bill, EPA cannot carry out its environmental mandate. It reads:

"The purpose behind the creation of EPA was to bring together the major environmental programs in a coordinated manner. Given the purpose for which EPA was created, and the broad responsibilities given it by Congress, it is clearly within the Agency's power to encourage the states to undertake their own program of coordinated environmental planning and regulation."

The study presents the coordination of environmental planning with state land use planning programs as an ideal and places the omnious question: "Could EPA go further? Could it require such coordination as a condition of approving state plans under the Clean Air Act or Water Pollution Control Act?" It is precisely this form of coordination which Administrator Train has called for at hearings on land use legislation.

Study authors, Bosselman and Callies, were also commissioned several years ago by CEQ to write *The Quiet Revolution*, which served as a handbook for administration proponents of land use legislation in 1971.

Bosselman and land use lawyer John S. Banta are also responsible for the CEQ-commissioner study, *The Taking Issue*, which suggests bypassing the protective "taking clause," provided property owners under the Fifth Amendment. The study is heavily biased for the "public interest" against the private property owner, where environmental issues are at stake.

The administration's land use bill was prepared by the Interior Department in December 1974, but has not been introduced as legislation. It calls for $450 million over a period of eight years to assist states in setting up land use planning programs and is far more loosely written than previous land use legislation.

In a letter of January 9, 1975, Russell Train informed the Office of Management and Budget that EPA "strongly" supports land use legislation but that it rejected Interior's draft for various reasons. Expressing the sentiment that the draft was too pro-development and not inclusive enough of EPA programs, Train wrote that, "we view the draft bill as having the potential for inviting the states in their land resources management programs to ignore or thwart environmental programs."

The present emphasis at EPA is on the comprehensive treatment of land, water and air issues and a coordination of those programs. *Land Use Planning Reports*, April 14, 1975, cities "broad efforts" by EPA to coordinate the impact of its programs on land use planning. Toward this end EPA has launched a $800,000 research and development effort on land use planning and established a land use office in EPA's administrator's office to coordinate EPA's land use programs.

At the 1973 EPA National Conference on Managing the Environment, Acting Administrator Robert W. Fri, said he was looking toward a society "more orderly and efficient than the one we have now."

This is bureaucratese for EPA's intention to involve itself more intensively in restricting private activities n the interest of the "public good."

Since then EPA has become deeply involved in regulating land use and in promoting land use legislation as an umbrella act to solve the chaos created already by existing environmental legislation.

EMERGENCY MEDICAL SERVICES AMENDMENTS OF 1975

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. FLORIO. Mr. Speaker, I am pleased to introduce the proposed Emergency Medical Services Systems Amendments of 1975 and am gratified to be joined in introducing this legislation by Congressman PAUL ROGERS, chairman of the Health Subcommittee of the Interstate and Foreign Commerce Committee, and Congressman ROBERT H. MOLLOHAN, both of whom have contributed greatly in the establishment of emergency medical services systems throughout this country.

During the past several years, I have become increasingly aware of the number of deaths and disabilities resulting from medical emergencies.

Estimates are that 15 to 20 percent of the deaths due to traumatic injury and heart attack could be saved by improved emergency medical services. This would result in the saving of approximately 60,000 lives. Many of these deaths could be prevented with an appropriate interhospital system to identify and transport the victim to intensive care facilities. Also, a number of these deaths could be prevented with emergency medical care administered immediately at the scene of the accident.

In 1973, the Congress took a giant step to alleviate this situation by enacting emergency medical services legislation. This bill authorized grants and contracts to eligible entities for projects for the planning, establishment and expansion of emergency medical service systems. Additionally, this legislation provides a program for training emergency service attendants, technicians, and other health care personnel in the techniques of providing emergency medical care. Finally, the law provides for grants and contracts for research to develop methods and techniques for improving the delivery of emergency medical services, particularly in rural areas.

Since the enactment of this legislation, 89 regions have begun planning for an emergency medical services system, 93 regions are now able to take the first steps toward establishing and operating a system and 27 regions are in the process of expanding and improving existing systems. This means 209 regions are being assisted in developing comprehensive systems for providing emergency medical services to their residents and to visitors to their communities.

I would also like to take his opportunity to express my appeciation to Senator ALAN CRANSTON who has assisted greatly in the formulation of this legislation.

Mr. Speaker, I believe that the progress that has been made under the authorities of Public Law 93-154 fully supports its extension at this time.

A summary of the bill follows:

EMERGENCY MEDICAL SERVICES AMENDMENTS OF 1975

SUMMARY OF BILL

I. Extension of Appropriation Authorities (Section 1207):

The proposed legislation (section 8(1)) would extend authorizations of appropriations (section 1207(a)) to support section 1202 grants (feasibility studies and planning), through fiscal year 1977 and to support section 1203 grants (establishment and initial operation) and 1204 grants (expansion and improvement through fiscal year 1979, in connection with emergency medical systems, at authorizations of $40,000,000 for fiscal year 1977, $50,000,000 for fiscal year 1978, and $60,000,000 for fiscal year 1979.

Authorizations of appropriations for research (section 1207(b)) would also be extended (by section 8(6)) through fiscal year 1979 at the present $5,000,000 for each fiscal year.

II. Grants and Contracts for Establishment and Initial Operation (Section 1203):

Several amendments (section 4) would be made to section 1203 authorizing grants and contracts for the establishment and initial operation of an emergency medical services system. One change would permit first-year grants and contracts to be made for establishment and initial operation of an emergency medical services system through fiscal year 1978. Current law permits first-year grants and contracts only through fiscal year 1975. Another change would require the communities supported under this authority to submit reports of the results of the efforts supported by Title XII funds to the Secretary and the Interagency Committee on Emergency Medical Services (established by PL 93-154). This change is modeled on provisions currently applicable only to section 1202 planning grants and contracts.

III. Grants and contracts for Expansion and Improvement (Section 1204):

Amendments (section 5 (1) and (27)) are made to section 1204 to clarify that grants and contracts for the expansion and improvement of emergency medical services systems may be made for two consecutive years, and to authorize federal matching of 50 percent in the first year and 25 percent in the second, except in the case of those applications which demonstrate an exceptional need for financial assistance, in which case the first-year federal matching could be 75 percent and the second year could be 50 percent.

These levels of federal-local matching are identical to the respective first and second year levels authorized for grants for the establishment and initial operation of emergency medical services systems by section 1203.

IV. Grants and contracts for Research (Section 1205):

Section 1205 would be amended (by section 6) to clarify that research contracts may be made to public entities as well as to private nonprofit entities.

V. General Provisions Respecting Grants and Contracts (Section 1206):

Amendments (section 7) of a clarifying, remedial, or technical nature are made to section 1206 setting forth requirements for applicants for grants under Title XII. Among these are amendments (section 7(2)) to specify that a communications system in an emergency medical services system must have the capability to deal with any language barriers which might confront major population groups with limited English-speaking abilities in the area served.

Section 1206(f)(2) is amended (section 7(4)) to permit the waiver of the application of its provisions where an applicant has demonstrated to the satisfaction of the Secretary that adherence to its provisions would be futile or unreasonably burdensome. The existing provision prohibits support under section 1203 or 1204 for training programs unless the applicant has first submitted an application for training program support under Title VII or VIII of the Public Health Service Act (authorities for support for training of health care personnel) and such application was not approved, or was but not funded. This prohibition has created several problems in implementation. Applicants have been required to undergo the cost and time involved in submitting applications to several reviewing authorities, many of which have differing cut-off dates for submission of applications. The restrictiveness of this provision has made it very difficult for an applicant to know precisely the status of his applications at any specific time in order to determine his eligibility for training support under Title XII.

VI. Conforming Amendments (section 2, 3, and 7(1)):

Title XII is also amended to make all references to section 314(a) and 314(b) agencies conform to the appropriate new entity established and designated pursuant to title XV of the Public Health Service Act, as added by Public Law 93-641.

BILL INTRODUCED TO ESTABLISH MID-DECADE CENSUS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mrs. SCHROEDER. Mr. Speaker, I am pleased to introduce today on behalf of myself and other members of the Subcommittee on Census and Population, a bill to establish a mid-decade census. This bill is a clean, amended version of H.R. 2556, and sections which did not pertain to the taking of a mid-decade census were deleted from this bill.

The purpose of a mid-decade census is to provide revised data every 5 years, instead of every 10, to all sectors of our society and economy which require census statistics. The first legislation to establish a mid-decade census was introduced over 100 years ago to commemorate this Nation's centennial celebration. For the last 14 years there have been legislative efforts spanning 6 Congresses to establish some kind of mid-decade program.

In a nation as mobile as ours, there is a great need to accurately assess increases and trends in population, including the changing character and needs of our population, the migration patterns of the society, and so on. The present decennial census alone cannot possibly properly monitor these trends as census data begin to lose their accuracy and statistical desirability for our day to day needs very soon after it is gathered.

In addition there is growing dependence upon census data for the allocation of Federal funds, and it seems obvious these data must be as up to date and accurate as possible in order that these funds be distributed equitably. I do not believe that we can be fully satisfied with estimates, projections or even sample surveys as a basis for the disbursement of Federal money.

Mr. Speaker, the text of the bill follows:

H.R. 11337

A bill to amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of title 13, United States Code, relating to definitions, is amended to read as follows:

"§ 1. Definitions

"(a) As used in this title, unless the context requires another meaning or unless it is otherwise provided—

"(1) 'Bureau' means the Bureau of the Census; and

"(2) 'Secretary' means the Secretary of Commerce.

"(b) As used in this subchapter, 'respondent' includes a corporation, company, association, firm, partnership, proprietorship, society, joint stock company, an individual, or other organization or entity which reported information, or on behalf of which information was reported, in response to a questionnaire, inquiry, or other request of the Bureau.".

SEC. 2. (a) Section 5 of title 13, United States Code, relating to scheduling and inquiries, is amended—

(1) in the section heading, by striking out "Schedules" and inserting in lieu thereof "Questionnaires"; and

(2) in the text thereof, by striking out "schedules" and inserting in lieu thereof "questionnaires".

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"5. Schedules; number, form, and scope of inquiries."

and inserting in lieu thereof—

"5. Questionnaires; number, form, and scope of inquiries.".

SEC. 3. (a) Section 6 of title 13, United States Code, relating to requests for information, is amended to read as follows:

"§ 6. Information from other Federal departments and agencies; acquisition of reports from other governmental and private sources

"(a) The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government, or of the government of the District of Columbia, for information pertinent to the work provided for in this title.

"(b) The Secretary may acquire, by purchase or otherwise, from States, counties, cities, or other units of government, or their instrumentalities, or from private persons and agencies, such copies of records, reports, and other material as may be required for the efficient and economical conduct of the censuses and surveys provided for in this title.

"(c) To the maximum extent possible and consistent with the kind, timeliness, quality, and scope of the statistics required, the Secretary shall acquire and use information available from any source referred to in subsection (a) or (b) of this section instead of conducting direct inquiries." .

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"6. Requests of other departments and offices for information, acquisition of reports from governmental and other sources."

and inserting in lieu thereof—

"6. Information from other Federal departments and agencies; acquisition of reports from other governmental and private sources.".

SEC. 4. (a) So much of section 8 of title 13, United States Code, as precedes subsection (d) thereof is amended to read as follows:

"§ 8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received

"(a) The Secretary may, upon written request, furnish to any respondent, or to the heir, successor, or authorized agent of such respondent, authenticated transcripts or copies of reports (or portions thereof) containing information furnished by, or one behalf of, such respondent in connection with the surveys and censuses provided for in this title, upon payment of the actual or estimated cost of searching the records and furnishing such transcripts or copies.

"(b) Subject to the limitations contained in sections 6(c) and 9 of this title, the Secretary may furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any respondent, and may make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, State or local agencies, or private persons and agencies, upon the payment of the actual or estimated cost of such work. In the case of nonprofit agencies or organizations, the Secretary may engage in just statistical projects, the purposes of which are otherwise authorized by law, but only if the costs of such projects are shared equitably, as determined by the Secretary.

"(c) In no case shall information furnished under this section be used to the detriment of any respondent or other person to whom such information relates.".

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"8. Certified copies of certain returns; other data; restriction on use; disposition of fees received."

and inserting in lieu thereof—

"8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received.".

SEC. 5. (a) Section 141 of title 13, United States Code, relating to censuses of population etc., is amended to read as follows:

"§ 141. Population and other census information

"(a) The Secretary shall, in the year 1980 and every ten years thereafter, take a decennial census of population as of the first day of April, which date shall be known as the census date, in such form and content as he may determine, including the use of sampling procedures and special surveys. In connection with any such census, the Secretary is authorized to obtain such other census information as necessary.

"(b) The tabulation of total population by States under subsection (a) of this section as required for the apportionment of Representatives in Congress among the several States shall be completed within eight months after the census date and reported by the Secretary to the President of the United States.

"(c) Without regard to subsections (a) and (b) of this section, the Secretary, in the year 1985 and every ten years thereafter, shall conduct a mid-decade census of population in such form and content as he may determine, taking into account the extent to which current information is available. The census shall be taken as of the first day of April, which date shall be known as the mid-decade census date.

"(d) Information obtained in any mid-decade census shall not be used for apportionment of Representatives in Congress among the several States, nor may such information be admitted as evidence or used for any purpose, except as otherwise provided in this subsection, in any action, suit, or other judicial proceeding in which the constitutionality of a State's congressional redistricting plan is at issue. If a State creates a congressional redistricting plan which is based upon any mid-decade census, this subsection shall not apply to prohibit the admission as evidence, or other use, of such information in any judicial proceeding in which the validity of such plan is at issue.

"(e) With respect to each decennial census and mid-decade census conducted under subsection (a) or (c) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census—

"(1) not later than three years before the appropriate census date, a report containing the Secretary's determination of the subjects proposed to be included, and the types of information to be compiled, in such census;

"(2) not later than two years before the appropriate census date, a report containing the Secretary's determination of the questions proposed to be included in such census; and

"(3) after submission of a report under paragraph (1) or (2) of this subsection and before the appropriate census date, if the Secretary finds new circumstances exist which necessitate that the subjects, types of information, or questions contained in reports so submitted be modified, a report containing the Secretary's determination of the subjects, types of information, or questions as proposed to be modified.

"(f) As used in this section, 'census of population' means a census of population, housing, and related matters.".

(b) The table of sections of chapter 5 of title 13, United States Code, is amended by striking out—

"141. Population, unemployment, and housings."

and inserting in lieu thereof—

"141. Population and other census information.".

SEC. 6 (a) Section 191 of title 13, United States Code, relating to geographic scope of censuses, is amended to read as follows:

"§ 191. Geographic scope of censuses; mid-decade censuses of population.

"(a) Each of the censuses authorized by this chapter shall include each State, the District of Columbia, the Virgin Islands, Guam, and the Commonwealth of Puerto Rico, and as may be determined by the Secretary, such other possessions and areas over which the United States exercises jurisdiction, control, or sovereignty. Inclusion of other areas over which the United States exercises jurisdiction or control shall be subject to the concurrence of the Secretary of State.

"(b) For censuses taken in the Virgin Islands, Guam, or any possession or area not specifically designated in subsection (a) of this section, the Secretary may use census information collected by the Governor or highest ranking Federal official, when such information was obtained in accordance with plans prescribed or approved by the Secretary.

"(c) If, pursuant to a determination by the Secretary under subsection (a) of this section, any census is not taken in a possession or area over which the United States exercises jurisdiction, control, or sovereignty, the Secretary may include data obtained from other Federal agencies or government sources in the census report. Any data obtained from foreign governments shall be obtained through the Secretary of State.".

(b) The table of sections of chapter 5 of title 13, United States Code, is amended by striking out—

"191. Geographic scope of censuses."

and inserting in lieu thereof—

"191. Geographic scope of censuses; mid-decade censuses of population.".

SEC. 7. Section 195 of title 13, United States Code, relating to use of sampling, is amended to read as follows:

"§ 195. Use of sampling

"Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out the provisions of this title.".

SEC. 8. (a) Subchapter V of chapter 5 of title 13, United States Code, is amended by adding at the end thereof the following new section:

"§ 197. Special censuses

"The Secretary may conduct special censuses for the government of any State, or of any county, city, or other political subdivision within a State, for the government of the District of Columbia, and for the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, on subjects covered by the censuses provided for in this title, upon payment to the Secretary of the actual or estimated cost of each such special census. The Secretary shall certify the results of each such special census as 'Official Census Statistics'. These statistics may be used in the manner provided by applicable law.".

(b) The table of sections of subchapter V of chapter 5 of title 13, United States Code, is amended by adding at the end thereof—

SEC. 9. Section 214 of title 13, United States Code, relating to wrongful disclosure of information, is amended to read as follows:

"§ 214. Wrongful disclosure of information

"(a) Whoever, being an employee referred to in subchapter II of chapter 1 of this title, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 9 of this title, publishes or communicates any information, the disclosure of which is prohibited under the provisions of section 9 of this title, and which comes into his possession by reason of his employment under the provisions of this title, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(b) Whoever, being an officer or employee of the Federal Government (other than an employee to whom subsection (a) of this section applies), publishes or communicates any information, the disclosure of which is prohibited under the provisions of section 9 of this title, and which comes into his possession by reason of his employment or office, shall be fined not more than $5,000 or imprisoned not more than five years, or both.".

SEC. 10. Section 221 of title 13, United States Code, relating to refusal or neglect to answer questions and to willful false answers, is amended—

(1) by inserting "or questionnaire" immediately after "schedule" in subsection (a) thereof;

(2) by striking out "or imprisoned not more than sixty days, or both" in subsection (a) thereof;

(3) by striking out "or imprisoned not more than one year, or both" in subsection (b) thereof; and

(4) by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, no person shall be compelled to disclose information relative to his religious beliefs or to membership in a religious body."

Sec. 11. Section 224 of title 13, United States Code, relating to failure to answer questions affecting companies, businesses, religious bodies, and other organizations and to willful false answers, is amended—

(1) by striking out "whether such request be made by registered mail, by certified mail, by telegraph, by visiting representative, or by one or more of these methods,";

(2) by striking out "schedule" and inserting in lieu thereof "schedule or questionnaire";

(3) by striking out "or imprisoned not more than sixty days, or both"; and

(4) by striking out "$10,000 or imprisoned not more than one year, or both" and inserting in lieu thereof "$1,000".

Sec. 12. (a) Section 225 of title 13, United States Code, relating to applicability of penal provisions in certain cases, is amended—

(1) by inserting "and questionnaires" immediately after "schedules" in subsection (a)(1) thereof; and

(2) by striking out subsection (b) thereof and by redesignating subsections (c) and (d) as subsections (b) and (c) relating to evidence, respectively.

(b) Section 241 of title 13, United States Code, relating to evidence, is amended by striking out "as authorized by section 224 of this title".

Sec. 13. If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

BOB CASEY TO BECOME A MEMBER OF THE MARITIME COMMISSION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. PICKLE. Mr. Speaker, it is difficult to believe that the Texas delegation can operate without the services of the able gentleman from Houston, the Honorable Bob Casey. We are happy for Bob and Hazel, but we are sad to know that Bob will not be casting votes with us here.

For many years Bob Casey has been the strong man of the Gulf coast area as far as our delegation is concerned. He is a knowledgeable legislator, perhaps one of the most experienced legislators in the Congress. During his service here he has made enduring friends who would fight for Bob Casey.

As is usually the case, Bob Casey has been able to stay in Congress all these years because he had the able assistance of his good wife Hazel. He has always had to work hard because he and Hazel have produced 10 children—and that did not give either of them any time to rest or take it easy. That challenge, though, has been good for them, and for their family, and it has been good for the Congress.

Whoever comes up from Houston to succeed Bob Casey will not take his place, but will find that Casey has earned an unusual niche of recognition and respect in this Hall. We are glad that he is going to stay in Washington as a member of the Federal Maritime Commission, but we will miss his commonsense sage judgment on legislative matters.

And his renown as a Congressman is exceeded only by his renown as a gentleman hunter and fisherman. We hope he will now have the time to devote more of his time in these pursuits.

THE NEED TO EXPAND AND ENHANCE THE ARMED FORCES DISCHARGE REVIEW PROCEDURES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. DOWNEY of New York. Mr. Speaker, on December 10, I introduced H.R. 11097, a bill to expand and enhance the effectiveness of the Armed Forces discharge review procedures. My bill is designed to insure that the review and correction of military discharges by the Armed Forces is conducted with greater uniformity and increased concern for post-service conduct. The bill provides for the consideration of mitigating and extenuating factors by the various discharge review boards and the issuance of an honorable discharge, limited, to veterans with less than honorable discharges.

H.R. 11097 is a comprehensive act to revise the Armed Forces discharge review procedures; it is not an amnesty bill. The bill combines the excellent and pioneering efforts of many of my distinguished colleagues—among them Congressmen Stokes, Koch, Aspin, Bennett, Leggett, and Senators McGovern and Cranston—to afford due process to the more than 500,000 veterans with other than fully honorable discharges.

The bill requires few statutory amendments to existing laws governing discharge review procedures, and its provisions could and should be adopted by the Department of Defense administratively.

The Department of Defense claims that it "has made every effort to insure that the system of issuance of characterized discharges includes procedural safeguards to insure that an individual's rights are adequately protected and that the character of an individual's discharge accurately reflects the quality of the individual's service." However, the Department of Defense also admits that the majority of individuals separated administratively under other than honorable conditions waive their rights and thereby deny themselves the benefits of this procedural protection.

My bill would insure justice for the unsophisticated, the inarticulate, and the misfortunate products of a system that too often failed to distinguish the innocent from the guilty, the malevolent from the misfortunate, and the incapable from the unwilling. It seeks to insure that, in the future, our discharge review boards fully consider the circumstances, complexities, and consequences of each individual case.

The following is an analysis of H.R. 11097:

Analysis of H.R. 11097

Section 1. (a) (1) Authorizes the Secretary of Defense after consultation with the Administrator of Veterans Affairs, and the Secretaries of the services concerned to establish a number of "Review Boards".

(2) Authorizes the Secretary of Defense in cooperation with the services concerned to determine the number of review boards and their locations based upon population concentrations of discharge applicants. Authorizes the boards to travel to various cities to enable personal appearances by applicants, their counsels, and witnesses on their behalf. Authorizes hearings in penal institutions if merited.

(The opportunity for personal appearance is critical in discharge review cases, favorable decisions are 100% greater in personal appearance cases)

(Placing the boards under the authority of the Secretary of Defense is done to insure uniformity any congruity in the review process)

(3) Requires that each board be composed of five members which shall include civilians and enlisted personnel. Authorizes the Secretary of Defense in cooperation with the services concerned to appoint members of the review boards and to determine their term of office.

(There is nothing in the existing statute (1553 Title 10 USC) that restricts membership on the review boards to commissioned officers. Civilians and enlisted personnel on the boards would result in considerable fiscal and manpower savings over the current practice of utilizing field grade officers.)

(4) Authorizes the President of a review board to convene the board and hold hearing in open or closed sessions. Provides that cases in which their is no request for a hearing in person be held in closed session.

(5) Authorizes the appointment of additional members to a board to maintain five members at all times.

(6) Provides for compensation of Civilian members of a review board.

(7) Provides that a vacancy on a review board will not affect its powers, and that vacancies will be filled in the manner of an original appointment.

(8) Authorizes compensation for board members and administrative personel.

(9) Provides that each review board have a legal advisor to advise the board on all legal matters relevant to the boards functions. (The legal advisor would presumably be a lawyer on the board)

(10) Authorize the detailing of personnel from agencies of the Federal Government to assist the review boards.

DUTIES OF DISCHARGE REVIEW BOARDS

(b) (1) Authorizes regardless of any decision previously made by any board of review, the review boards to review any discharge or dismissal (other than a discharge or dismissal by sentence of of a general court martial) of a veteran or his surviving spouse, next of kin or legal representative.

In reviewing the discharge the review boards shall determine whether such discharge is fair or equable, or in the interest of justice, by standards current at the time of review, taking into consideration all of the circumstances of the case.

Establishes mitagating factors the presence of which shall warrant the upgrading of an other than fully honorable discharge to an honorable discharge, unless offset by serious aggravating factors which have a direct relationship to the initial issuance of the origional discharge.

The following are the mitagating factors:

(A) denial of constitutional, legal and administrative rights and safeguards inherent in administrative processes involving stigmatization and property loss;

(B) physical, mental or emotional incapability of meeting standards or performing assignments required of an applicant by military service;

(C) discharge or dismissal primarily for inaptitude or convenience of the government of an applicant;

(This is a retroactive application of the Armed Forces new honorable discharge procedures for marginal performers)

(D) applicant's inability to know or understand because of lack of education or otherwise, his rights and obligations under law, or the affects of, or alternatives to his other than honorable discharge;

(E) serious personal or family hardship that contributed to the grounds for which the other than fully honorable discharge was issued;

(F) any honorable tour of service in a combat zone, and/or meritorious and faithful performance of hazardous and/or demanding duty assignments;

(G) personal or procedural unfairness which influenced the issuance of the other than fully honorable discharge;

(H) the denial on improper grounds, on grounds which subsequently have been held by the courts to be unlawful, or on grounds no longer used by the services, of a valid claim or request made under military law, regulation, directive, or custom for a hardship discharge, compassionate reassignment, emergency leave, conscientious objector status or discharge, or other relief, which contributed to the issuance of an other than fully honorable discharge;

(I) behavior which reflects physical or mental stress caused by combat or hazardous duty "Combat Exhaustion or Acute situational maladjustment";

(J) lack of "constructive enlistment" in the Armed Forces (this is an application of the "Catlow" precedent in which the Court of Military Appeals ruled that a forced enlistment (i.e. jail or the Army) did not constitute valid entry into the armed forces and therefore the individual could not be punitively discharged)

(K) discharge was issued because of sexual preference, sexual orientation, or homosexual behavior unrelated to criminal conviction;

(L) discharge was issued because of possession or use of a narcotic drug, marijuana or alcohol, or for dependency on a narcotic drug or alcoholism; (this is an application of a policy adopted by former Secretary of Defense Laird)

(M) a significant service connected or aggravated disability of the applicant;

(N) successful completion of alternative service and/or receipt of clemency or pardon under the Presidential Clemency program, without regard to the offense or offenses for which the clemency or pardon was granted,

(O) discharge or dismissal was issued in violation of or without compliance with appropriate regulations; and

(P) any other facts, precedents, circumstances or information the review board deems appropriate to consider as mitigating circumstances.

The bill establishes the following extenuating factors while not having the force of mitigating circumstances shall be considered favorably by the review boards in making their determination—

(A) immaturity, educational disadvantage, or category IV or III AFQT (Armed Forces Qualifications Test) score; (a low AFQT score indicates educational or intellectual disadvantage)

(B) entry into the Armed Forces under the "New Standards" (Project 100,000) program.

(C) evidence that the applicant acted as a matter of conscience and not for selfish or manipulative reasons:

(D) applicant's voluntary submission to authorities;

(E) substantial period of creditable military service;

(F) decorations or commendations received by the applicant while in military service;

(G) failure of the armed forces to abide by commitments and promises made to the applicant regarding his enlistment, assignments, choice of station, training, or similar factors which may have contributed to the other than honorable discharge;

(H) evidence that racial, political, religious, sexual, or moral prejudice affected the discharge or contributed to the grounds for which an other than fully honorable discharge was issued;

(I) applicant's discharge was influenced by a reduction in force which otherwise might not have led to separation from the service;

(J) applicant's discharge was influenced by disciplinary racial or political problems within the separating command which otherwise might not have led to his separation from the service;

(L) preservice history of applicant which reflects problems or adverse circumstances which may have contributed to the grounds for which an other than fully honorable discharge was issued;

(M) postservice history of applicant which reflects exemplary conduct.

(N) postservice history of applicant which reflects serious consequences, burdens, or stigmas imposed by another than fully honorable discharge.

(O) any other facts, precedents, circumstances or information that a review board may need to consider as extenuating factors.

(3) Requires that a board in making its determination shall not only consider whether a discharge was fair and equitable in its issuance, but also that it is in the best interest of justice, society and the Armed Forces that the original character of the applicant's discharge remain in effect.

(4) Stipulates that a "General'" discharge though considered by the Armed Forces to be issued "under honorable conditions" is stigmatory in its effects and thus punitive in it's consequences, and shall be considered as such by the review boards.

(5) Stipulates that participation in the Presidential Clemency program, or acceptance or denial of clemency or pardon therefrom, shall not be considered adversely.

(6) Provides that the discharge of an applicant who has received clemency or pardon under the Presidential Clemency Program shall be considered by the review boards without regard for the offense or offenses for which clemency or pardon was granted.

Extensive mitagating and extenuating factor are included in the bill to insure uniformity and congruity among the various discharge review boards, to provide a basis upon which applicants may prepare their cases, and to embody recognized principles of military and administrative justice, and to insure the application of established precedents to discharge review cases. They are not intended to precude individual judgements and preceptions by the boards in reviewing individual cases.)

HONORABLE DISCHARGE LIMITED

(c) (1) Provides for the issuance of an Honorable discharge (Limited) after consideration of specific criteria that an individual has rehabilitated himself, and that his character is good, and that his conduct, activities, and habits since he was granted his original discharge have been exemplary for a reasonable period of time.

(2) Provides that applications for an "Honorable Discharge Limited" may be filed at any time but not before 18 months have elapsed following the original discharge.

(3) Provide that no benefits shall automatically be afforded any individual issued an "Honorable Discharge Limited" unless he would otherwise be entitled to such benefits under his original discharge. Enables the Veterans Administration to extend benefits and services to an individual issued an "Honorable Discharge Limited" if they are deemed necessary for the individual's readjustment or rehabilitation.

(4) Provides that under no circumstances shall an "Honorable Discharge Limited" be issued in lieu of relief to which the individual would otherwise be entitled.

(5) Provides that an individual with a General Discharge who has rehabilitated himself shall be normally given a fully honorable discharge.

(6) Provides than an "Honorable Discharge Limited" certificate be the same as a fully Honorable Discharge certificate, and that all records and information pertaining to the individuals original conduct and characterization of service be considered confidential.

PROCEDURES AND CONDUCT OF HEARINGS

(d) (1) Authorizes the boards to review discharges upon their own motion or upon the request of the former member, spouse, next of kin or legal representative. Authorizes the Secretary of Defense to establish rules and regulations for applications for review.

(2) Requires that the board give thirty days notice in writing to an applicant as to the time and place of his hearing.

(3) Provides that the hearing of a veteran who requests a personal appearance but fails to appear before the board as scheduled without previous arrangement with the board shall be considered in closed session.

(4) Authorizes an applicant to appear before the board on his own behalf, or to be represented by counsel of his choice, an accredited representative of a veterans organization, or other person who are competent to present the applicant's case equitably and comprehensively. Authorizes in cases of clear need for the government to provide such legal counsel or assistance as is necessary to insure that an applicant is competent to present his claim for review. Legal assistance as provided by the Legal Services Corporation Act may be used by an applicant before a review board.

(5) Authorizes the applicant and his counsel access to all records relating to the case. Authorizes the testimony of witnesses to be presented in person, by deposition or by sworn affidavits. Provides that witnesses testifying in person be subject to cross-examination. Enables the Secretary of Defense to make appropriate arrangements in cases involving classified information, and prohibits an applicant being denied a favorable determination on the basis of information unknown to the applicant or his counsel.

(6) Provides to continuance of hearings if necessary to insure a full and fair hearing.

(7) Allows an applicant to withdraw his request for review at any time without prejudice.

(8) Provides procedures for determining findings and recommendations in cases.

(9) Requires that a board promptly notify the applicant of and the reason for the decision in his case.

(10) Provides that after a decision has been reached by a board that there be no new rehearing unless there is evidence which would be likely to change the decision reached at the original hearing.

EFFECTS OF DECISIONS ON OTHER CASES

(e) (1) Provides that a decision establishing a precedent be applied to cases of a similar nature.

(2) Provides that a veteran affected by a precedent be notified of the ruling.

GENERAL POWERS OF REVIEW BOARDS

(f) Review boards shall have the power to: administer oaths, subpena witnesses and documentary evidence, take action in case of disobedience of a subpena, order testimony to be taken by deposition, require the Federal Government to provide information which the board deems useful in the discharge of its duties and to prescribe regulations and procedures to carry out these provisions.

ENFORCEMENT OF SUBPENA

(g) Authorizes an appropriate district court to take action in the case of a refusal to obey a subpena.

PUBLIC INFORMATION PROGRAM

Section 2. Requires the Secretary of Defense to plan and carry out a public information program designed to inform interested and affected parties of the new discharge program established by this act. Requires the Veterans Administration to assist in carrying out the information program. Requires the preparation of a bi-annual report on the functions, problems, precedents and accomplishments of the review boards.

EFFECTIVE DATE

Section 3. Provides that the provisions of the bill go into effect 60 days after enactment and that any cases pending be transferred to the review boards established by this act.

ACCOMPLISHMENT OF COMMITTEE ON WAYS AND MEANS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. KETCHUM. Mr. Speaker, on March 2, 1975, I was elected a member of the Committee on Ways and Means. After my first session of Congress on the committee, I would like to list the accomplishments of that committee. There is, alas, a slight problem with doing so—there were no accomplishments this year. I must sadly report to my colleagues and my constituents that the leadership of the committee allowed it to wobble all over the field, and finally pushed through legislation which the House received with ill-concealed scorn. Neither of the major bills we considered—the Energy Conservation and Conversion Act of 1975 or the Tax Reform Act of 1975—will ever see the light of day in the form passed by the committee. Still we were kept bogged down on these disasters for endless markup sessions, even long after it became apparent that the bills were dead. Meanwhile, important legislation referred to our committee remained unconsidered.

When I joined the committee, it was in the initial stages of markup on the energy bill. Prior to the markup, 11 days of panel discussions were held to acquaint members with the dimensions of the problem and possible solutions. Having served on the Committee on Interior and Insular Affairs and the Committee on Science and Technology, both of which were heavily involved in energy legislation, I was dismayed by the lack of expertise available to the committee on the actual operations of oil and gas companies. I do not question the knowledge of the staff of the Joint Committee on Internal Revenue Taxation, but I believe that the matters considered by the committee in H.R. 6860 required the presence of people with backgrounds in energy, not economics.

Bereft of any real knowledge of the subject, the committee thus floundered about in markup for days until the energy bill was reported out of committee on May 12, by the stunning vote of confidence of 19 to 16. The committee generally met from 10 a.m. to 6 p.m. with a break for lunch, on 3 or 4 days a week. At the same time, two subcommittees on which I serve, the Public Assistance Subcommittee and the Unemployment Compensation Subcommittee were holding hearings on the SSI program and the unemployment insurance system respectively. These meetings went from 8 a.m. to 10 a.m., and also met on the days when the full committee was not in session. Obviously, this is not the way to consider serious and important matters in a deliberative and reflective manner.

The finished product showed it. The committee leadership was obviously unable to obtain any type of consensus on the provisions of the bill, particularly those dealing with a gasoline tax and automobile efficiency standards. The real decisions on these matters were not made by either the committee or the full House, but behind closed doors in a caucus of Democratic members of the committee and of the full House. This was simply a continuation of the trend that began when the committee leadership instituted task forces comprised solely of Members of the majority to make substantive legislative recommendations on major issues. The minority was completely ignored, its rights, and the rights of the people represented by Republicans, were denied. If there exists any partisanship on the committee the blame properly belongs with the leadership—it introduced partisan politics to the committee.

The Energy Conservation and Conversion Act was 135 pages long, the committee report was 242 pages. The House considered this bill for 8 days, and tore it to pieces under a rule permitting amendments printed in advance. The bill was duly passed, after being rewritten on the House floor on June 19. It now languishes in the Senate, where it shall surely die.

So what was accomplished? Absolutely nothing, other than wasting months of time, thousands of dollars in printing costs, and previous days needed to deal with our Nation's energy problems.

As if the debacle of the energy bill were not enough to convince our colleagues that something is dreadfully wrong on the first floor of the Longworth Building, the committee plunged anew into tax reform. This is a matter which also took up months of the committee's time in 1974, to no avail. But wasting time and ignoring real problems does not seem to upset the forces that rule the committee.

The initial list of subjects to be covered in the hearings did not even include the vitally important subject matter of capital formation. Only after intense pressure did the leadership acquiesce to the desire of the members to allow this matter to be heard. We did not know that it was meant as a sham, empty hearings that were an insult to the witnesses and the members, with no intention of real thought being given to the recommendations thus made.

Panel discussions on tax reform began on June 25, and continued for 23 days until July 31, 1975. These sessions nearly always lasted for 6 or 7 hours daily. By far the majority of the testimony was concerned with the various proposals for capital formation. It represented, to my mind, some of the most precise testimony I have ever heard, and demonstrated a clear and persuasive need for legislation now. The witnesses may just as well have saved their breah, only 1 day of markup was devoted to capital formation, and the provisions accepted were simply sops.

Markup on the Tax Reform Act began on September 2. The major portions of the bill were soon disclosed as those of the aborted 1974 bill which was dusted off and presented to us. It is very important to remember that virtually none of the provisions of this bill were considered in the hearings, in spite of the fact that 19 members of the committee, in fact a majority of the members, were not on the committee in 1974 and thus had never heard the testimony. We proceeded in markup in the dark, hardly a procedure to recommend itself.

The markup went on, and on, and on for 28 days. We considered the bill through draft language, so that each decision was highly tentative and could be reversed, and was reversed, on a daily basis. Many provisions were thus voted upon five and six times. Again, the real decisions were made by the Democratic caucus of the committee, and a handful of very liberal members.

The blatant partisanship of the leadership became absolutely clear when the rule for the bill was considered. There was an absolute refusal to allow any amendments offered by minority Members to be debated on the House floor, including the $395 billion spending ceiling. But the liberals on the committee were permitted to offer their amendments, which had already been rejected by the Committee. The other 398 Members of the House had no say, and were told to take it or leave it. It was a shocking disregard for the people's rights, a flagrant abuse of the committee system, tolerated and sanctioned by the committee leadership.

So the 668 page bill with its 476 page report went to the floor. It is true the bill passed. It is also true that even its supporters greeted it with restrained joy and knew it was headed for death in the Senate. Now we have just considered the final end product of these months of work—a simple extension of the Tax Reduction Act, a subject that occupied the committee only a fraction of the total time spent on the bill. That, too, failed. Again, months and months wasted, money spent, priorities ignored.

The committee also failed three times to get the House to go along with its increases in the national debt, because of a stubborn refusal to face fiscal realities and the implications of massive deficits.

I began my service on the committee

with high hopes. The jurisdictional matter of Ways and Means is, I believe, the most important and fascinating of any congressional committee. I was impressed by the past record and reputation of the committee, and looked forward to taking part in drafting constructive legislation. Needless to say, I am sorely disappointed. We have not accomplished anything, because of a lack of leadership and a willingness to bring supremely bad legislation to the House floor.

Hope is a most important virtue in Congress, and I hope fervently that things will improve in the Ways and Means Committee in the second session. I know the American people deserve better, I think their Representatives should demand better.

GROWTH OF FEDERAL BUREAUCRACY

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. BEARD of Tennessee. Mr. Speaker, the growth of the Federal bureaucracy in both size and power is of great concern to the people of Tennessee and the Nation. Therefore, I am introducing legislation today that attempts to return to the Congress some of the lawmaking responsibility we have relinquished to the bureaucracy. My legislation seeks to increase the oversight responsibility of the Congress with regard to the volumes of rules and regulations generated by Federal agencies which so greatly impact the lives of the citizens of this country.

I certainly do not dispute the fact that administrative rules and regulations are necessary to efficiently and effectively implement legislation enacted by the Congress. However, it is clear that the line between legislation and administrative rulemaking has become clouded and requires a reexamination. I am certain that there is no Member of Congress who is unfamiliar with this problem.

In my judgment, the Congress has not sufficiently expanded its legislative role to keep pace with the size and complexity of the Federal Government. As a result of this inaction, administrative rulemaking has stepped into the void and substantially increased its influence in the legislative process. The result has been that the bureaucracy now exercises a level of responsibility far beyond that which is required to implement legislation. It is clear that the bureaucracy now makes law.

Some 6,000 regulations, each having the force and effect of law, were adopted by Federal agencies in 1974. The process by which these proposed regulations became finalized never provided an opportunity for the Congress to determine if those rules were in accord with the intent of the legislation they were designed to implement. Individuals or businesses which objected to these regulations could only find satisfaction through the courts. Large companies may have the means to withstand long legal battles, but individuals and small firms can be severely damaged by laws for which no elected official can be held responsible. Congress, in effect, washes its hands of legislation after its enactment, and leaves the public to deal with an unaccountable and faceless bureaucracy.

My legislation simply attempts to properly extend the lawmaking responsibility of the Congress to cover this proliferation of administrative laws. It provides for a review mechanism to insure that the volumes of implementing regulations do indeed comply with the intent of the original legislation. It also assures that citizens will have a recourse through their elected representatives if these laws adversely affects them.

The bill establishes a method whereby the Congress may disapprove of rules and regulations proposed by the executive branch. Either House of the Congress may object to a proposed rule or regulation within 60 legislative days, if it establishes that the implementation provisions run contrary, or are inconsistent with congressional intent or if they exceed the mandate of the statutes which they are designed to implement.

In my judgment, this additional step in the current procedure will require little, if any additional staff or expense. The review of these regulations can be provided by existing staff. Hopefully, the most important impact of this procedure will be to cut down dramatically on the sheer number of regulations that are promulgated by Federal agencies. Faced with a systematic review and a potential veto, many regulations will simply not be initiated.

The enactment of this legislation is by no means the complete answer to the problem of a bureaucracy whose growth seems boundless. However, this is a proper, necessary first step if Congress is to recapture its constitutional responsibility as the Nation's lawmaker.

STUDENT DELEGATES LISTED FOR SAGINAW, MICH., STUDENT CON-CON

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. TRAXLER. Mr. Speaker, at this time I would like to continue the development of the Saginaw Student Constitutional Convention to be held in January of next year. Today I am presenting two additional articles written by Mr. John Puravs of the Saginaw News.

The first article is probably the most important in the series. All my colleagues will have an opportunity to "meet" the delegates to the Con-Con. Nineteen high schools are being represented by 148 students. For the first time the Convention differs from the original Constitutional Convention in 1787 in a significant manner. A majority of the delegates are women. They will hold controlling voice in any constitutional matter they desire. As the article points out, not a single woman participated in the 1787 Convention, demonstrating that today women in the United States are more present than ever before in the life and policy of the country.

The second article indicates that in the first review of certain facets of our Constitution, the students have essentially decided to make little change in the Bill of Rights. The article shows how astute these delegates are in their understanding of the need to preserve certain rights. It is a credit to all of these students that the knowledge of the need to protect all is so strong.

Following the review of these six news articles, I am confident that all of my colleagues and you, Mr. Speaker, are very anxious to see the reports of the actual operation of the Convention in January. I would like to reaffirm my promise of presenting the entire text of the new Constitution to the House of Representatives. After we have an opportunity to review this document, I am certain that all of us in Congress will realize that these students were not the only ones to learn about Government and the interests of the people during the Saginaw Student Con-Con.

Mr. Speaker, I invite you and all of my colleagues to review these two articles:

FEMALE DELEGATES OUTNUMBER MALES IN STUDENT CON-CON

(By John A. Puravs)

They're not lawyers, nor merchants, nor planters.

None is as old as 81, or even close to 32.

More than half are female.

About 15 percent are black; about seven percent are Spanish-surnamed.

Few have experience, presumably, in fomenting and carrying out revolution.

And certainly none is a slaveholder.

The 148 Saginaw County high school students named below are as unlike the Founding Fathers as those Fathers who wrote the United States Constitution of 1787 were unlike the majority of people in the fledgling America of their age.

Yet the goal of those students is to assemble in convention at the Civic Center for three days this January to write a new Constitution that will improve upon the job done by the 55 delegates to Philadelphia in 1787.

In their own way, the students may be as unrepresentative of current society as the original delegates were of theirs.

Their ages are similar if not identical, whereas the 1787 gathering was attended by men as young as Rufus King of Massachusetts, 32, and as old as Ben Franklin, 81.

Few have supported themselves economically, while the originals were men of substantial means.

But in other ways, the student delegates will be far more a reflection of the America of 1976 than their illustrious predecessors.

The 1787 delegates were all men; the students will count a majority of women—at least 77 of 148. All the originals were white; about 20 of Saginaw County's convention are black, and nine are Spanish-surnamed.

All 19 of the county's high schools will take part, with Arthur Hill's 23 and Saginaw High's 21 being the largest delegations. Smallest will be Merrill, Michigan Lutheran Seminary, St. Mary's and St. Stephen's, with only three each.

The largest delegation in 1787 were from Pennsylvania, with eight, and Virginia, with seven. The smallest was from Rhode Island: Zero.

One historian said Rhode Island "did not deserve one-tenth the mud slung at her," citing the state's justified fears of economic loss under a new Constitution.

But that didn't stop George Washington. "Rhode Island still perseveres in that impolitic—unjust—and one might add without much impropriety scandalous conduct," he bristled.

Delegates from the other states constituted the elite of their time. A majority, 27, were lawyers; 10 were merchants, four planters, three physicians. Three were privately wealthy, including landowner Washington.

The family backgrounds of the student delegates may vary widely, but certainly they include more of the homelier occupations than were found among the 1787 crew.

They had one printer (Franklin), one civil servant, and one shoemaker—Roger Sherman of Connecticut, who gained fame by that status. "One of the very few who had risen from poverty to affluence largely through his own efforts, and had none of the advantages of education and support which a family patrimony can give," wrote historian Charles A. Beard.

Indeed, the men of 1787 were aristocrats even though they wrote one of the great democratic documents of history.

Virginia's seven delegates, for instance, were listed by the Convention Journal as two Excellencies (Washington and Gov. Edmund Randolph); one Honorable (Judge John Blair); and four Esquires (James Madison, George Mason, George Wythe and James McClurg.)

Many of the Saginaw County delegates certainly are fine students. But the 1787 delegates usually had received the best education available at the time, and that was good without doubt: They included graduates of the University of Glasgow, William & Mary, Harvard, Princeton, the College of Philadelphia.

Even so, some of the most prominent figures of the Revolution did not attend the convention: Patrick Henry, John Adams, Samuel Adams, John Hancock.

Those who did attend, though, infallibly shared one attribute. They had money. Otherwise they could not have been delegates.

Not only could women and blacks not vote, but most states also imposed a property requirement, sometimes in quaint legal language.

New Hampshire said officeholders had to have 200 pounds and be a Protestant besides. Massachusetts said voters had to make at least three pounds a year. Connecticut described its qualifications: Age 21, a 40-pound estate, "and being of quiet and peaceable behaviour."

Virginia permitted those to vote who owned 25 acres of improved land or 50 acres of unimproved land, with the exception of "certain artisans residing in Norfolk and Williamsburg."

In contrast to Michigan's Con-Con of the 1960s, neither the 1787 convention nor Saginaw County elected their delegates. The states, via their legislatures, appointed representatives. The students gained their status in ways chosen by their schools, but most often by teacher appointment or membership in special classes.

The sizable percentage of minority students at the Saginaw County convention is an obvious difference from 1787, where the famous compromise allowed southern states to count slaves as three-fifth of a white citizen.

Saginaw County's convention president, Frederick Wheeler Jr., is black. But Anthony C. Martinez, one of his teachers, remarked, "They were looking for leadership, not at color."

In another compromise with the South, the original convention allowed importation of slaves until 1808. But slaves were hardly unknown in New England.

Connecticut counted 11,423 slaves; Rhode Island, 948; New York, 21,324; Pennsylvania, 3,737. At least 15 delegates were slaveowners.

Despite such contrasts with the 1787 delegates, most leaders of Saginaw County's student convention have predicted they will do little to alter the basic tenets of the original Constitution. The outcome of that prediction will only be known at the end of January.

Those who will decide that outcome, as identified by their respective schools, are:

ARTHUR HILL

Vicki S. Anderson, 2281 Blackmore; Peggy Baker, 1822 Wood; Kay A. Benz, 2646 Hermansau; Steve Bradthe, 2211 N. Woodbridge; Hugo E. Braun III, 2505 Court; Rebecca D. Brown, 2500 Hampshire; Donald Egbert, 1920 Stark; Teresa A. Foster, 901 S. Jefferson; Pat Furlo, 12714 Basell Drive, Hemlock; Brian Gibbs, 2600 Peale Drive; Janet Grover, 1100 Washburn Place West; Jeff Hansen, 5456 Mary Court; Alana Lubben, 2647 Hermansau; Daniel Maas, 3226 Traum Drive; David Maine, 1107 W. Washburn; Mark H. McCullen, 3011 Deindorfer; Aaron Moore, 311 Superior; Susan O'Rourke, 1120 S. Harrison; Amy E. Robertson, 3310 Peale Drive; Jon Steele, 1925 Amherst; Connie SanMiguel, 2316 Jerome; Tad Veremis, 2340 Mershon and Pam Young, 2611 Adams Blvd.

BIRCH RUN

Linda Bacon, 8098 Edgewood; Jonathan Beyer, 12295 Taft; Frederick Doll, 7695 Canada Road; Shawn Hall, 9737 Marshall Road; Dawn Rushton, 11260 Burt Road and Sue Wenn, 5310 Courthey Road.

BRIDGEPORT

Adam Garcia, 3860 S. Washington; Linda Garcia, 3835 Apple; Cathy Hall, 3400 Creekwood; Kathy Kaczmarczyk, 2335 California; Ann Minnich, 3576 Creekwood; Tammy Morey, 3494 Williamson; Tom Morgan, 4120 Sheridan; Thomas Ulmer, 4719 Baker Road, Laura Stanulis, 6910 King Road; Ann Toland, 3468 Linger Lane; Patrick Stanard, 5926 McGrandy; and Dean McClure, 3141 E. Curtis Road.

BUENA VISTA

Tom Ford, 3314 Walters Drive; Linda Gosko, 4403 Ketcham; Judy Heater, 875 S. Airport Road; Jackie Robinson, 425 S. Outer Drive; Richard Tobius, 3134 Mysylvia; and Linda Vasquez, 1647 N. 24th.

CARROLLTON

David Adams, 3312 Sunnyview Drive; Terry Ellison, 3141 Winter; Jim Nuerminger, 980 Atlanta; Sylvia Olvera, 590 Meadowlawn; Andrew Peitsch, 600 Shattuck; and Cathy Webb, 708 Sherman.

CHESANING

Michelle Dubau, 730 Gasper; Barbara Klump, 19689 S. Oakley Road; Napolean Lewis, 13300 Sheridan Road; Lewis Mahoney, 8150 W. Burt Road; Bill Montfort, 324 N. Line; Jean Otte, 201 Mason; Allan Rivett, 210 N. 4th; Doug Schnick, 8581 N. McCaffrey Road; and Sue Ustishen, 7710 N. Cram Road.

EISENHOWER

Jeri Beatty, 2804 Clayburn; Karin Colling, 4376 Markham; Robin Elder, 2100 Plainview; Teri Fowler, 3070 Quartz Isle; Diane Molesky, 3219 Foss Drive; Michael Perry, 4499 Bradford Drive; Laurie Smith, 2658 Bradford Drive; Marc Smith, 3145 Midland Road; Mark Warba, 2415 Ranier; Jim Rosa, 4384 Beckett; and Kathy Tessin, 3726 Barnard.

FRANKENMUTH

Susan Beyerlein, 175 Franconian Drive; Karen Beyerlein, 140 E. Jefferson; Gail Connell, 317 Ardussi; John Trinklein, 250 W. Genesee; Michael Varley, 349 N. Franconian; and Tom Veitengruber, 310 W. Tuscola.

FREELAND

Janet Kanouse, 910 Church; Raecell Bascon, 9900 Elmwood Drive; Mariann Brubaker, 431 10th; Kevin Beson, 142 S. 4th; and a fifth delegate yet to be named.

HEMLOCK

Julie Boyd, 2950 S. Hemlock Road; Sarah Eurich, 1825 Watson; Kathy Oravitz, 456 Ault; Gwen Sendtko, 1375 S. Hemlock Road; Sue Szabo, 635 S. Brennan; and Chandra Turner, 81 Chandra Lane.

DOUGLAS MAC ARTHUR

Janet Barry, 31 E. Hannum; Bill Bow, 702 Foxboro; Michelle Curry, 481 Stoneham; Nancy Mikesell, 635 Somerset; Stacey Nangel, 5295 Vanalleo; Marc Nearing, 1850 Sullivan; Kathy O'Brien, 5175 Kencliff Drive; Kim Princing, 5330 Frovan Place and Peter Sprung, 4340 Seidel Place.

MERRILL

Lynn Domina, 625 S. Midland; Beth Hensel, 12140 Merrill Road and Lori Mikusko, 205 Melze.

MICHIGAN LUTHERAN SEMINARY

Deborah Beckman, Annandale, Va.; Lee Henning, 7044 Midland Road, Freeland and Sue Moore, Grand Blanc, Mich.

SAGINAW HIGH

Jeanie Anderson, 2510 White; Tom Carpenter, 2202 Glenwood; Wilbur Carrigan, 602 Holden; Diane Dixon, 2717 Burt; Carol Fritz, 4126 Morris; Luevon Goss, 136 N. 9th; Ruth LaBeau, 3220 Roberts; Jacqueline LaPorte, 3207 Carter; Cecil Lee, 1220 Gallagher; Derrick Levelston, 1128 Casimir; Gregory Marshall, 441 S. 11th; Vicky Nelums, 1118 Carlisle; Leonard O'Neal, 312 N. 7th; Brad Root, 1524 S. Jefferson; Janie Rosales, 4019 Webber; Jimmy Segovia, 2202 Hazelwood; Ollie Sharper, 619 N. 8th; Carl R. Tinsley, 229 Moton Drive; Frederick Wheeler Jr., 934 Emerson; Tobin J. Williams, 204 S. 22nd and Donald Valliant, 2210 Arnette.

ST. CHARLES

Cheryl Galiardi, 318 Hosmer; John Honaman, 11100 Fergus Road; Brian Huffman, 140 W. Bell; Ava Painter, 208 Sunview Drive and Michael Smith, 11085 Swan Creek Road.

ST. MARY'S

Robert Bricault Jr., 3325 Drexel; Jerry Kelly, 1309 Brown and Tom McEachin, 1033 S. Jefferson.

SS. PETER AND PAUL'S

Susan Cardon, 620 Dearborn; Christopher DeShone, 2424 Robinwood; Michael Schachtner, 1516 Durand; Debbie Szynwelski, 5350 Aldoran and Kathy Burr, 842 Pioneer Trail.

ST. STEPHEN'S

Marcia Hammis, 4985 Lorraine; Rick Slachta, 2605 Duane and Jim Rocchio, 820 Sutton.

SWAN VALLEY

Rose Buckley, 7615 State; Tom Coombs, 7771 Krisdale; Stacy Little, 7183 Terry; Rose Trevino, 8640 Herbert; Kevin Webster, 365 S. Miller Road and Angela Yearta, 7141 Terry Road.

CONSTITUTION-WRITERS FIND FEW FLAWS IN BILL OF RIGHTS

(By John A. Puravs)

CHESANING.—The Bill of Rights survived nearly intact Monday as Saginaw County high school students began taking the U.S. Constitution apart so they could put a new one together.

But committees dealing with the legislative, executive and judicial branches are studying changes that could alter the traditional roles of Congress, the presidency and the federal judicial system.

The 148 delegates to January's student Bicentennial Constitutional Convention spent the day at Chesaning High School in the first full working session preparing for the assembly.

The meeting produced questions as well as early answers, with some delegates trying to define the constitutional issues facing them and faculty advisers predicting some coordination problems.

Convention President Frederick Wheeler Jr. of Saginaw High conceded "It's going slowly" but added, "They'll get it done."

Discussions in the Bill of Rights Committee, whose 67 members make it the largest of four groups, produced the liveliest debates.

But substantial changes were made in only one of the first seven amendments considered.

After more than an hour of argument, the committee decided to retain the right to keep and bear arms as originally granted in the Second Amendment, but only under "specific government regulation for safety."

Left untouched were freedoms guaranteed under the First (religious, speech, press, assembly and petition rights), Third (quartering of soldiers), Fourth (search and seizure), Fifth (self-incrimination and double jeopardy), Sixth and Seventh (right to speedy trial and trial by jury) Amendments.

Some delegates, though, argued for an end to the prohibition on double jeopardy, pointing out that new evidence could later be uncovered.

"If you let a killer go, he'll kill again," noted one student. "If it happened to you or someone close to you, you won't feel very good about this law."

"Would you rather have 100 guilty people on the street to protect one innocent person?" asked another delegate. "That's what you've got to decide."

The committee decided by voting overwhelmingly to keep the protection against double jeopardy.

Debate on the self-incrimination protection brought one comment that "Only the guilty have something to hide."

But another student helped produce a unanimous favorable vote with his pungent remark, "If you're forced to testify, the lawyers can really twist things around. They're pretty tricky."

The Rights panel also voted to incorporate guarantees of counsel regardless of income status into their Constitution.

Meanwhile, the Legislative Committee was studying adoption of a bicameral national legislature but with sharply altered roles for each house. One would be charged with study and research on issues while the other body would have power to actually pass laws.

"With this type of congress, a new system of checks and balances must be developed," pointed out Committee Chairman Carl R. Tinsley II and Co-Chairman Thomas W. Carpenter, both of Saginaw High.

The Executive Branch panel, reported Chairman Tommy L. Ford of Buena Vista, has split into four groups, each assigned to independently review presidential powers and duties for study at the students' Dec. 10 session.

Among points made by Ford was dealing with items only implied by the Constitution. "I think it is our responsibility to bring these right up front," he said. "If they are implied powers we don't like or want, we must specifically state our rejection."

The Judicial Committee, under leadership of Michael Smith of St. Charles, began a review of the present federal system of courts and judgeships.

Meanwhile, faculty advisers met separately—an enforced separation—to outline plans for the convention itself. Committees were named to deal with music, decorations, press, publications, credentials, equipment and programs.

Thelvius T. Winieckie of Eisenhower High said the teacher group also is setting up alternate convention activities in expectation of a large student audience.

He said many schools intend to send government-class and other students to observe the convention.

"Things might get a little slow," he observed. "We're thinking of giving them something else such as a film festival on the Revolution or speaker programs."

For the most part, the teachers stayed out of student sessions because the students wanted it that way.

"Advisers are not to participate in any way whatsoever unless asked for advice by a delegate," Wheeler told them in a Nov. 11 memo. "When asked for advice, the advisers cannot influence the delegate to exercise the advice given."

And for the first time, the press was barred from a student session. Carl Tinsley said his Legislative panel preferred to work alone in order to avoid confusion and to permit independent development of its proposals.

However, Tinsley spoke freely of the committee's goals, and teachers found their help needed more than once.

The Judiciary Committee asked Winieckie to explain the functioning of the national court system, and Timothy B. Newman of Arthur Hill was recruited as a parliamentarian by the Bill of Rights group.

Winieckie foresaw possible coordination problems for the students.

With each group working independently, he said, "proposals made by one could conflict with the plans of another."

He said he also detected a need for more delegates to familiarize themselves with the background and current issues relating to the Constitution.

As one example, said Robert B. Fitzgerald of Douglas MacArthur High, chairman of the faculty group, "For the first time today, they brought up the Preamble to the Constitution."

Since the Preamble outlines the Founding Fathers' goals in writing the document, Fitzgerald observed, there may be a need for further student study "on what the Constitution was meant to be."

POLITICAL STATUS OF THE POLISH AMERICAN COMMUNITY

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. HELSTOSKI. Mr. Speaker, the Polish American educational and cultural bimonthly publication, "Perspectives," of Washington, D.C., annually sponsors a Polonia Press Conference, which examines the problems of ethnic life in America as they relate to the media, youth, and interethnic relations. This year's conference, held on June 14–15 at the American University, brought participants from the States of Alabama, Connecticut, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and the District of Columbia.

"Perspectives," edited by Marta Korwin-Rhodes, of Washington, D.C., was initially created in 1970 as a quarterly publication devoted to the propagation of Polish culture. In its 5-year history, it has grown substantially into a distribution network of over 10,000 copies worldwide. The organizing committee for the two annual press conferences held thus far was composed of Stanley J. Glod, Esquire, noted Washington attorney, as chairman, Richard Kolm, Ph. D., of the Catholic University; Editor Marta Korwin-Rhodes, H.G.E. Henry Nagorka, all of Washington, D.C.; Maj. James Powers, of New Jersey and Albin Wozniak, educator, of Maryland.

The highlight of the 2-day conference was the address delivered at the banquet by Dr. Eugene Kusielewicz, president of the prestigious Kosciuszko Foundation, headquartered in New York City. This distinguished scholar and administrator, citing the ills of the Polish American community in the spheres of political life in America, entitled his profound remarks, "Reflections on the Political Condition of the Polish-American Community."

His address was, I believe, a significant contribution not only to the participants and guests who are present, but to all who might read or hear it. With this in mind, I am taking the liberty of appending the text of his remarks, so that my colleagues here in the House might have the benefit of these fine thoughts:

Address of Dr. Eugene Kusielewicz follows:

REFLECTIONS ON THE POLITICAL CONDITION OF THE POLISH AMERICAN COMMUNITY

(By Eugene Kusielewicz, Ph. D., President, Kosciuszko Foundation)

The last two Presidential elections brought an ever increasing number of Polish Americans into the Republican fold. The radicalization the Democratic Party, as typified in the candidacy of George McGovern, and the determined effort of Richard Nixon to win over ethnic Americans, as typified, among others in the publication of the GOP NATIONALITIES NEWS, were in large part responsible for this. Here was an opportunity for the Republican Party to win Polish Americans over to its cause.

Regretably for the Republican Party, this opportunity has been lost. During all his years in office, Mr. Nixon made no meaningful Polish American appointments. He has done nothing to reach out to the Polish American community, nothing to assist Polish Americans in becoming part of the American political system. Nor has the record of President Ford been any better. The pathetically little that the Nixon-Ford team has done has been meaningless, little more than window dressing. Indeed, after his appointment of Nelson Rockefeller as Vice President of the United States, any Polish American who would vote for the Republican Party in 1976 would be a fool. In sixteen years as governor of the State of New York, a state in which the third largest ethnic group is Polish, in sixteen years he did not appoint a single Polish American to any office of importance. And what is even more tragic, at the time his appointment to the Vice Presidency was being considered, neither of the two Divisions of the Polish American Congress in the state of New York made any protest.

The states with the largest Polish American populations are Illinois, Pennsylvania, Michigan and New York. In each of these States Poles number among the top three or four ethnic groups. Yet in Illinois, Senator Percy, who has a staff of 56, has not one Polish American working for him. Senator Stevenson, who has a staff of 38 has only one. In Pennsylvania, Senators Scott and Schweiker, who have a total staff of 85 between them, do not have a single Polish American working for them. In Michigan, Senators Griffin and Hart have a total staff of 60 between them. Not a single Polish American is among them. In New York, Senator Javits has a staff of 44. Not one is a Polish American. His colleague, Senator Buckley has a staff of 49. Only one is a Polish American. The Senators of the four states with the largest Polish American populations have a total staff of 332. Of these only 2 are Polish Americans. This gives a pretty accurate picture of the influence of the Polish American community on the political life of the United States.

Even when Polish American political figures are concerned the picture is no better. When he ran for the Democratic nomination for President, during the last elections, Senator Edward Muskie did not have a single Polish American among his campaign advisors. It was only after he was badly beaten in the primaries in heavily Polish American Milwaukee that he finally added a Polish American to his advisors. And according to this Polish American, the reason why Senator Muskie did not visit Poland on a preelection jaunt to Europe, was to avoid emphasizing his Polish background, which his advisors felt would hurt him in his campaign.

Indeed, when Polish Americans do achieve office, more often than not they try to avoid naming their own to office, to prove their impartiality. In Buffalo, for example, Mayor Stanley Makowski named more Italian-Americans, Irish-Americans and Black-Americans to municipal positions than he did Polish-Americans. And most recently, Mary Ann Krupsak, the new Lieutenant Governor of the State of New York, who was put into office thanks to the Polish American vote, did not name a single Polish American among the fifty men and women she named to her staff. If our own Polish American elected officials do not respect us, then how can we expect others to do so.

It is rather obvious that the twelve million members of the Polish American community have no impact on national politics, neither in the Republican or Democratic Parties. The same is true on the state level. About the only impact they have is on the municipal or county level, and even here the showing is extremely poor. They have no effect in the direction of either of the two major political parties, nor do they have any influence in the Federal government. What is even worse, they have no access to the media, to make their story known. Indeed, Polish Americans are even more poorly represented in the media than they are in American political life.

How did this situation come about? I doubt if we will find the answer here today, but among the elements that help explain the situation are the following:

The Partitions. During the 123 years of the Partitions, Poles were denied participation in their political destinies. When they did try to protest, their estates were confiscated and they were imprisoned in Siberia or forced into exile. This simply reinforced the conservative nature of polish society. And these were again reinforced by the tradition of Messianism that developed in Poland, that Poland was the Christ among nations through whose suffering mankind would be saved. Suffer in silence, for your eternal reward will be greater. Nor, in the Polish tradition, has politics ever been considered an honorable profession. A Polish proverb states that "The quickest path to wealth is public office."

In the Polish American Community, the leadership still rests largely with the clergy. It is they who control most Polish American institutions. But unlike the Black Clergy, the Jewish clergy, or the Greek Clergy, who are in the forefront of their groups' political activities, the Polish American clergy have by and large been politically emaciated by the Irish hierarchy which governs the Catholic Church. The Poles, therefore, have produced no Martin Luther Kings and no Rabbi Kahanes.

By and large, the Polish American community is, therefore, leaderless. It does have the Polish American Congress, and here and there there are divisions that are doing meaningful work. But it lacks funds. Indeed, were it not for the funds supplied by the Polish National Alliance of Chicago, it would be impossible for its President, Mr. Aloysius Mazewski, to do anything meaningful. The Polish American Congress is often criticized for inaction, but this is not due to a lack of ability or dedication on the part of its national leadership, rather it is due to a lack of funds. The primary limitation of the Congress however, is that in so many of its divisions it is the captive of recent political emigrees from Poland, who have secured control of these Divisions of the Congress, largely through obsolete rules that require meetings to be conducted in Polish, thereby excluding the bulk of the Polish American Community. Though few Polish Americans would argue with the attempts of these political emigrees to improve the political situation in Poland, they do object when this is virtually the only activity of their Division of the Polish American Congress. Thus, instead of fighting for better Political representation, instead of attempting to remove the many discriminations that Polish Americans must suffer in every walk of life, the one effective voice of the Polish American community, the local divisions of the Polish American Congress, is often out of the mainstream of American political life. Regretably, too, many talented, young and able men and women who could be of help to the Polish American community, turn to greener pastures, to other areas of activity, simply because they do not understand Polish. We are therefore faced with a leadership gap that threatens the very existence of the Polish American community.

Equally responsible for our plight is the lack of any meaningful vehicles of communication. We do have Polish language publications. But these reach only a small part of the Polish American community. Aside from house organs of a number of organizations, we have only two newsapapers printed in English which attempt to serve more than a small geographic area, and even here the combined circulation is less than thirty thousand.

Unlike other ethnic groups, who find support for their activities from the governments in their fatherlands, the political chasm which separates the American and Polish governments has made this impossible. Polish Americans have no DeGaulle's building up thir pride. Indeed, rather than being an aid, the Polish government has been a hindrance as far as the political advancement of Polish Americans is concerned, especially where prospective nominees for governmental service cannot obtain security clearances because they have relatives in Poland.

Nor has the negative stereotype many Americans have of Poles and Polish Americans helped Polish American political aspirations. Constant references to alleged Polish stupidity, immorality and bigotry have left their impact on American minds. When John Waner (Wojnarowski) ran for mayor of Chicago on the republican ticket, for example, the Jews of Chicago refused to give him a hearing, stating that "you can't trust a Pollock." The news was brought to Mr. Waner by his son-in-law who happened to be Jewish.

Nor does the overwhelmingly blue collar nature of the Polish American Community help the situation. If the Polish Americans had any influence in their labor unions, this might indeed be an advantage in some ways. But though Polish Americans have contributed so much to the development of the American labor movement, the leadership of that movement has effectively kept the "honkies" out of any important influence in the labor movement. And where, as in the instance of Jock Jablonski, it looked like *a* Polish American might just get elected head of his union, he and his family were shot to death. With few of their number rich or affluent, few who could take of their time and money to provide them with leadership, and with few of their number on welfare, few, therefore, who could attend meetings, hearings and demonstrations, Polish Americans are never effectively represented, even when their vital interests are concerned. They simply cannot take time off from the job.

I think I have listed most of the causes of the present condition. Should any of our listeners have other thoughts on why the Polish American community has so little political influence in the United States, I wish they would get in touch with me.

The consequences of this lack of political influence affects each and every Polish American in every aspect of their public and private lives. It is one of the keys to their inability to secure access to our colleges and universities. It is one of the reasons why they are unable to secure advancement in industry and governmental service. It helps explain why they are unable to stop the defamation of things Polish in the media. And it tells the story why Polish Americans earn only slightly more than do Black Americans. But there is one consequence that constantly comes in mind. St. John Kanty Parish, in South Brooklyn, was the place many Polish Americans moved to, once they were able to afford to move out of their poor Polish ghettos on the East side of Manhattan. It was a nice neighborhood. They bought two or three family houses, whose incomes, when added to their social security, would enable them to spend their last years in comfort and dignity. Then the complexion of the neighborhood began to change. East New York now looks like war ravaged Warsaw or Berlin. The old Polish Americans, who could not move, now cannot rent their apartments, They cannot sell their houses. No one will buy them. They cannot even give them away. Now there is nothing to supplement their social security. With crime rampant on their streets, they fear to leave their homes, to go to church or even to go to the store to buy food for themselves. Unwilling to ask for aid, they sit in their homes slowly starving to death. They complain only to themselves and to their God. It is not proper to complain to others, for one must suffer in silence, for only in this way can they redeem mankind. And even if they were to complain, who would listen to them. Today, there is only time to listen to those who kill and burn.

How can we correct this lack of Political influence? The most obvious way would be to create a Polish mafia, a Polish Defense League, or a similar group that would go around burning cities, thriving bombs and rioting. The courts have shown that such activities are an effective means of bringing about "reform" or new interpretations of the constitution. Would Phyllis Diller go into her tenth year of maligning Polish Americans if someone threatened to throw acid in her face? Perhaps she would. With that face acid might be an improvement. Needless to say this means is completely abhorent to the Polish tradition. The rank and file of the Polish American community simply would not tolerate it. Indeed, I expect to be criticized for simply suggesting it as a possibility.

Realistically, if we are to bring about a change, we must educate the Polish American community as to the need for becoming actively involved in the activities of the political party of their choice. As we invest our Sunday mornings providing for our spiritual lives, so we must invest at least one evening a week in the political club house providing for our political needs. We should strive to establish within the Polish American Congress a Political Awareness Committee that would place weekly articles in the Polish American, and American newspapers relating to the need for taking part in the political life of the nation, describing current issues on which Polish Americans should take a stand, and means by which to express their views.

The Polish American public must be induced to write letters to their public officials on all issues which effect them. Courses in practical politics should be instituted at Alliance College, the Orchard Lake Schools, and at other secondary schools and institutions of higher education in which Polish Americans have influence. We must institute political action workshops at meetings of all our fraternals, especially at their conventions, and at the meetings of the Polish American Congress. We must get our clergy to encourage their parishioners to become active politically, and we should encourage our clergy to become active politically themselves. What would be the position of Church State relations in the United States if only our clergy had urged us to become active politically, the way in which the leadership of the Jewish clergy encouraged their coreligionists? We must likewise encourage our veterans groups, the P.L.A.V., S.W.A.P. and S.P.K. to take a more aggressive part in improving the quality of life for Polish Americans. And above all, we must learn to protest and demonstrate, not with violence, but with intelligence, with that dignity that has given Poland the title Knight Among Nations. We must likewise encourage Polish Americans to make their voice heard in their labor unions, and to run for union office. And we must encourage our young to look for careers in the media: the newspapers, radio and television. To do this takes money. We must learn that just as we make our weekly contributions to support our churches, we must make our contributions to organizations like the Polish American Congress, The Kosciuszko Foundation, and to local groups like the Polish American Folk Theatre, an activist youth group in Detroit, the Polish and Slavic Center, in Brooklyn, and the Council on Polish American Affairs, in Buffalo. Unless we learn to reach into our pockets and to support these and similar groups in a meaningful way, there is no hope for the future. If we are to make a better life for our children, we must learn to budget at least $200.00 a year for these groups. If a sufficient number of Polish Americans can be convinced of this, there is hope. But we should not forget the large American Foundations. Well thought out programs must be presented to groups like the Ford and Rockefeller Foundation. Likewise, we must not forget government agencies, like H.E.W.

When we look at what we have achieved politically, it is pathetically little, given the size of the Polish American community. Yet, given the little interest we have manifest in Politics, given our failure to provide funds for political purposes, given all the handicaps under which we labor, we have made remarkable advances, particularly on the local level. This has been due in part to luck, in part to the outstanding ability of a number of our politicians, but especially to the self-sacrificing dedication of many of our leaders.

With almost no funding, but with hundreds of letters motivated by our press, and by publications like Perspectives, the Anti-Defamation Committee of the Polish American Congress has won a number of remarkable successes. Only recently the Lewis Buckle Company has agreed to stop advertising its offensive Polish Marksman Buckle. Halmark Cards, too, has removed their Do Do Pulaski puzzle from the market, and there are indications that the Polish Mugs will likewise be removed. If only the committee were properly funded, what miracles it could achieve.

In this address I have been hard on Nixon, Ford and Rockefeller. To set matters straight, the Democrats have been no better. Indeed, Roosevelt's betrayal of the Poles at Yalta has not been forgotten. President Ford still has time to make amends. He can make up for scores of injustices against the Polish American Community if prior to the next elections he names at least one Polish American to his cabinet or to the supreme court, if he names at least one Polish American to his staff, and if he names at least one Polish American a four star general. This is not too much to ask for a group of twelve million people. Were he to do so, even I could live with Rockefeller.

To Mrs. Rhodes and those who assisted her in the preparation of this Conference, my heartiest congratulations.

MEDIA POWERS MUST BE CHECKED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. RANGEL. Mr. Speaker, as we approach a Presidential election year, it is important that the American people be given the opportunity to hear from those vying for this high office and, more importantly, that equal consideration be given to those candidates labeled as "front runner" and "minority" alike. We must do everything possible to avoid the so-called hidden agenda and assure the American people that which is being delivered to them as legitimate news is that and not some veil for a politically conceived discourse designed to enhance ones political fortune. Mr. Speaker, it is unfair to leave the decision as to whom the major candidates are to the Nation's networks and thereby permit them to select and in effect regulate how much and by whom the public should receive its information. My colleague, SHIRLEY CHISHOLM, herself, a former Presidential candidate and a victim of the equal time provision, presents a strong case as to why a reversal of section 315 of the Federal Communication Regulation is necessary in order to assure fair coverage for all those meeting Federal election prerequisites. I commend the article, which appeared in the New York voice on last November 14, to my colleagues at this point:

FCC RULING INEQUITABLE

(By Shirley Chisholm)

The recent decision of the Federal Communications Commission to take presidential press conferences and news interviews out of the reach of the equal time provision of the Communications Act will adversely affect the political process in general and the candidacies of minority hopefuls in particular. Coming right before a very important election year, this ruling denies Congressional intent and the egalitarian principles of our democracy by now exempting two obvious forms of political weapontry.

CBS, which has now been joined by the other two major networks, asked the FCC to exempt presidential press conferences from the equal time provision in order to facilitate their coverage of "major candidates." This of course excludes minority party hopefuls, but, primarily, it gives the incumbent president a decided advantage.

President Ford could conceivably call a press conference the week before the election to "announce" that through his efforts the economy is improving, that the crisis in the Middle East is nearing settlement, that detente has been accomplished by Mr. Kissenger. The Democratic nominee, or a third party candidate would not be afforded the opportunity to respond to what could clearly be called a political forum.

Although the networks claim that these press conferences are news events and therefore not subject to equal time, I think it is clear that the opposite is true.

Consider the definition by former presidential press secretary George Reedy, writing in "The Twilight of the Presidency": "Press conferences are held entirely at the discretion of the President. He is in complete control of their scheduling and format; he sets the date and time of day for all his press conferences. The President determines exactly what portions are to be devoted to announcements, prepared statements or questions. The President chooses which reporters ask questions, and there are hardly any follow-up questions."

Clearly, the presidential press conference is one of the most artfully used weapons of the political process; and now the FCC is sanctioning its use and is consequently giving Mr. Ford unlimited access to the airways if he wants it.

In the September decision on equal time, the FCC also exempted still another political forum, the "news interview" from regulation under an equal time law. I have a personal interest in this aspect of Section 315, since as a bona fide presidential candidate of the Democratic Party in 1972, I challenged the networks to apply this—and later won in the U.S. Court of Appeals.

In 1972, the Sunday network interview panel, "Meet the Press," invited all the Democratic candidates who were eligible and who had declared themselves candidates except me to appear on an hour-long special version of that show. It was the decision of the program planners that I was not a legitimate candidate, even though I clearly was qualified and clearly running. In other words, the network officials were making their own determinations as to who is a "serious" candidate and who is not. The Court of Appeals indicated that, under communication legislation, this was not the prerogative of the network officials.

Now, the FCC has declared that such shows are "news" and therefore not subject to equal time provisions. And I would predict that if another minority candidate—whether a Black, a woman, or any other minority—would declare for the presidency, the networks would arbitrarily and automatically rule out those candidates' chances—and then deny them access to the airwaves.

The ramifications of this ruling extend to candidates on the local and state levels as well. A radio station could invite two out of three candidates on to debate election issues, and the third candidate would have no recourse. In the New York Senate race, as another example, any television or radio show could invite the incumbent and either the Democratic or Republican challenger in, and the excluded candidate can now legally be ignored.

I also contend that the decision will frustrate the efforts of any and every third party candidate whether liberal, conservative or minority, by allowing three network officials to decide who the "important" candidates are. Minorities have had a hard enough time getting access and fair coverage under Section 315 as it was; now it will be impossible.

I feel that a reversal in this decision is crucial to our political system, and I have filed suit on grounds that the FCC is going against Congressional intent to regulate political uses of the media. Furthermore, the decision to revise Section 315 is one that should be made by Congress, I believe, not the seven commissioners.

The power of the media in shaping public opinion and ultimately influencing elections is already too extensive. I don't believe that freeing the networks from the Congressionally-prescribed obligations in political campaigns will encourage more open, unbiased and comprehensive coverage of candidates. Granted, it will mean that the job of the networks will be easier. But I believe that this decision won't be anything but harmful to the voters and, indeed, the entire political process.

THE RAIL ACT

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. HARRINGTON. Mr. Speaker, I have mixed feelings about the omnibus rail legislation. It is clear that Congress has developed a bill that addresses at least some of the primary causes of the railroads' decline. However, after pumping out $4 billion over the last 5 years just to meet the immediate manifestation of this decline, I should think that we would have learned our lesson from past mistakes. Clearly this is not the case.

We should realize by now that ephemeral responses to the glaring crises will not enable this essential industry to compete with other modes of transportation—modes that have received kinder consideration by the Federal Government in terms of both financial assistance and regulation. While the Rail Revitalization and Regulatory Reform Act of 1975 demonstrates genuine congressional concern for the railroads, it fails, in my view, to muster enough imagination and courage to insure their survival.

This legislation clearly recognizes the need to deregulate the railroads. The American rail network, in marked contrast to foreign counterparts, has been strangled for a long period of time by complete Federal supervision of rate and route policies. The rail bill allows the railroad companies some flexibility in rates through special exemptions and parameters for price adjustments. It also directs the Interstate Commerce Commission to modernize its rulemaking procedures and monitor rail service on a permanent basis. Hopefully, enactment will initiate ongoing reform of ICC policies.

Improvements in governmental procedure, however, will not stop the chain of economic catastrophes that are incapacitating the railroads. The General Accounting Office concluded in a November 1975 report to the Congress that—

> Only an immediate and massive infusion of Federal assistance will enable the industry . . . to make a clean break in the deterioration cycle.

The spending levels in H.R. 10979 were egregiously inadequate in this context, and should not be restored. The authorization of $2.1 billion in grants to the newly designed ConRail and $2 billion in loan guarantees will only maintain current conditions at best. At worst—which is to say in the Northeast—the bill compounded the problems it sought to mitigate.

Section 803 of the House rail bill, dealing with the Northeast Corridor high-speed rail project, constituted an alarming abrogation of congressional responsibility. The authorization of $900 million for the Washington, D.C., to Boston line fell far short of the $3.2 billion authorized by the Senate; it even went below the emasculating $1.2 billion recommended by the President and the Department of Transportation. The amount of $900 million would barely bring the existing line up to 1968 standards, and would come at a time when the entire region desperately needs jobs and capital investments to weather the recession.

The Northeast Corridor project is technologically feasible, ecologically responsible, and economically essential. It is my hope that the myopia of section 803 will be alleviated through the adoption of the conference committee's authorization of $2.4 billion in loans. While this compromise does not break ground for a high speed line, it should insure, nonetheless, that the present track is satisfactorily repaired.

This legislation implements the corporate transfer of $8 billion in property and provides $6.5 billion in loans and grants. Obviously, the Congress is staking quite a bit on the quasinational corporation called ConRail. I think the financial success of ConRail remains tenuous by even the most optimistic of standards; we simply must furnish a greater modicum of stability. In this light, the U.S. Railway Association's impending study of the future rail situation—due no later than 120 days after enactment of the omnibus rail bill—assumes special importance.

Among the proposals the USRA is directed to study is the public ownership of rail rights-of-way. This concept has already received the support of the entire New England congressional delegation and consequently deserves careful consideration. Moreover, when Congress receives the USRA report it should not consign the recommendations to a fate similar to that of a 1965 report advocating the construction of a high speed rail line from Washington, D.C., to Boston. The Nation cannot afford to wait 10 years for a comprehensive, profitable, and efficient rail system.

SOMEHOW CITY FOLKS MUST LEARN FARM FACTS OF LIFE

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Ms. KEYS. Mr. Speaker, we need to make every effort to further understanding between rural and urban citizens, particularly between the farmer and the consumer. The interdependence of the consumer and the producer of food is greater than ever and at times there is a great disparity between them.

One of the most effective ways to bridge that gap and to promote a mutual understanding and cooperation is through a greater knowledge of the role of each and the particular demands each faces. Mr. Allan W. McGhee, editor of the Drovers Journal, which is published in Kansas City, Kans., writes from the viewpoint of the farmer. I am hopeful that his editorial, which follows, will help some of our urban colleagues to understand the dilemma in which the farmer finds himself. Perhaps it will help provide a better understanding of the need to develop a sound agricultural policy for producers and consumers.

The article follows:

SOMEHOW CITY FOLKS MUST LEARN FARM FACTS OF LIFE

A recent report or "white paper", by a group of economic and political science staff members of Kansas universities make the important point that the American people must somehow be educated realistically about what is involved in putting food on their tables. This group feels, and we agree, that there is great misunderstanding among city people about food production. This, they say, must be overcome by educating non-farm people on the subject; otherwise we could experience a future economic disaster "far worse than the recent recession and inflation."

The view has been expressed by some urban spokesmen that producing grain is little different from digging coal or minerals from the ground. They see grain as a natural resource, lying there for the taking. This, as any farmer knows from experience, is ridiculous.

Food is a renewable resource, yes but it is produced by farmers only with the grudging cooperation of the weather and other elements, and only because the farmer is willing to risk financial failure. He must have seed, fertilizer, chemicals, machines to till the soil, harvest, store and transport the crop and invest a year's time and hard work in it to put food on the nation's tables.

Understandably, says the report, consumers want low-priced bread and meat. But they will have it only to the extent that farmers are encouraged by return on their investment to continue to take the risk and endure the work and worry of crop and livestock production.

The current flap over restricting grain exports is a good example of the misunderstanding that exists. Certain powerful groups in the nation have exerted pressure to have limitations placed on such exports in the hope that grain prices (and bread prices) will be held down. Restrictions on foreign exports of grain would reduce the price of bread for a few months at most by one or two cents a loaf, acknowledges this report. However, in the long run, reaction to such a situation could only result in higher prices to consumers as farmers reduced production later in discouragement over such action.

American farmers produce three times as much wheat and a fourth more feed grains than our domestic market can take. So if we are deprived of foreign markets, farmers will be forced to reduce production drastically. With less production, farmers would have less to spend for urban industrial goods. Truckers hauling grain, workers making farm machinery and implements, and longshoremen loading grain for export will have less work. And the ranks of the unemployed would be further swollen by farmers themselves, forced to leave farms by lack of enough profit to sustain their operations.

As the report notes, urban people need to know that in the last few years farmers have been caught in an enormous cost-price squeeze. Prices on fertilizer advanced 300 per cent since 1972, those of tractors as much as doubled, for example. Yet farm income has dropped sharply in both 1974 and 1975, and if most of the bumper crop of grain produced this year is not sold at good prices abroad, disaster is sure to strike rural America. The farmer's only salvation is a sustained volume of production at favorable prices. Without this combination, his ranks will thin as individual farmers are forced out of business.

Urban Americans must learn that most of the recent increase in the price of a loaf of bread has not been due to increased prices paid to the farmer for his grain. He receives only 4.7 cents for the grain in a one-pound loaf of white bread. The price of wheat would have to go up 70 cents a bushel to increase the price of a 35-cent loaf of bread one cent. What happens, of course, is that an increase in wheat prices is often accompanied by higher wages and higher packaging, transportation and marketing costs—all of which affect bread prices and can be conveniently forgotten during periods of rising wheat prices.

These are only a few of the points involved in the farm economic situation which seems so clear to farmers but is so widely misunderstood, or not understood at all, by the urban public. It is recognized that this "illiteracy" about agriculture ought to be overcome somehow. Some farm organizations and a few individual companies are working at the job of overcoming it. But in a nation so large with so many millions of people involved in other than agriculture and so far removed from the farm, it is a frustrating task. Americans claim to be highly educated, and by world standards, they are. But somewhere along the line many of them have missed the lessons of basic economics, particularly those pertaining to farming and to the task of putting bread and meat on their table regularly. The education of the masses on this subject needs prime priority among educators.

ENOUGH FOOD FOR EVERYBODY?

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ARMSTRONG. Mr. Speaker, as we Americans become increasingly conscious of the plight of the world's starving millions, our instinctive first thought is to send food. Certainly we should do so. And we must also continue efforts to teach modern agricultural methods to backward nations.

But a permanent improvement in the life of the hungry world will also require vast changes in underlying economic, polictical cultural, religious and social traditions of poverty-stricken nations. Until Socialist economic systems, supersitions and similar obstacles can be overcome, real progress will be impossible.

In his masterpiece, "Suicide of the West," James Burnham discussed such issues at length. I am pleased to have his permission to insert in the RECORD a particularly pertinent excerpt from his great book. I hope every Member of the House who is seriously interested in world famine will carefully study his profound comments:

EXCERPTS FROM "SUICIDE OF THE WEST"

(By James Burnham)

4. The proposition that "for the first time in history we are in a position to provide all men with enough to eat" is so much a commonplace of current thinking that we are likely not to recognize its integral relation to liberal ideology. In an address to a World Food Congress, the late President John F. Kennedy gave it orthodox expression in these words: "We have the ability, we have the means, and we have the capacity to eliminate hunger from the face of the earth."

This belief was first formulated by the early socialists. It was a favorite subject for those whom Marx called the Utopian Socialists—Fourier, St. Simon, Robert Owen—as well as for Auguste Comte and the nineteenth-century enthusiasts of science. It has been a stock in trade, also, of Marxism. In my own Trotskyite days in the 1930's I used to expatiate on it frequently in articles for official paper or when carrying the word to the meager but earnest audiences that my comrades were able to round up for a lecture. To many persons today, liberals and nonliberals, it seems to be indeed, a truism.

It is just that seemingly self-evident certainty that should make us suspect that this proposition is empty of empirical, existential content, is merely an ideological cliché—an abstract deduction from ideological principles that has little if any relation to the real world of space and time. In order to delve further into the nature of ideological and therefore of liberal thinking, let me suggest a few considerations that lead to this conclusion.

A. It would have made just as much sense, or as little, to have stated this proposition in many past ages as to state it today. True, the past ages did not have modern science and technology. But they also had only a tenth or a twentieth as many people, and the people occupied much less of the earth's surface. They were capable of a much greater local self-sufficiency—if the inhabitants of the locality were prepared to work hard enough. In a bad season they might run out of food, and did. But Joseph showed how that difficulty could be solved by storing up the surpluses from good seasons. Food got low in winter? Naturally, if people preferred to guzzle when they had it in the summer, and didn't bother to preserve it by drying, salting, storing in caves or whatever. And as a matter of fact, a number of communities did have enough food most of the time.

B. Most people who talk about our present potential for giving everyone enough food have not studied even the technical side of the problem. The fact is that there is not much good unused arable land remaining an earth. From the small reserve, 100 million acres were added to agriculture in the years 1935–60; and of course people, houses, not to speak of roads, are using up the land surface at a tremendous rate. In the past fifteen years the average per capita food consumption has been going down, not up. An increase of food sufficient to have some significance—even though at best it couldn't amount to very much on average—would have to come primarily from more intensive cultivation of land already being farmed in the large, heavily populated nations. This in turn would require as first premise an enormous increase in the use of artificial fertilizers. That is the way—along with very hard work, which is still more unusual—that Japan manages to keep all her population fed, though at a level much below what Americans would regard as a minimum. But Japan manufactures and uses much more fertilizer than all the rest of Asia combined, with Africa throw in. How are those huge and multitudinous fertililzier plants going to appear in India, China, Pakistan? Fertilizer plants require a big electrical industry, a machine industry, adequate transport, trained technicians and workers.

C. In affirming that we can now provide everyone with enough to eat, even the most optimistic of liberals are nowadays constrained to add the condition: *if* we can dampen the population explosion. It is certainly the case that many, and an increasing number of, human beings will continue to go hungry if the population does go on expanding at anything like the current rate. But it does not at all follow that everyone will be fed if only the rate drops: there are many other interfering facts, material, technical, psychological and cultural. These apart, what evidence is there to suggest that humanity in the world at large will oblige the food planners by the prescribed restraint in their breeding habits?

In keeping with their doctrine, liberals explain the baby boom as due to ignorance (the mothers not knowing how to prevent conception) and poverty (the society not being technologically equipped to supply the contraceptive mechanisms or pills). The "solution" of the "problem" is therefore standard and simple: on the matter of having babies, the parents of the world will take the advice of the liberals and the mechanisms or pills supplied by the technologically advanced nations.

And if, in spite of the advice and the available mechanisms, people just want to have a lot of babies Or if the rulers of nations or churches or races want their subjects to go on having more babies than the subjects of the next nation, church or race, hunger or no hunger? About some things, human beings may not be quite so ignorant as liberals are compelled to assume in order to explain why the world fails so conspicuously to conform to the liberal recipes for the good society. The history of many tribes and nations proves that there are many ways by which parents have reduced the number of babies without benefit of modern technology. And the history of many others proves that the rational certainty of poverty and hunger is not always enough to make parents want to limit the size of their broods.

One day, very much against advice received, my wife and I made our way to a remote sector of Calcutta where, in a large temple enclosure, the chief annual rite of the dread goddess Kali was being celebrated. The neighboring streets, like the enclosure itself, were filled with disorderly, noisy processions, deformed beggars, crowds dancing wildly around wailing musical instruments, hideous naked holy men and fakirs, stunted children and the miscellaneous poor. The air was reeking with smells, dominated by the oily smoke from the fleshy offerings that were being burned by scores of little groups of worshipers squatting in the open spaces inside the enclosure. To one side, about fifty feet from a corner of the main temple, which was surrounded by a covered porch, was a curious, many-branched tree. An endless line of wretched, half-starved women was moving around the tree and onto the temple porch. Each woman, as she passed the tree, hung a small piece of colored wool or cloth on one of the branches. By doing so, we learned, and by then completing the circumambulation of the temple, she would be granted more babies by Kali, who is goddess of Fertility as well as of Destruction.

D. The proposition says that "we" are in a position to provide all men with enough to eat. Who is "we"? No single nation could do it; in fact, no outside combination could do it for the three great hungry nations, China, India and Pakistan: they would have to do it largely by and for themselves, and for the foreseeable future this is excluded on technical grounds even if all other conditions were realized: "We" is mankind? But mankind is not articulated into any sort of coherent entity that can "do" anything at all; mankind has no mind nor any decision-making institution; it has no way of working together on a chosen project or toward a deliberate goal.

E. Actually, this belief that we are now in a position to provide all men with enough to eat is an element of a purely abstract model. *If* all men would act rationally, and *if* they would make the getting of enough food for all their goal of highest priority, and *if* they would follow the advice of the best scientists and technicians in allocating resources and energy, etc., etc., *then* there would be, or could be, enough to eat. But every one of these hypothetical premises is manifestly so contrary to fact as to be absurd. Of course men do not act rationally, generally speaking. They don't even consider food the matter of highest priority, whatever ideologues may imagine.

India could quickly give a big boost to her food supply merely by getting rid of the sicker and uniformly useless two-thirds of her cows—eating them while doing so, and continuing to eat all the grain the cows now get and to farm the land their overcropping ruins; and for good measure shooting a few scores of millions of monkeys that gobble up fruit, grains and vegetables. But the Indians prefer honoring the divinity of the cows and monkeys to eating more food. Among the trams, cars and buses of Calcutta and Madras as well as in the smaller towns there are still to be seen cows wandering up to the food stalls to take their pick of delicacies; and starving workers will buy food not for themselves but to place on the public altars available to their bovine divinities. In Indian villages it is not at all uncommon to see a peasant, shrunk with hunger to little more than a skeleton, feeding stalks of grain to an abscessed, limping cow incapable of doing any work or giving an ounce of milk—the condition of most of them.

Nor is it only cows that take priority

over food. Indonesia had had enough food for centuries, before the Dutch as well as under them, until Sukarno took over. Now its people are barely getting fed with the help of massive international handouts. Sukarno's regime is more interested in arms, warships, monuments, glory and conquest than in food. Rumania, Hungary, Poland, Czechoslovakia, and in many periods Russia itself, were all food surplus countries before communism moved in. But communism wants power more than food, and power dictates policies that conflict with those that might induce peasants to grow more food.

Or take the famous White Highlands of Kenya that liberal publicists are fond of citing as an example of colonial and racist exploitation. The Highlands are the part of Kenya that, by its temperature, rainfall and soil, makes successful farming *possible*. They comprise in all about 45,000 square miles. Of these, 37,000 square miles are, as they have been in the past, farmed by African Negroes. The Europeans have been farming about 4,500 square miles, one-tenth of the lot: virtually all developed from scratch in the course of the past sixty years. From these 4,500 square miles the Europeans have been raising sufficient commercial crops to make up 80 percent in value of Kenya's export total of all goods and products—the factor on which Kenya's long-run economic development inevitably depends.

But this is because the Europeans have the best land, the capital and so on, ideology at once protests. The facts teach otherwise. Much of the Highlands land—considerably more than the 4,500 square miles that were the European maximum—is at least as good; all of it is of the same basic character. Comparative studies have been made of African and European farming operations that are closely comparable in all respects, including available capital. They show that the European-farmed land produces approximately four times as much per square mile as the African-farmed land: approximately 4,300 pounds in annual value as against 1,100 pounds. It is certain that the economic condition of the Highlands, and thus of Kenya as a whole, will continue in the next period the worsening that began several years ago, and that there will be less food for Kenya's inhabitants.

As the Europeans continue to leave, their highly productive, technically advanced and efficiently managed farms are being broken up into subsistence plots or small uneconomic units, both types largely in the hands of incompetent Negroes. Very probably thousands of acres of the Highlands will revert rather soon to the sterility in which the Europeans found them sixty years ago, cropped down to sour bare soil, perhaps, by cattle and horses kept to expand a tribe's prestige and status rather than its food supply. It may not be long before the rising young nation of Kenya is added to the list of those living by the surplus food of the citadel of world imperialism. There is no mystery here. It is simply that the native leaders of Kenya's African inhabitants want other things more than they want food.

But if men don't even want food exceedingly, if they are willing to sacrifice food for the sake of power, glory, piety, laziness, resentments and large families, there is no practical point to insisting that in what can only be some purely abstract and theoretical sense, "We have the ability, we have the means, and we have the capacity to eliminate hunger from the face of the earth."

Does it then follow that many human beings are destined to go hungry over the years to come? Yes, even so. But the liberal ideology—which, by clinging to an optimistic theory of human nature and history, by denying the objective reality of evil and affirming that all social problems can be solved, excludes genuine tragedy—cannot face this tragic fact. That is the real reason why the liberal repeats the proposition, derived not from fact but from doctrine, that we have the ability to provide all men with enough food. When the fact is tragic, his ideology offers him refuge from fact.

AND NOW, A COFFEE PLOT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. GAYDOS. Mr. Speaker, the budget-harried American housewife is facing a new inflation problem. Coffee prices are climbing and according to merchants, may be about to jump through the supermarket roofs.

Woodene Merriman, woman's editor of my home city newspaper the McKeesport, Pa., Daily News, has been keeping tab on this situation and has found the coffee price, which ran around $1 a pound a coupe of years ago, now going as high as $1.89. And that may be just the beginning.

Blamed, of course, is the weather and consequent poor harvests in the coffee countries to the south of us. Frost, so the merchants have been told, has had severe effects. But there is much more to the story, Editor Merriman found, than this. The U.S. consumer is being ripped off.

One grocer told Ms. Merriman:

> The coffee bloc nations led by Brazil, are trying to do the same thing the oil countries did.

In other words, they are ganging up on us, inflating their prices beyond reason and by collusion, to enrich themselves, as did the OPEC states, with their oil gouging. And the question we face, therefore, is whether we will hold still for this new extortion.

We were taken, and still are being taken, on OPEC oil to the great damage to our economy. But oil is a necessity. We must have it to keep our industries running and our traffic moving. And there has been no alternatives and will be none until other energy sources are developed.

But this is not the case with coffee. It is not a necessity. In fact, it does the drinker no good at all and some physicians contend its overuse can do much harm. It is a morning eye-opener and a reason for a "break" or two in the workaday routine. But it contains no nourishment. A coffee-drinker can live without it and, perhaps, have better nerves as a result. And he has alternatives in tea, whose price currently is holding steady in the stores, and cocoa, and milk and soft drinks. In other words, we Americans do not need coffee.

The fact is that the current enormous coffee consumption is a post-World War II phenomenon. Before then coffee here was consumed in moderation—a cup or two in the morning and maybe a couple more at the evening meal. The war brought on the coffee break and the plant and office machines and the custom that has millions gulping coffee by the gallons all through the day and a good part of the night.

Thus, we have a means of striking back at the coffee gougers. We can cut down on consumption. We can eliminate without trouble a cup or two a day and that decrease on the part of only a fraction of U.S. coffee drinkers would break the coffee bloc and glut the market. I suggest that our consumer agencies push this and, in doing so, head off by the example of an aroused U.S. public the other plots being hatched by new cartels of suppliers around the world. Brazil, as the song once said, has a lot of coffee. We should let it keep enough of it to show that we are not suckers.

ANGOLA: THE MAKING OF A QUAGMIRE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. WAXMAN. Mr. President, over the past several weeks, details of the United States murky involvement in Angola have been slowly coming to the surface. It appears that the Central Intelligence Agency has secretly committed over $50 million in arms and money in support of the FNLA and UNITA, two of the three national liberation movements engaged in a bitter civil war for control of the abundantly rich, former Portuguese colony. It further appears that serious misgivings over this commitment were raised by the African Affairs section of the State Department—only to be overruled by Secretary of State Henry Kissinger. Whether others in the administration have also raised doubts over our ever-deeper involvement in Angola is not known, and cannot be known under the present circumstances.

Although the Secretary of State's concern over the dangerous and growing Soviet-Cuban role in Angola is legitimate, and one which should deeply concern us, it is nearly impossible to condone the secrecy which has surrounded our covert response to their activities. We are, in effect, being asked to support a policy whose underlying reasons have not undergone a full airing in public, and whose nature and extent are secret.

What has leaked into the press over the past 2 weeks is disturbing indeed. Senior American officials, speaking off the record, believe that great powers cease to fulfill their greatness when they stand idly by in the face of events. We apparently became involved in Angola because the Soviet Union had become more actively involved. At the same time, however, the administration has not disputed the contention that Angola plays no strategic role with respect to America's interests. The United States has little or no economic or political stake in the course of events there. But we are worried about what the Russians are doing, and what the world might think if we do not do something in response.

The result has been a covert, knee-jerk reaction in which we have found an ally—the FNLA and UNITA—who will counter the Soviet-backed MPLA. They have become our allies only because they are fighting a group which is backed by the Russians, and not because they promise the establishment of a democratic and free country in that former colonialized nation.

Foreign policy pursued through covert operations as an excuse for thinking through our national interests and objectives brings us in line with strange bedfellows. The Chinese, for the same crude reasons of superpower politics, are supporting the same groups we are. More distressing is an open alliance with South Africa, an alliance with the most hated, oppressive, and racist regime on that continent. Such an alliance can only be calculated to result in our loss of esteem by the new nations of black Africa.

One wonders whether the true basis of our Angolan adventure would stand the light of day. The President and the Secretary of State have carried out this policy in an indefensible way with respect to Congress. They did not inform the Congress or its leadership or even the full House International Relations Committee of its covert activities, but only the members of that committee's subcommittee. After all we have gone through in the past decade's foreign disasters, one would have hoped that the administration would have finally come to realize that it must conduct foreign policy only in cooperation and partnership with the legislative branch of government.

I fear we are faced with the making of another quagmire in Africa, justified by the same discredited arguments that tied us down in Asia a few short years ago, a quagmire where white America would again be seen as fighting against the liberation of nonwhite colonialized people. Our operations in Angola are not merely of a limited and covert nature. A full-scale civil war is raging, and we are playing a central role in it. It is now outrage, in my judgment, that what is no secret to the Angolans, or the Russians, or all of Southern Africa is secret from the Congress and the American people.

On December 15, Anthony Lewis of the New York Times shared his doubts about our policies in Angola. I urge my colleagues to study the perspective he sets forth:

NO QUESTIONS, PLEASE

(By Anthony Lewis)

BOSTON, DEC. 14.—In the last six months the Ford Administration has secretly supplied $25 million in arms and money to factions it favors in Angola. The President has just approved another $25 million. American pilots are flying five American artillery spotter planes in and out of Angola from neighboring Zaire.

The Angola operation is already one of the largest covert actions ever mounted by the United States outside Indochina, and it raises large questions of policy. Does the Angolan faction we oppose, which gets aid from the Soviet Union and Cuba, threaten American interests? Is there any realistic chance of defeating it, or is the prospect an endless struggle without success? And more.

But there is a fundamental question of process before those of policy. If American action is needed, why should it be clandestine? Why has our policy on so dangerous a problem been made and executed in secret?

The answer given is that U.S. aid might embarrass the recipients if sent openly. American motives are suspect in Africa these days, in part because of leftist bias but also because of the record of American activities in the Congo, Chile and elsewhere.

But an operation as large as that in Angola could hardly be expected to remain secret for long, so that answer is less than persuasive. In any event, the Angola action has now been disclosed in considerable detail by unnamed sources who sound very much like the C.I.A. Continuing to handle the policy covertly is not likely to avoid embarrassment.

The Angolan affair, in fact, makes clear what must often be the real reason that officials choose the covert path. It is more convenient. It allows policy to be made by a handful of men who know best. It avoids annoying questions by Congress, the public and experts within the executive branch.

After Vietnam, an open decision to intervene in an armed struggle thousands of miles from the United States and outside our traditional sphere of interest would surely have aroused some questions. There is no need for conjecture. Seymour M. Hersh of The New York Times has disclosed that there was governmental opposition to the Angolan policy—and that it was suppressed.

Secretary of State Kissinger made the decision for military aid against the advice of his own Assistant Secretary for African Affairs, Nathaniel Davis. Mr. Davis felt so strongly about it that he quit the job last August. Since then Mr. Kissinger has cut down the flow of cables on Angola to the department's African specialists and even to the Bureau of Intelligence and Research, which also opposed his decision.

Mr. Davis is said to have seen three main dangers in the growing U.S. involvement in Angola. The factions we favor are so weak that the policy probably will not work. A prolonged struggle ending in failure would deeply damage the two African figures on whom we most rely, President Kaunda of Zambia and Mobutu of Zaire. And the United States may become identified with white South Africa.

Those arguments look rather convincing today, after a direct South African military intervention in Angola and after the decline in the fortunes of the Angolan groups favored by the Ford Administration. But right or wrong, the arguments should have been heard—heard by someone other than Henry Kissinger.

Under the American system, secret decisions by one official or a few are wrong in principle. They also tend to be wrong in practice. Whatever good we can imagine covert operations doing, what they actually did is evident enough in the major examples: Vietnam, Laos, Cuba.

Henry Kissinger's record makes it particularly unwise to leave policy on Angola largely in his hands. A National Security Council memorandum drafted under his direction in 1970 predicted continued Portuguese power in Angola, and thereafter some help was given to Portugal in its colonial war. This absurd episode is described by Tad Szulc in the current issue of Foreign Policy.

But the point is much larger than the specifics of Angola. Our attitude toward that affair will really indicate whether we have learned from Vietnam and Watergate and the rest how much harm we do to ourselves by secrecy—by letting a handful of officials make policy without public examination of the premises.

The worst danger of covert action on such a scale is that it may commit the United States to a position and make extraction awkward. That may indeed be their intention. The time to stop the process is now. Senator Dick Clark of Iowa has a foreign aid bill amendment that would bar any Angolan aid unless Congress has authorized it. That proposal takes no position on the rights or wrongs in Angola. It would simply make sure that the country has a constitutional opportunity to look out for quagmires before taking the large step.

BLACK ELECTED OFFICIALS INSTITUTE RESOLUTIONS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. RANGEL. Mr. Speaker, last weekend, the Third National Institute for Black Elected Public Officials met in Washington. The theme of that conference was "Politics and the Black Economic Condition." In keeping with that theme, the 500 elected officials attending the institute passed a mandate containing seven principles and issues to serve as the basis for support of Presidential and other candidates in 1976. The Congressional Black Caucus is pleased that these principles parallel the key issues set out in the caucus legislative agenda and reiterated in our statement for the Louisville Issues Convention held in November.

I am inserting the institute's mandate in the CONGRESSIONAL RECORD and commend it to the attention of Members and others concerned with achieving economic justice for all Americans. My colleague, Congressman LOUIS STOKES of Ohio, is inserting in the RECORD additional independent resolutions passed by the elected officials at the institute:

THIRD NATIONAL INSTITUTE FOR BLACK ELECTED PUBLIC OFFICIALS

Black elected official of all levels and from all parts of the country have come together to deal with the conditions of blacks in America with particular emphasis on the disproportionate burden which blacks, the poor and other disadvantaged groups bear as a consequence of our economic policies.

It is recognized that the sorry state of the economy is a major concern of all Americans. However, the bold fact is that black Americans have less and suffer more than any other segment of the society.

It is also understood that many of the solutions to our problems must rest with local action and initiatives but are only possible if national policies and programs provide direction and funding.

The needs of black Americans today are not too different than they have been for the last decade and, therefore, the specific concerns and demands of this document are not new. They are a reaffirmation of what the country has been told over the years.

Yet, it was important for black elected officials to get together and discuss common problems and possible solutions. In an era of a declining economy and a clear withdrawal by the country from its constitutional commitment for justice, it is essential for black elected officials to become more vigilant and forceful in meeting the needs of their constituents. The general moral decline shall not deter us from the drive for economic justice for all Americans. Deprived as we are, we are not alone—millions of Americans suffer with us due to the lack of moral and programatic leadership. We all need jobs, housing, education and other essentials of a decent and humane life.

Notice is now served on all candidates of all parties and persuasions for high public office—the presidency in particular—that we have no permanent friends, no permanent enemies—just permanent interests, who seek high offices merit the support of black and other afflicted segments of the society. Old alliances, past party ties are to be reexamined—the sole criteria of what is to be done to alleviate the horrendous plight of blacks trapped at the bottom of the economic system.

Black Elected Officials representing localities throughout the nation believe that the following principles and mandates must guide and serve as the basis for candidate support by our people in 1976 and beyond:

1. Full employment.—

The American economy belongs to all of the people. The burden of the economic recovery, of halting inflation, should not be placed with those least able to shoulder the costs. Jobs are our first priority in any economic recovery plan.

What is viewed as a recession by the Nation, is a virtual Depression in Black and poor communities. We cannot accept Alice-in-Wonderland definitions of full employment. In our view, there is no tolerable level of unemployment. At present, some eight to 10 million workers are unemployed. National unemployment in November, 1975 was 8.3%—with black jobless, "officially" estimated at nearly 14%.

The unemployment that has plagued the black community has had a particularly devastating impact on the increasing number of black women who are heads of household. These women earn wages that are generally below that of white men, white women, and black men.

Full Employment, a program which guarantees the right to useful and meaningful jobs for all those willing and able to work, now demands broad public understanding and support. The majority of American people are beginning to realize what the black community has always known—that there is no reasonable trade-off between high unemployment and the high cost of living; that a job is the only buffer most people have against high prices.

The Congress must, in the coming year, pass strong and effective full employment legislation. The Equal Opportunity and Full Employment Act (H.R. 50/S. 50) would do the job. H.R. 50 provides that the President must prepare a national purposes budget which will result in an unemployment rate of less than 3 percent in 18 months. This rate is to be reduced in 3 years to the point that every person willing and able to work is guaranteed a job. Government policies would encourage the private sector to hire the unemployed. The Federal government would serve as employer of last resort, maintaining a Job Guarantee Office and establishing a U.S. Full Employment Service.

We must focus the same time on the new congressional budget process to implement full employment. The House Budget Resolution passed in November 1975 projected unemployment at 7.5 percent in one year, clearly an unacceptable figure.

2. Welfare reform—

For a number of years, there has been a great deal of discussion about welfare abuse, welfare reform and welfare replacement. Welfare, or income security, must be discussed now in human terms.

The Federal Government must assume a larger share of the welfare burden. There must be a guaranteed annual income. However, any measure for income security cannot be laden down with punitive, counterproductive requirements such as has happened in the past. As one simple example, it is ludicrous to talk about forced work requirements at a time of spiraling unemployment. Moreover, it is necessary to remove procedures and activities which result in invasions of privacy. It is also crucial to recognize that the majority of welfare recipients are heads of single family households, frequently with young children.

Any welfare replacement or income supplement program is doomed to failure unless it is tied to job development, job training, a vastly expanded child program and a thorough and far-reaching program to eradicate sex and racial discrimination in education, job training and employment.

3. National Health care—

The Congress must pass and the President must sign legislation to provide for a system of comprehensive health care. The legislation must provide full coverage with a high level of benefits. Legislation which provides coverage only in cases of catastrophic illness is not acceptable. There are six essentials which must be included in any legislation passed:

a. It must set forth a positive health concept, which includes preventive services, health maintenance and community education for personal and community health.

b. Health care must be recognized as a right, not merely as a privilege.

c. Health coverage must be comprehensive and include a full range of health care, preventive, diagnosis, treatment and rehabilitation regardless of one's ability to pay.

d. There must be progressive trust fund financing so that health care is insured of continuation as a permanent program.

e. Consumers, that is, the community residents, must be permitted and encouraged to participate in health care program operations.

f. The health care program must be reinforced with adequate financing for research, planning and administration.

4. Africa policy—

The United States has virtually ignored an entire continent rich in mineral and economic potential, but whose countries are in great need of financial and technical assistance. The lack of a responsive U.S. policy toward Africa is reflected in a number of international policy decisions in the United Nations and other forums at which many African nations vote contrary to the United States position.

Two key steps for a more positive African policy are: (1) for the administration to stop supporting minority rule in Southern Africa and (2) to take concrete steps to implement the final resolution at the Seventh United Nations Special Session providing for a new International Economic Order, specifically those relating to assuring just and stable prices for primary commodities. In addition, the U.S. should make a significant contribution to the African Development Fund.

Finally, the Congress must reverse itself and pass the legislation to prohibit importation of Rhodesian chrome in violation of United Nations sanctions. These are initial, but necessary steps in turning around the policy and the image of the United States with respect to Africa and to other developing nations.

5. Education—

Equal educational opportunity has increased significantly for blacks in this country over the past several years. Yet, while many gains have been made, much remains to be done. The black school child continues to be the victim of misguided efforts to retreat from the goal of school desegregation. The largest number of blacks are affected by policies in the elementary and secondary education, but the increasing numbers of black college students face a parallel struggle, the struggle to find the financial assistance essential to higher education opportunity.

In the first part of 1976, the Congress will continue its work on major pieces of higher education legislation—extending the Higher Education Act and renewing the Vocational Education Act. We support the renewal of this legislation and state our particular concern about several aspects of these measures.

In extending the Higher Education Act, three goals must be met: (1) Eligibility for student financial aid must remain concentrated on those with the greatest need. We must resist efforts to open these programs to middle class students who have alternatives for financing their college education; (2) the Developing Institutions program must be continued with increased funding; and (3) the affirmative action obligations of institutions to hire and promote minorities and women must be vigorously enforced.

A renewed Vocational Education Act must contain provisions to ensure that handicapped and disadvantaged students receive substantial benefits from the programs. Moreover, legislative provisions must be added to substantially diminish administrative costs at the State level.

During the past few years, important educational policy questions have taken second place to a misleading and emotional debate over busing. This misdirected debate has obscured the essential thrust and purpose of school desegregation. That purpose was in 1954 and still is in 1975 to improve access for all children to quality education. Until and unless communities have alternative viable means of insuring high quality education for their children in integrated settings, busing remains a technique which must be supported for wherever it has been judicially ordered, in order to reach that goal. The few communities in which the busing of school children has resulted in violent anl vicious confrontation should be our shame, not our example.

6. Tax reform—The efforts of the House to bring about substantial tax reform were stymied by heavy lobbying of those who benefit most from the current inequitable tax laws. Special interests have been able to write into the law additional benefits aimed at protecting their wealth.

Tax reform is crucial to any effort at redistribution of wealth. Tax shelters and loopholes permit wealthy individuals and corporations to pay no tax at all, or to pay at a rate considerably below that of the average American. For every dollar of income which escapes federal taxation through loopholes, the government is, in effect, providing a direct subsidy or appropriations. This foregone revenue has been labeled a "tax expenditure". The Congress must scrutinize these tax expenditures as closely as budget items.

7. Economic development and aid to minority businesses—Presently, many minority businesses are being liquidated because of the inability to repay federal loans. We recomend a one-year moratorium on federal loan repayments. There should be a significant increase in set-asides and subsidies to minority businessmen.

A system of tax concessions for financial institutions and other investors should be developed immediately. Such loans and investments should be made available for business development and mortgage financing in black and other poverty communities.

There are several federal programs that have begun to work effectively in minority communities to aid in the economic and business development of rural and urban low-income communities. Minority Enterprise Small Business Investment Corporations (MESBICs) and Community Development Corporations (CDCs) have been primary mechanisms for providing an economic base for these areas. A commitment must be given to these enterprises in order that they may play a greater role in resolving the dual problems of inflation and unemployment.

GARBAGE FOR BREAKFAST

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. SANTINI. Mr. Speaker, many Members of Congress have been concerned about the future of our food supply and the dangerous eating patterns into which so many people have fallen.

We are facing a nutrition crisis of tremendous proportions. A chief problem is that many Americans, particularly children, are eating presweetened breakfast cereals every day. These cereals are lavishly advertised to children through ubiquitous television commercials.

Prof. Jean Mayer, the noted Harvard nutritionist, has called sugar one of the two food products which have absolutely no beneficial value in the human diet. The other one is alcohol. The sugar content of some cereals is as high as 45 percent. Moreover, nearly all cereals contain highly refined flour, which is almost worthless nutritionally, and they often include shortening, which contains saturated fat. Most cereals contain little of real nutritional value.

Several years ago, General Mills began test-marketing a new cream-filled cereal called "Mr. Wonderfull's Surprise." This product was a nutritional nightmare—30 percent sugar with 14 percent saturated fat. But the consumers proved to be more sophisticated than the manufacturer had expected, and the cereal was discontinued because of the poor sales response.

Still, it is appalling that, at a time when manufacturers should be trying to improve the public health, they continue to load their new creations with substances which cause obesity, tooth decay, and possibly diabetes and heart disease.

With as many as 75 presweetened cereals already on the market, we do not need any more. What we do need are products with more protein, less fat, and less carbohydrate.

Consumers may not realize that many of the cereals which do not taste particuarly "sweet" still contain large amounts of sugar. On a recent trip to the supermarket, I could find only two dry breakfast cereals which contained no sugar. In addition, I was alarmed to discover the presence of sugar in many canned soups and even in cottage cheese, where it is clearly unnecessary. Moreover, while eating lunch on an airplane recently, I read the ingredients on the packet of salt and discovered that it contained sugar as well as salt.

Last year a consumer group, the Center for Science in the Public Interest, asked the Food and Drug Administration to require that cereal manufacturers list the percentage of sugar in each of their cereals. On November 8, 1974, FDA turned down the petition and subsequently rejected an appeal of this decision.

Closely linked to the issue of breakfast cereals is the problem of the so-called "snack foods." A typical product of this type is "Breakfast Squares," which has been advertised as a "solid, ready-to-eat breakfast food that can be eaten—on the way to school," and also has been billed as a "high protein" product. In view of these claims, it is most revealing to learn that the three primary ingredients are sugar, fat, and water.

One nutrition expert recently had this to say of snack foods:

> Everything that is wrong with the American diet is rolled up in a snack cake or pie. They are high in calories, high in sugar, encouraging a child or his mother to think of them as good nutrition; in a country where the major nutritional problems are overweight, tooth decay, diabetes, and heart disease, it is a little like teaching a four-year-old to smoke on the grounds that it will be good for his lungs.

Mr. Speaker, I will shortly be introducing legislation to require that package labels of breakfact cereals and snack foods specify the sugar content. I also urge food manufacturers to develop new products which will contribute to good nutrition. America's future depends upon the health of her citizens, and we simply must stop feeding our children and ourselves garbage for breakfast.

CIVIL WAR IN LEBANON

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. BOLAND. Mr. Speaker, the continuing tragedy of civil war in Lebanon becomes even more saddening at this time of year. As we in the Congress have worked long into the night in the closing hours of this session of Congress, we have all looked forward to the upcoming Christmas holidays and the joy that they bring each year to us and our families. There is no joy in the once gracious city of Beirut today, nor is there great likelihood that any improvement can be expected by Christmas Day. As we in this country gather together for our Christmas celebrations, Lebanese will be dying on the streets of Beirut.

Civil war is perhaps the deadliest of wars because even total victory leaves such scars only new generations can erase. The physical scars of Lebanon are there for all of us to see in the newspapers and television news. Even if those marks are erased and Beirut once again becomes a city of life and light, those who have fought there are not likely to soon forget those who have died. The issues that have divided the various factions now fighting in the capital city are even less likely to be settled by those killings. It is only in peace and through processes of conciliation that any hope exists for an end to civil strife.

Mr. Speaker, I believe that the United States must not fail to repeat our offer of mediation whenever feasible. If, as may well be the case, direct American participation is not feasible, we must continue to expand our efforts to obtain the good offices of some other country less involved in the Middle East. Whatever the solution, Mr. Speaker, I feel it ought to be the urgent request of all Members that the Secretary of State employ his considerable talents toward this end.

For 200 years, this Nation has stood for the proposition that certain human rights cannot be abrogated either from within a country or from without. Although we see that proposition denied and trampled upon throughout the world today, it is nonetheless our duty and our proud heritage to reaffirm our commitment to those principles, these "inalienable rights."

I recognize, Mr. Speaker, as I am sure do most Americans, that the situation in Lebanon can only be resolved by an end and not escalation of fighting. I believe that this country stands firmly behind such efforts on negotiation and conciliation that our Government can accomplish. It is also our duty to prevent, as best we can, any intervention by other nations that is calculated to exacerbate rather than ease the tension that has made a shambles of what once was both the financial capital and playground of the Mideast.

Mr. Speaker, during this season of rejoicing the prayers and best efforts of this country ought to be directed toward a just peace in Lebanon. The spirit of Christmas could not be better served nor exemplified.

CONCERN FOR TAXPAYERS?

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. CHARLES H. WILSON of California. Mr. Speaker, while I realize that it is against tradition for one Member of Congress to speak ill of another, I cannot in good conscience allow the hypocritical remarks of Representative ALPHOHZO BELL, of California, to go unchallenged.

The honorable gentleman who is a good friend of mine, has said that he is against a pay raise for Members of Congress, that he is against increased staff and travel allowances, and that he is against increased mailing privileges for Members. And he has said all of this in righteous tones, ringing of piety, and indignant in his concern for the taxpayers.

Now, I am fairly certain that the majority of people who heard those remarks are well aware of my distinguished colleague's voting record when it comes to pay raises for Congress. And I am certain that the honorable gentleman himself did not for one moment expect any of us in the Chamber who heard those remarks to be fooled.

Perhaps it was not us he was trying to fool. Perhaps it was the press, or perhaps it was his constituents in California. But, fortunately, the mass media and the public are not as uninformed as he apparently think they are.

For instance, it did not take long for United Press International to catch him out. I hope my honored colleague was not too chagrined to read UPI's disclosure that this great advocate of economy has himself voted for increases in staff pay and air travel allowances.

Since coming to Congress in 1961, Congressman Bell has voted for every pay raise, when he has not been absent. I challenge him to show his record of when he has specifically voted against increases in salary for Members and staff and increased air travel. In each of these categories he has voted for, not against such increases.

Now, I am not against these things, I voted in favor of them, too. But I am not voting one way and trying to make the good people of California think I voted another. Frankly, I am embarrassed for the man. What the folks in California must think I can only guess.

Before I go on, let me say why I voted in favor of a salary increase for Members that is indexed to the standard of living. I did this simply because my research shows that this is one of the most sensible ways of insuring that salaries for anyone—be they industry workers or Congressman—keep up with the economy.

A tied-in wage increase is becoming standard practice in many industries, and in Government.

I voted for increased flights home for the same reason that my distinguished colleague did in 1964. He said in the UPI story that, because the people of California should be as well represented in Congress as people in eastern States, he voted for more flights home.

So, we now know that the honorable gentleman voted twice in 1964 for things he now says that he is against. A question UPI might have put to him is this: If he is suddenly so against congressional pay raises and increased privileges, why was he absent last summer when H.R. 2559 was voted on?

This bill, as we all know, carried. There was no vote against it by my esteemed colleague. In other words, of the three congressional pay raise votes, he has voted in favor twice and not been around the third time.

Let us now look at his challenge to increased mail privileges. I wonder how many people in California are aware that my colleague's press release attacking the mail privilege, was itself sent out under the free congressional frank. Were this performance not so sorry, it might even be amusing.

Let me say, at this point, that, of course, I voted for the increased pay raises, however, unlike my honored colleague, I am not implying that I did not. The free frank is necessary so that Members can communicate adequately with their constituents. Increased mail privileges are necessary because the amount of mail Congress is receiving from the public is going up. People are becoming more sophisticated, and better educated, and more inclined to write to their Congressmen. These letters must have answers, as I am sure the honorable gentleman must admit even to himself on sleepless nights.

I voted for increased staff pay because the congressional workload is going up and because, as everywhere else, the cost of living in Washington is going up.

And, finally, I simply must comment on my honored colleague's noble-sounding remarks regarding his own concern over the last pay raise that was forced upon him.

In another of his press releases, this one also sent out under his congressional frank, he says that he found that there is no machinery in Government that allows him to refuse this raise. So, my esteemed colleague, this heroic figure, sends a personal check to the Treasury Department every month for the amount of the raise to which he says he is not entitled.

I would be touched, as I am sure all of you would be, did we not know that our honored colleague is also a multimillionaire, in fact. He inherited great family wealth. While this, I am sure, does not make his act of refunding money any less beneficial to a grateful nation, it does go a long way to explaining how he can afford to do it.

Unfortunately, in this unfair world, not all Members of Congress are rich. Not all of us have large outside income. Not all of us, without regular raises, can afford to maintain dual residences, in Washington and at home, and to bear other financial burdens of office.

At this time, I should like also to include in the record, two news items, from United Press International and Associated Press, concerning what I have been talking about today.

[From the Los Angeles Times, Dec. 18, 1975]

Bell Raps Congress on Self-Serving Measures

Sacramento.—Rep. Alphonzo Bell attacked his colleagues in Congress Wednesday for approving "self-serving measures to benefit members of Congress."

Bell, a candidate for the Republican nomination for the U.S. Senate, criticized pay raises, staff allowances and increased office expense accounts and extra funds for mail of members.

The West Los Angeles congressman sent copies of a news release about the speech to reporters by using the congressional free mailing privilege.

A Bell aide, Mark Armbruster, said the franking privilege was used by mistake on about 75 to 100 of the press releases. But he said it was not improper.

"Bell considers it to be congressional business," Armbruster said. "It's nonpartisan. It doesn't mention any candidates and it involves congressional reform."

[From the Los Angeles Times, Dec. 19, 1975]

Bell Voted for Two Bills He Assailed as "Self-Serving"

Sacramento.—Rep. Alphonzo Bell, a Republican candidate for the U.S. Senate, voted for two of the bills he called unjustified and self-serving in a scathing attack on Congress, his office acknowledged Thursday.

In a news release, Bell declared, "More self-serving measures to benefit members of Congress have been approved during the past two years than during any comparable period in our history."

He listed a dozen specific actions of "feathering our own nest" and he said they "simply cannot be justified on the basis of inflation or larger constituencies or increased congressional responsibilities."

Bell also suggested voters may find that congressmen are not worth the extra cost.

But the West Los Angeles lawmaker did not mention that two of the dozen items on his list received his "yes" vote. Spokesman Mark Armbruster said Bell voted in favor of increasing the number of free round trip flights to home districts from 36 to 52.

"He was simply sick and tired of the Eastern states being better represented, in effect, in Congress," said Armbruster.

Bell also voted in favor of increasing congressional staff allowances by $32,064 per office, up more than 18%. This was because his staff works hard and deserves a raise, said Armbruster.

ANGOLA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. DODD. Mr. Speaker, I am urging my colleagues, on the eve of our Christmas recess, to denounce unequivocally the blatant intrusion on the part of the Ford administration, the Soviet Union, and the South African and Cuban regimes in the domestic affairs of a newly independent African nation.

Sadly, Angola has become the most recent staging ground for a familiar game of power politics whose players are failing to keep at heart the bests interests of the Angolan people.

First of all, I have no choice but to condemn the President and the Secretary of State for involving this country, whose confidence in Government was so severely shaken by the tragedies of Watergate and Vietnam, in a distant civil war without the consent of the American people or of their elected representatives.

This failure to deal frankly and directly with the U.S. public and the U.S. Congress makes a mockery out of Mr. Ford's pledge to conduct an "open administration."

It is also a clear indication that our involvement in Angola is a misguided one. There is nothing to fear in exposing a just and reasonable cause before our people and before the world.

Given the notable absence of national security interests which alone could justify such governmental secrecy, we are left to conclude that this cause is neither just nor reasonable.

Second, I would like to be even firmer in my condemnation of the Soviet intervention in Angola. The U.S.S.R. boasts a record of unequaled repression in 20th century history. Its leaders have displayed an absolute disregard for the freedom of their own people and have not hesitated to extend their iron grip in vulnerable areas around the world.

In Angola, not only have they used their own tools of military and economic assistance in an attempt to spread their control, but they have also engaged in supporting the presence of Cuban soldiers on an African battlefield.

Third, the involvement of the unabashedly racist South African regime is equally reprehensible and unmindful of all of Africa's abhorrence of this practitioner of apartheid.

Thus, while I cannot excuse our own involvement in covert activities in Angolan territory, I am not suggesting that we should sit back and acquiesce to the politics of penetration being conducted by the Soviets, the Cubans, and the South Africans.

This is not a time to climb a lofty throne of moralism and to ignore the cruel realities which we all face. The many-sided incursion by foreign powers in a weak, divided, and newly independent nation demands a forceful response from the United States.

My point is that we do have both an interest and a responsibility in addressing this situation in the most direct of fashions. We should not address it, though, by playing the Soviet game or by using identical tools in a show of force.

It is high time that our foreign policy cease to be a creature of Pavlovian reflexes and for it to change in accordance with changing circumstance.

It is vital to our image and our national well-being that we no longer fight side by side with the forces of oppression, thus identifying ourselves with them in the eyes of the Third World.

As the largest and most powerful democracy, it is incumbent upon this Nation to set an example of diplomatic integrity. We must not only cease our involvement in a covert war overseas, but we must also shame the Soviet Union, South Africa, and Cuba for their participation in the power play taking place today in Angola.

While it is in all of our interests to further the process of détente and international cooperation, we must also advocate an effective and thorough solution to this problem.

I urge my colleagues in the House of Representatives to launch a full congressional investigation of the Angolan situation and to adopt a policy whose aim is the total disengagement of all of the outside parties involved.

To further this urgent purpose, I support the adoption of a resolution putting an immediate end to U.S. funding of the Angolan conflict.

Once the United States has ceased all of its contributions, it is my belief that we should use strong economic and political pressures to encourage the Soviet Union, Cuba, and South Africa to do the same.

Such pressures would include:

First. A moratorium on all technical and trade agreements with the Soviet Union and South Africa.

Second. A moratorium on all ongoing negotiations with Cuba.

And finally, we should call upon all of our allies and our South American neighbors to support us in this effort, so that the Angolan people may fully enjoy our founding principle—the right of self-determination.

TAX CREDIT FOR FUEL SURCHARGES

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. YOUNG of Florida. Mr. Speaker, I am today introducing legislation to provide individuals a credit against their Federal income tax for electrical energy fuel surcharges imposed by public utilities.

My bill constitutes an effort to provide a measure of relief to those individuals and families which have been hard hit by increases in their utility bills due to the quadrupling of world oil prices. In my own home State of Florida, fuel surcharges have—in some cases—almost doubled individual electric bills. This situation places a serious burden on those who are retired and trying to live on low or fixed incomes, and yet neither the Congress nor the Federal Government has taken effective action to ease this burden.

Under my proposed legislation, individuals will be able to credit against their Federal tax bill the total amount of all electrical energy fuel surcharges paid by them during the taxable year. The nature of this credit is such that it will benefit low- and middle-income families most; by restricting it to individuals, I have attempted to insure that large energy users will continue to feel the pressure to conserve energy.

Mr. Speaker, I do not pretend that this proposal is the answer to our energy problems, but I do believe it is an effective and straightforward means for providing relief to those hardest hit by skyrocketing electrical rates, and I urge my colleagues to support it.

The text of my bill is as follows:

H.R. 11322

A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for electrical energy fuel surcharges imposed by public utilities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of subtitle A of the Internal Revenue Code of 1954 is amended by inserting after section 44 the following new section: fuel surcharges paid by the taxpayer within

"SEC. 44A. CREDIT FOR ELECTRICAL ENERGY FUEL SURCHARGES.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of all electrical energy the taxable year.

"(b) Definitions.—For purposes of this section—

"(1) Electrical energy fuel surcharge.—The term 'electrical energy fuel surcharge' means an amount—

"(A) established or approved by a rate-supervising agency, or computed by a method so established or approved, as a separate amount charged by a public utility to any purchaser of electrical energy for the cost of fuels used to produce any unit of electrical energy sold to such purchaser in excess of the average cost of fuels used to produce such unit during any reasonable period under regulations prescribed by the Secretary or his delegate which does not include any period before January 1, 1972, and

"(B) separately stated on any billing to such purchaser as a charge for the purchase of such energy.

"(2) Public utility.—The term 'public utility' means a corporation engaged in the sale of electrical energy if the rates for such sale have been established or approved by a rate-supervising agency.

"(3) Rate-supervising agency.—The term 'rate-supervising agency' means a State or political subdivision thereof, the District of Columbia, an agency or instrumentality of the United States, or a public utility or public service commission or other similar body of the District of Columbia or of any State or political subdivision thereof."

(b) The table of sections for such subpart A is amended by inserting after the item relating to section 44 the following new item:

"Sec. 44A. CREDIT FOR ELECTRICAL ENERGY FUEL SURCHARGES."

SEC. 2. Subsection (b) of section 6401 of the Internal Revenue Code of 1954 is amended—

(1) by inserting "44A (relating to electrical energy fuel surcharge credit)," after "43 (relating to earned income credit,", and

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44A".

SEC. 3. The amendments made by the first section and section 2 of this Act shall apply with respect to electrical energy fuel surcharges paid after December 31, 1976, in taxable years ending after such date.

RESOLUTION FROM THE NATIONAL BLACK LEGISLATIVE CLEARINGHOUSE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. STOKES. Mr. Speaker, at the Third National Institute for Black Elected Public Officials, held in Washington last weekend, the 500 officials present passed both a mandate containing seven specific principles and issues, and a series of independent resolutions. My colleague, Congressman CHARLES B. RANGEL of New York, has inserted the mandate in the RECORD, and I am inserting here the independent resolutions passed by the officials at the institute. I urge Members of Congress and others concerned with the issues facing not only blacks, but many others across the country, to take careful note of these positions:

RESOLUTIONS FROM THE NATIONAL BLACK LEGISLATIVE CLEARINGHOUSE

Adopted at the Third National Institute for Black Elected Public Officials, Saturday, December 13, 1975, Washington, D.C.

(1) Resolved: That we the Black elected officials attending the Third National Institute, work for and urge the prompt passage of a full employment bill, embodying the concept of H.R. 50, the Hawkins Bill.

(2) Resolved: That the Black elected officials here in attendance commend the U.S. Civil Rights Commission for their investigation and in-depth report on the issue of desegregation of the Boston School System.

Resolved further: That we condemn the White House for not meeting the mandate of the Constitution of the United States and the decisions of the Supreme Court, by not giving outspoken leadership on behalf of the law of the land.

(3) Resolved: That we, the Black elected officials attending the Third National Institute, condemn the policies and covert actions of the Central Intelligence Agency (C.I.A.) and more specifically, the Federal Bureau of Investigation (F.B.I.) for conducting unwarranted and illegal activities involving Black elected officials and civil rights leaders, and more particularly, in conducting the character assassination campaign against the late Dr. Martin Luther King, Jr.

Meeting of the National Caucus of Black School Board Members

FINDINGS

Education is the principal vehicle for political and economic progress of black citizens. The National Caucus of Black School Board Members expressed much concern about the rapidly deteriorating commitment of national and local government; to equal educational opportunity.

Action: We must expand the number of blacks involved at decision-making levels in our educational system. A concerted effort must be made by us to elect Black School Board Members.

Action: We must strengthen our participation and influence in the National School Board Association, examining viable means of leveraging our power and influencing the policy of this Association;

Action: The National Caucus of Black School Board Members adopted a resolution supporting transportation as one means of public school students to achieve desegregation.

Action: Federal and local funding support of education must adequately respond to real needs and must recognize the importance of viewing education as the nation's highest priority. Disparities in per pupil expenditures—particularly those that operate to the detriment of quality education for black and poor children—must be eliminated.

Action: There must be full compliance with affirmative action mandates as these relate to equal employment and equal access to education.

Resolution of the National Association of Black County Officials

Adopted at the Third National Institute for Black Elected Public Officials, Dec. 14, 1975, Washington, D.C.

Whereas the National Association of Black County Officials seeks to provide a forum in which black elected county officials can come together to discuss county and national issues and concerns which affect them; and,

Whereas the county level of government is responsible for the delivery of many state-mandated services upon which Blacks across this country are dependent; and,

Whereas an ever-increasing number of blacks have been elected and appointed to a multitude of decision-making positions and policy-implementing positions in county governments; and,

Whereas one of our basic purposes is to increase the level of responsiveness at the county level of government to the needs of the communities which we serve;

Now, therefore, be it resolved that the National Association of Black County Officials is desirous of working in concert with all black elected officials for the purpose of enhancing communications and improving the delivery of services for all constituencies.

The Meeting of the Caucus of Black Mayors

FINDINGS

1. Sixty-five percent of all the nation's black mayors represent small, underdeveloped, rural communities.

2. Black mayors representing rural communities are frequently confronted with the problems of constituents who live in substandard housing (shacks, barns, and dilapidated buses); lack adequate water and sewer capacity; experience unemployment rates of up to 60 percent; lack fire and public services; and travel distance of up to 100 miles for health care, the quality of which is sometimes inadequate.

PRINCIPLE

In maximizing the strength of black participation in the political structure, no segment of Black America can be overlooked.

ACTIONS

Because national organizations generally overlook the needs of rural Black America, we therefore request that this Institute go on record as supporting programs directed at alleviating the insensitivity of federal, state and county agencies toward these communities.

The Institute demands that U.S. Senators and Congresspersons representing rural America, be held accountable and incorporate in their legislative initiatives and deliberations, full consideration of the concerns, needs and priorities of rural Black America.

PROPOSED RESOLUTION

Whereas the passage of legislation guaranteeing national health insurance and full employment must be the primary goal of all Black Elected Officials (BEO), and,

Whereas the (Massachusetts delegation (NBC–LEO) (etc) is fully aware that all BEO's represent constituencies who have the power to affect public policy, and,

Whereas we as BEO's are committed to awakening our constituencies to the urgency of supporting only those candidates for election to the Presidency, and Vice-Presidency of the U.S. and candidates for election to the U.S. Senate and the U.S. House of Representatives who will publicly endorse and work for the passage of these vital legislative measures;

This Institute hereby resolves to establish a committee that will be responsible for:

(a) disseminating information concerning the status of legislation on national health insurance and full employment as these measures are considered in the U.S. Congress;

(b) monitoring the progress toward passage of these legislative initiatives; and

(c) sponsoring a public forum to consider these issues and to consider these issues and to propose specific courses of action.

Black Elected Officials and the Media

One of the primary concerns during deliberations and discussions at the Third National Institute for Black Elected Public Officials has been the overall question of relations between black elected officials and the communications media. The attached resolution and statement reflect that concern. In this situation we are talking about ABC, but the experiences of black elected officials from around the country illustrate all too vividly that such cavalier treatment of the black elected official by the media is more the rule than the exception.

ABC "Issues and Answers" Treatment of Black Elected Officials

RESOLUTION

The Third National Institute for Black Elected Public Officials, meeting in Washington, D.C., December 11–13, informed of a situation involving several of the Institute sponsors and the American Broadcasting Company "Issues and Answers" program. Issues and Answers first came to the Institute sponsors for a December telecast of the program, only to abruptly cancel plans after guests had been obtained. (A statement outlining the developments which took place is attached).

Meeting in plenary session on December 13, delegates to the Institute voiced approval of the following comments:

1. ABC clearly has the right to propose programs and later to cancel the programs it has proposed.

2. The manner in which this particular cancellation was handled mirrors a racist, or at best cavalier attitude to the importance of this National Institute and of the proposed black guests in comparison to the white guest who was chosen.

3. The ABC action brings into sharp focus the problems faced by black elected officials all over the country in dealing with this mass media. Too often, what BEO's have to say is either unreported or misrepresented.

4. If what black elected officials, meeting nationally and representing every level of elective office that blacks hold, is of little importance to the media, what is? We hold the ABC action to be contemptible of both black elected officials and of the offices they represent.

ABC Issues and Answers Program Cancellation

In preparing for the Third National Institute for Black Elected Public Officials, the Joint Center for Political Studies, acting on behalf of all Institute sponsors, sought a number of opportunities to expose the Institute and its participants through the media. One such experience involved a contact with the Issues and Answers Program of the American Broadcasting Company.

On or about November 3, the "Issues and Answers" staff in Washington was contacted with respect to producing a program focusing on the Institute. Our principal contact was Peggy Whedon who expressed interest in the idea and later suggested we help her identify two guests—a black mayor of a big city and a member of the Congressional Black Caucus. JCPS staff pursued this interest and were able to secure a commitment from Mayor Maynard Jackson and Congressman Charles Rangel to appear on the program which would be telecast from Washington on Sunday, December 14, 1975. Ms. Whedon made a firm verbal commitment for the program and the selected participants. The offices of Messrs. Jackson and Rangel were duly informed of this commitment and advised that they would be told later of a specific time for the interview which would probably be taped December 13.

On December 5, when Ms. Whedon was called to arrange final details for the interview, we were told that ABC had decided to cancel the Rangel-Jackson program in order to film Senator McGovern on busing. A vague excuse was offered to the effect that there was a long standing commitment to the Senator to give him an appearance on Issues and Answers, but no reason was given for choosing the December 14 date which had already been committed to Rangel and Jackson.

The sponsors of the Institute question this "news" judgment and find the action contemptible.

Resolution on Post Card Voter Registration

(By Donald M. Payne, Freeholder, Essex County, New Jersey)

Adopted at the Third National Institute for Black Elected Public Officials.

Whereas, Voter Registration is a key ingredient in the struggle of blacks for equality and,

Whereas, Many states in the country have difficult processes in relation to registering voters and,

Whereas, These difficult processes work against the registration of blacks and the poor and,

Whereas, There is a bill in Congress to make post card registration the law of the land;

Now, therefore, be it *resolved* that this conference go on record as supporting legislation to create a national system of post card registration, and urge the passage of this bill.

Resolution To Establish a National Association of Black Elected Officials

Whereas there are in existence many organizations of political Black elected and appointed officials addressing the concerns of Black people; and

Whereas there is a need for coordinating these activities in order to speak as one strong voice; and

Whereas there should be absolute communication among black elected and appointed officials of governing governmental bodies for purposes of sharing information and expertise on mutual concerns.

Therefore, be it hereby resolved that NBC–LEO strongly endorses the idea of the creation of a National Association of Black Elected Officials to serve as a national umbrella organization of Black elected and appointed officials of governmental governing bodies.

IMPROVING MEDICARE COVERAGE OF ORAL SURGERY

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. CORMAN. Mr. Speaker, I am today introducing a bill, H.R. 11288, to extend the medicare coverage of the services of oral surgeons. Medicare patients already benefit from the services of these health professionals, but the range of coverage has been unduly limited.

This bill would cover services which may be performed by a dentist on the same basis as presently allowed for physicians and authorize payment for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization.

The first section of this proposed legislation will eliminate the present discrimination against dental patients in the payment for services presently covered under the medicare program. The professional practice of dentists including oral surgeons overlaps with that of physicians. Both groups are professionally trained and licensed by State law to perform complicated maxillofacial procedures, provide diagnostic care, and treat oral infections. Medicare, however, as presently written pays for all of these services if they are performed by a physician but will not pay for the diagnostic care or treatment of oral infection if it is performed by an oral surgeon.

Under present law, a dentist only functions or acts as a "physician," and his services are only covered, when he is involved in actual surgery or reduction. The law, thus, unnecessarily excludes from coverage important nonsurgical functions if performed by the patient's dentist or oral surgeon. If the medicare patient is not aware of this legal pitfall, he will be deprived of reimbursement for what surely must appear to him to be a completely arbitrary distinction.

The correction of this inequity will not increase the scope of covered services. The existing exclusion from coverage of routine dental care found in section 1862 (a)(12) would not be changed. Those services of both dentists and physicians that fall into this category will still not be covered.

The second section of this proposed legislation will authorize payment under the medicare program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization. The present medicare statute as interpreted by the Social Security Administration restricts the payment of inpatient hospital expenses in the case of noncovered dental procedure to circumstances in which the patient's underlying medical condition, and not solely his dental condition, requires hospitalization.

The effect of the existing law is to preclude hospitalization coverage where, in the judgment of the patient's dentist, the severity of his dental condition alone requires hospitalization for the safe performance of a noncovered dental procedure. In this case, the patient must find his own means of payment for the hospital expenses.

The correction of this problem will not increase the coverage of dental fees. It will only increase the hospital coverage and aid the patient. The Social Security Administration in 1973 estimated the additional first year Federal costs of coverage of medicare patients in such circumstances to be $4 million.

I am pleased to introduce this proposed amendment to title XVIII of the Social Security Act and I urge its timely consideration.

NEEDED RESPA AMENDMENTS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. PATTERSON of California. Mr. Speaker, it is with great plesure that I see these needed amendments to the Real Estate Procedures Act receive final approval by Congress. As a member of the Housing Subcommittee of the Banking, Currency and Housing Committee of the House of Representatives, I have been involved in the development of these amendments. I am pleased that the Congress, the public, and the interested industry groups were able to sit down and cooperatively work out needed changes in this law.

The Real Estate Settlement Procedures Act was originally enacted as a consumer protection bill. It, however, quickly became apparent that it not only did not help the consumer, but actually hurt the home buyer by adding to the cost of the home and by causing delay and inconvenience in the closing process. In addition, it added many man-hours to the required time to prepare a mortgage loan and heaped on the mortgage lender more paperwork in addition to that already required by the Government.

As a result of the many complaints received from realtors, lenders, sellers and buyers of housing, some of us who serve on the Banking Committee realized the immediate need to devise legislation which would amend some of the provisions of RESPA while preserving the good sections of this law. I am pleased that my colleagues in the House and Senate have had the courage to admit that mistakes have been made and to take such prompt action to remedy the inequities created by this law.

The bill we have sent to the President will make the following changes in RESPA:

First. Construction loans and second trust deeds will be exempted from coverage under the definition of federally related mortgages.

Second. Section 4 of RESPA is amended to allow flexibility in the makeup of the settlement form so that it reflects State and local needs;

Third. The 12-day advance disclosure section would be repealed. A modified 1 day disclosure of known costs is provided;

Fourth. The previous selling price disclosure section of RESPA would be repealed altogether;

Fifth. The bill would clarify that "Cooperative brokerage arrangements and fees" would not come under the title "Prohibited kickbacks and unearned fees."

We now have a law which will protect the consumer and which will help our lagging housing and mortgage markets while not overburdening or inconveniencing the homebuyer, lender or seller. I urge President Ford to take prompt action to sign this bill into law.

SPECIALTY STEEL

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. GREEN. Mr. Speaker, as many of my colleagues know, the American Specialty Steel Industry is seeking import relief in a case filed with the International Trade Commission. A decision as to whether the industry is entitled to such relief is expected next month. The outcome, is a matter of grave concern to many Pennsylvania workers, and indeed, to workers throughout the United States. For these reasons, I am inserting, for my colleagues' information, an industry press release and some news articles describing the situation:

SPECIALTY STEEL INDUSTRY, WORKERS CATCH EYE OF PUBLIC AND CONGRESS AT WASHINGTON'S NATIONAL AIRPORT.

WASHINGTON, December 18.—Holiday travelers, including Congressmen and Senators flying home this week for the Christmas recess, are being confronted by an angry specialty steelworker glaring at them from billboard posters at busy Washington National Airport.

Emblazoned across the steelworker's hard hat are the fighting words: "Endangered Species."

With imports grabbing off as much as 70% of the U.S. market for some specialty steel products and with unemployment in the industry rising at times as high as 40% this year, specialty steelworkers and their employers have ample cause for complaint.

Moreover, the eye-catching posters are fast becoming symbolic of the larger struggle currently being fought for the survival of what many believe is America's most vital industry—specialty steel—and, indeed, for the future of all manufacturing industry in the U.S.

This epic battle was joined in a petition jointly filed with the federal International Trade Commission (ITC) by the United Steelworkers of America, AFL–CIO, and a score of specialty steel companies banded together as the Specialty Steel Industry of the United States.

Hearings on the petition, first major test of the 1974 Trade Act, were held before the ITC in October and the Commission is required to make its recommendation to the President no later than January 16.

If the ITC grants the union-industry request for immediate quotas on specialty steel imports and approves long-range negotiations for orderly international marketing agreements, the President will have two months to accept or reject the six-man Commission's recommendation under the Trade Act.

Meanwhile, union and industry leaders are taking their case to the public in an effort to offset the heavy pressure being brought to bear on the ITC and others in Washington by foreign governments and their business allies.

I. W. Abel, President of the USWA, testified at the ITC hearing and has spoken out at numerous forums in support of the specialty steel industry and its workers. So have Roger S. Ahlbrandt, Chairman of Allegheny Ludlum Industries, Inc.; Richard P. Simmons, president of Allegheny Ludlum Corp.; William H. Knoell, president of Cyclops Corporation; Eugent March, group vice president in charge of Colt Industries' Crucible Steel division, and other industry leaders.

Abel, strongly supported by industry statistics, has punched big holes in the myth that the U.S. industry lags behind its foreign competition in technology and productivity.

"This industry performed better than most other industries in the U.S. since 1970," Abel says. "It is its high rate of productivity that has enabled this industry to keep its head above water in the face of the deluge of foreign imports which have inundated our markets for years.

"Without the high rates of productivity achieved by our workers," the USWA president points out, "many, many more steelworkers would be out of jobs today."

The industry leaders concur. And, strangely, lawyers for Britain, France, Italy, Japan and Sweden at the ITC hearings conceded America's technological and productive superiority.

However, the union and the industry both claim that American firms, dependent upon private capital and a free market, cannot meet the predatory price-cutting practices of foreign specialty steel producers, owned or subsidized by their governments.

"In no testimony," says Allegheny Ludlum's Simmons, "did the foreign producers attempt to present evidence to contradict our claim that they are, in fact, almost without exception, operating at below cost, and in many cases, using tactics which are in violation of U.S. law."

Cyclops Corporation's Knoell points out that the specialty steel industry is "absolutely vital to every other important producing industry, including all the energy industries, transportation, food processing, chemicals, aerospace, communications. "The jobs of the millions of Americans employed in these other industries are increasingly at the mercy of foreign specialty steel producers." Knoell emphasizes.

Abel and the industry leaders agree.

"The broader issue," says Allegheny Ludlum Steel president Simmons, "is not whether we have or have not proved injury within its narrowly defined context (in the 1974 Trade Act), but whether any U.S. company can compete, over the long pull, with foreign companies owned, directed, and subsidized by their governments."

[From the Pittsburgh Post-Gazette, Nov. 26, 1975]

GROWING PROBLEM FOR FREE ENTERPRISE

A challenge facing American free enterprise in doing business abroad was stated concisely by Robert P. Simmons, president of Allegheny Ludlum Steel.

"The real question is whether any privately owned company in the United States can compete with foreign companies that are government-owned or government-controlled and assisted, and which do not have to worry about making a profit."

The Pittsburgh executive was speaking in Ft. Lauderdale, Fla., at the semi-annual meeting between his company and the United Steelworkers union, expressing his concern specifically about the level of imports of specialty steel. But he could have been speaking for many Pittsburgh companies seeking to do business abroad and facing the weight of foreign government-aided companies.

The problems for U.S. airlines competing with foreign carriers either government owned or heavily subsidized is well known. But American free traders of many kinds increasingly find themselves at a similar disadvantage.

The multinational corporations are powerful Goliaths, but they frequently find themselves at the mercy of government Davids abroad, with nationalizing takeovers as the ultimate weapon they face.

Antitrust laws prohibit ganging up by American business to match the challenge. And businessmen themselves would be loath to see our side adopt a government-to-government posture squeezing out free enterprise venturing. So they are caught in the dilemma so succinctly stated by Mr. Simmons.

The problem increasingly will trouble executive board rooms in Pittsburgh and other corporation headquarters cities in America.

[From the Post-Gazette, Nov. 13, 1975]

"SPECIALTIES" INCH OFF THE BOTTOM

(By Jack Markowitz)

Whether or not the government gives help against imports—and he strongly hopes it does, soon—the president of Crucible Stainless Steel, at Midland, sees an upturn with "substantially better" business for people who make metals in 1976.

But Martin N. Ornitz admits, too, that he thought the comeback would be stronger right now than it is from the poorest levels of operation the specialty steel industry has known since the Depression 1930s.

A lot of people don't realize what a shellacking the "jewelry shop" steels have taken in this slump. Ornitz and fellow metalmakers hope at least the government realizes it—and pins a fair share of the blame where it belongs, on massive cut-rate imports rather than on the general national economy.

Right now, true, things are getting better, according to Ornitz.

He told a reporter after a speech to the Pittsburgh section, Association of Iron and Steel Engineers, that stainless industry operations have come up of late—UP—to "about 50 per cent of capacity." That is bad but the 30 per cent levels of last May and June were nightmarish.

"Automotive orders are better and so are appliances," said Ornitz, "but construction is still down. The main thing is that holes are opening in customer inventories and they're buying more to fill the holes—not really building inventory yet. Still, the rest of the economy is improving, and this is just starting to come back down the line to materials producers."

Without imports—or even if they were cut back to a reasonable market share, say 15 per cent—Ornitz and other executives believe industry employment would spring back at least 10 per cent.

Unemployment among the specialty producers' 65,000 workers is now running 40 per cent, Ornitz said, versus some 8½ per cent for the economy generally. Foreign makers of stainless steels are shipping into the U.S. at 7 to 15 per cent lower prices than American mills can manage and still keep their heads above red ink, and tool steel price undercutting is supposed to be deeper yet.

What's wrong with that? The American customer benefits by the lower cost, right?

No, said Ornitz, the "dumping" takes place at prices illegally below even the costs of the foreign steelmaker, and when the boom comes on again the "premium" that gets added to foreign products more than makes up for the bad-times discount. Meanwhile, profit-starved American mills lose market share and in some cases drop by the wayside.

No real secret, any of this, to the government, which has long worn free-trade blinders to the grab of 22 per cent of this market by foreign stainless and 60 per cent and more in certain other specialty lines.

In recent months 19 American firms and the United Steelworkers have petitioned the U.S. International Trade Commission under the 1974 Trade Act for relief against the clear injury that specialty steel imports are doing to employment in the U.S.

"There is a lot riding on this petition," Ornitz told the AISE audience. "Twenty-five countries ship specialty steels to the U.S., and they are just exporting their unemployment to us."

Under the law, the commission is supposed to answer the steelmakers' petition by a given deadline—it happens to be next Jan. 16. A finding that imports unfairly subsidized by foreign government policies are indeed "substantially" hurting U.S. business and employment could stir up powerful defensive actions here. And probably get a lot of people back to work.

But critics of anti-import action propound the view that "it's the recession that's causing all our troubles," says Ornitz. That's an easy out for the government. Steelmen hope it won't be taken.

[From the Pittsburgh Press, Oct. 19, 1975]

SPECIALTY STEEL FIGHTS FOR LIFE AS IMPORTS CLOSE IN

(By William H. Wylie)

Last February Richard P. Simmons, president of Allegheny Ludlum Steel Corp., warned that there would be "thousands of layoffs" if specialty steel imports continued to flood this country.

As it turned out, the industrialist's worst fears have been realized. Unemployment in the specialty-steel industry touches one of every six workers, or about 10,000. This statistic has spread gloom in Brackenridge, Latrobe, Midland, Butler and other southwestern Pennsylvania milltowns that make specialty steels.

This sudden reversal of the fortunes of an industry that enjoyed its finest year in 1974 has been especially hard on the Pittsburgh area. It is estimated that more than half of the 65,000 specialty steelworkers work and live in this region.

Industry leaders like Simmons and Cyclops Corp. President William H. Knoell feel that their companies have been unfairly attacked by foreign competitors. Cheap imports have picked off markets at a time when the recession makes it hard enough to survive.

Knoell classifies foreign marketing tactics as "guerrilla warfare". The impact has been severe because "the chief casualties have been the bread and butter products that keep our industry profitable and our employees working," Knoell added.

The import dilemma has worsened since July when 19 specialty steel firms and the United Steel Workers (USW) sought relief from the U.S. International Trade Commission. At that time the Tool and Stainless Steel Industry Committee claimed foreign mills had grabbed nearly 22 percent of the stainless market during the first four months of this year.

Last week the American Iron and Steel Institute reported that imports supplied nearly 24 percent of the nation's stainless supply and almost one-third of its tool steel during the first eight months of this year.

At various times some mills have operated at only 40 percent of capacity, an industry spokesman said. "Recently there has been a gradual pickup in orders for flat-rolled products," he added. "Demand for tubing and plate remains strong," he continued.

What little strength the industry has gained from the recovery, mainly through an increase in appliance manufacturing, is overshadowed by the fact that more than 15 percent of specialty steel's labor force remains idle.

The industry's contention that cheap imports have hurt American workers is an integral part of its petition before the International Trade Commission.

The industry also is asking the government to impose quotas on foreign products, with periodic adjustments based on domestic economic conditions. If business in the U.S. were good, quotas might be raised and in a recession they would be lowered.

Specialty steelmakers also are seeking more orderly markets through government-to-government negotiations, similar to the textile agreements.

But regardless of the industry's desperation, nothing will happen very fast. First, the commission must conduct hearings next month. Then it can take three months to make a recommendation to the White House, which can sit on a decision for another two months.

All of this is frightening to specialty steelmakers who have been wrestling with imports since the late 1960s. In 1970, when more than 21 per cent of the stainless market fell to foreigners, the industry knew it had a tiger by the tail.

Simmons has defined the problem this way:

"The pattern is clear. The foreign producer identifies a strategic market; expands capacity to produce and sell at unfairly low prices to capture the market; weakens our domestic industry at the same time and prevents us from expanding our own capacity sufficiently to meet national needs for that product.

"When demand increases, the foreign producer can allege that exports of his products are necessary since the United States domestic producers failed to meet the needs of their economy."

Once the world relied on the United States for specialty steels. But not any more. Simmons said since 1965 world output of stainless steel ingots has doubled to more than 7 million tons.

While the U.S. was increasing output 40 per cent, from 1965 to 1974, Japan boosted its production 400 per cent to 2.3 million tons, surpassing the U.S. by 400,000 tons.

During the same period, West Germany, France and Italy more than doubled their output of stainless, he added.

The American industry contends it can make specialty steel as cheaply as foreign competitors even though wages in this country are higher. But when foreign mills sell at a loss in the U.S., American producers are "done in," the industry argues.

Simmons cited a story in a Japanese trade publication which indicated Japanese stainless steel sheet and plate producers were "heavily in the red" from selling at below cost in the U.S.

The American specialty steel industry calls itself "by far the world leader in development of new alloys and new processes." The industry portrays itself as essential to national defense, aerospace, communications, nuclear energy and power, mass transit and transportation, mining, chemical processing and other key segments of American society.

Although the industry accounts for only 1 per cent of total steel shipments in the United States, as Simmons says, "Specialty steels, although 'David' in size are truly 'Goliath' in economic and strategic impact."

But, strangely, the industry is fighting for its life.

[From the Steel Labor, December 1975]

PUT QUOTAS ON SPECIALTY STEEL IMPORTS, SAVE JOBS: USWA

WASHINGTON, D.C.—USWA President I. W. Abel last month called upon President Ford to impose immediate quotas on imported specialty steel "to save thousand of American jobs." His appeal was part of the USWA testimony by Mr. Abel before the International Trade Commission.

Mr. Abel told the commission that unemployment is currently running as high as 40 per cent in the specialty steel industry because of increased foreign competition. "If imports of special steel products continue at these extraordinary high levels, the result will be the loss of many additional jobs in the future, since American producers will not expand to meet demand due to the lack of incentives," Mr. Abel said.

He predicted there will be "thousands of additional layoffs" unless Ford and the ITC impose quotas immediately and then begin negotiations for a system of binding international safeguard agreements on specialty steel. Mr. Abel testified on a joint petition by the USWA and the nation's 19 specialty steel companies.

He said imports of stainless steel have taken 22 per cent of the domestic market this year, tool steel imports have taken 30 per cent and stainless wire rod imports grabbed almost 70 per cent of the market. Employment of production workers in the industry decreased 25 per cent during the first nine months of 1975, he said, and the average work week was down about 40 per cent.

Although worker productivity in the steel industry has increased, Mr. Abel said, "our products can't compete with products from countries which offer attractive subsidies to their industries to induce them to export."

The USWA president said that if the industry is "to survive and prosper," two specific goals should be accomplished. He said that the relief "must provide a long-term solution to the serious injury being inflicted upon the specialty steel industry by immediately establishing a system of mandatory import quotas and eventually developing a system of binding international safeguard agreements."

Mr. Abel said that, "secondly, the American specialty steelworker is in dire need of obtaining temporary and partial relief right now," adding that the temporary relief available is through adjustment assistance as provided in the 1974 Trade Act. "The American specialty steelworker needs all of the benefits of the new adjustment assistance program. The qualifying criteria has been eased and petitioning process streamlined under this program so that workers displaced by increased imports can receive all of the benefits to which they are entitled in a more expeditious manner."

MIKE McCORMACK ADDRESSES PITTSBURGH CIVIC GROUP

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, as the Congress ponders the question of a comprehensive national energy policy, we can note the remarks of our distinguished colleague, MIKE McCORMACK, made in Pittsburgh, Pa., November 17, 1975, before the most recent annual meeting of the Allegheny Conference on Community Development.

In the area of domestic policy, it is clear there are few problems today as pressing as our need to maintain a balanced concern for the three Es of the environment, the economy, and our national energy base. They resemble a three-legged stool. And, like such a stool, it requires a solid base if it is to be a safe support for us. Massive and unbalanced emphasis given any of the elements can cause it to wobble badly. Mike has addressed this condition clearly and very forcefully.

He presented an excellent summary of the content and purpose of a comprehensive national energy policy. I believe it deserves the attention of my colleagues The newspaper articles and the text of the address follows:

[From the Pittsburgh Post-Gazette, November 18, 1975]

NUCLEAR ENERGY OUR ONLY HOPE—McCORMACK

(By Joyce Gemperlein)

A successful national energy policy depends upon the nation's ability to balance concern for environment, economy and energy needs, U.S. Rep. Mike McCormack said last night.

"Certainly each of us recognizes that a sort of three-cornered dynamic equilibrium should exist between energy conversion, transmission, and consumption in one corner, a reasonable and rational program for protecting our environment and conserving our resources in the second, and the maintenance of a stable and responsive economic system in the third corner," the Democratic congressman from the state of Washington said.

McCormack, who also is chairman of the House subcommittee on energy research, development and demonstration, spoke at the annual dinner meeting of the Allegheny Conference on Community Development.

He told the audience of approximately 450 persons at Carnegie Institute, Oakland, that the nuclear industry, despite the adverse publicity it has received, is "our only hope for self-sufficiency during this century."

As representative of the 4th Congressional district of Washington state, McCormack was the author of legislation to create a national program for energy research and development in solar energy, geothermal energy and nuclear fusion.

He also said last night that those types of energy had clear and important roles in the 21st century.

McCormack stressed immediate attention to existing energy sources by:

Undertaking aggressive programs of exploration and onshore, as well as offshore, drilling for oil and gas.

Exploring the potential of an oil shale program and oil recovery.

Building refineries, ports, pipelines and storage facilities for gas, petroleum and petroleum products.

Tripling coal production by the end of this century.

McCormack, a congressman since 1970, worked as a research scientist with the Atomic Energy Commission from 1950 to 1970.

The Allegheny Conference on Community Development, his host, is a planning organization and was the driving civic force behind Pittsburgh's Rennaissance.

At an earlier meeting, the Citizens' Sponsoring Committee of the conference reelected: Robinson F. Barker, chairman; Robert Dickey III, president; James M. Walton, secretary; and Merle E. Gilliand, treasurer.

William E. Bierer, Thomas C. Graham, William B. Renner, Thomas F. Rafferty and D. M. Roderick were elected to the Citizens' Sponsoring Committee. W. H. Krome, George and Thomas C. Graham were elected executive committeemen.

The United States must implement a long-range national energy policy if it is to avoid an energy catastrophe, according to U.S. Rep. Mike McCormack.

Speaking at the annual dinner of the Allegheny Conference on Community Development, the Democrat from the state of Washington noted that energy consumption will continue to increase indefinitely, "even if we establish extraordinarily successful Spartan conservation programs."

He said the United States would have to double energy production by 1990 just to handle a "dramatically-reduced" annual growth rate.

McCormack said a key to any energy program would be nuclear energy, which he described as "our only hope for self-sufficiency during this century."

"Nuclear energy is the cleanest, cheapest, most reliable source of energy available with the least environmental impact of any option," he remarked.

"If we did not have nuclear energy available to us for the coming decades, the future of this country would indeed be black—in more ways than one."

A researcher with the Atomic Energy Commission from 1950 to 1970, McCormack is one of only two scientists in Congress. He authored legislation to create a national program for energy research and development in solar energy, geothermal energy and nuclear fusion.

To take advantage of existing energy sources, he recommended:

Undertaking "aggressive" programs of exploration and drilling for oil and gas, onshore and off.

Exploring the potential of an oil shale program.

Building of new refineries, ports, pipelines and storage facilities for gas and petroleum.

Tripling coal production by the end of the century.

Earlier yesterday, the Conference's Citizen's Sponsoring Committee reelected: Robinson Barker, chairman; Robert Dickey III, president; Fletcher Byrom, vice president; Roger Ahlbrandt, vice president; John Arthur, vice president; William Rea, vice president; James Walton, secretary; and Merle Gilliand, treasurer.

Comments by Congressman Mike McCormack

Thank you Chairman Robinson Parker, Mayor Pete Flaherty, distinguished guests, ladies and gentlemen. You do me a great honor by inviting me to address this annual meeting of the Allegheny Conference on Community Development.

I was particularly flattered, considering the importance which you ladies and gentlemen obviously place upon this meeting, to be approached by my colleague and your Congressman, Mr. Bill Moorhead of the 14th District, to invite me.

May I say that you have every reason to be extremely proud of your Congressional Delegation. Bill Moorhead, John Heinz, Joe Gaydos, John Dent, Tom Morgan, Gary Myers, and John Murtha—all from your area—are colleagues for whom I have great respect and admiration. It is an honor for me to serve with them, and you have cause to be pleased that they and Senators Hugh Scott and Dick Schweiker, represent you in our nation's capital.

I would like also to congratulate you of the Allegheny Conference on Community Development. You have accomplished for Allegheny County and for the Pittsburgh area what many other communities have only dreamed of doing. Your successful efforts to bring together so many community leaders to solve regional problems can continue to bring nothing but good to your community and area.

I particularly appreciate your asking me to discuss some aspects of the energy crisis and I will, as you have suggested, be, to the best of my ability at least, talking sense about energy.

This is a matter of Supreme Importance for our nation is truly in mortal danger. Our National Security, the stability of our economic system, and our political institutions, and even the safety of our streets may well depend on our ability to develop responsible energy policies and rational programs to implement them.

One of the most dangerous aspects of the energy crisis is that a large portion of our fellow citizens do not understand it. Indeed, a surprising portion of Americans deny that an energy crisis exists, and many who do believe that it has been contrived by evil powers which could easily and quickly undo their nefarious deeds; that is, solve the energy crisis by magic.

Another danger is that many of us tend to reject some of the hard facts of the energy crisis because of their ominous implications for our future—and a surprising number of Americans have been trapped into thinking that the energy crisis has been created as some sort of forensic exercise in which each person chooses one form of energy conservation or production to support, while opposing the others, ignoring the fact that we need all of them, and as soon as possible.

What I propose to do this evening—in "Talking Sense About Energy"—is to review a few basic facts with respect to this matter, and to suggest some guidelines for developing national energy policies.

Out of the confused debate that has developed with respect to the energy crisis, perhaps only one concept is universally accepted. That is that we must not waste our energy; that we must reduce our national annual energy growth rate. What isn't yet apparent, however, even to many sincere and concerned policy-makers, is that the total energy consumption of our nation must continue to increase for as far as we can see into the future, even if we establish extraordinarily successful spartan conservation programs.

The report of the Ford Foundation Energy Policy Project assumes, as a reasonable scenario for the furture, limiting the growth of total energy consumption for this nation to 2% per year. This would be a dramatic reduction in our contemporary growth rate of about 3.6%, but it may be a long range attainable goal which might not seriously harm the economy.

It is important to understand, however, that a 2% growth rate means doubling our energy consumption in about 35 years. Within this overall growth, there will inevitably be a dramatic shift from the use of petroleum and natural gas to the production of electricity from coal and nuclear fission. Here the annual growth rate must be about 5% per year to maintain an overall 2% rate. This means doubling electirc energy generation by about 1990.

Unfortunately, most of the debate on the energy crisis, in spite of the perils we are facing, has centered around such subjects as import tariffs, quotas, gasoline taxes and prices, allocation programs, regulations, and incentives. While all this is important and has been the subject of intense Congressional activity, obsession with it tends to distort our perspective. I do not take this matter lightly, but acting as if these problems constitute the energy crisis is somewhat like wrestling for deck chairs on the Titanic.

The stark realities are that our oil production is down about 10% in the last three years; our natural gas production is down almost as much; our coal production has increased less than 10% in this period; the percent of petroleum we import has now increased to about 41%; more railroads have gone out of business; the situation in the Middle East remains unstable; and a handful of anti-nuclear activists are advocating a moratorium on nucuear energy production—our only hope, along with coal, for energy self-sufficiency during this century.

The challenge we face today is to reject these attempts to confuse us, and to overcome the paralysis that seems to grip us, and to develop now a systems approach to an integrated national energy policy, not only to eliminate waste and conserve energy wherever practical, but also to produce the energy that we will need in the future. If we do create such an energy policy, and if we implement the programs which will carry it into effect, the people of this country can have adequate energy, environmental protection, and economic stability. If we fail, the inevitable result, I am convinced, will be catastrophe.

There are several fundamentals upon which an energy policy must be built, and which merit special attention.

Any energy policy must be built upon the best scientific and engineering facts available, no matter how tough and unpleasant such facts may be. We Americans have an unfortunate habit of treating some of our problems as if we are living in a 30 minute TV drama. We except quick, easy, pleasant solutions, even if it means turning to make believe.

However, we cannot afford the luxury of basing our energy policies on fantasies, such as assuming that solar energy or geothermal energy or some suppressed carburetor design or other invention will bail us out of our problems; or prejudices, such as an anti-Israeli or anti-Arab or anti-oil company or anti-nuclearr energy obsession; or on hopes, such as the hope that we will keep finding enough gas or petroleum to keep us going, or the hope that the people of this country will, in the name of conservation, voluntarily and spontaneously accept still higher unemployment, and reduce their standard of living enough to close the gap between energy supply and demand.

A national energy policy must allow a large segment of our people to continue to aspire to—and strive for—a higher standard of living, and greater freedom and dignity for all. This has always been the hallmark of American society, and we cannot expect low and modest income Americans—or average American housewives—or those who want women to be liberated, to sacrifice such aspirations just because we suddenly don't produce enough energy to provide employment for our citizens, or because we have planned so poorly that all but the most affluent must cut back on their standard of living.

Certainly each of us recognizes that a sort of three-cornered dynamic equilibrium should exist between energy conversion, transmission, and consumption in one corner, a reasonable and rational program for protecting our environment and conserving our resources in the second, and the maintenance of a stable and responsive economic system in the third corner.

Thus, while we cannot afford the excesses which marked some industrial development of the past, raping our land and polluting the atmosphere, we cannot expect to have energy production without some impact on the environment, no matter how benign the source may seem to be from a distance; and we certainly cannot expect to have jobs for the American people unless we produce more energy.

So, we have several "environments" to protect all at the same time. There are, for instance, those that we classically think of in terms of air, land and water, but there is also the environment of the job market, and an industrial capacity that will maintain this nation's national security and economic stability. Finally, there is the environment of our own homes, and those of millions of low income Americans, where we must have enough energy for a decent standard of living. Our national energy policy must strike this dynamic balance in a rational manner.

Several studies have been completed revealing the relationship between employment levels and energy consumption. We have been examining trends and data on this subject for the period since the end of the Second World War. They indicate that, with much of the waste in consumption eliminated and with more efficient cars on the highways, as will be the case by 1985, then reducing our energy consumption by a million barrels a day could mean the loss of 900,000 jobs. This may be a pessimistic estimate, but it is based on 30 years of accurate data, and it introduces an important factor into our thinking.

We obviously can and must eliminate wasteful practices in energy consumption. However, there is a point beyond which further reduction will seriously impact the job market. Obviously, there is no moral justification for policies that would cause increased unemployment because of energy shortages. High unemployment leads to political and social instability, and all relate to energy production. So while energy waste can and must be eliminated, we must not allow one man's concept of conservation to be the cause of another man's unemployment.

The tough facts about our energy supplies are difficult to accept, living as we have all our lives with the assumption that American affluence was endless, but one of the most important realities that the American people must all understand is that this nation has, since 1970, truly passed from one historical era into another. We have passed from an era of cheap, abundant fuels, energy and materials into an era of shortages and high costs which will, at best, be with us for many decades. The implications of this transition are far more profound than is generally appreciated. However, the chaotic international situation, world-wide inflation and high unemployment are directly related to it.

I think it may have a salutary effect on our perspective to recognize that future historians will probably record that during the 20th Century western man discovered and burned as fuel virtually all of the earth's resources of petroleum and natural gas.

That reality is the most difficult of all for us—who have lived all our lives in a culture built on cheap mobility—that we have, almost certainly, already discovered and burned up more than half of all the petroleum and natural gas we have ever discovered, or ever will discover, on this continent or off its shores, and that it will all be gone, insofar as a significant supply of fuel is concerned, by the end of this century, no matter what price—within reason—we pay for it today.

As our supplies of petroleum and natural gas dwindle, this nation will become dependent for virtually all its energy on coal and nuclear fission. But even these sources of energy are really only transitional. Though we must increase our reliance upon them now, we must also make plans for phasing them out in the more distant future, and replacing them with other, still-to-be-developed sources.

One general misconception plaguing policy makers is the idea that research and development, generously funded, can solve this nation's energy problems in the very near future. Nothing could be further from the truth, as those of you with experience in science and engineering know.

Even with a crash program, the time required between the successful laboratory demonstration of a concept for the conversion of an energy source to a usable form, and the actual significant implementation of this technology, varies from ten to thirty years, and it's usually closer to thirty. There is no way, for instance, that a tidal wave of federal funds could make solar and geothermal energy a significant resource for this nation before the year 1990, or nuclear fusion before the year 2000.

So while we must support an aggressive, imaginative, well-funded program for energy research, development, and demonstration in every area of energy conversion, distribution, storage, consumption, and conservation, we must at the same time recognize that the benefits of a research and development program are long-range benefits, and that this nation must proceed for the immediate and short-range future with energy sources which are available to us today.

There is much we can do with respect to our existing energy sources. We must undertake aggressive programs of exploration and drilling for oil and gas, onshore and off. We must explore the potential of an oil shale program, and press for early application of improved technologies for secondary and tertiary oil recovery.

We must build new refineries, new ports, new pipelines, and new storage facilities for gas, petroleum, and petroleum products. In spite of the fact that we are running out of petroleum and natural gas, this program, along with the most stringent conservation measures, is our only short-range strategy for trying to keep our energy supplies for our existing industrial and societal infrastructure as close as possible to future demands.

Of course coal is our greatest resource of fossil fuel, and we must rely heavily upon it. However, even a superficial glance should warn us against taking it for granted. We will need to dramatically expand our coal production capacity with new mines that meet modern health and safety standards and have a minimum impact on the environment. It will be necessary to restore our railway system with new roadbeds and new rolling stock. We must allow coal to be surface mined, with realistic regulations and responsible reclamation programs. This alone is a task of bewildering complexity and dimension.

We will, of course, come to depend upon synthetic gaseous and liquid fuels from coal, but the cost of these programs in dollars, manpower, steel and other critical materials, in water, in logistics, and environmental protection are literally mind boggling. For example, trying to close the gap between supply and demand in natural gas in 1985 would require more coal than is mined today for all other purposes and would cost literally hundreds of billions of dollars.

In spite of all these problems in mining, cleaning up, transporting, and burning coal; in spite of the costs of converting it to synthetic fuels, we must proceed with an aggressive program for increased dependence on coal. If we are sincere about attempting to solve the energy crisis that faces this nation, we must think in terms of tripling coal production by the end of this century.

As responsible citizens sort out the facts in the energy picture it becomes more and more obvious that one of the greatest strokes of good fortune this nation has experienced is to have our nuclear industry as well advanced as we find it today, ready *now* to provide much of the energy this nation will need during the next fifty years.

Nuclear energy is the cleanest, cheapest, most reliable source of energy available, with the least environmental impact of any significant option. If we did not have nuclear energy available to us for the coming decades, the future of this country would indeed be black—in more ways than one.

Today, there are 56 nuclear power plants licensed to operate in the United States. During the first six months of 1975, these plants produced 8.3% of this nation's electricity with a higher reliability factor than comparably sized coal plants of the same age. Sixteen more plants should be on the line by the end of 1976. In addition to the 72 plants that will be on the line by the end of 1976, there are 170 more nuclear plants which are under construction or being planned. If these plants are on the line by 1985, and they *can* be if we simply eliminate unnecessary delays and provide for construction capital, then this nation will have a nuclear capacity of about 240 thousand megawatts—about 30% of our electric generating capacity—in 1985.

One can appreciate the importance of such progress in view of the fact that each nuclear plant saves the equivalent of from ten to twelve million barrels of oil a year. Thus, it would require six to seven million barrels of oil a day to produce the same electricity as these 242 plants will generate. This is equivalent to all the petroleum products that the United States imports today.

I think the people of the State of Pennsylvania are to be congratulated for pioneering the development of nuclear energy. As I suspect you all know, the oldest licensed nuclear power reactor is Shipping Port I, which has been operating for 18 years. Your Beaver Valley I plant, which will produce 852 megawatts, is due to go commercial next Spring, and Beaver Valley II, its twin, should be on the line in 1981. The Philadelphia Electric Company has two plants on the line, two have construction permits, and two more are planned. Pennsylvania Power and Light has two under construction. Metropolitan Edison, along with Pennsylvania Edison and others have one plant on the line. Its twin will be on in 1978. I think the State of Pennsylvania should also be congratulated for taking the lead in the study of energy parks.

Mentioning Shipping Port I, which is being used for breeder studies, reminds me that I should address a question that is frequently asked. This nation must have a nuclear breeder program. Relying on nuclear energy makes very little sense without a breeder program. Our Uranium 238 resources, which can be converted in breeders to useable fuel, are equivalent to ten times all known reserves of the OPEC nations. The breeder program to provide fuel for our light water reactors is the only visible avenue this nation has for energy independence.

Much "to-do" has been made by some members of the press about nuclear energy, and a number of false or flagrantly distorted stories have been written and TV programs broadcast about nuclear safety and the hazards to the public associated with nuclear energy. Certainly a rational analysis of this subject is in order.

The nuclear industry, just as any other, has some hazardous aspects, and we must assume that at some time in the future there will be some accident causing property damage, injuries, and even deaths. It is crucial, however, to ask how likely these accidents are, and how this risk compares to that associated with our other everyday activities.

While it is essential that every conceivable accident be guarded against, and ever reasonable precaution taken, there is a point of absurdity beyond which the rational public should not be expected to go in imagining nuclear hazards or hypothesizing extreme nuclear accidents.

Recent studies by Dr. Normal Rasmussen of M.I.T. indicate that with 100 plants on the line (as will be the case by 1980) a major nuclear accident would be 10,000 times less likely to happen than a comparable accident in a non-nuclear facility. Thus, the hazard to any individual or group will be about the same in 1980—with 100 plants on the line—as the hazard of being struck by a meteor.

To put it another way, the chance that a person will be killed from a nuclear power plant accident in 1980 is one in five billion. By comparison, the chance that a person will be killed by firearms is one in 100,000, which is 50,000 times more likely.

Numerous scare stories have been circulated about the radiation impact of a nuclear industry on the general public. There are some figures that cast some light on this subject.

If we assume 1,000 nuclear power plants on the line in the year 2000, the average person in the United States will receive the following radiation: 102 millirem per year from natural background, 73 millirem per year from medical X-rays and therapeutic radiation, but only 0.4 millirem per year from the operation of all 1,000 nuclear plants and all their supporting activities. That's less than ½ of a millrem, as compared to almost 200 from natural and medical sources.

Today, with our automobile speed limit reduced to 55 mph, we kill about forty-five thousand Americans a year, and suffer about 2 million serious injuries from automobile accidents. More than 8,000 persons burn to death. Overdoses of aspirin and aspirin compounds cause hundreds of deaths per year. About 1,000 persons die from electrical shock. About 160 are killed by lightning. About 3,000 choke to death on food. More than 2,000 are bitten by rabid animals. About 2,000 are killed in airplane accidents. No radiation death or injury has resulted from the operation of any licensed nuclear power plant in the United States, nor has any member of the public been exposed to any radiation in excess of internationally approved standards as the result of the operation of all the 56 nuclear power plants and their supporting activities, and the more than 100 U.S. military nuclear reactors now in service.

The complaint has been made that no specific permanent nuclear waste management program has yet been licensed by the Nuclear Regulatory Commission. Certainly the safe storage of radioactive wastes is a requirement accompanying the beneficial use of nuclear fission. However, this can be approached in the same sound manner which we have used in handling radioactive materials for the last 30 years. Millions of gallons of liquids and thousands of tons of solids containing billions of curies of activity have been handled in an exemplary way, with virtually no harm to anyone and virtually no radiation release to the biosphere. Using techniques that have been developed during recent years, the safe, permanent storage of radioactive materials is actually a simple matter of good engineering and good management.

In due time the ERDA will announce plans for storage of radioactive wastes. The technique almost certain to be chosen involves encapsulating the wastes as a solid glass in welded stainless steel cannisters. Ten to twelve cannisters, 1 foot in diameter and 10 feet long, holding about 6 cubic feet each, will contain the wastes produced each year by a 1000-megawatt power plant. These cannisters can be enclosed in individual concrete shields and simply placed on the surface of the ground inside some restricted area such as the Hanford reservation.

It would require less than 2 square miles (of the 600 square miles at Hanford) to store all of the high-level wastes that will be generated by the nuclear energy program between now and the year 2000.

Another acceptable method is the storage of these cannisters in geologically stable underground salt deposits. Such storage would require a small volume, and be essentially permanent.

As far as I know, no one has suggested any scenario by which these materials would be introduced into the biosphere.

I am pleased to say that the Congress has taken the initiative in establishing well-organized programs in solar energy, geothermal energy, and nuclear fusion.

The Solar Heating and Cooling Demonstration Act of 1974 provides a five-year program to demonstrate the commercial feasibility of using solar energy to heat and air condition residences and other buildings. We envision having 2,000 demonstration solar heating units on the line within two years, and, in addition, 2,000 combined heating and cooling demonstration units in four years.

We have also established a long-range, comprehensive program for all aspects of solar energy conversion to electricity, including wind conversion, thermal, electric conversion, photovoltaics, ocean thermal gradients, bioconversion, and the incineration of wastes for energy, or their conversion to useful fuels.

Solar energy will clearly play an important role in our future, and I am proud of the overall programs we have established. The Conrgess has more than doubled the funding for solar energy research and development this year over last, and increased it about one hundred times in five years. However, we must keep the potential for solar energy in perspective. With well-managed, well-funded, aggressive programs, we may, if we are lucky, be able to provide 1% of our energy from solar heating and cooling, and another 1% from all other methods of solar energy conversion by the year 1990; but almost certainly not before. For instance, if we were to convert 10% of our 70 million homes in this country to solar energy for heating and cooling by 1990—and that would be truly prodigious undertaking—the energy saved would be only slightly more than 1% of our national energy demand.

The same general perspective applies to geothermal energy. In the Geothermal Research, Development, and Demonstration Act of 1974, our goal is to have from six to ten geothermal demonstration plants on the line by 1980. These are small plants, generating up to fifty megawatts of electricity each, using presently undeveloped types of geothermal energy such as hot dry rock formation, hot water deposits, and geopressured water. Here again, prudence must govern our optimism. Even with such a crash program, it is unlikely that we can produce 1% of our total energy from all geothermal sources before 1990.

Finally, nuclear fusion. The past three years have certainly been the most productive in the history of controlled thermonuclear research, and certainly we are now operating on a new plateau—one which we have dreamed of and sought for twenty years. Now, for the first time, we understand the physics and the dynamics of the plasma in which the thermonuclear reaction must take place. Now, for the first time, we are in a position to move forward with a much more aggressive research program; and now we can, with considerable confidence, predict success.

I believe that we can have a commercially feasible fusion electric demonstration plant on the line by the mid or late 1990's, but not before, and this will require massive support, starting now, for materials research and development, and for engineering studies. If this program is successful, we may—in the 21st century—be able to look forward to providing unlimited quantities of clean, cheap energy forever, not only for this country but for all mankind. We may also look forward to phasing out the burning of fossil fuels and the use of nuclear fission to produce electricity—in the 21st Century.

It should be completely obvious that we cannot reach these goals of the 21st Century unless we establish intelligent and responsible policies and programs during the balance of the 20th Century. It should be obvious that this is no time for pretending that there are simplistic solutions to the tangle of interlocking and complex problems that face us. It should be obvious that we cannot afford to base our policies on fantacies, fears, hopes or prejudices. It should be just as obvious, however, that this nation can develop policies and programs which will provide for adequate energy to maintain our economic stability and standard of living, while protecting or even improving our environment and the health and physical well being of our citizens.

I believe we can do it if we establish energy policies that do make sense and if we implement them at every level right away.

We have faced tough problems before. Many of us here lived through the depression and helped fight the Second World War. We never doubted for a single moment what our purpose was or that we would ultimately overcome the difficulties that beset us during those trying times. I am convinced that if the American people exercise the same resilience, confidence, and good sense that we have demonstrated in the past, and if we have responsible leadership and policies based on scientific facts, we can overcome the problems that face us today, and help build a better world.

Thank you.

PLIGHT OF THE SOVIET JEWS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. LEVITAS. Mr. Speaker, for several years the issue of the plight of the Soviet Jews has attracted more and more attention in this Chamber. A number of our colleagues have pursued this issue and, indeed, this issue was closely linked by the Congress to trade with the Soviet Union and the whole concept of détente.

Kremlin leaders have contended that Soviet internal policies are beyond the realm of this Congress. They have contended that reports concerning Soviet treatment of Jews have been exaggerated, and that only few Jews wish to emigrate from Russia to Israel and elsewhere.

Mr. Speaker, despite these contentions by the Soviets, the reports persist. Now one comes to my attention concerning a young Russian Jew who lives in Kiev and who has tried repeatedly to emigrate to Israel to join his family, who already are there. This young man is Boris Levitas, who was a college student when Soviet authorities seized his credentials after he applied for emigration in January 1974, in effort to join his family which journeyed to Israel in 1973. Earlier this year I was contacted by his family, who have pleaded to me for assistance. Boris himself telephoned from Kiev. I have repeatedly contacted Soviet authorities to no avail. Other Members have done so as well, also to no avail.

Although I have followed this matter as closely as I have been able I am now at a loss to know what to do next. Boris Levitas, since his telephone call here, was arrested by the Soviet police. I understand that he was subsequently released, but I do not know his present status. In any event, the Soviets have not permitted him to exist in the country.

This stands in stark contrast to the provisions of the Helsinki Agreement, recently signed by the Soviet Union, which specifically calls for the freer movement of people, ideas, and information between East to West. The Helsinki Agreement was one that the Soviets sought for years and signed willingly because it also provides for recognition by the West of territorial adjustments—faits accomplis—resulting from World War II, much of these as a result of Soviet military action. If the Helsinki Agreement means anything, which I doubt, it means that citizens like Boris Levitas, who have clearly expressed the desire to leave the Soviet Union and join their families elsewhere, should be allowed to do so. To deny them the right to do so is to violate the spirit of the Helsinki Agreement, and for this they must be judged and condemned by the jury of world opinion. I suppose we really should not have believed the Russians would live up to their agreements, anyway.

Mr. Speaker, while this is a single case, it is to me clear evidence that Soviet oppression of Soviet Jews continues and that Soviet leaders have no intention of changing their present policy.

TRIBUTE TO BENTON MACKAYE

HON. ROY A. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. TAYLOR of North Carolina. Mr. Speaker, I want to take a moment of the time of the House to pay tribute to the memory of a great American and an outstanding visionary in the field of conservation, recreation, and the environment. It was with sadness that I learned Benton Mackaye expired a few days ago at the age of 96.

The nation will long appreciate Benton Mackaye as the father of the concept of the Appalachian Trail. Long before the Congress recognized the conservation and recreation values of a trail system paralleling the Atlantic coast, Benton Mackaye envisioned a voluntary collective effort by interested hikers and landowners in perpetuating and maintaining a 2,000-mile trail through 14 States known as the Appalachian Trail. From the time he first conceived and publicized that idea, thousands of American families, hundreds of groups and clubs, and numerous public and private landowners joined together to make this trail the great success that it is.

Only in recent years did direct Government action become necessary in order to assure the future existence and integrity of this continuous trail from Maine to Georgia. I am proud of my association with this effort and I am hopeful that this outstanding resource will remain available for the benefit of present and future generations indefinitely. Long after we have departed the scene, our efforts will be appreciated and enjoyed, and we can take great satisfaction that we have had an opportunity to help make it possible.

While we are saddened by the passing of this great friend of the people, we can all be thankful that he came our way and made our lives richer.

The article follows:

BENTON MACKAYE

SHIRLEY, MASS.—Benton Mackaye, who conceived the idea of the Appalachian Trail, died at his home Thursday. He was 96.

The trail is a nearly 2,000-mile mountain footpath through 14 states from Mt. Katahdin in Maine to Spring Mountain in Georgia.

C. Francis Belcher, director of specials affairs of the Appalachian Mountain Club in Boston, said Mackaye wrote about his idea in an article, "The Appalachian Trail, An Experiment in Regional Planning," that appeared in October, 1921, in the Journal of American Institute of Architects.

Belcher said the article was reprinted in several magazines, and, in 1926, work began on the idea of linking existing trails. The trail was completed in 1933.

Mackaye also was the first president of the Wilderness Society.

Mackaye was born in Stamford, Conn., and was graduated from Harvard College in 1900 and from the Harvard School of Forestry in 1905. His father, Steele Mackaye, was a playwright and inventor.

Mackaye worked for the U.S. Forest Service and for the Tennessee Valley Authority (TVA). He wrote a number of forestry articles and a book, "The New Exploration."

ANALYTICAL STUDY OF PUERTO RICO'S FINANCES

HON. JAIME BENITEZ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. BENITEZ. Mr. Speaker, the Government of Puerto Rico is focusing a major portion of its energies and talents on devising and implementing a new plan for development of its now depressed economy. The grave financial slump the United States is suffering is accentuated in Puerto Rico by several important factors beyond its control; virtually exclusive reliance upon foreign sources of energy and external materials, the flight of domestic industries from Puerto Rico to low wage foreign areas, and the twin afflictions of inflation and unemployment.

We are determined to harness our own considerable brainpower as well as that of the best minds among mainland economists to help us reverse the downward trend and accelerate progress toward building a stronger foundation of economic stability and growth.

It was with that objective that in 1974 Gov. Hernández Colón requested the distinguished economist, Prof. James Tobin, of Yale University, to chair a committee to study Puerto Rico's finances. The group included William Donaldson, dean, school of organization and management, Yale University; Kermit Gordon, president, the Brookings Institution; Wilfred Lewis, executive director, National Planning Association; Sidney Robbins, professor of finance, Columbia University, Graduate School of Business, and William F. Treiber, consultant, Federal Reserve Bank of New York.

The group sought to evaluate the economic and financial prospects of the island as well as to recommend modifications of and innovations in Puerto Rico's general direction and approach to development. On December 11, 1975, Professor Tobin transmitted his report to the Governor, recommending some wide-ranging improvements, both conceptual and procedural. The report is now undergoing careful analysis and evaluation at the highest levels of the Puerto Rican Government. It will serve as a focus of deliberations on the fiscal situation in Puerto Rico. It provides a guide to constructing the new and dynamic framework for growth which we all so deeply desire for the Puerto Rican people.

Mr. Speaker, on December 15, 1975, I introduced H.R. 11200, a bill designed to improve the relationship between the United States and Puerto Rico. I believe that the enactment of this legislation will also contribute significantly to Puerto Rico's ability to solve its own economic problems. Puerto Rico does not intend to passively rely upon outside forces; it wishes to have a measure of control over the direction of its economy.

I believe that the summary of the Tobin report is of such high caliber and broad interest that I now ask unanimous consent, Mr. Speaker, to insert it at this point in the RECORD. The complete text of the report is too lengthy to include in the RECORD. However, I would be glad to supply a copy to any of my colleagues who wish to read the report in its entirety.

The report is as follows:

DECEMBER 11, 1975.

DEAR GOVERNOR HERNANDEZ-COLON: On behalf of your Committee on Puerto Rico Finances, I have the honor to submit to you and to your Finance Council the Committee's Report. At a later date thirteen background papers prepared by the Committee's staff and consultants will be submitted. Here in this covering letter, I shall try to summarize the major findings and recommendations of our Report.

Your appointment of this Committee nearly two years ago reflected some concerns over the economic and financial prospects of the Island. You wondered, quite rightly, whether the economic and financial strategies of the past two decades could be successfully continued without modification and innovation. But none of us foresaw then how rapidly and drastically the national and international economic climate would deteriorate. Nor did we foresee at that time the severe impact of U.S. recession on the finances of state and local governments and of the Commonwealth, and the sharp decline in investors' confidence in tax-exempt bonds. You and your colleagues will not be surprised that our Report is more somber than we expected when we began.

PRINCIPAL FINDINGS

Puerto Rico's difficulties today are partly due to circumstances beyond the Island's control. These include the sharp increase in world petroleum prices, a severe blow for an island economy dependent on imported fuel, and the relative increases in prices of agricultural and mineral products, costly to a country that makes its living mainly by manufacturing. In addition, Federal anti-inflationary policies and the deep recession to which they contributed have damaged Puerto Rico's economic and fiscal position. Puerto Rico has especially strong reasons for advocating Federal fiscal and monetary policies which assure both a strong and sustained economic recovery and the restoration of stable and robust financial markets in the United States.

The Island's problems, however, also reflect economic and fiscal developments in Puerto Rico since 1969. It would be a mistake to blame the Island's current problems wholly on the U.S. recession and to expect that U.S. recovery will solve them. The trends of government expenditure, government enterprise deficits, Puerto Rican debt, and costs of production were not sustainable even with favorable economic weather overseas. Your government, beginning in 1974, has taken important steps to arrest these trends, and we must recommend intensification of your efforts.

We have been regretfully forced to conclude that Puerto Rico has very little scope for financial policies which would insulate the Island from overseas economic and financial developments. No small economy which depends on trade for its livelihood and on external capital for its development has much room for autonomous financial and monetary policies. Puerto Rico's association with the United States involves a common currency, a customs union, unrestricted movement of funds, capital, and persons between the two economies, exemptions from Federal taxes, and eligibility for Federal grants to the Commonwealth and its citizens. These arrangements have been economically advantageous for the Island, but they also imply some constraints which must be recognized.

On the financial side they mean that credit is available to Puerto Rican borrowers in almost unlimited amounts, but only on terms, standards, and yields competitive with lending opportunities in Mainland and world markets. Since Puerto Rican savers, depositors, lenders, and financial institutions have virtually the same worldwide opportunities as Mainland lenders, their funds will stay in Puerto Rico only if competitive comparisons are favorable. In short, Puerto Rico cannot pursue an independent monetary policy. It is for this reason that recommendations concerning financial structure and institutions play a smaller role in our Report than may have been anticipated at the outset. We do have some recommendations on these matters—especially with respect to the financing of local enterprise and the role of the Government Development Bank for Puerto Rico. But we cannot regard these, or other possible reforms of financial structure, as major items of a program to respond to the critical economic problems now facing the Island.

On the fiscal side, the Island has somewhat more freedom to pursue its own countercyclical policies. However, budgetary measures to stimulate economic activity and employment must be financed by external borrowing. They cannot be implemented unless the Commonwealth holds in reserve some capacity to float debt in the Mainland. At the moment, obviously, this condition is not met.

As Puerto Rican leaders have long recognized, the only durable basis for prosperity is to develop and maintain on the Island economic activities which are internationally competitive, in Mainland, world, and local markets. Competitiveness is especially critical right now, and for this reason a number of our recommendations concern productivity and cost.

Puerto Rico faces several years of fiscal, financial, and economic austerity. Drastic adjustments are required, especially painful because they involve the postponement of expectations deeply entrenched in the economic and political life of the Island during the era of rapid industrial growth and abundant external finance. The adjustments are necessary to lay the basis for renewed growth. They must be made. The only question is whether they are made in a timely, orderly and equitable manner or whether they are deferred until the exigencies of a financial crisis compel them to be made in haste. Fortunately, you and the officials of your government concerned with economic and financial management recognize the urgency of the situation. This has been demonstrated by the measures already taken to increase tax revenues, to control government outlays, and to limit the Commonwealth's debt issues. Measures of this kind will have to be resolutely pursued in the coming years.

The Commonwealth and its agencies cannot, we believe, safely borrow more than about $300 million a year in the Mainland tax-exempt bond market, on average over the next several years. Moreover, the Commonwealth must repay on schedule its maturing bonds and its short-term debt to a consortium of banks. The net increase in the outstanding public debt of the Island will be limited to about $150 million a year, on average. In other words, the net cash deficits of the Commonwealth government, municipalities, agencies, and public corporations will be limited to about $150 million a year. Perhaps additional funds can be raised by initiative in tapping foreign sources of credit and by measures to increase the absorption of Puerto Rican obligations by local firms and individuals. The central point remains. Aside from a margin of $150–250 million a year of net debt finance, all the outlays of the public sector, whether for current operations or for investment, will have to be covered by current receipts from taxes, fees, user charges, and Federal transfers.

Timely and well-planned measures to accomplish this result will have two salutary long-run effects. First, Puerto Rican debt issues will be reduced to more modest and acceptable proportions of the Island's GNP and of the total Mainland bond market. Second, the measures themselves will convince potential lenders that Puerto Rico's economy and finances are soundly managed. In both ways Puerto Rico's credit standing will be strengthened and its borrowing costs and debt service burden reduced. Given the present fragile state of the market for non-Federal government bonds in the United States, the importance of these objectives can scarcely be over-emphasized.

It should be possible to achieve these aims before the end of the decade, and we may assume that the general bond market will recover from its present nervousness. Then it will be possible for debt issues to assume once again an important role in financing the Island's development. But even then Puerto Rico's external debt should not grow faster than the Island's economy.

Capital expenditures by the government and by public enterprises have been financed by debt issues, and now that the volume of debt issues is limited it is inevitable that marginal investment projects will be cancelled or postponed. The line of least resistance will be to absorb the whole burden of austerity in reduced investment. We urge you not to follow so short-sighted a policy. Public and private consumption should give way, not investment for Puerto Rico's future Economic progress in Puerto Rico and the promise of a better life for the people require investment in both public and private sectors. Puerto Rico must generate internal savings to finance this investment, especially now that external finance is limited.

Of course investment proposals require careful scrutiny. Only those which promise a decent return to the Puerto Rican people deserve their saving. Traditional projects should be reappraised in the light of the new scarcities and trends in the world economy. Furthermore, labelling a proposed expenditure "investment" or including it in the capital budget does not guarantee it meets this test. Moreover, some outlays which budget accountants call "current" and national income accountants call "consumption" are future-oriented investments. These may include outlays for industrial promotion and expenditures for education and other investments in "human capital".

In allocating its limited investable resources, the government should bear in mind that private investment can be financed by public funds channeled through the Government Development Bank or otherwise. Conceivably local private enterprises can on occasion yield a higher social return than projects of government and public enterprises.

MAJOR RECOMMENDATIONS

The necessary general elements of an austere program are fairly obvious. The specifics, we fully realize, will be very difficult to decide and to implement. In the final analysis only you and the Finance Council can put the various elements together into a feasible package reflecting Puerto Rican priorities and constraints. Here are our suggestions for basic constituents of a program.

1. Limiting government consumption expenditures and pay increases

The analysis summarized above indicates that Puerto Rico must generate internal saving to replace external borrowing in financing the investment needed for economic growth. To this end the current budget of the Commonwealth must begin to generate surpluses. In Section VIII of the Report our fiscal assumptions and their consequences for the projected growth of the economy are spelled out in detail. It is clear that the required improvement of the budget involves both drastic restraint of expenditure and additional tax effort.

On the expenditure side, we recommend that over the next three fiscal years the annual growth of the current budget of the Commonwealth be held 3 to 4 percentage points below the U.S. rate of price inflation (as measured by the overall U.S. GNP "deflator"). Since a U.S. inflation rate of 6–7% per year seems likely, this means limiting the growth of the Commonwealth budget to about 3% a year in current dollars. In implementing this recommendation, it is of course essential to provide in the expenditure budget for all costs attributable to government operations during the year, whether or not the actual cash outlays are deferred. This means, for example, that the budget must provide for pension fund contributions and obligated subsidies to agencies and public enterprises.

As a major budgetary economy, and as an important contribution to the general health of the economy, we recommend that the scale of governmental wages and salaries be frozen for the three year period. This does not mean that individual wages would be frozen, but that year-to-year pay increases would be limited to normal seniority and merit awards within the scale and to such increases at the bottom of the scale as are mandated by Federal minimum wage law.

This policy will minimize the impact of budget tightness on the volume of public services and make it possible to maintain public employment in needed functions. Where the bureaucracy is staffed beyond public need, it should of course be reduced, if only by attrition.

2. Increasing tax revenues

Our fiscal projections in section VIII of the Report assume that tax revenues will grow as economy recovery proceeds and that the tax increases of 1974–75 will remain in force. The fiscal outlook for the next few years is a compelling reason for accomplishing some further much needed improvements in the tax system.

First, land and real property should be taxed on realistic market appraisals, with the substantial exemptions of residences eliminated. This reform would make the tax system more equitable as well as more productive of revenue. We recognize, of course, that so far-reaching a reform must be phased in gradually, but now is an opportune time to adopt the necessary legislation and schedule.

Second, the yield of the income tax can and should be further increased by tighter enforcement and collection. We recognize the progress the Treasury has already made and urge that its efforts be continued and strengthened. Here too equity, as well as revenue, is at stake.

Third, the government should consider taxes on consumer durable goods, especially luxuries. For automobiles, graduated registration fees could supplement excises in curbing the importation of large cars, with poor gasoline mileage, which seem particularly inappropriate for Puerto Rico today.

3. Development of operating surpluses in government enterprises

Public corporations and other government enterprises must be required, as a group, to produce current surpluses. Shut off from accustomed dependence on bond finance, these enterprises will have to finance investment projects mainly from their own operating surpluses or from surpluses generated in the Commonwealth current budget. While we recommend careful scrutiny of investment projects to make sure that their social benefits, correctly calculated, justify their full costs, we emphasize again that the prospects of Puerto Rico for growth in employment and output depend on investment. Projects which meet benefit-cost tests should continue to be undertaken, even during the coming period of austerity. The main point is that the funds must be found internally.

We do not mean, of course, that every public enterprise should be allowed automatically to invest whatever funds it can generate internally. All capital budgets should be centrally evaluated, and common benefit-cost criteria applied.

To facilitate internal saving and to preserve equity, the freeze of pay scales recommended for government employees should apply also to public enterprises. In addition, significant increases in customer and user charges will be necessary in many cases. Neither the enterprises nor the Commonwealth government can afford to subsidize the customers of public utilities.

4. Straightforward marketing of Puerto Rican bonds

In the long run the only real protection for Puerto Rico's credit is to limit the increase in debt and to adopt policies which assure the Island's ability to service its debt. In the marketing of debt, Puerto Rico has a good reputation for full and candid disclosure, and we believe that Puerto Rico should strengthen this reputation. Puerto Rico should be a pioneer in frank and complete reporting of fiscal and economic facts and prospects. Disclosure is bound to become increasingly important in the marketing of bonds and some standards are very likely to be imposed by Federal legislation. We suggest that Puerto Rico begin voluntarily now to provide prospectuses which comply with S.E.C. requirements for corporate issues.

For the same reasons, Puerto Rico should eschew fiscal "gimmicks." Revenues should not be segregated to service particular bonds; in the market's view this only impairs the quality of other issues. The market has, in fact, come to view all Puerto Rican bonds as competitive with each other for the general debt servicing capacity of the Island's government and economy. There is no point in trying to circumvent this view. The market is particularly sensitive to such matters as timely and current payment of scheduled funds for future pension obligations, and the government should provide for these accumulations of reserves in its budgets.

At the same time, we encourage the Treasury and the Government Development Bank to seek, in consultation with its bond advisers, fruitful innovations in Puerto Rico borrowing. These may include: borrowing in European markets; "flower" bond issues; savings bonds for local savers; bonds tailored to the needs of tax-exempt subsidiaries of U.S. companies.

5. Measures for training and employment of Puerto Rican youths

Even with the best of policy and the best of luck, the Island faces a severe unemployment problem for several years. It will be especially difficult for young Puerto Ricans to get those all-important first jobs. Consequently the budget should emphasize measures which will make Puerto Rican youths employable and productive, and the government should seek all possible Federal funding of such programs. Vocational education, on-the-job training, and public employment projects are examples. We are aware that your inter-agency committee on development strategy is considering some youth employment and training programs particularly designed for the Puerto Rican scene. We also suggest, in view of the serious youth unemployment problem Puerto Rico is facing, that you ask Congress to permit suspension or reduction of minimum wages for persons under the age of 20 employed in Puerto Rico.

6. General restraint on wages

Under previous headings we have recommended temporary freeze of pay scales for government employees and for public agencies and enterprises. This will contribute mightily to the necessary improvement in the financial position of the entire public sector and will help to restrain production costs throughout the Puerto Rican economy.

It is clearly desirable to extend the policy of wage and salary restraint to the private sector as well. The government should make clear to employers and employees that the prosperity of their enterprises and the expansion of job opportunities are vitally dependent on their willingness to accept severe limits on labor cost increases for several years. To the same end, the Commonwealth should ask Congress to allow deferment of the application of Mainland minimum wage standards to the Island, while freezing all wage standards under its own control and that of industry wage boards. As stated above, we suggest suspension or reduction of minimum wages for youth.

At the same time, the government should undertake a thorough review of all legislation which raises labor costs, including: the large number of compulsory paid holidays; vacations and sick leave; year-end bonuses; overtime and free time.

It is of prime importance to hold dollar increases in labor costs in Puerto Rico below the trend in the Mainland. Over the next few years of austerity, the prospects for employment in Puerto Rico depend mainly on restoring a viable competitive position, expanding Mainland and foreign demand for Puerto Rican products and attracting new plants with new jobs. Unfortunately Puerto Rican labor costs have outrun productivity, while the rise in oil prices has also impaired the Island's competitive position. A trading economy like Puerto Rico has very little possibility of influencing the prices of products it buys and sells. It can, however, increase its market shares by gaining advantage in costs and productivity.

We do not make this recommendation lightly. We understand how unpopular wage restraint will be, and how difficult it will be to explain the need for it in a way that elicits understanding and acceptance. Certainly the same standards of restraint, or even more severe ones, must apply to executive and managerial salaries as to the wages of production workers. Moreover, we are recommending below that you obtain the cooperation of major firms operating in Puerto Rico to increase their employment and their commitments to the Island economy.

Nevertheless, it will seem unfair to many employed workers that they do not get compensation via wage increases for recent and current increases in the cost of living. The trouble is that the cost-of-living increases reflect mainly increases in the prices of Puerto Rican imports relative to the prices of its exports. The prices of imported oil and food are clear examples. If some Puerto Ricans are protected against these losses, it will simply be at the expense of other Puerto Ricans who will lose or never find jobs. The Mainland workers with whom Puerto Ricans compete have not been keeping up with the cost of living, and enormous unemployment in Puerto Rico is evidence enough that wages on the Island should *fall* relative to those on the Mainland. What the Island faces is not a conventional labor-management dispute over the division of an ample pie, but a difficult struggle to keep the pie itself large and growing.

We know that your objective is to increase the standard of living for all Puerto Ricans, including especially those now unemployed and others in the lower income brackets. This can be done only by measures which increase the skill, productivity, and competitiveness of the Puerto Rican labor force.

7. Incentives for investment and employment by tax-exempt firms

It is important to encourage tax-exempt firms to reinvest profits in operating facilities in Puerto Rico. It is especially important to induce the creation of jobs. To these ends, we believe the time has come to adopt a system by which a firm may earn additional tax credits, usable after the initial periods of tax exemption, by its reinvestment and employment performance. A tax incentive for employment is always important for Puerto Rico. It is particularly important in the next few years, when the public sector cannot be the major source of new jobs as in the recent past.

We have explored in some detail in our Report other proposals for keeping in Puerto Rico the profits of tax-exempted firms.

These are measures to induce the placement of these funds for Puerto Rican bank deposits or other financial instruments. Unfortunately we can find little basis for optimism about the effectiveness of such measures. They do not address the basic problem, which is to get the funds plowed into real productive capital facilities in the Island rather than into financial holdings whether in Puerto Rico or elsewhere.

Attraction of new firms, of course, remains an immensely important task for Puerto Rico. Changes in Federal tax legislation under consideration should help, and we believe our own proposals will too.

8. Job-creating investment by private industry

This final recommendation is extremely important for the social, political, and economic viability and equity of the whole program. You, Governor, should urgently solicit firm quantitative commitments, individual and collective, from the major companies operating in Puerto Rico to launch immediately new investment projects in Puerto Rico. These companies should expand their productive facilities on the Island, creating employment both during the period of construction and installation and permanently when the facilities come into operation. You can say something like the following to these companies:

"Puerto Rico faces a critical economic situation, with potential dangers to all of us who live and do business on the Island. The government is prepared to do its share by making painful cuts in public spending and employment, and it will also impose strict fiscal discipline on public agencies and enterprises. We are prepared to ask the people of Puerto Rico to forego wage increases and to pay higher taxes, even in these times of inflation. We are also taking important steps to increase work input and productivity per employee day paid. We are taking these measures because we know that the viability of the Puerto Rico economy ultimately depends on our cost competitiveness in the U.S. and world markets. We know that our competitiveness has declined in recent years, and we are resolved to restore it.

"Our program of fiscal austerity means that the public sector, the major source of new jobs in the early 1970s, will actually contract employment in the next few years. As you know, the Island already suffers from an unconscionably high rate of unemployment. Our only hope for reducing it lies with the private sector. We may hope that economic recovery in the U.S. and the world will help, especially if our production costs decline relative to those elsewhere. But that prospect is not enough. We urgently need a substantial program of job-creating investments by private industry, and that is what we ask and expect of you.

"Our program of fiscal austerity and wage restraint will be much more readily acceptable to the Puerto Rican people if they perceive that all sectors of the economy are making sacrifices and contributions. This perception must include businesses who benefit from tax exemptions and other advantages. Many companies have accumulated profits earned in Puerto Rico in liquid form. It is really not a matter of great moment whether these are held in financial assets in Puerto Rico or elsewhere. What is important is that they be plowed into the Puerto Rican economy, increasing its capacity to produce and to offer jobs. By controlling wages and other costs, we are making the long run business prospects of such investments favorable. We are further prepared to offer tax credits to tax-exempt firms, based on their reinvestment and employment performance and usable after their period of tax exemption is over. What we seek from you now is an immediate program of investment, as your participation in a full and coherent program to revitalize the Puerto Rican economy."

Other recommendations are included in the Report; a summary of all of them is given in section I. Here I have reported the most important recommendations involving action in the near future.

An austere program is not pleasant for us to recommend, much less for you to implement. But we are convinced that it will lay the essential foundation for a better life for Puerto Ricans. We believe, and our projections indicate, that Puerto Rico *can* return to a track of economic growth, along which real incomes, employment, and standards of living steadily advance. Whether this will happen depends on whether, under your leadership, all elements of Puerto Rican society—government, business, labor—will cooperate to take the essential measures and to make them succeed.

Cordially yours,

JAMES TOBIN.

RALPH E. BECKER, BENEFACTOR: PRESENTATION OF THE JAMES SMITHSON MEDAL BY THE SMITHSONIAN INSTITUTION

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. McCLORY. Mr. Speaker, my wife, Doris, and I were privileged to be present at the National Museum of History and Technology of the Smithsonian Institution November 3, 1975, when our good friend, Ralph E. Becker was signally honored in the presence of over 300 friends and members of his family, including Members of the Congress, judicial and executive branches of the Government. He is a senior member of the law firm of Becker, Channell, Becker, and Feldman of Washington, D.C., and is an internationally known attorney, and cultural and civic leader. Secretary S. Dillon Ripley, on behalf of the Board of Regents of the Smithsonian Institution, presented him with the coveted James Smithson Medal.

The presentation was in recognition of Mr. Becker's donation to the Smithsonian of his invaluable collection of Presidential political materials known as the "Ralph E. Becker Collection of Political Americana," as well as other services to the Institution. Mr. Becker has donated more than 30,000 items of political Americana—covering a span of 200 years—to the Smithsonian since he presented the first installment of his collection to Secretary Leonard Carmichael in 1958. These ceremonies are recorded in the CONGRESSIONAL RECORD, March 24, 1961, by the late Hon. Clinton P. Anderson, Senator of New Mexico. Also, he donated over 100 important woven jacquards made in various countries of the world to the Division of Textiles.

Mr. Speaker, the Ralph E. Becker collection has been used in many major exhibitions at the Smithsonian over the past 15 years. After being displayed for several years in the Arts and Industries Building, it was used extensively in the preparation of five exhibitions in the Museum of History and Technology.

These included the Historic Americans Hall in 1964, as well as the "Growth of the United States" exhibition: The "Quest for the Presidency" in 1968, and "Hail to the Chief" which followed, and a special exhibition entitled "Pastimes of the President."

In 1972, the National Portrait Gallery drew extensively from the collection for an exhibition entitled "If Elected," and a great many objects are in the current Bicentennial exhibition, "We the People," at the Museum of History and Technology. Moreover, these items have been used in traveling exhibitions and U.S. participation in world expositions. Photographs are used in books, magazines, and other publications, as well as on television.

In addition, he has given a collection of over 5,000 items of political Americana from the days of George Washington, to contemporary period, to the Lyndon Baines Johnson Library of the University of Texas where it is on permanent display. Also, he has donated similar collections of political memorabilia to Dartmouth College, and St. Albans School, Washington, D.C.

Mr. Becker has served the Smithsonian in other ways as well. In 1963, he went on an expedition to acquire two polar bears for the National Zoo, who have been named Donnie Boy and Cookie, and has helped finance the Capt. Finn Ronne expedition to the Antarctic, where a mountain is named for him.

Mr. Speaker, Ralph E. Becker has been a donor to the White House, State Department, and Department of the Interior. He has been of inestimable assistance to Lady Bird Johnson for the beautification program. He also served the Smithsonian as a founding board member of the National Cultural Center for the Performing Arts—a bureau of the Smithsonian, which was renamed the John F. Kennedy Center for the Performing Arts in 1964 as a living memorial to the late President, and was appointed trustee and general counsel for the National Cultural Center by President Eisenhower in 1968. He played a key role in the inception and development of this internationally known facility. It was his advocacy and leadership which supported the project at its present Potomac River site, rather than the Mall site which was preempted by Senator Anderson of New Mexico, for the Air Museum. In 1957, the location of the Theodore Roosevelt Bridge had been a controversial problem for 10 years though critically needed as an artery to Virginia. Gen. A. C. Welling, engineer commissioner for the District of Columbia who was quarterbacking this bridge, made this site then partially owned by the District of Columbia, available in an arrangement for Ralph's assistance in obtaining support of the Eisenhower administration for the location of the bridge.

He has worked for many charitable organizations and foundations and serves in various capacities for the Metropolitan Washington Board of Trade, including a member of the Board of Directors, Executive Committee, and former general counsel.

Recently, on July 21, 1975, my colleague Congressman ROBERT JONES, chairman of the Public Works Committee of the House of Representatives, during a debate on the Kennedy Center-Park Service legislation, had this to say about Ralph Becker on the floor of the Congress:

> The center has become one of the most popular attractions in Washington, second only to the U.S. Capitol. It is estimated 2,500,000 tourists visit the Center each year. This should increase during the Bicentennial year. This is legislation that is for all Americans and clearly in the national interest. May I close on a personal note.
>
> One of the genuine satisfactions of my 30 years of service in the Congress has been the opportunity to work closely with the men and women who have given unsparingly of themselves to build and perpetuate the John F. Kennedy Center for the Performing Arts. I would single out for exceptional merit Mr. Ralph E. Becker, Trustee and General Counsel for the Center since its inception in 1958, when President Eisenhower appointed him to that post.
>
> He is one of the founders of the then-named National Cultural Center for the Performing Arts, which was renamed in 1964 as a living memorial to the late President Kennedy. Without his untiring work, his dedication and devotion, there would be no Kennedy Center today and all of us would be the poorer.
>
> I know of no one who has given more of himself, at great sacrifice to an outstanding legal practice, than this distinguished and internationally known lawyer, and I would like the RECORD to show clearly his contributions to the success of the Kennedy Center over a span of 18 years.
>
> Today, the Center is justly famed throughout the world for its cultural achievements; during the Bicentennial, productions created in many foreign lands will be presented there, and each of them owes something to Ralph Becker. On behalf of all the Members of the Committee on Public Works and Transportation, past and present, and of our committee staff, I wish to acknowledge our great debt to this dedicated public man.

Mr. Speaker, in addition to the Kennedy Center, he has served Wolf Trap for the Performing Arts for 10 years. He is a member of the Advisory Committee of the Secretary of the Interior in connection with Wolf Trap, represented the donor, Mrs. Jouett Shouse, and serves as a general counsel and trustee of the Wolf Trap Foundation.

Ralph E. Becker has a distinguished record with the 30th Infantry Division in the European Theater, including the Normandy Invasion, Battle of the Bulge, and joining the Russians on the Elbe River, Germany. During this period, he was awarded five battle stars with combat device from the European Theater, the Bronze Medal, the Belgian Fourragere; and the Croix de Guerre with Palm—France.

He has been awarded the highest decorations of many countries, including France, Brazil, two decorations; Belgium, Sweden, Iran, three decorations; Japan, Denmark, and Austria. He received the award of the Organization of American States and is an honorary member of the American Federation of Musicians, District of Columbia local.

We have known and admired Ralph Becker for his many activities in the support of cultural community and civic affairs, as well as his interest in fostering friendly relations between the United States and many foreign countries. His role as benefactor has added new dimensions to the Nation's Capital as a seat of culture.

In addition to this recognition given to Ralph E. Becker, it is most appropriate to acknowledge also the important part which his talented and attractive wife, Ann Becker, has played in Ralph Becker's professional, public, and civic career.

Mr. Speaker, my wife, Doris, joins me as well as those many others who salute Ralph Becker on the occasion of this official recognition by extending our congratulations. We know that millions of Americans will now have the opportunity to benefit from the political memorabilia which now are on view in the National Museum of History and Technology, and we are all grateful to Ralph Becker for this gift.

PROGRAM

The program ceremonies included the remarks by Dr. Brook Hindle, Director of the National Museum of History and Technology, followed by the Secretary of the Smithsonian, D. Dillon Ripley. Dr. Brook Hindle in his remarks said:

> Every museum, as all curators know only too well, must depend upon the spirit, enthusiasm and generosity of its benefactors. Unfortunately, many believe that our museum is different, that we have a magic, ever-flowing pipeline bringing in an endless supply of federal funds, and that the magnificent collections in our storerooms and vaults were purchased with just such governmental largess. For all of our debt to the American tax-payer, however, this simple explanation will never account for much more than a modest portion of our acquisitions. Instead, we, like other museums, owe so many of our treasures to the countless, public-spirited donors who came to us day by day and contribute objects, time, money and knowledge to our common, national enterprise.
>
> Tonight the National Museum of History and Technology has the immense pleasure and satisfaction of seeing one of its most tireless and most enthusiastic benefactors recognized with a much deserved honor. After his long years of service, as collector, adviser and benefactor, in the establishment of the great collection of political Americana which bears his name, we are proud to see him thus honored.
>
> Ralph Becker, whom we now celebrate for making our museum preeminent among American museums in its holdings of political campaign Americana, began his collecting career as early as the age of sixteen. Always involved himself, he saw with what rapidity the symbols, the color, and the decoration of our political campaigns blossom for a season and then disappear. With an unusual discernment of the importance of such objects in explaining the unsurpassed vigor of our way of politics, he collected and studied. To date he has presented us over 30,000 objects worth an almost incalcuable sum.
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> It is typical of Ralph Becker, however, and of his rare brand of enthusiasm, that he not only gave his own collection but that he also asked curatorial advice time and time again on what else he might purchase and add to it to make it more complete. In the same spirit, moreover, he has continually urged others to donate additional material. Significantly so rich and so useful have his contributions been that from them we have mounted at least four exhibits largely, if not almost entirely, based on objects he collected. Many other exhibits have drawn heavily on this same invaluable source.
>
> Finally I would like to doff my cap as director of this museum and add to these remarks as an ordinary citizen and as a scholar of American history my personal appreciation and gratitude for this immense and priceless historical treasury which Ralph Becker has made available to all of us.

Secretary S. Dillon Ripley in his presentation of the medallion and citation said:

> We have just heard of the tremendous contributions of Ralph Becker to one of our great museums and we note that it is for such generosity that we honor him tonight. But it does not do proper justice to the man to mention only that achievement because our Smithsonian community has received so much more from him. We must be equally grateful, for example, for his help in securing polar bears for the National Zoo and for his long and memorable service on the Board of Trustees of the Kennedy Center for the Performing Arts.
>
> Therefore, on behalf of all of us in the Smithsonian, I am especially pleased to present this medallion and to read the citation which accompanies it.
>
> The Smithson Benefactor Medallion recognizes special friends of the Smithsonian Institution who have made significant contributions of not only material objects, but also generous amounts of personal time and effort to further the Institution's mandate "for the increase and diffusion of knowledge." In the same unselfish spirit displayed by our founder, James Smithson, your contributions to the National Museum of History and Technology of the Smithsonian Institution have greatly enhanced our collections. The Ralph E. Becker Collection of Political Americana has provided a tool of research for the scholar, a source of information for the media, and an invaluable part of Smithsonian exhibitions. Your tireless effort to develop this collection and to inspire others to similar endeavors has provided pleasure and knowledge to professional and layman alike. For all of this we are justly proud and deeply grateful. The James Smithson Benefactor Medallion is hereby presented to Ralph E. Becker.

Hon. John Warner, former Secretary of the Navy, and now Administrator of the American Revolution Bicentennial Commission, presented him with a certificate of appreciation "for meritorious contribution to our Nation * * * particularly—the Kennedy Center." Mayor Walter Washington, through Martin Shaller, executive secretary, made a presentation of a silver and enameled plate with the District of Columbia seal "in recognition of outstanding and dedicated community service."

Among the many letters and communications received, a few should be mentioned: One from the President of the United States, the Vice President of the United States, and a telegram from Mrs. Lyndon B. Johnson.

Ralph E. Becker responded to the honor bestowed him:

> Mr. Secretary, Dr. Hindle, John Warner, Secretary Middendorf, distinguished guests and friends: Naturally, I am thrilled with the honor bestowed on me, which I want to share with my devoted family and friends.
>
> Perhaps I should say something about a collector, because just about everyone is a collector in his or her own way. One of my partners' little two-year-old filled his pockets with stones and last summer my grandchildren collected sea shells as though they were the brightest of diamonds. The sports fan who lets the football programs pile up, and

then occasionally thumbs through them to remember the event—the stamp collector who may have a half dozen postage stamps or a half million. Each in his own way attempts to collect items which he deems of significance in his lifetime.

And, then we progress to the collector who feels that his collection is and will continue to be an object upon which he will lavish attention out of proportion to his daily callings. I am such a collector. There are many others who are such collectors, too.

I respect the man who has collected and catalogued ten thousand baseball bubble gum cards as much as I do a person who has done the same with the finest coin collection or Rembrants. For each wants to add something to posterity in his area of expertise. Each wants to put his items together so that people can get an added or new dimension or perspective.

My point has been illustrated articulately the past few days.

1. New York Times, Saturday, November 1, 1975, Tools as Art:

ANTIQUES: TOOLS AS ART—EARLY AMERICAN IMPLEMENTS ARE SOUGHT WITH APPRECIATION OF ESTHETIC VALUE

(By Rita Reif)

Tools—the planes, axes, hatches, saws, hammers, chisels, squares, augers, and shears that colonists used to open the wilderness and shape this nation's houses, cities, farms and industries—have over the last few years proved of consuming interest to more than 1,000 serious tool collectors.

Any doubts that many of this nation's tools merit consideration as folk art may well be dispelled by viewing Hans Namuth's photographs of common and exotic tools that incorporate impressive strength, spareness of design, intricacy of manufacture or versatility of function. These extraordinary studies, on view through next Saturday at the Castelli Gallery, 4 East 77th Street, were commissioned for the book "Early American Tools," a Bicentennial tribute commissioned by the Olivetti Corporation of America that the Italian office-machine producer is distributing privately.

And each selection shown must have served its master well. For the handles in many cases bear the impressions of an artisan's fingers or palm, and the blades are worn and dulled by hard use.

In Sunday's Potomac magazine, November 2, 1975, the oddest of oddities of Washington and referred to Larry Mooney's collection; a really bizarre collection which was referred to by the writer as a "treasury of idiosyncratic anomalies":

Because Larry Mooney's basement is not quite like anyone else's. Catty-corner from the gas meter sits a death mask of Napoleon Bonaparte: "That's a sharp image," says Mooney, "you can see the teeth, even the lines of his forehead." On one side of the washing machine is a full-size human skeleton, on the other a self-portrait the Japanese sculptor Ito Yamashi constructed of nearly 2,000 dovetailed pieces of wood, plus hair pulled from his own body, the most perfect human figure ever carved, meticulously accurate down to the veins and muscles. On the opposite wall sits a chunk of wood from a tree that grew out of Stonewall Jackson's corpse, and below that the offending crate, which turns out to contain a portrait of the body of Enrico Caruso lying in state, painted on part of a screen door. And that is only the merest beginning, etc.

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3. A Shower of Paper and Medallic Art for the Buy-Centennial:

In the Leisure section of yesterday's New York Times—they had a great story on the "Shower of Paper and Medallic Art for the Buy-Centennial."—"The size of the coming flood (deluge may be a better word) is impossible to estimate; so many items are being issued that a Federal grant of $28,465.79 has been awarded the nation's leading coin society, the American Numismatic Association, just to catalogue every numismatic item pertaining to the Bicentennial observance."

This is a very big job, merely to catalog the numerous items when you realize that in 1876, only a half dozen items of medallic art were made. Those who want to be collectors of the Bicentennial material have an expensive hobby.

4. Collector of Chic Sales: Bill Carmichael, an author who is in the audience, wrote about hobbies and collectors. An interesting one concerned the "Chic Sales". A collector of one seater, two seater, three seater and various other types; in addition, he collects doors with various apertures, quarter moon, half moon and three and four holes, etc.

5. Buckhardt Horse Museum: A very good friend of ours, Dr. Henry Buckhardt, an Agronomist who served in the Diplomatic Service a good many years after his retirement, purchased a large place in Paeonian Springs next to Arthur Godfrey's Estate. Several years ago, he and his wife started the American Work Horse Museum which has everything to do with the work horse and relevant facilities such as the blacksmith shop, veterinarian house, etc. It grew in such a short period of time that it is now officially recognized by the State of Virginia as one of the important places to visit. School children by the thousands come regularly to see these items of the past, since superseded by mechanization, preserved to posterity.

6. Forty-one items owned by Mrs. Walter Peter, Jr.—dispersed on November 8: Then there is the sad tragic situation when historical collections are dispersed to the public and not preserved for posterity. An article by Judith Martin of the Post, this morning, referred to 41 items to be sold at the Sotheby Parke Bernet's auction, which belong to Mrs. Peter of Washington, whose late husband was a direct descendant of Mrs. George Washington. This is a Bicentennial Buff's dream—previously a single Washington item would bring thousands of dollars—it is a draw for collectors.

It is a crime that something like this happens, because Institutions like the Smithsonian, Mt. Vernon and others should be the possessor for posterity.

7. FDR—Halstead Sale: I can recall when Mrs. Halstead, the daughter of FDR sold a great many items belonging to her father. The Smithsonian asked me to acquire some—which I did. A Masonic gold watch—a presentation piece, one of his famous cigarette holders, his poker chips, etc. The rest was purchased by many other people when it should have all been given to the FDR Library Museum in Poughkeepsie or other Institutions.

So, in some case, perhaps one or two people will get that added perspective and, in others, hundreds or thousands or millions will see the interaction of the pieces the collector has assembled.

I am in the latter category because of this great Institution. An Institution which knows no equal. An Institution which is operated by dedicated men and women who inject life and beauty into the collector's raw materials and who give full meaning to the Smithson vision of an establishment for the "increase and diffusion of knowledge among men."

This occasion would have made one person very happy and we miss him very much. Dillon, he was your distinguished predecessor, Leonard Carmichael. He was a truly great man whose handiwork is indelibly written on this Institution. When he retired, he told me of the talented and gifted person who would succeed him—and he was right. I am honored to have his widow, Pearl, here tonight.

Dillon, though you are an internationally known authority and collector in your own right, officially as Secretary of the Smithsonian, you have the unique supreme position of "collecting collectors". You, too, have been such a dedicated individual—a creative architect of not only material items but also of ideas. And now your work and the work of your countless associates will be the focal point of our Bicentennial celebration.

I can recall when you first came to the Smithsonian with your innovative ideas, you stated that if they did not like what you were doing, you could always return to your "duck pond". Now, you only go back for a respite.

As a fellow trustee of the John F. Kennedy Center for the Performing Arts, a bureau of the Smithsonian, there is another source of gratification and satisfaction as a member of the Smithsonian family. When it was ordained that Washington be our Nation's Capital, the Founders of our Country made it clear that it should be a "seat of government and culture". Although we have the finest museums in the world, not until 1958, when President Eisenhower signed into law the National Cultural Center for the Performing Arts, did we witness the capital as a "seat of culture," making the full circle. At the same time President Eisenhower with the same pen, figuratively speaking, signed into law the restoration of the Ford Theatre, the Air and Space Museum which will open on July 4, 1976, the Theodore Roosevelt Bridge and the Stadium. Now Congress have given you, Dillon with the use of your magic wand, the last parcel on the Mall for a Museum of Ecology. Therefore, it is fitting that in this Bicentennial year that we all can be thankful to the Good Lord for all our blessings in this Nation's Capital.

Thus, I take a great risk by singling out people in this Institution, but I must meniton Jim Bradley, a pillar of strength and a wise counsellor to me on Kennedy Center matters in the early, crucial years, and his assistant, Dorothy Rosenberg. Charlie Dorman advised me and sweated many hours and nights cataloguing my collection. Herb Collins succeeded him. Like all of the unsung heroes of a museum, he as a curator devoted countless hours in research on my collection and has become today an author and lecturer on American political memorabilia and history. His knowledge and expertise is available to everyone and has been of incalculable assistance to me personally.

Now the idea for placing my collection in an institution where it would come to some public and beneficial use for posterity came during a visit in the early fifties when my patient wife, Ann, and I came to obtain authentication of some items. Another dedicated Smithsonian scholar, Margaret Klapthor, suggested that the gift be made. But, I want to set the record straight on the malicious story that my wife, Ann, jumped at the opportunity to donate my collection to the Smithsonian so that she could rid the basement and the attic of the uncatalogued crates, boxes, and barrels of materials. Nothing could be further from the truth. She knew full well that I would manage to fill them up with something else, which I proceeded to do.

Let me close by thanking each and everyone of you for coming here to take part in this event which means so much to me and members of my family; and in making me feel that the collection I have put together over the past 50 years and the small efforts I otherwise have made on behalf of this Institution, will live on for all to enjoy and benefit from.

But although the gift has now been made to the Smithsonian, my interest in the collection does not end. I, and I trust all of us here, will continue our efforts to improve and nurture this great Institution which uniquely and broadly reaches the minds of people throughout our country and the world.

Mr. Speaker, in concluding these remarks, I am including a telegram from Lady Bird (Mrs. Lyndon) Johnson, and letters from President Ford and Vice President Rockefeller:

OCTOBER 31, 1975.

RALPH BECKER,
Care, Smithsonian Institution,
Washington, D.C.:

I join in the chorus of congratulations that are coming your way as you receive the James Smithson Benefactor Medallion. Your multitude of good works merits the many well-earned honors you have received. You have my appreciation and admiration on this occasion and always.

MRS. LYNDON B. JOHNSON.

THE WHITE HOUSE,
Washington, D.C., October 31, 1975.
Mr. RALPH E. BECKER,
Washington. D.C.

DEAR RALPH: You have my warmest congratulations on being presented the James Smithson Benefactor Medallion by one of our most prestigious national institutions. The Smithsonian's very special role in the cultural life of our country would not be possible without the wisdom and discerning generosity of individuals like you.

Betty and I both welcome this opportunity to add our personal good wishes to those you will be receiving on this occasion. We send you our deepest appreciation for your important civic service.

Sincerely,

JERRY FORD.

THE VICE PRESIDENT,
Washington, D.C., November 12, 1795.
Mr. RALPH E. BECKER,
Washington. D.C.

DEAR RALPH: It is a great pleasure to congratulate you on being awarded the James Smithson Medal by the Smithsonian Institution.

You can indeed be proud of this honor, for your generosity has made an invaluable contribution to the wealth of American history. Your collection of political memorabilia is an unparalleled resource, both for the research of scholars and for the enjoyment of millions.

The James Smithson Medal can stand as a tribute to your career crowded with accomplishment. Your record of achievement in our Party, in public service, in cultural advancement and in the private sector is without equal.

Happy joins me in wishing you and Ann our very best on this occasion, and for the future.

Sincerely,

NELSON A. ROCKEFELLER.

THE ATTACK ON SURVEILLANCE: THE AMERICAN CIVIL LIBERTIES UNION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. McDONALD of Georgia. Mr. Speaker, the American Civil Liberties Union—ACLU—which contrary to its name is not dedicated to the defense of our liberties, continues to play a leading role in attacks on America's law enforcement agencies, with emphasis on their intelligence gathering functions. The November issue on the privacy report, issued by the project on privacy and data collection of the American Civil Liberties Union Foundation, ACLU's tax shelter, redefines in detail the ACLU's plan to destroy all law enforcement monitoring or revolutionary and extremist groups.

In its 1970–71 annual report, the ACLU stated:

> The ACLU has made the dissolution of the Nation's vast surveillance network a top priority. * * * The ACLU's attack on the political surveillance is being pressed simultaneously through a research project, litigation, and legislative action.

ACLU has neglected to note that its privacy project is directed by Frank J. Donner, a thrice-identified member of the Communist Party, U.S.A., who has been active in attempts to discredit law enforcement agencies involved in internal security and counterintelligence work for nearly two decades.

The ACLU defines its goals as:

> WHAT ARE ACLU'S SURVEILLANCE SUITS MEANT TO ACCOMPLISH?
>
> First, discovery: a full revelation, under court order, of the methods the government has used in each of its surveillance operations and, just as important, a full explanation of the government's purported justifications. Most of the cases on ACLU's surveillance docket are in this intricate, sometimes tedious pre-trial stage, for government agencies do not willingly yield what they see as "their" secrets. The first aim is thus to pierce the wall of secrecy and to bring home to the American public the dangers of secret government.
>
> Second, a judicial declaration that each of the surveillance practices at issue is a violation of the Constitution, and a permanent injunction against their further use.
>
> Third, money, compensation to the victims of surveillance. The combination of declaratory and injunctive relief and the award of monetary damages is intended to forestall the resumption of "business as usual."
>
> Fourth, the orderly and complete destruction of all surveillance files. This promises to be a monumental task, for surveillance information compiled by one agency is almost inavriably shared with others, often even disseminated outside the government.
>
> What is ultimately sought, then, goes beyond the redress of past wrongs. It is the subjection of the entire political surveillance apparatus to continuing judicial review, so that not just specific surveillance operations, but also the scope of the government's authority to conduct political surveillance, can be tested by the standards of the Constitution.

The ACLU has a priority for abolishing investigative techniques. Chief among their targets for absolute prohibition by the courts is the wiretap which they term "the most insidious * * * of all the devices in the surveillance arsenal." With shrill hysteria, ACLU characterizes the wiretap as "quite simply a dragnet, entrapping all speech by all parties to every conversation on a tapped phone." This is against commonsense. It would be a great timesaver if somehow, perhaps by some special extrasensory perception known only to the ACLU, only criminal conversations took place on tapped phones during an investigation. However, the ACLU well knows that the trivia is weeded out and not used as evidence.

Nevertheless, ACLU argues that "no wiretap can ever satisfy fourth amendment standards of search and seizure," and urges the courts to rule that "it is by definition a constitutionally forbidden general search."

ACLU's second priority target is to stop the use of undercover agents alleging that—

> By inflating a "suspect" organization in the guise of a fellow worker for the cause, by winning the trust of its members and taking an active part in the furtherance of its activities, * * * the undercover agent does not merely collect information but also affects, and sometimes perverts, the nature of the organization itself.

We are aware that undercover agents prevented an extremist group in New York from carrying out the assassinations of non-Marxist Negro leaders. We are aware that undercover agents prevented a group intending to bomb a bank from completing their operation. We are aware of nightriders being thwarted in their terrorist schemes. If this is "perversion" of the nature of the organization, America needs more of it.

The third priority is to stop the "subjection" of "enormous numbers of people * * * to routine police surveillance because of their political activities." In other words, ACLU wants to stop the police from monitoring demonstrations in which groups and individuals with a record of violence participate on grounds that nonviolent people are also present. It wants to stop police awareness of the activities of Marxist-Leninist groups who as a basic tenet of their philosophy believe in using terrorist tactics as soon as they feel the time is ripe.

ACLU's docket includes class actions against the police departments of such major cities as Los Angeles, Philadelphia, New York, Chicago, Kansas City, and Houston, as well as some smaller cities and State agencies, for performing their duty to the public—that of protecting them from threats of force and violence. These agencies are being sued for "activities ranging from photographic surveillance of public demonstrations, infiltration of political organizations, and harassment of demonstrators to the compiling of 'intelligence' or 'noncriminal' dossiers on politically active citizens." By "politically active citizens" the ACLU propaganda writers seek to imply files on ordinary citizens, rather than on Marxist revolutionaries organizing for a class war or on foreign agents who are also U.S. citizens.

The ACLU points to the Supreme Court's decision in *Laird* v. *Tatum*, 408 U.S. 1 (1972) as posing a special problem to all its cases. The Court ruled that the defendants could not point to any actual injury from surveillance and found no "chilling effect" resulting from the collection, retention, and dissemination of "political intelligence." ACLU states that the "chilling effect" argument lies at the heart of its cases, and that to achieve its ends, that line of argument "ultimately, must prevail" but not, let us hope, while honest, reasonable men sit on the bench.

MAJOR LEGISLATIVE ACCOMPLISHMENTS OF THE 1ST SESSION OF THE 94TH CONGRESS

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ALBERT. Mr. Speaker, the 94th Congress has been meeting for more than 11 months. The first session has been distinguished by significant legislative accomplishments. This record is all the more remarkable since it has been achieved despite continued political confrontation brought about by divided party control of the executive and legislative branches. In this respect I would like to discuss the background of this divided government, review some important party developments at the opening Democratic caucuses and describe some of the outstanding legislative achievements of this first session.

Many factors have contributed to divided government and resulting legislative confrontation. Over the past 23 years the Republican Party has controlled the White House for all but the 8 years of the Kennedy-Johnson administrations. President Eisenhower worked with only one Republican-controlled Congress, the 83d—1953–54. President Nixon, first elected to the White House in 1968, never did have the broad political appeal that might have resulted in a Republican Congress. In 1974, Nixon was forced to resign the Presidency as the result of the Watergate cover-up and the threat of an impending impeachment. Vice President Gerald Ford of Michigan, our former colleague in the House, succeeded Nixon as President in August 1974. With the appointment and confirmation of former Gov. NELSON ROCKEFELLER as Vice President, the United States was confronted with its first nonelective executive leadership in the history of the country. Neither Ford nor ROCKEFELLER had been endorsed by a nationwide popular mandate.

The November 1974 elections resulted in overwhelming support for Democratic candidates in both the House of Representatives—291 Democrats to 144 Republicans; a net gain of 43 Democratic seats—and the Senate—61 Democrats, 38 Republicans, one seat contested; a net gain of four Democratic seats. Democrats have organized both the House and the Senate for 11 consecutive Congresses, a record without precedent in the history of our Republic.

The 94th Congress had launched its organizing efforts even before the convening of the new Congress in January 1975. Under the provisions of the Committee Reform Amendments of 1974, the Democratic Caucus met the first week of December to reexamine and consider changes in its committee leadership, structure and operating procedures. The caucus began by transferring the committee assignment function from the Ways and Means Committee to the more broadly based Steering and Policy Committee. The Ways and Means Committee, with its wide jurisdiction over a great amount of important legislation, was expanded from 25 to 37 members. In order to expedite leadership control over legislation moving to the floor, the Speaker was given the power to nominate members of the Committee on Rules.

Other modifications in caucus rules included provisions that Appropriations Subcommittee chairmen be approved by caucus vote; that full committee chairmen not serve simultaneously as chairmen of other full, select or joint committees; that House-Senate conferences be open to the public; and that jurisdiction of the House Committee on Internal Security be transferred to the Committee on the Judiciary. Finally, building on a series of earlier changes in House Democratic Party procedures, this organizational caucus brought about a change in the leadership of three House committees—Agriculture, Armed Services and Banking, Currency, and Housing. All of these actions were aimed toward making caucus and congressional machinery more efficient, in order that the programs of the Democratic majority might more effectively and expeditiously be enacted into law.

For nearly a decade the Democratic Caucus has been adopting procedures to streamline party leadership and bring about more open, democratic and responsive party governance. The end result has not only furthered the goals of the majority of the Democratic Party in the House of Representatives, it has, by reflection, furthered the wishes and beliefs of a majority of the American people.

When the 94th Congress convened in January 1975, there were several reasons to expect a degree of cooperation between the legislative and executive branches. The problems confronting the Nation were severe—unemployment and the energy crisis headed the list. Perhaps the very severity of the problems might bring the two branches together. Furthermore, the President knew the Congress and the Congress knew the President: Gerald Ford had been a House Member for more than 25 years before becoming President. Backing away from his 1974 insistence that curbing inflation was his administration's highest priority, President Ford's 1975 state of the Union message called for a shift from fighting inflation to an emphasis on creating new jobs.

In fact, as the Democratic congressional leadership had been saying for months, it was long past time to begin fighting unemployment. But nevertheless, it was a realistic note to hear the Chief Executive acknowledge that "the state of the Union is not good" and a hopeful sign that he was willing to promise cooperation in the fight to put the people of America back to work.

Unfortunately, the spirit of cooperation was short-lived. Within weeks after the opening of the 94th Congress, Congress and the President clashed on one of the most fundamental points in the Democratic agenda, protection for those most hurt by the recession. The issue was a simple one. President Ford and his advisers wanted to raise the cost of food stamps for the poor, for the elderly, and for those who had lost their jobs as a result of the recession. There is little need to elaborate on this or other legislative battles in the early months of this Congress. Many of these themes were amply developed in my statement reviewing "The Democratic 94th Congress at Mid-Session."

Clearly, the mood of conciliation first advanced by President Ford in his state of the Union message foundered on its first testing—and on virtually every succeeding evaluation. The old conservative Republican inclinations—favoritism toward "Big Business," disregard for the unemployed and for the workingman's family and an assignment of a low priority to America's social and environmental needs—proved too strong. And as I noted in my midsession review, these themes continue to be the dominant ones for the Ford administration. Constructive cooperation with the Democratic Congress in an effort to solve the problems of the American people in a time of crisis has all but been abandoned.

Faced with an increasingly intransigent Repubilcan President, the Democratic Congress turned to passing its own legislative programs. In December and January, a task force of the House Democratic Steering and Policy Committee came up with a 14-point legislative program. The main thrust of the agenda were bills designed to revive the economy, including tax relief and reform, reduction of unemployment, an emergency housing measure designed to conserve energy, and programs for the needy. Much of this agenda has been completed, although many problems remain to be solved. Indeed, the 94th Congress passed more legislation in its first 6 months than any Congress since Franklin D. Roosevelt's first 100 days, save one. Only the 89th Congress under Democratic President Lyndon B. Johnson had a more impressive beginning.

The 94th Congress enacted two major tax bills. Last March, Congress passed the largest tax cut in the history of the Nation—$22.8 billion. H.R. 2166 provided for cash rebates of up to $200 per taxpayer and increased the low-income allowance to $1,900 for single persons and $2,500 for joint returns. This bill also contained a provision repealing the oil depletion allowance.

In December, the House of Representatives passed another major tax bill, this one designed to extend the 1975 tax cuts into 1976. These extensions, necessary to keep withholding provisions from mounting in January, would amount to a $13.3 billion tax saving for the full year 1976. As it passed the House, the tax reduction extension also contained a range of provisions designed to promote greater tax equity, restrict tax shelters, and tighten or eliminate certain tax preferences. Under the threat of a certain Presidential veto, the Senate opted to postpone these later provisions for further examination by the Finance Committee early next year. Both Houses quickly passed the modified version of the Tax Reduction Act extension on December 17.

President Ford promptly vetoed the legislation, true to his earlier statement that he would reject any tax cut not accompanied by a corresponding commitment to cut future Federal spending.

Within 2 days, however, the leaders of the House Budget and Ways and Means Committees and their counterparts in the other body drafted language in the form of a nonbinding commitment to control Government spending. This language proved satisfactory to all sides, enabling President Ford to back off and agree to sign the Tax Reduction Act extension on December 20, 1975. Here again, the views of the Democratic Congress largely prevailed.

In other legislative areas, President Ford continued to flail away with the last weapon in his arsenal, the veto power. At the end of the first session he added more important bills to a growing list of vetoes including the common site picketing bill and Labor-HEW appropriations.

Of the more than one dozen bills vetoed so far by President Ford in this session, three were overridden: Health revenue sharing (Public Law 94-63), the education appropriations (Public Law 94-94), and the school lunch legislation (Public Law 94-105). In his first 16 months in office, President Ford has had seven vetoes overridden, more than any other Republican President in this century. He had vetoed a total of 39 bills as of early December 1975, a rate which makes him one of the most veto-prone Presidents in history.

It is important to note, however, that with both the vetoed emergency housing bill and the emergency jobs bill, the Democratic Congress quickly reformed its ranks and came back to pass modified pieces of legislation. Even if the revised bill was not as beneficial as the original legislation, it still provided the Nation with some measure of relief. These "second-try" bills rarely received much, if any, attention in the press—certainly not the amount of attention devoted to the head-on, veto override confrontation. Nevertheless they are important, both for the contributions they make to the economy as well as for the evidence they provide of the unwillingness of the Democratic Congress to stand aside and accept the do-nothing, recession-prone, economic policies of this conservative Republican administration.

Conflicts over economic policy—between a progressive Democratic Congress and a standpat, conservative Republican administration—have clearly dominated the 1st session of the 94th Congress. But other issues have also been in the forefront: especially energy legislation and the development of a congressional budget process.

The long and tortuous effort to develop a comprehensive energy policy for the Nation can be summarized in one phrase: Congress stood up for the people against the high-price policies of the Ford administration. Twice the President sent proposals to the Congress to end controls and permit the price of domestic old oil—some 60 percent of production—to soar, and twice the House voted his proposals down. Twice the Congress passed the legislation extending oil price controls and maintaining price stability for the consumer, and twice the President vetoed the legislation.

Undaunted, the House and Senate continued their long and difficult work on a comprehensive and fair energy program for the Nation. Conferees of the two Houses agreed upon a landmark Energy Policy and Conservation Act in early December. The legislation has four basic objectives: First, an increase in domestic energy production and the creation of a strategic petroleum reserve; second, the encouragement of energy conservation through increased efficiency of appliances and automobiles; third, the setting of an oil pricing policy—$7.66 per barrel composite price for all domestic oil—that encourages production consistent with economic recovery and price stability; and fourth, the authorization of standby measures in the event of further energy crises. The President's principal energy advisers recommended that he sign the bill, and on December 22, 1975, the comprehensive energy bill became law.

This Congress also saw the implementation of a new and comprehensive budget process. Until this year, neither the House nor the Senate had a means for looking at the total budget picture. Through the diligent work of the Appropriations Committees of the two Houses, the House Committee on Ways and Means and the Senate Finance Committee, expenditures and revenues were carefully examined and set, but at no stage in our overall fiscal procedures did we fully evaluate them so as to consider the proper level of stimulus or restraint for the economy.

This year, under the leadership of the new Budget Committees, the Congress had adopted spending targets in the spring and ceilings in the fall that clearly set forth congressional objectives designed to achieve a rapid recovery from the present recession.

The Congress, in its second concurrent resolution, sets forth ceilings of $408.0 billion in budget authority and $374.9 in outlays, thus generating a significant increase in programs aimed at stimulating the economy and helping to create new jobs. This session of the 94th Congress has not only seen the implementation of greater congressional control over the budget, it has also witnessed the use of that control to create a stronger economy for all Americans.

Some of the major legislative accomplishments of the 1st session of the 94th Congress have been set forth. A more detailed summary prepared by the Congressional Research Service of the Library of Congress appears below.

Even while reflecting upon the quite remarkable record of this Congress, one cannot help but consider what might have been. The 94th Congress has been characterized by Democratic majorities too often thwarted by a recalcitrant Republican administration. This country has been ruled too long by divided government. What this country needs is executive leadership from the same party as the party which controls the House and Senate.

Given the present strength of the Democratic party in this country, given the continued leadership of the Democratic party in Congress, that inevitably dictates that the electorate should seek out the strongest possible Democratic candidate in 1976 and elect him the President of the United States.

The time has come to discard the negative economic policies of a Republican administration and once again unleash the mammoth productive capacity of the greatest industrial nation in the world. A Republican administration which does not move vigorously to put 8 million unemployed back to work is not utilizing America's resources to the fullest. Too often this administration has turned its back on the needy, the ailing and those without jobs.

A true conservative, Edmund Burke, once remarked:

> Government is a contrivance of human wisdom to provide for human wants.

This session has demonstrated that Congress does not lack men of vision and wisdom. What is needed is an active, progressive-thinking Democratic President, working in harmony with a Democratically controlled House and Senate. Until then, the country will continue to reap the discomforts, the uneasiness and the stalemates of divided government. With a united party leadership, President and Congress, we can get this country moving again.

The summary follows:

MAJOR LEGISLATIVE ACCOMPLISHMENTS FOR THE 1ST SESSION OF THE 94TH CONGRESS

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AGRICULTURE

Major legislation

Emergency Agriculture Act of 1975.

Federal Insecticide, Fungicide, and Rodenticide Act.

Consolidated Farm and Rural Development Act Amendment.

Beef Research and Information Act.

Emergency Livestock Credit Act Extension.

Milk Price Supports.

Other legislation

Agricultural Pest Control Act.

Commodity Futures Trading Commission Act Extension.

Rural Electrification Loan Program Amendment.

AGRICULTURE

Tobacco Price Supports.

Rice Production Act.

Rural Development Act Authorization.

Farm Credit Eligibility Standards.

Rabbit Meat Inspection Act.

Farmer-to-Consumer Direct Marketing Act.

Insecticide Act Extension.

Forest Service Program.

CIVIL LIBERTIES, CONSTITUTIONAL AND WOMEN'S RIGHTS

Major legislation

Voting Rights Act Amendments.

Protection from Credit Discrimination Extension.

Credit for Child Care Expenses.

Other legislation

International Women's Year.

Resolution to Send a Congressional Delegation to the International Women's Year Conference.

Concurrent Resolution in Support of International Women's Year 1975.

Providing for a National Women's Conference.

Admission of Women to Military Academies.

Maximum Income Level Increased for Persons Eligible to Deduct Certain Child Care Expenses from Income Tax.

Nondiscrimination in House of Representatives Employment.

CONSUMER AFFAIRS

Major legislation

Consumer Protection Act.

Consumer Product Safety Commission Improvements Act.

Truth in Leasing Act.

Other legislation

Fair Credit Billing Act Amendments of 1975.

Consumer Goods Pricing.

Home Mortgage Disclosure Act.

ECONOMY

Major legislation

Business and Finance

Securities Acts Amendments of 1975.

Depository Institutions Amendments of 1975.

National Insurance Development Act of 1975.

National Productivity and Quality of Working Life Act of 1975.

Amendments to Small Business Act and Small Business Investment Act.

Small Business Emergency Relief Act.

Loans to Small Businesses Economically Injured Due to Disruption in Service of Public Utilities.

Bankruptcy Law Revision.

Repeal of Federal Sanction of Fair Trade Laws.

New York City Loan.

Labor, Unemployment and Manpower Training

Emergency Employment Appropriations Act of 1975.

Emergency Compensation and Special Unemployment Assistance Extension Act.

Public Service Jobs and Job Opportunities Program.

EDUCATION

Major legislation

Education for Handicapped Children.

National Reading Improvement Act Amendments.

Other legislation

Educational Grant and Work Opportunities for Students.

Labor-HEW Appropriations Bill, Fiscal 1976—Busing Amendment.

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

Major legislation

Energy

Energy Conservation and Policy Act of 1975.

Temporary Suspension of Presidential Authority to Impose Fees on Petroleum Imports.

Emergency Oil Price Increase Limitation.

Emergency Petroleum Allocation Act of 1973 Extensions.

Energy Research and Development Administration Authorization of Appropriations.

Energy Conservation and Conversion Act of 1975.

Conservation and Land Management

Surface Mining and Control and Reclamation of Act of 1975.

Other legislation

Establishment of House Ad Hoc Select Committee on the Outer Continental Shelf.

Environmental Protection Agency Research and Development Authorization.

Authorizing Further Appropriation for the Office of Environmental Quality.

Authorizing Appropriations for the National Advisory Committee on Oceans and Atmosphere.

Authorizing Additional Appropriations for the Noise Control Act of 1972.

Authorizing Supplemental Appropriations to the Nuclear Regulatory Commission.

Nuclear Regulatory Commission Authorization.

Nuclear Insurance Program Act Extension.

Energy Conservation in Building Acts.

Development of Petroleum Reserves on Public Lands.

Tennessee Valley Authority Bonding Limit Increase.

State Participation In Environmental Analyses.

Saline Water Conservation Program for Fiscal Year 1976.

Water Resources Development.

Marine Fisheries Conservation.

Marine Protection Research and Sanctuaries Act.

To Promote the Conservation of Migratory Waterfowl by Acquisition of Wetlands.

Small Reclamation Projects.

River Basin Authorizations.

Expanding Coverage of the Rehabilitation and Betterment Act.

Grand Canyon National Park Enlargement Act Amendment.

National Wildlife Refuge System Administration Act.

Water And Power Development And Energy Research.

Nuclear Indemnity Program.

Establishing the Hells Canyon National Recreation Area.

Increasing Appropriation Authorization For Volunteers in Parks Program.

GENERAL GOVERNMENT

Major legislation

Legislative Branch

Establishment of a Select Committee on Intelligence.

House Ethics Code.

Adoption of House Rules.

Executive Branch

Federal Employees Political Activities Act.

Other legislation

Executive Protection Service.

Presidential Protection Assistance Act of 1975.

Employment of Certain White House Personnel.

Overseas Citizens Voting Rights Act.

Use of Census Bureau Data to Facilitate Redistricting.

Intergovernmental Personnel Act.

Representation for Federal Employees.

Federal Employees, Mandatory Retirement.

Franked Mail Regulations.

Federal Election Commission Authorization.

Travel Expenses Act Amendments of 1975.

Accounting and Auditing Act.

National Emergencies Act.

Constitution for Virgin Islands.

Constitution for Guam.

HEALTH

Major legislation

Health Revenue Sharing, Health Services, and Nurse Training Act of 1975.

Drug Abuse Treatment Act Amendments.

Developmentally Disabled Assistance and Bill of Rights Act.

Health Manpower Act.

Other legislation

Health Maintenance Organization Amendments.

Biomedical Research.

HOUSING AND REGIONAL DEVELOPMENT

Major legislation

Housing

Emergency Middle Income Housing Act.

Emergency Homeowner Relief Act.

Real Estate Settlement Procedures Act Amendments.

Mobile-Home Loan Ceilings and Flood Insurance Temporary Extension.

Five Percent New Home Tax Credit.

Regional Development

Regional Development Act Amendments of 1975.

Other legislation

Variable Rate Mortgage Prohibition Act.

INCOME SECURITY AND SOCIAL SERVICES

Major legislation

Public Assistance

School Lunch and Child Nutrition Act Amendments of 1975.

Prohibition of Food Stamp Cost Increases.

Social Services

Older Americans Act Amendments of 1975.

Community Action Agencies.

Child Support Program Improvements.

Other legislation

Postponement of Day Care Center Staffing Rules.

Food Program, Special Supplemental for Women, Infants and Children—Continue through September 30, 1975.

Repatriated U.S. Citizens—Food Stamp Eligibility.

Social Security Hearings and Appeals, Expedite.

Medicare Amendments.

LAW ENFORCEMENT AND JUSTICE

Major legislation

Federal Rules of Criminal Procedures Amendments Act of 1975.

Parole Reorganization Act of 1975.

Judicial Conference of the District of Columbia.

Other legislation

Alien Children.

NATIONAL DEFENSE AND INTERNATIONAL AFFAIRS

Major legislation

Sinai, Early Warning System.

Indochina Migration and Refugee Assistance.

Special Appropriations for Vietnamese and Cambodian Refugees.

Relaxation of Turkish Arms Embargo.

Foreign Relations Authorization Act.

Foreign Aid Authorization, Fiscal Years 1976 and 1977.

Other legislation

Military Construction Authorizations.

Defense Department Weapons Procurement Authorization.

Coast Guard Authorizations.

Peace Corps Authorizations.

Japan-United States Friendship Act.

Panama Canal Negotiations.

United Nations Resolution on Zionism.

U.N. Peacekeeping Forces.

Romanian Trade.

Nuclear Regulatory Commission Funds.

National Commission on Supplies and Shortages Extension.

Defense Production Act, Extended.

Defense Production Act Extension.

TRANSPORTATION

Major legislation

Railroad Reorganization Act Amendments.

Rail Revitalization and Regulatory Reform.

Railroad Safety Act.

Amtrak Improvement Act.

Airport and Airway Development Act Amendments of 1975.

Federal Aid to Highways Act.

Other legislation

Electric Vehicle Research, Development and Demonstration Act.

Emergency Rail Transportation Improvement and Employment Act.

Authorization of Appropriations for Promotion and Development of Travel Within the U.S.

VETERANS

Major legislation

Veterans Disability Compensation and Survivor Benefits Act of 1975.

Veterans and Survivors Pension Adjustment Act of 1975.

Veterans, Physicians and Dentists Comparability Act of 1975.

Care of Veterans in State Homes.

Other legislation

Veterans Readjustment Assistance Amendments.

Medical Benefits to Survivors of Certain Veterans.

Veterans Medical Information Exchange.

Medical Care for Certain Members of Allied Wartime Forces.

Medical Malpractice in the Armed Forces, Providing an Exclusive Remedy.

Release of Names and Addresses of Present and Former Personnel of the Armed Services by the Administrator of Veterans' Affairs.

Investigations into Cost of Travel by Veterans to VA Facilities.

Establishment of National Cemeteries in California and Massachusetts.

Jerry L. Pettis Memorial Veterans' Hospital.

OTHER LEGISLATION

(94th Congress, 1st Session)

NASA Authorizations, FY 1976.

National Science Foundation Authorization, FY 1976.

Department of Commerce Maritime Programs Authorizations.

Public Broadcasting Financing Act.

Metric Conversion Act.

Standard Reference Data Act Authorizations.

Postal Service Employees' Health and Safety and Salary Adjustment for Certain Federal Employees.

Postal Reorganization Act Amendments.

Postal Supervisor's Arbitration Act.

Youth Camp Safety Act.

Foreign Tourist Travel Authorizations.

Assistance to U.S. Citizens Returning From Abroad.

Lottery Newspaper Advertising Prohibition Exemption.

Professional Sports Antiblackout Law Extension.

National Science and Technology Policy and Organization Act.

Indian Claims Commission Appropriations Act of 1975.

PRESIDENTIAL VETOES DURING THE FIRST SESSION OF THE 94TH CONGRESS

List.

THE BUDGET AND APPROPRIATIONS PROCESS

Budget: Summary

When Congress enacted the Congressional Budget Act of 1974 (P.L. 93–344), a new budget process was initiated. This session of Congress saw the first, partial test of the new procedures, which were designed to allow an overall determination of the size of the budget, and to permit a debate on the major priorities within it. These goals are accomplished through Concurrent Resolutions on the Budget. The first such resolution established a spending target for fiscal year 1976 of $367.0 billion. The second resolution established a binding spending ceiling of $374.9 billion.

Text and tables

P.L. 93–344, The Congressional Budget Act of 1974, established new procedures for Congress to handle appropriations. This session of Congress has served as a "trial run" of the new procedures. The essence of the new system is the "Concurrent Resolution on the Budget." These Budget Resolutions set forth, on an aggregate basis, the size of the United States Budget: amount of budget authority; level of outlays; level of revenues; surplus or deficit; and change in the debt. This allows Congress the chance to examine the Budget as a whole, and to consider its impact on the national economy. Heretofore, Congress has had no comprehensive overview of the Budget. Rather, appropriation bills were acted upon separately with little attempt to relate revenues to outlays.

The first Budget Resolution is designed to act as a target for Congressional action during the summer—it is not binding, in that Congress may take any action it chooses on appropriations bills. But through periodic scorekeeping reports issued by the Budget Committees and the Congressional Budget Office (all established by P.L. 93–344), Congress may compare amounts in appropriation bills with the targets in the first Budget Resolution. The second Budget Resolution revises or reaffirms the figures in the first resolution, and makes them binding. Thus, the outlay target in the first Budget Resolution becomes a sepnding ceiling by the second; the revenue target in the first Resolution becomes a "revenue floor" in the second. The second Resolution may also direct other committees of Congress to take actions in compliance with the binding limits in that Resolution. For example, the Appropriations Committee may be directed to rescind amounts already enacted.

The Budget Resolutions also serve a second major purpose: they allow Congress to debate, and if desired to adjust, the priorities inherent in the aggregate figures. This is accomplished by dividing the totals among functional categories, such as Agriculture, National Defense, or Health. As well as adjusting the totals, Congress may adjust the mix.

The aggregate Budget figures as requested by the President (amended to include supplemental requests), as included in the first Budget Resolution, and as included in the 2nd Resolution, are as follows:

AGGREGATE BUDGET FIGURES

[In billions of dollars]

	President's request[1]	1st budget resolution (H. Con. Res. 218)	2d budget resolution (H. Con. Res. 466)
Budget authority	398.6	395.8	408.0
Outlays	361.7	367.0	374.9
Revenues	299.0	298.2	300.8
Deficit	62.7	68.8	74.1
Public debt	609.9	617.6	622.6

[1] As amended and supplemented; source: CBO scorekeeping Report No. 3.

While the figures requested by the President and included in the 1st and 2nd Resolutions are quite close to each other, the Budget Committee has stated that its figures will allow the creation of more jobs without the risk of exacerbating inflation. The Committee has also pointed out that increases from the 1st Budget Resolution to the 2nd were caused largely by increased estimates of the costs of "uncontrollable" programs such as unemployment compensation or veteran's benefits. Even with those uncontrollable increases, Congress' actions on spending have exceeded the target by less than 2%. If the uncontrollable increases are discounted, Congress has succeeded in reducing spending below the target established in the 1st Budget Resolution.

Congress has also shifted priorities from those outlined in the President's budget. While keeping similar spending totals, Congress has emphasized programs which create jobs or relieve the hardships of recession, while limiting somewhat the growth of military spending. The following table contrasts outlays in the President's Budget with the 1st and 2nd Budget Resolutions.

BUDGET OUTLAYS BY FUNCTIONAL CATEGORY

[In billions of dollars]

Functional category	President's request[1]	1st budget resolution (H. Con. Res. 218)	2d budget resolution (H. Con. Res. 466)
National defense	94.1	90.7	91.9
International affairs	4.9	4.9	4.9
Science, space, and technology	4.6	4.6	4.6
Natural resources, environment, and energy	10.5	11.6	11.4
Agriculture	2.0	1.8	2.6
Commerce and transportation	15.7	17.5	18.3
Community and regional development	6.2	8.7	7.0
Education, manpower, and social services	16.8	19.8	20.9
Health	29.0	30.7	32.9
Income security	125.6	125.3	128.2
Veterans benefits and services	17.3	17.3	19.1
Law enforcement and justice	3.3	3.4	3.4
General government	3.3	3.3	3.3
Revenue sharing and general purpose fiscal assistance	7.3	7.2	7.3
Interest	34.4	35.0	35.4
Allowances	6.7	1.2	.8
Undistributed offsetting receipts	−20.1	−16.2	−17.1
Total[2]	361.7	367.0	374.9

[1] As amended and supplemented; source: CBO scorekeeping Report No. 3.

[2] Totals may not add due to rounding.

While the total spending figures in the Budget Resolution are itemized in terms of functional categories, the Budget Committees and the Congressional Budget Office make relatively accurate estimates of the share of outlays allotted to each appropriation bill; those estimates are necessary since functional categories are by no means identical to Appropriation's Subcommittee jurisdiction. By referring to those estimates, Congress can compare appropriations bills to the 1st Budget Resolution targets. On the average, Congress was within 2.9% of the targeted amount of outlays on each bill[1]—a clear indication that Congress takes the Budget Resolution seriously and is dedicated to making the new budget process work. Further, the differences from bill to bill were both under and over the targeted amount; after netting out the surpluses and deficits, the difference between the targets and appropriations bills is only four-tenths of the one percent.

In conclusion, the new budget process has allowed Congress to take a comprehensive look at the budget, both in gross and by function. Congress has seized this opportunity by setting a budget designed to pull the country out of recession without fueling inflation, and by reordering priorities to emphasize jobs and human programs rather than excessive military growth. Further, Congress has conscientiously followed the new procedures, willingly accepting the budgetary discipline which they entail.

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[1] Source: Appendix C, Table 2 of H. Rept. 94–608, 94th Cong., 1st Sess. The average is weighted; i.e., it is the sum of the absolute value of the differences divided by the amount targeted.

IMPOUNDMENT OF FUNDS: SUMMARY

Title X of P.L. 93-344, the Impoundment Control Act of 1974, provides a mechanism whereby Congress may review each presidential impoundment of funds. This allows the President the chance to focus Congressional attention on a program which he feels was overfunded, but does not give him free rein to cut programs unchecked. Since enactment of Title X, Congress has carefully examined the many impoundment proposals.

Text

The Impoundment Control Act of 1974 (Title X of P.L. 93-344) defined two different types of impoundment. Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs, or that such budget authority should be rescinded for fiscal policy or other reasons, including the termination of authorized projects, or whenever all or part of budget authority provided for only one FY (one-year money) is to be reserved from obligation, he shall transmit a special message requesting a rescission of budget authority. Unless both Houses complete action on a rescission bill within 45 days, the budget authority shall be made available for obligation.

A second type of special message concerns deferrals. This category includes any delay in obligating budget authority, or any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority. The President will be required to make the budget authority available for obligation if either House of Congress passes an "impoundment resolution" disapproving such proposed deferral.

Because of the different provisions for requested rescissions and for deferrals, Congress has adopted different procedures for handling each type of impoundment. With regard to rescission requests, the House Appropriations Committee considers each one, and periodically reports a multi-titled rescission bill comprising all the rescissions acceptable to the Committee. Presidential rescission requests may be accepted in whole or in part.

Impoundment resolutions are only considered by the Appropriations Committee if introduced by a Member; the deferral, after all, remains in effect unless overturned by one House of Congress. Thus, only those deferrals which generate controversy are considered. Other committees share oversight of deferrals with the Appropriations Committee, which are generally reported and acted upon on a case-by-case basis.

In the period since Title X was enacted, the President has reported 246 separate deferrals of funds, and has proposed 114 rescissions. With very few exceptions these impoundments have been considered by the 94th Congress. The vast majority of rescission requests, both in terms of numbers and of dollar amounts, have occurred in "human resources" areas—health, housing, education, agriculture, and so on. Most of the many rescission requests have been wholly or partially rejected by Congress. Two reasons were advanced by opponents of the impoundments in arguing their case: (1) in a time of recession, the poor, the unemployed, and the underemployed rely to a great extent on such human program; thus, cutbacks causing many hardships would be singularly inappropriate at this time; (2) the economic stimulus of the programs is needed to help pull the country out of recession.

The bulk of the reported deferrals were for public works projects, at least in dollar amounts. While Congress did not act on most reported deferrals, the major ones, constituting the bulk of the amounts impounded, were overturned by one House or the other. The rationale for overturning public-works impoundments was straightforward: (1) the spending was needed to stimulate the economy; (2) public works projects are labor-intensive—i.e., spending creates jobs.

In conclusion, the new anti-impoundment procedures adopted by Congress have allowed it to control the previously unchecked practice of indiscriminate impoundment, for the general good of the country's economic wellbeing.

EXECUTIVE OVERSIGHT BY THE HOUSE OF REPRESENTATIVES IN THE 94TH CONGRESS

A report summarizing only measures enacted into law would omit the equally important and productive oversight aspect of the work Congress does. Accordingly, and for the first time, I have decided to incorporate as a feature of the House achievements report a brief comment on the identifiable oversight hearings conducted by House committees. An examination conducted by my staff indicates that congressional review over executive branch activities apparently achieved an all-time high during the First Session of the 94th Congress. Certainly the amount of time, effort and thought devoted by Members and staffs of the House of Representatives to matters of legislative, fiscal and investigative oversight in 1975 probably never has been equaled during the comparable period.

Both the quantity and the variety of oversight hearings conducted by the House in the current year are worth noting. A final tally lists at least 237 separate series of hearings which focused on program administration by various departments and agencies. Moreover, most of these are not limited to one session; many stretched over three or four days and a few occupied as many as nine or ten sessions.

As will be noted in more detail later, the matters explored in these specialized hearings were wide-ranging, often complex, and sometimes controversial. They involved the handling of many significant programs by major agencies. They served not only to provide valuable information to Congress and the President but also to alert the general public to important administrative problems.

It should not be forgotten that a considerable amount of fruitful Congressional review also is generated both by other types of hearings and through inquiries made by individual Members. Thus, in addition to clearly identifiable oversight sessions for the specific purposes of evaluating program performances and accomplishments, valuable data about department and agency operations result as well from interrogations of officials that usually occur during legislative, appropriation, or rescission hearings or from unusually vigorous investigations by particular Members of management problems.

This recent upsurge in Congressional review stems no doubt in part from the gathering consensus that Congress ought to exert a more forceful role in determining that public policies enacted by it are being carried out properly and effectively. The widespread belief that an imbalance of power between the legislative and executive branches may have resulted from the extensive delegations of Congressional authority in the last few decades, coupled with certain well-known regrettable events about which there is no need to comment here, have contributed to the movement for greater oversight of administrative activities.

Another major factor helping to account for the current dramatic increase in legislative oversight has been the crystallization of specific procedures in statutory form over a considerable period of time. Beginning with the Legislative Reorganization Act of 1946, Congress directed each standing committee of the Senate and the House to "exercise continuous watchfulness of the execution by the administrative agencies of any laws . . . within the jurisdiction of such committee . . ." In addition to studying all reports and data submitted by the executive branch, appropriate committees were to carry out legislative, fiscal, and investigative oversight in their respective areas.

Some two decades later the apparent need for additional tools and techniques led to the adoption of a series of acts which have greatly strengthened the review process. In 1968 committees were mandated by the Intergovernmental Cooperation Act to the review grant-in-aid programs lacking termination dates to determine whether they were accomplishing their purposes or if they should be modified or abandoned. The Legislative Reorganization Act of 1970, in addition to stipulating that committees should "review and study" administrative actions on a continuous basis, required them to submit reports summarizing their oversight activities at the end of each Congress. The review function was also expanded by a 1972 law which obligated continuing examination of all executive advisory committees in order to evaluate whether they should be merged, revised, or abolished.

Then, in 1974, the Budget and Impoundment Control Act not only established new Budget Committees with the responsibility for reporting two concurrent budget resolutions each year and overseeing the Congressional Budget Office but also authorized standing committees to contract with outside organizations and to require Federal agencies to conduct in-house evaluations in order to carry out their continuing review obligations. This important law further enhanced oversight by authorizing an Office of Program Review and Evaluation in the General Accounting Office and by requiring annual reports to Congress by the Comptroller General on this activity. Likewise, the Budget Committees were directed to study proposals for improvement on a continuing basis and the Appropriations Committees were given jurisdiction over presidentially-proposed rescissions which would become ineffective unless both Houses adopted a rescission bill within 45 days.

From the standpoint of executive oversight by the House of Representatives alone, certainly the Committee Reform Amendments of 1974 (H. Res. 988, approved Oct. 8) is of monumental importance. In addition to reaffirming the duty of each standing committee to review continuously the execution of laws within its jurisdiction, this historic measure further directs the committees to examine both the organization and the operation of Federal agencies administering such laws, to undertake futures research and forecasting in areas within their responsibilities, and to study the impact of tax expenditures on those subjects. Moreover, each committee with more than twenty members is authorized to establish a separate oversight subcommittee or to require each of its regular subcommittees to conduct oversight on matters within its jurisdiction.

Furthermore, the Committee on Government Operations is charged not only with its existing continuous review of the operation of "Government activities at all levels with a view to determining their economy and efficiency," but also, for the first time, to consult with other committees about their oversight plans, to report within 60 days after the beginning of a session on the results of those discussions, and to make recommendations for assuring more effective coordination of House oversight activities.

Because of the difficulty of restricting consideration of certain broad and overlapping issues to established jurisdictional patterns, special oversight authority is given in the Committee Reform Amendments to seven standing committees to oversee programs and agencies which otherwise would come within the exclusive purview of other committees. For example, the Committee on Armed Services is authorized to study all laws, programs, and activities involving international arms control, disarmament, and education of military dependents, while the review jurisdiction of the Committee on International Relations now includes customs' administration, intelligence activities related to foreign policy, international financial and monetary organizations, and international fishing agreements. Similarly, the Education and Labor, Interior and Insular Affairs, Science and Technology, and Budget Committees are each vested with special oversight powers enabling them to oversee administrative actions not normally within their respective jurisdictions. Although the limited amount of experience with this special oversight allocation does not yet justify any final judgment on its permanent value, a number of very useful oversight hearings based on this authority were conducted during the 1975 session.

It is gratifying to observe that the expanded oversight responsibilities imposed upon the House of Representatives during the last few years have been, on the whole, fulfilled promptly, diligently, and effectively. In accord with requirements of the 1974 Committee Reform Amendments, separate discussions were held by the Committee on Government Operations with all of the other standing committees about their plans for reviewing executive branch activities. Despite inevitable problems involved in the organization of a new Congress and the strictures of time fixed in the resolution, each of the Committees was able to determine its oversight structural needs and to prepare statements outlining its tentative projections of oversight intention for the next two years. This impressive record of achievement, which was published March 14 on schedule, not only demonstrates the seriousness with which this task has been undertaken but also presaged the significant oversight accomplishments that were to follow.

The following seven committees have opted to establish new, or to retain existing, subcommittees charged with oversight responsibilities: Agriculture; Banking, Currency, and Housing; International Relations; Interstate and Foreign Commerce; Public Works and Transportation; Small Business; and Ways and Means. In addition both the Armed Services and International Relations Committees have subcommittees on investigations while those of the Committee on Government Operations are all primarily oversight in nature. Because legislative subcommittees continue to exercise some concurrent review authority under committee rules, however, they have conducted many oversight hearings as well over those agencies within their assigned jurisdiction. It should be noted that several inquiries have been made under the sponsorship of two or more subcommittees on a joint basis and that subcommittees of the House have joined in at least two cases with their Senate counterparts to hold oversight hearings.

As pointed out previously, the number and broad range of oversight hearings in the House of Representatives during the First Session of the 94th Congress are indeed noteworthy. Even if all sessions called primarily to consider legislative, appropriation, or rescission and deferral matters (during which much review always takes place) are excluded, more than 230 series of hearings were held that can be categorized as having been concerned mainly with administrative operations. The pace of committee review activities, as might be expected, quickened in the second half of the year. Evidence of this can be seen in the number of separate oversight hearings held on the following selected days: July 1—6; July 30—8; September 23—8, September 25—7; November 11—9; November 18—8.

It would serve no useful purpose here to catalogue in detail all of the individual oversight hearings in which House committees and subcommittees have been engaged this past year. However, because of widespread interest in how thoroughly and effectively the legislative branch is performing its increased obligation to review Federal agencies and programs, it might be helpful to record the actual number of separate series of clearly identifiable oversight hearings held by each committee and to list briefly some of the major topics under study in those sessions:

Agriculture: 9 hearing topics. Emergency livestock credit, beef grading standards, rural development, perishable commodities, dairy products, disaster.

Appropriations: 6 hearing topics. CIA domestic activities, consumer product safety, reprogramming proposals, onshore mineral leasing management, concessions in National Parks.

Armed Services: 4 hearing topics. Financial support for military commissaries, problems in Reserve training programs, thefts of military weapons.

Banking, Currency and Housing: 22 hearing topics. Consumer information, Federal Reserve, housing assistance payments, national growth, new communities, real estate procedures, flood insurance, community block grants.

Budget: 4 hearing topics. Budget and the economy, Congressional Budget Office, Air Force structure and projection, general revenue sharing.

District of Columbia: 7 hearing topics. St. Elizabeth's Hospital, criminal justice administration, bicentennial planning, Metro police and operations, Metro fuel purchases and supply, D.C. Government issuance of general obligation bonds.

Government Operations: 42 hearing topics. Privacy act exemptions, FAA procedures, Federal agency environmental activities, HEW fraud detection and prevention procedures, computer procurement, motor carrier regulations, IRS operations, Government data banks, personnel abuses, National Park concession management, service secretaries access to military information, Federal agency interception of nonverbal communications, use of advisory committees, ingredient labelling on alcohol beverages, enforcement of policy opposing restrictive trade practices, FBI record-keeping systems, reclamation cost ceilings, General Accounting Office, IRS taxpayer assistance, FAA and near-mid-air collisions.

House Administration: 1 hearing. GSA regulations on public access to Nixon Presidential materials.

Education and Labor: 26 hearing topics. Impact aid, elementary and secondary education, Indian education, reading achievement, NLRB, child labor, employee retirement, emergency jobs, occupational safety and health, mine safety, youth conservation corps, sex discrimination regulations, Federal contract compliance, ACTION, Community Services, enforcement of equal employment opportunities, job discrimination, child labor, farm labor contractors, migrant education, extension of Library Services construction.

International Relations: 9 hearing topics. U.S. position in U.N., U.S. buildings abroad, compliance with war powers, arms sales in Persian Gulf, Panama Canal negotiations, U.S.-Soviet oil and grain agreements, Corps of Engineers contracts in Saudi Arabia, U.S.-China relations.

Interior and Insular Affairs: 10 hearing topics. Outdoor recreation, Bureau of Mines, Geological Survey, Trans-Alaska pipeline, nuclear energy, public land withdrawal, railroad leasing of Federal coal lands, access to minerals on Federal lands.

Interstate and Foreign Commerce: 16 hearing topics. Office of Telecommunications, FCC, public broadcasting, domestic common carrier regulation, President's energy policies, NIH, implementation of railroad reorganization, U.S. Railway Association final system plan, FEA enforcement policies, electric utility problems, natural gas deliverability, effects and availability to Congress of information about the Arab boycott, adequacy of HEW children's health programs.

Merchant Marine and Fisheries: 6 hearing topics. Coast Guard organization, Canal Zone personnel policies, defense aspects of U.S. flat merchant marine, National Environment Policy Act of 1969, endangered species, marine mammal protection.

Judiciary: 15 hearing topics. Watergate special prosecutor's report, FBI, Indochina refugees, Criminal Justice Division of the Department of Justice, Federal charters, immigration waivers, foreign student problems, Bureau of Prisons, general revenue sharing, civil rights aspects, delay in the Administrative process, consular functions abroad.

Post Office and Civil Service: 11 hearing topics. Merit principle abuses, employees' group life insurance, U.S. Postal Inspection Service, Federal employees' health benefits, Bicentennial celebration, closing of small post-offices, civil service retirement, health insurance rate increase and level of services, Postal Service labor-management relations, Postal Service finances.

Public Works and Transportation: 7 hearing topics. Implementation of the Water Pollution Control Act, Implementation of job opportunities program, Corps of Engineer regulations for dredge material disposal, implementation of laws to make public buildings accessible to physically handicapped, aviation safety, aircraft noise abatement.

Science and Technology: 22 hearing topics. NSF, nonnuclear energy, coal combustion, future space program, science education, agriculture research, NSF peer review system, Federal research and development programs, information dissemination, U.S.–U.S.S.R. cooperative agreements solar heating and cooling, Solar Energy Research Institute, environmental research and development, NOAA, ocean dumping, meteorological research facilities, EPA's office of research and development.

Small Business: 13 hearing topics. National Park service planning and concession operation, SBA certificate of competency, minority enterprise, disaster relief to victims of Hurricane Eloise, surety bonds, FAA, CAB, Antitrust Division, FTC, ICC, conflict of interest in Presidential interchange program.

Veterans' Affairs: 5 hearing topics. Hospital care and professional medical personnel, National Cemetery system, service-connected compensation, dependency and indemnity compensation, housing, quality care study.

Ways and Means: 13 hearing topics. IRS, supplement security income, renal disease, administration of tax laws, delay in social security appeals, aid for dependent children, quality control, customs administration, IRS report from 5500 required under pension act, IRS regulations for individual retirement accounts, operation Leprechaun,—IRS use of confidential funds, eligibility of Maritime construction funds withdrawals.

Select Committee on Aging: 8 hearing topics. HUD's response to elderly housing needs, HEW proposed regulations on participation of for-profit home health agencies in Medicaid, government programs for the elderly, railroad retirement, implementation of White House Conference on Aging, adequacy of Social Security benefits, Federal response to employment needs of the elderly.

Select Committee on Intelligence: 12 hearing topics. Intelligence agencies budget, Middle East war, failure to foresee Cyprus invasion, extension of non-compliance to unclassified information, illegal electronic surveillance, National Security Council and the 40 Committee, CIA involvement with the media, drug enforcement, FBI surveillance, Tet Offensive, SALT.

AGRICULTURE

Major legislation

Emergency Agriculture Act of 1975 (H.R. 4296, vetoed by the President May 1, 1975)—An emergency farm bill that would have provided one-year increases in farm price supports and income guarantees, was considered necessary by its supporters in order to assure adequate production in a period of declining farm income and to offset sharply rising production costs for farmers. The bill was passed with the view that such increases would provide an incentive for maximum production during the coming growing season.

As cleared for the President, H.R. 4296 would have increased target prices and loan and purchase levels on 1975 crops of cotton, corn, and wheat. A quarterly adjustment of dairy prices was established to reflect estimated changes in prices. Loan periods for various farm commodities were also extended to 18 months.

For the first time, a loan and purchase program for the 1975 crop of soybeans was required. Under the target price concept, the government agreed to pay the farmer the difference when the market price of his crops fell below a price set by law. The loan program would have permitted the farmer to receive loans on his crops at rates below the target prices.

Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 94–140, approved November 28, 1975)—The Federal Environmental Pesticide Control Act of 1972 significantly modified the basic Federal Insecticide, Fungicide, and Rodenticide Act (1947). The provisions of the Pesticide Control Act providing for the complete reregistration, classification of pesticides in regard to the degree of potential hazard to the environment as well as human beings, and the certification of both commercial and private applicators for restricted-use pesticides, represented a major departure from the previous law.

Although there was general agreement that the basic objectives of 1972 Act were appropriate and that the law was sound, there was concern voiced about the administration, implementation, and interpretation of the law. Indicative of this concern was the fact that Congress twice passed temporary extensions that continued the program through November 15 while it worked on the longer-term bill.

The new legislation, passed after prolonged debate in both houses, extends for one and one-half years the authority of the Environmental Protection Agency (EPA) to carry out the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act. The law authorizes $47,868,000 for the period October 1, 1975 through September 30, 1976 and $23,600,000 for the period October 1, 1976 through March 31, 1977.

Public Law 94–140 requires the Environmental Protection Agency to seek and publish in the *Federal Register* the views of the United States Department of Agriculture and a scientific advisory board on the environmental impact of a proposal during a 60-day period before moving to ban a pesticide or issue regulations. This provision of the Act is narrowed to exempt cases where the EPA acts to suspend immediately the use of a pesticide that it considers an "imminent hazard to human health."

Under the law, States are allowed to certify farmers to apply dangerous chemicals without first passing an examination. The Administrator of EPA may not require an applicator to take an examination but this does not preclude a State requirement of examinations. Furthermore, the EPA is required by this legislation to provide interested farmers with information on "integrated pest management" as an alternative to the heavy use of chemical pesticides.

Consolidated Farm and Rural Development Act Amendment (P.L. 94–68, approved August 5, 1975)—Congress amended the Rural Development Act of 1972 to simplify the procedures under which loans are made under the emergency farm disaster program administered by the Farmers Home Administration. The Rural Development Act of 1972, passed by Congress as a result of damages by Hurricane Agnes on the east coast and extensive floods in the midwest, authorized emergency loans at a 1% interest rate with a $5,000 forgiveness feature to last one year.

High Federal expenditures for these disaster loans, however, caused Congress in 1973 to clear legislation terminating the forgiveness provisions and raising the interest rate to 5%. In late 1973, Congress attempted to pass legislation restoring the favorable loan terms but the bill was vetoed by the President.

In the new legislation, Congress broadened the coverage to include, besides farmers and ranchers, persons engaged in aquaculture, that is, the husbandry of aquatic organisms, for example, oysters, under a controlled or selected environment.

The new legislation requires the Secretary of Agriculture to designate an emergency area if it is determined that a natural disaster had substantially affected farming, ranching, or aquaculture operations. The Secretary of Agriculture is permitted to delegate loan-making authority to a state director of the Farmers Home Administration if it is found that 25 or less operations in an area had been affected by a disaster. Of particular interest is a feature authorizing loans only to disaster victims unable to obtain credit elsewhere. Loans, at a rate of 5%, may be authorized up to the amount of the actual loss. Subsequent emergency loans of up to five years are authorized for borrowers who need credit to continue operations and who cannot obtain financing elsewhere. The legislation also provides for an annual congressional review of disaster loan budget requests.

Beef Research and Information Act (H.R. 7656, passed the House October 2, 1975. House recommitted conference report December 15, 1975)—Recognizing the severe losses suffered by the cattle industry in the past two years, the House provided the means for producers to join together to promote their industry through research and promotion. To assist in the establishment of such a program, the House authorized a Beef Board, elected in a referendum of cattle producers, to coordinate and implement the studies. The purpose in effect would be to establish an industry self-help program to research better methods of beef production and develop markets for improved beef products.

The program is expected to add no expense to the Federal Government; the measure would be financed by the collection of a value-added assessment at various stages of the cattle producing process. Costs of the referendum would be borne by the cattle producers and the program would become effective when approved by at least two-thirds of the producers voting in the referendum, in which at least 50% of the producers participated.

The legislation will have particular payoffs for the consumer because it is expected the research and promotion of beef will ultimately mean improved feeding methods, a reduction in grain costs, and the freeing of additional grain for export. Then research will hopefully lead to a more nutritious beef product, higher in protein, and lower in fat.

A final provision of the bill will require the Beef Board to submit to the Secretary of Agriculture any plans for advertising, promotion, information and research. These plans would not become effective without the approval of the Secretary. The board would also be required to submit its budget for approval to the Secretary and the House and Senate Agriculture Committees.

Emergency Livestock Credit Act Extension (P.L. 94–35, approved June 16, 1975)—Congress continued its efforts to provide a measure of relief for hard-pressed livestock producers by extending a program of emergency loans to cattlemen and other livestock producers. As enacted, the legislation allows the United States Department of Agriculture to guarantee up to 90% of the loans made to private lenders and livestock producers who face economic hardship. The previous limit was 80%.

Caught in a cost-price squeeze brought about by general economic problems, low demand for beef by consumers, and a decrease in beef prices, the livestock producers encountered a serious problem in handling credit. The new Act sets a limit of $350,000 per borrower, and appropriates one and a half billion dollars for the program. The new extension is expected to aid not only the livestock producers and related agricultural producers but also the consumer by assuring the availability of an essential element of our food supply.

Milk Price Supports (P.L. 94– , approved)—In an effort to bring relief to dairy farmers caught in a cost-price squeeze brought about in part because of an increase in foreign imports and an increase in production costs, Congress approved quarterly adjustments of the price support levels for milk and an increase in the support price of a minimum of 85% of parity.

Under existing law, support price changes are geared to the index of family living, a situation which does not reflect rapidly rising production costs. The new law more realistically provides that adjustments in support prices will be keyed to changes in the index of prices paid by farmers for such items as feed and fertilizer, as well as interest, taxes, and wage rates.

It was argued, in support of the bill (S.J. Res. 121), that more frequent adjustment of the support prices and a higher level of parity were needed to keep dairy farmers in business. Approximately 2,000 dairy farmers went out of business in 1974.

Other legislation

Agricultural Pest Control Act (S. 1617, passed the House November 4, 1975)—This legislation broadens and strengthens the authority of the Secretary of Agriculture to control and eradicate agricultural pests and to control and eradicate animal diseases and carriers of animal diseases. First, the authority of the Secretary is extended to cooperate with governments in the Western Hemisphere in carrying out eradication and control programs. Under existing legislation, authorized cooperation is limited to Mexico and these only for agricultural pests. Second, The Secretary of Agriculture is permitted to carry out eradication and control programs with respect to plant pests not now covered by the Organic Act of 1944. Authority is also provided for the first time for the detection of plant pests in the United States.

Finally, the bill makes it clear that the Secretary's authority to cooperate with certain Western Hemisphere countries in animal disease control covers carriers of animal disease and extends the authority to additional countries in the Caribbean area.

Commodity Futures Trading Commission Act Extension (P.L. 94-16, approved April 16, 1975)—In its last session, Congress enacted landmark legislation, the Commodity Futures Trading Act of 1974 (P.L. 93-463). That Act was considered at the time as the most sweeping overhaul of commodity market regulation in half a century.

The new legislation was necessitated by certain delays in the appointment of the five commissioners and in organizing the administrative structure of the Commission. As enacted, the new Act provides for a 90-day delay from the effective date of the 1974 legislation. In addition, various provisional administrative actions are permitted during this period, for example, provisional designation to contract markets and provisional registration to futures commission merchants and brokers. Also postponed for up to 90 days was a Commodity Futures Trading Commission requirement for approval of contract market rules and bylaws. Other deadlines for various procedural actions were also extended.

Rural Electrification Loan Program Amendment (P.L. 94-124, approved November 4, 1975)—This legislation amends the original Rural Electrification Act of 1936 by making three changes of a largely clarifying and technical nature. The first change adds statutory language to authorize the assignment of the Rural Electrication Administration (REA) loan guarantees to eliminate questions concerning the assignability and incontestability of REA loan. The second amendment clarifies a provision which provides for REA contracts of insurance and guarantees to be supported by the full faith and credit of the United States. This section now specifies that the Government's full faith and credit obligation shall be "incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder."

Finally, the Act contains an amendment to the REA Act which would require an annual authorization from Congress for each fiscal year appropriation needed for administration of the Act, thus providing for more effective congressional oversight.

Tobacco Price Supports (H.R. 9497, vetoed by the President September 30, 1975)—H.R. 9497 would have changed the formula by which tobacco price supports are calculated to a marketing year basis from the existing calendar year basis. The effect of the bill would have been an increase in tobacco price supports.

Supporters of the bill argued that the change was necessary to reflect more accurately tobacco marketing conditions. A modest price support increase was claimed to be needed to keep pace with the higher cost of tobacco production. The bill was vetoed by President Ford, his eleventh veto of 1975, on September 30.

Rice Production Act (H.R. 8529, passed the House December 16, 1975)—This legislation was designed by the Congress to open up rice production to more farmers. Effective for the 1976 and 1977 crops of rice, the legislation would end the current system of acreage allotments and marketing quotas. These would be replaced with a system of target prices similar to the programs for wheat, feed grains, and cotton. Under the legislation, the Secretary of Agriculture is allowed, but not required, to hold land out of production if supplies become too large.

The new legislation is the culmination of efforts started in the 93rd Congress to open up the rice industry to new farmers. The acreage allotment for rice growers in 1976 and 1977 is 1.8 million acres. It is expected that more than 3 million acres could be planted in rice if there were no acreage or marketing restrictions. The flexible provisions of H.R. 8529 will allow rice growers to take advantage of new export opportunities in the face of a world-wide shortage of rice.

Rural Development Act Authorization (H.R. 6346, passed the House November 7, 1975)—The Rural Development Act of 1972 was passed by Congress in its continuing efforts to improve the quality of life in rural America. Title V of that Act authorized the expenditure, up to the end of fiscal year 1976, of $20 million for research and education programs in the problems of rural America. HR 6346 would make permanent the authorization of appropriations for carrying out the provisions of title V.

This action was deemed necessary and important in the fact of mounting evidence that rural America was beginning to feel the impact, not always beneficial, of the migration of people from urban areas to rural areas. These problems need the kind of research and development efforts envisioned by the Rural Development Act of 1972. The emphasis of title V of the Act is directed not only towards farm areas but also towards the rural non-farm population. The new legislation carries an amendment that maintains the present grant allocation formula which evenly divides funds between rural and farm population.

Farm Credit Eligibility Standards (P.L. 94-184, approved December 31, 1975)—The Farm Credit Eligibility Standards Act (HR 7862) amends the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers and enlarges the access of production credit associations to Federal district courts.

The 1971 law restricted the Banks for Cooperatives to loan to cooperatives in which 80% of the voting control is vested with farmers. Public Law 94-184 lowers that eligibility to 70%, thus making it possible for more public utility cooperatives to borrow from the Banks.

The new Act is another example of congressional response to the impact of the migration to rural areas of non-farm people and businesses. With this movement has come the increased need for credit by public utilities and cooperatives. The legislation was supported by the Farm Credit Administration, the United States Department of Agriculture, and numerous farm organizations. No cost will be incurred by the Federal Government because farm credit institutions are privately financed.

Rabbit Meat Inspection Act (HR 10073, passed the House November 4, 1975)—At the present time all meats, with the exception of rabbit meat, are inspected by the Federal Government. Rabbit meat, both domestic and imported, is a high quality nutritious meat that is gaining rapidly in popularity with American consumers. This legislation provides for the inspection of rabbit meat by the United States Department of Agriculture so that the American consumer is assured of a wholesome product.

The legislation has many consumer benefits beyond the mere inspection of meat. Federal inspection, will accelerate consumer acceptance, create stability, and provide economic incentive for expansion of the rabbit processing industry.

Farmer-to-Consumer Direct Marketing Act (HR 10339, passed the House November 4, 1975)—This legislation recognizes the revival of one of the oldest forms of marketing agricultural products—direct farmer to consumer sales. Apparent to almost everyone is the proliferation of roadside stands, downtown markets and other places where sales are made directly to the consumer.

HR 10339 provides, through State Departments of Agriculture and Agricultural Extension Services, information and technical assistance to those who desire to participate in this form of food marketing. The legislation authorizes a nationwide survey of direct marketing arrangements, to be carried out by the United States Department of Agriculture, and a year-end report from the Secretary of Agriculture to the Congress detailing how the program has been carried out. The bill authorizes an expenditure of $1.5 million for fiscal year 1977.

Insecticide Act Extension (P.L. 94-51, approved July 2, 1975)—P.L. 94-51 extended the Federal Insecticide, Fungicide, and Rodenticide Act for three months, July 1 through September 30, 1975. Stop-gap legislation became necessary when it was revealed during hearings on the appropriation authorization of the original Act that there existed a number of controversial issues surrounding the administration of the Act by the Environmental Protection Agency (EPA). Specifically, a degree of controversy surrounds three areas of EPA: the establishment of a "hot-line" to report pesticide abuses; the certification of expertise for anyone attempting to purchase restricted-use pesticides; and the ban on using certain pesticides that were considered the primary means of combatting pest and predator problems.

Forest Service Program (P.L. 94-148, approved December 12, 1975)—As a step toward the efficient and productive arrangement of forest resources, HR 10027 authorizes the Secretary of Agriculture to enter into cooperative agreements which benefit certain Forest Service programs. The Act is necessary to clarify and expand authority relating to existing cooperative agreements.

The Act provides clear authority to the Forest Service to engage in cooperative agreements with public or private agencies, organizations, institutions, or private agencies to construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems; to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

CIVIL LIBERTIES, CONSTITUTIONAL AND WOMEN'S RIGHTS

Major legislation

Voting Rights Act Amendments (P.L. 94-73, approved August 6, 1975)—The 94th Congress gave priority consideration to extending the temporary provisions of the Voting Rights Act of 1965 which were scheduled to expire on August 6, 1975. Considered by many to be the most effective civil rights law ever enacted, the Act is credited with increasing the registration of blacks by almost one million in the seven states covered from 1965-1974 and increasing the total of black elected officials in the south from 248 in 1968 to 1398 in 1974. Significant expansion of the Act occurred during congressional deliberations. In extending the Act Congress permanently banned literacy tests and incorporated into the turnout/registration coverage formula the 1972 presidential election in addition to those of 1964 and 1968. In an important expansion, provisions were included to extend voting assistance to specified language minorities, defined as American Indian, Asian American, Alaskan Native, and those of Spanish heritage.

Title I of the Act extends for seven years the coverage of those States or political subdivisions which must obtain preclearances from the U.S. Attorney General or the Federal district court in Washington, D.C. before making any changes in their election laws. The Title also authorizes the Department of Justice to dispatch Federal registrars and poll watchers into the covered jurisdictions to supervise voter registration and election procedures.

Title II of the Act extends its protection to language minorities in any jurisdiction in which the Census Bureau determines that more than 5 percent of the voting age citizens are of a single language minority, that election materials in the 1972 presidential election were printed only in English, and that less than 50 percent of the voting age citizens registered or voted in the 1972 presidential election.

Title III requires jurisdictions, whether covered under Titles I or II or not, to provide electoral materials in language other than English if more than 5 percent of the voting age citizens are members of a single language minority and, as a group, have an illiteracy rate higher than the national average.

Title IV offers a significant incentive for minority groups to assert their rights under the Act by authorizing individuals, as well as the Department of Justice, to bring suit to obtain preclearance and federal examiner remedies. And attorneys' fees may be paid to the prevailing party in suits brought under the 14th and 15th Amendments to enforce voting right guarantees.

The Act, as amended, now covers portions of 23 States and should have the effect of significantly increasing the voting participation of racial and linguistic minority groups in the United States.

Protection from Credit Discrimination Extension (H.R. 6516, passed the House June 3, 1975)—The House of Representatives moved to extend protection from credit discrimination on the basis of sex or marital status, guaranteed by the Equal Credit Opportunity Act (P.L. 93–495), by amending that Act to also prohibit credit discrimination on the basis of race, color, religion, national origin, and age. This legislation is, in at least one respect, unprecedented: It is the first time a women's rights statute has been amended to extend protection to other disadvantaged groups and minorities. More often in recent history, civil rights laws which have prohibited discrimination on the basis of race, color, religion, and national origin, have been amended to also protect women from discrimination.

Credit is a way of life in this country. Reasons of sex, race, religion, or age, should have no bearing on a creditors decision whether or not to approve a loan—the sole test should be the creditworthiness of the applicant. In passing H.R. 6516, the House took another step toward ensuring equal credit opportunity for all creditworthy Americans.

Credit for Child Care Expenses (H.R. 10612, passed the House December 4, 1975)—Provisions of the Tax Reform Act of 1975 allow a credit against income tax liability for a percentage of qualified child and dependent care expenses. Taxpayers with qualified expenses may claim a credit against tax for twenty percent of the expenses (up to certain limits) for the care of a child under age 15 or for an incapacitated dependent spouse, which is necessary to enable the taxpayer to work.

The income limit (which was raised from $18,000 to $35,000 by the Tax Reduction Act, passed by the 94th Congress) would be removed by this legislation. The Act would change the nature of a claim for child care expenses from a deduction to a credit, but retain the basic rules for determining qualified expenses, with some modifications. It extends the credit to married couples where the husband or wife, or both, work part-time, and to couples where one spouse is a full-time student and the other works. Other extensions include making the credit available in some circumstances to a divorced or separated parent with custody of a child under 15, even though that parent is not entitled to a dependent exemption for the child, and eliminating the disqualification of pay to relatives, if the relative is not a dependent of the taxpayer or a member of his or her household, and the relative's earnings are subject to social security tax.

The Ways and Means Committee estimates that the provisions will result in a decrease in tax liability of $325 million in 1976, and larger amounts thereafter. There has long been criticism of a tax system in which the costs of business lunches, but not necessary child care expenses, were tax deductible. The House approved an alternative even better than making child care a business deduction: Making it a credit means that taxpayers who take the standard deduction may take advantage of the tax credit for child care. Provisions of this bill would go a long way to assist working parents to provide care for their children. It is time that we remove the negative incentive affecting so many two-earner families and recognize the necessity, of providing care for young children whose parents work.

Other legislation

International Women's Year—On December 15, 1970, the United Nations General Assembly proclaimed that 1975 would be designated as International Women's Year—to promote equality between the sexes, to ensure full integration of women in the total development effort, and to recognize the importance of women's increasing contribution to world peace. International Women's Year 1975, was proclaimed in the United States by Executive Order in January, 1974. Another Executive Order, issued in January, 1975, created a National Commission on the Observance of International Women's Year to reinforce the national commitment to women's rights. During this session, the House passed three measures specifically relating to IWY:

Resolution to Send a Congressional Delegation to the International Women's Year Conference (H. Res. 371, passed by the House May 20, 1975)—The House voted to send a congressional delegation of eight Members of Congress to the International Women's Year Conference in Mexico City, June 19–July 2, 1975.

Concurrent Resolution in Support of International Women's Year 1975 (H. Con. Res. 309, passed by the House October 6, 1975)—The House passed a concurrent resolution to express full support for the goals of International Women's Year. The purpose of the measure is to encourage a continuing effort to establish new programs and form new attitudes toward the role of women, and to overcome obstacles that still inhibit women from exercising full rights and responsibilities in all fields of endeavor.

Providing for a National Women's Conference (P.L. 94–167, approved December 23, 1975)—The Congress approved a measure to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference during 1976. State and regional meetings will be held preceding the National Conference, which is to be held at a time to coincide with the worldwide observance of International Women's Year and our own national Bicentennial. The influence of women in the building of our nation cannot be overestimated. A national conference of women, the purpose of which is to recognize the contributions of women, assess women's current status, and develop recommendations to ensure equal rights—is surely a fitting activity for the year of our national celebration.

Admission of Women to Military Academies (P.L. 94–106, approved October 7, 1975)—An amendment to a military authorizations bill (H.R. 6674) enacted this session opens the major military academies for the appointment and admission of women, and requires the academies to provide equal admission standards for men and women. Women served in the U.S. Armed Forces in both World Wars, and the more recent conflicts in Korea and Vietnam. Numerous changes have been made in the past few years to increase the participation of women in military service, and open up areas of duty which previously had been barred to them. However, military academies have been exempted from bills enacted to provide equal rights for women in admission to educational institutions. Thus, the legislation enacted this session contributes greatly to the goal of providing equal rights for women in the military.

Maximum Income Level Increased for Persons Eligible to Deduct Certain Child Care Expenses from Income Tax (P.L. 94–12, approved March 29, 1975)—Provisions of a major tax bill (H.R. 2166) enacted during the First Session raise from $18,000 to $35,000, the maximum combined income level of married couples who may qualify for an income tax deduction for some of the expenses of child care. This increase in income limitation in the section of the tax code relating to expenses for household and dependent care services necessary for gainful employment recognizes the needs of middle income two-earner families, whose child care expenses often cause financial hardship.

Nondiscrimination in House of Representatives Employment (H. Res. 5, passed the House January 14, 1975)—During the first session of the 94th Congress, the House adopted a change in the Rules of the House to provide "A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."

CONSUMER AFFAIRS

Major legislation

Consumer Protection Act (S. 200, passed the House November 6, 1975)—as business and industry have come to occupy an increasingly larger role in every phase of American life, Congress has become concerned with protecting the rights of consumers. While businesses have the resources to affect government policies, consumers often are not adequately organized and financed to have even a marginal impact on the decision-making processes of regulatory bodies and government agencies. The need for better consumer representation has been met in part by the creation of the Agency for Consumer Protection (ACP), which will be a central place for the consumer to file his complaints about products and services with the assurance that they will be given consideration. This independent non-regulatory agency within the Executive Branch will represent and protect the interests of consumers in proceedings and activities of Federal agencies and courts. As an advocate for consumers, the Administrator of the ACP will have the power to institute a judicial review of an agency decision or intervene as a party in a review requested by others.

The ACP is authorized to receive, evaluate, develop and act on consumer complaints by transmitting them to the appropriate federal or nonfederal source and by monitoring the response to insure that action is taken. The ACP is further directed to maintain for public inspection and copying an up-to-date listing of all signed consumer complaints.

The following government agencies have been exempted from this legislation because of their specialized functions: The Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency and the Nuclear Regulatory Commission. The ACP is also prohibited from intervening in Federal proceedings affecting agricultural products or commodities.

While this bill requires the ACP to provide and disseminate information to consumers, neither the ACP, nor any Federal agency engaged in testing products for the ACP will be permitted to declare one product to be a better buy than another. This does not, however, prohibit the authorized use or publication of test results. In addition, the disclosure of trade secrets and privileged commercial and financial information is prohibited.

A significant feature of this bill is the requirement that the President at the end of the first five years investigate the operation of the ACP to ascertain if it is serving its intended functions. At the beginning of the seventh year, the President will submit to Congress and the public a report of his findings together with his recommendations with regard to the ACP. This will allow the Congress to determine whether the ACP has adequately represented the consumer and to make an informed decision as to whether the ACP should be extended, reorganized or terminated.

Consumer Product Safety Commission Improvements Act (S. 644, passed the House October 22, 1975. In conference)—In October 1972, Congress created the Consumer Product Safety Commission in response to a 2-year study which disclosed that each year 20 million Americans are injured in the home as a result of incidents connected with consumer products. The annual cost to the Nation of product-related injuries was found to be in excess of $5.5 billion. The Consumer Product Safety Commission has now been in existence for over 2 years and these amendments to the Act represent the result of a comprehensive review by Congress to determine where the Commission's authority needs strengthening or clarification.

The measure clarifies the jurisdiction of the Committee in several respects. First, it eliminates pesticides from the Commission's jurisdiction under the Poison Prevention Packaging Act of 1970. Second, it clarifies the Commission's jurisdiction with respect to tobacco and tobacco products. It provides that the Commission has no jurisdiction to regulate tobacco or tobacco products as a "hazardous substance" under the Federal Hazardous Substances Act. However, it provides that the Commission may regulate tobacco and tobacco products under the Consumer Product Safety Act to the extent that such products present an unreasonable risk of injury as a source of ignition. Third, the legislation provides that the Commission, under the Hazardous Substances Act, may not ban ammunition as a "hazardous substance." The Commission may, however, continue to establish and enforce cautionary labeling requirements as are necessary relating to the storage of such ammunition to the extent that such ammunition is defective or presents a hazard to the user by failing to perform in a normal or reasonably foreseeable manner when fired from a firearm.

S. 644 also amends the Act to provide that whenever the Commission submits a budget to Congress, it must have the approval of the Commission, rather than merely the approval of the Chairman.

Another amendment is designed to increase the likelihood that a substantial hazard will come to the attention of the Commission. This measure requires that a product liability insurer or an independent testing laboratory which discovers a substantial hazard in the course of its business must report that finding to its insured or its client and inform him of his obligations, if any, under the law.

In addition to designating certain acts as "prohibited acts," the measure gives the Commission jurisdiction to restrain any person from distributing in commerce a product which contains a substantial product hazard or which has been refused admission into the customs territory of the United States.

The bill also establishes a new relationship between the Commission and the Department of Justice. Whenever the Commission intends to initiate, prosecute, defend or appeal any court action for the purpose of enforcing laws subject to its jurisdiction, or when the Commission seeks to enforce an order or subpoena of the Commission, it must request representation from the Attorney General. If, after 45 days, the Attorney General fails to indicate that he will represent the Commission, such representation may be made by attorneys designated by the Commission.

Truth in Leasing Act (H.R. 8835, passed House October 28, 1975)—The leasing of consumer personal property such as automobiles and furniture is a rapidly growing business. As an illustration, from 1963 to 1973 new car sales increased 42 percent while lease and fleet registration on new cars increased by 127 percent. Consumers have often been the victims of inadequate and intentionally misleading information about such leases. The House has acted to amend the Truth in Lending Act to assure a meaningful disclosure of the terms of leases of personal property so as to enable the lessee to compare more readily the various lease and credit terms available to him. The language of this bill specifically states that a lease must contain a dated written statement identifying the lessee and the lessor along with a brief description of the leased goods, the amount of payment required initially by the lessee as well as the amount of the periodic payments, and other charges not included in the periodic payments. The lease must also identify warranties and guaranties by the manufacturer and indicate the conditions under which the lease can be terminated prior to the expiration date. Further, the ultimate liability to a lessor would be limited to three times a monthly payment, except if there has been physical damage beyond reasonable wear and use or default. Any lessor who violates the provisions of the bill will be civilly liable to the lessee.

OTHER LEGISLATION

Fair Credit Billing Act Amendments of 1975 (H.R. 10561, passed the House November 17, 1975)—As part of its continuing effort to protect consumers from unfair business practices, the House passed a bill which will encourage merchants to give discounts to cash customers and will prevent credit customers from having to pay additional charges. The bill has three main components which clarify existing law: (1) both "surcharge" and "discount" are defined so that no legal question can be raised regarding the fact that a surcharge, which is an increase in the sales price of an item, cannot be charged to credit customers, and that a discount, which is a reduction in the sales price, can be given to cash customers; (2) it is clearly stated that the bills provisions would supersede State usury laws which might bar giving discounts to cash customers, thus assuring that consumers in every State will receive equal treatment; and (3) Federal Reserve Board officials and authorized employees are empowered to give advisory opinions on the proposed law to merchants who would then be in "good faith compliance" with the law if the opinions were followed.

Retailers will benefit by knowing that they can give a reduced price to cash customers, thus providing an incentive for cash payments, and yet assuring that credit customers will not be penalized. Legal cases concerning the measure's interpretation will be decreased because of the ability of the Federal Reserve Board to give advisory opinions to guide merchants without their having to bring legal action or wait for published regulations to obtain clarification of the law. Most importantly, consumers will benefit since those who pay cash may receive a discount while those who use credit cards will be protected from any surcharge.

Consumer Goods Pricing Act (P.L. 94-145, approved December 12, 1975)—In another step to protect the consumer, Congress has voted to repeal the so-called fair trade laws (Fair Trade Enabling Acts). Adopted during the depression, these laws permitted States to pass legislation which under certain conditions legalized vertical price fixing and eliminated the right of a businessman to set his own price for the resale of his product. The result of these laws has been artificially high prices charged to the consumer, a condition which the consumer can no longer afford. While originally fair trade laws were justified by the claim that they protected the small business establishment from the price competition of the large discount chains, there is now little evidence to support this rationale. In fact a recent study revealed that there were more small business failures in States which do have fair trade laws than in those which do not. At the present time only twenty-four States have fair trade laws on their statute books. It is estimated this legislation and the subsequent reinstitution of competitive pricing will result in lower prices; the savings to the consumer as the direct result of this legislation is estimated to be from $3 to $6 billion.

ECONOMY

Major legislation

Business and Finance

Securities Acts Amendments of 1975 (P.L. 94-29, approved June 4, 1975)—After four years of reexamination of the competitive, statutory, and economic issues facing the securities markets, the securities industry, and public investors since the 1930's, Congress acted to remedy past problems and regulatory and self-regulatory deficiences.

The securities markets of the United States are an important national asset, providing a means for millions of Americans to share in the profits of our free enterprise system and for new and growing businesses to raise investment capital. However, the statutory and regulatory structure of the securities markets has not kept up with economic and technological changes or with shifts in public investment patterns. The result has been operational breakdowns and economic distortions which have impaired public confidence in the securities markets and have at times posed threats to the viability of our entire equity investment system.

This legislation is designed to insure the fair and efficient operation of the securities markets of the United States, which are indispensable to the growth and health of this country's and the world's economy. The rapid attainment of a national market system as envisaged by this law is important, therefore, not simply to provide greater investor protection and bolster sagging investor confidence but also to assure that the country maintains a strong, effective, and efficient capital raising and capital allocating system in the years ahead.

The legislation specifically acts to remove Federal regulations and industry practices that restricted investors' access to the Nation's thirteen stock exchanges and over-the-counter market and significantly enlarges the Securities and Exchange Commission oversight powers over the stock exchanges and the National Association of Securities Dealers, which supervises the over-the-counter market outside the exchanges.

Depository Institutions Amendments of 1975 (P.L. 94-200, approved December 31, 1975)—This legislation (S. 1281) will extend the authority for the flexible regulation of interest rates on deposits and share accounts in depository institutions, extend the National Commission on Electronic Fund trans-

fers, and provide for home mortgage disclosure.

Title I extends until March 1, 1977, the authority of financial regulatory agencies to establish (under Regulation Q) interest rate ceilings that may be paid by banks on time and savings deposits and by building and loan, savings and loan, homestead associations and cooperative banks on deposits, shares, and withdrawal accounts. A two-year extension will insure that deliberations not be interrupted during the present Congress as comprehensive financial reform measures are considered, including the consideration of measures designed to provide for an increase in the interest rate paid to the consumer-saver who, increasingly in recent inflationary years, has not received a fair return on his investment.

Title II reflects Congressional concern over the orderly development of electronic funds transfers. The rapid emergence of a large number of experimental payments mechanisms has raised a number of significant public policy questions and in future years their impact on substantive banking law and, in fact, on current comprehensive financial reform deliberations in incalculable. Public Law 93–495, approved on October 28, 1974, established the National Commission on Electronic Fund Transfers, which was not activated until October 6, 1975, with the President's nomination of the Commission's Chairman and announcement of the public members of the Commission. During the one-year period, a number of actions have been taken by the regulatory agencies generating multitudinous litigation at both the Federal and State levels. As a consequence, Title II extends the life of the Commission to permit two full years in which to operate and extends the requirement for an interim report for one full year.

Title III establishes a home mortgage disclosure system for the purpose of providing information to citizens, financial institutions, and public officials at all levels, both Federal and State. This title is discussed more fully under the "Housing" section of this report.

National Insurance Development Act of 1975 (P.L. 94–13, approved April 8, 1975)—Since its inception in 1968, the riot reinsurance program has enabled millions of homeowners, tenants, and businessmen to obtain fire and other essential property insurance at reasonable rates while substantially relieving insurers of the risk of loss from riots or civil disorders. The program has been and continues to be both viable and of significant value. Under this plan, the Federal Government agrees to reinsure insurance companies for riot-inflicted losses provided the insurance companies write fire insurance and extend coverage to homeowners and businesses who are unable to obtain coverage through normal commercial channels. At the present time, some 800,000 policies are in force for a total coverage of $16.2 billion. This legislation extends the riot reinsurance program for two years.

In addition, this law also extends for two years the Federal Crime Insurance program, which authorizes the Secretary of Housing and Urban Development to provide crime insurance coverages in States having critical problems of crime insurance availability or affordability. Since August 1971, the crime insurance program has enabled home owners, tenants, and businessmen in 14 States to purchase burglary and robbery policies at affordable rates without fear of cancellation because of losses while encouraging insureds, through its protective device requirements, to make their premises less vulnerable to burglaries. For many of the insureds, especially small businessmen, the program can mean the difference between solvency and insolvency in the face of crime losses, as well as the difference between staying in an urban location or abandoning it. One important aspect of the crime insurance program is that before a Government policy can be written, the insurance applicant, whether he be a homeowner or a businessman, must install certain protective devices to deter criminals. These devices range from dead bolt locks for homeowners to electronic burglar alarms for certain types of businesses.

Both riot reinsurance program and the crime insurance program operate at no cost to the taxpayer. No appropriated funds are used to run these programs. Instead, all premium income is placed in the National Insurance Development Fund and excess amounts in that fund are invested so as to bring an additional return to the fund.

National Productivity and Quality of Working Life Act of 1975 (P.L. 94–136, approved November 28, 1975)—This legislation provides for a review of the activities of all Federal agencies including implementation of all Federal laws, regulations, and policies which impede the productive performance and efficiency of the American economy; it also encourages joint labor, industry and Government efforts to improve national productivity and the character of working conditions and establishes a Federal policy with respect to continued productivity growth and improved utilization of human resources in the United States. In summary, to establish a national policy to encourage productivity growth in all sectors of the economy and to create an independent national center for Productivity and Quality of Working Life to focus, coordinate, and promote efforts to improve the rate of national productivity growth.

One of the Nation's most important and least understood economic problems during the past decade has been a declining rate of productivity growth. It is important because increases in our standard of living are dependent to a large extent on increases in our national productivity. Unless productivity grows, any increases in income will be absorbed by higher prices. Therefore, improving our productivity growth rate can be instrumental in controlling the spiraling rate of inflation that has gripped our national economy.

Any effort directed at improving productivity must incorporate the efforts of management, organized labor, institutions of higher education, State and local governments, and other organizations and individuals as well as the Federal Government. Improvements cannot be mandated; they must be brought about over a period of years with the efforts and cooperation of all segments of the national economy. The Federal Government can provide the leadership needed for such a concerted effort. However, this bill is not designed to force productivity improvements. It does provide a focal point for a national effort to improve America's rate of productivity growth in the form of an independent Federal agency whose role will be to coordinate and stimulate activities in all sectors of the economy to achieve this purpose. It also provides a Federal policy to improve productivity growth, and it directs each Federal agency to undertake certain actions to carry out that policy.

Amendments to Small Business Act and Small Business Investment Act (H.R. 9056, passed House October 6, 1975)—Title I of this legislation prohibits the Small Business Administration from discriminating against food producers by arbitrarily denying them the assistance which is available to other small businesses. It is the declared policy of the Congress that the Government should aid, counsel, assist and protect, insofar as possible, the interest of small-business concerns in order to preserve free competitive enterprise. Recognizing that one of the key forms of assistance is financial, Congress authorized the Small Business Administration to make loans to these concerns either directly, by participation with a lending institution or by guaranteeing a loan made by such institutions. The Small Business Act further recognized that small businesses exist in every industry and thus specifically authorized SBA to define "small business" based upon the number of employees and dollar volume of business which vary from industry to industry.

None of the available Federal loan programs effectively makes available to small businesses engaged in agriculture the amount of money at a low enough interst rate repayable over a long enough term to provide a viable source of funds for water pollution control equipment as is provided by SBA under their water pollution control program. Numerous other types of small business are also affected by SBA restrictions. It is the purpose of this legislation to extend the financial assistance available to most small businesses to any type of small business whether that small businessman is producing an edible product or whether he is producing durable goods such as clothes or appliances and without any distinction being made as to the type of processing, whether it be in production in the case of livestock, the processing in the case of slaughtering, or the marketing in the case of selling to the grocer or the consumer.

Title II of this legislation establishes in the Small Business Act the interest rate provisions for national disaster loans made by SBA.

Title III creates a new financing program for assisting small businesses in meeting pollution control requiremnts. Those small businesses which will be required to make significant pollution control expenditures generally cannot take advantage of the economies of scale for pollution control costs experienced by larger firms. Furthermore, they are also often at a considerable disadvantage in financing pollution control facilities. However, if financing terms allow repayment over a sufficiently long period, annual payments can be reduced to manageable levels for most small firms.

Unless some type of Federal financial assistance is provided to small business, many of them will be forced to close because of their inability to comply with environmental standards. The demise of these small concerns will also result in less competition and in increased unemployment

Title III of this bill adds a new section to the Small Business Investment Act to expand and extend the SBA lease guarantee program to cover pollution abatement equipment.

The proposal, in brief, permits the grouping into single bond issues and financial requirements of small businesses having a common geographic or industry relationship. These issues would be sold by the appropriate State or local authority and the interest income would be tax exempt to the investor under current tax laws. Proceeds of the bond sales would be used to construct the abatement equipment. This equipment would then be provided to small business providing the funds to meet bond principal and interest. The SBA would insure the individual contract payments for a fee adequate to cover operating costs and projected losses. The SBA guarantee would be the key ingredient to making the scheme attractive enough to both governmental units and potential investors.

Small Business Emergency Relief Act (P.L. 94–190, approved December 31, 1975).—This bill is a product of congressional concern with the economy and particularly with the effect of the tremendous increases in the cost of goods, materials, and labor to small business contractors who entered fixed-price contracts with the Federal Government between August 15, 1971, through October 31, 1974, the period in which Federal price controls were in effect. The small business sector was experiencing significant unanticipated cost increases directly affecting the cost of performing under the contract, and was also being affected by shortages of energy, petroleum products, or products or components manufactured or derived therefrom or impacted thereby. These factors resulted in the small business contractor being unable to perform under the contract in a timely manner which caused him to default.

The result to the small businessman is oftentimes financial ruin. From the standpoint of the Government's interest, enforcement of the contract and the lack of ability to modify its terms may force the concern to go bankrupt and frequently hinders or even prevents the Government from obtaining the product for which it contracted. Thus it may also be in the interest of the Government to adjust the terms of the contract since granting the Government the authority to make such price adjustments, were justified, will permit the contracting agency to obtain the needed materials and services in a timely fashion.

Under existing law a contracting agency of the Federal Government is not authorized to assist the small businessman who may be bankrupted by enforcement of the contract, except in a very few limited situations.

This legislation would provide limited relief to small businessmen who enter fixed-price contracts with an agency of the Federal Government if during the performance of the contract they experienced or are experiencing significant unanticipated cost increases directly affecting the cost of contract compliance, provided the conditions which have caused or are causing such cost increases were or are being experienced generally by other small business concerns in the market at the same time are not being caused by negligence, underbidding, or other special management factors peculiar to the small business concern. The bill would not require that the executive agency provide any relief but would merely authorize the head of the agency to either terminate the contract for the convenience of the Government without cost to the contractor or to modify the terms of a fixed-price contract unless, in the latter case, the contract had been performed or the contractor had defaulted.

Loans to Small Businesses Economically Injured Due to Disruption in Service of Public Utilities (H.R. 4888, passed House June 17, 1975)—This bill is a product of congressional concern over the future of small businesses which are viable entities and are contributing to the national economy but which are rendered unable to continue operations due to the disruption in essential public utility service to them. Lack of such service, whether it be for a period of days or weeks, frequently eliminates or greatly curtails their income and necessitates their closing.

Once the utility disruption has been corrected, the affected business may not have the financial resources to again open its doors for business and due to its poor financial standing may be unable to obtain conventional credit from a bank or other lending institution to provide the needed capital.

There is presently no Federal program which provides financial assistance to small businesses which suffer economic injury as a result of a disruption of service provided by a public utility. This bill would provide loans to an applicant who could demonstrate that the loan is necessary in order to preserve or reestablish his business, provided the disruption of service was by a licensed public utility such as a telephone, telegraph, or natural gas or electric company and provided the disruption existed for a minimum period of three days and affected a majority of the business concerns in a specific geographical area.

Small Business Administration loans authorized by this bill would be repayable over a maximum of 10 years and would bear interest at a rate equal to the average annual interest rate on all interest-bearing obligations of the United States.

Bankruptcy Law Revision (H.R. 10624, passed House December 9, 1975, In conference)—This legislation amends Chapter IX of the Bankruptcy Act, a chapter which provides a procedure for the adjustment of debts of political subdivisions and public agents and instrumentalities. The present procedure is hopelessly archaic and unworkable for all but the smallest entities and has not been amended since 1946. In this time of financial crises of many of the country's cities, most notably New York City, but including others as well, the need for a workable reorganization procedure is vital. While a major and total revision of the Bankruptcy Act is expected next spring, current economic conditions make it desirable to revise Chapter IX in advance of the rest. The major change effected by this legislation is the elimination of the requirement of obtaining consent from 51% in amount of a city's creditors to a plan of adjustment prior to filing a petition for relief.

The prior consent requirement worked well when municipal bond refundings were accomplished with the assistance of the Reconstruction Finance Corporation, which bought a large portion of the outstanding bonds at the proposed composition rate directly from their holders, and then voted those bonds in favor of the plan. With one entity in control of such a large block of votes, obtaining the 51% prior consent was not difficult. Now, however, the requirement makes little sense, and prevents a petitioner from seeking the shelter of a bankruptcy court while it attempts to negotiate with its creditors a plan of adjustment. Without that shelter, it is not unlikely that set-offs against a petitioner or other creditor actions, both judicial and otherwise, or actions by its suppliers or employees could prevent the performance of governmental functions.

The filing of the petition operates as an automatic stay of all actions, judicial or otherwise, and of the commencement or continuation of any action which seeks to enforce a lien against the petitioner, its property, its officers, or its inhabitants. This feature is new as well. It gives the petitioner the breathing spell it may need to get back on its feet financially, and the time it needs negotiate and develop a plan of adjustment with its creditors.

The legislation further modifies the procedures for amending a petition and grants the administering court additional powers to supervise the operation of the municipality.

Repeal of Federal Sanction of Fair Trade Laws (P.L. 94–145, approved December 12, 1975)—In 1937, Congress passed the Miller-Tydings Act, which created an exemption to the Federal antitrust laws for resale price maintenance agreements where such agreements were expressly permitted by State law; such laws are commonly known as "fair trade" laws. The justification for fair trade laws was to protect small family-owned retail outlets from price-gouging by discount chains. Proponents of this view argue that these independent retailers frequently provide ongoing service of the product and individual attention to the customer's needs, which add to their overhead and prohibit them from competing effectively in price with the chain stores. However, this argument finds real support in the facts. Moreover, even if true, consumers should have the freedom to choose between paying more for these services and buying nothing but the unadorned product at a lower price from a competitor. Indeed, testimony before congressional committees indicated that many consumers are in fact willing to pay a somewhat higher price for the convenience, courtesy, and service which small retailers are uniquely situated to provide. In any event, the repeal of Federal sanction of fair trade laws constitutes a small but not insignificant move toward a more competitive economy, with resulting benefits to consumers in the twenty-four States retaining fair trade laws.

New York City Loan (P.L. 94–143, approved December 9, 1975)—Responding to growing fears of the consequences to the Nation's and the Free World's economies of a default or bankruptcy by New York City, the House authorized loans of up to $2.3 billion to the city to allow time to make necessary adjustments in spending and revenue-raising and to move toward a balanced budget. Under the legislation, the city is required to repay the loans made in any fiscal year by the last day of the city's fiscal year; the interest rate to be paid by the city on the loan is one percent higher than the prevailing Treasury borrowing rate. The Secretary of the Treasury is authorized to set terms and conditions for the loan that he deems appropriate to assure repayment. The Secretary is also authorized to withhold Federal funds due New York City to offset the amount of any unrepaid loans. Another provision of the legislation authorizes a General Accounting Office audit of the financial records of the city and of New York State.

The legislation, while providing New York City time to put its financial house in order, nevertheless was specifically designed to minimize Federal involvement in what are essentially State and local problems. The loan, as opposed to other suggested remedies for the New York fiscal crisis, holds the greatest promise for avoiding Federal expenditures, since the loan, once repaid, will cost the Federal Government nothing and will minimize Federal interference in the operation of the city.

LABOR, UNEMPLOYMENT AND MANPOWER TRAINING

Emergency Employment Appropriations Act of 1975 (H.R. 4481, vetoed May 28, 1975)—On May 16 Congress completed action on legislation designed to ease the unemployment situation by creating about two million jobs. Of the total emergency appropriation of $5.3 billion, about $2.3 billion was devoted to direct job creation, including about 180,000 fulltime public service jobs and 840,000 summer jobs for youth. Another million were expected to be created through public works expenditures.

Congress acted out of commitment to useful employment opportunities for Americans, stated in the Employment Act of 1946.

In January 1975, 7.5 million people were unemployed and the unemployment rate was 8.2% of the civilian work force. The previous three months witnessed the sharpest rise in unemployment since the Great Depression of the 1930's and was at its highest peak since the beginning of World War II. Those on unemployment benefits had more than doubled over the previous year.

Congress decided on a blend of two approaches to the unemployment problem—funding of programs such as public service jobs in which funds are used directly for the creation of jobs, and funding of accelerated Federal construction, building and purchase programs where funds would have been used to create jobs indirectly through construction contracts, purchase of automobiles for Government use, further development of the Nation's recreational and public land resources, and other similar programs.

On May 28, the President vetoed this legislation. Certain provisions of the legislation were reintroduced and passed as noted elsewhere in this section. [See P.L. 94–41 and P.L. 94–36.]

Emergency Compensation and Special Un-

employment Assistance Extension Act (P.L. 94–45, approved June 30, 1975)—In a major action designed to relieve the economic distress caused by national unemployment, Congress extended and expanded benefits to the unemployed. The legislation gears the number of weeks of emergency benefits payable after January 1, 1976, to the severity of unemployment in a State. States with a jobless rate of over six percent would be eligible for up to 65 weeks of benefits. Workers in States with an unemployment rate of between 5 percent and 6 percent would be entitled to 39 weeks. To receive more than 39 weeks of benefits, workers would have to be available for job retraining programs. Thirty-nine weeks of benefits through December 1976 would be allowed to jobless workers not regularly covered under the State-Federal unemployment compensation system.

In addition, the legislation allows the Federal housing tax credit to buyers of new housing which was sold at the lowest price asked since February 28, 1975, rather than at the lowest price ever asked.

The legislation also requires the Secretary of Labor to conduct a study of the emergency benefits program, including information on the benefits paid under the program, the economic and demographic characteristics of the workers receiving benefits under the program, and such other matters as might be useful in evaluating its effectiveness and determining what alternatives to such a program might be appropriate in any future periods of high unemployment. The report is to be submitted by January 1, 1977.

The legislation further permits the suspension of higher unemployment tax rates in States which have not repaid within two years advances from Federal accounts in the unemployment trust fund if the Secretary of Labor determines that the State has studied and taken appropriate action with respect to the structure of its unemployment compensation program, including its financing, so as to substantially accomplish the purpose of restoring the fiscal soundness of the State's unemployment account and to permit the repayment within a reasonable time of the amount advanced to the State from the Federal account.

Public Service Jobs and Job Opportunities Program (P.L. 94–41, approved June 27, 1975)—After the veto by the President on May 28 of H.R. 4481, the Emergency Employment Appropriations Act of 1975, Congress acted to reapprove sections of that comprehensive bill. P.L. 94–41, a continuing appropriations measure, provided money for two programs designed to relieve economic distress in the Nation.

First, an additional $1.625 billion over and above the amounts already appropriated for fiscal year 1975 for public service jobs, together with carryover and funds expected to be available in the fiscal year 1976 appropriation made it possible to extend for another year the current level of about 310,000 persons enrolled under several legislative authorities, including the Emergency Employment Act and Titles II and VI of the Comprehensive Employment and Training Act.

Second, P.L. 94–41 provided $375 million for the Job Opportunities Program under the Department of Commerce. This amount, together with $125 million already appropriated, provided a total of $500 million to accelerate public works programs authorized by existing law. The purpose of this jobs program is to provide short-term employment opportunities while constructing facilities of lasting value to the community.

Priority in allocation of the funds was given to those labor intensive projects which can be initiated promptly and which could be substantially completed in twelve months. About 50,000 jobs were to be created by the $375 million in the bill and the $125 million already provided.

Summer Youth Employment and Recreation (P.L. 94–36, approved June 16, 1975)—This appropriation provided $473,350,000 for the summer youth employment and recreation program and allowed 840,000 jobs for young people during the summer. Each job provided for nine weeks of summer employment with an average of 26 hours per week. Additionally, $15.3 million of these funds will be used for the summer recreation program. The funds had originally been contained in H.R. 4481, the emergency employment appropriation bills, vetoed by the President.

Construction Industry Collective Bargaining Act of 1975 (H.R. 9500, passed House October 7, 1975)—The construction industry is large, some half-million contractors employ over 5 percent of the Nation's labor force. The construction industry is fragmented. Two and one half million workers are organized into 18 different international unions and over 10,000 local or subordinate bodies. Bargaining is conducted at the local level by each of the separate trades, with coordination between the unions, or between different locals of the same unions, being the the exception.

Each local and each craft tries to outdo the other. With successive expiration dates the norm, each union examines the wage and fringe package won by the other, and the consequence is known in the industry as "leapfrogging." At a minimum, each local seeks to preserve what it considers the traditional differential with other trades and other localities.

Strikes are numerous (more so than in other industries), long (more so than in other industries), and costly (because of the inherent independence of the work done by each).

H.R. 9500 is designed to establish a machinery, a process, whereby responsible leaders within the industry can meet on a regular and periodic basis to discuss the over-all problems of the industry, and seek better solutions to the bellweather local conditions.

H.R. 9500 provides an enhanced role for national labor organizations and national contractors organizations in resolving collective bargaining problems. It creates a Construction Industry Collective Bargaining Committee, comprised of 10 management representatives, 10 labor representatives, and up to 3 neutral members. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service are members ex officio. The other members are to be appointed by the President after consulation with the relevant national organizations.

Local labor organizations are required to give notice to their parent organizations (if there are such) 60 days prior to the expiration or reopening date of their local collective bargaining agreements. The employer similarly is required to give notice to his parent organization (if there be one), or directly to the Committee. The Committee is authorized (but not required) to take jurisdiction over the local disputes under standards fully set forth in section 6 of the Act and would attempt to resolve labor disputes in the construction industry before they reached the strike stage. The Committee would rely on persuasion rather than compulsory arbitration.

[H.R. 5900, discussed elsewhere in this section, incorporated many of the provisions of H.R. 9500.]

Production of the Economic Rights of Labor in the Building and Construction Industry (H.R. 5900, vetoed January 2, 1975)—The purpose of this bill is to provide for treating the general contractor and his subcontractor as a single person for purposes of the secondary boycott provision of the National Labor Relations Act. This approach reflects the economic realities in the building and construction industry where the contractor and all the subcontractors are engaged in a common venture and each is performing tasks closely related to the normal operations of all the others.

This legislation is necessary to overrule the *Denver Building Trades Council* decision of the Supreme Court of 1951 and restore to unions in the building and construction industry the right to engage in peaceful activity at a common construction site to protest sub-standard conditions maintained by any one of the construction contractors working at the very same site. This legislation has been supported by every administration from that of Truman through Ford.

H.R. 5900 is emphatic that it is not intended to alter labor-relations laws in any respect other than to permit strikes and picketing in the construction industry against any of several employers jointly engaged in the construction, alteration, and painting or repair of a building, structure or other work. This legisaltion recognizes the economic reality that construction work on one part of a building, structure, or other work is interrelated to construction work on other parts of a building, structure, or other work; and permits the union representing employees in one phase of the work to strike or picket at the construction site against any of the several employers in the construction industry who are jointly engaged as joint ventures or in the relationship of contractor and subcontractor when the strike arises over wages, hours, and other working conditions in the legitimate collective bargaining context.

[Added to H.R. 5900 in conference were most of the provisions of H.R. 9500, discussed eleswhere in this section; see summary of H.R. 9500 for details.]

Railroad Unemployment Insurance Act (P.L. 94–92, approved August 9, 1975)—In legislation of enormous importance to railroad employees throughout the United States, Congress enacted the Railroad Unemployment Insurance Act, providing for an increase in the maximum for both unemployment and sickness compensation to $24 per day for the period beginning July 1, 1975, and ending June 30, 1976. Thereafter, the maximum would be increased to $25 per day. The unemployment and sickness benefit level remains at sixty percent of the daily rate of compensation for the railroad employees' last employment but not less than $12.70.

These increases are designed to compensate unemployed railroad workers for the inflation over the last seven years since the law was last amended. The legislation also provides, for the first time, a program of extended unemployment benefits to railroad workers with less than ten years seniority.

Public Works Employment Act of 1975 (H.R. 5247, Senate approved conference report December 17, 1975; awaiting final House action)—This legislation has two purposes: (1) to alleviate and modify the growing problem of national unemployment that we as a Nation face, and (2) to stimulate activity in the Nation's economy and to assist the State and local governments in promoting the general welfare of their citizens by providing adequate public facilities. This will be accomplished by a program of Federal grant-in-aid to State and local governments for the construction, repair and other improvements of local public facilities. Such grants-in-aid are to be made available for public facilities projects which promise rapid implementation and reduction of unemployment and, at the same time, by requiring the use of additional materials and equipment, to provide a stimulator effect to the basic industries which are the lifeblood of the Nation's economy.

This is the simple and direct twofold purpose of the legislation, and it comes at a time of rising unemployment, work slow-downs in our major industries, and of increasing difficulties faced by our State and local government in meeting their financial requirement. It is intended that the bill when implemented will not only put the unemployed man or woman back to work but revive the financial operations of the State and local governments and thereby provide a general shot in the arm to every segment of our Nation's economy.

This legislation authorizes the Secretary of Commerce to make grants up to $2.5 billion to State and local governments for local public works projects for the period ending September 30, 1977. In making grants, if for the three most recent consecutive months the national unemployment rate is equal to or exceeds 6½ percent, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate, and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most consecutive months in excess of 6½ percent, but less than the national unemployment rate.

TAXES, MONETARY, AND FISCAL POLICY

Tax Reduction Act of 1975 (P.L. 94-12, approved March 29, 1975)—In an effort to stimulate a sluggish economy, Congress in March passed the largest tax reduction in history, a net reduction of almost $21 billion through cuts in individual income taxes of about $18 billion, reduction in business taxes of about $4.8 billion, and an increase in taxes on the oil industry of about $2 billion.

Individuals received a ten percent rebate on 1974 income taxes, up to a maximum of $200. The low-income allowance was increased to $1600 for single persons and $1900 for joint returns, up from the previous $1300 for both single and joint returns. In addition, the standard deduction was raised to 16 percent of adjusted gross income (to a maximum of $2300 for single persons and $2600 for joint returns), up from 15 percent (to a maximum of $2000). Each taxpayer was further allowed a $30 credit against taxes owed on 1975 income for each taxpayer and dependent. Also, a refundable 10 percent tax credit up to $400 on earned income of $4000 or less for a family with at least one dependent child, a credit phased out at $8000.

In order to stimulate the purchase of homes and reduce the inventory of vacant new construction, the law allowed a 5 percent credit up to $2000 against taxes for the purchase of a newly built home finished or under construction by March 26, 1975, if purchased between March 13 and December 31, 1975.

Income levels eligible for child care or household services deductions were raised from $18,000 to $35,000.

In order to stimulate business investment, the investment tax credit was raised from 7 percent to 10 percent for most businesses. Among other investment stimulants to business was an increase in the amount of corporate income exempt from the 26 percent corporate tax surcharge to $50,000 in 1975, from the previous $25,000 level, and a decrease in the 22 percent corporate income tax rate to 20 percent during 1975 (from 22 percent) on the first $25,000 of income.

This legislation also repealed the 22 percent oil and gas depletion allowance and reduced or eliminated numerous other gas and oil production tax deductions.

Other provisions of this legislation granted a $50 bonus payment, from general revenues, to each recipient of Social Security retirement, railroad retirement, or supplemental security income benefits, and provided an additional 13 weeks of emergency unemployment benefits to jobless workers in nine States who had exhausted the 52 weeks of regular and extended benefits.

Revenue Adjustment Act of 1975 (H.R. 5559, vetoed December 17, 1975)—In an effort to prevent the blow to the slowly improving economy that a rise in income tax rates would cause with the expiration of the Tax Reduction Act of 1975, Congress sought to extend through June 30, 1976, many of the provisions of that anti-recession tax reduction. (The Tax Reduction Act of 1975 is discussed elsewhere in this section.) Major changes in tax rates provided by this bill were an increase in the minimum standard deduction to $1700 for single returns and to $2100 for joint returns. The percentage standard deduction would have been increased to 16 percent and the maximum standard deduction would have been increased to $2400 for single returns and to $2800 for joint returns.

In addition, the legislation increased the $30 personal exemption tax credit to $35 or 2 percent of the first $9000 of taxable income (whichever is greater) on a full year basis. Furthermore, the legislation increased the corporate surtax exemption from $25,000 to $50,000 on a full year basis and reduced the normal tax rate on the first $25,000 of taxable corporate income from 22 percent to 20 percent on a full year basis.

Withholding tax rates in effect on December 10, 1975, were extended through June 30, 1976.

Second Revenue Adjustment Act of 1975 (P.L. 94-164, approved December 23, 1975)—In order to prevent the rise in income tax rates which would otherwise occur as a result of the expiration of the Tax Reduction Act of 1975 on December 31, 1975, Congress enacted a six month reduction of the rates effected by that legislation. (For major provisions of the Second Revenue Adjustment Act of 1975, see the summary of the first Revenue Adjustment Act of 1975, discussed elsewhere in this section.) In addition, this legislation (H.R. 9968) expresses the determination of Congress to continue to control spending levels in order to reduce the national deficit; Congress further reaffirms its commitments to the procedures established by the Congressional Budget and Impoundment Control Act of 1974 under which it has already established a binding spending ceiling for the fiscal year 1976.

Tax Reform Act of 1975 (H.R. 10612, passed House December 4, 1975)—In the most comprehensive tax reform legislation passed since 1969, the House enacted revisions of the tax code which would provide additional Federal revenue of approximately $1.5 billion in 1976, while limiting deductions for high income taxpayers and expanding certain deductions for middle and low income taxpayers.

The bill makes permanent provisions of the Tax Reduction Act of 1975 (P.L. 94-12, discussed elsewhere in this section) raising the standard personal deduction and the minimum standard deduction; it further provides a credit against taxes owed between $30-$60 per taxpayer, depending on income.

Other major provisions include an extension through 1980 of the ten percent investment tax credit established for 1975. In addition, the amount of corporate income exempt from the 26 percent corporate tax surcharge was increased from $25,000 to $50,000. The income tax rate on the first $25,000 of corporate income was reduced from 22 to 20 percent.

The bill also tightens tax shelter opportunities through a limitation on artificial losses and limited depreciation losses in a number of areas. The existing minimum tax on income from tax preference activities was increased from 10 to 14 percent and reduced the amount of preference income exempt from the minimum tax to $20,000 from $30,000, eliminating the exemption altogether if preference income reached $40,000.

The period necessary for an asset to be held for long-term capital gain or loss treatment was increased, in stages, to one year (by 1978). and the amount of ordinary income against which a capital loss could be deducted was increased from $1000 to $4000.

The legislation allows an employee covered by an existing pension or profit-sharing plan to deduct contributions of up to 15 percent of earned income or $1500 to both that plan and a separate individual reteirement account.

This bill also responds to widespread interest in simplifying the preparation of income tax returns by replacing twelve optional individual tax tables based on adjusted gross income up to $10,000 with four tables based on taxable income up to $20,000, effective in 1976.

Alimony payments have been changed from an itemized deduction to a deduction from gross income, making it available to taxpayers who use the standard deduction. Retired persons will benefit from extension of the 15 percent tax credit to earned income as well as retirement income.

The bill replaces the child-care deduction with a child-care credit of 20 percent of expenses. Moving expenses would henceforth be deductible if a new place of work were 35 miles, rather than 50 miles (under current law) from residence. Deductions allowed for house hunting and moving expenses were also increased.

The legislation also tightens deductions for using a home for business purposes and for foreign business convention expenses.

Under the bill's provisions, the existing $20,000 exclusion from taxable income of income earned by U.S. citizens living overseas will be phased out over four years. Other deductions for foreign business operations or income earned in foreign countries were reduced or eliminated.

In order to deal with problems arising from the preparation of income tax returns, the bill imposes identification and reporting requirements on persons and firms that prepare income tax returns for others and sets fines for negligence by tax return preparers or willful efforts to understate or evade any tax. In addition, taxpayers are given the right to block banks or other third parties from complying with IRS administrative summonses for financial records. The IRS would then have to seek Federal court enforcement of the summonses. Also, private IRS letter rulings giving tax law interpretations to specific taxpayers will be made available for public inspection.

Among other provisions, the legislation repeals nearly 150 sections of the Internal Revenue Code and amends 850 additional sections to eliminate obsolete or rarely used provisions.

Council on Wage and Price Stability Act Amendments (P.L. 94-78, approved August 9, 1975)—The Council on Wage and Price Stability was established on August 24, 1974, to monitor wage and price developments in the private economy, to review the inflationary impact of governmental programs and policies, and to recommend measures for containing inflation. The Council's existing authority expired on August 15, 1975. These amendments extended the agency through September 30, 1977, and, in addition, gave the Council expanded powers to investigate business decisions that could contribute to inflation, specifically the power to require reports and subpoena records from businesses with gross income of more than $5 million a year. The Council was also prohibited from publicly disclosing category information from a single firm and was empowered to intervene in ratemaking, rulemaking, licensing, and other proceedings by other Federal departments and agencies. These amendments also require Senate confirmation of future nominees for Council director.

GAO Audit of Federal Reserve Board, Federal Advisory Council, Federal Open Market Committee, Federal Reserve Banks and Branches (H.R. 7590, reported from Banking, Currency and Housing Committee, July 10, 1975)—This legislation will enable the Congress, through its investigative arms, to exercise oversight of Federal Reserve policies, efficiency of its operations, and the administration of the numerous laws within their responsibility. Presently, the Federal Reserve System is not subject to governmental audits as is virtually every other agency and department of the Federal Government.

H.R. 7590 requires the Federal Reserve System to undergo the same type of GAO audits routinely applied to all other major Federal agencies to enable Congress to fulfill its responsibility to determine if these agencies and the programs they administer are operating according to the requirements of law and are providing maximum benefits to the general public in the most efficient and economical way possible.

It is of extreme importance to Congress, as a result of the rise in bank failures in recent years, that an ongoing evaluation of the Federal Reserve's bank supervisory role be undertaken.

In addition, thousands of questionable expenditures made every year by the Federal Reserve System have come to the attention of the Committee. At present, the Federal Reserve System is free to make such payments without having to submit to meaningful outside examination. Indeed, the Federal Reserve audits itself, but no determination is made as to whether expenditures of the System result in the most economical and efficient service possible to provide maximum benefits to the general public or whether all payments are made in strict compliance with the law.

First Debt Limit Increase (P.L. 94-3, approved February 19, 1975)—Early in the session, the Congress increased the temporary Federal debt ceiling to $531 billion and extended it through June 30. The permanent debt ceiling remained at $400 billion.

Second Debt Limit Increase (P.L. 94-47, approved June 30, 1975)—Congress approved in June a further increase in the temporary Federal debt ceiling to $577 billion through November 15, 1975. At that time, a review of Federal borrowing requirements was scheduled to be undertaken as part of a congressional budget resolution in September.

Third Debt Limit Increase (P.L. 94-132, approved November 14, 1975)—Congress approved for a third time in 1975 legislation (H.R. 10585) raising the national debt ceiling, raising the temporary ceiling by $18 billion to $595 through next March 15. The permanent debt ceiling remains at $400 billion.

Other legislation

Lower Interest Rates (H. Con. Res. 133, House agreed to conference report March 17, 1975; Senate agreed to conference report March 20, 1975)—There is no question that the excessively high interest rates experienced by the American economy during 1974 and into the first months of 1975 have been a major cause of inflation—by escalating business and Government costs and by starving interest-sensitive economic sectors of vital credit; and of recession—by siphoning away billions of dollars of buying power.

H. Con. Res. 133 expressed the sense of Congress that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee should pursue policies in the first half of 1975 so as to encourage long term interest rates and expansion in the monetary and credit aggregate appropriate to facilitating prompt economic recovery, and maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long term interest rates.

The resolution also asked that the Federal Reserve should consult at semi-annual hearings with the House and Senate banking committees about its plans and objectives for the growth or reduction in monetary supplies over the following year.

On April 29-30 and May 1, Arthur Burns, in compliance with H. Con. Res. 133, testified before the Senate Banking, Housing and Urban Affairs Committee, revealing for the first time Federal Reserve officials' monetary policy objectives in advance. On July 24, Burns also testified before the House Banking, Currency and Housing Committee.

Romanian Trade (S. Con. Res. 35, passed Senate July 25, 1975; passed House July 28, 1975)—On April 25, 1975, President Ford transmitted to the Congress for approval a bilateral commercial agreement with the Socialist Republic of Romania which would grant to Romania non-discriminatory tariff treatment. In order for the commercial agreement to enter into effect with respect to the United States, both the Senate and House had to grant approval.

Congress approved the agreement on the basis of a belief that the trade agreement with Romania was in the national commercial interest of the United States and in the expectation that the Romanian Government will make substantial and sustained progress in the area of freer emigration. In 1974, United States exports to Romania totaled $277 million (up from $17 million in 1967), while exports from Romania totaled $131 million (up from $6 million in 1967), and more extensive trade is anticipated as a result of this agreement.

War Risk Insurance (H.R. 1073, passed House September 9, 1975)—This legislation would extend the provisions of Title III of the Merchant Marine Act of 1936 relating to War Risk Insurance for an additional three years, ending September 7, 1978. This title expired on September 7, 1975. If renewed, it will authorize the Secretary of Commerce, with the approval of the President, to provide war risk and certain marine and liability insurance for protection of vessels, cargoes, and crew life and personal effects when commercial insurance cannot be obtained on reasonable terms and conditions. The purpose of Title III is to maintain the flow of United States waterborne commerce, including the maintenance of essential transportation services for the Department of Defense.

Council on International Economic Policy, Appropriations (P.L. 94-87, approved August 9, 1975)—The Council on International Economic Policy was established by executive order of the President in January 1971 for the purpose of achieving greater Executive Branch coordination in the development and implementation of international economic policy. This appropriation allows CIEP an exemption from provisions in the United States Code regulating the employment and compensation of persons in the Federal service and permits compensation in excess of the GS-15 level for up to eight CIEP employees in order to give CIEP flexibility in attracting and allocating personnel to meet rapidly the changing circumstances inherent in any coordinating function. Authority for CIEP is also extended to Sepember 30, 1977. In addition, this legislation appropriates $1.65 million for CIEP, a slight decrease in the authority for fiscal year 1975.

Expansion of Rehabilitation and Betterment Act (P.L. 94-102, approved October 3, 1975)—The purpose of this legislation is to clarify the eligibility of projects developed under the authority of the Small Reclamation Projects Act (70 Stat. 1077) for participation in the programs authorized by the Rehabilitation and Betterment Act of 1949 (63 Stat. 724) as amended, which provides that the Secretary of the Interior may make loans to entities operating irrigation systems, constructed under the Federal Reclamation law, for the purpose of rehabilitating and betterment for such systems.

P.L. 94-102 was necessary because of an opinion by the Solicitor of the Department of the Interior that multiple purpose water resource development projects, constructed under the authority of the Small Reclamation Projects Act, as amended, are not eligible, legally, for consideration for rehabilitation and betterment loans because title to "small projects" does not vest in the United States. The Congress, however, believes it reasonable to assume that such programs will in the not too distant future need rehabilitation and betterment assistance, and P.L. 94-102 makes that assistance possible.

Antitrust Parens Patriae Act (H.R. 8532, reported from Judiciary Committee September 22, 1975)—The purpose of this legislation is to provide a new Federal antitrust remedy which will permit State attorneys general to recover monetary damage on behalf of State residents injured by violations of the antitrust laws. The bill is intended to compensate the victims of antitrust offenses, to prevent antitrust violators from being unjustly enriched, and to deter future antitrust violations.

Although the antitrust laws have the immediate goals of protecting and promoting competition, it is the consuming public that ultimately benefits from the enforcement of the antitrust laws. Nonetheless, Federal antitrust statutes do not presently provide effective redress for the injury inflicted upon consumers. This lack of an effective consumer remedy sometimes results in the unjust enrichment of antitrust violators and undermines the deterrent effect of the treble damage action. H.R. 8532 fills this gap by providing the consumer an advocate in the enforcement process—his State attorney general.

A State attorney general is an effective and ideal spokesman for the public in antitrust cases, because a primary duty of the State is to protect the health and welfare of its citizens. He is normally an elected and accountable and responsible public officer whose duty is to promote the public interest.

EDUCATION

Major legislation

Education for Handicapped Children (P.L. 94-142, approved November 29, 1975)—By overwhelming majorities, both Houses approved a measure assuring full educational opportunities for the Nation's approximately 8 million handicapped children. Representing a major new commitment by Congress to quality education for all handicapped children, this Act amends the Education of the Handicapped Act of 1967 (P.L. 90-170) to increase the number of eligible children receiving aid and to assist in defraying education costs. The need for such legislation was emphasized in testimony before the House Subcommittee on Select Education, which estimated that only half of the nearly eight million handicapped children in the United States (through age 19) were receiving appropriate education. Approximately 1.75 million received no educational services at all, while 2.5 million received inadequate schooling. Recent Federal and State court decisions ruled that handicapped children have the right to free and public school education and the congressional action seeks to insure that right.

The Act provides for an immediate extension of the present entitlement formula for allocating funds and authorizes $100 million for fiscal year 1976. That amount is to be doubled for FY 1977, after which a new formula will be established. The new formula provides for a gradually increased percentage of the average expenditure per pupil by the

Federal government. This provision requires a percentage escalation from 5% in fiscal year 1978 to 40% by fiscal year 1982 in funding educational services for handicapped children. There are incentives built into the proposals for the States to increase their services to the children by directing that recipient states spend as much on the handicapped as on the nonhandicapped and that the Federal funds be used only on those "excess cost" factors attendant to the high cost of educating handicapped children. Other provisions are designed to ensure the effective implementation of the program by requiring the Commissioner of Education to conduct periodic evaluations.

The need for comprehensive legislation in this area and the limited educational opportunities available to handicapped children has been emphasized in the three years of oversight hearings held by the House Select Education Subcommittee. The main goal of the Education for Handicapped Children Act of 1975 is to provide free appropriate public education for all handicapped children 3 to 18 years of age by September 1, 1978, expanded to those 21 years of age by September 1, 1980.

National Reading Improvements Act Amendments (P.L. 94–194, approved December 31, 1975)—In approving the National Reading Improvement Act Amendments, Congress has attempted to arrest the declining literacy rate among school children in the United States and to improve the ability of State and local governments to meet the growing demand for reading materials. Hearings before the House Committee on Education revealed that a recent survey by the University of Texas found that almost 20 percent of adult Americans are unable to cope with basic daily tasks in large part because of poor reading ability. Evidence also indicated that for the past 12 years test scores on the college entrance examination have been declining, with the most dramatic decline experienced in 1975.

H.R. 8304, the bill which amends the National Reading Improvement Act (title VII of the Education Amendments of 1974), serves two broad purposes. The first is to allow the U.S. Office of Education to continue to fund the same types of programs during fiscal year 1976 that it has funded in previous years under the right to read program. These activities include funding to the States for leadership and training programs and providing funding for reading programs having a national impact. No additional authorizations of appropriations are required to accomplish this purpose. The second major purpose of the legislation is to authorize the Commissioner of Education to contract with a private nonprofit group or a public agency for the distribution of inexpensive books to children to motivate them to take a more active interest in reading. Under the Act the Commissioner can pay up to 50% of the costs of purchase through a contract with organizations. For fiscal year 1976, $4 million is authorized for this purpose; and for each of the two succeeding years, $9 million is authorized.

Other legislation

Educational Grant and Work Opportunities for Students (P.L. 94–43, approved June 28, 1975)—Responding to the twin burdens of students—reduced scholarship assistance and limited employment opportunities—the Congress enacted legislation to provide educational grants and work opportunities for college students. Entitled the Emergency Technical Provisions Act of 1975, the legislation amends the Higher Education Act of 1965 (P.L. 89–329) and expands the work and educational grant opportunities available to students adversely affected by continued high rates of inflation and unemployment.

The Emergency Technical Provisions Act of 1975 provides benefits to college students to continue their eduactional pursuits by dealing with certain technical problems concerning reallocation of funds which had arisen through interpretations of the existing law by the Office of Education or through the provisions of the statute itself. The Act of 1975 permits an intrastate reallocation of funds which had arisen through interpretations of the existing law by the Office of Education or through the provisions of the statute itself. The Act of 1975 permits an intrastate reallocation of college work-study funds not expended in a particular fiscal year to the next succeeding fiscal year. This action alone preserved approximately $8 million in fiscal year 1975 for summer employment for students. A second provision requires a carryover of funds appropriated for Basic Educational Opportunity Grants in FY 1975 into FY 1976, thus insuring the availability of $135 million which would have been lost for this purpose.

Labor-HEW Appropriations Bill, Fiscal 1975—Busing Amendment (H.R. 8049, vetoed by the President December 19, 1975)—As a final amendment to the Department of Labor and Health, Education and Welfare Appropriations bill for fiscal year 1976, the House and Senate approved language that would have prevented the Department of Health, Education and Welfare from ordering a public school student to be bused beyond the school closest to his or her home. The President vetoed the bill on the grounds that funds approved in the measure exceeded the Administration's budget request. The House is scheduled to consider the veto message of the President on January 27, 1976.

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

Major legislation

Energy

Energy Conservation and Policy Act of 1975 (P.L. 94–163, approved December 22, 1975)—As the First Session drew to a close, the Congress completed action on the Energy Conservation and Policy Act (S. 622), an omnibus measure designed to reduced oil consumption, encourage energy conservation, temporarily contain energy prices, and encourage domestic fuel production. The final measure was an amalgamated version of six different bills passed by one or the other House combined into one measure after nearly two months of work by House and Senate conferees.

The Act seeks to continue existing price levels on domestic oil. The law under which domestic oil prices had been controlled expired on December 15, 1975 (see Emergency Petroleum Allocation Act Extensions), and the Congress wanted to complete action on the energy measure rather than seek yet another extension of price control authority. S. 622 continues for forty months the composite price of domestic crude oil (the weighted average of prices for "old" oil, "new" oil, and oil produced by secondary or tertiary recovery methods) at $7.66 per barrel or less. The President was given wide discretionary powers to permit individual categories of oil to rise in price to stimulate production so long as the weighted average price remained at the required level. The President was also given wide discretionary authority, subject to congressional disapproval, relating to refining and distribution of oil.

To encourage greater use of coal, the Act authorizes the Federal Energy Administration to order power plants and other major fuel users to convert from oil or natural gas to coal. The Act also establishes loan guarantees for small coal mine operators to finance the opening of new underground mines.

To assure a greater domestic energy supply, the Congress gave the President and certain executive agencies broad authority to limit the export of crude oil, natural gas, coal, petrochemical feed stock, or mining and refining equipment when such supplies were necessary for domestic use. The Act authorizes the creation of a domestic strategic petroleum reserve of 1 billion barrels of oil and petroleum products within seven years for use by energy deficient regions or industries in time of emergency.

Presidential authority to impose national energy conservation and gasoline rationing programs is continued by the Act. The President had been granted similar power in the Emergency Petroleum Allocation Act of 1973. S. 622 required the President to submit, within six months, contingency plans for conservation and rationing subject to congressional approval. The President was granted similar authority to take any necessary actions to fulfill U.S. obligations in international oil allocation programs, subject again to congressional approval.

The Act also establishes a comprehensive program to improve the fuel efficiency of major energy consuming products and to encourage Federal and State governments as well as major energy using industries to develop energy conservation programs. S. 662 requires that the average fuel economy of automobiles made or imported by any one manufacturer be at least 18 miles per gallon by 1978, with the requirements gradually increasing to 27.5 miles per gallon by 1985. Manufacturers who fail to meet the standards will be liable to a fine of $5 for each one-tenth of a mile per gallon below the required economy level multiplied by the number of substandard vehicles sold by that manufacturer. (Example: a manufacturer of one million cars annually whose cars fail to meet the economy standard by one-tenth of a mile per gallon would be liable to fines of $5 million.) By the same token, manufacturers who exceeded the economy standard would receive credits against a potential future fine. The bill provides a limited exemption procedure for manufacturers.

Energy efficiency standards are also mandated for major consumer products. The FEA was authorized to engage in testing and labeling programs involving the energy consumption of products such as dishwashers, clothes washers and dryers, air conditioners, home heaters and air conditioners, humidifiers and dehumidifiers, refrigerators and freezers, and kitchen ranges. The bill also requires that, by 1980, manufacturers increase the energy efficiency of these products by 20 percent over their 1972 energy levels.

A three year program of grants totaling $150 million is authorized to assist States in energy conservation program development and implementation. The grants are intended to rdeuce projected state fuel consumptions by 5 percent by 1980. The 10 most energy consumptive industries are encouraged to develop conservation programs, and the Federal Energy Administration is directed to establish voluntary industry conservation guidelines.

The Act grants authority to several agencies, including the General Accounting Office and the Securities and Exchange Commission to develop necessary systems for auditing records of energy companies and for compiling information on energy resources.

Two sections of the Act as reported from conference were rejected by the House of Representatives. A section establishing an office of automotive technology research was rejected on the ground that it was not germane to the bill and came within the confines of another House committee's jurisdiction. A section providing coal mine loan guarantees was expanded in conference to include loan guarantees for the improvement of existing mines, as well as for the construction of new mines. Neither House had previously approved loan guarantees for new mines, and the section was stricken by the House as being new matter. The Senate accepted these modications on December 17, 1975.

Temporary Suspension of Presidential Authority to Impose Fees on Petroleum Imports (H.R. 1767, vetoed by the President March 4, 1975)—Recognizing the urgency of a comprehensive energy policy that reduces the Nation's dependency on foreign oil imports, Congress has made a national oil policy a top concern this session. Members are aware of the cost burden that must be ultimately borne by the consumer if oil import fees are increased. An increase in fees would be inflationary, first driving up the cost of gasoline and fuel consumption for business and private homes. Before Congress and the President could work together on a Federal petroleum policy, however, the President issued a proclamation on January 23, 1975, establishing a schedule of petroleum product import fees ranging from $1 to $3 per barrel of imported crude petroleum without congressional consent under the authority of the Trade Expansion Act of 1962. In an attempt to prevent the President's efforts to usurp the role of Congress in energy policy, Congress responded by considering legislation to delay imposition of the import fees pending completion of a comprehensive energy bill which would deal, in part, with the problem of excessive reliance upon imported petroleum products. The action represented not one of confrontation with the President, but simply one to reserve congressional options to work as an equal partner with the President on our energy program.

The bill sought to negate for ninety days the President's proclamation, and to prohibit for that period any similar presidential directives regarding oil import fees. The Ways and Means Committee, in its report (H. Rept. 94-1), listed several reasons in support of the bill. Among these were the belief that the import fee policy might preempt other approaches to reducing oil demand, the opinion of the committee that the Administration had not sufficiently justified the fees on the ground of national security needs, and the declaration that the President had not consulted the Congress about the decision. In an effort to increase the likelihood that the President would approve the bill, H.R. 1767 also contained sections temporarily increasing the national debt limit.

Emergency Oil Price Increase Limitation (H.R. 4035, vetoed by the President July 21, 1975)—With expiration of Federal authority to set price levels on domestically produced crude oil due to expire on August 31 this year, Congress acted again to prevent a rapid increase in oil prices here at home by extending that authority to December 31 of this year. That authority was contained in the Emergency Petroleum Allocation Act of 1973. Both Houses sought to block the President who wanted to phase out over a period of thirty months controls on domestic oil prices. This action would have preserved the old (prior to 1973) oil price ceiling, and rolled back the price of new oil from an uncontrolled price. Congress feared that with an uncontrolled price plan not only gasoline prices but coal and natural gas prices would be increased substantially. Coal prices alone, according to a Congressional Budget Office report, could increase 30 to 50 percent. In an effort to compromise with the President, Congress would have permitted through H.R. 4035 the Federal Government to allow a gradual increase in oil prices by designated amounts, subject to its approval.

This legislation, would have extended the powers of the Emergency Petroleum Allocation Act of 1973 by which petroleum and natural gas prices were controlled until December 31, 1975, while the power of the President to set "new" domestic crude oil prices higher than those in effect on January 31, 1975 would have been limited. The Congress thought that it could pass a comprehensive energy bill by that time. The bill also expressed the intention of Congress to disapprove any oil pricing policy which would have permitted "old" domestic oil prices to rise above the levels in effect on January 1, 1975. There were exemptions in the bill, directed toward small oil refiners, partly exempting them from the price limitations of the act. The exemptions, it was hoped, would be an incentive to small refiners to expand their refining capacity and production.

Emergency Petroleum Allocation Act of 1973 Extensions (S. 1849, vetoed by the President, September 9, 1975; H.R. 9524, P.L. 94-99, approved September 29, 1975; S. 2667, P.L. 94-133, approved November 14, 1975—Congressional consideration of omnibus energy bills has been spurred by the expiration on August 31, 1975 of the Emergency Petroleum Allocation Act of 1973. This Act established price levels for domestic crude petroleum in an effort to restrain the rapid domestic oil price increases experienced in the wake of the Arab oil boycott and price revisions. The 1973 Act gave to the President standby authority to allocate available oil supplies in the time of emergency, including rationing. There was concern in Congress that the expiration of the Act, in the absence of new allocation and conservation measures, would result in rapid, inflationary domestic oil prices. While Congress worked to arrive at a comprehensive oil bill (see S. 622), it made periodic efforts to extend the life of the 1973 Act until a new bill was ready.

As the August 31, 1975 expiration date neared and a new energy policy bill had not been completed, Congress sought in S. 1849 to extend the controls of the Act until February 28, 1976. The bill passed the Congress on July 31, 1975, but, owing to the August congressional recess, was not acted upon by the President until his veto of September 9, 1975. Technically, price controls had by then expired, but the intent of Congress expressed in debate was that, notwithstanding the date of final passage, that price controls were not to cease. With the veto, price controls temporarily ended meaning that oil oil companies technically were free to raise all their oil to a price level equal to that of oil imported from foreign nations, causing direct and indirect price rises of $40 billion over the next year.

At the time of his veto, the President expressed his willingness to approve a short-term extension of 30 to 45 days thereby enabling the Congress to pass a comprehensive energy bill. With this intimation of support, the House passed on September 11, 1975 a bill (H.R. 9524) to extend the Emergency Petroleum Allocation Act retroactively from September 1, 1975 until November 1, 1975. The Senate subsequently extended the coverage of the bill until November 15, 1975. On September 26, the House agreed to the Senate amendment, and the President signed the bill on September 29, 1975. This extension of price controls on "old" domestic crude oil had the effect of prohibiting price increases for approximately 60 percent of U.S. crude oil production. The Act further prohibited the President from proposing a new oil pricing policy prior to November 1, 1975, with Congress retaining the authority to disapprove the plan.

House and Senate conferees had been at work from late September until November attempting to reconcile differences between the House and Senate omnibus energy bills. The conferees had reached tentative agreement by November 14, 1975, but could not present their report and hope to have it accepted by both Houses before the Allocation Act expired on November 15, 1975. The day before the expiration date, both Houses passed S. 2667 which extended the allocation act for yet another thirty days until December 15, 1975. The President approved the bill on the same date.

Energy Research and Development Administration Authorization of Appropriations (P.L. 94-187, approved December 31, 1975)—The Congress passed and sent to the President a $1.26 billion authorization bill for the Energy Research and Development Administration (ERDA) to continue its mandate to oversee Federal research activity in nuclear, fossil, solar and geothermal energy development. ERDA was created pursuant to the Energy Reorganization Act of 1974 and was given broad power to coordinate research activities among other Federal agencies involved in energy resource development. The authorization Act set funding levels for the various energy research projects in the Federal government.

After the House and Senate passed conflicting measures, a composite bill was reported from conference. The conference report set spending authorizations at $977 million for fiscal 1976, with an additional authorization of $249 million for the fiscal year transition period. The most controversial additions to the House version were provisions for Federal loan guarantees for financing energy technology demonstration projects and giving the Department of the Interior authority to select a public land site for a demonstration project testing the feasibility of on-site oil shale processing. Lengthy debate occurred in the House, and a bipartisan coalition united in disagreeing to the provisions, thereby forcing the Senate to agree to the removal or force another conference.

The rejected loan guarantee program was intended to provide incentives to energy companies to undertake the enormous capital investment needed to develop new energy recovery and development techniques. Many House Members were opposed to aiding the energy companies without any assurance that potential profits from such energy development would yield added Federal revenues. Some Members thought guarantees for small energy companies would be desirable, but were opposed to guaranteeing the investments of corporate energy giants as well.

The second controversy centered around Federal encouragement of the "on site" oil shale development process. Oil shale is crude petroleum located within layers of rock. With the increase in petroleum prices, it has become feasible to mine these shale layers profitably. Two differing technologies exist for exploiting shale oil. One involves mining the shale rock, bringing it to the surface, and heating or otherwise treating the rock to remove the oil. This method is technologically simple, but potentially damaging to local ecology and environment. A second method, the *in situ* or on site method, requires heating the shale rock while it remains in the ground. Sufficient heat will release the trapped oil making it possible to pump the oil to the surface. While the method is environmentally sound, few companies remain convinced of its practicality. Several have examined the process, and rejected it as too costly or too uncertain of success. One major company, Occidental Petroleum, remained convinced of its practicality.

In debate on the conference report, several Members expressed their opposition to granting a tract of land for the development of the *in situ* process when it was likely that only one company would benefit from the assistance. It was pointed out in House debate that the oil company involved had failed to make a competitive bid when other companies acquired land for oil development from the Department of the Interior. Opposition to bypassing Federal land oil leasing policies, and the prospect of Federal assistance to only one company led the House to reject that section of the conference report.

The House did, however, agree to the ERDA authorization conference report with the exception of the two controversial sections referred to above. The Senate agreed to House revisions of the conference report on December 18, 1975.

Energy Conservation and Conversion Act of 1975 (H.R. 6860, passed the House June 19, 1975)—After careful consideration and much debate, the House passed a comprehensive energy bill, which, if enacted into law, could reduce U.S. oil consumption two million barrels a day by 1985 and help prevent a balance-of-payments drain the United States of $60 billion a year—and all paid to OPEC countries. By passing H.R. 6860, the House has demonstrated its willingness to make the hard choices necessary to achieve energy savings, yet make them gradually enough to give consumers and industry time to adjust to the changes in energy supply and cost.

H.R. 6860 would accomplish its energy savings through a combination of penalties, and business and individual tax incentives. The bill would set import restrictions and duties, mandate auto efficiency standards; encourage individuals to purchase energy efficient products through excise tax exemptions and personal tax credits; make businesses more energy conscious through oil and gas fuel taxes and incentives for energy saving measures; and establish an energy trust fund to make money available for energy conservation studies.

Through import restrictions, the House bill would limit the country's dependence on imported oil for fuel in order to make the U.S. economy less vulnerable to OPEC oil price increases. Without import restrictions, increasing demand for oil would cause oil imports to reach 12 million barrels a day by 1985, from the present level of 6 million barrels. H.R. 6860 would limit the daily import average to 6 million barrels a day in 1976, 78 and 79, and 6.5 million in 1977, 1980, and thereafter. The House would provide needed flexibility to meet unforseen circumstances by authorizing the President to raise or lower quotas to reflect changes in economic or weather conditions, or delays in expanding domestic production or achieving oil conservation goals.

An Office of Petroleum Import Licensing would be established within the Federal Energy Administration (FEA) to administer a program of oil import licensing which would assist in monitoring oil imports and protecting independent marketers by guaranteeing them a share in imports.

Import duties of two percent on oil, and five percent on petroleum products would be imposed effective sixty days after enactment to help reduce demand for such products. Presidential authority to impose additional fees on oil imports would be prohibited except in time of war except that the President would have the authority to adjust the duties, but not to less than two percent or to more than the higher of ten percent or one dollar a barrel.

The auto fuel efficiency standards section of H.R. 6860, central to the conservation aspect of the bill, are now public law, having been included in P.L. 94-163 (see summary of Energy Conservation and Policy Act of 1975). Through the use of civil penalties to be charged to companies for not meeting minimum fuel efficiency requirements, these standards would require that the average fuel efficiency of all cars sold by any company be 18.5 miles per gallon in 1978, rising to an average of 27.5 miles in 1985.

To encourage energy-related improvements to homes and the purchase of energy efficient products, the bill contains a combination of personal and excise tax credits both to homeowners and consumers. A thirty percent tax credit of up to $500 would be allowed for the installation of insulation, storm windows or other devices to reduce heat gain or loss in a taxpayer's principal residence. Taxpayers who buy gas saving radial tires would not have to pay the ten cents per pound excise tax on tire, and those who buy oil mixed with reprocessed used oil would have six cents a gallon. H.R. 6860 would also allow a twenty-five percent tax credit up to $3,000 to buy an electric powered vehicle for personal use in highway driving.

Business would be encouraged to invest in energy-saving measures through tax incentives allowing rapid five-year tax write-offs in lieu or normal depreciation deductions for the purchase of equipment to turn solid waste, into fuel, recycle solid waste, extract shale oil and convert it into fuel, process coal into a liquid or gas, carry coal by pipeline, or extract coal from deep mines.

Businesses would be charged excise taxes for the use of oil and natural gas as fuel beginning in 1977, unless certain criteria were met.

The bill also would establish a trust fund to finance energy conservation and conversion projects.

Conservation and Land Management

Surface Mining and Control and Reclamation Act of 1975 (H.R. 25, vetoed by the President May 20, 1975)—For the second time in two years, the President vetoed legislation to establish Federal guidelines regulating strip mining. The rising costs of petroleum and natural gas had made growing use of coal strip mining techniques economically feasible. Before strip mining became widespread throughout the United States, the Congress determined to establish a national policy limiting strip mining use and requiring land reclamation to prevent the widespread landscape scarring which occurred in Appalachia. In 1974, President Ford pocket vetoed a strip mining bill, and drafted a series of objections to the form of that bill. In 1975, the Congress made a serious effort to incorporate many of the President's objections into the bill, but the second bill was vetoed as well.

The vetoed bill created an Office of Surface Mining in the Department of the Interior charged with administering Federal surface mining regulations, reviewing State surface mining regulatory programs, and initiatiing action to enforce compliance with Federal standards. Federal strip mining regulations were to go into force six months after the passage. States were encouraged to establish their own guidelines, but, if they did not act, Federal rules would apply. The bill required mining companies to post performance bonds assuring the completion of land reclamation projects after an area was stripped, and levied taxes on stripped and subsurface coal the proceeds from which would be used to restore abandoned strip mined lands under Federal control. Authorizations for more than $2.5 billion over seven years were included to be used to establish State mining and mineral resource research institutes and mineral research demonstration projects.

Other legislation

Establishment of House Ad Hoc Select Committee on the Outer Continental Shelf (H. Res. 242, passed the House, April 22, 1975)—The complexity of energy related legislation frequently results in the introduction of bills which overlap the jurisdictions of several committees. In 1974, in an effort to remove some jurisdictional conflicts, the original version of the Committee Reform Amendments (H. Res. 988, as reported) sought to establish a standing committee on energy and environment. This proposal was removed from the final version of the resolution, but provision was made to permit the Speaker to refer bills concurrently or sequentially to several committees, or to appoint, with the concurrence of the House, a select committee to consider a specific bill. H. Res. 242 was the first resolution creating such a select committee under the revised House *Rules*.

The bill in question, H.R. 6218, sought to establish national policy regarding the management of oil and natural gas deposits on the Outer Continental Shelf. Similar measures introduced earlier in the session had been referred to the following committees: Interior and Insular Affairs, Judiciary, and Merchant Marine and Fisheries. The House leadership thought that three, or or perhaps four, additional committees could also claim jurisdiction over measures relating to the Continental Shelf.

H. Res. 242, therefore, created the Ad Hoc Committee on the Outer, and specified that its sixteen Members were to be drawn from the Committees on Interior, Judiciary, and Merchant Marine; the select committee is to utilize such committee staff as it required on a loan basis from the three parent committees. The select committee was directed to consider H.R. 6218 and to transmit its findings and report to the House no later than January 31, 1976, at which time the select committee would be disbanded.

Environmental Protection Agency Research and Development Authorization (H.R. 7108, passed the House July 10, 1975)—In authorizing a total budget of $284,642,200 for the Environmental Protection Agency's (EPA) Office of Research and Development for fiscal 1976 (and $71,148,800 for the transition period), the House provided funds to support research activities pursuant to seven acts of Congress. The EPA research and development funding supports research authorized by the Clean Air Act; the Noise Control Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Public Service Act; the Safe Drinking Water Act; the Solid Waste Disposal Act; and the Federal Water Pollution Control Act.

The House took a policy leadership role in the energy research field by authorizing appropriations at a somewhat higher level than requested by the Administration. Funds for noise control research were increased in order that the EPA could continue performing research in this area, although the Administration proposed that EPA only coordinate the research of other agencies. Funding for research under the Clean Air Act was increased by a total of ten million dollars. Of that total, the House voted to provide two million for specific funding for research on the depletion of the ozone layer of the stratosphere.

Authorizing Further Appropriation for the Office of Environmental Quality (P.L. 94-52, approved July 3, 1975)—Congress extended the authorization for the Office of Environmental Quality through fiscal year 1976, authorizing an appropriation of $2,000,000 through June 30, 1976, and not more than $500,000 for the transition period.

In addition to authorizing appropriations, H.R. 8054 also modified the Office of Environmental Quality's original authorizing legislation to allow the Office to accept travel reimbursement from nonprofit organizations and other Federal and State agencies for officers and employees of the Council of Environmental Quality to attend meetings and conferences. The Act also gives the Council the authority to accept volunteer assistance in their programs and to take advantage of regular college programs that supply interns to an agency for working experience and course credits, without requiring that the volunteers be compensated for their services.

Authorizing Appropriations for the National Advisory Committee on Oceans and Atmosphere (P.L. 94-69, approved August 5, 1975)—Congress increased the appropriation authorization limit for the National Advisory Committee on Oceans and Atmosphere, expanded the committee's jurisdiction, and made it more accountable to Congress, in legislation which became law on August 5.

Public Law 94-69 authorizes appropriations of $445,000 to the Committee for each fiscal year 1976, 1977 and 1978 and $112,250 for the transitional period (July 1 through September 30, 1976). The law expands the committee's jurisdiction to include responsibilities in coastal zone management issues and national ocean policy. It makes the committee more accountable to Congress by requiring that the Advisory Committee respond to requests by both the President and Congress.

Authorizing Additional Appropriations for the Noise Control Act of 1972 (H.R. 5272, passed the House July 29, 1975)—Prior to the early 1970's the control and abatement of noise was the concern of a few specialists, and Federal legislation was limited in focus. In 1970, title IV of the Clean Air Amendments Act, P.L. 91–604, entitled "Noise Pollution and Abatement Act of 1970," established the Office of Noise Abatement Control within the Environmental Protection Agency to carry out a one year study of the noise problem.

During the 92d Congress extensive hearings were held on problems associated with noise. The testimony before both Houses of Congress indicated that the effects of noise take many forms, both physiological and psychological in nature. To attack this problem the Congress authorized the Environmental Protection Agency, in the Noise Control Act of 1972 (P.L. 92–574), to conduct further research to determine the effects of the levels of noise abatement activities of the Federal Government, to regulate and label noise levels of products in commerce; and to make available information relating to noise and its effects.

H.R. 4035, as passed by the House, would authorize $36.2 million for continuation of the noise control program. These funds would be authorized for fiscal year 1976 ($15.4 million), transition quarter between 1976 and 1977 ($4.85 million) and fiscal year 1977 ($16.9 million).

Authorizing Supplemental Appropriations to the Nuclear Regulatory Commission (P.L. 94–18, approved April 25, 1975)—Supplemental appropriations were authorized for the Nuclear Regulatory Commission to provide for license fee refunds required by two recent Supreme Court decisions, replace funds which would otherwise have been available to the NRC budget from such revenues, and to provide additional funds to meet the goals of the Energy Reorganization Act of 1974.

The Supreme Court ruled (in National Cable Television Assoc., Inc. v. U.S. and FPC v. New England Power Co.) that the Commission's licensing and inspection fees were unconstitutional in that they essentially covered the costs of administering nuclear regulatory programs, thereby constituting a tax rather than a fee. Under the criteria established by the Court in those cases, the Commission estimated that approximately $9,500,000 of the $50,200,000 supplemental appropriations authorization would be required for license fee refunds.

In addition to meeting the refund requirements of the Court's ruling, the supplemental appropriations authorization was enacted to offset the loss of revenue resulting from the license fee decisions, and to further implement provisions of the Energy Reorganization Act of 1974 which requires that the Nuclear Regulatory Commission become a separate agency.

Nuclear Regulatory Commission Authorization (P.L. 94–79, approved August 9, 1975)—Congress provided authorizations for appropriations to the Nuclear Regulatory Commission for $275,685,000 for fiscal 1976 and the transition period. In addition to authorization of appropriations, the Act provides an additional 131 employees for nuclear safety inspection and enforcement, and prohibited the air transport of plutonium fuel until the Commission certifies to Congress that a safe container, which will not rupture under crash, has been developed.

Energy Conservation in Buildings Act (H.R. 8650, passed the House September 8, 1975)—In the belief that a significant saving in costly heating fuels could be achieved by better building insulation, the House passed a bill providing grants to the States to assist low-income homeowners in insulating their residences properly. The House realizes that fuel homeowners are less able to bear sharply rising fuel costs and are less able to afford the costs of better insulation. The bill also calls upon the Federal government to establish insulation efficiency standards for commercial and residential structures built in the future.

The Energy Conservation in Buildings bill authorizes $55 million in grants to the States over the next three years. Such grants in conjunction with State funds would be used to purchase housing insulation materials. The insulation would be provided to low income homeowners through local agencies, with the General Accounting Office supervising the implementation of the program.

Local building codes and standards vary greatly throughout the United States. This bill authorizes the Secretary of Housing and Urban Development, after consultation with other Federal officials, to formulate fuel efficiency standards for new building construction throughout the United States. The Secretary is directed to set such guidelines for commercial buildings no later than 18 months after the passage of the Act, and no later than three years after the passage of the Act for residential buildings. Recognizing the diversity in local building codes, regional climatic variations, and differing cost benefit analyses, the House bill permits such factors to be considered in drafting the energy conservation standards.

Development of Petroleum Reserves on Public Lands (H.R. 49, passed the House July 8, 1975. In conference)—For more than a half century, the United States has maintained Naval Petroleum Reserves in Elk Hills and Buena Vista, California, and in Teapot Dome, Wyoming. Recently, a fourth naval petroleum reserve in Alaska was created. These deposits of crude petroleum had been designated for the use of the Navy in the time of national emergency when sufficient supplies of foreign or domestic petroleum products could not be assured. Both Houses were agreed that some production from these reserves ought to begin.

The House bill directs production to commence from the Wyoming and California reserves. The crude oil would then be sold on the open market, with the proceeds from such sales to be directed toward increasing production capacity at the reserves and toward purchase of oil in the open market to construct a national petroleum reserve for commercial and private, rather than military, use.

Tennessee Valley Authority Bonding Limit Increase (H.R. 9472, passed the House, October 23, 1975)—The Tennessee Valley Authority Act Amendments of 1970 (P.L. 91–446) set the bonding limit for TVA at $5 billion. Since that time, the energy needs of the region served by the Tennessee Valley Authority (TVA) have increased dramatically, as have the capital costs and lead-time required for additions to the TVA's electric power generating facilities. In order to permit TVA to finance its plant expansion, Congress passed legislation in 1975 increasing the TVA's bond ceiling to $15 billion. These additional bonds will help finance generating plants increasing TVA's generating capacity from 112 billion kilowatts to more than 220 billion kilowatts by 1985.

In return for increasing the authorized bond limit for TVA, the bill provides that TVA will increase its annual payments to the U.S. Treasury to not less than $10 million annually for the next five fiscal years, increasing gradually to $20 million annually by 1985. Such payments to the Treasury will continue until $1 billion has been returned to the Federal government.

State Participation In Environmental Analyses (P.L. 94–83, approved August 9, 1975)—Acting quickly in response to a decision in the Second Circuit Court of Appeals which caused the Federal Highway Administration (FHA) to halt all federally funded highway projects in New York, Vermont, and Connecticut, Congress enacted H.R. 3130 to clarify the National Environmental Policy Act of 1969.

The Second Circuit decision held that certain actions taken by the State of Vermont Highway Department in preparing environmental impact statements for some partially federally funded highway projects were not in compliance with the National Environmental Policy Act because the act required the FHA to be responsible for preparing such statements. The FHA procedure for preparing impact statements prior to the decision called for State officials to prepare the statements under the supervision and review of federal officials. The decision was interpreted by the Federal Highway Administration as prohibiting such State participation in preparing environmental impact statements, thereby requiring that all such studies be conducted solely on the Federal level in States of the Second Circuit. This interpretation by the FHA significantly increased the burden of preparing impact statements on the FHA, causing a halt in Federally funded highway projects in the States of the Second Circuit.

As enacted, H.R. 3130, clearly met the concerns of the court by stating that environmental impact statements which were prepared by a State agency or official under federal supervision, would not be held legally insufficient under the National Environmental Policy Act of 1969 because of State participation.

Saline Water Conservation Program for Fiscal Year 1976 (P.L. 94–38, approved June 19, 1975)—Congressional concern over the potential scarcity of natural resources is reflected in action this session authorizing funds for the continued research into fresh water conversion. Studies conducted by both Federal and private research organizations reveal a likely shortage of fresh water in the United States. The water requirements of an affluent, industrial society continue to grow, and many of the processes which provide for better standards of living render large amounts of water unfit for human or agricultural uses. For example, there is a growing utilization of nuclear reactors to provide relatively cheap electric power. But, the nuclear power reactors require "cooling towers" and large amounts of water; because of its proximity to sources of radioactivity, such water is currently banned from human consumption. Industrial pollution, although currently the object of Federal regulation, made the water in many rivers, streams, and lakes unfit for agricultural use or human consumption. For the long term, therefore, the Congress thought it essential to aid research which could reclaim unusable water for human consumption and to make the virtually limitless supply of ocean salt water, usable for drinking and irrigation.

The Saline Water Conservation Program Act contains provisions regarding several on-going research programs. The Act authorizes the Department of the Interior to continue research to develop new sources of water by finding efficient and economical methods of converting salt water and underground brackish water to pure water for drinking and irrigation. A total of $1.4 million is provided to further basic research in the desalinization of sea water, with an additional $750,000 directed toward the development of the technology necesary for the practical application of desalinization techniques. Another $250,000 is directed to research in the freeze crystallization process of water purfication which may prove suitable for industrial pollution control.

Water Resources Development (P.L. 94-156, approved December 16, 1975)—Congress demonstrated its commitment to work to meet the energy requirements of the Nation in approving H.R. 6669 to authorize the Secretary of the Interior to engage in feasibility investigations of twelve specific potential water and related land resource projects. In addition to recreational water resource and land development, H.R. 6669 would authorize studies of the hydroelectric and geothermal power potential of a number of areas, and also authorize a technical study of integrating the power loads by interconnecting transmission systems of several major river basin power generating systems in order to provide the efficient production of electricity.

Marine Fisheries Conservation (H.R. 200, passed the House October 9, 1975)—A comprehensive fishing conservation management program was approved in the House to regulate U.S. and foreign fishermen within a two hundred mile U.S. exclusive fishery zone. This congressional action was taken partly in response to the international community's inability to reach a consensus on the fisheries question through several years of Law of the Sea conferences involving 4,000 delegates and 140 nations. International law has been in a state of flux as several nations have begun to claim exclusive fishing rights in ocean water up to 200 miles from their shores. Several international conferences on the law of the sea were held in an attempt to reach accord on a new definition of "territorial waters," but the conferences reached no decisions. In this uncertain international environment, American fishermen had been placed at a competitive disadvantage in that the United States did not claim a 200 mile limit as other nations did. Several American fishing vessels, respecting the internationally accepted 12-mile limits, were seized by governments of countries claiming a 200-mile coastal water limit. After the failure of international conferences to adopt a revised coastal water limit, the House moved to end confusion regarding American coastal waters and American fishing interests.

The House bill not only would unilaterally extend the U.S. fishing zone from 12 to 200 miles, but also would regulate as well as assist U.S. fishermen, conserve dwindling fishery resources, and share surplus stocks with foreign fishermen. In addition to granting U.S. fishermen priority rights for fishing within the zone, H.R. 200 would also authorize reasonable license fees for all those fishing within the zone. Funds generated from the fees would be used for marine research and development. Other provisions of the bill would require that all bilateral fishing agreements made by the United States be submitted to the Congress for possible disapproval within 60 days of signing. The bill also contains guidelines for conserving fishing reserves, international allocation of surplus marine life stocks, and for additional Federal assistance to American fishing interests.

Marine Protection Research and Sanctuaries Act (P.L. 94-62, approved July 25, 1975)—When the Marine Protection, Research, and Sanctuaries Act of 1972 was enacted into law, Congress made a national commitment to protect ocean waters from the unregulated disposal of wastes and toxic material. Prior to the passage of this Act dumping of materials into the marine environment was completely unregulated, despite existing knowledge that many disposals had an adverse effect on the oceans and adjacent or connecting waters. With the approval of H.R. 5710, Congress extended appropriations authorizations under Title I and Title III of the 1972 Act through fiscal year 1976, and provided an authorization of $15,875,000 for the transition period from July 1 to September 30, 1976.

To Promote the Conservation of Migratory Waterfowl by Acquisition of Wetlands (H.R. 5608, passed the House July 8, 1975)—In an effort to spur the Federal Government wetland acquisition program, the House extended the authorization for the Wetlands Loan Act of 1961 for an additional seven years, and increased the appropriation level an additional $95 million.

The term "wetlands" generally refers to lowlands covered with shallow and sometimes temporary or intermittent waters. They are referred to by such names as marshes, swamps, bogs, wet meadows, potholes, sloughs, and river overflow lands. Wetlands are being destroyed or degraded at an alarming rate with greatest losses occurring in the glaciated prairie pothole region, the Mississippi River Delta region and certain coastal areas. In addition the bill extends the payback deadline under the Wetlands Loan Act from fiscal 1977 to ficsal 1983, the date when monies appropriated to the Migratory Bird Conservation Fund would be required to be repayed to the Treasury from duck hunting stamp receipts.

Small Reclamation Projects (H.R. 6874, passed the House October 6, 1975)—In extending the small reclamation projects program, the House continued its endorsement of a program which allows qualified non-Federal public agencies to receive loans from the Federal Government to construct minor water resource projects—without the long time-consuming procedures that are required for major undertakings. This red-tape cutting program has been in existence since 1956, and has resulted in 72 loans being approved for 62 separate projects representing an investment of $180 million.

In addition to extending the program, H.R. 6874 gives the Secretary of the Interior authority to make loan modifications based on the rate of inflation, and allows reclamation funds to be used for the purchase of existing facilities in lieu of new construction.

River Basin Authorizations (P.L. 94-101, approved October 2, 1975)—Congress corrected deficiencies of the Water Resources Development Act of 1974 by approving supplemental appropriation authorizations for four river basin projects which were in danger of being halted for lack of authority to continue. The Act authorizes to be appropriated $4 million for the Arkansas River Basin, $158 million for the Mississippi River and tributaries, $22 million for the North Branch, Susquehanna River, and $2 million for the Santa Ana River Basin in California.

Expanding Coverage of the Rehabilitation and Betterment Act (P.L. 94-102, approved October 3, 1975)—Congress moved to provide Federal rehabilitation and modernization loans to small local water projects by amending the Rehabilitation and Betterment Act of 1949 (63 Stat. 724) to include such projects under the Secretary of the Interior's loan authority under the 1949 law. In 1975, the Interior Department ruled that projects constructed with Federal assistance under the Small Reclamation Projects Act of 1956 were not eligible for improvement loans under the Rehabilitation and Betterment Act. This Act allows projects constructed under the authority of the Small Reclamation Projects Act to be eligible for Federal loans under the Rehabilitation and Betterment Act of 1949 if they appear desirable to rehabilitate and modernize small water facilities.

Grand Canyon National Park Enlargement Act Amendment (P.L. 94-31, approved June 10, 1975)—In an amendment to the Grand Canyon National Park Enlargement Act of the 93d Congress, the House and Senate moved to provide for further protection of the wilderness areas within the park by authorizing a new wilderness study. Such a study was made of the park under terms of the 1964 Wilderness Act. Large increase in popularity of the section of the Colorado River which runs through the Canyon in recent years for recreational use, and the consequent ecological and social conflicts which have occurred, provided impetus for a continuing environmental impact study.

National Wildlife Refuge System Administration Act (H.R. 5512, passed the House November 14, 1975)—In a reaction to an order by the Secretary of the Interior transferring management jurisdiction of three game ranges in the Western part of the United States from the U.S. Fish and Wildlife Service to the Bureau of Land Management, the House passed H.R. 5512 to make clear its intention that all units of the National Wildlife Refuge System are to be administered by the Fish and Wildlife Service. The ranges involved are the Kofa in Arizona, the Charles Sheldon in Nevada and Oregon, and the Charles M. Russell in Montana.

During the 1930's President Franklin D. Roosevelt established four wildlife ranges as part of the National Wildlife Refuge System in order to protect species such as the desert big-horn sheep, the pronghorn antelope, the bald eagle, the peregrine falcon, and the prairie falcon. In addition to the three areas affected by H.R. 5512, the Cabeza Game Range in Arizona was also created for this purpose.

At the time of the establishment of the Kofa, Russell, Sheldon and Cabeza Prieta ranges, management was assigned jointly to the U.S. Fish and Wildlife Service and the Bureau of Land Management (BLM). Joint jurisdiction over these four ranges has been a source of difficulty for both agencies, and it has long been felt that some resolution to the problem should be found. On February 15, 1975, the Secretary of the Interior announced that effective July 1, 1975, the BLM would assume sole management authority for the Sheldon, Russell, and Kofa Ranges and the U.S. Fish and Wildlife Service would be given exclusive management authority for the Cabeza Prieta Range.

H.R. 5512 would serve to assist in protecting and conserving the fish and wildlife resources of the Nation by requiring that areas included in the National Wildlife Refuge System be administered by the agency whose mission it is to protect wildlife—the U.S. Fish and Wildlife Service. All areas included in the National Wildlife Refuge System as of January 1, 1975 would continue to be a part of the system, and could not be transferred or otherwise disposed of except pursuant to an act of Congress. In addition, the legislation would require all areas within the system to be administered by the Secretary of the Interior through the U.S. Fish and Wildlife Service. However, an exception would be made with respect to those areas within the system as of January 1, 1975, that were jointly administered by the Secretary through the U.S. Fish and Wildlife Service and another Federal agency—such as the Bureau of Land Management—or a State governmental agency so as to allow such joint administration to continue.

Water And Power Development And Energy Research (P.L. 94-180, approved December 26, 1975)—In enacting the Public Works For Water Power Development and Energy Research Appropriation Act of 1976 (H.R. 8122), Congress made significant policy decisions in the energy field to bring the country closer to energy self-sufficiency. The Act represents a substantial congressional commitment to investment in the future needs of America to meet the energy crisis; it provides for essential public water supplies; flood and beach erosion control; and reclamation, irrigation, navigation, and other essential services for America's expanding population. In addition to the beneficial energy and environmental impact of the Act, the new projects authorized will provide capital assets which will create employment at a time when new jobs are urgently needed.

The four titles of the bill provide funding for projects of the Energy Research and Development Administration, Corps of Engineers, Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian Regional Development Commission, Federal Power Commission, TVA, and the Nuclear Regulatory Commission.

Congress demonstrated its policy leadership in the energy field by funding the energy research portion of the bill at a rate greater than the original administration request. Particular congressional concern was expressed for progress in the solar and geothermal research areas. The bill contains $82,700,000 in fiscal year 1976 for solar energy research and development expenditures—an increase of $73,930,000 over the fiscal 1975 funding level of $8,770,000 for solar energy. A total of $31,170,000 is provided for geothermal expenditures—an increase of $17,370,000 over the $13,800,000 for fiscal year 1975.

Congress continued to develop the Nation's water resources for energy, environmental and recreational uses in agreeing to $2,125,607,000 for fiscal year 1976 for the U.S. Corps of Engineers, and $675,344,000 for the Bureau of Reclamation. The projects funded by these appropriations will serve the Nation in many ways—communities and businesses will receive water supplies, communities will be protected with flood control, energy will be generated by hydropower facilities, commerce will be increased along inland waterways, food will be grown on irrigated acreage, and widespread benefits will be made available to millions of Americans.

In addition to the direct job and energy creating effects of the bill, H.R. 8122 makes a long range impact on America's energy and environmental policies by providing funding for the various independent offices with jurisdiction in these fields. Among others, the bill funds the Appalachian Regional Commission, the FPC, and TVA for fiscal 1976, as well as providing funds for a number of regional environmental and energy agencies such as the Delaware River Basin Commission and the Water Resources Council.

Nuclear Indemnity Program (P.L. 94–197, approved December 31, 1975)—Recognizing the Nation's growing commitment to the production of nuclear energy, both Houses extended and modified the Price Anderson Act of 1957 (due to expire in 1977) to provide insurance to compensate the public in the event of a nuclear accident. H.R. 8631 would extend the Price-Anderson system for compensating losses in the unlikely event of a nuclear accident for an additional 10 years. Moreover, the nuclear industry would be required to gradually assume greater financial risk through a system of private insurance. Although the limit on the nuclear industry's liability would be continued under the bill, the limit would eventually rise as the number of nuclear plants in operation increases, and once the Government's responsibility as indemnitor is replaced by a system of private insurance.

The bill also would provide funds for public liability up to a total of $560 million in the event of a nuclear accident. This figure represents the sum of the amount of Government indemnity fixed at $500 million by the Congress, and the then-existing (1957) maximum available from private liability insurance, $60 million.

Since the enactment of the Price-Anderson Act, there has not been a single accident which has resulted in indemnity payments for public injury under its provisions. This outstanding safety record has been accompanied by a gradual growth in the nuclear power industry. The Price-Anderson Act has served its dual purpose of protection of the public and elimination of a potential deterrent to the establishment of a nuclear industry.

Without this extension of the Price-Anderson Act, nuclear power plants now in the planning and design phases would not be eligible for insurance because the Price-Anderson Act applies only to licenses issued prior to August 1, 1977. Reactor manufacturers and architect-engineers are already requiring escape clauses in their contracts to permit cancellation in the event some form of protection from unlimited potential liability is not provided. By taking action well before the expiration date of the 1957 Act, Congress assures the continuing development nuclear power generating plants to meet the growing energy requirements of the nation.

Establishing the Hells Canyon National Recreation Area (P.L. 94–199, approved December 31, 1975)—The House moved to protect a valuable scenic and recreational resource in passing S. 332 to establish the Hells Canyon National Recreation Area in the States of Idaho, Oregon, and Washington. The bill would create a recreation area along the Snake River from Hells Canyon Dam (Idaho) to Asotin, Washington, comprised of approximately 670,000 acres.

The Hells Canyon area has long been an area of controversy, pitting conservationists against hydroelectric power interests wishing to dam portions of the Snake River. Studies of this reach of the Snake River have been undertaken intermittently since the early 1900's for recreational, navigation, and multiple-purpose development. In 1964 the Federal Power Commission granted the Pacific Northwest Power Company a license to build a plant—a decision ultimately appealed to the Supreme Court.

The land to be included in the recreation area includes the deepest gorge in North America—more than a mile deep in some locations.

In addition to authorizing $10,000,000 for the purpose of acquiring land or interests in land within the recreation area, the bill also provides an additional $10,000,000 for development of certain recreational facilities, and not more than $1,500,000 for identification, development, and protection of historical and archeological sites in the Area.

Increasing Appropriation Authorization For Volunteers in Parks Program (P.L. 94–128, approved November 13, 1975)—By increasing appropriations authorizations from $100,000 to $250,000, Congress endorsed a highly successful program enacted in 1970 (84 Stat. 472) designed to utilize the skills and interests of private citizens through a voluntary program to supplement the operations of the Park Service. In fiscal year 1975, 5,000 volunteers contributed, free of charge, 300,000 hours to park programs at a cost to the Federal Government of 28 cents per hour. The appropriations authorized under the program went to reimburse the out-of-pocket expense of the volunteers, and to provide uniforms and materials to the persons donating their time to complete projects initiated under the program.

Congress enacted the $150,000 increase in appropriations authorizations in order to encourage the expansion of the program, especially to meet the anticipated heavy usage of Park Service facilities during the Bicentennial celebration.

GENERAL GOVERNMENT

Major legislation

Legislative Branch

Establishment of a Select Committee on Intelligence (H. Res. 138, passed by the House, February 19, 1975; subsequently, on July 17, the House passed H. Res. 591 superseding H. Res. 138 by abolishing the 10-Member Committee and establishing instead a 13-Member unit)—The House of Representatives has long recognized its constitutional obligation to exercise legislative review over executive branch operations and expenditures, and the *House Rules* (Rule X, section 2) specifically require each standing commitee to carry out oversight responsibilities on a continuing basis.

Consistent wtih this trend toward greater oversight activities, the House established a Select Committee on Intelligence to investigate a number of intelligence gathering agencies and to determine whether they have acted in accordance with their charters and other Federal laws.

The committee, in its initial hearings, concentrated on tracing intelligence agencies' budgetary appropriations and expenditures. The committee has sought to determine which agency operations may have been outside present statutory limitations, and what actions may be needed to remedy current shortcomings. The committee has often found itself in conflict with executive branch officers in asserting its right to information, culminating in committee approval of a contempt citation against Secretary of State Kissinger for failure to provide needed material requested by the Committee. The need for this citation was obviated when a compromise was reached, and the issue never came before the full House. The Committee has no legislative authority, but it can make recommendations as to legislation.

House Ethics Code (H. Res. 46, passed House April 16, 1975)—In attempting to establish regulations governing instances where Members of the House have been involved in questionable legal affairs, the House passed a Code of Ethics dealing with this matter.

The resolution amending Rule 43 of the *House Rules*, provided that any Member who pleaded guilty to a crime, or was convicted and sentenced to two or more years' imprisonment, should voluntarily refrain from voting in the House and in committee.

The House, of course, has the power, by two-thirds vote, to censure or to expel a Member. But, many Members felt this too strong a measure in some cases that nevertheless demanded some action.

Thus the compromise of advising Members with legal entanglements to refrain from voting was arrived at. It achieves the two objectives the House strived for: it established a policy to be followed, and it preserved the integrity of the House.

Adoption to House Rules (H. Res. 5, passed the House on January 14, 1975)—In a continuing reform effort at opening up the legislative branch to public scrutiny—an effort initiated by passage of the Legislative Reorganization Act of 1970 which included provisions for open hearings and recorded teller votes—the House Rules adopted for the 94th Congress embody many proposals aimed at strengthening the legislature by repealing those provisions that preclude public observation.

Specifically, the omnibus rules package stipulated that a committee meeting could be closed only by a vote of the day of that specific meeting, and not in advance as had been the case. In practical terms, this meant that a committee or subcommittee could no longer decide to close an entire series of meetings to the public; now each meeting must be closed, presumably, on the nature of the specific topic to be discussed or considered. In addition, the resolution endorsed the concept of open conference committee meetings (providing that a majority of conferees from one house do not object), a concept that the Senate has adopted as well.

The Rules for the 94th Congress also abolished the Committee on Internal Security (HISC) by transferring its jurisdiction to the House Judiciary Committee. The HISC had long been the object of controversy, as had its predecessor committee, the Committee on Un-American Activities.

The resolution also changed the minority staffing provisions adopted in the 93d Congress by increasing the statutory number of committee personnel from 30 to 42 by adding six majority and six minority staff positions, increasing the total number for the minority to 16.

Executive Branch

Federal Employees Political Activities Act (H.R. 8617, passed the House on October 21, 1975)—Despite Administration objections, the House approved legislation repealing the Hatch Act's ban on partisan political activity by Federal employees.

These employees had long been restricted in their exercise of free speech by being precluded from running as candidates or otherwise participating in partisan elections. The Hatch Act provisions were first enacted in 1939 to counteract speculation that the burgeoning Federal work force would become politicized. Similar prohibitions, with regard to specific government installations, had been on the books for a longer period of time. For example, an 1867 statute forbade assessments for political purposes to be levied against Navy yard employees, a provision that was expanded in the Pendleton Act of 1883.

As passed by the House, the new measure would permit Federal workers to engage in political activity, including partisan candidacies, but at the same time strengthened restrictions against political coercion by prohibiting use of any official authority to influence a worker's vote or political activity and maintained the present restrictions against political activity during duty hours in Federal facilities.

The law had a special effect in the Washington, D.C. metropolitan area where there are an estimated 350,000 Federal employees. There is a total of 2.8 million Federal employees affected by this legislation.

Other legislation

Executive Protection Service (H.R. 12, vetoed by the President, November 29, 1975; H.R. 11184 passed the House December 17, 1975, Public Law 94-196, approved December 31, 1975)—The President first vetoed this legislation proposing that the Executive Protection Service (EPS) which provides security assistance to the President, presidential candidates, various executive branch officials and certain foreign and diplomatic missions and personnel in the U.S., be expanded to offer more coverage of foreign diplomatic missions outside of Washington. The House then passed a revised version—substantially the same, but with certain technical changes—that had been worked out to meet the Administration's objections regarding the method by which eligible cities could seek EPS assistance.

The most visible part of the Executive Protection Service is, of course, the Secret Service agents who guard the President. However, their duties are far broader than that, and this Act, which increased authorized personnel by 350, from 850 to 1,200, enables the Service to better protect additional diplomatic missions and their staffs in the United States in accordance with the obligations of international law. In areas with a high concentration of such persons, such as Washington and New York, this allows local police to concentrate on other responsibilities. The legislation covers seven cities which have 20 or more missions.

Presidential Protection Assistance Act of 1975 (H.R. 1244, passed the House May 5, 1975)—In response to a congressional study which found that $17 million in public funds were spent on President Nixon's three private properties for various items, many of which were unrelated to security needs, the House took action to ensure fiscal responsibility and public accountability in future expenditures of this nature. While recognizing the need to provide effective protection for our President, Vice President, and other designated officials, the House believed the history of, and potential for, abuse in this area called for definite limitations on the account and nature of expenditures made in the name of security. Home improvements and landscaping designed to boost resale value rather than afford increased protection would no longer be permitted. Under this bill, permanent security would be limited to one non-government property, expenditures for permanent security installations at a second privately owned property would be limited to $10,000 without explicit Congressional authorization and periodic public reports of any expenditures made for security purposes would be required.

Employment of Certain White House Personnel (H.R. 6706, passed the House July 9, 1975)—In order for Congress to have a positive input as to the number of persons employed in a number of White House offices, the House provided legislative authority for staff support, administrative expenses, maintenance, and operational costs for the Office of the President, the executive residence, the Vice President, and the Domestic Council.

In contrast to the Administration request, the House elected to limit by number the persons so employed. At the same time, this bill leases a parliamentary snag that had arisen during consideration of prior White House appropriations bills, since these bills had been called without a proper authorization, thus requiring a waiver of points of order.

Overseas Citizens Voting Rights Act (P.L. 94-203, approved January 2, 1976)—Congress took action this session to guarantee to all American citizens residing outside the United States the right to register and vote in presidential and congressional elections. Reliable estimates indicate that there are more than 750,000 American citizens of voting age who reside outside the United States for nongovernmental reasons. Studies have shown that nearly all of these private citizens living outside the United States are unable to vote in presidential and congressional elections because they cannot meet the residency requirement of the State in which they formerly made their home. Many States distinguish between those persons living abroad who are employed by the Federal government either in a civilian or military capacity and those Americans who live outside the United States as employees of American corporations. In the case of the former group of persons many States presume their intent to return to their previous residence and permit them to vote absentee. However American citizens outside the United States for private reasons, have found that they must prove their intent to return by maintaining a residence within their former State, a requirement beyond the financial capability of most.

This Act (S. 95) provides those citizens residing outside the United States with the right to register and vote for President and Members of Congress in the State of their last voting domicile, even if they cannot prove intent to retain that State as their domicile for other purposes. To be eligible, a citizen must have a valid U.S. passport or card of identity issued under the authority of the Secretary of State and must declare his intention to retain that State or district as his voting residence for the purpose of voting in Federal elections. States would be required to provide for the absentee registration of these persons.

Use of Census Bureau Data to Facilitate Redistricting (P.L. 94-171, approved December 23, 1975)—State governments, in their attempts to redistrict congressional and state legislative seats, have often found that census data, compiled in census tract units, was not compatible with the practical use needed by the State, usually data compiled by precinct or other election district.

This legislation (H.R. 1753) would give the States the opportunity to design their own units for redistricting purposes, subject to technical contraints and criteria established by the Bureau of Census. In this way, States can reform districts, both for congressional and State legislative seats, with a minimum of difficulty, since population and demographic data will have been compiled in a useful form by the Census Bureau.

Intergovernmental Personnel Act (H.R. 4415, passed the House September 3, 1975)—These amendments to the Intergovernmental Personnel Act of 1970 continue, for three additional years, the programs whereby the Federal Government provides both technical and financial assistance to State and local governments for personnel and manpower training programs.

More specifically, this Act allows State and local government personnel to develop management competence and further their administrative capabilities in order to increase their effectiveness both on a local level and in dealing with the Federal Government. These programs are funded on a matching basis.

This legislation allows greater participation in the programs associated with the Intergovernmental Personnel Act by extending the Act to permit public employee organizations to apply for grants to establish similar manpower and personnel programs. In this way it is hoped that programs administered under this law will not be limited to either labor or management, but will offer a variety of options to be taken advantage of by those who work with State and local government.

Representation for Federal Employees (H.R. 6227, passed the House October 28, 1975)—The House took action reflecting a concern for the rights of Federal employees when being questioned by an employer or supervisor.

This legislation ensures Federal workers of the right to representation during any time of questioning if the employee is under investigation for misconduct which would lead to suspension, removal from office, or reduction in pay or rank.

Presently, an employee is often unprepared for interrogation by an employer or supervisor, since prior notification is not required when formal charges are filed.

Federal Employees, Mandatory Retirement (H.R. 504, passed the House July 22, 1975)—Present law requires Federal workers to retire at age 70 only if they have 15 years of service; without the requisite number of years workers continue to work past age 70.

In practical terms, this discourages workers past age 55 to come to work for the Federal government and to provide their invaluable expertise, since they would not be eligible for retirement with health and life insurance benefits intact until past age 70 (having 15 years of service).

This legislation would reduce the requisite years of government service to five, acting as an incentive to older workers who could still look forward to retirement at 70.

Franked Mail Regulations (P.L. 94-177, approved December 23, 1975)—Regulations regarding the use of the congressional frank by former Members were changed to limit the use of the frank to those functions associated with closing down a Member's office.

The Act (H.R. 4865) would limit franked mailings by ex-Members to books and other items taken from their congressional offices and for casework. The House Commission on Congressional Mailing Standards and the Senate Select Committee on Standards and Conduct are charged with developing regulations to implement this legislation.

Travel Expenses Act Amendments of 1975 (P.L. 94–22, approved May 19, 1975)—This law increased the per diem travel expenses and mileage allowances for Federal employees when traveling on official business.

The rates raised by this bill (S. 172) had not been changed in a number of years and were no longer realistic figures. The per diem rate of $25 for travel has been in effect since 1961; the new rate is 20 cents. The bill enacted into law differed from that originally passed by the Senate and objected to in the House which would have broadened the circumstances under which Senators and their aides could receive travel allowances. The statute, as enacted, merely raised the applicable figures without enlarging the scope of participation.

Federal Election Commission Authorization (S. 1434, passed the House June 19, 1975)—The Federal Election Commission (FEC) was authorized funds for 18 months totaling $7.788 million, a cut from the $20 million, 2 year authorization, requested by the Commission.

The Commission was created by the Federal Election Campaign Act Amendments of 1974, and is empowered to administer, interpret, and enforce Federal campaign finance election law. It is also responsible for the campaign finance reporting and disclosure requirements applicable to all persons seeking nomination or election to Federal office. It has six voting members who serve staggered six year terms.

The 18 month authorization carried the Commission through the 1976 elections, the first in which the FEC will operate. Had the House authorized funds for only 12 months, as had been considered, it would have been necessary to consider an additional authorization in the midst of a campaign, a sticky political situation. The Senate has also approved an 18 month authorization, but at a slightly higher level.

Accounting and Auditing Act (H.R. 8948, passed the House October 20, 1975)—This legislation grants the General Accounting Office (GAO) the authority to investigate the Internal Revenue Service, while at the same time safeguarding the right of privacy traditionally attached to citizens' tax returns.

This legislation is necessary because the IRS has interpreted its present charter prohibiting the dissemination of "tax return information" to include virtually all material relating to individuals' tax returns.

One net result of this interpretation has been to preclude the GAO from conducting audits and/or investigations of IRS activities and operations. The GAO has no authority to seek redress through the courts—thus, this legislation was the only remedy.

National Emergencies Act (H.R. 3884, passed House September 4, 1975)—This Nation has technically been in a state of national emergency since March, 1933, when President Roosevelt was attempting to meet the problems of the depression. Three of the national emergencies have been proclaimed since then, and they, too, are still in operation.

Until these proclamations are repealed, the government can operate consistent with the special procedures established for national emergencies, which in some cases severely infringe upon due process of law, despite the fact that the particular emergencies are no longer valid.

This legislation provides procedures and requirements to be followed in establishing and in terminating a national emergency. By establishing such regulations, and by providing for the termination of these emergencies, it is hoped that the government will function in accordance with the regular and normal provisions of the law, and not through provisions designed for emergency purposes.

Constitution for Virgin Islands (H.R. 9460, passed the House October 6, 1975) and *Constitution for Guam* (H.R. 9491, passed the House October 6, 1975)—Both bills provide these U.S. territories with the right to formulate and adopt constitutions as part of a trend toward self-government. The constitutions adopted by the territories can, of course, in no way infringe upon the powers inherent in the Federal government.

Both territories took a significant step toward self-government in 1970 when Congress granted the right to elect their own governors, and then an additional step in 1972 when the right to elect Delegates to the House of Representatives.

HEALTH

Major legislation

Health Revenue Sharing, Health Services, and Nurse Training Act of 1975 (P.L. 94–63, vetoed by President July 26, 1975. Senate passed over veto July 26, 1975; House passed over veto July 29, 1975)—Congress passed the first major health program of the session and at the same time overrode a presidential veto for the first time in 1975 when it enacted P.L. 94–63. The legislation (S. 66) exemplifies the continual desire of the Congress to improve the health care and health-related research in this country. An omnibus measure, P.L. 94–63, amends the Public Health Services Act of 1943 and extends major health services (such as community and mental health centers, migrant health centers, family planning programs, and home health services), and nurse training programs. contains three bills which passed the House earlier this year and two which covered the same programs and were pocket-vetoed by the President after the adjournment of the 93d Congress.

Titles I through VI contain provisions similar to H.R. 4925 and authorize funds for fiscal 1976 and 1977, as well as extend funding for health services through fiscal 1975 at their fiscal 1974 level.

Title I authorizes formula grants to States for support of comprehensive public health services, the detection, prevention, and treatment of hypertension. The States are required to use portions of the grants for mental health services and other community services, with the hope of improving and expanding community health services. These grants were first authorized in 1966 and have formed a strong basis for Federal-State sponsorship of needed health programs.

Title II authorizes federal grants for projects, research, training programs, and information covering family planning; and Title III continues federal support for community mental health centers and establishes a National Center for the Control and Prevention of Rape. The funds for community mental health centers are authorized with the hope that quality mental health services can be given to thousands of Americans who are unable to obtain such care. New and existing mental health centers seeking Federal grants are required to provide a number of services within two years of receipt of grants and to make medically necessary services available around the clock.

Title IV authorizes grants for the planning and operation of health centers serving migrant and seasonal agricultural workers, who have only these centers in many communities to provide them with their basic health needs. Federally assisted migrant health centers are required to arrange for numerous health, physician, and environmental health services, including screening for infectious and parasitic diseases.

Title V authorizes grants for the planning and operation of health centers located in medically underserved rural or inner-city areas, with the hope that high quality health services in all American communities can be a national objective and that no community will be deprived of such services because of inadequate financial resources.

Title VI extends through fiscal 1976 programs to control diseases borne by rodents, authorizes grants for home health services and to establish centers for hemophelia treatment and blood separation. It also establishes various national commissions and committees to study mental health of the elderly, epilepsy, and Huntington's disease.

Title VII, similar to H.R. 4114, extends through fiscal 1976 the National Health Service Corps program, in an attempt to solve the problem of geographic maldistribution of health professionals.

Title IX authorizes funds for nurse training programs to assure that advances made in the supply of nurse manpower is not diminished and that such progress can continue. Similar to H.R. 4115, it authorizes grants for nursing educational facilities, for the advanced training of nurses in certain fields, for short-term training of nurses aides and nursing home orderlies, and loans and scholarships for various nursing students. It also requires the Secretary of HEW to report to Congress by February 1, 1977, on the projected supply and distribution of nurses in the U.S.

Drug Abuse Treatment Act Amendments (S. 2017, passed the House September 11, 1975. In conference)—The House reaffirmed its support of a comprehensive, coordinated drug abuse prevention effort at the Federal level by amending the Drug Abuse Office and Treatment Act of 1972 to recreate a high-level agency capable of coordinating drug abuse programs carried out by Federal departments and agencies. The 1972 Act (P.L. 92–255) had created a White House Special Action Office on Drug Abuse Prevention, as the Federal focus on drug abuse. The office, however, formally went out of existence June 30 of this year. Its responsibilities subsequently were turned over to the National Institute on Drug Abuse (NIDA) within the Department of Health, Education and Welfare (HEW).

Today, however, the country is faced with a drug abuse problem which is more serious and more complicated in many respects than that which it faced in 1972, with the need for a coordinated federal response as great as it was then. This House action provides continuity to these efforts since 1972 to overcome drug abuse by reviving within the Executive Office the Office of Drug Abuse Policy. The role of the new office is redefined to one strictly of coordination and policy directions. This office will terminate on July 1, 1976, at which time its functions will be transferred to the National Institute on Drug Abuse of HEW, which under this legislation, immediately assumes the programmatic role of the former Special Action Office. This role includes the authority to award grants and contracts for pharmacological research and technical assistance to State and local agencies for drug abuse prevention.

In addition, the measure authorizes $3 million for the Office of Drug Abuse Policy and $7 million for the special projects fund available to its Director for fiscal 1976; it merges the National Advisory Council for Drug Abuse Prevention and the National Advisory Council on Drug Abuse; amends existing provisions with respect to admission of alcoholics and alcohol abusers enacted last year; requires any records maintained by NIDA about patients to be used solely for statistical purposes; makes minor revisions in the existing authority for formula grants to States for drug abuse prevention programs and in the existing authority for special project grants and contracts; and authorizes appropriations through fiscal 1978 for formula grants to states for drug abuse prevention programs and for special project grants and contracts.

With the magnitude of the current drug abuse problem evidenced by a drastic increase in serum hepatitis, drug-related deaths, drug-related admissions to hospital emergency rooms, and domestic seizures of heroin, S. 2017 is clear recognition of the problems that need to be brought under immediate control.

Developmentally Disabled Assistance and Bill of Rights Act (P.L. 94–103, approved October 4, 1975)—With the enactment of P.L. 94–103, the 94th Congress renewed its efforts to help Americans suffering from mental retardation and other developmental disabilities such as cerebral palsy, epilepsy, autism, dyslexia, and other neurological conditions which originate in childhood and constitute a substantial handicap to the affected individual. Today there are over six million people in the United States suffering from mental retardation with an estimated several additional million people suffering from other developmental disabilities. Congress has long recognized that citizens with these afflictions need support and assistance through education and other social services so that they may function in society.

The Congress began to respond to the needs of these individuals many years ago with approval of social security and rehabilitation programs. This response received new impetus in 1963 with the enactment of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88–164). This Act provided for centers for research on the mentally retarded, construction of university-affiliated facilities for the mentally retarded, and training of teachers of mentally retarded and other handicapped children. This legislation was continued with modest revisions by the Mental Retardation Amendments of 1967 (P.L. 90–170), but substantially rewritten in 1970 by the Developmental Disabilities Services and Facilities Construction Amendments (P.L. 91–517). This Act changed the direction of the program to a broader and more inclusive concern for the developmentally disabled by authorizing formula grants to States for planning, administration, construction, and services concerned with developmental disabilities; grants for training programs in institutions of higher learning; grants for special projects of national importance, grants for the construction and operation of university-affiliated facilities for those with developmental disabilities; and providing for the establishment of a National Advisory Council on Services and Facilities for the Mentally Disabled. This Act has been successful with its contributions to the quality of the lives of those suffering from mental retardation and other developmental disabilities.

Congressional action this session amends the Developmental Disabilities Services and Facilities Construction Act of 1963 by extending the successful developmental disabilities programs as authorized in 1970 by P.L. 91–157. One section of that Act, the state formula grants, has been particularly successful in effective planning by the States of their programs, initiation of new programs, and filling gaps among existing efforts; and P.L. 94–103 authorizes additional funds for fiscal 1976–1978 for continuation of these state grants. This measure also authorizes additional funds for fiscal 1976–1978 for university-affiliated facilities training personnel to care for the developmentally disabled, including construction of such facilities.

Included in this measure are authorizations to the States for fiscal 1976–1978 for the protection and advocacy of the individual rights of persons with developmental disabilities. Many handicapped and disabled citizens are often deprived of their rights and relegated to second class status. However, P.L. 94–103 enumerates the rights of these citizens including: their right to appropriate treatment, services, and habilitation, designed to maximize their developmental potential and provided in a setting that is least restrictive to their personal liberty; and obligation of the Federal Government and States to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities which do not meet certain criteria and standards beneficial to the disabled individuals. In addition, P.L. 94–103 requires the States to have a system to protect and advocate the rights of these individuals with such a system having the authority to pursue the appropriate remedies to insure the protection of these rights.

Health Manpower Act (H.R. 5546, passed the House July 11, 1975)—In an effort to alleviate the critical national problem of doctor maldistribution and seek some return on the support paid to schools for training health professional, the House passed a revision and extension of the authorities of the Public Health Service Act of 1943. These programs provide assistance to students and schools of medicine, dentistry, veterinary medicine, public health, podiatry, optometry, health administration and pharmacy. The measure also revises the National Health Service Corps Program, whereby members of the Public Health Service and other personnel practice their professions in areas of the United States where health personnel and services are inadequate.

The geographic maldistribution of health manpower represents one of the most serious barriers to access to quality health care in the United States. Increases in the supply of health professionals have not led to a more equitable distribution of health manpower; and in spite of significant increases in the total supply, the geographic maldistribution of health manpower has worsened in the past decade. Complicating this is the lack of balance within regions; the suburban and smaller urban areas generally have more physicians than do rural and inner city areas. The three most important causes of this problem are the high level of financial remuneration for medical services, the lifestyle preference of middle class Americans, and the nature and location of medical training, the overproduction of medical specialists at the expense of primary care physician output.

H.R. 5546 attacks these problems with the anticipation that there will be a voluntary infusion of substantial numbers of physicians and other health professionals into rural and urban medically underserved areas. It authorizes annual scholarships to health professions students who agree to repay each year of support with one year of service in some form of public service or one year of private practice in a medically underserved area, bonuses to doctors and dentists who continue public service beyond the one-year requirement, and annual payments of $12,500 for up to two years to health professionals who have completed their required service but continue to practice in medically underserved areas.

Capitation (per-student) grants are barred after June 30, 1976, to schools which do not guarantee that its students will repay the federal government either in annual installations, with public service or private practice in a medically underserved area, or with required military service. The per-student repayment requirement applies only to students who enter health professions schools after June 30, 1976, allowing repayment to be deferred until the calendar year beginning two years after their study or residency training. Other restrictions are placed on federal support to medical, osteopathic, dental, and other health professional schools if enrollment does not increase or they do not provide training at site geographically remote from the school or take other steps to alleviate the geographical maldistribution of health professionals.

Other legislation

Health Maintenance Organization Amendments (H.R. 9019, passed the House November 7, 1975)—This measure amends the Health Maintenance Organization Act of 1973, designed as a five year test of the ability of the Federal Government to assist in developing new, comprehensive prepaid medical groups (Health Maintenance Organizations (HMOs)) throughout the country to provide health services at fixed monthly rates or annual prices to enrolled members and to encourage preventive medicine. Rising medical costs in the 1970's stimulated interest in HMOs as an alternative to traditional solo-practice, free-for-service medical care. The program, administered by the Department of Health, Education, and Welfare, has grown more slowly than anticipated; and H.R. 9010 is designed to correct the deficiencies of the original law, improve administration of the program, and make HMOs more competitive with traditional insurance programs and health delivery systems.

The House bill extends the program for two years, 1979 and 1980, shifting its present authorizations and appropriations so that new ones will not be needed. In addition, it modifies the requirements of the original law to provide that HMOs may include supplemental health services as basic health services, do not have to offer all supplemental health services, and can charge members only for the supplemental services for which they have contracted. The organizations may obtain the services of health professionals through contract with individual health professionals and through any combination of individual health professionals, staff, medical groups, and individual practice associations. This legislation also drops the requirement for open enrollment and waives for up to five years the requirement for community rating. Alcohol and drug addiction services, though not included as basic health services, will be considered as supplemental health services, and immunizations, well child care, periodic health evaluations for adults, and ear examinations for children will be included as preventive health services. Supplemental health services may include other health services which are approved by the Secretary of HEW, and non-profit HMOs may receive loan guarantees with the Secretary of HEW giving special consideration to loan applications for projects for HMOs which served medically underserved populations. In addition, the Secretary of HEW will be required within six months after the date of enactment to notify the Governor of each State of each law, regulation, or other requirement preexempted by the provisions of the original act; and the requirement that the GAO study the HMO program is revised.

Biomedical Research (H.R. 7988, passed the House October 20, 1975. In conference)—In passing this measure to amend the Public Health Services Act of 1943, the House renewed its support of programs of critical importance to the health and welfare of more than 40 million Americans who are directly affected by genetic diseases and diseases of the heart, lung, and blood. This legislation offers a significant opportunity to lower the costs and incidence of these diseases, since it extends the authority of the Department of HEW to conduct research, experiments, and demonstration programs.

One of the more significant provisions included in the measure is the title change of the National Heart and Lung Institute to the National Heart, Lung, and Blood Institute, thereby extending the authority of the Institute to the use of blood products and the management of blood resources. The measure also requires the President's Biomedical Research Panel to conduct an investigation of the implications of disclosure of research information obtained by the Secretary of HEW in connection with applications or proposals for grants, fellowships, or contracts submitted during calendar year 1975. This results from a decision by the U.S. Court of Appeals for the District of Columbia Circuit that the Freedom of Information Act requires public release of applications submitted to HEW in connection with research products.

H.R. 7988 directs the Secretary of HEW to support research in the areas of genetic diseases such as Tay Sachs, sickle cell anemia, Cooley's anemia, and hemophilia, all of which affect more than 12 million Americans. It also directs the Secretary of HEW to establish a unit within the department to carry out a program for the development of information and educational materials on the diagnosis, treatment, and counseling of all genetic diseases.

Finally, at the request of the Administration, the bill extends to all Federal institutions qualified to support the National Institutes of Health in its research activities, the authority to receive research, training, and demonstration grants from HEW.

HOUSING AND REGIONAL DEVELOPMENT

Major legislation

Housing

Emergency Middle Income Housing Act (H.R. 4485, vetoed by the President June 24, 1975)—Citing provisions which he said would set interest subsidy levels that were "excessively deep and costly," President Ford vetoed the Emergency Housing Act of 1975 which would have authorized emergency Federal Assistance to stimulate housing construction, increased employment, and provided critically needed housing for families now priced out of the housing market.

Title I of the bill would have established a temporary emergency program in order to increase the present low level of housing starts and create jobs. Homebuyers whose family income did not exceed 120 percent of the median income of their area would have been offered three options to assist them in buying a home: (1) a six percent mortgage loan which would have gradually increased to the market rate of interest after three years; (2) a seven percent mortgage for the life of the loan; or (3) a $1,000 cash grant to be used to defray the downpayment expenses on a newly constructed house. This program would have provided assistance for up to 400,000 middle income families.

The second title of H.R. 4485 (eventually enacted in subsequent legislation—see summary of P.L. 94–50), was designed to authorize the Secretary of HUD to make repayable mortgage relief payments to homeowners whose incomes had been substantially reduced because of involuntary unemployment or underemployment. This section would have authorized $500 million to make emergency mortgage relief payments up to $250 per month for a period of no longer than two years for homeowners delinquent in their mortgage payments.

Continuation of the highly successful Section 312 rehabilitation home loan program was also rejected by the President's veto (this section was also enacted subsequently in P.L. 94–50). Section 312, a program designed to preserve existing houses by making rehabilitation loans in urban renewal areas, was due to expire in 1975.

Other provisions included in the vetoed bill were the extension to 1977 of a low-income homeownership subsidy program (Section 235) which had been suspended by the administration in early 1973; an increase in new contract authority for public housing construction contained in a 1974 housing law (P.L. 93–383) to $300 million from $150 million; and a section extending to January 1, 1976, from July 1, 1975, the effective date of provisions of a 1973 flood insurance act (P.L. 93–234) which would have barred lenders from making mortgage loans on existing housing in areas that had not adopted HUD land use standards for flood-prone areas.

Emergency Homeowner Relief Act (P.L. 94–50, approved July 2, 1975)—Congress provided a needed stimulus to the housing industry, and met the objections of the President to an earlier emergency housing bill (see summary of H.R. 4485 vetoed June 24, 1975) by passing the Emergency Homeowners Relief Act. The Act contains provisions for mortgage foreclosure relief to an estimated 100,000 families who may be unable to meet their mortgage payments and thus risk losing their homes. It authorizes the Department of Housing and Urban Development (HUD) to co-insure mortgages in default or to make monthly payments of up to $250 a month for as long as 24 months when lenders are unwilling or unable to forbear on their loans. The Act authorizes $1.5 billion for coinsurance contracts and a maximum of $500 million for mortgage relief loans. Since the funds to be made available by HUD under this title will eventually be repaid by the homeowners after they are back on their jobs, this program may well succeed without substantially burdening taxpayers generally.

The Act also extends the Home Purchase Assistance Act through June 30, 1976 to include condominiums and apartments as well as other forms of housing. The Act also expands the President's authority to make mortgage credit available when housing starts are low, as well, and provides for an additional $10 billion of authority for HUD to provide mortgage credit at a maximum rate of 7½ percent. In extending the Home Purchase program to June 30, 1976, Congress hopes to provide a crucial boost to the still sagging homebuilding industry, by making mortgage credit available to many more families on terms they can afford.

The legislation continues the highly successful Section 312 rehabilitation home loan program which would have expired during 1975. Section 312, a program which attempts to preserve existing houses, has served as a model to many local governments that are now setting up their own rehabilitation loan founds. Section 312 authorizes direct 20-year, three percent rehabilitation loans for residential and business properties located in urban renewal and code enforcement areas. Priority in residential loans under section 312 is given to persons of low or moderate income.

Finally, the Act extends by seven months, the time period during which certain purchasers of older inner-city homes, insured by the Federal Housing Administration (FHA), can apply for compensation correcting serious defects in their homes that were not detected at the time of purchase.

Real Estate Settlement Procedures Act Amendments (P.L. 94–205, approved January 2, 1976)—In 1974 Congress enacted the Real Estate Settlement Procedures Act, a measure which attempted to provide the prospective homebuyer with adequate protection against unscrupulous practices that were causing homebuyers to pay unconscionable fees in closing costs, and to provide homebuyers with adequate disclosure of settlement costs. Real estate settlement practices are different in each of the 50 states and each state differs extensively within the numerous governmental subdivisions. The attempt of last year to legislate nationally with the Real Estate Procedures Act on the problems that had arisen with regard to real estate practices in a number of jurisdictions has proved in many areas of the country to be unworkable, overly rigid in a number of other areas, and too flexible to be administered adequately in those jurisdictions where real estate settlement practices needed the attention of Federal regulations.

S. 2327 makes major changes in the 1974 Act by repealing the 12-day advance disclosure provision and providing instead that a disclosure of good faith estimates of settlement costs be made in the special information booklet that is provided the borrower at the time a written application for a mortgage loan is made. This continues the congressional intent to provide the prospective homebuyer with general information as to what costs will be at the time of settlement.

This measure also clarifies the anti-kickback provisions of the 1974 Act to make it clear that cooperative brokerage and referral arrangements of real estate agents are exempt from the prohibitions of kickbacks and unearned fees. This clarification also allows the Secretary of Housing and Urban Development (HUD), in consultation with the Attorney General and other agencies, to exempt other payments or classes of payments from this provision.

In addition to other changes, S. 2327 also grants the Secretary of HUD greater flexibility in modifying the uniform settlement statement to adapt to area differences and to permit the HUD Secretary to exempt certain classes of settlements from these requirements.

Mobile-Home Loan Ceilings and Flood Insurance Temporary Extension (P.L. 94–173, approved December 23, 1975)—By passing S. 848, Congress acted to establish new ceilings for mobile-home loans, and to insure that more than 11,500 communities now participating in the national flood insurance program under emergency insuring authority will be able to continue participation through the first quarter of 1976.

Higher mobile-home loan ceilings are necessary to take into account rising costs in the construction of a mobile home. The existing ceiling of $10,000 for a single-module mobile home was established in 1969, and the ceiling of $15,000 for a double-module mobile home in 1970. No increase in maximum loan amounts for mobile homes eligible under the program has occurred since that time, despite subsequent increases in mobile home manufacturing costs (including the cost of raw materials, labor, shipping, and carrying charges) and consequent increases in purchase prices. During the same period, maximum mortgage limits for FHA-insured homes have been increased substantially. The increases to $12,500 and $20,000 respectively will assure the continued usefulness of the loan program to prospective mobile-home buyers who can benefit substantially through these loans. Such loans generally have lower interest rates, longer maturities, and valuable consumer protections, such as a minimum one year warranty by the manufacturer, that are not always available in connection with other mobile home financing.

The extension of the national flood insurance program insures the continued availability of federally subsidized flood insurance to those communities who have not filed an approved flood plan. The extension means that persons in those towns that are not currently participating in the national flood insurance program will be able to finance a home mortgage. Without the extension, such a mortgage would have been almost impossible to obtain because banks would not be allowed to make, increase, extend, or renew such a loan. Thus, passage of the measure was crucial to the security of the individual home-owner. The extension of the emergency implementation program will give those communities who have not done so the necessary time to participate in the flood insurance program. In the meantime, individuals will be able to purchase or sell a home in those areas.

Home Mortgage Disclosure Act (P.L. 94–200, approved December 31, 1975)—In order to provide community residents with information on the lending practices of local mortgage institutions so that residents can use the threat of withdrawal of savings accounts as leverage to force lenders to make more mortgages in their communities, Congress passed home mortgage disclosure requirements as Title III of H.R. 10024, Depository Institution Amendments. The purpose of this legislation (S. 1281) is to disclose to consumers information about certain aspects of the mortgage lending patterns of institutions. Using this information, consumers can determine whether lenders are "redlining" their neighborhoods—that is, arbitrarily denying loans on basis of geographic location, without regard to the value of the property or the credit worthiness of the potential borrowers. In passing this legislation, Congress did not determine this practice was widespread; it merely provided certain data be provided the public so that it can make its own determination. Although redlining is only one aspect of financial disinvestment in urban neighborhoods, and financial disinvestment is only one aspect of urban decay, it is hoped that disclosure of mortgage lending information will make the public aware of the problems of urban decay and the needs for revitalizing the Nation's cities.

Five Percent New Home Tax Credit (P.L. 94–12, approved March 29, 1975)—To further encourage homeownership and to reduce a large inventory of unsold housing units, Congress included a 5 percent tax credit (with a maximum of $2,000) for the purchase of a new principal residence in the Tax Reduction Act of 1975.

The 5 percent tax credit provision was carefully drafted by Congress to apply only to unsold housing units under construction at the time that the law was approved. To prevent speculation in prices by developers only houses and apartments which were offered at the lowest price they ever had been offered would be eligible for the tax credit. Taxpayers who completed purchase of homes before December 31, 1975 would be eligible to take credit in tax year 1975. Taxpayers who signed a contract to purchase a house before December 31, 1975, but completed purchase in 1976, would be eligible to claim the credit in tax year 1976.

Regional Development

Regional Development Act Amendments of 1975 (P.L. 94–188, approved December 31, 1975)—In order to continue and improve upon the ten years' experience that we have had in promoting economic development with a regional approach, Congress extended and amended the Appalachian Regional Development Act of 1965 and Title V of the Public Works and Economic Development Act of 1965.

The creation of the Appalachian regional development program was the outgrowth of national attention focused on the social and economic hardships suffered by the people who lived in the 13-State region. It was a region which traditionally had a lower than average income. Its economy was largely based on a single industry—coal. Its rugged terrain made access from one area to another difficult, and resulted in both social and physical isolation. It was an area which lacked many of the basic community facilities and services that had been taken for granted in many other sections of the country.

The Appalachian Regional Development Act created a unique new partnership between the Federal and State governments in order to permit a regional approach to the problems of this area. The early emphasis was on creating the infrastructure of community facilities and services to support a strong and diverse economy. Progress has been made toward realizing the goals set forth when the Act was passed in 1965. During the past decade incomes have increased, the number of jobs has substantially grown, out-migration has been reversed, and the levels of health and education have improved. Commission figures show that Appalachia's poverty population has decreased since 1960 from 31 percent of the total population to 18 percent.

H.R. 4073 will continue this unique and innovative program that has helped people in a 13-State region to develop more effective governmental institutions and basic public facilities that promote their participation in the growth and development of the American economy. It extends the Appalachian regional development highway program for three years, and authorizes $250 million for fiscal year 1978, $300 million for fiscal years 1979 and 1980, and $171 million for fiscal year 1981. Approximately half of the 2,700 miles of authorized Appalachian development highways are either completed or under construction. This network, which supplements the Interstate System and other roads, is breaking down the barriers which inhibited travel within the region and access to the rich markets lying just beyond the borders.

H.R. 4073 also extends, for four years, the nonhighway programs authorized by the Appalachian Regional Development Act, and authorizes a total of $640 million for this period. These programs have brought to communities throughout the region the benefit of improved health facilities and services, better housing, and innovative vocational education programs.

The legislation also recognizes the importance of Appalachia as an energy resource potential, and provides for assistance to the region in developing a balanced and rational energy policy that recognizes the changing structure of energy and fuel supply and demand, and that protects the fragile environmental areas and the social and economic life of the region. In addition, it contains provisions designed to enhance the participation of the region's Governors as active members of the Appalachian Regional Commission.

The Appalachian region contains all or parts of 13 States. Thirty-one other States are contained, in whole or in part, by other multi-State regions which are served by multi-State regional commissions (Title V Commissions). Like the Appalachian Regional Commission, the Title V Commissions were given broad authority to supplement other Federal grants, to undertake planning and studies, to provide technical assistance to local government, and to encourage the capability of State members to foster the economic growth of the region. H.R. 4073 extends the commissions for two years, and authorizes a total of $361.25 million for continuing the work of these commissions and for establishing new commissions. H.R. 4073 also expands the program authority of the Title V Commissions in the areas of energy, transportation, education, and health—all crucial elements in economic development.

Other legislation

Variable Rate Mortgage Prohibition Act (H.R. 6209, passed the House May 8, 1975)—In a reaction to a proposal of the Federal Home Loan Bank Board to permit Federal Savings and Loan Associations to offer variable rate mortgages for home purchases, the House passed H.R. 6209 to prohibit such a practice. Proponents of the ban on variable rate mortgages argue that such mortgages would further depress the housing industry by contributing to the uncertainty currently felt by potential home purchasers. Proponents of H.R. 6209 also argue that the adoption of the variable rate mortgage would mean an end to the fixed rate mortgage by bringing windfall profits to lending institutions. Savings and Loans would be allowed under the regulation to pay fixed rates to savers, and lend mortgage money to borrowers at variable rates. Thus, the small saver would be forced to bear a double burden of having his rate of savings return fixed at a low rate by the Federal Home Loan Bank Board, at the same time that his home mortgage varied with the market demand for money.

Some proponents of the ban also argue that variable rate mortgages would remove another large segment of Americans from the Housing market—those persons with fixed incomes. Over the past 25 years mortgage rates have gone from 4 percent to as high as 11 percent. Although there have been slight variations downward, the overall trend has been upward. In view of these circumstances, lending institutions would probably adopt more restrictive lending practices, possibly only lending to those persons considered upwardly economically mobile, because of the probability that mortgage payments would rise significantly over the life of any given loan.

INCOME SECURITY AND SOCIAL SERVICES

Major legislation

Public Assistance

School Lunch and Child Nutrition Act Amendments of 1975 (P.L. 94–105, vetoed by the President October 3, 1975. House and Senate passed over veto October 7)—By an overwhelming majority Congress enacted over the President's veto legislation amending and extending the school lunch and other child nutrition programs. The Administration had attempted to replace categorica nutrition programs with block grant assistance to the States. Instead, the Congress acted to continue the categorical programs, provide new Federal subsidies for the school lunch program and make other changes in federal child nutrition programs.

The Act makes the school breakfast program permanent and requires that it be made available in all eligible schools where needed. It expands eligibility for school lunch and school breakfast programs to children in public or licensed nonprofit private residential institutions, such as orphanages and homes for the mentally retarded or emotionally disturbed. It revises the year-round phase of the special food service program to establish a child care food program for children in nonresidential child care institutions through September 30, 1978. In addition, the summer food program is extended through September 30, 1977, with the requirement that meals be served without cost. The special supplemental food program for women, infants and children (WIC) is also extended through September 30, 1978, with appropriations of $250 million a year authorized for fiscal years 1976–78.

The income eligibility for reduced price lunches (those costing a maximum of 20 cents) is increased from 75 percent to 95 percent above income poverty guidelines.

Thus, under income poverty guidelines currently in effect, children from families of four with income up to $9,770 would be eligible for reduced-price lunches. Any child whose parent or guardian is unemployed is allowed under the Act to receive either a free or reduced-price lunch during the period of unemployment if the family income during that period of unemployment falls within the income eligibility criteria for those types of lunches.

Prohibition of Food Stamp Cost Increases (P.L. 94-4, without approval, February 20, 1975)—In one of its first legislative actions, the 94th Congress suspended the Administration's plan to increase the cost of coupons to food stamp recipients until December 30, 1975. Such an increase would have hurt most those most affected by inflation and recession—the poor, the elderly and the unemployed. The proposed new regulations would have forced all food stamp recipients to spend 30 percent of their net incomes to purchase the stamps.

The new regulations were suspended, rather than disapproved, in order to give Congress time for a full review of the food stamp program, and to consider legislative changes to curb excessive costs and abuses, such as purchase of the stamps by students and other young people from higher income families. President Ford permitted the bill to become law without his signature.

Social Services

Older Americans Act Amendments of 1975 (P.L. 94-135, approved November 28, 1975)—New Federal assistance to the elderly was provided by Congress in this legislation which extends existing programs authorized under the 1965 Older Americans Act (P.L. 89-73) and creates new programs to provide the elderly with services in the home, counseling, housing assistance and transportation services. For the extension and new services, a total of $2.6 billion was authorized for fiscal year 1976-1979. Among programs extended are the Foster Grandparents and Senior Companions programs, and special programs for the aging under the Adult Education Act, the Higher Education Act, the Older Americans Comprehensive Service Amendments of 1973 and the Vocational Education Act. Under the Act, a State must commit not less than 20 percent of its State plan funds for the following categories: transportation, home care, legal services and residential renovation and repair. In addition, the Secretary of Labor is authorized to establish an Older American Community Service Employment program to promote part-time work opportunities for unemployed low-income persons aged 55 or older.

Community Action Agencies (H.R. 8578, passed the House November 19, 1975)—H.R. 8578 would amend the Community Services Act of 1974 to increase the Federal share of financial assistance to community action agencies. Since 1967, the Federal government has paid 80% of the costs of community action agencies. However, the Community Services Act of 1974 provided that this share would decrease to 70% in fiscal year 1976 and 60% in fiscal year 1977.

Historically, the community action agencies were instituted to give the poor, for many years voiceless and neglected, a participatory, decision-making role in initiating and administering programs designed to bring them into the mainstream of our national life. Community action agencies are responsible for planning a comprehensive strategy to effectively and efficiently attack poverty in a given area; they organize and coordinate all available public and private resources by establishing local requirements and priorities; and they encourage full participation in program development and implementation by all segments of the community. Community action agencies represent a way of mobilizing all kinds of resources to fight poverty. In recognition of the fact that for many years the participants in these programs have been neglected and that only a minuscule proportion of our resources have been expended for their use, the Federal Government, out of general revenues, contributed 80% of these special program costs, mandating that the localities make up the remaining 20%.

This legislation would continue the historical level of Federal participation in community action programs, instead of requiring greater participation from the State and local levels at a time when high unemployment and falling tax revenues at the local and State levels have made participation by these governments especially onerous. In the present climate, State and local governments are bearing as much of the burden as can be expected of them. It is essential, therefore, the Federal participation be restored to the 80% level.

Child Support Program Improvements (H.R. 8598, passed the House July 21, 1975)—This legislation would make needed improvements in a 1974 child support law (P.L. 93-647) designed to step up collection of child support payments from runaway fathers. The 1974 law, which went into effect on August 1, 1975, has posed enormous problems of compliance for many States, has reduced the income of welfare families in a number of States, and has been criticized by many as an unwise intrusion into State and local governments' responsibilities related to family law and child support.

The provision with the most immediate impact would relax a requirement that States establish federally approved child support programs by August 1, 1975 and assume the right to all support payments due welfare families. A number of States have not yet changed their own welfare laws to comply with the 1974 Act. The bill would permit States to be considered in compliance until January 1, 1977, if they are making "good faith" efforts to comply with their child support programs. Under the 1974 Act, States use the support payments to offset welfare costs, and the Federal government pays 75 percent of the cost of an approved program. After January 1, 1977, the bill permits the Department of Housing and Urban Development (HUD) to reduce Federal welfare payments under the Aid to Families with Dependent Children (AFDC) to States that are not in full compliance.

The revisions in the bill passed by the House also protect welfare families in 12 States from a loss of income due to implementation of the child support program. To offset welfare costs, the 1974 Act requires absent parents to make support payments to the State or local welfare agency instead of the family; when a family no longer receives welfare, the absent parent would make payments directly to his family. In 12 states, however, the level of welfare payments is below the level of need, and these States have allowed welfare families to keep child support payments in order to make up the difference. In order to prevent families from losing money when child support payments are made to the States, the bill would require States to raise welfare benefits accordingly.

A third section of the bill would modify a provision of the 1970 Act requiring mothers applying for AFDC payments to cooperate in efforts to locate an absent father. A mother would not have to cooperate if the State welfare agency decides that finding the father would not be in the best interest of the children; that is, if he were likely to harass, threaten or physically harm his family.

This bill would also repeal a number of provisions of the 1974 Act that allow States, with the permission of HEW, to use the federal courts to enforce court orders for collection of support payments; that permit HEW to certify that delinquent support payments should be collected by the IRS in the same way it collects back taxes; that require HEW to set up a '"parent locator service" to gather information from federal agencies and other sources about the location of parents who deserted their families; and that allow a broadly described group of public officials access to state records dealing with child support programs. All of these provisions of the 1974 act were considered an excessive intrusion by the Federal Government into an area of traditionally State and local responsibility.

Other legislation

Postponement of Day Care Center Staffing Rules (P.L. 94-120, approved October 21, 1975)—This measure postpones for four months implementation of controversial staffing requirements for federally funded day care centers and was enacted in order to give Congress time to consider whether the requirements should be changed. The requirements, scheduled to take effect October 1, 1975, had been blocked temporarily by a Federal court order. A 1974 law revising the social services program required day care centers to hire one staff member for every five children ages three to five and one adult for every four children under age three. Day care centers not in compliance after October 1, 1975, would have lost their federal funding. Day care center operators in a number of states maintained that the requirements would have put them out of business because they did not have the funds to hire additional staff. They also argued that they could not expect lower-income mothers to pay higher fees to cover the cost of meeting the requirements.

Food program, Special Supplemental for Women, Infants and Children—continue through September 30, 1975 (P.L. 94-28, approved May 28, 1975)—The special supplemental food program for women, infants and children was scheduled to expire on June 30, 1975. Congress passed this temporary authorization in order to allow sufficient time to complete action on P.L. 94-105, the School Lunch and Child Nutrition Amendments which included extended authorization for the program. See Public Law 94-105, above, for explanation of food program.

Repatriated U.S. Citizens-Food Stamp Eligibility (P.L. 94-44, approved June 28, 1975)—This law makes permanent the authority under the Social Security Act which permits the Secretary of Health, Education, and Welfare, to provide temporary assistance to American citizens and their dependents who have been repatriated from foreign countries. A sum of $8 million is authorized for this purpose through September 30, 1976, and $300,000 for each subsequent fiscal year. Another provision extends for an additional year, through June 30, 1976, the provision which extends to the needy, aged, blind and disabled people qualifying for benefits under the SSI program eligibility to participate in the Food Stamp Program.

Social Security Hearings and Appeals, Expedite (P.L. 94-202, approved January 2, 1976).—By an overwhelming majority, the House approved an emergency provision designed to reduce the existing backlog of 105,000 Social Security appeals cases pending before the Social Security Administration by establishing provisions for expediting the processing of hearings and appeals.

First, the measure would eliminate the distinctions between hearings held concerning Social Security claimants whose applications for benefits have been denied under the SSI program and those hearings that are conducted under the Old Age, Survivors and Disability Insurance Program and the Medicare Program, in order to permit one set of hearing examiners to preside over both types of cases; second, it would authorize HEW to permit SSI examiners to act as temporary Administrative Law Judges (operating under the provisions of the Administrative Procedure Act and thus independent of HEW) until December 31, 1978, in order to hear Social Security and black lung cases. A third provision would reduce the period in which a claimant may appeal a decision regarding his or her Social Security or Medicare benefits from six months to 60 days at both the hearing and reconsideration levels.

By eliminating the distinctions in the nature of hearings and hearing officers under the Social Security and SSI programs, the House seeks to effect a reduction in the hearing backlog of some 3,000 cases a month. Reducing the time limit for a claimant to appeal an adverse decision from six months to 60 days, while not adversely affecting individual rights, would reduce administrative costs and decrease the amount of new work resulting from claims filed near the six month deadline.

Medicare Amendments (P.L. 94-182, approved December 31, 1975)—While Congress considers fundamental revision of the Medicare program, both Houses passed legislation in the meantime making minor changes in the program for the agend. The Act gives rural hospitals another three years to comply with a requirement that they provide Medicare patients with the nurse services of a registered nurse around the clock. That authority was set to expire on December 31 of this year. Another provision protects doctors against a reduction in charges they can collect under Medicare as a result of the Department of Health, Education and Welfare (HEW) regulations that took effect July 1, 1975. The regulations tied increases in physician charges that would be reimbursed under Medicare to an economic index reflecting increases in doctors' operating costs and earning levels. However, in some cases the regulations rolled back reimbursement rates so that doctors were receiving less than they had for the same service in fiscal 1975. Some Members feared that more doctors would exercise their option to charge Medicare patients more than the Federally established reimbursement rates, forcing patients to make up the difference. Under the Act, a physician cannot receive less for a service in fiscal 1976 than he did in fiscal 1975. Congress will later study whether or not the index itself is fair. Finally, authority is given to HEW to increase the monthly premium paid by Medicare patients for physician services, to reflect inflation.

LAW ENFORCEMENT AND JUSTICE

Major legislation

Federal Rules of Criminal Procedures Amendments Act of 1975 (P.L. 94-64, approved July 31, 1975)—Recognizing that the efficient and orderly conduct of trials must be based on commonly known and accepted standards of procedures, Congress affirmatively acted to develop such standards, based upon rules proposed by the U.S. Judicial Conference, to govern pre-trial, trial, and post-trial situations. Delays in trials which are currently clogging our courts will be lessened by the new requirement that advance notice be given of intent to use insanity or an alibi as a defense, thus allowing the prosecutor to develop his case prior to the introduction of surprise elements during the trial itself. The new reciprocal discovery rule, which requires the defendant to share information with the prosecution if information is requested from the prosecution, will ensure that both sides of a court challenge are operating from the same knowledge and will eliminate any unfair advantage given to one side or the other. In plea bargaining situations, the prosecution will have the right to recommend sentencing on remaining charges and thus will be able to take into account the eventual sentence a defendant will receive prior to the acceptance of a guilty plea to lesser offenses. Other such standards included in the law serve the purpose of streamlining the judicial process while ensuring equal protection for defendants under the law.

Parole Reorganization Act of 1975 (H.R. 5727, passed by the House May 21, 1975. In conference.)—In order to help individuals reintegrate into society as constructive persons as soon as they are able and to alleviate the tax burden caused by incarceration, the House enacted a fundamental reform in the parole system. The bill spells out factors to be taken into account when considering parole, such as the recommendations of the judge at the time of sentencing and reports concerning the physical, mental and psychiatric condition of the prisoner. A prisoner would be allowed access to any information to be used at his or her parole hearing and would be given the right to legal assistance. In addition, the bill would establish a definite parole eligible date at one-third of a prisoner's full sentence, thus eliminating the uncertainty which is probably the greatest source of dissatisfaction and unrest in our prisons today. A parole board, created by the Act, would be required to give written reasons for denial of a parole. While the parole reforms promote the positive goal of rehabilitation by providing the prisoner with an incentive to conform with prison requirements, they also protect society against the premature release of convicted offenders by establishing guidelines for full, pre-parole hearings.

The reform also eases the taxpayers' burden by reducing expenses of incarceration. Currently, the cost of maintaining a person in prison is approximately $6,000 per person per year, while supervision of an individual on parole costs less than $500 per person per year. The bill would establish the U.S. Parole Commission as an independent agency within the Justice Department to oversee the parole granting process. The Commission would consist of nine members appointed by the President with the advice and consent of the Senate, and would have five regional offices as well as a national office. In addition to its supervisorial responsibilities, the Commission would also be charged with conducting research on effective parole programs and developing technical training programs for those engaged in the parole process.

Judicial Conference of the District of Columbia (P.L. 94-193, approved December 31, 1975)—In order to improve the operation of the civil and criminal justice system in the District of Columbia, Congress passed H.R. 10035 authorizing and directing the Chief Justice of the D.C. Court of Appeals to convene an annual judicial conference, similar to those held in many States. The Conference is to be attended by all Judges of the D.C. Court of Appeals and the D.C. Superior Court as well as practicing lawyers, law professors, the U.S. Attorney, the Public Defender and the Corporation Counsel to study major problems regarding the enforcement of the laws and recommendations for their solution. Given the backlog of cases before the courts, this exchange of ideas among persons involved in the legal profession will hopefully lead to streamlined judicial procedures which would serve the interests of the public while safeguarding the rights of defendants.

Other legislation

Alien Children (P.L. 94-155, approved December 16, 1975)—The Immigration and Nationality Act was amended to allow an alien child adopted by an unmarried person the same rights of immigration as a child adopted by a married couple. This Act will facilitate the resettlment of refugee children in general and allow relatives of alien children, regardless of their marital status, to bring such children into the United States. Before the Act was passed, only married persons were allowed to petition for immediate relative status for an alien child whom they had adopted. Although many States allowed single persons to adopt children, Federal Immigration laws did not permit single persons to bring alien children adopted from other countries into the United States under the immediate relative clause.

NATIONAL DEFENSE AND INTERNATIONAL AFFAIRS

Major legislation

Sinai, Early Warning System (P.L. 94-110, approved October 13, 1975)—The final roadblock to formal ratification of the Sinai disengagement pact was hurdled when Congress gave its approval to the stationing of 200 American civilians in the Sinai Peninsula who will serve to monitor the arrangement negotiated between Israel and Egypt. Both Nations had insisted on an American presence in the early-warning system to be established in the buffer zone as a condition for their approval. The law passed permits the President to station up to 200 civilian volunteers to participate in the early-warning program but requires that these personnel be removed immediately in the event of outbreak of hostilities between the two nations or if Congress determined that their safety would be jeopardized. The Act further requires the President to submit reports to the Congress at six month intervals on the status of these personnel and the anticipated duration of their participation in response to which Congress will hold hearings in order to examine the situation. The legislation grants no new authority to the President to introduce U.S. armed forces into hostilities. This is intended to reassure critics of the U.S. role who have voiced concern that the introduction of any U.S. personnel could eventually lead to a Vietnam-type involvement in the Middle East. Supporters had argued that the risks of such involvement were minimal because of adequate safeguards and, in any event, were worth taking to bring about a more stable order in that part of the world. The fact that the U.S. had gained the confidence of both belligerent Nations through its handling of the Sinai negotiations was seen as an opportunity to strengthen America's role in the Middle East, with its significant economic impact on this country, while furthering the cause of peace. It had been estimated that since the October 1973 war the United States suffered a loss of $15-$20 billion due to the Arab oil embargo, in addition to $2.2 billion spent in resupplying Israel militarily and many more billions lost as a result of the recession in part triggered by the oil embargo. Therefore the recent Sinai accord was expected to benefit the long-term interests of the United States, as well as the parties involved. The cost of maintaining the U.S. technicians in the Sinai was estimated by the State Department to be $20 million for the first year, and $10 per year thereafter. Funds for this operation must be appropriated by Congress at a future date.

Indochina Migration and Refugee Assistance Act (P.L. 94-23, approved May 23, 1975)—As the final step in America's long involvement in the Indochina wars, $455 million was set aside to assist South Vietnamese and Cambodian refugees who left their countries before the Communists took control. The funds were targeted for relocation and resettlement in the United States of the approximately 130,000 refugees (another 20,000 were expected to resettle elsewhere). The legislation passed by Congress defined the term "refugee" to include aliens who fled South Vietnam or Cambodia because of persecution or fear of persecution on account of race, religion, or political opinion, who cannot return to those countries because of fear of persecution, and who are in urgent need of the essentials of life. The President is required to keep the appropriate committees of Congress fully informed on the activities authorized, and was also required to submit within thirty days of the bill's enactment a status report on the refugee situation. This was to include a plan to resettle those who were then in the temporary refugee camps, a plan for dealing with those who wished to leave the United States, and an account of Presidential efforts to retrieve funds previously authorized and appropriated for South Vietnam and Cambodia but not yet expended. The presidential reports were required to be supplied every 90 days until September 30, 1977 with a final report by December 31, 1977. Although some Members of Congress had raised questions about the potential problems of resettling the refugees in the United States, the action was seen by the supporters of the refugee programs as stemming from a commitment to those who had managed to escape the Communist rule which America had sought to prevent.

Special Appropriations for Vietnamese and Cambodian Refugees (P.L. 94–24, approved May 23, 1975)—Following the collapse of Vietnam and Cambodia during the Spring of 1975, Congress appropriated $405 million for the relocation and resettlement of Vietnamese and Cambodian refugees. The amount was $50 million less than that authorized for the refugee programs. A sum of $305 million was to be expended by the State Department for the initial maintenance costs of the temporary staging areas and for grants to voluntary and international organizations assisting in relocation of refugees in the United States. Another $100 million was allotted to the Department of Health, Education, and Welfare to provide for medical assistance at the staging areas and income, medical aid, social services, and education assistance to facilitate the permanent resettlement of the refugees in the United States. A prohibition was placed on any funds appropriated in this Act from being used, directly or indirectly, to assist the Communist-ruled nations of Cambodia or South Vietnam.

Relaxation of Turkish Arms Embargo (P.L. 94–104, approved October 6, 1975)—The eight month embargo of U.S. arms shipments to Turkey was partially lifted in October 1975. The embargo had gone into effect on February 5, 1975, in reaction to Turkey's 1974 invasion of Cyprus and its misuse of American-supplied weapons for aggressive purposes. The latest development was brought about by legislation which also authorized $65,640,000 for fiscal 1976 operations of the Board for International Broadcasting, Radio Free Europe, and Radio Liberty. The months following the imposition of the embargo saw a deterioration in U.S.-Turkish relations, with Turkey threatening to suspend all American military activities in that country and its subsequent takeover of 27 military bases which conduct important defense and intelligence operations for the U.S. and NATO. Many in the Congress were concerned that a failure to suspend the embargo could have led to a Turkish denial of American access to the bases and request for departure of all U.S. personnel from the country. The partial lifting of the embargo made it possible for the delivery of $185 million worth of military equipment purchased by Turkey before February 5 and for the renewal of commercial cash sales. U.S. Government military sales, guaranties and credits would be permitted once specific authorizing legislation is passed, provided Turkey observes the cease-fire in Cyprus and does not use U.S. equipment there. Direct military aid grants would continue to be banned. The legislation seeks also to encourage an improvement of U.S. relations with Greece, that efforts to bring about a resolution of the Cyprus situation be stepped up, and that the refugee problem in Cyprus be given greater attention. The President is directed to report to Congress within 60 days on progress toward a Cyprus settlement and on his fiscal 1976 recommended assistance to Greece. Public Law 94–104 generally was designed to improve America's relations with its two NATO allies and to promote the cause of peace in that region.

Foreign Relations Authorization Act (P.L. 94–141, approved November 29, 1975)—Legislation authorizing the expenditure of $869,931,000 for State Department and related foreign affairs programs during fiscal 1976 was cleared by Congress in November. The largest area of funding was in the administration of foreign affairs, with a total of $439,055,000 authorized for State Department operating expenses. Contributions to international organizations, conferences and commissions, primarily the United Nations, represented the second largest authorized amount, a total of $270.2 million. Other programs funded for fiscal 1976 included Foreign Service buildings with $39.6 million, the Arms Control and Disarmament Agency with $12.1 million, migration and refugee assistance with $10.1 million an Emergency Refugee Migration Assistance Fund with a ceiling of $25 million, and special assistance to Soviet refugees with $20 million. The Act establishes procedures designed to upgrade the status of the Arms Control and Disarmament Agency in policy making, such as the requirement of a study assessing the impact of proposed weapons systems and technology on arms control and disarmament policy. The Act also contains language expressing the sense of Congress that ambassadors should not be appointed to those posts based on financial contributions to political campaigns. The final form of the legislation was the result of a compromise between the Senate version and the House version which was a combination of other bills passed earlier by that chamber. The House had passed H.R. 7500 in June authorizing $853.4 million for the State Department and related agencies in fiscal 1976 and passed H.R. 7567 in July authorizing funds for and amending the policy of the Arms Control and Disarmament Agency. The language of these and other bills were incorporated into the House's version of S. 1517 which passed the House and went to conference with the Senate.

Foreign Aid Authorization, Fiscal Years 1976 and 1977 (P.L. 94–161, approved December 20, 1975)—The $3 billion foreign aid bill passed by Congress this year was heralded by its supporters as marking a turning point in this Nation's foreign assistance program. The International Development and Food Assistance Act of 1975 authorizes funds for economic and development assistance and for the first time these aspects of the foreign aid program were considered separately from the military ones. In the past, the foreign aid program was voted on as a package, including military and humanitarian aid, with growing criticism that military aid received the most emphasis. The 1975 legislation is also designed to provide aid to those countries in the greatest need and to emphasize self help programs. A total of $1.567 billion was allotted for fiscal 1976 and $1.496 for fiscal 1977. The program includes those in the areas of international disaster assistance, food aid to poor countries, and development assistance. At least 75 percent of funds to be allocated through the Food for Peace program must go to countries with a gross national product of $300 per person or less. An amendment was included to bar aid to any country which engaged in a consistent pattern of violations of human rights. Both development and military aid are barred from oppressive regimes, but such aid would be allowed to continue if the President reported that it was benefitting the poor people of the country and the Congress did not disapprove of the President's report within thirty days. Other items in the legislation include $30 million for refugee relief and rehabilitation in Cyprus and a $90 million ceiling on economic aid to Chile.

Other legislation

Military Construction Authorizations (P.L. 94–107, approved October 7, 1975)—For military construction projects during fiscal 1975, Congress authorized a total expenditure of $3,963,350,000, representing a reduction of almost $372 million from the amount requested by the Administration. The amount represents also funds approved for the budget transition period of July 1–September 30, 1976. The total figure included $769 million for the Army, $705.5 million for the Navy, and $485.8 million for the Air Force. The largest single area of expenditure was in military family housing, slated for an authorization of $1.6 billion. Also included in the Act were $44.8 million for Defense agencies, $205.6 million for reserve forces, and $109.6 million for deficiency funds to pay for cost overruns on construction projects in progress. Two projects which had formerly been the subject of controversy were incorporated in Public Law 94–107. One, the Diego Garcia naval communications station in the Indian Ocean was allotted $13.8 million. It had been opposed in the past by critics concerned about a U.S. military presence in that area of the world. The second, the Trident nuclear submarine project, was given an authorization of $187.9 million for support facilities at various naval installations.

Defense Department Weapons Procurement Authorization (P.L. 94–106, approved October 7, 1975)—A total of $25.5 billion was authorized for Defense Department weapons procurement research and development in fiscal 1976. An additional $5.3 billion was authorized for the same program for the budget transition period of July 1–September 30, 1976. The total for procurement of aircraft, missiles, and other weapons for fiscal 1976 was placed at $15,840,100,000, a cut of over $2.2 billion from the amount requested by the Administration. The amount authorized for research and development programs for fiscal 1976 was $9,673,283,000, a reduction of over $500 million from the Administration-requested amount. The 1976 figure represented an increase of $3.6 billion over the 1975 authorization, a rise accounted for mainly by inflation.

Coast Guard Authorizations (P.L. 94–54, approved July 7, 1975)—An authorization of $149.6 million for Coast Guard operations during fiscal 1976 and the budget transition period of July 1–September 30, 1976 was approved by Congress and signed into law. Included in the authorization for Fiscal 1976 were $28.8 million for the procurement of vessels, $36 million for the procurement of aircraft, $60 million for the construction of establishments, and $6.6 million for alterations of public and railroad bridges. A total of $18 million was authorized for the above activities during the budget transition period. The Act authorized the active duty personnel strength at the end of fiscal 1976 to be 37,916 and at the end of the budget transition period to be 38,005. The requirement for military student training loads was placed at 5,487 man-years under this Act.

Peace Corps Authorizations (P.L. 94–130, approved November 14, 1975)—Legislation authorizing the funding of Peace Corps programs for fiscal 1976 and the budget transition period from July 1–September 30, 1976 was approved by Congress in November. A total of $88,468,000 was authorized for fiscal 1976, an increase of over $7.5 million above the Administration's request, and $27,887,800 was approved for the transition period, over $2 million above the requested amount. The Act increases the monthly readjustment allowance for returning volunteers for the first time since the Peace Corps was established in 1961. The raise from $75 to $125 was justified by the 75% increase in the Consumer Price Index since the program was initiated. The Act also bans discrimination by sex in the selection, training, and placement of Peace Corps volunteers.

Japan-United States Friendship Act (P.L. 94-118, approved October 20, 1975)—A Japan-United States Friendship Commission with a trust fund to promote scholarly, cultural, and artistic activities between the two countries was established by Congress in 1975. The Commission is to be composed of the twelve members of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation, the Chairmen of both the National Endowment for the Arts and the National Endowment for the Humanities, and two members from each chamber of Congress to be appointed by their respective presiding officers. The trust fund is to be comprised of a percentage of the amount paid by Japan to the United States for the return of Okinawa since that agreement was signed in 1971 and those funds available in U.S. accounts in Japan under the Government and Relief in Occupied Areas Settlement of 1962. The funds are intended to support such programs as language studies in Japanese and American universities, major collections of Japanese books at American universities, the arts, fellowships and scholarships in both nations, and visiting professors and lecturers between the two Nations.

Panama Canal Negotiations (P.L. 94-121, approved October 21, 1975)—Congress added language to the fiscal 1976 Appropriations bill for the State, Justice and Commerce Departments stating that it was the sense of the Congress that any new Pamana Canal agreement must protect the vital interts of the United States in the Canal Zone. The non-binding provision was intended to serve notice on the State Department that the ongoing negotiations between the U.S. and Panama on a new canal treaty must insure continued American rights and privilegs in the Canal Zone. Under the principles of agreement between the two Nations, the, U.S. would eventually be expected to relinquish total sovereignty over the canal. The language in the final version of the Appropriations bill was a compromise between the House and Senate, as the House had earlier approved a provision barring all funds for negotiations on the status of the canal which would "surrender or relinquish" U.S. rights.

United Nations Resolution on Zionism (H. Res. 855, passed the House November 11, 1975)—Within twenty-four hours after the United Nations vote to equate Zionism with racism, the House overwhelmingly approved a resolution condemning this action by the world body. The U.N. resolution on Zionism identified it as a target of the Decade for Action to Combat Racism and Discrimination, a campaign launched by the United Nations in 1973 to fight racism around the world. H. Res. 855 declared that the U.N. action encourages anti-Semitism, itself a form of racism, and placed the House on record against any participation by the United States in the Decade for Action campaign unless and until the U.N. resolution on Zionism is revoked. The House action was regarded as a strong sign of continued U.S. support for Israel and of growing American dissatisfaction with the increasing dominance of the U.N. by Communist and Third World Nations. Although the House had first rejected a resolution calling for hearings to reassess further U.S. participation in the United Nations, there existed considerable sentiment in Congress to undertake such an assessment.

U.N. Peacekeeping Forces (P.L. 94-37, approved June 19, 1975)—In order to promote peace in the Middle East, Congress authorized the payment of whatever funds are needed to cover the United States' share of the expenses of the United Nations peacekeeping forces in the region. The forces have been stationed at the Israeli-Egyptian border since October 1973 and at the Israeli-Syria border since May 1974. The funds authorized were to cover the period between October 25, 1974 and October 31, 1975, and the U.S. share was expected to total $23.1 million. Cost overruns for the period prior to October 25, 1974 required an additional contribution by U.N. members, and the United States' share was placed at $5.7 million. For the period following October 31, 1975, funds are authorized under this act to be appropriated as necessary.

Romanian Trade (S. Con. Res. 35, passed the Senate on July 25, 1975; passed the House on July 28, 1975)—Most-favored-nation trade status was granted by Congress to Romania until July 1976 in accordance with the President's request. The Trade Act of 1974 (P.L. 93-618) had made it mandatory for Congress to approve any trade agreement which offered most-favored-nation status to a Communist country. In requesting the granting of such status to Romania, President Ford waived the provisions of the 1974 Act barring it to countries that restricted emigration. The President reported and there was much agreement in congressional hearings that Romania had been relaxing its emigration policies in recent months. The action by Congress served to implement the terms of the trade agreement signed between the United States and Romania on April 2, 1975. The extension of the trade status to Romania was seen as serving both the economic and political interests of the United States, in recognition of the increasingly independent role Romania has played in the Communist bloc.

Nuclear Regulatory Commission funds (P.L. 94-18, approved April 25, 1975)—Congress authorized the additional expenditure of $50.2 million in fiscal 1975 for the Nuclear Regulatory Commission (NRC). This brought to a total of $140,965,000 the amount authorized for the Agency during the current fiscal year. In January, 1975 the NRC has performed the regulatory functions formerly conducted by the Atomic Energy Commission. The increase in funding was largely necessitated by the reorganization of the former Commission into the Nuclear Regulatory Commission and the Energy Research and Development Administration.

National Commission on Supplies and Shortages Extension (P.L. 94-72, approved August 5, 1972)—Congress approved legislation to amend the Defense Production Act of 1950, as amended, to extend the National Commission on Supplies and Shortages. The term of the Commission, which was established in 1974, is extended from December 31, 1975 to October 1, 1976, and the due date of its first report extended from June 30, 1975 to March 31, 1976. The function of the Commission is to examine the dependency of the United States on raw materials and to project what that dependency will be in the future.

Defense Production Act, Extended (P.L. 94-100, approved October 1, 1975)—Legislation to extend the Defense Production Act of 1950 for two months, until November 30, 1975, was approved by Congress in September. The action was taken to allow the appropriate congressional committees ample time to conduct a review of the Act. The Defense Production Act provides, among other things, for a number of preparedness-for-mobilization programs, such as the defense materials system, the defense priority system, the national defense executive research, and the defense production stockpile of minerals and materials.

Defense Production Act Extension (P.L. 94-52, approved December 16, 1975)—The Defense Production Act of 1950 which provided the legal basis for the Government to mobilize the nation's economy during wartime was extended and amended in 1975. The 1950 Act had authorized the President to secure priority treatment of defense-related contracts in allocating materials and protected contractors required to fulfill these contracts against claims for breach of other contracts. The 1975 legislation extends the Act until September 30, 1977 and makes certain changes designed to place restrictions on the President's authority to provide benefits. Additional restrictions are placed on the President's authority to grant antitrust immunity to voluntary agreements reached by industrial competitors on defense-related matters. The Federal Energy Administration is empowered to organize a voluntary business agreement for the international allocation of petroleum products. The importance of the Defense Production Act was demonstrated in its securing priority treatment for the Alaska oil pipeline and in its ensuring an orderly distribution of fuel resources during the 1973 oil embargo. The 1975 extension also provides for the extension until March 31, 1977 of the National Commission on Supplies and Shortages.

TRANSPORTATION

Major legislation

Railroad Reorganization Act Amendments (P.L. 94-5, approved February 28, 1975)—In order to ease the funding crisis of Eastern and Mid-Western railroads and to prevent a threatened shut-down of the Penn Central, Congress authorized emergency grants and loans for the bankrupt Penn Central, and other ailing railroads.

As approved the Congress, P.L. 94-5 amends the Regional Rail Reorganization Act of 1973 by increasing from $85,000,000 to $282,000,000 the appropriation authorizations for continuing essential services, pending implementation of a final reorganization system plan. The Act also authorizes the Secretary of Transportation to enter into interim agreements with railroads undergoing reorganization to perform program maintenance, to impove rail properties, and to acquire rail properties for lease or loan to any such railroad. The U.S. Railway Association is authorized to issue up to $300,000,000 in obligations at any one time to finance such agreements and the Consolidated Rail Corporation is required to assume such obligations.

Essentially, the purpose of the law is to insure the continuation of vital rail services in the Northeast and Midwest and to enhance the reorganization process that will lead to the creation of a unified and modernized rail system in those parts of the country.

Rail Revitalization and Regulatory Reform (P.L. 94- , approved)—The salient purpose of this legislation is to revitalize the Nation's ailing railroad system. In summary, this Act has two goals: first, to reorganize the bankrupt railroads in the Northeast into a private for-profit corporation; and second to prevent additional railroad bankruptcies throughout the Nation by providing regulatory reform in low-interest rehabilitation money.

Specifically, the conference version of S. 2718 provides for $2.4 billion of interest-free loans to Amtrak to establish maximum travel times 2½ hours between Washington and New York; and federal subsidies of $400 million with the Federal Government gearing all costs in the first year of enactment. Its share would decline to 70 percent in the fourth and fifth years.

Other provisions of the conference version of S. 2718 include a stipulation that ConRail (Consolidated Rail Company) not pay interest on government aid until it has at least $500 million of profits; oversight authority for the rail reorganization in the hands of the U.S. Railway Association (an independent agency set up to plan the reorganization); veto power for ConRail management over any attempt by the government to arrange the sale of its routes or facilities to other railroads in a future national reorganization; and provision for $2.1 billion in aid to ConRail plus $1.6 billion of loans, grants or loan guarantees to all railroads in the Nation that need such assistance to rebuild dilapidated facilities or to buy new equipment.

Railroad Safety Act (P.L. 94–56, approved July 19, 1975)—In the face of worsening statistics on train and hazardous materials accidents, Congress has acted to improve compliance with Federal railroad safety regulations. According to a House study on railroad safety, train accidents had increased in 1974 by 721 over the previous year—from 9,698 in 1973 to 10,419 in 1974. Preliminary figures for 1974 also showed that injuries to railroad employees on duty were 15,641 compared to 13,098 in 1973. Fatalities to railroad employees declined from 158 in 1973 to 140 in 1974—still far too high a figure. In 1974 there were a total of 148 hazardous materials accidents, in which 10 were killed and 613 injured. During the past four years, the yearly average was 113 hazardous materials accidents per year, with an average of 3 fatalities per year and 320 persons injured per year. Presently, the Federal Railroad Administration has approximately only 40 inspectors who are responsible for the inspection of 330,000 miles of track.

The Railroad Safety Act of 1975 authorizes $35 million for fiscal year 1976 and $8.75 million for the July-September 1976 transitional period to implement the 1970 Federal Railroad Safety Act which prescribes regulations to ensure the safety of the Nation's railroads. The Act includes funding for an increased number of inspectors from 350 to 500 and support personnel authorized to be hired. A total of $10 million was approved for Federal safety research and development, and $3.5 million for State programs. The Act also authorizes an additional $8.75 million during the same period for administration of the Hazardous Materials Transportation Control Act, and requires the Department of Transportation to provide projections on the amount of radioactive materials to be carried by the Nation's railroads between 1976 and 1980 in its "Comprehensive Railroad Safety Report" to be submitted to Congress by March 1976.

Amtrak Improvement Act (P.L. 94–25, approved May 26, 1975)—The National Railroad Passenger Corporation (Amtrak) was created by the Rail Passenger Service Act of 1970 (P.L. 91–581) to provide an alternative means of travel for the American public. Prior to inauguration of Amtrak passenger service in May 1971, rail passenger service operated by a number of railroad companies was deteriorating in quality and use to the point that there were less than 500 passenger trains in existence—down from several thousand in the early part of the century. The aggregate losses for operating these trains reached $200 million in 1970. Thus Amtrak started with a $40 million Federal grant and payments of $197 million from participating railroads over a 36-month period ending in 1974. Since that time, Federal subsidies have totaled $534,300,000 and Amtrak has committed $860 million in Federal-guaranteed loan authority. Rail passenger travel reached its nadir for this century in 1970; thus it is encouraging that in 1974 Amtrak carried 18.5 million passengers, representing a 10 percent increase over 1973 and one of the highest passenger-by-train years since the 1950's. In 1974 Amtrak was operating 29 million train miles with 240 daily trains serving 457 stations along an expanded route system of 24,315 miles.

Nevertheless, Amtrak is still plagued with outdated equipment, and costs for servicing the old cars is high. In addition, the railroad-owned tracks which Amtrak must use have been a constant cause of slow trains and late arrival. Even while ridership is up, revenues for Amtrak are down. This is due to at least five causes: (1) the general economic recession producing inflation in costs; (2) seven newly added routes, added beyond the control of Amtrak; (3) a new wage-price increase reflecting new contracts with employees; (4) cost of a performance incentive contract with the railroads; and (5) increase in passenger car overhaul.

As passed, this Act permits studies by Amtrak during fiscal year 1976 to determine the benefits of seasonal routes to recreation areas; requires Amtrak's Board of Directors to develop a set of criteria and procedures under which Amtrak would be authorized to add or discontinue rail passenger routes and services; and requires that such criteria must include methods of evaluating the economic and environmental impact of any addition or discontinuance of inter-city rail passenger service. Most importantly, perhaps, in light of the problems facing Amtrak, are the provisions providing for a $63,000,000 increase in the authorization of appropriations for Amtrak through June 30, 1975 (from $534,000,000 to $597,000,000); and appropriations for Amtrak for fiscal years 1976 and 1977. Thus this legislation gives Amtrak's Board of Directors the flexibility necessary to effectively manage Amtrak and improve intercity rail passenger service, while providing a means by which Amtrak can discontinue old, and initiate new, service.

Airport and Airway Development Act Amendments of 1975 (H.R. 9771, passed the House December 18, 1975)—This legislation comprises a major step toward modernizing our civil aviation services and making them safer, more efficient, and more convenient for the traveling public. H.R. 9771 represents an effort to correct serious deficiencies in existing law so that the Nation can better meet its aviation needs, protect the Federal interest in the development of national airport and airway system, and remove some of the barriers that have impeded progress in the past.

This legislation recognizes that Federal funding is sorely needed to modernize the terminals and terminal facilities where congestion, delays in baggage handling, and other unnecessary inconveniences.

Specifically, H.R. 9771 addresses itself to the effective use of facilities by permitting the Secretary of Transportation to approve multiyear projects and to commit Federal funding for periods exceeding one year; and, second, by apportioning a larger percentage of the funds in order to give airport sponsors a more precise estimate of the aid they can expect to receive.

In addition, H.R. 9771 gives commuter service and relieves airports special priority in funding and encourages greater state government participation in the national airport system plan program by permitting grants to States to help pay the cost of States' developing construction standards for general aviation airports. Finally, the bill, as amended, provides $2.6 billion through 1980 for Federal aid to airports and related facilities and bans the Concorde supersonic jet transport from all United States airports, except Dulles International, for the next six months.

Federal Aid to Highways Act (H.R. 8235, passed House December 18, 1975)—The House acted to authorize appropriations for extension of highway programs through fiscal year 1978 and for extension of the Highway Trust Fund through fiscal 1979. H.R. 8235 authorizes $4.86 billion a year for federal highway programs in fiscal years 1977 and 1978 and $1.23 billion for the budget transition period, July–September 1976. In addition, the bill authorizes for interstate construction $4 billion annually through fiscal 1987, $1 billion for the transition period and $840 million for fiscal 1988. The House action represents an increase in authorizations for the Interstate Highway System in an effort to complete the system by 1988 and reduce any further costs due to delays.

Also for the first time, the House voted to amend a provision of the Federal Highway Act of 1973 (P.L. 93–87) that allows urban areas to use their interstate funds from the Highway Trust Fund for mass transit, to permit those funds in the future to be used for other urban highways as well. By granting this new flexibility to urban areas, the bill promotes a more efficient urban transportation planning.

This legislation also gives Congress more flexibility in deciding future transportation policy with a view of possibly ending or reducing the Highway Trust Fund in favor of other transportation means. Since the Trust Fund is dependent on highway-use taxes, Title III of the bill which extends the trust fund was approved by the Ways and Means Committee.

Other legislation

Electric Vehicle Research, Development and Demonstration Act (H.R. 8800, passed the House September 5, 1975)—As passed by the House H.R. 8800 directs the Administrator of the Energy Research and Development Administration to initiate and provide for the conduct of research and development in areas related to electric and hybrid vehicles. It also directs the Administrator to enter into contracts for the production of significant numbers of urban passenger and commercial vehicles which have electric propulsion systems on conventional chassis; and for the production of significant numbers of urban passenger and commercial vehicles which are specifically designed for electric propulsion as the primary power source. Finally, this bill directs the U.S. Postal Service, General Services Administration, Secretary of Defense, and the heads of other Federal agencies to arrange for the introduction of electric and hybrid vehicles into their fleets as soon as possible, and provides for guaranties of loans made to small businesses for commercial development of electric and hybrid vehicles.

Emergency Rail Transportation Improvement and Employment Act (S. 1730, passed the House October 23, 1975)—This legislation has as its purpose the improvement of the reliability, safety, and energy efficiency of railroad transportation, and the reduction of unemployment by providing funds for work in repairing, restoring, rehabilitating, and improving essential railroad roadbeds and facilities.

As passed by the House, the bill authorizes $240,000,000 to assist in upgrading the Nation's deteriorated railbeds and to pay the wages of railroad maintenance workers. The bill provides that the Secretary of Transportation is to award grants to bankrupt railroads in the Northeast and Midwest, to be used solely to pay the wages and other benefits earned by individual employes for the approved projects.

Authorization of Appropriations for Promotion and Development of Travel Within the U.S. (P.L. 94–55, approved July 9, 1975)—This legislation authorizes, under the International Travel Act of 1961, appropriations to the Secretary of the Interior for fiscal years 1976–8 to promote, through the National Park Service, travel within the U.S. and directs the Secretary of Commerce to promote and develop travel within the U.S. through activities which are in the public interest and which do not compete with activities of any State, city or private agency.

VETERANS

Major legislation

Veterans Disability Compensation and Survivor Benefits Act of 1975 (P.L. 94–71, approved August 5, 1975)—From the beginning of our history, it has been an American tradition to assist veterans disabled as a result of their service in the Armed Forces. Of our 29 million veterans, nearly 2.5 million are disabled as a result of their service. Almost 400,000 widows and children of disabled veterans receive support through the Dependence and Indemnity Compensation program. A significant number of these beneficiaries are the veterans and families of disabled Vietnam veterans, who, because their families are younger, depend more heavily upon the compensation program to meet their household expenses.

The disability compensation program has been maintained to provide relief for the impaired earnings capacity of disabled veterans. Even in better economic times, the disabled suffer financial impairment because of their incapacitation. In today's economic conditions of simultaneous recession and inflation, it is vital that the Congress review the disability compensations program periodically to make sure that the benefit levels provide the relief intended.

Between May of 1974, when the last compensation increases were granted, and June 1975, the cost-of-living index rose 10.2 percent, causing immeasurable hardships for disabled veterans and their families. The Administration tried to put a 5 percent ceiling on benefit increases, but the Congress took the initiative to provide a realistic adjustment in compensation and survivors' benefits.

This session Congress accordingly authorized a 10 percent increase for payments to veterans who are 50 percent or less disabled; a 12 percent increase for veterans who are 60 percent to 100 percent disabled; and a 12 percent increase for survivors drawing dependency and indemnity compensation. In addition, the Act directs the Veterans Administration to conduct a follow-up study of survivor benefit claims in cases where veterans were totally and permanently disabled, to determine what difficulties, if any, claimants have in establishing that the disability was service-connected.

Veterans and Survivors Pension Adjustment Act of 1975 (P.L. 94–169, approved December 23, 1975)—Like other groups with fixed incomes, veterans and their dependents and survivors suffer severely in a time of rapid inflation. Recognizing a commitment to those who have served America in wartime, the House adopted legislation (H.R. 10355) to provide needy veterans, their dependents and survivors a cost-of-living pension increase of 8 percent. The measure also would raise income limits by $300, to $3,300 for the single veteran and $4,500 for the veteran with dependents.

The non-service-connected pension program is based on the concept of need. In other words, to qualify a veteran or widow must meet certain income limitations. Essentially it is a program for veterans 65 years and older and for widows and children with reduced income. To be eligible for the program, a veteran must have served in one of the Nation's wars. The program is designed so that those in the lowest income bracket get the most help with the amount of payment decreasing as the veteran's or widow's income increases. Income limits are set which if exceeded terminate eligibility for pension payments.

H.R. 10355 includes the increase in maximum allowable income in order to insure that pensioners who also received the 8 percent increase in Social Security benefits in June 1975 will not suffer termination of their veterans benefits or reduction in their total income. Since last June, many cases have been reported of loss of pensions or reduction in income due to the Social Security increases.

The veterans pension program is essential to many veterans who have so faithfully served their country in our time of need. To many elderly veterans it is often their major source of income. Although they may be eligible for food stamps or welfare, they are often too proud to accept it. Thus, it is vital that the Congress continue to keep this program, as it has in the past, current with the increases in the cost of living.

Veterans, Physicians and Dentists Comparability Act of 1975 (P.L. 94–123, approved October 22, 1975)—In recent years, the difference between the salaries that can be paid by the Veterans Administration (VA) to its physicians and dentists, and the salaries of physicians and dentists in private practice and even to other agencies of government has grown so great that it has become extremely difficult for the VA to attract and retain medical personnel.

In order to prevent a mass exodus of physicians and other medical personnel from the VA, Congress enacted into law a provision giving VA physicians and dentists parity with other Federal physicians and dentists for one year. The Act authorizes up to $5,000 a year in special pay, and up to $8,500 a year in incentive pay for full-time physicians. Dentists could receive up to $2,500 a year in special pay and up to $4,250 per year in incentive pay.

In congressional hearings, it was disclosed that medical care for our veterans is rapidly deteriorating due to a lack of qualified physicians largely attributable to the current $36,000 pay limitation and the lack of parity of VA physicians with their counterparts in the Federal service. A congressional survey found that of the approximately 5,500 physicians employed by the VA, 40 percent are affected by the $36,000 limit and cannot expect any increase whatsoever in the near future. As a result, many highly trained physicians are leaving the VA for more lucrative offers. For example, during the period of July 1, 1974 through March 31, 1975, 279 full-time physicians terminated VA employment. During the same period, 153 physicians converted from full time to part time. Over 400 physicians rejected offers made by the VA for employment, giving as their reason for rejecting the VA offer inadequate salary. Thus 66 percent of the offers made were rejected, and these physicians indicated that the salary offer needed to be increased by about $10,000 in order for them to accept VA employment.

Care of Veterans in State Homes (H.R. 10394, passed the House December 15, 1975)—This bill passed by the House would raise the per diem paid State homes for hospital, nursing home, and domiciliary care for veterans. The rates were last raised on September 1, 1973, and since that time inflation has brought about a dramatic increase in medical costs. H.R. 10394 would give some relief to State veteran homes which are facing financial crisis situations because of spiraling inflation. It would raise the reimbursement rates from $4.50 to $6.50 per day for domiciliary care, from $6.00 to $10.50 per day for nursing home care, and from $10.00 to $13.50 per day for hospital care.

This increase in the Federal contribution to State homes for veterans is urgently needed to help compensate for the valuable services that State veterans homes perform for our veterans. There are currently 40 State veterans' homes in the United States which provide domiciliary, nursing or hospital care, or all of these in combination to some 10,000 veterans. If these homes were to close, the entire financial burden of the care they provide would fall on the Federal Government, at vastly greater expense. In fiscal year 1975 it cost the VA $15.43 per day for domiciliary care, $41.74 for nursing care, and $77.89 for hospital care at its own VA facilities.

Other legislation

Veterans Readjustment Assistance Amendments (H.R. 9576, passed the House October 6, 1975)—In recognition of the end of the Vietnam War era, the House amended the Veterans Readjustment Assistance Act to terminate veterans' education benefits for persons entering the military after December 31, 1975. It is estimated that the amendments will save the Federal Government up to $1.6 million from fiscal year 1976 through fiscal 1980. However, current members of the armed services and veterans already entitled to training and education benefits would not be affected.

In addition to terminating the education program, the bill would grant eligible veterans and those now in the military 45 months, instead of the current 36 months, to complete their studies. It also provides that individuals entering military service after December 31, 1975, would be eligible for home loan benefits, and extends home loan benefits to veterans who entered military service after July 25, 1947 and before June 27, 1950. This provision would give added stimulus to the depressed housing market and help many veterans who have been nearly priced out of the market by inflation.

Finally, the bill would authorize veterans to transfer their education payments from one approved institution or program to another, and would repeal the Predischarge Education Program which allowed active duty servicemen and women to enroll in an education program 12 months before their discharge from the military. Individuals already enrolled in this program would be allowed to complete their studies.

Medical Benefits to Survivors of Certain Veterans (H.R. 1547, passed the House December 15, 1975)—A technical oversight in legislation passed by the 93rd Congress to provide medical care for the wives, widows and children of veterans suffering from a permanently and totally disabling service-connected disability necessitates the amendment made by H.R. 1547. This measure would provide for the widow or child of a veteran who died as a result of a non-service-connected cause, while a total and permanent service-connected disability was in existence, to receive the same kind of treatment as the widows and children of totally disabled veterans who die as a result of a service-connected disability.

As currently worded, existing law provides medical care for the wife or child of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability. It also provides for the widow or child of any veteran who died as a result of a service-connected disability. However, the wife or child who currently may be eligible for medical care by reason of the veteran having a total, permanent disability, loses entitlement in the event the veteran dies of a non-service-connected cause.

Enactment of H.R. 1547 underlines Congress' commitment to provide medical care for the dependents of seriously disabled veterans, in recognition of their great sacrifices. With the death of the veteran, the sacrifice does not diminish, and neither should the entitlement to medical care for their dependents.

Veterans Medical Information Exchange (H.R. 3348, passed the House June 16, 1975)—As the Nation's largest unitary health care delivery system, the Veterans' Administration is constantly interested in exploring and developing new methods of exchange of medical information for both educational and clinical purposes. The exchange of medical information program of the Veterans' Administration is the activity which enables the VA to harness technological advances in communications to the educational process, and thus engage in and support innovative pilot projects which strengthen those Veterans' Administration hospitals located remote from major medical teaching centers and/or those not affiliated with medical schools.

The program is achieving the goals and purposes which Congress envisioned when authority was first granted in P.L. 89–185 some 8 years ago. Thus, with the Medical Information Exchange program due to expire on June 30, 1975, the House enacted a bill extending its authorization for four more years, at a level of $4 million a year.

Medical Care for Certain Members of Allied Wartime Forces (H.R. 71, passed the House July 21, 1975)—During World War I and World War II, many countries in Central Europe fought with great courage in alliance against the foes of the United States and its major allies. After the war there was a change of government in those countries, particularly in Poland and Czechoslovakia, which deprived many of these people of the freedom for which they had struggled so valiantly. Consequently, many immigrated to the United States and became citizens in search of the kind of life they could no longer lead in their own countries and have subsequently greatly enriched our Nation. However, since they are not technically veterans of the Armed Forces of the United States and have no recourse to veterans' benefits in their Communist-controlled homelands, many of them are unable to secure urgently needed medical and hospital care and attention.

Passed by the House in the 93rd Congress, and reintroduced in the 94th with 109 cosponsors, H.R. 71 would provide hospital, domiciliary care and medical services by the Veterans Administration to those who served in combat during World War I or World War II, as a member of any armed force of the Governments of Czechoslovakia or Poland, against enemies of the United States. They must have been American citizens for at least 10 years to qualify, and they must not be entitled to equivalent care or services provided by a foreign government or ally of the United States.

Medical Malpractice in the Armed Forces, Providing an Exclusive Remedy (H.R. 3954, passed House July 21, 1975)—The purpose of the bill is to extend to personnel performing medical, paramedical, or supportive related services or duties in or for the Armed Forces and an immunity from civil suit and personal liability for acts of alleged malpractice while acting within the scope of their employment. The bill woud make the remedy against the United States under the Federal Tort Claims Act the exclusive remedy for claims for damages for personal injury or death arising from alleged malpractice or negligence on the part of persons described in the bill.

Also, the bill provides a grant of authority to the Secretary of Defense to hold harmless or provide insurance coverage for personnel performing medical or related services for the Armed Forces where the provisions of the Federal Tort Claims Act may not be applicable although the person is acting within the scope of his office or employment.

Release of Names and Addresses of Present and Former Personnel of the Armed Services by the Administrator of Veterans' Affairs (H.R. 10268, passed the House December 15, 1975)—The purpose of this legislation is to clarify existing law which permits the Veterans Administration (VA) to release the names and addresses and relevant medical information of patients in VA health care facilities. The bill would specifically grant the VA authority to release medical information on communicable diseases to State public health officials; to permit the release of information on gunshot wounds and other crime-related matters to local law enforcement officials; and to release medical information which might bear on an individual's driving ability to licensing authorities.

For years it has been the practice of VA hospitals to routinely inform appropriate public health departments of the hospital release of veteran patients diagnosed with communicable diseases. This information is essential if the health departments are to aid the veteran and assure protection to the general population with whom the veteran comes into contact. However, because Congress enacted amendments in 1972 to halt the unauthorized release of lists of veterans' names and addresses to commercial organizations interested in solicitation, the VA has taken the position that Congress intended to remove altogether the release of veterans' names and addresses from the Administrator's broad authority. This was not the intent of Congress. H.R. 10268 simply clarifies and makes specific the VA's authority to release the names and addresses of veterans to Federal, State, and local government agencies when necessary for the protection of the public health and safety.

Investigations into Cost of Travel by Veterans to VA Facilities (H.R. 2735, passed the House December 15, 1975)—This bill would require the Administrator of Veterans Affairs to conduct annual investigations of the cost of travel—including lodging and subsistence—and the operation of privately owned vehicles to veteran beneficiaries while traveling to or from a Veterans Administration facility. Factors to be considered in such investigations would include depreciation of original vehicle costs; gasoline and oil costs; maintenance, accessories, parts and tires; insurance; State and Federal taxes; and the expenses of employee travel. Reports of such investigations would be submitted annually to the Committee on Veterans Affairs of the Senate and House of Representatives.

Under current law, a VA beneficiary who travels in connection with Veterans' Administration vocational rehabilitation, counseling, or for the purpose of examination, treatment or care, may pay his own necessary travel expenses and be reimbursed either on a mileage basis or for actual and necessary expenses, or he may obtain a Government transportation request from the VA for presentation to the ticket office in exchange for his bus or train ticket. Should the veteran choose the last option, he may also obtain from the VA reimbursement for any necessary expenses for meals and lodging. The VA Administrator has the authority to set the mileage rate; it is currently fixed at 8 cents per mile. This compares with 15 cents per mile paid to Federal employees who must use their own cars on official Government business, and 11 cents per mile for Federal employees who have access to a GSA vehicle, but choose to use their own. H.R. 2735 would simply provide a regular procedure for Congressional review of the adequacy of the travel reimbursement rates set by the VA Administrator for veteran beneficiaries.

Establishment of National Cemeteries in California and Massachusetts (H.R. 8891, passed the House November 4, 1975)—The National Cemetery System was established by Public Law 93–43 in 1973, and brought together within the Veterans' Administration most of the Federal cemeteries in which veterans of the Nation's wars are interred. The system includes 103 national cemeteries, more than half of which are closed for further interment. Since 1950 when the last of five World War II era cemeteries were created, only one addition has been made to the National Cemetery System, while 39 have filled to capacity and have been closed.

Today, as more and more locations reach capacity and are forced to close, the right of a veteran to choose between burial in a national cemetery and a plot allowance for private burial is being limited. In many areas of the Nation the right to choose is meaningless since the nearest cemetery may be hundreds or even a thousand miles away.

In California there is only one active national cemetery. It is located in Los Angeles and will reach capacity by the end of this calendar year. When it closes, the nearest alternative for the 3 million California veterans will be Willamette, Oregon, or Santa Fe, N. Mexico. Similarly, the veterans of the six New England States have no facility where they may exercise their option of burial in a national cemetery.

To alleviate this pressing problem, the House has enacted legislation to establish national cemeteries on the surplus property of March Air Force Base in Riverside, California, and Otis Air Force Base at Bourne, Massachusetts.

Jerry L. Pettis Memorial Veterans' Hospital (H.R. 4034, passed the House October 6, 1975)—Jerry Pettis, the respected and admired former Member of Congress from California who was killed in a tragic plane crash in 1974, served with great valor as an Air Transport Command pilot in the Pacific Theater during World War II. In honor of his outstanding service and sacrifices for our Nation, the House has enacted legislation to designate the veterans hospital in Loma Linda, California, Representative Pettis' home town, as the Jerry L. Pettis Memorial Veterans' Hospital.

OTHER LEGISLATION (94TH CONGRESS, 1ST SESSION)

NASA Authorizations, FY 1976 (P.L. 34–39, approved June 19, 1975)—The Congress reaffirmed its commitment to the American space program by authorizing a total of $3,562,310,000 for use by the National Aeronautics and Space Administration (NASA) for fiscal 1976.

This authorization insures that adequate funding will be available in the following amounts for a variety of space programs: space shuttle, $1,206,000,000; advanced space missions, $2,000,000; lunar and planetary exploration, $259,900,000; and aeronautical research and technology, $175,350,000.

Additionally, construction at a number of space facilities will proceed on schedule. Authorizations for such construction include modifications at the John F. Kennedy Space Center, $35,410,000 and modifications at the Lyndon Baines Johnson Space Center, $3,240,000.

The authorization also covers a wide range of other NASA programs designed to keep the United States space effort moving ahead at peak efficiency. Such programs include an increase in the technology utilization budget in order to better perform the vital function of disseminating technical information to the public and private sectors; funds for an independent review of remote sensing technology development; funds to provide continuity of remote sensing data from space through the remainder of this decade; and funds for continued research related to short-term weather phenomena. These research and development funds will entail development of sophisticated techniques for observing and forecasting severe local storms, tornadoes and hurricanes, relying on both satellite and aircraft-borne sensing devices.

National Science Foundation Authorization, FY 1976 (P.L. 94–86, approved August 9, 1975)—Congress moved to strengthen the work of the National Science Foundation (NSF) and take a more active role in review of the Agency's research grants by authorizing $787 million for NSF activities in fiscal year 1976 and establishing new requirements to provide for legislative oversight capability.

Basic research is the foundation on which much of the Nation's advanced technology is built. Most of the advances in technology from which we are now benefiting are based on research done in previous years. Much of the basic research which is being done today will yield payoffs in the form of new technology yet to be invented.

Levels of funding for NSF programs in fiscal year 1976 include the following categories: (1) Scientific Research Support—$337,600,000; (2) National and Special Research Programs—$109,800,000; (3) National Research Centers—$60,200,000; (4) Research Applied to National Needs—$70,500,000; (5) Science Education Innovation—$39,800,000; (6) Science Education Support—$35,300,000; (7) Graduate Student Support—$16,400,000; (8) Science Information Activities—$6,600,000; (9) International Cooperative Scientific Activities—$8,000,000; (10) Intergovernmental Science and R. & D. Incentive Program—$10,000,000; (11) Science Assessment, Policy, and Advisory Activities—$11,100,000; and (12) Program Development and Management—$41,700,000.

The Act also creates a program to strengthen training and research for young scientists at the graduate and post-graduate levels at educational institutions and directs the agency to provide grants to undergraduate educational institutions and departments for science education.

Responding to the need for greater accountability in the awarding of grants for scientific research and the need for greater citizen involvement in Federal scientific research programs, legislative oversight is expressly called for in provisions creating: (1) the "Science for Citizens Program," which is specifically designed to improve public understanding of public policy issues involving science and technology; (2) in plans for NSF to more fully include members of the public in the formulation of NSF policy; and (3) in the transfer of funds from category to category.

Department of Commerce Maritime Programs Authorizations (P.L. 94–10, approved March 23, 1975)—The Merchant Marine Act of 1970 (P.L. 91–469) provides a new Maritime Program, envisioning the construction of a substantial number of vessels over a ten-year period, substantial improvements in the operating-differential subsidy program, and a number of other provisions to revitalize the United States-flag merchant marine and restore this country to its place as a leading maritime nation. This Act of the 94th Congress includes requirements for a fifth year of expanded activities under the new Maritime Program. Expenditure of appropriated funds for shipbuilding, ship operation and other related activities will, in addition, have a stimulative impact upon the economy and shipyard employment.

P.L. 94–10 authorizes appropriations to the Department of Commerce for fiscal year 1975 as follows: (a) Acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, $275,000,000; (b) Payment of obligations incurred for ship operating-differential subsidy, $242,800,000.

The Act further provides for (c) Expenses necessary for research and development activities, $27,900,000; (d) Reserve fleet expenses, $3,742,000; (e) Maritime training at the Merchant Marine Academy at King's Point, New York, $10,518,000; and (f) Financial assistance to State marine schools, $2,973,000.

The construction subsidy is generally based on the difference between United States and foreign shipbuilding costs, and paid to U.S. shipyards, so that our vessels can compete in international trade. Prior to the Merchant Marine Act of 1970, such subsidy was generally limited to liner vessels. That Act expanded this aid to generally include all types of United States-flag shipping engaged in foreign trade. The new Act sets forth guidelines for the gradual reduction of the construction subsidy level to 35 percent in fiscal year 1976, and thereafter.

The operating subsidy is generally based on the difference between United States and foreign vessel operating costs and paid to U.S.-flag operators so they can compete in international trade. The Merchant Marine Act of 1970 generally extended this subsidy to other than liner operators. Subsidy is generally provided for U.S.-flag wage, maintenance and repair, and insurance costs. Payments are determined as the difference between the fair and reasonable cost of these items and the cost of the same items of expense if the vessel were operated under the registry of the flag of substantial foreign competitors. Allowable U.S. wage costs are determined by a special non-Maritime U.S.-wage index developed by the Bureau of Labor Statistics. This provides an incentive to the subsidized operators to minimize wage increases reached in collective bargaining agreements. Further control on wage costs is achieved by requiring manning levels for new subsidized vessels to be determined prior to the time construction subsidy contracts are entered into.

Public Broadcasting Financing Act (P.L. 94–192, approved December 31, 1975)—The medium of public radio and television broadcasting provides Americans with a unique vehicle for enrichment and education. The Congress can be proud that Federal assistance to public television has resulted in such high quality programs as Sesame Street, Electric Company, Washington Week in Review, Book Beat and many other fine productions.

The promise of public broadcasting is virtually unlimited, but until this year its potential remained largely unrealized because of the unmet need for adequate funding. H.R. 6461 provides for a new, and greatly improved, system of financing public broadcasting.

First, and perhaps most importantly, the bill established long-range Federal funding for the Corporation for Public Broadcasting (CPB). The Corporation was created as a semipublic, federally-funded agency charged with the responsibility of developing high quality non-commercial radio and television programs obtained from diverse sources. The sponsors of the Public Broadcasting Act of 1967 intended that the Corporation be as free as possible from political interference. This concept has been re-affirmed by Presidents Johnson, Nixon and Ford. With this in mind, Congress acted to provide $634 million to the CPB over a five year period.

While Federal support of public broadcasting has increased since the establishment of the Corporation in 1968, the Corporation has also steadily increased its non-Federal funding. H.R. 6461 recognizes this trend and contains incentives which would encourage the Corporation to intensify its efforts to obtain support from other sources. The bill establishes a matching grant program providing for a gradually decreasing Federal contribution to the Corporation. This new system will also help to protect public broadcasting from political influence.

Metric Conversion Act (P.L. 94–168, approved December 23, 1975)—The United States, while a world leader in almost all aspect of technology, has been slow to adopt the metric measurement system. We are the only major, nonmetric country in the world which has not formed an official mechanism for coordinating the change to the metric system. Yet, our nation is now well into the early stages of converting to the metric system. American industry has begun to adopt the metric system; all 50 States are now committed to changing to the metric system in their educational departments; the pharmaceutical industry is largely using the metric system—as is the medical profession.

The choice before the House was not whether to move to the metric system; that conversion is underway. The choice was between continuing the conversion process in an entirely uncoordinated fashion, or going forward with the conversion process on a coordinated basis. The House met this challenge with passage of the Metric Conversion Act, legislation designed to respond to the problems created by the increasing use of the metric system.

The measure will establish an independent U.S. Metric Board to devise and carry out a broad program of planning and coordination of the use of the metric system and to conduct public education consistent with the other national interests. The Board would have no compulsory powers and would cease to exist when Congress determined its mission has been accomplished. The bill preserves the right of each business firm to decide whether to go metric, affirming that the adoption of the metric system will be entirely voluntary.

The bill provides that the Metric Board perform three major functions: First, develop a broad program of planning and coordination on the increasing use of the metric system; second, conduct research and submit recommendations to the President and Congress; and third, conduct a program of public education in the metric system at all levels from elementary to adult education in order that the American people may become familiar with the meaning and use of metric terms and measures in their daily lives.

Standard Reference Data Act Authorizations (P.L. 94–49, approved July 2, 1975)—Congress acted to appropriate $9,550,000 over a three year period to carry out the purposes of the Standard Reference Data Act of 1968. That Act provided the National Bureau of Standards with the authority to conduct a program of collecting, evaluating, and disseminating scientific data on the physical and chemical properties of substances which would be available to scientists, engineers, and the general public. The authorization in P.L. 94–49 is especially significant because standard reference data are used daily as basic reference materials by scientists and engineers in Government, industry, and universities, and are necessary in fields such as transportation, electronics, construction, medicine and others. The primary outlet for this material is the Journal of Physical and Chemical Reference Data which appears four times a year and provides a minimum of 1,200 pages of compilations of reference data.

Postal Service Employees' Health and Safety and Salary Adjustment for Certain Federal Employees (P.L. 94–82, approved August 9, 1975)—Congress acted to further insure the safety of thousands of employees of the U.S. Postal Service and, further, provide a minimal salary adjustment for top executive, legislative and judicial officers and employees of the United States Government who last received an increase in compensation in 1969.

Title I of the Act concerns the coverage of Postal Service employees under the Occupational Safety and Health Act of 1970. Under the July, 1973, collective bargaining agreement with the National Postal Unions, the Postal Service is bound to comply with the applicable section of the Occupational Safety and Health Act of 1970. This Act will reinforce this responsibility by imposing upon the Postmaster General the statutory requirement that he comply with the Act by establishing and maintaining an effective and comprehensive occupational safety and health program for the Postal Service.

Title II, an amendment to the original bill, provides a minimal salary adjustment for top executive, legislative and judicial officers and employees of the United States who last received an increase in compensation in March, 1969. By doing so, Title II meets what the Comptroller General of the United States termed "a critical need." It also provides a measure of relief to the increasing numbers of senior civil service employees on the General Schedule affected by the $36,000 ceiling in effect now for 76 months. While Title II does not correct the pay gap which has grown since 1969 or the problem of compensation which has taken place in the higher reaches of the Government's salary schedules, it does put a stop to the continued growth of the pay gap occasioned by the increased cost of living since March, 1969 and the pay adjustments which occurred in other segments of the economy over that period of time. It provides a cost-of-living type of relief to those officials and employees whose purchasing power has been eroded by almost a third because of inflation.

Postal Reorganization Act Amendments (H.R. 8603, passed the House October 30, 1975)—The U.S. Postal Service is probably the most visible example of the Federal Government working for the American citizen. With the passage of the Postal Reorganization Act Amendments, the House took a major step towards providing more efficient delivery of the U.S. mail. Congress additionally made clear its intention to take a more active role in postal affairs by requiring confirmation by the Senate of the Postmaster General, his deputy, and the Presidentially-appointed members of the Postal Rate Commission. Furthermore, the bill defines the duties of the Chairman of the Postal Rate Commission and requires the Commission to render a decision within ten months on a request by the Postal Service for changes in postal rates. Other major features of the bill include regulations providing for temporary changes in postal rates and classes; definition of the term "periodical publications" with respect to the provisions for reduced rates; provisions for reduced postal rates for catalogs of course listings issued by institutions of higher learning and conservation publications of a State conservation agency; a reduction in the proposed temporary rate increase from 33 to 20 percent and reduction in the proposed first class rate from 13 to 12 cents; and an allowance for non-profit organizations to use volunteers to deliver brochures and circulars to private homes.

Postal Supervisor's Arbitration Act (H.R. 5665, passed the House October 29, 1975)—The House acted to provide more equitable labor standards for the almost 40,000 postal supervisors across the Nation by passing the Postal Supervisor's Arbitration Act. Until passage of this legislation, postal supervisors had been denied many of the rights granted to them under the Postal Reorganization Act of 1970. They had been the target of a program which had downgraded in rank over half their number; they had been denied the right to participate directly in the determination of their pay and related benefits and working conditions.

H.R. 5665 provides that if the Postal Service and the postal supervisors organization are unable to agree on a program for consultation or a plan to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory employees, either party shall have the right to refer the matter to a three-member Arbitration Board. Further, if impasses develop during consultation of a particular issue under any program or plan, either party can demand arbitration upon thirty days' notice. Decisions of the arbitration board are conclusive and binding upon the parties.

Not only will the establishment of the arbitration board hopefully insure fair and impartial decisions in such disputes, but the existence of such a procedure will encourage more cooperation and consultation between the supervisory organization and the U.S. Postal Service.

Youth Camp Safety Act (H.R. 46, passed the House April 17, 1975)—The House acted to protect the well-being of the millions of American youngsters who spend part of each summer at camp vacations. The Youth Camp Safety Act responds directly to the inadequacy of present youth camp safety laws. A Department of Health, Education, and Welfare investigation into the need for safety standards found that only seven States have comprehensive youth camp safety laws. A minimum of 25 children die each year, 1,448 children receive injuries and another 1,223 children incur serious illness at summer camps. Further investigation by a House committee concluded that these statistics may be grossly underestimated. The need clearly existed to set at least minimal Federal standards to safeguard youngsters in summer camp.

The bill establishes in the Office of the Secretary of Health, Education and Welfare an Office of Youth Camp Safety, headed by a director, appointed by the Secretary. The director will develop and administer youth camp safety standards. The design and intent of the bill is to encourage the States to assume the responsibility for development and enforcement of their own comprehensive youth camp safety standards, so long as their regulations will be as effective in insuring safe operations as the minimum national standards. The bill also provides that the Director make personnel, who have the necessary expertise, available to the States to assist in developing State plans in training State inspectors and other personnel associated with youth camps. To fund this program, the House authorized an appropriation of $7.5 million, less than 75 cents for each child attending summer camp.

Foreign Tourist Travel Authorizations (H.R. 5357, vetoed by the President, May 28, 1975)—Congress sought to promote tourist travel in the United States and also to promote international travel by foreign residents to the United States by authorizing $2.5 million for each of fiscal years 1976, 1977, and 1978 for domestic travel promotion, and $25 million for fiscal year 1977, $30 million for fiscal year 1978, and $30 million for fiscal year 1979 for international travel promotion. The measure passed both Houses of Congress but was vetoed by the President on May 28, 1975.

The measure was deemed to be of particular significance because of the importance of the tourist industry to the American economy. In 46 States, tourism ranks among the top three industries, and in three States it is the leading industry. Tourism generates annual revenues in the total amount of $61 billion and provides over 4 million jobs to Americans.

Yet the tourism industry is actually operating considerably below capacity level. It has been reported that U.S. hotels are presently operating at only 30 percent capacity. Furthermore, from an estimated 85 million persons throughout the world who have the means to travel to the United States, we have, over a period of years, managed to include only a relatively small number to visit this country.

Additionally, the United States spends far less for tourist promotion than many other countries. In 1973, the $9.1 million that the United States spent for the promotion of tourism seemed modest compared to the amounts spent by such countries as Ireland, $24.7 million; Canada, $21.6 million; Israel, $18.3 million; Turkey, $4 million; and Greece, $12.7 million.

The relatively small authorization for tourist promotion passed overwhelming by the Congress would have been an excellent investment for Americans at home and international travelers visiting our great country.

Assistance to U.S. Citizens Returning From Abroad (P.L. 94–4 approved June 28, 1975)—Responding to the need arising from the evacuation of American citizens and their dependents from Vietnam, the Congress made permanent the authority of the Department of Health, Education and Welfare to provide temporary assistance to certain citizens who have been repatriated from foreign countries. A limitation of $8 million is provided on the authorization for the period from enactment through September 30, 1976, and of $300,000 for any fiscal year beginning on or after October 1, 1976.

Originally designed to aid citizens repatriated from Cuba and the Dominican Republic in 1961, the assistance provided by the bill and financed from Federal funds includes financial assistance, reception, medical care, and transportation from the port of entry to the individual's final destination. The program also provides for help in planning for resettlement, obtaining and using existing resources, and locating friends and relatives.

The Social and Rehabilitation Services of the Department of Health, Education and Welfare which is responsible for the administration of this program arranges for the facilities of State and local welfare agencies to be utilized in carrying out the program. These agencies are reimbursed for their costs.

Lottery Newspaper Advertising Prohibition Exemption (H.R. 1607, passed the House June 16, 1975)—With the passage of H.R. 1607 the House provided that the exemption of prohibitions on certain information and advertising regarding lotteries that presently applies to radio and television will be extended to newspapers.

In the last session, Congress passed an amendment to the law to permit radio and television stations in a lottery State, or an adjacent State which conducts a lottery, to carry certain information concerning those State-operated lotteries. At that time only the electronic media were covered in the law. H.R. 1607 extends the right to newspapers to carry the same kind of information that radio and television stations now carry.

Professional Sports Antiblackout Law Extension (S. 2554, passed the House December 16, 1975. In conference)—In 1973 Congress passed a measure prohibiting sold-out professional sporting events from being blacked out in the television viewing area in which the event was taking place. S. 2554 makes permanent the antiblackout rule which is set to expire on December 31, 1975.

When Congress first passed the antiblackout law, it did so in order to make available to local fans certain games of professional football, baseball, basketball, and hockey which were being televised pursuant to network contracts. But Congress took this important step with the full awareness of the importance to professional sports of the "live gate." Thus a "fail-safe" mechanism was built into the bill. If the game is not a complete sell-out 72 hours in advance, the blackout imposed by the league remains in effect. Only when tickets have been sold does the law require it to be made available for local television.

This feature is carried over in S. 2554 with an additional change which relates to post-season playoffs in professional baseball, basketball, and hockey. Because it is often not known 72 hours in advance if a game in these playoff series will even take place, S. 2554 reduces the sellout deadline to 24 hours. This change will thus make more of those playoff games available on television to fans who are unable to obtain tickets.

National Science and Technology Policy and Organization Act (H.R. 10230, passed the House November 6, 1975)—The past decade has been one of unusual importance for the Federal role in science and technology. It has also been one of considerable fluctuation in Federal support, and while strongly influenced by space and security needs, has included marked advances in virtually all research and development areas. Too, this period has also seen the formation of a number of congressional committees, executive agency committees and offices and private organizations to deal with the scientific upsurge. However, over the years the need for some coordinating mechanism has become more and more apparent. This year the House took a major step toward coordinating these widely disparate aspects of National science and technology policy with the passage of the National Science and Technology Policy and Organization Act. In doing so the House affirmed the intention of Congress to seek greater involvement in such policy considerations by establishing a closer liaison with the White House Office of Science and Technology and the President's Science Advisor.

The legislation sets forth a national science and technology policy. An office of Science and Technology would be established in the Executive Office of the President to be provided with a Director to be appointed by the President and confirmed by the Senate to serve as the President's personal science advisor. The President would be authorized to reorganize the Office later, with congressional approval and within certain time limits.

Title III establishes a 24-month Federal Science and Technology Survey Committee within the Executive Office of the President to consist of from 5 to 12 qualified and representative members appointed by the President. The committee is to survey and analyze the overall context of the Federal science and technology effort and report its findings and recommendations to the President who in turn has 60 days to review the report and transmit it to the Congress with his recommendations. When in full operation, the estimated cost of the Office is about $2 million per year. The cost of conducting the 24-month study by the Survey Committee is estimated at $1 million.

Indian Claims Commission Appropriations Act of 1975 (H.R. 3979, passed the House on June 16, 1975. In conference)—The Indian Claims Commission is the independent quasi-judicial agency created to provide a forum for the hearing and adjudication of all claims by Indian tribes against the United States that arose prior to the date of its establishment. Claims must be filed within five years or be forever barred. The Commission when established was given ten years to complete its work, though owing to the large number of claims and their complexity, the Congress has had to extend the Commission's existence four times. At present, the Commission is due to expire in 1977. A total of 613 claims has been docketed; as of December 31, 1974, 436 dockets had been disposed of and 177 were pending.

H.R. 3979 authorizes appropriations to carry out the functions of the Indian Claims Commission for fiscal year 1976. As passed by the House, the bill authorizes a total of $1,550,000, representing a $100,000 increase over the FY 1975 authorization.

The Senate reported H.R. 3979 with a recommendation that the bill be amended so as to extend the life of the Commission until 1980. This version of the bill was passed by the Senate, but the House disagreed to the Senate amendment and asked for a conference. Conferees have not yet resolved the differences in the House- and Senate-passed versions.

PRESIDENTIAL VETOES (94TH CONGRESS, 1ST SESSION)

H.R. 1767, Suspension of Presidential Authority to Increase Tariffs on Petroleum Products. Date of veto: 3/4/75.

H.R. 4296, Emergency Agricultural Act of 1975. Date of veto: 5/1/75.

H.R. 25, Surface Mining Control and Reclamation Act of 1975. Date of veto: 5/20/75.

H.R. 4181, Emergency Employment Appropriation Act. Date of veto: 5/28/75.

H.R. 5337, Authorizing Appropriations to the Secretary of Commerce for Promotion of Tourist Travel. Date of veto: 5/28/75.

H.R. 4485, Emergency Housing Act of 1975. Date of veto: 6/24/75.

H.R. 4035, Petroleum Price Increase Limitation Act of 1975: Date of veto: 7/21/75.

H.R. 5901, Education Division and Related Agencies Appropriation for Fiscal Year 1976. Date of veto: 7/25/75. Attempt to override the veto in the House succeeded, 9/9/75 by a vote of 379–41. The override in the Senate, 9/10/75, was 88–12. The bill thus became Public Law 94–94.

S. 66, Special Health Revenue Sharing Act of 1975. Date of veto: 7/26/75. Attempt to override veto in the Senate succeeded, 7/26/75, by a vote of 67–15. The override vote in the House, 7/29/75, was 384–43. The bill thus became Public Law 94–63.

S. 1849, Emergency Petroleum Allocation Extension Act of 1975. Date of veto: 9/9/75.

H.R. 9497, A Bill to Amend the Computation of the Level of Price Support for Tobacco. Date of veto: 10/1/75.

H.R. 4222, National School Lunch and Child Nutrition Act Amendments. Date of veto: 10/3/75. Attempt to override the veto in the House succeeded, 10/7/75, by a vote of 397–18. The override vote in the Senate, 10/7/75, was 79–13. The bill thus became Public Law 94–105.

H.R. 12, Protection of Foreign Diplomatic Missions and Increase in Size of Executive Protection Service. Date of veto: 11/29/75.

H.R. 5559, Revenue Adjustment Act of 1975. Date of veto: 12/17/75.

H.R. 8069, Departments of Labor, Health, Education and Welfare Appropriations for Fiscal 1976. Date of veto: 12/19/75. The House scheduled consideration of the veto message for January 27, 1976.

S. 2350, Amending National Security Act of 1947 to include the Secretary of the Treasury as Member of National Security Council. Date of veto: 12/31/75.

H.R. 5900, Common-Site Picketing Act. Date of veto: 1/2/76.

NOTICE OF HEARINGS ON THE U.S. DRAFT CONVENTION ON THE PROHIBITION OF MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES

HON. CLAIBORNE PELL

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. PELL. Mr. President, I wish to announce that the Subcommittee on Oceans and International Environment of the Committee on Foreign Relations has scheduled public hearings on the U.S. Draft Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques on January 21, 1976.

The hearings will be held in room 4221 in the Dirksen Senate Office Building beginning at 3 p.m. At the outset of the hearings the subcommittee will hear representatives of the administration; the subcommittee will then receive testimony from public witnesses. Persons wishing to testify should communicate with Arthur M. Kuhl, chief clerk of the committee.

THE 1,300-PENSION-PLAN TERMINATIONS IN DECEMBER

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. VANIK. Mr. Speaker, a disturbing statistic which seems to confirm some of my worst fears with respect to the administration of the pension legislation has just come to my attention. Since the enactment of the Employee Retirement Income Security Act of 1974, less than 16 months ago, approximately 5,600 private pension plans have been terminated—more than four times the expected rate of termination. As a result, many of the 160,000 employees who had been covered by those plans now face an uncertain retirement future.

Furthermore, there is no visible sign that the rate of such terminations is slowing down. In fact, on December 17, 1975, the Pension Benefit Guarantee Corporation processed no less than 202 termination notices. Fortunately, every day has not been like this, and the large majority of plan sponsors seem willing to acknowledge the need for pension reform and to accept some measure of added responsibilities. There has been a small but significant year-end rush which accounts in large part for expected December termination totals of more than 1,300.

But if every day was like the one referred to above, pension plans, and particularly smaller defined benefit plans, would soon be an endangered species, and legislation intended to create an environment in which such plans could flourish and multiply would have backfired.

To some extent, at least, the high and possibly accelerating rate of terminations is due to the burdens of compliance with the pension law. Fortunately, as a result of Oversight Subcommittee hearings on November 20 and December 9, 1975, we were recently able to report some solid progress in the direction of easing those burdens. Some of the specifics are worth repeating:

The Commissioner announced: First, that a simplified annual report form 5500C for small plans is being developed; second, that a simplified 5500K report form is also being developed for Keogh plans; third, that the IRS filing date for these forms will be postponed by several months; fourth, that the IRS will not be requiring an accountant's opinion in connection with annual reports of small plans; fifth, that the tests for discrimination against rank and file employees under Revenue Procedure 75–49 are being reevaluated; sixth, that Revenue Procedure 75–480 containing actuarial assumption rules with respect to social security offset plans is being reconsidered; seventh, that the previously announced special reliance procedure which freezes applicable law for a defined period is in effect; and eighth, that interagency policies with respect to prohibited transactions exemptions are being intensively reviewed.

I believe these actions demonstrate that the IRS is committed to creating an atmosphere in which small as well as large plans may flourish.

It is worth noting that this commitment seems to be shared as well by Labor Secretary Dunlop who has recently required that all Labor Department regulations, including of course reporting and disclosure regulations under ERISA, be accompanied by an "inflationary impact statement." The IRS should likewise analyze the inflationary impact on small and large plans as well as the availability of information necessary for compliance and the availability of personnel having the necessary skills to prepare the required reports. In short, if recent termination trends are to be reversed, regulations must not only look good on paper, they must work well in practice. From the number of recent terminations, it is obvious that time is of the essence if we are to protect the pension rights of hundreds of thousands of American workers.

FISHERIES MANAGEMENT AND CONSERVATION ACT—S. 961

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. HATHAWAY. Mr. President, as a cosponsor of S. 961, I am pleased to support this bill, which creates a 200-mile limit for fisheries management and conservation. The basic need for this bill is apparent; while the world catch of fish has increased in response to worldwide demands, the U.S. catch has remained static. U.S. fishermen have been at a competitive disadvantage with foreign fleets and we have come to rely increasingly on foreign imports to meet the increasing U.S. market demand for fish and fish products.

The situation off the coast of New England has been especially acute. In a particularly rich fisheries area—Georges Bank—88 percent of the total catch was taken by U.S. fishermen as recently as 1960. As of 1972, the figures were turned around, and foreign fishing accounted for over 89 percent of the total catch from Georges Bank area. In just 12 years, the relative catch of U.S. and foreign fishermen was reversed. This statistic reflects an untold amount of economic disruption for our individual fishermen, and nationally has resulted in an increasingly adverse balance of payment—some $1.3 billion in 1972, an increase of over 300 percent since 1960.

It is obvious, however, that management of our fisheries resources is not a parochial issue; it is an issue in which there is an international stake which goes beyond State or national boundaries. And as I know others here have emphasized, S. 961 recognizes the international nature of the issue. It is an interim measure only, limited to jurisdiction over fisheries matters and is designed to end when agreement is reached at the international level in the Law of the Seas Conference. In supporting this bill, I do not intend to denigrate the importance of the international negotiations which have been taking place over the past several years, but I do recognize the constraints that necessarily surround the achievement of a final international agreement. The most important of these constraints vis a vis our domestic fishing industry, is time. Now after 8 years of work, with prospects for agreement still not certain for the next LOS conference, and with the prospect of several more years for ratification of any LOS agreement, the time constraint of doing nothing, pending successful LOS work, has become a critical factor for our domestic fisheries resources and industry.

Presiding at hearings of the Small Business Committee this past spring on the "economic and loan problems confronting the fisheries industry," the benign neglect of the Government to this once thriving industry was once again made apparent to me. Our one direct loan program for fishermen has been under a moratorium since 1973, and the Federal/State grant programs have been subject to attempted cutbacks. Additionally, fishermen have been denied relief from ravages such as the Red Tide phenomenon and little recourse is offered fishermen whose equipment is damaged or destroyed by foreign vessel operations. Once, the majority of fishermen might even have preferred this attitude of benign neglect. Now, however, over the past 15 years these men have seen the source of their livelihood, the fisheries resources, increasingly decimated by a force they necessarily cannot confront alone. Highly mechanized, heavily subsidized foreign fleets off our shores necessitate a change in our romanticized notions of the U.S. fishermen as successfully plying their trade against overwhelming odds. The industry is no longer successfully competing against these manmade odds; and in the end, the international community, as well as our domestic industry, will be the losers if effective management programs are not soon instituted.

Of equally significant international concern is the depletion of some species of fish beyond their optimal yields, even under existing bilateral and multilateral agreements. This is seriously threatening their ability to reproduce at harvestable rates. Other species are underutilized and need proper management and marketing support so that the resources that we have mav be more fully and beneficially utilized.

Finally it should be emphasized that S. 961 requires the establishment of just such fisheries management programs, primarily through regional councils representing the States which have such a considerable stake in enactment of this bill. S. 961 is not a simple assertion of limited jurisdiction over our fisheries resources; enactment of the bill also requires that we assume the responsibility of managing and conserving those resources for the future. This responsibility is an important one, and one which is going to require the maximum cooperation of our fishermen, of the industry, and those involved at all governmental levels. It will not be an easy task to fulfill the responsibilities assumed under this bill, nor do I expect it to be a noncontroversial effort. But it is a task which now must begin after several years of delay and apparently unwarranted optimism as to the date of conclusion of international negotiations. I look forward to expeditious passage of this measure in the early days of the coming session.

MICHIGAN CITY, IND., NEWS-DISPATCH HITS "SMEARMONGERS" WHO FALSELY ATTACK CHILD AND FAMILY SERVICES ACT

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. BRADEMAS. Mr. Speaker, earlier this month, the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) called the attention of the House to the vicious smear campaign being conducted throughout the country by opponents of the child and family services bill, which Senator WALTER MONDALE and I, along with 122 other Members of the House and Senate, of both parties, are sponsoring.

Mr. Speaker, I regret to report that this poison still spreads. In recent days my office has been advised that the unsigned flyer which contains the false and misleading charges about the bill is now being circulated in parts of North Carolina, Maryland, Pennsylvania, New York, and New Hampshire, as well as the long list of other States which Mr. O'NEILL cited.

But, Mr. Speaker, at the same time I am pleased to report that an increasing number of responsible journalists have been publishing news stories and editorials countering the smear campaign. One such newspaper, the Michigan City, Ind., News-Dispatch, has not fallen prey to the false allegations concerning the bill and has, instead, published an excellent artice on the subject:

SMEARMONGERS

> Distortion of facts to advance a cause—or to deter one—is deceitful and wrong, whether it is done by a political administration, by a news medium, or by an organization.
>
> When it is done in anonymity, as is the case with a current smear campaign against the proposed federal Child and Family Services Act, it is even more repugnant.
>
> Third District Cong. John Brademas is one of the sponsors of the act. His office has received hundreds of letters about the bill which have been written in response to the anonymously circulated material. There even have been instances of TV and newspaper editorials based on propaganda.
>
> Sen. Walter Mondale, the cosponsor of the bill, said it is "being subjected to one of the most distorted and dishonest attacks I have witnessed in my 15 years of public service."
>
> The legislation—as written, not as distorted in the propaganda—is controversial. There are aspects to it, as Rep. Brademas said in a speech in Michigan City Sunday, which certainly call for rational debate in Congress and criticism by citizens who disagree with the concept of expanded federal funding of child care services.

But a smear campaign is something else. And this one, like all of them, serves only to thoroughly discredit those who create it or abet it.

REPORT BY SENATOR HARTKE

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from the distinguished senior Senator from Indiana (Mr. HARTKE). It touches on major issues and some of the areas of legislation in which he has played an active, and frequently an innovative, part during the 17 years he has served in this body, and presents his philosophy regarding the role a concerned government should constructively play in the lives of all its citizens.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REPORT BY SENATOR HARTKE

AGRICULTURE AND RURAL AMERICA

Seldom have farmers been so severely squeezed between inflation and rising production costs on the one hand and unprecedented drops in prices received on the other. . . . If Congress considers it essential for the nation that workers be provided with benefits while unemployed and that major corporations be granted subsidies and tax incentives to offset major losses and encourage expansion, then it is also critical that Congress protect farmers from economic forces over which they have no control. The American farmer is entitled to this independence, to assistance in times of natural disaster, and at all times to a fair return for his labor.

National attention has been focused on the plight of our cities. Insufficient attention has been given the residents of rural and small towns, who in Indiana comprise 35 percent of the population.

Year by year, thousands of independent family farms succumb to the pressures of agribusinesses which seek to consolidate their economic power and eventually control the nation's food supply. Since 1969 we have lost over one third of our dairy farmers. The family farmer must be protected from these gigantic corporate interests, but if he is to be encouraged to continue his struggle for independence, he must receive a fair price for his crop. Today he is lucky to get 38 cents of a dollar the consumer spends on food—and his costs are spiralling—fertilizer, energy, interest on loans to purchase equipment, all continue to take a larger and larger bite out of his earnings. In 1974 alone, farmers' operating costs rose 16 percent.

A progressive farm policy will:

Preserve the rural communities of America;

Maximize the production of food by assuring our independent farmers a fair price for their products and a fair return for their labor;

Assure an abundance of fertilizers and seeds;

Establish minimum levels of food necessary for the American people, prior to exportation;

Guarantee loans for farmers who are stricken with natural disasters;

Provide meaningful tax reform that will reduce farm property and estate taxes and help preserve the family farm and small business;

Assure priority for natural gas supplies to farmers and fertilizer producers;

Assure 90% parity for wheat feed, grains and milk.

These, in addition to

Continued development of rural water and waste disposal systems;

Continued flood control for agricultural and urban protection;

Expansion of health, education, housing and employment programs in rural areas;

Continued service for light density railroads on which agricultural communities depend;

The establishing of a reserve inventory of grains, sufficient to stabilizing prices and alleviate hunger outside of the USA.

And why not barter American grain in exchange for oil from the Soviet Union at a discount?

BUSING

Forced busing has hit the headlines with a vengeance. Hardly anyone has been very calm about the issue. Indiana is no exception.

Contrary to much popular understanding, busing for education was not a new idea when it became attached to school desegregation. Children in rural areas were being bused to schools that were not within walking distance of homes. Children in cities were bused to schools because congested traffic posed a hazard.

When we came to grips with the unpleasant realization that segregated schools did not guarantee equal educational opportunity for all our young citizens, busing seemed a sensible idea to make certain that all children were given the chance for quality education.

I want to emphasize that quality education was the goal. Obviously, if we should achieve school integration at the expense of pupil achievement, then we would have lost sight of our goal.

I supported busing so long as I considered it a workable means to achieve quality education for all people. In numerous instances it has succeeded. Part of the success has been the opportunity for different groups of our children to get to know each other as peers.

In a statement that was widely circulated four years ago, I stated that "just as I do not favor the busing of children to maintain segregation in our schools, I do not favor the busing of children solely for the purpose of achieving the proper racial balance."

I do not consider it sensible to persist on a chosen course when mounting evidence indicates that the goal sought is not being attained. In the years that followed the *Brown v. Board of Education* decision in 1954, it was apparent that whereas integration via busing was also maintaining quality education in some areas, in others the emotionalism that was attached to busing was actually injuring the cause of education no matter the color of the pupils' skin. More and more black parents were joining white parents in demanding the upgrading of neighborhood schools with better teachers, updated teaching equipment and challenging curricula. My first vote against busing was cast in June, 1974.

One reason busing is not everywhere working as expected is because we have failed to achieve residential integration and equal opportunities for all in American society. Getting to know each other in a neighborhood setting is also educational. So long as there are barriers between our races in jobs, housing, status, we cannot achieve the healthy integrated society that should be a mark of our democracy. Such barriers are bound to inhibit the drive for integrated schools . . . not integration in the sense that there will be so many whites, so many blacks, so many of other minorities, but in the sense that integration means the best possible education is available to all, in the sense that all schools reach and maintain levels of challenge and attainment that will teach, educate and train our pupils up to the excellence of their ability.

Once we have achieved residential integration, and equal opportunity according to ability in American economic and social society, the question what the school offers will be the desideratum, not how near or far it is, nor the makeup of its pupil population.

This statement that I made following my vote last September to bar the use of federal funds in transporting students to schools other than the one that is nearest to their homes put my stand in relief: "The busing of students in order to achieve racial equality has caused disruption within the major cities of our nation and has actually been detrimental to improving the quality of education and race relations. No one can desire the further collapse of the cities of America through the growing bitterness among its citizens and the continuing movement of the middle income residents away from the city. I stand firmly behind the concept of an America that provides equal opportunity to all. . . . Forced busing of school children is counter-productive and is unfairly placing upon the children of our nation the burden of resolving the major problems in our society that we adults have failed to come to grips with ourselves."

My doubts about the efficacy of school busing in no way reflect on my vigorous advocacy of human rights as has been repeatedly evidenced in the progress we have made in the extension of voting, the elimination of discrimination in the sale or rental of housing, the outlawing of discrimination in restaurants, hotels and other places of public accommodation. My record of initiative and support of such measures goes back to my earliest days in public office, when as Mayor of Evansville, I directed the integration of the city's swimming pools.

CONSUMER PROTECTION

Insistence on consumer protection continues to grow, and that is a good thing. More and more, people are demanding to know about the products they buy, the food they eat, the drugs they use, and the truth about the services they purchase. Agencies are strengthening their administration of old laws. In some instances a legislative proposal has caused makers and sellers of products and services to establish new guidelines for self-discipline and more fair dealing with their customers. It was the threat of legislation and consumer resistance that compelled manufacturers to reduce or warn against caustic substances in household cleaners that pollute the environment and our drinking water, or are outright hazardous. Tragic episodes triggered stronger protection against flammable fabrics.

Some progress has been made in safety laws, provisions of which I initiated or endorsed. They include the Tire Safety Act and the Transportation Safety Act with its controls over the transportation of hazardous materials. Standards for the construction of vehicles have been improved.

A recent landmark law which establishes warranty requirements for consumer products includes a section which I initiated. This section requires used car dealers to make a full disclosure of the condition of the car sold, exactly what the warranty covers, including repairs the purchaser must make at his own expense. If the car is sold without warranty the purchaser must clearly be informed that he must pay for all repairs. For the first time, Congress has mandated that buyers of used cars will have redress when they fraudulently have been sold a "lemon."

I see other areas where consumer protection is far from adequate. For example, we need a Truth-in-Savings Act which will require savings institutions to make public vital information on interest and dividends. Millions of Americans place billions of dollars in savings accounts each year—money set aside for emergencies, children's education, for retirement, a new home, a vacation. But few of us receive the best return for the money we save. Why? Because there are about 100 different ways to calculate interest on a savings account. Seldom is the information available in such a form that depositors can shop around and select the plan that is best for them. One study, for instance, revealed that the same series of deposits and withdrawals over the same period of time at the same interest rate may yield an actual interest of $30 in one savings institution, and $75 in another! A bill I have been sponsoring requires savings institutions to tell their depositors exactly how much interest they can expect, how interest is compounded, what the penalties are for withdrawals, what is the minimum length of time savings must remain on deposit in order to draw interest at the annual rate the institutions advertise. Their advertisements should spell out this information in clear and meaningful language.

All accounts indicate that food costs will continue to rise. All the more reason should shoppers be able to readily determine which products offer the most value for the money. Food legislation, such as I have been sponsoring, that will assure the customer of fresh and wholesome food, will require:

A "pull date" which states clearly—and not in code—the day beyond which an item cannot be sold as fresh food;

The nutritional content so the shopper may know exactly what vitamins and minerals a product contains; what nutritional value chemicals and additives provide;

Grade labelling for fresh and processed foods so the shopper may compare them in price and quality to other products.

Almost daily complaints of fraud are registered. An investor who yearns to be an independent, small businessman finds he was exploited in a franchise deal; an elderly couple is fleeced by a glib salesman who neglected to give the full truth about a "Paradise in Development." In recent years, a new racket has been revealed—young people, lured by attractive ads, enroll at "career" schools that guarantee a full course of skilled training and a challenging, permanent job at the end, find the training is elementary and the job non-existent. The Senate Veterans Committee, which I chair, has written into law provisions to protect veterans against abuses by vocational schools, and acts as a watchdog to see that the Veterans Administration strictly carries out the intent of the law. If government agencies find that existing laws are not strong enough to remedy the situation, it will be necessary to extend the protection we are affording veterans to all students.

Consumer protection is a never ending activity, and it takes two forms—constant supervision over the laws that are enacted and legislation to protect the public in areas which existing law does not sufficiently cover. Honest merchants are well aware that measures to deal fairly with consumers protect them to against the unscrupulous.

THE ECONOMY AND JOBS

The single largest problem confronting all Americans is the crisis in our economy. No matter what certain imprecise statistics indicate, no economy is healthy that harbors a national unemployment rate hovering between 8 and 9 percent. There are areas where unemployment is close to 20 percent. The malignancy of continued inflation holds down any real recovery because there is no telling when prices will stop rising. Prosperity depends on production, people, pay, prices and profits. Government policy can foster or impede prosperity.

Traditional economic policies, with tight money and high interest restraints, which were the mark of the Nixon years, shackled American's productive energies and propelled us down the economic decline. Except on the occasions when he was compelled to reverse his stand, President Ford has championed those policies.

Changing conditions require the revamping of old theories and doctrines. It should be obvious that methods that served our nation two and more generations ago are not necessarily the methods that will serve us now, nor in the future. Industry, agriculture, business—the reservoirs of employment—whether large or small, our relations with foreign countries, operate in ways that were not dreamed of then. The makeup of our greatly enlarged population, its dispersal throughout the country, have produced a United States far different from the nation our parents and grandpartents knew.

Our first economic priority must be to put as many of the unemployed as possible back to work so they can earn again for their self respect, to support their families, and to pay income taxes to meet national needs. Unemployed people can no more than bankrupt or underproductive businesses pay taxes to support the government. One way or another we are paying for unproductive, idle hands—in expanded unemployment insurance, in increasing welfare costs, in the larger contributions people are called on to make to churches and charitable organizations which assist the jobless.

I believe that everyone who is willing and able to work should have a job which provides a decent income. Primary reliance for providing these jobs must be on a healthy, productive, growing, private economy. But, as is evident from our economic history, the private economy is not always able to guarantee full employment. For those unavoidable temporary periods of individual unemployment, and for longer periods when inadequate national economic policies produce large-scale unemployment (such as the present Nixon-Ford recession) I believe there should be adequate programs to provide temporary meaningful jobs, jobs that will maintain income and avert personal economic tragedy. It is for that reason that I continue to advocate a wider program of public service jobs—in slum clearance, in housing, transportation, pollution abatement, in meeting other community needs. In my view, the guiding principle for this nation's economic policy should be that our human resources are our most precious treasure and the opportunities must be present for the full expression of the human potential to work, to produce and to create.

The revitalization of our economy will require:

Further tax reform to stimulate production and create jobs, and put more money in the hands of consumers to spend on products and services.

A permanent investment tax credit of 10 percent to stimulate capital investment in new machinery and equipment and the modernization of plant facilities, and thus increase productivity and economic growth. For five years I have been sponsoring such legislation. Belatedly, the Ford administration has come around to an endorsement of this proposal.

Tax credits to companies which create new jobs to reduce unemployment.

Lower interest rates and easier credit for consumers to make major purchases.

Low-interest government loans to insure that unemployed people will not lose their homes by mortgage foreclosure.

The revision of policies that encourage American businesses to shut down their plants in this country and transfer production abroad with the lure of cheaper labor and tax concessions. When American business takes its production overseas it means a loss of American jobs and a loss of American capital. At my insistence, the first step toward closing loopholes was enacted in the Tax Rebate Law of March, 1975.

Not until we have a firm commitment to jobs, growth, the continued development of our technology, the realization that our most important asset is the productive capacity of our own people, and a willingness to probe new policies that may be more suitable to the demands of the changes that have come about in this age, can we expect the return of prosperity.

EDUCATION

A crisis pervades all levels of American education. Communities throughout the land face mounting problems in providing education for pupils in elementary and secondary grades despite the fact that in many of them the school population is declining, and despite the programs of federal assistance afforded by various legislation Congress has enacted, especially during the last decade.

One major reason is because financing of elementary and secondary education remains with the local and state governments, which still chiefly rely on the property tax to fund the schools. I regard this method as unfair, for it hits people regardless of their ability to pay. To reduce the burden on property taxes I have proposed a fifty percent federal tax credit against state and local taxes that are imposed specifically to finance public education.

Skyrocketing tuition is pricing more and more young people out of post secondary education. We have adopted legislation to assist those from low-income families. We must turn our attention to helping students from middle income families. A measure I have introduced several times provides a tax credit of up to $1200 to be applied to actual Academic tuition and fee payments at an accredited institution. The credit would be based on a formula of 80 percent of the first $500 of expenses, 60 percent of expenses between $500 and $1000, and 40 percent of expenses between $1000 and $2250, with a maximum allowable credit of $1200.

Inflation, economic conditions and rising costs continue to make it difficult for higher institutions of learning to retain enough high-grade faculty to maintain quality curricula. We must preserve the institutions, both public and private, that are providing vital educational services to our country. For many of our fine colleges and universities time is growing short. We must be prepared to help them or there simply will not be enough such schools to provide higher education for our people.

Two other areas, I feel, demand early attention. To fill a gap in health service, I have proposed increased federal funding to educate more nurses. And I think communities should be assisted to provide tutoring at home for handicapped children who cannot attend school. Some states do have such programs but do not reach all the children who need this kind of schooling. Indiana, for instance, reaches less than half of our handicapped children.

Two hundred years ago, men of vision saw in education the opportunity to build a foundation for democracy. One hundred and fifty years ago, the people of my home State of Indiana translated that vision into our State Constitution:

"It shall be the duty of the General Assembly, as soon as circumstances permit, to provide, by law, for a general system of education, ascending in a regular gradation from township schools to a state university, wherein tuition shall be gratis and equally open to all."

I have abided by that creed in my State's constitution in my sponsorship and support of legislation to extend the opportunities of education to all our citizens.

Admittedly, not all the resulting programs have been entirely successful. Yet, on the whole, the results have been gratifying. Particularly I would cite Loans to students on the post-secondary and professional levels, Educational benefits to Veterans, Cooperative Education, the Community College System and Adult Basic Education.

The Senate Veterans' Affairs Committee, which I chair, has persisted, often despite the reluctance or hostility of the Nixon/Ford Administration in extending to veterans of the Vietnam era and the Cold War period educational opportunities and supplementary assistance as were granted to veterans of previous wars. The millions of GI's of World War II and the Korean War, who took advantage of educational benefits have repaid their assistance in the increased taxes from better paying jobs and professions their education and training enabled them to pursue. We can expect the same from veterans who are receiving that assistance today.

When, in 1962, I became active in the drive for federal support of Cooperative Education, there were 56 colleges in the nation with such programs. Today there are 800, with some 180,000 participating students who earn from $2500 to $3500 a year, or a total of $500 million. The colleges include two-year community colleges, four-year colleges and graduate schools. To a degree, the cost of Cooperative Education is self-liquidating; such students' earnings are subject to income tax.

Cooperative Education permits students to alternate between on-campus study and off-campus jobs in a realistic work-experience. Wherever possible, the jobs are in, or related to, the fields where they intend to make their careers. Students are hired by employers, who take part in Cooperative Education including its planning, at going rates and in regular jobs. The program received high praise at Employers' Institutes held in several cities a couple of years ago, when among others, participating financiers, industrialists and school administrators exchanged their views and experiences. They were impressed by the caliber of the students who worked for them, whom they felt were given an increased motivation by the opportunity, *during* the course of their schooling, to apply their classroom studies and training to actual experience. Cooperative Education also helps students to change their courses when the actual experience leads them to conclude that a different career is more suitable.

Today, more than 13 and a half million are enrolled in the nation's 981 publicly funded Community Colleges for two-year terms, and many transfer to four-year terms at other colleges. The two-year Community College is especially important to low-income students who wish as quickly as possible to acquire job skills which will enable them to competently perform in steady, paying jobs. It has been a boon also for adults who want to upgrade their skills or expand their learning horizons.

As for Adult Basic Education in 1967, following passage of the law I sponsored, 389,000 adults, most of them with scant or no schooling, were enrolled in basic education classes. In 1974, the last year for which statistics are available at this writing, 850,000 had so enrolled. More than one-fifth completed an 8th grade education. In addition, some 27,000 attended classes conducted by their employers at work-sites.

Most of the adult pupils in basic classes lost their unskilled jobs when technology took over. Others lost skilled jobs that became outmoded, or superfluous when their companies closed down or transferred operations overseas where they could obtain cheaper labor and tax concessions. With reschooling these adults have acquired the capability of retraining for new work.

I believe that our dynamic democracy needs an educated citizenry to expand our growth and influence, and to accommodate our society to the social and economic needs of changing times. While government spending must be brought into focus with the economy, assistance to education must not bear the brunt of the axe. It is because Congress regards education as of the highest priority that it gave a resounding NO to President Ford's veto of the school aid bill last September.

In my book, money spent for education is an investment, not an expenditure. I believe that every person must be given the chance for quality education to the limit of his capability and ambition.

As chairman of the Subcommittee on Foundations, I have suggested to managers of these worthy organizations that they increase their donations for education with the definite purpose of bridging existing gaps.

FOREIGN POLICY

I believe we have stopped the unconstitutional executive usurpation in the management of foreign affairs which reached its apex under the Nixon presidency and is still being sought by President Ford. For ten years our presidents acted almost unilaterally and were able to do so because essential information was withheld from Congress. Long after Congress had acquiesced in a course of action that executive policy already had formulated, it discovered that actions had been taken about which it knew nothing. Frequently such actions, undertaken by low level military and civilian officials, could be attributed in only a theoretical sense to presidential decision. Nevertheless, they helped determine the shape and direction of total US foreign policy.

It was thus that our foreign policy in Vietnam turned the Vietnamese civil-revolutionary war into an American war—a war financed by American taxes and fought with American soldiers. Most Americans, including many of those who helped shape the decisions, were stunned by the realization. Few could offer a sound reason why it had happened.

In the wake of Watergate have come the sinister revelations of operations which aided our foreign policy in its attempt to implant American power in areas of the world which had little relation to our national security. In other areas our operations and aid upheld the oppressive, dictatorial leaderships our pronouncements professed to abhor. The threat of communism overtaking small nations was dangled before us as sufficient reason to help stifle indigenous movements for popularly chosen governments, even as our leaders were fabricating the patterns for detente. In other words, we were participating in the slaughter of the little communist movements, or little possible communist movements, while were were wooing and embracing the big ones.

Certainly foreign policy must be negotiated, proposed and carried out by the Executive. It is the responsibility of Congress to implement it by law and appropriations. It must therefore carefully scrutinize foreign policy proposals, a task it cannot responsibly perform if it is given false or insufficient information.

It is essential to separate out the role of the militarists from the role of the diplomatists in foreign policy; to remove the sinister character of covert activity from negotiations that sensibly should be worked out in secrecy. Any international negotiating body, composed of members who represent a variety of interests or widely divergent points of view, oftentimes hostile one to the other, must be given time and space to arrive at accommodation. This has always been true. It is truer than ever today because so many new elements have entered international relations with so many new governments that have come into being during the past thirty years.

Our emphasis in foreign policy has been on war and the preparation for war. I think it is time to place the emphasis on peace and the preparation for peace.

Several times since 1968 I have introduced bills to establish a Department of Peace which would incorporate under one head our several peace promoting agencies, such as the Export-Import Bank, the Food for Peace program, the International Agricultural Development Service, the Arms Control and Disarmament Agency. Attached to previous bills was provision also for an Academy to train people in the science and the arts of peace.

Realistically speaking, the outlook to adopt legislation to establish the Academy is more promising than the present outlook to establish a Department of Peace. Therefore, my latest bill, which is cosponsored by Senator Mark Hatfield of Oregon, a Republican, and Senator Jennings Randolph of West Virginia, a Democrat, concentrates on securing the establishment of the George Washington Peace Academy in our bicentennial year. Symbolically, the measure carries the identification S 1976.

Nearly 200 years ago, George Washington, in a circular he wrote to the states on June 8, 1783, recommended "a proper Peace Establishment for the United States." His memory should be honored by the Peace Academy bearing his name.

It is time we built a new wing of government which will have a body of individuals who have been trained and educated to understand the processes of the peaceful resolution of differences between nations.

The George Washington Peace Academy would engage in extensive and exhaustive study of the cultural, national, regional and international context of conflict situations. It would train people to engage in the resolution of international differences as do people who now resolve labor or contract disputes. It would work closely with existing educational institutions that are concerned with conflict resolutions and peace studies.

The Academy we propose would assure full academic freedom for the faculty and the students. Students will be drawn from nominations by members of Congress, from direct application and from foreign countries.

We have West Point, the Naval Academy and the Air Force Academy training young people in the art of war. I believe it is important to the moral base of our country as we advance into the next two hundred years that we make a fervent commitment to the study of peaceful existence among nations.

The establishment of the Peace Academy would be more than the birth of an institution. It would be the birth of studies of relationship between nations, and in areas that are not, today, given sufficient importance as we engage the aspects of our foreign policy. The interdisciplinary studies which would characterize the George Washington Peace Academy would explore areas such as political science, economics, psychology, sociology, anthropology, history, law, geography, demography, linguistics, intercultural communications, international relations, ethnology, physics, philosophy, literature. An understanding, in depth, of these areas as they relate to different nations, and especially to nations that are liable to conflict, is essential if conflict is to be avoided. A better understanding of these areas is essential for the wise determination of the relations the United States should adopt with other nations.

A serious defect in the architecture of our foreign policy rests on the fact that we went from isolationism to interventionism without ever having truly arrived at internationalism. It is time to chart a new course. That will require a willingness to embrace new concepts and a willingness to discard old dogmas.

Speaking in Indianapolis on July 19, 1968, I said: "I want a definition of a new foreign policy which recognizes the interdependence of all nations and which asserts that America's principal goal in the world is world peace."

I rest on that statement.

FUEL AND ENERGY

Until recently most of us assumed that the progress of our second 200 years would match that of the first. We expected that we would survive and overcome any setbacks we may encounter in the future as we have in the past. Our confidence was based on the assumption that abundant and cheap energy would be available.

That optimism has been dealt a serious blow, because the current economic setback has been aggravated by the energy "crisis".

In its simplest terms the crisis has occurred because energy costs more. It costs more when we buy it abroad and it costs more to produce at home. While there is no international shortage of petroleum, we have learned how precarious it is to depend on foreign supply, and we do not and cannot produce enough at home.

The answer is the speedy development of alternative sources of energy, to make up our shortage and reduce our dependence on foreign fuel.

Coal would solve much of the immediate problem. Indiana possesses it in abundance and uses it to supply electricity to our rural areas. Although America already consumes 600 million tons of coal annually (furnishing about 17 percent of our total energy) our use of coal could be expanded dramatically by burning it directly with proper environmental safeguards. More importantly, coal can be liquefied into oil and converted into the equivalent of natural gas. Technologies for these processes exist.

Shale is equally important to U.S. energy needs because it, too, is plentiful and can be converted into synthetic crude oil. Our West contains the largest shale deposits in the world—estimated at 1.8 trillion barrels of synthetic crude oil. About 130 billion barrels can be recovered under current economic and technological conditions. If we consume 15 million barrels daily, (nearly our total oil consumption) our reserves would last more than 25 years. The potential, with improved technology, is much greater.

We have the energy resources to carry us through to the day when non-fossil fuels like solar, hydrogen, geothermal and/or atomic energy will be commercially practical.

The processes to recover shale oil or to liquefy coal in the amounts we need are expensive and private capital is unwilling to take the large risk in these new ventures. Therefore, we need a quasi-governmental National Synthetic Energy Corporation to provide capital for synthetic fuel development and production. The Corporation would not be operated for the benefit of a handful of insiders, nor to subsidize ad infinitum private groups that would enter synthetic fuel operations. The profits would be re-invested or paid back into the United States Treasury.

The synthetics industry, like the space industry, would spawn a whole series of satellite industries. New jobs would be created. Old jobs would take on new dimensions.

The cost of developing our own synthetic fuels admittedly will be high, possibly the equivalent of a year of our Vietnam war. The end result will be new strength for our economic freedom, and real protection of our national security. If we ever learn what a price we have paid for energy these past three years, the price we will continue to pay, we will wonder why we delayed so long.

Meanwhile, I believe the government should be made the sole legal purchasing agent for foreign oil.

The fuel crisis, like many others that have submerged us, could have been avoided. For years, many of us have pleaded for a National Fuels Policy. As far back as April, 1960, when I cosponsored a bill for a review of America's energy situation, I warned my Senate colleagues:

"All that is required to suspend or cripple industrial activity thus causing nationwide unemployment is for fuels to become so expensive because of the short supply or high cost that their use become prohibitive." That measure passed the Senate but failed in the House.

Many times in the succeeding years I was one of a small group of Senators in pleading for a revision of the policies that made us dependent on foreign oil.

In a document that was widely distributed in February, 1972, I made these recommendations:

It is imperative that we establish a national energy policy. Our power problems stem not only from the misuse of our nonrenewable resources, but from their overuse as well. Today these irreplaceable resources are limited and they are diminishing at a rapid rate. Each year we expend nearly 1,500 trillion kilowatts of power. It should be evident that this diet cannot be sustained in the United States and that the problem will be disastrous if and when other nations reach our level of consumption.

We must actively search for alternative energy sources. Research is needed to develop renewable energy sources. Concurrent with the development of any new energy source however, must be a commitment to place consumption at levels which permit the disposal and reuse of all byproducts including waste energy.

Other Members of Congress shared my views. But there was no crisis.

Now we dare not wait any longer to establish a National Fuels Policy which will assure a steady and plentiful supply of energy from the several sources that are available and can be developed. A National Fuels policy must also protect the nation from exploitation such as we experienced at the hands of gas and oil companies, and consumers from senseless high prices.

Much of the long haggling over the recent Oil Pricing Bill was due to the strenuous efforts made by oil and gas producers to obtain the highest possible benefits for themselves. I am highly gratified that the law contains my amendment, requiring that any reduction in wholesale prices because of rollbacks that the act calls for, shall be reflected in lower rates to the consumer.

HEALTH

The enactment of a full scale National Health Insurance system appears uncertain in the immediate future. Nevertheless, steps which will not tax our financial resources can be taken to improve the quality and expand our health services. In fact, some of the measures I propose would provide services at less cost to the patients and to institutions.

For instance, paraprofessionals can be educated to handle many more health problems than they do now. There are war veterans who served in medical units and as hospital corpsmen, whose training could be further improved to treat patients at hospitals and clinics under the direction of a physician at fees that would not choke individual health budgets. More and more we find paraprofessionals performing in doctors' offices the duties that only a few years ago were the sole responsibility of a doctor.

The skill and knowledge of nurses could be more effectively used. In fact, for years, in remote rural areas, nurses have been giving pre and post natal care; they have been treating sick children; they have been instructing parents in the prevention of illness. We need more nurses.

A major deficiency in our national health system is the maldistribution of service. In many areas there are insufficient numbers of doctors, hospitals and clinics. To a large degree, that deficiency could be met were we to require that medical students who receive government help for their education, in return, on completion of their training, should devote their professional capability where their services are badly needed for a stipulated period, at the same time charging professional fees. The armed forces require doctors who are educated at their expense to render a period of duty in return. Civilian doctors who give the aid I propose might also be granted credits against the repayment of government loans for the tour of duty they render.

It is the health needs of our senior citizens that especially worries me. They are particular victims of sickness, for even their ordinary health care can erode their modest incomes.

Medicare, of course, helps tremendously. Still, it does not provide coverage in areas which commonly afflict the aging and the aged. Medicare has no provision to cover medicines and drugs, eye care, hearing aids, dentures. It does not include the treatment of nervous and mental illness. Yet, it is recognized that the onset of old age brings on personality changes that the family cannot always cope with but that a psychiatrist or a clinic could. Bills I have introduced would remedy these gaps. In Indiana alone, 750,000 senior citizens would be aided.

A badly needed protection is the licensing of blood banks. Blood banks have become a commercial business and managers purchase blood which in turn they sell to hospitals. The unscrupulous don't examine the blood seller too carefully, and consequently there has been an increasing spread of hepatitis traced to the blood that was injected into the veins of sick people. Federal supervision, as called for under my bill, coupled with a vigorous campaign for volunteer donations, would strengthen the safeguards for a healthy supply. My long standing concern recently was endorsed by the Food and Drug Administration which has proposed that hepatitis warning labels be attached to blood that is purchased.

We have made major strides in the detection and remedy of cancer and heart disease. Still they take an enormous toll in lives and family resources.

On the one hand we have made progress in the treatment of the mentally ill; on the other, we have the staggering fact that their numbers are growing. Most shocking are the young people who have been afflicted. Moreover, studies indicate that their number too will increase.

Community mental health clinics were first established in 1963 by act of Congress. Despite their proven benefit to those communities which have them, during the years since it has been an uphill struggle to obtain enough money to fund them. The costs of the Vietnam War first prevented their expansion, and in more recent years the Nixon/Ford Administration has failed to give them the importance that is their due.

My State of Indiana supports my conviction that mental illness is a public health problem and that borderline patients can be treated at clinics, thus easing the burden of costly care at crowded institutions. Indiana set apart a special fund from cigarette tax money to finance its share of financing the clinics. Some States have no facilities to treat boderline patients.

We are advancing the treatment of kidney ailments. A law I sponsored provides dialysis treatment to victims of chronic kidney disease—the disease that allows its victims to live only if they can have the regular treatment of extremely costly equipment. Kidney diseases had been taking a toll of 25,000 lives a year—not a staggering figure compared to heart disease and cancer. Still, useful lives were snuffed out that could be prolonged because while remedy through treatment was obtainable, it was expensive, much too expensive for most victims to bear. It is one thing for people to die because there is no cure for their sickness. Kidney victims were dying because they did not have the money for treatment.

An approved amendment to the Coal Mine Health and Safety Act, which I sponsored, makes it easier for black lung victims to receive disability benefits.

Too often we overlook the fact that millions spent for prevention can ultimately save billions. A case in point is the vaccination program against measles, both German measles and the type that once was accepted as one of the experiences of childhood.

Some years ago it was discovered that German measles, or Rubella, could infect the baby in the womb of a pregnant mother with some abnormality or mental retardation, and that the once considered casual measles could have a devastating effect on a youngster. Some authorities claim that the largest incidence of mental retardation in the young stems from their mothers having contracted Rubella during pregnancy. Recently, Dr. Louis E. Cooper, professor of pediatrics at Columbia University, credited the measles immunization program with having thwarted a threatened rubella epidemic, but warned there must be no let up in prevention, citing the epidemic which produced birth defects in more than 20,000 children a dozen years ago. The care and education of children, who were not, or will not be given the protection of immunization, will cost infinitely more than the prevention treatment.

I regard the United States as lagging behind other developed countries in the health care we afford our citizens. I shall continue to work for the day when national health insurance is available to all no matter where they live, no matter how much they earn. I believe that just as no one should go hungry in a country as wealthy as ours, no one should suffer sickness because he cannot get the care and treatment he needs.

Until that day comes we can strengthen the health resources we already have.

INDIANA

When Congress overrode President Ford's veto of the Education Appropriations Act last September, $76 million in earmarked funds became available for Indiana. Our actual requirements could use much more financing but in this difficult economic year the law was addressed only to the most pressing needs. Money has been flowing to these essential educational areas:

Assistance for educationally deprived children—$27,473,223.

Higher education (student aid, work/study)—$18,772,150.

Basic vocational education—$10,990,402.

Other vocational, occupational and adult education—$4,745,947.

Elementary and secondary education innovation and support—$4,382,294.

Education for the handicapped—$2,776,265.

Emergency school aid—$2,505,072.

Library Services—$1,695,956.

Some may regard funds for education as an expenditure; to me it is an investment. The skilled and educated worker repays the cost of training and learning many times over in productivity and tax payments.

By way of a general reply to constituent questions as to how Hoosier federal tax payments benefit our state, for fiscal 1975, Indiana received $5,762,607,000 in federal grants for, among other purposes, education, libraries, transportation, old age assistance, aid to the blind, crime control, river development, aid for dependent children, medical assistance, highways.

The difference between grants and Revenue Sharing, a program I heartily support and would like to see improved, is that grants are earmarked for specific needs and are given directly to the state, which then turns they money over to the agencies involved or to local governments. With Revenue Sharing the money goes directly to states and communities for them to decide how to use it.

An important pending grant, approved by the Senate in December, 1975, would set aside $55 million for Indiana highways. A large part will go for the Interstate system.

Needless to say, with the strong competition from 50 states, members of our delegation must exercise persistent oversight of the course of bills and continuous persuasion of colleagues for support, and the involved federal agencies for approval, in order to obtain maximum acceptance of our needs.

Programs of development and improvement, set in motion years before, are bound to prove their worth. A case in point is Newport.

Newport, where there already is an army installation, is still in contention as the site of a new munitions plant to make RDX/HMX, a necessary munition for the army to maintain its strength. If Newport is chosen it will mean thousands of jobs in the construction of the plant and later in its operation. Its contender is McAlester, Oklahoma, where there is a navy installation. In Newport's favor are the smaller costs involved and a plentiful supply of pure water from the Wabash. But McAlester is the home town of the Speaker of the House of Representatives and Oklahoma has two Republican senators—a considerable item in the present unelected Republican administration. The full Indiana delegation has given magnificent support in urging Newport.

I derive no small amount of pride at the acknowledgement that one of Newport's chief assets is its pure water supply. That is one of the great dividends of the flood control and water development program which really began moving when I made it my prime responsibility to the citizens of Indiana at the start of my first term in the Senate 17 years ago. It is difficult to foresee, when we begin a costly and far reaching venture, just how and when it will begin to pay off, difficult to foresee how extensive the benefits will be. The immediate concern of the Wabash Valley Association, of which, incidentally, I was one of the founding members some 20 years ago, was to stop the devastation that floods almost annually were wreaking on Indiana, its cities, towns and farmlands, to halt soil erosion, to conserve and further develop our supply of pure water. Those who carried on with crusading zeal for project after project, share my conviction that the Wabash Valley could become "one of the richest, most dynamic agricultural and industrial centers in America."

In addition to flood prevention and protection the system has so far given to cities like Logansport, Peru, Wabash, Terre Haute, Vincennes, dramatic changes have already occurred. Vermillion County is now one of our fastest growing areas. Eli Lilly, Public Service of Indiana, Inland Container Company, are three of the leading establishments that have built new plants because of the supply of pure water and freedom from floods. Now, if Newport succeeds in being chosen as the site for this new important munitions installation, a major factor in its selection will be its pure water supply resulting from the reservoirs that have been built and the flood protection that has been given the cities above.

I often think of Oak Ridge where the tremendous experiments that led to atomic energy were devised and carried out. Oak Ridge, once a hamlet in the hills of Tennessee, was chosen for atomic development because there was available the mighty quantities of electricity generated from the dams that were started years earlier when the Tennessee Valley Authority became a cornerstone of Franklin Roosevelt's New Deal program to revitalize the seven mid-southern states touched by the Tennessee River and its tributaries, to protect them from floods, halt the loss of their rich topsoil, provide them with power for use in homes, on farms, in industry, and so restore to the nation's economy that large area which for years had been practically dormant. Little did their authors know, when they were processing their program that one day their endeavours would lead the world into a new age with a new form of energy that, despite its fearful potentiality, has enormous value for mankind's constructive pursuits.

Flood protection and water development for the Wabash and its tributaries, and for the Ohio and its tributaries as they affect Indiana, have come a long way since my first bills were introduced in 1959. We had many setbacks. I could not fathom the reasoning of the Eisenhower Administration which rejected my effort to increase flood protection in the amount of 3½ million dollars for Indiana and some other states and then asked Congress to approve $600 million for special assistance to South America! The entire system of reservoirs, dams and watershed would have been completed by now were it not given minor priority because of the demands of Vietnam and the continued restrictions and impoundments under the Nixon/Ford administration.

Nevertheless, our persistence has brought about a slower, but still a steady, progress to our ultimate goal.

Other innovative advances have occurred. The Senate Commerce Committee has adopted my amendment to the Airport Development Aid Program Act for a multimodal operation at South Bend's Michiana Airport. The multi-modal terminal would interconnect and centralize access to air, rail, highway and bus systems. Several European countries already have built multi-modal terminals. This one would be the first in America.

Progress has been made on improvements needed for the South Shore with the approval of my amendment for $11 million to upgrade equipment and trackage. I regard the South Shore as viable for transportation and necessary to the economy of northern Indiana. That $11 million requires matching funds, so the needed improvements depend on final action by the State of Indiana and the communities concerned.

The Dunes is another area which has had my active concern since I became a senator.

Since the creation of a National Park in 1966, which measure Senator Birch Bayh and I cosponsored, repeatedly, we have endeavoured to expand the national park, but ran into the objections of industries that were located, or wanted to locate, in the area, and the determined opposition of the then House member from that district. With the election of Floyd Fithian who, long before he became a member of Congress, was a mainspring for expansion, and who has been the chief advocate in the House, the outlook for some 4500 acres of expansion is favorable. Edward Roush, John Brademas and Ray Madden are also strong allies. It is expected that the House will approve this expansion early in the next session, when the measure will come over to the Senate which I am confident will also approve. It is gratifying that most of the opposition from industries in the area has diminished.

It was necessary to reach compromise.

I am mindful of the need of normal economic growth of northern Indiana. At the same time I am determined that the Dunes be preserved as one of the nation's outstanding wonders. State officials and some members of Congress who have hitherto been lukewarm or opposed have indicated their support. 1976, I expect, will be the year for expansion.

The most recent analysis from the Indiana Employment Security Division reports a slight improvement in the unemployment picture, the figure now showing 175,00 unemployed at a rate of 7.4%, down from 7.8% in the preceding report. Still, our auto centers have unemployment up to 20% as does Bedford, dependent on its limestone industry. The extension of the period for claiming unemployment compensation, recently enacted, will continue to tide over the jobless.

As a final note, an appropriation of $30 million for Indiana public works was recently approved. The sum will continue the construction of reservoirs, dams, navigation development and studies for other projects that have long been on my list.

INSURED PENSIONS

When Studebaker closed its plant in South Bend in 1964, not only were 8500 thrown out of jobs, the jobless discovered that they had lost most or all of their investment in the pension fund. Many were beyond the point where, as older workers, they could find other employment.

Reaction to that sorry situation motivated the introduction of my first bill, on August 3, 1964, to establish a cousin to the Federal Deposit Insurance Corporation to protect workers who deposit part of their earnings in private pension plans.

While I felt a personal concern for the citizens of my own state, it was obvious that theirs was not an isolated instance. Many other companies for years had been reneging on pension promises. Studies made by the Department of Labor and the Internal Revenue Service were revealing that only about one out of ten wage earners could count on retirement benefits from their pension funds to supplement social security.

Despite the scant response my measure received, I continued to propose it in each succeeding session. As growing numbers of pension plans continued to fail, support for protection grew in Congress and throughout the nation. The legislation was no longer a mere idea; it had become a necessity. By 1973, nine years after my first bill made its appearance, there were several pension protection plans in the Congressional hopper, including one that had belated Administration backing.

Protected pensions became a legal right when President Ford signed the law on September 2, 1974.

It is estimated that there are about 350,000 private pension plans covering some 30 million workers, with at least 135 billion dollars invested for retirement, almost three times as much as the trust fund that protects social security benefits. Company contributions are tax deductible and pensioners are not taxed until they actually are drawing benefits. However, until now, private pension plans operated without regulation and their managers had no compulsion under law to make good to contributing workers when they decided to abandon the plan, as every year hundreds did.

While I take pride in having broken the ground for a new American principle, the law, to my mind, needs improvement. I believe:

A worker is entitled to pension benefits after five years of employment with a company. The law requires 15 years of employment with the same firm.

There should be no reduction of benefits if the worker elects to have a surviving spouse receive one half of the pension. The law permits the employer to reduce benefits if provision is made for the survivor husband or wife.

Every employer should be required to set up a pension plan.

Part time workers should have entitlement to a pension. There are working mothers, for instance, who cannot hold full time jobs on a permanent basis.

A worker should be able to transfer pension credits from one job to another and so accumulate a vested interest. Employees now are tied down to working for one company and are hampered from getting better jobs with other concerns unless they are willing to start all over again toward pension entitlement. There is a grave question whether the millions who have lost their jobs during this economic setback have lost their pension rights as well, especially if they are not reemployed by the same firm.

There should be a more liberal scale of pension entitlement for workers who are forced from jobs when their company goes out of business.

Undoubtedly, changes will also be necessary as we experience the administration of the law. That always happens with a new program. Some employers will protest the added paperwork in carrying out the regulations. So did banks during the early years of Federal Deposit Insurance. Today banks prominently display a plaque that their deposits are insured. They accepted without murmur the increased limits of insurance enacted over the years. What is most important for the nation as a whole is the security and confidence our workers now have in the pension plans to which they contribute.

SOCIAL SECURITY

Reform of Social Security funding is imperative because the payroll tax is regressive; it places the larger burden on lower income earners; and in the next generation a larger proportion of the population will be drawing benefits. That is why, for years, I have been urging that the tax base be broadened and part of Social Security costs be paid for out of the general revenue.

The payroll tax bite is already too steep and will grow steeper. The demand for the change is growing because it is increasingly obvious that a disproportionate burden is borne by lower income people who make up the great majority of old age security taxpayers.

The funding reform measure I advocate contains four important items:

Lower the Social Security tax by one-third for both employees and employers.

Reduce the rate of self-employed taxation.

Increase the taxable wage base from the current $15,300 to $25,000.

Use the general revenue to help support the Social Security system.

A word about increasing the tax base to $25,000. The present limit is $15,300. That means that anyone earning more than $15,300—no matter how much more—pays a social security tax only on the first $15,300 of his earnings. If he earns $15,300 he pays $893, or 5.85 percent. (This includes the set-aside for Medicare.) If he earns $100,000 he pays the same $893, or 0.89 percent. If he earns $1,000,000 he still pays only $893, or 0.09 percent. In contrast, a person earning $10,000 pays $585, or 5.85 percent.

The Social Security System is not in danger. But we must take precautions now to insure that its financial structure remains sound. To be sure, payments into the system have fallen off because of the high rate of unemployment. Moreover, double digit inflation has compelled increases in Social Security payments to meet the higher cost of basic necessities. However, the slack will be made up from the $55 billion Social Security Trust Fund which has been built up over the years to protect the system against periods of high unemployment.

And we must prepare now to keep the Social Security System strong for the future. There are now 30 people drawing retired benefits for every 100 workers. By the year 2,000 it is projected that there will be 45 beneficiaries for every 100 workers. Rather than compel the workers to pay for the added costs through further increased payroll taxes, since Social Security is essential to the national welfare, justice calls for the nation as a whole to contribute to the system. In fact, when the system was first set up in 1936, it was expected that the general revenue would contribute to its support.

Our intrinsically affluent nation must make decent provision for all who are dependent on Social Security benefits without causing inequitable hardship on those who support the system.

It is not only the elderly who are dependent on Social Security. The children of disabled parents often need its protection. So do many single healthy parents with children. So do orphans, the blind, the retarded and other handicapped people.

Without doubt, Social Security benefits have protected the economy from a greater disruption than we are suffering. In Indiana, for example, 700,000 citizens receive more than $100 million in payments each month. That money is spent for consumer needs.

Despite the reluctance of the Nixon/Ford Administration, since 1970 benefits have been increased more than 60% to meet higher costs of living. These increases were imperative to assure recipients that they could provide for essential material needs, and were achieved despite the reluctance, and the outright opposition, of the Nixon/Ford administration. But those of us who deal directly with the problems of the aged have long realized that insuring the basic material necessities answers only part of their requirements. They have social and psychological wants to which the American family structure no longer responds. The Older Americans Act, which I cosponsored—and which, incidentally, was vetoed by President Nixon—will produce broadly based programs of health, nutrition, continuing education, training for meaningful employment, social services and companionship in community centers.

The Housing and Community Development Act of 1974 provides direct loans for a variety of senior citizens and related housing projects.

Among areas I regard as overdue for action:

The removal of the earnings limit for Social Security recipients, who are under the age of 72, a goal I have worked for since 1960. At that time the earnings limit was $1200. In sixteen years we have pushed it up to $2520, after which benefits are either reduced or eliminated. I regard this limit as unfair because it applies only to people who work, and who usually keep working because they could not otherwise meet the costs of living, of illness, or family obligations. But people whose income exceeds $2520 because of investments, or inheritance, or in other ways that do not require them to work for a part of their income are in no wise penalized.

The costs of eyeglasses, hearing aids, dentures and prescription drugs should be covered under Medicare. It is the elderly on whom the costs of prosthetics and medicines for chronic illnesses fall most heavily. Commonly they erode so much of benefits there is insufficient left over to meet the barest needs of food and housing. In Indiana alone, 750,000 senior citizens would be aided. National standards for the care, safety and comfort of patients in nursing homes must be established and the regulations tightened to eliminate abuses.

Because of the exorbitant increase in fuel and utility costs in the past few years we should provide fuel stamps that would be tied to the food stamp program so that those qualified for the latter may obtain fuel in the same way.

TRANSPORTATION

Perhaps more than any other single factor, transportation has contributed both to our nation's solidity and its rise to world eminence. Transportation is movement of economy, of people, of culture; it is the linking together of economy, of people, of culture. It is airplanes, busses, trucks, automobiles, barges, ships, subways, railroads. All have served us well in the past; all should continue to serve us well into the future.

Transportation is also depots, harbors, ports, highways, stations, airways, railways, the facilities that start and move the vehicles which bring the MADE IN AMERICA stamp to the farthest corners of the globe. It is, in short, the backbone of our economy. Like any other backbone, if one vertebra is weakened, the entire spine can start crumbling.

Because that almost happened to us, we went through a dangerous period. We had concentrated on the vertebrae of transportation which we could not fuel from our own resources, and neglected, in particular, the one vertebra—the railroads—whose operation we could sustain without outside help. I believe we have now turned the corner toward self sufficiency. Let's take a moment for historical review.

The development of the railroad networks began with the start of industry in the mid nineteenth century and the one stimulated the expansion of the other. For almost a century our transportation depended on railroads and shipping, powered by fuel that we ourselves generated.

But as speed became the dictum of the twentieth century, automobiles, trucks, busses, airplanes, took over transportation, and government, which in a former era had contributed quantities of land to railways for rights of way, turned its support to highways and aviation. Parklands, wilderness, sections of cities and towns were taken over for freeways and airports; people and businesses were ruthlessly dislocated. Often the added highway or local airport was the issue on which a local election was decided. We were all caught up in the frenzy of speed, the saving of time for we knew not what. Shipping went out of fashion. The railroad became passe. Particularly did railroad passenger service become passe. In 1929, there were 20,000 passenger trains; in 1970, fewer than 500. It was more profitable for railroads to transport cattle and steel than people. Railroad depots, many of them architectural monuments, became city eyesores.

But our vaunted speed contained a flaw. It had to be fueled by oil that we ourselves either could not, or would not, wholly produce. America was speeding, but not entirely on her own power.

And then the sword fell. Our transportation system came apart at the seams. We were jolted out of our reliance on gas guzzling vehicles. We saw airlines paralyzed; railroad networks serving the nation's most populous and industrial areas prostrate; the automobile industry gasping for air. And, over all, millions of workers, employed by them and by related industries, thrown out of work.

We had put our transportation eggs into one basket—the basket that demanded oil we depended too much on others to supply.

Could we have averted this crisis? The warning flags were raised before the recession overtook us.

The record will show that repeatedly since I became a member of the Senate, either alone or with colleagues, I pleaded for a National Fuels Policy, one that would develop and use to the greatest advantage our own fuel resources and lessen an increasing dependence on foreign oil. We were always in the minority.

The record will also show that repeatedly I have called for a balanced Transportation System, one that would use to the fullest advantage all modes of transportation, and allow each its full function to serve the needs of our people and production.

For instance, on March 21, 1963 I introduced my first bill to stop the railroads from discontinuing service without a public hearing, a permission granted them by a law passed in 1958. Six weeks later, on May 8, 1963, I submitted a resolution calling for an investigation of the railroads, particularly of their financial structure. It had been twenty five years since a study had been made as preliminary to the enactment of the Transportation Act of 1940. Much had changed between 1940 and 1963, and the most notable change was the expansion of the airlines and of the highways at the expense of the railroads. From material and testimony my subcommittee on Surface Transportation was receiving, it was obvious that the railroads were sending up warning signals. There were hints of impending bankruptcy.

Both these measures died in committee. Their time to be born had not arrived. It was seven years before the collapse of Penn Central.

But some ten years later, after disaster struck, the ideas contained in those early resolutions were incorporated in the legislation we enacted to try to restructure the railroads as a vital segment of our economy.

We have spent years appraising the defects of transportation and years in planning how to improve the system, how to put into operation the ideas that the legislation of the past several years has generated, in safety, in environmental protection, in convenience of service to passengers, in efficiency of service to freight. The most creative minds in American transportation have accepted the challenge to bring order out of chaos. We have already broken a deadlock in Administration lethargy by starting the repair and modernization of broken down roadbeds—without which no safe and dependable system could be fashioned.

As the program of restructuring proceeds, we will have to determine to what extent the railroads—as the rest of transportation—will continue to need the financial support of the taxpayers. The hard question then will be, does the taxpayer get sufficient return for his contribution in efficient service and the advancement of the economy.

In time consideration must be given the role of other transportation modes—how autos, trucks, airplanes, shipping, mass transit, can most efficiently be utilized; which will serve best the short distances of travel for people and freight; how they can be dovetailed with each other for convenient connection for longer transit; how one can be cheaply or advantageously substituted for another in the arena of healthy competition.

This country is too large, its national interests too varied and too vast, to depend on any single artery of transportation.

We have learned that transportation has social consequences, for instance on environment, on urban growth or urban decay, that affect our nation with the same impact as do its economic consequences. Recent legislation recognizes the participation of states and communities in transportation plans that affect their areas. We expect new approaches regarding regulatory policy.

We know that American technology can be applied to speed without disrupting the environment. I hope that the pilot fast speed trains that are in the plans as a result of a provision in recent law that Senator Lowell Weicker and I authored, will prove as successful as similar fast speed railroad travel has proven in Sweden, Denmark, France and Japan, and that they will lead to many more such renovated road beds for fast travel throughout the country.

I believe we cannot ruthlessly eliminate the less profitable trackage that means life and death to smaller communities which do not have the alternative of highway access. And if such railroad service requires subsidies, surely these communities deserve that support as much as do the giant corporations which have been the recipients of corporate welfare. The small American community is a necessary part of the American Way. I protest with all my heart any attempt to make of them impersonal statistics in the ledger of profit and loss.

I do not regard it as the function of government to act merely as a banker of last resort for impoverished industries that come begging for aid. When the help is given I would expect government to participate in the planning and the performance of the measures taken to restore the industry to economic health. The vast sums Congress approved for the railroads should be used for breaking new ground, exploring new ideas in transportation thinking that will guide us into the next century.

We have come to accept that transportation, like any service necessary to the welfare of the nation, must have government participation, directly or indirectly. We can no longer remain tied to the notion that transportation is pure private enterprise, supporting itself by itself. It never has. Whether railroads, or shipping, or airlines or highways, the facilities have always been the recipient of government, or in other words, the taxpayers' largesse, together with subsidies, direct or indirect.

Nevertheless, we are committed to the ideal of private enterprise and hope with new approaches that in time our entire transportation system will largely pay for itself both in operation and in maintenance.

If I seem to emphasize the role of railroads in our efforts to develop a coordinated Transportation System, it is because their revitalization is the first step. The fuel for their operation can be sufficiently produced here at home; the role they can resume in transporting freight and people could be major, and they present the least danger to the environment.

VETERANS

The Senate Committee on Veterans' Affairs which I have had the honor of chairing since its establishment in 1971, has attained a legislative record that seldom, if ever, has been achieved by a Committee of Congress. In that short period 30 major pieces of legislation to aid the nation's 29 million veterans and their dependents have been enacted into law, despite the fact that many of them had the active opposition of the Nixon/Ford administration. With one exception my committee gave unanimous support to these bills and the one exception had the dissent of only one member.

These wide-ranging measures included the Medical School Assistance and Health Manpower Training Act of 1972 and the omnibus Veterans' Health Care Expansion Act of 1973. They significantly improved the Veterans' Administration Medical program.

I regard as of particular concern the needs of service-connected disabled veterans and their survivors. The laws we enacted in that area cover increased compensation payments and improved programs designed to aid the most severely disabled, such as federal grants to provide especially adapted housing for wheelchair bound veterans and adaptive automobile equipment.

I believe that no veteran or survivor should be forced to resort to the welfare rolls and to prevent such a sorry circumstance improvements and increases were enacted in veterans' pensions and in the income maintenance programs which are designed to aid elderly, needy veterans and their survivors.

Despite Administration opposition that included a pocket veto by President Nixon, we succeeded in increasing veterans' burial benefits and in establishing a national cemetery system under the National Cemetery Act of 1973.

Several measures that liberalize both the Veterans' Administration's housing and insurance programs were adopted. The Insurance Act increased and expanded government supervised insurance for servicemen and reservists, and established the Veterans' Group Life Insurance which provides low-cost term insurance for recently separated servicemen. The Veterans' Housing Act made a number of important improvements to the VA housing assistance program, including a 40% increase in the maximum loan guarantee amount, the permanent restoration of loan entitlement for every veteran since World War II, as well as new or expanded authority for the VA to guarantee condominium and mobile home loans.

I have always felt an emphatic concern for the readjustment problems of the nation's seven million Vietnam era veterans. Following the enactment of the Vietnam Era Veterans' Readjustment Assistance Act of 1972, we were confronted with the facts that the supports, particularly those for aducational opportunity and employment assistance, were inadequate to meet the actual extent of the problems of the returning Vietnam GI's. We were confronted also with the hostility of the Administration to the liberalization we sought for the law. Yet, despite the threat of a veto from former President Nixon and a subsequent veto by President Ford, Congress gave near unanimous approval of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. Benefits now cover:

A 23% increase in the educational assistance rates.

Direct low-cost education loans.

An expanded two-year period of eligibility for the completion of an undergraduate degree.

Increased employment assistance for job seekers.

Continuation of educational assistance benefits in the event a school is temporarily closed because of an energy crisis or other emergency.

As is the case with other groups of our citizenry toward whose welfare the nation senses an especial responsibility, veterans' needs and problems require our constant and unceasing concern. A recent study of veterans and their widows, who are over 72 years of age, by my Committee on Veterans' Affairs disclosed that 30% of all veterans and 37% of all widows surveyed said they could not afford all the food they needed. Similar numbers said they could not afford all necessary medical care and housing.

Nearly half of our elderly veterans and survivors have incomes below the poverty level. Moreover, they would be subject to pension reductions because of Social Security increases which became effective on January 1, 1976. An Interim Readjustment Act temporarily prevents this reduction. In the next session of this Congress we expect to be able to reach agreement with the House of Representatives on permanent reforms.

The interrelation of social security and pensions has been an area of continuing concern to veterans and members of Congress over the years. The changes I proposed in the Veterans and Survivors Pension Reform Act unanimously approved by the Senate on December 15, 1975, create a restructured pension program to guarantee that all pensioners receive an income above the poverty level.

It is an empty gesture to set aside November 11 to honor veterans if we do not assure minimum standards of assistance the other 364 days of the year.

THE WORLD FOOD SITUATION

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. DRINAN. Mr. Speaker, it is generally conceded that the current world food situation has reached crisis proportions and that we are at a crossroads in determining the fact of life or death for untold millions of human beings, now and in the years to come.

According to the United Nations Food and Agricultural Organization, at least 15,000 people die of malnutrition daily. Ten thousand of them are children. At least 460 million people are severely affected by malnutrition around the world. Ninety-four percent of those so affected, according to the "Assessment of the World Food Situation" prepared for the World Food Conference, live in developing countries.

The United States has had a longstanding policy of helping the developing nations help themselves. House Concurrent Resolution 393, introduced in the House by my distinguished colleague from Minnesota (Mr. FRASER), would explicitly express our national policy as being one which recognizes the right to food and thus continue our humanitarian traditions. House Concurrent Resolution 393, of which I am proud to be a cosponsor, recognizes the responsibility of the United States at this time of growing food shortages.

What are some of the factors which have contributed to this global insecurity on the food supply front? Briefly, this stage was set by the convergence of the following circumstances:

A dangerous drop in food reserves. During the period since World War II there have been two major safety valves: cropland held idle in the United States under Government subsidy programs, and carryover stocks of grain in the principal exporting countries. The United States has brought all of the previously idle cropland—50 million acres—into production, beginning with the food crisis years of 1966 and 1967 and culminating with almost full production in 1974 in response to the ever worsening food situation. Simultaneously, global food reserves were dangerously depleted.

Adverse weather conditions. The prolonged drought of 1972 in the sub-Saraha, India, and the Soviet Union severely limited food production in those countries, forcing them to import large supplies of grain, thus depleting carryover reserves.

Energy shortage and increased energy costs. This situation, a result of the natural law of diminishing natural fuels as well as governmental decisions regarding pricing and distribution of these fuels, has had and will continue to have disastrous effects on the global hunger problem. In developing countries, the rising prices of oil imports will tend to absorb the money needed for the importation of fertilizer, which has also risen in price. Energy is also essential for the production of fertilizer, and a reduced amount of fertilizer has a direct effect on food supply. It is estimated that 1 million tons of fertilizer are required to turn out 9 or 10 million tons of grain. Energy is also crucial for other processes associated with food production, such as irrigation and transportation.

Increased population. The impact of world population growth on food demand is obvious. The current unprecedented rate of world population growth is 2 percent annually, which brings a doubling—of both people and of demand for food—every 35 years.

Increased demand for protein. This demand is a result not only of increased population, but of growing affluence throughout the world. It may seem curious that a rising per capita income can contribute to the world food problem, bound as it is with increased agricultural production, improved standards of living, and lowered death rates, all highly desirable from many points of view. However, higher per capita income can escalate demand for food just as surely and inexorably as increased population. For instance, during the drought in 1972, the Russians chose not to slaughter cattle as they had in previous droughts, but rather to import grain in order to maintain a higher standard of living. This in turn depleted U.S. grain reserves and created a sharp rise in grain prices throughout the world.

Although the world hunger outlook is frightening, it is not hopeless. There are many areas in which substantial progress can be made, assuming that the desire for positive change and the information for intelligent choices are available.

The chain of events triggered by the Russian decision to buy grain rather than slaughter cattle illustrates the interdependency of countries. The hunger crisis must be approached as a global problem rather than simply a national one. Research efforts and policies affecting the food situation must be coordinated and studied harmoniously. In an attempt to meet this objective, the World Food Council of the United Nations, meeting for the first time in June 1975, simply stated its task: "to supervise and improve the way men grow their food and the way they share it among themselves."

Lower rates of population growth are also a feasible and reasonable objective. Many developing countries experienced significant decreases in birth rates in the 1960's. Although the problem is not merely one of restricting births—experience having shown that birthrates do not decline sharply unless basic social needs are met—a well-organized and socially responsible program to furnish information in this area is essential.

There is also room for hope in the area of increasing farm yields, surely the key to feeding a hungry world. A National Research Council study on world food and nutrition estimated that between 1948 and 1971 "each dollar of science-oriented research generated an annual benefit of about $31 in developed countries and $80 in developing countries." As the report states, these figures are significant proof of the returns feasible from food production research. The figures also indicate that these benefits are much larger when there is international linking of research activities.

All of these improvements in the world hunger picture require a reordering of national global priorities, a reexamination of just what constitutes a threat to human security and well-being. Rapidly accumulating evidence suggests that threats to humanity today are not so much the traditional ones of conflict and invasion by foreign powers, but a result of ecological stresses. Governments will continue to pour money into armaments rather than food production research, however, until they can be convinced of a need to do otherwise.

It is finally the private citizen who has the responsibility to convince the leadership that the time for change has come. And, indeed, there are indications that the American people are mobilizing on behalf of the less fortunate throughout the world. Various private organizations are disseminating valuable information to all interested persons as to how best influence public policy for the good of the hungry. Bread for the world is one such organization with excellent sources of information, a dedicated leadership, and a growing membership. With available resources such as these the private citizen in the United States has the opportunity to directly challenge elected officials to fulfill the promise of our humanitarian traditions and seek to avert hunger for future generations around the world.

THE AMERICAN WOMEN'S BICENTENNIAL COOKBOOK

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. TEAGUE. Mr. Speaker, a number of public spirited citizens of DeSoto, Tex., Mr. E. E. Hollingsworth, Ms. Peggy Bradford, Ms. Virginia Bala, Ms. Sheila Wadlington, and Mr. Charles Harwell have recently compiled a cooking encyclopedia of America as a Bicentennial project.

The following news article which appeared in a recent edition of the Dallas Morning News depicts this publication and I would like to add my congratulations to them for this undertaking:

BICENTENNIAL COOKBOOK INCLUDES RECIPES FROM PRE-ELECTRICITY TO MICROWAVE ERA

(By B. Jay Becker)

A dash of persistence, one or two cups of creativity and a year of hard work has been backed into a unique cookbook straight from the ovens of political greats.

So unusual is the context of this culinary history of the United States that the book has been officially recognized by the American Revolution Bicentennial Committee.

A majority of the recipes uncovered in the cookbook have been used to feed the political machine of the country for the past several decades. Contributors to the tracing of Washington tablefare include, to name a few, Mrs. Gerald Ford, Mrs. Lloyd Bentsen, Mrs. Edmund S. Muskie and Mrs. J. Strom Thurmond.

The "American Women's Bicentennial Cookbook" contains historical recipes ranging from the pre-electrical era to post-microwave. A pinch of black and white illustrations add seasoning to this interesting and useful cookbook.

The letters of explanation accompanying the recipes are as interesting as each of the favored dishes. For instance, Mrs. Birch Bayh explained the Yellow Angel Cake she submitted was baked by her mother in the days when ". . . There was no electricity, therefore everything was beaten and prepared by hand."

And Mrs. John Glenn sent a recipe for ham loaf that, in addition to being her husband's favorite, was also served to "Vice President and Mrs. Lyndon Johnson when they came to dinner . . . in the early 1960's.

Created and designed by E. E. "Jim" Hollingsworth, president of the Journal Publishing Company of DeSoto and an American history buff, the initial 10,000 copies will be numbered and certified.

Bicentennial from cover to cover—even the pages are numbered 1776 to 1976—the unique cookbook is destined to become a collector's item during the year honoring the nation's birth.

REVIEW SOUGHT OF USIS DECISION TO REMOVE EXHIBIT FROM U.S. CULTURAL CENTER IN PARIS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. FRASER. Mr. Speaker, I am concerned about a situation described in an article entitled, "U.S. Bars Paris Exhibit and Causes a Stir," appearing in the New York Times of December 11, 1975. The article reports that U.S. representatives in France caused an architectural exhibit to be removed from the American Cultural Center in Paris. The exhibit which depicts the influence of the American counter-culture on American architecture was prepared for display in the center by the George Pompidou National Center of Art and Culture, a French cultural organization. The exhibit opened on November 18, 1975, for a scheduled 6-week showing but was removed from the center 4 days later. American officials stated that the exhibit was objectionable because of the inclusion of quotations and the names of counterculture figures, such as Jerry Rubin, Herbert Marcuse, and Allen Ginsburg. The exhibit also included quotations from Emily Dickenson and Henry David Thoreau among others. Officials further stated that the exhibit included political and extraneous material having nothing to do with architecture and that the center would not become a forum for contesting political factions in France or elsewhere. The exhibit was moved by the French to the Louvre where it is now on public display.

It seems to me that the presence of the counterculture figures' names and quotations is particularly relevant to an exhibit of the counterculture's influence on architecture and that fear of the center's becoming a forum for contesting political factions in France is difficult to understand in light of the French Government's display of the exhibit in its national museum.

The same issue of the New York Times contained a report of the presentation of the Nobel Peace Prize to Andrei Sakharov who was not allowed by his Government to travel to Oslo, Norway to accept the prize. In his acceptance speech read by his wife who was in Oslo to accept the prize on his behalf, Sakharov said:

> Granting the award to a person who defends political and civil rights against illegal and arbitrary actions means an affirmation of principles which play such an important role in determining the future of mankind.

These words are consonant with our own experience since the settlement of our country by those who sought freedom to live their lives as they wished, to the adoption of the first amendment of the Constitution and our efforts to the present time. Throughout our history we have protected the right of free expression and encouraged its exercise by all Americans.

My concern with the situation which occurred in Paris is not to imply that the removal of an exhibit from the American Cultural Center in Paris is of the same moment as prohibiting the travel of a citizen to receive the Nobel Peace Prize. But it is especially disappointing at a time when the contrast between our free society and a closed society is so sharply drawn, that our officials would cause the removal from the American Cultural Center an exhibit which displayed an aspect of the breadth and variety in our society that results from our steadfast adherence to ensuring every American's right to free expression.

Because there has been no convincing explanation of the action of the USIA forthcoming in our communication with them, I have written to the Director asking that he review this entire situation.

The New York Times article and my letter to the Director of the USIA follow:

[From the New York Times, December 11, 1975]

U.S. BARS PARIS EXHIBIT AND CAUSES A STIR

(By James F. Clarity)

PARIS, December 10.—An exhibit prepared by a prestigious French cultural organization has been removed from the American Cultural Center in Paris because it contained objectionable political materials, according to United States officials.

The exhibit, depicting the influence of the American counterculture on American architecture, was removed, according to Burnett Anderson, the United States Embassy public affairs counselor, because it included "substantially political and extraneous material having nothing to do with architecture."

Mr. Anderson said in an interview that the American Cultural Center, on the Left Bank near the student quarter, "will not become a forum for contesting political factions in France or elsewhere."

The exhibit, prepared under an agreement between the United States Information Service and the George Pompidou National Center for Art and Culture, contained several large panels lettered with quotations from American counterculture and leftist figures such as Jerry Rubin and Herbert Marcuse.

United States cultural officials involved in the removal of the exhibit said it was not the text of the quotations that was found objectionable, but Mr. Rubin's and Mr. Marcuse's identification in the minds of French students and intellectuals with radicalism in the United States.

EXHIBIT MOVED TO LOUVRE

The exhibit, titled "Marginal Architecture in the U.S.A." opened Nov. 18 and drew overflow crowds before it was hastily closed four days later, six weeks earlier than scheduled. It was moved by the French to the Museum of Decorative Arts in a wing of the Louvre. In recent days, reports of the deletion began to appear piecemeal in several Paris newspapers and have become the talk of intellectual and student circles in the capital.

Some smaller leftist papers have accused the Central Intelligence Agency of having censored the exhibit, which comprises mostly photographs of unusual houses and other difficult-to-describe structures. Films and lectures associated with the exhibit are still being paid for, according to diplomatic sources, by the United States Information Agency.

Diplomatic sources close to the situation said that under the exhibit agreement, the French Center was to prepare the exhibit, with the Americans retaining the right of final approval of its contents. But the exhibit was assembled at the American center, the sources said, without actual prior examination of its materials by six American officials.

A few days later, the sources said, the Americans decided that the presence on display panels of the names of Marcuse and Rubin, as well as that of Allen Ginsberg, the poet, was objectionable.

The Americans, the sources said, asked the French to remove the panels. The French refused and said they would move the entire exhibit. The Americans also were annoyed, the sources added, that a book by Mr. Rubin titled "Do it" was being sold at the exhibit in the cultural center.

WASHINGTON, *December 16, 1975.*

JAMES KEOUGH,
Office of the Director,
U.S. Information Agency,
Washington, D.C.

DEAR MR. KEOUGH: I am concerned about an incident reported in an article in the New York Times of December 11, 1975 entitled "U.S. Bars Paris Exhibit and Causes a Stir," a copy of which is enclosed.

According to the Times story, the United States Information Serivce (USIS) entered into an agreement with the George Pompidou National Center for Art and Culture whereby the French cultural organization would prepare an exhibit titled, "Marginal Architecture in the U.S.A.," depicting the influence of the American counterculture on American architecture. The exhibit opened on November 18, 1975 for a scheduled six week showing only to be removed four days later.

Apparently USIS officials were concerned that the inclusion in the exhibit of quotations and names of American counterculture and leftist figures, such as Jerry Rubin, Herbert Marcuse and Allen Ginsburg might create a forum for contesting political factions in France or elsewhere and caused the exhibit to be removed from the American Cultural Center. The exhibit is now on public display in the Louvre.

I am dismayed by the actions of our officials. The inclusion of quotations and names of spokespersons from the counterculture in an exhibit depicting the influence of the counterculture on American architecture seems particularly relevant and something that given the theme of the exhibit should be expected. The fear that the American Center will become a forum for contesting political factions in France or elsewhere is difficult to understand in light of the French government's apparent lack of concern that the exhibit will contribute to political divisiveness in France by their willingness to display the exhibit in their national museum.

Throughout our history our nation has been enriched by the steadfast protection and encouragement of free expression by all Americans. The exercise of this freedom is essential to the continued vitality of our country. I am especially disappointed at this time when Sakharov, the recipient of the Nobel Peace Prize and a courageous voice of dissent in the Soviet Union, is prevented by his government from leaving his country to go to Norway to accept the Prize, that representatives of our government, insensitive to one of the unique strengths of our society, should act in such a petty manner in causing this exhibit to be removed from the American Center.

I ask that you review the decision of the USIS officials in Paris in keeping with the agency's general mission to disseminate information about the United States and its people.

Sincerely,
DONALD M. FRASER.

DEATH NO DETERRENT TO CRIME

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. HUMPHREY. Mr. President, an excellent letter to the editor, appearing in the September 30, 1975 issue of the Atlanta Journal, has been brought to my attention.

The writer of the letter, Mr. Leonard Hizer, a business management consultant, has had a distinguished career of administrative posts in State government and later in the U.S. Senate. Following service in World War II in overseeing Army information and education field services, Mr. Hizer assisted Paul G. Hoffman in administering the Marshall plan.

Drawing from this varied experience and having given careful study to the issue of capital punishment, Mr. Hizer makes a persuasive case that death is no deterrent to crime. Comparative statistics on homicide rates in various States, are of particular significance in his letter. It is my understanding that a number of other newspapers have reprinted this letter.

I have consistently held that that capital punishment is not an effective deterrent to capital crimes. After numerous studies, there still is no solid evidence that the death penalty is more effective than life imprisonment in preventing capital crimes. In States which have abolished the death penalty, no higher criminal homicide rates exist than in States where capital punishment has not been abolished.

In opposing capital punishment I am in no way saying that those who commit these ghastly capital crimes should not be brought to justice quickly and dealt with harshly. However, the taking of another life has not seemed a humane or effective method to prevent the commission of murder, rape, and other heinous crimes.

Mr. President, I ask unanimous consent that Mr. Hizer's letter to the editor be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Atlanta Journal, Sept. 30, 1975]

DEATH NO DETERRENT FOR CRIME

The Editors: Recent events have made us all aware of the risks in being too certain, especially where capital punishment is involved. Certainly the seven men convicted by 60 different persons during five Matthews murder trials, now all judged innocent, would agree. Also, the two men in Florida now pardoned after 12 years in prison for a murder they did not commit. Or the new trial ordered by the Georgia Supreme Court in the trial for the murder of the band leader and one of his former students in Henry County.

Aside from the horrendous possibility of executing an innocent person and the fact that the above examples are only three out of more than 100 similar cases in the past 20 years, I offer a mere soupcon of evidence regarding whether capital punishment is a deterrent.

Dr. Charles Berg in his volume, "The Psychology of Punishment," calls attention to the record established when petty thieves were hanged in public in England. All of England's pickpockets were seen plying their trade in the huge crowds that always assembled in the carnival atmosphere of such events. Of 167 thieves who were questioned before their own hanging, 164 admitted having been present for the public executions of several before their own experience.

It was Dr. Berg's reasoned conclusion: "The commission of crimes, particularly of serious crimes, is due to inner causes and is never based on anything so reasonable as a conscious assessment of the probable consequences, however horrible they may be."

George B. Void compared three states, each of which had the death penalty. He found that the average homicide rate in the southern tier of Iowa counties was 3.9 per 100,000 population. In the northern tier of Missouri counties (bordering Iowa) it was 3.5. In the southern tier of Missouri counties (bordering Arkansas) it was 10.5, almost exactly the same as the Arkansas counties below them. Void's conclusion was that obviously the rate differential was due to something other than the death penalty.

In the 1930s a study was made of the homicide rates in Illinois and Ohio, states with the death penalty, and compared with those of Michigan, that abolished the death penalty in 1847. The three states have much the same urban-rural population spread, and all three have similar large cities with a mixture of population regarding color, religion, and national origin—yet the rate of homicides to 100,000 showed no significant difference, 1900–1950.

Certainly Georgia itself is a good example. Figures for the same period (1900–1950) show Georgia at or near the top of all states each year in both the number of homicides and the total state executions. In ratio per 100,000, only Alabama of all the states was in the same category for the total period.

When there is a rise in the crime rates, the record shows that it strikes equally in states with the death penalty and in those that have abolished it. Edwin H. Sutherland and Donald R. Cressey have established statistically in their "Criminology" that homicide rates in all countries that have abolished the death penalty, "show that the presence or absence of the death penalty has no perceptible effect on the incidence of murder."

Whatever else may be said for capital punishment it cannot be said with documentation that it is a deterrent for murder. "Rush to justice" is a fine sounding rhetorical phrase but is it both logical and rational?

LEONARD HIZER.

Atlanta.

STATEMENT ON TUNNEY AMENDMENT VOTE

HON. ADLAI E. STEVENSON III

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. STEVENSON. Mr. President, while I believe U.S. support to all of the warring factions in Angola should be withdrawn pending an effort to end all foreign intervention in Angola, I opposed the Tunney amendment. Under the Tunney amendment, Congress would deny funds for covert operations in Angola, thereby tying the administration's hands in dealing with the Soviet threat in Africa, without even exhorting the administration to bring pressure on the Soviet Union in other arenas where our tactical advantages are greater. If approved, the Tunney amendment would effectively sanction the Soviet transgressions against the newly independent State of Angola. If disapproved, the effect would be implicit congressional approval of U.S. intervention. It is a most unfortunate amendment, demonstrating again the dangers of congressional intervention in the delicate subject of foreign policy.

The Soviet Union must be made to realize that it cannot enjoy the advantages of détente if it recklessly puts détente at risk by such military adventures. My own resolution on Angola included a mix of diplomatic effort and the threat of sanctions as a balance to U.S. withdrawal. I regret that it could not be taken up for consideration by the Senate.

WAYS AND MEANS OVERSIGHT SUBCOMMITTEE REQUESTS PUBLIC COMMENTS ON PROPOSAL FOR STAGGERED TAX FILING DATES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. VANIK. Mr. Speaker, most individual tax returns are required to be filed during the first 3½ months of the calendar year, causing crushing work burdens for tax practitioners, the Postal Service, and the Internal Revenue Service alike. Taxpayers and tax practitioners have frequently argued that the April 15th filing deadline creates an unreasonable burden by compressing a large tax accounting workload into a short time frame. Automatic filing extensions—usually available only to business—have provided only a partial remedy. The Internal Revenue Service in particular is faced with the problem of allocating its manpower and equipment time to meet primarily two peak work periods. The IRS cannot profitably maintain a complete professional staff to serve the public on a year-round basis and is forced to hire temporary employees and to detail other staff to fulfill the taxpayer service function during the filing season. Its training schedule for temporary employees is condensed, at considerable cost, and reports of high error rates—ranging between 25 and 50 percent—by taxpayer service personnel indicate that these employees may not be fully trained. Indeed, given the complexity of the Internal Revenue Code, it would be totally unrealistic to expect temporary and briefly-trained employees to be able to answer many of the tax questions which can arise.

There have been numerous proposals over the years to provide for year-round, staggered filing of tax returns which would spread out this highly concentrated workload into a much more manageable system. I support this innovation—only with a staggered filing system can we alleviate the problems created by the crush of tax-return filing under the present April 15th deadline.

A "spread out" filing date would not only allow the Taxpayer Service Division to recruit fewer and better trained individuals, but it would provide for a more stable workload throughout the Internal Revenue Service. For example, under the present system, tens of thousands—even hundreds of thousands of tax returns—arrive in the different IRS Service Centers during the period between the end of January and April 15th. These service centers are required to hire special temporary help which, while qualified, may not be as good as regular, full-time employees. In addition, the IRS must have extra typewriters, computer equipment, and office space available for this once-a-year event. This flood of tax returns creates disruptive waves throughout the rest of the IRS. As the Administrative Conference of the United States noted in its recent 1,000-page study, in the IRS district office, "collection employees are thus swamped with work at midsummer and autumn" as the flood of tax returns moves through the audit, collection, and appeals process.

I believe that a staggered filing date could save the public millions of dollars in more efficient and effective tax collection procedures.

During a hearing on February 27, 1975, before the House Ways and Means Oversight Subcommittee, we requested Commissioner Alexander to respond to a series of questions related to taxpayer services. At that time we asked the Commissioner to examine proposals for alternative filing systems and to conduct a cost/benefit analysis of those proposals which seemed the most workable. On October 1, the Commissioner reported to his Small Business Advisory Committee that two basic approaches were under consideration:

First. Mandatory staggered filing, with specified groups of taxpayers filing at different times throughout the year, or

Second. An extended filing period with taxpayers free to file any time during the period.

Within each of these two alternatives, there are many possible variations and critics point to certain problems associated with each approach:

a. If the current calender tax year is retained, the mandatory staggered filing period would create serious inequities for taxpayers who would have less time to prepare tax returns and more time to wait for refunds than others. If the tax year is staggered as well—whereby each taxpayer would be assigned a new taxable accounting period—and related filing period—on some basis such as his or her birthday, social security number, surname, or state of residence—the burden would be shifted to employers and financial institutions.

Under this staggered tax year approach, employers would be required to accumulate employees' wages and withholding taxes by personalized 12-month periods, and payers of dividends, interest, annuities, and so forth, would likewise have to set up individual accounting periods and records for their payees.

Furthermore, the transition from the existing calendar year system would require part-year returns involving difficult tax computations in proration of personal exemptions, itemizations of deductions, and annualization of taxable income.

In addition, several Internal Revenue Code provisions would have to be synchronized with respect to their effective dates for implementation. For example, changes in tax rate schedules and changes in withholding requirements both are usually made effective on January 1 of a given year.

Finally, in the case of joint returns, the filing due date would be determined on the basis of one or the other spouse, subjecting the filing date to a subsequent change in marital status due to death, separation, divorce, or remarriage.

b. The second approach would extend the filing period, permitting taxpayers to file their returns at any time during the extended period. At present, taxpayers tend to file their returns during two peak periods: There is a concentration of early refund returns filed in late January and a second peak of returns remitted at the end of the filing period in April. One concern with this alternative filing schedule is that taxpayers would merely shift the second peak back to the end of the new extended filing period, thereby creating additional costs and burdens in allocation of IRS resources. However, one solution to this problem might be to provide monetary incentives in the form of a credit or deduction to induce taxpayers to file during periods that are convenient to efficient IRS administration.

Finally, any staggered filing system would have an impact on States who "piggyback" onto Federal returns or whose income tax is geared to the Federal tax structure. Such States would likely be required to bring their tax systems into conformity with Federal law.

Although I have outlined potential problems that could be incurred by altering the filing date for tax returns, I am convinced that a staggered filing system would provide both a more efficient use of IRS manpower and resources and higher quality services for taxpayers. Only with such a staggered system can IRS maintain a more stable, experienced, well-trained taxpayer service staff on a permanent basis at field offices to handle taxpayer inquiries and render assistance to taxpayers.

The IRS is currently in the process of conducting its cost/benefit study to determine the feasibility of implementing any of the above alternative filing systems. We cannot effectively assess the impact of staggered filing dates on individuals and businesses without input from taxpayers who would be most affected by any changes. Therefore, since legislative amendments will probably be necessary under whatever system is finally adopted, I would like to invite interested organizations and individuals to submit any comments or suggestions they may have to the Ways and Means Oversight Subcommittee. Any such comments should be addressed to Oversight Subcommittee, 1539 Longworth House Office Building, Washington, D.C. 20515.

In this holiday season, one is reminded of the decree of Caesar Augustus that all the world return to its place of birth to be taxed—certainly one of the more disruptive tax filing requirements ever devised. Yet the requirement that all Americans must file on April 15th is also disruptive, creating hassles for almost everyone concerned. There will never be any day on which it will be "easy" for everyone to file their taxes. But surely we can devise a system in which the tax filing can be done with reasonable economy and efficiency for all concerned.

AFFIRMATIVE ACTIONS IN UNIVERSITIES

HON. J. GLENN BEALL, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. BEALL. Mr. President, Prof. Barbara Bergmann of the University of Maryland contacted me with respect to her testimony on Affirmative Actions in Universities.

I ask unanimous consent that her letter to me and her testimony be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

University of Maryland,
College Park, Md.

Senator J. Glenn Beall,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Beall: I enclose a copy of some testimony I presented to the U.S. Department of Labor in Baltimore concerning Affirmative Action in Universities. I would very much appreciate it if this testimony could be inserted in the Congressional Record.

Sincerely,
Barbara R. Bergmann,
Professor of Economics.

Testimony of Barbara R. Bergmann

I am glad to be here today to present testimony on behalf of the Committee on the Status of Women in the Economics Profession of the American Economic Association. My name is Barbara R. Bergmann, and I am professor of Economics at the University of Maryland. I am also director of the University's Project on the Economics of Discrimination, which is currently operating with funds administered by the U.S. Department of Labor. In the six years of its existence, the Project has produced over 60 papers and monographs on the subject of discrimination.

The Committee on the Status of Women in the Economics Profession has done some research which throws light on the need for affirmative action in universities. Women constitute about six percent of economics Ph.D's, although they constitute about ten percent of recent entries to the field. We expect a still greater rise in the ranks of women economists as the segregation of people into "men's fields" and "women's fields" becomes a relic of the past.

The Committee's survey of the 47 leading academic departments of economics revealed that women are only one percent of full and associate professors with tenure.[1] That means that in the past, the forces were such as to give a woman only one-sixth the chance that a man had to achieve high academic rank at a leading institution.

One reason for this poor chance that women have had is revealed by the survey of men and women economists which the Committee undertook. Of the economists who responded, "29 percent of the women Ph.D's reported in the last three years an employer indicated *in the female respondent's presence* a preference for hiring a man economist rather than a woman economist. In addition, 16 percent of the men surveyed also reported that an employer had stated in their presence a preference of a male economist over a female." (emphasis added) [2]

Allegations have been made that goals and timetables are inappropriate in a university setting, if, indeed, they are appropriate anywhere. I should like to tell you about experiences at the University of Maryland and make some suggestions which I hope are constructive.

I have been associated with universities almost continuously as student or faculty member since the year 1944. In my capacity as faculty member, I have been involved in the hiring process in a central and intimate way. I have participated in the interviewing of candidates, in listening to them make presentations, in discussing their merits and demerits with other faculty members, and in voting on their appointment. I believe I am as well versed as anyone in the multiplicity of specialties required at a university, and on the importance of the striving of faculty and administration members for excellence.

I know that affirmative action in general, and goals and timetables in particular, are a terrible vexation to those engaged in the hiring process. If the goals are taken seriously, they require doing and thinking in unaccustomed ways, which is easy for no one. If they are not taken seriously, as has been the rule rather than the exception, they require the production of hypocritical responses, which is easy but not pleasant. The multiplicity of minority groups and the smallness of certain departments leads to facetious suggestions that "we should hire one-tenth of a Mexican-American female in the Japanese Department in the next ten years."

Yet when all this is said and done, I must come down on the side of requiring and enforcing numerical goals and timetables for universities. I start from the position that blacks and women have in the past been excluded by discrimination from university faculties that the few that have been hired have been unfairly treated in the matter of promotion and pay. This discrimination has best been documented with respect to pay,[3] but the same attitudes and practices which have caused a woman to be paid from $2,000 to $5,000 less per year than a man with equivalent qualifications have also caused them to be unfairly excluded in the hiring and promotion processes.

At the University of Maryland I have systematically studied both the salary and the hiring situation.[4] I found that in more than one department a highly productive scholar with an international reputation who happened to be a woman was being paid thousands less than scholars of little or no reputation and productivity who happens to be males. I know one department which refused to hire a brilliant woman with a Ph. D. and excellent recommendations from Harvard on the grounds that in the interview she impressed them as "pushy." The white male they hired instead was someone's friend, and was so incompetent that he had to be terminated after one year. I know of another department which refused to hire as an assistant professor a woman with a Ph. D. from Yale, excellent recommendations, and an important book on the way. I know of a case where not one but two independent faculty committees appointed by the university administration found unanimously that a woman faculty member had been subject to discrimination in pay and promotion, and where to this day the matter has not been rectified. These incidents did not occur in the deep past; they occurred within the last few years, a period in which a large number of white males of quite modest qualifications were hired and promoted to tenure at the University of Maryland.

All of this has occurred at a time when the Office of Federal Contract Compliance was supposed to be enforcing an executive order against discrimination. I have been the "affirmative action officer" for my department, and I can testify that in a three-year period there was not the slightest pressure on me to try to find minority and female candidates. When I suggested a few years ago to our then Chancellor that it might be a good thing if there was some pressure applied, lest through noncompliance we run the risk of losing our grants, he laughed heartily and said not to worry, that that would never happen, no matter what. Of course, he was right.

What is needed to change this situation? It is quite clear that mere expressions of a resolve to hire in a nondiscriminatory way are worse than useless. The continuation of the same old practices is too comfortable, too ego-satisfying, too familiar to those doing the hiring to be abandoned without *force majeur*. What is needed is a credible measure of progress in eliminating discriminatory practices and a rational administration of enforcement procedures which would have the effect of placing appropriate sanctions on a noticeable fraction of those institutions in which progress is lacking.

With regard to a measure of progress, I myself can think of nothing which could substitute for numerical goals and timetables. With all their faults, they seem to me to be indispensable. If it were possible to find some other valid yardstick for measuring progress,

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[1] Barbara B. Reagan, "Status of Women in Economics," *American Economic Review*, Vol. 65, No. 2, May 1975, p. 495.

[2] Barbara B. Reagan, "Two Supply Curves for Economists? Implications of Mobility and Career Attachment of Women," *American Economic Review*, Vol. 65, No. 2, May 1975, p. 103.

[3] B. B. Reagan and B. J. Maynard, "Sex Discrimination in Universities: An Approach Through Internal Labor Market Analysis," *AAUP Bulletin*, March 1974, Vol. 60, No. 1, pp. 3–21. D. A. Katz, "Faculty Salaries, Promotions, and Productivity at a Large University," *American Economic Review*, 63 (1973), 469–477; M. G. Darland, SM. M. Dawkins, J. L. Lovasich, E. L. Scott, M. E. Sherman, and J. L. Whipple, "Application of Multivariate Regression to Studies of Salary Differences Between Men and Women Faculty," *Proceedings of the American Statistical Association*, 1973, Social Statistics Section, p. 120–130.

[4] Barbara R. Bergmann and Myles Maxfield, Jr., "How to Analyze the Fairness of Faculty Women's Salaries on your own Campus," to appear in the *AAUP Bulletin*.

I would gladly have it substituted, but I know of none.

I think that there could be some improvement in the formulation of goals and timetables, so as to aggregate small departments. If this were done, however, some mechanism would have to be worked out which caused departments to compete to see which could do best, rather than rivaling each other in inaction as is now the case. Department chairpersons must be made to feel that it is in their interest to fill positions with qualified women and minority members. Appropriate rewards (salary increases, more funds for graduate students, more positions) and appropriate sanctions (positions left vacant, low or no salary increases) should be applied. It is probably inappropriate for the Department of Labor or the Department of Health, Education, and Welfare to prescribe the precise nature of the incentive system to be applied, but at a minimum, each affirmative action plan should be required to contain a section outlining what the internal incentive system was to be. Periodic monitoring should be applied to try to find out whether or not the internal incentive system was indeed in operation. At the very worst outcome, the university would save money.

There has been some suggestion that the current penalty for a finding of noncompliance—the total removal of grants and contracts—is too harsh, and that this harshness makes the authorities reluctant to apply any penalty. I have a suggestion on this score: if a university is found to be in non-compliance, let the penalty be that the university is ineligible to collect overhead moneys on the grants and contracts of its faculty members. This is entirely feasible—for example, universities have accepted Ford Foundation grants to faculty which pay no overhead. The university would be free to reject the contracts and grants on this basis, but my guess would be that instead the administration of the university would get busy with trying to make a reality of affirmative action.

TRIBUTE TO LEW DESCHLER

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ZABLOCKI. Mr. Speaker, it is an honor to join with you and our colleagues in paying tribute to Lew Deschler on his 50th year of his service to the House of Representatives.

As Parliamentarian of this body for 45 of those years, Lew Deschler has provided dedicated service to nine Speakers and to countless Members of the House. He was of particular assistance to me on countless occasions. To all of us who had the pleasure and privilege of serving in Congress during his tenure of service, and for those who will serve in this body for many generations to come, Lew will always be Mr. Parliamentarian.

Lew Deschler has had a profound and lasting influence on the effective and orderly functioning of the House of Representatives. Through his works on the procedures and precedents of the House, he can be assured that his influence on the way we conduct our business will continue far into the future.

THE WISE WORDS OF A RESPECTED JUDGE

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. MOTTL. Mr. Speaker, Bernard Friedman has served as a common pleas judge in Cuyahoga County, Ohio, for many years with great dignity.

Recently he was honored at a luncheon attended by about 250 other judges, lawyers, civic leaders, and others. Judge Friedman's response about criminal justice was widely heralded and I think it is worthy of insertion into the CONGRESSIONAL RECORD:

REMARKS BY JUDGE BERNARD FRIEDMAN, DECEMBER 16, 1975

Mr. Chairman, fellow judges, my fellow lawyers who have paid the registration fee, my family, friends of the legal profession, and ladies and gentlemen: Since I have a captive audience, I hope you will bear with me for a few minutes, as I have been honored by this group and, therefore, wish to make the following remarks apropos to some of the problems involving the judicial system.

I welcome this opportunity to appear before you and am deeply appreciative of the invitation, for it affords me an opportunity which I have been seeking to give appropriate recognition to the members of the judiciary, bar, media and organizations who have provided the impetus and the necessary guidance in assisting me as to legislation that I felt would be most beneficial to our judicial system in our community.

Before I proceed further, I wish to give special thanks to Ed Brown, the speaker of this luncheon, who assisted in formulating a legislative plan for a public defender system so vitally needed in our community, and who labored untiringly toward this goal. The same is equally true of former Representative George Mastics and James Celebrezze, who supported and sponsored the original bill—and subsequently present Reprsentative Harry Lehman, who, upon assuming office in the House of Representatives, actively participated in its final adoption.

At this time, I also wish to express my deepest appreciation to state senator Anthony O. Calabrese, whose efforts in the senate were most productive regarding the legislation I was interested in and had proposed. The following individual lawyers, judges, public officials, organizations and news media who helped and assisted in supporting the adoption of the public defender system I wish to pay tribute to, namely: county commissioner Hugh Corrigan and his two colleagues, Frank Pokorny and Seth Taft, for their open and public support of this bill; attorneys Gerald Gold, Elmer Giuliani, Roger Hurley, James Willis and many others who appeared before the various committees in the House and Senate to support it; former common pleas presiding judges and now appellate judges, the Honorable John V. Corrigan and Thomas J. Parrino, who strongly urged the adoption of a public defender bill. I also wish to express my appreciation to the bar associations of this community and the newspapers, namely the Press and the Plain Dealer, who gave their unqualified support through their editorials.

I do not know whether most of you are familiar with the fact that the adoption of legislation process is not an easy task. It becomes insurmountable most of the time if you do not have funding and the backing of an effective lobby and particularly if the sponsor is from Cuyahoga County, you are suspect. That is the process of legislation. However, on occasions, when you do have people that are dedicated for a good cause that can be sold as being in the interest of and for the community's benefit, though the job may be difficult, occasionally you succeed.

In addition to the public defender bill, I wish to point out that many of these same people, organizations and news media that gave us the support with relation to the public defender bill also were extremely helpful regarding two other legislative enactments that I felt were of the utmost importance to the community's welfare.

A number of years ago, when it was not too popular, nor was the climate good, through the assistance of former Representative George Mastics, we sponsored legislation which was adopted in 1969 reducing a first offense of possession of marijuana from a felony to a misdemeanor. Today, the legislature has gone further than that. In certain instances regarding the amount of marijuana involved, it is not even a crime.

Secondly, several years thereafter, with the aid and assistance of former State Senator Ron Mottl, now a congressman in the United States House of Representatives, we were successful in enacting legislation providing for the expungement of the record of certain first offenders as to certain crimes.

As I have stated, the marijuana and expungement bills were commenced at a time and in a climate when it was not popular to propose such changes in our law. Yet, there was a most compelling reason for undertaking and convincing and selling this idea and principle to the legislature. Too many of our young people in colleges and universities were being charged with felonies by the mere fact of having in their possession a marijuana cigarette or smoking one, and their lives and reputations were being ruined, for upon a conviction or a plea of guilty to such charge, they carried with them—even if given probation—the stigma of being a felon.

Therefore, I proceeded to propose what I have referred to as the expungement bill for first offenders as to certain crimes. The purpose of this law is to generate motivation to those who made a mistake to correct their way of life and be a useful citizen in the community without the stigma of being considered a felon for the rest of his life. This law provides protection that in the event said person, whose record is expunged, should fall by the wayside and commit another crime or offense, his previous record would be reestablished.

You may ask yourself:

"Why have I devoted so much of my time in this direction?"

"Why have I given in addition to the time spent in proposing the legislation I referred to, several years of hard work as chairman of the former Governor's Commission on Penal Reform and Corrections?"

In answer to this, I may say that I have asked myself many times:

"What should be the role of a judge?"

"Is it merely to be restricted to the statistical disposition of cases and say I have performed what is expected of me?"

Or—

"Is there an additional role which is paramount where the judge should actively involve himself in the area of meaningful programs with relation to the administration of justice and which would be beneficial to the community?"

A judge, I believe, should be forever vigilant as to injustices in the entire judicial system, be it the laws adopted by the legislature—be it in the judicial disposition of cases, including sentencing—or be it in the performance of our correctional system. If we fail to be vigilant in this direction, we utterly fail in our judicial duties.

The power that we possess as a judge is awesome. We must exercise this power with diligence and fairness and must give real meaning to our most precious principle—equal justice for all. It is appropriate for me, since this is the beginning of the Christmas season, to quote from his holiness, Pope Paul, in a message to President Ford:

"Power must be tempered with responsibility. The use of power should rest on the criteria of justice, respect, and understanding of the rights and the needs of others."

This is a most profound statement, of which we should all take cognizance regarding the positions that we occupy. I might also state that recently the newly-appointed attorney general of the United States, Mr. Edward Levi, also made the following significant pronouncement:

"Of course, law is imperfect. It is made by man. It reflects his failings, his human weaknesses; but, it also reflects his power and his wisdom."

The rights of yesterday may become the wrongs of today and need be corrected for the sake of the future. I, therefore, say to you, what we considered rights of yesterday have become wrongs of today; and, as we are aware, there are constant changes in our laws to meet the present needs and conditions of our community. One of the major problems of human society is that the law lags behind life—the law of today generally embodies the ideals of yesterday.

I may point out to you—as a judge, I feel that there are a number of areas in the field of our criminal justice system that basically need correction, changes, and/or modification. Let me point out to you a few glaring examples:

Under the present law, we have the crime of aggravated robbery that provides, in substance, that any person who commits any theft offense no matter how minute the theft offense may be, who has in his or her possession or under him or her control a gun, is committing the crime of aggravated robbery, with a mandatory sentence from a minimum of 4 to a maximum of 25 years.

Does it make sense that, recently in a case before me, a woman who had a good work record as a nurse in a hospital, who at one time was the subject of an attack upon leaving the hospital at night, purchased a gun and kept it in her purse, and subsequently, without intending to use it, while in a discount house, shoplifted a pillow case valued at approximately $1.95, and, when the security officer opened her purse to remove the pillow case and observed the gun, that woman was charged with aggravated robbery, providing for the punishment that I have indicated?

Does it make sense that under the new drug act, effective July 1, 1976, a person in possession of up to ten grams of heroin or cocaine is guilty of a 4th degree felony, with a minimum of 6 months and maximum of 5 years, punishable without distinction as to the pureness of the product? An addict who is caught with possession of up to ten grams of heroin product actually possesses a product which will be approximately 2 to 3% of pure heroin. The pusher or distributor who has in his possession ten grams of pure heroin can actually cut it up into approximately 40 times for street sale, and yet the same penalty for each of these two persons exists.

Does it make sense to have a law under the concealed weapon statute which may present the following situation? A person with no criminal record, a professional man, business man or working man, who may have a fear of driving without some protection, may have in his car, either under his seat or in his glove compartment, a Saturday-night special, and if involved in a traffic violation, and the gun is discovered, this person is subject, if the weapon is loaded, to a charge of a 3rd degree felony with punishment approximately between 1 and 10 years, plus a stiff fine. Yet a person with a criminal record, bent upon committing a robbery or any other crime, has his gun in open view on his seat, and if discovered, cannot be charged with a crime and even the gun cannot be confiscated.

Does it make sense that only a short few years ago youngsters, particularly college students, who were caught with possession of marijuana and by reason of the amount, let us say a few ounces, were committed to a penal institution from 2 to 15 and 10 to 20 years and are still serving time today, when by the change of the law such a situation is not even a crime; it is only subject to a fine of up to $100 if you have in your possession less than 100 grams, approximately 3 ounces?

Does it make sense that we have a law providing for speedy trial; namely, that one must be tried within 90 days from the date of arrest; while confined in jail, no matter how serious the crime may be (such as aggravated robbery, rape or murder), if this person gets lost in the system and is not even brought up for indictment before the 90 days, a motion may be made to discharge him on the basis of the statute, and, no matter how serious the offense is, the court is under a duty to do so?

And finally, does it make sense to neglect the great majority of our citizens who are hard-working, pay their taxes to maintain our institutions (the legislative, executive and judicial), and who also have rights most important to them which require judicial determination, and that by reason of the volume of the criminal aspect they be entirely neglected and delayed to the point where it works a great injustice to them?

There is no question that crime has been on the rampage in our community and throughout the nation. There is no question that a great need exists for additional judges to be able to handle both the criminal and civil aspects of our community. Unfortunately, it is difficult to obtain through the legislature the necessary tools in this direction, and we must strive as hard as possible to get community involvement toward the necessary goals.

Before I conclude, I am digressing for a moment with relation to a tragedy which occurs most frequently in today's society. When tragedy hits close to home or to a good friend or colleague, we become so paralized and shocked that sometimes we find it most difficult to be rational.

The senseless killing of last Friday of a respected lawyer and friend in a downtown area is beyond belief. We certainly wonder how can a society permit 14, 15 and 16 year olds to roam our streets with guns, knives and other dangerous weapons. Is it enough to generalize, raise our voices in shock and dispair, condemn public officials for doing or the lack of doing? The answer is obvious and it is "no".

Our so-called correctional institutions, as we call them, in spite of all the money spent, recommendations made and improvised, are cesspools of crime. The parents whose kids roam the streets lack decency and morality as to their responsibility. Our churches, synagogues and schools have failed and are failing in meaningful programs. The entire community must not just sit still and merely express generalized opinions. It requires a participation by all of us in at least some effort to reduce the spiraling rise of crime.

We must concentrate in the area of the hard core—vicious type of criminal—such as the killer, robber, rapist and burglar—to remove them quickly from our midst not so much for punishment but for the protection of society.

It is not right and just that all our efforts be concentrated on the speedy trial aspect of those confined in jail who have committed non-violent crimes and let the hard core violent type roam the street, committing more and more violent crimes, simply because they are out on bond. The concentration for speedy trial for the protection of the community, its life and property, should be directed as to those offenders of the law.

I, therefore, conclude with what I have already stated: That a role of a judge is not merely to dispose of cases, which is most important, but equally important is to take an active interest in pointing out the need for handling the heavy case load docket, and furthermore, to point out the injustices cf some of our laws. I certainly look forward to a time that when my grandchildren are grown up that they will be able to point out that their "poppa judge" was one who tried his utmost in the area of improving our judicial system for the benefit of the entire community.

Thank you.

HON. BOB CASEY

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ALBERT. Mr. Speaker, on December 19, 1975, our friend and colleague, BOB CASEY, of Texas, was confirmed as a Commissioner of the Federal Maritime Commission. While we wish him well in his new position, we will greatly miss his loyal service and dedicated contributions to the legislative process in the Congress.

BOB CASEY came to the House of Representatives from the 22d District of Texas some 17 years ago. Indeed, he is the only person to represent that district since it was first created.

His credentials for service in the Maritime Commission are impeccable. He served as a county judge for Harris County from 1950 to 1958. In that capacity he worked closely with the Port of Houston and the shipping industry. First elected to the House in 1958, BOB CASEY served with distinction, first on the Committee on Merchant Marine and Fisheries, and later, on the House Appropriations Committee. As a high ranking member of this powerful committee, BOB CASEY presided over the Subcommittee on the Legislature, charged with the funding of the complete operations of Congress and its affiliated agencies. In addition, he served on the Appropriation Subcommittees on Labor-Health, Education, and Welfare and Agriculture and Related Agencies. BOB CASEY has long been known as a legislator's legislator, a member more than willing to do his share of committee work, a loyal Democratic Member of the House.

This appointment will provide BOB CASEY with a new opportunity to serve the Texas gulf coast and all America. Still, we will greatly miss one of the most experienced and respected Members of the House of Representatives.

Above everything else, in my book, BOB CASEY was my friend. We have had the pleasure of hunting together and knowing one another outside our legislative environment. He is a wonderful person. I wish him the best of life as he leaves our common vineyard.

JACK CARLSON RESIGNATION

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. McDADE. Mr. Speaker, it is with a deep sense of personal loss that I call the attention of my colleagues to the imminent departure of Jack W. Carlson from the position of Assistant Secretary of the Interior for Energy and Minerals.

As many of you are aware, Jack has submitted his resignation to the President and that resignation has been accepted, with the effective date of January 15, 1976.

In my experience, it has been very seldom that an Assistant Secretary of any department has been so active in furthering the programs and policies of the President and the programs and policies of his department. We in Congress have benefited from his wise counsel and searching analysis of problems which have come before us seeking a solution in legislative action.

In accepting Jack's resignation, President Ford called attention to the sterling work which Jack has performed over the past decade not only in Interior but also in the Office of Management and Budget. The President thanked him for his work on the Energy Resources Council, for the big job of completing the analysis of factors affecting our decisions to bring arctic natural gas down to the lower 48, developing coal policy on Federal lands, identifying mineral policy for a new world situation, and for many other contributions to the administration of this Nation's affairs.

The listing of accomplishments is all the more remarkable when we recall that Jack W. Carlson served less than 18 months in the Department of the Interior—18 months of profound change in that Department, 18 months during which men held the post of Secretary of the Department, 18 months during which the Nation's interest in the wise management of its natural resources reached an all time high.

During the year and a half of Jack Carlson's service to Interior, he performed a great service to Congress by coming up here to testify before congressional committees not less than 25 times. He ably explained the administration's position, and the position of the Department of the Interior; that goes without saying. But he also did an able job of replying to our questions, and of helping us see all facets of complex problems.

In my experience, few Assistant Secretaries have been called upon for congressional testimony that often. I would remind my colleagues of his testimony with regard to oil and gas production from the Outer Continental Shelf, with regard to the surface mining reclamation legislation proposals, with regard to the diligence requirements which now govern the mining of coal on public lands.

His was the first public voice that spoke out against unwise locking up of the mineral resources on public lands. He has called out attention to the need for informed decisions, and our work has been the better for that. Jack W. Carlson has demonstrated a marked ability to analyze a complex decision, to fairly and accurately weigh the components of the differing arguments and to come to the best possible solution for this Nation.

Jack W. Carlson has been an excellent Assistant Secretary of the Department of the Interior—he will be missed sorely in that important Department.

Jack W. Carlson has been an exceptionally well-qualified witness before many of our committees. He will be missed sorely in that respect, also.

I know that many of my colleagues join me as I wish him well in his future endeavors.

AMERICAN AIRLINES RECEIVES "DISTINGUISHED PERFORMANCE AWARD"

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. JONES of Oklahoma. Mr. Speaker, the employees of American Airlines, especially those men and women who work in the Maintenance and Engineering Center in Tulsa, Okla., have recently received a noteworthy and truly outstanding award.

The Flight Safety Foundation has presented a special Distinguished Performance Award in recognition of the airlines' record 6,000,000 hours of safe flying during the past 10 years. That record includes almost 4 million departures, over 190 million passengers transported, and over 170 billion revenue passenger miles, all without a passenger fatality or the loss of a complete aircraft.

I am particularly proud that American's Maintenance and Engineering Center is located within my congressional district, in Tulsa, Okla. It should be noted this center has the primary responsibility for the safety, reliability, and maintainability for the airline's 234 jet aircraft.

The 7,000 highly skilled employees in American's Maintenance and Engineering Department, stretching from Honolulu in the Pacific to Aruba in the Caribbean, are dedicated to aviation progress and safety. I have seen this outstanding attitude visibly present during several personal tours I have made of the Tulsa American Airlines facility. It is their concern, dedication to duty, and professionalism that has been a large factor in American Airlines receiving this award.

Mr. Speaker, it was my privilege at the recent award luncheon to sit with Mr. Rocco J. Masiello, American's vice president in charge of the Tulsa Maintenance and Engineering Center. Mr. Masiello is to be commended for the outstanding role he and his fellow American employees have performed in achieving this remarkable safety record for their company.

I know I speak for all Oklahomans when I say we are deeply proud of their accomplishments.

TELEVISION FAMILY VIEWING

HON. HUBERT H. HUMPHREY

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Friday, December 19, 1975

Mr. HUMPHREY. Mr. President, in recent statements in the Senate, Senators PASTORE and MAGNUSON have performed a significant public service in discussing the issue of violence in television programs. They have applauded the action of the networks and the National Association of Broadcasters to designate the first two early evening hours as a "Family Viewing" period when programs should be suitable for all family members, including children, to view.

I am aware that some quarters of the television industry have initiated a legal action to challenge the constitutionality of this network programing decision. I also am aware that various criticisms have been expressed over the intent of networks in initiating the "Family Viewing" period, as well as over the resultant programing.

However, it is abundantly clear that we must continue to encourage a movement away from repeated scenes of violence in television programs, whose adverse social and psychological effects, particularly with respect to the learning experiences of our children, are becoming an issue of deep public concern.

Mr. President, I ask unanimous consent that an article, entitled "Does America Want Family Viewing Time?" and appearing in the December 6, 1975, issue of TV Guide magazine, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Reprinted from the December 6, 1975, issue of TV Guide magazine]

DOES AMERICA WANT FAMILY VIEWING TIME?

(By Neil Hickey)

More than eight out of 10 Americans favor the concept of "family viewing time"—the new rule that restricts the early-evening hours to television programming that is suitable for parents to watch with their children.

More than seven out of 10 Americans are convinced that television programs, overall, are much too violent. Since 1973, the degree of concern over televised violence has risen markedly.

Nonetheless, most Americans are against stricter government controls of TV entertainment, and believe that each family should decide for itself what it will or won't watch on television.

Those conclusions, and scores of others, arise from a national poll—the first ever done on this subject—conducted for TV GUIDE by the Opinion Research Corporation of Princeton, N.J., during the period of Oct. 10–12. ORC is a company that performs public-opinion research for industry and government. In this case, it conducted telephone interviews with a scientifically selected sample of 1024 Americans (512 men, 512 women), all 18 or older and living in private households. This sample is comparable to that used by other public-opinion organizations for research of this sort.

Emerging from those interviews is a clear and intriguing picture of changing American attitudes toward television programming, and specifically toward the industry's loudly heralded "solution"—namely "family viewing time"—to widespread public and Congressional criticism that television programs were simply becoming too violent and too sexy for families to watch together.

Briefly, the historical context is this: Starting last September with the arrival of the 1975–76 television season, the industry began operating under the new "family viewing time" rule that had been written into the National Association of Broadcasters' Television Code. It stated, in effect, that: between the hours 7 and 9 p.m. (and 6–8 p.m. in the Central time zone) no program deemed "inappropriate for viewing by a general family audience" would be aired.

On the surface, the rule seemed well-meaning enough, and even noncontroversial. But it sparked one of the most contentious debates in TV's quarter-century history. "Censorship!" cried TV producers and writers. "Fraud!" cried some segments of the press and various industry watchdog groups. Congress had pressured the FCC, the critics hollered, and the FCC in turn had reportedly pressured the TV networks for some symbolic gesture that would take the heat off all of them.

It was a prime example of government meddling, the rule's opponents insisted; and besides, it wouldn't work. Children watch television at *all* hours, they pointed out—not just in the early evening. (More than 20 million 2-to-17-year-olds are still at the set at 9 p.m., 13 million at 10 p.m. and 5.3 million at 11 p.m., according to Neilsen figures.) And children simply don't go to bed an hour earlier in the Central time zone, where almost one-third of all TV households are situated.

Thus, the FVT rule was seen by many as a smoke screen laid down by the networks to protect the goose that lays golden eggs—and to acquire a government-sanctioned carte blanche to program sex and violence throughout the day, except in the newly created 7-to-9 p.m. demilitarized zone.

The rule's defenders were as vocal as its opponents. They insisted that, even though it wasn't perfect, FVT was a step in the right direction and a tangible expression of the industry's determination to ameliorate a problem that had bedeviled it for years. At the very least, they said, the rule did provide a daily two-hour period in which the programs were guaranteed inoffensive; and it would help parents oversee their children's viewing.

A month ago three industry trade unions—the Writers Guild of America, the Directors Guild of America and the Screen Actors Guild—brought suit against the FCC, the NAB and the three commercial networks to end "family viewing time" on grounds that it is "the product of political coercion." Writers Guild executive Michael Franklin told TV GUIDE: "The FCC network-prime-time censorship rule is a violation of the First Amendment. We don't think the Government has any business telling the people what they can see and when they can see it."

But nobody knew how the people themselves felt about the new rule—or indeed, whether they were even aware of its existence or of the controversy raging within the industry.

Against that background, TV GUIDE commissioned its national poll on public attitudes about "family viewing time." The interviewing was conducted roughly a month after the plan's effects began showing up in network TV schedules. (Shows like *All in the Family*, *Kojak*, and *The Rookies*, for example, were nudged out of the 7-to-9 period, and shows like *Rhoda* and *Movin' On* were moved in.)

The first revelation of the poll is that 40% of the respondents claim varying degrees of familiarity with "family viewing time," but more (58%) have never heard of it. People who are opposed to FVT tend to be more familiar with its import than those who favor it. And families with children tend to be a good deal more aware of its existence than those without.

We asked two questions of all the respondents who claimed some degree of familiarity with FVT: What time period is covered by "family viewing time"? And what is the purpose of it? Although barely half (55%) knew that FVT embraced the first two nighttime hours, 72% of that subgroup did indeed know the general fact that "family viewing time" is a period set aside—at *some* time during the day—for programs appropriate for all members of the family, including young children.

Having established that the country at large has a rather inexact perception of what FVT is all about, we then provided our respondents with a definition: "Family viewing time' or the 'family hour' began with this fall's television season and runs in the evening from 7 P.M. to 9 P.M. (6 P.M. to 8 P.M. in the Central time zone). During the time period, only programs that are considered appropriate for viewing by all members of the family, including children, can be shown." And, then we asked them, "Do you favor or oppose such a rule?" Overwhelmingly, they favored it (82%). Only 7% opposed it, and 11% had no opinion.

Women (85%) are more enthusiastic about FVT than are men (77%). Households with children are markedly more positive about it than those without. And the segment of the population that supports stricter controls for TV is the group most vigorously (nine out of 10) behind the FVT concept.

We then asked: "From your point of view, what do you consider to be the advantages or benefits, if any, of the 'family viewing time' rule?" One-quarter of the respondents said it relieved them of the task of screening out programs they wouldn't want their children to see, and assured them a supply of acceptable family entertainment. Another 15% indicated that the absence of violence in that time period was its best recommendation. And 14% thought that FVT might bring the family together, at least for a couple of hours a day.

Other scattered responses were: FVT might cause late-evening programming to be more adult, less restricted, and thus better; assure that young children would go to bed earlier; and perhaps foster the production of more educational shows in the FVT period.

As regards the "disadvantages or shortcomings" of the FVT rule: only one person in five can think of any. Among those most often mentioned: the overall quality of television is downgraded by FVT's presence; the rule constitutes a form of censorship; it creates an artificial and unrealistic entertainment environment for both children and adults; it interferes with the period when many children ought to be doing their homework; and it doesn't prevent children from watching at *other* hours, when televised violence and sex are visible on the home screen.

Forty-four per cent of our respondents were parents, and we asked that group how helpful FVT had been to them in supervising their children's TV-watching. Here, the opinion was fairly equally divided. One-quarter said it was "not at all helpful"; another quarter said it was "fairly helpful"; about one in five thought it was "very helpful"; and another 15% deemed it "only a little helpful." (Thirteen per cent had no view on the matter.)

We also asked parents: "Do you believe the 'family viewing time' rule tends to keep your children from seeing a view of life the way it really is, or doesn't the rule have this effect?" Fully two-thirds of the parents thought it had no such effect.

All respondents were asked the following question: "Because of the 'family viewing time' rule, do you feel that, as an adult, you are having children's viewing standards forced on you during these hours, or don't you feel this way?" Eight out of 10 interviewees did not.

They were also asked: "In your opinion, will the 'family viewing time' rule improve television in any way, or won't there be any improvement because of it?" Over half—56%—considered that it might indeed help (by minimizing violence and sex, and by encouraging the production of educational programs in the 7-to-9 P.M. period). Twenty-six per cent doubted that it would bring any improvement at all.

For whatever reason, far more women than men (64% vs. 47%) believe that FVT will improve television. And college-educated people are much more likely than the national average to feel that it will bring no improvement.

We then asked a series of questions designed to probe our respondents' general attitudes about sex and violence on television. Each of them was told: "As you know, there have been many comments about sex and violence on television today. Some people think there is too much; other people disagree. We'd like to know how you feel." Three questions were posed:

In your opinion, do you think there is too much emphasis on sex in television, or don't you feel this way?

Yes—54%.

No—41%.

No opinion—5%.

Do you think there is too much violence on television, or don't you feel this way?

Yes—71%.

No—25%.

No opinion—4%.

Which do you think is more objectionable on television—scenes of sex or scenes of violence?

Sex—22%.

Violence—44%.

No difference—30%.

No opinion—4%.

Thus, violence, more so than sex, continues to be the No. 1 hobgoblin of American TV-watchers. (And that opinion has grown appreciably—from 35% to 44%—since 1973, when TV GUIDE asked the same question in another national survey.)

In the demographic breakdowns, women are far more likely than men to answer "yes" there is too much sex on television (64% to 43%), and "yes" there is too much violence on television (78% to 63%). Women are strongly supported in those views by two other subgroups in American society: people over 50 years of age, and those with an eighth-grade education or less.

When asked to choose between sex and violence as to which is more objectionable on television, younger people (under 29 years of age), the college-educated, and the more affluent (income over $15,000) are far more likely than the national average to condemn televised violence.

Finally, we asked: "Do you think there should be stricter controls evercised on the content of television programs, or do you think each family should decide for itself what it will or will not watch on television?" Almost seven out of 10 Americans feel that the family should make such decisions. Twenty-three per cent think there ought to be stricter controls. But more than half the people calling for stricter controls believe that the television industry itself ought to impose these regulations rather than have the Government do it.

In sum, the poll clearly establishes that public dismay over televised scenes of violence is stronger than ever; that Americans in overwhelming numbers—even those with little or no prior knowledge of "family viewing time" and its ramifications—are certain that a need exists for some such device to reduce the amount of violence on American television screens; and that the new rule meets with the approval of eight of 10 U.S. adults.

DO YOU FAVOR OR OPPOSE SUCH A "FAMILY VIEWING TIME" RULE?

The answers to the poll's key question show strong support for "family viewing time" in all sectors of the population. Here is the statistical breakdown by sex, geography, age, education, income and type of family.

[In percent]

	Favor	Oppose	No opinion
Total public	82	7	11
Men	77	9	14
Women	85	6	9
Northeast	83	7	10
Midwest	85	5	10
South	80	7	13
West	77	11	12
18 to 24 yr of age	81	9	10
18 to 20 yr of age	84	10	6
21 to 24 yr of age	78	8	14
25 to 29 yr of age	81	11	8
30 to 49 yr of age	84	8	8
50 yr and over	80	4	16
8th grade or less education	74	4	22
High school incomplete	83	8	9
High school graduate	87	4	9
Some college or graduate	78	14	8
Under $10,000 annual income	82	5	13
$10,000 or $14,999	88	6	6
$15,000 to $24,999	81	10	9
$25,000 and over	80	12	8
Children in household	86	6	8
Under age 6	86	4	
Ages 6 to 10	87	6	
Ages 11 to 13	82	9	6
Ages 14 to 17	88	8	7
No children in household	78	8	14

IN CONCLUSION

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. KOCH. Mr. Speaker, on Thursday, December 18 the House had its opportunity to vote on the truck weight rollback amendment and we lost by a vote of 139 to 275. I have no regrets in having waged that fight because it was always my feeling that in a recorded vote in which Members had to stand and be counted that we who supported the rollback would prevail. Obviously I was wrong in assuming that was the state of affairs, because an overwhelming number of Members rejected my amendment. I think they were wrong, but at least the will of the House was expressed in a publicly disclosed vote. That is all that I can ask for. I was beaten, but I have no complaints against those who are my opponents on this amendment. They treated me fairly and squarely in allowing full discussion and a recorded vote.

I want to take special note of, and express my thanks to, the five Members who worked closely with me in preparing for the fight on the floor and organizing the whip system which we used to insure that enough Members would be present on the floor to demand the recorded vote. Those Members are: GARY MYERS, who lent his name, his support and his expertise to the amendment and offered it in the Public Works and Transportation Committee and on the floor; his colleagues on that committee, BOB EDGAR and NORMAN MINETA, who supported the amendment in the Public Works Committee and on the floor in every possible way; KEN HECHLER who stayed on the floor with me for hours acting as floor manager; and GIL GUDE who tried to line up support for the amendment on his side of the aisle. My thanks also go to: PHIL HAYES, STEWART MCKINNEY, PAUL SIMON, and DICK OTTINGER, who lent staff support, and RON MOTTL and JOHN SEIBERLING who spoke for the amendment.

THE HONORABLE BOB CASEY, A GREAT TEXAN

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. PATMAN. Mr. Speaker, there is a tradition that the most ardent Texans can often be found among those who came to us after spending their earlier years in other States, like the men of the Alamo, or for an example closer to home, the Honorable BOB CASEY, now a Member of this House, soon to depart upon a career of significant and continued usefulness to the American people.

There are solid, constructive virtues in statesmen of BOB CASEY's caliber that bring to mind the kind of motivation that I hope young Americans will never forget nor forgo, like working at night through college and law school, diligently pursuing the private practice of law until called to public office as district attorney, State representative, judge, and a U.S. Representative from Texas for over 17 years, culminating now in a prestigious Federal appointment.

This is a record of which any man can be proud—consummate attention to duty, meticulous care of the Nation's purse, and a pervading and intense loyalty. With all this BOB CASEY is one of the most notable and devoted family men in our midst.

Obviously, we will all miss the leadership and friendship of this outstanding statesman, and he has our very best wishes in the new post which he is assuming. I am confident that BOB CASEY will distinguish himself in this new office as he has in all his past public duties, and I will be following his new career with continuing great interest and admiration.

WORKER PARAPROFESSIONALS AT THE WORKPLACE ARE IMPROVING WORKING CONDITIONS

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. O'HARA. Mr. Speaker, one of the good things which passage of the Occupational Safety and Health Act of 1970 has done is to spark new worker consciousness about the workplace environment.

The U.S. Department of Labor magazine, Job Safety and Health, in its December 1975 issue contains an excellent interview with an "activist blue collar worker concerned about safety and health on the job."

It is obvious in reading this interview that there is a worker paraprofessional excellence at the shopfloor level which is making significant improvements in the health and safety of their fellow workers.

Some of the critics of OSHA have asked what is labor doing itself to grapple with safety and health conditions on the job. The interview with Ed Glowacki of Parma, Ohio, tells how one worker representative working full time is making life better for some 7,000 workers at the Chevrolet plant near Cleveland.

This story can be multiplied many times around the Nation. I commend the Labor Department for running this informative interview and I include it in full so that all Members of Congress can get a better picture of actual attempts to improve working conditions:

A VIEW FROM THE ASSEMBLY LINE

"When you work like I have on a big stamping machine banging away all day, your arms quiver and shake by the end of the day," testified Ed Glowacki at OSHA's hearings on its proposed noise standard. "And if you work on the second shift, you can't go home and go to sleep right away. You still hear that press banging away inside you and you can't sleep.

Glowacki's type—the activist blue-collar worker concerned about safety and health on the job—is becoming less of a rarity these days. In 1973 when the United Auto Workers negotiated a breakthrough contract with General Motors providing for a safety and health representative in each plant, Glowacki took over that full-time job for Local 1005 at the 7,000-employee Chevrolet plant in Parma, Ohio. Previously, he had worked as a press machine operator on the auto assembly line in GM plants for 13 years and served as chairman of the Parma plant safety committee since 1971.

Q. How did you first get interested in safety and health at work?

A. It began when I worked at another GM

plant in a chromeplating operation. I noticed we were experiencing some problems with the chemicals we were using and the fumes we were breathing—things like sore throats, difficulty in breathing, our hands and arms breaking out. So I figured I'd better do some research on my own.

Another time I went through the plant, making a survey of all the containers that held inflammable chemicals. I would go to the library and trace the trade name to find out what the hazards might me. Then I'd go back and tell management. In the end they actually removed a number of dangerous chemicals from the plant.

I was also concerned about the accidents I'd seen occurring in the plant over the years. When I saw a young guy lose four fingers in a power press accident, I felt it was time to get involved.

When I came to Chevrolet Parma, then, the union president asked me if I'd like to start a standing health and safety committee. At that time we were not recognized by the company at all. We were just a group of individuals concerned about safety in the plant. We would research a problem and then try to do something about it. Our main function was to learn about the OSHA law and the standards so we could help the union shop chairman improve the condition of the plant.

One of the first things I set out to do was to make out a list of all the chemicals used in the plant. If I was working on the second shift, for example, I'd come into the plant, say, an hour or an hour-and-a-half early. Then, after quitting time, I'd stay another hour-and-a-half following up on bad conditions in the plant. In the mornings I would either go down to the union hall to make out reports or to the big library at Case-Western Reserve University for the really heavy research.

Then, when OSHA came in, I started to attend some schools and seminars on my own as well as other classes that the union put on. I'd guess that in the last four or five years I've been to 25 or 30 seminars on OSHA running anywhere from one day to two weeks.

Q. What kinds of problems do you spend your time on now, as the official safety and health rep?

A. The first thing I do every day is check over calls and reports from the day before and follow up on them. When an employee discovers a hazardous condition where he's working, he will notify his union committeeman who makes a request to me if he can't resolve the problem right away. I'll go out and look at the situation and then go through the proper channels to get it corrected.

On a given day I might have to check into any or all of these problems: oil mist or smoke in the air, malfunctioning equipment such as exhaust units and dust collectors, the condition of a power truck, and, of course, any accidental injuries that might occur.

I also have a regular survey of my own for things like power presses. There are around 300 power presses in our stamping division. I check them all out to make sure they have the proper guards, the new palm buttons, and other equipment that should be there. If I see anythig that needs to be taken care of, I notify the proper people to do the job.

Q. How would you handle a typical problem—say, fumes from a degreasing tank that are making people sick?

A. I would check the situation out and write a report. If I discover the exhaust unit is not working properly, I go to the maintenance department to have them check it. The motor might be burned out, or the fuse might have blown out, or maybe there is a leak in the system itself. The maintenance department will take care of all these things. If they don't get it done, then I'll go to the general foreman and say, "Look, we have a problem that's got to be taken care of."

Q. Do you monitor for chemical vapors in the air?

A. The only chemical monitoring equipment I have available is a CO sampler though we have a noise meter and an air flow meter. If I get a complaint on carbon monoxide, I do check the air. If I detect any possibility of carbon monoxide, I notify the plant safety director. Then, we go out together and run a check on it.

Q. How does management generally respond when you go to them with a hazard to be corrected?

A. Well, it's like a roller coaster. At times I have no problem; other times I will. It all depends on the individual I'm dealing with. Some members of management have worked with me very closely, but others still do not like the idea of the union telling them what to do. I think it's just going to take them a long time to realize that it's a joint effort now, that we have to work as a team.

Q. What can you do if management refuses to take action on what you feel is a genuinely hazardous situation?

A. If I can't get what's needed through the foreman or general foreman, I would go all the way up to the plant manager if need be. If I still can't get action, then I can contact the international union, explain the problems we have, and ask them to come in and help us. I've never had to go that far yet, but we do have that procedure.

Another route is for a committeeman to file a formal safety and health complaint with the general foreman. This automatically leads to a joint investigation by the company safety director and me. If management still refuses to move on correcting the problem, I can appeal to the second step of our grievance procedures. Then the case passes into the hands of our union's shop committee, and they can appeal it to further steps. In the last year-and-a-half I would say that no more than 10 percent of the complaints had to be appealed to that second step.

Q. When would you consider filing a complaint to call OSHA in for an inspection?

A. I think OSHA should be used in the proper way. In other words, you don't call them for every little problem you might have in the plant. But if you can't get action on a condition where someone could get killed or injured, then, of course, you should call OSHA to get it corrected. They should be called as a last resort; that's what they're there for.

One more thing you have to remember is that management knows OSHA is there if everything else fails. And they know we know OSHA is there. That makes them listen a little more closely to us than they would without OSHA.

Q. What hazards are you most concerned with now?

A. Let me give you a little bit of background. For years everybody has been mainly concerned with people getting injured in the plant. When there's an accident, there's always an investigation to see why the individual got hurt and to make sure it doesn't happen again. But, in my opinion, our thinking has to change on this. Of course, we should try to keep accidents from happening, but we should be aware that an estimated 100,000 people are dying every year in this country from job-related diseases. This is where we have to concentrate our efforts.

What really irritates me more than anything else is that when a worker gets killed in the plant, you'll see management all over the place. But when someone dies in the plant from a heart attack that might be related to heat or stress or noise, or when somebody has to retire early because of a recognized disability, nothing is said and nobody seems to be really up tight about it.

Q. There are certain diseases connected with certain jobs—black lung with coal mining, lung cancer with coke oven work, and so on. Are there any diseases common to auto workers?

A. We are not experts, but we're trying to learn all we can about health problems. We do know that foundry workers within the UAW are having trouble with silicosis, and we're worried about the long-term effects of lead on the people who make batteries. We also are concerned about the effects of breathing the oil mist in many of our plants. And many, many chemicals in use still haven't been thoroughly investigated. It's a tough business to keep up with. When NIOSH first came out with a list of toxic substances in 1971, it was maybe an inch thick, but the 1974 edition is probably three inches thick. Every day, it seems, we get reports of a new chemical hazard like vinyl chloride, which in a finished form is used in auto seat covers. Finally, in every plant we're concerned about high noise levels and the related side effects.

Q. What are the effects—other than hearing loss?

A. We know workers subjected to high noise levels have common complaints: They become uneasy, fatigued, irritated, lightheaded, and have headaches. I've also seen a lot of heart attacks, stomach disorders, and high blood pressure among the people I work with. I can't say absolutely that noise is a contributing factor to these conditions, but you and I both know that it is. Then, too, since speech communication is necessary even in noisy shops, many workers develop throat disorders and voice problems from having to shout at one another. We realize our observations are not scientific proof, but we've known for years that these health effects do exist.

Then there are what you could call the "social" effects of noise. After work a lot of guys end up in a bar for a couple of hours to relax and drown out the noise. It gets pretty late by the time they get home. As a result, they end up alcoholics or in divorce court. Back inside the plant, the banging away gets on your nerves. Little problems are aggravated, and people's tempers flare. There's no doubt in my mind that noise is a factor in causing fights.

And noise affects your family life in other ways, too. I get into a great many "friendly discussions" with my wife over how loud the TV set is. I can hardly hear the set, but she will say it is too loud. I could go on and on about these little things that you never think about.

Q. To get back to safety hazards, what's the single most important factor affecting safety in a plant? What makes one plant's accident record good and another plant's lousy?

A. The attitude of top management in the local plant—that's the key. I really believe that your upper-echelon GM people in Detroit are making a sincere effort to work with the union to improve safety conditions. But once you get down to the local level, you often find that communications break down and the message doesn't get through.

I know from the plants I've worked that if the top management in the plant shows they're concerned about safety, this attitude will spread to the superintendents, the general foremen, and the foremen out on the floor. If a foreman knows the plant manager wants good maintenance above all else, he'll make damn sure he provides it. He sure doesn't want that plant manager coming down on his shoulders and saying, "Why didn't you take care of that?"

Even the individual worker realizes this. If he feels management is concerned about his safety, he's going to be more safety-conscious. But if he tries to get a hazard corrected in his work area and he's told that they'll look into it and then it's not corrected, he feels, "Why should I worry about it if the boss doesn't care?"

Q. The most frequently quoted figures on accident causation show that between 85 and 95 percent of industrial accidents result from an "unsafe act"—in other words, a worker doing something wrong. Are those figures accurate for your own experience?

A. No, I think the numbers are too high. There's no doubt, however, that some accidents are caused by unsafe acts. Maybe an individual is not concentrating on his job, or maybe he's in a hurry and gets careless. I think you have to go beyond the initial cause, though, and ask why he's careless. Is it because he's never been trained to think of safety before anything else? Is it because a good attitude hasn't been reinforced day after day on the job? What I'm saying is that if a worker is trained well enough, a lot of those so-called unsafe acts would never occur.

Q. An argument I've heard against safety and health literature geared to workers is that the average worker is not interested in reading about job hazards. If he reads anything, it is the sports page or a girlie magazine. Obviously, you're an exception to that stereotype. What about other workers?

A. That thinking kind of irritates me because I spend a lot of time—sometimes 18 hours a day, believe me—on safety. I always have and I always will I guess, but I'm not much of an exception nowadays. Unfortunately, it's true that the older generation of workers tended to accept hazards as part of the job. Too often in the past the average worker was only concerned with pay raises, vacation dates, release time, and all that.

But there's been a slow revolution occurring among the younger people in the plants. These guys are coming up to me and saying, "Look, we feel this should be taken care of." I'm talking about conditions like heat, ventilation, smoke. In the old days you could hardly get one or two guys to tell you when their presses started repeating, but things are different now.

Q. In her book "Muscle and Blood," Rachel Scott quotes an auto worker who says, "The UAW is a bureaucracy no different today than the company bureaucracy or a government bureaucracy. . . . You have to remember that a UAW officer is on leave of absence from whatever his job was in the plant, and if and when he loses an election, or is replaced on his job, where is he going? . . . What guy making $15,400 a year, plus expenses, is going to make noise and rock the boat and get kicked back to the job where he was making $9,000 and working his fanny off? Do union officials need to be more aggressive on safety and health?

A. I can see where a guy on the line could feel that way, but what he doesn't realize is that it takes time to solve a complex engineering problem and that we have to follow a certain set of procedures. I feel very strongly that any problem within the plant can be resolved if you follow the proper procedures that's been set up. Without these rules and regulations, we'd be in a hell of a mess. We'd get nowhere.

In my own line of safety and health, I will say I've been truly impressed with the commitment of our top international union officials over the years. And from what I hear health is going to be one of the major issues in our next contract. In our own plant, the local presidents and shop chairman I've dealt with have supported me 100 percent.

But to the people who say we're going too slow, I say, "Instead of griping, get involved, put in extra time, gather information, pass it along, and some day—believe it or not—it will show up in a contract."

Q. Do you ever get frivolous complaints to investigate?

A. Well, I believe that each complaint is important to the man or woman who made it. You'd be surprised at the variety of problems I hear about. I get calls for a little bit of water or oil on the floor, or maybe a floor block broke loose, or maybe there are flies in the cafeteria.

But what I'm trying to do is establish the proper safety attitude in the plant. So if it's a problem to them, I say, "Fine, I'll check into it; I'll take care of it." I'd rather have them call me on minor matters, as well as major matters, than find out later that they had a real problem and said, "To hell with it. Why call the man? He doesn't care." I'm hoping that through this method the people in the plant will see the union is concerned about their safety and health.

Q. There's been a lot written about the effects of the assembly line on a worker's health, both physical and mental. Is assembly line work all that bad?

A. It depends a lot on the kind of job you're doing on the line. If you're putting small parts on at a fast clip and you miss a part or it doesn't fit, even a split-second will throw you off. And then right away you start to worry about catching up or missing another one. But the worst aggravation is the feeling of: "My God, I'll be doing this for eight hours today, and tomorrow I'll be doing this for eight hours, and for the rest of my life I'll be doing this."

You also have to take into consideration the heat involved, possible ventilation problems, your fingers or hand getting tired from doing the same thing over and over, the noise working on you. All these different factors are wearing down the employee on the assembly line. I think if you could talk to some plant nurses and get an honest opinion, they would tell you that many, many people are coming into the dispensary with real mental problems. It's no wonder.

Q. Does the pace of the assembly line itself contribute to accidents?

A. Absolutely. Take any job using a power press on the line. If the belt becomes jammed or a part doesn't fit properly, the operator is going to push to make up for lost time and get his quota out. Because his only thought at that point is to get the parts out, he loses sight of safety. Let's stay his press repeats. Instead of reporting it to his foreman as he should, he just keeps pushing the parts through. Then, if the press repeats again when his hands are in there, he's lost a finger or a whole hand. Or, if the press is not trimming properly and he reaches into the dye to pull a part out, instead of using the tongs, the same thing happens.

Q. Do you think it's possible to make economical cars without the assembly line?

A. There's been a lot of discussion on that. I understand they've tried it in Sweden by assigning three or four individuals to make a complete engine. I guess you get satisfaction out of seeing a complete product finished.

This is just my opinion, but I think in this country we somehow need to make auto plants more liveable and recognize that people do have feelings and ideas. Most people seem to think if you're a factory worker, you're a nobody. That's not true. Most of the younger workers in the plants have been through high school, and many are going to college. We have to revamp our assembly lines so that these people feel: "I've accomplished something today; I mean something to somebody; what I'm doing really counts." Now how we're going to do that, I really don't know.

Q. Have you noticed any changes in the plant since the Occupational Safety and Health Act went into effect in 1971?

A. There have been improvements. The biggest change is in the attitude of some members of management. Four or five years ago it was a constant battle to get things taken care of in the plant. Management had a tendency to ignore you or tell you they would look into it, but nothing would be done. Now—and this is certainly not 100 percent—more management people are starting to listen to us and work with us.

Q. Which OSHA standards do auto workers have a particularly strong stake in?

A. There are four or five we're most concerned about. I was very disappointed in the power press standard because OSHA dropped the "no-hands-in-dies" provision. I don't care how many other safeguards you put on a press. If they are mechanical or electrical, they can fail, and if they fail when your hand is in there, you've lost a finger and maybe a hand.

And, of course, from our point of view the proposed noise standard is very, very poor.

In general, I think all the standards dealing with air pollution in the plant are important. The problem, as I see it, is that the threshold limit values [TLV] for many chemicals we use need to be revised downward. People are getting sick—skin rashes, eye irritation, coughing, asthma attacks—right now at the TLV's. What effects of these chemicals are going to show up in 10 or 15 years?

Q. There has been a great deal of discussion on whether there is really a need for OSHA to write a standard on heat stress. How do you feel?

A. Absolutely necessary. I know that in many, many plants a man will have to lift parts weighing anywhere from 35 to 90 pounds from one conveyor line to another. Oftentimes the temperatures in these locations will run up between 110° and 120° F. A strong young guy in his 20's will feel it, but can you imagine what it's like for a man in his 40's or 50's doing that job? You dehydrate in no time at all. You feel lightheaded, your face turns red, you're completely exhausted and dizzy and feel like you're going to faint. I've seen men come to work in blue clothes and go home at night with their work clothes chalk-white from the salt sweated out of their systems.

Q. Have you personally ever been hurt on the job?

A. Well, I've been in a number of accidents. In the only serious one, I was working on the assembly line, and another worker lost control of a buggy cart full of parts he was pushing. It smashed into my left arm, and about a week later infection set in, a lump came up, and I couldn't move the left arm for a couple of months. I could only use my right arm. It wasn't considered a lost-time injury then because they just gave me another job where I didn't have to use my left arm. Of course, today, under the OSHA system of recording injuries that wouldn't happen.

Q. In twenty years, when more scientific information on chemical hazards is available, do you think it will be easier to get problems corrected in the plant?

A. I don't think so unless management people come into the plant and put themselves in the worker's place. In this field you read a lot of reports from doctors. And we need these people to help us solve our problems—don't get me wrong. But too many times you never hear from the guys in the plant. That's where it's at. If people could come into the plant and talk to workers and get an honest opinion, everybody would have a very different picture of the problems we have.

What I'd like to see is some of the lawyers, company doctors, bureaucrats, senators, and management people—all the experts who say we don't have real safety and health problems—come into the plant and work on the assembly line for a month. Let them see some of their friends lose a hand or get killed. These things are real; I deal with them every day.

What I'm saying is that if the top echelon in our society had ever worked on the floor and gone through all the anxiety, heat stress, bad ventilation, they would say, "My God, we're going to do something about this." But the people with power are removed from it all. They cannot really picture what's going on inside the plant because they've never experienced it.

I don't want to overemphasize a negative attitude because I always try to keep a positive attitude myself. I think we're headed in the right direction. It's just a long, slow process.

WAYS AND MEANS OVERSIGHT SUBCOMMITTEE REPORT ON OPERATION LEPRECHAUN

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. VANIK. Mr. Speaker, as I indicated in the body of the Ways and Means Oversight Subcommittee report of activities for 1975, the subcommittee during the year concentrated most of its attention on the Internal Revenue Service. In particular, we focused on IRS intelligence-gathering. This is a subject which aroused widespread public interest not only because of allegations of wrongdoing in several intelligence-gathering projects but also because these allegations came amid a spate of post-Watergate revelations about privacy invasions and outright illegal acts against individual citizens—including national leaders—by other intelligence-gathering Federal agencies.

Because the allegations against the IRS were made in this setting, many in Congress and in the public understandably assumed that the allegations were correct; indeed, public acceptance of the charges as fact was made all the easier by testimony and other public statements by topmost managers of the IRS virtually conceding their validity. All of this combined to make even more difficult, however, the subcommittee's effort to find where the truth lies. This effort is still going on, and likely will continue through much of 1976.

In order that the Congress and the public may understand what progress the subcommittee has made in this effort so far, I have prepared a separate report on the most publicized and perhaps the most controversial and emotion-arousing IRS intelligence-gathering project among all those which came to national attention during 1975. It will be seen by the careful reader that although this project, known as Operation Leprechaun, was confined essentially to south Florida, the manner in which it was revealed and was reacted to by the IRS National Office raises questions and implications of national significance. The serious nature of these questions and implications will, I believe, become more apparent when the subcommittee takes up its duties in the second session of the 94th Congress.

OPERATION LEPRECHAUN

On March 14 and 15, 1975, several newspapers carried sensationalized stories in which a woman informant made unverified allegations that an IRS special agent had paid her and other informants to spy on the "sex and drinking habits" of 30 prominent individuals in south Florida 3 years earlier, in 1972. According to sworn testimony developed later, the woman informant had been dismissed in September 1972, because the special agent discovered that she was a "double agent" in that she planned to advise one or more of the 30 alleged "targets" of the intelligence-gathering project, known as Operation Leprechaun, that they were allegedly under IRS investigation.

Twelve days after the initial Leprechaun story appeared, the subcommittee held its first hearing on Operation Leprechaun. At that time, neither the subcommittee—which then had no budget authority for staff—nor the IRS National Office had much more on which to proceed than the woman informant's allegations. Nevertheless, the Commissioner of the Internal Revenue Service and other top officials in the national office made statements before congressional committees, in the media, and in other forums which tended to support the unverified allegations and preestablish unfavorable conclusions as to the nature and objectives of Operation Leprechaun. It now appears that these conclusions were both premature and, at the very least, unfortunate.

For more than 8 months after the initial hearing in March, the subcommittee conducted its own investigation of Operation Leprechaun and held a second hearing on December 2, 1975. This hearing, in which the special agent appeared for the first time before any congressional committee, found that—

Contrary to allegations by the Commissioner and others of "improper conduct and criminal acts" in Leprechaun, the special agent in charge of it had been cleared of punishable wrongdoing by an IRS Personnel Division review completed during July and August.

The report of the Personnel Division review was suppressed within the IRS national office from August until revealed at our December 2 hearing.

A June 23 report indicating improper conduct by the special agent, although labeled as an Inspection Service document, actually was prepared by the IRS Public Affairs Division and has never been publicly modified or supplemented. The results of the Personnel Division report were in substantial disagreement with the June 23 report.

Contrary to the thrust of the June 23 official report, the objective of Operation Leprechaun was to collect tax-related information about individuals suspected of involvement in political corruption, bribery, extortion, and other offenses.

The special agent was successful in collecting tax-related information in Operation Leprechaun which resulted in actual or potential tax claims totaling about $7 million.

Contrary to the claims made or impressions conveyed by the Commissioner, Operation Leprechaun was an IRS intelligence-gathering project. It was not a project supervised by the Justice Department's Organized Crime Strike Force in Miami, although there were periodic exchanges of pertinent information between the IRS and the Justice Department in accord with a long-standing Executive order calling for such cooperation.

All of the Intelligence Division personnel involved in any supervision of Operation Leprechaun, both in the Jacksonville District—all of Florida—and in the southeast regional headquarters in Atlanta, have been retired or transferred to other assignments under circumstances which would not be considered voluntary.

Restrictions on the use of confidential funds and cooperation with other law enforcement agencies imposed by the IRS National Office after the Operation Leprechaun news reports have brought the collection of tax-related information to a virtual standstill, discouraged informants from imparting information on a paid or voluntary basis, and demoralized the Intelligence Division—and may constitute a free pass to organized crime figures and others seeking to evade or avoid the payment of Federal taxes.

On December 12, the subcommittee conducted a third hearing on Operation Leprechaun, a part of which was held in executive session, the subcommittee's only such session in 1975. While the testimony cannot yet be revealed, it can be stated that the purpose of the executive session was to establish whether certain individuals may have had a motive for immobilizing tax intelligence-gathering about individuals who were actual subjects of investigation in Operation Leprechaun. The subcommittee is prevented by law from disclosing the names of individuals investigated in any IRS project and consequently cannot confirm or deny whether the 30 individuals identified by the woman informant as alleged Leprechaun "targets" were indeed under such IRS investigation.

THE ROLE OF THE IRS INTELLIGENCE DIVISION

The distortions about IRS intelligence-gathering which arose out of the sensationalized media accounts about Operation Leprechaun have lifted Leprechaun from the confines of south Florida into an issue of national importance. This is so because the wholesale invasions of privacy; that is, the alleged collection of nontax-related "sex and drinking" information, which are alleged to have occurred in Leprechaun have been cited by officials of the IRS National Office as the primary reason for imposing new restrictions on the use of confidential funds and on cooperation with other law enforcement agencies by the IRS Intelligence Division. A corollary issue is whether the national office "overreacted" by imposing new rules which will so inhibit intelligence gathering as to encourage tax evasion or avoidance by corrupt public officials, narcotics traffickers, and other organized crime figures, certain wealthy individuals and others.

I am concerned, first, that the IRS Intelligence Division direct its utmost attention to the collection of tax-related information; second, that members of this division cooperate with other law enforcement agencies by exchanging nontax return information collected in the course of this work without being unduly inhibited from engaging in such cooperation; third, at the same time, that other law enforcement agencies not place excessive reliance on the IRS Intelligence Division to gather information that those other agencies can, or should develop on their own; and fourth, that the types of abuses shown to have occurred in other Federal law enforcement agencies do not occur in the IRS. I am also concerned that differences between the IRS and the Justice Department over the role of the IRS in criminal and civil law enforcement do not grow to unmanageable proportions; on the contrary, we must insure that these differences are resolved quickly. I believe that in the past the IRS has been one of the most effective tools in the Federal Government's fight against organized crime and political corruption. It must remain so and it should be monitored with that objective in mind.

Against this background, the subcommittee, on December 12, held a hearing to determine whether the post-Leprechaun regulations imposed by the IRS were too restrictive for the purpose of effective law enforcement. Three witnesses—a Florida State prosecutor, an IRS special agent, and a masked informant—told how IRS bureaucratic redtape and delay had prevented the informant from giving the prosecutor important evidence about a gangland murder until after the defendant, an alleged Mafia-associated "hit man," had been acquitted. The prosecutor testified that had the informant's evidence been made available in time, the defendant could well have been convicted. In this case, it was subcommittee investigators who brought the prosecutor and the informant together, and as a result, other criminal actions may now be taken against the acquitted defendant in another State. The same hearing disclosed a second instance in which the application of IRS regulations prevented IRS special agents from giving local authorities nontax-related information that could have supplied a motive for still another gangland-style murder of a prominent south Florida attorney.

In addition, the hearing uncovered the fact that by imposing redtape on the use of confidential funds, the IRS National Office has placed special agents in a "Catch-22" situation to bar payment of relatively nominal fees to informants who had provided valuable tax information. For example, after the generation of excessive paperwork between Florida and Washington, a $1,000 payment was denied an informant who had provided data resulting in a potential tax claim of about a quarter-million dollars. The reason given for the refusal was that no prior agreement to pay the informant had been made. However, under IRS regulations, it is unlawful to make a prior agreement to pay an informant before the information has been evaluated. The national office further suggested that the informant seek a reward, a proposal that could have subjected the special agent involved to an allegation of misconduct had he helped the informant in any way to solicit such a reward.

Less than 24 hours before our December 12 hearing, the IRS presented the subcommittee with a new set of regulations governing disbursement of confidential funds. My initial reaction to these new guidelines is that they are still impractical. For example, if a special agent in Toledo wants to buy a person with tax-related information a sandwich or a cup of coffee, the agent must obtain the approval of his group supervisor in Toledo, the district director in Cleveland, the assistant regional commissioner and the regional commissioner in Cincinnati. The person in Toledo with information would get mighty hungry by that time. The only difference under the new guidelines is that the request no longer goes all the way to Washington. This overlaying of bureaucratic redtape seems excessive. The waste of the time of expensive management personnel and the delay which necessarily ensues should not continue.

On the other hand, the new guidelines do ameliorate one of the problems uncovered in our December 12 hearing. In one case, six signatures were required to authorize an $18 payment for public court records requested by the Government of France. The new guidelines permit the "appropriate line official" to authorize payment for public records. Of course, we will want to see how these new guidelines actually work in the field. The IRS National Office has not tested these and other proposed new rules against the day-to-day operational difficulties that special agents encounter in these areas. Therefore, the subcommittee will withhold judgment until a thorough study, by us and the IRS itself, has been completed on the actual import of the new regulations.

This year, I expect the subcommittee to schedule several hearings to, first, develop further crucial information about Operation Leprechaun and what has occurred in the wake of the March 1975 allegations with respect to personnel conduct investigations, and involuntary retirement and transfers; two, attempt to determine whether there was a possible connection between the "overreaction" by the national office to the Leprechaun allegations and the months-long suspension of Operations Tradewinds/Haven, a longstanding intelligence-gathering project concerning possible income tax evasion or avoidance by individuals having foreign bank and trust accounts in certain Caribbean islands, and examine the omission of a question about such accounts from the 1975 Federal income tax return form; three, explore the absence of IRS regulations providing for totally independent, objective internal investigations of the actions of the IRS topmost officials and the possible need for such investigations to be conducted by non-IRS personnel; and, fourth, ascertain the extent of IRS cooperation with the Justice Department—past, present, and future—in matters of mutual interest and responsibility, including investigation of the use of secret numbered bank accounts at certain banking institutions in the United States.

We will, of course, invite the views of the IRS Commissioner and appropriate Assistant Commissioners, as well as other national office officials and representatives of other Federal agencies, regarding all of the above issues.

It is also our intention to monitor the progress of Treasury and Justice Department investigations and continue the subcommittee's own inquiry of thus far unverified allegations against the IRS Commissioner which were brought to the subcommittee's official attention and were referred by the chairman and ranking Members of the Committee on Ways and Means to appropriate agencies for further inquiry. The subcommittee feels that justice demands that these allegations be thoroughly and vigorously investigated and expeditiously disposed of one way or the other.

The integrity of the IRS Intelligence Division and the Inspection Service is inextricably woven into the fabric of all of the above issues. The proper functioning of these units must be taken into account not only in preserving their integrity and that of the entire IRS organization, but also in striking the right balance between vigorous law enforcement and the rights of individual taxpayers. To insure that these objectives are met will require constant, vigilant oversight.

BOB CASEY

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. POAGE. Mr. Speaker, our friend and colleague, Bob Casey, has been named by President Ford as a member of the Maritime Commission. This is an outstandingly good appointment, even though there are those who would suggest that the President was forced to make this, because the law required him to name a Democrat. I do not think there was any pressure on the President. He had served with Bob Casey for many years both in the House and on the Appropriations Committee. He knew Bob. He knew Bob well, and he knew there was no better qualified man. I agree as to his qualifications, but I regret as we all do to see Bob leave the House.

Bob Casey is a man possessed of a wonderful supply of commonsense. He is a fair and honorable man on whom we can depend when the going gets hard. We need this kind of man on the Maritime Commission, and Bob will serve the Nation well in that capacity, but he is needed in the Congress. I think he is needed more right now than at any time in history.

I sincerely hope that the fine people of Harris, Fort Bend, Waller, and Brazoria Counties will select another able and outstanding Representative but no matter how fine a selection they make it will be years before anyone is able to fill the place in this House that is soon to be vacated by Congressman Casey.

We are glad that he is going to remain in Washington. We are glad he is going to continue to represent the second largest port in the United States, and we are glad that we will continue to see him, to see Hazel and their fine children. We wish them all God speed and success in their chosen fields.

HON. BOB CASEY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ARCHER. Mr. Speaker, I wish to join my many colleagues in paying tribute to Representative Bob Casey.

I have had the privilege of not only serving in Congress with Bob Casey but of representing a district bordering his own district. I am aware of the high regard his acquaintances in Washington, D.C., and the people of his district regard his dedicated service.

Bob Casey has served as one of the most distinguished Members of the U.S. House of Representatives. He is a man of principle and conviction on the major issues of our times. His record in Congress has been one supporting responsible fiscal policies, promoting individual citizen responsibility, and maintaining constitutional government. Whether a member agreed or disagreed with a particular vote of Bob Casey, no one would deny that he has always voted with the best interests of his country clearly in mind.

His leadership role as chairman of the Legislative Subcommittee of the House Appropriations Committee will be missed next year and in future years. His voice on the Appropriations Committee and his votes in the House of Representatives reflected his belief in the need for a balanced Federal budget and his opposition to wasteful governmental spending. Bob Casey will leave a distinguished record behind him as he leaves the ranks of his fellow Congressmen. We can sum up his record in two words: "Well done."

I wish Bob Casey the best of luck and success in his new assignment. He will, I am sure, do a great job.

THE TRACK RECORD OF THE FIRST SESSION

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. ANDERSON of Illinois. Mr. Speaker, we are poised on the brink of the 2d session of the 94th Congress, and the air around us is growing thick with self-congratulatory assessments of the House track record in the 1st session. It stands to reason, of course, that these proliferating laundry lists of unduly complimentary reports on Congress legislative prowess come from the majority party. None among us, I dare say, would have the effrontery to argue that a party in Congress that enjoys 66.66 percent dominance—put another way, Mr. Speaker, it is a "two-thirds majority"—over the other party is anything less than the controlling force in that House. And so it is—or should be—in the House of Representatives where the minority is outnumbered by 2 to 1.

It seems to me that any reasonably dispassionate analysis of the first half of this Congress 2-year lifespan would reveal a record shot through with a farrago of evasion and confrontation, either of which has as its logical consequence almost fatal public policy paralysis. Because of their overwhelming numerical preponderance, my own feeling is that the majority must bear the brunt of the blame for the first session's dismal performance.

But my assessment, Mr. Speaker, is not an effort to lay blame at anyone's doorstep, or to castigate any one person or party. Rather, if you will, it is an attempt to analyze some of what happened in the first session, why it happened, and what can be done to see that legislative history does not repeat itself. For if it does, I fear, we in Congress will have consigned the Nation to another year of desultory, largely ineffective lawmaking—a bitter birthday brew, indeed, served up to a Nation celebrating its 200th anniversary.

As we trace the legislative history of the first session, Mr. Speaker, one pattern emerges that bodes ill for everyone. Most of the controversial issues considered in Congress this past year resulted in a confrontation of one kind or another. Each side, be it Congress against the President, or the Republicans against the Democrats, came to its position with a genuine concern for the issue at hand. But as the confrontation escalated, passions mounted, and negotiating became a formidable task as the combatants dug in for a long, drawn-out siege. Frankly, many of the legislative battles this past year reminded me of the Cuban missile crisis, where, as you will recall, the respective positions of the United States and the U.S.S.R. were rigid—and well-nigh immutable. As a consequence, neither side could back down without sacrificing national pride. Had the stakes not been so high, it would have been like two schoolchildren in a playground standoff: too evenly matched to fight and too proud to back down. The Cuban missile crisis became a warped, horrific game of machismo give and take, where the stakes were personal honor codes and the chips were human lives—millions of them. With all due respect to my distinguished female colleagues in the House, it strikes me that the same "macho" game has been played out all too often this year in the House. The most recent example—but by no means the only episode—is the tax cut extension measure, where opposing sides became intransigently locked into their respective stances. Luckily, an 11th hour "face-saving" compromise was worked out, a compromise that extended tax cuts for a time and more or less reasserted the principle of a congressionally mandated Federal spending ceiling. But the fact remains: Law-making for a time was held hostage to emotionalism and irrationality.

I submit, Mr. Speaker, that there is no need for this. As evidence of my contention, I would recall to you a portion of the remarks of the minority leader, delivered on opening day, 1975:

> In a Republic the majority rules while the minority tries to show the majority how things really should be done. I can assure you that as minority leader I will speak out as forcefully as I know how whenever I feel that the majority has adopted a direction or a decision that is not well advised. I can also assure you that my Republican colleagues will have many suggestions to make during the 94th Congress. That is how it should be, that is how it has always been, and I hope that it will always be that way.
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> But I am also determined to work toward the consensus approach to our Nation's problems which I feel is necessary in order for the 94th Congress to take the action that the Nation requires. The House of Representatives, being closest to the people, has an obligation, in my judgment, to be the most responsive body in Government. The people want us to act. They expect us to avoid the stalemate which many have predicted will occur. We can only fulfill their expectations and hopes if we work together, not as Democrats, not as Republicans, but as Americans elected by our peers to be Members of the House of Representatives.

VETOES

In my view, Mr. Speaker, the House acted, in the words of the minority leader, "as Americans elected by our peers, to be Members of the House of Representatives"—not as willful and capricious individuals—most often on the question of veto overrides. As everyone knows, the President vetoed 17 bills in the 1st session of the 94th Congress. I consider it an impressive expression of popular will that only three of these vetoes have been overridden. For my own part, Mr. Speaker, I think that Congress decision to sustain the bulk of these vetoes represents an affirmation of the quintessential Republican goal: Prudent spending. The aggregate cost of all those bills—with firm spending estimates—vetoed by President Ford that the Congress has acted on so far was $21.7 billion. In the case of two of the vetoed bills—jobs and housing—whose original costs totaled almost $6.7 billion, Congress was obliged to drastically scale down two substitute bills which the President eventually signed, saving the taxpayers well over $3 billion.

To date, the 94th Congress has voted to override three Presidential vetoes—total cost: $12.5 billion. Thus far, by my reckoning, $5.7 billion of the taxpayers' money has been saved in this manner. Furthermore, I might point out that we have yet to take action on the Labor-HEW bill—cost: $45 billion. Finally, I think it should be kept in mind that the $5.7 billion savings estimate is conservative indeed. For it does not include the vetoed strip mining bill, which, it is figured, could have cost the American consumer as much as $5.6 billion per year in higher fuel costs and would have meant increased imports of Middle East oil, raising dollar outflows by as much as $7.8 billion per annum.

A good example of what I mean when I talk about prudent spending is H.R. 4485, the Emergency Middle Income Housing Act. I might note, in passing, Mr. Speaker, that this Congress penchant for passing "emergency" legislation is well-known. Indeed, if I had entitled my remarks here as "Emergency Report on the 1st Session," I dare say I would get a simple majority of the majority to adopt it.

The general purpose of H.R. 4485 was to stimulate home buying and to offer mortgage assistance to unemployed homeowners. An edifying goal, yes, but the costs were way out of line. In terms of productive activities, $2 in Federal expenditures would have been necessary for every $1 gained. All that, the committee estimated, at a cost of over $2 billion to the Federal Government over the life of the program. The Republicans held out for an alternative approach that eventually was signed into law. Its costs? $50 million. A savings of $1½ billion.

That, Mr. Speaker, is but one example of how the veto was used in the first session—with the support of significant numbers of House Members in most cases—to pare back the Federal budget, to ease somewhat the pressure on the growing deficit.

Examples abound: Vetoes were sustained on the $1.8 billion Emergency Agriculture Act and the $5.3 billion Emergency Employment Appropriations Act. Money-saving compromises were worked out on the tourism and the Executive Protection Service bills.

NEW YORK AID

This string of money-saving vetoes does not take into account the potential savings that were realized because the President—with a good deal of support from many congressional Republicans—refused to grant the vastly inflated initial requests of $7 billion—in the case of the House committee, and $11 billion—Senate. After several months of continuous pressure, New York's financial situation was clarified and enhanced with a proposed tax-increase and budget-cutting package, and in response to this, a $2.3 billion short-term loan program was enacted. This is not to say, of course, that perforce the taxpayers save $5 to $9 billion, but it does indicate that the Congress can get a bigger "bang for its buck" if we are willing to display a responsible measure of discipline and restraint.

PAY RAISE

This same philosophy applies, in my construct, Mr. Speaker, in the matter of the recently enacted pay raise for Federal employees. Some of my colleagues on the other side of the aisle would have us believe that the 5-percent raise that went into effect in October for Federal employees and Members of Congress had its origins here on Capitol Hill. Not so, Mr. Speaker. As we all know, President Ford, going against the advice of OMB, the Civil Service Commission and the Advisory Committee on Federal Pay, pared back the recommended pay increase from 8.66 to 5 percent. This represented a savings to the taxpayer of an estimated $1.6 billion per annum. Nonetheless, attempts were made in both Houses—on the floor of the Senate and in committees in the House—to override the President's action. Fortunately, there prevailed among us the view that the sense of thrift and the desire for equitability are not mutually exclusive.

TAX CUTS

Mr. Speaker, as I mentioned earlier, no subject taken up by this Congress has aroused more passion, engendered more confusion, or fostered more ill-will than that of taxes and tax cuts. In reviewing our action early last year with respect to tax cuts—in attempting to cut through the miasma of charges and countercharges, of accusations and compliments, all too many of which I fear are politically motivated—I was struck by the sounding of a theme that we were to hear again and again during the course of our law-making all year long. When all was said and done, there was an effort to enact a tax cut law that was hefty, but not intolerable. It did not go far enough for some Members, and it went way too far for others. Whichever, the compromise that was finally worked out represented far less of a burden on the U.S. Treasury than the majority party in the Senate would have imposed. It will be recalled, Mr. Speaker, that the House bill would have enacted tax cuts totaling $19.9 billion. The Senate version totaled $30.4 billion, and the compromise that cleared both Houses in late March was $22.8 billion. My own view is that the House and the President can share the honors for this one, for it was the threat of a potential veto and the adamant position taken by many of the House conferees that brought the total price tag of the bill back down to a more realistic level.

This is by no means a comprehensive review of the year's legislative accomplishments. Rather, Mr. Speaker, it is an attempt to derive some sense—a sense of order, if you will—out of our actions. It seems to me that the signposts I have described are easily perceived and that they stake out the direction we should head as we prepare for the 2d session of the 94th Congress.

The lesson of the first session is one of fiscal restraint displayed in responsible fashion. If I have read rightly the 1975 record, this would appear to be the legitimate, overriding concern of most Members, and by inference, the American people as well. For if the House of Representatives is, as I believe it to be, an expression of the general will, then I think it is fair to conclude that our constituents want us to exercise a reasonable degree of fiscal restraint, laced with more than a modicum of concern for our fellow man. I might add here that my reading of the current situation leads me to believe that the term "reasonable" should be strictly construed: One dictionary definition comes to mind—"moderately priced."

In my mind, Mr. Speaker, this past year has shown me that the best way to subvert our goal, the best way to delay the achievement of what a consensus of our colleagues tells us is desirable, is to drag the issues of the moment into an arena where the tactics of confrontation-style politics all but muscle out the subtler art of compromise. If the second session should be characterized by "missile crisis"-type lawmaking, the entire Nation will suffer. I would hope that this would not happen and that we can get on with the business at hand.

HON. BOB CASEY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 19, 1975

Mr. TEAGUE. Mr. Speaker, it was with much regret that I learned of the planned departure from the Congress of one of my closest and dearest friends, Bob Casey, of Houston. I fully realize that all of us must make a decision in our lives at one time or another, and while Bob has made the decision to leave this body I am most pleased that he has decided at least to remain in public service.

His decision to remain in public service, however, is not extraordinary when you consider the fact that during the early 1940's when he was attending the South Texas Law School at night, he was serving as a member of the local school board, and shortly after receiving his degree, he was serving as city attorney of Alvin, Tex. His record of public service goes on from there through various posts in Harris County, the State legislature and eventually in the Congress of the United States.

The people of the 22d District of Texas and the people of the United States owe a debt of gratitude to Bob Casey for his devoted years of public service. I salute him and congratulate him and will miss him in this body.